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United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 102^{th} CONGRESS, SECOND SESSION

SENATE—*Friday, August 7, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *whosoever will be chief among you, let him be your servant* * * *.—Matthew 20:27.

Eternal God of infinite love, this morning we want to thank You for the many, many faithful men and women working behind the scenes, without whom the Senate simply could not function. We thank You for the tireless labors of those who begin their workday long before the Senate opens and remain long after it recesses, often working on weekends as well.

Thank You, God, for food service people, for those in maintenance and those who provide security 24 hours a day, for office personnel, for hard-working committee staffs, for the pages, clerks, doormen and floormen, constant in their responsibilities.

Gracious Father in Heaven, grant to each of these faithful ones and their families a special measure of Your grace. Keep them in Your love. Strengthen them when weak, encourage them when discouraged, somehow help them know they are profoundly appreciated, even when appreciation is not expressed.

We ask this in the name of Him who was the Servant of servants. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 7, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later in the day.

VOTING RIGHTS LANGUAGE ASSISTANCE ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 4312, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4312) to amend the Voting Rights Act of 1965, with respect to bilingual election requirements.

The Senate resumed consideration of the bill.

Pending:

(1) Simpson amendment No. 2911, to modify the application of the bilingual voting requirements and require certain studies.

(2) Simpson amendment No. 2915, to require Federal funding for the costs of compliance.

VOTE ON AMENDMENT NO. 2911

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Wyoming relating to the 5-year extension.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Utah [Mr. HATCH]. If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 32, nays 63, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—32

Baucus
Brown
Bumpers
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Dole
Fowler
Garn
Gramm
Grassley
Hollings
Lott
Lugar
Mack
McConnell
Nickles
Pressler
Pryor
Roth
Rudman
Simpson
Smith
Symms
Thurmond
Wallop
Warner

NAYS—63

Adams
Akaka
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Chafee
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Specter
Stevens
Wellstone
Wofford

NOT VOTING—5

Burdick
Gore
Hatch
Helms
Wirth

So the amendment (No. 2911) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2915

The ACTING PRESIDENT pro tempore. The question now is on agreeing to the amendment of the Senator from Wyoming relating to the Federal funding of cost to local jurisdictions.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Utah [Mr. HATCH]. If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—35

Bond
Brown
Bumpers
Burns
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Dole
Fowler
Garn
Gramm
Grassley
Hollings
Kasten
Leahy
Lugar
Mack
McConnell
Murkowski
Nickles
Pressler
Pryor
Roth
Rudman
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—60

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Byrd
Chafee
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wofford

NOT VOTING—5

Burdick
Gore
Hatch
Helms
Wirth

So the amendment (No. 2915) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I would like to briefly explain why I voted against the amendment offered by my good friend from Wyoming, Senator SIMPSON, which would delay the effectiveness of this bill until the Federal Government provides funding to implement it.

As a general matter, I oppose Federal mandates imposed upon the States unless the Federal Government provides adequate funding for those mandates. But I think that this case is different.

As many members of this body have pointed out, section 203 of the Voting Rights Act expired yesterday. Unless we reauthorize section 203 immediately, States and localities may not have adequate time to prepare bilingual assistance for the election in November. This means that thousands of language minority citizens who are eligible to vote may be denied meaningful access to the voting booth in the next election.

In addition, the cost of providing language assistance has proved to be a very small percentage of total election costs, easily absorbed by States and localities.

We cannot delay the extension of section 203 any longer. This is a case in which justice delayed would certainly be justice denied. For this reason, I will be voting against this amendment.

The ACTING PRESIDENT pro tempore. Under the previous order, Senators are authorized to propose amendments, if they so desire.

Mr. SIMPSON. Mr. President, there are two remaining amendments on the list. But in view of the vote totals on the previous two, I ask unanimous consent to withdraw my right to offer the other two amendments.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this legislation sends an important message to all Americans: every American citizen has an important role to play in the electoral process, and barriers to the exercise of the vote will not be tolerated.

Providing bilingual assistance to eligible voters who need it will not divide us as a country; it will bring us together by giving everyone a chance to participate in the democratic process.

Section 203 has made a real difference. Where bilingual assistance is available, Hispanic, Asian-American and native American registration rates are demonstrably higher.

I want to commend Senators SIMON and HATCH for the leadership on this important legislation.

I also want to thank Jeff Blattner and Suzanne Ramos of my staff for all their assistance in making this legislation possible.

I urge my colleagues to support the extension of this important legislation.

Mr. DURENBERGER. Mr. President, I rise today with a great deal of pride in being an original cosponsor of the voting rights language assistance amendments, the Senate version of the bill that we are now considering.

Since 1975, section 203 of the Voting Rights Act has torn down barriers to the political process for many Native Americans, Asian-Americans, and Hispanic-Americans. Without this provision, English-only elections would have operated to deny thousands of American citizens their right to vote.

Over the last 17 years, section 203 has required that language assistance be provided in voting jurisdictions where at least 5 percent of eligible voters are non-English speaking and of Hispanic, Asian-American, or Native American origin. This provision expired yesterday. I hope this body feels the same sense of urgency to reauthorize section 203 as our House colleagues did when they passed H.R. 4312 on July 24.

H.R. 4312 will extend the effectiveness of section 203 until the year 2007, the year that other provisions of the Voting Rights Act will expire. This bill will also extend Voting Rights Act coverage to areas in which language minority citizens are a significantly large group but do not amount to 5 percent of the total population.

Under this bill, counties with at least 10,000 voters of a single language minority would be covered by section 203. If counties contain all or part of an Indian reservation, single language minorities who make up 5 percent of that reservation's population will trigger section 203 coverage.

Improving the coverage of section 203 is wholly consistent with the goals of the Voting Rights Act. Significant groups of language minority citizens should not be prevented from participating in elections simply because a large surrounding population dilutes their numbers as a percentage.

The administration has enthusiastically endorsed the 15-year reauthorization and strengthening of section 203. The cost of providing language assistance in elections is minuscule and the payoff is enormous—the enfranchisement of thousands of eligible voters.

Mr. President, I urge my colleagues to recognize the stake that all American citizens have in our political process by voting to support this bill.

Mr. GRASSLEY. Mr. President, I think that it is a worthy goal the sponsors of S. 2236 are pursuing—ensuring that every American citizen is able to fully understand the ballot when he votes. But I question whether the Multilingual Voting Assistance Program really accomplishers that goal. As Senator SIMPSON noted last night, the evidence of the program's success since 1975, when it was introduced, is mixed. Overall Hispanic voting participation has actually declined in the 1978–90 period, even relative to the overall decline in voter participation. Nor has voting participation increased among other language-assisted minorities.

The usefulness of spending taxpayers dollars on this program is therefore unclear, at best. For that reason, I support the efforts of Senator SIMPSON and others to temper the time extension and expansion of jurisdiction in the bill. I think it would be wise to limit the time extension to 5 years and to limit the expansion of jurisdiction to counties with 20,000 or more members of a given language minority, rather than 10,000. I also think it would be a particularly good idea to undergo a thorough study of the usefulness of this program during that period. Today we are rushing forward to reauthorize the Multilingual Assistance Program because of various groups' insistence that the program is an important one, but without any clear evidence that the program works. In the future, I hope we will proceed with a little more reason in the matters.

Mr. GARN. Mr. President, I wish simply to rise to make sure that all of my colleagues understood why my distinguished junior colleague from Utah, Senator ORRIN HATCH, was not here to participate in the debate as one of the chief cosponsors.

Senator HATCH has not been able to be here all week. His father last weekend had a serious stroke and naturally ORRIN needed to be there with his family. His father did die yesterday. The funeral is tomorrow at 11 o'clock. I am sure I speak on behalf of all of my colleagues in the Senate in extending our sympathy and remorse at the loss of Jesse Hatch and wish our colleague, Senator HATCH, well.

I thank the Chair for allowing me to make certain everyone knew that Senator HATCH wished he could have been here but the very difficult circumstances of why he was not.

Mr. BRADLEY. Mr. President, it is entirely proper for the Government to act affirmatively to increase voter participation in this country. I am proud to be associated with legislative efforts which recognize that barriers to full participation exist and can be broken down. Both the motor-voter bill and the legislation which we are now debating remove barriers to voting, improving the system for us all.

The political process holds the key to empowerment in this country. Voter registration and active participation in the process remain the critical link. The history of American democracy is a history of broadening the vote: When the Constitution was adopted, the only Americans who had the vote were white males with property. In the 1830's, it was extended to white males without property and in the 1860's to black males. It was not until the 1920's that the franchise was extended to women. In 1965, the Voting Rights Act was passed to protect the right to vote which had been illegally withheld from racial and ethnic minorities for generations, and in 1971 the right to vote was extended to those 18 years of age or older. This reauthorization of the language assistance amendments is in the tradition of those farsighted efforts.

Mr. President, limited-English proficiency is a serious barrier to voting in this country. This bill reauthorizes section 203 of the Voting Rights Act for 15 years and makes bilingual voting assistance available to more areas suffering from limited-English proficiency. I am proud to be a cosponsor. As a result of the broadened coverage, the Hispanic residents of Essex, Union, and Middlesex Counties, NJ, will be able to receive registration or voting notices, forms, instructions, and ballots in Spanish. Asian-Americans, Native Americans, and Hispanic citizens will also benefit in other areas of the country. Bilingual assistance will now be available to Chinese-Americans in Queens and Brooklyn. It will also be available to Asian groups in Los Angeles. In a sense, all American citizens will benefit from the increased participation anticipated by the supporters of this legislation, and the increased number of informed voters.

I have often said that ethnic diversity is our greatest strength. Our diverse ethnic and racial makeup allow us a great opportunity to show the world how a pluralistic democracy can operate to insure that everyone participates in the social and economic life of this country.

No one doubts that to function effectively in this society one should be able to speak English. However, this bill recognizes that English classes are overflowing, waiting lists abound, and citizens who are not yet proficient in English should also be able to enjoy the fruits of our democracy as they are learning English. Too many people who are not proficient in English have been unable to participate in the democratic process. Recognizing our past and taking steps to open up the voting process are the goals of this reauthorizing legislation.

Mr. BINGAMAN. Mr. President, I rise today to express my support for H.R. 4312, the Voting Rights Language Assistance Act. I urge my colleagues to join me and the bill's authors, Senators SIMON, HATCH, and KENNEDY, in swiftly approving this legislation, which will ensure millions of Americans continued access to the most basic of all American rights: The right to vote.

I am fortunate, Mr. President, to represent the State of New Mexico, a State rich in cultural and ethnic diversity. I am particularly proud that our State has, since its inception, recognized, and protected the right of each and every citizen to vote. Since becoming a State, New Mexico has required, by constitutional provision, that all constitutional amendments be printed on ballots in English and Spanish. In fact, by tradition and statute, New Mexico has always printed its entire ballot in English and Spanish and has provided oral and written assistance, in any language, to any voter who requests it.

Mr. President, every State should practice the traditions of New Mexico. As a nation, we should feel a strong obligation to ensure that the unique needs of our diverse population are met, and we should work to preserve and promote the heritage of all our citizens. The legislation before us today will help us meet part of that obligation.

In New Mexico, from San Juan, Rio Arriba, and Colfax Counties in the north; to Cibola and Grant Counties in the west; Quay and San Miguel Counties in the east; and Hidalgo, Luna, Dona Ana, and Eddy Counties in the south, 26 of our 32 counties fall within the bill's provisions. Thousands of New Mexicans of Hispanic, Navajo, Pueblo, and Apache descent will benefit from this legislation. Across the Nation, this bill will provide American Indians, Hispanics, Asian-American, and Alaska Natives with critically needed language assistance so that they can play a role in the electoral process. We should approve this legislation without delay and affirm the right to vote for all Americans.

The PRESIDING OFFICER. Do the Senators yield back their time.

Mr. KENNEDY. Yes, I yield the remainder of my time.

Mr. SIMPSON. Mr. President, I yield my time.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

On this vote, the Senator from North Carolina [Mr. HELMS] is paired with the Senator from Utah [Mr. HATCH]. If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Utah would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 20, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—75

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Burns
Chafee
Cohen
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Specter
Stevens
Warner
Wellstone
Wofford

NAYS—20

Bumpers
Byrd
Coats
Cochran
Conrad
Craig
Danforth
Garn
Lott
Lugar
McConnell
Nickles
Pressler
Pryor
Rudman
Simpson
Smith
Symms
Thurmond
Wallop

NOT VOTING—5

Burdick
Gore
Hatch
Helms
Wirth

So the bill (H.R. 4312), was passed.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later, the following occurred:)

CORRECTION OF VOTE TALLY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the official copy of the last vote be changed to correctly show that Senator DECONCINI voted "aye" on final passage of H.R. 4312. Due to a clerical error, the tally shows him as having voted "no." This has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. NUNN. Mr. President, on behalf of Senator MITCHELL, I ask unanimous consent that Calendar No. 537, S. 2236, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I want to again thank the staff on both sides who were very helpful on this, and particularly Senator BIDEN, chairman of the full committee; Chairman KENNEDY, who was extremely helpful; Senator HATCH, who was a principal cosponsor, who is not here because his father died yesterday, but who was extremely helpful; and my worthy adversary on this, Senator SIMPSON. He is a legislator. I appreciate that. He is a good man to work with, even when we oppose each other.

Mr. SIMPSON. Mr. President, I thank the Senator from Illinois. He is a friend of many years—Senator SIMON. We knew each other long before we came to this body. We were legislators together in our respective States. He is a man of great stability and extraordinary patience, which oftentimes we do not observe in his way of steadiness and constancy. So it is a pleasure to work with him.

I thank Senator BIDEN and Senator THURMOND for allowing me to speak at length without attempting to delay or stall or filibuster. I promised that, and I kept my word. I also want to thank Senator KENNEDY, the chairman of the subcommittee where I serve as ranking member. I particularly appreciate the work of the esteemed ranking member of the full committee, Senator THURMOND. I want to particularly commend my staff. Dick Day is a trusted friend whom I asked to help me with immigration and refugee matters when I first came here. He was practicing law at the time in Cody, WY. Dick is an exception to the old saying about Washington: If you want a friend in Washington, buy a dog. He has been with me since the beginning, and he has always been a true friend and counselor. And I certainly needed such a counselor and friend who cared about me, because these issues are filled with emotion, guilt, fear, and racism. A fairly recent addition to my subcommittee staff is Cordia Strom. She previously provided excellent counsel to the House Republicans on the Judiciary Committee. I am fortunate now to have her here. She has been a great help to Dick and me.

I thank the chairman for allowing me to go forward without a time agreement, and I thank the majority leader particularly for his trust and patience in that operation, and Senator DOLE for allowing that to go forward.

I am most appreciative. I will be working with Senator SIMON and Senator KENNEDY on a separate bill with regard to a study of the effectiveness of this law: Does it work? Is it fulfilling its role? Is there fraud in the process? And an examination of certain things within the census that we will agree to. I think my friend will concur that that is the next step. It will be a separate bill. That will be a bill of Senator KENNEDY, Senator SIMON, and myself, and we will agree to press forward.

Mr. SIMON. Mr. President, that is correct. Let me also thank the people my friend from Wyoming identifies as the groups, the various associations who have spoken up for frequently the voiceless in our society in this legislation.

NATIONAL DEFENSE AUTHORIZATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3114, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities in the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, before beginning the bill, I yield to my friend from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair, and let me thank my friend, the chairman of the Armed Services Committee, Senator NUNN of Georgia.

Mr. President, I will be brief. Fifty years ago today in 1942, exactly 8 months to the day from the bombing of Pearl Harbor, U.S. marines landed on Guadalcanal, a remarkable achievement for the U.S. Armed Forces, only 8 months after the tragedy at Pearl Harbor. The marines landed and carried on a bloody campaign in the Pacific that lasted until late December of 1942.

On that morning of 50 years ago today, our colleague, JOHN CHAFEE, then 19 years of age, landed with troops of the 1st Marine Division on the beaches of that desolate South Pacific Island. Senator CHAFEE, of course, went on to great distinction as Governor of his State, as Secretary of the Navy, as a Member of this body. But it is significant to note that only a few years after leaving the service in 1945, JOHN CHAFEE again served his country, then as an officer in the U.S. Marine Corps in the hills of Korea and, again, with great distinction.

So I thought, Mr. President, I would take a brief moment this morning to remind our colleagues that among us are Americans who fought bravely for their country, JOHN CHAFEE on two occasions. And I am proud to serve with him, my colleague from New England. I thank the Chair.

Mr. WARNER. Mr. President, if I could add to that, after serving on Guadalcanal, he went back and was commissioned in the Marines and then fought again in the battle in Okinawa. So among us is a gentleman, a soldier who truly understands the meaning of service to his country and the awesome consequences of war.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. NUNN. Mr. President, first let me respond briefly to the Senator from New Hampshire. I think all of us greatly value the Senator from Rhode Island and his role in the U.S. Senate. I can think of no better way to begin the debate on the defense bill than with words of honor for one of our own who we are proud to serve with and who has served his country with great distinction. I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I simply would like to join in the commendation offered this morning by the Senator from New Hampshire for our distinguished and able and highly respected colleague, JOHN CHAFEE of Rhode Island.

I, too, remember very well that landing on Guadalcanal half a century ago. I was 6 years old—5 years old, really—at that time and my father was among those marines who made that landing on that island that none of us had ever heard of. His battalion commander at that time, later to become a very famous officer of the Marine Corps, was Lt. Col. Chesty Puller.

But I remember vividly the great encouragement that the actions of that brave 1st Marine Division gave to this country because it came following the defeats at Corregidor, following the fall of Wake Island, following the disaster at Pearl Harbor, and there was a feeling across this great land of ours that perhaps our American military and our soldiers and our marines were not strong enough; they were simply too soft to stand up against the battle-hardened veterans of the Imperial Japanese Army.

But these gallant men of the 1st Marine Division, personified in men of the caliber of JOHN CHAFEE, turned the tide and gave this whole country a feeling of exhilaration that we can win this war, that we can rectify the events that had occurred at Pearl Harbor.

The 1st Marine Division earned the title of the "Old Breed" on Guadalcanal. They were made up primarily of marines who had served for many years, many of them old China hands, and some, like JOHN CHAFEE and my father, who had been activated out of the Reserves to serve in making this first landing in the South Pacific.

So I thank my friend from New Hampshire for being perceptive enough and thoughtful enough to bring this matter before the Senate this morning. I am pleased to join in the commendation of our colleague from Rhode Island.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. NUNN. Mr. President, I yield to the Senator from Rhode Island.

Mr. PELL. I would just like to add a word of support for the commendations and praise for my colleague, Senator CHAFEE. He has as gallant a war record as anybody in this body, enjoys the respect of our people at home, not only because of his intelligence and his integrity but also his war record. I am very glad, indeed, to join in this praise and support of my colleague.

Mr. NUNN. Mr. President, one footnote. I understand that 1st Marine Division is the most decorated division in all of our Armed Forces, and my chief of staff, Arnold Punaro, served in that division in Vietnam and informs me that that division itself recently celebrated its 50th anniversary.

So I appreciate the Senator from New Hampshire bringing this to our attention.

Mr. NUNN. Mr. President, is the defense authorization bill now the pending business.

The PRESIDING OFFICER. It is the pending business.

Mr. NUNN. I thank the Chair.

Mr. President, I am pleased to bring before the Senate S. 3114, the National Defense Authorization Act for Fiscal Year 1993. This bill provides the authorization in law for almost all of the major functions under the jurisdiction of the Committee on Armed Services, including programs and activities of the Department of Defense; the Department of Energy nuclear weapons programs, and civil defense.

This authorization bill continues the process of reshaping the U.S. defense establishment for a post-cold-war world. It promotes an across-the-board review of military roles and missions. It includes a major initiative to assist individuals, communities and businesses in adjusting to the effects of the defense drawdown. And we will be discussing those provisions in just a few moments. Finally, it calls for increased civilian-military cooperation to meet some of the critical needs in cities and communities across the Nation.

At the outset of this debate, I want to thank my friend, the ranking minority member of the committee, Senator WARNER, for all of his help and cooperation on this bill and in every other aspect of our committee's work.

I also want to thank his staff under Pat Tucker and I want to thank my staff under Arnold Punaro for their unusual, as usual, diligent and effective work.

Senator WARNER's thorough and cooperative approach to the committee's work is one of the principal reasons for the bipartisan spirit in which the Armed Services Committee conducts its business.

This will be the last authorization bill which Senator WARNER will manage as ranking minority member of the Armed Services Committee because Senator THURMOND has announced he will be taking over as ranking minority member of the committee next year. I look forward to working with Senator THURMOND, a longstanding member of our committee, who has provided leadership in the defense arena for years and years and years, and I know that Senator WARNER will continue to be one of our leading experts on national security issues on the Armed Services Committee and in the Senate and will continue to play a very vital role in our Nation's defense.

BUDGET IMPACT OF THE COMMITTEE BILL

Mr. President, the committee bill authorizes a total of $274.5 billion in budget authority for the national defense function in fiscal year 1993. This level is $7 billion below the President's amended budget request, and $2.9 billion below the level contained in the budget resolution for fiscal year 1993. These figures include approximately $1 billion in budget authority reductions in intelligence programs recommended by the Intelligence Committee.

I note the chairman of the Intelligence Committee from Oklahoma, Senator BOREN, was on the floor a few moments ago.

But those savings in the intelligence budget have been folded into the savings in this budget, and we have passed those through so we are, in effect, allowing the defense portion and intelligence portion of the overall budget to be $2.9 billion below the budget resolution which means that this money will be available for deficit reduction which I think is enormously important. In outlays, this bill is $3.5 billion below the budget request and $1 billion below the budget resolution.

Some Senators may be surprised the Armed Services Committee is recommending a bill that reduces defense programs below the level of the budget resolution. Every member of the committee was sensitive to the need to reduce the deficit, particularly after the recent debate on the balanced budget amendment. I think that all Senators, after a careful review of the committee's recommendations, will join the bipartisan majority of our committee in concluding that the savings recommended by the committee can be made without undermining our national security.

MAJOR COMMITTEE INITIATIVES

Mr. President, a large portion of the committee's recommendations can be summarized under seven major initiatives which I want to outline briefly for my colleagues. The details of these and all of the committee's recommendations are contained in the committee's report on this bill, Senate Report 102-352.

ASSISTING PERSONNEL, COMMUNITIES AND THE INDUSTRIAL BASE IN ADJUSTING TO THE DEFENSE DRAWDOWN

Some of the most important provisions in the bill relate to the subject of defense conversion and transition.

As our Nation proceeds to restructure our defense establishment, we must recognize the impact this restructuring is having on the military personnel, civilian employees, and defense industry workers who have been the foundation of our national defense policies.

Earlier this year, the Office of Technology Assessment projected that the reductions in defense spending in the President's fiscal year 1992 defense budget could lead to a loss of up to 2.5

million defense-related jobs by the year 2001. With the subsequent reductions proposed by the President and the Congress in the fiscal year 1993 defense budget, these projected job losses could be higher. Many communities that have a significant concentration of defense facilities will experience serious dislocations as defense procurements are reduced and bases are closed or realigned. Reductions in defense research and procurements will also challenge our Nation's ability to maintain the vitality of the technology and industrial base that supports our national defense.

In the long run, Mr. President, these cuts will help our Nation put money and emphasis on other compelling needs, including domestic needs, including education, including health care for our people, including R&D in the commercial sector. But there is no getting around the fact over the next several years these cuts are going to be harmful to certain communities and to certain individuals.

What we have tried to do in this bill is not promise anyone we can eliminate all the pain but try to ease the pain in this transition which is inevitable.

Mr. President, we must find ways to make use of the tremendous pool of talent from the military and civilian employees of the Defense Department and the large number of civilian workers in defense industries whose jobs are disappearing as a result of the defense drawdown. At the same time, our technology and industrial base policies must ensure that the skills and capabilities developed with our past investment in defense can be applied in the future to our defense and domestic needs through the development of dual-use capabilities and skills.

Earlier this year, a Democratic task force on defense transition headed by Senator PRYOR and a Republican task force on adjusting the defense base headed by Senator RUDMAN made a series of recommendations to address the problems associated with the downsizing of our defense establishment.

The Armed Services Committee has drawn heavily on the recommendations of these two task forces in developing a broad range of programs to address the needs of individuals, communities and businesses affected by the defense drawdown.

In the area of personnel transition initiatives, the committee bill:

Authorizes active duty personnel in nontransferable skills, such as combat arms, to apply for up to one year of educational leave of absence to obtain civilian skill training.

Authorizes active duty personnel who have 15 but less than 20 years of service to apply for early retirement, and to accrue additional military retirement credit if they take jobs in critical areas such as education, law enforcement, and health care.

Authorizes selected reservists who have 15 but less than 20 years of service to apply for reserve retirement, with benefits commencing at age 60, and authorizes selected reservists who have at least 20 years of service to apply for an immediate, reduced retirement annuity.

Authorizes separation pay and continued GI bill benefits for selected reservists who are involuntarily separated.

Authorizes Job Training Partnership Act assistance for DOD civilian employees 12 months in advance of a base closure or realignment.

Authorizes a resignation incentive of up to $20,000, and an early retirement incentive of up to $20,000, for DOD civilian employees in surplus skills and for employees at military installations facing closure or realignment.

Authorizes DOD pay for up to 18 months the Government's contribution for a Federal health insurance plan for a DOD civilian employee who is involuntarily separated due to a reduction in force.

Authorizes $50 million for DOD support for the Department of Labor's worker relocation and training programs under the Job Training Partnership Act.

To assist communities in dealing with the problems of defense transition and conversion, the committee bill:

Adds $25 million to the $4.9 million requested for the DOD Office of Economic Adjustment. Of this amount, $20 million would be for planning grants to communities adversely affected by the closure of military installations of the drawdown of defense business.

Authorizes $150 million for economic development grants administered by the Department Administration for the capital investment needs of communities adversely affected by base or defense plant closures.

Authorizes $50 million for DOD to make supplemental grants to local school districts with large numbers of DOD dependents to mitigate the effect of the dependents on the districts. The bill also authorizes $8 million for payments to local school districts that are losing large numbers of DOD dependents through base closures or realignments.

In the area of defense industry and technology, the Committee bill:

Authorizes $100 million for dual-use critical technology partnerships to stimulate industry investment in vital defense technologies.

Authorizes $50 million for commercial-military integration partnerships to foster the development of viable commercial technologies that can also meet future reconstitution requirements and other needs of DOD.

Authorizes $100 million for regional technology alliances to promote the development of products that build upon regional strengths in particular industries and technologies.

Authorizes $25 million for defense advanced manufacturing technology partnerships to encourage Government-industry cooperative efforts in manufacturing technologies, especially those which would significantly reduce the health, safety, and environmental hazards of existing manufacturing processes.

Authorizes $100 million defense manufacturing extension programs to support the manufacturing programs of regions, States, local governments, and private, nonprofit organizations.

Authorizes $200 million for dual-use technology and industrial base extension programs. The bill would enable the Secretary of Defense, working with the Secretaries of Energy and Commerce, to support programs sponsored by the Federal Government, regions, States, local governments, nonprofit organizations, and private entities that assist defense-dependent companies in acquiring dual-use capabilities.

Requires cost sharing from non-Federal sources for all the technology and industrial base programs.

Expands the Small Business Innovative Research Program, which uses a percentage of funds from each agency's research and development budget to fund research proposals from small business concerns. DOD and other agencies would increase their share from the current rate of 1.25 to 1.5 percent in fiscal year 1993, 2 percent in fiscal year 1994, and 2.5 percent in fiscal year 1995 and thereafter.

Establishes a DOD Office of Technology Transition which would be responsible for monitoring DOD research and development activities, identifying activities that have potential commercial applications, serving as a clearinghouse to facilitate the transition of technologies to the private sector, and assisting firms with regulatory problems associated with technology transition.

PROMOTING A COMPREHENSIVE REVIEW OF THE MILITARY SERVICES' ROLES AND MISSIONS

A second major initiative in the committee bill addresses the long-standing problem of the assignment of roles and missions to the Armed Forces of the United States.

In my view, the key question facing the military services—and the Defense Department as a whole—is how to preserve the military capability we need to protect our vital interests in the face of the changes in the threat, changes in technology, and the large reduction in the size of our forces. I think a large part of the answer to this question lies in a thorough, systematic review of the current roles and missions of the military services.

Roles and missions are the crown jewels of the military services. The fact is, Mr. President—as I outlined in a speech on the Senate floor last month—there is a great deal of redundancy and duplication in the current allocation of the roles and missions among the military services that costs billions of dollars each year. The time has come for a serious reexamination of this subject.

The landmark Goldwater-Nichols Department of Defense Reorganization Act which Congress passed in 1986 requires the Chairman of the Joint Chiefs of Staff to submit to the Secretary of Defense at least once every 3 years recommendations for any changes in the assignment of roles and missions among the military services. The first roles and missions report under the statute was completed in 1986. The next report is due later this year.

The committee bill contains a provision that would require the JCS Chairman's report, together with the Secretary of Defense's views on the report, to be submitted to the Congress. This provision would also expand the Chairman's report to include recommendations on efficiencies that can be achieved within the military services and defense agencies; changes in operational tempos and operating patterns; changes in unit readiness; and the reassignment of functions from the active to the reserve components.

Until the comprehensive review of roles and missions is completed, the committee is concerned about starting new programs or substantially increasing ongoing programs that might be affected by this review. As a result, the committee bill includes fences on funding for a number of key defense programs—including new tactical aircraft; the proposed new aircraft carrier; and upgrades to the B-1B and B-52 bomber fleets—until the roles and missions review has been completed.

The committee also recommends several actions that can be taken now to consolidate activities in the military services to achieve efficiencies. For example, the committee bill assigns the mission of standoff jamming for all tactical air operations to the Navy, and requires a competition between the Navy EP-3 and the Air Force RC-135 aircraft for performance of the airborne tactical intelligence mission.

ENCOURAGING CIVIL-MILITARY COOPERATION IN ADDRESSING DOMESTIC PROBLEMS

Mr. President, the outstanding performance of our men and women in uniform during the Persian Gulf conflict reflects the considerable investment our Nation has made in developing the skills and capabilities of our armed forces. The committee concluded that these resources can be matched with local needs and coordinated with civilian efforts to assist in addressing domestic problems and challenges.

The committee recommends a number of actions to facilitate this effort. The bill contains a provision that would establish a Civil-Military Cooperative Action Program. The program would build upon a variety of past DOD efforts to develop programs that are consistent with the military mission and that can assist in meeting domestic needs. The program would be structured to fill needs that are not otherwise being met, and to provide this assistance in a manner that does not compete with the private sector or with services provided by other Government agencies.

The bill also contains a provision that would establish a National Guard Civilian Youth Opportunities Program. This would provide an environment, using the Guard's training establishment, for high school dropouts to learn life skills while working on community service projects, consistent with the State missions of the Guard.

INCREASING EFFICIENCY AND REDUCING COSTS OF DEFENSE DEPARTMENT OPERATIONS

The committee made a concerted effort to increase efficiency and reduce costs of operations throughout the Department of Defense. S. 3114 includes a number of legislative provisions in this category, some of which were proposed by the Defense Department. Many of the funding adjustments recommended by the committee are based on recommendations made by the General Accounting Office; the DOD Inspector General; and the military service audit agencies.

The bill contains a major initiative to improve inventory management in the Department of Defense that result in savings of $3.2 billion in fiscal year 1993.

This is an area where the Senator from West Virginia [Mr. BYRD], as well as the Senator from Michigan [Mr. LEVIN], have taken a lead, and the committee followed through in a thorough and we believe a very diligent way in reforming our inventory system.

This initiative would:

Reduce new inventory coming into the DOD supply system;

Encourage the military services to return excess inventory held in units to the DOD supply system to reduce future purchases;

Address the problem of excess on order procurements identified by GAO—procurements for items for which a requirement no longer exists;

Reduce overall funding available to operating units and weapons system program offices to purchase secondary items by 5 percent, or $1.1 billion, in fiscal year 1993; and

Direct DOD to conduct a comprehensive review of its retention policy for secondary items in the DOD supply system.

The committee recommends authorization of the sale of 51 different commodities which the Defense Department has determined are no longer required in the national defense stockpile. DOD projects revenues from sales of these excess stockpile materials at approximately $500 million in fiscal year 1993 and $600 million in fiscal year 1994. The bill also includes provisions to streamline the management and operations of the stockpile.

To improve the efficiency of DOD recruiting programs, the committee recommends a reduction in recruiting support costs by 5 percent, or $27 million in fiscal year 1993; requires a reduction of 10 percent in the number of military personnel serving in recruiting activities over the next 2 years; and directs the Navy and the Air Force to consider consolidating their active and reserve recruiting functions into a single organization like the Army and Marine Corps.

Additional actions by the committee in this area of economies and efficiencies would:

Reduce funds requested in the fiscal year 1993 budget for administrative travel, −$200 million; consultants, −$60 million; printing and reproduction costs, −$16 million; and administrative airlift flying hours, −$18 million;

Reduce funds for classroom training and education programs for military members, −$200 million, to reflect lower force levels;

Apply $600 million in prior year funds for low priority Navy programs to offset funds requested for fiscal year 1993 programs;

Require efficiencies in the operation of the military service academies that, when fully implemented, will result in annual savings of $70 million;

Put a ceiling on permanent change of station moves for military members to stabilize tour lengths, saving $150 million in fiscal year 1993; and

Lower the ceiling on enlisted aides for flag and general officers from 300 to 240.

INCREASING UTILIZATION OF THE NATIONAL GUARD AND RESERVE FORCES

As the military services transition to a post-cold-war force structure, they must redefine the roles and missions of their Reserve components in the total force.

During the cold war, National Guard and Reserve units were primarily designed to provide combat and support units and personnel to deploy and fight in a large-scale land battle in Europe as part of a forward defense strategy. The number and composition of National Guard and Reserve units were based on the threat, and shaped by a well-defined war fighting scenario. The post-cold-war threat is not as well defined. The military services are finding it more difficult to develop realistic war fighting scenarios on which to base requirements for forces.

The committee concluded that, in addition to the combat, combat support, and combat service support units and personnel that the National Guard and Reserve currently maintain for deployment, the National Guard and Reserve must have more capability to reconstitute the Active Forces then they currently have.

FOR THE NATIONAL GUARD AND RESERVE FORCES, THE COMMITTEE'S RECOMMENDATIONS WOULD:

Place a moratorium on further reductions in National Guard and Reserve units and personnel to allow time for the Department of Defense to realign their roles and missions beyond those that have already been called for in last year's bill, which was a 2-year drawdown in the National Guard and Reserve units and personnel beyond those called for last year.

The reason for this is to allow the time for the Department of Defense to realign their roles and missions.

We also provide more combat support and combat service support equipment for the National Guard consistent with the committee's view that the National Guard should have a greater role in these areas, and consistent with the expectation of the committee that the National Guard will have a greater role in civil-military cooperation projects; which I have alluded to in other remarks at length.

We also authorize an expansion of the Junior Reserve Officer Training Corps [JROTC] Program from 1,600 to 3,500 high schools; and this can be a big assistance in particularly our inner city areas, and in it also can provide young people who in the future may enjoy and want to be a part of the Armed Forces of our country.

We authorize funding for a program initiated by the National Guard called Science and Technology Academies Reinforcing Basic Aviation and Space Exploration [STARBASE]. In partnership with private sector sponsors, the program would encourage disadvantaged youth in the areas of science, mathematics, technology, and personal achievement.

REQUIRING MULTISERVICE COOPERATION ON FUTURE TACTICAL AIRCRAFT

On the question of tactical aircraft, which is a very big question facing the committee, and our decisionmakers in the defense arena, the modernization of tactical aircraft in the military services is a major issue the Congress and the Defense Department. The services have earmarked more funds for tactical aircraft modernization than for any other combat mission. Five major tactical aircraft currently on the drawing boards require over $6 billion in fiscal year 1993 and over $400 billion in total investment costs over the next 20 years. There is no question that we have to modernize our tactical air. The question is how much duplication we can afford.

Mr. President, the committee concluded that there are four fundamental problems with the Department's plans for tactical aircraft modernization.

First, this plan constitutes a massive financial commitment, with most funds required in future years, during a period when future defense budgets are shrinking.

Second, there is virtually no interservice coordination in these modernization programs. Only the Navy's AX Program at this time is scheduled to be a joint program between the Navy and Air Force, but the Air Force will not start to procure AX aircraft until after the year 2010. Each of the other programs is being pursued for only one military department.

Third, despite claims to the contrary, the committee concluded that there is no consistent acquisition strategy to guide these programs. The Defense Department's new acquisition strategy called for the use of prototyping for new systems, for product improvements instead of new production, and for production of new systems only when the technology and associated subsystems are thoroughly tested and proven; the technical production and operational risks are significantly minimized; the production is cost-effective; and the absolute need for a new system is verified.

DOD's tactical aircraft modernization programs deviate substantially from this acquisition strategy. For example, the Army's Comanche helicopter is much further along in development than the Navy's AX. However, the budget contains all the funds needed to develop the AX aircraft, while the Army budgeted only for three prototypes of the Comanche helicopter. The Air Force conducted a prototype competition for the F–22, but the Navy believes no comparable prototype competition is needed for the AX.

Finally, the Defense Department has not completed the comprehensive assessment of roles and missions that is needed during this period of fundamental change. The so-called base force has permitted each service to develop its own solution to the build-down. There is no comprehensive assessment of the kind of threats we face in the future and which types of capabilities are likely to be most effective in dealing with those threats.

While the committee believes that the Department needs a strong modernization program for tactical aircraft, we also concluded that the Department's currect plans are unaffordable, reflect inadequate coordination of parallel service requirements, and do not reflect a thorough assessment of roles and missions. They are redundant in some areas. As a result, the committee bill:

Authorizes the budget request of $2.2 billion for the F–22 Air Force fighter, but directed that not more than half of the funds may be obligated until a comprehensive roles and missions analysis has been completed;

Authorizes $50 million—a reduction of $115 million from the budget request—to initiate a competitive prototype development of the Navy's AX long-range bomber, and directs that its future should be determined by a DOD roles and missions analysis that compares long-range, land-based aviation with carrier-based aviation;

Authorizes $943.6 million—a reduction of $190 million from the budget request—for development of the Navy's F–18E/F aircraft, and directs the Air Force, to use it as its future multirole fighter again trying to eliminate duplication.

These are very, very large savings if they are carried through in terms of the final bill that comes out of the Congress, and implemented.

The bill also restricts the funds until DOD caps the development and production costs, conducts a cost and operational effectiveness analysis, and independently assesses the risk of proceeding without prototyping, which is the current plan.

Terminates further development of the RAH–66 Comanche Army helicopter, and accelerates modification of the existing AH–64 Apache helicopter fleet, for a net savings of $365 million; and we scaled back procurement of existing F–18C/D aircraft, a reduction of $580 million from the requested amount—in light of prospective consolidation of Navy and Marine Corps F–18 squadrons, and eliminates the final 24 F–16 aircraft, which we do not believe are needed because of excess F–16 inventories. This has been one of the best aircraft we have ever built. The question is: How many do we need?

IMPROVING TRAINING AND WEAPONS DESIGN WITH ADVANCED SIMULATION TECHNOLOGY

Mr. President, the committee's final major initiative that I want to highlight involves the use of advanced simulation technology to improve training at lower cost and to facilitate the cost-effective development of new weapon systems.

The committee held a landmark hearing earlier this year that demonstrated the critical role simulation can play in the future in maintaining the combat effectiveness of our forces. In the past it was necessary to move personnel and equipment around the country for large and expensive field exercises. Advanced simulation—and especially the linking together of simulators in geographically separated placed—lets us move electrons around the country instead of people.

This is especially important for reserve forces which have to travel long distances to get to armories and training areas on weekends. Now we can link simulators together so that reservists can spend their time in joint training on weekends, even if they are conducting their training in different locations. In order to accelerate the introduction of advanced simulation into the Reserves, the committee initiated two programs: First, to create an advance simulation center for the National Guard; and, the second, to continue a program jointly sponsored by the National Guard Bureau and the Defense Advance Research Projects Agency to use advance simulation technology to improve the mobilization potential of National Guard roundout brigades.

The committee's hearings also highlighted the role simulation can play in helping to improve joint operations in future contingencies. The Joint Staff has been working to develop military doctrine to guide joint operations. The committee believes that a simulation center—much like the Warrior Preparation Center that has been so influential in Europe—would be of great benefit to the Joint Chiefs of Staff. For that reason, the committee authorized funds to establish a simulation center for joint doctrine and warfighting concepts development.

In addition to these seven major committee initiatives, I want to highlight several other actions taken by the committee on this bill. On strategic programs, the committee authorized a total of $4.3 billion for the strategic defense initiative, SDI, including $1.1 billion for theater missile defenses; $2.1 billion for development of an initial treaty-compliant ABM system; and $350 million work on the Brilliant Pebbles space-based interceptor program. This level is $1.1 billion below the President's request.

One of our top priorities in acting on the SDI Program this year was to reduce the level of technical risk and concurrency that the SDIO had built into their planning. In the future, the program must be conducted according to sound acquisition procedures, including not committing to production or deployment until adequate testing has been completed.

In this regard, Mr. President, the committee deleted last year's 1996 target date for deployment of the first ABM site, a date which last year had been represented to us in testimony as realistic, but which turned out to be clearly unrealistic and impractical. We now anticipate that the initial treaty-compliant ABM deployment would likely occur in the 2002–03 timeframe. But that depends, of course, on appropriate technology being available and also depends on the results of the test program, as well as the assessment, as we go along, of the threat.

SDIO has identified an option for fielding some test missile prototypes and a test radar at the first site on an earlier timetable. In the bill we do not prohibit them from planning these options, but we have included a provision in law making it clear that we have not authorized SDIO to exercise any such option. Whether we might at some point in the future authorize an early deployment using test prototypes—as we did with the JSTARS radar surveillance aircraft during the gulf war—will depend on the development of the test program, the maturity of the technology, and our assessment of the threat.

The bill also incorporates an important change in the Brilliant Pebbles Program. I have been concerned that SDIO has continued to spend excessive amounts on this program, despite Congress' clear direction last year excluding it from the architecture for the multiple-site limited defense system. Since that eventual multisite system will not likely be completed until the second half of the next decade—in other words, sometime after 2005—ther is no need to develop Brilliant Pebbles for possible deployment any sooner.

We had considerable debate in the committee on the space-based interceptors funding level. We finally settled on $350 million. That level is $225 million below the administration's request and $110 million below last year's appropriation. This action puts the Brilliant Pebbles funding profile on a downward slope, a course the committee believes is fully justified given the uncertainty over how and where this option might fit into the picture.

For the B–2 bomber, the committee authorized the requested amount of $2.6 billion for four additional aircraft. However, these funds cannot be released for the B–2 program until the Secretary of Defense has submitted to Congress the reports and certifications on the B–2's performance required by last year's authorization act; a report on the status of low observability testing, planned actions to improve these capabilities, and an assessment of the B–2's survivability; and a report identifying the full cost of a force of 20 fully operational B–2 bombers.

V–22 TILTROTOR AIRCRAFT

The committee recommends authorization of $755 million in fiscal year 1993 for the V–22 tiltrotor aircraft. These funds will continue the development and testing of production representative aircraft according to the plan Congress approved last year.

The committee is concerned about the potential effects on the V–22 program of the recent and tragic crash of one of the prototype aircraft. In order to ensure that the V–22 program does not proceed too far before more is known about the cause of the crash, the committee recommends a provision that would prohibit obligation of more than 50 percent of the fiscal year 1993 funds until the Commandant of the Marine Corps provides a report on the crash investigation to the Congress.

Mr. President, another important subject that has been very much on the minds of all of us on the Armed Services Committee, and increasingly on the minds of our Nation, is the treatment of women in the military services. Long before the publicity about the alleged events at the Tailhook convention, our committee has been concerned about the treatment of women in the military services. In hearings before the Subcommittee on Manpower and Personnel during the past year, officials from the General Accounting Office and from the Defense Department have testified about the continuing problems in the military services concerning the treatment of women, sexual harassment, as well as sexual assault.

The difficulties in the ongoing investigations of the Tailhook matter underscore the need here to give priority attention to improving the record of the military services in this area. We still are not perfect in the area of racial relations in the military. But I say that with all the work that has been done in that area, the military of our country are probably the best place in our Nation in terms of equal opportunity of all people, regardless of race.

We must make that record clear in regard to the professional and equal and fair treatment of women in the military. This is not simply a social issue, although it is that. It goes far beyond that. The role of the women today in our military is crucial to our national security. The decision has already been made that the women are playing a vital role; they continue to play a vital role, and they must be treated as such. So this is not simply a social matter. It is also a compelling security matter.

The committee concluded that the Defense Department must undertake a prompt and thorough review of policies and programs relating to the treatment of women in the military services. A report on the results of this review, along with any recommendations by the Defense Secretary, will be submitted to Congress by December 15, 1992. During that timeframe, we will also receive the report from the commission that has been created to study the role of women in combat, and that very important subject will be addressed in detail in that report.

Mr. President, it is very important that we complete action on this bill before the August recess. I had hoped we would have 4 days on this bill. The leadership of the Senate has to juggle every consideration, not just this one. The tax bill is another matter of great importance. We are not, obviously, going to have 4 days on this bill. I am hoping that our colleagues will understand and cooperate, not in not bringing up amendments they believe are important, but in limiting the debate to only the essential debate, so that we can move this bill as rapidly as is possible, and as prudent.

The Appropriations Committee is anxious to get to work on the defense appropriations bill. The House already passed this authorization bill, and we must begin working in September with the House in basically ironing out hundreds and hundreds and hundreds of differences between the two bills.

We have a very large section here on nothing but defense conversion. It is going to take several weeks just to work out the differences between the House and the Senate version on nothing but that subject. So we are going to have to move this bill and move it before we leave town.

Before closing, I thank all of the members of the Armed Services Committee. In particular, I thank the subcommittee chairmen and ranking members for their hard work in bringing this bill to the Senate floor. The committee disagreed on some of the individual provisions in the bill. There is no doubt about that. We had many fights and votes, but the bill, as a whole, was supported by a bipartisan majority of the committee.

Mr. President, the National Defense Authorization Act for fiscal year 1993 represents the culmination of a great deal of hard work by our staffs, and I thank them again for their diligent effort, which goes beyond the call of duty.

I also pay a particular word of thanks to Gregg Scott and Charles Armstrong of the Legislative Counsel's Office, who made an indispensable contribution to the entire Senate by preparing this bill, which is one of the most complicated and comprehensive we are required to vote on each year. I believe this is a solid bill which continues the process of reducing and restructuring our defense establishment in an orderly process, and I urge our colleagues to support the bill.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE ON S. 3114

Mr. NUNN. Mr. President, the Congressional Budget Office cost estimate on S. 3114, the National Defense Authorization Act for fiscal year 1993, was not available in time to be included with the committee report on the bill. The Congressional Budget Office conducted their normal thorough review and completed their cost estimate on this bill on August 6. I ask unanimous consent that the CBO cost estimate be inserted in the RECORD at this point.

I would also like to commend CBO for all the assistance they provide the committee throughout the year, and in particular for the assistance and advice they provided on drafting the complex provisions in this bill affecting military retirement and other benefits in a way that complies with all the requirements of the Congressional Budget Act.

There being no objection, the estimate ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 6, 1992.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 3114, the National Defense Authorization Act for Fiscal Year 1993, as ordered reported by the Senate Committee on Armed Services on July 24, 1992.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer.)

Attachment.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 3114.

2. Bill title: National Defense Authorization Act for Fiscal Year 1993.

3. Bill status: As ordered reported by the Senate Committee on Armed Services on July 24, 1992.

4. Bill purpose: This bill would authorize appropriations for 1993 for the military functions of the Department of Defense (DOD), the Department of Energy, and the Federal Emergency Management Agency. This bill also would prescribe authorized personnel strengths for each active duty and selected reserve component.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

Category	1992	1993	1994	1995	1996	1997
Direct spending						
Estimated budget authority	0	−117	−106	−123	−127	−133
Estimated outlays	0	−120	−105	−122	−127	−133
Amounts subject to appropriations						
Stated authorizations:						
Authorization level	912	196,779	15	15	0	0
Estimated outlays	68	106,499	49,226	22,905	9,482	4,575
Estimated authorizations:						
Estimated auth. level	0	54,664	368	194	−216	136
Estimated outlays	0	50,583	4,048	196	−200	123
Bill total						
Estimated BA/auth. level	912	251,326	277	86	−343	3
Estimated outlays	68	156,962	53,169	22,979	9,154	4,566
Asset sales						
Estimated budget authority	0	−473	−450	−450	−460	−450
Estimated outlays	0	−473	−450	−450	−460	−450

Note.—Totals may not add due to rounding.

Basis of Estimate: All estimates assume that funds will be appropriated for the full amount of the authorization and will be available for obligation by October 1, 1992. Outlays are estimated based on historical outlay rates. Costs of the bill would fall under function 050, National Defense, except for certain items noted below.

Direct Spending and Asset Sales: The direct spending and asset sales in this bill stem from provisions affecting stockpile sales, veterans' benefits, military retirement, certain retroactive benefits, land sales, and construction programs (see Table 1).

Stockpile Sales. Section 3301 of the bill would authorize disposal of many obsolete or excess materials from the National Defense Stockpile. CBO estimates that the manager of the stockpile would sell approximately $600 million of commodities in each year of the estimate. Further, section 3303 strikes from current law previous authorizations to purchase other materials, but it would authorize (subject to limits in appropriation bills) the spending of $100 million from the fund during 1993.

Direct spending savings occur in 1993 because the bill repeals authority to acquire materials for the stockpile. Lower direct spending occurs in 1994–1997 because the bill would require stockpile sales that would not otherwise happen. Nevertheless, CBO views sales from the stockpile in amounts over $150 million per year as a sale of assets under the rules of the Budget Enforcement Act. The Budget Enforcement Act allows credit for sales of assets up to the ongoing level of activity of an agency. Annual stockpile sales have recently been limited to $150 million. Therefore, the change in net sales up to $150 million each year would be considered direct spending credit since this authorization would be sufficient to allow the disposals to take place. The amounts by which these newly authorized disposals exceed recent levels of disposals from the fund (the remaining $450 million each year) would be considered an asset sale for the purposes of the Budget Enforcement Act.

Veterans' Benefits. The bill contains a provision affecting the Montgomery GI Bill Educational Assistance (MGIB) program. It would allow participants in the Voluntary Separation Incentive (VSI) and Special Separation Benefit (SSB) programs to train under the MGIB program if they contribute $1,200, which is required for current participants. CBO assumes 20 percent of VSI and SSB participants would contribute the $1,200 and would train under the program. Each would train for approximately 18 months and would be paid an average of $350 per month. Thus, the provision would cost $75 million over five years.

In addition, if people who elect to train under the MGIB program are enrolled in the Chapter 32, Post-Vietnam Era Educational Assistance Program, they must disenroll from the Chapter 32 program and receive a refund for any amounts they contributed toward their education. CBO assumes that those who elect to train under the MGIB program would have trained under the Chapter 32 program in the absence of this bill. Thus, there would be costs for paying disenrollment refunds and savings due to fewer education payments. The average cost of a refund is approximately $1,750 and the average training cost per person is approximately $2,000. CBO estimates the net effect on federal outlays would be an increase of $9 million over five years.

TABLE 1.—DIRECT SPENDING PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1993, AS ORDERED REPORTED BY THE SENATE ARMED SERVICES COMMITTEE

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Stockpile sales:					
Estimated budget authority	−150	−150	−150	−150	−150
Estimated outlays	−150	−150	−150	−150	−150
Veterans' education benefits:					
Estimated budget authority	20	34	18	12	5
Estimated outlays	20	34	18	12	5
Retirement programs:					
Estimated budget authority	2	6	8	10	10
Estimated outlays	2	6	8	10	10
Retroactive benefits:					
Estimated budget authority	4	0	0	0	0
Estimated outlays	4	0	0	0	0
Health benefits for former personnel:					
Estimated budget authority	4	4	1	1	2
Estimated outlays	4	4	1	1	2
Construction projects:					
Estimated budget authority	3	0	0	0	0
Estimated outlays	(1)	1	1	(1)	(1)

TABLE 1.—DIRECT SPENDING PROVISIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1993, AS ORDERED REPORTED BY THE SENATE ARMED SERVICES COMMITTEE—Continued

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Total direct spending:					
Estimated budget authority	−117	−106	−123	−127	−133
Estimated outlays	−120	−105	−122	−127	−133

[1] Less than $500,000.

Note.—This table does not show the direct spending for three provisions for which CBO cannot estimate annual costs. In each case the net costs would sum to zero over a period of years, but individual years could have net spending or receipts.

Section 549 continues benefits under the Montgomery GI bill for reservists that leave the Armed Services. Costs for this provision average $1 million per year.

Retirement Programs. Several sections of the bill affect military retirement. Section 534 of the bill gives the secretaries of the military services temporary authority to allow active duty military personnel with at least 15 years of service to retire from service and to receive retirement pay beginning at that time. Currently members must have 20 years of service in order to retire and to receive immediate payments of retirement benefits. The bill would require the Secretary of Defense to fund benefit payments for up to five years (to cover the period between an early retirement and retirement permitted under current law) in advance with amounts that are subject to the availability of appropriations. CBO estimates that added payments from the military retirement fund would occur only for those individuals who are allowed to retire early and would otherwise not have completed 20 years of service and would not have retired under the current rules. These payments would constitute direct spending. In the past, more than 98 percent of individuals who complete 15 years of service have stayed on to complete at least 20 years of service, so this group is quite small and their pensions would cost less than $1 million annually during the period of this estimate.

Another provision of the bill would provide an increase in basic pay to military personnel who have completed 24 years of service. These individuals are eligible for retirement and in recent years approximately 2,500 of them have retired annually. Because retired pay is based on basic pay, they would now receive a larger pension, for an average total cost of about $5 million in 1993–1997.

The bill would require certain limited duty officers who would otherwise serve in the Navy between July 1, 1993, and October 1, 1995, to retire early. According to the Navy, this would apply to 45 officers during this period, all of whom would retire with more than 30 years of active duty service. Annual retired pay for this group would be about $2 million. The estimate assumes that one-fourth of this amount would be paid during fiscal year 1993, and that in later years the estimated change in payments from the fund would reflect the full-year costs.

Enlisted retirees credited with extraordinary heroism are entitled under current law to receive 10 percent more in retired pay. The bill would provide this same bonus for such retirees who had returned to service and later had resumed retirement. There are very few retirees meeting all of these requirements. Consequently, CBO expects yearly costs of this provision to be less than $1 million.

The bill also would provide retired pay to certain armed forces reservists. This group would include reservists serving before August 16, 1945, who had subsequently earned 20 years of reserve service but who had never performed service with forces on active duty. Under current law, if a reservist serving during this period had not been on active duty, he or she is not eligible for retired pay. This provision would apply to fewer than 100 people and would cost about $1 million in each year from 1993–1997.

Section 547 would allow reservists with only 15 years of service to retire. Currently, reservists must have completed 20 years of service to be eligible to receive retired pay at 60 years of age. The reservist would still have to wait until age 60 to collect retirement benefits, but would be allowed to retire with fewer years of service. In the long-run, retirement costs would decrease because the lower benefit payments for those retiring with 15 to 19 years of service would far outweigh the added costs from the small portion of reservists who could retire under this bill but would not have qualified for retirement under current law. Nevertheless, because no payments are made to retired reservists until age 60 and we do not expect anyone affected by the bill to reach age 60 during the five year period of the estimate, the budget effect of the provision is zero each year from 1993 to 1997.

Section 1058 would unify the retirement system for judges on the U.S. Court of Military Appeals (COMA). Under current law, these five judges could retire under the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), or, with sufficient tenure, a special COMA system. This section would require judges who fail to qualify for the COMA system to retire under FERS and would provide credit under FERS for all service since November 1989. Judges that had contributed to CSRS would receive a refund of their contributions in excess of the contribution required under FERS for the period between November 1989 and enactment. Refunds for the COMA judges would take place in 1993 and would not exceed $500,000.

Health Benefits for Former Personnel. The bill would provide optional coverage under the Federal Employee Health Benefits Program (FEHB) for certain former civilian employees of the Defense Department as well as for certain military personnel who are involuntarily separated. The individual would pay part of the premium associated with this coverage. Enrollment would be optional, and therefore those who choose to enroll would likely be more expensive to insure than the current population. Because claims costs for these enrollees would exceed premium receipts in the FEHB trust fund, this increase would constitute direct spending. CBO estimates the amount to be $4 million in 1993 and 1994 and smaller amounts thereafter. This amount is only the cost of the increase due to the more expensive population and does not include the additional costs of paying premiums for participants at current rates. The premiums would be discretionary costs to the federal government totalling $34 million in 1993—see discussion under Operation and Maintenance Programs below.

Retroactive Benefits. Several sections of the bill provide benefits that are to paid out of discretionary funds and would not constitute direct spending in the future. Nonetheless, the bill specifies effective dates that have already passed for these provisions. CBO considers the cost of providing such benefits to be direct spending for the period of retroactivity. One provision provides retroactive medical coverage for certain individuals who are already covered under Medicare at a cost of $1 million. Another provision provides eligibility for certain travel benefits to past participants in the Special Separation Benefits program at a cost of $3 million.

Section 551 would continue coverage under the Serviceman's Group Life Insurance program for a year to certain reservists who leave the service. This provision contains direct spending because it is retroactive. It specifically covers reservists who left in the past two years. Costs, however, for the retroactive group as well as the future group are minimal.

Land Sales and Construction Programs. The bill would authorize DOD to convey land at several locations for either money or other property. In these cases, the bill allows the construction of reserve centers or family housing using the proceeds of those exchanges. CBO projects $3 million of direct spending in 1993 from the use of proceeds. Conveyances for cash would be classified as asset sales. CBO estimates that these sales would bring in about $23 million.

The bill would allow the lease of two pieces of land at the Naval Air Station in Oakland, California. It would also allow the Air Force to grant an easement for land in Miramar Air Force Base in return for fair market value. CBO cannot estimate the amounts that would be collected.

This bill would provide for the transfer of more than 16,000 acres of land at the Rock Mountain Arsenal in Colorado from the U.S. Army to the Department of the Interior (DOI).

Other Direct Spending. One provision would allow the direct spending of receipts from the public gained through the sale of logos, licenses, and similar trademarks for a program to commemorate World War II. Over time, the spending from the proceeds of these sales would equal the amounts of the sales. Consequently, net direct spending would equal zero.

Section 315 deals with the promotion of civilian marksmanship. The provision would allow any receipts collected from sales of arms and ammunition to be credited to the relevant appropriation. Also, rifle ranges would be available to civilians to use. Fees would be charged and the proceeds would be used to operate the range. Both of these provisions constitute direct spending, but the amount would be equal to zero.

Section 351 deals with the sale of obsolete ammunition to Korea from War Reserve stocks. These proceeds would be considered as offsetting receipts from the sale of excess property under budget function 051. This provision would not change the CBO baseline because the estimate for receipts is not specific to certain sales. Thus the direct spending would be zero.

Authorizations of Appropriations: The bill states the amount authorized for appropriation for several accounts totaling about $197 billion for 1993. The specific amounts authorized and CBO's estimate of the related outlays are shown in Table 2. In addition, the bill contains provisions that affect several budget functions and that do not specify the amounts authorized for appropriation. CBO has estimated both the amounts authorized and the related outlays for such provisions. The following section presents CBO's cost estimates and provides information about them.

End strength. The bill would authorize 1993 end strengths for active and reserve components of the Defense Department. End strengths authorized for active-duty personnel would total 1,767 thousand—the same as the Administration's request and 99,000 below estimated 1992 levels. Reserve end strength levels for 1993 would be authorized at 1,107 thousand—101 thousand more than requested, but 12 thousand less than 1992. Compared to the request, the reserve authorization would cost $356 million in pay and allowances in 1993.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Function 050:					
Estimated authorization level	75,283	0	0	0	0
Estimated outlays	71,699	3,584	0	0	0
Function 400:					
Estimated authorization level	66	0	0	0	0
Estimated outlays	64	2	0	0	0
Function 950:					
Estimated authorization level	−23,658	0	0	0	0
Estimated outlays	−23,658	0	0	0	0

TABLE 2.—SPECIFIC AUTHORIZATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1993, AS ORDERED REPORTED BY THE SENATE ARMED SERVICES COMMITTEE

[By fiscal year, in millions of dollars]

Category	1992	1993	1994	1995	1996	1997
Procurement:						
Authorization level	0	53,621	0	0	0	0
Estimated outlays	0	9,564	14,409	15,141	6,849	3,702
Research, development, test, and evaluation:						
Authorization level	0	38,942	0	0	0	0
Estimated outlays	0	20,905	13,430	3,110	808	492
Operation and maintenance:						
Authorization level	0	81,701	0	0	0	0
Estimated outlays	0	63,432	14,462	2,132	1,112	54
Military construction:						
Authorization level	0	8,900	0	0	0	0
Estimated outlays	0	3,063	3,020	1,518	686	322
DBOF and stockpile acquisitions:						
Authorization level	0	1,224	0	0	0	0
Estimated outlays	0	1,070	121	16	12	0
Atomic energy defense activities:						
Authorization level	0	11,882	0	0	0	0
Estimated outlays	0	7,347	3,597	938	0	0
Other 1993 programs:						
Authorization level	0	420	15	15	0	0
Estimated outlays	0	338	76	29	5	0
Transfer authorities:						
Estimated outlays	0	14	102	−60	−27	−30
Desert Storm funding:						
Authorization level	429	88	0	0	0	0
Estimated outlays	68	427	22	0	0	0
Environmental supplemental:						
Authorization level	483	0	0	0	0	0
Estimated outlays	0	353	88	22	10	5
Total:						
Stated authorizations	912	196,779	15	15	0	0
Estimated outlays	68	106,499	49,226	22,905	9,482	4,575

DOI would retain most of the property and sell a relatively small part. Sale of surplus property is estimated to yield about $10 million in fiscal year 1996 and thereafter.

Also, the bill would authorize an end strength of 15,150 people for the Coast Guard Reserve in 1993. This authorization would cost $66 million and falls under budget function 400.

Budget function 950—undistributed offsetting receipts—records offsets to the accrual payments from function 050 associated with military retirement, and employer contributions to the social insurance funds. The $24 billion for function 950 relates to both the costs of civilian personnel included in Table 2 (under Operation and Maintenance) and for military personnel.

Compensation and Benefits. The bill contains several provisions that affect compensation and benefits paid from Military Personnel appropriations. The costs of these provisions are shown in the table below. The provision with the largest budget impact would authorize a 3.7 percent pay raise in 1993 for military personnel at a cost of $1.8 billion. This is the same pay raise assumed in the Administration's budget request.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Military pay raise:					
Estimated authorization level	1,848	0	0	0	0
Estimated outlays	1,761	88	0	0	0
Enlistment/reenlistment bonuses:					
Estimated authorization level	244	0	0	0	0
Estimated outlays	232	12	0	0	0
Health care provider/aviator bonuses:					
Estimated authorization level	52	0	0	0	0
Estimated outlays	50	2	0	0	0
Other expiring authorities:					
Estimated authorization level	8	0	0	0	0
Estimated outlays	8	0	0	0	0
Cap on permanent change of station:					
Estimated authorization level	−137	0	0	0	0
Estimated outlays	−130	−7	0	0	0
Early retirement-active members:					
Estimated authorization level	254	−111	−373	−805	−430
Estimated outlays	242	−94	−361	−784	−448
Reserve personnel transition benefits:					
Estimated authorization level	40	39	38	37	39
Estimated outlays	38	39	38	37	39
Other compensation and benefits:					
Estimated authorization level	−277	129	134	139	144
Estimated outlays	−264	97	133	138	143

Several sections would extend for an additional year certain payment authorities currently scheduled to expire at the end of 1992. Extending authority for payment of enlistment and reenlistment bonuses would result in costs of $244 million in 1993. Health care provider and aviator bonus authorization would cost $52 million in 1993. Other extensions would result in bonus payments of $8 million in 1993.

The bill limits the amounts that can be spent for permanent change of station moves to $2,863 million, or $137 million lower than the budget request.

Section 534 provides authority through 1995 for certain active duty military personnel to retire from service after completing 15 years of service instead of the 20 years required under current law. Nevertheless, the service secretaries may allow these retirements only to the extent that funding is available in that year to cover the pension costs of these individuals up until the time they would have reached normal retirement eligibility.

CBO estimates that approximately 50,000 such retirements would take place over the next three years. Advance funding of pension costs for these individuals would cost about $500 million per year in each of those three years. Some of these costs would be offset, however. CBO assumes that this program would not be used to lower end strength below the levels in the current plan. Rather, these additional retirements would for the most part be replaced with new recruits, whose pay is significantly lower than that of more senior personnel. In 1993, this savings would amount to more than $200 million, and savings would increase in subsequent years by enough to more than offset the initial retirement costs. Thus, the net cost of early retirement is $254 million in 1993, and for the period 1993 through 1997 pay savings exceed retirement costs by nearly $1.5 billion.

Subtitle E of Title IV establishes a set of Guard and Reserve transition initiatives which would provide a variety of benefits to reservists leaving military service. Section 546 would provide a special authority to give reservists who have 20 creditable years of service and would qualify for retirement—except that they are less than 60 years of age—an annual payment for up to five years in lieu of retired pay. The cost for this provision in 1993 is $30 million. Section 548 would provide separation pay to members with greater than six years of service, but less than 15 years. Estimated costs for this provision are $10 million in 1993. Also, the bill includes medical benefits for these people costing $57 million in 1993—see section below on Operation and Maintenance Programs.

Section 565 would expand the Junior Reserve Officer Training Corps (JROTC). Currently, there are about 1,500 units across the United States. This provision would expand that to 3,500. The provision also will allow the secretary to waive the requirement for certain school districts to pay a portion of the instructor salaries; the Department will cover the whole cost. In addition to about $31 million authorized under the Operation and Maintenance account (shown in the table below), this provision would cost about $19 million in 1993 for uniforms and other military personnel expenses.

The bill expands an existing program that reimburses military personnel for certain related expenses when they adopt children. The current program is applicable to adoptions that are conducted through government programs or voluntary agencies and costs about $3 million annually; the bill would expand the eligibility to so-called private adoptions, which essentially covers all other adoptions. The Department of Defense estimates that approximately half of all adoptions by military personnel are private adoptions; thus this change would increase costs by about $3 million each year.

The bill includes a provision authorizing appropriations for Military Personnel in the amount of $77,316 million for 1993. Because the cost of provisions in the bill would exceed this amount by $309 million, the effect of this provision is to limit the amount authorized by that amount.

Operation and Maintenance (O&M) Programs. A number of provisions in the bill affect medical benefits for military personnel. One provision creates an expanded dental insurance program at an cost of about $85 million. Another provision allows CHAMPUS coverage of certain home health care benefits. This change would save money, approximately $50 million annually, because it would replace hospital care with less expensive home-based care for certain individuals with chronic illnesses. The bill also reduces the limit on out-of-pocket costs that individuals under CHAMPUS can pay for health care annually from $10,000 to $7,500. This change would affect about 5,000 individuals annually who exceed the current cap at a total cost of $12 million. Finally, the bill would extend secondary CHAMPUS coverage to certain individuals who are eligible for Medicare benefits because of end stage renal disease at a cost of $1 million per year.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
CHAMPUS benefits:					
Estimated authorization level	0	−39	−42	−46	−49
Estimated outlays	0	−31	−41	−45	−48
Dental program:					
Estimated authorization level	0	83	86	89	92
Estimated outlays	0	66	85	88	91
Civilian transition benefits:					
Estimated authorization level	0	43	53	59	60
Estimated outlays	0	34	51	58	60
Health benefits for former employees:					
Estimated authorization level	0	195	255	263	237
Estimated outlays	0	151	232	254	237

The bill also provides benefits for certain civilian employees of the Department of Defense whose employment is terminated. One provision establishes a government-wide list of vacant positions in government agencies and a toll-free telephone number to provide information from the list, at a cost of $2 million annually. The bill also allows the Department of Defense to offer separation payments to certain civilian employees who voluntarily leave their jobs. CBO estimates such payments would cost a total of $39 million in 1993.

The optional coverage under FEHB that the bill provides for certain former military and civilian personnel would increase authorizations because the Department of Defense would pay all or part of the insurance premiums for some of those individuals. At current rates, this provision would have discretionary costs of $34 million in 1993—$30 million for former military personnel and $4 million for civilian former employees. Direct spending of about $4 million per year would result from people with relatively great medical needs enrolling in the program.

The early retirement provisions for active duty military personnel would temporarily increase medical costs because retirees would be eligible for medical benefits sooner. Costs would increase to $121 million in 1996 but would decline after that as early retirees reach the point where they would normally have been expected to retire.

Under the Reserve Transition Program, those individuals under 60 years of age who were separated and receive the five-year annual payment (see page 9 of this estimate) would be eligible for medical benefits, as if they were retired. Costs in 1993 for this provision are $57 million.

Energy-Related Environmental Provisions. Subtitle B of Title III contains three environmental provisions that could affect the prices charged by contractors performing work for the DOD. Section 312 would require contractors to eliminate the use of ozone-depleting substances and could increase procurement contract costs because it allows contractors to charge the DOD for any additional costs arising from this requirement.

Sections 313 and 319 would reduce the risk faced by contractors performing environmental restoration work for the DOD. This could increase DOD's potential liability in the event of an accidental release of hazardous substances during a contractor's routine performance of an environmental contract. If such an accident were to occur under current law, a contractor probably would request DOD to share or cover completely any costs incurred as a result of the accident.

These provisions may have no practical effect on future liabilities of the DOD. Many contractors may refuse to bid on DOD environmental contracts because of the lack of specific indemnification. These sections could increase the number of contractors bidding on environmental work and thus lower DOD's restoration costs. CBO cannot predict the net cost or savings of any of these environment-related sections.

Other Department of Energy Programs. Three provisions included in Title XXXI could increase estimated authorizations for the Department of Energy (DOE) and the Department of Justice. Section 3137 would change certain payments for injuries to the atomic weapons testing program. Neither DOE nor CBO have data to estimate these costs.

Section 3151 would require the Secretary of Energy to devise and implement a restructuring plan for the portion of DOE workforce currently employed at defense nuclear facilities. This plan must include retraining for displaced DOE workers (for those who work directly for DOE and for those who work for a contractor to DOE) and local impact assistance for communities affected by the restructuring. DOE has testified that as many as 20,000 such workers could be affected by restructuring between 1993 and 2005. The estimate assumes that approximately 2,000 workers per year would receive retraining at a cost per person of about $2,000. The estimate further assumes that the aid to communities would average about $1 million for each year of the estimate.

Section 3152 would require DOE to extend their program for monitoring workers exposed to hazardous and radioactive substances. DOE currently spends over $15 million annually on health surveillance programs. The amount of increase in DOE's level of effort that would be required by this section is not clear. The estimate assumes that the health surveillance workload would approximately double and thus would require about $16 million in each year of the estimate.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Estimated authorization level	0	21	21	21	21
Estimated outlays	0	21	21	21	21

Armored Vehicle Upgrades. Section 112 authorizes the appropriation of funds received from the sale of tanks, fighting vehicles, and armored personnel carriers after fiscal year 1989. The estimate assumes this indefinite authorization is limited to funds that have been, or will be, deposited in the Treasury as offseting receipts. These receipts include the net proceeds from the sale of equipment not intended to be replaced and charges for nonrecurring costs of research, development, and production. Based on information provided by the Department of Defense, CBO estimates an authorization of $300 million in fiscal year 1993. It is possible that costs for 1994-1997 could total the amount estimated for 1993. The estimate requires information about the number of weapons to be sold, their prices, and related policies, which DOD could not provide.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Estimated authorization level	300	(1)	(1)	(1)	(1)
Estimated outlays	6	(1)	(1)	(1)	(1)

(1) Not estimable.

Land Sales and Construction Programs. This bill would provide for the transfer of more than 16,000 acres of land at the Rocky Mountain Arsenal in Colorado from the U.S. Army to the Department of the Interior (DOI). One time costs to implement these provisions would be limited to site preparation and the construction of a visitor/education center at the new refuge. Total costs on the facility would be about $5 million in 1996 or thereafter.

The bill would allow, subject to appropriations action after the sale of a parcel of land, the purchase of up to 350 units of family housing at Puget Sound. CBO estimates an implied authorization of $20 million for the 350 units.

This bill would allow the Air Force to enter into lease agreements with a present value of $108.4 million at Bolling Air Force Base and Andrews Air Force Base. CBO estimates that this would result in lease payments of about $8 million per year. Another provision would allow the Air Force to enter into rental guarantee programs for 1,419 units at four different locations in the United States. CBO estimates that the Air Force would be responsible to guarantee $14 million in rents per year starting in 1995, after the completion of the units.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Rocky Mountain Arsenal (section 2852):					
Estimated authorization level	0	0	0	5	0
Estimated outlays	0	0	0	1	2
Lease/purchases and rental guarantees:					
Estimated authorization level	8	8	22	22	22
Estimated outlays	8	8	22	22	22
Puget Sound land-conveyance:					
Estimated authorization level	20	0	0	0	0
Estimated outlays	(1)	8	6	3	1

[1] Less than $500,000.

Transfer of Funds. The bill also would allow the transfer, subject to appropriations action, of up to $612 million from proceeds of stockpile sales to the account, O&M, Defense Agencies.

[By fiscal year, in millions of dollars]

Category	1993	1994	1995	1996	1997
Estimated authorization level	612	0	0	0	0
Estimated outlays	528	66	9	7	3

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. The direct spending costs of this bill are subject to the pay-as-you-go procedures are shown in the following table.

[By fiscal years, in millions of dollars]

	1993	1994	1995
Change in outlays	−120	−105	−122
Change in receipts	(1)	(1)	(1)

[1] Not applicable.

7. Estimated cost to State and local government: None.

8. Estimate comparison: None.

9. Previous CBO cost estimate: None.

10. Estimate Prepared by: Eugene Bryton, Alan Fairbank, Barbara Hollinshead, Cory Oltman, Amy Plapp, K.W. Shepherd, Lisa Siegel, and Joseph Whitehill.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Mr. WARNER. Mr. President, before the Senator steps aside here momentarily, perhaps we could acquaint our colleagues with the understanding that the Senator and I have now with the majority leader and the Republican leader about how we hope to progress today, and the order of amendments we anticipate will be taken up here.

Mr. NUNN. Mr. President, I respond to my friend from Virginia by saying that the first amendment we would like to see presented will be in the form of a committee amendment, which is on a subject that almost everybody in the Senate has been very interested in, and that is the whole question of defense conversion.

I have alluded to the outstanding leadership of the Senator from Arkansas in this, along with Senator RUDMAN from New Hampshire on the Republican side. We anticipate 1 hour of discussion on defense conversion, and I will be asking for a rollcall vote on that particular measure. It is important to the communities, and it is important to the personnel in the military, and it is important to civilian employees; it is important to those that work in industry. So that will be the first order of business.

I hope that, after that, we will have an amendment—or we have discussed it and, of course, there is no time agreement on this or a time order. But the Senator from Arkansas has an amendment on SDI contributing, and it is my understanding that there will be an amendment by the Senator from Tennessee [Mr. SASSER] and the Senator from Arkansas [Mr. BUMPERS] on reducing the funding for overall SDI Program.

Then it is my hope that we can turn to the B-2 debate. We have discussed that with Senator LEAHY and Senator LEVIN, who will be basically moving to strike the last five B-2's. If we can get these very important matters done in the next several hours, that would be a major start or good start on this bill.

Mr. WARNER. Mr. President, I thank the chairman. We have worked together, and I have agreed with him on this. I am wondering if it is at all possible, given that it is Friday, and a lot of Members have plans, if we could ask the leadership to probe the possibility of a unanimous-consent agreement which would accommodate first the chairman's amendment on defense conversion. Then perhaps we could turn to the testing amendment.

I know the Senator from Maine [Mr. COHEN] and others are very anxious to deal with that early on. Then that would be followed by the two major ones that we anticipate, the Bumpers and Leahy amendments. I think we can find time for the Senator from Tennessee [Mr. SASSER]. That would enable Senators to better plan this day. Would the chairman be willing to explore that possibility?

Mr. NUNN. I would certainly be willing to explore the possibility. I do not want to propose a unanimous-consent agreement now, because I know it would be objected to now. I believe we are better served to talk about that, and let the business proceed while we are talking about that with the leadership.

I believe we are much better off not trying to seek the unanimous-consent agreement now, though I certainly hope later on we can get one.

On the testing amendment, I know the Senator from Maine has been very involved in this, in both the committee and on the floor, and I meant to sit down with the Senator from Maine and the Senator from Nebraska to discuss this to see if there can be some kind of meeting of the minds between us. And there are many other parties involved, including the Senator from Oregon, who has taken a very vigorous leadership position on an amendment passed last week, and the Senator from Maine, Mr. MITCHELL, who also will be a cosponsor.

I hope we can move forward with SDI while that testing matter is being discussed and, hopefully, bring something up on that later on today.

Mr. WARNER. Mr. President, I thank the chairman.

Mr. COHEN. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. COHEN. Could the Senator give us some indication as to how he intends to proceed, certainly through today and perhaps into the evening? Also, there is some question about Monday. I have been advised that the leadership would like to conclude this bill by 1 o'clock on Monday. Is that the Senator's understanding?

Mr. NUNN. That was the understanding yesterday. I had asked, as I said, for 4 days. The Senator from Maine [Mr. MITCHELL] has to consider this as well as other matters—the tax bill is going to take some time—and I was given word from the leadership yesterday that they would like to move to the tax bill at 1 o'clock on Monday.

At the time we had that understanding, we also had an understanding there would be a time agreement on SDI and a time agreement on B-2 and, also, that we would start at the beginning this morning or last night.

So the underlying assumptions of that have changed considerably. I think it is going to be very difficult, if not impossible, to conclude this bill by Monday at 1 o'clock. We will do our best. We will make as much progress as possible, but we will have to see as we go along.

Mr. COHEN. Is it the Senator's position that we would be voting Monday morning and afternoon until 1 o'clock?

Mr. NUNN. If we do not vote Monday morning, we will not make any progress Monday morning. So it would be my view that we would vote Monday morning as the votes come up.

Mr. COHEN. Am I correct that you do not anticipate having votes tomorrow?

Mr. NUNN. That is above my pay scale here.

I would be glad to be here tomorrow and I will announce later on today that I will be available if we can have any amendments that will not require a rollcall vote. I have been informed by the leadership that they do not desire rollcall votes tomorrow, but that, again, is a matter of the leadership.

Mr. COHEN. I thank the Senator.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I thank the Senators for yielding to me and the Chair for recognizing me.

I have been unable to talk to the distinguished chairman and ranking member this morning, but I did have a discussion with Senator SASSER earlier in the day.

We have decided, if it meets with the approval of the chairman and the ranking member, that in the SDI area of amendments, the amendment that I am going to offer relative to contracting out in the SDIO office, that that amendment actually now follow the amendment offered by the Senator from Tennessee and, I believe, Senator BUMPERS and possibly Senator LEAHY of Vermont. But my amendment, I think now will follow their amendment, if it meets with the chairman's approval.

Mr. NUNN. I understood the Senator's desire yesterday was to go first.

Mr. PRYOR. That is correct.

Mr. NUNN. I have no objection to that at all.

Mr. PRYOR. The chairman is very generous in granting us that. I think, for the benefit of planning for all those involved in these amendments, that my amendment will follow the Sasser amendment.

Mr. NUNN. I know, having talked to the Senator from Tennessee, that he prefers not to have a time agreement at this point on SDI. We had anticipated the schedule on the basis of no more than about 3 hours on that subject. That is not applicable unless we have an agreement.

But I do hope, as we move through the debate on this, we might be able to reach some time certain for a vote. We will be discussing that with the Senator from Tennessee.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I first would like to express to the chairman of the Senate Armed Services Committee, on behalf of all members of the committee, the majority and minority, and on behalf of staff, majority and minority, our profound appreciation for his leadership throughout this year. It parallels that same leadership he has given on a successive number of years when we were building up the Armed Forces of the United States. And now, because of the changing world situation, it is the decision of the President and others, joined in by the Congress, that we will, in an orderly manner reduce the size of our Armed Forces.

This poses a special challenge to our chairman and the members of the committee.

To our chairman, we express profound thanks for the leadership you have provided over these many years.

This is the sixth year I have been privileged to work with you as the ranking member on our side.

All of us are laboring to understand more clearly the role of our military forces in a world where we no longer are directly confronted by an organized superpower equipped with nuclear weapons. The several states of the Soviet Union, primarily Russia, continue to possess these weapons. They continue to pose a threat to the world, but the combined forces that were once present are rapidly now being downsized in the former Soviet Union.

The demise of the Warsaw Pact in the Soviet Union clearly indicates the need for a major reduction in and restructure of our own Armed Forces. The President has indicated a measured, carefully structured plan to accomplish these reductions over time.

For those who might desire additional cuts in our budget, let me remind you that the Department of Defense is already making major reductions. The Secretary of Defense, with the counsel of the chairman and members of the Joint Chiefs of Staff, has outlined to our committee the administration's plans to reduce our Armed Forces by roughly 25 percent by fiscal year 1995, a process which is well underway at this time.

These reductions would cut from 1990 force levels the active duty Army force structure by roughly one-third, from 18 divisions to 12; the Air Force by about 25 percent from 36 fighter wing equivalents to 26, including a reduction of 9 active and 1 Reserve fighter wing; the Navy by about 20 percent, from 546 ships to only 450.

Under the administration's proposed reduction plans, the Reserve components and DOD civilians would be reduced by about 200,000 each. Over 200 military facilities worldwide would be closed or realigned.

The U.S. military, under these reduction plans, would be reduced to its lowest end strength since before the Korean war; the defense share of the Federal budget, which at one time was as high as 57 percent, would be reduced to only 17.2 percent, the lowest level in 40 years. The defense budget by 1997 would represent only about 3.6 percent of GNP, by far the lowest level since Pearl Harbor.

There are those who want to reduce our military capabilities even further. This bill authorizes a total of $274.2 billion in budget authority, which is $7.3 billion below the administration's requested level and $3.1 billion below the Senate's budget resolution for fiscal year 1993.

This bill also provides for an additional $250 million for aid and assistance to the former Soviet states and $1.2 billion for defense conversion efforts.

Aid to the former Soviet states is a subject that has been thoroughly debated in this Chamber. I want to acknowledge the leadership in moving forward with these programs by our chairman, the Senator from Georgia, the Senator from Maine, and the Senator from Indiana. I have been privileged to join with them in this effort over a period of many months now. I believe that we are now beginning to see the early fruits of those initiatives, and I commend my chairman.

The bill provides for an additional $250 million for assistance to the former Soviet states. While I support these efforts, I must point out to my colleagues that these are defense dollars along with the $1.2 billion earmarked for defense conversion—these defense dollars will not be spent to maintain our own military forces or increase their readiness and capabilities.

The end result of all this is a defense authorization bill that could possibly end up as much as $10.5 billion below the level requested by the President—a level based on plans which already include dramatic reductions of our military forces and capabilities.

I urge my colleagues as you examine the defense budget, to take into consideration once again the dollars that are being forwarded to the states of the former Soviet Union, as well as those dollars identified for defense conversion, because these dollars will not—I repeat will not—be directly invested in the strength of our own forces.

Any further cuts in this bill would be ill-advised in view of the sharp reductions already under way. We must also understand that further reductions will translate into additional job losses throughout the defense industry at a time when the economy will have great difficulty absorbing more displaced workers.

And there lies another special challenge to the Congress, to work with the Secretary of Defense to preserve the industrial base in the United States, particularly that industrial base that relates to certain technologies—foremost among them the ability to produce nuclear propulsion units for our ships. That base must be preserved, and I think this bill goes a long way toward doing just that.

Mr. President, I have joined with the chairman of our committee in his initiative to urge the Department of Defense to conduct a thorough review of the roles and missions of our military services. This review would be focused primarily on reducing duplication and redundancies among our military services, providing for more efficient and effective Armed Forces.

There has not been, in my judgment, a serious review of roles and missions for many, many years. It is long overdue. And I predict that the end result will be one that is primarily determined by the Congress of the United States.

It is exceedingly difficult, no matter how strong a Secretary of Defense may be or a Chairman of the Joint Chiefs, for them to put the final framework on an Armed Force which must then go forward for a number of years in that configuration. The complexity within the Department of Defense of the three military departments, the competition—yes, the competition that exists between the three military departments—is of such a magnitude that these tough decisions, historically, have been made by the Congress of the United States. And I know of no more difficult undertaking that the chairman and I and members of the committee, and eventually the Members of this body, will have in the coming year, than to fabricate a framework for the future of our Armed Forces which provides for an adequate defense for this country and that of our allies. It will be a difficult job.

Mr. President, the chairman of our committee has taken the primary initiative on defense conversion. I wish to commend him for doing so. The defense conversion package is designed to assist defense industries in making a transition from primary reliance on defense contracts to a more diversified business base.

Our committee has recommended spending some $600 million on a series of programs, creating partnerships between the Federal Government, States and localities, and the private sector.

These programs would foster such efforts along with the development and application of critical advanced technologies and manufacturing technologies. Other programs would provide technical assistance to smaller defense firms attempting to enter the commercial marketplace or to market products overseas.

These programs all share similar features. They are based on the principle of cost-sharing among the Department of Defense and other participants in the partnerships. In some cases, the partnerships would even mandate a decreasing share from the Defense Department over time. This will ensure that DOD enters into only those partnerships in which the private sector and the other participants are willing to invest at least half of the resources.

Another feature of the programs recommended by the committee is that, to the maximum extent, the Defense Department will participate in existing efforts by other Federal agencies and State and local governments. Finally, our bill mandates the use of competitive procedures for the award of all cooperative agreements under this authority.

The committee adopted a provision within this bill that would establish a civil-military cooperative action program to draw on the resources of the military services to assist in meeting domestic needs.

I believe that there are areas where the capabilities of our military services can be used effectively—without in any way denigrating their military readiness—to assist in alleviating domestic problems that exist in the civil sector. Military people are highly skilled in leadership, training, and education and present outstanding role models for young people.

We should be able to work out ways at local levels between military and local community officials to use the capabilities of both our active and reserve components along with local resources to alleviate domestic problems.

While there are no resources specifically identified wihin this bill for civil-military programs, the Secretary of Defense is authorized in section 1060 to use the skills, capabilities, and resources of the Armed Forces to assist civilian efforts to meet the domestic needs of the United States.

Mr. President, as I have already indicated, I believe that there are certain areas where we can use military personnel and assets to assist in meeting domestic needs. It is possible, however, that under this broad authority, Department of Defense resources could be used in the future to an extent and in a manner not intended within the spirit of this legislation as passed by the committee. I remain concerned about providing this kind of broad authority to a Secretary of Defense.

And I would like to acknowledge at this time the ever-helpful contribution by the Senator from Oklahoma [Mr. BOREN]. He has worked with out chairman and myself on this program and I hope we have, to a large measure, met his goals. I join him on independent legislation, which is still being considered by the Senate.

Mr. President, while I support this bill and believe that our committee did a commendable job of achieving agreements on very tough issues, there are several areas about which I still have some measure of disappointment and, indeed, concern.

I was extremely proud of our committee and, indeed, this body last year when we joined to approve the Missile Defense Act of 1991.

That act was the result of many individual efforts. My regret is that it was not fulfilled as we intended it here in the Congress. As a consequence, our committee had to readdress that act and this whole area of SDI in an intensive manner this year.

Recognizing the growing threat of the proliferation of ballistic missiles and related technology, as well as nuclear, chemical, and biological weapons capabilities, we charted a course to provide for a defense for the American people as soon as technology would allow.

Working in close concert, the Armed Services Committee agreed on a missile defense program with three primary features:

First, rapid development and deployment of highly effective theater missile defenses;

Second, rapid development and deployment of a multiple-site, ground-based, limited defense system [LDS] to protect the United States;

Third, continued robust funding for space-based systems such as Brilliant Pebbles to provide the potential for enhancing theater and strategic defenses at a future date.

Unfortunately, several members of our committee no longer seem to view this situation with the same level of seriousness as last year. However, in my opinion, the threat to the United States of an accidental, unauthorized or limited missile attack continues to be great. And the threat is growing. The breakup of the Soviet Union and the Warsaw Pact into several states which still possess nuclear weapons, and the technology that is spreading throughout the world, continues to pose, in my judgment, a serious threat to the security of our country and that of our allies.

The committee voted this year to support a funding level of only $4.3 billion for the SDI Program, a reduction of $1.1 billion from the President's request and $300 million less than the committee recommended last year.

After a considerable amount of debate, the committee recommended only $350 million for the space-based interceptor program. It is essential that we maintain the Senate position in conference to sustain the minimum funding necessary for this important system. I hope that the Senate will send a strong signal reinforcing the commitment to missile defenses that we made last year. The urgency and the need not only persists but it grows, Mr. President.

We must be resolute now in order to ensure that we have missile defenses in place before this danger poses a threat which could bring about severe damage to sections of our country and perhaps to our allies and, most importantly, the troops of our Armed Forces deployed around the world. We have an obligation when we send them to the far corners of this world to equip them with every known means to protect themselves. With the ever-increasing proliferation and, I might add the simple, fabricated weapons, crude weapons like the Scud which we witnessed in the gulf operation, I think the threat is increasing to the point where we have to increase our own efforts in this area.

I would like to turn now to the question of the selected Reserve. This is another area of the bill that causes me concern. Once again, the committee has recommended higher authorizations for the selected Reserve than requested by the administration. In fact, the committee has recommended a reduction in the selected Reserve amounting to only 22 percent of that reduction recommended by the Secretary of Defense, and that recommendation was predicated on the advice and counsel of the Chairman and the members of the Joint Chiefs of Staff.

In my opinion, this figure that we have incorporated in this bill is imprudent. The committee indicated that it took this action to justify this size of the selected Reserve based on uncertainty about the threat. But the committee has been certain enough about the threat to approve 100 percent of the active duty reductions each year while refusing to make real reductions in the selected Reserve. Even if we had approved 100 percent of the reductions, mind you even if we approved 100 percent, as requested by the President for the Reserve components, the selected Reserve would still be 200,000 stronger than it was when President Reagan took office in 1981. The year 1981, you will recall, was really the apex of the strength of the combined forces of the Soviet Union and the Warsaw Pact. So that gives you some idea of how we have failed to face up to our responsibilities to make appropriate reductions in the selected Reserve.

Today, forces of the former Soviet Union and the Warsaw Pact, are in rapid decline in strength and effectiveness, yet we still cannot agree to cut the selected Reserve of our own forces. At the same time, we are drawing down the strength of our active duty forces to the lowest levels since the beginning of the Korean war.

I think that is a failure on our part.

The committee recommended on operations and maintenance a funding level of $81.7 billion. After considering transfers involving O&M accounts, the total reduction in O&M funding is approximately $4.2 billion. Military readiness and activity levels are directly and severely affected by this decrement in funding. We have tried to minimize these effects by directing a number of associated management changes, primarily in secondary inventory management policy. This series of changes is projected to save $3.2 billion by reducing the excess secondary inventory.

While we have taken steps to alleviate the negative impact on military readiness, if we continue to reduce these accounts or use these accounts to fund other activities, we will certainly incur serious readiness problems and morale problems.

Mr. President, I would like to conclude with just a comment once again thanking my chairman, the members of the committee and two superb professional staffs for the opportunity to work with them as ranking member now in my sixth year. I look forward to, of course, remaining on the committee. Next year the minority side, or it could be the majority side—time will tell—will be under the stewardship of a great American, the senior Senator from South Carolina [Mr. THURMOND].

I remember when I came to the Senate 14 years ago, he was the first to greet me. I have sat next to him now these 14 years on the committee. I have watched when he has labored with a decision as to whether or not he wanted to leave the Judiciary Committee—where he has been ranking and, indeed, chairman in that period of time—to take on comparable responsibilities in the Armed Services Committee. Many times I sat with him when he counseled with my predecessors Senator Goldwater and Senator Tower, each of whom were able to have the stewardship of the Republican side by virtue of his forbearance, a forbearance that he felt was necessary to continue to fulfill certain objectives he had in the Federal judiciary system of our Nation and other responsibilities associated with the Judiciary Committee.

But now this illustrious and well-known and beloved American will assume the duties in the next Congress as the ranking member, or chairman, as the case may be, of the Armed Services Committee.

Earlier today, we recognized the contributions to our Nation's defense by the distinguished Senator from Rhode Island [Mr. CHAFEE] with whom I had the privilege of serving in the Navy Department for many years. He was honored in particular for his participation in the Battle of Guadalcanal. I thought it would be appropriate if I concluded my remarks by inserting in the RECORD the distinguished military history of the senior Senator from South Carolina who went across the beaches of Normandy 40-plus years ago and who will soon take up the responsibilities as the ranking member of the Armed Services Committee.

So, Mr. President, I ask unanimous consent that a full recitation of the distinguished military record of the senior Senator from South Carolina [Mr. THURMOND] be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR THURMOND'S RECORD OF MILITARY SERVICE

ASSIGNMENT RECORD—U.S. ARMY RESERVE SERVICE—EXTENDED ACTIVE DUTY AND ACTIVE DUTY FOR TRAINING

Date, grade, and unit assignment

09 Jan. 24: 2LT; Commissioned in Infantry, USAR, from ROTC Clemson College.

11 Apr. 26/25 Apr. 26: 2LT; Platoon Commander, Company E, 325th Infantry Fort Screven, Georgia.

11 Jul. 26/25 Jul. 26: 2LT; Student, Unit Cadre Training, Company Officer Course 327th Infantry, Fort McPherson, Georgia.

17 Jul. 27/30 Jul. 27: 2LT; Command Training, 327th Infantry, Fort McPherson, Georgia.

30 Mar. 32/12 Apr. 32: 1LT; Platoon Commander, Company B, 8th Infantry, Fort Benning, Georgia.

08 Aug. 37: 1LT; Terminated USAR Commission.

(Break in Reserve Service for Active Duty World War II, 6 April 1942 to 20 January 1946.)

07–21 Aug. 49: COL; 96th Military Government Group, Fort Bragg, North Carolina.

06–20 Aug. 50: COL; Instructor, Military Government Training, 412th Military Government Company, Fort Bragg, North Carolina.

05–19 Aug. 51: COL; Commander, 360th Military Government Area (USAR) Columbia, South Carolina (Duty at Fort Gordon, Georgia).

17–31 Aug. 52: COL; Commander, 360th Military Government Area (USAR) Columbia, South Carolina (Duty at Fort Gordon, Georgia).

16–30 Aug. 53: COL; Commander, 360th Military Government Area (USAR) Columbia, South Carolina (Duty at Fort Gordon, Georgia).

15–29 Aug. 54: COL; Commander, 360th Military Government Area (USAR) Columbia, South Carolina (Duty at Fort Gordon, Georgia).

20 Aug. 55/03 Sept. 55: BG; Advisor, Army War College, Carlisle Barracks, Pennsylvania.

01–15 Jul. 56: BG; Deputy Chief, Civil Affairs and Military Government School, Fort Gordon, Georgia.

RECORD OF ARMY RESERVE ASSIGNMENTS

Date, grade, and unit assignment

14 Oct. 56/03 Nov. 56; BG; Duty with Assistant Secretary of Defense for Manpower, Personnel and Reserves, OSD, Washington, D.C.

20 Sept. 57/13 Oct. 57; BG; Duty with Commander in Chief, US Army Europe, Heidelberg, Germany.

30 Aug. 58/14 Sept. 58; BG; Deputy Chief, Office of the Chief of Civil Affairs and Military Government, Department of Army, Washington, D.C.

24 Oct. 59/07 Nov. 59; MG; Student Officer, US Army Command and General Staff College, Fort Leavenworth, Kansas.

06–07 May 60; MG; US Army Civil Affairs School, Fort Gordon, Georgia.

19 Oct. 60/04 Nov. 60; MG; Assistant Chief, Office of the Chief of Civil Affairs, Department of the Army, Washington, D.C.

27 Nov. 60/11 Dec. 60; MG; Office of the Chief of Legislative Liaison, Office of the Secretary of the Army, Washington, D.C.

04 Aug. 61; MG; Office of the Chief of Civil Affairs, Department of the Army, Washington, D.C.

07–21 Oct. 61; MG; Office of the Chief of Civil Affairs, Department of the Army, Washington, D.C.

22 Oct. 61/05 Nov. 61; MG; Office of the Chief of Legislative Liaison, Office of the Secretary of the Army, Washington, D.C.

14–23 Oct. 62; MG; Assistant, Deputy Chief of Staff for Military Operations, Department of the Army, Washington, D.C.

11–25 Nov. 62; MG; Office of the Secretary of the Army, Washington, D.C. (with duty Europe and the Middle East).

09–14 Dec. 62; MG; US Army Special Warfare School, Fort Bragg, North Carolina.

05–11 Jan. 64; MG; US Army Special Warfare School, Fort Bragg, North Carolina.

07–22 Nov. 64; MG; Office of the Chief of Legislative Liaison, Office of the Secretary of the Army, Washington, D.C.

ASSIGNMENT RECORD—WORLD WAR II SERVICE, ACTIVE DUTY

Date, grade, and unit assignment

06 Apr. 42 CPT; Appointed AUS, Corps of Military Police.

17 Apr. 42/19 Nov. 42 CPT; Executive Officer/S–3, 713th Military Police Battalion, Albany, New York, and later Camp Picket, Virginia.

20 Nov. 42/31 Dec. 42 CPT; Assistant Provost Marshal, Headquarters, Eastern Defense Command, and 1st Army, Governors Island, New York.

01 Jan. 43/25 Oct. 43 MAJ; Assistant, Assistant Chief of Staff, G–2, Headquarters 1st Army, Governors Island, New York.

3 Dec. 43/7 Jan. 44 MAJ; British Civil Affairs and Military Government Staff College, England.

26 Oct. 43/30 June 44 LTC; Assistant Civil Affairs Officer, Headquarters, 1st Army, European Theater of Operations.

22 May 44/20 Jun. 44 LTC; Attached to 82nd Airborne Division, Orders 300.4, Headquarters, 1st Army, 22 May 1944, Normandy Invasion.

01 Jul. 44/30 Jun. 45 LTC; Assistant, Assistant Chief of Staff, G–5, Headquarters, 1st Army, European Theater of Operations*.

01 Jul. 45/18 Oct. 45 LTC; Assistant, Assistant Chief of Staff, G–5, Headquarters, 1st Army, Pacific Theater of Operations.

19 Oct. 45/20 Jan. 46 LTC; Separation Center, Relieved from Active Duty, Fort Bragg, North Carolina.

"I only regret that I have but one life to lose for my country."—NATHAN HALE.

AWARDS AND DECORATIONS OF MAJOR GENERAL JAMES STROM THURMOND, USAR

I Decorations

Legion of Merit.
Legion of Merit (1st Oak Leaf Cluster).
Bronze Star Medal (with "V" Device).
Army Commendation Medal.
Purple Heart.

Certificates

Third Army Certificate of Achievement.
OCAMG Certificate of Achievement.
Department of the Army Certificate of Appreciation.

II Service medals

American Campaign Medal.
European-African-Middle Eastern Campaign Medal (with Bronze Arrowhead, and one Silver Service Star (in lieu of five Bronze Service Stars).
Asiatic-Pacific Campaign Medal.
World War II Victory Medal.
Armed Forces Reserve Medal (with two 10-Year Devices).

III Foreign awards

France: Croix de Guerre, Order of Army Corps with Silver Gilt Star.

Belgium: Order of the Crown, Degree of Officer.

IV Unit awards

Presidential Unit Citation (previously identified as Distinguished Unit Emblem).

V Non-military awards conferred as a result of national service

Selective Service Medal, awarded by the United States Congress.

Cross of Military Service, awarded by the United Daughters of the Confederacy.

"Let us have faith that right makes might; and in that faith let us to the end, dare to do our duty as we understand it."—ABRAHAM LINCOLN.

Mr. MACK. Mr. President, it is with real sadness I find, that as it now stands, I cannot support committee's bill which comes before the Senate today. Unfortunately, this legislation contains fundamental flaws which left me no choice but to vote against the committee report when it left our markup 2 weeks ago. I sincerely hope that this body will find the collective wisdom and political will required to remedy those flaws and address other important issues as it considers the fiscal year 1993 Department of Defense authorization here, on the floor of the Senate.

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*Detailed to General Staff Corps (with troops) until relieved from First Army effective 29 July 1944.

The bill's first failing concerns fundamental funding levels. Before any congressional action whatsoever, President Bush set the Defense budget on a steep decline which would result in an overall cut of 26 percent between fiscal years 1985 and 1997, even as domestic spending skyrockets by 33 percent. By fiscal year 1997, the President would have us spending only 3.4 percent of our GNP on national defense—the lowest level since before World War II. The committee went even further: This bill is a full $7 billion below the President's amended budget request and nearly $3 billion below the budget resolution agreed to here, on this very floor, only months ago. I regret that such vital decisions about the funding for America's national defense seem to result from political expedience and efforts to meet arbitrary fiscal targets rather than the actual requirements of our military and Nation's defense.

So many seem so eager to declare the cold war over and reap huge peace dividends by ripping the heart out of the Department of Defense. I wish it were that easy. Like all Americans, I have watched the world changes of the last 2 years with equal measures of wonder and delight. Under the leadership of Presidents Bush and Reagan, the chances of an all-out nuclear war have dwindled to the point where we have finally been able to take our bombers off alert, standdown our ICBM force, and stop the production of plutonium and highly enriched uranium. However, a simple truth must now be faced: As expensive as the individual weapons may be, strategic forces are still much less expensive to maintain than conventional forces. And for the foreseeable future, it is those same conventional forces who will continue to bear the weight of preserving our freedom and meeting the challenges which we will face around the world. Highly trained soldiers, sailors, airmen, and marines don't come cheap. Neither do the sophisticated weapons which they use. In the euphoria of this remarkable age, the bill before the Senate makes the mistake of cutting too much too fast.

The bill also falls far short on the matter of the strategic defense initiative. President Bush's request for SDI was $5.4 billion. After intense negotiation, the best the committee could do was $4.3 billion. Moreover, funding for Brilliant Pebbles space-based interceptors is only $350 million, compared with the $400 million cited by SDIO as the absolute minimum necessary to meaningfully continue the program. In any case, even $400 million could hardly be considered robust funding as called for in last year's historic Missile Defense Act compromise.

While some have claimed, rather loudly, that recent world events have made SDI a program in need of an enemy, I believe that sort of thinking is remarkably shortsighted. Wish as we may that the dissolution of the Eastern bloc and the Soviet Union itself has made the world a safe and harmonious place, reality presents a much sterner challenge. Proliferation, not just of ballistic missile technology, but of the missiles themselves, looms large as militarily advanced nations, starved for hard currency, sell virtually anything for which there is a market.

As the world's superpowers step back from the brink of nuclear armageddon, agreeing to historic reductions in these terrible weapons, the time has come to turn our eyes to the shining goal of a real defense against attack, rather than the nightmare threat of utter immolation of the planet in retribution for such an attack. In a world where the credibility of strategic deterrence is increasingly called into question, it is insane not to do everything in our power to provide Americans in their homes the real security which they have every right to expect. For us to walk away from that goal, wringing our hands about cost, concurrency, and the need for blind adherence to an outdated treaty, in the face of technology which is poised to deliver this national security, would be an abdication of our fundamental responsibility to the people of America.

Finally, this bill contains some remarkably ill-conceived priorities when it comes to major defense programs. The Navy's next-generation medium-attack aircraft, dubbed the A-X, which is designed to replace the aging A-6, sees its funding slashed. There is no more vital aircraft development program in the Pentagon than the A-X; for without medium-attack capability, the very mission of our carrier battle groups is called into question. As we embark upon an era in which regional conflict replaces superpower confrontation as the most likely scenario requiring American military action, the power projection capability of our carrier battle groups, our medium-attack aircraft in particular, becomes all the more necessary.

To that same end, the reduction in long-lead funding for America's next aircraft carrier is similarly foolhardy. Many of the old, conventionally powered warhorses among our carrier fleet have been, or will soon be, retired or refitted to noncombatant missions. The names of these marvelous ships conjure glorious pages of history: *Lexington*, *Midway*, *Forrestal*, *Ranger*, and *Independence*. As these ships leave the fleet, we must prepare to replace them, and carry on the legacy and missions unique to naval aviation. The RH-66 Comanche helicopter is terminated, and vital upgrades to the F-14 Tomcat fighter are, again, underfunded. As we did on the rescission package, when we voted to fund the *Seawolf* submarine, this bill often spends our precious defense resources on unneeded and unrequested programs and force mixtures while vital needs go wanting.

These, then, are some of the reasons which compelled me to oppose the committee's bill as it left our markup. In fairness, I must say that there is much here of which I wholeheartedly approve. The efforts made by colleagues on the committee were both constructive and sincerely motivated. I reiterate my hope that we can make some important changes to the bill so that I, in good conscience, can support it, and so that we can continue to provide America with the quality of national defense on which they have come to rely.

Mr. COHEN. Mr. President, I am extremely pleased that the bill before us today, the fiscal year 1993 Defense authorization bill, includes several provisions affecting the future of Loring Air Force Base in Maine. I want to thank the Armed Services Committee for agreeing to include these provisions in the final legislation prepared for the Senate.

Last year, the Air Force announced its recommendation to close Loring AFB. Despite questions about the process used by the Air Force in making its recommendation, the Base Closure Commission concurred. This was a devastating blow to all of Maine, but especially to the people of Aroostook County where Loring is located.

This decision is now being challenged in court. But the people of Aroostook County are resilient and resourceful and are exploring every possible option for reuse as they proceed along the lines of litigation. This will be a very challenging job, given Loring's geographic location.

Because Loring is a Superfund hazardous waste site, however, it is clear that the search for a new use will be an even more difficult task.

The prospects of a new owner being named responsible for the hazardous waste caused by Air Force activities at Loring will no doubt deter many businesses or private groups from considering opportunities there. In addition, the lengthy cleanup schedule—possibly 20 years in Loring's case—leaves open the possibility that reuse might never take place unless we make changes in current law governing federally owned Superfund sites.

The bill under consideration today incorporates the language from two bills I introduced with my colleague from Maine, Senator MITCHELL, to eliminate these uncertainties. The first provision authorizes the Secretary of Defense to indemnify all successors to property at closing military facilities from liability for hazardous waste created by the Department of Defense. Similar language is already in place for Pease Air Force Base in New Hampshire, and I believe Loring and other similarly situated facilities deserve the same treatment.

The second provision would clarify the section of Superfund law regarding the transfer of clean portions of a federally owned installation that has been designated a Superfund site. It would set up standards and procedures by which clean Federal property that is part of a federally owned Superfund site can be transferred to the private sector.

One of the most frustrating aspects of this situation has been the refusal of the Air Force to spend money on the cleanup of the hazardous waste it created at Loring. As my colleagues have heard, we already face significant obstacles to reuse at Loring, one of the greatest being hazardous waste cleanup. The lack of cooperation from the Air Force on the funding issue has only made things worse.

No cleanup funds have been spent at Loring in fiscal year 1992. A whole year of cleanup effort has been lost as a result of the Air Force's intransigence on the funding issue.

I am therefore pleased that the committee has included a provision I requested that authorizes the Air Force to spend the money it claims it is prohibited from using. These funds have been included in the urgent supplemental appropriations bill now being considered by Congress, and I hope that bill is approved in the very near future. The language in the Defense authorization bill simply assures us that the Air Force will still be able to spend this money should the supplemental bill not become law.

I believe that these provisions will help the Loring Readjustment Committee take a step closer to the successful reuse of Loring. I cannot underestimate for my colleagues the economic devastation caused by the closure of Loring Air Force Base. It is essential that we take all reasonable steps to ensure that the reuse of the base, or portions of it, can occur without unnecessary constraints.

Despite the severe blow dealt them by the decision to close Loring, the people of Aroostook County are attempting to convert adversity into economic opportunity. I intend to do whatever I can to help them, and I hope these provisions will make their job a little easier.

Thank you, Mr. President.

POWER PROJECTION AND THE FISCAL YEAR 1993 DEFENSE AUTHORIZATION ACT

Mr. McCAIN. Mr. President, we face two major challenges in reshaping our forces and strategy. The first challenge is to shift from a mix of strategy and force plans driven by the Soviet and Warsaw Pact threat to a strategy and force mix that focuses on contingency capabilities throughout the world.

The second challenge is to reach a new consensus on defense spending that will ensure the maximum possible peace dividend in terms of reductions in our deficit or taxes, but that establishes a stable floor in defense spending that will still preserve the forces and capabilities we need.

FOCUSING ON FORCE REQUIREMENTS, NOT THE COLOR OF THE UNIFORM

There are many things we have to do to meet these two challenges, but the distinguished chairman of the Armed Services Committee is right in calling for a comprehensive reexamination of the roles and missions of our forces. We cannot rely on the past, or let historical momentum shape our capabilities for the future. We need a zero-based reexamination of the roles and missions performed by each element of our force mix.

We must also recognize that such a reexamination involves far more than simply examining the issue of whether our military services perform duplicative functions or could perform some tasks more cost effectively if the task was performed by a given service. It is far too easy to fall into the trap of debating the uniform, rather than analyze the military need.

In fact, there is a long postwar history of nations that attempted to unify the military services and which ended up by having to reverse their plans. There is an equal history of reorganization efforts that were designed to specialize the armed forces, and achieve major economies, but which actually deprived them of critical mission capabilities and led to increases in cost.

The British and Canadian cases are examples in point. Some changes in roles and missions proved useful, but others simply demoralized the military or deprived them of critical capabilities.

Britain learned in the Falklands, for example, that bombers are not a substitute for carriers, and that depriving its carriers of an effective airborne warning platform could nearly cost it a war. Both nations have seen the economies of unification and specialization turn into nothing more than force cuts or the substitution of a centralized bureaucracy and overhead functions for more effective service activity.

We must remember that our ultimate goal is to find the most cost-effective way to give us the level of forces and capabilities we need for the future. It is not to change uniforms or create interesting new organization charts. There is much to be gained from the proper reexamination of roles and missions.

There is much to be lost if we are careless, or if we prejudge the results of the work now underway by the Chairman of the Joint Chiefs and the military services.

This is why I welcome the fact that our bill calls for needed studies, but does not attempt to decide the issue without military advice and extensive hearings. I do not believe, as some in the House seem to believe, that we should attempt to use the budget to impose a new strategy and force plans on the military without their consultation or advice.

I do not believe that we should use our power of the purse to bypass the service chiefs, the Chairman of the Joint Chiefs, the Secretary of Defense, and the President. "Advice and consent" does not mean "revise and impose."

THE IMPORTANCE OF NAVY AND MARINE CORPS FORCES IN A POWER PROJECTION ERA

At the same time, I would like to join Senator NUNN in raising several issues regarding roles and missions that I believe should be considered by both the Pentagon and in our debates on this issue.

My background as a naval officer and my experience as a member of the Senate have caused me to devote particular thought as to how our Navy and the Marine Corps should change their roles and missions, and force structure, to meet our future needs.

Our country has adopted a new national security strategy that emphasize power projection, and that uses strategic deterrence, forward presence, and crisis response as its principal elements. We must pursue this strategy to meet armed threats that are regional, isolated, perhaps ethnic in origin, difficult to predict and even more difficult to resolve.

The kind of civil war presently being fought in the territory of Yugoslavia is more likely to be the norm than the exception. We must proceed through a period of change and uncertainty as the world makes a transition from the past 40 years of East-West confrontation to a new steady state that will surely involve increased economic interdependence, shifting alliances, increased emphasis on coalition or United Nations action, new domestic agendas and, at least in the near term, greater political instability.

Within this global context the Navy and Marine Corps must reshape themselves to satisfy the demands of this new landscape. This concept implies operations in the littoral areas of the world: emphasizing operations from the sea rather than on the sea; influencing events ashore through forward presence; and supporting U.S. interests overseas by protecting U.S. citizens and property, deterring and containing crises, and, as a last resort, projecting power.

In this effort we must have forces that are able to arrive on the scene quickly and to act decisively.

THE CRITICAL IMPORTANCE OF POWER PROJECTION FORCES IN THE POST-COLD-WAR ERA

As I have discussed the future with our military leaders I have been struck by the fact that, while we designed our cold war naval forces to fight a global war with the Soviets, we instead used them for protection of United States economic and political interests, humanitarian assistance, response to terrorist activities, and civilian evacuation—many of the same tasks we may associate with the new strategic environment.

We have used military force to keep the peace, protect American citizens and our allies, and deter and defeat aggression more than 240 times since the end of World War II. More than 90 percent of these uses of force did not involve contingencies where Soviet or Warsaw Pact forces were involved. Virtually all of these uses of force involved contingencies without strategic warning and occurred where forward presence was vital to U.S. success.

It is important that our leaders and the Congress keep this historical perspective in mind as they reshape our fighting forces. On average during the past 45 years, our naval forces, particularly our aircraft carriers and our marines, were used for crisis response between four and five times a year.

Of course, many of these crises could be attributed to East/West confrontation. We had all hoped that when Mr. Gorbachev withdrew the Soviet Union from a confrontational posture, first by plan, then by collapse, the world would have become more stable.

Instead, the demand for naval forces to respond to regional crises has remained nearly constant. More than 30 times since 1985, we have employed naval forces to control or to resolve an international crisis, none involving the Soviet Union.

At present there are between 20 and 30 areas around the world where armed conflicts are taking place. Just as fighting in Bosnia has drawn naval forces to support peacekeeping efforts, other conflicts could generate a similar demand for protection of our national interests.

THE NEED FOR FORWARD PRESENCE

Experience also shows that forward presence helps to contain a crisis. For example, over half of the crisis control events in which naval forces have been involved were resolved within 40 days, the vast majority within 60, most without the use of force. Measured against the time required for naval forces to arrive at a hot spot from the United States—35 days for the Persian Gulf—forward presence has spelled the difference between resolution and conflagration.

Our willingness to sustain a forward deployed naval presence allows America's leaders to contain a crisis and to put low-key pressure on offenders, and provides time to engage in diplomatic maneuvering without being compelled to commit forces to full scale combat before we are fully prepared—politically and militarily.

Furthermore, many positive results can be achieved through normal naval operations—friendly port visits send an unmistakable message that America cares about what happens. A scheduled multinational exercise involving the Navy and Marine Corps provides an unobtrusive assurance and ensures the capability to operate together in time of need and to offer humanitarian assistance from the sea.

When a crisis does occur, however, forward deployed amphibious ready groups with embarked marines, a maritime action group composed of Tomahawk-armed cruisers and submarines, or carrier battle groups supported by amphibious forces and maritime prepositioning ships are quite capable of exerting overt pressure to resolve it.

These are the expeditionary capabilities inherent in our naval and marine forces, as well as many elements of our Army and Air Force. They can generate a graduated application of power through many stages short of actual combat. When needed, however, they have the ability to project power from the sea as an enabling force for joint operations—seizing a lodgement and continuing operations while additional combined forces are brought to bear from bases in the United States.

As forces arrive in theater, naval forces will act as a bridge from sea to shore. When the joint campaign is complete, naval forces will normally remain behind to cover the withdrawal of land forces and ensure conflict termination goals are met, without a reflash of hostilities.

CRITICAL FUTURE MILITARY CAPABILITIES

Let me stress that all four of our services have a critical role to play in our Nation's new power projection strategy.

The Army's light divisions and contingency forces are critical to any U.S. intervention against all the major potential threats our Nation faces. Not only must we maintain light forces like the 82d and 101st Divisions, we must provide at least three fully ready and rapidly deployable heavy division forces, capable of medium and high intensity combat, and we must maintain a significant forward presence in Europe and Northeast Asia.

The Air Force's bombers, fighters, and attack aircraft are of equal value, as its strategic airlift. A decisive technical superiority in land-based aviation is critical to our future needs. This is particularly true in the case of long range attack aircraft and the attack aircraft we rely on to support our troops in the field.

The Nation must maintain three strong and fully ready Marine Corps Expeditionary Corps, properly equipped and supported for midintensity combat and amphibious operations. We must keep the corps forward deployed, prepositioned, and ready for action.

We must also, however, provide the proper capabilities the Navy needs for the post-cold-war era.

What are these capabilities? To satisy the Nation's security requirements, the Navy must be able to operate forward and respond swiftly to short notice tasking. It must be flexible—capable of operating across the broad spectrum from peace to conflict and generating force packages appropriate to need. It must be agile—massing or dispersing when necessary and shifting easily from one unified command to another as a potent cohesive force. It must be integrated—a Navy-Marine team that can move from sea to shore, and back with ease. It must be able to stay the course—self-sustaining, largely independent of host nation support and foreign basing rights. It must be interoperable—able to work as a seamless member of a joint force in peace, crisis or conflict.

There are several weapons systems in this year's budget that specifically support the Navy's power projection mission. Important among them are those that evolve from the Navy's aviation plan—F/A–18E/F, A/X, and CVN–76. I would like to discuss those crucial weapons systems in turn.

THE F/A–18E/F

The committee has made a wise decision in fully funding the F/A–18E/F. I am all too conscious of the troubled history of naval aviation in recent years. I believe, however, that the Navy has demonstrated to the Congress that it has developed an effective plan for the modernization of naval aviation, and that the F/A–18E/F is a most critical part of this plan.

The Navy must control the cost of this program in constant dollars and keep development within the current program development cost of $4.88 billion. It should be able to buy 48 F/A–18C/D aircraft in the fiscal year 1993 budget, and to develop the F/A–18E/F as a relatively low-cost upgrade of a proven system. This would ensure that we develop a high-low mix of aircraft where the F/A–18E/F complements the A–X and can meet the Navy's needs in many contingencies.

I do not believe that our opposite numbers in the other house are right in attempting to restructure the Secretary of Defense's budget request for naval aviation. We cannot afford to delay development of the F/A–18E/F, which involves relatively benign technical risk, while accelerating the A–X with its much greater degree of technical development.

The F/A–18E/F will only cost about half as much as developing a new type of aircraft, yet it provides a 35-percent increase in range and 50-percent increase in endurance over the F/A–18C/D. It offers an 80-percent increase in time-on-station in some key mission contingencies, and a 25-percent increase in combat air patrol station coverage. It has superior payload flexibility and recovery capability, and it will provide improved survivability in terms of reduced vulnerable area, increased expendables, and improved electronic countermeasures. At the same time, the F/A–18E/F should be affordable if we avoid competitive prototyping.

THE A-X

I firmly believe that we should fully fund the Secretary of Defense's budget request for the A-X. I regret the mistakes that led to the cancellation of the A-12, but I believe that the A-X is absolutely critical to give both the Navy and the Air Force the kind of decisive superiority in long-range attack missions they will need after the year 2000.

The A-X is a model joint program with joint participation by the Navy and the Air Force. It is being developed to replace current strike aircraft that are completing their service lives.

The A-X will replace the Navy A-6 and the Air Force F-111, F-15E, and F-117. The multi-mission capability of the A-X will provide the tools necessary to execute successfully any mission assigned. Its technology will be state-of-the-art, designed to neutralize future threats and to provide superb weapons delivery capability.

The A-X will be fast, highly maneuverable, and able to conduct a wide variety of autonomous missions. It will be able to employ air-to-air missiles, antiradiation missiles, precision guided munitions, and unguided or dumb bombs. It will have the latest survivability upgrades and will be an invaluable asset to every naval or joint commander.

I believe that we must be extremely careful not to force tradeoffs between advanced attack aircraft and our bomber force decades before we can predict the future nature of the threats we face. When we do, we must ensure that we take into account all essential variables. For example, during Desert Storm we learned that airpower can play an extraordinarily important role in hurling back aggression and in limiting casualties provided that we have an absolute and decisive air superiority over the enemy.

We also face a near certainty that the next conflict will be different from Desert Storm, and we must be ready for a wide mix of crisis and short conflicts. While long-range bombers provide the National Command Authority with a first-strike capability that can deliver large quantities of ordnance over great distances, this option has never been employed for crisis control.

The most important aspect of crisis control is an immediate and sustainable strike capability in the theater to illustrate resolve, to provide time for critical political decisions to be made, or to neutralize opposing offensive forces if required.

Now that we have canceled production of the F-15E, the A-X is the only practical road to an advanced medium attack aircraft that either the Air Force or Navy can deploy during the next quarter century. The Air Force and Navy can retain and improve the F-111 and A-6, but we learned from the Persian Gulf war that our existing attack fighters were less effective than we thought and had problems in survivability, range-payload, and their ability to deliver advanced conventional munitions.

The A-X will offer major advantages over both the F-111 and A-6, some of which will be as much as 42 years old by the time the first A-X squadron is active with the Navy or the Air Force. The A-6 and F-111 will average 25 years of service, and even the best mix of upgrades of the F-111 and A-6 cannot prepare these aircraft for the complex threat environment that will then exist in many Third World nations—both in terms of air defense and the need to find and kill highly mobile targets.

A carrier-based A-X will provide the capability to execute this mission effectively. If military intervention is decided upon, forces will be moved into the theater to execute the orders of the President. Because of the critical nature of any conflict, the National Command Authority should always ensure that adequate forces are in place before initiation of combat operations.

If military strike operations are required as a last resort, A-X will not be constrained by host nation limitations or overflight restrictions, nor will its operational effectiveness be limited by lack of targeting flexibility or the fatigue associated with flight times of 13 or 14 hours. Carrier-based tactical aviation, including A-X, will provide a substantial part of the response force, be able to conduct close air support, carry out medium range battle area interdiction, and provide cover and support for other combat assets.

The need for the A-X is particularly striking when we consider the following shifts in our strategic posture:

Our ability to deploy sheer numbers in terms of naval, land, and air forces will be sharply reduced.

Our deterrent capabilities in many contingencies will be dependent on the perception of a given threat that we can repeat and improve on our performance in Desert Storm.

The willingness of the United Nations, and our friends and allies, to support the United States in peacekeeping, and in deterring and ending aggression will be heavily dependent on the perception of our strength.

Our ability to develop a domestic political consensus around military action will depend heavily on our ability to maintain a decisive edge over potential threats that ensures low United States and allied casualties. It will also depend on having highly flexible strike systems that minimize damage to civilians and even enemy casualties.

Our capability to limit escalation, the endurance of conflicts, and to terminate conflicts on favorable terms will be heavily dependent on our tactical airpower.

Our strategic posture will be highly dependent on our presence in every threatened area of the world, and the knowledge that we are both present in a troubled region and able to deploy sustained amounts of military power. We must never forget that Saudi Arabia and Israel are the only two countries in the world—outside of the central region of Europe—that could offer the mix of sheltered, advanced, interoperable air bases we used during Desert Storm.

In most scenarios we will only be able to project air power effectively if we can sustain high sortie rates, if we can rapidly retarget and strike at mobile targets, and if our most advanced attack fighters have both sufficient range and payload to operate at long ranges in extremely demanding missions.

While the A-X will be as important to the Air Force as to the Navy, it is interesting to compare a carrier force using the A-X to the capabilities of land-based bombers. The carrier-based A-X will be able to sustain substantially higher sortie rates than CONUS-based bombers due to its close proximity to the conflict and its designed levels of reliability and maintainability.

As a quantitative comparison, a 6-carrier force, each armed with 20 A-X's, will be able to generate three times as many sorties in a conflict over Southwest Asia as the planned bomber force operating from the United States over a 30-day period. Additionally, during a sustained campaign, the 6-carrier-based strike force, A-X's and F/A-18's, can deliver almost twice as much ordnance tonnage over a much broader target set at lower payload per dollar than long range bombers based in the United States.

The cyclic nature of carrier operations provides for the continuous employment of A-X for an indefinite period of time. Integrated into that capability is the tactical flexibility required for conducting combat operations.

The A-X will be equipped with the latest electronic devices and carry the weapons needed to integrate it into any war-at-sea scenario. It also will be involved integrally as an organic naval strike weapons system in any conflict requiring amphibious operations.

I do not believe, as members of the House Armed Services Committee seem to believe, that we can accelerate development of the A-X. The F-22 will involve a 13-year development cycle, and our experience with the A-12 aircraft has shown that we need a period of 10 years to bring the A-X to the point where it can become the kind of aircraft that can fully meet the needs of the Navy and Air Force during the next decade in order to dominate the skies of the period after 2000.

At the same time, I see no possibility that we can sacrifice the critical air and power projection superiority that only an A-X can provide to the Navy and the Air Force by relying on older long-range strike fighters like the F-111 and A-6, or a comparatively small force of B1-B and B-2 bombers. We must have an all-weather, all-environment medium attack aircraft.

More broadly, I see no current possibility that we can shift to a mix of roles and missions where even the Air Force can rely on long-range bombers as a substitute for advanced long-range attack aircraft. We need both, but all of our experience with air combat to date has indicated that it is the flexibility of advanced attack aircraft that is critical in the kind of low- and mid-intensity combat we face in the future.

THE CVN-76

Finally, I believe that we should seek a result of the House-Senate conference that will fully fund the Navy's request for $832 million for advanced procurement of long lead items for the CVN-76.

As we examine our future roles and missions, we must not confuse unproven theory with proven practice, or research with reality. When the United States has responded to crises in the world we have used carriers as our instrument and played them through the entire range of diplomatic gambits. They are a well-known and immensely successful quantity and have proven themselves by responding 31 times since 1985 to conflicts around the globe.

As more U.S. bases in foreign countries are scheduled to be closed in the 1990's we can no longer be assured that facilities for land-based air and ground forces will be available when and where they are needed. America's highly mobile aircraft carrier battle groups will become even more important for the protection of our Nation's security interests. Substituting fleets of long-range bombers, flying from Fortress America, is an unproven concept that raises questions about effectiveness when our objective is a show of force, low-intensity combat operations, and sustainability over time.

Let me again stress that our carrier and long-range bomber forces are complementary assets in a world where our ability to deter war, and our ability to halt or to throw back aggression will be very different from our present capabilities. We will have sharply cut our ground forces, and use of nuclear weapons will be unthinkable.

As a result, we cannot ignore the fact that even today, the attack forces of two carriers can deliver as much payload over a 30-day period as our entire projected bomber force. This means a strong, modern, forward deployed carrier force and a strong bomber force are the essential elements of keeping the United States a superpower in a world that will have no other nation that is capable of preserving peace and democracy.

I believe it is premature to plan for a force smaller than 12 carriers, but, even if we do plan for a smaller force, we still need to begin work in the CVN-76 now to ensure we can cost-effectively modernize our carrier force.

If we act now, we can obtain the CVN-76 for an estimated cost of $4.8 billion. If we delay for 1 year, the decline in our industrial base and changes in contracts will raise our costs to $5.2 billion. If we delay 2 years, the cost will reach $5.55 billion, and $6.0 billion if delayed 3 years. This is a saving of $400 million, $750 million, or $1.2 billion, depending on the timeliness of our action.

The advanced procurement funds requested in this year's budget are the critical link for maintaining our ability to build nuclear propulsion plants for both carriers and submarines. Not funding the CVN advance procurement in fiscal year 1993 will be devastating to the nuclear component industry. With neither submarine work nor commercial nuclear work to fall back on, suppliers have only the fiscal year 1993 CVN components to sustain them until *Centurion* later in this decade.

Failure to appropriate funds for CVN components in fiscal year 1993 would likely be the final straw for many, if not all, of the key component suppliers—leaving them virtually no backlog of uncompleted orders and no reason to believe there are any prospects for naval nuclear business. These are the very suppliers upon which the Navy must rely to design and to build the next submarine.

Mr. President, I ask unanimous consent that a listing of the industries which would be adversely affected by the failure to fund CVN-76 this year, be entered in the RECORD at this point.

I do not believe we should fund any defense program simply to preserve jobs. Nevertheless, funding the CVN-76 today makes good business sense in a tight fiscal environment. A trained work force is now paying dividends with improved construction and with additional improvements expected for the follow-on carriers. We are talking about some 120,000 defense jobs at a time when our economy is only beginning to recover, and critical damage will occur to the nuclear industrial base that we really need.

Most importantly, the CVN-76 responds to two basic strategic needs. First, our present carrier force was not sized to fight Russia or the Warsaw Pact. Over the years, the Department of Defense consistently found that it would take a total of 20 to 25 carriers to meet our requirements for such a contingency. It has instead been sized as the minimum force that will allow a flexible forward presence in Asia, the Mediterranean, and the Persian Gulf, and will provide additional contingency capability.

Second, all carriers are not alike. Our oldest carriers are 36 years old, and we face the prospect of block obsolescence during 2003-2007. Even if we cut our carrier forces, the CVN-76 will provide, for over 20 years of operation, critical improvements in speed and survivability that our old carriers lack.

If we compare the CVN-76 to old conventional carriers like the *Kitty Hawk*, *Constellation*, and *Kennedy*—all of which should retire in the early 2000's—it will have more deck spots and be able to sustain higher sortie rates. It will have far more sophisticated sensor and battle management systems, and be far more capable of operating in difficult combat environments and in close cooperation with other services. It will provide 90 percent more aviation fuel storage and 50 percent more ammunition storage. It will be much faster in deployment, and have much more capability to sustain itself once deployed.

MAKING THE PROPER TRANSITION TO THE FORCES WE NEED

As the distinguished chairman of the Senate Armed Services Committee has asserted, it is extremely important that we reduce the defense budget and reshape our Armed Forces in light of changed circumstances. To accomplish this objective we must complete a thorough review of the proposals of the Chairman of the JCS on roles and missions which should be sent to us shortly, and carefully examine the results of the roles and missions studies we have undertaken.

At the same time, I hope that all my colleagues will agree that we should not try to reshape the Navy or any of our services in advance of a comprehensive review of our strategy and the roles and missions of our forces.

We should not delay or threaten such critical programs as the F/A-18F, A-X, or CVN-76 without overwhelming reason. We first must finish the review of the fiscal year 1993 National Defense Authorization Act, the roles and missions required by the Goldwater-Nichols bill, and fully examine the programs and force plans involved. No matter how we approach this issue, we must do it with all the thoroughness and deliberation that has characterized our operations in the past.

We must also recognize that we are in a critical transition year. During the last few years, we have been able to make cuts in our defense forces and expenditures because of the end of the cold war without fully examining whether we will have sufficient forces for the post-cold-war era.

The committees in the other house have already proposed cuts in the fiscal year 1993 defense budget that could put us on a path where we sacrifice resources that will be critical to our future needs.

We must not repeat the mistakes we made after World War II, after Korea, and after Vietnam. We must not cut our capabilities—sacrificing strength, readiness, and our men and women in uniform—only to have to spend far more in the long run. We must remember that in national defense, cost-effectiveness is measured in lives and hopes, not simply in dollars.

Accordingly, I believe that we should move forward with our critical power projection programs, and only cut them if a comprehensive examination of our global position, our risks, and our overall force posture indicates that we will live in a far safer world than I believe now exists.

There being no objection, the material was ordered to be printed in the RECORD as follows:

THE NON-NUCLEAR INDUSTRIAL BASE FOR AIRCRAFT CARRIERS

Steel: U.S. Steel makers should be able to meet CVN-76 requirements for the immediate future.

Pipe: Domestic military pipe production has already been crippled by the loss of the industry leader in 1988. NNS is currently compelled to import critical pipe from Germany and Britain for domestic upgrade. This situation will only grow worse if CVN-76 is delayed, as the few remaining pipe manufacturers to military specifications will have little, if any, business.

Fittings: Since 1975, the domestic fittings industry has been decimated by foreign competition. The few remaining producers in the Naval market are limping along waiting for CVN-76 in 1995. The delay of CVN-76 could cause several of the unique producers to leave the fitting market.

Valves: Due to the proprietary nature and limited application of naval valves, the fortunes of this industry are closely linked to the naval shipbuilding program. During the early 1980's, a significant number of these manufacturers were forced out business by foreign competition and the lack of demand. More recently, an additional 20 percent of the industry has gone out of business. This loss is especially crippling, due to the high start-up costs and proprietary nature of naval valves.

Machinery: This is another highly proprietary market that has begun a significant shift to the commercial market due to the lack of demand in naval shipbuilding.

Driven by the long time spans between CVN work, low profit margins, difficulty in complying with rigid Government contract specifications, and the downturn in naval shipbuilding, more and more suppliers are focusing on commercial markets or simply dropping out of the defense market. The following are some of the impacts being felt on CVN-74 construction:

Crane Co.: The supplier of proprietary converto-gear valve operators decided to get out of the business due to the lack of projected work. Requalification of another vendor will require an increase in the lead time of 31 months.

Mil Vickers, Inc.: Previous supplier of hull units was closed due to lack of business. Requalification of another vendor added another 15 months to the lead time.

Gil Western Corp.: Previous supplier of filter separators and prefilters closed due to lack of business. Qualification of another vendor increased lead time by 15 months.

Goodall Electric: Previous producer of power supplies and rectifiers went out of business. Qualification of replacement vendor added 18 months to lead time.

Tru Weld Grating: Steel suppliers will no longer manufacture ASTM A715 grade 80 type 8 steel. A new source or replacement material will have to be found.

Clark Reliance: Previous supplier has declined additional Government work due to low volume. Another source must be found and qualified.

There are other major manufacturers that will probably continue to support CVN construction. The gap between orders for major components, however, will result in a significant loss of skilled and knowledgeable workers, thus significantly increasing cost. Examples are:

Westinghouse: The Sunnyvale plant is currently operating at 55% capacity and the Cheswick plant is currently operating at 100% capacity. By 1993, both plants will be at about 50% capacity. The bulk of this effort is for CVN-74/75. After delivery of these equipments in 1993, a 41 month production gap will exist between delivery of CVN-74/75 materials and CVN-76 contract production in the plant. This situation has been exacerbated by Westinghouse's loss of business resulting from the loss of a large MX missile contract and from the loss of a turbine generator contract for SEAWOLF.

General Electric: GE plants at Fitchfield, MA, and Lynn, MA, are heavily dependent upon defense work. About 40% of their work is for CVN-74/75. These contracts will deliver in 1993 and a significant production gap of 36 months is expected.

Dresser Rand: Dresser manufactures fire pumps and there will be a significant gap in production between delivery of CVN-74/75 and beginning production on CVN-76. It is unknown if the company will survive until CVN is authorized.

Aurora: Aurora sold its Naval pump line in December 1990. A new member must be qualified.

Additionally, the current vendor for the steam catapults has gone bankrupt and a search is ongoing to find an alternative source. Government Furnished Equipment will also be affected by a delay in the authorization of CVN-76. Current estimates for NATO SEASPARROW, and the AN/SPS-48 radar show that the price will increase significantly due to a break in production if procurement is delayed any longer.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, the National Defense Authorization Act for 1993 is a very important achievement, and I rise to applaud the overall architecture of this bill. The Armed Services Committee has broken from the old pattern, and I wish to commend the distinguished chairman, Senator NUNN, for the job that he has done in a most exemplary fashion. The final spending totals in this bill would not have been possible without the diligence of Senator NUNN and without his leadership.

I would also like to point out, Mr. President, the able assistance that was given the distinguished chairman by the distinguished ranking member from Virginia, Senator WARNER. It is with a heavy heart that I hear from Senator WARNER this morning that he will very likely lay down the burden of being the ranking member of the Armed Services Committee when the next Congress reconvenes.

I think all of our colleagues will join me in saying that JOHN WARNER of Virginia has done an outstanding job in his role as ranking member of the Armed Services Committee and has provided leadership and has kept the best interests of the country uppermost during his years of service in that position.

Mr. President, the authorization before us sets total military spending for fiscal year 1993 at nearly $14 billion below the 1990 budget agreement caps and nearly $3 billion below the level set in our budget resolution of this year.

I think that is a feat worthy of the admiration of every Member of this body, and every taxpayer in this country. In fact, the bill that Senator NUNN and Senator WARNER bring to us today brings defense spending down to a level that was rejected by the Senate just several months ago.

As you will recall, Mr. President, back in April of this year, our able colleague from Nebraska, Senator EXON, offered a defense spending proposal that became a lightning rod for disagreement. The argument then was that Senator EXON's cuts were too precipitous, that they would trigger a nightmare of dislocation and job loss within the Department of Defense. The merits of that proposal succumbed to a fire storm, and the proposal offered by Senator EXON did not pass this body.

But when you compare this authorization that the distinguished chairman brings before us today with the Exon plan that we rejected, you develop an instant appreciation of how far Senator NUNN has brought us with this bill.

In budget authority terms, the Exon plan came to $272.8 billion. The bill that Senator NUNN brings to us today and was passed by his committee comes in at $274.5 billion, a difference of less than $2 billion between the Exon plan that was rejected a few months ago and what the distinguished chairman brings to us today.

So the chairman has been able to deliver a bill with levels remarkably close to those that caused so much anxiety and fear earlier in the year. I think that is a clear testament to the leadership that Senator NUNN has exhibited with his committee. In fact, the distinguished chairman began laying the groundwork for these numbers nearly 2 years ago. I recall very well a series of comprehensive floor statements given by the chairman back in the spring of 1990. In them, he carefully and judiciously, as is characteristic of him, laid out his own defense strategy for the post-cold-war period. Senator NUNN has gone to great lengths to educate this body and to educate the American people about what to expect in the post-cold-war period.

Most recently, in July of this year, the chairman offered the Senate and the American people his expert views on the changing roles and missions of our armed services. Here again, I think we, in the Senate, are indebted to Senator NUNN for developing a trenchant case for the complete overhaul of the roles and missions of our armed services.

The chairman remarked at that time—and I think it is worthwhile to quote him here this morning, and I will—"We are entering a security era that permits a shift in our overall strategy towards smaller force levels, with smaller overseas deployment and lower operating tempos."

So, Mr. President, this committee-passed authorization bill I think largely reflects that conviction. It reflects Senator NUNN's efforts to conform our military structure to changing world events, and that is entirely as it should be.

In sum, Mr. President, it is difficult to quarrel with the overall direction of this bill, and I suspect the chairman is justly proud of the spending levels he has been able to achieve. In the context of the debate earlier this year, they seem austere, indeed.

Now, having said that, Mr. President, I must proceed further and suggest that if we look closely at some of the program levels, in the judgment of this Senator and in the judgment of many unbiased, dispassionate experts in the field of military spending, these program levels in some areas are not austere enough.

In some very crucial areas, it commits us to high levels of funding for big ticket weapons systems that promise to bloat our military spending and to burden our economy for many years to come.

As I have said, and I want to pay tribute to the chairman for tremendous strides that he has made. But I have to go on and say that when you have room in the armed services bill to give $4.1 billion to a cold-war relic like the B-2 bomber or $4.3 billion for SDI, then it appears to me more reductions can be made.

We simply continue to spend too much on projects that do not make any sense at this time in our history, on projects with ill-defined missions, and on projects that we simply cannot afford.

I can hear the rejoinders that are rumbling in the distance as I make this statement. Some may come to this floor and argue today or later that, well, the real problem with our budget is not military spending; it is entitlement spending. In the context of a defense debate, they will point to the growth of entitlement spending and say defense is not the problem, entitlements are the problem.

I must confess this morning I do not follow the logic of that argument. It simply does not follow in my view that because one area of the budget is allegedly out of control—entitlements in this case—we should spend money wastefully in another area, on unnecessary military projects.

Some argue that entitlements are bankrupting the country. I do not say that is true, but that is the argument made by some of our colleagues. Even granting them for the purposes of argument the validity of their views, it still makes no sense to me to spend money on enormous and expensive projects that we simply do not need, whether they are in the military area or the civilian area.

We had a debate on this floor just the other day about the superconducting super collider, an enormously expensive project. The costs have tripled since it was originally conceived and are continuing to grow.

When that project was originally conceived, it was sold on the idea that foreigners would pay one-half of the cost of the project. We now find that virtually no foreign governments, with the exception of India, with a pittance of $50 million, are participating in the construction of the superconducting super collider.

I felt this was a project that might be worthwhile at a time when the deficit was under control, at a time when the economy was moving forward, at a time when this country had some discretionary money to spend on an exotic scientific project that might have some payoff long in the future, but certainly it did not qualify in this time of horrendous budget deficits, at a time when we are still wallowing in the longest economic malaise since the Great Depression of the 1930's.

It does not follow that we should be spending money wastefully in another area on unnecessary defense projects either. Even if entitlements were bankrupting the country, as some of our colleagues argue, it still does not make sense to spend money on enormous and expensive projects that we simply do not need. If you were a homeowner and had a mortgage on a large house that was bankrupting you, is that grounds to go out and buy a new Cadillac, to further increase the hemorrhage of funds?

I submit quite the reverse. If entitlements are truly uncontained, it makes infinite sense to look for spending cuts wherever we can find them. Let us look for them in entitlements, in domestic spending, and, yes, in military spending also.

I expect to revisit this point perhaps several times during the debate on this particular bill that is before us today. I think it is crucial to formulate at the outset, because the argument of choice for questionable spending now seems to be, well, it is the entitlements that are costing us too much. So, in view of the fact that they are costing us too much, and we are not taking efforts to control them, then it is all right to go out there and spend on everything else, too.

The second argument against further defense cuts is that military spending is coming down, military spending is taking its share of the pain, military spending is coming in under the cap that was agreed on the budget summit agreement.

Mr. President, the caps established in the budget agreement are ceilings beyond which additional spending is not permitted. The cap simply means that you cannot spend beyond the caps. The caps are ceilings. They are not a floor. The caps were never intended to be a floor. The caps mark the outer limit. And the obvious question comes: Why is the defense cap so high? The answer is simple. The world has changed a lot since 1990. The budget agreement was negotiated at a time when we were moving into what we thought might be a large war in the Persian Gulf. The budget caps for military spending were negotiated at a time when the Soviet Union, the other superpower, the other military superpower, was alive and well, and ominous. We set the cap levels in 1990 during the buildup of the gulf war, and before the collapse of the Soviet Union.

The caps for military spending, the ceilings for military spending, were set before strategic reality was turned on its head and the threats to our national security became radically reduced.

In a word, the cap on military spending is simply outdated. It is obsolete. In fact, it was obsolete before the ink was dry on the budget agreement itself.

I say that, Mr. President, not to take anything away from the work of the Armed Services Committee, or from the work of Chairman NUNN. I think they have done a good job. It is to say, however, that the cap levels set back in 1990 are not and cannot be a true barometer for measuring the reductions in military spending that ought to be accomplished in 1993. We are dealing here ultimately with a question of matching resources, of matching the Nation's resources to the Nation's needs.

Since the budget agreement was struck in 1990, I have heard no one on this floor, or in private, argue that the need for available, affordable health care in this country has diminished, or that we no longer need to improve our roads and bridges and infrastructure. In fact, most argue just the contrary. None have said that since the budget summit agreement that we should not have a step-up in crime prevention. Most say we ought to do more in the field of crime prevention. No one that I have heard has said since the 1990 summit agreement that we ought to do less about serious deficit reduction. As a matter of fact, I think most would say that we need to do more in the area of deficit reduction. We devoted days just a few weeks ago to the debate, on the balance the budget amendment to the Constitution of the United States, on the question of what was to be done about the deficit. Some were willing to take the rather extraordinary path of amending this over-200-year-old document to deal with the problem of the deficit. So clearly we all agree that the deficit reduction is a serious problem.

Our domestic needs have grown larger and they persist since the budget summit agreement was signed. Our fiscal crisis continues to weigh us down. The one thing that is clearly changed since 1990 is that we no longer need to defend ourselves and the rest of the world against a hostile Soviet Union. That need has vanished and, with it, the justifications for spending hundreds of billions of dollars a year to arm ourselves have been drastically eroded.

I think we get into the pattern of believing that large military spending is something that we have simply done as a matter of course forever. That is not the case. Up until 1950, with the exception of the major wars, the United States of America allocated very little of its resources to military spending. As a matter of fact, when the Pentagon was built during the Second World War, it was the plan of then President Franklin Delano Roosevelt to use the majority of the space in the Pentagon as a warehouse after the Second World War was concluded.

It is not in the tradition of this Nation to characteristically year after year after year devote large allocations of funding, a large percentage of our budget to military spending. If you look at the well over 200-year history of this country, it has only been in approximately the last 23 percent of this country's existence that we have taken the pattern of historically year after year allocating a very large portion of our National Treasury to the military. It was done as a result of a threat of the Soviet Union. The Soviet Union has vanished; it is here no more.

I am not stating to my colleagues here today that the United States ought to return to a level of military spending as a percentage of budget, as a percentage of GNP, real outlays, to what we had prior to the Second World War or maybe even prior to the Korean war, or prior to World War I. We do have certain responsibilities as the only remaining superpower in the world. There is no question about that.

But what I am saying is the justification for this enormous military apparatus has evaporated, it has vanished, and we ought to react to that in a more speedy fashion.

(Mr. ROBB assumed the Chair.)

Mr. SASSER. Just last month, we debated a balanced budget amendment to the Constitution. Day after day, we heard the gravest possible tones about the seriousness of our budget deficit and the need to cut spending. And economists of all stripes—whether conservative, liberal, modern, radical, or reactionary, almost all of them—are telling us that the reason we are experiencing a decline in economic growth, the reason we are experiencing a real decline in the average wage of the American citizens, the reason we are not seeing our standard of living go up the way it has in prior years is because of the enormous budget deficits that we are running.

I read a newspaper account yesterday, for example, in which a study indicated that it would take 12 generations for the standard of living of Americans to go up at the same rate that it did in one and a half generations, from 1947 through a period, as I recall, of the early 1970's—12 generations to achieve the increase in the standard of living that we achieved in one and a half generations, from 1947 to a period in the early 1970's.

Many attribute this to the budget defict and to the hemorrhage of revenues and talent that goes into maintaining a large military establishment.

So I say to my colleagues who championed the balanced budget amendment, here is our chance to reduce the deficit. We do not have to wait 5 or 6 years. We can do it right here today, because we are buying weapons systems that were conceived in the darkest days of the cold war, and for which there is no longer any need. We are funding big-ticket items that will drain our resources for years—even decades—to come.

So if we are serious about reducing the deficit, we can start right here today on the floor of the U.S. Senate, without endangering the security of our Nation one whit.

According to the General Accounting Office, the Pentagon, and the planners there are currently pursuing about 100 major weapons acquisition programs that will carry a total price tag of more than half a trillion dollars.

So I say to my colleagues that the opportunities for cuts and reductions are hardly elusive. I know there is going to be a defender of every program. But we all know that the Pentagon is not the tightest ship ever to sail. There is a lot of talk around the country about pork barrel, and the editorial writers love to write about it. But, you know, there is something called military pork barrel, and there is a lot of it around here. We all have to share some of the responsibility for it. I take my responsibility for it.

But here is a chance to actually do today what supporters of a balanced budget amendment talked so passionately about doing a few weeks ago. We can stop talking today and take some action. We can reduce billions of dollars in outlays for fiscal year 1993, and tens of billions in outlays from succeeding years, by votes that we can make here today and in succeeding years.

I know what some of the arguments will be; or I think we can reasonably anticipate them. We are likely to hear that the committee has already done enough this year. They have worked hard, and they have made reductions, and I commend them for those that they made.

Then we will hear the argument that, well, we have cut below the summit caps, and further cuts cannot be made because they will weaken our security. And anyway, if we try to make these reductions here on the floor of the Senate, we are doing it on an ad hoc basis and in an unplanned way, and that is not satisfactory.

We will hear arguments that reducing our military spending even by $1 more will threaten jobs and ruin communities. We are all concerned about that. That is why the distinguished Senator from Arkansas has worked for untold days and weeks to bring to this body his defense conversion amendment, to try to convert jobs lost in the defense industry, jobs lost in the military—to convert those skills of those workers into the civilian economy.

The distinguished chairman of the Armed Services Committee has cooperated and worked closely with the distinguished Senator from Arkansas, Senator PRYOR, in that endeavor.

We all are concerned about those who may lose their jobs, either in the military or in military-related industries. But I submit that the military budget is not a WPA project; it is not a make-work operation. I think almost all unbiased observers who have studied it say that to create jobs through expenditures in the military is not even the best way for the Government to create jobs. It is not the most cost-efficient.

So those who say we will lose jobs or threaten jobs if we reduce spending in the military budget, I think, are misled. And it is almost a last refuge for those who will do almost anything to protect military spending. They will do almost anything to keep shovelling dollars into the military-industrial furnace. I think that is regrettable in this period of enormous budget deficits.

Military spending's only justification is for the protection of the American people. We all know it is not a jobs program. To treat it as such, I think, is perversion of the military's purpose. It is a disservice, I submit to the majority of Americans who pay taxes and expect us not to squander their money.

The overriding point is this: The Pentagon simply does not need all the money it requested this year, or that is in this bill. It cannot wisely spend all of the money that it will receive this year, in my judgment.

To illustrate this another way, let us make some of the very comparisons that those who cannot take another dollar out of defense are apt to make. They will tell us that defense spending as a share of total outlays is coming down.

Well, that is true, to a modest extent. When we look at the peak of peacetime military spending in 1986, defense outlays comprised 27 percent of all Federal outlays. Under the levels proposed by this bill, military spending will consume 18 percent of all Federal outlays—18 percent of the Federal budget.

Well, let us consider the budgets and the spending for the military of our economic competitors. It becomes quickly apparent that military spending as a percentage of the total outlays of our economic competitors, is dramatically less. Our economic competitors spend one-half to one-third of their spending levels relative to their overall outlays for military spending than we do.

Let us just look at the record. In 1988, at the time when the cold war was still going on, France spent 8.8 percent of its budget for the military. West Germany spent 9.6 percent. Bear in mind that West Germany would have been the battleground if the enormous Red Army had moved. That is where the initial battles would have been fought—on German soil.

And the Germans had witnessed one firsthand in World War II, an invasion by Soviet forces, and they knew what that meant perhaps better than any people in the world, save those in Eastern Europe. But even in 1988, when the cold war was still going on and when the Red Army stood poised on the border of West Germany, they spent only 9.6 percent of their total outlays on the military. And we are still spending 18 percent after the Soviet Union has dissolved and become a thing of the past.

Italy spent 4.7 percent of its budget on the military; Japan spent 6 percent; Norway, 6.9 percent; The Netherlands, 5.4 percent; and on and on. Now, this was during the cold war.

And, by comparison, we are still spending 18 percent of our total budget in 1993, in the absence of a cold war threat, 18 percent of our outlays for military spending.

Well, there are other ways to look at it. When you consider military spending as a percentage of the gross domestic product, the story is the same. We have made some modest reductions, no question about it. Defense spending measured 6.3 percent of our total gross domestic product in 1985, at the high point for the eighties. It slopes down to 4.5 percent of gross domestic product in 1993.

But, again, that far exceeds the ratio of defense spending to gross domestic product of our economic competitors. While we are spending 4.5 percent of our gross domestic product on the military, France is only spending 3.5 percent; Norway, 3 percent; Japan, 1 percent; and it goes on and on.

So, Mr. President, in terms of the very comparison often made by those who point to our declining defense expenditures—in terms of total budget outlays and in terms of total gross domestic product—we have seen some modest decline, but we are still spending at many times the levels of our competitors for prosperity in the world marketplace.

And I submit that as we are spending these billions of dollars for aircraft, fighters, bombers, naval vessels, tanks, guns, maintaining an enormous military establishment overseas, these foreign competitors are simply eating our lunch. And how are they doing it? They are allocating more of their resources, their engineers, scientists, they are allocating more of their budgets, they are allocating more of their energy in the direction of improving their economy and developing and marketing the products that their economy and their people produce.

Well, Mr. President, the question that comes to mind is, why are we doing this? Why do we continue to spend this much money on the military? What threat is there on the planet Earth that will cause us to spend $1.4 trillion on the military over the next 5 years? What threat is it? Well, looking for that threat has proven to be an exercise in futility and more than a little irony.

Let us consider our former adversary, the Soviet Union. Now, forget the opinions of our Nation's top security experts for a moment, who say that the former Soviet Union represents no threat, let us just consider the economic reality. It does not take an expert to decipher the evidence.

Now, there is an institution in Russia, the Central Aerohydrodynamics Institute. It is the world's largest aerospace research center. It was the crown jewel of the Soviet military research centers. It was founded a year after Lenin led the Bolsheviks to victory in the Bolshevik revolution.

On the 3-mile runway of the Central Aerohydrodynamics Institute were tested every major Soviet fighter, jet airliner, and spacecraft. They were designed primarily at this institute.

Today, that institute is breaking up and spinning off to private firms, opening new lines of work and seeking foreign partners all the way from Beijing in China to, in the most unlikely places, the Pentagon right across the Potomac River here.

That magnificent Central Aerohydrodynamics Institute that developed these sleek and effective and reliable weapons of war, has now opened a shoe factory with converted equipment that used to be used to test Mig fighter planes. It is assembling ovens for the lumber and ceramics industries in the same cavernous room where the Soviet space shuttle was tested. It is setting up automobile service centers and making and peddling construction materials.

In the words of the Institute's director—and I quote him directly—"We welcome any partner. We are ready to cooperate with America in the sphere of conversion, in civil aviation, and in military technology as well."

So says the director of the Institute that has tested every new combat jet in the Soviet arsenal since the dawning of the jet age.

What about the much vaunted Soviet Navy? Well, the Russians are trying to sell for scrap about 79 nuclear submarines. It is something of a desperate effort to raise funds to build houses for 30,000 officers and families who have been retired from the old Soviet fleet.

In the words of the admiral in charge of the sale: "Our situation is drastic. We have to put into civilian life thousands of officers whose families are homeless. We have to start building the houses right now, yesterday." So that is why they are cutting up nuclear submarines for scrap.

These two dire situations, Mr. President, are symbolic of the condition and direction of the former Soviet military colossus.

The military of the Commonwealth of Independent States, the largest successor to the old Soviet Union, is a mere shadow of its former Soviet self. And the evidence is in the plain view of the entire world.

According to the CIA and the Pentagon, the Commonwealth of Independent States has slashed defense spending by more than 80 percent—by more than 80 percent, I say to my friend from Arkansas, they have reduced military spending in the last year—and 15 percent the year before that.

In reality, both inside and outside the Pentagon, the former Soviet Union is judged to be a minimal threat, so minimal in fact that earlier this year military planners worked overtime here in Washington to find a new threat.

With quite an extensive imagination, they constructed six scenarios. They talked of a Russian invasion of Lithuania through Poland; a coup in Panama and the Philippines—the list goes on and on. Suffice it to say when the scenarios became public, the threats that they were conjuring up were ridiculed as unlikely on the one hand, but also unworthy of the full force and thunder of a superpower, the only remaining superpower of the world, on the other. We are the only remaining military superpower, I might add. There are others who are approaching us from the point of view of economic superpower.

But the whole scenario was so ludicrous that, ultimately, the military withdrew it.

I do not mean to cast aspersions on the military of the United States of America or those who serve in it. Earlier this morning I paid tribute to the contributions made by the junior Senator from Rhode Island, Mr. CHAFEE, when he served gallantly with the First Marine Division on Guadalcanal in 1942. I stated at that time that I am familiar with the operations of that division throughout the South Pacific in World War II, through family relationships and others. And I think the military establishment of the United States of America is the finest military organization in the world.

It is the finest, not just from the point of view of competence and professionalism and the ability to get the job done—which is enormously important—but the military of this country is unique in another way. Because it is a product of the great middle and lower middle class of this country. It is not made up of elitists, as it is in other nations. It is not arrogant. It does not disparage the American people or its political leadership. The American military is part of the American people and the American military establishment has done a remarkable job in granting to minority groups, equality—equally of opportunity.

I suppose that is best personified in the chairman of the Joint Chiefs of Staff himself, General Powell, who is probably one of the most widely admired Americans in this country at a time when our countrymen are cynical and unhappy, frustrated, and disillusioned with other leaders. But Colin Powell, I think, is revered by the people of this Nation.

So I say these things not to disparage the military and their conjuring up of these threats. The military is like any other bureaucracy, whether it be public or private. Yes, the military bureaucracy is probably one of the oldest in this country and one of the most complex, but it reacted as any other bureaucracy does when it sees its livelihood or its longevity threatened. It tries to come up with a justification for continuing its existence. And that could happen to any other bureaucracy of the civil side of the Federal Government, State and local government, even with the telephone company, the private bureaucracies.

It is in the nature of a bureaucracy to try to perpetuate itself, to go on ad infinitum, that is what the military bureaucracy of the U.S. Defense Department is doing and we ought to recognize that.

So they continue to search for threats, threats to justify their existence in the large scope in which they presently exist. It is against that backdrop that we continue to push ahead with weapons systems conceived in the darkest days of the cold war and we continue to deploy them at the expense of far more pressing national needs.

Despite what some would have us believe, we really do have workable, rational alternatives, alternatives that would not further reduce military personnel and alternatives that would not decimate or destroy military communities.

Bear in mind, I have some of these in my State; some of these military personnel are my constituents and I admire them. And I do not want to see them put out of work—out of jobs.

But here are just some very modest suggestions that could further reduce the expenditures in the bill before us today. Halt the B-2 production at 15 aircraft. Ultimately we are not going to build the B-2's that the administration requested. This bill has funding, as I recall, for four additional B-2 bombers. Why do that? Why not just halt the production now? That would save $1.4 billion in budget authority just in this 1 year alone, of 1993, never mind the outyears where the savings are much, much larger. We are talking about making reductions in spending and reductions in the deficit today.

Look at SDI spending. Let us cut $1 billion off it today. The Armed Services Committee has authorized $4.3 billion for SDI in their bill. Even the Pentagon says we cannot bring the SDI on line as fast as they are requiring us to do in this Missile Defense Act. That still leaves them $3.3 billion this year to move forward with a theater missile defense system and move forward with the system at Grand Forks.

Let us freeze nonmajor procurement at the 1992 level. That would save us over $6 billion in budget authority. A very modest proposal. It was made by the distinguished Senator from Nebraska, Mr. EXON, in the Armed Services Committee, as I understand it. It would save us $6 billion in budget authority.

Let us slow development of the F-22 fighter. That would save us $60 million. I am not going to argue whether or not we need a new supersonic superexotic jet fighter. It goes without saying we have the best fighter interceptor aircraft today. They are state of the art, the F-16; the F-15; the F-18. They are unmatched by any nation in the world and to my knowledge—I may be corrected on this—I know of no other nation that is presently trying to leapfrog ahead of the technology and sophistication contained in these three fighter aircraft. At least no other nation is doing it on an accelerated level. So let us just slow development of the F-22 fighter. That would save $600 million today.

Let us reduce the warhead activities of the Department of Energy below the level now. We do not need to be producing so many warheads. What are we producing them for? What are we going to use them for? Who are we going to use them against? I mean, we have thousands of them now. Why do we want to go ahead and produce more?

But I am not saying do not produce any at all. I am just simply saying reduce the number of warheads we are producing and we could save $500 million today.

Another suggestion, freeze the nonmajor research and development at 1992 levels. I am not saying do not do the research and development. I am just saying freeze it at the 1992 levels.

That was the suggestion advanced by Senator EXON.

That would save us $2.7 billion. That is serious money, even by Washington standards.

Reduce the intelligence budget by 3 percent; just by 3 percent. We are spending $30 billion a year on intelligence in this country. Now bear in mind until after the Second World War, we did not even have an intelligence operation. We had Army intelligence, Navy intelligence, but we had no Central Intelligence Agency.

Since that time, we have built up this enormous intelligence-gathering apparatus to spy essentially on the Soviet Union that cost us $30 billion a year. And, by the way, most of the intelligence is no good. These are the same intelligence operatives who were telling us how tough the Iraqi army was going to be, and they advised us and we went on the offensive against them. That did not happen.

This is the same intelligence apparatus that had no inkling that the Soviet Union was on the verge of collapse even though they were spending enormous resources studying the Soviet Union, and they were going bankrupt. But I am not saying do away with it. I am saying just reduce their budget by 3 percent, just by 3 percent. That would save us a billion dollars today.

Reduce Department of Defense purchase of spares and repairs. We have warehouses full of them—warehouses full of them, Mr. President. That would save us $1.4 billion today.

So what we are suggesting is that with just, these very, very modest efforts we can save $14.7 billion. That could be applied to long-neglected domestic needs at home, or it could be applied to the deficit, whichever we wish to do.

Mr. President, we have a fiscal problem, a fiscal crisis that is upon us. Under the budget summit agreement that we enacted in 1990, we find that the caps for all discretionary spending are going to be compressing this spending, while under current policy that is just spending the same amount we are spending and following the track that is laid out in this defense appropriations bill, the defense spending, and others, we find that the discretionary spending is going up above the cap. We have this cap gap of about $25 billion. Unless we do something about that, if we let this military spending continue on the present path and if we hold the budget summit agreement, we are going to have to take this $25 billion out of domestic discretionary spending.

We do not have to do that. We can reduce some of the expenditures in this bill that is before us today. I have chosen just a few of the most obvious cold war systems and proposing only to slow the development of these systems, not do away with them, though certainly I think many could be eliminated altogether.

I found with this modest review about $14 billion in budget authority that we could enact today for 1993 alone.

We are familiar with many of these options that I have offered today. They are not new, but they become only more relevant as the cold war recedes from our past and our memory: Halt the B-2 program at 15 aircraft and save us $1.4 billion in 1993; halt production of the D-5 missile. Why do we want to move forward with this missile at this time? We already have missiles that are MIRV'd with hard kill target capability that we can put into Trident submarines. Halt production of it. That will save us $900 million in 1993. Reduce SDI funding to the 1991 level. That would save us $1.2 billion in 1993. Defer production of a new aircraft carrier. I do not think we need a new aircraft carrier, but let us just defer production of it. That saves us $350 million in 1993. The list goes on and on, and the savings add up very quickly.

There are two reasons that we need to make these cuts in so-called big ticket defense items. First, it is the right thing to do for the deficit and the long-term health of this economy. Second, our budget agreement changes dramatically next year. The walls come down between defense and domestic categories, the cap closes in, we have the cap gap and unless we act here, we are going to have to further reduce domestic discretionary spending next year.

The levels contained in this conference report, while under the cap this year, thanks to the skill of Chairman NUNN, these levels actually set us on a military spending path that will require we cut domestic discretionary programs by some $24.9 billion below inflation for fiscal year 1994 and 1995. Let me make no mistake about it, I want all of our colleagues to understand that. The levels set by this military spending path, if we follow the caps in the budget summit agreement will require us to cut domestic discretionary programs by almost $25 billion below the baseline for 1994 and 1995.

So I want to warn our colleagues our options for closing this gap are getting away from us. And we have three options:

We can cut funding for such widely agreed upon domestic priorities as education. Who wants to cut funding for education? We can cut funding with efforts to clean up the environment. Who wants to do that? I do not. We can cut funding for health research out of NIH, cancer research, and others. Is anybody volunteering to do that? Or we can cut transportation, we can cut back on the highway program, cut back on the mass transit, cut back on the airlines, Amtrak, cut back on scientific research, or we can cut back on crime prevention. I do not want to do any of these things. Or we can cut big-ticket weapons systems.

If we do not do that, the only option we have in reducing military spending in the outyears is going to be to cut personnel accounts in the defense budget, which means people are losing their jobs. I do not think any of us want to do that.

So our only option is to try to reduce some of this big ticket spending now.

On the discretionary side of the budget, those are the only credible options. And those measures are required simply to sustain the status quo with regard to the deficit, simply to sustain the savings for which we have already taken credit. That is totally exclusive of the tough choices, including choices about entitlements, that we will have to make to get the currently projected deficit under control.

Those deficits are now at $270 billion in 1998, and, yes, we are going to have to do something about Medicare and Medicaid, no question about it, and all of the booming costs of health care. Yes, we will have to look for savings in the domestic accounts, and, yes, we will even have to look at the Tax Code.

But in the meantime, why are we spending this much money on the military in a changed world? From where are the real threats coming? What perceived enemy threats warrant the startup of huge multibillion-dollar spending on military programs?

I hope we will have an indepth debate on these questions in the next few days. I really think, Mr. President, it is imperative that we have this debate. I think it is important for the country to hear this debate on whether or not we need to spend further treasury on the development of these big-ticket weapons systems. I think it is important for our colleagues to hear that debate and to participate in it.

I found that in debating these issues of military spending out here in the open where we all can have our say, it has had a salutary effect on this bill we have before us today. I think there are reductions in this bill today that might not have been there had we not had our debate on military spending relative to the budget resolution early this spring, and many of our colleagues made their views known at that time, and in an effort to reach a larger consensus, I think some of these reductions were made.

Mr. President, I have gone on for some time here and I now yield the floor.

Mr. WARNER. Mr. President, Chairman NUNN and I have been working to get a unanimous-consent agreement. I am about to propound an agreement which I understand is cleared on both sides, and it is the sequencing of amendments.

I ask unanimous consent that the following amendments be the first three first-degree amendments in order to the DOD bill to be offered in the following order: The chairman from Georgia, defense conversions; the second would be from Mr. BUMPERS or Mr. SASSER, the chairman of the Budget Committee, re SDI; the third would be Mr. PRYOR, re SDI contracting; the fourth—I misspoke. It will be four first-degree amendments—Mr. LEAHY re B-2.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Virginia?

Mr. SASSER. Mr. President, reserving the right to object, and I do not anticipate I will, as I understand the distinguished Senator from Virginia, the sequence will be the Pryor conversion amendment—

Mr. WARNER. No, the sequence will be the Senator from Georgia [Mr. NUNN] re defense conversion; to be then followed by the Senator from Tennessee on SDI; then the Senator from Arkansas [Mr. BUMPERS], another SDI; and the Senator from Arkansas [Mr. PRYOR], again SDI contracting; and then the Senator from Vermont, re B-2.

Mr. SASSER. Mr. President, as I understand the unanimous-consent request, what we are seeking to do is to first move with the conversion amendment.

Mr. WARNER. That is correct.

Mr. SASSER. To be followed by the Sasser-Bumpers SDI amendment.

Mr. WARNER. That is correct.

Mr. SASSER. To be followed then by an SDI amendment offered by the distinguished Senator from Arkansas [Mr. PRYOR].

Mr. WARNER. That is correct. And then the final one would be the Senator from Vermont [Mr. LEAHY], an amendment relating to the B-2. This is simply a UC for purposes of sequencing to convenience Members in their schedules today. No time limitations are set on these amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, if the Senator will yield, I was in the Cloakroom when he said a second Bumpers amendment. There is no second amendment.

Mr. WARNER. What I indicated was in listing the amendments the Senator was No. 2, and as I understand it is a decision between the Senator from Arkansas and the Senator from Tennessee.

Mr. BUMPERS. Senator SASSER and I have only one amendment, not two. We will offer only one.

Mr. WARNER. It is referred to as the Bumpers-Sasser amendment, is that correct?

Mr. BUMPERS. That is correct.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. PRYOR. Reserving the right to object, I do not intend to object, but I seek clarification from the distinguished Senator from Virginia. The Senator from Virginia stated that following the conversion amendment, then we have the amendment by Senator SASSER and Senator BUMPERS on SDI, then the amendment by the Senator from Arkansas on the contracting out in the SDI Program. I was unclear about whether the Leahy amendment automatically sequences after the disposition of my amendment.

Mr. WARNER. That is correct.

Mr. PRYOR. My question to the Senator from Virginia: Does this mean that once we finish these three amendments relative to SDI that all of a sudden we are locked in and have to go to the consideration of issue relating to the B–2?

Mr. WARNER. Under this agreement, Mr. LEAHY would bring the B–2 amendment following the Senator from Arkansas on his SDI.

Mr. PRYOR. Mr. President, I will not object.

Mr. SASSER. Mr. President, reserving the right to object, would the distinguished Senator from Virginia entertain modifying his unanimous-consent request at least for a time to exclude the B–2 from the sequence?

Mr. President, at the present time, I feel constrained to object. I think perhaps we can work out this point.

The PRESIDING OFFICER. Objection is heard.

Mr. BUMPERS. I want to say to my friend from Virginia, the distinguished Senator from Virginia, that Senator LEVIN's name, as a matter of comity, should be added to the SDI amendment.

Mr. WARNER. Mr. President, I understand that the unanimous-consent request propounded by the Senator from Virginia is now acceptable to all Members present. I, therefore, reiterate it once again as stated.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the senior Senator from Virginia? Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, the fiscal year 1993 National Defense Authorization Act as passed by the Senate Armed Services Committee is a good bill for the country. Its funding level of $274 billion provides a sound defense for the Nation despite the fact that it is $7 billion below the President's request and $3 billion below the budget resolution. In my judgment, these cuts can be tolerated under current conditions. However, reductions in future defense budgets may jeopardize the Department's ability to provide for our national defense.

Mr. President, before discussing the details of the legislation, I want to recognize the leadership of Chairman NUNN and the ranking member, Senator WARNER. We are here today following what was a difficult and sometimes rancorous process. The fact that we have reported such a good bill is a tribute to the chairman and the ranking member. It was their persistence, tenacity, and cooperation that molded this lean, yet strong, defense bill. I thank them for their leadership.

Mr. President, the world has changed significantly since this time last year when I spoke in support of the defense bill. The August coup in the Soviet Union had not yet taken place; President Bush had not yet made his dramatic announcement on the unilateral withdrawal and destruction of tactical nuclear weapons; and the complete fracturing of the Soviet Union was still unimaginable.

There is no doubt that those were historic events. They have reduced tensions and the fear of nuclear annihilation significantly. However, these events, as dramatic and historic as they are, have not changed the need for a strong U.S. military. The world is not at peace. There is turmoil, uncertainty, and anger amongst Third World nations, and leaders are poised to take advantage of the situation. The strife in Yugoslavia persists, and many of our colleagues are prepared to commit military force to this conflict.

Mr. President, over the past decade we built the finest military in the world. This force uses the best, and most technically advanced, equipment and is composed of volunteers representing the best men and women this Nation has to offer. If we heed the call for deeper cuts in the defense budget, I am concerned that we will destroy this force. We will inhibit our ability to meet future challenges, such as those posed by tyrants like Saddam Hussein, if we make unreasonable cuts to our production base and high-technology weapons programs.

The fiscal year 1993 Defense bill, in my judgment, is particularly onerous to our Nation's bomber programs. It dooms the B–2 to a demonstration project of only 20 aircraft. It denies funding for upgrades in the 97 B–1 bombers. It limits funding for the AX attack bomber program, thereby limiting our maritime long-range strike capability. If these trends are allowed to continue, we will have to rely on the aging fleet of B–52's which are older than most of the pilots flying them. Without a robust AX program, the Navy will be shackled by the limitations of the A–6, which is showing its age and has serious wing structure problems.

Mr. President, as we withdraw our forward deployed forces, the need for a sophisticated, stealthy bomber fleet will become more critical. This bill does not provide a plan to fill that critical need.

Mr. President, I want to make a few brief comments on the SDI program, which I have supported throughout its transition from President Reagan's initial concept to the Missile Defense Act of 1991.

In my judgment, there is clear evidence which warrants a missile defense program. The intelligence community has explained the threat. However, I must point out that the intelligence community's information is not always flawless, as demonstrated by Iraq's nuclear weapons capability, which they miscalculated. My greatest fear is that they are underestimating the missile threat worldwide, and I believe we must be prepared for that possibility.

I believe the committee's changes and the $1 billion reduction in the SDI program and the Missile Defense Act will seriously impair our ability to develop and build a viable missile defense. It reminds me of Billy Mitchell's effort to demonstrate the viability of the bomber. He was lambasted by everyone, but his vision prevailed, and it eventually became one of the Nation's strongest deterrents. I predict the SDI program will achieve the same result.

Mr. President, there will probably be attempts to make further cuts and alterations to the SDI program during the debate on the authorization bill. I urge my colleagues to join me in resisting any changes to the committee's program. Desert Storm vividly demonstrated the capability of a primitive Scud and its effect on civilian targets. We cannot allow this to happen to our cities.

Mr. President, the bill supports the continued modernization of our conventional forces. It provides $225 million for upgrades to the M–1 tank; procures an additional 120 Bradley fighting vehicles; funds the continued development of the F–22 advanced tactical fighter; and supports the Navy's F–18 upgrade program. I am disappointed that the committee did not fully support the administration's request for the C–17 Airlifter and the Army's Comanche helicopter program. In my judgment, these are critical modernization programs.

The C–17, despite problems in the production process, has demonstrated in nearly 400 hours of flight testing that it is a capable aircraft. If our forces are to be capable of rapid deployment anywhere in the world, they must have the C–17. The committee's action to reduce the administration's request from 8 to 4 aircraft for fiscal year 1993 will force further delays in this capability.

To my regret, the committee elected to terminate the Comanche helicopter, which is the Army's highest priority program. In my judgment this is a significant setback to the Army's aviation modernization program. The committee based its recommendation on a flawed acquisition process which was forced upon the Army by the Office of the Secretary of Defense. Since the House supports this program, I am optimistic that we can restore it during the joint conference.

Mr. President, the committee's bill reduces funding in the operations and maintenance account from $86.5 billion in the budget request to $82.3 billion. I regret this decrease since it will contribute to further backlogs in equipment repairs and to the deterioration of the infrastructure on our military bases.

Mr. President as I indicated earlier, the geopolitical climate has been altered significantly since the last Defense authorization bill. This, coupled with the reductions in the Nation's defense expenditures, mandates changes in our military. The committee has directed a comprehensive review of the military services' roles and missions. I join the chairman and ranking member in calling for this review. I am, however, disappointed that the committee chose to limit funding for certain programs until this review is completed. In my judgment, this prejudges the Department's review.

Mr. President, the drawdown of our military forces seriously affects our citizens, our communities, and our defense industrial base. The committee authorized $1.2 billion to address these needs. This funding will provide early retirement payments for reservists and DOD civilians; job training programs and relocation assistance for displaced workers; and grants to communities adversely affected by the closure of military installations or the decline in the defense industry. These are important initiatives that will help to ease the transition to a society less dependent on military expenditures.

Mr. President, the Nation's most valuable defense assets are our men and women in uniform—both actives and reserve. The committee's bill includes a compensation package that includes a 3.7-percent pay increase, a requirement for DOD to submit legislation that would permit concurrent receipt of military retired pay and Veterans' disability compensation pay, and a provision that facilitates the retention of enlisted service members who have 18 years of service until they are eligible for retirement. The bill also includes a provision, cosponsored by Senator McCAIN and myself, that proposes significant changes to the military medical care system, including the delivery of pharmaceuticals by mail, lowering the existing catastrophic pay cap for retirees and their dependents from $10,000 to $7,5000, and more comprehensive dental care.

Mr. President, one of the most sensitive issues before the committee was the proposed reductions in the Reserve components. There should be no doubt that as the defense budget declines and the threat diminishes, we can make reductions to the National Guard and Reserves. However, the cuts proposed by the Department of Defense were, in the committee's judgment, not fully documented or justified. Additionally, in the fiscal year 1992 Defense Authorization Act, the Congress directed an independent study of the active and reserve force structure and end strength reductions. A report on this study is due in December of this year. Until this report is reviewed by the Department of Defense and the Congress, I feel that we would be premature to make cuts in the Reserve components. I applaud the committee's action in disapproving the administration's proposed reductions.

Finally, Mr. President, I want to recognize the accomplishments of our ranking member, the distinguished Senator from Virginia. He has served as ranking member of the committee for the last 6 years—years punctuated with tremendous changes in our Nation's defense program and highlighted by major legislative initiatives. JOHN WARNER has been at the forefront in these endeavors. He has represented both the minority and the administration positions superbly before both the Congress and the public. I personally appreciate the courtesies he has extended me during this period and look forward to his continued counsel and support.

Mr. President, in closing, I urge my colleagues to support this bill and the men and women in uniform.

I yield the floor.

Mr. WARNER. Mr. President, I thank the distinguished Senator from South Carolina. He has my assurance that I will be by his side as he takes up the responsibilities on the Republican side.

I thank him for his kind remarks.

Mr. THURMOND. I thank the able Senator from Virginia.

Mr. NUNN. Mr. President, I, too, thank the Senator from South Carolina for his remarks about the committee and the bill, and for his leadership. And I assure him of my complete cooperation in working with him, as we have in the past. And when he assumes the position of ranking Republican on the committee, or as chairman of the committee, he will have my support and cooperation.

I look forward to working with him, because I do not know of anybody who has spent more time or made more contributions to our overall national security over the years than the Senator.

I look forward very much to working with him.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Georgia, the chairman of the Armed Services Committee, for his remarks, and say it has been a pleasure to work with him.

I think he is one of the ablest and finest chairmen I have served with in my 38 years in the Senate.

Mr. EXON. Mr. President, I rise in support of S. 3114, the Defense authorization bill brought forward by the Armed Services Committee. As chairman of the Subcommittee on Strategic Forces and Nuclear Deterrence, it is my pleasure to describe for members the committee's actions on a number of strategic programs.

Let me begin by noting that the amended budget request for strategic programs in S. 3114 was reduced by over $2 billion during the subcommittee and full committee markup, not counting a reduction of over $700 million in the Intelligence Committee accounts over which we exercise shared jurisdiction. Thus, the strategic accounts have been reduced overall by $2¾ billion, in the bill before Members today.

Let me discuss some of the highlights of the bill related to strategic forces and nuclear deterrence. Our chairman, Senator NUNN, has already discussed the important provision in the committee's bill regarding a full and careful review of a wide variety of roles and missions. Included in that arena, clearly, is the U.S. force of nonstealthy heavy bombers. We presently have some 85 B-52G, 95 B-52H and 97 B-1B bombers in the inventory, or a total of 277 heavy bombers. Moreover, we have now under development a class of improved conventional munitions that will considerably increase the effectiveness of each heavy bomber equipped to use them. And, many of these improved conventional munitions will be dirt cheap, compared to the cost of precision guided weapons that CNN brought into America's living rooms during the war with Iraq. Yet, in Iraq—potentially one of the larger conflicts we can imagine in this new world order—General Schwarzkopf made do with only 70 B-52's, or about one-quarter of the current inventory of heavy bombers.

A series of studies by the Rand Corp., the Air Force, and others all suggest a potentially vital mission for long-range heavy bombers—that of stopping or blunting an armored invasion such as Iraq mounted, but very early on in the war, before we have had time to deploy carrier battle groups or tactical air forces or U.S. ground forces to the theater. Indeed, Air Force witnesses testified at our bomber hearing that they could maintain a sortie rate of 100 bombers per day over a far-distant theater of operations. If this were so, then perhaps heavy bombers should be assigned the quick-reaction strike role now played by carrier-based aviation and tactical air forces.

Unless new missions like these for heavy bombers are identified, then I suspect we already have in the inventory more nonstealthy heavy bombers than we can afford to keep, and this may force some difficult choices between the older, but combat-proven, B-

52's and the newer, but trouble-plagued, B-1's. In any event, I shall be looking forward with keen interest to the results of General Powell's roles and missions review.

A second major policy initiative in the bill pertains to the military uses of space. As all Members are well aware, the administration plans about a 25-percent cutback in defense budgets over the FYDP period. And, many of us expect that the cutbacks will turn out to be more substantial than that. However, when we reviewed the military space plans—the satellites, the launch vehicles, and the infrastructure that goes along with these—we found that the space community was expecting their budgets to increase over the Future Years Defense Program, or FYDP, period. Now, we all know that space is important, and that space systems made significant contributions to our winning Operation Desert Storm, but we cannot, for long, allow the budget for one area to grow while everybody else's budget is shrinking. Therefore, in section 154, we require the Secretary of Defense to develop a space strategy aimed at cutting the cost of access to and use of space by 25 percent by the end of the decade. This is a smaller rate of decline than the defense budget overall, so that space systems spending will continue to command a higher proportion of the defense budget, but it begins to impose on the military space community a sense of budget reality and budget discipline. We simply cannot afford limitless spending in any military arena.

Mr. President, let me briefly run over a number of decisions on strategic programs made by the committee, beginning with the strategic defense initiative. After extensive discussions, the committee authorized a total of $4.3 billion for the strategic defense initiative, including: $1.1 billion for theater missile defenses, $2.1 billion for programs associated with the initial treaty-compliant ABM site, and $350 million for spaced-based interceptors.

The committee also made several changes to the language of last year's Missile Defense Act:

Deleting the 1996 target date for deployment of first ABM site; instead, requiring DOD to develop initial ABM deployment according to sound acquisition procedures, with low to moderate concurrency and low to moderate technical risk, and with adequate integrated testing of all system components;

Recognizing a goal of 1996 for achieving initial contingency theater missile defense capabilities and a goal of 2002 for the initial Operational Capability [IOC] for deployment of the initial treaty-compliant ABM system;

Clarifying that the bill is not to be construed as authorizing SDIO at this time to field test missile prototypes, and a test radar to provide a contingency capability at the first ABM site, as such a decision is unnecessary until fiscal year 1995; and

Transferring responsibility for far-term ABM technologies, that is, those not likely to result in weapons for at least 10–15 years, from SDIO to DARPA or the military services.

In other actions, the committee authorized $208 million for procurement and R&D for B-52 and B-1 bombers, and mandated additional B-52 and B-1 testing against defenses to demonstrate conventional bombing capabilities. The committee also rolled forward $93.3 million in prior-year money for the B-1 bomber.

The committee also approved the requested $2.6 billion for 4 additional B-2 bombers, subject to a number of fences. I am also pleased to inform all Senators that one of the three approaches the Air Force was pursuing as a fix for the modest low observability problem, reported last summer, has been successfully tested; indeed the results were significantly below the low observability criteria.

The committee decided to terminate the national aerospace plane because the partnership with NASA just has not worked, and it is unaffordable for DOD alone to fund. The committees overseeing NASA's budget have once again reduced NASA's contributions to nearly zero.

The committee has also acted to reduce the rate of GPS satellite procurement and to apply these and other additional funds to accelerate procurement of GPS receivers for our aircraft, ships, and ground vehicles. Under current plans, DOD will not finish equipping the military with this critical navigation capability until after the year 2005, 13 years after we will have deployed enough satellites for full-time worldwide coverage. This mismatch between satellite and receiver procurement is absurd and must be corrected.

The committee made several changes in the Army's plan to destroy our stockpile of chemical weapons, including requiring a report from the Secretary of Defense on possible alternative technologies for eliminating those weapons by means other than incineration, and prohibiting any new starts for incinerator facilities in the United States until this report is received. The committee also slipped the deadline for completing the destruction of our stockpile from 1999 til 2004, to reflect the timeframe that is contained in the almost completed international treaty banning all chemical weapons the United States is expected to sign later this year.

Consistent with the other actions of the subcommittee, the funding authorization for the Department of Energy was also reduced. The amount authorized for national security programs of the Department of Energy, $11.9 billion, is $249 million below the amended budget request. The committee remains concerned that the weapons activities of the Department of Energy have continued to escalate despite the end of the cold war, and urges the Department to move aggressively to downsize the complex.

Cleaning up the nuclear weapons complex continues to account for a significant portion of the Department's defense-related budget. In the bill the committee approved the Department's budget request for environmental restoration and waste management and included additional funding for technology development, bringing the environmental account at the Department of Energy to $4.8 billion. The increased funding for technology development will allow the DOE to increase the environmental research necessary to reduce the cost of the cleanup.

In conclusion, Mr. President, I believe the committee bill contains major reductions from the requested sums, and represents a balanced package of needed capabilities. I urge the swift adoption of S. 3114.

AMENDMENT NO. 2916

(Purpose: To require prompt implementation of the defense conversion and transition assistance provisions and authorities)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of myself, Mr. WARNER, Mr. PRYOR, Mr. RUDMAN, Mr. BINGAMAN, Mr. COATS, and Mr. D'AMATO, on defense conversion, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. WARNER, Mr. PRYOR, Mr. RUDMAN, Mr. BINGAMAN, Mr. COATS, Mr. D'AMATO, Mr. GRAHAM, and Mr. WELLSTONE proposes an amendment numbered 2916.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Defense Conversion and Transition Assistance

SEC. 1091. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national defense technology and industrial base.

(7) Prompt and vigorous implementation of a defense conversion and transition assistance program is essential to ensure that the defense build down is structured in a manner that enhances the long-term ability of the United States to maintain a strong and vibrant national defense technology and industrial base.

(b) POLICY.—(1) It is the policy of Congress that the United States attain its national defense objectives through the development and implementation of defense conversion and transition assistance programs that have the following objectives:

(A) Facilitating the transition of military personnel, civilian employees of the United States, and defense industry workers affected by the defense build down in a manner which recognizes the contributions of those individuals to the national defense and promotes continued national access to, and benefit from, their skills and capabilities.

(B) Assisting communities in adjusting to the impact of reduced defense spending in recognition of the contributions that such communities have made to the national defense of the United States.

(C) Strengthening the ability of the national defense technology and industrial base to meet the following national security objectives:

(i) Supplying and equipping the force structure necessary to meet near-term national security requirements.

(ii) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

(iii) Maintaining advanced research and development activities to provide the Armed Forces of the United States with systems capable of ensuring technological superiority over potential adversaries.

(iv) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the Armed Forces.

(D) Achieving the national defense technology and industrial base objectives described in subparagraph (C) by enhancing the opportunities for conversion of defense-dependent businesses to dual-use capabilities.

(2) It is the policy of Congress that not less than $1,200,000,000 of the funds authorized to be appropriated by this Act be available for defense conversion and transition assistance programs.

SEC. 1092. ACTIVE FORCES TRANSITION ENHANCEMENTS.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The program to encourage members and former members of the Armed Forces to enter critical public and community service jobs after discharge or release from active duty as established pursuant to section 1143a of title 10, United States Code (as added by section 531(a)).

(2) The program to facilitate alternative teaching certification for personnel separating or retiring from the Armed Forces who choose to enter teaching based upon military experience and training, as provided in section 532.

(3) The program to grant educational leave to qualify for and enter public and community service, as authorized by section 533.

(4) The temporary early retirement authorities provided in sections 534 and 535.

(5) The authority for persons being voluntarily separated from active duty in the Armed Forces to enroll in the Montgomery GI Bill program under section 536.

(6) The revision of the recoupment requirement related to certain reserve duty, as provided under section 537.

(7) The program referred to in section 538 for certain employment, job training, and other assistance for members of the Armed Forces who are being separated from active duty.

(8) The temporary continued health coverage for members of the Armed Forces upon separation from active duty, as provided under section 1078a of title 10, United States Code (as added by section 539).

SEC. 1073. GUARD AND RESERVE TRANSITION INITIATIVES.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The regulations required by sections 543 through 545 concerning inactivation of units of the Selected Reserve, involuntary discharge from a reserve component of the Armed Forces, and involuntary transfer from the Selected Reserve.

(2) The temporary authority for early retirements established under sections 546 and 547.

(3) The temporary authority for separation pay provided in section 548.

(4) The waiver of the continued service requirement for Montgomery GI Bill benefits under section 549.

(5) The transitional commissary and exchange privileges authorized by section 550.

(6) The temporary continuation of Servicemen's Group Life Insurance coverage provided under section 551.

SEC. 1094. DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL TRANSITION INITIATIVES.

(a) REQUIREMENT FOR REGULATIONS WITHIN 45 DAYS.—Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities, consistent with such guidance as may be issued by the Director of the Office of Personnel Management:

(1) The reemployment assistance requirements provided pursuant to sections 341 and 342.

(2) The reduction-in-force notification requirements provided pursuant to section 343.

(3) The commencement of eligibility for certain job training assistance to employees adversely affected by base closures and realignments, as established pursuant to section 344.

(4) The authority to continue health benefits established pursuant to section 346.

(5) The authority to pay benefits under the Thrift Savings Plan to employees separated by a reduction in force, as provided pursuant to section 347.

(6) The authority to establish skill training programs in the Department of Defense, as provided in section 348.

(b) REQUIREMENT FOR PROMPT IMPLEMENTATION.—The Secretary of Defense, subject to such regulations as may be prescribed by the Director of the Office of Personnel Management, shall ensure the prompt implementation of the authority established in section 345 to provide separation benefits and to restore certain leave.

SEC. 1095. COMMUNITY TRANSITION INITIATIVES.

(a) ECONOMIC ADJUSTMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that policies and procedures required pursuant to section 331 are issued not later than 90 days after the date of the enactment of this Act, and to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers.

(b) ECONOMIC, CONVERSION, AND STABILIZATION ASSISTANCE.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to ensure the prompt and effective delivery of assistance under the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note), as amended by sections 331 and 332, to communities, businesses, and workers substantially and seriously affected by reductions and defense expenditures.

(c) IMPACT AID.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the authority provided in section 333 to furnish assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

SEC. 1096. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE CONVERSION AND TRANSITION INITIATIVES.

(a) PUBLIC INFORMATION REQUIREMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that, not later than 90 days after the date of the enactment of this Act, policies and procedures are issued to provide for wide public dissemination of the opportunities to participate in programs authorized pursuant to sections 802, 804, and 805.

(b) PROGRAMS IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the following programs, requirements, and authorities:

(1) The defense dual-use technology research and development programs referred to in section 802.

(2) The defense dual-use manufacturing technology programs referred to in section 804.

(3) The national defense technology and industrial base dual-use assistance extension programs.

(4) The requirements and authorities provided under section 807 for the Small Business Innovation Research Program.

(c) COMMENCEMENT OF OPERATIONS BY THE OFFICE OF TECHNOLOGY TRANSITION.—Notwithstanding section 803(b) of this Act, the Office of Technology Transition established by section 803(a) shall commence operations not later than 120 days after the date of enactment of this Act.

Mr. NUNN. Mr. President, I hope that the opening remarks on this amendment will be made by the Senator from Arkansas, who has done a tremendous job in leading the Democratic side on the overall subject, the enormously important subject of defense transition and defense conversion.

Many, if not most, of his proposals that came out of the task force—and the task force with Senator RUDMAN, on the Republican side—are incorporated in this bill.

I thank him for his leadership.

Mr. PRYOR. Mr. President, I thank the Chair.

I thank the Senator from Georgia, my very good friend, who is chairman of the Armed Services Committee, for submitting this amendment to the Senate today.

I am very, very proud to be able to stand on the floor of the Senate and give my very strong commitment and support to the amendment which now lays before the Senate.

Mr. President, I am also very proud to be on the Senate floor today. I am proud today to be here because I think we are going to see the Senate defy those who always say we have come to expect only gridlock from the Congress.

Today, we are going to see some action, rather than gridlock. We are going to see some quick, intelligent action to attack one of the Nation's problems and answer the needs of our people. The problem we are facing today, the problem this bill addresses, is that great challenge, Mr. President, of transition from a defense to a private economy.

My colleagues have all heard the statistics by now: 1.4 million defense jobs eliminated by 1995 at a rate of 350,000 jobs a year. That is 1,000 jobs a day. And 150 U.S. communities are likely to be hard hit by defense cuts due to base closings, base realignments, and defense plant shutdowns. DOD outlays for goods and services project a decline of up to 48 percent by the year 2001.

Mr. President, this is a stark reality of reductions in defense spending. Families are being disrupted; communities are being shaken; and our economy is being battered.

Mr. President, there is no turning back from where we are. The cold war is over, thankfully, and many other needs are competing for the tax dollars that have been devoted to defense spending in the past.

We cannot cut off reductions in our defense spending. As the Senator from Tennessee has so aptly stated in his eloquent statement before the Senate, we can take the savings from lower defense spending, and we can ease the transition for those who will be adversely affected by these reductions.

Moreover, Mr. President, if we wisely redirect those resources, we can rejuvenate our economy; we can speed the transition; we can create high-paying jobs for our people in the future.

Mr. President, the 1993 Defense authorization bill before us today does just those things. The bill authorizes funding for defense transition initiatives to the tune of $1.2 billion.

At this point, I would like to thank and commend the chairman and the ranking minority member of the Armed Services Committee, Senator SAM NUNN and Senator JOHN WARNER, for the defense transition provisions that they have included in this bill now before the U.S. Senate.

The fact that the Senate is at this point—and how we got to this point is a story in itself—apart from the specific provisions that are the result of this process, at a time when inaction and gridlock are most often associated with the Congress. We have seen this body move expeditiously from identification of a problem, to the formulation of a strategy for change.

On March 3, the Senate majority leader, Senator MITCHELL, formed the Senate Democratic Task Force on Defense and Economic Transition. It was comprised of 21 Democratic Senators on this side of the aisle. It was chaired by myself, and I have enjoyed this chairmanship to a large extent.

Over the 3-month period, the task force held 13 briefings. We heard from some 60 experts on issues relevant to defense transition.

On May 21, 1992, the task force reported back to the majority leader with its recommendations.

Since that time, we have already seen action. We have, for example, seen the Commerce Appropriations Subcommittee, the Energy Appropriations Subcommittee, the VA-HUD Appropriations Subcommittee, and the Finance Committee incorporate many relevant defense transition recommendations into their respective bills.

And today we see the bulk of the recommendations incorporated in the 1993 Defense authorization bill.

Just last week, the distinguished Senator from South Carolina, the chairman of the Commerce Committee, very eloquently stated the reasons that he was including in the committee's appropriation bill several items that had been recommended by the Task Force on Transition.

Five months, Mr. President, from identification of a major national problem to authorization of a major national response, a response which features over $1.2 billion in national problem solving. I think the Senate should be confident today that we have accomplished a great deal up to this point. I hope we will have more to be proud of very soon when these provisions are approved by the full Senate, hopefully in the next hour or so and I am hopeful that the Defense Appropriations Subcommittee, under the able guidance of Senator INOUYE, will be able to fund the initiatives being authorized today.

What are these initiatives? I will summarize them briefly and describe some of the highlights. First, the bill makes hundreds of millions of dollars available for investment in the transition of individuals adversely affected by defense cutbacks. DOD civilians will have continued health coverage and early separation incentives. Armed services personnel will be eligible for 1-year educational leaves to pursue new careers, and they will receive early separation incentives including retirement credit for public sector work as teachers, police officers, and health care workers. These and other investments will result in actual savings of over $1.5 billion in personnel costs over 5 years. The bill also authorizes $50 million in additional funds for the Job Training Partnership Act to retrain displaced defense workers and help them find jobs. Once again, these provisions are effective investments in the men and women who fought the cold war and, I might add, who won it.

For communities, the bill authorizes $30 million to fund Office of Economic Adjustment planning grants and $150 million for Economic Development Administration adjustment grants in areas experiencing base closings or realignments, and defense industry shutdowns. An additional $58 million is authorized for school districts which will be hard hit by the defense disruptions in their communities. Helping communities rebound will mean more new businesses and more new jobs in these areas.

For defense industries, the bill provides over $200 million to fund manufacturing extension services and regional technology alliances. Another $200 million is available to fund a range of industrial services programs including small business loan guarantees, export promotion programs, research and extension programs, and a host of State and local programs. These programs are all designed to help companies adapt to civilian markets, acquire new technologies, and improve productivity.

Over $200 million is authorized to fund research on advanced technologies through industry-led partnerships and through grants to small, innovative businesses; $30 million is authorized to improve the quality of manufacturing education taught in colleges and universities. These later provisions represent long-term investments in our economy that will lead to economic growth and high-paying jobs. These investments will help pave the way to America's economic future.

Once the Senate completes action on this bill and the appropriators and conferees have done their work, then it will be up to the President to show his support for defense transition, which is so critical to the future of our economic well-being. The President's own Republican colleagues in the Senate produced a very good set of defense transition recommendations under the guidance of Senator RUDMAN of New Hampshire. I challenge the President to show the same swift, decisive action in making these programs work that the Congress has shown in proposing them, authorizing them, and hopefully funding them.

Mr. President, I want to again thank Senator NUNN, the chairman of the Armed Service Committee, for the excellent work he has done in this bill and for his contributions to the Democratic Defense Transition Task Force.

I want to thank the distinguished Senator from Virginia, Senator JOHN WARNER, who along with his staff has been most cooperative in making this amendment possible this afternoon.

I also want to recognize Bob Baer, David Lyles, Andy Effron, and Fred Pang of the Armed Services Committee staff, who have been extremely cooperative and helpful.

Last, but certainly not least, Mr. President, I want to thank and commend Senator JEFF BINGAMAN of New Mexico, the chairman of the Subcommittee on Defense Industry and Technology, who toiled unselfishly on the defense transition initiatives and who was a guiding force particularly on the technology provisions. Ed McGraffigan and John Gerhart of Senator BINGAMAN's staff provided invaluable service to the task force, and my thanks go out to them as well.

Mr. President, let me thank Senator JOE LIEBERMAN of Connecticut, who has a tremendous knowledge of the issues that we are presenting today encompassing energy on this particular amendment before the Senate at this time.

Mr. President, today's action and the action of the committees I mentioned earlier represent a foundation for the future. Our goal from the start was to make investments this year that steer us toward a long-term strategy for successful transition. And that, Mr. President, is what I believe has occurred.

Planning. Strategy. Leadership. Action. These are not words commonly associated with Congress today, but that is what has happened this year, in this Congress, on this issue of defense conversion and defense transition.

Mr. President, before I yield the floor, I ask unanimous consent to have an outline of these initiatives just discussed; also a progress report, dated August 8, 1992, from the task force; and finally, a list of those very able Senators on our task force who comprised and made up its membership inserted into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Funding of Defense Conversion and Transition Assistance, August 7, 1992

The bill contains a broad range of programs to address the needs of individuals, communities, and businesses in adjusting to the defense drawdown. The bill authorizes $1.2 billion for these programs for fiscal year 1993. In addition, the bill authorizes $463 million for the up-front accrual costs of early retirement incentives for military members. Over the five-year transition period, these incentives will produce a net savings of $1.1 billion due to reductions in the number of senior military personnel.

PERSONNEL TRANSITION INITIATIVES

Educational leave of absence for up to one year for active duty personnel to obtain civilian skill training: incidental costs.

Active duty members with 15–19 years of active service could apply for early retirement. Retirement credit for up to 5 years could be earned by serving in critical civilian jobs such as education, law enforcement, and health care: $463 million in up front accrual costs, which will produce $1.1 billion in savings over the next five years.

Reserve separation incentives: estimated $97 million.

DoD civilian employee separation incentives: estimated $72 million.

$50 million for JTPA worker relocation and training programs.

COMMUNITY ADJUSTMENT ASSISTANCE

$29.9 million for the DOD Office of Economic Adjustment.

$150 million for Economic Development Administration assistance for communities adversely affected by base or defense plant closures.

$58 million for additional impact aid to school districts affected by the defense builddown.

NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE

$100 million for Critical Technology Partnerships.

$50 million for Commercial-Military Integration Partnerships.

$100 million for Regional Technology Alliances.

$25 million for Defense Advanced Manufacturing Technology Partnerships.

$100 million for Defense Manufacturing Extension Programs.

$30 million for manufacturing engineering education programs.

$200 million for Dual-Use Technology and Industrial Base Extension Programs.

Expands the Small Business Innovative Research Program: estimated $50 million in FY 93.

Grand Total: 1.112 (Excludes $463 million for active duty retirement incentives).

Defense Transition Task Force Progress Report, August 8, 1992

Passed Senate to date:

Guaranteed Gov't SBA Loan Supplemental Commerce Appropriations Bill ($229 million—note below)

Energy and Water Appropriations Bill ($141 million—note below)

Finance Committee:

R&D tax credit (expected out of Committee July 28)

Employer Education tax credit (same as above) (Both are included in Urban Aid Bill)

Defense Authorization Bill:

27 recommendations are in some way incorporated in the Defense bill.

Commerce Appropriations Bill:

Sen. Byrd allocated over $200 million to Commerce Subcommittee for Task Force recommendations.

Sen. Hollings' Commerce Approps. Subcommittee addressed 5 Task Force recommendations (EDA = $80 million, SBA loans for defense firms = $40 milion, three NIST technology programs = $100 millions).

VA/HUD Appropriations Bill:

Senator Mikulski's subcommittee appropriated $55 million for NSF retraining of high skill former defense workers (Status: Pass by full Committee, ready for the floor).

Energy and Water Appropriations Bill:

Senator Johnston's subcommittee appropriated $141 million to fund cooperative R&D projects between DoE labs and private industry.

Other Committees:

The Labor and Human Resources Committee and the Defense Appropriations Subcommittee are working on Task Force recommendations.

Members of Democratic Defense Transition Task Force (Appointed by Majority Leader Mitchell on March 3, 1992)

Senator Brock Adams—Washington.
Senator Jeff Bingaman—New Mexico.
Senator John B. Breaux—Louisiana.
Senator Alan Cranston—California.
Senator Christopher J. Dodd—Connecticut.
Senator Bob Graham—Florida.
Senator Ernest F. Hollings—South Carolina.
Senator Edward M. Kennedy—Massachusetts.
Senator Carl Levin—Michigan.
Senator Howard M. Metzenbaum—Ohio.
Senator Barbara A. Mikulski—Maryland.
Majority Leader George J. Mitchell—Maine.
Senator Sam Nunn—Georgia.
Senator Claiborne Pell—Rhode Island.
Senator David Pryor (Chair)—Arkansas.
Senator Donald W. Riegle, Jr.—Michigan.
Senator Charles S. Robb—Virginia.
Senator James Sasser—Tennessee.
Senator Paul S. Sarbanes—Maryland.
Senator Timothy E. Wirth—Colorado.
Senator Harris Wofford—Pennsylvania.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, I thank my colleague from Arkansas for his recognition of the leadership role performed by the Senator from New Hampshire [Mr. RUDMAN]. He was designated by the Republican leader to be task force chairman on this side.

As Senator PRYOR said, we saw progress when the two sides got together and worked to come out with a common platform, which is basically what the chairman and others have adopted in this bill. So the chairman and I owe a great deal of recognition to these two leaders for having done the initial work on this basic question.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, I again thank the Senator from Arkansas [Mr. PRYOR] for his leadership and I thank his staff, who did a remarkable job.

These task force projects many times do not wind up being cohesive because you get a little bit of everything, sort of al la carte, in a task force proposal. But this one was an exception because it ended up not only being sound in terms of helping people in the military, people in civilian occupations with DOD, people in the industrial sector, but also communities. It also combined a number of initiatives that Senator BINGAMAN, the Senator from New Mexico, has been leading on for a number of years in the defense technology area and in the dual-use technology area. So put together, I think this is a sound package.

I particularly want to pay tribute to Desten Broach, Steve Ronnel, Kirk Robertson, and Denise Borham on Senator PRYOR's staff, for an extraordinary job. I am sure—I do not have the names—I am sure equal praise is due to the staff that worked for Senator RUDMAN under his leadership.

Mr. President, this package includes several key initiatives that I have advocated and sponsored for a number of months, including the provisions on active duty military and reserve military, which Senator GLENN and I sponsored. And I would just very briefly describe those.

What we have here in this transition package and conversion package is a provision that allows those in the military who do not have commercial skills—for instance front line infantry soldiers in many respects do not have transferable skills to the commercial society—we allow them 1 year on basic pay to take educational leave so that we are not turning people who have served the country out into a tough job market with no commercial skill. That is an important provision.

We also have a provision, which I advocated, which provides that military personnel in excess areas, those areas where we have too many personnel engaged, to have a 15-year retirement.

This will actually save money for the taxpayers because the Defense Department and the services are, understandably, very reluctant when someone has 15 years in but not 20 years, for that person to be forced out, or involuntarily retired, even though we may have a surplus number of people in that particular skill, whether enlisted or officer. So this 15-year retirement is a temporary measure. But what it will do, it will help those individuals immensely. It will also help save money for the taxpayer because they will not be on the active duty payroll, they will be on retirement. And that is a less expensive proposition for the taxpayer.

This is not a permanent authority. It is recognized as a temporary authority during a period of very significant drawdown.

In addition to that, another one of the things I have advocated and talked about a great deal is in this package, and that is for those who do retire after 15 years, who are in surplus areas, to be able to earn another 5 years of retirement—which would begin to be added to their retirement at age 60, and that 5-year additional retirement earning capacity would be for those who go into what we call critical areas. The areas that come to mind first and foremost would be teaching math and science in the schools of our country, because we have in our high schools of America something like 50 percent of the people who teach math and science have full qualifications, while in the military we have some 35 percent of the military officers today who have master's degrees or higher.

So this is one of the most important educational initiatives I think we will be discussing and passing this year. That is, to inject this tremendous human resource into our educational system.

It is also my hope we will have principals and school boards with enough farsightedness and vision to understand there is another group of people coming out of the military who can be a tremendous help in our educational challenges today. That is people who may not have college degrees, people who are enlisted but worked to the very top end of the enlisted scale, who have been dealing with young men and women from all walks of life in the military and have become experts in the whole question of shaping young lives and providing leadership skills and discipline—particularly discipline in the young people.

I do not know of anything that is brought up to me more by the school teachers that I talk to in my State—anything more important to them than having some help in the discipline area.

In many of our school systems today the productivity of our best teachers in greatly diminished because of the discipline problems in the school system. I cannot think of anything that would help more than to have some of these sergeants and chief petty officers who have been in the military, come in as assistant principals to help in this discipline area. I think it could be a tremendous help to our education community and greatly increase the productivity of our outstanding classroom teachers.

We have other initiatives which Senator GLENN and I sponsored, relating to the Reserves. The Reserves have the same kind of challenges drawing down as the active forces, so we are providing a special 15-year retirement here for Reserves in surplus areas and also providing they would begin drawing that at age 60.

We also provide certain separation pay for Reserves who are being required to retire.

We have similar provisions for civilians, including Joint Training Partnership Act eligibility for civilians who are going to be terminated early because of base closures. We provide for a $20,000 early retirement incentive. We also provide for some transitional benefits here relating to the provision of continued health care insurance for those who are losing their jobs through no fault of their own. So we do have a number of initiatives here in this most important dimension of defense, and that is in the human dimension.

We have other provisions relating to helping communities adjust with the Joint Training Partnership Act, the Economic Adjustment Act, and also helping school districts. As I have already mentioned we have a number of, I think, very innovative initiatives that have been sponsored by Senator BINGAMAN from New Mexico, as the chairman of our Military Defense Industry and Technology Subcommittee. So I think this is a worthy package and, Mr. President, I would serve notice we will be asking for a rollcall vote on this when comments are completed.

To reiterate, Mr. President, I am pleased to join with Senators WARNER, BINGAMAN, RUDMAN, and PRYOR in sponsoring an amendment to ensure the prompt and effective implementation of the defense conversion and transition assistance provisions in the National Defense Authorization Act for Fiscal Year 1993. In my opening statement, I summarized the key conversion and transition provisions in the bill reported by the Armed Services Committee. The amendment that I and others are proposing at this time contains planning and management requirements to ensure that these important provisions—which reflect the recommendations of the Pryor and Rudman task forces—are implemented in a timely and effective manner.

The amendment also places in one provision of the bill the authorization for $1.2 billion in defense conversion and transition assistance.

The amendment would establish a new subtitle in the bill, entitled "Defense Conversion and Transition Assistance," with five sections.

The first provision, section 1071, sets forth the findings and policies that provide the basis for our defense transition programs. The findings and policies focus on the need to recognize and address the impact of reduced defense expenditures on the people, companies, and communities that have been the foundation of our national defense policies—our men and women in uniform, active and civilian, and the DOD civilian employees and defense industry workers. As OTA has estimated, the defense build-down provided in the President's fiscal year 1992 budget could lead to a loss of 2.5 million jobs over the next decade.

Section 1071 also recognizes the potential contribution that defense conversion can make to the long-term vitality of the national defense technology and industrial base. The policies place particular emphasis on the importance of assisting defense-dependent industries in converting to dual-use capability.

Section 1071 also provides that not less than $1.2 billion of the funds authorized to be appropriated by this act shall be available for defense conversion and transition assistance programs.

Section 1072 and 1073 establish planning and management deadlines for the active and reserve transition enhancements in the bill. This provision requires the Secretary of Defense to establish program objectives and implementation timetables for the military personnel transition programs authorized under title V of the bill, including:

The authority for active duty personnel in nontransferable skills, such as combat arms, to apply for up to 1 year of educational leave of absence to obtain civilian skill training.

The authority for active duty personnel who have 15 but less than 20 years of service to apply for early retirement, and to accrue additional military retirement credit if they take jobs in critical areas such as education, law enforcement, and health care.

The authority for selected reservists who have 15 but less than 20 years of service to apply for Reserve retirement, with benefits commencing at age 60, and authorizes selected reservists who have at least 20 years of service to apply for an immediate, reduced retirement annuity.

The authority for separation pay and continued GI bill benefits for selected reservists who are involuntarily separated.

Section 1074 requires the Secretary of Defense to establish management goals and timetables for implementation of the civilian personnel transition initiatives authorized in title III of the bill, subject to guidance issued by the Director of the Office of Personnel Management. These initiatives include:

The authority for Job Training Partnership Act assistance for DOD civilian employees 12 months in advance of a base closure or realignment.

The authority to provide a resignation incentive of up to $20,000, and an early retirement incentive of up to $20,000, for DOD civilian employees in surplus skills and for employees at military installations facing closure or realignment.

The authority for DOD to pay for up to 18 months the Government's contribution for a Federal health insurance plan for a DOD civilian employee who is involuntarily separated due to a reduction in force.

Section 1075 requires the Secretary of Defense to ensure that communities, businesses, and workers affected by reductions in defense expenditures are promptly informed of the assistance to communities available under title III of the bill, including:

DOD support for the Department of Labor's worker relocation and training programs under the Job Training Partnership Act.

Programs administered by the DOD Office of Economic Adjustment.

DOD support for economic development grants administered by the Department of Commerce's Economic Development Administration for the capital investment needs of communities adversely affected by base or defense plant closures.

DOD assistance to local school districts affected by the defense builddown.

Section 1076 requires the Secretary of Defense to provide for broad public dissemination of the defense technology and industrial base conversion initiatives in the bill, including:

Dual-use critical technology partnerships to stimulate industry investment in vital defense technologies.

Commercial-military integration partnerships to foster the development of viable commercial technologies that can also meet future reconstitution requirements and other needs of DOD.

Regional technology alliances to promote the development of products that build upon regional strengths in particular industries and technologies.

Defense advanced manufacturing technology partnerships to encourage Government-industry cooperative efforts in manufacturing technologies, especially those which would significantly reduce the health, safety, and environmental hazards of existing manufacturing processes.

Defense manufacturing extension programs to support the manufacturing programs of regions, States, local governments, and private, nonprofit organizations.

Dual-use technology and industrial base extension programs to support programs sponsored by the Federal Government, regions, States, local governments, nonprofit organizations, and private entities that assist defense-dependent companies in acquiring dual-use capabilities.

Expansion of the Small Business Innovative Research Program, which uses a percentage of funds from each agency's research and development budget to fund research proposals from small business concerns.

Mr. President, building on the work of the Pryor and Rudman Task Forces, we have crafted a bill and an amendment which provide a broad array of tools to address the problems of defense conversion. In my judgment, these are prudent measures that will address the transition problems faced by workers, businesses, and communities, and strengthen the national defense technology and industrial base.

I urge the adoption of the amendment.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from New York.

Mr. D'AMATO. Mr. President, I am going to be very brief in my remarks. I, first of all, would like to commend the distinguished chairman and ranking member for this outstanding piece of legislation, particularly that dealing with defense conversion and the transition assistance that is desperately needed, I want to say. To my State, this is critical, particularly in the community in which I live, Long Island, which is so defense oriented.

The impact as it relates to the dislocation of workers and the impact as it relates to those who serve the military in an active capacity is one that this act begins to move in a very forceful way to address, and to deal with it in such a way that we can turn some situations that otherwise might be tragic into a plus in creating jobs, job opportunities, and increasing and enhancing our educational system. And I just want to commend all of those associated with it.

I have asked to be included as an original cosponsor. I make that request now, that my name be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2917

(Purpose: To prohibit land known as the Calverton Pine Barrens, located on Department of Defense land in Long Island, NY, from being disposed of in any way that allows it to be commercially developed)

Mr. D'AMATO. Mr. President, I rise today, on behalf of myself and my friend and colleague Senator MOYNIHAN, to submit an amendment to the Department of Defense authorization bill for fiscal year 1993.

Our amendment, which is identical to the Calverton Pine Barrens Preservation Act of 1992, a bill I introduced earlier this week, would protect from commercial development over 3,200 acres of land around the Grumman aircraft testing facility at Calverton in Suffolk County.

This wooded area, surrounding 2,805 acres leased by the Grumman Aerospace Corp. from the U.S. Navy, is situated over a major section of the sole-source water supply for 2.3 million Long Islanders. It is also the home of nearly two dozen different threatened or endangered animal species, such as the banded sunfish, the eastern bluebird, the buck moth, and the tiger salamander. The Calverton Pine Barrens is also a place were 19 species of rare and endangered plants grow, many of which are found nowhere else in New York State.

The Calverton Pine Barrens, though owned by the Navy, is currently managed by the New York State Department of Environmental Conservation

[DEC] as a wildlife preserve and recreation area.

Mr. President, in the past the Federal Government floated the idea of selling off this buffer zone around the Grumman facility. It made no sense, however, to allow development in an area surrounding a Navy jet testing facility and the administration did not pursue the idea.

This is an amendment that makes great sense, and I believe both the majority and the minority have signed off on it.

It is an amendment which the ranking member, the distinguished senior Senator from Virginia, is intimately aware of the impact of, having been former Secretary of the Navy. He knows out in Calverton, Long Island, the unique situation in which that testing facility has, and the important role it has played in the defense of this Nation. He also understands the 3,000-plus acres that form a buffer to this training facility should never really be developed. The purpose of this amendment is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

However, the recent discussion on the possible construction of a commercial jetport facility gives this legislation a heightened sense of importance.

This amendment requires that if the Navy ever declares the Pine Barrens to be no longer needed, the Secretary of the Navy must designate the area a protected tract and therefore off-limits to commercial development. If a private owner attempts to develop the land, ownership of the tract would revert back to the United States.

Whatever the future holds for the Calverton facility, we must prevent development that would destroy an important environmental resource.

Mr. President, I would like to offer my thanks to Congressman GEORGE HOCHBRUECKNER who had introduced an identical bill, H.R. 1065, in 1991 and who has been a champion for this important cause.

I note that both State and local government officials, as well as those citizens who are concerned with preserving this ecosystem are in favor of this amendment.

Mr. President, the Calverton Pine Barrens provide clean water, a habitat for rare animals and plants, and an important outdoor recreational area for 15,000 New Yorkers who fish, hunt, and hike in this beautiful area. We must do all we can to preserve this heritage for our children and our children's children.

I urge my colleagues to support Senator MOYNIHAN and me in saving the Calverton Pine Barrens.

I thank the ranking member for his strong support and the majority for their consenting to take this amendment, because I believe it will really serve our national goals and interests.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. The amendment is acceptable on this side. I wish to commend my colleagues, the senior Senator from New York, and Mr. MOYNIHAN, for their vision in seeing a piece of land which is still nothing—basically it is in the form when the Indians departed. Am I not correct?

Mr. D'AMATO. That is correct. These go back to Indian times.

As the statement would indicate, they have many rare species of plants and animal life, et cetera. Of course it is absolutely essential as it relates to protection of the ground water. We are totally dependent on the ground water supply and the aquifer which lies beneath.

Mr. WARNER. Senator, would I be somewhat presumptuous in saying this could become the Central Park of Long Island someday?

Mr. D'AMATO. In essence there is a magnificent utilization. It is probably well underutilized, but in days to come, it could be a great recreational area for many, many, and a great educational sanctuary as well—an opportunity to give our youngsters, in science and ecology, an opportunity to see it and observe; all of the benefits.

Mr. WARNER. I commend the Senators from New York. There are pieces of land that, frankly, are obscure. It takes a little research to determine what use can best be made with these pieces of land and, I commend the Senator for this particular amendment.

Mr. D'AMATO. If I might, I thank my colleague and friend from Virginia. Let me be very candid because this has been bipartisan. I think it is important to note not only does it have and has had the strong interest, not just today or a few days ago, and support of Senator MOYNIHAN, but in addition the Congressman in this area, Congressman HOCHBRUECKNER has introduced a companion bill in the House of Representatives. I think it be only fair to commend the Congressman for this interest and his persistence in this area. I think that is important to know.

Mr. WARNER. Mr. President, I think we should adopt the amendment, and send it to the desk.

The PRESIDING OFFICER. The amendment has to be sent to the desk.

Mr. WARNER. I did not realize, Mr. President, that it was not at the desk. I send the amendment to the desk on behalf of the two Senators from New York.

Mr. NUNN. Mr. President, I think we have to ask unanimous consent that the pending amendment be temporarily laid aside for this amendment to be considered at this point in time. I so propound that request to the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. MOYNIHAN, proposes an amendment numbered 2917.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following title:

SECTION I. SHORT TITLE.

This Act may be cited as the "Calverton Pine Barrens Preservation Act".

SEC. II. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Pine Barrens, a forest of pine trees extending across Long Island, New York, protect and replenish the Island's sole-source aquifer and require well-planned protection strategies.

(2) The Department of Defense owns 3234 acres of the Pine Barrens which serve as a buffer zone surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York, and provide numerous benefits to the public and wildlife.

(3) The General Services Administration has suggested selling portions of the Pine Barrens described in paragraph (2) and under Federal law, such portions could be sold for commercial development.

(4) The New York State Government and local governments have an interest in preserving the Calverton Pine Barrens in its natural state.

(b) PURPOSE.—The purpose of this Act is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

SEC. III. CALVERTON PINE BARRENS PROHIBITED FROM BEING COMMERCIALLY DEVELOPED.

In the event that any part of the Calverton Pine Barrens is declared to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall designate that part a protected tract. The protected tract, or any part thereof, may not be disposed of in any way that would allow commercial development to take place on it. If the protected tract, or any part thereof, is ever conveyed to an entity which uses it for commercial development, ownership of the protected tract shall revert to the United States.

SEC. IV. DESCRIPTION OF THE CALVERTON PINE BARRENS.

The Calverton Pine Barrens is the land of not less than 3234 acres located on Department of Defense land surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York.

Mr. NUNN. Mr. President, we have read the amendment on the majority side and urge its approval.

Mr. WARNER. I urge its adoption.

Mr. MOYNIHAN. Mr. President, I am pleased to rise today to join my colleague Senator D'AMATO in support of this amendment.

Mr. President, this amendment has one simple purpose—to prevent the development of the last uninterrupted stretches of Long Island's once expansive pine barrens. The tract in question, the 3,000-acre Calverton Pine Barrens, is presently part of the Naval Weapons Industrial Reserve Plant in Calverton, NY.

Currently this land is managed by the New York State Department of Environmental Conservation as a recreation area and wildlife preserve. It is home to at least 23 threatened or endangered species, and plays host to hikers, fishermen, and women, and grade school field trips. It is a resource we should protect.

The Navy has had under consideration a plan to declare this land as "surplus property." In this event it would be turned over to the General Services Administration for sale to the highest bidder. The pending amendment would simply require that the land, whether owned by the Navy, another Federal agency, or a private individual, must remain undeveloped.

This is a worthy amendment and I urge its adoption.

Mr. President, I ask unanimous consent that an article from Long Island Newsday appear in the RECORD with my remarks. I ask unanimous consent that my remarks appear in the RECORD immediately previous to the disposition of the amendment.

SALE OF CALVERTON BUFFER LAND URGED

(By Tom Morris)

The U.S. General Services Administration has recommended that the Navy declare as surplus an 850-acre portion of the buffer zone surrounding the Grumman jet plant at the Calverton naval reservation, a move that could lead to development of a heavily wooded section of the Suffolk pine barrens.

Navy officials at Grumman have advised top brass in Washington that they are against the idea, mainly for safety reasons, because aircraft are tested at the Calverton field. And yesterday the Long Island Regional Planning Board and Suffolk Planning Commission opposed the suggestion on grounds that sale of the tract could spur private development in the pine barrens, which cover Long Island's largest reservoir of clean underground drinking water.

The regional board made public yesterday a July 29 letter from Navy representatives at Grumman to the chief of naval operations in Washington saying that the GSA, based on a 1985 field survey, recommended the Navy declare "excess to its needs" a total of 880 acres in two parcels.

Navy officials at Grumman said the land would be worth about $5.9 million if sold for development.

The larger piece is an 850-acre tract in the southeast corner of the buffer zone, south of the Long Island Expressway in Brookhaven Town and about two miles southeast of Grumman's northeast-southwest runway.

A 30-acre Navy tract on the west edge of the Calverton site, along Wading River-Manorville Road at Route 25, just outside the buffer zone, also would be declared excess under the GSA proposal.

David E. Segall, a spokesman for the Navy office at Grumman, said its commander "does not concur with the GSA recommendations." The office's letter to Washington said, "It is necessary for the Navy to retain ownership of all buffer zone land in order to guarantee the safest environment possible for the development and testing of Navy aircraft."

Segall said the Navy owns 2,921 acres inside the fence around the plant and 3,000 acres outside the fence, considered the buffer zone. Grumman has leased the land since 1954 as a jet-testing facility.

Chief Petty Officer Paul Waldrop, a press aide for the chief of naval operations, said the letter had not been received and apparently was routed first to the Navy Air Systems Command in Washington, which couldn't be reached.

A spokesman for the GSA in Washington, Robert Fisher, said the agency had no power to take the parcels and that the Navy could decide to retain them. Fisher said the recommendation came from a routine survey last year. He said the GSA continousuly tries to identify holdings that may be not be needed, in keeping with a Reagan administration order.

The Suffolk planning commission sent letters yesterday to Long Island congressmen, urging retention of the Calverton land and saying "it appears extremely shortsighted to open up the possibility of further residential development" in the area. The bicounty planning board instructed executive director Lee Koppelman to join the protest.

John L. Turner, president of the Long Island Pine Barrens Society, said the 850-acre parcel is in "the heart and soul of the pine barrens. It's as if the GSA was living in a vacuum instead of recognizing the need to keep this land open. It's a ridiculous suggestion."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2917) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 2916

Mr. ROBB. Mr. President, I would like to return to the pending amendment on defense conversion. It has been very carefully explained by both the chairman of the Armed Services Committee, as well as the chairman of the task force, Senator PRYOR. I commend them for the leadership that they have shown in pulling sometimes disparate views together and reconciling them in the particular amendment that is now pending before the committee.

I would like to follow their presentation by talking a little bit about the principles which underlie the defense conversion plan.

Those of us on the task force started with what looked like a clearly defined challenge. The cold war is history. The days of free spending on defense are history. The Senate's task, it seemed, was to keep our States' economies from becoming history, too.

But as we delved into what that challenge really entails, we found it really cannot be addressed in the singular. The nature of the problem depends very much on who and where you are. For businesses, the economic challenge of the post-cold-war world is not so much to identify the next big technology or the next emerging market. It is to be structured in such a way to take advantage of ideas in markets when they appear.

For defense personnel, both uniformed and civilian, and for their brethren who design and build America's defense hardware, the challenge is to find another productive use for their skills. For State and local governments, the challenge is to handle the effects of business and judgment—the dramatic diminution of property values from base closings and business consolidations, the new demands on services for laid-off workers to create infrastructure, to attract replacement businesses, and to somehow do it all while we are trying not to be trampled by whatever the Federal Government has decided to do this week.

For the Federal Government, the challenge is to bring defense spending down at the proper rate. Do it too slowly and other vital needs go unmet. Do it too quickly and the result could be a depression.

Mr. President, the Berlin Wall fell almost 3 years ago. The current base closure process began in 1988. Leaders at all levels of Government, academic experts and some in the military, have been preparing to handle the effects of downsizing its conversion for at least that long. Action has, frankly, lagged behind our intentions. The task force language in this bill finally provides a vehicle to help turn some of those ideas into real assistance. The overriding principle behind this plan is to keep new bureaucratic structures to a minimum and improve those already in place. I continue to look at new proposals through the eyes of a former State official: That means decentralizing power to the States and localities wherever possible and using existing successful programs wherever they can be found.

I am pleased to report that the task force followed that model. We recognize that the answer does not lie in just creating new programs. We do not believe that Government can bureaucratize its way out of trouble. We can see a corollary of that principle in the way business growth is treated. We emphasize existing programs and, when necessary, to modify them to better recognize and deliver what defense-oriented businesses need to stay globally competitive.

For example, we do not advocate replacing DARPA but opening it up so the technologies with civilian applications are more accessible to the contractors that develop them.

This plan does not put Government in the place of guaranteeing the survival of particular businesses. Instead, we help to make available the tools that businesses need to ensure their own survival while new manufacturing techniques are designed to make American business as responsive and agile as some of our foreign competitors.

I believe that when American businesses have the same tools as our competitors, we can eat their lunch. The democratic proposals create incentives to develop those tools. As we all know, the effects of defense downsizing could be most chilling in the short-term for workers in defense industries and those in military service. Our plan moves aggressively to provide assistance to these folks who won the cold war but are now being asked to pay the price of victory.

Basic principle with regard to workers was to make Government proactive, to anticipate cutbacks in closures, not just to jump in too late after the jobs are lost and the people have been scattered.

On the civilian side, that means being ready to train these good people for jobs serving the private sector. It means making the Job Training Partnership Act work even better. It also means getting the Department of Labor to release funds for its retraining program. These funds have already been authorized but they have not been spent, and with 2 million more people about to have to look for work, we simply cannot sit on our hands.

That same proactivity will be used on behalf of military personnel and DOD civilian employees. We cannot just react after their jobs are gone. We have an obligation to them to provide retraining along with incentives for them to leave the military service probably earlier than they planned to leave, and our plan does just that.

But it also recognizes the value of their experience and urges these people to use their talents in service to the public. I have always liked the idea referred to a few moments ago by the chairman of the Armed Services Committee, the idea of bringing those who choose to retire into the classroom to fill the ranks of people to teach math and science so the next generation can have the benefit of their services and thereby ensuring that their experience and know-how are not lost to the years and filling a constant need particularly in those specialties in our teacher ranks.

We recognize the principle that Washington cannot always know what is best for individual States and communities.

The States and localities usually know where it will hurt, how it will hurt, and what programs have proven to be effective at that level.

So we do not tie a lot of strings to the support to be provided to localities through EDA.

I am looking forward to working with Senator PRYOR and other colleagues, particularly Senator BINGAMAN and Senator LIEBERMAN, who Senator PRYOR referred to earlier, to strengthen the State role in that adjustment.

This package is also consistent with our principle that the long-range solution for defense-dependent communities and States is to attract more investment from firms, the livelihood of which does not depend on war or the threat of war.

This may be a somewhat controversial belief, Mr. President, but encouraging diversification and growth is not an industrial policy. It is simply sound economic policy. And like many sound policies, it is bipartisan.

I am glad to note, as has already been noted, the contributions of a similar group from the other side of the aisle are also included and very much contributed to the success of this particular provision.

The post-cold-war world is simply too capricious, too dangerous, and too difficult for the squabbling between parties on such basic issues.

Mr. President, we are talking ultimately about the survival, not just to businesses and families, but of America's role as an economic power. It would be folly to let internecine differences threaten our Nation's success. In the end, our goal is to provide resources for proven programs that work.

There is not much support in here for the new or the experimental. We simply do not have the luxury of time which trial and error demands. And we probably will not be able to save each individual community from at least feeling the pinch or more. But I believe if we act quickly, we can give America the tools it needs to not only survive the dislocation of defense cutbacks but to leave our Nation stronger and better off in the long run.

Mr. President, I thank the Chair, and I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask unanimous consent that I may be considered as an original cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. If the Senator will yield for just a brief inquiry, I would like to get the yeas and nays on this amendment, if the Senator will yield for that purpose.

Mr. DODD. I will be glad to yield.

Mr. NUNN. Mr. President, I would like to ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I will just take a couple of minutes.

I want to join with the distinguished chairman of the Armed Services Committee and ranking minority member in commending the Senator from Arkansas [Mr. PRYOR], for his leadership on the Senate Task Force on Defense/Economic Conversion.

I was pleased to serve as a member of the task force, and the amendment presently before this body incorporates hours and hours of work by individual members of the task force and members of the staff and dozens of interviews with knowledgeable people in the area of defense conversion. In the task force we sought to determine what steps may be taken in order to assist in the orderly process as we try to assist individuals, communities, and industries that are going through the awkward and difficult transition of a defense-based economy to nondefense or more moderately defense-based economies.

I commend those Members who have worked on this and I want to briefly relate how important I think this is.

I think most Members appreciate the role that my home State, the State of Connecticut, has played throughout the 200-year history of this country as a provider of defense materials and articles for this Nation's national security needs. In fact, we are the most dependent State on a per capita basis of any of the 50 States on defense contract work.

We are proudly a State that has given this Nation its helicopters, its jet engines, propellers, radar systems, gun weaponry, and, of course, the submarine force, the nuclear submarine force, beginning with the *Nautilus* to the present *Trident* and *Seawolf* programs.

It is a small State geographically but a significant percentage of our work force has been dependent on defense work and has contributed significantly to this Nation's security. In many ways, Mr. President, these employees and these firms and these communities have been the veterans of the cold war.

Today, we are experiencing the painful process as we downsize our defense budgets of what happens to these communities, what happens to these industries, and what happens to these individuals, talented people—pipefitters, welders, painters, boiler makers, designers, engineers—who have all contributed to the great strength of the national security apparatus of this country.

Now many of them are losing their jobs. We have seen roughly 177,000 jobs lost in the State of Connecticut in the past 36 months. Just in the month of June, Mr. President, almost 10,000 people in the State of Connecticut lost their employment. Not all of them are due to downsizing the defense budget but a significant number of them are. In the coming weeks, months, and years, we understand that there will be even further layoffs and further job losses and further industries and manufacturers losing business as a result of the changed world environment in which we live.

Mr. President, what this legislation does is not terribly complicated. It deals with three areas, as I mentioned already: The employees, the industries, and the communities that are adversely affected by the downsizing of our defense budgets in very concrete terms.

It deals with individuals by providing job training, some $50 million of assistance in this legislation for workers who lose their jobs. This will greatly help, for example, as I have mentioned, the Electric Boat Division of General Dynamics where $1.5 million in job training funds approved earlier this year are in danger of running out. Other grants will help places like UNC in Montville, CT, which supplies components for the nuclear reactors; Pratt & Whitney, the jet engine facility in East Hartford, or many other sites throughout the State that are losing employment.

For communities, Mr. President, there is $150 million for economic development assistance. This program is essential for the infrastructure of the Nation. Out of the $50 million that was set aside for the program in 1990, three projects in Connecticut are in the final stages of approval: $2 million for the Norwich Department of Public Utilities to build water filtration plants, $2.7 million for the reconstruction of the pier in New London, CT, which we hope will expand the port facilities in that city—which is directly across the river, I might add, from the Electric Boat Division—and a $112,000 grant for the State of Connecticut to maintain its diversification service network.

There is also a more than $500 million program to support dual use technologies and other critical technologies. Support for these technologies is critical if we are going to help preserve the technology base in States like Connecticut. Specific examples, in my State, could include robotics, marine technologies, biotechnology, environmental technologies, and advanced fuel cell technology and development.

Finally, Mr. President there is a doubling of the Small Business Innovation Research Program for 3 years. This program has been extremely creative and extremely helpful in providing to small businesses within Connecticut and other regions of the country help to develop innovative technologies, cutting-edge technologies for the 21st century.

Mr. President, I ask at this juncture unanimous consent that a summary of the other dollar amounts that will go into job training assistance and technology manufacturing and small business assistance be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE DEFENSE CONVERSION PORTION OF THE DEFENSE AUTHORIZATION MARKUP

I. JOB TRAINING ASSISTANCE

$50 million for assistance to displaced defense workers under Title III of the Job Training Partnership Act.

Early retirement incentives for members of the armed services.

Separation pay for Reservists who are involuntarily separated.

II. COMMUNITY ASSISTANCE

$20 million for planning grants for impacted communities through the Office of Economic Adjustment.

$150 million for public works projects in impacted communities through the Economic Development Administration.

III. TECHNOLOGY, MANUFACTURING AND SMALL BUSINESS ASSISTANCE

$100 million for industry partnerships in critical dual use technologies.

$50 million for industry partnerships designed to enhance commercial-military integration.

$100 million for industry partnerships designed to strengthen regional technology alliances.

$25 million to enhance defense advanced manufacturing technologies.

$100 million for state and local manufacturing extension programs.

$30 million for manufacturing engineering education programs.

$200 million to support federal, state and local programs designed to enhance dual use technology and strengthen small businesses.

Set-aside for Small Business Innovation Research Program is doubled over a period of three years (no authorization of funds necessary).

Mr. DODD. Lastly, Mr. President, I want to point out that it was in 1979 that former Congressman from Connecticut Stewart McKinney and I introduced conversion legislation. In those days there was little or no interest in this because people felt we were escalating the defense budget and a need for offering alternative economies was not something that enjoyed broad-based support.

Regretfully, we did not do more in those earlier days to lay out the base that would have made it possible for these communities and industries to move into other important technologies that they are capable of developing. But be that as it may, this particular proposal being offered today is, I think, a sound idea, one that I would hope would enjoy broad-based support.

I offered an amendment a few weeks ago when we considered the $12 billion authorization program to assist the newly independent states of the former Soviet Union. Part of that money is to go to assist former defense workers in those Republics make the transition to commercial technologies. I offered an amendment that said that whatever we did for defense workers in the former Soviet Union ought to be done for defense workers in this country. That amendment was unanimously adopted by this body.

This particular amendment conforms to that amendment in the sense that what we are doing here is committing defense dollars to assist the veterans of the cold war, to assist the communities of those veterans, and the industries that have given so very, very much to this Nation in defense technologies.

But as my colleague from Virginia, who is on the floor, and my colleague from Wyoming will testify, many of the technologies developed over the years in defense-related areas have also proved to be invaluable in commercial technology development.

So there has been a benefit beyond the strictly defense areas. But this amendment will go a long way to assisting those workers, those communities, and those independent industries make this very painful and difficult transition.

It is not the end all. It is not the final answer, obviously, but it is a major step forward in a recognition that these people, communities, industries, deserve as much help as we could possibly give them not only for their sake but for our sake as a nation as we prepare for the new challenges of a global economy.

I yield the floor.

Mr. WARNER. Mr. President, I wish to commend my distinguished colleague from Connecticut. He has for many years been an expert in the area of industrial base as it relates to defense. He has in his State a shipyard which has contributed materially to the security of this Nation for decades, and it is now continuing to manufacture components which are essential to our security and, given the uncertain future that we have before us, it is clear that a capability to construct nuclear powerplants for seagoing vessels is essential to the long-term security of this Nation.

I thank the Senator for his contribution.

Mr. President, I would like now to propound a unanimous-consent request that would simply be in the nature of allocating the next 30 or 35 minutes to Senators who wish to address certain issues. I know the Senator from Wyoming is anxious to discuss the pending bill. He is a member of our committee. The Senator from Arizona has matters relating to the problems in Bosnia today, as does the Senator from Connecticut; and the Senator from Virginia who would like to address that subject.

So I ask unanimous consent that a period of 40 minutes now be allocated, 20 minutes to the Senator from Arizona [Mr. DECONCINI]; 10 minutes to the Senator from Wyoming; 10 minutes to the Senator from Virginia; that no amendments will be sent up during that period of time; that the existing unanimous consent is in no way amended; and that at the expiration of the period of 40 minutes either the chairman of the Armed Services Committee, Mr. NUNN, or myself will be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

BOSNIA-HERCEGOVINA

Mr. DECONCINI. Mr. President, I want to thank the Senator from Virginia for his accommodation. I understand, I think, what the game plan is here; priority amendments; and I did agree that I would, as the unanimous consent so said, not offer an amendment at this particular time.

Mr. President, I want to talk about the importance of an amendment that has been put together by the Senator from Connecticut and myself as a cosponsor, at least day before yesterday, by Senator DODD, Senator MITCHELL, Senator PELL, Senator LEVIN, Senator PRESSLER—and perhaps I missed one or two others—Senator D'AMATO, Senator MIKULSKI, Senator RIEGLE, and Senator LEAHY, Senator SPECTER, Senator KOHL, and Senator SIMON.

I would like to think that the basis point or the starting point was what we introduced there on Wednesday. We had a press conference that was a little bit of movement towards doing something about the atrocities that are occurring in Bosnia-Hercegovina.

Mr. President, I feel very strongly that this body ought to address this, discuss it, have some debate, answer questions, and hopefully vote a resolution that would urge as strong as we can on a nonbinding, nonmandated resolution, our government, the administration, to move in the Security Council under article 42 authorizing the use of force, taking what steps are necessary to see that several things occur.

One is that the prisoner of war camps are inspected and have access by the Red Cross and other relief organizations; two, that the Security Council of the United Nations take steps necessary under article 42 which includes authorizing the use of force to open the airport for humanitarian purposes in Sarajevo; and three, to convene a tribunal to investigate war crimes.

Mr. President, what is happening in Bosnia-Hercegovina is an outrage. We have seen it on television. Now we are reading it on the front pages of the paper. Anybody who took some time this morning to read the diary as reconstructed from the memory of the person who wrote the diary about the killings that are going on today is enough to make us look back and say "Where we are?" Why were not we here 2 weeks ago, 2 months ago, or 6 weeks ago before the fighting broke out? We had that opportunity. The President of Bosnia-Hercegovina, and the Foreign Minister of that same country, were here and they testified—the Foreign Minister did—before the Helsinki Commission. They told us what was happening and just beginning to happen. They implored us as members of the Helsinki Commission to do anything we can do to get the United States involved in some international efforts.

Congressman HOYER, the chairman of the Commission, and other members that were there, wrote letters. We made statements, and here we are today with tens of thousands being killed, torture being committed in a ravaging way. More than 2 million refugees from Bosnia-Hercegovina and Croatia have need, and have been required to find some space someplace, not their home, under the worst of circumstances. And the Serbian forces and paramilitary forces are indeed the aggressors.

I am not saying that there are not atrocities or could be atrocities or outrages on the Croatian side or even on the Bosnian side. But we are seeing firsthand—our intelligence reports, which we cannot go into here, but eyewitnesses that have come back, newspaper clippings, other interests that are there, on the nongovernmental operations, are confirming day after day an absolute genocide.

I say that understanding what that word means—the senseless killing of people with no reason or rhyme except the brutalness toward human beings and a disguise that this is in some national interest of the Serbian population.

Backers of Serbian forces in Belgrade are primarily responsible, including providing financial and military means for this continued propaganda that is going on to cleanse Bosnia-Hercegovina of the ethnics that are there, that are non-Serbians. This is the kind of talk we heard before the Second World War. This is where the world community failed to respond then. And to me, if we do not act soon, we will be guilty once again of failing to come forward and do something in a meaningful way to get the United Nations and international bodies to address this problem.

The Senator from Connecticut and I have an amendment. It is a resolution to do several things. We make several findings that the Republic of Bosnia-Hercegovina is internationally recognized as an independent state.

I am pleased our President said that yesterday, that they would recognize Bosnia-Hercegovina as an independent nation and a sovereign country, something that the Helsinki Commission of this joint Congress has been attempting to promote and get the attention of the administration.

The resolution also calls for attempts to bring about a permanent cessation of hostilities by the Serbian and Serbian-backed forces in the Republic of Bosnia-Hercegovina; and it says that though these negotiations have failed, there should be continued effort to do it.

Third, the horrible atrocities which are being committed against the civilian population, including the so-called ethnic cleansing of regions inhabited by non-Serbs.

It says there is a finding that the United States and other contributing parties to the International Convention of the Prevention and Punishment of Crimes of Genocide may, under article VIII, "call upon the competent organizations of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention or suppression of acts of genocide."

Or, any other "acts constituting genocide" as enumerated in article III. Finding that the officials of the International Committee of the Red Cross have been denied access to prison camps and internment camps throughout Bosnia, even though such officials are entitled to access.

Six, the United Nations and Red Cross relief convoys carrying such needs, supplies of food and medicines, being blocked at the present time by the Serbian-backed forces; that the Security Council vote unanimously to dispatch additional forces to reopen Sarajevo Airport and secure it, and deliver supplies of humanitarian assistance; that the Security Council endorse the cease-fire plan negotiated by the European Community, and that the President of the democratically-elected Government of Bosnia-Hercegovina has issued urgent appeals for immediate assistance in the international community.

These are facts that have occurred. It is the sense of the Senate that the President should immediately call for an emergency session of the United Nations Security Council in order to authorize, under article 42 of the U.N. Charter, all necessary means and efforts to enforce the Security Council decision with regard to Bosnia-Hercegovina, including the use of multilateral military force under the Security Council mandates, to facilitate the provisions of humanitarian relief, and to gain access for the United Nations and International Red Cross to internment camps and prisoner-of-war camps and; two, during that meeting, the U.N. Security Council review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia, pursuant to U.N. Security Council Resolution 13, and determine whether the termination or suspension of the application of that resolution to Bosnia would result in increased security for the civilian population.

Lastly, the U.N. Security Council should convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territories of the former Soviet Federated Republics of Yugoslavia and to accumulate evidence, charges, and prepare the basis for trying individuals believed to have committed such crimes.

Mr. President, it is not a difficult resolution. It is one that is clear, concise, and everybody can add a sentence or subtract a sentence from it to make it a little better.

The Foreign Relations Committee reported out something relatively similar to this, with some alterations. The members of the Armed Services Committee have a deep interest in that.

If, in fact, the Security Council did what this resolution calls for, it is very likely that the U.S. Armed Forces would be involved. This does not call for a land-based invasion. It does not call for the United States to participate on one side of a civil war or the other side of a civil war. It calls the United States to come forward as a world leader, to insist on the rule of law, to say outspokenly at the United Nations, and publicly, that we are prepared not only to come forward when there are economic interests, as well as human rights violations, as there was in the gulf; we are prepared to do it here, now, today, because there are human rights violations that are occurring, and we cannot sit by and permit this to continue.

Mr. WARNER. Mr. President, I would like to ask a question, the time being charged equally between the two Senators.

I certainly join, as I am sure all do in this Chamber, to try to do what we can, through the United Nations, to help bring about a cessation of this tragic sequence of events.

I commend the Senator and all those who are taking a lead on this. This Senator—and I would like to express my concern—wants to make certain that the American people fully understand the consequences of such a resolution by the United Nations.

If our President is called upon in this resolution to seek the goals that the Senator has enumerated—and the Senator has said it would involve the use of military force—I think we should know, as best the experts can provide the information, what is the extent of the military requirements to achieve the goals as laid down in this resolution.

If the President were successful in the United Nations, and then there is an allocation of the responsibility among the several countries and, indeed, if our President takes the lead—and he has been taking a lead right along—then the other nations would turn and say: Well, what is it that the United States would contribute in terms of military forces to reach these goals as laid down in the resolution?

At some point, the United Nations, this body, and others, have to receive expert testimony. And the chairman of the Armed Services Committee and I are now structuring a hearing for Tuesday, at which time we will have coming before our committee a very credible array of expert witnesses to try and answer the precise question that I am posing to the Senator.

Mr. DECONCINI. Mr. President, is the Senator going to ask me a question? I am going to ask him one.

Mr. WARNER. The question I wish to ask the Senator, Mr. President, is: How can the Senate, in an informed manner, act on this resolution without having some idea of the quantum of military forces that would be required? And, second, what allocation would be made to the United States if, in fact, our President seeks and obtains a resolution along these lines?

It would seem to me that we could not simply say: Let us have this resolution to achieve a United Nations-sponsored effort to provide humanitarian relief to civilians in Bosnia.

To me, that is a whole country, and it is a very substantial country. Eventually, if we go on, I am going to bring up a map and show the size of this country, the extent of the road networks, the complexity of the terrain, and the difficulty in reaching and providing humanitarian relief to civilians throughout that country.

Is it just part of the country? Is it all of the country? These are very important questions that I think our colleagues will want to have information on before they begin to focus on this amendment.

Mr. DECONCINI. Mr. President, I will attempt to answer the question from my perspective. I am not a military expert, and the Senator from Virginia certainly is.

Let me say this to him, with the greatest respect: We can talk about this; we can pursue it through the Armed Services Committee. We can have the military experts, and we can spend another 2 weeks or 2 months. And my best answer is really a question to the Senator. I do not know if he read former Prime Minister Thatcher's op-ed piece in the New York Times:

> It is argued by some that nothing can be done by the West unless we are prepared to risk permanent involvement in a Vietnam- or Lebanon-style conflict. * * *
>
> That is partly alarmism and partly an excuse for inertia. There is a vast difference between full-scale land invasion like Desert Storm and a range of military interventions. * * *

Mr. President, we are only calling here for a nonbinding resolution to urge our Government to put this type of a resolution before the Security Council. That means we could even disagree with it, if our Government followed this, per se.

Obviously, I think, our Government, if they got anything out of this, would say: The Congress wants us to get moving on this, wants us to move now.

I only want to say to the Senator that I respect his cautiousness in the use of military force; I really do.

This does not say that you have to have the land invasion of all of it. It says, in a nonbinding—should be nonthreatening—manner, take it to the Security Council. We think it is important that we act now. We cannot afford to wait—I urge my friend from Virginia—to wait for more hearings. The problem is here today. If this body does not speak up, I sincerely believe the day will come when we will look at ourselves in the mirror and say, "Where were we, as people died every day by the hundreds?"

Mr. WARNER. Mr. President, if I may reply.

Mr. PRESSLER. Parliamentary inquiry. What are the terms of the unanimous-consent agreement? I would like to speak on this subject.

I shall have to offer an amendment after this to make a speech if that is necessary, but I would like to speak during this time.

Mr. WARNER. I presume the Chair is going to make a response to the parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Virginia has roughly 6 minutes, the Senator from Wyoming has 10 minutes under the unanimous consent agreement, and the Senator from Arizona has approximately 7 minutes remaining in accordance with the original UC.

Mr. PRESSLER. I ask unanimous consent that I be allowed to speak for 10 minutes after that.

Mr. WARNER. Mr. President, regrettably I will have to object because, on the bill that is on the floor under the comanagement of the distinguished Senator from Georgia and myself, there is an amendment pending. We were simply trying to fill in, in a constructive manner, a period of 30 to 40 minutes.

I would have to consult with the majority leader, the Republican leader, and the chairman of the committee before I could accept any amendment or further time allocation.

I simply say to my friend from South Dakota that at some point today I think the Senate has to address this under a constructive format of time allocations, because the Senator from Virginia has many more questions and ideas. I do not wish to be dilatory about this important issue, but I want it addressed carefully.

So I think, for the moment, we will have to remain under the present time constraints, and, at some point, I am sure the leadership will advise the body as to how it wishes to deal with this important question.

Mr. PRESSLER. Will my friend from Virginia yield for a question?

Mr. WARNER. I want to finish my colloquy with my friend from Arizona. I will yield for a question from the Senator on my time in just a minute.

If I could get the attention of the Senator from Arizona, the Senator from Virginia is not trying to be dilatory. I would like to get to this issue. I am hopeful that my questions can be answered.

But, Mr. President, I remember very well—being one of the floor managers on the resolution on the gulf, the extensive debate following the extensive hearings—that this body had before it a complete, factual record of the entire gulf situation before we acted.

This, although a nonbinding sense-of-the-Senate resolution, has implications as important as that gulf resolution, and it cannot be handled in a matter of minutes. It cannot, in my judgment, be adequately handled without a record.

Because I remember so well during the course of that debate, time and time again the question was propounded, What will be the casualty rate? That was a legitimate question and one of the most difficult to answer. Senator after Senator in this Chamber raised the question, What are the projected casualties? What is the projected time of the commitment of the U.S. forces?

So I think we should take this issue with some measure of caution, make sure that the record is the best we can put together, and then address the important issues raised by the Senator from Arizona, the Senator from Connecticut, and the Senator from South Dakota.

Mr. PRESSLER. Will my friend yield for a question?

Mr. WARNER. I will on my time, but perhaps the Senator from Arizona wishes to reply.

Mr. DECONCINI. Mr. President, my recollection is—and I do not have the record before me, and maybe the Senator from Virginia has a better memory—that we were debating a great deal the War Powers Act in that effort.

We were told about the casualties, as the Senator will recall, being perhaps 50,000—I remember that figure—or more. And we know it turned out to be several hundred, which is a loss, but certainly nothing like that.

I see a distinction, in all sincerity, with the Senator from Virginia. This is a nonbinding resolution urging action in the Security Council. It does not bind the Security Council. It does not even bind our country to use this exact term. What it is, is a statement.

Now, the Senator might logically say, well, "Make your statement, Senator from Arizona. Go to it. Make all the statements you want."

Well, the best statement I know is when you can get a vote here, and the stronger the vote the better.

But it does not bind anybody. And I think that is a grave distinction, at least in my mind.

Mr. WARNER. Mr. President, I will briefly reply to that, and then I will take a question from my friend from South Dakota.

If this Senate acts today, in the heat, and the passion, and the stress of this situation, that message will rattle across the ocean and it will be interpreted that the Senate of United States calls on the United Nations to do thus and so. The fact that it is nonbinding will be lost. It will be a strong message coming from this Chamber this afternoon if, in fact, it does flow. And I want to make certain, the best we can, that we understand all the implications before each Senator is called upon to vote on this.

In the end, I am hopeful that I can be supportive, but at the moment I cannot because I cannot get those facts which I find essential for me to make that important decision, because I do not know whether or not, by virtue of this resolution, as drafted, the United Nations will interpret it that this country must contribute not only air and sea, as the President has thus far indicated would be available, but ground troops. And, if ground troops are to be sent in from this country, I want every Senator to know the full implications and the risks associated with that and for this country to understand it.

Now Mr. President, I yield, for a question, to the Senator from South Dakota.

Mr. PRESSLER. I thank my colleague very much.

I ask my colleague: is it not true that the Foreign Relations Committee has, in fact, held a hearing, a long hearing, on this subject? As I have previously stated, I believe this is one of the defining issues in foreign policy today. How we handle this issue will provide a good indication of the direction we are going in the next 6 or 8 years. It has become rather ironic here on the Senate floor; it seems that the hawks have become doves and the doves have become hawks.

When Lawrence Eagleburger was confirmed in the Foreign Relations Committee, I asked him a line of questions concerning the future of what was then still a United Yugoslavia. At that time I predicted the situation we find ourselves in today could occur. I think he has handled the Yugoslavia matter poorly. I think it would be good to have a new Under Secretary of State in charge of this situation and the general issue of the former Yugoslavia.

In any event, I would ask my friend from Virginia another question. Is it not true that perhaps there could be a force of volunteers to carry out this type of work? Perhaps a mixture of special forces, air and sea forces, and other types of technological forces, plus small groups of troops who are highly trained—volunteers who can carry out the job of bringing in supplies? My friend is sort of painting a picture of a major ground invasion, which many of us do not envision.

However, I do feel that those of us who advocate this resolution must take the responsibility to say that it will take some ground troops and we could lose some people. It is too easy to say there will just be air strikes or strikes from ships. I am not taking that easy route. I will take the hits. I will take the responsibility. This is a defining issue in American foreign policy. We must act and we must act quickly.

We have the information. We have had hearings and hearings and hearings.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. WARNER. With the propounding of a question.

I ask the Senator from Wyoming to give me 1 minute of his time in which to answer the question.

Mr. WALLOP. I yield 1 minute to the Senator.

Mr. WARNER. Mr. President, I hold in my hand the best evidence I can find in the last 48 hours of the military implications of this problem over there. It is a transcript of the MacNeil-Lehrer program of August 5 in which they brought together an assemblage of military experts to address this question.

All through last night, I was working with the Department of Defense. I am receiving every hour material from that Department to supplement this.

But for the moment, we do not have a good record on which to determine the extent of the military forces required to fulfill the basic request here, which is, in very simple language, the Nation's effort to provide humanitarian relief to civilians in Bosnia.

That is a big country, and these civilians are scattered widely throughout that country, several hundred miles from ports, up narrow roads. This is a very serious problem.

I draw to your attention the history of this area of the world where Hitler invaded with some 37 divisions and was able to conquer the political structure, but he never conquered the people. He took very few casualties in the first few days, but then for 3½ years thereafter took tens upon tens upon tens of thousands of casualties.

The PRESIDING OFFICER. The Senator's 1 minute from the Senator from Wyoming has elapsed.

The Senator from Wyoming is recognized for 9 minutes.

PRIVILEGE OF THE FLOOR—S. 3114

Mr. WALLOP. Mr. President, I ask unanimous consent that Capt. Steve Madey, a congressional fellow working with me on defense matters, be permitted the privilege of the floor throughout the debate on the defense authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, it is my intention to talk on the bill, but let me just make two observations.

One, the problems in Bosnia-Hercegovina are not new to this past few weeks or these past few months. I refer my friends to the 1930's, to the fact that over a million people were killed—a million Serbs were killed by Croats during World War II. This is not a new issue and it will not be resolved by this debate.

I will also say to my friends who are so concerned with the tragedies of white people in that region—and they are unbelievable tragedies, I admit that—that I wish they had some concerns to respond to the request of the Secretary General of the United Nations, Boutros Boutros-Ghali, who says that the problems in Somalia with black people, where perhaps 2 million people may die in the next 6 months of starvation caused by civil war, would be at least of as much concern.

Mr. DECONCINI. Will the Senator yield?

Mr. WALLOP. I will not yield because I have such a limited period of time.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Arizona has 6 minutes under control.

Mr. DECONCINI. I yield to the Senator from Connecticut—I yield 1 minute to the Senator from New Jersey.

Mr. LAUTENBERG. Just 1 minute. I thank the Senator from Arizona.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. LAUTENBERG. Mr. President, I want to express my admiration and respect for what it is he is trying to do. He is sounding the alarm; he is sounding a warning; he is saying for crying out loud, let us get off our seats and stop the killing. And it does not need to go through review after review for the United States Senate, on behalf of the American people, to speak up and say we want it stopped now.

Shall we wait a few days more and see how many more children they kill there? How many more senseless attacks take place on innocent civilians? This is not taking sides. This is sticking up for humanity. And we ought to have the decency in this House to stop this silly arguing about what is right and what is going to be bogged down, how we attack and how we do this. Let us declare that we are behind stopping the killing and that we, as the greatest moral force in this country, will stand up to stop it.

I thank my friend from Arizona, and hope that we can get by this gibberish and get on to saying that we in the U.S. Senate want to stop the violence immediately.

Mr. DECONCINI. Mr. President, I yield whatever time the Senator from Connecticut so desires.

The PRESIDING OFFICER. Four minutes and 33 seconds remain.

Mr. LIEBERMAN. I thank the Chair and thank my colleague from Arizona.

Mr. President, it is literally time for us to stop fiddling while Bosnia is aburning. That is what is happening. Look back over the past year at the steady course of aggression, now in Bosnia-Hercegovina and Croatia. If we do not stop them in Macedonia, there will be a prospect of a wider war which inevitably will draw us into something more costly and painful than we are confronting today.

Second, we have seen the outrages, we have heard the testimony, but now we have seen them on our own television sets and in our newspapers. We cannot say we do not know what is happening there. Brutality that is sickening and infuriating is occurring in Bosnia. It is time for us to act.

Mr. President, those who raise questions about this resolution are raising questions that go beyond what is in this resolution. In fact, I would say to my friend from Virginia and my friend from Wyoming, this resolution does little more than endorse and support what the President of the United States has said he would do, which is to ask the United Nations for the authority to use force, to carry out the resolutions of the United Nations, particularly to deliver humanitarian relief.

The specter is raised here that this resolution may draw us into a ground conflict over which we will have no ability to say no or control. This is a sense-of-the-Senate resolution. It is not a declaration of war. It is a sense of moral outrage. It is a warning to the leader, Slobodan Milosevic, in Serbia that we have had enough. It is time to stop.

Mr. President, the Commander in Chief of the United States remains the Commander in Chief. This is a call to him. He will determine what to do with it. The United States retains the veto in the U.N. Security Council. That will clearly affect what the United Nations does and under the War Powers Act, if the Commander in Chief determines that he wants to commit or thinks it is in our national interest to commit ground troops to the Bosnian conflict, I am sure he will return to this Congress, as he requested we do in the case of Operation Desert Storm, to ask for specific authorization.

This resolution simply says, Mr. President, we support your desire to go to the United Nations, to ask for the use of force, both to deliver humanitarian relief and to gain access to these death camps, these concentration camps, to determine exactly what is going on there and to stop it.

Mr. President, I want to respond to what was said by my colleague from Wyoming about the distinction between the conflict in Bosnia and that in Somalia and to suggest somehow there is a racial determinant to our desire to seek action here. These are two very different conflicts. In Somalia, we are dealing with warring factions. In Bosnia, we are dealing with an aggressor, a Serbian aggressor who has systematically moved to create a greater Serbia.

All of us are obviously concerned about what is happening in Somalia. I commend our colleague from Kansas, Senator KASSEBAUM, who has been there, who has introduced a resolution calling for humanitarian relief. I am proud to be a cosponsor of that resolution, but those who for some reason are timid at this hour of need, I call on them to address the reality of the horror in Bosnia and the reality of the very measured terms of this resolution and not deal with irrelevancies or overstatements.

Mr. President, I am proud that this resolution is a bipartisan resolution. The distinguished Republican leader is one of the original cosponsors of it and he remains so. The majority leader is a cosponsor of it and he remains so.

The world is watching what is happening in Bosnia, and watching us for a signal of our concern and our intention to take it seriously. This, as our friend from South Dakota said, is another defining moment in world history. In the interest of our moral stature, in the interest of our strategic future, I ask that we consider this resolution today and adopt it with a strong bipartisan vote.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. All time having expired for discussion on this issue, under the previous order, the Senator from Georgia [Mr. NUNN] is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued with the consideration of the bill.

Mr. NUNN. Mr. President, the Senator from New Mexico I know would like to be heard on defense conversion. It would be my view we will go to a rollcall on that. We already have obtained the yeas and nays.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

AMENDMENT NO. 2916

Mr. BINGAMAN. Mr. President, I rise to support the bill and the pending amendment, which essentially endorses the Armed Services Committee's actions on defense conversion and transition programs.

I am proud of what the committee has been able to do in this area. We built on a record in previous years and we have taken actions that, in my view, are fully consistent with the recommendations made by the task force chaired by Senator PRYOR and also the task force chaired by Senator RUDMAN.

The overall focus is on working with industry and State governments to keep the United States at the forefront of development and application technologies important both to our national security and to our economic prosperity. The main mechanism that we use in this legislation to carry out almost all of our new programs is the cost-sharing partnership, competitively selected on a merit basis.

We believe that we are responding responsibly to the challenges the Department of Defense faces in the post-cold war world. The Department of Defense integrate its research programs to the maximum possible extent with those of the private sector and with civilian agencies. Commercial and military integration must be at the core of the Department of Defense's technology base, industrial base, and acquisition strategies in the future. The Department of Defense's role in our economy, especially in the manufacturing sector, has declined and will decline further in coming years. The Department of Defense will not be able to afford defense-unique solutions that we have depended upon for requirements that they share with the private sector.

We also believe that the programs we have designed and that are included in this legislation will help defense-dependent firms, particularly small- and medium-sized firms, make the transition to a focus on commercial markets for dual-use products and processes. This is not an easy transition, and we do believe that it is an appropriate function for Government to provide infrastructural services to aid these firms. This is not a role just for the Department of Defense. The Department of Commerce, the Department of Energy, and the Small Business Administration together with State and local governments all have important roles to play, and we are supportive of a coherent overall Federal effort in this area.

Mr. President, I will not go into the details of all the programs which the committee has funded in the area of technology and industry policy. But I do request unanimous consent that a summary of those provisions and a funding table be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, overall, the committee has added $1.6 billion to the administration's request within six categories of programs: $625 million within the conversion/transition initiative for dual-use technology partnerships, small business innovative research program enhancement, and various manufacturing and technology extension and education programs; $246 million for ongoing industry driven dual-use technology partnerships in DARPA, such as SEMATECH, high performance computing, electronic modules, and advanced materials; $295 million for manufacturing technology R&D; $330 million for environmental R&D in DOD and DOE's defense programs; $43 million for other programs aimed at the DOD and DOE laboratories; and $55 million for other education programs.

There seems to me to be a remarkable consensus building on the thrust of these six programs. Both the Pryor and Rudman task forces endorsed efforts aimed at making the Department of Defense acquisition system more compatible with the goal of fostering civil-military integration.

Both task forces called for more emphasis on dual use technologies within the Department of Defense and Department of Energy research programs. Both task forces called for increased emphasis on manufacturing technology and endorsed the manufacturing-engineering education program that we launched in the Armed Services Committee last year. And both task forces called for the doubling of the small business innovative research program within the Department of Defense. Both task forces also called for increased emphasis on environmental research and development. Both task forces called for enhanced efforts aimed at building partnerships between the private sector and the DOD and DOE laboratories in dual-use technologies.

The Armed Services Committee has responded to this emerging consensus in Congress in a responsible and a coherent way. I appreciate the tremendous support Senator NUNN has given to the subcommittee's efforts both this year and in the past. The Senator from Georgia has been my close collaborator in every one of the programs we have included in the subcommittee package. I appreciate the support of Senator WARNER and Senator COATS, both of whom have made significant contributions to the package before the Senate.

I hope that our efforts and those of the two task forces I have referred to will win broad, bipartisan support on the floor as they did in the committee.

I urge all my colleagues to support this important amendment.

Finally, I want to recognize the tireless efforts of the Arms Services Committee staff, both majority and minority, in designing the details of the programs before us. I particularly want to cite the work of Andy Effron, John Douglas, Jon Etherton, Les Brownlee, Geary Burton, Rick Finn, David Lyles, Camden Flick, and Barb Braucht. Ed McGaffigan, John Gerhart, and Patrick von Bargen on my personal staff, and Dorothy Robyn on the Joint Economic Committee staff also made significant contributions to the technology and industry policy provisions of the bill. It is through the efforts of staff that an emerging consensus can be recognized and placed in statute and report language in a fashion of which we all can be proud.

Again, Mr. President, I appreciate the good work of the chairman and ranking member of the committee, and I appreciate their offering this amendment at this time.

I yield the floor.

EXHIBIT 1

SUMMARY OF COMMITTEE ACTIONS—TECHNOLOGY AND INDUSTRY POLICY

DEFENSE TRANSITION INITIATIVES

The committee established post-Cold War era policy objectives for the national defense technology and industrial base, with particular emphasis on dual-use capabilities.

The committee authorized $100 million for Dual-Use Critical Technology Partnerships. These are cost-shared government-industry partnerships administered by DARPA. This increases funding for an ongoing program, which has funded thirteen projects the past two years in areas such as communications, data storage, and optoelectronics.

The committee authorized $50 million for Commercial-Military Integration Partnerships to foster the development of viable commercial technologies that can also meet future reconstitution requirements and other needs of DOD. This new program would have tight cost-sharing requirements.

The committee authorized $100 million for Regional Technology Alliances to promote the development and application of technologies in which there are regional clusters of strength. The maximum federal contribution would be 30 percent of total costs.

The committee authorized $25 million for Defense Advanced Manufacturing Technology Partnerships to encourage cost-shared government-industry cooperative efforts in manufacturing technologies, especially those which would significantly reduce the health, safety, and environmental hazards of existing manufacturing processes.

The committee authorized $100 million for Defense Manufacturing Extension Programs to support on a cost-shared basis existing manufacturing extension programs of state and regional governments.

The committee authorized $30 million for manufacturing engineering education programs. This is an ongoing program, which DOD coordinates with the National Science Foundation. It requires cost-sharing from the universities.

The committee authorized $200 million for Dual-Use Technology and Industrial Base Extension Programs. This would enable the Secretary of Defense, working with the Secretaries of Energy and Commerce to support programs sponsored by the federal government, regions, states, local governments, nonprofit organizations, and private entities that assist defense-dependent companies in acquiring dual-use capabilities.

The committee expanded the Small Business Innovative Research Program, which uses a percentage of funds from each agency's R&D budget to fund proposals from small business concerns. DOD and other agencies would increase their SBIR funding from the current level of 1.25% of their R&D budgets to 1.5% in fiscal year 1993, 2.0% in fiscal year 1994, and 2.5% in fiscal year 1995 and thereafter.

The committee provided a statutory charter for the Defense Advanced Research Projects Agency which would emphasize its role in the development of dual-use technologies. The provision would also rename DARPA the Advanced Research Projects Agency, the name it had from 1958 to 1972. Finally the provision would raise the Director of Defense Research and Engineering to Level III and the Director of ARPA to Level IV in the executive pay schedule.

The committee established a DOD Office of Technology Transition which would be responsible for monitoring DOD research and development activities, identifying activities that have potential commercial applications, serving as a clearinghouse to facilitate transition of technologies to the private sector, and assisting firms with regulatory problems associated with technology transfer.

ON-GOING INDUSTRY DRIVEN TECHNOLOGY BASE PARTNERSHIPS (DARPA)

The committee authorized $100 million for SEMATECH, the government-industry partnership aimed at fostering the health of subtier semiconductor manufacturing equipment firms.

The committee fully funded the DARPA High Performance Computing and Communications Program at $275 million and commended the administration for its initiative in this area, which was taken in response to Senator Gore's High Performance Computing Act of 1991.

The committee authorized $75 million for DARPA's advanced lithography program and urged that DARPA and industry be allowed to sort out the relative merits of various advanced lithography techniques.

The committee authorized $100 million for high definition display systems development, $75 million for electronic module development, and $30 million for advanced materials synthesis and processing. All are technologies in which the committee believes there are enormous opportunities for cost-shared partnerships with industry. DARPA has been funding a small fraction of the proposals it has been receiving from industry in each of these areas.

MANUFACTURING TECHNOLOGY INITIATIVE

The committee authorized a total of $434 million, $295 million above the request for the manufacturing technology programs of the Services and the Office of the Secretary of Defense.

The committee noted the growing emphasis on manufacturing technology in the statements of senior DOD officials and provided the resources needed to carry out a substantial program, consistent not only with DOD policy, but with the Administration's advanced manufacturing technology initiative.

The committee notes the compelling logic in consolidating the Office of the Secretary of Defense oversight over the DOD manufacturing technology program under the DDR&E, but stops short of mandating that change.

Within the manufacturing technology initiative, the committee recommends $20 million for the National Center for Manufacturing Sciences, the machine tool industry's research cooperative, and $30 million for flexible, agile manufacturing technologies as recommended by the DOD-funded, industry-led study, *the 21st Century Manufacturing Enterprise Strategy.*

ENVIRONMENTAL TECHNOLOGY INITIATIVE

The committee added a total of $329.5 million to the President's request for environmental R&D programs within the military services, the Department of Energy's laboratories, and the Strategic Environmental Research and Development program, in which DOD, DOE, and EPA coordinate their efforts at improved environmental clean-up technologies.

The committee believes that these are all areas in which the private sector will have a strong interest in working with the federal agencies and opportunities will abound for cost-shared partnerships between federal labs and the private sector.

DOD AND DOE LABORATORIES

The committee has fully funded the administration's amended request of $141 million for dual-use technology partnerships between the DOE weapons laboratories and the private sector. These partnerships, in areas such as advanced computers, software, semiconductor manufacturing, and advanced materials, offer a tremendous opportunity to the private sector and to the laboratories themselves.

The committee has also included provisions aimed at improving access to small businesses to the DOE weapons laboratories and at encouraging the laboratories to involve the private sector in their lab-directed R&D projects.

The committee also added $43 million for supercomputer modernization in the DOD laboratories. The administration had not requested funding for this purpose, but did submit a five year plan this spring that called for a $215 million investment in this area. The DOD Science and Technology Strategy has identified information technologies as the central element of their strategy. This supercomputer modernization program will make the DOD labs more attractive partners for industry to work with on information technologies.

EDUCATION PROGRAMS

The committee continued funding for the Nunn-Hatfield Graduate Fellowship Program and the US-Japan Management Training Program each at the level of $10 million.

The committee authorized $20 million for a program aimed at improving math and science education in the Department of Defense Dependent Schools (DODDS) system to help meet the year 2000 education goal set by the President and the Governors.

The committee authorized $15 million for a program to improve computer-assisted education and training. The focus will be on applications in the National Guard and Reserves and in the DODDS schools.

NATIONAL DEFENSE STOCKPILE

The committee authorized the disposal of 51 materials from the stockpile, which represents almost all the disposals requested by DOD. The committee proposes a series of provisions to streamline stockpile operations, as requested by the administration. The committee included a provision that would repeal the statutory requirement that stockpile requirements be based on a three-year global conventional war, and that would require instead that guidance for stockpile requirements be consistent with other DOD planning guidance.

The committee also included a provision to establish a Market Impact Committee in the executive branch composed of representatives of all departments with expertise or interest in the stockpile and cochaired by the Departments of State and Commerce. The Market Impact Committee will advise DOD on the market impact of proposed disposals from the stockpile and insure such disposals do not disrupt markets, as required under existing law.

Finally, the committee authorized $25 million for materials research and development programs to be funded from the stockpile transaction fund, as requested by the administration.

FISCAL YEAR 1993 INITIATIVES IN THE AREA OF INDUSTRY AND TECHNOLOGY POLICY SENATE ARMED SERVICES COMMITTEE

[In millions of dollars]

	Fiscal year—		
	1992 (actual)	1993 Request	1993 SASC
DEFENSE TRANSITION INITIATIVES			
DARPA Dual-Use Critical Technology Partnerships	60	0	100
Commercial-Military Integration Partnerships	0	0	50
Regional Technology Alliances	0	0	100
Defense Manufacturing Extension Program	0	0	100
Manufacturing Engineering Education Program	25	0	30
Dual-Use Technology & Industrial Base Extension Programs	0	0	200
Small Business Innovative Research Program	[1]225	[1]225	[1]270
Subtotal	310	225	850
ONGOING INDUSTRY-DRIVEN TECHNOLOGY BASE PARTNERSHIPS (DARPA)			
Sematech	100	80	100
High-Performance Computing	232	275	275
Advanced Lithography	60	0	75
High Resolution Displays	75	10	100
Multi-Chip Modules	5	44	75
Advanced Materials Synthesis & Processing Partnerships	15	0	30
Subtotal	487	409	655
MANUFACTURING TECHNOLOGY INITIATIVE			
Army	28	20	61
Navy	74	45	108
Air Force	61	73	146
OSD	37	0	118
Subtotal	200	139	434
ENVIRONMENTAL R&D INITIATIVE			
DOE Environmental R&D Programs	269	281	331
Strategic Environmental R&D Program	10	0	200
Army Environmental Technology	24	18	58
Navy Environmental Protection	26	29	49
Air Force Environment R&D (no single line item)	[1]20	[1]25	[1]45
Subtotal	349	353	683
DOE AND DOD LABS			
DOE Lab-Industry Partnerships	50	141	141
DOD Lab Supercomputer Modernization	42	0	43
Subtotal	92	141	184
EDUCATION PROGRAMS			
U.S.-Japan Management Training Program	10	0	10
Nunn-Hatfield Graduate Fellowship Program	10	0	10
DODDS Schools Science & Math Education Initiatives	0	0	20
Computer Assisted Education & Training	0	0	15
Subtotal	20	0	55
Total	1,458	1,267	2,861

[1] Estimated.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have sought recognition on the Department of Defense authorization bill to make a very brief comment on the situation in Bosnia. I think this is relevant as we consider the Department of Defense authorization bill and make a determination as to our own military strength which may have to be used due to the atrocities being committed against the Bosnian and Croatian people by Serbian forces.

The reports which have been received, including graphic pictures from detention camps of corpses bound together by wire, and reports of eyewitnesses who claim to have seen unspeakable cruelties, all require action by the United Nations. Thus, I feel the call by President Bush for a U.N. military force, backed by the United

States, with an effort at least to get humanitarian relief into the area, is an absolute necessity.

I join my colleagues who have spoken on this subject, with the recommendation that this body take up a resolution this afternoon so that the Senate may speak in unmistakable terms in condemning the kind of atrocities which are present there, and if necessary, recommend very forceful action, including military action, to stop those atrocities.

We have heard of 57 concentration camps, according to reports from the Bosnian Government, with ghastly occurrences—emaciated men who are reported not to have eaten for weeks being compelled to jog around yards, systematic malnutrition with human beings in skin and bones, and a record of atrocities which is unparalleled perhaps since World War II.

Tomorrow, Mr. President, we will celebrate the 50th anniversary of a report received by the United States Government about plans by Germany to commit atrocities against the Jews which we know, in fact, happened. The world, including the United States and the leaders of the United States, turned their backs on those atrocities which were committed in Nazi Germany some 50 years ago, and that should not happen again, Mr. President.

It is a matter for collective security. It is a matter, in the first instance, for action by the United Nations, and it is a matter for the United States to be very active in moving to promote and provide the kind of military force necessary for humanitarian aid and to see that these atrocities are stopped.

I thank the Chair and yield the floor.

MILITARY ECONOMIC CONVERSION: REMEMBER THE SUBCONTRACTORS

Mr. KOHL. Mr. President, much has been said about the end of the cold war and America's need to turn the swords of a bygone era into the plowshares of economic development. The defense transition task force, under Senator PRYOR'S leadership, compiled an impressive list of recommendations to do just that. S. 3114 as amended, the Department of Defense Authorization Act of 1992, includes 27 task force recommendations. I commend Chairman NUNN for his attention to the challenge of military economic conversion.

I am particularly glad to see that this defense authorization bill is sensitive to the needs of subcontractors. In contrast to past reauthorizations, this bill is not oriented toward prime contractors. For example, on page 272, line 21, the bill specifies that annual analyses shall include subcontractors.

It is important to recognize the importance of defense subcontractors whenever we discuss military economic conversion. Even if a prime contract is awarded to a firm in the West or South, that firm's subcontractors could be found in the Midwest or Northeast. If we are to construct a truly nationwide strategy to reinvest our resources, we must actively engage the subcontractors in such an effort.

My State of Wisconsin wins a relatively small number of prime military contracts. However, our world class machine tool industry receives many subcontracts from around the country. These firms are often small- or midsized and do not possess the marketing or research and development capacity of a large corporation. They will need help making a transition to a peacetime economy.

I am confident that the economic conversion provisions in this bill, along with other measures we have recently passed, will help subcontractors adapt to a new world. Our economic future depends on it.

Mr. CHAFEE. Mr. President, I would like to compliment the chairman and ranking Republican member of the Armed Services Committee on the comprehensive and detailed proposals they have included in this bill and their managers' amendment regarding defense conversion assistance. Their efforts will be welcomed by the workers and communities that will be struggling to adjust to reductions in defense spending in the years ahead.

There are over 17,000 Rhode Islanders directly involved in defense-related work—and I emphasize that this figure does not include the vendors and services, such as local restaurants and other small businesses, that also derive most of their income from those participating in defense-related work. It is inevitable that a large number of those dedicated and highly skilled people will have to face a change in career over the next 5 years. It is equally likely that the communities of which they are a vital part may lose critical tax revenues and pillars of economic stability as firms close and workers relocate. Thus, adjustment to reductions in defense spending is one of several obstacles to economic recovery and growth that Rhode Island and many similar communities around the Nation will be experiencing.

Over the past 2 months, I have held a series of roundtable discussions in my home State of Rhode Island on the topic of economic recovery. Adjusting to a reduced defense presence has been an important part of these discussions. Partly in response to a proposal of my own, and in accordance with studies of the State's economy that have been completed over the past year, several recommendations have emerged as especially promising. In addition, President Bush as well as two groups of Senators representing both sides of the aisle have drafted a series of proposals to address the conversion issue. I am pleased to see that the best ideas from all of these discussions and working groups are included in this bill and the managers' amendment. I would like to briefly describe some of these insights and extend my strong support for their adoption.

One part of the managers' amendment sets forth specific timetables for the delivery of defense transition assistance. In the experience of those involved in Rhode Island's efforts to study and gather resources for this transition, delivery of Federal services has been delayed and administrative hurdles had to be overcome before any substantive work could be done. It is good to see that the programs for transition implementation must be established in short order, and I look forward to working with the Department to refine all requests for assistance to speed the delivery of needed services.

It is also encouraging to see the attention devoted to dual-use technologies in the managers' amendment. Support for dual-use technologies is one way to get the most bang for our buck in research and development. Another transition element, that of using defense resources that may no longer be utilized for civilian use, is a resourceful way to make the best of what we already have. This is especially important in the area of skills and knowledge. One element of this bill makes it possible for experienced Armed Forces personnel to receive alternative teacher certification, and thus pass along their valuable backgrounds in areas such as mathematics and science to those future engineers and scientists who will keep this country competitive for years to come.

Once again, Mr. President, I would like to compliment the chairman and ranking member of the committee, and all those Senators who were so active in these efforts. I thank the Chair.

DEFENSE ADJUSTMENT: AN IDEA WHOSE TIME HAS COME

Mr. PELL. Mr. President, it is indeed a significant sign of the times that nearly 100 pages of the pending bill is devoted to the subject of defense conversion and that $1.2 billion of the funds we will authorize will be devoted to converting our defense establishment to nondefense purposes.

I welcome the trend and I applaud the provisions of the bill that promote it.

This is indeed a remarkable shift in public policy reflecting historic changes in the world around us. Only a few short years ago, the very use of the word "conversion" was regarded as heretical and almost unpatriotic. It was assumed that those who favored such a concept wanted to put defense contractors out of business.

Nothing could be further from our intent today. The conversion provisions of this bill are firmly grounded in a basic policy whose goal is to preserve a national defense industrial and technology base, and to sustain that base through rational steps to diversification and dual use production.

Many of these provisions emanated from the task force on defense/economic conversion chaired so ably by the distinguished Senator from Arkansas [Mr. PRYOR]. I was pleased to participate in that effort, as I did on a previous similar task force headed by the distinguished Senator from Michigan [Mr. RIEGLE].

I am particularly pleased that in the pending bill we are building on the base provided in the fiscal year 1991 Defense authorization bill by the Riegle-Pell amendment which provided $200 million for retraining and community adjustment. The additional funding provided by this bill, combined with technical refinements which I believe are forthcoming from the Labor Committee, should go far to provide adjustment assistance where it is most needed.

This bill goes much further, as it should. It includes creative provisions for transferring military talents and techniques to civil purposes and it contains a rich menu of innovative provisions to advance dual use technology, technology transfer to the commercial sector, manufacturing education, and small business innovative research.

But as far as the bill does go, it could go further. I was struck by the observation by the distinguished Senator from Ohio [Mr. METZENBAUM], who noted that the defense conversion portions of the bill account for less than half of 1 percent of the total. We could and should do more.

I do believe that more should be done, for example, to require contractor responsibility to plan systematically for alternative production of commercial goods and services. It is in the national interest for them to do so, both in terms of preserving the defense industrial base and in terms of preserving jobs and curbing unemployment.

Another area which we clearly should address is the problem of continuity of medical insurance coverage for defense industry workers who are terminated as a direct result of cutbacks in defense spending. This bill extends coverage for civilian employees of the Defense Department as well as members of the uniformed services who face termination, and it seems to me the justification for their coverage applies equally to defense industrial workers whose careers are being interrupted for the same reasons.

But on balance, Mr. President, I am pleased with the bill as far as it goes. It marks a dramatic shift in priorities and lays the ground for further strides in the future.

Mr. DOLE. Mr. President, I wanted to take this time to comment on the Senate Republican task force on defense conversion and their accomplishments in producing a guide to our Nation for its changing national security posture.

In 1990, the world looked quite different than it does today. The incredible changes that have taken place and the speed of those changes is unprecedented in history. Between that time and today, America's Armed Forces were called upon to fight in the deserts of Iraq. And with the careful and well-planned defense policy of Republican administration's, Americans had the tools and training to win one of the most complete military victories in history. But careful and well planned policies have not always been the case.

I remember that just prior to the war in the gulf the liberals in Congress were demanding that we cut the military to the bone—saying that we no longer needed to maintain a strong defense. In reviewing past debates on this issue, I was struck by the similarity of the arguments that were being made prior to 1950. Of course the Nation soon found out how wrong those arguments were when North Korea invaded the south and our military forces were thrown into the Korean war unprepared and without the equipment they needed to end it quickly. However, those that see nothing wrong with America being a second-rate power did not learn the lesson of the Korean war. For with the end of the Vietnam war, our defense structure was again neglected and ignored. And the result of the hollow force this neglect created was vividly ingrained in the national conscience through the pictures of the burning wreckage of Desert-One in Iran.

But as the saying goes—those that do not read history are bound to repeat it—and the debates of 1990 again turned to how the military posture of the United States could be gutted. In July of 1990, I asked the Congressional Budget Office to report the effects of the drastic cuts to the military force that were being demanded by the liberals. That indepth report was ready in February 1992. With its publication, there was, for the first time, a real focus on how to address the complex problem of changing the defense structure of our Nation while we retrain the millions of Americans linked to that structure.

Mr. President, with that goal as a mandate, Senator RUDMAN, the chairman of the defense conversion task force, and my Republican colleagues produced a comprehensive report that gave an overview of the problems and solid recommendations on what can be done about them. Senator RUDMAN, with the expertise and experience of Senators WARNER, STEVENS, LUGAR, DOMENICI, COHEN, KASSEBAUM, DANFORTH, HATCH, BROWN, MCCAIN, LOTT, and SEYMOUR, all contributed to this effort.

The Senate Republican task force on defense conversion had a vast and complex job. One that demanded an integration of human and industrial resources that span the Nation. It was a job that demanded addressing the pressing needs of millions of families and thousands of communities simultaneously—while ensuring that a clear and feasible course be set for the future of the Nation and its industrial base well into the 21st century. In my view, the Republican task force accomplished this difficult job magnificently.

Their report gave recommendations to help communities readjust to the new realities of lower defense spending and military base closures.

Their report gave proposals that ensured the men and women in our Nation's armed services and defense industries could change with the times and redirect their expertise to new areas.

Their report offered solid recommendations on how our Nation could maintain the ability to respond to crisis so that we would never again field a hollow force.

Their report gave feasible recommendations on how the advanced technologies and scientific research centers of the Department of Defense could be transferred to private sector applications.

Through the efforts of my distinguished Republicans of the defense conversion task force, we now have a comprehensive guide with fiscally feasible recommendations to move the Nation toward the future. It is now time for the Senate to act upon those recommendations.

Mr. LUGAR. Mr. President, I want to register my strong support for the amendment on domestic defense conversion offered by the chairman of the Armed Services Committee to the DOD authorization bill.

As a member of the Republican Task Force on Adjusting the Defense Base, it is clear that employment assistance, job training, local economic development, and defense industry diversification can help communities adapt to military base closures and other results of major defense spending cuts. For that reason, I have not only supported the need for new legislation in this field but have encouraged the continuation of existing Government-sponsored training and education programs, the reform of the defense procurement process, and the extension of tax credits for research and educational assistance.

To be sure, fiscally prudent economics must underlie any defense conversion recommendations for them to be effective. Even the best defense conversion package will be a poor substitute for efforts to bring the Federal deficit under control, for tax policies that spur investment and technological development, and for controlling Government spending.

It is critical for the Government to have a coherent, sound strategy for dealing with the human impact of major defense-spending cuts. We must create thoughtful policies that help individuals enter the nondefense economy and help communities make the transition from a predominantly defense economic base to a civilian-based economy. Economic vitality in many areas of the country will depend on thoughtful, effective programs for defense conversion.

In my work on the task force on adjusting the defense base, several areas for priority action surfaced:

New legislation to provide for a transitional safety net of benefits to those forced out of the Reserves by personnel cuts;

Enhanced supplemental funding for the Department of Labor job training program and the Department of Commerce economic development programs—funds that are targeted at workers and communities impacted by defense conversion;

Increased funding for the Defense Department Office of Economic Adjustment which assists with community redevelopment planning;

New legislation to provide for low- and no-cost transfer of base property to states or local communities;

New legislation to give the Department of Defense the authority to parcel bases and transfer uncontaminated tracts of land to the private sector or local governments;

Enhanced funding of the Department of Education's Impact Aid Program which provides transitional assistance to local school systems affected by a major decline in student population due to a base closing;

Examination of the feasibility of transferring medical facilities at bases being closed to the Veterans' Administration for use in serving local veterans and military retirees;

The permanent extension of the research and experimentation tax credit and the employer-provided educational assistance tax deduction.

Mr. President, defense conversion cannot be accomplished overnight but such programs can ease the transition. Moreover, such programs recognize that the Federal Government does have an important role to play in the economic adjustment of its citizenry.

I support the pending amendment of the Senator from Georgia because it strikes an appropriate balance between programmatic needs for defense conversion and appropriate defense programs to meet the country's national security needs.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BINGAMAN. Mr. President, I see no other Senators wishing to debate the pending amendment. I suggest we go ahead and vote on it unless there is additional debate in order.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2916.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

I also announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "yea."

The result was announced—yeas 91, nays 2, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—91

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Warner
Wofford

NAYS—2

Symms
Wallop

NOT VOTING—7

Burdick
Gore
Hatch
Helms
Lugar
Wellstone
Wirth

So the amendment (No. 2916) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, parliamentary inquiry. Has the motion to table been agreed to?

The PRESIDING OFFICER. It has been agreed to.

Mr. WALLOP. Mr. President, I rise today to express serious concerns about this year's Defense authorization bill. I voted against the bill in committee. I remain troubled by its direction. It underfunds many high priority items while directing excessive sums to unrequested programs that contribute little to the national defense. Too many provisions contained in this bill are based on questionable assumptions or concepts, which are then applied inconsistently. While this bill contains many sound provisions, in my view the positive aspects do not sufficiently compensate for its shortcomings.

Essentially, we seem to want to defend hometown economies through various spurious projects, maintain a huge militia, cut active forces, and slash their ability to procure necessary weapons. We have lost our way on defense spending while showing an eerie willingness to urge the use of force in the tragic situation in Bosnia with as much direction and aim as were evident in the Beruit operation nearly 10 years ago.

The President has reduced defense spending over the last several years and has set us on a course to bring American defense spending to its lowest level since before World War II. Under the President's plan, by fiscal year 1997 defense outlays will fall to 3.4 percent of GNP and 16 percent of Federal outlays, a cumulative decline in defense outlays of 26 percent since fiscal year 1985.

I am already uncomfortable with this steep reduction in defense spending and strongly oppose attempts by Congress to cut defense any further. I simply cannot support such large reductions while critical defense programs go unfunded or underfunded.

The conversion package contained in this bill spends $1.2 billion on programs that contribute almost nothing to the national defense. We should be more concerned about maintaining our defense industrial base by funding serious defense requirements. Market forces will manage defense conversion to the extent that it is required. Congressional intervention will only serve to reduce resources needed to support the defense industrial base. These programs simply take away funds that would otherwise be available for defense programs. We should fully fund our real defense requirements rather than syphoning off scarce resources to nonproductive programs.

During last year's consideration of the Defense authorization bill, and after considerable debate and compromise, a significant majority of the members of the Senate Armed Services Committee joined together in approving the Missile Defense Act of 1991. The committee presented this landmark piece of legislation to Congress as a new consensus on missile defense. The MDA set us on a unified course to defend the American people as soon as technologically possible.

The consensus consisted of three basic agreements: First, to develop and rapidly deploy highly effective theater missile defense; second, to develop and rapidly deploy a multiple-site, ground-based limited defense system to protect the United States, beginning with an initial ABM Treaty-compliant site; and third to maintain robust funding for Brilliant Pebbles to preserve the options of augmenting theater and strategic defense in the future with space-based interceptors.

This consensus is in danger of dissolving. Only in the area of theater missile defense does it remain fully intact. I believe that Congress should remain committed to providing protection against missile threats as soon as possible. We should bear in mind that the risk associated with the national missile defense acquisition strategy is programmatic not technical. Whatever risk remains in this program can be safely managed, but only if Congress holds up its end of the deal. I strongly oppose the reductions in the SDI budget proposed by the Armed Services Committee. The cuts in the SDI budget was a principal reason for my opposition to the bill in committee. If we do not provide adequate funding, the inadequate funding itself will become the main source of the risk which so concerns some.

With regard to roles and missions, there is a rational reason for self-examination. It is a healthy practice in any large organization. But we should wait for this examination to be completed before taking any medicine based on presumed findings. The approach contained in the bill basically prejudges the work of the Joint Chiefs of Staff and the Secretary of Defense by selectively halting some programs and slowing others. It is the congressional habit to order a study and act before we learn its conclusion.

In its present form, the process seems to be little more than a convenient rationale for further cuts in programs at the same time, the roles and missions concept has been used to resist needed changes in other areas. For example, only cosmetic cuts were made in guard and reserve forces pending a study of roles and missions for the total force. If we are going to select programs to be stopped or slowed because of perceived changes in the threat or roles and mission studies, then all programs should be treated consistently. Roles and missions seems to have become little more than a mantra to distract attention from asymmetric cuts, cuts that have less to do with balanced capability than with hometown politics.

Let us remember that winning takes overwhelming force, not the estimated minimum requirement, since that is the sure path to increased bloodshed and unpleasant surprises. Unsupported by analysis or thoughtful reflection, we are seeing our forces reduced to minimums that may only endanger them in actual conflict.

The manpower and personnel authorizations in this bill represent a serious departure from the administration request, and, indeed, from common sense. While advocating transition benefits for displaced guard and reserve personnel, there is no requirement for substantial reductions. Only 25 percent of the administration's request for reductions was approved. Conversely, active forces—those that can be brought to Bosnia-Hercegovina or other places in the world—declined by 100,400, that is, 100 percent of the administration request.

The Secretary of Defense must have the ability to train and manage forces and to establish a proper balance between active and reserve components. The committee's provision to prohibit any reductions in guard and reserve force structure is particularly worrisome and particularly irresponsible. We must avoid the hollow, untrained forces of the 1970's and accept the need for balanced reductions of our Active and Reserve Forces.

The civil-military cooperation program outlined in this bill seems a laudable undertaking at first, however, I believe it is built on the premise that "peace has broken out and therefore our focus on combat training can be altered. * * *" There will be plenty of time later to train. This is questionable thinking, at best, irresponsible at worst.

The program is hardly a program at all, but rather a statement of hope that the effectiveness embodied in military training and operations can somehow be translated to encouraging civic virtues among our citizens through Government programs.

The intent seems to be to capture excess or free time and resources of our Armed Forces and use these free resources to encourage responsible citizenship. Nothing could be further from the truth; the Armed Forces will suffer the loss of training time and resources, while citizens will rightly wonder what is the proper role for our Armed Forces.

In summary, I am not interested in wasting our country's resources; I am not interested in furthering one service in favor of others, nor am I interested in any one defense contractor's enrichment. I am interested in ensuring our country has a robust, capable defense for the uncertain times we face, including those that are about to be debated on a resolution to use Armed Forces in Yugoslavia.

I urge my colleagues to refrain from further burdening this bill with additional amendments designed to divert scarce resources from an already confused bill. Applying convenient mantras from roles and missions to peace dividend to our security needs end up as nothing more than feints to distract from illogical cuts in programs or individual military services. These feints remove our attention from the matter at hand, our defense, and provide convenient feel good rationalizations to dispense defense resources for any number of misbegotten programs that have nothing to do with defense while cutting our national security.

I yield the floor.

Mr. WARNER. Mr. President, I will momentarily yield to the chairman here. We are under a unanimous-consent requirement for the sequencing of amendments. I understand that the Senator from Illinois would like to be recognized.

Mr. President, I yield to the Senator from Illinois for the purpose of a unanimous-consent request and ask that I regain my recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois [Mr. DIXON] is recognized.

PRIVILEGE OF THE FLOOR

Mr. DIXON. Mr. President, I ask unanimous consent that privileges of the floor be granted to a member of my staff, Mr. Jim Rohacik, during the pendency of S. 3114, the National Defense Authorization Act for fiscal year 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the previous agreement, the Senator from Virginia [Mr. WARNER] reclaims the floor.

Mr. WARNER. Mr. President, I understand that the UC request now provides that an amendment by the Senator from Arkansas, the Senator from Tennessee, and the Senator from Michigan is to be the pending business. Am I not correct? Parliamentary inquiry.

The PRESIDING OFFICER. There are as many as three amendments that may be in order, one of them being an amendment offered by the Senator from Arkansas with the Senator from Tennessee.

Mr. WARNER. Mr. President, I first ask that we have order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Mr. WARNER. And I respectfully request, in the form of a parliamentary inquiry, that the Chair recite the present UC order so that all Senators are aware of this order.

The PRESIDING OFFICER. There are three first-degree amendments that are authorized to be offered before any other first-degree amendments may be considered. They are the amendments to be offered by Senator BUMPERS or Senator SASSER, an amendment offered by Senator PRYOR, and the last is an amendment to be offered by Senator LEAHY. So there are three amendments which are in order prior to consideration of any other first-degree amendments.

Mr. WARNER. Mr. President, further parliamentary inquiry. Do I understand the UC to provide that these amendments will be taken up in the order that the Chair has announced?

The PRESIDING OFFICER. That is not the Chair's understanding. Any one of these three amendments is in order. There is no sequence for their consideration.

Mr. WARNER. I bring the Chair's attention to the written UC request which I was under the impression was propounded to the Chair. And I will read it.

"I ask unanimous consent that the following amendments be the first three first-degree amendments"—I later amended that to four—"the first four first-degree amendments in order to the DOD bill to be offered in the following order."

The PRESIDING OFFICER. The Chair has had an opportunity to consult with the Parliamentarian. The Chair stands corrected. The Senator from Virginia is correct.

BOSNIA

Mr. WARNER. Mr. President, the Senator from Virginia will take a few minutes to address the Bosnia question, not more than 3 or 4 minutes, and then we will proceed to the amendment.

In my earlier remarks—I was not able to complete them because I wanted to respond to questions from the Senator from Arizona and questions from the Senator from South Dakota—I expressed my deep concern about the Senate going forward at this time on this very important sense-of-the-Senate resolution without a complete record or such record as would adequately inform Senators on the consequences of such military action as called for in the proposed resolution and the extent to which this country, our President, should take a leadership role, the extent to which this country would be expected to contribute military forces.

The resolution, so far as I can determine, and I have seen several drafts, provided that the President should immediately call for an emergency meeting of the United Nations to do the following: (a) a United Nations-sponsored effort to provide humanitarian relief to civilians in Bosnia-Hercegovina.

Mr. President, that country is the size of three of our States.

Let me give you just a few statistics here. I calculate 51,000 square miles, or slightly larger than New Hampshire, Vermont, and Rhode Island combined. Here it is in the blue. The distances from the nearest port, which is Split, to Sarejevo is 100 miles; to the town of Tuzla, 140 miles; to the town of Goradze, 130 miles; to a city, or town as the case may be, of Bihac, over here, 100 miles.

Now, in the briefings that I have receive thus far, there is fighting, there is suffering, and alleged persecution in all of these distant places. And this resolution is quite broad, a United Nations-sponsored effort to provide humanitarian relief to civilians in this entire country.

Now, these roads, I have also determined, by any standards in the Western world are very modest in their construction, surrounded by high hills and valleys, can be intercepted by very small bands of military forces.

Now I am not claiming to be an expert, but I certainly have read the testimony that is, the statements of military experts, about a battle that could ensue if we were trying to get relief up through these narrow roads and valleys.

I wanted to know what is the magnitude of that military office. What are the casualties that can be anticipated?

I went back to examine, Mr. President, the record of the gulf debate:

> Senator MITCHELL: The risk there is foremost in human life. How many people will die? How many young Americans will die? That is a risk, a terrible risk. Just this morning I heard it said there may be only a few thousand American casualties. The word "only" will have no meaning.
>
> Senator SIMON: But it is too easy here or in the Oval Office. We are going to make a decision that will cost hundreds of thousands of lives.
>
> Senator WELLSTONE: I could not accept the loss of life of any of our children. Can you tell me how long the war will last? What will be casualties? What will be the loss of life?
>
> Senator HATFIELD: At what cost in human lives? How many lost lives can we accept? 100? 1,000? 10,000? We must be able to look at our young men and our women now in the front lines and tell them their lives are a legitimate price to pay.

I have many other quotations here from many of my colleagues, and I could go on, but I simply say to my colleagues, we are asking to provide humanitarian relief, which is desperately needed. I agree with that.

But I think before we ask our President to go to the United Nations and speak as a leader, that we should understand the consequences.

Is the United States only to contribute air and sea? Are other nations to take on the burden of escorting this humanitarian relief these rather expansive distances through uncertain terrain?

This is an area of the world in which there has been fighting for thousands of years, some of the most vicious fighting. The descendants are there today fighting one another.

Are we so certain that this is Serb versus Croats, Serbs versus Moslems? Some say Croats are desirous of taking part of the land in Bosnia.

So I express some of my concerns in the hope that whenever the eventual debate occurs on the Senate floor, the proponents of the resolution can help satisfy the concerns of this Senate. And I go against the background—and then I will yield the floor—I go against the background of the gulf debate which ensured after a number of consultations between the President and the Congress, a number of hearings in the U.S. Senate.

And we asked the pertinent questions to help inform the American people and prepare them for that decision. I do not dismiss lightly the fact that this is just a sense-of-the-Senate resolution. Once it leaves this Chamber it will have a very powerful message. Let us make certain we understand fully the consequences of that message in asking our President to seek the relief requested here, relief which, in my judgment, would require substantial ground troops.

It is a threshold question, then: Will the United States participate with ground troops? If so, how many would be involved? What are the other nations willing to provide to attain this goal?

I thank the Chair and I thank my colleagues for allowing me this opportunity.

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, it is my hope we can move to the SDI amendment, which is the next pending amendment. Would the Chair inform us, what is the pending business?

The PRESIDING OFFICER. At this point there is no amendment pending.

Mr. NUNN. I hope the Chair would recognize those who are ready to propound the SDI amendment, which is the next amendment under the unanimous consent.

If I can just say to our colleagues, we have a reasonable opportunity of getting an SDI amendment done in at least a reasonable amount of time from what I understand, though we have no time agreement.

Then we have another SDI amendment by Senator PRYOR that will not take as long.

Then we have a B-2 amendment, to strike the B-2.

If we can get that business done today, in the next 3, 4, or 5 hours, then we can then have a debate on other subjects. But these are the amendments that have been agreed, by unanimous consent, to be brought up. I hope we get on those. There is no time limit but I hope everyone will cooperate because we are going to have to have cooperation if we are going to make progress toward finishing the bill.

Mr. BIDEN. Will the Senator yield for a minute?

Mr. NUNN. I yield.

Mr. BIDEN. I agree with the Senator from Georgia. The order in which he seeks to proceed makes sense. I just want to say for the record, Senators DECONCINI and LIEBERMAN have been the leaders in this effort to get some action and leadership on the question of Bosnia. The Foreign Relations Committee took up a resolution which was essentially their resolution yesterday. I am not sure it came out precisely how they wanted it. We are in the business of negotiating that now.

I would just say to the Senate I, for one, and I am sure Senator DECONCINI and others, are prepared to answer all the questions our good friend from Virginia raised today. But I also would lend my voice to the suggested order of procedure, suggested by the chairman of the full committee.

But at some time I am certain—I cannot speak for anyone else—but I am certain there will be a desire to speak to this issue with some specificity.

Mr. NUNN. Mr. President, I think it is perfectly appropriate for those people to want to bring this amendment up, and I understand the urgency of what they would like to do. It is my hope that those who would like to see a vote on this Bosnia resolution, including those on the Foreign Relations Committee, could have some communication, because we are going to be on SDI and B-2 for the next 4 or 5 hours.

As I hear the debate, it seems to me a lot of progress has been made toward working out a resolution that most people could support. I would hope the discussions could take place so when we get this resolution up before the Senate, whether it is tonight or tomorrow or Monday morning, we will already have answered a number of the questions.

Mr. DECONCINI. Would the Senator yield for a question? Maybe I should address the Chair, but I think the Senator understands the procedures here.

Mr. NUNN. I am glad to yield.

Mr. DECONCINI. Am I correct, there is unanimous consent the next amendment will be the SDI amendment offered by the Senator from Tennessee? And after that, with no time agreement, after that——

Mr. NUNN. The Senator is correct.

Mr. DECONCINI. It will be the B-2 or SDI?

Mr. NUNN. There is an SDI by Senator BUMPERS, followed by an SDI by Senator PRYOR, followed by the B-2 amendment.

Mr. DECONCINI. My question to the ranking member—we talked before the last vote. Would the Senator be willing to enter into a UC that after the disposal of those amendments, that the amendment by the Senator from Connecticut, Senator DECONCINI, and others will be the next pending amendment for debate with no time schedulé, so at least we know—whether it is tonight, Sunday or Monday—at least we know we are going to have some debate on this after the Senator gets through with these very important amendments he wants to get out of the way, so to speak, today?

Mr. NUNN. I will work with the Senator to try to facilitate that. I cannot speak for people saying I could propound that. It depends on other voices. I need to talk to the majority leader. As this debate progresses I will certainly try to cooperate.

Mr. WARNER. I have had an opportunity to speak with the Republican leader and he likewise, is very anxious that somehow, at least this matter be addressed today. Whether there be a vote on such resolution, and a time agreement, that is a separate matter.

But I assure my colleague, our leader, and Members on this side of the aisle fully recognize the importance of the substance of the amendment that the Senators from Arizona and Connecticut——

Mr. DECONCINI. If the Senator will yield? I apologize, I will try to be brief. My question is this. Would the Senator, during this period of time, the few minutes here, consider the request of the Senator from Arizona? I would just like a yes or no. If the answer is no, I will have to wait and fight my way around here or get up and talk for a while on Bosnia-Hercegovina, because I feel very strongly about it. But if we can be next, the Senator from Connecticut and I, and I cannot speak for other Senators who have a burning desire to get this up, I am prepared to wait. There are important votes that the chairman and ranking member, I know, are anxious to take up first.

Mr. NUNN. If I can say to the Senator, that would be my recommendation. I will work toward that.

The Senator from Tennessee.

AMENDMENT NO. 2918

(Purpose: To reduce the amount provided for the Strategic Defense Initiative)

Mr. SASSER. Mr. President, I send an amendment to the desk on behalf of myself, the distinguished Senator from Arkansas [Mr. BUMPERS], and the distinguished Senator from Vermont [Mr. JEFFORDS], and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for himself, Mr. BUMPERS, Mr. JEFFORDS, Mr. DECONCINI, and Mr. DASCHLE, proposes an amendment numbered 2918.

Mr. SASSER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,300,000,000 may be obligated for the Strategic Defense Initiative.

Mr. SASSER. Mr. President, I yield to my distinguished cosponsor at this juncture, Senator BUMPERS.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I was visiting with the majority leader—let me ask the Senator from Tennessee, was Senator JEFFORDS included as a cosponsor?

Mr. SASSER. Senator JEFFORDS was included as a cosponsor.

Mr. BUMPERS. I thank the Senator.

Mr. President, here we are on Friday afternoon, which is a very unusual occurrence in the U.S. Senate.

Mr. President, could we have this conversation taken to the Cloakroom?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order. Senators please retire to the cloakroom.

The Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. I thank you, Mr. President. This is a very, very important amendment on the DOD authorization bill. I hope Senators would participate in this debate on either side. Obviously I would like for them to be on Senator SASSER's and my side—but it is an issue that we have visited and revisited and revisited and will continue to, not to kill SDI, but to bring some sanity to it, which, as Adm. William Crowe has said, does not now exist.

The word sanity is his term, not mine.

Let me go back to the beginning, Mr. President, and say I remember reading, I believe it was a book entitled "Political Philosophy," by Walter Lippmann, who was one of the outstanding political theorists this country ever produced. He said, one time, the key to political survival is in not being right before it is popular.

That is wasted advice for the most part on the U.S. Senate because everybody here understands that if you get out on the cutting edge of an issue, you may get the limb sawed off behind you, no matter how righteous your cause may be.

I remember during the early 1980's, of Ronald Reagan's administration, when we began this unbelievable buildup of defense spending, all of which was based on a fallacious assumption that became doctrine in this body and across the country, that our defenses were so weak that we could expect the Soviet Union to come up the Potomac River any day and grab us and take us.

We now know to an absolute certainty that that was not the case, and yet we began what is today $3 trillion in defense expenditures.

It is really tragic, Mr. President, that anybody in this body would ever be accused of being weak on defense, but I can remember in the early 1980's any Senator who voted against one dime of defense spending knew to a certainty that his opponent would run those 30-second spots in the next election accusing him of being weak on defense. So any Senator who challenged the B-1 bomber, or the B-2 bomber, or SDI, or anything else in the defense budget did so at his own political peril.

I did it a few times, Mr. President. I voted against my share of it and took the risk and survived.

One of the things that I never thought should be funded at the levels it was being funded at initially was SDI. I favor a limited SDI. I always have. But if you remember in the 1980's, we did not have an opportunity to vote for a limited SDI. We had to vote for billions for the grand scheme in the sky where we were going to put sensors in space that would not only identify a Soviet launch immediately but be able to kill it within a matter of seconds after the launch occurred.

I oppose it, No. 1, because I had grave doubts about our ability to do it; No. 2, whoever was going to fire SDI at those Soviet rockets had to make a decision within 28 seconds, and if the President happened to be on the tennis court, that was going to be very tough to accomplish.

Incidentally, I offered an amendment that was accepted by this body at one time that nobody could activate an SDI system by computer. It had to be by human hands.

But there is another reason why I had serious reservations about SDI, as did the chairman of the Senate Armed Services Committee who sits in the manager's chair today, and who made two or three daily presentations here which were positively brilliant about why SDI violated the only treaty we had with the Soviet Union, namely, the Antiballistic Missile Treaty. That is a separate debate and not at issue today.

So, Mr. President, my argument then and now is, was and will continue to be, that the deficit of the United States—this year $400 billion, a national debt of $4 trillion—is a much greater threat to the viability and future of this Nation than the Soviet Union ever was.

Our amendment says instead of putting $4.3 billion in SDI in 1993, make it $3.3 billion and save a billion. If it were left up to me, Mr. President, there are a group of us who have been talking about this, if I had gotten my way, we would have cut it to $2 billion. But I will have to say perhaps wiser heads prevailed and we agreed to try to save $1 billion. So our amendment says instead of $4.3 billion for next year, let us make it $3.3 billion and save $1 billion.

Mr. President, during the consideration of this bill, we will continue the debate on defense as though Brezhnev and Stalin still reigned in the Soviet Union, just as though the Soviet Union has not cut their defense spending in the past year by 80 percent. The same tired old arguments will be made this year for spending $270 billion on defense, even though we have hardly an enemy in sight. And, Mr. President, my colleagues will be interested to know this little statistic: $270 billion in 1993 is twice the combined defense budgets of the 10 most likely enemies the United States has or is likely to have, including China.

But you will hear the argument that Yeltsin may not survive and, indeed, he may not. You will hear the argument that we still have Saddam on our hands. I remember the argument when we debated Desert Storm, one of the great debates in this body. It was not so much a debate as it was a series of speeches, but they were good. And we were told by the CIA that the Republican Guard of Saddam was the finest fighting unit in the world. We have about run out of enemies so we have to conjure some up if we are going to keep this thing on track.

But I do not understand, Mr. President, as dramatic as the changes have been in this world in the past year, the past 5 years, ever since Gorbachev came to power in the Soviet Union, why the Members of this body, indeed the Members of Congress, continue to act as though we are still living in the same old world, continue to defy the American people's concern about the deficit. The debate on defense ought to be what is the threat, who is the threat from, and what will it take to meet that threat? It ought to be done in a sensible, aboveboard, rational way.

Boris Yeltsin said if you build SDI and we attempt to build SDI, which he says they will not, we will all become complete paupers. Those are his words. We all know the Soviet Union is already a pauper and despite the riches and greatness of this Nation, it is not inconceivable that we are going to wind up paupers if we do not get the debt under control.

Do you know, Mr. President, what $1 billion in savings today means in the next 28 years? Four billion dollars. I say that just so my colleagues will get some feel for how great and ominous the debt is. It is not just the billion dollars that you are putting in SDI that is not necessary, it is that you have to borrow every red cent of it, and if you pay 5 percent interest on it in uninflated dollars over the next 28 years, you have not just borrowed a billion. You have told your children and your grandchildren they have to come up with another $3 billion to pay the interest on that over the next 28 years.

When you consider this country going in the red this year by $400 billion, what you need to bear in mind is that that $400 billion under that formula—and it is absolutely conservative—will cost these young pages who sit in front of me and their families $1.6 trillion.

No, indeed, it is not just the billion you are spending today you do not have.

Mr. President, the Soviet Union is a nation of paupers because of two things: First, a bankrupt economic theory called communism, bankrupt from the day Karl Marx thought it up. It was communism that contained the seeds of its own destruction, not capitalism.

And, second, because the Soviet Union was trying to spend 50 percent of their budget on weapons.

In one sense, I suppose we can take some pleasure in the fact they did spend 50 percent of their budget on weapons because it hastened their demise. It would have taken several years more if they had been spending much more conservatively.

We have watched our trade competitors, Japan and Germany especially, eat our lunch for years. Year after year, you hear the lament in this body about how the Japanese and Germans somehow or other technologically are overtaking us.

Mr. President, do you know what the trade deficit with Japan was last year? Fifty-two billion. We bought $52 billion more in goods and services from Japan alone last year than they bought from us. And do you want to know why? It is a very simple explanation. A third grader can understand it. Because they spend 2 percent of their budget on defense and we spend about 6 to 7. It is because only 2 percent of their scientists are engaged in weapons and 25 percent of our scientists are so engaged.

It is because about 4 to 5 percent of their research and development budget is in defense and about 25 percent of our research and development in basic sciences is in defense.

Why, of course, they are eating our lunch and, of course, they are going to continue. And yet the debate about enemies, real and imaginary, continues.

Mr. President, the House has the same figure we have, $4.3 billion. Every year that we have debated SDI in this body, the Senator from Georgia has usually said the House is below us, but we have to go to conference with the House and we will have to compromise. So last year we were at 4.6 or some such figure and the House was 3.9 and we came up with $4.15 billion. Split it. That is the compromise.

So this year there will not be anything to compromise because we are both at the same figure unless we cut it $1 billion. And I have to confess to you, because this is just the fact of life, if we cut $1 billion, we go to the House, we split it, and we really will only have $500 million because we almost certainly will compromise with them.

Is $3.3 billion enough?

Let me tell you about some people for whom I have an immense respect. One is Adm. William Crowe. For those who have short memories, Admiral

Crowe was the first Ph.D. ever to serve as Chairman of the Joint Chiefs of Staff, which he did for years under Ronald Reagan—top military man in America, Bill Crowe. I consider him a close, personal friend. I admire him. I respect his opinions. I will say this: I wish Admiral Crowe had said some of these things while he was Chairman of the Joint Chiefs of Staff and not waited until after he retired.

I have a great speech I love to make about how people tell us things in their exit interview that are very credible and believable.

I know a Senator who voted for the constitutional amendment for prayer in school every single year until he announced he was not going to run again. Then he called it shameful.

I remember Dwight Eisenhower's magnificent military-industrial complex speech, not delivered in his inauguration, delivered in his exit interview after 8 years as being President: Beware of military-industrial complex.

David Jones, who was Chairman of the Joint Chiefs of Staff when I came to the Senate, retired shortly after I came to the Senate, held his exit interview and said, "How do you expect me to form a coherent defense policy when all I do is referee fights between the services? If you give the Navy $2 billion, you have to give the Air Force $2 billion. If you give the Air Force $2 billion, you have to give the Army $2 billion." He says, "All I do is parcel out money to keep the fight down."

How great it would have been if David Jones had said that during his confirmation hearing or shortly after he was confirmed as Chairman of the Joint Chiefs of Staff.

But, Mr. President, we are not talking about somebody down on the street corner. We are talking about the top military man in this country for 8 years, Bill Crowe.

Here is what he said:

> At some point near the end of the first decade of the next century—

Next century—

> we might be vulnerable to attack by Israel, Brazil, and India. Although attack from those quarters seems highly unlikely, in essence, I believe the threat case has been stretched to the limit by some rather fanciful scenarios. It is time to return to sanity.

A man who for years was the top military officer of this Nation: "It is time to return to sanity."

Who here believes even in the year 2010 that Israel, India, and Brazil are going to be our blood enemies and going to attack us with what they hope will be an ICBM?

Mr. SASSER. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield.

Mr. SASSER. The distinguished Senator from Arkansas jogs my memory when he speaks of Adm. Bill Crowe, who I think is one of the finest Chairman of the Joint Chiefs of Staff we have ever had in this Nation and one of the most thoughtful and perceptive men ever to wear the uniform of this Nation.

I well remember shortly after Admiral Crowe became Chairman of the Joint Chiefs of Staff I happened to be having breakfast at the Pentagon at one of Secretary Weinberger's breakfasts. The Senator from Arkansas may have attended, when he would invite Senators from the Appropriations Committee, Budget Committee, out there. It was my first encounter with Admiral Crowe.

As we were sitting there eating our bacon and eggs the Secretary of Defense was talking about the dire threat the Soviet Union posed, how we needed to expand defense spending to deal with that. I leaned over and in sort of an involuntary aside, I said to Admiral Crowe, new Chairman of the Joint Chiefs of Staff, "I think we overestimated the Soviets. We talk as if they were 10 feet tall." He did not say anything for a moment, and then he leaned over and very quietly whispered "I agree. We do overestimate them."

It was just a few years after that statement, 2 or 3 years later, that the collapse of the Soviet Union began.

So I want to agree with my friend from Arkansas that Bill Crowe I think was one of the most thoughtful and perceptive men to ever wear the uniform of this Nation.

Mr. BUMPERS. I thank the Senator very much. I am honored to call him my friend. I could not agree more with the Senator from Tennessee. I consider him to be by far the most brilliant Chairman we have ever had in the Joint Chiefs, and he is demonstrating it once again in this speech that he made, I guess it was back in June of this year.

He went on to say:

> The critical point is that the defense budget is close to a zero sum game and money which funds SDI will come from programs which buy good defense against more plausible and likely threats. Given the Nation's pressing domestic agenda the whole subject should be reviewed.

Then—I am not reading the speech in toto, but in the next to the last paragraph of the speech he said:

> In any event, I would argue for a throttled-back effort which seems to accord more with both economic and military reality, perhaps in the neighborhood of $2 billion annually to keep the program moving and our knowledge ahead of competitors. I know this is a very provocative subject.

Incidentally, he also said, "At present the United States is vulnerable to nuclear strikes from Russia, China, France, and the U.K. I do not believe we take any precautions of any kind against launches by British or French forces," he said half in jest.

Mr. President, I want to make another point; that is, that we have to recognize that if you have a sworn enemy, a limited theater antiballistic missile defense in North Dakota with 100 ground-based interceptors will not protect the west coast or the east coast; at least in present planning it would not. But, more importantly, if you have a sworn enemy, that enemy can bring missiles into this country, they can put them underneath the Trade Center in New York City, the Washington Monument in Washington. Even Albert Einstein, in a letter to President Roosevelt in 1939:

> DEAR MR. PRESIDENT: We don't have much uranium but we have come up with an idea that uranium can be made into a big source of power. We even believe that we might be able to make a very big powerful bomb out of uranium.

Albert Einstein to President Roosevelt in 1939. And he said at the time that if one of those bombs, as he envisioned it, were placed on a boat and the boat sailed into port, that bomb would probably destroy the port and everything that adjoins it.

Mr. President, that was 53 years ago. We now know that a sworn enemy with a nuclear explosive device can put one on a boat and sail into any harbor they want to. They can get it brought into this country just as tons and tons of marijuana are brought into this country undetected. Put one on a private airplane for that matter, charter a Beech Baron, put it on board, kick it out over New York City or Washington, DC, and you have a nuclear holocaust, and $80 billion we have spent in North Dakota was for naught.

Assume further that another nation develops a cruise missile. That is one weapons system that I have always stoutly defended and voted for. It was just in the early stages of deployment when I came to the Senate. But it performed apparently pretty great service in Desert Storm.

You set off the coast of New York City in your little boat and you launch a cruise missile and it comes in, not from outer space, but as the Senator from New York said, under the Brooklyn Bridge and destroys New York City and you had this $80 billion system out in North Dakota sitting there.

Oh, Mr. President, we used every device we knew to protect our marine barracks in Beirut. We had barbed wire, we had trenches, we had every defense we could think of to protect our marines in the barracks at Beirut. So what happened? They just drove a truck through the gate and a few minutes later we had 243 dead marines.

So while I favor what is called GPALS, the limited system against an accidental launch or even a madman's launch, we have to be realistic and assume that it gives us very limited protection at a staggering cost.

We put about $30 billion into the thing since 1983, or whenever the President—do you remember President Reagan's great speech about star wars? He did not call it that. That is what everybody else called it, star wars.

Mr. President, we have spent $30 billion of hard-earned money of the American taxpayers, and do you know what we have gotten for it? Virtually nothing. Six of the eight technologies that were promising at one time, and which the Armed Services Committee and the Defense Appropriations Committee was told this is the ultimate technology; gone, scrapped, abandoned.

Brilliant Pebbles. The Vice President assured us over and over again that Brilliant Pebbles was the wave of the future, a space-based interceptor.

And I want to thank the Armed Services Committee for cutting that from about $300 million to $100 million. If for no other reason, I just do not think we ought to be cluttering space with 55,000 pieces of trash floating around space right now.

It is dangerous in the extreme, and an absolute violation of the Antiballistic Missile Treaty. Space is about the only frontier left that has not been polluted, and we are going at it just as hot and heavy as we can right now.

And then, you remember last year, we raised the objection—those of us who said we are putting too much money into SDI—we said: You are trying to push technology. The bill said that the North Dakota system must be deployed by 1996.

Mr. President, there should be no deadline. Now we are talking about 2002 and 2003. There should be no deadline. We ought to fund it. But we ought not to fund it at some level that absolutely assumes that technology is there when it may not be there.

But last year, you remember, we were pushing, and we were going to do it in 1996. And then what happened? I will tell you what happened. I will tell you what the New York Times said happened. Here is an article dated this June, back a little over a month ago, which appeared in the New York Times:

> The Pentagon's top program analyst says a $35 billion plan to protect the Nation from nuclear attack with land-based interceptors calls for a hasty deployment that threatens costly and crippling problems.

This man, Dr. David S.C. Chu, Assistant Secretary of Defense for Program Analysis and Evaluation, says in an internal Pentagon document that I have on my desk—and I will be happy to share it with the Members—one of the top military planners of the Nation said that to suggest that we can deploy this thing by 1996 could be an unmitigated disaster.

In his analysis, so the story goes on:

> Dr. Chu said the plan should be overhauled to delay the system's debut by as much as 6 years, from 1997 to the year 2003, so that prototype arms and other antimissile apparatus can be thoroughly tested, and modified, if necessary.
>
> John Pike, Director of Space Policy at the Federation of American Scientists, a private group in Washington, said Dr. Chu's analysis suggested that no credible defense against nuclear attack could be built in less than a decade. It could not be built in less than 10 years.

He goes on to say what Dr. Chu is saying: * * * any system deployed in this century isn't going to work that the current plan is a procurement disaster in the making."

Mr. President, I ask unanimous consent that the New York Times article dealing with the entire memorandum by Dr. Chu be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PENTAGON ANALYST QUESTIONS PLAN FOR EARLY "STAR WARS" DEPLOYMENT

(By William J. Broad)

The Pentagon's top program analyst says a $35 billion plan to protect the nation from nuclear attack with land-based interceptors calls for a hasty deployment that threatens costly and crippling problems.

The criticism of the "Star Wars" plan, the sharpest to date by a senior Defense Department official, might fray or break a coalition on Capitol Hill that last year endorsed the building of limited missile defenses after the anti-missile battles of the Persian Gulf war.

The official, Dr. David S.C. Chu, Assistant Secretary of Defense for program analysis and evaluation, says in an internal Pentagon document that the plan risks failure by rushing the development of rocket-powered interceptors and skipping important performance tests. That, he wrote, could hide defects that would cripple the system or lead to costly repairs.

SIX-YEAR DELAY POSSIBLE

In his analysis Dr. Chu said the plan should be overhauled to delay the system's debut by as much as six years, from 1997 to the year 2003, so that prototype arms and other antimissile apparatus could be thoroughly tested, and modified if necessary, before, being put into mass production.

Rejecting such criticism, the plan's architects say they remain confident that an initial system can be fielded by 1997. But they concede that the goal of speedy deployment with abbreviated testing carries many risks.

"The issue in whether you can manage that risk in a responsible way," Dr. Henry F. Cooper, director of the anti-missile effort, said in an interview on Friday. "I think that's achievable," with the result that a missile defense system could be put in place without significant cost overruns, schedule slips or technical flaws.

A 'DISASTER IN THE MAKING'

But John E. Pike director of space policy at the Federation of American Scientists, a private group in Washington, said Dr. Chu's analysis suggested that no credible defense against nuclear attack could be built in less than a decade.

"It's saying that any system deployed in this century isn't going to work, that the current plan is a procurement disaster in the making," Mr. Pike said. Leaders of the anti-missile effort he added, "basically want to decide what to build before they test it, and hope they guessed right."

Dr. Chu's analysis was made available to a reporter by an analyst who views the anti-missile plan as flawed and wanted to call attention to high-level Pentagon doubts about it.

The disputed plan is the main legacy of the "Star Wars" program, also known as the Strategic Defense Initiative, begun nearly a decade ago by President Ronald Reagan to build a space- and land-based defense against a missile attack. With the end of the cold war, the general goal of the "Star Wars" program has shifted, from one that would have created an impenetrable shield against thousands of Soviet warheads to forging a defense against accidental launchings and attacks by rogue commanders and renegade nations.

The program's cost this year is $4.15 billion, a record high. annual costs are expected to double as research gives way to production of batteries of interceptors. The plan for land-based interceptors is the only part of the initiative to be endorsed by Congress, which is bitterly divided over the merits of arms based in space.

The current deployment plan was proposed last year by Senator Sam Nunn, a Georgia Democrat who heads the Senate Armed Services Committee. Inspired by the Patriot interceptor in the Persian Gulf war, he successfully pushed Congress to approve the building of similar but larger land-based interceptors to defend the nation, if possible by 1996.

The Missile Defense Act was signed into law by President Bush last December. Dr. Cooper of the Strategic Defense Initiative Organization, which runs the antimissile research program, recently testified before congress about how the agency would meet the act's requirements.

Its plan would delay the launching of space arms but would have one land-based battery of interceptors ready in 1997. The battery site would have 100 interceptors housed in underground silos, ready to blast into space.

More complete protection of the United States from a variety of threats would require seven sites across the country with some 700 interceptors in all, agency officials say. They put the cost at $35 billion.

The rocket-powered interceptors would have non-nuclear warheads that use advanced sensors to pinpoint a target, which would then be destroyed on impact with the warhead.

The challenge in developing such a system was illustrated on March 13 when an experimental interceptor called Eris blasted off from Kwajalein atoll in the Western Pacific but, because of technical errors, failed to hit a mock warhead in space. Eris is the general prototype for the proposed system of land-based interceptors.

The deployment plan recently came under the scrutiny of Dr. Chu, who in essence is the Pentagon's technical conscience, studying arms programs to make them more efficient as they move from research to production. He reports directly to the Secretary of Defense, and draws on a force of about 100 analysts.

Dr. Chu, a Yale-educated economist, has directed program analysis and evaluation since 1981 and has a reputation for rigor. In the early 1980's he insisted that the Army subject its division air defense gun, or Divad, to strenuous field tests that it ultimately failed; in 1985 the $1.8 billion program was canceled.

PLAN CALLED TOO RISKY

Writing on May 15 to Donald J. Yockey, Under Secretary of Defense for acquisition, Dr. Chu warned that the $35 billion plan for interceptor deployment was too risky and "is almost certain to suffer early, significant cost growth and schedule slippage" because little of the initial apparatus would be tested thoroughly before manufacturing. The emerging system, he wrote, thus might have to undergo extensive repairs and revisions.

Worse, Dr. Chu wrote, the plan could produce interceptors and other antimissile hardware that were "technologically inferior" and unable to adequately defend the nation.

In addition, he wrote, speeding the program to achieve the 1997 deployment date would require exemption from more than a dozen laws and directives that govern the purchase of military equipment.

Dr. Chu recommended an alternative plan in which prototype hardware would be subjected to "a rigorous test program" and its experimental data used to forge final designs, pushing back the date of initial antimissile deployments to the years 2002 or 2003.

While private experts and some members of Congress have recently expressed alarm over possible technical risks and cost overruns in the proposed land-based antimissle system, this is believed to be the first time such criticisms have been leveled by a senior Pentagon official.

Five days after Dr. Chu's analysis was sent to Under Secretary Yockey, Dr. Cooper, the head of the antimissile program, summarized the plan before Congress in testimony that was alternately cautious and confident.

"Meeting the 1977 date represents a major challenge," Dr. Cooper said May 20 in a statement to a subcommittee of the Senate Armed Services Committee. But he added, "I believe the risk, although high, is acceptable given the urgency related to our uncertainty in predicting when we might actually be threatened with ballistic missile attack."

He said he would press for "an acceleration of the normal acquisition processes and procedures in light of the very high priority assigned by the Congress to meeting the goals" of the Missile Defense Act.

In the interview on Friday, Dr. Cooper said past arms programs have succeeded even though their testing and production had been accelerated, pointing to the Pershing II missile as an example.

But Mr. Pike of the Federation of American Scientists said a successful quickening of the antimissle program was highly unlikely, given its past difficulties. "Most tests," he said, "have been behind schedule and failed or had major shortcomings."

Mr. BUMPERS. Mr. President, James Clapper, Director of Defense Intelligence Agency, says that Brazil and Israel are the only two nations that will have ICBM's by the year 2010 that do not have them today. Brazil, Israel, and India. And everybody who thinks Brazil, Israel, and India will be our enemies by that time, stand up.

Robert Gates, now Director of the Central Intelligence Agency, says we have no enemies that can possibly threaten us before 10 years from now.

Mr. President, we have a two-pronged problem. We do not need $4.3 billion in this program when they are already behind on spending. You will hear Senator PRYOR with an amendment, immediately following Senator SASSER's and my amendment, saying that they are spending money wildly, trying to get rid of it. He held a hearing which shows that they ride first-class all over the world, trying to spend as much money as possible. Nobody is riding herd.

But I want to make the final point: Every dime we spend is borrowed. All of you know that. I guess it was last Friday, or maybe on Monday, the super collider debate. Last Monday, I tried to kill that program; $20 billion for nothing. Not one single person on the floor of the Senate could tell you one single spinoff that we were going to get from the super collider, except a few jobs in Texas and a few jobs in Louisiana.

Do you know what the argument was, especially from the other side of the aisle? I do not mean this to be partisan, but it is the truth. You know, "it is entitlements that cause the deficit." It is as though the $11 billion to build the collider and the $20 billion to run it for 25 years, that is funny money; that does not count. It is those entitlements—Medicaid, food stamps, SSI. They say that is what is causing the deficit; not the $20 billion we are going to spend on the super collider. That money does not count.

Is it not interesting that some people around here, if you increase WIC spending so poor, pregnant women get prenatal and neonatal care, so their children have a half-decent chance in this world, they will tell you that is an outrage to increase that budget by such a sum.

But when you get down to the super collider, next year, $500 million; over the next 6 years, $11 billion to $15 billion; over the next 25 years, $20 billion. They say the amount we are putting in that program next year is thirty-three thousandths of 1 percent; just a token. They sound as if it is money you put in as bus fare, when you put your little tokens in the coin box.

So it just depends on what you are spending the money for.

Mr. President, that is the mentality here. We have a $4 trillion debt and a $400 billion deficit this year, because it is always that that is just a fraction—a million here and there. How can you talk about depriving this guy of $1 million? That is nothing. You cannot compute what a small portion of the debt that is. And so on we go.

Some people are saying, well, if we cannot get it in entitlements, we cannot do anything. Others say if you cannot get it from defense, and things like the space station and the super collider, you cannot do anything.

Mr. President, I do not care where it is. I just do not want to leave the Senate and the Congress with this terrible burden on my children. It is not self-serving to say I love my children. I certainly do not love my children any more than anybody else in this body does. My children are so priceless to me, I could not describe it in 1,000 years.

Do you want me to tell you a little story? One morning, I was watching an interview on the Today show of a person who was running for the Senate against a sitting Senator. He was a challenger to an incumbent.

Jane Pauley was asking that person about all the tremendous successes he had had. He had been a success at everything—First in his class, all those kinds of things. He made money.

Finally, she said: Mr. So and So, "what do you fear most?"

And he studied a moment, and he looked very ponderous and thoughtful, and he said: "I fear defeat. I fear failure more than anything else."

I turned to Betty Bumpers—we were sitting at breakfast—and I said "That guy ain't going to be elected." She said, "Why not?" I said, "Because that is a terrible answer." She said, "Why is that a terrible answer?" I said, "Well, it just is. People who fear failure are not likely to take chances."

I never made a speech to a high school graduating class that I did not tell them to take risks.

Abraham Lincoln got beat for about everything he ran for, just about, except for one term in the House and President. What if he said he feared failure? He would still be a practicing lawyer in Springfield, IL.

But to get back to the point, do you know what I fear more than anything else? That my children will die before I do. I do not want to outlive any of my children. I do not think I could bear it.

But you know something else I fear? Not having gotten this country back on track.

I am not going to get into partisan politics here, as much as I am tempted, because all of you know my Governor is our candidate this year. But I would like to believe that at some point the collective intelligence of the U.S. Congress is going to take hold and they are going to say a billion dollars is important.

And I want to say to my colleagues, we did not change the mining laws—I do not want to revisit that. I have considered that to be the clearest cut issue I have ever seen on the Senate floor, the absolute scam of allowing the mining companies of this country to take $100 billion of minerals, gold and silver principally, off Federal land and not pay a nickel for it and leave an unmitigated environmental disaster for us to pick up the tab for. There is not a single U.S. Senator that does not know that is wrong. I got 42 votes.

And I did not sleep that night, Mr. President. I will tell you a secret, I did not sleep that night. I am a poor loser, among other things. I hate to lose. But I especially hate to lose on issues that are so clear cut.

If we collected royalties from the mining companies like they pay to private people or like they pay to States, we would make a dent in the deficit. And then I would get a good night's sleep, knowing I made a contribution. You cut a billion dollars out of SDI and I will get a good night's sleep, because I will know I have kept faith with my children and yours.

So I say to my colleagues, do not be impressed with the fact that these SDI contracts are in 40 States or 50 States or whatever it is. I found out even the people who run the superconducting super collider projects have let contracts in 43 States.

You see, the Pentagon started this 50 years ago. Now NASA does it, the super collider does it, SDI does it. And your people back home say, "Please don't cut this budget. We have 100 jobs down here depending on this little contract SDI gave us." So we spend $4.3 billion.

So I say to my colleagues, why do you not make up your mind that today is the first day of the rest of this session that you are honestly going to think and act responsibly about trying to do something about the deficit and, Mr. President, without jeopardizing this project one scintilla.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER] is recognized.

Mr. SASSER. Mr. President, I ask unanimous consent that Senator LEVIN, of Michigan, and Senator JOHNSTON, of Louisiana, be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I also ask unanimous consent that no second-degree amendments be in order, but that I preserve my rights to modify the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Mr. President, do you want to withhold? I see our distinguished colleague from Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. I object.

Mr. SASSER. Mr. President, in that instance, I will withdraw my request until we have an opportunity to discuss it with my friend from Virginia.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Tennessee suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I ask unanimous consent that Senator ROBB, of Virginia, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I listened very carefully to the very eloquent and persuasive arguments made by my friend from Arkansas, Senator BUMPERS. And while listening to him, it occurred to me that there have been few weapons systems in this Nation's history, perhaps really in world history, that have been so mythologized as SDI.

Indeed, a myth has grown up around SDI, and, to some extent, the only parallel that I know of in my lifetime is the so-called secret weapons that were supposed to save the Third Reich as they approached the end of the Second World War. Of course, we all know that those weapons never materialized and the Third Reich went down to the fate that it so richly deserved.

But there is a mythology of SDI. There was an evil empire threatening us, President Ronald Reagan told us some years ago, and, in response to that evil empire, the United States is going to build a great wall, an impenetrable barrier around itself to keep out ballistic invaders.

Now, you take the threat of an evil empire, America responding by building a great wall, an impenetrable barrier, a transparent ceiling, if you will, over the Nation to keep out ballistic invaders, you throw in a term, "star wars"——

Mr. BUMPERS. Will the Senator yield?

Mr. SASSER. I am pleased to yield.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 2919 TO AMENDMENT NO. 2918

(Purpose: To reduce the amount provided for the strategic defense initiative)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself, Mr. SASSER, Mr. LEVIN, and Mr. JEFFORDS, proposes an amendment numbered 2919 to amendment No. 2918.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,301,000,000 may be obligated for the Strategic Defense Initiative.

The PRESIDING OFFICER (Mr. KOHL). Who seeks recognition? The Senator from Tennessee is recognized.

Mr. SASSER. You throw in the term star wars, and you have that with 1,001 hopes and expectations. That is exactly what you did have—hope at the time star wars and SDI were proposed, and you have a system that repeatedly defies rational analysis.

Every year when it comes time to authorize funding for SDI, the Senate does a dance. We wrestle with it and we discuss it. But in the end nothing changes, SDI is funded and the mythology goes on.

I do not want to revisit past debates on that because, let me say to the proponents of SDI, you have won. You have won.

So I am not here today to try to kill SDI. We have tried that in the past and we failed. So this amendment is not the death knell for the strategic defense initiative. Really, this amendment is a departure from the SDI amendments in the past, in that we are simply proposing an adjustment, an adjustment to the SDI Program that makes sense on many levels; on a strategic level, on an operational level, and certainly—perhaps most important to me of all—on a budgetary level.

It is a rational approach. It recognizes that SDI, rightly or wrongly, has taken a place in our Nation's defense.

But this amendment that is being offered by myself and Senator BUMPERS, tailors SDI more closely to the fiscal realities of the time in which we live, and the strategic realities of the country at this time in our history.

This amendment would make SDI more viable in this time of very tight budgets. It would give the program more time to meet all of its technological expectations. And make no mistake about it, this is a scientific undertaking of monumental proportion. It is an undertaking that is very iffy. It is problematical as to whether SDI can ever be made to work.

So it is important that, given this time in our history and the fact that there is no necessity now, no imperative to move forward recklessly—this amendment gives SDI more time to meet all of the technological problems that can be expected.

It would be hypocritical of me if I came before my colleagues today and posed as a friend of the strategic defense initiative. I will have to say, and reaffirm, that I have always believed the program is fundamentally flawed. The SDI concept is not unlike the traveling salesman who comes to a little house and tries to sell insurance for meteors striking the roof of the house to a young couple that is struggling to pay bills and to feed a new child.

Really, it is an even larger scam than that because the young couple has the good sense to refuse the meteor insurance and send the salesman packing.

But what we have is a nation struggling to pay its bills, to meet the needs of its people, and we bought that insurance policy called SDI to keep the meteors from crashing through the roof, in a moment of cold war panic. And now we cannot cancel that policy. We are stuck paying the premium even though the meteor threat, in the form of intercontinental ballistic missiles has essentially vanished.

But putting aside my personal views, Mr. President, I think the amendment being offered today acknowledges the reality. There is support for the SDI Program in the U.S. Senate. We have tried to terminate it. We have been unsuccessful. We are going to continue to fund SDI.

This amendment simply says let us do it in a way that conforms more closely to fiscal and strategic reality, and let us get some budget savings out of it while we do it. Let us not increase the deficit any more than we absolutely have to, to build this strategic defense initiative.

With that in mind, this amendment is designed to achieve the following: It would bring the SDI budget in line with the program objectives established by the Armed Services Committee itself in the report which accompanies the bill, the report which is on the desk of every Member here today.

It would fully fund the administration's request for theater missile defenses. And those, of course, as we all know, are the missiles that will be used to shoot down incoming tactical missiles on a battlefield. That is fully funded.

In doing so, this amendment upholds DOD's top missile defense priority. We are fully funding the Department of Defense top missile defense priority, which is to develop theater missile defenses that will shoot down tactical missiles coming in on the field of battle.

It would also protect the option to deploy initial defenses in compliance with the ABM Treaty, should future threats arise.

It would allow full testing of all components to be employed at the initial site for the strategic defense initiative.

And most important, it would save the taxpayers $1 billion.

It would be a major step in conforming the defense budget to the larger Federal budget realities.

The bill currently funds SDI at $4.3 billion in fiscal year 1993. According to a very extensive and thorough and, I think competent review by the Congressional Budget Office, at least $1 billion of this $4.3 billion to fund SDI is unnecessary. The nonpartisan, unbiased Congressional Budget Office concludes that at the very most, $3.3 billion is needed this year to meet the goal of deploying an antiballistic missile defense system starting in the year 2002.

When we were drafting this proposal, my colleague Senator BUMPERS and I considered a number of things and we finally came down on three broad categories: The budgetary, the operational, and the strategic implications of SDI reduction.

First, let us talk about the budgetary aspects of it. First, by adjusting SDI funding we are making good budgetary sense. We all remember the 1990 budget agreement, and we conform to it here in this body to the point now we do not even acknowledge it.

The 1990 budget agreement is almost like a second skin for most of us. We know we cannot exceed the domestic discretionary caps. We know if we are going to fund something we have to find an offset somewhere else. So that budget summit agreement worked to that extent.

But I do not need to remind anyone in this Chamber that next year, with the fiscal year 1994 budget, the separate caps and the walls between defense spending, international spending, and domestic spending will all come down, and we are going to have one single cap and one single category for all discretionary spending.

That is when the free-for-all is going to take place. We should all understand that the budget agreement did not make the tough decisions for us in the outyears; that the discretionary cap on spending becomes very, very tight, indeed, in fiscal years 1994 and 1995; and that we are by no means on automatic pilot with regard to meeting that cap in years 1994 and 1995.

In fact, we are about to stare down the barrel of a very large savings gap. A gap between where the budget agreement says we must be and where our current spending path is leading us.

Let me quantify this gap for my colleagues. If the U.S. Senate today adopts Chairman NUNN's defense budget proposal, and if we hold all nondefense discretionary spending at 1993 levels plus inflation, then we will be staring at a $9.7 billion savings gap in 1994 and $15.2 billion in 1995, totaling almost $25 billion in the next 2 years.

I think that is demonstrated and illustrated by this chart. The chart indicates what happens if we follow the defense spending outline, the defense path as outlined in this bill before us today, and we allow all domestic discretionary spending just to grow with the rate of inflation.

The top line represents what spending levels would be necessary to follow the defense spending path of this bill and to allow domestic discretionary spending just to keep pace with inflation.

The bottom line will indicate the caps that will be in place. So there will be a discrepancy of almost $25 billion. That is going to mean in 1994 and 1995, if we allow this defense bill to follow the path that is being laid out here, that we are going to have to make $25 billion in cuts, in domestic discretionary spending below the rate of inflation in 1994 and 1995.

Mr. SARBANES. Will the Senator yield?

Mr. SASSER. I will be pleased to yield to my friend.

Mr. SARBANES. Mr. President, when the Senator talks about domestic discretionary spending, that is just a phrase. Could we just go behind it for a minute to talk about the kind of programs it encompasses? Those are investment programs, are they not? Are they not the kind of programs that involve, for instance, investment in transportation infrastructure, upgrading of the air traffic control system?

Mr. SASSER. The Senator is quite correct.

Mr. SARBANES. Education of our children, training of our workers, and so forth and so on—all the programs that we have talked about as being in need of strengthening, not weakening. What programs does the Senator encompass within the term domestic? What are a few examples of the most important programs?

Mr. SASSER. I think the Senator is quite correct. It would mean, for example, we would have to find $25 billion in savings over 2 years. It would have to come out of things like highway programs, spending on airports for runways, spending on the Federal Aviation Administration that has responsibility for maintaining safety of the airways, spending in the form of crime prevention and justice. It would mean cuts in the Justice Department, the FBI, a whole host of programs to control——

Mr. SARBANES. The drug program?

Mr. SASSER. It would mean cuts in the drug control programs.

Then moving on from there, it would mean cuts in education at a time when our Nation is falling behind and the States—like California, for example—are having to issue warrants, and reducing education, and saying that children cannot get into the Head Start Program, and that sort of thing. It would mean additional cuts in education. The Head Start Program would be one that would probably have to be cut.

The list goes on and on. It is infinite. Almost all of the spending for the programs that deal with uplifting the quality of life in the country come under this domestic discretionary spending program.

Mr. SARBANES. If the Senator will yield further, I think it is very important to make this point because the tradeoffs need to be recognized. As I understand what the Senator is saying, this year we are constrained by a 1990 budget agreement, under which spending is divided into separate categories. So there is a defense category with a cap, and there is a domestic category with a cap. While some of us have tried to remove those walls between the categories to reorder our priorities, we are still operating with a set of priorities that was made in the fall of 1990, before the dissolution of the Soviet Union. Those are essentially the priorities that are determining our budget patterns. But the whole world has been transformed since then, as is demonstrated by the fact that only yesterday the House of Representatives voted to provide assistance to the former Republics of the Soviet Union, a measure that passed through this body a few weeks earlier.

The 1990 budget agreement was made at a time when the notion of doing something like that would have been complete anathema. No one would have conceived of doing that. So the world has been literally transformed, and yet we are still operating in the old framework.

As I understand the Senator, he is projecting out into the next year when all of these programs are brought together. As I understand what the Senator is saying, if you follow the trend line of the Defense budget that is talked about here, this is the path you would be following—sharply increasing. That is why it is so important to try to get the Defense budget on a different trend line now. Otherwise we are going to be caught up in this trend, and it will become more and more difficult to reverse.

The cap is here and you have to somewhere find $25 billion.

Mr. SASSER. That is correct.

Mr. SARBANES. If you cannot get some of it out of the Defense budget, it is all going to have to come out of the domestic programs the Senator was enumerating; is that correct?

Mr. SASSER. The Senator is quite correct. That is it precisely; we will have no alternative except to cut these programs for our own people.

Mr. SARBANES. Mr. President, I listened to the very able Senator from Tennessee earlier in the day when he made a general statement on this issue, before it was specifically addressed to the amendment that is now before us involving the strategic defense initiative. I want to commend the Senator for what I thought was a very eloquent statement concerning this sense of priorities.

What has happened is that the winds of change are blowing all across the globe, but somehow they cannot make it into the Chamber of the U.S. Senate when the Senate is considering the Defense authorization or the Defense appropriations bills.

We have all of these transforming developments taking place internationally. We have, in effect, the implosion of the Soviet Union, now the former Soviet Union. We do not even talk about the Soviet Union anymore. It has to be, at a minimum, the former Soviet Union. Of course, that has markedly changed the international security environment.

Mr. WALLOP. Parliamentary inquiry. Is the Senator engaged in propounding a question or making a speech?

Mr. SARBANES. I am going to come to a question at the end. It is a long question, I understand, but it is important to lay out some of these premises, if one is to feel those winds of change actually making their way into the Chamber. It is very difficult when you get these very rigid mind sets and ways of thinking that result in being able to shut out a sensitivity to these changes which are taking place.

And I say to my friend from Tennessee, I want to give credit to the committee because I think the committee has made some adjustments.

Mr. SASSER. Indeed, they have.

Mr. SARBANES. I do not want to overstate the issue. I think the Armed Services Committee chairman has made some very perceptive speeches on the floor of the Senate about the necessity to rethink our defense strategy, to adjust to the changed circumstances that have taken place internationally. I commend the committee for some of the adjustments that have been made.

I say to my friend from Tennessee, I take it that it is his view—it is certainly my view—that we ought to seek further adjustments. We are trying to alter these trend lines as we look ahead, in order to begin to change these priorities and to begin to focus on the very thing that is going to be critical in the future both at home and abroad, and that is to enhance our domestic strength. Unless we do that, we will not have the kind of strength we need to sustain our international obligations and commitments.

Is that the direction in which the Senator is seeking to turn our policy?

Mr. SASSER. The Senator from Maryland is quite correct. That is precisely what I am trying to do today. With this amendment, we believe that making a very modest reduction in the SDI program and a reduction that will allow the committee to carry out their entire program within the timeframe within which they intend to carry it out is a good place to start.

Mr. SARBANES. If the Senator will yield, I want to ask him whether I am correct in the understanding that this amendment would not eliminate the SDI program. It would not even cut it drastically. It would permit the program to go forward in a way that conforms with what had been a previously projected path for the program, but which can be achieved at a savings of $1 billion; is that correct?

Mr. SASSER. That is precisely correct.

Let me, if I may, just elaborate on that for a moment for my friend from Maryland.

Last year, the Senate passed in the Defense authorization bill some legislation called the Missile Defense Act. Now, very few Senators knew that the Missile Defense Act, I daresay, was contained within the Senate Defense authorization bill last year, but it was. And what the Missile Defense Act said is that it directed, or indicated that we should proceed with an ABM compatible antimissile defense system that would be deployed by 1996, as I understand it.

Now, following the adoption of that bill, the Department of Defense through no less a personage than Dr. Chu, the Assistant Secretary of Defense for Scientific Programs, indicated that it would be almost impossible to deploy this system by 1996, and that it should be stretched out to the year 2002, so that the proper testing could be done and to make sure that the system would be technically feasible, have a chance of working, et cetera.

Mr. WALLOP. Will the Senator yield for a question on that point?

Mr. SASSER. Let me finish responding to my friend from Maryland.

But what occurred was then the Armed Services Committee this year agreed with the DOD that the system could not be fully deployed by 1996, and agreed to the stretchout. But what they did not do was reduce the funding.

So although the verbiage is there that they agree with the Department of Defense that it needs to be stretched out, as I understand it, to the year 2002, it still retains 90 percent of the funding that remained under the accelerated production program.

So the Congressional Budget Office has done a study which has indicated that the SDI Program with the ABM compatible antimissile system can proceed on schedule, be deployed on schedule, but this year at a funding level of $3.3 billion rather than the $4.4 billion contained in the Defense authorization bill.

So we are simply saying in view of the fact that the program can be carried through to completion with $3.3 billion this year, let us save $1 billion so that we can either apply it to the deficit or apply it to this cap gap that we are going to encounter in 1994–95.

That, I say to my friend from Maryland, is in a nutshell the thrust of this amendment.

Mr. SARBANES. If the Senator will yield, I would simply say to the Senator it sounds like common sense to me, and I am strongly supportive of this amendment. In fact, I ask my colleague to place me on the amendment as a cosponsor.

Mr. SASSER. I thank my friend from Maryland.

Mr. President, I would ask unanimous consent that the distinguished Senator from Maryland be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I wonder if the Senator from Tennessee would yield the floor so I could get the floor in my own right for about 10 seconds.

Mr. SASSER. I will be pleased to yield to my friend.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

AMENDMENT NO. 2919, AS MODIFIED

Mr. BUMPERS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WALLOP. Mr. President, could the modification be stated for the edification of Senators? It is custom, I believe, to state the modification.

The PRESIDING OFFICER. The Senator from Arkansas will explain the modification.

Mr. BUMPERS. I had an amendment pending at the desk that was not properly crafted to a second-degree amendment. This modification just makes it in order.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The clerk will report the modification for the information of the Senate.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2919, as modified, to amendment No. 2918.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "total", and insert the following:

"AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,301,000,000 may be obligated for the Strategic Defense Initiative."

AMENDMENT NO. 2918

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I rise in support of this exceptionally important measure, and I would ask I might be included as a cosponsor.

Mr. SASSER. Mr. President, I would be pleased to have the distinguished Senator from New York has a cosponsor. I ask unanimous consent that his name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I believe I have something important, Mr. President, to say to the Senate with respect to this matter. The testimony of one of the greatest physicists of our age, and the greatest living scientist to have participated in the development of the atomic bomb during World War II. That, of course, is Hans Bethe.

Hans Bethe was the head of the theoretical physics division at Los Alamos. He was standing next to Dr. Oppenheimer when the first nuclear test took place. He received the Nobel Prize for physics in 1967. There is scarcely an award this country could provide, except the Presidential Medal of Freedom, he has not received. He is a man of transparent goodness, energy. An immigrant from Germany, and a teacher. He still meets in seminars at Cornell University.

In 1977, I, having been elected to the Senate, thought that surely one thing a New York Senator ought to do is to be in touch with Hans Bethe, and ask for his counsel.

The Bethes very graciously came to lunch in upstate New York. I asked if he would walk me through the various issues. He did. Then he said something. The Senator from Tennessee would want to know this. He described having met with a Soviet physicist at a conference in Rome or some such place where they exchanged information to the effect that on both sides there was nuclear stalemate with the ICBM's now finally in place. The Soviets had only developed an ICBM that could reach our silos in the north central United States in 1970. We were both in a launch on warning mode, which we have been in some time now.

The Soviet said there are physicists in your country—and Bethe assumed it was equally to the other—who are thinking that we could deploy in space a great array of nuclear devices which on the approach of an ICBM would detonate and release a laser beam that would destroy the incoming or upcoming missile. He said that. This is in 1977. We have not seen star wars. The President has not made a speech.

He said both he and his Soviet counterparts agreed that it was madness. Madness, that you could deploy these matters and, in the event of a nuclear exchange that they would be churning with nuclear explosions, these devices that work with micro efficiency and accuracy. Said he, "Don't let anybody talk you into that."

Mr. President, may we have order? I am trying to tell the Senate something it does not want to hear. I understand that.

Hans Bethe, the director of theoretical physics at Los Alamos, said "Don't let them talk the Senate and the Congress into that."

Well, 4 years later, we did. A decade later, the physics has failed. We declined to a fallback position, from the star wars concept to Brilliant Pebbles. Remember, the failure of the physics was foretold explicitly by a man who had not failed at Alamogordo. They knew that weapon would work. They said so, and it did. And the Second World War ended.

It happens, Mr. President, that in February, Dr. Bethe and Ambassador Nitze were before the committee on Foreign Relations. I took the occasion to ask Dr. Bethe to relate this exchange in 1977 and ask what he thought about the new fallback position of Brilliant Pebbles. Here is Hans Bethe's response. He said, "I think we should not deploy any of this. I think even if they are effective, everybody has agreed that they are no good against a strong enemy like the Soviet Union used to be. I think it would be a mistake to deploy such devices against accidental launch of Third World countries." He mentioned the possibility that an asteroid might become involved and trigger the whole device. He said, "Don't do it."

Paul Nitze was there, and Paul Nitze said, "I think the terms involved are very confusing, and are not precisely defined." He stated that with respect to the interception of shorter range ballistic missiles, for instance, such as the Patriot missile, there is something we might do, but, again, he, Paul Nitze, said, "Don't do this."

This is a problem of cognition. When men of the greatest stature in physics who have proven their capacity in war, who developed the bomb, who changed the era greatly, when they say "No, you cannot do this; don't do it; it will not work," and we do not hear. Billions and billions and billions go in; it does not work; and we still do not hear.

I put this down—and I do not understand it any better than I am sure the distinguished Presiding Officer does—I put it down to a kind of deformation that takes place over many years of protracted conflict.

I think, Mr. President, I am one of a probably dwindling number of Members of this body who served—however inconsequentially—in the Armed Services of the Second World War and remember World War II, World War II lasted 2½ years, from deep peace—well, the mild free armament, but not much freely on review. Three and a half years to V–J Day, from Pearl Harbor, 3 years, 7 months. The economy had not adapted itself to defense production. As the civilian economy had turned to defense production, it could just as easily turn back to civilian production. There was no difficulty of any kind. We were making bombers where we would be making automobiles, and we could return to automobiles without any difficulty.

The cold war, by contrast has lasted for 40 years. From the signing of NATO, to the coming down of the Berlin Wall, 40 years. It is institutionally the only arrangement we can think of.

If Mr. Ross Perot said one thing during his aborted campaign for the Presidency, it was in June, in a press conference. He said to a group of reporters, "Do you know your Government is still totally organized to fight the cold war?" And he is right. We are. All of our institutional arrangements, this budget, this bill—the defense bill—this is cold war institution, from cold war money.

We have run out of money. The Senator from Tennessee showed what is coming.

It happens that in this morning's press, on the op-ed page of the Washington Post, Mr. John P. White, an adviser to Mr. Perot, has an article about our economic situation. It begins with the familiar and accurate statement that the Japanese invest more than three times as much as we do; the Germans twice as much; and lists their productivity gains, and so forth.

He makes his point, and I can attest that the numbers are essentially accurate. He said, in the period from 1947 to 1973, American living standards doubled every one and a half generations. That is the work of Professor Levy at Johns Hopkins. Given our economic performance from 1973 to 1990, it will take 12 generations to achieve the doubling.

That is the price we pay for the cold war. It has not sunk in. This institution cannot change it. There is such a vast network of economic interests in everything that happens, that we think we are getting returns for our States out of this outlay. We are not. We have simply taken the United States to the point where our growth rates now take 12 generations to double.

Today, I make the point, sir, that average weekly earnings in the United States today are lower than they were when President Eisenhower left office. But we have to go ahead with a missile defense against an unknown enemy, following a failure in physics which was predicted, a prediction that made no impact upon this body whatever.

We are still totally organized to fight the cold war, and looking about for other wars that might serve instead.

Mr. President, I yield the floor.

Mr. WALLOP. Mr. President, I wish I could say it has been an interesting afternoon. But these debates are debates we have heard from time to time.

It is no surprise to me that the Senator from Tennessee was unwilling to yield for a question, given the confusion of the facts that were being offered.

Mr. President, I ask for the yeas and nays on the amendment, as modified.

The PRESIDING OFFICER. Which amendment?

Mr. WALLOP. The amendment pending, as modified.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, we spoke of a CBO that—I believe I quote accurately—he said was "nonpartisan, nonbiased, and thoroughly professional." There are not many folks left, certainly on our side of the aisle, who would judge CBO to be nonpartisan, certainly not nonbiased. And in the instance of the program, of the conclusion that they reach for Senator LEVIN, signed by Mr. Reischauer, they are thoroughly unprofessional. I will quickly go through that lack of professionalism.

First of all, lacking a definition of concurrency, they would commonly concoct one to suit their conclusion, which they clearly had reached before they began their study.

I say this not ill-advisedly, Mr. President, because I think I can demonstrate it here. It is a definition used by no one else—not by the Department of Defense; not by the Budget Committee; not by the authorizing committees. It is completely artificial.

It says, for example, that a program is concurrent if you buy any hardware before the testing is finished. By this definition, Mr. President, virtually every program is 100 percent concurrent. That is a foxy definition—unprofessional, biased, and unworthy of the Congressional Budget Office.

By this definition, Harpoon had 100 percent concurrency. On page 7 of their report, they admit there is no accepted definition of how much concurrency is high.

They admit that there is no strong relationship, discoverable, between concurrency, using their definition or anybody else's, between success and failure. That is on page 4 of the report. They admit that there is no strong relationship between concurrency and the growth of costs. They admit that there is no strong relationship between concurrency and scheduled delay. And then they analyze the wrong program.

This is the thoroughly professional Congressional Budget Office. They are a joke, Mr. President. They are a biased, partisan joke.

The program they analyzed was that in last year's Missile Defense Act was an IOC of 1997. But this bill, the one produced by the committee, calls for an IOC of the year 2002, another point that was apparently lost on the chairman of the Budget Committee, who then went on to say that there was very little reduction.

There was nearly a—

Mr. SASSER. Will the Senator yield?

Mr. WALLOP. The Senator did not yield to me, and I shall not yield to him.

Mr. SASSER. A point of inquiry. The Senator mentioned me, Mr. President. I would inquire about—

Mr. WALLOP. Mr. President, I do not yield for a question.

The PRESIDING OFFICER. The Senator does not yield. The Senator has the floor.

Mr. WALLOP. Mr. President, I would normally yield, but the Senator refused to yield to the Senator from Wyoming for a question during the moments when these were brought up. They were inaccurate, Mr. President.

We are down now to $2.1 billion from the administration's request, and $1 billion from what the authorization was. That is not an insignificant cut, as I say to my friend. Almost anybody would think that $2.1 billion out of $5 billion is more than a 30-percent cut. It is not an insignificant cut. It is absurd to say so.

SDIO analyzed risk and concurrency of later deployments, not the ones that were chosen by the Congressional Budget Office and the Senator from Tennessee.

For an IOC in 1999, concurrency between testing and initial site activation is essentially eliminated.

That is not a troublesome statement to CBO, who concocts their own definitions. So let us not place reliance on an organization that once had a proud reputation, but is now utterly useless in terms of presenting rational information about programs and policies of this Government.

The concurrency in the SDIO Program has been extensively examined by DOD, Mr. Atwood, Mr. Chu, and others. Their conclusion is that for deployments after 1999, there is essentially no concurrency. Mr. Chu was cited as being a skeptic. He was one who signed the interim report, based on the program as it now exists. So it is a fallacy, Mr. President, to say that Mr. Chu is in disagreement with the program as defined by the committee's bill, and the SDIO.

There was an interesting statement that was made earlier, and it is this kind of bizarre little mindset that Congress has now gotten into that would say: Gosh, because somebody can find a way to provide a nuclear device, to bring a nuclear device into the country that is not a missile, then there should be no defense against missiles.

Mr. President, I know the American people are brighter than that.

To say that a bomb can be loosed off in the Empire State Building, a conventional bomb, a conventional explosive bomb can be loosed off in the Empire State Building and, therefore, we need not just try to prevent bombers coming to America because, what the heck, they can kill us anyway. America alive would say that is a good or sensible tradeoff. It is completely apples and oranges.

Yes, of course, there are other dangers to Americans than missiles, but to say that because there are other dangers, we ought not to be protected against them is absurd on its face and Americans will know that without much trouble.

It was also said that a year ago very few Senators knew they were voting on the Missile Defense Act, this by those who conducted the debate against it. I mean, are we to believe that those who conducted the debate against the Missile Defense Act on this floor and in the report, and others did not know that is what they were debating and that, otherwise, they might have either debated harder or embraced it?

Why, that is absurd, Mr. President. Senators knew. It was called the Missile Defense Act in debate here on this floor time and time again. It was debated on the basis of every detail that was in it time and time again. And to say that we did not know what was in it is just sort of unbecoming to the Senate. I guess it is a fair characterization to say that Senators do not know every word of things that are in front of us. But we knew we were debating a Missile Defense Act, make no mistake about that.

Now, this is a defining moment for the Senate. If a majority of my colleagues endorse the amendment that is offered, they will be saying to the American people in absolutely clear and unequivocal terms that they need not be defended against the possibility of ballistic missile attack, accidental or intentional.

In fact, I recall to the Senate's mind that one of the quirkish things that I thought about the Missile Defense Act was its use of the terms "accidental or unauthorized missile attacks," that, if we could determine that one was authorized, we were to submit to it; that Americans could be killed if somebody was doing it on purpose, but if it was accidental or unauthorized we could be protected. But that was in our bill, Mr. President.

Now, most Americans, having witnessed the gulf war, believe that even the modest protection the Saudis and Israelis received from Scud missiles by the cobbled together Patriot system was far superior than to have been undefended at all. Most Americans would believe that had we not been able to do that, there would have been no way that the Israelis could have justified to their citizenry remaining out of the war. Most honest appraisers of that war will remember that the Patriot made a big difference, and it was not really a missile defense system but was a cobbled together system.

But one of the things that it did was to take the "gee whiz" out of it, to say that you can, in fact, hit a bullet with a bullet, that you can, in fact, make a limited defense and that some defense is substantially greater than no defense at all. And most Americans would embrace that idea.

I want to say as well the quotes from Dr. Hans Bethe, that he has not found a defense system since the late 1950's of which he approves. Since that time, we have had the Poseidon, we have had the Minuteman, we have had innumerable advances in weapons systems, each of which, every time one was mentioned, Dr. Hans Bethe found reason to doubt. Had we listened to him every inch of the way, the cold war now might be over but in a very different way, Mr. President.

Now, this amendment will effectively deny Americans even their limited defense. But it is not the technology that limits us, it is will. It will deny them even this basic progress that has been made.

We have not been limited by technology, Mr. President. Senators will get up here and talk about all manner of things that have taken place and all manner of changes that have come in the SDIO Program, and most every one of those was dictated by either a shortage of funding or a change in funding or ordered set of new priorities, not on the basis of things that were there.

The Carter administration, Mr. President, made a report to this very Senate that we could have had a chemical laser, a space-based system that would provide essentially complete defenses against a boost-phased attack within the timeframe of the late 1980's for a then cost in 1979 dollars of $24 billion.

This Senate, this Congress, changed those programs and dismantled that capability, sent the laser program in one direction, the optics mirror and the pointing tracking program in another direction, and some of those tests that were ready to be deployed and used in the early 1980's are just now in the program for about 4 years out.

There is, Mr. President, no justification for cutting additional funding from the SDI budget. In our markup, as I stated, the Senate Armed Services Committee already slashed $1.1 billion. The program is now as we have it, in my judgment, in an extremely tenuous position. The cut already will delay the initial deployment of the system. Additional cuts would cause it further delay and place the entire program in jeopardy.

And I say, Mr. President, that a cut to the magnitude proposed by the Senators from Arkansas and Tennessee will not make it possible to keep subcontractor groups together.

Mr. President, let me just tell you that scientists are not lights on a rheostat. You cannot turn them up and down waiting for this benighted organization called the Congress to make up its mind. You cannot run them out and get them and put them to work and then put them back in a closet for a couple years and then run out and get them and put them to work. These minds are too good and too great to be wasted on something they know will never come to pass, and they will not be there, Mr. President, when we need them.

So, if the Senate wants to spend billions of dollars on an SDI Program that will never defend the American people, then I suggest they simply kill the program outright today and save us the billions that they are putting in here just for this. Rather than allow it to die a slow death, we might as well put it out of its misery here and now and stop wasting money. Because the Senate is not serious.

The amendment is not serious. This amendment denies Americans the right to be defended by technology that they possess. That is a statement I will guarantee, Mr. President—the right to be defended by technology that they possess.

I remind the Senate that last year the Congress strongly endorsed the rapid deployment of theater and strategic defense and continued robust funding for the advanced missile technology such as Brilliant Pebbles. That was a landmark piece of legislation that the Armed Services Committee reaffirmed this year. Yet, you cut additional funds from it, and there will be no such thing as the Missile Defense Act.

Supporters of the pending amendment have suggested that cutting additional funds from the SDI budget will somehow reduce the risk and put us on track. The opposite is true. It increases the expense, it increases the risk, it reduces the redundancy that is necessary in testing of technologies of this type. It denies us the ability to test concurrent technologies.

It is all very easy to have one little piece of information and another little piece of information and a third little piece of information. It is hard to integrate a system.

What are we doing here with this amendment, but setting ourselves on the inevitable path that cannot get us there. But to show Americans we are serious, somehow or another, about giving them a little defense—we do not have the courage just to eliminate the program entirely and tell them we know how to defend you, but we in the Congress are too wise and we will not. So we are going to bleed out your money a little bit at a time, a little bit at a time. And I remind the Senate that is precisely what happened with the ballistic missile defense systems of the seventies.

These are not new and fanciful ideas. We had ballistic missile defense systems in the seventies that would have worked, but time after time the Senate reduced the funding, reducing the development concept. And finally they were not up to the task, and they died of their own ridicule. And that is the plan and the plot that is afoot here.

It is to take this program and make it so expensive—you heard these arguments, not once but dozens of times on the floor—we have spent all these billions of dollars and gotten nothing. And why? Because the Senate and the Congress changes its mind; because the Senate and Congress takes a thing and directs it for a year or two, then directs it to do something else for another year or two. We play scientist when there is not a scientific mind in this entire body that can measure up to making these decisions.

We have caused the delay. We have caused the expense. And we are about to make it more expensive and delay it even further and tell Americans that as China, as India, as other nations in the world are getting these missiles, that the threat against them is not worth protecting them from.

I would say there is nothing so good as the ability to threaten to be able to loose off a single warhead someplace—I believe the Senator from Ohio in his Presidential campaign one time said that he would not object if somebody loosed off a missile and it landed someplace in the Rocky Mountains. Some of us who lived in the Rocky Mountains thought it might be safer to loose it off in Ohio. But the point is that this Senate has time and time again said that one nuclear weapon is probably not survivable for mankind. Yet we are saying to the American people that even these countries that are now developing capability—they do not need the accuracy, Mr. President, they need the range, the range just to come out here and pop off someplace outside our continental shores. That is what they need. And that is what is going on in the world today.

There is an interesting little statement that appeared in the press on June 24 of this year. It says:

> UKRAINE OFFERS MISSILES FOR SALE
>
> The head of the gigantic Yuzhnoye missile complex in Dnepropetrovsk, Ukraine, recently told a delegation of French officials and defense industry representatives that he was ready to sell his factory's entire production of surface-to-surface ballistic missiles to the highest bidder, "just so long as the buyer comes with cash."
>
> The French had gone to Ukraine in mid-March to discuss reconversion projects, but the director of the complex, which employs some 60,000 people and makes space-launch vehicles as well as strategic ballistic missiles, said that reconversion plans had been shelved in favor of hard currency exports. "We were promised by Gorbachev, and then by Yeltsin, that foreign capital would flow in once we abandoned our strategic manufacturing projects," he told the French. "Well, it didn't, so I am ready to deal with whoever comes in here—and believe me, I won't be asking Moscow or Kiev for any authorizations."

Maybe he will have to, Mr. President. But nobody in this Senate will dare tell me that the Chinese are not doing that. Nobody in this Senate will dare tell me that other countries in the world are not seeking to extend the range of the prototypical Scud missile, and have already. Nobody in this Senate better dare tell me that the CIA had it right when they told us that the Iraqis were not anywhere near to getting nuclear weapons. Nobody in here will dare tell me that the Russians are not, today, still producing SS–18's and SS–24's.

They do not have, probably the intention. I am willing to say they probably do not have those intentions. But how many times have we been told by everybody around, that should Yeltsin fall his most likely successor is some sort of Darth Vader.

If that is the case, his intentions might well be different than those of the able and heroic Mr. Yeltsin

What this Senate needs to be paying attention to is capabilities, anyway, not intentions. It is the capabilities which threaten Americans, and Americans are smart enough to know it. It is only the Senate that seems to have doubts about that.

Mr. President, the House has authorized $4.3 billion, the same amount recommended by the Senate Armed Services Committee. It would be an unprecedented situation, indeed, if the Senate approves an SDI budget that is lower than that of the House.

Some of our colleagues have been privileged to see the advanced state of Soviet missile defenses in areas in which our intelligence did not even know existed. Things like—very like our Brilliant Pebbles. So very like them that one might almost say that their espionage system was concurrent.

Mr. Yeltsin and others have suggested that there is, perhaps, a common interest between the United States and the former Soviet Union in deployed strategic defenses. There clearly is for theater missile defenses.

The Armed Services Committee in its report says the following thing.

> The committee believes that the baseline program for theater missile defense and the limited defense system as set forth in this report constitute low to moderate technical risk program and low to moderate conservancy program. After months of review in the Pentagon the SDI approach now represents the unified DOD position.

The states of the former Soviet Union agree with the United States on the need to deploy a global missile defense system. Perhaps our friends would use their $1 billion and go buy that technology. Maybe that would advance us. It is certain to be a more purposeful act than simply denying us, and Americans, the opportunity to harness the technical genius of this country in their own protection and defense.

The Russians have demonstrated that they have their own version—of Brilliant Eyes. They are cooperating with us. The only organization in the world not cooperating is potentially the Senate of the United States.

If we are serious about missile defense, we should vote down this amendment. It merely denies Americans their fundamental right to remain secure in their homes at the earliest possible date. If the Senate wishes to deny the American people defenses, they should belly up to that statement honestly and just do it, and do it all at the same time. This amendment is not a forthright attempt, but a very veiled attempt to appear to support missile defenses while making, in fact, sure that the Nation will never be defended.

Mr. President, I urge and hope the Senate does not accept and adopt this cynical approach.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate from Georgia.

Mr. SASSER. Mr. President, will the Senator from Georgia yield for a unanimous-consent request? I would like to add two Senators as cosponsors.

Mr. NUNN. Yes.

Mr. SASSER. Mr. President, I thank the Senator from Georgia for yielding. I ask unanimous consent that Senator DECONCINI of Arizona and Senator DASCHLE of South Dakota be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I will not take long because it is my hope we can either get a unanimous consent agreement to vote somewhere in the next 45 or 50 minutes, around 6, or that we can very shortly move to table.

I would prefer to get some kind of agreement. I hate to start tabling before everyone gets through speaking. I would like to do that. Everyone knows, too, we are getting a tremendous amount of urging from our fellow Senators to finish these matters so that we can move on at some point to the Bosnian resolution. So I am feeling a considerable amount of pressure on getting to that resolution, and all of us also know that on a Friday night at 6 o'clock we are going to have a very hard time getting to it unless somehow we can conclude this and move on.

Mr. President, the amendment offered by Senators SASSER, BUMPERS, and LEVIN cuts SDI to the level of $3.3 billion. It is my view that a reduction of this magnitude would stretch out the program to such a degree that it would render implausible any claim by Congress that we are on a steady course toward deployment of an initial ABM Treaty compliant defensive system, as we agreed to last year by a rather overwhelming vote. Mr. President, the Armed Services Committee already cut the President's request by over $1 billion.

The funding level we are recommending is $4.3 billion. That is the same level that was approved by the House of Representatives in separate floor votes on the defense authorization bill and the defense appropriations bill.

If we are serious about deploying a limited treaty compliant ABM system in the next decade, and the time has slipped on it, without any doubt, we must fund the program I think at the level recommended by the committee. The alternative would be to return to the wasteful years of the 1980's when $3 to $4 billion was spent each year on SDI without any consensus by the Congress, without any direction, with compromises every year that left no direction and nothing was really undergone but endless research.

Mr. President, let me explain briefly to the Members what action the Armed Services Committee took under the leadership of the Senator from Nebraska [Mr. EXON] with regard to SDI in its markup last month. One of our top priorities in acting on the SDI program this year was to reduce the level of technical risk and concurrency that SDIO had built into their planning. Henceforth, the program must be conducted according to sound acquisition procedures, including not committing to production or deployment until adequate testing has been completed. In this regard, the committee deleted last year's 1996 target date for deployment of the first ABM site, a date which last year had been represented to the committee as realistic but which turned out to be clearly impractical and nonachievable. We now anticipate that the initial treaty compliant ABM deployment could likely occur and will occur, if properly funded, in the years 2001, 2003 range but, of couse, that depends upon the availability of appropriate technology, it depends on the funding levels, and it depends on the results of the test programs which must be successfully completed prior to moving toward deployment.

SDIO has identified an option for fielding some test missile prototypes and a test radar at the first site on an earlier timeframe. In our bill, we do not prohibit SDIO from planning these options, but we have included a provision in law making it clear that we have not authorized SDIO to exercise any such option. Whether we might at some point in the future authorize an early deployment using test prototypes as we did successfully, I might add, for the JSTARS surveillance aircraft which was deployed as a prototype during the Persian Gulf war and worked well in emergency situations, whether we do that in this program will depend on the development of the test program, it will also depend on the maturity of the technology which is key, and it will also depend, of course, on the assessment of the threat in the late 1990's.

The bill also incorporates an important change in the Brilliant Pebbles program. I have been concerned that SDIO has continued to spend excessive amounts on this program despite Congress' clear direction last year excluding Brilliant Pebbles, that is space-based interceptors, from the initial architecture for the multiple site limited defense system. Since that eventual multisite system will not likely be completed until after the year 2000, beyond the year 2005, there is no need to develop Brilliant Pebbles for possible deployment sooner than that.

In markup, we had considerable debate on the space-based interceptor funding level. There was vigorous debate on that. We finally settled on $350 million. That level is $225 million below the administration request and $110 million below last year's appropriations. Thus, we have put the Brilliant Pebbles funding profile on a downward slope, a course the committee believes is fully justified given the uncertainty over how and where this option might fit into the picture.

Before yielding, I would like to ask the authors of this legislation, if I could get their attention, the Senator from Tennessee, and the Senator from Arkansas, as I read this amendment, the amendment would delete all underlying language in the bill between page 58, line 18, and page 60, line 3. Could someone tell me if that is correct? That is the way we read the amendment.

Mr. SASSER. If the Senator will withhold for a moment.

Mr. NUNN. Let me repeat the question. As I read the amendment, it would delete all the underlying language in the bill between page 58, line 18, and page 60, line 3.

Mr. SASSER. The Senator is correct.

Mr. NUNN. I say to my colleagues, I am not sure if they intended to do this, but this has a profound effect. What this does is it substitutes $3.3 billion for $4.3 billion. In other words, a $1 billion cut, which I am sure is the intent of the authors, but it would also drop out of the bill the division of the total SDI funding among the five traditional SDI program elements, and those elements are theater missile defense, limited defense system, space-based interceptors, follow-on technology and research and support.

What that means is that we are saying to SDIO, if this amendment is adopted, maybe it is inadvertent or maybe it is intentional, that he can spend the money, all of it, on anything he wants, including Brilliant Pebbles. So basically, if this amendment is adopted, as I read it, and I think this is correct, it is a carte blanche to Ambassador Cooper and SDIO to spend the money on anything they want, $3.3 billion on anything. He would not have to spend money on theater defense. He would not have to spend money on limited defense. He would not have to spend money on other follow-on technologies. He would not have to spend money on research and support. He could put it all on Brilliant Pebbles.

I ask my colleagues if that is the intent of the amendment?

Mr. SASSER. Let me respond to my friend from Georgia. Of course, that is not the intent of the amendment. As laid out in my statement, that is not the intent. We would fund the theater missile defense, fully funded at the President's level.

Mr. NUNN. That is what the Senator's Dear Colleague says, but that is not what the amendment does.

Mr. SASSER. Will the Senator let me finish?

Mr. NUNN. I will.

Mr. SASSER. We have the level of specificity that is needed, and it would be, if the Senator thinks that is necessary, a very simple matter to modify the amendment in that way. We do not read the amendment precisely the way the Senator from Georgia does, but in order to remove any doubt, we have prepared an amendment or a modification which will specify in precise detail what our amendment would do.

Mr. NUNN. I will say to my colleagues, I do not know what their intent was, but I did read the Dear Colleague letter. It seemed to me the Dear Colleague letter was basically, fundamentally different from the amendment, because the amendment clearly eliminates all the language that puts these moneys in various categories and limits how much could be spent, particularly in space-based interceptors. So the effect of the amendment, whatever the intent of the authors, is that there is no limit and the money can be spent any way the SDIO chooses to spend it.

That is the way I read it.

Mr. President, for all those reasons, I would hope we could agree to some time limit. I notice there are others who would like to speak. But I would yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, one of the most remarkable and interesting of political phenomena of the recent decades was the rise and fall politically of Ross Perot. He came on like a comet streaking across the political sky, commanded all the polls and appeared headed, in the minds of many people, for election.

Mr. President, we do not know precisely, or at least I do not know precisely why Mr. Perot withdrew, but I am advised that it had something to do with the financial plan that one John White presented to Mr. Perot to show him how to balance the budget. There was an article this morning in the Washington Post about this plan and what it entailed.

Mr. President, this plan involved a 50-cent gasoline tax. It involved cuts in Social Security. It involved taxes on Social Security. It involved deep cuts in entitlement programs. It involved deep cuts in defense. It was, indeed, a very far-reaching plan, Mr. President. And I am told that when Mr. Perot looked that plan square in the face, he said, in effect, "This is not any fun. I do not want to run on that kind of plan."

It was not the kind of situation where he could say I have balanced the budget and have not broken a sweat.

He recognized, when he looked at the actual plan, how difficult it was going to be to balance that budget even over a 5-year period. And I am advised that that is the reason he withdrew from the race.

Now, Mr. President, the American public is facing some very difficult, stringent cuts. If we are going to make any progress toward balancing that budget, it is going to be cutting programs dear to the hearts of the American people, or by raising taxes, which is going to be very difficult to the American people, and right in the face of that, Mr. President, we have this madness called SDI.

Mr. President, I cannot imagine how people of such great intelligence can be hornswoggled, in my view, by such an expensive program.

And with that, Mr. President, I will yield for a unanimous-consent request by the majority leader.

Mr. SASSER. Will the majority leader yield?

Mr. MITCHELL. Yes.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Senator JOHNSTON has the floor and has yielded to me, and I will be pleased to——

Mr. JOHNSTON. I had not finished my statement.

The PRESIDING OFFICER. Did the Senator from Louisiana yield the floor?

Mr. JOHNSTON. I had been asked to yield for a unanimous-consent request, Mr. President, and I yield for that purpose only.

The PRESIDING OFFICER. The Senator from Louisiana yields to the majority leader for the purpose of propounding a unanimous-consent agreement.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that today, at a time to be determined by the majority leader after consultation with the Republican leader, there be 35 minutes for debate, 15 minutes under the control of Senator HEFLIN and 20 minutes under the control of Senator BIDEN, on the motion to go into executive session to proceed to the nomination of Edward E. Carnes to be a U.S. circuit judge; that upon the use or yielding back of time, the Senate, without any intervening action or debate, vote on the motion to proceed to the nomination; that immediately following that vote, regardless of the outcome, the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, reserving the right to object, I am quite sure I will not, I did not hear the first part of the agreement. How much time?

Mr. MITCHELL. I had made no request with respect to this pending amendment. I am about to do that after I get this request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as propounded?

Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that at 6 p.m. today, Senator WARNER be recognized to make a motion to table the pending amendment, and that the time between now and 6 p.m. be equally divided between the two sides under the control of Senator NUNN for the opponents of the amendment and Senator SASSER for the proponents of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SIMON. Reserving the right to object.

Mr. BUMPERS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I have been here about an hour. I want to get 8 minutes in. I do not know frankly whether I can get that in under this agreement.

Mr. SASSER. Mr. President, as I understand it, the remaining speakers on our side, Senator SIMON, wishes 8 minutes, Senator LEVIN just advises me he wishes 5, and 5 minutes for the distinguished Senator from Louisiana. That is 18. Senator HARKIN has sent word that he wants 10. That is 28 minutes. I will want 2 at the end. That is 30 minutes.

Mr. DOLE. Fifteen on this side. Vote at 6:15.

Mr. MITCHELL. Mr. President, I amend the request to ask that the recognition of Senator WARNER for purposes of a motion to table occur at 6:15 p.m. and that the time between now and then be divided 30 minutes under the control of Senator SASSER and 15 minutes under the control of Senator NUNN.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Is there objection?

The Senator from Tennessee.

Mr. SASSER. Reserving the right to object, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

The Senate is not in order. The Senate will be in order.

Mr. JOHNSTON. Mr. President, I will yield the floor for a unanimous-consent request.

Mr. SASSER. Mr. President, I send a modification of my amendment to the desk.

Mr. WALLOP. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SIMON. Parliamentary inquiry.

Mr. MITCHELL. Mr. President, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The unanimous consent of the majority leader has been withdrawn.

The Senator from Louisiana has the floor. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, did the Senator wish a unanimous-consent request?

Mr. SASSER. Mr. President, I am seeking the floor in order to modify my amendment. Do I not have a right to do that?

The PRESIDING OFFICER. The Senator from Louisiana has the floor. The Senator from Tennessee does not have the right to modify while the Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I am advised anyway that the yeas and nays have been ordered and that it would take unanimous consent, to which objection has been heard.

The PRESIDING OFFICER. The yeas and nays have been ordered on the second-degree amendment.

Mr. JOHNSTON. Mr. President, I will yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Louisiana yields to the Senator from Tennessee.

Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. There is objection.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Louisiana, unless he has surrendered it, has the floor.

Mr. MITCHELL addressed the Chair.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana——

Mr. MITCHELL. He has left the floor.

Mr. SASSER. He left the floor, Mr. President.

The PRESIDING OFFICER. Has the Senator from Louisiana relinquished the floor?

Mr. JOHNSTON. Mr. President, in order to recognize the Senator from Tennessee, I would yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana yields the floor.

The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2918, AS MODIFIED

Mr. SASSER. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right, and the first-degree amendment is so modified.

The amendment (No. 2918), as modified, is as follows:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,300,000,000 may be obligated for the Strategic Defense Initiative, as follows:

(1) Of the amounts appropriated pursuant to title I for fiscal year 1993 or otherwise

made available to the Department of Defense for procurement for fiscal year 1993, not more than $62,500,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amounts appropriated pursuant to section 201 for fiscal year 1993 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $3,237,500,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIC AMOUNTS FOR THE PROGRAM ELEMENTS.—Of the amount set forth in subsection (a)—

(1) not more than $1,490,000,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $997,500,000 shall be available for programs, projects, and activities within the Theater Missile Defenses program element;

(3) not more than $100,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(4) not more than $325,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(5) not more than $325,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be 45 minutes for debate remaining on this amendment, 30 minutes under the control of Senator SASSER, 15 minutes under the control of Senator NUNN, and that upon the use or yielding back of that time that the time limitation which I have so stated be prior to a motion to table, and that at the conclusion or yielding back of that time, Senator WARNER be recognized for the purpose of making the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, that vote would then come at about 6:20; is that correct?

The PRESIDING OFFICER. Forty-five minutes from the point at which time the unanimous consent is ordered. Is there objection to the unanimous consent? Without objection, it is so ordered.

The Senator from Tennessee controls 30 minutes, the Senator from Georgia 18 minutes. Who yields time? The Senator from Tennessee.

Mr. SASSER. I yield 8 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois for 8 minutes. Would the Senator suspend? The Senate is not in order.

The Senator from Illinois.

Mr. SIMON. Mr. President, I yield to the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, following this vote it is my intention to exercise the authority just given to me in the unanimous-consent agreement relating to the nomination of Judge Carnes, to proceed to executive session, and for the debate of 35 minutes on the motion to proceed to the executive session to consider that nomination, following which there will be a vote on that motion to proceed.

So we will now have 45 minutes on this pending amendment, a motion to table, a vote on the motion to table that, and then 35 minutes on the Carnes nomination, and then a vote on that motion to proceed.

I thank my colleagues. I thank the Senator from Illinois for his courtesy.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2918 AS MODIFIED

Mr. SIMON. Mr. President, I rise in support of this amendment.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. SIMON. Mr. President, I rise in support of this amendment, and I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I have great respect for the chairman of the Armed Services Committee. In fact, all the Members of the Senate have great respect for the chairman of the Senate Armed Services Committee. If we did not have such great respect, frankly, I do not think the defense appropriations and the authorization would be where they are today.

I remember very, very well that evening when I heard President Reagan make his speech about star wars. I remember being startled by that speech. It turned out I was not the only one who was startled by that speech. The leaders at the Pentagon were startled by that speech. Someone had sold President Reagan on a concept that has cost a massive waste of money. We have spent almost $29 billion up to this point on star wars.

There is a very interesting comment in Khrushchev's memoirs. He meets with President Eisenhower and President Eisenhower asked him "Mr. Khrushchev, why do you spend so much money on weaponry?"

If I may have order, Mr. President? I do not mean to interrupt the good conversation over there.

Khrushchev is asked by Eisenhower, "Why do you spend so much money on weapons?" Khrushchev says,

> I try to keep the defense budget down and then the admirals and generals come to me and say the Americans are doing this, the Americans are doing that, if you want to save your country you had better spend more money on defense.

Eisenhower responds, you know, I go through the very same thing. Except now, one of the reasons for doing this has disappeared. There is no Soviet Union anymore. But the winds of change have hardly touched the defense budget and candidly have hardly touched the U.S. Senate. Senator MOYNIHAN said that a little bit ago. Senator SARBANES said that a little bit ago.

We are just trimming at the edges slightly if we pass this amendment. I hope this amendment can pass. But I think historians 50 years from now, looking back, are going to ask why did we trim so little.

I remember our colleague from Iowa who chairs the subcommittee on appropriations saying we have spent as much on military research in the last 7 years as we have spent on medical research since the beginning of this century, and I thought, how our priorities are out of order.

Then I just remind you of a few things. Bill Colby, who directed the CIA for Richard Nixon and Gerald Ford, William Colby recently said that if we were to reduce the defense budget 10 percent a year for the next 5 years, basically a 50-percent reduction in the defense budget, we would still have by far the most powerful defense of any country in the world.

What is the great threat to this country? The great threat to this country, my friends, is not missiles; the great threat to this country is that we are eroding our economic base.

That is why I supported the Presiding Officer, Senator GRAHAM, when he had these amendments to reduce administrative costs. It is a small thing, but at least it is an inching in the right direction.

Look at the GAO report from June 5, if you want to know what the real threat to the future of this country is. I think it is the most important and significant report ever issued by the GAO, and I am amazed that it did not reach the front pages of every newspaper and was not on national television at the time.

That report says that if we continue on the present course economically, we are going to see a gradual decline in the standard of living in this country between now and the year 2020. But if we reach a balanced budget amendment by the year 2001, we will see an increase in the standard of living per capita in this country, in real terms, of 36 percent, better than one-third, by the year 2020.

We are not just wasting money. That is bad enough. We are eroding the future of our children and our grandchildren.

On the way over here on the subway, Mr. President, I met a family from Northbrook, IL, with two girls in high school. What is the great threat to their future? It is that we have this project, that project, the other project. And I vote for some of them.

I voted against Senator BUMPERS on the super collider the other day. But we can do that. We can have the super collider; we can have SDI; we can have the space station. I am going to vote against that. We can have everything under the Sun, and borrow from our children. We are the first generation in the history of this Nation to live on a massive credit card and send the bill to our children.

In the first 175 years, 60 percent of the time we balanced the budget. In the last 75 years, 4 percent of the time we have.

We have to say: Where are the real needs? This star wars program has more holes in it than swiss cheese. It is an absolutely ridiculous waste of money. I wish we had an amendment to reduce it more than a billion dollars. But at least we ought to do that. It contravenes any kind of logic to continue the program as we now have it.

Mr. President, I yield the remainder of whatever time I may have back to the Senator from Tennessee.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. I yield 5 minutes to the Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today, as a member of the Armed Services Committee, in strong opposition to the amendment offered by Senators BUMPERS, SASSER, and LEVIN, to cut $1 billion from the $4.3 billion funding level reported by the Armed Services Committee for SDI.

Mr. President, funding for SDI, the strategic defense initiative, is always one of the most controversial provisions of any defense authorization bill. This bill before us today is no different. There are disagreements among the committee members about certain provisions of the Missile Defense Act. Positive changes were made to that act. We directed, Mr. President, the Secretary of Defense to develop the advanced TMD, an initial ABM deployment consistent with sound acquisition procedures, in accordance with the low-to-moderate technical risk and low-to-moderate concurrency program.

Mr. President, I supported an amendment during markup that would have funded SDI at a level of $4.9 billion. A lot of us felt that $4.9 billion was the optimum level to carry out the provisions of the Missile Defense Act. However, this was not successful. We were successful in offering an amendment during markup to raise the overall funding level to $4.3 billion, which is currently in the bill. This allowed the committee to once again reach a bipartisan consensus in the committee on SDI, and reaffirm the Missile Defense Act of 1991.

Mr. President, I find the funding level of $4.3 billion for fiscal year 1993, that was eventually agreed to, and is identical to that of the House of Representatives, the minimum necessary to carry out the goals of this revised plan. I believe one must remember that this funding level—which is $1.1 billion less than the budget request—is $300 million less than last year's committee level of $4.6 billion, and represents the largest funding cut the Armed Services Committee has ever made to the SDI program.

The authors of this amendment would like to cut funding for SDI by an additional $1 billion. They say this is a reasonable funding level, one that can still meet the goals of the revised Missile Defense Act of 1991.

Mr. President, they say that a $3.3 billion funding level for SDI, with over half of the cut coming from the limited defense system, will continue to allow the program to make the deployment goal of 2002. To reach the 2002 development of an initial ABM site, Mr. President, I believe we must build on what we have already learned. We must fully fund programs such as the ground-based interceptor, ground-based radar, and the ground-based surveillance and tracking system.

I believe we must fully fund the various command and control and battle management programs associated with the limited defense. This huge cut in the LDS Program element will gut this program. This amendment before us makes additional cuts in the follow-on and research and support programs. These programs have already been cut to bare bones by the Armed Services Committee. Any additional cuts would totally gut these program elements.

Mr. President, the supporters of this amendment would try and tell this body that this amendment is consistent with the goals of the Missile Defense Act. The reality of the situation before us, however, is that the authors of the amendment are opposed to the goals of the Missile Defense Act. They have taken the Senate floor time and time again to cut SDI. They voted last year against the goals of the Missile Defense Act. And to use the product of the Senate Armed Services Committee now as a vehicle to persuade this body, the Senate, that real intentions are other, I have to differ.

Mr. President, the number one threat to our national security is to continue the proliferation of nuclear weapons. Today, over 20 non-NATO nations, have ballistic missiles. By the year 2000, 8 years hence, as many as 20 others may have weapons armed with chemical, nuclear, or biological warheads.

Mr. President, it is time that we developed a theater, a strategic ground-based missile defense to counter this coming threat. The SDI provisions in this bill represent a viable path to achieve these goals.

I ask my colleagues to vote against the Sasser amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I would like 1 minute.

Mr. NUNN. Mr. President, I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in strong opposition to the Bumpers-Sasser amendment. I think it is detrimental to the security of this Nation, and I hope the Senate will defeat it.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. How much time is remaining on our side?

The PRESIDING OFFICER. The Senator from Tennessee controls 21 minutes, 54 seconds.

Mr. SASSER. Mr. President, let me make a couple of preliminary remarks, and I will yield to the distinguished Senator from Iowa.

Mr. President, the modification that I sent to the desk really addresses the concerns that were expressed by the distinguished chairman of the Armed Services Committee.

The modification that is sent to the desk is in total conformance with the "Dear Colleague" letter which was circulated among our colleagues. It is in conformance with the statement that I made in introducing the original amendment. And, quite frankly, Mr. President, it is my view that the original amendment stands upon its own.

But in order to close the loop and to totally reassure the distinguished chairman, we have modified the amendment in such a way that we clearly delineate in the amendment how the funds, the $3.3 billion, is to be spent.

Mr. President, I now yield to the distinguished Senator from Iowa.

I wonder if my friend could confine himself to 15 minutes. Would that be possible?

Mr. HARKIN. I might make it shorter than that, Mr. President.

Mr. SASSER. I thank the Senator from Iowa.

Mr. HARKIN. Ten minutes; may I have 10 minutes?

Mr. SASSER. Absolutely; I am pleased to yield 15 minutes.

The PRESIDING OFFICER. The Senator yields 15 minutes to the Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding very much, because I want to take this time to rise in support of the amendment offered by the Senator from Arkansas and the Senator from Tennessee.

At the outset, let me say that I do not object to all star wars programs. I have always supported research into new defensive technologies.

Furthermore, after the TV hype about the success of the Patriot missile during the gulf war, the SDI office incorporated tactical ballistic missile defense into the overall star wars program. The Patriot missile, which I have long supported, was never part of the star wars program.

I continue to support the tactical ballistic missile defense portion of SDI.

But I continue my long-term objection to two things: First, the extraordinary cost of SDI; and second, the rush to deploy ineffective defenses against intercontinental ballistic missile.

Mr. President, remember the bear in the woods? SDI was supposed to protect us from the bear in the woods. Well, the bear has come out of the woods, hitchhiked to town, and he is now making Big Macs in Red Square. And we are still in hibernation. Well, it is time to wake up and put an end to the cold war.

The star wars program was ill-advised, wasteful, and dangerous during the cold war, when there was a remote chance that the Soviet Union might unleash a nuclear holocaust.

Now that the cold war is over, continued exorbitant funding of star wars is even more ill-advised and wasteful, at a time in our nation's history when we can least afford expensive, wasteful welfare for the military-industrial complex.

Now is the time for changing direction, not continuing down the worn cold war path.

Not only is the cost of SDI too high, but the opportunity cost of SDI is too high. What do I mean by the opportunity cost?

Think of it this way: Every dime we spend to put weapons above the jet stream is a dime we do not spend to help children into the mainstream of America. At a time when 10 million Americans are out of work, half a million Americans are dying each year from cancer, and one of every two children under the age of 2 are not fully immunized, you cannot tell this Senator that spending another $4 to $5 billion each year on SDI is our highest priority right now.

It is time we answer some basic questions. What are the objectives of star wars? Are these objectives legitimate in the post-cold-war era? If some objectives are desirable, how can we best reach those goals?

We all know that the objectives of the star wars program have been steadily declining over the years, as supporters try to justify its existence by reducing the goals.

First, we were told it was to be a global shield to render nuclear weapons impotent and obsolete from the President himself. That was President Reagan. The Reagan-Bush team led the American people to believe that the goal was to provide complete protection, although even the SDI Program leaders admitted that was not possible.

Well, after that failed, then we were told it was a partial, leaky defense to disrupt Soviet attack plans by stopping 15 percent of the Soviet arsenal. The goal was to stop 1,500 to 2,000 warheads of the Soviet 12,000-warhead strategic nuclear arsenal.

Now the crossbar has been lowered even further, in the hopes that star wars might be able to achieve at least some objective. The GPALS system is now chartered with stopping just 200 warheads from an accidental launch of the ex-Soviet arsenal.

So the crossbar just keeps coming down all the time. The odd thing is the funding keeps going up. So every time the threshold and the threat keeps lowering, we keep putting more money into it. Strange things, Mr. President, strange happenings here on the floor.

Or, from future Third World nations that manage to acquire both nuclear weapons and ballistic missiles to deliver those warheads.

Are these two objectives realistic—stopping a Soviet-Russian accidental launch and stopping a Third World attack?

The chances of a Russian accidental launch are decreasing. Both sides are moving to lower states of alert and readiness, and as we are reducing strategic nuclear forces on both sides it seems to me that arms reductions and confidence-building measures—such as taking all missiles off alert and eventually removing nuclear warheads from all missiles—would be much more cost effective than star wars in reducing the risks of an accidental launch.

As for Third World attacks, no nations other than Russia, China, France, and Great Britain have both compact nuclear weapons and intercontinental ballistic missiles that could reach the United States. Other nations may acquire both capabilities in the decades ahead, but listen to what Adm. William Crowe, former Chairman of the Joint Chiefs of Staff, said in June of this year about the possibility of Third World nations attacking the United States with nuclear weapons:

> At some point near the end of the first decade of the next century we might be vulnerable to attacks by Israel and India although attacks from those quarters seem highly unlikely.

Mr. President, is it wise to spend $30 to $50 billion over the next decade to provide a shield against a nuclear attack by Israel? Or India? I do not think so.

DEPLOYMENT TIME

But even so, what is the rush to deploy?

Suppose Admiral Crowe is right, and suppose further that Israel does become our mortal enemy by 2010. Why do we need to rush to a 1996 or 1997 deployment of a limited defense?

That high-risk approach would require significant concurrency. We would build and deploy untested prototypes. David Chu, the Pentagon acquisition specialist, has stated that, with normal acquisition procedures, deployment would not be possible before the 2003 time period.

During the debate on last year's Missile Defense Act, I offered an amendment to strike the 1996 deployment date. That amendment was defeated, 64–34, but I am pleased to see that this year's DOD bill has specifically repudiated this ill-conceived rush to deploy by 1996.

So I think maybe the amendment I offered was right, even though it did not win.

COST

Finally, assuming that we do accept the thesis that Israel or India or some other Third World nation would acquire the capability and the motivation to attack the United States with nuclear-tipped ballistic missiles sometime after 2010, how much should we spend on missile defenses to thwart such an attack?

CBO estimates that we need spend only $3.3 billion to achieve a 2003 deployment date. This would include a very robust program to provide tactical ballistic missile defense—such as an improved Patriot missile—to defend our military forces and cities from local attack in future wars.

My own preference would be to reduce star wars to a robust research program to explore missile defense technologies, and to provide tactical missile defenses. CBO estimates that $2.3 billion would be adequate for this research program. At $2.3 billion, star wars would still be one of the largest research programs in the world.

Again quoting Admiral Crowe:

> I would argue for a throttle back effort for SDI more within military and economic reality, perhaps to $2 billion annually to keep the program moving and our knowledge ahead of competitors * * * Money which funds SDI will come from programs that buy good defense against more plausible and probably more likely threats.

Mr. President, we should listen and heed these words from the man who served as Chairman of the JCS during much of the star wars buildup.

I will support this amendment to cut SDI to $3.3 billion, but I firmly believe that this program should be cut substantially more.

RUSSIAN COOPERATION

Mr. President, I would also like to address the question of Russian cooperation with a star wars defensive shield. The Bush administration has distorted the comments of President Yeltsin regarding a defensive shield. The administration implied that Yeltsin had agreed to a joint SDI Program.

In reality, President Yeltsin said that our two nations should jointly design, jointly build and jointly operate a defensive shield in place of SDI. In the same speech, Yeltsin reiterated that Russian continues to support the ABM Treaty, which certainly precludes the space-based weapons, Brilliant Pebbles.

Mr. President, I traveled to Russia in May of this year, and met with several senior Russian officials, including George Mamedov, Deputy Foreign Minister who helped Yeltsin prepare his arms control positions, and I met privately for almost two hours with Marshal Shaposhnikov, commander of the CIS forces and the man with his finger on the Russian nuclear button.

Both Russian officials reiterated their support for the ABM Treaty. Both indicated a willingness to consider some aspects of joint defensive systems, particularly space-based sensors to detect missile launches. But they would not support the deployment of space-based weapons such as Brilliant Pebbles, particularly if the United States wanted to deploy these weapons unilaterally.

So I repeat, Mr. President, less than 2 months ago when I was in Russia, meeting with Marshal Shaposhnikov, the head of the CIS forces, he said to me quite forthrightly in front of other people who were there with me—people from our State Department, people from our Defense Department, said that No. 1—that they would be interested in joining the United States in putting space-based censors up to detect possible missile launches, but they would be absolutely opposed to busting the ABM Treaty and putting anything like Brilliant Pebbles into orbit.

Those facts are on the record Mr. President. Those statements I believe were in State Department documents and transmittals made back to the United States after my meeting with Marshal Shaposhnikov.

So I conclude from firsthand discussions with key Russian officials that they would never agree to the full GPALS deployment as currently planned by the administration.

In summary, Mr. President, I ask my colleagues to begin the step of changing our national priorities from cold war anachronisms to revitalizing our domestic economy. Reducing the star wars budget from $4.3 to $3.3 billion is one key step on this road to economic recovery.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. SASSER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Tennessee controls 9 minutes and 30 seconds.

Mr. SASSER. Mr. President, I want to, first, Mr. President, ask unanimous consent that Senator RIEGLE from Michigan be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I want to make it very clear once again precisely what we are doing with this amendment. With this amendment we are reducing funding for SDI from the level of $4.3 billion down to $3.3 billion. Within the parameters of this amendment we fully fund the theater missile defense program as requested by the President. In other words, the theater antimissile defense is fully funded. So there will be missiles, under this program, to knock down, in an area of battle or in a theater of battle, tactical missiles. That program will be fully funded.

What we are doing is reducing part of the funding for the missiles that might be located at Grand Forks, ND. What we are doing is funding that program at a level that will allow it to come on line in the year 2002, as Dr. Chu, at the Department of Defense, has indicated would be the reasonable time for the program to be able to come to fruition and to deploy in the most cost-effective manner, and also in the most effective manner with regard to completing its mission.

How can we do this and still reduce it by $1 billion? Because that portion of SDI that would be based at Grand Forks or some other location is being funded at 90 percent of the level that it was being funded when it was to be deployed by 1996. So what we have is a system to be deployed in a stretched-out version, which is being funded as an accelerated program which is no longer an accelerated program. That is, frankly, the genesis of the savings that we have realized, and it is being funded at the level that the Congressional Budget Office says will bring the program to fruition and deployment in the year 2002.

I have listened to my colleagues here this afternoon. They make very persuasive cases in opposition to SDI. And I agree with them. But I am simply saying we have lost that battle. Now what I am trying to do is impose some budgetary sense on the SDI program, and we think this amendment does it. That is what it is all about.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. WOFFORD). The Senator has 6 minutes remaining.

Mr. SASSER. I see the distinguished Senator from Michigan on his feet. How much time did the Senator request?

Mr. LEVIN. I wanted 5 minutes, but I will be happy to take 4.

Mr. SASSER. If the Senator will take 4 and perhaps reserve me 2, I would appreciate it.

Mr. LEVIN. Mr. President, I support in principle a cost-effective, limited defensive system, but the resources that we devote to the SDI program must be proportional to the threats that we face and the budget realities that we also face.

The committee's revisions to the Missile Defense Act are wise and prudent. They attempt to implement a lower risk, lower concurrency normal acquisition program that we ought to have. But the funding the committee proposes is more than necessary to advance that kind of program.

This amendment of the Senator from Tennessee and the Senator from Arkansas tries to reestablish the right spending priorities for SDI. The amendment provides robust research funding for SDI at a more appropriate level, given the threat. It will allow us to proceed with research that could lead to an initial missile defense site deployment shortly after the year 2000, with the option of multiple sites at a later date.

The committee's adjustments to the Missile Defense Act recognize the threat of ballistic missile attack is not as urgent as the committee believed last year and that the SDIO's acquisition strategy is flawed and wasteful. The SDI funding that the committee provided, however, exceeds what is needed for the restructured program.

The Congressional Budget Office released a study in May of 1991 called "Costs of Alternative Approaches to SDI." That study shows that we can stay on a track like the bill describes—standard acquisition policy, lower concurrency, and lower risk than the administration's plan—for $3.3 billion this year, instead of the $4.3 billion in the committee's bill. This was the CBO's Alternative No. III. Our amendment proposes that CBO Alternative No. III; $1.5 billion would be devoted to the national missile defense, the limited, ground-based ABM system.

The CBO has just examined closely the question of concurrency in the various SDI proposals at the request of the chairman of the Budget Committee and myself. We wanted to know whether CBO's alternative that suggested $3.3 billion for SDI this year to achieve an initial deployment option by the year 2002 or 2003 would meet the guidelines suggested by Dr. Chu's memo for a standard acquisition approach with low risk and low concurrency. In short, the CBO says that it does. To quote from their paper: "The timing suggested in CBO's alternative III"—which is what this amendment proposes—"which called for the deployment of the initial site in 2003, corresponds to a schedule that Dr. Chu suggested would eliminate concurrency."

We should eliminate concurrency. This SDI Program which should proceed, but without concurrency and at low risk.

The committee bill says if we are going to pursue SDI, we should do it right, not do it as fast as possible. This amendment endorses that strategy, but says we can do it for $1 billion less this year.

The chairman of the committee and the chairman of the Strategic Subcommittee deserve a great deal of credit. They were not content to let the SDI Program proceed without scrutiny after last year's Missile Defense Act. Instead, they led the committee in a careful examination of what Ambassador Cooper was doing with the funds and direction Congress had provided, and we did a thorough assessment of SDIO's plans to see if the stated goals were achievable. I feel it is important to summarize that process briefly for the Senate.

What the committee found was very distressing. SDIO was planning to meet the 1996 goal for initial ABM system deployment by installing prototypes at the first site. These prototypes would have received only a fraction of their initial operational testing and no demonstration/validation testing before deployment. SDIO claimed this unusual process was justified as an essential contingency capability that could be easily upgraded later, and they gave it a new term: UOES, "User Operational Evaluation Systems." But I prefer the old terms to describe this plan: Risky. Costly. Highly concurrent. In short—a rush job.

In a moment of candor, SDI Director Hank Cooper acknowledged this in testimony to the Armed Services Committee on May 20. He said he could deploy and activate an ABM site in 1997, but that "meeting the 1997 date represents a major challenge with high concurrency and high risk * * * including technical cost and schedule risk. I believe the risk," he continued, "although high, is acceptable given the urgency related to our uncertainty in predicting when we might actually be threatened with ballistic missile attack."

Senator NUNN spoke for all of us, I think, when he concluded "we have been substantially misled" into believing that an early deployment was possible without such high risk and abnormal acquisition procedures.

And there was more welcome candor from the Pentagon. Dr. David S. Chu, Assistant Secretary of Defense for Program Analysis and Evaluation, reviewed the SDIO plan for Donald Atwood, the Under Secretary of Defense for Acquisition, and concluded:

> In our judgment, SDIO's proposal contains excessive risk of cost growth and schedule slippage in the ground-based interceptor demonstration/validation fabrication program due to a compressed design phased uninformed by flight and system testing.

Chu also called the early warning radar upgrades, quote—"a highly concurrent, compressed program."

He concluded that the initial deployment plan "is almost certain to suffer early, significant cost growth and schedule slippage. Worse, it could lead to technological inferior—or inadequate—choices."

And he noted that pursuing SDIO's accelerated plan would likely require the Defense Department to seek relief from the laws of the land, from statutes and directives governing the way we acquire weapons.

Chu strongly recommended:

> That we pursue a standard acquisition program for initial deployment, but incorporate an even-based strategy that couples authority to proceed with demonstrated achievements of a rigorous test program.

He estimates that this could lead to an initial deployment in fiscal year 2002 or 2003, although success in testing of components could offer an opportunity for earlier deployment.

Mr. President, I request unanimous consent that Dr. Chu's memo of May 15, 1992 and attachments be included in the RECORD in its entirety.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. Mr. President, the comments of Ambassador Cooper and Dr. Chu raised a loud warning signal which, to their credit, Senator NUNN and Senator EXON responded to immediately.

Congress should be intimately familiar with the problems that can result from highly concurrent weapons programs, systems where production and/or deployment begins while testing is continuing and modifications are still being made. The DIVAD and the B-1 bomber are two famous examples. The first program was so flawed that we had to cancel it. The second program we are still paying to fix.

When systems go into production before they are thoroughly tested, there is a very high risk that changes will be necessary, that problems requiring costly fixes will arise late in the process. And the more complex the system, the greater the risk. With SDI, we're not just talking about interceptors and guidance systems, but also radar systems and the software that must integrate them. It's a highly complex, integrated system.

And SDI interceptors have failed several recent flight tests. In a way, those failures make the point about the dangers of concurrency very clearly—we can learn from test failures and incorporate changes before we go into production. But if we intentionally plan to freeze a design, begin production, and actually deploy components of SDI knowing that only minimal testing will be completed first, we are asking for trouble.

Why rush? The only reason is if we expect threats to develop soon that SDI could actually protect against. But we do not. We are facing very different threats after the cold war, and SDI is only designed to address one of them—limited ballistic missile attack. Even if SDI works, it gives us no protection against other means of delivering weapons of mass destruction—cruise missiles, planes, boats, even backpacks.

CIA Director Robert Gates told us what the situation is. He gave us this unclassified estimate on June 22:

> Only China, the Commonwealth of Independent States, the United Kingdom, and France have the capability to reach United States territory with nuclear-armed missiles. We do not expect an increased risk to U.S. territory from nuclear missiles of other countries for at least the rest of the decade.

That means threats to the United States from ballistic missiles—the only threat that the national missile defense part of SDI is hopeful of combatting—is not urgent, not imminent, not great enough to justify rushing and the risks and costs that would entail.

Let me be clear—missile proliferation is a real threat we need to combat, but the CIA Director says that the threat national missile defenses are oriented against is not urgent. We can combat the proliferation threat in other ways, but we need not rush the SDI Program

Another reason for SDIO's urgency was the anticipated changes in the ABM Treaty that the administration has said it wants. The Missile Defense Act urged the President to pursue discussions with the Soviet Union—which no longer exists—on these issues, and the President has. But Russian defense officials have repeatedly stated that their support for shared missile launch warning systems or for global defense systems does not contemplate major revisions of the ABM Treaty. We may still reach agreement with the Russians on mutually acceptable treaty revisions, but there is no sign of it yet, so our SDI plans cannot be based on the assumption that such revisions will take place.

In response to the Cooper and Chu revelations, and the revised threat assessment, Senator EXON and Senator NUNN crafted very strong language to revise the Missile Defense Act, and most of the revisions in their original mark are in the committee bill before us:

The bill mandates significant changes in the program, and the committee report insists that the program development be "consistent with sound acquisition procedures and in accordance with a low-to-moderate technical risk and low-to-moderate concurrency."

The bill clarifies that Congress did not intend to set an artificial deadline for initial deployment of a national missile defense but instead wants a system "by the earliest date allowed by the availability of appropriate technology and the completion of adequate integrated testing of all system components."

The committee repeats its insistence that an initial ABM deployment must be "cost-effective, operationally-effective and ABM Treaty-compliant."

And the bill declares that Congress is not yet authorizing the deployment of missile and radar prototypes for which only limited testing has been completed.

In sum, the committee's adjustments to the Missile Defense Act recognize that the threat of ballistic missile attack is not as urgent as the committee believed last year, and that SDIO's acquisition strategy is flawed and wasteful.

The committee bill still contains $350 million for space-based interceptors, primarily Brilliant Pebbles. In the Missile Defense Act, Congress attempted to ensure that this program would not be developed before the basic ground-based system. We said explicitly in the Missile Defense Act that "deployment of Brilliant Pebbles is not included in the initial plan for the limited defense system architecture."

But the committee discovered this year that its intent had been disregarded. More money was being put into research on Brilliant Pebbles and taken away from limited defense systems even though early deployment of Brilliant Pebbles had been specifically excluded. After that experience, we should have learned that if we don't want Brilliant Pebbles to be a priority for deployment, we should stop allocating such high sums for research on Brilliant Pebbles.

Space-based sensors are something we should be continuing research on, but space-based interceptors like Brilliant Pebbles should be explored for a follow-up system, not funded as a crash course program, as many of the committees have pointed out.

So our amendment reduces Brilliant Pebbles funding by $250 million to $100 million, enough to support one contractor team in researching this technology as part of a follow-on system.

Mr. President, I support research on missile defenses. I support, in principle, a cost-effective, limited defensive system, if it can be developed mutually with Russia and other nuclear powers. But the resources we devote to the SDI Program must be in proportion to the threats we face. I think the committee's revisions to the Missile Defense Act are wise and prudent. They attempt to implement the lower-risk, lower-concurrency, normal acquisition process program that we ought to have. But the funding is more than necessary to advance that kind of program.

This amendment tries to reestablish the right spending priorities for SDI. To summarize: This amendment provides robust research funding for SDI at a more appropriate level given the likely ICBM threat. It will allow us to proceed with research that can lead to an initial missile defense-site deployment soon after the year 2000, with the option of multiple sites at a later date. It will allow funding for development of Brilliant Eyes space based sensors, and full funding as requested by the administration for theater missile defenses.

If this amendment is not adopted, I am convinced that the SDI Program will be throwing away more money, and raising the risk that we will waste billions of taxpayer dollars without buying much security.

If this amendment is adopted, we can put the SDI Program back on the standard acquisition track that the Pentagon's own analysts say it belongs on. We can lower the risk and lower the concurrency. And we can make another investment of $1 billion in deficit reduction this year alone—that's a real contribution to our security as a nation.

I urge adoption of the amendment.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 7, 1992.

Hon. CARL LEVIN,
Chairman, Subcommittee on Conventional Forces and Alliance Defense, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You recently asked several questions about the Strategic Defense Initiative (SDI) program described in the Administration's Plan for Deployment of Theater and National Ballistic Missile Defenses. The questions relate to the level of concurrency and the potential for cost growth in the Administration's plan. You also asked about alternatives presented in the earlier CBO analyses of the costs of the SDI program. The paper attached to this letter—"Answers to Questions about Concurrency and Cost Growth in SDI"—responds to your request.

I hope this information is useful. If we can be of further assistance please let me know.

Sincerely,

ROBERT D. REISCHAUER.

ANSWERS TO QUESTIONS ABOUT CONCURRENCY AND COST GROWTH IN SDI

In a letter dated July 29, 1992, Senators Jim Sasser and Carl Levin asked the Congressional Budget Office (CBO) a number of questions concerning its past analyses of the Strategic Defense Initiative (SDI) program. This memorandum answers those questions.

CONCURRENCY

The letter asks CBO about the degree of concurrency present in the Administration's current plan for completing the National Missile Defense (NMD) portion of the Strategic Defense Initiative program.[1] NMD is another name for the Limited Defense System used in the Presidential budget for fiscal year 1993. It is that portion of the SDI program that funds the ground-based interceptors, radars, battle management systems, and space-based sensors that would be deployed to protect the territory of the United States against attack by ballistic missiles.

Concurrency, which is the practice of permitting development and production of a weapon to overlap, was to be defined as it was in a 1988 CBO study of weapon concurrency.[2] That study defined concurrency as the percent of initial operational testing and evaluation (IOT&E) planned for completion after production is authorized.[3] IOT&E is part of a series of weapons tests that also typically includes development, and follow-on testing and evaluation. Among the many ways of measuring concurrency, CBO selected IOT&E as a partial measure of concurrency for reasons that are discussed in the study.

In measuring concurrency in the NMD program, this memorandum focuses only on the missiles that will serve as ground-based interceptors. The NMD program will also purchase radar, space-based sensors and a battle management system, but the ground-based interceptors are the only item that would be produced in significant quantities and for which detailed acquisition data are available.

The degree of concurrency in the current Administration plan depends on what point in the plan appropriately represents the commitment to production. In most programs, that point is clearly defined, but such is not the case for the Administration's proposed NMD program. In response to the Missile Defense Act of 1991, which called for rapid deployment of some defenses, the Administration plans to have an initial site operational by late 1997. Sixty missiles which are to be built during the demonstration and validation (dem/val) phase of the program, and thus would be considered prototypes, would be deployed as operational interceptors at the initial site. Subsequently, the Administation intends to purchase about 1,000 missiles as "production hardware." The missiles would be deployed as ground-based interceptors at other sites starting in 2000. The Administration views the first 60 interceptors as test missiles that fulfill a "contingency" role. When production hardware becomes available, the initial site will be retrofitted with new missiles.

Adding to the complexity of measuring concurrency, the IOT&E program proposed by the Administration is also atypical. Largely in response to the Missile Defense Act's call for early deployment, the plan begins IOT&E earlier than usual so that some operational testing occurs before the dem/val missiles are deployed.

Usually, IOT&E begins during full-scale development (after Milestone II) and must be successfully completed before the program can advance to full-rate production at Milestone III.[4] The hardware used in IOT&E must approximate production hardware as closely as possible. To achieve early deployment, the Administration's plan includes an earlier phase of IOT&E (called Phase 1) several years before Milestone II in order to test the dem/val hardware that will be deployed at the initial site. The Administration's plan also includes a more typical IOT&E program (called Phase 2) after Milestone II to test the production hardware that will be deployed at the other sites. The Strategic Defense Initiative Organization (SDIO) has stated that Phase 1 will include 11 test events. CBO has assumed that Phase 2 will include an additional 11 test events.[5] For the purposes of measuring concurrency in the acquisition of the production missiles, CBO has assumed that all 22 tests are part of the IOT&E program because production hardware will benefit from both Phases 1 and 2 testing.

The NMD program features significant concurrency if, as the Administration contends, the commitment to production occurs when the Department of Defense decides to begin purchasing the roughly 1,000 missiles that constitute production hardware. Fourteen of the 22 scheduled IOT&E tests would remain to be completed at the end of 1997, when authorization for the production hardware is scheduled to begin.[6] Based on the definition in the CBO study, this implies concurrency of 64 percent. According to the ranges defined in the study, this would place the NMD program in the medium- to high-concurrency range.[7]

Concurrency in the NMD program would be much higher if the production commitment is assumed to occur when the Department of Defense decides to begin purchasing the initial 60 dem/val missiles. In a typical program, the purchase of dem/val missiles would not represent a commitment to production, but it may suggest such a commitment in the NMD program because those 60 missiles are intended to serve as operational interceptors at the initial site. At the time that the commitment is made to begin procuring these 60 missiles, all of the IOT&E tests would have yet to be completed. (CBO has assumed that the commitment to production in this case begins when funding is authorized for the first components of the interceptor—so-called long-lead funding.) Thus, using the definition in the 1988 study, concurrency would be 100 percent.[8] Among the 14 major systems that CBO examined in its 1988 study, only one—the Harpoon missile—had concurrency as high as 100 percent.

The Administration is retaining the option to add an endoatmospheric capability to its ground-based interceptors, if the capabilities of potential adversaries warrant it. An endoatmospheric capability would permit missiles to make (intercepts within the earth's atmosphere.) Because CBO has no data on the IOT&E program for this variant, it cannot determine how much concurrency the upgraded versions of the missile would generate.

High concurrency offers some advantages and entails some risks. It can speed the delivery of weapons to meet a threat. High concurrency can also lower costs because it reduces the time to develop and produce a weapon, which in turn can lower overhead. A tighter schedule can also mean more continuity and stability in the labor force, improving efficiency. Nevertheless, high concurrency imposes substantial risks. After production has begun, problems may be uncovered that require major redesign and production changes, significantly increasing costs and delaying deployment. Weapons already deployed may need to be modified, further adding to cost.

Perhaps because there are both advantages and risks, CBO's 1988 study found that there was no strong relationship between concurrency and two measures associated with the success or failure of weapon programs; cost growth and schedule delay. Cost growth was, on average, somewhat higher among highly concurrent programs. But other factors may have been at work because—using statistical measures—concurrency explained only 14 percent of the overall variation in cost growth among the 14 programs that CBO analyzed. There was no statistically significant relationship between high concurrency and schedule delay. There are other ways to measure the effects of concurrency, such as how well a system works after it is fielded, that were not included in the CBO study because they could not be readily quantified.

COST GROWTH

CBO was also asked whether the costs of the NMD program will grow above currently planned levels. The Administration has estimated that the system of defenses proposed by the administration would cost $49 billion. (All costs in this memorandum are expressed in constant 1993 dollars of budget authority and do not include the costs to operate the system once it is deployed.) This money would pay for much of the development and deployment of a national missile defense, theater missile defense, and space-based interceptors, which together are called the Global Protection Against Limited Strikes (GPALS) system. If funds for GPALS research, systems engineering, and management of risk are included, according to a CBO estimate in a January 1992 memorandum, the costs for the GPALS system would be close to $70 billion.[9] This estimate does not reflect the possibility that costs could grow above currently planned levels.

If history is a guide, however, such growth is likely to occur. On average, Department of Defense weapon systems experience at least some cost growth. A recent study by a Department of Defense analyst indicated that weapons similar to those in the NMD system experienced cost growth that averaged about 35 percent above estimates made at the time full-scale development was approved.[10] Cost growth might be higher for the NMD program because the decision to enter full-scale development will not be made for another five years.

Concern about cost growth is also reflected in a memorandum of May 15, 1992, from Dr. David Chu, Assistant Secretary of Defense for Program Analysis and Evaluation.[11] That memorandum stated that a program that attempted to deploy an initial NMD site in 1997 carried an "excessive risk of cost growth."

CBO ALTERNATIVES

The Senators' letter asked CBO whether the analysis of the costs of three alternatives in a May 1992 CBO paper dealing with SDI must be altered in view of the Administration's current plan, which was submitted to the Congress in June.[12] That plan did not include detailed cost information. Therefore, there is no reason to believe that the May paper must be revised.

The Senators also asked CBO to compare the alternatives described in the May paper with a revised acquisition approach for SDI proposed in Dr. Chu's memorandum of May 15, 1992. In order to comply with last year's Missile Defense Act, the Administration's current plan calls for an accelerated program that would lead to the deployment of a system of national missile defenses beginning in 1997. In his memo, Dr. Chu strongly recommended that SDIO pursue an "event-based" acquisition program. Under an event-based program, initial deployment would not be likely to occur before 2002 or 2003 if standard acquisition procedures are followed. Production rather than dem/val hardware would be deployed at the initial site. Deployment could take place sooner only if test goals were achieved earlier than would normally be expected.

Alternative III in CBO's May 1992 paper assumed that defenses would be deployed at an initial site in 2003 and therefore could be viewed as generally consistent with Dr. Chu's preferred approach to NMD acquisition. Alternative III provided $3.3 billion for SDI in 1993, of which $1.5 billion would go to the NMD program. It should be noted, however, that CBO's estimates of the costs for Alternative III make some assumptions about changes in funding for space-based interceptors and research that were not discussed in Dr. Chu's memo. Also, if the United States decided to deploy the system earlier because testing was successful or the threat had changed, funding increases above the levels of Alternative III would have to be made in subsequent years.

If the Department of Defense chose instead to deploy dem/val hardware at the initial site as soon as possible, Dr. Chu recommended that risk be reduced by conducting an event-based dem/val program. This revised program would ensure that the commitment to purchase the 60 deployable dem/val interceptors would not be made before adequate testing is done. He felt that 1999 was the earliest possible planned date for such a program, but left open the possibility that deployment could be accomplished sooner if successful test results were achieved earlier than planned. Alternative II from CBO's May paper could be viewed as generally consistent with the option in Dr. Chu's memo that would deploy dem/val hardware, because it assumes the deployment of an initial site in 2000. The Administration's current plan, which features some early testing of dem/val missiles, incorporates SDIO's response to these recommendations by Dr. Chu.

Finally, the letter asked CBO about the concurrency associated with Alternatives II and III in its May paper. CBO's alternatives were developed by varying budgetary figures. They are not based on a specific test and acquisition schedule from which concurrency can be precisely calculated. It is possible, however, to reach some qualitative conclusions about concurrency. The timing suggested in CBO's Alternative III—which called for deployment of the initial site in 2003—corresponds to a schedule that Dr. Chu suggested would eliminate concurrency. Concurrency under Alternative III may therefore be quite low. Alternative II would begin deploying weapons at an initial site in 2000. This alternative would probably entail more concurrency than Alternative III. But Alternative II should be less concurrent than the Administration's plan because it would allow up to three more years for testing before deciding to buy the ground-based interceptors for both initial and subsequent sites.

FOOTNOTES

[1] See Department of Defense, *Report to Congress: Plan for Deployment of Theater and National Ballistic Missile Defenses* (June 1992). All references to the Administration's plan and all details on NMD acquisition provided by the Strategic Defense Initiative Organization in this memorandum are based on this report. Any changes in this plan to reflect recent Congressional action are not analyzed here.

[2] Congressional Budget Office, *Concurrent Weapons Development and Production* (August 1988).

[3] CBO has calculated concurrency in the NMD program as the number of planned IOT&E test events remaining at the time initial procurement is authorized divided by the total number of such events. By contrast, the 1988 study based the measure of concurrency on the percentage of time remaining in the IOT&E program after production is authorized. Although IOT&E test events are a preferable measure, data limitations made time the measure of choice used in the CBO study.

[4] Weapon systems go through a series of phases, from program initiation to completion of production. Each major phase is preceded by a managerial decision called a milestone. Milestone II occurs between demonstration and validation and full-scale development; Milestone III before full-rate production.

[5] According to SDIO, the details of Phase 2 IOT&E have yet to be determined. Since the total purchase of test missiles for IOT&E is 40 and SDIO plans to fire a second missile for each event if the first test fails to meet objectives, CBO has assumed that, like Phase 1, Phase 2 will include 11 test events. If the number of test events SDIO plans turns out to be higher, concurrency would be higher. Likewise, concurrency would be lower if the number of planned test events turns out to be lower than 11.

[6] In keeping with the definition used in the 1988 study, CBO has specified that the production decision will occur when low-rate initial production is authorized. At this point, the Department of Defense makes a commitment to production facilities and infrastructure. In the Administration's current plan for NMD, this decision would occur at Milestone II.

[7] No official definition of high concurrency exists. In the 1988 study, CBO divided programs into three arbitrary categories: 0–33 percent concurrency was categorized as low, 34–66 percent was categorized as medium, and 67–100 percent was categorized as high.

[8] This does not mean that all 60 missiles would be authorized for procurement before any testing is complete. Initial procurement of 12 of the 60 missiles would be authorized before any IOT&E testing is complete. Procurement of 36 to 60 missiles would occur before about 90 percent of the testing is done, and procurement of all 60 missiles would be authorized before about 75 percent of the testing is complete.

[9] Congressional Budget Office, "The Budgetary Impact of Limiting Strategic Defense Initiative Programs," (CBO Staff Memorandum, January 1992). The estimates in this memorandum were based on Administration budget data from January 1991.

[10] Gary R. Bliss, "The Accuracy of Weapon Systems Cost Estimates" (paper presented at the 59th Military Operations Research Symposium, U.S. Military Academy West Point, N.Y., June 12, 1991).

[11] Dr. David Chu, Assistant Secretary of Defense for Program Analysis and Evaluation, "Memorandum for the Under Secretary of Defense for Acquisition" (May 15, 1992).

[12] Congressional Budget Office, "Cost of Alternative Approaches to SDI," (CBO Paper, May 1992).

WASHINGTON, DC, *May 15, 1992.*

Memorandum for: The Under Secretary of Defense for Acquisition.

Subject: Comments on the Strategic Defense Initiative Organization's (SDIO's) Proposed Acquisition Strategy for an Initial National Missile Defense (NMD) Deployment.

The purpose of this memorandum is to respond to your request made at Tuesday's meeting for comments on SDIO's plans for the initial NMD deployment.

SUBMISSION OF THE 180-DAY REPORT SHOULD BE DEFERRED UNTIL AFTER THE JUNE SUMMIT

Resolution of ABM Treaty issues regarding the compliance of proposed space- and ground-based sensor systems and modifications permitting multiple-site deployments is central to determining the preferred design, cost, and effectiveness of an initial ballistic missile defense deployment. Absent favorable resolution of these issues, there may be no cost- and operationally-effective initial deployment possible at a single site. Consequently, I recommend that the 180-Day Report be submitted after the June summit between Presidents Bush and Yeltsin; this would be the earliest time at which we would have an understanding of how outstanding treaty issues might be resolved.

SDIO'S PROPOSED ACQUISITION PLAN FOR THE INITIAL DEPLOYMENT CONTAINS EXCESSIVE COST AND SCHEDULE RISK

In our judgment, SDIO's proposal contains excessive risk of cost growth and schedule slippage in the ground-based interceptor (GBI) dem/val fabrication program due to a compressed design phase uninformed by flight and system testing. Authority to fabricate 40 dem/val interceptors is granted at program inception, in the absence of any design work or testing. Furthermore, to meet the 1997 initial deployment date, the SDIO schedule requires commitment to production of GBIs earmarked for deployment before any system testing with the Kwajalein NMD test radar could be conducted.

Likewise, we believe SDIO's proposal also contains an unrealistic, compressed schedule for defining, implementing, and testing early warning radar (EWR) upgrades, and a highly concurrent, compressed program for designing, building, and testing the initial deployment command center and associated terrestrial and satellite communications.

Thus, the SDIO proposal for achieving the initial deployment is almost certain to suffer early, significant cost growth and schedule slippage. Worse, it could lead to technologically inferior—or inadequate—choices, in the compromises that so often characterize programs that get into this kind of trouble. In short, the proposal challenges the central principles of the revised acquisition system that you and the Deputy Secretary have labored so hard to put into place. There are good reasons for those principles, and it is for those reasons that I believe the proposal should be revised to follow your principles. Our concerns regarding the risks associated with the SDIO's plans for the initial NMD deployment are discussed in more detail at Tab 1; my recommendations for revising the proposal are outlined in the sections that follow.

INITIAL NMD DEPLOYMENT SHOULD BE BASED ON AN EVENT-BASED ACQUISITION PROGRAM

I strongly recommend that we pursue a standard acquisition program for initial deployment, but incorporate an event-based strategy that couples authority to proceed with demonstrated achievements of a rigorous test program. The GBI and battle management, command, control, and communications (BM/C^3) acquisition programs contained in the FY92 President's Budget would be modified somewhat to adopt an event-based acquisition strategy. This program would conform fully to the department's major systems acquisition procedures, and because it eliminates concurrency, would entail much lower risk than SDIO's proposal. Production hardware (vice dem/val hardware) would be used to support the initial deployment.

Based on SDIO's estimates of the time required to execute the plan in the FY92 budget, this event-based approach—if "normal" times to complete events characterized its progress—could result in an initial deployment in FY02 or FY03. Because the approach is event-based, however, successes during any phase would naturally offer an opportunity to accelerate the program, and SDIO should be encouraged to strive for such success. A more detailed description of this program is provided at Tab 2.

FABRICATION OF DEM/VAL HARDWARE FOR OPERATIONAL DEPLOYMENT SHOULD BE CONTINGENT ON SUCCESSFUL SYSTEM TESTING

Although I would prefer not to deploy operationally dem/val hardware, if we decide this is necessary to accelerate initial deployment over the standard program, then at a minimum we should restructure the SDIO proposal to reduce risk substantially and enhance our confidence that the deployed hardware would be operationally effective. To achieve this objective, we should overlay an event-based dem/val deployment program on the standard event-based acquisition program, which would still be used to acquire the objective GBI and BM/C^3 systems. (Tab 3 contains a more detailed description of a restructured SDIO proposal that permits deployment of dem/val hardware along these lines.)

In this event-based overlay, authority to fabricate dem/val GBIs would be made contingent upon test program results; no fabrication authority, other than for ERIS test vehicles would be granted at program inception. The decision to begin long-lead purchases for fabrication of up to 20 dem/val GBIs for test purposes only would be made at the final design review, which would be made contingent upon successful flight test at Kwajalein of at least three ERIS vehicles. The decision to begin fabrication of up to 60 additional dem/val interceptors for the initial deployment would be made contingent upon successful completion of three system tests at Kwajalein using the NMD test GBR and dem/val BM/C^3 hardware and software.

This restructured SDIO proposal contains less risk because it couples authority to proceed past key decision points to successful test demonstrations; i.e., it attempts to conduct during dem/val many of the performance assurance and test activities normally conducted in EMD. Nonetheless, this approach must be assessed overall as high risk because it would deploy dem/val hardware for operational use; it would also likely require the department to seek relief from a number of statutes and directives (see Tab 3). (In this regard, I support the comments made to Dr. Schneiter by the CAIG Chairman in his May 14, 1992 memorandum.)

A program involving the operational deployment of dem/val hardware is likely to be more expensive than the standard acquisition approach I recommend. Increased cost is caused by conducting additional tests to assure performance of the dem/val system, and replacement after FY02 of the dem/val GBIs and BM/C^3 systems deployed initially with production GBIs and final, validated BM/C^3 software and hardware.

Based on SDIO's estimates of the time required to design and fabricate dem/val GBIs, this restructured version of the SDIO proposal would probably achieve initial deployment in FY99, at the earliest. Because the program is event-based, however, opportunities for acceleration could occur.

COST-EFFECTIVENESS OF AN INITIAL DEPLOYMENT IS ADDRESSED IN THE GPALS COEA

The Missile Defense Act (MDA) stipulates that the initial deployment should be cost- and operationally-effective. At Tuesday's meeting, you asked if the cost-effectiveness of the initial deployment had been analyzed. This issue is being addressed as part of the overall GPALS COEA that the SDIO is preparing in response to the guidance you issued in September, 1991.

Draft versions of the GPALS COEA technical report and Appendices prepared by SDIO's Architecture Integration Study contractors have been delivered to OASD (PA&E) and to the Institute for Defense Analyses (IDA). We have asked IDA to perform an independent review of the objectivity and accuracy of the COEA as a means of satisfying the requirement in DoDD 5000.2 that a COEA be conducted by an analysis activity independent of the program office. The COEA addresses four classes of objective GPALS deployment (all ground-based, ground-based with space-based sensors, space- and ground-based sensors and weapons, and all spaced-based), as well as several alternative early deployment architectures. My office will provide an interim assessment of the COEA in support of the July DAB review of GPALS.

CONCLUSION

From the information available to date, I do not believe it is possible to construct an acquisition program for initial NMD deployment in FY97 that has acceptable cost and performance risk. The fundamental reason for this situation is that SDIO's plans—as recently as the submission of the FY92 President's Budget—have been focused on initial deployment of space-based weapons and sensors beginning in FY99, followed by ground-based deployments beginning in FY01. Thus, the MDA requires us to reverse long-standing program priorities and to accelerate ground-based deployments by at least four years. In the aftermath of the $1 billion reduction mandated by the MDA to SDIO's FY92 request, I fear this is an impossible task.

If we decide to pursue an accelerated initial deployment with dem/val hardware, I would suggest adopting a restructured version of SDIO's proposal along the lines I have described. Furthermore, SDIO should be tasked to prepare a separate acquisition program baseline and exit criteria for the dem/val deployment for review and approval at the upcoming July DAB. This would quantify the performance, cost, and schedule expected of the dem/val deployment and distinguish it from the standard acquisition program for the objective system. I would urge that we characterize any operational deployment of dem/val as an option and decide at a date to be established whether that option should be pursued.

I am aware of the suggestions made by SDIO that we describe an initial dem/val deployment program as being composed of user operational evaluation equipment (UOE) (or as an "emplacement"). In contrast to the THAAD program, in which the UOE equipment is meant primarily for testing, the UOE approach is inappropriate for the initial deployment. Flight tests demonstrating the integrated operational effectiveness of the initial NMD interceptors, radar, and BM/C^3 can be conducted only at the Kwajalein test range. There is little, if any, system testing or evaluation that would provide information superior to that obtained at Kwajalein that could be performed at the initial deployment site in the United States. Moreover, labelling the initial deployment as UOE is unlikely to preclude it from being viewed outside the department as a fully operational system. Thus, I recommend that we forthrightly characterize the initial NMD deployment as an operational system and that we not pursue initial deployment with dem/val hardware at a single site unless we are convinced that it has military utility and is operationally effective.

I also recommend that the issues raised by the DAB principals in response to your request for comments (most of which are likely to be highly contentious) be resolved prior to additional testimony by Ambassador Cooper to Congressional committees regarding plans for the initial deployment. In particular, the Ambassador's testimony before the Senate Armed Services Committee scheduled for May 20 should be deferred until a final draft of the 180-Day Report has been reviewed within the department; to do otherwise would preempt the report.

DAVID S. C. CHU,
Assistant Secretary of Defense.

[Tab 1]

COMMENTS ON SDIO'S PROPOSAL FOR THE INITIAL NATIONAL MISSILE DEFENSE (NMD) DEPLOYMENT

SDIO's proposal contains excessive risk of cost growth and schedule slippage in the ground-based interceptor (GBI) dem/val fabrication program due to a compressed design phase uninformed by flight and system testing.

Authority to fabricate 40 dem/val GBIs (10 for deployment and 30 for flight testing) is granted at the inception of the program before any design work or tests have been completed.

The first kill vehicle flight test occurs after design freeze.

The first flight test of an integrated kill vehicle and booster occurs one year after start of fabrication.

The first system test at Kwajalein of the interceptor and radar occurs within six months of completion of the fabrication of the first 40 interceptors.

The option to begin long-lead purchases of technology-pacing items for fabrication of 65 additional dem/val interceptors for use in the initial deployment is exercised prior to any system tests of the interceptor, radar, and BM/C^3 systems.

Only four and one-half years are allotted to design and deploy the dem/val GBI. The Institute for Defense Analyses study of the characteristics of acquisition programs for contemporary munitions systems (including air and ground-launched tactical missiles) found an average advanced development time of 45 months and an average full-scale engineering development time of 85 months, thus, on average, over 10 years elapsed prior to availability of systems that could be deployed for operational use.

The unrealistic assumption is made that design changes to correct problems realized during tests conducted concurrently with fabrication could be implemented without cost growth or schedule slippage in the fabrication program.

SDIO's proposal contains an unrealistic, compressed schedule for defining, implementing, and testing early warning radar (EWR) upgrades:

Definition of needed upgrades and preparation of requests for proposals is allotted only three months.

Only three years are allotted to design, build, install, and test all radar upgrade hardware and software and all hardware and software for a new radar data fusion center. The five programs that became the Cheyenne Mountain Upgrade (CMU) program in FY89 were started in the period FY83–87. FOC for CMU is scheduled now for FY96.

SDIO's proposal contains a highly concurrent, compressed program for designing, building, and testing the initial deployment command center and associated terrestrial and satellite communications:

No definition of command center functions or needed communications is provided, implying that requirements definition will be performed as part of the (compressed) design phase; normally, requirements are defined before design begins.

Proof-of-concept and deployable command and control capabilities are developed concurrently.

Shipment of deployable command and control products for installation at the initial deployment site (and possible remote sites) occurs simultaneously with planned initial site activation at the beginning of FY97.

Only four years are allotted for definition, development, fabrication, installation (or launch), and test of all terrestrial and satellite communications needed for the initial deployment. (After requirements are defined, the best design programs for the simplest new military communications satellites require about four years to design, build, test, and launch the first development satellite. Satellite communications needed for the initial deployment would need to support uninterrupted data rates of tens of hundreds of kilobits per second in a nuclear environment; there are no existing systems that could satisfy this need. Milstar medium-data-rate (which is already oversubscribed) will be available for use in FY99 at the earliest, and is not designed to provide uninterrupted medium-data-rate service in a nuclear environment.)

[Tab 2]

DESCRIPTION OF AN EVENT-BASED STANDARD ACQUISITION PROGRAM FOR INITIAL NATIONAL MISSILE DEFENSE DEPLOYMENT

This attachment describes an initial deployment achieved by proceeding with the standard (i.e., conforming fully to the department's acquisition procedures for the acquisition of major systems) GBI and battle management, command, control, and communications (BM/C^3) acquisition programs contained in the FY92 President's Budget, modified to adopt an event-based acquisition strategy:

Begin GBI MD after completion of at least three successful integrated system tests of the dem/val interceptor, NMD test GBR, and dem/val BM/C^3 software and hardware at Kwajalein.

This would provide confidence that a complete set of issues requiring resolution during EMD have been identified.

Deploy production GBIs after completion of initial operational test and evaluation of the integrated system (performed at Kwajalein and Grand Forks).

This would provide confidence that the deployed production interceptors, radar, and BM/C^3 would function properly as an effective system.

Initiate early warning radar (EWR) upgrade and BM/C^3 dem/val after completion of a rigorous requirements definition process; i.e., after defining the needed upgrades, BM/C^3 functions, the terrestrial and satellite communications separately for the initial and subsequent deployments. Adopt final plans for EWR upgrades and BM/C^3 after the dem/val integrated system tests at Kwajalein.

This would provide confidence that expensive rework of EWR and BM/C^3 software could be avoided.

Based on SDIO's estimates of the time required to execute the plan in the FY92 budget, adopting this standard approach would likely mean that the initial deployment would occur in FY02 or FY03. Because the approach is event-based, however, successes during any phase would naturally offer an opportunity to accelerate the program.

DESCRIPTION OF A RESTRUCTURED VERSION OF SDIO'S PROPOSAL FOR INITIAL DEPLOYMENT WITH DEM/VAL HARDWARE

This attachment describes a restructured version of SDIO's proposal that overlays an event-based dem/val deployment program on the standard event-based acquisition program used to acquire the objective GBI and BM/C^3 systems.

A standard, event-based acquisition program would be used to acquire the objective GBI and BM/C^3 systems.

Authority to fabricate dem/val GBIs would be made contingent upon test program results; no fabrication authority, other than for ERIS test vehicles (see immediately below), would be granted at program inception.

The final design review for the dem/val GBIs would be made contingent upon successful flight test at Kwajalein of at least three ERIS vehicles using upgraded seekers and semi-autonomous discrimination algorithms designed according to plans presented at the initial design review.

This would provide confidence that the semi-autonomous GBI kill vehicle needed to enable a single site to protect the contiguous 48 states would function properly.

The decision to fabricate up to 20 dem/val GBIs for test purposes only would be made at the final design review.

The decision to begin long-lead purchases for fabrication of up to 60 additional dem/val interceptors for the initial deployment would be made contingent upon the successful completion of three system tests at Kwajalein using the NMD test GBR and dem/val BM/C^3 hardware and software; the decision would be made by the USD(A).

This would provide confidence that the dem/val interceptors and BM/C^3 would function properly as an integrated, effective system when deployed at Grand Forks.

Based on SDIO's estimates of the time required to design and fabricate dem/val GBIs, this restructured version of the SDIO proposal would probably achieve initial deployment in FY99, at the earliest.

TITLE 10, UNITED STATES CODE

Sec. 2366

1. MDAP may not proceed beyond LRIP until after survivability and lethality testing.
2. Testing must be early enough to permit time to include fixes into production items.

3. SECDEF may waive testing if he certifies that testing is too expensive or impractical. But

a. He must do that before Milestone II.

b. Must report to Congress how survivability and lethality will be demonstrated.

4. SECDEF must report testing results to Congress.

Sec. 2399

1. MDAP may not proceed beyond LRIP without OT&E.

2. Dir, OT&E must approve test plans.

3. Dir, OT&E must determine from testing if the item is effective and suitable for combat.

4. MDAP may not proceed beyond LRIP until results are reported to Congress.

5. OT&E based upon computer modeling, simulation or analysis are not satisfactory for the statute.

Sec. 2400

1. LRIP will produce minimum quantity necessary;

a. to provide OT&E test articles,

b. to establish an initial production base, and

c. to insure an orderly transition to full production.

Sec. 2432

1. Requires reporting of program in Selected Acquisition reports, After start of EMD, R&D only SARs are not acceptable.

2. SARs require both baselines and full life cycle costs.

Sec. 2433

1. Requires Unit Cost reports for programs submitting SARs. Specific reporting requirements to Congress by the SECDEF exist for cost variances of specified amounts. This section is triggered by SAR reporting, i.e. if a SAR is required, cost reporting is also required.

Sec. 2434

1. Prior to approval of EMD, or production and deployment by the Secretary, an independent cost estimate is required.

2. Thirty days prior to approval of EMD by the Secretary, a manpower report must be submitted to the military committees of Congress.

Sec. 2435

1. Requires a program baseline (with technical characteristics) for any program in EMD or production.

TITLE 41, UNITED STATES CODE

Section 401

1. Establishes the policies of Congress for procurement. The acquisition strategy of SDIO conflicts with many Congressional policies.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I yield 4 minutes of the opponents' time to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Arkansas.

Mr. President, much has been written and said in this election year about Congress's failure to honor its pledges, and the perpetual gridlock that prevents us from legislating laws and policies which promote the common good. Frankly, much of it has been justified. Too often, politics rears its ugly head on this floor and prevents us from responsibly executing our constitutional obligations to the Nation and to our constituents.

One notable exception to this trend was last years adoption of the Missile Defense Act of 1991. As my colleagues know, the legislation enjoyed strong bipartisan support, and represented an historic consensus on the issue of ballistic missile defense. The Missile Defense Act included three basic programmatic initiatives: First, to rapidly develop and deploy highly effective theater missile defenses; second, to rapidly develop and deploy a multiple-site limited defense system to protect the United States, beginning with an initial ABM treaty-complaint site; and third, to maintain robust funding for brilliant pebbles to preserve the option of augmenting theater and strategic defenses in the future with space-based interceptors.

Mr. President, my colleagues may recall that a primary stimulus of the Missile Defense Act was the tragic death of 28 American military personnel at the hands of one of Saddam Hussein's Scud missiles. This tragedy demonstrated once and for all that ballistic missiles pose a clear and present danger to the United States, and our friends and allies. And to its credit, the Congress set forth on a course to ensure that the sacrifice of these 28 brave men and women from the Army Reserve's 14th Quartermaster Detachment would not be repeated. Passage of the Missile Defense Act was, perhaps, the most significant and responsible initiative that Congress has ever made.

Yet, inexplicably, certain Members of this body who supported the Missile Defense Act, are now backtracking away from their pledge to the American people. Suddenly, we are in an election year and some of my colleagues seem more interested in playing political games than in getting on with the business of defending America. I, for one, am outraged by it. And I believe the American people will be also.

The bill before us slashes the administration's SDI budget request by one billion at the very time which we are supposed to be accelerating development of missile defenses. This intentional budgetary low-balling will inevitably cause schedule delays and cost increases, both of which run contrary to the Missile Defense Act and national security. Furthermore, the bill cuts funding for brilliant pebbles from the requested level of $575 million down to $350 million. This hardly represents robust funding and falls well short of the 11 percent baseline which Congress established for Brilliant Pebbles last year.

Mr. President, the fact of the matter is, Brilliant Pebbles offer the most cost and operationally effective missile defense option for the future. We must not deny our Nation the tools to defend against the wide range of existing and emerging missile threats. If this program is terminated or transformed into a mere technology demonstrator, we will have foregone the most promising deployment option that we have. The $350 million contained in the bill represents a bare-bones minimum necessary to sustain a viable program. Further reductions are intolerable.

Which brings us to the amendment offered by the Senator from Arkansas. As disappointing as the committee allocation is, the pending amendment reaches a new height in irresponsibility. I have listened to the arguments made by the Senator from Arkansas, the Senator from Tennessee, and the Senator from Maryland today and, frankly, it sounds like the same negative rhetoric which we have heard from them all year. Contrary to the statements of my colleagues, the SDI Program is not the cause of the budget deficit, the decline of our cities, or the degradation of our infrastructure. Let's be clear on that from the start.

What SDI is the cause of, in large part, is the capitulation of the Soviet Union in the cold war. As information continues to disseminate out of the former Soviet Union, it becomes more and more clear that our technological superiority, particularly in the strategic defense arena, led the Soviets to obsessively and fatally exhaust its resources in a futile effort to keep pace. Obviously, the Soviets had a far more favorable impression of American technology than my colleagues from Arkansas, Tennessee, and Maryland.

Mr. President, this amendment assumes that the world is safe and benign. With all due respect to my colleagues, this is naive and shortsighted. The former Soviet Union remains politically unstable and economically bankrupt, and there are numerous ongoing ethnic conflicts throughout its territory. Elsewhere, the proliferation of nuclear, chemical and biological weapons and related delivery systems to hostile nations is continuing virtually unabated, irrespective of our non-proliferation efforts. To suggest that we need not prioritize or adequately fund the development of missile defenses is irresponsible and denigrates the sacrifice made by those brave men and women of the 14th Quartermaster Detachment.

If we have learned anything over the course of the past few months, it is that the American people are sick and tired of elected representatives failing to deliver on their promises. Well, last year's Missile Defense Act was a solemn and clearly understood commitment to the American people that never again would we be held hostage to ballistic missiles. Let there be no mistake, those who support this amendment are saying that partisan politics is more important than defending America. Because if this amendment passes, it will severely undermine our Missile Defense Program, and cause devastating schedule delays and cost overruns.

History will not judge this body kindly if this amendment is adopted.

I urge my colleagues to reject this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. How much time is left on the opponents side?

The PRESIDING OFFICER. Five minutes.

Mr. EXON. I yield myself whatever time is necessary from the remaining 5 minutes.

Mr. EXON. Mr. President, the SDI matter comes up on the floor of the Senate each and every year. We spend more time in the Armed Services Committee arguing back and forth about SDI I guess than any other issue that has come before us.

I rise in strong opposition to the amendment offered by Senator SASSER and Senator BUMPERS, which I point out reduces the SDI number reported out by the Armed Services Committee by a billion dollars. The Armed Services Committee in itself cut a billion dollars below the President's request of $5.4 billion.

My own desires and wishes, if I could make the decision, would have been that this figure should have been about $4 billion, or about the same figure as last year giving the constraints of the budget. But we worked out what I thought was a reasonable compromise after lots of discussions in the Armed Services Committee. Therefore, I enthusiastically support the reduced figure mark outlined by the Armed Services Committee and recommended on the floor of the Senate to our bill.

Mr. President, I also point out that if those who are supporting the amendment get their way, we will be cutting $600 million for the ground-based defense system that at least all of us think is important, and I suggest that probably many of the Members who might consider voting for this amendment would consider as reasonable.

Why do I talk about point defenses? I, from the very beginning of the SDI program when it was initiated by President Reagan, had some skepticism with regard to the program. I felt that the sites were entirely too high and I was turned off on the program very early when I saw some television commercials run by the proponents of SDI that showed a very little girl with a crayon drawing an umbrella and then there would be bombs that would drop down and bounce off this umbrella. That was Star Wars. We have gone a long way, I suggest, from that principle. It is no longer Star Wars but a realistic system that would require most of the funding that we are recommending to have some point defenses.

I think those who are making this cut, especially the $600 million from the point defenses, are overlooking the fact that I fear that the greatest possible threat to the national security interests of the United States in the years to come would be from a Third World dictator calling up the President of the United States on the phone and saying: I have a nuclear device off your shores, off Washington, off New York, off San Francisco; and if you do not do what I ask you to do, we are going to fire this in 3 hours.

I really believe that the point defenses that the Armed Services Committee has been concentrating on is something that is full and well worthwhile, and all of the people of the United States, if they understood that possible threat, I think, would go along with the recommendations of our committee.

If the reduction is made, we will not be able to remain on a course for a deployment of ground-based defenses by 2002 or 2003, as recommended by the committee. In effect, we will stretch this out unnecessarily. We will, therefore, increase the costs and delay achieving the real objective and the capabilities that I think are entirely possible. Therefore, Mr. President, I urge that we defeat the amendment before the body, and reserve the remainder of our time.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. EXON. I yield whatever time is left to the Senator from Virginia.

The PRESIDING OFFICER. The time of the opponents has expired.

Mr. EXON. Mr. President, I ask unanimous consent for 3 additional minutes to be awarded to the Senator from Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Reserving the right to object, and I do not intend to object, I am hopeful in the event we might want an additional 3 minutes our friends would not object also.

Mr. EXON. I amend my unanimous-consent request to 3 additional minutes be awarded to each side, and I award our 3 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I object. I simply think we shall not readjust the question of time because Members have programmed themselves accordingly.

Mr. President, I move to table the underlying first-degree amendment. I ask for the yeas and nays.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator has 2 minutes remaining. A motion is not in order.

Mr. HEFLIN. Mr. President, I rise in strong opposition to this amendment. Its proponents claim that this cut in the SDI Program is necessary because of the looming deficit. Too often I hear defense cuts being touted as the bill-payer for the new domestic programs, the new tax cuts, balancing the budget and all the other cure-alls for our sagging economy. The President's 1993 defense budget is $272 billion, compared to a $400 billion deficit. A defense cut, no matter how large, simply cannot pay for all our problems.

Needless to say, with the end of the cold war we can and should reduce our defense spending, but we must do so in a rational, deliberate manner. After every war we have been too quick to cut, too quick to assume we have entered an era of world peace. After sending our poorly trained, poorly equipped young men and women to die in WW II, Korea, and Vietnam, you would think every American would say never again will we send our youth to war unprepared. Instead, America is in danger of becoming consumed by short-term measures, driven by a crisis mentality.

Mr. President, Members of Congress are not called to be weather vanes, they're called to be statesmen, men who understand the long-term implications of their acts. You don't have to be a prophet to know that one day, perhaps only a few years from now, the wolf will again be at our door. Why then are so many of my colleagues posed to begin dismantling our defenses, brick by brick, leaving only a house of straw to protect us?

There are almost 40 wars and rebellions going on in the world today. Match this fact with the economic situation in Russia and their need for hard capital, and you have a recipe for disaster. The Russians have announced that they will sell SS-19 missile boosters on the open market. The Russians claim this booster is excellent for launching satellites, but they actually designed it to launch nuclear warheads at the United States. There is no more need to worry about Third World nations developing there own ballistic missiles, now they can simply buy the very best long range ICBM's from the Russians. They can purchase these missiles and arm them with nuclear warheads designed by hired Russian engineers, using stolen fissionable material. Certainly there has never been a clearer, stronger case for the deployment of strategic defenses. SDI was the only defense program President Bush spoke in support of during his State of the Union Address, and I believe his priorities could not be better placed.

Mr. President, the Soviet Union had superpower status for years because of its vast nuclear arsenal, but has now learned that a strong army doesn't make a strong country. Kuwait is a nation of riches, but learned that economic strength won't preserve your borders. The United States is now at a crossroads in history, and the decisions we make today will shape the worlds future.

Proponents of this funding cut have said that we don't have to worry about the former Soviet Union because they are selling off all their weapons, their soldiers are going unfed and unhoused, and their defense industries are in dire straits and soon to go out of business. Furthermore, it seems every month brings a new agreement that lowers the total number of nuclear warheads the Russians possess, though, of course, they have not yet dismantled the first bomb or missile.

Frankly, Mr. President, thoughts of the former Soviets arming the Third World and of the economic instability in their countries brings me no comfort. It is our responsibility as Senators to recognize that we are in a period of great hope, but also of great uncertainty. The strategic defense initiative is geared to offer us protection from the one threat from which there is currently no protection. During World War II the British stopped the Germans at the channel, and eventually managed to keep German planes from their skies, but they had no defense against the V-2. Though it is little known, during World War II American forces came under ballistic missile attack at Antwerp, which was hit by 1,610 V-2 missiles. Almost 4,000 Allied lives were lost during these missile attacks. I hope my colleagues will keep in mind that when World War II started just a few years earlier, no nation on Earth had ballistic missiles in production. I also hope my colleagues realize that ballistic missiles like the V-2, and the atomic bomb for that matter, were cutting edge technologies during the 1940's, 50 years ago.

We were fortunate that more men and women were not killed by the Scud missiles during the Persian Gulf war. The Patriot, designed to defend against aircraft, performed well but served only as a point defense. Had Saddam Hussein put chemical agents in the Scud warheads, I hestiate to even guess the number of lives that would have been lost.

Mr. President, the military is the sorcerer's apprentice who let the genies out of the bottle, never to be recaptured. Gunpowder, the Maxim machinegun, ballistic missiles, the atomic bomb, each was a weapon held originally only by one army. Today they or their descendants are spread across the face of the Earth. Who can stand before this body today and say that only five countries have long-range ballistic missiles and no other country ever will. A much safer statement would be to say that we will need strategic defenses in the future, and if we are to have them, we must invest today.

I implore my colleagues to join with me today in defeating this effort to cut SDI funding.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment before us, which would reduce funding for the SDI Program to $3.3 billion.

Mr. President, one of the most important lessons of the Persian Gulf war is that we must develop an effective defense against ballistic missile attacks, both for our forward deployed forces and for the protection of our citizens. Iraq was only one of many Third World countries that possesses or has the ability to develop ballistic missiles. Director Gates testified to that fact when he stated that the United States might be threatened by Third World ballistic missiles within the next 10 years. Additionally, we must not forget that our citizens are still threatened by the unauthorized or accidental use of ballistic missiles from the Republics of the former Soviet Union and China. Mr. President, the Armed Services Committee has supported the goal of deploying an antiballistic missile system, including one or an adequate additional number of ABM sites and space-based sensors, capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles. The committee authorized $4.3 billion for fiscal year 1993 to support this goal, as well as to fund continued research and development of Brilliant Pebbles space-based interceptors and other follow-on technologies necessary to provide future options for protecting the security of the United States and our allies.

Mr. President, we are at a decisive point in the SDI Program. The Armed Services Committee has provided a roadmap for a national missile defense system. We have the personnel and technical expertise to field an effective missile defense system before the end of the century. Let us not miss this opportunity to provide for the protection of our Nation.

The amendment before us would cripple continued research and development of a missile defense system. It would also cast a shadow on the historic and far-reaching agreement reached by President Bush and President Yeltsin, working together with allies and other interested States to develop a concept for a global protection system against limited ballistic missile attacks.

Mr. President, I urge the Senate to reject the cuts proposed in this amendment and support continued funding of a program to protect the United States from limited nuclear missile attacks.

SASSER-BUMPERS-LEVIN SDI AMENDMENT

Mr. MITCHELL. Mr. President, the Sasser-Bumpers-Levin amendment would provide funding to continue the SDI Program at a rate consistent with sound management and development principles. It provides a total of $3.3 billion in fiscal year 1993 for continuing research and development of all SDI Program elements.

The amendment's funding level for continuing development of a ground-based SDI system will ensure that the program's pace is consistent with a deployment based on adequate evaluation and testing. A higher risk, lower certainty approach would be a waste of taxpayer dollars and irresponsible at this time of great budgetary constraints.

The Senate Armed Services Committee report on the national defense authorization bill directs the Defense Department [DOD] to develop the initial ground-based SDI site consistent with sound acquisition procedures that would represent a low-to-moderate risk program. The committee report and administration's recent SDI report to Congress both note that DOD compliance with these guidelines would result in deployment of the initial ABM site in the year 2002.

The nonpartisan Congressional Budget Office has estimated that $3.3 billion is the appropriate fiscal year 1993 funding level for an SDI development schedule that would provide deployment by this date. However, the committee has recommended $4.3 billion in fiscal year 1993, $1 billion more than necessary to meet the committee-endorsed deployment schedule.

This deployment schedule also has been supported by David Chu, Assistant Secretary of Defense for Program Analysis and Evaluation. As noted in the New York Times, Mr. Chu recently reported to the Under Secretary of Defense for Acquisition that deployment of the first site of a ground-based defensive system should be delayed from 1996 to 2002 or 2003, so that prototype missile defenses could be adequately tested and modified before their use. In his report, Chu argued that a 1997 deployment would be "almost certain to suffer early, significant cost growth and schedule slippage."

The Department of Defense has acknowledged that even partial deployment of the initial site before adequate testing has occurred could result in a waste of 150 million taxpayer dollars on unsuitable missile defense equipment.

Mr. President, I support this amendment because it will provide adequate funding for all elements of the SDI Program, consistent with the recommendations of the Senate Armed Services Committee, the Congressional Budget Office, the Assistant Secretary of Defense for Program Analysis and Evaluation, common sense, and fiscal prudence.

Mr. SASSER. Mr. President, just stripping this controversy away to the bare bones, essentially what we are talking about is very simple.

The amendment that Senator BUMPERS and I are offering says that the theater missile defense will be fully funded, just as the President requested. We are saying that the SDI or the missiles that are slated to go to Grand Forks in compliance with the ABM Treaty will also be fully funded on a level that will bring the program to fruition and deployment by the year 2003.

What we are saying is that the program is still being funded as if it were proceeding on last year's accelerated level which contemplated deployment by 1996. And simply by funding it in accordance with when the program will reach fruition and the antiballistic missiles will be deployed, we will save $7 billion over the next 3 years. And that will be $7 billion that will not have to be taken out of domestic discretionary programs as we adhere to the budget agreement that otherwise would have to be taken out. It will mean that we will not have to take $7 billion out of education programs, other such programs, or we will not have to increase the deficit by an additional $7 billion.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SASSER. I thank the Chair.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I move to table the underlying first-degree amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting the Senator from Minnesota [Mr. WELLSTONE] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Wisconsin [Mr. KASTEN] are necessarily absent.

I also announce that the Senator from Utah [Mr. HATCH], is absent due to a death in the family. I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS], the Senator from Utah [Mr. HATCH], and the Senator from Wisconsin [Mr. KASTEN] would each vote "yea."

The result was announced—yeas 43, nays 49, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—43

Bentsen
Bingaman
Bond
Brown
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dixon
Dole
Domenici
Durenberger
Exon
Gorton
Gramm
Heflin
Hollings
Inouye
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—49

Adams
Akaka
Baucus
Biden
Boren
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dodd
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wofford

NOT VOTING—8

Burdick
Garn
Gore
Hatch
Helms
Kasten
Wellstone
Wirth

So the motion to table the amendment (No. 2918), as modified, was rejected.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I rise today in support of S. 3114, the Defense Authorization Act for Fiscal Year 1993. I believe this legislation to be a sound reflection of the current state of world affairs. At $274.5 billion in budget authority it is $2.9 billion below the budget resolution figure and $13.9 billion below the fiscal year 1993 cap on defense spending contained in the Budget Enforcement Act of 1993.

I would also like to congratulate the senior Senator from Georgia, the chairman of the Armed Services Committee, for the excellent job he has done in fashioning this strong, well-balanced legislation. I would also like to commend the distinguished Senator from Virginia, the ranking member of the committee, for his bipartisan cooperation that was so necessary in putting this bill together.

It is my understanding that the senior Senator from Virginia will be serving in the next Congress as the vice chairman of the Senate Select Committee on Intelligence. While I am sure that he will continue to exert a strong influence on the armed services committee, his leadership will certainly be missed.

A major focus on this bill revolves around the committee's call for a comprehensive review of the military services' roles and missions. Fiscal constraints and the reduction of the threat to our national security make it necessary for the Department of Defense to consolidate and streamline its functions. This legislation makes strong recommendations and calls for reviews in the areas of tactical aircraft, heavy bombers, and naval shipbuilding.

I believe that the Department of Defense should also focus its attention on the substantial savings that could be achieved through streamlining and consolidating in other areas such as initial helicopter pilot training.

Funding for the strategic defense initiative is always one of the more controversial provisions of any Defense authorization bill. This year's bill is no different. I am pleased that the committee was able to once again reach a bipartisan consensus on SDI and reaffirm the Missile Defense Act of 1991. I supported an amendment during markup that would have funded SDI at a level of $4.9 billion. I felt that $4.9 billion was the optimum level to carry out the provisions of the Missile Defense Act.

Therefore, I find the funding level of $4.3 billion for fiscal year 1993 that was eventually agreed to, and is identical to that of the House of Representatives, the minimum necessary to carry out the goals of this revised plan. While I will reserve additional comments for a later debate, I want to state now that I will oppose any and all efforts to cut SDI further.

I am extremely proud of the committee's action taken in regard to the National Guard and Reserves. This legislation funds Army National Guard and Reserve end-strengths at the level provided for in fiscal year 1993 in last year's bill. This translates into 425,450 for the Army Guard and 296,230 for the Army Reserves. The committee also included a provision that would prohibit any Selected Reserve Force structure reductions in fiscal year 1993. This bill also provides for important temporary transition initiatives for the Guard and Reserves, as well as active duty personnel.

U.S. National Guard and Reserve Forces were invaluable to the success of Operations Desert Shield and Desert Storm. I believe that they will be even more necessary to our national security as Active Duty Forces draw down.

Other highlights of the bill include: $1.2 billion in defense conversion assistance to individuals, communities, and the industrial base; the funding of a new LHD amphibious assault ship for the marines; four DDG–51 destroyers; $350 million in advance procurement funds for a new aircraft carrier; $2.2 billion for continued development of the F–22 fighter; a 3.7-percent cost-of-living increase for the uniformed services; and funding for the final increment of B–2 bombers.

I am especially pleased that S. 2389, legislation that I introduced on June

11, of this year, concerning surplus military equipment, was incorporated in the DOD authorization bill. This provision will give State and local governments first priority for surplus Department of Defense construction and fire equipment. Currently, surplus equipment is used as part of foreign aid and, in most cases, is simply given away to foreign nations. Under this provision, the equipment will be sent to the General Services Administration for distribution to State and local governments.

I am, however, deeply disappointed that the committee chose to terminate the RAH-66 Comanche Light Helicopter Program. While I do not agree with the committee's decision, I share the committee's belief that the central problem with the Comanche Program is its flawed acquisition strategy. The Department of Defense has, so far, been unwilling to provide evidence that it will agree to take this program to procurement at the end of the existing demonstration phase. This policy does not, however, subtract from the fact that the Comanche is a good program, well-developed, well-conceived, and the Army's No. 1 priority. The Comanche is the most cost and operationally effective way to modernize the current light helicopter fleet.

I believe that this is also an issue of fairness. The Department of Defense budgeted nearly $11 billion to develop a new attack aircraft for the Navy, even though there is not a single design approved for the program. Yet, the Department refused to budget more than $1.9 billion for the Comanche, which is 5 years ahead of the ax and just as critical for future warfighting needs. Indeed, the entire Army procurement budget is just $6.8 billion, compared to $22 billion for the Navy and $24.6 billion for the Air Force. Similar inequities exist in the research and development accounts. The R&D budget is $5.4 billion for the Army, $8.5 billion for the Navy, and $14.5 billion for the Air Force. Taking these low spending levels into consideration, I cannot find any justification for terminating the Army's only major new start, apart from the flawed acquisition strategy imposed on the Army.

I have recently held a meeting with the Vice Chief of Staff of the Army, Gen. Dennis Reimer, and Mr. Frank Kendall, the Deputy Director of the Department of Defense tactical warfare programs, in an effort to bring the Department of Defense to a decision on the Comanche. I found this meeting to be very productive and believe that public support for the Comanche program by the Secretary of Defense will be forthcoming.

The Army current light scout and attack helicopter fleet must be modernized. The Comanche will be more deployable, more supportable, more compatible for shipboard operations, and more versatile than any aircraft in the Army fleet. I will continue to fight to ensure funding for this valuable aircraft.

Mr. President, I cannot end this statement without conveying my thanks and appreciation to two of our colleagues on the Armed Services Committee whose last defense authorization bill is before this body today. First, I would like to commend my very good friend, the chairman of the Readiness Subcommittee, for his 12 years of service in the Senate to the people of Illinois and the Nation. ALAN DIXON and I served together on identical subcommittees of the Armed Services Committee and on the Banking Committee. I believe that ALAN DIXON is one of the most well-liked and respected Members of this institution. I will miss his good counsel, his good humor, and ability to turn the seemingly most mundane of issues into one of supreme national security.

My relationship with the senior Senator from Colorado goes back to 1979, when I was first elected to Congress. We served together on the House Energy and Commerce Committee and the Armed Services, Banking, and Energy Committees of this body. I have always been impressed with TIM WIRTH's quick grasp of issues, his wit, and strong convictions. I will miss my friend of 14 years.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, there is obviously a quorum present in the Chamber.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. We are in the process of a quorum call.

Mr. SASSER. Mr. President, I make a point of order that a quorum is present in the Chamber.

Mr. DOLE. I object. A quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The bill clerk resumed the call of the roll.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President and Members of the Senate, under an order previously agreed to by all Members of the Senate, I have the authority following consultation with the Republican leader to proceed to executive session to permit consideration of a motion to proceed to the nomination of Edward Carnes to the U.S. Circuit Court of Appeals. Under that order there will be 35 minutes for debate; 15 minutes under the control of Senator HEFLIN, 20 minutes under the control of Senator BIDEN, and then a vote will occur on that motion to proceed.

It is my intention momentarily to exercise that authority, and to proceed to that matter so that a vote will occur in just over 35 minutes.

Following consultation with the Republican leader, with the distinguished Senators from Georgia and Virginia, the managers of the bill; with Senators SASSER, BUMPERS, and others who have been active in the amendment that has been considered and with respect to which a motion to table has just failed, it is my belief we are not going to be able to accomplish any further business on this bill this evening or tomorrow. Therefore the vote on the motion to proceed to the nomination of Mr. Carnes will be the last vote this evening.

The Senate will not be in session tomorrow or Sunday. The Senate will return to consideration of this bill at 9:30 a.m. on Monday.

Neither I, nor anyone else, can now predict with certainty what the situation will be on Monday when we return to consideration of this bill. And, therefore, votes may occur at any time during the day on Monday. Senators should be alerted to that possibility.

I do not know for certain what will happen or when. Obviously, the matters under consideration will be reviewed and considered over the weekend. But as Monday is the first of only 3 days next week prior to the time the Senate goes into recess to permit our colleagues to attend the Republican convention, that is we have only 3 days, Monday, Tuesday, and Wednesday, we will attempt to proceed as efficiently and expeditiously as we can under the circumstances.

Therefore, I regret that I cannot state to my colleagues with anymore certainty what the situation will be on Monday.

Mr. WARNER. Will the distinguished leader be willing to indicate that this amendment of the Senator from Arkansas would be the pending business, assuming under regular order at some point the defense bill would be brought up?

Mr. MITCHELL. Mr. President, it is my understanding that that is the parliamentary situation.

To make certain I will ask the Chair, since under the order, following the vote on the motion to proceed to Mr. Carnes, regardless of the outcome the Senate is to return to legislative session. And under the rules I believe the pending business would be the bill.

And since the pending amendment was not tabled, the pending business would be the amendment.

I inquire of the Chair whether my understanding of the order and the operation of the rules is correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. WARNER. Mr. President, I thank the majority leader.

Mr. DOLE. Mr. President, I think the majority leader has accurately stated the situation we are in. Maybe by Monday there will be willingness to set aside the amendment, take other amendments up on the DOD authorization bill. There could be no votes on Monday. There could be a number of votes. If this is not set aside there will not be any votes. If it is set aside I know there are a number of us who would like to get to the Bosnian resolution, and maybe something that would accommodate some kind of amendment sometime on Monday morning.

Mr. MITCHELL. Mr. President, I thank my colleagues. I express my regret at the fact we have not acted on the Bosnian resolution, that we would do so. It is a matter on which I think the Senate should express its will. And we will see when, as we can proceed to it, we will do so.

Mr. President——

Mr. WARNER. Mr. President, I think we should like to say—and I defer to the Republican leader—we have been working diligently to determine whether or not in fact prior to this impasse of the vote that we could reach a resolution which, hopefully, would meet the expectations of the great majority of the Members here on Bosnia.

EXECUTIVE SESSION

MOTION TO PROCEED TO THE NOMINATION OF EDWARD E. CARNES, OF ALABAMA, TO BE U.S. CIRCUIT JUDGE

Mr. MITCHELL. Mr. President, there being no further comment on this matter, I now exercise the authority under the previous order and ask that the Senate proceed to executive session for the purpose of consideration of the motion to proceed to the nomination of Edward Carnes to the U.S. circuit court.

The PRESIDING OFFICER. The Senate will now proceed to executive session to consider the motion to proceed to Executive Calendar 571, the nomination of Edward E. Carnes.

Who yields time?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware controls 20 minutes.

Mr. BIDEN. Mr. President, I will be very brief.

Although I continue to oppose the nomination of Mr. Carnes, I and others who oppose his nomination are willing to support the motion to proceed to the nomination under the agreement to vote in September, and I do that for two reasons. First, I hope the agreement will permit the Senate to proceed to act on the 12 judicial nominations as well as other nominees.

The first reason I support the motion to proceed, notwithstanding the fact I oppose the nomination of Mr. Carnes, is that I hope this agreement, the agreement which is encompassed in us moving forward, which means there will be a cloture vote in September when we get back, I believe the second day we get back. It is my hope that we will now be able to allow the 12 judges, 12 nominees beyond Mr. Carnes, who are before the Senate, to proceed.

As chairman of the committee, I hope to be able to report to the Senate by Wednesday an additional four or five additional judges. It would be my hope that we could move as many as 18 judges before we go out. So I hope this will break that impasse.

The second reason I support the motion to proceed is it will allow my colleagues ample time to review the record of this nomination and come to a reasoned vote in September. I recognize all my colleagues take this opportunity seriously, and I hope they will carefully consider whether Mr. Carnes should be confirmed to the court of appeals.

Before us today is a procedural motion to take up the nomination of Edward Carnes to the U.S. Court of Appeals for the Eleventh Circuit. Under a unanimous consent agreement entered today, we will fully debate the merits of Mr. Carnes' nomination—and ultimately vote on his nomination—in September.

Although I continue to oppose the nomination of Mr. Carnes I am willing to support the motion to proceed to this nomination under the agreement to vote in September—for two reasons.

First, I hope this agreement will permit the Senate to proceed to act on the 12 judicial nominees, as well as other nominees, now pending on the Senate Calendar.

Second, this procedure will allow all of my colleagues ample time to review the record on this nomination and come to a reasoned vote in September. I encourage all of my colleagues to take this opportunity to carefully consider whether Mr. Carnes should be confirmed to the court of appeals.

Mr. Carnes has for many years served as an assistant attorney general for the State of Alabama in charge of the State's capital litigation unit. Many have assumed that opposition to Mr. Carnes stems from his support of the death penalty. This is not the basis of my opposition—I support the death penalty under appropriate circumstances.

These include, in my view, adequate procedural and constitutional safeguards by which our courts ensure this ultimate sanction is meted out justly.

In my view, Mr. Carnes failed to demonstrate an appreciation for the fundamental unfairness of race-based jury selection—discrimination the Supreme Court has long held to be unconstitutional; discrimination that continues to undermine confidence in our entire system of justice.

All of us pay the price for this failure of confidence. All of us pay the price for the continuing vestiges of race discrimination in our justice system. To repair this failure, we must have nominees whose sensitivity to racial discrimination—and commitment to zero tolerance of racial discrimination in any part of our justice system—is without question.

Too many questions have been raised about Mr. Carnes in this respect for me to support his nomination. I hope all Senators will carefully examine his record before we vote in September.

But I am not convinced that Mr. Carnes understands what is at stake in protecting the integrity of our procedural safeguards in such cases. Most troubling, in my opinion, is his handling of appeals in capital cases—despite evidence that the trial prosecutor has used race in selecting a jury.

For example, in one case, the trial prosecutor had divided prospective jurors into four categories—strong, medium, weak, and black. After the defendant was convicted, Mr. Carnes' office pursued the appeal, without asking either the prosecuting attorney or the Attorney General to confess error.

When I asked Mr. Carnes about it, he admitted that such a selection method was unlawful, but said it would not necessarily affect the fundamental fairness of a trial. I yield the floor.

Mr. HEFLIN. Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I thought I was controlling the time.

Mr. HEFLIN. I was told differently. Under the unanimous-consent agreement it said me.

The PRESIDING OFFICER. The agreement is Senator HEFLIN controls that portion of the time.

Mr. THURMOND. Does the Senator want to control the time?

Mr. HEFLIN. It is perfectly all right to go ahead. It makes no difference.

Mr. THURMOND. The ranking member generally controls the time. If you want, I will turn it over to you.

Mr. HEFLIN. Go ahead.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, in order to save time, I just want to say this. The President has appointed Mr. Carnes. Both Senators from Alabama favor Mr. Carnes. Mr. Carnes has a fine record, a good judicial temperament, integrity, professional qualifications. He has everything it takes to make a good judge, and I hope the Senate will confirm him.

Mr. President, I urge my colleagues to support a motion to go into executive session in order to begin consideration of the nomination of Mr. Edward Carnes, of Alabama, to be a U.S. circuit judge for the Eleventh Circuit Court of Appeals.

Mr. President, Mr. Carnes was nominated by President Bush on January 27, 1992, approximately 7 months ago. The Judiciary Committee conducted a comprehensive review of Mr. Carnes' record prior to his confirmation hearing on April 1, 1992. During his hearing, the committee heard testimony from prominent witnesses who strongly support his nomination for this very important position. The committee considered Mr. Carnes' nomination on May 7, 1992, and voted 10 to 4, to favorably report his nomination to the Senate for confirmation. Over the past 2 months, Mr. Carnes' nomination has been pending before the Senate awaiting final action by this body.

Mr. President, the Judiciary Committee has acted favorably on this nomination. It is now up to the full Senate to begin consideration of Mr. Carnes' nomination. I know of no reason his nomination should be blocked from consideration. The Judiciary Committee has thoroughly reviewed his background and qualifications, and an overwhelming number of committee members favorably endorsed his nomination for confirmation.

Mr. President, I firmly believe every nominee should be afforded the opportunity of an up or down vote by this body. It is not fair to a nominee to unnecessarily drag out the confirmation process for months at a time. I have reviewed Mr. Carnes' background for this position and I am convinced that he possesses the experience, integrity, and temperament to become an outstanding judge on the Eleventh Circuit Court of Appeals. I urge my colleagues to join me in supporting the motion to go into executive session to begin consideration of this nominee.

I now yield 5 minutes to the distinguished Senator from Alabama [Mr. SHELBY].

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today to support the nomination of Ed Carnes to be a judge on the Eleventh Circuit Court of Appeals—a position for which he is exceptionally qualified. I initially voiced my support for Mr. Carnes when he appeared before the Senate Judiciary Committee for his confirmation hearing, and nothing has been brought to my attention to alter my strong support of that view. The Judiciary Committee voted to confirm Mr. Carnes on a 10 to 4 vote.

While I was disappointed that a few of my colleagues have prevented, until today, full Senate consideration of Mr. Carnes' nomination, I want to thank the majority leader for moving to this nomination.

Ed Carnes grew up in Albertville, AL. He attended the University of Alabama where he achieved a perfect grade point average.

After graduating from the University of Alabama, Mr. Carnes attended Harvard Law School, where he excelled and graduated with honors. After graduating from law school, he did not go to work for a big law firm, but instead chose to serve the people of Alabama as an assistant in Alabama's attorney general's office. During his 17 years in the Alabama attorney general's office, Mr. Carnes has litigated hundreds of complex cases, both civil and criminal, jury and nonjury trials giving him a strong working knowledge of the Federal judicial process and preparing him well to serve on the Federal bench.

For more than a decade, Mr. Carnes has been the chief of capital litigation division in the attorney general's office of Alabama. This division, Mr. President, is responsible for representing the State in all capital case litigation at the post-conviction stage. Because Mr. Carnes is the head of this division, he has handled the appeals of all eight death row inmates executed in Alabama since 1980. In addition, as division chief, he also supervised all other State cases against inmates on death row. Mr. Carnes has a remarkable reputation for the quality of his work and the fairness in which he practices law.

Ed Carnes' expertise is not limited to capital cases as some of his opponents have claimed. He has had the responsibility for prosecuting ethical complaints filed against State court judges by the Alabama Judicial Inquiry Commission. He has litigated 18 cases against judges for unethical conduct ranging from promises of favorable treatment for personal favors to making racial remarks in the courtroom. Ed Carnes won all 18 cases for the State of Alabama.

Mr. President, Mr. Carnes has received many honors and awards. He is a member of the American Bar Association, the Alabama Bar Association, and the Alabama District Attorneys Association. He has not limited his service to professional legal organizations. He has actively participated in civic and social organizations such as the Parent Teachers Organization.

I believe that you can often best judge a lawyer by what fellow members of the bar have to say about him. Mr. Carnes' colleagues use terms like "a good lawyer," "a fair guy," "a tough, formidable adversary," and "a quick wit", more than that, he has integrity. In addition, Judge Frank Johnson, Jr., whom Mr. Carnes will succeed, has given Carnes high marks as an attorney. Judge Johnson has been quoted as saying that Mr. Carnes is "a good choice" for the appeals court. Bill Baxley, a former attorney general for the State of Alabama, and Morris Dees, the cofounder of the Southern Poverty Law Center, testified in support of Mr. Carnes before the Judiciary Committee. The three States within the eleventh Circuit Court of Appeals' jurisdiction are Alabama, Florida, and Georgia. The attorney generals of these three States have written in support of Ed Carnes' nomination saying that "he has a reputation for ethical propriety that is unsurpassed." They also wrote that "he has earned and enjoys a reputation as one of the finest attorneys in the eleventh circuit."

Mr. Carnes also has the support of many prominent black leaders in Alabama, including Alabama Supreme Court Justice Oscar Adams, Montgomery Circuit Judge Charles Price, and State Representative Alvin Holmes, the chairman of the affirmative action committee of the Alabama Black Legislative Caucus.

Despite what some opponents of Mr. Carnes claim, there is no evidence that he is in any way prejudiced. In fact, his career, his membership in an integrated church, and the strong recommendations he has received from prominent Alabamians of all races describe a man who will be a fair and impartial judge. Ed Carnes has been a foe of racial discrimination his entire life. Morris Dees describes Ed Carnes as a man who has:

> * * * worked to bar the importation of South African coal. He personally prosecuted disciplinary charges against two racist judges and had them removed from the bench. As chief counsel for the State on appeal, he preserved the conviction of the Klansman who murdered four young black girls in the notorious Sixteenth Street Baptist Church bombing case.

Many other individuals, who have worked with Ed Carnes, have stated that he has been in the forefront of the fight against racial intolerance in Alabama.

Mr. President, a prominent attorney in Mobile, Alabama, David Bagwell, stated in a letter to the New York Times that "[n]o judicial nominee in recent years has had a better civil rights record than Mr. Carnes. Years before the Supreme Court banned racially discriminatory 'peremptory strikes' of black jurors by prosecutors, Mr. Carnes was urging State prosecutors to stop." Mr. Bagwell clerked for Judge Johnson and has opposed Mr. Carnes in a number of capital cases, but testified in favor of Ed Carnes before the Senate Judiciary Committee.

Mr. Carnes' adult life has been spent in service to the people of Alabama. I believe that Mr. Carnes possesses the intellect, education, and experience to sit on the eleventh circuit. I am proud and honored today to express my support for his nomination and I urge all of my colleagues to not merely examine what some special interest group has to say about Ed Carnes, but to review the transcript of his hearing. I have no doubt that if all Senators reviewed the transcript there would be few, if any, votes cast against him.

Mr. President, I ask unanimous consent that a letter from 31 State attorneys general, both Republican and Democratic, who have written in support of Ed Carnes, be printed in the RECORD. In addition, Mr. President, I ask unanimous consent that a letter from David Bagwell to the New York Times and a resolution by the Alabama State Bar in support of Mr. Carnes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 9, 1992.

Senator GEORGE J. MITCHELL,
Majority Leader, U.S. Capitol, Washington, DC.
Senator ROBERT DOLE,
Republican Leader, U.S. Capitol, Washington, DC.

Re: Nomination of Ed Carnes to the United States Court of Appeals for the Eleventh Circuit

DEAR SENATORS MITCHELL AND DOLE: We, the undersigned state attorneys general, are writing to urge a prompt and affirmative vote on confirmation of the nomination of Ed Carnes to the United States Court of Appeals for the Eleventh Circuit.

Mr. Carnes is a highly qualified attorney with in-depth experience in appellate practice and expertise in criminal law, constitutional law, and federal procedure. His career has been distinguished, and he has displayed a fine sense of principled fairness. Mr. Carnes' record on civil rights is outstanding.

We are concerned that some of the groups opposing Mr. Carnes' nomination are not only distorting his record but are also taking a position that threatens to undermine our adversary system. Every attorney, including every government attorney, has an ethical duty to his client and to the legal system as a whole, to represent his client "zealously within the bounds of the law." See, Model Code of Professional Responsibility, Canon 7-1. We are well aware of Mr. Carnes' efforts in that case, because he persuaded forty-five states to join an amicus curiae brief supporting his position. The Southern Christian Leadership Conference and the Southern Poverty Law Center also filed a brief supporting Mr. Carnes' position.

After the Supreme Court declined to decide the issue in that case, Mr. Carnes persevered. He succeeded in getting an Alabama appellate court to hold that both the federal Constitution and state law prohibited defendants from engaging in the racially discriminatory use of peremptory strikes. Such a holding will make it far more difficult for white defendants charged with crimes against African-Americans to obtain an all-white jury. Therefore, the Rodney King case illustrates the wisdom of Mr. Carnes' efforts, which argues strongly in favor of confirming his nomination.

Consideration of this nomination is not and should not be a partisan matter. While Mr. Carnes is the nominee of a Republican President, he has served under four Alabama Attorneys General, all of whom were Democrats and all of whom strongly support his nomination. The Judiciary Committee vote in favor of his nomination came from both Democrats and Republicans. Some of us are Democrats and some of us are Republicans, but we are united in asking you to use your influence to secure prompt confirmation of this nomination.

Sincerely,

James H. Evans, Alabama Attorney General; Grant Woods, Arizona Attorney General; Charles E. Cole, Alaska Attorney General; Daniel E. Lungren, California Attorney General; Gale A. Norton, Colorado Attorney General; Robert A. Butterworth, Florida Attorney General; Larry Echohawk, Idaho Attorney General; Chris Gorman, Kentucky Attorney General; Frank J. Kelley, Michigan Attorney General; Don Stenberg, Nebraska Attorney General; Robert J. Del Tufo, New Jersey Attorney General; Nicholas J. Spaeth, North Dakota Attorney General; Charles M. Oberly III, Delaware Attorney General; Michael J. Bowers, Georgia Attorney General; Robert T. Stephen, Kansas Attorney General; Richard P. Ieyoub, Louisiana Attorney General; Mike Moore, Mississippi Attorney General; Frankie Sue Del Papa, Nevada Attorney General; Lacy H. Thornburg, North Carolina Attorney General; Susan B. Loving, Oklahoma Attorney General; Ernest D. Preate, Jr., Pennsylvania Attorney General; Dan Morales, Texas Attorney General; Jeffery L. Amestoy, Vermont Attorney General; Joseph B. Meyer, Wyoming Attorney General; Lee Fisher, Ohio Attorney General; John P. Arnold, New Hampshire Attorney General; Mark Barnett, South Dakota Attorney General; Paul Van Dam, Utah Attorney General; Ken Eikenberry, Washington Attorney General; Warren Price III, Hawaii Attorney General; James E. O'Neil, Rhode Island Attorney General.

The 31 state attorneys general signing the joint letter include 19 Democrats an 12 Republicans. They represent 24 states that have capital punishment statutes and 7 states (Alaska, Hawaii, Kansas, Michigan, North Dakota, Rhode Island, and Vermont) that do not.

[From the New York Times, June 13, 1992]

MR. CARNES IS STRONG ON CIVIL RIGHTS

To the Editor:

"Replacing Judge Johnson: Try Harder" (editorial, May 31), against confirmation of Edward Carnes to the United States Court of Appeals for the 17th Circuit to replace Judge Frank Johnson, is just dead wrong.

Nobody—not any lawyer or judge—can ever replace Judge Johnson. But somebody has to take his seat after his retirement, and Judge Johnson himself has said publicly that Mr. Carnes is a "very good" choice.

He's right. And I should know. I'm one of a very few people who know both men. I was Judge Johnson's law clerk, and I have also litigated death penalty cases against Ed Carnes from the bottom of the court system to the top. (In two cases, I had to call and tell the men they would die by electrocution that night, that all appeals had failed.) And I was a founding member of the Alabama State Bar Task Force on Capital Defense Representation.

No judicial nominee in recent years has had a better civil rights record than Mr. Carnes. Years before the Supreme Court banned racially discriminatory "peremptory strikes" of black jurors prosecutors, Mr. Carnes was urging state prosecutors to stop. In a case with a black defendant and a white victim, Mr. Carnes advised the State Attorney General—in a sort of "reverse Simi Valley"—to transfer the case to a forum with more potential black jurors.

And nobody else has done more to stop white criminal defendants from excluding blacks from juries. In a case in my hometown, some Ku Klux Klansmen were charged with lynching a young black man. Mr. Carnes went all the way to the Supreme Court to stop those Klansmen from striking blacks from the jury. He was joined in that effort by the Southern Christian Leadership Conference and the Southern Poverty Law Center. The Supreme Court wouldn't decide the issue, but Mr. Carnes persuaded the Alabama court to adopt a rule forbidding white defendants to remove African-Americans from juries because of their race.

And Mr. Carnes worked hard to uphold the murder conviction of the people who brought us the 16th Street Baptist Church burning in Birmingham, where Klansmen killed four young black girls. He prosecuted two Alabama judges for racial conduct and got both removed from the bench.

You mentioned that Senator Joseph Biden, the Judiciary Committee chairman, decided to vote against Mr. Carnes. You didn't mention that Senator Biden also said, "if you put all the positive marks next to this man's name and all the negative marks, that the positive marks far outweigh, on civil rights, the negative marks, in my view."

Mr. Carnes has spent his career fighting crime, but along the way he consistently fought bum raps. Your editorial gave Edward Carnes a bum rap.—David A. Bagwell, Mobile, Ala., June 3, 1992.

ALABAMA STATE BAR, BOARD OF BAR COMMISSIONERS

RESOLUTION

Whereas, the Alabama State Bar is composed of all of the attorneys licensed to practice law in the State of Alabama;

Whereas, the Board of Commissioners of the Alabama State Bar is the statutory body governing the affairs of the Alabama State Bar, and it is duly authorized to act in matters such as this resolution;

Whereas, on January 28, 1992, Edward Carnes was nominated by the President of the United States to be a judge on the United States Court of Appeals for the Eleventh Circuit;

Whereas, after conducting an extensive investigation, the American Bar Association's fifteen-member Standing Committee on the Federal Judiciary unanimously rated Mr. Carnes qualified for the position;

Whereas, Mr. Carnes has been an attorney practicing law in Alabama for more than sixteen-and-a-half years, and during that time he has never had an ethical complaint of any kind filed against him;

Whereas, the Judiciary Committee of the United States Senate has favorably reported Mr. Cranes' nomination to the Senate as a whole;

Whereas, some persons and groups have expressed opposition to confirmation of Mr. Cranes' nomination based upon the performance of his duties as an advocate while he has served as assistant attorney general for the State of Alabama;

Whereas, in our adversary system of justice every attorney owes a duty, both to his client and to the justice system as a whole, to represent his client "zealously within the bounds of the law" as that ethical duty is phrased in the Preamble of the Alabama State Bar Rules of Professional Conduct;

Whereas, no appointee to a judicial position should be denied confirmation because he has carried out his ethical duty to be an advocate for his client;

Whereas, to deny Mr. Carnes confirmation because he has carried out his duty as an advocate would undermine the adversary system and could deter other attorneys from fully representing some clients in the future, particularly unpopular clients who need legal representation the most;

Whereas the opposition to Mr. Carnes also threatens to undermine the efforts of the Alabama State Bar and the American Bar Association to educate the public about the duty of an advocate and our adversary system of justice;

Now, Therefore, Be It Resolved, that the Board of Commissioners of the Alabama State Bar strongly affirms its belief in the adversary system of justice and the duty of every attorney to diligently represent clients as an advocate;

Be It Further Resolved, that the Board of Commissioners of the Alabama State Bar condemns in the strongest possible terms any opposition to a judicial nomination based solely upon the nominee's actions in ethically and honorably performing his duty as an advocate to represent his client to the best of his ability.

Be It Further Resolved, that the Board of Commissioners of the Alabama State Bar calls upon the United States Senate to reject the opposition to confirmation of the nomination of Edward Carnes, which is based upon the performance of his duty as an advocate for his client, the State of Alabama;

Be It Further Resolved, that the Board of Commissioners of the Alabama State Bar calls upon the United States Senate to confirm the nomination of Edward Carnes;

And, Finally, Be It Further Resolved, that a copy of this resolution be transmitted to the majority leader and the Republican leader of the United States Congress and to both of Alabama's United States Senators.

Mr. SHELBY. Mr. President, I urge my colleagues to support this motion to proceed, and subsequent to that, the confirmation of Ed Carnes himself.

Mr. THURMOND. Mr. President, I yield the remainder of the time to the distinguished Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. I thank the Senator.

How much time is remaining on our side?

The PRESIDING OFFICER. Nine minutes, eight seconds.

Mr. HEFLIN. Mr. President, I support the nomination of Ed Carnes to the U.S. Court of Appeals for the Eleventh Circuit which includes my home State of Alabama as well as the States of Georgia and Florida. I would like to review the record and cite to you the basis for my support.

As the head of the capital litigation division of the attorney general's office for the State of Alabama, it has been Mr. Carnes' responsibility for representing the State in capital litigation at the postconviction stage—on direct appeal as well as State and Federal collateral litigation.

The Judiciary Committee conducted an extensive investigation of the nominee's background and held a hearing where witnesses were heard both in support of and in opposition to his nomination. Further, the committee has submitted additional questions to which the nominee fully responded. The committee voted 10-4 to report his nomination.

When the President submitted Mr. Carnes' nomination, I did an extensive investigation into his background, as I endeavor to do relative to all judicial nominations, on the issues of integrity, qualifications, judicial temperament, civil rights, and general philosophy. I knew Mr. Carnes' nomination would be controversial because of his background in representing the State of Alabama in capital punishment cases.

I was surprised to learn of his strong support from the civil rights community in Alabama. I heard from or discussed this nomination with most of the leaders of the civil rights community in my State. Among those with which I discussed Mr. Carnes' nomination or heard from are the following:

Leaders of the Southern Poverty Law Center, including Morris Dees and Richard Cohen; John Carroll, former Associate Director of the Southern Poverty Law Center and now a U.S. magistrate judge. Justice Oscar Adams, an African-American member of the Alabama Supreme Court; Judge Charles Price, an African-American trial judge of the circuit court bench in Montgomery; State Representative Alvin Holmes, chairman of the affirmative action committee of the black caucus of the Alabama State Legislature; Bill Dawson, a civil rights attorney of Birmingham; David Bagwell, former law clerk to Judge Frank M. Johnson and former U.S. magistrate; Steve Glassroth, a Montgomery criminal defense attorney; Rick Harris, a Montgomery criminal defense attorney; and other civil rights and political leaders whose names I hold in confidence at their request for other reasons.

The answer that I got was that Ed Carnes was a highly intelligent, competent lawyer, a tenacious advocate, but an individual of the highest integrity and who at all times practiced fairness and ethical conduct. I became convinced that he was a tough battler, but an honorable battler. Most of these individuals told me that personally they opposed capital punishment, but they realize that a potential judge should not be evaluated on a one-issue basis, but should be viewed on a much broader spectrum, particularly on issues that will affect the future of the 11th Circuit Court of Appeals on civil and human rights.

In reviewing the opposition that has been generated against Mr. Carnes, one can conclude that his opponents view his confirmation as being a referendum on capital punishment, although they deny it. There is strong evidence that most of the opposition to Mr. Carnes has originated from one individual who vehemently opposes capital punishment. This is Steve Bright, who is director of Southern Center for Human Rights in Atlanta. Mr. Bright has marshalled considerable forces to oppose Mr. Carnes' nomination. I have only observed Mr. Bright as a witness before the Judiciary Committee so therefore I will not attempt to personally evaluate Mr. Bright's motivation, but I direct your attention to the words of Morris Dees, the director of the Southern Poverty Law Center, which are contained in a letter to Dr. Joseph Lowery, president, Southern Christian Leadership Conference, a portion of which follows:

DEAR JOE: I would like to reply to Steve Bright's sixteen page letter opposing Ed Carnes for the Eleventh Circuit Court of Appeals. My copy of Steve's letter did not arrive until ten days after it was dated. I had no way to reply earlier.

First let me say that I sympathize with Steve for opposing anyone for a judgeship who favors capital punishment. Steve is a one-issue person because of the work he does. I also oppose the death penalty, but view a potential judge on a much broader range of issues that are important to civil and human rights.

Ed Carnes has an outstanding record on civil rights and this is the reason I support him so strongly. I'd like to take a few pages and point to the more obvious omissions and misstatements in Steve's letter.

In discussing capital punishment in Alabama, Steve neglected to tell you about a case involving a client of his who was scheduled for execution at the time of Steve's letter, and whose sentence has since been carried out. The man, whom Steve defended, was white. He hired two African-American men to kill his wife, who was 9 months pregnant, so he could marry another woman to who he was secretly engaged. Both of the African-American men who actually carried out the murder got life sentences in Alabama. Steve's client, who is white, got a death sentence which was carried out last week. I am surprised Steve did not use that case to argue that Ed is prejudiced against whites.

I can understand that Steve is upset because his client was executed. But it is simply unfair for Steve not to admit that Ed has by far the strongest record on civil rights, of any Federal judicial nominee in the State in at least the past decade * * *.

Steve Bright cannot tell you the name of any other recent Federal judicial nominee in Alabama who has prosecuted State judges for racist misconduct and gotten them thrown off the bench, as Ed has done. Steve cannot tell you the name of any other recent Federal judicial nominee in Alabama who, as early as the 70's, defended black public officials who were being sued by whites, as Ed did. Steve cannot tell you the name of any other recent Federal nominee who has gone to the United States Supreme Court in an attempt to prevent members of the Klu Klux Klan from discriminating against blacks, as Ed did. Steve cannot tell you the name of any other recent Federal judicial nominee who has been joined by the SCLC in one of his efforts to fight racial discrimination, as Ed has.

Ed has been successful in getting the Alabama Court of Criminal Appeals to rule in two cases that white criminal defendants cannot practice racial discrimination against African-American members of the jury. Steve omitted these two important cases.

Steve says you should oppose Ed because he supported Bill Baxley's opponent in the Alabama gubernatorial race in 1986. The irony of Steve's argument is that Bill Baxley strongly supports Ed's nomination. Bill recalls the hard work Ed did to ensure that the murder conviction of Klansman Robert Chambliss was upheld in the Birmingham Church bombing case, which involved the

> murder of four young African-American girls. Bill also recalls that Ed assisted him in the mid-1970's in a legal action to prevent Alabama Power Co. from importing South African coal. That legal action that Bill and Ed took so threatened the economy of South Africa that it was forced to change its laws involving the use of indentured black labor. I invite you to call Bill Baxley (phone number) about Ed.
>
> Steve lists the names of others he says would be better nominees. It was ironic that he includes Justice Oscar Adams in that list, because Justice Adams strongly supports Ed's nomination. He has sat on a number of Ed's cases. I invite you to call Justice Adams (phone number) about Ed * * *.
>
> The facts are that Ed Carnes drafted legislation to increase money paid to attorneys to represent indigent capital defendants; he wrote an official advisory opinion of the Attorney General which doubled the amount of money to be paid for out-of-court work in such cases; and he succeeded in having the Legislature appropriate thousands of dollars for use in paying litigation expenses of indigent defendants under capital sentences. Ed Carnes has done more than virtually any other attorney in Alabama to increase State funding for indigent capital defendants.
>
> Steve ignores the fact that, in case after case, Ed Carnes has been fair to defendants even when doing so angered district attorneys. In one case Ed went into the appellate courts and argued that a death sentence was unconstitutional and should be reversed, while the district attorney argued to the contrary. In another case Ed argued to the Alabama Supreme Court that trial judges should have authority to order district attorneys to open their files to capital defendants. The entire Alabama District Attorneys Association argued against Ed's position, but he won. As a result, Alabama has one of the most liberal discovery rules in capital cases of any State in this country.
>
> Steve also chooses to ignore the fact that Ed Carnes has exposed attempts of district attorneys to hide evidence favorable to capital defendants. In at least two cases involving African-Americans under sentence of death, Ed discovered and disclosed evidence favorable to them that the prosecutors had not divulged at trial. As a result of Ed's efforts, and his integrity and sense of fairness, both those African-American defendants won new trials * * *.
>
> The SCLC should not oppose this nomination. For once, we have a nominee who is not a country club lawyer who has served corporate interests. For once, we have a nominee who has fought the Klan and who has fought racist judges. For once, we have a nominee with a strong record of fairness.
>
> Sincerely,
>
> MORRIS DEES.

In making up my mind to support Mr. Carnes, I gave much more credence and weight to the opinions of Morris Dees, Richard Cohen, John Carroll, and other criminal defense attorneys who have been in court with Ed Carnes far more times than Mr. Bright. I am also persuaded by fairminded jurists who have observed the abilities, ethics, and integrity of Mr. Carnes in court on far more numerous occasions than Mr. Bright.

It appears that the second paragraph of Morris Dees' letter to Joseph Lowery sums up this issue in a succinct manner:

> First let me say that I sympathize with Steve for opposing anyone for a judgeship who favors capital punishment. Steve is a one-issue person because of the work he does. I also oppose the death penalty, but view a potential judge on a much broader range of issues that are important to civil and human rights.

I have reviewed the evidence for and against Ed Carnes with care. One must realize the emotional atmosphere that capital cases bring to a courtroom. They are messy, passions are aroused, frequently lawyers explode at each other. If a lawyer loses at the appellate level he usually blames the opposing counsel or the judge. It is remarkable how many losing lawyers nevertheless praise the fairness and ethical conduct of Ed Carnes. The entire record supports the conclusion that Ed Carnes' conduct has been fair, ethical, and within the bounds of existing law.

I am convinced that Mr. Carnes' background, intelligence, integrity, and record qualify him for a position on the U.S. Court of Appeals, 11th Circuit. I urge his confirmation.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 5 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senate is about to vote on whether to proceed to consider the nomination of Edward Carnes to the U.S. Court of Appeals for the Eleventh Circuit. I believe that the Senate should consider that nomination and should reject it.

When the Senate does consider the nomination, I will explain the basis for my opposition in more detail. For the moment, however, I would ask my colleagues to consider four points.

First, Mr. Carnes is being asked to replace one of the most respected and courageous judges in the Nation's history, Judge Frank Johnson. In presiding over many of the most controversial desegregation cases of our time, Judge Johnson displayed an extraordinary and courageous dedication to the Constitution's great promise of equal protection of the laws for all Americans. He recognized the many forms that racism have taken in our history, and he wisely and fairly applied the Constitution to combat it.

By contrast, Mr. Carnes appears to be remarkably insensitive to the existence of racial discrimination.

As chief of the capital punishment unit of the Alabama Attorney General's office, Mr. Carnes presided over many aspects of the death penalty in Alabama.

Yet he told the Judiciary Committee: "I do not believe that capital punishment is applied in a racially discriminatory manner in Alabama or in the Nation."

In fact, study after study has come to the conclusion that the death penalty is applied in a racially discriminatory manner. Those who murder whites are more likely to be sentenced to death than those who murder blacks. Put another way, the findings are that those who murder blacks do not deserve the same level of effective prosecution as those whose victims are white.

This is the case in Alabama. There are more black homicide victims there than white, yet comparatively few of those cases are prosecuted to the fullest extent of Alabama's law.

It is an incredible disparity—two-thirds of the state's murder victims are black, yet in death penalty cases, less than 15 percent of the murdered victims are black. Two-thirds of those executed in Alabama have been black.

Mr. Carnes is the author of Alabama's capital punishment statute.

In describing his position on capital punishment to the Senate Judiciary Committee, he said that the death penalty should be reserved only for the most brutal and atrocious crimes.

But as the law is applied, the murder of a black person is not considered nearly as brutal and atrocious as the murder of a white person, and does not receive the harshest penalty the State can give.

This flagrant devaluation of the lives of black Americans is racial discrimination. It exists in Alabama and many other States. It is plain for any one to see—yet Mr. Carnes, who has been nominated for this high judicial office, does not see it.

My second point concerns another racial issue—discriminatory use of peremptory challenges in jury selection.

Despite a landmark 1986 Supreme Court decision that the discriminatory use of such preemptory peremptory challenges by a prosecutor violates the 14th amendment, Mr. Carnes and his staff have defended such practices in more than 20 cases on appeal.

In fact, Mr. Carnes has never refused to pursue a case where racially motivated peremptory strikes were at issue. No matter how serious the constitutional violation, the State would never confess error.

In one case, the prosecutor divided potential jurors into four categories: strong, medium, weak—and black. In other cases, prosecutors have used 10, 11, even 26 peremptory challenges in order to ensure an all-white jury.

Yet in these cases, Mr. Carnes or his staff urged the court not to consider claims of racial discrimination, because defense lawyers did not make a timely objection.

Mr. Carnes and his staff have raised technical, procedural defenses when substantive, constitutional rights are at issue, even when blatant racial discrimination obviously tainted the process of jury selection.

The third point I will address is Mr. Carnes' commitment to basic fairness in the criminal justice system. He has stated that he believes that by and large the defense in these cases is "excellent." That is a wholly inaccurate assessment.

In one case, the trial attorney neglected to tell the jury that the defendant was mentally retarded. In another, defense counsel called no witnesses and offered no evidence. In still other cases, in which the lawyer came to court intoxicated and was sent home to sober up.

Finally, while testifying on behalf of habeas corpus legislation, Mr. Carnes expressed his view that, if a State court has given a defendant a full and fair hearing, review of constitutional violations in a Federal court should not be available.

Imagine what the United States would be like today if States were the final arbiters of constitutional rights. Imagine what our school systems would be like.

Before voting on the merits of the Carnes nomination, I urge every Senator to take the time to examine these major questions. We have a responsibility to see that justice is done, and to withhold our confirmation if Mr. Carnes does not meet the high standards of fairness that the Constitution requires.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlantic Constitution, May 3, 1992]

HOLD UP THE CARNES NOMINATION

If the Rodney King verdict has demonstrated anything, it is that black Americans have good reason to distrust the workings of our criminal justice system. For that reason, special care needs to be taken to ensure that judges be as vigilant as possible against racially discriminatory justice.

This brings us to the case of Alabama Assistant Attorney General Ed Carnes, whom President Bush has nominated to a seat on the 11th U.S. Circuit Court of Appeals. Mr. Carnes, who has no prior judicial experience, has spent his career prosecuting death penalty cases for the state of Alabama.

Mr. Carnes has attempted to portray himself as a staunch defender of racial justice. To that end, he cites his prosecution of two state judges for racist behavior. Be it noted, however, that he did this simply at the behest of the state Judicial Inquiry Commission.

Meanwhile, Mr. Carnes has turned the blindest of eyes to the kind of racial discrimination that gets black defendants sentenced to death in Alabama. He has, for example, personally defended many cases in which Alabama prosecutors systematically excluded African-Americans from juries in capital cases.

Yet, at his April 1 confirmation hearings before the Senate Judiciary Committee, Mr. Carnes blandly asserted that racial discrimination does not exist in Alabama's criminal justice system. He also said that, in defending the prosecutors, he was just following orders.

Indigent black defendants are very often convicted of capital crimes as a result of violations of their constitutional rights to counsel, due process and a fair trial. Mr. Carnes' special claim to fame has been in devising technical reasons for courts to throw out appeals of death sentences. Indeed, no one deserves more credit than he for rationalizing the current evisceration of the federal writ of habeas corpus, under which such appeals are filed.

At the urging of Sen. Howell Heflin (D-Ala.), Mr. Carnes' nomination has been pushed ahead of other judicial nominees. There is reason to suspect that Mr. Heflin acted in the face of mounting opposition to Mr. Carnes' nomination.

The National Association for the Advancement of Colored People has asked that additional hearings be scheduled to allow for a further examination of Mr. Carnes' record. That is the least the Senate Judiciary Committee should do.

[From Legal Times, Apr. 20, 1992]

PROSECUTOR BEHIND THE BENCH

(By Monroe Freedman)

There is one objection to the controversial nomination of Edward Carnes to the U.S. Court of Appeals for the 11th Circuit that is clearly unfair. Carnes, critics say, has no judicial experience: His career has been pretty much limited to the capital punishment division of the Alabama attorney general's office, which he has headed since 1981.

But even Carnes' most determined critic, Stephen Bright, director of the Southern Center for Human Rights, acknowledges that the assistant attorney general has had more experience writing judicial findings of fact and conclusions of law than some of the Alabama state judges before whom he practices. In a statement submitted to the Senate Judiciary Committee, Bright complains that Carnes has written numerous judicial decisions that have been adopted by Alabama judges without the change of a single word or even of a punctuation mark.

Although that practice arguably adds significantly to Carnes' curriculum vitae, it also raises some serious ethical issues.

It is not uncommon, of course, for trial judges to state their judgments in open court and to direct counsel for one side to submit proposed findings of fact and conclusions of law. Although appellate courts have expressly disapproved this practice, they have tolerated it. Also, the American Bar Association's new Model Code of Judicial Conduct (1990) permits a judge to request counsel to draft judicial orders, "so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions." Commentary to Canon 3(B)(7).

Insofar as Ed Carnes has been directed by trial judges to draft judicial orders, he cannot be faulted, as an advocate, for complying.

Nor can he be blamed if trial judges slothfully adopt verbatim the proposed findings and conclusions submitted by one side. The fault lies with the trial judges who don't exercise judgment and discretion, and the appellate judges who disapprove the practice in their dicta but condone it in their holdings.

EX PARTE OPINIONS

But Southern Center for Human Rights director Bright raises a more serious charge that does fall within the realm of Carnes' responsibility. Bright claims that Carnes and lawyers working with him have engaged in ex parte communications with judges, going so far as to ghostwrite judicial findings of fact and conclusions of law.

The Alabama Supreme Court has sharply criticized ex parte communications as unethical. In *Medical Arts Clinic, P.C. v. Henry* (a 1986 case in which neither Carnes nor any other member of the attorney general's office was involved), a judicial order, written by the trial judge, was modified in part because of ex parte communications. Although the Alabama Supreme Court declined to require the trial judge's recusal, the court denounced ex parte communications as a form of "judicial and advocatorial misconduct" that is "particularly malodorous." 484 So. 2d 385, 387.

The 11th Circuit—the court to which Carnes has been nominated—has also emphatically denounced this kind of practice. For example, in *In re Colony Square Co.*, 819 F.2d 272, 274 (1987), the 11th Circuit said: "This circuit and other appellate courts have repeatedly condemned the ghostwriting of judicial orders by litigants." The 11th Circuit added that the cases are "legion" in which courts have issued admonitions against such conduct. A principal danger inherent in ghostwriting by litigants, the court explained, is the temptation to "overreach and exaggerate."

Documents submitted to the Judiciary Committee by Bright suggest that Carnes might have engaged in the kind of conduct condemned by the Alabama Supreme Court and the 11th Circuit. In one case, for example, Carnes participated with another assistant attorney general in drafting a document titled "Sentencing Findings and Order." At that point, the defendant was unrepresented. The assistant nevertheless sent the document to the judge, even while acknowledging in a cover letter that "consideration of the contents of the sentence order is somewhat premature" because the defendant had no lawyer to protect his interests.

The conviction was reversed (on other grounds), but the defendant was subsequently convicted again of capital murder. In that case, although there is no indication in the record of any request from the judge, another assistant attorney general again forwarded drafts of sentencing orders "prepared by Ed Carnes and myself." In his cover letter, the assistant added, "I have not served the opposing counsel with these drafts," and expressed the intention not to do so unless the judge ordered it.

OVERREACHING IN WRITING

Ed Carnes has not been available to respond to my inquiries, but his colleague and friend, Rosa Davis, has done so, challenging Bright on several key points. Davis, the chief of the appeals division of the Alabama attorney general's office, denies that Carnes knew or approved of any ex parte communications with judges on the part of lawyers in the attorney general's office. "He would have apoplexy if a member of his division did that," Davis says. And Davis gets some support for her position. The assistant who wrote the second letter described above takes full responsibility for it, confirming that Carnes knew nothing about the submission of the ex parte order.

Davis does acknowledge one instance of ex parte communication by Carnes: Carnes spoke with a judge in the absence of opposing counsel. But, Davis insists, the sole topic of discussion was procedural and did not go to the merits of the case.

Bright pointed out in an interview last week that only participants in ex parte discussions are able to have firsthand accounts of what was or wasn't said. And he notes that clandestine contacts, by their nature, are not generally known, raising the possibility that the known instances of contacts by Carnes and his associates are the tip of an iceberg. Davis responds that there is no iceberg because there is no tip. The ex parte contacts made by other members of the attorney general's office, she says, provide no basis for inferring that Carnes himself, or any assistant acting under his supervision, was ever guilty of that practice.

Bright remains skeptical, urging the Judiciary Committee to compare each of the capital sentencing orders drafted by Carnes with the order handed down by the judge in such instance. Where there are significant similarities, the committee should then inquire into the circumstances under which the Carnes drafts were submitted.

While the existence of ex parte communications is unclear, there is uncontradicted evidence that Ed Carnes has taken advantage of the opportunity to draft judicial opinions by overreaching and exaggerating. On at least one occasion, an order written by Carnes and a member of his office went significantly beyond findings of fact to fabricate for the judge both a conscientious deliberative process and a subjective sense of outrage. In a judicial order of capital punishment written by Carnes—not the judge—Carnes had the judge say that "after long deliberation, [I cannot] erase from my mind the circumstances surrounding this most senseless crime."

This language is not just rhetoric. On appeal, it supports deference to the trial judge's decision to impose the death penalty, and in federal habeas corpus litigation, it helps to bolster the argument for deference to the proceedings that took place in state court.

Another troubling allegation in the Bright testimony is that Carnes has cynically sought to maintain a system of ineffective assistance of defense counsel in capital cases.

Illustrative of Bright's charge are cases in which defense lawyers in the Alabama trial and appellate courts have neglected to raise fundamental constitutional issues on their client's behalf. In those cases, Carnes has taken advantage of the defendants' ineffective assistance of counsel by arguing in federal habeas cases that the defense lawyers have "waived" the neglected issues. The result: Defendants were unable to raise those issues in court.

Davis responds that Carnes shouldn't be called unethical for making arguments that are acceptable by the federal courts, including the Supreme Court.

The more troubling aspect of Bright's complaint is that Carnes has sought to maintain the system of ineffective assistance of counsel so that he can continue on procedural grounds to block defendants from raising substantive issues in capital cases. Carnes has certainly gone to great lengths to exalt the virtues of Alabama's defense lawyers in capital cases. Testifying before an ABA task force on the capital punishment process, Carnes stated that, while "there are exceptions," capital defendants in Alabama "by and large" receive "excellent legal representation," indeed even "more than the Constitution requires." Carnes therefore urged against taking steps to improve the quality of representation for poor people in capital cases.

Carnes' testimony proved contrary to the overwhelming conclusion of the task force report, as modified by the ABA's Criminal Justice Section, that "the inadequacy . . . of counsel at trial" is one of the "principal failings" of the capital punishment system today.

Carnes' statements also ran against those of another witness before the task force, who also had specific knowledge of the Alabama system. Stephen Kinnard, a partner who primarily litigates commercial cases for the Atlanta office of Jones, Day, Reavis & Pogue, chaired an Alabama state bar committee on the quality of counsel in death-penalty cases. Based on that experience, Kinnard, who has represented capital defendants, testified: "Maybe there are just two Alabamas, one [Carnes has] seen and the one I have seen."

Davis dismisses Kinnard's testimony on the ground that he is "a lawyer who defends capital cases." As far as Kinnard's knowledge of the facts, that observation seems to be a credential rather than an indictment. It also falls short of establishing that Kinnard would misrepresent what he has observed. Indeed, it is Carnes whose testimony was inconsistent with that of most other witnesses and who failed to persuade the ABA task force that the quality of representation in capital cases is "more than the Constitution requires."

THE DAMAGE DONE

Bright cites several cases to illustrate the damage that ineffective assistance can do; Davis disputes almost all of them. In one, *State* v. *Haney* (1990), Bright says that the trial was delayed for a day because defense counsel came to court drunk, was held in contempt, and was sent to jail for the day and night. Ala. Cr. App. 7 Div. 148, 846/849. Davis responds that Haney had two lawyers (as required by state law). One lawyer, upon realizing a defense he had been preparing had "fallen through," got drunk; the other lawyer, though, had given effective assistance. "There was, therefore, no problem in the representation," Davis says.

Bright, in an interview, cited some further facts. The defense that had "fallen through" was that Haney and her children had been battered by her husband (the victim) for 15 years. The lawyer who had gotten drunk had failed to arrange for the defense's psychological expert to see Haney until the night before he was to testify. The expert was therefore inadequately prepared and was badly damaged on cross-examination.

Also, the expert had relied on Haney's statements that both she and her daughter had required hospitalization after her husband had broken her arm and her daughter's nose. On rebuttal, the prosecution presented evidence that no records of the injuries having been treated existed at the hospital. Haney was convicted and sentenced to death. Only afterward did trial counsel seek and obtain the medical records—which her lawyer had failed even to look for in preparing for trial—that corroborated the broken arm and broken nose.

In that case and others where Davis disputes Bright's claim of ineffective assistance, Bright seems to have the better of the argument.

SENATE APPROVAL?

Although Stephen Bright's testimony can be characterized as a brief written by a longtime adversary, it is nevertheless a persuasive brief on crucial issues relating to Ed Carnes' fitness for judicial office. On the other hand, the response, of Rose Davis, a colleague and friend of Carnes, challenges Bright on important factual matters.

The issues, then, are: (1) Whether Carnes has ghostwritten judicial opinions (suspicious circumstances, but not enough evidence available without further Judiciary Committee investigation and hearing); (2) whether Carnes has overreached in drafting judicial opinions, illustrated in part by his preparation of an order fabricating a judge's conscientiousness and the judge's subjective reaction to the evidence (a prima facie case made by Bright); (3) whether Carnes has cynically sought to maintain a system of ineffective assistance of counsel in capital cases so that he can take unfair advantage of defendants (a) prima facie case made by Bright).

Any one of these charges, if true, is ground for rejecting Carnes' nomination to the 11th Circuit. It is imperative, therefore, that the Judiciary Committee inquire carefully into Bright's allegations before voting on whether to forward Carnes' nomination to the Senate with its approval.

[From the National Law Journal, January 1992]

A Worthy Successor He Is Not

(By Jack Bass)

In the downtown federal courthouse in Montgomery, Ala., the Rev. Martin Luther King Jr. once commented that Judge Frank M. Johnson is "the man who gave true meaning to the word 'justice.'" The U.S. Senate is now considering a successor to Judge Johnson, for whom that courthouse was named in ceremonies last May. He took "senior status" last fall.

To replace Judge Johnson on the 11th U.S. Circuit Court of Appeals, President Bush has nominated Edward Carnes, 42-year-old head of the capital litigation unit in the Alabama attorney general's office, a nomination that has run into trouble. ("Carnes to 11th Circuit?" NLJ, May 4.) Mr. Carnes' legal experience is limited almost entirely to death penalty issues, a field in which he has established a record as a skilled and zealous advocate.

The current Alabama death penalty law, which Mr. Carnes drafted, allows elected judges to overrule juries and impose the death penalty. He organized the national support of state attorneys general for an unsuccessful White House effort to cut back on federal habeas corpus protection. He is backed by a committee composed of Alabama's three most prominent elected Republican officials—Gov. Guy Hunt, U.S. Rep. William Dickinson and Montgomery Mayor Emory Folmar—all of whom he has supported politically.

In contrast to Mr. Carnes, Judge Johnson was an experienced trial lawyer who had distinguished himself as an outstanding U.S. attorney in Birmingham, Ala., before going on the bench at age 37, then the youngest federal judge in the nation. Among other distinctive cases, he prosecuted the only peonage conviction in Alabama this century and got convictions for tax evasion against prominent citizens in Birmingham in cases that had been dormant for several years. He already had established himself in private practice.

The naming ceremony for the courthouse in Montgomery epitomized the change that Judge Johnson has wrought in Alabama. A quarter century ago, with only one dissenting vote, the Alabama House of Representatives passed a resolution calling for his impeachment. At the naming ceremony, veteran black Democratic state Rep. Alvin Holmes read a unanimous House resolution commending Congress for naming the courthouse for Judge Johnson. Turning toward him, Holmes said, "We will never forget your contribution to this nation."

Yale University Law Prof. Owen Fiss, a leading scholar on the development of civil rights law and its impact on the legal process, considers Frank Johnson "the John Marshall of the federal district courts."

INNOVATIVE RULINGS

Judge Johnson, who was appointed in 1955 by President Eisenhower, displayed a creativity that responded to the force of historic circumstances to make the rule of law prevail during a period of upheaval. His innovative rulings on matters of voting rights, discrimination in public accommodations and employment, and rights of women, helped transform the South and the nation. The judge virtually created the structural injunction, using it first to reconstruct an entire state school system that the Supreme Court had declared unconstitutional, then expanding its use to protect rights of other politically powerless groups.

The Senate Judiciary Committee voted 10–4 in favor of Mr. Carnes. However, despite a glowing letter of support from Morris Dees, director of the Southern Poverty Law Center in Montgomery, chairman Joseph Biden, D-Del., voted against Mr. Carnes. It was only Senator Biden's 10th vote against more than 650 Reagan and Bush judicial nominees.

Although the senator supports capital punishment, his negative vote was a reaction to Mr. Carnes' insensitivity to the systematic removal of black jurors in death penalty cases by prosecutorial use of peremptory strikes. He cited Mr. Carnes' failure to state to the committee "that such a practice is fundamentally unfair" to a defendant "whose life, literally, is on the line."

As head of the capital litigation unit in Alabama, Mr. Carnes had testified before an American Bar Association committee that death penalty defendants in his state generally are more than adequately represented. An Alabama Bar Association committee reached the opposite conclusion.

Mr. Carnes also displayed a disingenuous quality in response to written questions from Senator Biden. He stated that he did not believe that the death penalty is applied in a racially discriminatory manner. When asked if he had considered statistical evidence in a significant number of capital cases, he said he had.

In his response to the final question on the subject—whether he would believe the death penalty is meted out in a discriminatory manner if he believed that the race of the victim affected the decision to bring capital charges or to impose the death penalty—he answered, "Yes."

INFLUENTIAL STUDY IGNORED

With the exception of one reference, he chose to ignore the findings of the comprehensive and sophisticated study of the death penalty in Georgia by Prof. David Baldus—a study that has had a profound influence on an issue in which Mr. Carnes is a recognized authority.

Although supporters of Mr. Carnes make much of a newspaper quote from Judge Johnson that Mr. Carnes would be a "good choice," the article was published in November 1991, long before the Senate Judiciary Committee delved into his record.

The Congressional Black Caucus and numerous civil rights groups are opposing him. At the head of the opposition is Democratic Rep. John Lewis of Atlanta, who helped shepherd the bill naming the courthouse through the House and who attended the Montgomery ceremony.

Mr. Lewis was no stranger to the Alabama state capital. In 1962, as a Freedom Rider, he first sat inside Judge Johnson's courtroom. And he was present again in 1965, when Judge Johnson ruled that the second Selma-to-Montgomery march should be allowed to go forward, saying: "It seems basic to our constitutional principles that the extent of the right to assemble, demonstrate and march peaceably along the highways and streets in an orderly manner should be commensurate with the enormity of the wrongs that are being protested and petitioned against. In this case, the wrongs are enormous." His application of the basic legal principle of proportionality to a constitutional injury set a precedent that expanded the role of law.

Judge Johnson's judicial career has also been notable for acts of personal courage. After enjoining the Klan in the Freedom Rider case, he for years received round-the-clock protection from federal marshals. He also received unrestrained and vituperative attacks from Gov. George Wallace, who said the judge needed "a barbedwire enema."

Before giving its consent to a successor to Judge Johnson, the Senate would do well to wait a few months until after the voters decide who they want to lead the nation—and appoint their judges. Worthy successors can be found.

[From the Fayetteville (NC) Observer-Times, June 8, 1992]

Color Blindness

Most studies on the topic show that more than two-thirds of all Americans support capital punishment. A Washington Post/ABC News poll taken after the Rodney King verdict found that half of all Americans (and 89 percent of blacks) also feel that our criminal justice system treats whites and minorities differenity. There is no inconsistency there. Just because a citizen backs the death penalty, that doesn't mean he or she wants it imposed unfairly.

The people seem pretty savvy on the topic. Why, then, should they want a federal appeals judge who sees nothing wrong with systematically excluding blacks from juries in capital cases?

We have one, almost. His name is Ed Carnes, and one U.S. Senate vote stands between him and confirmation to the 11th U.S. Circuit Court of appeals. (It covers Alabama, Florida and Georgia.) President Bush has nominated Mr. Carnes to take the place of Judge Frank Johnson of Alabama, who at age 73 is taking senior status.

It's a poor exchange.

Judge Johnson courageously desegregated Montgomery's public transit system, and in more than two decades on the 11th circuit has handed down scores of other anti-discrimination rulings. Mr. Carnes, for the last decade, has been the Alabama assistant attorney general in charge of getting condemned prisoners executed upon appeal.

So far, fair enough. But in Mr. Carnes' testimony before the Senate Judiciary Committee, he testified that he does not think race discrimination affects the administration of capital punishment in Alabama or elsewhere.

This flies in the face of repeated studies showing that minorities, who are likely to be poorer than the average defendant, are prone to have hastly prepared or even slipshod defenses. Their conviction rates are wildly out of proportion to the general population's. This situation is compounded when minorities are systematically excluded from juries. Prosecutors in Alabama (and, assuredly, elsewhere) have done just that in many capital cases.

Mr. Carnes—who, by the way, has no judicial experience—looks at this picture and claims to see nothing wrong. The only conclusion that can be drawn is that either he really doesn't see it, or he does see it and lied to the committee. Either is a serious failing.

The Judiciary Committee approved the Carnes nomination. That leaves the full Senate, which should either reject Mr. Carnes or let the nomination die a quiet death. The American people deserve better.

[From the Washington Post, Apr. 28, 1992]

Less Than Thorough Search for Justice

(By Colman McCarthy)

ATMORE, Ala.—A weather-beaten sign to the left of the double-door entrance to Holman State Prison announces: "All persons entering this prison will be subject to a thorough search." Further down: "The staff of Holman Prison hopes you enjoy your visit."

For the thoroughly searched coming to see their loved ones on death row, the hopes aren't likely to be fulfilled. Alabama's condemned prisoners number 117, most awaiting death here in Atmore, a rural town near the Florida line. The maximum security prison, far back in some scrublands dissected by a shoulderless country road, houses a death row with a disproportionate number of black inmates.

Since 1980, less than 5 percent of Alabama's murders involved blacks who killed whites, while four out of the nine post-1976 executions resulted from convictions for black-on-white homicides. More than 60 percent of Alabama's murder victims are black, while the overwhelming number of death row prisoners killed whites. This racially applied standard prevails in other southern death houses—including Texas, Florida and Louisiana—where most executions have occurred.

Holman prison—part of a state system rated the worst in the country in 1976 when it was declared unconstitutional—cages a large number of prisoners who had the ill fortune of crossing paths with Edward Carnes, Alabama's assistant attorney general in charge of death penalty litigation since 1980. Carnes, who has overseen eight of the nine executions, is the state's leading specialist in killing killers. His unrivaled zeal for electrocuting people who are poor, mostly black and usually uneducated put him in fine favor with the Bush administration. In January, its judicial talent scouts nominated Carnes to serve on the U.S. Court of Appeals for the 11th Circuit, which includes Alabama.

Earlier this month, the Senate Judiciary Committee, after hearing civil rights and human rights groups argue that Carnes was dismally unqualified, postponed what might have been a routine vote until at least April 30.

The delay allows the committee, as well as the full Senate, to go beyond a mere spot-check hearing that takes the word of Alabama's Sen. Howell T. Heflin (D) that Carnes, 41, is a fine young fella. It also allows opposition to Carnes to be seen as much broader than only the arguments advanced by anti-death-penalty groups that would speak out against any nominee who favors executions.

The issue is how Carnes favors killing prisoners, not why. His legal passion for securing capital convictions is traceable to Alabama's death penalty law. He wrote it, in 1981 when 30 years old. One feature of that law is allowing trial judges to demand an execution by overriding a jury sentence of life imprisonment. One-fourth of Alabama's death row inmates are override cases.

Another part of Carnes' law—the Alabama "legislature did not change one word in it," he bragged to the Senate Judiciary Committee in 1990—is that it does not prevent prosecutors from trying to select juries based on race. Julius Chambers of the NAACP Legal Defense and Educational Fund, who opposes Carnes's nomination, told the committee of a homicide case now being appealed. At the trial stage in Chambers County, Ala., "the prosecutor divided the jury list into four categories. Three categories were reserved for white jurors, and they were divided under the headings of 'strong,' 'medium' and 'weak.' The fourth category was for the black jurors, and their names were separately typed under the heading of 'black.'"

To Julius Chambers, this defendant was owed a fair trial, but the state "instead deliberately gave him a crooked one."

A judicial philosophy favoring capital punishment can be, and is, held by conscientious judges and prosecutors. Carnes is different. He has less a philosophy than a record of smart-mouth statements that reveal both his arrogance and his biases.

"Under Alabama law, you can't execute someone who is insane. You have to send him to an asylum, cure him up real good, then execute him."

"The problem defendants have is that 99.9 percent are guilty as hell."

On whether courts favor prosecutors in capital trials: "Hell no. The system is tilted in favor of the damn defendant."

Carnes has one other large minus on his record. He is being nominated to the federal appeals court without a day's toil as a judge. Total inexperience aside, he is a specialist on only death row law. Why that should distinguish him has yet to be explained.

[From the Wilmington (DE) News Journal, Apr. 20, 1992]

THIS DEATH PENALTY ADVOCATE SHOULD NOT MAKE FEDERAL JUDGE

(By Edward Carnes)

The Senate Judiciary Committee, under chairman Joseph R. Biden Jr., D-Del., has paused to ponder whether it should elevate Edward Earl Carnes of Alabama to the U.S. Circuit Court.

Ponder it should, Mr. Carnes is the Alabama deputy attorney general whose specialty is getting the death penalty carried out in the state. As an agent of death, he has been quite successful. Alabama's death penalty law, written and successfully used by Mr. Carnes, is one of the toughest in the nation, allowing a judge to overrule a jury recommendation against death. (Delaware also allows judicial override).

His conservatism is such that he has defended the right of prosecutors to use their powers to exclude jurors suspected of opposing the death penalty, even if they all happened to be black and the case involved a black suspect. He is an advocate of lessening the role of the federal courts in death penalty appeals.

His proponents are quick to point out that Mr. Carnes is personally a progressive on racial issues, refuses to belong to segregated clubs and has prosecuted judges for discriminatory behavior.

That is all to the good, but the federal Circuit Court is where doomed prisoners appeal for a review of their cases. Putting a man with Mr. Carnes' conviction on that bench would remove a critical check from the system.

He should not be confirmed.

[From the Atlanta Constitution]

A SHAMEFUL JUDICIAL APPOINTMENT

(By Nat Hentoff)

At the end of a recent speech, Justice Harry Blackmun asked rather plaintively where today's heroes are. It's hard to think of one in any field. Mine, 30 years ago, were Duke Ellington, A.J. Muste, I.F. Stone and Dorothy Day. There was also, in the 1960s, a federal judge in Alabama, Frank Johnson. He was one of the few jurists in the South who scorned threats, hate mail and ostracism as he kept doing the right thing under the Constitution.

In 1956 Johnson was one of two judges on a three-judge panel that struck down bus segregation in Montgomery, Ala., as unconstitutional. In the 1960s, he sentenced the murderers of civil rights worker, Viola Liuzzo, to 10 years. It was all he could do, for that was the maximum. Year after year, Frank Johnson made consistently fair rulings in the face of opposition or silence from organized religion, the bar and, of course, the indignant racists.

Then and now, Frank Johnson had no taste for euphemism. In his valuable history of the civil rights movement, "Free at Last?" (Little, Brown), Fred Powledge quotes the judge years later: "Most people who talked about state's rights were equating the term with racial discrimination. . . . That's what states' rights meant in Alabama at that time. . . . And that's what states' rights, to some extent, still means." As a civil rights worker said, "Frank Johnson was one who ruled against the mores of his own surroundings and survived."

But last fall, Frank Johnson retired from active service on the 11th Circuit Court of Appeals. In his place, the president of United States, on the recommendation of his Justice Department—which is now more ideological than ever—made what the Atlanta Constitution accurately describes as "a shameful judicial nomination." The replacement for Frank Johnson is Edward E. Carnes. He has had no judicial experience, but Carnes is an expert at sending people to their deaths in Alabama's yellow electric chair, affectionately known by some as "Yellow Mama."

Since 1981, Carnes has been head of the Capital Litigation Unit for the attorney general's office in Alabama, and has been responsible for eight executions. Six of the doomed have been black. Stephen Bright, director of the Southern Center for Human Rights in Atlanta, notes that one of those executed was "Horace Dunkins, a mentally retarded African American who was represented by a lawyer so incompetent that the jury was never told that Dunkins was mentally retarded. Another execution was that of Herbert Richardson, an African-American veteran of the Vietnam War. Edward Carnes sent glossy color pictures of the victim in the case's bloodied body and head wounds to [all 12 judges on] the U.S. Court of Appeals before any appeal was even pending in that court in his successful effort to bring about Richardson's execution in 1989."

Carnes thoroughly enjoys his work. He told the Birmingham News: "Sometimes I can't believe I'm paid to do this. . . . It's interesting, challenging work." And he sees the whole picture. The Atlanta Constitution pointed out that as head of the capital prosecution unit, Carnes "has blocked Alabama from contributing to support the federally funded resource center that gives legal help to indigent murder defendants in Alabama. Alabama is the only state in the 11th circuit not to provide such funding." But Barnes is pushing for federal funds for his own capital prosecution unit.

A man of prodigious energy, Carnes has also been active before congressional committees and elsewhere in Washington as an ardent advocate of habeas corpus "reform"—a crusade that did him no harm within the Bush Justice Department. This "reform" would mean the virtual abolition of federal habeas corpus review of criminal cases. In the Fulton County Daily Report, a newspaper about the law, reported Liza Kaufman recently interviewed a former Frank Johnson law clerk for an article titled, "Carnes: Alabama's Mr. Death Penalty." The former colleague said that Johnson is personally opposed to the death penalty but does not believe it is invariably unconstitutional, and he is particularly concerned that it be applied fairly—defendants should be given the financial resources to get competent attorneys.

Carnes, on the other hand, has not only blocked such funds for Alabama's prospects for "Yellow Mama" but has pridefully written the state's death penalty law, which George Kendall of the NAACP Legal Defense Fund says is one of the worst in the nation. It allows a judge to overrule a jury's sentence of life imprisonment and impose death. Nearly a fourth of the 115 people on Alabama's death row initially received life sentences, but, under the Carnes law, their judges proceeded to give them the Black Spot.

"I find it to be an interesting commentary on the times," says Stephen Bright, "that what brings a person to the attention of the Justice Department is someone whose entire professional life is devoted to the execution of poor people."

[From Fulton County Daily Report, Apr. 29, 1992]

CLASHING OVER THE CARNES NOMINATION

(By Brent E. Newton)

In a single episode, I have lost the two heroes of my youth: Frank M. Johnson and Morris Dees. Both hail from Montgomery, Ala., as do I. Over the past three decades both have been instrumental in bringing about positive change in Alabama through their chosen profession, the law.

Judge Frank M. Johnson was recently lost to retirement. After three decades of reforming Southern schools, prisons, and mental asylums and otherwise spreading enlightenment in a place sorely in need of it, Johnson retired to senior status on the 11th Circuit. In doing so, he afforded George Bush yet another judicial nomination. Morris Dees, perhaps the best-known Southern civil rights lawyer alive today, is the founder of the Southern Poverty Law Center, an organization that over the years has served as a clearinghouse for death penalty defense and civil rights cases. He has been lost in connection with Bush's nomination of a replacement for Johnson.

What has caused my sorrow and disillusionment is the fact that Dees has unexpectedly and inexplicably spent the last two months shepherding Bush's 41-year-old nominee, Judge Edward E. Carnes, through the confirmation process. The principal mission of Carnes' career has been to advocate sending inmates to Alabama's electric chair. His zealous advocacy as head of the Alabama attorney general's capital litigation division for more than a decade has earned him a variety of unsavory nicknames: "Dr. Death," "Mr. Death Penalty" and "the Prince of Death." My reasons for opposing Carnes, however, are not limited to his religious devotion to capital punishment.

Before I proceed any further, perhaps I should reveal the perspective from which I am writing. I am an aspiring civil rights lawyer and, as noted a native Alabamian.

Throughout my childhood, Dees and Johnson were household words in my liberal Alabama home. Dees even successfully represented my father in a controversial civil liberties action in the '60s in front of Johnson, then a federal district court judge. In an impassioned essay on my role models that I wrote in college for the Harry S Truman Scholarship, I told of the profound influence that Dees and Johnson had on my life. After my first semester of law school, my father took me by the Southern Poverty Law Center to meet my idol, Dees, in the flesh. While I've all along known of Dees' reputation as being somewhat quixotic, I never could have imagined that he would make Ed Carnes one of his causes.

In my view, Ed Carnes is everything Frank M. Johnson is not. First, and foremost in distinguishing Carnes is his record on civil rights. In recent congressional testimony, Carnes successfully argued against the proposed 1991 Racial Justice Act, which sought to overturn the highly criticized Supreme Court decision in McCleskey v. Kemp, 481 U.S. 279 (1987). In McCleskey, the court-ignoring Johnson's powerful appeals court dissent—affirmed the 11th Circuit's refusal to allow the use of compelling statistical evidence of gross racial discrimination in a disparate impact challenge to Georgia's death penalty.

That well over half of Alabama's death row is black and that two-thirds of those actually executed in Alabama during Mr. Carnes' tenure have been black—while the state is only one-quarter black—explain Carnes' opposition. An even more telling figure is that during Carnes's tenure, almost half of the executions were for black-on-white murders, while annually only 4 percent of all murders in Alabama are black-on-white. As the president of the Alabama NAACP recently argued in her testimony before the Senate Judiciary Committee. Carnes has been at the helm of an institution that has severely devalued the worth of black life in Alabama.

In his autobiography, A Season for Justice, Dees devotes substantial attention to the death penalty, which he refers to as "state-sanctioned murder." He noted with alarm the statistical disparities between the races in the implementation of capital punishment between 1930 and 1970. Surely Dees, a man who has handled more than 50 death penalty cases since Gregg v. Georgia, is today not unaware of racial inequities that have continued unabated in the last fifteen years.

Dees is also familiar with the racism endemic in the jury selection process in the South, particularly in capital cases—an issue he specifically discusses in his autobiography. In coming out so strongly for Carnes, Dees must have been unaware that Carnes is directly implicated in the extremely widespread practice by Alabama capital prosecutors of using peremptory strikes as a means of excluding potential black jurors, particularly in black-on-white murder cases. The Supreme Court in Batson v. Kentucky, 476 U.S. 79 (1986), squarely held that the discriminatory use of peremptories by a prosecutor was a violation of the 14th Amendment. Either as an attorney-of-record or through lawyers in his capital litigation division, Carnes has fought defendants' Batson challenges on appeal in well over 20 cases where district attorneys at trial used peremptories in a blatantly racist fashion.

A representative case is Jefferson v. State, CC-81-77 (Chambers Sup. Ct., pending), which Carnes has been personally handling. At trial, the prosecutor used peremptories to remove 26 of 26 potential black jurors, after dividing jurors into four groups; "strong," "medium," "weak" and "black." The division has lost many similarly egregious Batson cases on the merits. In the cases he has won, Carnes has typically prevailed by raising legal technicalities such as procedural default bars so that courts cannot even reach the merits of racism claims. Tellingly, in at least two cases where Batson violations were found, the judge who rejected Carnes' division's claims that no racism existed was John Patterson, the man who "out-niggered" George Wallace (to quote the latter.)

Carnes, feeling the heat, has attempted to wash his hands of responsibility for the racism so evident in the administration of the death penalty in Alabama. It's simply his job zealously to defend on appeal all death penalty convictions, he argues. This facile argument papers over a critical issue that directly speaks to Carnes' fitness to sit as a federal judge. Carnes ignores the cardinal principle that a government prosecutor—much like a judge—is charged with doing justice rather than merely securing convictions, as the Supreme Court held in Berger v. United States, 295 U.S. 78 (1935). Especially in view of what was at stake in these cases, Carnes should have settled obvious Batson violations on appeal rather than fighting them. Indeed, regarding another matter discussed below, Morris Dees has praised Carnes for his willingness on appeal to disagree with the positions taken at trial by county prosecutors.

Carnes and his supporters have tried to head this criticism off at the pass by claiming that Carnes is not only not a racist, but is actually "good" on civil rights. Dees in particular has been indispensable in persuading Democrats on the Judiciary Committee. He has repeatedly stated that Carnes has an "outstanding record on civil rights." Dees wrote in a piece in The Washington Post on April 4, "Carnes has been particularly sensitive to minority concerns."

Dees makes much ado about the fact that Carnes prosecuted two racist state judges for ethical violations. Indeed, he did this, but that was Carnes' job. The only other significant area of work that Carnes has handled while in the Alabama AG's office (besides death penalty work) has involved his position as counsel to Alabama's judicial disciplinary commission. In addition to his prosecution of the two judges for ethical violations, Carnes has also prosecuted sixteen other disciplinary cases that have had nothing to do with racism.

Dees also cites the fact that Carnes helped prosecute the murder case of one of those responsible for the horrible 1964 Birmingham church bombing. Once again, Carnes did nothing supererogatory. While I am well aware as a native Alabamian that the standard for what qualifies as racially-enlightened in Alabama is considerably lower than other parts of the country, the appropriate benchmark in this particular case is immensely higher. It is Frank M. Johnson.

Similarly, Dees and Carnes have also repeatedly made a point of arguing that the latter is qualified because he does not belong to the segregated Montgomery Country Club and because he has never made any "racially insensitive remarks." Again, praise for such things mandated by any objective standard of decency seems to be grasping at straws. Moreover, my cursory research in Carnes' press coverage has revealed at least one "racially insensitive" statement he made. In his Dec. 31 1990, interview with the National Law Journal about a portrayal of noted attorney Alan Dershowitz's defense of an Alabama capital defendant, Carnes had this to say: "They're trying to make Dershowitz seem as if he only takes money to help poor blacks in the South. We've got 110 on death row. We'll give him somebody to represent. We'll even give him a black."

Carnes has also manipulated the race issue in statements made in his hard-fought efforts to have Batson applied to criminal defense lawyers as well as prosecutors. In this very term the Supreme Court is deciding the issue. Carnes has been the leading advocate of this extension; in an unprecedented move, he even rallied 45 states' attorneys general to sign a joint certiorari petition. In numerous press interviews since 1988, Carnes has stated that he has "all along [supported] the principle . . . that blacks have a right to participate in the [jury] process" (National Law Journal, June 5, 1989). In a Dec. 31, 1988, interview with the New York Times about applying Batson to defense attorneys, Carnes stated that "[i]t simply adds insult to injury, to say that our justice system can discriminate against blacks on the same basis as the Klan has all these years." This is the same Ed Carnes whose capital litigation division has on appeal been an apologist for countless racist prosecutors who have blatantly violated Batson.

Nor is Carnes objectionable only on account of his record on race, which has led the NAACP and SCLC to come out adamantly against him. Carnes also has a questionable ethical record. Professor Monroe Freedman, one of the nation's leading ethicists, in an April 20 Legal Times article has raised grave ethical concerns about Carnes' overreaching as a capital prosecutor. Dees, on the other hand, has repeatedly lauded Carnes' "fairness" and "integrity" as a death penalty prosecutor.

In particular, Dees points to Carnes' recent request—quite unpopular among Alabama district attorneys—that prosecutors at capital trials fully comply with the spirit of Brady v. Maryland, 373 U.S. 83 (1963). In that case, the court required that prosecutors should upon request make available exculpatory evidence to the defense. Dees is apparently unaware that Carnes' policy has nothing to do with any ethical imperative. In Ex Parte Mont 557 So.2d 832 (Ala.Crim.App. 1989), a case that offers extensive discussion of Carnes' Brady policy, the court repeatedly recognized that Carnes' recommendation "was for the purpose of reducing the likelihood of post-conviction litigation and reversals on Brady grounds." Thus, the desire to expedite executions, not ethics, motivated Carnes.

Another objection is the integral role Carnes has played in keeping Alabama's funding of indigent capital defense in the very dregs among the 50 States. Frequently, Alabama court-appointed lawyers make little better than the minimum wage. Carnes' response, as quoted in USA Today, June 4, 1990: "If a guy gets effective representation, what does it matter whether the attorney got $10 per hour or $100 per hour?" His cavalier attitude and assumption of constitutionally "effective" representation in Alabama capital cases are deeply troubling. Horror stories about the incompetent representation provided by Alabama court-appointed capital defense attorneys abound. (See "Fatal Defense," National Law Journal, June 11, 1990.)

In a recent case the judge during the trial sent a drunken defense lawyer to jail to sober up. The lawyer returned the next day; defying no one's expectations, his client was sentenced to death. In another case, Carnes fought successfully in the execution of a mentally retarded black capital defendant, whose trial lawyer never even mentioned his client's retardation to the jury. A juror who discovered this fact only after trial pleaded that the retarded man be spared, but to no avail.

Carnes has frequently dismissed such criticism. Of the 80-plus witnesses who testified in front of a ABA hearing in 1989 on the crisis state of indigent defense, Carnes sharply broke with the otherwise overwhelming consensus that some reform was necessary. With a straight face, he assured an ABA committee that in his opinion, Alabama capital defendants received "excellent legal representation" from their court appointed lawyers. "I would take strong exception to anyone who contends to the contrary," he added.

Similarly, Carnes has been a strong proponent of the totally unrealistic and highly criticized Sixth Amendment ineffective assistance standard set forth in Strickland v. Washington, 466 U.S. 668 1984), even writing an amicus curiae brief when Strickland was in the lower courts. Again in opposition to Carnes, Judge Johnson in the appeals court learned that the position eventually taken by the courts would be, "[p]articularly in death penalty cases[.] . . . to abandon our duty as judges to assure that all defendants . . . receive full due process protections and effective assistance of counsel". (693 F.2d at 1284.) Exploiting the incredibly high legal hurdle defendants must jump in ineffective assistance cases, Carnes points out the fact that there have been relatively few Alabama capital cases in which courts have found trial lawyers ineffective under the Sixth Amendment. That tells me that people are getting constitutionally effective counsel" (National Law Journal, June 11, 1990).

Interestingly, in his autobiography, Dees noted a talk he had given to then President Carter about the death penalty: "I explained that minorities, mainly blacks, bore the brunt of this penalty, and that states were not willing to provide adequate counsel to poor people." Moreover, Dees' Southern Poverty Law Center has since 1981 been involved in litigation challenging Alabama's system of funding indigent defense. A statewide class-action suit has been seriously considered as recently as 1990 (National Law Journal, June 11, 1990).

Suddenly, in 1992, Dees comes to Carnes' defense. Dees points to the fact that Carnes, after nearly a decade since Dees first filed suit challenging indigent funding, finally capitulated and allowed the state Legislature to increase the antiquated $1,000 cap on what the state would pay its court-appointed capital lawyers for pre-trial work. Out-of-court preparation, of course, is 90 percent of any effective capital defense. What Dees ignores is that today's $2,000 cap, which has merely kept pace with inflation since the early '80s, remains grossly inadequate by any objective standard. Dees also apparently forgets that it was Carnes himself who successfully opposed Dees' motion for state funds to pay for psychiatric expert testimony for an indigent capital defendant whom Dees represented in the '80s. Whisenhant v. State, 482 So.2d 1225 (Ala. Crim. App. 1983).

Dees also ignores that Carnes has shown an inhumane view about the execution of the insane, the mentally retarded and juveniles. In an interview about the stay of an execution of an inmate who alleged insanity, Carnes made this statement, "Under Alabama law you can't execute someone who is insane. *You have to send him to an asylum, cure him up real good, then execute him*" (emphasis added). Evincing a total lack of understanding of the inherent inhumanity of executing the mentally retarded, Carnes defended the 1989 execution of a retarded man by arguing that "there is no indication [that the retardation of the inmate] played any role in his crime" (New York Times, July 13, 1989).

Carnes' callous attitude toward the mentally disabled stands in stark contrast to Judge Johnson, who is credited with single-handedly reforming the primitive mental health system that existed in Alabama before Johnson's landmark decision in Wyatt v. Stickney, 334 F. Supp. 1341 (M.D. Ala. 1971). Carnes' supporters, including Dees, have argued that Carnes' decency shone through when he agreed that Alabama courts should comply with a 1989 Supreme Court decision that held that it was unconstitutional to sentence to death a child under 16. Yet they ignore an earlier case that Carnes personally handled on appeal in which a 15-year-old (with an I.Q. of 76) was sentenced to death. Potts v. Siuk, 426 So.2d 886 (Ala. Crim. 1982).

Carnes and his supporters have until quite recently been successful in packaging the nominee as an ethical, fair-minded, racially-enlightened prosecutor who would be an ideal replacement for Frank M. Johnson. The local Alabama press has described Carnes as a "man of integrity" and a born-again Christian whose real love (just like judge Johnson) is growing roses. Dees, who fought Alabama's death penalty as hard as anyone a few years ago, portrayed Carnes' detractors as a small coterie of "single-issue" anti-death penalty lawyers whose opposition to Carnes is entirely animated by their "visceral" opposition to the death penalty. While Carnes is now recognized as a "controversial nominee," according to Sen. Biden, the Judiciary Committee chairman also says that he is quite impressed that Morris Dees has come out so strongly in favor of Ed Carnes. The vote is scheduled for the end of April. As things stand—amazingly—Carnes will likely secure a majority of the Senate.

When I first heard that Morris Dees had not only praised Ed Carnes, but also intensively lobbied leading Alabama black civil rights leaders, published his unequivocal support in the Atlanta Constitution and The Washington Post, and even flew to Washington to lobby and testify on behalf of Ed Carnes, I was absolutely stunned. Ironically, I am reminded of the title of a book written about Frank M. Johnson and other liberal Southern judges appointed by Republican President Eisenhower, Unlikely Heroes, by Jack Bass. The title makes reference to the fact that men such as Johnson confounded conservatives expectations and, in doing so, emerged as heroes. In my eyes, Morris Dees has in this instance similarly belied all preconceptions and, in an equally unlikely manager, emerged unheroic.

Mr. BIDEN. Mr. President, I yield 4 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in opposition to the nomination of Ed Carnes, but I want my colleagues to understand that we think that every Member of this body ought to vote to proceed forward. We will debate this confirmation issue at full length when we return after the recess.

So I hope that every Member of this body will see fit to move forward so we can get into the real substance of the debate when we come back.

I am opposed to the nomination of Ed Carnes. He has been nominated, as has already been stated, for a seat on court of last resort for virtually all Federal cases filed in Alabama, Georgia, and Florida.

Mr. Carnes has been nominated to fill the seat occupied by Judge Frank Johnson, a man whose courage, fairness, and commitment to equal justice has been unsurpassed among Federal judges. He stood up for racial equality when it was unpopular, and even dangerous, to do so. He respected—and protected the rights of African-Americans when it was unpopular, and even dangerous to do so.

A few months ago, an article in an Alabama newspaper contained a brief quote from Judge Johnson on this nomination. Supporters of Mr. Carnes construed that quote as indicating Judge Johnson's support for the nominee. I called Judge Johnson about this nomination as did other members of the Judiciary Committee. He indicated that he does not support this nomination; nor does he oppose it. Judge Johnson stated that he does not believe it is appropriate for a member of the bench to comment upon a pending judicial nomination. I respect that viewpoint.

It is my hope that this clarification of Judge Johnson's position—the fact that he neither supports nor opposes this nominee—will prompt my colleagues to take a close look at the nominee's record.

Mr. President, no one can replace Frank Johnson. But it was my hope that the President would send up a person whose life and legal career demonstrated a commitment to equal justice similar to Judge Johnson's. It was my hope that the President would recognize the important historical role that this seat on the court has played in vindicating the rights of African-Americans. Indeed, it was my hope that the President would fill Frank Johnson's seat with a nominee whose career displayed a deep respect for the spirit of the Constitution and a zeal to protect the rights of all Americans, even those who are unpopular or despised by the majority.

The President has nominated a man who has spent most of his career doing what?—Working vigorously to make it easier for the Government to execute its citizens.

The President has nominated a man whose record and statements suggests that he simply does not grasp the fundamental importance of ensuring that the criminal justice system is impartial and untainted by racial bias.

There are at least a half-dozen instances in which Mr. Carnes' office defended death sentences imposed by all-white juries against African-American defendants even though there was considerable evidence that the prosecutors in those cases had intentionally and improperly excluded blacks from the jury.

Ed Carnes also has stated repeatedly in the face of ample evidence to the contrary that there is no racial discrimination in the administration for the death penalty in this country.

This is the man who was just quoted recently in the Washington Post as saying, "The problem defendants have is 99.9 percent of them are guilty as hell * * *. The jury that hears the facts is going to give a death sentence."

Is that a man who belongs on the circuit court of appeals?

Ed Carnes has led the fight against congressional efforts to address and alleviate racial discrimination in the capital sentencing process.

Mr. President, This is a controversial nomination. Mr. Carnes is opposed by the NAACP, the NAACP Legal Defense Fund, the Congressional Black Caucus, the Southern Christian Leadership Conference, Coretta Scott King, as well as other groups and individuals that have been at the forefront of the fight for equal justice.

At this point, Mr. President, I ask unanimous consent that two editorials from the Atlanta Journal, "Stop Carnes Nomination," and another one, "Hold up the Carnes Nomination," be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. METZENBAUM. Mr. President, Mr. Carnes' opponents are particularly concerned about the nominee's willingness to defend death sentences imposed upon African-American defendants by all-white juries whose selection was stained by racial bias.

Mr. Carnes' supporters will say that in those cases the nominee was simply doing his job as the head of Alabama's capital litigation unit. Some will say that Mr. Carnes was simply fulfilling his obligation to act as a zealous advocate on behalf of the State's interest in carrying out executions imposed by Alabama juries. I cannot accept that, Mr. President.

Nor can I see how Mr. Carnes' narrow experience as a zealous advocate for the death penalty renders him suitable for a seat on the Eleventh Circuit Court of Appeals. It is not the role of a Federal judge to be a zealous advocate for the death penalty—or for any other legal issue. It is, instead, the role of Federal judge to uphold the Constitution and dispense justice fairly and even-handedly.

It is also the role of a Federal judge to strengthen and reinforce the confidence and the impartiality of our system of justice.

Mr. President, I ask unanimous consent that in addition to the other items which have been included in the RECORD an editorial from the National Law Journal, "Carnes Is No Champion of Racial Justice," another article from Colman McCarthy, "Less Than Thorough Search for Justice," and another article, "A Worthy Successor He is Not," and that from the National Law Journal article by Jack Bass.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT I

[From The Atlantic Constitution, July 31, 1992]

STOP CARNES NOMINATION

Earlier this week, Senate Majority Leader George Mitchell (D-Maine) announced he would call for a vote on the nomination of Alabama assistant attorney general Ed Carnes to the 11th circuit court of appeals. Mr. Carnes does not deserve this seat, nor is there any good reason for Mr. Mitchell to put this nomination to a vote now.

The 13 U.S. courts of appeals are effectively courts of last appeal for 99 percent of federal litigants. While the Supreme Court heard some 100 cases last term, the appeals courts decided 41,000.

Having spent his entire career prosecuting death-penalty cases for the state of Alabama, Mr. Carnes possesses an extremely limited range of experience for so important a job. He has also turned a singularly blind eye toward evidence of racial bias and constitutional violations in the criminal justice system.

In defending capital cases on appeal, Mr. Carnes has steadfastly ignored manifest evidence of bias by local prosecutors. Worse, he has taken a leading role in the contemptible national campaign to eviscerate federal habeas corpus, the means by which defendants can bring alleged violations of their constitutional rights to federal court.

A united front of civil rights organizations is opposing Mr. Carnes's nomination. So why has Mr. Mitchell decided to push it forward?

The only apparent explanation is deference to Alabama's senior senator, Howell Heflin. But Mr. Heflin and the rest of Alabama's mostly white Democratic establishment cannot be permitted to prevail.

Of 32 appointments to courts of appeals, George Bush has managed to find but a single African-American worthy of nomination—Clarence Thomas, who was appointed to the D.C. circuit shortly before being elevated to the Supreme Court. But consider, in the present case, the chief judge of the U.S. District Court for the middle district of Alabama.

Appointed by President Jimmy Carter, Judge Myron Thompson has performed brilliantly on the bench. He would be a truly worthy successor to Frank Johnson, the giant whose seat on the 11th court is being filled.

Critical to stopping the Carnes nomination is Sen. Wyche Fowler, who sits high in the Senate leadership and represents one of the states of the 11th circuit. But despite his longstanding support from black voters, Mr. Fowler has lain low.

Here's a senator who is supposed to stand for the South at its racially most progressive, and there hasn't been a peep from him on the Carnes nomination.

With Democratic presidential nominee Bill Clinton's campaign on its currently promising course, Mr. Fowler should recognize that the cause of justice in the United States is not served by the Senate continuing to approve dubious Bush nominees to the federal bench. And in his own campaign for re-election, Mr. Fowler should recognize that Georgians expect their senators to stand up and be counted.

[From The Atlanta Journal, May 3, 1992]

HOLD UP THE CARNES NOMINATION

If the Rodney King verdict has demonstrated anything, it is that black Americans have good reason to distrust the workings of our criminal justice system. For that reason, special care needs to be taken to ensure that judges be as vigilant as possible against racially discriminatory justice.

This brings us to the case of Alabama Assistant Attorney General Ed Carnes, whom President Bush has nominated to a seat on the 11th U.S. Circuit Court of Appeals. Mr. Carnes, who has no prior judicial experience, has spent his career prosecuting death penalty cases for the state of Alabama.

Mr. Carnes has attempted to portray himself as a staunch defender of racial justice. To that end, he cites his prosecution of two state judges for racist behavior. Be it noted, however, that he did this simply at the behest of the state Judicial Inquiry Commission.

Meanwhile, Mr. Carnes has turned the blindest of eyes to the kind of racial discrimination that gets black defendants sentenced to death in Alabama. He has, for example, personally defended many cases in which Alabama prosecutors systematically excluded African-Americans from juries in capital cases.

Yet, at his April 1 confirmation hearings before the Senate Judiciary Committee, Mr. Carnes blandly asserted that racial discrimination does not exist in Alabama's criminal justice system. He also said that, in defending the prosecutors, he was just following orders.

Indigent black defendants are very often convicted of capital crimes as a result of violations of their constitutional rights to counsel, due process and a fair trial. Mr. Carnes's special claim to fame has been in devising technical reasons for courts to throw out appeals of death sentences. Indeed, no one deserves more credit than he for rationalizing the current evisceration of the federal writ of habeas corpus, under which such appeals are filed.

At the urging of Sen. Howell Heflin (D-Ala.), Mr. Carnes's nomination has been pushed ahead of other judicial nominees. There is reason to suspect that Mr. Heflin acted in the face of mounting opposition to Mr. Carnes's nomination.

The National Association for the Advancement of Colored People has asked that additional hearings be scheduled to allow for a further examination of Mr. Carnes's record. That is the least the Senate Judiciary Committee should do.

[From the National Law Journal, Aug. 3, 1992]

CARNES IS NO CHAMPION OF RACIAL JUSTICE

The portrayal of Ed Carnes, the Alabama assistant attorney general nominated to replace Judge Frank Johnson on the 11th U.S. Circuit Court of Appeals, as a foe of racial discrimination by Morris Dees (Letters, NLJ, July 27) is preposterous. It is based on a selective and distorted rendition of the facts.

Mr. Carnes has repeatedly defended the pervasive practice of Alabama prosecutors using their peremptory jury strikes to exclude blacks from case after case involving black defendants. In his last brief to the court to which he has been nominated, he asked it to overturn a finding of racial discrimination in the case of a black woman sentenced to death by an all-white jury after the prosecutor had struck all 12 black citizens from the venire panel.

Through his actions, Ed Carnes has sent a message to Alabama prosecutors that their racial discrimination would be defended, no matter how blatant. Even where a prosecutor divided jurors into lists of "strong," "medium," "weak," and "black," and used 26 strikes against black citizens to obtain all-white juries, Mr. Carnes' Capital Litigation Division argued to uphold the death sentence. Even though racial discrimination in jury selection long has been illegal, not once did Mr. Carnes question the routine defense of such practices.

Mr. Carnes' support for applying the *Batson* rule to defense strikes proves nothing. Virtually every prosecutor in the country urged the same thing.

Despite his personal involvement in defending racial discrimination, Mr. Carnes told the Judiciary Committee that there was no racial discrimination in the imposition of the death penalty in Alabama and that racial exclusion from juries did not necessarily deny fundamental fairness.

It is because of his support for racial discrimination that the Carnes nomination has been opposed by both the leaders and membership of the Alabama National Association for the Advancement of Colored People, the Birmingham chapter of the Southern Christian Leadership Conference, the Alabama New South Coalition and the Magic City Bar (the minority association) of Birmingham as well as national NAACP, the Congressional Black Caucus, the Rev. Jesse Jackson, Dr. Joseph Lowery and other civil rights leaders in Alabama and the nation.

Finally, it is disingenuous of Mr. Dees to suggest that Carnes is "not a Republican hack" because he has been supported by some Alabama Democratic officeholders, a group that is often 10 degrees to the right of the national Republican party. Alabama's Democratic senators would deny Bill Clinton, if elected President, the possibility of appointing a worthy successor to Judge Johnson, such as Chief Judge Myron Thompson of the U.S. District Court in Montgomery, a black jurist who attended Yale Law School with Mr. Clinton.

As stated by Sen. Bill Bradley, D-NJ: "The confirmation of Ed Carnes would send a disturbing message to African-Americans and others that our government has learned nothing from the Rodney King verdict. It would signal that racial exclusion in the justice system is not only tolerated but also rewarded."—Stephen B. Bright, Southern Center for Human Rights, Atlanta.

[From the Washington Post]

LESS THAN THOROUGH SEARCH FOR JUSTICE

(By Colman McCarthy)

Atmore, Ala. A weather-beaten sign to the left of the double-door entrance to Holman State Prison announces: "All persons entering this prison will be subject to a thorough search." Further down: "The staff of Holman Prison hopes you enjoy your visit."

For the thoroughly searched coming to see their loved ones on death row, the hopes aren't likely to be fulfilled. Alabama's condemned prisoners number 117, most awaiting death here in Atmore, a rural town near the Florida line. The maximum security prison, far back in some scrublands dissected by a shoulderless country road, houses a death row with a disproportionate number of black inmates.

Since 1980, less than 5 percent of Alabama's murders involved blacks who killed whites, while four out of the nine post-1976 executions resulted from convictions for black-on-white homicides. More than 60 percent of Alabama's murder victims are black, while the overwhelming number of death row prisoners killed whites. This racially applied standard prevails in other southern death houses—including Texas, Florida and Louisiana—where most executions have occurred.

Holman prison—part of a state system rated the worst in the country in 1976 when it was declared unconstitutional—cages a large number of prisoners who had the ill fortune of crossing paths with Edward Carnes, Alabama's assistant attorney general in charge of death penalty litigation since 1980. Carnes, who has overseen eight of the nine executions is the state's leading specialist in killing killers. His unrivaled zeal for electrocuting people who are poor, mostly black and usually uneducated put him in fine favor with the Bush administration. In January, its judicial talent scouts nominated Carnes to serve on the U.S. Court of Appeals for the 11th Circuit, which includes Alabama.

Earlier this month, the Senate Judiciary Committee, after hearing civil rights and human rights groups argue that Carnes was dismally unqualified, postponed what might have been a routine vote until at least April 30.

The delay allows the committee, as well as the full Senate, to go beyond a mere spot-check hearing that takes the word of Alabama's Sen. Howell T. Heflin (D) that Carnes, 41, is a fine young fella. It also allows opposition to Carnes to be seen as much broader than only the arguments advanced by anti-death-penalty groups that would speak out against any nominee who favors executions.

The issue is how Carnes favors killing prisoners, not why. His legal passion for securing capital convictions is traceable to Alabama's death penalty law. He wrote it, in 1981 when 30 years old. One feature of that law is allowing trial judges to demand an execution by overriding a jury sentence of life imprisonment. One-fourth of Alabama's death row inmates are override cases.

Another part of Carnes's law—the Alabama "legislature did not change one word in it," he bragged to the Senate Judiciary Committee in 1990—is that it does not prevent prosecutors from trying to select juries based on race. Julius Chambers of the NAACP Legal Defense and Educational Fund, who opposes Carnes' nomination, told the committee of a homicide case now being appealed. At the trial stage in Chambers County, Ala., "the prosecutor divided the jury list into four categories. Three categories were reserved for white jurors, and they were divided under the headings of 'strong,' 'medium' and 'weak.' The fourth category was for the black jurors, and their names were separately typed under the heading of 'black.' "

To Julius Chambers, this defendant was owed a fair trial, but the state "instead deliberately gave him a crooked one."

A judicial philosophy favoring capital punishment can be, and is, held by conscientious judges and prosecutors. Carnes is different. He has less a philosophy than a record of smart-mouth statements that reveal both his arrogance and his biases.

"Under Alabama law, you can't execute someone who is insane. You have to send him to an asylum, cure him up real good, then execute him."

"The problem defendants have is that 99.9 percent are guilty as hell."

On whether courts favor prosecutors in capital trials: "Hell no. The system is titled in favor of the damn defendant."

Carnes has one other large minus on his record. He is being nominated to the federal appeals court without a day's toil as a judge. Total inexperience aside, he is a specialist on only death row law. Why that should distinguish him has yet to be explained.

[From the National Law Journal, July 20, 1992]

A WORTHY SUCCESSOR HE IS NOT

(By Jack Bass)

In the downtown federal courthouse in Montgomery, Ala., the Rev. Martin Luther King Jr. once commented that Judge Frank M. Johnson is "the man who gave true meaning to the word 'justice.'" The U.S. Senate is now considering a successor to Judge Johnson, for whom that courthouse was named in ceremonies last May. He took "senior status" last fall.

To replace Judge Johnson on the 11th U.S. Circuit Court of Appeals, President Bush has nominated Edward Carnes, 42-year-old head of the capital litigation unit in the Alabama attorney general's office, a nomination that has run into trouble. ("Carnes to 11th Circuit?" NLJ, May 4.) Mr. Carnes' legal experience is limited almost entirely to death penalty issues, a field in which he has established a record as a skilled and zealous advocate.

The current Alabama death penalty law, which Mr. Carnes drafted, allows elected judges to overrule juries and impose the death penalty. He organized the national support of state attorneys general for an unsuccessful White House effort to cut back on federal habeas corpus protection. He is backed by a committee composed of Alabama's three most prominent elected Republican officials—Gov. Guy Hunt, U.S. Rep. William Dickinson and Montgomery Mayor Emory Folmar—all of whom he has supported politically.

In contrast to Mr. Carnes, Judge Johnson was an experienced trial lawyer who had distinguished himself as an outstanding U.S. attorney in Birmingham, Ala., before going on the bench at age 37, then the youngest federal judge in the nation. Among other distinctive cases, he prosecuted the only peonage conviction in Alabama this century and got convictions for tax evasion against prominent citizens in Birmingham in cases that had been dormant for several years. He already had established himself in private practice.

The naming ceremony for the courthouse in Montgomery epitomized the change that Judge Johnson has wrought in Alabama. A quarter century ago, with only one dissenting vote, the Alabama House of Representatives passed a resolution calling for his impeachment. At the naming ceremony, veteran black Democratic State Rep. Alvin Holmes read a unanimous House resolution commending Congress for naming the courthouse for Judge Johnson. Turning toward him, Holmes said, "We will never forget your contribution to this nation."

Yale University Law Prof. Owen Fiss, a leading scholar on the development of civil rights law and its impact on the legal process, considers Frank Johnson "the John Marshall of the federal district courts."

INNOVATIVE RULINGS

Judge Johnson, who was appointed in 1955 by President Eisenhower, displayed a creativity that responded to the force of historic circumstances to make the rule of law prevail during a period of upheaval. His innovative rulings on matters of voting rights, discrimination in public accommodations and employment, and rights of women, helped transform the South and the nation. The judge virtually created the structural injunction, using it first to reconstruct an entire state school system that the Supreme Court had declared unconstitutional, then expanding its use to protect rights of other politically powerless groups.

The Senate Judiciary Committee voted 10-4 in favor of Mr. Carnes. However, despite a glowing letter of support from Morris Dees, director of the Southern Poverty Law Center in Montgomery, chairman Joseph Biden, D-Del., voted against Mr. Carnes. It was only Senator Biden's 10th vote against more than 650 Reagan and Bush judicial nominees.

Although the senator supports capital punishment, his negative vote was a reaction to Mr. Carnes' insensitivity to the systematic removal of black jurors in death penalty cases by prosecutorial use of peremptory strikes. He cited Mr. Carnes' failure to state to the committee "that such a practice is fundamentally unfair" to a defendant "whose life, quite literally, is on the line."

As head of the capital litigation unit in Alabama, Mr. Carnes had testified before an American Bar Association committee that death penalty defendants in his state generally are more than adequately represented. An Alabama Bar Association committee reached the opposite conclusion.

Mr. Carnes also displayed a disingenuous quality in response to written questions from Senator Biden. He stated that he did not believe that the death penalty is applied in a racially discriminatory manner. When asked if he had considered statistical evidence in a significant number of capital cases, he said he had.

In his response to the final question on the subject—whether he would believe the death penalty is meted out in a discriminatory manner if he believed that the race of the victim affected the decision to bring capital charges or to impose the death penalty—he answered, "Yes."

INFLUENTIAL STUDY IGNORED

With the exception of one reference, he chose to ignore the findings of the comprehensive and sophisticated study of the death penalty in Georgia by Prof. David Baldus—a study that has had a profound influence on an issue in which Mr. Carnes is a recognized authority.

Although supporters of Mr. Carnes make much of a newspaper quote from Judge Johnson that Mr. Carnes would be a "good choice," the article was published in November 1991, long before the Senate Judiciary Committee delved into his record.

The congressional Black Caucus and numerous civil rights groups are opposing him. At the head of the opposition is Democratic Rep. John Lewis of Atlanta, who helped shepherd the bill naming the courthouse through the House and who attended the Montgomery ceremony.

Mr. Lewis was no stranger to the Alabama state capital. In 1962, as a Freedom Rider, he first sat inside Judge Johnson's courtroom. And he was present again in 1965, when Judge Johnson ruled that the second Selma-to-Montgomery march should be allowed to go forward, saying: "It seems basic to our constitutional principles that the extent of the right to assemble, demonstrate and march peaceably along the highways and streets in an orderly manner should be commensurate with the enormity of the wrongs that are being protested and petitioned against. In this case, the wrongs are enormous." His application of the basic legal principle of proportionality to a constitutional injury set a precedent that expanded the role of law.

Judge Johnson's judicial career has also been notable for acts of personal courage. After enjoining the Klan in the Freedom Rider case, he for years received round-the-clock protection from federal marshals. He also received unrestrained and vituperative attacks from Gov. George Wallace, who said the judge needed "a barbed-wire enema."

Before giving its consent to a successor to Judge Johnson, the Senate would do well to wait a few months until after the voters decide who they want to lead the nation—and appoint their judges. Worthy successors can be found.

Mr. BIDEN. Parliamentary inquiry, Mr. President. How much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. BIDEN. I yield 1 minute to my colleague from New Jersey, Senator BRADLEY.

Mr. BRADLEY. Mr. President, there have been serious questions raised in the Judiciary Committee hearings about Ed Carnes' ability to function as an impartial judge on the eleventh circuit. There are also questions raised about his sensitivity to civil rights. For me, the most disturbing charge is that he knowingly let operate a system of excluding black jurors in capital cases in Alabama.

These are serious charges. They deserve long discussion when we return in September to debate the nomination in full. I hope to be able to explore them all at that time.

I thank the chairman for yielding.

Mr. BIDEN. Mr. President, I yield 2 minutes to the distinguished Senator from Michigan.

Mr. LEVIN. Mr. President, after we proceed to this nomination—and I presume we will—I will oppose the nomination of Ed Carnes. It is not his view favoring capital punishment which causes me to oppose him, although I do oppose capital punishment.

What troubles me is his unbalanced statements on the relationship between capital punishment and race. What troubles me are his unbalanced statements on the relationship between capital punishment and poverty.

Race and poverty go to the heart of capital punishment in our judicial system, and a poor person and a minority person has a right to be treated, in this system, as though they were a member of the majority race, or as though they had money. Ed Carnes thinks they now are, and thinks that anyone who disagrees with that statement is absolutely wrong.

Race is a real issue in America, and we have to be sensitive to the issue of race. His statements outside of the courtroom on the subject of race and capital punishment, and poverty and capital punishment, as well as his advocacy in the courtoom in a number of cases which were not worthy of being advocated, are what troubles me.

For those reasons, when we return to this matter in September, I will oppose the nomination of Mr. Carnes; although, again, it is my decision to vote to proceed to that nomination, so that we have that debate.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself 1 minute.

Mr. President, I want to make it clear that I urge everyone, even those of us opposed to Mr. Carnes, to vote for the motion to proceed. There has been a unanimous-consent agreement entered into whereby we are going to have a cloture vote on this nomination the second day after we return from the recess; I believe it is Wednesday, the 9th or 10th of September.

And, at that time, those of us who oppose Mr. Carnes are going to urge all of our colleagues to vote against cloture. But we are voting to allow the nomination to proceed.

Mr. THURMOND. Mr. President, I yield 2½ minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, Senators have brought up the issue here of discriminatory jury striking by which blacks were excluded from the jury. The decision of the U.S. Supreme Court in Batson versus Kentucky was decided in 1986. I will submit for the RECORD two letters from district attorneys—honorable district attorneys and men—in Alabama. Here is Robert Rumsey:

> Long before the Batson v. Kentucky decision ever came down, Mr. Carnes urged Alabama district attorneys, including me, not to strike blacks off the jury. Before the Batson decision, Mr. Carnes admonished us not to use such strikes in a racially discriminatory manner, and he felt it was wrong.

And essentially the same statement is made in a letter from David Barber, who is district attorney in Jefferson County, which is where Birmingham is located.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE DISTRICT ATTORNEY,
TENTH JUDICIAL CIRCUIT,
Birmingham, Alabama, May 8, 1992.

Chairman JOSEPH R. BIDEN, JR.,
Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am District Attorney of Jefferson County, the most populous judicial circuit in Alabama, and I have been a prosecutor for twenty years. I have known Ed Carnes for over fifteen years. I know his attitudes about many subjects, including racial discrimination. He is adamantly opposed to it.

I have been told that his nomination to the federal appeals court is being opposed because some people say he did not do enough to stop racial discrimination in jury selection. That is not true.

At least as early as the early to mid-1980's, Mr. Carnes, in talking with district attorneys, including me, spoke out against the use of peremptory strikes in a racially discriminatory way. In that pre-*Batson* era, there were very few practical restrictions on the way a prosecutor could use his peremptory strikes, and as a practical matter, there was no effective remedy for a defendant if a prosecutor removed blacks from the jury because they were black. Still, Mr. Carnes, on more than one occasion, told Alabama district attorneys not to do that. I personally heard him say that. It was before the 1986 *Batson* decision.

Those opposing Mr. Carnes' nomination seem to be concerned only with the possibility of racially discriminatory strikes by prosecutors. I can tell you that defense attorneys, particularly those representing white defendants charged with crimes against black victims, often strike all the blacks off a jury just because of their race. That is wrong, and no one in this entire country has done as much to stop that pernicious practice as Ed Carnes has.

Mr. Carnes drafted legislation to extend the prohibition against racial discrimination in jury selection that already applies to prosecutors to defense counsel as well. The purpose of that legislation was to ensure that neither side removed black citizens from jury service because of race. Mr. Carnes' bill, which was supported by the Alabama Black Legislative Caucus, did not pass the Alabama Legislature. Mr. Carnes did succeed in getting the Alabama appellate courts to adopt the rule of law that criminal defense attorneys, like prosecutors, could not strike black jurors because of their race. That success came only after Mr. Carnes had raised and argued the issue on a number of different occasions. Once he took the issue all the way to the Supreme Court in a case involving the Ku Klux Klan lynching of a black man. So tenacious was Mr. Carnes in his fight against racial discrimination in jury selection that he convinced forty-five other states to join his effort in that case. The Southern Christian Leadership Conference and the Southern Poverty Law Center also joined him.

The Rodney King case, and its aftermath, shows the wisdom of Mr. Carnes' years of efforts to ensure that white defendants accused of crimes against blacks are not permitted to arrange an all-white jury. What Mr. Carnes has spent much effort doing is obtaining a rule of law to prevent any white defendants, including white policemen, from striking all the blacks off their jury because of race. That rule, which he has almost single-handedly established as the law of Alabama, will help reduce the number of all-white juries like those in the Rodney King case. That case vindicates Mr. Carnes' efforts. It is evidence that his nomination should be confirmed.

I do not know anyone else who has done nearly as much as Ed Carnes to fight racial discrimination in jury selection. To say that Ed Carnes has not done enough to end racial discrimination in jury selection does a grave injustice not only to Mr. Carnes but also to the truth.

Very truly yours,

DAVID BARBER,
District Attorney.

ROBERT L. RUMSEY, DISTRICT ATTORNEY, 29TH JUDICIAL CIRCUIT OF ALABAMA,

Talladega, AL, May 7, 1992.

Re: Nomination of Ed Carnes.

Senator JOSEPH R. BIDEN, JR.,
Chairman, U.S. Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in response to what I understand to be some accusations that Ed Carnes has been insensitive to the problem of black prospective jurors being struck from juries for racially discriminatory reasons. Let me tell you why such accusations are completely unfair.

Long before the Batson v. Kentucky decision ever came down, Mr. Carnes urged Alabama district attorneys, including me, not to strike blacks off juries unless there were race-neutral reasons to do so. He told us not to strike a black juror unless we would strike a white juror in the same situation. Before the Baton decision came down in 1986, Mr. Carnes admonished us not to use such strikes in a racially discriminatory manner and he felt it was wrong.

I, for one, followed Mr. Carnes' advice. I also ordered every assistant district attorney in my office to follow a strictly race-neutral jury strike policy even before the Batson decision came out.

It is simply unfair to accuse Mr. Carnes of being insensitive to the problem of race discrimination in jury selection when he did his very best to end racial discrimination in jury selection long before the Batson decision forced an end to it.

Please see that Mr. Carnes gets credit for the extraordinary action he took in trying to end racial discrimination in jury selection.

With every good wish, I am

Yours very truly,

ROBERT L. RUMSEY.

Mr. HEFLIN. Mr. President, I suppose when people want to try to find reasons to do it, they will pick up stones and try to find something under the stone that they can talk about. This case is involving where there are four categories—strong, medium, weak, and black—that you are going to hear about; they are raising the issue about that.

Mr. Carnes has not participated in that case. He handles appeals, and it had not gone up on an appeal. It shows how things have been so distorted relative to this matter. I think he went to one little hearing, or something, along with someone else. But he has not really participated in that case whatsoever, which shows a distortion of what is occurring here.

So I think when we get to it, we can find that when you get into the facts, the facts are on his side, and they are such that we ought to go ahead and support him.

I yield the remainder of my time.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

Mr. SANFORD. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I have not yielded back my time.

I yield 1 minute to the Senator from Georgia.

Mr. FOWLER. Mr. President, one of the problems of judicial nominees is that it is very difficult for the Senate to make informed judgments when there is no record or experience on the bench from which to form that judgment.

I want to associate myself with the remarks of the Senator from New Jersey [Mr. BRADLEY] and the remarks of the Senator from Michigan [Mr. LEVIN].

I, too, will oppose Mr. Carnes when we go to full debate, and I will try to set out at that time the reasons for that decision.

I thank the Chair.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Ed Carnes to the Eleventh Circuit Court of Appeals.

Mr. Carnes has spent 17 years as an assistant attorney general for the State of Alabama. He has a distinguished record of public service in the area of law.

The attorneys general, all Democrats, of Alabama, Georgia, and Florida—the three States comprising the eleventh circuit—have written that Mr. Carnes not only has a reputation for ethical propriety that is unsurpassed, but also that he has earned a reputation as one of the finest attorneys in the eleventh circuit.

One of the finest attorneys in the eleventh circuit, that's not me saying that, that's from the attorneys general of the eleventh circuit States. So, why then has this nomination been the target of a vicious opposition campaign by certain, and very specific, very special interest groups? The answer is that during the last half of his distinguished career—and a distinguished career he has had, there is no denying that—Mr. Carnes has been assigned to represent the State of Alabama in postconviction cases and appeals involving capital punishment. That has been his assignment, and, as he has done everything else in his career, he has done it well, extremely well.

Capital punishment is the law of much of this land, and the U.S. Supreme Court has held repeatedly that it is constitutional. The groups that oppose Ed Carnes, oppose capital punishment, and they want to defeat his nomination as part of a mean-spirited attempt to punish him for having represented his client. That is what he has done, he has represented his client, the State of Alabama, whose capital punishment law offends the groups' own beliefs. How often we have seen that.

What would the Founding Fathers think now? The groups out there, I bet, would certainly cause their collective brow to raise with disdain. The groups working so hard against this nomination, and my colleagues speaking out against it, will deny that the opposition is motivated by the capital punishment issue, but it is true, the truth will win out. The opponents will deny it, but let me give you four reasons you can tell that the opposition to this fine nomination is based solely upon opposition to capital punishment.

First, every person who showed up to testify against this nomination at the confirmation hearing was opposed to capital punishment. I was there, not one single person who testified against Mr. Carnes favored capital punishment. All four of the opposing witnesses were feverishly opposed to capital punishment, and two of them make their living opposing it. What a coincidence.

Second, every group that has ganged up to oppose this nomination is also opposed to capital punishment. There is not one single group opposed to this nomination that is not fundamentally opposed to capital punishment. What a coincidence.

Third, the foremost expert in the Senate on this nomination has concluded that the opposition to this nomination is based upon opposition to capital punishment, and his opinion deserves great deference. No Senator knows more about this nominee than the senior Senator from Alabama.

The senior Senator from Alabama, my friend HOWELL HEFLIN, who came here when I did, presided over every minute of the long confirmation hearing, and he listened to every word spoken by every witness. He has conducted his own independent investigation of the issues, he has sources in his home State of Alabama about this nominee that no other Senator has, and he knows every document and record of this nomination—has it down cold.

The senior Senator from Alabama has said that he is convinced that those opposing this nomination view it as a referendum on capital punishment. He is correct.

Fourth, you can tell the opposition to this nomination is really based upon an opposition to capital punishment, because the cover story the opponents put forward to explain their opposition is clearly false, it is just plain false. The opponents' cover is their claim that this nominee has been insensitive to racial discrimination. How absurd and ugly that is.

Ed Carnes has one of the strongest records on civil rights of any judicial nominee to come before this Senate in many years. He has fought the Ku Klux Klan. He worked on a legal action to stop importation of South African coal because it was mined by exploited black labor. That action resulted in South African Government changing its laws concerning use of indentured black laborers in mines.

Ed Carnes also personally prosecuted disciplinary charges against two State court judges who made racist comments. And he was successful in having them removed from the bench. He was the lawyer who convinced the appellate courts to uphold the conviction of that Klansman who blew up the 16th Street Baptist Church in Birmingham killing four young black girls.

Ed Carnes was also the foremost champion of the movement to extend the Batson case rule so that no one, including defendants and their attorneys, could discriminate against blacks in selecting a jury. He convinced Alabama's appellate courts to adopt a rule of law prohibiting racial discrimination in jury selection by anyone in criminal cases. He went to the U.S. Supreme court in another case and argued that the Constitution prohibited all racial discrimination in jury selection. Does that sound like a man who is insensitive to racial discrimination? Of course it doesn't—what dramatic drive.

The opponents' are using the Carnes nomination only as a cover. The true basis of their opposition is that Ed Carnes' work in recent years has been in the capital punishment area. The opposition here looks like a duck, walks like a duck, and quacks like a duck. It is a duck, even if it claims to be an eagle. They ought to duck as we throw it back in their faces.

An interesting question is why the opposition groups would go to such extreme lengths to disguise the true basis of their opposition. The answer is that if the opponents revealed the truth, the game is over. The overwhelming majority of the American people support capital punishment as an available sentence in cases of aggravated murder. The same is true of the Members of the Senate.

Last year, about three-fourths of this body—73 of the 98 who voted—went on record in favor of capital punishment with the crime bill. So, those opposing this nomination know that their only hope of defeating it is to disguise the true basis of their opposition. They have fooled some of my colleagues, but not the majority. The opposing groups will lose, because deceit is a bad strategy, and the truth will out.

Mr. President, I want to make one further comment and broader point. So often I think of my own father and I am thinking of him now. Milward L. Simpson. He served as Governor of Wyoming and he also served here in the U.S. Senate. He lives in Cody, WY, as he has for most of his remarkable life. He is a great father, a great man. Never have I had a better friend, a better adviser, a more honest critic.

We have had many discussions, we have covered the whole spectrum of issues, discussed each and every one thoroughly. And how we have covered the death penalty. He opposes it, and he always has. He is deeply opposed to it. When told that his opposition to the death penalty would cause him his reelection as Governor of Wyoming, he said so be it. And it was. He lost. He knows where I stand on it. But never has he dismissed my views on other issues due to my position on the one.

The death penalty is 1 in 101 issues, or 1,001 issues, that a politician, that a judge, will confront.

Let's not discount this obviously exceptional man, let's not waste his nomination and punish him for work well done. Let's not discard this nominee for his work on one issue, especially when his work on that issue is in representation of his client—the State. Let's not discard his nomination when his work displays thoughtfulness, great intelligence and fairness.

The great civil rights lawyer, Morris Dees, calls Ed Carnes "A highly ethical, principled person." Look at his record. Ed Carnes is an excellent nominee. He has not one blemish on his impressive record. He has served the State of Alabama with admirable distinction.

Let us move on. I urge you to join me in rejecting the attempt to punish—yes, that's the word—this nominee because of his work in the Alabama attorney general's office. He is an excellent nominee. I urge you to join me in voting to confirm this nomination.

The PRESIDING OFFICER. The question is on the motion to proceed. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS], the Senator from Utah [Mr. GARN], and the Senator from Wisconsin [Mr. KASTEN] are necessarily absent.

I also announce that the Senator from Utah [Mr. HATCH] is absent due to a death in the family.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. HELMS], and the Senator from Wisconsin [Mr. KASTEN] would each vote "yea."

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 183 Ex.]

YEAS—91

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey

Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NOT VOTING—9

Burdick
Coats
Garn
Gore
Hatch
Helms
Kasten
Wellstone
Wirth

So the motion to proceed was agreed to.

The PRESIDING OFFICER (Mr. HARKIN). The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President as in executive session I ask unanimous consent that on Tuesday, September, 8, at a time to be determined by the majority leader after consultation with the Republican leader, the Senate to go into executive session to resume consideration of the Carnes nomination; that there then be 3 hours equally divided between the proponents and opponents for debate on the nomination; at the conclusion or yielding back of such time the Senate return to legislative session; that on Wednesday, September 9, at 9 a.m. the Senate proceed to executive session to consider the Carnes nomination; that there then be 1 hour for debate equally divided in the usual form prior to a vote on the motion to invoke cloture on the nomination; that it be in order to file that cloture motion at any time prior to the cloture vote; that if cloture is invoked there be an immediate vote on confirmation of the nomination, without any intervening action or debate; and that the preceding all occur notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, since we are already in executive session, I ask unanimous consent that the Senate proceed to consider the following nominations from the executive calendar: 728, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762; and nominations placed on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be confirmed, en bloc; that any statements appear in the RECORD as read; that the motions to reconsider be laid upon the table, en bloc; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

DEPARTMENT OF STATE

Richard H. Solomon, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Philippines.

Robert F. Goodwin, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Western Samoa.

Henry Lee Clarke, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Republic of Uzbekistan.

Donald Burnham Ensenat, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Brunei Darussalam.

Edward Hurwitz, of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kyrgyzstan.

Jon M. Huntsman, Jr., of Utah, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Singapore.

Richard Monroe Miles, of South Carolina, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Azerbaijan.

Joseph S. Hulings III, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkmenistan.

John Stern Wolf, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

William Harrison Courtney, of West Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kazakhstan.

Nancy M. Dowdy, of the District of Columbia, to be Special Representative for Arms Control and Disarmament Negotiations, vice Edward L. Rowny, resigned.

David Heywood Swartz, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Byelarus.

Mary C. Pendleton, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Stanley Tuemler Escudero, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

Kent N. Brown, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Georgia.

Genta Hawkins Holmes, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Director General of the Foreign Service, vice Edward Joseph Perkins.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Gene Ernest Bigler, II, and ending Charles B. Woodward, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 27, 1992.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF ANNIE GARRICK HANBERRY

Mr. THURMOND. Mr. President, South Carolina recently lost an outstanding lady who spent most of her life educating the children of northern Richland County, SC. Mrs. Annie Garrick Hanberry, who passed away on July 12, was a woman of character, dedication, and compassion, and she will be sorely missed.

I would like to extend my deepest condolences to Mrs. Hanberry's family and friends, and I ask unanimous consent that an article on Mrs. Hanberry from the State newspaper in Columbia be inserted in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the State, Aug. 15, 1992]

CELEBRATED EDUCATOR HANBERRY DIES AT 89

(By Warren Bolton)

Annie Garrick Hanberry's dedicated leadership enabled many northern Richland County students to overcome a lack of money and supplies to gain a valuable education.

Hanberry, who spent 50 years teaching and caring for students, many at the old Bethel High and Elementary schools in Blythewood, died Sunday. She was 89.

"Teaching must inspire in young people a thirst for truth and knowledge," she once said. "It must keep them asking, searching and learning all of their lives. If a teacher can do this, education is on a sound foundation, and students will be able to cope with the problems they meet in life."

Hanberry often siphoned off materials for her students from her husband, the late T.J. Hanberry, who taught at Benedict College. She even managed to get laboratory materials such as microscopes and bought clothing for students.

Hanberry, whose career was featured on NBA's "Today" show in 1972, placed more of the responsibility for what students learned upon herself and fellow educators than the youths themselves.

Joe E. Kelly, a former student of hers who returned to teach under her in 1960 when she was principal of the old Bethel High and Elementary schools, said Hanberry wanted the best of everything for students and encouraged faculty members to obtain advanced degrees.

"That's why she wanted the faculty members to be well-prepared to expose students to as much information as they could possibly grasp," Kelly said.

Rachel Griffin, a longtime friend and neighbor who also taught at Bethel for 15 years, and others described Hanberry as a tireless advocate for students who loved and cared for everyone.

Ethel Bolden, who knew Hanberry through their work for the YWCA and other organizations, was impressed by Hanberry's "undaunted personality." When you meet a person, and they always smile regardless of what the situation is, it's sort of uplifting," Bolden said.

Born in 1903, Hanberry grew up near the Wheeler Hill section of Columbia and attended city schools.

She was graduated from Benedict and in 1921 began teaching science at Finley High School in Chester County, a job she held for 15 years.

After marrying in 1934 Hanberry moved to New York City, where she earned a master's degree in education from Columbia University.

In 1936, the Hanberrys moved to Columbia, where she began teaching in a two-room, two-teacher school in Blythewood because married women weren't allowed to teach in city schools.

Hanberry later became principal of the two schools. Two more rooms and teachers were added in the early 1940s. A high school building was constructed in 1949, and another in 1953 to accommodate consolidation.

"There was always a school there, but she did so much to make it an accredited high school. She worked untiringly until she had that school accredited by the Southern Association of Secondary Schools," Griffin said.

She said that under Hanberry's leadership the school became the focal point of the community.

In 1954, the Palmetto Education Association was organized for secondary principals, and Hanberry became the only women member among 96 men.

In 1967, Bethel High was renamed Annie E. Hanberry High. It later became Bethel-Hanberry Middle School and now is Bethel-Hanberry Elementary School.

Hanberry received numerous honors and has been listed in "Personalities of the South," "Who's Who of American Women" and "Who's Who in Black America." In 1987, she became the first recipient of the Alex English Humanitarian Award.

Services will be announced by Leevy's Funeral Home.

Mr. THURMOND. Mr. President, illiteracy is one of the greatest problems facing our Nation, adversely affecting America's productivity and progress in more ways than I have time to enumerate. However, it is also a very personal cross which far too many Americans have to bear. I rise today to pay tribute to Mrs. Lynn Futrell, a young woman from my State who has been able to surmount this tremendous obstacle and succeed in the face of great personal hardship.

Mrs. Futrell spent most of her life frustrated by her lack of reading skills. With her reading ability rated below the fifth grade level, she did not have the practical reading skills which most of us take for granted. School seemed like an exercise in futility to her; and when she reached the 10th grade and still could not read, she dropped out, vowing never to return again.

Years later, Mrs. Futrell visited an adult literacy center, where she was eventually teamed up with a compatible and dedicated tutor. In spite of her doubts about her learning ability, Mrs. Futrell persevered. With her tutor's encouragement, she not only learned to read, but went on to earn a high school equivalency diploma.

Mrs. Futrell is currently enrolled in college, where she hopes to attain a bachelors degree and become a reading specialist. At this point, I would like to read a portion of a letter Mrs. Futrell recently wrote to me:

> It seemed like the first day I walked into that college that I had made up my mind that I was going to get a degree before I stopped. It has not been easy but that does not matter. I am determined to become a reading specialist. I have failed a few classes along the way. I have to admit that this is the hardest thing I have even done, but the harder the trial the greater the victory. I feel that God has called me to do this . . . my final goal of becoming a reading specialist is so that I can help prevent the same thing happening to other children that happened to me. I hope to help stop illiteracy where it starts—in childhood.

Mr. President, this young woman's talent and idealism would probably have gone to waste if not for her own courage and commitment and the help of some concerned volunteers. Lynn Futrell is an inspiration to other Americans who are struggling with illiteracy, and we are proud of her.

AN ESSAY BY ALLISON JOANNA MELOY

Mr. THURMOND. Mr. President, I recently had the pleasure of attending a reception for the recipients of the 1992 public service scholarships awarded by the public employees roundtable, a worthy organization which represents the interest of Federal employees. I was very proud to discover that 1 of the 10 honorees was a constituent of mine Ms. Allison Joanna Meloy of Myrtle Beach, SC.

Ms. Meloy is a bright, intelligent young woman, and I was most impressed by her commitment to public service. America needs more young people like Ms. Meloy, and she is to be commended for her interest in the welfare of others.

As part of the scholarship competition, she wrote an essay on public service which I thought was excellent. I ask unanimous consent that this essay be included in the CONGRESSIONAL RECORD following my remarks.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

PUBLIC SERVICE

(By Allison Joanna Meloy)

Having discovered that I was absorbing everything I could about politics and policy making, I knew by my junior year without making a conscious choice that I was going to point my talents toward working for government. I believed that the process of American government provided a rational way to resolve conflict: therefore, I decided to prepare a good record and ready myself for a future in the public sector. In order to see the process improve I knew that I had to be actively involved.

Public service is a calling in addition to being a profession family's long tradition of public service is ingrained in me. The most important influence that calls me to serve are values. I am a progressive. I have values to consumer protection, a clean environment, and clean government, As a good government guru I feel I have an obligation to be involved within the system. So at the age of sixteen I got my first public sector job as a U.S. House page.

I have done a great deal since then, and my hands-on experience has taught me much. Although in all the bureaucratic shuffle the goals are easy to lose sight of. I know that I am in public service for good reasons. I am already too familiar with all the inadequacies of government, but I am relieved that I still find more things about public service that I can admire than things that I can criticize. Leaders I respect stress public responsibility and civic duty. An increased sense of public responsibility is the first step toward a better government.

I have also learned that I am suited to this work. I enjoy the details of policy making and constituent service. Politics is like breathing in me. Amazingly, I am still hopeful that our democracy can become more representative and efficient. Having an interest and aptitude for social sciences and environmental policy, I am studying the American political system in both theory and practice. I want to spend a career protecting the interest of the American public in preserving our planet.

I have chosen a career in public service for some of the same reasons that people choose other careers. I think that I am good at it. Challenged by this competitive field, I also think that public service is good for me. There is not another field where there is as clear an opportunity to influence peoples lives in a positive way. I want responsibility, but more importantly I want to be able to use it wisely. I will make mistakes—I have already made a few—but I feel that I will be a responsible public servant. Although already well on my way, I still have much to do and learn. I reflect on all that my internships have taught me, and I am trying to get a strong liberal arts and political science background. I am also continually looking forward to my graduate work and doing more in my community to improve the public's perceptions of government and how they can be part of the process.

TRIBUTE TO JESSE HATCH

Mr. THURMOND. Mr. President, I rise today to mourn the passing of Mr. Jesse Hatch, the father of my esteemed colleague and good friend, ORRIN HATCH. Mr. Hatch was a man of character, courage and compassion, and he will be deeply missed by a large circle of family and friends.

Mr. Hatch was a deeply religious man, and he devoted a great deal of time and energy to serving others. He was very active in the Church of Jesus Christ of Latter-Day Saints, and he instilled strong love of family and American values in his children. He was also active in the community, and he was a respected building tradesman.

Mr. President, Jesse Hatch was a man of integrity; a loving husband and father; and a patriotic, public-spirited citizen. I would like to extend my deepest condolences to his lovely wife, Helen; his children: Senator ORRIN HATCH, Mrs. Nancy Scott, Mrs. Norman Cluff; Mrs. Marilyn Kuch, Mrs. Frances Merrill, his 34 grandchildren, 73 great grandchildren, and two great-great-grandchildren. Our prayers will be with them as they remember the life of this good man with love and affection.

Although I did not have the pleasure of knowing any of the children of Mr. and Mrs. Jesse Hatch except Senator ORRIN HATCH. I have served in the Senate for a number of years with Senator HATCH, and I am sure that both of his parents were exceedingly proud of him as he is a man of great integrity, ability, and dedication. He has brought credit and honor to the Hatch name.

IRISH-AMERICAN HERITAGE MONTH

Mr. KENNEDY. Mr. President, yesterday 29 of my colleagues joined me in introducing Senate Joint Resolution 330, a Senate Joint Resolution designating March 1993, as "Irish American Heritage Month." Any other Senators wishing to join as original cosponsors may do so before we adjourn next Wednesday. I ask unanimous consent that the text of the joint resolution may be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 330

Whereas by 1776 nearly 300,000 natives of Ireland had emigrated to the colonies that would become the United States;

Whereas following the victory at Yorktown over the English, a French Major General reported that the Congress owed its existence, and America possibly owed its preservation, to the fidelity of the Irish;

Whereas at least eight signers of the Declaration of Independence were of Irish origin;

Whereas 18 Presidents have proudly proclaimed their Irish-American heritage;

Whereas 200 years ago, Irish-born James Hoban and Irish immigrants assisted in the construction of the United States Capitol;

Whereas 190 years ago, Irish-born John Barry was the first naval hero of the American Revolution and became known as the "Father of the United States Navy";

Whereas 180 years ago, Commodore Oliver Perry, an Irish-American, achieved his major naval victory in the Battle of Lake Erie;

Whereas 50 years ago, the USS Sullivan was commissioned as a naval memorial to the famed Irish-American Sullivan brothers who made the ultimate sacrifice for democracy and freedom in the world; and

Whereas the Governors and mayors of 37 states and cities have designated March 1992 as "Irish-American Heritage Month": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1993 is designated as "Irish-American Heritage Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

RETIREMENT OF DR. JERROLD MICHAEL

Mr. INOUYE. Mr. President, a longtime friend of mine, Dr. Jerrold Michael, recently retired as dean of the School of Public Health at the University of Hawaii after 20 years of service to the University, the citizens of the State of Hawaii, and our Nation.

Dr. Michael is a former assistant Surgeon General of the Department of Health and Human Services and under his leadership, not only has our Nation's schools of public health flourished, but Hawaii has also begun to really understand its potential international role throughout the Pacific basin region and all of Southeast Asia.

Mr. Bud Smyser, former editor of the Honolulu Star-Bulletin, wrote an article on Dr. Michael's retirement which appeared in the July 29, 1992 edition of the Star-Bulletin. As my colleague indicated, we are both very pleased that "we'll still have Jerry Michael to kick around, I'm glad to say."

I ask unanimous consent that the full text of the Honolulu Star-Bulletin article be included in the RECORD.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Honolulu Star-Bulletin, July 29, 1992]

MICHAEL RETIRING AS UH PUBLIC HEALTH DEAN

(By A.A. Smyser)

Dr. Jerrold Michael steps aside Friday after 20 years as the University of Hawaii's dean of public health and as the nation's senior public health dean.

He is notable for many things. I'll focus on just a few:

He has shown that the university can be a major force in outreach to Asian and Pacific nations. He has institutionalized this work so that it should continue after him.

From the beginning he has worked for greater cooperation among the university's schools of medicine, nursing, social work and public health to achieve better training through "cross pollination."

UH provides most of the health personnel here. This must be part of the reason Hawaii residents are among the nation's healthiest.

He has helped elevate public health concern in Asia-Pacific Third World areas and presumably promoted healthier lives.

No shrinking violet he. That is key to his success. He has some of the flare for showmanship/leadership of his famous friend, former U.S. Surgeon General Everett C. Koop.

As a former assistant surgeon general, Michael, too, may wear the rear admiral-rank uniforms Koop promoted, and occasionally does. The old ones still fit him 21 years after he came to UH from the Public Health Service.

Michael's UH colleague, Dr. John Hayakawa, marvels that he had the insight to found an Asia-Pacific Academic Consortium for Public Health with five nation members and then go right to the top, often to chief ministers, to expand it to 22 colleges and universities in 15 countries, even into remote places like Nepal and our former enemy capital, Hanoi.

Michael and his APACPH colleagues boost public health visibility in Third World nations by holding conferences there, meeting with top officials and endorsing the local public health officials. Colleagues from Japan and Thailand join in promoting Third World public health.

Public health and medicine overlap but have significant differences.

The traditional emphasis of medicine is on healing. Public health personnel try to keep illnesses from happening in the first place.

The U.S. Public Health Service has been key in the near-elimination of leprosy and tuberculosis in the U.S. and in the victory over polio.

In the Third World the first public health emphasis is on such things as transportation to places where medical care can be given, on potable water supplies, and waste disposal.

Only later does the emphasis shift to building facilities. Only much later does it come to the sophisticated environmental concern seen at the recent Rio de Janeiro conference and the Democratic National Convention.

In Honolulu in 1899-1900 public health meant setting 41 fires to burn out bubonic plague.

One accidentally led to a 17-day Chinatown fire that destroyed 38 acres and the homes of over 4,000 people, mostly Orientals.

The intent was to destroy infected rats. Now it is known that rat-borne plague-infected fleas may "jump ship" in the fires and move to human hosts.

Today's public health workers emphasize better lifestyles—cleanliness, low-cholesterol diet, no smoking, exercise.

They also spread the word about sensible dying, as with hospice care.

An overlap with medicine is developing as health maintenance organizations like Kaiser also put more emphasis on wellness.

Public health employs fewer physicians and more technicians and nurses than traditional medicine. Doctors may be a downright rarity in the Third World.

By working together, the UH medicine, nursing, social work and public health schools have been able to get grants in common such as $2.5 million from the Kellogg Foundation for community-based education and $10 million over several years for Pacific islands projects.

Hawaii is a major source of Pacific island health training.

At the outset I said Michael, who turns 65 Monday, is stepping "aside," not "down."

He has a new suite of offices across a court from his dean's office. There he will exercise his roles as director of the World Health Organization's center for leadership development, secretary-treasurer of APACPH and professor of public health.

He also will direct a new environmental health research center.

He likely will maintain the relations stretching west to Thailand and east to Washington and Israel that cause Senator Inouye to call him "truly the political consummate" who is willing to do both the scut work and high-level work.

He will continue to promote the cause of Israel. He will indulge his hobby of better recording the history of the U.S. Public Health Service in Hawaii.

We'll still have Jerry Michael to kick around, I'm glad to say.

TODAY'S BOXSCORE OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the congressional irresponsibility boxscore.

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $4,000,451,569,305.92, as of the close of business on Wednesday, August 5, 1992.

On a per capita basis, every man, woman, and child owes $15,574.50—thanks to the big-spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

IN RECOGNITION OF THE SERVICE TO THE UNITED STATES OF DR. MANFRED EIMER

Mr. WARNER. Mr. President, I rise today to recognize Dr. Manfred Eimer who retires today from more than 20 years of distinguished Government service in the area of arms control and national security.

Dr. Eimer currently is Assistant Director of the U.S. Arms Control and Disarmament [ACDA] in the Bureau of Verification and Implementation. He has served in this position since 1983.

Dr. Eimer has long been the executive branch's prime authority on arms control verification issues ranging from treaty requirements to compliance decisions. He pioneered the President's annual report assessing compliance with arms control agreements. In addition, during the negotiation process for all major arms control agreements, particularly during the last decade, he has contributed greatly to the formulation of U.S. proposals aimed at ensuring effective verification.

Before becoming Assistant Director, Dr. Eimer served at ACDA in a variety of positions related to verification. From 1973 to 1983, he held positions as Executive Secretary of the ACDA verification panel, Deputy to ACDA's Senior Military Adviser, Deputy Chief Scientist for Verification, and Deputy Assistant Director of the Bureau for Verification and Analysis.

From 1970 to 1973, Dr. Eimer served in 2 positions at the Defense Department: as Assistant Director of Intelligence and as Assistant Director of Electronic Warfare and Reconnaissance in the office of Defense Research and Engineering.

Before coming to Government service, Dr. Eimer was vice president for engineering at Space General Corp./Aerojet General Corp. from 1963 to 1970, and deputy chief, division of space sciences at the Jet Propulsion Laboratory of the California Institute of Technology. He received a Ph.D. (cum laude) in aeronautics and mathematics in 1953, and M.S. in aeronautical engineering in 1948, and a B.S. in engineering in 1947, all at Cal Tech.

Dr. Eimer's expertise in the technical aspects of arms control and verification has earned him the highest respect in the national security community. He is also known for his skill in recognizing significant developments in the intelligence arena and for determining their implications for U.S. national security. He has promoted independent and innovative thinking in government by asking hard questions about both the outcomes and methodology of analytical work. His leadership has helped make ACDA a key player in the arms control decision-making process.

Dr. Eimer has played a significant role in assisting the Congress in its understanding and oversight of verification systems for arms control treaties. He has demonstrated for a generation of legislators and other policymakers that arms control would be meaningless without effective verification.

In conclusion, Dr. Eimer has been in large part responsible for the success of Reagan and Bush administration arms control efforts in achieving extensive and intrusive verification provisions aimed at detecting and discouraging noncompliance. Without his untiring efforts, Presidents Reagan and Bush may have been less able to assure that arms control agreements would be effectively verifiable and, therefore, in the interest of the United States. In the past few years alone, the INF Treaty, the Threshold Test Ban Treaty, the CFE Treaty, and the START Treaty have been negotiated to include unprecedented verification provisions. In addition, Dr. Eimer's efforts have allowed the United States to lead the West in efforts to press the former Soviet Union to account for noncompliant behavior in the arms control area.

Those efforts have been enhanced by his success in dealing with the national security bureaucracy, by his unflagging dedication, and by his personal integrity. His career in Government has materially improved the national security of the United States. His consistent pursuit of excellence in the development of U.S. arms control policies, especially those related to verification, have set a standard which will be difficult to meet by those who will follow.

JON GAILMOR, FOLK SINGER

Mr. LEAHY. Mr. President, Marcelle and I have been blessed with the friendship we share with Jon and Cathy Gailmor. John and Cathy, and their children, Aaron and Maya, live in Vermont where Jon is the most beloved folk singer our State has.

He is a man of tremendous talent who has given great pleasure to people in all walks of life, including those who visit Vermont, as well as those who live there. I was very pleased to see an article about him recently in the Vermont Press, which I want to share with my colleagues and I ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIVING UP FORTUNE FOR FAMILY

(By Amy Killinger)

Singer/songwriter Jon Gailmor has made a living with his voice and an acoustic guitar in Vermont for 15 years, and he's never been happier.

It's not something everyone can say.

"I made a commitment to myself to try this because the world is a miserable place," Gailmor says in his Lake Elmore studio. "Most people hate their work. I decided that life is too short. I want to make sure I'm happy."

And he clearly is, with his job, his marriage and his home near Lake Elmore. Even on a gray, coolish summer day he radiates satisfaction.

No mid-life crisis for this 43-year-old.

But he's not so snug in his life that he won't break—or at least fool with—the mold. Saturday night Gailmor joins the Vermont Symphony Orchestra for a concert of pops music at Shelburne Farms, Gailmor will sing two of his own songs—the Vermont tribute, "Long Ago Lady," and "Jacob and Eva," a song about Gailmor's grandparents. He'll also croon "Penny Lane," "On Broadway," "The Battle Hymn of the Republic" and the spiritual "Deep River."

"In my wildest dreams I never thought I'd do this," he says. "It's hard to believe it's happening. I'm overwhelmed by the honor of playing with so many musicians."

This is not the first time the VSO and Gailmor have teamed up. The two musical forces joined together for First Night at the behest of the festival's former director, Gordon MacFarland. The combo was a hit.

"People gave us notes saying good work," says VSO manager Tom Philion, "Kate (Tamarkin, VSO conductor) and Jon got along so well. It's hard to pass that opportunity up. We are always on the lookout for something that will appeal to a broader base. . . . He's just got a fantastic stage presence."

That stage presence has made Gailmor an instant draw, especially for families. He is one of the most requested performers on the Vermont Council for the Arts artists' register. Whenever Burlington City Arts includes Gailmor in any of its concert series, the place is packed, says director Susan Green.

"I think he really is Mr. Entertainment," Green says. "He's very spontaneous and funny. . . . He's very familiar. People know the words to his songs, so they sing along. He's really Vermont's Pete Seeger."

The concert stage is a long way from the classrooms, coffeehouses, offices and resort bars in which Gailmor has spent most of his career. No matter. He perfers flannel, but he doesn't have anything against tails.

"It is the other side of the moon, but I want to cover the whole moon," he says.

Gailmor's base is his small, orderly studio, where he writes songs about his former dogs, his kids, chiropractors and love, to name a few subjects.

Recording equipment covers the desk under the window. Copies of his recordings line a shelf. Two guitars in cases sit on the floor. Sometimes, he explains, you have to get away from your loved ones.

Still, the studio is only a short walk from his house, set deep in the trees of the Worcester Mountains. Through the picture window he can see his wife, Cathy, and two children, Aaron and Maya, as they work and play in the yard.

This picture of domestic bliss is what keeps him close to home. Gailmor doesn't tour. Basically, he performs only in Vermont. That, he knows, has greatly limited his career and his income.

"It's hard because I know I'm never going to be famous, but I don't want to be famous."

He decided that in 1974 after he and his former singing partner Rob Carlson made a record for Polydor. They were being groomed as the next Hall and Oates, Gailmor says. It was the big time. It wasn't what Gailmor wanted.

"I felt like a prostitute," he says.

Gailmor, who grew up outside of Philadelphia has renegade blood in his veins. His father was an orthodox rabbi who became an atheist and an outspoken newspaper columnist, who was blacklisted.

"He taught me that it's important to speak your mind," Gailmor says. "It's all right to be true to yourself."

So Gailmor left the music biz and fled to Europe, where he spent two years wandering, picking grapes in France, waiting on tables in London and making "authentic" Greek jewelry in Athens. When immigration laws prevented him from settling in London, he came back to the States. Then he headed to Vermont, where he performed with his old partner, and began playing wherever he could for whatever it would pay.

"I wasn't eating a lot," he says. "I was scared and insecure. It's a pretty hard way to make a living."

It still is a hard way to make a living. There are three or four times a year when his booking calendar gets very thin and Gailmor starts to panic.

"I'm not very aggressive in promoting myself," he says. "If I were I wouldn't live here. I let the music promote itself. I never feel comfortable selling myself."

Gailmor admits that when he sees the new wave of folk musicians—like Suzanne Vega and the Indigo Girl—making it big, he feels a twinge of envy.

"Part of me wishes I was one of them," he says. "It's an ego gratification. I would love to sing my music in California and reach people."

But that would mean touring, which would mean leaving his family.

"Now that I have a family I won't go away," he says. "I'm committed to staying small and personal."

SADIE WHITE

Mr. LEAHY. Mr. President, Vermont has some remarkable people in private and in public life. We have had some tremendous republicans and democrats, but it is hard to find anybody as substantial and unique as Sadie White.

Sadie has been a close, personal friend and ally for all of my years in public life, but her involvement with others goes back before I was even born. Recently a Vermont newspaper did a well deserved profile of Sadie and I want to share it with those in the Senate who have not had a chance to meet this extraordinary woman. I ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Vermont Times]

SADIE WHITE—AT 91, SHE'S SEEN IT ALL IN BURLINGTON POLITICS

(By Paula Routly)

Vermont has changed a lot since 1934, the year Sadie White went on strike at Winooski's Woolen Mill, where she worked as a weaver from the age of 15.

White, at 91, hasn't changed so much in the seven decades since. She's charming. She's ornery. She's always blunt. And she retains the same unflagging spirit that saw her through 34 years working the looms, and later, 20 years in state and local politics.

"I get around, but not as good as I used to," White says after a morning of strawberry picking. But with local meetings on television, and with elected officials of all persuasions making regular pilgrimages to her tidy house on Blodgett Street, this seasoned political junkie doesn't need to go far. Those who can't visit—Sen. Patrick Leahy, former Gov. Madeleine Kunin, Gov. Howard Dean—call or write.

"This is a woman of very great courage, who speaks her mind and is prepared to fight for what she believes in," says Congressman Bernie Sanders, who calls White "one of my favorite people."

Says David Clavelle, Sanders' former campaign organizer, "Everybody goes to her for support because she carries political weight. In many ways she's a bell-wether for a certain segment of the population."

White is also good at getting results. Last month, after she put a hole through her $35 elastic stockings, the canny community organizer focused her attention, and considerable influence, on getting her toenails cut.

"I gave 'em hell," White says of the Agency on Aging, and the other organizations she called in search of a free clipping. "I said, 'The elderly want something besides stuffing their gut.' I told them, 'I don't need to eat every 15 minutes, but I do need my toenails cut.'"

"And I got it," the tall, slightly stooped nonagenarian adds over a serving of strawberry shortcake. "People know me, honey. Don't you worry about that."

A WEAVER'S TALE

White was born in Bolton in 1901. She grew up on a dairy farm in Stevensville, four or five miles from Underhill, where the family went for church and supplies. White remembers walking through snow—"up to the top of our buttoned leggings"—to get to a one-room schoolhouse. At 15, she left home to work full time, and board, in Winooski.

The weaving room at the Woolen Mill was loud, hot and bustling. White started on one loom, and by the time the mill closed, in 1954, was running six. There were few frills in the 38 intervening years—no running water, no paid vacations, no time to eat lunch. "You never stopped your looms. You ate a bite here, a bite there," White recalls. She got paid, once a week, in cash.

At least two good things came out of White's years in the mill: her husband, Bill, who worked on the opposite end of the weaving room. And the workers' union he helped organize.

By the time the mill closed, White had already made a name for herself among the city's Democrats as a labor organizer, VFW volunteer, and inspector of elections. When Burlington's representation in the Statehouse increased tenfold in the early 1960s, former Senator Jack O'Brien encouraged White to run for the Legislature. "He had a big mouth," she recalls, "just like I did."

From 1956 to 1984, White was "a voice for Burlington" in the Legislature. She fought hard against the Burlington Beltline, and kept it from claiming more property in the Old North End.

"She went in there with boxing gloves," recalls Lorraine Graham, who served in the Statehouse with White. "When she believes in something, she goes all out. She doesn't care whose toes she steps on."

Only once, in 1989, did White lose a legislative race. But rather than drop out of politics, she ran successfully for Burlington's Board of Alders. Her term coincided with Bernie Sanders' first two years as mayor—perhaps the most contentious period in the history of Burlington city government. "I've never seen such a bunch of wrangling fools as we had on that alderman thing," she recalls. "Of course they didn't like me because I supported Bernie."

At eighty-something, White was the first Democrat on the Board of Alders to support Sanders. Her party excommunicated her for it. Says Sanders, "It was one of the greatest acts of political courage I have ever seen."

"I wanted a change," says White, who gets just as riled up about issues from that period as she does about property tax increases, the waterfront tent, and anything to do with Blue Cross/Blue Shield. "Mayor Paquette was a crook, and I told him myself," she says. "I ain't bashful, you know."

Politically, White isn't easy to pin down. She still calls herself a Democrat and has documentation—mostly thank-you letters from party luminaries—to prove it. However, when she talks about welfare and work ethic—she objects strongly to "people who sit on their ass, and eat, and sleep, and let me pay their bills"—she sounds a bit like Barry Goldwater. To add to the confusion, Progressives like former alder Gary Decarolis call her a "mentor."

Her presidential preference?

"I don't know. Perot looks good," she offers.

"She's not a follow-the-party-line person. You can't label her liberal or conservative," says Decarolis, who calls White an "astute political scientist" at the local level.

White—a master of the one-liner—has her own way of describing her political orientation. "I vote as I damn well please."

A GOOD NEIGHBOR

White's political weight has a lot to do with her independence—along with her courage, straightforwardness and fiscal conservatism. For years, she has advised Old North End residents on political issues, and urged them to vote. When they can't, she brings them absentee ballots—turning in up to 200 at a time.

"People trust me, oh Lord yes, they trust me, because I tell it like it is, and I'm honest," says White. "I ain't a crook. I ain't a drunk. I pay my bills. I'm just what I am. I don't try to pretend to be something I'm not."

That influence meant a lot to Sanders, and to every other politician interested in the Old North End vote. Local City Council candidates still compete for White's support. It can mean the difference between winning and losing in Ward 3.

Further, White embodies everything Old Burlington is about: strong opinions, neighborly concern, a house with meticulous gardens and the occasional dessert sent over from across the street.

"Sadie may seem gruff at times, but she's really a loving person when you get to know her," says Clavelle. She still gets emotional speaking of her parents, who died more than 45 years ago; and about her husband, Bill, who died of a stroke in 1975.

There is a price for being old and wise; White pays it every day when she scans the obituaries "It's not easy watching your friends die," says White, who has written hers up in advance. Sometimes she attends up to three funerals a week.

She counters her losses by serving as a justice of the peace (she's done it for 20 years, and is up for reelection in November) and by accumulating young friends who like to talk politics. Her nieces and nephews provide all the familial drama she would have gotten from her own children. "I always said, I didn't have 'em to make me laugh; so I didn't have 'em to make me cry."

White attributes her long life to sobriety and hard work. But her longevity, and her youthful spirit, have more to do with an approach to life that prevents her from looking back, or slowing down.

That's what sends her out into the strawberry fields at 6 o'clock on a June morning when she can't bend over to cut her own toenails. "You better get 'em while they're good," she says, admiring the harvest of ripe red berries, "because they're going to be gone."

DEATH OF HAROLD GROUT

Mr. LEAHY. Mr. President, Harold Grout—Cousin Harold as he was known to my family and a vast audience of early risers who listened faithfully to WDEV radio in Waterbury—was killed in an automobile accident on June 22.

Harold was a unique radio personality who survived the transition of radio from a medium of information and entertainment to the present day drone of talk shows or constant music. Radio changed. Harold did not.

For almost 50 years, Harold helped farmers sell or swap everything from tractors to cream separators, and he would announce birthdays and anniversaries sent him by a very faithful audience. He kept the same hours as our Vermont dairy farmers—and his soft, gentle voice was often the first thing they heard as they set about their early morning chores in the cow barn.

For Harold's family and his hundreds of friends, I ask that the editorial in the June 23, 1992, issue of the Times Argus of Barre-Montpelier be reprinted in its entirety in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RURAL RADIO

The difference between radio and TV—particularly the earlier days of radio—was that radio seemed to include the listener, to accompany him or her during the routine chores of the day, while TV asks its audience to drop everything and pay attention to it.

Radio is the friendly voice; TV is talking heads. Radio, without the visual image, requires a response of imagination from the listener; TV, providing everything with its characteristic tinsel and false excitement, hypnotizes and lures but requires nothing real of its audience. Sad to think that that may be why it is so popular.

Radio has always seemed the more apt medium for rural America; its magic was implied in a song popular in the early years of this century called "Turn Your Radio On." Radio delivered the world to the farmer's door, melting away the isolation of the countryside.

Sure, the city airwaves now crackle with the electrically charged musical formats of the '90s, but in the spacious parts of the country radio is still the friend that goes to the barn for the morning milking; TV sits in the living room, switched on, perhaps, and waiting to nab the people passing through and distract them from their work.

Radio, of course, has also changed over the years, from its earlier, more personal days. Announcers have incorporated some of the "happy talk," as Walter Cronkite derisively called the chatter of television news programs, and mindless jingles increasingly have displaced the spoken, more personal advertisements and public messages delivered in the olden days by the familiar voices of the radio.

But because—in Vermont, at least—radio retains some of its ties to its earlier ambience and role in a rural lifestyle, it is especially sad to see elements of that era slip away.

This happened a month ago when the familiar voice of WDEV's "Cousin Harold" closed off the "Trading Post" program for the last time, after a nearly 50-year reign.

And Harold Grout's departure from the airwaves was tragically compounded Monday when he died in an automobile accident not far from the Waterbury station that was his professional home for all those decades.

The Trading Post was a quintessential Vermont radio program, offering people a chance to buy and sell their goods and equipment, each item receiving Cousin Harold's extended and personal attention. From the opening sound effects—livestock lowing in the background and "Cuz," in his radio baritone, intoning "soo-boss, soo-boss"—through to its end, when its emcee invited listeners to send in their cards and letters for things to buy, sell, and trade, The Trading Post retained the rural, personal, and friendly characteristics that stations elsewhere in this country long since would have discarded as relics.

The program continues on WDEV, the chores capably handled by Mike Carey, another central Vermont radio veteran.

And without doubt the loss of Harold Grout as a human being is a greater blow to his friends and listeners than the loss of Cousin Harold the radio personality—a loss already a month old.

But the two are inseparable, and it can't help seeming that an era has passed with the passing of Harold Grout, a link to the Vermont of decades ago when the neighborly voices on the radio filtered through the rural air and greeted farm families around their breakfast tables in the dark country mornings of long ago.

"Soo-boss, soo-boss."

BILL READ FOR FIRST TIME—H.R. 2782

Mr. FORD. Mr. President, I understand the Senate received from the House H.R. 2782, regarding ERISA preemption rule. On behalf of Senator KENNEDY, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first.

The bill clerk read as follows:

A bill (H.R. 2782) to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain State laws.

Mr. FORD. Mr. President, I now ask for the second reading.

Mr. SIMPSON. Mr. President, I object to that request.

The PRESIDING OFFICER. Objection is heard.

NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 527, S. 2681, relating to Native Hawaiian health care; that the substitute amendment be agreed to; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relative to the passage of this item be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2681), as amended, was deemed read the third time and passed, as follows:

SECTION 1. AMENDMENT.

The Native Hawaiian Health Care Act of 1988 (42 U.S.C. 11701 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Native Hawaiian Health Care Improvement Act'.

"SEC. 2. FINDINGS.

"The Congress finds that:

"(1) Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a Nation prior to the arrival of the first non-indigenous people in 1778.

"(2) The Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(3) The constitution and statutes of the State of Hawaii:

"(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

"(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language.

"(4) At the time of the arrival of the first non-indigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion.

"(5) A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

"(6) Throughout the 19th century and until 1893, the United States: (A) recognized the independence of the Hawaiian Nation; (B) extended full and complete diplomatic recognition to the Hawaiian Government; and (C) entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875 and 1887.

"(7) In the year 1893, the United States Minister assigned to the sovereign and independent Kingdom of Hawaii, John L. Stevens, conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawaii.

"(8) In pursuance of that conspiracy, the United States Minister and the naval representative of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawaii and the United States Minister thereupon extended diplomatic recognition of a provisional government formed by the conspirators without the consent of the native people of Hawaii or the lawful Government of Hawaii in violation of treaties between the two nations and of international law.

"(9) In a message to Congress on December 18, 1893, then President Grover Cleveland reported fully and accurately on these illegal actions, and acknowledged that by these acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown, and the President concluded that a 'substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people required that we should endeavor to repair'.

"(10) Queen Lili'uokalani, the lawful monarch of Hawaii, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawaii, promptly petitioned the United States for redress of these wrongs and for restoration of the indigenous government of the Hawaiian nation, but this petition was not acted upon.

"(11) In 1898, the United States annexed Hawaii through the Newlands Resolution without the consent of or compensation to the indigenous people of Hawaii or their sovereign government who were thereby denied the mechanism for expression of their inherent sovereignty through self-government and self-determination, their lands and ocean resources.

"(12) Through the Newlands Resolution and the 1900 Organic Act, the United States Congress received 1.75 million acres of lands formerly owned by the Crown and Government of the Hawaiian Kingdom and exempted the lands from then existing public land laws of the United States by mandating that the revenue and proceeds from these lands be 'used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes', thereby establishing a special trust relationship between the United States and the inhabitants of Hawaii.

"(13) In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 which designated 200,000 acres of the ceded public lands for exclusive homesteading by Native Hawaiians, thereby affirming the trust relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane who was cited in the Committee Report of the United States House of Representatives Committee on Territories as stating, 'One thing that impressed me . . . was the fact that the natives of the islands who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

"(14) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the extension to Native Hawaiians and to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance'.

"(15) Under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges, and legislative amendments affecting the rights of beneficiaries under such Act.

"(16) Under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4, 6).

"(17) The authority of the Congress under the United States Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawaii.

"(18) In furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people.

"(19) This historical and unique legal relationship has been consistently recognized and affirmed by the Congress through the enactment of Federal laws which extend to the Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities, including the Native American Programs Act of 1974; the American Indian Religious Freedom Act; the National Museum of the American Indian Act; and the Native American Graves Protection and Repatriation Act.

"(20) The United States has also recognized and reaffirmed the trust relationship to the Hawaiian people through legislation which authorizes the provision of services to Native Hawaiians, specifically, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Veterans' Benefits and Services Act of 1988, the Rehabilitation Act of 1973, the Native Hawaiian Health Care Act of 1988, the Health Professions Reauthorization Act of 1988, the Nursing Shortage Reduction and Education Extension Act of 1988, the Handicapped Programs Technical Amendments Act of 1988, the Indian Health Care Amendments of 1988, and the Disadvantaged Minority Health Improvement Act of 1990.

"(21) The United States has also affirmed the historical and unique legal relationship to the Hawaiian people by authorizing the provision of services to Native Hawaiians to address problems of alcohol and drug abuse under the Anti-Drug Abuse Act of 1986.

"(22) Despite such services, the unmet health needs of the Native Hawaiian people are severe and the health status of Native Hawaiians continues to be far below that of the general population of the United States.

"SEC. 3. DECLARATION OF POLICY.

"(a) CONGRESS.—The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the Government of the indigenous people of Hawaii—

"(1) to raise the health status of Native Hawaiians to the highest possible health level; and

"(2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.

"(b) INTENT OF CONGRESS.—It is the intent of the Congress that the Nation meet the following health objectives with respect to Native Hawaiians by the year 2000:

"(1) Reduce coronary heart disease deaths to no more than 100 per 100,000.

"(2) Reduce stroke deaths to no more than 20 per 100,000.

"(3) Increase control of high blood pressure to at least 50 percent of people with high blood pressure.

"(4) Reduce blood cholesterol to an average of no more than 200 mg/dl.

"(5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.

"(6) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(7) Increase Pap tests every 1 to 3 years to at least 85 percent of women age 18 and older.

"(8) Increase fecal occult blood testing every 1 to 2 years to at least 50 percent of people age 50 and older.

"(9) Reduce diabetes-related deaths to no more than 34 per 100,000.

"(10) Reduce the most severe complications of diabetes as follows:

"(A) end-stage renal disease to no more than 1.4 in 1,000;

"(B) blindness to no more than 1.4 in 1,000;

"(C) lower extremity amputation to no more than 4.9 in 1,000;

"(D) perinatal mortality to no more than 2 percent; and

"(E) major congenital malformations to no more than 4 percent.

"(11) *Reduce infant mortality to no more than 7 deaths per 1,000 live births.*

"(12) *Reduce low birth weight to no more than 5 percent of live births.*

"(13) *Increase first trimester prenatal care to at least 90 percent of live births.*

"(14) *Reduce teenage pregnancies to no more than 50 per 1,000 girls age 17 and younger.*

"(15) *Reduce unintended pregnancies to no more than 30 percent of pregnancies.*

"(16) *Increase to at least 60 percent the proportion of primary care providers who provide age-appropriate preconception care and counseling.*

"(17) *Increase years of healthy life to at least 65 years.*

"(18) *Eliminate financial barriers to clinical preventive services.*

"(19) *Increase childhood immunization levels to at least 90 percent of 2-year-olds.*

"(20) *Reduce the prevalence of dental caries to no more than 35 percent of children by age 8.*

"(21) *Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children age 6 through 8 and no more than 15 percent among adolescents age 15.*

"(22) *Reduce edentulism to no more than 20 percent in people age 65 and older.*

"(23) *Increase moderate daily physical activity to at least 30 percent of the population.*

"(24) *Reduce sedentary lifestyles to no more than 15 percent of the population.*

"(25) *Reduce overweight to a prevalence of no more than 20 percent of the population.*

"(26) *Reduce dietary fat intake to an average of 30 percent of calories or less.*

"(27) *Increase to at least 75 percent the proportion of primary care providers who provide nutrition assessment and counseling or referral to qualified nutritionists or dieticians.*

"(28) *Reduce cigarette smoking prevalence to no more than 15 percent of adults.*

"(29) *Reduce initiation of smoking to no more than 15 percent by age 20.*

"(30) *Reduce alcohol-related motor vehicle crash deaths to no more than 8.5 per 100,000 adjusted for age.*

"(31) *Reduce alcohol use by school children age 12 to 17 to less than 13 percent.*

"(32) *Reduce marijuana use by youth age 18 to 25 to less than 8 percent.*

"(33) *Reduce cocaine use by youth aged 18 to 25 to less than 3 percent.*

"(34) *Confine HIV infection to no more than 800 per 100,000.*

"(35) *Reduce gonorrhea infections to no more than 225 per 100,000.*

"(36) *Reduce syphilis infections to no more that 10 per 100,000.*

"(37) *Reduce significant hearing impairment to a prevalance of no more than 82 per 1,000.*

"(38) *Reduce acute middle ear infections among children age 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.*

"(39) *Reduce indigenous cases of vaccine-preventable diseases as follows:*

"(A) *Diphtheria among individuals age 25 and younger to 0;*

"(B) *Tetanus among individuals age 25 and younger to 0;*

"(C) *Polio (wild-type virus) to 0;*

"(D) *Measles to 0;*

"(E) *Rubella to 0;*

"(F) *Congenital Rubella Syndrome to 0;*

"(G) *Mumps to 500; and*

"(H) *Pertussis to 1,000; and*

"(40) *Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.*

"(c) *REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 11, a report on the progress made in each area toward meeting each of the objectives described in subsection (b).*

"SEC. 4. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.

"(a) *DEVELOPMENT.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordinating, implementing and updating a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to maintain and improve the health status of Native Hawaiians. The master plan shall be based upon an assessment of the health care status and health care needs of Native Hawaiians. To the extent practicable, assessments made as of the date of such grant or contract shall be used by Papa Ola Lokahi, except that any such assessment shall be updated as appropriate.*

"(b) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).*

"SEC. 5. FUNCTIONS OF PAPA OLA LOKAHI.

"(a) *RESPONSIBILITY.—Papa Ola Lokahi shall be responsible for the—*

"(1) *coordination, implementation, and updating, as appropriate, of the comprehensive health care master plan developed pursuant to section 4;*

"(2) *training for the persons described in section 6(c)(1)(B);*

"(3) *identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services; and*

"(4) *the development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this Act.*

"(b) *SPECIAL PROJECT FUNDS.—Papa Ola Lokahi is authorized to receive special project funds that may be appropriated for the purpose of research on the health status of Native Hawaiians or for the purpose of addressing the health care needs of Native Hawaiians.*

"(c) *CLEARINGHOUSE.—Papa Ola Lokahi shall serve as a clearinghouse for:*

"(1) *the collection and maintenance of data associated with the health status of Native Hawaiians;*

"(2) *the identification and research into diseases affecting Native Hawaiians;*

"(3) *the availability of Native Hawaiian project funds, research projects and publications;*

"(4) *the collaboration of research in the area of Native Hawaiian health; and*

"(5) *the timely dissemination of information pertinent to the Native Hawaiian health care systems.*

"(d) *COORDINATION OF PROGRAMS AND SERVICES.—Papa Ola Lokahi shall, to the maximum extent possible, coordinate and assist the health care programs and services provided to Native Hawaiians.*

"(e) *TECHNICAL SUPPORT.—Papa Ola Lokahi shall act as a statewide infrastructure to provide technical support and coordination of training and technical assistance to the Native Hawaiian health care systems.*

"(f) *RELATIONSHIPS WITH OTHER AGENCIES.—Papa Ola Lokahi is authorized to enter into agreements or memoranda of understanding with relevant agencies or organizations that are capable of providing resources or services to the Native Hawaiian health care systems.*

"SEC. 6. NATIVE HAWAIIAN HEALTH CARE SYSTEMS.

"(a) *COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND PRIMARY HEALTH SERVICES.—(1)(A) The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians.*

"(B) *In making grants and entering into contracts under this paragraph, the Secretary shall give preference to Native Hawaiian health care systems and Native Hawaiian organizations and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health care systems.*

"(2) *In addition to paragraph (1), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii.*

"(b) *QUALIFIED ENTITY.—An entity is a qualified entity for purposes of subsection (a)(1) if the entity is a Native Hawaiian health care system.*

"(c) *SERVICES TO BE PROVIDED.—(1) Each recipient of funds under subsection (a)(1) shall provide the following services:*

"(A) *outreach services to inform Native Hawaiians of the availability of health services;*

"(B) *education in health promotion and disease prevention of the Native Hawaiian population by, wherever possible, Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators;*

"(C) *services of physicians, physicians' assistants, nurse practitioners or other health professionals;*

"(D) *immunizations;*

"(E) *prevention and control of diabetes, high blood pressure, and otitis media;*

"(F) *pregnancy and infant care; and*

"(G) *improvement of nutrition.*

"(2) *In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1):*

"(A) *identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians;*

"(B) *collection of data related to the prevention of diseases and illnesses among Native Hawaiians; and*

"(C) *services within the meaning of the terms 'health promotion', 'disease prevention', and 'primary health services', as such terms are defined in section 12, which are not specifically referred to in paragraph (1) of this subsection.*

"(3) *The health care services referred to in paragraphs (1) and (2) which are provided under grants or contracts under subsection (a)(1) may be provided by traditional Native Hawaiian healers.*

"(d) *LIMITATION OF NUMBER OF ENTITIES.—During a fiscal year, the Secretary under this Act may make a grant to, or hold a contract with, not more than 5 Native Hawaiian health care systems.*

"(e) *MATCHING FUNDS.—(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) to a Native Hawaiian health care system—*

"(A) *in an amount exceeding 83.3 percent of the costs of providing health services under the grant or contract; and*

"(B) *unless the Native Hawaiian health care system agrees that the Native Hawaiian health care system or the State of Hawaii will make available, directly or through donations to the Native Hawaiian health care system, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under paragraph (2)) for each $5 of Federal funds provided in such grant or contract.*

"(2) *Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly* *evaluated, including plant, equipment, or services. Amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.*

"(3) The Secretary may waive the requirement established in paragraph (1) if—

"(A) the Native Hawaiian health care system involved is a nonprofit private entity described in subsection (b); and

"(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the Native Hawaiian health care system to comply with such requirement.

"(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary may not make a grant to, or enter into a contract with, any entity under subsection (a)(1) unless the entity agrees that, amounts received pursuant to such subsection will not, directly or through contract, be expended—

"(1) for any purpose other than the purposes described in subsection (c);

"(2) to provide inpatient services;

"(3) to make cash payments to intended recipients of health services; or

"(4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

"(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant, or enter into a contract with, any entity under subsection (a)(1) unless the entity agrees that, whether health services are provided directly or through contract—

"(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

"(2) the entity will impose a charge for the delivery of health services, and such charge—

"(A) will be made according to a schedule of charges that is made available to the public, and

"(B) will be adjusted to reflect the income of the individual involved.

"(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 to carry out subsection (a)(1).

"(2) There are authorized to be appropriated such sums as may be necessary to carry out subsection (a)(2).

"SEC. 7. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.

"(a) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

"(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section 4;

"(2) training for the persons described in section 6(c)(1)(B);

"(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services;

"(4) the development of an action plan outlining the contributions that each member organization of Papa Ola Lokuhi will make in carrying out the policy of this Act;

"(5) a clearinghouse function for—

"(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

"(B) the identification and research into diseases affecting Native Hawaiians; and

"(C) the availability of Native Hawaiian project funds, research projects and publications;

"(6) the coordination of the health care programs and services provided to Native Hawaiians; and

"(7) the administration of special project funds.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 to carry out subsection (a).

"SEC. 8. ADMINISTRATION OF GRANTS AND CONTRACTS.

"(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

"(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

"(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this Act with an entity unless the entity—

"(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

"(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

"(3) with respect to providing health services to any population of Native Hawaiians, a substantial portion of which has a limited ability to speak the English language—

"(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

"(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

"(4) with respect to health services that are covered in the plan of the State of Hawaii approved under title XIX of the Social Security Act—

"(A) if the entity will provide under the grant or contract any such health services directly—

"(i) the entity has entered into a participation agreement under such plans; and

"(ii) the entity is qualified to receive payments under such plan; and

"(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

"(i) the organization has entered into a participation agreement under such plan; and

"(ii) the organization is qualified to receive payments under such plan; and

"(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the utilization and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

"(d) CONTRACT EVALUATION.—(1) If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 6, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such entity and is authorized to enter into a contract under section 6 with another entity referred to in section 6(b) that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this subsection.

"(2) In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of the evaluation under this section.

"(3) All contracts entered into by the Secretary under this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

"(4) Payments made under any contract entered into under this Act may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this Act.

"(e) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Except for grants and contracts under section 7, the Secretary may not grant to, or enter into a contract with, an entity under this Act unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this Act for the purpose of administering the grant or contract.

"(f) REPORT.—(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this Act, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

"(A) activities conducted by the entity under the grant or contract;

"(B) the amounts and purposes for which Federal funds were expended; and

"(C) such other information as the Secretary may request.

"(2) The reports and records of any entity which concern any grant or contract under this Act shall be subject to audit by the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States.

"(g) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant.

"SEC. 9. ASSIGNMENT OF PERSONNEL.

"(a) IN GENERAL.—The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

"(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under the authority of subsection (a) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

"SEC. 10. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

"(a) ELIGIBILITY.—Subject to the availability of funds appropriated under the authority of subsection (c) of this section, the Secretary shall provide funds through a direct grant or a cooperative agreement to Kamehameha School/Bishop Estate for the purpose of providing scholarship assistance to students who—

"(1) meet the requirements of section 329 of the Public Health Service Act (42 U.S.C. 254b), and

"(2) are Native Hawaiians.

"(b) TERMS AND CONDITIONS.—(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same

terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 254l), provided that—

"(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve the Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

"(B) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Kamehameha Schools/Bishop Estate;

"(C) the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in (i) any one of the five Native Hawaiian health care systems, or (ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii; and

"(D) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs.

"(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

"SEC. 11. REPORT.

"The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Native Hawaiians, and ensure a health status for Native Hawaiians, which are at a parity with the health services available to, and the health status of, the general population.

"SEC. 12. DEFINITIONS.

"For purposes of this Act:

"(1) DISEASE PREVENTION.—The term 'disease prevention' includes—

"(A) immunizations,

"(B) control of high blood pressure,

"(C) control of sexually transmittable diseases,

"(D) prevention and control of diabetes,

"(E) control of toxic agents,

"(F) occupational safety and health,

"(G) accident prevention,

"(H) fluoridation of water,

"(I) control of infectious agents, and

"(J) provision of mental health care.

"(2) HEALTH PROMOTION.—The term 'health promotion' includes—

"(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,

"(B) cessation of tobacco smoking,

"(C) reduction in the misuse of alcohol and drugs,

"(D) improvement of nutrition,

"(E) improvement in physical fitness,

"(F) family planning, and

"(G) control of stress.

"(3) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States, and

"(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records,

"(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

"(iii) birth records of the State of Hawaii.

"(4) NATIVE HAWAIIAN HEALTH CENTER.—The term 'Native Hawaiian health center' means an entity—

"(A) which is organized under the laws of the State of Hawaii,

"(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,

"(C) which is a public or nonprofit private entity, and

"(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

"(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' means any organization—

"(A) which serves the interests of Native Hawaiians,

"(B) which is—

"(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this Act for the benefit of Native Hawaiians, and

"(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this Act,

"(C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and

"(D) which is a public or nonprofit private entity.

"(6) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—The term 'Native Hawaiian health care system' means an entity—

"(A) which is organized under the laws of the State of Hawaii,

"(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,

"(C) which is a public or nonprofit private entity,

"(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health care services,

"(E) which may be composed of as many Native Hawaiian health centers as necessary to meet the health care needs of each island's Native Hawaiians, and

"(F) which is—

"(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this Act for the benefit of Native Hawaiians, and

"(ii) certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services and meet the requirements under the contract the Native Hawaiian health care system enters into with the Secretary or the grant the Native Hawaiian health care system receives from the Secretary pursuant to this Act.

"(7) PAPA OLA LOKAHI.—(A) The term 'Papa Ola Lokahi' means an organization composed of—

"(i) E Ola Mau;

"(ii) the Office of Hawaiian Affairs of the State of Hawaii;

"(iii) Alu Like Inc.;

"(iv) the University of Hawaii;

"(v) the Office of Hawaiian Health of the Hawaii State Department of Health;

"(vi) Ho'ola Lahui Hawaii, or a health care system serving the islands of Kaua'i and Ni'ihau, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

"(vii) Ke Ola Mamo, or a health care system serving the island of O'ahu, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

"(viii) Na Pu'uwai or a health care system serving the islands of Moloka'i and Lana'i, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

"(ix) Hui No Ke Ola Pono, or a health care system serving the island of Maui, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

"(x) Hui Malama Ola Ha'Oiwi or a health care system serving the island of Hawaii, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island; and

"(xi) such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians, and upon satisfactory development of a mission statement in relation to this Act, including clearly defined goals and objectives, a 5-year action plan outlining the contributions that each organization will make in carrying out the policy of this Act, and an estimated budget.

"(B) Such term does not include any such organization identified in subparagraph (A) if the Secretary determines that such organization has not developed a mission statement with clearly defined goals and objectives for the contributions the organization will make to the Native Hawaiian health care systems, and an action plan for carrying out those goals and objectives.

"(8) PRIMARY HEALTH SERVICES.—The term 'primary health services' means—

"(A) services of physicians, physicians' assistants, nurse practitioners, and other health professionals;

"(B) diagnostic laboratory and radiologic services;

"(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well-child services, and family planning services);

"(D) emergency medical services;

"(E) transportation services as required for adequate patient care;

"(F) preventive dental services; and

"(G) pharmaceutical services, as may be appropriate for particular health centers.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term 'traditional Native Hawaiian healer' means a practitioner—

"(A) who—

"(i) is of Hawaiian ancestry, and

"(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

"(B) whose knowledge, skills, and experience are based on demonstrated learning of Native Hawaiian healing practices acquired by—

"(i) direct practical association with Native Hawaiian elders, and

"(ii) oral traditions transmitted from generation to generation.

"SEC. 13. RULE OF CONSTRUCTION.

"Nothing in this Act shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

"SEC. 14. REPEAL OF DEMONSTRATION PROJECT.

"Section 205 of the Indian Health Care Improvement Act is repealed.

"SEC. 15. COMPLIANCE WITH BUDGET ACT.

"Any new spending authority (described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"SEC. 16. SEVERABILITY.

"If any provision of this Act, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.".

NATIONAL COMMISSION ON TIME AND LEARNING

Mr. FORD. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 5560, a bill to provide for a 1-year extension of the National Commission on Time and Learning; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times and passed; that the motion to reconsider be laid upon the table; further, that any statements appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5560) was deemed read the third time and passed.

NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 574, S. 1607, relating to the water rights claims of the Northern Cheyenne Tribe.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1607) to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992".

SEC. 2. PURPOSES OF ACT.

(a) PURPOSES.—The purposes of this Act are:

(1) to achieve a fair, equitable, and final settlement of all claims to Federal reserved water rights in the State of Montana of—

(A) the Northern Cheyenne Tribe and its members and allottees; and

(B) the United States on behalf of the Northern Cheyenne Tribe and its members and allottees;

(2) to approve, ratify and confirm the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana on June 11, 1991;

(3) to direct the Secretary of the Interior to enter into a cooperative agreement with the State of Montana for the planning, environmental compliance, design, and construction of the Tongue River Dam Project in order to—

(A) implement the Compact's settlement of the Tribe's reserved water rights claims in the Tongue River Basin;

(B) protect existing tribal contract water rights in the Tongue River Basin;

(C) provide 20,000 acre-feet per year of additional storage water for allocation to the Tribe and to allow the State to implement its responsibilities to correct identified Tongue River Dam safety inadequacies; and

(D) provide for the conservation and development of fish and wildlife resources in the Tongue River Basin;

(4) to provide for the enhancement of fish and wildlife habitat in the Tongue River Basin;

(5) to authorize certain modifications to the purposes and operation of the Big Horn Reservoir in order to implement the Compact's settlement of the Tribe's reserved water rights claims; and

(6) to authorize the Secretary of the Interior to take such other actions as are necessary to implement the Compact.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ALLOTTEE.—The term "allottee" means any person who owns land in trust on the Northern Cheyenne Reservation.

(2) COMPACT.—The term "Compact" means the Water Rights Compact entered into on June 11, 1991, by the Northern Cheyenne Tribe and the State of Montana.

(3) NORTHERN CHEYENNE FUND.—The term "Northern Cheyenne Fund" means the Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund established by section 6.

(4) RESERVATION.—The term "Reservation" means the Northern Cheyenne Reservation as established by Executive orders of November 26, 1884 and March 19, 1900.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Montana.

(7) STATE WATER CONTRACTS.—The term "State water contracts" means contracts with the Montana Department of Natural Resources and Conservation (DNRC), or its successor State agency, to receive stored water from the National Resources and Conservation's storage rights in the Tongue River Reservoir.

(8) TONGUE RIVER DAM PROJECT.—The term "Tongue River Dam Project" means the project, conducted pursuant to the cooperative agreements between the Bureau of Reclamation and the State of Montana authorized by this Act and subject to conditions contained in the Compact and in the record of decision after completion of environmental review, to repair and enlarge the Tongue River Dam.

(9) TRIBAL WATER RIGHT.—The term "tribal water right" means the tribal water right as defined in the Compact.

(10) TRIBE.—The term "Tribe" means the Northern Cheyenne Tribe.

SEC. 4. RATIFICATION OF COMPACT.

(a) IN GENERAL.—Except as modified by this Act, the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana is hereby approved, ratified, and confirmed.

(b) IMPLEMENTATION.—The Secretary shall implement the Compact as provided in this Act.

(c) ENTRY OF DECREE.—Except for the authorizations contained in subsections 7(b)(1) and 7(b)(2), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section. Notwithstanding the provisions of Article V. 2. of the Compact, for the purposes of the proceeding involving such a decree, the effective date of the Compact shall be the date of the enactment of this Act.

(d) FORM OF DECREE.—No later than 180 days after the date of the enactment of this Act, the United States, the Tribe, and the State of Montana shall jointly petition the Montana water court to enter and approve the "Proposed Decree" agreed to by the United States, the Tribe, and the State of Montana on May 5, 1992, or any amended version thereof.

SEC. 5. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) ADMINISTRATION AND ENFORCEMENT.—As provided in the Compact, until the adoption and approval of a tribal water code, the Secretary shall administer and enforce the tribal water right.

(b) MEMBERS AND ALLOTTEES.—Any entitlement to reserved water of any tribal member or allottee shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions thereof. Such entitlement shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article III.A. of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) TRANSFER OF THE TRIBAL WATER RIGHT.—

(1) IN GENERAL.—Subject to paragraph (2), the Northern Cheyenne Tribe, or persons or entities authorized by the Tribe, may enter into a service contract, lease, exchange, or other agreement providing for the delivery, use, or transfer of the tribal water right confirmed to the Tribe in the Compact.

(2) LIMITATIONS.—Any service contract, lease, exchange, or other agreement entered into under subsection (c)(1) shall be subject to approval by the Secretary, and the limitations and conditions set forth in the Compact, and may not permanently alienate any portion of the tribal water right.

SEC. 6. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund".

(b) EXPENDITURES FROM NORTHERN CHEYENNE FUND.—Amounts in the Northern Cheyenne Fund shall be available, without fiscal year limitations, to the Secretary for expenditure by the Secretary or by the Tribe in accordance with the provisions of this Act.

(c) CONTENTS OF NORTHERN CHEYENNE FUND.—The Northern Cheyenne Fund shall consist of such amounts as are appropriated to it in accordance with the authorization provided by this Act, together with such amounts credited to it in accordance with section 7(e).

(d) USE OF NORTHERN CHEYENNE FUND.—The Tribe shall make $11,500,000 available from the Northern Cheyenne Fund to the State of Montana as a loan to assist financing Tongue River Dam Project costs, and such loan shall be repaid by the State to the Tribe. All other moneys appropriated to the Northern Cheyenne Fund pursuant to section 7(a), together with interest credited thereto, may be used by the Tribe for—

(1) land and natural resources administration, planning, and development within the Reservation;

(2) land acquisition by the Tribe within the Reservation; or

(3) any other purpose determined by the Tribe.

(e) PER CAPITA PAYMENTS.—Funds within the Northern Cheyenne Fund shall not be distributed on a per capita basis to members of the Tribe.

(f) CONGRESSIONAL INTENT.—Nothing in this Act is intended—

(1) to alter the trust responsibility of the United States to the Tribe; or

(2) to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) TRIBAL FUNDS.—There are authorized to be appropriated to the Northern Cheyenne Fund for use by the Tribe $7,400,000 in fiscal year 1995, $9,000,000 in fiscal year 1996, and $5,100,000 in fiscal year 1997.

(b) TONGUE RIVER DAM PROJECT.—(1) There are authorized to be appropriated to the Northern Cheyenne Fund for use, in accordance with paragraph (2), for the Tongue River Dam Project:

(A) $700,000 in fiscal year 1993;

(B) $700,000 in fiscal year 1994;

(C) $15,300,000 in fiscal year 1995;

(D) $11,400,000 in fiscal year 1996; and

(E) $3,400,000 in fiscal year 1997.

(2) Moneys appropriated pursuant to paragraph (1) shall be available for use by the State of Montana and the Secretary for the planning, design, and construction of the Tongue River Dam Project in accordance with provisions of April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribal Federal Negotiation Team and Montana Department of Natural Resources and Conservation. The Federal contribution is provided for development of additional capacity in the Tongue River Dam for storage of water secured to the Tribe in satisfaction of the Tribe's claims to water under the Compact.

(c) INDEXING OF AUTHORIZATION FOR CONSTRUCTION COSTS.—For the purposes of this section, the total estimated costs of construction of the Tongue River Dam Project, inclusive of noncontract costs, shall be $52,200,000 at the January 1991 price level. The project's annual authorization provided in subsection (b) and the Federal and State shares shall be adjusted up or down as may be required by reason of ordinary fluctuations in construction costs, as indicated by engineering cost indices applicable to the type of construction involved in the Tongue River Dam Project.

(d) FISH AND WILDLIFE ENHANCEMENT.—

(1) IN GENERAL.—The Secretary shall identify and develop features of the Tongue River Dam Project that provide for the enhancement of fish and wildlife habitats, in accordance with the Federal Water Project Recreation Act (16 U.S.C. 4601–12 et seq.).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for expenditure by the Secretary, $1,800,000 in fiscal year 1996, and $1,700,000 in fiscal year 1997 for Fish and Wildlife Enhancement, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering costs indices after January 1991. The Tribe shall not be required to reimburse amounts expended pursuant to this section.

(e) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Northern Cheyenne Fund for fiscal year 1993, and each fiscal year thereafter, such sums as are necessary to carry out all necessary environmental compliance associated with the Compact, including mitigation measures adopted by the Secretary.

(f) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for fiscal year 1993, and each fiscal year thereafter, on a nonreimbursable basis, such sums as are necessary to pay the annual operation, maintenance, and replacement costs provided for in section 10(f).

(g) WITHOUT FISCAL YEAR DEFINITIONS.—All moneys appropriated pursuant to authorizations under this Act shall be available without fiscal year limitation.

SEC. 8. STATE CONTRIBUTIONS TO SETTLEMENT.

(a) The provisions of section 6(d) shall be subject to the State of Montana contributing the following amounts to the settlement:

(1) $5,000,000 for contract costs associated with repair of the Tongue River Dam Project;

(2) $11,500,000 to be contributed to the Northern Cheyenne Fund as repayment of the loan provided for in section 6(d);

(3) $4,200,000 of noncontract costs assumed by the State of Montana according to the terms of the letter of agreement on cost-sharing between the State of Montana and the United States dated April 17, 1991; and

(4) $1,100,000 for the Fish and Wildlife enhancement measures identified in section 7(d).

SEC. 9. BIG HORN RESERVOIR STORAGE.

(a) ALLOCATION FOR TRIBE.—

(1) IN GENERAL.—As provided in the Compact, the Secretary shall allocate 30,000 acre-feet per year of stored water in Big Horn Reservoir, Yellowtail Unit, Lower Bighorn Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the Reservoir, for use or disposition by the Tribe for any purpose.

(2) PRIOR RESERVED RIGHTS.—This allocation shall be subject to the prior reserved water rights, if any, of any Indian tribe, or of persons claiming water through that tribe, to the water allocated in paragraph (1).

(b) PAYMENTS BY TRIBE.—

(1) IN GENERAL.—The Tribe shall not be required to make payments to the United States for the portion of the tribal water right stored in or used from the Big Horn Reservoir except for each acre-foot of stored water used or sold for municipal or industrial purposes. The Tribe shall pay annually to the United States an amount to cover the proportionate share of the—

(A) annual operation, maintenance and replacement costs for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe; and

(B) capital costs with appropriate interest for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe.

(2) ADJUSTMENT OF PAYMENTS.—The annual payments shall be reviewed and adjusted, as appropriate, to reflect the actual operation, maintenance, and replacement costs, and the actual capital costs, for the Yellowtail Unit.

(c) USE AND SALE OF WATER.—

(1) IN GENERAL.—Except for payments required to be made to the United States pursuant to subsection (b), the Tribe shall—

(A) set such rates as it considers proper for its use or sale of stored water; and

(B) retain all revenues from its use or sale of the stored water.

(2) HYDROPOWER GENERATION.—The United States shall retain the right to use any and all water stored in the Big Horn Reservoir for hydropower generation.

(d) AGREEMENT WITH TRIBE.—The Secretary shall enter into an agreement with the Tribe providing—

(1) for the Tribe's use or sale of water stored in the Big Horn Reservoir subject to the terms and conditions of the Compact; and

(2) for the collection and disposition of revenues in connection with water stored in the Big Horn Reservoir that is made available to the Tribe.

(e) MORATORIUM ON WATER MARKETING.—Notwithstanding any provision of this Act or the Compact, no portion of the allocation described in paragraph (1) of subsection (a) shall be sold or leased by the Tribe for a period of 10 years following the date on which the Compact becomes effective pursuant to Article V(A)(1) of the Compact or for a period of 10 years following any earlier date on which the allocation may become available to the Tribe, unless the Crow Tribe and the Northern Cheyenne Tribe agree otherwise.

(f) LIMITATION ON WATER MARKETING.—The Secretary may enter into contracts for the sale or lease of water to which the United States holds legal title and which is stored in the Big Horn Reservoir, except that with respect to any such contract—

(1) the Secretary provides notice to the Northern Cheyenne Tribe and the Crow Tribe of his intent to enter into a contract at least 120 days in advance of entering into such contract;

(2) the terms of the contract for sale or lease of water provide that the contract will not exceed a 2-year term, with a right of renewal following a 120-day notice period to the Northern Cheyenne Tribe and Crow Tribe; and

(3) the terms of the contract for sale or lease of water contain a provision that makes clear that the contract is subject to alteration or termination by the United States pending the resolution of claims to water by the Crow Tribe.

SEC. 10. TONGUE RIVER DAM PROJECT.

(a) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the State of Montana for the planning, design, and construction of the Tongue River Dam Project in accordance with the provisions of the April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribe Federal Negotiating Team and the Montana Department of Natural Resources and Conservation. The Secretary shall also enter into a cooperative agreement with the State of Montana for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on the Tongue River Dam Project.

(b) OWNERSHIP.—Notwithstanding Federal participation in the Tongue River Dam Project, the Tongue River Dam shall remain in the ownership of the State of Montana.

(c) STATE OPERATION OF RESERVOIR.—Except as otherwise provided in the Compact, nothing in this Act shall affect the State's operation of the Tongue River Reservoir to fulfill State water contracts.

(d) CONGRESSIONAL INTENT.—Nothing in this Act is intended to subject holders of State water contracts from the Tongue River Reservoir who do not have a contract for Federal reclamation storage to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.).

(e) LAND TRANSFER.—

(1) Notwithstanding any other provisions of law, the Bureau of Land Management shall transfer to the Bureau of Indian Affairs in trust for the Northern Cheyenne Tribe the following described land:

T. 8 S., R. 40 E., P.M.M.
Sec. 26, N½SW¼
Sec. 27, N½SE¼
T. 8 S., R. 40 E., P.M.M.
Sec. 23, SW¼NE¼, N½SE¼
Sec. 24, NW¼SW¼.

(2) Nothing in this section is intended to address the jurisdiction of the Tribe or the State of Montana over the property being transferred.

(3) This transfer shall not be construed as creating a Federal reserved water right.

(f) PAYMENT OF THE TRIBE'S SHARE.—The Secretary, acting through the Bureau of Indian Affairs, shall continue to pay annually to the State of Montana on a nonreimbursable basis an amount to cover the proportionate share of the *annual operation, maintenance and replacement costs for the Tongue River Dam allocable to the Tribe's stored water in the reservoir.*

(g) EMPLOYMENT PREFERENCE.—Notwithstanding any other provision of law, the State shall require in all contracts and subcontracts relating to construction of the Tongue River Dam Project, a provision that the contractor and its subcontractors shall provide a hiring preference to Northern Cheyenne tribal members. The State and the Tribe shall enter into an agreement setting forth the manner in which the preference will be implemented and enforced.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—Notwithstanding the provisions of Article IV, Section G. of the Compact, the United States shall not be deemed to have waived its immunity from suit except to the extent provided in subsections (a), (b), and (c) of section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

(b) EFFECT ON YELLOWSTONE RIVER COMPACT.—Nothing in this Act shall be construed to alter or amend any provision of the Yellowstone River Compact, as consented to in the Act entitled "An Act granting the consent of Congress to a Compact entered into by the States of Montana, North Dakota, and Wyoming relating to the waters of the Yellowstone River", approved October 30, 1951 (65 Stat. 663).

(c) EFFECT ON RIGHTS OF OTHER TRIBES.—Nothing in this Act is intended to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water, of an Indian Tribe other than the Northern Cheyenne Tribe.

(d) ENVIRONMENTAL COMPLIANCE.—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 433–4335), and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable environmental Acts and regulations.

(e) EXECUTION OF COMPACT.—Execution of the Compact by the Secretary as provided for in section 4 shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance during the implementation phase of this settlement.

(f) BUREAU OF RECLAMATION DESIGNATED AS THE LEAD AGENCY.—With respect to the Tongue River Dam Project and uses of the Tribe's Big Horn Reservoir storage allocation, the Bureau of Reclamation is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(g) BUREAU OF INDIAN AFFAIRS DESIGNATED AS THE LEAD AGENCY.—With respect to all other provisions of the Compact, the Bureau of Indian Affairs is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

SEC. 12. EFFECTIVE DATE OF SETTLEMENT.

The settlement contained in this Act shall not become effective if a tribal referendum on the settlement is requested pursuant to the Northern Cheyenne Constitution within 60 days following the date of enactment of this Act, and the settlement fails to be approved in such referendum held within 120 days following the date of enactment of this Act. If the settlement does not become effective pursuant to this section, the United States (including the Secretary and all other officers), the State of Montana, and the Tribe are relieved of all rights, entitlements, duties, responsibilities and authorities conferred, imposed or created by this Act. If a referendum is not requested within such 60-day period, the settlement shall take effect upon the date next following the expiration of such 60-day period. If a referendum is requested within such 60-day period, and the settlement is approved in a referendum held within 120 days following the date of enactment of this Act, the settlement shall take effect on the date next following the date of such approval.

Mr. BAUCUS. Mr. President, I rise today in support of S. 1607. Passage of this bill by the Senate tonight is an event that I have been anticipating for some time. This bill introduced by Senators BURNS, MCCAIN and myself, will ratify the reserved water rights compact that has been negotiated between the State of Montana, the Northern Cheyenne Indian Tribe and the Federal Government.

This bill represents an end and a beginning. It represents an end to decades of Federal neglect of its Indian trust responsibility. Federal responsibilities to the Northern Cheyenne to adequately protect the tribe's water resources have—until now—been honored in the breach. Enactment of this bill will bring an end to that sorry record.

Additionally, implementation of this bill will bring to an end, the real and imminent threat of a catastrophic dam failure. The structure in question—the Tongue River Dam—is the lynch-pin that holds the negotiated compact together. This dam has deteriorated to the point that its collapse is just a question of time. This bill will rehabilitate and slightly enlarge that structure, turning a potential catastrophe into an asset.

While this bill represents an end to a long period of neglect and danger faced by the Northern Cheyenne, it likewise represents a new beginning for the tribe and the State. The negotiated compact that this bill will ratify will for the first time, provide the tribe with a steady and quantified source of water. The Northern Cheyenne Reservation is situated in a semiarid part of my State. There, water is life. Water is growth. Water is the future. Without the guarantees provided by the compact, there will be no growth for the Northern Cheyenne.

This bill also holds the promise of providing the tribe with an additional water supply and enhanced fish and wildlife resources that could provide a solid base for tourism and recreation. The compact provides for a modest enlargement of the dam, thus increasing the size of the reservoir. The fisheries resources of this reservoir are already first rate. A slightly larger reservoir with enhanced water fowl habitat will mean a steady flow of recreational and tourist dollars into the reservation. In cooperation with the U.S. Fish and Wildlife Service and Duck's Unlimited, the tribe plans to develop blue ribbon recreational opportunities.

Additionally, this bill represents the beginning of a new chapter in the relationship between the Northern Cheyenne and the State of Montana. It signifies a new period of trust, cooperation and mutual respect. These two parties have successfully negotiated their claims and have reached an accord that is fair to both. They came together and applied themselves in good faith negotiations. The product before you was achieved—not out of years of litigation, as is so often the case—but, out of mutual respect and hard work. That spirit will continue to pervade this government-to-government relationship.

Mr. President, this bill represents a new beginning for both the State of Montana and the Northern Cheyenne. They have produced an agreement that that does great credit to both. In fact, the new spirit of trust and mutual respect reflected by this compact might be one of its lasting achievements.

As we pass S. 1607, I would ask the Senate to contemplate what the consequences will be if this water compact is not passed and signed this year. If we do not pass this bill, only a few possibilities might happen and they are all bad.

The longer we delay, the greater the likelihood that nature will conspire against us, and we could lose the Tongue River Dam. The resulting loss of life and property would be devastating.

Additionally, if the House requires a major rewriting of this bill, that would require the assent of the Montana Legislature. The State legislature will not reconvene for more than a year. I have very real doubts that the financial situation of the State will permit it to accept additional delay.

Mr. President, in conclusion, I would like to thank Senators BURNS and MCCAIN for helping the Northern Cheyenne to reach out and secure their future. This compact can lead to economic promise and stability. Now is the time. We should not and cannot delay any longer.

Mr. BURNS. Mr. President, S. 1607 the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1991, is an important bill. I appreciate the courtesy of the Senate in passing the measure. I want to thank the senior Senator from Montana [Mr. BAUCUS] for his efforts on behalf of this bill as well as Senator INOUYE, chairman of the Select Committee on Indian Affairs. I want to especially thank the ranking Republican member of this committee, Senator MCCAIN who is an original cosponsor of S. 1607.

My colleague, Senator BAUCUS, and I have been working on the Tongue River settlement since Gov. Stan Stevens identified it as the State of Montana's top water priority. I think that it would be fair to say that S. 1607, the bill before us today, represents a consensus agreement on the part of virtually everyone involved. And, reaching that consensus has been a rocky road for everyone involved.

The Federal Government was an intricate part of the water rights settlement that is embodied in S. 1607. In fact, several of the provisions of the bill are as a direct result of advice and guidance offered by the Federal negotiating team. The State, the Compact Commission, and the Northern Cheyenne Tribe jumped through every hoop put up by the Federal Government. In a very real sense, S. 1607 is in the form that it is because of the Federal Government.

On that point, Mr. President, there is one item in the committee report which I wish to clarify. On page 6 of the report, language of a memorandum exchanged between the State of Montana, the Northern Cheyenne Tribe, and the United States relating to the meaning of subsection 4(d) of the act is quoted. The report states that the quoted language was agreed to by the State and tribe, but inadvertently fails to state that the United States also agreed to the language. I want to make clear that all three of the parties agreed to the language in the memorandum.

This bill marks a significant step forward for both the Northern Cheyenne and the Crow Tribes that occupy adjacent lands in southeast Montana. S. 1607 represents the settlement of long-standing Federal water rights claims for the Northern Cheyenne. By raising an existing State dam some 4 feet—all of the additional water will be used to satisfy that claim. An additional allocation of water from unallocated water entrapped behind Yellowtail Dam will be used to satisfy Northern Cheyenne water rights along the Rosebud also within the reservation.

In addition to the hard work of Chairman Edwin Dahle of the Northern Cheyenne Tribe, recognition should be given to Clara Nomee, chairperson of the Crow Tribe. Disagreement between the two tribes would have effectively killed progress on this settlement. That did not happen. The two tribes are cooperating. And, as a result, progress can be made not only on this but on other matters of importance to Clara and the Crow people. She is an effective leader of her people and this agreement is evidence of that leadership.

Governor of Montana, Stan Stephens, the Montana Legislature and the Montana Reserved Water Rights Commission under the leadership of Jack Galt and now Joe Masurek, have also worked mightily to move this process forward. The State of Montana has contributed and will contribute more actual dollar funds—real dollars at a time when dollars are tight—than most other States have contributed to similar settlements. The State is doing all the things necessary to make this settlement work.

The obligation is not the State of Montana. The State does not owe the Northern Cheyenne its water. That obligation belongs to the Federal Government. The State does own the Tongue River Dam located near the Northern Cheyenne Reservation. By raising the level of the State-owned dam the Federal Government can meet its Federal obligation to the Northern Cheyenne people. The State is a facilitator in this process. What the State gains is a safer dam.

The Tongue River Dam is in danger of collapse. As an earthen dam the ground around the spillway has eroded and is in danger of giving way. The corps and the Bureau of Reclamation have identified the dam as structurally in need of repair. The State could do those repairs. And absent the provisions in S. 1607 would probably proceed with a more modest repair of shoring up around the spillway. Such repair would not entrap any additional water.

The Federal obligation on the Northern Cheyenne remains if the dam is repaired without raising its level. The water would have to come from somewhere and the alternative solution would in all probability be at a greater Federal cost than the solution proposed in S. 1607. There probably would not be the State's contribution as an offset to the Federal obligation.

We should seize the moment and settle the water claims of the Northern Cheyenne people with what could be a model for the Nation. And we should do it in partnership with the State of Montana.

Thank you, Mr. President. I yield the floor.

AMENDMENT NO. 2924

(Purpose: To clarify the application of provisions pertaining to allocation of water resources)

Mr. SIMPSON. Mr. President, on behalf of Senator DANFORTH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. DANFORTH, proposes an amendment numbered 2924.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, strike line 8 and insert the following:

SEC. 12. APPLICATION OF PROVISIONS REGARDING ALLOCATION OF WATER RESOURCES.

(a) FINDING.—Congress finds that the allocation of water resources to the Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

(b) APPLICATION.—The provisions of this Act regarding the allocation of water resources to the Tribe shall not be construed to be applied to nor be precedent for any other Indian water right claims.

SEC. 13. EFFECTIVE DATE OF SETTLEMENT.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2924) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1607

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992".

SEC. 2. PURPOSES OF ACT.

(a) PURPOSES.—The purposes of this Act are:

(1) to achieve a fair, equitable, and final settlement of all claims to Federal reserved water rights in the State of Montana of—

(A) the Northern Cheyenne Tribe and its members and allottees; and

(B) the United States on behalf of the Northern Cheyenne Tribe and its members and allottees;

(2) to approve, ratify and confirm the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana on June 11, 1991;

(3) to direct the Secretary of the Interior to enter into a cooperative agreement with the State of Montana for the planning, environmental compliance, design, and construction of the Tongue River Dam Project in order to—

(A) implement the Compact's settlement of the Tribe's reserved water rights claims in the Tongue River Basin;

(B) protect existing tribal contract water rights in the Tongue River Basin;

(C) provide 20,000 acre-feet per year of additional storage water for allocation to the Tribe and to allow the State to implement its responsibilities to correct identified Tongue River Dam safety inadequacies; and

(D) provide for the conservation and development of fish and wildlife resources in the Tongue River Basin;

(4) to provide for the enhancement of fish and wildlife habitat in the Tongue River Basin;

(5) to authorize certain modifications to the purposes and operation of the Big Horn Reservoir in order to implement the Compact's settlement of the Tribe's reserved water rights claims; and

(6) to authorize the Secretary of the Interior to take such other actions as are necessary to implement the Compact.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ALLOTTEE.—The term "allottee" means any person who owns land in trust on the Northern Cheyenne Reservation.

(2) COMPACT.—The term "Compact" means the Water Rights Compact entered into on

June 11, 1991, by the Northern Cheyenne Tribe and the State of Montana.

(3) NORTHERN CHEYENNE FUND.—The term "Northern Cheyenne Fund" means the Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund established by section 6.

(4) RESERVATION.—The term "Reservation" means the Northern Cheyenne Reservation as established by Executive orders of November 26, 1884 and March 19, 1900.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Montana.

(7) STATE WATER CONTRACTS.—The term "State water contracts" means contracts with the Montana Department of Natural Resources and Conservation (DNRC), or its successor State agency, to receive stored water from the National Resources and Conservation's storage rights in the Tongue River Reservoir.

(8) TONGUE RIVER DAM PROJECT.—The term "Tongue River Dam Project" means the project, conducted pursuant to the cooperative agreements between the Bureau of Reclamation and the State of Montana authorized by this Act and subject to conditions contained in the Compact and in the record of decision after completion of environmental review, to repair and enlarge the Tongue River Dam.

(9) TRIBAL WATER RIGHT.—The term "tribal water right" means the tribal water right as defined in the Compact.

(10) TRIBE.—The term "Tribe" means the Northern Cheyenne Tribe.

SEC. 4. RATIFICATION OF COMPACT.

(a) IN GENERAL.—Except as modified by this Act, the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana is hereby approved, ratified, and confirmed.

(b) IMPLEMENTATION.—The Secretary shall implement the Compact as provided in this Act.

(c) ENTRY OF DECREE.—Except for the authorizations contained in subsections 7(b)(1) and 7(b)(2), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section. Notwithstanding the provisions of Article V. 2. of the Compact, for the purposes of the proceeding involving such a decree, the effective date of the Compact shall be the date of the enactment of this Act.

(d) FORM OF DECREE.—No later than 180 days after the date of the enactment of this Act, the United States, the Tribe, and the State of Montana shall jointly petition the Montana water court to enter and approve the "Proposed Decree" agreed to by the United States, the Tribe, and the State of Montana on May 5, 1992, or any amended version thereof.

SEC. 5. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) ADMINISTRATION AND ENFORCEMENT.—As provided in the Compact, until the adoption and approval of a tribal water code, the Secretary shall administer and enforce the tribal water right.

(b) MEMBERS AND ALLOTTEES.—Any entitlement to reserved water of any tribal member or allottee shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions thereof. Such entitlement shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article III.A. of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) TRANSFER OF THE TRIBAL WATER RIGHT.—

(1) IN GENERAL.—Subject to paragraph (2), the Northern Cheyenne Tribe, or persons or entities authorized by the Tribe, may enter into a service contract, lease, exchange, or other agreement providing for the delivery, use, or transfer of the tribal water right confirmed to the Tribe in the Compact.

(2) LIMITATIONS.—Any service contract, lease, exchange, or other agreement entered into under subsection (c)(1) shall be subject to approval by the Secretary, and the limitations and conditions set forth in the Compact, and may not permanently alienate any portion of the tribal water right.

SEC. 6. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund".

(b) EXPENDITURES FROM NORTHERN CHEYENNE FUND.—Amounts in the Northern Cheyenne Fund shall be available, without fiscal year limitations, to the Secretary for expenditure by the Secretary or by the Tribe in accordance with the provisions of this Act.

(c) CONTENTS OF NORTHERN CHEYENNE FUND.—The Northern Cheyenne Fund shall consist of such amounts as are appropriated to it in accordance with the authorization provided by this Act, together with such amounts credited to it in accordance with section 7(e).

(d) USE OF NORTHERN CHEYENNE FUND.—The Tribe shall make $11,500,000 available from the Northern Cheyenne Fund to the State of Montana as a loan to assist financing Tongue River Dam Project costs, and such loan shall be repaid by the State to the Tribe. All other moneys appropriated to the Northern Cheyenne Fund pursuant to section 7(a), together with interest credited thereto, may be used by the Tribe for—

(1) land and natural resources administration, planning, and development within the Reservation;

(2) land acquisition by the Tribe within the Reservation; or

(3) any other purpose determined by the Tribe.

(e) PER CAPITA PAYMENTS.—Funds within the Northern Cheyenne Fund shall not be distributed on a per capita basis to members of the Tribe.

(f) CONGRESSIONAL INTENT.—Nothing in this Act is intended—

(1) to alter the trust responsibility of the United States to the Tribe; or

(2) to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) TRIBAL FUNDS.—There are authorized to be appropriated to the Northern Cheyenne Fund for use by the Tribe $7,400,000 in fiscal year 1995, $9,000,000 in fiscal year 1996, and $5,100,000 in fiscal year 1997.

(b) TONGUE RIVER DAM PROJECT.—(1) There are authorized to be appropriated to the Northern Cheyenne Fund for use, in accordance with paragraph (2), for the Tongue River Dam Project:

(A) $700,000 in fiscal year 1993;

(B) $700,000 in fiscal year 1994;

(C) $15,300,000 in fiscal year 1995;

(D) $11,400,000 in fiscal year 1996; and

(E) $3,400,000 in fiscal year 1997.

(2) Moneys appropriated pursuant to paragraph (1) shall be available for use by the State of Montana and the Secretary for the planning, design, and construction of the Tongue River Dam Project in accordance with provisions of April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribal Federal Negotiation Team and Montana Department of Natural Resources and Conservation. The Federal contribution is provided for development of additional capacity in the Tongue River Dam for storage of water secured to the Tribe in satisfaction of the Tribe's claims to water under the Compact.

(c) INDEXING OF AUTHORIZATION FOR CONSTRUCTION COSTS.—For the purposes of this section, the total estimated costs of construction of the Tongue River Dam Project, inclusive of noncontract costs, shall be $52,200,000 at the January 1991 price level. The project's annual authorization provided in subsection (b) and the Federal and State shares shall be adjusted up or down as may be required by reason of ordinary fluctuations in construction costs, as indicated by engineering cost indices applicable to the type of construction involved in the Tongue River Dam Project.

(d) FISH AND WILDLIFE ENHANCEMENT.—

(1) IN GENERAL.—The Secretary shall identify and develop features of the Tongue River Dam Project that provide for the enhancement of fish and wildlife habitats, in accordance with the Federal Water Project Recreation Act (16 U.S.C. 4601-12 et seq.).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for expenditure by the Secretary, $1,800,000 in fiscal year 1996, and $1,700,000 in fiscal year 1997 for Fish and Wildlife Enhancement, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering costs indices after January 1991. The Tribe shall not be required to reimburse amounts expended pursuant to this section.

(e) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Northern Cheyenne Fund for fiscal year 1993, and each fiscal year thereafter, such sums as are necessary to carry out all necessary environmental compliance associated with the Compact, including mitigation measures adopted by the Secretary.

(f) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for fiscal year 1993, and each fiscal year thereafter, on a nonreimbursable basis, such sums as are necessary to pay the annual operation, maintenance, and replacement costs provided for in section 10(f).

(g) WITHOUT FISCAL YEAR DEFINITIONS.—All moneys appropriated pursuant to authorizations under this Act shall be available without fiscal year limitation.

SEC. 8. STATE CONTRIBUTIONS TO SETTLEMENT.

(a) The provisions of section 6(d) shall be subject to the State of Montana contributing the following amounts to the settlement:

(1) $5,000,000 for contract costs associated with repair of the Tongue River Dam Project;

(2) $11,500,000 to be contributed to the Northern Cheyenne Fund as repayment of the loan provided for in section 6(d);

(3) $4,200,000 of noncontract costs assumed by the State of Montana according to the terms of the letter of agreement on cost-sharing between the State of Montana and the United States dated April 17, 1991; and

(4) $1,100,000 for the Fish and Wildlife enhancement measures identified in section 7(d).

SEC. 9. BIG HORN RESERVOIR STORAGE.

(a) ALLOCATION FOR TRIBE.—

(1) IN GENERAL.—As provided in the Compact, the Secretary shall allocate 30,000 acre-feet per year of stored water in Big Horn Reservoir, Yellowtail Unit, Lower Bighorn Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the Reservoir, for use or disposition by the Tribe for any purpose.

(2) PRIOR RESERVED RIGHTS.—This allocation shall be subject to the prior reserved water rights, if any, of any Indian tribe, or of persons claiming water through that tribe, to the water allocated in paragraph (1).

(b) PAYMENTS BY TRIBE.—

(1) IN GENERAL.—The Tribe shall not be required to make payments to the United States for the portion of the tribal water right stored in or used from the Big Horn Reservoir except for each acre-foot of stored water used or sold for municipal or industrial purposes. The Tribe shall pay annually to the United States an amount to cover the proportionate share of the—

(A) annual operation, maintenance and replacement costs for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe; and

(B) capital costs with appropriate interest for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe.

(2) ADJUSTMENT OF PAYMENTS.—The annual payments shall be reviewed and adjusted, as appropriate, to reflect the actual operation, maintenance, and replacement costs, and the actual capital costs, for the Yellowtail Unit.

(c) USE AND SALE OF WATER.—

(1) IN GENERAL.—Except for payments required to be made to the United States pursuant to subsection (b), the Tribe shall—

(A) set such rates as it considers proper for its use or sale of stored water; and

(B) retain all revenues from its use or sale of the stored water.

(2) HYDROPOWER GENERATION.—The United States shall retain the right to use any and all water stored in the Big Horn Reservoir for hydropower generation.

(d) AGREEMENT WITH TRIBE.—The Secretary shall enter into an agreement with the Tribe providing—

(1) for the Tribe's use or sale of water stored in the Big Horn Reservoir subject to the terms and conditions of the Compact; and

(2) for the collection and disposition of revenues in connection with water stored in the Big Horn Reservoir that is made available to the Tribe.

(e) MORATORIUM ON WATER MARKETING.—Notwithstanding any provision of this Act or the Compact, no portion of the allocation described in paragraph (1) of subsection (a) shall be sold or leased by the Tribe for a period of 10 years following the date on which the Compact becomes effective pursuant to Article V(A)(1) of the Compact or for a period of 10 years following any earlier date on which the allocation may become available to the Tribe, unless the Crow Tribe and the Northern Cheyenne Tribe agree otherwise.

(f) LIMITATION ON WATER MARKETING.—The Secretary may enter into contracts for the sale or lease of water to which the United States holds legal title and which is stored in the Big Horn Reservoir, except that with respect to any such contract—

(1) the Secretary provides notice to the Northern Cheyenne Tribe and the Crow Tribe of his intent to enter into a contract at least 120 days in advance of entering into such contract;

(2) the terms of the contract for sale or lease of water provide that the contract will not exceed a 2-year term, with a right of renewal following a 120-day notice period to the Northern Cheyenne Tribe and Crow Tribe; and

(3) the terms of the contract for sale or lease of water contain a provision that makes clear that the contract is subject to alteration or termination by the United States pending the resolution of claims to water by the Crow Tribe.

SEC. 10. TONGUE RIVER DAM PROJECT.

(a) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the State of Montana for the planning, design, and construction of the Tongue River Dam Project in accordance with the provisions of the April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribe Federal Negotiating Team and the Montana Department of Natural Resources and Conservation. The Secretary shall also enter into a cooperative agreement with the State of Montana for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on the Tongue River Dam Project.

(b) OWNERSHIP.—Notwithstanding Federal participation in the Tongue River Dam Project, the Tongue River Dam shall remain in the ownership of the State of Montana.

(c) STATE OPERATION OF RESERVOIR.—Except as otherwise provided in the Compact, nothing in this Act shall affect the State's operation of the Tongue River Reservoir to fulfill State water contracts.

(d) CONGRESSIONAL INTENT.—Nothing in this Act is intended to subject holders of State water contracts from the Tongue River Reservoir who do not have a contract for Federal reclamation storage to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.).

(e) LAND TRANSFER.—

(1) Notwithstanding any other provisions of law, the Bureau of Land Management shall transfer to the Bureau of Indian Affairs in trust for the Northern Cheyenne Tribe the following described land:

T. 8 S., R. 40 E., P.M.M.
Sec. 26, N½SW¼
Sec. 27, N½SE¼
T. 8 S., R. 40 E., P.M.M.
Sec. 23, SW¼NE¼, N½SE¼
Sec. 24, NW¼SW¼.

(2) Nothing in this section is intended to address the jurisdiction of the Tribe or the State of Montana over the property being transferred.

(3) This transfer shall not be construed as creating a Federal reserved water right.

(f) PAYMENT OF THE TRIBE'S SHARE.—The Secretary, acting through the Bureau of Indian Affairs, shall continue to pay annually to the State of Montana on a nonreimbursable basis an amount to cover the proportionate share of the annual operation, maintenance and replacement costs for the Tongue River Dam allocable to the Tribe's stored water in the reservoir.

(g) EMPLOYMENT PREFERENCE.—Notwithstanding any other provision of law, the State shall require in all contracts and subcontracts relating to construction of the Tongue River Dam Project, a provision that the contractor and its subcontractors shall provide a hiring preference to Northern Cheyenne tribal members. The State and the Tribe shall enter into an agreement setting forth the manner in which the preference will be implemented and enforced.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—Notwithstanding the provisions of Article IV, Section G, of the Compact, the United States shall not be deemed to have waived its immunity from suit except to the extent provided in subsections (a), (b), and (c) of section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

(b) EFFECT ON YELLOWSTONE RIVER COMPACT.—Nothing in this Act shall be construed to alter or amend any provision of the Yellowstone River Compact, as consented to in the Act entitled "An Act granting the consent of Congress to a Compact entered into by the States of Montana, North Dakota, and Wyoming relating to the waters of the Yellowstone River", approved October 30, 1951 (65 Stat. 663).

(c) EFFECT ON RIGHTS OF OTHER TRIBES.—Nothing in this Act is intended to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water, of an Indian Tribe other than the Northern Cheyenne Tribe.

(d) ENVIRONMENTAL COMPLIANCE.—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 433–4335), and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable environmental Acts and regulations.

(e) EXECUTION OF COMPACT.—Execution of the Compact by the Secretary as provided for in section 4 shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance during the implementation phase of this settlement.

(f) BUREAU OF RECLAMATION DESIGNATED AS THE LEAD AGENCY.—With respect to the Tongue River Dam Project and uses of the Tribe's Big Horn Reservoir storage allocation, the Bureau of Reclamation is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(g) BUREAU OF INDIAN AFFAIRS DESIGNATED AS THE LEAD AGENCY.—With respect to all other provisions of the Compact, the Bureau of Indian Affairs is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

SEC. 12. APPLICATION OF PROVISIONS REGARDING ALLOCATION OF WATER RESOURCES..

(a) FINDING.—Congress finds that the allocation of water resources to the Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

(b) APPLICATION.—The provisions of this Act regarding the allocation of water resources to the Tribe shall not be construed to be applied to nor be precedent for any other Indian water right claims.

SEC. 13. EFFECTIVE DATE OF SETTLEMENT.

The settlement contained in this Act shall not become effective if a tribal referendum on the settlement is requested pursuant to the Northern Cheyenne Constitution within 60 days following the date of enactment of this Act, and the settlement fails to be approved in such referendum held within 120 days following the date of enactment of this Act. If the settlement does not become effective pursuant to this section, the United States (including the Secretary and all other officers), the State of Montana, and the Tribe are relieved of all rights, entitlements, duties, responsibilities and authorities conferred, imposed or created by this Act. If a referendum is not requested within such 60-day period, the settlement shall take effect upon the date next following the expiration of such 60-day period. If a referendum is requested within such 60-day period, and the settlement is approved in a referendum held within 120 days following the date of enactment of this Act, the settlement shall take effect on the date next following the date of such approval.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANIMAL ENTERPRISE PROTECTION ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 544.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 544) entitled "An Act to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal Acts, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Enterprise Protection Act of 1992".

SEC. 2. ANIMAL ENTERPRISE TERRORISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 42 the following:

"§43. Animal enterprise terrorism

"(a) OFFENSE.—Whoever—

"(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce, for the purpose of causing physical disruption to the functioning of an animal enterprises; and

"(2) intentionally causes physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of, any property (including animals or records) used by the animal enterprise, and thereby causes economic damage exceeding $10,000 to that enterprise, or conspires to do so; shall be fined under this title or imprisoned not more than one year, or both.

"(b) AGGRAVATED OFFENSE.—

"(1) SERIOUS BODILY INJURY.—Whoever in the course of a violation of subsection (a) causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) DEATH.—Whoever in the course of a violation of subsection (a) causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.

"(c) RESTITUTION.—An order of restitution under section 3663 of this title with respect to a violation of this section may also include restitution—

"(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense; and

"(2) the loss of food production or farm income reasonably attributable to the offense.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'animal enterprise' means—

"(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

"(B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

"(C) any fair or similar event intended to advance agricultural arts and sciences;

"(2) the term 'physical disruption' does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise;

"(3) the term 'economic damage' means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits; and

"(4) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.

"(e) NON-PREEMPTION.—Nothing in this section pre-empts any State law.".

"(b) CLERICAL AMENDMENT.—The item relating to section 43 in table of sections at the beginning of chapter 3 of title 18, United States Code, is amended to read as follows:

"43. Animal enterprise terrorism.".

SEC. 3. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL ENTERPRISES.

"(a) STUDY.—The Attorney General and the Secretary of Agriculture shall jointly conduct a study on the extent and effects of domestic and international terrorism on enterprises using animals for food or fiber production, agriculture, research, or testing.

"(b) SUBMISSION OF STUDY.—Not later than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Agriculture shall submit a report that describes the results of the study conducted under subsection (a) together with any appropriate recommendations and legislation to the Congress.

Mr. FORD. I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TITLE AMENDMENT TO H.R. 4111

Mr. FORD. Mr. President, I ask unanimous consent that in the engrossment of the Senate amendment to H.R. 4111, an act to amend the Small Business Act, the title be amended with the language I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title was amended so as to read:

"An Act to amend the Small Business Act and related Acts to provide loan assistance to small business concerns, to extend certain demonstration programs relating to small business participation in Federal procurement, to modify certain Small Business Administration programs, to assist small firms to adjust to reductions in Defense-related business, to improve the management of certain program activities of the Small Business Administration, to provide for the undertaking of certain studies, and for other purposes.".

JOB TRAINING REFORM AMENDMENTS OF 1992—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 3033 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3033) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 6, 1992.)

Mr. KENNEDY. Mr. President, I urge the Senate to approve the conference report on H.R. 3033, the Job Training Partnership Reform Amendments of 1992. I commend House Education and Labor Committee Chairman WILLIAM FORD, and Employment Opportunities Subcommittee Chairman CARL PERKINS for their work on this important legislation. Without their leadership, these important reforms would not be possible.

In addition, I commend our Senate conferees, Senators METZENBAUM, SIMON, HATCH, and THURMOND. They have provided leadership in the Senate, and we have reached bipartisan agreement with the administration on these reforms in time to implement them for the 1993 program year.

I also commend Secretary of Labor Lynn Martin and many other able persons in the Department of Labor who have helped us to shape these important reforms.

These amendments will improve the quality of services provided under the Job Training Partnership Act, which is currently the largest Federal program that educates and trains our work force. Services provided under the act are targeted to disadvantaged Americans who currently face the greatest barriers to successful participation in the work force. The act plays a central role in our efforts to help them acquire the skills, and jobs they need to attain self-sufficiency.

Preserving the best features of JTPA, these amendments build on the experience we have gained under the act to refine and sharpen program requirements and provide higher quality services. Public-private partnerships, which have formed the basic delivery system for JTPA, and the emphasis on the use of performance standards to evaluate programs, remain intact.

Although these virtues of the act are preserved, the conference report addresses several important needs.

It provides better targeting of services under the act, to ensure that the services actually reach those most in need.

It modifies performance standards to emphasize the actual acquisition of skills, rather than simple job placements, which may be short-term;

It separates services for adults and youth into two distinct programs, so that we can address the special needs of each group more effectively;

It requires individualized assessments of the education, skills and service needs of each participant, so that service strategies can be tailored to meet each of their particular needs;

It strengthens fiscal accountability by requiring better documentation and reporting of costs and stronger procurement and contracting procedures;

It reaches out to poor communities to enable them to provide comprehensive services to low-income youth through the newly created Youth Fair Chance Program; and

Revises the Jobs for Employable Dependent Individuals Incentive Bonus Program under title V in order to provide job training and placement to absent parents of children receiving AFDC. Under this program, absent parents can receive bonuses based on the amount of child support paid by the parent for up to 2 years after they complete JTPA training. At present, there are no job training programs targeted to absent parents of children receiving AFDC. By training these parents and placing them in productive employment, we can help them meet their child support obligations and thereby reduce their children's dependency on Federal assistance programs. JEDI incentives will encourage States and service delivery areas to provide services to these parents and reward them for successful efforts that reduce dependency on welfare.

This conference report reflects a broad consensus among groups involved in the delivery of JTPA services at the Federal, State, and local level on what needs to be done to improve the program. Through our action today, we are taking a positive step to strengthen a program that is an essential element of Federal job training policy. I urge my colleagues to support it.

Mr. THURMOND. Mr. President, as the ranking minority member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee, I am pleased to offer my strong support of the conference report on the Job Training Reform Amendments of 1992, legislation which strengthens the program of employment and training assistance provided under the Job Training Partnership Act [JTPA].

Since the enactment of JTPA in 1982, the core program of job training services for the economically disadvantaged has remained basically unchanged. In its 9 years of existence, this law has helped many economically disadvantaged Americans develop needed skills for entering the workforce as productive citizens. The conference report being considered today builds upon that established foundation.

Mr. President, in 1989 the administration submitted a JTPA proposal to the Congress. Many of the proposals set forth in that legislation were later incorporated into S. 543, a bipartisan bill reported from the Labor and Human Resources Committee in September 1989 by a vote of 15-1.

In October 1990, a variation of S. 543 passed the Senate as an amendment to the Departments of Labor, Health and Human Services, and Education and related agencies appropriations bill. However, the JTPA measure was dropped during conference.

In June of last year, I was pleased to introduce on behalf of the administration, S. 1404, the Job Training Partnership Act Amendments of 1991. That bill was designed to improve the targeting of JTPA funds to those facing serious barriers to employment. It would also strengthen program accountability, enhance existing job training services, and promote the coordination of a broad range of programs and resources.

The conference report before us today—the Job Training Reform Amendments of 1992—represents a consensus of the House and Senate conferees and the Department of Labor. It is a result of bipartisan negotiations, and it has been a pleasure to work with the chairman of the Labor and Human Resources Committee—Senator KENNEDY, the ranking member, Senator HATCH, the chairman of the Employment and Productivity Subcommittee, Senator SIMON, and other members of the conference committee. We have had the benefit of the views of the Department of Labor, the National Governors Association, the National Association of Counties, private industry council members, members of State job training councils, the vocational education community, and many others. It does not contain everything I would prefer to see in a bill, but it does represent a consensus, and important step forward.

I am particularly pleased that for the first time, we have agreement on language authorizing the creation of an optional State human resources investment council in each State. Such a council will permit States to better coordinate job training, vocational education, adult education, community service, unemployment compensation, food stamp, and other domestic programs.

Other provisions of the Conference report would:

Target services to persons facing serious and multiple barriers to employment;

Enhance program quality through individual assessments and service strategies;

Increase program accountability by enhancing performance standards; and

Continue the public-private partnership and local flexibility that make up the foundation of the current JTPA program.

Mr. President, in short, I am pleased to support this legislation which fine-tunes and refines the existing Job Training Partnership Act. I urge the prompt adoption of the conference report.

(At the request of Mr. DOLE, the following statement was printed in the RECORD.)

• Mr. HATCH. Mr. President, the Job Training Partnership Act [JTPA], enacted in 1982, is the largest system of Federal job training and retraining in the United States. The success of the JTPA programs has been due, in large part, to the State and local flexibility authorized by the act since its inception. The Senate amendments of 1992 continue to emphasize the partnership between the local administrators of JTPA programs and those who know about private sector job requirements.

The Senate and House amendments are designed to further target youth and adults who are economically disadvantaged and face serious barriers to employment. The result of the conference with the House has been, I think, a fair and workable set of compromises that should meet the goals originally intended by both bills.

I am honored to be involved with this part of JTPA's history. As future amendments are proposed, I hope Senators and Congressmen will remember that JTPA has succeeded due to the flexibility and responsibility given to State and local administration in partnership with the private sector.

These amendments follow this philosophy. I urge my colleagues to support this conference report.•

Mr. FORD. Mr. President, I ask unanimous consent that the conference report be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3743. A communication from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend section 1072 of title 10, United States Code, to authorize medical and dental care for certain unmarried children who become incapacitated and whose sponsor-parent provides more than 50 percent support; to the Committee on Armed Services.

EC-3744. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the results of an analysis on the Federal Deposit Insurance Corporation's estimated costs of assistance agreements entered into by the Federal Savings and Loan Insurance Corporation during 1988 and 1989; to the Committee on Banking, Housing and Urban Affairs.

EC-3745. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-3746. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3747. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the nondisclosure of Safeguards Information for the quarter ending June 30, 1992; to the Committee on Environment and Public Works.

EC-3748. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Merchant Marine Act, 1936, as amended, to establish a contingency retainer program and improve the United States-flag merchant marine; to the Committee on Finance.

EC-3749. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the monthly report of the General Accounting Office; to the Committee on Governmental Affairs.

EC-3750. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, the actuarial reports on the Judicial Retirement System, the Judicial Officers' Retirement Fund, the Judicial Survivors' Annuities System, and the Claims Court Judges' Retirement System for the calendar year ending December 31, 1991; to the Committee on Governmental Affairs.

EC-3751. A communication from the Vice President of the Farm Credit Bank (Human Resource Management), transmitting, pursuant to law, the annual report for the Pension Plan for the year ended December 31, 1991; to the Committee on Governmental Affairs.

EC-3752. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-282 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3753. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-283 adopted by the Council on July 7, 1992; to the Committee on Governmental Affairs.

EC-3754. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting a draft of proposed legislation entitled "The Consular Efficiency Act of 1992"; to the Committee on the Judiciary.

EC-3755. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report of the Department of Labor for calendar year 1991; to the Committee on the Judiciary.

EC-3756. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to provide that public and private sector employees shall not be excluded from the minimum wage and maximum hour exemption under section 13(a)(1) of the Fair Labor Standards Act of 1938 because the pay of the employee might be subject to reduction for partial day absences, and for other purposes; to the Committee on Labor and Human Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN (for himself and Mr. BAUCUS):

S. 3152. A bill to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; to the Committee on Foreign Relations.

By Mr. DECONCINI (for himself, Mr. HATCH, and Ms. MIKULSKI):

S. 3153. A bill to reform Customs Service operations, and for other purposes; to the Committee on Finance.

By Mr. SEYMOUR:

S. 3154. A bill to control and prevent criminal gang activity and violence, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. AKAKA, Mr. COCHRAN, Mr. MCCAIN, Mr. DASCHLE, and Mr. SIMON):

S. 3155. A bill to establish the National Indian Policy Research Institute; to the Select Committee on Indian Affairs.

By Mr. SEYMOUR:

S. 3156. A bill to amend the Internal Revenue Code of 1986 to provide for the designation of turbo enterprise zones to assist those areas of Los Angeles affected by recent rioting and to assist other areas of high unemployment; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. GORTON, Mr. AKAKA, Mr. DASCHLE, and Mr. SIMON):

S. 3157. A bill to provide for a National Native American Veterans' Memorial; to the Select Committee on Indian Affairs.

By Mr. SMITH:

S. 3158. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 387

At the request of Mr. MACK, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 387, a bill to amend title XVIII of the Social Security Act to provide an additional payment under part A of the Medicare program for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are Medicare beneficiaries.

S. 1622

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 2627

At the request of Mr. GRAMM, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2627, a bill to ensure the preservation of the Gulf of Mexico by establishing within the Environmental Protection Agency a Gulf of Mexico Program Office.

S. 2667

At the request of Mr. HEFLIN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2682

At the request of Mr. BUMPERS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2900

At the request of Mr. DOMENICI, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Alabama [Mr. HEFLIN], the Senator from Washington [Mr. GORTON], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act) until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2921

At the request of Mr. FOWLER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2921, a bill to reform the administrative decisionmaking and appeals processes of the Forest Service, and for other purposes.

S. 2922

At the request of Mr. COHEN, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2922, a bill to assist the States in the enactment of legislation to address the criminal act of stalking other persons.

S. 2958

At the request of Mr. AKAKA, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2958, a bill to amend chapter 37 of title 38, United States Code, to expand the housing loan program for veterans.

S. 2961

At the request of Mr. AKAKA, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2961, a bill to amend title 38, United States Code, to permit the burial in ceremonies of the National Cemetery System of certain deceased Reservists, to furnish a burial flag for such members, to furnish headstones and markers, and for other purposes.

S. 2970

At the request of Mr. SASSER, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2970, a bill to amend the Cash Management Improvement Act of 1990, and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the names of the Senator from Virginia [Mr. ROBB], the Senator from New York [Mr. D'AMATO], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3088

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 3088, a bill to amend the Public Health Service Act to establish a program to provide grants to improve the quality and availability of comprehensive education, health and social services for at-risk youth and their families, and for other purposes.

S. 3097

At the request of Mr. GORTON, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 3097, a bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes.

S. 3148

At the request of Mr. PRYOR, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 3148, a bill to amend title XI of the Social Security Act to establish an Intergovernmental Task Force on Health Care Fraud and Abuse.

SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the names of the Senator from Missouri [Mr. BOND], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 293, a joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week."

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. AKAKA, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Concurrent Resolution 133, a concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States.

SENATE RESOLUTION 109

At the request of Mr. RIEGLE, the names of the Senator from Tennessee [Mr. SASSER], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Resolution 109, a resolution exercising the right of the Senate to change the rules of the Senate with respect to the "fast track" procedures for trade implementation bills.

SENATE RESOLUTION 301

At the request of Mr. SIMON, the names of the Senator from Washington, [Mr. ADAMS], the Senator from Oklahoma [Mr. BOREN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 301, a resolution relating to ongoing violence connected with apartheid in South Africa.

MESSAGES FROM THE HOUSE

At 5:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82nd Airborne Division 50th Anniversary Recognition Day."

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate.

H.J. Res. 492. Joint resolution designating September 1992 as "Childhood Cancer Month."

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

A concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States.

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 492. Joint resolution designating September 1992 as "Childhood Cancer Month;" to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 246. A concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States; to the Committee on Finance.

MEASURES READ THE FIRST TIME

The following bill, previously received from the House of Representatives for concurrence, was read the first time:

H.R. 2782. An act to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain States laws.

ENROLLED BILLS PRESENTED

The President pro tempore (Mr. BYRD) announced that on today, August 7, 1992, he had signed the following enrolled bill, which has previously been signed by the Speaker of the House:

H.R. 4437. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100-202.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself and Mr. BAUCUS):

S. 3152. A bill to extend the authorities of the Overseas Private Investment Corporation, and for other purposes; to the Committee on Foreign Relations.

JOBS THROUGH EXPORTS ACT OF 1992

• Mr. LIEBERMAN. Mr. President, I am introducing today legislation that I believe will enhance our Nation's ability to compete overseas. This legislation, which was introduced in the House by my friend and colleague SAM GEJDENSON, creates a framework in which American companies can win overseas markets by enhancing the ability of the U.S. Government to fund capital projects through USAID; by reauthorizing the Overseas Private Investment Corporation [OPIC], which insures companies overseas investments; and by providing funding for feasibility studies for private sector overseas projects.

Specifically the legislation reauthorizes the Overseas Private Investment Corporation [OPIC], which, among other things, offers protection for U.S. overseas investment opportunities. OPIC is responsible for the creation of 13,000 jobs in 1991.

In addition, this bill doubles the size of the Trade and Development Program [TDP] and renames it the Trade and Development Agency. TDP is one of the best kept secrets in Washington. Along with the Eximbank and OPIC, TDP forms a trio of agencies dedicated to helping increase American exports, which creates new jobs here at home. Through its feasibility studies and other related activities, TDP gives American companies a beachhead in the markets of developing nations. For every dollar that TDP spends, it generates $70 in U.S. goods and services. The bill authorizes $55 million for fiscal year 1992 for TDP and doubles its present budget in fiscal year 1993 by authorizing $70 million for TDP.

This bill also establishes a Capital Projects Office in the Agency for International Development [AID], which would enable exporters to more adequately compete with other OECD nations in capturing new market shares in developing nations. This office will help U.S. businesses by supporting developmentally sound capital projects.

This provision builds on work that Senators BOREN, BENTSEN, BYRD, BAUCUS, and myself have been undertaken for the past several years. We had an amendment to last year's Foreign Assistance Act that created a Capital Projects Office at AID and increased AID funding for developmentally sound capital projects—$650 million for fiscal year 1992 and $700 million for fiscal year 1993. Capital projects are not only important commercially, they are also important for the development of a nation's infrastructure.

The final title in the bill involves a pilot program with the Department of Commerce, which calls on the International Trade Administration [ITA] to create Commercial Centers in Asia, Eastern Europe, Latin America. These centers will provide additional support for U.S. Exporters in country. In addition to the fine work already being done by the U.S. Commercial Service, the centers will provide some legal advice, translation services, clerical assistance and conference and exhibition space. The bill provides $22 million for these centers for fiscal year 1993 through fiscal year 1997.

The bill also calls on the Secretary of Commerce to fully implement the Market Development Cooperator Program established by the Trade Act of 1988. This program encourages the American private sector to subsidize the government by providing additional staff expertise on key industries to foreign commercial service offices abroad. This is similar to a highly successful Department of Agriculture program already in operation.

I believe this legislation is an important step forward in ensuring that American economic policy plays a more important role in the determination of our overall foreign policy. This bill is about making America more competitive and creating new jobs.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jobs Through Exports Act of 1992".

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Overseas Private Investment Corporation Amendments Act of 1992".

SEC. 102. REAUTHORIZATION OF CORPORATION.

(a) IN GENERAL.—Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 and following) is amended to read as follows:

"TITLE IV—OVERSEAS PRIVATE INVESTMENT CORPORATION

"SEC. 231. PURPOSE AND POLICY.

"(a) PURPOSE.—The Overseas Private Investment Corporation shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Corporation is to promote sustainable economic development in developing and other eligible countries by mobilizing and facilitating the participation of the United States private sector.

"(b) ELIGIBILITY CRITERIA FOR PARTICIPATING COUNTRIES AND AREAS.—

"(1) IN GENERAL.—Countries or areas within countries may be eligible to receive insurance, reinsurance, financing, or other financial support from the Corporation if—

"(A) that country has established diplomatic relations with the United States;

"(B) that country or area is a developing country or area, or a country in transition from a nonmarket to market economy; and

"(C) that country respects internationally recognized human rights.

"(2) PREFERENCE FOR CERTAIN COUNTRIES.—The Corporation shall, in conducting its activities, give preference to countries with per capita incomes of $1,146 or less in 1990 United States dollars; and restrict its activities in countries with per capita incomes of $4,974 or more in 1990 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act).

"(3) EXCEPTION.—In a case in which a country in which the Corporation is conducting activities no longer meets the criteria set forth in paragraph (1), the Corporation may continue to operate its programs in that country, but shall not extend any new insurance, reinsurance, or financing with respect to projects in which the government of that country is involved as a partner, shareholder, director, manager, or otherwise.

"(c) GUIDELINES FOR ACTIVITIES OF OPIC.—In carrying out its purpose, the Corporation shall undertake—

"(1) to conduct insurance, reinsurance, and financing operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

"(2) to utilize private credit and investment institutions and the Corporation's guarantee authority as the principal means of mobilizing capital investment funds;

"(3) to broaden private participation by selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

"(4) to conduct its insurance operations with due regard to principles of risk management, including efforts to share its insurance risks and reinsurance risks;

"(5) to consider in the conduct of its operations the extent to which the governments of eligible countries are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

"(6) to foster private initiative and competition and discourage monopolistic practices;

"(7) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

"(8) to consider in the conduct of its operations the extent to which the governments of eligible countries respect human rights, labor rights, and the need to support sound environmental practices and policies;

"(9) to conduct its activities in consonance with the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States; and

"(10) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in eligible countries and areas.

"SEC. 232. STOCK OF THE CORPORATION; ORGANIZATION AND MANAGEMENT.

"(a) STOCK.—The Secretary of the Treasury shall hold the capital stock of the Corporation.

"(b) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (herein-

after in this title referred to as 'the Board') which shall consist of 15 Directors (including the Chair, the Executive Vice Chair, and the Vice Chair), with 8 Directors constituting a quorum for the transaction of business.

"(2) COMPOSITION OF THE BOARD.—

"(A) CHAIR.—The Chair of the Board shall be the President of the Corporation, ex officio.

"(B) EXECUTIVE VICE CHAIR.—The Executive Vice Chair of the Board shall be the Administrator of the Agency for International Development, ex officio.

"(C) VICE CHAIR.—The Vice Chair of the Board shall be the United States Trade Representative, ex officio, or, if so designated by the United States Trade Representative, a Deputy United States Trade Representative.

"(D) PUBLIC SECTOR DIRECTORS.—(i) In addition to the directors provided for in subparagraphs (A), (B), and (C), four Directors who are officers or employees of the Government of the United States, including an officer or employee of the Department of Labor, shall be designated by and shall serve at the pleasure of the President of the United States.

"(ii) The Directors designated under this subparagraph shall receive no additional compensation by virtue of their service as such a Director.

"(E) PRIVATE SECTOR DIRECTORS.—(i) Eight Directors who are not officers or employees of the Government of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

Of these, at least—

"(I) one shall be experienced in small business,

"(II) one shall be experienced in organized labor,

"(III) one shall be experienced in cooperatives, and

"(IV) one shall be experienced in social and economic development issues.

"(ii) Each Director appointed under this subparagraph shall be appointed for a term of not more than 3 years. The terms of not more than 3 such Directors shall expire in any 1 year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed to subsequent terms.

"(iii) Each Director appointed under this subparagraph shall be compensated at the daily equivalent of the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Director is actually engaged in the business of the Corporation, and may be paid travel or transportation expenses to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code. Any such Director may waive any such compensation.

"(d) APPOINTMENT OF THE PRESIDENT.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account the private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and shall be responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

"(e) OFFICERS AND STAFF.—

"(1) EXECUTIVE VICE PRESIDENT.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

"(2) OTHER OFFICERS AND STAFF.—(A) The Corporation may appoint such other officers and such employees (including attorneys) and agents as the Corporation considers appropriate.

"(B) The officers, employees, and agents appointed under this subsection shall have such functions as the Corporation may determine.

"(C) Of the officers, employees, and agents appointed under this paragraph, 20 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title, and shall serve at the pleasure of the Corporation.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 233. INVESTMENT INSURANCE, FINANCING, AND OTHER PROGRAMS.

"(a) INVESTMENT INSURANCE.—

"(1) RISKS FOR WHICH INSURANCE ISSUED.—The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

"(A) Inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment in the project, in whole or in part, or as compensation for the sale or disposition of all or any part of the investment.

"(B) Loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government.

"(C) Loss due to war, revolution, insurrection, or civil strife.

"(D) Loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

"(2) RISK SHARING ARRANGEMENTS WITH FOREIGN GOVERNMENTS AND MULTILATERAL ORGANIZATIONS.—Recognizing that major private investments in eligible countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, and political subdivisions thereof) and with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may, in connection with such arrangements, issue insurance to investors not otherwise eligible for insurance under this title, except that—

"(A) liabilities assumed by the Corporation under the authority of this paragraph shall be consistent with the purposes of this title, and

"(B) the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

"(3) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 10 percent of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 235(a)(1) shall be issued to a single investor.

"(4) REPORTS ON INSURANCE ISSUED FOR BUSINESS INTERRUPTION OR CIVIL STRIFE.—(A) In each instance in which a significant expansion is proposed in the type of risk to be insured under the definition of 'civil strife' or 'business interruption', the Corporation shall, at least 60 days before such insurance is issued, submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report with respect to such insurance.

"(B) Each such report shall include a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered.

"(C) Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A.

"(b) INVESTMENT GUARANTEES.—

"(1) AUTHORITY.—The Corporation is authorized to issue to eligible investors guarantees of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, subject to paragraphs (2), (3), and (4).

"(2) GUARANTEES ON OTHER THAN LOAN INVESTMENTS.—A guarantee issued under paragraph (1) on other than a loan investment may not exceed 75 percent of such investment.

"(3) LIMIT ON AMOUNT OF INVESTMENT GUARANTEED.—Except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) for which guarantees are issued under paragraph (1) with respect to any project shall not exceed, at the time of issuance of any such guarantee, 75 percent of the total investment committed to any such project as determined by the Corporation. Such determination by the Corporation shall be conclusive for purposes of the Corporation's authority to issue any such guarantee.

"(4) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 15 percent of the maximum contingent liability of investment guarantees which the Corporation is permitted to have outstanding under section 235(a)(2) may be issued to a single investor.

"(c) DIRECT INVESTMENT.—

"(1) IN GENERAL.—The Corporation is authorized to make loans in United States dollars, repayable in dollars, and to make loans in foreign currencies, to firms privately owned or of mixed private and public ownership, upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

"(2) USE OF LOAN FOR NEW TECHNOLOGIES, PRODUCTS, OR SERVICES.—The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of eligible countries or areas.

"(d) INVESTMENT ENCOURAGEMENT.—The Corporation is authorized to initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying, and promotion of private investment opportunities, using wherever feasible and effective the facilities of private investors, except that the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of oil or gas resources.

"(e) SPECIAL ACTIVITIES.—The Corporation is authorized to administer and manage special projects and programs, including programs of financial and advisory support, which provide private technical, professional, or managerial *assistance in the development of human resources, skills, technology, capital savings, intermediate financial and investment institutions, and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private.*

"(f) OTHER INSURANCE FUNCTIONS.—

"(1) IN GENERAL.—The Corporation is authorized—

"(A) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and

"(B) to employ such insurance companies, financial institutions, other persons, or groups, where appropriate, as its agent, or to act as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business,

except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 and shall be on equitable terms.

"(2) RISK-SHARING AGREEMENTS.—The Corporation is authorized to enter into pooling or other risk-sharing agreements with multinational insurance or financing agencies or groups of such agencies.

"(3) OWNERSHIP INTEREST IN RISK-SHARING ENTITIES.—The Corporation is authorized to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

"(4) REINSURANCE OF CERTAIN LIABILITIES.—The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof with respect to risks referred to in subsection (a)(1).

"(5) LIMITATION ON REINSURANCE.—The amount of reinsurance of liabilities under this title which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his or her own account specified portions of liability, whether first loss or otherwise.

"(6) ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.—

"(A) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this title, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

"(i) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

"(ii) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

"(iii) Notwithstanding section 237(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this clause, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

"(B) ADVISORY GROUP.—

"(i) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this paragraph. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

"(I) Up to 7 persons from the private political risk insurance industry, of whom no fewer than 2 shall represent private political risk insurers, 1 shall represent private political risk reinsurers, and 1 shall represent insurance or reinsurance brokerage firms.

"(II) Up to 4 persons, other than persons described in subclause (I), who are purchasers of political risk insurance.

"(ii) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(iii) MEETINGS.—The advisory group shall meet at least annually. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

"(iv) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(g) EQUITY FINANCE PROGRAM.—

"(1) AUTHORITY FOR EQUITY FINANCE PROGRAM.—The Corporation is authorized to establish an equity finance program under which it may, on the limited basis prescribed in paragraphs (2) through (4), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this title, except that—

"(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

"(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

"(2) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

"(3) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in eligible countries or areas, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

"(4) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate on the implementation of the equity finance program established under this subsection.

"SEC. 234. GUIDELINES AND CRITERIA FOR OPIC SUPPORT.

"(a) DEVELOPMENT GUIDELINES.—

"(1) CRITERIA.—The Corporation, in determining whether to provide insurance, reinsurance, or financing for a project shall be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors.

"(2) DEVELOPMENT IMPACT PROFILE.—In order to carry out the policy set forth in paragraph (1), the Corporation shall prepare and maintain, for each investment project it insures, reinsures, or finances, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development.

"(b) SMALL BUSINESS DEVELOPMENT.—

"(1) BROADENED PARTICIPATION BY SMALL BUSINESSES.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in eligible countries or areas.

"(2) PREFERENTIAL CONSIDERATION.—Notwithstanding the requirements of section 231(c)(1), and on such terms and conditions as the Corporation may determine through loans, grants, or other programs authorized by section 233, the Corporation shall undertake, to the maximum degree possible consistent with its purposes—

"(A) to give preferential consideration in its investment insurance, reinsurance, and guarantee activities to investment projects sponsored by or involving United States small business; and

"(B) to maintain the proportion of projects sponsored by or significantly involving United States small business at not less than 30 percent of all projects insured, reinsured, or guaranteed by the Corporation.

"(c) ENVIRONMENTAL CONSIDERATIONS.—

"(1) ENVIRONMENTAL, HEALTH, OR SAFETY HAZARD.—The Corporation shall refuse to insure, reinsure, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

"(2) RESOURCE SUSTAINABLE DEVELOPMENT.—The Corporation, in determining whether to provide insurance, reinsurance, or financing for a project, shall ensure that the project is consistent with the objectives set forth in sections 117 (relating to environment and natural resources), 118 (relating to tropical forests), and 119 (relating to endangered species).

"(3) ENVIRONMENTAL IMPACT STATEMENTS AND ASSESSMENTS.—The requirements of section 117(c) relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, or finances under this title in connection with a project in a country.

"(4) NOTIFICATION OF FOREIGN GOVERNMENTS.—Before finally providing insurance, re-

insurance, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

"(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization that relate to the public health or safety or the environment and are applicable to the project; and

"(B) to the maximum extent practicable, any restriction, under any law of the United States, that relates to public health or safety or the environment and would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to paragraph (3).

"(5) CONSIDERATION OF COMMENTS RECEIVED.—Before finally providing insurance, reinsurance, or financing for any investment subject to paragraph (4), the Corporation shall take into account any comments it receives on the project involved.

"(d) WORKER RIGHTS.—

"(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:

"'The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government.'.

"(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c)).

"(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Committee on Foreign Affairs of the House of the Representatives and the Committee on Foreign Relations of the Senate, together with the reasons for the determination.

"(e) HUMAN RIGHTS.—The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 shall apply to any insurance, reinsurance, or financing provided by the Corporation for projects in a country, except that in addition to the exception set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.

"(f) HARM TO EMPLOYMENT IN THE UNITED STATES.—

"(1) REPLACEMENT OF UNITED STATES PRODUCTION.—(A) The Corporation shall refuse to insure, reinsure, or finance an investment if the Corporation determines that such investment is likely to cause the investor (or the sponsor of an investment project in which the investor is involved) significantly to reduce the number of the investor's or sponsor's employees in the United States because the investor or sponsor is replacing his or her United States production with production from such investment, and the production from such investment involves substantially the same product for substantially the same market as the investor's or sponsor's United States production.

"(B) If the Corporation determines that an investment is not likely to have the effects described in subparagraph (A), the Corporation shall monitor conformance with the representations made by the investor on which the Corporation relied in making that determination.

"(2) REDUCTION OF EMPLOYEES IN THE UNITED STATES.—The Corporation shall refuse to insure, reinsure, or finance an investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States.

"(g) PERFORMANCE REQUIREMENTS.—The Corporation shall refuse to insure, reinsure, or finance an investment which is subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment.

"(h) PROHIBITED TRADE PRACTICES.—

"(1) PAYMENTS TO VIOLATORS BARRED.—No payment may be made under any insurance or reinsurance which is issued under this title on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation of section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977.

"(2) REGULATIONS.—The Corporation shall have in effect regulations setting forth appropriate conditions under which any person who has been finally determined by a court of the United States to have violated section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977 shall be suspended, for a period of not more than 5 years, from eligibility to receive any insurance, reinsurance, financing, or other financial support authorized by this title, if that violation related to a project insured, reinsured, financed, or otherwise supported by the Corporation under this title.

"(i) FRAUD OR MISREPRESENTATION.—No payment may be made under any guarantee, insurance, or reinsurance issued under this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(j) PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 233 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

"(k) PUBLIC HEARINGS.—The Board shall hold at least 1 public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 231 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, or financing under this title.

"SEC. 235. ISSUING AUTHORITY, DIRECT INVESTMENT FUND, EQUITY FUND, AND RESERVES.

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 233(a) shall not exceed in the aggregate $10,000,000,000.

"(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 233(b) shall not exceed in the aggregate $3,000,000,000.

"(B) Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

"(i) to transfer $7,450,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan guarantee program under section 233(b) of $500,000,000 for fiscal year 1993; and

"(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan guarantee program under section 233(b) of $800,000,000 for fiscal year 1994 and $900,000,000 for fiscal year 1995.

"(3) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 233 shall continue until September 30, 1995.

"(b) DIRECT LOAN PROGRAM.—Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

"(1) to transfer up to $6,950,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for its direct loan program under section 233(c) of $50,000,000 for fiscal year 1993; and

"(2) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for its direct loan program under section 233(c) of $75,000,000 for fiscal year 1994 and $100,000,000 for fiscal year 1995.

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in section 233(g) and to make transfers to the fund of a total of $45,000,000 (less amounts transferred to the fund before the effective date of the Overseas Private Investment Corporation Amendments Act of 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under section 233(g), and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 632(a) of this Act.

"(d) INSURANCE RESERVES.—

"(1) MAINTENANCE AND PURPOSES.—The Corporation shall maintain insurance reserves. Such reserves shall be available for the discharge of liabilities, as provided in subsection (e), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section.

"(2) FUNDING.—The insurance reserves shall consist of—

"(A) any funds in the insurance reserves of the Corporation on the effective date of the Overseas Private Investment Corporation Amendments Act of 1992,

"(B) amounts transferred to the reserves pursuant to this title, and

"(C) such sums as are appropriated pursuant to subsection (f) of this section for such purposes.

"(e) ORDER OF PAYMENTS TO DISCHARGE LIABILITIES.—Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 233 or under predecessor guarantee authority shall be paid first out of the insurance reserves, as long as such reserves remain available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guarantees issued under section 233(b) shall be paid in accordance with the Federal Credit Reform Act of 1990.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance reserves, to discharge the liabilities under insurance or reinsurance issued by the Corporation or issued under predecessor guarantee authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to subsection (g).

"(2) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made under paragraph (1) to augment the insurance reserves until the amount of funds in the insurance reserves is less than $25,000,000. Any appropriations to augment the insurance reserves shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c).

"(g) ISSUANCE OF OBLIGATIONS.—In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; except that the aggregate amount of such obligations outstanding at any one time may not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within 1 year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code. The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any such purchase.

"(h) ADMINISTRATIVE EXPENSES.—Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

"(1) $11,000,000 for fiscal year 1993;

"(2) $13,000,000 for fiscal year 1994; and

"(3) $15,000,000 for fiscal year 1995.

"SEC. 236. INCOME AND REVENUES.

"In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from its noncredit activities, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

"(1) payment of all expenses of the Corporation, including investment promotion expenses;

"(2) transfers and additions to the insurance reserves maintained under section 235(d), and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

"(3) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under paragraphs (1) and (2).

"SEC. 237. GENERAL PROVISIONS RELATING TO INSURANCE AND FINANCING PROGRAM.

"(a) AGREEMENTS WITH COUNTRIES.—Insurance, guarantees, and reinsurance issued under this title shall cover investment made in connection with projects in any eligible country or area with the government of which the President of the United States has agreed to institute a program for such insurance, guarantees, or reinsurance.

"(b) PROTECTION OF INTERESTS OF THE CORPORATION.—The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, reinsurance, or guarantee issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guarantee, or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

"(c) FULL FAITH AND CREDIT PLEDGED.—All guarantees issued under predecessor guarantee authority, and all insurance, reinsurance, and guarantees issued under this title shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(d) FEES.—

"(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

"(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 233 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

"(e) INSURANCE, GUARANTEES, AND REINSURANCE LIMITED TO 20 YEARS.—No insurance, reinsurance, or guarantee of any equity investment under this title shall extend beyond 20 years from the date on which such insurance, reinsurance, or guarantee is issued.

"(f) AMOUNT OF COMPENSATION PAID ON CLAIMS.—Compensation for any insurance, reinsurance, or guarantee issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guarantee, except that the Corporation may provide that—

"(1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets;

"(2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss; and

"(3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued under section 233 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

"(g) LIMITATION WITH RESPECT TO FOREIGN CREDIT INSTITUTIONS.—Insurance, guarantees, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

"(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—Claims arising as a result of insurance, reinsurance, or guarantee operations under this title or under predecessor guarantee authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) CONTRACTS PRESUMED TO COMPLY WITH ACT.—Each guarantee contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

"(j) USE OF LOCAL CURRENCIES.—Loans, guarantees, or investments made with funds received in foreign currency by the Corporation as a result of activities conducted pursuant to section 233(a) shall not be considered in determining whether the Corporation has made or has outstanding loans, guarantees, or investments to the extent of any limitation on obligations, commitments, and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990

shall not apply to direct loan obligations or loan guarantee commitments made with funds described in this subsection.

"SEC. 238. GENERAL PROVISIONS AND POWERS.

"(a) PRINCIPAL OFFICE.—The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia.

"(b) AUDITS.—

"(1) IN GENERAL.—The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this title.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2).

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(c) POWERS.—To carry out the purposes of this title, the Corporation is authorized—

"(1) to adopt and use a corporate seal, which shall be judicially noticed;

"(2) to sue and be sued in its corporate name;

"(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

"(4) to acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

"(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it considers appropriate;

"(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

"(7) to require bonds of officers, employees, and agents and to pay the premiums therefor;

"(8) notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings;

"(9) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guarantee, and guarantee notes, participation certificates, and other evidence of indebtedness (except that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c)(3) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(h));

"(10) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

"(11) to exercise any priority of the Government of the United States in collecting debts from the estates of bankrupt, insolvent, or decedent parties;

"(12) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(13) to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and

"(14) to take such actions as may be necessary or appropriate to carry out the powers of the Corporation.

"(d) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation (including its franchise, capital, reserves, surplus, advances, intangible property, and income) shall be exempt from all taxation at any time imposed by any State, the District of Columbia, or any county, municipality, or local taxing authority.

"(e) CORPORATE OPERATIONAL GUIDELINES.—The Corporation—

"(1) shall establish and publish guidelines for its programs and operations consistent with the provisions of this title, and

"(2) shall make such guidelines available to applicants for insurance, reinsurance, financing, or other assistance provided by the Corporation.

The provisions of this title shall be controlling with respect to the Corporation's programs and operations.

"SEC. 239. ANNUAL REPORT; MAINTENANCE OF INFORMATION.

"(a) ANNUAL REPORT.—After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 234(a), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation—

"(A) refused to provide any insurance, reinsurance, financing, or other financial support, on account of violations of human rights referred to in section 234(e); or

"(B) notwithstanding such violations, provided such insurance, reinsurance, financing, or financial support, on the basis of a determination that—

"(i) the exception set forth in section 116(a) applies, or

"(ii) the national security interest so requires.

"(b) PROJECTIONS OF EFFECTS ON EMPLOYMENT.—

"(1) IN GENERAL.—Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the fiscal year covered by the report, the Corporation initially issued any insurance or reinsurance or provided financing. Each such report shall include projections of—

"(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

"(B) the final destination of the products to be produced as a result of those projects; and

"(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

"(2) INFORMATION IN AGGREGATE FORM.—The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). Such projections may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

"(c) MAINTENANCE OF INFORMATION.—The Corporation shall maintain as part of its records—

"(1) all information collected in preparing the report required by section 240A(c) of the Foreign Assistance Act of 1961 (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988), whether the information was collected by the Corporation itself or by a contractor; and

"(2) a copy of the analysis of each project analyzed in preparing the projections required by subsection (b) of this section or the report required by section 240A(c) of this Act (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).

"(d) PROGRAMS OF COOPERATION WITH PRIVATE INDUSTRY.—Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 233(f)(6), including the following information, to the extent such information is available to the Corporation:

"(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this title.

"(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this title.

"(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

"(e) PROTECTION OF CERTAIN INFORMATION.—Subsections (b) and (d) do not require the inclusion in any information submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

"SEC. 240. DEFINITIONS.

"As used in this title, the following terms have the following meanings:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Overseas Private Investment Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Overseas Private Investment Corporation.

"(3) ELIGIBLE INVESTOR.—(A) The term 'eligible investor' means—

"(i) a United States citizen;

"(ii) a corporation, partnership, or other association, including a nonprofit association, which is created under the laws of the United States, any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which is substantially beneficially owned by United States citizens; and

"(iii) a foreign corporation, partnership, or other association which is wholly owned by one or more United States citizens or corporations, partnerships, or other associations described in clause (ii), except that the eligibility of any such foreign corporation shall be determined without regard to any shares held by other than United States citizens or corporations, partnerships, or other associations described in clause (ii) if, in the aggregate, such shares equal less than 5 percent of the total issued and subscribed share capital of such foreign corporation.

"(B) For purposes of this title—

"(i) in the case of insurance or a guarantee for any loan investment, a final determination of whether a person is an eligible investor may be made at the time the insurance or guarantee is issued; and

"(ii) in the case of insurance or a guarantee for any other investment, an investor must be an eligible investor at the time a claim arises as well as the time the insurance or guarantee is issued.

"(4) EXPROPRIATION.—The term 'expropriation' includes any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project.

"(5) INVESTMENT.—The term 'investment' includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

"(A) a loan or loans to an approved project,

"(B) the purchase of a share of ownership in any such project,

"(C) participation in royalties, earnings, or profits of any such project, or

"(D) the furnishing of commodities or services pursuant to a lease or other contract.

"(6) NONCREDIT ACCOUNT REVOLVING FUND.—The term 'noncredit account revolving fund' means the account in which funds under section 236 and all funds from noncredit activities are held.

"(7) NONCREDIT ACTIVITIES.—The term 'noncredit activities' means all activities of the Corporation other than its loan guarantee program under section 233(b) and its direct loan program under section 233(c).

"(8) PREDECESSOR GUARANTEE AUTHORITY.—The term 'predecessor guarantee authority' means prior guarantee authorities (other than housing guarantee authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, and section 111(b)(3) of the Economic Cooperation Act of 1948, (exclusive of authority relating to informational media guarantees).".

(b) CONFORMING AMENDMENT.—Section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182(a)) is amended by striking "238(c)" in the first sentence and inserting "240(3)".

TITLE II—TRADE AND DEVELOPMENT AGENCY

SEC. 201. TRADE AND DEVELOPMENT AGENCY.

Section 661 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 661. TRADE AND DEVELOPMENT AGENCY.

"(a) PURPOSE.—The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under part I, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

"(2) USE OF FUNDS.—Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

"(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

"(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

"(3) INFORMATION DISSEMINATION.—(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

"(4) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this section may be used notwithstanding any other provision of law.

"(c) DIRECTOR AND PERSONNEL.—

"(1) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) OFFICERS AND EMPLOYEES.—(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

"(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

"(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"(d) ANNUAL REPORT.—The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"(e) AUDITS.—

"(1) IN GENERAL.—The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, United States Code, except as otherwise provided in this section.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, United States Code, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(f) FUNDING.—

"(1) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section, in addition to funds otherwise available for such purposes, $55,000,000 for fiscal year 1992 and $70,000,000 for fiscal year 1993.

"(2) FUNDING FOR TECHNICAL ASSISTANCE GRANTS BY MULTILATERAL DEVELOPMENT BANKS.—(A) The Trade and Development Agency should, in fiscal years 1992 and 1993, substantially increase the amount of funds it provides to multilateral development banks for technical assistance grants.

"(B) As used in subparagraph (A)—

"(i) the term 'technical assistance grants' means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

"(ii) the term 'multilateral development bank' has the meaning given that term in section 1701(c) of the International Financial Institutions Act.".

SEC. 202. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this

section, be known as the Trade and Development Agency.

(b) APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED.—The enactment of this title shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date of this section.

(c) TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—(1) Sections 644, 645, and 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q, 635r, and 635s) are each amended by striking "Trade and Development Program" each place it appears and inserting "Trade and Development Agency".

(2) The section heading for section 645 of such Act is amended by striking "TRADE AND DEVELOPMENT PROGRAM" and inserting "TRADE AND DEVELOPMENT AGENCY".

(d) TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking out

"Director, Trade and Development Program." and inserting in lieu thereof

"Director, Trade and Development Agency.".

(e) REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

TITLE III—AID, TRADE, AND COMPETITIVENESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Aid, Trade, and Competitiveness Act of 1992".

SEC. 302. CAPITAL PROJECTS OFFICE WITHIN THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) ESTABLISHMENT OF OFFICE.—The Administrator of the Agency for International Development shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) PURPOSES OF OFFICE.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) ACTIVITIES OF AID.—The Administrator of AID (acting through the capital projects office), after consultation with the Trade and Development Agency and, where appropriate, the Export-Import Bank of the United States—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall determine whether each capital project for which AID provides funding is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid credits; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infrastructure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after the date of the enactment of this Act.

SEC. 303. COORDINATION.

The President shall utilize the existing interagency coordinating mechanism to coordinate activities under this title with other relevant activities of the United States Government.

SEC. 304. REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than February 1, 1993, and each year thereafter, the President shall submit to the Congress a report describing—

(1) the extent to which United States Government resources have been expended specifically to support capital projects in developing countries and countries making the transition from nonmarket to market economies;

(2) the extent to which the activities of the United States Government have been coordinated pursuant to section 303; and

(3) the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

SEC. 305. NEGOTIATIONS OF THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.

If the negotiations for the implementation of the December 16, 1991, agreement within the Organization for Economic Cooperation and Development have not been completed by August 1, 1992, the Secretary of the Treasury, together with the President of the Bank, shall submit a report to the Congress on the status of the negotiations, including an analysis of the negotiations since 1987, the causes for the failure to reach an agreement by that date, and reasons the United States Government believes that continued negotiations will result in achieving the implementation of such agreement.

SEC. 306. FUNDING FOR CAPITAL PROJECTS.

The Congress strongly urges the President to use at least $650,000,000 for fiscal year 1992 and at least $700,000,000 for fiscal year 1993 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), assistance under the Multilateral Assistance Initiative for the Philippines, and assistance under the Support for East European Democracy (SEED) Act of 1989, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities.

SEC. 307. REPORT ON THE FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS.

Not later than September 1, 1992, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report on the feasibility of allowing AID to offer credit guarantees for the financing of capital projects.

SEC. 308. DEFINITIONS.

For purposes of this title—

(1) the term "AID" means the Agency for International Development;

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services; and

(3) the term "tied-aid credit" has the meaning given to such term in section 15(h)(1) of the Export-Import Bank Act of 1945.

SEC. 309. AUTHORIZATION OF ADDITIONAL FUNDING FOR THE TRADE AND DEVELOPMENT AGENCY FOR FISCAL YEAR 1993.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated for the Trade and Development Agency $20,000,000 for fiscal year 1993 to carry out section 661 of the Foreign Assistance Act of 1961.

TITLE IV—UNITED STATES COMMERCIAL CENTERS

SEC. 401. UNITED STATES COMMERCIAL CENTERS.

(a) ESTABLISHMENT.—The Secretary of Commerce, in his or her role as Chair of the Trade Promotion Coordinating Committee, shall establish, as a 5-year pilot program, a United States Commercial Center (hereinafter in this section referred to as a "Center") in one of the independent states of the former Soviet Union or one of the Baltic states, in one country in Asia, and in one country in Latin America.

(b) PURPOSE OF THE CENTERS.—The purpose of the Centers shall be to provide additional resources for the promotion of exports of United States goods and services to the host countries, by familiarizing United States exporters with the industries, markets, and customs of the host countries, thus facilitating commercial ties and trade.

(c) FUNCTIONS OF THE CENTERS.—Each Center shall—

(1) collect and publish economic and market data with respect to the host country;

(2) provide, on a user-fee basis, preliminary technical and clerical assistance, language translation, and administrative assistance, and information regarding the legal systems, laws, regulations, and procedures of the host country, to United States exporters seeking to do business in the host country; and

(3) in other ways promote exports of United States goods and services to the host country.

(d) SPECIFIC SERVICES TO BE PROVIDED.—To carry out its objectives, each Center shall make available the following (on a user-fee basis):

(1) BUSINESS FACILITIES.—Business facilities, including exhibition space, conference rooms, office space (including telephones and other basic office equipment), and, where warranted by impeding deficiencies in the public system, high quality international telecommunications facilities.

(2) BUSINESS SERVICES.—Business support services, including language translation services, clerical services, and a commercial library containing a comprehensive collection of reference materials covering United States and host country industries and markets.

(3) COMMERCIAL LAW INFORMATION SERVICES.—Commercial law information services, including—

(A) a clearing house for information regarding the relevant commercial laws, practices, and regulations of the host country;

(B) publications to assist United States businesses;

(C) legal referral services; and

(D) lists of local agents and distributors.

(e) OTHER TRADE PROMOTION ACTIVITIES.—Each Center shall also promote United States export trade by—

(1) facilitating contacts between buyers, sellers, bankers, traders, distributors, agents, and necessary government officials from the United States and the host country;

(2) coordinating trade missions; and

(3) assisting with applications, contracts, and clearances for imports into the host country and exports from the United States.

(f) STAFFING OF CENTERS.—

(1) IN GENERAL.—Each Center shall be staffed by members of the United States and Foreign Commercial Service, participants in the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723), other employees of the Department of Commerce, employees of appropriate executive branch departments and agencies which are members of the Trade Promotion Coordinating Committee, and Foreign Trade Fellows appointed pursuant to paragraph (2).

(2) FOREIGN TRADE FELLOWS.—The Secretary of Commerce shall appoint United States citizens as Foreign Trade Fellows to assist United States Government employees in staffing the Centers. The Secretary shall actively recruit individuals to serve as Foreign Trade Fellows from United States businesses, trade associations, labor unions, and the academic community. In order to facilitate the service of individuals (such as those from the academic community and smaller businesses) as Foreign Trade Fellows, the Secretary may make grants or provide stipends to Foreign Trade Fellows and may reimburse them for expenses they incur as the result of their service as Foreign Trade Fellows.

(g) CENTER FACILITIES AND THEIR RELATIONSHIP TO UNITED STATES DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—

(1) PHYSICAL ACCOMMODATIONS FOR THE CENTERS.—The Secretary of Commerce shall locate each Center in the primary commercial city of the host country. The Secretary shall acquire office space, exhibition space, and other facilities and equipment that are necessary for each Center to perform its functions. To the extent feasible, each Center shall be located in the central commercial district of the host city.

(2) CONSOLIDATION OF DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—For the purpose of obtaining maximum effectiveness and efficiency and to the extent consistent with the purposes of the Centers, the Secretary of Commerce is authorized and encouraged to place all personnel of the Department of Commerce who are assigned to the city in which a Center is located in the same facilities as those in which the Center conducts its activities. The Secretary is authorized and encouraged to integrate activities of the Department of Commerce in the host country.

(h) USE OF MARKET DEVELOPMENT COOPERATOR PROGRAM.—The Secretary of Commerce shall, to the greatest extent feasible, use the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723) to assist in carrying out the purposes of the Centers established under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $6,000,000 for fiscal year 1993, and $4,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997. Funds made available under this subsection may be used for the acquisition of real property.

(j) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 1 year after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, a report on the status, activities, and effectiveness of the Centers. Each such report shall include any recommendations with respect to the pilot program established under this section.

(k) DEFINITIONS.—For purposes of this section—

(1) the term "United States exporter" means—

(A) a United States citizen,

(B) a corporation, partnership, or other association created under the laws of the United States or of any State,

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(2) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(3) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

SEC. 501. ADDITIONAL PROCUREMENT OFFICERS.

(a) APPOINTMENT.—The Secretary of Commerce shall appoint one or more full-time additional procurement officers to promote exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(b) DEFINITION.—As used in this section, the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).•

By Mr. DECONCINI (for himself, Mr. HATCH, and Ms. MIKULSKI):

S. 3153. A bill to reform Customs Service operations, and for other purposes; to the Committee on Finance.

CUSTOMS INSPECTOR BENEFIT REFORM ACT

• Mr. DECONCINI. Mr. President, on behalf of myself and my distinguished colleagues, Senator HATCH, and Senator MIKULSKI, I rise to introduce the Customs Benefit Reform Act of 1992.

I am confident that there is not one Member of this body who has not come in contact with a uniformed inspector of the U.S. Customs Service. They are at the forefront of the Nation's efforts to interdict and prevent the smuggling of drugs and other contraband into this country. On a daily basis they face the multiple challenges of confronting drug criminals, organized crime figures and a broad array of unpredictable and often dangerous persons. They also are responsible for representing the United States of America to millions of international travelers each year.

I would like to spend a few minutes explaining the conditions and challenges under which these fine public servants perform their jobs. Mr. President, as chairman of the Treasury, Postal and General Government Appropriations Subcommittee, the Customs Service falls within my appropriations responsibilities. As such, I have the opportunity to experience first hand the operations of the Customs Service and its over 5,500 uniformed customs inspectors.

The responsibilities which Congress has vested in these people is inspiring. They face multiple challenges—they must confront leading criminals in the drug war, organized crime figures, be prepared to thwart terrorist attacks and detect increasingly sophisticated white collar criminals. During fiscal year 1991, the customs inspector was responsible for making 15,808 criminal arrests, an amount which represent 73 percent of all Customs arrests. Inspectors must carry firearms and maintain the highest degree of proficiency with these weapons as a condition of their employment. Whether a customs inspector is searching a suitcase at an airport, inspecting a shipment of liquified natural gas, or reviewing export documents on missile technology, we expect them to handle all of these responsibilities in an experienced and professional manner.

Over the years customs inspectors have aided in the interdiction of millions of tons of cocaine, marijuana, and other drugs too numerous to mention. These drugs have been seized and destroyed before the contraband could make its way onto our streets and into our Nations schools. During 1991, the customs inspectors seized 71,705 pounds of cocaine, 42 percent of the Customs total; 2,870 pounds of heroin, 97 percent of the Customs total; and 141,988 pounds of marijuana. In addition, believe it or not, it is the customs inspector who helps ensure that tyrants such as Mu'ammar Qadhafi and Sadaam Hussein do not get their hands on critical weapons technology. The customs inspector forms the core of people who make it very expensive and difficult for the international criminal element to operate.

There is very little glamour in these positions. Inspectors work long and irregular hours constantly being exposed to a wide variety of occupational and environmental hazards such as toxic chemicals and exhaust fumes, adverse and extreme weather conditions, and a myriad of other less than desirable working conditions. Duties range from staffing a one person border crossing at a remote and frozen northern port of entry to inspecting the bilge of a filth-infested foreign freighter along the Miami River.

For the last 210 years, 24 hours a day, 365 days a year there has been hundreds of U.S. customs inspectors vigilantly enforcing the trade and tariff laws of the United States. These men and women are required not only to enforce the U.S. customs laws but in addition, to enforce the approximately 1,600 laws and regulations for 60 other Government agencies. Mr. President these men and women have also been charged with enforcing hundreds of separate State and local trade laws as well. A significant area of their work is in the enforcement of international trade laws, which involves the collection of over $20 billion in duties and fees from foreign entities; protection of domestic industries; and the prevention of illegal importations which lead to a loss of jobs in the United States.

The bill I am introducing today will significantly reform the way the customs inspector is paid. The present overtime system for these valuable employees was instituted back in 1911. There has been no significant change in their pay system since that time. Moreover, the evolution of the customs inspectors duties and responsibilities has caused the position to become increasingly complex. Inspectors are now confronted with highly sophisticated narcotics smuggling techniques, terrorism threats, automated systems and highly specialized inspection functions, at the same time this country has experienced a virtual explosion in commercial and passenger traffic. These changes have not been recognized in their pay structure.

It is very difficult to imagine how tangled any pay system would be if it had not changed in any substantive way since 1911. In essence you would be operating in a 21st-century environment using 19th century methods. It would take me days to explain how an inspector is currently being paid—it is just that complicated. I am confident that there are very few people who know all the intricacies of the current inspector pay system. However, it is known that under certain situations inspectors could earn overtime compensation at rates which substantially exceed the actual hours worked. The first goal of the legislation I am sponsoring today is to provide a linear relationship between hours paid for hours worked.

I have used H.R. 3837 as the basis for the bill I am introducing today. By and large, this bill adopts the House Ways and Means Committee's proposal to revise the overtime pay system for customs inspectors. Under this bill the overtime pay system will be calculated on a double-time system, with premium pay for designated shifts and commuting costs when the customs inspector is required to return back to work. I understand that the House Ways and Means Committee adopted such changes as the members believed these changes would correct the anomalies in the current Inspector pay program and provide for a fair overtime system. This bill recognizes the adverse affect on the quality of life of customs officers who are required to work all hours of the day.

This legislation includes provisions of the Ways and Means bill relating to the compensation of U.S. customs inspectors. The first section authorizes the Secretary of Treasury to pay up to 5 percent of basic pay to any customs inspector who possesses and makes substantial use of one or more foreign languages in the performance of his or her official duties. Many individuals whom customs officials encounter on a daily basis do not speak English and this provision would enable Customs to recruit and retain Inspectors who are proficient in a foreign language. The second provision permits a portion of overtime earnings to be included for the purposes of calculating the retirement annuities for customs officers. This places the customs inspector on par with other law enforcement officers who have administratively uncontrollable overtime calculated into their retirement annuities and offsets some of the loss of compensation to the customs inspector as a result of the changes in their existing overtime pay system.

I would like to commend my colleagues in the House Ways and Means Committee for their valued efforts in attempting to bring some logic and fairness to this pay system. As I understand it, the House version, H.R. 3837, has been reported out of the Ways and Means Committee and is awaiting action by the full House.

The bill I am introducing today varies from H.R. 3837 in three important ways. Certain customs inspectors operate in extremely hazardous duty locations. An Inspector who is responsible for a traffic lane along the Southwest border is placing his or her life in great jeopardy each day. I have been told that one of the most hazardous parts of any policeman's daily duties is stopping vehicles for traffic violations. Where a police officer might stop a half dozen cars in any one day, the customs inspector stops, questions and often searches hundreds of cars a day. In addition, as I noted earlier, customs inspectors are charged with inspections of all types of chemical, biological and in all too frequent cases, completely unknown cargo shipments. My bill would allow the commissioner of customs to designate hazardous duty locations. Hazardous duty pay under current law is permitted to be paid, however, it requires a long and laborious administrative process to be undertaken. The provision in this bill will streamline those regulations and permit hazardous duty pay to be given at the discretion of the Customs Commissioner.

Second, the bill allows the customs inspector access to the Federal law enforcement pay provisions contained in Section 405 of the Federal Employees Comparability Act of 1990, Public Law 101-590. Currently, customs inspectors are not designated as law enforcement personnel despite the fact that they perform law enforcement duties on a daily basis. This provision would correct that anomaly and permit customs inspectors working in areas where geographic pay adjustments are in effect to be eligible for locality pay adjustments.

Finally, the bill contains an arduous duty provision which recognizes employees who provide service well beyond that of the typical Federal employee. Some customs inspectors are assigned to special enforcement teams and perform functions which are not only strenuous and difficult, but also require above average physical standards to perform. To recognize the fact that the Customs Service has some extremely difficult functions, I have included a section in the bill which addressed the needs of these employees. Under the provisions of this bill, the Commissioner of Customs would determine which positions would be designated as arduous duty enforcement positions. Section 9 of this bill would authorize for every year served in an arduous enforcement position, an additional one-half year to be added to the inspector's service computation date for retirement purposes.

Mr. President, I began this speech extolling the virtues of the customs inspector. It would seem incongruous that I would now recommend sweeping reform of their unusual pay system. I can tell you that I have received nothing but support and assistance for my efforts from the National Treasury Employees Union [NTEU], the exclusive representative of the 5,500 inspectors which this legislation will affect. NTEU has taken the leadership position of acknowledging that it is time to change inspector overtime pay, but recognizes that these changes must be accompanied by other reforms in the inspectors pay system. This legislation presents a rational approach to this problem.

Mr. President, the last section of this bill is not a pay provision. It is an attempt to close a very large and expensive loophole in the 1985 COBRA law with regard to passenger processing fees. Currently, international air and sea travelers are required to pay a $5 "passenger processing fee," added to the price of their tickets, to offset the cost associated with the customs processing of international passengers at air and sea ports. However, under current law travelers arriving into or departing from the United States either to or from Canada, Mexico, and the Caribbean are not required to pay this fee. This exemption may be costing the Treasury of the United States an estimated $90 million annually. Section 10 of this bill is intended to close this enormous revenue gap. Section 10 authorizes customs to collect a $5 fee from air and sea passengers who travel between the United States, Canada, Mexico, and the Caribbean. Mr. President, this is the same fee which is now being collected from most other international air and sea travelers. The customs COBRA account has an established record of returning these resources to the traveling public in the form of staffing and equipment for the expeditious processing of passengers at air and sea ports.

Mr. President, I ask unanimous consent that the text of the Customs Inspector Benefit Reform Act of 1992 be entered into the RECORD immediately following my remarks and urge its expeditious consideration by the Senate Finance Committee.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Customs Inspector Benefit Reform Act of 1992".

SEC. 2. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:

"SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

"(a) OVERTIME PAY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

"(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—

"(A) MINIMUM DURATION.—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment.

"(B) COMPENSATION FOR COMMUTING TIME.—

"(i) IN GENERAL.—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

"(ii) EXCEPTION.—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

"(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

"(1) NIGHT WORK DIFFERENTIAL.—

"(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occur during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

"(c) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

"(d) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as are necessary or appropriate to carry out this section, including regulations—

"(1) to ensure that callback work assignments are commensurate with the overtime pay authorized for such work; and

"(2) to prevent the disproportionate assignment of overtime work to customs officers who are near to retirement.

"(e) DEFINITIONS.—As used in this section:

"(1) The term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

"(2) The term 'holiday' means any day designated as a holiday under a Federal statute or Executive order.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out "**AT NIGHT**" in the section heading and inserting "**DURING OVERTIME HOURS**";

(B) by striking out "at night" and inserting "during overtime hours"; and

(C) by inserting "aircraft," immediately before "vessel".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after the date occurring 90 days after the date of the enactment of this Act.

SEC. 3. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR CUSTOMS OFFICERS.

Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

SEC. 4. APPROPRIATIONS REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended by amending clause (i) of subparagraph (A) to read as follows:

"(i) in—

"(I) paying overtime compensation and premium pay under section 5(a) and (b) of the Act of February 13, 1911,

"(II) paying necessary expenses for agency contributions to the Civil Service Retirement and Disability Fund or the Federal Employees Retirement System to match deductions from the overtime compensation paid under subclause (I), and

"(III) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and".

SEC. 5. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFICERS FOR RETIREMENT PURPOSES.

(a) IN GENERAL.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting "; and";

(3) by adding after subparagraph (D) the following:

"(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;"; and

(4) by striking out "subparagraphs (B), (C), and (D) of this paragraph," and inserting "subparagraphs (B), (C), (D), and (E) of this paragraph".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act and apply only with respect to service performed on or after such date.

SEC. 6. REPORTS.

(a) CUSTOMS USER FEE ACCOUNT REPORTS.—Subparagraph (D) of section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(D)) is amended to read as follows:

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives—

"(i) containing a detailed accounting of all expenditures from the Customs User Fee Account during such year, including a summary of the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii); and

"(ii) containing a listing of all callback assignments of customs officers for which overtime compensation was paid under section 5(a) of the Act of February 13, 1911, and that were less than 1 hour in duration.".

(b) OTHER REPORTS.—

(1) GAO REPORT.—The Comptroller General of the United States shall undertake—

(A) an evaluation of the appropriateness and efficiency of the customs user fee laws for financing the provision of customs inspectional services; and

(B) a study to determine whether cost savings in the provision of overtime inspectional services could be realized by the United States Customs Service through the use of additional inspectors as opposed to continuing the current practice of relying on overtime pay.

The Comptroller General shall submit a report on the evaluation and study required under this subsection to the Committees by no later than the 1st anniversary of the date of the enactment of this Act.

(2) TREASURY RECOMMENDATION.—On the day that the President submits the budget for the United States Government for fiscal year 1994 to the Congress under section 1105(a) of title 31, United States Code, the Secretary of the Treasury shall submit to the Committees recommended legislative proposals for improving the operation of customs user fee laws in financing the provision of customs inspectional services.

(3) DEFINITION OF COMMITTEES.—For purposes of this subsection, the term "Committees" means the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 7. HAZARDOUS DUTY DIFFERENTIAL.

(a) IN GENERAL.—Notwithstanding section 5545(d) of title 5, United States Code, in the administration of such section, the Commissioner of Customs of the United States Customs Service may designate hazardous duty functions for the purpose of paying hazardous duty differentials to customs officers.

(b) DEFINITION.—For purposes of this section the term "customs officer" means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

(c) EFFECTIVE DATE.—This section shall take effect and apply to inspectional services provided on or after October 1, 1992.

SEC. 8. SPECIAL PAY ADJUSTMENT FOR CUSTOMS SERVICE EMPLOYEES.

(a) IN GENERAL.—Section 405 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1466) is amended by adding at the end thereof the following new subsection:

"(d)(1) The provisions of subsection (a) shall apply to customs officers.

"(2) For purposes of this section the appropriate agency head for prescribing regulations shall be the Secretary of the Treasury.

"(3) For purposes of this section the term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), the amendment made by this section shall be effective on and after the first day of the first applicable pay period beginning on or after October 1, 1992.

(2) REGULATIONS.—The Secretary of the Treasury may prescribe regulations after the date of the enactment of this section to provide for the implementation of the amendment made by this section on or after the effective date under paragraph (1).

SEC. 9. CUSTOMS INSPECTOR AND CANINE ENFORCEMENT OFFICER CREDITABLE SERVICE FOR RETIREMENT.

(a) DESIGNATION OF ARDUOUS ENFORCEMENT POSITIONS.—The Commissioner of Customs (hereafter in this section referred to as the "Commissioner") may designate positions in the Customs Service as arduous enforcement positions. An arduous enforcement position may only be filled by an employee who—

(1) is a customs inspector or canine enforcement officer;

(2) is capable of performing duties which are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Commissioner;

(3) is less than 57 years of age;

(4) qualifies in firearms tests conducted on a quarterly basis under regulations promulgated by the Commissioner; and

(5) qualifies in all physical fitness standards under regulations promulgated by the Commissioner that are generally applicable to all Federal law enforcement officers.

(b) REMOVAL FROM ARDUOUS ENFORCEMENT POSITION.—A customs inspector or canine enforcement officer who fails to qualify on any quarterly firearms test as required under subsection (a)(4) or fails to maintain the physical fitness standards under subsection (a)(5) shall be removed from an arduous enforcement position. Such inspector or officer may not be assigned to an arduous enforcement position for a period of no less than 6 months.

(c) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) in paragraph (25) by striking out "and" after the semicolon;

(B) in paragraph (26) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(27) 'designated customs inspector' means a customs inspector or canine enforcement officer who is serving in an arduous enforcement position as designated by the Commissioner of Customs under section 9 of the Customs Inspector Benefit Reform Act of 1992.".

(2) CREDITABLE SERVICE.—Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) For purposes of this chapter, and subject to the provisions of this subsection, a designated customs inspector shall receive 1½ years of creditable service for each year of actual service as a designated customs inspector. Such service shall be based on full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

"(2) The provisions of paragraph (1) shall not apply to any customs inspector or canine enforcement officer unless such inspector or officer has no less than 5 years of actual service as an employee (which is otherwise creditable service under this section).

"(3) No customs inspector or canine enforcement officer may be credited with more than 20 years of creditable service under the provisions of paragraph (1).

"(4) This subsection shall not be construed to give any customs inspector or canine enforcement officer credit for both service as such inspector or officer and service as a designated customs inspector during any specified time period.".

(3) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in the first sentence of subsection (a)(1) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) in the table under subsection (c) by inserting after the item relating to law enforcement officers and firefighters the following new item:

"Designated customs inspector for designated customs inspector service.	7½	After September 31, 1992.".

(4) COMPUTATION OF ANNUITY.—Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(r) The annuity of an employee with creditable service under section 8332(o) retiring under this subchapter is computed under subsection (a) of this section, except the annuity of such employee is computed with respect to the service credited under section 8322(o)(1) as a designated customs inspector by multiplying 2½ percent of his average pay by the years of that service.".

(5) APPLICATION.—The amendments made by this subsection shall be effective on and after October 1, 1992, and shall apply with regard to service performed by a customs inspector or canine enforcement officer in an arduous enforcement position on and after such date.

(d) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (31) by striking out "and" after the semicolon;

(B) in paragraph (32) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(33) 'designated customs inspector' means a customs inspector or canine enforcement officer who is serving in an arduous enforcement position as designated by the Commissioner of Customs under section 9 of the Customs Inspector Benefit Reform Act of 1992.".

(2) CREDITABLE SERVICE.—Section 8411 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) For purposes of this chapter, and subject to the provisions of this subsection, a designated customs inspector shall receive 1½ years of creditable service for each year of actual service as a designated customs inspector. Such service shall be based on full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

"(2) The provisions of paragraph (1) shall not apply to any customs inspector or canine enforcement officer unless such inspector or officer has no less than 5 years of actual service as an employee (which is otherwise creditable service under this section).

"(3) No customs inspector or canine enforcement officer may be credited with more than 20 years of creditable service under the provisions of paragraph (1).

"(4) This subsection shall not be construed to give any customs inspector or canine enforcement officer credit for both service as such inspector or officer and service as a designated customs inspector during any specified time period.".

(3) DEDUCTIONS FROM PAY.—Section 8422(a)(2)(B) of title 5, United States Code, is amended by inserting "designated customs inspector," after "law enforcement officer,".

(4) GOVERNMENT CONTRIBUTIONS.—Section 8423(a) is amended—

(A) in paragraph (1)(B) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) in paragraph (3)(A) by inserting "designated customs inspector," after "law enforcement officer,".

(5) COMPUTATION OF ANNUITY.—Section 8415 of title 5, United States Code, is amended—

(A) in subsection (g)(2) by inserting "designated customs inspector," after "law enforcement officer,"; and

(B) by adding at the end thereof the following new subsection:

"(h) The annuity of an employee with creditable service under section 8411(h) retiring under this subchapter is computed under subsection (a) of this section, except the annuity of such employee is computed with respect to the service credited under section 8411(h)(1) as a designated customs inspector by multiplying $1\frac{7}{10}$ percent of his average pay by the years of that service.".

(6) APPLICATION.—The amendments made by this subsection shall be effective on and after October 1, 1992, and shall apply with regard to service performed by a customs inspector or canine enforcement officer in an arduous enforcement position on and after such date.

SEC. 10. APPLICATION OF CUSTOMS SERVICE FEES TO PASSENGERS.

(a) IN GENERAL.—Subparagraph (A) of section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)(A)) is amended to read as follows:

"(A) the arrival of any passenger whose journey—

"(i) originated in—

"(I) a territory or possession of the United States; or

"(ii) originated in the United States and was limited to—

"(I) territories and possessions of the United States; and

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 60 days after the date of the enactment of this Act.•

By Mr. SEYMOUR:

S. 3154. A bill to control and prevent criminal gang activity and violence, and for other purposes; to the Committee on the Judiciary.

CRIMINAL GANG AND YOUTH VIOLENCE PREVENTION ACT

• Mr. SEYMOUR. Mr. President, many of America's youth are not joining the football or debate teams. They're joining gangs. Gangs like the Bounty Hunters in Los Angeles, the Insane Killers or Grove Street Crazies in Orange County, or the Wo Hop To Triad in San Francisco.

Recently, we have heard much about the truce between the infamous Crips and Bloods. However, the gang world stretches far beyond the control of the Crips and Bloods. Los Angeles is home to more than 1,000 gangs and more than 150,000 gang members. In 1991, Los Angeles County gangs committed 54 violent crimes each day—nearly 20,000 crimes for the year. Though the full impact and the duration of the Crips and Bloods truce is unclear, gang violence is still prevalent throughout the Los Angeles area.

But gang violence is not a Los Angeles problem. It's a national nightmare. Though one-third of all gang members nationwide reside in Los Angeles, gang activity is a criminal plague that is spreading to all corners of the Nation. Many of these gangs are foot soldiers of drug rings in Mexico and Colombia, and crime syndicates involved in heroin, money laundering, and racketeering.

There's no limit to the degree of violence gangs are capable of committing. Violence and death is tolerated. The ritual of eye for an eye is more than just a measure of revenge, it's a rite of passage from mere gang membership to gang respect, reverence, and awe. As a result, no California community is immune from the terror of gang violence.

By way of comparison, one report found that it was safer to walk through the Iraqi desert at the height of Desert Storm than along the streets of south central Los Angeles. In northern California, law-abiding citizens are victims of home invasions by gangs that don't attempt to conceal their identity—a tragic indication of the stranglehold these thugs have in California communities.

But gangs are more than criminal organizations. Armed with dress codes, nicknames, hand signals, and the unwritten laws of the streets, gangs literally have become dangerous countercultures. Ironically, gang leaders stress values such as teamwork, loyalty, self-respect, and self-confidence. However, they twist these values to promote the wholesale genocide of an entire generation of at-risk youth. We're a witness to the horrifying spectacle of kids exterminating themselves and decimating the communities they inhabit.

Mr. President, there is no silver bullet that will end the perverse criminal and social influence of gangs. Though gangs share a common bond of violence, they vary in organization and criminal activity. Furthermore, to address this complex problem as solely a law and order issue is not enough. We must attack both the criminal organization and the underlying gang culture.

Today, I am here to introduce the Criminal Gang Youth Violence Prevention Act—a comprehensive action plan designed to dismantle criminal gangs and bring hope to thousands of at-risk youth.

Our first response to any organized criminal activity always must be law enforcement. Criminal gangs are nothing less than bands of local terrorists. We must be duty bound to make our streets safe from these lawless elements. We can't sit idly by and wait for long-term prevention initiatives to take effect, while families are unable to find refuge from this menace at home or at school.

We must get violent gang members and gang kingpins off the streets, and dismantle their operations. Gang leaders should be roaming the halls of Lompoc, not the streets of Los Angeles, or any street in America.

To succeed, all elements of law enforcement must work together. We have immortalized Eliot Ness and his band of Untouchables—members of Federal and local law enforcement—for breaking the infamous Capone gangs. My legislation calls for that same cooperation by creating an antigang unit consisting of Federal, State, and local law enforcement. It's time that a new generation of untouchables dismantle an even deadlier force of destructibles.

My plan also designates funds for a cost-effective gang data base that allows law enforcement agencies across the country to share intelligence and other vital data, and calls for the creation of an action plan on how to best deploy national guard and law enforcement units in a domestic emergency. The prolonged violence and devastation that took place in Los Angeles last May must never, ever happen again.

But we need more than law enforcement. We need tough new laws that strike at all gang members, from the street tough to the kingpin.

My plan imposes additional penalties if any criminal act was done to further gang activity, and gives judges greater discretion to try violent youth offenders as adults. If a 16-year-old is aware of his violent crime, and shows the propensity to do it again, he deserves the toughest sentence the law allows.

For nonviolent, first-time gang- offenders, my plan creates 10 military-style boot camps to provide a strict regimen of work, intense drill, values training, and other services. We must send a tough message to young gang members, so they don't become repeat offenders.

Finally, my plan gets tough on anyone who uses a child to commit a crime. The greatest single tragedy of criminal gangs is the attraction it has for young, at-risk youth. In Los Angeles County, 20 percent of gang members are minors; and in San Jose, 60 percent are minors, some as young as 9 years old.

My plan will make it clear to gang kingpins that they will pay dearly for preying upon our children to carry out their agenda of violence. If they use our kids, they'll go to prison—for a long, long time.

But if we are to make a lasting impact, we must offer a long-term plan to help communities take back their streets from gang violence and drug trafficking.

My plan provides funds for grant programs to empower communities to respond to gang violence—programs that empower communities to take back their streets—programs that empower schools to detect and respond to gang behavior in the classroom—programs that empower parents to reach out and save their children caught in the lure of street violence.

Many communities already have made a difference. El Soledad in Los Angeles and Project Crackdown in San Jose are inspiring examples of community programs that empower citizens to fight back. My legislation will invest in these and other communities that are struggling to reclaim their neighborhoods.

The greatest single tragedy of gangs is the astronomical toll it is taking on our kids. The obstacles facing a young person growing up in Los Angeles are overwhelming. Chief among them is a lack of adult support at home, and the failure of services outside the home, through indifference or ineffectiveness, to provide kids with a way out.

Today's gangs rest on a foundation of despair and disillusionment among at-risk youth. From the ashes of this foundation, gangs have offered to young people the values that parents, teachers, and government are obligated to instill—values like teamwork, loyalty, self-respect. But these values come at a price, and that price is a disrespect for human life. How can we save this and future generations of at-risk youth from paying this price? We need to show a solid commitment to them from birth to maturity.

We must expand programs like WIC, Head Start, and Follow Through, which provide vital health, social, and educational services for disadvantaged youth. These early intervention programs are cost effective, reducing future health costs of both mother and infant, and increase the likelihood of a child's success in school. We must invest in the long-term health and development of all children. Hope and opportunity literally begins at birth, and preventing kids from falling through the cracks means being there for them from that point on.

We must provide more than services, we must offer role models. Sadly, to some kids, gang kingpins are role models, sporting great clothes, a great car, and an aura of success. We must provide alternative role models for these young people—dedicated mentors like the 100 Black Men in California, who provide much-needed guidance to many at-risk youth. My legislation calls for grants to supplement academic volunteer and mentor programs for at-risk youth. Every child deserves a caring adult to provide support, guidance, and love.

Finally, Mr. President, if we are to make a difference for young people, we must provide alternative opportunities so that at-risk youth can obtain the skills necessary to succeed in the work force. Yes, we must support program like the Job Corps, and establish youth apprenticeship programs, but we must provide at-risk youth with programs that take them out of the inner city environment and provide them with the training and self-esteem needed to succeed in a world outside of criminal gangs.

To achieve this, my legislation will create a youth opportunity corps. Many older Americans fondly recall the tremendous accomplishments of the Civilian Conservation Corps, which provided meaningful jobs to young Americans struggling to find work in a depressed economy. The old corps did more than provide a job, it brought pride to those who worked together to conserve America's forests, or restore a home demolished by fire.

Like the old CCC, my proposed opportunity corps will be administered by the Defense Department, with the cooperation of the State National Guards. The corps will consist of teenage youth, stationed in rural areas or small cities divorced from the pressures of criminal gangs. Corps members will take part in community redevelopment, conservation, and natural emergency prevention. Whether it's restoring buildings, clearing brush to prevent forest fires, or cleaning up our coastlines, corps members will experience the joy of being a part of a constructive, rather than destructive, team.

Mr. President, criminal gang activity is a debilitating disease that has already brought scores of human tragedy to the inner cities of Los Angeles. It's an epidemic that's spreading to otherwise peaceful cities and communities across the Nation.

Gangs represent more than complex criminal organizations. They represent a dark way of life that has driven law-abiding families into their homes in fear. Government must come to grips with the extent of this problem and take comprehensive action.

What we face is nothing short of a full-scale war of values. Gangs are spreading a lawless code of conduct—a code that is tolerant of the taking of innocent human life just for the sake of revenge, respect, or honor. If we can't ensure that all citizens share a stake in our society, then we face the consequences of segments or generations giving up on our society, and the values that it embodies. That is exactly what is occurring today.

We can reverse this trend by bringing gang kingpins to justice. We can reverse this trend by empowering struggling communities to take back their parks, their schools, and their streets. We can reverse this trend by renewing our commitment to the values of our society by breaking the stranglehold gang cultures are having on our children. We can reverse this trend by providing real hope—to be able to say to every child that you can excel as far as talent and desire will take you. We can do this and more by taking action on the Criminal Gang and Youth Violence Prevention Act.

Mr. President, I send the Criminal Gang and Youth Violence Prevention Act to the desk, ask that it be appropriately referred, and that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Gang and Youth Violence Prevention Act of 1992."

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) violent criminal gangs pose an ever- increasing threat to American communities;

(2) the explosion of drug trafficking in cocaine, the cocaine derivative known as "crack," and heroin is transforming some of the nation's toughest street gangs into highly organized drug-trafficking organizations;

(3) these extremely violent gangs are establishing ties to international drug suppliers from South America to the Pacific Rim, and are expanding their operations across the United States;

(4) these criminal gangs actively recruit minors to traffic drugs and engage in violent activity

(5) these criminal gangs are at a level of organization that require coordination of law enforcement resources at the Federal, state, and local level; and

(6) preventing youth involvement in violent criminal gang activity requires strategies that involve law enforcement, teachers, parents, community groups, religious leaders, business leaders, and young Americans.

(b) PURPOSE.—It is the purpose of this Act to—

(1) expand and coordinate the resources of federal, state and local law enforcement to target and dismantle criminal gang organizations;

(2) combat gang-related violent crime and drug trafficking through enhanced penalties;

(3) empower communities to take back their schools, parks, and streets from criminal gangs; and

(4) expand government resources to steer at-risk youth from participation in criminal gang activity.

SEC. 3. DEFINITION.

(a) For the purposes of this Act, the term "criminal gang" or "gang" means any group, club, organization, association, or syndicate composed of 2 or more persons that is commonly known by a certain name or identifier that engage or has as one of its purposes engaging in Federal or State felony offenses involving firearms, controlled substances, physical injury, threats of physical injury, money laundering, fraud, and juvenile delinquency involving a violent felony or controlled substance.

TITLE I—LAW ENFORCEMENT AGAINST GANG ACTIVITY

SEC. 101. BUREAU OF ALCOHOL, TOBACCO AND FIREARMS AND STATE AND LOCAL COORDINATION

The Director of the Bureau of Alcohol, Tobacco and Firearms ("ATF") shall establish direct liaison with State and local law enforcement agencies having responsibility for gang investigations for the purpose of providing training, technical expertise, information, coordination, and other enforcement effort to combat gang-related firearms violations.

SEC. 102. FEDERAL BUREAU OF INVESTIGATION AND STATE AND LOCAL COORDINATION.

The Director of the Federal Bureau of Investigation ("FBI") shall establish direct liaison with State and local law enforcement agencies having responsibility for gang investigations for the purpose of providing training, technical expertise, information, coordination and enforcement effort to use Federal and State statutes to dismantle criminal gang organizations.

SEC. 103. FEDERAL ANTI-GANG UNIT.

(a) Authorization.—(1) ATF agents.—There is hereby authorized to be appropriated $10,000,000 for fiscal year 1993 to the Bureau of Alcohol, Tobacco, and Firearms for the creation of a new Anti-Gang Unit. Funds appropriated pursuant to this section shall be used to provide 180 agents and necessary support staff.

(2) FBI agents.—There is hereby authorized to be appropriated $10,000,000 for fiscal year 1993 to the Federal Bureau of Investigation for the creation of a new Anti-Gang Unit. Funds appropriated pursuant to this section shall provide 180 agents and necessary support staff.

(3) Prosecutors.—There is hereby authorized to be appropriated $8,000,000 for fiscal year 1993 to the Attorney General to provide 40 prosecutors and necessary support staff to aid the Anti-Gang Unit.

(b) Coordination of Antigang Unit Resources.—

(1) Director of antigang unit.—The Director of the Bureau of Alcohol, Tobacco and Firearms and the Director of the Federal Bureau of Investigation, shall designate an agent as Director of the Anti-Gang Unit.

(2) Coordination.—The Director of the Anti-Gang Unit shall work with Federal, State, and local law enforcement agencies to coordinate the resources of the Anti-Gang Unit to fight criminal gangs.

SEC. 104. REPEAT OFFENDER PROGRAM

There is hereby authorized to be appropriated $10,000,000 for fiscal year 1993 to the Bureau of Alcohol, Tobacco, and Firearms for the Repeat Offender Program and anti-gang activities to hire 100 additional special agents and support personnel.

SEC. 105. ASSET FORFEITURE FOR THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.

Section 924(d) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Any property (other than real property) subject to forfeiture under section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)), may be seized and forfeited in connection with an investigation of a violation of subsection (c) of this section and all provisions of section 551 of the Controlled Substances Act shall apply to seizures and forfeitures under this paragraph.

"(B) For the purposes of subparagraph (A), the functions of the Attorney General under section 551 of the Controlled Substances Act with respect to the seizure, forfeiture, and disposition of property shall be carried out by the Secretary of the Treasury.".

SEC. 106. ESTABLISHENT OF NATIONAL CRIMINAL GANG ANALYSIS INFORMATION CENTER.

(a) In General.—There shall be established in the Bureau of Alcohol, Tobacco and Firearms a National Criminal Gang Analysis Information Center.

(b) Purposes.—The purposes of the Center shall be—

(1) to identify criminal gangs that engage in violent crime, controlled substances trafficking, and other Federal crimes by—

(A) types of illegal activity;

(B) methods of operation; and

(C) geographic distribution;

(2) to gather intelligence on illegal activities undertaken by criminal gangs from law enforcement sources, and create a coordinated data bank to share such intelligence information with Federal, State and local law enforcement.

(3) to conduct seminars, conferences, and other activities with law enforcement and community leaders to assist in the identification of criminal gang activities and methods to curtail and control such activities;

(4) to establish a national, multilingual hotline for the public to report, under the assurance of confidentiality, unlawful gang activity;

(5) to undertake activities to increase public awareness of criminal gang identification, and to solicit information and evidence, under the assurance of confidentiality, from persons who possess information that may assist law enforcement investigations; and

(6) to publish an annual report that outlines activities taken pursuant to this subsection, and the results of Federal anti-gang activities.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE II—DRUG AND VIOLENT CRIME EMERGENCY AREAS

SEC. 201. SHORT TITLE.

This title may be cited as the "Drug and Violent Crime Emergency Areas Act of 1992."

SEC. 202. DRUG AND VIOLENT CRIME EMERGENCY AREAS.

(a) Declaration of Drug and Violent Crime Emergency Areas.—

(1) Presidential declaration.—(A) In the event that a major drug- or violent crime-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Attorney General, declare such State or part of a State to be a drug or violent crime emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

(B) for the purpose of this subsection, the term 'major drug- or violent crime-related emergency' means any occasion or instance in which drug trafficking, drug abuse, drug-related violence, gang- or other organized-crime-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, protect property, and preserve public health and safety.

(2) Procedure for presidential declaration.—(A) All requests for a declaration by the President designating a State or part of a State to be a drug or violent crime emergency area shall be made, in writing, by the Governor or chief executive officer of the affected State or local government, respectively, and shall be forwarded to the President through such form as the Attorney General may by regulation require. Joint requests under this subsection may be submitted by one or more local governments, or States.

(B) Any request made under subparagraph (A) of this paragraph shall be based on a written finding that the drug- or violent crime-related emergency is of such severity and magnitude, that Federal assistance is necessary to assure an effective response to save lives, protect property, and preserve public health and safety.

(C) As part of a request for declaration by the President under this subsection, and as a prerequisite to such a declaration and assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

(i) take appropriate action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating a drug- or violent crime-related emergency;

(ii) certify that State and local resources have been or will be used or committed to the greatest extent possible to alleviate a drug- or violent crime-related emergency;

(iii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

(iv) submit a detailed plan outlining that government's short- and long-term plans to respond to the emergency, specifying the types and levels of Federal assistance requested, explicit goals sought (quantitative goals where possible), time tables, and how Federal assistance provided under this subsection is intended to achieve such goals.

(E) The Attorney General shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President, on whether to approve or disapprove the application, within 10 days after receiving such application. Based on the application, and the recommendation of the Attorney General, the President may declare an area to be an emergency area under this subsection.

(3) Federal assistance.—In addition to a Presidential declaration of an area to be an emergency area under this section, the President may—

(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(4) Issuance of implementing regulations.—Not later than 90 days after the date of the enactment of this subsection, the Attorney General shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(5) Authorization of appropriations.—There are authorized to be appropriated for fiscal year 1993 and in future years such sums as are necessary to carry out this section.

SEC. 203. FEDERAL EMERGENCY LAW ENFORCEMENT READINESS REPORT.

(a) In General.—The Attorney General and the Secretary of Defense shall submit to the appropriate committees of the Congress, by not later than 18 months after the date of enactment of this act, a report and recommendations concerning—

(1) current policies on the use of Federal, state, and local law enforcement, national guard, and Federal troops in domestic and national emergencies, including riots or natural disasters; and

(2) the creation of new policies and strategies to insure the rapid response and placement of law enforcement, national guard, and federal troops in the event of domestic and national emergencies.

(b) CONSULTATION.—Such report shall be made after consultation with Federal law enforcement representatives, Federal and State National Guard representatives, and state and local government and law enforcement representatives.

(c) HEARINGS.—The Attorney General and Secretary of Defense, or their designated representatives, shall chair at least three field hearings at sites to be determined by them to solicit views and recommendations from representatives designated in paragraph (b) of this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out this section.

TITLE III—PENALTIES AGAINST GANG-RELATED VIOLENCE

SEC. 301. SHORT TITLE.

This title may be cited as the Penalties Against Gang Violence Act of 1992.

SEC. 302. PENALTIES FOR CRIMINAL GANG ACTIVITY.

(a) PENALTIES.—Chapter 1 of title 18, United States Code is amended by adding at the end thereof the following new section:

"SEC. 22. CRIMINAL GANG ACTIVITY.

"(a) PROMOTING, FURTHERING, OR ASSISTING IN CRIMINAL GANG ACTIVITY.—Except to the extent that a greater sentence is provided by other law (including subsection (b)), a person who willfully promotes, furthers, or assists in any felonious criminal conduct by the members of a criminal gang, with knowledge that its members engage, or have engaged in a pattern of criminal gang activity, shall be imprisoned not less than 1 and not more than 3 years.

"(b) ENHANCED PENALTY.—(1) Except as provided in paragraph (2), a person who is convicted of an offense, shall, if the offense is committed knowingly for the benefit of, at the direction of, or in association with a criminal gang, in addition and consecutive to any term of imprisonment imposed for that offense, be imprisoned not less than 3 and not more than 7 years.

"(2) In the case of an offense described in paragraph (1) that results in serious bodily injury to any person, the offender, in addition and consecutive to any term of imprisonment imposed for that offense, shall be imprisoned not less than 7 and not more than 12 years.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'criminal gang' means a criminal syndicate of 3 or more persons that is commonly known by a certain name or identifier that engages in or has as one of its purposes engaging in offenses involving—

"(A) assault, homicide, firearms, explosives, robbery, burglary, extortion, fraud, or witness intimidation; or

"(B) possession, possession for sale, sale, transportation, manufacture, offer for sale, offer to manufacture, or offer to transport controlled substances (as those terms are defined in the Controlled Substances Act (21 U.S.C. 801 et seq.)); and

"(2) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code is amended by adding at the end thereof the following new item:

"22. Criminal gang activity.".

SEC. 304. PENALTIES FOR USE OF MINORS IN GANG-RELATED ACTIVITY.

(a) TRANSPORTATION OF MINORS FOR DRUG-RELATED ACTIVITY.—

(1) Section 420(a) of the Controlled Substances Act is amended in paragraphs (1) and (2) by inserting "transport," after "use,".

(2) Section 420(b) is amended by adding at the end thereof the following:

"In addition to any fines imposed by other subsections of this section or by this subsection, the court shall impose a civil fine of $100,000 on a defendant found guilty of an offense under subsection (a). Any fine collected pursuant to the preceding sentence shall be transferred equitably to—

"(1) the Secretary of Health and Human Services to be distributed to State and local agencies for juvenile drug rehabilitation through existing juvenile drug rehabilitation programs; and

"(2) the Attorney General to be distributed to State and local juvenile delinquency and gang prevention programs through existing grants provided by the Office of Justice Programs to the Department of Justice.".

(b) DISTRIBUTION OF FIREARMS TO A MINOR.—Section 420(d) of the Controlled Substances Act is amended by—

(1) striking "or" after the semicolon in paragraph (1);

(2) Adding "transported" before "or used" in paragraph (2);

(3) striking all after the comma at the end of paragraph (2), and inserting "; or"; and

(4) adding after paragraph (2) the following new paragraph:

"(3) by knowingly providing or distributing a firearm to any person employed, hired, used or transported who is under eighteen years of age,

"shall be subject to a term of imprisonment for not more than five years or a civil fine of not more than $100,000, or both, in addition to any other punishment authorized by this section. Any fines collected pursuant to this subsection shall be transferred equitably to—

"(A) the Secretary of Health and Human Services to be distributed to State and local agencies for juvenile drug rehabilitation through existing juvenile drug rehabilitation programs; and

"(B) the Attorney General to be distributed to State and local juvenile delinquency and gang prevention programs through existing grants provided by the Office of Justice Programs of the Department of Justice.".

(c) INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.—(1) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of Title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 23. Inducement of minor to commit an offense.

"(a) IN GENERAL.—Except to the extent that a great minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be—

"(1) except as provided in paragraph (2) and (3) of this subsection, imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed;

"(2) imprisoned not less than 10 and not more than 15 years if such offense results in serious bodily injury, to be served consecutively with any other sentences that are imposed; or

"(3) imprisoned for up to 20 years or life if such offense results in death, to be served consecutively with any other sentences that are imposed.

"(b) CIVIL FINE.—In addition to any fines imposed by other subsections of this section or by this subsection, the court shall impose a civil fine of $100,000 on a defendant found guilty of an offense under subsection (a). Any fine collected pursuant to the preceding sentence shall be transferred equitably to—

"(1) the Secretary of Health and Human Services to be distributed to State and local agencies for juvenile drug rehabilitation through existing juvenile drug rehabilitation programs; and

"(2) the Attorney General to be distributed to State and local juvenile delinquency and gang prevention programs through existing grants provided by the Office of Justice Programs of the Department of Justice.".

"(c) LIMITATION.—In the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(d) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as circumstances in aggravation the severity of the offense sought by the adult, and the age of the child or children.

"(e) DEFINITION.—For purposes of this section the term 'minor' means a person less than 18 years of age.".

(2) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"23. Inducement of minor to commit an offense."

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsections (a), (b), or (c) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsections (a), (b), or (c) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

SEC. 305. INCREASED PENALTIES FOR VIOLENT GUN CRIMES.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking the first and second sentences after "(1)", designating the third and fourth sentences as subparagraph (D) and inserting before subparagraph (D) the following:

"(A) Whoever, during and in relation to a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) discharges, uses or carries, or otherwise possesses a firearm shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 5 to 10 years;

"(ii) discharges, uses, carries or otherwise possesses a firearm that is an assault weapon, short-barreled rifle, or short-barreled shotgun, shall, in addition to any penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 10 to 15 years; or

"(iii) discharges, uses, carries, or otherwise possesses a firearm that is a machine gun, a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years.

"(B) In the case of a second conviction under this subsection, such person shall be sentenced to imprisonment for 20 years and if the firearm is an assault weapon, a short-barrelled rifle, a short-barrelled shotgun, a machine gun, a destructive device, or is equipped with a firearm silencer of firearm muffler, to life imprisonment.

"(C) Whoever violates the terms of subparagraph (A) and discharges a firearm that kills another person, shall, if the killing—

(1) is a first degree murder as defined in section 1111(a) of this title, be punished by death or life imprisonment for any term of years or for life, fined under this title, or both; or

(2) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.".

(b) Sentencing Guidelines for New Penalties.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, shall promulgate guidelines or amend existing guidelines to provide for a sentencing enhancement in accord with the provisions of subsection (c)(1) of section 924 of title 18, United States Code.

SEC. 306. MISCELLANEOUS AMENDMENTS TO FEDERAL FIREARMS LAWS.

(a) Gun Possession.—The first sentence of section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking "uses or carries" and inserting "uses, carries, or possesses"; and

(2) striking "used or carried" and inserting "used, carried, or possessed".

(b) Armed Career Criminals Amendment.—Section 924(e)(2)(A) of title 18, United States Code, as amended by section 1522(a), is amended by—

(1) adding "or" at the end of clause (ii); and

(2) adding at the end thereof the following new clause:

"(iii) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;"

SEC. 307. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) Designation of Undesignated Paragraphs.—Section 5032 of title 18, United States Code, is amended by designating undesignated paragraphs one through eleven as subsections (a) through (k), respectively.

(b) Jurisdiction Over Certain Firearms Offenses.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h).".

(c) Adult Status of Juveniles Who Commit Firearms Offenses.—Section 5032(d) of title 18, United States Code, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile fifteen years or older alleged to have committed an act after his or her fifteenth birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the best interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her sixteenth birthday which if committed by an adult would be a felony offense that has an element thereof the use, attempted use, or threatened use of physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844(d), (e), (f), (h), (i) or 2275 of this title, subsection (b))(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

(d) Factors for Transferring a Juvenile to Adult Status.—Section 5032 (e) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end thereof the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weight heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status."

SEC. 308. AMENDMENT TO RICO ACT.

Section 1961(1)(B) of title 18, United States Code, is amended by inserting before "section 1029", "sections 922-924 (relating to firearms offenses),".

TITLE IV—BOOT CAMPS

SEC. 401. BOOT CAMPS.

(a) In General.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this title as "boot camps"). The Boot Camps will be located on closed military installations in rural or secluded regions, or in other areas to be chosen by the Director of the Bureau of Prisons, after consultation with the Director of National Drug Control Policy, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and other characteristics of military basic training.

(b) Capacity.—Each boot camp shall be designed to accommodate between 300-400 inmates for periods of between 6 months to 1 year. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

Federal Prisoners.—Section 3582 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Boot Camp Prison as a Sentencing Alternative.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if the defendant—

"(A) is under 25 years of age;

"(B) has no prior conviction for any crime of violence as defined in section 16 of this title;

"(C) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or an offense under this title that did not result in serious bodily injury as defined in sections 247, 1864, or 2245 of this title.

"(3) If, after one year since placement, the Director of the Bureau of Prisons finds that a prisoner placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director shall transfer the prisoner to any other correctional facility in the Federal prison system, and the period in the boot camp prison may not constitute satisfaction of any period of that prisoner's original sentence.

"(4) Successful completion of assignment to a boot camp may constitute satisfaction of that portion of the prisoner's original sentence as designated by the court at the time of placement, but shall not constitute satisfaction of the original sentence if such period is less than the minimum period authorized for the offense committed, or affect any aspect of a sentence relating to a fine, restitution, or supervised release.

"(5) Any prisoner who completes assignment to a boot camp as defined in paragraph (4) of this subsection, and has a period of incarceration remaining in such prisoner's original sentence, shall be transferred to any correctional facility in the Federal prison system to serve the remaining period of such sentence.".

(d) State Prisoners.—(1) The head of a state correction's department or the head's designee may apply for placement for any person who has been convicted, or a juvenile who has been adjudicated of a criminal offense in that State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced. Such application may be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by the head of the State corrections department of the head's designee that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 30 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons may determine on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted, or a juvenile adjudicated of a State criminal offense may be eligible for assignment to a boot camp of he or she—

(A) is over 14 and under 25 years of age;

(B) has no prior conviction for any crime of violence as defined in section 16 of this title;

(C) has been designated by the sentencing court as eligible for assignment to a boot camp and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense that does not result in serious bodily injury (as defined in sections 247, 1864, and 2245 of title 18, United States Code, and section 802 of Title 21, United States Code), and if the defendant is eligible for assignment to a boot camp under State law.

(3) If, after one year since placement, the Director of the Bureau of Prisons finds that a prisoner placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions or confinement in the boot camp, the Director shall transfer the prisoner back to the jurisdiction of the State sentencing court, and the period in the boot camp prison shall not constitute satisfaction of any period of that prisoner's original sentence.

(4) Successful completion of assignment to a boot camp may constitute satisfaction of that portion of the prisoner's original sentence as designated by the State at the time of placement, but may not constitute satisfaction of the original sentence if such period is less than the minimum period authorized for the offense committed under State law, or affect any aspect of a sentence relating to a fine, restitution, or supervised release.

(5) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return to the State 20 percent of the amount paid for the prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

(6) Any prisoner who completes assignment to a boot camp as defined in paragraph (4) of this subsection, and has a period of incarceration remaining in such prisoner's original sentence, shall be transferred back to the jurisdiction of the State to serve the remaining period of such sentence.

(e) POST-RELEASE SUPERVISION.—(1) Any State seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an after care plan setting forth the provisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(3) If the Director of the Bureau of Prisons finds that a Federal prisoner placed in an aftercare program willfully refused to comply with the conditions of the program, the Director may transfer the prisoner to a correctional facility in the Federal prison system, and the period in the aftercare program shall not constitute satisfaction of any period of that prisoner's original sentence.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1993, available until expended, of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to other amounts to be appropriated to the Bureau of Prisons.

TITLE V—EMPOWERMENT TO REDUCE AND PREVENT YOUTH GANG ACTIVITY

SEC. 501. ESTABLISHMENT OF GRANTS TO EMPOWER CITIZENS TO PREVENT GANG VIOLENCE.

(a) IN GENERAL.—The Attorney General, through the Office of Justice Programs, shall make grants to and enter into contracts with, public and nonprofit private agencies, organizations (including community-based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to prevent and to reduce criminal gang activities;

(2) to provide alternative activities for youth including but not limited to recreation, skills training, counseling, educational support, and other services that prevent and reduce youth involvement in criminal gang activities;

(3) to facilitate coordination and cooperation among citizens and law enforcement to prevent and reduce criminal gang activities;

(4) to support local law enforcement departments and agencies to conduct educational outreach activities in communities in which gangs commit violent or drug-related crimes;

(5) to institute community patrols and neighborhood watch programs to prevent and reduce criminal gang activities; and

(6) to inform citizens of community and law enforcement activities to prevent and reduce criminal gang activities.

(b) APPLICATION FOR GRANTS AND CONTRACTS.—(1) Any agency, organization, institution, or individual desiring to receive a grant under this section shall submit to the Attorney General an application at such time, in such manner, and containing or accompanies by such information as the Attorney General may require by rule.

(2) Each application for assistance under this chapter shall—

(A) set forth the project or activity to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) certify that the amount requested represents no more than 50 percent of the cost of the establishment or operation of such project or activity;

(E) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter;

(F) provide that regular reports on such project or activity shall be submitted to the Attorney General;

(G) provide assurances that the use of Federal funds made available under this section shall be used to supplement and, to the extent practicable, to increase the level of funds that would, in the absence of Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(H) include such other information and assurances that the Attorney General reasonably determines to be necessary.

(c) PRIORITY.—In selecting among applications submitted under this section, the Attorney General shall give priority to applicants—

(1) who have projects or activities in operation and such project or activity has the broad support of community- and law enforcement-based organizations in the applicant's geographical area; and

(2) who propose to carry out projects and activities in geographical areas in which frequent and severe criminal activities are committed by gangs whose membership is composed primarily of youth.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 502. ESTABLISHMENT OF GRANTS TO EMPOWER SCHOOLS TO PREVENT YOUTH GANG ACTIVITY.

(a) IN GENERAL.—The Secretary of Education shall make grants to, and enter into contracts with, State educational agencies, local educational agencies, and institutions of higher education for teacher and counselor training programs in accordance with this section.

(b) USE OF FUNDS.—Amounts made available under this part shall be used to establish, expand, or enhance programs and activities for the training of teachers, administrators, guidance counselors, and other educational personnel concerning the identification and prevention of youth gang activity and youth violence. Such programs shall be coordinated through the State agency for higher education, or State educational agency, as appropriate.

(c) APPLICATIONS FOR GRANTS AND CONTRACTS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, a State educational agency, a local or intermediate educational agency, an institution of higher education, or consortium thereof, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(2) Each application for assistance under this section shall—

(A) set forth the project or activity to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) certify that the amount requested represents no more than 50 percent of the cost of the establishment or operation of such project or activity;

(E) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter;

(F) provide that regular reports on such project or activity shall be submitted to the Secretary;

(G) provide assurances that the use of Federal funds made available under this section shall be used to supplement and, to the extent practicable, to increase the level of funds that would, in the absence of Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(H) include such other information and assurances that the Attorney General reasonably determines to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 503. ESTABLISHMENT OF GRANTS TO EMPOWER FAMILIES TO PREVENT YOUTH GANG ACTIVITY.

(a) IN GENERAL.—The Secretary of Health and Human Services, through the Administration on Children, Youth, and Families, shall make grants to, and enter into contracts with, public and nonprofit private agencies, organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to assist parents, families and guardians to effectively reduce and prevent participation of youth in the activities of gangs that engage in violent crime and drug-related activity;

(2) to provide education, counseling and support services to parents, families and guardians of youth involved in or who live in a geographic area in which criminal gang activity takes place;

(3) to inform gang members and their families of the availability of counseling, education, drug rehabilitation, and other support services;

(4) to facilitate the coordination and cooperation among parents, local education, juvenile justice, and social service agencies for the purpose of preventing or reducing the participation of youth in activities of gangs that commit violent crime and drug-related activity.

(b) APPLICATION FOR GRANTS AND CONTRACTS.—(1) Any agency, organization, institution, or individual desiring to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(2) Each application for assistance under this chapter shall—

(A) set forth the project or activity to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) certify that the amount requested represents no more than 50 percent of the cost of the establishment or operation of such project or activity;

(E) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter;

(F) provide that regular reports on such project or activity shall be submitted to the Secretary;

(G) provide assurances that the use of Federal funds made available under this section shall be used to supplement and, to the extent practicable, to increase the level of funds that would, in the absence of Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(H) include such other information and assurances that the Secretary reasonably determines to be necessary.

(c) PRIORITY.—In selecting among applications submitted under this section, the Secretary shall give priority to applicants—

(1) who have projects or activities in operation and such project or activity has the broad support of community-based organizations and law enforcement departments or agencies in the applicant's geographical area; and

(2) who propose to carry out projects and activities in geographical areas in which frequent and severe criminal activities are committed by gangs whose membership is composed primarily of youth.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 504. WOMEN, INFANTS AND CHILDREN, HEAD START, AND FOLLOW THROUGH.

It is the sense of Congress that—

(1) in the case of the special supplemental food program for women, infants, and children (WIC) authorized in section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786)), at least $3,000,000,000 should be available for fiscal year 1993, $3,425,000,000 for fiscal year 1994, $3,871,000,000 for fiscal year 1995, and $4,352,000,000 for fiscal year 1996;

(2) in the case of Head Start programs established under the Head Start Act (42 U.S.C. 9831 et seq.), at least $3,200,000,000 should be made available for fiscal year 1993, $4,200,000,000 for fiscal year 1994, $5,200,000,000 for fiscal year 1995, $6,200,000,000 for fiscal year 1996, $7,200,000,000 for fiscal year 1997, and $8,200,000,000 for fiscal year 1998.

(3) in the case of the Follow Through program established by the Follow Through Act, at least $6.4 million should be made available in addition to amounts appropriated in fiscal year 1993 to establish Follow Through programs in each Local Education Agency that has students participating in Head Start.

SEC. 506. ESTABLISHMENT OF GRANTS FOR MENTOR PROGRAMS.

(a) IN GENERAL.—The Secretary of Education shall make grants to, and enter into contracts with, public and nonprofit private agencies, organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to provide for academic volunteers and mentors to children;

(2) to recruit, train, and place academic volunteers and mentors for children;

(3) to coordinate local, regional, and statewide resource referral systems to efficiently link children and potential academic volunteers and mentors with existing academic volunteer programs and organizations; and

(4) to promote and encourage citizen participation in academic volunteer and mentor programs.

(b) APPLICATION FOR GRANTS AND CONTRACTS.—(1) Any agency, organization, institution, or individual desiring to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(2) Each application for assistance under this chapter shall—

(A) set forth the project or activity to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such project or activity;

(C) provide for the proper and efficient administration of such project or activity;

(D) certify that the amount requested represents no more than 50 percent of the cost of the establishment or operation of such project or activity;

(E) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter;

(F) provide for regular evaluation of the operation of such project or activity;

(G) provide assurances that the use of Federal funds made available under this section shall be used to supplement and, to the extent practicable, to increase the level of funds that would, in the absence of Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(H) include such other information and assurances that the Secretary reasonably determines to be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

SEC. 507 ESTABLISHMENT OF YOUTH OPPORTUNITY CORPS.

(A) IN GENERAL.—Not later than 1 year after the effective date of this section, the Secretary of Defense, in consulation with the Chief of the National Guard, shall establish five pilot Youth Opportunity Corps (referred to in this title as "Corps"). The Corps will be located on closed military installations, or unused federal property, in rural or secluded regions to be chosen by the Secretary of Defense, after consultation with the Secretary of the Interior, the Secretary of Agriculture, and Chief of the National Guard, and will provide a daily regimented schedule of work, drill, skills training and other support services for eligible children.

(b) DEFINITION.—As used in this section—

(1) The term "eligible children" means a youth or youths, not younger than 15 and not older than 19, from a family whose total family income is less than 185 percent of the poverty guideline established by the Secretary of Health and Human Services under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), and resides in a geographic area in which frequent and severe drug trafficking and criminal activities are committed by gangs whose membership is composed primarily of youth.

(c) CAPACITY.—Each Corps shall be designed to accommodate between 200 members for periods to be established by the Secretary of Defense.

(d) Program Duties.—In carrying out the purposes of this section, the Secretary of Defense, in consultation with the Chief of the National Guard shall—

(1) determine with other Federal agencies, State or local departments of agencies, the appropriate work, education programs, and other projects for participation by members of the Corps. Such work, programs and other projects should include but are not limited to—

(A) forest conservation and reforestation;

(B) flood control;

(C) environmental cleanup of beaches and other sensitive regions; and

(D) building restoration.

(2) determine the rates of pay, hours, and other conditions of employment on the Corps, except that all members of the Corps shall not be deemed to be Federal employees other than for the purpose of chapter 171 of Title 28, and chapter 81 or Title 5.

(3) provide for such lodging, subsistence, transportation, and other services and equipment as they deem necessary for the members of the Corps in their duties; and

(4) promulgate regulations to insure the safety, health and welfare of Corps members.

(f) Authorization of Appropriations.—There are authorized to be appropriated $70,000,000 for fiscal year 1993, available until expended, of which not more than $12,500,000 shall be used to establish the Corps sites and not more than $1,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to other amounts to be appropriated to the Department of Defense or the Department of Interior for the purpose of administering the Corps program.•

By Mr. INOUYE (for himself, Mr. Akaka, Mr. Cochran, Mr. McCain, Mr. Daschle, and Mr. Simon):

S. 3155. A bill to establish the National Indian Policy Research Institute; to the Select Committee on Indian Affairs.

NATIONAL INDIAN POLICY RESEARCH INSTITUTE ACT

• Mr. INOUYE. Mr. President, on behalf of myself and Senators Akaka, Cochran, McCain, Daschle, and Simon, I rise to introduce a bill that would authorize the establishment of an institute in Washington, DC, which would provide assistance to those who formulate Indian policy by creating and maintaining a database of information on American Indian issues and by conducting research and analyses that would contribute to the shaping of Indian policy.

This bill is the outcome of a feasibility study that was launched about 18 months ago in response to a longstanding need for better resources and scholarly analysis upon which Indian policy could be based, and I think it is important to say a few words about why that study was undertaken.

Mr. President, even though the fundamental principles of U.S. Indian policy are well-established, those principles are not always reflected in laws enacted by the Congress or in regulations or policies adopted by Federal agencies. Given the large number of committees in the Congress, the Congress may advance measures which inadvertently neglect the responsibilities of the United States to tribal governments or in other ways depart from current policy. A similar result may be found in regulations adopted by executive branch departments and agencies.

Underlying at least some of the failures by the Federal Government or other governments in the development of legislation and regulations is the absence of reliable data and information and the scarcity of broad policy analyses conducted on the basis of an understanding of the fundamental principles of U.S. Indian policy.

It was in recognition of this condition that the Congress authorized the feasibility study and authorized it to be conducted under the sponsorship and with the financial support of George Washington University. The study, which was guided by scholars and tribal government leaders from across the country, included wide consultation in Indian country, as well as consultation with representatives of existing research and policy analysis organizations. The conclusions of the study were submitted to the Congress on June 1 of this year.

Based upon that study, draft legislation was developed to establish a national Indian research policy center, and the select committee forwarded the draft to all tribal government leaders to secure their views and comments. Almost a month later, on July 2, the select committee held a hearing on the draft legislation.

Testimony at the hearing was uniformly positive in support of creation of an institute to carry out the activities described in the draft, but, as with most hearings, the testimony included constructive recommendations for modifications of the draft. In revising the draft for introduction, I have taken into consideration the testimony and letters which have reached me.

The key features of the draft legislation are retained in the bill I introduce today. An Indian policy research institute would be established at George Washington University to conduct research on issues related to Indian policy development. The institute would establish an information and data clearing house on Indian issues, conduct forums and symposia, publish and disseminate the products of its research and other activities, and provide opportunities for fellowships.

The institute would be guided by a 14-member board, 12 of whose members would be appointed by the Congress, and a majority of whom would have expertise in Indian policy matters. The other two members would be ex officio, the director of the institute and the president of the George Washington University.

The institute would be advised on a periodic basis by an advisory council composed of 11 officials from the executive and legislative branches and chaired by the persons chairing committees having jurisdiction over Indian affairs in the Senate and the House of Representatives.

The institute would not be an advocacy organization, but would be independent and nonpartisan. As the bill makes plain, the institute would be barred from taking any actions that might be construed as diminishing or in any way interfering with the government-to-government relationship that exists between tribal governments and the United States.

Mr. President, the select committee will be promptly providing a copy of this bill to tribal government leaders for their comments, and, as chairman, I plan to schedule a markup of this bill when we reconvene in September.

I ask unanimous consent that my statement be followed by the text of the bill and a section-by-section analysis of its contents.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Indian Policy Research Institute Act".

SEC. 2. FINDINGS.

(a) Findings of Congress.—The Congress finds that:

(1) The policy of the United States toward Indian and Alaska Native tribes which has emerged over the course of 200 years of relationships is based upon the following fundamental principles:

(A) the United States has a trust responsibility to protect, maintain, and manage Indian lands and related natural resources, including water, fisheries, game and game habitat, and to preserve permanent homelands for native people within this Nation;

(B) tribal rights of self-government are recognized under the United States Constitution and numerous treaties, intergovernmental agreements, statutes and Executive orders, and have been consistently upheld by the highest courts of the United States;

(C) the goals of economic self-sufficiency and improvement of the social well-being of tribal communities, with the objective of achieving parity with the general United States population as evidenced by national averages for health care, per capita income and rates of employment and educational achievement, are recognized as the basis of numerous Federal statutes and administrative policies;

(D) the unique cultural heritage of tribal people in the United States, including maintenance of native language proficiency, the practice of traditional ceremonies, and religious and artistic expression, is recognized in numerous Acts of Congress as an irreplaceable national heritage to be supported and protected; and

(E) for nearly two decades, the United States has consistently endorsed and advanced the principle of Indian self-determination, with the objective of ending Federal domination of programs affecting Indians and ensuring that tribal governments are empowered to plan, conduct, and administer such programs themselves.

(2) Despite broad agreement on the underlying principles of United States Indian policy, laws enacted by the Congress and regulations adopted by Federal agencies do not invariably reflect such principles owing to the large number of executive branch agencies and the large number of congressional committees determining policy and owing to the absence of an institutional resource from which agencies and congressional committees might obtain objective and reliable data, information, and analyses based upon the fullest knowledge of the underlying policy principles.

(3) Performance of its trust responsibility to American Indians consistent with the highest fiduciary standards requires the United States to assure that informed and reliable information and scholarly analyses are available to institutions shaping public policy.

(4) Establishment of an independent, nonpartisan, institute to provide data, information, and analyses related to Indian issues would assist institutions in shaping sound and consistent public policy and its establishment is warranted.

(5) The establishment of an institute is not intended, nor should it be construed as, a delegation of the responsibilities of the United States in formulating and adopting public policy.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Indian" means any person who is a member of an Indian tribe.

(2) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians including any Alaska Native village which is recognized by the United States as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Institute" means the National Indian Policy Research Institute established by this Act.

(4) The term "Board" means the Board of Directors of the Institute.

(5) The term "president" means the president of the George Washington University located in Washington, District of Columbia.

SEC. 4. ESTABLISHMENT OF INSTITUTE.

(a) In General.—There is established a federally chartered corporation to be known as the "National Indian Policy Research Institute" which shall be located in Washington, District of Columbia, and, with the consent of George Washington University, as indicated by the acceptance by it of the grant authorized under section 12 of this Act, within the George Washington University for purposes of administration and management. For purposes of policy and direction, the Institute shall be under the control of the Board of Directors established under section 7 of this Act.

(b) Succession and Amendment of Charter.—The Federal corporation established by this Act shall have succession, subject to the review provided for in subsection (c), until dissolved by Act of Congress. The Congress shall have exclusive authority to revise or amend the provisions of this Act involving the establishment and operation of such corporation.

(c) Review.—No later than 36 months after enactment of this Act, the Congress shall review the activities and performance of the Institute and of George Washington University in support of the Institute's purposes to determine whether amendments to this Act are required.

SEC. 5. FUNCTIONS.

(a) Research and Analysis.—The Institute shall, at the request of institutions shaping policies affecting Indians or upon its own initiative, conduct or commission research and analysis to be carried out, in accordance with the highest standards of scholarship and independence, on issues related to the development of public policy affecting Indians. The Institute shall adopt criteria and procedures to guide the selection of research projects. Priority consideration shall be given to policy initiatives proposed for consideration by the executive or legislative branches of the Federal Government.

(b) Data and Information Clearinghouse.—The Institute shall establish a data base to make accessible information and data maintained by Government agencies, academic institutions, and Indian and other organizations, and shall develop computer and telecommunication networks to make such information recoverable by policymakers and the public. Where it is determined that developing a new and specific data base is required, the Institute shall undertake to meet such need.

(c) Forums and Symposia.—The Institute shall conduct periodic public forums to identify and explore emerging Indian policy issues and to identify needs for data, information, or analyses, and shall conduct symposia, when appropriate, to clarify options for policymakers and to advance an understanding of complex and interrelated public policy issues as they affect Indian people and the formulation of Indian policy.

(d) Public Information.—The Institute shall publish and make available to the executive and legislative branches of the Federal Government, tribal governments, tribal colleges, and the public, the products of its research and reports of other activities by disseminating information about such research and reports as deemed appropriate by the Board.

(e) Fellowships.—The Institute shall, consistent with the availability of funds, and resources and procedures established by the Board of Directors, provide fellowship opportunities for students of Indian policy at tribal colleges and other institutions of higher education and experienced policy experts in order to make it possible for such fellows to dedicate their time and energies to researching significant public policy issues.

SEC. 6. GENERAL POWERS OF INSTITUTE.

(a) Powers of Institute.—In carrying out the provisions of this Act, the Institute shall have the power, consistent with the provisions of this Act—

(1) to adopt, use and alter a corporate seal;

(2) to make, subject to the availability of funds, agreements and contracts with persons, Indian tribal governments, tribal organizations, and private or governmental entities, and to make payments or advance payments under such agreements or contracts without regard to the provisions of section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the Federal agency concerned and on a reimbursable basis, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the Federal Government in carrying out the provisions of this Act, and to pay for such use;

(6) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(7) to receive grants from, and subject to the availability of funds, enter into contracts and other arrangements with Federal, State, tribal, or local governments, public and private agencies, organizations, institutions, and individuals, and, at the request of a tribal government or tribal governments, to receive grants and contracts from Federal agencies on the same basis as a tribal organization as defined and provided for by the Indian Self-Determination and Education Assistance Act;

(8) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Institute to carry out the provisions of this Act;

(9) to obtain insurance or make other provisions against losses;

(10) to use any funds or property received by the Institute to carry out the purpose of this Act except that any funds received by, or under the control of the Institute that are not Federal funds shall be accounted for separately from Federal funds; and

(11) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this Act and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

SEC. 7. BOARD OF DIRECTORS.

(a) Composition.—

(1) The Board of Directors of the Institute shall consist of the following members:

(A) Six individuals appointed within 12 months following the date of enactment of this Act by the President pro tempore of the Senate and 6 individuals appointed within the same period by the Speaker of the House of Representatives, who are representative of a broad range of Indian policy expertise as evidenced by established credentials in the different disciplines which make up the diverse field of Indian policy, including degrees from recognized academic institutions, leadership in public policymaking positions, or affiliation with public and private institutions which are known for their significant contributions to the public interest. The President pro tempore shall appoint from a list of persons submitted by the chairman of the Select Committee on Indian Affairs, and the Speaker shall appoint from a list of persons submitted by the chairman of the Interior and Insular Affairs Committee.

(B) The president of George Washington University, or his or her designee, and the Director of the Institute, both of whom shall serve as ex officio voting members of the Board.

(2) In making appointments under subsection (a)(1), the appointing authorities shall—

(A) consult with Indian tribal governments and tribal organizations;

(B) solicit nominations from Indian public policy specialists, Indian tribal governments, tribal colleges, other Indian organizations, academic institutions and public officials with Indian policy responsibilities; and

(C) ensure that a majority of appointments are Indians who are broadly representative of Indian country.

(b) Interim Board.—The Planning Committee, appointed by the president of George Washington University to assist with the feasibility study for the establishment of a

National Center for Native American Studies and Indian Policy Development, as authorized by section 11 of Public Law 101-301, and composed of those individuals serving at the time of enactment of this Act, shall serve as the interim Board until the appointments authorized in subsection (a)(1) have been made. Their service shall terminate on the date that all 12 members are appointed.

(c) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members of the Board of Directors appointed pursuant to subsection (a)(1)(A) shall be appointed for terms of office of 3 years.

(2) Of the members first appointed under subsection (a)(1)(A) of this section—

(A) 4 shall have a term of office of 12 months;

(B) 4 shall have a term of office of 24 months; and

(C) 4 shall have a term of office of 36 months.

(3) The term of office assigned to each of the initial members of the Board as provided under paragraph (2) shall be determined by the appointing authorities at the time of appointment, except that no member shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(d) VACANCIES.—Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term.

(e) REMOVAL.—No member of the Board appointed pursuant to subsection (a)(1)(A) of this section may be removed during the term of office of such member except for just and sufficient cause. However, absence from 3 consecutive meetings shall be considered just and sufficient cause.

(f) POWERS OF BOARD.—The Board is authorized to—

(1) formulate policy for the Institute and provide direction for its management, in consultation with George Washington University; and

(2) make such bylaws and rules as it deems necessary for the administration of its functions under this Act, including the organization and operating procedures of the Board.

(g) OFFICERS AND EXECUTIVE COMMITTEE.—The Board shall select from among its members an executive committee to be comprised of a co-chair selected by the Board to serve with a co-chair designated by George Washington University, and a vice chair, secretary, treasurer, and one at-large member selected by the Board. In accordance with the bylaws of the Board, such members shall provide direction for the Board, and serve in lieu of the Board on matters requiring Board action, subject to review and action by the Board as the members of the Board may deem appropriate.

(h) COMMITTEES.—The Board may establish such committees, task forces, and working groups as it deems appropriate and necessary.

(i) COMPENSATION.—Members of the Board appointed under subsection (a)(1)(A) shall, for each day they are engaged in the performance of their duties, receive compensation at the rate of $125 per day, including travel time. All members of the Board, while so serving away from their homes or regular place of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

SEC. 8. RESOURCE ADVISORY COUNCIL.

(a) RESOURCE ADVISORY COUNCIL.—There is established the Resource Advisory Council to the National Indian Policy Research Institute (hereafter referred to as the "Council") which shall provide assistance in the development and operations of the Institute.

(b) COMPOSITION.—The membership of the Council is as follows:

(1) Secretary of Health and Human Services;

(2) Secretary of Interior;

(3) Secretary of Education;

(4) Secretary, Smithsonian Institution;

(5) Secretary of Commerce;

(6) Secretary of Labor;

(7) Administrator of the Environmental Protection Agency;

(8) Director, National Academy of Sciences;

(9) Librarian of Congress;

(10) Director, Office of Technology Assessment

(11) Director, National Institutes of Health;

(12) Chairman, Select Committee on Indian Affairs, United States Senate; and

(13) Chairman, Interior and Insular Affairs Committee, United States House of Representatives.

(c) FUNCTIONS.—The Council—

(1) shall make recommendations to the Board of Directors regarding research procedures and organizational development;

(2) shall provide professional and technical assistance upon request of the Board of Directors, including staff support for the activities of the Council;

(3) when biannual meetings are called by the chairmen of the Senate Select Committee on Indian Affairs and the Committee on Interior and Insular Affairs of the House of Representatives, shall attend such meetings or shall designate an individual or individuals to attend on behalf of the Council; and

(4) shall make reports and recommendations to the Board of Directors and to the Congress as they may from time to time request, or as the Council may consider necessary to more effectively accomplish the purposes of this Act.

SEC. 9. OFFICERS AND EMPLOYEES.

(a) DIRECTOR.—The Board of Directors, with the concurrence of the president, shall appoint a Director of the Institute. The Director may only be removed from office by the Board in accordance with the bylaws of the Institute.

(b) RESPONSIBILITY OF DIRECTOR.—Subject to the direction of the Board, and the general supervision of the president, the Director shall have the responsibility for carrying out the policies and functions of the Institute, and shall have authority over all personnel and activities of the Institute.

(c) EMPLOYEES.—The Director, with the approval of the Board, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Institute.

(d) PREFERENCE.—In implementing this section, the Board and the Director shall afford preference to American Indians.

SEC. 10. NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE.

(a) NOT AN ADVOCACY ORGANIZATION.—The Institute shall not engage in the advocacy of public policy alternatives, represent itself as the voice of tribal governments, or take other actions that might be construed as interfering with or diminishing the government-to-government relationship between tribal governments and the United States.

(b) NO SUPPORT TO POLITICAL PARTIES.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(c) OTHER.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual, except as salary or reasonable compensation for services.

SEC. 11. TAX STATUS OF INSTITUTE.

The Institute and the franchise, capital, reserves, income and property of the Institute is exempt from all taxation imposed by the United States, by any Indian tribal government, or by any State or political subdivision thereof, or the District of Columbia.

SEC. 12. TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Institute, and such Institute shall perform, the functions of the National Center for Native American Studies and Indian Policy Development, as authorized under section 11 of Public Law 101-301.

(b) GRANT.—Subject to an appropriation by the Congress for this purpose, within 30 days following the date of the enactment of this Act, the Secretary of Health and Human Services shall award a grant to the George Washington University for all activities of the Institute and to enable the University to provide such management, technical and support assistance to the Institute as may be reasonable or necessary to operate the Institute, including audit, accounting, computer services and building and maintenance services. Subject to the availability of funds, the grant shall be automatically renewable, at the option of the University, on an annual basis until such time as Congress may provide otherwise. No offsets or matching requirements may be imposed.

SEC. 13. RELATIONSHIP WITH TRIBAL COLLEGES.

The Director of the Institute, pursuant to the direction of, and in consultation with, the Board of Directors, is authorized to enter into contracts, memoranda of understanding and agreements with, and make grants to—

(1) tribally-controlled community colleges as defined by section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; and

(2) the United Tribes Technical College and Southwest Indian Polytechnic Institute;

for the purpose of conducting research, developing issue papers, or to assist the Institute in carrying out its responsibilities under this Act.

SEC. 14. REPORTS.

(a) ANNUAL REPORT.—The Director of the Institute shall submit an annual report to the chairman of the Senate Select Committee on Indian Affairs, the chairman of the Interior and Insular Affairs Committee of the House of Representatives, and to the Board concerning the activities and status of the Institute during the 12-month period preceding the date of the report. Such report shall include, among other matters, a comprehensive summary of studies performed and activities carried out, a detailed statement of private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period, and the disposition thereof, as well as any recommendations for improving the Institute. Such report shall also be provided to all tribal governments.

(b) BUDGET PROPOSAL.—(1) The Board shall submit a budget proposal for the Institute for fiscal year 1994, and each fiscal year thereafter, to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall transmit such budget proposal, together with the budget proposal of the Department of Health and

Human Services, to the President of the United States. The budget proposal of the Institute shall be included in the annual budget of the President of the United States.

(2) In determining the amount of funds to be appropriated for any fiscal year to the Institute on the basis of the budget of the Institute for that fiscal year, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 15. COMPLIANCE WITH FEDERAL LAWS.

For the purpose of administering the Federal criminal laws relating to larceny, embezzlement, or conversion of property or funds, the Institute shall be considered to be a Federal entity and subject to such laws.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for fiscal year 1994, and for fiscal years 1995 and 1996, such sums as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to the authorizations under this section shall remain available without fiscal year limitation.

SECTION-BY-SECTION ANALYSIS

SECTION 1 SHORT TITLE

Section 1 cites the short title of the Act as the "National Indian Policy Research Institute Act."

SECTION 2 FINDINGS

Section 2(a)(1) declares that Congress finds that the United States has an acknowledged trust responsibility to American Indians and Alaska Natives; recognizes the tribal rights of self-government, tribal goals of economic self-sufficiency and improvement of social well-being, and the unique cultural heritage of tribal people in the United States; and acknowledges the United States' ongoing commitment to facilitating Indian self-determination.

Section 2(a)(2) finds that the underlying principles of Indian policy are not invariably reflected in statutes and regulations because of an absence of information; performance of the trust responsibility requires informed reliable information and analyses; establishment of an institute to provide such information is warranted; and establishment of an institute is not intended, nor should it be construed to be, any delegation of responsibilities of the United States in formulating and adopting public policy.

SECITON 3 DEFINITIONS

Section 3 provides a definition of terms.

SECTION 4 ESTABLISHMENT OF INSTITUTE

Section 4(a) establishes a federally chartered corporation to be known as the "National Indian Policy Research Institute" within the George Washington University for purposes of administration and management.

Section 4(b) provides that Congress will have the exclusive power to dissolve the corporation established by this Act.

Section 4(c) requires the Congress, three years after enactment of the Act, to review the activities and performance of the Institute and the George Washington University to determine whether amendments to the Act are needed.

SECTION 5 FUNCTIONS

Section 5(a) provides that the primary functions of the Institute will be to conduct and commission research concerning Federal Indian policy on the basis of provisions in this section and selection criteria adopted by its Board of Directors.

Section 5(b) provides that another function will be to perform an information and data clearinghouse role and describes that role.

Section 5(c) provides that a third function will be to conduct public forums and symposia.

Section 5(d) provides that another function will be to disseminate the results of its research and other information consistent with a plan determined by the Board of Directors.

Section 5(e) provides that another function will be to establish fellowship opportunities for students of Indian policy and experienced policy experts.

SECTION 6 GENERAL POWERS OF INSTITUTE

Section 6(a) empowers the Institute to adopt, use and alter a corporate seal; to make agreements and contracts, to sue and be sued, to use and pay for Federal services or facilities, to accept and dispose of gifts, to accept grants and receive contracts, to obtain insurance, to use any funds or property received by the Institute to carry out the purpose of the Act, and to exercise all other lawful powers related to the establishment of the Institute.

SECTION 7 BOARD OF DIRECTORS

Section 7(a) provides that the six members of the Board of Directors will be appointed by the President pro tempore of the Senate and six will be appointed by the Speaker of the House of Representatives, based upon nominations submitted by the chairmen of the two committees of Congress having jurisdiction over Indian affairs; provides further that the Institute director and the university president are to be ex officio directors; provides also that the Board is to formulate policy and adopt-by-laws; provides also for officers, task forces, and compensation of board members.

Section 7(b) provides that the Planning Committee of the National Center for Native American Studies and Indian Policy Development shall serve as the interim Board for the Institute for a period of up to 12 months.

Section 7(c) provides for three-year terms for directors, but staggered terms for the initial board.

Section 7(d) provides for filling vacancies on the Board.

Section 7(e) provides for the removal of members of the Board for just and sufficient cause.

Section 7(f) provides that the powers of the Board include formulation of policy for the Institute and adoption of by-laws and rules.

Section 7(g) provides for the selection of officers and an executive committee.

Section 7(h) authorizes the formation of committees and task forces.

Section 7(i) authorizes compensation of $125 per day for members of the Board and payment of travel expenses.

SECTION 8 RESOURCE ADVISORY COUNCIL

Section 8(a) provides for the establishment of a Resource Advisory Council to the Institute.

Section 8(b) identifies eleven officials of the executive branch and the chairmen of Congressional committees having jurisdiction over Indian affairs as members of the Council.

Section 8(c) provides that the Council is to make recommendations to the Institute and the Congress, to provide technical assistance to the Institute, to attend bi-annual meetings, and to report to the Board of Directors and the Congress.

SECTION 9 OFFICERS AND EMPLOYEES

Section 9(a) empowers the Board of Directors, with the concurrence of the university's president, to appoint a director of the Institute.

Section 9(b) describes the responsibilities and authority of the director to carry out the policies and functions of the Institute.

Section 9(c) authorizes the Director to appoint and fix the compensation and duties of employees, with the approval of the Board.

Section 9(d) prescribes that the Board and the Director are to afford preference to American Indians.

SECTION 10 NONPROFIT AND NONPOLITICAL NATURE OF INSTITUTE

Section 10(a) prohibits the Institute from being an advocacy organization, representing itself as the voice of tribal governments or taking any actions that might be construed as diminishing the government to government relationship of the United States to Indian tribal governments.

Section 10(b) prohibits the Institute's support of any political party or candidate for elective public office.

Section 10(c) provides that no part of the income or assets of the institute shall benefit any director, officer, employee, or any other individual, with the exception of salaries or compensation for services.

SECTION 11 TAX STATUS OF INSTITUTE

Section 11(a) exempts the Institute and its franchise, capital, reserves, income and property from all taxation.

SECTION 12 TRANSFER OF FUNCTIONS AND ADMINISTRATION BY THE GEORGE WASHINGTON UNIVERSITY

Section 12(a) provides that the Institute shall assume the functions of the existing National Center for Native American Policy Studies and Indian Policy Development.

Section 12(b) provides that 30 days after an appropriation is made for the Institute, the Secretary of Health and Human Services is to award a grant to the George Washington University for all activities of the Institute, and that, subject to the availability of funds, the grant shall be automatically renewable on an annual basis until such time as Congress may provide otherwise.

SECTION 13 RELATIONSHIP WITH TRIBAL COLLEGES

Section 13 authorizes the Institute to enter into contracts and make grants to tribal colleges, the United Tribes Technical College, and Southwest Indian Polytechnic Institute to assist the Institute in carrying out its responsibilities.

SECTION 14 REPORTS

Section 14(a) provides that the director of the Institute is to submit an annual report to the Chair of the Select Committee on Indian Affairs of the Senate, to the Chair of the Interior and Insular Affairs Committee of the House of Representatives, to tribal governments, and to the Board; also prescribes the contents of such report.

Section 14(b) provides that the Board is to submit a budget proposal for fiscal year 1994 and each succeeding fiscal year to the Secretary of Health and Human Services, who is to submit it to the President of the United States; further, that the budget proposal of the Institute is to be included in the annual budget of the President; further, that the Congress is not to consider private funds obtained by the Institute in its determination of an appropriation level in any fiscal year.

SECTION 15 COMPLIANCE WITH FEDERAL LAWS

Section 15 provides that, for the purpose of certain criminal laws, the Institute is to be considered to be a Federal entity and subject to such laws.

SECTION 16 AUTHORIZATION OF APPROPRIATIONS

Section 16 authorizes an appropriation of $1,000,000 for the Institute for fiscal year 1994, and such sums as are necessary to carry out the provisions of the Act in fiscal years 1995 and 1996, and provides that the funds are to remain available without fiscal year limitations.•

By Mr. SEYMOUR:

S. 3156. A bill to amend the Internal Revenue Code of 1986 to provide for the designation of turbo enterprise zones to assist those areas of Los Angeles affected by recent rioting and to assist other areas of high unemployment; to the Committee on Finance.

TURBO ENTERPRISE ZONE ACT

• Mr. SEYMOUR. Mr. President, I rise today to introduce legislation that will create new jobs, rebuild our cities, and inspire hope among the millions of impoverished Americans living in our urban communities. By targeting growth, my legislation will energize our inner cities with an unprecedented stream of investment capital, and furnish the tools necessary to empower residents to take control of their lives.

As we all remember, beginning on the evening of April 29, this Nation witnessed the most destructive and violent social disturbance of the 20th century. And, when the several days of rioting finally ended, the rubble and death in Los Angeles looked reminiscent of scar torn Europe during World War II.

The toll of these few short days of unrest was overwhelming. There were at least 58 deaths, over 2,300 injuries, and over 5,300 structure fire calls. The city of Los Angeles estimated they spent $33 million in extraordinary costs to respond to the rioting. The Los Angeles Police Department put in almost 200,000 hours of overtime to respond at a rough cost of $21 million.

We saw entire communities go up in smoke. We saw businesses that took years of hard work and sweat to build looted and destroyed. We saw livelihoods ruined, and numerous acts of violence against innocent people. While the Rodney King verdict may have ignited this conflagration, poverty and despair fanned the flames.

Mr. President, this alone is enough to warrant a tough and aggressive campaign against urban decay and distress. However, no one can go it alone. We must act together. An urban agenda must be based on cooperative, coordinated action on the part of elected representatives, State and local officials, business leaders, and concerned citizens who are truly prepared to address our Nation's urban crisis headon. And, while I certainly do not claim to have all the answers to our urban problems, I do believe that the legislation I am introducing today will lay the foundation of cooperation, unleash the economic potential of these communities, and chip away at the hopeless mindset instilled in many inner city residents from years of urban neglect.

The thesis of my proposal is very simple—that all communities have economic vitality if you strip away the restrictive nature of taxes and regulation. This is exactly what my proposal entails.

Specifically, my legislation targets Los Angeles and other cities with severely distressed communities by allowing local governments to green line the hardest hit areas where unemployment is at crisis levels and no material tax base exists. This will create what I call turbo enterprise zones. Within the targeted green line area, the rate of tax at all levels will be zero for a period of 5 years. the city, county, State, and Federal Governments will cooperate to implement a zero tax rate regime. In short, within the turbo enterprise zones, individuals and enterprises will pay no sales taxes, no payroll withholding taxes, no property taxes, and no income taxes.

In addition, to obtain the benefits of the turbo enterprise zone, 90 percent of a firm's employees must live within the targeted green line, and the principal place of business must fall within the targeted green line area.

Essentially, the cost of my proposal to the taxpayers is the forgone revenue of the designated areas. However, by the very definition of a turbo enterprise zone, these hard-hit areas are tax burdens, not tax producers. For this very reason, it can't be argued that my bill will cost the taxpayers a dime. Moreover, by providing investment capital incentives, I believe we can realistically anticipate an unprecedented thrust of economic growth in these areas. And, by the end of the 5-year, no-tax moratorium, I believe a healthy, stable tax base will be firmly implanted.

To be successful in our urban revitalization efforts, we must cultivate the roots of economic opportunity—the true secret to empowering citizens to take hold of their lives and make lasting change. Many of our inner city families have endured generations of perpetual poverty. By giving families a way out—a way to break the mold—they can, and will, control their own destinies.

Mr. President, HUD Secretary Jack Kemp hit the nail right on the head when he stated before the Senate Finance Committee that we must build a ladder of opportunity for our inner city residents. By enhancing a community's access to credit and capital, and creating jobs, we can pave the road of economic prosperity in our urban centers. My proposal will do just that. Enactment of my legislation will give these citizens a piece of the action, allow them to take charge of their futures and realize the dream of owning a home, running a business, or sending their children to college.

My initiative is an aggressive attempt to cure the serious ills that continue to plague our inner cities. Most importantly, it is a bipartisan, locally driven and community-based effort that recognizes no particular ideology. In fact, the companion bill to my legislation in the House of Representatives was authored by Congressman CHRIS COX of California—a Republican, and Congressman CRAIG WASHINGTON of Texas—a Democrat. This clearly demonstrates that both parties can work together to get the job done. Indeed, a comprehensive, nonpartisan effort is what it will truly take to solve our intractable urban problems.

Mr. President, I believe the legislation I am offering today is a way to inject hope and commerce in our inner city communities. I hope my colleagues will join me in supporting this new bold and innovative program.

I ask unanimous consent that the text of my bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Turbo Enterprise Zone Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) The devastation caused by the riots, looting, gang violence, and destruction in Los Angeles requires urgent national attention.

(2) It is the Federal Government's responsibility to lead the partnership to create the conditions in which enterprise can once again flourish in our inner cities, and to help create jobs where now there is only unemployment.

(3) Enterprise zones will reduce taxes, regulations, and other government burdens on economic activity in the Nation's most economically depressed areas. If properly implemented, this concept can and will work over a period of several years. Because the problem in Los Angeles is more urgent and more immediate, however, it requires a more aggressive reform, designated the "turbo enterprise zone".

(4) To suit the current emergency, the enterprise zone concept is supercharged: first, it is targeted on especially hard-hit areas bereft of current tax revenue production; and, second, the incentives are extraordinary. Specifically, local governments will be asked to "green line" the most depressed areas. Within the green line, city, county, State, and Federal governments will cooperate to implement a zero tax rate regime for 5 years: No sales taxes, payroll withholding taxes, property taxes, excise taxes, or income taxes. To obtain these benefits, 90 percent of a business's employees and managers must live within the green line.

(5) Under current circumstances, the hardest-hit areas of Los Angeles are tax burdens rather than tax producers. By offering striking incentives for capital to locate within the turbo enterprise zone, however, it is realistically to be anticipated that enormous economic activity will occur in this area within the 5-year period.

(b) PURPOSE.—The purpose of this Act is to inspire renewed confidence in the hardest hit areas of Los Angeles, and in other blighted areas within America's inner cities, without requiring enormous amounts of new taxes and borrowing.

SEC. 3. NO FEDERAL TAXES IN LOS ANGELES TURBO ENTERPRISE ZONES FOR 5 YEARS.

(a) INCOME, EMPLOYMENT, AND SELF-EMPLOYMENT TAXES.—No tax shall be imposed under subtitle A or C of the Internal Revenue Code of 1986 with respect to—

(1) any income received or accrued by—

(A) any individual who is a qualified resident of a Los Angeles turbo enterprise zone, or

(B) any qualified business, or

(2) any remuneration paid by a qualified business for services performed by a qualified resident.

This subsection shall not apply for purposes of determining benefits under the Social Security Act.

(b) EXCISE TAXES.—No tax shall be imposed under subtitle D or E of such Code with respect to any taxable event occurring in a Los Angeles turbo enterprise zone.

(c) LOS ANGELES TURBO ENTERPRISE ZONE.—For purposes of this section, the term "Los Angeles turbo enterprise zone" means any area in the County of Los Angeles which is specifically designated for purposes of this section both by such county and the city having jurisdiction over such area as being—

(1) significantly and adversely affected by the rioting which occurred on or about May 1, 1992;

(2) afflicted with unemployment estimated to exceed 30 percent;

(3) subject to severe economic blight as measured by per capita income and number of persons below the Federal poverty level; and

(4) nonproductive of material tax revenues to the city, county, State, or Federal governments.

(d) QUALIFIED RESIDENT.—For purposes of this section, the term "qualified resident" means any individual whose domicile and principal residence is, and has been for at least 6 continuous months, located within a Los Angeles turbo enterprise zone.

(e) QUALIFIED BUSINESS.—For purposes of this section, the term "qualified business" means any firm which meets the following criteria:

(1) the active conduct of the trade or business of such firm is within a Los Angeles turbo enterprise zone;

(2) 90 percent of the remuneration paid by such firm to employees, consultants, contract labor, or other individual providers is to qualified residents; and

(3) 90 percent of the number of employees of such firm are employees of such firm on the date of the enactment of this Act or qualified residents.

(f) APPLICATION OF SECTION.—

(1) IN GENERAL.—This section shall irrevocably apply to any Los Angeles turbo enterprise zone during the 5-year period beginning on the earliest date on which there is in effect by each of—

(A) the State of California,

(B) the County of Los Angeles, and

(any municipality with jurisdiction over the zone,

an irrevocable 5-year waiver of all tax levies of any kind (including but not limited to property taxes, sales taxes, payroll withholding taxes, income taxes, excise taxes, and license fees) that would otherwise be applicable to or collectible by qualified residents and qualified businesses.

(2) EXTENSION OF 5-YEAR PERIOD.—

(A) IN GENERAL.—If, as of the close of the 5-year period referred in paragraph (1) with respect to any Los Angeles turbo enterprise zone, the Secretary of Housing and Urban Development determines that—

(i) during such period the unemployment rate for such zone has fallen below 1.5 times the national average unemployment rate, and

(ii) the governmental units referred to in paragraph (1) have extended the waiver referred to in paragraph (1) for at least an additional 2 years,

then this section shall remain in effect for an additional 2 years with respect to such zone.

(B) ADDITIONAL EXTENSIONS PERMITTED.—If, as of the close of any extension of the 5-year period referred to in paragraph (1) with respect to any Los Angeles turbo enterprise zone, the Secretary of Housing and Urban Development determines that—

(i) during the preceding 2-year extension the unemployment rate for such zone has fallen below 1.5 times the national average unemployment rate, and

(ii) the governmental units referred to in paragraph (1) have extended the waiver referred to in paragraph (1) for at least an additional 2 years,

then this section shall remain in effect for an additional 2 years with respect to such zone.

(C) EXTENSIONS LIMITED TO 6 YEARS.—Extensions under this paragraph shall not exceed 6 years.

(g) APPLICATION BY OTHER JURISDICTIONS FOR "TURBO ENTERPRISE ZONE" STATUS.—Any geographic area within the jurisdiction of the United States may qualify for a 5-year waiver of all Federal taxes as described in this section, upon application to the Secretary of Housing and Urban Development made by each of the State, county or parish, and municipal government (if any) with jurisdiction over such area. The application shall certify that the 5-year waivers provided in subsection (f) have been irrevocably granted by each of such governments (subject to and effective upon the condition of approval by the Secretary as provided in this section), and that the area within the zone meets each of the criteria in subsection (c)(2) through (c)(4), inclusive. Upon determination that the area meets such criteria and that the irrevocable tax waivers have been granted, the Secretary shall approve such application, which shall be effective for a period of 5 years from the date of approval.

(h) TREATMENT OF CARRYOVERS DURING PERIOD TAXES SUSPENDED.—For purposes of determining the application of any deduction, credit, or capital loss carryover under the Internal Revenue Code of 1986, the taxable income of the taxpayer on whom no tax is imposed by reason of this section for any period shall be treated as zero for such period.•

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. MURKOWSKI, Mr. GORTON, Mr. AKAKA, Mr. DASCHLE, and Mr. SIMON):

S. 3157. A bill to provide for a National Native American Veterans' Memorial; to the Select Committee on Indian Affairs.

NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT

• Mr. MCCAIN. Mr. President, I rise today on behalf of myself and Senators INOUYE, MURKOWSKI, GORTON, AKAKA, DASCHLE, and SIMON to introduce legislation to establish a National Native American Veterans' Memorial.

From the Revolution through Desert Storm, native Americans have served, suffered, and died for the cause of American freedom. During World War II, military communications between Allied forces were constantly intercepted by the enemy with tragic consequences for the success of Allied missions and forces. The legendary Navajo code talkers used their language to devise an unbreakable code, and by so doing greatly hastened the day of Allied victory. The Navajo code was the only Allied code that the enemy was never able to decipher.

Earlier, Choctaws provided the same service for the American Expeditionary Force in World War I. Like their Navajo successors, the Choctaw code talkers devised the only code that the Germans could not break. The strength of their great service, like the service of all native Americans who have fought in their country's battles, rested on the conviction they shared with the rest of their countrymen. That conviction was best expressed by a great chief of the Choctaws, Pushmataha, who, in 1811, appealed to his people not to join the British in their war with the Americans. "We do not take up the warpath," he told his people, "without a just cause and an honest purpose."

Native Americans have never served their country in wartime without a just cause and an honest purpose. I believe that the tenacity with which Indians hold to their convictions is the source of their tenacity on the battlefield. I greatly admire those values as I admire the great courage and the exceptional fighting ability of native Americans.

I would point out that our service academies still teach the military tactics of the great chiefs. The lessons taught to us by men like Geronimo and Chief Joseph are still employed by American Armed Forces whenever they are called upon to defend the interests of this Nation. Professional soldiers can recognize superior fighting skills and bravery when they see it on the battlefield. And we recognize military genius when we study the exploits of these great Indian leaders.

Sadly, though we may acknowledge their military prowess and their contributions to our victories, we have not always acknowledged our debts to the native American. When war has subsided, the Indian's prominent place in the battlefield has been replaced with second-class citizenship at home. That sad truth is captured in the life of Ira Hayes. A Pima Indian who served in the Marine Corps in World War II, Ira Hayes was a genuine American hero. In a place very near here, he is depicted in the Iwo Jima Memorial planting his country's flag in the soil of a foreign land. His heroism has been enshrined for all time in that memorial, but the man was soon forgotten. He died a broken man, a victim of alcoholism.

I hope that we will not only acknowledge the service of native American veterans by enacting this legislation, but we also will honor our debts to them in peacetime. In all tribes, the native American bows to no one in the depth of his patriotism and in his love of country. They fought, more bravely than many, for the same values that all the sons and daughters of America have so nobly preserved when they have taken up arms to defend us. They are the values Chief Joseph described, much better than I can. He pleaded.

> Let me be a free man, free to travel, free to stop, free to work, free to trade where I choose, free to choose my own teachers, free to follow the religion of my fathers, free to think and talk and act for myself.

Just last year, Michael Noline of the San Carlos Apache Tribe in Arizona, and Eric Bentzlen of the Sisseton-Wahpeton Sioux Tribe in South Dakota did not return from the Persian Gulf. Like native American veterans in previous wars, they perished in service to this country and the values Chief Joseph spoke of so eloquently.

I view this national memorial as only a small way in which we can honor the service and sacrifice of all native American veterans. Such sacrifice deserves to be memorialized in something more lasting, more meaningful than bronze. Let their memory be the spirit that guides us all as we seek means to redress the disservices done to the native American. I promise you the memory of their valor will guide me, for I, too, want to remain a free man, and I know that they died so that we all might be free to think and talk and act for ourselves.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Veterans' Memorial Establishment Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Native Americans of various Indian tribes across the Nation, have long, proud and distinguished tradition of service in the armed forces of the United States.

(2) Native Americans have historically served in the armed forces of the United States in numbers which far exceed their representation in the population of the United States.

(3) Native Americans have lost their lives in the service of their Nation, and in the cause of peace.

(4) The National Museum of the American Indian was established as a living memorial to Native Americans.

(5) The National Museum of the American Indian is an extraordinary site and is an ideal location to establish a National Native American Veterans' Memorial.

(6) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the armed forces of the United States.

SEC. 3. AUTHORIZATION FOR ESTABLISHMENT OF MEMORIAL.

(a) MEMORIAL.—The Board of Trustees of the National Museum of the American Indian is authorized to design, construct, and maintain a National Native American Veterans' Memorial (hereafter referred to in this section as the "Memorial").

(b) SITE.—The Board of Trustees shall select a suitable site for the Memorial. The site shall be located on a portion of the lands within the boundaries described in section 7(a) of the National Museum of the American Indian Act.

(c) DESIGN AND PLANS.—The Board of Trustees is authorized to hold a competition to select the design of the Memorial. Except as otherwise provided in this Act, the design, location, and construction of the Memorial shall be subject to the Act entitled "An Act to provide standards for replacement of commemorative works on Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

(d) DONATIONS.—Notwithstanding any other provision of law, the Board of Trustees may accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of designing, constructing, or maintaining the Memorial.

(e) PAYMENT OF EXPENSES.—The United States Government shall not pay any of the expenses of the establishment of the Memorial other than providing the site on which it is to be located.•

By Mr. SMITH:

S. 3158. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT

• Mr. SMITH. Mr. President, according to the President's budget for fiscal year 1993, a child born in 1990 will pay 76 percent more in taxes over his lifetime than he will receive in benefits. For every dollar that person gives Uncle Sam over his lifetime, the Federal Government will give him less than 60 cents in return. Clearly, the national debt-which is fast approaching $4 trillion—is bankrupting the Nation and seriously jeopardizing the well-being of future generations.

Today I am introducing legislation that will allow the American people to become directly involved in solving our Nation's debt problem. This bill would allow each taxpayer to contribute up to 10 percent of his or her tax liability to a public debt reduction fund. The corresponding reduction in funds to the Government would result in an across-the-board sequester of all accounts except Social Security retirement benefits, interest on the debt, and deposit insurance.

Mr. President, this legislation was recently introduced in the House of Representatives by Congressman BOB WALKER of Pennsylvania. Congressman WALKER has been a leader on fiscal issues for many years, and his efforts to tackle our debt problem should be applauded. Unlike many who only pay lip service to our budget problems, he is willing to propose real solutions. In fact, a study by the Congressional Budget Office indicates that this idea could balance the budget in 5 years.

I urge my colleagues to take a look at this new innovative idea. Budget summits and higher taxes have not made a dent in the Federal deficit. It is time for the American people to be given a role in the process.•

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT

NUNN (AND OTHERS) AMENDMENT NO. 2916

Mr. NUNN (for himself, Mr. WARNER, Mr. PRYOR, Mr. RUDMAN, Mr. BINGAMAN, Mr. COATS, Mr. D'AMATO, Mr. LAUTENBERG, Mr. CHAFEE, Mr. GRAHAM, Mr. WELLSTONE, Mr. DODD, Mr. ROBB, and Mr. SANFORD) proposed an amendment to the bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Defense Conversion and Transition Assistance

SEC. 1091. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the

capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national defense technology and industrial base.

(7) Prompt and vigorous implementation of a defense conversion and transition assistance program is essential to ensure that the defense build down is structured in a manner that enhances the long-term ability of the United States to maintain a strong and vibrant national defense technology and industrial base.

(b) POLICY.—(1) It is the policy of Congress that the United States attain its national defense objectives through the development and implementation of defense conversion and transition assistance programs that have the following objectives:

(A) Facilitating the transition of military personnel, civilian employees of the United States, and defense industry workers affected by the defense build down in a manner which recognizes the contributions of those individuals to the national defense and promotes continued national access to, and benefit from, their skills and capabilities.

(B) Assisting communities in adjusting to the impact of reduced defense spending in recognition of the contributions that such communities have made to the national defense of the United States.

(C) Strengthening the ability of the national defense technology and industrial base to meet the following national security objectives:

(i) Supplying and equipping the force structure necessary to meet near-term national security requirements.

(ii) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

(iii) Maintaining advanced research and development activities to provide the Armed Forces of the United States with systems capable of ensuring technological superiority over potential adversaries.

(iv) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the Armed Forces.

(D) Achieving the national defense technology and industrial base objectives described in subparagraph (C) by enhancing the opportunities for conversion of defense-dependent businesses to dual-use capabilities.

(2) It is the policy of Congress that not less than $1,200,000,000 of the funds authorized to be appropriated by this Act be available for defense conversion and transition assistance programs.

SEC. 1092. ACTIVE FORCES TRANSITION ENHANCEMENTS.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The program to encourage members and former members of the Armed Forces to enter critical public and community service jobs after discharge or release from active duty as established pursuant to section 1143a of title 10, United States Code (as added by section 531(a)).

(2) The program to facilitate alternative teaching certification for personnel separating or retiring from the Armed Forces who choose to enter teaching based upon military experience and training, as provided in section 532.

(3) The program to grant educational leave to qualify for and enter public and community service, as authorized by section 533.

(4) The temporary early retirement authorities provided in sections 534 and 535.

(5) The authority for persons being voluntarily separated from active duty in the Armed Forces to enroll in the Montgomery GI Bill program under section 536.

(6) The revision of the recoupment requirement related to certain reserve duty, as provided under section 537.

(7) The program referred to in section 538 for certain employment, job training, and other assistance for members of the Armed Forces who are being separated from active duty.

(8) The temporary continued health coverage for members of the Armed Forces upon separation from active duty, as provided under section 1078a of title 10, United States Code (as added by section 539).

SEC. 1073. GUARD AND RESERVE TRANSITION INITIATIVES.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The regulations required by sections 543 through 545 concerning inactivation of units of the Selected Reserve, involuntary discharge from a reserve component of the Armed Forces, and involuntary transfer from the Selected Reserve.

(2) The temporary authority for early retirements established under sections 546 and 547.

(3) The temporary authority for separation pay provided in section 548.

(4) The waiver of the continued service requirement for Montgomery GI Bill benefits under section 549.

(5) The transitional commissary and exchange privileges authorized by section 550.

(6) The temporary continuation of Servicemen's Group Life Insurance coverage provided under section 551.

SEC. 1094. DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL TRANSITION INITIATIVES.

(a) REQUIREMENT FOR REGULATIONS WITHIN 45 DAYS.—Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities, consistent with such guidance as may be issued by the Director of the Office of Personnel Management:

(1) The reemployment assistance requirements provided pursuant to sections 341 and 342.

(2) The reduction-in-force notification requirements provided pursuant to section 343.

(3) The commencement of eligibility for certain job training assistance to employees adversely affected by base closures and realignments, as established pursuant to section 344.

(4) The authority to continue health benefits established pursuant to section 346.

(5) The authority to pay benefits under the Thrift Savings Plan to employees separated by a reduction in force, as provided pursuant to section 347.

(6) The authority to establish skill training programs in the Department of Defense, as provided in section 348.

(b) REQUIREMENT FOR PROMPT IMPLEMENTATION.—The Secretary of Defense, subject to such regulations as may be prescribed by the Director of the Office of Personnel Management, shall ensure the prompt implementation of the authority established in section 345 to provide separation benefits and to restore certain leave.

SEC. 1095. COMMUNITY TRANSITION INITIATIVES.

(a) ECONOMIC ADJUSTMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that policies and procedures required pursuant to section 331 are issued not later than 90 days after the date of the enactment of this Act, and to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers.

(b) ECONOMIC, CONVERSION, AND STABILIZATION ASSISTANCE.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to ensure the prompt and effective delivery of assistance under the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note), as amended by sections 331 and 332, to communities, businesses, and workers substantially and seriously affected by reductions and defense expenditures.

(c) IMPACT AID.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the authority provided in section 333 to furnish assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

SEC. 1096. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE CONVERSION AND TRANSITION INITIATIVES.

(a) PUBLIC INFORMATION REQUIREMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that, not later than 90 days after the date of the enactment of this Act, policies and procedures are issued to provide for wide public dissemination of the opportunities to participate in programs authorized pursuant to sections 802, 804, and 805.

(b) PROGRAMS IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the following programs, requirements, and authorities:

(1) The defense dual-use technology research and development programs referred to in section 802.

(2) The defense dual-use manufacturing technology programs referred to in section 804.

(3) The national defense technology and industrial base dual-use assistance extension programs.

(4) The requirements and authorities provided under section 807 for the Small Business Innovation Research Program.

(c) COMMENCEMENT OF OPERATIONS BY THE OFFICE OF TECHNOLOGY TRANSITION.—Notwithstanding section 803(b) of this Act, the Office of Technology Transition established by section 803(a) shall commence operations not later than 120 days after the date of enactment of this Act.

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 2917

Mr. D'AMATO (for himself and Mr. MOYNIHAN) proposed an amendment to the bill S. 3114, supra, as follows:

At the end of the bill insert the following title:

SECTION I. SHORT TITLE.

This Act may be cited as the "Calverton Pine Barrens Preservation Act".

SEC. II. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Pine Barrens, a forest of pine trees extending across Long Island, New York, protect and replenish the Island's sole-source aquifer and require well-planned protection strategies.

(2) The Department of Defense owns 3234 acres of the Pine Barrens which serve as a buffer zone surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York, and provide numerous benefits to the public and wildlife.

(3) The General Services Administration has suggested selling portions of the Pine Barrens described in paragraph (2) and under Federal law, such portions could be sold for commercial development.

(4) The New York State Government and local governments have an interest in preserving the Calverton Pine Barrens in its natural state.

(b) PURPOSE.—The purpose of this Act is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

SEC. III. CALVERTON PINE BARRENS PROHIBITED FROM BEING COMMERCIALLY DEVELOPED.

In the event that any part of the Calverton Pine Barrens is declared to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall designate that part a protected tract. The protected tract, or any part thereof, may not be disposed of in any way that would allow commercial development to take place on it. If the protected tract, or any part thereof, is ever conveyed to an entity which uses it for commercial development, ownership of the protected tract shall revert to the United States.

SEC. IV. DESCRIPTION OF THE CALVERTON PINE BARRENS.

The Calverton Pine Barrens is the land of not less than 3234 acres located on Department of Defense land surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York.

SASSER (AND OTHERS) AMENDMENT NO. 2918

Mr. SASSER (for himself, Mr. BUMPERS, Mr. JEFFORDS, Mr. LEVIN, Mr. JOHNSTON, Mr. ROBB, Mr. DECONCINI, Mr. SARBANES, Mr. MOYNIHAN, Mr. DASCHLE, Mr. RIEGLE, and Mr. SIMON proposed an amendment to the bill S. 3114, supra, as follows:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,300,000,000 may be obligated for the Strategic Defense Initiative.

BUMPERS (AND OTHERS) AMENDMENT NO. 2919

Mr. BUMPERS (for himself, Mr. SASSER, Mr. LEVIN, and Mr. JEFFORDS) proposed an amendment to amendment No. 2918 proposed by Mr. SASSER (and others) to the bill S. 3114, supra, as follows:

On page 58, strike out line 18 and all that follows through page 60, line 3, and insert in lieu thereof the following:

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,301,000,000 may be obligated for the Strategic Defense Initiative.

SPECTER AMENDMENT NO. 2920

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 3114, supra, as follows:

At the appropriate place, insert:

SECTION 1. EMERGENCY ASSISTANCE FOR REFUGEES OF CROATIA, SLOVENIA, AND BOSNIA-HERCEGOVINA.

There are authorized to be appropriated $25,000,000 to provide emergency temporary housing assistance for refugees and displaced persons from Croatia, Slovenia, and Bosnia-Hercegovina.

SPECTER (AND OTHERS) AMENDMENT NO. 2921

(Ordered to lie on the table.)

Mr. SPECTER (for himself, Mr. WOFFORD and Mr. SEYMOUR) submitted an amendment intended to be proposed by him to the bill S. 3114, supra, as follows:

On page 333, between lines 13 and 14, insert the following new section:

SEC. 810. EXPANSION OF NON-DEPARTMENT PARTICIPANTS IN DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.

Section 2271(b) of title 10, United States Code (as redesignated by section 802(a)(2)), is amended by inserting "federally owned or operated industrial facilities," after "Federal laboratory or laboratories,".

In section 2(b), insert after the item relating to section 809 the following new item:

SEC. 810. EXPANSION OF NON-DEPARTMENT.

Subparagraph (b) of section 2523 of title 10, United States Code, is amended by striking the "," after "laboratory" and inserting the following: "federally owned industrial facilities,".

SPECTER AMENDMENT NO. 2922

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 3114, supra, as follows:

At the appropriate place in the bill insert the following:

SEC. 2823. COMPTROLLER GENERAL REVIEW OF THE COSTS OF A BASE CLOSURE OR REALIGNMENT

(a) REVIEW REQUIRED.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by inserting after section 2903 the following new section:

"SEC. 2903A. CONSIDERATION OF COSTS OF CLOSURE OR REALIGNMENT.

"(a) REVIEW OF PRECEDING CLOSURE AND REALIGNMENT RECOMMENDATIONS.—In the report of the Comptroller General of the United States required under section 2903(d)(5)(B) to be submitted to the Commission, the Comptroller General shall review the direct and indirect costs of carrying out the closure or realignment of each military installation recommended for closure or realignment by the Commission in the preceding report transmitted by the President to the Congress under section 2903(e).

"(b) RECONSIDERATION OF RECOMMENDATIONS BY COMMISSION.—If the Comptroller General determines from the review required by subsection (a) that the direct and indirect costs of carrying out the closure or realignment of a military installation previously recommended for closure or realignment is likely to exceed by 50 percent or more the cost cited in the materials transmitted by the Secretary of Defense that were used to justify the closure or realignment of that military installation, the Commission shall—

"(1) reconsider, as part of its review under section 2903(d), the cost-effectiveness and continued desirability of the closure or realignment of that military installation in light of the most recent available cost data; and

"(2) transmit its conclusions and recommendations following that reconsideration to the President as part of the report required by section 2903(d)(2).

"(c) USE OF CLOSURE AND REALIGNMENT CRITERIA.—In reconsidering the closure or realignment or a military installation pursuant to subsection (b), the Commission shall reconsider each such military installation on a separate and individual basis, and not as a part of any grouping of military installations, based on the final criteria prepared by the Secretary pursuant to section 2903(b)(2).

"(d) INFORMATION.—The Secretary of Defense and Comptroller General shall assist the Commission, to the extent requested, in the Commission's reconsideration under subsection (b) of the closure of realignment of a military installation and review of cost data made available relating to such closure or realignment.

"(2) Nothing in this subsection shall be construed to permit the Secretary of Defense to make information available to the Commission which is not also made immediately available to the Congress and the Comptroller General.

"(3) The Commission shall provide the Comptroller General an opportunity to comment on any information provided by the Secretary to assist the Commission to carry out this section.

"(4) The Commission shall provide any interested Member of Congress an opportunity to comment on any information provided by the Secretary to assist the Commission to carry out this section and any comments of the Comptroller General regarding the information.".

"(b) EFFECT ON CURRENT CLOSURES AND REALIGNMENTS.—The report of the Comptroller General of the United States required by the Department of Defense Appropriations Act, 1992 (Public Law 102-172) and evaluating the costs of the closure or realignment of certain military installations shall be submitted to the Commission as part of the report of the Comptroller General required in 1993 under section 2903(d)(5)(B) of the Defense Base Closure and Realignment Act of 1990.

ENTERPRISE ZONE TAX INCENTIVES ACT

SPECTER AMENDMENT NO. 2923

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

On page 885, line 20, insert "OR NEW AUTOMOBILES" after "HOMES".

On page 886, line 5, insert "OR NEW AUTOMOBILE" after "HOME".

On page 886, line 14, strike "or".

On page 886, line 18, strike the period and quotation marks and insert "; or".

On page 886, between lines 18 and 19, insert: "(iii) to the extent such distributions are made during 1992 and 1993 and are used within 60 days to purchase a new automobile".

On page 892, line 11, insert ", distributions during 1992 and 1993 which are used within 60 days to purchase a new automobile," before "or".

On page 892, line 21, insert ", for distributions during 1992 and 1993 which are used within 60 days to purchase a new automobile," before "or".

NORTHERN CHEYENNE WATER RIGHTS SETTLEMENT ACT

DANFORTH AMENDMENT NO. 2924

Mr. SIMPSON (for Mr. DANFORTH) proposed an amendment to the bill (S. 1607) to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes; as follows:

On page 36, strike line 8 and insert the following:

SEC. 12. APPLICATION OF PROVISIONS REGARDING ALLOCATION OF WATER RESOURCES.

(a) FINDING.—Congress finds that the allocation of water resources to the Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

(a) APPLICATION.—The provisions of this Act regarding the allocation of water resources to the Tribe shall not be construed to be applied to nor be precedent for any other Indian water right claims.

SEC. 13. EFFECTIVE DATE OF SETTLEMENT.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the energy conservation implications of beverage container recycling, as outlined in S. 2335.

The hearing will take place on Thursday, September 17, 1992, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Black Cordes.

For further information, please contact Leslie Black Cordes of the committee staff at 202-224-9607.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, August 12, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2975, the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1992; S. 3095, Jena Band of Choctaws Louisiana Restoration Act; and for other purposes, to be followed immediately by an oversight hearing on Indian trust fund management.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. FORD. The Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on August 7, 1992, at 10 a.m. in room 418 of the Russell Senate Office Building. The legislation scheduled for markup is as follows: S. 2575, the proposed Veterans Health Programs Improvement Act of 1992, and committee prints of S. 2973, the proposed Women Veterans Sexual Trauma Services Act of 1992, S. 2974, relating to the Court of Veterans Appeals; S. 3108, the proposed Veterans Home Loan Program Revitalization Act of 1992.

The PRESIDING OFFICER. without objection, it is so ordered.

COMMITTEE OF FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, August 7, at 10 a.m. to conduct a nomination hearing.

NOMINATION

Mr. Anthony C. E. Quainton, of the District of Columbia, to be Assistant Secretary of State for Diplomatic Security.

The PRESIDING OFFICER. without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Friday, August 7, at 9:30 a.m. for a hearing on the subject: CFO Act and Army Audit.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HAITIANS—THE FORGOTTEN REFUGEES

• Mr. DECONCINI. Mr. President, I would like to take this opportunity to address the serious and continuing situation in Haiti. The administration's handling of the Haitian crisis has been inconsistent with respect to what our country holds to be the most basic notion of human rights. The events that have transpired since last September are a major scar on America's human rights record.

Before I discuss the mistreatment of the Haitian refugees, I would first like to applaud the decision of the Federal Appeals Court in New York on July 29, 1992. The court said that Haitians interdicted at sea must be given the opportunity to state their reasons for fleeing Haiti, and also given the chance to pursue asylum in the United States if those stopped have a well-grounded fear of persecution. This decision overturns President Bush's Executive order of May 24 that ordered the Coast Guard to immediately return all Haitians to Haiti, without an opportunity to gain asylum.

On September 30, 1991, the President of Haiti, Jean-Bertrand Aristide, was ousted in a coup d'etat by a section of the military. President Aristide had been elected only a year earlier in the first free and fair election in the history of the country. After 30 years of dictatorship under Francois DuValier and his son, Jean-Claude, Aristide's election was a celebrated event not only in Haiti, but throughout the free world. Tragically, since his ouster, many atrocities have occurred within the country. The old Duvalist system of repression has targeted supporters of President Aristide. Widespread killing, arbitrary arrests, tortures, beating, and disappearances have all been reported. As a result of these human rights violations, many Haitians have taken to the seas. In fact, approximately 37,000 Haitian boat people have been interdicted by the United States Coast Guard.

Over the last decade, the administration's policy of interdicting Haitian boat people has changed repeatedly. In 1981, the Reagan administration established the interdiction program. The program allowed the Coast Guard to stop and search private Haitian vessels thought to be transporting undocumented Haitians. Under the agreement, made with dictator Jean-Claude Duvalier, passengers aboard these vessels were also allowed to be interrogated. Haiti is the only country with which the United Stares has such an alien migrant interdiction agreement.

Between 1981 through 1990, 22,940 Haitians were interdicted, with the inteviewing process taking place aboard the boats of these desperate individuals. Oftentimes, the passengers were exhausted and staring from being at sea for several days. Most Haitians did not understand the purpose of the interview. As a result, only 11 Haitians qualified for asylum.

A change in the interviewing policy in March 1991 by the Immigration and Naturalization Service [INS] led to more Haitians qualifying for asylum. The new policy explained the purpose of the interview and was conducted in private to allow those interdicted to speak more candidly. Between March 1991 and October 1991, 20 interdicted Haitians were allowed to apply for asylum, twice the number allowed in the previous 10 years.

Immediately after the coup, the number of Haitian boat people dramatically increased. So many Haitians were interdicted at sea that United States Coast Guard cutters became overcrowded. Haitians were then taken to the U.S. Naval Base at Guantanamo Bay, Cuba. Under the new INS screening process, 34 percent of those interviewed at Guantanamo were found to have a justified fear of harm if returned to Haiti. The continuing number of Haitians interdicted by the Coast guard led to Guantanamo being filled to capacity. In November 1991, the administration then chose to begin forcibly repatriating Haitians, leading to a legal battle over the treatment of Haitians in the United States Federal courts.

On November 19, 1991, in Haitian Refugee Center, Inc. versus Baker, United States District Judge Donald L. Graham issued a temporary restraining order [TRO] that prevented the forced repatriation of Haitians interdicted by the United States Government. That order was extended by Judge Clyde Atkins until December 3, 1991. Two weeks later, however, the 11th Circuit Court of Appeals, in a 2-to-1 decision, overturned the district court. The appeals court sided with the administration in holding that the Haitians were not entitled to protection because they were not within the United States. Hours later, Judge Atkins issued another TRO, which was subsequently overruled by the 11th circuit in another 2-to-1 decision. A third TRO was issued by Judge Atkins, that the 11th Circuit Court of Appeals overturned, once again siding with the administration. Additionally, the U.S. Supreme Court lifted the ban on repatriation in an emergency ruling by an 8-to-1 decision on January 31, 1992. As a result of this decision, more than 23,000 Haitians have been returned to Haiti, while 10,500 were granted entry to the United States. There are only a few hundred Haitians remaining at Guantanamo Bay.

In response to another large onslaught of Haitian boat people seeking to enter the United States, President Bush issued an Executive order on May 24, 1992. The order instructed the Coast Guard to immediately return to Haiti, all Haitians intercepted without any prescreening, or an opportunity to gain asylum. Since this order, over 3,000 Haitians have been interdicted, and all returned to Haiti without an interview. The administration claims this policy is intended to deter boat people from leaving the country in order to protect Haitians who are traveling in boats that are not equipped for the 600-mile sea journey. As a result, all applications for asylum must now go through the U.S. Embassy in Port-au-Prince. The administration justifies this action by stating that our international legal obligations under the U.N. Protocol Relating to the Status of Refugees and the U.N. Convention Relating to the Status of Refugees does not extend to persons located outside the territory of the United States.

The convention and the protocol establish the basic norm of nonrefoulement, which prohibits States from expelling or returning refugees to frontiers or territories where they would be threatened on account of race, religion, nationality, or membership of a particular social group or political opinion.

Although the number of Haitian boat people has diminished dramatically, the number of Haitians seeking asylum has not. The administration's policy to have all Haitians seeking asylum to report to our Embassy in Port-au-Prince has led to 100 applications per day. The State Department has admitted that over 20,000 Haitians who could legally migrate to the United States are stuck because the visa applications have not been processed. The most recent statistics show that of the 7,000 Haitians who have sought asylum at the U.S. Embassy in Port-au-Prince, only 82 have been granted admission to the United States.

There are several problems associated with the handling of the Haitian crisis. First, the indiscriminate forced repatriation of Haitians is deplorable. In 1989, the administration led the charge in condemning the British Government for their forced repatriation of Vietnamese from Hong Kong. That pressure led the British to stop this policy. The administration no longer condemns forced repatriation of Vietnamese boat people. Moreover, the British have begun to reimplement their policy of forcibly repatriating Vietnamese, and the administration is now silent on the issue. Is this because we no longer believe forced repatriation is a violation of international law? Are we silent because the administration is doing exactly what it condemned the British Government for doing in Hong Kong? This double standard is unacceptable. If the British Government should not send human beings back to a country run by tyranny, we should not either. Furthermore, forced repatriation does nothing to address the reasons why Haitians leave their homeland.

Second is the claim that all Haitian boat people are leaving their country for economic reasons. While it is true that Haiti is one of the most economically depressed countries in the world, there are many Haitians leaving to escape the repression of the military forces. It is no secret that anyone who is a supporter of the Aristide government is in jeopardy of political persecution. The number of Haitians found to be eligible for asylum for the month of May 1992 was 40 percent. Now forced repatriation could potentially become a standard practice as the leader of the free world has chosen to isolate himself from other countries' problems.

The economic conditions in Haiti have worsened since the embargo was put in place by the Organization of American States [OAS] shortly after the coup. However, there are several countries, including some members of the OAS, who have not honored the embargo. The holes in the embargo allow the aristocracy, who supported the overthrow of President Aristide, to continue to purchase imported goods. While the rich continue to live lavishly, the suffering of the poor has increased. Humanitarian aid has been radically cut. Food and medical assistance have been reduced and agricultural assistance and reforestation programs halted. The bottom line on the embargo is that while the poor people of Haiti are hurting, the aristocracy is uncomfortable at worst. These conditions set up a time bomb that could explode in political unrest at any moment.

Third, is the administration's refusal to allow human rights monitoring organizations access to investigate asylum processing at Guantanamo. As cochairman of the Helsinki Commission, I believe such data is crucial to effectively monitor compliance with all international refugee standards. The administration cannot hide their practices and expect other countries to cooperate later in similar circumstances.

Congress has attempted to resolve the Haitian crisis through legislation. On February 27, 1992, the House passed the Haitian protection bill which imposes a 6-month moratorium on the forced repatriation of Haitians in United States custody outside the United States as of February 5, 1992; requires a study and report of the Haitian situation since last September's coup; and sets aside for Haitians 2,000 refugee slots out of a worldwide total of 132,000 already federally funded refugee admission slots for fiscal year 1992 that go through the normal INS process. On November 26, 1991, I introduced a bill that would grant temporary protected status [TPS] for Haitian refugees. TPS assures that Haitians in the United States or in United States custody are protected until democratic rule is restored in Haiti. Unfortunately, these bills have not been enacted to prevent the administration from repatriating the Haitian boat people. There is also legislation pending that will help to diminish the scar which the administration has inflicted upon our country.

The Democracy in Haiti Act of 1992 codifies United States policy toward rebuilding democracy in Haiti. Specifically, it calls upon all governments to abide by the OAS-supported embargo of Haiti; supports the protocol agreement between President Aristide and the Parliamentary Negotiating Committee to Find a Permanent Solution to the Haitian Crisis signed on February 23, 1992; urges the ratification of a new prime minister, the separation of the police from the armed forces, and President Aristide's return to Haiti; supports the OAS proposal for a civilian OAS–DEMOC mission in Haiti and calls upon the international community to make a commitment to a sustained presence in Haiti throughout the process of establishing a democratic system. Additionally, the Secretary of State is directed to ensure appropriate burden sharing among OAS member governments and is authorized to make the following contributions to the OAS–DEMOC program: $3 million for fiscal year 1992, $5 million for fiscal years 1993 and 1994, and $6 million for fiscal years 1995 and 1996. Finally, Haitian nationals involved in the coup are excluded from entering the United States and their United States assets can be seized.

The Haitian Refugee Protection Act of 1992 will ensure against the forced return of asylum seekers to countries where they would have a well-founded fear of persecution. In the case of Haitians, the Coast Guard which encounters Haitians at sea would pick them up and provide them with some kind of screening process for refugee status.

Mr. President, we have a moral responsibility to protect those who seek refuge from persecution in their country. Since the ouster of President Aristide, many lives have been lost, many Haitians have been imprisoned, and thousands eligible for asylum are still waiting to be processed. The people of Haiti have lost their basic freedoms less than 1 year after their first democratic election. International law mandates that those who flee persecution should not be forcibly returned to the country they fled. We should abide by that declaration. Currently, most Haitians who fear reprisal for supporting President Aristide can only apply for asylum at the embassy in Port-au-Prince. We must protect those individuals in the name of democracy. We live in a world that has begun to see democracy spread throughout the former Soviet Union and Eastern Europe. Surely, we should do all that is necessary to protect democracy in our own backyard.

I urge my colleagues to join me in voicing their opposition to the administration's treatment of the crisis in Haiti and of the Haitian boat people. The unrest in Haiti will continue to be a problem in our hemisphere until we implement policies that provide a long term solution.

I also urge my colleagues to support legislation which will alleviate the problems that the administration has perpetuated through its treatment of the Haitian crisis. The Democracy in Haiti Act of 1992 and the Haitian Refugee Protection Act will be a step in the right direction in restoring stability in a country struggling to achieve democracy. As the leader of the free world, the United States has a moral obligation to support their struggle.•

THE 100 YEARS OF SERVICE

• Mr. D'AMATO. Mr. President, I rise today to honor and praise the Monroe County Bar Association on the occasion of their founding 100 years ago. At its inception, the Monroe County Bar Association has proposed that its mission be: To improve the quality and accessibility of justice; promote respect for and understanding of the law; enhance professional growth, fulfillment, excellence, collegiality, and diversity among its members; and serve as the voice of the profession. They have had 100 years of keeping to this mission, and for this I wish to commend the Monroe County Bar Association.

Founded in 1892, the Monroe County Bar Association filed its articles of incorporation with the names of 25 attorneys on December 2. Today the association membership numbers over 2,000. Originally there were five committees. Today the association has 37 committees, three special committees, and eight sections.

The Monroe County Bar Association has strongly supported a return to an appointive system of selection of judges rather than an elective judiciary. This was the opinion expressed by William F. Cogswell in 1843 and the association still supports this position today.

Access to the legal system has always been an association priority. In 1949, the association established a lawyer referral service to provide access to a lawyer for members of the public who did not have an attorney. In subsequent years the Monroe County Bar Association established a coordinated assigned counsel system which later became the public defender's office. In 1988 the association was instrumental in setting up an assigned counsel administrator's office to coordinate the appointment of attorneys when there is a conflict of interest in the public defender's office. Among the association's other accomplishments is its involvement in the structuring of the Monroe County Legal Assistance Corp., the local arm of the federally funded Legal Services Corporation; the establishment of the first separately incorporated pro bono service in New York; and the Volunteer Legal Services Corp., for which the Monroe County Bar Association won the first Harrison Tweed Award from the American Bar Association and National Legal Aid and Defenders Association in 1982. In 1991 the community legal intake and referral service was started to coordinate the screening and referral of clients to legal service agencies in Monroe County.

For the past 30 years, the association has been involved in various public and law-related education projects, including radio and television programs. This year the association will launch a people's law school.

As part of its centennial celebration, the association has moved into a bar center, which not only houses the administrative offices but also an educational facility which will enable the association's academy of law to present all but its largest continuing legal education programs in-house.

The Monroe County Bar Association has a long, proud tradition of serving Monroe County. Their legacy is profound and deserving of kudos and accolades. It is my hope that my colleagues will join me in commending this momentous achievement and in wishing the Monroe County Bar Association many more prosperous years.•

COMMEMORATING THE CAREER OF DR. W. EUGENE MAYBERRY

• Mr. DURENBERGER. Mr. President, everyone knows that the practice of medicine has changed enormously during the course of this century. Technological advances in the diagnosis and treatment of illness have been literally too numerous to comprehend. We take for granted today medical treatments that were not even thought of in our youth.

No one is more aware of the revolution in medicine than Dr. Eugene Mayberry, who, as chief executive officer of the Mayo Foundation, guided the foundation through many changes. Dr. Mayberry retired in June, ending a 36-year career marked by numerous highlights.

When he first came to Minnesota in 1956 as a Mayo Foundation fellow, nearly a century had passed since the Doctors Mayo watched over the 27 beds at St. Marys Hospital on the Minnesota prairie. During his tenure, Dr. Mayberry would see the Mayo Clinic grow to its current level of 17,377 personnel and 45 separate facilities, enabling 297,877 patients to be registered in 1990 alone. Today, the foundation, in partnership with St. Marys and Rochester Methodist hospitals for the world's largest private medical center, offering every kind of medical expertise, treatment, and diagnostic tool.

Dr. Mayberry's career at Mayo includes a long list of consulting, academic, and board positions. He has been an important part of the community through his involvement in the arts and on many select committees including the Governor's task force on torture victims, the Governor's committee on the economic future of Minnesota, the Minnesota business partnership, and the Academic Excellence Foundation, in addition to numerous corporate activities.

Mr. President, I have often met with Dr. Mayberry in my efforts to craft legislation that will reform the many problems with our current health care system. I am proud of my association with Dr. Mayberry, and of my enduring involvement in the institution he lead for so many years.

It is clear to me that the Mayo Clinic—its very name synonymous with excellence in the practice of medicine—has Dr. Mayberry to thank for its worldwide reputation.•

COMMEMORATING THE GOLDEN JUBILEE OF THE PRIESTHOOD OF FATHER BERNARD H. LOUGHREY

• Mr. DECONCINI. Mr. President, I would like to take this opportunity to extend my congratulations to Father Bernard H. Loughrey, pastor of the St. Augustine Indian Mission at the Isleta Pueblo in New Mexico, who will be celebrating the 50th anniversary of his priesthood on August 28.

I learned of Father Loughrey and his lifelong dedication to native Americans through Msgr. Paul A. Lenz, a member of the board of directors of the Bureau of Catholic Indian Missions. As a Senator from Arizona, a State with a large Indian population, I wanted to commend Father Loughrey for his commitment to these wonderful Americans who contribute so much to our culture.

Father Loughrey was born in Philadelphia on March 21, 1917, and was ordained a priest of that diocese on August 28, 1942. After his ordination, he decided to begin his priesthood in Santa Fe, NM, where he could work with the Indians—work he has continued for the past 50 years. His life and devotion to the Indians has been returned in full measure.

Father Loughrey is much loved by his parishioners who fill the St. Augustine Indian Mission Church each Sunday. The church is a beautiful place of worship which is visited by thousands of people each year who come to see the old paintings and to visit the museum containing many Indian artifacts.

A Mass will be celebrated on August 28, the Patronal Feast Day of the parish, to commemorate Father Loughrey's golden jubilee. After the Mass, the Pueblo Indians are planning a gala celebration which will include good food, music, and dancing. I extend my heartiest congratulations to Father Loughrey and wish him and all those who will be celebrating this wonderful event with him, a very joyous occasion.•

SENATE ACTION ON H.R. 4004

• Mr. GORTON. Mr. President, I appreciate the willingness of my colleagues on the select committee to include the provision requiring a study by tribal and Federal judges of Federal court review of Indian Civil Rights Act [ICRA] claims. The distinguished chairman and vice chairman have graciously included this provision in the bill.

Briefly, this provision requires several things to happen to undertake this study. First, the provision sets up an eight-member panel of tribal and Federal judges, equally divided. Second, it requires the panel to review the 10-year history of Federal court review of Indian Civil Rights Act claims. It asks the panel to examine the burden of reviewing the claims on both the tribal and Federal court systems. The provision requires the panel to make its recommendation to the Congress, the tribal courts, and the Federal courts regarding the appropriate level of Federal review of ICRA claims.

The final important provision requires the panel's study to be complete by a date certain, 18 months after the empaneling of the Tribal Judicial Conference created in the bill. The report must be completed within this time frame or the conference will not be able to continue funding the tribal courts through the grant program created by this bill. This assures that the study will actually see the light of day.

With this provision in the Senate-passed version of the bill, I look forward to supporting the legislation in conference with the House. There are significant differences with the House bill. It is my understanding, however, that my chairman will insist on this provision during this conference with the House on H.R. 4004.

Mr. INOUYE. As chairman of the Select Committee on Indian Affairs, I am pleased to assure my colleague of my commitment to support his amendment in House-Senate conference on H.R. 4004 and to work for its inclusion in the measure that is adopted by the conference. I believe that this is a constructive approach to addressing the issue of whether Federal court review of actions arising under the Indian Civil Rights Act and whether such review is warranted or necessary.

The involvement of members of the Federal bench in this study, I believe, is critically important to assuring that any proposal to place an additional caseload burden on the Federal courts is given careful consideration.

I am glad that my colleague has noted that the study is anticipated to be completed 18 months after the empaneling of the Tribal Judicial Conference, rather than 18 months following enactment of this measure, as the language of the amendment currently provides. Because we cannot anticipate funding for at least 12 months following the date of enactment of this measure, if the language of the amendment is not corrected in conference, we will have authority for a study to proceed but no funding to enable its undertaking. With that technical correction, I believe that there will be support amongst the members of the select committee for the study.•

COMMEMORATING THE CAREER OF SISTER GENEROSE GERVAIS

• Mr. DURENBERGER. Mr. President, life often takes us down unexpected paths. We set our sights on goals we believe we can reach, and begin our journey. So it was with Sister Generose Gervais, who, seeking a life of austerity in service to God, set out from the small farm community of Currie, MN, and went on to become a leading hospital administrator in my home State.

Sister Generose began her journey at the Community of Sisters of Saint Francis in 1938. She went on to earn a teaching licentiate at the College of Saint Teresa in Winona in 1941, and next earned a bachelor of science degree in home economics from the University of Wisconsin—Stout.

It soon became evident that Sister Generose was destined to serve in ways she had not foreseen during her youth in Currie. Her decision to enter the hospital administration program at the University of Minnesota was a milestone, leading her to become, in 1971, executive director of Saint Marys hospital in Rochester. She was only the fourth administrator in the 82-year history of Saint Marys, and as it turned out, she would be the last sister to serve as administrator of the hospital.

I met Sister Generose in 1977 during my campaign for Governor, and I have sustained a dialog with her in my acquisition of wisdom about what works well in Minnesota medical care.

An excellent article by her friends at the Mayo Foundation chronicles Sister Generose's career, which blends an obvious devotion to service with great leadership abilities. Her friends wrote that the lessons of her early years served her throughout her life:

> Her childhood familiarity with common tasks served her well at Saint Marys. As administrator, it was not unusual for her to work a 12-hour day and then continue until midnight, with the assistance of Sister Lucas Chavez, canning pickles, jams and jel-

lies to be sold at the Sisters' Annual Bazaar for the benefit of the Poverello fund.

Milestones of her career include many firsts for women administrators: She was the first woman to serve as a member of the board of directors of the Federal Reserve Bank of Minneapolis, the Rochester Chamber of Commerce, and the First National Bank of Rochester. She received Alumni Distinguished Service Awards from both the University of Wisconsin-Stout and the University of Minnesota. In 1980, the College of Saint Teresa awarded her the Teresa of Avila Award, and in 1985 she received the Pro Ecclesiase et Pontifice Medal from Pope John Paul II.

She continues to serve the hospital as a consultant and as president of the Poverello Foundation. Recently, the Mayo Foundation honored her in a ceremony at the site of Saint Marys newest building, which will bear the name Generose Building.

Mr. President, it is with great pride that I recognize the tremendous contributions of Sister Generose Gervais. In the words of those who know her best, "She is a strong and gentle witness of who woman is and can be in our world, in our time."•

RECOGNITION OF YALE-NEW HAVEN MAKING THE LIST OF THE NATION'S TOP HOSPITALS

• Mr. DODD. Mr. President, I rise today to congratulate Yale-New Haven Hospital for its recognition in a survey by U.S. News & World Report naming the best hospitals in the country.

This is the third year the survey has been conducted in which more than 1,000 randomly selected doctors identified the Nation's leading hospitals in 16 specialty areas. Based on a broad range of qualifications, 43 hospitals were noted as sources of top quality medical care. Among the criteria considered were quality of medical staff, nursing care, availability of state-of-the-art technology, competent discharge planning, and emotional support for patients and their families.

Of the 16 specialty areas Yale-New Haven was listed as one of the 8 best in gynecology and among the leading 10 in psychiatry. This is especially noteworthy considering that this is the first year the hospital was included in the report.

Yale-New Haven is one of Connecticut's finest and most prestigious hospitals. Since 1813, it has been committed to the education of medical professionals and services to patients, as well as the pursuit and advancement of the study of medicine. Throughout its tenure it has led many advancements in research and clinical medicine that have contributed to the improvement of health and health care. Consequently, it has earned itself a reputation as one of the principal medical centers in the country.

As an institution concerned with the changing needs of our society, Yale-New Haven has developed diverse and innovative programs to cope with these changes. Persistent efforts have been directed toward alleviating the challenges posed to the community by AIDS, poverty, and drug abuse. To improve the quality of care available to disadvantaged New Haven residents, health care professionals have volunteered to provide free medical services. Also, the hospital has cooperated with local businesses, community organizations, and government to the revitalization of the community.

I am confident that Yale-New Haven will continue its role as a leader in medicine and health across the Nation. Mention in the U.S. News & World Report as one of the best is illustrative of its invaluable contributions to the community, State, and Nation.•

FEDERAL TRADE COMMISSION ACT AMENDMENTS OF 1992

• Mr. BRYAN. Mr. President, I ask that a copy of my bill, S. 3150, introduced on August 6, 1992, be printed in the RECORD.

The text of S. 3150 follows:

S. 3150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Trade Commission Act Amendments of 1992".

UNFAIR METHODS OF COMPETITION

SEC. 2. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following new subsection:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act (15 U.S.C. 1 et seq.), such method of competition would be held to constitute State action.".

AGRICULTURAL COOPERATIVES

SEC. 3. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 24 and section 25 as sections 26 and 27, respectively, and by inserting immediately after section 23 the following new section:

SEC. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq., commonly known as the Capper-Volstead Act), is not a violation of any of the antitrust Acts or this Act.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

COMPENSATION IN PROCEEDINGS

SEC. 4. (a) REPEAL.—Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is repealed, and subsections (i), (j), and (k) of section 18 are redesignated as subsections (h), (i), and (j), respectively.

(b) CONFORMING AMENDMENT.—Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking "subsection (i)" and inserting in lieu thereof "subsection (h)".

KNOWING VIOLATIONS OF ORDERS

SEC. 5. (a) EXCEPTION FOR CONSENT ORDERS.—Section 5(m)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1)(B)) is amended by inserting ", other than a consent order," immediately after "order" the first time it appears.

(b) REVIEW OF DETERMINATION OF LAW.—Section 5(m)(2) of the Federal Trade Commission Act (15 U.S.C. 45(m)(2)) is amended by adding at the end the following: "Upon request of any party to such an action against such defendant, the court shall also review the determination of law made by the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a).".

PREVALANCE OF UNLAWFUL ACTS OR PRACTICES

SEC. 6. Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended by adding at the end the following new paragraph:

"(3) The Commission shall issue a notice of proposed rulemaking pursuant to paragraph (1)(A) only where it has reason to believe that the unfair or deceptive acts or practices which are the subject of the proposed rulemaking are prevalent. The Commission shall make a determination that unfair or deceptive acts or practices are prevalent under this paragraph only if it has issued cease and desist orders regarding such acts or practices, or any other information available to the Commission indicates a pattern of unfair or deceptive acts or practices.".

EFFECTIVE DATE OF ORDERS

SEC. 7. (a) ORDERS SUBJECT TO PETITION FOR REVIEW.—Section 5(g)(2) of the Federal Trade Commission Act (15 U.S.C. 45(g)(2)) is amended to read as follows:

"(2) Upon the sixtieth day after such order is served, if a petition for review has been duly filed, except that any such orders may be stayed, in whole or in part and subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if (i) a petition for review of such order is pending in such court, and (ii) an application for such a stay was previously submitted to the Commission and the Commission, within the thirty-day period beginning on the date the application was received by the Commission, either denied the application or did not grant or deny the application; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending; or."

(b) ORDERS SUBJECT TO SECTIONS 5(m)(1)(B) AND 19(a)(2) OF FTCA.—Section 5(g)(3) of the Federal Trade Commission Act (15 U.S.C. 45(g)(3)) is amended to read as follows:

"(3) For purposes of subsection (m)(1)(B) and of section 19(a)(2), if a petition for review of the order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of thirty days from the date of issuance of a mandate of the

Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed; or".

(c) DIVESTITURE ORDERS.—Section 5(g)(4) of the Federal Trade Commission Act (15 U.S.C. 45(g)(4)) is amended to read as follows:

"(4) In the case of an order requiring a person, partnership, or corporation to divest itself of stock, other share capital, or assets, if a petition for review of such order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of thirty days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 8. (a) DEFINITIONS.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b–1(a)) is amended—

(1) in paragraph (2), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission";

(2) in paragraph (3), by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "acts or practices or methods of competition declared unlawful by a law administered by the Commission"; and

(3) in paragraph (7), by striking "unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "act or practice or method of competition declared unlawful by a law administered by the Commission".

(b) INVESTIGATIVE ACTIONS BY COMMISSION.—Section 20(b) of the Federal Trade Commission Act (15 U.S.C. 57b–1(b)) is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(c) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(1)), is amended by striking "unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1))" and inserting in lieu thereof "any act or practice or method of competition declared unlawful by a law administered by the Commission".

(d) APPLICABILITY OF SECTION 20 OF FTCA.—Section 20(j)(1) of the Federal Trade Commission Act (15 U.S.C. 57b–1(j)(1)) is amended by inserting immediately before the semicolon the following: ", any proceeding under section 11(b) of the Clayton Act (15 U.S.C. 21(b)), or any adjudicative proceeding under any other provision of law".

DEFINITION OF UNFAIR ACTS OR PRACTICES

SEC. 9. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), as amended by section 2 of this Act, is further amended by adding at the end the following new subsection:

"(o) The Commission shall have no authority under this section or section 18 to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.".

ADVERTISING

SEC. 10. (a) COMMERCIAL ADVERTISING.—The Federal Trade Commission shall have no authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1993, 1994, or 1995 under section 26 of such Act (as amended by sections 3 and 20 of this Act) for the purpose of initiating any new rulemaking proceeding under section 18 of such Act which is intended to or may result in the promulgation of any rule by the Commission which prohibits or otherwise regulates any commercial advertising on the basis of a determination by the Commission that such commercial advertising constitutes an unfair act or practice in or affecting commerce.

(b) EXCEPTIONS TO CERTAIN TITLE 18 RESTRICTIONS.—Section 1307(a)(2) of title 18, United States Code, is amended by striking "and which is" and all that follows through the end of subparagraph (B) and inserting in lieu thereof a period.

SERVICE OF PROCESS

SEC. 11. (a) AUTHORITY TO SERVE CERTAIN PERSONS.—Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served in any district.".

(b) PROCEDURES FOR SERVING PROCESS.—Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) Any process of the Commission under this section may be served by any person duly authorized by the Commission—

"(1) by delivering a copy of such process to the person to be served, to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served;

"(2) by leaving a copy of such process at the residence or the principal office or place of business of such person, partnership, or corporation; or

"(3) by mailing a copy of such process by registered mail or certified mail addressed to such person, partnership, or corporation at his, her or its residence, principal office or principal place of business.

The verified return by the person serving such process setting forth the manner of such service shall be proof of the same, and the return post office receipt for such process mailed by registered mail or certified mail as provided in this subsection shall be proof of the service of such process.".

PHYSICAL EVIDENCE AND CIVIL INVESTIGATIVE DEMANDS

SEC. 12. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b–1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) REQUIREMENTS OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material" the first time it appears;

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF PHYSICAL EVIDENCE.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

REPORT ON RESALE PRICE MAINTENANCE

SEC. 13. (a) REPORT TO CONGRESS.—The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives the information specified in subsection (b) of this section every six months during each of the fiscal years 1993, 1994, and 1995. Each such report shall contain such information for the period since the last submission under this section.

(b) CONTENTS OF REPORT.—Each such report shall list and describe, with respect to instances in which resale price maintenance has been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include the sum total of matters in each category specified in paragraphs (1) through (10) of this subsection, and copies of all such consent agreements and complaints executed by the Commission. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The description required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint or those complained about or those subject to investigation that have not otherwise been made public.

REPORT ON PREDATORY PRICING PRACTICES

SEC. 14. (a) REPORT TO CONGRESS.—The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives the information specified in subsection (b) of this section every six months during each of the fiscal years 1993, 1994, and 1995. Each report shall contain such information for the period since the last submission under this section.

(b) CONTENTS OF REPORT.—Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all such consent agreements and complaints executed by the Commission referred to in such report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies making the complaint or those complained about or those subject to investigation that have not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses).

INTERVENTION BY COMMISSION IN CERTAIN PROCEEDINGS

SEC. 15. (a) LIMITATION ON USE OF AUTHORIZED FUNDS.—The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal years 1993, 1994, and 1995, for the purpose of submitting statements to, appearing before, or intervening in the proceedings of, any Federal or State agency unless the Commission advises the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives, at least sixty days before any such proposed action, or, if such advance notice is not practicable, as far in advance of such proposed action as is practicable.

(b) CONTENTS OF ADVANCE NOTICE TO CONGRESS.—The notice required in subsection (a) of this section shall include the name of the agency involved, the date upon which the Federal Trade Commission will first appear, intervene, or submit comments, a concise statement regarding the nature and purpose of the proposed action of the Commission, and, in any case in which advance notice of sixty days is not practicable, a concise statement of the reasons such notice is not practicable.

RESOURCE ALLOCATION STUDY

SEC. 16. The Federal Trade Commission shall conduct an evaluation of the level of its personnel resources and the manner in which such resources are allocated. The Commission shall study—

(1) whether overall resources at the Commission are adequate to fulfill the Commission's responsibilities in the areas of competition and consumer protection;

(2) the distribution of personnel to individual offices of commissioners, departments, bureaus, and other units within the Commission, and whether the current allocation of personnel most efficiently enables the Commission to fulfill its statutory mandate;

(3) the number of personnel in supervisory positions, contrasted with those personnel in non-supervisory positions; and

(4) whether the amount of workyears devoted to research activities should be increased, and what results (if any) such an increase would produce.

The Commission shall transmit the results of such study, together with any recommendations that the Commission determines appropriate, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this Act.

FEDERAL-STATE COOPERATION

SEC. 17. The Federal Trade Commission shall review its statutory responsibilities to identify those matters within its jurisdiction where Federal enforcement is particularly necessary or desirable, and those areas that might more effectively be enforced at the State or local level. In identifying such areas, the Commission shall—

(1) consider the resources available to the Commission and the States, as well as particular rules that have been promulgated by the Commission;

(2) consult with the attorneys general of the States, representatives of consumers and industry, and other interested parties; and

(3) consider such other issues as will result in more efficient implementation of the statutory responsibilities of the Commission.

Not later than six months after the date of enactment of this Act, the Federal Trade Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information identified in paragraphs (1) through (3) of this section, together with specific recommendations for methods of achieving greater cooperation between the Commission and the States.

REPORT ON AUTOMOBILE REPAIR FRAUD

SEC. 18. (a) INVESTIGATION.—The Federal Trade Commission shall conduct an investigation into the practices of the automobile repair industry. In particular, the investigation shall address the nature and extent of automobile repair fraud.

(b) REPORT.—Within 9 months after the date of enactment of this Act, the Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the investigation conducted under subsection (a). The report shall include the Commission's recommendations on how the Commission and other Federal agencies can assist the States in combatting automobile repair fraud.

CREDIT REPAIR ORGANIZATIONS AND LOAN BROKERS

SEC. 19. (a) DEFINITIONS.—In this section, the following terms apply:

(1)(A) The term "advance fee" means any fee (including any advance payment of interest or other fees for any extension of consumer credit) which is assessed or collected by a loan broker from any person seeking the consumer credit before the extension of such credit.

(B) The term "advance fee" does not include—

(i) any amount that the loan broker can demonstrate is collected solely for the purpose of payment to unaffiliated, third party vendors for actual expenses incurred and payable before the extension of any consumer credit; or

(ii) any application fee or other charge assessed or collected—

(I) by a retail seller of property that is primarily for personal, family, or household purposes or automobiles; and

(II) in connection with a consumer credit transaction in which a purchase money security interest arising under an installment sales contract (or any equivalent consensual security interest) is created or retained against any such property or automobile being sold by the retail seller to the person seeking the extension of credit.

(2) The terms "consumer" and "credit" have the meanings given to such terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

(3)(A) The term "credit repair organization" means any person who sells, provides, or performs, or represents that such person can or will sell, provide, or perform, in return for the payment of money or other valuable consideration, a service for the express or implied purpose of—

(i) improving a consumer's credit record, history or rating; or

(ii) providing advice or assistance to a consumer with regard to the consumer's credit record, history, or rating.

(B) The term "credit repair organization" does not include—

(i) a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board, or a depository institution chartered by State;

(ii) any nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code;

(iii) a licensed real estate broker acting within the course and scope of that license;

(iv) a licensed attorney at law rendering services within the course and scope of that license;

(v) any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission acting within the scope of the Securities and Exchange Commission or the Commodity Futures Trading Commission regulations;

(vi) any consumer reporting agency acting within the course and scope of this title; or

(vii) any debt collector as defined in section 803 of the Fair Debt Collection Practices Act (15 U.S.C. 1692a), acting within the course and scope of that Act.

(4)(A) The term "loan broker" means any person who—

(i) for, or in expectation of, a consideration, arranges or attempts to arrange or offers to find for any individual, consumer credit;

(ii) for, or in expectation of, a consideration, assists or advises an individual on obtaining, or attempting to obtain, consumer credit; or

(iii) acts or purports to act for, or on behalf of, a loan broker for the purpose of soliciting individuals interested in obtaining consumer credit.

(B) The term "loan broker" does not include—

(i) any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act; 12 U.S.C. 1813(c)(2)), any insured credit union (as defined in section 101(7) of the Federal Credit Union Act; 12 U.S.C. 1752(7)), or any depository institution which is eligible for deposit insurance under the Federal Deposit Insurance Act or the Federal Credit Union Act and has deposit insurance coverage provided by any State;

(ii) any lender approved by the Federal Housing Administration, Farmers Home Administration, or Department of Veterans Affairs;

(iii) any seller or servicer of mortgages approved by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(iv) any consumer finance company, retain installment sales company, securities broker or dealer, real estate broker or real estate salesperson, attorney, credit card company, installment loan licensee, mortgage broker or lender, or insurance company if such person is—

(I) licensed by and subject to regulation or supervision by any agency of the United States or by the State in which the person seeking to utilize the services of the loan broker resides; and

(II) is acting within the scope of that license or regulation.

(b) PROHIBITED PRACTICES OF CREDIT REPAIR ORGANIZATIONS.—A credit repair organization shall not charge or receive any money or other valuable consideration prior to completion of the services that the credit repair organization has agreed to perform for the consumer and that are described in subsection (a)(1).

(c) PROHIBITED PRACTICES OF LOAN BROKERS.—(1) No loan broker may receive an advance fee in connection with—

(A) arranging or attempting to arrange consumer credit;

(B) offering to find for any individual consumer credit; or

(C) advising any individual as to how to obtain consumer credit.

(2) No loan broker may—

(A) make or use any false or misleading representations or omit any material fact in the offer or sale of the service of a loan broker; or

(B) engage, directly or indirectly, in any act that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a loan broker, notwithstanding the absence of reliance by the person to whom the loan broker's services are offered or sold.

(d) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Any violation of this section shall—

(1) be treated as a violation of a rule of the Federal Trade Commission issued pursuant to section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)); and

(2) be subject to enforcement by the Federal Trade Commission under the enforcement and penalty provisions applicable to violations of such rules.

(e) CRIMINAL PENALTY.—(1) Whoever knowingly violates subsection (b) or (c) shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(2) Section 981(a)(1)(C) of title 18, United States Code, is amended—

(A) by striking "title or a violation" and inserting in lieu thereof "title, a violation"; and

(B) by inserting ", or a violation of section 19 (b) or (c) of the Federal Trade Commission Act Amendments of 1992" immediately before the period.

(3) For purposes of section 3005(a) of title 39, United States Code, a violation of subsection (b) or (c) of this section by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations.

AUTHORIZATION OF APPROPRIATIONS

SEC. 20. Section 26 of the Federal Trade Commission Act, as so redesignated by section 3 of this Act, is amended—

(1) by striking "and" after "1981,"; and

(2) by inserting immediately before the period at the end the following: "; not to exceed $87,300,000 for the fiscal year ending September 30, 1993; not to exceed $90,100,000 for the fiscal year ending September 30, 1994; and not to exceed $92,900,000 for the fiscal year ending September 30, 1995, and such additional sums for the fiscal years ending September 30, 1993, and September 30, 1994, as may be necessary for increases in salary, pay, and other employee benefits as authorized by law".

EFFECTIVE DATE; APPLICABILITY

SEC. 21. (a) IN GENERAL.—Except as provided in subsections (b), (c), (d), and (e) of this section, the provisions of this Act shall take effect on the date of enactment of this Act.

(b) APPLICABILITY OF SECTION 2.—The amendment made by section 2 of this Act shall apply only with respect to proceedings under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of enactment of this Act. This amendment shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. This amendment shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(c) APPLICABILITY OF SECTIONS 7 AND 9.—The amendment made by sections 7 and 9 of this Act shall apply only with respect to cease and desist orders issued under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), or to rules promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

(d) APPLICABILITY OF SECTION 6.—The amendment made by section 6 of this Act shall apply only to rulemaking proceedings initiated after the date of enactment of this Act. The amendment shall not be construed to affect in any manner a rulemaking proceeding which was initiated before the date of enactment of this Act.

(e) APPLICABILITY OF SECTION 8.—The amendments made by section 8 of this Act shall apply only with respect to compulsory process issued after the date of enactment of this Act.•

AMY GOSSELIN

• Mr. DODD. Mr. President, I rise today in recognition of a Connecticut college student named Amy Gosselin. Amy was awarded the 1992 Public Service Scholarship by the Public Employee Roundtable for her essay on "Why I Have Chosen to Pursue a Government Career." I applaud Amy for her sincere commitment to public service and look forward to her generous efforts on behalf of the people of Connecticut. I ask that Amy Gosselin's essay be included in the RECORD following these remarks.

The essay follows:

WHY I HAVE CHOSEN TO PURSUE A GOVERNMENT CAREER

(By Amy Gosselin)

Last summer I was employed as an intern at the United Way of the Capital Area in Hartford, CT. My main project involved working with human service agencies to help them design campaign literature so that they could receive funds from the United Way. I had no idea how difficult this project would be, however, until I drove to a women's shelter in the North end of Hartford and felt the fear an 18-year-old white woman from a rural town feels when she is driving alone in a city where even the junior high school students carry guns. Business executives joke about Hartford, the nation's fourth poorest city, as being a doughnut: all of the "dough" is on the outside, and there is nothing but a big hole in the middle. I was able to see the needs of our urban community first-hand last summer, and I have no intention of turning my back on the problems that our society faces today.

Throughout high school and college, I have been interested in the issue of substance abuse. As a high school sophomore I began working with my town's Drug and Alcohol Council, designed primarily to promote substance abuse prevention education in the high school. I served on the United Way of the Capital Area's Youth Leadership Committee, and our task was to allocate funds to high school substance abuse prevention programs. As a junior in high school, I developed a Big Brother/Big Sister program called "Friends" where high school students volunteered to be big brothers and big sisters to incoming seventh-graders. From this program, I coordinated the formation of another service program in Canton High school called "Esteem," a substance abuse education performance troupe that performed skits, dances, and songs for grade school children in Connecticut. Presently, I am involved with S.A.U.C.E. (Substance Abuse/Use Campus Educators) at Mount Holyoke College and am also the Student Assistant at the Mount Holyoke Alcohol and Drug Awareness Project. My career goal is to work with the Office for Substance Abuse Prevention.

The reason I have chosen a public service career is that I know I simply will not be happy unless I am in a position where I will be able to help other people. I have exposed myself to the problems of our urban communities. I have dedicated time and energy to alleviating substance abuse problems among youth. My concentration in my first major, Sociology, is urban social problems (my second major is French). I know the history of social problems such as substance abuse in urban environments, and I am aware of the possible solutions that the government could begin to implement in our communities. Therefore, because of my own personal experience, my experience with substance abuse prevention programs, and my education background, I know that I very much want to continue with my intention to work for the government in the future in order to alleviate the urban substance abuse problems in the United States. I realize that I am young and probably a little idealistic, but I have hope for the future of the United States in terms of solving some of our more difficult social problems. I would like to be an employee at the Office of Substance Abuse Prevention and work toward improving our nation's urban areas by alleviating the substance abuse use problem among young people.•

CITIZENS RECYCLING COALITION OF SOUTHERN ILLINOIS

• Mr. SIMON. Mr. President, I would like to recognize Citizens Recycling Coalition of Southern Illinois for its service to the environment and the community.

Citizens Recycling Coalition of Southern Illinois is a nonprofit public education group, that promotes recycling and waste reduction throughout southern Illinois. By sponsoring meetings, conferences, and forums, they have heightened public awareness to the immediate importance of a wide range of environmental concerns.

The Citizens Recycling Coalition News, is a periodical newsletter produced by the group to provide information on a number of environmental issues. The information includes: Recycling options throughout southern Illinois, environmental legislation updates, and information on environmentally sound products.

Citizens Recycling Coalition prides itself for being a strictly nonpartisan organization. Their goal is to achieve a cleaner Earth by maintaining a workable balance between business and environmental concerns. Their board of directors includes numerous area business people and representatives of area environmental groups. This balance is a refreshing change, and serves as an example to both business and environmentalist throughout the Nation.

Mr. President, to achieve a healthy environment much more needs to be done. That is why I am proud to recognize Citizens Recycling Coalition of Southern Illinois, for their work toward furthering environmental awareness.•

THE TRAGEDY AND RISKS OF CHERNOBYL-TYPE REACTORS

• Mr. RIEGLE. Mr. President, I rise to express my concerns about the dangers of the former Soviet nuclear complex, and the necessity of Western assistance to improve the safety of these plants. These Chernobyl-styled RBMK reactors are still in operation all across Eastern Europe and the newly independent nations of the former Soviet Union. The tragic accident at Chernobyl over 6 years ago has done more to raise public consciousness on issues of international nuclear safety than any other event. Chernobyl has driven home the point that we live in a fragile, interconnected world and that we must cooperate on issues of nuclear safety. I commend the Energy and Natural Resources Committee for holding a hearing June 16 about this issue. We are trying to ensure that another Chernobyl will never happen again—not just for us, but for the sake of our children and the children in the new nations of Eastern Europe and the former Soviet Union.

There are over 40 reactors of Chernobyl vintage scattered around the territory of the former Soviet Union and Eastern Europe. Calls for their closing have come from a wide range of international figures. International experts on both sides of the nuclear debate are in agreement over this issue; people such as Maurice Strong, Secretary General of the U.N. Conference on Environment and Development, and Percy Barnevik, president of ABB Brown Boveri, one of the world's principal nuclear contractors.

The longer they continue to operate, the greater the risk that one of these aging RBMK powerplants will experience an accident. The possibility of an explosion and release of nuclear material on the scale of Chernobyl endangers the lives of hundreds of thousands of people in Lithuania, Ukraine, Russia, and other nations in Eastern Europe. According to the latest reports from medical conferences in Kiev and Moscow, there have been over 8,000 confirmed deaths as a result of radiation exposure from the Chernobyl accident. This figure is considered conservative, given that most cancer fatalities from radiation do not occur until 10 to 15 years following exposure. This makes Chernobyl the single most devastating environmental accident in history. Even the death toll from the cyanide release by the Union Carbide plant in Bhopal, India, will be exceeded by at least several thousand in Ukraine and Belarus alone.

The current death toll does not take into account the long-term genetic damage caused by massive radiation exposure. Children born to the families of some 600,000 nuclear cleanup workers living throughout the former Soviet Union are showing signs of severe birth defects, immune deficiencies, genetic malformations, and other types of extensive chromosomal damage. For example, in 1991, the mortality rate in the Ukraine exceeded the rate of live births—by 40,000—for the first time since the famine of 1932–33 and World War II. Additionally, the rate of miscarriages has tripled since 1986. Other Republics of the former Soviet Union have been similarly affected. According to the Lithuanian Union of Chernobyl Veterans, several hundred people have died there of cancer, rare blood disorders, and other medical causes, all linked to radiation exposure.

The concern about future risks from Soviet-designed reactors is justified. The safety record of the 62 nuclear reactors in the former Soviet Union, Central and Eastern Europe has not been good. Inspections by the International Atomic Energy Commission [IAEC] have identified 26 reactors with serious defects and 16 with considerable problems. The most dangerous reactors include the RBMK-style powerplants at Ignalina, Lithuanina, Kursk, Smolensk, St. Petersburg, Russia, and Chernobyl, Ukraine.

Hazards at the RBMK-type reactors stem from a variety of sources, including inherent design flaws, such as lack of a containment structure, improper safety and shutdown procedures, and faulty graphite control rods—which was recently found to be one of the main causes of the Chernobyl accident in 1986. Additionally, training and management of nuclear plant workers has been hurt by a lack of coherent government policy, uncertainty about their employment futures, shortages of spare parts and supplies, and a deficiency of technical knowledge. Together, these factors make for a serious deterioration in maintenance performance at plants that are already dangerous due to construction and design flaws.

The problem that former Soviet and East European Governments face is that these unsafe reactors cannot be shut down without depriving these countries of essential electrical power supplies. The former Soviet Union currently produces about 12 percent of its total electrical output through nuclear plants, 15 of which are RBMK graphite reactors. In Ukraine, 14 nuclear reactors produce over 20 percent of Ukrainian total electrical output. Chernobyl alone has provided about 10 percent of the nuclear-generated electricity in Ukraine, but Kiev has now imposed a moratorium on the building of nuclear reactors, and is scheduled to shut down the remaining three reactors at the Chernobyl plant by 1995. Additionally, from 1986 until recently when the Russian Government restarted a nuclear program, the former Soviet Union had effectively halted the expansion of its nuclear power program by closing or abandoning 62 new reactors. As a result of these actions there exists an energy deficit in the countries of the former Soviet Union and Eastern Europe. This power deficit, and the possible shutdown of unsafe plants, could weaken the already fragile economies of the newly independent nations.

Despite knowledge of safety problems and warnings of acute risks, the governments of these countries continue to operate their plants at or near full electrical production capacity to maintain energy supplies. At present there are virtually no alternative energy technologies, other nonrenewable energy supplies or development of plans for energy conservation available to compensate for the decline of energy output from the nuclear powerplants. A recent Russian Government directive has in fact ordered the resumption of nuclear powerplant construction and increased production capacity at existing plants. This directive called nuclear power a top priority for 1992. Ironically, it was signed just 2 days after an accident at the Sosnovy Bar reactor just outside St. Petersburg.

Clearly, we are reaching a critical point at which some internatioal action and technical assistance is vitally needed. Some of the most dangerous reactors remain in operation near Kiev, and other large industrial centers in Russia, Ukraine, and Lithuania. The contamination of vital watersheds like the Danube and Dnieper Rivers, or the forced evacuation of huge urban areas such as Kiev, St. Petersburg, or Vilnius could permanently cripple the recovery of these regions.

Therefore, it is crucial that the U.S. Department of Energy, the Nuclear Regulatory Commission, and large American engineering firms such as Bechtel and General Electric become intimately involved in technical assistance and plans to improve the safety of the nuclear plants. U.S. engineering firms have a great deal of experience to offer former Republics in formulating alternative sources of energy, making current facilities much safer, and providing assistance in current and future cleanup operations. This is particularly necessary in Lithuania, Ukraine, and Belarus, which have endured years of Soviet rule and are heavily dependent on nuclear power.

Finally, Mr. President, I believe that this issue is one that must be addressed with international cooperation and understanding on all sides. My concern is to ensure that the United States is involved in this effort early, and can assist private organizations, such as the Children of Chernobyl Relief Fund, U.S. engineering companies, the International Atomic Energy Commission, and governments of newly independent Republics to formulate common policy to deal with the dangers of nuclear power in former Communist nations. Working together, I believe that it is still possible to reduce the profound danger we all face from another nuclear accident like Chernobyl.•

REGARDING SCORING OF S. 3001

• Mr. DOMENICI. Mr. President, I rise today to set the record straight on a matter which I brought to the attention of the Senate 2 weeks ago. I introduced S. 3001, a bill to provide for the temporary prohibition on the reduction of food stamp benefits, which passed the Senate by unanimous consent on July 28.

Mr. President, it came to my attention that there was an impending reduction in the basic monthly food stamp allotment to poor families as a result of low inflation and the actual reduction in the cost of the market basket measure called the thrifty food plan.

As a result of this downward adjustment, the maximum monthly food stamp allotment would have been reduced by $4 for a family of four, beginning October 1.

With a number of my colleagues, I introduced, and the Senate passed, S. 3001. That bill would prevent the downward adjustment for fiscal year 1993 only, afterwhich the benefit levels would resume as under current law.

I understand that both the Congressional Budget Office and the Office of Management and Budget assumed an increase in the benefit levels for fiscal year 1993 in their baselines, developed at the beginning of this budget cycle.

There has been some question as to scoring of similar bills in the past, where actual program adjustments resulted in savings as measured against baseline assumptions. The scoring record is mixed.

In this instance, I was led to believe that OMB would score no cost to the bill and that there was no danger of a sequester as a result of enacting this bill.

Mr. President, I am now told that the bill will be scored costing $320 million next year, according to preliminary OMB estimates.

If enacted, S. 3001 would not trigger a sequester because of the current pay go balance.

Mr. President, my only intent in bringing this to the attention of the Senate is to set the record straight and play by the rules.

I would note that this is a tougher standard than what has been imposed in the past. I would expect it to be applied in the future as we work to control mandatory spending.•

REAUTHORIZATION OF THE REHABILITATION ACT

• Mr. SIMON. Mr. President, the chairman of the Subcommittee on Disability Policy has once again brought about a consensus that is a major victory for our citizens with disabilities. S. 3065, the Rehabilitation Act Amendments of 1992, with broad bipartisan and disability community support, extends and improves the programs that are necessary to make the goals of the Americans with Disabilities Act a reality.

This comprehensive act offers the best opportunity for our citizens with disabilities to build productive lives as full participants in society. The key to this is the focus on an outcome of meaningful employment, with independent living and a range of other vital services supporting and complementing that goal. Vocational rehabilitation is a dynamic and growing field, dependent on continuing research and on developments in areas such as assistive technology. And the success of these programs depends on the availability of highly skilled, well-trained personnel. This bill recognizes and addresses the importance of each of these elements.

In addition, S. 3065 responds to the recognition of individuals with disabilities themselves that they must be more involved in the decisions that shape their lives. The bill clarifies that the rehabilitation client has the right, the opportunity, and the responsibility to be actively involved in making the decisions about the services he or she will receive. More than ever before, rehabilitation counselors and consumers will be partners in making the rehabilitation process work.

There is no doubt that the Rehabilitation Act is important for what it does for our Nation as well as for what it does for the individuals it serves, and it has been rewarding to work with these programs over the years. In 1979, I asked the Director of the Congressional Budget Office if spending on the Rehabilitation Act saves the Federal Government money and, on the other hand, if reductions in expenditures for rehabilitation would result in additional costs to Government. The response was a resounding "yes" to both questions.

In 1992, the Rehabilitation Act is estimated to serve 931,000 individuals with disabilities, a small proportion of those we know are in need of services. As we place higher priority on having the program serve persons with the most severe disabilities, we must also make a commitment to significant increases in funding for this program or be prepared to see the number of persons receiving services go down—a tragic result for all of us. I know that our chairman shares my belief that we need to be training and placing into jobs more rather than fewer persons with disabilities, and I look forward to working with him to increase funds for this cost-effective program.

I want to thank our chairman for his skillful and committed work on this legislation. I am grateful particularly for his support for an amendment I requested to authorize grants to increase the numbers of rehabilitation and education personnel who are trained in the use of braille.

The use of braille has been declining dramatically in recent years, and there are a variety of explanations offered for the decline. Some point to the development of technology and others cite the difficulty in using the braille code. But there are many who recognize that the only way a person with a visual impairment can read and write—the definition of literacy—is through the use of braille. The New York Times reported recently in an article about illiteracy among those who are blind,

> * * * Illiteracy is not caused by problems with the code itself but because too few blind people are learning braille at all. In 1963, 52 percent of blind students could read braille, compared with about 12 percent now * * *.

This indicates that approximately 88 percent of students with visual impairments graduating today are braille illiterate.

There are many problems facing anyone who wants to learn braille—and many additional problems facing students who want to learn other subjects through the use of braille. These problems were brought home to me by an Illinois resident, Erika Musser, whose blind daughter Heidi is a student of classical piano at Northeastern Illinois University. Mrs. Musser discovered early in Heidi's life that she would have to be Heidi's teacher much of the time because there were not enough qualified teachers for Heidi.

Through her effective advocacy, Mrs. Musser has made a number of us aware that we have a severe shortage of teachers of braille. Today, although braille is still the primary medium for teaching individuals who are blind, literature, math, foreign language, music, and computer use, there are still no standards for teaching braille in colleges and universities and there are no refresher courses for after graduation. There are only about 8,500 teachers of braille in our country; an estimated 1,400 additional certified teachers for unserved and underserved blind and visually impaired children are needed.

According to the American Foundation for the Blind, the majority of braille teachers work under an itinerant program in which they travel over large areas but do not stay long enough at one place to sufficiently teach braille and other necessary skills. There are teaching programs in only 16 of our 50 States; thus, more than two-thirds of States have no programs for teaching braille. Of the existing programs, 63 percent have only one full-time faculty member.

It should be noted that there is a clear connection between knowledge of braille and the ability to find and keep a job. A recent study in Illinois shows that 91 percent of employed persons who are blind know braille while only 64 percent of unemployed adults who are blind know braille. With the lower rate of students learning braille today, we must all be connected that the unemployment rate among persons who are blind will rise above the estimated 70 percent unemployment rate today. The provisions contained in this reauthorization bill can help make braille literacy possible for many more adults and children who are visually impaired, increasing their ability to live independent and productive lives.

The programs authorized under the Rehabilitation Act are the means to the end we sought in enacting the Americans with Disabilities Act. If we do not give adequate support to the Rehabilitation Act, we close the doors we intended to open. Again, I congratulate our colleague Senator HARKIN and his staff for putting together a bill that is one more step forward on the road to equal opportunity for all Americans.●

ORDERS FOR MONDAY, AUGUST 10, 1992

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m., Monday, August 10; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9:30 a.m. with Senators permitted to speak therein for up to 5 minutes each, with the first 15 minutes of morning business under the control of Senator BENTSEN and the next 30 minutes under the control of Senator SYMMS; that at 9:30, the Senate resume consideration of Calendar No. 582, S. 3114, the Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, AUGUST 10, 1992, AT 8:45 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:18 p.m., recessed until Monday, August 10, 1992, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate August 7, 1992:

THE JUDICIARY

ROBERT W. KOSTELKA, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE THOMAS E. STAGG, JR., RETIRED.

RAILROAD RETIREMENT BOARD

GLEN L. BOWER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM OF 5 YEARS FROM AUGUST 29, 1992. (REAPPOINTMENT)

JEROME F. KEVER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1993, VICE ANDREW F. REARDON, RESIGNED.

VIRGIL M. SPEAKMAN, JR., OF OHIO, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1994, VICE CHARLES J. CHAMBERLAIN, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. JAMES D. ENGLISH, [redacted] 4/1/92
MAJ. WILLIAM V. ETCHISON, [redacted] 4/4/92
MAJ. CHARLES F. FELT, JR. [redacted] 3/17/92
MAJ. DONLEY R. HOOVER, [redacted] 4/4/92
MAJ. FEAGIN JOHNSON, JR., [redacted] 4/13/92
MAJ. MARK R. JOHNSON, [redacted] 4/17/92
MAJ. WILLIAM J. JORGENS, [redacted] 3/15/92
MAJ. JOHN R. KIRKPATRICK, [redacted] 4/1/92
MAJ. MORRIS E. MCCORMICK, [redacted] 4/21/92
MAJ. STANLEY L. OLSON, [redacted] 4/5/92
MAJ. JAMES E. PARKER, [redacted] 3/16/92
MAJ. RICHARD D. RADTKE, [redacted] 3/31/92
MAJ. GARY F. SHUTT, [redacted] 4/15/92
MAJ. DEVERON M. WILCOX, [redacted] 3/22/92

MEDICAL CORPS

To be lieutenant colonel

MAJ. RANDALL M. FALK, [redacted] 3/31/92
MAJ. WESLEY K.W. YOUNG, [redacted] 4/4/92

NURSE CORPS

To be lieutenant colonel

MAJ. BARBARA J. NELSON, [redacted] 4/11/92

IN THE AIR FORCE

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING GROUP FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

ANDREA D. BEGEL, [redacted]
TRAVIS A. BRYAN, [redacted]
WILLIAM C. CANNON, JR., [redacted]
RICHARD R. COONS, [redacted]
DANIEL F. DAILEY, [redacted]
DONALD S. DEREBERRY, [redacted]
SCOTT A. FAUSCH, [redacted]
CLARK M. GROVES, [redacted]
DANIEL J. LOGAR, [redacted]
WAYNE P. MAGNUSSON, [redacted]
STEVEN P. WEBBER, [redacted]
STEVEN D. WILLIAMS, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10 UNITED STATES CODE.

JUDGE ADVOCATE GENERAL CORPS

To be colonel

JOEL D. MILLER, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

HAROLD B. MCINTOSH, III, [redacted]

MEDICAL CORPS

To be major

*RALPH W. MORALES, [redacted]
*YOLANDA RAMIREZ, [redacted]
*THOMAS P. WINKLER, [redacted]

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A) AND 3385:

ARMY PROMOTION LIST

To be colonel

LANDRY K. APPLEBY [redacted]
JOHNNY U. BASINGER [redacted]
THOMAS G. KEMP [redacted]
JERRY L. NEFF [redacted]
FEDERIC J. RAYMOND [redacted]
ROBERT S. SCHNURR, JR. [redacted]
WILLIAM A. SERIE [redacted]
LARRY W. SHELLITO [redacted]
JAMES V. TORGERSON [redacted]
WILLIAM D. WOFFORD [redacted]
FRANKLIN M. YOUNG [redacted]

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

GERALD A. DICKERSON [redacted]

MEDICAL CORPS

To be colonel

THOMAS G. MERRILL [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

JAMES A. ADKINS, [redacted]
CARMEN D. ANDERSON [redacted]
WAYNE APPLEBY [redacted]
JAMES M. BENNINGTON [redacted]
GRAIG E. BRASFIELD [redacted]
MICHAEL T. BURK [redacted]
ANTHONY J. CARLUCCI [redacted]
CARL M. DOZIER [redacted]
DANIEL L. FUELING [redacted]
RUDOLPH S. HORNUS [redacted]
LARRY L. JOHNSON [redacted]
WILLIAM W. KNOX, III [redacted]
JOHN W. SMITH [redacted]
TIMOTHY J. SWOPE [redacted]
ROBERT S. TEMPLETON [redacted]
TOMMY D. THOMPSON [redacted]
GEORGE D. TURNER, II [redacted]
GEORGE M. WALLER [redacted]

CHAPLAIN CORPS

To be lieutenant colonel

ROBERT G. WILEY [redacted]

MEDICAL CORPS

To be lieutenant colonel

ELAINE B. BAXLEY [redacted]
RICHARD G. FOUTCH [redacted]
VINCENT A. VISCOMI [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

FRED A. KARNIK, JR. [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

DUANE R. OPP [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10; UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO BEING NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

ALFRED F. LIVAUDAIS [redacted]

To be major

*DAVID R. DULL [redacted]
JOHN A. MARRIOTT [redacted]
*ROBERT M. MCCALL [redacted]
*SHERRI L. MITCHELL [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate August 7, 1992:

DEPARTMENT OF STATE

ROBERT F. GOODWIN, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NEW ZEALAND, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO WESTERN SAMOA.

HENRY LEE CLARKE, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UZBEKISTAN.

DONALD BURNHAM ENSENAT, OF LOUISIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

EDWARD HURWITZ, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KYRGYZSTAN.

JON M. HUNTSMAN, JR., OF UTAH, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SINGAPORE.

RICHARD MONROE MILES, OF SOUTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF AZERBAIJAN.

JOSEPH S. HULINGS III, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKMENISTAN.

RICHARD H. SOLOMON, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE PHILIPPINES.

JOHN STERN WOLF, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

WILLIAM HARRISON COURTNEY, OF WEST VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

NANCY M. DOWDY, OF THE DISTRICT OF COLUMBIA, TO BE SPECIAL REPRESENTATIVE FOR ARMS CONTROL AND DISARMAMENT NEGOTIATIONS.

DAVID HEYWOOD SWARTZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BYELARUS.

MARY C. PENDLETON, OF VIRGINIA, A CAREER MEMBER OF THE FOREIGN SERVICE, CLASS ONE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

STANLEY TUEMLER ESCUDERO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

KENT N. BROWN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GEORGIA.

GENTA HAWKINS HOLMES, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING GENE ERNEST BIGLER II, AND ENDING CHARLES B. WOODWARD, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 1992.

HOUSE OF REPRESENTATIVES—*August 7, 1992*

THE HOUSE WAS NOT IN SESSION TODAY. ITS NEXT MEETING WILL BE HELD ON MONDAY, AUGUST 10, 1992, AT 12 NOON.

CONFERENCE REPORT ON H.R. 5487

Pursuant to the order of August 7, 1992, Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 5487) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–815)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5487) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 5, 10, 31, 38, 41, 42, 43, 48, 57, 71, 75, 76, 78, 82, 86, 88, 91, 92, 95, 96, 97, 103, 109, 118, 122, 123, and 124.

That the House recede from its disagreement to the amendments of the Senate numbered 9, 12, 13, 20, 22, 26, 30, 32, 33, 34, 39, 44, 45, 49, 50, 51, 61, 62, 65, 66, 70, 77, 84, 85, 87, 89, 90, 100, 108, 111, 113, 115, 116, and 121, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$81,004,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,720,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,750,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$56,221,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$714,551,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$712,926,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$40,272,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$22,816,000*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$13,783,000*; and the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$427,011,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$337,699,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$122,532,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$199,034,000*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,563,354,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$88,000,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$158,030,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$22,405,000*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,000,000*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$390,000,000*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$404,746,000*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,242,000*; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$12,389,000*; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,423,000*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$28,115,357,000*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$45,280,000*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$342,003,000*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$40,000,000*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$147,734,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 4, 6, 7, 8, 15, 16, 17, 18, 19, 21, 23, 24, 27, 35, 46, 47, 59, 67, 69, 72, 73, 74, 80, 83, 98, 99, 101, 102, 105, 106, 114, 119, and 120.

JAMIE L. WHITTEN,
MATTHEW F. MCHUGH,
WILLIAM H. NATCHER,
RICHARD J. DURBIN,
MARCY KAPTUR,
DAVID E. PRICE,
R.J. MRAZEK,
NEAL SMITH,
JOE SKEEN,
JOHN T. MYERS,
VIN WEBER,
BARBARA F. VUCANOVICH,
JOSEPH M. MCDADE,
Managers on the Part of the House.

QUENTIN N. BURDICK,
DALE BUMPERS,
TOM HARKIN,
BROCK ADAMS,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
ROBERT C. BYRD,
THAD COCHRAN,
ROBERT W. KASTEN, Jr.,
ARLEN SPECTER,
DON NICKLES,
CHRISTOPHER S. BOND,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

CONGRESSIONAL DIRECTIVES

The conferees agree that executive branch wishes cannot substitute for Congress' own statements as to the best evidence of congressional intentions—that is, the official reports of the Congress. The conferees further point out that funds in this Act must be used for the purposes for which appropriated, as required by section 1301 of title 31 of the United States Code, which provides: "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

The conferees note that of the $1,750,000,000 appropriated for disaster assistance in 1992, $755,000,000 has not been made available to farmers because the President has not requested its release. These funds are available for disasters in 1990, 1991, and 1992. During these years, disasters have struck farmers in nearly every part of the country. The conferees strongly urge the Secretary of Agriculture to request the President to release the remaining funds as soon as possible in order to assist farmers facing financial hardships.

ADVISORY COMMITTEES (USDA)

The conference agreement does not earmark funding for USDA Advisory Committees. The distribution of these funds is left to the discretion of the Secretary. The conferees expect the Secretary to advise the Committees on Appropriations as to the level provided each advisory committee.

The conferees believe the Agricultural Science and Technology Review Board is an essential component of the Joint Council on Food and Agricultural Sciences, as described in section 1605 of the Food, Agriculture, Conservation, and Trade Act of 1990. The conferees, therefore, urge the Review Board to be implemented as a part of the Joint Council should the Secretary decide to continue the operation of the Joint Council.

NATIONAL AGRICULTURAL STATISTICS SERVICE

Amendment No 1: Appropriates $81,004,000 for the National Agricultural Statistics Service instead of $80,941,000 as proposed by the House and $81,066,000 as proposed by the Senate.

Included in the amount are funds to conduct a sheep-on-feed report. The conferees expect the Department to maintain compilation for and production of all reports and publications that were issued in 1992.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$7,250,000*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $7,250,000 for Alternative Agricultural Research and Commercialization instead of $4,500,000 as proposed by the House and $10,000,000 to the Revolving Fund as proposed by the Senate. The conference agreement provides for the designation of two centers.

AGRICULTURAL RESEARCH SERVICE

The Senate report directs the Agricultural Research Service to use available funds to conduct a site analysis for the construction of an aquaculture research center. The conferees agree that work may be continued on this project within the fiscal year 1992 funding level for the project.

BUILDINGS AND FACILITIES

Amendment No. 3: Appropriates $34,514,000 for Federally owned facilities of the Agricultural Research Service as proposed by the House instead of $23,210,000 as proposed by the Senate. The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1992 enacted	House bill	Senate bill	Conference agreement
BUILDINGS AND FACILITIES				
Arkansas: Rice Research Center, Stuttgart	729	729	829	702
California:				
U.S. Salinity Lab, Riverdale	5,300	4,700	2,350	3,980
Horticulture Crops Research Lab, Fresno to Parlier	([1])	([2])	....	([2])
Florida: Citrus Research Lab, Orlando	([3])	([2])	520	([2])
Georgia: Poultry Disease Lab, Athens	400	....	800	677
Hawaii: Tropical Pest Biology Center	....	....	([5])	([5])
Illinois: Northern Regional Research Center, Peoria	1,825	1,825	....	1,545
Iowa: National Pig Research Facility	1,800	1,800	1,800	1,524
Louisiana: Southern Regional Research Center	1,950	1,950	....	1,651
Maryland: Beltsville Agricultural Research Center	16,000	16,000	11,300	13,547
Michigan: Regional Poultry Research Center	250	250	....	212
Mississippi:				
National Center for Natural Products	5,175	....	4,163	4,382
National Center for Warm Water Acquaculture	1,100	1,100	1,100	931
New York: Plum Island Animal Disease Center	3,000	3,000	....	2,540
Ohio: Demonstration greenhouse	187	187	....	158
Oklahoma: Southern Plains Range Research Station, Woodward	173	173	173	146
Texas:				
Plant Stress Lab, Texas Tech. University	1,300	1,300	....	1,101
Subtropical Lab, Weslaco	....	([5])	....	([5])
Wisconsin: Cereal Crops Research Unit—Barley/Malt Lab	175	....	175	148
Miscellaneous: [6]				
ARS facilities	([4])	1,500	....	1,270
Other ARS facilities	11,200	....	....	....
Total, buildings and facilities	50,564	34,514	23,210	34,514

[1] Bill language to sell Fresno facility and use proceeds for new facility at Parlier.

[2] Funded under miscellaneous ARS facilities.

[3] Report language in FY 1991 and FY 1992 on relocating Orlando facility.

[4] Bill language on relocation of labs from Behoust, France and Rome, Italy to Montpelier, France.

[5] Report requested.

[6] Includes funding in connection with facilities in Montpelier, France; Parlier, CA; and Orlando, FL.

COOPERATIVE STATE RESEARCH SERVICE

SPECIAL RESEARCH GRANTS

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$73,411,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $73,411,000 for special research grants instead of $57,688,000 as proposed by the House and $61,612,000 as proposed by the Senate. The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1992 enacted	House bill	Senate bill	Conference agreement
SPECIAL RESEARCH GRANTS (P.L. 89–106)				
Aflatoxin (IL)	134	134		134
Agribusiness management (MS)	75	75	75	75
Agricultural diversification (HI)	154		154	154
Agricultural management systems (MA)	261		261	261
Agricultural processing (GA)			50	50
Agricultural trade (ND)	350		350	350
Alfalfa (KS)	125		125	125
Alternative cropping systems (Southeast)	278		278	278
Alternative crops (ND)	700		700	700
Alternative marine and fresh water species (MS)	275	275	275	275
Alternative pest control (AR)	1,400		1,400	1,400
Alternative to dinoseb (OR)	225	225		225
Animal waste disposal (MI)	120	120		120
Apple quality research (MI)	94	94		94
Aquaculture (general)	316	316		316
Aquaculture (Stoneville)	700	700	700	700
Aquaculture research (IL)	200	200	200	200
Aquaculture (LA)	390	390	390	390
Asparagus yield decline (MI)	94	94		94
Babcoc Institute (WI)	75	75	75	75
Bean and beet (MI)	189	189		189
Beef carcass evaluation and identification (IA, NY, GA, TX, IL)	210	210		210
Beef fat content (IA)	237	237	237	237
Biodiesel research (MO)			50	50
Broom snakeweed (NM)	200	200	200	200
Canola (KS)	100		100	100
Celery fusarium (MI)	39	39		39
Center for animal health and productivity (PA)				134
Center for rural studies (VT)	37		37	37
Chesapeake Bay aquaculture	437	437	437	437
Competitiveness of agricultural products (WA)	800	800	800	800
CONSOIL (WI)	25	25	121	75
Controlled environment production systems (PA)	240	240		240
Cool season legume research (ID, WA)	387	387	387	387
Cottonseed extraction and oil refining (TX)	75	75		75
Cranberry/blueberry disease and breeding (NJ)	260	260	260	260
CRP acreage usage (MO)	50			
Dairy goat research (TX)	75	75		75
Delta rural revitalization (MS)	175	175	175	175
Dogwood anthracnose (GA, NC, TN)	137	137	137	137
Dried bean (ND)	100		100	100
Eastern filbert blight (OR)	85	85	85	85
Enhanced livestock production (ND)	250			
Environmental research (NY)	575	575		575
Ethanol research (AR)	175			
Expanded wheat pasture (OK)	337	337	337	337
Export development (KY)	227	227	227	227
Farm computer technology (GA)			100	100
Farm and rural business finance (IL, AK)	125	125	225	125
Fish marketing (OR, RI)	340	340	340	340
Floriculture (HI)	296		296	296
Food and Agriculture Policy Institute (IA, MO)	750	750	750	750
Food irradiation (IA)	237	237	237	237
Food marketing policy center (CT)	393	393	393	393
Food processing center (NE)	50		50	50
Food safety consortium (AR, KS, IA)	1,942		1,942	1,942
Food systems research group (WI)	261	261	165	261
Forestry marketing (VT, NH)	50		50	50
Genetic engineering of plants (OH)	240			
Global change	2,000	2,000		2,000
Grasshopper biocontrol (ND)	75		75	75
Great Plains agricultural policy center (KS, OK)	100		100	100
Human nutrition research (NY)	735	735		735
Human nutrition research (IA)	500	500	600	500
Human nutrition (LA)	800	800	800	800
Improved dairy management practices (PA)	335	335		335
Integrated pest management	4,457	4,457	4,457	4,457
Integrated production systems (OK)	193		190	190
International livestock program (KS)	94			
Iowa biotechnology consortium	1,953		2,000	2,000
Irrigation/fish production (AR)	167			
Kansas facility study	50			
Leafy spurge biocontrol (MT)	125			
Livestock and dairy policy (NY, TX)	525	525		525
Lowbush blueberry research (ME)	185	185	185	185
Low-input agriculture (MN)	230	230		230
Maple research (VT)	99		99	99
Mechanical tomato harvester (PA)	134			
Mesquite and prickly pear (TX)	100			
Michigan institute	2,358	2,358		2,358
Midwest agricultural products (IA)	700	700	700	700
Midwest plant biotechnology consortium	2,865	2,865		2,865
Milk safety (PA)	284		184	184
Milkweed research (NE)	80			
Mink research (OR)	46			
Minor crop pest control (HI)	285		285	285
Minor use animal drugs (IR–4)	464	464	464	464
Mosquito research (AR, CA, LA, MS, TX)	453			
Multi-commodity research (OR)			300	300
Multi-cropping strategies for aquaculture (HI)	150		150	150
National biological impact assessment	300	300	300	300
Nematode resistance genetic engineering (NM)	150	150	150	150
New uses for agricultural products (OH)	140	140		140
Non-food agricultural products (NE)	110	110	110	110
Oil from jojoba (NM)	200	200		200
Oregon—Mass. biotechnology[1]	537	537		256
Peach tree short life (SC)	192	192	192	192
Perishable commodities (GA)			250	250
Pest control alternatives (SC)	125		125	125
Pesticide clearance (IR–4)	3,500	3,500	3,500	3,500
Pesticide impact assessment	2,968	2,968	2,968	2,968
Pesticide research (WA)	667	667	667	667
Phytophthora root rot (NM)	150	150	150	150
Potato research	1,435	1,435	1,435	1,435
Potato utilization (ND)			250	250
Poultry (GA)	172		516	516
Preservation and processing research (OK)	282		267	267
Procerum root disease (VA)	25	25		25
Product development and marketing center (ME)	221		221	221
Red River Corridor (MN, ND)	200	200	200	200
Regional barley gene mapping project	412	412	412	412
Regionalized implications of farm programs (MO, TX)	348	348	348	348
Rural development centers (PA, IA ND, MS, OR)	500	500	500	500
Rural economic development (GA)	744			
Rural environmental research (IL)	125	125		125
Rural housing needs (NE)			170	80
Rural policies institute (AR, NE, MO)	525		727	692
Russian wheat aphid (WA, OR, CA)	437	437	437	437
Safflower research (ND, MT)	250		250	250
Sandhills grazing management practices (NE)	99			
Seafood and aquaculture harvesting, processing, and marketing (MS)	361	361	361	361
Seafood research (OR)			540	327
Small fruit research (OR, WA, ID)	187	187	187	187
Soil and water research (OH)				240
Southwest consortium for plant genetics and water resources	400	400	400	400
Soybean bioprocessing (IA)	275		328	328
Soybean cyst nematode (MO)	359	359	359	359
STEEP II—water quality in Northwest	980	980	980	980
Stone fruit decline (MI)	283	283		283
Subirrigation research (MI)	531	531		531
Sunflower insects (ND, SD)	200		200	200
Sustainable agriculture and natural resources (PA)			100	100
Sustainable agriculture systems (NE)	70		70	70
Swine research (MN)	140	140		140
TCK smut (wheat)	250	250	250	250
Technology transfer development (IA)	100			
Tropical and subtropical	3,320	3,320	3,320	3,320
Urban pests (GA)	76		76	76
Water conservation (KS)			94	94
Water conservation (NV)	200	200	200	200
Water management (AL)	398		398	398
Water quality	9,000	9,000	9,000	8,950
Weed control (ND)	500		500	500
Wheat genetic research (KS)	159		159	159
Wheat marketing (OR)	300			
White mold research (OH)	55	55		55
Wild rice research (MN)	88	88	88	88
Wood utilization research (OR, MS, MI)	2,852	2,852	5,599	4,153
Wool research (TX)	250	250		250
World food systems (IN, OH)	368	368	368	368
Total, Special Research Grants	73,130	57,688	61,612	73,411

[1] The Conference agreement provides funds only for the Mass. biotechnology project.

Wood utilization research.—Three national wood utilization research centers were established in 1985 through Public Law 89–106. Complementary centers, established at Oregon State University, Mississippi State University, and Michigan State University, support wood utilization and harvesting research on western conifers, southern pine, and eastern hardwoods, respectively.

These centers grew out of recommendations in a 1983 report by the Office of Technology Assessment which concluded that the United States could greatly expand its role in world forest products trade, but that the forest products industry lags behind other basic industries in research expenditures. Without some way to improve technologies for harvesting and utilizing wood, the United States will miss the opportunity to satisfy both domestic and a major share of future global forest product requirements.

The conference agreement provides a total of $4,153,000 for wood utilization research. Included in this total is $2,852,000 for the ongoing research program in wood utilization research carried out at the three existing centers. In addition to the ongoing program, the conference agreement provides for a new national program funded at $1,301,000. The conferees note support for the University of Maine's Forest Products Research and Technology Transfer Center and North Carolina State University's Wood Machining and Tooling Education/Research Program and urge that their applications be considered.

Soil and water research.—The conference agreement includes $240,000 for soil and water research at the University of Toledo. This research will be carried out in conjunction with the proposed University of Toledo Lake Erie Research and Education Center. This research will be an in-depth analysis of the lake watershed interface and relationships that currently exist between agricultural practices, lake water quality, and ecological conditions in the Western Basin of Lake Erie.

Animal health and productivity research.—The conference agreement also includes $134,000 for the Center for Animal Health and Productivity of the Pennsylvania Department of Agriculture. These funds will be used for research to develop less costly and more efficient feedstock for dairy cows by reducing the amounts of nitrogen and other chemicals.

Rural Policy Research Institute.—The conferees agree that $167,000 of the funds provided to the Rural Policy Research Institute shall be used to establish the rural health care access pilot project in southeast Arkansas to be coordinated by the University of Arkansas and Arkansas Children's Hospital.

Amendment No. 5: Provides $1,168,000 for supplemental and alternative crops and products as proposed by the House instead of $500,000 as proposed by the Senate. The conference agreement includes $668,000 to continue research on guayule and $500,000 to continue research on crambe and winter rapeseed.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $400,000 for State agricultural weather information systems. The House bill contained no similar provision.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$20,795,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $20,795,000 for Federal Administration of the Cooperative State Research Service instead of $19,170,000 as proposed by the House and $20,045,000 as proposed by the Senate. The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1992 enacted	House bill	Senate bill	Conference agreement
FEDERAL ADMINISTRATION				
Shrimp aquaculture (Hawaii and Mississippi)	3,500	3,500	3,500	3,500
Mississippi Valley State University	668	668	668	668
Maize genetics research center (ND)	400		400	400
Ag in classroom	208	208	208	208
Agricultural biotechnology	400	400	400	400
Peer panels	260	260	260	260
Office of grants and program systems	334	334	334	334
Alternative fuels characterization lab (ND)	250		250	250
Pay costs and FERS	550	550	550	550
Center for Agricultural and Rural Development (IA)	750	750	750	750
Herd management (TN)	475		475	475
1890 capacity building	10,250	10,250	10,250	10,250
Vocational aquaculture education	500	500	500	500
Water quality [1]	1,250	750	500	1,250
Geographic information system	1,000	1,000	1,000	1,000
Subtotal, Federal Administration	20,795	19,170	20,045	20,795

[1] Included $500,000 (ND), $750,000 (IL).

The conferees expect the Cooperative State Research Service to evaluate the activities of the Geographic Information System National Office to determine if those functions could be more effectively performed by the satellite offices. The Cooperative State Research Service should report its findings to the House and Senate Committees on Appropriations.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$430,143,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $430,143,000 for the Cooperative State Research Service instead of $412,395,000 as proposed by the House and $416,926,000 as proposed by the Senate.

BUILDINGS AND FACILITIES

Amendment No. 9: Appropriates $52,101,000 for the Cooperative State Research Service, Buildings and Facilities as proposed by the Senate instead of $33,611,000 as proposed by the House. The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1992 enacted	House bill	Senate bill	Conference agreement
BUILDINGS AND FACILITIES				
Alabama: Wallace State Junior College Wellness Center			(1)	(1)
Arkansas:				
Center for Alternative Pest Control	500		500	
Livestock Research and Activity Complex			(1)	(1)
Poultry and Isolation Facility, University of Arkansas/Fayetteville	250			
Poultry Center of Excellence	3,050		3,200	3,189
Arizona: Agriculture research complex-environmental stress lab	100	100	1,100	1,100
California:				
Alternative pest control containment and quarantine, University of California	207	207		178
Grape Importation Facility, University of California at Davis	1,609	675	675	582
Colorado: Animal Reproduction and Biotechnology, Colorado State University		(1)		(1)
Delaware: Poultry Biocontainment Lab			(1)	(1)
Florida: Biotechnology Institute, University of Florida-Alachua	840	320	320	276
Georgia:				
Agricultural Livestock Poultry Facility	(1)			
Biocontainment Research Center, University of Georgia	425	425		
Center for Advanced Water Technology, Savannah	136		436	376
Center for Rural Health and Epidemiology, Georgia Southern University		(1)	(1)	(1)
National Laboratory for Environmentally Sound Production Agriculture—Tifton	1,775		1,500	1,293
Vidalia Onion Storage Res Facility	225		225	194
Hawaii: Center for Tropical/Subtropical Agriculture	3,842		3,842	3,311
Idaho: Biotechnology Facility	500		500	431
Illinois:				
Biotechnology Center, Northwestern University	600	600	600	517
National Soybean Laboratory, University of Illinois	1,987			
Indiana: Molecular and Cellular Biotechnology Facility	2,750	2,500		2,155
Iowa: Trade Marketing Center				(1)
Kansas: Throckmorton Plant Science Center, Kansas State University	1,570	1,570	1,570	1,353
Louisiana:				
Fish Processing Center			(1)	(1)
Red meat processing center			150	(1)
Maine:				
Presque Isle Farm Building Consolidation			900	776
Wood processing facilities			(1)	(1)
Maryland: Institute for Natural Resources and Environmental Science, University of Maryland	1,000	1,000	1,000	862
Massachusetts: Center/hunger, poverty, nutrition and policy	562	562	562	484
Michigan: Food Toxicology Center, Michigan State University	10,394	5,356		4,616
Mississippi: Biological Technology Center for Water and Wetlands Resources	100	100	100	86
Missouri:				
Bennett Living and Learning Center, Lincoln University	145			
Meat Science and Safety Center			145	(1)
Bio-Sciences Research Center, University of Missouri				(1)
Montana: Bioscience Research Laboratory, Montana State University	1,062	1,062	1,062	915
Nebraska: Center for Advanced Technology, University of Nebraska	4,500			
Nevada: Biochemistry and Biology, University of Nevada	250	250		215
New Jersey: Plant Bioscience Facility, Rutgers University	3,044	3,044	3,044	2,623
New Mexico: Center for Arid Land Studies, New Mexico State University		(1)	(1)	(1)
New York:				
Cornell Research Greenhouse	375	375		375
New York Botanical Garden	1,350	1,350	4,725	3,697
North Carolina:				
Biotechnology Facility	1,450			
Bowman-Gray Center at Wake Forest	1,825	1,825	4,275	3,684
North Dakota:				
Animal Care Facility, North Dakota State University	250			
Engineering and Biomechanics Building	(1)			
Food Processing Pilot Plant—NCI	375		375	375
Inst/Ag Health Science and Rural Medicine, University of North Dakota	4,381		2,400	1,864
Inst/Ag and Rural Human Research Development, Minot State University	240		2,250	1,939
Seed Research and Regulatory Facility, North Dakota State University	500		500	431
Ohio:				
Lake Erie Soil and Water Research and Education Center		(1)		(1)
Plant Science Research Facility, University of Toledo	275	275		237
Oklahoma:				
National Center for Bovine/Equine Biotechnology	225			
Beef Cattle Research Facility			(1)	(1)
Oregon:				
Regional Food Innovation Center	(1)			
Seafood Center, Oregon State University	217	217	2,117	1,824
Pennsylvania: Center for Food Marketing, St. Joseph's University	2,710	2,710	2,710	2,336
Rhode Island: Building consolidation, University of Rhode Island	500		500	431
South Dakota: Northern Plains Biostress Laboratory, South Dakota State University	1,515	1,015	1,015	875
Tennessee:				
Agricultural, Biological and Environmental Research Complex, University of Tennessee in Knoxville	925	925	925	797
Horticulture Public Service Research and Education Center (Middle Tennessee State University)		(1)	(1)	(1)
Nursery Crop Research Station	426		426	367
Texas:				
Inst/Biosciences and Technology, Texas A&M	3,860	700	700	603
Southern crop improvement, Texas A&M		(1)	(1)	(1)
Utah: Biotechnology Laboratory, Utah State University	764		764	658
Virginia: Agriculture Biotechnology Facility, Virginia Polytechnic Institute	1,021	1,021	1,021	880
Washington: Animal Disease Biotechnology Facility, Washington State University	2,120	2,120	2,620	2,258
Wisconsin:				
Agriculture Biotechnology/Genetics Facility, University of Wisconsin/Madison	7,393	2,507	2,507	2,161
College of Natural Resources, University of Wisconsin—Stevens Point	(1)		100	86
Wyoming: Environmental Simulation Facility, University of Wyoming	500	500	500	431
Miscellaneous: Fund for reports	150	300	240	260
Total, Buildings and facilities	74,770	33,611	52,101	52,101

[1] Report requested.

Center for Alternative Pest Control.—Due to budgetary constraints, no funding is provided for the Center for Alternative Pest Control, University of Arkansas, in fiscal year 1993, but the conferees expect to transfer this project to the Agricultural Research Service next year for completion, using Federal and State funds already made available.

EXTENSION SERVICE

Amendment No. 10: Restores House language and provides $3,557,000 for the urban gardening program. The Senate proposed to delete funding for this program.

Amendment No. 11: Provides $2,720,000 for the farm safety and rural health programs instead of $2,470,000 as proposed by the House and $2,970,000 as proposed by the Senate.

Amendment No. 12: Amends a Public Law citation as proposed by the Senate.

Amendment No. 13: Deletes "under section 3(d) of the Act" in connection with the authorization for the Renewable Resources Extension Act as proposed by the Senate.

Amendment No. 14: Provides $1,750,000 for payments for Indian reservation agents instead of $1,500,000 as proposed by the House and $2,000,000 as proposed by the Senate.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$1,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $1,000,000 for payments to establish and operate centers of rural technology instead of $2,000,000 as proposed by the Senate. The House bill contained no similar provision.

The conference agreement provides $1,000,000 for a rural technology grant authorized by section 2347 of Public Law 101-624. The grant would go to the Co-op Development Foundation for the purpose of enabling such institutions to establish and operate centers for rural technology or cooperative development. The centers will conduct and fund research, training, and education activities to provide the informational base necessary to crate a new generation of rural cooperatives that diversify agriculture and rural opportunities, deliver housing, telecommunications, health care, education, and employment.

The conferees also note that a number of these activities are taking place in centers such as those under the direction of the Co-op Development Foundation located in Arkansas, Washington, Ohio, North Carolina, Iowa, Wisconsin, Minnesota, Georgia, Alabama, Florida, Louisiana, Missouri, Texas, Mississippi, Kentucky, South Carolina, North Dakota, Oklahoma, West Virginia, and California; with the potential for more States to become involved.

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$1,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $1,000,000 for payments for outreach and assistance for socially disadvantaged farmers and ranchers instead of $2,000,000 as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $2,000,000 for payments for rural health and safety education. The House bill contained no similar provision.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$414,500,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $414,500,000 for the Extension Service, excluding Federal Administration, instead of $410,000,000 as proposed by the House and $413,443,000 as proposed by the Senate.

The conference agreement includes $255,000, the same as the amount available for fiscal year 1992, within the total for the Youth-at-Risk Program, for a joint outreach program between Southwest State University and the Minnesota Extension Service instead of $300,000 as proposed by the House.

The Alice Aycock Poe Center for Health Education in Raleigh, North Carolina, is a new facility constructed and operated by a nonprofit organization with $3,400,000 in private funds. The Center utilizes five unique teaching theaters, state-of-the-art exhibitry, and experienced health educators to present age-appropriate programs in general health, nutrition, family life, drug education, and dental health. The Center offers programs to 70,000 students in eastern and central North Carolina and is on contract with Wake County (Raleigh) schools to conduct health education programs. Included within the total for the WIC nutrition education program are funds for the purpose of completing one of the five teaching theaters—the nutrition classroom theater—which involves purchase and installation of state-of-the-art exhibitry, and for related "pass-arounds" and handouts related to the WIC program.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$10,428,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $10,428,000 for Federal Administration of the Extension Service instead of $7,928,000 as proposed by the House and $9,501,000 as proposed by the Senate. The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1992 enacted	House bill	Senate bill	Conference agreement
FEDERAL ADMINISTRATION AND SPECIAL GRANTS				
General administration	5,181	5,181	4,981	5,181
Pilot tech. transfer (OK, MS)	331	331	331	331
Pilot tech. transfer (WI)	165	165	165	165
Crambe/rapeseed (NE)	67			
Agricultural development Pacific (HI, GU, AS)	647	647	647	647
Pay costs	797	219	219	219
Project future (MN)	250	250		250
Rural rehabilitation (GA)	256		250	250
Crop simulation (MS)	498	498	498	498
Income enhancement demonstration (OH)	250	250		250
Rural education satellite downlink (PA)	285			
Rural development (NM)	230	230		230
Southern Kentucky feasibility study	50			
Rural development (NE)	200		200	200
Rural development (OK)	300		300	300
Rural education pilot (ND)	846		846	846
Presque Isle (ME)	187		187	187
Chinch bug/Russian wheat aphid project (NE)			70	67
Beef producers' improvement (AR)	200		200	200
Integrated cow/calf resources management (IA)	150		150	150
Rural health infrastructure (AL)	200		200	200
Home sewing (MS, SC, Al, OR)	157	157	157	157
Extension specialist (AR)	100		100	100
Total, Federal Administration	11,347	7,928	9,501	10,428

NATIONAL AGRICULTURAL LIBRARY

Amendment No. 20: Appropriates $17,715,000 for the National Agricultural Library as proposed by the Senate instead of $17,253,000 as proposed by the House.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $462,000 shall be available for the National Center for Agricultural Law Research and Information at the Leflar School of Law in Fayetteville, Arkansas. The House bill contained no similar provision.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

Amendment No. 22: Appropriates $432,900,000 for the Animal and Plant Health Inspection Service, Salaries and Expenses as proposed by the Senate instead of $430,939,000 as proposed by the House. The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1992 enacted	House bill	Senate bill	Conference agreement
PEST AND DISEASE EXCLUSION				
Agricultural quarantine inspection	20,425	22,217	22,217	22,217
User fees	85,362	83,362	83,362	83,362
Subtotal, agricultural quarantine inspection	105,787	106,079	106,079	106,079
Foot-and-mouth disease	3,891	3,891	3,891	3,891
Import-export inspection	9,918	8,000	8,000	8,000
International programs	4,498	4,675	4,498	4,675
Mediterranean fruit fly exclusion	10,052	10,213	10,052	10,213
Mexican fruit fly exclusion	1,164	1,700	1,164	1,700
Screwworm	34,011	34,645	34,011	34,645
Total, pest and disease exclusion	169,321	169,203	167,695	169,203
PLANT AND ANIMAL HEALTH MONITORING				
Animal disease detection	16,909	16,825	16,825	16,825
Animal and plant health regulatory enforcement	5,790	5,790	5,790	5,790
Fruit fly detection	3,941	3,941	3,941	3,941
Pest detection	3,976	3,976	3,976	3,976
Total, plant and animal health monitoring	30,616	30,532	30,532	30,532
PEST AND DISEASE MANAGEMENT PROGRAMS				
Animal damage control—operations	25,612	25,612	25,612	25,612
Biocontrol	5,149	4,924	4,599	4,599
Boll weevil	13,135	13,135	13,135	13,135
Brucellosis eradication	67,000	67,000	67,000	65,000
Cattle ticks	6,172	6,172	6,172	6,172
Golden nematode	862	862	651	862
Grasshopper	3,850		3,850	3,850

[In thousands of dollars]

	Fiscal year 1992 enacted	House bill	Senate bill	Conference agreement
Reserve fund	5,000	....	5,000	2,500
Gypsy moth	5,148	5,148	5,148	5,148
Honey bee pests	531	531	531	531
Imported fire ant	3,698	3,698	3,698	3,698
Miscellaneous plant and animal diseases	3,445	3,222	3,222	3,222
National poultry improvement plan	245	245	245	245
Noxious weeds	820	820	625	625
Pink bollworm	2,792	2,792	2,792	2,292
Poultry diseases	722	722	722	722
Pseudorabies	7,554	7,554	9,000	8,285
Russian wheat aphid	2,400	2,400	2,400	2,400
Salmonella enteritidis	....	3,400	3,400	3,400
Scrapie	846	1,846	....	846
Sweet potato whitefly	....	3,500	850	3,000
Swine health protection	3,586	3,586	3,586	3,586
Tuberculosis	3,738	5,338	3,738	4,738
Witchweed	5,386	5,386	5,386	5,386
Total, pest and disease management programs	167,691	167,893	171,362	169,854
ANIMAL CARE				
Animal welfare	9,188	9,188	9,188	9,188
Horse protection	358	358	358	358
Total, animal care	9,546	9,546	9,546	9,546
SCIENTIFIC AND TECHNICAL SERVICES				
ADC methods development	9,517	9,517	9,517	9,517
Biotechnology/environmental protection	7,652	7,652	7,652	7,652
Integrated systems acquisition project	2,507	2,507	2,507	2,507
Plant methods development laboratories	5,025	5,025	5,025	5,025
Veterinary biologics	9,729	9,729	9,729	9,729
Veterinary diagnostics	14,335	14,335	14,335	14,335
Total, scientific and technical service	48,765	48,765	48,765	48,765
Contingency fund	5,000	5,000	5,000	5,000
Total, salaries and expenses	430,939	430,939	432,900	432,900

The conferees agree that not less than $3,430,000 of the reserve fund, the same as the amount provided for fiscal year 1992, be used to continue the grasshopper integrated pest management project in Idaho and North Dakota in 1993.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that none of the funds available to the Animal and Plant Health Inspection Service may be used to pay the salary of any Department veterinarian or Veterinary Medical Officer who, when conducting inspections at horse shows, exhibitions, sales, or auctions under the Horse Protection Act, relies solely on the use of digital palpation as the only diagnostic test to determine whether or not a horse is sore under such Act. The House bill contained no similar provision.

AGRICULTURAL COOPERATIVE SERVICE

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided further, That, hereafter, funds made available to the Agricultural Cooperative Service shall be available for a field office in Hawaii.*"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement amends Senate language providing for an Agricultural Cooperative Service field office in Hawaii. The House bill contained no similar provision. The conferees expect that no less than $99,000 will be allocated for this office.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

Amendment No. 25: Appropriates $56,221,000 for the Agricultural Marketing Service, Marketing Services instead of $56,520,000 as proposed by the House and $45,401,000 as proposed by the Senate.

The conferees agree that the Agricultural Marketing Service may continue the Pesticide Data Collection Program at a reduced funding level and that it may carry out the activities of the Organic Foods Production Act. The conferees believe that all costs related to the Organic Foods Production Act, including Federal administrative costs, should be recovered from producers participating in the program.

The conferees urge the Agricultural Marketing Service to expand reporting for live lamb, to develop reports for lamb cutouts, boxed lamb, composite lamb prices, and byproducts, and to cooperate with the National Agricultural Statistics Service in developing this information.

LIMITATION ON ADMINISTRATIVE EXPENSES

Amendment No. 26: Provides a limitation of $55,953,000 on administrative expenses as proposed by the Senate instead of $52,861,000 as proposed by the House.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY

(SECTION 32)

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that in fiscal years 1993 and 1994, section 32 funds shall be used to promote sunflower and cottonseed oil exports to the full extent authorized, and such funds shall be used to facilitate additional sales of such oils in world markets. The House bill contained no similar provision.

FARM INCOME STABILIZATION

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

Amendment No. 28: Provides a total of $714,551,000 for the Agricultural Stabilization and Conservation Service, Salaries and Expenses instead of $715,296,000 as proposed by the House and $703,451,000 as proposed by the Senate.

Amendment No. 29: Appropriates $712,926,000 for the Agricultural Stabilization and Conservation Service, Salaries and Expenses instead of $714,134,000 as proposed by the House and $700,826,000 as proposed by the Senate.

Amendment No. 30: Provides for a transfer of $1,036,000 from the Public Law 480 Program Account to the Agricultural Stabilization and Conservation Service, Salaries and Expenses Account as proposed by the Senate instead of $573,000 as proposed by the House.

Amendment No. 31: Deletes Senate language providing that funds shall be available for establishing and maintaining a National Appeals Division within the Agricultural Stabilization and Conservation Service. The House bill contained no similar provision. The National Appeals Division was established in fiscal year 1992 and, therefore, the language is deleted.

CORPORATIONS

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

Amendment No. 32: Appropriates $309,948,000 for the Federal Crop Insurance Corporation, Administrative and Operating Expenses as proposed by the Senate instead of $303,896,000 as proposed by the House. The conferees agree that the funds provided will be used to meet producer demand for crop insurance and to provide for appropriate computer support.

GENERAL SALES MANAGER

Amendment No. 33: Provides a total of $8,866,000 for expenses of the General Sales Manager as proposed by the Senate instead of $8,641,000 as proposed by the House.

Amendment No. 34: Provides for a transfer of $1,467,000 from the Public Law 480 Program Account to the General Sales Manager Account as proposed by the Senate instead of $1,242,000 as proposed by the House.

TITLE II—CONSERVATION PROGRAMS

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

The conferees expect the Department to give consideration to working with the American Society of Agronomy in developing a Crop Advisor Certification Program. Certification under this program should be possible for all qualified applicants, including crop consultants working independently with private firms or with cooperatives, U.S. Department of Agriculture personnel, agrichemical and fertilizer retailers, and agricultural producers.

The conferees urge the Department of Agriculture consider providing assistance to private landowners in improving and maintaining riparian zones in the upper watershed areas of the Columbia River tributaries. If these watersheds are properly treated, the results will include improved water quality and quantity. This, in turn, will promote improved salmon and steelhead habitat in the tributaries.

The conferees are aware of the serious problem that saltcedar causes in riparian areas of New Mexico, particularly along the Pecos River. Saltcedar originally was planted along the Pecos River for streambank stabilization and flood control in the early 1900's, but has spread to occupy more than 70,000 acres. The plant's ability to tap and exploit deep water tables is causing severe water shortages along the Pecos River. The conferees encourage the Soil Conservation Service to assist in the Pecos River native riparian restoration project that will demonstrate an economically and environmentally sound saltcedar control program, and to monitor hydrologic effects from saltcedar control and management.

The conferees urge that full Federal cost sharing (50 percent) will be provided and agree that such cost sharing should be provided for the rural water supply project known as the East Yellow Creek Watershed located in Sullivan, Linn, and Chariton Counties in Missouri. This expectation and agreement is consistent with the 1989 policy statement of the Department of Agriculture reaffirming such rural water cost-sharing policy where, as is true in the East Yellow Creek Watershed, the watershed area and rural communities therein lack a dependable water supply unrelated to water for future developments other than that for agricultural use phases of development.

The conferees are aware of the digital orthophotoquad (DOQ) mapping activities initiated by the Soil Conservation Service and the Agricultural Stabilization and Conservation Service and encourage the continuation of the development of this program, with contributions and support from the Commodity Credit Corporation, as well as other Federal, State, and local agencies.

This program will provide highly accurate image base map information about land classification and farmland utilization, as well as help accelerate private sector contractor activity in DOQ services.

The conferees recognize the urgency of the Eastern Arkansas Water Conservation Demonstration Project in Poinsett County, Arkansas, and urge the Department to continue its implementation.

WATERSHED AND FLOOD PREVENTION OPERATIONS

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "*$228,266,000, to remain available until expended (7 U.S.C. 2209b)*".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $228,266,000 for Watershed and Flood Prevention Operations instead of $205,266,000 as proposed by the House and $238,266,000 as proposed by the Senate. The conference agreement includes language which allows the funds to remain available until expended.

Amendment No. 36: Provides $40,272,000 for the Public Law 534 program instead of $36,091,000 as proposed by the House and $42,091,000 as proposed by the Senate.

Amendment No. 37: Provides $22,816,000 for emergency measures instead of $20,028,000 as proposed by the House and $24,028,000 as proposed by the Senate.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

Amendment No. 38: Appropriates $194,435,000 for the Agricultural Conservation Program as proposed by the House instead of $188,785,000 as proposed by the Senate.

The conferees expect that the existing Agricultural Conservation Program regulations will be revised to expand on the Water Quality Incentives Program to conform to the direction of chapter 2 of subtitle D of title XII of the Food Security Act of 1985.

The conferees expect the Department to allow the Extension Service or other designated experts of the Department of Agriculture to review and approve Water Quality Incentive Program and Integrated Crop Management Program plans in accordance with best management practices.

Amendment No. 39: Provides $15,000,000 for the Water Quality Incentives Program as proposed by the Senate instead of $6,750,000 as proposed by the House.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

Amendment No. 40: Appropriates $13,783,000 for the Colorado River Basin Salinity Control Program instead of $14,783,000 as proposed by the House and $12,783,000 as proposed by the Senate.

WETLANDS RESERVE PROGRAM

Amendment No. 41: Deletes Senate language providing $54,900,000 for the Wetlands Reserve Program. The House bill contained no similar provision.

The conferees fully support the concept of the Wetlands Reserve Program and are disappointed that the Department has not provided the reports required by the House, Senate, and conference reports on the fiscal year 1992 Agriculture Appropriations Act. The conferees direct that these reports, along with a complete analysis of the fiscal year 1992 sign-up, be submitted to the appropriate committees of Congress by February 1, 1993. Pending the results of this information, the conferees expect the Department to consider submitting a supplemental appropriations request.

TITLE III—FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

Amendment No. 42: Provides a total of $1,624,500,000 for section 502 single-family housing loans as proposed by the House instead of $1,495,000,000 as proposed by the Senate.

Amendment No. 43: Provides $329,500,000 for section 502 unsubsidized guaranteed loans as proposed by the House instead of $200,000,000 as proposed by the Senate.

Amendment No. 44: Provides $573,900,000 for section 515 rental housing loans as proposed by the Senate instead of $500,000,000 as proposed by the House.

Amendment No. 45: Provides $187,000,000 for credit sales of acquired property as proposed by the Senate instead of $200,000,000 as proposed by the House.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that up to $35,000,000 of the section 502 loan funds shall be made available for section 502(g), Deferral Mortgage Demonstration. The House bill contained no similar provision.

The following table reflects the conference agreement on the Rural Housing Insurance Fund loan levels:

LOAN LEVELS

	House bill	Senate bill	Conference agreement
RHIF loan levels:			
Low-income housing loans (sec. 502)	$1,245,000,000	$1,245,000,000	$1,245,000,000
Unsubsidized direct loans	50,000,000	50,000,000	50,000,000
Unsubsidized guaranteed loans	329,500,000	200,000,000	329,500,000
Rural housing site loans (sec. 524)	600,000	600,000	600,000
Rural rental housing loans (sec. 515)	500,000,000	573,900,000	573,900,000
Very low-income repair loans (sec. 504)	11,330,000	11,330,000	11,330,000
Domestic farm labor loans	16,300,000	16,300,000	16,300,000
Credit sales of acquired property	200,000,000	187,000,000	187,000,000
Total, RHIF loan levels	2,352,730,000	2,284,130,000	2,413,630,000

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$313,039,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $313,039,000 for the total cost of section 502 single-family housing loans instead of $309,254,000 as proposed by the House and $310,643,000 as proposed by the Senate.

Amendment No. 48: Provides $6,096,000 for the cost of section 502 unsubsidized guaranteed loans as proposed by the House instead of $3,700,000 as proposed by the Senate.

Amendment No. 49: Appropriates $4,548,000 for the cost of section 504 housing repair loans as proposed by the Senate instead of $4,578,000 as proposed by the House.

Amendment No. 50: Appropriates $305,602,000 for the cost of section 515 rental housing loans as proposed by the Senate instead of $356,550,000 as proposed by the House.

Amendment No. 51: Appropriates $25,039,000 for the cost of credit sales of acquired property as proposed by the Senate instead of $26,780,000 as proposed by the House.

The following table reflects the conference agreement on the cost of loan subsidies associated with the Rural Housing Insurance Fund:

LOAN SUBSIDIES

	House bill	Senate bill	Conference agreement
RHIF Loan Subsidies:			
Single-family (sec. 502):			
Direct	$303,158,000	$303,158,000	$303,158,000
Unsubsidized direct		3,785,000	3,785,000
Unsubsidized guaranteed	6,096,000	3,700,000	6,096,000
Housing repair (sec. 504)	4,578,000	4,548,000	4,548,000
Farm labor (sec. 514)	8,029,000	8,029,000	8,029,000
Rental housing (sec. 515)	356,550,000	305,602,000	305,602,000
Site loans			
Credit sales of acquired property	26,780,000	25,039,000	25,039,000
Total, RHIF loan subsidies	705,191,000	653,861,000	656,257,000

Amendment No. 52: Appropriates $427,011,000 for administrative expenses in connection with the Rural Housing Insurance Fund loans instead of $427,111,000 as proposed by the House and $423,467,000 as proposed by the Senate.

RENTAL ASSISTANCE PROGRAM

Amendment No. 53: Appropriates $337,699,000 for the Rental Assistance Program instead of $319,900,000 as proposed by the House and $355,498,000 as proposed by the Senate.

Amendment No. 54: Provides $122,532,000 for newly constructed units instead of $128,158,000 as proposed by the House and $115,198,000 as proposed by the Senate.

Amendment No. 55: Provides $199,034,000 for expiring agreements and for servicing existing units instead of $174,728,000 as proposed by the House and $235,997,000 as proposed by the Senate.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

Amendment No. 56: Provides a total of $2,563,354,000 for farm operating loans instead of $2,588,354,000 as proposed by the House and $2,538,354,000 as proposed by the Senate. The conference agreement provides $825,000,000 for direct operating loans instead of $850,000,000 as proposed by the House and $800,000,000 as proposed by the Senate.

Amendment No. 57: Provides a total of $3,752,000 for soil and water loans as proposed by the House instead of $3,715,000 as proposed by the Senate. The conference agreement provides $2,337,000 for direct soil and water loans as proposed by the House instead of $2,300,000 as proposed by the Senate.

Amendment No. 58: Provides $88,000,000 for credit sales of acquired property instead of $125,000,000 as proposed by the House and $50,000,000 as proposed by the Senate.

The following table reflects the conference agreement on the Agricultural Credit Insurance Fund loan levels:

LOAN LEVELS

	House bill	Senate bill	Conference agreement
ACIF Loan Levels:			
Farm ownership loans:			
Direct	$66,750,000	$66,750,000	$66,750,000

LOAN LEVELS—Continued

	House bill	Senate bill	Conference agreement
Unsubsidized guaranteed loans	488,750,000	488,750,000	488,750,000
Farm operating loans:			
Direct	850,000,000	800,000,000	825,000,000
Unsubsidized guaranteed loans	1,500,000,000	1,500,000,000	1,500,000,000
Subsidized guaranteed loans	238,254,000	238,354,000	238,354,000
Soil and water loans:			
Direct	2,337,000	2,300,000	2,337,000
Guaranteed	1,415,000	1,415,000	1,415,000
Indian land acquisition	1,000,000	1,000,000	1,000,000
Emergency loans	115,000,000	115,000,000	115,000,000
Watershed and flood prevention loans	4,000,000	4,000,000	4,000,000
Resource conservation and development loans	600,000	600,000	600,000
Credit sales of acquired property	125,000,000	50,000,000	88,000,000
Total, ACIF loan levels	3,393,206,000	3,268,169,000	3,331,206,000

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that loan funds shall be completely allocated to the States and made available for obligation in the first two quarters of fiscal year 1993.

This same provision was included in the fiscal year 1992 Appropriations Act. In fiscal year 1992 the Department issued a press release stating that all loan funds were being made available during the first two quarters of the fiscal year in order to help the farmers and, thereby, stimulate the economy. The conferees hope that the Department will respond as enthusiastically to this provision as it did in fiscal year 1992.

Amendment No. 60: Appropriates $158,030,000 for the total cost of farm operating loans instead of $161,765,000 as proposed by the House and $154,256,000 as proposed by the Senate. The conference agreement includes $124,530,000 for the cost of direct farm loans instead of $128,265,000 as proposed by the House and $120,756,000 as proposed by the Senate.

Amendment No. 61: Provides $18,150,000 for the cost of unsubsidized guaranteed farm operating loans as proposed by the Senate instead of $15,350,000 as proposed by the House.

Amendment No. 62: Provides $15,350,000 for the cost of subsidized guaranteed farm operating loans as proposed by the Senate instead of $18,150,000 as proposed by the House.

Amendment No. 63: Appropriates $22,405,000 for the cost of credit sales of acquired property instead of $31,825,000 as proposed by the House and $12,730,000 as proposed by the Senate.

The following table reflects the conference agreement on the cost of loan subsidies associated with the Agricultural Credit Insurance Fund:

LOAN SUBSIDIES

	House bill	Senate bill	Conference agreement
ACIF Loan Subsidies:			
Farm ownership:			
Direct	$13,023,000	$13,023,000	$13,023,000
Guaranteed unsubsidized	20,576,000	20,576,000	20,576,000
Farm operating:			
Direct	128,265,000	120,756,000	124,530,000
Guaranteed unsubsidized	15,350,000	18,150,000	18,150,000
Guaranteed subsidized	18,150,000	15,350,000	15,350,000
Soil and water:			
Direct	456,000	456,000	456,000
Guaranteed	43,000	43,000	43,000
Indian tribe land acquisition	226,000	226,000	226,000
Emergency disaster	30,762,000	30,762,000	30,762,000
Watershed and flood prevention	....	....	....
Resource conservation	....	....	....
Credit sales of acquired property	31,825,000	12,730,000	22,405,000
Total, ACIF loan subsidies	258,676,000	232,072,000	245,521,000

STATE MEDIATION GRANTS

Amendment No. 64: Appropriates $3,000,000 for State Mediation Grants instead of $2,750,000 as proposed by the House and $3,475,000 as proposed by the Senate.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

Amendment No. 65: Appropriates $18,616,000 for the cost of loans made under the Rural Development Loan Fund Program as proposed by the Senate instead of $16,260,000 as proposed by the House.

Amendment No. 66: Provides for a loan program level under the Rural Development Loan Fund Program of $32,500,000 as proposed by the Senate instead of $28,387,000 as proposed by the House.

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

Amendment No. 67: Reported in technical disagreement. The manager on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

For the cost of guaranteed lines of credit available pursuant to an emergency declaration as provided at section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $9,000,000, to remain available until expended, but not beyond fiscal year 2009: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to establish a guaranteed line of credit program level of $30,000,000, to remain available until expended, but not beyond fiscal year 2009, which the Department shall make available for the purpose of purchasing grains or cellulosic materials for the production of alcohol fuels at established cooperative facilities as necessary to meet deliveries under contract: Provided further, That a guarantee fee of one percent shall be paid at the time a guarantee is issued.

In addition, for administrative expenses necessary to carry out the credit guarantee program, $100,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $30,000,000 to establish a guaranteed line of credit for the purpose of purchasing grains for the production of alcohol fuels at established cooperatives in the event normal supplies are unavailable. The agreement provides a subsidy level of $9,000,000 and provides $100,000 to cover administrative costs.

RURAL WATER AND WASTE DISPOSAL GRANTS

Amendment No. 68: Appropriates $390,000,000 for Rural Water and Waste Disposal Grants instead of $400,000,000 as proposed by the House and $381,000,000 as proposed by the Senate.

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: *That of this amount, $25,000,000 shall be available for water and waste disposal systems to benefit the Colonias along the U.S./Mexico border, including grants pursuant to section 306C: Provided further, That, with the exception of the foregoing $25,000,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores House language providing $25,000,000 for water and waste disposal systems for the Colonias along the U.S./Mexico border, corrects a citation of law, and clarifies the purposes for which the funds are available.

The President of the United States shall urge the appropriate agencies, including the Secretaries of the U.S. Department of Agriculture, U.S. Department of Health and Human Services, U.S. Department of Housing and Urban Development, and the Administrator of the Environmental Protection Agency, to develop a comprehensive and coordinated strategy and plan of action for the delivery of assistance and programs to improve the adverse environmental and health problems of the Colonias. Such strategy and plan shall be provided to Congress not later than July 1, 1993.

MUTUAL AND SELF-HELP HOUSING

Amendment No. 70: Appropriates $12,750,000 for Mutual and Self-Help Housing as proposed by the Senate instead of $8,750,000 as proposed by the House.

SUPERVISORY AND TECHNICAL ASSISTANCE GRANTS

Amendment No. 71: Restores House language and appropriates $2,500,000 for Supervisory and Technical Assistance Grants.

RURAL DEVELOPMENT GRANTS

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds "and 310B(j)" to the legislative citation.

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $2,000,000 shall be available for grants to Statewide private, nonprofit public television systems in predominantly rural States to provide information and services on rural economics and agriculture. The language also provides that grants made to or to be made to these television systems during fiscal years 1990 through 1992 under the Consolidated Farm and Rural Development Act shall be deemed to have been made pursuant to section 310B(j) of such Act. The House bill contained no similar provision.

The conference agreement includes funds for the grants mentioned in the House report and the Senate bill and report. The conference agreement also includes funds for the project administered by the North Dakota Agricultural Products Utilization Commission at the same level as in fiscal year 1992.

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That* *amounts made available under this heading in fiscal year 1992 shall be available in fiscal year 1993*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes Senate language providing that $400,000 of the amount made available for Rural Development Grants be available to the Vermont State Colleges. The agreement also extends the availability of funds appropriated in fiscal year 1992, including the grant for the Vermont State College. The conferees expect that grants provided in the fiscal year 1992 Appropriations Act but not obligated in fiscal year 1992 will be obligated in fiscal year 1993.

Amendment No. 75: Deletes Senate language providing that $400,000 of the amount made available for Rural Development Grants be available to the North Central Kansas Electric Cooperative, Inc., Belleville, Kansas. The House bill contained no similar provision.

Amendment No. 76: Deletes Senate language providing that $500,000 of the amount made available for Rural Development Grants be available to the City of Seminole, Oklahoma. The House bill contained no similar provision.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

Amendment No. 77: Appropriates $10,000,000 for Emergency Community Water Assistance Grants as proposed by the Senate. The House bill contained no similar provision.

SALARIES AND EXPENSES

Amendment No. 78: Provides $679,920,000 for Farmers Home Administration, Salaries and Expenses as proposed by the House instead of $676,426,000 as proposed by the Senate.

Amendment No. 79: Provides for a transfer of $404,746,000 from the Rural Housing Insurance Fund Program Account to the Salaries and Expenses Account instead of $404,846,000 as proposed by the House and $401,202,000 as proposed by the Senate.

Amendment No. 80: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$100,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides for a transfer of $100,000 from the Alcohol Fuels Credit Guarantee Program Account to the Salaries and Expenses Account instead of $150,000 as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 81: Provides that $4,242,000 shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program instead of $3,985,000 as proposed by the House and $4,500,000 as proposed by the Senate.

Amendment No. 82: Deletes Senate language providing that none of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii. The conferees will expect the Department to maintain the State Office in Hilo.

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the Department shall establish and maintain a Farmers Home Administration State Office in Nevada. The House bill contained no similar provision.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

Amendment No. 84: Provides not less than $239,250,000 for rural telephone loans as proposed by the Senate instead of $219,325,000 as proposed by the House.

Amendment No. 85: Deletes House language providing that loans may be modified in an amount not to exceed $266,000,000.

The following table reflects the conference agreement for loans from the Rural Electrification and Telephone Revolving Fund:

LOAN LEVELS

	House bill	Senate bill	Conference agreement
RETRF Loan Levels:			
Electric loans:			
REA insured	$625,035,000	$625,035,000	$625,035,000
FFB insured	813,450,000	813,450,000	813,450,000
Total, electric	1,438,485,000	1,438,485,000	1,438,485,000
Telephone loans:			
REA insured	219,325,000	239,250,000	239,250,000
FFB insured	119,625,000	119,625,000	119,625,000
Total, telephone	338,950,000	358,875,000	358,875,000
Modified direct loans	266,000,000		
Total, RETRF loan levels	2,043,435,000	1,797,360,000	1,797,360,000

Amendment No. 86: Deletes Senate language providing that the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that proposes program participant criteria for electric and telephone borrowers under the Rural Electrification Act of 1936.

Amendment No. 87: Deletes House language providing that no funds appropriated in this Act may be used to deny or reduce loans or loan advances based on a borrower's level of general funds. This provision has been enacted into permanent law and is no longer required in the Appropriations Act.

Amendment No. 88: Deletes Senate language regarding Rural Electrification Administration borrowers. The conferees direct that, in the case of a borrower that prior to June 1, 1992, made an investment in a subsidiary involving coal gasification, the retained earnings of its coal and gas subsidiaries shall not be counted against the limitation of section 312 of the Rural Electrification Act of 1936 (7 U.S.C. 940b), and the borrower shall not be required to raise its rates to offset any loss of such subsidiaries if the retained earnings of such subsidiaries exceed the amount of any loss, unless the Administrator of the Rural Electrification Administration has determined that without such rate increase, the borrower will be unable to repay loans made or guaranteed under the Act. Furthermore, the conferees expect to be notified of any change to this directive.

Amendment No. 89: Appropriates $161,269,000 for the cost of direct loans as proposed by the Senate instead of $157,609,000 as proposed by the House.

Amendment No. 90: Appropriates $35,388,000 for the cost of guaranteed loans as proposed by the Senate instead of $35,475,000 as proposed by the House. The conference agreement also deletes House language appropriating $47,880,000 for the cost of loan modifications.

The following table reflects the conference agreement on the cost of loan subsidies associated with the Rural Electrification and Telephone Revolving Fund:

LOAN SUBSIDIES

	House bill	Senate bill	Conference agreement
RETRF Loan Subsidies:			
Direct loans:			
Electric	$117,319,000	$117,319,000	$117,319,000
Telephone	40,290,000	43,950,000	43,950,000
REA- FFB loans	35,475,000	35,388,000	35,388,000
Modified direct loans	47,880,000		
Total, RETRF loan subsidies	240,964,000	196,657,000	196,657,000

Amendment No. 91: Appropriates $29,163,000 for administrative expenses necessary to carry out the direct and guaranteed loan programs as proposed by the House instead of $30,330,000 as proposed by the Senate.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

Amendment No. 92: Appropriates $8,632,000 for administrative expenses necessary to carry out the loan programs of the Rural Telephone Bank as proposed by the House instead of $8,977,000 as proposed by the Senate.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

Amendment No. 93: Provides $12,389,000 for loans from the Rural Economic Development Loans Program Account instead of $9,215,000 as proposed by the House and $15,563,000 as proposed by the Senate.

Amendment No. 94: Appropriates $3,423,000 for the cost of direct loans instead of $2,546,000 as proposed by the House and $4,300,000 as proposed by the Senate.

The conferees expect a quarterly report on the operation of this subaccount, including the number and dollar amount of applications received, pending, approved, and rejected, to be submitted to the Committees on Appropriations.

SALARIES AND EXPENSES

Amendment No. 95: Provides $37,795,000 for Rural Electrification Administration, Salaries and Expenses as proposed by the House instead of $39,307,000 as proposed by the Senate.

Amendment No. 96: Provides for a transfer of $29,163,000 from the Rural Electrification and Telephone Loans Program Account to the Salaries and Expenses Account as proposed by the House instead of $30,330,000 as proposed by the Senate.

Amendment No. 97: Provides for a transfer of $8,632,000 from the Rural Telephone Bank Program Account to the Salaries and Expenses Account as proposed by the House instead of $8,977,000 as proposed by the Senate.

TITLE IV—DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$6,826,553,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides a total of $6,826,553,000 for the Child Nutrition Programs, including a transfer of funds from section 32, instead of $6,674,521,000 as proposed by the House and $6,767,484,000 as proposed by the Senate. The conference agreement reflects the Administration's increased mid-session review estimates for mandatory programs.

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$2,536,098,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $2,536,098,000 for the Child Nutrition Programs instead of $2,384,066,000 as proposed by the House and $2,477,029,000 as proposed by the Senate. The conference agreement reflects the Administration's increased mid-session review estimates for mandatory programs.

Amendment No. 100: Provides that up to $3,780,000 shall be available for independent verification of school food service claims as proposed by the Senate instead of $4,083,000 as proposed by the House.

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment, insert: *$1,661,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that $1,661,000 shall be available to provide financial and other assistance to operate the Food Service Management Institute instead of $1,322,000 as proposed by the House and $2,000,000 as proposed by the Senate.

The conference agreement provides for the Child Nutrition Programs at the following annual rates:

TOTAL OBLIGATIONAL AUTHORITY

	House bill	Senate bill	Conference agreement
Child Nutrition Programs:			
School lunch program	$3,959,805,000	$4,055,221,000	$4,055,221,000
School breakfast program	813,540,000	843,770,000	902,428,000
State administrative expenses	77,931,000	77,086,000	77,086,000
Summer food service program	203,200,000	215,651,000	215,651,000
Child care food program	1,388,065,000	1,331,399,000	1,331,399,000
Commodity procurement	212,740,000	223,492,000	223,492,000
Nutrition studies and surveys	3,835,000	3,085,000	3,835,000
Nutrition education and training	10,000,000	10,000,000	10,000,000
Federal review system	4,083,000	3,780,000	3,780,000
Food Service Management Institute	1,322,000	2,000,000	1,661,000
Dietary guidelines		2,000,000	2,000,000
Total	6,674,521,000	6,767,484,000	6,826,553,000

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that up to $3,000,000 may be used to carry out the farmer's market coupon demonstration project. The House bill contained no similar provision.

Amendment No. 103: Deletes Senate language earmarking funds under the Special Supplemental Food Program for Women, Infants, and Children (WIC). The House bill contained no similar provision. The conferees expect the Department to continue its efforts to address the program needs of the weed and seed initiative, a program to promote neighborhood revitalization and to reclaim the neighborhoods embattled by drugs and crime.

FOOD STAMP PROGRAM

Amendment No. 104: Appropriates $28,115,357,000 for the Food Stamp Program instead of $26,719,691,000 as proposed by the House and $29,051,000,000 as proposed by the Senate.

The conference agreement provides that $500,000, the same amount as the budget request, is available to provide competitive nutrition education grants consistent with section 1761 of Public Law 101-624.

The conference agreement also includes $1,000,000 to fund outreach programs to food stamp recipients, as authorized by section 1759 of the Food, Agriculture, Conservation, and Trade Act of 1990.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds remain available through September 30, 1994.

TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

MARKET PROMOTION PROGRAM

The conferees strongly urge the Department to consider developing a dry bean demonstration program, including consideration of a proposal by the Michigan dry bean industry, the National Dry Bean Council, or other industry groups, to bring prospective buyers to the United States for meeting and seminars, to conduct market intelligence, and to perform trade servicing through quality control and trade service seminars.

PUBLIC LAW 480 PROGRAM ACCOUNT

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$509,996,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $509,996,000 for Public Law 480 title I direct loans instead of $511,619,000 as proposed by the House and $538,295,000 as proposed by the Senate.

Amendment No. 107: Appropriates $45,280,000 for ocean freight differential costs instead of $52,185,000 as proposed by the House and $43,064,000 as proposed by the Senate.

Amendment No. 108: Appropriates $810,000,000 for title II commodities as proposed by the Senate instead of $763,842,000 as proposed by the House.

Amendment No. 109: Appropriates $333,594,000 for title III grants as proposed by the House instead of $344,269,000 as proposed by the Senate.

Amendment No. 110: Appropriates $342,003,000 for the cost of direct loans instead of $317,800,000 as proposed by the House and $360,981,000 as proposed by the Senate.

Amendment No. 111: Appropriates $2,503,000 for administrative expenses of the Public Law 480 Program as proposed by the Senate instead of $1,815,000 as proposed by the House.

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS

Amendment No. 112: Appropriates $40,000,000 for the cost of modifying direct credit agreements instead of $69,531,000 as proposed by the House and $13,183,000 as proposed by the Senate.

The following table reflects the conference agreement on the Public Law 480 Program:

PUBLIC LAW 480

	House bill	Senate bill	Conference agreement
TITLE I—CREDIT SALES			
Program level	($563,804,000)	($581,359,000)	($555,276,000)
Direct loans	(511,619,000)	(538,295,000)	(509,966,000)
Ocean feight differential	52,185,000	43,064,000	45,280,000
TITLE II—COMMODITIES FOR DISPOSITION ABROAD.			
Program level	(763,842,000)	(810,000,000)	(810,000,000)
Appropriation	763,842,000	810,000,000	810,000,000
TITLE III—COMMODITY GRANTS			
Program level	(333,594,000)	(344,269,000)	(333,594,000)
Appropriation	333,594,000	344,269,000	333,594,000
Loan subsidies	317,800,000	360,981,000	342,003,000
Debt restructuring	69,531,000	13,183,000	40,000,000
Salaries and expenses:			
General Sales Manager	1,242,000	1,467,000	1,467,000
ASCS	573,000	1,063,000	1,036,000
Subtotal	1,815,000	2,503,000	2,503,000
Total, Public Law 480:			
Program level	(1,661,240,000)	(1,735,628,000)	(1,698,870,000)

PUBLIC LAW 480—Continued

	House bill	Senate bill	Conference agreement
Appropriation	1,538,767,000	1,574,000,000	1,573,380,000

TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 113: Appropriates $746,035,000 for the Food and Drug Administration, Salaries and Expenses as proposed by the Senate instead of $744,135,000 as proposed by the House.

The conferees direct the Food and Drug Administration to publish the notice in response to the petitions filed with the agency related to traditional carrageenan and PNG carrageenan on or before October 31, 1992.

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $1,900,000 of the funds available to the Food and Drug Administration shall be available to fund a clinical pharmacology pilot program . The House bill contained no similar provision.

INDEPENDENT AGENCIES

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Amendment No. 115.: Provides a limitation of $39,908,000 for the Farm Credit Administration as proposed by the Senate instead of $38,686,000 as proposed by the House.

Amendment No. 116: Provides a limitation of $2,000,000 for the Office of the General Counsel of the Farm Credit Administration as proposed by the Senate instead of $1,853,000 as proposed by the House.

TITLE VII—GENERAL PROVISIONS

Amendment No. 117: Limits the Market Promotion Program to $147,734,000 instead of $75,000,000 as proposed by the House and $170,700,000 as proposed by the Senate.

The Market Promotion Program should focus its resources on promoting value-added agricultural exports to maximize job creation. The Market Promotion Program should make certain that the content of agricultural products it promotes is predominantly U.S. grown and manufactured. Promotion funds should be allotted to U.S.-based participants which export agricultural products and should encourage smaller, medium-sized, and new-to-export participants. The Department is expected to review marketing plans submitted to assure that products are predominantly U.S. grown and manufactured. The conferees view the Market Promotion Program as a great resource for U.S. agriculture and the Nation.

The conferees expect the Department to complete the evaluation of the Market Promotion Program, as directed by the Senate report, by February 1, 1993.

Amendment No. 118: Restores House language providing that no funds in the Act are available to enroll additional acres in the Wetlands Reserve Program.

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 730. For loan guarantees authorized under sections 1465–1469 of Public Law 101–624 for the Agricultural Resource Conservation Demonstration Program, $10,000,000. For the cost, as defined in section 502 of the Congressional Budget Act of 1974, $3,644,000: Provided, That, hereafter, no other funds are available in this or any other Act to carry out this program, other than those provided for in advance in Appropriations Acts, except for the cost of administering the program: Provided further, That such limitation shall not apply with respect to the duties and obligations of the Secretary regarding any loan or note guarantees, interest assistance agreements, or other understandings entered into during fiscal year 1992, and the personnel of the Department shall carry out the duties and obligations of the Secretary, and any other requirements imposed on the Secretary regarding such Agricultural Resource Conservation Demonstration Loan Program with respect to the loan made and guaranteed in 1992.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $10,000,000 in loans and $3,644,000 in subsidy costs for a nationwide program under the Agricultural Resource Conservation Demonstration Program. The conferees note that Vermont is the only State where the program is operational and expect the Department to consider seriously giving Vermont priority in administering this program. The conference agreement also provides that funds will be available only to the extent provided in advance in Appropriations Acts.

The action of the conferees does nothing to impact the fiscal year 1992 obligations under the program.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

731. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a program within the Agricultural Stabilization and Conservation Service for the purchase of computer hardware and software and other costs in support of long-range Information Resources Management objectives in Automated Data Processing if the aggregate amount of funds transferred by the Commodity Credit Corporation to the Agricultural Stabilization and Conservation Service for such purchases exceeds $52,400,000.

SEC. 732

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement adds and restores a section number and adds language limiting the amount of funds that can be withdrawn from the Commodity Credit Corporation by the Agricultural Stabilization and Conservation Service for computer hardware and software.

Amendment No. 121: Deletes House language reducing numerous accounts in the bill.

Amendment No. 122: Deletes Senate language providing that not to exceed $4,000,000 may be used to implement section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977. A feasibility study is provided under Cooperative State Research Service, Buildings and Facilities.

Amendment No. 123: Deletes Senate language providing various findings by the Senate and a sense of the Senate regarding the Social Security earnings test.

Amendment No. 124: Deletes Senate language providing that an applicant for assistance provided with funds appropriated under this Act shall provide to the Internal Revenue Service information described in section 6109 of the Internal Revenue Code of 1986, and that upon a written request from the Director of the Office of Management and Budget or the Director of the Congressional Budget Office, certain information be provided by the Internal Revenue Service.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

New budget (obligational) authority, fiscal year 1992	$52,526,238,000
Budget estimates of new (obligational) authority, fiscal year 1993	60,381,222,000
House bill, fiscal year 1993	58,907,757,212
Senate bill, fiscal year 1993	61,427,332,000
Conference agreement, fiscal year 1993	60,547,821,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1992	+8,021,583,000
Budget estimates of new (obligational) authority, fiscal year 1993	+166,599,000
House bill, fiscal year 1993	+$1,640,063,788
Senate bill, fiscal year 1993	−879,511,000

JAMIE L. WHITTEN,
MATTHEW F. MCHUGH,
WILLIAM H. NATCHER,
RICHARD J. DURBIN,
MARCY KAPTUR,
DAVID E. PRICE,
R.J. MRAZEK,
NEAL SMITH,
JOE SKEEN,
JOHN T. MYERS,
VIN WEBER,
BARBARA F. VUCANOVICH,
JOSEPH M. MCDADE,
Managers on the Part of the House.

QUENTIN N. BURDICK,
DALE BUMPERS,
TOM HARKIN,
BROCK ADAMS,
WYCHE FOWLER, Jr.,
J. ROBERT KERREY,
ROBERT C. BYRD,
THAD COCHRAN,
ROBERT W. KASTEN, Jr.,
ARLEN SPECTER,
DON NICKLES,
CHRISTOPHER S. BOND,
MARK O. HATFIELD,
Managers on the Part of the Senate.

HOUSE OF REPRESENTATIVES—*August 10, 1992*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 10, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

Bishop Gilbert E. Patterson, Church of God in Christ, Memphis, TN, offered the following prayer:

Almighty God, Creator, sustainer of the universe. Father of all mankind, who has made of one blood all nations of men. We beseech You at this hour of universal tension, political upheaval, and economic uncertainty, to give direction to the leaders of our world. You told us to pray for all men: kings, all in authority; that we may lead a quiet and peaceable life.

While the red horse of war and the black horse of famine are riding across the continents, only You can stop the pale horse of death and bring the blessings of life, peace, and justice. Bless now and give wisdom to the President, the Congress, and the Supreme Court of our great Nation. We ask all in Jesus' name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. STOKES] please come forward and lead the House in the Pledge of Allegiance?

Mr. STOKES led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2549. An act to make technical corrections to chapter 5 of title 5, United States Code;

H.R. 3795. An act to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California;

H.R. 4312. An act to amend the Voting Rights Act of 1965 with respect to bilingual election requirements; and

H.R. 5560. An act to extend for one year the National Commission on Time and Learning, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2324. An act to amend title 28, United States Code, with respect to witness fees;

H.R. 2850. An act to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes; and

H.R. 4004. An act to assist in the development of tribal judicial systems, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 544) "An act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1770) "An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2079) "An act to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes."

The message also announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3033) "An act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5373) "An act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, Mr. SPECTER, and Mr. NICKLES, to be the conferees on the part of the Senate.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 5428) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SASSER, Mr. INOUYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRAMM, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5503) "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, Mr. HOLLINGS, Mr. REID, Mr. NICKLES, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. RUDMAN, Mr. DOMENICI, Mr. GORTON, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5518) "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Mr. SASSER, Ms. MIKULSKI, Mr. D'AMATO, Mr. KASTEN, Mr. DOMENICI, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1578. An act to recognize and grant a Federal Charter to the Military Order of World Wars;

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes;

S. 2044. An act to assist Native Americans in assuring the survival and continuing vitality of their languages; and

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

S. 2681. An act relating to Native Hawaiian Health Care, and for other purposes.

WELCOME OF BISHOP GILBERT E. PATTERSON

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, on behalf of Congressman HAROLD FORD, who was unavoidably delayed, I am pleased to welcome Bishop Gilbert E. Patterson. Bishop Patterson is a spiritual giant in the Memphis, TN, community. He is the founder and pastor of the Temple of Deliverance Church of God in Christ in Memphis with an active membership of more than 3,000 members.

Bishop Patterson is the founder and president of Bountiful Blessings Ministries. His illustrious messages are heard nationwide on numerous television stations, including Black Entertainment Television Cable Network. He is also the president and general manager of a gospel radio station.

His untiring dedication to his ministries has led to many honors. Bishop Patterson was appointed jurisdictional prelate of the Church of God in Christ, Tennessee Fourth Ecclesiastical Jurisdiction in 1988.

He brings his message of hope to thousands of persons. During his ministerial career, he has organized seven churches in Memphis, TN; Detroit, MI; Toledo, OH; and Forrest City, AR.

On behalf of Congressman HAROLD FORD, I am pleased to introduce a spiritual leader of Bishop Patterson's dedication and standing. We have all been inspired by his words today and I want to thank him for coming to Washington to spread his message of hope.

EASTERN MUSIC AND APPALACHIAN FESTIVALS

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, August 1 past was a significant day for the arts in North Carolina. It marked the season's conclusion of two important cultural events.

At the crown of the Blue Ridge Mountains the inimitable Chet Atkins and Doc Watson concluded the ninth season of an Appalachian Summer, a festival of music, arts, theater, and dance for the Appalachian State University students, tourists, and summer residents of the high country. Gil Morgenstern served as artistic director.

One hundred five miles to the east on the campus of the University of North Carolina at Greensboro under the directorship of music director Sheldon Morgenstern and Walter Heid, executive director, the Eastern Music Festival concluded its season. Founded 31 years ago on the campus of Guilford College, Eastern Music Festival is a program combining a 6-week world class concert series with a training program for exceptionally gifted young musicians from the United States and beyond.

Enthusiastic, appreciative audiences enjoyed these final 1992 performances, and we extend best wishes to an Appalachian Summer and the Eastern Music Festival.

CONFERENCE REPORT ON S. 5, FAMILY AND MEDICAL LEAVE ACT OF 1992

Mrs. SCHROEDER submitted the following conference report and statement on the Senate bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-816)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Sec. 101. Definitions.
Sec. 102. Leave requirement.
Sec. 103. Certification.
Sec. 104. Employment and benefits protection.
Sec. 105. Prohibited acts.
Sec. 106. Investigative authority.
Sec. 107. Enforcement.
Sec. 108. Special rules concerning employees of local educational agencies.
Sec. 109. Notice.
Sec. 110. Regulations.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

Sec. 201. Leave requirement.

TITLE III—COMMISSION ON LEAVE

Sec. 301. Establishment.
Sec. 302. Duties.
Sec. 303. Membership.
Sec. 304. Compensation.
Sec. 305. Powers.
Sec. 306. Termination.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on other laws.
Sec. 402. Effect on existing employment benefits.
Sec. 403. Encouragement of more generous leave policies.
Sec. 404. Regulations.
Sec. 405. Effective dates.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

Sec. 501. Leave for certain Senate employees.
Sec. 502. Leave for certain congressional employees.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing and the care of family members who have serious health conditions;

(3) the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (3) and (1), respectively, of section 120 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (3) and (1)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means any "employee", as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is requested under section 102; and

(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

(B) EXCLUSIONS.—The term "eligible employee" does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(C) DETERMINATION.—For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.

(3) EMPLOY; STATE.—The terms "employ" and "State" have the same meanings given such terms in subsections (g) and (c), respectively, of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (g) and (c)).

(4) EMPLOYEE.—The term "employee" means any individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer; and

(iii) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(B) PUBLIC AGENCY.—For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(6) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(7) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(8) PARENT.—The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

(9) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(10) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(11) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(12) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment by a health care provider.

(13) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Subject to section 103, an eligible employee shall be entitled to a total of 12 work weeks of leave during any 12-month period for one or more of the following:

(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under subparagraphs (A) and (B) of paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—

(A) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 103(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

(B) ALTERNATIVE POSITION.—If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a).

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

(2) SUBSTITUTION OF PAID LEAVE.—

(A) IN GENERAL.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), or (C) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection.

(B) SERIOUS HEALTH CONDITION.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C) or (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or adoption, the employee shall provide the employer with not less than 30 days notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee; and

(B) shall provide the employer with not less than 30 days notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 103. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a request for leave under subparagraph (C) or (D) of section 102(a)(1) be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Certification provided under subsection (a) shall be sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4)(A) for purposes of leave under section 102(a)(1)(C), a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 102(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 102(a)(1), the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) for such leave.

(2) LIMITATION.—A health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the opinion in the original certification provided under subsection (a), the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any eligible employee who takes leave under section 102 for the intended purpose of the leave shall be entitled, on return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under section 102 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS.—Nothing in this section shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) CERTIFICATION.—As a condition of restoration under paragraph (1), the employer may have a uniformly applied practice or policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of employees taking leave under section 102(a)(1)(D).

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 102 to report periodically to the employer on the status and intention of the employee to return to work.

(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(1) DENIAL OF RESTORATION.—An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(B) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) AFFECTED EMPLOYEES.—An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) MAINTENANCE OF HEALTH BENEFITS.—

(1) COVERAGE.—Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

(2) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 102 if—

(A) the employee fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired; and

(B) the employee fails to return to work for a reason other than—

(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 102(a)(1); or

(ii) other circumstances beyond the control of the employee.

(3) CERTIFICATION.—

(A) ISSUANCE.—An employer may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in paragraph (2)(B)(i) be supported by—

(i) a certification issued by the health care provider of the eligible employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(D); or

(ii) a certification issued by the health care provider of the son, daughter, spouse, or parent of the employee in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(C).

(B) COPY.—The employee shall provide, in a timely manner, a copy of such certification to the employer.

(C) SUFFICIENCY OF CERTIFICATION.—

(i) LEAVE DUE TO SERIOUS HEALTH CONDITION OF EMPLOYEE.—The certification described in subparagraph (A)(i) shall be sufficient if the certification states that a serious health condition prevented the employee from being able to perform the functions of the position of the employee on the date that the leave of the employee expired.

(ii) LEAVE DUE TO SERIOUS HEALTH CONDITION OF FAMILY MEMBER.—The certification described in subparagraph (A)(ii) shall be sufficient if the certification states that the employee is needed to care for the son, daughter, spouse, or parent who has a serious health condition on the date that the leave of the employee expired.

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 107(b).

(d) SUBPOENA POWERS.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 107. ENFORCEMENT.

(a) CIVIL ACTION BY EMPLOYEES.—

(1) LIABILITY.—Any employer who violates section 105 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 105 proves to the satisfaction of the court that the act or omission which violated section 105 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 105, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including, without limitation, employment, reinstatement, and promotion.

(2) STANDING.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) LIMITATIONS.—The right provided by paragraph (1) to bring an action by or on behalf of any employee shall terminate, unless such action is dismissed without prejudice on motion of the Secretary, on—

(A) the filing of a complaint by the Secretary of Labor in an action under subsection (d) in which—

(i) restraint is sought of any further delay in the payment of the damages described in paragraph (1)(A) to such employee by an employer liable under paragraph (1) for the damages; or

(ii) equitable relief is sought as a result of alleged violations of section 105; or

(B) the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1).

(b) ACTION BY THE SECRETARY.—

(1) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover on behalf of an eligible employee the damages described in subsection (a)(1)(A).

(3) SUMS RECOVERED.—Any sums recovered by the Secretary on behalf of an employee pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an action may be brought under subsection (a) or (b) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of section 105, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(3) COMMENCEMENT.—In determining when an action is commenced by the Secretary under subsection (b) for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(d) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, over an action brought by the Secretary to restrain violations of section 105, including actions to restrain the withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees.

SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this Act shall apply to—

(A) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and

(B) any private elementary and secondary school and an eligible employee of the school.

(2) DEFINITIONS.—For purposes of the application described in paragraph (1):

(A) ELIGIBLE EMPLOYEE.—The term "eligible employee" means an eligible employee of an agency or school described in paragraph (1); and

(B) EMPLOYER.—The term "employer" means an agency or school described in paragraph (1).

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary and secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this Act.

(c) INTERMITTENT LEAVE FOR INSTRUCTIONAL EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(2) APPLICATION.—The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 102(e)(2).

(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:

(1) LEAVE MORE THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under paragraph (A), (B), or (C) of section 102(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 104(a)(1)(B) (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary and secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary and secondary school that has violated title I proves to the satisfaction of the administrative law judge or the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of such title, such judge or court may, in the discretion of the judge or court, reduce the amount of the liability provided for under section 107(a)(1)(A) to the amount and interest determined under clauses (i) and (ii), respectively, of such section.

SEC. 109. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed $100 for each separate offense.

SEC. 110. REGULATIONS.

Not later than 60 days after the date of enactment of this title, the Secretary shall prescribe such regulations as are necessary to carry out this title.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

(1) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"§6381. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means an individual who has been employed for at least 12 months on other than a temporary or intermittent basis—

"(A) as an employee as defined by section 6301(2) (excluding an individual employed by the Government of the District of Columbia); or

"(B) in a position referred to in clause (v) or (ix) of such section;

"(2) the term 'health care provider' means—

"(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; and

"(B) any other person determined by the Director of the Office of Personnel Management to be capable of providing health care services;

"(3) the term 'parent' means the biological parent of an employee, or an individual who stood in loco parentis to an employee, when the employee was a son or daughter;

"(4) the term 'reduced leave schedule' means leave that reduces the usual number of hours per workweek, or hours per workday, of an employee;

"(5) the term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment by a health care provider; and

"(6) the term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§6382. Leave requirement

"(a)(1) An employee shall be entitled, subject to section 6383, to a total of 12 administrative work weeks of leave during any 12-month period for one or more of the following:

"(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

"(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

"(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

"(D) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

"(2) The entitlement to leave under subparagraph (A) or (B) of paragraph (1) based on the birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3)(A) Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employing agency of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 6383(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

"(B) If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employing agency may require such employee to transfer temporarily to an available alternative position offered by the employing agency for which the employee is qualified and that—

"(i) has equivalent pay and benefits; and

"(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

"(b) On agreement between the employing agency and the employee, leave under subsection (a) may be taken on a reduced leave schedule. In the case of an employee on a reduced leave schedule, any hours of leave taken by such employee under such schedule shall be subtracted from the total amount of leave remaining available to such employee under subsection (a), for purposes of the 12-month period involved, on an hour-for-hour basis.

"(c) Except as provided in subsection (d), leave granted under subsection (a) shall be leave without pay.

"(d) An employee may elect to substitute for leave under subparagraph (A), (B), (C), or (D) of subsection (a)(1) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subparagraph, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave.

"(e)(1) In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

"(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee; and

"(B) shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"§6383. Certification

"(a) An employing agency may require that a request for leave under subparagraph (C) or (D) of section 6382(a)(1) be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employing agency.

"(b) A certification provided under subsection (a) shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

"(4)(A) for purposes of leave under section 6382(a)(1)(C), a statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and

"(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

"(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave.

"(2) Any health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require, at the expense of the agency, that the employee obtain subsequent recertifications on a reasonable basis.

"§6384. Employment and benefits protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

"(1) to be restored by the employing agency to the position held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Except as otherwise provided by or under law, nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any seniority or employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(d) As a condition to restoration under subsection (a), the employing agency may have a uniformly applied practice or policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

"§6385. Prohibition of coercion

"(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

"§6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Family and Medical Leave Act of 1992.".

(2) TABLE OF CONTENTS.—The table of contents for chapter 63 of title 5, United States

Code, is amended by adding at the end the following:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Certification.
"6384. Employment and benefits protection.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C); and

(2) by adding at the end the following new subparagraph:

"(E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (hereinafter referred to in this title as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave;

(B) the potential costs, benefits, and impact on productivity of such policies on employers; and

(C) alternative and equivalent State enforcement of this Act with respect to employees described in section 108(a); and

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report concerning the subjects listed in paragraph (1).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:

(A) SENATORS.—One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority Leader of the Senate.

(B) MEMBERS OF HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two Members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the Majority Leader of the Senate;

(III) the Minority Leader of the House of Representatives; and

(IV) the Minority Leader of the Senate.

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission. Any appointment shall not interrupt or otherwise affect the civil service status or privileges of the employee appointed.

(e) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(g) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTI-DISCRIMINATION LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) STATE AND LOCAL LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State and local law that provides greater employee leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family and medical leave rights to employees than the rights provided under this Act or any amendment made by this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act or any amendment made by this Act shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. REGULATIONS.

The Secretary of Labor shall prescribe such regulations as are necessary to carry out sections 401 through 403 not later than 60 days after the date of the enactment of this Act.

SEC. 405. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and V and this title shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date that occurs 12 months after the date of the enactment of this Act.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

SEC. 501. LEAVE FOR CERTAIN SENATE EMPLOYEES.

(a) COVERAGE.—The rights and protections established under sections 101 through 105 shall apply with respect to a Senate employee and an employing office. For purposes of such application, the term "eligible employee" means a Senate employee and the term "employer" means an employing office.

(b) CONSIDERATION OF ALLEGATIONS.—

(1) APPLICABLE PROVISIONS.—The provisions of sections 304 through 313 of the Government Employee Rights Act of 1991 (2 U.S.C. 1204–1213) shall, except as provided in subsections (d) and (e)—

(A) apply with respect to an allegation of a violation of a provision of sections 101 through 105, with respect to Senate employment of a Senate employee; and

(B) apply to such an allegation in the same manner and to the same extent as such sections of the Government Employee Rights Act of 1991 apply with respect to an allegation of a violation under such Act.

(2) ENTITY.—Such an allegation shall be addressed by the Office of Senate Fair Employment Practices or such other entity as the Senate may designate.

(c) RIGHTS OF EMPLOYEES.—The Office of Senate Fair Employment Practices shall ensure that Senate employees are informed of their rights under sections 101 through 105.

(d) LIMITATIONS.—A request for counseling under section 305 of such Act by a Senate em-

ployee alleging a violation of a provision of sections 101 through 105 shall be made not later than 2 years after the date of the last event constituting the alleged violation for which the counseling is requested, or not later than 3 years after such date in the case of a willful violation of section 105.

(e) APPLICABLE REMEDIES.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 101 through 105 shall be such remedies as would be appropriate if awarded under paragraph (1) or (3) of section 107(a).

(f) EXERCISE OF RULEMAKING POWER.—The provisions of subsections (b), (c), (d), and (e), except as such subsections apply with respect to section 309 of the Government Employees Rights Act of 1991 (2 U.S.C. 1209), are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate. No Senate employee may commence a judicial proceeding with respect to an allegation described in subsection (b)(1), except as provided in this section.

(g) SEVERABILITY.—Notwithstanding any other provision of law, if any provision of section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209) or of subsection (e) is invalidated, both such section 309 and subsection (e) shall have no force and effect, and shall be considered to be invalidated for purposes of section 322 of such Act (2 U.S.C. 1221).

(h) DEFINITIONS.—As used in this section:

(1) EMPLOYING OFFICE.—The term "employing office" means the office with the final authority described in section 301(2) of such Act (2 U.S.C. 1201(2)).

(2) SENATE EMPLOYEE.—The term "Senate employee" means an employee described in subparagraph (A) or (B) of section 301(c)(1) of such Act (2 U.S.C. 1201(c)(1)) who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office.

SEC. 502. LEAVE FOR CERTAIN CONGRESSIONAL EMPLOYEES.

(a) IN GENERAL.—The rights and protections under sections 102 through 105 (other than section 104(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.

(b) ADMINISTRATION.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(c) DEFINITION.—As used in this section, the term "Fair Employment Practices Resolution" means the resolution in rule LI of the Rules of the House of Representatives.

And the House agree to the same.

From the Committee on Education and Labor, for consideration of titles I, III, and IV (except section 404) of the Senate bill, and titles I, III, and IV of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM CLAY,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
TOM SAWYER,
DONALD M. PAYNE,
JOLENE UNSOELD,
CRAIG A. WASHINGTON,
JOSÉ E. SERRANO,
PATSY T. MINK,
JOHN W. OLVER,
ED PASTOR,
MARGE ROUKEMA,

From the Committee on Post Office and Civil Service, for consideration of title II of the Senate bill, and title II of the House amendment, and modifications committed to conference:

WILLIAM CLAY,
PAT SCHROEDER,
MARY ROSE OAKAR,
GERRY SIKORSKI,
GARY ACKERMAN,
BENJAMIN A. GILMAN,
CONSTANCE MORELLA,

From the Committee on House Administration, for consideration of section 404 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

WILLIAM CLAY,
MARY ROSE OAKAR,
SAM GEJDENSON,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
TOM HARKIN,
B.A. MIKULSKI,
DAN COATS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 5, to grant employees family and temporary medical leave under certain circumstances, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Leave entitlement—Birth of son or daughter

The Senate bill provides that an employee shall be entitled to leave "because of the birth of a son or daughter of the employee". The House amendment adds the requirement "and in order to care for such son or daughter".

The conference agreement adopts the House provision.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

Definition of employee

The Senate bill defines the term employee as an individual "who has been employed for at least 12 months by an employing agency and completed at least 1,250 hours of service with an employing agency during the previous 12-month period.". The House amendment defines the term employee as an individual "who has been employed for at least 12 months on other than a temporary or intermittent basis;".

The conference agreement adopts the House provision.

Definition of parent

The Senate bill defines the term parent as "the biological parent of the child or an individual who stood in loco parentis to a child when the child was a son or daughter". The House amendment defines the term parent as "the biological parent of an employee or individual who stood in loco parentis to an employee when the employee was—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability".

The conference agreement provides that the term parent means "the biological parent of an employee, or an individual who stood in loco parentis to an employee, when the employee was a son or daughter;".

Definition of serious health condition

The Senate bill defines the term serious health condition as "an illness, injury, impairment, or physical or mental condition . . .". The House amendment defines the term serious health condition as "a disabling illness, injury, impairment, or physical or mental condition . . .".

Leave entitlement—Birth of son or daughter

The Senate bill provides that an employee shall be entitled to leave "because of the birth of a son or daughter of the employee". The House amendment adds the requirement "and in order to care for such son or daughter".

The conference agreement adopts the House provision.

Unpaid leave

The Senate bill provides that "leave granted under subsection (a) [family and medical leave] may consist of unpaid leave". The House amendment provides that "leave granted under subsection (a) shall be leave without pay".

The conference agreement adopts the House provision.

Substitution of paid leave

The Senate bill provides that an employee may elect, or an employing agency may require the employee, to substitute any of the employee's accrued annual leave for a period of unpaid leave based on the birth or adoption of a son or daughter or to care for a spouse, son, daughter, or parent who has a serious health condition. In addition, the Senate bill provides that an employee may elect, or an employing agency may require the employee, to substitute any of the employee's accrued annual or sick leave for the period of unpaid leave based on a serious health condition of the employee, except that the agency is not required to provide paid sick leave in any situation in which the agency would not normally provide such paid leave.

The House amendment does not permit an agency to require an employee to substitute accrued annual or sick leave for any period of unpaid family or medical leave. In addition, the House amendment permits an employee to substitute any of the employee's sick or annual leave for any period of unpaid family or medical leave, except that the agency is not required to provide paid sick leave in any situation in which the agency would not normally provide such paid leave.

The conference agreement adopts the House provision.

Certification of health care provider

The Senate bill provides that the employing agency may require an employee to obtain subsequent recertifications from a health care provider on a reasonable basis. The House amendment provides that such recertifications will be at the expense of the agency.

The conference agreement adopts the House provision.

Prohibition of coercion—Authority of the Merit Systems Protection Board and the special counsel

The Senate bill provides that an employee allegation of coercion is within the jurisdiction of the Merit Systems Protection Board and may be investigated by the Special Counsel as a prohibited personnel practice. The House amendment has no similar language. Under section 1216 of title 5, United States Code, the Special Counsel has authority to investigate any activity prohibited by any civil service law, rule, or regulation and may investigate and seek corrective action in the same way as if a prohibited personnel practice were involved.

The conference agreement adopts the House provision.

Health insurance

The Senate bill provides that an agency may in certain circumstances recover health benefit premiums paid on behalf of an employee while on family or medical leave if the employee does not return to work upon the expiration of the leave. The House amendment has no similar provision.

The conference agreement adopts the House provision.

TITLE III—COMMISSION ON LEAVE

There are no differences between the Senate bill and the House amendment.

TITLE IV—MISCELLANEOUS PROVISIONS

With the exception of section 404 of the Senate bill, which is discussed below under Title V, there are no differences between the Senate bill and the House amendment.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

Coverage of congressional employees

Section 404 of the Senate extends coverage to employees of the Senate. Title V of the House amendment extends coverage to employees of both the Senate and the House of Representatives.

The conference agreement extends coverage to employees of both the Senate and the House of Representatives. The agreement makes technical changes to conform the Senate procedure for consideration of alleged violations to the procedure provided under existing law, including initial review by the Office of Senate Fair Employment Practices. The provisions for Congressional employees are intended to be exclusive remedies and are considered to be Constitutional exercises of rulemaking by the respective chambers.

From the Committee on Education and Labor, for consideration of titles I, III, and IV (except section 404) of the Senate bill, and titles I, III, and IV of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM CLAY,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
TOM SAWYER,
DONALD M. PAYNE,
JOLENE UNSOELD,
CRAIG A. WASHINGTON,
JOSÉ E. SERRANO,
PATSY T. MINK,
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CHRISTOPHER J. DODD,
TOM HARKIN,
B.A. MIKULSKI,
DAN COATS,
Managers on the Part of the Senate.

WE CANNOT STAND BY WHILE OTHER PEOPLE SUFFER

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the harrowing still photographs and videotapes which reached the free world last week depicting the gaunt, hollow eyed, and emasculated Moslem Bosians behind barbed wire in various encampments in former Yugoslavia have certainly caused in all of us deep anxieties. Those pictures reminded us of what we remember of the Second World War when too many nations of the world looked aside and stood aside while millions of Jewish people, and others, were exterminated.

Thankfully that will not happen again, and, as a result of the leadership of the United States, the United Kingdom, and France, the U.N. Security Council is putting the finishing touches on a resolution that will order force, if necessary, in order to deliver humanitarian relief to those Bosian people.

Mr. Speaker, we must learn from World War II. We cannot look away when the world's people are being tortured, and they are being pursued and persecuted. We can never make that mistake again.

BILL CLINTON'S NEW COVENANT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, Bill Clinton has promised the American people a new covenant. In case you are wondering, this new covenant really means more Government.

As Governor of Arkansas, Bill Clinton raised taxes and fees 128 times.

As President of the United States, Mr. Clinton will impose the largest tax increase in American history, larger than Jimmy Carter and Walter Mondale combined.

His economic plan will include $220 billion in more spending.

And his new regulations will throw 300,000 people in the auto industry out of work.

Mr. Speaker, a covenant, by definition, is a binding agreement between two parties.

If the American people vote for Bill Clinton, they are agreeing to have their taxes raised higher than they have ever been raised before.

They are agreeing to have 2.6 million jobs eliminated.

And they are agreeing to a return to those days of misery of the late seventies.

That is not the kind of agreement the American people are ready for.

□ 1210

PRESIDENT AND CONGRESS IN GRIDLOCK, URGED TO PASS MEANINGFUL LEGISLATION

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, few people can remember a time when relations between the White House and the Congress have been as bad as they are at the present time.

Last week the Washington Post, in a five-part series, emphasized that the Federal Government is in gridlock.

Last Monday's headline in the Washington Post: "In a System Divided, Partisan Politics Has Stranglehold on Progress."

The Post says our legislative scorecard reads gridlock: First, as to the soaring Federal deficit; second, violent crime; third, campaign finance reform; and fourth, revitalizing our Nation's schools.

Then yesterday—the Sunday New York Times front page headline—"President Bush and Congress: Rising Feud Produced a Legislative Deadlock."

A quote from the Times article:

> Rarely in modern American history, say scholars and politicians in both parties, has the relationship between the President and Congress been as sour and the legislative record as meager.
>
> President Bush blames the Congress.
>
> Many in Congress blame the President.
>
> President Bush and the Congress are sliding downward in the polls.

I urge that we in Congress and the White House work together during the remaining few weeks on this 102d Congress to pass meaningful legislation for the American people, helpful to them now and in the future.

CALIFORNIAN WINS WORLD SURFING CHAMPIONSHIP IN FRANCE

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, it is with a great sense of pride that I rise to recognize the accomplishments of Joey Hawkins, of Huntington Beach, CA, which is Surf City U.S.A. Underscoring that, Joey recently won the World Long Board Surfing Championship which took place in Biarritz, France. It is the first time in 8 years that an American has won this event. Joey is now the reigning world champion, the pride and joy at Surf City, and all California surfers, and all America.

Joey is a member of the Wind and Sea Surf Shop long board team. The owners of the Wind and Sea Surf Shop, Jack and Jim Flynn have long been supportive of local surfers, including myself. I also would like to point out that another Huntington Beach native, David Nuuhiwa, finished fifth at the competition in France.

Mr. Speaker, I am proud of these Huntington Beach natives and pledge to do my best to bring big surf, warm water, and bright Sun to the surfers in Huntington Beach. But on second thought, I think God has already taken care of that.

WHAT CLINTON'S PROJECTED SECRETARY OF DEFENSE MIGHT DO

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today the Republican Chair, Mr. Bond, is trying to start to strike terror in the hearts of America by saying that if Clinton should become President, PAT SCHROEDER would be Secretary of Defense.

Let me assure America that I am not running for Secretary of Defense, and I am not quite sure what Mr. Bond means. If he means that I do believe that men and women who wear the same uniform and fight for the same flag should be treated equally, then he is right; then we have a real difference of opinion between the two parties on that issue and what the Secretary of Defense should do. And if he means that had I been Secretary of Defense, I would have counseled to spend those billions of dollars either on the debt or on very important educational issues and other things at home rather than going into the Persian Gulf, he again is right.

Of course, had I been Secretary of Defense and had I insisted that we spend the money at home rather than over there, Saddam Hussein would still be in office. But, wait a minute. He is.

So I am very confused as to what Chairman Bond really means by all that today, and I just wanted to set the record straight.

WASTE IN THE FEDERAL GOVERNMENT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, the biggest issue we face this year, our most pressing problem, is our $4 trillion debt and our continuing losses on top of that of $1 billion every day.

This is why our economy is weak. This is why we do not have jobs for everyone.

In this regard, I wish every American would read a new book by Martin Gross entitled "The Government Racket: Washington Waste from A to Z."

Mr. Gross gives example after example of waste and extravagance by our Federal bureaucracy, including billions on civilian, nomilitary jets, limousines, and cars.

Listen to these words of Mr. Gross:

> For the first time in decades, the majority of Americans are seriously debating the integrity and judgment of their federal government. Not that they are fully armed with information—they are not—but there is an undercurrent of grumbling overheard in supermaket checkout lines and voiced in public-opinion polls.
>
> "Why does Uncle Sam spend so much money?" people ask * * *. "Is the government truly my friend? Or if not my enemy, is the government indifferent to my concerns?"

Mr. Gross says:

> People are suspicious that something is fundamentally wrong in Washington. And they are right. Hundreds of billions of dollars are being taken from them each year under false pretenses. In fact, waste of enormous proportions is built into the federal system, though most of it is expertly hidden. Waste is more prevalent than efficiency; more common than good works. If it continues at its present pace, not only will it bankrupt the nation fiscally, it will destroy us morally as well.

THE NEED FOR IMMEDIATE ACTION TO RESCUE BOSNIA-HERCEGOVINA

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, late last week President Bush announced a plan for international action in response to the fighting and horrible atrocities taking place in Bosnia, including U.N. authorization for measures that would include multilateral military intervention.

As cochairs of the Helsinki Commission, Senator DENNIS DECONCINI and I issued a statement welcoming this move, which we had previously urged. We want our Nation to exercise the leadership that only the United States can provide in response to situations such as this. Working within multilateral institutions is, of course, necessary.

For these institutions to succeed, however, the United States can and should provide the leadership to garner the political will necessary for making the hard decisions that securing peace and democracy in the Balkans will require.

I say this, Mr. Speaker, because I strongly believe that the conflict within and among the former Yugoslav republics is not only a European concern but an American concern as well.

It will be all too easy for this conflagration, if it is not stopped now, to spread to Kosovo, Macedonia, and eventually envelop Albania, Greece, Turkey, and other Balkan States. If we wait for that to happen, we will confront a much more dangerous challenge that will necessitate an even greater U.S. commitment than we are talking about now.

As we come to know the atrocities being committed, we also become increasingly responsible for their continuation if we fail to do something about them. On this we cannot be neutral.

The facts in Yugoslavia and our moral obligations, Mr. Speaker, both argue for action without delay.

YUGOSLAVIA

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, it appears the United Nations is about to pass a resolution endorsing the use of force to insure that humanitarian assistance reaches the people of Bosnia-Hercegovina.

I would expect to support such a resolution, based upon the mounting evidence of violence and cruelty in the former Yugoslavian states, especially involving civilians.

However, two aspects of this process concern me greatly:

First, the fact that the United Nations must consider such a resolution at all points up the failure of the European Community to deal with the situation. Although, of course, the humanitarian concerns affect all of us, it is in Europe's clear national interest to act because the violence is destabilizing their continent. Why have they not done so?

Second, the humanitarian concern we are expressing for the people of Bosnia-Hercegovina is the same we should be expressing for the people of other nations in similar circumstances around the world.

In Somalia, there is another civil war preventing relief supplies from reaching civilians, causing even more death and destruction than in Yugoslavia. Yet, the U.N. resolution is not expected to authorize assistance in that country.

Mr. Speaker, I believe the United Nations should be equally concerned about all the victims of civil war, even if stark images of their suffering do not make it as frequently onto the front pages of our newspapers or the 10 o'clock news—and even if the victims are not white.

ENVIRONMENTAL ISSUES REMAIN IN NAFTA

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, sometime this week the United States, Mexico, and Canada will likely reach agreement on a North American Free-Trade Agreement. Our citizens want an agreement that is going to create more jobs, protect the environment and public health, and secure the rights of our workers.

Unfortunately, reports indicate that there is more work to do on the environmental issues. Specifically, measures are needed to ensure adequate funding for environmental measures and the enforcement of those measures. The gentleman from New Mexico [Mr. RICHARDSON] and I have suggested that the funding be secured through a binational commission that could issue bonds, raise the money now, and pay it back through future economic growth. Fifty Democrats who voted for fast-track authority joined me earlier in sending a letter to the President calling for real environmental protection.

□ 1220

If only 20 of them had voted differently, there might not be fast track negotiations.

Mr. President, produce an agreement with adequate funding and enforcement for the environment so that all Members are going to be able to support it and secure real environmental protection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would remind Members that the President is not to be addressed directly. The Chair is to be addressed in comments on the floor.

NATIONAL DIVIDEND ACT

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I am happy today to announce the gentleman from Louisiana [Mr. TAUZIN] and I am introducing a bill called the National Dividend Act.

The greatest threat to a free people is an economy that does not work. A government that promises people more than it can pay for must at some date in the future default on those promises. We have seen that in California.

What human tragedy awaits this country can only be imagined if we do not get our budget under control. Like the well-known commercial, you can pay me now or you can pay me later, that day of reckoning will come.

Mr. Speaker, the essence of our bill was the underpinning of the Alaska permanent fund dividend. I was not in favor of it in the beginning, but I have seen it work for the last decade. I can tell you it has done more for the people, for the economy of the State of Alaska, than any other thing I have ever seen passed by the legislative body.

The State of Alaska now has a surplus of $12 billion, and each year the Alaskan citizens participate as a partner in its government of a check usually around $1,000.

The bill that was introduced today, the National Dividend Act, goes much further than the permanent fund. It guarantees an early end to deficit spending and a secure, robust economy that will allow this country to keep its commitments without fear of default.

31 PRESIDENTIAL VETOES HURTING AMERICA

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, yesterday in the New York Times there was a listing of the vetoes that have been cast by this administration, from 1 to 31. The last veto was cast July 2, 1992. The first one was cast June 13, 1989.

Thirty-one vetoes tell the story of why we are in a state of stagnation in this Nation, why we have no leadership, why the voters and the American people know something is wrong, and they are angry.

They are correct. We are stagnated, we have no leadership, and the record is right here for any grade school youngsters to see in these 31 vetoes.

The administration said no to a bill raising the minimum wage to $4.55 from $3.35 an hour. I remember very well that because as a member of the Committee on Education and Labor, we negotiated with the administration penny by penny, nickel by nickel, to get that back up.

The last veto cast was legislation that would have required States to allow voter registration when citizens apply for driver's licenses or government benefits.

All the way from providing minimum wage to workers to guaranteeing that everybody has an opportunity to register to vote, we have had 31 vetoes, and this tells the story of why our Nation is stagnating and not moving forward. We need a new administration to take us into the New World order.

PRESIDENT'S KNOWLEDGE OF GEOGRAPHY IS MISPLACED

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I do not think it is very important whether you know how to spell "potato," whether there is an "e" or an "o." There are a lot of words that I am sure I cannot spell either. But certainly President Bush ought to know where Arkansas is, because he claimed residency in Texas as a tax dodger for 25 years, saving himself $25,000 a year. But he says that Arkansas is located somewhere between Oklahoma and Texas.

Well, I certainly hope that he finds out where some of these places are in the United States. I would hate to think that he does not know where Ohio is, where eastern Ohio is, where I have a great number of people who are unemployed. I certainly know that he knows where Mexico is, because he wants to send all of our industries out of the country.

Mr. Speaker, I would suggest that the President look at some books and find out where some of our States and some of our countries are located.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HUBBARD). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas or nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such votes, if postponed, will be taken tomorrow, Tuesday, August 11, 1992.

DEPENDENCY AND INDEMNITY COMPENSATION REFORM ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5008) to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dependency and Indemnity Compensation Reform Act of 1992".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REFORM OF DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

SEC. 101. REFORM IN PAYMENT FORMULA.

(a) SURVIVING SPOUSE RATE.—Subsection (a) of section 1311 is amended by striking out the

matter preceding the table and inserting in lieu thereof the following:

"(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of $750. Such rate shall be increased by $50 in the case of—

"(A) the death of a veteran while performing service in the active military, naval, or air service; or

"(B) the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that either was rated totally disabling for a continuous period of at least five years immediately preceding death or, if so rated for a lesser period, was so rated from the date of such veteran's discharge.

"(2) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the amount determined with respect to that veteran under paragraph (1):".

(b) ADDITIONAL RATE FOR SURVIVING SPOUSE WITH MINOR CHILDREN.—Subsection (b) of such section is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child thereafter".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 102. EXCEPTION TO OPERATION OF OBRA PROVISION AND STUDY OF CERTAIN INDIVIDUALS AFFECTED BY OBRA.

(a) EXCEPTION.—(1) The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (105 Stat. 424) shall not apply to any case in which a legal proceeding to terminate a marital relationship was commenced before November 1, 1990, by an individual described in paragraph (2) if that proceeding directly resulted in the termination of such marriage.

(2) An individual referred to in paragraph (1) is an individual who, but for a subsequent remarriage, would be considered to be the surviving spouse of a veteran.

(b) STUDY.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall initiate a study to evaluate the effect of section 8004 of the Omnibus Budget Reconciliation Act of 1990 on certain former surviving spouses of veterans whose potential eligibility for benefits under the Dependence and Indemnity Compensation program was adversely affected by that section.

(2) As part of such study, the Secretary shall, to the extent reasonably feasible, conduct a survey of a representative group of those individuals whose claims for reinstatement of such benefits have been denied as the result of such section, to ascertain their current marital and economic circumstances, to ascertain the number of children in the household, and to ascertain the nature and type of Federal benefits and services currently available to them. The Secretary shall provide such individuals the option of submitting anonymous responses to any such survey to encourage greater participation.

(3) The Secretary shall carry out the study under paragraph (1) in consultation with the Secretary of Defense and the Secretary of Health and Human Services,

(4) Not later than September 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study described in paragraph (1).

TITLE II—LIFE INSURANCE PROGRAMS

SEC. 201. SERVICEMEN'S GROUP LIFE INSURANCE.

Section 1967 is amended by adding at the end thereof the following:

"(e) In addition to the amounts of insurance otherwise provided under this section, an eligible member may, upon application, obtain increased coverage beyond that provided under this section in the amount of $100,000, or any lesser amount evenly divisible by $10,000.".

SEC. 202. VETERANS' GROUP LIFE INSURANCE.

Section 1977 is amended—

(1) in subsection (a)—

(A) by inserting "and (e)" after "1967(a) and after "1967(b)";

(B) by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(C) by striking out "sixty days" and inserting in lieu thereof "60 days";

(D) by striking out "sixty-day period" and inserting in lieu thereof "60-day period"; and

(E) by striking out "of this section" after "subsection (e)";

(2) in subsection (b)(2), by striking out "nonrenewable" and inserting in lieu thereof "renewable";

(3) in subsection (g), by inserting "and at the end of such period shall be renewable on a five-year basis as provided in subsection (b)" before the period at the end of the second sentence; and

(4) in subsection (h)(2), by striking out "Notwithstanding subsection (b)(2) of this section" and inserting in lieu thereof "In accordance with subsection (b)".

SEC. 203. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $10,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 204. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

SEC. 205. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 1992.

TITLE III—OTHER VETERANS' PROGRAMS

SEC. 301. INCREASE IN MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS.

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$325".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking out "$140" and inserting in lieu thereof "$190";

(2) in subparagraph (B), by striking out "$105" and inserting in lieu thereof "$143"; and

(3) in subparagraph (C), by striking out "$70" and inserting in lieu thereof "$95".

(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section"; and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(d) CONFORMING AMENDMENTS TO SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)"; and

(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(e) EFFECTIVE DATE AND RULE OF CONSTRUCTION.—(1) The amendments made by this section shall take effect on April 1, 1993.

(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms "Montgomery GI bill rate increase" and "title III benefit" have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).

SEC. 302. APPLICABILITY TO SURVIVING SPOUSES OF LIMITATION ON PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Section 5503(f) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraph (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992, and shall apply with respect to months after September 1992.

(c) EXTENSION.—Such section is further amended by striking out "September 30, 1992" in paragraph (7) (as redesignated by subsection (a)(1)) and inserting in lieu thereof "September 30, 1997".

SEC. 303. EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) TITLE 38.—Section 5317(g) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

(b) INTERNAL REVENUE CODE OF 1986.—(1) Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out "September 30, 1992" in the last sentence and inserting in lieu thereof "September 30, 1997".

(2) Clause (viii) of such subparagraph is amended—

(A) in subclause (II), by striking out "section 415" and inserting in lieu thereof "section 1315"; and

(B) in subclause (III), by striking out "section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)" and inserting in lieu thereof "sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)".

SEC. 304. EXTENSION OF COPAYMENT PROGRAMS.

(a) MEDICATIONS.—Section 1722A(c) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the provisions of subsection (a) shall be in effect through September 30, 1996.".

(b) HEALTH-CARE CATEGORIES AND COPAYMENTS.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the amendments made by this section shall be in effect through September 30, 1996.".

The SPEAKER pro tempore (Mr. HUBBARD). Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5008 and H.R. 5087.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5008, as amended, makes major changes in the Dependency and Indemnity Compensation [DIC] Program. DIC is a benefit paid to widows and children of veterans who die of service-connected disabilities.

As of June 1, 1992, there were 276,000 spouses and 37,000 children receiving DIC benefits. VA is expected to pay about $2.6 billion to these individuals in fiscal year 1993.

For many years, the payment of DIC has been based on the veteran's rank. The higher the rank, the greater the benefit.

Under current law, if a private dies on active duty, his widow receives $616 per month. The widow of a captain receives $832. If a three-star general is killed while on active duty or dies of a service-connected disability following service, his widow receives $1,400 per month more.

Many believe the rate paid the widow should be the same, regardless of rank. H.R. 5008 would eliminate rank as the basis for setting the basic benefit level. It would pay the widow of the private the same amount it would pay the widow of the general. The basic benefits to all widows would be $750.00 per month effective January 1, 1993.

The bill will also improve the GI Education Program. Effective April 1, 1993, the bill would raise the basic benefit level from $350 to $400 per month for individuals who serve on active duty for at least 3 years. For members of the Reserves and National Guard the rate would be increased from $170 to $190 per month. In addition, the bill would provide for automatic cost-of-living increases beginning October 1, 1993.

There are other important provisions in the bill which will be explained by the distinguished Chairman of our Subcommittee on Compensation, Pension and Insurance when I yield to him in just a few minutes. Before doing so, let me talk a little bit about the cost of the bill and how we propose to pay for it.

The program changes we are making in the bill will cost additional money. According to CBO, the enactment of this bill would increase outlays by $172 million in the next fiscal year. Over the next 5 years the cost would be about $1.3 billion. The CBO estimate is contained in House report accompanying the bill.

Mr. Speaker, I want to assure all Members of the House that our committee has found a way to pay for the bill.

This bill is budget neutral. All costs will be offset by substantial savings in other VA functions. Let me explain how we intend to pay for the provisions I have mentioned and the others Chairman APPLEGATE will discuss. I hope LEON PANETTA and BILL GRADISON are listening. To pay for the increased benefits, the bill would make the following changes in current law:

First, it would extend and expand the scope of a provision contained in Public Law 101-508 that limits the payment of nonservice-connected disability pension and death pension to certain single veterans or surviving spouses who receive care in Medicaid-eligible nursing homes. Second, in addition, the bill would extend another provision contained in Public Law 101-508 that permits the VA to have access to certain income data from the Internal Revenue Service to allow them to verify veterans' continued eligibility for pension and other needs-based benefits. Third, the bill would extend for 4 years the medical copayment and prescription fee provisions of law currently in effect for certain veterans with nonservice-connected disabilities.

According to the Congressional Budget Office, these provisions would result in net outlay savings of $25 million in 1993 and $186 million during the next 5 fiscal years. Our committee is staying within the budget agreement and this bill will not add one penny to the deficit.

I want to commend my colleagues, DOUG APPLEGATE, and BOB STUMP, Mr. HAMMERSCHMIDT and all members of the Subcommittee on Compensation, Pension and Insurance who have worked for almost 2 years on this bill.

□ 1230

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE], who is chairman of the Subcommittee on Compensation, Pension, and Insurance.

Mr. APPLEGATE. Mr. Speaker, I certainly want to thank my good chairman for yielding time to me and for bringing this to an expeditious conclusion.

There is a lot of good legislation that has passed during this particular session of Congress, some of which the President signed, much of which he vetoed, but this is one that I am sure, although he has not called me and told me, I am sure that he is going to sign this because it is basically good, equitable legislation.

And as our good chairman has explained, there is no addition to the deficit. And certainly, very importantly is that it is the most important piece of legislation to widows and orphans that this legislature or Congress has addressed in years.

As the chairman has indicated, the bill makes major changes and improvements to the DIC Program, and it would reform the rate structure of the program effective January 1, 1993, that will provide a monthly base rate of $750 to surviving spouses of veterans whose deaths are service connected.

Now, virtually everyone agrees that the current payment structure, which contains some 25 different rates based on rank, certainly has not been very equitable. The flat rate approach in this bill seeks to establish parity among surviving spouses at a very reasonable level of income than is currently received by a great majority of beneficiaries.

For all future deaths, there would be no reliance on the veteran's rank while on active duty. However, current DIC recipients would be grandfathered, if their benefits under the current rate structure are higher. So that they are not going to be reduced.

The $750 base rate would be increased by an additional 50 a month in two situations, and that is for a death in service or if the veteran was totally disabled due to service-connected disabilities continuously for at least 5 years prior to their death.

Now, this is going to benefit approximately 150,000 widows, and there will be some hundreds of thousands of more widows in the future who will benefit by this increase. But importantly, the bill would also increase over a 3-year period the additional amounts payable for dependents. It is $71 per month per child. That, over a 3-year period, will go up to $200 a month per child. And this is going to affect some 25,000 orphans of those veterans now. This increase specifically reflects a distinction between the DIC Program, which is a death benefit to a veteran's survivors, and disability compensation, a benefit paid to disabled veterans, by recognizing the fact that while a veteran is alive, he or she and their spouse each have the potential to be wage earners. Once that veteran has died, however, the family wage earner potential is reduced to 1 person, as a single parent may not be able to be employed.

Also, in order to address the concerns of virtually all of the veterans organizations and the widows organizations, H.R. 5008 would provide a limited excepted to the reinstatement bar that was raised by the Omnibus Budget Reconciliation Act of 1990 for certain surviving spouses who had commenced divorce proceedings prior to its effective date of November 1, 1990.

It would also direct the Secretary of Veterans Affairs to study the effects of that OBRA provision on other ineligible veterans.

Finally, H.R. 5008 would make improvements to the servicemen's group life insurance and veterans' group life insurance programs by allowing people to enhance their coverage. In the case of veterans' group life insurance, veterans would be able to maintain their present levels of term life coverage through 5-year renewal terms. And the maximum coverage under both the SGLI and VGLI programs would be increased from $100,000 to $200,000. This is not just an out-and-out gift. These are discount rates that they would pay because the veterans would continue to pay.

Coverage beyond the $100,000 provided would be provided automatically, under SGLI, would be at the option of the service member.

Finally, the bill also provides needed improvements to the veterans mortgage life insurance program by raising its maximum coverage from $40,000 to $90,000, and that is to help take care of the specially adapted houses for the disabled veterans, and to the service disabled veterans life insurance program by allowing certain totally disabled veterans to purchase an additional $10,000 in coverage.

Again, this is not something that is going to be out-and-out free. Veterans will pay, but it will be at discounted rates. And I think as the chairman has pointed out a while ago, in explaining the funding mechanism, this is in keeping with the spirit of OBRA, which was passed in 1990, we cannot add on any more to the deficit.

This is budget neutral, and it does not add a penny to the deficit.

Let me just say this, I want to add a word of thanks to the gentleman from Mississippi, Chairman MONTGOMERY, for bringing this to the floor in such an expeditious manner, as well as the gentleman from Arizona, BOB STUMP, who is the ranking minority member, and also to our very good friend, the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT. This may well be one of the last major bills that the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, is going to be working on. He has been one of the truly outstanding members of the Committee on Veterans' Affairs, as well as the Committee on Public Works and Transportation, on which I serve with him. And he has done yeoman's work, certainly, taking care of the people of this Nation and taking care of his district.

I can say this, that whichever side of the aisle that a Member is, politicalwise, the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, is going to be missed very much. But wherever you go and whatever you do, we certainly wish you much success in all of your future endeavors.

☐ 1240

Mr. Speaker, I urge passage of this measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5008, as amended. This bill certainly represents a lot of time and effort on the part of our committee, and, in particular, DOUG APPLEGATE, ranking member BOB STUMP, and Chairman SONNY MONTGOMERY.

H.R. 5008, as amended, embraces a totally different approach to providing compensation to the widows and children of service-connected disabled veterans. The new flat rate of payment is more equitable and one in which there is a consensus among the veterans service organizations.

In addition to the major reform of the Dependency and Indemnity Compensation Program for widows and survivors of service-connected disabled veterans, the measure provides for a much-needed increase in the Montgomery GI bill benefit.

The increase would help keep this an attractive program for the young men and women who are considering joining our armed services.

Though the Armed Forces in the foreseeable future will be somewhat smaller, they will still need to attract quality recruits to operate our high technology weapons. Of course, we also want to ensure that the Montgomery GI bill remains an adequate readjustment benefit in light of the steep rise in educational costs over the past few years.

Mr. Speaker, this bill also contains savings provisions to pay for higher priority programs. Even though the majority of veterans service organizations did not agree with the actions we took in the Omnibus Budget Reconciliation Act of 1990, where we had to find $3.5 billion in savings over 5 years, they realize in order to fund an agenda of higher priority items, other programs must be put on hold.

This measure extends some of those OBRA provisions and is a fiscally responsible bill.

Mr. Speaker, I urge my colleagues to give H.R. 5008, as amended, their wholehearted support.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY], a member of the Committee on Veterans' Affairs.

Mr. PENNY. Mr. Speaker, I simply want to add my words of support for the legislation. The major provisions of this legislation are well-crafted and deserving of our support.

Mr. Speaker, I do have a couple of reservations that I want to place on the record, however, I view the financing scheme as central to our role as legislators. If we cannot find the money to pay for these benefits, then we should not proceed with the legislation. I am pleased that as a committee we have taken that responsibility very seriously.

There is one small element of the financing mechanism that I would raise just out of concern. That is the continuation of the $2 copayment on prescription drugs at our VA medical facilities. I do not dispute that there are many veterans that can afford to pay this fee. I simply feel that in many of our facilities around the country it is viewed as a nuisance fee, and in some facilities, including the facility in Minneapolis, I have been told that about half of the amount that we are charging in the fee is used just to cover the overhead expense of collecting the fee, which does not seem to me to be a very cost-effective operation.

Having said that, by and large the financing mechanisms at least make this bill an honest bill in terms of the pay-as-you-go requirements, and I support that.

Mr. Speaker, my second concern has to do with the increased payment for dependent children under our DIC Program. I think we have already done a great service to those lower ranking military service members by increasing their basic pay, keeping in mind these lower ranking service members are those that are most likely to have dependent children, so we have already given them an increased allotment.

We also in this bill increase from $70 to $100 in the first year the payment for each child, and increase that to $150 in the second year, and $200 in the third year and years beyond. I am concerned that the precedent we establish here in the DIC Program is one that will be expected of us in terms of other programs where dependent children are affected. The increase that we offer here is one that does not cost a great deal when only applied to the 37,000 dependent children, but it could cost significant sums of money if in future years we are asked by the veterans community to expand this benefit level increase to the 370,000 children that are beneficiaries under the compensation program available to disabled veterans.

Mr. Speaker, with that concern on the record, I simply want to alert the membership that we may very likely be asked to make a similar change in dependent coverage in the next session of Congress, and finding the money to handle that increase is going to be far more difficult than the challenge facing us to finance the legislation before us today.

Mr. Speaker, in raising the issue of the increase in children's benefits under this bill, I wish to share with the membership a letter I sent to my Veterans' Affairs colleagues following our committee consideration of H.R. 5008:

DEAR VETERANS' AFFAIRS COLLEAGUE: I just wanted to reiterate some of my concerns with the DIC reform bill.

First of all, this is not a question of whether to increase benefits for dependent children. We all agree that an increase is justifiable. Most families do receive an increase under the reform bill. The basic DIC reform will result in a benefit increase for all ranks E–1 through E–6. These lower ranking service personnel are those most likely to have dependent children. Current benefits for these ranks are as follows: E–1—$616, E–2—$635, E–3—$652, E–4—$693, E–5—$711, and E–6—$727.

All of these beneficiaries will now be paid $750 per month.

In addition to that basic increase, the bill also increases the benefit for each dependent child from the current $71 to $100 in fiscal year 1993, $150 in fiscal year 1994 and $200 in fiscal year 1995. The present rate of $71 per child is comparable to the existing $52 payment level for dependent children of those 100 percent disabled. Somewhat lower payments apply to children of those with lower disability ratings.

Clearly, once children's payments are increased for DIC—as a matter of equity and fairness—a demand will be made to increase payments for children of disabled veterans. Please recognize that there are 10 times as many children in the service-connected disability program. While the cost of this benefit increase for DIC is modest—it will be much harder to find the funds to provide higher payments to the families of service-connected veterans.

Fundamentally, there is no objective reason to provide a 300-percent increase in DIC children's payments now, except that, as Subcommittee Chairman Applegate put it: "the money is there." This is a precedent which we cannot afford to follow for the 350,000 children of the service-connected disabled. Unfortunately for them, the money most likely won't be there. As a consequence we have created an inequity that will be hard to explain to America's disabled veterans.

Sincerely,

TIMOTHY J. PENNY,
Member of Congress.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I appreciate what the gentleman from Minnesota [Mr. PENNY] has said. He is a very valuable member of our committee, and also is the chairman of the subcommittee. Certainly what he tells us we do not take lightly. I thank him for making his comments today.

The gentleman from Ohio [Mr. APPLEGATE] also mentioned the gentleman from Arkansas [Mr. HAMMERSCHMIDT]. I have enjoyed working with JOHN PAUL HAMMERSCHMIDT. We came together 26 years ago. He is always there working for veterans, and we will be counting on him, even though he might have left us, to give us his sound advice.

Mr. Speaker, I want to thank the chairman and ranking minority member of the Ways and Means Committee, Mr. ROSTENKOWSKI and Mr. ARCHER, for their cooperation in allowing this bill to move forward. Section 3 of this bill would extend the authority for the Internal Revenue Service to disclose certain tax information to the Department of Veterans Affairs that is needed to determine whether certain veterans are eligible for pension benefits. The Committee on Ways and Means met last Thursday and approved section 3 of the bill without amendment.

I also want to express my thanks to Chairman ASPIN, Mr. DICKINSON, Mrs. BYRON, and Mr. BATEMAN of the Committee on Armed Services. The section of the bill pertaining to the GI bill program also falls within the jurisdiction of Armed Services, and I appreciate their cooperation very much.

This is a very good bill, and I urge my colleagues to support it.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of H.R. 5008, the Dependency and Indemnity Compensation Reform Act of 1992.

The bill is financed by a noncontroversial tax provision that is in the jurisdiction of the Committee on Ways and Means. This provision would extend the present-law authority of the Department of Veterans Affairs to have access to taxpayer information from the Internal Revenue Service. This taxpayer information is used by the Department of Veterans Affairs to weed out claims for excessive benefits under its needs-based pension program and other programs.

The current authority to receive this taxpayer information expires September 30, 1992. The bill would extend that authority for 5 years.

The Committee on Ways and Means originally had included this noncontroversial tax provision as one of a number of funding sources for H.R. 776, the Comprehensive National Energy Act, which passed the House last May 27, 1992. After learning of the intention of the Committee on Veterans' Affairs to include this provision in H.R. 5008, however, the Ways and Means Committee has agreed that it is an appropriate funding mechanism for these veterans programs.

I have given Chairman MONTGOMERY my personal assurances that in conference on the energy bill, I will make every effort that this provision be dropped from the energy bill, so that this financing mechanism will be available to fund these worthy veterans programs in H.R. 5008.

Mr. Speaker, I urge my colleagues' support for H.R. 5008.

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to rise in support of H.R. 5008.

The leadership of the House Veterans' Affairs Committee is to be commended for the work that has been done to bring this dependency and indemnity reform package to the House floor.

Mr. Speaker, not only are significant benefit increases provided for widows and orphans, but H.R. 5008 also furnishes another needed increase in the Montgomery GI bill education benefit.

Perhaps the most important aspect of this bill is that the Veterans' Committee is again demonstrating its responsibility by financing the benefits which we report in legislation.

Mr. Speaker, the gentleman from Arizona and Chairman MONTGOMERY have crafted a bipartisan package of savings and revenue raisers which pay for all the benefits provided under this bill. These revenue raisers also finance several other benefit extensions which reside in other committee bills.

As the ranking minority member of the Education, Training and Employment Subcommittee, I would like to call attention to the provision in H.R. 5008 which further increases Montgomery GI bill benefits. I know Chairman MONTGOMERY has worked a very long time to increase these educational benefits and his efforts deserve hearty congratulations.

Mr. Speaker, the GI bill continues to help veterans achieve their education goals and is a model of efficiency and reliability. I commend our chairman and both Mr. STUMP and Mr. PENNY for their roles in bringing this $50 per month benefit to fruition.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5008, the Dependency and Indemnity Compensation Reform Act of 1992, and I would like to commend the gentleman from Ohio [Mr. APPLEGATE] for introducing this important measure as well as the distinguished chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for the unceasing efforts to improve the quality of life for our Nation's veterans.

Compensating veterans and their dependents for service-related injuries or death has been a practice since colonial times. The current rate structure for benefits was formulated in 1969 under the guidelines of Public Law 91–96. Since that time, numerous changes have been made, however the basic intent and structure of the program has remained the same. H.R. 5008 replaces the rank-based rate scale with a flat-rate system, providing a base payment of $750 per month to all surviving spouses of veterans who die after January 1, 1993.

I am pleased that this measure has addressed the concerns of several veterans' groups that the current dependency and indemnity compensation system is not equitable, and I urge my colleagues to fully support this measure.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5008, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes.".

A motion to reconsider was laid on the table.

GI BILL AMENDMENTS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5087) to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF PERIOD FOR COMPLETING REQUIREMENTS FOR EQUIVALENCY CERTIFICATE FOR SECONDARY SCHOOL DIPLOMA.

(a) IN GENERAL.—(1) Section 3011 of title 38, United States Code, is amended—

(A) in subsection (a)(2), by inserting ", except as provided in subsection (e) of this section," after "who"; and

(B) by adding at the end thereof the following new subsection:

"(e) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 12-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.".

(2) Section 3012 of such title is amended—

(A) in subsection (a)(2), by inserting "except as provided in subsection (f) of this section," after "who,"; and

(B) by adding at the end thereof the following new subsection:

"(f) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 12-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.".

(b) NOTIFICATION REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary of each of the military departments shall notify each individual who was on active duty in the Armed Forces on August 2, 1990, and who has not met the requirements of a secondary school diploma (or equivalency certificate), of the extension of the period for the completion of such requirements afforded by the amendments made by this section.

SEC. 2. EXCLUSION OF CERTAIN PERIODS FROM INITIAL OBLIGATED PERIOD OF ACTIVE DUTY FOR PURPOSES OF DETERMINING EDUCATIONAL BENEFITS.

(a) IN GENERAL.—(1) Section 3011(b) of title 38, United States Code, is amended—

(A) by striking out "(b) The basic pay" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), the basic pay";

(B) by adding the following new sentence at the end of paragraph (1) (as designated by subparagraph (A) of this paragraph): "An individual who becomes entitled to educational assistance under this chapter based upon the service described in subsection (d)(4)(B) shall be credited under this subsection with the amount of basic pay reduced under this subsection (if any) during a previous period of active duty."; and

(C) by adding after paragraph (1) (as designated by subparagraph (A) of this paragraph) the following:

"(2)(A) An individual described in subparagraph (B) who is establishing or has established entitlement to educational assistance under this chapter based upon the service described in subsection (d)(4)(B) shall pay to the Secretary of Defense an amount equal to the amount required by paragraph (1). A payment under this paragraph shall be made by reductions in basic pay, a payment of cash, or a combination thereof, in accordance with such regulations as the Secretary of Defense shall prescribe.

"(B) An individual referred to in subparagraph (A) is—

"(i) an individual who separated from service before the date of enactment of this subsection; or

"(ii) an individual whose discharge or release from active duty prevents the monthly reduction of basic pay under paragraph (1).".

(2) Section 3011(d) of such title is amended by adding the following new paragraphs at the end thereof:

"(4) Any initial period of active duty beginning after June 30, 1985, shall not be considered an individual's obligated period of active duty for purposes of this chapter if—

"(A) such period of active duty is one year or less in duration;

"(B) the individual concerned is discharged or released from such period of active duty with an honorable discharge for a reason specified in subclause (I) or (III) of subsection (a)(1)(A)(ii); and

"(C) the individual, subsequent to such discharge or release, completes a period of active duty that (i) is at least one month longer in duration than any previous active duty period from which the individual was so discharged or released and (ii) would have established entitlement to educational assistance under this chapter if the individual had not served the period of active duty referred to in subparagraph (A).

"(5) The commencement of any period of service that is not considered an individual's initial obligated period of active duty as a result of this subsection shall not be considered an individual's initial entry on active duty in the armed forces for purposes of subsection (c)(1) or section 3012(d)(1) of this title.".

(3) Section 3012(c) of such title is amended—

(A) by striking out "(c) The basic pay" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), the basic pay";

(B) by adding at the end of paragraph (1) (as designated by subparagraph (A) of this paragraph) the following new sentence at the end thereof: "An individual who becomes entitled to educational assistance under this chapter based upon the service described in section 3011(d)(4)(B) of this title shall be credited under this subsection with the amount of basic pay reduced under this subsection (if any) during a previous period of active duty."; and

(C) by adding after paragraph (1) (as designated by subparagraph (A) of this paragraph) the following:

"(2)(A) An individual described in subparagraph (B) who is establishing or has established entitlement to educational assistance under this chapter based upon the service described in section 3011(d)(4)(B) of this title shall pay to the Secretary of Defense an amount equal to the amount required by paragraph (1). A payment under this paragraph shall be made by reductions in basic pay, a payment of cash, or a combination thereof, in accordance with such regulations as the Secretary of Defense shall prescribe.

"(B) An individual referred to in subparagraph (A) is—

"(i) an individual who separated from service before the date of enactment of this subsection; or

"(ii) an individual whose discharge or release from active duty prevents the monthly reduction of basic pay under paragraph (1).".

(4) Section 3013 of such title is amended by adding at the end thereof the following:

"(g)(1) The amount of an individual's entitlement specified in subsections (a) through (d) of this section that is based on service subsequent to a period of service described in section 3011(d)(4)(A) of this title shall be reduced by the amount of the individual's entitlement used (if any) that is based on service described in such section 3011(d)(4)(A).

"(2) No part of the net amount of an individual's entitlement based on service subsequent to a period of service described in section 3011(4)(B) of this title shall be used as a basis for payment of educational assistance under this chapter for education or training pursued by the individual prior to the date of enactment of this subsection.".

SEC. 3. BAR TO VETERANS EDUCATIONAL ASSISTANCE FOR COURSE ENROLLMENT UNDER THE GOVERNMENT EMPLOYEES TRAINING ACT.

Section 3681(a) of title 38, United States Code, is amended by striking out "and whose full salary is being paid to such person while so training".

SEC. 4. REQUIREMENT THAT TRAINING ESTABLISHMENTS CERTIFY HOURS WORKED UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

Section 2136(b) of title 10, United States Code, is amended by striking out "1780(c),".

SEC. 5. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

(a) DISAPPROVAL.—(1) Section 3676 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study.".

(2) Chapter 36 of such title is amended by inserting after section 3680 the following new section:

"§3680A. Disapproval of enrollment in certain courses

"(a) The Secretary shall not approve the enrollment of an eligible veteran in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

"(4) any independent study program except an accredited independent study program leading to a standard college degree.

"(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

"(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2);

"(B) in a farm cooperative training course; or

"(C) in a course described in section 3689(b)(6).".

(3)(A) Chapter 34 of such title is amended by repealing section 3473.

(B) The table of sections at the beginning of chapter 34 of such title is amended by striking out the item relating to section 3473.

(4) Section 3034 of such title is amended—

(A) in subsection (a)(1), by striking out "3473,"; and

(B) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(5) Section 3241 of such title is amended—

(A) by striking out "3473," both places it appears; and

(B) in subsection (b)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(6) Section 2136(c)(1) of title 10, United States Code, is amended by striking out "1673(b)" and inserting in lieu thereof "3680A(b)".

(7) Section 3523(a)(4) of title 38, United States Code, is amended by striking out "one" and all that follows and inserting in lieu thereof "an accredited independent study program leading to a standard college degree.".

(8) The table of sections at the beginning of chapter 36 of such title is amended by inserting after the item relating to section 3680 the following new item:

"3680A. Disapproval of enrollment in certain courses.".

(b) SAVINGS PROVISION.—The amendments made by paragraphs (2) through (6) of subsection (a) of this section shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under title 38, United States Code, or title 10, United States Code, in effect on that date.

SEC. 6. MEASUREMENT OF COURSES.

(a) IN GENERAL.—Section 3688 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking out "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed";

(B) in paragraph (2), by striking out "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required";

(C) in paragraph (4)—

(i) by striking out "in residence"; and

(ii) by inserting ", other than a course pursued as part of a program of education beyond the baccalaureate level," after "semester-hour basis";

(D) in paragraph (6), by striking out "3491(a)(2)" and inserting in lieu thereof "3034(a)(3), 3241(a)(2) or 3533(a)"; and

(E) by striking out paragraph (7) and all that follows to the end of the subsection and inserting in lieu thereof the following:

"(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in paragraph (4) of this subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by paragraph (1) or (2) of this subsection, as appropriate.";

(2) in subsection (b), by striking out "34" and inserting in lieu thereof "30, 32,"; and

(3) by striking out subsections (c), (d), and (e).

(b) INDEPENDENT STUDY.—Section 3532(c) of title 38, United States Code, is amended by striking out paragraphs (3) and (4).

SEC. 7. DEATH BENEFIT.

Section 3017(a)(1)(B) of title 38, United States Code, is amended by inserting before the comma "or within one year after discharge or release from active duty".

SEC. 8. EDUCATIONAL ASSISTANCE ENTITLEMENT DATES.

(a) CHANGE IN DATES.—Title 38, United States Code, is amended—

(1) in section 3011(a)(1)(B), by striking out "on October 19, 1984," and all that follows through "and—" and inserting in lieu thereof "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—";

(2) in section 3012(a)(1)(B), by striking out "on October 19, 1984," and all that follows through "and—" and inserting in lieu thereof "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—"; and

(3) in section 3031(e), by striking out "October 18, 1984" and inserting in lieu thereof "June 30, 1985".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 28, 1986.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5087 would make important improvements in veterans' education programs.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY], the chairman of the Subcommittee on Education, Training and Employment of the Committee on Veterans' Affairs, for an explanation of the bill.

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, H.R. 5087, which was approved by the Subcommittee on Education, Training and Employment on July 9 and ordered reported, as amended, by the full committee on July 23, would improve veterans' education programs.

Briefly, the major provisions of H.R. 5087 are as follows.

First, the bill would extend the period for completing the requirement for a GED or secondary school diploma for Persian Gulf war veterans.

Under current law, individuals must complete the requirements for a GED before leaving active duty in order to be eligible for the Montgomery GI bill. Some service members were nearing completion of their GED when they were sent to Southwest Asia during the gulf war and, as a result, were unable to finish the GED requirements before their discharge from active duty—thus losing their GI bill eligibility. A provision of H.R. 5087 would correct this situation and enable those individuals who complete the GED within 12 months of the date of enactment of this bill, whether or not these individuals are still on active duty, to establish eligibility for their education assistance benefits.

H.R. 5087 would also provide that individuals who are discharged from service after less than 12 months on active duty and who later reenlist are eligible to participate in the GI bill.

Additionally, the bill would simplify and streamline the current complex measurement system and recognize the changes in teaching modes which have occurred during the past 20 years.

Finally, H.R. 5087 would extend eligibility for the death benefit established under section 3017 of title 38 to the survivors of chapter 30 participants who die of service-connected causes within 1 year of discharge from active duty. Current law provides this benefit only in the case of death while on active duty.

I want to point out that several of the provisions in H.R. 5087 were recommended by the Commission on Veterans Education Policy and the Department of Veterans Affairs.

CBO estimates that this measure will cost $5 million in fiscal year 1993 and $27 million over 5 years. In order to fully meet the pay-as-you-go budget requirements, the savings to cover the cost of H.R. 5087 are included in H.R. 5008, which was just approved by the House.

I want to thank the ranking minority member of the Subcommittee on Education, Training and Employment, CHRIS SMITH, and all members of the subcommittee for their cooperation in developing this legislation. I also want to express my appreciation to the chairman of the full committee, SONNY MONTGOMERY, and to the ranking minority member of the full committee, BOB STUMP, for their leadership and assistance.

H.R. 5087 is a good bill that will enhance veterans' education programs, and I encourage my colleagues to support this measure.

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Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate the chairman of the subcommittee, the gentleman from Minnesota [Mr. PENNY] and the gentleman from New Jersey, Mr. CHRIS SMITH, the ranking member, for reporting this bill out promptly to the full committee, and hence to the floor.

Mr. Speaker, I rise in support of H.R. 5087, a bill to amend the Montgomery GI bill provisions of title 39. Though these amendments are largely technical and clarifying in nature, several of them are substantive.

The substantive ones would affect only a small number of service members and veterans by modifying eligibility slightly to ensure that certain of those who had their pay reduced by $1,200 would indeed be eligible for their educational benefits.

Also, the death benefit for certain survivors would be extended to cover service-connected deaths occurring within the first year after active duty, as well as those occurring on active duty.

Finally, Mr. Speaker, so there is no confusion, I want to point out that the major Montgomery GI bill amendment to increase the basic educational benefit levels is not in this bill; it is in the DIC reform bill, H.R. 5008, which was just considered.

Because the legislative provisions to save the money to pay for the increase in the basic education benefit are in H.R. 5008, the increase authorization itself was also placed in H.R. 5008.

Mr. Speaker, I urge my colleagues to act favorably on H.R. 5087.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, this bill will really help our Persian Gulf veterans take advantage of the GI bill benefits, and I urge my colleagues to support this bill.

Mr. SMITH of New Jersey. Mr. Speaker, as a cosponsor of H.R. 5087, I rise in strong support of this measure clarifying certain veterans' education provisions.

Mr. Speaker, H.R. 5087 addresses aspects of the Montgomery GI bill that need revision. For example, this bill helps those military personnel who, due to the gulf war, were unable to complete their GED's prior to separation. This bill will give these veterans an additional year to complete the equivalency certificate, making them eligible for GI bill benefits.

This bill additionally protects the GI bill benefits of service members who served on active duty, had short separations, and then returned to active duty. Under current law, the second period of service would not entitle the person to further education benefits. H.R. 5087, however, will rectify that inequity.

This bill, Mr. Speaker, also addresses a number of issues which were recommended by the Department of Veterans Affairs. Among these provisions were reform of the death benefit and clock-hour measurement of classes.

Mr. Speaker, I thank the gentleman from Minnesota for swiftly reporting this bill from our subcommittee. I fully endorse the legislation and urge my colleagues to support its passage.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5087, GI bill amendments, and I would like to commend the gentleman from Minnesota, [Mr. PENNY] for introducing this important measure as well as the distinguished chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY] and for the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts to improve educational opportunities for our Nation's veterans.

H.R. 5087 amends the Montgomery GI bill—active duty program and the GI bill selected Reserve program to allow eligibility for any individual who was on active duty on August 2, 1990, and who completes his or her GED, high school equivalency requirement within 1 year of enactment, whether or not the individual is still on active duty.

I am pleased that this measure embodies this body's unequivocal support for our 415,000 brave men and women of our Armed Forces who were involved in the Persian Gulf crisis.

What was most impressive to all of us was the courageous manner and excellent competence of our brave men and women fulfilling their responsibilities in our Armed Forces. Clearly, our Armed Forces are the cream of the crop. Our men and women represent the best trained force that our Nation has seen, and our hearts swell with pride when we see how impeccable and effective their performance has been. Now it is the Congress' turn to show our appreciation and dedication to our men and women.

I am pleased to rise in support of this measure, and I urge my colleagues to vote in favor of this measure.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. HUBBARD]. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5087, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REHABILITATION ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rehabilitation Act Amendments of 1992".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Modification in short title of Public Law 93-112.
Sec. 4. Amendatory references.

TITLE I—GENERAL PROVISIONS

Sec. 101. Declaration of purpose.
Sec. 102. Rehabilitation Services Administration.
Sec. 103. Definitions.
Sec. 104. Audit.
Sec. 105. Administration of the Act.
Sec. 106. Reports.

Sec. 107. Evaluation.
Sec. 108. Carryover.
Sec. 109. Information on the client assistance program.
Sec. 110. Traditionally underserved populations.

TITLE II—VOCATIONAL REHABILITATION SERVICES

Subtitle A—General Provisions

Sec. 201. Declaration of purpose; authorization of appropriations.
Sec. 202. State plans.
Sec. 203. Individualized written rehabilitation program.
Sec. 204. Scope of vocational rehabilitation services.
Sec. 205. Evaluation standards.
Sec. 206. Expenditures of certain amounts.
Sec. 207. Training of employers with respect to Americans with Disabilities Act of 1990.

Subtitle B—Basic Vocational Rehabilitation Services

Sec. 211. State allotments.
Sec. 212. Payments to States.
Sec. 213. Client assistance program.
Sec. 214. Transfer of client assistance program; striking of provision under title V regarding effect on existing law.
Sec. 215. State Rehabilitation Consumer and Business Advisory Council.

Subtitle C—Innovation and Expansion Grants

Sec. 221. State allotments; payments to States.

Subtitle D—American Indian Vocational Rehabilitation Services

Sec. 231. Study of needs of American Indians with a disability.

Subtitle E—Monitoring and Review

Sec. 241. Monitoring and review.
Sec. 242. Review of data collection system.

TITLE III—RESEARCH AND TRAINING

Sec. 301. Declaration of purpose
Sec. 302. Authorization of appropriations.
Sec. 303. National Institute on Disability and Rehabilitation Research.
Sec. 304. Research.
Sec. 305. National Commission on Education and Rehabilitation of Individuals who are Blind and Visually Impaired.

TITLE IV—SUPPLEMENTARY SERVICES AND COMMUNITY REHABILITATION PROGRAMS

Sec. 401. Declaration of purpose.
Sec. 402. Grants for construction of rehabilitation facilities.
Sec. 403. Training.
Sec. 404. Community rehabilitation programs for individuals with a disability.
Sec. 405. Loan guarantees.
Sec. 406. Comprehensive rehabilitation centers.
Sec. 407. General grant and contract requirements.
Sec. 408. Funding for special projects and supplementary services.
Sec. 409. Special demonstration programs.
Sec. 410. Special recreational programs.

TITLE V—NATIONAL COUNCIL ON DISABILITY

Sec. 501. Establishment of National Council on Disability.
Sec. 502. Duties of National Council.
Sec. 503. Compensation of National Council members.
Sec. 504. Staff of National Council.
Sec. 505. Administrative powers of National Council.
Sec. 506. Authorization of appropriations.

TITLE VI—RIGHTS AND ADVOCACY

Sec. 601. Protection and advocacy of individuals rights.
Sec. 602. Employment of individuals with disabilities.
Sec. 603. Architectural and Transportation Barriers Compliance Board.
Sec. 604. Interagency Coordinating Council.
Sec. 605. Electronic equipment accessibility.
Sec. 606. Conforming amendment.

TITLE VII—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY

Subtitle A—Community Service Employment Pilot Program for Individuals With a Disability

Sec. 701. Short title.
Sec. 702. Definitions.
Sec. 703. Authorization of appropriations.

Subtitle B—Projects With Industry

Sec. 711. Projects with industry.
Sec. 712. Business opportunities for individuals with a disability.
Sec. 713. Authorization of appropriations.
Sec. 714. Technical assistance.

Subtitle C—Supported Employment Services for Individuals With A Disability

Sec. 721. Purpose.
Sec. 722. Allotments.
Sec. 723. State plan.
Sec. 724. Services; availability and comparability.
Sec. 725. Savings provision.
Sec. 726. Authorization of appropriations.

TITLE VIII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

Sec. 801. Establishment of programs.
Sec. 802. Conforming amendments.

TITLE IX—HELEN KELLER NATIONAL CENTER ACT

Sec. 901. Congressional findings.
Sec. 902. Authorization for continued operation of the Helen Keller National Center.
Sec. 903. Audit; monitoring and evaluation.
Sec. 904. Establishment of Federal endowment program.
Sec. 905. Authorization of appropriations.
Sec. 906. Definitions.
Sec. 907. Construction of Act; effect on agreements.

TITLE X—TERMINOLOGY

Sec. 1001. References to individuals with a disability.

TITLE XI—COMPLIANCE WITH BUDGET ENFORCEMENT ACT OF 1990

Sec. 1101. Limitation on total costs.

SEC. 3. MODIFICATION IN SHORT TITLE OF PUBLIC LAW 93-112.

The first section of Public Law 93-112 is amended by striking "may be cited as the 'Rehabilitation Act of 1973':" and inserting "may be cited as the 'Vocational Rehabilitation, Employment, and Independent Living Act of 1992':".

SEC. 4. AMENDATORY REFERENCES.

Any reference made in this Act to an amendment or repeal of a provision shall be considered to be an amendment or repeal, respectively, of that provision of the Vocational Rehabilitation, Employment, and Independent Living Act of 1992 (as designated pursuant to section 3 of this Act), unless another public law is specified as being the subject of the amendment or repeal.

TITLE I—GENERAL PROVISIONS

SEC. 101. DECLARATION OF PURPOSE.

Section 2 (29 U.S.C. 701) is amended to read as follows:

"FINDING AND PURPOSE

"SEC. 2. (a) The Congress finds that—

"(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

"(2) there are some 20 million working-age adults with work-related disabilities, and with over 13 million jobless individuals with a disability constitute one of the most disadvantaged groups in society;

"(3) the continued existence of discrimination and prejudice denies individuals with a disability the opportunity to compete on an equal basis and to pursue opportunities for employment, independence, and integration in the community;

"(4) increased employment of individuals with a disability can be achieved through the provision of individualized training, independent living, educational and support services and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations; and

"(5) the Nation's goals regarding individuals with a disability as enunciated in the Americans with Disabilities Act of 1990, of assuring equality of opportunity, full participation, employment, independent living, and economic self-sufficiency can be advanced through the provision of comprehensive rehabilitation and related services.

"(b) It is the purpose of this Act—

"(1) to provide comprehensive employment opportunities to individuals with a disability in integrated settings to eliminate segregation and unemployment of such individuals;

"(2) to maximize the employability, independence and integration into the workplace and community of individuals with a disability through the provision of comprehensive and coordinated programs of vocational rehabilitation and independent living which includes research, training, support services, technology assistance, and the guarantee of equal opportunity;

"(3) to direct the provision of traditional rehabilitation services to recognize and acknowledge the career choices of individuals with a disability and to establish systems of services and supports that enable such individuals the opportunity of career advancement through the prompt provision of such services; and

"(4) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with a disability, especially those with a severe disability, and in assisting States and providers of services in fulfilling the aspirations of such individuals with a disability for meaningful and gainful employment and independent living.".

SEC. 102. REHABILITATION SERVICES ADMINISTRATION.

Section 3(a) (29 U.S.C. 702(a)) is amended in the first sentence by striking "appointed by the President by and with the advice and consent of the Senate." and inserting the following: "appointed by the Secretary, except that the person serving as Commissioner on the date of the enactment of the Rehabilitation Act Amendments of 1992 may, at the pleasure of the President, continue to serve as Commissioner.".

SEC. 103. DEFINITIONS.

(a) Paragraph (5).—Section 7(5) (29 U.S.C. 706(5)) is amended—

(1) in the matter preceding subparagraph (A), by striking "The term" and all that follows and inserting the following: "The term 'evaluation of rehabilitation needs' means, as appropriate for the individual involved, the following:";

(2) in subparagraph (A), by amending the subparagraph to read as follows:

"(A) A vocational assessment to determine that the individual has a substantial impediment to employment, and that vocational rehabilitation services are needed. Such assessment shall be completed within a reasonable time after the individual submits an application for services, which shall not exceed 60 calendar days unless the designated State unit notifies the individual with a disability that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual with a disability agrees that an extension of time is warranted or required.";

(3)(A) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively; and

(B) by inserting after subparagraph (A) the following subparagraph:

"(B) Where appropriate, an assessment of an individual's needs for supported employment to determine whether the individual can attain a successful employment outcome.";

(4) in subparagraph (C) (as redesignated by paragraph (3) of this subsection), by amending the subparagraph to read as follows:

"(C) A diagnostic study consisting of a comprehensive assessment of pertinent medical, psychiatric, psychological, vocational, educational, cultural, social, recreational, and environmental factors which affect the individual's impediment to employment and the individual's rehabilitation needs including, to the degree needed, an evaluation of the individual's employment capacities, personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and career interests and goals, potential employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed. Information collected in such study shall be limited to that which is necessary to identify the rehabilitation needs of the individual and to develop an appropriate rehabilitation program. To the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information and that information which can be provided by the individual and, where appropriate, by the individual's family shall be used as a primary source of information in the study.";

(5) in subparagraph (D) (as redesignated by paragraph (3) of this subsection)—

(A) by striking "an appraisal" and inserting "An appraisal";

(B) by striking "to acquire" and all that follows through "social" and inserting the following: "to acquire occupational skills and develop work attitudes, work habits, and work tolerance, with assistive technology devices and services as appropriate, and to develop social"; and

(C) by striking the semicolon at the end and inserting a period;

(6) in subparagraph (E) (as redesignated by paragraph (3) of this subsection), by amending the subparagraph to read as follows:

"(E) Any other goods or services provided for the purposes of ascertaining the nature of the disability and whether, with the aid of assistive technology devices and services, it may reasonably be expected that the individual can benefit from vocational rehabilitation services.";

(7) in subparagraph (F) (as redesignated by paragraph (3) of this subsection), by striking "referral;" and inserting "Referral.";

(8) in subparagraph (G) (as redesignated by paragraph (3) of this subsection), by amending the subparagraph to read as follows:

"(G) The administration of these assessment and evaluation services.";

(9) in subparagraph (H) (as redesignated by paragraph (3) of this subsection)—

(A) in clause (i), by striking "the provision" and inserting "The provision"; and

(B) in clause (ii), by striking "; and" at the end and inserting a period; and

(10) in subparagraph (I) (as redesignated by paragraph (3) of this subsection), by striking "where appropriate" and all that follows through "services" and inserting the following: "Where appropriate, the provision of rehabilitation engineering services, including assistive technology devices and services,".

(b) PARAGRAPH (6).—Section 7(6) (29 U.S.C. 706(6)) is amended—

(1) by striking "abilities" and all that follows through "market" and inserting the following: "abilities of the individual, and to the greatest extent practicable, within the integrated competitive labor market or to satisfy the vocational outcome of supported employment,"; and

(2) by adding at the end the following sentence: "Such term includes the establishment of intermediate objectives leading to the support of improved employment outcomes, including the ability to function more independently in a work situation or at home or in the community and the completion of training, including higher and continuing education programs.".

(c) PARAGRAPH (7).—Section 7(7)(B) (29 U.S.C. 706(7)(B)) is amended by inserting "and each subsequent fiscal year" before the period at the end.

(d) PARAGRAPH (8).—Section 7(8) (29 U.S.C. 706(8)) is amended—

(1) in subparagraph (A), by amending the subparagraph to read as follows: "(A) Except as otherwise provided in subparagraph (B), the term 'individual with a disability' means any individual who (i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment, and (ii) can attain a successful employment outcome pursuant to titles I, III, and VI.";

(2) in subparagraph (B)—

(A) by striking "the term" and all that follows through "means" and inserting the following: "the term 'individual with a disability' means"; and

(B) by striking "titles IV and V" and inserting "sections 2, 14, and 15 and title II, IV and V"; and

(3) in subparagraph (C)—

(A) in clause (i), by striking "the term" and all that follows through "include" and inserting the following: "the term 'individual with a disability' does not include";

(B) in clause (ii), in the matter preceding subclause (I), by striking "handicaps" and inserting "a disability"; and

(C) in clause (iv), in the first sentence—

(i) by striking "handicapped student" and inserting "student with a disability";

(ii) by striking "currently"; and

(iii) by striking "nonhandicapped students" and inserting "students without a disability".

(e) PARAGRAPH (12).—Section 7(12) (29 U.S.C. 706(12)) is amended by adding at the end the following sentence: "Such term also includes assistive technology devices and services.".

(f) PARAGRAPH (13).—Section 7(13) (29 U.S.C. 706(13)) is amended to read as follows:

"(13) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with a disability, and that provides singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology, including assistive technology devices and assistive technology services;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).".

(g) PARAGRAPH (15).—Section 7(15) (29 U.S.C. 706(15)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "the term" and all that follows through "means" and inserting the following: "the term 'individual with a severe disability' means"; and

(B) in clause (i), by striking "disability which" and inserting "impairment which"; and

(2) in subparagraph (B), by striking "the term" and all that follows through "means" and inserting the following: "the term 'individual with a severe disability' means".

(h) PARAGRAPH (16).—Section 7(16) (29 U.S.C. 706(16)) is amended to read as follows:

"(16) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658). The appropriate State agency designated as provided in section 101(a)(1) of this Act shall be the Governor of American Samoa.".

(i) PARAGRAPH (18).—Section 7(18) (29 U.S.C. 706(18)) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for those individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(j) ADDITIONAL PARAGRAPHS.—Section 7 (29 U.S.C. 706) is amended by adding at the end the following paragraphs:

"(23) The term 'successful employment outcome' means the successful completion of goals in the individualized written rehabilitation program, including the completion of such documentable outcomes as the ability to function more independently within the workplace, at home or in the community, the completion of training, including higher and continuing education programs and a minimum of 60 days of successful employment.

"(24) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(25) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(ii) job development and placement;

"(iii) social skills training;

"(iv) regular observation or supervision of the individual;

"(v) follow-up services such as regular contact with the employers, the individuals, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement;

"(vi) facilitation of natural supports at the worksite;

"(vii) any other service identified in section 103; or

"(viii) a service similar to another service described in this subparagraph.

"(26) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

"(27) The term 'assistive technology device' has the meaning given such term in section 3(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

"(28) The term 'assistive technology service' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

"(29) The term 'personal assistance', with respect to an individual with a disability, means on-the-job or other related personal assistance services and includes a range of services provided by one or more persons assisting such individual with tasks which the individual would typically do if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.".

SEC. 104. AUDIT.

Section 9 (29 U.S.C. 708) is amended in last sentence by inserting "a fiscal audit of" after "pertinent to".

SEC. 105. ADMINISTRATION OF THE ACT.

SUBSECTION (a).—Section 12(a)(2) (29 U.S.C. 711(a)(2)) is amended by inserting before the semicolon the following: ", including training the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)".

(b) ADDITIONAL SUBSECTION.—Section 12 (29 U.S.C. 711) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following subsection:

"(c)(1) Not later than 120 days after the date of the enactment of the Rehabilitation Act Amendments of 1992, the Commissioner shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of the vocational rehabilitation services providers by an individual with a disability, consistent with the individual's individualized written rehabilitation program under section 102.

"(2) Regulations under paragraph (1) shall include the following:

"(A) Procedures which States must adopt to ensure that the goods and services provided under this Act are of sufficient scope and quality, that the costs of such goods and services and the length of time such goods and services provided are reasonable, and that such goods and services are available in a timely manner.

"(B) Procedures that prevent fraud, waste, and abuse.

"(C) Procedures to assure that services are provided in the most integrated settings.

"(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

"(i) affirmative action with respect to the employment of individuals with a disability;

"(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitative services; and

"(iii) the establishment and maintenance of minimum standards to assure the availability of personnel, to the maximum extent feasible, trained to communicate in the client's native language or mode of communication.

"(E) Guidelines for the use of out of state providers and the use of providers with religious affiliations.

"(F) Standards to be adhered to by providers to help ensure the integrity of services.

"(G) Guidelines for assisting individuals with a disability and for providing information about available rehabilitation service providers, especially for assisting individuals with cognitive and other disabilities and their parents, family members, guardians, advocates or authorized representatives, who due to the nature of the disability require support and assistance in fully implementing the individual selection and procurement of services.".

SEC. 106. REPORTS.

Section 13 (29 U.S.C. 712) is amended to read as follows:

"REPORTS

"SEC. 13. (a) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15.

"(b)(1) In preparing reports under subsection (a), the Commissioner shall annually collect information on each client whose case is closed out in the preceding fiscal year and include the information in the report required by this section. The information shall set forth a complete count of such cases in a manner permitting the greatest possible cross-classification of data.

"(2) The data elements under paragraph (1) shall include, but not be limited to, age, sex, race, ethnicity, education, marital status, and, when it can be determined, other program participation during 3 years prior to application, number of jobs, hours worked, and earnings in 3 years prior to application, household composition, family earnings before and after receiving services, type of major and secondary disability, date of onset of disabling condition, severity of disability, sources of referral, key rehabilitation process dates, earnings, hours worked, work status, occupation, size of place of employment and industry code at time of entry into the program and at the termination of services, types of services provided, number and cost of each service provided, types of facilities or agencies which furnished services and whether each such facility or agency is public or private, types of public support received by the client, primary sources of economic support and amounts of public assistance received before and after receiving services, whether covered by health insurance from any source and whether health insurance is available through client's employment, supported employment status, and reasons for terminating services.

"(c) The Commissioner shall take whatever action is necessary to assure that the identity of each client for which information is supplied under this section is confidential. Such annual reports shall also include statistical data reflecting services and activities provided individuals during the preceding fiscal year. The annual report shall include an evaluation of the status of individuals with a severe disability participating in programs under this Act.".

SEC. 107. EVALUATION.

Section 14 (29 U.S.C. 713) is amended—

(1) by striking "Commissioner" each place such term appears and inserting "Secretary";

(2) in subsection (a), in the third sentence, by inserting before the period the following: "and the successful employment outcome attained";

(3) in subsection (b)—

(A) by inserting "(1)" after the subsection designation;

(B) in paragraph (1) (as so designated), by striking "shall," and all that follows through "obtain" and inserting "shall obtain"; and

(C) by adding at the end the following paragraph:

"(2) The statewide assessment of the rehabilitation needs of individuals with a disability required by this Act shall include the active participation of rehabilitation service providers."; and

(4)(A) by redesignating subsection (f) as subsection (h); and

(B) by inserting after subsection (e) the following subsections:

"(f) The Secretary shall verify through on site review of records that the State is following an order of selection.

"(g) To assess the linkages between vocational rehabilitation services and economic and non-economic outcomes, the Secretary shall conduct a longitudinal study of a national sample of rehabilitation applicants from referral through the eligibility and service phases to termination of services and for a further period. The evaluation study should address factors related to attrition and completion of the program and factors within and outside the program affecting results. Appropriate comparisons should be used to contrast the experiences of similar persons who do not obtain services. The evaluation should be planned to cover the full application, eligibility determination, and services as well as not less than 2 years of follow-up after terminating services.".

SEC. 108. CARRYOVER.

(a) IN GENERAL.—The Act (29 U.S.C. 701 et seq.) is amended by inserting after section 18 the following section:

"CARRYOVER

"SEC. 19. Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any formula grant program under this Act that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section by inserting after the item relating to section 18 the following item:

"Sec. 19. Carryover.".

SEC. 109. INFORMATION ON THE CLIENT ASSISTANCE PROGRAM.

The Act, as amended by section 108, is amended—

(1) by inserting after section 19 the following section:

"INFORMATION ON THE CLIENT ASSISTANCE PROGRAM

"SEC. 20. All programs, projects, and facilities that provide services to an individual with a disability under this Act shall advise such individual, and if appropriate, a parent, family member, guardian, advocate, or authorized representative of such individual, of the availability and purposes of the client assistance program under section 500 of the Act, including detailed information, when available, on how to seek assistance under this program."; and

(2) in the table of contents in the first section, by inserting after the item relating to section 19 the following item:

"Sec. 20. Information on the client assistance program.".

SEC. 110. TRADITIONALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—The Act, as amended by section 109 of this Act, is amended by inserting after section 20 the following section:

"TRADITIONALLY UNDERSERVED POPULATIONS

"SEC. 21. (a) With respect to the programs authorized in titles II through VII of this Act, the Congress finds as follows:

"(1) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, this Nation will have 260 million people, one of every three of whom will be either African-American, Latino, or Asian-American.

"(2) Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one half times that of the general population. African-Americans are also one and one half times more likely to be disabled than whites and twice as likely to be severely disabled.

"(3) Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases are closed without being rehabilitated, and minorities are provided less training and consistently less money is spent on them than their white counterparts.

"(4) Recruitment efforts within vocational rehabilitation at the level of preservice, continuing education, and inservice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

"(b)(1) The Commissioner shall develop a policy to mobilize the Nation's resources to prepare minorities for careers in vocational rehabilitation, independent living, and related services. This policy should focus on—

"(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

"(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education (whose minority enrollment is at least 50%) to prepare students for vocational rehabilitation and related service careers.

"(2)(A) The Commissioner shall develop a plan to provide outreach services and other related activities to the entities described in subparagraph (B) (such as cooperative efforts) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under titles I through VII of this Act.

"(B) The entities referred to in subparagraph (A) are—

"(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority student enrollment is at least 50 percent;

"(ii) nonprofit and for profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

"(iii) underrepresented populations.

"(C) For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VII of this Act.

"(3) The Commissioner shall exercise her/his utmost authority, resourcefulness, and diligence to meet the requirements of this section.

"(4) Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year. The report shall include—

"(A) a full explanation of any progress toward meeting the goals of this section; and

"(B) a plan to meet the goals, if necessary.

"(5) In awarding grants, contracts, or cooperative agreements under titles I through VII, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with a disability from minority backgrounds.".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 109(2) of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 20 the following item:

"Sec. 21. Traditionally underserved populations.".

TITLE II—VOCATIONAL REHABILITATION SERVICES

Subtitle A—General Provisions

SEC. 201. DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS.

Section 100 (29 U.S.C. 720) is amended—

(1) in subsection (a), by inserting "as a means to living independently" after "gainful employment";

(2) in subsection (b)—

(A) by striking paragraph (2);

(B) by striking "(b)(1)(A)" and inserting "(b)(1)"; and

(C) by redesignating subparagraphs (B) and (C) as paragraphs (2) and (3), respectively;

(3) in subsection (b), as amended by paragraph (2) of this section—

(A) in paragraph (1), in the first sentence—

(i) by striking "and" after "1987,"; and

(ii) by inserting before the period the following: ", $1,839,852,000 for fiscal year 1993, and the amount determined under subsection (c) for each of the fiscal years 1994 through 1997";

(B) in paragraph (2), in the first sentence, by striking "1992" and inserting "1997"; and

(C) in paragraph (3)—

(i) by striking "and" after "1991,"; and

(ii) by inserting before the period the following: ", $1,875,512,100 for fiscal year 1993, and the amount determined under subsection (c) for each of the fiscal years 1994 through 1997"; and

(3) in subsection (c)(2)(A), by striking "under subsection (b)(1)" and inserting "under subsection (b)".

SEC. 202. STATE PLANS.

(a) IN GENERAL.—Section 101(a) (29 U.S.C. (a)) is amended in the matter preceding paragraph (1) by amending the matter to read as follows: "(a) In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period, which shall include information demonstrating that the State has conducted public hearings to enable the general public to comment on such plan before its submission to the Commissioner or adoption by the State, has provided adequate notice of such hearings, and has included within such plan a summary of public comments and the State's responses. Upon request of the Commissioner, the State shall make such annual revisions in the plan as may be necessary. Each such plan shall—".

(b) PARAGRAPH (5).—Section 101(a)(5) (29 U.S.C. 721(a)(5)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking "and" after "title VI of this Act,"; and

(B) by striking "utilize existing rehabilitation facilities to the maximum extent feasible;" and inserting the following: "utilize existing community rehabilitation programs to the maximum extent feasible, and a description of how the State will provide vocational rehabilitation services to all individuals with a disability within the State eligible for such services or else describe the order of selection it will follow;";

(2) in subparagraph (B), by inserting before the semicolon the following: ", including the use of funds under part C of title VI of this Act to supplement funds under part B of title I of this Act for the cost of services leading to supported employment"; and

(3) in subparagraph (C), by inserting after "engineering services" the following: "and a broad range of assistive technology devices and services".

(c) PARAGRAPH (7).—Section 101(a)(7) (29 U.S.C. 721(a)(7)) is amended to read as follows:

"(7) describe (consistent with the purposes of this Act) a comprehensive system of personnel development, which shall include—

"(A) a description of the procedures and activities the State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit including the development and maintenance of a system for determining, on an annual basis—

"(i) the number and type of personnel that are employed by the State agency in the provision of rehabilitation services, including counselor to consumer ratios; and

"(ii) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in five years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the field, and other relevant factors;

"(B) a description of how activities will be undertaken through this section to coordinate with personnel development under the Individuals with Disabilities Education Act;

"(C) the development and maintenance of a system of determining, on an annual basis, the institutions of higher education within the State that are preparing rehabilitation professionals, including—

"(i) the numbers of students enrolled in such programs; and

"(ii) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year;

"(D) the development, updating, and implementation of a plan that—

"(i) will address the current and projected rehabilitation services personnel training needs for the designated State unit; and

"(ii) provides for the coordination and facilitation of efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel with a disability;

"(E) a description of the procedures and activities the State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

"(i) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly in assistive technology; and

"(ii) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources; and

"(F) policies and procedures relating to the establishment and maintenance of personnel standards to ensure that personnel within the designated State unit are appropriately and adequately prepared and trained, including—

"(i) provisions for the establishment and maintenance of personnel standards that are consistent with any national or State licensure laws, regulations, approved or recognized certification, registration or other comparable requirements which apply regarding the provision of vocational rehabilitation services in the State;

"(ii) provisions for the establishment and maintenance of standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the consumer's native language or mode of communication; and

"(iii) a description of the steps the State is taking to ensure that vocational rehabilitation professionals and paraprofessionals within the designated State unit are retrained or hired that meet the appropriate professional requirements in the State;".

(d) PARAGRAPH (8).—Section 101(a)(8) (29 U.S.C. 721(a)(6)) is amended by inserting before the semicolon the following: "or where a job placement would be lost due to a delay in the provision of such comparable benefits".

(e) PARAGRAPH (10).—Section 101(a)(10) (29 U.S.C. 721(a)(10)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) in subparagraph (A) (as so designated), by adding "and" after the semicolon at the end; and

(3) by adding at the end the following subparagraph:

"(B) provide that reports under subparagraph (A) will include, but are not limited to—

"(i) the number of persons evaluated and the number rehabilitated; and

"(ii) the costs of administration, counseling, direct services, facility development and other purposes and the utilization of other programs pursuant to paragraph (11) of this section;".

(f) PARAGRAPH (11).—Section 101(a)(11) (29 U.S.C. 721(a)(11)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) in subparagraph (A) (as so designated)—

(A) by striking "the Education of the Handicapped Act" and inserting "the Individuals with Disabilities Education Act";

(B) by striking "Carl D. Perkins Vocational Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act"; and

(C) by adding "and" after the semicolon at the end; and

(3) by adding at the end the following subparagraph:

"(B) provide that arrangements under subparagraph (A) shall include, to the extent practicable, means for providing training to staff of such other programs as to the availability and benefits of, and eligibility standards, for rehabilitation services in order to enhance the opportunity of individuals receiving such other services to obtain rehabilitation services;".

(g) PARAGRAPH (15).—

(1) DESIGNATION.—Section 101(a) (29 U.S.C. 721(a)) is amended in the matter following paragraph (13) and preceding paragraph (16) by striking "provide for continuing statewide studies" and inserting the following:

"(15) provide for continuing statewide studies".

(2) AMENDMENTS.—Section 101(a)(15), as designated by paragraph (1) of this subsection, is amended—

(A) in subparagraph (B), by striking "and" after the semicolon at the end;

(B) in subparagraph (C), by inserting "and" after the semicolon at the end;

(C) by adding at the end the following subparagraph:

"(D) develop outreach procedures to identify and serve individuals with a disability from minority backgrounds and individuals with a disability who have been unserved or underserved by the vocational rehabilitation system;".

(h) PARAGRAPH (16).—Section 101(a)(16) (29 U.S.C. 721(a)(16)) is amended to read as follows:

"(16) provide for—

"(A) at least an annual review and reevaluation of the status of individuals with a disability placed in extended employment within, through, or outside community rehabilitation programs (including workshops or other employment under section 14(c) of the Fair Labor Standards Act) to determine the needs of such individuals for their employment, or training for employment, in the competitive labor market;

"(B) maximum efforts, including the identification of vocational services, reasonable accommodations, and other support services to enable such individuals to benefit from training or to be placed in employment in integrated settings; and

"(C) transition services designed to promote movement from extended employment to integrated employment, including supported employment, independent living and community participation;".

(i) PARAGRAPH (17).—Section 101(a)(17) (29 U.S.C. 721(a)(17)) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting the following: "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(j) PARAGRAPH (18).—Section 101(a)(18) (29 U.S.C. 721(a)(18)) is amended by striking "and providers of vocational rehabilitation services" and inserting the following: "providers of vocational rehabilitation services, and the Director of the client assistance program under section 500".

(k) PARAGRAPH (23).—Section 101(a)(23) (29 U.S.C. 721(a)(23)) is amended—

(1) by striking "and" before "(B)"; and

(2) by inserting before the semicolon the following: ", and (C) provide satisfactory assurances that the State agency will consult with the Director of the client assistance program under section 500 in the formulation of policies governing the provision of rehabilitation services consistent with the State plan and other revisions".

(l) Paragraphs (24) and (25).—Section 101(a) (29 U.S.C. 721(a)) is amended by striking paragraphs (24) and (25) and inserting the following paragraphs:

"(24)(A) contain the plans, policies and methods to be followed to assist in the transition from education to employment related activities, including specific plans for coordination with State educational agencies in the provision of transition services specified in the individualized education programs of students with a disability; and

"(B) provide that such plans, policies and methods will address—

"(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

"(ii) procedures for outreach to and identification of youth in need of such services; and

"(iii) a time frame for evaluation and follow-up of youth who have received such services;

"(25) provide assurances satisfactory to the Secretary that the State has an acceptable plan for part C of title VI, including the use of funds under that part to supplement funds under part B of this title for the cost of services leading to supported employment;".

(m) Additional Paragraphs.—Section 101(a) (29 U.S.C. 721(a)) is amended by adding at the end the following paragraphs:

"(26) describe the manner in which on-the-job or other related personal assistance services will be provided to assist individuals with a disability while receiving vocational rehabilitation services;

"(27) describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers are established;

"(28) identify the needs and utilization of community rehabilitation programs with regard to the Javits-Wagner O'Day Act (Public Law 92-98);

"(29) describe the manner in which individuals with a disability will be given choice and increased control in determining their vocational rehabilitation goals and objectives;

"(30) describe the manner in which students with a disability who are not in special education can access and receive vocational rehabilitation services, where appropriate;

"(31) describe the manner in which assistive technology devices and services will be provided, or worksite assessments will be made as part of the assessment of the rehabilitation needs or employment needs of an individual;

"(32) describe the manner in which the State is addressing vocational rehabilitation issues raised by the State Rehabilitation Consumer and Business Advisory Council;

"(33) describe the manner in which the State modifies its policies and procedures based on consumer satisfaction surveys conducted by the Council;

"(34) describe the manner in which a State agency has employed at least one job development specialist who provides services such as gathering and disseminating information on employment opportunities and maintains contact with employers to foster employment in the community for individuals with a disability referred by the State Vocational Rehabilitation agency;".

SEC. 203. INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) Subsection (a).—Section 102(a) (29 U.S.C. 722(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated), by striking "is developed jointly" and all that follows and inserting the following: "is developed jointly, agreed upon and signed by the vocational rehabilitation counselor and the individual with a disability, and if appropriate, a parent, family member, guardian, advocate, or authorized representative of such individual, and that a copy of the individualized written rehabilitation program and any subsequent amendments to such program are provided to such individual in an accessible format, and that such program meets the requirements in subsection (b) of this section."; and

(3) by adding at the end the following paragraphs:

"(2) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(3) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(4) Determinations made by officials of other agencies, particularly educational officials, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A) shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(5) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.".

(b) Subsection (b).—

(1) Paragraph (1).—Section 102(b)(1) (29 U.S.C. 722(b)(1)) is amended—

(A) in subparagraph (A), by striking "determination" and all that follows and inserting the following: "assessment of rehabilitation needs designed to maximize the capacity of the individual to achieve employment in an integrated work setting leading to living independently;"

(B) in subparagraph (B), by striking "assessment" and all that follows and inserting the following: "assessment of career interests and related rehabilitation needs of the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;";

(C) in subparagraph (D), by inserting "(including assistive technology devices and services)" after "engineering services";

(D) in subparagraph (F), by inserting before the semicolon the following: "which services shall, to the maximum extent appropriate, be provided in integrated work settings";

(E) in subparagraph (H)—

(i) by striking "prior to case closure" and inserting "prior to termination of services"; and

(ii) by striking "and" after the semicolon at the end;

(F) in subparagraph (I), by striking the period at the end and inserting "; and"; and

(G) by inserting after subparagraph (I) the following subparagraphs:

"(J) include the views and choices of the individual with a disability, and if appropriate, a parent, family member, guardian, advocate, or authorized representative of such individual, along with documentation of the involvement of the individual in the selection of a vocational objective and the services to be provided to attain the vocational objective;

"(K) to the maximum extent possible, be provided in the native language, or mode of communication of the individual with a disability, and if appropriate, a parent, family member, guardian, advocate, or authorized representative of such individual;

"(L) where appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to assist in the implementation of the intermediate objectives and long-range rehabilitation goals for the individual while the individual is receiving vocational rehabilitation services;

"(M) where appropriate, and when desired by the individual with a disability, provide the individual the necessary training in managing, supervising, and directing a person who is providing the on-the-job and related personal assistance services required by the individual's individualized written rehabilitation program;

"(N) include an identification of other related services and benefits provided pursuant to any Federal, State, or local program which will enhance the capacity of the individual to achieve his or her vocational objectives, including but not limited to financial benefits, work incentives, personal assistance services, child care services, health care, including home health care services, special recreational, family support, and other supplementary services; and

"(O) specify whether any services requested by the individual with a disability were denied and describe the reasons for such denial.".

(2) Paragraph (2).—Section 102(b)(2) (29 U.S.C. 722(b)(2)) is amended—

(A) in the second sentence, by inserting before the period the following: "and any such revisions or amendments thereto shall be incorporated into or affixed to such program"; and

(B) by adding at the end the following sentence: "Such revisions shall be agreed to and signed by the individual with a disability, and if appropriate, by a parent, family member, guardian, advocate, or authorized representative of such individual.".

(c) Subsection (d).—Section 102(d) (29 U.S.C. 722(d)) is amended—

(1) in paragraph (1), by adding at the end the following sentence: "Such procedures shall provide that, during the period in which such review is conducted, vocational rehabilitation services will continue to be made available to the individual with a disability.";

(2) in paragraph (2), by adding at the end the following sentence: "Such officer shall be an individual certified as having satisfac-

torily completed a training program conducted by the State unit in conjunction with the client assistance program under section 500. Such officers may not have financial ties, either as an individual or through their employer, to the State vocational rehabilitation agency. Such individual must not be involved in any previous decisions regarding the vocational rehabilitation of the applicant or client.";

(3) in paragraph (3)—

(A) by striking subparagraphs (B) and (C) and inserting the following subparagraphs:

"(B) The impartial hearing officer shall be selected to hear a particular case from a pool of qualified persons identified jointly by the State unit designated under section 101(a)(2) and the non-agency members of the State Rehabilitation Consumer and Business Advisory Council. If agreement can not be made, selection shall be made on a random basis from the pool of qualified persons.

"(C) The decision of an impartial hearing officer shall be final. Such decision shall be made in writing and shall include a full report of the findings and grounds for the decision. A copy of the decision shall be provided to the individual, or where appropriate, the parent, family member, guardian, advocate, or authorized representative of such individual.";

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following subparagraph:

"(D) The Director may not overturn or modify an impartial hearing officer's decision or part there of which supports the individual's position unless he or she concludes, based on clear and convincing evidence, that the impartial hearing officer's decision is contrary to Federal or State law."; and

(4) in paragraph (5)(B)—

(A) by redesignating paragraphs (1) through (4) as clauses (i) through (iv);

(B) in clause (iii) (as so redesignated), by striking "and" after the semicolon at the end;

(C) in clause (iv) (as so redesignated), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following clause:

"(v) how many requests the client assistance program under section 500 receives annually, how many requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.".

SEC. 204. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) SUBSECTION (a).—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "rehabilitation potential, including" and inserting the following: "rehabilitation needs, which should be based on relevant existing reports to the maximum extent appropriate, including, where appropriate"; and

(ii) by striking "services to be provided, including, where appropriate" and inserting "services to be provided, including the individual's self-assessment, and where appropriate";

(B) in subparagraph (A), by striking "technology; and" and inserting the following: "technology services and the selection and application of assistive technology devices;";

(C) in subparagraph (B), by adding "and" after the semicolon at the end; and

(D) by adding at the end the following subparagraph:

"(C) an assessment of an individual's needs for supported employment;";

(2) in paragraph (2)—

(A) by inserting "work-related" before "placement services";

(B) by inserting before "followup," the following: "job search assistance, placement, job retention, and personal assistance services,";

(C) by striking "maintain or regain employment" and inserting "maintain, regain, or advance in employment"; and

(D) by striking "agencies," and inserting "agencies or entities,";

(3) in paragraph (3)—

(A) by striking "and" after "training materials,"; and

(B) by striking "such individuals:" and inserting "such individuals, and services to students to assist in the transition from school to employment:";

(4) in paragraph (4)(A)—

(A) by striking "handicap to employment," and inserting "impediment to employment,"; and

(B) by striking "substantially reduce the handicap" and inserting "reduce such barriers to employment"; and

(5) by striking paragraphs (11) and (12) and inserting the following paragraphs:

"(11) rehabilitation engineering and assistive technology devices and services including such products as environmental control units, augmentative communication, computers and computer input devices and telecommunication devices;

"(12) services for individuals with sensory, mobility and/or cognitive impairments;

"(13) services which enable a student to transition from school to employment in an integrated setting, and where appropriate, vocational rehabilitation counselors shall participate in the development of the individual education plan in order to facilitate transition from school to employment at least one year prior to the student's availability to work; and

"(14) on-the-job personal assistance services while receiving vocational rehabilitation services.".

(b) SUBSECTION (b).—Section 103(b) (29 U.S.C. 723(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "groups of individuals," and inserting the following: "groups of individuals or for the employment of an individual in an integrated work setting within the competitive labor market,";

(2) in paragraph (1)—

(A) by striking "in the case" and inserting "In the case"; and

(B) by striking the semicolon at the end and inserting a period;

(3) in paragraph (2)—

(A) by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting the following: "The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)";

(B) by striking the semicolon at the end and inserting a period; and

(C) by adding at the end the following sentence: "Such funds shall be used to provide services that promote integration and competitive employment.";

(4) in paragraph (3)—

(A) by striking "the use of" and inserting "The use of"; and

(B) by striking "; and" and inserting a period;

(5) in paragraph (4), by striking "the use of" and inserting "The use of"; and

(6) by adding at the end the following paragraph:

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 and that are seeking to employ individuals with a disability.".

SEC. 205. EVALUATION STANDARDS.

(a) IN GENERAL.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following section:

"EVALUATION STANDARDS

"SEC. 105. (a) The Commissioner shall, by the end of fiscal year 1994, publish evaluation standards and performance indicators for the vocational rehabilitation program under this title. The standards and indicators shall include outcome and related measures of program performance and shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational services, and other interested parties.

"(b)(1) In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which it is in compliance with the evaluation standards and indicators.

"(2) If the Commissioner determines that any State's performance is below established standards, a program improvement plan outlining the specific actions to be taken by the State to improve program performance shall be developed jointly by the Commissioner and the State. The Commissioner shall—

"(A) review the State's program improvement efforts on a biannual basis and, where necessary, request the State to make further revisions to the plan to improve performance; and

"(B) continue to do so until satisfactory performance is sustained over a period of more than one year.

"(c) If the Commissioner determines that a State whose performance falls below the standards and indicators established under subsection (a) has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of its program improvement plan, then the Commissioner shall, consistent with the provisions in section 101 (c) and (d) of this Act, reduce or make no further payments to that State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that it is complying substantially with the terms and conditions of its program improvement plan, as appropriate.

"(d) Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. et seq.) is amended in the table of contents in the first section by inserting after the item relating to section 104 the following:

"Sec. 105. Evaluation standards.".

SEC. 206. EXPENDITURES OF CERTAIN AMOUNTS.

(a) IN GENERAL.—Part A, as amended by section 205 of this Act, is amended by adding at the end the following section:

"EXPENDITURE OF CERTAIN AMOUNTS

"SEC. 106. (a) Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

"(b) The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 205 of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 105 the following:

"Sec. 106. Expenditure of certain amounts.".

SEC. 207. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

(a) IN GENERAL.—Part A, as amended by section 206 of this Act, is amended by adding at the end the following section:

"TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990

"SEC. 107. A State may expend payments received under section 111—

"(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990; and

"(2) to inform employers of the existence of the program and the availability of the services of the program.".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 206 of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 106 the following:

"Sec. 107. Training of employers with respect to Americans with Disabilities Act of 1990.".

Subtitle B—Basic Vocational Rehabilitation Services

SEC. 211. STATE ALLOTMENTS.

Section 110 (29 U.S.C. 721) is amended—

(1) in subsection (a), by striking paragraph (4);

(2) in subsection (b)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(3) in subsection (d)(2)—

(A) by striking "¼" and inserting "½"; and

(B) by striking "one percent" the second place such term appears and inserting "1.5 precent".

SEC. 212. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1), by striking "year (including" and all that follows through "110(b))," and inserting "year,"; and

(2) in paragraph (2)—

(A) by striking "(and" and all that follows through "(b))";

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the three fiscal years preceding that previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding that previous fiscal year.".

SEC. 213. CLIENT ASSISTANCE PROGRAM.

Section 112 (29 U.S.C. 732) is amended—

(1) in subsection (a)—

(A) by striking "to assist such clients" and inserting "to assist and advocate for such clients";

(B) by inserting "and advocacy" after "including assistance";

(C) by inserting before the period in the first sentence the following: "and to facilitate access to the services funded under this Act through individual and systemic advocacy"; and

(D) by amending the second sentence to read as follows: "The client assistance program shall provide information on the available services and benefits under this Act and the Americans with Disabilities Act of 1990 to individuals with a disability in the State, especially with regard to individuals traditionally underserved by rehabilitation programs.";

(2) in subsection (c)(1)(B), by striking "notice" and all that follows and inserting the following: "30 days notice and an opportunity for the designated agency to respond to the assertion that good cause has been shown and timely notice and opportunity for public comment has been given to individuals with a disability or their representatives of the intention to make such redesignation.";

(3) in subsection (e)(1)(D)—

(A) in clause (i), by striking "$75,000" and inserting "$100,000"; and

(B) in clause (ii)—

(i) by striking "subsection (c)," and inserting "clause (i),";

(ii) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(iii) by striking "fiscal year by more than" and all that follows and inserting "fiscal year.";

(4) in subsection (g), by adding at the end the following paragraph:

"(5) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of a client assistance program under section 500, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.";

(5) by striking subsection (h);

(6) by redesignating subsection (i) as subsection (h); and

(7) in subsection (h) (as redesignated by paragraph (6) of this section)—

(A) by striking "and" after "1991,"; and

(B) by inserting after "1992," the following: "$9,434,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997,".

SEC. 214. TRANSFER OF CLIENT ASSISTANCE PROGRAM; STRIKING OF PROVISION UNDER TITLE V REGARDING EFFECT ON EXISTING LAW.

(a) STRIKING OF PROVISION.—Title V (29 U.S.C. 790 et seq.) is amended by striking section 500.

(b) TRANSFER OF PROVISION.—Section 112, as amended by section 213 of this Act, is—

(1) transferred to title V;

(2) redesignated as section 500; and

(3) inserted before section 501.

(c) TECHNICAL AMENDMENT.—The Act (29 U.S.C. et seq.) is amended in the table of contents in the first section—

(1) by striking the item relating to section 112;

(2) by striking the item relating to section 500; and

(3) by inserting before the item relating to section 501 the following:

"Sec. 500. Client assistance program.".

SEC. 215. STATE REHABILITATION CONSUMER AND BUSINESS ADVISORY COUNCIL.

(a) IN GENERAL.—Part B, as amended by section 214 of this Act, is amended by inserting after section 111 the following section:

"STATE REHABILITATION CONSUMER AND BUSINESS ADVISORY COUNCIL

"SEC. 112. (a)(1) Except in the case of a State that has an independent commission described in section 101(a)(35)(A)(ii), any State which desires to receive financial assistance under this title shall, not later than 1 year after the date of the enactment of the Rehabilitation Act Amendments of 1992, establish a State Rehabilitation Consumer and Business Advisory Council.

"(2) In the case of a State that has a separate designated unit for services to individuals who are blind, the State may provide, at the option of the State, for the establishment of a separate Rehabilitation Consumer and Business Advisory Council regarding such individuals.

"(b)(1) The Council shall be composed as follows:

"(A) The Chair or a designee of the chair of the Statewide Independent Living Council.

"(B) A representative of the Parent Training Center established pursuant to section 631(c) of the Individuals with Disabilities Education Act.

"(C) A representative of the client assistance program under section 500 of this Act.

"(D) At least one representative of community service providers.

"(E) Four representatives of business, industry, and labor.

"(F) Representatives of disability advocacy groups representing a cross section of individuals with physical, cognitive, sensory, and mental disabilities.

"(G) Current or former applicants for or recipients of vocational rehabilitation services.

"(2) The director of the designated State unit shall be an ex-officio member of the council.

"(c) The Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments.

"(d) A majority of the Council members shall be individuals with a disability not employed by the designated State unit.

"(e) The Council chairperson shall be selected from among the membership except in cases where the Governor has no veto power and in such cases the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(f) The Governor shall provide for term limits and staggered terms so that no more than one-third of the Council will be appointed each year.

"(g) The Council shall meet at least 4 times a year and in such places as it deems necessary to conduct Council business. The meetings shall be publicly announced and open and accessible to the general public.

"(h)(1) The director of the State agency designated under section 101(a)(1) and the Council shall prepare a budget using funds under this title to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties, to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business, to hire staff, and to obtain the services of such professional, technical, and clerical support as may be necessary to carry out its functions under this title.

"(2) No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

"(3) From funds provided to the State under this title, the State shall reserve an amount not to exceed $200,000 for purposes of this section. Funds under this section may not be used to defray the expenses of members who are employees of State agencies or representatives of business, industry, and labor.

"(i) The Council shall—

"(1) review, analyze, and advise the designated State unit on matters relating to eligibility for services, including order of selection, the extent, scope, and effectiveness of services provided and functions performed by all State agencies which affect or which potentially affect the ability of individuals with a disability in achieving rehabilitation goals and objectives under this title;

"(2) advise the State agency designated under section 101(a)(1) and, at the discretion of such agency, assist in the preparation of applications, the State plan, the Innovation and Expansion grant application, and amendments thereto, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with a disability; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with a disability;

"(4) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs in the State and make the report available to the public;

"(5) coordinate with other Councils within the State, including the Statewide Independent Living Council established under Title VII of this Act, the advisory council established under part B of the Individuals with Disabilities Education Act, the Developmental Disabilities Council established under the Developmental Disabilities Assistance and Bill of Rights Act, and the Comprehensive Mental Health Planning Council; and

"(6) advise the State agency designated under section 101(a)(1) and provide for the coordination and linkages with the Statewide Independent Living Council and centers for independent living within the State.

"(j) To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) AMENDMENTS REGARDING STATE PLAN.—Section 101(a), as amended by section 202 of this Act, is amended by adding at the end the following paragraphs:

"(35) provide satisfactory assurances to the Commissioner that—

"(A) the designated State unit has established—

"(i) a Rehabilitation Consumer and Business Advisory Council that meets the criteria set forth in section 112; or

"(ii) an independent commission which (I) is responsible under State law for overseeing the operation of the designated State unit and is required by such State law to be consumer controlled by individuals with physical or mental impairments that substantially limit their major life activities, and (II) represents individuals with a broad range of disabilities, including individuals with a disability who have been historically unserved or underserved with respect to vocational rehabilitation services; and

"(B) the designated State unit or units seek and seriously consider, on a regular and on-going basis, advice from such Council regarding the development and implementation of the State plan under this subsection, the Innovation and Expansion grant application and the State plan for Independent Living, and any amendments thereto, and any rules that are adopted that have general applicability pertaining to the provision of vocational rehabilitation services; and

"(36) include an annual report to the Commissioner, a summary of the recommendations from the Council or commission required in paragraph 35(A), including a survey of consumer satisfaction and other reports prepared by the Council, and the designated unit's response to such advice and recommendations.".

(c) TECHNICAL AMENDMENT.—The Act, as amended by section 214(c) of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 111 the following:

"Sec. 112. State Rehabilitation Consumer and Business Advisory Council.".

Subtitle C—Innovation and Expansion Grants

SEC. 221. STATE ALLOTMENTS; PAYMENTS TO STATES.

(a) IN GENERAL.—Part C of title I (29 U.S.C. 740 et seq.) is amended by striking sections 120 and 121 and inserting the following sections:

"STATE ALLOTMENTS

"SEC. 120. (a) From sums available pursuant to section 110(e) for any fiscal year, each State shall use 1.5% of such funds for activities authorized under section 121(b). Each State shall be allotted an amount bearing the same ratio to such sums as the population of the State bears to the population of all States, except that no State shall receive less than $100,000, or one-quarter of 1 percent, whichever is greater.

"(b) If the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the activities authorized under section 121(b), the Commissioner shall make such amount available to one or more States which the Commissioner determines will be able to use additional amounts during such year for carrying the activities authorized under section 121(b) of this part.

"PAYMENTS TO STATES

"SEC. 121. (a)(1)(A) Any State desiring to receive assistance under this part shall prepare and submit to the Commissioner an application describing the activities it plans to undertake consistent with subsection (b) of this section to achieve long-term success in expanding and improving vocational rehabilitation services, including supported employment, within the State.

"(B) The application shall cover a three year period and sums appropriated for grants under this part shall remain available until expended;

"(C) Prior to developing the State application, the State shall hold public meetings and consult and receive recommendations from members of the State Rehabilitation Consumer and Business Advisory Council;

"(D) Recommendations shall be considered and if rejected, written explanations shall be included in the State application;

"(E) The application must be reviewed on an annual basis to reflect the activities achieved over the previous year and any input made by the State Rehabilitation Consumer and Business Advisory Council and other interested parties;

"(2) Any State which receives assistance under this part must describe the activities it has undertaken consistent with subsection (b) of this section in its State plan submitted under section 101 of title I of this Act.

"(3) In any fiscal year in which a State outlines their activities authorized under subsection (b) of this section and consistent with this part and Section 101 of Title I of this Act, the Commissioner shall pay to such State its full allotment under Section 120(a).

"(b) From each State's allotment under this part for any fiscal year, the Commissioner shall pay to such State or, at the option of the State agency designated under section 101(a)(1), to a public or nonprofit organization or agency, funds to use in the cost of planning, initiating, implementing or evaluating special programs or activities that are consistent with section 101 of this Act to expand and improve vocational rehabilitation services offered in the State. Such programs or activities shall include no less than one of the following:

"(1) Programs to initiate and expand employment opportunities for individuals with a severe disability in integrated settings that allow for the use of on-the-job training to promote the intent of title I of the Americans with Disabilities Act of 1990.

"(2) Programs or activities to improve and expand employment services in integrated settings to individuals with sensory, cognitive, physical and mental impairments that have traditionally not been served by the State vocational rehabilitation agency.

"(3) Programs and activities to maximize the ability of individuals with a disability to use rehabilitation technology, including assistive technology devices and services, in employment settings.

"(4) Programs and activities that assist employers in accommodating, evaluating, training or placing individuals with a disability in the employer's workplace consistent with provisions under this Act and title I of the Americans with Disabilities Act of 1990. Such activities may include short term technical assistance or other effective strategies.

"(5) Programs and activities that expand and improve the extent and type of consumer involvement in the review and selection of his or her training and employment goals.

"(6) Programs and activities that expand and improve opportunities for career advancement for individuals with a severe disability.

"(c) The Commissioner may require that any portion of a State's allotment under this section be expended in connection with only such projects as have first been approved by the Commissioner.".

(b) CONFORMING AMENDMENTS.—Section 110 (29 U.S.C. 730) is amended—

(1) in subsection (a)(1), by striking "subsection (d)" and inserting "subsections (d) and (e)";

(2) in subsection (d)(1), by striking "100(b)(1)" and inserting "100(b)"; and

(3) by adding at the end the following subsection:

"(e) For fiscal year 1993 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b) for allotment under this section a sum of not less than 1.5 percent to carry out the purposes of part C of this title.".

Subtitle D—American Indian Vocational Rehabilitation Services

SEC. 231. STUDY OF NEEDS OF AMERICAN INDIANS WITH A DISABILITY.

Part D of title I (29 U.S.C. 750 et seq.) is amended by striking section 131.

Subtitle E—Monitoring and Review

SEC. 241. MONITORING AND REVIEW.

(a) IN GENERAL.—Title I, as amended by section 231 of this Act, is amended by adding at the end the following part:

"PART E—MONITORING AND REVIEW

"MONITORING AND REVIEW

"SEC. 141. (a)(1) In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 105.

"(2) In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 105(b);

"(F) consumer satisfaction surveys;

"(G) information provided by the State Rehabilitation Consumer and Business Advisory Council established under section 112 of this Act; and

"(H) reports.

"(3) In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits;

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Consumer and Business Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(7) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Consumer and Business Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) The Commissioner shall—

"(1) provide technical assistance to programs regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 105, in order to ensure that such failure is corrected as soon as practicable.

"(c)(1) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 105,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d)(1) Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3)(A) Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. et seq.) is amended in the table of contents in the first section—

(1) by striking by the item relating to section 131;

(2) by inserting after the item relating to section 130 the following:

"PART E—MONITORING AND REVIEW

"Sec. 141. Monitoring and review.".

SEC. 242. REVIEW OF DATA COLLECTION SYSTEM.

(a) REVIEW.—The Secretary of Education (in this section referred to as the 'Secretary') shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973, particularly data on clients of the programs under title I of the Rehabilitation Act of 1973.

(b) CONSIDERATIONS.—In conducting the review, the Secretary shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(c) RECOMMENDATIONS.—Based on the review, the Secretary shall recommend improvements in the data collection and reporting system.

(d) VIEWS.—In developing the recommendations, the Secretary shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Consumer and Business Advisory Councils, providers of rehabilitation services, professionals in the field of vocational rehabilitation, consumers and organizations representing consumers, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) PUBLICATION AND SUBMISSION OF REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall publish the recommendations in the Federal Register and shall submit a report containing the recommendations to the appropriate committees of Congress. The Secretary shall not implement the recommendations earlier than 90 days after the date on which the Secretary submits the report.

TITLE III—RESEARCH AND TRAINING

SEC. 301. DECLARATION OF PURPOSE

Section 200 (29 U.S.C. 760) is amended—

(1) in paragraph (1)—

(A) by inserting "and independent living" after "rehabilitation" the first place such term appears; and

(B) by striking "to train persons who provide rehabilitation services" and inserting the following: "to improve the provision of rehabilitation and independent living services, including the training of persons who provide such services";

(2) in paragraph (2), by striking "devices" and inserting "assistive technology devices and services"; and

(3) by striking paragraphs (3) and (4) and inserting the following paragraphs:

"(3) improve the procurement process for the purchase of assistive technology devices and services enabling the purchase of such technologies on a regular basis, develop the utilization of assistive technology and rehabilitation engineering on a national basis through demonstration programs, and encourage the specific adaptations or customizations of products that would assist in the vocational rehabilitation of an individual with a disability;

"(4) increase access to the scientific and technological information presently available in the field of rehabilitation and encourage the collection, management and availability of assistive technology and related information on a community and statewide level;

"(5) identify effective strategies that enhance the opportunities of individuals with a disability to engage in productive work;

"(6) increase opportunities for researchers who are members of traditionally underserved populations, including individuals from diverse multicultural backgrounds and individuals with a disability, which activities shall include—

"(A) providing technical assistance information and training to agencies, institutions and organizations regarding techniques and approaches for submitting applications for grants, contracts and cooperative agreements under this section addressing the rehabilitation of individuals with a disability from minority backgrounds;

"(B) providing information to and from agencies, institutions, and organizations providing rehabilitation to individuals with a disability from minority backgrounds; and

"(C) providing research activities focusing on both serving individuals with a disability who are from minority backgrounds and training professionals and paraprofessionals from minority backgrounds.".

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1), by striking "1992" and inserting "1997"; and

(2) in paragraph (2)—

(A) by striking "and" after "1991," the first place such term appears;

(B) by inserting after "1992" the first place such term appears the following: ", $62,952,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997"; and

(C) by striking "section 204, of which" and all that follows and inserting "section 204.".

SEC. 303. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

Section 202 (29 U.S.C. 761a) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by inserting before the semicolon the following: "and to practitioners, consumers, their families, guardians, advocates, authorized representatives, and organizations receiving assistance under this Act";

(B) in paragraph (4), by amending the paragraph to read as follows:

"(4) widespread dissemination of educational materials and research results on improving the quality of life of individuals with a disability to primary and secondary schools, institutions of higher education, practitioners, consumers and families (especially those from minority backgrounds and from underserved populations), and to public and private entities;";

(C) in paragraph (6)—

(i) by striking "in-service training" and inserting "in-service and consumer training"; and

(ii) by striking "research and engineering advances" and inserting "research, engineering, and assistive technology advances";

(D) in paragraph (7), by striking "; and" and inserting ", including dissemination activities;";

(E) in paragraph (8)—

(i) by inserting "consumers, their families, guardians, advocates or authorized representatives," before "and others to assist";

(ii) by striking "planning and evaluation" and inserting "planning, assessment, and evaluation"; and

(iii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following paragraphs:

"(9) conducting research on consumer satisfaction with rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with a disability and achievement of long-term vocational goals; and

"(10) conducting research to examine the relationship between the provision of specific services and long term vocational outcomes.";

(2) in subsection (c), by striking "appointed by the President, by and with the advice and consent of the Senate." and inserting "appointed by the Secretary, except that the person serving as the Director on the date of the enactment of the Rehabilitation Act Amendments of 1992 may, at the pleasure of the President, continue to serve as Director.";

(3) in subsection (d), by inserting ", including individuals with a disability," after "research fellows";

(4) in subsection (e), by striking "rehabilitation field." and inserting the following: "rehabilitation and independent living fields and consumers, their families, guardians, and advocates or authorized representatives. The Director shall solicit nominations for such committees from the public and shall publish the names of all committee members.";

(5) in subsection (f), by amending the subsection to read as follows:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities through grants, cooperative agreements or contracts. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the Director's authority under section 202.";

(6) in subsection (g)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting a semicolon; and

(C) by inserting after parargraph (3) the following paragraphs:

"(4) specify plans for widespread dissemination of research results in accessible formats to practitioners, consumers, their families, guardians, and advocates or authorized representatives; and

"(5) specify plans for widespread dissemination of research results that concern individuals with a disability who are from minority or traditionally underserved populations.";

(7) in subsection (j)—

(A) by striking paragraphs (1) and (2); and

(B) by striking "(3)";

(8) in subsection (k), by inserting before the period the following: ", with particular attention to research areas that support the implementation and objectives of this Act"; and

(9) by striking subsections (l) and (m).

SEC. 304. RESEARCH.

(a) SUBSECTION (a).—Section 204(a) (29 U.S.C. 762(a)) is amended in the last sentence by inserting before the period the following: "as described in the State plans submitted by State agencies".

(b) SUBSECTION (b).—

(1) PARAGRAPH (1).—Section 204(b)(1) (29 U.S.C. 762(b)(1)) is amended—

(A) in the first sentence—

(i) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(ii) by inserting after "for the purpose of" the following: "(A) providing an integrated program of research,";

(iii) in subparagraph (C) (as redesignated by clause (i) of this subparagraph), by striking "and" at the end; and

(iv) by inserting before the period the following: ", and (E) providing information and technical assistance to providers and consumers of services and public and private agencies through conferences, workshops, public education programs, short-term training programs and similar activities";

(B) by inserting after the first sentence the following sentence: "Such centers shall be centers of national excellence and shall be national and regional resources for providers and consumers.";

(C) in the third sentence (as placed pursuant to subparagraph (B) of this paragraph), by amending the sentence to read as follows: "The research to be carried out at each Center shall be determined on the basis of the particular needs of individuals with a disability in the geographic area served by the Center, and as appropriate shall include consideration of both urban and rural issues, and may include basic or applied medical rehabilitation research; research regarding the psychological and social aspects of rehabilitation; research related to vocational rehabilitation; research that promotes emotional, social, educational, and developmental growth of children with a disability; research to develop and evaluate interventions, policies, and services that support families of children and adults with a disability; and research that will improve services and policies that foster productivity, independence, and social integration and enable individuals with mental retardation and/or other disabilities to live in their communities."; and

(D) in the last sentence, by striking "clause (C)" and inserting "subparagraph (D)".

(2) PARAGRAPH (2).—Section 204(b)(2) (29 U.S.C. 762(b)(2)) is amended to read as follows:

"(2) Establishment and support of Rehabilitation Engineering Research Centers operated to—

"(A) develop and disseminate innovative methods of applying advanced medical technology, scientific achievement, and psychiatric, psychological, and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, methods, equipment, and devices suitable for solving problems in the rehabilitation of individuals with a disability and for reducing environmental barriers;

"(B) demonstrate and disseminate innovative models for the delivery to rural and urban areas of cost-effective rehabilitation engineering and assistive technology services that promote utilization of assistive technology devices and other scientific research to assist in meeting the employment and independent living needs of individuals with a severe disability;

"(C) cooperate with State agencies designated under section 101(a)(1) in developing systems of information exchange and coordination to promote the prompt utilization of rehabilitation engineering and assistive technology, and other scientific research to assist in solving problems in the rehabilitation of individuals with a disability;

"(D) demonstrate and disseminate innovative models for the delivery of cost-effective rehabilitation engineering and assistive technology services to assist in meeting the needs of, and addressing the barriers confronted by, individuals with a disability; and

"(E) provide training in rehabilitation research.".

(3) PARAGRAPH (3).—Section 204(b)(3) (29 U.S.C. 762(b)(3)) is amended to read as follows:

"(3)(A) Conduct of a program for spinal cord injury research, including the making of grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstrations for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to practitioners, consumers, and their families and to organizations receiving financial assistance under this Act;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any project or demonstration assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient follow-up and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.".

(4) PARAGRAPH (9).—Section 204(b)(9) (29 U.S.C. 762(b)(9)) is amended by inserting "and urban" after "rural".

(5) PARAGRAPH (11).—Section 204(b)(11) (29 U.S.C. 762(b)(11) is amended by inserting "assessment," after "early intervention,".

(6) PARAGRAPH (12).—Section 204(b)(12) (29 U.S.C. 762(b)(12)) is amended—

(A) in the matter preceding subparagraph (A), by striking "employment potential" and inserting "employment needs"; and

(B) in subparagraph (B), by striking "potential" and inserting "needs".

(7) ADDITIONAL PARAGRAPHS.—Section 204(b) (29 U.S.C. 762(b)) is amended by adding at the end the following paragraphs:

"(16) Conduct of a study to examine the factors which have created barriers to successful rehabilitation outcomes for individuals with a disability from minority backgrounds, and develop and evaluate policy, research and training strategies for overcoming these barriers.

"(17) Conduct of a study to examine the factors which have created significant underrepresentation of individuals from minority backgrounds in the rehabilitation professions, including researchers, and develop and evaluate policy, research, and training strategies for overcoming this underrepresentation.

"(18) Conduct of a study to examine the factors which have created barriers to successful rehabilitation outcomes for individuals with neurological or other related disorders, and how the hidden and/or episodic nature of the disability affects eligibility and the provision of services.".

SEC. 305. NATIONAL COMMISSION ON EDUCATION AND REHABILITATION OF INDIVIDUALS WHO ARE BLIND AND VISUALLY IMPAIRED.

(a) IN GENERAL.—Title II (29 U.S.C. 760 et seq.) is amended by adding at the end the following section:

"NATIONAL COMMISSION ON EDUCATION AND REHABILITATION OF INDIVIDUALS WHO ARE BLIND AND VISUALLY IMPAIRED

"SEC. 205. (a) The Congress makes the following findings:

"(1) Because of an apparent trend away from the provision of specialized services, a broad examination supported at the national level is required to identify the education and rehabilitation needs of all individuals who are blind or visually impaired and to recommend best practices and approaches for meeting these needs.

"(2) There is no specific national policy regarding education and rehabilitation services for children, youth and adults who are blind or who have severe visual impairments, and that such a policy is necessary in order to maximize the benefit of such services to this population.

"(3) Full implementation of the Americans with Disabilities Act of 1990 (Public Law 101-336) requires a solid foundation in effective education and rehabilitation. If the goals of this historic legislation are to be fully realized by individuals who are blind and visually impaired, a national policy addressing the problems of this population is paramount.

"(4) With the national emphasis on literacy skills and excellence in education, the effect of educational policies and goals must be carefully examined in order to provide equal opportunities for individuals with visual impairments. Additionally, while technology holds great promise for improving the lives of individuals who are blind or visually impaired, these developments must be carefully examined to ensure that they do not negatively affect this population.

"(5) This low incidence population is growing, especially among the very young and the elderly. Medical advances in neonatal care are resulting in the survival of increasing numbers of premature and low-birthweight babies who have visual impairments as well as other disabilities; in addition, with the general aging of the population, there are growing numbers of elderly individuals with visual impairments.

"(b) There is hereby established a Commission on Education and Rehabilitation of Individuals Who are Blind and Visually Impaired (referred to in this section as the 'Commission') for the purpose of studying the nature, quality, and adequacy of infant and early childhood education programs; elementary, secondary, postsecondary, adult and continuing education programs; vocational rehabilitation, independent living, supported employment and other employment-related programs for individuals who are blind and visually impaired, and to make to the President and to the Congress recommendations designed to improve such programs for the benefit of such individuals.

"(c)(1) The Commission shall be comprised of members to be appointed from among individuals (or where appropriate, their parents, family members, guardians, advocates, or legal representatives) who are (A) blind or visually impaired consumers of education and/or rehabilitation services and/or members of recognized organizations of blind consumers, and (B) individuals recognized by education, knowledge, or experience as blindness and visual impairment experts and/or members of recognized organizations of or for individuals who are blind. A majority of the members shall be individuals who are qualified for appointment under subparagraph (A), except that individuals so qualified shall not be officers or employees of agencies providing education and/or rehabilitation.

"(2) Appointments shall be made in the following manner:

"(A) The President, through the Secretary, shall publish in the Federal Register a notice of the establishment of the Commission and request nominations from organizations and individuals representing all aspects of the blind community, including but not limited to individuals who are blind (or where appropriate, their parents, family members, guardians, advocates, or legal representatives), consumers of State and Federal services who are blind, and individuals with expertise in the education of individuals who are blind. Such Federal Register notice shall stipulate a period of not less than 60 days for receipt of nominations.

"(B) At the same time, the President shall direct the Secretary to ensure that a similar notice is widely distributed through channels and media serving individuals who are blind, organizations representing such individuals, and where appropriate, their parents, family members, guardians, advocates, or legal representatives.

"(C) The President, through the Secretary, shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate all nominations received.

"(D) In filling the appointments to the Commission, the Speaker of the House and the President pro tempore of the Senate shall consult with each other and shall give due consideration to the appointment of individuals who will provide appropriate representation based upon geographic regions, service interest, and expertise and experience.

"(3) Appointments to the Commission shall be made within 60 days following the end of the period set forth in subparagraph (A).

"(4) Members of the Commission shall be appointed as follows:

"(A) 4 members shall be appointed by the President, or with his delegation of authority, by the Secretary of Education.

"(B) 4 members shall be appointed by the President pro tempore of the Senate, with the advice and approval of the majority leader and minority leader of the Senate.

"(C) 4 members shall be appointed by the Speaker of the House of Representatives with the advice of the majority leader and the minority leader of the House of Representatives.

"(5) Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment.

"(d) The Chair of the Commission shall be appointed by the President from among members of the Commission, in consultation with the approval of the President pro tempore of the Senate and the Speaker of the House of Representatives.

"(e) The Commission, directly or through Federal agency staff or consultants, shall conduct studies and analyses, hold such hearings and meetings as it deems appropriate, develop policy papers, and write a comprehensive report which includes specific recommendations, with respect to the following issues, and such other issues as the Commission may identify:

"(1) General and disability-specific service needs of infants who are blind and severely visually impaired and their families.

"(2) Effectiveness of preschool services, residential schools, specialized classrooms, specialized day programs, and mainstreaming for children and youths who are blind and visually impaired.

"(3) Effectiveness of current instruction in braille reading and writing, and low vision utilization, and the need for curriculum development in these and other fields to improve the literacy and educational outcomes for individuals who are blind and visually impaired.

"(4) The role of education and rehabilitation in reducing unemployment and underemployment among youths and adults who are blind and visually impaired and the role of transition programs in best serving these individuals.

"(5) The causes and extent of the shortage of teachers, orientation and mobility instructors, rehabilitation teachers and counselors, and other professionals serving individuals who are blind and visually impaired.

"(6) The need for specialized services and agencies, and the adequacy of general service agencies, generic services and nondisability specific professionals in education and rehabilitation to meet the needs of individuals who are blind and visually impaired.

"(7) The role of professionals in education and rehabilitation in meeting the need of children and adults with multiple disabilities who are also visually impaired.

"(8) The need for changes in the Randolph-Sheppard program to better ensure accomplishment of its purposes.

"(9) Examination of the needs and development of strategies to effectively serve the increasing numbers of elderly individuals who are visually impaired.

"(10) Examination of and recommendations relating to accessibility issues, including but not limited to, developments in technology which may negatively affect individuals who are blind or visually impaired.

"(11) The staffing and funding adequacy of the Rehabilitation Services Administration and its Division for the Blind and Visually Impaired; the Office of Special Education Programs; and the National Institute on Disability and Rehabilitation Research, in addressing policy and program issues specifically affecting blind and visually impaired individuals, and overseeing programs administered by States and other recipients of Federal grants, contracts, and cooperative agreements.

"(f) The Commission, with respect to the requirements and issues described in subsection (e), shall submit a final report to the President and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives not later than 18 months after the date of the enactment of the Rehabilitation Act Amendments of 1992. The Commission is authorized to submit such interim analyses, recommendations, and reports as it deems necessary.

"(g) The Commission shall be terminated not later than 90 days following the submission of the final report described in subsection (f). Any unobligated funds shall be returned to the Treasury as miscellaneous receipts, and any supplies or equipment purchased for use by the Commission shall be turned over to the General Services Administration for disposition.

"(h)(1) The Commission may appoint no more than 6 full-time equivalent positions for professsional and clerical personnel. Such appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the maximum rate authorized for GS-15 of the General Schedule.

"(2) The Commission may also appoint a staff director, who shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title V, United States Code. Such appointment shall be made without regard to the provisions specified in paragraph (1) regarding appointments and pay.

"(3) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(i) The Commission is authorized to consult with any organization of and for the blind; public and private service providers; Federal, State, and local agencies; educators and schools; individual experts; and such other persons and entities as will aid the Commission in carrying out its duties under this Act.

"(j)(1) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office) of the United States, information and statistics to carry out the provisions of this section. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information directly to the Commission, upon request made by its Chair.

"(2) For the purpose of securing necessary data and information the Commission is authorized to procure directly by contract or other means from universities, research institutions, foundations, and other competent public or private agencies.

"(k) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out the purposes of this Act. The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies with or without reimbursement.

"(l)(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(2) Members of the Commission who are not officers or full-time employees of the United States shall receive an honorarium of $150 for each day (including travel time) during which such members are engaged in the actual performance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.".

(b) FUNDING.—Section 201(a)(2) (29 U.S.C. 761(a)(2)), as amended by section 302(2) of this Act, is amended by inserting before the period the following: "and for the purpose of carrying out section 205".

(c) TECHNICAL AMENDMENT.—The Act is amended in the table of contents in the first section by inserting after the item relating to section 204 the following:

"Sec. 205. National Commission on Education and Rehabilitation of Individuals Who are Blind and Visually Impaired.".

TITLE IV—SUPPLEMENTARY SERVICES AND COMMUNITY REHABILITATION PROGRAMS

SEC. 401. DECLARATION OF PURPOSE.

Section 300(1) (29 U.S.C. 770(1)) is amended by striking "construction" and all that follows and inserting "development and improvement of community rehabilitation programs;".

SEC. 402. GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES.

Section 301 (29 U.S.C. 771) is repealed.

SEC. 403. TRAINING.

(a) TRANSFER OF PROVISION.—Title III, as amended by section 402 of this Act, is amended—

(1) by redesignating section 304 as section 301; and

(2) by inserting such redesignated section after section 300.

(b) AMENDMENTS.—

(1) SUBSECTION (a).—Section 301(a), as redesignated by subsection (a) of this section, is amended—

(A) in the first sentence—

(i) in the matter preceding paragraph (1), by inserting after "traineeships, and related activities" the following: ", including the provision of technical assistance,";

(ii) in paragraph (2), by inserting before the comma at the end the following: ", including personnel specifically trained to provide rehabilitation technology services, including assistive technology devices and services";

(iii) by striking "and (4)" and inserting "and (6)"; and

(iv) by inserting after paragraph (3) the following paragraphs: "(4) personnel specifically trained to deliver services to individuals with the most severe disabilities in supported employment programs, (5) personnel specifically trained to be impartial hearing officers,";

(B) by inserting after the first sentence the following sentence: "Such grants and contracts may be expended for scholarships, with necessary stipends and allowances.";

(C) in the third sentence (as placed pursuant to subparagraph (B) of this paragraph), by amending the sentence to read as follows: "Applicants for grants or contracts under this section shall include on their applications a detailed description of strategies that will be utilized to recruit and train persons to reflect the diverse populations of the State as part of the effort to increase the number of individuals with a disability and persons who are underrepresented among qualified personnel in the State to provide rehabilitation services.";

(D) in the fourth sentence (as placed pursuant to subparagraph (B) of this paragraph), by striking "section 504." and inserting the following: "section 504 of this Act, the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act related to work incentives for individuals with a disability."; and

(E) by adding at the end the following sentence: "The Commissioner, in carrying out this subsection, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.".

(2) SUBSECTION (b).—Section 301(b), as redesignated by subsection (a) of this section, is amended—

(A) in paragraph (1)—

(i) by striking "and" before "other fields contributing"; and

(ii) by inserting before the period the following: ", the provision of services to individuals with a specific disability or a specific impediment to rehabilitation, including services to such individuals who are unserved or underserved";

(B) in paragraph (3)(A), by amending clause (i) to read as follows:

"(i) within a period of not more than the number of years of service required in this clause plus two additional years after completing the training for which the scholarship was awarded, maintain employment in a nonprofit rehabilitation or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the State rehabilitation agency, on a full or part-time basis, for a period of not less than the full time equivalent of two years for each year for which assistance under this section was received; and"; and

(C) by adding at the end the following paragraphs:

"(4) The Commissioner shall award 2 grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the development of rehabilitation technician programs designed to train local workers who are recruited from and/or reside in communities historically underrepresented in the receipt of vocational rehabilitation services under this Act to be liaisons between the community and the vocational rehabilitation counselor. The rehabilitation technician program will provide an avenue through which individuals with a disability residing in remote, isolated settings can successfully access vocational rehabilitation services.

"(5)(A) The Commissioner shall award 2 grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the formation of consortia or partnerships of public and nonprofit private entities for the purpose of providing opportunities for career advancement and/or competency-based training, including but not limited to, certificate or degree granting programs in vocational rehabilitation and related services for current workers at public and nonprofit private agencies that provide services to individuals with a disability.

"(B) The purposes for which a grant under subparagraph (A) may be expended include, but are not limited to, the following:

"(i) Establishing a program with colleges and universities to develop creative new programs and coursework options and/or to expand existing programs in the field of vocational rehabilitation and related services. Funds may be used to provide release time for faculty and staff for curriculum development, instructional costs, and start-up and other program development costs.

"(ii) Establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, county, and voluntary sector workers who have demonstrated a commitment to working in the above fields and who are enrolled in higher education institution programs relating to these fields.

"(iii) Supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in the above fields.

"(iv) Identifying existing public and private agency and labor union personnel policies and benefit programs that may facilitate the ability of workers to take advantage of higher education opportunities such as leave time and tuition reimbursement.

"(C) Projects authorized under subparagraph (A) shall be geographically dispersed throughout the Nation in urban and rural areas.

"(D) The Secretary shall award, for the purpose of providing technical assistance to States or entities receiving grants under subparagraph (A), a cooperative agreement through a separate competition to an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of workers to serve individuals with a disability through the use of consortia or partnerships established for the purpose of retraining the existing workforce and providing opportunities for career enhancement.

"(E) The Secretary may conduct an evaluation of projects funded under this paragraph.

"(F) During the period in which an entity is receiving financial assistance under subparagraph (A), the entity may not receive financial assistance under subparagraph (D).".

(3) SUBSECTION (d).—Section 301(d)(1), as redesignated by subsection (a) of this section, is amended—

(A) in the first sentence, by striking "Office of Information and Resources for Individuals With Disabilities" and inserting "Office of Deafness and Communicative Disorders"; and

(B) by striking the second sentence.

(4) ADDITIONAL SUBSECTION.—Section 301, as redesignated by subsection (a) of this section, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following subsection:

"(e)(1) The Commissioner is authorized to make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to individuals with a disability, their parents, family members, guardians, or other authorized representatives to enable such individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with a disability. Such training grants shall be designed to meet the unique training and information needs of individuals with a disability, their parents, family members, guardians, or other authorized representatives who live in the area to be served, particularly those who are members of groups that have been traditionally underserved.

"(2) In order to receive a grant under this subsection, a private nonprofit organization shall—

"(A) coordinate and work closely with Parent Training Centers established under the Individuals with Disabilities Education Act;

"(B) be governed by a board of directors of which a majority of the members are individuals with a disability, their parents, family members, guardians or authorized representatives and professionals who serve individuals with a disability or if the nonprofit does not have such a board, such an organization shall have a membership which represents the interests of individuals with disabling conditions, and shall establish a special governing committee of which a majority of the members are individuals with a disability, their parents, family members, guardians or authorized representatives, and professionals in the field of rehabilitation and related services to operate the training and information program under this subsection;

"(C) serve individuals with a full range of disabilities, their parents, family members, guardians or authorized representatives; and

"(D) demonstrate the capacity and expertise to conduct effectively the training and information activities authorized under this section.

"(3) The Commissioner shall ensure that grants under this subsection shall—

"(A) be distributed geographically to the greatest extent possible throughout all States; and

"(B) be targeted to individuals with a disability, their parents, family members, guardians, or authorized representatives in both urban and rural areas or on a State or regional basis.

"(4) Parent training and information programs assisted under this subsection shall assist individuals with a disability, their parents, family members, guardians, or authorized representatives to—

"(A) better understand vocational rehabilitation and independent living programs and services;

"(B) provide follow-up support for transition and employment programs;

"(C) communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

"(D) provide support in the development of the individualized written rehabilitation program;

"(E) provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

"(F) understand the provisions of this Act, particularly for employment, supported employment, and independent living.

"(5) Each private nonprofit organization operating a program receiving assistance under this subsection shall consult with appropriate agencies which serve or assist individuals with a disability, their parents, family members, guardians, or authorized representatives located in the jurisdiction served by the program.

"(6) The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating parent training and information programs. To the extent practicable, such assistance shall be provided by the parent training centers authorized by the Individuals with Disabilities Education Act.".

(5) Former subsection (f).—Section 301(g), as redesignated by subsection (a) of this section and paragraph (4) of this subsection, is amended in the first sentence—

(A) by striking "and" after "1991,"; and

(B) by inserting before the period the following: ", $37,862,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

(c) Additional Amendment.—

(1) In general.—Section 301(d)(2), as redesignated by subsection (a) of this section, is amended

(A) in subparagraph (C), by adding "and" after the semicolon at the end:

(B) in striking subparagraph (D); and

(C) by redesignating subparagraph (E) as subparagraph (D).

(2) Related amendment to individuals with disabilities education act.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end the following paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals.".

(d) Technical Amendment.—The Act, as amended by subsection (a) of this section, is amended in the table of contents in the first section—

(1) by striking the item relating to section 304; and

(2) by striking the item relating to section 301 and inserting the following item:

"Sec. 301. Training.".

SEC. 404. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH A DISABILITY.

(a) Subsection (a).—Section 302(a) (29 U.S.C. 772(a)) is amended by striking "1987," and all that follows and inserting "1993 through 1997.".

(b) Subsection (b).—Section 302(b) (29 U.S.C. 772(a)) is amended—

(1) in paragraph (1)—

(A) by striking "training" and inserting "rehabilitation services or employment support services"; and

(B) by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following: "(A) For purposes of this section, vocational rehabilitation services shall include—

"(i) training with a view toward career advancement;

"(ii) training (including on-the-job training) in occupational skills; and

"(iii) services, including rehabilitation technology services (including assistive technology devices and assistive technology services), personal assistance services, and supported employment services and extended services, that—

"(I) are related to training described in clause (i) or (ii); and

"(II) are required by the individual to engage in such training."; and

(B) in subparagraph (B)—

(i) by inserting after "(B)" the following sentence: "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.";

(ii) in the second sentence (as placed pursuant to clause (i) of this subparagraph), by striking ", and such allowances" and all that follows and inserting a period; and

(iii) in the last sentence—

(I) by striking "training services" and inserting "vocational rehabilitation services"; and

(II) by striking "gainful and suitable" and inserting "competitive"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) Additional Subsection.—Section 302 (29 U.S.C. 772) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants upon application approved by the State agency designated under section 101(a)(1) to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

SEC. 405. LOAN GUARANTEES.

(a) In General.—Section 303 (29 U.S.C. 773) is amended—

(1) in the heading for the section, by striking "REHABILITATION FACILITIES" and inserting "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(b) Technical Amendment.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section, in the item relating to section 303, by striking "REHABILITATION FACILITIES" and inserting "COMMUNITY REHABILITATION PROGRAMS".

SEC. 406. COMPREHENSIVE REHABILITATION CENTERS.

Section 305(g) (29 U.S.C. 775(g)) is amended—

(1) by striking "and" after "1991,"; and

(2) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1993 through 1997".

SEC. 407. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking "section 302" and inserting "section 303";

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

SEC. 408. FUNDING FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.

Section 310(a) (29 U.S.C. 795g(a)) is amended by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $32,098,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 409. SPECIAL DEMONSTRATION PROGRAMS.

(a) Subsection (a).—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1), by striking "blind or deaf individuals," and all that follows and inserting the following: "blind or deaf individuals and individuals who are unserved or underserved by the vocational rehabilitation system;";

(2) in paragraph (2), by striking "new careers);" and inserting "new careers and career advancement);"; and

(3) by striking the matter after and below paragraph (4).

(b) Subsection (b).—Section 311 (29 U.S.C. 777a) is amended by striking subsection (b) and inserting the following subsection:

"(b)(1) The Commissioner may make grants to States and public and nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client control in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

"(2) Funds awarded under this subsection shall be used only—

"(A) for activities that are directly related to planning, operating, and evaluating these demonstrations; and

"(B) to supplement, and in no case to supplant, funds made available from Federal and non-Federal sources for such projects;

"(3) Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) a description of—

"(i) how the applicant intends to promote increased consumer control, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

"(ii) how the applicant intends to ensure that any vocational rehabilitation or related service is provided by a qualified provider who is accredited and/or meets such other quality assurance and cost-control criteria as the State may establish; and

"(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule for determining whether such goals are being achieved.

"(4) In selecting applications for funding, the Commissioner shall take into consideration the—

"(A) diversity of strategies used to increase client control, including selection among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(5) Grantees shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such information.

"(6) At least 80 percent of the funds awarded for any project under this subsection must be used for direct services, as specifically chosen by eligible clients.

"(7) For the purposes of this subsection, the term—

"(A) 'direct services' means vocational rehabilitation services as authorized in section 103(a) of this Act; and

"(B) 'eligible client' means an individual with a disability who is not currently receiving services under an individualized written rehabilitation program established through a State vocational rehabilitation agency.

"(8) The Commissioner shall evaluate the projects, the services provided, the clients served, client outcomes, implementation issues, and the effects of increased control on clients and service providers. From the amounts appropriated to carry out projects under this subsection in any fiscal year, the Commissioner may reserve funds for the evaluation.".

(c) ADDITIONAL SUBSECTION.—Section 311 (29 U.S.C. 777a) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e) and (g), respectively;

(2) by inserting after subsection (b) the following subsection:

"(c)(1) The Commissioner shall make grants to States and to public and nonprofit organizations (including Indian tribes) for the purpose of providing transportation services to individuals with a disability who—

"(A)(i) are employed or seeking employment; or

"(ii) are receiving vocational rehabilitation services from public or private organizations; and

"(B) reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

"(2) The Commissioner may make a grant under this section only if the applicant involved agrees that transportation services under paragraph (1) will be provided on a regular and continuing basis between the home of the individual and the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services.

"(3) The Commissioner may make a grant under paragraph (1) only if the applicant involved agrees that, in providing transportation services under such paragraph—

"(A) a charge for the transportation will be imposed on each employed eligible individual who uses the transportation; and

"(B) the amount of the charge for an instance of use of the transportation for the distance involved will be in a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas.

"(4) The Commissioner may make a grant under this section only if the applicant involved agrees to submit to the Commissioner, not later than December 31 of the fiscal year following the fiscal year for which the grant is made, a report containing—

"(A) a description of the goals of the program carried out with the grant;

"(B) a description of the activities and services provided under the program;

"(C) a description of the number of eligible individuals served under the program;

"(D) a description of methods used to ensure that the program served those eligible individuals most in need of the transportation services provided under the program; and

"(E) such additional information as the Commissioner may require.

"(5) Nothing is this subsection may be construed as limiting the rights or responsibilities of any individual under any other provision of this Act, under the Americans With Disabilities Act of 1990, or under any other provision of law.".

(d) FORMER SUBSECTION (c).—Section 311(d)(3), as redesignated by subsection (c) of this section, is amended by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act".

(e) FORMER SUBSECTION (d).—Section 311(e), as redesignated by subsection (c) of this section, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking "and" before "(iii)"; and

(ii) by inserting before the period the following: ", and (iv) demonstrate the effectiveness of natural supports or other alternatives to providing extended employment services"; and

(B) by adding at the end the following subparagraph:

"(C) Not less than two such grants shall serve low-functioning deaf and hard-of-hearing individuals."; and

(2) in paragraph (4)—

(A) by striking "and" after "1991,"; and

(B) by inserting before the period the following: ", $10,756,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

(f) ADDITIONAL SUBSECTION.—Section 311 (29 U.S.C. 777a) is amended by inserting after subsection (e) (as redesignated by subsection (c) of this section) the following subsection:

"(f)(1) The Commissioner may make grants to public or private institutions for the cost of developing special projects and demonstrations to address the general education, counseling, vocational training, work transition, supported employment, job placement, follow-up and community outreach needs of low functioning adults who are deaf. Such projects must provide educational and vocational rehabilitation services which are not otherwise available in the region and maximize the potential of low functioning adults who are deaf, including individuals who are deaf and have additional severe disabilities.

"(2) The Commissioner shall monitor the activities of the grantees to ensure that the purposes of this project are carried out, that projects are coordinated and that innovative methods of service delivery developed by such projects are disseminated.

"(3) The Commissioner shall submit an annual report to Congress which includes an assessment of how these projects coordinate with other public and nonprofit agencies serving individuals who are deaf to expand or improve services for such individuals.".

(g) FORMER SUBSECTION (e).—Section 311(g), as redesignated by subsection (c) of this section, is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) in paragraph (3)(A) (as redesignated by paragraph (2) of this subsection)—

(A) by striking clause (ii); and

(B) by striking the clause designation; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this of this subsection), by inserting after "1992" the following: "and for each of the fiscal years 1993 through 1997".

(h) ADDITIONAL SUBSECTIONS.—Section 311, as amended by the preceding provisions of this section, is amended by adding at the end the following subsections:

"(h) The Commissioner shall make grants to demonstrate the utility of early intervention in furnishing vocational evaluation, training, and counseling services to working adults recently determined to have chronic and progressive diseases which may be severely disabling, such as multiple sclerosis. Each grant shall include a research and evaluation program intended to demonstrate the effectiveness of such early intervention in enabling job retention or facilitating entry to new careers and employment. The demonstration program shall test a number of alternative service systems including an employer assistance program, early intervention by State vocational rehabilitation agencies and a private nonprofit agency joint venture with an employer or State vocational rehabilitation agency.

"(i)(1) The Commissioner shall make at least 3 grants to eligible institutions of higher education, to support the formation of regional partnerships with other public or private entities for the purpose of developing and implementing in-service training programs, including but not limited to, certificate or degree granting programs in vocational rehabilitation and related services for vocational rehabilitation professionals through the use of telecommunications.

"(2) Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) a detailed explanation of how the applicant will utilize interactive audio, video, and computer technologies between distant locations to provide in-service training programs to the region;

"(B) a description of how the applicant intends to utilize and build upon existing telecommunications networks within the region to be served;

"(C) a copy of all agreements governing the division of functions within the partnership, including an assurance that all States within the region will be served;

"(D) a copy of a binding commitment entered into between the partnership and each entity which is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area to be served within a reasonable time and at a charge which is in accordance with State law;

"(E) a description of the curriculum to be provided, frequency, and sites of service;

"(F) a description of the need to purchase or lease computer hardware and software; audio and video equipment; telecommunications terminal equipment; or interactive video equipment;

"(G) an assurance that the partnership will use not less than 75 percent of the amount of the grant for instructional curriculum development and programming;

"(H) a description of how the project will be evaluated.

"(2) In selecting applications for funding the Commissioner shall take into consideration the sparsity of State populations in the region to be served.

"(3) For the purposes of this subsection:

"(A) The term 'eligible entity' means any institution of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel.

"(B) The term 'interactive video equipment' means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

"(C) The term 'region' means one of the ten regions served by the Rehabilitation Services Administration.

"(D) The term 'rehabilitation professionals' means personnel described in section 301(a)(1) of this Act.".

"(j) The Commissioner may make grants to public and nonprofit community rehabilitation programs, designated State units, and other public and private agencies and organizations for the cost of developing special projects and demonstrations providing alternatives to traditional case closure practice. Each such grant shall—

"(1) identify, develop, and test exemplary models that can be replicated; and

"(2) identify, develop, and test innovative methods to evaluate the performance of vocational rehabilitation counselors without impeding the successful provision of services to consumers, especially those with the most severe disabilities.

"(k)(1) There is hereby established a National Commission on Rehabilitation Services (hereinafter referred to as the 'National Commission') for the purpose of studying the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act, and to submit to the President and to the Congress recommendations which will further the successful employment outcomes, independence, and integration of individuals with a disability into the workplace and community.

"(2)(A) The National Commission shall consist of eighteen members who are recognized by knowledge, experience, and education as experts in the field of rehabilitation. At least a majority of the members of the National Commission shall be individuals with a disability representing a cross-section of different types of disabilities.

"(B) Members of the National Commission shall be appointed as follows:

"(i) Six members shall be appointed by the President, or with his delegation of authority, by the Secretary of Education.

"(ii) Six members shall be appointed by the President Pro Tempore of the Senate, with the advice and approval of the Majority Leader and Minority Leader of the Senate.

"(iii) Six members shall be appointed by the Speaker of the House of Representatives with the advice and approval of the Majority Leader and Minority Leader of the House of Representatives.

"(C) The Chair of the National Commission shall be appointed by the members of the National Commission.

"(D) Appointments to the National Commission shall be made in accordance with subparagraph (B), and any vacancies in membership shall be filled in the same manner as the original appointment.

"(E) The National Commission shall meet at the call of the Chair, but not less often than four times each year.

"(F) Ten members of the National Commission shall constitute a quorum and any vacancy in the National Commission shall not affect its power to function. The Chair, upon approval by the National Commission, may form such committees as deemed necessary to fulfill the duties of the National Commission.

"(3)(A) The National Commission, directly, or through Federal agency staff and/or consultants, shall conduct studies and analyses, hold such hearings and meetings as it deems appropriate, develop policy papers and issue a comprehensive report which includes specific recommendations, with respect to the following issues, and such other issues as the Commission may identify as relevant to promoting the employment, independence, and integration of individuals with a disability:

"(i) Effectiveness of rehabilitation and independent living services in enhancing the successful employment outcome of individuals with a disability;

"(ii) Adequacy of research and training activities in fostering innovative approaches which further the employment of individuals with a disability;

"(iii) Capacity of supported employment and independent living services in promoting the integration of individuals with a disability into the workplace and community;

"(iv) Methods for enhancing access to services authorized under this Act by minorities with a disability and individuals with a disability who have been traditionally unserved or underserved by such rehabilitation and independent living services;

"(v) Means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with a disability;

"(vi) Conduct policy analyses to—

"(I) develop options for improving fiscal equity in the allotment of grants under section 110;

"(II) provide guidance on implementing the order of selection;

"(III) address the shortage of rehabilitation professionals.

"(vii) Recommendations for amendments to the Act needed to promote the provision of comprehensive rehabilitation and independent living services on behalf of individuals with a disability.

"(B) The National Commission, with respect to the requirements and issues described in paragraph (3)(A), shall issue an interim report to the President, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives not later than January 30, 1995, and a final report with recommendations for the next reauthorization of the Act to the President, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives by no later than January 30, 1997.

"(C) The National Commission shall be terminated not later than 90 days following the submission of the final report as described in paragraph (3)(B). Any funds not obligated shall be returned to the Treasury as miscellaneous receipts. Any supplies or equipment purchased for use by the National Commission shall be turned over to the General Services Administration for disposition. Any reports of the National Commission not distributed shall be turned over to the Department of Education for release upon request.

"(4)(A)(i) The National Commission may appoint a staff director to assist it in carrying out its duties. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of rehabilitation and independent living services or programs.

"(ii) The staff director is authorized to hire no more than ten full-time equivalent positions to assist the National Commission.

"(iii) The staff director and other personnel appointed to assist the National Commission may be appointed, without regard to the provisions of title 5, United States Code, governing appointments on the competitive service, or the provisions of Chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; *Provided, however*, no such person so appointed shall be paid in excess of the rate authorized for SES-4 of the Senior Executive Schedule.

"(iv) The National Commission, in accordance with section 3109 of title 5, United States Code, may obtain the services of experts or consultants.

"(B) The National Commission is authorized to consult with any organization representing individuals with a disability; public and private service providers; Federal, State, and local agencies; individual experts; colleges and universities involved in the preparation of rehabilitation services personnel; and such other entities and persons as will aid the National Commission in carrying out its duties.

"(C)(i) The National Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office) of the United States, information and statistics to carry out the provisions of this subsection. Each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information directly to the National Commission, upon request by its Chair.

"(ii) The National Commission is authorized to procure, directly by contract or other means, such additional information as it deems necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

"(D) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the National Commission in carrying out its duties. The National Commission may utilize the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement, upon the consent of the heads of such agencies.

"(5)(A) Members of the National Commission shall be entitled to receive compensation, at a rate equal to the rate of basic pay, payable for SES-4 of the Executive Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such members are engaged in the actual performance of duties vested in the National Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"(B) Members of the National Commission who are full-time officers or employees of the United States shall receive no additional pay or account of their service on the National Commissions, except for compensation for travel expenses as provided for by subparagraph (A) of this paragraph.".

SEC. 410. SPECIAL RECREATIONAL PROGRAMS.

Section 316 (29 U.S.C. 777f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "or all";

(II) by striking "handicapped individuals" and inserting "individuals with a disability"; and

(III) by inserting "employment," before "mobility,"; and

(ii) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(B) in paragraph (2), by amending the paragraph to read as follows:

"(2)(A) Each such grant shall be no longer than 3 years and shall not be renewable.

"(B) The Commissioner shall, not later than 180 days after enactment, develop a means to objectively evaluate and encourage the replication of activities assisted by this section.

"(C) The Commissioner shall require each grantee to report annually on the results of the activities assisted by this project. The continuation of such project shall not be further approved until such a report is received and evaluated.";

(C) in paragraph (3), by striking "to be made, and that" and all that follows and inserting "to be made."; and

(D) by adding at the end the following paragraphs:

"(4) Each applicant for a grant under this section shall include in its application a description of how it will continue the service program after Federal assistance ends.

"(5) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of projects funded by this section.";

(2) by redesignating subsection (b) as subsection (d);

(3) by inserting after subsection (a) the following subsections:

"(b) Recreation programs funded under this section shall maintain, at a minimum, the same level of services during the second and third year of the project as are provided in the initial year in which services are provided.

"(c) The Federal share of the program costs shall be 100 percent for the first year of the grant, 75 percent for the second year and 50 percent for the third year."; and

(4) in subsection (d) (as redesignated by paragraph (2) of this section)—

(A) by striking "and" after "1991,"; and

(B) by inserting after "1992" the following: ", $2,701,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

TITLE V—NATIONAL COUNCIL ON DISABILITY

SEC. 501. ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.

Section 400 (29 U.S.C. 780) is amended—

(1) in subsection (a)(1)—

(A) by inserting after the first sentence the following sentence: "The President shall select members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with a disability and organizations interested in individuals with a disability.";

(B) in the third sentence (as placed pursuant to subparagraph (A) of this paragraph), by inserting after "Council shall be" the following: "individuals with a disability or have substantial knowledge or experience relating to disability policy or programs, and shall be";

(C) in the fourth sentence (as placed pursuant to subparagraph (A) of this paragraph), by striking "At least five members" and inserting "A majority of the members"; and

(D) by adding at the end the following sentence: "The members of the Council shall be broadly representative of minority and other individuals and groups, as stipulated in this paragraph."; and

(2) in paragraph (2) of subsection (b), by amending the paragraph to read as follows:

"(2) Members of the National Council who are appointed after the date of the enactment of the Rehabilitation Act Amendments of 1992 may serve for two consecutive terms and may serve after the expiration of their terms until their successors have taken office. Members serving on such date may be reappointed for an additional term.".

SEC. 502. DUTIES OF NATIONAL COUNCIL.

(a) SUBSECTION (a).—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) in paragraph (1), by amending the paragraph to read as follows:

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with a disability and the methods of collecting and disseminating findings of such research;";

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (8), (9), and (10);

(3) by inserting after paragraph (3) the following paragraph:

"(4) identify priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence and productivity of individuals with a disability;";

(4) in paragraph (5)(B) (as redesignated by paragraph (2) of this subsection), by inserting "and regulations" after "statutes";

(5) by inserting after paragraph (6) (as redesignated by paragraph (2) of this subsection) the following paragraph:

"(7) establish and operate Americans with Disabilities Act Watch Centers to gather information about the implementation, effectiveness and impact of the Americans with Disabilities Act of 1990;";

(6) in paragraph (8) (as redesignated by paragraph (2) of this subsection), by amending the paragraph to read as follows:

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);";

(7) in paragraph (9) (as redesignated by paragraph (2) of this paragraph), by amending the paragraph to read as follows:

"(9) not later than March 31 of each year, submit to the Congress and the President a report containing a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8) of this subsection;";

(8) in paragraph (10) (as redesignated by paragraph (2) of this subsection), by striking the period and inserting "; and"; and

(9) by adding at the end the following paragraph:

"(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with a disability at the Federal, State, and local levels and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts (and the impact of such efforts on individuals with a disability), access to health care, and policies that operate as disincentives to seek and retain employment.".

(b) SUBSECTION (b).—Section 401(b) (29 U.S.C. 781(b)) is amended to read as follows:

"(b)(1) Not later than October 31, 1993, and annually thereafter, the National Council shall issue a report to the President and the Congress assessing the Nation's status in achieving the policies set forth in section 400(a)(1), with particular focus on the new and emerging issues impacting on the lives of individuals with a disability. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, and education. The report shall include recommendations for policy change.

"(2) In determining what issues to focus on and what findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with a disability, representatives of organizations representing a broad range of individuals with a disability, and organizations and agencies interested in individuals with a disability.".

SEC. 503. COMPENSATION OF NATIONAL COUNCIL MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "GS-18 of the General Schedule" and inserting "SES-4 of the Senior Executive Schedule".

SEC. 504. STAFF OF NATIONAL COUNCIL.

Section 403(b)(1) (29 U.S.C. 783(b)(1)) is amended by striking "GS-18 of the General Schedule" and inserting "SES-4 of the Senior Executive Schedule".

SEC. 505. ADMINISTRATIVE POWERS OF NATIONAL COUNCIL.

Section 404 (29 U.S.C. 784) is amended by adding at the end the following subsection:

"(e) The National Council may use, with the consent from those agencies comprising the Interagency Disability Coordinating Council, and as authorized in title V of this Act, such services, personnel, information and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.".

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by inserting before the period the following: "and for each of the fiscal years 1993 through 1997".

TITLE VI—RIGHTS AND ADVOCACY

SEC. 601. PROTECTION AND ADVOCACY OF INDIVIDUALS RIGHTS.

(a) IN GENERAL.—Title V, as amended by section 214 of this Act, is amended by inserting after section 500 the following section:

"PROTECTION AND ADVOCACY OF INDIVIDUALS RIGHTS

"SEC. 500A. (a) The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with a disability who are ineligible for client assistance programs under section 500 of this title and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986.

"(b) In order to receive assistance under this section, an eligible system must submit an application to the Secretawry in such form and manner containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section when the grant is discretionary, including assurances that the eligible system will—

"(1) have in effect a system to protect and advocate the rights of individuals with a disability;

"(2) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 or client assistance programs under section 500;

"(3) provide information on and make referrals to programs and services addressing the needs of individuals with a disability in the State;

"(4) develop a statement of objectives and priorities on an annual basis and provide to the public, including individuals with a disability, and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(A) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(B) the coordination with the advocacy programs set out in the client assistance program under section 500, the ombudsman program established under the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986; and

"(5) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with a disability are afforded equal opportunity to access the services of the system.

"(c) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(d) The eligible system must provide assurances to the Secretary that funds made available under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purpose for which federal funds are provided and not to supplant such non-federal funds.

"(e) For purposes of this section, the term 'eligible system' means the system established in a State to protect and advocate the rights of persons with developmental disabilities under part C of the Developmental Disabilities Assistance and Bill of Rights Act. The assurances provided by the Governor for part C of the Developmental Disabilities Assistance and Bill of Rights Act shall be the same for this section.

"(f)(1)(A) In any fiscal year in which the appropriation for this section is less than $10 million, the Commissioner is authorized to make grants to eligible systems within States to develop outreach strategies and plan for and implement protection and advocacy programs authorized under this section.

"(B) For the purposes of subparagraph (A), Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau shall not be considered as States.

"(2)(A) In any fiscal year in which the appropriation for this section equals or exceeds $10 million, the Commisioner shall allot to each eligible system within a State an amount bearing the same ratio to such sums as the population of that State bears to the population of all States. Except as provided in subparagraph (C), the allotment to any eligible system under the preceding sentence shall not be less than $100,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any eligible system under this section for any fiscal year which is less than $100,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(B) For the purposes of this paragraph, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau shall not be considered as States and shall each be allotted not less than $50,000 for the fiscal year for which the allotment is made (except that Palau may not receive any allotment under this section after the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(C) The Commissioner is authorized to increase the minimum allotments under this section pursuant to the same conditions as are authorized in section 142(b)(2) of the Developmental Disabilities Assistance and Bill of Rights Act.

"(g)(1) Notwithstanding any other provision of law, the Commissioner shall pay directly to any system which complies with the provisions of this section, the amount of a State's allotment under this section, unless the State provides otherwise.

"(2) Any amount paid to a State for a fiscal year that remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year for the purposes for which such amount was paid.

"(h) Of the amount appropriated under this section, a State may not use more than 5 percent of any allotment under subsection (f)(2) for the cost of monitoring the administration of the system required by this section.

"(i) The Secretary shall annually submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals and the types of issues being addressed on behalf of such individuals.

"(j)(1) For the purpose of carrying out this section, there are authorized to be appropriated $1,109,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(2) Of the amount appropriated under this section, the Secretary shall make available 2 percent to provide training and technical assistance to the systems established under subsection (f)(2).".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 214(c)(3) of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 500 the following:

"Sec. 500A. Protection and advocacy of individuals rights.".

SEC. 602. EMPLOYMENT OF INDIVIDUALS WITH DISABLITIES.

Section 501(a) (29 U.S.C. 791) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans' Affairs, and" and inserting the following: "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs,"; and

(2) by amending the second sentence to read as follows: "The Director of the Office of Personnel Management and the Chairman of the Commission shall either serve as cochairpersons or as a sole chairperson, as they jointly determine appropriate from time to time.".

SEC. 603. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) SUBSECTION (a).—Section 502(a) (29 U.S.C. 792(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least a majority"; and

(B) in subparagraph (B), by inserting after clause (xi) the following clause:

"(xii) Department of Commerce."; and

(2) in paragraph (2)(A)—

(A) in the first sentence, by striking "three" and inserting "four"; and

(B) in the second sentence—

(i) by striking "four" and inserting "three"; and

(ii) by inserting before the period the following: ", except that initially (i) one member appointed for a term beginning December 4, 1992, shall serve for a term of three years, (ii) one member appointed for a term beginning December 4, 1993, shall serve for a term of 2 years, and (iii) one member appointed for a term beginning December 4, 1994, shall serve for a term of one year".

(b) SUBSECTION (b).—Section 502(b) (29 U.S.C. 792(b)) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural

Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and ensuring that all waivers and modifications to standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines and provide appropriate technical assistance to individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Architectural Barriers Act of 1968 and titles II and III of the Americans With Disabilities Act;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with a disability, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (5) of this subsection;

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968;

"(8) make to the President and to the Congress reports which shall describe in detail the results of its investigations under clauses (5) and (6) of this subsection;

"(9) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (5) of this subsection; and

"(10) ensure that public conveyances, including rolling stock, are readily accessible, and usable by, individuals with a physical disability.".

(c) SUBSECTION (d).—Section 502(d) (29 U.S.C. 792(d)) is amended—

(1) in paragraph (1), in the first sentence—

(A) by striking "In carrying out" and all that follows through "shall conduct" and inserting "The Access Board shall conduct"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(d) SUBSECTION (f).—

(1) ADDITIONAL PARAGRAPH.—

(A) Section 502(f) (29 U.S.C. 792(f)) is amended by striking "(f) The departments" and inserting the following:

"(f)(1) In carrying out its technical assistance responsibilities, the Access Board may enter into interagency agreements with other Federal departments or agencies. Any funds appropriated to such department or agency for the purpose of providing such assistance may be transferred to the Access Board. The Access Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Access Board determines is appropriate. The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section. The departments".

(B) Section 502(f), as amended by subparagraph (A) of this paragraph), by striking "The departments" and inserting the following:

"(2) The departments".

(2) ADDITIONAL AMENDMENTS.—Section 502(f)(2), as designated by paragraph (1)(B) of this subsection), is amended—

(A) by striking "pursuant to this subsection" and inserting "pursuant to this paragraph"; and

(B) by striking "the Secretary," and inserting "the Chairperson,".

(e) SUBSECTION (g).—Section 502(g) (29 U.S.C. 792(g)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as designated by subparagraph (A) of this paragraph)—

(A) in the second sentence, by striking "clauses (5) and (6) of subsection (b) of this section" and inserting "paragraphs (7) and (8) of such subsection"; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following paragraph:

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of Public Law 90-480 (commonly known as the Architectural Barriers Act of 1968), transmit that report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.".

(f) SUBSECTION (h).—Section 502(h) (29 U.S.C. 792(h)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as redesignated by paragraph (2) of this subsection), by striking the second and third sentences; and

(4) by adding at the end the following paragraph:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating its functions under paragraphs (2) and (4) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

"(B) The Board shall publish regulations setting forth the criteria it will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.".

(g) SUBSECTION (i).—Section 502(i) (29 U.S.C. 792(i)) is amended by striking "1992," and inserting "1997,".

SEC. 604. INTERAGENCY COORDINATING COUNCIL.

(a) IN GENERAL.—Section 507 (29 U.S.C. 794C) is amended to read as follows:

"INTERAGENCY DISABILITY COORDINATING COUNCIL

"SEC. 507. (a) There is hereby established, under the direction of the National Council on Disability, an Interagency Disability Coordinating Council (hereafter in this section referred to as the 'Council') composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

"(b) The Interagency Disability Coordinating Council shall—

"(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder;

"(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal government responsible for promoting the full integration, independence and productivity of individuals with a disability; and

"(3) carry out such studies and other activities, subject to the availability of resources, as directed by the National Council on Disability in order to identify methods for overcoming barriers to integration, independence and productivity of individuals with a disability.

"(c) On or before July 1 of each year, the Interagency Disability Council shall transmit to the President and to the Congress a report of its activities designed to promote and meet the employment needs of individuals with a disability, together with such recommendations for legislative and administrative changes as it concludes are desirable to further promote this section along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with a disability. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section by striking the item relating to section 507 and inserting the following item:

"Sec. 507. Interagency Disability Coordinating Council.".

SEC. 605. ELECTRONIC EQUIPMENT ACCESSIBILITY.

Section 508 (29 U.S.C. 794d) is amended to read as follows:

"ELECTRONIC EQUIPMENT ACCESSIBILITY

"SEC. 508. (a) The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with a disability can produce and have comparable access to information and data as individuals without a disability. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) Each Federal agency shall comply with the guidelines established under this section.".

SEC. 606. CONFORMING AMENDMENT.

Title V (29 U.S.C. 790 et seq.) is amended in the heading for the title by striking "**MISCELLANEOUS**" and inserting "**RIGHTS AND ADVOCACY**".

TITLE VII—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY

Subtitle A—Community Service Employment Pilot Program for Individuals With A Disability

SEC. 701. SHORT TITLE.

Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

SEC. 702. DEFINITIONS.

Section 616(3) (29 U.S.C. 795e(3)) is amended by striking "to assist" and all that follows and inserting the following: "to assist other individuals with a severe disability to perform the essential duties of employment.".

SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

Section 617 (29 U.S.C. 795f) is amended by inserting before the period the following: "and for each of the fiscal years 1994 through 1997".

Subtitle B—Projects With Industry

SEC. 711. PROJECTS WITH INDUSTRY.

(a) SUBSECTION (a).—Section 621(a) (29 U.S.C. 795g(a)) is amended—

(1) in paragraph (1), by striking "job opportunities" and inserting "career opportunities"; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting after "employers," the following: "community rehabilitation programs, labor unions, trade associations,";

(B) in subparagraph (A)—

(i) by striking "job" the first place such term appears and inserting "career"; and

(ii) by inserting "and career advancement" after "job placement";

(C) in subparagraph (B), by inserting "and career advancement" after "employment";

(D) in subparagraph (D), by striking "expand job opportunities" and inserting "expand or advance career opportunities"; and

(E) in subparagraph (E), by inserting "career opportunities and" after "identify";

(b) SUBSECTION (d).—Section 621(d) (29 U.S.C. 795g(d)) is amended—

(1) in paragraph (1), by amending the paragraph to read as follows: "(1) Each recipient of an agreement under subsection (a) shall review and evaluate the operation of its project in accordance with the standards and indicators developed by the Commissioner consistent with the provisions in subsection (a)(4). The Commissioner shall revise the standards as necessary, subject to paragraph (2) of this subsection.";

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(4) in paragraph (2) (as redesignated by paragraph (3) of this subsection), by amending the paragraph to read as follows:

"(2) If the standards and indicators under paragraph (1) are modified or revised, the Commissioner shall obtain and consider recommendations for such modifications or revisions from State vocational rehabilitation agencies, current recipients of agreements under subsection (a), individuals assisted by such recipients, professional organizations representing industry, organizations representing individuals with a disability, and labor organizations.".

(c) SUBSECTION (e).—Section 621(e)(1) (29 U.S.C. 795g(e)(1)) is amended to read as follows: "(1) Grants under subsection (a)(2) may be awarded for a period of up to 5 years, and awards shall be made on a competitive basis and shall include consideration of past performance, if applicable.".

(d) SUBSECTION (f).—Section 621(f) (29 U.S.C. 795g(f)) is amended—

(1) in paragraph (1), by amending the paragraph to read as follows: "(1) The Commissioner shall use compliance indicators that are consistent with program evaluation standards to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years. The Commissioner shall, to the extent practicable, assure an equitable distribution of payments made under this section among the States.";

(2) in paragraph (2), by striking "evaluation standards," and all that follows and inserting "evaluation standards under subsection (d)(1).";

(3) in paragraph (3)—

(A) by striking the first sentence; and

(B) in the first sentence (as placed pursuant to clause (i) of this subparagraph), by striking "in subsequent years"; and

(4) in paragraph (4), in the first sentence—

(A) by striking "Beginning" and all that follows through "the Commissioner" and inserting "Each fiscal year the Commissioner"; and

(B) by inserting before the period the following: "in the annual report to Congress";

(e) SUBSECTION (h).—Section 621 (29 U.S.C. 795g) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

(f) ADDITIONAL SUBSECTION.—Section 621, as amended by subsection (e) of this section, is amended by adding at the end the following subsection:

"(i)(1) Consistent with the purpose of this section, the Commissioner may make grants to partnerships or consortia that include private business concerns or industries to develop model demonstration projects for workers with a disability who need new or upgraded skills to adapt to emerging technologies, work methods, and markets and to ensure that such individuals possess the knowledge and skills necessary to compete in the work place.

"(2) For the purposes of this subsection, the term 'workers with a disability' shall mean individuals with a disability who are working in competitive employment and who need new or upgraded skills to improve their employment opportunities.

"(3) Awards made under this subsection shall be for a three-year period.

"(4) Any partnership or consortia desiring an award under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) providing assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of the project;

"(ii) the partnership or consortium will carry out all of the activities described in paragraphs (A) through (E) of subsection (a)(2);

"(iii) the partnership or consortium will disseminate information on the model program it conducts;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating an individual's job skills and assessing what skills are needed for the individual to compete in the work place;

"(v) an evaluation report containing data specified by the Commissioner will be submitted at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

"(5) Federal payments under this subsection with respect to any project may not exceed 80 percent of the costs of the project.".

SEC. 712. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY.

(a) IN GENERAL.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) in the heading for part B, by striking "AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS";

(2) by redesignating section 622 as section 641;

(3) by inserting section 641 (as so redesignated) after section 638;

(4) in the heading for section 641 (as so redesignated), by striking "HANDICAPS" and inserting "A DISABILITY"; and

(5) by inserting before such section 641 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section—

(1) in the item relating to part B of title VI, by striking "AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS";

(2) by striking the item relating to sections 622; and

(3) by inserting after the item relating to section 638 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY".

"Sec. 641. Business opportunities for individuals with a disability.".

SEC. 713. AUTHORIZATION OF APPROPRIATIONS.

Title VI (29 U.S.C. 795 et seq.) is amended—

(1) in section 623, by striking "There are authorized" and all that follows and inserting the following: "For the purpose of carrying out this part, there are authorized to be appropriated $21,042,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1993 through 1997."; and

(2) in section 641 (as redesignated by section 712(a)(2) of this Act)—

(A) by inserting "(a)" after "641."; and

(B) by adding at the end the following subsection:

"(b) For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 714. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Part B of title VI, as amended by section 712 of this Act, is amended by inserting after section 621 the following section:

"TECHNICAL ASSISTANCE

"SEC. 622. The Commissioner may enter into agreements with organizations representing individual employers, rehabilitation service providers, labor unions, and business or industry to provide technical assistance to—

"(1) assist employers in hiring individuals with a disability;

"(2) improve or develop relationships between current or prospective projects with industry and employers and/or organized labor; or

"(3) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 as it relates to employment of individuals with a disability.".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 712(b) of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 621 the following:

"Sec. 622. Technical assistance.".

Subtitle C—Supported Employment Services for Individuals With A Disability

SEC. 721. PURPOSE.

Section 631 (29 U.S.C. 795j) is amended by striking "for training" and all that follows and inserting the following: "for the provision of services leading to supported employment for individuals with a severe disability in the most integrated settings.".

SEC. 722. ALLOTMENTS.

Section 633 (29 U.S.C. 795) is amended—

(1) in subsection (a)(2)(B), by striking "The jurisdictions" and inserting "Each jurisdiction"; and

(2) in subsection (c)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 723. STATE PLAN.

Section 634 (29 U.S.C. 795m) is amended—

(1) in subsection (a)—

(A) by striking "(a)(1)" and inserting "(a)";

(B) by striking paragraph (2); and

(C) in the first sentence, by striking "training" and all that follows through "services" and inserting "services authorized under this part";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "section 618(b)(3)" and all that follows and inserting the following: "section 618(b)(1)(c) of the Individuals with Disabilities Education Act; and"; and

(ii) in subparagraph (B), by striking "section 635" and inserting "section 633";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "training" and all that follows through "services" and inserting "services authorized under this part";

(ii) in subparagraph (D), by striking "Education of the Handicapped Act," and inserting "Individuals with Disabilities Education Act,";

(iii) in subparagraph (E), by striking "and" after the semicolon at the end; and

(iv) by adding at the end the following subparagraphs:

"(G) the State will use funds provided under this part only to supplement the funds provided under title I of this Act for the cost of providing services leading to supported employment; and

"(H) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;"; and

(C) in paragraph (4)—

(i) by striking "demonstrate evidence of" and inserting the following: "each designated agency has entered into cooperative agreements which demonstrate the capacity of the State to ensure"; and

(ii) by striking "relevant" and inserting "other".

SEC. 724. SERVICES; AVAILABILITY AND COMPARABILITY.

Section 635 (29 U.S.C. 795n) is amended—

(1) subsection (a)—

(A) in paragraph (1)

(i) by striking "rehabilitation potential," and inserting "rehabilitation and career needs,"; and

(ii) by inserting "or advance" after "to support"; and

(B) in paragraph (2)—

(i) by striking "rehabilitation potential" the first place such term appears and inserting "rehabilitation and career needs"; and

(ii) by striking "rehabilitation potential" the second place such term appears and inserting "rehabilitation needs"; and

(2) by amending subsection (b) to read as follows:

"(b) The provision of on-going support services authorized under subsection (a) of this section by the designated State unit shall be limited in duration to a period of time prescribed by the Commissioner. Extended on-going support services shall be provided by other State agencies and private organizations as specified under section 634(b)(4) or any other available source, except that nothing in this subsection shall preclude an individual from again receiving post-employment services after the receipt of extended supported employment services deemed necessary to maintain the individual in employment.".

SEC. 725. SAVINGS PROVISION.

Section 637 (29 U.S.C. 795p) is amended—

(1) by striking "Act" and inserting "part"; and

(2) by striking "conducting" and all that follows through "services" and inserting "providing services".

SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

Section 638 (29 U.S.C. 795q) is amended—

(1) by striking "and" after "1991,"; and

(2) by inserting before the period the following: ", $32,059,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

TITLE VIII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

SEC. 801. ESTABLISHMENT OF PROGRAMS.

Title VII (29 U.S.C. 796 et seq.) is amended to read as follows:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE.

"The purpose of this title is to promote the philosophy of independent living (including consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy) in order to maximize the leadership, empowerment, independence, productivity, and integration and full inclusion of individuals with a disability into American society through the following activities:

"(1) Providing financial assistance to States for providing, expanding, and improving the provision of independent living services.

"(2) Providing financial assistance for the development and support of statewide networks of centers for independent living.

"(3) Providing financial assistance to States for improving linkages between State independent living rehabilitation service programs, centers for independent living, statewide independent living councils, State vocational rehabilitation programs receiving assistance under title I of this Act, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs under section 500, programs funded under other titles of this Act, programs funded under other Federal programs and programs funded under non-Federal sources.

"SEC. 702. DEFINITIONS.

"For purposes of this title:

"(1) The term "center for independent living" means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with a disability; and

"(B) provides an array of independent living services.

"(2) The term 'consumer control', with respect to an entity, means that the entity vests power and authority in individuals with a disability.

"(3) The term 'designated State unit' means the State unit designated under section 101(a)(2).

"(4)(A) The term 'independent living services', subject to subparagraph (B), means the following services:

"(i) Information and referral services.

"(ii) Independent living skills training.

"(iii) Peer counseling (including cross-disability peer counseling).

"(iv) Individual and system advocacy and training.

"(B) The term 'independent living services', in addition to the services described in subparagraph (A), may include, at the discretion of a grantee under this title, the following services:

"(i) Counseling services, including psychological, psychotherapeutic, and related services.

"(ii) Services related to securing housing or shelter supportive of the purposes of this title and adaptive housing services, including appropriate accommodations to, and modifications of, any space used to serve individuals with a disability and community group living.

"(iii) Rehabilitation technology, including assistive technology devices and services.

"(iv) Mobility training.

"(v) Services and training for individuals with cognitive and sensory disabilities, including interpreter and reader services.

"(vi) Personal assistance services, including attendent care and the training of personnel providing such services.

"(vii) Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services.

"(viii) Consumer information programs on rehabilitation and independent living services available under this Act especially for minorities and other individuals with a disability who have been traditionally underserved.

"(ix) Education and training necessary for living in the community and participating in community activities.

"(x) Appropriate job placement.

"(xi) Transportation, including referral and assistance for such transportation.

"(xii) Physical rehabilitation.

"(xiii) Therapeutic treatment.

"(xiv) Needed prostheses and other appliances and devices.

"(xv) Individual and group social and recreational services.

"(xvi) Skills specifically designed for youths with a disability to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options.

"(xvii) Services for children, including physical therapy, development of language and communications skills, and child development services.

"(xviii) Services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with a disability.

"(xix) Appropriate preventive services to decrease the needs of individuals assisted under this title for similar services in the future.

"(xx) Community awareness programs to enhance the understanding and integration of individuals with a disability.

"(xxi) Such services as may be necessary and consistent with the provisions of this title.

"SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

"Services may be provided under this title to any individual with a severe disability—

"(1)(A) whose ability to function independently in the family or community is substantially limited; or

"(B) whose ability to obtain, maintain, or advance in employment is substantially limited; and

"(2) for whom the delivery of independent living services will improve either—

"(A) the ability to function, to continue functioning, or to move toward functioning independently in the family or community; or

"(B) to continue in employment.

"SEC. 704. STATE PLAN.

"(a) In General.—

"(1) Requirement.—To be eligible to receive financial assistance under this title, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

"(2) Joint development.—The plan under paragraph (1) shall be jointly developed and signed by the director of the designated State unit and the chairperson of the Statewide Independent Living Council, on behalf of and at the direction of the Council.

"(3) Periodic review and revision.—The plan under paragraph (1) shall provide for the review and revision of the plan, not less than once every three years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the provision of State independent living services;

"(B) the development and support of a statewide network of centers for independent living; and

"(C) linkages between such services and centers and the vocational rehabilitation program established under title I of this Act and other programs providing services for individuals with a disability.

"(b) Statewide Council.—The plan under subsection (a) shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705 of this title.

"(c) Designated State Unit.—The plan under subsection (a) shall require that the designated State unit of such State be the unit which, on behalf of the State, carries out the following:

"(1) Receive, account for, and disburse funds under this title based on such plan.

"(2) Provide administrative support services.

"(3) Keep such records, and afford such access to the records, as the Commissioner finds necessary.

"(4) Submit such additional information or provide such assurances as required by the Commissioner.

"(d) Objectives; Timelines.—The plan under subsection (a) shall—

"(1) establish the specific objectives to be achieved under the plan;

"(2) explain how such objectives are consistent with and further the purposes of this title; and

"(3) establish timelines for achieving the objectives.

"(e) Eligibility for Services.—The plan under subsection (a) shall provide that—

"(1) independent living services are provided under this title to individuals with a severe disability; and

"(2) the services provided to such an individual are provided in accordance with an independent living plan mutually agreed upon by the State and/or service providers and the individual, unless the individual determines that the plan is unnecessary for the individual.

"(f) Scope of Services.—The plan under subsection (a) shall describe the extent and scope of independent living services under this title. If arrangements are made through grant or contract for providing such services, such arrangements shall be described in the plan.

"(g) Statewide Network of Centers.—The plan under subsection (a) shall set out a design for the establishment of a statewide network of centers for independent living that satisfy the standards and assurances set out in section 723.

"(h) Award of Grants to Centers.—In the case of any State in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under section 722 of this title, the plan under subsection (a) shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight with respect to such centers.

"(i) Cooperation, Coordination, and Linkages Among Various Entities.—The plan under subsection (a) shall set forth the steps that will be taken to maximize the cooperation, coordination and linkages between the independent living rehabilitation service program, the Statewide independent Living Council, and centers for independent living with the designated State unit, other State agencies represented on such Council, other councils which address the needs of specific disability populations and issues, and other public and private entities deemed appropriate by the Council.

"(j) Coordination of Services.—The plan under subsection (a) shall describe how services funded under this title will be complementary and coordinated in order to avoid unnecessary duplication with other Federal, State, and local programs.

"(k) Coordination of Funding.—The plan under subsection (a) shall describe efforts to coordinate Federal and state funding for centers for independent living and independent living services.

"(l) Outreach.—With respect to services and centers funded under this title, the plan under subsection (a) shall set forth steps to be taken regarding outreach to unserved and underserved populations, including minorities and urban and rural areas.

"(m) Assurances.—The plan under subsection (a) shall contain assurances that all recipients of funds under this title will comply with the following:

"(1) Notify all individuals seeking or receiving services under this title about the availability of the client assistance program under section 500, the purposes of the services provided under such program, and how to contact such program.

"(2) Adopt such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of an accounting for funds paid to the State under this title.

"(3)(A) Maintain records which fully disclose—

"(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

"(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

"(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

"(B) Maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit.

"(C) Afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate.

"(D) Submit such reports with respect to such records as the Commissioner determines to be appropriate.

"(4) For the purpose of audit and examination, provide to the Commissioner and the Comptroller General of the United States (or any of their duly authorized representatives) access to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part.

"(n) Evaluations.—The plan under subsection (a) shall establish a method for the periodic evaluation of its effectiveness in meeting the objectives established in subsection (d), including the satisfaction of individuals with a disability.

"(o) Public Hearing.—Each State shall provide for public hearings regarding the contents of the plan of the State under subsection (a).

"(p) Date Certain for Submission.—The plan under subsection (a) shall be submitted to the Commissioner not later than 90 days in advance of the completion date of the plan currently in effect. If a plan meeting the requirements of this section is not submitted in a timely manner, funds under this title may be withheld until a plan is submitted that meets such requirements.

"SEC. 705. INDEPENDENT LIVING COUNCIL.

"(a) In General.—Each State which receives assistance under this title shall establish a Statewide Independent Living Council (in this section referred to as the 'Council') which shall be independent of all State agencies. The State shall use funds received under this title to pay for the budget of such Council.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992, the Governor, or the appropriate entity within the State, shall make appointments to the Council from organizations representing a broad range of individuals with a disability and organizations interested in individuals with a disability.

"(2) CERTAIN REQUIREMENTS.—

"(A) The Council shall have statewide representation and be knowledgeable about independent living centers and services. The Council membership shall represent a broad range of individuals with a disability, and shall include at least one director of an independent living center, selected by the Independent Living Center Directors in the State.

"(B) The Council shall include a representative from the designated State unit, and representatives from other State agencies that provide services to individuals with a disability. Such representatives shall serve as ex officio, nonvoting members of the Council.

"(C) Members may include other representatives from centers; parents, guardians and advocates of and for individuals with a disability; representatives from private businesses, representatives from organizations that provide services to individuals with a disability, and other appropriate individuals.

"(3) LIMITATION REGARDING STATE EMPLOYEES.—A majority of council members shall be individuals with a disability not employed by any State agency or independent living center.

"(c) CHAIR.—The Council chairperson shall be selected from among the membership except in cases where the Governor has no veto power and in such cases the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(d) TERMS.—

"(1) IN GENERAL.—Each member of the Council shall serve for a term of 3 years, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term;

"(B) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment.

"(e) DUTIES.—The Council shall—

"(1) jointly develop and submit (in conjunction with the designated State unit) the State plan required in section 704;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Consumer and Business Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner, such periodic reports as the Commissioner may reasonably request, and keep such records and afford such access thereto as the Commissioner finds necessary to verify such reports.

"(f) PREPARATION OF BUDGET.—Each Council shall prepare, in conjunction with the designated State unit, a budget, using amounts paid under this title and from other public and private sources, to fund all activities under this section and to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the Council determines to be necessary to carry out its functions.

"(g) STAFF.—The staff and other personnel of a Council, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this title and shall not be assigned duties by the designated State unit or any other agency of the State.

"(h) USE OF FUNDS.—Funds under this section may be used to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for consumer and parent representatives and personal assistance services), and to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business.

"(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

"PART B—INDEPENDENT LIVING SERVICES

"SEC. 711. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) POPULATION BASIS.—From sums made available for each fiscal year for the purposes of allotments under this part, each State whose State plan has been approved under section 704 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(2) MINIMUM ALLOTMENT.—

"(A) Except as provided in subparagraph (B) and paragraphs (3) and (4), the allotment to any State under the preceding sentence shall be not less than $225,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year which is less than $225,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(B) For purposes of determining the minimum amount of allotments under subparagraph (A), the amount $225,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the consumer price index for all urban consumers (U.S. city average) during the period ending upon April 1 of the fiscal year preceding the fiscal year for which the grant is to be made.

"(3) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under paragraph (1) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of the enactment of the Rehabilitation Act Amendments of 1992.

"(4) CERTAIN TERRITORIES.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau shall not be considered as States and shall each be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made (except that Palau may not receive any allotment under this section after the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(b) ADJUSTMENTS.—Amounts necessary to increase the allotments of States under paragraph (1) of subsection (a) or to provide allotments under paragraph (4) of such subsection shall be derived by proportionately reducing the allotments of the remaining States under paragraph (1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $225,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made.

"(c) DISPOSITION OF CERTAIN AMOUNTS.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States which the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES.

"(a) IN GENERAL.—From each State's allotment for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 704. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 704.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project assisted by an allotment under this part may be provided in kind.

"(3) DETERMINATION OF AMOUNT.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"SEC. 713. AUTHORIZED USES OF GRANT.

"The State may use funds received under this part for any of the authorized uses described below:

"(1) to provide independent living services as defined by this title to individuals with a severe disability;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public agencies and private nonprofit entities and others to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policy makers in order to enhance independent living services for individuals with a disability;

"(6) to train individuals with a disability and individuals providing services to individuals with a disability and others regarding the independent living philosophy; and

"(7) to provide outreach to unserved and underserved populations, including minorities and urban and rural populations.

"SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $14,654,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"PART C—CENTERS FOR INDEPENDENT LIVING

"SEC. 721. DEFINITION.

"For purposes of this part, the term 'eligible organization' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 722. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) POPULATION BASIS.—Subject to subsection (d), from sums made available for each fiscal year for the purposes of allotments under this part, each State whose State plan has been approved under section 704 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(2) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in paragraphs (3) and (4), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(A) if such excess is equal to or greater than $3,500,000, the allotment to any State under paragraph (1) shall be not less than $275,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts; and

"(B) if such excess is less than $3,500,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts.

"(3) MAINTENANCE OF 1993 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under paragraph (1) to a State for a fiscal year shall not be less than the amount of financial assistance received by independent living centers in the State for fiscal year 1993 under this part.

"(4) CERTAIN TERRITORIES.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau shall not be considered as States and shall each be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made (except that Palau may not receive any allotment under this section after the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(b) ADJUSTMENTS.—Amounts necessary to increase the allotments of States under paragraph (1) of subsection (a) or to provide allotments under paragraph (4) of such subsection shall be derived by proportionately reducing the allotments of the remaining States under such paragraph (1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made.

"(c) DISPOSITION OF CERTAIN AMOUNTS.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States which the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"(d) TRAINING.—

"(1) ALLOCATION.—Of the amounts appropriated for a fiscal year to carry out this part, the Commissioner shall reserve 2 percent for the purpose of making grants to, and entering into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(2) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of statewide independent living councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(3) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience and knowledge in independent living programs.

"(e) PROHIBITION ON COMBINED FUNDS.—The Commissioner may not combine amounts appropriated under this part with amounts appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this part are separately identified in such grant or payment and are used for the purposes of this part.

"SEC. 723. STANDARDS AND ASSURANCES FOR CENTERS.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this title and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access of individuals with a severe disability to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities, including those who are unserved or underserved). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with a severe disability who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with a severe disability.

"(5) INDEPENDENT LIVING SERVICES.—The center shall provide independent living services.

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with a severe disability.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may reasonably require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with a disability, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with a severe disability;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 703;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with a severe disability on the same terms and conditions required with respect to the employment of an individual with a severe disability under sections 503 and 504 of this Act;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with a disability;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with a severe disability receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with a severe disability receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with a severe disability who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with a severe disability who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program under section 500;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach unserved and underserved populations of individuals with a severe disability, especially to minorities and to urban and rural populations;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minorities and urban and rural populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (7);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (7) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan determines the plan to be unnecessary.

"(d) REQUIREMENT.—No funds may be allotted under this title for a Center for Independent Living unless the Center is in compliance with the standards and assurances set forth in section 723.

"SEC. 724. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—For any fiscal year in which the amount of State funds that are earmarked by a State to support the general operation of centers for independent living meeting the requirements of this part is less than the amount allotted to the State under section 722, the Commissioner shall make grants from such amount to eligible organizations in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 723.

"(b) ELIGIBLE ORGANIZATIONS.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible organization that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 723 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 723; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE ORGANIZATIONS.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible organization that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the organization involved fails to meet program and fiscal standards and assurances set forth in section 723.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located; and

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 723;

"(iv) the quality of key personnel and the involvement of individuals with a severe disability;

"(v) budgets and cost-effectiveness;

"(vi) evaluation plan; and

"(vii) the ability of such applicant to carry out the plans.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living that comply with the standards and assurances set forth in section 723, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living that comply with the standards and assurances set forth in section 723.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall annually review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 723. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 723, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to reach compliance with the standards and assurances within 90 days and such plan is approved by the Commissioner.

"SEC. 725. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—For any fiscal year in which the amount of State funds that are earmarked by a State to support the general operation of centers for independent living meeting the requirements of this part equals or exceeds the amount of funds allotted to the State under section 722, and for any subsequent fiscal year, the director of the designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants to eligible organizations in the State from such amount for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 723. In subsequent fiscal years, the State shall retain the authority to award grants if it maintains the level of expenditures required in this paragraph. If the Commissioner determines that the State has not continued to meet such requirements, funds for the State shall be awarded in the subsequent fiscal year in accordance with section 724.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State unit shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1). If the Commissioner finds that such amount equals or exceeds the amount of funds allotted to the State under section

722, the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State unit of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 724.

"(b) ELIGIBLE ORGANIZATIONS.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible organization that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 723 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 723;

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE ORGANIZATIONS.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible organization that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 723.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible organizations, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible organizations in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 723 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 723;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with a severe disability by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living that comply with the standards and assurances set forth in section 723, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living that comply with the standards and assurances set forth in section 723.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall annually review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 723. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 723, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h), unless the center sooner complies with the standards and assurances.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of the State Vocational Rehabilitation Agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $29,928,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"SEC. 727. TRANSITION RULES FOR FISCAL YEAR 1993.

"In the case of grants under this part for fiscal year 1993 for centers for independent living, the provisions of this part (including with respect to definitions regarding centers and organizations and with respect to allotments and allocations for training) apply except as follows:

"(1) An eligible organization may receive such a grant if—

"(A) the organization is in compliance with section 723 (relating to standards and assurance for centers); or

"(B) the organization submits to the Commissioner or the designated State unit (as the case may be under sections 724 and 725) a plan for meeting the requirements of section 723 by October 1, 1993, and the Commissioner or the agency approves the plan.

"(2) With respect to eligible organizations meeting the requirement of paragraph (1), the Commissioner and the designated State units—

"(A) shall, in making such grants, give priority to such organizations that received grants under part B of this title for fiscal year 1992 (as such part B was in effect for such fiscal year); and

"(B) may make such grants to other such organizations if each of the organizations described in subparagraph (A) has received such a grant.

"PART D—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"SEC. 731. PROGRAM OF GRANTS.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older blind individuals.

"(2) OLDER BLIND INDIVIDUAL.—For purposes of this section, the term 'older blind individual' means an individual—

"(A) who is not less than 55 years of age; and

"(B) who has a severe visual impairment that makes gainful employment extremely difficult, but for whom independent living goals are feasible.

"(3) DESIGNATED STATE UNIT.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the designated State unit that is authorized to provide vocational rehabilitation services to the adult blind.

"(b) CONTINGENT COMPETITIVE GRANTS.—In the case of any fiscal year for which the amount appropriated under section 732 is less than $13,000,000, grants under subsection (a) shall be discretionary grants made on a competitive basis to States.

"(c) CONTINGENT FORMULA GRANTS.—

"(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 732 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

"(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment for each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

"(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

"(1) providing independent living services to older blind individuals;

"(2) conducting activities that will improve or expand services for such individuals; and

"(3) conducting activities to help improve public understanding of the problems of such individuals.

"(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

"(1) services to help correct blindness, such as—

"(A) outreach services;

"(B) visual screening;

"(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older blind individual to become more mobile and more self-sufficient;

"(4) mobility training, Braille instruction, and other services and equipment to help an older blind individual adjust to blindness;

"(5) guide services, reader services, and transportation; and

"(6) any other appropriate service designed to assist a blind individual in coping with daily living activities, including supportive services and rehabilitation teaching services.

"(f) MATCHING FUNDS.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

"(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older blind individuals.

"(i) APPLICATION FOR GRANT.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including with respect to any grants under subsection (j)(4)).

"(j) AMOUNT OF FORMULA GRANT.—

"(1) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (2); and

"(B) the amount determined under paragraph (3).

"(2) MINIMUM ALLOTMENT.—

"(A) In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

"(i) $225,000; and

"(ii) an amount equal to 1/3 of 1 percent of the amount appropriated under section 741(c) for the fiscal year and available for allotments under subsection (a).

"(B) In the case of the territories of the United States other than the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000.

"(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) the amount appropriated under section 732 and available for allotments under subsection (a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

"(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

"(4) DISPOSITION OF CERTAIN AMOUNTS.—

"(A) From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older blind individuals has a substantial need for the services specified in subsection (d) relative to the populations of older blind individuals of other States.

"(B) The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

"(i) the failure of any State to submit an application under subsection (i);

"(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

"(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

"(C) The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

"SEC. 732. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $6,713,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 802. CONFORMING AMENDMENTS.

The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section by striking "TITLE VII—COMPREHENSIVE SERVICES" and all that follows and inserting the following:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. Eligibility for receipt of services.
"Sec. 704. State plan.
"Sec. 705. Independent Living Council.

"PART B—INDEPENDENT LIVING SERVICES

"Sec. 711. Allotments.
"Sec. 712. Payments to States.
"Sec. 713. Authorized uses of grant.
"Sec. 714. Authorization of appropriations.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Definition.
"Sec. 722. Allotments.
"Sec. 723. Standards and assurances for centers.
"Sec. 724. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 725. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 726. Authorization of appropriations.
"Sec. 727. Transition rules for fiscal year 1993.

"PART D—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"Sec. 731. Program of grants.
"Sec. 732. Authorization of appropriations.".

TITLE IX—HELEN KELLER NATIONAL CENTER ACT

SEC. 901. CONGRESSIONAL FINDINGS.

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by striking "the 1960's and" and inserting the following: "the 1960s, the rapidly increasing number of older individuals (many of whom are experiencing significant losses of both vision and hearing), and"; and

(2) in paragraph (5), by striking "approximately $10,000,000" and inserting "substantial resources".

SEC. 902. AUTHORIZATION FOR CONTINUED OPERATION OF THE HELEN KELLER NATIONAL CENTER.

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) in subsection (b), by striking "was administered" and all that follows through "1973," and inserting the following: "was administered prior to the date of the enactment of the Rehabilitation Act Amendments of 1992," ; and

(2) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following paragraph:

"(2) train family members of individuals who are deaf-blind, at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;".

SEC. 903. AUDIT; MONITORING AND EVALUATION.

Section 204(a) of the Helen Keller National Center Act (29 U.S.C. 1903(a)) is amended by striking "at such time" and all that follows and inserting the following: "within 15 days following completion of the audit and acceptance of the audit by the Center.".

SEC. 904. ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended—

(1) by redesignating sections 205 through 207 as sections 206 through 208, respectively; and

(2) by inserting after section 204 the following section:

"FEDERAL ENDOWMENT PROGRAM

"SEC. 205. (a) The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (in this section referred to as the 'endowment fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b)(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g), consistent with the provisions of this section.

"(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c)(1) The Center, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York. The endowment fund corpus and income may not be invested in real estate.

"(d)(1) For a twenty-year period following receipt of a payment under this section, the Center may not make a withdrawal or expenditure from the endowment fund corpus.

"(2)(A) The Helen Keller National Center may withdraw or expend endowment fund income for any expenses necessary to the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

"(B) The Center may not withdraw or expend endowment fund income for any commercial purpose.

"(3)(A) Except as provided in subparagraph (B), the Center may not withdraw or expend more than 50 percent of the total accumulated endowment fund income.

"(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstance affecting the Center.

"(e) After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

"(f) For purposes of this section:

"(1) The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) The term 'endowment fund corpus' means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

"(3) The term 'endowment fund income' means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.".

SEC. 905. AUTHORIZATION OF APPROPRIATIONS.

Section 206(a) of the Helen Keller National Center Act, as redesignated by section 904 of this Act, is amended in the first sentence by striking "There are" and all that follows and inserting the following: "There are authorized to be appropriated to carry out this title $6,055,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 906. DEFINITIONS.

Section 207(2) of the Helen Keller National Center Act, as redesignated by section 904 of this Act, is amended to read as follows:

"(2) the term 'individual who is deaf-blind'—

"(A) means any individual—

"(i)(I) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or if there is a field of defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both conditions; and

"(II) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss leading to this condition; or

"(ii)(I) who, despite the inability to measure hearing and vision due to cognitive and/or behavorial constraints, is functioning as an individual who is deaf-blind; and

"(II) who, despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavorial constraints or both, can be determined to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; and

"(B) includes any other meaning the Secretary may prescribe by regulation; and".

SEC. 907. CONSTRUCTION OF ACT; EFFECT ON AGREEMENTS.

Section 208 of the Helen Keller National Center Act, as redesignated by section 904 of this Act, is amended by striking "Industrial Home for the Blind, Incorporated," and inserting "Helen Keller Services for the Blind, Incorporated,".

TITLE X—TERMINOLOGY

SEC. 1001. REFERENCES TO INDIVIDUALS WITH A DISABILITY.

(a) VOCATIONAL REHABILITATION, EMPLOYMENT, AND INDEPENDENT LIVING ACT OF 1992.—

(1) TABLE OF CONTENTS.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section—

(A) in the item relating to section 302, by striking "individuals with handicaps" and inserting "individuals with a disability";

(B) in the item relating to section 314, by striking "the blind" and inserting "individuals who are blind";

(C) in the item relating to section 315, by striking "the deaf" and inserting "individuals who are deaf";

(D) in the item relating to section 501, by striking "individuals with handicaps" and inserting "individuals with a disability";

(E) in the item relating to title VI, by striking "INDIVIDUALS WITH HANDICAPS" and inserting "INDIVIDUALS WITH A DISABILITY";

(F) in the item relating to part A of title VI, by striking "INDIVIDUALS WITH HANDICAPS" and inserting "INDIVIDUALS WITH A DISABILITY"; and

(G) in the item relating to part C of title VI, by striking "INDIVIDUALS WITH SEVERE HANDICAPS" and inserting "INDIVIDUALS WITH A SEVERE DISABILITY".

(2) SECTION 7.—Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (5)—

(i) in subparagraph (H)(i), as redesignated by section 103(a)(3)(A) of this Act, by striking "handicaps" each place such term appears and inserting "a disability"; and

(ii) in subparagraph (I), as redesignated by section 103(a)(3)(A) of this Act, by striking "handicap" and inserting "disability";

(B) in paragraph (8)(C)(v), by striking "handicaps" and inserting "with a disability";

(C) in paragraph (12), by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(D) in paragraph (17), by striking "individuals with handicaps" and inserting "individuals with a disability".

(3) SECTION 14.—Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" in the penultimate sentence and inserting "disabilities".

(4) SECTION 15.—Section 15 (29 U.S.C. 714) is amended—

(A) in subsection (a)—

(i) by striking "handicaps" each place such term appears and inserting "a disability"; and

(ii) by striking "handicapping" and inserting "disabling";

(B) in subsection (b), by striking "handicaps" and inserting "a disability"; and

(C) in subsection (c), by striking "the Handicapped" and inserting "Individuals with Disabilities".

(5) TITLE I.—Title I, as amended by title II of this Act, is amended—

(A) by striking "individual with handicaps" each place such term appears and inserting "individual with a disability";

(B) by striking "individuals with handicaps" each place such term appears, other than in section 101(a)(6)(A), and inserting "individuals with a disability";

(C) by striking "individual with severe handicaps" each place such term appears and inserting "individual with a severe disability";

(D) by striking "individuals with severe handicaps" each place such term appears and inserting "individuals with a severe disability";

(E) by striking "individuals with the most severe handicaps" each place such term appears and inserting "individuals with the most severe disabilities";

(F) by striking "handicapping conditions" each place such term appears and inserting "disabling conditions";

(G) by striking "Indians with handicaps" each place such term appears and inserting "Indians with disabilities";

(H) by striking "the blind" each place such term appears and inserting "individuals who are blind";

(I) by striking "the deaf" each place such term appears and inserting "individuals who are deaf"; and

(J) in section 101(a)—

(i) in paragraph (1)(A)(i), by striking "the adult blind" and inserting "adults who are blind";

(ii) in paragraph (6)(A), notwithstanding the change made by paragraph (5)(B) of this subsection, by striking "qualified individuals with handicaps" and inserting "qualified individuals with disabilities"; and

(iii) in paragraph (13)(B), by striking "handicapping condition" and inserting "disabling condition".

(6) TITLE II.—Title II, as amended by title III of this Act, is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability";

(B) by striking "individuals with severe handicaps" each place such term appears and inserting "individuals with a severe disability";

(C) by striking "with the most severe handicaps" each place such term appears and inserting "with the most severe disabilities";

(D) by striking "children with handicaps" each place such term appears and inserting "children with disabilities";

(E) by striking "children with severe handicaps" each place such term appears and inserting "children with severe disabilities"; and

(F) in section 204(b)(8), by striking "Indians with handicaps" and inserting "Indians with disabilities".

(7) TITLE III.—Title III, as amended by title IV of this Act, is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability";

(B) by striking "with severe handicaps" each place such term appears and inserting "with a severe disability";

(C) by striking "with the most severe handicaps" each place such term appears and inserting "with the most severe disabilities";

(D) by striking "the deaf" each place such term appears and inserting "individuals who are deaf";

(E) by striking "blind individuals" each place such term appears and inserting "individuals who are blind";

(F) by striking "blind persons" each place such term appears and inserting "individuals who are blind";

(G) by striking "blind and deaf individuals" each place such term appears and inserting "individuals who are deaf and blind";

(H) by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(I) by striking "deaf and hard-of-hearing individuals" each place such term appears and inserting "individuals who are deaf or hard of hearing";

(J) in section 300(3)—

(i) by striking "migratory agricultural workers with handicaps" and inserting "migratory agricultural workers with a disability"; and

(ii) by striking "farmworkers with handicaps" and inserting "farmworkers with a disability";

(K) in section 301(b)(2)(B) (as redesignated by section 403(a)(1) of this Act), by striking "handicap" and inserting "disability";

(L) in the heading for section 302, by striking "HANDICAPS" AND INSERTING "A DISABILITY";

(M) in section 311—

(i) in subsection (d)(1) (as redesignated by section 409(c)(1) of this Act), by striking "youths with handicaps" and inserting "youths with a disability"; and

(ii) in subsection (g) (as so redesignated)—

(I) in paragraph (1), by striking "youths with severe handicaps" and inserting "youths with a severe disability";

(II) in paragraph (4)(B), by striking "youths with severe handicaps" and inserting "youths with a severe disability"; and

(III) in paragraph (4)(B), by striking "youths with mild handicaps" and inserting "youths with a mild disability";

(N) in the heading for section 314, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(O) in the heading for section 315, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF"; and

(P) in section 316(a)(1), by striking "peers without handicaps" and inserting "peers without a disability".

(8) TITLE IV.—Title IV, as amended by title V of this Act, is amended by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability".

(9) TITLE V.—Title V, as amended by title VI of this Act, is amended—

(A) by striking "Handicapped Employees" each place such term appears and inserting "Employment of People with Disabilities";

(B) by striking "individual with handicaps" each place such term appears and inserting "individual with a disability";

(C) by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability";

(D) in section 501—

(i) in the heading for the section, by striking "HANDICAPS" and inserting "A DISABILITY";

(ii) in subsection (b), by striking "employees with handicaps" and inserting "employees with a disability"; and

(E) in section 504(a)—

(i) by striking "qualified individual with handicaps" and inserting "qualified individual with a disability"; and

(ii) by striking "handicap" and inserting "disability".

(10) TITLE VI.—Title VI, as amended by title VII of this Act, is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability";

(B) by striking "with severe handicaps" each place such term appears and inserting "with a severe disability";

(C) in the heading for the title, by striking "HANDICAPS" and inserting "A DISABILITY";

(D) in the heading for part A, by striking "HANDICAPS" and inserting "A DISABILITY";

(E) in section 616(3)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "the blind" and inserting "individuals who are blind";

(F) in section 621(b), by striking "individual with handicaps" each place such term appears and inserting "individual with a disability"; and

(G) in the heading for part C, by striking "SEVERE HANDICAPS" and inserting "A SEVERE DISABILITY".

(b) HELEN KELLER NATIONAL CENTER ACT.—The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended—

(1) by striking "deaf-blind individuals" each place such term appears and inserting "individuals who are deaf-blind";

(2) by striking "deaf-blind individual" each place such term appears and inserting "individual who is deaf-blind";

(3) by striking "deaf-blind youths and adults" each place such term appears and inserting "youths and adults who are deaf-blind";

(3) by striking "Center for Deaf-Blind Youths and Adults" each place such term appears and inserting "Center for Persons Who Are Deaf-Blind"; and

(4) in the heading for section 203, by striking "DEAF-BLIND YOUTH AND ADULTS" and inserting "PERSONS WHO ARE DEAF-BLIND".

TITLE XI—COMPLIANCE WITH BUDGET ENFORCEMENT ACT OF 1990

SEC. 1101. LIMITATION ON TOTAL COSTS.

(a) FISCAL YEAR 1993.—Notwithstanding any other provision of law, the total amount authorized to be appropriated or obligated for the Rehabilitation Services and Disability Research account for fiscal year 1993 shall not exceed $2,138,263,000.

(a) FISCAL YEARS 1994 THROUGH 1997.—Notwithstanding any other provision of law, the total amount authorized to be appropriated or obligated for the Rehabilitation Services and Disability Research account for fiscal year 1994 or any subsequent fiscal year through 1997 shall not exceed—

(1) the total amount authorized by this section for the preceding fiscal year minus the minimum amount required under section 100(b) of the Vocational Rehabilitation, Employment, and Independent Living Act of 1992 (as designated pursuant to section 3 of this Act), as adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from the average of that estimated index for the preceding fiscal year; plus

(2) the minimum amount required under such section 100(b) for Vocational Rehabilitation State grants for that fiscal year.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. BALLENGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 5482.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of H.R. 5482 which reauthorizes the Rehabilitation Act of 1973.

With the advent of the Americans With Disabilities Act of 1990, we are in a pivotal position to advance the cause of consumer empowerment and to facilitate and maximize opportunities for individuals with disabilities to have control and authority over their lives. Our society must fully accept the fact that divisions and inequities inhibit the fulfillment of human potential and damage our economy. It is in the spirit of ADA, with a powerful commitment to building a society which encourages and supports the efforts of each individual to live productively that we reauthorize the Rehabilitation Act.

This legislation enables us to make significant inroads in what has been a legacy of employment discrimination, providing us with a centerpiece for a new vision, a new relationship based on full inclusion in every aspect of American life, assuring a new collective power to build upon and advance the Nation's integrity as it moves to provide new opportunities for individuals with disabilities.

The Rehabilitation Act of 1973, as amended, is the primary legislation providing services to assist individuals with disabilities in preparing for, and engaging in, gainful employment and independent living. Although this act has provided many individuals with the opportunity to become independent and self-sufficient taxpayers, we must face the painful reality that even with the act in place, the unemployment rate among individuals with disabilities is staggering; Only 33 percent of working-age Americans with disabilities work; only 1 out of 5 women with disabilities and 4 out of 10 men with disabilities have jobs. A Harris poll, commissioned by the National Council on Disabilities in 1986, found that individuals with disabilities are the poorest, least educated, and least employed group in our Nation. I believe that the solution to these problems lies in the commitment for better education and training which leads to employment, coupled with a strong support system for all individuals with disabilities.

The current rehabilitation program has much room for improvement. A recent General Accounting Office [GAO] study commissioned by my subcommittee revealed data which indicated a dangerous trend in vocational rehabilitation toward serving less people, with less challenging disabilities, with less success. For example, while rehabilitation services are designed to serve the most severely disabled clients first, the percentage of these clients served dropped in 22 percent of the States; an overwhelming 60 percent of the States showed a decline in the percentage of successfully rehabilitated cases. Another GAO study shows that less money is spent on services to African-Americans, American Indians, and other minorities. These and other patterns of inequity must be addressed to bring about a world class system of rehabilitation.

Therefore, the legislation before the House represents a long overdue shift in public policy. It creates partnerships between providers and consumers to ensure a more consumer-driven system; it rigorously changes language and references that inadvertently impose stigma and stereotype; it increases the range of eligible services; and it bridges the critical transition from school to employment and independent community life.

The bill before you strikes a blow for integration, independence, and opportunity by promoting:

Greater independence by strengthening the rights of individuals with disabilities to engage in productive work and living through specific modifications to the Individualized Written Rehabilitation Program; expanding the scope of vocational rehabilitation services; promoting the statewide development of centers for independent living; and supporting a system in each State for the protection and advocacy of persons with disabilities who are ineligible for services under current programs.

A wider range of training opportunities by emphasizing projects with industry focus on career opportunities and career advancements, authorizing model demonstration projects for workers with disabilities who need new or upgraded skills to ensure that these individuals are able to compete in the work place.

Greater participation of minorities by preparing them for careers in vocational rehabilitation, independent living, and related services.

Research and training in two major areas: Promoting the development and use of assistive technologies and expanding the purpose of the rehabilitation research and training centers to include the provision of information and technical assistance to providers and consumers of services and to public and private agencies.

This bill has been carefully crafted to propel us toward a responsive, interactive vocational rehabilitation system that works. It is the product of significant and highly productive bipartisan negotiations. I commend Mr. BALLENGER and Mr. GOODLING for their efforts, as well as the herculean work of our respective staffs.

I urge my colleagues to vote favorably for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker today we are considering H.R. 5482, the Vocational Rehabilitation Act Amendments of 1992 which reauthorizes programs under the Rehabilitation Act Amendments of 1973 to provide employment opportunities to individuals with disabilities. Such programs have been very successful in returning individuals with disabilities to the work force and making them independent. The administration supports H.R. 5482 and is pleased that the bill contains many of their proposals and initiatives.

First, I want to commend Chairman OWENS for bringing such a comprehensive bill to the floor which is bipartisan. Both Mr. OWENS, Mr. GOODLING, and myself have worked for over a year to draft a bill that represents testimony from four Select Education Subcommittee hearings, numerous recommendations from disability advocates in the field, and long hours of staff devotion to ensure that individuals with disabilities have the best opportunity possible to live independently and achieve full employment.

This bill makes significant changes to the current law by improving accountability in the State Grant Program, the largest program under the act, improving eligibility requirements, reducing the time between when an individual enters the rehabilitation process and when he finds a job, increasing consumer control and choice both in determining what job or career they pursue and what services are provided to reach their goal, providing better coordination between special education and vocational rehabilitation, and providing incentives for business to participate in the rehabilitation process.

First, H.R. 5482 improves accountability by requiring that evaluation standards and performance indicators for the title I, Vocational Rehabilitation State Grant Program be developed and implemented. The standards and indicators would include outcome and other related measures of program performance and would be developed with input from State vocational rehabilitation agencies, related professionals and consumer organizations, and recipients of vocational rehabilitation services. This provision was recommended by the administration and I believe such standards will result in improved services for individuals with disabilities.

Second, the bill makes several changes to the act in the eligibility process to reduce the time between when a person enters the system and the time he becomes employed. In addition, the eligibility process has been streamlined to allow the State vocational rehabilitation agency to use disability determinations made by other agencies, such as Social Security. While the State vocational rehabilitation agency will still determine whether such a disability is an impediment to employment and therefore vocational rehabilitation services are required, using other agency disability determinations will reduce cost and save time in determining whether an individual has a disability.

Third, the bill allows for greater consumer choice in the provision of rehabilitation services. One of the most common themes discussed at our subcommittee hearings and throughout the recommendations we received, is that consumers want more choice in determining what job or career they want to pursue and in determining who should provide the vocational rehabilitation services necessary to reach their career goal. H.R. 5482 emphasizes the consumer's role in the rehabilitation process and ensures full consumer participation in the Individualized Written Rehabilitation Program [IWRP], particularly in regard to the selection of the vocational objective to be attained and the services to be provided. The bill authorizes a consumer choice demonstration project which will allow other models to be tested that increase consumer choice in the rehabilitation process. The bill creates a rehabilitation consumer and business advisory council to advise the State vocational rehabilitation agency on eligibility criteria, consumer satisfaction, order of selection, business needs in the community and other issues that are important to ensuring that individuals with disabilities are receiving services and becoming employed. Finally, in this area, the bill strengthens the current Innovation and Expansion Grant Program so that States can improve services to individuals with the most severe disabilities, maximize the use of technology, assist employers in accommodating, evaluating, training, or placing individuals with disabilities in the workplace, and expanding and improving consumer involvement in the review and selection of their employment goals. I believe all of these provisions will increase consumer control in determining their career goals.

Fourth, H.R. 5482 parallels provisions in the Individuals with Disabilities Education Act [IDEA] to improve coordination between special education and vocational rehabilitation programs so that students in special education can receive vocational rehabilitation services in order to better transition from school to work.

Fifth, the bill provides incentives to private business by authorizing a demonstration program to give grants to business and industry in order to upgrade the skills of underemployed workers with disabilities so that they have the knowledge and skills necessary to adapt to emerging new technologies and work methods in order to successfully compete and advance in employment. In addition, H.R. 5482 allows State vocational rehabilitation agencies to use funds from the State Grant Program to provide training to employers regarding compliance with the Employment title of the Americans With Disabilities Act and to inform employers about the vocational rehabilitation program and its services.

I believe this bill makes some very constructive and innovative changes to the Rehabilitation Act which will improve rehabilitation services to individuals with disabilities and provide incentives to business to hire individuals with disabilities. I support this bill and urge my colleagues to support it as well.

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Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to see such an extensive reauthorization of the Rehabilitation Act before us today, and I appreciate all of the hard work by the chairman, the gentleman from New York [Mr. OWENS] and his staff.

I wanted to visit for just a moment about a provision in this bill that I authored to establish a demonstration grant program for rural training through telecommunications.

Rural America has special needs in the area of rehabilitation. Folks who live in lightly populated areas account for a greater proportion of chronic disease and disability than do their urban counterparts, but actually have access to fewer services and other resources. Between 11 and 15 million rural residents have one or more chronic impairments, yet the vast majority, 88 percent, of rehabilitation hospital units and their skilled staffs are located not in rural areas but in metropolitan areas. Folks living in rural places face numerous obstacles in attracting and retaining qualified rehabilitation professionals because of low salaries, geographic isolation, and the lack of educational opportunities to provide additional in-service training.

The distances that rehabilitation professionals cover in the State I come from, Montana, are really astounding. Just driving from one corner of Montana to the other takes as long as it does to drive from here, in Washington, DC, to Chicago.

Because of the difficulties the geographic isolation causes for many vocational rehabilitation personnel in rural areas, I authored a provision in this bill that establishes a demonstration grant program to develop and implement in-service training programs through the use of telecommunications. This demonstration program is intended to encourage regions to explore creative ways of training their rural rehabilitation professionals who are simply not able to travel to faraway college campuses.

This provision authorizes the three grants to be made to institutions of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel, to establish partnerships with other entities in the region, and implement a distance learning curriculum to train vocational rehabilitation personnel.

In order to receive a grant, each applicant must provide, first, a description of the curriculum, frequency and sites of service; second, how they intend to utilize and build upon existing telecommunications networks; next, an assurance that all States within the region will be served and that the partnership will use not less than 75 percent of the funds for instructional curriculum development and programming; binding commitments entered into by the partnership with other entities that will be providing telecommunications services and facilities; and, finally, a description of needed equipment.

Those are the details of how these partnerships will be established and how these grants will generally be written.

I again want to thank the gentleman from New York [Mr. OWENS], the chairman of the subcommittee, and his staff for the hard work they have done, and I particularly appreciated working with them on this amendment which is in this final bill.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

I want to again thank all of the members of the subcommittee, particularly the gentleman from Montana [Mr. WILLIAMS], whose amendment, which is included in the bill, is a very innovative and forward-looking measure.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 5482, the Vocational Rehabilitation Act Amendments of 1992. This is a bipartisan bill which will improve vocational rehabilitation services to individuals with disabilities and ensure that such services will be provided with increased consumer control and provide better accountability to the programs being funded.

The Vocational Rehabilitation Act is the only program that provides comprehensive rehabilitation services to individuals with disabilities that enable them to seek employment and find a job. It is a program that has been highly successful in providing job opportunities to individuals with disabilities by making them more independent and productive taxpaying citizens.

To build upon this investment and its return and to move toward implementing many of the provisions required by the Americans With Disabilities Act, H.R. 5482 makes several changes which will increase access to this program through improved eligibility requirements, increased consumer control and choices, and improved rehabilitation services for individuals with the most severe disabilities so that employment will become a reality for individuals with disabilities who need vocational rehabilitation services to become employed.

H.R. 5482 makes several changes in the eligibility process in order to reduce the amount of time between when a person enters the system and the time he is employed. First, the State vocational rehabilitation agency must determine an individual eligible for services within 60 days unless there are exceptional and unforeseen circumstances beyond the control of the State agency which would delay such determination beyond that timeframe. Second, if an individual has been determined by Social Security or another agency to be disabled, the vocational rehabilitation agency may accept that disability determination. However, the State vocational rehabilitation agency must still assess whether vocational rehabilitation services are needed in order for the individuals to become employed. Finally, the individual is presumed to be able to benefit in terms of employment unless the State vocational rehabilitation agency can demonstrate with clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services to become successfully employed. These are significant changes to the current act which will enhance employment opportunities for individuals with disabilities, especially those with the most severe disabilities.

H.R. 5482 makes several changes to the act to allow for greater consumer choice in the provision of rehabilitation services. The bill emphasizes the consumer's role in the rehabilitation process and ensures full consumer participation in the Individualized Written Rehabilitation Program [IWRP], particularly in regard to the selection of the vocational objective to be attained and the services to be provided. In addition, the bill authorizes a consumer choice demonstration project which will allow other models to be tested that increase consumer choice in the rehabilitation process. I support these provisions and I am glad that language was included to ensure that strong quality controls are contained in this demonstration program to ensure that individuals with disabilities receive rehabilitation services from qualified providers.

I am particularly pleased to see that provisions of my bill, H.R. 4493, the Individuals with Disabilities Transportation Act, were included in H.R. 5482 as a demonstration program so that individuals with disabilities who have jobs, are seeking jobs, or who need vocational rehabilitation services, will have affordable, accessible transportation in order to keep and maintain employment. Workers who are disabled and choose to compete in the marketplace are often at a disadvantage when it comes to locating affordable transportation to their jobs. For these individuals, the cost of transportation consumes a large portion of their paycheck and creates a disincentive for them to seek employment. While the Americans With Disabilities Act requires that accessible transportation be provided to people with disabilities where there is fixed route transportation or comparable paratransit, there is no such requirement if there is no established public transportation. These demonstration grants will go a long way toward filling that gap.

H.R. 5482 also improves programs that provide opportunities to individuals with the most severe disabilities, specifically in supported employment programs. Supported employment has been quite successful in employing individuals with severe disabilities who had never had the opportunity for employment. This bill ensures that supported employment will be a vocational outcome when vocational rehabilitation counselors are assessing whether there is a reasonable expectation that their client will become employed in order to determine his eligibility for the program. In addition, the bill defines the term "supported employment" and ensures that supported employment include placement in integrated work settings for the maximum number of hours possible based on the strengths and capabilities of the individual.

While there are many other significant changes made to this act which I will not elaborate on, I am very pleased that such a large and important reauthorization was accomplished in a bipartisan manner. Mr. OWENS and Mr. BALLENGER should be commended for their efforts to work out any differences and bring a solid, substantive bill to this House which will provide employment and independent living opportunities to individuals with disabilities.

I support this legislation and urge my colleagues to support its passage.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. HUBBARD]. The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 5482, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5483) to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Education of the Deaf Act Amendments of 1992".

SEC. 2. ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FOR CERTAIN PROGRAMS RELATING TO EDUCATION OF INDIVIDUALS WITH HEARING IMPAIRMENTS.

(a) GALLAUDET UNIVERSITY.—Section 411(a) of the Education of the Deaf Act of 1986 (29 U.S.C. 4360(a)) is amended in the matter preceding subparagraph (A) by striking "1987" and all that follows through "1991" and inserting "1993 through 1997".

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—Section 411(b) of the Education of the Deaf Act of 1986 (29 U.S.C. 4360(b)) is amended by striking "1987" and all that follows through "1991" and inserting "1993 through 1997".

(c) ENDOWMENT PROGRAMS.—

(1) GALLAUDET UNIVERSITY.—Section 407(g) of the Education of the Deaf Act of 1986 (29 U.S.C. 4357(g)) is amended in the first sentence by striking "1987" and all that follows through "1991" and inserting "1993 through 1997".

(2) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—Section 408(g) of the Education of the Deaf Act of 1986 (29 U.S.C. 4358(g)) is amended in the first sentence by striking "1987" and all that follows through "1991 and inserting "1993 through 1997".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. BALLENGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

□ 1310

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5483, the bill now under consideration.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of H.R. 5483 which reauthorizes the Education of the Deaf Act.

Almost 30 years ago, an advisory committee was established by the Secretary of Health, Education, and Welfare to study the status of deaf education in this country. This was the first time the Federal Government directed an effort in this specialized field. The Babbidge Committee, as it came to be known, can be credited for the creation of the National Technical Institute for the Deaf, the model demonstration schools at Gallaudet University, and the regional postsecondary education programs for individuals who are deaf. It was not until 1986, with the passage of the Education of the Deaf Act [EDA] that deaf education would be examined again.

Under the 1986 act, the Commission on Education of the Deaf was established to study the quality of education of individuals who are deaf, from early intervention to postsecondary education. It should be noted that not only was this the first time in history that a commission had been established by Congress for such a purpose, but that a majority of its members were themselves individuals who are deaf.

In its 1988 report, "Toward Equality: Education of the Deaf," the Commission concluded that the "present status of education for persons who are deaf in the United States is unacceptably unsatisfactory." The report, containing 52 recommendations, represents the culmination of very tedious and thorough deliberations and has served as an invaluable guide for the subcommittee during this reauthorization process. Our substitute bill reflects many of the issues identified in the Commission's report, including:

ACCOUNTABILITY FOR THE EXPENDITURE OF FEDERAL APPROPRIATIONS BY GALLAUDET UNIVERSITY AND THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

Concern over the operation and cost of the two model demonstration schools at Gallaudet University prompted an audit by the General Accounting Office in 1987. It was determined that costs related to national mission activities and research projects were not documented. For fiscal year 1992, the Federal appropriation provided approximately 73 percent of the total income for Gallaudet University and 83 percent of the total income for NTID. This represents a significant interest to Congress to ensure that these institutions be efficiently and effectively operated.

Several provisions have been added to address this issue: specific language focusing the model demonstration schools on serving students with a broad spectrum of needs; new reporting requirements regarding student outcomes, minority deaf individuals, financial and endowment data; prohibition on the use of Federal funds for certain expenditures, and a requirement to develop and implement policies on allowability and reasonableness of expenditures.

EDUCATIONAL PROGRAMS FOR STUDENTS WHO ARE DEAF AND FROM MINORITY BACKGROUNDS

During our hearings, concern was expressed regarding culturally biased curricula, inappropriate school placement and/or tracking, and the lack of understanding of learning style differences which have contributed to educational practices that have poorly served minority deaf children and youth. The achievement levels of deaf minority students are below those of deaf white students in three age groups: 8-, 12-, and 16-year-olds. While approximately one-third of deaf students are minorities, less than a tenth of the teachers in deaf education are members of minority groups. The bill includes several changes that would enhance the educational and employment opportunities of deaf individuals from underrepresented populations, including the expansion of activities at the research and training center on deafness to include research and development of effective strategies for educating deaf students from minority backgrounds; a scholarship program initiative to recruit minority deaf individuals for careers in deaf education or special education, thereby increasing the number of minority teachers and role models.

PERSONNEL TRAINING

According to the annual survey of hearing impaired children and youth, approximately 30 percent of all deaf students have additional disabling conditions. Many of these students are inappropriately placed in regular classrooms for deaf students rather than in highly specialized programs for students with multiple disabilities. Many of the teachers in these classrooms have had little or no training to work with deaf students with secondary disabling conditions. This situation is compounded by supervising teachers, principals, and administrators who do not understand the needs of these students. To address this problem, the bill contains authority for funding regional model demonstration training projects on deafness and secondary disabilities to provide preservice and inservice training to teachers, school administrators and other leadership personnel, and related services personnel involved in the education of students who are deaf.

The supply of qualified educational interpreters continues to be a problem in the area of deaf education. Data from a 1989 national task force report on this topic estimated that up to 26,000 students could be possible candidates for interpreting services. Yet only 2,200 interpreters working full or part time provided these services to approximately 10,000 elementary/secondary level students. Specific authority for funding educational interpreter training programs has been provided in the bill. This authority also includes training of educational interpreters for students who are deaf-blind.

The provisions of the bill related to these and other issues will move us closer to providing an appropriate quality education for students who are deaf or hard of hearing. I hope that my colleagues will agree by voting favorably for H.R. 5483.

I wish to thank the gentleman from North Carolina [Mr. BALLENGER] and his staff for their efforts in developing this bipartisan legislation.

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill to extend and amend the authorizations for Gallaudet University and the National Technical Institute for the Deaf. The Federal appropriation for fiscal year 1992 is $76.5 million for Gallaudet University, representing approximately 73 percent of their total income. The Federal appropriation for NTID is $39.4 million, which is approximately 83 percent of their total income. Clearly, the Federal Government has an interest in the efficiency and effectiveness of these educational programs for individuals who are deaf. In addition, the Federal Government should have access to whatever information is needed to ensure that funds are being used appropriately.

Overall, this bill seeks to increase accountability for funds provided to both Gallaudet University and NTID and to improve the administration of their programs. Neither the university nor the institute will be permitted to use Federal funds for certain expenditures, such as; alcoholic beverages, goods or services for personal use, housing and personal living expenses, and lobbying. The two schools would also be required to develop internal policies regarding the allowability and reasonableness of all expenditures. This will not only increase the accountability for both schools, but it will provide the Congress with more information about how funds are being used.

This bill places a limit of 10 percent on the enrollment of international students at Gallaudet University and NTID. There is presently no limit on the number of international students allowed to enroll at the schools.

International students are currently charged 50 percent more in tuition than U.S. students. This bill would require international students to pay a tuition surcharge of 135 percent, to be phased-in over several years. While I recognize that the presence of international students at the schools is beneficial in many ways, I do not think that the taxpayers should be subsidizing the cost of educating international students. Currently, the tuition charged to international students is a small to moderate proportion of the estimated cost to educate them. The increased tuition surcharge will reduce the Federal subsidy to these students and provide that international students and their countries of origin pay a more equitable share of the cost for their education.

At a subcommittee hearing this past March in my district, we heard testimony from professionals and students at Lenoir Rhyne College in Hickory, NC, demonstrating the need for teacher training programs and educational interpreters. Many interpreters do not have the necessary training to appropriately work with students in elementary and secondary educational programs. This bill would permit the Secretary of Education to make grants under the Individuals with Disabilities Education Act to institutions of higher education and other organizations for the establishment or continuation of educational interpreter training programs.

In closing, I would like to commend Mr. OWENS and the staff on both sides of the aisle, for the hard work in developing this bipartisan bill. I would also like to thank the gentleman from Pennsylvania [Mr. GOODLING] for his input throughout this process, and the gentleman from Wisconsin [Mr. GUN-

DERSON], who has a special interest in this legislation.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I would like to take this opportunity to commend the chairman of the Education and Labor Committee's Subcommittee on Select Education, the gentleman from New York [Mr. OWENS], the gentleman from North Carolina [Mr. BALLENGER], and the subcommittee staff, Pat Laird, Maria Cuprill, Molly Salmi, and Sally Lovejoy for producing a bill, Education of the Deaf Act [EDA], that will enhance educational opportunities for individuals who are deaf.

Congress passed the first Education of the Deaf Act in 1986. Since its enactment, three major events have occurred that have dramatically transformed both education and civil rights for the deaf. First, in 1988, Gallaudet University appointed the first deaf president. Second, the Commission on Education of the Deaf published their report. Many of their recommendations are contained in the 1992 Education of the Deaf Act. Third, the enactment of the Americans with Disabilities Act, which guarantees civil rights for every disabled American.

The 1992 Education of the Deaf Act makes several changes in Gallaudet's authority. One of the more significant modifications combines the authority for the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf. This change will allow Gallaudet greater flexibility in the use of resources, alleviate some administrative burdens, and create an easier transition for students as they graduate from elementary to secondary school. Another provision calls for greater dissemination of education materials and learning techniques to be used in various institutions throughout the United States. Special attention will be given to the development of educational materials for students that have secondary disabilities, minority students, and those who live in rural communities. A third component of the bill requires Gallaudet's Model Secondary School for the Deaf [MSSD] to not only prepare students for college life, but also to offer instruction that will help students who pursue vocational options and enable students to become part of America's work force.

For the past 7 years, I have had the honor of serving on Gallaudet's board of trustees. It has been a very inspiring experience. This past May, I had the privilege of attending Gallaudet University's 1992 graduation. The highlight of the afternoon was the presentation by one of its 1992 graduates, Wilma Newhoudt. Ms. Newhoudt is a black student from Cape Town, South Africa. Ms. Newhoudt is an individual who had lived her entire life under apartheid until she arrived at Gallaudet in 1988. She spoke about the pride of the Cape Town deaf community upon learning of her acceptance to Gallaudet. The deaf community in South Africa raised funds for Wilma so she would be able to attend Gallaudet University. Prior to her departure from Cape Town to Gallaudet, her friends and neighbors presented her with a suitcase. Ms. Newhoudt concluded her graduation remarks by discussing the contents of that suitcase: "I plan to go back home with that same suitcase filled with new knowledge, memories of new and wonderful people, and skills as a social worker to work and advocate for change." Ms. Wilma Newhoudt so poignantly symbolizes the mission of Gallaudet University, which we have defined in this 1992 reauthorization bill, to serve as a comprehensive, multipurpose institution of higher education for deaf and hard-of-hearing citizens of the United States and the world.

The partnership between Gallaudet University and the Federal Government has endured 118 years. It was 1864, at the height of the Civil War, when Edward Miner Gallaudet first came to this institution and requested funding for a college that would serve deaf students. He had a great deal of courage to solicit Federal funds during a time when the United States was preoccupied with its very own existence and the future of this Nation. I believe Dr. Gallaudet would be very pleased to see how this partnership has flourished over the last century. The 1992 Education of the Deaf Act marks another milestone in the joint venture between Gallaudet University and the Federal Government.

Mr. GOODLING. Mr. Speaker, I am pleased to support H.R. 5483, a bill to reauthorize the Education of the Deaf Act of 1986. This act provides for the education of individuals who are deaf through Gallaudet University and the National Technical Institute for the Deaf. In addition, Gallaudet University provides for the education of children and youth through the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf.

For fiscal year 1992, the Federal appropriation will provide a significant amount of the funding for Gallaudet University and the National Technical Institute for the Deaf. The two elementary and secondary demonstration schools receive 100 percent of their funding from the Federal Government. The Committee on Education and Labor has worked closely with the Department of Education, Gallaudet University, and the National Technical Institute for the Deaf to develop language which would provide for accountability from the two schools yet allow them to continue to function independently.

This bill would extend the specific due process provisions under part B of the Individuals with Disabilities Education Act to children placed by their parents in the elementary and secondary programs. These protections, which are currently afforded to children placed by local education agencies, will now apply to all children at the elementary and secondary education programs.

During the reauthorization hearings, testimony was heard from several witnesses about the need for minority deaf teachers and role models for minority children who are deaf. I am pleased that my proposal for a scholarship program for individuals who are deaf and pursuing careers in deaf education or special education has been included in this bill. The Secretary of Education could provide grants to institutions of higher education which have teacher training programs in deaf education or special education. Priority consideration for these scholarships would then be given to individuals who are deaf and from underrepresented backgrounds.

I hope that my colleagues will support this legislation.

□ 1320

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BALLENGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 5483, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SCIENTIFIC AND TECHNICAL EDUCATION ACT OF 1992

Mr. BOUCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2936) to establish programs at the National Science Foundation for the advancement of technical education and training in advanced-technology occupations, and for other purposes as amended.

The Clerk read as follows:

H.R. 2936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scientific and Technical Education Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathe-

matics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree granting colleges and private industry to produce skilled, advanced technicians; and

(5) the Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—(1) The Director shall carry out a program to assist accredited associate-degree-granting colleges, and consortia thereof, to provide education in advanced-technology fields. The program shall place emphasis on the needs of students who have been in the workforce (including work in the home). It shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(A) the development of model instructional programs in advanced-technology fields;

(B) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(C) the establishment of innovative partnership arrangements among associate-degree-granting colleges, the private sector, and State and local governments (and, where appropriate, Federal laboratories) including programs providing private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for relevant state-of-the-art work experience opportunities for students enrolled in such programs;

(D) the purchase or lease of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(E) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(2) In carrying out this subsection, the Director shall—

(A) award grants on a competitive, merit basis to associate-degree-granting colleges that will make contributions, in cash or in kind, in an amount equal to at least 25 percent of the cost of the program; and

(B) establish and maintain a readily accessible inventory of programs which are funded under this subsection.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall establish centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional programs of advanced technical education.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree granting colleges in the geographic region served by the center. Centers designated under this subsection shall be geographically distributed and chosen by a competitive, merit-based application process from among colleges that will make contributions, in cash or in kind, toward the cost of programs funded by grants made under this subsection.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Grants made under this paragraph shall be awarded on a competitive, merit basis to eligible partnerships that demonstrate an ability to maintain the partnership after the expiration of the grant. In awarding grants under this paragraph, the Director shall give priority to eligible partnerships offering contributions, in cash or in kind, toward the cost of the program.

(C) Each eligible partnership receiving a grant under this paragraph shall—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops at the associate-degree-granting college, and conduct special tours and orientation sessions at the bachelor-degree-granting institution to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

(D) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college. These grants shall be made through a competitive application process from among colleges that will make contributions, in cash or in kind, in an amount at least equal to the amount of the grant.

(3) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection, the Director shall ensure an equitable geographic distribution of such grants.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATIVE AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support the development and use of computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BOUCHER] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BOUCHER.]

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2936 is designed to strengthen the scientific and technical education capabilities of our Nation's community colleges. Two-year colleges are a major contributor to higher education and have become the largest pipeline to postsecondary education in the United States. The purpose of this bill is to authorize the National Science Foundation to make grants to community colleges for improving education programs in scientific and advanced technology fields.

Over the years, the NSF has played an important role in strengthening the science and mathematics curricula at bachelor degree-granting institutions. Although the NSF has supported programs at 2-year colleges, the level of effort has been small relative to the size of the NSF's undergraduate programs. The NSF is currently spending only about $3.35 million on grants to 2-year colleges, with more than one-half of the funding allocated to instrumentation and laboratory improvements.

While 2-year colleges play an important role in preparing students for careers in advanced technology fields, these institutions face unique problems in delivering quality education in scientific and technical fields. Faculty members have heavy teaching loads and are frequently unable to keep up to date with the latest developments in their field. Laboratory facilities and equipment are outmoded and expensive to upgrade in an age of stringent State and local budgets.

H.R. 2936 employs several approaches to upgrade science and mathematics education at associate-degree-granting colleges. These approaches which are based on competitive grants include:

First, development of model curricula and instructional programs in advanced technology fields;

Second, the professional development of faculty and instructors in advanced technology fields;

Third, the development of partnerships among 2-year colleges, the private sector, and State and local governments, including programs providing short-term opportunities for faculty to work with industry and for students to gain experience in industry;

Fourth, the purchase or lease of state-of-the-art instrumentation to enhance student understanding of scientific and advanced technology fields; and

Fifth, the development and dissemination of instructional materials in support of the technical education and training capabilities of 2-year colleges, including programs for students who are not pursuing a science degree.

The establishment of a grants program for 2-year colleges will improve the skills of students graduating from community colleges to work in technical fields and of those students transferring to 4-year colleges to pursue bachelor degrees in science and mathematics.

Other provisions of H.R. 2936 will establish up to 10 National Centers of Technical Education and Training. These centers will be located at 2-year colleges with exceptional programs in advanced technical training. The centers of excellence will be regionally distributed and serve as clearinghouses for other community colleges seeking to upgrade their technical programs.

H.R. 2936 will also establish a program of partnership grants between 2-year colleges and 4-year institutions to increase the number of students transferring from community colleges to bachelor-degree-granting programs in mathematics, science, and engineering. Since community colleges are increasingly the gateway to higher education for women and minorities in our country, these partnerships will help the most talented students to move on to science and engineering bachelor degrees.

To sustain our Nation's leadership in science and engineering, we need the best trained technical work force in the world. The workplace of the future will be dependent upon technical literacy and competence. Enactment of H.R. 2936 will be a significant step toward preparing our technical work force for the challenges of the 21st century.

I would like to commend Mr. PRICE for his leadership in this area. Mr. PRICE introduced H.R. 2936 1 year ago, and has been a steadfast and effective advocate of the contribution community colleges could make to technical education. I would also like to recognize the work in this area of Mr. HOAGLAND, who introduced similar legislation which has been largely incorporated into the bill we are considering today. Within the Committee on Science, Space, and Technology, I would like to express my gratitude to Chairman BROWN for his assistance and support, to the ranking Republican, Mr. WALKER, and to the ranking Republican on the Science Subcommittee, Mr. PACKARD, who were most helpful in securing the agreement before us today. Mr. VALENTINE also provided assistance in fostering a consensus between the bill as reported by the Subcommittee on Technology and Competitiveness, which he chairs, and the version reported by the Subcommittee on Science.

H.R. 2936 was also referred to the Committee on Education and Labor. The amendment in the nature of a substitute under consideration reflects the contributions of that committee. I wish to insert in the CONGRESSIONAL RECORD at this point an exchange of letters between Chairman BROWN and Chairman FORD regarding the agreement reached by the two Committees. I express my appreciation to Chairman FORD and the ranking Republican on the committee, Mr. GOODLING, for their contribution to this amendment.

Our national competitiveness depends in large measure upon the technical skills of the American work force. Higher education must provide a strong foundation in science and mathematics. Students must understand scientific concepts, learn new technical concepts, and adapt quickly to changes in the workplace. To meet this challenge, community colleges need increased support from the National Science Foundation. H.R. 2936 is an appropriate step in that direction, and I strongly urge my colleagues to support this amendment.

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, July 31, 1992.

Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning H.R. 2936, the Scientific and Technical Education Act of 1992, which was jointly referred to the Committee on Science, Space, and Technology and the Committee on Education and Labor. Your Committee reported the bill on April 30, 1992 (H. Rpt. 102-508, Part 1).

I believe we have reached an agreement which will permit this bill to go forward without further action by this Committee. This agreement, however, should not be construed to affect in any way this Committee's jurisdiction over matters contained in H.R. 2936, nor to preclude the appointment of conferees from this Committee should that become necessary.

Under the agreement, H.R. 2936, as reported, will be amended to reflect the concerns of the Committee on Education and Labor. These concerns include modifications to the articulation agreements program so that program is more consistent with the Articulation Agreements program authorized under part B of title I of the Higher Education Act of 1965 and several technical amendments regarding the matching of funds, definition of terms, and other provisions. Copies of the amendments are enclosed.

If these amendments are acceptable to you, I will pose no objection to House consideration of H.R. 2936.

With best wishes,
Sincerely,

WILLIAM D. FORD,
Chairman.

COMMITTEE ON SCIENCE,
SPACE AND TECHNOLOGY,
Washington, DC, August 4, 1992.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, for several months the staffs of our respective committees have been discussing H.R. 2936, the "Scientific and Technical Education Act of 1992". As stated in your letter dated July 31, 1992, we have reached an agreement which will enable the Science Committee to bring the bill to the House under suspension of the Rules during the week of August 10, 1992. We will bring H.R. 2936 to the House together with the amendment attached to your letter.

Thank you for your assistance in regard to this legislation. If you have no objection, I will insert your letter of July 31 and this response in the appropriate place in the CONGRESSIONAL RECORD during consideration of H.R. 2936.

Sincerely,

GEORGE E. BROWN, Jr.,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I state for the record first that the gentleman from California. Mr. RON PACKARD, is unable to attend the House at this time due to illness, and I am taking his place as a member of the subcommittee.

Mr. Speaker, as a cosponsor, I am pleased to rise in support of H.R. 2936, the Scientific and Technical Education Act of 1992. This bill, as it has been reported to the House, recognizes the importance of community colleges in providing further training for the existing workforce; preparing students for technological jobs; and preparing students for the transition to 4-year institutions.

The committee report addresses an issue that was a concern of Mr. WALKER, Mr. BOUCHER, and Mr. PACKARD—specifically that funding for the programs under H.R. 2936 will not come at the expense of other undergraduate efforts. Furthermore, the bill is fiscally responsible since no new money is being authorized.

While community colleges make an excellent contribution to the educational system in this country, there is still room for improvement. H.R. 2936 addresses some of the most pressing issues for community colleges which include faculty enhancement and curricula development. Furthermore, the programs outlined in the bill fit well within the mission of the National Science foundation. The Science and Technical Education Program as well as the Centers of Excellence contained in H.R. 2936 will serve to enhance NSF's increasing focus on 2-year and community colleges.

These colleges play an intricate role in the education of this Nation's undergraduates. This is especially true since 2-year colleges often serve as institutions of choice for minority and other underrepresented student groups.

Two-year colleges are typically tightly interwoven into the fabric of local communities. It is due to this unique position that these institutions are able to contribute to precollege education through scientific literacy programs, teacher enhancement initiatives, and cooperative ventures with State and community agencies.

Undoubtedly, 2-year colleges will play a pivotal role in the Nation's future economic well-being. They are uniquely positioned to prepare students for a competitive global marketplace.

Furthermore, they represent the place that nearly one-half of all college students will take their introductory college math and science classes.

Through the active involvement of diverse forces at the Federal State, and local level, I have no doubt that 2-year colleges will be able to meet the challenge of preparing scientifically and technologically literate citizens with the ultimate goals of improving productivity in the workplace and enhancing the quality of life within a community.

I would like to note for the record the administration position that the bill is unnecessary due to the fact that NSF already has existing authority to carry out the provisions of this bill. However, the minority on the Science, space, and Technology Committee do not view this legislation as limiting the executive branch's discretion in any way.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [MR. PRICE].

Mr. PRICE. Mr. Speaker, I rise today in support of H.R. 2936, the Scientific and Technical Education Act, a bill I introduced, along with 17 colleagues, to help ensure that our Nation has the skilled technicians to run the factories, offices, and laboratories of the future.

I want to begin by thanking all those who have worked so hard on this measure: Chairman GEORGE BROWN, RICK BOUCHER, TIM VALENTINE, RON PACKARD, TOM LEWIS, SHERRY BOEHLERT, STEVE SCHIFF, BOB WALKER of the Science, Space, and Technology Committee and their staffs have spent considerable time in refining and perfecting this legislation and I appreciate their contributions. I also want to make special note of the contributions of our former colleague Doug Walgren, who championed this effort for a number of years, and Paul Feldman of my own staff.

I also want to thank Chairman FORD and ranking Republican member BILL GOODLING of the House Education and Labor and their staffs for turning almost immediately from the herculean effort of the Higher Education reauthorization to work on this legislation, improving it significantly in the process.

H.R. 2936, the Scientific and Technical Education Act of 1992, would extend to new areas the approach which the National Science Foundation has already successfully utilized in science, mathematics, and engineering education: developing model programs and disseminating results across the country. The competitive grants program in H.R. 2936 would enable associate-degree granting colleges to develop model curricula and instructional programs, provide faculty enrichment, obtain state-of-the-art instrumentation, and develop exemplary private sector partnerships in advanced technology fields.

The NSF, with its admirable track record in fostering educational improvements in scientific and advanced technology fields, is well-positioned to participate in these efforts. Unfortunately, the agency's commitment thus far has been minimal: Out of a 1992 budget of $3.03 billion, NSF is spending only $3.35 million on this type of support for associate-degree-granting colleges. Our bill proposes to increase this effort to $35 million.

Using some of these funds, H.R. 2936 would also create up to 10 National Centers of Scientific and Technical Education. These would be associate-degree-granting colleges with exceptional programs in advanced technical training and science and math education. The idea would be not only to take these 10 institutions to new levels of excellence, but to use them as clearinghouses for community colleges and technical schools across the country that are trying to upgrade their programs.

H.R. 2936 would also promote partnerships between associate-degree-colleges and 4-year academic institutions to increase the number of students achieving bachelor degrees in mathematics, science, engineering, and technology. And it seeks to utilize the resources of associate-degree-granting colleges to improve the teaching to math and science at secondary schools by supporting outreach efforts.

The bill focuses on associate-degree-granting colleges because they are central to our Nation's effort to educate and train workers to meet the demands of the everchallenging world economy. These colleges already serve as the main educational resource for persons in the work force who desire to upgrade their technical skills. And it is now projected that 70 percent of American jobs by the year 2000 will require more than a high school diploma but will not require the traditional 4 years of higher education, thus increasing the demand on these colleges and their importance to our Nation's educational system.

In hearings held over the past 6 years, it became clear that these colleges, to fulfill their promise and upgrade their offerings, need targeted Federal assistance. George Autry, a work force development and training expert, summed up the views of those in his field in testimony before the Science Committee: These colleges must be retooled to meet the challenges of a new economic day. Business leaders generally echoed the sentiments of Sherwood Smith, president of the Carolina Power & Light Co., concerning associate-degree-granting colleges: "We have a good engine. We just need to put the fuel in it."

The efforts already underway in the best of our community colleges give an indication of what we might accomplish. For instance, Wake Tech, in my district, has established a Back to Industry Program in which faculty spend an 11-week quarter at a nearby company and then bring knowledge of the latest industrial processes back into the classroom. House Science, Space, and Technology Committee hearings documented similiar stories of success throughout this country.

Such innovative programs have often been established despite funding shortages, heavy teaching loads, and outmoded equipment. Community colleges have found creative ways to stretch resources and to join with private businesses to educate and train workers. As impressive as these efforts are, they fall alarmingly short of what it will take to equip our young people, and midcareer workers as well, for the workplace of tomorrow. Meaningful Federal participation in these efforts, as outlined in the Scientific and Technical Education Act, will build on current efforts and expand their efficiency and scope.

I urge my colleagues to join me in supporting H.R. 2936. It is a practical, constructive bill for preparing our technical work force for the challenges of the 21st century. It goes beyond mere sloganeering about jobs and actually tries to improve the prospects for those unemployed and those fearing loss of their jobs. It does this through partnerships, building on local efforts to create opportunity, in a cost-effective way. It makes the kind of investment we must make now to enhance our Nation's economic future.

☐ 1340

Mr. SCHIFF. Mr. Speaker, I have no requests for time, and I, therefore, reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology.

Mr. BROWN. Mr. Speaker, I rise in strong support of H.R. 2936, the Scientific and Technical Education Act of 1992. This legislation will result in the improvement of the science and mathematics curriculum at our Nation's community colleges, which are a major source of America's future work force in engineering and advanced technology fields. In 1990, 2-year colleges enrolled 43 percent of all undergraduate students in the United States. It is essential that students enrolled in community colleges have the background in science and advanced technology to prepare them for tomorrow's workplace.

This legislation will establish National Science Foundation [NSF] programs in three areas to help upgrade the curriculum at associate-degree-granting colleges. The major component of the bill will establish a competitive grants program at the NSF which will improve undergraduate science and mathematics at 4-year colleges. The competitive grants awarded to community colleges under this provision will help to develop model curricula and instructional programs, provide professional development for faculty, fund the purchase or lease of state-of-the-art instrumentation, and stimulate partnerships between community colleges and the private sector.

The bill will also establish up to 10 regional clearinghouses around the country at community colleges with exceptional programs of advanced technical education. These centers will serve as both national and regional clearinghouses and provide seminars and programs to disseminate model curricula and model teaching methods to other community colleges in the region.

Another provision in the bill will establish partnerships between associate-degree-granting colleges and 4-year institutions to assist the transition of students transferring from community colleges to pursue bachelor's degrees in science and engineering. Approximately 30 percent of students enrolled in 2-year colleges transfer to 4-year colleges and universities. It is particularly important that we strengthen programs which will facilitate the transfer of community college students aspiring to bachelor degrees in route to careers as scientists and engineers.

Within the Science Committee, I would like to commend the excellent work on this legislation by Mr. BOUCHER, the chairman of the Subcommittee on Science, and by Mr. VALENTINE, the chairman of the Subcommittee on Technology and Competitiveness. I would also like to acknowledge the assistance and support of our ranking Republican member, Mr. WALKER, and of the ranking Republicans on the two subcommittees, Mr. PACKARD and Mr. LEWIS.

I would also like to express my gratitude to Chairman FORD and the members of the Education and Labor Committee for their contribution to the amendment we are bringing to the House today. I also congratulate the primary sponsor of H.R. 2936, Mr. PRICE, a former member of our committee, who has worked very closely with us in developing the amendment we are considering today.

The important role played by community colleges in preparing the advanced technology work force has long been recognized by American business and industry, which spends about $1.3 billion annually on training programs at associate-degree-granting institutions. It is time that the Federal Government provide assistance to community colleges which will upgrade the study of scientific and advanced technology fields and, in turn, prepare graduates of associate-degree-granting colleges for the increasingly technical demands of the workplace. I urge my colleagues to support this legislation.

Mr. HOAGLAND. Mr. Speaker, I would like to express my support for H.R. 2936, the Scientific and Technical Education Act, to promote technology education in our community colleges. This much-needed legislation addresses the need to train and retrain our workers for the jobs of the future with the technology of the future. I would like to thank Congressmen BROWN, BOUCHER, and FORD for their help in moving this legislation.

This is an issue that is of great interest to me. Last year, I introduced a similar bill which has been incorporated into H.R. 2936. We can no longer ignore the need for a system of lifetime training and retraining. A competent work force is one of the most important factors for American economic growth and productivity. The Omaha World Herald states that "75 percent of the 350 people who receive county assistance to survive would be employable if they could get training." Education, literacy, and science and technology are the ingredients for producing more and better jobs, a more competitive economy, and higher standards of living.

Technology is today a big part of the world we live in from the automated dishwashers in our homes to computers that do our banking. This technology makes our lives easier but it also demands that our workforce have a higher level of skills. By the year 2000, 75 percent of all workers currently employed will need retraining because of changes in the nature of existing jobs and creation of new jobs which will require higher levels of skills. H.R. 2936 develops a system for providing education and skills training to adults and students.

H.R. 2936 establishes a program at the National Science Foundation making grants available to community colleges to provide training in skills needed for high-technology jobs. I would also designate as many as 10 centers of excellence among 2-year colleges to demonstrate exceptional technology education programs and/or science and math programs.

Many studies in recent years have pointed to the need for our country to educate more scientists and engineers, but we will never meet the competitiveness challenges posed by other countries with Ph.D. scientists and engineers alone. As the workplace becomes increasingly technological, many people will need technology knowledge and skills.

In the end, a competitive advantage does not solely come from technology, but from the people who invent and use it. I hope that H.R. 2936 will be a catalyst for change, for updating our curriculum and bringing to our community colleges the incentives and resources they need to provide students with the knowledge and skills they need in today's and tomorrow's workplace.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 2936, the Scientific and Technical Education Act of 1992. This bill was reported by the Committee on Science, Space, and Technology. The Education and Labor Committee has joint jurisdiction with the Science Committee over this bill. Through a series of negotiations we have reached an agreement on changes to the Science Committee bill which, I hope, will permit this bill to pass swiftly today.

The bill authorizes $35 million for fiscal year 1992 and 1993, respectively, for three programs to be conducted by the National Science Foundation. First, the bill authorizes a National Advanced Scientific and Technical Education Program, a program to assist colleges with associate degree programs in strengthening and expanding their scientific and technical education capabilities through such methods as, first, developing model programs in advanced technology fields, second, developing faculty at the college, third, establishing partnerships among associate degree colleges, the private sector, and the government for facilitating work experience opportunities for students enrolled in these programs, fourth, acquiring state-of-the-art instrumentation, and fifth, developing and disseminating instructional materials.

The bill authorizes National Centers for Scientific and Technical Education which will require the Director of the National Science Foundation to establish no more than 10 centers at associate-degree-granting colleges which will serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools and will provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate degree granting colleges.

Finally, the bill authorizes articulation partnerships which will require the Director of National Science Foundation to make grants to assist students to pursue a bachelors degree in mathematics, science, and engineering or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions. The program places a strong emphasis on curriculum development and coordination. As this program is similar to one I wrote that was included in title I of the Higher Education Act reauthorization, the articulation agreements program; we have included amendments to this bill that will require the Director of NSF to coordinate activities with the Secretary of Education in the Higher Education Act program. For all of these programs, the grantees must make contributions toward the cost of the program and the Director of National Science Foundation shall award the grants on a competitive basis.

Given the strong need for assisting students in bridging the gap between 2-year and 4-year institutions of higher education, I rise in support of this legislation and ask my colleagues to join me in its swift passage.

Mr. BOUCHER. Mr. Speaker, I yield back the balance of my time.

Mr. SCHIFF. Mr. Speaker, I also yield back the balance of my time, and I urge the adoption of this bill.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Virginia [Mr. BOUCHER] that the House suspend the rules and pass the bill, H.R. 2936, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish programs at the National Science Foundation to strengthen and improve the scientific and technical education capabilities of associate-degree-granting colleges, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

INTER-AMERICAN SCIENTIFIC COOPERATION ACT OF 1992

Mr. BOUCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3215) to reinvigorate cooperation between the United States and Latin America in science and technology, as amended.

The Clerk read as follows:

H.R. 3215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Inter-American Scientific Cooperation Act of 1992".

SEC. 2. FINDINGS AND DEFINITIONS.

(a) FINDINGS.—The Congress finds the following:

(1) Latin America shares a wide range of scientific and technological concerns with the United States, and the diversity of Latin American countries and their needs in science and technology are significant.

(2) The need for science and technology cooperation with Latin America has increased significantly since the 1970's, but mechanisms for cooperation have decreased since many countries in Latin America graduated from programs sponsored by the Agency for International Development.

(3) Latin American scientists and engineers have increasingly looked to Europe and Japan for advanced training and research. This trend, in conjunction with the emphasis on science and technology in Latin American national development plans and the increase in science and technology cooperation among Latin American nations, may result in a loss of mutually beneficial commerce and scientific cooperation between Latin America and the United States.

(4) Investment by the United States in the Latin American science and technology infrastructure and participation of United States scientists and engineers in short-term and long-term assignments in Latin America can further improve relations between the United States and Latin America, and bring many benefits to the United States, including scientific access, enhanced trade and investment relations, and the opportunity to contribute to economic growth and democratization in the hemisphere.

(5) Science and technology cooperation with the United States, and advanced training and research in the United States, can bring many benefits to Latin America. In developing countries, cooperation can contribute to the strengthening of basic science and technology infrastructure. In industrially advanced Latin American countries, cooperation can increase opportunities in many scientific disciplines and in the frontier scientific fields.

(6) Considerable progress in science and technology cooperation can be made with relatively modest investments.

(7) A Free Trade Agreement with Mexico should be accompanied by the creation of new opportunities and mechanisms for scientific cooperation and research on issues of mutual interest to the United States and Mexico.

(8) The return to democracy in a number of Latin American countries provides renewed vigor for freedom of scientific inquiry, cooperation, and progress, as well as a focus for the reversal of the decline in science and technology cooperation between the United States and Latin America.

(b) DEFINITIONS.—As used in this Act—

(1) the term "Binational Science Foundation" means an endowed, nongovernmental, nonprofit organization to encourage and fund collaborative research projects between 2 countries in science and technology;

(2) the term "debt-for-science exchange" means an agreement whereby a country's commercial external debt burden is exchanged by the holder for a contribution of local currencies or other assets to support scientific and technological research;

(3) the term "Director" means the Director of the National Science Foundation;

(4) the term "Latin America" means Mexico, the Caribbean basin, Central America, and South America; and

(5) the term "Program" means the Inter-American Scientific Cooperation Program established under section 3.

SEC. 3. ESTABLISHMENT OF THE PROGRAM.

The National Science Foundation shall establish an Inter-American Scientific Cooperation Program aimed at increasing the level of science and technology cooperation between the United States and Latin America. The National Science Foundation, in establishing this Program, shall identify and cooperate with private and governmental funding bodies, both in Latin America and in the United States. The Program shall include the following elements:

(1) Encouragement and funding of project development interchanges and joint research projects between United States and Latin American scientists and engineers. Joint projects and interchanges funded by the National Science Foundation shall, whenever possible, include cost sharing from sources within the Latin American countries whose citizens participate. The Director shall determine the amount of cost sharing which is required.

(2) Establishment in accordance with section 13 of the National Science Foundation Act of 1950 (42 U.S.C. 1872) of an Inter-American Scientific Exchange. The Exchange's activities shall include collection and dissemination of information to Latin Americans on avenues for advanced study in science and engineering in the United States; United States assistance to Latin American institutions, at the institutions' request, for development of courses, seminars, and curricula in science and engineering; and other forms of scientific and technological cooperation as may be mutually agreeable, such as research projects in furtherance of professional development. In carrying out this paragraph the Director shall coordinate with other Federal agencies offering programs for foreign nationals for advanced study and research in the sciences and in engineering.

(3) Exchanging information and technical assistance between United States and Latin American scientists and engineers interested in establishing data bases and computer linkages.

(4) Providing information to enable the routing of scientific equipment between the United States and Latin America, including information with respect to matching equipment with need, identifying technical maintenance requirements, and meeting customs regulations.

(5) Promotion of research programs which utilize unique natural environments or existing or potential centers of scientific research excellence in Latin America.

SEC. 4. DEBT-FOR-SCIENCE EXCHANGES.

(a) DEBT-FOR-SCIENCE EXCHANGE GRANTS.—The Director is authorized to make grants to nongovernmental organizations within the United States, including colleges and universities, for the purpose of debt-for-science exchanges. Before making any grant under this section, the Director shall ascertain that—

(1) funds resulting from the debt-for-science exchange will be expended only for cooperative research and development projects, including those described in section 3; or to fund endowments for the long-term support of cooperative research and development projects, including those established under section 5;

(2) the debt-for-science exchange will result in making funds available for such cooperative projects which otherwise would not be available;

(3) the amount of local currency provided as a result of the debt-for-science exchange will be substantially greater than the purchase price of the debt;

(4) the grantee certifies that the debtor government has accepted the terms of the exchange and that an agreement has been reached to cancel the commercial debt in an agreed upon fashion; and

(5) Federal grants made under this section will be equally matched by non-Federal contributions to purchase debt.

(b) INVESTMENT OF GOVERNMENT ASSISTANCE.—Grantees or subgrantees of funds provided under this section may retain without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-science exchange pending disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

(c) COORDINATION.—In carrying out subsection (a) the Director shall coordinate with Federal agencies, such as the Agency for International Development, that have expertise in debt exchanges.

SEC. 5. BINATIONAL SCIENCE FOUNDATIONS.

(a) ESTABLISHMENT.—The Director, in consultation with appropriate Latin American officials, shall encourage and facilitate the establishment of Binational Science Foundations, and shall, whenever possible, encourage each participating country in Latin America to make financial contributions to the establishment of such Foundations.

(b) BOARDS OF GOVERNORS.—Such Foundations shall be governed by Boards of Governors whose members shall be chosen to represent both participating countries. United States appointees shall possess expertise in United States-Latin American scientific cooperation. The structure and operation of such Foundations shall be determined exclusively by their Boards of Governors, consistent with subsection (c).

(c) CHARTERS.—Binational Science Foundations established under this section shall have charters which include provisions—

(1) to protect the endowment's principal from loss of value due to inflation;

(2) to define the range of scientific and educational activities to be funded;

(3) to define criteria for application, merit review, and awarding of funds which encompass, at a minimum, consideration of scientific merit, strength of collaborative arrangements, and potential benefit to participants;

(4) to limit administrative costs to those that are prudent and necessary; and

(5) to engage an independent auditor to perform an annual organization-wide audit of such Foundations, in accordance with generally accepted auditing standards, and to make the results of the audit immediately available to the Director and the Board of Governors.

(d) INVESTMENT OF GOVERNMENT ASSISTANCE.—Binational Science Foundations established under this section may invest any revenue provided to them through government assistance, and any interest earned on such investments may be used only for the purpose for which the assistance was provided.

(e) OVERSIGHT.—If the Director determines, with the concurrence of the Director of the Office of Science and Technology Policy, that the operations of any such Foundation are not consistent with subsection (c), the Director may, not less than 30 days after notification to the Congress, withdraw from the endowment of such Foundation that portion which represents the contribution of the United States Government.

SEC. 6. REPORT.

Each year at the time of submission to the Congress of the President's budget, the Director shall submit to the Congress a report which—

(1) details activities conducted pursuant to this Act during the preceding fiscal year;

(2) includes a description of how activities of the Program relate to other ongoing and prospective National Science Foundation activities in Latin America;

(3) describes plans for the current and upcoming fiscal years' activities;

(4) recommends priorities for cooperation in terms of scientific disciplines and geographic regions; and

(5) recommends necessary legislative or administrative changes in the Program.

Every two years, this report shall include a description, analysis, and compilation of funding data for all federally funded research and development activities carried out in, or in cooperation with, Latin American nations.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $10,000,000 for fiscal year 1992; and

(2) $10,000,000 for fiscal year 1993,

except that of the funds available for International Cooperative Scientific Activities, not more than 25 percent shall be made available for carrying out this Act for each such fiscal year. The Administrator of the Agency for International Development is authorized and encouraged to provide, from sums otherwise authorized to be appropriated, or in the absence of such authorization, from sums otherwise available, under part I of the Foreign Assistance Act of 1961, $5,000,000 during fiscal year 1992, and $5,000,000 during fiscal year 1993, for funding part of a United States contribution to endowments of Binational Science Foundations described in section 5, such as the United States—Mexico Foundation for Science, either directly or through debt-for-science exchanges described in section 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BOUCHER] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of H.R. 3215, a bill to reinvigorate cooperation between the United States and Latin America in science and technology. The bill was introduced by the chairman of the Science Committee, Mr. BROWN.

The Science Committee has worked cooperatively with the Committee on Foreign Affairs, to whom the bill was jointly referred, and in particular with the chairman of the Subcommittee on Western Hemisphere Affairs, Mr. TORRICELLI. I would like to commend Chairman BROWN for his leadership on this measure, and Mr. WALKER and Mr. PACKARD, the ranking Republican members of the committee and the Science Subcommittee respectively, for their assistance and cooperation in bringing this measure to the floor.

The bill under consideration is an amendment in the nature of a substitute. The amendment establishes an Inter-American Scientific Cooperation Program within the National Science Foundation to provide a focal point for science and technology cooperation with Latin America.

Mr. Speaker, in recent years scientific cooperation between the United States and Latin America has diminished, not because of any lack of potential Latin American scientific partners or mutually beneficial areas of research, but because of the financial hardships caused by heavy external debt burdens in many Latin American countries.

As these countries begin to solve their debt problems and are able to devote increased resources to scientific research, opportunities for fruitful international scientific collaboration are again available.

International collaboration on scientific problems offers tremendous advantages to all parties involved. By bringing together scientists with different backgrounds and expertise, new and creative approaches to research often result. To achieve this goal, mechanisms to foster and maintain international connections between scientists working on similar research problems are essential, and the Inter-American Scientific Cooperation Act provides a framework and a mandate for the National Science Foundation to assist United States scientists in developing productive collaborations with Latin American colleagues.

The amendment encourages the National Science Foundation and the Agency for International Development, to take advantage of innovative methods, such as debt-for-service exchanges to finance cooperative scientific ventures. It also encourages both agencies to assist and contribute to the establishment of independent binational science foundations, whose purpose are to maximize opportunities for long-term collaborative research relationships between scientists in various countries, and to help set regional research priorities.

Mr. Speaker, the success of the European Community's effort to establish a unified market reminds us that our own economic future will increasingly depend on building scientific, technological, and economic linkages with countries in our own hemisphere. The Inter-American Scientific Cooperation Act represents an important component of this new strategy, and I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

As a cosponsor, I am pleased to rise in support of H.R. 3215, the Inter-American Scientific Cooperation Act of 1992. I commend my distinguished colleague and good friend from California, Mr. BROWN who is the chairman of the Science, Space, and Technology Committee. He has taken an idea that was originally conceived by President Bush's current Secretary of the Interior, Manuel Lujan, and guided it through the committee process. More avenues for cooperative scientific research between the United States and Latin America have been an ongoing concern of the chairman's.

I share my chairman's desire for improved relations with the countries in Latin America. It is my hope that the programs provided for in H.R. 3215 will give us the opportunity to participate jointly on research projects while at the same time giving their economies a boost.

Improving the economic conditions in Latin America will open up new markets for United States goods and services. It will also serve to stabilize the region by creating jobs and opportunities which will result in more individuals choosing to stay in their countries instead of fleeing to the United States.

I would like to thank Mr. BROWN and Mr. BOUCHER of Virginia for working out compromises on this bill with Mr. WALKER, Mr. PACKARD, and myself. The specific concerns included: Ensuring that the authorizations come out of the existing budget; limiting the amount of funds that come out of the small budget of International Cooperative Scientific Activities; and setting specific parameters on the amount of the debtor nation's contribution for a debt swap so that the United States get an adequate return on its investment.

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Mr. BOUCHER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California [Mr. BROWN], the chairman of the full Committee on Science, Space, and Technology.

Mr. BROWN. Mr. Speaker, I rise in support of H.R. 3215, as amended, a bill whose goal is to build institutional ties between the United States and Latin American scientific and technological communities, and to create long-term mechanisms for supporting cooperation.

I want to acknowledge the efforts of Mr. BOUCHER, chairman of the Subcommittee on Science, Mr. TORRICELLI, chairman of the Subcommittee on Western Hemisphere Affairs, Mr. FASCELL, chairman of the Committee on Foreign Affairs, Mr. PACKARD, ranking Republican of the Subcommittee on Science, and Mr. WALKER, ranking Republican of the Committee on Science, Space, and Technology. They have all been staunch supporters of this initiative that we are considering today. I was pleased that working together the two committees were able to bring a much improved version of the original bill to the floor.

As my colleagues know, I have a particular interest in promoting new incentives and institutions for scientific cooperation with our neighbors in the Western Hemisphere, and I think that H.R. 3215 offers an important mechanism for attaining these goals. I would like to call attention to several critical issues that bear on this legislation.

First of all, I must emphasize that the economic future of the United States depends in no small part on the capability for economic growth in Latin American nations. And we all agree that a strong science and technology base is a key component of sustained economic development. A strong economy is not only key to reaping the benefits of increasingly open trade relations in the Western Hemisphere, but also to the maintenance of political stability as well.

Second, I want to stress that this is not a foreign aid program. I have visited scientific facilities in Mexico, Brazil, Argentina, Chile, and Ecuador over the past several years, and the opportunities for expanded, mutually beneficial cooperation are abundant. In Mexico, for example, new centers for research in public health, biotechnology, and agriculture are exemplary research models that the rest of the world would do well to emulate. In my discussions with officials of Mexico, Brazil, Colombia, and Argentina; they have all indicated their strong support for the types of collaborative research and cost-sharing arrangements that this bill would promote.

The purpose of this legislation is to build institutional ties between the United States and Latin American scientific communities, and to create long-term mechanisms for ongoing support. We are trying to inculcate a spirit of hemisphere-wide partnership by encouraging cost sharing and innovative funding approaches such as debt-for-science swaps, by focusing on exchange of scientists and engineers, information, and equipment, and by creating new institutions, such as the recently inaugurated Mexico-United States Foundation for Science. I note that the establishment of this Foundation has received strong support from the highest levels within both the Bush and Salinas administrations, as well as from the Academies of Science and Engineering in the United States and Mexico.

This region of the world which we have so often neglected offers us considerable opportunities for the future. By increasing scientific cooperation between the United States and Latin America, we can help build a foundation for economic growth, and create a new spirit of partnership that extends from Point Barrow, AK, to Tierra del Fuego. Mr. Speaker, I strongly urge my colleagues to support H.R. 3215.

Mr. Speaker, at this point I would like to vent a little frustration. Having seen efforts at collaboration between ourselves and Latin America since the days of John F. Kennedy, having noted that almost every new American President hastens to conclude an agreement on science and technological cooperation with our neighbors to the south, and then having noted that very rarely is there adequate funding or continuing concern for implementing these agreements, it is my hope that what we are doing today will provide a permanent base and foundation under which we can continue with realistic programs based upon joint cost sharing and close cooperation between ourselves and our neighbors.

Mr. SCHIFF. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I have no further requests for time, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Virginia [Mr. BOUCHER] that the House suspend the rules and pass the bill, H.R. 3215, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3215, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO SIT DURING 5-MINUTE RULE ON TUESDAY, AUGUST 11, 1992

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology be permitted to sit on Tuesday, August 11, 1992 while the House is in session under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Science, Space, and Technology.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FEDERAL FIRE SAFETY ACT OF 1992

Mr. BOUCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3360) to amend the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety, and for other purposes; as amended.

The Clerk read as follows:

H.R. 3360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Fire Safety Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) through the Federal Fire Prevention and Control Act of 1974, the Federal Government has helped to develop and promote the use of residential sprinkler systems and other means of fire prevention and control;

(2) the United States has one of the worst records of fire-related deaths and losses per capita of any industrialized nation in the world, with approximately 5,500 deaths annually attributable to fires;

(3) the vulnerability to fire of office buildings and residential housing units can be reduced through strong fire safety measures;

(4) it is essential for the protection of life and property from fire that effective technology be employed in detecting, containing, and suppressing fires;

(5) when properly installed and maintained, automatic sprinklers and smoke detectors provide effective safeguards against the loss of life and property from fire; and

(6) Federal employee office buildings, housing for Federal employees, and federally assisted housing should serve as models for demonstrating appropriate means of reducing fire hazards to the local community.

SEC. 3. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

The Federal Fire Prevention and Control Act of 1974 is amended by adding at the end the following new section:

"SEC. 31. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'affordable cost' means the cost to a Federal agency of leasing office space in a building that is protected by an automatic sprinkler system or equivalent level of safety, which cost is no more than 10 percent greater than the cost of leasing available comparable office space in a building that is not so protected;

"(2) the term 'automatic sprinkler system' means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire—

"(A) will protect human lives by discharging water over the fire area, in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and

"(B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto;

"(3) the term 'equivalent level of safety' means an alternative design or system, based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic sprinkler systems;

"(4) the term 'Federal employee office building' means any office building in the United States, whether owned or leased by the Federal Government, that is regularly occupied by more than 25 full-time Federal employees in the course of their employment;

"(5) the term 'housing assistance'—

"(A) means assistance provided by the Federal Government to be used in connection with the provision of housing, that is provided in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

"(B) does not include assistance provided by the Secretary of Veterans Affairs; the Federal Emergency Management Agency; the Secretary of Housing and Urban Development under the single family mortgage insurance programs under the National Housing Act or the homeownership assistance program under section 235 of such Act; the National Homeownership Trust; the Federal Deposit Insurance Corporation under the affordable housing program under section 40 of the Federal Deposit Insurance Act; or the Resolution Trust Corporation under the affordable housing program under section 21A(c) of the Federal Home Loan Bank Act;

"(6) the term 'hazardous areas' means those areas in a building referred to as hazardous areas in National Fire Protection Association Standard 101, known as the Life Safety Code, or any successor standard thereto;

"(7) the term 'multifamily property' means—

"(A) in the case of housing for Federal employees or their dependents, a residential building consisting of more than 2 residential units that are under one roof; and

"(B) in any other case, a residential building consisting of more than 4 residential units that are under one roof;

"(8) the term 'prefire plan' means specific plans for fire fighting activities at a property or location;

"(9) the term 'rebuilding' means the repairing or reconstructing of portions of a multifamily property where the cost of the alterations is 70 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located;

"(10) the term 'renovated' means the repairing or reconstructing of 50 percent or more of the current value of a Federal employee office building, not including the value of the land on which the Federal employee office building is located;

"(11) the term 'smoke detectors' means single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto; and

"(12) the term 'United States' means the States collectively.

"(b) FEDERAL EMPLOYEE OFFICE BUILDINGS.—

"(1) PROHIBITION.—

"(A) FEDERALLY OWNED BUILDINGS.—No Federal funds may be used for the construction or purchase of a Federal employee office building of 6 or more stories unless during the period of occupancy by Federal employees the building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the construction or purchase of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the building are protected by automatic sprinkler systems or an equivalent level of safety.

"(B) FEDERALLY LEASED OFFICE SPACE.—(i) Except as provided in clause (ii), no Federal funds may be used for the lease of a Federal employee office building of 6 or more stories, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless during the period of occupancy by Federal employees the entire Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the lease of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the entire Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(ii) The first sentence of clause (i) shall not apply to the lease of a building the construction of which is completed before the date of enactment of the Federal Fire Safety Act of 1992 if the leasing agency certifies that no suitable building with automatic sprinkler systems or an equivalent level of safety is available at an affordable cost.

"(iii) Within 3 years after the date of enactment of the Federal Fire Safety Act of 1992, and periodically thereafter, the Comptroller General shall audit a selection of certifications made under clause (ii) and report to Congress on the results of such audit.

"(2) Exceptions.—Paragraph (1) shall not apply to—

"(A) a Federal employee office building that was owned by the Federal Government before the date of enactment of the Federal Fire Safety Act of 1992;

"(B) space leased in a Federal employee office building if the space was leased by the Federal Government before the date of enactment of the Federal Fire Safety Act of 1992;

"(C) space leased on a temporary basis for not longer than 6 months;

"(D) a Federal employee office building that becomes a Federal employee office building pursuant to a commitment to move Federal employees into the building that is made prior to the date of enactment of the Federal Fire Safety Act of 1992; or

"(E) a Federal employee office building that is owned or managed by the Resolution Trust Corporation.

Nothing in this subsection shall require the installation of an automatic sprinkler system or equivalent level of safety by reason of the leasing, after the date of enactment of the Federal Fire Safety Act of 1992, of space below the sixth floor in a Federal employee office building.

"(3) Renovation of federally owned buildings.—No Federal funds may be used for the renovation of a Federal employee office building of 6 or more stories that is owned by the Federal Government unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the renovation of any other Federal employee office building that is owned by the Federal Government unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(4) Renovation of leased buildings.—No Federal funds may be used for entering into or renewing a lease of a Federal employee office building of 6 or more stories that is renovated after the date of enactment of the Federal Fire Safety Act of 1992, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for entering into or renewing a lease of any other Federal employee office building that is renovated after the date of enactment of the Federal Fire Safety Act of 1992, unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(c) Housing.—

"(1) Housing for Federal employees.—

"(A) No Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless—

"(i) in the case of a multifamily property acquired or rebuilt by the Federal Government after the date of enactment of the Federal Fire Safety Act of 1992, the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system and hard-wired smoke detectors; and

"(ii) in the case of any other housing, the housing, before—

"(I) occupancy by the first Federal employees (or their dependents) who do not occupy such housing as of the date of enactment of the Federal Fire Safety Act of 1992; or

"(II) the expiration of 3 years after such date of enactment,

whichever occurs first, is protected by hard-wired smoke detectors.

"(B) Nothing in this paragraph shall be construed to supersede any guidelines or requirements applicable to housing for Federal employees that call for a higher level of fire safety protection than is required under this paragraph.

"(2) Federally assisted housing.—

"(A) Newly constructed multifamily properties.—

"(i) Requirement for housing assistance.—Housing assistance may not be used in connection with any newly constructed multifamily property, unless after the new construction the multifamily property is protected by an automatic sprinkler system and hard-wired smoke detectors.

"(ii) Definition of newly constructed multifamily property.—For purposes of clause (i), the term 'newly constructed multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is newly constructed after the date of the enactment of the Federal Fire Safety Act of 1992; and

"(II) for which (a) housing assistance is used for such new construction, or (b) a binding commitment is made, before commencement of such construction, to provide housing assistance for the newly constructed property.

"(iii) Exception.—Clause (i) shall not apply to any multifamily property for which, before the date of the enactment of the Federal Fire Safety Act of 1992, a binding commitment is made to provide housing assistance for the new construction of the property or for the newly constructed property.

"(B) Rebuilt multifamily properties.—

"(i) Requirement for housing assistance.—Except as provided in clause (ii), housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the chapter on existing apartment buildings of National Fire Protection Association Standard 101 (known as the Life Safety Code), as in effect at the earlier of (I) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (II) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

"(ii) Exception.—If any rebuilt multifamily property is subject to, and in compliance with, any provision of a State or local fire safety standard or code that prevents compliance with a specific provision of National Fire Protection Association Standard 101, the requirement under clause (i) shall not apply with respect to such specific provision.

"(iii) Definition of rebuilt multifamily property.—For purposes of this subparagraph, the term 'rebuilt multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is rebuilt after the last day of the second fiscal year that ends after the date of the enactment of the Federal Fire Safety Act of 1992; and

"(II) for which (a) housing assistance is used for such rebuilding, or (b) a binding commitment is made, before commencement of such rebuilding, to provide housing assistance for the rebuilt property.

"(C) Other assisted housing.—After the expiration of the 180-day period beginning on the date of the enactment of the Federal Fire Safety Act of 1992, housing assistance may not be used in connection with any other dwelling unit, unless the unit is protected by a hard-wired or battery-operated smoke detector. For purposes of this subparagraph, housing assistance shall be considered to be used in connection with a particular dwelling unit only if such assistance is provided (i) for the particular unit, in the case of assistance provided on a unit-by-unit basis, or (ii) for the multifamily property in which the unit is located, in the case of assistance provided on a structure-by-structure basis.

"(d) Regulations.—The Administrator of General Services, in cooperation with the United States Fire Administration, the National Institute of Standards and Technology, and the Department of Defense, within 2 years of the date of enactment of the Federal Fire Safety Act of 1992, shall promulgate regulations to further define the term 'equivalent level of safety', and shall, to the extent practicable, base those regulations on nationally recognized codes.

"(e) State and Local Authority Not Limited.—Nothing in this section shall be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard that establishes requirements concerning fire prevention and control.

"(f) Prefire Plan.—The head of any Federal agency that owns, leases, or operates a building or housing unit with Federal funds shall invite the local agency or voluntary organization having responsibility for fire protection in the jurisdiction where the building or housing unit is located to prepare, and biennially review, a prefire plan for the building or housing unit.

"(g) Reports to Congress.—(1) Within 3 years after the date of enactment of the Federal Fire Safety Act of 1992, and every 3 years thereafter, the Administrator of General Services shall transmit to Congress a report on the level of fire safety in Federal employee office buildings subject to fire safety requirements under this section. Such report shall contain a description of such buildings for each Federal agency.

"(2) Within 10 years after the date of enactment of the Federal Fire Safety Act of 1992, each Federal agency providing housing to Federal employees or housing assistance shall submit a report to the Congress on the progress of that agency in implementing subsection (c) and on plans for continuing such implementation.

"(3)(A) The National Institute of Standards and Technology shall conduct a study and submit a report to Congress on the use, in combination, of fire detection systems, fire suppression systems, and compartmentation. Such study shall—

"(i) quantify performance and reliability for fire detection systems, fire suppression systems, and compartmentation, including a field assessment of performance and determination of conditions under which a reduction or elimination of 1 or more of those systems would result in an unacceptable risk of fire loss; and

"(ii) include a comparative analysis of compartmentation using fire resistive materials and compartmentation using noncombustible materials.

"(B) The National Institute of Standards and Technology shall obtain funding from non-Federal sources in an amount equal to that provided by Federal sources for carrying out this paragraph. Funding for the National Institute of Standards and Technology for carrying out such study shall be derived from amounts otherwise authorized to be appropriated. The study shall not commence until receipt of all matching funds from non-Federal sources. The scope and extent of the study shall be determined by the level of project funding. The Institute shall submit a report to Congress on the study within 30 months after the date of enactment of the Federal Fire Safety Act of 1992.

"(h) RELATION TO OTHER REQUIREMENTS.—In the implementation of this section, the process for meeting space needs in urban areas shall continue to give first consideration to a centralized community business area and adjacent areas of similar character to the extent of any Federal requirement therefor.".

SEC. 4. EFFECTIVE DATE.

Section 31(b) of the Federal Fire Prevention and Control Act of 1974, as added by section 3 of this Act, shall take effect 2 years after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BOUCHER] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3360 is designed to protect the American public. Despite the availability and affordability of automatic sprinkler systems and smoke detectors, the United States continues to have an unacceptably high fire death rate. Fire is the third leading cause of accidental death, accounting for more than 5,500 deaths each year. This is a rate that is 50 percent higher than most of the industrialized nations of the world. And the great majority of fire deaths in the United States occur among the elderly and children age 14 and younger.

The bill will enable the Federal Government to set an example in the area of fire safety and, by its own actions, encourage the private sector to make greater use of the technology that has been proven to save lives. H.R. 3360 will, for the first time, establish minimum standards of fire safety for Federal office space in both Government-owned and leased buildings, and in many categories of federally assisted housing.

According to the National Fire Protection Association, there has never been a multiple loss of life—involving three or more fatalities—in a building with an operational sprinkler system. The NFPA data further indicate that the presence of a smoke detector reduces the chance of dying in a fire by 50 percent, and that the addition of an automatic sprinkler system reduces the death rate by 82 percent.

These statistics are compelling evidence that preventing needless loss of life in fires is directly proportional to reliance upon automatic sprinklers and smoke detectors. The amendment will require the installation of automatic sprinklers—or an equivalent level of safety—in newly constructed, high-rise Government-owned buildings and in all newly leased buildings. The same requirement applies under H.R. 3360 when Federal office space, whether owned or leased, undergoes a renovation equivalent to 50 percent or more of the value of the building. While existing Federal office space not undergoing renovation is exempted from the bill's requirements, all renewals of leased office space will trigger compliance with the standards of H.R. 3360.

In regard to federally assisted housing, H.R. 3360 requires all newly constructed, multifamily properties of four or more stories to be protected by automatic sprinklers and hard-wired smoke detectors. Substantially rebuilt properties—undergoing renovation work equivalent to 70 percent or more of the replacement cost of the building—will be required to comply with the standards of the most current version of the National Fire Protection Association's Life Safety Code, which generally requires the installation of sprinklers except where the building is of brick-and-block compartmentalized construction. For all housing units receiving rental assistance, the bill requires that such housing must be protected by smoke detectors within 180 days after enactment.

The amendment in the nature of a substitute under consideration represents an agreement between the Science Committee and the Committees on Public Works and Transportation and Banking, Finance, and Urban Affairs, to which the bill was jointly referred.

I would like to thank Mr. ROE, chairman of the Committee on Public Works and Transportation, and Mr. SAVAGE, chairman of the Subcommittee on Public Buildings and Grounds, for their prompt consideration of this legislation and also for their two very constructive amendments regarding the issuance of regulations by the General Services Administration and agency reporting requirements. I would also like to express my gratitude to the ranking Republican member of the Committee on Public Works and Transportation, Mr. HAMMERSCHMIDT, and also to the ranking Republican member of the Subcommittee on Public Buildings and Grounds, Mr. INHOFE.

The Committee on Banking, Finance, and Urban Affairs has also made important contributions to the bill. I would like to thank Mr. GONZALEZ, the chairman of the Committee, Mr. WYLIE, the ranking Republican Member of the Committee on Banking, Finance, and Urban Affairs, and Mrs. ROUKEMA, the ranking Republican member of the Subcommittee on Housing and Community Development. The Committee's amendment linking the provisions for installation of automatic sprinklers in substantially rebuilt multifamily housing to the current requirements of the National Fire Protection Association's Life Safety Code was very constructive. I wish to insert in the RECORD at this point the exchange of letters between Chairman BROWN and Chairman GONZALEZ regarding the agreement reached by the two committees.

Finally, I would like to acknowledge the contribution of Mr. CONYERS, the chairman of the Committee on Government Operations, for his assistance in providing clarifying language that ensures that nothing in H.R. 3360 affects the Executive order requirement that the process for meeting Federal space needs in urban areas shall give first consideration to a centralized community business area and adjacent areas of similar character.

Within the Science Committee, I would like to acknowledge the support and assistance provided by Chairman BROWN and by the ranking Republican member, Mr. WALKER. I would also like to thank the ranking Republican member of the Science Subcommittee, Mr. PACKARD.

H.R. 3360 enjoys strong bipartisan support of 106 cosponsors. From the beginning of this initiative 1 year ago, I have looked to the ideas and leadership of Mr. BOEHLERT, who was the driving force behind the enactment in the 101st Congress of the Hotel and Motel Fire Safety Act of 1990. I want to express my gratitude for his tireless work in this area and for his persistence in securing the administration's assent to the provisions contained in the bill.

I would also like to acknowledge the significant contributions of our colleague, Mr. WELDON, the outgoing chair of the congressional fire services caucus, for his assistance in developing the fire protection standards contained in H.R. 3360.

These minimum standards of fire safety protection will signal the Federal Government's determination to lead by example. Enactment of H.R. 3360 will be a meaningful and influential example for the private sector, and encourage greater reliance upon the fire safety technology that will reduce the needless loss of life in fires. This legislation is the No. 1 legislative priority of the Nation's fire services, and I urge my colleagues to support this legislation.

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, August 4, 1992.
Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance, and Urban Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased that our respective committees have reached an agreement governing the housing provisions of H.R. 3360, the "Federal Fire Safety Act of 1992." This legislation was introduced on September 17, 1991, by Mr. Boucher and Mr. Boehlert and was jointly referred to the Committees on Science, Space, and Technology; Public Works and Transportation; and Banking, Finance, and Urban Affairs. The Science Committee reported H.R. 3360 on April 30, 1992, and the Public Works Committee ordered the bill reported on July 1, 1992.

The agreement we have reached will make those sections of H.R. 3360, which are in the jurisdiction of your Committee, amendments to appropriate provisions of housing law. In response to your Committee's concerns, the amendment modifies H.R. 3360 to require that housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the National Fire Protection Association Standard 101 (known as the Life Safety Code) as in effect at the earlier of (1) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (2) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

The agreement defines the term "rebuilding" to mean the repairing or reconstructing of portions of a multifamily property where the cost of alterations is 50 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located.

As a result of the agreement between our committees, it is my understanding that the Committee on Banking, Finance, and Urban Affairs will discharge H.R. 3360, enabling the Science Committee to take the bill to the floor under suspension of the rules during the week of August 10, 1992.

Thank you for your assistance in regard to H.R. 3360.

Sincerely,
GEORGE E. BROWN, Jr.,
Chairman.

SUBCOMMITTEE ON HOUSING AND
COMMUNITY DEVELOPMENT OF THE
COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC, August 7, 1992.
Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology,
Washington, DC.

DEAR CHAIRMAN GEORGE BROWN: I appreciate your recent letter which outlines the agreements reached with the Banking Committee on H.R. 3360, the Federal Fire Safety Act of 1992, which was jointly referred to the Banking Committee. Based on these agreements, the Banking Committee is discharging the bill from its referral to enable you to take the bill to the floor under suspension of the House rules next week. I have separately written to Speaker Foley indicating the Committee discharge of your bill.

Again, I appreciate your recent letter and your cooperation in working out the provisions of the bill affecting our federally-assisted subsidized housing programs.

Sincerely,
HENRY B. GONZALEZ,
Chairman.

□ 1400

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 3360, the Federal Fire Safety Act of 1992. This bill was originally introduced in September of last year by my distinguished colleagues, Mr. BOUCHER of Virginia, who is the chairman of the Science Subcommittee, and Mr. BOEHLERT of New York, who is the ranking Republican of the Investigations and Oversight Subcommittee. I commend the gentlemen for their foresight and dedication to this important fire safety issue.

The intent of H.R. 3360 is to promote fire safety in Federal office buildings, housing for Federal employees, and federally assisted housing. The Federal Government will act as a role model for the private sector by using fire sprinklers which have been proven to save lives.

H.R. 3360 has undergone some intense and lengthy negotiations since the time that it was introduced. The staff has met with HUD, GSA, DOD, and OMB. Due to the numerous modifications that have been made in the bill, the administration is unopposed to the bill. I would like to thank the administration for their cooperation.

I would also like to thank the Banking Committee and the Public Works Committee for taking action on this bill so that we could bring it to the floor before we go out in August.

My appreciation goes out to Mr. BOUCHER, Mr. BOEHLERT, Mr. PACKARD of California, and Mr. WALKER of Pennsylvania, who is the ranking Republican of the Science, Space, and Technology Committee. The entire committee worked together in a spirit of cooperation to address the concerns of the administration and I think all of the outstanding issues have finally been resolved.

I would like to especially recognize Mr. WALKER and Mr. PACKARD for their efforts to develop a bill that would not result in significant additional cost to the taxpayer. In fact, the cost of the bill has been limited even further since a $5 to $8 million CBO cost estimate for 1993–95 was calculated. In effect, the bill codifies existing executive branch fire safety policy.

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. SAVAGE], chairman of the subcommittee of the Committee on Public Works and Transportation that was extremely helpful to us in the passage of this measure.

Mr. SAVAGE. Mr. Speaker, I rise in strong support of H.R. 3360, and I commend the distinguished chairman from Virginia, for his leadership in the area of improving fire safety in the work place. The House Subcommittee on Public Buildings and Grounds, which I have the honor to chair, held a hearing on May 28, 1992, regarding this Federal Fire Safety Act of 1992.

During the hearing, the members heard persuasive testimony from an impressive witness panel, including an industry expert, GSA officials, and a spokesman for Chicago firemen, favoring the need for setting fire safety standards and guidelines in Government-owned or leased buildings.

With the enactment of H.R. 3360, the Federal Government will assume an appropriate leadership role in protecting the personal safety of Federal workers, as well as all people in the workplace.

Thus, I urge my concerned colleagues to support this vital legislation.

Mr. SCHIFF. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who is the ranking Republican member of the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I am pleased to rise in strong support of H.R. 3360, the Federal Fire Safety Act of 1991. This bill amends the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety.

Introduced by Congressmen BOUCHER and BOEHLERT on September 17, 1991, H.R. 3360 attempts to encourage the greater use of smoke detectors and automatic sprinklers by requiring that the Federal Government set an example in the area of fire safety.

The bill prohibits Federal funding for construction and leasing of Federal office buildings, housing for Federal employees, and Federally subsidized housing, unless the fire safety standards of the bill have been met.

Given that fire is the fourth largest accidental killer in the United States, it is appropriate that we consider legislation which would promote devices designed to save lives. I commend Mr. BOEHLERT and Mr. BOUCHER for their diligence in this area and urge my colleagues to support H.R. 3360.

□ 1410

Mr. BOUCHER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California [Mr. BROWN], the chairman of the full Committee on Science, Space and Technology.

Mr. BROWN. Mr. Speaker, I thank the gentleman for yeilding time to me.

Mr. Speaker, it has not been my intention to speak on this bill, but merely to submit my remarks on the bill. However, I think I ought to point out that the Committee on Science, Space, and Technology has brought three bills to the floor here, each of which was referred to other committees, and we have worked in close cooperation with these other committees to bring them to the floor.

As I said in some earlier remarks, I think it is becoming increasingly necessary in the system that we live and work in here in Congress to explore ways to enhance the culture of cooperation, if I may put it that way, in order that we may bring to the floor legislation which may not fall precisely within the jurisdiction of one particular committee, but which nevertheless is important to the welfare of the country. I think the bill we have before us, H.R. 3360, is an excellent example of that particular kind of legislation.

Mr. Speaker, if we can encourage this cultural cooperation, it may be that we can expand it beyond some of the relatively minor bills we are considering here today under suspension to some of the more important bills, such as health legislation, the energy bill, which is still hung up in conference because of its complexity involving several different committees, and some of the other legislation, legislation involving economic growth, which is admittedly complex.

One of the things that this Congress is being faulted for, and probably properly so, is that we have not learned to cooperate among ourselves and to solve problems which in themselves do not neatly fit within the jurisdiction of any one committee. I appreciate the indulgence of the Chair for allowing me to make this statement, and hope that somebody up there will be listening.

Mr. Speaker, I rise in strong support of H.R. 3360, the Federal Fire Safety Act of 1992, as amended. The bill would require the installation of smoke detectors and automatic sprinkler systems in most newly constructed and newly leased Federal high-rise office buildings and federally subsidized, high-rise multifamily housing.

Despite the widespread availability of affordable means of preventing fire losses, the United States continues to have one of the highest per capita fire death rates in the industrialized world. Fire is the fourth largest accidental killer in the United States claiming about 6,000 lives annually and injuring an additional 30,000 individuals. The elderly and the very young are the most vulnerable to fire.

The Federal Government has taken some steps toward fire safety, but not enough to encourage the installation of fire safety devices like automatic sprinklers and smoke detectors. This bill would require the Federal Government to lead by example in the area of fire safety. H.R. 3360 would require Federal agencies to follow a minimum threshold level of protection.

The legislation we have before us today represents an agreement reached between the Committee on Science, Space, and Technology, the Committee on Public Works, and the Committee on Banking and Urban Affairs. I want to take this time to recognize the commitment of the primary cosponsors of the bill, Mr. BOUCHER and Mr. BOEHLERT. I would also like to recognize the support of Mr. WALKER, ranking Republican member and Mr. PACKARD, ranking Republican member of the Subcommittee on Science.

At the same time, I want to extend appreciation to the Committee on Public Works, in particular, Chairman ROE, Mr. HAMMERSCHMIDT, ranking Republican member, Mr. SAVAGE, chairman of the Subcommittee on Public Buildings and Grounds and Mr. INHOFE, ranking Republican member. I would like to also thank the Banking Committee, in particular Chairman GONZALEZ. Mr. WYLIE, ranking Republican member and Mrs. ROUKEMA, ranking Republican member of the Subcommittee on Housing and Community Development.

Many times legislation affecting health and safety is often called tombstone legislation when it is proposed in the aftermath of a tragic event. The Federal Fire Safety Act of 1992 is an exception. Join us in strengthening fire safety protection for Federal employees and occupants of federally subsidized high-rise housing.

I urge my colleagues to vote for passage of H.R. 3360, the Federal Fire Safety Act.

Mr. SCHIFF. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my friend, the gentleman from Virginia [Mr. BOUCHER] for yielding me this time, and for his leadership on this issue. I rise in strong support of the bill, H.R. 3360.

Mr. Speaker, the gentleman from Virginia and the gentleman from New Mexico [Mr. SCHIFF], my friend and colleague, have explained very well this bill. I will not reexplain it, but it is certainly important to note that all newly constructed Federal buildings, those Federal buildings which are extensively renovated or remodeled and leased facilities, facilities leased by the Federal Government for its workers, will have to conform to minimum fire protection standards. Those minimum standards would basically be an automatic sprinkler system, a system of smoke and fire alarms, or some combination thereof.

Mr. Speaker, I think the statistics the gentleman from Virginia just recited are appalling, the number of deaths of generally younger children and older people, and the fact that these 5,500-plus deaths are largely preventable if the buildings and structures are adequately alarmed or protected by sprinkler systems.

Mr. Speaker, I think in this age we ought to do everything we can to protect life and to prevent death. This bill will do that. I am pleased to report that in my own community of Louisville and Jefferson County, under the strong leadership of Louisville division fire chief, Chief Russell Sanders, we have very markedly reduced the number of deaths and injuries and property damage as a result of fire. The Louisville division's mission has been to prevent fire, and I think their statistics reflect the success of that program.

Chief Sanders is in town to testify tomorrow before the panel on children, youth and families, chaired by the gentlewoman from Colorado [Mrs. SCHROEDER], to talk about fire safety from the perspective of children and families.

So I think if Chief Sanders is able to convey to the committee, and I am sure he will, the steps we have taken at home to abate fire, to avoid fire, to save lives, then that will certainly be welcome testimony and helpful to other communities in our Nation.

Along with the bill to be passed today, H.R. 3360, I think the chief's testimony will go a long way to protect the lives of people in America from preventable fires.

I rise in strong support of the bill and commend my two friends for their work.

Mr. HOYER. Mr. Speaker, I rise in strong support of H.R. 3360, the Federal Fire Safety Act of 1992. Congressman RICK BOUCHER has done a tremendous job in bringing this bill to the floor today and deserves the praise of everyone concerned about public safety.

H.R. 3360 finally requires sprinkler suppression systems in new and renovated buildings owned by the Federal Government, as well as in federally assisted housing.

As a cochairman of the congressional fire services caucus, I can attest to the strong support that this legislation has had within the caucus. The best training and the best equipment in the world are only enhanced by suppression systems like sprinklers.

I believe the Federal Government is long overdue in embracing this level of fire protection in their buildings, particularly when considering that nearly half of the General Services Administration's buildings are over 40 years old. Few fire suppression systems save more lives than sprinklers, and I am very pleased to support this legislation.

Mr. BOEHLERT. Mr. Speaker, H.R. 3360 represents a significant step forward in protecting Americans from the dangers of fire—a serious danger that is too often ignored or trivialized. Our Nation has the highest rate of death and property loss from fire in the industrialized world precisely because of such nonchalant attitudes. By passing H.R. 3360 today, we will make the Federal Government a leader in raising the level of awareness about fire safety while raising the level of safety in federally-funded buildings.

The principle behind this bill is simple: Buildings that the Federal Government helps to pay for should be held to strict fire safety standards based on engineering precepts, not on the vagaries of politics. Gone will be the curiosities of existing fire safety policy such as sprinklering office buildings only to the floor where Federal employees work and having a far lower level of safety in public housing than in military housing. And the bill will do this without imposing unrealistic cost burdens or ignoring the existing private, consensus code writing process.

Moving this bill has been a long and tortuous process—not surprising given its breadth of concern and what is at stake. I'd like to thank Frank Hodsell of the Office of Management and Budget for intervening early to help us reach an agreement with the administration, and our colleagues on the Public Works, Banking and Government Operations Committees for working with us to move the bill through this Congress.

We have known for decades that sprinklers and smoke detectors are the most effective way to protect lives and property. Today, we will finally be ensuring that the Federal Government puts that knowledge to use systematically in the buildings it helps to pay for.

Mr. BOUCHER. Mr. Speaker, I urge that the House approve the bill. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Hubbard). The question is on the motion offered by the gentleman from Virginia [Mr. Boucher] that the House suspend the rules and pass the bill, H.R. 3360, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2152, HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House suspend the rules and agree to the resolution (H. Res. 548) to provide for the consideration of the Senate amendment to H.R. 2152.

The Clerk read as follows:

H. Res. 548

Resolved, That upon the adoption of this resolution, the bill (H.R. 2152) to enhance the effectiveness of the United Nations international driftnet fishery conservation program, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with the following amendments:

Strike title V of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, and insert in lieu thereof the following:

TITLE V—REPEAL OF COAST GUARD RECREATIONAL BOAT USER FEE

SEC. 501. REPEAL OF COAST GUARD RECREATIONAL BOAT USER FEE.

(a) Mandatory Fee To Terminate on September 30, 1994.—Paragraph (1) of section 2110(b) of title 46, United States Code, is amended by striking "1994, and 1995" and inserting "and 1994".

(b) Fee Schedule for Fiscal Years 1993 and 1994.—Subsection (b) of section 2110 of such title 46 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) In the case of fiscal years 1993 and 1994, the fee or charge established under paragraph (1) shall be as follows:

"(A) In fiscal year 1993—

"(i) for vessels of 21 feet or less in length, zero;

"(ii) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(iii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iv) for vessels of at least 40 feet in length, not more than $100.

"(B) In fiscal year 1994—

"(i) for vessels of 37 feet or less in length, zero;

"(ii) for vessels of more than 37 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.".

(c) Technical Amendments.—

(1) Paragraph (1) of such section 2110(b) is amended—

(A) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)", and

(B) by striking "that is greater than 16 feet in length".

(2) Paragraph (2) of such section 2110(b) is amended—

(A) by striking "The fee or charge" and inserting "In the case of fiscal years 1991 and 1992, the fee or charge", and

(B) by adding at the end thereof the following new sentence:

"No fee or charge may be imposed under this paragraph on any vessel of 16 feet in length or less.".

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) Definitions.—In this section—

(1) "Commission" and "conference" have the meaning given those terms under section 3 of the Shipping Act, 1984 (46 App. U.S.C. 1702);

(2) "common carrier" has the meaning given that term under section 3 of the Shipping Act, 1984 (46 App. U.S.C. 1702), and includes a "common carrier by water in interstate commerce" under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and a "common carrier by water in intercoastal commerce" under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.);

(3) "essential terms of service contracts" has the meaning given that term under section 8 of the Shipping Act, 1984 (46 App. U.S.C. 1707); and

(4) "tariff" has the meaning given that term under section 3 of the Shipping Act, 1984 (46 App. U.S.C. 1702), and includes the rates, fares, and charges filed under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.) and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) Tariff Form and Availability.—Notwithstanding any other law, according to the schedule under subsection (c)—

(1) common carriers and conferences shall file electronically with the Commission all tariffs and essential terms of service contracts required to be filed by section 8 of the Shipping Act, 1984 (46 App. U.S.C. 1707), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.); and

(2) the Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission Headquarters and from remote terminals, all tariff information and essential terms of service contracts filed in the Automated Tariff Filing and Information System database and all tariff information in the system enhanced electronically by the Commission at any time.

(c) Filing Schedule.—

(1) New tariffs and essential terms of service contracts shall be filed electronically not later than June 1, 1992; and

(2) All other tariffs and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) Fees.—

(1) Beginning June 1, 1992, and subject to paragraph (3), the Commission shall charge—

(A) a fee of 46 cents for each minute of remote computer access by any person of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information database (in bulk), or any portion of the database, a fee equal to the cost of duplication, distribution, and user-dedicated equipment; and

(ii) a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission a fee of 46 cents for each minute that database is subsequently accessed by computer by any person.

(2) A Federal agency is exempt from paying a fee under this subsection.

(3) No fee may be charged under paragraph (1) after September 30, 1995.

(e) Enforcement.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d) of this section.

(f) Penalties.—

(1) A person failing to pay the fees established under subsection (b) of this section is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) A person that willfully fails to pay the fees established under subsection (b) of this section commits a class A misdemeanor.

(g) Automatic Filing Implementation.—

(1) Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish notice of that certification.

(2)(A) The Secretary of the Treasury shall make available to the Commission, as a repayable advance in fiscal year 1992, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B)(i) Any advance made to the Commission under subparagraph (A) shall be repaid (with interest thereon) to the general fund of the Treasury by not later than September 30, 1995.

(ii) Interest on any advance made to the Commission under subparagraph (A) shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(3) Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for fiscal year 1992 and each subsequent fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary under paragraph (2) of this subsection.

(4) Except for the amounts retained by the Commission under paragraph (3) of this subsection, fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) CONFORMING AMENDMENT.—Effective June 1, 1992, section 2 of the Act of August 16, 1989 (Public Law 101-92; 103 Stat. 601), is repealed.

TITLE VI—FAIR TRADE FOR THE COMMERCIAL SHIPBUILDING AND REPAIR INDUSTRY

SEC. 601. SHORT TITLE.

This title may be cited as the "Shipbuilding Trade Reform Act of 1992".

SEC. 602. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in 1981, the United States Government terminated funding for the construction differential subsidy program, thereby ending direct subsidization of commercial shipbuilding in the United States;

(2) the international market for shipbuilding and ship repair continues to be distorted by a wide array of foreign subsidies including direct grants, preferential financing, equity infusions, research and development assistance, restructuring aid, special tax concessions, debt forgiveness, and other direct and indirect assistance;

(3) existing United States trade laws and trade agreements provide limited redress to domestic producers of ships for the trade-distorting subsidies and dumping practices of foreign shipbuilders; and

(4) a strong, effective multilateral agreement among all shipbuilding nations to eliminate trade-distorting practices in the shipbuilding and repair industry is the best means of providing for fair international competition, however, absent such an agreement, changes in United States trade laws are necessary to provide domestic producers of ships greater protection against unfair trade practices than is provided under current law.

(b) PURPOSE.—It is the purpose of this title to ensure fair trade in the commercial shipbuilding and repair industry by providing for effective trade remedies against subsidized and dumped foreign commercial ships.

SEC. 603. SUBSIDIZED SHIPYARD LIST AND REQUIRED VESSEL ENTRY DOCUMENTATION REGARDING CONSTRUCTION AND REPAIR SUBSIDIES.

(a) Part II of title IV of the Tariff Act of 1930 (19 U.S.C. 1431 et seq.) is amended by inserting after section 435 the following new sections:

"SEC. 435A. LISTING OF SUBSIDIZED SHIPYARDS.

"(a) ESTABLISHMENT OF LIST.—The administering authority shall establish and maintain a list of all foreign shipyards that receive or benefit from, directly or indirectly, a subsidy for the construction or repair of vessels.

"(b) INVESTIGATION.—The administering authority shall conduct an investigation to decide whether there is reasonable cause to believe that a foreign shipyard receives or benefits from a subsidy for the construction or repair of vessels. That investigation shall be initiated when the administering authority has reasonable cause to believe that a shipyard receives or benefits from, directly or indirectly, a subsidy for the construction or repair of vessels—

"(1) on the basis of information available to the administering authority; or

"(2) on petition for an investigation from an interested party.

"(c) DETERMINATION AFTER INVESTIGATION.—

"(1) IN GENERAL.—Based on the investigation conducted under subsection (b), the administering authority shall make a determination as to whether a shipyard receives or benefits from, directly or indirectly, a subsidy for the construction or repair of vessels.

"(2) NOTIFICATION AND PUBLICATION OF LISTING.—If the administering authority determines that a foreign shipyard receives or benefits from, directly or indirectly, a subsidy for the construction or repair of vessels, the administering authority shall—

"(A) add the foreign shipyard to the list established under subsection (a);

"(B) notify that shipyard of its inclusion on that list; and

"(C) publish notice of that determination in the Federal Register.

"(3) TIME LIMIT ON MAKING DETERMINATION.—The administering authority shall make a determination under this subsection within 90 days of receipt of the information or petition that serves as the basis for initiating an investigation under subsection (b).

"(4) PUBLICATION OF LIST.—The administering authority shall publish the list of foreign shipyards receiving or benefiting from a subsidy for the construction or repair of vessels at least once every 6 months.

"(d) EMERGENCY LISTING.—

"(1) IN GENERAL.—If at any time the administering authority finds a reasonable basis to suspect that a foreign shipyard may be receiving or benefiting from a subsidy for the construction or repair of vessels, the administering authority may add that shipyard to the list established under subsection (a). The administering authority shall publish notice of that emergency listing in the Federal Register, which shall also include a schedule for investigation of the alleged subsidy.

"(2) INVESTIGATION AND DETERMINATION OF EMERGENCY LISTINGS.—Within 90 days after publication of a listing under paragraph (1), the administering authority shall conclude the investigation and make a determination under subsection (c) whether the shipyard is receiving or benefiting from a subsidy for the construction or repair of vessels.

"(e) REVIEW OF LISTINGS.—If a foreign shipyard that is listed under subsection (c) requests a review of that determination within 30 days after the date of the publication of the determination in the Federal Register under subsection (c)(2), the administering authority shall review that listing.

"(f) SUBSEQUENT RECONSIDERATION AND REMOVAL OF LISTINGS.—

"(1) RECONSIDERATION.—The administering authority may reconsider a listing under subsection (c)—

"(A) on application from a foreign shipyard added to the list under subsection (c) alleging changed circumstances sufficient to warrant a reconsideration of that listing and notice of that reconsideration is published in the Federal Register; or

"(B) if the administering authority receives information concerning the signing of an agreement between the United States Government and the foreign country in which the shipyard is located that provides for the immediate elimination by that country of construction and repair subsidies for vessels.

"(2) RESTRICTION ON RECONSIDERATION.—A foreign shipyard may not make more than one application for reconsideration under this paragraph in any calendar year.

"(3) BURDEN OF PERSUASION.—In any reconsideration under paragraph (1)(A), the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant a determination that the foreign shipyard should be removed from the list is on the applicant.

"(4) REMOVAL FROM LIST.—The administering authority may remove a foreign shipyard from the listing only if—

"(A) the foreign shipyard has proven that the foreign shipyard does not receive or benefit from a subsidy, directly or indirectly, for the construction or repair of vessels; or

"(B) there is a signed agreement between the United States Government and the foreign country in which the shipyard is located that provides for the immediate elimination of construction and repair subsidies for vessels.

"(g) PENALTY FOR FALSE INFORMATION AND RENEWAL OF SUBSIDIES.—The administering authority shall place a foreign shipyard on the list established under subsection (a) for a period of not less than 5 years if the administering authority determines—

"(1) that the foreign shipyard, or government of the country in which the shipyard is located, provided the administering authority with false or misleading information during the investigation conducted under subsection (b); or

"(2) after making a determination under subsections (c) or (f) that the shipyard is not subsidized, that the shipyard receives or benefits from, directly or indirectly, any new construction subsidies.

"(h) ACTION AGAINST THE UNITED STATES GOVERNMENT.—An interested party may bring a civil action against the United States Government, in an appropriate district court of the United States, for failure of the administering authority to use due diligence to add a subsidized foreign shipyard to the list established under subsection (a).

"SEC. 435B. CONSTRUCTION SUBSIDY CERTIFICATION REQUIRED OF VESSELS FOR ENTRY.

"(a) CERTIFICATION REQUIRED AT ENTRY.—The master of a vessel shall, at the time of making formal entry of the vessel under section 434 or 435, deposit with the appropriate customs officer a construction subsidy certification for the vessel.

"(b) CONSTRUCTION SUBSIDY CERTIFICATIONS.—

"(1) IN GENERAL.—For purposes of this section, a construction subsidy certification for a vessel is a document that—

"(A) is either—

"(i) issued by the administering authority under subsection (d), or

"(ii) in a form as the administering authority shall prescribe and signed by either the vessel owner or person that constructed the vessel; and

"(B) attests, regarding any construction carried out with respect to the vessel, that the construction meets one of the requirements set forth in paragraph (2).

"(2) CERTIFICATION REQUIREMENTS.—The requirements referred to in paragraph (1)(B) are as follows:

"(A) No construction subsidy was granted or otherwise provided with respect to the construction.

"(B) The construction was carried out with the benefit of one or more subsidies, all of which were granted or otherwise provided before the date of the enactment of this section.

"(C) The construction was carried out pursuant to a specific contract entered into before October 16, 1991.

"(D) The construction was carried out with the benefit of one or more subsidies that were granted or otherwise provided during the 2-year period beginning on the date of the enactment of this section, but an amount equal to the value of each construction subsidy has been repaid to the agency that granted or otherwise provided the construction subsidy.

"(E) The construction was carried out with the benefit of one or more subsidies that were granted or provided on or after the date of the enactment of this section, but an amount equal to the value of each construction subsidy, reduced by any amount repaid under paragraph (D), has been paid by the Treasury of the United States.

"(F) The construction was carried out in a foreign country which is signatory to a trade agreement with the United States that provides for the immediate elimination of construction subsidies for vessels.

"(G) The construction was carried out in a shipyard that, at the time of contracting for construction of the vessel, was not on the list established under section 435A(a).

"(3) APPLICATION OF CERTIFICATION REQUIREMENTS.—With respect to vessels constructed in a foreign country which is a signatory to a trade agreement with the United States that provides for the elimination of construction subsidies for vessels, the requirements set forth in paragraph (2) shall be applied in a manner consistent with that agreement.

"(c) ENFORCEMENT.—If the Secretary has reason to believe that an unlawful act under section 436 relating to this section has been committed, the Secretary shall—

"(1) undertake any investigation necessary to ascertain whether action authorized under section 436 against the master of the vessel, or the vessel, or both, is warranted; and

"(2) if the vessel is not covered by a construction subsidy certification issued under subsection (d) and the information obtained during that investigation indicates that there is reason to believe that the vessel does not meet any certification requirement under subsection (b), so inform the administering authority and provide that information to the authority.

"(d) ISSUANCE OF CONSTRUCTION SUBSIDY CERTIFICATIONS BY THE ADMINISTERING AUTHORITY.—

"(1) APPLICATIONS.—The owner or lessee of a vessel, or the builder of a vessel, may apply to the administering authority for the issuance of a construction subsidy certification for that vessel. An application shall be accompanied by any documentation that the administering authority may require for purposes of establishing the eligibility of the vessel for that certification, including, if compliance with the requirement in subsection (b)(2)(D) or (E) is alleged, information regarding the amount of each construction subsidy granted or provided with respect to the vessel and the payment or repayment of amounts equal to the value of the construction subsidy.

"(2) ACTION ON APPLICATIONS.—After considering the documentation submitted with an application under paragraph (1), the administering authority, within 90 days after the day on which the application was received, shall decide whether to issue or deny the construction subsidy certification. The administering authority shall make the decision publicly available.

"(3) DENIAL OR CONDITION OF ISSUANCE OF CERTIFICATION.—The administering authority shall, if a construction subsidy certification for a vessel is denied under paragraph (2), provide the applicant with a written statement of the reasons for the denial or condition. The applicant may, within 14 days after the date of the written statement, request a review of the denial or condition under subsection (e)(3).

"(e) DETERMINATIONS AND REVIEWS.—

"(1) PRELIMINARY INVESTIGATION.—The administering authority shall—

"(A) on the basis of information available to the administering authority;

"(B) on the basis of information provided by the Secretary under subsection (c)(2); or

"(C) upon petition therefor from an interested party; initiate a preliminary investigation to decide whether there is reasonable cause to believe that a vessel does not meet the construction subsidy certification requirements under subsection (c).

"(2) DETERMINATIONS AFTER PRELIMINARY INVESTIGATIONS.—If the administering authority makes an affirmative decision under paragraph (1) with respect to a vessel, the administering authority shall determine whether the vessel meets any construction subsidy certification requirement under subsection (b)(2). If the administering authority makes a negative determination on the basis of failure to meet the requirement under subparagraph (D) or (E) of subsection (b)(2), the administering authority shall calculate, and set forth in the determination, the aggregate value of the subsidy or subsidies used in the construction of the vessel.

"(3) REVIEW OF CERTIFICATION DENIALS AND CONDITIONS.—If a person whose application for a construction subsidy certification was denied or conditioned under subsection (d)(3) makes a timely request for review under this paragraph, the administering authority shall review the denial or condition.

"(4) CORRECTIVE ACTIONS.—If the administering authority makes a negative determination under paragraph (2), or upholds any certification denial or condition after review under paragraph (3), the administering authority shall set forth in the determination or review decision the action which must be taken in order to satisfy a requirement for construction subsidy certification for the vessel under subsection (b). The builder of the vessel shall be primarily responsible, and the vessel owner or operator secondarily responsible, for taking any corrective action. If that action is taken, the administering authority shall issue a construction subsidy certification for the vessel and that certification shall be treated as a construction subsidy certification issued under subsection (d).

"(5) CONSEQUENTIAL EFFECTS.—After a negative determination under paragraph (2), or a decision under paragraph (3) upholding a certification denial or condition, becomes final and until a construction subsidy certification for the vessel concerned is issued under paragraph (4), neither that vessel, nor any other vessel that is owned or leased by the owner of that vessel, may—

"(A) arrive at any port or place in the United States; or

"(B) remain at any port or place in the United States.

"SEC. 435C. DECLARATION OF REPAIR SUBSIDIES REQUIRED OF VESSELS FOR ENTRY.

"(a) SUBSIDY DECLARATION AND SURETY REQUIREMENTS AT ENTRY.—

"(1) IN GENERAL.—The owner or master of a vessel shall, at, or before, the time of making formal entry of a vessel under section 434 or 435, deposit with the appropriate customs officer a subsidy declaration for repairs made to that vessel since the vessel last entered the United States.

"(2) INFORMATION IN DECLARATION.—The subsidy declaration made under paragraph (1) shall include a statement attesting to whether any repairs were made in a foreign shipyard since the vessel last entered the United States and, if repairs were made in a foreign shipyard, include—

"(A) a list and description of each repair made;

"(B) an identification of each foreign shipyard in which a repair was made and the date of that repair;

"(C) the dollar value of the repair made in that shipyard; and

"(D) any other information required by the administering authority.

"(3) SURETY REQUIREMENTS.—

"(A) REQUIREMENT ON ENTRY.—On or before entry, the owner or master of the vessel shall file with the customs officer a bond, proof of insurance, or any other surety, as the administering authority may require, in an amount equal to at least 2 times the dollar value of the repairs declared under paragraph (2) that were made in a shipyard listed on the list established under section 435A(a) at the time of the repair.

"(B) FORM OF SURETY.—A bond, proof of insurance, or any other surety filed under paragraph (A) shall be in a form determined by the administering authority to be satisfactory to insure the financial responsibility of that vessel owner to pay for any repair subsidies. Any bond submitted under this section shall be issued by a surety company found acceptable by the Secretary.

"(C) CLAIMS AGAINST SURETY.—A bond, insurance, or other surety filed under paragraph (A) shall be available to pay for any repair subsidy determined by the administering authority or any penalty assessed under section 436.

"(b) APPLICATION FOR REPAIR SUBSIDY DETERMINATION.—Within 30 days after the filing of the bond, proof of insurance or other surety under subsection (a)(3), the vessel owner may apply to the administering authority for the issuance of a repair subsidy determination for that vessel. An application shall be accompanied by any documentation that the administering authority may require for purposes of making the determination, including information regarding the amount of each repair subsidy granted and any repayment of the repair subsidy to the foreign government.

"(c) REPAYMENT OF REPAIR SUBSIDY.—

"(1) IN GENERAL.—A vessel owner shall pay to the United States Government an amount equal to any repair subsidy from which the vessel owned by that person has received or benefitted.

"(2) PRELIMINARY FINDING.—Within 30 days after the application, the administering authority shall make a preliminary finding as to the amount of repair subsidy which is to be paid to the Treasury of the United States. Notice of this finding shall be provided to the owner or his agent and published in the Federal Register. At any time before the preliminary finding is made, an interested party may file information with the administering authority regarding the validity or accuracy of the information provided by the vessel master or owner.

"(3) Petition for Review.—Unless a petition for review of that determination is received within 15 days after the date of notification under paragraph (2), from either the owner or an interested party, the finding by the administering authority is final.

"(d) Final Repair Subsidy Determinations.—If the owner or interested party files a petition for review of the preliminary determination within the 15 days, the administering authority shall make a final determination within 30 days after the date the petition is filed.

"(e) Forfeiture of Surety.—Unless a repair subsidy payback payment is made within 30 days of the final order, the face amount guaranteed by the bond, insurance, or other surety shall be forfeited to the United States Government.

"(f) Insufficient Surety.—If the amount of the surety is insufficient to cover the amount of the repair subsidy ordered to be repaid, then the vessel, and any other vessel owned by that owner, may not enter or clear the United States until the full amount of the repair subsidy is paid to the United States Government.

"SEC. 435D. DEFINITIONS AND ADMINISTRATIVE PROVISIONS RELATED TO DETERMINATIONS AND REVIEWS UNDER SECTIONS 435A, 435B AND 435C.

"(a) Definitions.—As used in this section and sections 435A–435C:

"(1) The term 'administering authority' means the officer of the United States responsible for determining under subtitle A of title VII whether subsidies are provided with respect to imported merchandise.

"(2) The term 'construction' includes reconstruction.

"(3) The term 'interested party' means—

"(i) a person that engages in ship construction in the United States;

"(ii) a certified union or recognized union or group of workers which is representative of an industry that engages in ship construction in the United States;

"(iii) a trade or business association, a majority of whose members engage in ship construction in the United States; and

"(iv) an association, a majority of whose members is composed of interested parties described in clauses (i), (ii), and (iii) with respect to ship construction.

"(4) The term 'foreign shipyard' includes a ship construction or repair facility located in a foreign country that is directly or indirectly owned, controlled, managed, or financed by a foreign shipyard that receives or benefits from a subsidy.

"(5) The term 'subsidy' includes, but is not limited to, any of the following:

"(A) Officially supported export credits and development assistance.

"(B) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including—

"(i) grants;

"(ii) loans and loan guarantees other than those available on the commercial market;

"(iii) forgiveness of debt;

"(iv) equity infusions on terms inconsistent with commercially reasonable investment practices;

"(v) preferential provision of goods and services; and

"(vi) public sector ownership of commercial shipyards on terms inconsistent with commercially reasonable investment practices.

"(C) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including the kinds of support listed in clauses (i) through (v) of subparagraph (B), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

"(D) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

"(E) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if the benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

"(F) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

"(G) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

"(H) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

"(6) The term 'vessel' means any self-propelled, sea-going vessel—

"(A) of not less than 100 gross tons, as measured under the International Convention of Tonnage Measurement of Ships, 1969; and

"(B) not exempt from entry under section 441.

"(b) Hearing and Review Procedures.—The administering authority shall make determinations under sections 435A(c), 435B(e)(2), and 435C(d) and conduct reviews under section 435A (b), (e), (f), section 435B(e)(3), and section 435C(c), under the hearing procedures applied by the administering authority under section 774 with respect to hearings required or permitted under title VII. A determination by the administering authority under section 435A(c), 435B(e)(2), or 435C(d) is subject to judicial review under section 516A under the applicable procedures and standards applied under that section for reviewable determinations described in subsection (a)(2)(B) of that section.

"(c) Proprietary Information.—Information submitted to the administering authority in regard to the making of any determination under sections 435A(c), 435B(e)(2), and 435C(d) and reviews conducted under section 435A (b), (e), (f), section 435B(e)(3), and section 435C(c), shall be treated as proprietary if it fulfills the requirements of section 777(b). Access to proprietary information under protective order shall be permitted under, and governed by, section 777(c).

"(d) Information Used in Making Determinations or Reviews.—The administering authority shall verify all information relied upon in making any determination under sections 435A(c), 435B(e)(2), and 435C(d) or review under section 435A (b), (e), (f), section 435B(e)(3), and section 435C(c). If the administering authority is unable to verify the information submitted, the authority shall use the best information available as the basis for action. Whenever a party refuses or is unable to produce information requested in a timely manner and in the form provided, the administering authority shall use the best information otherwise available.

"(e) Public Availability of Determinations and Review Decisions.—The administering authority shall make available for public inspection the text of all determinations and review decisions made under sections 435A–435C.".

(b) Special Provisions Relating to the Subsidized Shipyard List.—

(1) Statutory listings.—For purposes of section 435A(a) of the Tariff Act of 1930 (as added by subsection (a)), unless the administering authority determines, with clear and convincing evidence, that a foreign shipyard does not receive or benefit from, directly or indirectly, subsidies, a foreign shipyard (including a shipyard in a country that was a party to negotiating a multilateral agreement for the elimination of shipbuilding subsidies in the Organization for Economic Cooperation and Development Working Party 6 on October 16, 1991) is deemed to be on the list established under that section until the earlier of the date—

(A) the administering authority publishes the list of subsidized shipyards under subsection (c); or

(B) the foreign country in which the shipyard is located signs a trade agreement with the United States that provides for the immediate elimination of subsidies for that shipyard.

(2) Time limit on initial listings.—Within 120 days after the date of enactment of this Act, the administering authority shall—

(A) conduct an investigation under section 435A(b) of the Tariff Act of 1930 (as enacted by subsection (a)) with respect to all foreign shipyards;

(B) make a determination under section 435A(c) of that Act; and

(C) publish in the Federal Register a list of the foreign shipyards that have been determined to be receiving or benefiting from a subsidy for the construction or repair of vessels.

(c) Enactment of Civil Action Remedies.—Section 435A(i) of the Tariff Act of 1930 (as added by subsection (a)) takes effect one year after the date of enactment of this Act.

(d) Grandfathered Repairs.—Section 435C of the Tariff Act of 1930 (as added by subsection (a)) applies to repairs made to a vessel under a contract entered into after the date of enactment of this Act.

SEC. 604. CONFORMING AMENDMENTS.

(a) Entry Requirements for Vessels.—Section 434 of the Tariff Act of 1930 (19 U.S.C. 1934) is amended by inserting "its subsidy certification (if required under section 435B," after "or document in lieu thereof,".

(b) Penalties for Violations of Arrival, Reporting, and Entry Requirements.—Section 436(a) of the Tariff Act of 1930 (19 U.S.C. 1436(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (7);

(2) by striking "or" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following:

"(4) to present any forged, altered, or false subsidy certification to a customs officer under section 435B(a) or 435C(a) without revealing the facts;

"(5) to enter, or to attempt to enter, any vessel to which a prohibition on arrival in the United States applies under section 435B(e)(5);

"(6) to fail to remove promptly from the United States any vessel to which a prohibition on remaining in the United States applies under section 435B(e)(5); or"; and

(4) by striking "(3)" in paragraph (7) (as redesignated by paragraph (1)) and inserting "(6)".

SEC. 605. TREATMENT OF VESSELS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 is amended by adding after section 771B the following new section:

"SEC. 771C. SPECIAL RULES IN APPLYING TITLE TO FOREIGN-MADE VESSELS.

"(a) DEFINITION.—The term 'vessel' means any vessel of a kind described in heading 8901 or 8902.00.00 of the Harmonized Tariff Schedule of the United States of not less than 100 gross tons, as measured under the International Convention on Tonnage Measurement of Ships, 1969.

"(b) VESSELS CONSIDERED AS MERCHANDISE.—Vessels are merchandise for purposes of this title.

"(c) APPLICATION OF SUBTITLES A AND B.—

"(1) IN GENERAL.—In applying subtitles A and B with respect to vessels constructed, reconstructed, or repaired in foreign countries—

"(A) a vessel shall be treated as sold for importation into the United States when a United States person enters into a contract for—

"(i) the construction or reconstruction of the vessel by, or the purchase (or leasing, if the equivalent of a purchase) of the vessel after construction or reconstruction from, the builder; or

"(ii) the repair of the vessel; and

"(B) a vessel sold for importation into the United States shall be treated as being offered for entry for consumption under the tariff laws at the time of its first arrival at a port or place in the United States after construction, reconstruction, or repair, regardless of where the vessel is registered or documented.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'United States person' means—

"(A) any individual or entity described in subsection (a) of section 12102 of title 46, United States Code;

"(B) any agent or other person acting on behalf of any individual or entity referred to in subparagraph (A); or

"(C) any person directly or indirectly owned or controlled by any individual or entity referred to in subparagraph (A).".

(b) PROSPECTIVE APPLICATION TO CONTRACTS.—The amendments made by subsection (a) of this section apply to a vessel built or repaired under a contract entered into after the date of enactment of this Act.

SEC. 606. UNITED STATES CONSTRUCTION SUBSIDY PROGRAMS.

(a) GOVERNMENT-IMPELLED CARGO.—Section 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)) is amended—

(1) in paragraph (1), by striking "For purposes of this section, the term 'privately owned United States-flag commercial vessels'" and all that follows through the end of the paragraph and inserting a period; and

(2) by adding at the end the following new paragraph:

"(3) In this section, 'privately owned United States-flag commercial vessels' does not include a vessel (until the vessel has been documented under chapter 121 of title 46, United States Code, for a period of 3 years) that—

"(A)(i) was built and, if rebuilt, rebuilt outside the United States; or

"(ii) for a vessel operated by an ocean common carrier (as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)), is built under a contract entered into after October 16, 1991 and has not been issued a construction subsidy certification under section 435B of the Tariff Act of 1930; or

"(B) was registered under the laws of a foreign country.".

(b) CONSTRUCTION RESERVE FUND.—Section 511(a)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1161(a)) is amended to read as follows: "(2) constructed in the United States after December 31, 1939," and all that follows through "insured under title XI of this Act as amended;" and inserting "(2)(A) constructed in the United States, or (B) the construction of which has been aided by a mortgage insured under title XI of this Act, or (C) if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930; and".

(c) OPERATING-DIFFERENTIAL SUBSIDY.—Section 601(a)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171(a)(1)) is amended by striking "and that such vessel or vessels were built in the United States," and all that follows through "prior to such date;" and inserting "and that the vessel was built in the United States or, if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930;".

(d) CONSTRUCTION LOAN GUARANTEES.—Section 1103(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273(b)) is amended—

(1) after "(b)" by inserting "(1)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not guarantee an obligation under this title unless the vessel—

"(A) was built in the United States; or

"(B) if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930.".

(e) PRIORITY LOAN GUARANTEES FOR VESSELS IN COASTWISE TRADE.—Section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) is amended by adding at the end the following new subsection:

"(g) When making guarantees, or commitments to guarantee, under this title, the Secretary of Transportation shall give priority for guarantees or commitments for vessels that will be engaged in the coastwise trade over guarantees or commitments for vessels that will be engaged in the foreign commerce.".

(f) TRADE-IN OF OBSOLETE VESSELS.—Section 510(a)(2)(B) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(a)(2)(B)) is amended to read as follows: "(B) is built in the United States or, if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930, and documented under chapter 121 of title 46, United States Code.".

TITLE VII—TECHNICAL REVISIONS TO MAPS RELATING TO COASTAL BARRIER RESOURCES SYSTEM

SEC. 701. TECHNICAL REVISIONS TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such technical revisions to the maps described in subsection (b) as are necessary to ensure that—

(1) on the maps referred to in subsection (b)(2)(A) and (B), depictions of areas as "otherwise protected areas" do not include any area that is not an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note); and

(2) on the map referred to in subsection (b)(2)(C), depictions of areas as "otherwise protected areas" identified as "VA-60P" do not include—

(A) any area that is located south of the north bank of the Salt Ponds Inlet in Hampton, Virginia; and

(B) the area that is located north of the line described in subsection (c), other than any part of that area which is an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note).

(b) MAPS DESCRIBED.—The maps referred to in subsection (a) are—

(1) included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) entitled, respectively—

(A) "Pine Island Bay Unit, NC-01P",

(B) "Roosevelt Natural Area Unit, NC-05P", and

(C) "Plum Island Unit VA-59P Long Creek Unit VA-60P".

(c) LINE DESCRIBED.—The line referred to in subsection (a)(2)(B) is a line described as follows:

Beginning at an iron pipe in the low water line of Chesapeake Bay; said iron pipe being located 265.00 feet in a southerly direction from the south eastern corner of Fox Hill Shores Subdivision (as shown in Plat Book 9, page 161 as recorded in the Circuit Court for the City of Hampton, Virginia) and from this TRUE POINT OF BEGINNING running thence North 66 degrees 47 minutes 46 seconds West 995.79 feet to a found iron pipe; thence South 15 degrees 47 minutes 20 seconds East 270.65 feet to a found iron pipe; thence South 73 degrees 59 minutes 57 seconds West 836.68 feet to a point marking the low water line of Long Creek; being known as the southerly property line of Riley's Way.

TITLE VIII—CLEAN VESSEL ACT OF 1992

SEC. 801. SHORT TITLE.

This title may be cited as the "Clean Vessel Act of 1992".

SEC. 802. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

(3) There is currently an inadequate number of pumpout stations for marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to the degradation of water quality in the United States.

(b) PURPOSE.—The purpose of this Act is to provide funds to coastal States for the construction, renovation, operation, and maintenance of pumpout stations and waste reception facilities.

SEC. 803. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

(a) SURVEY.—Within 3 months after the notification under section 805(b), each coastal State shall conduct a survey to determine—

(1) the number and location of all operational pumpout stations and waste reception facilities in the State, at public and private marinas, mooring areas, docks, and other boating access facilities; and

(2) the number of recreational vessels in the coastal waters of the State with type III marine sanitation devices or portable toilets, and the areas of those coastal waters where those vessels congregate.

(b) PLAN.—Within 6 months after the notification under section 805(b), and based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Administrator of the Environmental Protection Agency a plan for any construction or renovation of pumpout stations and waste reception facilities in the State that is necessary to ensure that, based on the guidance issued under section 805(a), there are pumpout stations and waste reception facilities in the State that are adequate and reasonably available to meet recreational vessel needs in the State; and

(2) submit to the Administrator with that plan a list of all such stations and facilities in the State which are operational on the date of submittal.

(c) PLAN APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after a plan is submitted by a State under subsection (b), the Administrator of the Environmental Protection Agency shall approve or disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan, based on the guidance issued under section 805(a), to meet the construction and renovation needs identified in the survey.

(2) NOTIFICATION OF STATE; MODIFICATION.—The Administrator shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Administrator shall recommend necessary modifications and return the plan to the affected Governor.

(3) RESUBMITTAL.—Not later than 60 days after receiving a plan returned by the Administrator, the Governor shall make the appropriate changes and resubmit the plan.

(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations and waste reception facilities.

(2) NOTIFICATION OF NOAA.—

(A) LISTS OF STATIONS AND FACILITIES.—The Administrator of the Environmental Protection Agency shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under subsection (b)(2), by not later than 30 days after the date of receipt of that list.

(B) COMPLETION OF PROJECT.—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this Act, by not later than 30 days after the date of the completion of the project.

SEC. 804. FUNDING.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), is amended—

(1) by striking "So much, not to exceed 6 per centum," and all that follows through "shall apportion the remainder of the appropriation for each fiscal year among the several States", and inserting the following:

"(a) The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 3 as provided in the Coastal Wetlands Planning, Protection, and Restoration Act. Notwithstanding the provisions of section 3, such sums shall remain available to carry out such Act through fiscal year 1999.

"(b) Of the balance of each such annual appropriation remaining after making the distribution under subsection (a), an amount equal to $10,000,000 for fiscal year 1993, $15,000,000 for each of fiscal years 1994 and 1995, and $20,000,000 for each of fiscal years 1996 and 1997 shall be used as follows:

"(1) ½ shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

"(2) ½ shall be used by the Secretary of the Interior to make grants under section 804(c) of the Clean Vessel Act of 1992.

"(c) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between 2 or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year.

"(d) The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c), respectively, shall apportion the remainder of each such annual appropriation among the several States"; and

(2) by inserting "(e)" before "So much of any sum" and redesignating the last 2 sentences of that section as subsection (e).

(b) ACCESS INCREASE.—Section 8(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777g(b)(1)), is amended—

(1) by striking "10 per centum" and inserting "12½ per centum"; and

(2) by adding at the end the following: "Of amounts allocated by a coastal State (as that term is defined in the Clean Vessel Act of 1992) under this subsection in each of fiscal years 1993 through 1997, 2½ per centum may be used to develop and implement the plan required under section 803(b) of that Act.".

(c) GRANTS.—The Secretary of the Interior shall, with amounts made available under section 4(b) of the Act August 9, 1950, make grants to coastal States to pay not more than 75 percent of the cost to a coastal State of—

(1) conducting a survey under section 803(a);

(2) developing and submitting a plan and accompanying list under section 803(b);

(3) constructing and renovating pumpout stations and waste reception facilities in accordance with that survey and plan; and

(4) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste recreation facilities.

SEC. 805. GUIDANCE AND NOTIFICATION.

(a) ISSUANCE OF GUIDANCE.—Not later than 3 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall, after notice and opportunity for public comment, issue—

(1) guidance regarding the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with amounts available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this Act, and appropriate location of the stations and facilities within a marina or boatyard;

(2) guidance defining what constitutes adequate and reasonably available pumpout stations and waste reception facilities in boating areas;

(3) guidance on appropriate methods for disposal of vessel sewage from pumpout stations and waste reception facilities;

(4) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(5) guidance on the coastal waters most likely to be affected by the discharge of sewage from vessels; and

(6) other information that the Administrator of the Environmental Protection Agency considers necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect coastal waters.

(b) NOTIFICATION.—Not later than 1 month after the guidance issued under subsection (a) is finalized, the Director of the United States Fish and Wildlife Service shall provide notification in writing to the fish and game, water pollution control, and coastal zone management authorities of each coastal State, of—

(1) the availability of amounts under the Act of August 9, 1950 (16 U.S.C. et seq.); and

(2) the guidance developed under subsection (a).

SEC. 806. DEFINITIONS.

For the purposes of this Act—

(1) The term "coastal State"—

(A) means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

(B) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(C) does not include a State for which the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one.

(3) The term "coastal waters" means—

(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

(B) in other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge human body wastes, and any process to treat such waters.

(5) The term "pumpout station" means a facility that pumps human body wastes out of marine sanitation devices installed on board vessels.

(6) The term "recreational vessel" means a vessel—

(A) manufactured for operation, or operated, primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure.

(7) The term "waste reception facility" means a facility to receive wastes from portable toilets carried on vessels.

TITLE IX—NATIONAL UNDERSEA RESEARCH PROGRAM

Subtitle A—Establishment of National Undersea Research Program

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "National Undersea Research Program Act of 1992".

SEC. 902. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The world's oceans occupy 317,000,000 cubic miles, and constitute 71 percent of the surface of the Earth.

(2) The Great Lakes comprise 20 percent of the world's freshwater and are a valuable, international, commercial, and recreational resource.

(3) The oceans and Great Lakes are inextricably linked to many important global processes, such as global temperature, weather patterns, and nutrient cycling.

(4) The oceans and Great Lakes hold many undiscovered or unexploited mineral and biological resources.

(5) A majority of invertebrate phyla and over half the vertebrate species inhabit the oceans.

(6) The genetic diversity of marine organisms makes the oceans a potentially important source of undiscovered medical agents.

(7) Understanding of the physical, chemical, geological, and biological processes which govern dynamics in the oceans and Great Lakes, particularly the deep ocean, is limited.

(8) Oceanic and limnological researchers require increasingly more advanced technologies and methodologies to accomplish complex research goals.

(9) Advanced underwater technology, including diving, underwater laboratories, research submersibles, and remotely operated vehicles, must be an integral part of the Nation's efforts to study, understand, utilize, conserve, and wisely manage the aquatic environment.

(b) PURPOSE.—The purpose of this subtitle is to establish a program of research to better understand ocean and large lakes ecosystems and their role in global systems.

SEC. 903. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administration" means the National Oceanic and Atmospheric Administration;

(2) "Center" means any National Undersea Research Center in existence prior to the date of enactment of this Act or established pursuant to section 906;

(3) "Center Director" means the Director of any National Undersea Research Center;

(4) "Committee" means the National Undersea Research Steering Committee established pursuant to section 905;

(5) "Office" means the Office of Undersea Research established under section 904(c)(1);

(6) "priority research area" means any of the priority research areas under section 904(f), as those areas may be revised by the Under Secretary under section 904(f)(2).

(7) "Program" means the National Undersea Research Program established under section 904;

(8) "Program Director" means the Director of the National Undersea Research Program appointed pursuant to section 904(c)(2);

(9) "undersea region" means each of—

(A) the North Atlantic region, comprised of the coastal and oceanic waters north of Montauk, New York, and off Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut;

(B) the Mid-Atlantic region, comprised of the coastal and oceanic waters south of Montauk, New York, and off New York, New Jersey, Delaware, Maryland, and Virginia;

(C) the South Atlantic region, comprised of the coastal and oceanic waters off North Carolina, South Carolina, Georgia, and the Atlantic coast of Florida (including the Florida Keys);

(D) the Gulf of Mexico region, comprised of the coastal and oceanic waters of the Gulf of Mexico off Florida, Alabama, Mississippi, Louisiana, and Texas;

(E) the Great Lakes region, comprised of the waters of the Great Lakes;

(F) the Southern Pacific region, comprised of the coastal and oceanic waters off California;

(G) the Northern Pacific region, comprised of the coastal and oceanic waters off Oregon and Washington;

(H) the Western Pacific region, comprised of the coastal and oceanic waters off Hawaii, Guam, American Samoa, and the Northern Mariana Islands;

(I) the Alaskan region, comprised of the coastal and oceanic waters off Alaska;

(J) the Caribbean region, comprised of the coastal and oceanic waters off Puerto Rico and the United States Virgin Islands; and

(K) any other undersea region resulting from an establishment, modification, or merger under section 906(f)(2);

(10) "undersea research" means scientific research carried out in the oceans or large lakes of the world, using underwater vehicles or techniques; and

(11) "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 904. ESTABLISHMENT AND ADMINISTRATION OF NATIONAL UNDERSEA RESEARCH PROGRAM.

(a) PROGRAM ESTABLISHMENT AND MAINTENANCE.—The Under Secretary shall establish and maintain within the Administration a program to be known as the "National Undersea Research Program".

(b) PROGRAM PURPOSE.—The Program shall, for the purpose of enhancing scientific understanding of processes in the oceans and large lakes of the world—

(1) develop, maintain, and conduct scientific and engineering undersea research programs; and

(2) investigate, develop, and apply technology for undersea research.

(c) OFFICE OF UNDERSEA RESEARCH.—

(1) ESTABLISHMENT.—There is established in the Administration the Office of Undersea Research, which shall conduct the Program.

(2) PROGRAM DIRECTOR.—The head of the Office shall be the Director of the National Undersea Research Program, who shall be appointed by the Under Secretary from among individuals with extensive knowledge and expertise in undersea research, and having appropriate administrative experience.

(d) DUTIES OF PROGRAM DIRECTOR.—The Program Director shall administer the Program subject to the supervision of the Under Secretary. In addition to any other duty prescribed by law or assigned by the Under Secretary, the Program Director shall—

(1) establish and maintain a list for each priority research area of scientists who are actively conducting research in that area, for the purpose of—

(A) providing peer reviews of individual research proposals under the Program; and

(B) participating in site visits pursuant to section 907(c)(2); and

(2) develop guidelines for the submission and review of proposals from Centers and individual researchers for research under the Program.

(e) SCIENCE ADVISOR.—

(1) APPOINTMENT.—The Under Secretary shall, pursuant to the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and by not later than 6 months after the date of the enactment of this Act, appoint to serve as a science advisor to the Director on the scientific needs of the Program, an individual who—

(A) is a scientist active in one or more priority research areas;

(B) is not employed by the Federal Government; and

(C) during the period of such service, is on leave of absence from an institution of higher education or oceanographic research.

(2) TERMS.—

(A) IN GENERAL.—The term of an individual as a science advisor under this subsection shall be one year.

(B) LIMITATION.—An individual may serve not more than 2 terms as a science advisor under this subsection.

(f) PRIORITY RESEARCH AREAS.—

(1) IN GENERAL.—The Under Secretary may use amounts appropriated for the Program to fund research, including long-term studies, within the following priority research areas:

(A) Oceanic, coastal, estuarine, and limnological processes.

(B) Pathways and fates of materials in the oceans and large lakes.

(C) Diversity, distribution, productivity, and recruitment of organisms with respect to habitat characteristics in the oceans and large lakes.

(D) Global change processes.

(E) Ocean lithosphere processes and mineral resources.

(F) Undersea research platform and instrument technology.

(G) Diving safety, physiology, and technology.

(2) REVISION OF PRIORITY AREAS.—Upon the recommendation of the Committee, the Under Secretary may, after public comment, revise the priority research areas under paragraph (1).

SEC. 905. STEERING COMMITTEE.

(a) ESTABLISHMENT OF COMMITTEE.—The Under Secretary shall establish an independent steering committee to be known as the "National Undersea Research Steering Committee".

(b) COMPOSITION.—

(1) IN GENERAL.—The Committee shall consist of 9 members appointed by the Under Secretary from individuals who are professional scientists or engineers and active in at least one priority research area, of whom

2 members shall be appointed from individuals nominated by Center Directors. The Under Secretary shall complete appointments under this paragraph by not later than 6 months after the date of the enactment of this Act.

(2) BALANCE.—In appointing members of the Committee, the Under Secretary shall seek to ensure balanced representation of priority research areas, disciplines related to those research areas, and geographic regions of the United States.

(3) PROHIBITION ON APPOINTMENT OF FEDERAL EMPLOYEES.—No member of the Committee may be an employee of the Federal Government, except the Chief Scientist of the Administration.

(4) EX OFFICIO MEMBER.—The Chief Scientist of the Administration shall be a nonvoting ex officio member of the Committee.

(c) DUTIES.—The Committee shall advise the Under Secretary and the Program Director concerning—

(1) the quality of research performed with grants awarded under section 908, including the applicability of such research to the priority research areas;

(2) the designation, establishment, merger, and operation of Centers;

(3) the modification and merger of undersea regions;

(4) the need to revise the priority research areas;

(5) the process of responding to research proposal reviews, including making determinations and recommendations under section 907(a)(3)(B).

(6) any other matters the Under Secretary refers to the Committee for review and advice or the Committee considers appropriate.

(d) TERM OF MEMBERSHIP.—

(1) IN GENERAL.—Subject to paragraph (2), the term of membership on the Committee shall be 3 years.

(2) INITIAL APPOINTMENTS.—Of the members first appointed to the Committee—

(A) 3 members shall serve a term of one year;

(B) 3 members shall serve a term of 2 years; and

(C) 3 members shall serve a term of 3 years; as specified by the Under Secretary at the time of appointment.

(3) TERM LIMITATION.—No Committee member may serve consecutive terms as a member of the Committee.

(e) COMPENSATION.—Members of the Committee, while performing official duties as members of the Committee, are entitled to receive compensation for travel and transportation expenses under section 5703 of title 5, United States Code.

(f) CHAIRPERSON.—The members of the Committee shall select annually from among themselves an individual who shall serve as Chairperson of the Committee. No member of the Committee may serve more than 2 annual terms as a chairperson.

(g) CONDUCT OF BUSINESS.—The Committee shall conduct its business according to the majority vote of those members present at a meeting of the Committee.

(h) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

SEC. 906. ESTABLISHMENT OF NATIONAL UNDERSEA RESEARCH CENTERS.

(a) ASSIGNMENT AND ESTABLISHMENT OF CENTERS.—

(1) ASSIGNMENT OF REGIONS TO EXISTING CENTERS.—The Under Secretary shall, in consultation with the Committee, assign one or more undersea regions to each Center in existence on the date of the enactment of this Act, by not later than 6 months after that date.

(2) ESTABLISHMENT OF NEW CENTERS.—The Under Secretary may establish a new Center to implement the Program for any undersea region at an institution of higher education or oceanographic research located in a State bordering the region—

(A) if there are adequate funds available for the establishment of the Center;

(B) after reviewing each proposal submitted under subsection (b) with respect to that region; and

(C) if the Committee concurs in the selection of that institution.

(3) LIMITATION.—The Under Secretary may not establish a new Center for an undersea region if—

(A) the expenditure of amounts for that Center would result in any reduction of amounts available for expenditure for any existing Center; and

(B) there is a Center in existence for that region.

(b) SOLICITATION OF PROPOSALS FOR NEW CENTERS.—

(1) IN GENERAL.—The Under Secretary may solicit proposals for the establishment of a new Center under subsection (a)(2) from institutions of higher education or oceanographic research.

(2) PROPOSAL REQUIREMENTS.—A proposal under this subsection shall consist of—

(A) a proposed science program;

(B) a program management plan;

(C) a description of the facilities of the institution submitting the proposal;

(D) a description of relevant institutional capabilities;

(E) an operational safety plan;

(F) mechanisms for information transfer;

(G) a budget for the Center; and

(H) any other information the Under Secretary considers necessary.

(c) REVIEW OF PROPOSALS.—The Under Secretary and the Committee shall review each proposal submitted under subsection (b) on the basis of—

(1) relevance of the proposal to priority research areas; and

(2) the capability of the applicant institution to administer and direct research in those areas.

(d) CENTER DIRECTOR.—Each institution at which a Center is established under this section may select an individual who shall be the Director for that Center.

(e) 5-YEAR REVIEW OF CENTERS.—

(1) IN GENERAL.—The Under Secretary and the Committee shall jointly review the operation of each Center every 5 years. The first review of a Center shall be completed—

(A) in the case of a Center in existence on the day before the date of the enactment of this Act, by not later than the date which is 5 years after that date of enactment; and

(B) in the case of a Center established on or after that date of enactment, by the date which is 5 years after the date of the establishment of the Center.

(2) CONTENT OF REVIEW.—A review under this subsection shall consist of—

(A) an evaluation of the quality of the research conducted at the Center under the Program and the applicability of the research to the priority research areas, including consideration of the annual reviews and site visits conducted under section 907(c);

(B) recommendations for changes in the scientific research program and operations of the Center, that are considered beneficial by the Committee and the Under Secretary; and

(C) a determination of whether the continued operation of the Center will increase knowledge in the priority research areas.

(3) ESTABLISHMENT OF NEW CENTER AT DIFFERENT INSTITUTION.—If the Under Secretary and the Committee determine as a result of a review under this subsection that continued operation of a Center is not warranted, the Under Secretary shall—

(A) provide notification of that determination to the Center, including a description of any changes in the operations of the Center the Under Secretary considers necessary for continued operation of the Center;

(B) after 18 months after providing that notice, and not later than 2 years after providing that notice, review the implementation of those changes by the Center; and

(C) establish, at a different institution of higher education or oceanographic research, a new Center for the same undersea region in accordance with this section, if the Under Secretary determines as a result of that review that those changes are not implemented.

(f) 5-YEAR REVIEW OF UNDERSEA REGIONS.—

(1) REVIEW BY COMMITTEE.—The Committee shall—

(A) review the configurations of undersea regions every 5 years following the date of the enactment of this Act to determine whether those regions meet scientific needs for research in priority research areas; and

(B) provide to the Under Secretary appropriate recommendations for meeting those needs, regarding—

(i) any modification or merger of existing undersea regions, or establishment of new undersea regions, and

(ii) the establishment of new Centers or merger of existing Centers for any undersea regions recommended to be established or merged.

(2) MODIFICATION, MERGER, OR ESTABLISHMENT OF REGIONS.—The Under Secretary may establish a new undersea region or modify or merge any existing undersea region or regions if, based on a recommendation by the Committee under paragraph (1)(B), the Under Secretary determines there is a scientific need for that establishment, modification, or merger.

(3) ESTABLISHMENT OR MERGER OF CENTERS.—If the Under Secretary establishes or merges any undersea region under paragraph (2), the Under Secretary may, in accordance with section 906 and any recommendations provided by the Committee under paragraph (1)(B), establish a new Center or merge existing Centers for the resulting undersea region.

(g) PROHIBITION.—Except as provided in subsections (a) and (f)(3), the Under Secretary may not establish or merge any Centers.

SEC. 907. NATIONAL UNDERSEA RESEARCH CENTER RESEARCH PROGRAMS.

(a) INDIVIDUAL RESEARCH PROPOSALS.—

(1) SOLICITATION.—Each Center Director shall annually solicit individual proposals from the scientific community for research to advance the priority research areas of the Program. Research under each proposal shall be primarily conducted within the undersea region of the Center, but may be conducted in another undersea region in cooperation with the Center for that region, or other geographic areas with the approval of the Program Director. Individual proposals shall adhere to guidelines established by the Program Director pursuant to section 904(d)(2). Proposals under this paragraph may be for multi-year research.

(2) INDIVIDUAL PROPOSAL REVIEW PROCESS.—Each individual proposal shall be reviewed

by the Center Director or his or her designees and not less than 3 anonymous mail reviewers from the list of reviewers maintained by the Program Director pursuant to section 904(d)(1). Each review shall consider—

(A) the scientific merit of the proposal;

(B) the applicability of the proposal to the priority research areas; and

(C) the capability of the principal investigator to carry out the proposed research.

(3) ALLOWANCE FOR RESPONSE.—

(A) IN GENERAL.—Subject to any regulation that is issued by the Program Director under subparagraph (C), a Center Director shall provide to each person who submits a proposal under this section to the Center copies of all written reviews of the proposal conducted by the Center Director, his or her designees, and anonymous reviewers, and shall give the person not less than 14 days to respond to those reviews before rendering any final decision regarding funding for the proposal.

(B) REVIEW OF PROCESS BY COMMITTEE.—Not later than 3 years after the date of the enactment of this Act, the Committee shall—

(i) determine whether all Centers are implementing subparagraph (A);

(ii) determine whether the opportunity of persons who submit proposals to respond to reviews pursuant to subparagraph (A) has been utilized by those persons;

(iii) determine whether those responses have been effective in ensuring full and fair consideration of those proposals; and

(iv) recommend to the Program Director that the procedures established by subparagraph (A) be continued, terminated, or modified (including the specific modifications which should be made).

(C) ISSUANCE OF REGULATION.—Notwithstanding subparagraph (A), the Program Director may issue a regulation implementing any recommendation made by the Committee under subparagraph (B)(iv).

(b) PROPOSED CENTER PROGRAM.—Not later than October 31 of each year, each Center Director shall submit to the Program Director—

(1) a proposed program for the Center for that fiscal year, which shall adhere to guidelines established by the Program Director pursuant to section 904(d)(2) and shall include—

(A) a description of the activities performed and research funded by the Center in the previous fiscal year;

(B) those individual research proposals submitted under subsection (a) that the Center Director determines to be meritorious based on reviews conducted under that subsection;

(C) a proposed budget for operation of the Center for the current fiscal year; and

(D) any other materials requested by the Program Director to clarify the proposed program; and

(2) reviews (including responses under subsection (a)(3) to the reviews) of all individual research proposals submitted to the Center Director for the current fiscal year, including those research proposals not selected for inclusion in the proposed program of the Center.

(c) REVIEW OF PROPOSED CENTER PROGRAM.—

(1) IN GENERAL.—The Program Director, in consultation with the Committee, shall review the proposed program for the current fiscal year submitted by each Center Director under subsection (b).

(2) SITE VISITS.—At least once every 2 years, the review of a proposed program of a Center under this subsection shall include a formal inspection of the Center by a site visit team. The site visit team shall—

(A) be composed of not less than 4 individuals appointed by the Program Director with experience in undersea research, at least one of whom shall be a member of the Committee and 2 of whom are selected from the list maintained under section 904(d)(1);

(B) assess the quality of the individual research proposals included in the proposed program; and

(C) assess the ability of the Center to oversee the research included in the proposed program.

(d) REQUIRING ADDITIONAL PROPOSED PROGRAMS PROHIBITED.—Except as provided in this section, a center shall not be required to submit to the Program Director or the Under Secretary any program proposal.

(e) GIFTS, DEVISES, AND BEQUESTS.—Each Center may accept, solicit, and use the services of volunteers, and may accept, receive, hold, administer, and use gifts, devises, and bequests, to carry out the research program of the Center.

SEC. 908. REGIONAL UNDERSEA RESEARCH CENTER PROGRAM GRANTS.

(a) AUTHORIZATION.—The Under Secretary may use amounts appropriated to carry out the Program to make grants and enter into contracts under this subsection to fund any Center program if the Under Secretary finds that the program will advance knowledge in the priority research areas.

(b) ALLOCATION OF FUNDING.—

(1) IN GENERAL.—Not later than April 1 of each year and based on the reviews under section 907(c) of proposed programs, the Under Secretary shall—

(A) allocate among the Centers, in such manner as will best advance knowledge in the priority research areas, all amounts available for the current fiscal year for research to be conducted by, and administration of, the Centers; and

(B) notify each Center Director of the amount allocated to that Center under subparagraph (A) for the current fiscal year.

(2) LIMITATION ON ALLOCATION PER CENTER.—The total amount which may be allocated for any fiscal year for activities conducted by any one Center shall not exceed 20 percent of the total amounts available for the Program for that fiscal year, except that the Under Secretary may allocate a greater amount for a Center for the purpose of making major capital expenditures for the Center.

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any grant made, or contract entered into, under this section shall be subject to paragraphs (2) and (3), and to any other terms, conditions, and requirements the Under Secretary considers necessary.

(2) LIMITATIONS ON USES.—

(A) LAND AND BUILDINGS.—No payment under any grant or contract under this section may be applied to—

(i) the purchase of any land; or

(ii) the purchase or construction of any building.

(B) ADMINISTRATION.—At least 60 percent of the amount of a grant or contract under this section shall be used to fund individual research proposals carried out with the grant or contract.

(3) MAINTENANCE OF RECORDS.—Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep any records the Under Secretary prescribes as necessary to facilitate effective audit and evaluation, including reports which fully disclose the amount and disposition of funds received under this subtitle, the total cost of activities for which those funds were used, and the amount, if any, of costs which were provided through other sources. The records shall be maintained for 3 years after the completion of the activity. The Under Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipts which, in the opinion of the Under Secretary or of the Comptroller General, may be related or pertinent to the grants and contracts.

SEC. 909. FINANCIAL ASSISTANCE REVIEW BOARD.

After the date of the enactment of this Act, grants and contracts under the Program shall not be subject to review by the board in the Department of Commerce known as the Financial Assistance Review Board.

SEC. 910. AUTHORIZATION OF APPROPRIATIONS.

(a) CENTER PROGRAM FUNDING.—There is authorized to be appropriated to the Under Secretary for use for grants and contracts under section 908, to remain available until expended—

(1) $20,000,000 for fiscal year 1993;

(2) $22,000,000 for fiscal year 1994;

(3) $24,000,000 for fiscal year 1995;

(4) $26,000,000 for fiscal year 1996; and

(5) $28,000,000 for fiscal year 1997.

(b) MANAGEMENT, ADMINISTRATION, AND STUDIES.—There is authorized to be appropriated to the Under Secretary for management and administration of the Program (including administration of grants and contracts under section 908, the development of undersea research technology, and the conduct of studies of underwater diving techniques and equipment under section 21(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1347(c))), to remain available until expended—

(1) $3,000,000 for fiscal year 1993;

(2) $3,100,000 for fiscal year 1994;

(3) $3,200,000 for fiscal year 1995;

(4) $3,300,000 for fiscal year 1996; and

(5) $3,400,000 for fiscal year 1997.

(c) LIMITATION ON USE.—Amounts appropriated under the authority of subsection (a) shall not be available for administration of this subtitle by the Office, or for program or administrative expenses of the Administration.

(d) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, contract, or portion of a grant or contract, made under section 908 that is not obligated before the end of the third fiscal year in which it is authorized to be obligated shall revert to the Under Secretary. The Under Secretary shall add that reverted amount to the funds available for grants under section 908.

Subtitle B—Miscellaneous

SEC. 921. GREAT LAKES UNDERSEA RESEARCH CENTER.

(a) IN GENERAL.—Subject to the limitations in subsections (a)(2)(A) and (a)(3) of section 906, and not later than December 31, 1993, the Under Secretary of Commerce for Oceans and Atmosphere shall establish a National Undersea Research Center for the Great Lakes region in accordance with section 906 to implement the National Undersea Research Program established under section 904 for that region, at a qualified institution.

(b) DEFINITIONS.—For purposes of this section—

(1) "qualified institution" means an institution of higher education—

(A) located directly on the shoreline of one of the Great Lakes;

(B) with strong undergraduate and graduate programs in engineering, science, and technology as they may apply to undersea research;

(C) with facilities for maintaining research vessels appropriate for deployment of equipment necessary to conduct undersea research;

(D) with faculty and other personnel with expertise in undersea research;

(E) which has received funding from the National Undersea Research Program in the past; and

(F) which maintains cooperative institutional relationships with Federal agencies responsible for research work on the Great Lakes; and

(2) "undersea research" has the meaning that term has in section 903(10).

SEC. 922. PROCEDURES FOR JOINT REVIEW OF RESEARCH PROPOSALS.

The Under Secretary, in consultation with the Program Director, and jointly with the Director of the National Science Foundation and the Secretary of the Navy, shall—

(1) develop procedures for the submittal and joint review of proposals for research in priority research areas to be carried out with assistance from 2 or more agencies within the Department of Commerce, the National Science Foundation, or the Department of Defense; and

(2) issue final rules establishing those procedures by not later than 1 year after the date of the enactment of this Act.

SEC. 923. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this title may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 924. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this title, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this title, the Under Secretary of Commerce for Oceans and Atmosphere shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Amend the title so as to read: "An Act to enhance the effectiveness of the United Nations international driftnet fishery conservation program, repeal the Coast Guard recreational boat user fee, ensure fair trade in the commercial shipbuilding and repair industry, provide funds to coastal States to protect the marine environment through the use of pumpout stations for recreational vessels, establish a program of research to better understand ocean and large lakes ecosystems, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2152, the High Seas Driftnet Fisheries Enforcement Act, passed the House on February 25, 1992, by a vote of 412 to 0. On July 31, the Senate approved the bill with amendments and returned it to the House.

My resolution contains an amendment to H.R. 2152. It is composed of the first four titles of the Senate amendment plus additional amendments.

Briefly, the committee amendment includes the following:

Title I strengthens our Nation's ability and commitment to achieve an international ban on the use of large-scale drift nets, a method of fishing which devastates the natural resources of the world's oceans.

Title II deals with fishery conservation issues under the Fisherman's Protective Act.

Title III calls for strong measures against unregulated and environmentally damaging fishing practices in the central Bering Sea.

Title IV makes miscellaneous amendments to the Marine Mammal Protection Act and the Magnuson Act.

Title V of the amendment contains a provision which my committee and this House have diligently pursued—a repeal of the Coast Guard user tax. On May 13, by a vote of 339 to 78, the House passed a repeal as part of H.R. 2056.

This is the fourth time this House will have the opportunity to register its vehement opposition to this unfair and inequitable tax. Now that the other body has finally joined us in this repeal effort, I am confident that our Nation's boaters will soon be rid of this foolhardy attempt to balance the budget on their backs.

Title VI is the text of Mr. GIBBONS' bill fighting foreign shipyard subsidies. The text is the same as in H.R. 2056 as passed by the House.

Title VII corrects technical mapping errors made in the 1990 amendments to three coastal barrier resource system maps. Some privately owned property was inadvertently included within a designation reserved for land held for conservation purposes by governments or conservation organizations. This amendment removes those areas from three maps in the system.

Title VIII includes a program twice agreed to by this House to improve coastal water quality. The Clean Vessel Act is intended to keep sewage out of our recreational waters by encouraging the construction of pump-out stations for boaters.

Finally, title IX includes legislation approved overwhelmingly by the House on June 30, by a vote of 265 to 86, to establish the National Undersea Research Program in law.

Mr. Speaker, the provisions of the committee amendment represent important legislation that I encourage my colleagues to adopt forthwith so that we might get the concurrence of the Senate and see them signed into law.

With one vote, Members will move us closer to ending the random destruction of marine life by drift nets. With one vote, Members will help pave the way for the rebirth of American shipyards. With one vote, we grow stronger in the movement to scuttle the Coast Guard user fee. With one vote, we can help clean up our coastal waters and take undersea research efforts to new heights.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DAVIS asked and was given permission to revise and extend his remarks.)

Mr. DAVIS. Mr. Speaker, we have all heard the cliche "between a rock and a hard spot," and this particular bill puts me between a big rock and a hard, hard spot. Why? Because there are two major pieces of legislation that this House passed, very important pieces of legislation. One passed 412 to zip, and the other one has very strong support from the House of Representatives and from the people back home, and that is the repeal of the boat user fee.

□ 1420

Why does it put a person in between a rock and a hard spot? This is why, because we have passed these two bills, sent them over to the Senate and they have combined them together, sent them back over to us.

We could have sent this back over as is and accepted it, and had the bill on the President's desk. However, we decided to add four more bills to this piece of legislation. And frankly these are, in my opinion, good bills too. The so-called Shipbuilding Trade Reform Act is a piece of legislation that I supported when it did pass the House. But it is controversial.

Nevertheless, I am going to acquiesce to those Members who want to get the so-called Gibbons Shipbuilding Trade Reform Act passed because I support it too. But I hope that we realize that it is very important that the two bills, the drift net bill and the boat user fee bill pass.

The other bills that we put, the three other bills are important bills too, but when we send this over to the Senate, and certainly I want it to go to the Senate, the Senate will have to make a decision as to whether or not they are going to accept it as it is, and accept the Gibbons bill. If that does not happen, and I hope it does, but if it does not happen, then we hope the Senate will send it back and allow us an opportunity to get the drift net bill and the repeal of the boat user fee passed.

Another fear that I have is that the Senate may strip something out of here and then add some more. There are things we go back and forth and never get the real issue resolved on. I hope this does not happen, and I am going to go along with this piece of legislation because, frankly, I do support all four bills.

But do not lose sight of the fact that the drift net bill is very important and the repeal of the boat user fee is very important. Whatever we do, we ought to make sure that these two pieces of legislation are on the President's desk before we adjourn this year.

Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the bill and amendments before us today, but object most strongly to the procedure that is being used.

In February, the House passed the drift net bill by a vote of 412 to 0. On July 31, the Senate returned the bill to the House with a series of amendments, including language repealing the vessel user tax which previously had passed the House. The text of the other amendment is not controversial, and includes language that has been requested by the administration. Under normal circumstances we would simply take the bill with the Senate amendments, pass it, and send it to the White House. Unfortunately, we are choosing to play political games by sending this bill back to the other body with new language added.

Mr. Speaker, this process is silly, and is a good example of why this Congress is held in such low esteem by the people of the United States. Here we have a bill promoting fisheries conservation, protecting marine mammals, correcting an improper court decision on fisheries imports, and repealing the vessel user tax that affects hundreds of thousands of Americans. We should be passing this bill on to the President. Instead, because the other body has not passed all of the bills we want them to, we are sending back the drift net bill in a fruitless game of Ping-Pong.

I have the greatest respect for my colleagues on the majority and have appreciated working with them on resource conservation issues. The RECORD should reflect that the majority Members of our committee want to pass this bill without amendments, Yet, I am amazed that other Members of the party which nominated "Mr. Green" as a Vice-Presidential candidate are slowing down passage of important environmental bills. I am astounded that Members of the party which criticizes our President on tax issues are refusing to repeal a tax that affects hundreds of thousands of Americans. We shouldn't be playing games. We should be going about the serious business of passing laws that affect our environment and affect our citizens.

Mr. Speaker, I am going to vote for this bill, but I hope my colleagues will put an end to these playground squabbles and get on with the serious business of legislating.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the distinguished chairman of the full Merchant Marine and Fisheries Committee for yielding me the time. Let me congratulate him and the ranking Republican, the gentleman from Alaska [Mr. YOUNG], as well as the gentleman from Michigan [Mr. DAVIS], my colleague who will be leaving us this year, for their yeoman work in attempting to put once again the repeal of the user fee before the Congress. Hopefully we will get it on the President's desk before too long so that we can finally, finally repeal that unfortunate tax.

I might say, Mr. Speaker, that in 1981 the President proposed this kind of a tax, and our committee rejected it on both sides of the aisle. They could not find a Democrat or a Republican on the Merchant Marine and Fisheries Committee to sponsor a bill that would impose a user fee on recreational boaters. And it is most unfortunate that in the context of the summit negotiations and that budget process that we saddled recreational boaters with this tax. It has not raised any money. There never was any money for the Coast Guard operations. It is not as if the recreational boaters are not taxed already. They contribute about $175 million to the Breaux-Wallop fund. So it is so important for us to repeal that tax once and for all.

Many of my boaters really do not know what to do at this point. Most of them have been led to believe that this tax would have been repealed months ago, and they have been lulled into a false sense of security in many instances. So we need to get on to the business of repealing that tax.

Mr. Speaker, this particular bill also has provisions that would address a serious imbalance in the commercial shipbuilding and repair industry. Current U.S. law and trade agreements fail to provide adequate protections for U.S. shipbuilders from the effects of foreign unfair trade practices, particularly subsidies. They are killing us in foreign yards, and we need to deal with that. And we have provisions in this bill that will address those particular problems.

Mr. Speaker, in addition we have provisions in this bill to reauthorize the national undersea research programs. The programs have been in effect for over a decade, Mr. Speaker, and year after year we find that they are again zero-funded.

This program has consistently proven its important role in providing opportunities for the scientific community to conduct research not possible within the limits of traditional ship-based research and laboratories. I am happy to say that Rutgers University in my State will play a premier role in attempting to better understand the ocean environment, something we have neglected for so many years. We spend billions and billions of dollars to understand space, and we spend peanuts trying to understand the impact of the oceans on our environment. This is a step in the direction of trying to redress some of that imbalance.

Finally, there are some very important drift net fisheries conservation initiatives in this bill.

Mr. Speaker, it is a good bill and I urge my colleagues to support it. And I thank my colleague, the chairman of the committee, once again for yielding me the time.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of House Resolution 548, which returns to the Senate, H.R. 2152 with additional House amendments.

The House of Representatives passed H.R. 2152, the U.S. International Driftnet Fishery Conservation Program, on February 25, by a unanimous vote of 412 to 0. The purpose of H.R. 2152 is to enhance the effectiveness of U.N. Resolution 46–215, which will bring an end to the practice of large-scale drift net fishing on the high seas. It would do so by broadening the import sanctions applicable under U.S. law to countries whose nationals or vessels engage in large-scale drift net fishing on the high seas on or after December 31, 1992.

On July 31, the Senate passed H.R. 2152 with amendments. Several of these were technical amendments germane to the bill as passed by the House. However, the Senate also added several nongermane amendments to the bill, including the repeal of the recreational boat user fee to be financed by a new fee on the Automated Tariff Filing and Information System [ATFI] of the Federal Maritime Commission. Members will recall that the House originally passed legislation repealing the recreational boat user fee as part of H.R. 2056, the Shipbuilding Trade Reform Act of 1992, which passed the House on May 13.

The proposed House amendment to the Senate amendment covers several matters which fall within the jurisdiction of either the Committee on Merchant Marine and Fisheries or the Committee on Ways and Means, or both. Chairman JONES and I have consulted on the most appropriate way to respond to the Senate amendments and have agreed that the matters in the proposed House amendment to the Senate amendment are entirely appropriate. Chairman JONES has already described those provisions of the proposed House amendment that pertain most directly to those matters falling within the jurisdiction of his committee. I would therefore limit myself to commenting briefly on the shipbuilding part of the pending amendment.

H.R. 2056, the Shipbuilding Trade Reform Act of 1992, passed the House on May 13, by a vote of 339 to 78. Title I of this legislation is designed to ensure fair international trade in the commercial shipbuilding and repair industry by enacting new trade remedies against subsidized and dumped foreign-built commercial vessels. Title II of the bill repeals the recreational boat user fee financed by the new ATFI fee. When H.R. 2056 was considered by the House, an effort was made through a motion to recommit to separate title I from title II of the bill. This effort failed by a vote of 179 to 237. So, a clear majority of the House supports linkage of these two provisions.

By attaching only the boat user fee repeal to H.R. 2152, the Senate amendment now attempts to do what a clear majority of the House was unwilling to do. Chairman JONES and I have agreed that this would be inappropriate and that the proper response of the House to the Senate amendments is to attach H.R. 2056 in its entirety to H.R. 2152. House Resolution 548 would do just that.

Mr. Speaker, I urge my colleagues' support for House Resolution 548, so that the position of a clear majority of the House on the shipbuilding provisions will be maintained and respected.

Mr. HUGHES. Mr. Speaker, I rise today in support of H.R. 2152, A bill to enhance the effectiveness of the U.N. International Driftnet Fishery Conservation Program.

For several years, the United States has endeavored to protect marine mammals and threatened and endangered species from large-scale destruction such as that caused by drift nets. In 1990 the enactment of the Magnuson fishery management conservation reauthorization implemented a ban on the use of drift nets in the U.S. 200-mile exclusive economic zone and a prohibition of the use of such nets by U.S. fishing fleets anywhere in the world. It also prohibited the importation into the United States of certain fish or fish products caught with these nets.

In late 1989, the United Nations passed a resolution calling for the ban on large-scale drift net fishing on the high seas by June 30, 1992. In December 1991, the U.N. resolution was strengthened and the ban deadline pushed back to December 31, 1992.

The time has come to ensure compliance with the international moratorium by all nations. For too many years, driftnetters have been allowed to fish the seas, decimating populations of marine mammals, seabirds, sea turtles, and nontarget fish populations, in addition to seriously overfishing target species. Lost or discarded drift nets roam the seas unabated causing widespread destruction of marine life.

H.R. 2152 encourages full implementation of the U.N. resolution to end large-scale drift net fishing on the high seas by prohibiting fishing vessels of nations that engage in drift net fishing from entering U.S. ports, and imposing certain import sanctions against countries whose vessels violate the moratorium.

The bill also expands the authority of the President to impose import restrictions on any product of a nation which conducts fishery practices or engages in trade that diminish the effectiveness of international programs for fishery conservation or the protection of endangered or threatened species.

I strongly support H.R. 2152 and am pleased that the legislation includes language to notify nations of impending U.S. action when countries are in violation of the drift net moratorium.

This legislation expresses the sense-of-Congress that we, as a nation, must do our part to end large-scale drift net fishing and preserve our important marine life and I urge my colleagues' support for its passage.

Mr. TAUZIN. Mr. Speaker, I rise today to urge my colleagues in the House to concur in the amendments to H.R. 2152. H.R. 2152 was introduced in the House to enhance the effectiveness of the U.N. international driftnet fishery conservation program. Now H.R. 2152 comes back to this House with an amendment that repeals certain fees imposed on recreational boaters.

My subcommittee originally reported a bill to repeal the fee on recreational boats on May 14, 1991, over 1 year ago. The repeal was originally on H.R. 534. After H.R. 534 was reported by the Merchant Marine Committee, it was referred to the Ways and Means Committee which reported it out on October 22, 1991. On May 13, 1992, the repealer was attached as an amendment on H.R. 2056 by Mr. GIBBONS, the Shipbuilding Trade Reform Act of 1991 which passed this House by a vote of 339–78.

From this chronology it is clear that the Congress has moved much too slowly on this issue. We have an opportunity today to break the gridlock on this bill and send the legislation to the President's desk for signature. My constituents have had enough of increases in user fees and taxes. They want relief and today, H.R. 2152 spells relief.

If the Members of the House agree to place these proposed amendments on this bill, H.R. 2152 is dead and some other vehicle will have to be found to accomplish the repeal of this unjust fee. It may eventually be repealed, but not until the very end of this session if at all. If we wait until the end of September to repeal the fee, the costs to the Coast Guard of changing their rules will increase. To implement the repeal and the new requirements, the Coast Guard will have to go through a regulatory process that will take at least 60 days to complete. On January 1, boaters will have to obtain their new decals. It is imperative that this Congress act promptly so that the process of changing the fee schedules can be done expeditiously and in an orderly fashion by the Coast Guard. We cannot expect this already overburdened agency to act by January 1 unless we give them some lead time.

I urge my colleagues to act immediately to make H.R. 2152 law.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and agree to the resolution, House Resolution 548.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The SPEAKER pro tempore. Pursuant to House Resolution 548, the title of the bill is amended so as to read:

An Act to enhance the effectiveness of the United Nations international driftnet fishery conservation program, repeal the Coast Guard recreational boat user fee, ensure fair trade in the commercial shipbuilding and repair industry, provide funds to coastal States to protect the marine environment through the use of pumpout stations for recreational vessels, establish a program of research to better understand ocean and large lakes ecosystems, and for other purposes.

A motion to reconsider was laid on the table.

□ 1430

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 548, the resolution just agreed to.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DES EDUCATION AND RESEARCH AMENDMENTS OF 1992

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4178) to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug, as amended.

The Clerk read as follows:

H.R. 4178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "DES Education and Research Amendments of 1992".

SEC. 2. ESTABLISHMENT OF PROGRAM REGARDING DES.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"DES

"SEC. 403A. (a) The Director of NIH shall establish a program for the conduct and support of research and training, the dissemination of health information, and other programs with respect to the diagnosis and treatment of conditions associated with exposure to the drug diethylstilbestrol (in this section referred to as 'DES').

"(b) In carrying out subsection (a), the Director of NIH, after consultation with nonprofit private entities representing individuals who have been exposed to DES, shall conduct or support programs to educate health professionals and the public on the drug, including the importance of identifying and treating individuals who have been exposed to the drug.

"(c) After consultation with the Office of Research on Women's Health, the Director of NIH, acting through the appropriate national research institutes, shall in carrying out subsection (a) conduct or support one or more longitudinal studies to determine the incidence of the following diseases or disorders in the indicated populations and the relationship of DES to the diseases or disorders:

"(1) In the case of women to whom (on or after January 1, 1938) DES was administered while the women were pregnant, the incidence of all diseases and disorders (including breast cancer, gynecological cancers, and impairments of the immune system, including autoimmune disease).

"(2) In the case of women exposed to DES in utero, the incidence of clear cell cancer (including recurrences), the long-term health effects of such cancer, and the effects of treatments for such cancer.

"(3) In the case of men and women exposed to DES in utero, the incidence of all diseases and disorders (including impairments of the reproductive and autoimmune systems).

"(4) In the case of children of men or women exposed to DES in utero, the incidence of all diseases and disorders.

"(d) For purposes of this section, an individual shall be considered to have been exposed to DES in utero if, during the pregnancy that resulted in the birth of such individual, DES was (on or after January 1, 1938) administered to the biological mother of the individual.

"(e) In addition to any other authorization of appropriations available for the purpose of carrying out this section, there are authorized to be appropriated for such purpose such sums as may be necessary for each of the fiscal years 1993 through 1996.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4178, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the DES Education and Research Amendments of 1992 would authorize an education and research program to help the approximately 10 million people in this country who have been exposed to the drug DES.

The story of DES is well-known. Between 1941 and 1971, DES was prescribed to pregnant women for the prevention of miscarriages and a variety of other conditions. Records show that DES was promoted to make bigger and stronger babies.

Although it was known from the time it was first marketed that DES causes cancer in animals, the drug companies insisted that it was safe for humans. They were wrong. It turns out that DES causes breast cancer in the women who took it; it causes a rare form of vaginal cancer in their daughters, as well as an increased incidence of fertility problems, tubal pregnancy, miscarriage, and premature labor and delivery. There is also evidence of an increased risk of genital problems and infertility in DES sons. Because premature birth can lead to serious health effects, DES also affects the grandchildren of the women who took the drug.

It is ironic that a drug given to treat fertility problems caused fertility complications in the children of the women who were treated with the drug. The tragedy of DES is compounded by the fact that it was never demonstrated that DES was effective for use by pregnant women.

Despite a flurry of activity during the 1970's, little public education or research has been done on this vital issue since the early 1980's. The Federal Government last published information about DES in 1983. Today that brochure is out of print and out of date.

Funds for tracking DES victims have also largely dried up. As a result, we do not know the full implications of DES. And we have not adequately communicated what we do know about the drug. DES mothers, daughters, and sons have not been adequately informed about measures they should take to minimize the health impact of the drug.

Congresswoman LOUISE SLAUGHTER has stepped into this vacuum with a very constructive piece of legislation. H.R. 4178 would authorize an education and research program to study the link between DES and various diseases and disorders. This research will increase our understanding of DES and other similar drugs, and it will benefit the three generations of DES victims in understanding both the impact of the drug on them and what precautions they should take to minimize its complications.

The education and research that H.R. 4178 would authorize could help millions of DES mothers, as well as their children and their grandchildren.

The bill was adopted without opposition in the Committee on Energy and Commerce. It is a noncontroversial bill that will benefit a significant segment of our population at little cost. I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill reminds researchers at the National Institutes of Health about an activity that the Congress views as a very high priority. In fact, this bill would specifically authorize a research program that the Labor, Health and Human Services Appropriations Committee already has indicated it would like NIH to initiate.

This program would include research and dissemination of information regarding the consequences of using the drug DES.

Millions of women used this drug in the period of time from the late thirties to the late sixties, because DES was thought to be effective in preventing miscarriages. Tragically, too late for these women and their children, DES was determined to be linked with a high rate of a rare cancer in the female children of women who took the drug. Because of this discovery, FDA in 1971 removed the drug from the market, and it is no longer used in pregnant women. Nevertheless, its effects continue to be seen. In addition to cancer in female children, DES use also has been linked more recently to other reproductive abnormalities in both male and female children. More distressing still are findings that DES use may also cause problems in the grandchildren of women who used it.

A workshop on the long-term effects of exposure to DES was conducted by NIH this year, and participants agreed that more research is needed and more information needs to be provided to the people who may be affected by DES use in their mothers or grandmothers.

I mentioned that the Appropriations Committee already has indicated its interest in this by encouraging NIH to place a high priority on studies to determine cancer risk and other potential effects of DES use. In fact, when the NIH appropriation was increased for fiscal year 1992, the Congress urged NIH to use part of these increased resources to fund work related to DES.

I support this activity. I think the Energy and Commerce Committee expressed its support very strongly for these research and information activities which may help those who have been affected by DES.

I want to emphasize again, however, that NIH does not need a special authority under the law to conduct or support this kind of work. Indeed, because NIH has sufficient authority under current law, this special authorization should be viewed as another message from the Congress to NIH: "Conduct this program. It is important. It should be considered to be a very high priority." In no way should this authorization bill be viewed as a signal that new funds need to be appropriated before this program can be initiated.

There are sufficient resources in the NIH budget to support the activities defined in this legislation without additional appropriations.

This bill is telling NIH to place a high priority on activities related to DES. This may involve making a choice. In this day and age, all of us have to make choices. NIH is no different. All of us make lists, and do what can be done. What this legislation tells NIH is to place this activity at the top of the list.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from New

York [Ms. SLAUGHTER], the author of this legislation. She has made an enormous contribution in bringing forth this issue for our consideration, and I want to commend her for her important measure that I feel confident will pass the House, and we will urge the Senate and the President to accept it as well.

Ms. SLAUGHTER. Mr. Speaker, I am proud to rise today in support of the DES Education and Research Amendments of 1992. As the sponsor of this legislation, I am grateful to Chairman WAXMAN for his active interest in the DES issue and for his work in bringing this bill to the floor.

H.R. 4178 finally addresses the haunting health questions which, for at least two decades, have plagued millions of American mothers and their children.

The synthetic hormone drug diethylstilbestrol [DES] was prescribed to 5 million pregnant women from 1941 to 1971. An advertisement by the Grant Chemical Co. appearing in a 1957 issue of the American Journal of Obstetrics and Gynecology encouraged the use of DES "for routine prophylaxis in all pregnancies." The ad promised pregnant women to whom DES was prescribed reduced risk of miscarriage, plus "bigger and stronger babies, too." Instead, DES caused birth defects and cancer. Today, the drug's lingering health effects continue to haunt these women and their families.

In the 22 years since DES was banned for use in pregnant women, DES exposure has been linked to clear cell vaginal cancer, autoimmune disease, reproductive tract malformations, infertility, and an increased incidence of breast, testicular, and prostate cancers. But the majority of DES injuries do not manifest until approximately 20 or 30 years after exposure and the long-term effects of exposure remain unknown.

Despite the fact that at least 10 million Americans have been exposed to DES and face these horrible health effects, very little research has been done on the long-term effects of DES exposure. Even more troubling, many Americans are unaware of their exposure and its potential effects because the U.S. Government has undertaken no organized public health education campaign on DES since 1983. Physicians who have long since filed away back issues of their medical journals are too often unaware of the signs of DES exposure or how to treat DES-related conditions. Sadly, this lack of information has led to a real insensitivity among some health care providers not only to the medical needs of the DES-exposed, but also to the emotional distress of persons suffering from very personal and very tragic reproductive, gynecological, and genital problems.

H.R. 4178 will meet each of these pressing needs for DES research, public health education, and health professional training. The inattention of the Federal Government to these issues over the past two decades is reason enough to enact H.R. 4178, but the most poignant, most compelling testimony to the need for the legislation we have before us comes straight from the hearts and voices of DES mothers, daughters and sons from all across the country. Since I began work on the DES issue in Congress, I have received literally hundreds of letters from DES-exposed individuals and their families.

Letters have come from Chamblee, GA; Kearney, NE; Biddeford, ME; Los Angeles, and the Bronx. They are written by the mothers who took DES and today struggle with guilt and worry over the health of their children. They are written by DES daughters unable to have children of their own. They are written by cancer survivors anxious about what lies ahead. At the same time, they are both haunting and hopeful.

A Portland, OR, woman wrote me,

> I am one of the very unfortunate DES mothers who has died a thousand deaths because of DES. I was given DES with my first daughter in 1959. She has had no cancer, thank God, but who knows what is in the future for her. She had very much trouble trying desperately to have her two children. They had to sew up her cervix. If there's no research, what about the grandchildren who are so trusting and loving?

And Mr. Speaker, no research at all has been done on those grandchildren.

A registered nurse in Mineola, NY, was exposed to DES in utero and has been in and out of the doctor's office since age 21, at great emotional and financial cost. She wrote:

> I had cervical dysplasia. I lost my son in the fifth month of pregnancy and was with him when he died after a week of life. Now I will always be a high-risk pregnancy, confined to bed, with astronomical medical costs and no guarantee of success. I also worry about my mother getting breast cancer.

Because DES-exposed mothers have a very high incidence of breast cancer.

These two women and the hundreds of others who painstakingly wrote these letters look to us here today for the promise that answers to their haunting questions will be found. And, do not forget the millions of others who are DES-exposed, but suffer in silence or are totally unaware of their exposure. DES sons are particularly unaware—no studies have been done on the second generation. The attention that Congress today calls to the DES problem and the legislative priority we give to DES education and research by acting on H.R. 4178 will do much to address the needs of the DES-exposed and ease their suffering.

Before I close, I want to give special recognition to the work of the DES Cancer Network and DES Action USA under the leadership of Margaret Lee Braun, Nora Cody, and Pat Cody. As president of the DES Cancer Network, Margaret Lee Braun—a constituent and a friend of mine—has tirelessly pursued the cause of DES research while providing comfort and support to her peers, the cancer survivors.

Together, the Cancer Network and DES Action provide a central resource of information and support to the DES-exposed. They have done remarkable work across the country and around the world to alleviate the fear and isolation experienced by many DES-exposed men and women; despite that their success is limited by the extent of scientific knowledge available on DES-related health risks and the scarcity of resources available for outreach. Groups like the DES Cancer Network and DES Action USA must work with the NIH to implement nationwide the same kind of successful education, outreach and support programs they have been able to provide for several years, though on a limited basis.

I would especially also like to thank the DES mothers, sons, and daughters who have worked closely with me and revealed much about their very personal and painful medical histories in order to advance this important legislation: Amanda Sherman, Karen Renick, Edna and Susan Helmrich, Judy Helfand, Nina Weisman, Gail Schofer, Sally Esposito, Sharon Cerasoli, Alice Hooper, Beth Sardone, Sue Desmond, Tim Sheehan, Jane Dolan, Darci Picoult, and others. Their earnest efforts to help others who suffer from DES exposure have been instrumental in the success of this legislation.

Finally, Mr. Speaker, allow me to share with my colleagues one last letter, this one from a Long Island woman:

> I was violated before I even took my first breath of life. It has ultimately meant to me that I will never have children of my own. It is encouraging to know that someone has gone to bat for me over an issue that's largely unknown, yet has hurt me enormously. Because of your willingness to take risks, a new door has been opened for me and others. I see hope on the other side of that door.

I ask my colleagues to help me open this door and give hope to the DES-exposed that answers to their questions will be found and their health problems will be over. We all know someone who has been touched by the DES tragedy: a relative, friend, colleague, or staff member. On behalf of millions of American mothers, sons and daughters, I urge my colleagues to support passage of H.R. 4178.

Ms. OAKAR. Mr. Speaker, I rise today in strong support of H.R. 4178, the DES Education and Research Amendments of 1992. I am proud to be an original cosponsor of this legislation, which authorizes a special National Institutes of Health [NIH] research program to study the effects of exposure to the drug diethylstilbestrol [DES]. I commend the efforts of my colleague, the distinguished gentlewoman from New York [Ms. SLAUGHTER]. She has done a tremendous job on this bill. I would also like to thank the gentleman from California, distinguished chairman of the Energy and Commerce Subcommittee on Health and the Environment, Mr. WAXMAN, for putting this legislation at the top of his agenda. He has become a true leader in the fight to make up for precious lost time on the needs in women's health at the NIH.

The story of DES mothers and their children is a tragic example of the chronic, systemic disregard for women's health concerns that has plagued NIH over the years. The first link between the delayed effects of DES exposure and breast and cervical cancers was discovered in 1971. Now more than 20 years have passed, and we are finally getting around to the first comprehensive study of DES exposure and its effects on successive generations. Armed with overwhelming scientific knowledge that DES exposure dramatically heightens the risk for cancer, we have a responsibility to follow these individuals to ensure that they are fully informed of their risk and obtain regular followup examinations.

During my tenure in Congress, I have struggled to bring attention to the breast cancer epidemic that plagues this Nation. It is no small coincidence that many of those who first brought my attention to the problem were, themselves, exposed to DES. The late Rose Kushner, a pioneer in breast cancer advocacy, and my own personal mentor, was exposed to DES. Just before her death, in January of 1990, she informed me of a longitudinal study on DES exposure, the only one of its kind, that could not obtain the resources to follow up on the daughters of those women in the study group. This was in spite of considerable evidence that DES exposure carries effects on to the children of those exposed. The cost of this study—$60,000—was far less than the average treatment costs of just one woman who dies from breast or cervical cancer.

Mr. Speaker, last year the Congress met my demand for a substantial 46-percent increase in breast cancer research, and recently the House passed yet another 33-percent increase for breast, ovarian, and cervical cancer research. It has always been my intention that a comprehensive study of those exposed to DES should be included as a target of this increased funding. DES has been a neglected potential link to a number of female cancers, and is now suspected to be a factor in certain types of cancer among the sons of DES-exposed women.

Mr. Speaker, we do need a comprehensive DES research and education program for more than 10 million Americans who are directly affected by the DES nightmare. So I commend Ms. SLAUGHTER, DES Action, and all those who have led this effort. I thank Mr. WAXMAN, Chairman DINGELL, and the Committee on Energy and Commerce for bringing this bill to the floor—and I thank Senator TOM HARKIN, who has introduced similar legislation in the other body. I urge all of my colleagues to support this critical legislation.

Mrs. MINK. Mr. Speaker, I rise today in strong support of H.R. 4178, the DES Education and Research Amendments of 1992. I want to thank the gentlewoman from New York [Ms. SLAUGHTER] for introducing this legislation and for her efforts to bring answers and information to millions of families across this Nation who continue to suffer from the devastating effects of DES.

The exposure of 5 million women to the synthetic hormone drug diethylstilbestrol [DES] is one of the greatest medical tragedies of this century.

Over a 30-year period DES was touted as a wonder drug, which would produce complication-free pregnancies and healthier babies. But unbeknownst to the women prescribed this drug, hidden in these little pills was the power to destroy the lives of millions of children over several generations, as well as affect the health of the mothers themselves.

In 1952, at the University of Chicago Hospital, I was one of 2,000 women who were unknowingly involved in a DES trial. One-half of these women, including myself, were given DES during pregnancy and told it was a vitamin pill. I was in fact a guinea pig.

It wasn't until the 1970's when the medical community first began reporting the possible long-term effects of DES. In 1975, I received a letter from the University of Chicago advising me that I was included in a DES experiment and that I and my child could have medical consequences.

The first reports on DES in 1971 linked the drug to clear cell carcinoma in DES children. Later, other effects such as premature births, infertility, reproductive malfunctions, and increased risk of breast and ovarian cancer were found also to be related to DES exposure in the mothers.

Now we face a whole new generation of children who may also be affected third-hand by this terrible drug.

As one who has had to live with the unanswered questions of what this drug did to me or my daughter, I cannot overstate the importance of continued education and research on DES.

This bill will establish a network to disseminate information on new research findings, and provide outreach and support services for DES victims and families across the Nation. It will increase our research efforts on DES and the role of estrogen hormone drugs on female health, which could heighten our understanding of breast and other cancers; and most importantly, prevent this kind of tragedy from happening again.

I urge my colleagues to support H.R. 4178. It is truly a matter of life and death.

□ 1440

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I urge all Members to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4178, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PUBLIC HEALTH SERVICE ACT TECHNICAL AMENDMENTS ACT

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3112) to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

The Clerk read as follows:

S. 3112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Health Service Act Technical Amendments Act",

SEC. 2. TECHNICAL AMENDMENTS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 464H(a), by striking out "Institute of Alcohol" and inserting in lieu thereof "Institute on Alcohol";

(2) in section 464J(b), by striking out "702(2)" and inserting in lieu thereof "701(1)";

(3) in section 464L(d)(1), by inserting "other than section 464P," after "this subpart,";

(4) in section 464N(b), by striking out "701(2)" and inserting in lieu thereof "701(1)";

(5) in section 464R(f)(1), by striking out "other than section 464P";

(6) in section 502(b)(3)(B), by striking out "and management" and inserting in lieu thereof "or management";

(7) in section 504(a), by striking out "by regulation";

(8) in section 1918(a)(5)(A)(iii) by striking out "25" and inserting in lieu thereof "45";

(9) in section 1918(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to fiscal years 1993 and 1994, an amount equal to 20.6 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(10) in section 1927(b)(2)(B), by striking out "available" the first time such term occurs;

(11) in section 1933(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(12) in section 1943(a)(3), by striking out "515" and inserting in lieu thereof "505"; and

(13) in section 1971(g), by inserting "substance abuse" before "treatment services".

(b) OTHER TECHNICALS.—

(1) CONDUCT OF CERTAIN RESEARCH PROJECTS.—Section 149 of the ADAMHA Reorganization Act is amended by striking out "464I, 464O, or 464T" and inserting in lieu thereof "464H, 464L, and 464R".

(2) PATH PROGRAM.—Section 163(a) of the ADAMHA Reorganization Act is amended by striking out paragraphs (1) and (3), and redesignating paragraph (2) as paragraph (1).

(c) REFERENCES.—Section 205 of the ADAMHA Reorganization Act is amended—

(1) in subsection (a)(2)(A)—

(A) by striking out "1916(c)(6)(A)" in the matter preceding clause (i) and inserting in lieu thereof "1916(c)(6)";

(B) by striking out "under clause (i) of such section 1916(c)(6)(A) for fiscal year 1991" in clause (i) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101–57"; and

(C) by striking out "under clause (ii) of such section 1916(c)(A) for fiscal year 1991" in clause (ii) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101–517"; and

(2) in subsection (b)(3)—

(A) by striking out "in compliance with clause (i) of former section 1916(c)(6)(A)" in subparagraph (E) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101–517";

(B) by striking out "in compliance with clause (ii) of former section 1916(c)(6)(A)" in subparagraph (F) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101–517";

(C) by redesignating subparagraph (F) as subparagraph (G); and

(D) by inserting after subparagraph (E), the following new subparagraph:

"(F) The term 'State' includes the territories of the United States.".

SEC. 3. EFFECTIVE DATE.

The amendments made by—

(1) subsection (a) of section 2, shall take effect immediately upon the effectuation of the amendments made by titles I and II of the ADAMHA Reorganization Act; and

(2) subsections (b) and (c) of section 2, shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 3112, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 3112 is to make minor technical corrections and conforming amendments to Public Law 102–321, the ADAMHA Reorganization Act. The legislation is necessary to assure that transition provisions affecting Federal block grants conform to congressional intent and that technical errors contained in the new law are corrected.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, on July 10, 1992, President Bush signed into law S. 1306, the ADAMHA Reorganization Act. It became Public Law 102–321. That legislation contains many provisions designed to improve the Federal effort against mental illness and substance abuse. One of the changes made in that law was the separation on the alcohol, drug abuse, and mental health services block grant into two block grants—a substance abuse grant and a mental health grant.

The current bill, S. 3112, makes a number of minor technical and clarifying changes with respect to the revised block grant and corrects several other technical errors.

Mr. Speaker, most of these changes were made at the request of the administration. I know of no opposition to this legislation, and I urge my colleagues to support it.

□ 1450

Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate bill, S. 3112.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

BANKRUPTCY JUDGESHIP ACT OF 1992

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5688) to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bankruptcy Judgeship Act of 1992".

SEC. 2. PERMANENT JUDGESHIPS.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the district of Arizona by striking "5" and inserting "7";

(2) in the item relating to the central district of California by striking "19" and inserting "21";

(3) in the item relating to the district of Connecticut by striking "2" and inserting "3";

(4) in the item relating to the middle district of Florida by striking "4" and inserting "8";

(5) in the item relating to the southern district of Florida by striking "3" and inserting "5";

(6) in the item relating to the northern district of Georgia by striking "6" and inserting "8";

(7) in the item relating to Georgia by adding at the end the following:

"Middle and Southern .... 1";

(8) in the item relating to the district of Maryland by striking "3" and inserting "4";

(9) in the item relating to the district of Massachusetts by striking "4" and inserting "5";

(10) in the item relating to the district of New Jersey by striking "7" and inserting "8";

(11) in the item relating to the southern district of New York by striking "7" and inserting "9";

(12) in the item relating to the eastern district of Pennsylvania by striking "3" and inserting "5";

(13) in the item relating to the middle district of Tennessee by striking "2" and inserting "3";

(14) in the item relating to the western district of Tennessee by striking "3" and inserting "4";

(15) in the item relating to the northern district of Texas by striking "5" and inserting "6"; and

(16) in the item relating to the eastern district of Virginia by striking "4" and inserting "5".

SEC. 3. TEMPORARY JUDGESHIPS.

(a) APPOINTMENTS.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code.

(1) 1 additional bankruptcy judge for the northern district of Alabama.

(2) 1 additional bankruptcy judge for the district of Colorado.

(3) 1 additional bankruptcy judge for the district of Delaware.

(4) 1 additional bankruptcy judge for the southern district of Illinois.

(5) 1 additional bankruptcy judge for the district of New Hampshire.

(6) 1 additional bankruptcy judge for the middle district of North Carolina.

(7) 1 additional bankruptcy judge for the district of Puerto Rico.

(8) 1 additional bankruptcy judge for the district of South Carolina.

(9) 1 additional bankruptcy judge for the eastern district of Tennessee.

(10) 1 additional bankruptcy judge for the western district of Texas.

(b) VACANCIES.—The first vacancy in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a), resulting from the death, retirement, resignation, or removal of a bankruptcy judge, and occurring 5 years or more after the date of the enactment of this Act, shall not be filled. In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in the preceding sentence, that judge shall be eligible for reappointment as a bankruptcy judge in that district.

SEC. 4. REPORTS TO CONGRESS ON NEED FOR BANKRUPTCY JUDGES.

Section 152(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(3) Not later than December 31, 1994, and not later than the end of each 2-year period thereafter, the Judicial Conference of the United States shall conduct a comprehensive review of all judicial districts to assess the continuing need for the bankruptcy judges authorized by this section, and shall report to the Congress its findings and any recommendations for the elimination of any authorized position which can be eliminated when a vacancy exists by reason of resignation, retirement, removal, or death.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5688 would create 35 additional bankruptcy judgeships. I introduced this bill—along with Congressman HAMILTON FISH, the Judiciary Committee's ranking minority member—because bankruptcy courts over the past several years have experienced a dramatic increase in filings that has severely hampered their ability to process their caseload in a timely manner.

The judicial conference periodically makes recommendations to Congress for the creation of additional bankruptcy judgeships. The conference is currently proposing 32 new positions—most of which were recommended under the conference's new system that calculates a weighted caseload for each bankruptcy court based on the type and dollar amount of cases handled in a given year. Upon this system, the conference sets a threshold standard of 1,500 case-related hours per judgeship per year. Meeting the threshold does not, however, guarantee that a district will be recommended for a new judgeship—the conference also considers other factors, such as historical caseload data and the effectiveness of the court's case management techniques.

Every judgeship recommended by the conference is included in H.R. 5688. The bill, however, is different in one significant respect from the conference's proposal. Ten of the districts would receive a temporary judgeship subject to a sunset provision. In each of these districts, the first vacancy occurring 5 or more years after the date of enactment of this bill would not be filled if the vacancy occurs as the result of the death, retirement, resignation, or removal of a judge.

The temporary judgeship provisions reflect a carefully crafted, fiscally prudent approach. They provide the supplemental resources needed to deal with current caseloads while avoiding the continual expense of permanent judgeships that may become unnecessary as bankruptcy filings decline when the economy recovers from the current recession.

Mr. Speaker, the bankruptcy courts are an essential element of the Federal judiciary and the American economic system. However, without judgeships, the courts will find it increasing difficult to perform their vital role efficiently and effectively. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of H.R. 5688, needed bankruptcy judgeship legislation that I have joined with the gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary, in sponsoring.

Bankruptcy judges, in a number of Federal judicial districts, are facing excessively heavy caseloads. Total filings nationwide have increased dramatically from 412,431 cases in 1985 to 943,987 cases in 1991. In percentage terms, the recent increases have amounted to 10.8 percent in 1989, 15.1 percent in 1990, and 20.6 percent in 1991.

In my own State of New York—according to an article in the Poughkeepsie Journal of Sunday, August 9—"bankruptcy filings were up an average of 31.1 percent * * * in 1991–92 compared with 1990–91 * * *" Closer to home, the article points out: "Filings from the seven-county midHudson Valley increased 50.3 percent between 1990 and 1991, according to the U.S. Bankruptcy Court in Poughkeepsie."

Although Congress authorized 52 new bankruptcy judgeships in 1986 and seven additional judicial positions in 1988, the caseload per judgeship nationwide continues to climb rapidly. Surges in filing levels pose a serious problem for the judiciary.

Bankruptcy judges in heavily impacted districts need relief if we hope to see bankruptcy matters resolved expeditiously. When backlogs climb, both creditors and debtors suffer and economic activity stagnates. The societal costs associated with failing to authorize essential judicial positions simply are unacceptable. Debtors do not get a fresh start; creditors' assets are tied up.

The legislation before us represents an appropriate response to burgeoning caseloads. In contrast to our consideration of judgeship needs in prior Congresses, we have the benefit today of a new needs assessment methodology—developed by the Federal Judicial Center—that attempts to recognize the varying time demands of different categories of bankruptcy cases.

The Judicial Conference of the United States, acting exclusively on requests initiated by Federal judicial districts, recommended 32 new bankruptcy judgeships to augment the current 291 authorized positions nationwide. H.R. 5688, as originally introduced, incorporated only the additional judgeships recommended by the judicial conference. These recommendations included two new bankruptcy judges for the southern district of New York—positions that clearly merited inclusion in any judgeship legislation. The Committee on the Judiciary, during its markup, increased the total number of additional judgeships nationwide from 32 to 35—acting in recognition of very recent caseload developments.

An innovative feature of H.R. 5688 is the designation of certain new bankruptcy judgeships as temporary in nature. H.R. 5688 provides that in specified districts the first bankruptcy judgeship vacancy "resulting from the death, retirement, resignation, or removal of a bankruptcy judge, and occurring 5 years or more after the date of the enactment of this Act, shall not be filled." We protect the 14-year terms of bankruptcy judges and preserve reappointment prospects at the same time that we provide for the numbers of judgeships in certain districts to revert eventually to former levels. The position of bankruptcy judge, under this legislative formulation, will continue to provide attractive career opportunities for highly qualified lawyers. We need not create permanent positions when temporary increases in judgeship levels may suffice.

In deciding whether to designate a specific judicial position as temporary, members of the Committee on the Judiciary examined statistical projections. Generally a district was slated to receive a temporary judgeship if weighted caseload hours per judge would fall below 1,500 after taking into account an additional position. Temporary positions, of course, can be converted to permanent positions by future enactments if caseload developments justify such action.

Our committee recognizes that even permanent judicial positions can become unnecessary if conditions change. For that reason, H.R. 5688 directs the judicial conference periodically to assess the continuing need for permanent bankruptcy judgeships and report to the Congress its findings and any recommendations for eliminating positions at times that will not adversely affect sitting judges. The judicial conference will continue—in accordance with current law—to recommend needed additional bankruptcy judgeships.

The Senate passed a judgeship bill in 1991. By passing our counterpart legislation today, we offer the prospect of final action in the current Congress.

I urge my colleagues in this body to support H.R. 5688.

Mr. SMITH of Florida. Mr. Speaker, I rise in support of H.R. 5688, a bill to authorize additional bankruptcy judges.

Among its provisions, this bill authorizes two additional bankruptcy judges for the southern district of Florida, which covers my district.

The people of south Florida understand the need for these new judges. In 1991, 15,332 bankruptcy cases were filed in my region, a 57-percent increase from the previous year. More importantly, this trend began before the current recession. The number of cases last year was 500 percent above the 1985 level.

The southern district, which includes Dade, Broward, and Palm Beach Counties, now has three judges. This is the same number of judges as it had in 1978. Since then, the caseload per judge has increased from about 500 to more than 4,000. Consequently, no fewer than five judges are needed to alleviate the impact of the present bankruptcy backlog on the business community in Florida. This bill authorizes the additional two judges.

I commend the gentleman from Texas [Mr. BROOKS] for his efforts and remain committed to working with my colleagues to secure funding for these new jurists and their support personnel within the Appropriations Committee.

I urge the House to support H.R. 5688.

Mr. POSHARD. Mr. Speaker, I rise in support of H.R. 5688, which authorizes the appointment of additional bankruptcy judgeships across the Nation. A most welcome provision of this bill is the authorization of a temporary judgeship for the southern district of Illinois which serves my congressional district.

Presently, there is only one judge serving this district which is comprised of 38 counties in the lower half of the State. When the sitting judge was appointed 5 years ago, the caseload was under 2,000. Since that time the caseload has doubled, showing sustained growth during good economic times as well as bad economic times. In fact, the caseload has grown so large, it is becoming impossible for the sitting judge to travel to every location within the district. Consequently, those Illinoisans in need of a bankruptcy judge will be forced to travel hundreds of miles to attend court proceedings. This is an unnecessary and unfair situation in which to place these citizens who deserve full and just representation.

Mr. Chairman, I extend my deepest appreciation to Chairman BROOKS for his commitment to addressing the need for additional bankruptcy judgeships. His effort and the support of my colleagues for this legislation ensures that the citizens within the southern district of Illinois and other jurisdictions will have full and fair access to a judicial system they need and to which they are entitled.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5688, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CHINESE STUDENT PROTECTION ACT OF 1992

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1216) to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state, as amended.

The Clerk read as follows:

S. 1216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chinese Student Protection Act of 1992".

SEC. 2. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:

(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.

(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—

(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and

(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

(4) The numerical level of section 202(a)(2) of such Act shall not apply.

(5) Section 245(c) of such Act shall not apply.

(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;

(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.

(c) CONDITION; DISSEMINATION OF INFORMATION.—

(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.

(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.

(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—

(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.

(2) ALLOTMENT IF SECTION 202(E) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—

(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and

(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.

(3) APPLICABLE FISCAL YEAR.—

(A) IN GENERAL.—In this subsection, the term "applicable fiscal year" means each fiscal year during the period—

(i) beginning with the fiscal year in which the application period begins; and

(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).

(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.

(e) APPLICATION PERIOD DEFINED.—In this section, the term "application period" means the 12-month period beginning July 1, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1216, the Chinese Student Protection Act of 1992. This legislation allows the Attorney General to grant permanent residence to Chinese nationals, many of them students, who have been in the United States—in a state of limbo—since the Tiananmen Square Massacre. The students have been permitted to remain and work in the United States pursuant to an Executive order which expires at the end of 1993.

The bill applies to approximately 80,000 Chinese who have resided continuously in the United States since April 11, 1990—the date of the President's Executive order—and who have not returned to China for longer than 90 days. Chinese who are drug traffickers, terrorists, security risks, or foreign policy risks are not covered. Beginning on July 1, 1993, eligible Chinese have 1 year to apply for adjustment of status. Each year, 1,000 Chinese who adjust under this program are counted against China's overall immigrant quota.

This adjustment program is premised on the continued threat to the safety and security of Chinese students who return to their homeland. As a result, the bill provides that the President can cancel the program by certifying that it is safe for the Chinese nationals to return to China.

I commend the gentleman from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on International Law, Immigration, and Refugees, for his work in bringing this legislation to the floor.

I would also like to commend the gentlewoman from California [Ms. PELOSI], the distinguished Member of this body from San Francisco, who has done outstanding work on this issue and dedicated a great deal of time and effort to help these Chinese students.

Mr. Speaker, the other body passed this bill earlier this year. By our support today, we can clear this legislation for the President, who has already expressed his support, and finally place the status of these Chinese students on solid—and free—ground.

□ 1500

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1216. This bill is very similar to H.R. 3871, which was introduced by Mr. BARTON of Texas. It will provide permanent immigration status to Chinese nationals who have been allowed to remain in the United States since the Tiananmen Square massacre in 1989.

Generally, the type of protection that was extended to Chinese nationals is intended to be temporary, and beneficiaries are expected to return to their homeland when it is safe to do so.

However, there is no real prospect that the Chinese nationals covered by S. 1216 will be able to return safely to mainland China in the foreseeable future. Given that situation, it is reasonable and fair to allow them to adjust their immigration status to permanent residency.

I want to clarify that this bill covers more than just Chinese students. It covers all Chinese nationals who were in the United States any time from June 5, 1989, through April 11, 1990, and who have resided in the United States since April 11, 1990.

An estimated 80,000 people will benefit from this bill. Some of them are students; many are not. The number of persons given permanent residence under this bill will be offset against the immigrant visa numbers available to nationals of the People's Republic of China.

Under this bill, applications for adjustment of status would be accepted for 1 year beginning on July 1, 1993. However, if by some unforeseen chance, conditions change in China before July 1, 1993, and the President certifies that the Chinese Government will allow the safe return of the Chinese nationals, the bill will expire and no adjustments will take place.

This bill is a reasonable approach to the unique situation of Chinese nationals in the wake of Tiananmen Square and the continued hard line of the Chinese Government. It deserves our support.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I rise in strong support of this measure, S. 1216, the Chinese Student Protection Act of 1992.

When the Chinese Government rolled out its tanks to crush the pro-democracy demonstrators of Tiananmen Square in 1989 it became immediately apparent that the approximately 40,000 Chinese students then studying in the United States would face substantial risk of incarceration or harm upon return to China.

This group shared the pro-democracy sympathies of their Tiananmen Square compatriots, and they did not hesitate to make their feelings known. They demonstrated publicly—as is their right here in the United States. They spoke to, and were filmed by, the media. They testified at congressional hearings.

In some respects the Chinese students in the United States were even more suspect in the eyes of their Government than the protestors of Tiananmen Square. If the students in Beijing were dangerous to the established order, imagine how much more dangerous might be those 40,000 students who had been directly exposed to, had lived with, and had inculcated the ideals of freedom, representative government, and due process of law.

Recognizing the potential danger to this population, the administration in 1989 announced that no Chinese national in the United States would be involuntarily returned to China for 1 year. Less than 1 year later the administration extended this deferred enforced departure program for approximately 4 more years—through January 1, 1994.

Congress is sometimes criticized for waiting until the last minute to get its work done. Congress could wait until the end of next year (1993) before deciding whether to extend any immigration benefits to this population. It seems to me, however, that there is no benefit in that approach.

It is highly unlikely that by the end of next year the PRC will have been transformed into a safe, secure, democratic and freedom loving country. But should that happen, and should the President certify to Congress that it is safe for the Chinese here in the United States to return to China, the benefits of this bill will, under the terms of this bill, not be made available to anyone. Thus, we have nothing to gain by waiting to enact this measure.

We could simply allow this entire population to apply for asylum, but that would add 80,000 cases to an already hopelessly backlogged asylum caseload of 120,000. And since over 90 percent of all PRC nationals who apply for asylum receive it, it makes little sense to compel INS to provide individual asylum hearings for cases that we know will ultimately be approved.

The bill provides lawful permanent residency to the approximately 80,000 PRC nationals, both student and nonstudent alike, who have been living here under safe haven since June 1989. Criminals, drug traffickers and those who are otherwise security risks are prohibited from receiving this benefit.

In the past, this committee has acted on numerous occasions to regularize the immigration status of persons who had been here a significant amount of time, who had become Americanized by virtue of time spent in the United States, and who faced an uncertain future if returned to their home countries.

In 1986, for example, the Immigration Reform and Control Act extended permanent resident status to the thousands of Cuban and Haitian nationals who had arrived during the Mariel boat-lift episode.

In 1987 the President signed into law a measure that permitted Ethiopians, Afghans, and Poles, who had been living here since 1984 under extended voluntary departure status, to become permanent resident aliens.

In 1989 this committee approved a measure, which subsequently became law, that allowed approximately 10,000 Soviet and Vietnamese parolees to become permanent resident aliens.

And so the precedents for this bill are ample. The only real difference between this measure and prior measures is that under S. 1216 all visas issued will be counted under the worldwide quota; in previous programs the visas were provided over and above the quota.

Mr. Speaker, this measure was approved on June 24, by the Subcommittee on International Law, Immigration and Refugees, which I have the privilege to chair. The full Judiciary Committee approved the bill, with minor amendments, on July 22. In each instance the bill enjoyed wide, bipartisan support, and it is also supported by the administration.

I urge my colleagues to approve this meritorious bill.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California [Ms. PELOSI] who has been a stalwart supporter of the Chinese students since their original difficulties.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me and also for his leadership in bringing this legislation to the floor. When the book is written on what happened in the United States following the aftermath of Tiananmen Square, the gentleman from Texas [Mr. BROOKS] will figure significantly as the champion for protecting the rights and safety of those who spoke out for democracy in China while in our country, and I am grateful to him for his leadership on this.

I would also like to commend the ranking member, the gentleman from New York [Mr. FISH] for his leadership and cooperation on this legislation and on the previous Chinese student legislation. Without his cooperation, of course we would not be here today, and the Chinese students and nationals in our country would not have the protection that they have of our law.

I would also like to salute the chairman of the subcommittee, the gentleman from Kentucky [Mr. MAZZOLI] for his cooperation and bringing his thinking and common sense into forging legislation that is not disruptive of our immigration law while protecting the rights and freedom of these people.

I am sorry that our colleague, the gentleman from Texas [Mr. BARTON] could not be here. I am sure he is on his way, but he is the author of the legislation, what I think is a finely crafted, precise piece of legislation.

Mr. Speaker, 3 years ago in the 101st Congress, Members of both Houses overwhelmingly supported H.R. 2712, the Emergency Chinese Adjustment Status Facilitation Act. This bill was designed to provide some protection to the Chinese students in this country who, after the Tiananmen Square massacre, were suspected by the Chinese Government of being involved in prodemocracy activities. After clearing both the House and Senate with wide majorities, this bill was vetoed by the President who, after much prodding finally issued an Executive order to protect the students.

Now, 3 years later, the situation for these students in China is still uncertain. Although economic reform continues, the Chinese leadership has made it clear that they do not support political reform. Recently Deng Xiaoping, the authority for the Tiananmen Square massacre was quoted as saying "Once the forces of turmoil reappear in the future, we will not hesitate to use any means to eliminate them as soon as possible." There is a suspicion on the part of the Chinese Government that Chinese students here in the United States are part of the forces of turmoil.

Over the course of the past 3 years, I have been fortunate to work with representatives of the Chinese nationals. Their appreciation of the openness of our society and their commitment to democratic reform in China is strong. Currently, though, because their futures are uncertain, their ability to speak out without fear is hampered.

S. 1216 would allow Chinese nationals who were in the United States during the Tiananmen Square massacre to apply for permanent residency in the United States. To be eligible for permanent residency, the Chinese national must have first, been in the United States sometime between June 4, 1989 and April 11, 1990; second, continuously resided in the United States since April 11, 1990; and third, not been to China for more than 90 days after April 11, 1990.

By granting these nationals the opportunity to apply for permanent residency status in the United States, we will be granting them an opportunity to continue to work for democratic reforms in China. Assuring them of continued protection in this country, as long as it is necessary, will allow them to speak their consciences without fear of retribution. And, make no mistake about it, the Chinese Government is capable of retaliating. We know, for example, that the Chinese regime is keeping a close watch on the students here, tracking their activities and harassing them.

We also know that China has not stopped its human rights abuses. These nationals are in danger for their activities here if they are forced to go home now. Mr. Speaker, political change in China has not yet occurred. We must assist those trying to speak out for democratic reform in China while here in the United States. I urge my colleagues to support S. 1216, which will provide the Chinese nationals with an opportunity to apply for permanent residency and grant them a little more certainty in the future.

□ 1510

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1216, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include therein extraneous material, on H.R. 5688 and S. 1216.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DRY TORTUGAS NATIONAL PARK

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5061) to establish Dry Tortugas National Park in the State of Florida, as amended.

The Clerk read as follows:

H.R. 5061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF DRY TORTUGAS NATIONAL PARK.

(a) IN GENERAL.—In order to preserve and protect for the education, inspiration, and enjoyment of present and future generations nationally significant natural, historic, scenic, marine, and scientific values in South Florida, there is hereby established the Dry Tortugas National Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the lands, waters, and interests there in generally depicted on the map entitled "Boundary Map, Fort Jefferson National Monument", numbered 364–90,001, and dated April 1980 (which is the map referenced by section 201 of Public Law 96–287). The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) ABOLITION OF MONUMENT.—The Fort Jefferson National Monument is hereby abolished.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1,2,3, and 4).

(b) MANAGEMENT PURPOSES.—The park shall be managed for the following purposes, among others:

(1) To protect and interpret a pristine subtropical marine ecosystem, including an intact coral reef community.

(2) To protect populations of fish and wildlife, including (but not limited to) loggerhead and green sea turtles, sooty terns, frigate birds, and numerous migratory bird species.

(3) To protect the pristine natural environment of the Dry Tortugas group of islands.

(4) To protect, stabilize, restore, and interpret Fort Jefferson, an outstanding example of nineteenth century masonry fortification.

(5) To preserve and protect submerged cultural resources.

(6) In a manner consistent with paragraphs (1) through (5), to provide opportunities for scientific research.

SEC. 3. LAND ACQUISITION AND TRANSFER OF PROPERTY.

(a) IN GENERAL.—Within the boundaries of the park the Secretary may acquire lands and interests in land by donation or exchange. For the purposes of acquiring property by exchange with the State of Florida, the Secretary may, notwithstanding any other provision of law, exchange those Federal lands which were deleted from the park by the boundary modifications enacted by section 201 of the Act of June 28, 1980 (Public Law 96-287), and which are directly adjacent to lands owned by the State of Florida outside of the park, for lands owned by the State of Florida within the park boundary.

(b) UNITED STATES COAST GUARD LANDS.—When all or any substantial portion of lands under the administration of the United States Coast Guard located within the park boundaries, including Loggerhead Key, have been determined by the United States Coast Guard to be excess to its needs, such lands shall be transferred directly to the jurisdiction of the Secretary for the purposes of this Act. The United States Coast Guard may reserve the right in such transfer to maintain and utilize the existing lighthouse on Loggerhead Key in a manner consistent with the purposes of the United States Coast Guard and the purposes of this Act.

(c) ADMINISTRATIVE SITE.—The Secretary is authorized to lease or to acquire, by purchase, donation, or exchange, and to operate incidental administrative and support facilities in Key West, Florida, for park administration and to further the purposes of this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. Any funds available for the purposes of the monument shall be available for the purposes of the park, and authorization of funds for the monument shall be available for the park.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5061.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5061 establishes the Dry Tortugas National Park in the State of Florida by redesignating the existing Fort Jefferson National Monument. The bill was introduced by Congressman FASCELL on May 5, 1992, and was ordered reported to the House by the Committee on Interior and Insular Affairs on July 29, 1992.

The Dry Tortugas are a cluster of seven coral reefs located almost 70 miles west of Key West, and are known for their bird and marine life. These reefs and the surrounding waters constitute Fort Jefferson National Monument whose central feature is Fort Jefferson, the largest of the 19th century American coastal forts. While the fort itself is a significant cultural resource, the monument's boundaries encompass 64,700 acres which contain the most unaltered coral reef ecosystem in the continental United States as well as a wealth of marine life, a variety of birds, and nesting grounds for endangered marine turtles. Historic shipwrecks also occupy the surrounding waters.

To more accurately reflect this conservation unit's size and variety of resources, H.R. 5061 redesignates the existing Fort Jefferson National Monument as the Dry Tortugas National Park. H.R. 5061 also authorizes the Secretary of the Interior to acquire through purchase or lease, and to operate an administrative site in Key West, FL. This site is intended to perform auxiliary support for the Dry Tortugas National Park by providing transient accommodations for park personnel on shore duty or leave, docking for park vessels, and limited storage and office space for some administrative duties.

The bill authorizes the Secretary to acquire lands and interests in lands within the park boundaries by donation or exchange, and provides that U.S. Coast Guard lands on Loggerhead Key will be transferred to the Secretary when the Coast Guard determines that such lands are excess to its needs.

A provision in the bill also authorizes the secretary to exchange Federal lands deleted from the park by the boundary modifications enacted in 1980, which total approximately 7,700 acres, for land owned by the State of Florida within the park boundary, approximately 3,200 acres. While this does not represent an equal exchange, both the State of Florida and the National Park Service believe that bringing ownership patterns into conformity with the park boundaries will save administrative costs for both, and provide for improved land management and protection of marine resources.

It is not the committee's intention to set a precedent with regard to equity in land exchanges. The submerged lands in question are wholly within the boundaries of either the existing national monument or the surrounding Florida Keys National Marine Sanctuary which was established by the Department of Commerce and is managed by the National Oceanic and Atmospheric Administration. This land exchange will simplify the management of lands within these respective boundaries.

The State of Florida has both donated a significant amount of acreage to the National Park Service in the Everglades National Park and provided a great deal of financial support for land acquisition in both the Everglades National Park and Big Cypress National Preserve. Compared to the 43,000 acres donated by the State of Florida for the Everglades National Park in 1991, their agreement to donate 20 percent of the acquisition costs for the remaining 107,000 acre addition, and their funding of more than $40 million for land acquisition within Big Cypress National Preserve in the 1970's, this discrepancy in the acreage of submerged lands to be exchanged appears negligible.

Mr. Speaker, in testimony before the subcommittee on national parks and public lands, the administration testified in favor of the bill, and the National Park Service expressed its support for the redesignation. The Dry Tortugas contain a broader and more diverse range of natural and cultural resources than is reflected by the current national monument designation. I believe the redesignation of Fort Jefferson National Monument as the Dry Tortugas National Park is an appropriate recognition of the significance of all of these resources, and I urge my colleagues' support of H.R. 5061.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support H.R. 5061, a bill to convert the existing Fort Jefferson National Monument to Dry Tortugas National Park. Mr. VENTO has already explained the details of this measure.

Mr. Speaker, I have no objections to this bill, but H.R. 5061 points up a problem in our National Park System. A review of that system would reveal an array of over 20 different categories of areas managed by the Park Service. Since each of the 361 National Park Service areas are required to be managed by the same policies, all we are really doing with this legislation is changing the name of the park signs. Now, neither I, nor my colleagues, nor the administration have any objection to this bill, since Fort Jefferson meets the criteria for a national park. But I think it is time that Congress took a comprehensive look at restructuring Park Service nomenclature, rather than altering names on a case-by-case basis. Finally, I would like to commend the gentleman from Florida, not just for his work on this measure but for his continuing efforts to protect natural and cultural resources, in Florida.

I also commend the gentleman from Minnesota and Chairman MILLER for recognizing, with this bill, that there are public policy considerations even greater than our committee's equal value land exchange policy. I support their actions in setting that policy aside to move this bill forward.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Colorado [Mr. HEFLEY] for his endorsement of this bill. I hope the gentleman in recognizing my statement of unequal exchanges, will also note the surrounding information concerning the State of Florida, and the role it has played in terms of really providing for the core of the Everglades Park.

Initially, the Everglades Park itself was started by a significant donation by the State, and has since then proceeded by significant donations to provide that unit to the Park System in its existing state today.

Mr. Speaker I point out that the gentleman from Florida [Mr. FASCELL] has taken a second seat to none in terms of his interest in not just the Everglades, but in Fort Jefferson and the Dry Tortugas National Park legislation before us. He has been a strong advocate for the protection of these resources in his own district and beyond. I know that at times there have been many and numerous conflicts that the gentleman has attempted to mediate between those to the multiple use goals around those public lands and private lands in the State of Florida, and I would suggest that many of my colleagues and I that have worked in this capacity, Chairman BURTON, Chairman Udall, Chairman Seiberling, Chairman MILLER, and myself, recognize the tremendous contribution that the gentleman from Florida [Mr. FASCELL] has made.

□ 1520

I know that other members of the Florida delegation revere the units in the National Park System within the State, as does the State of Florida, and those they serve and represent. But he has for the last 30 years, I think, really held this together.

I hope that they will be able to, in the future, meet the type of commitment that is reflected by the gentleman from Florida, Chairman DANTE FASCELL, in terms of protecting these resources. I think that it is appropriate that one of the measures that is moving through Congress, this last month of service, is one that redesignates this as a national park because surely, while we may have discussions and disagreements about nomenclature and the titles that we use in identifying these units, we all recognize that the national parks title is the highest and the greatest honor that we can bestow in terms of designation on these resources.

I do not think there is any question or argument concerning this, while we frequently have had disagreements about retitling or naming monuments and so forth within the Park Service.

Mr. Speaker, I commend the gentleman from Florida [Mr. FASCELL] for his work on this and on many other topics in this Congress. I also want to express my gratitude to the gentleman from North Carolina [Mr. JONES], who has had an interest in this particular matter and a matter of jurisdiction. He has concurred with the actions by the Committee on Interior and Insular Affairs and permitted us to move forward with this responsibility, a joint responsibility between the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs.

Mr. Speaker, I include for the RECORD a letter from the gentleman from North Carolina [Mr. JONES].

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, August 10, 1992.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Interior and Insular Affairs has ordered reported H.R. 5061, a bill to establish the Dry Tortugas National Park, in place of the existing Fort Jefferson National Monument, in the State of Florida. Although I have no substantive objection to this bill, it contains matters within the jurisdiction of the Committee on Merchant Marine and Fisheries and I request that the Committee on Interior and Insular Affairs recognize the jurisdictional interest of my Committee over this legislation.

The Dry Tortugas National Park is established specifically for protection of fish and wildlife, including pristine coral reefs and several endangered species. Another purpose of the Park is protection of submerged cultural resources (i.e., historic shipwrecks). To eliminate inholdings of submerged lands under the jurisdiction of the State of Florida within the Park, the bill authorizes the Secretary of the Interior to exchange these lands for federal submerged lands outside of the Park.

The federal submerged lands eligible for exchange are within the Florida Keys National Marine Sanctuary (FKNMS), as designated by the Florida Keys National Marine Sanctuary and Protection Act (P.L. 101-605). The parent bills for that Act, H.R. 3719 and H.R. 5909, were referred solely to the committee on Merchant Marine and Fisheries. The National Marine Sanctuary Program falls within the jurisdiction of this committee. The transfer of areas within the FKNMS from federal to state jurisdiction may affect management of the Sanctuary by NOAA, depending on the resources found within those areas.

H.R. 5061 also authorizes the transfer, to the Secretary of the Interior, of lands within the Park which are currently administered by the U.S. Coast Guard. During the 101st and 102nd Congresses, seven bills that would have transferred Coast Guard property to other entities were referred solely to the committee on Merchant Marine and Fisheries.

Mr. Chairman, I support this legislation and do not wish to impede its progress. However, because it contains matters that are central to our jurisdiction, I request that you recognize the jurisdiction of the committee on Merchant Marine and Fisheries over the provisions of H.R. 5061 discussed above by inserting this letter in the RECORD during the floor consideration of the bill.

With warm regards, I am
Sincerely,

WALTER B. JONES,
Chairman.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5061, which I introduced, to establish the Dry Tortugas National Park.

H.R. 5061 would upgrade Fort Jefferson National Monument, located in the Dry Tortugas off the Florida Keys, to a national part—a status it has long deserved. It would not change the boundaries of the existing monument, other than to clean up some areas by providing for exchanges between the Federal Government and the State of Florida so that State-owned lands within the existing boundary would be transferred to the United States and federally owned property adjacent to State lands would be transferred to Florida. In addition, lands currently under the administration of the Coast Guard located within the monument's boundary would be transferred to the National Park Service. No expenditure of funds for land acquisition would be required.

The legislation also provides for acquisition of an administrative site in Key West for park administration. Presently, the Park Service is using property provided by the Coast Guard, primarily for the berthing of its boat. However, additional land-based space is needed and, in fact, would have to be acquired in any case, even if there were no change of status from monument to park. This legislation provides the authorization to do this.

Mr. Speaker, not only is the fort itself an outstanding example of 19th century masonry fortification, but it possesses a fascinating history. Fort Jefferson was a Union-held fort during the Civil War and was the place where Dr. Samuel Mudd, convicted of treating John Wilkes Booth following the assassination of President Lincoln, was incarcerated. During his term of imprisonment, Dr. Mudd heroically treated Union soldiers during a severe outbreak of yellow fever.

But the monument is much more than just the fort. Its surrounding waters and islands include a wide variety of marine and bird life and it is a critical nesting area for a variety of species.

Despite its isolated location, Fort Jefferson has seen an increase in visitation in recent years of 25–30 per cent. Unfortunately, however, it has not been receiving the priority it deserves from the Park Service in terms of allocation of resources, including personnel and funds for stabilization, protection, and interpretation.

While I am aware that, on paper, parks and monuments are supposed to be treated equally with respect to resource allocation, the reality is that public perception of importance contributes considerably to how the Park Service views its own units. National Park status will raise the fort's profile in the mind of the public and, hopefully, with the Park Service as well.

The existing monument is larger than at least seven national parks and has a wider diversity of both cultural and natural resources than several of these. It fully deserves to be upgraded to a national park and should be redesignated as Dry Tortugas National Park in recognition of this diversity.

Mr. Speaker, I urge our colleagues to support this very worthwhile legislation.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from

Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5061, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MOUNT OLIVET CEMETERY

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 807) to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for a period of not more than 70 years.

The Clerk read as follows:

S. 807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF RESTRICTION.

Notwithstanding the Act of January 23, 1909 (chapter 37, 35 Stat. 589), the Secretary of the Interior shall execute such instruments as may be necessary to allow the Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease for use other than as a cemetery, for a period of not more than 70 years, any portion of the land described in the first section of that Act, excluding the tract of land granted to Salt Lake City, Utah, pursuant to the Act of April 3, 1952 (66 Stat. 36), so long as such additional use will not prevent future use for cemetery purposes.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate bill, S. 807.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. S. 807 is identical to a bill, H.R. 1808, introduced by the gentleman from Utah [Mr. OWENS]. It would allow the Mount Olivet Cemetery Association of Salt Lake City to lease certain lands for noncemetery uses. To expedite matters, the Interior Committee acted on the Senate-passed bill, which is now before the House.

Under a 1909 Act, 50 acres of Federal lands were conveyed by the Secretary of the Interior to the Cemetery Association, subject to reversion to the United States if the lands were used for any purpose other than as a cemetery. While 15 acres have been used for cemetery purposes, the remaining 35 acres have not been so used, and are reportedly vacant and overgrown.

The cemetery association now estimates that the unused 35 acres will not be needed for cemetery purposes for at least 70 years, and the association would like to lease the land for development of a golf teaching and practice facility. However, the reverter clause imposed by the 1909 Act prevents such a lease.

The bill would extinguish the reverter clause now applicable to the entire 50-acre tract, and authorize the cemetery association to lease any portion of it for up to 70 years for any use that will not prevent future cemetery use.

Mr. Speaker, the bill is not controversial. I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume. I rise in support of S. 807, which was introduced by Senator GARN and is supported by all five members of the Utah congressional delegation.

This bill has already been fully explained by Chairman VENTO so I will not repeat what he's already said.

I would add that S. 807 could serve as a model for the way the National Park Subcommittee should work.

This bill was worked out by the entire Utah delegation before it was introduced, which makes the subcommittee's job a lot easier.

I urge my colleagues to support S. 807.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

I might say, I am dying to have more bills like this. In any case, obviously if all the bills had this noncontroversial nature to them, it would make all of our tasks somewhat easier.

This is an appropriate measure, and I would ask positive consideration in the House.

Mr. OWENS of Utah. Mr. Speaker, I rise in support today of S. 807, a bill introduced by my good friend from Utah, Senator HATCH, to provide that land in Salt Lake County which was originally transferred to the Mount Olivet Cemetery Association by the Federal Government in 1909 for cemetery use may be leased for other purposes for the next 70 years. S. 807 is identical to the companion piece in the House which I introduced, H.R. 1808. As Chairman VENTO of the National Parks and Public Lands Subcommittee has said, mostly in jest, this bill may be an indirect tribute to the longevity and the general good health of Utahns in general and Mormons in particular, since we have not yet been able to fill up the cemetery, and will be unable to do so in the foreseeable future.

This land use change will allow an unused part of the Mount Olivet Cemetery to be used as a golf course, or possibly for an athletic field by a local high school. Nothing can be constructed on this land which could preclude future use as a cemetery. Enactment of this bill, which has already been passed by the Senate, will enhance our quality of life in Salt Lake City by recognizing the changing needs of the city since 1909.

I am grateful to the Interior Committee for its action on this important matter and I urge the adoption of this resolution.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 807.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FORT CARSON-PINON CANYON MILITARY LANDS WITHDRAWAL ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4404) to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Carson-Pinon Canyon Military Lands Withdrawal Act".

SEC. 2. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Act, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 3,133.02 acres of public land and 11,415.16 acres of federally-owned minerals in El Paso, Pueblo and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated February 1992, and filed in accordance with section 4.

SEC. 3. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Act, the lands at the Pinon Canyon Maneuver Site that are described in subsection

(c) are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws and the mineral and geothermal leasing laws.

(b) Reservation.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) Land Description.—The lands referred to in subsection (a) comprise 2,517.12 acres of public lands and 130,139 acres of federally-owned minerals in Las Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon site", dated February 1992, and filed in accordance with section 4.

SEC. 4. MAPS AND LEGAL DESCRIPTIONS.

(a) Preparation.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and

(2) file maps and a legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) Legal Effect.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Location of Copies.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) Costs.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 5. MANAGEMENT OF WITHDRAWN LANDS.

(a) Management Guidelines.—(1) Except as provided in section 6, during the period of withdrawal, the Secretary of the Army shall manage for military purposes the lands covered by this Act and may authorize use of the lands by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads and trails on the lands withdrawn by this Act commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this section shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) Management Plan.—The Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2 and 3 for the period of withdrawal. The plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands;

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining or mineral and geothermal leasing, including mineral materials disposal; and

(4) be developed not later than 5 years after the date of enactment of this Act.

(c) Listing of Lands Suitable for Mining.—On completion of the management plan prepared pursuant to subsection (b), the Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined under such subsection to be suitable for opening to mining, and mineral and geothermal leasing, including mineral materials disposal, and specifying the opening date.

(d) Implementation of Management Plan.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 8.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(e) Reexamination of Lands for Suitability for Mining.—At least every five years after the initial identification of lands suitable for opening to mining required by subsection (b)(3), the Secretary of the Army and the Secretary of the Interior shall determine those withdrawn lands, if any, which the Secretaries consider suitable for opening to mining, mineral and geothermal leasing, or mineral material disposal, and those acquired lands, if any, which the Secretaries consider suitable for opening to mineral and geothermal leasing or mineral material disposal. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suitable for opening and specifying the opening date.

(f) Use of Certain Resources.—The Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources when the use of such resources is required for construction needs of the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 6. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

(a) Authority of Secretary of the Interior.—Notwithstanding any other provision of law, and except as provided in section 5 of this Act, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources contained within the boundaries of the Fort Carson Reservation and Pinon Canyon Maneuver Site.

(b) Effect of Identification of Lands as Suitable for Mining.—On the day specified by the Secretary of the Interior in the notice published in the Federal Register pursuant to subsections (c) and (e) of section 5, the land identified as suitable for opening to the operation of the mining, mineral, and geothermal leasing and the mineral material disposal laws shall automatically be open to the operation of such laws without the necessity for further action by either the Secretary of the Interior or the Congress.

(c) Exception from Certain Laws.—No deposit of minerals or materials of the types identified by section 3 of the Act of July 23, 1955 (30 U.S.C. 611; 69 Stat. 368), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), on lands described in sections 2 and 3.

(d) Regulations.—On lands identified for opening to mining, mineral, and geothermal leasing or mineral material disposal by section 5(b)(3), or by subsequent amendments to the management plan described in section 5, all minerals contained in those lands shall be subject to mining, mineral, and geothermal leasing or mineral material disposal under such rules and regulations as the Secretary of the Interior may promulgate pursuant to the terms and conditions of section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466).

(e) Closure of Lands Under Certain Circumstances.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the Army, shall close any lands that have been opened to mining, mineral, and geothermal leasing or mineral material disposal pursuant to this section.

(f) Mining Claims.—(1) Except as otherwise provided in this Act, mining claims located pursuant to this Act shall be subject to the provisions of the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.). In the event of a conflict between that law and this Act, this Act shall prevail.

(2) All mining claims located under the terms of this Act shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) Patents for Locatable Minerals.—(1) Patents issued pursuant to this Act for locatable minerals shall convey title to the locatable minerals only, and shall be issued together with an appropriate authorization for use of so much of the surface as may be necessary for purposes incident to mining under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this section, all minerals subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), are referred to as "locatable minerals".

SEC. 7. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this Act shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 8. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) Termination Date.—The withdrawal and reservation established by this Act shall terminate 15 years after the date of enactment of this Act.

(b) Determination of Continuing Military Need.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this Act, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing and thereafter may take necessary steps, in accordance with applicable law, to prevent uses inconsistent with such extension for a period not in excess of 2 years after the termination of the withdrawal and reservation made by this Act.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal, the Secretary of the Army decides to relinquish any or all of the lands withdrawn and reserved under this Act, the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) DETERMINATION OF CONTAMINATION.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by this Act the Secretary of the Interior determines that some of the lands withdrawn by this Act are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by this Act, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this Act at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Act as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SEC. 9. DELEGATION.

The functions of the Secretary of the Army under this Act may be delegated. The functions of the Secretary of the Interior under this Act may be delegated, except that the order referred to in section 8(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 10. HOLD HARMLESS.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral, or geothermal leasing activity conducted on lands comprising the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 11. AMENDMENT TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606, 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) The Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 4404.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4404 was introduced by the gentleman from Colorado [Mr. HEFLEY], at the request of the administration.

The bill would withdraw for military purposes certain lands and minerals associated with the Fort Carson Reservation and the Pinon Canyon Maneuver Area, in Colorado.

This withdrawal would be pursuant to the Engle Act, which provides that peacetime military withdrawals exceeding 5,000 acres be done by congressional action.

The Interior Committee and the Committee on Armed Services adopted a number of amendments. Some of these are technical, but they include four substantive revisions to the bill as introduced.

Under the bill as amended, the duration of the withdrawal would be 15 years, rather than 25. A 15-year term is consistent with the military withdrawal of areas in Alaska, Arizona, Nevada, and New Mexico under the 1986 Omnibus Military Lands Withdrawal Act, passed at a time when the Nation was still engaged in the cold war. Arguably, the changes in the world situation since 1986 would support an even shorter duration. Certainly, those developments argue against the 25-year period in the bill as introduced.

Second, the committees added an explicit requirement that any proposed renewal of the withdrawal be preceded by an analysis of environmental impacts. However, the bill does not specify that this analysis be in the form of a full environmental impact statement, if some lesser analysis would fulfill the requirements of the National Environmental Policy Act. This is a less restrictive provision than in the 1986 omnibus legislation, but is appropriate because of the extent and status of the lands and minerals covered by the bill.

Third, the committees have deleted the provision in the bill as introduced that would have allowed the Secretary of the Interior, by approving a request from the Army, to keep the withdrawal in effect unless and until Congress acted to end it. That would be directly contrary to the letter and the intent of the Engle Act, because it would leave the decision about extending the withdrawal to the administration, rather than the Congress.

In response to the administration's argument that they want to be able to prevent adverse uses—such as mining claims—while Congress was considering a proposal to renew the withdrawal, the committees have included language to make it clear that the Secretary of the Interior could use other, existing authority to prevent such uses for up to 2 years after the end of the 15-year period of the withdrawal.

This will give the administration more flexibility than it has with respect to the areas withdrawn by the 1986 legislation—flexibility that is appropriate because of the particular facts of this case, especially the fact that the bulk of the withdrawal involves minerals rather than the surface of the lands.

Finally, the bill as amended would require that the Army conduct an ongoing program of decontamination of the withdrawn lands, to the extent that Congress appropriates funds for that purpose. This also is similar to what is required on the lands withdrawn by the 1986 legislation.

Mr. Speaker, with the end of the cold war there is a need to review the extent to which our Nation's lands, airspaces, and other resources have been devoted to military purposes. The Interior Committee has recently approved my bill, H.R. 3564, to make a number of revisions in existing laws and policies applicable to allocation of lands and airspaces for military uses, and I am hopeful that the Armed Service Committee will consider it soon.

However, the bill now before the House involves lands already devoted to important military purposes for which withdrawal is appropriate. As approved by the Interior Committee and the Committee on Armed Services, it is an appropriate measure that provides such a withdrawal, as requested by the administration. I urge its passage by the House.

□ 1530

Mr. Speaker, I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4404 which will extend for 15 years the BLM's withdrawal of mineral rights beneath the Fort Carson and Pinon Canyon tank training grounds in my home district.

Areas has been used since 1941 for training and maneuvers and is probably the world's foremost training area for armored vehicles.

Many of the men who served in the Persian Gulf during Desert Storm received their training at Fort Carson.

This bill will withdraw over 3,000 acres of public lands and minerals and an additional 11,415 acres of public domain mineral estate within the Fort Carson training area from all forms of appropriations.

The bill before us incorporates a number of noteworthy changes from past policy.

It authorizes a 15-year withdrawal at Fort Carson; this compares to a 5-year withdrawal now.

Other facets of the amended bill effectively extend the withdrawal for up to 17 years.

This is an important change. At a May 19 hearing, witnesses said preparations for withdrawal renewals commonly take about 8 years.

As a result, the Army and the BLM are constantly preparing for renewing withdrawals.

This gives them some breathing room.

I'd like to thank the chairpersons of the Interior and Armed Services Committees for moving this bill along and hope the other body will move as quickly to pass the bill into law.

Mr. Speaker, I might just add that I think this bill, although it is not one of our more complex bills that we have in this committee, I think this shows an example of the way people can sit down and work out compromises. We had asked, for instance, for a 25-year withdrawal period. It is presently 5. We settled on 15.

Mr. Speaker, it seems to me our deliberations in the Committee on Interior and Insular Affairs too often degenerate into partisan harangues which are simply not necessary, because I think on most of these issues they are not partisan issues, they are issues people of good will should be able to sit down and reason together and come to a compromise conclusion, with no one on either side having all the wisdom about what is the right way to do it.

I think, although this is a relatively minor example of this, that it is a good example of it, Mr. Speaker. I would hope we can move more and more toward the business of trying to sit down and reason together and come out as a total committee with compromise agreements, as we have in this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise just briefly to thank the gentlewoman from Colorado [Mrs. SCHROEDER], my counterpart on the Committee on Armed Services, who had responsibility for the Subcommittee on Military Installations and Facilities, and urge her to consider the other measure that I sent along that dealt with the broader issues, rather than simply this reauthorization. Time is short, but I hope that we can get that done.

I do appreciate their responsiveness, and the opportunity to manage this bill and move ahead with an important measure which my colleague, the gentleman from Colorado [Mr. HEFLEY] and others had introduced. I appreciate his compromise and work. We have numerous measures we have to bring to the floor. We obviously can agree on this, and then we have to agree to disagree on other matters.

In any case, we have a tremendous workload in the committee, and I appreciate the cooperation that the gentleman has exhibited in these measures today and others.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 4404, the Fort Carson-Pinon Canyon Military Lands Withdrawal Act, introduced by my colleague from Colorado, Mr. HEFLEY. The Subcommittee on Military Installations and Facilities, which I chair, held hearings and marked up these bills on July 2, and the full Armed Services Committee approved the bill on August 4.

H.R. 4404 is designed to extend the withdrawal of public lands and minerals at Fort Carson and the Pinon Canyon maneuver site, Colorado. These lands have been withdrawn for military purposes beginning in the 1930's and renewals have occurred every 5 years since then. The present withdrawal expired on June 23, 1992.

The bill would withdraw 3,133 acres of public lands and 11,415 acres of federally owned minerals at Fort Carson, and 2,517 acres of public lands and 130,139 acres of federally owned minerals at Pinon Canyon.

The Secretary of the Army would be given management responsibility of the withdrawn lands for military purposes. The Secretary of the Interior would be given management responsibility for all other purposes. Every 5 years, the Secretaries are required to determine which lands are suitable for opening for mining, mineral and geothermal leasing or mineral material disposal.

Hunting, fishing, and trapping on lands withdrawn would be required to be conducted in accordance with State law.

The withdrawal would last for 15 years, consistent with the 1986 Military Lands Withdrawal Act, and would set up a procedure for renewal of the withdrawal.

The amendment also would amend the Military Lands Withdrawal Act of 1986, to allow military secretaries to utilize sand, gravel, or similar mineral or material resources for onsite construction needs.

Mr. Speaker, H.R. 4404 has been carefully considered by the Armed Services and Interior Committees and I urge our colleagues to adopt it.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4404, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NEW RIVER WILD AND SCENIC STUDY ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5021) to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river, as amended.

The Clerk read as follows:

H.R. 5021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New River Wild and Scenic Study Act of 1992".

SEC. 2. DESIGNATION OF NEW RIVER AS A STUDY RIVER.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

NEW RIVER, WEST VIRGINIA AND VIRGINIA.—The segment defined by public lands commencing at the U.S. Route 460 bridge over the New River in Virginia to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake in West Virginia; by the Secretary of the Interior. Nothing in this Act shall affect or impair the management of the Bluestone project or the authority of any department, agency or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. The study of the river segment identified in this paragraph shall be completed and reported on within one year after the date of enactment of this paragraph.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this measure, H.R. 5021, was introduced by the gentleman from West Virginia [Mr. RAHALL], our friend and colleague who serves with us on the Committee on Interior and Insular Affairs. The bill would require a study of a portion of the New River for possible designation as a component of the National Wild and Scenic Rivers System.

In a hearing before the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs, the administration testified in support of the bill, noting the relevant portion of the river and characteristics that made it very eligible for study. The Committee on Interior and Insular Affairs adopted an amendment to have the study include about 5 miles of the river within Virginia upstream from the West Virginia State line. In all, under the bill the study would encompass nearly 20 miles of the New River in the two States.

Mr. Speaker, this is a sound measure that provides for an appropriate study of what evidently is a portion of the New River that has many outstanding attributes and characteristics that will qualify it for a wild and scenic designation.

Mr. Speaker, this past week we have been thrilled by many of the Olympic activities that take place. We have seen the kayaking and other activities. I think that many citizens of our country are not always familiar with the tremendous resources close to urban areas, such as these wild and scenic streams in West Virginia. These streams represent world-class opportunities for kayaking and for other types of activities that really put West Virginia and this eastern portion of the country and the Appalachians on the map with regard to important recreational and sport activities.

Mr. Speaker, I hope that we can preserve more of these river miles. I especially hope we can do it in their natural state. With this study, the hope is that we will be coming back in several years, that is, somebody may be coming back in several years, to in fact act on these particular measures, and we will see the preservation and conservation of such important resources that have really existed this way for literally thousands of years, and hopefully they will be around for the next generation, with the good help of the gentleman from West Virginia [Mr. RAHALL] and others.

Mr. Speaker, I urge passage of this bill, and I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not voice any opposition to H.R. 5021, which will authorize the study of about 19.5 miles of the New River in West Virginia for designation under the Wild and Scenic Rivers Act.

Prior to the introduction of this bill, this river segment had not been identified as a high priority for study.

Still, the river appears to have all the characteristics necessary to warrant study.

Further, there appear to be no significant problems with land ownership, since the lands within the study corridor are federally owned.

The administration has voiced no objection on this bill, other than to state that this study may be premature.

In conclusion, I know of no serious opposition to this bill and would recognize the tireless and apparently unceasing efforts of the gentleman from West Virginia to gain Federal support for the preservation of outstanding natural resources in his State.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL], the author of this good legislation.

Mr. RAHALL. Mr. Speaker, I thank the gentleman from Minnesota for yielding time to me, and for his very expert leadership on this legislation. He has spoken of our fine rivers in the southern part of West Virginia. He speaks from first-hand knowledge. He has been there, and he has seen up close what we have to experience.

Mr. Speaker, I also appreciate the gentleman from Colorado [Mr. HEFLEY] for his comments in support of this legislation.

Mr. Speaker, the legislation designates a segment of the New River for potential addition to the National Wild and Scenic Rivers System.

As to the particulars of H.R. 5021, under the bill the National Park Service would conduct a study to determine whether a 19.5-mile segment of the New River, starting at the U.S. Route 460 bridge in Glen Lyn, VA, downstream to the Bluestone Lake in West Virginia, is eligible for designation as a national wild and scenic river. In this regard, the study segment would end at the lake's 1,410-foot maximum summer pool elevation, and it is my understanding that this point lies in the vicinity of the Bull Falls camping area. In addition, the legislation limits the study to the river segment that is defined by public lands. As such, the Island Creek, Lick Creek, and Indian Creek tributaries within this corridor would also be the subject of the study.

Mr. Speaker, it is our intention that no Federal agency would take an action such as approving a right-of-way for the purpose of constructing a powerline across the lands that are the subject of the pending legislation during the study period. While some may have a contrary view, this is the intent of this gentleman from West Virginia, the bill's sponsor. It is also my understanding that this is the intent of the chairman of the Subcommittee on National Parks and Public Lands, as well as that held by the majority.

The pending legislation calls for the study to be completed within 1 year after the date of enactment. I would expect the National Park Service to meet this deadline. These are, after all, federally owned lands with the portion in West Virginia being managed by the State under a leasing arrangement for recreation purposes and fish and wildlife conservation. A good deal of basic information on the values associated with the river segment should already be available. Further, under the terms of the Wild and Scenic Rivers Act, the law's protections for study segments would continue for a period of 3 years after the formal submission of the study to the Congress.

The legislation also makes it very clear that nothing in the Wild and Scenic Rivers Act would impair or in any way affect the management of the Bluestone project and its authorized project purposes.

Mr. Speaker, certain portions of the New river are well known. North and downstream of the segment that is the subject of this legislation lies the New River Gorge National River, established in 1878 as a unit of the National Park System. Often referred to as the grand canyon of the East, this portion of the river is famous for its whitewater rapids, small-mouth bass fishing, and historic coal towns. And, in North Carolina where the headwaters of the New River are found, a segment of the river known as the South Fork has been protected under the Wild and Scenic Rivers Act.

The segment of the New River that is the subject of this legislation, however, is extremely remote. Known primarily by fishermen,hunters, and canoeists, it is an incredibly beautiful free-flowing segment of river. We want to keep it that way. Our intent is to preserve the rural characteristics of the New River valley. In effect, to ensure that the New River stays like it is, wild and scenic. For this reason there is already a strong bias toward the outright designation of this river segment.

In conclusion, I would like to offer my deep appreciation to the many residents of southeastern West Virginia who have worked so hard to make today's consideration of the pending legislation possible. Many of us gathered on the banks of the New River on April 22, at a place called Shanklins Ferry to kickoff this legislative endeavor. Before the year is ended, it is my deepest desire to see us gathered there once again to celebrate the enactment of the New River Wild and Scenic River Study Act of 1992.

□ 1540

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker,I urge passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5021, as amended.

The question was taken.

Mr. BLILEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

APPOINTMENT OF CONFEREES ON H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. VENTO. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment thereto, disagree to the Senate amendment to the House amendment to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO].

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Interior and Insular Affairs, for consideration of titles I and VII–XL of the Senate amendment, and titles I and VII–XXXIV of the House amendment, and modifications committed to conference: Messrs. MILLER of California, RAHALL, GEJDENSON, VENTO, KOSTMAYER, DE LUGO, LEHMAN of California, MARKEY, HANSEN, RHODES, THOMAS of Wyoming, YOUNG of Alaska, and MARLENEE.

From the Committee on Interior and Insular Affairs, for consideration of titles II–VI of the Senate amendment, and titles II–VI of the House amendment, and modifications committed to conference: Messrs. MILLER of California, RAHALL, GEJDENSON, VENTO, KOSTMAYER, DE LUGO, LEHMAN of California, OWENS of Utah, HANSEN, RHODES, THOMAS of Wyoming, YOUNG of Alaska, and MARLENEE.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles II–VI, IX, XXXIII, XXXIV, XXXVI, and XXXVIII of the Senate amendment, and titles II–VI, IX, XXX, and XXXIV of the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUGHES, HERTEL, CARPER, and MANTON, Mrs. LOWEY of New York, Mrs. UNSOELD, and Messrs. DAVIS, FIELDS, HERGER, DOOLITTLE, and CUNNINGHAM.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles I, VII, XI, XII, XIV, XV, XIX, and XX of the Senate amendment, and titles I VII, XI, and XVIII–XX of the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, and DAVIS.

As additional conferees from the Committee on Public Works and Transportation, for consideration of titles XXI, XXXI, and XXXVIII, and sections 3001–04, 3007, 3508, and 3509 of the Senate amendment, and section 3411 of the House amendment, and modifications committed to conference: Messrs. ROE, ANDERSON, MINETA, NOWAK, BORSKI, KOLTER, VALENTINE, HAYES of Louisiana, HAMMERSCHMIDT, SHUSTER, CLINGER, PETRI, and PACKARD.

As additional conferees from the Committee on Public Works and Transportation, for consideration of title VII, and section 3004(c)(7) of the Senate amendment, and title VII of the House amendment, and modifications committed to conference: Messrs. ROE, NOWAK, and HAMMERSCHMIDT.

As additional conferees from the Committee on Agriculture, for consideration of section 212 of the Senate amendment, and title XXV and section 212 of the House amendment, and modifications committed to conference: Messrs. DE LA GARZA, ENGLISH, DOOLEY, CONDIT, HUCKABY, STENHOLM, STALLINGS, CAMPBELL of Colorado, COLEMAN of Missouri, MORRISON, HERGER, SMITH of Oregon, and MARLENEE.

As additional conferees from the Committee on Agriculture, for consideration of titles XIII, XIV, XVIII, and XXXVI, and section 202 of the Senate amendment, and titles XIX and XX, and sections 301, 305, 308, and 2302 of the House amendment, and modifications committed to conference: Messrs. DE LA GARZA, VOLKMER, and COLEMAN of Missouri.

There was no objection.

PROVIDING FOR DOMESTIC DISSEMINATION OF CERTAIN USIA MATERIALS

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5751) to provide for the distribution within the United States of certain materials prepared by the U.S. Information Agency.

The Clerk read as follows:

H.R. 5751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN MATERIALS PREPARED BY THE UNITED STATES INFORMATION AGENCY FOR DISTRIBUTION ABROAD.

(a) AUTHORITY FOR DISSEMINATION IN UNITED STATES.—Nothwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1(a)) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the documentary film entitled "The Voice" and the radio documentary entitled "All of Our Yesterdays"; and

(2) upon evidence that necessary rights and licenses have been secured and paid for by the person seeking domestic release of such materials, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making such master copies available;

(B) deposit such master copies in the National Archives of the United States; and

(C) make copies of such master copies available for purchase and public viewing and broadcast.

(b) REIMBURSEMENT.—Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in support of H.R. 5751, which authorizes the release within the United States to two U.S. Information Agency products. "The Voice" which is a USIA Television and Film Service product and "All of Our Yesterdays" which is a radio documentary produced by VOA. My colleagues will recall that USIA's products are prohibited from being distributed domestically unless a product is given a specific legislative exemption.

Both of these products document and commemorate the 50 years of broadcasting by the Voice of America. They document VOA's own history against its coverage of the historical events of the 1942–92 period. They focus on universally important themes such as the free flow of information, the role of a free press in a democratic society, building democratic institutions, and American values and social change.

This legislation would allow USIA to make a master copy of both the film and the radio documentary available to the Archivist of the United States who will make copies available for purchase and public viewing and broadcasting.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1550

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to express my strong support for this legislation.

As many of my colleagues know, this year marks the 50th anniversary of the Voice of America. In observance of this historic occasion, the U.S. Information Agency produced the documentary film "The Voice," and the radio documentary, "All of Our Yesterdays." H.R. 5751 would allow USIA to provide to the National Archives master copies of these two documentaries so that they can be made available for purchase and public viewing.

These productions tell the story of VOA during the past half-century. The Voice became a formidable weapon in this Nation's fight against fascism and communism. By keeping its pledge to tell the truth, whether good or bad, VOA demonstrated that truth could be a stronger force than armies or barbed wire.

Fifty years after its founding, The Voice still plays a vital role for America. VOA's mission of providing objective news and information is as important today as it was back in 1942.

Making these documentaries available to the American people will not only help them understand VOA's past, but also its future mission.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], ranking member on the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for H.R. 5751, a resolution to provide for the distribution within the United States of certain materials prepared by the U.S. Information Agency, and I commend the distinguished chairman of our Foreign Affairs Committee, Mr. FASCELL, as well as our distinguished ranking Republican member, Mr. BROOMFIELD, for their outstanding work on this important resolution.

This year marks the 50th anniversary of the founding of the Voice of America. To commemorate this historic occasion, the U.S. Information Agency produced a documentary film entitled "The Voice," and a radio documentary, "All of Our Yesterdays."

This bill permits USIA to provide copies of both productions to the National Archives so they may be made available for purchase and viewing.

In February 1992, when VOA first began broadcasting, it pledged to its listeners that it would always tell the truth, no matter what the consequences. For 50 years, USIA has worked to live up to that pledge.

During World War II, VOA provided objective and accurate information to those living under Nazi occupation, and gave hope to those suffocated by Nazi propaganda. During the cold war, the Voice battled Communist propaganda by letting people behind the Iron Curtain learn about American culture and values.

Now that the cold war is over, VOA continues to provide objective news and information to a worldwide audience, and educates its listeners about American values, institutions and policies. Release of these historical materials on VOA can aid public understanding of its mission in the future as well as the past.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and pass the bill, H.R. 5751.

The question was taken; and (two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5751, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONCERNING THE SITUATION IN SOMALIA

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 132) expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need.

The Clerk read as follows:

S. CON. RES. 132

Whereas as a result of the civilian conflict in Somalia, at least thirty thousand people have died, hundreds of innocent civilians, many of them children, continue to die each day, and an additional one million two hundred thousand lives are at risk;

Whereas the Somali political factions show no signs of ceasing their internecine war for power even as thousands of their own people perish;

Whereas international relief agencies have been unable to deliver adequate humanitarian assistance to those most in need due to increasingly difficult and dangerous conditions, including pervasive banditry and looting;

Whereas the United Nations Security Council, on July 27, 1992, adopted a resolution on the situation in Somalia, including an expansion of United Nations relief efforts and support for the deployment of United Nations security personnel to facilitate the delivery of relief supplies, and the President has expressed strong support for the United Nations proposals; and

Whereas although the Congress has expressed strong support for more active efforts to deliver humanitarian relief to the suffering people of Somalia, the situation has continued to deteriorate: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns in the strongest possible terms the senseless killing and wanton destruction wrought by the political factions in Somalia;

(2) strongly urges these factions to abide by the United Nations ceasefire and to allow the deployment of security forces to protect humanitarian relief deliveries and workers;

(3) commends the dedicated and energetic efforts of United Nations Secretary-General Boutros Boutros Ghali, and his Special Envoy to Somalia, Ambassador Mohammed Sahnoun;

(4) pays tribute to the courageous and heroic actions of the relief agencies working in Somalia;

(5) calls upon the international community, through the United Nations, and in particular the United Nations specialized agencies, to immediately expand its relief efforts in Somalia;

(6) recognizes with appreciation the July 27, 1992, statement of the President urging the United Nations to deploy a sufficient number of security guards to permit relief supplies to move into and within Somalia, and committing funds for such an effort; and

(7) urges the President to work with the United Nations Security Council to deploy these security guards immediately, with or without the consent of the Somalia factions, in order to assure that humanitarian relief gets to those most in need, particularly the women, children and elderly of Somalia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, First, I would like to commend my esteemed friend and colleague, the chairman of the Subcommittee on Africa, the Honorable MERVYN DYMALLY for expeditiously moving this piece of legislation for consideration. Also, I would like to applaud the commitment and dedication of my distinguished colleague, Mr. GILMAN, of New York, for his diligence in keeping the issue of Somalia before the House. It is critical that we demonstrate bipartisan leadership in attempting to resolve the crisis in Somalia.

In January 1991, the brutal and repressive regime of Maj. Gen. Mohamed Siad Barre came to an end. While driving President Barre and his forces out of Mogadishu was positive move toward democratization, it marked the beginning of a violent civil war characterized by anarchy and mindless bloodshed against the Somalian people.

Interational human rights organizations estimate that over 30,000 Somalians have been killed since this conflict began, and relief workers predict that unimaginable numbers of innocent Somalians will perish from starvation and deprivation.

The international community has repeatedly called for a cease-fire between the warring parties, and time after time those calls have been denied.

The use of food as a weapon to force innocent noncombatants into actively participating in this conflict is unconscionable and has complicated whatever futile attempts there have been to provide assistance to this war-torn nation.

Earlier this year, the Committee on Foreign Affairs approved House Resolution 422 which urged greater involvement and a larger role for the United States at the United Nations in resolving the Somalia crisis, and providing humanitarian assistance to the Somalian people.

Today, the House is considering Senate Concurrent Resolution 132, a bill which again calls for greater international intervention in resolving the crisis. However, today Mr. Speaker, we have legislation before us which takes into account and represents current developments and is based on a recent trip by the distinguished Senator from Kansas, the Honorable NANCY KASSEBAUM.

Senate Concurrent Resolution 132 acknowledges the actions of the U.N. security resolution expanding relief efforts and supporting the deployment of U.N. security personnel to facilitate the delivery of relief supplies.

This legislation calls for the strongest condemnation possible against the wanton destruction and senseless killings in Somalia. It also calls upon the leaders of the warring factions to abide by the U.N. cease-fire agreement. This legislation, among other things, urges the President to work with the international community to insure that Somalians in need, particularly the women, children and the elderly, can access international relief assistance with or without the cooperation of the warring factions.

Mr. Speaker, I urge my colleagues to support this legislation, as we in the Congress must continue to send a strong, bipartisan and unambiguous message to the world that the U.S. Congress will not sit idly by while such a devastating human rights disaster unfold before our very eyes.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend Senator KASSEBAUM for her fine work in crafting the legislation before us today. I also want to salute my good friend BEN GILMAN for his deep compassion for the Somali people and his early leadership in crafting legislation dealing with the tragedy in Somalia.

Congressman DYMALLY deserves our praise as does Chairman FASCELL for their timely efforts in bringing the identical House bill, introduced by Mr. GILMAN, House Concurrent Resolution 352, for consideration and approval by the Foreign Affairs Committee last week.

Senate Concurrent Resolution 132 condemns the warring factions in Somalia. It urges all groups to comply with the U.S. cease-fire and cooperate with U.N. efforts. It also calls upon the international community to expand its relief efforts in that troubled nation and encourages the administration to work with the United Nations in the deployment of food security guards.

By any standard, the ongoing tragedy of Somalia is the single worst humanitarian crisis in the world today. Few nations in Africa have been so brutally struck down by severe drought, widespread famine and long-term political instability. Sadly, all of the plagues found in the Third World seem to have visited upon that country in recent years.

The Somali civil war has compounded the suffering and brought those people another scourge—human rights abuses. The fighting has undermined the desperately needed efforts of relief organizations and threatened the lives of international workers.

An estimated 30,000 innocent Somalis have been killed since 1991 and nearly 3 million Somali civilians face the threat of starvation in the next 6 months. Already, 500,000 Somalis have fled the country. Damage to property and the fragile economy has been massive.

In recent months, the situation in Somalia has improved to some degree due to a decline in the fighting between the warring factions and the arrival of a ship carrying relief supplies. In addition, the Security Council just passed a resolution that authorizes the dispatch of a small technical mission to Somalia. It also proposes a massive airlift of food to the suffering people there. Unfortunately, a Somali clan leader is obstructing the arrival of 500 U.N. security personnel to that country.

Our Government has donated about $77 million in assistance to Somalia in the past 2 years. President Bush is to be commended for his recent statement supporting more assistance to that long-suffering land. More, however, remains to be done.

The world's indifference to this human tragedy must give way to a concerted international effort. Our great Nation must continue to show leadership on this terrible problem. This legislation is a step in the right direction.

I call upon my colleagues to join me in supporting this legislation on behalf of the poor people of Somalia.

□ 1600

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], who has had a real interest in this problem for many months.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his support and for his kind words.

Mr. Speaker, I rise in strong support for Senate Concurrent Resolution 132, legislation expressing the sense of the

Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of U.N. security forces to assure that humanitarian relief gets to those most in need.

I want to thank the chairman of the Subcommittee on Africa, the distinguished gentleman from California [Mr. DYMALLY], and the ranking minority member, the distinguished gentleman from Indiana [Mr. BURTON], and the gentleman from New Jersey [Mr. PAYNE], for supporting my resolution, House Concurrent Resolution 352, which is identical to Senate Concurrent Resolution 132, and for their leadership in attempting to resolve the crisis in Somalia and end the bloodbath that has engulfed Mogadishu. Their support has been crucial to the development of the strong bipartisan support for the resolution. I also want to thank the chairman of the House Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], and the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], for bringing Senate Concurrent Resolution 132 to the floor today.

I also want to commend the House Select Committee on Hunger for its special interest in this issue. Select committee staff have worked diligently and closely with Foreign Affairs Committee staff in calling attention to the holocaust facing the Somalian people.

On April 7, I introduced House Resolution 422, a resolution that addressed the problems facing Somalia earlier this year. Recently, my good friend and colleague the Senator from Kansas [Ms. KASSEBAUM], returned from Somalia and the Select Committee on Hunger, 2 weeks ago, held a hearing regarding her trip. The resolution before the House reflects her expert observations and updates the April resolution.

The tragedy facing Somalia is beyond our hearts and minds to grasp. While I in no way want to make light of the devastation in Yugoslavia, Mogadishu makes Sarajevo look like a picnic in the park. More people die in Mogadisu each day than in all of Yugoslavia each month. Save the Children Foundation informs us that at least 200 children die each day from starvation. Last month 7,000 people died from hunger in Baidoba. Red Cross officials say they believe that about one-third of Somalia's people, estimated to number anywhere from 4.5 million to 6 million, are likely to perish in the next few months unless more food is pumped into the country.

Accordingly, I urge my colleagues to support Senate Concurrent Resolution 132.

Mr. PAYNE of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished subcommittee chairman and the gentleman from New Jersey [Mr. PAYNE], one of the experts on Africa in this body and one of the international experts of this body as well.

I also want to thank the ranking member, the gentleman from Michigan [Mr. BROOMFIELD] for his comments, and the gentleman from New York [Mr. GILMAN], one of the leading fighters for human rights in this body now and in the past.

Mr. Speaker, I rise in very strong support of Senate Concurrent Resolution 132, a resolution which brings immediate attention to the severe crisis in Somalia and recognizes that efforts to bring prompt humanitarian relief to the region is critical.

I commend the chairman of the Foreign Affairs Committee for quickly bringing this measure to the floor for our immediate consideration.

During the past week, Mr. Speaker, I, the Speaker and many others have spoken about the atrocities being perpetrated in Bosnia-Hercegovina. It is my strong belief that the United States and the international community has a moral obligation to ensure that humanitarian relief efforts are not impeded and that war crimes perpetrated against the refugees in that region should cease, and ultimately those responsible should be held accountable.

In another part of the world, tens of thousands of people have died as a result of famine and drought exacerbated by a civil war which has been raging for well over a year.

The gentleman from New York [Mr. GILMAN] dramatically points out that the loss of life and the human rights abuses that are occurring in Somalia in some degree overwhelm the statistics coming out of Sarajevo, Bosnia-Hercegovina, and Yugoslavia.

It is, therefore, imperative that we also give consideration to Somalia, where it has been estimated that one-third of the country's population will perish within the next 6 months, unless food is safely delivered to the region. To dramatize this situation, if this were the case in the United States of America, it would mean that some 83 million Americans would die in the next 6 months.

The International Committee of the Red Cross is mounting the biggest relief operation of its history. According to the special U.N. representative for Somalia, as many as 5,000 children, this statistic has been used again and again with reference to this resolution, 5,000 children under the age of 5 are dying today, yesterday, tomorrow and tomorrow and tomorrow. Children with protruding rib cages and listless eyes are too sick and weak to eat and are literally dying in food camps while they await their allotment of food. Mothers cannot even nurse their children because as a result of inadequate nutrition they are unable to produce lifegiving milk.

Somalia has no electricity, no running water, army, government or police force. It is literally, Mr. Speaker, being run by armed gangs if in fact run is the appropriate term, who roam the towns, looting, raping, and killing civilians. These are thugs, no better and much worse. The intense fighting and violence makes food delivery extremely dangerous, if not impossible.

House Concurrent Resolution 132 urges, appropriately, that the United States take a more active role in the Somali crisis through supporting the U.N. efforts. It requests the immediate deployment of U.N. security guards to guarantee the security of relief workers and provide for extensive food and humanitarian relief.

The gentleman from Indiana [Mr. HAMILTON], the chairman of the Subcommittee on Europe wrote an article as to when it was appropriate to intervene in nine crisis such as this. He concluded that one of the criteria certainly was tremendous loss of life and egregious violation of human rights. That exists here in Somalia.

It is critical that we give equal consideration to countries who have been ravaged by war and whose citizens are dying by the thousands as a result of civil conflict and famine. It is incumbent upon us to recognize the atrocities that are occurring in other regions of the world, and not just in Eastern Europe.

As chairman of the Commission on Security and Cooperation in Europe, that is my focus, and a major responsibility given to me as a Member of this body. However, it would be absolutely unacceptable if we would focus our views solely on Europe while thousands, hundreds of thousands, millions of others are suffering equally, if not worse conditions and deprivation.

Somalia demands the attention of this Congress. Somalia demands the attention of this country. Somalia demands the attention of the international community.

The U.S. Congress must make every effort to ensure that the plight of the Somalis is not obscured by current headlines.

Mr. Speaker, I urge my colleagues to support this resolution, as I know they will, and not stand idly by to witness the starvation of 2 million people.

Mr. Speaker, I thank the subcommittee chairman and the ranking member for yielding me this time.

□ 1610

Mr. BROOMFIELD. Mr. Speaker, I yield the remaining time to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. I thank the gentleman from Michigan for yielding time to me.

Mr. Speaker, as a member of both the Committee on Foreign Affairs and the Select Committee on Hunger, this Member rises in the strongest possible support of Senate Concurrent Resolution 132, which builds upon the early initiatives by the distinguished gentleman from New York [Mr. GILMAN]. As mentioned, the distinguished Senator from Kansas [Mrs. KASSEBAUM] deserves a special commendation for her initiatives. I also join Mr. BROOMFIELD and Mr. GILMAN in their commendatory comments regarding other Members.

Mr. Speaker, there are at least two basic elements to the crisis in Somalia. First, there is the enormous human suffering and starvation caused by years of drought and famine. The second aspect is the clan warfare and organized piracy that has made relief efforts all but impossible. Taken together, it results in what is quite possibly the most desperate humanitarian situation in the world today.

The facts of the humanitarian crisis in Somalia are gradually becoming well known. In the last 18 months an estimated 100,000 people have died in the clan warfare that has ravaged the entire country. One million Somalis have been forced to flee the country, living in squalid camps in Ethiopia, Kenya, and Djibouti. Another 1.5 million who have been unable to flee are in danger of starving to death. Yet another 4.5 million require food and other emergency assistance.

These are mind-numbing numbers, almost too massive to comprehend. But these numbers take a human form in the shape of the starving children who line the streets in the capital of Mogadishu and elsewhere, and the distended stomachs and the skeletal forms in those who are lucky enough to be in refugee camps.

While the international community has tried to provide assistance, these efforts have for the most part been thwarted by the gangs of gun-toting thieves and extortionists. Local warlords exact huge fees for aid to be off loaded. Marauding gangs charge additional fees as the food moves inland toward the refugee camps and the dispersal facilities. And throughout the process, the food will be hijacked if it is not continuously under armed guard. According to one relief worker, to distribute 1 kilo of food one must pay 10 times the cost of the food in security and in bribes. And even the paying of bribes is often not enough, as a number of relief workers have been murdered in recent months.

After far too long a delay, the international community is beginning to respond to this crisis. Recently the U.N. Security Council authorized the dispatch of a brigade of peacekeepers to guard the camps and convoys, and to begin disarming the various factions. This is a hazardous mission, for the armed factions have shown themselves quite willing to kill in order to rob from the relief convoys. But, if we are to consider ourselves a moral and civilized international society, it is a mission that must be undertaken. Indeed, if the United Nations is ever to realize its true potential as a force for peace, it must not shy away from the tragic and difficult problems such as the one now occurring in Somalia.

Mr. Speaker, this Member praises the unrelenting determination of U.N. Secretary General Boutros Boutrous-Ghali for his refusal to permit the suffering in Somalia to be ignored. This Member would also join with his colleagues in urging strong and swift U.N. action to respond to this crisis. I urge passage of Senate Concurrent Resolution 132.

The article referred to is as follows.

[From the Christian Science Monitor, Aug. 6, 1992]

WHITE HOUSE HINTS CHANGE IN STANCE AGAINST PUTTING U.N. PEACEKEEPERS IN SOMALIA

(By George D. Moffett III)

Facing pressure from Congress and international relief organizations, the Bush administration may be shedding its reluctance to have United Nations forces deployed in the wartorn African nation of Somalia.

The United States backed a recent Security Council resolution favoring the dispatch of 500 soldiers to protect food shipments to Somalia, but it has said deployment should be delayed until there was a break in the country's bloody, 18-month civil war.

Sending UN forces would be "premature until there was an effective cease-fire," Assistant Secretary of State John Bolton, the highest-ranking US official to visit Somalia since the civil war began, told a congressional panel two weeks ago. This week he sounded a different note, saying UN forces should be dispatched, even if the fighting continues.

James Kunder, director of the Office of Foreign Disaster Assistance (OFDA) told reporters at the State Department: "I would endorse the deployment of the troops—with or without" the permission of the warring factions.

A congressional source says, "There has been a disconnect between State and AID" [the Agency for International Development, OFDA's parent organization] on the issue of UN forces. "State may now be gravitating in AID's direction."

A White House statement issued last week urged the UN "to move as quickly as possible" to deploy security guards to protect food shipments. Relief organizations say the deployment of the UN troops is essential to get food supplies to Somalia's starving people. More than 150,000 tons of food are ready for distribution, according to AID.

As many as 100,000 Somalian soldiers and civilians have died since the start of the war, according to various estimates. The war and a two-year drought have combined to put 1.5 million more Somalis on the edge of starvation. It is "the world's worst humanitarian crisis," Mr. Kunder said.

The Senate passed a resolution Monday calling for the dispatch of UN guards "with or without the consent of the Somali factions." The House is expected to vote on a similar resolution next week.

Civil war erupted in Somalia in January 1991, after forces that overthrew longtime President Mohammed Siad Barre fell into factional fighting.

The conflict has devolved into a confusing pattern of tribal and clan warfare, disrupting agriculture and displacing a quarter of the country's estimated six million inhabitants. Some 800,000 more have streamed across the border into Kenya and Ethiopia and across the Red Sea into Yemen, according to AID.

In April the UN Security Council approved a massive airlift of food and medicines to Somalia and deployment of guards to protect food convoys to towns where Somalis are starving.

Convinced they would legitimize his main rival, Somali warlord Gen. Farrah Aidid said he would not allow UN in areas controlled by his own forces. Mr. Bolton said an aide to General Aidid warned: "If the UN sent in 50 military observers, they might as well send in 50 coffins, too."

A team of UN technicians is due to arrive in Somalia this week to assess conditions for deploying UN soldiers.

The International Committee for the Red Cross (ICRC), the main relief organization working in Somalia, says that of 35,000 tons of food needed per month only 15,000 are now getting through, enough to feed half a million Somalis at 450 feeding centers in the country.

UN troops could unclog the supply lines, especially ports, and ensure that food supplies would be fairly distributed. To reduce the tensions that feed the civil war, relief officials say, the international community must pour massive amounts of food into Somalia, with or without immediate regard to efficiency or equity.

"We have to accept the fact that food will first reach people with guns, then the people who really need it," says Mark Gastellu-Etchegorry, deputy director of the Paris-based group Doctors Without Frontiers. "Monitoring food shipments will be possible only in the second phase."

Since the start of the civil war, local agriculture has all but ceased to exist, factories that produced food have been destroyed, and food-distribution systems have been disrupted.

More than a fourth of all children under age five have died. Without major food supples, the figure could jump to three-fourths within six months, according to estimates used by US AID and the private relief groups.

"The international community is looking at a country that is now dying," says Dr. Gastellu-Etchegorry. "A whole generation is going to disappear in Somalia, more than any other nation.

Most of it has been channeled through the ICRC and other private organizations. "This shows a decided patter of strong American support" for the relief effort, says a State Department official.

Critics rejoin that distribution not money, is the main issue and that the only way to get food where it is needed is with a UN military presence. They have echoed UN Secretary-General Boutros Boutros-Ghali's complaint that the UN Security Council has been more concerned with helping Yugoslavia than Somalia.

[From the Washington Post, Aug. 6, 1992]

FIERCE FIGHTING COULD HALT U.N. SARAJEVO MISSION

(By Kurt Schork)

SARAJEVO, BOSNIA, August 5.—A U.N. spokesman said today that the U.N. humanitarian relief mission here may have to be scrapped as fighting between powerful Serb militia forces and Sarajevo's Slavic Moslem defenders escalated into perhaps the most concentrated battle for the city since the Serbs laid siege to it nearly four months ago.

"There comes a time when we have to assess the situation, and I guess that time comes now," said U.N. spokesman Mik Magnusson, just one day after U.N. officials announced an indefinite suspension of international relief flights for the city's 300,000 civilians because of heavy fighting around the airport.

"We have had one man killed [a Ukrainian soldier] and six badly injured" in the last few days, Magnusson said. "We cannot go on indefinitely. If the level of violence continues, it will seriously endanger us during our mission."

Magnusson said French Gen. Philippe Morillon was to have arrived in Sarajevo to discuss prospects for reopening the airport, but the fighting prevented him from making the journey. "He cannot find an aircraft to fly here because there isn't enough money to pay the insurance," Magnusson said. The warring factions keep saying they want a truce, Magnusson said, "but you can hear the cease-fire"—an ironic reference to the sounds of nearby artillery shells and automatic weapons fire.

Magnusson's gloomy assessment came as Moslem and local Serb militia forces flailed at each other with all the heavy weapons they could muster, including armored vehicles, massed artillery batteries, multiple rocket-launchers and—on the Serb side—jet aircraft. Early reports indicated the Moslems had made some progress toward breaking out of the Serb encirclement, but analysts here said it was unlikely that the Moslem forces had sufficient firepower for a clean breakthrough.

They have 10 times as many weapons as they have troops around Sarajevo, and we have 10 times more people who would fight than we have weapons to arm," said Stjepan Siber, a deputy commander of Sarajevo defense forces. Earlier this week, another senior defense official, Col. Jovan Divjak, said that his forces were fighting "more or less bare-handed against Serb tanks and artillery."

Siber said the battle began as "our side and the Serb side launched offensives against each other at the same time." He estimated the fighting involved more than 8,000 of his militiamen and about 5,000 Serbs, who he said had the advantage of holding the high ground around Sarajevo and of being far better armed.

Nighttime artillery duels lit up the skies and hills around the city as downtown Muslim neighborhoods and the largely Muslim suburb of Dobrinja, which adjoins the airport, were heavily pounded. Return fire seemed directed primarily at Trebevic Mountain, a forest-clad ridge overlooking the city. Fiery rocket salvos streamed into the ridge line, while mortar fire and less frequent heavy artillery rounds tore into the lower slope.

Bemoaning the seemingly inexhaustible supply of arms available to his Serb antagonists, Siber complained bitterly about the continued refusal of Western governments to come to the aid of his embattled young nation. "I don't understand why the world does not blockade the weapons and ammunition sent to Serb forces" from neighboring Serbia and Montenegro, he said. "They have reserves here they haven't begun to use yet."

The United Nations has imposed trade sanctions on Serbia and Montenegro—the only members of the new Serb-controlled Yugoslav state—for their support of Serb aggression in Bosnia; the world body also instituted the humanitarian airlift to Sarajevo, but it has so far declined to commit combat troops.

U.N. Secretary General Boutros Boutros-Ghali recently proposed creation of a U.N. rapid reaction force that could intervene in conflicts like the one in Bosnia, and he was quoted in a newspaper interview today as saying that France had agreed to provide 2,000 troops for such a force.

Boutros-Ghali told the German weekly Die Zeit that French President Francois Mitterrand had said France could contribute 1,000 paratroops on 24 hours' notice and another 1,000 in less than a week. "If 20 other countries were ready to do that, I would be in a much better position [to handle regional conflicts]," Boutros-Ghali said.

[From the Washington Times, Aug. 4, 1992]

U.N. SOLDIERS CALLED VITAL TO RELIEF IN SOMALIA

(By Martin Sieff)

The presence of armed U.N. troops in the war-ravaged African country of Somalia is necessary to ensure that relief gets to 1.5 million starving people in "the world's worst humanitarian crisis," a senior U.S. aid official said yesterday.

"Provision of security is the fundamental issue," said James R. Kunder, director of foreign disaster assistance at the Agency for International Development.

The U.N. Security Council adopted a resolution July 28 authorizing the deployment of U.N. troops to aid relief efforts in drought-stricken, disease-wracked and war-torn Somalia, and Mr. Kunder said a U.N. technical team is to arrive in the Kenyan capital of Nairobi today to advise on whether 500 troops will be sufficient.

Relief workers are unable to do their job properly because they are continually harassed, robbed and shot at by armed gangs, Mr. Kunder said.

Somalia has been in a state of chaos since longtime dictator Mohammed Siad Barre was toppled in January 1991. The two main feuding clans signed a U.N.-brokered cease-fire in February, but anarchy has prevailed since then.

Mr. Kunder said a quarter of all Somalian children under age 5 have died in the famine and violence and 75 percent of those remaining could die in the next few months. There was no indication of the total number of children involved.

"This is the world's worst humanitarian crisis" he said.

"I strongly endorse the U.N. plan for the deployment of armed security personnel to Somalia to provide security for relief workers," the disaster aid chief said. "Those Somali factional authorities who claim the mantle of leadership in Mogadishu appear either unable or unwilling to control the chaos on their own."

He said the U.N. troops should be sent in whether or not the warring factions in Somalia agree to accept them. One powerful group led by Mohammed Farah Aidid has resisted.

A resolution calling for U.N. peacekeepers is pending in Congress.

Mr. Kunder, the first senior U.S. official to visit the east African country of 6.5 million people in 18 months, announced that the United States will send an additional 8,300 tons of relief supplies.

Mr. Kunder said he was shocked by the chaos in the capital of Mogadishu during his visit last month. Tons of food spill out of dockside warehouses as people starve a few hundred yards away, he said.

"Somali and international relief workers are providing care in the midst of American Civil War-like conditions," Mr. Kunder said. He noted that 30 to 50 gunshot victims a day were coming into one hospital he visited.

The International Committee of the Red Cross estimates that Somalia needs 35,000 tons of food relief a day to avert a full-scale disaster. But only 15,000 tons a day is moving into the country and much of this cannot be distributed because of the chaos, Mr. Kunder said.

Another 150,000 to 200,000 tons of food relief is already "in the pipeline" but cannot be moved in until conditions improve, he said.

Mr. Kunder said armed gangs roam the capital, where heavy weapons are positioned at many street corners.

"The entire economy consists of protecting relief food or attacking food convoys," he said. "The security picture is chaos."

Red Cross emergency kitchens are feeding nearly 500,000 people a day in the capital, but relief experts said this was just a "drop in the ocean," Mr. Kunder said.

He described conditions in refugee camps for Somalis in northern Kenya as "terrible" and "horrible." About 300,000 refugees are living in the camps and 1,000 more flee across the border every day he said.

[From the Los Angeles Times, Aug. 4, 1992]

SEVENTY-FIVE PERCENT OF SOMALI CHILDREN MAY DIE, OFFICIAL WARNS

(By Stanley Meisler)

Washington—A Bush Administration official warned Monday that three-quarters of Somalia's children may die in the next six months unless U.N. guards restrain looters enough to let food and medicine reach the starving and sick.

James Kunder of the U.S. Agency for International Development, the first top American official to reach Somalia in a year and a half, described the situation in the ravaged East African country as "the world's worst humanitarian disaster."

Kunder, who directs AID's Office of Foreign Disaster Assistance, at a briefing endorsed U.N. plan to send guards to the Somali capital of Mogadishu to force distribution of the supplies now bottled up in the port by two rival and belligerent tribal subclans.

Insisting that lack of security is the main reason Somalis are starving and dying of illness, the AID official cited a flagrant example of the problem. "Seven thousand tons of food are spilling out of the docks of Mogadishu while Somalis starve a kilometer away," he said.

Mogadishu has been ravaged and paralyzed by an incessant civil war between the two sub-clans that seems to defy logic and lack any ethnic base. "Not only are they from the same tribe," a U.N. official said of the two warring factions recently after several trips there. "Not only do they speak the same language and have the same ethnicity—[but] there is not one shred of difference between them ideologically. They are only interested in power, and it cannot be shared."

The crisis has received new attention in recent weeks largely through the efforts of U.N. Secretary General Boutros Boutros-Ghali, who has accused Westerners of focusing so hard on the problems of Yugoslavia and its breakaway republics that they have blinded themselves to the even more terrible loss of life in the Horn of Africa.

Kunder, who had just spent two days in Somalia as part of a study of relief problems in East Africa, said that heavy artillery shelling has stopped under a U.N.-mediated cease-fire but that armed bands continue to wander through Mogadishu, looting food and terrorizing civilians.

"There are an awful lot of armed people on the street," he said. "There are heavy weapons on the street corners. There is firing in the air. Thirty to 40 casualties a day are coming into one of Mogadishui's three hospitals. I would paint the security picture in general as one of chaos."

The AID official offered an array of grim statistics. He said a quarter of Somalia's population of 6.5 million faces starvation. The figures for children under 5 are worse. He said AID's best guess is that a quarter of the children have died already and that, in all, three-quarters will die in six months unless the food pipeline is unclogged.

Furthermore, he said, more than 800,000 Somalis have fled to Ethiopia, Kenya, Djibouti and Yemen. He described the Kenyan refugee camps, which he had just toured, as "terrible, horrible." A thousand Somalis are crossing the border into northern Kenya every day, he said, and Kenya does not have the resources to cope with them.

Kunder said U.N. experts believe that security could be established at the Mogadishu docks with 500 guards. But Reuters news agency reported that Mohammed Sahnoun, the Algerian diplomat who is the U.N. special representative in Somalia, now believes that several thousand may be needed to ensure that relief supplies reach those in need.

Working through international agencies such as the International Committee of the Red Cross and the Office of the U.N. High Commissioner for Refugees, the U.S. government, according to Kunder, has donated $77 million for food relief, shipments of medical supplies and airlifts.

Kunder said that only 15,000 tons of food have been reaching the hungry in Somalia every month, less than half of the 35,000 tons needed, according to estimates. But he emphasized that relief for Somalia hinges far more on a reduction in looting than on an increase in food.

He said that 150,000 to 200,000 tons of food are "in the pipeline," ready to move into Somalia if secure routes can be found from Mogadishu to relief workers in the field. When food reaches relief workers, he said, "most of it does get through to the people."

Kunder said Somalia now has no other economy except relief. The economy, he explained, "consists either in protecting relief food—that is, the hiring of armed guards for relief convoys—or [in] attacking those convoys."

"We need to examine ways to bring Somali merchants into the food distribution process," he went on, "both in order ±to move more food into the country and to generate currency, local currency, to provide jobs and earnings in the marketplace."

Mr. EMERSON. Mr. Speaker, I rise in strong support of Senate Concurrent Resolution 132 and the companion House resolution sponsored by the gentleman from New York [Mr. GILMAN], concerning the appalling humanitarian crisis in Somalia. I would also like to take this opportunity to commend my colleagues on the Hunger Committee, Chairman HALL and Mr. WHEAT, for their leadership in bringing attention to the plight of the Somali people at a time when the eyes of the world seem to be turned elsewhere.

Somalia is, without question, the world's greatest human disaster. To be quite honest, I am almost at a loss to describe the horror of what is going on in that country today. We heard 7 months ago that vicious factional fighting in Mogadishu had claimed the lives of 30,000 people. At the time, food stocks were already exhausted, and malnutrition rates in some places had soared to almost 90 percent.

Today, although there is a nominal ceasefire in the capital, the situation throughout the country has so deteriorated that Somalia seems little more than a smouldering ruin. While armed bandits roam the countryside, stealing emergency rations and endangering the lives of relief personnel, whole generations are literally starving to death. As many as 100,000 people may have already died from hunger and disease, and hundreds more perish every day waiting for food to arrive.

This cannot go on. Further action must be taken now by this Government, by the United Nations, and by other members of the international community to reverse the course of this human catastrophe.

However, I have been pleased to see in recent weeks the efforts of U.N. Secretary-General Boutros-Ghali and his envoy Ambassador Mohammed Sahnoun to focus world attention on the crisis in Somalia. And I applaud the statements of the President in support of U.N. proposals to deploy security forces in Somalia to guard the delivery of emergency supplies.

Nevertheless, we must move beyond the stage of debate toward the dramatic and immediate expansion of relief activities—by whatever means necessary. Through this resolution, the Congress speaks with one voice to say that we and the American people believe that the time for such dramatic action has come. Emergency operations must now double or triple in Somalia if the lives of millions are to be saved, and U.N. security forces must be deployed to ensure that food and medicine reaches those most in need.

This legislation is a call to humanitarian arms in a war that the innocent people of Somalia are losing badly. I urge you to join me in supporting this resolution at this critical time.

Mr. DORGAN of North Dakota. Mr. Speaker, finally, and too slowly, the world is turning its attention toward the devastating human tragedy in Somalia. It is a sad commentary on our humanitarian policies to note that since Somalia has lost its strategic significance due to the end of the cold war, we have directed very little attention or aid its way. Why are we so consumed with the loss of life, lack of food, and civil strife in Yugoslavia, and yet relatively unaffected by what are arguably much worse conditions in Somalia? We have all been greatly moved by the plight of two young children who were killed in an attempted evacuation from Sarajevo. But why aren't we hearing more about the fact that in Somalia, 600 children under the age of 5 are dying each and every day?

The United States is not alone in its shortcomings on this issue. The United Nations, and all the so-called donor nations are equally to blame for focusing so few of their resources, in terms of personnel, food, money, medicine, or diplomatic intervention, on this war-torn and famine-ridden land where 5,000 people are dying daily. It is time for all of us to stand up and be counted in our determination to help the suffering people of Somalia.

The resolution before us today is intended to express to both the President and the United Nations the sense of the Congress that this situation must be dealt with swiftly and with great determination. I am an original cosponsor of the companion bill, House Concurrent Resolution 352. It builds on the Horn of Africa Recovery and Food Security Act, which I introduced last year and which the President signed this spring. It provided an array of relief, recovery and conflict resolution tools for use in Somalia and other Horn countries.

In a sense, we as a legislative body are powerless to effect any greater U.S. involvement than the executive branch is willing to implement with existing commodities and appropriations, and certainly we have no direct authority over the actions of the United Nations. But it is most important that we stand together today in our insistence that these two organizations, and in fact all civilized nations that are capable of any assistance at all, get off the dime and start delivering massive amounts of aid, under armed guards if necessary, to the starving people of Somalia.

And it is also important that we convey to the warring factions in Somalia itself, who continue their struggle despite the decimation of their own people, that it is time to put down their guns and tend to the needs of all Somalis. The enemy leaders, who are members of the same clan, must be made to realize that if the populace of Mogadishu dies of starvation, there will be little reason left to gain control of that once-beautiful city.

Mr. Speaker, this is a terrible tragedy, and one that should have been averted long ago through a much more forceful international presence and concern. The only people who are eating in Somalia right now are the people with guns, and that tends to be younger men. The women, children, and aged are dying in unprecedented numbers of starvation. It is now widely agreed that the only possible solution is to flood the country with so much food aid that it will no longer be necessary for the powerful few to appropriate available supplies for their own needs at gunpoint.

I urge all of my colleagues to unanimously support this resolution, Senate Concurrent Resolution 132, and to send the strongest possible message to President Bush, the United Nations, and the warring Somali generals that this Congress wants action now—before it is too late.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of the resolution offered by the gentleman from New York [Mr. GILMAN]. I am pleased to be an original cosponsor. The situation in Somalia, as most of my colleagues know by now, is the worst humanitarian crisis the world is faced with today. In fact, relief agencies say that it is the worst situation that they have ever faced. The death rates defy imagination: 7,000 people died in one town of 40,000 people in 1 month, and it has been estimated that up to one-fourth of the children under the age of 5 have perished. This is a situation which we cannot, with any moral conscience, sit by and watch as an entire nation perishes.

There have been, and continue to be, efforts to bring some measure of humanity to this unparalleled tragedy. The nongovernmental organizations, supported by United States and other donors' assistance, have been working tirelessly and courageously, at extreme risk of personnel, to save lives and keep supply networks open. But despite their unflagging dedication and commitment, much, much more needs to be done to pull Somalia out of this profound human tragedy. That is what this resolution is trying to do. It is asking the United States to take the moral leadership at the United Nations to make Somalia a top priority. It commends the administration for having recently become more actively engaged with the Somalian situation, but more importantly, it urges the United States to work with the United Nations to deploy the humanitarian escort guards in Somalia immediately—with or without the consent of the Somali factions. Let me make it absolutely clear, however, we are not talking about a military intervention of the type that has been discussed in the former Yugoslavia aimed at military targets. Nor should it be confused with a peacekeeping force. The purpose of this humanitarian escort force is solely to protect relief personnel and supplies for a limited peirod of time until greater stability can be brought to the country.

As chairman of the Select Committee on Hunger, I can tell you that there are a lot of crises around the world—Yugoslavia is only the one you're hearing most about these days—that demand greater attention than we can give them. But, Mr. Speaker, I would have to say, that if there is one place in the world where I believe that we have to reach out and set a bottom line for human suffering, it would be Somalia. We, the United Nations and the United States, can—and must—do more.

I urge my colleagues to support the resolution.

Mr. PENNY. Mr. Speaker, I strongly support Senate Concurrent Resolution 132 condemning the senseless killing in Somalia and calling upon the international community to make every effort to provide humanitarian aid to the millions of people who are starving.

Our newspapers daily carry headlines of civil war and strife around the world but it seems that the disaster occurring in Somalia has not been as prominent or eye-catching. Yet we are facing a disaster of unbelievable proportions.

The Red Cross officials believe that one-third of Somalia's people, a number between 4.5 to 6 million, are likely to die in the next 6 months unless more food is delivered to the country. To give some perspective to these numbers, during the Ethiopian famine in 1985, about 1 million of the country's 40 million people died.

The least we can do as Members of Congress is show support for the efforts of U.N. Secretary General Boutros Boutros Ghali, the U.N. Special Envoy to Somalia, Ambassador Mohammed Sahnoun and the thousands of unsung heros who represent relief agencies that risk their lives daily to deliver much needed humanitarian assistance.

In addition, we urge President Bush to work with the U.N. Security Council to deploy U.N. Security Forces to provide protection for relief workers delivering food and medicine. The U.N. also must develop creative and alternative transportation options to bypass the besieged capital of Mogadishu and transport supplies to rural areas.

I urge my colleagues to support Senate Concurrent Resolution 132.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 132.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just considered and concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REGARDING VIOLENCE IN SOUTH AFRICA

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 497) relating to ongoing violence connected with apartheid in South Africa, as amended.

The Clerk read as follows:

H. RES. 497

Whereas more than 11,000 people have died in South Africa as a result of political violence since 1984, and more than one-half of these have died since the release of Nelson Mandela from prison in 1990;

Whereas the negotiations by the Convention for a Democratic South Africa (CODESA) on the formation of a transitional government that will lead to a new constitution and a nonracial, democratic government could be undermined by the continuing violence;

Whereas the terror perpetuated by the ongoing political violence jeopardizes the willingness of South Africans to participate in the transition process and compromises the climate for free political participation by all South Africans; and

Whereas credible evidence has been presented to the Goldstone Commission on Inquiry into Public Violence and Intimidation, South African human rights organizations, Amnesty International, and others that members of South African security force units have trained, armed, and funded paramilitary groups involved in committing and instigating violence, and perhaps continue to do so: Now, therefore, be it

Resolved, That the House of Representatives—

(1) notes with dismay the killing in South Africa and condemns this senseless violence;

(2) urges the Government of South Africa to take effective steps to end the violence and protect all South African citizens regardless of race, color, or creed;

(3) stresses the responsibility of all parties to end the violence in South Africa;

(4) urges all parties to return to negotiations within the Convention for Democratic South Africa (CODESA) as soon as possible; and

(5) urges the President to submit a report to the House of Representatives on—

(A) the nature of the violence in South Africa and the role that the various participants are playing in the ongoing violence; and

(B) the impact of this violence on South Africa's transition to democracy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

(Mr. PAYNE of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, on August 5, the Committee on Foreign Affairs favorably reported an amended version of House Resolution 497 for consideration by the full House. Earlier, the Subcommittee on Africa also favorably reported an amended version of the measure.

The resolution sets forth United States concerns about the devastating impact which on going violence has and will continue to have on South Africa's long overdue transition to democracy.

The measure also stresses the responsibility of all parties to take steps to end the violence and urges them to resume CODESA negotiations.

The death and destruction has significantly weakened an already delicate situation. It has also made it virtually impossible for negotiations to continue.

In July, the ANC suspended negotiations amid allegations that the South African Government was a coconspirator in the on-going violence. Most recently, COSATU and the ANC held a peaceful 2 day strike that ended with at least 20 persons being killed.

Both Mr. Mandela and President de Klerk have expressed hope that the violence will end and the negotiations will resume. However, to date, neither has occurred. Therefore, Mr. Speaker, it is imperative that the full body move swiftly to pass this resolution and send a strong message to South Africa stressing the urgency of ending the violence and moving quickly to resume negotiations toward a post apartheid South Africa.

This resolution represents a bipartisan effort by members of the Subcommittee on Africa and the Committee on Foreign Affairs to craft legislation reflecting the concern of the Congress about the violence continuing unabated in South Africa. I urge my colleagues to support this important initiative.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support House Resolution 497, which condemns the violence in South Africa. All of us recognize the tragedy of the continuing bloodshed—and the threat the killing poses for a peaceful, democratic future.

Throughout the subcommittee and committee process, we have made substantial improvements to the resolution, led by the ranking member of the Africa Subcommittee, Mr. BURTON. The resolution now urges all parties to return to the negotiating table. As Assistant Secretary of State for Africa, Hank Cohen, recently pointed out before the subcommittee, the recent violence makes further negotiations, more, not less important.

All parties—the Government, the ANC, and Inkatha—must do more to contain the violence. All parties must also redouble their efforts to work out South Africa's future at the bargaining table—not in the streets.

I urge my colleagues to support this resolution to end the violence in South Africa and return the parties to the negotiating table. Only through such action will the people of South Africa find a just end to the apartheid system.

□ 1620

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the senior Republican on the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I rise to express my support for House Resolution 497, and I commend the chairman of our Subcommittee on Africa, the gentleman from California [Mr. DYMALLY], as well as the ranking Republican member of the subcommittee, the distinguished gentleman from Indiana [Mr. BURTON], for their outstanding work on this measure.

All of us recognize the tragedy of continued bloodshed in South Africa, and we all hope and pray for that nation's peaceful future.

I am concerned with the ANC's decision to walk away from the negotiating table, in favor of mass action. As Assistant Secretary of State for African Affairs, Hank Cohen, recently pointed out before the subcommittee, that violence makes further negotiations more, not less important.

All parties in South Africa—the Government, the ANC, Inkatha—must do more to contain the violence. All parties must redouble their efforts to work out South Africa's future at the bargaining table—not in the streets.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and agree to the resolution, House Resolution 497, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SENSE OF THE CONGRESS ON THE ALLEVIATION OF HUNGER

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 179) expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan.

The Clerk read as follows:

H. CON. RES. 179

Expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan.

Whereas 750,000,000 people worldwide, more than three times the population of the United States, suffer from moderate to severe malnutrition and do not consume enough calories to perform sustained manual labor;

Whereas 9,240 people, mostly children under the age of five, die every day from hunger-related causes and others suffer brain damage due to malnutrition;

Whereas medical research documents that full economic productivity by adults and full mental development of young children both require adequate nutrition;

Whereas permanent impairment of body or mind due to chronic or temporary hunger contributes to a cycle of lowered economic productivity in which millions of individuals and families are incapable of generating sufficient income to escape from the cycle of hunger and lack of productivity;

Whereas adequate nutrition and other health measures have resulted in lowering rates of infant mortality below 50 per 1,000 during the twentieth century in countries containing over 50 percent of the world's population, and it is technically feasible to achieve such a reduction worldwide by the year 2000 through elimination of persistent hunger and other health measures;

Whereas sufficient food can be produced on a global basis to adequately feed the population of the world, to prevent brain damage due to malnutrition, and to eliminate lack of economic productivity due to hunger;

Whereas such food supplies must come from production both in the countries which are net exporters of agricultural commodities and products and also from increased food production in food-deficit countries in the developing world;

Whereas development assistance in the from of food can be productively used to alleviate hunger and malnutrition among impoverished people and also as a resource to promote improvements in local agriculture, health, sanitation, education, environmental sustainability and basic infrastructure;

Whereas private voluntary groups, other nongovernmental organizations, and international organizations have experience in the design and successful administration of projects using food assistance for development-related projects and for emergency relief;

Whereas the United States has demonstrated a sustained commitment to making food available for development and relief purposes through the Public Law 480 Food for Peace and other food donation programs, totaling $41,000,000,000 in gross value between 1954 and 1988;

Whereas the policy of the United States has been to encourage cooperation among the bilateral aid programs of various donor governments and international organizations such as the World Food Programmed in pursuit of hunger alleviation and related development goals;

Whereas the Japanese commitment to double its official development assistance from $25,000,000,000 between 1983 and 1987 to $50,000,000,000 between 1988 and 1992 and to provide a larger proportion of its aid programs as grants will make Japan the largest net bilateral development assistance donor;

Whereas it is in the interest of both the Unites States and Japan to promote hunger alleviation, sustainable economic growth and political democracies in developing nations;

Whereas Japan has barriers to the importation of certain United States agricultural commodities and products, such as rice;

Whereas there has been a lack of progress on negotiating reduced barriers to many United States commodities which would be highly competitive in an open Japanese market;

Whereas it is also in the interest of both the United States and Japan to reduce bilateral trade tensions between the two nations, particularly in the area of agricultural trade; and

Whereas the United States' agricultural production capabilities and Japan's financial capabilities are complementary factors that must be coordinated for dramatic global progress to be made in reducing preventable deaths from hunger-related causes during the next decade: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President should direct the Secretary of Agriculture, the Secretary of State, and the Administrator of the Agency for International Development to encourage the Government of Japan to use a portion of

its increased foreign assistance funds to significantly increase the availability of international food aid supplies through bilateral or multilateral channels to meet the needs of the world's hungry people;

(2) Japanese aid resources could be channeled to finance, directly or indirectly, long-term contracts to purchase and deliver commodities from the United States and developing country agricultural producers as donations to nongovernmental or international organizations for use in hunger alleviation projects with developmental results;

(3) during the duration of any such long-term contractual agreement, such purchases of food and agricultural commodities and products produced in the United States which are purchased by the Government of Japan for donation and delivery to international hunger relief programs should be considered as the equivalent of increased importation into Japan of the same quantities of such product for the purposes of United States Trade Law in cases where this would be of advantage to Japan;

(4) during the time period of any such Japanese purchases from the United States, the value of United States Government purchases of the same commodities for use in food aid programs under Public Law 480 should be maintained at no less than fiscal year 1990 levels; and

(5) the commodities purchased under this program should be donated to organizations equipped to ensure that the food will be available only to projects that meet the following criteria:

(A) The use of the food will either be positive or neutral in its impact on the incomes of local agricultural producers and on incentives for production in the recipient nation.

(B) The food will be targeted for use in improving the nutritional status of impoverished and malnourished people.

(C) To the maximum extent possible, the food will be used in such programs as food-for-work, school feeding, or other programs resulting in improved smallholder agricultural productivity, health, sanitation, environmental sustainability, education or basic infrastructure as well as improved nutrition. Allowance should also be made for the monetization of up to 25 percent of the food donated for any particular project, subject to the three conditions listed above.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 179, a resolution which proposes to encourage the Government of Japan to use its foreign assistance funds to purchase United States agricultural commodities for the purpose of alleviating hunger in developing countries. I would like to thank Representative BEREUTER for his leadership in sponsoring this resolution. In addition, we appreciate the cooperation of Chairman ROSTENKOWSKI and the Committee on Ways and Means and Chairman DE LA GARZA and the Committee on Agriculture in promptly reporting this resolution.

We are well aware that regional food supply shortages exist in many areas of the world. In drought-stricken southern Africa, famine later this year can be averted only by a massive and immediate international relief effort. Serious difficulties also persist in the Horn, especially in war-torn Somalia. In spite of sharply higher food needs, cereal food aid shipments are expected to decline by half a million tons this year.

While the United States can be proud of its contributions of food aid to the southern Africa drought, where it has provided over a million and half metric tons of grain to date, more than 30 percent of the total aid required, other donors have not yet made sufficient assistance available to meet the region's requirements. This resolution urges that the Japanese Government use some of that country's substantial foreign assistance budget to purchase agricultural commodities in the United States which can be donated to the World Food Program to help meet urgent food shortages.

I ask my colleagues to join with me in supporting this resolution to direct the executive branch to encourage the Government of Japan to work with our Government in meeting the needs of starving people around the world.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from Nebraska [Mr. BEREUTER] for the leadership he has shown on this issue, and the gentleman from Florida [Mr. FASCELL] for his efforts in bringing this resolution to the floor.

The purpose of House Concurrent Resolution 179 is very simple: It matches up one of the world's largest foreign aid donors—Japan—with the world's largest agricultural producer—the United States—in order to address the problem of global hunger.

This legislation urges cooperation between the United States and Japan in an area where we both have a long-standing commitment. For the last 10 years, our two countries have ranked one and two in the amount of foreign aid we provide to developing countries. At the same time, relations between our two countries have at times been difficult because of the trade deficit.

This resolution can improve the trade problem by building on areas where we already work together.

I support this resolution, and I hope that the administration and the Japanese Government will seek to pursue this policy.

Mr. Speaker, I ask unanimous consent for the gentleman from Nebraska [Mr. BEREUTER] to control the balance of the time allocated to me.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Member would like to thank the cosponsors of House Concurrent Resolution 179, which this Member introduced in original form back in the 101st Congress and, in refined form, in this Congress. I also want to thank a number of committees and Members that have been mentioned by the distinguished gentleman from New Jersey [Mr. PAYNE], and I thank him for his kind remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 179, legislation encouraging Japan to help alleviate international hunger. I commend my colleague the gentleman from Nebraska [Mr. BEREUTER] for his timely initiative and I thank the chairmen and ranking minority members of the House Foreign Affairs Committee and the Subcommittees on International Policy and Trade, and Asia and the Pacific for supporting this bold proposal.

Each day, we can vividly observe through the press the deteriorating ability of vast numbers of people to meet their daily nutritional requirements. In the United States, the lack of coordination among various Federal programs has brought attention to the idea of one stop shopping. Abroad, drought and war in Africa effects the ability of hundreds of millions of individuals to provide basic nutrition for themselves and their families. Furthermore, environmental degradation and ill-conceived development programs continue to exacerbate the problem worldwide and frequently are its cause.

If the foreign assistance resources available to Japan become more closely tied to alleviating world hunger, many lives will be saved and much good-will will be generated. Accordingly, I urge my colleagues to support House Concurrent Resolution 179.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his kind and informative remarks.

As I mentioned, we have a great number of Members and three committees that have acted favorably on this legislation. In particular, thanks go to the distinguished chairman and ranking member of the Committee on Foreign Affairs, Mr. FASCELL and Mr. BROOMFIELD, and its Subcommittees on Asia and the Pacific, Mr. SOLARZ and Mr. LEACH, and International Economic Policy and Trade, Mr. GEJDENSON and Mr. ROTH, and the chairman and ranking member of the Committee on Ways and Means, Mr. ROSTENKOWSKI and Mr. ARCHER and its Subcommittee on Trade, Mr. GIBBONS and Mr. CRANE, the chairman and ranking member of the Committee on Agriculture, Mr. DE LA GARZA and Mr. COLEMAN, and its Subcommittee on Department Operations, Research, and Foreign Agriculture, Mr. ROSE and Mr. ROBERTS, and the chairman and ranking member of the Select Committee on Hunger, Mr. HALL and Mr. EMERSON.

The broad interest in this resolution in the Congress is indicative of the fact that it makes sense from a number of angles: foreign policy, exports and trade, agriculture, and hunger alleviation.

House Concurrent Resolution 179 expresses the sense of the Congress that the President should encourage the Government of Japan to consider financing increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries. Developing a long-term collaborative program of this type is an excellent win-win-win opportunity, helping hungry and starving people, the farmers of the United States, and better trade balance and better relations between Japan and the United States.

The idea is simple. The Japanese foreign aid program has recently been expanded significantly. The need for international food assistance for emergencies and for developmentally oriented poverty alleviation programs has never been greater. Would it not be a good idea for Japan to use some of its foreign assistance cash to help needy, poor people in a way that creates United States exports and more balanced bilateral trade relations between the United States and Japan? This kind of program could provide immediate three-way benefits while not, I repeat, not, in any way, impeding other critically important and necessary Japanese market-opening measures such as those being discussed in the GATT negotiations and ongoing bilateral United States-Japan trade and SII [structural impediments initiative] talks?

Nor would such a program displace any commercial sales of U.S. commodities. The assistance would be going through channels that could ensure that it was targeted to reach the poorest of the poor, who are malnourished because they do not have enough money to buy the food they need in the market economy. How can these people, almost 1 billion worldwide, 1 in 7 of the people on the globe, ever become productive and paying consumers unless they are given a hand to get out of the health-impairing situation of hunger and malnutrition in which they live?

The Japanese aid program, mostly focused on multilateral financial assistance, project aid, and cash grants, is not roughly the same size as the U.S. program. Its growth is a sign of hope for the world's attack on poverty and malnutrition. Japan has increased its aid program at a time when many nations' programs have been stagnant or shrinking. This generosity is to be commended. However, donation of agricultural products for hunger relief has never been a major component of the Japanese aid program. In part this is because of limited Japanese domestic food production capacity. In part it is because of the limitations imposed by the special institutional requirements of effective food aid coupled with a low level of involvement by Japanese private voluntary groups in international relief and development efforts historically. Food aid, to be effective, takes a special kind of handling and requires careful on-the-ground supervision. The U.S. Food for Peace Program since 1954 has benefited from close collaboration with major private voluntary groups such as CARE, Catholic Relief Services, and Lutheran World Relief and with U.N. agencies such as the World Food Program. These organizations provide the channels to ensure that food gets to the people in need, promotes development, and does not damage local farmers in desperately poor countries. This linkage with the private voluntary community is one of the great strengths of the U.S. foreign aid program in general, and U.S. Food Aid Programs in particular.

Such private voluntary organizations are themselves becoming more global. CARE International has recently established a Japanese CARE, for example. The U.N. agencies, particularly the World Food Program [WFP] which is the U.N.'s food aid agency, also play a valuable international role in relief and development using food aid. These organizations are poised to use additional commodity aid that the Japanese might supply. Of course, U.S. farmers and food processors would be delighted to grow and sell whatever food Japan might want to purchase for this program.

To give a concrete example of this type of activity, which is already happening, modestly and sporadically, let me talk about the World Food Program of the United Nations, now headed by the former Assistant Secretary for Food and Consumer Services of the U.S. Department of Agriculture, Catherine A. Bertini. The total donations of commodities and cash by all countries for use in the World Food Program have stayed roughly stable since 1985 at about $600 million per year. The United States has been the largest donor to the program, accounting for about one-third of all donations and pledges in 1991–92 and prior periods. Total donations received by WFP have provided only about 85 percent of what the World Food Program felt was needed in those years, and the proportion may fall even further in 1992. Up until 1988, only 20–25 percent of this amount donated to WFP needed to be used for emergencies and refugee relief. After 1988, the proportion needed just to meet emergency needs has grown steadily and is now over 50 percent of the total. This has meant tremendous cutbacks and shortages in WFP-supported development programs such as food for work for the destitute rural poor in Bangladesh and school-feeding programs that help keep poor children in school to receive basic education. Clearly, the amount of food needed, particularly in light of the terrible drought in eastern and southern Africa this year and multiplying emergency and refugee needs in other regions, is growing even more rapidly than usual. Without question, more food donations can be used this very day.

Up to now, the Government of Japan has occasionally procured food in the United States for international hunger relief through the World Food Program. During the 5-year period 1988–1992, World Food Program purchases financed by untied cash contributions from the Government of Japan totaled $300 million; $185 million of this procurement was done in developing countries; $27 million was for procurement in developed countries other than the United States; $88 million financed procurement in the United States, all for wheat used in WFP programs in the Horn of Africa and Pakistan, especially in refugee camps. The resolution being considered today would encourage increased funding by Japan for procurement of this sort in the United States, which now averages less than $20 million per year.

To the extent that the Government of Japan would purchase commodities in the United States through long-term contractual arrangements for donation and delivery to international hunger relief programs, the resolution proposes that such purchases be considered as the equivalent of increased importation into Japan of the same quantities of this product for the purposes of United States trade law. At the present time, the bilateral United States-Japan trade imbalance is not used as a trigger for trade actions of a retaliatory nature though there are a number of legislative proposals to do so. Without taking a position on the merits of such proposals, this resolution expresses the sense of Congress that worthy action by Japan to ensure that additional food assistance reaches hungry people around the world through effective channels should be treated as a positive contribution to establishing better balance in direct United States-Japan trade.

Many experienced private voluntary organizations, as well as the World Food Program, would stand ready to help the Government of Japan distribute additional food aid effectively. The resolution suggests that commodities purchased should be donated to—

Organizations equipped to ensure that the food will be available only to projects that meet the following criteria: (1) The use of the food will either be positive or neutral in its impact on the incomes of local agricultural producers and on incentives for production in the recipient nation; (2) The food will be targeted for use in improving the nutritional status of impoverished and malnourished people; and (3) To the maximum extent possible, the food will be used in such programs as food-for-work, school feeding, or other programs resulting in improved smallholder agricultural productivity, health, sanitation, environmental sustainability, education or basic infrastructure as well as improved nutrition.

These types of assurances are self-explanatory and address the known problems of poorly designed food assistance programs.

These types of programs are the ones that will make this triple benefit program for the United States agriculture, and food producers and for Japan on behalf of international peace, development, and understanding. Mr. Speaker, I urge support for the resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of House Concurrent Resolution 179. This resolution expresses the sense of the Congress with regard to supporting increased donations of food to needy developing countries through purchases of agricultural commodities from the United States and developing countries, financed by Japanese development assistance programs.

The purpose of this resolution is to identify a way that the Government of Japan can make a substantial contribution for the benefit of the world's hungry while at the same time improving trade relations with the United States.

The United States has traditionally been the world's leader in providing food assistance to the world's hungry and has provided over $40 million in such assistance since 1954. This historic commitment by the United States will continue, but needs to be augmented by the efforts of other countries, such as Japan, if there is to be concrete progress toward the goal of eliminating hunger in the world by the year 2000.

Mr. Speaker, this resolution sets forth a cooperative approach between United States agriculture and Japanese development assistance programs. If the provisions of this resolution are carried out, it would help to improve United States-Japanese trade relations, increase United States agricultural exports, and, most importantly, help feed millions of hungry people around the world.

For these reasons, I urge my colleagues' support for this important resolution.

Mr. DORGAN of North Dakota. Mr. Speaker, I wish to support this resolution because it can contribute to a reduction in our trade deficit with Japan, and foster a spirit of cooperation with Japan in the arenas of both trade and international hunger relief.

This resolution comes in a year when the need for food assistance, especially for grain, is critical, and the donations by the more affluent nations is down.

In fact, grain donations to areas where people are starving is down by about 500,000 tons this year, according to the United Nations. This is despite severe food shortages in many parts of Africa and elsewhere.

This resolution is only an invitation by the Congress to Japan, offering the Japanese leaders a chance to score their Government's donations of food as if they were United States grain arriving in Japan. That is, for purposes of any United States policies that could result in United States trade sanctions or retaliations because of the unbridled trade deficit between Japan and the United States, Japan could count any purchases of United States food commodities for hungry nations as its own imports of United States commodities.

Since Japan does not itself grow grain for export, this would encourage Japan to buy American grains when contributing to world food assistance programs.

In fact, Japan has been involved in such programs for many years. Japan supplied about 450,000 metric tons, or about $60 million to $70 million, toward such food assistance programs in the past year. It would be a plus for the United States grain market if Japan bought that grain from us.

This resolution encourages Japan to make those food assistance purchases from us. It is a resolution offering a deal that is good for both the United States and Japan, and I ask the Members of the body to support it.

Mr. EMERSON. Mr. Speaker, I rise today in support of this resolution on increasing Japan's contributions to international food aid programs through the purchase of commodities from the United States or developing countries. I would also like to commend my colleague, the gentleman from Nebraska, for his sponsorship of this important legislation and his work in bringing it to the floor.

Hunger, especially among children, remains one of the world's most intractable and tragic problems. This year, indeed, Africa faces perhaps its most monumental food deficits of this century. From southern Africa to the Horn, the lethal combination of drought, famine and civil unrest have placed at risk the lives of 40 million people. Even in better times, 40,000 children die each day from diseases related to malnutrition, and millions more go to bed hungry.

The United States has a long and proud tradition of support for food assistance programs as a way to fight malnutrition and to promote long-term development in the Third World. Through the Food for Peace and other food assistance programs, we have provided some $41 billion to help achieve these goals over the past 40 years. However, while the United States remains committed to staying in the forefront of efforts to reduce malnutrition and poverty in the developing world, it is time now for other nations—such as Japan—to join as partners in these efforts.

This resolution calls upon the President, through the appropriate agencies of government, to encourage Japan to use its increased foreign assistance funds to expand resources available to meet global food aid needs. These funds might be used, for example, to buy and transport goods from the United States to countries in need or to reinforce the hunger-related activities of non-governmental or international organizations. In this way, this legislation is an important expression of America's commitment to work together with Japan and other nations to eradicate the chronic suffering that afflicts so many of the world's people, and I urge your strong support of this bill.

□ 1630

Mr. BEREUTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 179.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Concurrent Resolution 179.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR USE OF ELECTRONIC COTTON WAREHOUSE RECEIPTS

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5764) to amend the U.S. Warehouse Act to provide for the use of electronic cotton warehouse receipts, as amended.

The Clerk read as follows:

H.R. 5764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 17 of the United States Warehouse Act (7 U.S.C. 259) is amended—

(1) in paragraph (1)(A) of subsection (c)—

(A) by striking "The Secretary of Agriculture, or" and inserting "Notwithstanding any other provisions of State or Federal law, the Secretary of Agriculture, or";

(B) by striking "licensed under this Act" and inserting "licensed under this Act or in any other warehouse";

(C) by striking "section 18" and inserting "section 18 or under any applicable State law";

(2) in paragraph (2)(A) of subsection (c), by striking "of this Act" and inserting "of this Act or State law";

(3) in paragraph (2)(B) of subsection (c), by striking "the Secretary may" and inserting "with respect to cotton stored in a warehouse licensed under this Act, the Secretary may";

(4) in paragraph (3) of subsection (c), by striking "licensed under this Act" and inserting "covered under this subsection"; and

(5) by adding the following new subsection at the end thereof:

"(e) Notwithstanding any other provision of State or Federal law, any person designated as a holder of an electronic cotton warehouse receipt on a record in a system of records applicable to cotton maintained on an electronic cotton warehouse receipt system approved by the Secretary of Agriculture pursuant to regulations issued under this section shall, for the purposes of perfecting the security interest of such person under State or Federal law with respect to the cotton covered by such warehouse receipt, be considered to be in possession of the warehouse receipt. This subsection is applicable to electronic cotton warehouse receipts covering cotton stored in a cotton warehouse, whether or not such warehouse is licensed under this Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to advise Members that this is a very simple bill. It does exactly what the title stipulates, and that is that electronic warehouse receipts for cotton may be used by the industry. This will bring us into the 21st century.

Mr. Speaker, H.R. 5764 amends the U.S. Warehouse Act to authorize the use of electronic warehouse receipts for cotton.

This legislation simply broadens the authority of the Secretary of Agriculture to allow the use of an electronic central filing system, in accordance with regulations issued by the Secretary, in lieu of the outdated paper-based warehouse receipt system. Warehouse receipts are used to track the ownership of cotton stored in Federal- and State-licensed warehouses.

H.R. 5764 will modernize and streamline the entire cotton warehouse receipt system. It will require all the same information and provide all the same legal protections as are provided with the current paper system.

Mr. Speaker, several pilot projects have been used to test the electronic system. The new system will be faster, more efficient, require less storage space, and improve security. I am pleased to support this legislation and help the U.S. cotton industry join the computer information age.

Mr. Speaker, an informal review by the Congressional Budget Office indicates this legislation has no budget cost. I urge my colleagues to support H.R. 5764.

Mr. Speaker, I ask unanimous consent that the balance of the time allocated to me be managed by the gentleman from Louisiana [Mr. HUCKABY], the distinguished chairman of the subcommittee that handled this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas [Mr. DE LA GARZA]?

There was no objection.

Mr. HUCKABY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5764 amends the U.S. Warehouse Act to clarify that all cotton warehouses, whether federally or State licensed, may record in a central filing system the information required to be included in a receipt under section 18 of the act or applicable State law, and requires such electronic warehouse receipts for cotton to be treated identically to paper receipts with respect to the perfection of a security interest under State law.

After harvest, cotton is ginned and pressed into bales. Each bale is individually tagged and assigned a grade. If stored in a warehouse, the bale is assigned a warehouse receipt. Generally, these documents are 80-column computer punch cards. When a farmer or a buyer returns to a warehouse to retrieve cotton, the farmer or buyer must tender the warehouse receipt to receive the same bale of cotton delivered to the warehouse by the farmer.

The paper warehouse receipts are bearer documents and are the ultimate means of perfecting an interest in the cotton represented by the certificates. There are major inefficiencies in handling the paper documents because sorting, storing, and moving the documents is slow and expensive. Frequently, the data on the documents must be entered into computers before the data can be utilized, and the documents must then be stored in secure areas. The equipment to handle these outdated punch cards is becoming obsolete. Maintenance of the equipment is becoming increasingly expensive and difficult as the use of this technology ebbs and replacement parts become difficult to obtain.

In order to modernize and streamline this system, H.R. 5764 authorizes the use of an electronic receipt to replace the current paper warehouse receipt. The electronic receipt can be created on an electronic title system by warehouses storing cotton, who would transfer the electronic receipt to the producer or others. The receipt can be transferred to specific accounts and only the owner of the account can act on the receipt.

The 1990 farm bill authorized the Secretary of Agriculture to issue regulations governing the operation of such a system of computerized cotton warehouse receipts in federally licensed warehouses. The bill expands the Secretary's authority to issue such regulations to apply to cotton stored in all cotton warehouses. The provisions of H.R. 5764 will help protect the lien rights of creditors with respect to electronic cotton warehouse receipts issued by non-federally licensed warehouses as well as by federally licensed warehouses. This requires States to treat an electronic cotton warehouse receipt the same way the State treats a paper receipt with respect to how a security interest is perfected under State law. This also provides that State law treat the electronic receipt the same way it treats a paper receipt and allows State licensed warehouses to issue electronic receipts.

Without the authority provided by the bill, State-licensed warehouses would be placed at a significant disadvantage until each individual State law is changed to provide equal treatment of electronic receipts for bales of cotton. The bill ensures that State-licensed warehouses have equal opportunity to utilize electronic systems and benefits from the efficiencies and cost reductions. Without the legislation, federally licensed warehouses could gain a significant competitive advantage as the industry shifts from outdated and cumbersome paper documents to modern and efficient electronic receipts.

Electronic warehouse receipts offer the potential for increased efficiencies and reduced costs by both private and public entities in the domestic cotton industry. In comparison to paper receipts, electronic receipts reduce keypunch data entry and require none of the handling or storage associated with paper. The speed of transactions involving electronic receipts would be greatly improved over the time currently required to consummate a paper based transaction.

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Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the Agriculture Committee chairman, Mr. DE LA GARZA, and Cotton Subcommittee chairman, Mr. HUCKABY, for their efforts in bringing H.R. 5764 to the floor today. H.R. 5764 amends the U.S. Warehouse Act to clarify that all cotton warehouses, either federally or State licensed, may utilize electronic or paper receipts in a similar manner with respect to financial security interests under State Law.

For some time, the domestic cotton industry has been leading the effort to make the practical use of electronic warehouse receipts a reality. What the domestic industry has lacked was the legal capacity to protect the financial interests of creditors with respect to electronic warehouse receipts issued by nonfederally licensed warehouses in the same manner that federally licensed warehouses are protected.

This legislation would require States to treat an electronic warehouse receipt—whether issued by a federally or nonfederally licensed warehouse—the same way that a State treats a paper receipt with respect to protecting financial security interests under State law.

Electronic warehouse receipts offer the potential for increased efficiencies and reduced costs by both private and public entities in the domestic cotton industry. In comparison to paper receipts, electronic receipts reduce keypunch data entry and require none of the cumbersome handling and storage presently associated with paper receipts. Plus, electronic receipts would lead to improved security of the collateral instrument by making forgery or false documents much more difficult to accomplish.

I thank both the Agriculture Committee chairman and Cotton Subcommittee chairman for their leadership on this cost-saving and commonsense approach to cotton warehousing. I fully support this measure and urge its immediate adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. HUCKABY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5764, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EQUITABLE RELIEF TO PRODUCERS OF SUGARCANE

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5763) to provide equitable relief to producers of sugarcane subject to proportionate shares, as amended.

The Clerk read as follows:

H.R. 5763

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. EQUITABLE TREATMENT FOR PRODUCERS.

Section 359f(b)(5) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)(5)) (hereinafter referred to as "the 1938 Act"), is amended by striking subparagraph (B) and inserting the following:

"(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a fiscal year.

"(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the fiscal year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.".

SEC. 2. ADJUSTMENT AFTER DISASTER.

Section 359f(b) of the 1938 Act, as amended by section 1 of this Act, is further amended by inserting after paragraph (6) the following new paragraph:

"(7) ADJUSTMENT.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and providea normal carryover inventory of sugar.".

SEC. 3. CLARIFYING AND CONFORMING AMENDMENTS.

Section 359f(b) of the 1938 Act, as amended by sections 1 and 2 of this Act, is further amended—

(a) in paragraph (1)(B), by—

(1) striking "production of sugar" and inserting "production of sugarcane"; and

(2) inserting "of sugar" before the period at the end;

(b) in the first sentence of paragraph (2), by—

(1) striking "sugar processed from all crops by all processors" and inserting "sugarcane produced by producers in the area"; and

(2) inserting "of sugar" after "provide a normal carryover inventory"; and

(c) in the second sentence of paragraph (2), by inserting "paragraph (7) and" after "under".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, the title exactly explains what this legislation is all about. In the 1990 Farm Act, we had a standby marketing program to limit the production of cane sugar and sugar beets. It came to our attention that in some instances inadequate notice was given and, thereby, the producers would have beyond their allocation.

This legislation is to correct that and allow them equitable relief.

Mr. Speaker, H.R. 5763 provides for the equitable treatment of producers of sugarcane in the event a national sugar marketing allotment program is in effect.

Under the 1990 Farm Act, Congress authorized a standby marketing program to limit the production of cane sugar and sugar beets. If this program goes into effect, for States with more than 250 sugarcane producers, each farm would be assigned a proportionate share of harvestable acres and would be liable for severe penalties for exceeding its share.

It has been brought to the attention of the Committee on Agriculture that because of the way the overall proportionate allocation provision is structured, producers in some States may not receive adequate notice of what their proportionate shares will be prior to harvest. In order to avoid being penalized for harvesting above their proportionate share, these producers would be forced to plow up or destroy their sugarcane.

In order to avoid this problem, H.R. 5763 will allow these producers to harvest the sugarcane from excess acres provided that the processor of such cane does not market sugar in excess of its allocation. In the event that the processor exceeds its allocation, producer penalties would be assessed and prorated based on the amount of sugar marketed in excess of the processor's allocation.

H.R. 5763 also authorizes harvest in excess of the farm's proportionate share in the event of a natural disaster or other adverse condition beyond the control of the producer that affects a crop of sugarcane. This will help enable processors to meet their allocation and provide a normal carryover inventory of sugar.

Mr. Speaker, this legislation merely provides for the equitable treatment of all cane sugar producers in States subject to proportionate shares. An informal review by the Congressional Budget Office indicates this legislation has no budget cost. I urge passage of this legislation.

Mr. Speaker, I ask unanimous consent that the balance of the time allocated to me be handled by the gentleman from Louisiana [Mr. HUCKABY], chairman of the subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HUCKABY. Mr. Speaker, I yield myself such time as I may consume. H.R. 5763 provides for equitable treatment of sugarcane producers who are subject to proportionate shares. In order to maintain the integrity of the no-cost provision of the United States sugar program and protect our traditional foreign suppliers, such as the CBI nations and the Philippines, the 1990 farm bill guarantees a minimum level of sugar imports of 1.25 million tons. To insure this minimum import level, the 1990 farm bill provides for domestic marketing controls on American sugar. One provision of the marketing allotments requires the establishment of proportionate shares, essentially acreage allotments, for sugarcane farms in States with more than 250 producers, in this case, my home State of Louisiana.

If the Secretary of Agriculture determines that marketing allotments must be imposed, the announcement would come only weeks before the commencement of the harvest in Louisiana, a year or more after the crop was planted. As the law is currently drafted, producers would be penalized for harvesting acreage in excess of their proportionate shares. Farmers who plant and cultivate a crop of sugarcane without receiving any notice that their crop acreage for that year would be restricted would be unfairly penalized if limitations on harvesting acreage were imposed just before harvest. This problem would be particularly burdensome in the first year that proportionate shares are triggered. It would be not only economically wasteful but extremely difficult from a cultural standpoint for producers to plow up acreage with harvestable sugarcane or to destroy the mature cane.

H.R. 5763 changes this provision so that producers would only be penalized if sugar in excess of a processor's allotment is marketed. This allows producers to harvest the crop, process it, and store it until it can be legally marketed. H.R. 5763 ensures that Louisiana sugarcane farmers will be treated in the same manner as their fellow sugarcane and sugar beet producers in other States.

H.R. 5763 also modifies the producer penalty rate to better reflect the producer's share of proceeds from the sale of sugar from cane and allows the Secretary to adjust or suspend proportionate shares for a crop to account for natural disasters.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5763, a measure to ensure equitable relief to producers of sugarcane subject to proportionate shares in the event a national sugar marketing allotment program is in effect. I would also like to thank the Agriculture Committee chairman, Mr. DE LA GARZA, and subcommittee chairman, Mr. HUCKABY, for their work on behalf of this bill.

This measure makes technical changes to the Agricultural Adjustment Act of 1938 by providing the Secretary of Agriculture greater flexibility in allowing the harvest of sugarcane acreage in excess of proportionate shares, or to suspend proportionate shares entirely, in the case of a natural disaster or other adverse crop and weather condition.

This measure also provides for a civil penalty for willful harvesting of sugarcane acreage in excess of a farm's proportionate share based on the value of any sugar marketed in excess of the sugarcane processor's allotment.

Mr. Speaker, this bill is a fairness measure which will ensure that sugarcane producers are not penalized for market or weather conditions beyond their control. I thank both the full committee and subcommittee chairman for their cooperation on this issue and urge the immediate adoption of H.R. 5763.

Mr. Speaker, I yield back the balance of my time.

Mr. HUCKABY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5763, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide equitable treatment to producers of sugarcane subject to proportionate shares."

A motion to reconsider was laid on the table.

PERISHABLE AGRICULTURAL COMMODITIES ACT TECHNICAL AMENDMENTS OF 1992

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5741) entitled the "Perishable Agricultural Commodities Act Technical Amendments of 1992," as amended.

The Clerk read as follows:

H.R. 5741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Perishable Agricultural Commodities Act Technical Amendments of 1992".

SEC. 2. REAFFIRMATION OF FINDINGS.

Congress hereby reaffirms the findings of section 5(c)(1) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499(c)(1)) that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities or products, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the pubic interest; and that section 5(c) is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

SEC. 3. TECHNICAL AMENDMENT.

Section 5(c)(2) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)(2)) is amended to read as follows:

"(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held in trust by such commission merchant, dealer, broker, or by a lender who finances the business operations of such a commission merchant, dealer, or broker, whether or not the lender holds a security interest in such trust assets, for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which has been dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association, (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141J(a)), and its members.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume. H.R. 5741 reestablishes in law the congressional intent behind the statutory trust provisions contained in the Perishable Agricultural Commodities Act [PACA]. This bill is needed in order to rectify a recent decision by the Eleventh Circuit Court of Appeals.

In 1984, PACA was amended to require that a statutory trust be placed upon certain assets of a produce buyer for the benefit of an unpaid produce seller. This trust goes into effect as soon as the buyer takes possession, ownership or control of the goods. Generally, trust assets include fruit and vegetable inventory, products derived from fruits and vegetables, and all proceeds from the sale of these fruits and vegetables.

In the case of C.H. Robinson versus Trust Company Bank, the appeals court held that an unpaid seller could not recover trust assets transferred by the buyer to the buyer's lender if the lender did not have notice of the breach of trust. This decision runs counter to the intent of the statutory trust provisions.

H.R. 5741 amends PACA to clarify the intention of the trust provision. The bill makes explicit that lenders who finance the business operations of buyers must hold assets in trust for the benefit of unpaid sellers.

Mr. Speaker, an informal review by the Congressional Budget Office indicates that this legislation has no budget cost. I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

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Mr. ROBERTS. Mr. Speaker, I yield myself such time at I may consume.

Mr. Speaker, I rise in support of H.R. 5741, the Perishable Agricultural Commodities Act Technical Amendments of 1992. This bill clarifies the intent of existing PACA law to state that the PACA trust includes assets paid to lenders who finance the business operations of produce dealers, brokers, and merchants, whether or not they hold a security interest in the trust assets, and whether or not they had notice that payments to them were made in breach of the trust.

The purpose of the bill is to assure that produce sellers are paid and have the benefits of the PACA trust.

PACA regulates the buying and selling of fruits and vegetables to prevent unfair and fraudulent trade and to assure that sellers of fruits and vegetables will be paid promptly. The PACA trust was established in 1984 to increase the protection of unpaid sellers until full payment of the money due to them had been paid. The PACA trust is a nonsegregated floating trust that applies to the produce, the products derived from the produce, and any money from their sale that is in the hands of the commission merchant, dealer, or broker.

PACA provides that in cases of business failure these assets are not available for general distribution to other creditors until the trust claims, filed by produce sellers, are fully satisfied.

H.R. 5741 clarifies the original intent of the PACA trust that lenders who finance the business operations of buyers of fruits and vegetables must hold certain assets in trust for the benefit of unpaid sellers of fruits and vegetables. I urge my colleagues to support this bill.

Thank you.

Mr. LEWIS of Florida. Mr. Speaker, I rise in support of H.R. 5741, a bill that makes technical changes to the Perishable Agricultural Commodities Act [PACA]. As Members know, because of the highly perishable nature of fruits and vegetables and the distance of production from markets, PACA was established to be a stabilizing element in the marketplace. The PACA law sets up a code of fair trading and helps to enforce contracts for the marketing of fresh fruits and vegetables in interstate and foreign commerce.

Fruits and vegetables play a vital role in the economy and one purpose of PACA is to provide a level playing field for all who participate in the buying and selling of fresh fruits and vegetables.

Consumers pay almost $100 billion each year for domestically produced fruits and vegetables. The farmers' share is about 20 percent, with approximately 80 percent of the consumer dollar going to pay the bills for transportation, refrigeration, and other service costs.

Fair trading under PACA means that traders must comply with the terms of their contracts; that sellers must ship the quantity and quality of the product purchased; that buyers must accept shipments that meet the contract terms and pay the sellers promptly; and, finally, that buyers must maintain sufficient assets to pay for the produce they receive.

It is this latter element, known as the PACA trust, that is addressed in H.R. 5741. The bill clarifies the intent of existing PACA law to state that the PACA trust includes assets paid to third parties, by that we mean lenders, who finance the business operations of produce buyers, whether or not they hold a security interest in the trust assets, and whether or not they had notice that payments to them were made in breach of the trust.

The PACA trust was set up in 1984 to increase the protection of produce sellers who are not paid for their produce. The PACA trust is a nonsegregated floating trust set up to ensure that buyers have sufficient assets on hand to pay sellers. A recent court decision did not fully reflect the provisions of the PACA trust. H.R. 5741 clarifies the intent of the PACA trust.

Mr. Speaker, I urge my colleagues to support H.R. 5741.

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5741, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5764, H.R. 5763, and H.R. 5741, the legislation just passed.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

INTERMODAL SURFACE TRANSPORTATION TECHNICAL CORRECTIONS ACT

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5753) to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal Surface Transportation Technical Corrections Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.

TITLE I—TITLE 23 PROGRAMS

Sec. 101. Definitions.
Sec. 102. References to Dwight D. Eisenhower System of Interstate and Defense Highways.
Sec. 103. Federal-aid systems.
Sec. 104. Apportionment.
Sec. 105. Programs of projects.
Sec. 106. Advance acquisition of rights-of-way.
Sec. 107. Letting of contracts.
Sec. 108. Prevailing rate of wage.
Sec. 109. Construction.
Sec. 110. Advance construction.
Sec. 111. Certification acceptance.
Sec. 112. Availability of funds.
Sec. 113. Federal share.
Sec. 114. Payment to States for construction.
Sec. 115. Payments to States for bond retirement.
Sec. 116. Relocation of utility facilities.
Sec. 117. Advances to States.
Sec. 118. Emergency relief.
Sec. 119. Applicability of axle weight limitations to buses.
Sec. 120. Toll roads.
Sec. 121. Rail-highway crossings.
Sec. 122. Surface transportation program.
Sec. 123. Metropolitan planning.
Sec. 124. Statewide planning.
Sec. 125. Control of junkyards.
Sec. 126. Nondiscrimination.
Sec. 127. Enforcement of requirements.
Sec. 128. Highway bridge program.
Sec. 129. Congestion mitigation and air quality improvement program.
Sec. 130. Hazard elimination program.
Sec. 131. Use of safety belts and motorcycle helmets.
Sec. 132. National maximum speed limit.
Sec. 133. Minimum allocation.
Sec. 134. National minimum drinking age.
Sec. 135. Revocation of drivers' licenses of individuals convicted of drug offenses.
Sec. 136. Reimbursement for segments of interstate system constructed without Federal assistance.
Sec. 137. State transportation revolving funds.
Sec. 138. Federal lands highway program.
Sec. 139. Bicycle transportation and pedestrian walkway.
Sec. 140. Research and technology program.
Sec. 141. Highway safety promotion program.
Sec. 142. Highway safety programs.
Sec. 143. Alcohol-impaired driving countermeasures.
Sec. 144. Use of recycled paving material.
Sec. 145. Roadside barrier technology.
Sec. 146. High cost bridge projects.
Sec. 147. Congestion relief projects.
Sec. 148. High priority corridor projects.
Sec. 149. Rural access projects.
Sec. 150. Urban access and mobility projects.
Sec. 151. Innovative projects.
Sec. 152. Intermodal projects.
Sec. 153. Corrected projects.
Sec. 154. Infrastructure awareness program.
Sec. 155. Miscellaneous Intermodal Surface Transportation Efficiency Act amendments.
Sec. 156. Disadvantaged business enterprise program.
Sec. 157. Amendments to Surface Transportation and Uniform Relocation Assistance Act of 1987.
Sec. 158. Freeway service patrols.
Sec. 159. Traffic control standards.
Sec. 160. Construction of Interstate Route 287.
Sec. 161. Center for trauma and motor vehicle safety studies.
Sec. 162. Signs designating location of Department of Veterans Affairs' facilities.
Sec. 163. Pan American Highway.
Sec. 164. Reopening of temporary ramp in Birmingham, Alabama.
Sec. 165. Priority projects.
Sec. 166. Connector Road, Massachusetts.
Sec. 167. Revision of manual-crossbucks.
Sec. 168. Use of tourist oriented directional signs.
Sec. 169. Temporary matching fund waiver.
Sec. 170. Reaffirmation of policies and priorities of ISTEA.

TITLE II—FEDERAL TRANSIT PROGRAMS

Sec. 201. Section 3 program amendments.
Sec. 202. Metropolitan planning.
Sec. 203. Formula grant program.
Sec. 204. Mass transit account block grants.
Sec. 205. Grants for research and training.
Sec. 206. General provisions.
Sec. 207. Period of availability and reapportionment of section 16 funds.
Sec. 208. Rural transit program.
Sec. 209. Authorizations.
Sec. 210. Planning and research program.
Sec. 211. State responsibility for rail fixed guideway system.
Sec. 212. National Transit Institute.

Sec. 213. Increased Federal share.
Sec. 214. Completion of MOS–1 Project.
Sec. 215. Miscellaneous multiyear contracts.
Sec. 216. World University Games.

TITLE III—MISCELLANEOUS SURFACE TRANSPORTATION PROGRAMS

Sec. 301. Participation in international registration plan and international fuel tax agreement.
Sec. 302. Study of radio and microwave technology for commercial and other motor vehicles.
Sec. 303. Intelligent vehicle-highway systems.
Sec. 304. Title 49, United States Code, amendments.
Sec. 305. Surface Transportation Assistance Act of 1982 amendments.
Sec. 306. Commercial Motor Vehicle Safety Act of 1986 amendments.
Sec. 307. National Driver Register Act of 1982 amendments.
Sec. 308. Cleveland Harbor, Ohio.
Sec. 309. Deauthorization of a portion of the Canaveral Harbor, Florida, project.
Sec. 310. Intermodal Surface Transportation Efficiency Act technical amendments.
Sec. 311. Improved bus safety.
Sec. 312. Motor carrier safety grant program.
Sec. 313. Redesignation of metropolitan planning organizations.

SEC. 2. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—TITLE 23 PROGRAMS

SEC. 101. DEFINITIONS.

Section 101(a) of title 23, United States Code, is amended—

(1) by striking the 1st undesignated paragraph of such section that relates to public lands highways; and

(2) in the last undesignated paragraph relating to transportation enhancement activities by inserting "traffic noise abatement on highways open to traffic," after "archaeological planning and research,".

SEC. 102. REFERENCES TO DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) DECLARATION OF POLICY.—Section 2 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914–1915) is amended—

(1) in the 3d undesignated paragraph by striking "National System of" and inserting "Dwight D. Eisenhower System of"; and

(2) in the 7th undesignated paragraph by striking "Interstate and Defense Highway System" and inserting "Dwight D. Eisenhower System of Interstate and Defense Highways".

(b) COMPLETION OF INTERSTATE SYSTEM.—Section 1001 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1915–1916) is amended in each of subsections (a) and (b) by striking "National".

(c) DEFINITION OF INTERSTATE SYSTEM IN TITLE 23.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to the Interstate System is amended by striking "National".

(d) CONFORMING AMENDMENT TO VEHICLE WEIGHT LIMITATIONS.—Section 127(a) of title 23, United States Code, is amended by striking "National" each place it appears and inserting "Dwight D. Eisenhower".

(e) VEHICLE LENGTH RESTRICTION.—Section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)) is amended in each of paragraphs (1), (5)(D), and (6)(A) by striking "National" and inserting "Dwight D. Eisenhower".

(f) COMMEMORATION.—Section 6012 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2180–2181) is amended—

(1) in the section heading by striking "**NATIONAL**"; and

(2) in subsection (a) by striking "National".

SEC. 103. FEDERAL-AID SYSTEMS.

(a) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(4) of title 23, United States Code, is amended by inserting "and all corridors identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991" after "by the States".

(b) INTERSTATE SYSTEM.—Section 103(e)(1) of such title is amended by striking the next to the last sentence.

(c) SUBSTITUTE PROJECTS.—Section 103(e)(4) of such title is amended—

(1) in the last sentence of subparagraph (B) by striking "projects on the Federal-aid secondary system" and inserting "surface transportation program projects"; and

(2) in subparagraph (J)(i) by inserting a comma after "October 1, 1991".

(d) EXPENDITURES OF SUBSTITUTE HIGHWAY FUNDS FOR PLANNING.—If a State expended for any planning activity eligible for assistance under section 307(c) of such title any funds allocated for any fiscal year ending on or before the date of the enactment of this Act, under the first sentence of section 103(e)(4)(H)(i) of title 23, United States Code, the Secretary shall not require the State to repay the amount of such funds but not to exceed 1½ percent of the sums allocated under such sentence for such fiscal year.

SEC. 104. APPORTIONMENT.

(a) SET-ASIDE.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking "for the Federal-aid systems" and inserting "for this chapter"; and

(2) by striking "upon the Federal-aid systems" and inserting "under this chapter".

(b) REPEAL OF URBAN SYSTEM APPORTIONMENT.—Section 104(b)(6) of such title is repealed.

(c) NHS APPORTIONMENT TRANSFERABILITY.—Section 104(c) of such title is amended by adding at the end the following new sentence: "For purposes of this subsection, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be treated as being a State and as having an apportionment under subsection (b)(3).".

(d) PLANNING SET ASIDE.—Section 104(f)(3) of such title is amended by striking "(j)".

(e) TRANSFERABILITY AMONG SAFETY AND BRIDGE PROGRAMS.—Section 104(g) of such title is amended by striking "Not more than" and all that follows through "any other of such sections" the second place it appears and inserting the following: "Not more than 40 percent of the amount which is apportioned in any fiscal year to each State under section 144 or which is reserved for such fiscal year under section 133(d)(1) only for carrying out section 130 or 152 may be transferred from the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 percent of the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section".

SEC. 105. PROGRAMS OF PROJECTS.

(a) REPEAL OF REQUIREMENT.—Section 105 of title 23, United States Code, and the item relating to such section in the analysis for chapter 1 of such title are each repealed.

(b) CONFORMING AMENDMENTS.—Section 106(a) of such title is amended—

(1) by striking ", as soon as practicable after program approval,"; and

(2) by striking "included in an approved program".

(c) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—Section 1105(g)(7) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2036) is amended to read as follows:

"(7) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a plan or program under chapter 1 of title 23, United States Code, a State may give priority to high priority segments of corridors identified under subsection (c) of this section.".

SEC. 106. ADVANCE ACQUISITION OF RIGHTS-OF-WAY.

(a) APPORTIONED FUNDS.—Section 108(a) of title 23, United States Code, is amended—

(1) by striking "of the Federal-aid highway systems, including the Interstate System," and inserting "project eligible for surface transportation program funds";

(2) by striking "for expenditure on any of the Federal-aid highway systems, including the Interstate System," and inserting "which may be expended on the project"; and

(3) by striking "a road" and inserting "the project".

(b) RIGHT-OF-WAY REVOLVING FUND FUNDS.—Section 108(c) of such title is amended—

(1) in paragraph (2) by striking "highways on any Federal-aid system" and inserting "any project eligible for surface transportation program funds";

(2) in paragraph (3) by striking "a highway" the first place it appears and inserting "a project";

(3) in paragraph (3) by striking "such project for the actual construction of a highway" and inserting "actual construction of such project";

(4) in paragraph (3) by striking "Federal-aid highway funds apportioned" and inserting "funds apportioned under this chapter"; and

(5) in paragraph (3) by striking "projects on the Federal-aid system of which such project is to be a part," and inserting "such projects,".

(c) ADVANCEMENT TO CALIFORNIA FROM RIGHT-OF-WAY REVOLVING FUND.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Transportation shall approve an advance, from the right-of-way revolving fund established by section 108(c) of title 23, United States Code, $12,000,000 to the State of California for acquisition of right-of-way for carrying out the transportation project described in item number 13 of the table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991, relating to Northern California.

SEC. 107. LETTING OF CONTRACTS.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—

(1) PERMANENT PROGRAM.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following new subparagraphs:

"(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(D) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or independent certified public accountant if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.".

(2) REPEAL OF PILOT PROGRAM.—Section 1092 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 112 note; 105 Stat. 2024) is repealed.

(b) REPEAL OF OBSOLETE PROVISION.—Section 112(f) of title 23, United States Code, relating to applicability to contracts for projects on the secondary system, is repealed.

SEC. 108. PREVAILING RATE OF WAGE.

Section 113 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "the" before "Federal-aid highways";

(2) in subsection (a) by striking "upon the Federal-aid systems," and inserting "on Federal-aid highways,"; and

(3) in subsection (b) by striking "of the Federal-aid systems" and inserting "Federal-aid highway".

SEC. 109. CONSTRUCTION.

Section 114 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or portion thereof"; and

(2) in subsection (b)(1) by striking "highways or portions of highways located on a Federal-aid system" and inserting "a Federal-aid highway or portion thereof".

SEC. 110. ADVANCE CONSTRUCTION.

(a) TECHNICAL AMENDMENTS.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "PLANS, SPECIFICATIONS," and inserting "PROJECT APPROVAL"; and

(2) in subsection (c) by striking "134," and the second comma after "144".

(b) ADVANCED PLANNING.—Notwithstanding any other provision of law, upon application of a State, the Secretary shall pay to the State the Federal share of the cost of transportation planning carried out (including transportation planning carried out by metropolitan planning organizations), after September 30, 1991, and before December 18, 1991, in accordance with all procedures and all requirements applicable to such planning under title 23, United States Code. Such payment shall be made to the State from funds apportioned to the State under such title and available for carrying out transportation planning.

SEC. 111. CERTIFICATION ACCEPTANCE.

Section 117 of title 23, United States Code, is amended by striking subsection (f), relating to discharge of the Secretary's responsibilities with respect to the secondary system.

SEC. 112. AVAILABILITY OF FUNDS.

(a) PERIOD OF AVAILABILITY.—Section 118(b)(1) of title 23, United States Code, is amended—

(1) in the first sentence by striking "Interstate construction in a State" and inserting "completion of the Interstate System in a State (other than Massachusetts)";

(2) in the second sentence by inserting "for completion of the Interstate System" after "shall be allocated"; and

(3) in the last sentence by striking "before" and inserting "after".

(b) SET ASIDE FOR INTERSTATE CONSTRUCTION PROJECTS.—Section 118(c)(1) of such title is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the second sentence and inserting "for obligation at the discretion of the Secretary for projects to complete the Interstate System.".

SEC. 113. FEDERAL SHARE.

(a) INTERSTATE SYSTEM PROJECTS.—Section 120(a) of title 23, United States Code, is amended by inserting before "including a project" the following: "including a project the cost for which is included in the 1991 interstate cost estimate and".

(b) SAFETY PROJECTS.—Section 120(c) of such title is amended by striking "for all the Federal-aid systems".

(c) EMERGENCY RELIEF.—The first sentence of section 120(e) of such title is amended—

(1) by striking "system, including" and inserting ", including a highway on";

(2) by striking "on a project on such system";

(3) by striking "and (c)" and inserting "and (b)"; and

(4) by striking "90 days" and inserting "180 days".

(d) PLANNING PROJECTS.—Section 120 of such title is amended by adding at the end the following new subsection:

"(j) PLANNING PROJECTS.—The Federal share payable on account of any project to be carried out with funds set aside under section 104(f) of this title shall be 80 percent of the costs thereof unless the Secretary determines that the interest of the Federal-aid highway program would best be served by decreasing or eliminating the non-Federal share of such costs.".

SEC. 114. PAYMENT TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "After" and inserting "Except as otherwise provided in this title, after"; and

(2) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 115. PAYMENTS TO STATES FOR BOND RETIREMENT.

Section 122 of title 23, United States Code, is amended to read as follows:

"§122. Payment to States for bond retirement

"(a) IN GENERAL.—Any State that uses the proceeds of bonds or short-term securities issued by the State, county, city, or other political subdivision of the State for the carrying out of one or more projects eligible for assistance under this title may claim payment of any portion of the sums apportioned or allocated, from the Highway Trust Fund (other than the Mass Transit Account), to it for expenditure for such projects to aid in the retirement of the principal and interest of such bonds or securities, to the extent that the proceeds of such bonds or securities have been actually expended in carrying out one or more of such projects. Such claim for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title or any other applicable Federal law.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any bonds or other securities.

"(c) TREATMENT OF CERTAIN COSTS.—The payment of interest on bonds or other securities to which subsection (a) applies and incidental costs in connection with the sale of such bonds or securities shall not be included in the estimated cost of completing the Interstate System.".

SEC. 116. RELOCATION OF UTILITY FACILITIES.

Section 123(a) of title 23, United States Code, is amended—

(1) by striking "on any Federal-aid system" and inserting "eligible for assistance under this chapter"; and

(2) by striking "Federal-aid highway projects for which Federal funds are obligated subsequent to April 16, 1958," and inserting "such project".

SEC. 117. ADVANCES TO STATES.

Section 124(a) of title 23, United States Code, is amended by striking "projects on any of the Federal-aid systems, including the Interstate System, he" and inserting "a project eligible for assistance under this title, the Secretary".

SEC. 118. EMERGENCY RELIEF.

(a) IN GENERAL.—Section 125(b) of title 23, United States Code, is amended by striking "highways on" the first place it appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) and section 101 of Public Law 102–302 shall be treated as taking effect December 18, 1991.

SEC. 119. APPLICABILITY OF AXLE WEIGHT LIMITATIONS TO BUSES.

(a) WAIVER AUTHORITY.—The Governor of a State may waive with respect to such State application of those provisions of the second sentence of section 127 of title 23, United States Code, which relate to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways, in the 2-year period beginning on the date of the enactment of this Act, to any vehicle which is designed to transport 15 or more passengers (including the driver) and which has a maximum gross weight of 25,000 pounds or less on each axle.

(b) STUDY.—

(1) PURPOSES.—The Secretary shall conduct a study to determine whether or not section 127 of title 23, United States Code, needs to be modified with regard to vehicles which are designed to transport 15 or more passengers (including the driver), whether or not a permanent exemption should be made for such vehicles from the requirements of such section, whether or not the design of such vehicles should be modified to meet the requirements of such section, whether or not the bridge formula set forth in such section should be modified as it applies to such vehicles, the effect on the Interstate System of such vehicles operating under any waivers granted under subsection (a), and the effects of implementation of the Clean Air Act, the Americans with Disabilities Act of 1990, and other Federal laws are having on the weights of such vehicles.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations.

(c) WISCONSIN STATE ROUTE 78 AND UNITED STATES ROUTE 51.—Section 127 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—The gross weight limits set forth in subsection (a) shall not apply to the operation on the 104-mile portion of Wisconsin State Route

78 and United States Route 51 between I–94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, of any commercial motor vehicle used for transporting raw forest and agricultural products if such vehicle is of a type of vehicle as was operating on such 104-mile portion on June 1, 1992.".

(d) VEHICLE WEIGHT LIMITATIONS IN THE STATES OF OHIO AND OKLAHOMA.—

(1) REVIEW.—The Secretary of Transportation shall review the Federal and State commercial motor vehicle weight limitations applicable to Federal-aid highways in the States of Ohio and Oklahoma.

(2) WAIVER AUTHORITY.—

(A) FOR OHIO.—If the Secretary of Transportation determines, on the basis of the review conducted under paragraph (1), that it is in the public interest, the Secretary may waive application of the vehicle weight limitations of section 127(a) of title 23, United States Code, in whole or in part, to highways on the Dwight D. Eisenhower System of Interstate and Defense Highways in the State of Ohio for short wheelbase vehicles for such period as the Secretary determines may be necessary to permit a reasonable period of depreciation for short wheel-base vehicles purchased before October 1, 1991.

(B) FOR OKLAHOMA.—If the Secretary of Transportation determines, on the basis of the review conducted under paragraph (1), that it is in the public interest, the Secretary may waive application—

(i) of the vehicle weight limitations of section 127(a) of title 23, United States Code, in whole or in part, to highways on the Dwight D. Eisenhower System of Interstate and Defense Highways in the State of Oklahoma for such commercial motor vehicles as the Secretary determines appropriate; and

(ii) of those requirements of sections 141(b) and 141(c) that relate to certification and enforcement of State laws respecting maximum vehicle weights permitted on Federal-aid highways in such State;

until June 1, 1993.

(3) MORATORIUM ON WITHHOLDING OF FUNDS.—

(A) OHIO.—Until the Secretary of Transportation makes a determination relating to public interest under paragraph (2)(A), the Secretary shall not withhold funds under section 127(a) of title 23, United States Code, from apportionment to the State of Ohio for failure to comply with such section.

(B) OKLAHOMA.—Until the Secretary of Transportation makes a determination relating to public interest under paragraph (2)(B), the Secretary shall not withhold funds under section 127(a) of title 23, United States Code, from apportionment to the State of Oklahoma for failure to comply with such section and under sections 141(b) and 141(c) for failure to certify or enforce State laws respecting maximum vehicle weights permitted on Federal-aid highways in such State.

(e) CONFORMING TECHNICAL AMENDMENT.—Section 127(d)(1)(E) of such title is amended by striking "July 5, 1991" and inserting "July 6, 1991".

SEC. 120. TOLL ROADS.

(a) REFERENCE TO FEDERAL-AID HIGHWAYS.—The last sentence of section 129(a)(4) of title 23, United States Code, is amended by striking "the Federal-aid system" and inserting "Federal-aid highways".

(b) USE OF REVENUES.—Section 129(a)(3) of such title is amended by striking "all toll revenues received" and all that follows through the period at the end of the first sentence and inserting the following: "toll revenues received from operation of the toll facility will be used for financing and any other obligations in respect of the facility, for reserves, for reasonable return to investors financing the project (as determined by the State), and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.".

(c) LOANS.—Section 129(a)(7) of such title, is amended—

(1) by inserting "or commit to loan" after "loan" the first place it appears;

(2) by striking "agency" each place it appears and inserting "entity";

(3) by inserting after "constructing" the first place it appears "or proposing to construct";

(4) by striking "all Federal environmental requirements have been complied with and permits obtained" and inserting "the National Environmental Policy Act of 1969 has been complied with";

(5) by inserting "to a private entity" after "Any such loan";

(6) by inserting after the fifth sentence the following new sentence: "Any such loan to a public entity shall bear interest at such rate as the State determines appropriate."; and

(7) by striking "the time the loan was obligated" and inserting "the date of the initial funding of the loan".

(d) TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.—For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under of the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110), shall be treated as if such agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified accordingly.

(e) TREATMENT OF I–95 AND PENNSYLVANIA TURNPIKE.—For purposes of section 129 of title 23, United States Code, the project for construction of an interchange between Interstate Route 95 and the Pennsylvania Turnpike shall be treated as a reconstruction project described in section 129(a)(1)(B) of such title.

SEC. 121. RAIL-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "Except as provided in subsection (d) of" and inserting "Subject to";

(2) in subsection (a) by striking "entire" each place it appears;

(3) in subsection (a) by striking "except as provided in subsection (d) of" and inserting "subject to";

(4) in subsection (e) by striking "authorized for and";

(5) in subsection (e) by striking the last sentence; and

(6) by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 122. SURFACE TRANSPORTATION PROGRAM.

(a) STATE CERTIFICATION.—Section 133(e)(2) of title 23, United States Code, is amended by inserting after "each State" the following: "or the designated transportation authority of the State".

(b) TECHNICAL AMENDMENT.—Section 1007(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1930) is amended—

(1) by striking "104(b)(3)" and inserting "104(b)"; and

(2) by striking "to read as follows" and inserting "by inserting after paragraph (2) the following new paragraph".

(c) ALLOCATIONS OF NEW JERSEY STP APPORTIONMENTS.—

(1) IN GENERAL.—Of amounts apportioned to the State of New Jersey under section 104(b)(3) of title 23, United States Code, $13,000,000 per fiscal year for each of fiscal years 1993 and 1994 shall only be available for construction of sound barriers in accordance with paragraph (2).

(2) SPECIFIED PROJECTS.—

(A) INTERSTATE ROUTE 80.—$7,500,000 per fiscal year of the amounts made available for construction of sound barriers under paragraph (1) shall only be available for construction of such barriers along the following segments of Interstate Route 80:

(i) West side of I–80 from Webster Avenue to Glover Avenue in Paterson, New Jersey.

(ii) West side of I–80 from Glover Avenue to Squirrelwood Road in West Paterson, New Jersey.

(iii) West side of I–80 from the Squirrelwood Road exit ramp to the Passaic River in West Paterson, New Jersey.

(iv) West side of I–80 from Dewey Avenue to the Union Avenue exit ramp in Totowa, New Jersey.

(v) East side of I–80 from Vernon Court to Squirrelwood Road in West Paterson, New Jersey.

(B) ROUTE 3.—$5,500,000 per fiscal year of the amounts made available for construction of sound barriers under paragraph (1) shall only be available for construction of such barriers along the west side of Route 3 from Bloomfield Avenue to the Garden State Parkway north entrance ramp in Clifton, New Jersey.

(d) ALLOCATION OF PENNSYLVANIA STP TRANSPORTATION ENHANCEMENT APPORTIONMENT.—Of amounts apportioned to the State of Pennsylvania under section 104(b)(3) of title 23, United States Code, and set aside under section 133(d)(2) for transportation enhancement activities, $600,000 per fiscal year for fiscal years 1993 and 1994 shall only be available for carrying out a project for transportation enhancement activities along Pennsylvania State Route 4013 in Altoona, Pennsylvania.

SEC. 123. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 134 of title 23, United States Code, is amended—

(1) in subsection (f)(11) by inserting "passengers and" before "freight"; and

(2) in subsection (g)(5), by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B).

(b) CONFORMING CHAPTER ANALYSIS AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"134. Transportation planning in certain urban areas."

and inserting

"134. Metropolitan planning.".

SEC. 124. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended—

(1) in subsection (c) by striking paragraph (1) and inserting the following new paragraph:

"(1) The transportation needs identified through use of the management systems required by section 303 of this title.";

(2) in subsection (c)(5) by inserting after "nonmetropolitan areas" the following: ", including the identification of a rural priority local road and bridge system,";

(3) in subsection (c) by striking paragraph (15) and redesignating paragraphs (16) through (20) as paragraphs (15) through (19), respectively;

(4) in subsection (c)(18), as so redesignated, by striking "commercial motor vehicles" and inserting "passengers and freight";

(5) in subsection (d)(3) by striking "concerns" and inserting "transportation needs"; and

(6) in each of subsections (e) and (f)(1) by inserting "Indian tribal governments," after "private providers of transportation,".

SEC. 125. CONTROL OF JUNKYARDS.

(a) STRICTER STATE STANDARDS.—Section 136(l) of title 23, United States Code, is amended by striking "the Federal-aid highway systems" and inserting "Federal-aid highways".

(b) PRIMARY SYSTEM DEFINED.—Section 136 of such title is amended by adding at the end the following new subsection:

"(n) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

SEC. 126. NONDISCRIMINATION.

Section 140(b) of title 23, United States Code, is amended—

(1) by inserting "operator of a Job Corps center," after "nonprofit),";

(2) by striking "for the surface transportation program"; and

(3) by striking "the bridge program".

SEC. 127. ENFORCEMENT OF REQUIREMENTS.

Section 141(b) of title 23, United States Code, is amended by striking "the Federal-aid primary highway system" and all that follows through "including" and inserting "Federal-aid highways, including highways on".

SEC. 128. HIGHWAY BRIDGE PROGRAM.

(a) SEISMIC RETROFIT PROJECTS.—

(1) ELIGIBILITY.—Section 144(d) of title 23, United States Code, is amended by inserting before the period at the end of the third sentence the following: "; except that a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether such bridge is eligible for replacement or rehabilitation under this section".

(2) APPORTIONMENT FACTOR ADJUSTMENT.—Section 144(e) of such title is amended—

(A) by inserting before the period at the end of the fourth sentence the following: "and by the total cost of all projects carried out under this section in such State seismic retrofit of highway bridges not eligible for replacement or rehabilitation under this section";

(B) by striking "Federal-aid primary system" and inserting "National Highway System".

(b) SET ASIDES.—Section 144(g) of such title is amended—

(1) in paragraph (1) by striking "103" and inserting "1003";

(2) in paragraph (3) by striking "OFF-SYSTEM BRIDGES" and inserting "BRIDGES NOT ON FEDERAL-AID HIGHWAYS";

(3) in paragraph (3) by striking ", other than those on a Federal-aid system" and inserting "that are functionally classified as local or rural minor collector"; and

(4) in paragraph (3) by striking "bridges not on a Federal-aid system" and inserting "such bridges".

(c) CONTINUATION OF EXISTING BRIDGE APPORTIONMENT CRITERIA.—The criteria for apportionment of funds used by the Department of Transportation under section 144 of title 23, United States Code, and in effect on September 30, 1991, shall remain in effect until September 30, 1997, or until changed by law, whichever occurs first.

(d) TIMBER BRIDGE PROGRAM.—Section 1039(c)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note; 105 Stat. 1991) is amended by inserting "(other than highways on the National Highway System)" after "rural Federal-aid highways".

SEC. 129. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

Section 149(b) of title 23, United States Code, is amended by adding at the end the following new sentence: "In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.".

SEC. 130. HAZARD ELIMINATION PROGRAM.

Section 152 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "authorized" and inserting "available"; and

(2) by striking subsections (d) and (e) and redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), respectively.

SEC. 131. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) ELIGIBILITY FOR GRANTS.—Section 153(f)(2) of title 23, United States Code, is amended by striking "at all times" each place it appears.

(b) PENALTIES.—Section 153(h) of such title is amended—

(1) in paragraph (1) by striking "at any time in" and inserting "by the last day of";

(2) in paragraph (2) by inserting "by the last day of fiscal year 1995 or" after "If,";

(3) in paragraph (2) by striking "1994," and inserting "1995,"; and

(4) in paragraph (4)(A) by striking "under section 402" and inserting "by this subsection".

(c) DEFINITIONS.—Section 153(i) of such title is amended by adding at the end the following new paragraph:

"(5) STATE.—The term 'State' has the meaning such term has under chapter 4 of this title.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 153(j) of such title is amended by striking ". From" and all that follows through "$24,000,000" and inserting "and $20,000,000".

(e) APPLICABILITY OF OBLIGATIONS.—Section 153(j) of such title is further amended by adding at the end the following new sentence: "The obligation limitation imposed by section 1002(a) of the Intermodal Surface Transportation Efficiency Act of 1991 shall apply to obligations under this section for fiscal year 1992.".

SEC. 132. NATIONAL MAXIMUM SPEED LIMIT.

(a) EXISTING PROGRAM.—Section 154(a)(1) of title 23, United States Code, is amended by striking "on the Interstate System" and all that follows through "or more" and inserting "described in clause (2) or (3) of this subsection".

(b) NEW PROGRAM.—Section 1029 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1968–1970) is amended—

(1) in subsection (c)(1)(A) by inserting "of a State" after "apportionments";

(2) in subsection (c)(1)(A) by striking "if a State" and inserting "to the apportionment of the State under section 402 of such title if the State";

(3) in subsection (c) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(4) by inserting after paragraph (1) of such subsection (c) the following new paragraph:

"(2) SPECIFIC REQUIREMENTS.—

"(A) MINIMUM AND MAXIMUM PERCENTAGES.—The transfer of apportionments required pursuant to paragraph (1)(A) shall not be less than 1 percent and not be more than 5 percent of the funds apportioned to the State; except that, in any case in which an apportionment of a State is transferred pursuant to this subsection in 2 or more consecutive fiscal years, the minimum percentage to be transferred shall be 2 percent and the maximum percentage to be transferred shall be 10 percent.

"(B) LIMITATION ON USE OF FUNDS.—

"(i) GENERAL RULE.—A State must obligate at least 50 percent of its funds transferred pursuant to this subsection for a fiscal year for speed limit enforcement and public information and education.

"(ii) WAIVER.—Upon request of a State, the Secretary may waive the requirement of clause (i) for any fiscal year quarter if in the preceding fiscal year quarter the State was in compliance with the speed limit requirements established pursuant to paragraph (1).";

(5) in paragraph (4) of subsection (c), as so redesignated, by striking "60" and inserting "120";

(6) in paragraph (4) of subsection (c), as so redesignated, by inserting "and paragraph (2)" after "paragraph (1)" the second place it appears; and

(7) in subsection (f) by striking "and 1991" and inserting ", 1991, and 1992".

SEC. 133. MINIMUM ALLOCATION.

Section 157 of title 23, United States Code, is amended by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 134. NATIONAL MINIMUM DRINKING AGE.

(a) CONFORMING AMENDMENTS.—Section 158 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "104(b)(5), and 104(b)(6)" each place it appears and inserting "104(b)(3), and 104(b)(5)";

(2) in subsection (b)(1)(A)(iii) by striking "104(b)(6)" and inserting "104(b)(3)";

(3) in subsection (b)(3)(B) by striking "104(b)(5)(B), or 104(b)(6)" and inserting "104(b)(3), or 104(b)(5)(B)"; and

(4) in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to funds withheld from apportionment on or after October 1, 1991.

SEC. 135. REVOCATION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.

Section 159 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "(5), and (6)" each place it appears and inserting "(3), and (5)";

(2) in subsection (b)(1)(A)(iii) by striking "(6)" and inserting "(3)";

(3) in subsection (b)(3)(B) by striking "(5)(B), or (6)" and inserting "(3), or (5)(B)"; and

(4) in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

SEC. 136. REIMBURSEMENT FOR SEGMENTS OF INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

(a) INCLUSION OF PUERTO RICO.—Section 160 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "The amount" and inserting "Subject to subsection (g), the amount"; and

(2) by adding at the end the following new subsection:

"(g) PUERTO RICO.—Notwithstanding any other provision of this section, Puerto Rico shall receive in a fiscal year ½ of 1 percent of the amounts appropriated pursuant to subsection (f) for such fiscal year. No State (including the District of Columbia) which has a reimbursement percentage in the table contained in subsection (c) of 0.50 shall have its reimbursement amount in fiscal years 1996 and 1997 reduced as a result of the enactment of the preceding sentence.".

(b) KANSAS PROJECTS.—Section 1014(c)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943) is amended by striking "$24,440,000" and inserting "such sums as may be necessary".

SEC. 137. STATE TRANSPORTATION REVOLVING FUNDS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§161. State transportation revolving funds

"(a) IN GENERAL.—Subject to the provisions of this section, a State may deposit all or any portion of funds apportioned or allocated to it under section 104, 144, 157, or 160 of this title or under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note) into a transportation revolving fund established by the State for making loans to public and private entities for construction of projects for which such funds may be used.

"(b) STATE MATCHING REQUIREMENT.—If a State deposits funds under subsection (a) into a transportation revolving fund, the State, at the time of such deposit, shall deposit from non-Federal sources an amount determined by dividing the amount of such funds by the non-Federal share applicable to such State under section 120(b) of this title. The provisions of section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991, relating to temporary matching fund waiver, shall apply to deposits in transportation revolving funds under subsection (a). For purposes of such section, such deposits shall be treated as the Federal share of a qualifying project is treated under such section.

"(c) LOANS.—

"(1) GENERAL AUTHORITY.—From amounts in a transportation revolving fund established by a State under this section, a State may loan all or part of the cost of construction of a project for which such funds may be used (as apportioned or allocated under title 23, United States Code, or section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991) to a public or private entity constructing or proposing to construct the project.

"(2) COMPLIANCE WITH NEPA.—A loan may be made from a State transportation revolving fund for a project only after the National Environmental Policy Act of 1969 has been complied with.

"(3) SUBORDINATION OF DEBT.—The amount loaned for a project from a State transportation revolving fund shall be subordinated to other debt financing for the project except for loans made by the State or any other public entity to the entity constructing the facility.

"(4) TERM OF LOAN.—The repayment of any loan from a State transportation revolving fund shall commence not more than 5 years after the facility has opened to traffic. The term of any such loan shall not exceed 30 years from the date of the initial funding of the loan.

"(5) INTEREST.—Any loan from a State transportation revolving fund to a private entity shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. Any such loan to a public entity shall bear interest at such rate as the State determines appropriate.

"(6) REUSE OF FUNDS.—Amounts repaid to a State from any loan made under this section may be obligated for any purpose for which the loaned funds were available.

"(7) PROCEDURES AND GUIDELINES.—The Secretary shall establish procedures and guidelines for establishing and operating State transportation revolving funds under this section and for making loans from such funds.

"(d) LOAN DEFINED.—For purposes of this section, the term 'loan' includes the making of a loan and the providing of loan guarantees, bond insurance, letters of credit, and other forms of debt financing.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following new item:

"161. State transportation revolving funds.".

SEC. 138. FEDERAL LANDS HIGHWAY PROGRAM.

(a) PUBLIC LANDS HIGHWAYS ALLOCATION.—Section 202(b) of title 23, United States Code, is amended by striking "66 percent of the remainder" and inserting "the remaining 66 percent".

(b) LIMITATION ON REALLOCATIONS.—Section 202 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(e) LIMITATION ON REALLOCATIONS.—If, in a fiscal year, the Secretary has approved engineering and related work for a Federal lands highway project within the boundaries of a State or has approved plans, specifications, and estimates for procurement of construction for a Federal lands highway project within the boundaries of such State, the Secretary may not reallocate from funds allocated for such fiscal year to such State under this section for such projects an amount of funds. The amount of funds which may not be reallocated shall be equal to the estimated cost of construction of such project.".

(c) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by striking the comma preceding "forest development" each place it appears.

(d) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS.—Section 204(c) of such title is amended by inserting "of" after "15 percent".

(e) REFERENCE TO PARK ROADS.—Section 1003(a)(6)(C) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) by striking "HIGHWAYS" in the subparagraph heading and inserting "ROADS"; and

(2) by striking "highways" the place it appears preceding "$69,000,000" and inserting "roads".

(f) TECHNICAL AMENDMENT.—Section 1032(b)(2)(A) of such Act (105 Stat. 1974) is amended by striking "improvements" and inserting "improvement".

SEC. 139. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAY.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b) by inserting "pedestrian walkways and" before "bicycle transportation facilities";

(2) by redesignating subsection (j) as subsection (k); and

(3) by inserting after subsection (i) the following new subsection:

"(j) INCLUSION OF PEDESTRIAN WALKWAYS AND BICYCLE TRANSPORTATION FACILITIES IN PLANNING.—

"(1) GENERAL RULE.—The Secretary may not approve under this chapter a highway project for new construction or reconstruction within the boundaries of a State along which a pedestrian walkway or bicycle transportation facility is required to be included under the State's transportation improvement plan developed under section 135 unless such pedestrian walkway or bicycle transportation facility is part of such highway project.

"(2) EXCEPTION.—The Secretary does not have to approve a project for construction of a pedestrian walkway or bicycle transportation facility under paragraph (1)—

"(A) if the Secretary determines that such construction is not feasible or that use of the walkway or facility would pose a safety risk to pedestrians or bicyclists, as the case may be; or

"(B) the Secretary determines that there will be no substantial transportation or recreation benefit resulting from the project.".

SEC. 140. RESEARCH AND TECHNOLOGY PROGRAM.

(a) STATE PLANNING AND RESEARCH.—Section 307(c)(1) of title 23, United States Code, is amended by striking "104" and inserting "104(b)".

(b) APPLIED RESEARCH AND TECHNOLOGY PROGRAM.—Section 307(e) of such title is amended—

(1) in paragraph (8) by inserting "in the State of Arkansas" before "to demonstrate";

(2) by redesignating paragraphs (9) through (13) as paragraphs (10) through (14);

(3) by inserting after paragraph (8) the following new paragraph:

"(9) HIGH CARBON CONCRETE.—As part of the program under this subsection, the Secretary shall carry out in fiscal year 1993 a project in the State of Pennsylvania to demonstrate the durability and elasticity benefits of high carbon concrete."; and

(4) in paragraph (14), as so redesignated by paragraph (2), by striking the quotation marks preceding "$35,000,000".

SEC. 141. HIGHWAY SAFETY PROMOTION PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 312 the following new section:

"§313. Highway safety promotion program

"(a) ESTABLISHMENT.—The Secretary shall carry out education, research, development, and technology transfer activities to promote the safe operation and maintenance of commercial motor vehicles in interstate commerce.

"(b) GRANTS.—To carry out the purposes of this section, the Secretary shall make grants to, and enter into cooperative agreements with—

"(1) a not-for-profit membership organization that has been engaged exclusively in truck-related research and education since 1985;

"(2) not-for-profit organizations engaged in commercial motor vehicle safety research; and

"(3) labor organizations engaged in commercial motor vehicle safety research.

"(c) FEDERAL SHARE.—The Federal share of the costs of activities carried out under this section shall be 100 percent.

"(d) FUNDING.—Out of administrative funds deducted under section 104(a) of this title for each of fiscal years 1993 through 1997, the Secretary shall make available—

"(1) for making grants and entering into cooperative agreements under subsection (b)(1) $800,000;

"(2) for making grants and entering into cooperative agreements under subsection (b)(2) $200,000; and

"(3) for making grants and entering into cooperative agreements under subsection (b)(3) $200,000.

Such funds shall remain available until expended.

"(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the grant.

"(f) ANNUAL REPORT.—Annually, beginning on January 1, 1994, the Secretary shall transmit to Congress a report which provides information on the progress and activities of the programs conducted under this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 312 the following:

"313. Highway safety promotion program.".

SEC. 142. HIGHWAY SAFETY PROGRAMS.

(a) IN GENERAL.—Section 402 of title 23, United States Code, is amended to read as follows:

"§402. Highway safety programs

"(a) IN GENERAL.—Each State shall have a highway safety program approved by the Secretary which is designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom.

"(b) UNIFORM GUIDELINES.—

"(1) REQUIREMENT.—The State highway safety programs approved under this section shall be in accordance with uniform guidelines promulgated by the Secretary.

"(2) PERFORMANCE CRITERIA.—The uniform guidelines shall be expressed in terms of performance criteria.

"(3) PURPOSES.—The uniform guidelines shall include, at a minimum, criteria relating to—

"(A) reducing injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

"(B) encouraging the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and increasing public awareness of the benefit of motor vehicles equipped with airbags;

"(C) reducing deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

"(D) reducing deaths and injuries resulting from accidents involving motorcycles;

"(E) reducing injuries and deaths resulting from accidents involving school buses; and

"(F) improving law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures.

"(4) EFFECTIVENESS DETERMINATION.—A State highway safety program relating to a guideline established pursuant to paragraph (3) shall be considered a most effective program for purposes of subsection (i) unless the Secretary determines, after a rulemaking process under subsection (i), that it should not be so considered and submits a report to Congress describing the reasons for the determination.

"(5) ADDITIONAL PURPOSES.—The uniform guidelines may include provisions to improve driver performance (including driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition the uniform guidelines may include provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services.

"(6) APPLICABILITY TO FEDERALLY ADMINISTERED AREAS.—The uniform guidelines which are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

"(7) LIMITATION ON STATUTORY CONSTRUCTION.—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State.

"(8) COOPERATION IN PROMULGATION.—Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

"(9) ASSISTANCE OF OTHER FEDERAL DEPARTMENTS.—The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by this subsection and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

"(c) REQUIREMENTS FOR APPROVAL.—

"(1) IN GENERAL.—The Secretary may not approve a State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

"(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary under this section;

"(C) except as provided in paragraph (2), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

"(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

"(3) USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photoradar) by law enforcement officers.

"(d) DATA COLLECTION AND REPORTING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report to the Secretary such data as the Secretary may require.

"(2) PURPOSES.—The purposes of the program under this subsection are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs.

"(3) PROGRAM REQUIREMENTS.—The program under this subsection shall include information obtained by the Secretary under section 4004 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts.

"(4) REPORTING CRITERIA.—The Secretary shall establish minimum reporting criteria for the program under this subsection. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents.

"(e) USE OF FUNDS.—

"(1) FOR HIGHWAY SAFETY PROGRAMS.—Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of traffic accidents and deaths and injuries resulting therefrom.

"(2) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States under subsection (f).

"(3) LIMITATION.—Nothing in this section authorizes the appropriation or expenditure of funds—

"(A) for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

"(B) for any purpose for which funds are authorized by section 403 of this title.

"(f) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—After the deduction under subsection (e)(2), the remainder of the funds authorized to be appropriated to carry out this section shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States.

"(2) MINIMUM PERCENTAGE.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment; except that the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

"(3) APPROVED HIGHWAY SAFETY PROGRAM.—The Secretary shall not apportion any funds under this subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section.

"(4) REDUCTION OF APPORTIONMENT.—Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 percent of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction.

"(5) APPORTIONMENT OF WITHHELD FUNDS.—The Secretary shall promptly apportion to the State the funds withheld from its apportionment if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

"(6) DETERMINATION OF PUBLIC ROAD MILEAGE.—For the purposes of this subsection, a "public road" means any road under the jurisdiction of, and maintained by, a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(g) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chap-

ter 1 of this title that are applicable to National Highway System highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying the provisions of chapter 1 of this title in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State for the purposes of this section.

"(h) APPLICATION IN INDIAN COUNTRY.—

"(1) IN GENERAL.—For the purpose of the application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subsection (c)(1)(C), 95 percent of the funds transferred to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subsection (c)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) INDIAN COUNTRY DEFINED.—For the purpose of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(i) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to determine those highway safety programs that are most effective in reducing traffic accidents, injuries, and deaths. Any rule under this subsection shall be promulgated taking into account consideration of the views of the States having a major role in establishing such programs. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing traffic accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this section.".

(b) SECTION 2005.—Section 2005(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended by striking "and $171,000,000 for each of fiscal years 1993, 1994," and inserting ", $126,000,000 for each of fiscal years 1993 and 1994, and $146,000,000 for each of fiscal years".

SEC. 143. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

"§410. Alcohol-impaired driving countermeasures

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 1992. The Federal share payable for any basic or supplemental grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a basic or supplemental grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a basic or supplemental grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a basic or supplemental grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) BASIC GRANT ELIGIBILITY.—A State is eligible for a basic grant under this section in a fiscal year only if such State provides for 5 or more of the following:

"(1) DRIVER'S LICENSE SUSPENSION SYSTEM.—Establishment of an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and specify any rights of the operator under such procedures;

"(C) the State provide, in the administrative procedures referred to in subparagraph (B), for due process of law, including the right to an administrative review of a driver's license suspension or revocation;

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this paragraph;

"(E) in the case of a person who, in any 5-year period beginning after November 18, 1988, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(i) suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(ii) suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(F) the suspension and revocation referred to under subparagraph (E) take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with subparagraph (A).

"(2) DRIVING WHILE INTOXICATED.—

"(A) FIRST 3 FISCAL YEARS.—In each of the first 3 fiscal years in which a State is to receive a basic grant, any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle be deemed to be driving while intoxicated.

"(B) THEREAFTER.—In each fiscal year thereafter in which the State is to receive a basic grant, any person with a blood alcohol concentration of 0.08 percent or greater when driving a motor vehicle be deemed to be driving while intoxicated.

"(3) PROGRAM FOR STOPPING VEHICLES.—Establishment of a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol.

"(4) SELF-SUSTAINING PREVENTION PROGRAM.—Establishment of a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(5) UNDERAGE PREVENTION PROGRAM.—Establishment of an effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(6) MANDATORY SENTENCE FOR REPEAT OFFENDERS.—Establishment of a mandatory sentence, which shall not be subject to suspension or probation, of (A) imprisonment for not less than 48 consecutive hours, or (B) not less than 10 days of community service, of any person convicted of driving while intoxicated more than once in any 5-year period.

"(e) AMOUNT OF BASIC GRANT.—Subject to subsection (c), the amount of a basic grant made

under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) shall equal 30 percent of the amount apportioned to such State for fiscal year 1992 under section 402 of this title.

"(f) SUPPLEMENTAL GRANTS.—

"(1) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and has in effect a law which provides that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(2) OPEN CONTAINER LAWS.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 10 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(3) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATES.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and has in effect a law which provides for the suspension of the registration of, and the return to such State of the license plates for an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period beginning after November 18, 1988; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates on an individual basis to avoid undue hardship to any individual (including any family member of the convicted individual and any co-owner of the motor vehicle) who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration of the motor vehicle, unrestricted return of the license plates of the motor vehicle, or unrestricted return of the motor vehicle.

"(4) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and has in effect a law which provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(5) DRUGGED DRIVING PREVENTION.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and—

"(A) has in effect laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance, a combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body; and

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) has in effect a law which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) establishes an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause under State law to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those persons who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances, and (II) those persons who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect at least 2 of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances;

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(6) BLOOD ALCOHOL CONCENTRATION.—Subject to subsection (c), in each of the first 3 fiscal years in which a State receives a basic grant, the State shall be eligible to receive a supplemental grant in such fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State has in effect a law which provides that any person with a blood alcohol concentration of .08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(7) VIDEO EQUIPMENT FOR DETECTION OF DRUNK AND DRUGGED DRIVERS.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and provides for the establishment of a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment.

"(g) SPECIAL GRANT PROGRAM.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, the Secretary shall establish a special grant program under which grants are awarded to Indian tribal governments and other tribal organizations which adopt and implement effective programs to reduce traffic safety problems in Indian country involving persons under the influence of alcohol or a controlled substance. In developing such a special grant program, the Secretary shall consult with the Secretary of the Interior, the Secretary of Health and Human Services, Indian tribal governments, and other tribal organizations as the Secretary deems appropriate. Grants received may only be used by recipient Indian tribal governments or tribal organizations to implement and enforce such effective programs.

"(2) GRANT QUALIFICATIONS.—The Secretary shall establish criteria for effective programs to reduce traffic safety problems in Indian country involving persons under the influence of alcohol or a controlled substance and procedures for the award of special grants under this subsection. In establishing such criteria and procedures, the Secretary shall consult with the Secretary of the Interior, the Secretary of Health and Human Services, Indian tribal governments, and other tribal organizations as the Secretary deems appropriate. The Secretary shall administer this special grant program and approve all special grants. The Secretary may make arrangements with the Department of the Interior, the Department of Health and Human Services, or other Federal departments and agencies for assistance in the implementation of the program, and such departments and agencies are directed to provide such assistance, on a reimbursable basis.

Such departments and agencies will only be reimbursed for assistance provided under this paragraph and technical assistance provided under paragraph (5) of this subsection based on written documentation.

"(3) APPROVAL REQUIREMENTS.—For purposes of this subsection, an Indian tribal government or tribal organization is eligible for a special grant if such tribal government or organization meets the criteria and procedures established by the Secretary under this subsection. The amount of each grant shall be determined based on factors the Secretary deems appropriate, which may include the magnitude of the problem, the scope of the effort, and the proportion of the population affected.

"(4) AMOUNT AVAILABLE FOR SPECIAL GRANTS.—From amounts appropriated to carry out this section for a fiscal year, there shall be available for special grants under this subsection for such fiscal year an amount equal to the lesser of—

"(A) 5 percent of the funds appropriated to carry out this section for such fiscal year, or

"(B) 70 percent of the amount of funds transferred to the Secretary of the Interior for fiscal year 1992 under section 402 of this title.

"(5) ADMINISTRATIVE EXPENSES.—Funds available to carry out this subsection shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this subsection; except that the Secretary may deduct more than 5 percent in a fiscal year whenever the Secretary determines that such additional funds are necessary to provide technical assistance to Indian tribal governments or other tribal organizations in developing effective programs.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $25,000,000 for each of fiscal years 1993 through 1997. Amounts made available to carry out this section shall remain available until expended and shall not be subject to any obligation limitation for State and community highway safety programs.

"(i) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

"(j) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this section, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State.

"(k) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) INDIAN COUNTRY.—The term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(5) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Subject to paragraph (2) of this section, the amendment made by subsection (a) shall take effect October 1, 1992.

(2) SPECIAL RULES FOR FISCAL YEAR 1992 PROGRAM.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, section 410 of title 23, United States Code, as in effect on September 30, 1992, shall continue to be in effect until September 30, 1993, but only with respect to those States that received a grant under such section in fiscal year 1992. Such a State may not receive an apportionment of funds in fiscal year 1993 under such section but, subject to subparagraph (B), may receive a reapportionment of funds in fiscal year 1993 under subsection (g)(4) of such section. Such State may receive grants after September 30, 1992, under section 410 of title 23, United States Code, as amended by subsection (a).

(B) LIMITATION ON REAPPORTIONMENT OF FUNDS.—The maximum amount of funds which a State described in subparagraph (A) may receive from funds reapportioned on October 1, 1992, under subsection (g)(4) of section 410 of title 23, United States Code, as in effect on September 30, 1992, shall equal, when added to the amount of any grants received in fiscal year 1992 under such section 410, 70 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of such title.

(C) TRANSFER OF REMAINING FUNDS TO NEW PROGRAM.—Funds apportioned or reapportioned in fiscal years 1992 and 1993 to States but not received by any State under section 410 of title 23, United States Code, as in effect on September 30, 1992, shall be available, on and after October 1, 1992, for carrying out section 410 of title 23, United States Code, as amended by subsection (a).

SEC. 144. USE OF RECYCLED PAVING MATERIAL.

Section 1038(e) of such Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) the term 'State' has the meaning such term has under section 101 of title 23, United States Code.".

SEC. 145. ROADSIDE BARRIER TECHNOLOGY.

Section 1058(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 2003) is amended by striking "classified by" and all that follows through the period at the end and inserting "that meets the testing and evaluation criteria of National Cooperative Highway Research Program 230 (or its update) as accepted by the Federal Highway Administration Office of Engineering and classified by the Federal Highway Administration as 'experimental' or that was classified as 'operational' after January 1, 1985.".

SEC. 146. HIGH COST BRIDGE PROJECTS.

The table contained in section 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027–2028) is amended—

(1) in item number 3, relating to Beaver County, Pennsylvania, by inserting after "of Beaver County, Pennsylvania" the following: ", and construction of Crow's Run Expressway from I–79 to PA Rt. 60 Beaver/Butler Counties, PA (of which $200,000 shall be available for site assessment, including environmental assessments, necessary for redevelopment in the vicinity of the Aliquippa Ambridge Bridge)"; and

(2) in item number 5, relating to Gloucester Point, Virginia, by inserting after "York River" the following: "and for repair, strengthening, and rehabilitation of the existing bridge".

SEC. 147. CONGESTION RELIEF PROJECTS.

The table contained in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2029–2031) is amended—

(1) in item number 10, relating to San Diego, California, by striking "1 block of Cut and Cover Tunnel on Rt. 15" and inserting "2 decks on University Avenue bridge"; and

(2) in item number 17, relating to Murfreesbro, Tennessee, by striking "Conduct a feasibility study" and all that follows through "recreation" and inserting "Study and construction of a bicycle system to serve as an alternative form of commuter transportation, to reduce air pollution, and to enhance recreation".

SEC. 148. HIGH PRIORITY CORRIDOR PROJECTS.

Section 1105(e)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2033) is amended by adding at the end the following new sentences: "A study may be conducted under this subsection to determine the feasibility of constructing a more direct limited access highway between Peoria and Chicago, Illinois. A study may be conducted under this subsection to determine the feasibility of constructing an Ohio State Route 33 bypass of Lancaster, Ohio. A study may be conducted under this subsection to determine the need for a high-priority 4-lane highway in the U.S. 67 corridor from Milan, Illinois to I–270 south of Alton, Illinois.".

SEC. 149. RURAL ACCESS PROJECTS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037–2042) is amended—

(1) in item number 16, relating to southern Missouri, by striking the comma following "Southern" and by striking "14.1" and inserting "6.5";

(2) in item number 34, relating to Illinois, by striking "Resurfacing" and all that follows through "Omaha" and inserting "Bel-Air Road improvement from south of Carmi to State Route 141 in southeastern White County";

(3) in item number 52, relating to Bedford Springs, Pennsylvania—

(A) by striking "Bedford Springs,";

(B) by inserting "in Bedford Springs, Pennsylvania," after "access road"; and

(C) by inserting "or other projects in the counties of Bedford, Blair, Fulton, and Huntington, as selected by the State of Pennsylvania" after "therewith";

(4) in item number 56, relating to Louisiana, by striking "I–55" and inserting "I–59";

(5) in item number 61, relating to Lubbock, Texas, by striking "with" and inserting "with Interstate 10 through";

(6) in item number 69, relating to Rutherford County, Tennessee, is amended by inserting after "walkway" the following: "plan, design, and construct related, adjacent, or interlocking facilities, preserve any related historical remnants, and acquire the necessary lands or interests in lands for such facilities";

(7) in item number 75, relating to Pennsylvania, by striking "Widen" and all that follows through "lanes" and inserting "Road improvements on a 14-mile segment of U.S. Route 15 in Tioga County, Pennsylvania";

(8) in item number 92, relating to Ohio, by striking "Minerva, Ohio" and insert "Lisbon, Ohio";

(9) in item number 93, relating to New Mexico, by striking "Raton-Clayton Rd., Clayton, New Mexico" and inserting "U.S. Rt. 64/87 from Raton, New Mexico, through Clayton to the Texas-New Mexico State line";

(10) in item number 111, relating to Parker County, Texas (SH199)—

(A) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(B) by striking "to four-" and inserting "in Tarrant County, to freeway standards and in Parker County to a 4-"; and

(11) by adding at the end the following new item:

119. Taney County, Missouri.	For the development of a new 4-lane Highway 65 loop, to be known as Highway 765 (From Route F, in Taney County, West around Branson to Route 265) and connecting routes	7.6

SEC. 150. URBAN ACCESS AND MOBILITY PROJECTS.

The table contained in section 1106(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2043–2047) is amended—

(1) in item number 13, relating to Joliet, Illinois, by striking "and construction and interchange at Houbolt Road and I–80"; and

(2) in item number 36, relating to Compton, California, by striking "For a grade" and all that follows through "Corridor" and inserting "For grade separations and other improvements in the city of Compton, California".

SEC. 151. INNOVATIVE PROJECTS.

The table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2048–2059) is amended—

(1) in item number 29, relating to Blacksburg, Virginia, by inserting "methods of facilitating public and private participation in" after "demonstrate";

(2) in item number 35, relating to Alabama, by striking "to bypass" and all that follows through "I–85" and inserting "beginning on U.S. Route 80 west of Montgomery, Alabama, and connecting to I–65 south of Montgomery and I–85 east of Montgomery";

(3) in item number 52, relating to Pennsylvania, strike "off Interstate" and all that follows through "Mountaintop," and insert "and related improvements off Interstate 81 between Wilkes-Barre and Hazleton,";

(4) in item number 61, relating to Mojave, California, by striking "Mojave" and inserting "Victorville" and by inserting "Mojave" after "reconstruct";

(5) in item number 70, relating to Brook Park, Ohio, strike "14.2" and insert "6.2";

(6) in item number 73, relating to New Jersey, strike "14.8" and insert "11.8";

(7) in item number 87, relating to Santa Fe Springs, California, by striking "Norwalk" and all that follows through "Springs" and inserting "Construction of Carmenita/Interstate Route 5 Overpass, Santa Fe Springs";

(8) in item number 100, relating to Arkansas, by striking "Thornton" and inserting "Little Rock";

(9) in item number 114, relating to Corpus Christi to Angleton, Texas, by striking "Construct new multi-lane freeway" and inserting "Construct a 4-lane divided highway"; and

(10) by adding at the end the following new item:

205. Newark, New Jersey.	For construction of an interchange providing access to and from the Jackson Street Bridge in Newark, New Jersey	3.0
206. Strongsville, Ohio.	For construction of an interchange at Boston Road and Interstate I–71 in Strongsville and Brunswick, Ohio …………	4.5
207. Berea, Ohio	For construction of West Bagley Access Road in Berea, Ohio …	2.0
208. Cleveland, Ohio.	For construction of the following highway segments (including related curb, sidewalk, and other safety improvements) in Cleveland Ohio: Prospect Avenue from Ontario Street to East 55th Street; East Ninth Street from the Shoreway to Ontario Street; and Ontario Street from Lakeside Avenue to East Ninth Street …………	1.5

SEC. 152. INTERMODAL PROJECTS.

The table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2060–2063) is amended—

(1) in item number 5, relating to Pennsylvania, by striking "Upgrading" and inserting "To study the need to upgrade" and by inserting "to a 4-lane limited access highway" after "Airport";

(2) in item number 9, relating to E. Haven/Wallingford, Connecticut—

(A) by striking "$8.8" and inserting "$7.5";

(B) by striking "$2.4" and inserting "$2.0"; and

(C) by striking "$0.7" and inserting "$0.6".

(3) in item number 49, relating to Louisiana, insert "(including acquisition of lands)" after "Construction"; and

(4) in item number 51, relating to Long Beach, California, by inserting "(including a grade separation project for the Los Alamitos traffic circle at Lakewood Boulevard and Pacific Coast Highway)" after "Access".

SEC. 153. CORRECTED PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for certain highway projects in order to correct errors and omissions in the Intermodal Surface Transportation Efficiency Act of 1991.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1993 through 1997 to carry out each such project the amount listed for each such project:

City/State	Projects	Amount in millions
1. North Minnesota.	Construction and reconstruction of Forest Highway 11 connecting Aurora-Hoyt Lakes and Silver Bay, MN …………	8.5
2. Altoona, Pennsylvania.	Pedestrian crossover at 13th Street …………	1.6
3. Pennsylvania.	To widen U.S. Rt. 202 from King of Prussia to Montgomeryville, Pennsylvania …………	6.1
4. Philadelphia, Pennsylvania.	Reconstruction of the Old Delaware Avenue Service Road …………	1.6
5. Adams County, Colorado.	Construction of phase I of 120th Avenue improvements …………	5.5

(c) ALLOCATION PERCENTAGES.—20 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 154. INFRASTRUCTURE AWARENESS PROGRAM.

(a) IN GENERAL.—Section 1109(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2064) is amended—

(1) by inserting "(1)" after "is authorized"; and

(2) by striking the period at the end and inserting ", and (2) to fund the production of a documentary in cooperation with a not-for-profit national public television station and the National Academy of Engineering.".

(b) FUNDING.—Section 1109(b) of such Act is amended—

(1) by striking "this section" the first place it appears and inserting "subsection (a)(1)"; and

(2) by striking "Account), which shall" and inserting "Account). The Secretary shall expend, out of amounts deducted under section 104(a) of title 23, United States Code, for fiscal year 1993, $2,000,000 in fiscal year 1993 to carry out subsection (a)(2). The funds made available to carry out this section shall".

SEC. 155. MISCELLANEOUS INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT AMENDMENTS.

(a) CROSS REFERENCE IN HIGHWAY USE TAX EVASION PROGRAM.—Section 1040(a) of the

Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is amended by striking "(e)" and inserting "(f)".

(b) MISCELLANEOUS BUSWAY PROJECT.—Section 1069(e) of such Act (105 Stat. 2008) is amended by inserting before the period at the end of the first sentence the following: ", together with the design and construction of a high occupancy vehicle facility utilizing the existing Wabash Tunnel and the design and construction of a new bridge into downtown Pittsburgh to be jointly used with the Airport Busway".

(c) PERIOD OF AVAILABILITY OF FUNDS FOR MISCELLANEOUS PROJECTS.—Section 1069 of such Act is amended by adding at the end the following new subsection:

"(ii) PERIOD OF AVAILABILITY.—Funds provided to carry out this section shall remain available until expended.".

(d) FINAL RULE FOR ROADSIDE BARRIERS AND SAFETY APPURTENANCES.—Section 1073(b) of such Act (105 Stat. 2012) is amended by striking "1 year" and inserting "2 years".

(e) INTERSTATE STUDY COMMISSION.—Section 1099 of such Act (105 Stat. 2026) is amended—

(1) by striking "bill" and inserting "Act";

(2) by striking "passage of this legislation" and inserting "the enactment of this Act";

(3) by inserting after "Columbia" the second place it appears the following: "appointed by the Governors of the States of Maryland and Virginia and the Mayor of the District of Columbia, respectively"; and

(4) by striking "appointed by the Governors and the Mayor" and inserting ", 1 each for Maryland, Virginia, and the District of Columbia appointed by the Governors and the Mayor, respectively".

(f) DRUG RECOGNITION EXPERT TRAINING PROGRAM.—Section 2006 of such Act (23 U.S.C. 403 note; 105 Stat. 2080) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant or contract with funds made available under subsection (c) for any fiscal year beginning after September 30, 1992, shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.".

(g) APPLICABILITY OF OBLIGATION CEILING TO CERTAIN HIGHWAY SAFETY PROGRAMS.—Section 2009 of such Act (105 Stat. 2080) is amended—

(1) by striking "(a) IN GENERAL.—";

(2) by striking "211(b)" the first place it appears and inserting "211";

(3) by striking "102" and inserting "1002"; and

(4) by striking subsection (b).

SEC. 156. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

In administering section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991, the limitation on annual gross receipts of a small business concern set forth in paragraph (2)(A) of such section shall be the only limitation on annual gross receipts which applies to small business concerns.

SEC. 157. AMENDMENTS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987.

(a) NEW RIVER, WEST VIRGINIA.—Section 149(a)(62) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 191) is amended by striking "in the vicinity of" and inserting "on the west side of".

(b) BURBANK-GLENDALE-PASADENA AIRPORT, CALIFORNIA.—Section 149(a)(69) of such Act (101 Stat. 191) is amended—

(1) in the first sentence by striking "highway";

(2) in the first sentence by striking "and construction of terminal and parking facilities at such airport"; and

(3) by striking "by making" in the second sentence and all that follows through the period at the end of such sentence and inserting : "by preparing a feasibility study and conducting preliminary engineering, design, and construction of a link between such airport and the commuter rail system that is being developed by the Los Angeles County Transportation Commission.".

(c) DOVER TOWNSHIP, NEW JERSEY.—Funds made available by section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for the project described in subsection (a)(37) of such section and not obligated for such project shall be available for carrying out the project described in item number 26 of the table contained in section 1106(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991, relating to northeastern New Jersey.

SEC. 158. FREEWAY SERVICE PATROLS.

(a) GENERAL RULE.—Except to the extent that the Secretary shall find that it is not feasible, any funds expended in a fiscal year directly or indirectly for freeway service patrols from amounts made available to a State under titles I and III of the Intermodal Surface Transportation Efficiency Act of 1991 shall be expended with privately owned or privately operated business concerns. The preceding sentence shall not apply to any publicly owned or operated freeway service patrol that was in operation before the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "freeway service patrol" means automotive road service vehicles and automotive towing vehicles operated in a continuous, dedicated service as part of an incident management program.

SEC. 159. TRAFFIC CONTROL STANDARDS.

(a) REVISION OF MANUAL.—The Secretary shall revise the Manual of Uniform Traffic Control Devices to include—

(1) a standard for a minimum level of retroreflectivity that must be maintained for pavement markings and signs; and

(2) a standard to define the roads that must have a center line or edge lines or both.

(b) APPLICABILITY OF RETROREFLECTIVITY STANDARD.—The standard developed under subsection (a)(1) shall apply to all roads open to public travel.

(c) FACTORS TO CONSIDER IN DEVELOPING LINES STANDARD.—In developing the standard under subsection (a)(2), the Secretary shall consider the functional classification of roads, traffic volumes, and the number and width of lanes.

SEC. 160. CONSTRUCTION OF INTERSTATE ROUTE 287.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Army Corps of Engineers, the Environmental Protection Agency, and the Federal Highway Administration shall suspend, for a period of 5 years from the date of completion of Interstate Route 287 in New Jersey, the enforcement or implementation of the requirement of the Army Corps' section 404 permit (number 14667) with respect to the construction of Interstate Route 287 in New Jersey that a wetland mitigation site in Wayne, New Jersey, be in place prior to the opening of such route.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Subsection (a) shall not be construed to require any additional or future requirements, actions, or reviews under section 404 of the Federal Water Pollution Control Act on the part of the State of New Jersey, the Army Corps of Engineers, the Environmental Protection Agency, or the Federal Highway Administration.

(c) APPLICABILITY OF OTHER LAWS.—Wetland mitigation referred to in subsection (a) shall be in compliance with existing Federal statutes and regulations.

SEC. 161. CENTER FOR TRAUMA AND MOTOR VEHICLE SAFETY STUDIES.

Out of administrative funds deducted under section 104(a) of title 23, United States Code, the Secretary shall use $1,500,000 per fiscal year for fiscal years beginning after September 30, 1992, and ending before October 1, 1997, to make grants to the University of Medicine and Dentistry of New Jersey in Newark, New Jersey, for the establishment and operation of a center for trauma and motor vehicle safety studies.

SEC. 162. SIGNS DESIGNATING LOCATION OF DEPARTMENT OF VETERANS AFFAIRS' FACILITIES.

(a) STUDY.—The Secretary, in consultation with the Secretary of Veterans Affairs, shall conduct a study to determine the design and placement of standardized signs at exits along Federal-aid highways to designate the location of facilities of the Department of Veterans Affairs.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 163. PAN AMERICAN HIGHWAY.

(a) STUDY.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

(b) ELEMENTS.—The study to be conducted under subsection (a) shall at a minimum include the following elements:

(1) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

(2) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

(3) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

(4) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

(5) Findings on the benefits to United States industry through the use of United States technology and equipment in construction of improvements to the Pan American Highway.

(6) Findings on environmental considerations, including environmental considerations relating to the Darien Gap.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 164. REOPENING OF TEMPORARY RAMP IN BIRMINGHAM, ALABAMA.

The Alabama State Highway Department shall reopen the temporary ramp on the Elton B. Stephens Expressway from First Avenue North in Birmingham, Alabama, if all safety concerns can be resolved. The temporary ramp installment shall be completed as expeditiously as possible to coincide with the closing of the 24th Street viaduct for replacement and shall remain open until completion of such replacement.

SEC. 165. PRIORITY PROJECTS.

(a) ALABAMA.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Alabama shall give priority consideration to the following projects:

(1) Construction of I–759 from United States Route 411 to United States Route 431.

(2) Construction of I–759 from I–59 to United States Route 431.

(3) Construction of the College Parkway from its present terminus to I–759.

(b) ILLINOIS.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Illinois shall give priority consideration to reconstruction of Meridian and Glen Crossing Roads in Madison County, Illinois.

(c) MARYLAND.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Maryland shall give priority consideration to improvements to Interstate Route I-695 in Baltimore County, Maryland.

(d) NEW YORK.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of New York shall give priority consideration to reconstruction of the Whitehall Ferry Terminal, New York, New York.

(e) OHIO.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Ohio shall give priority consideration to improvement of United States Route 250 from Cadiz, Ohio, to Uhrichsville, Ohio.

SEC. 166. CONNECTOR ROAD, MASSACHUSETTS.

Out of funds apportioned to it under section 104(b)(5)(A) of title 23, United States Code, in fiscal year 1993, the State of Massachusetts shall obligate $1,000,000 in such fiscal year for construction of a connector road between Route 9 and Interstate Route I-290 in the State of Massachusetts.

SEC. 167. REVISION OF MANUAL-CROSSBUCKS.

Not later than 90 days after the completion of the Ohio Department of Transportation study of highly reflectorized devices known as "Buckeye Crossbucks", if the Secretary determines that the study demonstrates that such devices have a positive safety benefit, the Secretary shall revise the Manual on Uniform Traffic Control Devices and such other regulations and agreements of the Federal Highway Administration as may be necessary, to authorize States and local governments, at their discretion, to install such devices at any rail-highway grade crossing without automatic traffic control devices with 2 or more trains operating across the rail-highway grade crossing per day.

SEC. 168. USE OF TOURIST ORIENTED DIRECTIONAL SIGNS.

Section 1059 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 131 note; 105 Stat. 2003) is amended by adding at the end the following new subsection:

"(c) NEW YORK PILOT PROJECT.—

"(1) IN GENERAL.—The New York State Thruway Authority shall conduct a pilot project designed to assess the benefits to attractions along the Thruway provided by the use of 'logo' signs specific to such attractions.

"(2) NUMBER OF SIGNS.—The 'logo' signs to be utilized in the project under this subsection shall be in addition to signs presently permitted on the New York State Thruway. The number of 'logo' signs at any given exit shall not exceed the present number permitted. In the absence of a camping, gas, food, or lodging 'logo' sign at an exit, an attraction 'logo' sign may be erected.

"(3) MONITORING AND REPORT TO THE SECRETARY.—The New York State Thruway Authority shall monitor the benefits of the pilot project to local attractions in terms of travelers' convenience, use of attractions, and economic benefits generated, and report these findings annually to the Secretary.

"(4) REPORT TO CONGRESS.—The Secretary shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate the results of the monitoring of the pilot project conducted under this subsection no later than October 1, 1994.".

SEC. 169. TEMPORARY MATCHING FUND WAIVER.

Section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 120 note; 105 Stat. 2001–2002) is amended to read as follows:

"SEC. 1054. TEMPORARY MATCHING FUND WAIVER.

"(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share—

"(1) of any qualifying project approved by the Secretary—

"(A) for payment with funds apportioned under title 23, United States Code, or

"(B) for payment with funds apportioned or allocated under section 3, 9, or 18 of the Federal Transit Act, and

"(2) of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, or under section 3, 9, or 18 of the Federal Transit Act,

during the period beginning on October 1, 1991, and ending September 30, 1993, shall be, at the discretion of the Secretary, the percentage of the construction cost as the recipient of such funds requests, up to and including 100 percent.

"(b) REPAYMENT.—The total amount of increases in the Federal share made pursuant to subsection (a) for any recipient of funds described in subsection (a) shall be repaid to the United States by the recipient on or before August 1, 1994. Payments shall be deposited in the Highway Trust Fund or the General Fund of the Treasury, as appropriate, and repaid amounts shall be credited to the appropriate apportionment or allocation accounts of the recipient.

"(c) DEDUCTION FROM APPORTIONMENTS.—If a recipient of funds described in subsection (a) has not made the repayment as required by subsection (b), the Secretary shall deduct from funds apportioned to the recipient under title 23, United States Code, or from funds apportioned or allocated to the recipient under section 3, 9, or 18 of the Federal Transit Act, as appropriate, in each of the fiscal years 1995 and 1996, a pro rata share of each category of apportioned funds under title 23, United States Code, or a pro rata share of apportioned or allocated funds under section 3, 9, or 18 of the Federal Transit Act, as appropriate. The amount which shall be deducted in each fiscal year shall be equal to 50 percent of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for fiscal years 1995 and 1996 in accordance with title 23, United States Code, or reapportioned or reallocated under section 3, 9, or 18 of the Federal Transit Act, as appropriate, to those recipients which have not received a higher Federal share under this section and to those recipients which have made the repayment required by subsection (b).

"(d) QUALIFYING PROJECT DEFINED.—For purposes of this section, the term 'qualifying project' means a project approved by the Secretary after the effective date of this title, or a project for which the United States becomes obligated to pay after such effective date, and for which the recipient of funds described in subsection (a) submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

"(e) APPROVAL OF WAIVER REQUESTS.—The Secretary shall approve any request submitted to the Secretary under this section for an increase in the Federal share of the cost of a project on or before the 45th day after the date of receipt of such request.

"(f) MAXIMUM AMOUNT WAIVED.—The total amount of funds waived under this section for any recipient in fiscal years 1992 and 1993 may not exceed—

"(1) for highway projects, the Secretary's estimate of amounts to be apportioned to the recipient under title 23, United States Code, in fiscal years 1995 and 1996; and

"(2) for transit projects, the Secretary's estimate of amounts to be apportioned or allocated to the recipient under sections 3, 9, and 18 of the Federal Transit Act in fiscal years 1995 and 1996.".

SEC. 170. REAFFIRMATION OF POLICIES AND PRIORITIES OF ISTEA.

Congress reaffirms the policies and priorities of the Intermodal Surface Transportation Efficiency Act of 1991, including the policies and priorities established by sections 1002, 3025, and 3030 through 3035.

TITLE II—FEDERAL TRANSIT PROGRAMS

SEC. 201. SECTION 3 PROGRAM AMENDMENTS.

(a) ASSURED TIMETABLE FOR FINAL DESIGN STAGE.—Section 3(a)(6)(C) of the Federal Transit Act (49 U.S.C. App. 1602(a)(6)(C)) is amended by inserting before the period at the end the following: "or, if an environmental impact statement is not required for such project, the date of completion of an environmental assessment for such project or of a finding of no significant impact".

(b) PERIOD OF AVAILABILITY FOR RAIL MODERNIZATION.—Section 3(h) of such Act is amended—

(1) in paragraph (6) by striking "paragraph" and inserting "subsection"; and

(2) by adding at the end the following new paragraph:

"(7) Sums apportioned under this subsection shall be available for obligation by the recipient for a period of 3 years following the close of the fiscal year for which sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this subsection for the succeeding fiscal year not later than 30 days after the end of such period.".

(c) NONAPPLICABILITY OF NEW START CRITERIA REQUIREMENTS TO HAWTHORNE-WARWICK TRANSIT PROJECT.—Section 3(i)(5)(C) of such Act is amended by inserting after "1991" the following: "and the project to provide commuter rail service from Hawthorne, New Jersey, to Warwick, New York, described in section 3035(a) of the Intermodal Surface Transportation Efficiency Act of 1991".

(d) ENTREPRENEURIAL TRANSPORTATION SERVICES PROGRAM.—Section 3 of such Act is amended by adding at the end the following new subsection:

"(n) ENTREPRENEURIAL TRANSPORTATION SERVICES PROGRAM.—

"(1) ESTABLISHMENT.—Of the amounts made available for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus related facilities by subsection (k)(1)(C), the Secretary shall make available $3,000,000 annually to establish an entrepreneurial transportation services program to provide grants and loans to assist in the development of private transportation services to meet new transportation needs and complement public transportation services funded under this Act.

"(2) ELIGIBILITY.—Public bodies and nonprofit entities shall be eligible to receive assistance under this subsection to assist private entrepreneurs in the provision of transportation services. Any grant or loan made under this subsection shall be available to such entrepreneurs for a period of not more than 2 years. A recipient is authorized to retain funds returned to it in connection with such a grant or loan and such funds shall continue to be used for the purposes of paragraph (1).

"(3) USE OF GRANTS AND LOANS.—Grants and loans made under this subsection may be used to fund capital, planning, and operating costs and shall be equitably distributed between urban and rural areas.".

(e) TRANSITIONAL PROVISION FOR PROGRAMS OF INTERRELATED PROJECTS.—Section 3011(b) of the Intermodal Surface Transportation Effi-

ciency Act of 1991 (49 U.S.C. App. 1602 note; 105 Stat. 2098) is amended by inserting after "interrelated projects" the following: "but excluding any project for which a timetable for project review or for Federal funding is provided for by a provision of law other than section 3(a)(6) of the Federal Transit Act and for which such timetable is different than the timetable established by such section".

(f) CONFORMING AMENDMENTS.—Section 3007 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2091) is amended—

(1) in paragraph (5)(B) by striking the comma which precedes the closing quotation marks and the semicolon; and

(2) in paragraph (6) by striking the comma which precedes the closing quotation marks and the final period.

SEC. 202. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 8 of the Federal Transit Act (49 U.S.C. App. 1607) is amended—

(1) in subsection (g)(5), by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B), respectively; and

(2) in subsection (f)(11) by inserting "passengers and" before "freight".

(b) MAJOR CAPITAL INVESTMENTS.—Section 8(h)(4) of such Act is amended by inserting before the period at the end of the last sentence the following: "; except that any project which entails using a new rail line of less than ½ mile in length to connect 2 existing rail lines shall be exempt from complying with highway noise requirements of such Act".

(c) NONATTAINMENT AREA REQUIREMENTS.—Section 8(l) of such Act is amended by striking "that will result in a significant increase in carrying capacity for single occupant vehicles".

(d) PERIOD OF AVAILABILITY TO RECIPIENTS.—Section 8(p) of such Act is amended—

(1) by striking "section 8" each place it appears and inserting "this section";

(2) in paragraph (5) by striking "paragraph" and inserting "section"; and

(3) by adding at the end the following new paragraph:

"(6) PERIOD OF AVAILABILITY; REAPPORTIONMENT.—Sums apportioned under this subsection shall be available for obligation by the recipient for a period of 2 years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the recipients for the succeeding fiscal year.".

SEC. 203. FORMULA GRANT PROGRAM.

(a) TRANSIT SECURITY SYSTEMS.—Section 9(e)(3)(I) of the Federal Transit Act (49 U.S.C. App. 1607a(e)(3)(I)) is amended by inserting before "and any other" the following: "employing law enforcement or security personnel in areas within or adjacent to such systems;".

(b) LIMITATION ON FUNDING OF OPERATING ASSISTANCE.—Section 9(k)(2)(A) of such Act is amended by adding at the end the following new sentence: "If an urbanized area had a population under the 1980 decennial census of the United States of more than 1,000,000 and has a population under the 1990 decennial census of less than 1,000,000, the maximum percentage of funds which may be used for operating assistance for purposes of the first sentence shall be 90 percent of the amount of funds apportioned in fiscal year 1982 under such paragraphs (1)(A), (2)(A), and (3)(A) to such area.".

(c) GRANDFATHER OF CERTAIN URBANIZED AREAS.—Section 9(s) of such Act is amended by striking "1990 census" and all that follows through the period at the end and inserting the following: "1990 census, for fiscal years 1992, 1993, and 1994, shall be treated as an urbanized area for purposes of section 12(c)(11) of this Act.".

(d) TREATMENT OF CERTAIN BUS REVENUE MILEAGE.—For purposes of the apportionment of funds under section 9 of the Federal Transit Act for fiscal year 1993, the total bus revenue vehicle miles provided by the Duke Power Company in the year ending June 30, 1990, shall be treated as having been provided by the City of Durham, North Carolina.

(e) FERRYBOAT OPERATIONS.—For purposes of calculating apportionments under section 9 of the Federal Transit Act for fiscal years beginning after September 30, 1992, 50 percent of the ferryboat revenue vehicle miles and 50 percent of the ferryboat route miles operated by the city of Avalon, California, shall be included in the calculation of "fixed guideway vehicle revenue miles" and "fixed guideway route miles" attributable to the Los Angeles urbanized area under sections 9(b)(2) and 15 of such Act.

SEC. 204. MASS TRANSIT ACCOUNT BLOCK GRANTS.

Section 9B(a) of the Federal Transit Act (49 U.S.C. App. 1607a–2(a)) is amended by striking "subsections (b) and (c) of".

SEC. 205. GRANTS FOR RESEARCH AND TRAINING.

(a) APPLICABILITY OF OBLIGATION CEILING TO FUNDING FOR UNIVERSITY TRANSPORTATION CENTERS.—Section 11(b)(12) of the Federal Transit Act (49 U.S.C. 1607c(b)(12)) is amended by striking "102" and inserting "1002".

(b) INTERNATIONAL INSTITUTE FOR SURFACE TRANSPORTATION POLICY STUDIES.—Section 11(c) of such Act is amended—

(1) in the heading to paragraph (1) by striking "INSTITUTE FOR NATIONAL" and inserting "INTERNATIONAL INSTITUTE FOR"; and

(2) in paragraph (1) by striking "an institute for national" and inserting "an international institute for".

(c) UNIVERSITY RESEARCH INSTITUTE.—Section 11(c) of such Act is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) INSTITUTE FOR TRANSPORTATION POLICY AND MANAGEMENT.—

"(A) GRANTS.—The Massachusetts State highway department shall make grants under this section jointly to the Massachusetts Institute of Technology, Harvard University, and the University of Massachusetts to establish and operate an interdisciplinary institute to carry out research on issues and operations in urban transportation policy and on strategies for the improvement of urban transportation management and to disseminate the findings thereof.

"(B) FUNDING.—The Massachusetts State highway department shall expend, from amounts made available to it for each of the fiscal years 1993 through 1997 under section 307(c) of title 23, United States Code, $1,000,000 per fiscal year to carry out the purposes of this paragraph.

"(7) URBAN TRANSIT INSTITUTE, NORTH CAROLINA.—

"(A) GRANTS.—The Secretary shall make grants under this section to North Carolina A. and T. State University through the Institute for Transportation Research and Education to establish and operate an interdisciplinary institute for the study and dissemination of techniques to address the diverse transportation problems of urban areas experiencing significant and rapid growth.

"(B) FUNDING.—Out of administrative funds deducted under section 104(a) of title 23, United States Code, for each of fiscal years 1993 through 1997, the Secretary shall make available $1,000,000 for making grants under this paragraph.

"(8) STEVENS INSTITUTE OF TECHNOLOGY CONSORTIUM.—

"(A) GRANTS.—The Secretary shall make grants under this section to the Stevens Institute of Technology in Hoboken, New Jersey, the Florida Institute of Technology, and the University of Limerick in Ireland to establish and operate an international consortium for the development and testing of innovative transportation technology which shall be known as the 'Stevens Institute of Technology Consortium'.

"(B) FUNDING.—Out of administrative funds deducted under section 104(a) of title 23, United States Code, for each of fiscal years 1993 through 1997, the Secretary shall make available $1,000,000 for making grants under this paragraph.".

(d) CONFORMING AMENDMENTS.—Section 11(c)(3) of such Act is amended—

(1) in the paragraph heading by inserting ", FLORIDA" after "INSTITUTE"; and

(2) by striking "North Carolina A. and T. State University through the Institute for Transportation Research and Education and".

SEC. 206. GENERAL PROVISIONS.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 12(b) of the Federal Transit Act (49 U.S.C. App. 1608(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR ENGINEERING AND DESIGN CONTRACTS.—

"(A) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with paragraph (4), whether funded in whole or in part with Federal transit funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(B) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with paragraph (4) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or independent certified public accountant if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.".

(b) RAIL TRACKAGE RIGHTS AGREEMENTS.—Section 12(c)(1) of such Act is amended by inserting "payments for the capital portions of rail trackage rights agreements," after "rights-of-way,".

(c) SALE OF CAPITAL ASSETS.—Section 12 of such Act is further amended by adding at the end the following new subsection:

"(n) SALE OF CAPITAL ASSETS.—

"(1) IN GENERAL.—If a recipient of assistance under this Act determines that facilities and equipment and other assets (including land) acquired, in whole or in part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary shall authorize the sale of the assets with no further obligation to the Federal Government if the Secretary determines that—

"(A) there are no purposes eligible for assistance under this Act for which the asset should be used; and

"(B) the proceeds from the sale of the asset will be used by the recipient to procure items eligible for capital assistance under this Act.

"(2) RELATIONSHIP TO OTHER LAWS.—The provisions of this subsection shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 207. PERIOD OF AVAILABILITY AND REAPPORTIONMENT OF SECTION 16 FUNDS.

Section 16 of the Federal Transit Act (49 U.S.C. App. 1612) is amended—

(1) in subsection (b) by striking "21(a)(2)" and inserting "21(a)"; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(5) PERIOD OF AVAILABILITY.—Sums apportioned under this subsection shall be available for obligation by the State for a period of 2 years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year.".

SEC. 208. RURAL TRANSIT PROGRAM.

The second sentence of section 18(a) of the Federal Transit Act (49 U.S.C. App. 1614(a)) is amended by striking the final period.

SEC. 209. AUTHORIZATIONS.

(a) FORMULA GRANT PROGRAM FROM TRUST FUND.—Section 21(a)(1) of the Federal Transit Act (49 U.S.C. App. 1617(a)(1)) is amended—

(1) by striking "9B," and inserting "6, 8, 9B, 10,"; and

(2) by inserting "20," after "18,".

(b) FORMULA GRANT PROGRAM FROM GENERAL FUND.—Section 21(a)(2) of such Act is amended—

(1) by striking "9," and inserting "6, 8, 9, 10,";

(2) by inserting "20," after "18,"; and

(3) by inserting after "Code," the following: "$1,867,000,000 for fiscal year 1992,".

(c) FISCAL YEAR 1992.—Section 21(b)(3) of such Act is amended by redesignating subparagraph (F) as subparagraph (G) and by striking subparagraph (E) and inserting the following new subparagraphs:

"(E) $8,050,000 to carry out section 26(b) of this Act;

"(F) $12,000,000 to carry out part C of title VI of the Intermodal Surface Transportation Efficiency Act of 1991; and".

(d) SETASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Section 21(c) of such Act is amended—

(1) by inserting "beginning after September 30, 1992," after "each fiscal year";

(2) by striking "or appropriated" each place it appears;

(3) by striking "8(p)" and inserting "(a)";

(4) in paragraph (1) by striking "(f)";

(5) in paragraph (3) by striking "the State program under"; and

(6) in paragraph (4) by striking "the national program under".

(e) OTHER SETASIDES.—Section 21(d) of such Act is amended—

(1) by striking "or appropriated" each place it appears; and

(2) by striking "1996" and inserting "1997".

(f) PERMANENT ANNUAL PERCENTAGE TAKEDOWN FOR PLANNING, PROGRAMMING, AND RESEARCH.—Section 21 of such Act is further amended by adding at the end the following new subsection:

"(h) PERMANENT ANNUAL PERCENTAGE TAKEDOWN FOR PLANNING, PROGRAMMING, AND RESEARCH.—Notwithstanding any other provision of law, in any fiscal year in which the appropriation for the Transit Planning, Programming, and Research Program is less than an amount equivalent to the percentage specified in subsection (c) of the transit program level made available in the appropriations Act for the Department of Transportation, the Secretary shall transfer to the Transit Planning, Programming, and Research Program account funds sufficient to make available an amount equivalent to the percentage specified in subsection (c). Such increase shall be derived from a corresponding pro rata reduction of those other accounts in such appropriations Act which provide new obligation authority for the Federal Transit Administration.".

SEC. 210. PLANNING AND RESEARCH PROGRAM.

(a) STATE PROGRAM.—Section 26(a) of the Federal Transit Act (49 U.S.C. App. 1622(a)) is amended to read as follows:

"(a) ALLOCATION OF PLANNING FUNDS.—

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—The funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend transit research, development, and technology transfer activities as the Secretary deems appropriate. The members of the board shall include 1 representative from the national trade association representing the taxicab-paratransit industry and 1 representative from the national association that represents the intercity, regular route, private, over-the-road bus service industry.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas in all the States, as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section. In any case in which a statewide transit agency is responsible under State law for the financing, construction, and operation, directly, by lease, contract, or otherwise, of statewide public transportation services, such agency shall be the recipient for receiving and dispensing funds under this subparagraph.

"(3) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under paragraph (2) to be used to supplement funds available under paragraph (1), as the State deems appropriate.".

(b) NATIONAL PROGRAM.—Section 26(b) of such Act is amended—

(1) in paragraph (1) by striking "section 21(c)(4)" and inserting "sections 21(b)(3)(E) and 21(c)(4)"; and

(2) in paragraph (2) by inserting "annually" after "$2,000,000".

(c) SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY PILOT PROJECT.—Section 26(c)(4) of such Act is amended by adding at the end the following new subparagraph:

"(G) ADEQUATE COMPETITION.—If the Secretary determines at any time during the selection process under this paragraph that there has been insufficient competition among public entities or vendors, the Secretary may terminate such process and take such action as may be necessary to carry out the intent of this subsection.".

SEC. 211. STATE RESPONSIBILITY FOR RAIL FIXED GUIDEWAY SYSTEM.

Section 28 of the Federal Transit Act (49 U.S.C. App. 1624(b)) is amended—

*(1) in the section heading by inserting "**rail**" before "**fixed guideway**"; and*

(2) in subsection (b)(1) by inserting "rail" before "fixed guideway".

SEC. 212. NATIONAL TRANSIT INSTITUTE.

Section 29 of the Federal Transit Act (49 U.S.C. App. 1625) is amended—

(1) in the heading to subsection (b) by striking "FUNDING" and inserting "TRAINING OF STATE AND LOCAL GOVERNMENT TRANSPORTATION PERSONNEL"; and

(2) subsection (d) is amended to read as follows:

"(d) FUNDING.—

"(1) FISCAL YEAR 1992.—The Secretary shall make available in equal amounts from funds provided under section 21(c)(3) and 21(c)(4) $3,000,000 for fiscal year 1992 for carrying out this section. Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this paragraph shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(2) THEREAFTER.—The Secretary shall make available for carrying out this section—

"(A) from amounts made available by section 21(a)(1), $1,500,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, and 1997; and

"(B) from amounts made available by section 21(b)(1), $1,500,000 per fiscal year for each of such fiscal years.".

SEC. 213. INCREASED FEDERAL SHARE.

The Federal Transit Act (49 U.S.C. App. 1601–1625) is amended by adding at the end the following new section:

"SEC. 30. INCREASED FEDERAL SHARE.

"(a) STATES WITH LARGE AREAS OF INDIAN AND CERTAIN PUBLIC DOMAIN LANDS.—In the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area.

"(b) STATES WITH LARGE AREAS OF INDIAN AND PUBLIC DOMAIN LANDS AND NATIONAL FORESTS, PARKS, AND MONUMENTS.—In the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area.

"(c) MAXIMUM SHARE.—Notwithstanding subsections (a) and (b) of this section, the Federal share for any construction project under this Act shall not exceed 95 percent of the total cost of such project.

"(d) GRANT RECIPIENT AGREEMENT.—In any case where a grant recipient elects to have the Federal share provided in subsection (b) of this section, the grant recipient must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring grant recipient to use solely for purposes eligible for assistance (other than operating assistance) under this Act (other than paying its share of projects approved under this Act) during the period covered by such agreement the difference between the grant recipient's share as provided in subsection (b) and what its share would be if it elected to pay the share provided in subsection (a) for all projects subject to such agreement.".

SEC. 214. COMPLETION OF MOS-1 PROJECT.

(a) REPLACEMENT OF GRANTEE.—Effective on the date of the enactment of this Act, the Commission shall replace SCRTD as the Federal grantee for Minimum Operable Segment One of the Los Angeles Metro Rail Project (hereinafter in this section referred to as "MOS-1"). The MOS-1 Full Funding Grant Agreement dated August 27, 1986, and all other MOS-1 grant documents required under Federal law, shall be deemed to be amended, effective on the date of the enactment of this Act, to designate the Commission as MOS-1 grantee; and all rights and obligations as MOS-1 grantee shall be transferred to the Commission on that date in accordance with the Memorandum of Understanding for the Transfer of MOS-1 Project, entered into by and between the Commission and SCRTD on June 24, 1992. No action by the Secretary of Transportation or other administrative action shall be required in order for the Commission to proceed to act in its capacity as MOS-1 grantee pursuant to this section.

(b) OBLIGATIONS OF COMMISSION.—Upon becoming the MOS-1 grantee under this section, the Commission shall be responsible for completion of the MOS-1 Project in accordance with the terms and conditions of the MOS-1 Full Funding Grant Agreement and other applicable grant agreements and in compliance with all applicable Federal laws and regulations. In addition, the Commission shall remain responsible for all MOS-1 obligations arising before the date of the enactment of this Act, in accordance with the Commission's Guarantee of Performance to the United States dated April 3, 1990.

(c) AVAILABILITY OF FUNDS.—All funds previously obligated to SCRTD under section 3 and section 9 of the Federal Transit Act, and unexpended on the date of the enactment of this Act, shall be transferred to the Commission on such date and shall be available to the Commission to pay costs associated with the completion of MOS-1. Notwithstanding any other provision of law, neither the replacement of grantees under subsection (a) nor the transfer of funds under this subsection shall be considered to be a change in project scope or otherwise result in the deobligation of prior year funds, and all funds transferred to the Commission under this subsection shall be charged to the original appropriation and shall remain available until expended.

(d) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Los Angeles County Transportation Commission or any successor to the Commission that is established by or pursuant to State law; and

(2) SCRTD.—The term "SCRTD" means the Southern California Rapid Transit District or any successor to the District that is established by or pursuant to State law.

SEC. 215. MISCELLANEOUS MULTIYEAR CONTRACTS.

(a) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122–2123) is amended by inserting after "Hudson River Waterfront Transportation System" the following: "(including corridor connections to and within the city of Bayonne)".

(b) HILLSBORO EXTENSION.—Section 3035(b) of such Act (105 Stat. 2129) is amended by adding at the end the following new sentence: "With regard to the project review of the Hillsboro extension by the Federal Transit Administration, such extension shall not be subject to the requirements of section 3(i) of the Federal Transit Act.".

(c) ADDITIONAL TRACKAGE RIGHTS AND RIGHT-OF-WAY PURCHASE FOR GILROY SERVICE.—Section 3035(h) of such Act (105 Stat. 2130) is amended by striking the second sentence and inserting the following: "No later than August 1, 1994, the Secretary shall negotiate and sign an agreement with the Santa Clara County Transit District which includes, from funds made available under such section 3(k)(1)(B) for fiscal year 1992, $8,000,000 for the purpose of purchasing of additional trackage rights or purchasing of right-of-way between the existing termini in San Jose and Gilroy, California, or both. In connection with such purchase, the Secretary shall either approve a finding of no significant impact or approve a final environmental impact statement and issue a record of decision no later than July 1, 1994.".

(d) DALLAS LIGHT RAIL PROJECT.—Section 3035(i) of such Act (105 Stat. 2130) is amended—

(1) by striking "6.4 miles" and inserting "9.6 miles";

(2) by striking "10 stations" and inserting "14 stations";

(3) by striking "such light rail line" and inserting "the light rail system"; and

(4) by striking "construction of any of such" and inserting "any project".

(e) SOUTH BOSTON.—Section 3035(j) of such Act (105 Stat. 2130–2131) is amended by inserting "the second place it appears" after "striking '—'".

(f) ORLANDO STREETCAR DOWNTOWN TROLLEY PROJECT.—Section 3035(l) of such Act (105 Stat. 2131) is amended by inserting after "engineering" the following: "and the initiation of final design, construction, land and equipment acquisition, and related activities".

(g) UTILIZATION OF AEROSPACE TECHNOLOGY ON TRANSIT VEHICLES.—Section 3035 of such Act (105 Stat. 2129–2137) is amended by striking subsection (o) and inserting the following:

"(o) UTILIZATION OF AEROSPACE TECHNOLOGY ON TRANSIT VEHICLES.—No later than the 90th day following the date of the enactment of the Intermodal Surface Transportation Technical Corrections Act, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles County Transportation Commission, or its successor agency, which provides $4,000,000 from the funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purposes of research on the design and development of lightweight, composite transit vehicles. Such funds shall be distributed as follows:

"(1) Not less than $2,000,000 shall be provided to the Southern California Rapid Transit District through the Commission for the District's research, design, testing, and construction program on the utilization of composites and other advanced technology in the development of a lightweight bus to be constructed domestically.

"(2) The remaining funds shall be provided to the Commission for research and development of composite and other aerospace technology for application in the design, testing, and construction of lightweight rail transit vehicles and buses that can be produced domestically.".

(h) SAN DIEGO MID COAST FIXED GUIDEWAY PROJECT.—Section 3035(u) of such Act (105 Stat. 2132) is amended—

(1) in the subsection heading by striking "LIGHT RAIL" and inserting "FIXED GUIDEWAY"; and

(2) by striking "Light Rail" and inserting "Fixed Guideway".

(i) EUREKA SPRINGS, ARKANSAS.—Section 3035(z) of such Act (105 Stat. 2133) is amended by striking "1992" each place it appears and inserting "1993" and by striking "electrically powered bus" and inserting "alternatively fueled vehicle".

(j) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—Section 3035(nn)(2) of such Act (105 Stat. 2135) is amended—

(1) by striking "Waldorf" and inserting "mass transportation improvements to the Waldorf area"; and

(2) by adding after the first sentence the following new sentence: "The transit improvements in the corridor from the Waldorf area to the Washington, D.C. area shall be based on the locally preferred alternatives that result from the Southern Maryland Mass Transportation Alternatives Study of the Tri-County Council for Southern Maryland and shall include any additional work needed on that study, detailed planning and engineering to be carried out by the Maryland Department of Transportation in conjunction with the Tri-County Council, advanced land acquisition in the transit corridor, and implementation of interim and long-range transit improvements in the transit corridor.".

(k) ALTOONA PEDESTRIAN CROSSOVER.—Section 3035(ddd) of such Act (105 Stat. 2137) is amended—

(1) by striking "city of Altoona," and inserting "Commonwealth of"; and

(2) by inserting "for fiscal year 1993" after "$3,200,000".

(l) METRO LINK LIGHT RAIL EXTENSIONS.—Such section is further amended by adding at the end the following new subsection:

"(ggg) METRO LINK LIGHT RAIL EXTENSIONS.—No later than the 90th day following the date of the enactment of this subsection, the Secretary shall negotiate and sign a multiyear grant agreement with the East-West Gateway Coordinating Council in St. Louis, Missiouri, which includes not less than (1) $16,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to complete preliminary engineering and final design for the St. Clair extension to the Metro Link light rail system, (2) $450,000 to complete alternatives analysis for the Cross-County extension to the Metro Link system, and (3) $450,000 to complete alternatives analysis for the St. Charles extension to the Metro Link system.".

SEC. 216. WORLD UNIVERSITY GAMES.

Section 3042 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2139) is amended by striking "without limitation" and inserting "and shall not be subject to any limitation on operating assistance".

TITLE III—MISCELLANEOUS SURFACE TRANSPORTATION PROGRAMS

SEC. 301. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Section 4008(j) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2155) is amended—

(1) in the first sentence by striking "for fiscal year 1992" and inserting "for each of fiscal years 1992 through 1997";

(2) in the second sentence by striking "102" and inserting "1002"; and

(3) by striking the third sentence.

SEC. 302. STUDY OF RADIO AND MICROWAVE TECHNOLOGY FOR COMMERCIAL AND OTHER MOTOR VEHICLES.

(a) IN GENERAL.—Section 6057 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) STUDY OF RADIO AND MICROWAVE TECHNOLOGY FOR COMMERCIAL AND OTHER MOTOR VEHICLES.—

"(1) IN GENERAL.—The Secretary shall conduct a research study to develop and evaluate radio and microwave technology for furtherance of safety in commercial and other motor vehicles.

"(2) EQUIPMENT.—Equipment developed under the study to be conducted under paragraph (1) shall be directed toward, but not limited to, warning drivers of obstructions in a highway or limited visibility conditions caused by snow, rain, fog, or dust.

"(3) SAFETY APPLICATIONS.—In conducting the study under paragraph (1), the Secretary shall determine whether the technology described in paragraph (1) has other safety applications consistent with the goals of this Act.".

(b) FUNDING.—Such section is further amended by adding at the end the following new subsection:

"(d) FUNDING.—Of the funds made available in fiscal year 1993 to carry out section 6058(b), $750,000 shall be used to conduct the study under subsection (b).".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

*(1) in the section heading by inserting "**AND OTHER**" after "**COMMERCIAL**"; and*

(2) in the heading to subsection (a) by inserting "OF SAFETY TECHNOLOGY FOR COMMERCIAL MOTOR VEHICLES" after "STUDY".

SEC. 303. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

Section 6058 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194–2195) is amended—

(1) in the second sentence of subsection (d) by striking "projects undertaken pursuant to subsection (c) of this section" and inserting "activities undertaken with funds made available under subsection (b) and activities undertaken with funds subject to subsection (c)";

(2) in subsection (e) by striking "102" and inserting "1002"; and

(3) by adding at the end the following new subsection:

"(f) NONAPPLICABILITY OF OTHER REQUIREMENTS OF LAW.—A person (including a public agency) that does not receive assistance under title 23, United States Code, the Federal Transit Act, or any provision of this Act (other than the Intelligent Vehicle-Highway Systems Act of 1991) shall not be subject to any Federal design standard, law, or regulation applicable to persons receiving such assistance solely by reason of such person receiving assistance under this section.".

SEC. 304. TITLE 49, UNITED STATES CODE, AMENDMENTS.

The analysis for chapter 1 of title 49, United States Code, is amended—

(1) by striking "Sec. 110. Saint Lawrence Seaway Development Corporation."; and

(2) by striking "Sec. 111." and inserting "111.".

SEC. 305. SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 AMENDMENTS.

Section 411(j)(5)(D) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)(5)(D)) is amended by striking "prohibited under" and inserting "subject to".

SEC. 306. COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986 AMENDMENTS.

(a) SECTION 12011.—Section 12011 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710) is amended—

(1) in each of subsections (a) and (b) by striking "104(b)(5), and 104(b)(6)" and inserting "104(b)(3), and 104(b)(5)"; and

(2) in subsection (c)(1)(A)(ii) by striking "104(b)(6)" and inserting "104(b)(3)".

(b) SECTION NUMBER REDESIGNATION.—Such Act is further amended by redesignating the second section 12020, relating to violation of out-of-service orders, as 12021.

SEC. 307. NATIONAL DRIVER REGISTER ACT OF 1982 AMENDMENTS.

(a) ACCESSIBILITY OF REGISTER INFORMATION.—Section 206 of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended to read as follows:

"SEC. 206. ACCESSIBILITY OF REGISTER INFORMATION.

"(a) ACCESSIBILITY BY STATES.—

"(1) REQUEST FOR INFORMATION THROUGH SECRETARY.—For the purposes of fulfilling duties with respect to driver licensing, driver improvement, or transportation safety, the chief driver licensing official of any participating State may request the Secretary to refer, electronically or through the United States mails, any request for information regarding the motor vehicle driving record of any individual to the chief driver licensing official of any State of record.

"(2) RELAY OF INFORMATION BY SECRETARY.—The Secretary shall relay, electronically or through the United States mails, to any chief driver licensing official of a participating State who requests information under paragraph (1) of this subsection any information received from the chief driver licensing official of any State of record regarding an individual in accordance with paragraph (1) of this subsection; except that the Secretary may refuse to relay any information to any chief driver licensing official of a participating State that is not in compliance with the provisions of section 205 of this title.

"(b) ACCESSIBILITY BY OTHER PERSONS.—

"(1) INDIVIDUAL OBTAINING INFORMATION ABOUT HIM OR HERSELF.—Any individual, in order (A) to determine whether the Register is providing any data regarding him or her or the accuracy of any such data, or (B) to obtain a certified copy of data provided through the Register regarding him or her, may request the chief driver licensing official of a State to obtain information regarding him or her under subsection (a)(1) of this section. The individual may receive any such information.

"(2) NTSB AND FHWA.—The Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration, for purposes of requesting information regarding any individual who is the subject of any crash investigation conducted by the Board or the Federal Highway Administration, may request and receive Register information from the Secretary.

"(3) INDIVIDUAL EMPLOYED AS DRIVER.—

"(A) IN GENERAL.—Any individual who is employed, or seeks employment, as a driver of a motor vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment to transmit information under subsection (a)(1) of this section to his or her employer or prospective employer. An employer or prospective employer may receive such information regarding any such individual and shall make that information available to the affected individual.

"(B) SPECIAL RULE REGARDING FEDERAL EMPLOYEES.—If the individual is employed by, or seeks employment with, a Federal department or agency, the individual may request the Secretary to transmit Register information regarding such individual to the head of the Federal department or agency. The head of the Federal department or agency may receive such information regarding any such individual and shall make that information available to the affected individual.

"(4) INDIVIDUAL WITH AIRMAN'S CERTIFICATE.—

"(A) IN GENERAL.—Any individual who has applied for or received an airman's certificate may request the Secretary to transmit Register information regarding such individual to the Administrator of the Federal Aviation Administration. The Administrator of the Federal Aviation Administration may receive such information regarding any such individual and shall make such information available to the individual for review and written comment.

"(B) LIMITATION ON USE OF INFORMATION BY FAA.—The Administrator shall not otherwise divulge or use such information, except to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards as prescribed by the Administrator to be issued an airman medical certificate.

"(5) INDIVIDUAL EMPLOYED AS LOCOMOTIVE OPERATOR.—Any individual who is employed by a railroad as an operator of a locomotive, or who seeks employment with a railroad as an operator of a locomotive, may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a)(1) of this section to his or her employer or prospective employer or may request the Secretary to transmit Register information regarding such individual to the Administrator of the Federal Railroad Administration. An employer, prospective employer, or the Administrator of the Federal Railroad Administration may receive such information regarding any such individual and shall make that information available to the individual.

"(6) INDIVIDUAL HOLDING CERTIFICATE OF REGISTRY OR MERCHANT MARINER'S DOCUMENT.—

"(A) INFORMATION TO COAST GUARD.—Any individual who holds or who has applied for a license or certificate of registry under section 7101 of title 46, United States Code, or a merchant mariner's document under section 7302 of title 46, United States Code, may request the Secretary to transmit Register information regarding such individual to the head of the department in which the Coast Guard is operating. The head of the department may receive such information regarding any such individual and shall make the information available to the individual for review and written comment before denying the license, certificate, or document or before suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on the information in any action taken under chapter 77 of title 46, United States Code.

"(B) LIMITATION ON USE OF INFORMATION BY COAST GUARD.—The head of the department in which the Coast Guard is operating may not otherwise divulge or use any information received under this paragraph, except for the purposes of section 7101, 7302, or 7703 of title 46, United States Code.

"(7) INDIVIDUAL EMPLOYED AS OPERATOR OF TRANSIT RAIL VEHICLE.—Any individual who is employed, or seeks employment, as an operator of a rail vehicle on a rail fixed guideway transit system (not including a commuter railroad subject to the Federal railroad safety laws, as defined in section 212(e) of the Federal Railroad Safety Act of 1970, 45 U.S.C. 441(e)) may request the chief driver licensing official of the State in which the individual is employed or seeks employment to transmit information regarding the individual under subsection (a)(1) of this section to his or her employer or prospective employer or may request the Secretary to transmit Register information regarding such individual to the Administrator of the Federal Transit Administration. An employer, prospective employer, or the Administrator of the Federal Transit Administration may receive such information regarding any such individual and shall make that information available to the individual.

"(8) LIMITATION REGARDING DATED INFORMATION.—There shall be no access to information in the Register under paragraph (3), (4), (5), (6), or (7) of this subsection which was entered in the Register more than 3 years before the date of such request, unless such information relates to revocations or suspensions that are still in effect on the date of the request.

"(c) APPLICABILITY OF FREEDOM OF INFORMATION AND PRIVACY ACTS.—Any request for, or receipt of, information by means of the Register shall be subject to the provisions of sections 552 and 552a of title 5, United States Code, and any other applicable Federal and State law, except that—

"(1) the Secretary shall not relay, or otherwise transmit, information specified in section 205(b)(1) or 205(b)(3) of this title to any person not authorized by this section to receive such information;

"(2) any request for, or receipt of, information by any chief driver licensing official, or by any person authorized by subsection (b) of this section to request and receive information, shall be considered to be a routine use for purposes of section 552a(b) of title 5, United States Code; and

"(3) any receipt of information by any person authorized by this subsection to receive information shall be considered to be a disclosure for purposes of section 552a(c) of title 5, United States Code, except that the Secretary shall not be required to retain the accounting made under paragraph (1) of such section for more than a 7-year period after the date of such disclosure.

"(d) Transition Period.—Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), and under this section shall be subject to access for the purpose of this subsection during the transition to the Register established under section 203(a) of this title.

"(e) Regulations Regarding Form and Procedures for Requests.—Any request made under this section shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.".

(b) Funding.—Section 211 of such Act is amended to read as follows:

"SEC. 211. FUNDING.

"(a) From Highway Trust Fund.—There shall be available, from the Highway Trust Fund (other than the Mass Transit Account) $4,000,000, for each of fiscal years 1992 through 1994 for carrying out the provisions of this title and Public Law 86-660 (74 Stat. 526).

"(b) Contract Authority.—Approval by the Secretary of a grant or contract with funds made available under subsection (a) for any fiscal year beginning after September 30, 1992, shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(c) Period of Availability.—Funds made available under this section shall remain available until expended.".

SEC. 308. CLEVELAND HARBOR, OHIO.

The description of a portion of Cleveland Harbor, Ohio, contained in section 1079(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2018–2019) is amended—

(1) by striking "279.31 feet" and inserting "269.31 feet";

(2) by striking "127.28 feet" and inserting "137.28 feet";

(3) by striking "33° – 53′ – 08″ east" the first place it appears and inserting "33° – 53′ – 08″ west"; and

(4) by striking "174,764 square feet (4.012 acres)" and inserting "175,143 (4.020 acres)".

SEC. 309. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

Section 1080 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2020) is amended by inserting "thence north 00°–18′–51″ west, a distance of 764.43 feet;" after "551.30 feet;".

SEC. 310. INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT TECHNICAL AMENDMENTS.

(a) National Recreational Trails.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261; 105 Stat. 2064–2068) is amended—

(1) in subsection (c) by striking "Act" each place it appears and inserting "part";

(2) in subsection (c)(2)(B) by inserting after "reserves" the following: "an amount equivalent to";

(3) in subsection (d) by inserting after paragraph (3) the following new paragraph:

"(4) Additional funding for national survey.—In addition to amounts which may be used under paragraph (1), the Secretary may use up to $3,000,000 from the Fund to pay the cost of conducting a 1-time national survey described in paragraph (1)(C).";

(4) in subsection (e)(8)(B) by inserting "the State" before "may be exempted"; and

(5) in subsection (e)(8)(B) by inserting "funds may be" before "expended or committed".

(b) Southern Florida Commuter Rail.—Section 3014 of such Act (105 Stat. 2108) is amended by striking "(49 U.S.C. 1607a)".

(c) National Commission on Intermodal Transportation.—Section 5005 of such Act (105 Stat. 2160–2162) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Funding.—Of amounts deducted under section 104(a) of title 23, United States Code, the Secretary shall expend $1,500,000 in fiscal year 1993 to carry out this section.".

(d) Section 6017.—Section 6017 of such Act (105 Stat. 2183) is amended by striking "502(a)" and inserting "5002(a)".

SEC. 311. IMPROVED BUS SAFETY.

(a) Applicability of Federal Motor Carrier Safety Regulations to Bus Operations of Private Motor Carriers of Passengers.—Section 206 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2505) is amended by striking subsection (h) and inserting the following new subsection:

"(h) Applicability to Bus Operations of Private Motor Carrier of Passengers.—Not later than 6 months after the date of the enactment of this subsection, the Secretary shall issue regulations making the relevant commercial motor carrier safety regulations issued under subsection (a) applicable to all operations by private motor carriers of commercial motor vehicles providing transportation of passengers in interstate commerce.".

(b) Education Program.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall develop and implement an education program to inform all private motor carriers of passengers that they must comply with the Federal commercial motor vehicle safety regulations issued under section 206 of the Motor Carrier Safety Act of 1984 when providing commercial motor vehicle transportation of passengers in interstate commerce.

(c) Reports.—

(1) Initial report.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report describing in detail the regulations that have been issued pursuant to subsection (a) and the status of the education program being developed and implemented under subsection (b).

(2) Subsequent reports.—Each year for a period of 4 years on the annual anniversary date of the report submitted to Congress under paragraph (1), the Secretary of Transportation shall submit to Congress a report describing in detail the status of enforcement of the Federal commercial motor vehicle safety regulations issued under section 206 of the Motor Carrier Safety Act of 1984 to operations by private motor carriers of commercial motor vehicles providing transportation of passengers in interstate commerce.

SEC. 312. MOTOR CARRIER SAFETY GRANT PROGRAM.

Section 402(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302(d)) is amended by striking "3" and inserting "5".

SEC. 313. REDESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.

(a) Requests To Redesignate Under Title 23, U.S.C.—Section 134(b)(5)(B) of title 23, United States Code, is amended to read as follows:

"(B) Certain requests to redesignate.—

"(i) Populations of 5,000,000 to 10,000,000.—A metropolitan planning organization shall be redesignated in any urbanized area whose population is more than 5,000,000 but less than 10,000,000, upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census). A redesignation under this clause shall be made using procedures established by subparagraph (A).

"(ii) Extreme nonattainment areas.—A metropolitan planning organization shall be redesignated in an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act, upon request of a unit or units of general purpose local government representing at least 25 percent of the existing metropolitan planning organization population. A redesignation under this clause shall be by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as determined by the Bureau of the Census) within the boundaries of the existing metropolitan planning organization.".

(b) Requests To Redesignate Under Federal Transit Act.—Section 8(b)(5)(B) of the Federal Transit Act (49 U.S.C. App. 1607(b)(5)(B)) is amended to read as follows:

"(B) Certain requests to redesignate.—

"(i) Populations of 5,000,000 to 10,000,000.—A metropolitan planning organization shall be redesignated in any urbanized area whose population is more than 5,000,000 but less than 10,000,000, upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census). A redesignation under this clause shall be made using procedures established by subparagraph (A).

"(ii) Extreme nonattainment areas.—A metropolitan planning organization shall be redesignated in an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act, upon request of a unit or units of general purpose local government representing 25 percent of the existing metropolitan planning organization population. A redesignation under this clause shall be by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as determined by the Bureau of the Census) within the boundaries of the existing metropolitan planning organization.".

SEC. 314. USE OF HOV LANES BY MOTORCYCLISTS.

Section 163 of the Surface Transportation Assistance Act of 1982 is amended by adding at the end the following: "Until such time as a new certification is accepted by the Secretary after December 18, 1991, all high occupancy vehicle lanes shall be open to use by motorcyclists."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. Roe] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. Hammerschmidt] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act, will make our Nation's surface transportation programs work more effectively and efficiently.

ISTEA was a high tribute to all of our colleagues—the members of the conference and the staff—who worked so diligently on the landmark ISTEA legislation on a bipartisan basis to revolutionize the intermodal transportation system of our Nation. For a 6-year, $151 billion bill with a conference report of 484 pages, the mistakes were remarkably few and far between. Nevertheless, with the complexity of this legislation, there are improvements, corrections, and modifications that must be made.

In the bill before us today, we have extended every effort, again on a strong bipartisan basis, to address every concern raised by the members of the Committee on Public Works and Transportation, the Members of the House, State and Local Transportation Agencies, and others. The committee has included numerous technical provisions to correct, improve, and clarify the language of ISTEA.

First, and most important of all, these include correction of errors and omissions in ISTEA and conforming changes to bring the law into conformity with changes made by ISTEA. These changes conform the legislative language of ISTEA to the intention of the conferees. For example, H.R. 5753 includes provisions agreed to in conference and in the conference report, but inadvertently dropped in the statutory language.

The bill also contains some minor policy adjustments which reflect the original intent of ISTEA, such as changes in project descriptions.

Lastly, some policy changes that were originally addressed in ISTEA, such as adding uniform audit procedures for architectural, engineering, and design, are included.

It is important to emphasize that the bill does not include any new money for any purpose with one exception. There is an authorization of $23.3 million for five projects on which there is abundant documented, written verification of mistakes in the funding levels. Otherwise, there is no new money despite nearly $1 billion in requests.

Finally, I want to say what a great experience and pleasure it has been working with the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, the gentleman from California, NORMAN MINETA, and the gentleman from Pennsylvania, BUD SHUSTER, on this critically important legislative initiative.

H.R. 5753 builds on, and substantially improves, the good work begun last year by the Intermodal Surface Transportation Efficiency Act of 1991. I urge strong support for the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act. Last December, the Intermodal Surface Transportation Efficiency Act of 1991 was signed into law. This legislation known as ISTEA, made historic changes to the important surface transportation programs which are so integral to our country's economic well-being and quality of life. The ISTEA authorized $151 billion over 6 years; money which is already at work creating jobs, improving our productivity, and making transportation more efficient for America.

Inevitably, a bill of its magnitude contains some errors and omissions. We are here today with legislation to make those technical corrections to ensure that our highway, transit, and safety programs function smoothly and in the manner Congress intended.

H.R. 5753 also contains a number of provisions which address issues Members of this body have raised with the Public Works and Transportation Committee. Many were raised by your own State departments of transportation: Those who implement these programs on the frontlines every day of the week. These minor programmatic adjustments and policy changes are intended to resolve concerns where we believed a modification would make an improvement to the overall surface transportation program.

I want to stress one very important point. This bill does not contain any new funding. The only exception to this is a section making funding corrections to five projects which were inadvertently omitted or were included with incorrect funding levels in the original legislation. The errors can all be verified with written documentation. We believe it is only fair to those Members and their constituents who were promised funding, and by an error in drafting did not receive it, that they be made whole. Though we received many requests from our colleagues for new funding for projects, we regret that we are unable to accommodate them.

H.R. 5753 will ensure that the progress that was made last year with enactment of ISTEA is not hindered by obstacles to implementation. This legislation was marked up in the Public Works and Transportation Committee last week with unanimous support. I congratulate our chairman, Mr. ROE; the subcommittee chairman, Mr. MINETA, and the ranking member, Mr. SHUSTER for their leadership and diligent attention to this technical correction bill. I urge my colleagues to give the bill that same level of support here on the House floor today.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the distinguished chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation, who has done outstanding work on this legislation.

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 5753 to make technical corrections to title 23, United States Code, the Federal Transit Act and the Intermodal Surface Transportation Efficiency Act of 1991.

The legislation will make essential corrections to the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA], the landmark legislation, passed overwhelmingly last session. While ISTEA will serve as a springboard for the rebuilding of our Nation's infrastructure and economy for decades to come, there is a need to correct certain problems that have emerged in working with the U.S. Department of Transportation and others to implement the legislation.

In developing this legislation, the Committee on Public Works and Transportation has carefully reviewed requests for amendments to limit them to purely technical and minor policy changes. This will permit us to stay within the spending levels set last year for the legislation and avoid adding to the deficit. It will also enable us to preserve the major policy changes, incorporated in ISTEA, that will redirect the Nation's surface transportation programs to meet the challenges of the 1990's and the 21st century.

The amendments included in H.R. 5753 fall into three categories. The first includes amendments that correct mistakes and omissions in ISTEA to bring the law into conformity with the policy changes and funding levels agreed to by the conferees. For example, some provisions were inadvertently dropped, though they had been part of the conference agreement. These are incorporated into the legislation along with several changes, conforming previous surface transportation legislation, to ISTEA's new policies. Mistakes in the funding levels, agreed to by the conferees, have also been corrected and represent the only funding items included in the bill.

Some minor adjustments to ISTEA provisions and new provisions with minor policy implications have been included in H.R. 5753. This includes, for example, changes in project descriptions, granting the territories the same flexibility to transfer National Highway System funds as States have, and adding Indian tribal governments to the statewide planning process.

Also, the committee corrected a mistake in ISTEA regarding the ability to trigger a redesignation of the metropolitan planning organization in southern California. I am hopeful that the local parties involved in this redesignation process will reach an amicable solution; but if they do not, the committee will have to revisit this issue in future legislation.

The third and smallest category of technical corrections in H.R. 5753 includes new initiatives and program changes. None of these require additional funding nor do they violate the policy directions established by ISTEA conferees. The same sliding scale for the Federal match applied to highway projects is also extended to transit projects. The pilot program for uniform audit procedures for architectural, engineering and design services is repealed in favor of a general State requirement to implement the procedures.

Mr. Speaker, the Committee on Public Works and Transportation has crafted a lean and technical and conforming piece of legislation in H.R. 5753. It remains within the policy guidelines established last year by the conferees for ISTEA, and makes primarily technical and conforming changes to this landmark legislation. The few minor policy adjustments and new initiatives included do not violate the surface transportation policies established by ISTEA. This legislation is noncontroversial and I urge its adoption under suspension of the rules.

□ 1700

Again I applaud the great efforts of our Committee on Public Works and Transportation chairman, the gentleman from New Jersey [Mr. ROE], for his diligence and hard-working efforts again have proven to be the result of this legislation. And of course our ranking Republican member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who again has added his weight to this legislation. I am also grateful for the working relationship that our committee has, working on a bipartisan basis, and wish to acknowledge the hard work and the assistance given by the gentleman from Pennsylvania [Mr. SHUSTER], the ranking Republican member of the subcommittee I have the privilege to chair, the Subcommittee on Surface Transportation.

Mr. Speaker, again I would also like to thank the staff of the subcommittee and the full committee on both sides of the aisle for their continued professionalism and dedication in looking out for the best public policy interests of the United States of America.

Again I thank the chairman of our committee for yielding me the time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. SHUSTER], the ranking member of the Subcommittee on Surface Transportation.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding me the time and rise in strong support of this legislation. It indeed is a technical corrections bill, and it is significant to emphasize that once again this legislation coming from the Committee on Public Works and Transportation passed the committee with unanimous bipartisan support.

It indeed is a technical corrections bill and it deserves strong support on both sides of the aisle, and it should not be controversial.

Mr. Speaker, I rise in strong support of H.R. 5753, the Intermodal Surface Transportation Technical Correction Act. One of the most significant acts of this Congress was passage of the Intermodal Surface Transportation Efficiency Act. We took bold action to restructure our surface transportation programs, create new jobs, improve access in rural America, and improve safety on our Nation's highways. We give States more flexibility to address their top transportation priorities and funded research to make our infrastructure more safe, durable, and efficient.

H.R. 5753 makes technical corrections to the ISTEA that will help us reach these important objectives. Members of Congress and State officials have highlighted problems in the drafting of the ISTEA which need clarification or pose specific problems in its implementation, and we have tried to iron these out in this bill. We also include provisions which clearly were agreed to in conference and documented but were inadvertently left out of the conference report.

I want to underscore the fact that we have not provided new funding for programs or projects in this legislation that were not agreed to by the conference on the ISTEA.

The Public Works and Transportation Committee is keenly aware of its budget responsibilities, and despite the fact that a number of very worthwhile projects were brought to the committee's attention, we could not accommodate member's new project requests.

The changes in this bill will give us a better Surface Transportation Program—one that functions as smoothly and efficiently as possible. It will help States reach the goals Congress set out in passing the ISTEA. I urge my colleagues to give this bill their full support.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I thank the gentleman for yielding me the time, and I rise to enter into a colloquy with the distinguished chairman of the full committee.

Mr. Speaker, as the gentleman is well aware, ISTEA contains provisions that specify required suballocations between States and metropolitan areas. Section 137 of H.R. 5753 seems to allow for the possibility that a State could avoid ISTEA's suballocation requirements by putting its apportioned funds directly into the revolving fund, rather than suballocating the MPO's share. It also seems to provide for the possibility that MPO's would not remain involved in the project selection process as specified in ISTEA. Would the chairman please explain the intent of section 137 as it relates to there two issues?

Mr. ROE, Mr. Speaker, if the gentleman will yield, section 137 is intended to give States, if they choose, the flexibility to leverage Federal funds to undertake needed infrastructure projects. It is not intended to change funding usage, the project approval process, suballocation requirements, or other policies we included in the ISTEA legislation.

In addition, I would be pleased to work with the gentleman from Illinois as we will be working with others to refine the language of section 137, if necessary, as we proceed through the legislative process.

Mr. EVANS. Mr. Speaker, I thank the gentleman for his explanation and commitment to working with the Illinois delegation to insure that our concerns are addressed.

Mr. ROE. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I just want to express on my behalf, and I know the members of the committee, and take up a bit from what the gentleman from California [Mr. MINETA] has said here today in thanking the staff for their outstanding work that they have done on this legislation and all of the other legislation we work on. I think around here the members of committees and our colleagues get credit for a great deal of the work that is achieved, and I know that sometimes our staff people, as we read in some periodicals, are said to be too many. But I tell the people of the United States and our colleagues here that it fundamentally would not be possible to do the work of this House without particularly the staff of the Public Works and Transportation Committee. So I want to extend my good will to them.

Mr. HAMMERSCHMIDT. Mr. Speaker, if the gentleman will yield, I just want to add my remarks and associate myself with the remarks of those just made by the chairman in commending our wonderful, dedicated, professional staff members.

Mr. MILLER of California. Mr. Speaker, I rise in strong support of H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act.

H.R. 5753 includes a provision which will establish a special grant program to assist Indian tribes in adopting and implementing programs to address and reduce traffic safety incidents related to the use of alcohol or other controlled substances. These programs can include a number of components addressing this problem such as education, training, and law enforcement.

A very compelling case can be made for including this grant program in this legislation. The Indian Health Service reports that alcoholism is 332 percent higher and accidents 139 percent higher among native Americans than among all other races combined in the United

States today. All of us here know that when alcohol or other controlled substances are mixed with driving the results are too often deadly. This important message is not getting out to Indian country and especially to Indian youth.

A recent study on native American adolescents conducted by the University of Minnesota found that 44 percent of Indian youths admitted never wearing seat belts, 37.9 percent of 10th through 12th graders reported that they drink alcohol and drive, and more than one in five—21.8 percent—reported that they often or sometimes ride with someone who has been drinking. This behavior is most often imitative of what teenagers see around them. Some 50 percent of teens who have seen their parents drive after drinking reported doing the same, while 69 percent of teens who reported never seeing a parent drink and drive said they would also never mix alcohol and driving.

I believe that the National Highway Traffic Safety Administration is best equipped to administer this program and assist tribes in setting up appropriate tribally run programs.

Mr. Speaker, I ask my colleagues to join me in supporting H.R. 5753.

Mr. CLEMENT. Mr. Speaker, I am pleased to join Chairmen ROE and MINETA and my other colleagues on the Public Works and Transportation Committee in urging passage of H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act.

This bill makes a number of technical changes to last year's historic Intermodal Surface Transportation Efficiency Act. The bill also makes a number of small policy changes, one of which I proposed to reduce traffic noise from existing highways and interstates. Currently, retrofitting existing highways with noise barriers is not separately funded under Federal guidelines.

Noise is one of the more serious impacts that existing highways have on their neighbors. while Federal law requires that noise impacts of proposed highway projects be studied and mitigation efforts undertaken, no specific requirement exists to study and mitigate existing noise situations.

Transportation experts at Vanderbilt University brought this issue to my attention and I commend them for their foresight and careful reading of the 1991 act.

As my colleagues know, the act established a new category of funding for transportation enhancement activities and set aside 10 percent of funds for the States to undertake a number of listed activities, including acquisition of scenic or historic sites, highway landscaping and beautification, and archaeological planning and research. But the act failed to include noise abatement activities, an important type of project for people residing near existing interstates and highways.

In a recent study by Dr. William Bowlby of the Vanderbilt Engineering Center for Transportation Operations and Research [VECTOR], only 14 States planned to construct noise abatement barriers on existing highways in the next 5 years. Other States would like to, but have no funds to do so. Bowlby found that one of the recurring comments from noise analysts in State departments of transportation is that while citizen demand for noise abatement is increasing, that demand has gone unmet because noise abatement projects typically compete with highway construction and repair projects.

This change will end that competition between projects and encourage States to study and retrofit existing highways with noise barriers. It is a much-needed change and I thank my committee colleagues for accepting it as a provision of H.R. 5753.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 5753 to make technical corrections to title 23, United States Code, the Federal Transit Act and the Intermodal Surface Transportation Efficiency Act of 1991.

The legislation will make essential corrections to the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), the landmark legislation, passed overwhelmingly last session. While ISTEA will serve as a springboard for the rebuilding of our Nation's infrastructure and economy for decades to come, there is a need to correct certain problems that have emerged in working with the U.S. Department of Transportation and others to implement the legislation.

In developing this legislation, the Committee on Public Works and Transportation has carefully reviewed requests for amendments to limit them to purely technical and minor policy changes. This will permit us to stay within the spending levels set last year for the legislation and avoid adding to the deficit. It will also enable us to preserve the major policy changes, incorporated in ISTEA, that will redirect the nation's surface transportation programs to meet the challenges of the 1990's and the 21st century.

The amendments included in H.R. 5753 fall into three categories. The first includes amendments that correct mistakes and omissions in ISTEA to bring the law into conformity with the policy changes and funding levels agreed to by the conferees. For example, some provisions were inadvertently dropped, though they had been part of the conference agreement. These are incorporated into the legislation along with several changes, conforming previous surface transportation legislation, to ISTEA's new policies. Mistakes in the funding levels, agreed to by the conferees, have also been recorrected and represent the only "funding" items included in the bill.

Some minor adjustments to ISTEA provisions and new provisions with minor policy implications have been included in H.R. 5753. This includes, for example, changes in project descriptions, granting the territories the same flexibility to transfer National Highway System funds as States have, and adding Indian tribal governments to the statewide planning process.

Also, the committee corrected a mistake in ISTEA regarding the ability to trigger a redesignation of the metropolitan planning organization in southern California. I am hopeful that the local parties involved in this redesignation process will reach an amicable solution; but if they do not, the committee will have to revisit this issue in future legislation.

The third and smallest category of technical corrections in H.R. 5753 includes new initiatives and program changes. None of these require additional funding nor do they violate the policy directions established by ISTEA conferees. The same sliding scale for the Federal match applied to highway projects is also extended to transit projects. The pilot program for uniform audit procedures for architectural, engineering and design services is repealed in favor of a general State requirement to implement the procedures.

There is also a provision amending section 140(b) of title 23, United States Code, to include comprehensive training and employment programs. As the author of this provision, it was my intent to include youth corps programs as an eligible activity. The Secretary is authorized to use up to $10 million per fiscal year for highway skill training and improvement programs from the Secretary's administrative expenses. States are also permitted to use ¼ of 1 percent of their surface transportation program funds and bridge funds for carrying highway training and skill improvement programs. I intend to work with the other body to further clarify youth corps eligibility during the House-Senate Conference.

Mr. Speaker, the Committee on Public Works and Transportation has crafted a lean and technical and conforming piece of legislation in H.R. 5753. It remains within the policy guidelines established last year by the conferees for ISTEA, and makes primarily technical and conforming changes to this landmark legislation. The few minor policy adjustments and new initiatives included do not violate the surface transportation policies established by ISTEA.

I again applaud the efforts of our Public Works and Transportation Committee Chair, Mr. ROE of New Jersey, and our ranking Republican member, Mr. HAMMERSCHMIDT of Arkansas. I am also grateful to the working relationship our committee has of working on a bipartisan basis and wish to acknowledge the hard work and assistance given by Mr. SHUSTER of Pennsylvania, the ranking Republican member of the subcommittee I have the privilege to chair, the Subcommittee on Surface Transportation. I would also like to thank the staff of the Subcommittee and the full committee, on both sides of the aisle, of their continued professionalism and dedication.

This legislation is noncontroversial and I urge its adoption under suspension of the rules.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 5753, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE PENSION FUNDING IMPROVEMENT ACT OF 1992

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, since the 1974 enactment of the Employee Retirement Income Security Act [ERISA], Congress has sought to ensure that employers properly fund their pension promises. This effort has been largely successful. However, a number of very large pension plans remain severely underfunded. Many of the employers sponsoring these plans have decided not to fund their pension plans while repeatedly increasing pension promises to their workers. As a result, their retirees, the Pension Benefit Guaranty Corporation [PBGC], and taxpayers are put at serious financial risk.

These employers sponsor plans with total underfunding in excess of $40 billion. PBGC expects another $13 billion of this amount will become its responsibility in the near future. Past plan failures have already led to a PBGC deficit of $2.5 billion as of 1991. We cannot afford these large losses, nor should we tolerate these irresponsible pension practices.

Under proposed legislation H.R. 5800, which Senator JEFFORDS and I are introducing today, employers sponsoring significantly underfunded pension plans will be required to more quickly fund their current pension promises and to immediately fund or collateralize any future benefit increases.

I urge my colleages to join this effort to better protect the retirement security of millions of American workers. Tomorrow our oversight subcommittee will hold a hearing on pension reform in room 1100, Longworth House Office Building, starting at 9 a.m. The public is invited, as well as many of the sponsors of large underfunded plans, who, thus far, have declined the invitation to testify.

COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of, as amended.

The Clerk read as follows:

H.R. 4016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Environmental Response Facilitation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The closure of certain Federal facilities is having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities is preventing transfer and private development of such property.

(2) Each department, agency, or instrumentality of the United States, in cooperation with local communities, should expeditiously identify real property that offers the greatest opportunity for reuse and redevelopment on each facility under the jurisdiction of the department, agency, or instrumentality where operations are terminating.

(3) Remedial actions, including remedial investigations and feasibility studies, and corrective actions at such Federal facilities should be expedited in a manner to facilitate environmental protection and the sale or transfer of such excess real property for the purpose of mitigating adverse economic effects on the surrounding community.

(4) Each department, agency, or instrumentality of the United States, in accordance with applicable law, should make available without delay such excess real property.

(5) In the case of any real property owned by the United States and transferred to another person, the United States Government should remain responsible for conducting any remedial action or corrective action necessary to protect human health and the environment with respect to any hazardous substance or petroleum product or its derivatives, including aviation fuel and motor oil, that was present on such real property at the time of transfer.

SEC. 3. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which no hazardous substances and no petroleum products or their derivatives were stored for one year or more, known to have been released, or disposed of. Such identification shall be based on an investigation of the real property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property:

"(i) A detailed search of Federal Government records pertaining to the property.

"(ii) Recorded chain of title documents regarding the real property.

"(iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(v) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(vi) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(vii) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public.

"(B) The identification required under subparagraph (A) is not complete until concurrence in the results of the identification is obtained, in the case of real property that is part of a facility on the National Priorities List, from the Administrator, or, in the case of real property that is not part of a facility on the National Priorities List, from the appropriate State official.

"(C) The identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made at least 6 months before the termination of operations on the real property. In the case of a concurrence under subparagraph (B) which is required from a State official, the concurrence is deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

"(D) In the case of the sale or other transfer of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action or corrective action found to be necessary after the date of such sale or transfer shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

"(E) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property owned by the United States.".

SEC. 4. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence of such paragraph the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to the Administrator to be operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the remedy has been demonstrated to the Administrator to be operating properly and successfully does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out ", and" at the end of subparagraph (A)(iii) and inserting lieu thereof a simicolon;

(2) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer.".

SEC. 5. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 3, is further amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF STATES REGARDING CERTAIN LEASES.—In the case of real property owned by the United States, on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, known to have been released, or disposed of, and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made before entering into the lease and shall include the length of the lease, the name of person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property.".

□ 1701

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4016, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers the bill H.R. 4016, the Community Environmental Response Facilitation Act. This bill was introduced by the honorable LEON PANETTA of California to address troubling situations that are occurring with increasing regularity as more Federal facilities are closed due to budget constraints. One need not look far to see the economic pain that results when a DOE plant or a military base closes. Likewise, it is very evident that such closures will become more numerous as the Department of Defense builds down, the Nuclear Energy Program is downsized, and the budget deficit further constricts the breadth of Government activities.

The problem facing us is twofold. First, as Federal facilities close, communities nearby are subjected to economic dislocation. Base closures lead to lost jobs, failed businesses, and diminished tax bases for local government. In response to these dislocations, State and local governments are focusing economic growth initiatives on redevelopment of the property on which the Federal Government previously carried out its activities.

This approach is constructive, and should be pursued. However, it leads to the second problem, which is that many Federal facilities slated for closure are contaminated by hazardous substances or petroleum products and require environmental response actions.

Thus, we are faced with a dilemma: Closed or soon-to-be closed Federal facilities could supply inexpensive land for future development; but environmental and public health concerns brought on by preexisting contamination will have to be addressed before that can happen.

H.R. 4016 steps into the breech to provide a sensible mechanism to allow State and local government to pursue economic growth measures where Federal facilities have closed their doors. It amends the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA] Superfund to expedite the identification of uncontaminated Federal land so it can be transferred for non-Federal uses.

This bill sets up a process within CERCLA by which Federal agencies with jurisdiction over property slated for closure can evaluate and identify uncontaminated property within a facility. When this is done, the agency involved shall seek the concurrence in this identification from regulatory officials. For properties listed on the National Priorities List [NPL], concurrence must be rendered by the Administrator of EPA; for properties not on the NPL, concurrence must be given by the appropriate State official. Once concurrence is given, or deemed given, the property may be transferred and redeveloped for the benefit of the community.

H.R. 4016 does one other thing. Perhaps most importantly, the bill provides that any cleanup action found necessary after the date such property is transferred shall remain the responsibility of the United States.

This is a sensible, bipartisan, good-government bill. It is procommunity and proenvironment. It protects the integrity of the environmental statutes while providing a vehicle for responding to economic problems in communities resulting from Federal facilities closures. We have worked very long and hard on this bill. The subcommittee has held a hearing and constructed a very detailed record on the issue. And I am happy to say H.R. 4016 is supported by environmental groups; the National Association of Attorneys General; the State of California; the attorney general of Texas; the U.S. Conference of Mayors; and many others.

I appreciate and commend the constructive efforts of the ranking member of the subcommittee and his staff in crafting a work product that addresses a critical issue in a timely fashion. I also wish to commend the good work of the sponsor, Mr. PANETTA, and thank him for his assistance in this process. This is a good bill, and also a timely one. I urge my colleagues' strong support for H.R. 4016.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, there is a concern on the part of the administration about whether or not this bill will make more difficult the transfer of property currently in the title of the Federal Government, but I think that the concern of the administration that that would result is misplaced.

Existing law provides for concurrence between EPA, or, rather, there be consultation between the EPA and the State of California, and I think insofar as the ability to transfer the real property in concern to the State or a local area, that this bill will expedite rather than delay it.

For these reasons, I support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr SWIFT. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PANETTA], the author of this legislation.

Mr. PANETTA. Mr. Speaker, I want to pay particular thanks to the gentleman from Washington [Mr. SWIFT], the chairman, and also the chairman, the gentleman from Michigan [Mr. DINGELL], and their staffs for their invaluable cooperation on both sides on working on this legislation. I would also like to pay tribute to the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works and Transportation, who has recognized the urgency of this bill and allowed it to proceed to the floor without delay.

Mr. Speaker, we all understand that we are now going through a situation as a result of defense reductions, facing a number of base closures throughout this country. There are something like 122 facilities that are in the process of being closed, and we anticipate that that number could go as high as 300 over the next year as a result of additional recommendations on base closures.

Obviously those closures are devastating to a community, but what could even be more devastating to a community is the inability to reuse that land and to be able to develop it. Part of the problem right now is that as a result of the Superfund law, as a result of the current laws that are in place, it is required that the entire base be cleaned up in order to reuse any of the parcels on the land. Obviously that would just further devastate the communities that face this kind of situation.

So the purpose of this legislation is to do what everyone agrees needs to be done, to try to identify those parcels that are clean and allow them to proceed to be able to reuse those properties. That is the basic intent of this legislation. It was designed with the help, as I said, of the staffs on all of the committees. It is supported by a number of communities, the Conference of Mayors, a number of States facing this issue, all of them waiting for this legislation to pass so that we can expedite the reuse of this property.

I again want to express my thanks for the cooperation that I have received on this legislation from all of the parties involved here, but most importantly I want to say to those communities that are facing this kind of situation, as my own is, that this legislation will give us the opportunity hopefully to turn what could be an economic devastation into a great economic opportunity.

Mr. Speaker, I introduced H.R. 4016 last fall after careful analysis of a clear and growing problem afflicting communities grappling with the loss of Federal installations. The Community Environmental Response Facilitation Act [CERFA] is a tailored response to that defined problem, and its passage here today in the House of Representatives is absolutely required. I appreciate the chance to urge my colleagues in the strongest terms to join our colleagues on the Energy and Commerce Committee in approving H.R. 4016 by voice vote.

Mr. Speaker, I cannot exaggerate the urgency of this bill. Cities and towns around the Nation are waiting to develop and implement the reuse of closing Federal facilities. Municipalities across the Nation have contacted me again and again, asking when this measure will pass the Congress. They are literally waiting for this vote of approval, knowing that CERFA's passage this week would assist them within several months as they struggle to mitigate the devastating economic losses suffered when a Federal installation closes. Senator MITCHELL has sponsored the companion measure and is likewise committed to the expeditious passage of H.R. 4016. Tonight we have the last opportunity to approve the bill before the Congress adjourns for the district work period. We would greatly appreciate your support, therefore; let me tell you why.

Existing Federal property transfer practices exacerbate rather than overcome the difficulties our communities face as they attempt to reuse Federal facilities. Current law and regulations do not facilitate studies to confirm which areas of closing installations are free of hazardous waste, needlessly delaying their transfer to State, local, or private interests. Our communities' losses are doubled in this process; they are unable to reap the potential of closed Federal facilities even as they continue to suffer losses stemming from the original closure.

The Community Environmental Response Facilitation Act would require the Federal Government to identify property free of contamination for sale to non-Federal interests at closing Federal facilities at the earliest opportunity. H.R. 4016 has wide and deep support in every State. In a comprehensive hearing held by the Subcommittee on Transportation and Hazardous Materials on April 9, 1992, and in subsequent letters of support, the National Association of Attorneys General, the attorney general of the State of Texas, the U.S. Conference of Mayors, the counties of Monterey and Alameda in California, Friends of the Earth, and the Natural Resources Defense Council have expressed unreserved support for the legislation. In testimony before the subcommittee, the Department of Defense said H.R. 4016 "hits the mark." Finally, as Chairman SWIFT has noted, the Subcommittee on Transportation and Hazardous Materials and the Committee on Energy and Commerce each reported H.R. 4016 by a voice vote with bipartisan support.

Under the bill, identifications of waste-free property would be made at least 6 months before the termination of operations at the facility. Once such an identification had been made, the Federal Government would be empowered to declare the property excess and allow its transfer for redevelopment.

The Government's liability for hazardous substances remaining in lands formerly owned by the Federal Government is a related community concern. Accordingly, the legislation mandates that deeds entered into for the sale or transfer of Federal property to a non-Federal interest contain a covenant warranting that the Federal Government must conduct any remediation of waste for which it is responsible, even after transfer of the property.

H.R. 4016 also clarifies congressional intent with respect to environmental restoration efforts at closing Federal facilities. The bill includes the criterion that environmental cleanups at Federal facilities must be undertaken with a view to facilitating and advancing both environmental protection and the prompt transfer of excess property in order to mitigate the ill economic effects of closures. Importantly, the bill allows us to address community concerns without sacrificing the quality of environmental restoration.

Finally, the bill contains a very important provision that I want to mention. During our discussion of the bill's draft, the question was, who should make the determination that areas of Federal facilities are not contaminated? The obvious answer is the Environmental Protection Agency [EPA]. Thus, CERFA mandates that the EPA must concur in any agency's determination that property is free of contamination on Superfund facilities and, in the case of non-Superfund sites, States must concur in that determination. The EPA is the one Federal agency whose mission it is to safeguard and monitor environmental standards. Clearly, the Agency with the expertise to make findings of contamination ought to have the power to concur or not to concur in these important determinations. Too much is at risk not to involve the EPA or a State's environmental agency. The impetus for this bill is the need to expedite the transfer of clean property to communities, but we should not do so at the risk of transferring properties that turn out to be contaminated.

I want to thank Chairmen SWIFT and DINGELL, for their invaluable expertise and assistance in moving this legislation forward and in making several constructive changes. I would also pay tribute to Chairman ROE of the Public Works and Transportation Committee, who, despite his committee's jurisdiction over this issue, recognized the urgency of the bill's passage and allowed it to proceed to the floor without delay.

My friends, the passage of this bill will not receive much notice, but it is yet another example of the Congress taking a proactive step to address a defined problem with a carefully designed, widely supported, solution. This bill represents a responsible government at work and we can all be proud of its passage.

Mr. MATSUI. Mr. Speaker, I rise today in strong support of H.R. 4016, which will promote the smooth conversion and transfer of excess Federal property for other economically productive uses.

This legislation is absolutely essential for making effective use of property and capital now being used for defense purposes. I have two military bases in my congressional district. One, Mather Air Force Base, is scheduled to close late in 1993. The other, the Sacramento Army Depot, will be closing at the end of 1996. Areas which have been contaminated by toxic chemicals exist at both facilities, but I would like to focus on the situation at Mather Air Force Base for purposes of illustrating the problem that will be addressed by H.R. 4016.

Of the 6,300 acres of land at the Mather facility, only 200 acres are currently known to be contaminated. While there are ongoing studies to determine whether there are other contaminated sites on the base, the majority of the acreage at Mather is uncontaminated and is ready to be converted to productive use. Without the help offered by Mr. PANETTA's legislation, the entire 6,300 acres of land will remain off limits for purposes of conversion, and will sit idle while the hot spots await cleanup.

H.R. 4016 provides a commonsense approach to the conversion of Federal property without impeding environmental cleanup. It is important to note that this legislation in no way absolves agencies of responsibility for the cleanup and proper disposal of toxics located on excess Federal property, nor does it abridge the laws regulating standards and procedures for environmental remediation. This bill in no way compromises comprehensive, safe, and prompt cleanup efforts. Under this legislation, only that property on which no hazardous substances were stored, released, or disposed of can be investigated and submitted for approval by an appropriate State official to be sold or transferred. Contaminated facilities and other specific hot spots will be held in possession by the Federal agency in possession of the property until they are properly cleaned up.

This legislation serves the advantageous duel goals of cleaning up environmentally hazardous areas and allowing for the rapid disposition of unused but valuable property which might otherwise lie wasted for years until isolated sites, perhaps great distances from the useful and environmentally sound acreage, are cleaned up. I congratulate my friend, Congressman LEON PANETTA, for his hard work and leadership on this issue, and I urge my colleagues to support H.R. 4016.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 4016, a bill to amend the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA].

I think all of us understand the difficulties that the closing of a Federal facility can create for nearby communities. This legislation attempts to provide some relief for those communities by speeding up the transfer of clean, uncontaminated property.

I think there is a general consensus among Members of Congress and the Administration on the goals and approach of this bill. It is in everyone's interest to make available for transfer as much property as possible, as quickly as possible.

I note that the Administration's opposition to this bill is based upon its concerns that property transfers at sites on the National Priorities List [NPL] receive the concurrence of the Environmental Protection Agency. It is concerned that this requirement will delay transfers.

I believe this concern is misplaced. First, this requirement only applies to property located within the boundaries of the NPL site. If property is outside the actual NPL site, EPA concurrence is not required, even if the property is within the Federal facility that contains the NPL site. If the boundaries of the NPL site are drawn to accurately reflect the extent of the contamination, this requirement would never be triggered.

In addition, the language of the legislation leaves the President great flexibility in developing the process of concurrence between the agency transferring the property and the EPA. While the process is legislatively defined for non-NPL sites, no such limitation is made for the NPL sites. Thus, the President is free to develop any reasonable method of establishing the concurrence of the EPA.

I would note that the EPA and the Department of Defense [DOD] are currently working on these same issues. In particular, they are working together to clarify what property is included within the term "Facility" as applied to military bases listed on the Superfund National Priorities List. They are also developing a process by which EPA can raise any concerns it has with proposed land transfers by DOD. Nothing in this legislation should be construed as interfering with that process.

Finally, I would like to commend the chairman of the committee and subcommittee, Mr. DINGELL and Mr. SWIFT of Washington and the ranking Republican member on the subcommittee, Mr. RITTER, for moving expeditiously on this legislation.

Mr. RITTER. Mr. Speaker, I rise in support of H.R. 4016, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act [CERCLA].

We hear a lot these days about gridlock on Capitol Hill and about the inability of Congress to act on real issues. I think this legislation is a good example of Congress working well. I think it shows that when we clearly define a problem, tailor legislation to narrowly fit the problem, and avoid casting issues in terms designed to highlight partisan differences, we can get things done.

Land transfers at closing federal facilities may not be a flashy issue, but this is important legislation, particularly for the people in communities near these facilities. Many communities frequently see their best hope for economic survival in quickly converting a closed facility to productive new uses.

However, under existing law, the presence of chemical contamination anywhere on the facility can cause significant delay in the transfer of facility property. This delay can mean years of hardship before the community gets back on its feet.

Part of the problem is probably unavoidable. Local communities want this property now, they want it clean and they want it at minimal cost. In some cases, many years will be required to analyze and remediate the environmental contamination, and the hard reality is that there is probably no way to quickly clean and transfer highly contaminated land.

But other sources of delay clearly are avoidable. One very important source of delay is excessive cleanup standards. When cleanup levels go far beyond what is necessary to protect human health and the environment and hunt down every last molecule of these chemicals, our economy loses, our competitiveness suffers and, most tragically, local communities suffer needlessly. While this is clearly part of the problem, I realize that a solution will have to wait for another day, perhaps when we reauthorize Superfund.

But we can try to solve some of these other delays. Section 120(h) of CERCLA applies to any property transferred by a federal agency where a hazardous substance has been stored for more than 1 year, released or disposed of. The agency must notify the buyer and include a covenant in the deed to the land warranting that all remedial action necessary to protect human health and the environment has been taken before the date of transfer and that the Government will take any additional remedial action found to be necessary after the date of transfer.

Unfortunately, several issues are left ambiguous by existing law, and these ambiguities lead to bureaucratic delay. First, it is not clear who decides that a particular parcel of a closing facility has not been contaminated. Moreover, it is not clear what information is needed to make the decision. Also, it is not clear when a remedial action is considered to be complete.

This legislation seeks to speed up the transfer of uncontaminated land, removing these ambiguities by establishing procedures for determining when a parcel of land is uncontaminated. The process of obtaining State concurrence at sites not on the national priorities list is set in the statute. The process for obtaining the concurrence of the EPA is not fixed by the statute and should be determined by the implementing agencies. I believe this flexibility provides the means to avoid delays in transferring land and should address the concerns raised by the administration.

The pace of transfers should also be quickened by clarifying that when the remedial action requires long term pump-and-treating of contaminated ground water, the property can be transferred as soon as the pumping is operating.

I want to commend the committee and subcommittee chairmen for their efforts and those of their staff in working with the minority in drafting this legislation. I hope this process continues in the same workmanlike fashion. Finally, I would urge all of my colleagues to support the bill.

Mrs. LLOYD. Mr. Speaker, and colleagues, I rise in strong support of the Community Environmental Response Facilitation Act of 1992. There is an incredible need for quick and safe transfer of waste-free Federal property to cities and towns. I would like to commend the gentleman from California [Mr. PANETTA] on his legislation that addresses the transfer process.

Mr. Speaker, I represent the third district of Tennessee which includes the city of Oak Ridge. Oak Ridge, as many of you know, is the original atomic city. When the first bombs of World War II were dropped, the city did not have a name. By the time the bombs dropped on Hiroshima and Nagasaki, it was the atomic city, with a population of 75,000. The Federal Government built the city quickly and secretly and controlled its fate until 1959, when Oak Ridgers voted to incorporate. While the Federal Government no longer administers the city, the amount of land still held on to by the Government, in particular the Department of Energy, is significant.

Approximately 75 percent of all land in Oak Ridge is owned by the Federal Government, TVA, or the University of Tennessee. The Department of Energy controls the major portion of the property. Although a certain amount of land has been transferred by DOE to the community over the past 50 years, the dramatic increase of companies in the commercial and industrial sector over the last 5 years has made the need for additional land for future development a major issue.

The city of Oak Ridge has been talking with DOE officials for years over the possible transfer of certain federally owned properties to the community. Oak Ridge officials already have several development prospects lined up for portions of the land when, and if, it is turned over to the city.

In reference to one large plot of land, parcel A, an area encompassing 700 acres, DOE has said that they cannot transfer it to the city without first offering it around to other Government departments to see if they have any use for it. To this date, there are no takers. Oak Ridge has a desperate need for commercial, office, and industrial land. Transfer of parcel A could satisfy this need. Development of this land for any of these needs means much needed jobs to Oak Ridgers. With the shrinking of our nuclear weapons complex, the fate of many jobs in Oak Ridge is in question. Efforts must be made to keep the local workers employed.

Another much smaller, but nonetheless important area of land, parcel 412, has also given the city much grief. A developer purchased the land in 1989. When development began in the fall of that year, leaking underground petroleum storage tanks were found. Up until recently, the city was engaged in a battle with the Department of energy over responsibility for cleanup of the contaminated property. I am pleased to report that remediation has begun and the issue is near complete resolution. If there was a responsible land transfer system in place, I sincerely believe that many of the problems could have been avoided and the land could be fully developed by now.

The legislation offered by Mr. PANETTA is the most comprehensive approach to the problems associated with land transfer. It is a responsible bill that addresses the needs of everyone involved. H.R. 4016 develops a policy for land that is both free of contamination and land that is in need of remediation. It addresses the issue of accountability for cleanup and places the necessary mechanisms in place for oversight. In this way, those who are receiving the property are getting a fair deal from the Federal Government. In the case of parcel 412 described above, where contamination was discovered after the sale of the land, H.R. 4012 would make the Government, the original owner, responsible for the cleanup. This, I believe, is an important provision.

Mr. Speaker, let us act now to get the mechanisms in place for successful and needed land transfer. Vote "yes" on H.R. 4016.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 4016. I want to congratulate and commend my colleague from California, Mr. PANETTA, and my colleague from Washington, Chairman SWIFT, for their efforts to bring this measure before us today.

I support this legislation because it achieves three major goals. First, it requires the Defense Department to identify property on closing bases that is not contaminated with hazardous substances in order to facilitate the transfer of this clean property to local communities. Second, the bill makes it clear that cleanup of closing bases should be expedited. Third, the bill protects potential buyers of base property from any liability associated with the cleanup of previously unknown contamination on sold property that resulted from Defense Department activities.

As we all know, environmental cleanup is essential if we are going to enable affected communities to convert these installations to civilian use in an expeditious manner. The enormity of environmental restoration work needed at these sites is already presenting significant barriers to this process. We must continue to encourage the Defense Department to find ways to expedite and streamline the cleanup process.

At the same time, however, we can take steps today to give communities an immediate opportunity to heal the economic damage caused by a base closure. With passage of H.R. 4016, we will grant communities this opportunity. H.R. 4016 will give communities a chance to buy land and facilities on a base and use them to attract new businesses.

I know of these problems first-hand because over the next 5 years, two bases will be closed in Sacramento. However, for both bases, there is increasing interest at the local level for use of these facilities by various businesses, governmental agencies, and private citizens. I know that if the clean property on these bases were transferred, the community would realize almost immediate benefits from the creation of new enterprises. These enterprises include new businesses, ball fields and parks for public use, housing for low-income families and the homeless, a new airport, and a whole host of other opportunities.

We owe it to the people impacted by defense cuts to do what we can to ensure that communities have the tools they need to recover from base closures. H.R. 4016 will help expedite the transfer of base property and facilities to local communities, and I strongly urge my colleagues to support this measure.

Mr. RAY. Mr. Speaker, as chairman of the Environmental Restoration Panel of the Armed Service Committee, I have been monitoring the impact of environmental laws and regulations upon the base closure process for the past 4 years. Over that period, the panel and the Military Installations and Facilities Subcommittee provided the most sustained oversight of base closure environmental activities.

On the basis of that oversight and my visits to many base closure installations, I believe that H.R. 4016 represents a good news-bad news proposition.

The good news is that it represents the first time an environmental committee in Congress has reported legislation to address the statutory environmental obstacles to the timely transfer and economic reuse of base closure property.

This is real progress when you consider how far things have come since my visit to Pease Air Force Base in February of last year. Peace Air Force Base was the first installation to be closed under the 1988 Base Closure law and has been placed on the national priorities list because of environmental contamination there. At the time of my visit, the community was facing the prospect of not being able to reuse property at Pease until the final cleanup had taken place—even though only about 150 acres of the over 4,000-acre base were contaminated. The problem was that section 120(h) of the Superfund Amendments and Reauthorization Act imposed this requirement on all Federal property land transfers.

State and local leaders felt that this situation was intolerable. For one thing, such land transfer restrictions did not apply to any other private or public land—contaminated or not. Second, and most important, was the fact that the economic disruption caused by the closure of Pease Air Force Base made the expedited transfer and reuse of the property imperative. Like most base closure communities, the local economy could not tolerate uncertainty and delays in efforts to attract new businesses and jobs in the wake of the military's departure.

Finally, since the problem was statutory in nature, community reuse efforts faced the prospect of lengthy legal challenges from virtually any dissatisfied party. In fact, a legal challenge by a Boston-based group citing the Clean Air Act requirements continues to complicate reuse efforts at Pease.

When I first brought this matter to the attention of the Committee on Energy and Commerce, the initial response was to question the nature and extent of the problem. Once they recognized the problem, the next 6 months were devoted to trying to find administrative fixes to a statutory problem. In the meantime, I introduced legislation, H.R. 2179, in April 1991, to address the problem by amending section 120(h). Conversely, the committee's bill was not introduced until late November 1991.

Although it has taken over a year and a half to get legislation before the House, it is gratifying that the Committee on Energy and Commerce now fully recognizes the need to adjust environmental statutory requirements to meet the needs of base closure communities.

Unfortunately, the bad news is that H.R. 4016 does not go nearly far enough to fully address community concerns and needs.

Commuity organizations are concerned by the level of statutory detail and lack of flexibility in this legislation.

Just to identify clean parcels could require additional studies that would significantly increase costs and further delay transfer. Mind you, we are talking about the only property in this country that has already been screened for environmental contamination in accordance with superfund. Today these communities know more about the nature and extent of contamination on the local closing base than they do about surrounding public, commercial, and residential properties.

Most of the communities we have heard from also question the wisdom of requiring U.S. Environmental Protection Agency concurrence for all transfers of clean parcels of base closure property. EPA concurrence is not required for any other property transactions by or within the community involving clean or contaminated property. Moreover, they are concerned about placing their economic future in the hands of Federal bureaucrats.

Likewise, there is community concern about the requirement that parcels where contamination is present cannot be transferred before the remedy is constructed and demonstrated. First of all, few of these remedies have been selected, let along constructed or demonstrated, so there will be a significant delay prior to land transfer. Second, this requirement is likely to drive the remedy selection process toward the remedy easiest to construct and demonstrate, not the best or most cost-effective ones.

While the supposed rationale behind these requirements in H.R. 4016 is that they are more protective of human health, it is hard for base closure communities to square this with reality. What communities see are bases where thousands of DOD and civilian personnel work and live every day. While in Federal hands, work continues while fully complying with all environmental requirements. But once the base closes, environmental laws impose a number of serious obstacles to timely economic reuse and job generation. In effect, the same workers who had jobs on the base prior to closure are being told that after base closure they cannot work there because their health would be threatened. The only difference is the status of the base, not the status of the environmental threat.

It seems to me, we should apply these requirements everywhere or not at all. If we want EPA to concur on all property transactions in the United States—or even all property where contamination is present—we should make that a statutory requirement for everyone. If there are serious health hazards at military bases undergoing environmental cleanup, we should terminate or modify activities accordingly. it makes no sense to single out base closure communities for such treatment. After all, these communities did not create environmental problems on the bases, they did not ask to close them, and they are supposed to be the people we are trying to help recover from the resulting trauma and economic dislocation.

H.R. 4016 also fails to address a number of other issues that would facilitate the transfer and economic reuse of base closure property.

It does not provide for the indemnification of entities seeking to buy or control base closure property against claims and injuries associated with DOD contamination. This is a serious shortcoming, because environmental liability issues are becoming one of the most serious obstacles in attracting businesses and lenders interested in the reuse of base closure property.

It does not clarify the statute on whether national priority listed base closure sites can be subdivided to facilitate timely transfer and reuse of property. Absent such clarification, legal challenges are inevitable.

It does not clarify that removal actions should be used wherever possible to facilitate transfer and reuse of base closure property. Everyone seems to recognize that removal actions or emergency cleanups represent a powerful tool in expediting this process, but there has been no clear regulatory commitment as yet.

In view of these shortcomings, if H.R. 4016 had been considered under regular order and amendments could have been offered, I would have offered the following amendment in the nature of a substitute. I believe that it is more responsive to community concerns and the needs of the base closure process, without sacrificing environmental quality. It is supported by the National League of Cities and the National Association of Counties. I am also including a side-by-side analysis of the major provisions of my proposed amendment and H.R. 4016.

I would also like to mention why I and my colleagues on the Armed Services Committee have a legitimate concern about environmental legislation affecting the base closure process.

First, we have an obligation to the Federal taxpayer where environmental requirements affect base closure funding and projected savings. Regulatory definitions characterizing entire bases as Resource Conservation and Recovery Act facilities and NPL sites have placed a cloud over such property that diminishes its resale value and attractiveness for reuse. Although the projected revenues from base closure land sales were grossly over-optimistic, environmental regulatory actions make it far more difficult for the taxpayer to get anything near fair market value from sale parcels. Instead of offsetting the cost of base closure through land sales, more taxpayer dollars are going to be required to compensate for these lost savings and pay for increased environmental cleanup costs.

Second, we have a strong interest in the continued success of the base closure process. With the ongoing build-down of U.S. forces to meet the needs of our Nation's defense requirements, base closure is imperative and inevitable. The operations and maintenance funding to support current infrastructure is already being reduced and future budget plans assume the closure of many more bases. Up until now, we have been fairly successful in muting resistance to base closure by assuring the communities that the economic transitions would be temporary and things would be better in the long run. We have based these assurances on the experience of base closure communities in the 1960's. Largely due to environmental laws and regulations, it is apparent that the experience in the 1960's is not very relevant to the 1990's.

I am not questioning the need for greater environmental regulation and protection, but we have to make sure that base closure communities understand the new realities. At the same time, however, we don't want to send a message that they are going to be subject to greater environmental regulation than anyone else which will unduly complicate and delay the transfer and economic reuse of base closure property. Otherwise, we are going to be faced with greatly intensified resistance to base closure and targeted communities are going to conclude that the only way to preserve economic well-being and jobs is to avoid closure altogether. Thus, base closure could become a real hard sell in 1993 and 1995 if Congress is not more responsive to community concerns and expectations.

The final reason why we are concerned about base closure environmental legislation is that we cannot avoid getting involved. Any responsive and effective base closure environmental legislation must involve the balancing of environmental, community, and base closure requirements. Two of these areas fall within our jurisdiction. In addition, virtually all recent base closure environmental legislation has been included in the annual Defense Authorization Act and there is no indication that the situation will change. Furthermore, we have been very responsive in adopting every base closure environmental initiative and providing adequate authorization for base closure cleanups. The committee's vested interest in a successful and well-balanced base closure process provides a great incentive for affected communities to seek and welcome our involvement.

While an improvement over existing law, H.R. 4016 falls short of a comprehensive and responsive fix for base closure communities and the continued integrity of the base closure process. I fear that the message the House is sending today is: "Nothing is too good for base closure communities and nothing is what they'll get—if it involves changes in environmental law". Congress can and must do better for these communities, and the sooner the better.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4016

Strike out all after the enacting clause and insert the following:

SECTION 1. NOTICE OF TRANSFERS OF CERTAIN FEDERAL PROPERTY.

Section 120(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(1)) is amended—

(1) by striking out "any contract for the sale or other transfer of real property" and inserting in lieu thereof the following: "any contract for the sale of, any lease of, any grant of easement on, or any written agreement for other transfer of, real property"; and

(2) by striking out "such contract" and inserting in lieu thereof "such contract, lease, grant, or agreement".

SEC. 2. TRANSFER BY DEED OF CERTAIN REAL PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED.

Section 120(h) of such Act if further amended by adding at the end the following new paragraph:

"(4) TRANSFER BY DEED OF REAL PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED.—

"(A) PROPERTY CONTAINING NO HAZARDOUS SUBSTANCES.—

"(i) IDENTIFICATION.—In the case of Federal real property located on a military installation to be closed under the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2623) and the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1485) (hereinafter in this section referred to as the "base closure laws"), the Secretary of Defense shall, as promptly as possible, identify the real property on which no hazardous substance was stored for one year or more, known to have been released, or disposed of. Such identification shall be based on pertinent documents, and where appropriate, on an on-site investigation of the real property to determine or discover obvious evidence of the presence or likely presence of a release or threatened release of hazardous substances on the real property. The identification shall consist, at a minimum, of a request by the Department of Defense to appropriate Federal, State, and local regulatory officials and the public for pertinent information and a review of each of the following sources of information concerning the current and previous uses of the real property:

"(I) All pertinent existing documentation within the control of the Department of Defense and any information received from the Environmental Protection Agency, State or local regulatory officials, or the public in response to such request, and the record of title to the real property.

"(II) When there is any evidence that hazardous substances have been stored or used on the property, an on-site investigation of the property to determine whether there have been any releases of such substances contaminating the property to a level exceeding any Federal, State, or local standard for such materials.

"(ii) NOTIFICATION.—The results of the identification required under clause (i) shall be provided immediately to appropriate State and local government officials and made available to the public before the Secretary makes a decision to transfer the property by deed.

"(iii) CONSULTATION.—The identification required under clause (i) shall be in consultation with the Administrator (or in the case of real property that is not part of a site on the National Priorities List, in consultation with the appropriate State official).

"(iv) TRANSFER BY DEED.—The Secretary of Defense shall consult with the Administrator (or in the case of real property that is not part of a site on the National Priorities List, with the appropriate State official) before the Secretary of Defense makes a decision to transfer the property identified under clause (i) by deed.

"(B) OTHER REAL PROPERTY ON WHICH REMEDIAL ACTION IS UNNECESSARY.—The Secretary of Defense shall consult with the Administrator (or in the case of property that is not part of a site on the National Priorities List, with the appropriate State official) before the Secretary of Defense makes a decision to transfer by deed Federal real property located on a military installation to be closed under the base closure laws and with respect to which no determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary to protect human health and the environment.

"(C) REAL PROPERTY ON WHICH REMEDIAL ACTION IS NECESSARY AND HAS BEEN DEMONSTRATED.—The Secretary of Defense shall obtain the concurrence of the Administrator (or in the case of property that is not part of a site on the National Priorities List, of the appropriate State official) before the Secretary transfers by deed Federal real property located on a military installation to be closed under the base closure laws and with respect to which a determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary to protect human health and the environment, the construction and installation on the property of an approved remedial action design has been completed and treatment under it has commenced, and the remedy has been demonstrated to be operating properly and successfully. The carrying out of long-term pumping and treating or other ongoing remedial actions, or operation and maintenance of such actions, after the remedy has been demonstrated to be operating properly and successfully does not preclude the immediate transfer of the property by deed after such concurrence has been obtained.

"(D) REAL PROPERTY ON WHICH REMEDIAL ACTION IS NECESSARY AND HAS NOT BEEN DEMONSTRATED.—The Secretary of Defense shall obtain the concurrence of the Administrator (or in the case of property that is not part of a site on the National Priorities List, of the appropriate State official) before the Secretary transfers by deed Federal real property located on a military installation to be closed under the base closure laws and with respect to which a determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary to protect human health and the environment and a remedial action design has not been demonstrated. Such property may not be so transferred unless adequate methods of protection to prevent harm to human health as a result of any release or threat of release are in place and the use of such methods and any other remediation required for the property is the subject of an enforceable agreement with the Administrator (or, in the case of real property that is not part of a site on the National Priorities List, with the appropriate State official).".

SEC. 3. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Section 120(h)(3) of such Act is amended by adding after the last sentence the following: "For the purposes of subparagraph (B)(i), all remedial action described in such subparagraph with respect to real property located on a military installation to be closed under the base closure laws has been taken if there occurs any of the following:

"(1) No determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary on the property to protect human health and the environment.

"(2) A determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary on the property to protect human health and the environment, the construction and installation on the property of an approved remedial action design has been completed and treatment under it has commenced, and the remedy has been demonstrated to be operating properly and successfully.

"(3) A determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary on the property to protect human health and the environment, a remedial action design has not been demonstrated on the property, adequate methods of protection to prevent harm to human health as a result of any release or threat of release are in place, and the use of such methods and any other remediation required for the property is the subject of an enforceable federal facility agreement with the Administrator (or, in the case of real property that is not part of a site on the National Priorities List, with the appropriate State official).".

(b) ACCESS TO PROPERTY.—Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended—

(1) by striking out "CONTENTS OF CERTAIN DEEDS.—" and inserting in lieu thereof "CONTENTS OF CERTAIN DEEDS FOR THE SALE OF REAL PROPERTY.—";

(2) by striking out ", and" at the end of subparagraph (A)(iii) and inserting in lieu thereof a semicolon;

(3) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(4) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States and State and local regulatory authorities and their agents, contractors, or other designees access to property in any case in which remedial action is found to be necessary after the date of such transfer.".

SEC. 4. AUTHORITY TO REMOVE HAZARDOUS SUBSTANCES.

Section 120(h) of such Act is further amended by adding at the end the following new paragraph:

"(5) REMOVAL.—For purposes of facilitating a transfer of real property located at a military installation to be closed under the base closure laws, the President may, pursuant to section 104(a)(1), remove, or arrange for the removal of, any hazardous substance on real property located on such facility regardless of whether an imminent and substantial danger to the public health or welfare or the environment exists.".

SEC. 5. AUTHORITY TO SUBDIVIDE AND TRANSFER FEDERAL PROPERTY.

Section 120(h) of such Act is further amended by adding at the end the following new paragraph:

"(6) AUTHORITY TO SUBDIVIDE AND TRANSFER FEDERAL PROPERTY.—For purposes of this subsection, in the case of real property located on a military installation to be closed under the base closure laws, the Secretary of Defense may subdivide the property for purposes of disposal by sale, lease, grant of easement, or other transfer in accordance with this paragraph. Such real property may be subdivided and disposed of regardless of whether the property is or has been listed as a site on the National Priorities List.".

SEC. 6. INDEMNIFICATION OF TRANSFEREES OF PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED.

(a) INDEMNIFICATION.—(1) Notwithstanding any other provision of law, and except as provided in subsection (b), the Secretary of Defense shall hold harmless, defend, and indemnify in full the entities referred to in paragraph (2) from and against all suits, claims, demands, or actions, liabilities, judgments, and costs and other fees arising out of, or in any manner predicated upon, the release or threatened release of any hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2623) and the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1485).

(2) The Secretary of Defense shall hold harmless, defend, and indemnify under paragraph (1) the following entities:

(A) Any State (including its officers, agents, or employees) that acquires ownership or control of any facility at a military installation referred to in that paragraph.

(B) Any political subdivision of a State (including its officers, agents, or employees) that acquires such ownership or control.

(C) Any person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity referred to in subparagraphs (A) through (C).

(b) EXCEPTION.—The Secretary of Defense shall not hold harmless, defend, or indemnify any entity referred to in paragraph (2) of subsection (a) from any suit, claim, demand or action, liability, judgment, or cost or other fee arising out of a release or threatened release referred to in paragraph (1) of such subsection to the extent that such entity (or any officer, agent, or employee of such entity)—

(1) caused or contributed to such release or threatened release; or

(2) otherwise deviated from a pertinent term or condition of the deed, lease, or other agreement under which the entity acquired ownership or control of the facility.

(c) DUTY OF THE ENTITY.—Each entity under this section shall—

(1) promptly notify the Department of Defense of any claim or action against, or any loss by, the entity that may be reasonably expected to involve indemnification under this section;

(2) immediately furnish to the Department of Defense copies of all pertinent papers the entity receives;

(3) furnish evidence or proof of any claim, loss, or damage covered by this section in the manner and form the Department of Defense requires;

(4) comply with the directions of the Department of Defense and execute any authorizations in connection with the settlement or defense of the claim or action; and

(5) cooperate fully and completely with the Department of Defense, and provide to the Department of Defense, upon request, all manner of assistance, including access to the records and personnel of the entity, in defense or settlement of the claim or action.

COMPARISON OF MAJOR PROVISIONS BETWEEN H.R. 4016 AND RAY AMENDMENT

Provision	H.R. 4016	Ray amendment	Reason for difference
Applicability	Applies to all Federal Property Transfers.	Base Closure Property Transfers Only.	Base Closure Property Transfers are the vast majority and the focus of attention.
Identification and Transfer of Clean Parcels.	Provides for a very detailed process for identifying clean parcels. Sec. 2(4)(A).	Provides comprehensive but less detailed process for identifying clean parcels. Sec. 2(4)(A).	1. Greater specificity in H.R. 4016 could invite litigation by expanding the ground for legal challenges. 2. Creates the perception that an additional study must be performed instead of refining and validating existing PA/SI data that the taxpayer has already paid for. 3. Litigation on an additional study would further delay transfer.
	Parcels meeting this criteria could be transferred. Sec. 2(4)(C).	Parcels meeting this criteria could be transferred. Sec. 2(4)(A)(iv).	
Identification and Transfer of Clean Parcels.	Transfer requires concurrence by EPA or State regulators. Sec. 2(4)(B).	Transfer requires consultation with and notification of all interested parties. Sec. 2(4)(A)(ii) and (iii).	1. EPA concurrence is likely to delay transfer. 2. Consultation is adequate as any serious regulatory objection would delay or block transfer. 3. EPA has testified that it does not want concurrence and it would be a drain on its limited resources. 4. DOD has testified opposing concurrence and has committed to its consultation with all interested parties prior to any decision to transfer parcels of base closure property. 5. Concurrence under H.R. 4016 would apply to all Federal land transfers, not just to those relating to base closure.
Transfer of Parcels where Contamination Exists in a Fashion that does not Jeopardize Human Health or the Environment.	Transfer of such parcels may take place only after the construction and installation of an approved remedial design and the demonstration that the remedy is operating properly and successfully. Sec. 3(a).	Transfer of such parcels may take place, subject to the concurrence of EPA (for NPL sites) and State regulators (for non-NPL sites) under two conditions: (1) That an approved remedy has been constructed, installed, and demonstrated to be operating properly and successfully; or (2) that adequate methods of protection to prevent harm to human health are in place and that any other remediation required for the property is subject to an enforceable agreement. Sec. 2(4)(C) and (D). Sec. 3(a) (2) and (3).	1. Would provide flexibility for the expedited and safe transfer of parcels of contaminated base closure property where the construction, installation and demonstration or an approved remedial action might be delayed pending the development and approval of specialized remedial technology. 2. In no case would any such transfer take place without the concurrence of EPA or State regulatory authorities. 3. EPA and DOD have testified that they would like to have the flexibility to consider earlier transfer points for base closure property, if it can be done safely.
Use of Removal authority to Facilitate the Transfer of Base Closure Property.	No Provision	Authorizes the use of removal actions to expedite the cleanup of "hot spots" to facilitate the early transfer of base closure property. Sec. 4.	1. Although EPA has testified that current regulations will allow the use of removal actions to facilitate base closure land transfers, we have not been able to get a clear commitment on its use. There appears to be a lack of agreement among the EPA Regions on this issue.

COMPARISON OF MAJOR PROVISIONS BETWEEN H.R. 4016 AND RAY AMENDMENT—Continued

Provision	H.R. 4016	Ray amendment	Reason for difference
			2. Statutory clarification on the use of removal actions to facilitate the transfer of base closure property would avoid bureaucratic disputes and put Congress clearly on record in support of this policy. 3. Removal actions represent a very powerful and flexible tool to deal with localized contamination at base closure sites.
Authority to Subdivide and Transfer Base Closure Property.	No Provision	Authorizes the Secretary of Defense to subdivide base closure property—regardless if it is part of an NPL site—consistent with foregoing requirements for transfer.	1. Although it has been argued that EPA can use its listing authority to subdivide NPL base closure sites, public perception and the likelihood of litigation would seriously hamper this administrative approach. 2. Clear statutory authority to subdivide base closure property—especially NPL sites—would put Congress clearly on record and dramatically reduce administrative complications and likelihood of legal challenges. 3. Clear statutory authority to subdivide base closure would significantly assist the expedited transfer and economic reuse of such property.
Authority to Subdivide and Transfer Base Closure Property.	No Provision	Authorizes the Secretary of Defense to subdivide base closure property—regardless if it is part of an NPL site—consistent with foregoing requirements for transfer. Sec. 5.	1. Although it has been argued that EPA can use its listing authority to subdivide NPL base closure sites, public perception and the likelihood of litigation would seriously hamper this administrative approach. 2. Clear statutory authority to subdivide base closure property—especially NPL sites—would put Congress clearly on record and dramatically reduce administrative complications and likelihood of legal challenges. 3. Clear statutory authority to subdivide base closure would significantly assist the expedited transfer and economic reuse of such property.
To Have the Government Indemnify Future Owners and Users of Base Closure Property Against Injuries Arising from DOD Contamination.	No Provision	Require the Secretary of Defense to "hold harmless, defend, and indemnify" entities who own or control base closure property against "all suits, claims, demands, or actions, liabilities, judgments, costs and other fees" arising from contamination from DOD activities. (DOD does not indemnify such entities if they have created or contributed to the contamination on the base closure property. Sec. 6.	1. Concern about toxic tort actions arising from future injuries associated with DOD contamination is a major obstacle to the timely transfer and reuse of base closure property. This is especially true for prospective lenders. 2. Such concerns led Congress to enact similar language for Pease Air Force Base as part of the 1991 Defense Appropriations Act. 3. It is not reasonable nor fair to ask future owners or users of closure property to act on the Government's assurances that such property is "clean" or "safe" prior to final cleanup without such indemnification.

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 4016, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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COMMUNICATION FROM HON. AUSTIN J. MURPHY, MEMBER OF CONGRESS

The SPEAKER pro tempore [Mr. BENNETT] laid before the House the following communication from Hon. AUSTIN J. MURPHY, Member of Congress.

WASHINGTON, DC,
August 10, 1992.

Hon. THOMAS S. FOLEY, Speaker, House of Representatives, Washington, DC

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the District of Columbia.

Very truly yours,
AUSTIN J. MURPHY,
Member of Congress.

COMMUNICATION FROM HON. DAVE McCURDY, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from Hon. DAVE McCURDY, Member of Congress.

WASHINGTON, DC,
August 6, 1992.

Hon. THOMAS S. FOLEY, Speaker, House of Representatives, Washington, DC

DEAR MR. SPEAKER: On August 4, 1992, I notified you, pursuant to Rule L of the Rules of the House, that the Permanent Select Committee on Intelligence had been served with a subpoena issued by the United States District Court for the District of Columbia. After consultation with the General Counsel to the Clerk of the House it has been determined that compliance with this subpoena would be consistent with the privileges and precedents of the House.

Sincerely,
DAVE McCURDY,
Chairman.

COMMUNICATIONS FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives.

WASHINGTON, DC, *August 7, 1992.*

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with my General Counsel I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 60 minutes.

[Mr. OBEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DETAILS ON IRAQ'S PROCUREMENT NETWORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, for many years I have been concerned that the U.S. financial system is vulnerable to abuse. I have said that for some 27 years. Though much attention has rightly been paid to the savings and loan scandal, foreign bank supervision has been almost nonexistent. Therefore, since becoming chairman I set course on exploring the inadequacies of supervision and regulation of foreign banks. As a result, the committee has had considerable success in tightening up the laws governing foreign banking operations in the United States. My main concern has been, and continues to be that foreign banks, which command well over three-quarters of a trillion dollars in assets in the United States, can easily abuse the U.S. financial system for nefarious purposes.

Exhibit A is the BNL scandal. Poor bank supervision allowed BNL's small Atlanta branch to loan over $4 billion to Iraq between 1986 and 1990 without reporting the loans to bank regulators or the bank's headquarters in Rome. What is worse, over $2 billion of the BNL loans went to Iraq's Ministry of Industry and Military Industrialization otherwise known as MIMI. MIMI used this illicit supply of cash to fund its secret military technology procurement network and to purchase technology for Iraqi weapons projects including the Condor II ballistic missile, Gerald Bull's super gun and Iraq's clandestine nuclear, biological, and chemical weapons programs.

The story of the Banca Nazionale del Lavoro affair is complicated in its details, but very simple in its outlines. Caught up in the costs of a protracted and ghastly war with Iran, Iraq needed food and military equipment. After the war, Iraq was determined to build its own military capability—both because Saddam Hussein wanted to remain the biggest military power in the Arab world, and because he wanted to build weapons of mass destruction, which he could not buy.

BNL was one of the key elements of Saddam Hussein's efforts to buy food and military know-how. this bank provided the most important financial link. But to accomplish his aims, Saddam Hussein had to operate in secret—and so he set up an elaborate clandestine military procurement network that operated in this country and throughout Europe.

Our Government knew about the network, and as I have shown before, decided to tolerate its activity. The policy was designed to see if Saddam Hussein could be turned into a reliable ally, according to the President, Secretary of State, and other officialdom of this Government, and therefore to let him borrow with U.S. taxpayer assistance, and also let him operate his secret military procurement apparatus.

Today, among other things, I will show that our Government has yet to do anything to shut down Iraqi front companies operating in France, Germany, Switzerland, and the United States. And I will show that a subsidiary of one of these Iraqi companies was—and may very well be today—a contractor supplying components for 155 millimeter artillery shells to the United States military.

Before I go on, I just wanted to make a couple of comments regarding the Attorney General's decision not to appoint an independent counsel. I feel that Attorney General William Barr is attempting to lock any door that might lead to a full exposition of the Bush administration's involvement in the buildup of Iraq prior to the invasion of Kuwait. First, the Attorney General denounced and obstructed congressional investigations, and now he blocks inquiries by a special counsel.

Mr. Barr is playing a dangerous political game in a desperate effort to protect the Bush administration. On May 15, the Attorney General informed me in writing that the agencies and departments of the executive branch would henceforth refuse to provide classified documents requested by the committee in its investigation of the Banca Nazionale del Lavoro and its involvement in financing the Iraqi operations. Using the Barr edict, numerous agencies have now fallen silent and are completely stonewalling the committee.

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Clearly, Attorney General Barr has become the point man for the administration in blocking the disclosures of the Iraqi affair. The Attorney General is the giant boulder holding the administration's stonewall together against further revelations about the damaging and mysterious policies in the Persian Gulf.

The American people—who have sent troops and billions of dollars into the Persian Gulf—have every right to know the facts about the policies and the aid and comfort provided Saddam Hussein by the administration. Attorney General Barr is misusing his office and damaging the integrity of the Justice Department in blocking both congressional and independent investigations. He may well regard himself as the President's lawyer, but his oath of office requires that he also protect the public's interest—and in this case the interests of the President and the public do not coincide. When such a conflict exists, it is the clear duty of the Attorney General to choose the public's interest above political considerations just as some of his more distinguished predecessors did.

IRAQ'S AMBITIOUS MILITARY INDUSTRIALIZATION PLAN

As I showed in my July 21 and 27 reports, from the very beginning the Bush administration had plentiful information on Iraq's ambitious military industrialization program.

Intelligence reports in 1988, 1989, and 1990 contain vast details on Iraq's postwar military industrialization plans and schemes to build weapons of mass destruction. The essence of Iraq's ambitions is captured in a July 1990 CIA report which clearly outlined an ambitious expansion of its defense industries as a prime Iraqi goal. The report showed that Saddam Hussein wanted greater security and the prestige he would gain from having his own ability to produce arms.

The organization assigned primary responsibility for Iraq's ambitious military industrialization plan was the Ministry of Industry and Military Industrialization, commonly referred to as MIMI.

ORGANIZATION OF THE MILITARY INDUSTRIALIZATION EFFORT

Under MIMI, Iraq established a complex defense industrial plan that encompassed not only military related production facilities but also government enterprises primarily devoted to civilian production. MIMI can be thought of as a dual structure holding company divided between civilian and defense components. Roughly a holding company. MIMI controlled about 40 civilian agencies that were assigned responsibility for building commercial ventures such as the Badush Dam, petrochemical complex two (PC–2), and fertilizer factories and truck assembly factories.

MIMI often used civilian activity as a front for procuring equipment used to produce weapons of mass destruction. A July 1990 intelligence report entitled, "Iraq's Growing Arsenal: Programs and Facilities" shows that many Iraqi entities passed the materials from foreign suppliers directly to military projects.

For example, Iraq used the Badush Dam as a front for purchasing equipment for the Condor II ballistic missile program. And PC–2 was used as a front to purchase components for Gerald Bull's super gun. Lastly, petrochemical complex three (PC–3) was the code name for Iraq's clandestine nuclear weapons program.

The military side of MIMI, which was comprised of roughly 25 organizations, had responsibility for producing products ranging from military supplies to complete weapons systems. Large Iraqi industrial complexes often contained both civilian and military production facilities. MIMI used the civilian and military nature of these mixed-use factories to mask the ultimate end-user of technology shipped to these complexes.

The intelligence community had abundant information showing that Iraq used many ostensibly civilian factories as fronts to procure equipment for military use. A July 1990 CIA report entitled "Beating Plowshares into Swords" discusses how MIMI used 25–30 Iraqi establishments primarily to produce military supplies, spares or weapons. The Agency knew that civilian entities worked alongside military organizations to procure equipment and technology needed for the weapons program.

The CIA had information showing the location and many of the activities of these entities. A July 1990 CIA report entitled "Iraq's Growing Arsenal: Programs and Facilities" contains a section called "Defense Industrial Facilities." Among others the report identified: Nassr State Establishment and Mechanical Industries [NASSR]; Badr General Establishment—Badr; Saddam State Establishment—Saddam; Al Kindi Research Complex—formerly Saad 16; Salah Al Din State Establishment; Al QaQaa State Establishment—Al Qaqaa; and, Hutteen State Establishment—Hutteen or Huttin.

The CIA had information showing that these MIMI controlled entities were involved in Iraq's clandestine nuclear, chemical, and biological weapons programs and missile programs. U.N. inspectors have subsequently verified the military nature of these entities.

Despite knowledge of the nature of these entities, the Bush administration approved dozens of export licenses that allowed United States and foreign firms to ship sophisticated U.S. dual-use equipment to MIMI-controlled weapons factories.

Iraq's ambitious military industrialization plan was personified by MIMI's increasing prominence which is illustrated by a July 1990 CIA report on the rapidly growing MIMI and its bureaucratic and industrial components after the cease-fire with Iran clearly showed the prime importance Saddam Hussein placed on his arms effort. In other words, the administration knew what Saddam Hussein was doing, and how he was doing it, and why he was doing it.

HUSSEIN KAMIL IN CHARGE OF PROCUREMENT NETWORKS

Saddam Hussein entrusted the achievement of Iraq's ambitious military industrialization program to his son-in-law, Hussein Kamil. Hussein Kamil was placed in charge of MIMI in 1988. The CIA believed that Kamil was probably the second most powerful man in Iraq.

Well, that is news, is it? Every single other state entity, intelligence or otherwise, called Hussein Kamil the second most powerful man in Iraq. What is secret about that? Big intelligence from our so-called vaunted CIA. There are dozens of other public sources that we obtained this same assessment of Hussein Kamil, all over the Middle East, Europe, England, France, Germany, and as a matter of fact I will detail later on that, as I explained in the earlier statements when the Attorney General, the first Attorney General, Thornburgh, blocked and kept the Federal Reserve Board, of all agencies, from providing information we requested and in fact had subpoenaed by the committee. Well, we then got some of that information, if not most of it, from our allies; the Italian Senate investigating committee. And it is the same way with intelligence agencies. My Lord, I have even indirectly and without attribution, of course, several countries' intelligence groups that have provided, even if indirectly, information that we are being told cannot be reported to us, all the way from Britain's G–16 to Israel's Mossad to Korea's Central Intelligence Agency, which, incidentally, the KCIA, the Korean CIA, not only invaded and penetrated our great Congress in the 1970's, early 1970's and late 1960's, but literally, literally suborned it with money from CIA and funneled through some people as the newly announced savior, Sun Myung Moon, who is still in the United States. Maybe his Moonies are inactive, but he now owns the newspaper in Washington known as the Washington Times, and it is still funded and he is still funded through the Korean CIA.

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So, my colleagues, what is the news here? Who is trying to kid whom? It is ridiculous.

But the thing that gets me is that entities like the CIA; who do they think they are? The Federal Reserve Board? And even the Federal Reserve Board, they are creatures of the Congress. We in the Congress created them. Since when have they become the Frankenstein monsters that would tell the Congress what it ought to know, and should not know, and what will be allowed to be known?

Thank the Lord though for these other more enlightened countries throughout the world, including the German intelligence. As a matter of fact, later on I will make allusion to the first document that I am placing in the RECORD today. It is from German intelligence, the German intelligence agency.

Since the CIA is almost paranoiac, certainly sensitive, our good brethren in the German community have been forthcoming, and that will be the first document that I will place in the Record today.

Saddam Hussein entrusted the achievements, as I said, to his son-in-law for this great purpose. He was placed in charge in 1988, and there is no question that he immediately embarked on a very, very imaginative and very successful program.

In May 1989, the determined Kamil publicly stated that Iraq was "implementing a defense industrial program to cover all its armed forces needs for weapons and equipment by 1991."

Hussein Kamil's roots can be traced back to the Secret Security Organization or SSO. During the 1980's, Kamil wrestled control of the SSO which had responsibility for protecting Saddam Hussein and for keeping track of other Iraq intelligence organizations. Kamil retained control of the SSO after he moved to MIMI. Not surprisingly, the convert techniques Kamil learned at the SSO would become valuable tools in his quest to obtain sophisticated Western technology despite growing obstacles.

As it emerged form its almost decade-long war with Iraq, the cornerstone of Iraq's growing influence in Middle East affairs was its military prowess. With its million uniformed troops, Iraq emerged from the Iran-Iraq war with the fourth largest standing army in the world. Saddam Hussein was proud of the fact that Iraq could produce, or was learning how to produce, many of the wares needed to supply this vast army. In fact, Iraq held an annual military fair, attended by United States Government officials, where it proudly displayed for the West its indigenously produced conventional military wares.

Despite the size of his army, Saddam Hussein concluded that Iraq had to develop weapons of mass destruction in order to maintain its position as the Middle East's military power and to counter its huge neighbor Iran as well as the sophisticated arms of Israel. To achieve that goal, Iraq had to rely on foreign technology and know-how.

Multinational efforts such as the Nuclear Nonproliferation Treaty, the missile technology control regime, and restrictions on the sale of many chemical weapons precursors helped to slow Iraqi efforts to develop weapons of mass destruction. But Iraq was determined not be to be denied sophisticated western technology. It adjusted to what it perceived as meddlesome interference by the United States and its allies by setting up secret procurement networks.

As early as June 1989, the CIA reported on Iraqi procurements networks. This report discusses how intricate the Iraqi operation had become. American intelligence knew that nations like Iraq go to great lengths in order to acquire necessary technologies, specific components, and manufacturing capability—even purchasing entire companies and setting up others as fronts. The report warned that secret networks would become even more complex and would make it difficult to halt or control the spread of key military technologies.

IRAQI PROCUREMENT NETWORKS

U.N. inspections after the gulf war proved how accurate the forecast was—Iraq had massive covert programs to develop weapons of mass destruction. The big surprise was not that Iraq had the secret programs, but the depth and progress Iraq had made in developing weapons such as nuclear warheads. One of the prime reasons Iraq had progressed so rapidly in building nuclear weapons was precisely its procurement networks.

But as I have said, our Government knew about it. A late summer 1989 CIA report states:

> Baghdad uses aggressive covert techniques to acquire technology. The nuclear network—controlled by MIMI—uses Iraqi public sector enterprises, front companies, foreign agents and even civilian organizations to procure technology.

NASSR ONE OF MAIN BENEFICIARIES OF PROCUREMENT NETWORKS

One of the main beneficiaries of Iraq's procurement networks was the Nassr State Enterprise for Mechanical Industries [NASSR] with headquarters in Baghdad, and a sprawling industrial complex southwest of Baghdad. NASSR contained dozens of state-of-the-art major manufacturing facilities such as steel and aluminum production facilities, steel and aluminum casting facilities, numerous machine shops, huge presses and high-temperature furnaces and sophisticated welding equipment used to work with very high strength steel and aluminum, and a research and development center.

Various NASSR factories were used to produce components and to produce conventional weapons such as cannon barrels and aerial bombs. NASSR was also a primary location for the production of components for Gerald Bull's 1,000-millimeter super gun often referred to as the Babylon Project.

NASSR also provided critical assistance to Iraq's nuclear and missile programs. NASSR was probably the most important facility for production of modified Scud missiles and also played a key role in the development of other Iraqi antimissile and ballistic missile programs including the Condor II.

The heavily guarded NASSR complex also produced components for Iraq's nuclear centrifuge program and was the site of a centrifuge manufacturing plant. NASSR also contributed to Iraq's chemical and biological weapons programs. Much of the equipment at the NASSR complex was obtained through Iraqi procurement fronts operating in Europe and the United States. NASSR was a prime target for allied bombing during the gulf war—so ironically, we destroyed at great expense the complex our Government had watched and helped to build.

ORGANIZATION OF PROCUREMENT ACTIVITIES

To say the least, MIMI's ambitious military industrialization program required detailed planning and coordination among literally hundreds of different Iraqi entitles. As with all other aspects of Iraqi society, this task was highly centralized. Based on documents acquired from several Iraqi front companies in the Al-Arabi Trading Co. network, and interviews with persons working with these front companies, I will now provide an example describing how Iraq's procurement apparatus supported Iraq's weapons programs.

MILITARY INDUSTRIALIZATION BOARD

MIMI used a modern programming-planning process to coordinate the complex task of meeting the foreign technology needs of the various military industrial facilities. The key organization within MIMI responsible for meeting the foreign equipment needs of the various Iraqi establishments was the Military Industrialization Board [MIB]. This Board or Commission had a division of research and development and a division of planning, continuity, and technology.

The MIB gathered equipment orders from various Iraqi factories and compiled a list of the needed equipment into a lengthy document or shopping list. For example a typical list would contain equipment and raw materials orders from several Iraqi weapons factories.

The list was then forwarded via diplomatic pouch, to Ali Mutalib Ali the commercial attaché at the Iraqi Embassy in Germany. German and United States intelligence agencies identify Mr. Ali as a key operative in Iraq's procurement networks as well as an Iraqi intelligence agent.

Upon receipt of the equipment list, Mr. Ali forwarded the list of the United Kingdom-based front company called the Technology Development Group [TDG]. TDG then would send a copy of the equipment list of Matrix-Churchill Corp. in Cleveland, OH. Employees at TDG and Matrix-Churchill were then responsible for finding the needed equipment, gathering technical specifications, getting price quotes, and sending that information back to the Iraqi end user.

If needed, TDG and Matrix-Churchill would arrange meetings between representatives of the Iraqi end user and the potential supplier. Sometimes the front companies like TDG and Matrix-Churchill would purchase the technology directly from the supplier and ship it to Iraq. On other occasions the Iraqi end user would purchase the technology directly from the supplier, and sometimes financing from one of Iraq's banks here or in Europe was arranged to pay for the equipment.

IRAQI EMBASSIES PLAY KEY ROLE

Iraqi Embassies around the globe played a key role in the procurement network.

Just like in the case of the Korean Central Intelligence Agency and old Tongsun Park and the scandals of that day, they used their Embassies. In fact, they did pretty much the same thing that Iraq has done. It was Mr. Moon sent here and, working in cooperation with the Korean CIA, bringing some beautiful Korean girls to dance and wanting to establish a beachhead in the United States. They reached former President Eisenhower in Pennsylvania and took the girls to have a private dance with him. That gave him the prestige, which is what they were seeking as in the case with the use of all of these over 85 principal American corporations, once President Reagan in 1983 removed Iraq from the list of terrorist nations. So that if needed, TDG and Matrix-Churchill would arrange meetings with these representatives, and sometimes they would just directly go ahead and purchase.

The Iraqi Embassies were throughout the whole world the bases or the key base of operation. Iraq's diplomatic pouch, like all others, is inspection-free, and was often used to distribute documents such as blueprints and contracts. This safe system provided Iraq with the ability to avoid electronic interception that could occur if telex or facsimile was used. Embassies in Germany, the United Kingdom, and the United States were often used as the site of negotiations between foreign firms and Iraqi officials attempting to purchase sensitive foreign technology. Again, secrecy was the main goal.

Embassy staff often participated directly in obtaining technology for Iraq's weapons programs. For example, documents obtained from Matrix-Churchill show that the Iraqi Embassy in Washington purchased special high-strength steel for a ballistic missile program from a Youngstown, OH, steel producer.

Another example is the Iraqi Embassy in London. Money used to pay for U.S. origin capacitors with nuclear and missile applications was traced to that Embassy. Iraqi Embassy staff also helped network personnel to obtain passports, visas, and work permits that allowed the network personnel to travel freely throughout the West.

Iraqi intelligence agents working for the network frequently visited the United States. Safa Al Habobi is a case in point. The CIA believed that Al Habobi was a member of Hussein Kamil's SSO. They knew that Al Habobi was a key operative in Iraq's military technology procurement network. Even so, Al Habobi was allowed to enter the United States. In fact, in 1988 and 1989 he traveled to the United States on extended visits—he even brought his family of all places to Disney Land.

Amazingly, law enforcement officials were not permitted to monitor Al Habobi's activities when he came to the United States because Iraq was not an enemy and the law prohibited monitoring in such cases, unlike the British in London, who did put a stop to it. Persons such as Safa Al Habobi never listed on immigration reviews that the Iraqi military was their employer, yet when they were in Iraq they wore uniforms and worked for military establishments under MIMI's control.

IRAQI AIRWAYS

Iraq's commercial airline, Iraqi Airways, was a key component of Iraq's technology procurement network. Iraqi Air locations around the world, including the United States, were often staffed with intelligence agents that played an active role in transferring Western technology to Baghdad. Germany was a particularly busy transport point.

Goods from around Europe were shipped to Frankfurt, Germany, and then flown nonstop to Iraq. Several illegal shipments of Western technology were stopped as they were about to leave Germany on Iraqi Air. The United Kingdom customs expelled an employee of Iraqi Air for his role in attempting to smuggle nuclear triggers from the United States through the United Kingdom to Iraq.

MANY PROJECTS ASSIGNED TO NETWORK FIRMS

Network firms like TDG and Matrix-Churchill were assigned responsibility for identifying and procuring equipment, manufacturing processes, and whatever else was needed for Iraqi military industrial facilities such as NASSR.

For example, Matrix-Churchill Corp. in Cleveland, OH, was assigned over 200 projects. These ranged in variety from obtaining glass fiber technology and erecting a glass fiber factory at NASSR, to procuring books on rocket propulsion and gyroscopes and sending them to a rocket scientist employed by NASSR. An Iraqi working at Matrix-Churchill was asked to obtain Albert Einstein's research thesis and even a photo of the famous scientist. Notes from the procurement file included the telephone number of the physics department at MIT.

One of the London-based firms in the network, Technology Management Group Ltd. [TMG], provided the Iraqi Ministry of Housing and Construction with a quote for the stainless steel swords contained in the famous Arches of Victory monument erected at the entrance to Baghdad. The arches often frame the background of Iraqi military parades. In fact, we even have in our notes the cost of that stainless steel.

LARGE LONG-DISTANCE PHONE BILLS

The network companies were in constant contact with Iraqi end users. For example, the records of Matrix-Churchill contain thousands of telexes and facsimile messages directed at, or received from Iraqi entities. In addition, several of the Iraqis working at Matrix-Churchill had frequent phone contact with Iraq. To preserve security, when sensitive topics were discussed at Matrix-Churchill, the Iraqis would often speak in Arabic in front of the American employees.

What do you know about that? I do not think it goes that far for these English-only exponents.

In addition, telexes and facsimiles often were written in Arabic. Saalim Naman, the Iraqi head of procurement at Matrix-Churchill often used the privacy of his home to make phone calls to Iraq.

Employees of Iraqi weapons factories were frequently permitted to travel to the United States to evaluate technology, equipment, and receive training at United States factories even though our Government knew what they were up to.

For example, a firm in Topeka, IN, called CarbiTech, trained dozens of Iraqis on how to manufacture carbide-tipped inserts for machine tools. CarbiTech was owned by XYZ Options of Tuscaloosa, AL, which had a $15 million BNL-financed contract to build a carbide factory in Iraq. A recent L.A. Times article on XYZ Options stated that well before the Iraqi invasion of Kuwait, the CIA visited the CarbiTech factory to determine what type of training the Iraqis were receiving.

In 1989 XYZ Options offered to sell CarbiTech to Safa Al Habobi so that the Iraqis could reduce their cost of training their employees.

□ 1800

The carbide factory was recently destroyed by U.N. inspectors who found it at the secret Al Atheer nuclear weapons plant.

AL-ARABI NETWORK

I will now provide a brief overview of the Al-Arabi network. In later floor statements I will provide more detail on how the Al-Arabi network operated including its U.S. operations.

XYZ Options, like hundreds of other U.S. companies was first contacted by Matrix-Churchill Corp. located in Cleveland, OH. Matrix-Churchill was the United States base for the state-controlled Al-Arabi Trading Co. network, one of Iraq's largest and most prominent procurement networks. While Al-Arabi was set up as a private company in Baghdad, in reality it was the mechanism MIMI used to acquire other front companies to procure Western technology.

Al-Arabi was controlled by a subordinate of MIMI called the Technical Corps for Special Projects [TECO or Techcorp]. Techcorp was in charge of Iraq's highest priority weapons projects like the Condor II ballistic missile, the Big Gun and Iraq's clandestine nuclear weapons program.

Al-Arabi acted as a holding company for over a dozen front companies in Europe and the United States. These firms appear to have been the main supplier of Western equipment and know-how for NASSR's weapons production activities. The Al-Arabi network also sought out and obtained equipment and know-how for other Iraqi military industrial complexes that I mentioned above including Al-QaQaa, Badr, Hutteen, Saddam, and Salah al Din.

A June 1989 CIA report identified the Al-Arabi network as a major European military procurement network for Iraq's defense industries and discussed how the network connected Iraq to suppliers of precision machine tools, uranium gas centrifuges, and all kinds of other technologies for weapons development projects that included chemical, missile, biological, and nuclear programs.

It appears that the day-to-day operations of the Al-Arabi network were under the control of one of Hussein Kamil's former Secret Security Organization [SSO] cronies, Dr. Safa Al Habobi. Al Habobi was also a director general of the NASSR weapons complex. Dr. Safa, as he is warmly referred to by his colleagues, was indicted for his role in the BNL scandal. Over a billion dollars in BNL funds can be traced directly to NASSR projects and the Al-Arabi procurement network.

MUCH OF AL-ARABI NETWORK IN EUROPE

Al-Arabi owned front companies in Italy, France, Switzerland, Germany, the United Kingdom, and the United States. The Italian firm was called European Manufacturing Center or Euromac. Euromac was staffed by two brothers called Hussein and Kassim Abbas. Euromac also owned a shipping company in Italy as well as having an affiliate in England called Euromac. In 1990, the United Kingdom-based Euromac was indicted for attempting to smuggle capacitors from the United States that could be used in nuclear bombs and missiles.

Before Matrix-Churchill was established as the primary U.S. arm of the Al-Arabi network, the Abbas brothers had frequent contact with U.S. firms. For example, the Abbas brothers sent a firm in New Jersey dozens of inquiries for equipment and raw materials.

In France is another arm of the network, a firm called Babil International, located in Paris. The committee recently received the most up-to-date corporate papers on Babil and the listed owner of the firm is none other than Safa Al Habobi. To this day the French Government allows Babil International to operate, but then the United States Government has not yet placed Babil on the list of Iraqi owned front companies, so United States firms can still conduct business with Babil.

My offer to my buddies in the CIA is, if you do not have any information that you need in order to place these companies on this list, please see us. Just be nice enough to talk to us and humble yourself enough to ask. We will give you that information so you can list them.

A 1990 German intelligence report identifies Pierre Drogoul as a consultant to Babil. Oh, Pierre Drogoul.

Well, now, this is the father of Chris Drogoul, who the committee just subpoenaed last Thursday and is indicted and awaiting sentencing in Atlanta, and a big, big Atlanta BNL official. Here is his father in Paris, France, the notorious former manager of BNL's Atlanta branch.

The German arm of the network is called TDG/SEG in Krefeld, Germany. The United States Government had not placed this firm on its list of Iraqi-owned front companies either. The committee found a business card in the records of Matrix-Churchill that contained the TDG/SEG logo, address, and phone number.

The Swiss arm of the network is a firm called Schmiedemeccanica or SMB. The committee has documents showing that the Iraqis bought 18 percent of SMB in June 1990 and another 12 percent 6 months later, giving the Iraqis a 30-percent stake in SMB. And, surprise, surprise—the United States has yet to list SMB as an Iraqi front company.

SMB is one of Switzerland's finest forging companies and a good deal of SMB's work is for the armaments industry. For example, SMB helped to set up a 155mm artillery shell factory in Iraq and it has done similar work for the Swiss Government. But SMB also was involved in Iraq's illicit nuclear weapons program.

United Nation inspectors have identified SMB as having provided key technology for Iraq's secret nuclear program. SMB provided forging for the manufacture of uranium enrichment centrifuges.

In 1989, Safa Al Habobi tried to buy a United Kingdom firm called Forging Developments International along with its United States affiliate of the same name located in Cleveland, OH. Just months after Forging Developments turned down Safa Al Habobi's offer, SMB tried to buy Forging Developments International.

When that deal fell through, SMB set up a firm in Selma, NC, called SMB North America, Inc. which is still in operation today. The committee has been informed that one of SMB North America's first contracts was to supply the U.S. military with base plates for 155mm artillery shells.

Let me summarize the SMB debacle. Iraq owns at least 30 percent of SMB, which in turn set up an affiliate in North Carolina which supplies the United States military with components for 155mm artillery shells. In other words, Iraq is helping to supply the United States military with artillery shell components. So here we have an Iraqi front that supplied artillery components we used against Iraq, and they used against us. And, incredibly enough, SMB is not listed as Iraqi owned. Maybe this should not surprise anybody, since the fronts in France and Germany still haven't been fingered yet.

I repeat my offer to my friends at the CIA or whatever other intelligence community is around. Americans have lapsed.

Eternal vigilance is still the price of liberty. We have gone along, and Congress, a long way in threatening these basic liberties.

It is said that power tends to corrupt, and absolute power corrupts absolutely. And this can be said of all of the secret agencies from the CIA, and others. The Congress has not been wanting, after it created and after it departed from its charter, when it was founded by Congress in the 1947 so-called security or, rather, Defense Security Act, and it has strict limitations in that original act.

□ 1810

I am sure the Members of Congress then, were they to be here today, would be absolutely unbelieving that Congresses would have let this agency just run amok and go around carrying out foreign policy to the extent that it has endangered the good name and the virtue of our people and country, helping to assassinate foreign leaders that it decides are a risk to the national security.

I do not discharge Congress from our responsibility. It has done this same thing with others, like the Federal Reserve Board. The Federal Reserve Board is answerable to nobody, President or the Congress, yet we created it in 1913. All I have been saying all the time I have been in Congress is, it is about time the Congress lived up to its constitutional commitments, which it cannot delegate, contrary to all the opinions that have been advanced.

Here, is a good example. Absolute power corrupts absolutely. All power tends to corrupt, even our meager power, so eternal vigilance is still the price we must pay for the preservation of our democracy and our basic liberties, which I say are at far greater risk than the average American wants to realize.

A majority of the firms in the Al-Arabi network, which was established in 1987, were located in the United Kingdom. Arcane and outmoded laws made the United Kingdom a perfect nesting place for Iraq's procurement activities. The fact that the United States and United Kingdom have agreed not to spy on each other provided an added incentive for Iraq to establish its Western procurement base in the United Kingdom.

I say that decision not to spy on each other, and I do not know the date, but it must have been some time after the war, because all during the war we were spied upon. In fact, we had people knocked off in New York that were considered dangerous to the United Kingdom.

Iraq used United Kingdom holding companies to branch out and gain control of other firms. The primary fronts were London-based holding companies called Technology Development Group [TDG] and Technology Engineering Group [TEG]. Through these holding companies Iraq controlled over a dozen United Kingdom firms and several United States firms. The United Kingdom firms included TMG Engineering, Matrix-Churchill Ltd., AWA Engineering, Admincheck Ltd., Investacast Precision Casting, Atlas Equipment Co., Atlas Air-Conditioning Co., and others.

Besides SMB North America, the U.S. arms of the network include Matrix-Churchill Corp. in Cleveland, OH; Bay Industries in Santa Monica, CA; METECH in Torrance, CA; and Tigris Trading Co., in Pittsburgh, PA. The United States Government has blocked the assets of Matrix-Churchill and Bay Industries because they have been identified as Iraqi front companies. METECH, which was not identified as an Iraqi front, is now out of business.

The Tigris Trading Co. has a bank account at Pittsburgh National Bank, and it leased an office in a Pittsburgh high-rise office building. Interviews with Americans that worked at Matrix-Churchill revealed that Saalim Naman, the head of procurement for Matrix-Churchill, frequently visited Pittsburgh. The committee has uncovered additional Tigris Trading Co. addresses in Baghdad, London, and Cleveland. This suggests that Tigris Trading Co. was the beginning of a new Iraqi procurement network.

In future statements I will provide additional information on several other United States firms with close ties to the network that may have been Iraqi fronts. In addition, I will show that Iraq considered purchasing a half dozen or so United States firms. The committee is still investigating to see if Iraq gained control of those firms which are located in Pennsylvania, Connecticut, Ohio, Texas, Alabama, California, and North Carolina.

The Bush administration has devoted woefully inadequate resources to the task of identifying Iraqi front companies.

Here again, I repeat to my friends and the CIA this offer. We will give you the information. You should be able to raid them after that.

The Office of Foreign Assets Control [OFAC] in the Treasury Department is responsible for identifying Iraqi and Kuwaiti assets. OFAC must do the same for Cuba, Libya, and Yugoslavia because of various economic sanctions in place against those nations.

OFAC has not identified several of the firms I mentioned above because limited funds enable them to assign only a handful of investigators to the task of identifying Iraqi assets. I cannot understand why the President did not place a high priority on finding Iraqi front companies when he knew of their extensive activities in this country. Of course time and resources spent on the Rostow Gang, our old buddies, the lawyers group which screened executive branch documents, shows that the President did place a high priority on hindering and blocking congressional investigations on several committee fronts, not just ours.

Intelligence reports as far back as June 1989 reveal that Matrix-Churchill Corp. was part of Iraq's military technology procurement network, yet the Bush administration allowed it to operate despite knowing that the network was responsible for procuring technology for Iraq's covert nuclear, biological, and chemical weapons programs as well as various long-range missile programs.

Customs Service testimony provides still more insight into our Government's knowledge of Iraq's procurement activities. In 1991 the Customs Service testified before the Ways and Means Committee:

> In the two years prior to Desert Storm the Customs Service detected a marked increase in the activity levels of Iraq's procurement networks. These increased levels of activity were particularly noticeable in the areas of missile technology, chemical-biological warfare and fuse technology.

The following is taken from a question and answer period with the Customs Service:

> Question. How many cases did the Customs Service investigate prior to the Iraqi invasion involving the illegal exportation of goods to Iraq?
>
> Customs. Approximately 21 investigations involving Iraq were opened prior to the invasion of Kuwait.
>
> Question. Did the Customs Service ever raise any concerns to Commerce or State Departments regarding the increased activities of the Iraqi procurement network prior to the August invasion of Kuwait?
>
> Customs. The Customs Service on a monthly basis furnishes the Commerce and State Departments with a list of open investigations. Additionally, the increased levels of activity were particularly noticeable in the area of missile, nuclear technology, chemical and biological warfare and fuse technology, and were discussed with various interagency working groups. Customs, Commerce and State all participated in the groups.

The United States, British, and Israeli intelligence communities closely monitored many Iraqi entities that had numerous, almost daily contacts with BNL in Atlanta and Matrix-Churchill in Cleveland. The CIA had legal authority to intercept these communications abroad as well as in the United States because BNL and Matrix-Churchill were foreign owned entities. There is no doubt that the administration was aware that Iraq had established procurement fronts in the United States.

BAKER AND EAGLEBURGER APPROVE MCC BAGHDAD BRANCH

The case of the Baghdad office of Matrix-Churchill symbolizes the Bush administration's indifference toward Iraq's procurement activities in the United States.

Shortly after taking control of Matrix-Churchill Corp. in late 1988, the Iraqis began efforts to set up a Matrix-Churchill office in Baghdad. At the time, Iraqi law required United States corporations to go through a certification process before they could establish a branch in Iraq.

Here is the point I have been making all along, ad nauseam, that we are the only country that has no kind of screening or certification processes. It is unbelievable, and particularly on the banking front. We are mightily vulnerable. The near $1 trillion drug-narcotic-money laundering scheme is all bent. How can we get behind it until we have the regulatory defenses that the national interest demands for the safety and soundness of our banking and financial institutions.

□ 1820

We are far from that. What is it going to take? My colleagues, for how long, for how long must we be exposed on a daily basis when no one who is charged with the responsibility of safeguarding these interests on the regulatory front are able to tell us?

In Baghdad at the time Iraqi law required that United States firms be certified.

Unwittingly, in 1989 both James Baker and Lawrence Eagleburge helped Matrix-Churchill establish its Baghdad branch. Pretty good.

One step in the process of establishing a Baghdad branch was a requirement that the State Department authenticate documents indicating that the firm in question was a valid U.S. chartered firm. On March 14, 1989, Secretary of State James Baker's signature was placed on State Department documents to confirm that Matrix-Churchill was a valid Ohio company. On May 10, 1989, Acting Secretary of State Lawrence Eagleburger's signature was placed on similar documents. We have those here for the RECORD so my colleagues can see them, with a big seal and everything.

Thus, even though the State Department had intelligence information showing that Matrix-Churchill was an Iraqi front company, it helped Matrix-Churchill establish a Baghdad branch. Was this deliberate or was it carelessness? Maybe it was a little of both.

The Bush administration had extensive knowledge of Iraq's military technology procurement network, including the fact that the network operated a United States-based affiliate called Matrix-Churchill Corp. The administration also knew that many of the Iraqi employees assigned to the procurement network were intelligence operatives, yet they allowed them to visit and work in the United States without being monitored.

I cannot imagine why the Bush administration could tolerate this knowing that Iraq was using the network to gather technology for weapons of mass destruction. In part deliberately, in part through sheer neglect, the Bush administration did little or nothing to stop Saddam Hussein's ambitious efforts.

The documents previously referred to are as follows:

Matrix-Churchill,
Cleveland, OH, May 18, 1988.

Al-Arabi Trading Co. Ltd.,
Alwiyan, Baghdad, Iraq.

Gentlemen: We have pleasure in confirming cooperation of our two companies for the market areas of Iraq, Jordan and the Arab-Gulf states.

It is confirmed that Matrix Churchill Corporation agrees to pay a commission or finders fee on any contract signed through a project sourced from Al-Arabi Trading Co. Ltd., or direct from Iraq where Matrix Churchill Corporation receives renumeration from that contract according to the agreed commission or finders fee.

The commission or finders fee will vary according to the project, services and contract value. It will amount to 2.5% to 10%. The amounts of commissions or finders fees for both Al-Arabi Trading Co. Ltd. and Matrix Churchill Corporation will be agreed prior to the presentation of Matrix Churchill quotation.

Payment of these commissions or finders fees will be on a pro-rata basis to the contractual payment terms and after the renumeration for Matrix Churchill Corporation has been received.

Yours truly,

Gordon Cooper,
Vice President.

Al-Arabi Trading Co. Ltd.,
Alwiyah, Baghdad, August 29, 1989.

Att: Mr. Sam Naman, Matrix Churchill Corp.,
Cleveland, Ohio, U.S.A.

Dear Mr. Naman: As discussed and as per our letter of August, 1989, please find below new bank detail of payment of Invoice No. 1/BRASS/MCC:

Al-Arabi Trading Co. Ltd.

Account No.: 100100671.

Rafidian Bank, 7/10 Leadenhall Street, London EC3V 1NL.

We await confirmation by return.

Yours faithfully,

Farouk Taha,
(On behalf of Al-Arabi Trading Co. Ltd.)

Al-Arabi Trading Co. Ltd.,
Alwiyah, Baghdad, June 26, 1989.

Subject: Brass Plant Project Ref. U043.

Att: Mr. Gordon Cooper, Matrix Churchill Corp.,
Solon, Ohio U.S.A.

Dear Mr. Cooper: Reference your letter of July 11, 1988 and the agreement, and letter dated June 14, 1989. Please find duly executed and signed, one copy of "Agreement U043" returned to you together with amendment dated June 14, 1989. We are retaining the other copies in our files.

Yours truly,

Farouk Taha,
(For Al-Arabi Trading Co. Ltd.)

Matrix-Churchill,
Cleveland, OH, June 14, 1989.

Subject: Brass Plant Project Ref. U043.

Al-Arabi Trading Co. Ltd.,
Alwiyah, Baghdad, Iraq.

Gentlemen: Further to our letter of July 11, 1988 and subsequent agreement dated June 14, 1989, please find attached a copy of "Agreement ref. U043" and the schedule dated June 7, 1989, agreed and accepted by MCC with SerVass Incorporated.

With reference to "item 2" of the agreement, negotiations between our two companies has resulted in our amendment the payment schedule between MCC and Al-Arabi from the agreed 10 days after receipt to:

Payment #1—End October 1989 or earlier.
Payment #2—End December 1989 or earler.
Payment #3—End March 1990 or earlier.
Payment #4—End June 1990 or earlier.
Payment #5—To remain as agreement.
Payment #6—To remain as agreement.
Payment #7—To remain as agreement.

This letter is written in two copies and shall constitute an amendment of the agreement per item 4 of the agreement. Please sign both copies, and retain one copy for your files and return the other to MCC.

Matrix Churchill Corporation, By: Gordon Cooper—CEO.

Al-Arabi Trading Co. Ltd., By: Farouk Taha.

"Agreement Ref. U043"

This Agreement dated June 14, 1989 is made Between Matrix-Churchill Corp. ("MCC") whose address is 5903 Harper Road, Cleveland, 44139 and Al-Arabi Trading Co. Ltd ("Al-Arabi") whose address is P.O. Box 2337, Alwiyah, Baghdad, Iraq, regarding MCC's contract with SerVass Incorporated ("Customer") concerning the Brass Plant ref. U043 project ("Project").

1. The contract with Customer requires MCC or Al-Arabi to perform services for Customer some of which services will be performed by Al-Arabi and Al-Arabi agrees to perform services to Customer under the contract.

2. In exchange for its services, MCC and Al-Arabi agree Al-Arabi will receive 80% of the payments MCC receives from the Customer for the Project. The amount due from MCC to Al-Arabi is payable within ten (10) days of MCC's receipt of payment from the Customer, unless otherwise agreed.

3. MCC's payment schedule dated June 7, 1989 from the Customer is attached and incorporated by reference as if fully set forth in this Agreement. Al-Arabi agrees to abide by the terms and conditions of MCC's payments schedule from the Customer and those terms and conditions, where applicable, shall govern this Agreement.

4. This Agreement shall constitute the entire agreement between MCC and Al-Arabi and its provisions shall not be modified, amended or waived except in writing, executed by MCC and Al-Arabi. MCC and the Al-Arabi may, subject to the provisions of this paragraph, from time to time, enter into written supplemental agreements for the purpose of adding any provisions to this Agreement.

5. This Agreement shall be construed in accordance with the laws of the United States of America.

6. This Agreement shall inure to the benefit of, and shall be binding upon, the respective affiliates or associated companies, nominees, agents, successors and assigns of MCC and Al-Arabi.

In witness whereof, the parties have executed this Agreement the day and year first above written.

Matrix-Churchill Corporation, By: Gordon Cooper—CEO.

Al-Arabi Trading Co. Ltd., By: Farouk Taha.

SerVass, Incorporated,
Indianapolis, June 7, 1989.

Mr. Sam Naman, Matrix-Churchill Corporation,
Solon, OH.

Dear Sam: This will confirm our conservation of June 7, regarding the payment schedule:

PAYMENT NO., DATE, AMOUNT, AND EXPLANATION

No. 1, ——, $70,000, At time of signing of agreement on the sale of the contract with Izane estimated to be in ten days to two weeks.
No. 2, July 31, 1989, 130,000.
No. 3, Oct. 31, 1989, 100,000.
No. 4, Dec. 31, 1989, 200,000.
No. 5, Mar. 31, 1990, 300,000.
No. 6, ——, 200,000, Completion of Certificate of Commissioning and Taking Over Certificate for complete contract.
No. 7, ——, 1,030,100, Final Acceptance Certificate.
Total: $2,030,100.

These payments shall be made to you by Izane Engineering, Ltd. (London Bank) to your London office.

Best Regards,

Clarence C. Ormsby,
Vice President.

Al-Arabi Trading Co. Ltd.,
Alwiyah, Baghdad, July 25, 1988.

Att: Mr. Gordon Cooper, Matrix Churchill Corp.,
Solon, OH, U.S.A.

SUBJECT: BRASS PLANT PROJECT REF. U043

Dear Mr. Cooper: We thank you for your commitment letter of July 11, 1988. At the time the contract is signed and an agreement between yourselves and Bridgeport Brass/Servass is completed we should formalize an agreement between our two, companies reference assignment of proceeds between us. We agree that our fee will constitute an 80% portion of the total fee's received by M.C.C. from Bridgeport Brass/Servass.

Yours Truly,

Farouk Taha.

June 15, 1990.

Re: Third and Final Report on SMB.
To: Dr. Safa
From: R.K. Khoshaba

1. VISIT

1.1. On 7th June I travelled to Lugano and on 8th June at 9 o'clock in the morning I had a meeting with Mr. Nessi, the lawyer, and Mr. Romano of SMB: as arranged.

1.2. In the afternoon on 8th June we visited Banca Del Sampione to complete the transfer of shares and signing of the loan agreement.

1.3. All the original documents which were legalised at the Swiss Council in Zapeb, Yugoslavia were handed over to the lawyer.

2. FARTRADE HOLDING S.A.

2.1. The shareholding in SMB is in the name of Fartrade Holding S.A., a Swiss Company incorporated in the District of Fribourg. This company was incorporated on 14–12–89 with share capital of S.F. 200,000.—.

2.2. The lawyer has obtained from the previous owners declarations to the effect that the company has not traded and that it is free from any liabilities except the capital.

2.3. Formation expenses and stamp duty are S.F. 10,000.—.

2.4. The company has only one director who is now the lawyer Mr. Nessi.

2.5. The Company's shares are divided into units of S.F. 100 each. Issued shares are 2000 divided into two certificates:

No. 1 for 1 share.

No. 2 for 1999 shares.

Both certificates are held with the lawyer.

2.6. The company has applied to increase the shares by 800,000 and change the unit from S.F. 200 to S.F. 1000.

2.7. The company is incorporated in Fribourg and this apparently should give no capital gains tax when the shares are sold. I was informed that each district has different rules regarding the gains.

2.8. I have obtained a declaration from the lawyer that he holds the shares in trust for Dr. Safa and I have prepared a similar declaration from you that you hold the shares in trust for Durand Properties Ltd.

3. BEARER SHARES

3.1. As explained above, the shares in Fartrade Holding S.A. are to the bearer.

3.2. Due to recent restrictions in Switzerland and in order to ensure that lawyers are dealing with genuine people. Mr. Nessi insisted that the original certificates stay in his possession. In theory, he argued, bearer shares if given to us could be passed on to other people for whom he may not wish to contact. Being the sole director, he would be fully responsible for all the results of the company. This point was checked by myself with Mr. Zurmuller of the bank and with Mr. Romano. For the same reasons, lawyers are now insisting on dealing on behalf of individuals and not offshore companies.

3.3. The declaration of trust signed by Mr. Nessi acquires the importance of the shares. In a way, the declaration is a better document in the sense that it has the names of the beneficial owner shown in writing but if it were lost, it would not be critical as a bearer share certificate.

4. CMD SHARES

4.1. As phase 1, we have acquired 1000 shares out of issued capital shares of 5500, i.e. 13.18% at a price of S.F. $3,400 each.

4.2. The share are financed by:

Ourselves	2,400,000
Bank	1,000,000
Total	3,049,000

4.3. Within 6 months we will acquire another 650 shares at the same price, to be financed again by:

Ourselves	1,565,850
Bank	650,000
Total	2,215,850

This would give us a total hold of 1650 shares i.e. 30%.

4.4. Bank loan is at 10% interest repayable at S.F. 500,000 every 6 months, first repayment starting 30-6-1991.

4.5. The Bank will hold the shares as security but it has given Mr. Nessi confirmation that the shares have been transferred to the name of Fartrade Holding S.A.

4.6. Duty and commission on transfer of shares totalling about S.F. 23,000 has been avoided by making an "Agreement to sell and purchases" back dated to December, 1989. This was recommended by a tax adviser. However, I checked independently with the bank that it was in order. This was confirmed and proved by issuing a document to say that the shares are now registered in Fartrade Holding's name.

5. OTHER MATTERS

5.1. Finance for our share of S.F. 2,409,000 and the anticipated expenses were provided for as follows:

	S.F.
Al-Arabi from UBAF: Sterling £472,403	1,135,029
Al-Arabi from UBAB: Swiss Francs	120,655
Total	1,255,684
Al-Arabi from Rafidian: Sterling £400,000	965,016
Al-Arabi via TDG: Sterling £130,000	310,500
Total	1,255,684
Sterling £400,000	965,016
Sterling £130,000	310,500
	2,522,200

5.2. Expenses were expected to be:

Lawyers fees	10,000
Stamp duty on increased capital 3%	24,000
Acquisition of company expenses including stamp duty	10,000
Notary charges Re-Increase in capital	4,000
Various other taxes	5,000
Total	53,000

5.3. After payment of 5.1 and 5.2 above, there should be about S.F. 60,000 left in the account which is the figure required to be made available to pay the loan interest and annual administrative fees.

5.4. Documents to be signed—

5.4.1. Declaration of trust to increase capital by S.F. Properties Ltd.

5.4.2. Fiduciary * * * to buy and sell dated December 1989.

5.5. Offshore Company.

I discussed with Mr. Nessi the possibility of his acting for us to form companies in Luxembourg and Liechtenstein. He confirmed that he would be able to do so. I have asked him to form one in each of these two countries with the minimum capital possible.

5.6. Bank Del Sampione.

I discussed with Mr. Zurmuller the possibility of opening accounts with the bank in Locarno. The bank is reluctant to do so for offshore companies unless they have all the bank ground of such companies. However, they now know you and would be pleased to open accounts in your name. I have obtained a number of forms for this purpose.

6. DOCUMENTS ATTACHED (ALL COPIES)

6.1. Certificate of Incorporation of Fartrade Holding S.A.

6.2. Balance Sheet and declarations.

6.3. Share Certificates 200 with the lawyer.

6.4. Declaration of Trust by the lawyer to Dr. Safa.

6.5. Declaration of Trust from Dr. Safa to Durand Properties.

6.6. Confirmation by the lawyer that SMB shares of 1000 are held by him for Fartrade Holding.

6.7. Confirmation by the Bank's that they are holding the shares of SMB in Fartrade's name as security for their loan.

6.8. Bank facility letter.

6.9. Fiduciary Contracts.

6.10. Mandate Agreement.

6.11. Loan Agreement for S.F. 2,300,000 Fartrade Holding from Durand.

6.12. Bank opening forms for Fartrade Holding.

6.13. Letter for Romano of SMB giving Mr. Nessi. * * * reference on the lawyer.

SUMMARY

I visited Switzerland on 9th June and completed the acquisition of phase I 18.18 percent of the equity in SMB.

7.2. The holding is via a Swiss Company, named Fartrade Holding S.A. incorporated in Fribourg.

7.3. Costing is as follows:

	Phase I (18.18%)	Phase II (11.82%)	Total 30%
Our funds	2,409,000	1,565,850	3,974,850
Bank lending	1,000,000	650,000	1,650,000
Total	3,409,000	2,215,850	5,624,850

7.4. Shares in Fartrade Holding S.A. are via bearer shares kept by the lawyer, Mr. Nessi who is the sole director. However, a declaration of trust is held by us stating that the shares are for our benefit.

7.5. Recent changes in Switzerland means that the lawyer should only act for Dr. Safa and insists that he holds the shares in his office.

7.6. Fartrade has at present share capital of S.F. 200,000 which is being increased to S.F. 1,000,000.

7.7. Arrangements are made through the lawyer to establish for us a company in Luxembourg and another in Liechtenstein.

7.8. There are 3 documents to be signed by you:

* * * * *

[United States of America No. 89/3648–2]

DEPARTMENT OF STATE

To all to whom these presents shall come, Greeting: I certify That the document hereunto annexed is under the Seal of the Secretary of State of Ohio, and that such Seal is entitled to * * * and credit.

In testimony whereof, I, James A. Baker III, Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this fourteenth day of March 1989.

James A. Baker III, Secretary of State.

By Annie R. Maddux, Authentication Officer, Department of State.

MATRIX-CHURCHILL CORP.,
Cleveland, OH, February 24, 1989.

To Whom it may concern:

I hereby certify that the information contained within the attached document is true and correct.

GORDON COOPER,
Chief Executive Officer.

Sworn to before me and subscribed in my presence by said Gordon Cooper on February 24, AD 1989.

———.

Sworn to before me and subscribed in my presence this 28th day of February 1989.

———.

UNITED STATES OF AMERICA, STATE OF OHIO, OFFICE OF THE SECRETARY OF STATE.

I, Sherrod Brown, Secretary of State, do hereby certify that I am the duly elected, qualified and acting Secretary of State of the State of Ohio, and I further certify that Gerald E. Fuerst whose signature and official seal are affixed to the attestation hereto attached, was at the date hereof, the duly elected, commissioned and qualified clerk of the court of common pleas of Cuyahoga

County, Ohio, and that he is the proper official to make said attestation, which is in due form; and that his official acts are entitled to full faith and credit.

In testimony whereof, I have hereunto subscribed my name and affixed the official Seal of the Secretary of State of Ohio, at Columbus, Ohio, this 2nd day of March 1989.

SHERROD BROWN,
Secretary of State.

[United States of America No. 89/6535]

DEPARTMENT OF STATE

To all to whom these presents shall come, Greeting: I Certify That the document hereunto annexed is under the Seal of the Secretary of State of Ohio, and that such Seal is entitled to and credit.

In testimony whereof, I, Lawrence S. Eagleburger, Acting Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this tenth day of May, 1989.

Lawrence S. Eagleburger, Acting Secretary of State.

By Annie R. Maddup, Authentication Officer, Department of State.

UNITED STATES OF AMERICA, STATE OF OHIO, OFFICE OF THE SECRETARY OF STATE.

I, Sherrod Brown, Secretary of State, do hereby certify that I am the duly elected, qualified and acting Secretary of State of the State of Ohio, and I further certify that Gerald E. Fuerst whose signature and official seal are affixed to the attestation hereto attached, was at the date hereof, the duly elected, commissioned and qualified clerk of the court of common pleas of Cuyahoga County, Ohio, and that he is the proper official to make said attestation, which is in due form; and that his official acts are entitled to full faith and credit.

In testimony whereof, I have hereunto subscribed my name and affixed the official Seal of the Secretary of State of Ohio, at Columbus, Ohio, this 3rd day of May 1989.

SHERROD BROWN,
Secretary of State.

RECIPROCITY CERTIFICATE

The undersigned, being the duly elected Vice President of Matrix Churchill Corporation, an Ohio, U.S.A. corporation, does hereby certify as follows:

We confirm that the reciprocity conditions for registration of similar branches of Iraqi companies is valid according to the laws of this country and Iraqi persons are allowed to manage these branches.

In Witness Whereof, the undersigned has subscribed his name hereunto as of this 28th day of April, 1989.

GORDON COOPER,
Vice President,
Matrix Churchill Corp.

I, the undersigned, hereby certify that the above English text is a true and accurate translation of the Arabic text.

SAM NAMAN.

AUTHENTICATION OF SIGNATURES BY NOTARY

State of Ohio
County of Cuyahoga, ss:

On this 28th day of April, 1989, before me personally came Gordon Cooper, to me know, who being by me duly sworn, did depose and say that he is the Vice President of Matrix Churchill Corporation, the corporation described above and which executed the above instrument; and before me personally came Sam Naman, who being duly sworn, did depose and say that he is able to fluently read the Arabic language and translate such language into English; and that each of Mr. Cooper and Mr. Naman signed his name as set forth above.

DAVID FLESHLER,
Notary Public.

FORGING DEVELOPMENTS
[INTERNATIONAL] INC.,
Cleveland, OH, September 21, 1989.

Re FDI Shares.

Dr. GIANNI MARTINELLI
Schmiedemeccanica, S.A.,
Switzerland.

DEAR GIANNI: I do hope you have recovered from your flu bout. Thank you and Romano for your time on Monday. I am sure it was tiring for you. I thought I would write and confirm my basic understanding of our discussions and offer some suggestions as to some of the, as yet, unresolved items as follows:

SMB will pay me 150,000 U.S. dollars for a 30% share of Forging Developments Corporation and FDI limited. New shares will be issued from each company equivalent to 30% of the total shares issued. My shareholding will remain the same. A nominal price will be established for purchase of the shares.

I will provide you with an invoice for engineering services for the 150,000 U.S. dollars.

You will contract FDI Ltd. for engineering services for a minimum fee of 36,000 pounds sterling per year for a period of two years for consulting work to be defined later at a discounted rate from the current fee structure. The current fee structure in the U.K. is:

Manager—350 pounds sterling/day, i.e., 280.

Project Engineer—210 pounds sterling/day, i.e., 188.

Designer—175 pounds sterling/day, i.e., 140.

Please note these rates apply for local office work. Rates for overseas assignments are increased to reflect local conditions, length of stay and extra compensation paid to the employee. Expenses are also extra.

Purchase of further shares—you requested the option of buying up to 20% more shares of FDI at the agreed price of 5,000 U.S. dollars per percent.

Comment: I would like to consider this question together with the new company, Medform.

I am not sure of your motive to start a new company in the U.S. Perhaps you want to own 60%, perhaps you believe that the purpose of this company should be kept separate from FDI. As I understand it, the purpose of the company will be to market and manufacture hot shears and provide a training school for the use of Catia and perhaps others as they arise. Perhaps the training is not compatible with hot shearing however the marketing of them has to be considered separately.

As Eumuco, Lasco and many others have found, marketing in the USA is the most difficult and competitive in the world. Credibility is everything together with track record. A permanent presence is definitely necessary and so the formation of a company in the USA is vital.

However, it will be one to two years before we are likely to be able to sell a machine. It would therefore be unnecessary to establish a manufacturing facility until the first machines are in and operating. Prior to that we have to decide if the USA is the correct base for such a manufacturing venture. In other words, do I/we really want to be in manufacturing, particularly in the US?

I believe that there are sufficient questions in my mind to wonder why all these opportunities cannot be incorportated within an expanded FDI Inc. organization and if the percent ownership is the reason for you wanting to make it separate. If so, I am very willing to discuss a compromise.

Either way, I assume the success of an organization will depend to a large degree on me. I should therefore either be the majority shareholder or be compensated for the sale of shares when I lose that majority at a rate commensurate with the value of the company.

I suggest therefore that another 19 percent can be purchased during a three-year period at a cost of $5,000 per percent plus 10 percent for each year, i.e., second year, $5,500, third year, $6,050. During this period the remaining 51 percent can be acquired by negotiation. Thereafter the balance of my shares can be purchased at a rate equal to the valuation of the company based on X times earnings. If I want to sell, I will offer them to SMB. If SMB does not want to buy, I am free to sell them to the highest bidder. In the event of my premature death all my shares will be purchased by SMB and funded by a life insurance policy.

The policy payments for this policy are not deductible for the company. The proceeds of the policy to the company are not taxable as revenue however if the money is used to purchase my shares from my wife, she is liable for capital gains tax.

I have enclosed a copy of our old contract for your information.

Buyback—if I want to buy the shares back or you decide you want to sell, I should be allowed to repurchase the shares at a rate equal to $1,000 per percent in the first year, $2,500 per percent in the second and $5,000 per percent in the third. Thereafter by negotiation.

Territories—while we should identify specific markets, I believe the most important part of this topic is to share and maintain our information to avoid competition. In addition to this I would suggest we offer each others services, albeit not directly, in areas where the other is to date, not established.

Gianni, I am sure there are other points and for my part, I intend to bring them up as they occur to me. I hope you will do the same.

My next trip to Europe is planned for the week commencing October 22. On October 26 is the annual BFIA banquet at the National Exhibition Center. You are welcome to be our guest if you have not already been invited officially or by somebody else. Perhaps during this visit we can conclude our agreement by resolving the outstanding issues. Romano is, of course, also welcome.

Kind regards,

IAN R. WILLIAMSON,
President.

SCHMIEDEMECCANICA S.A.,
Switzerland, October 17, 1989.

To: Ian R. Williamson.
Company: Forging Developments, Inc.,
Location: Cleveland, USA.
From: G. Martinelli.

DEAR IAN, I recovered well from my flu and hope you are also in best health.

I was absent until yesterday. Therefore I do apologize for my delay, in sending you my reply.

I thank you for your letter of September 21, 1989, the content of which came to me as an unexpected surprise.

From the previous talks and correspondence you surely have seen that I did not have the easiest task in persuading the shareholders of SMB to buy 30% of FDI for US dollars 150,000.

I could only overcome the problem by overstressing the impact that SMB ENGINEERING would have in sharing some efforts with FDI. Furthermore the fact that FDI could buy 40% of METFOR USA was a decisive point.

This was stated very clearly in my Fax of August 31, 1989 and was not put into any question or discussion during your visit in * * * of September 11, 1989. Therefore, all what you write on page 2 of your letter is very strange to us.

Personally I do not agree with most of your statements. I can assure you that before deciding to open a company in the U.S. we did our homeworks. We know it will not be easy but we are entrepreneurs and we know that every beginning is difficult. In any case we already have some interesting european companies who asked us to represent them in U.S.A.

After all, in our conversations I clearly explained to you that we were not interested in being the major shareholders (see the case of F.D.I.) but in participating, even on a minority base, of sound companies. Hence, if we would be the major shareholders of Metfor is not because we pretend to own the company but because this is an idea which was originated from our side and because we are willing to pay for it.

I also do not understand at this point, what are the policies of F.D.I. How can you be a neutral consultant and, in the same time, be agent of some plant manufacturers? This would automatically exclude FDI from having a formal relationship with other plant producers.

Would it not be more convenient for F.D.I. to be a "non evident shareholder" of a company which is established with the specific objectives of selling plant items and perhaps some kind of sofeware?

In any case, I am sorry but at this point I cannot defend anymore our participation into F.D.I. For sure, you and me share very similar feelings and interests for forgoing technology but we see the business world with different eyes.

I am now persuaded that if we both would buy each other's shares, we would encounter a lot of complications to which I am not used. Of course this decision does not have to affect our friendly relationship. We can always exchange points of view and, why not, if opportunities arise, we could do some business together. For instance, we are prepared to buy engineering services from F.D.I. in the same way as F.D.I. may intend to buy tooling or any kind of Hardware from SMB.

Despite the fact that our discussions did not lead to a formal agreement, I think that these were fair and constructive and, for sure, we know better the capabilities of our companies.

Looking forward to meeting you again soon, I meanwhile remain with my best personal regards.

G. MARTINELLI,
SMB BIASCA.

Council of the Revolutionary Leadership, Military Industrialization Board, People's Iron and Steel Mills.

"Planning, Continuity, Technology;
No. 268—Date July 22, 1988.
(Confidential and Urgent):
To: Military Industrialization Board.
Re: Used machine and tools.

With reference to your letter No. 1881/1/4 of June 19, 1988 we enclose a file indicating our itemized needs in individual machines and tools with their spare parts to satisfy the plan for the year 1989.

With best wishes,

Sincerely yours

[Signature illegible] General Director, Sahi Hammadi Sakr.

A copy to: Division of Planning, Follow-up and Technology, and this with the highest priority please!

JANAN/ZAKI, *July* 17[?]

DEAR MR. RA'D: Get in touch with Mr. Janan in Nasar Facility, to assure the transfer of the copy to the office of Dr. Safa in London.

JANAN GEORGE HAMAMA.

AUGUST 2, 1988.

A copy to London and another to the United States.

To: Mr. Janan George Hamama, Nasar People's Mills.

Concerns: Used Machines and tools.

DEAR SIR: We convey this request to you from the People's Iron and Steel Mills for individual machines and tools with the appropriate spare parts. They will satisfy the needs of the aforementioned mills as expressed in their production plan.

We hope that you get in touch as soon as possible with Dr. Safa' at his office and with our best wishes and appreciation we remain

Sincerely yours

RA'D NUR AL-DIN AL-RIFA'I,
Research and Development Military Industrialization Board.

Enclosures: requests (five pages).

Additional copies: to London; to the United States.

[Translator's note: the date indicated in English is August 3, 1991 and not August 2, 1991 as it is in Arabic].

BONN, *August 16, 1988.*

The Embassy of Iraq, Trade Section, Duererstrasse 33, 5300 Bonn 2, Germany, Telephone (0228) 82031.

To: TDG—Technology and Development Group, LTd.: [Duke House, 37, Duke Street, London W1M 5DF].

DEAR PROFESSOR DR. SAFA' AL-HABBUBI:

I am enclosing a file with 45 lists and hope that you submit a bid on behalf of Technology and Development Group, Ltd. with respect to the contents of the enclosure.

With my best wishes I remain,

Sincerely yours,

Engineer HANNA SALIH.

[Marginal note]:

DEAR ENGINEER HANNA: Please send a copy to M.C.C. and keep another one with you! August 18, 1988 [?].

To: Ministry of Housing and Construction.
Fr: SICA Rue du Paradis, 9 5960 Orp Belgium
Ph: (+32) 19 63 32 17.
Att. Mrs. Amal Abdul Zahra.
Yr/Ref: Archs of Victory.
Or/Ref: PI No 88 05 09 10.

DEAR SIRS, We have the pleasure to forward you hereafter our best offer for the realisation on base of your drawings of the Archs of Victory.

Price:

4 Stainless steel swords approx. weight 19.8 tons 4 = 79.2 tons.

4 Structures work of arch approx. weight 14.1 tons 4 = 56.4 tons.

Total 135.6 tons.

FOB any European Port: Belgian Francis 1,450.000 bf/tons for completely finished work ready for erection, including all the required material to complete erection of archs and swords. (bolts, nuts, flags. .)

We would like to reserve the right to review our price if, in case of order when receiving the definitive drawings going more deeply in details, we have to adjust our weight estimation or our project of manufacture.

Technical specifications:

We have followed your indications and we stick to your drawings. Of course we would have to come back to you for approval in case we would like to bring any modification in realisation of works.

Material will be in accordance with ASTM norms or equivalent surface as ASTM A 480-81. For inside 7.1.2; outside 7.1.4, polishing with grain of 180, RA = 0,8 to 1 nm.

Conditions: Delivery time: to be discussed in case of order.

Origin: EEC

Payment terms: As we will have to buy the steel and make some special tools for the shaping of the swords we would appreciate to receive: With the order 35%; at the delivery 65% by a letter of credit opened with the placing of the order, letter of credit opened exclusively on our account in the Middland, 3 lower thames street London OK.

Remark: This quotation does not include any engineering and consequently we have not undertaken any study of resistance to wind etc. . . . And we cannot assume any responsibility in the finished work. Our responsibility will cover the realisation of your drawings. Of course if we receive your order, when we will receive the definitive drawings we will check the engineering and perhaps make some suggestions from this end.

We hope we will have the honour to participate to the erection of this magnificent historical monument, and awaiting your prompt reactions we are dear sirs.

Sincerely yours.

GERMAN INTELLIGENCE REPORT

Enclosure, 5 April 1990.

Re: Iraqi activities in the area of nuclear technology and missile development.

I. IRAQ; NUCLEAR ACTIVITIES

1. Introduction

Although Iraq ratified the Non-Proliferation Treaty in 1969, there are indications that it has been striving to possess nuclear weapons for a long time.

According to the findings to date, however, it is in possession neither of weapons-grade fission material (highly enriched uranium or plutonium) nor of installations for its production (uranium-enrichment installations, plutonium producing reactors, reprocessing equipment).

2. On the military use of nuclear technology

To date there has been little evidence of an Iraqi military nuclear program or information concerning the transfer of nuclear weapon-related technology or equipment to Iraq.

The attempt that was discovered in March to obtain [illegible] condensers specially designed for defense-technology applications-not [illegible]-the press was falsely told [illegible] on account of a number of application possibilities in defense technology (fuse systems for conventional warheads, military laser systems) [illegible] no unambiguous proof of an Iraqi nuclear weapons development program.

However, Iraqi activities in the area of uranium enrichment must be viewed as mounting evidence that such a program, or preparations for, one exists.

It is certain that Iraq intends to build a secret uranium enrichment plant that uses the gas-centrifuge process. Since there is no recognizable civil need for a uranium-enrichment plant-Iraq does not have any nuclear energy plants either in operation or under construction-one must conclude that Iraq is attempting to produce weapons-grade, highly enriched uranium.

However, Iraq is still in the early stages of developing gas centrifuges.

There are indications that the Iraqi armaments firm AL Qaqa state establishment, which has experience with modern high explosives and high-velocity measurement techniques, is involved in the development of the non-nuclear components of a nuclear weapon. The armaments firm Nassr state enterprise for mechanical industries in TAII near Baghdad is probably involved in the development and production of gas centrifuges.

In light of the state of affairs in Iraqi nuclear technology, the implementation of a possible nuclear-weapons development program is unlikely to succeed within the next five years without significant support from abroad. To date there has been no evidence of direct support of Iraq in its development of nuclear weapons.

2.1 Procurement activities

Since 1987, increased Iraqi efforts have been observed to acquire modern technology for the construction of its own armaments industry from the industrialized nations through a network of organizations in Iraq and cover companies and subsidiaries abroad. Apart from projectile and chemical-weapons technology, one of the main obstacles in the way of Iraqi efforts is nuclear technology.

Since no later than the middle of 1988 Iraq has been trying to acquire the components and technology for uranium enrichment by means of the gas-centrifuge process in Great Britain, the Federal Republic of Germany, Holland, and France. These efforts have been only partially successful.

From the information gathered in connection with these procurement efforts in the countries names it has become apparent that technical data and construction documents classified as confidential pertaining to German centrifuge types have already made their way to Iraq. To what extent and in what ways this occurred is not yet known with any certainty.

2.2 On the recruitment of German centrifuge experts by Iraq

In 1988–89 Iraq moreover endeavored within the Federal Republic of Germany to obtain experts on the development and construction of gas centrifuges for a cooperative effort in Iraq. The extent to which these efforts were successful could not be definitely ascertained.

2.3 On the Iraqi procurement network

The following organizations in Iraq and Iraqi-controlled firms in Western Europe have emerged in connection with procurement activities:

Al Arabi Trading Corporation, Baghdad, Iraq, Director: Faruk TAHA.

Lahib Nari Import/Export Corporation, Baghdad, Iraq.

Technical Corporation for Special Projects (TECO), Baghdad, Iraq, Director: Abdulahad Aboodi ABLAHAD.

Industrial Projects Company, Baghdad, Iraq, Company Members: Ali Abdul Mutalib Ali, Dr. Mahdi F. Muhammad, Dr. Adil Mahir Jassim, Dr. Ford Nadhim Hakee.

Nassr State Enterprise for Mechanical Industries, Taji near Baghdad, Iraq.

Al Qaqa State Establishment, Iskandariya near Baghdad, Iraq.

Technology Development Group (TDG), London, Great Britain, Director: Dr. Safa Al Haboobi; Company Members: Hana Paulus Jon Odisho, Saad Tahir, Adnan Al Ameiri, Dr. Fadel Kadhum, Nassir A. Nainsi.

Technology Engineering Group (TEG), Kent, Great Britain, Director: Anees Mansour Wadi.

RWR International, London & Kent, Great Britain, Director: Roy Ricks.

Euromac London Ltd. and Atlas Equipment Ltd., London, Great Britain, Director: Ali Ashour Dahgir; Company Members: Ted Amyuni, Jeanine Speckman.

Euromac SRL, Monza, Italy, Company Members: Hussein Abbas Al Khafaji, Kassom Abbas Al Khafaji, Mohammed Samir.

Babil International Sarl, Neuilly-sur-Seine, France, Company Members: Al Khafaji Saban, Pierre Dragoul.

Matrix Churchill, Coventry, Great Britain.

Matrix Churchill Corporation, Solon, Ohio, USA.

II. IRAQ: THE STATE OF PROJECTILE DEVELOPMENT

1. Introduction

Projectile development in Iraq was once again thrust into public view with the launch of a space rocket on 12/5/89. Iraq further made known that apart from the space rocket it had also developed two surface-to-surface rockets with a range of 2,000 kilometers. Below is a survey of the state of Iraqi rocket development:

2. Rocket Technology

Iraq is following two parallel lines in its development of projectiles. The one involves the liquid-fuel technology of the Soviet SCUD–B; the other involves the solid-fuel technology of the Argentinean CONDOR–II.

2.1 Liquid-fuel technology

All projectiles used or tested by Iraq to date are based on SCUD technology according to our present view of the situation. Work on these projectiles is supposedly being carried out within the parameters of projects 144 and 1728.

2.1.1 Surface-to-surface rockets

The SCUD–B technology used by Iraq was developed in the Soviet Union in the fifties and early sixties. This rocket, also designated as the SS–IC, had a range of 300 kilometers with a payload of one ton.

This rocket was modified according to available evidence so that the range was increased to approximately 650 kilometers through a reduction of the payload to approximately 300 to 350 kilograms. The projectile, designated the Al Hussein, was then used against Teheran in the war with Iran.

According to our evidence, its range was further increased to approximately 900 kilometers by an extension of the fuel tank. The rocket, designated Al Abbas, was first tested according to Iraqi statements in April of 1988. The payload is supposedly some 400 kilograms.

11.20 meters in length and 0.90 meters in diameter, the AL HUSSEIN corresponds more or less to the SCUD–B (length: 11.50 meters; diameter: 0.88 meters). Of the same diameter, the AL ABBAS is supposedly some 14.50 meters in length.

There is also evidence that Iraq is working on the development of other projectiles with ranges of up to 2,000 kilometers. These are supposedly liquid-fuel rockets. They may be those two systems mentioned by Iraq (range: 2,000 kilometers). One system is called TAMMUZ I.

2.1.2 Space delivery vehicle

Iraq launched a space delivery vehicle for the first time on 12/5/89. This three-stage projectile is called AL ABID, and it is 25 meters long and weighs 48 tons. The thrust of the first stage is supposedly 70 tons.

The launch presumably took place at the newly-erected Rufhah testing grounds (32–13–32 North, 42–56–25 East). This installation is not yet fully completed.

There is evidence that the first stage is composed of five linked and modified SCUD boosters. The second stage is likewise supposedly a modified SCUD with a larger diameter; the third stage may be earmarked for a solid-fuel engine. During the test only the first stage was ignited. It is possible that the second and third stages were dummies.

2.2 Solid-fuel technology (Project 395)

Project 395 has been conducted under the general management of the Technical Corps for Special Projects (TCSP). This project involves an ambitious projectile development program based on the Argentinean CONDOR–II technology. The program is supposed to be realized in close cooperation with the special organization, the Arab League Industrial Development Organization (ALIDO), with its headquarters in Baghdad.

2.2.1. Projectiles

The two-stage projectile is 10.30 meters in length and 0.80 meters in diameter; it weighs approximately 4,800 kilograms. Unlike the Argentinean CONDOR–II, which has a solid-fuel engine in the first stage and a liquid-fuel engine in the second stage, Iraq favors solid fuel engines in both stages. With this configuration, the payload is supposedly 350 kilograms, and the range approximately 1,000 kilometers.

The further development and future production of the liquid-fuel engine of the second stage is being pursued in tandem with this, however. There is evidence that the two-stage projectile could be equipped with this engine as a third stage. Such a rocket would then be intended as a space delivery vehicle for limited payloads.

2.2.2 Production sites

Three production sites for project 395 have been under construction southwest of Baghdad since late 1987–early 1988. The construction of the infrastructure is known under the terms of the DOT treaty. The installations have supposedly been provided with materiel; no production has yet been observed there, however.

3. Concluding remark

Iraq sees itself as the technological leader within the Arab camp. One can therefore expect that the country will make every effort to move forward with its rocket development program.

The activities in this regard encompass the aforementioned lines of development. We are assuming that the country fell back on the "older" SCUD technology because the modern CONDOR–II technology was not or has not been available.

OFFICE OF FOREIGN ASSETS CONTROL, MARCH 27, 1992

Front Companies and Foreign Representatives of the Government of Iraq

Front Company/ Representatives and Address:

A.T.E. International Ltd. (f/k/a RWR International Commodities), 3 Mandeville Place, London, England.

A.W.A. Engineering Limited; 3 Mandeville Place, London, England.

Abbas, Abdul Hussein, Italy.

Abbas, Kassim, Italy.

Abraham, Trevor, England.

Admincheck Limited, 1 Old Burlington Street, London, England.

Advance Electronics Development Ltd., 3 Mandeville Place, London, England.

Ahmad, Rasem, P.O. Box 1318, Amman, Jordan.

Ahmad, Walid Issa, Iraq.

Al-Amiri, Adnan Talib Hassim, 43 Palace Mansions, Hammersmith, London, England.

Al-Arabi Trading Company Limited, Lane 11, Hai, Babil, Baghdad District 929, Iraq.

Al-Azawi, Dafir, Iraq.

Al-Dajani, Leila N.S., P.O. Box 1318, Amman, Jordan.

Al-Dajani, Nadim S., P.O. Box 1318, Amman, Jordan.

Al-Dajani, Sa'ad, P.O. Box 1318, Amman, Jordan.

Al-Habobi, Dr. Safa Haji J., Flat 4D Thomey Court, Palace Gate, Kensington, England.

Al-Majid, Ali Hassan, Baghdad, Iraq.

Al-Majid, Hussein Kamel Hassan, Baghdad, Iraq.

Al-Ogaily, Akram H., Flat 2, St. Ronons Court, 63 Putney Hill, London, England.

Al-Rafidain Trading Company, Bombay, India.

Al-Takriti, Barzan Ibrahim Hassan, Geneva, Switzerland.

Al-Takriti, Sabawi Ibrahim Hassan, Baghdad, Iraq.

Al-Takriti, Watban, Baghdad, Iraq.

Ali, Ali Abdul Mutalib, Germany.

Allen, Peter Francis, "Greys", 36 Stoughton Lane, Stoughton, Leicersterschire, England.

Amaro, Joaquim Ferreira, Praca Pio X, 54–10o Andar CEP 20091, Rio de Janeiro, Brazil.

Arab Petroleum Engineering Company, Amman, Jordan.

Arab Projects Company, S.A. Ltd., P.O. Box 1318, Amman, Jordan; P.O. Box 7939, Beirut, Lebanon; P.O. Box 1972, Riyadh, Saudi Arabia.

Archi Centre I.C.E. Limited, 3 Mandeville Place, London, England.

Archiconsult Limited, 12 Buckingham Palace, London 5, England.

Armoush, Ahmad, White Star Bldg., P.O. Box 8362, Amman, Jordan.

Armoush, Ali, White Star Bldg., P.O. Box 8362, Amman, Jordan.

Associated Engineers, England.

Atlas Air Conditioning Company Limited, 55 Roebuck House, Palace Street, London, England.

Atlas Equipment Company Limited, 55 Roebuck House, Palace Street, London, England.

Aziz, Fouad Hamza, Praca Rio X, 54–10o, Andar, CEP 20091, Rio de Janeiro, Brazil.

Banco Brasileiro-Iraquiano S.A., Praca Rio X, 54–10o, Andar, CEP 20091, Rio de Janeiro, Brazil (Head Office and City Branch).

Bay Industries, 10100 Santa Monica Boulevard, Santa Monica, California.

Daghir, Ali Ashour, 2 Western Road, Western Green, Thames Ditton, Surrey, England.

Dominion International, England.

Endshire Export Marketing, England.

Euromac European Manufacturer Center SRL, Via Ampere 5, 20052, Monza, Italy.

Euromac Ltd., 4 Bishops Avenue, Northwood, Middlesex, England.

Euromac Tansporti International SRL, Via Ampere 5, 20052, Monza, Italy.

Falcon Systems, England.

Fattah, Jum's Abdul, P.O. Box 1318, Amman, Jordan.

Geodesigns, England.

Hand, Michael Brian, England.

Henderson, Paul, 4 Copt Oak Close, Tile Mill Conventry, Warwickshire, England.

Hussein, Udai Saddam, Baghdad, Iraq.

I.P.C. International Limited, England.

I.P.C. Marketing Limited, England.

Investacast Precision Castings Ltd., 112 City Road, London, England.

Iraqi Airways, Baghdad, Iraq; Vienna, Austria; Dhaka, Bangladesh; Rio de Janeiro, Brazil; Beijing, China; Prague, Czechoslovakia; Copenhagen, Denmark; Frankfurt, Germany; Rome, Italy; Tokyo, Japan; Casablanca, Morocco; Netherlands; Warsaw, Poland; Moscow Russia; Tunis, Tunisia; Ankara, Turkey; Abu Dhabi, UAE; London, England; Los Angeles, California; Southfield, Michigan; New York, New York; Sanaa, Yemen; Belgrade, Yugoslavia.

Iraqi Allied Services, England.

Iraqi Freight Services Limited, England.

Iraqi Reinsurance Company, 31–35 Frenchurch Street, London EC3M 3D.

Iraqi State Enterprise for Foodstuffs, P.O. Box 1308; Colombo 3, Sri Lanka; P.O. Box 2839, Calcutta 700.001 India.

Iraqi State Enterprise for Maritime Transport, Bremen, Germany; Amman, Jordan.

Iraqi Trade Center, Dubai, United Arab Emirates.

Jasim, Latif Nussayyif, Baghdad, Iraq.

Jon, Hana Paul, 19 Tudor House, Windsor Way, Brook Green, London.

Jume'an, George, P.O. Box 1318, Amman, Jordan.

Kadhum, Dr. Fadel Jawad, Alvaney Court, 250 Finchley Road, London, England.

Keencloud Limited, 11 Catherine Place, Westminster, London, England.

Koshaba, Robert Kambar, 15 Harefield Road, Maidenhead, Berkshire, England.

Matrix Churchill Corporation, 5903 Harper Road, Cleveland, Ohio 44139.

Meed International Limited, 3 Mandeville Place, London, England.

Mohamed, Abdul Kader Ibrahim, Jianguomenwai Diplomatic Housing Compound, Building 7–1 5th Floor, Apartment 4, Beijing, China.

Omran, Karim Dhaidad, Iraq.

Pandora Shipping Co. S.A., Honduras.

Petra Navigation & International Trading Co. Ltd., White Star Building, P.O. Box 8362, Amman, Jordan; Armoush Bldg., P.O. Box 485, Aqaba, Jordan; 18 Hude Sharawi Street, Cairo, Egypt; Hai Al Wahda Mahalat 906, 906 Zulak 50, House 14, Baghdad, Iraq.

Rafidain Bank, Baghdad, Iraq; Manama, Bahrain; Cairo, Egypt; Amman, Jordan; Aqaba, Jordan; Beirut, Lebanon; Abu Dhabi, UAE; London, England; Sanaa, Yemen.

Rajbrook Limited, England.

Raouf, Khalid Mohammed, Praça Pio X, 54–10º Andar, CEP 20091, Rio de Janeiro, Brazil.

Reynolds and Wilson, Ltd., 21 Victoria Road, Surbiton, Surrey KT6 4LK, England.

Ricks, Roy, 87 St. Mary's Frice, Benfleet, Essex, England.

Schmitt, Rogerio Eduardo, Praça Pio X, 54–10º Andar, CEP 20091, Rio de Janeiro, Brazil.

Sim, Gilberto F., Praça Pio X, 54–10º Andar, CEP 20091, Rio de Janeiro, Brazil.

S.M.I. Sewing Machines Italy S.P.A., Italy.

Souza, Francisco Antonio, Praça Pio X, 54–10º Andar, CEP 20091, Rio de Janeiro, Brazil.

Speckman, Janine, England.

Tall, Aktham, P.O. Box 1318, Amman, Jordan.

Taveira, A. Arnaldo G., Praca Pio X, 54–100 Andar, CEP 20091, Rio de Janeiro, Brazil.

T.D.G. (a.k.a. Technology Development Group), Centric House 390/391, Strand, London, England.

T.E.G. Limited, 3 Mandeville Place, London, England.

T.M.G. Engineering Limited, Castle Row, Horticultural Place, Chiswick, London.

TNK Fabrics Limited, England.

Trading & Marine Investments, San Lorenzo, Honduras.

U.I. International, England.

Whale Shipping Ltd., Government of Iraq, State Organization of Ports, Maqal, Basrah, Iraq.

Zahran, Yousuf, P.O. Box 1318, Amman, Jordan.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DANNEMEYER) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, on August 12.

Mr. WOLF, for 5 minutes, on August 12.

Mr. BROOMFIELD, for 60 minutes, on August 12.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. PEASE, for 5 minutes, today.

Mr. ANNUNIZO, for 5 minutes, today.

Ms. NORTON, for 60 minutes, today.

Mr. WISE, for 60 minutes each day, on August 11 and 12.

Ms. NORTON, for 60 minutes each day, on August 11 and 12.

Ms. DELAURO, for 60 minutes each day, on August 11 and 12.

Mr. OWENS of New York, for 60 minutes each day, on September 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, and 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DANNEMEYER) and to include extraneous matter:)

Mr. SCHIFF.

Mr. LEWIS of California.

Mr. BROOMFIELD.

Mr. ROHRABACHER.

Mr. MICHEL.

Mr. WELDON.

Mr. FRANKS of Connecticut.

Mr. GINGRICH.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. SISISKY.

Mr. SCHUMER.

Mr. FALEOMAVAEGA in five instances.

Mr. APPLEGATE.

Mr. KANJORSKI.

Mr. ECKART.

Mr. OBEY.

Mr. MAZZOLI in four instances.

Mr. EDWARDS of California.

Mr. DORGAN of North Dakota.

Mr. NEAL of Massachusetts.

Mr. REED.

Mr. CLEMENT.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1578. An act to recognize and grant a Federal Charter to the Military Order of World Wars; to the Committee on the Judiciary.

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 23 minutes p.m.) the House adjourned until tomorrow, Tuesday, August 11, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4075. A letter from Director, Office of Management and Budget, transmitting notification of the President's intent to exempt all military personnel accounts from sequester for fiscal year 1993, pursuant to Public Law 101-508, section 13101(c)(4) (104 Stat. 1388-589); to the Committee on Appropriations.

4076. A letter from the Under Secretary of Defense for Acquisition, transmitting certification, on behalf of the Secretary of Defense, that the current Future Years Defense Program fully funds the support costs associated with the GPS Navstar Satellite Program; to the Committee on Armed Services.

4077. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Greece (Transmittal No. 18-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

4078. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Roland Karl Kuchel, of Florida, to be Ambassador to the Republic of Haiti, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4079. A letter from the Comptroller General of the United States, transmitting a report presenting the results of the audit of the Army's principal statements for fiscal year 1991 (GAO/AFMD-92-83, August 1992); to the Committee on Government Operations.

4080. A letter from the Comptroller General of the United States, transmitting a report on the results of their review of the Department of the Army's financial management operations for fiscal year 1991 (GAO/AFMD-92-82, August 1992); to the Committee on Government Operations.

4081. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing the transfers of funds from State to Federal campaigns, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

4082. A letter from the Administrator, General Services Administration, transmitting informational copies of various lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4083. A letter from the Acting General Sales Manager, Foreign Agricultural Service, Department of Agriculture, transmitting an amendment to the Secretary of Agriculture's determination of the agriculture commodities and quantities thereof available for programming, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

4084. A letter from the Administrator, U.S. Agency for International Development, transmitting a draft of proposed legislation to amend the Foreign Service Act of 1980 to allow additional deductions by the Agency for International Development from the salaries of Inspector General Foreign Service criminal investigators for retirement purposes, to increase the mandatory retirement age of Foreign Service criminal investigators from 55 to 57 years of age and to include administratively uncontrollable overtime as basic pay in computing the annuity of a noncommissioned Foreign Service criminal investigator; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

4085. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries; jointly, to the Committees on Merchant Marine and Fisheries and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted August 7, 1992]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4731. A bill to require the Secretary of the Treasury to conduct a study and report to the Congress regarding the insurance industry in the United States; with an amendment (Rept. 102-666, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

[Submitted August 10, 1992]

Mr. ROE: Committee on Public Works and Transportation. H.R. 3360. A bill to amend the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety, and for other purposes; with an amendment (Rept. 102-509, Pt. 2). Ordered to be printed.

Mr. MILLER of California: Committee on Interior and Insular Affairs: H.R. 4404. A bill to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes; with amendments (Rept. 102-813, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee of Conference. Conference report on S. 5 (Rept. 102-816). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4178. A bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug; with an amendment (Rept. 102-817). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5483. A bill to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes; with an amendment (Rept. 102-818). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5021. A bill to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river; with an amendment (Rept. 102-819). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5061. A bill to establish Dry Tortugas National Park in the State of Florida; with an amendment (Rept. 102-820). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for a period of not more than 70 years. (Rept. 102-821). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5482. A bill to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes; with an amendment (Rept. 102-822). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3591. A bill to amend the Public Health Service Act to provide protections from legal liability for certain health care professionals providing services pursuant to such act; with an amendment (Rep. 102-823, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 4776. A bill to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations of appropriations (Rep. 102-824). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5688. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes; with an amendment (Rep. 102-825). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. S. 1216. An act to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state; with an amendment (Rep. 102-826). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. S. 1963. An act to amend section 992 of title 28, United States Code, to provide a member of the U.S. Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress (Report No. 102-827). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2832. A bill to amend Public Law 97-360; with an amendment (Rep. 102-828). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3036. A bill to direct the Secretary of Transportation to convey certain vessels to Assistance, International, Inc.; with amendments (Rept. 102-829). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5319. A bill to authorize the Secretary of Transportation to convey for scrapping by the National Maritime Museum Association a vessel in the National Defense Reserve Fleet that is scheduled to be scrapped; with an amendment (Rept. 102-830). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5763. A bill to provide equitable relief to producers of sugarcane subject to proportionate shares; with an amendment (Rept. 102-831). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5764. A bill to amend the U.S. Warehouse Act to provide for the use of electronic cotton warehouse receipts; with an amendment (Rept. 102-832). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5753. A bill to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; with an amendment (Report No. 102-833). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Submitted Aug. 7, 1992]

H.R. 3927. Referral to the Committee on Banking, Finance and Urban Affairs extended for a period ending not later than August 12, 1992.

H.R. 5008. The Committee on Armed Services discharged from further consideration of H.R. 5008. H.R. 5008 referred to the Committee of the Whole House on the State of the Union.

H.R. 5087. The Committee on Armed Services discharged from further consideration of H.R. 5087. H.R. 5087 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 5798. A bill to authorize payments to units of general local government for fiscal years 1992 and 1993; to the Committee on Government Operations.

By Mr. BOUCHER:

H.R. 5799. A bill to amend the act of March 3, 1863, incorporating the National Academy of Sciences, to authorize the Federal Government to indemnify the Academy against liability for certain pecuniary losses to third persons arising from reports prepared by the Academy; to the Committee on the Judiciary.

By Mr. PICKLE:

H.R. 5800. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. BOUCHER (for himself and Mr. BROWN):

H.R. 5801. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, with annexes, done at Madrid, October 4, 1991, and an additional annex done at Bonn, October 17, 1991, enact a prohibition against Antarctic mineral resource activities, amend the Antarctic Conservation Act of 1978, and repeal the Antarctic Protection Act of 1990; jointly, to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Interior and Insular Affairs.

By Mr. EDWARDS of California (for himself, Mr. EVANS, and Mr. NAGLE):

H.R. 5802. A bill to amend title 38, United States Code, to permit class actions in proceedings before the U.S. Court of Veterans Appeals; to the Committee on Veterans' Affairs.

H.R. 5803. A bill to amend title 38, United States Code, to make the Equal Access to Justice Act applicable to the U.S. Court of Veterans Appeals; to the Committee on Veterans' Affairs.

By Mr. EDWARDS of Oklahoma:

H.R. 5804. A bill to limit the number of years that a person may serve consecutively in certain congressional committee staff positions, in the Senior Executive Service, and in certain other executive branch positions; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. JOHNSON of South Dakota:

H.R. 5805. A bill to amend chapter 84 of title 5, United States Code, to provide that the basic annuity under the Federal Employees' Retirement System for a Member of Congress be computed using the formula generally applicable under such chapter for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. PALLONE:

H.R. 5806. A bill to extend the Gateway National Recreation Area Advisory Commission; to the Committee on Interior and Insular Affairs.

By Mr. SCHUMER:

H.R. 5807. A bill to impose criminal penalties upon the failure of a Federal firearms licensee to report to appropriate authorities the loss or theft of a firearm from the inventory or collection of the licensee; to the Committee on the Judiciary.

By Mr. THOMAS of California:

H.R. 5808. A bill to amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of certain civilians accompanying the Armed Forces outside the United States, and for other purposes; jointly, to the Committee on Armed Services and the Judiciary.

By Mrs. UNSOELD:

H.R. 5809. A bill to authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, WA; to the Committee on Merchant Marine and Fisheries.

By Mr. EDWARDS of Oklahoma:

H.J. Res. 537. Joint resolution proposing an amendment to the Constitution of the United States to limit the number of years that a person may serve consecutively in the Senate, in the House of Representatives, and in ambassadorships; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. HAMILTON, Mr. GILMAN, Mr. GEPHARDT, Mr. MICHEL, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. GEJDENSON, Mr. TORRICELLI, Mr. BERMAN, Mr. LEVINE of California, Mr. FEIGHAN, Mr. WEISS, Mr. ACKERMAN, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. MURPHY, Mr. KOSTMAYER, Mr. FOGLIETTA, Mr. MCCLOSKEY, Mr. SAWYER, Mr. PAYNE of New Jersey, Mr. ENGEL, Mr. LAGOMARSINO, Mr. GOODLING, Mr. LEACH, Mr. HYDE, Mr. BEREUTER, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Mr. HOUGHTON, Mr. GOSS, Ms. ROS-LEHTINEN, and Mr. MAZZOLI).

H. Con. Res. 355. Concurrent resolution concerning Israel's recent elections and the visit by Israeli Prime Minister Yitzhak Rabin to the United States; to the Committee on Foreign Affairs.

By Mr. JONES of North Carolina:

H. Res 548. Resolution to provide for the consideration of the Senate amendment to H.R. 2152; considered under suspension of the rules, and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

513. The SPEAKER presented a memorial of the Assembly of the State of California, relative to the protection of pension and health benefits; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. COUGHLIN introduced a bill (H.R. 5810) for the relief of Elham Ghandour Cicippio; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 75: Mrs. BENTLEY.

H.R. 446: Mr. RICHARDSON.

H.R. 608: Mr. ESPY, Mr. SOLOMON, Mr. REGULA, and Mr. ROTH.

H.R. 609: Mr. JOHNSON of South Dakota, Mr. WEISS, and Mr. JONTZ.

H.R. 856: Mr. FROST, Mr. WELDON, and Mr. TORRICELLI.

H.R. 918: Mr. GORDON.

H.R. 1300: Mr. MANTON.

H.R. 1310: Mr. BILBRAY, Mr. EMERSON, Mr. HAMMERSCHMIDT, Mr. LANCASTER, Mr. TORRES, Mr. PASTOR, and Mr. GONZALEZ.

H.R. 1311: Mr. HAYES of Illinois and Mr. SKEEN.

H.R. 1312: Mr. HAYES of Illinois, Mr. HOAGLAND, and Mr. SKEEN.

H.R. 1502: Mr. BORSKI.

H.R. 1692: Mr. HAYES of Illinois.

H.R. 2126: Mr. BLACKWELL and Mr. SCHUMER.

H.R. 2772: Mr. SMITH of New Jersey.

H.R. 3071: Mr. LANCASTER, Mr. BUNNING, and Mr. BARTON of Texas.

H.R. 3441: Mr. Schaefer, Mr. Livingston, and Mr. Geren of Texas.

H.R. 3780: Mr. Geren of Texas.

H.R. 3961: Mr. Gejdenson and Mr. Markey.

H.R. 3967: Ms. Ros-Lehtinen.

H.R. 4083: Mr. Markey.

H.R. 4182: Mr. Schaefer.

H.R. 4429: Mr. Wise and Mr. McCandless.

H.R. 4453: Mr. Bustamante, Mr. AuCoin, and Mr. Atkins.

H.R. 4806: Mr. Towns and Ms. Norton.

H.R. 4909: Mrs. Lowey of New York, Mr. Towns, Mr. Manton, and Mr. Sensenbrenner.

H.R. 4954: Mr. Frost.

H.R. 5003: Mr. Geren of Texas.

H.R. 5317: Ms. Kaptur and Mr. Parker.

H.R. 5323: Mr. Weldon.

H.R. 5360: Ms. Slaughter.

H.R. 5449: Mrs. Lowey of New York, Mr. Bacchus, and Mr. Lancaster.

H.R. 5513: Mr. Packard.

H.R. 5531: Mr. Pickle, Mr. Stenholm, and Mr. Lipinski.

H.R. 5542: Mr. English.

H.R. 5565: Mr. Towns, Mr. Owens of New York, Mr. Evans, Mr. Hughes, Mr. Kolbe, Mr. Kopetski, and Mr. Mineta.

H.R. 5591: Mr. Emerson, Mr. Porter, and Mr. Hobson.

H.R. 5703: Mr. Burton of Indiana, Mr. Schiff, and Mr. Hansen.

H.R. 5745: Mr. Darden and Mr. Ray.

H.J. Res. 399: Mr. Franks of Connecticut.

H.J. Res. 422: Mr. Lagomarsino and Mrs. Boxer.

H.J. Res. 478: Mr. Scheuer, Mr. Rahall, Mr. Peterson of Minnesota, Mr. Walsh, Mr. Berman, Mr. Visclosky, Mr. Weldon, Mr. McNulty, Mr. Rohrabacher, Mr. Porter, Mr. Traficant, Mr. Spence, Mr. Roth, Mr. Camp, Mr. Foglietta, Mr. Lipinski, and Mr. LaRocco.

H.J. Res. 484: Mr. Lancaster, Mr. Clinger, Mr. Payne of New Jersey, Mr. Synar, Ms. Slaughter, Mr. Early, Mrs. Kennelly, Mr. Emerson, Mrs. Johnson of Connecticut, Mr. Clement, Mr. Ford of Tennessee, Mr. Dingell, Mr. Kostmayer, Mrs. Lowey of New York, Mr. Young of Florida, and Mr. Engel.

H. Con. Res. 180: Mr. Richardson.

H. Con. Res. 210: Mr. Mineta.

H. Con. Res. 223: Mr. Hughes, Mr. McEwen, Mr. McHugh, Mr. Myers of Indiana, Mr. Payne of New Jersey, Mr. Richardson, and Mr. Spratt.

SENATE—*Monday, August 10, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Honour all people.—1 Peter 1:17.

Eternal God, infinite in all Your ways, help us in our Nation to recover the self-evident truth which inspired our Founders in framing the Constitution and the Bill of Rights. Awaken us to the infinite value of each person. We have become unthinking in our judgment of others. We have become stereotypic in our estimation of persons. We squeeze everyone into a category and label them as a stereotype; the image of which is a caricature. All politicians are the same. All lawyers. All doctors. All CEO's. All educators. All preachers. All conservatives. All liberals. And so on ad infinitum. We have forsaken discernment and become tragically indiscriminating. Forgive this mindless attitude. Grant us our forbears' wisdom in appreciating the equality of all and the glorious diversity of persons.

Deliver us gracious God from systems which contribute to this pernicious practice of pigeon-holing people. Endow us with reason in viewing each person according to individual worth and honoring each as God, in His infinite wisdom, has created each human as unique.

In the name of truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 10, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later in the day.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

There shall now be 15 minutes under the control of the Senator from Texas [Mr. BENTSEN].

TAIWAN'S MILITARY MODERNIZATION

Mr. BENTSEN. Mr. President, President Bush recently came to Texas, and he proclaimed that if there were a Clinton-Gore administration, thousands of defense workers would be laid off. It brought back a lot of memories. It brought back 1988 and the Presidential campaign then.

I can remember Chuck Yeager coming before the defense workers at General Dynamics and telling them, "if you vote for a Dukakis-Bentsen administration, thousands of defense workers, thousands in this plant will be laid off."

Well, I voted for a Dukakis-Bentsen administration and Chuck Yeager was absolutely right: Thousands of defense workers have been laid off.

I really found President Bush's statement ironic for two reasons.

First, the very day that George Bush arrived in Texas, General Dynamics announced a cut of 5,800 workers at its F-16 fighter aircraft manufacturing facility in Fort Worth—5,800 well-paid, good jobs.

Second, President Bush himself could have saved at least 3,000 of those jobs by reversing an out-of-date policy toward Taiwan.

Mr. President, the cold war's demise and subsequent disintegration of the Soviet Empire have made a substantial reduction in defense expenditures certain. We know that. And cuts in both defense spending and the defense industrial sector of our economy have been underway for some time. But the end of the cold war and the Soviet Union's exit from history also call for a reassessment of our China policy of the last 20 years.

Let us look at that policy. Beginning in 1972, and throughout most of the 1980's, mainland China was rightfully regarded as an essential geostrategic counterweight to expanding Soviet military power. We understood that. China was a checkmate.

The so-called China card, so brilliantly first played by the Nixon administration in the early 1970's, and subsequently reaffirmed by the Carter and Reagan administrations, contributed significantly to the Soviet Union's exhaustion and ultimate extinction. As long as growing Soviet military power threatened both United States and Chinese security, the two countries enjoyed a shared strategic interest in much the same way that the United States and Stalinist Russia did against Hitler in the 1940's.

For the United States, however, the price of this marriage of convenience to Beijing was acceptance of Beijing's demands vis-a-vis Taiwan; namely, that Beijing, and not Taipei, be recognized as the legitimate government of mainland and offshore China, and that the United States eventually end any military relationship with Taiwan, including the sale of armaments. Acceptance of these conditions, expressed in three major United States-Chinese communiques in 1972, 1978, and 1982, cost the United States virtually nothing strategically or commercially. Through the early 1980's, Taiwan remained a politically isolated, economically insignificant country, still ruled dictatorially by the aging leadership of the old Kuomintang.

Mr. President, a policy of coddling Communist China, while treating Taiwan as a pariah, might still make sense if the Soviet Union and its threatening military power were still around. But a world without the Soviet Union is a world in which Communist China's military strategic value to the United States is virtually nil unless we anticipate a rerun of Japanese militarism in East Asia. And we have seen, certainly, no indication of that.

There is no more reason now to accommodate Communist China than there was to continue to accommodate Saddam Hussein's Iraq once the Iran-Iraq war ended in 1988. Indeed, the administration's apparent conviction that we still require Beijing's good graces for one reason or another, and therefore that the United States should say or do nothing that might offend the last Communist empire on Earth, has become a source of embarrassment.

Let us remember, Mr. President, just who this crowd is in Beijing. This is the same crowd that butchered hundreds of prodemocracy students in Tiananmen Square in 1989; that tortures political prisoners; that employs slave labor to manufacture products exported to the United States and that proliferates nuclear and ballistic missile technologies in the Middle East.

Why does the administration welcome communism's demise in Eastern Europe and the old Soviet Union but continues to regard the morally bankrupt Government of Communist China as an indispensable friend?

Let us also recognize, Mr. President, that the Taiwan of today is not the Taiwan of yesteryear. Taiwan has engineered an economic miracle that has transformed that country of only 21 million people into the world's 13th largest trading state, and possessor of $80 billion in foreign exchange reserves. Though Taiwan's population is less than 2 percent that of mainland China, Taiwan has put together a GNP that represents as much as 40 percent of the GNP of mainland China. Politically, Taiwan has also abandoned authoritarianism for democratic institutions, in sharp contrast to Beijing's continuing totalitarianism.

Mr. President, you may well ask what all of this has to do with defense industry jobs back in Texas and the General Dynamics layoffs in Texas. Well, I will tell you. Each year, for the past decade, Taiwan has requested United States permission to buy from 60 to 150 F-16's as a means of modernizing its obsolete tactical fighter force. The request is militarily legitimate. Taiwan's Air Force continues to rely on the now hopelessly outclassed F-5 and F-104 aircraft technologies of the 1960's and this at a time when Communist China is rapidly modernizing its huge air force and they are buying, at bargain-basement prices, such Soviet state-of-the-art combat aircraft as the SU-27 and Mig-31.

Indeed, to those who claim that a sale of F-16's to Taiwan would upset the East Asian military balance, I would simply point out that that balance, if anything, is already being threatened by Communist China's rapacious military modernization and naval expansion into the western Pacific and especially the South China Sea. Even more ludicrous is the notion that Taiwan could or would pose an offensive military threat to China. The disparity in military power between the two countries is so great—consider, for example, China's 5,000 combat aircraft versus Taiwan's less than 500—that would make any Taiwanese military action against China an invitation to suicide. Maybe they have some of the old Kuomingtang warriors still left in Taiwan who dream about restoring themselves on the mainland. But that is a dream and nothing more than that.

But I would say this is the kind of a deal that we should be looking for. This is not the kind of a deal that South Korea was talking about where they wanted to do joint production. This is paying cash. This is helping an imbalance of trade. This is continuing good-paying jobs in this country.

The Taiwanese prefer the F-16 over any other military aircraft. It is a legitimate defensive need in the modernization of their air force.

During all of this time when they have been wanting to modernize, they have deferred it as they have tried to get agreement on the sale to their country by the United States, and get an affirmative answer.

The issue is who is going to modernize the Taiwanese Air Force? We know it is going to be done in a country sitting there with $80 billion in cash in surplus reserves, with an air force that is outnumbered 10 to 1 by their old adversary, but also a country who has listened to us say "Take a hike" each time they have approached us for trying to negotiate that kind of a purchase. So what have they done? They are now negotiating with France, serious negotiations with France.

France is proposing a sale to Taiwan of 120 Mirage 2000-5's valued at up to $7.2 billion. The sale would be part of a much larger Franco-Taiwanese deal involving the sale to Taiwan of French nuclear reactors and high-speed railroad equipment valued at an additional $18 billion.

I cannot help but remember the embargo in the Reagan years put on sales from Russia, which was trying to develop a natural gas pipeline coming to export gas directly from Russia into Europe, and how that embargo hurt Caterpillar because of the prohibition on exporting earth-moving equipment to Europe, to the Germans, and to the Russians. What did they do? They went over and bought that equipment in Japan, and Japan developed economies of scale in the production of that kind of equipment, and took much of that market away from us and have continued to hold it to this day.

I cannot help but remember the embargo on the sale of soybeans to Japan in the Nixon years. What did the Japanese do? They went down to Brazil. They spent over $1.5 billion putting in soybeans, buying land, leasing land, developing land.

Who is our biggest competitor in soybeans today? It is Brazil. We did it to ourselves. And here we are talking about doing it again in the defense industry.

It does not seem to bother the French. They are not concerned about possible retaliation from the Chinese. It seems to me that Paris has shown a lot more political guts than has Washington.

Mr. President, the time has come to place our relations with the aging group of totalitarians in Beijing on a purely pragmatic basis, on a self-interest basis, and to develop a new relationship with the new Taiwan. United States courtship of mainland China is no longer a militarily strategic imperative and in Taiwan major commercial opportunities now beckon us. We must learn to "just say no," at least once, to Beijing and to "just say yes," at least once, to Taiwan. What, after all, can Beijing do? Are they going to threaten to terminate its $20 billion-a-year trade surplus with us, they have with this country? Of course, they will not do that.

We still want to get along with Communist China, but on a pragmatic basis. Self-interest governs Beijing's policy toward us, just as it does France's new and intense interest in Taiwan.

I note that the Taiwan Relations Act of 1979, which was the Congress' response to the Carter administration's severance of diplomatic recognition of Taiwan, permits the United States to provide Taiwan sufficient arms for its own self-defense. I also note that the United States has already sold hundreds of F-16's to no fewer than 15 countries overseas, including the East Asian States of Indonesia, Singapore, Thailand, and South Korea.

Mr. President, a sale of F-16's to Taiwan would threaten nothing other than the administration's outdated and economically penalizing policies toward Communist China and democratic Taiwan.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. There will now be 30 minutes under the control of the Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, before I start my remarks this morning, I would like to compliment the chairman of the Finance Committee for what I think is a very important speech. I hope that all of our colleagues will read what he had to say, and I hope that they will read it down at the White House, because he is absolutely correct.

In my view, we would have better relations with the People's Republic of China if we treat our long and trusted allies in the Republic of China as the friends that they are and have been to this country, and out of that will come, as the chairman says, a pragmatic relationship based on trust and respect. And it can do nothing but to encourage our relationship with the People's Republic of China as well as with our friends on Taiwan.

I think he is exactly right. And I hope we do move forward. We should lift that. We should sell those F-16's to our friends in the Republic of China. And, frankly, my advice to them is if we will not do it, they should go buy them from the French.

Mr. BENTSEN. Will the Senator yield?

Mr. SYMMS. I am happy to yield.

Mr. BENTSEN. I thank my good friend for his very generous remarks. I think that is the pragmatic approach. I think that is the self-interest approach and that is what we should pursue particularly in the incredibly imbalanced trade we have.

I say to my friend from Idaho, who has been a good friend and a valued member of the Finance Committee, that he will be sorely missed in his decision to return to his home State.

Mr. SYMMS. I thank my colleague.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 3159 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

GOODBYE TO VINCE MURPHY

Mr. BINGAMAN. Mr. President, the August recess will soon be starting and during that period my staff and I will say goodbye to the director of State operations in my office, Vince Murphy.

Vince, has called our State his home since coming to our State to attend the College of Santa Fe. He fell in love with New Mexico, and with a wonderful woman, and stayed to make his home.

He has spent most of his adult life in public service, with continuing interest and involvement in education marking his career. When he came to work for us 8½ years ago, he left his job as director of the Oil Field Training Center in Roswell to jump enthusiastically into the maze that is the Senate.

It is a job that all Senators and most of their staffs can fully appreciate. A State director needs to know legislation, both national and local; politics, both national and local; and people, both national and local and be able to speak and act for a Senator on everything under the Sun. There is outreach to do, and there are fires to put out. All of this must be done with great skill, as well as a certain sense of timing and appropriateness.

Those of my colleagues who have had occasion to deal with Vince know how difficult a time I will have in finding a successor. He has done an outstanding job for me, my staff, and most of all, for the people of New Mexico. We are all in his debt, and wish him the very best as he leaves us at the end of this month for a position in the private sector.

THE PASSING OF FORMER SENATOR McINTYRE

Mr. BYRD. Mr. President, I was saddened on Sunday to learn of the death of a former colleague, Senator Thomas J. McIntyre from New Hampshire. According to the obituary in the Washington Post, Senator McIntyre had suffered from Alzheimer's disease and died of pneumonia.

A native of New Hampshire, Senator McIntyre was elected in 1962 to fill out the unexpired term of the late Senator Styles Bridges. That was the first time in 30 years that a Democrat had won a Senate seat from New Hampshire. Subsequently, Senator McIntyre was reelected by sizable majorities for full terms in 1966 and 1972.

In 1978, however, Senator McIntyre lost his bid for reelection.

A moderate, thoughtful man, Senator McIntyre was also a man of courage and conviction, and I know that I speak for all of our colleagues who served with him in the sixties and seventies in recalling the appreciation that I felt for his friendship and my admiration for his service as a Senator, a citizen, and a patriot.

Further, I know that I speak for all our colleagues in extending to Senator McIntyre's wife of 51 years, Myrtle Ann, our sympathy on her loss of a dear husband, and our sincere respect for Senator McIntyre's conduct as a Member of this institution during his tenure here.

Mr. President, I request that the obituary from Sunday's Washington Post be printed in the RECORD in honor of Senator McIntyre's passing.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 9, 1992]

T. McINTYRE DIES; SERVED IN SENATE

(By Richard Pearson)

Thomas J. McIntyre, 77, a New Hampshire Democrat who served in the Senate from November 1962 until January 1979, died of pneumonia Aug. 8 at a hospital in West Palm Beach, Fla. He had Alzheimer's disease.

He was elected to the Senate to fill the unexpired term of Sen. H. Styles Bridges (R), who had died in office. Sen. McIntyre won reelection in 1966 and 1972, then was defeated in a race for a third full term in 1978 by Republican Gordon J. Humphrey.

During his years in the Senate, Sen. McIntyre's committee assignments included Government Operations; Banking, Housing and Urban Affairs; and the District of Columbia committees. But he probably was best known for his service on the Armed Services Committee, where he was chairman of the research and development subcommittee and was regarded as a thoughtful, middle-of-the-road senator and a swing vote on crucial issues.

His election to the Senate marked the first time in 30 years that a New Hampshire Democrat had won election to the upper house. He won election with 54 percent of the vote in 1966 and 57 percent in 1972. His defeat six years later by Humphrey, a former commercial airline pilot who was regarded as a political neophyte and right-wing activist, was considered a major upset.

The race foreshadowed the upset defeats of incumbent Senate Democrats two years later and that party's loss of the Senate. Humphrey raised large sums of money, campaigned extensively on television and attacked Sen. McIntyre for his support of treaties transferring control of the Panama Canal to Panama. Humphrey also attacked Democrats in general, and "liberals" in particular. This seemed to hurt Sen. McIntyre despite the fact that he was regarded by many as one of the more conservative northern Democrats.

Sen. McIntyre, who had homes in Tequesta, Fla., and his native Laconia, N.H., was a 1937 graduate of Dartmouth College and a 1940 graduate of Boston University law school. He practiced law in Laconia before entering the Army during World War II.

During the war, he served in Europe in Gen. George S. Patton's 3rd Army and attained the rank of major. His decorations included the Combat Infantryman's Badge and the Bronze Star.

After the war, he returned to Laconia, where he practiced law and worked in real estate. He was mayor of Laconia from 1949 to 1951 and city solicitor in 1953. He was an unsuccessful candidate for the U.S. House of Representatives in 1954, losing a race with Republican Chester E. Merrow by less than 400 votes.

Survivors include his wife of 51 years, the former Myrtle Ann Clement, of Laconia and Tequesta; a daughter, Martha G. McIntyre of Gilford, N.H.; and a grandson.

DEFENSE TRANSITION

Mr. HATCH. Mr. President, I am pleased to join with Senators DODD, DOLE, RUDMAN, and PELL in supporting this effort to give our defense industries the opportunity to make a viable transition from reliance on domestic defense purchases to a mixed commercial and defense market footing.

This bill is the right way to help our defense firms and their workers and, I hasten to add, our allies.

First, DOD would be required to set up an Export Loan Guarantee Program funded at $63 million, which could yield $1 billion in sales.

Second, sales could only be made to the countries that are now our major customers and/or allies: NATO, Australia and New Zealand, Japan, and Israel.

Let me comment on each of these features of the bill.

One billion dollars of sales would create between 22,000 and 30,000 directly related jobs. Another 15,000 jobs would follow from indirect employment through subcontracting and ancilliary activities. An estimated $250 million of tax revenues would also follow. I want to add that no Export-Import Bank moneys are used, and the list of customers is clearly in keeping with our arms control policies.

This bill goes beyond that mere retraining of laid-off defense workers. It allows for continued work while the conversion to commercial operations and markets is underway. And its military arms features facilitate the takeover of military functions by NATO and other regional allies as the U.S. presence is reduced abroad. Providing U.S. equipment for this interoperability of equipment.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $4,003,544,666,897.24, as of the close of business on Thursday, August 6, 1992.

On a per capita basis, every man, woman, and child owes $15,586.55—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

NATIONAL DEFENSE AUTHORIZATION ACT

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of S. 3114, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Sasser/Bumpers/Jeffords modified amendment No. 2918, to reduce the amount provided for the Strategic Defense Initiative. (By 43 yeas to 49 nays (Vote No. 182), Senate earlier failed to table the amendment.)

(2) Bumpers modified amendment No. 2919 to amendment No. 2918, of a perfecting nature.

AMENDMENT NO. 1918, AS MODIFIED

AMENDMENT NO. 1919, AS MODIFIED

Mr. WARNER. Mr. President, parliamentary inquiry. What is the pending business within the bill that the chair has announced?

It is my understanding that it is the amendment offered by the Senator from Arkansas and the Senator from Tennessee, which was voted on in the nature of a motion to table. That motion having failed, that amendment, in the judgment of the Senator from Virginia, would be the pending business.

The ACTING PRESIDENT pro tempore. The tabling motion which failed is the pending amendment, and a second-degree amendment is pending thereto.

Mr. WARNER. Mr. President, I have been in consultation with the Republican leader and the distinguished chairman of the Armed Services Committee who, in turn, it is my understanding, has been in discussion with the Senators from Arkansas and Tennessee.

Speaking for our side of the aisle, it is absolutely essential that we have the opportunity to revisit, by way of a vote, the amendment that is the pending business, both the underlying and the second degree. The leadership will address that issue during the course of the day. I am confident that we will see the opportunity whereby the leadership of the Senate can determine a time which is mutually convenient to all.

Assuming that can be done, it is my hope that the Senator from Arkansas and the Senator from Tennessee would allow the distinguished chairman and myself to go forward with other matters—other amendments, to be specific—relating to this bill.

I see the chairman now approaching, Mr. President. I yield to the chairman.

Mr. NUNN. Mr. President, if I could get the attention of my colleagues. As I think most people who followed this debate recognize, what we have, procedurally, is an SDI amendment offered by the Senator from Tennessee and the Senator from Arkansas, which was the pending business and which has been subjected to a motion to table. The motion to table failed, therefore, indicating at this stage that the Senate is disposed toward that amendment.

That is the way I read it, and I think that vote was 49-43. The motion to table having failed, the amendment itself is pending. Procedurally, there would be a chance for reconsideration of that motion.

All of us know we have 3 days and 3 nights before we adjourn for the Republican convention. And all of us know that the majority leader and many others in the body are intending to bring up the tax bill. It makes no sense at all to me to see us sitting here for several hours today not coming to conclusions on that amendment and not having any other amendment considered.

So what I hope is that our colleagues on both sides will agree to getting a time certain to vote on the Sasser-Bumpers amendment on SDI up or down, which I think they are entitled to, a motion to table having failed. If we can get a time certain on that, as far as I am concerned, it could be 30 minutes from now or 20 minutes from now. But if that is not possible, if we can have a time certain this afternoon, or whenever both sides can agree, then I hope that both sides would agree that we would move on to other amendments.

If we can move on to other amendments, there is a real chance we can debate several amendments today and dispose of them, including the B-2 amendment, and including the amendment relating to abortion. There is an abortion provision relating to access to foreign hospitals by military personnel in the bill, and I understand the Senator from Indiana [Mr. COATS] will have an amendment relating to that subject.

We also have an amendment sponsored by the Senators from Florida [Mr. MACK and Mr. GRAHAM] on Cuban democracy. It is my understanding that they have had a discussion on that one with the Senator from Connecticut, and although there is not agreement on the amendment, there is an agreement to have some framework for debate. If that is not the right understanding, I would like to be informed. There is a possibility that amendment might come up now.

It is my hope that if we set this amendment aside temporarily and have a time certain to vote on the pending amendment, we can move to the Cuban democracy amendment, or the abortion amendment, provided they have a framework and a time limit. I see no need whatsoever to set aside this amendment, which is causing delay and get another amendment up which is also going to cause delay.

As far as I am concerned, if we have nothing but delay and cannot move amendments forward, we might as well stay right where we are now. Understanding that, it is my recommendation to the leader that if we are not going to make progress, we move to the tax bill. I would not recommend to the leader that we stay on this bill several hours today with no hope of progress. I would much prefer to move to the tax bill and let people address this bill in the next 2 days, or address it in September.

Mr. MACK. If the chairman will yield, I have discussed this matter with my colleagues on Friday evening and with my staff this morning. I am under the impression that there has been a general agreement between Senator GRAHAM and Senator DODD to limit debate on the Cuban democracy amendment to an hour and a half.

Mr. NUNN. Total hour and a half?

Mr. MACK. Total hour and a half. At that time, I think acceptance of that time agreement was pending on your part. I have not had an opportunity to speak with Senator DODD or Senator GRAHAM this morning. I am hopeful that within a few minutes we can come to some conclusion on that and be prepared to offer the amendment.

Mr. NUNN. Mr. President, I say to the Senator from Florida, that is very encouraging. I certainly recommend we accept whatever time agreement the Senators from Florida and Connecticut can agree to. That would get us off to a good start, if we can get the parties to set aside the pending amendment and move to that one. With the pending amendment recurring as the pending business once that was disposed of, then that would give us some progress and, I think, justify staying on the bill.

It is not my wish to get off the bill, but it is certainly not my wish in the 3 days remaining to stay on the bill that is bogged down because of one amendment at the expense of the Senate considering other important business. If we do not get back on this bill until September, who knows what is going to happen in August. But my experience is a lot of things happen in August around the world, and I think a lot of moods change and a lot of minds shift. It seems to me that all parties would be better off dealing with the bill now. Certainly we would.

If anyone believes we are going to get through in early October for the election, which I think everybody wants to do, but come back for an authorization bill with no time limits in September and move everything else in September, I think they have not thought through it.

So it would be my hope that we would make some progress, and I ask the Senator from Florida if he would check on that and let us know. At this stage I could not tell him that we are ready to move to the amendment, but I can tell him if he can get that kind of time agreement it would be my strong recommendation that the current amendment be set aside with a time certain to vote on it followed immediately by this amendment coming up. That would be, I think, some progress.

Mr. President, unless there are other questions, I yield the floor.

Mr. WARNER. Mr. President, I see the presence of our colleagues from Arkansas and Tennessee. Do they wish to pose a question?

Mr. SASSER. Mr. President, last Friday we voted on a motion that would table the Sasser amendment to reduce SDI funding in the bill to $3.3 billion. That motion to table failed. It failed by the margin of 43 to 49, as the distinguished chairman recounted just a moment ago.

Frankly, in this circumstance, the typical order of business when the will of the body has been so clearly expressed would be to move to the underlying question and vote on it up or down. In fact, quite often and frequently that is done by voice vote. And certainly that could be done here.

I am aware that this is a contentious issue and it is a significant issue, and I suspect there were efforts made all during the weekend to persuade Senators perhaps to change their votes or change their minds, from the way they voted Friday.

Now, we have had a vote to table the underlying Sasser amendment, and that is going to be the issue we have to resolve before we can move ahead to other matters related to the bill. We have debated this at considerable length. We debated it 4 hours Friday. There were no intervening quorum calls at that time.

The distinguished minority leader indicated Friday that we had enough debate on this issue, that enough had been said about it, and we needed to go ahead and dispose of it.

Frankly, Mr. President, that would be my view here this morning, that we ought to go ahead and dispose of the underlying Sasser amendment and then move on in the logical order to take up other amendments on this bill.

Mr. WARNER. Mr. President, if I could reply to my distinguished friend, eight of our colleagues, because of the lateness of the hour, were simply not able to vote. And it so happens there were four on each side of the aisle. So in fairness to them, and given the premise that the Senator addressed to the Senate, this is the second important vote, they would want to be recorded on this issue. So let us talk in terms of fairness of eight colleagues who, for various reasons, were not able to be in attendance at the late hour on Friday. That, to me, is sufficient reason alone to think that a vote should recur on the motion to reconsider.

So, I am perfectly willing, and I think the chairman suggests this is a leadership decision—only the chairman and I can make suggestions to our leaders that it would be a up-or down vote. But, again, that is a leadership decision. So I would suggest that we acknowledge that Senators are waiting to go forward with amendments and, in the spirit of cooperation, recognizing the leadership has to make an estimate of the time when all Senators could be present, let us go forward with amendments, recognizing that this amendment will be the pending business, it would recur at the conclusion of debate or other resolution of the amendments which intervene.

So in the spirit of fairness to the eight absentees, why do not we try to move forward on this bill and make some progress?

Mr. President, I yield for a question from the Senator from Arkansas.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. BUMPERS. Mr. President, the Senator from Virginia makes an interesting point. But my question would be this. He points out that a number of Senators would not be here to vote on this, and it is obviously a very important issue.

But if we were to agree to set this amendment aside, the distinguished chairman of the committee tells me that he would like to go to B-2 and abortion. Those are not inconsequential amendments either. I would assume anybody absent would also like to be here, too, and vote on those. What is the difference?

Mr. WARNER. Mr. President, I agree with the distinguished Senator. Again, the leadership will determine what time today we would vote on such issues as that, or perhaps even tomorrow. I am not going to be presumptuous enough to suggest to either of my colleagues what time the vote occur. But the chairman of the committee said we are prepared now with two amendments to go forward and have them fully debated in accordance with the practice here, stacking those votes at a time when Senators can be present.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I have always done my very best, certainly, to accommodate the majority leader and, to the extent it was consistent, also accommodate the minority leader. But I must say there is also a little underlying thing here that troubles me and that is that it seems to me this is a fairly volatile subject, I guess, but it seems to me that when we win one over here, suddenly the place is going to be brought to a halt, and if other people win, then the Lord's purpose has been served and we move onto something else.

This is not something that the Senator from Tennessee and I just conjured up overnight. This is a very important issue. I do not want to revisit the entire debate, unless we stay on the bill and we will start debating it again. But if you consider the fact that when we go to conference with the House and split the difference on my and the amendment of the Senator from Tennessee and what the House has in their bill you are talking about a 21-percent increase for SDI over 1990. And a lot of people in Government are not getting a 21-percent increase.

In addition to that, when you look at some of the things that Senator PRYOR is going to point out here in an amendment subsequent to this, you are going to find that SDIO is not the most efficiently organized and run organization in Washington, either.

I make those points—and I know a lot of arms are going to be twisted between now and the time we vote on this. That is fair game. I have no problem with that. I just want to make sure that we do not agree to something that is going to jeopardize our ability to keep this amendment. The Senator from Tennessee and I have talked about this two or three times, as I say.

Mr. WARNER. Mr. President, I am perfectly willing to be joined by the chairman to guarantee that it will be the recurring business each time an amendment is concluded either in terms of debate or the statement of a time to vote on a particular amendment. Let us be absolutely candid with one another. The Senator is in the driver's seat as it relates to this amendment. Let us continue to make progress on this bill, recognizing every right the Senator has preserved, because it will be the recurring amendment. And let us also recognize that you could not have a vote now if you wanted it, and the Senator knows the reason why. Given the practicalities of the situation, the way the Senate operates, let us get underway and have this pending business and lay it aside.

Mr. SASSER. Mr. President, I am not convinced that we could not go forward with a vote at the present time. Indeed, this amendment could be accepted by voice vote. I do not wish to be uncooperative with my good friend from Virginia and the distinguished chairman of the committee, but we have had a vote on this particular matter and this vote that we had Friday is a culmination of a whole series of votes over the years that we have had on this particular issue.

The Senate, I thought, spoke its will clearly on Friday, and my able friend from Virginia concedes that of the eight Senators who were absent, they would be split down the middle on how they would have voted on this particular issue.

Mr. WARNER. Mr. President, I did not concede that. I simply recognized eight were absent, four for each side of the aisle. For the record one or two on the Democratic side have voted on the proposition that I and others advocate.

Mr. SASSER. Mr. President, however you slice it, I do not think the outcome would be changed if all Senators who were absent had been present and voting on Friday. As a matter of fact, I think we all know, through no fault of their own, there are going to be some Senators who cannot be present to vote today, tomorrow, or the next day, because of illness or some other pressing business.

So, if you want to move forward on this bill, and certainly I do not want to be an obstructionist on it, but if we want to move forward on this bill it appears to me that the quickest way to do it is either have an up-or-down vote on the Sasser amendment or accept it by voice vote and move on to deal with the rest of the bill.

The Senate, it appears to me, has spoken on this issue and any delay here—let us be clear about it—any delay here is going to be time used in an effort to try to change the result. And I have no fault with those who wish to do that.

But, as my able friend from Virginia said, we are in the driver's seat at this juncture. Senator BUMPERS and I have worked hard to get in the driver's seat, at least on a temporary basis here. We do not intend to voluntarily relinquish that driver's seat. We may be pushed out of the driver's seat, but we are going to stay in it here until we can get, I think, a satisfactory solution of our amendment.

Now, I would be pleased to sit down and try to work something out here with the distinguished ranking member, the chairman, the majority leader and the minority leader. But I want to be absolutely sure that all of our rights are protected here and the amendment that we succeeded with on Friday is not wallowed around here until it picks up so much hair on it that it become inconsequential and Senators' minds can be changed.

We all know what happens when you have a whole series of votes and we all know what happens when you stack votes. And I, frankly, think that if we want to move this matter forward, the way to do it, I say to my friend from Virginia, is to simply have an up or down vote on our amendment or let us just accept it by voice vote and move on. And then we can cut some hay while the sun shines.

Mr. WARNER. I can quickly respond to my friend.

A voice vote on a matter of this consequence is not in the interest of the U.S. Senate. Second, the time at which the Senate votes, out of custom, is left to the majority and minority leaders. You know the disposition of both of those Senators as of the moment we speak. The Senator is in the driver's seat, I acknowledge that. Painfully, I acknowledge it. Do you want to drive this bill into the ditch or do you want to allow us, in an orderly way, to proceed?

For that purpose, I ask unanimous consent that the present amendment be laid aside without prejudicing the rights of the proponents of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. I object.

Mr. President, I ask unanimous consent that the pending BUMPERS second-degree amendment be withdrawn and the Senate proceed, without intervening action, to vote on the Sasser-Bumpers first degree amendment.

Mr. WARNER. Mr. President, I object.

Mr. President, I suggest the absence of a quorum.

Mr. NUNN. Will the Senator withhold that?

Mr. WARNER. Yes.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I have just been informed by the Senator from Colorado [Mr. WIRTH] that there has been an understanding between the Senator from Colorado and the Senator from Indiana [Mr. COATS] on a motion to strike the abortion provision in the bill and they would be glad to have a time agreement of 1 hour. I have asked them to write that out.

So I wanted to inform my colleagues if we did set aside this amendment, we could complete the debate on one amendment, the abortion amendment, within an hour, an hour and 15 minutes, and we could come right back to this amendment and nothing would be lost.

So I hope that we could at least consider doing them one at a time so that Senators would know, and they would be protected in the sense that they would be only undertaking the unanimous consent in that respect and we would revert right back to their amendment after that. That is not the same as just setting it aside.

I have asked the Senator from Colorado and the Senator from Indiana to put that in writing so we would have a unanimous consent to be propounded, but that is the nature of the unanimous consent if it is propounded, and I ask the Senator from Tennessee and Senator from Arkansas and the Senator from Virginia to at least contemplate that.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. NUNN. Yes.

Mr. BUMPERS. Does the Senator know that that would be agreed to on the other side of the aisle?

Mr. NUNN. I have been told that he has an understanding with the Senator from Indiana, who is the person who would be proposing the motion to strike.

What we have in the bill is a provision, sponsored by Senator from Colorado, giving overseas uniformed military members and their dependents the right to have an abortion in military facilities on a reimbursable basis where there is no other facility available in that country. That would be the subject of a motion to strike by the Senator from Indiana, to take the provision out. It is my understanding it would be agreed to on both sides and there would be 1-hour time limit, equally divided.

I am not propounding that now. I am simply discussing it and serving notice.

Mr. WARNER. Mr. President, in response to the question, that is the request in line with what I have been endeavoring to do this morning. Therefore, I would recommend it to my leader, if I can check with him momentarily.

But I draw to the attention of the Senate that the unanimous-consent request would have to be adjusted so as to allow flexibility of the respective leaders to determine if a vote would occur in 1 hour from now.

Mr. NUNN. I understand. I would have to check with Senator MITCHELL on that also.

I yield to the Senator from Maine.

Mr. COHEN. Let me indicate to the Senator from Georgia that I am prepared, some time during this morning or early afternoon, to move forward on my amendment dealing with nuclear testing. I think we could have a reasonably short debate, given the extensive time we had on that debate last week. So any time that the moment presents itself, I am prepared to move forward.

Mr. DECONCINI. Will the Senator yield?

Mr. NUNN. I will in just a minute.

It would be helpful if the Senator from Maine could check with the Senator from Oregon [Mr. HATFIELD] and maybe check with Senator MITCHELL's office to determine if there would be any objection to entering into some kind of a time agreement on that debate also.

I yield to the Senator from Arizona.

Mr. DECONCINI. I want to tell the Senator from Georgia that I regret to have to inform him, but after Friday, working about 12 hours with a number of Senators on both sides of the aisle regarding the resolution on Bosnia-Hercegovina, we have not been able to reach a time agreement nor have we finally reached the language.

So I am prepared to go after this amendment and intend to do anything I can today to get this amendment before the floor. It is not my interest to debate it forever. I would enter into any time agreement, 1 hour, 2 hours to a side and to permit it to be amended. It does not have to be just the amendment I will offer, presumably, with the Senator from Connecticut. I feel very strongly today is the last day we really have to debate this issue, amend it, and do whatever we want to do with it.

I hate to spoil the Senator's plan today for the Senator from Tennessee. I support the position of the Senator from Tennessee to go on and get a vote on this. And that is what, to me, is the best interest, to move this thing instead of having to lay it aside.

Mr. WARNER. Mr. President, if I could ask the Senator from Arizona a question. Obviously, this amendment has been the subject of a lot of attention on both sides. I originally objected to the 1-hour time agreement, I believe on Thursday, feeling that the Senate needed more time.

I would hope circumstances would permit that I, at some point, could join the distinguished Senator from Arizona, because this is an important signal the Senate would be sending.

But I wonder if he would not revisit the decision that it has to be today for the following reason: Tomorrow the Senate Armed Services Committee will have two panels of witnesses who are recognized experts worldwide. Indeed, one of the witnesses is General McKenzie, who has most recently commanded the U.N. forces in that area.

This would enable the Senate, I think, to make a better judgment as to the complexity of this situation. All of us agree, President Bush time and time again this weekend expressed the complexity of the situation. I would feel better if the Senate was given the opportunity to become fully informed on this measure, at least better informed, and that perhaps that vote could take place tomorrow after the hearing. I presume the chairman and I would then be able to acquaint the Senate with the findings—not necessarily the findings, but the evidence that is brought forth.

Mr. DECONCINI addressed the Chair.

Mr. NUNN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. Mr. President, I will be glad to yield.

Mr. DECONCINI. I thank the Senator from Georgia.

Let me tell the Senator from Virginia, I appreciate that offer. There are two concerns.

One is the United Nations may move today, the Security Council of the United Nations may move today on something. I would like to do what I could to see that this body at least had a chance to debate it, hopefully to vote on some resolution.

But notwithstanding that, understanding the position of the Armed Services Committee and the sincerity of the Senator from Virginia wanting to know more about it—if in fact we got a time certain to vote tomorrow, I would certainly consider that. And the time—I guess it would also have to have a time certain for debate on our two—what have you. But not being able to get that, and I know of no other way to confront this issue, and I regret having to do that, I see no other way but attempting to find some pressure point this morning or today or tonight that we could at least get some debate on this.

If somebody wants to filibuster, we can catch on real quick. It is not my interest that we spend days on it because it defeats the purpose of the resolution.

Mr. NUNN. Mr. President, can I say to my friend from Arizona: He has been patient, he has been understanding, he was anxious to get his vote on Friday and we were not able to do that. It would be my hope that the parties on this could have a meeting off the floor, could sit down and frame some kind of time agreement on the debate, a time certain to vote—perhaps tomorrow, as the Senator from Virginia has expressed, with the right of 1 second-degree amendment.

If we could do that, you would have a time certain, you would have absolute knowledge that the parties who do not agree with the wording as it now stands on the amendment would have a right to vote on that with a limited time on the second-degree amendment and with a limited time on the amendment of the Senator from Arizona, and then we could move forward.

I would say to the Senator from Arizona I understand the desire for a pressure point. The curious thing is I am not sure whose pressure is being pushed here, in terms of an objection on the motion to set aside this amendment. Because as long as this amendment is pending the Senator from Arizona cannot get his amendment, and as long as this amendment is pending it is very likely we are not going to have any time agreement at all.

But I would say in comforting my friend from Arizona, he is in no way disrupting a well-laid plan that we have all laid out here. We do not have a plan. There is no plan agreed to. So he can comfort himself with the assurance he is not disrupting anything that would otherwise be smooth.

Mr. DECONCINI. Will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. DECONCINI. I just want to respond to the Senator. The Senator was very helpful Friday. He did everything he could to attempt to facilitate and adopt some consideration from the Senator from Virginia and the majority leader and six or seven Senators here, ranging from myself to experts in foreign policy.

Quite frankly, everybody thought every moment around the next turn we were going to find something we could agree on. We cannot. I think that is clear, although I am never adverse and I never say never to sitting down off the floor, or on the floor, and talking about it again.

My concern is that if you proceed with the amendment of the Senator from Tennessee, that is well and good, that is what I would like to do. If you are going to set it aside, I want to be part of any setting aside. I do not say I would not agree to an abortion amendment or something but I would like to be part of that because I may be able to build in some time for the amendment of the Senator from Arizona. I thank the Senator for his consideration.

Mr. NUNN. I understand the position of the Senator. I have not propounded that unanimous-consent agreement. We are just simply discussing it. But I would say to the Senator, if he has concluded, there is not going to be an agreement on the substance. What I suggest is there be an agreement to vote on his resolution and on a second-degree. Then the body, the Senate, would be able to reflect its will on both of those—if you can get a time agreement. I do not know what can be more fair to both sides.

Mr. DECONCINI. I have no problem today. Friday I did, but today I have no problem, although I expressed that Friday also, and I believe at the point in the day I was exasperated, I have no problem having it amended. It was my hope to have a vote on everything I could agree to, or Lieberman-Dole, or anybody else who gets on it, and I am prepared to let anybody offer an amendment. What I want to do is get a resolution before this body, have some debate on it, let somebody second-degree it, water it down or toughen it up, and then have a vote on it. That is my interest.

Mr. NUNN. Perhaps the Senators from Arizona and Virginia could have discussion on that and then have some sort of framework on this matter.

Mr. WARNER. I very much appreciate the willingness to consider the importance of allowing the Senator to become better informed as a consequence of a very important hearing tomorrow morning. I then urge we focus on perhaps a specified time tomorrow afternoon, subject to other business of the Senate, at which time we would have a time agreement, get the amendment up, it would be subject to such other amendments and brought forward, and we have action here in this body.

Mr. DECONCINI. Let me say to the Senator, I am prepared today to accept a unanimous-consent agreement that we would vote on this resolution, the Lieberman-DeConcini resolution, and there would be permitted to be a second-degree amendment before we voted on it. And to vote on it at 2 o'clock tomorrow afternoon or 4 o'clock tomorrow afternoon. I am prepared to do this today as reluctant as I am with the Security Council meeting today because I think it so important we do that. So I am willing to go that far, even put it off another day. But I am not willing to stay around here all day and take up a lot of other amendments when this amendment cannot be considered or a time set tomorrow.

Mr. WARNER. Mr. President, we will work this out. But I would have to say in fairness I would not allow it to be voted on today. I want to make certain this body has the opportunity to be fully informed about the complexity of any military operations that could become involved as a consequence of our resolution, the U.N. resolution, or whatever may take place.

I want to see the American people have as full a story as they can.

Mr. DECONCINI. If the Senator will yield?

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. WARNER. That objection would be withdrawn the moment the Armed Services Committee has concluded.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. I yield.

Mr. DECONCINI. I just want to say if the Senator from Virginia is going to dig in his heels, we will not vote on it today, then the Senator from Arizona is put in a very difficult position. I hope he understands, and he will have to do whatever he can to attempt to get it up today or an agreement for tomorrow. I do not like doing that because I understand the interest of the Senator from Georgia in moving this bill, but I am stymied. I do not know where to go. I cannot get anybody who wants to talk about a time agreement or time certain. If the Senator from Virginia can facilitate that, I know the Senator from Georgia already attempted to do that most of the day Friday. But I am in a difficult position now, wanting to get some debate and vote and I want to do it today. I am willing to extend it to tomorrow under some time certain that we would vote on it. I will not bother the Senator anymore.

Mr. WARNER. I will work with the Senator to accommodate him.

Mr. NUNN. Mr. President, let me say to the Senate right now, forgetting the broader scope of things and world events and even the next 4 hours and even the next 12 hours; just getting down to the next 1 hour which is about the scope of our capacity here, I think at the moment, could we agree that for the next 1 hour instead of having a quorum call for an hour we would have an abortion amendment for an hour with the status quo reverting exactly where we are now, everybody would have the same rights they have right now? We would be setting aside one amendment, pending amendment, 1 hour for a limited purpose, abortion amendment, motion to strike; there would be a time agreement. It seems to me our choice is narrow. We can do nothing for an hour or we can do something for an hour.

That is not going to solve the bigger problem. This is not a major dose of medicine but it is a minor prescription for taking care of at least the next hour.

Would that be agreeable?

Several Senators addressed the Chair.

Mr. WARNER. If I might address the chairman?

Mr. NUNN. I yield to the Senator from Virginia.

Mr. WARNER. We are not entirely sure the Senator on this side who would be active on that debate is ready at this moment. I suggest to the Senator from Georgia we have a brief quorum call within which time we ascertain precisely when Senators on both sides are ready to address this issue, and precisely draw up a unanimous-consent request which protects the rights of the Senators from Arkansas and Tennessee and, indeed, begins to accommodate the important interests of the Senator from Arizona.

Mr. NUNN. I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I believe there is a pending unanimous-consent request, is there not?

Mr. NUNN. I believe that was objected to.

The PRESIDING OFFICER. There was no formal request, the Chair would state to the Senator from Tennessee, at the moment.

Mr. WARNER. Mr. President, under those circumstances, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. I believe I still have the floor. Does the Senator from Tennessee desire I yield further?

Mr. SASSER. No. Just let me say to my friend from Georgia that I would not be agreeable to setting aside the pending amendment in order to take up a subsequent amendment on the armed services bill, with no time certain having been set for a vote on the Sasser-Bumpers amendment.

I understand the majority leader is here at the present time and it might be the better part of valor to secure his counsel on this issue as to how to proceed. As I understand my friend from Arizona, he has now lodged an objection to setting aside the pending amendment, if I am correct.

Mr. DECONCINI. That is correct.

Mr. SASSER. Mr. President, it appears to me we are at an impasse. We can either move forward on the pending Sasser-Bumpers amendment or we are at a loss for business to take up.

Mr. NUNN. Mr. President, I will try one more effort in order not to simply waste the Senate's time for the next hour because that is apparently where we are heading.

The Senator from Arkansas [Mr. PRYOR] has an amendment relating to SDI. Without setting aside the amendment of the Senator from Tennessee, would it be agreeable to have the Senator from Arkansas come over and at least debate another amendment, or do we want to simply waste the next hour in an effort to preserve everybody's perfect rights?

The problem is right now everybody wants the pressure point but there is nobody being pressured. Leverage only works if you have a leveragee. And there is no leveragee except the Senate itself in terms of moving.

The Senator from Virginia has made it clear that there is going to be no vote on the amendment of the Senator from Tennessee. The Senator from Arizona understands full well there can be no vote on the resolution of the Senator from Arizona until this amendment is disposed of. We can take care of no other business until this business is disposed of.

So here we are. We can put in a quorum call or we can make speeches we made last week in case somebody out there in the United States has not heard them.

Mr. WARNER. Mr. President, we are ready on this side to go forward with the abortion amendment as of now. If the Senator so desires to have a stipulated period of time within which that amendment should be debated and then consultation with the leaders as to what time there will be a vote.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold for just a moment?

Mr. NUNN. Yes.

Mr. BUMPERS. Mr. President, I just make this observation to my good friend from Virginia. It would be this: If we were to vote on the Sasser-Bumpers amendment and we prevailed, that amendment is still open.

My amendment, for example, is a second-degree amendment to the Sasser amendment. If we vote on it and we prevail, that amendment is still open to amendment, and even if you set Bumpers-Sasser aside, you have all the time in the world to offer all kinds of amendments to try to dilute the effectiveness of it. But you do not have to be a rocket scientist to understand that if we start setting our amendment aside and you start doing the bill, the first thing you know is we come to the conclusion of the bill and the Sasser-Bumpers amendment is still out there and then the filibuster starts.

We do not have 60 votes to kill a filibuster. Then the pressure placed on the Senator from Tennessee and the Senator from Arkansas in almost irresistible. You either drop this whole thing or we have a continuing resolution, which is a sorry resolution.

So my whole point is, and the point the Senator from Tennessee and I have been making all morning is, we won this one fair and square. Under the Senate rules, we took a vote and the motion to table our amendment was defeated by a six-vote majority. There may be enough pressure on that side, you may get enough arms twisted out of their sockets, to reverse that. That is your prerogative.

But what we would like to see is a vote on our amendment, do it right now, and as I say, if we prevail, it is not the end of the world. You can offer all kinds of amendments to try to undo it. But I do not understand the hesitancy in voting on it, that is what the Senate is supposed to be doing: Voting to pass or defeat.

Mr. WARNER. Mr. President, I may not be a rocket scientist but I have climbed a few rocks and I know when you fall down, it is difficult to get back up and start again. We will not on this side be able to vote on the SDI amendment at this time, plain and simple.

Mr. DECONCINI. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. DECONCINI. Will the Senator yield?

Mr. NUNN. I will yield to the Senator.

Mr. DECONCINI. Do I interpret the position of the Senator from Virginia that we will not vote today on the Sasser-Bumpers amendment?

Mr. WARNER. Mr. President, that is the decision the leadership has to make as to when this institution will vote on that, but it is my understanding that most Senators can be accommodated with this important vote if it were to take place tomorrow sometime.

Mr. DECONCINI. Mr. President, if I still have the floor, talk about pressure points, and I am taking nothing away from what I said about pressure points. Here we have the Republican side of the aisle refusing to go ahead on a pending amendment and have a vote. Talk about shutting down this place—there is no reason that the Senator from Tennessee ought to not proceed. It is not like we are waiting for a hearing to be held in the Armed Services Committee on SDI, or there is some committee that is worried about jurisdiction. We have had all the hearings. We have had all the debate, and they won the first vote. And now the other side of the aisle says, hey, we are not going to go ahead.

The Senator from Georgia is stuck. The distinguished chairman has to try to find somebody to lay over the amendment, and the pressure is on these people. The pressure should be over there. That is what this is getting down to. There is not even a legitimate argument that we should not vote on the amendment of the Senator from Tennessee today.

On mine, though, I disagree with the argument, at least there are planned hearings on the Bosnia-Hercegovina problem. Somebody has to call it like it is, as difficult as it is, I say to my distinguished friend from Virginia. He knows how much I respect his judgment and some of that is not his doing, I suspect.

But to indicate to us that we are just not going to vote on this is really foolish. I only suggest to the Senator from Georgia, maybe we better put this whole thing aside and go to the tax bill or an appropriations bill and see what we can do because it appears to me, as long as the Republican side is saying we are just not going to vote on the pending amendment—talk about a pressure point, there it is.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I want everybody to know that I would like to get this bill passed, but I understand we will be back here in September. It is fine with me if we come back and spend a week or 10 days on it. I just hope everybody understands when we get around to the first of October, when the majority leader is under great pressure from us to go home, people will understand and look back to August. This is when we decide to get out of here. If you want to spend 10 days in September, that is fine.

I agree with the Senator from Arizona, I see no need to stay on this bill today or tomorrow if we are not going to do some business. If we are not going to have votes and if we are not going to have amendments disposed of, we are making no progress at all.

In a few minutes, when I meet the with the majority leader, it will be my recommendation that unless something changes that we go on the tax bill and we understand this bill is drawn down until the majority leader decides to bring it back. I hope he will not do that until we seem to have more cooperation on both sides than we do not.

Let me just suggest again, without looking forward to September, a week 10 days or 10 hours, that the Senator from Arkansas [Mr. PRYOR] is on the floor. He has an amendment on SDI, the very subject we are talking about.

While under the present situation it could not be the pending business because the present amendment has not been disposed of, perhaps we could begin the debate on the amendment of the Senator from Arkansas [Mr. PRYOR] and at least go ahead and begin that debate which is going to occur at some point during the course of this anyway. We, therefore, would not be wasting time. It seems to me that would be the only suggestion I have at this point.

Mr. President, I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I want it to be crystal clear that the Senator from Tennessee and the Senator from Arkansas are not delaying the forward progress of this bill. We have stated this morning that we are ready to go to a rollcall vote, up or down, on the Sasser-Bumpers amendment that was adopted by a convincing margin Friday, at least the motion to table failed by a convincing margin on Friday.

The Senate has expressed its will on this particular issue. It expressed it, I thought, convincingly Friday. We are willing to go forward and finally dispose of that amendment, and then join with the distinguished chairman and the very able ranking member to try to move this bill forward as expeditiously as we can.

But I do feel, Mr. President, it is not an entirely reasonable request to ask myself and the Senator from Arkansas to set aside our amendment that we worked so long and hard on and let various and sundry amendments come up later and this very important amendment simply gets shunted aside. I would like very much to accommodate my friend from Georgia as well as my friend from Virginia, but it is very easy to move this bill along. We do it simply by disposing of the pending amendment and then taking up the subsequent amendments in order as we agreed to in the unanimous consent Friday.

Mr. President, on another matter, I am advised that today is the birthday of the distinguished staff director of the Armed Services Committee, Mr. Arnold Punaro, and on behalf of myself and his counterparts on the Senate Budget Committee, we want to wish him a happy birthday.

Mr. NUNN. Mr. President, Mr. Punaro cannot speak on the floor of the Senate, but he wanted to convey first his expression of gratitude to the

Senator from Tennessee, and certainly he would like me to express there are certain presents he would like to get from the Senator from Tennessee in terms of expediting this bill. But he does appreciate his thoughtfulness.

Mr. President, I see the Senator from Arkansas [Mr. PRYOR] on the floor, and perhaps we could take up his amendment in terms of debating it. From what I understand of the amendment, I am going to be in favor of the amendment. But I have not heard from the Senator from Virginia and others about it.

Mr. WARNER. Mr. President, we would be perfectly willing to proceed with that amendment reserving the right to have a second-degree amendment to the amendment of the Senator from Arkansas [Mr. PRYOR].

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. Mr. President, I will yield to the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I want to observe that certainly there is nothing to preclude my good friend and distinguished colleague from Arkansas from proceeding to debate his amendment.

Mr. NUNN. Mr. President, if the junior Senator from Arkansas desires to be heard, I would, of course, yield the floor so he can be recognized. If not, I will suggest the absence of a quorum, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I have not been privileged to listen to the debate this morning. I just got to the office, turned on the monitor, and saw basically what was happening.

I will be very glad to discuss my amendment, understanding there will be no vote until we have worked out some agreement on time or whatever. But I do not, Mr. President, I say to my distinguished friends from Georgia and from Virigina, in any way want to jeopardize the position nor the strategic concept of how the Sasser-Bumpers amendment is going to be ultimately voted up or down. I do not want to compromise their position in any way.

I would be glad to begin debate on my amendment in a few moments but, once again, I do not want to compromise my friend from Arkansas and the Senator from Tennessee.

Mr. BUMPERS. Will the Senator yield?

Mr. PRYOR. I will be glad to yield.

Mr. BUMPERS. Mr. President, we would object to our amendment being set aside so the amendment of the Senator from Arkansas could be offered, but we certainly not only would not object but encourage him to begin debate on the amendment. Frankly, I think his amendment validates the rollcall vote Friday evening on SDI. At least it goes a long way toward it. We are more than happy to hear his debate.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, also, I would like to add that I want to participate in assisting the Senator from Arizona [Mr. DECONCINI] in whatever effort he is involved in to have brought to this floor the resolution on Bosnia.

Mr. DECONCINI. Will the Senator yield.

Mr. PRYOR. I will be glad to yield.

Mr. DECONCINI. I thank the Senator from Arkansas.

I know he is a strong supporter of the amendment the Senator from Connecticut and I are trying to get before the body. As the Senator from Arkansas knows, there is a stalemate here, and we are trying to locate a pressure point so that we could move this bill along. Of course, what the Senator is suggesting in debating his amendment is a very worthy cause, but I am afraid it is not going to find the pressure point. At least it takes some time and we get the eloquence of the Senator from Arkansas and his knowledge of the amendment. I hope in the spirit here we will see some pressure put on the other side of the aisle to let the Senator from Tennessee have a vote on his amendment.

Mr. NUNN. Mr. President, if the Senator from Arkansas will yield, I think it is a good suggestion. I believe the amendment of the Senator from Arkansas is not simply taking up time, though; I believe it is an important amendment in its own right, and we should consider carefully what he has to say.

I suggest we proceed in this direction. I would also say in the search for a pressure point, I hope everyone will appreciate that in the beauty of the Senate rules, the beauty and all-encompassing nature of the Senate rules, all of these amendments are in order to the tax bill. You do not have to have a military matter up to put an SDI amendment on it. You can do that on a tax bill. We can have an abortion amendment on the tax bill. I understand the Senator from Ohio [Mr. METZENBAUM], has an amendment relating to homosexual rights and that will also be eligible for the tax bill.

We have amendments relating to Cuban democracy which would be eligible for the tax bill.

Perhaps Senator BENTSEN will be able to handle these things with more adroitness than the Senator from Georgia.

Again, if we do not make progress, it would be my recommendation to the majority leader in just a few minutes when we meet that we go off this bill and go to the tax bill and let Mr. Punaro go home and celebrate his birthday with his family. That would be my recommendation. So it is going to be up to Senators. But I can assure them I am prepared to move off this bill and on to something else.

I thank the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I have been used as a filler many times before, so I do not think I would mind being used as a filler a little bit this morning. It is kind of a nice morning in Washington. If we are looking for a pressure point, and if the distinguished chairman of the Armed Services Committee is talking about bringing up abortion and Bosnia and SDI on the tax bill, I imagine that pressure point would be walking through that door in about 4 minutes, and that would be the distinguished senior Senator from the State of Texas, who would be, of course, managing the tax bill this afternoon beginning I assume at 1 o'clock.

Mr. President, also, I am a little bit—not concerned. I am very pleased, I might say. But it also concerns me that the distinguished Senator from Georgia, the chairman of the Armed Services Committee, has just stated he is going to support my amendment. I have offered a lot of amendments on the floor, but I do not know that he has ever supported one of my amendments. I am fearful that I have not asked for a large enough cut in a particular area. So I hope something is not too badly influenced or wrong with my amendment.

Mr. NUNN. I will be glad to review it again.

Mr. PRYOR. If the Senator from Georgia would give me a few minutes, I might have brought in a couple of charts that I need. I am going to need those before I can begin the discussion of the amendment. I might say, if any Member of this body wants to interrupt me at any time during my filler period, I would certainly be glad to yield to them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, may I have order in the Senate Chamber, please?

The PRESIDING OFFICER. The Senate will please be in order. Conversations will cease in the Senate.

Mr. PRYOR. Mr. President, I thank the Chair.

Mr. President, all day Friday, and again today we are debating at great length the appropriate funding levels for star wars, SDI, for the fiscal year 1993. On Friday we heard a lengthy debate and, I must say, a very good debate on whether or not we should spend $3.3 billion or $4.3 billion on SDI. We heard debate on whether or not the threat still exists that justifies spending billions on a strategic defense program. We heard about the collapse of the Soviet Union, and our long-neglected domestic needs. We heard about Saddam Hussein's growing nuclear threat in the Middle East and elsewhere. We heard from the Senators on the floor on Friday who asked, and I think very eloquently, if we could truly today afford to build this costly star wars program. We heard from others who asked if we could afford not to build and to go forward with SDI.

Mr. President, whether we spend $3.3 billion or $4.3 billion on star wars this year, there is a simple fact remaining, that we are still going to have this program or some program at least for another year and probably in the out years to be certain.

A large sum of money is going to be spent during this next year, in the out years, and my question this morning that I raise is how is this money to be spent?

When we drive into the service station and ask the attendant to fill our gasoline tank in our automobile with gasoline, or do it ourselves, at least we know that a certain portion of that dollar we are spending—or whatever the cost of the gallon of gas might be—that at least a portion of that money we are expending for that gasoline is going toward building a highway upon which we ride and upon which we travel.

But how is the money being spend today, and how has it been spent for star wars in the past several years?

It appears that for some reason we do not have a very good monitoring system to know where those dollars are being spent, and who is the recipient of those dollars.

This is the question that was explored recently at a Governmental Affairs Committee that I chaired just a few weeks ago. This hearing explored the role of contractors, Mr. President, in the star wars program.

Specifically the hearing took a closer look at the SDI initiative organization which we will refer to and which is commonly known as SDIO, the entity that manages the star wars program, to determine who is actually running this office. Who is making the decisions as to where these billions and billions of dollars are being spent?

Very disturbingly, this hearing revealed that we have contracted out many of the most basic management functions in the support service of contractors. These are the private sector companies, Mr. President. These are the private sector individuals who provide professional, administrative, and management support services, special studies, as well as analysis.

Mr. President, I rise today to propose an amendment that would limit to $100 million the amount that SDIO, the administrative office, could spend on these support service contracts for fiscal year 1993.

You say, well, that seems like an awful lot of money to spend for private service contracts, for consultants, and for management services and administrative support. Mr. President, this is an enormous amount of money, $100 million. But should we adopt this amendment, we will be capping at $100 million. If we do not, we will be expending $160 million to $200 million for administrative support in the SDIO administrative office.

At our Governmental Affairs Committee hearing on SDI, Ambassador Henry Cooper, who is Director of SDIO, testified that it costs about one-third more to contract out for these services than if the work were performed by Government employees. His remarks, I think, were consistent with the finding by GAO and the DOE, Department of Energy, and Department of Defense Inspectors General, who indicated recently that contracting out for support services cost between 25 percent more and 40 percent more than performance by the Federal staff.

Ambassador Cooper also said something very interesting, Mr. President. He was testifying there that morning, and he testified that the monthly reports submitted by SDIO support service contractors, to justify their expenses and to justify the progress that they are making, was "puffery." This was his word, his description, not mine.

Mr. President, the American taxpayer should not have to foot the bill for "puffery" or for contracts inflated by as much as 40 percent.

Mr. President, if I might, I would like to direct your attention to this particular chart that I have on the floor of the Senate. We see the red lines, which indicate private contractors in the main general office of SDIO. The blue figures and lines represent the traditional Federal Government employee.

Our staff went out to the SDIO and spent several weeks researching how these dollars were being spent, who was making the decision, and exactly what the contractors in the SDI Office were actually doing, what work were they performing, and what mission were they challenged to accomplish.

Mr. President, first, we will see that at random days beginning January 8, January 15, on through February 26, where we just went out and did a random check, and we found that about 60 percent of all of the work force in the SDIO administrative office were not Federal employees; they were contractors. Many times, they were sitting side by side with the Federal employee. And we might just imagine what the morale factor might be, especially if that private contractor was making 25 to 40 percent more in salary than the Federal employee.

This amendment that I am offering this morning, we should realize, is not about whether we should continue or discontinue SDI. This amendment tries to get a handle, once again, on who runs the SDI program. These contracts that we are talking about are not for advanced research, they are not for technology development. The support service contractor performs a basic management responsibility that I believe should be performed by Federal employees, not necessarily or only because it would cost less, but because it would help avoid any potential conflict of interest.

Mr. President, also, we would like to state, in addition to showing, that 60 percent of the work force of SDIO is today the private contractor, the consultant. Also, we would like to demonstrate that many of these consultants are making $100 an hour, or $800 a day.

I have another amendment that I am not offering at this moment, but I will be offering it at the appropriate time, perhaps on this particular DOD authorization bill. That amendment addresses these contractors who get these millions and millions of dollars worth of private contracts from the SDIO program, and do we have a licensing system for them to find out who else they represent? How do we police the potential conflicts of interest? We have no real system except, as the Director of SDIO, Ambassador Cooper, maintains, we have a self-policing mechanism whereby the contractors themselves make certain that they have or at least state they have no conflict of interest.

Mr. President, I have another chart. This chart is somewhat, in my opinion, very alarming. I would like to pose the question to my colleagues: If we write a letter to SDIO, to the office, relative to a star wars mission or to a star wars contract, or to a star wars program of any sort, who answers the letters that Senators and Congressmen send to SDI? Answer: Contractors. Not Federal employees. Not necessarily Ambassador Cooper or his staff. But private contractors are today fielding and answering our letters.

Who is preparing the questions and answers today, Mr. President, for congressional testimony on the 1993 budget? The answer: Private contractors, who have most to gain, who have dollars to make, and who, in my opinion, have a direct conflict of interest.

Who has prepared letters for the signature of SDIO Director, Ambassador Cooper, when Ambassador Cooper writes us or other agencies of government? Answer: Private contractors.

Who represents the SDIO during a GAO audit as SDIO's corporate memory, Mr. President? Not the Federal employee who might have been there many years, but, once again, the private contractor.

Who is assisting the SDIO management staff as a stand-in during the project manager's vacation? When the Federal employee goes on a vacation, who is the stand-in, the substitute? The answer, Mr. President: It is a contractor or a consultant who many times is making $800 a day.

Mr. President, last, but certainly not least, let us look at this expenditure for a moment, the expenditure of thousands and thousands of dollars to a private consulting firm near Washington, DC, to try to look at different options on how the unobligated funds in 1990 and 1991 and through the 1997 budgets can be expended. In other words, Mr. President, we have not spent all the money in SDI programs. We have to hire a private consulting company to show us how we spend these dollars before the fiscal year ends.

Mr. President, what else do these private contractors do? These private contractors today are developing new military descriptions for the SDIO reorganization. In the SDI program today we are seeing the contractors have prepared all internal security directives such as the SDI security policy directive, foreign disclosure, foreign visits, and accreditation and information security policies.

All of this work, Mr. President, is being done not by the institutional Federal employee but once again by the consultant and the private contractor. Does that private contractor have security clearance? We are not certain. Does that private contractor have a license to operate or engage in certain missions for the Federal Government? We are not certain, Mr. President.

I do not have to have a license to be a contractor. I do not have to have a license to be a consultant for the Federal Government. To be a barber on the Air Force base in Little Rock you have to have a license. To be an architect you have to have a license. To be a physician, or a dentist, for the military, for the Government, you have to have a license, Mr. President, but to be a consultant and participate with your arm deep in this open money sack drawing money from the SDI program no license is required; no basic capability requirement is asked of you.

And very few times I would say, Mr. President, are these contracts in my opinion actually competively bid. They maintain that most of them are competitively bid, but I think to the contrary.

Mr. President, also what else do these contractors do? They are preparing congressional responses on program funding support. They have prepared a letter from the director to Congress. They have assisted SDIO in preparing a brief to the congressional overview committee on what SDIO has done in the last 6 years. In other words, Mr. President, the contractors themselves, the consultants themselves, have basically been stating to the Congress in policy directives as to what they have been doing and what their stewardship has amounted to.

We can rest assured as to the millions of dollars we are spending for these contractors they are going to give themselves an A-plus. They are going to give themselves a grade that does not require any further scrutiny, because it is going to be a perfect score on the test, because they are grading their own test results.

Now, Mr. President, what has happened here just since 1989? This is by the way 1989, when President Bush came into office and President Reagan had just left. This has nothing to do with Democratic or Republican politics or Republican Presidents, who is in or who is out. But, Mr. President, the fact is simple. It is very simple. We have seen an overall percentage change upping the percentage of private consultants and private contractors in the SDIO program for a 46-percent increase just since 1989. In 1989, $111 million of these dollars were expended for the private contractor and the private consultant. Today, Mr. President, we are seeing a request for $162 million for private consultants and contractors to help run the SDI Program and to help set the policy for the SDI Program.

Mr. President, once again my amendment would take the usage of private contractors and consultants no longer to the $162 million figure: it would take it down and cap it at the $100 million figure that we were having some time in the year perhaps of 1988.

Mr. President, there is another whole issue with regard to SDI that I would like to discuss at this time. I would like to discuss who is actually making the decisions as to how these billions of dollars are being expended, and this is not a very pretty chart. It is all in black and white. But I can tell you what it represents.

What this chart represents is something that I would very, very clearly call, and I hate to even use the word on the floor of the U.S. Senate—what this chart represents is incest. When I say "incest," Mr. President, I mean incest to the extent that this particular advisory board composed of roughly 15 individuals and individual companies who advise the Director of SDIO and the other officials of SDIO.

Mr. President, this advisory commission consists—and we have just taken some examples. Let me back up a moment, Mr. President. Who is the advisory Commission that tells the SDI Program how to expend these billions of dollars? Well, one of the participant-advisers is Booz Allen, another is Nichols Research, the other is McDonnell Douglas, and the other is Lockheed. They are members of the advisory committee. How are members of the advisory committee doing these days with SDI? Last year, one of the advisers, Lockheed, did pretty well. They got $393 million out of the deal. McDonnell Douglas did pretty well. They are on the advisory board. They are advising the SDIO staff how to spend the money. They advised themselves to get $308 million.

Nichols Research, I do not know who Nichols Research is, but they have done pretty well. They are sitting here on the advisory committee, and last year they pocketed a nifty $68 million from their activity. Here is Booz, Allen & Hamilton, they are throughout the entire system of Government. And you think, well, they did not get all that much out of sitting on the advisory board. They only got $6 million last year. But we are going to talk about them a little bit later, because they are going to show up down here in the other part of the chart.

Mr. President, here are the R&D contractors for SDIO. Here is McDonnell Douglas. Here they are again. They had already gotten $308 million. And now they are down here in the R&D contracting business. They advise up here as to where to expend, and here they are getting some $308 million as an R&D contractor.

SDI support contractors. Here is Booz Allen. Well, Booz Allen is getting another $2.2 million last year for their advice and consultation. Nichols Research, here they are, Mr. President, up here on the advisory committee member. Nichols Research pocketed another $9.8 million. So they are doing pretty well. They are advising how to spend the money and here they become a support contractor.

Again we find the SAIC subcontractors. Well, now here, Mr. President, is where the money really is. Booz Allen. Here is Booz Allen. They are into another $2.2 million.

Here is Nichols Research, once again an adviser, a research support contractor, and now a subcontractor for some of these other companies. Nichols Research gets another $304 million, in addition to the $68 million here and the $9.8 million. Here they are getting another $304 million as a subcontractor to these other companies here.

McDonnell Douglas. They are a fine company, Mr. President. They do a lot of good work. But they have another $100 million down here. I think that is certainly something that is worth their time and effort.

Here is Lockheed, once again. Lockheed is sitting here on the advisory panel. They have gotten $393 million here. Now they get another $115 million as a subcontractor.

So, Mr. President, when I label this whole system incestuous, it is incestuous, because the same people, the same companies that are advising how to spend this money they are the recipients of the expenditure of that money.

I do not know why we have not brought this fact out before. I do not know why for the life of me, Mr. President, we have not been able to basically go over to the SDIO Office in the past, look at how these decisions are made, look at who these companies are recommending these dollars and how these dollars are being expended. I do not know, Mr. President, for the life of me, why we have not in the past done a better monitoring job on how the decisionmaking functions have been established within the SDIO Office.

Mr. President, also, we had another bout with the SDIO Office and that was when we talked about the travel of some of these contractors and some of the Federal officials who worked for that particular SDI Program.

I am going to put those travel figures in the RECORD. I may talk about them a little more.

As we know, I am serving as sort of the time-filler this morning until we decide what else to do here on the Senate floor.

But I am going to talk about perhaps some of these companies who travel at the Government's, the taxpayers', expense, and we are going to be discussing those as we discuss this particular amendment.

Mr. President, I see my distinguished friend, Senator COHEN from Maine. I have been talking here a lot longer than I normally talk.

Mr. President, for the moment, I am going to yield the floor and perhaps the Senator from Maine can illuminate us a little further on some of these concerns that I have expressed.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized.

Mr. COHEN. Mr. President, I would like to respond briefly to the charts that have been presented by my friend Senator PRYOR.

First, I submit for the RECORD a letter dated July 28, 1992, addressed to Senator PRYOR from Henry Cooper, the Director of SDIO. I believe he is referring also to the same charts that are currently placed before the Senate.

Let me summarize, if I can, what Director Cooper has stated. He suggests that the chart—and again I am assuming it is the same chart we are now looking at—he is suggesting the chart is factually wrong in that there is no current connection whatsoever between the 11 current members of the advisory committee that he appointed at the beginning of 1990, and the 4 contractors that are cited in the chart.

He indicates, for example, that "one of the current members consulted for Booz Allen in 1987 and 1989. No current member has ever been affiliated with Nichols Research. One of the current members consulted for McDonnell Douglas in 1988, and one of the current members consulted for Lockheed from 1987 to 1989. Three former members, of the advisory committee serving under other directors, also had a relationship with the named contractors."

So Director Cooper is suggesting that none of the current members of the advisory committee is in fact connected with any of the organizations laid out in that chart.

Second, he points out, even assuming they were connected—which they are not—that there are very serious conflict of interest laws and disclosure provisions that would preclude members from using their private positions to benefit these companies.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STRATEGIC DEFENSE
INITIATIVE ORGANIZATION,
Washington, DC, July 28, 1992.

HON. DAVID PRYOR,
Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: We appreciate your leaving the record of your July 24 hearing on SDI use of contractors open to allow us to respond to the specific issues raised in the hearing. One of the charts you presented (attached) is factually wrong and extremely misleading. While we will provide the details for the record, I felt it was important for you to understand the facts. The chart alleges a direct connection between my SDIO Advisory Committee (SDIAC) and four major SDIO contractors: Booz Allen, Nichols Research, McDonnell Douglas, and Lockheed and is clearly meant to imply that this is a bad situation.

The chart is factually wrong in that there is no current connection whatsoever between the eleven current members of the SDIAC that I appointed beginning in 1990 and the four contractors you cite in the chart. One of the current members consulted for Booz Allen in 1987 and 1989. No current member has ever been affiliated with Nichols Research. One of the current members consulted for McDonnell Douglas in 1988 and one of the current members consulted for Lockheed from 1987 through 1989. Three former members of the SDIAC, serving under other directors, also had a relationship with the named contractors.

The implication intended by the chart is also very misleading. Even if such affiliations were current, the formal strict conflict-of-interest and disclosure provisions of the formally chartered SDIAC would preclude members from using their appointment to further private interest under penalty of law. These provisions are important to allow SDIO access to critical expertise in the strategic defense arena, even when the individual is affiliated with an organization doing business with SDIO.

As I testified at the hearing, I share your concern about the level of contract support I am required to use to execute my mission. Until I am able to expand my federal manpower, which I am working to do, I will continue to do my very best to insure that contractors are not performing inherently governmental functions in my organization.

Sincerely,

HENRY F. COOPER,
Director.

[NOTE.—Chart not reproducible in the RECORD.]

Mr. COHEN. Second, addressing myself to the larger issue raised by the Senator from Arkansas, I think that the Senator from Arkansas raises a valid point in the sense that there are types of work that can in fact be performed by Government employees as opposed to the private sector.

But I would like to at least point out that there are two types of work involved. The first kind of work is general office support work, such as drafting correspondence and testimony, doing program planning, writing reports to Congress, writing congressional budget justification material. I agree—I think all of us could agree—that this type of work could be done using Government employees and it may save as much as $15 million, probably more.

So I think that we could join the Senator's amendment to that extent by pointing out we could do this by Government employees.

The difficulty is that most of the contractors doing this type of work are small contractors or disadvantaged businesses. They are not large hardware contractors, the so-called Beltway Bandits. These small contractors, many of which are operated by section 8–A businesses, owned and managed by women and other minorities, as such, would be completely excluded from this work.

But it can be done, and perhaps it should be done, and that is something that perhaps we can agree upon.

The second type of work is very specialized technical knowledge. It requires detailed and unique types of expertise. These people are needed for a relatively short period of time to support the kind of procurement work that is involved with theater missile defense or other types of programs that we are pursuing right now.

Afterward, after utilizing these personnel for this period, there would be no work left for them. So what we have to do is call upon people who have very detailed knowledge in things such as phased array radar module technology, tests of lethality on foreign threat systems, relative maturity of optical focal-plane technologies, and the list goes on and on.

So what we could do is to ask Government employees to do this work. The only downside to doing it this way is we would have to tell them they would be employed for a very short period of time and then they would be laid off, because as soon as we moved beyond the procurement stage here they would be dismissed.

So I think that we can agree with the objective of the Senator from Arkansas. If he is willing, in fact, to increase the staff level at SDIO in order to accomplish this work, move it out of the private sector, move it onto the Government payroll and provide for additional employees to do the work, I think perhaps we could agree to support the amendment of the Senator from Arkansas, at least this Senator could.

So I think with some amendments perhaps saying we are going to take it out of the private sector, put it back in the government sector, add the employees to do the work, add the cost of the salaries and pensions and other types of benefits that would go with public employees, then perhaps we could agree upon this particular approach.

Mr. President, unless the Senator would like to respond, I am going to move on to a different area, because we have some time while the leaders are negotiating in the leader's office.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Arkansas.

Mr. PRYOR. Mr. President, if I may respond to my good friend from Maine, a fellow member of the committee.

The letter of Mr. Cooper that the Senator entered into the RECORD is a letter and a position I am very familiar with.

I would like to make certain that I do not wish or desire to impugn the integrity, nor am I alleging any fraud or any legal wrongdoing, of any member of the advisory committee, the SDIO.

I have referenced this and we talked about this with Ambassador Cooper during the course of the hearings last month.

But I say to my friend, the period since the creation of the SDI program and ultimately the SDIO office, that during that period of time, whether it was 8 or 9 years, there have been some 30 members of the advisory committee. And during that time, we have taken some 30 of these members, we have looked at them. We are only pulling these 4 out during that period of 8 or 9 years' existence to show how they can be on the advisory panel and then ultimately end up being the recipients of the expenditures of SDI.

Mr. President, the Senator has basically entered his prepared statement, the letter of Admiral Cooper himself. And by the way I am going to—I do not have it with me—but I am going to place a particular page or two of testimony into the RECORD at an appropriate point. Because Ambassador Cooper said, when I was reading him off some of these justification reports and how they were paying each month all these huge contracts for these consultants, Ambassador Cooper himself looked at one of these I was reading and said, "This is puffery. This is puffery on the part of the contractors."

He did not apologize for it. He did not say we are going to straighten it out. He did not say that we are going to have the taxpayers go back and recoup some of this money that was paid due to the puffery of the contractor. He never said that.

In fact, I did not even sense any remorse. It sounded like it was just kind of a way of doing business. They are going to puff up their contracts and we are going to write them a check for it. I have seen nothing to the contrary. I have seen no cause of action against these contractors for puffery in their requests for taxpayers' expenditures—and I am appalled, as a matter of fact, at that.

Another point the distinguished Senator from Maine has talked about is the need for contractors and consultants who have a particular or a detailed expertise. I can understand in some instances we might need a contractor for a short period of time for detailed, expert testimony—experts in scientific fields, experts in research. I understand this. I have been a strong supporter of this concept.

But what we have done now, especially over the last dozen years—this did not start with any Republican President or Democratic President. It has just been a growing way, I guess you would say—a mindset that has become set in and become more and more entrenched within the Federal bureaucracy. That is, the Federal bureaucracy is saying we need more and more contractors to do our business. We need more and more consultants. We see the President getting up on the State of the Union Message and saying we are going to freeze the number of Federal employees. What he is also saying is we are going to increase the number of contractors and consultants.

One of the fastest rising expenses of the Federal Government is the cost of private contractors to do the work of the traditional Federal employee. So when we say we are going to freeze the cost of Federal employees, that means absolutely nothing except, if the past is prologue—except we are going out to hire private contractors to perform these services and these duties.

I call them the unelected government. Some call them the Beltway Bandits. Some call them the shadow government. Whatever the case may be, however we refer to them, they have done very, very well—very, very well indeed. In the past decade or so they have far outstripped what the Federal employee has been receiving in remuneration. But, more than anything else, we have drained the expertise of the traditional Federal work force and we have basically said, by our statements, if you want to make some real money, if you do not want to be under the ethics code of the Federal employee, if you do not want to be under the Hatch Act that most of these Federal workers are covered under—then you become a consultant, you be a private contractor, you get with one of these companies because you are going to make from 25 to 40 percent more. Many times you are not going to have to even competitively bid these particular jobs and these missions you want to perform for the Federal Government.

Mr. President, I have been preaching for a long time about this, in fact some 13 or so years, on the floor of the Senate, about the use of contractors and consultants. To be honest, I have not made any headway. I have seen OMB redefine the definition of what a consultant is. I have seen the departments out there and the agencies of Government time and time again try to get by the definition of what is a consultant, what is a contractor. I have seen them justify sole-source contractors to the extent today, throughout the Federal Government, over 60 percent—over 60 percent of all the private contracts that we have are no longer competitively bid. They are sole-source contracts.

We have seen time and time again this mentality that has taken hold of our federal system of Government, saying no longer do we have the capabilities and the expertise in our Federal work force to perform what are, many times, the most mundane of services and we have gone out and reached out within the beltway and we have said come in, you do this work for us. And ultimately we are seeing the expertise of our Federal work force decline.

Once again I have an amendment, another amendment, that is going to really send some shock waves, I think, through the consulting-contracting world. That is going to be an amendment that is going to require a license for all of the people that do work for the Federal Government—it is going to require a license. It is going to set up—yes, I hate to say it—another bureaucracy. I hate to call it that, but I will admit it will be restrictive. Because we should restrict the number of Federal contractors that we have in the Federal Government. We should be very selective about who we hire; do they have a conflict of interest; are they representing a country whose policy might be contrary to the policy and to the national defense and to the best interests of the United States of America? We have no checks and balance system now, Mr. President, with regard to finding out who else they work for.

I know who we are going to hear from first. We are going to hear from a lot of my good friends who are lawyers downtown. They will say, wait a minute, we do all this work for the Federal Government, we do all this work for the contractors. Do you mean to tell us that to get a license to be able to work for the Federal Government that we are going to have to reveal who our other clients are?

Mr. President, the answer is yes. We are going to require that. Because we think under the sunshine efforts that we have been able to come forward with and be successful within in the last several years in this Federal system of ours, we think it is our business to know who else these people represent when we are hiring them to do the work of the United States of America. We think that is very basic to the integrity of our system and also to make certain the conflicts are not there.

Mr. President, I have made my statement. I think there may be others on the floor. At this point I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, the Strategic Defense Initiative Office [SDIO] is staffed by only 269 personnel, who must execute a $4.3 billion program. In order to manage contracts and oversee contract execution, SDIO must hire contract support personnel. This is sound management.

To reduce the number of contract support personnel means a reduction in the management and oversight of contracts awarded by SDIO. It would also result in increased cost due to delays in awarding contracts.

The Pryor amendment provides for no increase in SDIO personnel to offset reductions in contract support personnel. If an equal number of personnel were added to SDIO, it would be eliminated by the Pryor amendment, perhaps some savings could be achieved by reducing the need to buy the services of contract support personnel.

As a practical matter, SDIO is unlikely to ever bring into Government service all of the expertise needed to effectively manage a complex program. Furthermore, good government requires that program managers tap into the external, nongovernmental points-of-view to avoid too narrow a look at such a complex acquisition program as SDI.

Mr. President, I cannot support this amendment in its present form.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I appreciate so much the distinguished Senator from South Carolina, my friend, Senator THURMOND, for injecting another part of this argument that I should have included. He has stated that it is very necessary, with an agency like the SDIO which has some 269 or so Federal workers, to hire outside contractors in order to complete the mission of SDIO.

The Senator from South Carolina has brought up a valid point and, just to touch on the tone and a couple of other of those points, I think it will be necessary for me to remind the Senator from South Carolina and my colleagues that today basically the contracts that are awarded by SDIO are awarded by contractors. Contractors are giving the awards to other contractors.

Then, if the SDIO says we are not certain that we need all of these numbers of consultants and contractors, how does SDI decide who should make the decision whether we have too many contractors or consultants?

Ironically, Mr. President, the SDIO hires a contractor, they hire a consultant to perform a study to determine whether or not we have too many contractors or consultants or too few. What do we think the result is going to be under that system, Mr. President? Of course, it is going to demonstrate that we have to hire more contractors, we have to hire more consultants. The reason is, it is a conflict of interest. It is a pure, unabashed, raw conflict of interest, Mr. President, that, in my opinion, we should correct. And the only way to begin this correction—and by the way there is still a lot of fat I am leaving in there, I regretfully say—is to put some cap on the number of dollars we can use for contractors outside of the Federal work force. Perhaps it will make the Federal work force and the Director of SDIO and the other officials more conscious that there cannot be just an open money sack that continues any longer without any ceiling whatsoever.

Mr. President, I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, if I might, I would like to move on to a different issue, at least for purposes of discussion this morning, while the leadership is continuing to negotiate—although those negotiations may have just concluded—about how we intend to proceed for the rest of the day. I would like to take a few moments to at least alert my colleagues to an issue that we discussed last week but did not fully and finally resolve.

Mr. President, the issue of nuclear testing has become so polarized and politicized that I am afraid it is all too easy to lose sight of both our objectives and some basic facts. We have made, in fact, remarkable progress in negotiating substantial reductions in nuclear arsenals. While we have made substantial reductions, we are not yet on the verge of eliminating nuclear weapons from our inventories. We are going to have to live with nuclear weapons for some time to come, so we have to ask ourselves the question: Exactly what kinds of nuclear weapons do we want to have during that time?

For years, a number of people argued that we need to stop developing new, more lethal nuclear weapons, and that the only way to do this was by imposing a ban, through congressional fiat, if necessary, on all nuclear testing. I think, given the changed security environment, most of us would agree that we do not need to develop new, more lethal nuclear weapons. The administration now agrees with that position, as well. So the argument which, for decades, has formed the cornerstone of the case for test ban, I think, now is irrelevant.

But what remains relevant is the fact that many of these nuclear weapons which we intend to keep in our stockpile for the indefinite future are dangerously unsafe. Equally relevant is the fact that we can make these weapons much safer if limited testing is allowed to be conducted. So, when crafting our policy regarding nuclear testing, this should be our principal objective: To make the weapons we retain safe. Closely tied to this should be our other priority objectives: To promote arms control negotiations and to strengthen the nonproliferation regime, most notably through the 1995 review conference of the Nuclear Nonproliferation Treaty. Proposals for a congressionally imposed moratorium on U.S. testing ought to be evaluated on the basis of whether and how well they make progress toward those goals.

The amendment that was adopted last week on the energy and water appropriations bill, while certainly far better than the measure that was originally proposed by the Senator from Oregon, does not meet this test. It does not even address the nonproliferation efforts, and it would not permit the Department of Energy to conduct the necessary testing to make our weapons safe.

What I hope to do today, assuming we can resolve the issue of time agreements and order of proceeding, is to offer an amendment that I believe will go a long way toward correcting the deficiencies in the measure that was adopted last week. I would like to take just a few moments to describe this amendment in some detail.

My amendment would impose an interim moratorium on all U.S. nuclear testing in order to put us back on a track of negotiations to achieve a strengthened nonproliferation regime and reciprocal, verifiable testing restrictions that would lead to a comprehensive test ban.

So my amendment would require the President to report on the following:

A date for resumption of the nuclear testing talks with Moscow during fiscal year 1993. Not just a vaguely worded report that they intend to proceed. This would require a specific date for the resumption of those talks in Moscow in the next fiscal year.

It would include the U.S. strategy to expand those talks to include the other nuclear weapons states with the objective of achieving a verifiable comprehensive test ban by 1998. There is some notion that, if we only deal with Moscow, that is going to be sufficient to have a comprehensive test ban. That is simply not the case. Given the fact that we have witnessed a proliferation of nuclear weapons in the past, we are likely to see some in the future as well.

The President would also be required to report on U.S. strategy to achieve renewal and the strengthening of the Nuclear Nonproliferation Treaty at the 1995 review conference. Again, nothing really is mentioned on this in the amendment that was adopted last week.

The President also would have to report on the Test Ban Readiness Program, which is intended to improve our ability to maintain a small nuclear stockpile with only limited or even no testing.

A number of people have claimed that the administration has not been aggressive enough in pursuing negotiated restrictions on testing and really has not been focused on the tremendously important objective of extending and improving the Nonproliferation Treaty.

My amendment would force the administration to get serious on these matters by prohibiting all nuclear testing until we receive the administration's strategy for achieving these arms control and nonproliferation objectives. That ought to be one of the major goals of this Congress, to force this administration or the next administration to deal seriously with the subject of countering the proliferation of nuclear weapons and to strengthen the regime for that control.

That should be the purpose of the interim moratorium, not simply to impose a moratorium and let the clock run for 9 months or a year as, in actuality, the amendment that was adopted last week would require. We ought to be striving to impose a moratorium in order to force the administration to promote those negotiations and nonproliferation efforts.

If my amendment is adopted, after that moratorium period is over, we will have made demonstrable progress on these objectives, much more progress than would result from the Hatfield amendment that we adopted last week. Then once that initial moratorium expires, testing could resume but only under very restrictive circumstances.

My amendment would permanently prohibit testing to develop new, more lethal nuclear weapons, including so-called third-generation weapons such as new Earth-penetrating warheads and microwave weapons, which earlier this year the weapons laboratories indicated they wanted to pursue. So no new nuclear weapons. We are going to permanently prohibit the testing for any new types of weapons.

Under the amendment that I am proposing, the nuclear testing program would be focused on incorporating safety features into the existing types of weapons, with a strictly limited number of tests to be allowed to assure the reliability of those weapons and the survivability of systems against nuclear weapon effects.

My amendment would write into permanent law an annual cap on the number of nuclear tests of five per year, no more than three of which could exceed 35 kilotons. Of those five tests per year, no more than one could be used for nonsafety purposes. The total number of tests permitted before the 1998 cutoff date, as opposed to 1996, regardless of the purpose of the test, would be 20. So we are looking at a regime that would allow for five tests per year, only one of which could be for nonsafety purposes and only three of which could be in excess of 35 kilotons. And the total number of tests could not exceed 20, including the British, I might add, during that entire period of time.

Sixty days before each proposed test, the President would have to certify the nature and purpose of the test and why the test is necessary. During the time of that certification period, Congress would have an opportunity to examine the certification of the President and to express its disapproval, if it should choose to do so. So it would give us, Members of Congress, ample time to examine the certification of the President as to why we have to conduct a test and then to express our disapproval, if necessary, in order to seek to prohibit the President from pursuing that test.

Under my amendment, the U.S. testing program would conclude, as I indicated, by the fiscal year 1998. This would provide the Department of Energy with a realistic amount of time to do the research, engineering, and testing needed to incorporate into our nuclear weapons the kind of safety devices and features that I think all of us agree we need to have.

A decision to halt our testing program obviously cannot be divorced from the testing practices of potential adversaries or the negotiations on testing limits or a comprehensive test ban. The Senator from Oregon [Mr. HATFIELD] acknowledged this fact, and he wrote into his amendment a waiver that would lift the U.S. testing halt if Russia subsequently tested.

Mr. President, by limiting that waiver to Russia, we certainly are excluding a host of other potentialities. It may be that Russia, in fact, will be an ally of the United States and not an adversary as it has in the past. We might face a different threat in the future, from Kazakhstan, Iran, China, or some other nation. So the way in which the amendment was written and approved last week would simply say at the end of 1996, if Russia resumes testing, all bets are off; the United States can go forward without any restrictions.

I think that would be a critical mistake for us to make. We cannot predict what is going to take place in the future. A year ago many Members of this body voted against allowing the President to use force to intervene in Kuwait. A year later, here we are looking at an entirely different world picture. We are looking at a situation in which we have one Germany now and two Czechoslovakias. We are now looking and talking about the possibility of using military force to intervene in the civil war currently raging in what used to be Yugoslavia.

None of us can safely predict what is going to take place in this age of future shock when time is accelerated by events. So for any of us to think or profess that we somehow have the perspicacity to look 3, 4, 5, and 6 years into the future and make a determination now with absolute categorical assurance these are the circumstances that will prevail and on that basis we will mandate an absolute cut off of testing unless Russia resumes nuclear testing, I think would be a serious mistake.

Mr. President, if we want to get a comprehensive test ban, we should leave the President with some flexibility in his negotiations. It may be that at that very moment when U.S. testing is to be cut off he may be seeking and on the verge of achieving a comprehensive test ban, not just between Russia and the United States, but with many other nations, and we ought to at least leave him some flexibility.

So my amendment would allow the testing halt to be suspended for a year if the President were to certify that he was actively engaged in negotiations and that a statutory ban on testing undermined that negotiating position.

I might point out that suspending that halt for a year would not necessarily mean we were going to test, just that the statutory ban would be lifted for a year. But in either case, Congress would have an ample period of time to review and, if Members so desired, to act to reject the President's certification.

So if the President in the year 1998 certifies to Congress that "I need to have the opportunity to test, at least the flexibility to conduct that test," we would have the opportunity to say, "Mr. President, we reject that proposal and pass a resolution of disapproval."

Now, Mr. President, I believe that this procedure which would mandate a cutoff by 1998; allow a total of 20 tests, including that of the British, during that period of time; and then ultimately give the President a modicum of flexibility, which we in turn could reject, would be sufficient to protect the interests of this country and to achieve our goals of striving to end nuclear testing once and for all, to achieve a comprehensive test ban treaty, and to stop the proliferation of nuclear weapons.

So I hope that during the course of today we will have an opportunity to discuss this at some length. I wanted only to take the floor for the moment to alert my colleagues of the content of the amendment I will be offering.

I might point out that last week I did in fact represent to my colleagues that I would offer this amendment, because many people who supported the Hatfield amendment last week also indicated they would like an opportunity to further refine the testing ban that was passed last week. I believe this amendment comes very close to achieving our mutual objectives.

Mr. SEYMOUR. Mr. President, I rise in opposition to the pending Bumpers amendment because it would deeply harm the administration's ability to enforce the bipartisan Missile Defense Act of 1991. This carefully crafted bill resolved several decisions about the future of America's ability to defend itself against ballistic and intercontinental missile threats that could arise in any region of the world.

It prescribed a prudent and measured timetable for the President to determine whether the provisions of the Antiballistic Missile Treaty make the strategic defense initiative an ongoing dialog among laboratory researchers or a credible program to deter future military threats to the United States and its allies.

And it finally blended the three major components of SDI into a coherent whole by calling for a system that incorporates ground-based interceptors at home, theatre missile defense weapons abroad, and workable interceptors based in outer space.

On a larger scale, Mr. President, it cast aside the chains of the cold war in the debate over the ultimate feasibility of SDI. The Missile Defense Act no longer upheld as sacred policy a treaty that this country concluded almost 20 years ago with a very different Soviet Union.

As we debate the SDI amendments, we should no longer fear the fact that the chains of the ABM treaty have loosened. Today, the Soviets have neither the political unity nor the technological capability to keep the ABM treaty intact for all time. President Gorbachev recognized this fact in 1990 when he told the United States that he would be open to discussing changes in this document if new security threats to the superpowers warranted it.

He saw a different world unfolding before him, yet some Members of the Senate seem blind to it today. This world is now full of tyrants—both existing and potential—who did not sign the ABM Treaty and who do not conduct their foreign policies by any treaty. They are unbounded by the constraints negotiated in the halls of international diplomacy. The CIA, among other agencies, informs us that their ballistic missile capabilities—both tactical and strategic—will grow rather than diminish by the year 2000.

The Missile Defense Act opened a window on this new world by urging the President to pursue a renegotiation of the ABM Treaty with the Soviets to allow additional ground interceptors, ABM sites, and space-based interceptors.

But in looking toward this new world, the committee did not leave the one in which we now live.

The Soviet Union still stands as the only nation on Earth capable of visiting massive destruction on the United States within 30 minutes. We still have no certain idea of who will control the Soviets' modernized strategic nuclear arsenal in the long run.

Now to those who say that a robust American SDI would only prompt the Soviets to build bigger and better missiles, I reply that technology and democracy have caught up with the Russians.

They cannot afford an expensive, sophisticated arms race, and so the President was able to sign a new nuclear weapons agreement with Boris Yeltsin this June. Furthermore, Yeltsin has said time and again that the Kremlin's military expenditures must fall under control because the economic frustrations of his own people cannot be contained forever.

An amendment, therefore, that deeply cuts the SDI program would deprive us of new opportunities to stabilize the United States-Russian nuclear balance of power. It would also sap our ability to combat the emerging strength of third world dictators thirsting after a new generation of ballistic, chemical, and nuclear warheads.

I therefore urge my colleagues to reject the pending measure.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I thank the Chair.

Mr. President, in this hiatus of Senate action, I would like to take the opportunity to indicate my intention, with my colleagues Senator MACK and others, to offer an amendment to the defense authorization bill relating to yet another of the aspects of the collapse of the Soviet Union on United States national security and defense policy.

That remaining aspect to which this amendment will be directed, Mr. President, is Fidel Castro. Fidel Castro has been maintained in power for almost a third of a century, largely through the military, economic and political support of the former Soviet Union. At one time, the former Soviet Union was providing to Cuba an amount estimated to be in excess of $5 billion a year of economic assistance, substantial military aid, and political collaboration. All of those forms of support now are beginning to wither. Thus, the question for the United States becomes what steps should we take in this post-cold war era in order to facilitate and accelerate the transition of Cuba to a democracy, Cuba to a country that respects human rights, Cuba to a country with which the United States can have normal political and economic relations, to a Cuba which will no longer be a nation which sees as its manifest destiny the export of revolution not only within this hemisphere but also around the world.

Mr. President, I have spoken previously as to legislation I have introduced which has been described as the Cuban Democracy Act. The bill that will now be offered as an amendment is essentially the same legislation. The principal changes that have been made are changes that will conform it to technical alterations that have been made in the course of the bill's consideration in the House of Representatives; also, a deletion of tax measures at the request of the Finance Committee.

I would alert the Senate of my intention to offer these tax measures as part of the comprehensive tax bill that we will shortly be considering.

Mr. President, the amendment that I will offer has broad bipartisan support. It has been cosponsored by 51 of our colleagues. President Bush has endorsed this legislation. Governor Clinton has endorsed this legislation. The House Foreign Affairs Committee, after extensive hearings and markup, has reported almost identical legislation. The Foreign Relations Committee has had a day of hearings on this bill for which I express my appreciation to Senator DODD. Indeed, the Senate itself has already expressed itself not once but three times on one of the major provisions of this amendment, a provision which would close a loophole in the current economic embargo against Cuba. The Senate last voted on this measure, Mr. President, on July 20, 1989. It passed this provision to eliminate what has become a major opportunity for the avoidance of the United States embargo against Cuba.

That loophole-closing provision passed 82 to 13. The amendment which we passed was introduced by my colleague, Senator MACK, who has continued to give strong leadership to that provision within the Cuban Democracy Act. Since then the Senate has approved this provision by a voice vote on two subsequent occasions.

Despite the Senate having been on record in support of this key provision three times since the summer of 1989, here we are still trying to enact this provision into law. Mr. President, it is my hope that this time in 1992 we will be successful. By every measure therefore this provision, the amendment of which it is a part, represents a consensus view that has broad bipartisan support.

Mr. President, this Senate has provided leadership at a number of pivotal points in debating this country's relationships with authoritarian governments. From South Africa to Chile, from China to Serbia, this Senate has shown leadership and resolve. Cuba should not be an exception to the Senate's proud record in standing up to authoritarian governments that abuse their people.

Mr. President, this amendment is based on several premises. The first is that Castro is as weak today as he has ever been. This is no time to take steps, even inadvertent steps, that might strengthen his hand. Rather we continue to hear from dissidents inside Cuba to keep the pressure on, to take all possible peaceful steps to end the repression and violence once and for all.

Mr. President, I draw to the attention of the Senate a recently published book by Pulitzer Prize-winning author Andres Oppenheimer entitled: "Castro's Final Hour: The Secret Story Behind the Coming Downfall of Communist Cuba." This book, published by Simon & Schuster, provides detailed analysis of what has occurred in Cuba in the last few years, and the implications of those events on the coming downfall of Fidel Castro.

One of the events which the book suggests is the collapse of what support Fidel Castro has had around the world.

Mr. President, I ask unanimous consent to enter in the RECORD immediately after my remarks an article from the Wall Street Journal of August 7, 1992, entitled: "Cracks Appear in Cuban Government After Castro's Ill-Starred Tour of Spain."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, this article recounts the chilly reception which Fidel Castro has just received both by the leadership of governments in this hemisphere as well as in Spain itself, and by the people of Spain. But more ominous are the implication which this reception has received in terms of future actions inside Cuba itself.

Quoting from the Wall Street Journal article:

> * * * human rights activists are convinced Mr. Castro plans to oust reform-minded Cuban officials.
>
> "There is a purge of reformers coming," says Ramon Cernuda, a Miami based human-rights activist who keeps in daily contact with activists on the island. Mr. Cernuda says Cuban state security agents have told human-rights activists to prepare for a wave of repression. "Our people are very worried about it."
>
> "There are rumors," says Jesus Yanes Pelletier, a human-rights activist in Cuba, in a brief telephone conversation. "We don't know."
>
> Mr. Cernuda says he's convinced Mr. Castro is preparing to jettison reform-minded officials who'd been useful to him in placating Latin American and European governments that have been pressing Mr. Castro to democratize Cuba. The reasoning, says Mr. Cernuda, is that with the debacle in Spain, Mr. Castro feels the reformers have outlived their usefulness. The possibility of political reform appears dead, so he no longer needs to keep closet reformers who oppose his policies.

Mr. President, we may be on the verge of yet another bloodbath in Cuba. We have the opportunity to take action which will demonstrate our revulsion at those types of actions, and our willingness to strengthen the economic and political isolation of Fidel Castro as a means of accelerating the demise of his regime and therefore the lifting of the people of Cuba from the siege of terror with which they have lived for better than three decades.

The second premise of this amendment, Mr. President, is that we should do all that we can to increase the flow of information to the Cuban people.

This amendment for instance would expand mail and telephone service. It will increase pressure on Castro, while humanely expanding the means for the tens of thousands of families on the island to remain in touch with their loved ones who have fled.

As we know, Mr. President, it was exactly that approach, the use of satellite television, fax machines and other means of pouring information into the former Soviet Union and its satellites in Eastern Europe, which proved such an important factor in finally toppling the authoritarian regimes in those countries.

Third, we should call on our allies to support our efforts. By no means do we try to punish countries doing business with Castro. Instead we simply state that countries which are conducting subsidized trade with Cuba should expect no help from us. After all, if it was the intention of the United States of America to subsidize Cuba we could do so more effectively directly.

We give the President discretion to make these decisions that will apply to our allies a standard that says: If you choose to engage in subsidized trade with Cuba, there will be an economic consequence in terms of your relationship with the United States.

Fourth, Mr. President, our Government's policy toward Cuba seems to be one of letting events run their natural course. I am not certain what the natural course of events are in Cuba today. What I do know is this: If we are to achieve a peaceful transition to democracy, we must have in place a coherent and comprehensive policy that will help achieve that goal.

In a real sense, the American people are being given a reprieve. We had an opportunity to play a positive role in shaping the future of the postcolonial Cuba after the Spanish-American War. From 1898 until 1905, we were heavily involved in Cuba. We exercised tremendous influence and could have laid in place foundations that would have contributed to a long-term democratization, an economically strong Cuba.

However, Mr. President, I am afraid that what we did was clumsy, ill-planned, and contributed to a series of tremors which eventually led to the earthquake of Fidel Castro. We missed our opportunity at the end of the last century and the beginning of this century. That was bad enough. To miss it twice would be an outrage.

Mr. President, specifically, the amendment which I intend to offer at the appropriate time contains the following details. It closes a critical loophole in the Cuban embargo. Under the current embargo, subsidiaries of United States companies are still allowed to trade with Cuba. This amendment would close that loophole.

I might point out that since 1989, since the fall of the Berlin Wall, the amount of trade under that loophole has increased dramatically.

Second, it will establish civil penalties for organizations engaging in illegal trade with Cuba. Currently, only criminal penalties are provided, making it unnecessarily difficult to punish violators.

A third specific of this amendment, Mr. President, will authorize United States funding for nongovernmental organizations in Cuba. We want to accomplish in Cuba what we achieved in Eastern Europe, in the former Soviet Union, and in Nicaragua. We want to support labor leaders and human rights activists.

A fourth provision would require our Government to establish strict limits on remittances to Cuba by United States citizens. These remittances, for instance, finance the travel of Cubans to the United States. The Treasury recently placed a $500 ceiling on travel remittances to Cuba. We support that level. We believe it is important enough to have it in law.

Fifth, it expands phone service between Cuba and the United States. Existing service is of very poor quality. Cuban-American families pay 5 to 10 times the normal rate to place calls through Canada or other countries which do not limit phone service to Cuba.

Next, Mr. President, this amendment would direct the United States Postal Service to provide direct mail service to and from Cuba. Although Cuba now opposes direct mail service, our Postal Service has never been encouraged to aggressively try to negotiate such an agreement. Lack of postal service causes great hardship for divided families. We hope those in power in Cuba acknowledge the interest of the Cuban people at least in this instance.

Mr. President, finally, the amendment outlines a policy toward post-Castro Cuba. I consider this to be one of the most important elements of the amendment, because it essentially provides the open door. Yes, provisions in this legislation will increase the economic hardships in a nation that is already suffering from severe deprivation. That portion of the amendment states to the Cuban people what would be the consequence of continuing to tolerate its current authoritarian leadership.

The provision relative to United States policy toward a post-Castro Cuba represents the other path, the open door toward a new hand of friendship. If the Government of Cuba is freely and fairly elected, the United States would grant full diplomatic recognition. The United States would provide emergency relief during Cuba's transition to a viable economic system. The United States would encourage debt rescheduling or cancellation. The United States would end the embargo. These steps will be taken only after the fall of communism. Any shipments of food and medicine in the meantime will be granted for humanitarian reasons and will benefit only the Cuban people, not the Cuban authorities.

Mr. President, the day when we will be dealing with a post-Castro government is fast approaching. We must adopt a policy that hastens that day and prepares for the day after. This amendment will advance us toward that goal.

Mr. President, we are debating a defense authorization bill. Many of the changes that are the subject of the amendments and debates that will occupy our time are focused on changes in U.S. policy which have been driven by the fact that our adversary for almost a half century has largely disappeared. We are dealing with the reverberations of that collapse of the Soviet Union. I believe, as I said in the beginning, that one of those reverberations to which we should heed and pay attention is in our own neighborhood, a country which has, for 30 years, been denied the democratic wave of freedom and prosperity that has come to so much of this hemisphere. I believe, therefore, that, at an appropriate time, the Senate should turn its attention to what should be the policy in the post-cold war era in order to bring a new day of democracy and freedom and respect for individual rights to those long-suffering neighbors of ours in Cuba.

Mr. President, I look forward to that opportunity and hope that it will soon be available to us. Thank you.

Exhibit 1

Cracks Appear in Cuban Government After Castro's Ill-Starred Tour of Spain

(By Jose de Cordoba)

Miami.—More isolated than ever and demoralized after Fidel Castro's disastrous trip to a summit of Spanish-speaking presidents in Spain last month, Cuba's government is showing signs of strain.

For the first time in 33 years, Mr. Castro has indefinitely postponed Cuba's most important political ceremony, the 26th of July speech in which Mr. Castro traditionally gives a state-of-the-revolution address. The date marks the anniversary of Mr. Castro's attack on a military barracks in 1953 and the birth of his movement.

Officials at the Cuban Interest Section in Washington—which acts as Cuba's embassy in the absence of diplomatic relations between Cuba and the U.S.—said yesterday they don't know when the ceremony, scheduled for the city of Cienfuegos, will be held. "They don't know what to say," says Carlos Alberto Montaner, a Madrid-based leader of the Cuban Democratic Platform, a Cuban exile opposition group.

Separately, some human rights activists are convinced Mr. Castro plans to oust reform-minded Cuban officials.

"There is a purge of reformers coming," says Ramon Cernuda, a Miami-based human-rights activist who keeps in daily contact with activists on the island. Mr. Cernuda says Cuban state security agents have told human-rights activists to prepare for a wave of repression. "Our people are very worried about it."

"There are rumors," says Jesus Yanes Pelletier, a human-rights activist in Cuba, in a brief telephone conversation. "We don't know."

Mr. Cernuda says he's convinced Mr. Castro is preparing to jettison reform-minded officials who'd been useful to him in placating Latin American and European governments that have been pressing Mr. Castro to democratize Cuba. The reasoning, says Mr. Cernuda, is that with the debacle in Spain, Mr. Castro feels the reformers have outlived their usefulness. The possibility of political reform appears dead, so he no longer needs to keep closet reformers who oppose his policies.

"If they can't persuade international opinion, and are an irritant domestically, then they become a net loss," says Mr. Cernuda. He expects a number of high-ranking officials known as reformers to be accused of corruption or similar charges, and removed from their posts.

Mr. Castro's visit to Spain, Cuba's most important Western trading partner, which Mr. Castro hoped would be a triumphal tour that would gain him political breathing room and perhaps financial aid and foreign investment, turned into a fiasco. Mr. Castro was mocked in the Spanish press, which made fun of everything from the Cuban leader's concern for his security to his human-rights record.

For instance, El Pais, Spain's most influential newspaper, referred to him as a "dying star" whose trip to the region of Galicia, where Mr. Castro's father was born, "can only be understood as part of the magical surrealism of those lands."

Instead of large friendly crowds, Mr. Castro's every step, from the moment he landed in Madrid, were dogged by small groups of determined Cuban-exile demonstrators whose protests on occasion kept him from speaking. In Galicia, however, he did get a friendly reception at his father's ancestral village.

Worst was the icy treatment Mr. Castro received from his hosts. In a direct reference to Cuba, Spanish Prime Minister Felipe Gonzalez said, "We don't want either political prisoners or political exiles in our community." To underscore his alienation from Mr. Castro, Mr. Gonzalez met for almost two hours with Mr. Montaner and other Cuban exiles, the day after Mr. Castro left for home.

Mr. WARNER. Mr. President, I would like to join in continuing what I deem absolutely essential in vigorous opposition to the amendment of the junior Senator from Arkansas [Mr. Pryor]. I was in the majority leader's office, together with the Republican leader, working on scheduling at the time my colleagues gave their important rebuttal. I wish to reinforce what they said and add a few of my own observations.

First, a major portion of the defense authorization bill, a portion that was in large measure fashioned by the distinguished Senator from Georgia, deals with defense conversion. In other words, we recognize the numbers of individuals being put out of work in the defense industry.

The Pryor amendment goes right against that whole concept of the bill, because what the Pryor amendment is designed to do is to put people in the private sector out of work and build up the numbers in Government. It has an extraordinary appeal, when we all try to sit around here working on building greater efficiencies in the Federal Government, to come to the floor and say it is now time to build up the numbers of Government employees.

It is a clever amendment, because the Senator from Arkansas recognizes full well the personnel ceilings imposed by the Department of Defense. Let me give you one example. Would the Senator put that chart up showing the numbers? I see the Senator coming back on the floor. If I understand that chart, those numbers represent some statistics that the Senator got from the guard that checks people in and out as they go to and from the SDIO offices. Is that correct?

Mr. PRYOR. I will respond to my friend from Virginia that I do not know if a guard furnished these statistics or not. I do not think any guard furnished these statistics.

Mr. WARNER. My understanding, through a staff contact, is that the——

Mr. PRYOR. I will be glad to give my friend the precise answer as to how these statistics were obtained. I have always felt that we got these statistics from the SDIO office. These are not our figures. These are figures from SDIO.

Mr. WARNER. Fine. But my understanding is that they were provided from the logs maintained by the security guards who check individuals as they come in and out the doors.

My point is that, obviously, the contractors are not resident. They do not have desks in there. They are resident in private sector offices outside, and they have to come with great frequency to and from the SDIO offices to perform the work. I urge my colleagues to look into that, because I am deeply concerned, as the Senator from Maine and the Senator from South Carolina said, that we are going to first rivet into this a reduction in the 8(a) type of contractors, which are largely owned by women, areas where this body has, from time to time, put great emphasis to try to give them encouragement.

Let me give some statistics to my friend. My staff will provide him with the documents from which I am about to read so he has the opportunity to fully understand the point I wish to make.

Let me look at just one segment of these contracts. CTI, Inc. That is a contractor that will be hit right head on by this amendment. It does publishing and graphic support. The cost is $4.3 million a year to the Federal Government. It is an 8(a), minority owned.

Second, Harris Co. Support for program management, draft correspondence, and budget input, $3.8 million. Female or minority owned. Right into this chart right here.

CTI, Inc. Support for POM and program management agreements. Develop SDIO management. Info system. Provide briefing, meeting, graphics, publication support; $21 million, 8(a).

This is an anti-8(a) amendment. Make no mistake about this. Make no mistake about it.

SEMA, Inc.: Support Office of Technology Applications, maintain technology data base system, analyze SDI programs for technology transfer, $7 million.

RJO, Inc.: Acquisition, programmatic support, $21 million. Develop award/fee guidelines, draft proposal evaluation plans, scoring methods, independent cost estimates. Another 8(a) firm, $21 million.

We can go on.

So I would like to have an opportunity to hear my good friend from Arkansas, what is it he wishes to do about all the 8(a) contractors who are already petitioning this Senator and others for the inability of the Department of Defense to get even greater amounts of the work allocated to these very deserving people who need this type of support in order to maintain a viable part of our society and to gain that experience to go on to even greater heights?

A second type of service being performed by the outside contracting world, which is the target of this amendment—at any time I will yield for comments by my good colleague—and that is the expert advice being given by engineers who have spent their careers studying a certain type of engineering. For example, phased radar model technology, test of lethality on foreign threat systems, relative maturity of optical fulcrum technologies.

Do we want to begin to build up a whole laboratory system, with permanent Government employees, civil service, pensions? This is what we are going to have to do in order to maintain this SDI Program as a viable part of our R&D. We would have to build up a whole laboratory bringing these individuals in and recognizing when we do that it is unfair to them as professionals, because we only need them for 6, 8, 9 months or even less periods of time within which their expertise is applied to their program, the answers are resolved, and we go on to another technical problem. We have to hire a whole new group of technicians to come in and answer that series of technical problems.

Let me give you another example: Evaluation of secret performance, architecture for Middle East theater defense, test, and evaluation systems analysis for kinetic energy, develop natural test bed, analysis of natural and perturbed environments.

Why should we build up a whole civil service structure to get answers, if we are going to vote—which I hope eventually it will be—$3.3 billion or even the $3 billion that the senior Senator from Arkansas wishes, $3.3 billion? We have to have a viable program. And this effort goes right to the heart of the ability of the SDIO office, the Federal Government, and the Secretary of Defense, to perform the programs which the Senate is directing them to perform at whatever level of funding is ultimately decided upon.

When I look at that situation in contrast to the major thrust under this bill to have defense conversion to try and protect people from being thrown out of jobs in the private sector who have given so much of their lives and careers toward building up our defense, I say to myself I cannot rationalize what is the objective of the junior Senator from Arkansas. I will be happy at any time to yield, because I am very anxious to engage in a colloquy.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, first, I am a little bit flabbergasted in taking part here in just a moment by my friend from Virginia, Senator WARNER, when he said—he said it twice—this is an anti-8(a) contract amendment. The 8(a) contract, of course, we know was reserved for minority firms and minority individuals. And, Mr. President, I had absolutely no idea whatsoever that the Senator from Virginia nor any one else nor any 8(a) contractor would ever think for a moment that this particular amendment was an anti-8(a) contract amendment. It is not. That is not the purpose of it, whatsoever. And this is absolutely camouflage to throw into the debate at this time that this is some sort of amendment to keep minorities from getting Federal contracts, and I resent it, Mr. President. It has nothing to do with this amendment.

There is another point of this debate I resent, Mr. President, and that is the implication that the so-called Pryor amendment to the SDI approach is going to increase the number of Federal employees. That is the mindset around here.

Mr. President, all this amendment does is say we are going to cap at $100 million what we expend in the SDIO office for private contractings. It does not say that we are going to allow the SDIO office to increase the number from 269 Federal employees to 369 or 469, or what have you. It has nothing to do with that. They are going to take the same number of Federal employees, but at the same time going to get back with fewer dollars to run their private consulting contracts.

Mr. WARNER. How does the Senator propose to do the work that was done by these employees that would be deleted?

Mr. PRYOR. I answer my friend from Virginia, it is very simple. If the Bumpers-Sasser amendment prevails, there is going to be $1 billion fewer in contracts. Does it not stand to reason if you have a $1 billion fewer in contracts you are going to need fewer contractors to oversee the contracts, fewer Federal employees to oversee the contracts, because there are going to be fewer contracts to oversee?

In my opinion I wish we could cut it by $2 billion and then we could really make some reductions in the administrative costs of SDIO. We are going to have fewer contracts to go at.

Mr. WARNER. I ask my good friend—we will have eventually a vote, which is being decided by the distinguished majority and Republican leader at this time, on the Bumpers amendment—if that amendment fails will the Senator from Arkansas withdraw his amendment?

Mr. PRYOR. Mr. President, I did not hear the question.

Mr. WARNER. I am happy to repeat it, perhaps a little more forcefully. If the amendment from the junior Senator from Arkansas is predicated on the amendment of the senior Senator from Arkansas prevailing, when we vote once again the funding level as posed by the series of amendments from the senior Senator from Arkansas, the Senator from Tennessee, and should those amendments fail, would the junior Senator from Arkansas be prepared to withdraw his amendment?

Mr. PRYOR. Mr. President, I answer my distinguished friend with a loud and resounding "no." This amendment is not predicated on the amendment that was failed to be tabled, offered by the Senator from Tennessee and the Senator from Arkansas on Friday. This amendment stands on its own. It is an attempt to cut out the fat, the bureaucracy, the contracting bureaucracy, I might add, of the SDIO office. It is that pure and simple.

We stated here, I say to my friend from Virginia, that contractors today are awarding the contracts; contractors today are answering the letters that we send to SDIO; contractors are asserting the policy of SDIO. And I would say if I could, Mr. President, to my friend from Virginia, we are not talking about adding to the Federal payroll; we are talking about subtracting from the consultant's and the contractor's payroll. It is that simple. It does not do any more than that. We take them back to a level of about 2 years ago and say, "Sure you can have $100 million in this one little office; $100 million in private contracts if you want to. But, you are not going to have $162 million. You are going to tighten it up. You are going to become a little leaner and you are going to make certain that these consulting and contracting dollars hit the target."

And today I think that the Senator from Virginia would actually agree with me that there is a great deal of this work being done that is not necessary and we are paying far too much for these particular services.

Mr. WARNER. Mr. President, I wonder if I might reply to my good friend by going into some detail here as to precisely what it is the employees, who are subject of this amendment, are performing. I do not wish to be redundant, even though I have not had the opportunity to be on the floor throughout the entire debate.

I am advised that I should return to the majority leader's office momentarily. But I would like to cover this one point.

Has the Senator given the details as to what these employees who would be the object of this cut, what form of work they perform?

Mr. PRYOR. I say to my friend from Virginia, I have. I have stated some of the points for the record, and I would be glad to go further.

One thing they do is they monitor congressional hearings. They write congressional statements. They write letters on behalf the SDIO Director. They are setting security policy for the SDI initiative. They are doing everything, but they are not covered under the ethics law. Most of these contracts, in my opinion, are sole-source contracts.

And I have stated to my colleagues that we have what I call an old buddy system here. There it is. That is the old buddy system. This is where the advisory committee is up here, sitting there with some 14 or 15 companies and individuals, they are the ones that are getting all the money. They are advising how the money is to be spent, and they are the ones receiving all the money.

I wish I had a deal like that, Mr. President. I would love to have a deal like that. It is foolproof.

Mr. President, I know that the distinguished Senator has to leave for a meeting possibly with the majority leader. I would be glad to engage in this discussion later if he desires to leave the floor.

Mr. WARNER. Mr. President, I desire to leave the floor, but in my absence the Senator from Maine is here and he is as familiar with this program as am I.

But I have not been satisfied with the Senator's response in how this is not an anti-8(a) program. I have given the Senator the names of a half-dozen firms. I hope at some point the Senator would address those firms as to whether or not they would be the object of this cut.

Mr. PRYOR. Mr. President, SDIO is going to have $100 million. They can hire every 8(a) contractor in the United States of America with that $100 million, should they do desire—$100 million. How many other agencies or departments of our Government have consulting contracts and consultants hired to the tune of $100 million?

I must say once again, Mr. President, I resent the accusations that this amendment is an anti-8(a) contractors' amendment. It is not. It has nothing to do with this.

I hope I can convince my good friend from Virginia of that fact as the afternoon goes on.

Mr. President, I guess the afternoon is in fact going to go on, but I am going to sit down. I see my good friend from Nevada and others desire to speak.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I see the comanager of the bill now is my friend from Maine. I am wondering if anyone would have an objection to my speaking as if in morning business?

If not, I ask unanimous consent that I be allowed to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. REID and Mr. GRAHAM pertaining to the introduction of S. 3160 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

Mr. LIEBERMAN. Mr. President, earlier this morning, I gather that my friend and colleague from Arizona, Senator DECONCINI, took the floor to indicate his continuing concern, agitation, anger about events that are occurring in the former Yugoslavia, and his impatience with the fact that the Senate has not yet scheduled the amendment that he and I and many others of both parties have cosponsored which would express our outrage at what is happening there and would support the use of military force to guarantee the delivery of humanitarian relief, as well as to enforce any decision that the Security Council may take to gain access to these detention camps to determine exactly what is happening there.

Essentially, this resolution supports what the President is already negotiating with our allies, particularly Britain and France, and which the Security Council apparently will take up later in the day. He calls on the Security Council to consider certain other actions but leaves it to them, such as suspending the arms embargo, with the hope that the civilized world may decide that it is only fair that we begin to give the Bosnians some opportunity to defend themselves; that the U.N. Security Council consider convening a war crimes tribunal for the Serbian leaders, and so on.

Mr. President, my friend and colleague from Arizona apparently indicated this morning that until there is some agreement that makes clear that there will be a time certain during which this Senate will debate our resolution or some other resolution on Bosnia before we depart from this Capitol on Wednesday evening, that he intends to deny any unanimous-consent agreement to proceed further on the bill.

I come over to the floor to indicate that I intend to stand with him in that denial of a unanimous-consent agreement because, no matter how important matters are, procedural concerns, the differences between Members in the Chamber, there is a crying need for us to speak out and to speak out with strength to support what the President is doing and support what the Security Council is doing and to give some support to the people of Bosnia and warning to the leadership of Sebria that is carrying out this horrendous onslaught.

Mr. President, I looked at this morning's New York Times. Do you want to know why there is an urgency? Front page story:

> Serbian forces are tightening a noose around northwestern corner of Bosnia and Hercegovina, cutting food deliveries and escape routes for 300,000 increasingly desperate residents.

Ibrahim Kozlica, described as a Moslem who operated a cafe in Bihac in this area says:

> They are trying to clear this area of Moslem people. I wanted to send my wife and children out, but there is no way. We are waiting for God to save us.

Further in the article, Cedric Thornberry, civilian affairs director for the U.N. peacekeeping force in former Yugoslavia says:

> It's a human and political calamity that's just waiting to happen. It will require a major change in policy on the part of the Serbs if that calamity is not to occur. Many of us have nightmares about it.
>
> The commander of United Nations military mission here, Maj. Ziaul Haider of Ban-

> gladesh, met with the local Serbian leaders. * * * They said they want to move all Moslems out of Bosnia and replace them with Serbs, he recalled. They really don't have any military objective. The shelling is directed to civilian areas to terrorize people. * * *
>
> Evidence of the growing isolation of this region is clearly visible in the Bihac Hospital, where doctors have begun treating severely malnourished infants.

Lars Neilsen, a Danish relief worker is quoted as saying:

> They looked like victims of the Ethiopian famine. Pediatricians tell us that in many cases, they don't even make it to the hospital.

Mr. President, if we, knowing what we know is happening, listening to the reports from the U.N. personnel there, eyewitness reports of the intention of the Serbs to strike at civilian populations, to remove people forcibly from their homes simply because of their religion, which in this case is Moslem, do not debate and I hope adopt resoundingly a strong statement of concern and support for the use of force, at least to bring humanitarian relief to these people, then really what are we and who are we and what is the purpose of our service here?

Leaders around the world, our allies in Europe, the President of the United States, the U.N. Security Council, responding to the evidence of what is happening in Bosnia, are all working with speed and devotion to express their outrage and make something happen. It is time, certainly before the Senate breaks this week for the rest of August and into September, that we join this chorus of moral outrage and strength.

Remember what Cedric Thornberry of the United Nations says here:

> It will require a major change in policy on the part of the Serbs if that calamity is not to occur.

And what is it that can possibly bring about that change of policy on the part of the Serbs, who have been moving with recklessness, with viciousness, throughout Bosnia? We are not sure what will stop them. But one thing I know: The possible fear of allied military force against them holds a better hope than anything else we have tried up until now of getting them to stop their aggression, their brutality, and get to the peace table.

I think it is critically important that before we leave here this week, the Senate makes clear on behalf of the people of the United States we are ready to send that message of force to the Serbs. We leave it to the Commander in Chief, the Security Council, and our allies in NATO to determine exactly what form that message takes. but let us not be stymied with 101 reasons why we should not act. Let us give the President and the Security Council the power to act.

So again, finally, I am going to stand with Senator DECONCINI respectfully in objecting to any unanimous consent agreement on this bill until there is a time certain set for debate on a resolution concerning Bosnia.

I thank the Chair.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if the Senator from Connecticut will remain a few minutes. Perhaps we can together have a colloquy on this important issue.

I have stated earlier today that my objection today to try to vote is that tomorrow morning the Senate Armed Services Committee, under the leadership of the Senator from Georgia and myself, is going to have a very thorough hearing by two panels of recognized military experts, and hopefully they can shed some light, in addition to some excellent articles that have been written and statements by experts particularly over this weekend, on the military implications of each type of assistance that might be rendered under a proposed U.N. resolution.

So it would be my hope that whatever vote the Senate wishes to make would take place after that hearing, so that at least that information is a matter of record before this body.

But I would like to just ask my good friend several questions. I am still searching for information as to whether or not the type of persecution we have now witnessed through the television, taking place in camps conducted by Serbian interests, is not in some manner to be found in comparable situations of internment maintained by Croatian interests, perhaps Moslem interests, perhaps Bosnian interests.

In other words, if we were to rush and bomb Belgrade, as Mrs. Thatcher, the former Prime Minister, said, cut the bridges, hit the ammo supplies, take the risk of killing innocent civilians in and around Belgrade and other places, then all of a sudden, if we do get the International Red Cross in, we might find that comparable situations, equally deplorable to the outside world, are taking place in other camps under the control of other forces.

This is a civil war, three parties fighting each other: Croatian, Moslem, and Serbian. What assurance do we have, if we launch out into some type of military action, as advocated by some—Mrs. Thatcher, notably, the former Prime Minister—what proof do we have that we do not turn and find, in due course, that same type of problem is existing in other camps?

I ask the question of my friend.

Mr. LIEBERMAN. Mr. President, in responding through the Chair to the Senator from Virginia, I am reminded of something said over the weekend, which is that we can find 101 reasons not to do something here. But we have plenty of reasons to do something. The question now is what is appropriate.

I do think there is a danger—I say this respectfully to my friend and colleague—of a certain moral neutrality as we look at what is happening. This is a complex situation. We know that there are historic conflicts between the various ethnic and religious groups there.

But if I may say so, the record is clear about where the preponderance of evil, of unacceptable behavior over the last year has rested. The record shows, from the time that Yugoslavia began to dissolve, a steady course of Serbian aggression, first into Croatia, now into Bosnia, and many fear, if we do not stop it here, into Kosova, Macedonia, and perhaps wider.

But second, and equally clear, again in testimony from U.N. officials that I have read today, the course of action by the Serbs is unacceptable and outrageous. Yes, there are historic conflicts between the Moslems and Bosnia, the Serbs, and the Croatians. But there is no evidence that the Moslems or the Croatians are doing to anyone what the Serbs are doing. They are hitting civilian populations, ethnically cleansing regions—an antiseptic term that belies what it is. It is the beginning of a genocide.

I use the term hesitantly. It is not a genocide. But it is the removal of almost 2 million refugees from Yugoslavia—not voluntary, not economic refugees. That is two-thirds of the State of Connecticut forced out of their homes by the Serbs, tightening a noose around Sarajevo.

Here is the testimony of the U.N. officials, having spoken to the Serbs, saying: "They"—the Serbs—"really do not have any military objective. The shelling is directed to civilian areas to terrorize people." They said they want to move all Moslems out of Bosnia and replace them with Serbs.

So it seems to me that the evidence is clear and justifies this statement of policy.

If I may, just for one moment more, respond to the Senator——

Mr. WARNER. Mr. President, the Senator is verifying my second point. Thus far, the resolution which I understand is being pursued in the United Nations is that all necessary means—which implies the use of military force—will be used to get relief to those injured persons in Sarajevo and into the camps, presumably, although those camps, as I pointed out the other day, are quite distant from the port where the supplies would have to be brought.

But in listening to the Senator from Connecticut, he is understandably greatly concerned about the shelling, the war. But that is a civil war. Is it the Senator's thought that we should intervene in that civil war to stop the firing of the cannons and the mortars? What is the extent to which the Senator wishes to have the United Nations participate?

The resolution, as I understand, now being drafted is narrowly crafted because of the concerns of Great Britain, France, and many other nations about getting relief in, in support of certain people being damaged in many ways, in the camps and otherwise, by this aggression but not to stop the origin of the aggression.

Mr. LIEBERMAN. Mr. President, responding to the Senator from Virginia, the resolution to which my name is attached has limited purposes, which are to ask the President to go the Security Council for an authorization by the Council for the use of force to enforce Security Council decisions to deliver humanitarian relief, and to gain access to the camps.

Those are the two limited purposes.

Now, it is quite possible——

Mr. WARNER. Mr. President, how does that stop the shelling and the civil war?

Mr. LIEBERMAN. If I may, Mr. President, it is quite possible that second purpose, with regard to the camps, will not be necessary because I gather—and it will remain to be seen whether this actually occurs—that the Serbs have said they would open the camps now to the international Red Cross for Inspection.

But I told the story because the Senator from Virginia seems to be suggesting that we should not act until we are certain that the Moslems or the Croatians are not doing acts against the Serbs that are equally as reprehensible as the Serbs. That is the kind of moral relativism or neutrality or passivism that does not relate to the facts. No one has alleged that the Moslems or the Bosnians or Croatians are running the kinds of detention camps that the Serbs are running. No one has alleged they are trying to remove Serbs from the areas of the country. So action is justified here by the uniquely horrible acts taken by the Serbs.

The direct answer to your question: The resolution, again, does not call for involvement in a civil war. I personally feel that we may come to a point where the civilized world, having tried to deliver humanitarian relief, may feel that it is necessary, as Mrs. Thatcher has said, to impose some pain on the Serbs, perhaps by hitting the military depots or the bridges or the like to show our seriousness. But we are not at that point now. That is not the point of the resolution.

Mr. WARNER. If I may ask my friend another question, because my main concern is for the American people to understand as many of the facts and the implications as we can possibly provide in the brevity of time that exists: If we are to provide all necessary means, military forces, to escort, presumably, the United Nations food trains and relief trains and medical supplies up to the camps, they are going to pass through areas in which, although not subject to confinement in camps, the people are suffering to just as great a degree as those with the misfortune of being in the camps. Along the road will be the ravaged villages and other suffering people. Do we not help them, will we proceed along these narrow paths up to the camps? What do we do? This problem is so complex, as our President has pointed out time and time again in the last 48 hours when people are critical of him for not acting more aggressively.

Well, as I look into this thing, to me there is good reason why our President has been very cautious, as have other world leaders, in reaching such decisions as they may in the next 48 hours. One of them, as the Senator promised, raise the hope that you are going to carry relief supplies using military force to drive up the narrow path to get to them. Expectations of many are raised. I want to make certain we understand what the goal is we are trying to achieve. The specific question is do we ignore the plight of the people in the villages who are not in the camp, many women and children, because of their extraordinary separation of male and female, as a part of the intrinsic baffling nature of this conflict over there? What do we do with those people as we go up through the villages on the way to the camp?

Mr. LIEBERMAN. Mr. President, the questions being raised now by the Senator from Virginia are ones that he might well raise with President Bush himself and our allies from France and Britain because the President is calling for the use of military force, all necessary means including military force, to guarantee the provision of humanitarian relief.

Again, the Senator from Virginia and I stood together here on this floor when it came to Operation Desert Storm. It is important to try to know as many of the implications of a very serious, profound act such as that and this, but ultimately, I think we understood that in that authorization resolution we adopted in January 1991 we could not deal with every potential military contingency. What we were doing was expressing a policy, which is that the Iraqi invasion of Kuwait demanded a response, which was the use of force.

Here in this resolution, we are asking for an expression of policy, which is that the suffering of these people, because of their religion and nationality, at the hands of the Serbs demands a response, probably now requires the use of force, and we will leave it to the Commander in Chief and to the generals as to what should happen, how that should be carried out.

Mr. WARNER. I say to my good friend, we simply cannot make a political judgment and then toss this into the hands of military experts unless we make quite clear what are the goals that we wish to achieve.

Let me ask another question of my friend. Indeed, we did stand side by side on this floor through one of the historic debates in this Chamber on the Iraq resolution. So I know my good friend comes with a clear conscious, and I think the root of some of his deepest concerns reflect back to the tragedies of World War II when the world did stand idle.

I am all in favor of having some type of action, but I want to make sure we understand what it is. This brings me to the question of ground forces. How do we get this supply train, this relief train up through this extraordinary terrain, mountains, valleys, where very few military forces poised on the top of the hill can hold up a very substantial military force trying to work its way up through a narrow path. If we have to deploy ground troops—and that will be brought out tomorrow in the course of our hearing in the Armed Services Committee—from whence do they come?

I find some concern in having our President take this leadership that is being clamored for by many who are criticizing, and then saying, "Oh, no, the heavy lift, the real heavy lifting of the ground troops has to be done by others." I find it somewhat inconsistent that you take the leadership, you get the United Nations resolution, and then you say, "Oh, the high-risk element of this has to be done by others." How do we answer that question?

Mr. LIEBERMAN. Mr. President, I am not here today to criticize the President. I see this resolution as an expression of support for what I gather he is doing now. And, again, let us distinguish here. The use of the term "ground forces," I do not think anyone in this Chamber, certainly not the Senator from Connecticut, wants the United States or our allies—but this is the United States Senate, let us talk about the United States—to intervene on the ground in the war that is going on in Yugoslavia. However, to be true to the goal that the President has stated and that this resolution embodies, the delivery of humanitarian relief to these people who are being chocked off may require the use of some personnel other than in the air and in the waters of that area. I think we have to acknowledge that.

But let me say directly, I am willing to acknowledge that here, and to say that I accept the responsibility that goes with that. The exact dimension——

Mr. WARNER. Excuse me. Let us define that responsibility as implicit in this operation of "all necessary means" to get relief supplies to these remote areas, ground forces of some nation or nations will be involved.

Mr. D'AMATO. If the Senator will yield——

Mr. LIEBERMAN. I will add one point and then I will yield. The Senator from Virginia referred to the clamor, the concern of many of us, and said that he thought he had an understanding of the origins of my concern going back to what happened in World War II. I want to say respectfully that is part of our concern. I presume that is part of all of our concern.

Mr. WARNER. I assure the Senator it is part of the concern of all on both sides of the aisle.

Mr. LIEBERMAN. Absolutely. Let me just add that I am motivated equally by not just the sense of moral responsibility that we all fear because we worry that this is the beginning of a genocide happening, at least a torture and forcible removal of people simply because of their religion, Moslem in this case. But I feel that this is a defining moment in the post-cold-war world, and that, if the civilized world does not get tough here with Serbian aggression, there is not going to be any order to the new world order, that the post-cold-war world in its way will be more insecure than the cold war. There we had definable lines, the conflict was clear, and we had a standoff.

(Mr. WELLSTONE assumed the Chair.)

If we turn away from this kind of aggression here in Europe, there is an enormous danger that all the other pools of ethnic hatred and national tension will break loose and there will be a wider conflict in Central and Eastern Europe. None of us want that.

Again, I fear that history tells us twice in this century that we turned away from conflict in its early stages in Europe only to be drawn in later at an enormously greater price in the blood of Americans. I do not want that to happen again. That is what motivates me to ask for this expression of force.

Mr. WARNER. Mr. President, I do not disagree with those statements. I could have easily made them myself, and I have, I think, throughout my career. Let us have a narrower question.

Look in the eye of Hometown, U.S.A., from whence our soldiers, sailors, airmen, and marines come—the men and women that will be called on to do this job. Are we implying that America will commit ground forces if we seize the high ground, seize the leadership and say, march on, and with all necessary means get those relief supplies up through the various areas of Bosnia? A simple question: How do we answer Hometown, U.S.A.? Are our troops to be involved or not on the ground?

Mr. LIEBERMAN. I think what we say to Hometown, U.S.A.—obviously, I have thought about that, because that is the moment of truth, the confrontation that we all think about and have to be prepared for. What we say is that in the interest of our stature as the moral leader of the world, in the interest of the security of a world post-cold-war, in the interest of avoiding a wider conflict in Europe in which Mr. and Mrs. America—more Americans would be drawn in, this is the time for the measured use of force.

I gather from stories that I have heard and read that what is being contemplated in the plans that are being drawn up is American involvement in air strikes and Western European involvement on the ground. I do not know that, I say, in all fairness and completeness, to the Senator from Virginia. Again, I feel very strongly that the role of the U.S. Senate is to gather as much evidence as it can and express policy. It is the role of the Commander in Chief to carry out that policy. The President did it ably in Operation Desert Storm, and I have confidence in him and the leaders of the allied nations to do the same here.

Everyone understands the complexities. Nobody reasonably will rush into a wider conflict in Yugoslavia. We are talking about limited, measured, sequential use of force. And the problem here is, What is the alternative?

The alternative is to stand by, read the stories I have read today—another 300,000 Moslems trapped, starving, babies malnourished—and simply say there is nothing we can do. We have an obligation to do whatever we can reasonably and appropriately do. I have confidence, once again, in the President as Commander in Chief to determine exactly what that use of force is.

Mr. WARNER. Mr. President, should we not be likewise willing to accept—the Senate of the United States, the Congress of the United States—the responsibility of telling our people, as does the Commander in Chief at some future time, that ground forces may be involved and they may come from Hometown, U.S.A.? Should we not accept that commensurate responsibility as we make these policy enunciations?

Mr. LIEBERMAN. Mr. President, absolutely. In proposing this resolution, I accept that responsibility. In recognizing the authority of the Commander in Chief, I do not intend to put all the responsibility on his shoulders. I do so in what I think to be the appropriate constitutional delegation of responsibility.

Mr. WARNER. Well, I thank my good friend. We have had many opportunities to debate together. I know he feels as keenly as I, that the men and women in the Armed Forces likewise need some protection in the form of making certain they understand what is involved if they are called upon, what are our goals if they are called upon, and what are the associated risks.

Only history can dictate those associated risks, the answers to that, because there is a great deal of history, not only World War II, but going back 1,000 years in this most unusual part of the world. The strife between these factions emanating from differences of religious belief has been persistent in bloody warfare for 1,000 years. And the uniqueness of this terrain renders less effective so many of our weapons which are high tech, and comes back to the simple foot soldier.

Mr. McCAIN. Will the Senator yield?

Mr. D'AMATO addressed the Chair.

Mr. WARNER. Parliamentary inquiry. Does the Senator from Virginia have the floor?

The PRESIDING OFFICER. Yes.

Mr. WARNER. I yield to the Senator from New York.

Mr. D'AMATO. I am wondering why it is—and I understand that the Senator is attempting to point out the various ramifications of how this situation could possibly deteriorate into the United States being required or committing land troops. I do not think anybody who has worked on this resolution is asking that to be the case. But I do believe what we are saying is that it is time for more than just rhetoric. It is time to demonstrate and to commit to the world community that we are ready and willing, under the leadership—yes, of the United States, because the United Nations has failed to provide the moral leadership—to do what must be done to bring about the kind of pressure that those in Belgrade will understand.

Here is Belgrade. I do not believe that we should seek out, nor that anyone would attempt to persuade a course of action, or bring about a course of action, which is a cessation of the bombing and entrapment of people in Sarajevo, and a new town that comes to our attention, Bihac, where there are 300,000 people now being besieged. How do we get Milosevic and the Serbs to stop this kind of killing? It is not just by attacking targets in the mountains, but there are economic targets close to Belgrade. There are fuel depots, there are railroads, there are powerplants; there are any number of those that, if hit—and they can be rather easily hit—will bring to the people in Belgrade a message that we are not going to allow their government to continue the slaughter and entrapment of the innocent.

Why should we look at this as if someone who proposes this amendment, or his solution, is saying to go into surrounding Sarajevo and dig these people out. We are not saying that.

Mr. WARNER. The resolution says, "use all necessary means to get relief trains up to those geographic areas" which, incidentally, I brought in that very map and pointed that out 2 days ago.

Mr. D'AMATO. Let me suggest to you that probably one of the areas is Novi Sad, which is miles away. But you knock out those gas lines, you knock out—and tell them we will continue to increase the pressure—those powerplants in Belgrade, you knock out those rail depots, which they need to provide not only munitions, but also in terms of keeping their own industry going, and then you will begin to get the 9 million Serbs to say: What is taking place? They are hurting us; our electric does not go on; we do not have power and water; and we are going to face famine and pestilence, and the world community does not sit by; it is not just by sending troops in to dig them out of the mountain passes.

That is the absurd argument being put forth that suggests that the Senator from Connecticut and the Senator from Arizona and the Senator from New York are saying, go in and dig them out. No; we are saying use whatever means necessary and, of course, when we say that, we are not saying to have the death march into the valley, as we have heard in that famous poem over and over. We are not saying that.

We are not saying that. But we are saying hit them economically. You will have that option. You have the option to build the pressure so that finally their own people will say we have to cease, and if they cease then we can come to some terms.

Mr. WARNER. The Senator's hypothesis presupposes what we call in military parlance a clear command and control; namely, that if you were to inflict painful damage to Serbia that that government in turn controls the belligerent forces now wrecking devastation within Bosnia. It is quite clear that that command and control is a matter of great dispute among the experts who have been into that area and the U.N. forces themselves.

Mr. D'AMATO. I suggest it is naive really to think that these forces that have come from these ethnic Serbs who may have lived in Bosnia, they have not had this firepower and not had the kind of volume of weapons and supplies had it not been coming from Belgrade and coming from Bihac. It is naive. To say they have day-to-day acknowledged every act they take in the field, no. No, we cannot prove that kind of thing. But it is just not realistic to suggest that the guerrillas in the field, so to speak, are carrying this kind of activity on themselves; that there is not coordination now when they look to cut out Bihac's 300,000 people. It is not coordinated—of course coordinated to that extent—to the extent they are directing when the mortars are going to be fired; of course; no one is suggesting that. To suggest that Belgrade does not have incredible influence and has not created this and they are not part of a greater plan for greater Serbia is just not believable.

Mr. WARNER. Mr. President, I suggest that the good Senator come to a hearing tomorrow at which time the military experts will address that question of naivete, and I assure him that the testimony, credible on both sides of the issue—there is not the tight command and control that the Senator imagines between Serbia and the insurgent forces.

I yield for a question from my colleague from Arizona.

Mr. McCAIN. I ask my friend from Virginia, if in the immortal words of the famous beloved Yogi Berra, this debate may be deja vu all over again. With all due respect to my friend from New York and my friend from Connecticut, the argument we have just heard is almost the exact same argument that was used in 1965 to commence the bombing of North Vietnam. The argument was that if we bomb those powerplants, if we destroy those bridges, they will stop supplying the Viet Cong in South Vietnam. I wonder if the Senator from Virginia does not find such an argument eerily reminiscent.

Mr. WARNER. Mr. President, I was there in the Pentagon at the very time the distinguished Senator from Arizona was on those bombing missions and later incarcerated in prison camps. He knows firsthand the answer to that question.

Mr. McCAIN. If I might follow up with another question to my friend from Virginia, does he remember that we became involved in a civil war in Vietnam, a war between the north and the south, in which we felt the use of air power could somehow decisively end the conflict? I am very pleased, by the way, that the Senator from New York does not contemplate the use of American ground troops in this effort, but also I wonder if the Senator from Virginia remembers that bombing targets in rough terrain in Vietnam, where we could not separate friend from foe or military from civilian, was very different from bombing fixed positions in the desert and Kuwait?

Does he remember the Korean war—in which the Senator from Virginia served with great distinction—where we deployed enormous amounts of air power and bombed all the supply lines, and emplacements that we knew of in both North and South Korea and failed to decide the outcome?

We all share a common concern, compassion, sorrow, anger, and frustration over the terrible tragedy that is unfolding in Bosnia and the other parts of what once was Yugoslavia.

All of us are enraged when we see these terrible atrocities taking place.

The question is what can we do to affect the outcome of this tragedy? I would suggest to the Senator from Virginia, and I have a very long statement about this at the proper time, that the Europeans are the ones who should bear the primary responsibility for solving the problem. It is our European friends who have excellent military capability and who have fine armies and air forces in place. I would suggest that to contemplate sending American young men and women into combat without a U.N. mandate for a multilateral force without Europe agreeing to provide most of the forces, and without a clear-cut strategy to determine both where we are going to begin, and what the end game is, is a recipe for failure or the kind of symbolic success that will have no long-term meaning.

Further, before we go in we must consider the cost of getting out. If American pilots are shot down and captured, how will we get them returned, much less ground troops? How are we going to combat a guerrilla war if we do halt the use of heavy weapons? How in the world, as the Senator from Virginia well knows, we are going to identify targets that we can bomb? A few scattered highly mobile artillery weapons are not only hard to target, Serbia guerrillas can easily shift to mortars, rocket launchers, anti-tank weapons and other weapons we cannot target at all? And, what good does it do to cut off the electricity in Belgrade when there are people in the mountains surrounding Sarajevo shooting children as they try to get to the airport on a bus?

Noble words and well-intentioned rhetoric are not enough. We have to deal with the reality of this situation, and focus on what we actually can accomplish and achieve here. I have heard time after time during this debate about comparisons with our success in Kuwait and the Persian Gulf war. There is another comparison I would ask my friend from Virginia about. Does he remember Beirut? The Senator from Virginia and I remember all too well when Marines were sent into the airport in Beirut in order to secure that airport. They were sent for much the same reasons as we are attempting to secure the airport in Sarajevo. Tragically, more than 200 of those young Marines gave their lives in a terrible tragedy, because we had no strategy, no end game, and no way to use military force to achieve our objective.

I would like to say to my friend from Virginia that I think that he is correct. We need to listen, and to pay close attention to General Powell, the heads of the military services, and the men and women who will be required to do the sacrificing if we become militarily engaged. I think it is of the utmost importance that we should not forget to use our heads, as our emotions react to the very real atrocities we are seeing. We will have very different emotions the first time the bombing raids that the Senator from New York contemplates cause a bomb to go astray and strike a school, a hospital, an apartment house. We will have different emotions the first time innocent civilians are killed, whether it be outside Belgrade or outside Sarajevo. We will have a different view on the efficacy of the use of air power.

Mr. WARNER. Mr. President, I congratulate the Senator, he speaks with a voice of authority and experience.

I would like to ask one question before the Senator departs the floor. Sensitive though it may be, it bears on this. But if we do not learn from the lessons of the history that the Senator has so vividly recounted we may well in the famous words of a person a lot more intelligent than I be doomed to repeat them. I do recall at the time that we intensified the bombing on Haiphong and Haiphong Harbor in the fall of 1972, and as we did so I ask the Senator, what happened to those Americans and others who were incarcerated? I find it difficult to think that if we launched the type of attacks which the Senator from New York describes as painful to the Serbian government, painful to the Serbian people that they in turn would not bring about some of that pain on the very people who are incarcerated in these camps, which is the object of so much discussion today and concern.

Mr. McCAIN. I believe that the Senator is correct in that statement. Further, we already know that the Serbians have already threatened reprisals. We cannot bow to such threats, but the recent months have proved we cannot ignore them.

I also want to emphasize what the Senator from Virginia has been saying in such a articulate fashion. Let us have our military leadership tell us how we can use force in a beneficial fashion. If they can give us a plan, as they did in Desert Storm where we can see a light at the end of the tunnel, that it is not a train, we face a different situation. If that light is the same light we saw in the Vietnam conflict, then I think the Senator from Virginia is all too correct in his warnings to the Senator from New York.

If we have expert military advice to prove military action will achieve the right, results, that is one thing. But, for us to sit here in this body and decide to bomb this place or bomb that target, et cetera, is quite another. In my view, we have no base of knowledge, background or experience to make such judgments.

I would also remind my friend from Virginia of another thing he knows all too well. If we send those young men and women into a conflict which turns into a quagmire, their military leaders will be the ones who will be held responsible, and not the Members of this body. At an absolute minimum, we ought to listen to what their views, and to how they think we can best end this tragedy in a beneficial fashion. I thank my friend from Virginia.

Mr. WARNER. I thank my friend.

Mr. PRESSLER. Will the Senator yield?

Several Senators addressed the Chair.

Mr. WARNER. Mr. President, I just want to make sure with that interruption how much I and all other Senators appreciate the insight and knowledge that the distinguished Senator from Arizona has and what thoughtful comments that he has brought to bear on an otherwise tragic situation. He has been a strong voice, strong voice of reason and patience, and a strong voice in fully informing the people of this Nation of the consequences of any action taken by the United Nations and the likelihood that it would involve men and women of the Armed Forces of United States.

I thank my friend.

I yield for a question from the Senator from South Dakota, and then I will be happy to yield for a question from the Senator from Washington.

Mr. PRESSLER. I thank my friend from Virginia.

My reason for cosponsoring this amendment and for supporting the position of the Senators from Connecticut and New York is that I think that this represents a defining moment in our foreign policy for the next 10 years. This is the same reason I voted for a similar resolution in the Foreign Relations Committee last week.

I think that in the new world order, the new order of nations that we have, the United States, Europe, and Japan, and other countries will have to be prepared on a multicountry basis to have some kind of special force or a special type of force of a limited number of highly trained volunteers who can carry out ground operations, in conjunction with the use of air power and other technologies to deal with certain situations over the next 10 to 15 years.

I think that we have a new set of circumstances facing us. If we back away from the situation in the former Yugoslavia, we will be backing away from a great many other situations that are going to happen in the next 10 years—indeed, situations that may be encouraged by the lack of a strong response here.

Let me say that this is a rather ironic debate. The two sides have traded positions, so to speak. I heard many of the same arguments used by proponents of this amendment come from this side during the Iraq debate and many of the opposite arguments coming from the other side. I guess I would not say the hawks have become doves and the doves have become hawks, because perhaps that is putting it too simply.

But I have been in Washington and in the Congress since the days of the Vietnam debate. I served in the Army in Vietnam. I was here during all the Nicaraguan debate. It is very easy for us to be carried away with accusations. And that is not my purpose. I have the highest respect for those on the other side of this issue and I shall listen to the Armed Services Committee hearing tomorrow with a great deal of interest.

However, many of the things happening today in the former Yugoslavia were foreseen. When Lawrence Eagleburger was confirmed, I predicted pretty much what was going to happen and raised questions about the future of what was then a unified Yugoslavia. I am not saying I told you so. But I believe that the State Department, mainly under Deputy Secretary Eagleburger, has done a poor job on Yugoslavian policy.

There have been warning signals from this Chamber. I know my colleague from New York has spoken many times in the last 4 or 5 years. Many others have as well. I think that we need to listen to one another and to foresee some of these things. We are no longer in a bipolar situation with two superpowers. We are in a new ball game, so to speak. I think we could have avoided the current situation in the former Yugoslavia had we taken some steps earlier.

Unfortunately, we did not act until it was too late for diplomatic means to resolve this matter peacefully. We must act now, not only in an effort to end the bloodshed, but to prevent it from expanding. For instance, I fear there is a real possibility the war could spill over into the Republic of Kosova. If that should happen, I predict three or four other countries will join the war. If war comes to Kosova, I believe Albania, Turkey, Greece, Bulgaria, and perhaps others could actively join the fighting.

So, this is not an easy question. And I respect everyone here on the floor. But it is a defining moment in the new order of world events, in a world in which we no longer have a bipolar situation. I think if we back away from this situation without taking some action with our allies we will not only lose a great opportunity to extend freedom even further, but will actually set a very bad precedent. I am not advocating—and none of us should be forced into the trap of advocating—massive ground forces. That is not what we are advocating.

Mr. WARNER. Mr. President, I say to the Senator, if we come out and support a resolution saying we are going to drive relief columns up through there, you are implying that ground forces will have to be used.

Mr. PRESSLER. I would take that responsibility.

Mr. WARNER. If I could just finish.

Twice the Senator has said this. This is a unique concept. Let us get some volunteers to do this.

Let us make sure those volunteers exist and then give us some idea how long they must train together. You cannot just gather up volunteers like mercenaries from all over the world and expect them to become a fighting force within 30 days or 2 months or 10 weeks. Give us some idea.

You drop these ideas out. It is a defining moment in history. But what I want to define is what is involved, what is the goal, what will it take to achieve the goal, and who is going to do it, who is going to do the heavy lifting, the dying, on the ground forces getting up through those passes?

Mr. PRESSLER. First of all, I will take responsibility for advocating the use of limited ground forces.

Mr. WARNER. Does that involve U.S. ground forces?

Mr. PRESSLER. Some U.S. ground forces and those from other countries.

I cannot advocate this resolution, I feel, as a Senator, without taking responsibility for that, because I think this is what the resolution says.

I know it is easy to say we are going to do this and this and this. However, I believe that when we advocate a particular position, we must be willing to take responsibility for the outcomes in which that position may result. That being said, we do have many technological and air power options. In addition, there are in the world many people who enjoy serving in special forces from the United States and other countries. There is much a 1,000- or 2,000-manned, highly trained unit can do in terms of opening up roads. I have been part of groups in the Delta that have kept roads open.

It does not require an invasion force. There are things that can be done.

However, I say again that I will take responsibility for advocating the use of ground forces. I am mainly advocating other things, but I feel that those who vote for this resolution cannot escape the responsibility for the fact that some ground troops likely will be necessary, and I will take it.

Mr. WARNER. Mr. President, I see the Senator from Washington seeking to ask a question. I yield for a question from the Senator from Washington.

Mr. GORTON. Mr. President, I would as well like to place my comments in the form of a question, and I would like my distinguished colleague from Virginia to answer not only my question but those raised by the Senators from New York and from South Dakota, as well, on what seems to me to be three or five logical progressions of questions about this matter.

My first would be that I understand—and I hope that the Senator from Virginia will agree with me—that there is little difference among the Members of this body or, for that matter, across the United States of America with the public, or the public of most of the civilized world, over the evils, the gravity of the evils, being inflicted upon the citizens of Bosnia by Serbian forces controlled in part at least from Serbia itself but primarily made up of Serbian nationals in Bosnia itself.

I suspect though—and I solicit his opinion—that the Senator from Virginia would agree with me that this rates with Cambodia a few years ago, that it rates with the oppression imposed upon the Afghans by the Soviets and with the Soviets to send in aid, that it is comparable to the treatment of Kuwaitis by Iraq during the occupation of that country.

Mr. WARNER. The Senator is correct. I agree with exactly what he says. It weighs in, it is hard to equate or distinguish, but it is killing in the worst fashion. And I would add Somalia, I would add Armenia. I would add several other areas of the world. The Senator is correct on his first point, and I agree.

Mr. GORTON. In fact, in some respects, this is from the point of view of the announced goals of the Serbian forces, the most outrageous of all the post World War II invasions or civil wars, because it apparently seems designed to drive 2 million or more people from their ancestral homes.

Now, it seems to me, as the Senator has already answered, that there is no real disagreement in this body or elsewhere about the evil of what is taking place in Bosnia. The question, it seems to this Senator—and I solicit the comments of the Senator from Virginia—is to whether or not the natural reaction—do something; do something about this; use all necessary means to solve this challenge—is not necessarily going to lead us to appropriate public policy.

The proper questions for us to be asking ourselves seem to me, Mr. President, to be these, and on these questions I would like the views of the Senator from Virginia.

The first one for which I do not believe that I have heard a precise answer at any time during this debate—here, among the candidates for the President of the United States, or in the public as a whole—is what is the political goal of any course of action which the United States and the United Nations should take? What do we mean to accomplish?

Mr. WARNER. Mr. President, by political goal, my colleague means geopolitical vice Democrat versus Republican?

Mr. GORTON. Absolutely. I am speaking about the goals of our country in Bosnia and the remains of Yugoslavia.

Mr. WARNER. And the free world. This whole debate takes place, as the Senator from Arizona has pointed out over the weekend in his television and media appearances—it takes place against a divisive background of a political election in this Nation. And to the degree we can elevate this issue and the decisions we make to resolve it above that is the degree to which we are going to have any success.

Mr. GORTON. I fully agree with the Senator from Virginia. But to pursue that, is the goal the relief of Sarajevo? Is it limited to creating a land line by which the people of Sarajevo can be supplied with food and the other necessities of life? Is it a little more than that? Is it to secure Sarajevo by ending the artillery fire from the hills surrounding that city? I am not sure that is going to be sufficient. The pictures are of starving Bosnians in concentration camps that are outside Sarajevo, I say to the President. So, is this political goal which we are seeking to be the relief of all of these concentration camps in such fashion, either that the people who are imprisoned in them are freed to go to their own homes or to leave the country? Or simply to be fed?

Is the political goal the independence of Bosnia? After all, the justification to go to the United Nations—and I believe it is here in the first "whereas" in the resolution with which we will be dealing, "the Republic of Bosnia-Hercegovina is internationally recognized as an independent State."

OK, if it is—and it is by many countries—is our goal going to be the independence and security of Bosnia-Hercegovina? Is it going to be the disarming of all Serbs and others in that country? The restoration of everyone to the homes in which they lived before this civil war started?

Do we seriously believe that, with certain of our forces there, what had been feuds going back for 500 years will be settled and that all of these people who have been shooting one another and torturing one another will recommence their lives together in integrated communities?

Is it the partition of Bosnia and perhaps of Croatia itself? Is it the recognition of some kind of greater Serbia, which seems to be the goal of Serbia itself? Or will it require, given the brutal nature of these feuds—will it require, under our auspices, the United Nations to drive all the Serbs in arms in Bosnia out of their ancestral homes?

I do not know, I say to the Senator from Virginia. I do not know what the goals of this resolution—that of my distinguished friends from Arizona and Connecticut and New York are. They seem to be the relief of Sarajevo and of all of these camps. But by the time we have provided military relief for all of them, we will have occupied Bosnia. What is it going to require to do that?

Mr. WARNER. Mr. President, I say to my friend, that goal, for which each of the 100 Members in here I am confident would be a strong vote, is to alleviate the suffering, just the human suffering among the people of all of the various parts of the former state of Yugoslavia. That is the fundamental goal. The others, then, are secondary.

Mr. GORTON. That seems to be the goal of this resolution, simply to relieve the suffering, which we can do, presumably, by opening up a corridor to Sarajevo and to all of these camps. That implies at least that the Serbians are left in possession of 70 percent of Bosnia. But our troops, whoever is provided this relief, stay at risk on roads through mountain valleys and the like.

That does not include the independence of Bosnia itself.

The next question——

Mr. DECONCINI. Will the Senator yield?

Mr. GORTON. Not for the moment.

The next question I ask to the Senator from Virginia is, when we have defined what our goal is—and this Senator may say that anything short of allowing Bosnia to be an independent country seems to me to be a terribly intermediate goal—the next question is, what is our military strategy going to be toward attaining that goal?

The Senator from New York a few moments ago said, oh, it can be all by air. It can be all by air. We can bomb strategic points in Serbia—he was mostly talking about, in Serbia itself.

Is it not ironic, I ask the Senator from Virginia, that this specific goal in which many have shared would bomb the very city and destroy the infrastructure of the very city, the one city in Serbia in which tens of thousands of people demonstrate against their own government and its policies every week? Are we going to bomb the very Serbs who are on our side? Are we going to destroy their power plants and their bridges? In Serbia?

Mr. WARNER. Mr. President, the Senator makes a strong point and he is well taken in that observation.

Among us, I do not think, collectively is the military wisdom to explain exactly how you carry out the goals as we know them under this proposed resolution. That is the reason the Senate Armed Services Committee tomorrow is bringing together for the first time in a formalized structure two panels of witnesses to answer—not the goals, but, once the goals are set, how can they be achieved using all necessary means—which is found in all the various resolutions. That is the one thing this Senator has fought for steadfastly for days, is to try and hold the Senate in a posture so it can be fully informed before it is required to act on this resolution.

I have as much compassion for the suffering as any Member of this Chamber. I take second place to no one on that. But I steadfastly believe that having gone through the Iraq invasion and how carefully this Chamber, time after time debated that, how carefully the President consulted with the leadership of the Congress on that issue before the resolution came along—this time we are way out ahead. I think dangerously out ahead. Because whatever we do is going to send a very strong signal not only to the United Nations but all around the world. And it will be heard by the very people that are suffering, that the Americans and others are coming over here, over here. We are coming over there to help them.

I want to make certain we know how we get from here over there, to give that help. These experts will shed a great deal of light on that.

Mr. GORTON. I appreciate the wisdom of the Senator from Virginia. But I go on to remarks I have just heard from my colleague on this side of the aisle, the Senator from South Dakota—who has I think spoken perhaps with more logic than has the Senator from New York—who recognizes that what we are asked to do here is to authorize more than antiseptic air strikes. We are asked to use all necessary means, including the use of multilateral military forces, placing heavy weapons belonging to go all factions under U.N. supervision to deal with the question of war crimes and crimes against humanity, which means we have to go catch the war criminals, I suppose.

So my next question is: If we have this goal, how many troops and whose troops are we talking about? It was very easy to listen to a proposition about volunteers, apparently without nationality. But how many troops and from what countries?

It is the understanding—and I wish to be corrected by the Senator from Virginia if I am in error—that through most of World War II Serbia and Bosnia were occupied by somewhere between 30 and 45 divisions of German troops, who did not succeed in ending a civil war which was raging in Yugoslavia at that time.

We have heard a great deal from Germany, and the German Republic has been generous in taking in refugees. But does the Senator from Virginia believe Germany will provide any troops for this proposal? Does the Senator believe the Japanese will be providing these troops? Does he believe the British and French, our closest allies, will provide a sufficient number of troops to do this job? Are we going to seek Turkish troops, I ask the Senator from Virginia? Russian troops? Egyptian troops? Iraqi troops? They are all members of the United Nations.

No, I say to my friend from Virginia; if this takes place under this kind of resolution, sponsored by this Senate, they will be looking for American troops to engage in this activity.

Mr. WARNER. Mr. President, that has been my fear all along, particularly if it is the leadership of America which once again puts together this coalition that has been so often referred to in the context of the successful gulf operations.

I do not think we can suddenly say: Put together the coalition, and let us use all necessary means; and then say we will leave the heavy lifting, the foot slogging, to carry out these various goals to others.

I find that inconsistent. The Senator is correct.

Mr. GORTON. Finally, Mr. President, I ask the Senator from Virginia, how do we get out once we are in? If our goal is to relieve Sarajevo, must not our goal also be to relieve other cities with tens of hundreds of thousands of victims in them? When do we declare victory and come home? If we do this for 2 weeks, or 2 months, or 2 years, do we expect when we leave that all will be peaceful in a way that it is not been in the past history of this country?

How many casualties are we willing to suffer for this provisional relief, which presumably is something less than the complete freedom of an independent Bosnia?

If the proposals by the Senator from New York do not work, if the Serbians defy us, if we simply succeed in doing nothing more than destroying the support we have from tens of thousands, hundreds of thousands of Serbian people right now by bombing them, and by bombing their power, do we say: Well, we gave it our best; and leave and come home?

That is not the way it has happened in the past, I say to my friend from Virginia. If the first level does not work, you have to go the second level and the third level and the fourth level; and it begins to look like Vietnam, where we never were quite certain what our precise goals were in the first place.

Mr. WARNER. Mr. President, I agree again with the distinguished Senator from Washington. If we send a signal by resolution, if we get the United Nations to finally act in accordance with the resolution or in parallel, however, it may be, we are then, I think, committed for an indeterminate period.

My concern is, I want to make sure that the American people understand that, Mr. President—understand—before we march off, that we could be there for a prolonged period of time.

Mr. GORTON. Finally, Mr. President, I ask one last question of my friend from Virginia. This Senator must admit that a portion of this resolution is his own, before he listened to some of the military experts in the United States and was gripped by the same anquish which has seized every single one of us. This Senator does not understand for the life of him why we are not discussing the simplest of all solutions; and that is, allowing the Bosnians to fight for their own independence.

When Soviet troops invaded Afghanistan, we did not debate on this floor whether we should send American troops to Afghanistan to fight them. What we did was to help arm those Afghans who wished to fight for their own freedom, for their own liberty. We have done that on dozens of occasions since the end of World War II.

Now, it seems to this Senator to be a paradox that we have a United Nations resolution forbidding the sale or the importation of arms to any of these contending parties, a policy which seems to me to play totally into the hands of the Serbs. The Serbian army has armed all of the Serbian troops who are in Bosnia itself. They continue to get heavy equipment from that direction. Our banning that heavy equipment from the whole area has no effect on slowing down the aggressors. But it has prohibited those who wish to defend their own homes from the effective means of doing so.

Would not the easiest of all interim solutions, in addition to a total and complete blockade, be to say that we are going to give the Bosnians the ability, the means with which to fight for their own freedom?

Mr. WARNER. On that point, Mr. President, the distinguished Senator from Washington and the Senator from Virginia may have a disagreement. I do not think it is quite as easy and simple as you point out, because if we begin to supply one side in the civil war, first, that intensifies the battle. It then begins to balance out the level of armaments on both sides, and the inclination would be and could be to fight harder and longer.

And the second point: In the middle of this civil war, namely between a reinforced, better-equipped Bosnian force and the belligerent Serbian force, are the U.N. observers who are there now trying to provide the very humanitarian relief that is desired by this Chamber, by this Senator and others, to flow to those in need.

How can you place them in greater jeopardy with an intensified battle? That is my concern.

Mr. GORTON. I must say, Mr. President, in this case, the Senator and I do disagree. I am happy that view did not prevail in Afghanistan, or we certainly would not——

Mr. WARNER. We did not have the U.N. forces in Afghanistan.

Mr. GORTON. In any event, Mr. President, I am sure that the Senator from Virginia would agree that that would risk far fewer lives than this resolution, in its present form, is going to put at risk here in the United States and among our allies.

I have essentially completed my remarks, and I really thank the Senator from Virginia for his indulgence in listening to me. But it seems to this Senator, before we get ourselves involved in a resolution like this, first, we have to know what our goals are; and second, we have to know what means we are willing to put to attaining those goals—and that means the lives of young American men and women in large numbers—how we are going to explain the inevitable casualties to our people, to the people of the United States; and how we are going to succeed in a relatively short period of time in reaching all of these goals.

Until we know what we are fighting for, how much it is going to cost us, what the responsibilities of the United States will be, and when we are going to be able to declare victory, it would seem to this Senator and, I trust, to the Senator from Virginia, as well, we would be wise to go relatively slowly into this morass.

Mr. WARNER. Mr. President, I thank my distinguished colleague. This is the very type of debate I have been endeavoring to encourage for some several days in this Chamber. It is now flowing, I think, in a very intense manner that contributes to a greater understanding of this problem.

The Senator from Washington and I agree on seven of the eight points that he makes. On the last one, I just pointed out my concerns in aiding one side in the civil war.

I yield to the Senator from Arizona.

Mr. McCAIN. Mr. President, I want to thank my friend from Washington for a very articulate depiction of the questions that this Nation faces as we proceed in our attempt to bring relief to the suffering and tragedy that is taking place in Bosnia as we speak.

I want to thank my friend from Virginia, who is taking, in my view, a courageous stand. I say that because it would be very easy for us, in light of the graphic tragedies that we have watched on television throughout the last few days, to say: Let us to in there and do something. Let us do anything to relieve this suffering, regardless of the probability of success. To say that, by golly, if we could do it during Operation Desert Storm, we can do it again.

I urge, as my friend from Virginia has urged, that we look at more than one historical aspect of U.S. military involvement. I urge that we also remember Beirut and the Vietnam war.

It is very important for us to remember what Gen. Maxwell Taylor, who was the Chairman of the Joint Chiefs of Staff under President Kennedy and later Ambassador to Saigon said: "There are several criteria that we must use before sending young Americans into combat overseas. One is that the conflict must be readily explainable to the man in the street in one or more sentences. A second is that U.S. national security interests must be clearly at stake. Third, the combat must be of short duration. And, fourth, the use of American men and women has to be extremely circumscribed."

I do not know where this scenario begins; where the middle is; what the end is, or what the result will really be. Until we can present that plan to the American people—and I think we have a profound and deep obligation to our men and women in uniform to do so—we should not act. We may need to act, but we must not do so until we have a clear plan, and a way of achieving a beneficial solution to this terrible tragedy.

I would also suggest that we must keep the events in Bosnia in perspective. As the Senator from Virginia has stated, what about Somalia? What about Ethiopia? What about several other parts of the world where tragedies are going on? Are we going to become what many of my Democratic colleagues have decried for the last 30 years? Are we now going to really become the world's policeman?

I want to point out again to my friend from Virginia that the Europeans have a much more immediate stake in these events, and much more immediate combat capability, than does the United States of America. Rather than send American troops, if troops need to be sent—or American air power, if air power needs to be sent—our European friends have excellent armies, excellent air forces, excellent navies that are deployed and ready to act. We can support them in many ways. But, we must not fall into the trap of taking the lead every time, in every contingency.

I would also remind my friend from Virginia that at the beginning of the Vietnam War, the overwhelming majority of the American people and the Congress supported United States military involvement in Vietnam. That support vanished with time. Our commitment and sacrifices did not. At the beginning of the Beirut tragedy, the overwhelming majority of the American people supported our involvement as a peacekeeping force in Beirut. Once 200-some young American marines tragically lost their lives, that support vanished overnight.

Let us not be driven by the whims of public opinion. Air power under these conditions is very imprecise, and the first time that a monastery, a school, a hospital is bombed by mistake, the public opinion could swing dramatically the other way, and we then will have no easy way out.

Mr. President, I thank my friend from Virginia again for a stimulating debate on this issue. What we are talking about now, I hope, is being discussed around every kitchen table, at every lodge, and every Rotary Club throughout America. We cannot ignore the tragedies and atrocities in Bosnia, but we must never again blunder into a military involvement where our lack of care and planning forces us to blunder out. There is nothing we can risk of more value to the American people than the lives of our young men and women, and we must not use their blood to pay for our lack of thought and caution.

I thank my friend from Virginia.

Mr. WARNER. I thank my friend from Arizona. He speaks with compassion having experienced the horrors of war himself, but he speaks also with wisdom and strength. He is quite correct. It is our obligation to the people of this country to fully explore this situation before this body is called upon to act.

I know the senior Senator from Arizona is anxious to pose a question.

Mr. DECONCINI. I wonder if the Senator will yield the floor so we could debate this a little bit.

Mr. WARNER. I am perfectly willing to respond to his question. Debate is going on. I want to consult with my chairman before I yield the floor. Could not the Senator effect debate by——

Mr. DECONCINI. I could, but I would just as soon have the floor on my own. I do not have a sneak procedural——

Mr. NUNN. Will the Senator yield so I can give a little progress report?

I talked to the Senator from Arizona. He has been very cooperative. The Senator from Virginia, of course, has been very cooperative. I have talked to the majority leader and minority leader, and we are hoping to be able to propound in a few minutes a proposed unanimous-consent agreement.

Without getting into the details of it at this point in time, it would deal with the issues that are before us on the defense bill with a time certain to vote on the SDI amendment now pending. It would allow for a debate on the abortion motion to strike a provision in the bill today and dispose of that today. It would allow for a debate on the Graham-Mack Cuban democracy bill today with a time limit and dispose of that today. And it would also deal with the Bosnian resolution, the one sponsored by the Senator from Arizona or the one sponsored by the Foreign Relations Committee or some combination of those.

Mr. WARNER. Would the Senator also include a reference to the testing amendment which Mr. COHEN, of Maine, has been working on?

Mr. NUNN. That is certainly on the agenda, but it is not part of this initial unanimous-consent request. We do not have any time element attached to that.

Mr. WARNER. Mr. President, I would have to inform the distinguished chairman that I have a communication to the effect that the Senator from Maine is anxious to be included in this. Otherwise, he might—and I do not have exact knowledge—feel the necessity to object until such time as the situation which he has labored on very intensely for some weeks and months, as the chairman well knows, is isolated in such a way it can be resolved by the body.

Mr. BUMPERS. Will the Senator from Georgia yield?

Mr. NUNN. I will yield in just a moment. If I could finish, because I know the Senator from Arizona is interested in the Bosnian matter, what we had talked about doing—and this is not a proposal yet—would be to take the Bosnian resolution and debate it today for an hour at least and then debate it again tomorrow afternoon and then have it open to second-degree amendments and have 30 minutes of debate on any second-degree amendment, which would give the various people plenty of time to debate it and discuss it with some assurance we would have final disposition of that tomorrow afternoon. The debate on Bosnia has been taking place for about an hour, which I think is healthy, and is continuing, and until we propound this unanimous-consent request, I cannot in any way—I do not in any way object to that because I think it is healthy and perhaps everyone could take into account that debate is already started and has been making a considerable amount of progress in terms of people being able to speak on it.

So I hope we will be able to propound that kind of request later on today. I hope it will be in the next hour or so. I also want to thank all the Senators for their cooperation so far. The discussions have been fruitful so far. We have not proposed the unanimous-consent request so far. And I hope that the cooperation will continue when we do propound that. But that is where we are right now.

Mr. WARNER addressed the Chair.

Mr. BUMPERS. Will the Senator yield?

Mr. NUNN. I yield to the Senator from Arkansas.

Mr. WARNER. Mr. President, parliamentary inquiry. Does not the Senator from Virginia have the floor?

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Virginia is recognized. The Senator from Virginia.

Mr. WARNER. I thank the Chair.

Mr. President, it is the intention of the Senator from Virginia to retain the floor until such time as the chairman of the committee, myself, and others are able to resolve the unanimous-consent request. But in so doing, that is just a procedural matter, and I will accommodate this debate in any way possible, recognizing I would just like to retain the floor.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. WARNER. Absolutely.

Mr. DECONCINI. Really, a parliamentary inquiry. No amendments are in order at this time without unanimous consent. Is the Senator from Arizona correct?

The PRESIDING OFFICER. The only amendments that are allowable at this time are the amendments that would amend language to be stricken.

Mr. DECONCINI. I thank the Chair. If I can inform the Senator from Virginia—and I do not know if the Senator from Georgia feels he cannot give up the floor for 10 minutes to talk about Bosnia on my own time—I affirm to him that I will not offer any amendment to strike or do any such thing to the pending amendment on SDI. I would just like to have a few minutes to talk about the subject matter, because the Senator from Washington and my colleague, the distinguished junior Senator from Arizona, spoke on it, and I would like to speak near this particular time in the RECORD if I could.

Mr. WARNER. Mr. President, I will accord every courtesy to my good friend. I will be patiently seated for such time as he may wish, while he propounds as long a question or series as he wishes, and I will try to be responsive.

Mr. D'AMATO. If I might, just a point of inquiry——

Mr. WARNER. Mr. President, I intend to retain the floor.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. D'AMATO. I ask my friend from Virginia if I might have an opportunity, without his yielding the floor, to make some comments as it relates to Bosnia. I feel kind of hobbled. I know the Senator was attempting to give me that opportunity. But I really had to address it in the form of a question. I did not want to intrude too much on the generosity of the Senator from Virginia, but to be quite candid with the Senator, it has not enabled me to make the points I think should be made to rebut some of the contentions.

Mr. WARNER. Mr. President, I will be happy to accommodate the Senator from New York. I would like first to allow the distinguished senior Senator from Arizona——

Mr. DECONCINI. If the Senator will yield now for a question. I have no problem if the Senator will yield me a set amount of time. I just do not want to play the game of saying what I have to say in the form of a question to the Senator from Virginia.

Mr. WARNER. Very well. What period of time would be sufficient?

Mr. DECONCINI. Ten minutes.

Mr. WARNER. I am happy to yield the Senator 10 minutes within which, technically, he is posing a question to the Senator from Virginia.

Mr. BUMPERS. Reserving the right to object, Mr. President, and I hope I will not have to object——

The PRESIDING OFFICER. The Senator from Arkansas reserves the right to object.

Mr. BUMPERS. Mr. President, with the utmost deference and respect to my good friend from Virginia, I am reluctant for him to be a traffic cop all afternoon deciding who can speak and who cannot.

That really does not go to my question. My question is this: You mentioned a moment ago that you apparently have concerns about the test ban moratorium and is there some kind of alteration of that in the form of amendment.

I simply want to say that was not a part of the negotiation this morning between the distinguished Senator from Georgia, the majority leader, Senator SASSER and me. I thought that we were in the position, or almost in the position, as the Senator from Georgia said a moment ago, to propound this unanimous-consent request which dealt with allowing the vote on the amendment of the Senator from Colorado on abortion, the amendment by

Senator WIRTH, and an amendment by Senator GRAMM of Florida dealing with Cuban freedom. We agreed that those two items could be debated and voted upon, but that is all that would be voted upon between now and tomorrow afternoon at 4 o'clock. There were more elements to the UC request than that. But that was certainly the majority part.

I am curious to what amendment you are talking about on the test ban.

Mr. NUNN. If the Senator from Virginia would allow me to answer that question, I say to the distinguished Senator from Arkansas that we have not been discussing limitation on the test ban amendment. As we all know, Senator COHEN of Maine has an amendment on the test ban. That amendment has been subject to a considerable amount of discussion between the Senator from Maine [Mr. COHEN] and the Senator from Nebraska [Mr. EXON]. I have gotten in on some of that.

There is that kind of discussion underway. We have not propounded any kind of time agreement on that. I have been informed the Senator from Maine [Mr. COHEN] will be willing to have a time agreement on that. We have not contacted the Senator from Oregon [Mr. HATFIELD]. I have only discussed it briefly with Senator MITCHELL.

It would not be my view that we should tie that into the UC at this time. But that would not in any way prejudice the rights of the Senator from Maine [Mr. COHEN] to pose that amendment at any point in time he could get the floor. This is not a close-out unanimous-consent request. This is not a request we are going to propound that would in any way prejudice other amendments including, but not limited to, the Cohen amendment on test ban.

Mr. BUMPERS. The only thing that the test ban amendment by the Senator from Maine will amount to would be that he could certainly offer it, talk about it, but the only violation of the UC that we discussed this morning would be a vote on it, which we agreed we would not do.

Mr. NUNN. If the Senator from Virginia will further yield for me to answer the question of the Senator from Arkansas, this test ban amendment would not be covered by the UC. The UC, if we propound that UC, would permit two matters to come up today, and those matters would be the abortion amendment, and the democracy in Cuba amendment; that the further understanding, although this would not be part of the UC, that other amendments would not be subject to that, and that we would not vote on any amendment relating to SDI prior to the vote, up or down vote, on the Bumpers-Sasser or Sasser-Bumpers amendment.

Mr. BUMPERS. I believe the Senator has correctly stated that.

My final question to the Senator from Georgia is, is it going to be the procedure, and has the Senator from Georgia agreed, that the Senator from Virginia would hold the floor all afternoon and determine who can speak?

Mr. NUNN. The Senator from Georgia has not had any input into that decision. The Senator from Virginia has the floor. That is his privilege under the rule.

I think the sooner we get the UC agreement out here, the better off we are, because then that will ease the apprehension some Senators might have about the floor.

Mr. WARNER. Mr. President, I would like to yield to my colleague from Arizona.

Mr. BUMPERS. Is the Senator yielding the floor?

Mr. WARNER. I am not yielding the floor.

Mr. BUMPERS. Mr. President, I object.

Mr. WARNER. I have the perfect right to ask, does the Senator wish to ask a question? I am prepared——

Mr. BUMPERS. Is that the purpose of the Senator's yielding, to allow the Senator from Arizona to ask the question?

Mr. WARNER. Parliamentary inquiry: The Senator from Virginia has the floor. May he not yield to another Senator to ask a question?

The PRESIDING OFFICER. The Senator from Virginia may yield to the Senator to receive a question.

Mr. WARNER. I thank the Chair. That has been my understanding for 14 years while serving in the Senate.

Mr. DECONCINI. I thank the Senator for yielding for a question. Parliamentary inquiry. Can the Senator who has the floor, as the Senator from Virginia, yield to the Senator from Arizona and retain the floor without having to pose a question to the Senator?

The PRESIDING OFFICER. The Senator from Virginia may yield to Members to receive questions.

Mr. DECONCINI. I thank the Chair.

Mr. BUMPERS. Parliamentary inquiry. Is it not also true that when a person holding the floor yields for a question, that person must also be on his feet and not in his seat?

Mr. WARNER. Fine, Mr. President. I will acknowledge whatever he wishes. I would be happy to stand four square on my feet throughout, if that will make my good friend feel any better. And I will swing the chain and march in the aisles as he does. If I would take the amount of time that he took on the SDI amendment, we would be here for a good bit.

Mr. BUMPERS. The Senator was not deprived.

Mr. WARNER. That is right. The Senator from Arizona has observed an opportunity to ask a question.

Mr. DECONCINI. Only because, Mr. President, I want to say a few words—I do not know if anybody wants to listen—about Bosnia. I am propounding the question. But before that, I will ask the question. The Senator from Virginia may sit down during the period of time that the question is asked, and while the questioner is propounding the questions to the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank my good friend. I will exercise that option if I feel the need.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Is it proper in forming a question to ask the Senator, when time has been yielded to form a question, to give a little background as to what the question is going to be before the question actually comes?

Mr. WARNER. Mr. President, I would be happy to entertain that background.

I want to say in seriousness now, it is nice to have a moment or two of levity, but the senior Senator from Arizona has really been the one, together with the Senator from Michigan [Mr. LEVIN] and others, the Senator from Connecticut, steadfast in his determination to see that this Chamber focuses on this very important issue.

I hope my good friend, the senior Senator from Arizona, recognizes that this Senator, by nature of my desire to make sure that we have all the facts, is not trying to employ any dilatory tactics, nor is there any evidence of less concern on the part of the Senator from Virginia, about the plight of those suffering in this area of the world.

Mr. DECONCINI. I thank the Senator for yielding for a question. He may be seated. The question is going to take a little bit of time; it is a very lengthy question that I am putting together right now. I say that in seriousness. I want to talk about this issue.

I also want to assure the Senator from Virginia that I understand his efforts here. It is not to keep us from voting, except for today. But some time after tomorrow, I understand the Senator is agreeable we may vote on a resolution dealing with the Bosnia-Hercegovina subject to certain time agreements and other amendments.

Mr. WARNER. The Senator is correct.

Mr. DECONCINI. I appreciate that very much. I also appreciate the Senator's interest in controlling this. I have to tell him that I find that a little objectionable, that he would not yield the floor to someone who wanted to talk for 10 minutes even on a limited basis. But that is a personal opinion. I respect the Senator from Virginia as he knows.

Be that as it may, Mr. President, first some discussion here on this serious issue of the Serbian's outrageous actions toward the people in Bosnia-Hercegovina.

We cannot let this pass. I cannot let this pass as just another Vietnam, Beirut, or another military conflict. There is a moral obligation, Mr. President, for the United States to stand up, speak its piece, and to offer a suggestion; and that is what this is, whenever we get to it.

It is going to be a nonbinding—I will repeat—nonbinding resolution. And that resolution is going to state that the President, our President of the United States, should immediately call for an emergency meeting of the U.N. Security Council in order to authorize, under article 42 of the U.N. Charter, all necessary means, giving particular consideration to the possibility of demonstration of force to give effect to Security Council decisions regarding Bosnia-Hercegovina, including the use of multilateral military force under Security Council mandate to ensure the provisions of humanitarian relief and to gain access of the United Nations and International Red Cross personnel to refugee and prisoner of war camps.

That is not a mandate. It is a sense-of-the-Senate. Mr. President, it indicates that those who feel that the Senate of the United States should express some deep concern and send a message to the President of the United States; to the people across the world, if that is necessary, and certainly to the Serbian military leaders, and the civilian leaders of that country, that we in this body are prepared to authorize our President to go to the Security Council to ask for force for humanitarian purposes and in order to have access to the camps.

The distinguished Senator from Washington has asked a bunch of questions here about land forces, how many divisions, whether or not the Germans or Japanese would be involved. There is nothing in here about any troops whatsoever, as to numbers, a quantity, or capability. The U.N. Security Council, if they adopt such a resolution, may adopt something like this. If they did adopt one that authorized force, they would then have a plan, and the force would be decided upon by whoever was going to head up that force, and then, of course, Germany, the United States, Italy, all nations that wanted to participate could participate.

It seems to me that this is a real red herring to throw out here—this talk about a Vietnam war. It is not. We are not authorizing the United States to use land forces in Bosnia-Hercegovina today, or tomorrow when we vote on this. The Security Council may decide we do not want to use forces, and may decide that we do want to use forces but not the United States forces.

The argument that this is closer to Europe, and Europe should be the one that uses the force, begs the moral question: Where is the leadership of the United States, if we stand by and do not take some action? I have been debating this since last Wednesday trying to get a vote on a resolution that would authorize some military force, if necessary, if the Security Council so decided, for humanitarian purposes.

We are not talking about taking a side in this effort. We are not talking about winning territorial gains back from Serbia from Bosnia-Hercegovina. We are not talking about occupying Belgrade, or any part of the country, other than what is necessary to deliver humanitarian aid and inspect the camps.

Somebody will say: A-ha, that is the door we have to be careful of, because if you open the door to deliver humanitarian aid, you are going to have to take some territory. That may be, but who am I to judge that we are going to have to take territory, or what units might be necessary, for the delivery of humanitarian aid.

The Senator from Virginia points out very dramatically that this is going to be a message to Serbia. Indeed, it is a message to Serbia. It is the only message I can give, except what I say out on this floor. I would much rather have 80 or 90 Senators vote for this. If they vote against it, we would send that message, which would be that the United States will not stand up for a rule of order and a rule of law.

Then there is the fact that Serbia has committed itself to the Helsinki principles. And the CSCE has said: Serbia, you are suspended from the Conference on Security and Cooperation in Europe [CSCE] 3 weeks ago in Helsinki, because you are violating the principles that you agreed you would abide by. Those are security principles, nonterritorial gains, and they have reneged on that commitment. We are seeing human rights violations every day being reported on television, radio, and in the newspapers, firsthand reports. That is what Serbia is doing.

Besides that, this is an independent nation now. Bosnia-Hercegovina has been invaded by a neighbor, contrary to the Helsinki Final Act, the U.N. Charter, which all these nations now have subscribed to and signed to.

Where is the West? The West is fooling around, I must say. Hopefully, that will cease today, and the Security Council of the United Nations will indeed pass something that has some teeth in it, that may be used to bring some relief to the people of Bosnia-Hercegovina.

I said the other day that Margaret Thatcher had made some outstanding statements. And she was on television yesterday once again, and I did not get a chance to see her. But there is a leader who knows what it is to take a public position on behalf of a nation. She realizes the significance of the United Kingdom, or the United States, or any other nation, such as the former Soviet Union republics, which might want to take a position on that.

We cannot sit by and tolerate this, without some positive action from the United Nations, without some positive action from those nations who feel that too much history has gone by, too many atrocities have gone by, too many aggressive acts have gone by with nobody speaking up. If they speak up, they do it in a very timid way, which is often interpreted as acquiescence.

Mr. President, the time is here. Today we should vote on this. And because the Senator from Virginia feels so strongly about having the input from the Armed Services Committee, which I respect, and realizing the position he is in, or any Senator is in here, that he can keep us from having to vote today—I wish he would let us vote today, but I suspect there would be somebody else objecting even if he did decide to do that. I have, and others have agreed, including the Senator from Connecticut, to go ahead and do it tomorrow, if we can get a time certain. I am grateful to the Senator from Virginia, and I assure him that this Senator is not going to be making any references or inferences whatsoever during the debate of this tomorrow, or the next day, or whatever, about his not being concerned about the problem of those people. I know he is.

I went to Kuwait with the Senator from Virginia. I saw him concerned about the Palestinians that were still in Kuwait City that could not get out and were being mistreated by the Kuwaiti Government. So I know his credentials, and they go far beyond my visit to Kuwait with him.

That will not be part of this debate: The debate is going to be—from Senators mostly on the other side—that this resolution offered by the Senator from Connecticut and myself and Foreign Relations is in fact authorizing and directing the United States to get into a civil war, or deploy a number of troops, and there are a lot of questions as to how many? How much? When and where? What will the casualties be? What are we going to do? Who is going to pay for it? Who is going to be the commander, et cetera, et cetera. We can have that debate. I am sure General McKenzie, or whoever testifies before the Armed Services tomorrow, will lay out a good position for whatever decision they feel should be made in not even passing a sense-of-the-Senate resolution, which is a nonbinding sense-of-the-Senate resolution. I hope the Senator has other people who will testify at those hearings. I realize that is a jurisdictional matter for the committee.

Some of us—I know the Senator from Virginia is included—feel that we must make a statement. Debate is great. Time to go over these things and contemplate them is wonderful. And if we were in the position of authorizing the United States President to send troops to Bosnia-Hercegovina, I would be standing foursquare to say: Wait a minute, let us get some more information. We will have a chance in the event the United Nations does decide to use force, and in the event the United States is called upon to be part of that U.N. force structure, to debate it and ask those questions.

It is not going to happen tomorrow or maybe even next month if they pass that resolution today in the Security Council that the troops will be called on. There would be time for that, and properly so.

I think we have to put into perspective what we are talking about here. This is the first step, the first crawl, the first crying out by a great nation, the United States, that something is wrong, we know it, and we are not afraid to say so.

We are not afraid to tell the U.N. Security Council this is what you should consider doing. We are not telling them they must do it or we are going to get out of the United Nations or we are not going to pay our dues. We would go to the United Nations if the President agreed with this and that is his decision. If we pass this tomorrow the President does not have to act on it.

So it would be his decision, and he is there through his representative today talking with our allies in Europe about a resolution that if it did not say the word "force," it would say "whatever means are necessary," which has to be force is included in that whatever means are necessary, so he is moving in that direction.

So there is no political game here, as the Senator from Washington, was, I think, alluding to, that we are trying to play politics here, we are not. I can play politics and I will. I think it is clear where I will go in November and before November to support the candidate that I choose best for President for all the reasons. That is not what we are talking about here.

To put this into a political context is really a disservice and unfair. It is a disservice to President Bush. I do not think his response over the weekend and last Friday and Thursday regarding use of force in Bosnia-Hercegovina was political. Some may say so. I believe it was not, because he firmly felt that something had to be done. No longer could the great Nation, the United States, stand by and see these atrocities occur, and it was important for the President to say that. That was the message. Just like a vote on this type of resolution will be a message to the world and particularly to the Serbian military and paramilitary units that are commiting these atrocities.

Mr. President, we have to act. We cannot wait any longer. I would get down on my knees and beg, if I could, to convince this body to vote today, certainly tomorrow. Those who feel it is too risky, I respect that, and we can have some debate on that. And I respect that they are fearful that this may launch us into some third world war or some Korean-type conflict or Vietnam conflict. But, my gosh, let us debate it. Let us talk about it and let us vote on it. Maybe I am wrong.

I know from public perception I am not wrong. The polls are clear. But I do not operate on the polls. Maybe I am wrong. Maybe we should not worry about it. After all, these are Moslems. After all, it is a long way away. After all, we do not have that much trade with Bosnia-Hercegovina or with Serbia, for that matter. After all, Austria and Germany are the major influence powers there and the Republic of Russia and maybe the United States should just say "Listen, we will play a secondary role here. We will stand back, and we will give you support, and we will give you some military weapons, technology, and intelligence. But we are not prepared to stand up with you or to lead you if necessary."

I think I am right. I think those of us who want to vote on this particular resolution or form thereof are right, because it is the right thing to do, Mr. President. It is the right thing to do for this great Nation to stand up and speak out. And we have seen when we do not do that what happens. We have seen it back in before the Second World War, and what happened to us, and we have seen recently in the Persian Gulf and maybe more so in the Persian Gulf of other nations there. We have also seen what happens when the United States does stand proud and we can be proud of those moments that we did not shirk ourresponsibility because of the potential use of force—and there is a potential. But we are all going to have ample time to debate it, to vote on that actual force, if, in fact, the United States will be called on pursuant to a Security Council resolution.

My question to the Senator from Virginia is, does not he agree with me?

Mr. WARNER. Mr. President, first, I thank my good friend and colleague for a very strong statement and one that was needed. Here is where we disagree and the value of this debate now is bringing into focus where Senators disagree.

If I copied down the Senator's statement accurately he said, we can vote this resolution today but we can change later, we can change later after we have had the Armed Services Committee hearing, after the decision is made in the United Nations, we can change later whether or not U.S. troops would be a part of any military contingent necessary to fulfill all necessary means, there is where we differ.

I feel that given the importance of this resolution, that it will send a strong signal, it will raise the hopes of these people suffering every minute we are here, the tragedy of warfare and inhumane treatment, every minute that we are here. But we have also to think about the men and women in the Armed Forces who will be subjected to equal punishment if we send them forth.

I think it is implicit, it is an obligation inherent in this resolution, that we address here and to the degree to which we participate in air, sea and land. Our President has addressed air and sea and indicated a willingness for this Nation to join. But the problem is insufficient attention has been given to the question of implementing the goals of this resolution. Whatever they may be—and we will finalize them presumably during the course of this day as it relates to ground troops. I think we will not have that opportunity later on to go back and say "The U.N. said let us use all necessary means to achieve goals 1, 2, 3." We will not have the opportunity to go back and say "We agree with the resolution but we are limiting our military participation to 1, 2," whatever the case may be.

It is now, I say to the Senator, that we have to decide among ourselves if we are going to put a restraint on our President as he goes forward and takes up the leadership role that people are clamoring.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DECONCINI. I am going to finish and then leave it to the Senator from New York.

Would the Senator not say that this being a nonbinding resolution, certainly, does not commit us to any kind of force whether it is land, sea, or air?

Mr. WARNER. Mr. President, I say to my friend, from the fact that the sense of the Senate is nonbinding, all those little verbs, nouns, and pronouns are lost if this message goes across the ocean to those people who are suffering and those who are anxious.

Mr. DECONCINI. I thank the Senator for the answer. If that is the case, this also sends a clear signal to the Republic of Serbia that the United States is at least taking a position on nonbinding agreement that might involve force. Does not that send a clear message maybe they should straighten up and realize the greatest Nation on Earth, the Senate of that Nation, has taken a position?

Mr. WARNER. The Senator is correct. We also pose the risk if we send that message and do not fulfill it, will it not be a greater inducement for them to go on and perpetrate more wrong, will it not be an inducement for other mischief making throughout the globe?

I say to my friend, I think we have to decide now not the exact nature of all military actions but the exact nature to which this Chamber is willing to stand behind the President and the U.N. resolution and we will not have a later time to reflect on that in any way.

Mr. DECONCINI. I thank the Senator for letting me ask him those long, drawn-out questions.

Mr. D'AMATO. Will the Senator yield for a short question? And then I would like to propound a longer question.

Mr. DECONCINI. I yield.

Mr. D'AMATO. Is it not true that we had our debate, as it related to the commitment of troops, not too long ago, in the Middle East, as it related to Kuwait and Saddam Hussein's occupation and 500,000 troops had already been sent over?

I am wondering if the Senator sees the point I am trying to make. What the Senator is suggesting is that we have some kind of detailed analysis of what kind of military strategy. I find myself being drawn into the possibility I should not be talking about possible targets, and the only reason I did that was to attempt to deal with this question and of this assumption that somehow a Commander in Chief, the President, acknowledged the military would do all the kinds of things that some of my friends and colleagues are concerned about.

I could not see a President or the Commander in Chief doing those kinds of things. I could not see him sending the troops into the valley of death. I suggest that is just not factual, it is not practical, and it is not realistic.

So those of us who say let us take this resolution up, let us vote on it, I am going to analyze it, because it does very little different than has already been called upon by the United Nations point after point, including the removal and the cessation of heavy arms.

We already voted that proposal in the United Nations. What are we over here saying we are calling for something that is new? The fact is we are making it known we are not satisfied with what is taking place there.

Why is it that at this point in time those who will oppose going forward with this resolution would put us through a higher standard than has ever been placed when we are just suggesting that the United Nations reemphasize its determination to see that basic human rights are protected?

Mr. WARNER. Mr. President, in response to my good friend from New York, I would like to recount the history of how we dealt with the gulf situation. It happened in August, ironically, several years ago from this very week. And thereafter, sequentially took place careful planning, and our force levels, in fact, were built up to a half million.

The President had frequent consultation with the leadership of the Congress of the United States. We had hearings in the appropriate committees of the Congress of the United States. The Nation understood far better than the Nation understands at this moment the commitment that we were to undertake.

That is the difference of opinion that I have. And I say to my good friend, I do not believe that we can send out a signal with a resolution and then have the ability to step back and say, oh, no, we did not mean, when we sent that signal, that we will use all necessary means, that the American service person would be involved in that aspect of the all necessary means.

You cannot have it both ways. This is my point. You simply cannot have it. If you sent the message, then you have to stand behind the message 100 percent and you cannot say oh, no, we are going to back and dissect it and say we can only do this, that, and the other thing.

Mr. D'AMATO. We have sent most of this message already, and we are not backing it up. The fact of the matter is the United Nations has already said that the heavy weapons are supposed to be under control. We have not backed it up. If you go through this, you will find there is very little, with the exception of some war crimes and access to camps, that we called for.

I have to tell you again, to suggest that this Congress is going to manage any conflict is wrong. We are not suggesting that. We are not suggesting it. I suggest that those who rise in opposition have created a specious argument and that they are suggesting the exact things to attempt to keep us from standing up and making a difference here.

Sending thousands and thousands of land forces in there; nobody suggests that. We do not suggest that. This Senator has not said that I would not be willing to back up whatever the Commander in Chief and the military say is the appropriate responses to meet the objectives.

But, my gosh, to sit back and to watch this thing unfold—and it has been unfolding for 1 year—is criminal. It is wrong. It is a lack of leadership.

For us to say, go ahead, you win, do what you want, that is Europe's problem, that is not our problem, is just simply inadequate. We have failed morally to provide the kind of leadership the world expects of us—more than the world, our people expect of us.

And it is wrong and it is repugnant for those who rise and make known their concerns, to suggest that those of us who say we have an obligation to go forward, are saying we are going to commit our young men and women to a slaughter. That is not the case. If I thought that our generals and our Commander in Chief were going to do that, I would not be part of this resolution.

Why should those then stand up and make that kind of absurd argument? Is it difficult? Is it tough? Yes. But this Nation was founded for the oppressed, and most of us and our families came from oppressed situations. We have a special responsibility here and now, not only for our children here who live here, but who want to live in this world, because what we do will define what the United States stands for.

Mr. WARNER. Mr. President, will the Senator take a question from the Senator from Virginia?

The United Nations did speak to various aspects of this problem and the need to do some of the things that the Senator from New York addressed.

But I say to my friend from New York, the United Nations did not use, in any of those resolutions, the magical words "by necessary means," which implies the use of military forces. So, thus far, the use of military forces has not been specifically addressed in those U.N. resolutions.

But my question—let me make sure I understand the Senator from New York. If we act on this resolution, does that resolution limit in any way our President's authority to commit or not to commit ground forces?

Mr. D'AMATO. No, it does not. Nor does this debate limit or commit. The Commander in Chief, he is going to undertake that. But what we are urging the United Nations to do is to step forth, and our country, to say use those means necessary, which does include force.

Mr. WARNER. But I say to my friend, when I first started the debate—and I would not suggest I started it—but when other Senators started, I remember and I have the Record, in the first few days, Senator after Senator said ground forces will not be involved. Ground forces will not be involved. It was said time and time again and, if necessary, I will go back and get that Record and examine it. But Senators said time and time again ground forces will not be involved.

The Senator from New York now says there is no restriction whatsoever, and, therefore, I say there is a conflict of opinion in this Chamber, and that is a conflict that should be resolved before we vote on any resolution which will send a strong signal to the oppressed that we are coming to give you help.

Mr. COHEN. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. COHEN. I am a bit confused by the debate that has been posited so far. On the one hand, we have Members urging us to take action and, on the other hand, they say this is a nonbinding resolution.

When I left my first job, I was given a watch. On the back it has a three-word inscription in Latin. It said "Virtute, non verbis," which means "By virtue, not by words."

Yet it seems to me, we are talking essentially here about words and not deeds. Because, as I understand it, if we do pass a resolution, whatever the form it may take, we are not in fact authorizing the President to take unilateral action.

I raise this in the context of what we went through on the Persian Gulf debate. I remember, for example, that President Bush went to the United Nations first. He went to the United Nations first and got a resolution passed in the United Nations. At that particular point in time he indicated to some of us that he did not feel it was necessary, constitutionally, to come to the Congress, to the Senate, to get approval for the use of force, of committing force in an aggressive way against Saddam Hussein.

There were those of us, myself included, who said:

> Wait a minute, Mr. President. I think there is a serious issue here. If you are going to commit a half million troops to a war with Saddam Hussein, that is not a conflict, that is not just humanitarian assistance, that is war, and it requires some action on the part of the U.S. Senate and the other body.

Now, as I understand it, those who are urging action on a resolution are not indicating that by passing a resolution we are sending the matter to the United Nations, and the United Nations could decide it wants to use force, including ground forces, and it wants the United States to commit some of its forces on the ground. Is my understanding correct that the Members who are supporting taking action in the form of a resolution would then insist that the President come back to the Senate at that point and say, "Ladies and gentleman of the Senate, I would like your expressed authority to commit land forces to this particular conflict"?

Mr. WARNER. Mr. President, that is precisely the point the distinguished Senator from Arizona and I disagreed on. I understood, and my notes reflect that he said, "We can change later." After the United Nations has acted, this Chamber can then, this Congress can then decide the extent to which our Commander in Chief can commit to various types of forces that we have.

Mr. COHEN. So basically this is a statement urging the President to go to the United Nation to seek a consensus that the United Nation should take action to use whatever force it might deem necessary and then the President would have to come back to us and make a presentation, be it to a joint session of Congress or to each body individually, in terms of the nature of the force that he would propose that we commit to that region before taking any action. Is my understanding correct?

Mr. WARNER. Mr. President, my colleague is precisely correct. And that is the reason for, day after taking this floor to try to clarify it.

I am now going through the RECORD, and I will search out and put into the RECORD those who have called for "by all necessary means" but who said it does not involve ground troops. And others who said we can then reflect on what we should do after the United Nation acts, to the extent our Commander in Chief can then call upon land, air, and sea of the U.S. Armed Forces.

Those are the questions that I plead with my colleagues should be resolved before we send this signal. Because the nuances of a sense-of-the-Senate—nonbinding, as the Senator from Maine points out—that will be lost. It is: "We have come to help you"; but the type of help we can give has to be, then, gone back and referred to the Congress.

Mr. COHEN. So when Members are saying, that by adopting a measure today or tomorrow we are taking action and we are encouraging the President to take action, they by no means are suggesting that he take military action which would include the use of ground forces without coming back to Congress for our approval?

Mr. WARNER. Mr. President, I say to my good friend from Maine, that question has not been answered to this Senator's satisfaction. And, I judge, to his satisfaction. I can point to many places in the RECORD where that issue is left open in the debate here on the floor.

Mr. PRESSLER. Will my friend yield?

Mr. COHEN. Mr. President, if I may just continue for a moment, that is an issue we have debated over the years, about the constitutionality of the War Powers Act. No President feels that he is under an obligation to come to us to commit troops to a conflict situation. That, we are told, is somehow an inherent power of the President as the Commander in Chief, and that the War Powers Act is unconstitutional.

So as a result of the conflict over the interpretation of its constitutionality, we have decided that the War Powers Act, indeed, is unworkable.

I see the Senator from Georgia, the senior Senator from Georgia on the floor. I think he has raised the issue that we have to revise the War Powers Act to make it somehow a relevant document.

I think we have to at least clarify this before the vote tomorrow, in terms of exactly what we would be committing ourselves to by that vote. We say: Take action. We are talking about verbal action; we are not talking about military action. We are talking about the President going to the United Nations to forge a consensus to use whatever means necessary. And if the United Nations urges that we then take military action against the Serbs at that point, that they allocate that responsibility of air, ground, and sea; and that the President come back to us before taking any action and then get our consent.

That is my understanding as I have listened to the debate today.

Mr. WARNER. Mr. President, I thank my dear colleague, because it has been a lonely point out here on the floor. The Senator from Arizona, the Senator from Wyoming, and others have joined. We welcome your precise clarification of what I regard as the central point of this debate. I have said it time and time again: What is the nature of our action? What is the message we send? And if, in fact, they are reserving the right, as we say so often on this floor, to then second-judge whatever decision is made by the United Nations, in terms of what is the nature of the participation by the United States.

I have said, as far back as Wednesday and Thursday and Friday, I felt it was wrong to challenge our President for not taking greater leadership when we ourselves have not decided the extent to which we are prepared to back the President of the United States in providing that leadership.

That is the issue.

Mr. PRESSLER. Mr. President, will my friend yield for a question?

Let me say, first of all, as a supporter of this resolution, I am not in disagreement with what has just been said.

However, I think the Senate should take action on this issue. There seems to be a great deal of resistance to having the Senate adopt anything. I do not know what the opponents of this resolution propose. I guess they propose we go home for the month of August without the Senate speaking to the issues surrounding the question of the former Yugoslavia.

But I think we have to take responsibility and step up to the plate.

I would also agree with what my friend from Maine and my friend from Virginia have just said. I do not see such support as inconsistent with my supporting this resolution.

I think the United States has to take an activist role of leadership in the United Nations, whether it is in Africa or the former Yugoslavia. That does not mean we commit ground forces. It does not mean we spend any more money—not necessarily. But I think we have to have U.S. leadership.

In regard to this amendment—it is a sense-of-the-Senate resolution. Language very similar to this amendment passed the Foreign Relations Committee. I do not know if we are going to end up with a combination of the DeConcini amendment and the Foreign Relations Committee resolution. I know a word or two was changed in the amendment yesterday.

The point is, it is the desire of many Senators for the Senate to act on this before the August recess; to put ourselves on record that the United States should take an activist role in providing the leadership in the United Nations to lay the goundwork to act.

We have had thrown around our necks here this business of ground forces. I am one Senator who has said in my interpretation of this amendment that if you vote for it, you have to take the responsibility for some limited ground force activity. It is not authorizing that, but it certainly is suggesting it. All of us would rather say it is all going to be air strikes, but I think we have to take responsibility for the possibility that it may involve the use of ground forces.

Also, as I have said repeatedly, this is a defining moment in American foreign policy. In the next 10 years, I think we are going to need to have some kind of an international strike force. Perhaps in the United Nations, not necessarily U.S.-run, to ensure that food and medical care can be supplied in certain situations.

I also think we cannot turn our backs on the responsibility of leadership the United States has in what could become a very chaotic world. That does not mean we are going to be sending ground forces, invading armies, et cetera, et cetera into a variety of countries around the world. I would be the first to oppose that.

But I do find it strange that there is resistance in the Senate to act on the issue of the former Yugoslavia. If there is an alternative resolution, let us have it. But we will be leaving here in a day and a half, and all of this could pass without the Senate expressing its will, whatever that may be.

Currently, that seems to be the only alternative to this resolution.

So I will ask my friend from Virginia if this resolution does not pass, what course of action should the Senate take?

Mr. WARNER. Mr. President, I think the Senate has made a very valuable contribution to date through this debate. It seems to me the strong sentiments which I feel reflect every one of 100 seats: That this killing and this suffering should end. That message, indeed, has gone forth from this Chamber without a single word of dissent. It is only the need to clarify that message, to be precise, so that, as the Senator from Maine said, we are not put in a position of speaking without a clear direction to those who are listening. That is the concern I have.

I recognize the Senator from Wyoming for a question.

Mr. WALLOP. Mr. President, I thank my friend from Virginia. I begin by offering my gratitude to him for a very clear debate, representing the concerns of many of us about the desire, in a political year, to make a political statement without being able, down the road, to back it up with a political commitment to fulfill it.

Let me ask my friend, has it come up on the floor that, during World War II, the German Government had 38 divisions in Yugoslavia and never controlled the country?

Mr. WARNER. The junior Senator from Arizona made brief reference to that, Mr. President. But that is a chapter of history that I think should be further examined in the context of deciding what we should or should not do.

Mr. WALLOP. I hope, Mr. President, that during the hearing, that will come up. It has been said that merely to control the airport and the corridor—a safe corridor—would require up to as many as 100,000 armed troops.

Is that a figure that the Senator had heard?

Mr. WARNER. The precise figures have not been used here in the past 2 hours. I used the figure 3 days ago of that approximate amount; yes.

Mr. WALLOP. I think it is fair to say the precise figures cannot be known. Nor can it be known who would provide the 100,000 troops.

It is my understanding that, at least as it emerged from the Foreign Relations Committee, the resolution that the Senate would have voted on would require us to disarm the population.

Does the Senator agree with me; that is an act of war, if that is what it would have required?

Mr. WARNER. Mr. President, it clearly involved significant numbers of persons involved in armed conflict. The question of the act of war has almost faded from history. Because we have seen so many instances in which troops have been involved, yet they do not wish to characterize it as war. Yet, suffering and death occurs.

Mr. WALLOP. I agree with the Senator, Mr. President. Yet, nonetheless, Clausewitz has provided a pretty good definition of war, and that is: Imposing one's will on another side.

Disarming a population, liberating the camps, using whatever means necessary to secure the access of populations to food—all of those things involve imposing one's will, do they not?

Mr. WARNER. Mr. President, I say to my good friend, this is the language used by the Foreign Relations Committee. I think it important to recite it here in the context of our discussion. It is paragraph 3:

> When requested by the President, the Congress should promptly consider authorization for any use of United States military forces pursuant to and only pursuant to U.N. authorization described in paragraph 1.

So it is clear that the significant use of our military forces is contemplated, and, as you say, it fits the definition of war.

Mr. WALLOP. That is typically one of the behaviors of Congress, to cast itself as willing to take action so long as the President, whoever they may be, is first to take the action and can thereafter be blamed if the population has a different view.

I must say that when such an amendment comes in front of the Senate, it will be the intention of the Senator from Wyoming to offer an amendment that says the United States will be prepared, with or without the request of the United Nations, to use all necessary force to achieve these goals, and we will see then where the Senate's vote is. It will be the intention of the Senator having offered the amendment to vote against it, and I hope others do, too. That may well tell us where the real sentiment of the Senate is, whether it is a political statement that is designed to give comfort, which may later, down the road, as the Senator from Virginia has so ably pointed out, cause enormous levels of disappointment and, in fact, weaken American posture somewhere down the road when we do make a commitment that we may well intend to fulfill.

With regard to the force during World War II, is the Senator also aware that Tito, having consolidated these warring tribes composing the separate States of what was Yugoslavia, spent most of his time creating the defense of Yugoslavia by training guerrilla bands, by caching weapons, by, in fact, putting together a trained population which can operate out of the mountains with minimal requirements and resupply and other kinds of things? That would be the nature of the force that we would be confronting, would it not?

Mr. WARNER. I think the Senator postulates what would happen very accurately based on historical precedent.

Mr. WALLOP. The other thing that causes me some concern is which side would it be that the United Nations would propose to take in this civil war? The Senator is aware, I am certain, that during World War II, the various countries that composed Yugoslavia lost in the neighborhood of 1½ million of its citizens.

Mr. WARNER. Many of those casualties were taken among the factions fighting internally against each other.

Mr. WALLOP. I was about to say, three-quarters of those were Serbs killed by Croats. This Senator is not about to take a side in that war, nor does he know which side to take were he to be asked to choose.

Does the United Nations have an idea which side it will choose? Has it made an expression?

Mr. WARNER. I think the United Nations has restricted itself, quite properly, to addressing the need for humanitarian relief no matter which side it is, recognizing that all are suffering. But this resolution goes beyond that.

Mr. WALLOP. It does, indeed.

Mr. WARNER. The various drafts we have seen in the last few days goes well beyond. It may be the proponents of this resolution have retrenched their thinking and may be making it in the nature of what is before the United Nations as you and I speak here this afternoon. That in itself suggests that this debate, which has gone on for 4 or 5 days, has accomplished at least a positive result, and that is focusing the attention of this Chamber now more within the confinements of what is before the United Nations than such things as, for example, at one point the United Nations placed heavy weapons belonging to all factions under United Nations supervision.

Mr. WALLOP. Does the Senator have any doubt at all, were we to involve ourselves in a series of air strikes, however surgical, that there would be civilian casualties?

Mr. WARNER. Obviously, we do not know which civilians will be injured.

Mr. WALLOP. Noncombatants.

Mr. WARNER. As pointed out, there are many civilians in Serbia who are fighting against their own Government, protesting that Government. To me that could well result in a misinterpretation of use of force.

Mr. WALLOP. Does the Senator have any doubt that one of the reasons why there is so much passion—and it is a legitimate, not misplaced passion—is because of the immediacy of the television coverage of those casualties?

Mr. WARNER. It certainly has focused attention on this suffering to a greater degree than suffering of a commensurate level that is taking place elsewhere in the world as we speak.

Mr. WALLOP. Or on a far greater level. I do not know if the Senator may have seen the "CBS Morning Show."

Mr. WARNER. I did see that on Somalia.

Mr. WALLOP. On Somalia. It strikes me that one of the reasons our passion is so immediate is because these are white babies, white solders, white rib cages in the concentration camps, whereas the black rib cages and the poor, pathetic little arms and other things seem not to have attracted the attention, though it has been said, I think accurately, and pleaded by the Secretary General of the United Nations, Mr. Boutros Boutros-Ghali, pleading for us to pay more attention there because, in fact, it is a far greater human tragedy. I have not brought with me the quotations, but he made a very special plea for us to pay heed to that because as much as 60 percent of the population of that country could be dead within 6 months from starvation when there is not an adequate food supply but an undelivered food supply within less than a mile of people dying.

Would that not tend to say that if the Senate has the passion that it has been so willing to speak on the issue of Bosnia-Hercegovina, that we might well spend some time with the same compassion toward Somalia, might well spend some of that time with compassion for the Kurds, might well spend some of that time with compassion for the Iraqi Shiites, might well spend some of that time back in Cambodia, might well spend some of the passion of this great body on others in the world suffering every bit as much we do not happen to be white?

Mr. WARNER. The Senator's question answers itself. Suffering knows no race, no creed, no religion. And indeed, suffering is taking place in many, many places in the world today. It seems to me that underlies the importance of what we do because, if we act in one area of the world and not in another, that poses, I think, a very serious situation.

In this instance, we are at a threshold decision with this resolution of how we begin to put to rest ethnic problems in many parts of Europe which are right there. The Senator suggests, if we do not act, this will encourage them to break out in civil war. But if we do act, then it is expected, should they break out in war, we would respond in a like manner to that area of the world.

So I think the gravity of this resolution is such that we are right in taking our time to debate it and think it through very carefully.

Mr. WALLOP. May I ask the Senator one more question?

What, in the Senator's view, is the consequence of calling on the United Nations with such specific action as may be directed in these several resolutions, and when the United Nations calls upon us to react and respond, the Senate finds itself unwilling to make that commitment? What is the consequence of that in the world?

Mr. WARNER. I think that is the worst of all consequences. As I said earlier today, if we fail to back up the actions taken by our Commander in Chief of the Nation's Armed Forces and the United Nations, then we have I think done great disservice to the history of this country. That is why I think we should think through very carefully what it is we are about to say in this resolution. It started out to be a time agreement of 1 hour when this Senator took the floor 5 days ago and objected to the time agreement of 1 hour. I am heartened that the Senator and others have joined in this debate now, and I believe we are beginning to recognize the depth of this decision we are about to make. I hope that we may make the correct decision.

I thank the Senator for framing these series of questions very precisely on the seriousness of this issue.

Mr. WALLOP. I thank the Senator.

Mr. WARNER. The Senator from Kentucky has been patiently waiting. I will yield for a question.

Mr. MCCONNELL. First, let me commend my good friend from Virginia for the manner in which he has conducted this debate, if you will, today on the question of what our country's posture should be with reference to this ethnic dispute in the former Yugoslavia.

jected to the time agreement of 1 hour. I am heartened that the Senator and others have joined in this debate now, and I believe we are beginning to recognize the depth of this decision we

ed States for the manner in which he has handled this crisis today?

(Mr. REID assumed the chair.)

Mr. WARNER. Mr. President, I said earlier the degree to which we can reach an informed judgment on this critical issue is the degree to which we are able to debate it, decide it, and act accordingly without the influence of the partisan political election we are now in.

Mr. MCCONNELL. I say to my friend from Virginia, as a Member of the Foreign Relations Committee who opposed the resolution that came out of that committee last week, I am intimately familiar with the various changes that have occurred, both before its enactment and since. It is clear to this Senator that whatever direction the President takes, the resolution will be changed slightly in order to differ.

For example, the resolution as it came out of the Foreign Relations Committee last Thursday essentially would have authorized the United States to go in and disarm the population, something, as Senator WALLOP just pointed out a minute ago, over 30 divisions of Nazis could not accomplish in World War II. And then, upon further reflection, by Friday it had taken another form, which was to provide convoys or support for the opening up of the camps which have received so much publicity in the last week. And now, of course, on Saturday the Serbs announced that the camps would be open to the Red Cross and to others for inspection.

So I suspect, I would say to my friend from Virginia, and I wonder if he has any doubts, that this resolution will continue to be massaged to come out different from whatever the President may be doing at the moment.

Mr. WARNER. I would have to say to my good friend, the majority leader and the Republican leader are very actively involved, and the Republican leader was a cosponsor of some of the earlier resolutions. I am willing to give my colleagues the greatest degree of doubt as to what their motivations have been. I honestly believe that certainly today the debate, which I think has been the most productive to date on this whole resolution, has been a step forward in trying to contribute to a resolution of this matter.

But I am sitting here with the RECORD before me of previous debates, and I posed this question: "I say to my friend that in my mind"—this is the Senator from Virginia speaking—"and the mind of military experts, that being land forces, am I not correct, would be needed?" And one of our colleagues replied, "That certainly is not the intention of the sponsor," to implicate that land forces would be needed in fulfilling the goals of the resolution.

So we see today that the debate has been constructive and it has contributed to a better understanding of the problem.

Mr. MCCONNELL. I ask my friend from Virginia if he remembers the six-point test that former Secretary of Defense, Caspar Weinberger, outlined some years back which he felt should be met before the United States contemplated the use of force?

Mr. WARNER. No, but I think it would be helpful that the Senator from Kentucky places that in the RECORD.

Mr. McCONNELL. I would respond to my friend from Virginia, since he is interested in that, first to say that I did not mean to imply there was not some support for the resolution on this side of the aisle. What I said was happening is the changes were coming from the other side of the aisle, not that there would not be some Members of this side of the aisle who would support the resolution. But the constant shifting of the resolution, it seems to this Senator, came from the other side of the aisle.

Nevertheless, Secretary Weinberger said that there is a six-point test which he felt should be met before the United States considered using its own troops.

First was that the objective be deemed vital to our national interest, point No. 1.

Point No. 2, if we are willing to commit the forces or resources, that is, the money, necessary to achieve our objectives. In other words, let us be sure before sending in the troops that we are willing to commit forces and the resources. I am curious as to whether any of us has given any thought to what kind of money might be involved to carry out the objective.

Mr. WARNER. There has been no suggestion of the cost of these operations.

Mr. McCONNELL. So we have no idea what kind of cost to our Treasury, the money resources that would be involved here.

Mr. WARNER. I anticipate in tomorrow's hearing of the Armed Services Committee that and other questions will be addressed.

Mr. McCONNELL. I say to my friend I think that is a very important thing to ascertain. Caspar Weinberger said, third, there should be a clearly defined political and military objective. I know that has been discussed, I say to my friend. Is there a clearly defined political or military objective anyone has been able to ascertain?

Mr. WARNER. No, there is only one clearly defined objective I subscribe to, as do all others, and that is the deep concern of human suffering taking place on all sides of this conflict.

Mr. McCONNELL. Fourth, I would say to my friend from Virginia, Secretary Weinberger said the relationship between our objectives and the forces we have committed must be continually reassessed and adjusted if necessary.

I would ask my friend from Virginia if he has any sense of whether this standard might have been addressed?

Mr. WARNER. Certainly not to the degree that I think is required for such a serious decision as that.

Mr. McCONNELL. The fifth point that Secretary Weinberger indicated should be met before contemplating the use of American troops was whether there was some reasonable assurance we will have the support of the American people and their elected representatives in Congress.

I ask my friend from Virginia, is it not true that we have seen the polls bounce all over the lot on this issue, depending upon what is seen on the evening television news, as to where the American people might be on this subject?

Mr. WARNER. I say to my good friend, speaking largely for myself, polls will not dictate whatever decision I may make. But the level of knowledge that we are able to impart to the American people and how complete that level of knowledge is is a critical factor in my determination as to how I may or may not vote on this resolution.

Mr. McCONNELL. Finally, I ask my friend from Virginia, by way of laying down the sixth marker that Secretary Weinberger indicated should be met—Secretary Weinberger said the commitment of U.S. forces to combat should be a last resort—if in any way he could conclude at this point that all other avenues have been exhausted, there is nothing else we can do, and we should now consider the use of American troops?

Mr. WARNER. Mr. President, there has been a long history in this conflict of very serious and conscientious diplomatic efforts.

Lord Carrington comes to mind, indeed our former Secretary of State, Cyrus Vance; many individuals have put their shoulders to the wheel to try to resolve this conflict. Indeed, foremost in my judgment has been our own President and our own Secretary of State.

But I am not prepared to say that there are not additional steps to diplomacy, to the exercise of denying to Serbia and other factions in this fight the resources with which to continue this conflict, and that sanctions perhaps could be tightened. I think there are many things that can be done short of the introduction of force. But in fairness to the other side, there is always the question that the signal we have sent thus far, this debate and the actions of our President and others, may have led to the announcement by Serbian factions to open up their camps to allow the International Red Cross to step in.

So there are many sides to this issue, I say to my good friend. I thank him for coming to the floor and posing those questions that I think we must address.

Mr. McCONNELL. I want to commend the distinguished Senator from Virginia for his leadership on this issue, and to indicate how this debate has been helpful not only for us in the Senate but for others around the world who are watching to see what can be done to help stop this bloodshed.

Mr. WARNER. I thank the Senator from Kentucky, because he has been among the few that have asked for time and further debate, further reflection before acting. I thank him.

Mr. MOYNIHAN addressed the Chair.

Mr. WARNER. Mr. President, I am perfectly willing to proceed with another question.

I see the presence of the distinguished majority leader and the Republican leader on the floor. I wonder if at some point this debate could be concluded and the leadership address what I presume is the unanimous-consent request.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. MOYNIHAN. To simply say that I would like to speak at this point. I am told by the manager of the legislation at this time that there seems to me great urgency, and I not require a great deal of time. But I want some time.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. I yield to the majority leader for purposes of such statement as he wishes to make.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senator DOLE and I have been in continuous meetings for most of the day today attempting to work out a process for considering the three matters on which we are trying to act which are the Bosnia resolution, the pending DOD authorization bill, and the urban aid, or tax bill.

It is my hope that we can enter into an agreement which would proscribe a period of time for debate on the Bosnia resolution, which I would like to have brought up as a freestanding measure rather than as an amendment to either of the two bills. That would involve debate later today, and some debate tomorrow as well during which time the Senator from New York could speak, and of course if we get on to the rest of the bill any Senator could speak on the subject all day.

Mr. MOYNIHAN. I simply would like to comment specifically on some of the things that have just been said in this context. If leaders want to reach some agreement for same, it is fine. I would like to continue after that with this.

Mr. WARNER. May I suggest for purposes of parliamentary procedure that the Senator from Virginia yield the floor, and that the two leaders then address the question of the unanimous-consent request?

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, might I inquire of the distinguished

Republican leader whether he and the manager on the Republican side, Senator WARNER, are prepared to proceed with respect to this agreement?

Mr. DOLE. I think we will be very quickly. But the manager has been involved with debate on Bosnia, and I have Senator WARNER now looking at the agreement. I will be able to give the majority leader an answer in the next few minutes.

Mr. MITCHELL. Might I suggest in the interim that Senator MOYNIHAN be permitted to proceed with his remarks that are relevant to what has just been said.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I have been puzzled to hear the resolution reported from the Committee on Foreign Relations on the subject of Bosnia-Hercegovina and Serbian aggression in that area described as a matter that somehow divides our two aisles. That was not my impression in the committee itself. The resolution was reported by Mr. PELL and Mr. LUGAR. It was bipartisan. And the debate was very much in those terms, with the tone of our debate set by the very able Senator from South Dakota, who said that this is a defining moment in post cold war era. By which he clearly meant that this is the moment at which we will find out whether the arrangements we put in place after World War II, arrangements we had hoped to put in place after World War I, for the peaceful resolution of disputes and for the forceful enforcement of international law under the U.N. Charter, which is itself international law work.

I came to the floor to speak to just that point last week. Mr. President, I came as someone who had served as our country's representative at the United Nations, had served as President of the Security Council, and had done so for a Republican President, Gerald Ford.

So I would like to use this moment to invoke the extraordinary statements made yesterday on "This Week With David Brinkley" in an exchange between George Will and Margaret Thatcher.

George Will said to Lady Thatcher about the gulf situation that "the obvious difference is oil." And he asked "What do you say to those critics who justify inaction?"

Mrs. Thatcher responded:

> First, this is mainly a great moral question, and if there is one country in the world which came to life on a moral basis, it was America.
>
> Secondly, some of the terrible things that we have seen are things we thought we would never see again in Europe, and we fought that that should not happen. We are seeing things which are just about the worst of Stalin and Hitler.
>
> Thirdly, that is a strategic interest. There are various other minorities in Yugoslavia, unless you stop the aggression in this case, there will be aggression against the Albanians and Kosovo. They've already been attacked. There will be problems with Macedonia, and there could also be other problems as other minorities are attacked. * * * Other countries will not let that rest. Turkey is interested of course in the Muslim population of Bosnia. And Greece would be interested in Macedonia. And other countries will be interested. Albania will be interested in Kosovo. You could in fact have a great extension of the conflict that would be very damaging to us all. And the longer we take to act the worse it will be.

Mr. Will went on to say:

> But what do you say to Americans who say we've spent quite enough time, we Americans have, liberating and resuscitating and defending Europe? Why should we act when the Europeans are reluctant to act?

Mrs. Thatcher responds:

> If they are reluctant to act, I can only condemn that reluctance.
>
> I, for a long time, have been almost distraught at the inactivity as I have heard of murder after murder, terrorism after terrorism, and brutality after brutality. This is a moral question and, as well a strategic question. And the third aspect is, are we in a position to do it? I think ordinary people have the right instincts about this. They are horrified at the appalling scenes we've seen on television. They think, supposing this were my family crying out to be free, and those who expect to help us withheld that help and left us to our fate. That is the way most people will look at it.

Later on, Mr. Will says:

> But the question is, if * * * you have drawn your sword, and the sword of air power and giving arms to the Bosnians does not suffice, how far are you prepared to go?

Then Mrs. Thatcher said something which we ought to record. She said:

> Mr. Will, I have been in government for 11½ years—

By which she meant as Prime Minister—

> longer than anyone in the United States since Roosevelt. I have known much advice come to me. If you ask people what should you do, they will give you 101 reasons why you should not do anything. If you say the situation is urgent, people are being murdered, they're being invaded, now, how can we deal with it, they will give you a lot of options, which are pretty effective. You really must not be as faint-hearted as to say "What if? What if?" It is a moral case, and we must help.

Not to intrude myself after such extraordinarily powerful, cogent, experienced remarks, by saying in Mr. Will's column on Sunday morning, as it appeared in the Washington Post, he set forth some of the propositions I laid out on the Senate floor last week which anyone with any experience with the United Nations would have laid out. These are exactly the situations that were anticipated by the Charter. These situations are always ambiguous, difficult; they are rarely simple. If they were simple, you would not need a world organization. But action was contemplated. The experience of just this kind of genocidal murder was what was in our minds in helping to draft the Charter.

The first thing we did, Mr. President, as the distinguished chairman of the Committee on Foreign Relations will tell you—the chairman who was at San Francisco in 1945 and carries the U.N. Charter around with him—was to set in place in chapter VII a series of graduated responses to violations of the Charter with respect to the independence of States and the right of territorial integrity.

Article 41 says take economic measures. Turn off the telephone, stop trade, stop financial transactions, measures of that kind, to make a point.

Article 42 begins to speak of force by air, sea and naval forces. It does not say go instantly to war, send 37 divisions into the Balkans. It speaks of "demonstrations"—and the word "demonstrations" is in our resolution. It has never been used, but it is there for just this purpose.

What do you "demonstrate?" You demonstrate that you can blow up every bridge across the Danube in Belgrade. The people of Belgrade do not know how the world is responding. They are not seeing this on television. They are ruled by a former Communist, Milosevic, who will do anything at this point, clearly.

You let the people of Belgrade know what the world thinks. Students and other Serbs have been on the streets against this Government. You close down every barge of oil coming up the Danube. There is no oil in Serbia. There is a pipeline from the Adriatic which has been broken. Even so, you blockade the Dalmatian coast. We have the *Iwo Jima* Carrier Task Force in the Adriatic. You blockade Montenegro, which is essentially a Serbian port city of a sort, as everything is of a sort in that part of Europe. You could blow the side off a mountain, and you could air drop arms, as we dropped arms in World War II.

Mrs. Thatcher makes a point about the period of 1939 to 1945 when the Germans were occupying Yugoslavia and the people of Bosnia were against them, not for them. I am not arguing this would be easy. I am not even arguing a land exercise ought to be attempted. Let us make the difference between attempting to help people free themselves and attempting to free them.

Finally, Mr. President, there comes a time when individual conduct in war has to be made a matter of individual responsibility.

After the Second World War, the United States, Britain, France, and the Soviet Union established the Nuremberg tribunals. A number of Nazi's were tried, and a number were convicted; some were hanged. Rudolph Hess was put in prison for 40 years.

It was generally agreed, however, that international law at the time of the Second World War did not apply to individuals. Only states were subject to international law.

So we went to Geneva, and over 3 long years, we drew up and codified laws against the practices that the Germans—the fascists—had carried out in the Second World War. We identified crimes against peoples, individuals, the horrors of that time, into four treaties referred to as the Geneva Conventions. And we made individuals accountable. We said these are crimes under the law of nations, and can be punished under the law of nations. You can get yourself hanged by running a concentration camp. You can find yourself on trial for your life having been the head of a government that came up with the ghastly thought of "ethnic cleansing." You could get yourself imprisoned for life. You can get yourself held up before the world as a war criminal. And that is a measure that can be communicated, because it did happen before, and it can happen again.

This is a profoundly important, strategic and moral issue.

Mr. President, I thank the leaders on both sides who clearly will make it possible for us to address this matter, standing alone as an urgent concern in this defining moment of the post-cold-war era.

Ms. MIKULSKI addressed the Chair.

Mr. BUMPERS. Will the Senator yield for a question?

I will be happy to yield to the majority leader.

The PRESIDING OFFICER. Does the Senator from New York give up the floor?

The Senator from Maryland is seeking recognition.

Mr. MOYNIHAN. The Senator from Arkansas wishes to address a question. May I ask what his question is?

Ms. MIKULSKI. I am happy for the Senator to proceed with his question.

Mr. BUMPERS. I just found the remarks of the Senator from New York remarkable in their clarity, sensibility, and sanity. I read very similar things in Leslie Gelb's column yesterday in the New York Times. There was one suggestion that he made and did not quite make either, but the Senator will recall that we wanted the people of Japan to know that in that war the people of the homeland were also going to suffer, as the Senator will recall, that is when we equipped about 12 or 14 B-25's.

Mr. MOYNIHAN. The Doolittle raid.

Mr. BUMPERS. And conducted the Doolittle raid. And while it was not a howling success, it had the desired result of demoralizing the people of Japan. And I believe—and I am not suggesting this as a final option or as an option at all—but it seems to me that all of the things that the Senator said are a much tighter embargo against Serbia, Montenegro, the possible arming by drops, as Mrs. Thatcher suggested, to the Bosnians so they could better defend themselves, and possibly air strikes against Serbia. Serbia has escaped totally unscathed.

Mr. MOYNIHAN. We could close the Serbian-Belgrade Airport as the Sarajevo Airport was closed.

Mr. BUMPERS. Precisely. That is essentially my comment. I am just curious as to how the Senator from New York would respond. I think he agrees, and I agree, that first of all this should be conducted by a U.N. resolution, under a U.N. resolution, and those are some of the options, and that was one of the options that I thought about, and I was just curious what the Senator from New York said.

Mr. MOYNIHAN. I much agree and I think Margaret Thatcher agreed.

Mr. DODD. Will the Senator yield? I would like to raise one point.

Mr. MOYNIHAN. I yield for a question.

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. MOYNIHAN. Will the Senator yield?

Ms. MIKULSKI. I yield.

Mr. DODD. Mr. President, on the last point raised by the Senator from Arkansas, the Doolittle raid of course was a wonderful demonstration of our ability to hit the homeland of Japan at the time of the war when no one thought that possible.

Mr. BUMPERS. A fundamental distinction: The Japanese people by and large supported the Japanese efforts in that war at the time. As the Senator from New York has just pointed out marginally, but I think more needs to be stated on this. The Serbian Orthodox Church universally denounced the Milosevic efforts. The University of Belgrade was shut down for a week by Serbian students who had a strike in objection to the conflict. Rallies numbering hundreds of thousands of Serbians oppose what is being done by the Milosevic government. There is a significant difference herein. And one precaution—and I am supportive of the resolution and wish to move forward—one caution here. We have to keep in mind a highly divided people, whether or not the present conflict is in their interest. This longstanding historical difference that goes back, Croatian and Serbian, most people in the body are familiar with. I hope as we contemplate the use of force we not run the risk—and I ask the Senator from New York this question—of taking what is otherwise an unpopular effort among the Serbian population and cause it to become much more popular than it is today as a result of engaging in punitive attacks, military attacks, that could in my view cause that effect. I raise that question with him?

Mr. MOYNIHAN. Mr. President, that is wise counsel. That is the kind of calculation we should be making. We must demonstrate to the people who agree with us in Serbia that we are with them and against their government. With that, Mr. President, I thank the Senator from Maryland.

Mr. WARNER. Will the Senator from Maryland allow me to set the record straight?

Mr. STEVENS. Regular order.

The PRESIDING OFFICER. The Senate will come to order. The Senator from Maryland has the floor and the Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much, Mr. President.

Mr. President, I, too, rise along with my colleagues to express concern and repugnance at what is going on in Bosnia.

It is now clear that the atrocities being carried out by the Serbs against Croats and local Moslems are far more extensive and repugnant than we realized.

We are experiencing, to a lesser degree, the same kind of shock that we felt when we saw the first pictures of the Nazi death camps liberated by our American soldiers at the end of World War II.

I was a child when this country learned of the extent and brutality of the Nazi genocide. But I said then that if the world could only remember this, then we would never have to witness such horrors again.

Well, the world has a short memory. I was a 6-year-old little girl in 1942, and I could not do anything. But now I am a 56-year-old U.S. Senator in 1992, and there is now something I can do to stop the killing and the brutality. This is why I advocate, as a minimum, passing this resolution.

I say we are past the time for diplomatic niceties. Asking the Serbs politely if we may inspect their refugee camps has not worked.

It is time for the United States to use its power and influence to convince the United Nations to take a stronger role in protecting the innocent victims of Serbian aggression, using force if necessary.

I believe when we talk about the need for diplomatic solutions, diplomatic solutions will only come about if we show we are prepared to back them up with firmness and force.

Mr. President, this is not a Senator who calls for force in an idle way. I am not somebody who thinks the United Nations should walk around the world with six-shooters strapped to the hips ready to gun sling with everybody in the world. But, the situation today is desperate enough to require drastic action.

The parallels with Nazi atrocities of the 1930's and 1940's are striking and sickening.

Mr. President, we now see the Serbs are using ethnic purification. They have established concentration camps. Victims are loaded in cattle cars for transportation. We now have seen films of men emaciated and near starvation.

We have not been allowed to see the camps, what is happening to women, and yet there are reports in USA Today about the continual rape of women and further sexual assaults that are absolutely repugnant, so repugnant that I cannot even bring myself to mention them on the Senate floor.

Serbian forces threaten to kill several Moslems for every Serb killed, torturing and murdering innocent people.

And like the 1930's and 1940's the rest of the world dithers while countless men, women, and children are being brutalized.

Here we are now debating the United States of America's Defense authorization bill. What is NATO for if it cannot deliver food to the hungry, medicine to the sick, and play a role in liberating camps and directing the type of military strategy that would force the Serbs into a cease-fire and into a diplomatic solution?

Oh, I have heard about how they held out against Hitler's two divisions. The Serbs, the Croatians, hated the Nazis and fought against them. I am not talking about NATO or NATO under the umbrella of the United Nations going in and trying to take all of Yugoslavia and ironing out every ethnic conflict.

Mr. President, where is the genius of NATO presenting ideas to the United Nations in order to bring about some type of resolution to this situation? Certainly the warriors who could bring an end to the cold war can come up with these kinds of recommendations and options on what we could do here. Should we send air strikes to show the Serbs?

Mr. CHAFEE. Mr. President, will the Senator yield right there?

Ms. MIKULSKI. No, not until I finish my remarks.

Should we send the Air Force in, air strikes, into the bridges or powerplants? How about something as benign as maybe thinking about dropping pamphlets on Belgrade with these pictures that we are seeing so that the Serbian people in the capital know what is going on?

Are we all going to set around and say "diplomacy," "be careful." I am going to be careful. I do not want to see American men or women risk their lives in a conflict. We understand this. We understand how difficult, complex, and even treacherous is the course we are embarking upon. If we do not communicate to old Europe that old hatreds and bigotry cannot be solved by savagery, then the new world order is going to come apart. We will plunge into savagery. We will plunge into barbarism. And the new world order will look far more brutal than the old world order.

Mr. President, I do not have the military options all spelled out with every detail, but I do know that the genius of the United States of America combined with the resolution of NATO should be able to come up with some type of options that are specific, immediate, achievable, with minimum threat to Allied lives, and will force the Serbs into some type of activity that they will then come to peace talks.

Let us not be overcautious in reacting to the atrocities in Bosnia. The State Department had heard reports of horrible suffering but was awaiting more concrete confirmation before doing anything. European nations rejected Germany's proposal that they each accept a certain quota of refugees. All of us bear some responsibility for letting the suffering continue.

Will we never learn?

Just 50 years ago, these atrocities—and worse—were being carried out against the Jews of Europe. We all know what happened. We all like to think we would have done something at the time to stop the horrors of the Holocaust.

Will we let the Moslems of Bosnia become the Jews of 1992? Will we ignore the atrocities committed against the Croats as we did those committed against homosexuals, Gypsies, intellectuals, and Communists in 1942?

In 1941 when the Nazis took control of Yugoslavia, Croats and Serbs slaughtered each other by the tens of thousands. We should have learned the lessons of history and been prepared for today's conflict, but we have not.

And as horrible as the suffering has been in former Yugoslavia, it has been far worse and has lasted far longer in the Horn of Africa, Mozambique, Angola, and Liberia.

Today in Somalia warring factions are preventing international organizations from delivering food to starving masses. To date, approximately 30,000 people—mostly children—have died in Somalia; 1.5 million are currently dying of starvation, and 4.5 million more are in danger of starving if food does not arrive soon. There are more than 1 million refugees.

The response to the suffering in Africa has been even less forthcoming than our response to Bosnia and Croatia.

U.N. Secretary General Boutros Boutros-Ghali has shown real leadership in urging a more dynamic response to food delivery to Somalia, but he has received little support. Here in the Senate, Senator NANCY KASSEBAUM has introduced a resolution calling on the United Nations to use security troops to see that food and medicine are delivered to the men, women, and children who are now dying.

We must do more. We must act aggressively now to end the suffering in former Yugoslavia, in Africa and elsewhere—or live with the responsibility and guilt for thousands, if not millions, of lives lost through our inaction.

I will be happy to yield to the Senator from Alaska.

The PRESIDING OFFICER. The majority leader is now recognized.

Mr. MITCHELL. Does the Senator yield the floor?

Ms. MIKULSKI. Yes.

I did note the Senator from Alaska had a question. I am happy to yield my time.

The PRESIDING OFFICER. The majority leader is now recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, as I indicated earlier, Senator DOLE and I have been meeting for almost all day with many interested and participating Senators in determining how best to proceed on the many important matters that remain before us.

So that Senators can be aware, at 4 p.m., or as soon thereafter as I can get the floor, I intend to propound a unanimous consent agreement setting forth a procedure for moving forward on the Department of Defense bill, and a separate resolution dealing with Bosnia. Any Senator who is interested should be present on the floor at that time. That is approximately 9 minutes, at 4 p.m., or as soon thereafter as I can get the floor.

I am pleased to yield to the Republican leader for any comment he wishes to make.

Mr. DOLE. Does the majority leader intend to recite the proposed agreement now, or wait until 4 o'clock?

Mr. MITCHELL. I was going to wait until 4 o'clock. If the Senator feels it would be useful, I could do it now.

Mr. DOLE. I think it would be helpful. If other Senators knew precisely what is in it, it might save some time later.

Mr. MITCHELL. If that will be helpful, I will do so.

The request I intend to propound will be as follows:

That the Bumpers amendment, No. 2919, be withdrawn; that the Sasser amendment, No. 2918, be laid aside until 3 p.m. tomorrow; that at that time, 3 p.m. tomorrow, there be 1 hour equally divided in the usual form on the Sasser amendment; that at the conclusion of yielding back of time, the Senate, without any intervening action or debate, vote on the Sasser amendment; that no other SDI amendments be in order prior to the disposition of the Sasser amendment, other than the Pryor contracting amendment; that there be one relevant second-degree amendment to be offered to the Pryor amendment by Senator WARNER or his designee, on which there be 30 minutes for debate, equally divided in the usual form; that there be 30 minutes for debate, equally divided in the usual form, on the Pryor amendment; and that the votes in relation to the Pryor amendment and the Warner amendment thereto occur immediately, without any intervening action or debate, upon the disposition of the Sasser amendment, which would be at 4 p.m. tomorrow.

I would further ask unanimous consent that there be 2 hours of debate on a Leahy amendment with respect to the B-2 bomber to be offered today; that no amendments be in order to the amendment; and that at the conclusion or yielding back of time on the amendment, it be laid aside with a vote occurring on or in relation to the amendment on Tuesday, August 11, following the vote disposing of the Pryor amendment; and that the only amendments in order prior to the 4 p.m. votes on Tuesday be a Coats amendment with respect to abortion, a Graham and Mack Cuban freedom amendment, and relevant amendments with respect to the Graham-Mack amendment.

I will further ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time proceed today to the consideration of Calendar No. 608 (S. Res. 330), a resolution on the situation in Bosnia; that there be 4 hours and 20 minutes of debate on the resolution today, 2 hours and 20 minutes under the control of the Republican leader or his designee and 2 hours under the control of the majority leader or his designee; that at the conclusion or yielding back of time on the resolution, the resolution be laid aside until Tuesday, August 11, at a time to be determined by the majority leader, after consultation with the Republican leader, at which time there be 30 minutes remaining on the resolution, equally divided and controlled by the Republican leader and the majority leader; that Senator PELL be recognized immediately after the resolution has been called up, and that it be in order for him to modify the resolution at that time; that the only amendments in order to the resolution or preamble be the following: two amendments that Senator WARNER may offer, and one amendment that Senator DECONCINI may offer, with 30 minutes, equally divided and controlled on each of those three amendments just listed; two amendments that may be offered by Senator BYRD, the first regarding democratic elections in Romania, on which there be 10 minutes equally divided and controlled, and the second dealing with American diplomatic leadership with respect to Bosnia, on which there be 20 minutes equally divided and controlled; an amendment by Senator DOLE regarding Bosnia, on which there be 15 minutes, equally divided and controlled in the usual form; an amendment by Senator WALLOP regarding Bosnia, on which there being 40 minutes equally divided and controlled in the usual form; an amendment by Senator MCCONNELL regarding Bosnia, on which there be 30 minutes, equally divided and controlled in the usual form; an amendment by Senator BROWN regarding Bosnia, on which there be 20 minutes, equally divided and controlled in the usual form; and an amendment by Senator STEVENS. It is listed as a cost amendment regarding Bosnia.

Mr. STEVENS. Yes, the cost of the U.S. participation.

Mr. MITCHELL. An amendment regarding the cost of the United States participation in Bosnia, on which there be 2 hours, equally divided and controlled in the usual form.

That all such amendments whose content is not otherwise listed be relevant to the resolution or to the preamble; that it be in order to offer amendments to the preamble prior to the vote on the resolution; that no motions to recommit be in order; and that all amendments either to the resolution or the preamble must be filed at the desk by 12:30 p.m. on Tuesday, August 11.

Mr. DOLE. If the majority leader will yield, there will be an agreement propounded by the majority leader, maybe, say, 10 after 4 now, to give every Member an opportunity?

Mr. MITCHELL. That is fine.

Mr. DOLE. Mr. President, I would indicate the Senator from Indiana [Mr. COATS] has another problem, I think, trying to be worked out, that he will not be prejudiced by anything that has been stated. But there will be a separate agreement covering an abortion amendment that he and the Senator from Colorado [Mr. WIRTH], as I understand, may be agreeable to.

Second, I remind my colleagues that this is a Bosnia sense-of-the-Senate resolution, and we have had hours of debate. It is a very important issue. And I hope that we will not take another 4 hours and 20 minutes on that. Plus, I think, as I count, there must be at least 7, 8, or 9 second-degree amendments, and that is another 2 or 3 or 4 hours.

So, hopefully some of the problems can be resolved. I suggest that people read the resolution, because it seems to me that having read it and having tried to help put it together, and having passed other resolutions, I think, by a voice vote, that may have been more stringent than the one now pending, that perhaps a careful reading of the resolution might resolve some of the concerns Members might have on each side of the aisle.

I have no personal objection, and I do not think the managers have any personal objection to either one of the requests by the majority leader.

Mr. DECONCINI. Mr. President, will the majority leader yield for a clarification?

Mr. MITCHELL. Yes.

Mr. DECONCINI. Is it understood that on the Bosnia resolution, that there will be a vote tomorrow, even though there is no time certain? Is that the understanding?

Mr. MITCHELL. The resolution, the unanimous consent request, does not specify a vote tomorrow. But that is certainly my intention.

As the Senator knows, there are many devices by which Members of the Senate can delay matters from occurring. This gives me authority to call it up today—which I intend to do—limit the time for debate on it, limit the amendments to it, and the time on the amendments, also.

It is my intention that there be a vote tomorrow.

Mr. DECONCINI. Tomorrow?

Mr. MITCHELL. Yes.

Mr. DECONCINI. The second question is, only those amendments that are listed can be offered? No other amendment?

Mr. MITCHELL. That is correct. The request reads that the only amendments in order to the resolution or the preamble be the following, and then I listed all of the amendments.

Mr. DECONCINI. So there could be no more amendments.

The last question to the majority leader is that if everybody took their time allocated tomorrow on the amendments—I presume that is when the amendments were to be offered; or tonight?

Mr. MITCHELL. Hopefully, they could be offered tonight.

Mr. DECONCINI. Mr. President, is it the intention of the leader to do everything he can to see that the time is exhausted on all of the amendments sometime tomorrow during the working session, so there will be a vote tomorrow?

Mr. MITCHELL. It is my hope to have a vote tomorrow. I just say to my colleague, I have been trying for all day and several days last week to move this legislation forward, and I will to my very best.

Mr. DECONCINI. If the majority leader will yield, my concern is we debate 4 hours and 20 minutes today—tonight—maybe even do a few amendments, and then we go on to this after the B-2 amendment. It should be sometime tomorrow, late tomorrow, or early tomorrow evening, 6 or 7 o'clock. Then there is about 3 hours or 4 hours, at least 4 hours, of debate on amendments that could be taken if all time is taken. Maybe 5 hours. So we are talking about 10 o'clock tomorrow night or 11 tomorrow night if all that time is used.

My question is, If all that time is used, does the Senator feel that we would have that vote tomorrow night?

Mr. MITCHELL. It is my hope that we can have the vote much earlier than that late hour tomorrow evening, and I will do my very best to advance that. But, as the Senator knows very well, I cannot control the length of time which Senators speak and use, other than through this agreement.

Mr. DECONCINI. But, if the majority leader will yield, that is all the time that would be available, under the unanimous-consent request. Is that so? Just the time that is mentioned in that unanimous-consent request?

Mr. MITCHELL. Yes.

Mr. DECONCINI. I thank the Senator.

Several Senators addressed the Chair.

Mr. MITCHELL. I yield to the Senator from Maine and then to the Senator from Alaska.

Mr. COHEN. I listened very carefully to what will be the unanimous-consent request. I did not hear the words "nuclear testing." This Senator has been on the floor since 9:30 this morning prepared to offer an amendment that would raise and hopefully dispose of the issue of nuclear testing. It was so thoroughly debated last week, I wanted to indicate to the majority leader that I am ready, willing, and able to sit down with the majority leader and other members of his party and those on our side to resolve this issue rather quickly. I do not think we need much in the way of time for debate since we took so much time last week.

I do have an amendment that I think can be disposed of in a reasonably short period of time, and I hope we might be able to include that, if not in this unanimous-consent request, sometime before the end of business when we adjourn for the convention.

Mr. MITCHELL. Mr. President, I thank my colleague from Maine. It is my intention that, immediately following the obtaining of the unanimous-consent agreement—which I am now going to propound in about 8 minutes—that we could meet on the test ban subject in an effort to resolve either the substance or, at the very least, the procedure by which it would be handled, and it is my hope that we can accommodate the Senator's wishes.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Alaska now has the floor pursuant to the majority leader's granting that.

Mr. MITCHELL. Mr. President, I have the floor, and I will be yielding to the Senator. Was the Senator from Alaska addressing me or was he addressing the Chair?

Mr. STEVENS. Mr. President, I sought recognition of the Chair.

Mr. MITCHELL. Then I apologize. I did not understand that.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I see others are prepared. Since the Senator from Rhode Island has had a statement, I have some comments to make concerning the history of Yugoslavia and this Bosnia dispute.

I do think, though, it is time that someone stood up on the floor and asked the Senate what it is doing. How many of us remember Hungary? How many of us really remember that people throughout the world read what we say and hear what we say? I have heard repeatedly now—and I have been listening today in my office to the proceedings on the floor—I have heard repeatedly people talk about rescue attempts and liberating the camps and being able to deliver the military muscle, I think someone did.

It is time, I think, some of us who know a little bit about defense came out here and asked, again: Do we want another false impression of what we are prepared to do?

To a great extent, what I am hearing from the other side of the aisle is political in nature. And every time we raise the question of politics, we are criticized. How many of the people who ask for us to liberate the camps were for liberating Kuwait? And how many people have said we should send forces to South Africa, or to Ethiopia, or Somalia? Are we really going to get into the position where, because we hear about brutal, brutal incidents throughout the world, we are going to call our military into action? Is this the impression the Senate wants to give to the world?

I have not yet decided whether to consent to this agreement that the majority leader has just read on Bosnia. And I do not think I will unless we can get an understanding that this political attack that is coming from the other side against what has just been described as a cold war in the White House comes to an end. If we are going to have a bipartisan concept in dealing with Bosnia—and I have before me what I think could be the basis for that, and that is the current draft of this resolution—we might have some action that the world can understand. But they certainly will not understand the statements that indicate we are about ready to send the Marines into Bosnia.

If anyone wants to debate whether we can do that tomorrow, this Senator is ready to spend the evening with them. But it is time we settled down and understood what this resolution says. I think it would be a good idea, at the beginning of the consideration of this resolution, for all Senators to be on the floor and to listen to the reading of the resolution. Apparently, some Senators are unwilling to read it themselves because the impression I get in listening to what has been going on out here is we are about ready to authorize the immediate use of U.S. force. That is not the case. And this Senator would certainly not consent to any agreement for the consideration of a resolution to do just that.

I think it is time we got a little sense into this in terms of what is going on. If Senators would like, rather than have the resolution—I will be pleased to read what I got from the library, which is about a 169-page document on a short history of Yugoslavia that will take you back to the early history of Bosnia, from its early days. It starts around 1180 and brings us through 1966. If you want to read about oppression and about liquidations and about the seeds of the enmity that exists in this region, I suggest that everyone get a copy. The library will send it to you in 20 minutes—"A Short History of Yugoslavia, From Early Times to 1966," printed by Cambridge, the University Press, in 1966.

Anyone who wants to read it will come to the conclusion we should slow down and think of what we are doing, because the animosity in this region has existed for an awful long time. There are some of us on the floor who remember World War II. And there are some of us who remember the terrible agony of World War II, of sending American forces to Europe.

This Senator is not going to vote to send American forces to Europe alone. We might send American forces to back up a well-thought-out plan of the United Nations in which we participate. But, above all, this Senator is not going to vote for this resolution if it turns out to be a political gimmick from the other side of the aisle to embarrass our President at the time he is trying to deal with this issue.

I hope I have been misreading my friends from the other side of the aisle. I am sincere in telling you, I have not made up my mind yet whether to consent to this resolution. I want some assurance it will be a bipartisan consideration of a very serious matter, and that is whether the United States should go to the United Nations and try to give rise to a U.N. solution that might deal with this problem that the world faces in the Bosnia area. But, so far, what I have heard here on the floor today is political. It is political. And I do not intend to participate in that.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, if I could have the attention of my friend from Alaska, as I said earlier I have been involved with meetings with Senator DOLE all day so I, unfortunately, have not heard the debate that has gone on, so I do not know to what the Senator from Alaska is referring. I just want to note for the record that the resolution that I was involved with was cosponsored by the Republican leader, Senator DOLE, and myself. There may be other variations, and there may have been other statements made. But from the very beginning—and I can speak only for myself on this—my staff and Senator DOLE's have been in close consultation, and we were cosponsors of a resolution that was introduced last week.

I do not know what the Senator from Alaska is referring to, but I wanted to make that clear for the record, insofar as the participation of the leaders, Senator DOLE and I have been working together on this. We jointly cosponsored with other Senators—I believe both Republicans and Democrats—a resolution last week and it is my hope whatever resolution we take up is as close to that resolution as possible.

Mr. STEVENS. Mr. President, I have that resolution in my hand. As I indicated, if this is the subject matter we are going to debate, that is one issue. If it is the comments that have been made on this floor today such as those made by the Senator from Maryland, made by the Senator from Arizona, that are political in nature, then it is going to be a different debate and it certainly is not going to be one under a unanimous-consent request.

Mr. MITCHELL. Obviously, the Senator from Alaska, as each of the 99 other Senators, has the right to object to any unanimous-consent request. The hour of 10 past 4 has arrived. I would like now to proceed to propound the request.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, there are still some on our side who need to reflect on the unanimous-consent request. The Senator from Alaska has spoken to Bosnia. There is one on the amendments to the authorization bill. The Senator from Wyoming is now having an opportunity to look at it. The majority leader said at this particular hour he was prepared to propound this agreement.

Mr. WALLOP. I say to the leader, I do not wish to delay him, having not read it, I would like to at least have a few minutes to determine whether or not I will raise an objection to it.

Mr. MITCHELL. Certainly.

Mr. WARNER. Mr. President, may I say to all Senators, there is a conscientious effort by the leadership and the managers to move forward on this unanimous-consent request. There is a conscientious examination being done here. There is only one—the Senator from Wyoming—whom I know of on this side of the aisle, and if I am not correct, I urge Senators to bring it to my attention at this time. On the assumption the Senator from Wyoming can be accommodated under this agreement, I am prepared on behalf of the Republican leader, Mr. DOLE, to indicate our approval of the unanimous-consent request.

Mr. WALLOP. If the leader will yield, I want to correct my friend from Virginia, but is is my understanding the Senator from New Hampshire [Mr. SMITH] may have an objection. I do not know that to be the case. But I was informed it may be.

Mr. WARNER. I invite all Senators to bring it to our immediate attention so we can move forward. Either we get it or we do not get it.

Mr. MITCHELL. Mr. President, I will propound it at 4:20 or soon after. That will give the Senator enough time to read it. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. CHAFEE] is recognized.

Mr. CHAFEE. Mr. President, all of us are shocked and outraged by the situation in Bosnia. We have read the horrifying accounts of buses with orphaned children being fired on; we have seen the photographs of inmates with protruding ribs in Serbian detention camps; and we have read about the fighting and lack of food in Sarajevo and other Bosnian cities.

I hope that our anger and sadness, however, will not affect our ability to think clearly about the options we face. What can we do, and what should we do, to try and put an end to the violence and suffering?

Let's begin by taking a look at the map. Even a cursory review of this map demonstrates that it will be difficult if not impossible to separate the combatants. The purple areas on this map are areas in which Serbs are in the majority; the green connotes areas of Moslem majority; and the yellow shows areas in which Croats are a majority. The white areas on this map are regions in which no group has a majority. As you can see, this looks like a jigsaw puzzle. Mr. President, this situation looks to me a lot more like Lebanon, or Somalia, than it does Cyprus or the Sinai. This a situation that more nearly resembles Beirut than Kuwait City.

Mr. President, we must also consider the history of this region. The Moslem population in Bosnia is a legacy of the Ottoman Empire, so the current fighting has roots that are very deep and centuries old. In this century, the assassination of Archduke Ferdinand by a Serbian terrorist set in motion the events that led to World War I. During World War II, Hitler sent 550,000 German soldiers into Yugoslavia and they were unable to defeat the Yugoslovian resistance.

This violent history should give us pause as we consider a resolution calling on the United Nations to take steps that could result in the commitment of United States forces to Bosnia.

Today, Serbian and Croatian guerrilla groups are heavily armed and probably self-sufficient with regard to weaponry, as Yugoslavia had an extensive indigenous arms industry. Moslem forces have fewer weapons but are also heavily armed. It is likely that some or all of these groups have shoulder-fired surface-to-air missiles from Yugoslav Army stocks.

Mr. President, this map does not show the topography of Bosnia, but that is another factor that we need to consider. The 1984 Winter Olympics were held in Sarajevo, where the fighting now rages, in part because of the rugged mountains of this region. That same terrain, however, as the Serbs demonstrated during World War II, strongly favors irregular forces. Roads can easily be blocked and weapons and troops concealed. It has proven impossible to move humanitarian supplies along these roads without the cooperation of the various irregular forces operating in Bosnia.

Unfortunately, Mr. President, there is evidence that the Serbian, Croatian, and Bosnian Governments do not control these irregular forces. cease-fire agreement may therefore be difficult or impossible to achieve until one or more of these forces are defeated. Further, the political and territorial objectives of the Bosnian, Serbian, and Croatian Governments are incompatible: Serbia and Croatia both want to absorb large and sometimes overlapping portions of Bosnia. The Bosnian Government meanwhile wants both of its neighbors to completely withdraw so that it can exist as an independent country.

Mr. President, this history and these difficulties are perhaps clearer to officials in Britain, Germany, and other European countries who are much closer to the situation in Bosnia than we are. In that regard, Mr. President, I would like to read a quote that appeared in a Washington Post article on Saturday, "From London to Vienna, political and military leaders remain skeptical that any military move—whether limited to air strikes or expanded to a ground force that NATO officials believe would have to be 100,000 troops strong—would either end the conflict or save Bosnians from the miseries of war." I am not sure that this assessment differs much from that of our own Joint Chiefs of Staff.

We need to be very careful when we talk about humanitarian relief operations. The relief problem in Bosnia today does not stem from a lack of supplies or transportation. It is not a question of money. The relief problem exists because U.N. trucks and planes cannot deliver supplies while they are being shot at. So the question is, who is going to stop the shooting and how are they going to do it?

Let me also point out that this is a problem far greater than the siege of Sarajevo. There are numerous cities in Bosnia under siege by Serbian forces, and these cities are spread all over Bosnia. The city of Tuzla did not receive any supplies during the month of July. The town of Goradze has been under heavy bombardment. I understand that the city of Bana Luca only received about 2 or 3 days of supplies last month. Today's New York Times discusses the situation in the city of Bihac. So, if we want to ensure the provision of humanitarian relief, we may need to gain access not only to Sarajevo but most large Bosnian cities. How will this be done without the commitment of ground forces to these areas?

Mr. President, there has been some discussion of relying on U.S. air and naval power to ensure that humanitarian supplies reach these cities. I hope that none of my colleagues labor under any illusions about the utility of air power in this situation. This is not a war like Desert Storm in Iraq where there was little cover, few hills and valleys to hide in.

In Bosnia, how will our pilots be able to tell the difference between Serbs, Croats, or Moslems while traveling at 650 mph at 15,000 feet? They are not going to have a convenient "S" or "M" or "B" on their foreheads. For that matter, how will we tell civilians from combatants? What are our targets going to be when there are no important lines of communication or key industrial or military targets in Bosnia?

Mr. President, we need to have specific, clear-cut objectives in Bosnia, and we need to understand what is required to achieve those objectives. We cannot effectively distribute humanitarian aid without ground forces present. This is what the United Nations has been trying to do unsuccessfully for the past several months. Therefore the question is whether we want to provide ground forces. It seems to me that is the ultimate question we have to answer.

Mr. President, I do not think anyone should believe we can have the best of all worlds—a splendid solution with somebody else's ground troops. We cannot tell the Europeans, "Here, we'll hold your coats" while your troops go into that morass and stop the fighting.

Let no one believe air power is going to frighten harassing forces away so supplies can be delivered.

I personally believe the injection of ground forces will be putting those forces into an absolute quagmire such as Lebanon or Northern Ireland. I hope those who are boldly proposing humanitarian aid realize that this effort will come with serious obligations.

Finally, Mr. President, if it is going to be the policy of the United States to intervene in any situation involving atrocities associated with ethnic warfare, we may soon find young Americans dodging bullets in such dangerous and far away places as Tajikistan, Azerbaijan, and Armenia, Somalia, Mozambique, Tibet, and northern and southern Iraq. The civil war in Somalia today is by all accounts causing even more human suffering than the war in Bosnia—and for the same reason—because of a civil war between different ethnic groups.

The suffering and starvation in both countries, in Bosnia and in Somalia, is horrifying and offends every one of us. But are we willing to take the final step?

Mr. President, it is wonderful to give speeches on what we want to accomplish, but are we willing to put the lives of young Americans at risk when it is not clear, based on our experiences in Beirut and Vietnam, that their sacrifices will end the suffering in those countries?

So, Mr. President, I strongly believe we must clearly understand what we are doing or what we might be doing. There are no easy solutions to this problem, no painless solutions.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MITCHELL. Mr. President, I had indicated earlier that I would propounded these agreements but have deferred at the request of our colleagues on the other side so the matter could be reviewed. I am now prepared to propound the agreements.

I am waiting for the presence of the distinguished Republican leader on the floor in order to propound the two agreements. They have been changed in some minor details, particularly with respect to the number and identify of amendments—some have been deleted, some have been added. But since the thrust of the agreements remains as previously stated, however, so that there can be no possible misunderstanding, it is my intention to reread the entire proposed agreements.

Mr. WARNER. Mr. President, I regret to say there are several objections on this side to the unanimous-consent agreement as it relates to the pending bill, the armed services authorization.

Mr. MITCHELL. I have not propound the agreement yet.

Mr. WARNER. I would like just a few minutes until the Republican leader returns to the Senate. He has been absent for a few minutes. I think it best that he assess the latest problem.

I thought it was clear what I said, Mr. President, that my statement related to the armed services bill.

The question of Bosnia—the Republican leader will return shortly—and perhaps that can be resolved. He is going to speak to that one.

Mr. MITCHELL. Mr. President, I intend to propound—as I said, I am going to do so, so there is no misunderstanding—both agreements. Obviously, if any Senator objects, we will not go forward. I want at that time to discuss the consequences of that and where we will proceed from here. But I will as a courtesy, of course, to the Republican leader await his presence on the floor.

Mr. President, does the Senator wish to be recognized?

Mr. COHEN. If the majority leader is going to defer until the minority leader comes to the floor, I will offer some comments on this matter.

Mr. MITCHELL. Mr. President, I yield the floor for that purpose with the understanding that as soon as the distinguished Republican leader arrives, if the Senator is agreeable, we will then proceed to propound the agreement.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Mr. COHEN. Mr. President, in addition to the arguments that were marshaled by my friend, Senator CHAFEE, from Rhode Island, I wanted to offer, for the RECORD, a copy of a speech that was delivered by former Secretary of Defense Casper Weinberger back on November 28, 1984.

I remember when the Reagan administration first came into office that there was great fear and trepidation that the Reagan administration was engaged not only in saber rattling but was baring those sabers from the scabbards and started to engage the country in a number of wars in the name of those on the right. Secretary Weinberger gave a fairly thoughtful speech to the Press Club in 1984 on "The Uses of Military Power."

I wanted to quote several sections of it to support the thoughtful comments offered by the Senator from Rhode Island. I believe that yesterday or late last week we honored the 50th anniversary of Senator CHAFEE'S commitment to battle. Certainly, he is one who has fought in the trenches of war and knows something about combat experience.

Here is what Secretary Weinberger said back in 1984. He said:

> So today, I want to discuss with you perhaps the most important question concerning keeping the peace. Under what circumstances, and by what means, does a great democracy such as ours reach the painful decision that the use of military force is necessary to protect our interests or to carry out our national policy?

He said:

> We find ourselves, then, face to face with a modern paradox: The most likely challenge to the peace—the gray area conflicts—are precisely the most difficult challenges to which a democracy must respond. Yet, while the source and nature of today's challenges are uncertain, our response must be clear and understandable. Unless we are certain that force is essential, we run the risk of inadequate national will to apply the resources needed.

Obviously, Secretary Weinberger is responding to the fears that were expressed at the end of the Vietnam war, that once again we would rush into a conflict and find ourselves bogged down for years in a bloody war with thousands of young Americans coming home in coffins.

So Secretary Weinberger set out six basic tests that he would apply in weighing whether to use U.S. combat forces abroad.

Let me just reiterate them. I think the Senator from Rhode Island would like to have it completed.

He said:

> (1) First, the United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies. That emphatically does not mean that we should declare beforehand, as we did with Korea in 1950, that a particular area is outside our strategic perimeter.
>
> (2) Second, if we decide it is necessary to put combat forces into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all. Of course, if the particular situation requires only limited force

to win our objectives, then we should not hesitate to commit forces sized accordingly. When Hitler broke treaties and remilitarized the Rhineland, small combat forces then could perhaps have prevented the Holocaust of World War II.

That may be something that applies in this particular situation.

(3) Third, if we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have and send the forces needed to do just that. As Clausewitz wrote, "No one starts a war—or rather, no one in his senses ought to do so—without first being clear in his mind what he intends to achieve by that war, and how he intends to conduct it."

War may be different today than in Clausewitz's time, but the need for well-defined objectives and a consistent strategy is still essential. If we determine that a combat mission has become necessary for our vital national interests, then we must send forces capable to do the job—and not assign a combat mission to a force configured for peacekeeping.

(4) Fourth, the relationship between our objectives and the forces we have committed—their size, composition, and disposition—must be continually reassessed and adjusted if necessary. Conditions and objectives invariably change during the course of a conflict. When they do change, then so must our combat requirements. We must continuously keep as a beacon light before us the basic questions: "Is this conflict in our national interest?" "Does our national interest require us to fight, to use force of arms?" If the answers are "yes," then we must win. If the answers are "no," then we should not be in combat.

(5) Fifth, before the U.S. commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected Representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation. We cannot fight a battle with the Congress at home while asking our troops to win a war overseas or, as in the case of Vietnam, in effect asking our troops not to win, but just to be there.

(6) Finally, the commitment of U.S. forces to combat should be a last resort.

I will ask unanimous consent to include the entire speech in the RECORD. But I thought it was important to outline the six key points that Secretary Weinberger outlined as the test that he certainly would recommend to the President of the United States before committing this country, seeking to commit this country, to a wartime scenario.

As I understand it, again there is great ambiguity in terms of exactly what we seek to achieve with a resolution and, hopefully, that will be clarified during the course of this evening's debate and that of tomorrow.

If, as my friend and colleague from Maine indicated, it is simply a bipartisan resolution to urge the President to seek United Nations support to use whatever means necessary to persuade the Serbs to stop the slaughter and the inhumane treatment they are currently engaged in, then that is one matter.

If it in any way implies that we are delegating to the United Nations authority for it to commit U.S. forces into a combat situation, then I would have great reservation.

In the past, President Bush has indicated some reservations, that he would have to come back to the U.S. Congress in order to get authority to commit troops to what, I believe, would clearly be a wartime situation. There was doubt as to whether he would seek authority from the Congress before actually committing forces to combat against Saddam Hussein. Some of us went to the White House and encouraged him that, in fact, he should and must come to Congress to get that specific authority.

So I think there are some questions that remain about exactly what we are doing. Are we simply offering moral support? Are we encouraging the President to get United Nations action that would at least send a signal that the United Nations and those who participate in it are prepared to use military force if necessary?

And if that is the case, whatever the United Nations decides, to commit air power, land power, sea power, does the President then have the obligation to return to the Congress, say this is the plan we are going to take? Going to the Danube, perhaps, as the Senator from New York suggested? Whatever targets he picked, it seems to me, the President would be required to come back to this Congress and seek congressional authority before committing us to that kind of an operation. But that remains to be debated.

I do not know whether that view of mine is shared. If I were to go back and quote from the language of the debate involved in the Persian Gulf debate, I think most of our colleagues would be surprised to have their words re-read to them in terms of what was involved—No blood for oil. Why are we committing thousands of Americans to potentially their deaths? What do we tell the American people when their sons and daughters come home in body bags? And on and on—very powerful, poignant statements that were made to the Senate and to the world that was watching.

In addition, we all had mothers against the war come to our offices to say, "Don't send my son" or "Don't send my daughter" into that kind of conflict. We took 6 months virtually to debate the issue as the forces were building up, as we deployed forces in Desert Shield, evolving into Desert Storm. We had months in which to allow public opinion to build to a swell, and to know whether they were going to support us or not.

All of us were concerned about what Secretary Weinberger said. Do not commit our forces, young men and women, into a combat situation and then have public opinion shift, change, and then be forced to back out. Never again should we do that.

So I think it is important, as we continue this debate throughout the afternoon, and the evening, and into tomorrow, that we be very clear on exactly what it is we are proposing, what we are suggesting the President do in terms of seeking to encourage the United Nations to take action, and what action we would demand of the President of the United States after obtaining that particular action from the United Nations. I think all of that has to be clarified, certainly in my mind and I am sure in the minds of many of my colleagues, before we pass final judgment on that issue.

So I ask unanimous consent that the full text of the Secretary Weinberger's speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"THE USES OF MILITARY POWER"

(Remarks by Hon. Caspar W. Weinberger, Secretary of Defense, Washington, DC., November 28, 1984)

Thank you for inviting me to be here today with the members of the National Press Club, a group most important to our national security. I say that because a major point I intend to make in my remarks today is that the single most critical element of a successful democracy is a strong consensus of support and agreement for our basic purposes. Policies formed without a clear understanding of what we hope to achieve will never work. And you help to build that understanding among our citizens.

Of all the many policies our citizens deserve—and need—to understand, none is so important as those related to our topic today—the uses or military power. Deterrence will work only if the Soviets understand our firm commitment to keeping the peace, * * * and only from a well-informed public can we expect to have that national will and commitment.

So today, I want to discuss with you perhaps the most important question concerning keeping the peace. Under what circumstances, and by what means, does a great democracy such as ours reach the painful decision that the use of military force is necessary to protect our interests or to carry out our national policy?

National power has many components, some tangible—like economic, wealth, technical pre-eminence. Other components are intangible—such as moral force, or strong national will. Military forces, when they are strong and modern, are a credible—and tangible—addition to a Nation's power. When both the intangible national will and those forces are forged into one instrument, national power becomes effective.

In today's world, the line between peace and war is less clearly drawn than at any time in our history. When George Washington, in his farewell address, warned us, as a new democracy, to avoid foreign entanglements, Europe then lay 2-3 months by sea over the horizon. The United States was protected by the width of the oceans. Now in this nuclear age, we measure time in minutes rather than months.

Aware of the consequences of any misstep, yet convinced of the precious worth of the freedom we enjoy, we seek to avoid conflict, while maintaining strong defenses. Our policy has always been to work hard for peace, but to be prepared if war comes. Yet, so blurred have the lines become between open conflict and half-hidden hostile acts that we cannot confidently predict where, or when, or how, or what direction aggression may arrive. We must be prepared, at any moment, to meet threats ranging in intensity from isolated terrorist acts, to guerilla action, to full-scale military confrontation.

Alexander Hamilton, writing in the Federalist Papers, said that "it is impossible to foresee or define the extent and variety of National exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them." If it was true then, how much more true it is today, when we must remain ready to consider the means to meet such serious indirect challengers to the peace as proxy wars and individual terrorist action. And how much more important is it now, considering the consequences of failing to deter conflict at the lowest level possible. While the use of military force to defend territory has never been questioned when a democracy has been attacked and its very survival threatened, most democracies have rejected the unilateral aggressive use of force to invade, conquer or subjugate other nations. The extent to which the use of force is acceptable remains unresolved for the host of other situations which fall between these extremes of defensive and aggressive use of force.

We find ourselves, then, face to face with a modern paradox: The most likely challenge to the peace—the gray area conflicts—are precisely the most difficult challenges to which a democracy must respond. Yet, while the source and nature of today's challenges are uncertain, our response must be clear and understandable. Unless we are certain that force is essential, we run the risk of inadequate national will to apply the resources needed.

Because we face a spectrum of threats—from covert aggression, terrorism, and subversion, to overt intimidation, to use of brute force—choosing the appropriate level of our response is difficult. Flexible response does not mean just any response is appropriate. But once a decision to employ some degree of force has been made, and the purpose clarified, our government must have the clear mandate to carry out, and continue to carry out, that decision until the purpose has been achieved. That, too, has been difficult to accomplish.

The issue of which branch of Government has authority to define that mandate and make decisions on using force is now being strongly contended. Beginning in the 1970s Congress demanded, and assumed, a far more active role in the making of foreign policy and in the decisionmaking process for the employment of military forces abroad than had been thought appropriate and practical before. As a result, the centrality of decisionmaking authority in the executive branch has been compromised by the legislative branch to an extent that actively interferes with that process. At the same time, there has not been a corresponding acceptance of responsibility by Congress for the outcome of decisions concerning the employment of military forces.

Yet the outcome of decisions on whether—and when—and to what degree—to use combat forces abroad has never been more important than it is today. While we do not seek to deter or settle all the world's conflicts, we must recognize that, as a major power, our responsibilities and interests are now of such scope that there are few troubled areas we can afford to ignore. So we must be prepared to deal with a range of possibilities, a spectrum of crises, from local insurgency to global conflict. We prefer, of course, to limit any conflict in its early stages, to contain and control it—but to do that our military forces must be deployed in a timely manner, and be fully supported and prepared before they are engaged, because many of those difficult decisions must be made extremely quickly.

Some on the national scene think they can always avoid making tough decisions. Some reject entirely the question of whether any force can ever be used abroad. They want to avoid grappling with a complex issue because, despite clever rhetoric disguising their purpose, these people are in fact advocating a return to post-World War I isolationism. While they may maintain in principle that military force has a role in foreign policy, they are never willing to name the circumstance or the place * * *.

On the other side, some theorists argue that military force can be brought on bear in any crisis. Some of these proponents of force are eager to advocate its use even in limited amounts simply because they believe that if there are American forces of any size present they will somehow solve the problem.

Neither of these two extremes offers us any lasting or satisfactory solutions. The first—undue reserve—would lead us ultimately to withdraw from international events that require free nations to defend their interests from the aggressive use of force. We would be abdicating our responsibilities as the leader of the free world—responsibilities more or less thrust upon us in the aftermath of World War II—a war incidentally that isolationism did nothing to deter. These are responsibilities we must fulfill unless we desire the Soviet Union to keep expanding its influence unchecked throughout the world. In an international system based on mutual interdependence among nations, and alliances between friends, stark isolationism quickly would lead to a far more dangerous situation for the United States: We would be without allies and faced by many hostile or indifferent nations.

The second alternative—employing our forces almost indiscriminately and as a regular and customary part of our diplomatic efforts—would surely plunge us head-long into the sort of domestic turmoil we experienced during the Vietnam War, without accomplishing the goal for which we committed our forces. Such policies might very well tear at the fabric of our society, endangering the single most critical element of a successful democracy: A strong consensus of support and agreement for our basic purposes.

Policies formed without a clear understanding of what we hope to achieve would also earn us the scorn of our troops, who would have an understandable opposition to being used—in every sense of the word—casually and without intent to support them fully. Ultimately this course would reduce their morale and their effectiveness for engagements we must win. And if the military were to distrust its civilian leadership, recruitment would fall off and I fear an end to the all-volunteer system would be upon us, requiring a return to a draft, sowing the seeds of riot and discontent that so wracked the country in the '60s.

We have now restored high morale and pride in the uniform throughout the services. The all-volunteer system is working spectacularly well. Are we willing to forfeit what we have fought so hard to regain?

In maintaining our progress in strengthening America's military deterrent, we face difficult challenges. For we have entered an era where the dividing lines between peace and war are less clearly drawn, the identity of the foe is much less clear. In World Wars I and II, we not only knew who our enemies were, but we shared a clear sense of why the principles espoused by our enemies were unworthy.

Since these two wars threatened our very survival as a free nation and the survival of our allies, they were total wars, involving every aspect of our society. All our means of production, all our resources were devoted to winning. Our policies had the unqualified support of the great majority of our people. Indeed, World Wars I and II ended with the unconditional surrender of our enemies . . . the only acceptable ending when the alternative was the loss of our freedom.

But in the aftermath of the second world war, we encountered a more subtle form of warfare—warfare in which, more often than not, the face of the enemy was masked. Territorial expansionism could be carried out indirectly by proxy powers, using surrogate forces aided and advised from afar. Some conflicts occurred under the name of "National Liberation," but far more frequently ideology or religion provided the spark to the tinder.

Our adversaries can also take advantage of our open society, and our freedom of speech and opinion to use alarming rhetoric and disinformation to divide and disrupt our unity of purpose. While they would never dare to allow such freedoms to their own people, they are quick to exploit ours by conducting simultaneous military and propaganda campaigns to achieve their ends.

They realize that if they can divide our national will at home, it will not be necessary to defeat our forces abroad. So by presenting issues in bellicose terms, they aim to intimidate western leaders and citizens, encouraging us to adopt conciliatory positions to their advantage. Meanwhile they remain sheltered from the force of public opinion in their countries, because public opinion there is simply prohibited and does not exist.

Our freedom presents both a challenge and an opportunity. It is true that until democratic nations have the support of the people, they are inevitably at a disadvantage in a conflict. But when they do have that support they cannot be defeated. For democracies have the power to send a compelling message to friend and foe alike by the vote of their citizens. And the American people have sent such a signal by re-electing a strong chief executive. They know that President Reagan is willing to accept the responsibility for his actions and is able to lead us through these complex times by insisting that we regain both our military and our economic strength.

In today's world where minutes count, such decisive leadership is more important than ever before. Regardless of whether conflicts are limited, or threats are ill-defined, we must be capable of quickly determining that the threats and conflicts either do or do not affect the vital interests of the United States and our allies . . . and then responding appropriately.

Those threats may not entail an immediate, direct attack on our territory, and our response may not necessarily require the immediate or direct defense of our homeland. But when our vital national interests and those of our allies are at stake, we cannot ignore our safety, or forsake our allies.

At the same time, recent history has proven that we cannot assume unilaterally the role of the world's defender. We have learned that there are limits to how much of our spirit and blood and treasure we can afford to forfeit in meeting our responsibility to keep peace and freedom. So while we may and should offer substantial amounts of economic and military assistance to our allies in their time of need, and help them maintain forces to deter attacks against them—usually we cannot substitute our troops or our will for theirs.

We should only engage our troops if we must do so as a matter of our own vital national interest. We cannot assume for other sovereign nations the responsibility to defend their territory—without their strong invitation—when our own freedom is not threatened.

On the other hand, there have been recent cases where the United States has seen the need to join forces with other nations to try to preserve the peace by helping with negotiations, and by separating warring parties, and thus enabling those warring nations to withdraw from hostilities safely. In the Middle East, which has been torn by conflict for millennnia, we have sent our troops in recent years both to the Sinai and to Lebanon, for just such a peacekeeping mission. But we did not configure or equip those forces for combat—they were armed only for their self-defense. Their mission required them to be—and to be recognized as—peacekeepers. We knew that if conditions deteriorated so they were in danger, or if because of the actions of the warring nations, their peace keeping mission could not be realized, then it would be necessary either to add sufficiently to the number and arms of our troops—in short to equip them for combat . . . or to withdraw them. And so in Lebanon, when we faced just such a choice, because the warring nations did not enter into withdrawal or peace agreements, the President properly withdrew forces equipped only for peacekeeping.

In those cases where our national interests require us to commit combat forces, we must never let there be doubt of our resolution. When it is necessary for our troops to be committed to combat, we must commit them, in sufficient numbers and we must support them, as effectively and resolutely as our strength permits. When we commit our troops to combat we must do so with the sole object of winning.

Once it is clear our troops are required, because our vital interests are at stake, then we must have the firm national resolve to commit every ounce of strength necessary to win the fight to achieve our objectives. In Grenada we did just that.

Just as clearly, there are other situations where United States combat forces should not be used. I believe the postwar period has taught us several lessons, and from them I have developed six major tests to be applied when we are weighing the use of U.S. combat forces abroad. Let me now share them with you:

First, the United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies. That emphatically does not mean that we should declare beforehand, as we did with Korea in 1950, that a particular area is outside our strategic perimeter.

Second, if we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all. Of course if the particular situation requires only limited force to win our objectives, then we should not hesitate to commit forces sized accordingly. When Hitler broke treaties and remilitarized the Rhineland, small combat forces then could perhaps have prevented the holocaust of World War II.

Third, if we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have and send the forces needed to do just that. As Clausewitz wrote, "No one starts a war—or rather, no one in his senses ought to do so—without first being clear in his mind what he intends to achieve by that war, and how he intends to conduct it."

War may be different today than in Clausewitz's time, but the need for well-defined objectives and a consistent strategy is still essential. If we determine that a combat mission has become necessary for our vital national interests, then we must send forces capable to do the job—and not assign a combat mission to a force configured for peacekeeping.

Fourth, the relationship between our objectives and the forces we have committed—their size, composition and disposition—must be continually reassessed and adjusted if necessary. Conditions and objectives invariably change during the course of a conflict. When they do change, then so must our combat requirements. We must continuously keep as a beacon light before us the basic questions: "Is this conflict in our national interest?" "Does our national interest require us to fight, to use force of arms?" If the answers are "yes", then we must win. If the answers are "no", then we should not be in combat.

Fifth, before the U.S. commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation. We cannot fight a battle with the Congress at home while asking our troops to win a war overseas or, as in the case of Vietnam, in effect asking our troops not to win, but just to be there.

Finally, the commitment of U.S. forces to combat should be a last resort.

I believe that these tests can be helpful in deciding whether or not we should commit our troops to combat in the months and years ahead. The point we must all keep uppermost in our minds is that if we ever decide to commit forces to combat, we must support those forces to the fullest extent of our national will for as long as it takes to win. So we must have in mind objectives that are clearly defined and understood and supported by the widest possible number of our citizens. And those objectives must be vital to our survival as a free nation and to the fulfillment of our responsibilities as a world power. We must also be farsighted enough to sense when immediate and strong reactions to apparently small events can prevent lion-like responses that may be required later. We must never forget those isolationists in Europe who shrugged that "Danzig is not worth a war", and "why should we fight to keep the Rhineland demilitarized?"

These tests I have just mentioned have been phrased negatively for a purpose—they are intended to sound a note of caution—caution that we must observe prior to committing forces to combat overseas. When we ask our military forces to risk their very lives in such situations, a note of caution is not only prudent, it is morally required.

In many situations we may apply these tests and conclude that a combatant role is not appropriate. Yet no one should interpret what I am saying here today as an abdication of America's responsibilities—either to its own citizens or to its allies. Nor should these remarks be misread as a signal that this country, or this administration, is unwilling to commit forces to combat overseas.

We have demonstrated in the past that, when our vital interests or those of our allies are threatened, we are ready to use force, and use it decisively, to protect those interests. Let no one entertain any illusions—if our vital interests are involved, we are prepared to fight. And we are resolved that if we must fight, we must win.

So, while these tests are drawn from lessons we have learned from the past, they also can—and should—be applied to the future. For example, the problems confronting us in Central America today are difficult. The possibility of more extensive Soviet and Soviet-proxy penetration into this hemisphere in months ahead is something we should recognize. If this happens we will clearly need more economic and military assistance and training to help those who want democracy.

The President will not allow our military forces to creep—or be drawn gradually—into a combat role in Central America or any other place in the world. And indeed our policy is designed to prevent the need for direct American involvement. This means we will need sustained congressional support to back and give confidence to our friends in the region.

I believe that the tests I have enunciated here today, if applied carefully, avoid the danger of this gradualist incremental approach which almost always means the use of insufficient force. These tests can help us to avoid being drawn inexorably into an endless morass, where it is not vital to our national interest to fight.

But policies and principles such as these require decisive leadership in both the executive and legislative branches of government—and they also require strong and sustained public support. Most of all, these policies require national unity of purpose. I believe the United States now possesses the policies and leadership to gain that public support and unity. And I believe that the future will show we have the strength of character to protect peace with freedom.

In summary, we should all remember these are the policies—indeed the only policies—that can preserve for ourselves, our friends, and our posterity, peace with freedom.

I believe we can continue to deter the Soviet Union and other potential adversaries from pursuing their designs around the world. We can enable our friends in Central America to defeat aggression and gain the breathing room to nurture democratic reforms. We can meet the challenge posed by the unfolding complexity of the 1980's.

We will then be poised to begin the last decade of this century amid a peace tempered by realism, and secured by firmness and strength. And it will be a peace that will enable all of us—ourselves at home, and our friends abroad—to achieve a quality of life, both spiritually and materially, far higher than man has even dared to dream.

UNANIMOUS CONSENT AGREEMENT

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, as I earlier indicated, I would propound the unanimous-consent request but delayed it to permit our colleagues the opportunity to review it and consider it in more detail. I would like now, if I might, proceed to propound the agreement. I will propound first the agreement with respect to the pending bill.

Mr. President, I ask unanimous consent that the Bumpers amendment No. 2919 be withdrawn; that the Sasser amendment No. 2918 be laid aside until 3 p.m. tomorrow; that there then be 1 hour, equally divided, in the usual form on the Sasser amendment; that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, vote on the Sasser amendment; that no other SDI amendments be in order prior to the disposition of the Sasser amendment, other than the Pryor contracting amendment; that there be one relevant second-degree amendment to be offered to the Pryor amendment by Senator WARNER, or his designee, on which there be 30 minutes for debate, equally divided in the usual form; that there be 30 minutes for debate equally divided in the usual form on the Pryor amendment; that the votes in relation to the Pryor amendment and the Warner amendment thereto occur immediately, without any intervening action or debate, upon the disposition of the Sasser amendment; that there be 2 hours of debate on a Leahy amendment with respect to the B-2 bomber to be offered today with 1½ hours for debate today with the remaining 30 minutes occurring immediately following the disposition of the Pryor amendment on Tuesday, August 11; that no amendments be in order to the Leahy amendment; and that at the conclusion or yielding back of time on that amendment today, it be laid aside, with a vote occurring on the amendment at the conclusion or yielding back of time on Tuesday, August 11; and that the only amendments in order prior to the 4 p.m. votes on Tuesday, August 11, be a Coats amendment with respect to abortion, which is to be governed by a separate unanimous-consent agreement, and a Graham-Mack amendment regarding Cuban freedom, and relevant amendments to the Graham-Mack amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, there will be an objection on this side. We have had a discussion on this side of the aisle. I will yield the floor to the Senator from Wyoming, who has a reservation statement to make.

Mr. WALLOP. Mr. President, reserving the right to object and, regretfully, I shall object. I just think that what the Senate has done, and is about to do, stands squarely on the throats of the administration's negotiations being conducted now in Moscow. I think it is the wrong thing. It is no secret. The Senate knows how long I have worked on this thing—long before it was a gleam in President Reagan's eye. I had been working on it with the Carter administration. I believe where the Senate is at this moment is contrary to the interest of the United States. I shall be prepared to debate this amendment.

I regret it, but I object.

Mr. MITCHELL. Well, Mr. President, I respect the Senator's concerns. I think it is important that the Members of the Senate understand where we are. We took up the defense authorization bill on Friday. Senator SASSER and Senator BUMPERS offered an amendment which was vigorously debated. A motion to table that amendment was made and failed by a vote of 43 to 49. We were then advised by our colleagues on the other side that no vote would be permitted on the amendment at that time and, as a consequence, we discontinued consideration of the bill.

During our meetings today, again, we were advised that our Republican colleagues would not permit a vote to occur on the amendment today. A request was made that we attempt to come up with some mechanism for setting the amendment aside so that we could proceed to other matters. I asked our Republican colleagues to name the time when the vote should occur. The time of 4 p.m. tomorrow was selected by our Republican colleagues to accommodate the schedules of Republican Senators.

So we are now in a situation where we are told we cannot proceed to a vote on the pending amendment, and we cannot agree to a proposal to set the pending amendment aside. Therefore, we simply cannot proceed, because the Senator from Wyoming, with deep conviction, does not agree with the results of the vote that was had, and I take from his statement, and I inquire, that his objective is simply to prevent any further action with respect to the amendment.

Mr. WALLOP. If the leader will yield, I think it is fair to say that only half of those objections are on this side. The other objection rests with the proponents of the amendment; they do not wish to have other amendments taken up, nor to have this amendment set aside.

So my objection is to now setting a time certain to vote on this amendment.

Mr. MITCHELL. Mr. President, there is no need to belabor it, because any Senator has the right to object. I state that I was advised by Senators SASSER and BUMPERS that they agreed to this proposal and would not object to it. They are present on the floor, and I ask them whether, in fact, they object.

Mr. SASSER. Mr. Leader, I do not object to the unanimous-consent request, and we are agreeable to setting aside our amendment to allow the Senate to take up the other amendments that are outlined in the unanimous-consent request. And we simply request a vote at a time certain, 4 o'clock Tuesday afternoon, on our amendment. We have asked this morning that the Senate proceed directly to an up-or-down vote on our amendment. In fact, we asked that Friday afternoon.

That has been objected to by the distinguished ranking member of the Armed Services Committee. Of course, he is within his rights to do that, and we respect his rights. But it is difficult to know how we can proceed if we are not allowed to move to an up-or-down vote on our amendment and, at the same time, we are not allowed to set our amendment aside with an agreement that it be voted on at a time certain Tuesday afternoon. But we are certainly agreeable to this unanimous-consent request.

However, we would much prefer to have the Senate vote on our amendment today. We assumed by agreeing to a vote at 4 o'clock Tuesday afternoon that this would give the opponents of our amendment the opportunity to gather Senators in who might have been absent from the vote Friday evening, and to attempt to change the minds of Senators who voted with us on Friday. However, we are agreeable to letting this time lapse go on until 4 o'clock Tuesday afternoon.

Frankly, I cannot speak for my colleague, Senator BUMPERS. Nobody can speak for him. He speaks for himself very eloquently, as the majority leader knows. But speaking for myself, I frankly think we are disadvantaged by allowing a vote to come on Tuesday at 4 o'clock because time works against us on this amendment. But in an effort to move forward and not hold the bill up unduly, we have agreed to a 4 o'clock Tuesday afternoon vote and agreed to let our amendment be laid aside so the Senate can deal with other amendments on this bill.

Mr. MITCHELL. The second point I make, Mr. President, is the time of 4 p.m. was selected by Republicans to accommodate the schedule of Republican Senators. If that is not agreeable, if we cannot proceed to vote on the amendment now and cannot set the amendment aside to vote on it at a time certain in the future, I think that it is best—

Mr. WALLOP. Will the Senator yield for an observation?

Mr. MITCHELL. Yes.

Mr. WALLOP. This Senator has not objected to setting aside the pending amendment to consider other things. I object to the condition that it is being set aside and concluded by a time certain vote. That has been my position, and that has been the position of two proponents, that they would not agree to set it aside absent a time certain vote on their amendment.

Mr. MITCHELL. That is correct.

Mr. DOLE. I indicate to the majority leader, I think the Senator from Wyoming indicated correctly that, as I understand, the proponents do not want to set aside the amendment, and that is the same objection the Senator from Wyoming has with a time certain to vote.

I do believe that we are in a position to go to the Bosnia resolution, which does not help the managers of the DOD bill a great deal, but we can come back to this bill if we agree to set aside the amendment on SDI. Or failing that, we can go to the tax bill.

Mr. MITCHELL. I thank my colleague, and I am pleased now to yield to the distinguished manager, Senator NUNN.

Mr. NUNN. Mr. President, first I would like to thank the majority leader for his splendid cooperation in getting the bill up, helping us schedule the bill in a very compressed time period, and also in trying all day today to work out some unanimous consent agreement on the bill and on the amendments, the key amendments, and on the Bosnian resolution.

Second, I know the Senator from Virginia and the Senator from Kansas both attempted to get a unanimous-consent agreement through, and I appreciate their efforts in that respect.

Mr. President, we have many important provisions in this bill relating to National Guard and relating to the reserve forces. We have certain transition benefits for our Guard and Reserve. We have certain key legislative proposals easing the transition that communities of America are going to face because of defense drawdown and because of the loss of jobs. We have 15-year retirement for military people who find themselves in certain surplus positions.

We have provisions in this bill that relate to giving incentives to military people to go into teaching of math and science in schools. We have key provisions in this bill relating to the intelligence community. We have, of course, the authorization for all the military services, as well as military pay and other key provisions.

We have an awful lot in here that is important to the Joint Chiefs and important to each one of the services, as well as the Department of Defense; but most of all, to the American people. We also have a number of provisions in here to save the taxpayers money, relating to inventory management.

If they do not go into effect, no matter what we do on the appropriations bill in the Appropriations Committee, key provisions to save money will not go into effect. If this bill does not go into effect, not only are hundreds of thousands of people going to be harmed, but people are going to lose jobs, are not going to have transition benefits, and also are going to have, in certain areas, some wasteful practices continue, particularly in inventory management.

It is my view that there is no use in continuing the bill when we are at a roadblock like this, because the Senator from Arkansas and the Senator from Tennessee have really been very cooperative in being willing to move to their amendments. They had every expectation they would have their amendment voted on Friday night after the tabling motion failed.

I was not with them on that agreement; I do not agree with them on the substance. But I do believe they have bent over backward to accommodate the Senate in allowing the amendment to be carried over until tomorrow afternoon; and, in the meantime, letting us proceed with our business on this bill. So I thank both Senators for their efforts.

I am disappointed. I know the Senator from Wyoming feels very strongly that this is a provision that is a key provision. And I know he has worked harder than anyone in the strategic defense initiative area.

But I would only say to my friend from Wyoming, at some point, the way democratic systems work, you have to be able to produce 50 votes, or at least half of those voting—present and voting. And if you cannot do so, then you are not going to be able to get additional money, no matter how much you think it is deserved, in the bill.

The effort to wait until tomorrow afternoon, really, from every point of view, gave those who favored the position of the Senator from Wyoming on this amendment—and I am one of those—every opportunity to change their minds and to reverse the vote.

And I say to the Senator from Wyoming, I hope he considers long and hard the consequences of what he is doing here today by the objection. I know it is heartfelt; I know it is sincere. And I know it is what he believes to be in the best interests of the country.

I also know the results of it. The results of it are we are going to move off this bill—I think we should—and we are going to take up the tax bill. There is almost no likelihood we will get back to this bill, and almost no likelihood we will get back to this bill this year. We may be able to bring it up in September, but only with extraordinary cooperation.

The consequence of that is that we will basically be in a position of trying to attach certain key provisions to the appropriations bill. And that appropriations bill is likely to come up right before adjournment, and that is likely to be right before the election. And I think the result of that will be a continuing resolution. And the result of that will be a level of funding—not in sympathy with the SDI Program, but most programs—that is going to be well below what would be otherwise the course.

I understand where the Senator is coming from. But I can draw you a diagram as to the Senator's desires, and draw another diagram as to what is going to happen. And those two do not in any way converge, because what the Senator is desiring and what is going to happen are totally different.

Mr. President, I understand where all the Senators are coming from, and I appreciate the cooperation. We have had an effort this year that I hope will be productive in the sense of giving some guidance to the Appropriations Committee in their important deliberations. We will work with them constructively where we can.

I thank all the Senators for their cooperation, and I particularly thank the staff on both sides of the aisle for a splendid effort. And we will see where we go from here.

The PRESIDING OFFICER. The Senate majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time today proceed to the consideration of Calendar No. 608, Senate Resolution 330, a resolution on the situation in Bosnia; that there be 4 hours and 20 minutes for debate on the resolution today, with 2 hours and 20 minutes under the control of the Republican leader and 2 hours under the control of the majority leader, of their designees.

That at the conclusion or yielding back of time on the resolution today, and at the conclusion of whatever amendments the Senate may dispose of today, the resolution be laid aside until Tuesday, August 11, at a time to be determined by the majority leader after consultation with the Republican leader, at which time there be 30 minutes remaining on the resolution; that Senator PELL be recognized immediately after the resolution has been called up, and that it be in order for him to modify the resolution at that time; that the only amendments in order to the resolution or the preamble be the following, and that they be in order to be offered en bloc to both resolution and the preamble prior to disposition of the resolution:

To relevant amendments that Senator WARNER may offer, and one relevant amendment that Senator DECONCINI may offer, with 30 minutes equally divided and controlled on each of the three amendments just listed. One amendment that may be offered by Senator BYRD regarding democratic elections in Romania, on which there be 10 minutes equally divided and controlled; an amendment by Senator DOLE regarding Bosnia, on which there be 15 minutes equally divided and controlled—I should have said "in the usual form" earlier—and an amendment by Senator WALLOP regarding Bosnia, on which there be 40 minutes equally divided and controlled in the usual form; an amendment by Senator MCCONNELL regarding Bosnia, on which there be 30 minutes divided and controlled in the usual form; an amendment by Senator BROWN regarding Bosnia, on which there be 20 minutes equally divided and controlled in the usual form; an amendment by Senator STEVENS regarding the cost of U.S. participation in Bosnia, on which there be 2 hours equally divided and controlled in the usual form; an amendment by Senator MCCAIN regarding Bosnia, on which there be 1 hour equally divided and controlled in the usual form; an amendment by Senator BIDEN regarding Bosnia, on which there be 30 minutes equally divided and controlled in the usual form.

That the amendments be first-degree only; that no motions to recommit be in order; and that all amendments to either the resolution or preamble must be filed at the desk by 12:30 p.m. on Tuesday, August 11.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Will the majority leader——

Mr. MITCHELL Mr. President, will the Senator yield, while I make one correction in this?

I stated that Senator PELL be recognized after the resolution has been called up. I misspoke. That should be that Senator BIDEN be recognized immediately after it is called up.

I yield now to my colleague.

Mr. WALLOP. Mr. President, I make an inquiry of the majority leader as to how we can have necessarily relevant qualifying amendments if we do not know the nature of the resolution to be introduced, and so Senator PELL can modify it between now and tomorrow. How do we file our amendments at the desk?

Mr. MITCHELL. The resolution provides that the Senate resolution be called up at 3:30, and that Senator BIDEN be recognized to modify the resolution at that time. And then Senators have the opportunity to review that and to offer amendments thereto.

Mr. WALLOP. But the modification takes place tomorrow; does it not?

Mr. MITCHELL. The modification will take place right away.

Mr. WALLOP. I am sorry; I misunderstood.

Mr. MITCHELL. It would be the first matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there objection? Hearing no objection, that will be the order.

Mr. MITCHELL. If I might make one additional change. It is a minor point. I did not state—it is implicit, but I think it should be explicit—that the 30 minutes on the resolution tomorrow be equally divided between myself and the Republican leader, as was the other time.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, and I shall not object, I am trying to move things along as the leader is trying to move things along. However, on the time agreement that we are just about to enter into, does the majority leader have any approximation as to the number of hours we are about to agree to for these amendments that were outlined?

Mr. MITCHELL. Mr. President, I have added them up three different times today, but amendments keep being added, so the time keeps growing. If all the time is used, and I am confident that, or I should not say confident, I am hopeful that all of the time will not be used because we began drafting this this morning before we had several hours of debate on the Bosnia situation today. I think it is close to 10 hours if all the time is used.

Mr. DOLE. About 11 hours and 45 minutes.

Mr. MITCHELL. It keeps growing.

Mr. EXON. It is approximately a day's work, more or less, depending on how many hours we are going to use. It is 5 o'clock now on Monday.

From what the Senator has just outlined, it seems to me pretty obvious that it is going to take today and all of tomorrow or most of tomorrow. We are scheduled to adjourn Wednesday, and we have not begun to outline many of the essential parts that the distinguished chairman of the Armed Services Committee outlined.

Can the Senator, as the leader, in conjunction with the minority leader, possibly advise the Senate where do we go from there? Are we still scheduled to adourn on Wednesday night? I can be here Wednesday night, Thursday, Friday, Saturday, Sunday, next Monday if necessary.

But it so happens, as I understand it, unless it is postponed, that there is a fairly important convention scheduled to start on Monday next. Just for the advice of all, the leader must be thinking about where we are going on the adjournment Wednesday evening. Would it be out of order to maybe give us some idea as to what is going to happen?

I will not object to this, but I certainly think we ought to have a little bit more guidance of where we are going from here, if it is possible for the majority leader to so advise.

Mr. MITCHELL. Mr. President, we all seek certainty in an inherently uncertain circumstance.

I hope we can get this agreement. That would be the first step. That will have been the culmination of about 7 hours of negotiation and discussion that will enable us to begin to deal with this one matter. It is my hope that it will not take the remainder of today and all of tomorrow, and that we can devote time tomorrow, beginning early tomorrow, to the tax bill.

Mr. President, what we have here—I think we all understand this and it ought to be stated. Senator DOLE and I regularly receive dozens of requests from our colleagues. I would say, in the past several days, there have been many more than usual. They are individual, as unique as the Senators themselves, but I think they may fairly be described as falling into two categories.

One involves legislation. And each Senator has an important measure that he wants to debate and usually at considerable length. We have heard that today. And every bill is important, every amendment is important, every Senator's statement is important. So we have that general category of all the things that Senators want done.

The other general category I will describe as having to do with the schedule. In those requests, generally Senators want to be sure that are no votes on Fridays, no votes on Mondays, no votes on Tuesday evenings, no sessions beyond a certain time.

Well, it is obvious, if I may understate the situation, that there is tension between the two categories of requests. And we are tying to reconcile those two tensions.

We are going to go on recess at the conclusion of business on Wednesday, in fairness to our Republican colleagues. The Senate was not in session for the full week prior to the Democratic Convention. In preparing the schedule for this period, we originally had planned to be in session all of next week, but it was pointed out to me, and accurately, that many of our colleagues wish to proceed to Houston for important events occurring with respect to the platform and other matters prior to the commencement of the convention.

So I think, in the spirit of fairness with which I have tried to conduct things here, we ought not to suggest that we will be in session beyond the close of business Wednesday—I do not want to limit it to a precise hour. Sometime the close of business Wednesday may mean early Thursday morning—but basically finishing at that time so that our colleagues can participate in the same manner in which we had an opportunity a month or so ago.

I think we will be in session late each of the next three evenings. I think everyone understands and expects that. I hope we can get this agreement and begin on this. In the meantime, I will attempt to consider what the next course of action will be with respect to other matters.

I am pleased now to yield to the distinguished Republican leader.

Mr. DOLE. We have already had several hours' debate on the Bosnia general matter. Hopefully, we could shorten that debate considerably. But it is about 11 hours and 45 minutes if all time is taken, and that does not include record votes. That would add to that.

So I certainly urge my colleagues on both sides—certainly, it is a very, very important issue. A number of very important issues have been raised.

But this is a sense-of-the-Senate resolution, and I hope that we can dispose of it, if not this evening, sometime early tomorrow morning or sometime by early afternoon tomorrow, because I think, as the majority leader indicated, maybe there will be some opportunity to get back on the DOD bill or go to another measure.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I shall not, I just note on the proponents of the B-2 amendment, the so-called Leahy, Levin, Cohen, and Grassley amendment, we were prepared to go on Friday. As both sides know, we are prepared to go today, we are prepared to cut back the amount of time we originally requested to make a unanimous-consent agreement work.

We still stand prepared to go, for whatever it is worth. I note that this was an amendment prepared to go forth immediately after the SDI amendment and we were prepared to do it on as short a time as would accommodate the leadership.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Reserving the right to object, if I may inquire of the leader, is the version of the resolution still in the form that was distributed to the Members of the Senate earlier today? Has there been a change?

Mr. MITCHELL. Mr. President, I do not see the manager of the Bosnia resolution on the floor.

Mr. WARNER. Might I suggest we just read it so we all know what it is.

Mr. MITCHELL. I do not have it before me.

Mr. President, I am advised that this has been provided to members of the minority previously.

Mr. STEVENS. I have no objection. I thank the Senator.

The PRESIDING OFFICER (Mr. ROBB). Is there objection? Without objection, the unanimous-consent request propounded by the majority leader is agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, this provides for a possible total of—I think it is about 10 or 11 amendments. It is my hope that we can begin to have these amendments offered as soon as Senators are able to do so when we get to this matter, and dispose of several of these amendments this evening. So it is my expectation that there will be votes this evening, that we will proceed to take up and get as far as we can with this resolution this evening as soon as it is called up. I intend to call it up as soon as the managers of the resolution appear in the Senate.

Mr. BUMPERS. Will the majority leader yield the floor?

Mr. MITCHELL. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I rise just to express a lament on my own personal behalf, and I know I speak for Senator SASSER. The Senator from Wyoming, who has objected to a vote on the Sasser-Bumpers proposal, has a perfect right to do what he is doing. I do not know when, if ever, the Senator from Wyoming would permit a vote on SDI. Presumably, once enough minds have been changed and arms twisted, the Senator from Wyoming would permit us to vote on that.

But the present objection is not an indictment of the Senator from Wyoming as much as it is of the rules of the Senate that allow one Senator to effectively cause a bill to be pulled down, as major a bill as that is. And I think of the thousands of man-hours that have gone into the hearings, staff work, the crafting of that bill by both Senator NUNN and Senator WARNER to bring it to the floor in what they think is a very responsible way. And because one amendment was not tabled, the bill has to be pulled down.

I take it the Senator from Georgia, Senator NUNN, is prepared not to even bring it up again. It is dead, over the success Senator SASSER and I had in cutting SDI by $1 billion; from $4.3 to $3.3. And certainly in the House and Senate conference, half of that would be restored. So we are really talking about $3.8 billion, which represents a very healthy increase over 1990, though a little less than they had in 1992.

And it is incredible to me that now we wind up with the appropriations bill—in a sense, that is fine with me. I sit on the Appropriations Committee as does my colleague in this amendment, Senator SASSER. And when the appropriations bill comes up here again, if the opponents of this amendment have not succeeded in twisting enough arms to change the outcome of the vote, the vote will be the very same on the appropriations bill.

And if you do not get the appropriations bill, then you go to a continuing resolution, and the amendment will be put on the continuing resolution. So it does not profit a single soul in this body to hold up or cause to be pulled down this bill, which the Senator from Georgia and his colleagues on the Armed Services Committee have crafted.

But as I say, at some point one of these days the rules of the Senate are going to have to be changed so that every time somebody prevails with an amendment that one or two Senators object to, you do not really win at all. All you have done is just postponed the ultimate outcome.

I say to my good friend from Wyoming, with whom I sit on the Energy Committee—I have sat with him on the Energy Committee all these years. We have had an excellent personal relationship and will continue to have one. And, as I say I am certainly not blaming him for taking advantage of the rules as they exist. What I am saying is the Senate ought to reform the rules of the Senate. The idea that one Senator can put a hold on a bill and keep any bill from coming up—there are a whole host of things. The majority leader cannot take up a bill, oftentimes, or a motion to proceed to a bill, without a filibuster. If you take that up, then you have the bill up. You offer an amendment on the bill, they filibuster the amendment. If that passes then they filibuster the bill.

You know, the American people, the press keep telling us how angry they are. I think their anger may have subsided some. That may be more a wish than a fact. And they do not understand the rules of the Senate. But when they see something like the Defense authorization bill, which is critical to the country, and they see the Defense appropriations bill, being torpedoed, they know there is something drastically wrong with the way this place is operating.

Mr. President, in conclusion, I just simply say at some point we are going to vote on this. I do not know when we will vote on it again. It may be the other side will turn enough votes by the time we vote so that mine and Senator SASSER's victory will be a transient, temporary one. But to suggest that somehow or other this country is rendered defenseless because $500 million of a $4.3 billion authorization has been cut, is a strange conclusion—strange indeed.

I may offer an amendment later, Mr. President, dealing with the intelligence budget. I can say to my colleagues it is generally conceded, at least, the New York Times and Washington Post constantly tell us, that we spend $30 billion a year on intelligence. You have to be very careful discussing that on the floor of the Senate. But I think it would be fair to say, if we are spending $30 billion a year or whatever the figure is, on intelligence, and in the past I am quite sure—I am not on the Intelligence Committee, so I do not know what happens to all the money. But I know one thing. I would say the majority of it has probably been to spy on the Soviet Union, which does not exist anymore. My guess is you could probably get 15 billion dollars' worth of what we have been paying for free, from CNN.

So I am going to make a case on that before we leave here in October, even though I may withdraw the amendment, because I just think the debate should begin. Do you know one of the reasons I think Senator SASSER and I succeeded on this, and one of the reasons Senator HATFIELD succeeded on his test ban moratorium? I will tell you why. Because if you go back home and look at the polls, you will find 74 percent of the people in this country favor a test ban. And you present this SDI budget to the American people and, while most of them favor a limited defense system as I do for accidental launches, most of them simply cannot understand how the Soviet Union can cut their defense budget by 80 percent and we are struggling—struggling to take about 3 or 4 percent off ours.

We have run out of enemies, Mr. President. Yet we continue to spend essentially the same amount of money. Nobody is suggesting that we weaken ourselves or that we disarm or that we not be able to take care of Bosnia or Iraq or whatever. But I make the same point I made in the debate the other day. The United States will spend more in 1993 on defense than the 10 top perceived enemies of the United States, including China—twice as much as the top 10 perceived enemies of this Nation. And yet when you say let us bring a little sanity to this—and as I have said 1,000 times, this deficit is a 10 times bigger threat to this Nation than the Soviet Union ever was. And the arguments continue to flow out of this body as though Joe Stalin were still running the Soviet Union.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, I know the frustration of the Senator from Arkansas. The Senator from Wyoming has felt the same frustration on other questions. He is complaining about the Rules of the Senate and their ability to frustrate progress of the Senate. All of us have felt that at some time.

Mr. President, let me just suggest that the rules of the Senate are the quintessential element of Jeffersonian democracy; the ability for a minority to thwart the tyranny of a majority of just one.

Rules give us a little more flex than that. The Senator comes from a small State. I come from a small State. And were it not for that little provision in our rules—and were it not for the little provision which, thank God, the Supreme Court has yet allowed that there be two Senators from each State—he and I might have senatorial districts composing several States. And California and New York and Texas might have three, four, or six Senators.

I would just say that as frustrating as it is—and it frustrates us all—it is a protection of this country that we do not allow a small majority to run away with things, especially when change is on the horizon.

Now I would say both Senators are on the Appropriations Committee, I would say in large respect the relevance of the authorizing committee was lost last year at the hands of the Appropriations Committee. We could not fight back after the Appropriations Committee appropriated for items for which there was no authorization, failed to appropriate for things that we did authorize, and superseded the authorization in other areas.

The United States has not run out of enemies, and I would just call the attention of the Senate to the absolute passion that some have expressed in this body today, having voted to cut defense at every level, now wishing to send our soldiers and airplanes and ships overseas and put them in harm's way for a purpose they cannot define, for a goal they will not define, for an end that no one can see, ignoring pain and suffering that exists in other parts of the world.

These are the same people, Mr. President, who are voting to cut this Defense budget, and failing to understand the role of the United States in the world, so far as this Senator sees it. We are a trading nation, and it is in our interest to provide stability from time to time.

We are a traveling nation. We travel for trade and we travel for science, we travel for study, and we travel for pleasure.

We are a nation that requires communication. We require communication from space. We are a nation that requires security in space and I see all kinds of Members on both sides of the aisle now willing to spend money of the Defense budget on social programs, willing to spend money of the Defense budget on hometown economics without adding to the ability of the U.S. military to project and protect U.S. interests.

This is not a debate that needs to be ended because we have a summer recess. This is a debate that ought to be carried on in full front of the American people and I for one am not ashamed to have carried it that far.

There are reasons for this country to begin to provide itself and its allies with a defense against missiles. There are reasons for this country to encourage the Soviet Union, the former Soviet Union, to move off of the ABM Treaty and into a new world of global defenses.

There are reasons for this Senate to be somewhat concerned about whether the democrats—small "d"—in Russia survive or the hardliners do. And the role that is being taken, in the mind of this Senator and I continue to argue it and will close with this, is basically to say that if the hardliners sit back in their chairs, we will solve their problems for them. Everybody says that Yeltsin may not survive. This Senator is not one, but those who do say his likely successor is some Darth Vader out of the dark reaches of the former Stalinist past of the Soviet Union; they will have benefited by the move that was sought to be made so hurriedly. That is the reason why one Senator sought to use the rules that were concocted by Jefferson and the Founding Fathers to protect minorities from sudden decisions.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, I listened with great interest to the outstanding remarks by my friend and colleague from Arkansas with regard to the rules of the Senate, and I listened also to the very eloquent statements by my friend and colleague from the State of Wyoming with regard to SDI. It so happens the SDI Program comes under the jurisdiction of the strategic subcommittee that I chair in the Armed Services Committee.

We have had these debates to one degree or another over the last several years. I think it is sad, indeed, regardless of the positions of how strongly one feels about something, that we have come to a situation that is best outlined by the Senator from Arkansas with regard to the fact that we are paralyzing action on the floor of the Senate on a tremendously important defense authorization bill. I think that we are headed for a situation of merely putting off all of the work that has been done for the last year in hearings, all of the work that was done in the subcommittees of the Armed Services Committee, all of the effort, sometimes until 1 o'clock in the morning working out the details, and coming to this floor with a $4.3 billion authorization for SDI.

The Senator from Wyoming makes a good point, and to some extent I agree with him. The problem I have with the position of the Senator from Wyoming is that it is quite apparent to this Senator that regardless of how strong the Senator from Wyoming feels about the matter, in all likelihood he is not going to prevail. I appeal to the Senator from Wyoming to change his position and allow us to proceed in some kind of an orderly fashion in the time we have left between now and Wednesday night to move ahead.

I yield the floor.

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

Mr. MITCHELL. Mr. President, pursuant to the authority granted me in the previous unanimous-consent agreement, I now ask that the Senate proceed to consideration of Senate Resolution 330.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 330) relating to authorization of multilateral action in Bosnia-Hercegovina under Article 42 of the United Nations Charter.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Who yields time?

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I designate Senator BIDEN to control the time under the agreement on this side.

The PRESIDING OFFICER. Under the previous order, Senator BIDEN is to control time. The Senator is recognized to submit a modification.

MODIFICATION TO S. RES. 330

Mr. BIDEN. Mr. President, I send a modification to the desk on behalf of myself, Senator LUGAR, and others.

The PRESIDING OFFICER. The resolution will be so modified.

The modification is as follows:

Beginning at line 1, page 1, strike all through the end and insert the following:

Whereas the Republic of Bosnia-Hercegovina is internationally recognized as an independent state and is a member of the United Nations and a participant in the Conference on Security and Cooperation in Europe.

Whereas attempts to bring about a permanent cessation of hostilities precipitated by Serbia and Serbian-backed forces in Bosnia-Hercegovina through negotiations have repeatedly failed;

Whereas horrible atrocities are being committed by Serbian-backed forces against the civilian population, including the "ethnic-cleansing" of regions inhabited by non-Serbs;

Whereas the United States and other Contracting Parties to the International Convention on the Prevention and Punishment of the Crime of Genocide may, under Article VIII, "call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide" or any of the other "Acts Constituting Genocide" enumerated in Article III.

Whereas officials of the International Committee of the Red Cross have been denied access to prison camps and internment camps throughout Bosnia-Hercegovina even though such officials are entitled to access to such camps under Article 143 of the 1949 Geneva Convention;

Whereas United Nations and Red Cross relief convoys carrying much needed supplies of food and medicine are being repeatedly blocked and in some cases have been attacked by Serbian-backed forces;

Whereas the Security Council of the United Nations voted unanimously to dispatch additional forces to reopen Sarajevo's airport, and the delivery of supplies of humanitarian assistance to the city's beleagured population is taking place under the protection of these forces but with great difficulty;

Whereas the Security Council also endorsed the cease-fire plan negotiated by the European Community Envoy which would place all heavy weapons in the possession of factions in Bosnia-Hercegovina under international supervision;

Whereas the president of the democratically elected Government of Bosnia-Hercegovina has issued urgent appeals for immediate assistance from the international community;

Whereas the situation in Sarajevo and elsewhere in Bosnia-Hercegovina has reached a critical point requiring immediate and decisive action by the international community; and

Whereas the President on August 6, 1992, announced a six-point plan, to be implemented through the United Nations, the Conference on Security and Cooperation in Europe and NATO, to respond to the situation in Bosnia-Hercegovina, and to attempt to prevent the conflict's spread into Kosova and neighboring countries: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of multilateral military force under a Security Council mandate, giving particular consideration to the possibility of "demonstrations" of force, to give effect to Security Council decisions to ensure the provision of humanitarian relief in Bosnia-Hercegovina and to gain access for United Nations and International Red Cross personnel to refugee and prisoners of war camps in the former Yugoslavia;

(2) during such meeting, the Security Council should—

(a) develop the means by which to implement the July 17, 1992, United Nations-sponsored cease-fire plan, which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under United Nations supervision;

(b) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all States in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

(c) convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield myself 10 minutes.

Mr. President, first, this resolution is designed to recommend that the President of the United States obtain a use-of-force resolution from the U.N. Security Council in order to help those in Bosnia who are now being starved, beaten, and slaughtered.

Our goal is to respond to this moral tragedy. There is a slaughter of mind-boggling proportions that is taking place right now. Two and one-half million Bosnians are refugees, and tens of thousands of people have already been killed.

This resolution is specific in laying out the objectives for the use of force, if any force is to be used. In fact, the language reads, "to give effect to Security Council decisions to ensure the provision of humanitarian relief in Bosnia and to gain access for the Red Cross to the refugee and POW camps."

Mr. President, the President of the United States has already indicated his military objective is to ensure the delivery of humanitarian aid. So, other than access to the camps, this resolution goes no further than where the President already is. However, I could not support—and this resolution does not support—a decision to use force with an open-ended objective such as the ending of the conflict. Such an objective would, in my opinion, result in a quagmire all of us have sought to avoid since the end of the last quagmire we found ourselves in, as the present Presiding Officer knows full well.

Furthermore, the resolution does not authorize the use of U.S. military forces in Bosnia. This is a sense-of-the-Senate resolution, and even if we wanted to authorize the use of force, it could not be done through a sense-of-the-Senate resolution.

I am sure we will hear today from some of my distinguished colleagues that we are somehow authorizing the use of force. That is not accurate. I want everyone to listen to this very clearly. Adoption of this resolution authorizes nothing.

What it does is to urge the President to go to the U.N. Security Council, which he has now said he plans to do, and seek from the Security Council a resolution authorizing, if need be, the use of U.N. multilateral forces that may, or may not, include U.S. forces.

And even if the U.N. Security Council is convinced by the President of the United States, upon the urging of the Senate, to pass a resolution authorizing the use of force togain access to the refugee and POW camps, if need be, and to continue the deliverance of humanitarian aid, the President of the United States, through his representative in the United Nations, can then decide what, if any, U.S. military forces would participate in that effort.

He has veto power. He can determine whether this body will support a resolution that will include air forces, ground forces, naval forces, or no forces. If the U.N. Security Council does authorize the use of force which encompasses any American forces, then the President of the United States must come back to the Congress under the Constitution of the United States of America—not the War Powers Act, under the warmaking clause in the Constitution—and seek authorization to use those forces.

This resolution is a Senate resolution. It is not a piece of legislation. But we may hear a lot of our colleagues, who are opposed to urging the President to go to the U.N. Security Council and seek such U.N. authorization, say we are about to vote on committing U.S. forces. Not true. One cannot vote to send U.S. forces anywhere by a vote cast in the Senate on a vehicle known as a Senate resolution. It is not possible.

So let us get that straight because we are going to hear much debate over it during the course of the next 4, or 6, or 8, or 10 hours of debate. I expect I will be repeating this time and again. This is not an authorization for the use of force. It is urging the President to seek a U.N. Security Council authorization for the use of force which may or may not include U.S. forces; and then, if it does, the President must come to the Congress under the Constitution of the United States in order to seek authorization for the use of such force.

One may well ask, if that is the case, Mr. BIDEN, why did you fight so hard to push this resolution through the Foreign Relations Committee? Why is this so important?

The reason it is so important is that the President of the United States and the United States itself must exercise leadership in dealing with the situation which, in my view, if left unresponded to, will in fact set a pattern for the remainder of this century for a new world order that is not one in which any of us should look forward to participating.

Mr. President, it does contemplate the possibility that the President of the United States come back to the Congress and ask for permission to commit U.S. forces, if need be, in opening up those camps and providing humanitarian aid. But the President must come back with some specificity.

We are not presuming at this moment to tell the President whether or not U.S. forces should be used, how many forces, what kind of forces, and in conjunction with what other forces. We are not presuming to do that.

My colleagues will say they do not want to vote for a pig in a poke; they do not want to be voting for something that may commit x number of U.S. forces. They do not have to make that decision today. This is not even a legislative vehicle that will allow that decision to be made today. They will have time to make that decision if and when the President returns to Congress with a U.N. Security Council resolution.

Now, I, for one, am prepared, if there is a multinational force with the limited objectives we stated, to vote to use U.S. forces. But I will leave that decision to the U.S. military commanders and the President of the United States, Commander in Chief, to recommend what forces, if any, should be used for the two limited purposes—not of ending the civil war, not of reuniting Yugoslavia, not of ending all fighting between Bosnia and Serbia, but of providing humanitarian aid and opening up the camps.

I am prepared, depending on what the President says would be required to vote for U.S. forces to participate in conjunction with other U.N. Security Council participants in that process.

But this is more than a one-step process, Mr. President. If we wanted to do what I heard my friend from Virginia suggest we may be doing, the proper vehicle would be a specific legislative authorization envisioned under the Constitution to seek the permission—I yield myself 5 more minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 5 additional minutes.

Mr. BIDEN. We would seek the consent of the Congress—not just the Senate, the House and the Senate—to give permission to the President to take American forces to war, to use them in combat.

This is not an emergency in the sense contemplated under the Constitution, where American forces are under attack or in imminent danger, or the continental United States or any possession of the United States is under imminent danger. Arguably, in those circumstances, the President does not need the U.S. Congress to give him authorization to use forces—arguably.

I hope we will not, as years ago, when I practiced law or was in law school, generate a number of red herrings, as we used to say in this debate. Let us debate the issue—should the President of the United States be seeking an authorization, A U.N. authorization for the possible use of force if need be to open up the camps if they are not voluntarily opened up, and to provide humanitarian aid if it cannot get through other than with military escort and the use of military force.

It also contemplates, as the Senator from New York has pointed out, the possibility of the use of demonstration forces. When in fact article 43 and article 42 were debated some decades ago it was contemplated that the U.N. Security Council should have some option between doing nothing and waging war.

One of the things, a term of art, that was used was the possibility of the use of a demonstration force. That might envisage, if the U.N. Security Council authorized it, and the U.S. Congress authorized the use of American forces—doing what my friend spoke to earlier today, knocking out bridges, blowing off sides of mountains I think was the phrase he used, or a whole range of other things short of putting ground forces in, short of doing anything else that required a military action.

I used to practice law with a fellow named Sid, who is still practicing law in Delaware, a very good trial lawyer. I would sit with him when he was first trying to teach me how to try a case, and he would say to the jury at the outset of the case, "Now, ladies and gentlemen of the jury, you are going to hear the prosecution tell you a whole lot of things that have nothing to do with whether or not my client killed Mr. Jones. They are going to tell you that he is not a nice-looking fellow. They are going to tell you that he does not speak very well. They are going to tell you that he comes from an area of town that you would not like to live in. They are going to tell you a lot of things about him." And then he would say, "But do me a favor, ladies and gentlemen of the jury; keep your eye on the ball. Keep your eye on the ball."

As Sid would in Delaware, keep your eye on the ball.

The ball that is in play in this debate is a U.N. Security Council resolution that we are urging the President to seek the Security Council to draft. That resolution may or may not authorize the use of force if the President achieves the objective we are urging. If he achieves that objective, it may or may not contemplate U.S. force along with other forces. If it does, and if it passes the Security Council, then we, the U.S. Congress, the Senate in particular, will decide whether or not we are willing to, in the name of the American people, use American forces to achieve the objective outlined by the U.N. Security Council.

Let me make one last point. Assume we got that far down the line, those three or four steps. Then once we would authorize the President's use of force, the President can use the forces in whatever way he may see fit consistent with that resolution. We would not sit here and say you can use x plus 10 or x minus 17 forces.

I urge my colleagues to keep their eye on the ball.

I yield myself 1 additional minute.

I point out that in the original resolution drafted by the Senator from Delaware and passed by the Foreign Relations Committee, there was a provision in it relating to this last issue about the authorization of the use of force. It read: "When requested by the President the Congress should promptly consider authorization for any use of U.S. military forces pursuant to, and only pursuant to, the United Nations authorization described in paragraph 1."

As a matter of accommodation—and because it was argued not to be necessary, I sent up an amended version which deleted that provision, among a few other changes it made.

So I ask my colleagues as this debate begins to keep their eye on the ball.

I am happy to yield to my chairman of the full committee for 5 minutes.

Mr. PELL. I thank my colleague.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL] is recognized for up to 5 minutes.

Mr. WARNER. Mr. President, parliamentary inquiry. Has the Senator indicated who are the cosponsors of the Senate resolution? There was a large list originally. I would like to know how many of those have survived.

Mr. PELL. Senator LUGAR, I know, is a cosponsor with Senator BIDEN.

Mr. WARNER. Mr. President, the question is the pending resolution. Has the Senator from Delaware enumerated the cosponsors?

Mr. BIDEN. I have not, other than Senator LUGAR and Senator PELL. I have not enumerated them because, quite frankly, I wanted to make sure everyone saw the deletion of the last paragraph. I do not know whether they have.

Mr. WARNER. Will the Senator inform us at the earliest possible time as to the cosponsors, because there was a rather large list on the original.

Mr. BIDEN. Yes.

Mr. WARNER. I am not sure how many remain on the amendment.

Mr. BIDEN. To the best of my knowledge, they all remain. But I will not presume to assure the Senator of that until we have actual assurance. I do not have that at this moment.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. PELL. Mr. President, my colleague and friend from Delaware has succinctly expressed the pros and cons of the resolution.

The essence of it is to set forth the sense of the Senate that the President should call for an emergency meeting of the Security Council to authorize measures that may be necessary, including force if required, in order to implement a U.N.-sponsored effort to provide humanitarian relief to civilians in Bosnia-Hercegovina as well as the U.N.-sponsored cease-fire plan to place heavy weapons belonging to all factions in Bosnia-Hercegovina under U.N. supervision.

The President announced on August 6 that he will press for an emergency meeting of the Security Council. This provides for doing that. In fact, this is what is taking place at this time. To my mind, the President is handling the problem well. But it is not clear whether he will ask the Security Council to address the issue of heavy weapons such as those that are being used to devastate Sarajevo in addition to the issue of humanitarian assistance.

It may be implicit in the President's announcement that the issue of heavy weapons will be addressed since those weapons have been used to obstruct the humanitarian relief effort. It is not specifically mentioned in our committee resolution.

The resolution raises other issues that the committee as well as other Members would like to have addressed by the Security Council.

First, the Security Counsel should take steps to ensure access by U.N. personnel and International Committee of the Red Cross personnel to refugee and prisoner of war camps.

Second, the Security Council should review the effects on Bosnia-Hercegovina of the U.N. arms embargo on all the states of former Yugoslavia and determine whether we are hurting Bosnia more than we are harming Serbia.

Third, the Security Council should take steps to convene its tribunal to investigate allegations of war crimes and crimes against humanity.

The sense of the Senate embodied in this resolution is an important statement of how the United States and the United Nations, acting collectively, should respond to the tragedy that has been unfolding in Bosnia-Hercegovina. The atrocities perpetrated by Serbian forces in Bosnia have no parallel in postwar Europe. The very use by the Serbs of the word "cleansing" bears a chilling resemblance to the Nazis' "final solution" policy toward Jews and other minorities.

If we look the other way, as we did then, or as when Italy raped Ethiopia, when the League of Nations was able to wring its hands and do nothing, the cleansing will succeed with genocidal thoroughness. If that is allowed to happen, a grizzly precedent will be set for the launching of genocidal cleansing elsewhere in Europe and the world.

Thus, I would say to my colleagues it is not the kind of new world order that we want. We need just look at history for a moment for a replay here, and a little bit of remembrance of World War II when the Croats behaved very badly toward the Serbs. Now the sequence is being reversed.

We recognize the sensitive nature of the problem. That is why the resolution very specifically calls on it only to be done under a U.N. operation. If it was not done as part of a U.N. operation and under U.N. support, or under a concert of Europe or multilateral banner I know I, for one, would not be for going in there.

I yield the floor.

Mr. COHEN. Mr. President, I yield up to 20 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for up to 20 minutes.

PRIVILEGE OF THE FLOOR

Mr. WALLOP. Mr. President, I ask unanimous consent that Capt. Steve Madey, a naval congressional fellow, who is assisting me in defense and foreign policy matters be permitted the privilege of the floor during the consideration of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I have to confess to a deep sense of distress at the opening remarks of the Senator from Delaware. Though not intended to be cynical, they surely remind one of the conversations that took place on this floor in 1956 with respect to Hungary, when the debates and encouragement of this country, and maybe some in Europe, led Hungarians to believe that if they resisted the Soviets, we might come and help.

We made the same speeches, the same complaints, and we provided the same distressful posturing, and then did not go.

Like all my colleagues, I am deeply disturbed by the atrocities being inflicted upon innocent civilians. The existence of death camps and the repugnant attempt at ethnic cleansing are all to reminiscent of past tragedies.

Despite this compelling desire, which we all share, to punish those responsible for these atrocities, the use of American military force, for whatever reason and to whatever extent, is not something we should casually endorse. Though we call it United Nations, make no mistake about it, the promise is American. I have been dismayed by the statements of some in the media and the political arena who imply that using force would be a quick and easy way to solve the troubling situation in Bosnia. Of equal concern, is the notion that the United Nations should somehow decide what force is needed.

Mr. President, the use of force is only justified if we have high confidence that specific military actions will achieve clearly defined goals at an acceptable cost. Neither this resolution nor the one that will emerge from the United Nations define that. The use of military force simply to satisfy an emotional sense of outrage is never justified. As we consider taking such action, there are a number of critical questions that must be answered.

So look at what American interests are at stake. Does the conflict in Yugoslavia threaten regional or global stability? We are all sensitive to the fact that the spark that ignited World War I occurred in Sarajevo. Today, however, the conflict does not threaten to spread beyond the borders of Yugoslavia. While nobody can condone the actions taken by Serbia, they are certainly not the first step in a larger plan at regional domination. Fortunately, the fate of empires no longer hang in the Balkan balance.

Obviously, there are humanitarian interests at stake, but are these sufficient grounds for direct American military involvement? The United States has never attacked another country simply out of a sense of moral outrage. If we decide to do so today, we would be setting America on a fundamentally new course in foreign policy. And if we decide to allow humanitarian concerns to serve as justification for armed intervention, then are we not required to pursue these ends consistently? Why deploy military force to Bosnia and not to Somalia where 75 percent of that nation's children may die within the next 6 months of starvation. The International Red Cross warns that if outside intervention is not forthcoming in Somalia one-third of the country's population could die of starvation. How can this Senate justify the use of American military forces on humanitarian grounds to relieve the agony in Yugoslavia when a much greater tragedy in the Horn of Africa has been staring us in the face for almost 2 years?

Wednesday's New York Times carried the headline: "Dawn Brings Death: One More Day of Ethnic War." Another article about Bosnia? No, Mr. President, a story about slaughter in Akwana, Nigeria. If we are to be consistent, should we authorize American military personnel to get involved in Nigeria and Somalia, as well?

Our apparent willingness to become involved militarily in Eastern Europe for humanitarian reason, when we have not done so in other parts of the world, sends the message that we are selective in what ethnic or racial groups are worth protecting. Why is starvation and brutality somehow more acceptable in the Horn of Africa than in Eastern Europe? The appearance of racism is unavoidable.

Some have argued that more is at stake than purely humanitarian concerns, that genocide begets genocide, that ethnic cleansing could spread to other parts of Eastern Europe and the former Soviet Union, and that regional stability could indeed be threatened. This may be true, but it is unclear that an American show of force in Yugoslavia will deter such actions elsewhere. It is not even clear, for that matter, that a limited show of force would deter Serbs—driven by the desire to return all ethnic Serbs to a greater Serbia—from these heinous acts.

If we conclude that American military intervention is justified, for whatever reason, the second question we must confront is what can we accomplish with what degree and type of force?

It has been asserted, on the floor of the Senate and elsewhere, that a limited number of air strikes would be sufficient to bring the Serbs to their senses, forcing all parties to cease hostilities and seriously negotiate a settlement. It is rubbish. While this presumption may turn out to be true, it may also be wishful thinking. Certainly our objectives should be to foster an enduring political settlement. But Yugoslavia's history is marked by deep divisions. Nowhere in that troubled land do borders correspond to ethnic or religious groupings. Grievances were suppressed and smoldered under Tito's iron fist.

The question we face is: How do we promote a political solution if limited air strikes do not bring the all sides to the negotiating table?

Once committed militarily, we will have an obligation to follow through. We will come limping home, as the Soviets did after Afganistan, as America did after Vietnam. Attempting limited intervention and then giving up would be worse than not having intervened in the first place. If we decide to get involved militarily, we must be prepared to use the means necessary to meet our objectives. Incremental involvement is a losing proposition on all counts.

So what does means necessary imply? On Wednesday, all Senators were invited to an intelligence briefing on the situation in Bosnia. During this briefing, it was explained that merely to secure the Sarajevo airport and one supply route would require two divisions at a minimum. But even if we secure the airport, we cannot ensure that fighting will stop. In Beirut in 1982 we tried to secure an airport, believing that this was a limited objective and that we would somehow be shielded from the violent conflict which surrounded us. This situation is all too familiar. And when fighting does not end, and when we sustain casualties, will we then be willing to expand our involvement to a wider occupation?

Let us be honest, the name of the game in Bosnia is not peacekeeping. We cannot keep peace Mr. President, when there is none to begin with, and there is none in this troubled land. The United Nations already has a 15,000-man peacekeeping force in place. To add Americans to this force without a clearly defined military objective would be irresponsible. If we get involved in Yugoslavia, we must be prepared to use decisive force.

This leads me to a third question: What is America's role in multilateral military actions? The resolution reported by the Foreign Relations Committee seems to hand planning and decisionmaking over to the United Nations. I do not believe that this is wise, nor do I believe that most Americans would support the idea of the United Nations controlling the employment of United States military forces in combat.

The approach advocated by the Foreign Relations Committee is just the opposite of that taken in the Persian Gulf war. Prior to Operation Desert Storm, the President of the United States formulated specific military objectives. Only then did the United States go to the United Nations to seek support. This does not mean that we should not cooperate closely with the Security Council.

Amidst the various prescriptions for stopping the repugnant humanitarian situation in Bosnia-Hercegovina, Governor Clinton has suggested doing "whatever it takes to stop the slaughter of civilians * * * begin[ning] with air power against the SERBS.* * *" This is the man who slipped his obligations during the Vietnam war until he reentered his name solely for the purpose of protecting a political career. This is the man who now advocates the use of military force in a situation where no one—let alone the Governor of Arkansas—has yet determined what America's goals and purposes are. War is not a game played between the lines of a political playing field. War kills and scares people as the Governor may well remember.

But since Governor Clinton is not alone in his prescription, it is worth responding with a few questions and reminders.

Some on the floor today will argue that what we are debating, is not an authorization of the use of force. The Senator from Delaware just did. To them I say, in a democracy, words have meaning. If this amendment passes, the Senate will be on record as supporting a U.N. mandate of a use of force. If and when we do so, and if and when the President returns to the Senate for the real authorization of force, it would be disarmingly dishonest to then vote differently on the real authorization than we did on this resolution. But for the sake of argument, let's say it's not an explicit authorization, per se, and only some middle ground vote to urge action. How then should it be interpreted by those involved in the fighting? Should our enemies take it as a threat upon which we are prepared to follow through? Should the beleaguered Bosnians breathe a sigh of relief that we are prepared to act? Again, I say: we are a democracy and what we say here today, through our passing this resolution, has real meaning for friend and foe alike. To those who cynically believe that this is an ambiguous statement to which we can point as proof that "we were on the right side (whatever that turns out to be)" I say: lives hang in the balance of your irresponsibility.

But since Governor Clinton has challenged America to do "whatever it takes to stop the slaughter of civilians," it is only appropriate that we understand why civilians are being slaughtered. Without such an understanding, one might mistakenly conclude, as Governor Clinton has, that limited air strikes would show the warring Serbs that America is serious and thereby cause the Serbs to cease their errant behavior.

But first let us be clear on our terms. The heinous crimes that are being committed by Serbs against Moslem Bosnians are an act of war. Were we to stop the slaughter, we would be acting in direct opposition to the will of the Serbs. That, as Carl von Clausewitz has pointed out, is war. "War is an act of force to compel the enemy to do our will." Plain and simple. What Governor Clinton and others on the floor of the Senate today are talking about is war. "Protecting civilian populations against the use of heavy weapons," undertaking an "international mission of mercy," or using "all necessary measures to deliver humanitarian assistance" are clearly nicer terms. But again, as Clausewitz explained in 1832:

> Kind hearted people might of course think there is some ingenious way to disarm or defeat an enemy without too much bloodshed, and might imagine this is the true goal of

> the art of war. Pleasant as it sounds, it is a fallacy that must be exposed: War is such a dangerous business that the mistakes that come from kindness are the very worst.

Halfway measures or reluctance once having begun are deadly in themselves. And to be sure, a limited effort on our part would not end the humanitarian nightmare. What is sought by the Serbs in Bosnia is no secret. To steal enough territory, by conquest and ethnic cleansing, to create a greater Serbia, which in Milosevic's eyes is the next best thing to a Serb-controlled Yugoslavia.

Given Serbia's skyrocketing inflation, desperate unemployment, and generally doomed economy, there is not a lot of incentive for Milosevic to back down at this point, and certainly not because of a few American air strikes. We are not dealing with reasonable men. This is clear from their systematic racist aggression, their use of heavy weapons against civilians, their contempt for the international community and the repeated duplicity of Mr. Milosevic himself. And as Clausewitz again reminds us, "If the enemy is to be coerced, you must put him in a situation that is even more unpleasant than the sacrifice you call on him to make." I would assert, Mr. President, that putting the Serbs in a situation "even more unpleasant" means one thing: A committed and decisive show of force which uses the means necessary to restore peace and stability.

Mr. President, 38 German divisions were unable to do that during World War II. Since that time Tito has trained the people of the countries of Yugoslavia to do nothing but operate as guerrillas, independently and alone. These people, these Serbs, are not easily deterred. The resentments and desires they hold today are not much different than what they were at end of World War II.

The haves versus the have nots is just one of many conflicts in this region. That has not changed since the beginning of this century. The fault line between relative prosperity and sophistication of the northern republics and the more agrarian south still runs along the borders of the old Austro-Hungarian Empire. Religious conflicts—between Orthodox Christians, Roman Catholics, Moslems, and countless variations on these themes—add to the stew.

So let there be no illusions that limited involvement would be in any way decisive or would do anything to relieve the suffering of innocent civilians beyond the very immediate and cursory.

And the civilians, Mr. President, will be within sight of the television cameras when the limited air strikes kill them as well, and I ask the Senate to take a look at what our reaction may be in those days in that time should it happen, God forbid.

We have all read the accounts of Nazi Germany's doomed aggression in Yugoslavia. This should give us some idea what we are up against. And the troops today are better trained and armed that the wartime resistance was. Thousand of graves of German soldiers in the Bosnian Mountains are reminders of the iron resistance of Tito's partisans. Many have called it the most stubborn, bloody, and uncompromising guerrilla war in Nazi-occupied Europe. At the height of their involvement, the Axis strength in Yugoslavia comprised 1 million men, including 18 German, 14 Italian, 8 Hungarian, and 5 Bulgarian divisions.

Given the iron wills and a terrain suited to the vagaries of Guerrilla warfare, I cannot think of a military planner who would relish the opportunity to strategize our involvement in this Balkan quagmire. The departing U.N. commander warned that, "If the world thinks seriously of putting in an occupation force," and that is what "stop[ping] the slaughter of civilians" could well entail, "then they should be prepared for a very long stay." He told a British newspaper, "I'd say the next 20 years—and even then, who knows what would happen when they left?"

Mr. President, let me remind my colleagues, we are not looking at a simple resolution expressing simple dismay about totally repugnant and atrocious acts in one lightly inhabited part of the world. We are looking at a resolution that has consequences miles and miles and decades down the road. The United Nations is incapable of stopping centuries of conflict. The United Nations could better spend its help and its forces doing what could be done in other countries of the world, as well as this one.

Mr. President, I shall offer an amendment later to take care of some others. In the meantime, I urge my colleagues to tread very lightly on this path. It is a path that is not easily returned from.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, I yield myself 3 minutes. Could I have 3 minutes?

Mr. BIDEN. Yes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for up to 3 minutes.

Mr. PELL. Mr. President, the Senator from Wyoming touched on the case of the Hungarian Revolution, when I was at Andau on the Hungarian-Austria border. I was in Vienna at that time and placed in charge of the International Rescue Committee in their work looking after refugees and trying to help the people cross the border. There is one big difference. We were hideously upset as we knew what was going on in Budapest. The Russians were in there slaughtering the people with their tanks and heavy arms. There was nothing we could do a few miles away. Why? Because if we had, it would have started world war III.

In this case, I do not think there is any great risk of world war III emerging from what is basically a peace-contemplated U.N. operation in the former Yugoslavia.

So I would hope that the analogy would not be made because I do not think it would be correct.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized for up to 5 minutes.

Mr. COHEN. I listened quite carefully to what my friends from Delaware and Wyoming have just said. Earlier today, it was suggested that we take action, but of course this is not taking action, this is taking words. We are doing nothing in the way of taking action, as a matter of fact.

Now, my friend from Delaware said this resolution authorizes nothing. He repeated it three times—it authorizes nothing. It does not authorize the United Nations to commit the United States to do anything. It urges the President to go to the United Nations to seek authority, which may or may not involve the use of force, which may or may not include the United States; that the President has veto power over the United Nations committing U.S. forces; and, in any event, that if he should come back to the U.S. Congress, he would have to seek authority under the Constitution for a declaration of war.

I cannot conceive of a situation in which the U.S. Senate would go on record urging the President to go to the United Nations to seek whatever means necessary to achieve the goals articulated by my friend from Delaware, I cannot conceive of a situation in which the President does that, he gets the authority, the United Nations grants authority to use some measure of force—we know that the British have air power, we know the French have air power, we know the Germans have air power, as do others. The assumption we are operating under is that if the United States is going to be committed, we will either use naval forces or use air forces, but we are unlikely to commit ground forces.

But in any event, I cannot conceive of a situation in which the President goes to the United Nations, secures a U.N. declaration that we are going to commit ourselves to the use of power, whatever it takes to open up those supply lines for humanitarian goals, that he would then come back to this body and this body would then reject the President's seeking the authority from us. I cannot imagine that situation.

Mr. BIDEN. If the Senator will yield, I agree, I cannot imagine it either.

Mr. COHEN. So when the Senator from Wyoming says, we will sit on our hands, I think it is just the opposite.

So that the Senate, unless it engages in a real act of hypocrisy at that point by sending the President to the United Nations to get the authority and coming back and rejecting it, then we will, in fact, be committing ourselves to some use of force by whatever means necessary as decided by the United Nations. I think that is clear.

There are those operating under the assumption that we are two or three steps away, that we are not anywhere near the use of force by American troops at this point. And I think the Senator from Wyoming does make a point that we may be three steps away. But we definitely are committing ourselves to a course of action which, were we to measure up to our words today, would commit us to deploying U.S. forces.

There is also the point that he makes that some feel that just by threatening to use force that is going to get the attention of the Serbian leadership at this point and they will, in fact, be intimidated by that threat.

But I think that threats are idle and empty if we are not willing to back them up. So it is clear that if we are going to make a threat, we are going to have to back up that threat and actually engage in the use of force.

I also just have a question I want to raise at this point in terms of the timing of this. If we adopt the resolution tonight or tomorrow, and whatever amendments are offered—and I am not sure how many I will support or not support—but whatever comes out of this particular debate, and we authorize the President to seek U.N. support for the use of force to achieve these noble and, I believe, worthwhile goals, there arises the question of what happens next week?

Do we have the President, who is going to the Republican convention, does he use the U.N. declaration to commit our young men and women to battle? Does he call us back into session, because we will be out now until after Labor Day? What happens between now and Labor Day? How many people will be either slaughtered or incarcerated, starved by the Serbians at this point?

What do we do for the next 3 weeks, unless the President were to come back, call us into session and seek authority to go to war with the Serbians?

So I think that it is going to raise a number of issues, it seems to me, as to whether the President would have authority to act without further participation by Congress. And if he should seek further authority from Congress, then I think it is going to place a lot of people in the same position they were in back during the Persian Gulf war.

I want to read just one statement because I think it reflects the sentiments of so many at that time. He said:

> Before we plunge into a difficult conflict which can have no simple ending, we must know, and the American people who will be fighting must know, what kind of solution we are seeking. The complex problems of the gulf region do not lend themselves to simple solutions. We must find a course which will enable our Arab allies to find their own way to peace in the region.

Then he concluded by saying:

> Until we have greater clarity of vision that war will result in a secured peace, and until we have truly exhausted all economic and diplomatic means, I cannot in good conscience vote to give the President the authority to pursue military action from which there is no turning back.

At that point, we had Desert Shield, we had deployed some 500,000 troops to the deserts of Saudia Arabia, we were on the edge of going to war against a known aggressor—someone who threatened to set 500 or 600 oil wells on fire just to demonstrate his contempt not only for the environment but for the world at large—and yet Members still, when coming to that very edge said, until our vision is more clear, they could not in good conscience support the use of military force.

So I think that it is helpful that we are debating this now because, according to the Senator from Delaware, this resolution authorizes nothing. In fact, it is three steps removed from authorizing the use of force, and at some point in the future we will have to take that action.

And so, we are not taking action tonight or tomorrow. We are taking words.

But the Senator from Wyoming said words do, in fact, have importance in this body. But at this point, I think we are going to have to await the outcome of a number of amendments to clarify exactly how this body is going to proceed. Because I think the Senator is correct, once we start down this path, encourage the President to go to the United Nations, he gets the authority, at that particular point in time, it would be unconscionable for us to reject the use of force, of American forces, participating in that particular mission.

So I think there are a lot of questions that have to be asked and answered before we can come to a final conclusion on this matter.

I reserve the remainder of my time.

I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Virginia is recognized.

Mr. WARNER. I thank my distinguished colleague from Maine. He has articulated many of the arguments that I put forward for over 4 or 5 days here.

I can remember when I was alone, perhaps the Senator from Wyoming was not more than a few steps away, objecting to the rush to have a 1-hour time agreement within which to consider a resolution very similar to the one that is before us now. Well, that 1 hour has now been followed by perhaps a dozen hours of debate and now, perhaps 10 or 12 hours under the present amendment.

So I am pleased that at least the Senate is now beginning to give careful deliberation.

Mr. President, I ask unanimous consent that I be advised when there is 1 minute remaining under my time.

I would like to get the attention of the distinguished manager, the Senator from Delaware, and I would like to propose to him a specific question.

As I understand this, we are going to authorize the President to go to the United Nations and seek authority to do two things specifically: One is to ensure the provisions of humanitarian relief in Bosnia, that is the entire territory, and second, to gain access for United Nations and International Red Cross personnel to refugees in prisoner-of-war camps.

Any realistic appraisal of that recognizes that military force will be necessary. In fact, this specifically uses the magical words, "all necessary means," which connotes—and it says here—using multinational military force.

If the President is successful in getting that, he must be convincing, as the Senator from Maine inferred, to the other member nations there that we will do our share. But if every member nation says, "Well, but you have to go back to your parliament, Congress," then they will say, "We have to go back to our parliament." Because one cannot have this kind of vote without the others.

Now, is that your intention, of how we should send a strong message, to stop this horrifying, and, really, criminal persecution of human beings? Is that my colleague's idea?

And may the response be on the time of the Senator from Delaware?

Mr. BIDEN. I will be happy to respond on my time. Let me say to my friend, as a former Secretary of Defense said, you know, the Constitution is an impediment to free action.

It is sometimes tough, I say to my friend from Virginia, that we do have a thing called a Constitution. Every member state of the United Nations knows about our Constitution. The U.N. Security Council knows about our Constitution. And I might point out at least three of the other members states have similar impediments, as you phrase it, but they can under article 43 of the U.N. charter, provide their respective military forces to participate in a U.N. Security Council action.

So, No. 1, yes. I am recognizing the inevitable, a thing called the Constitution. It is not what I prefer or do not prefer, it is what exists.

Second, we are not authorizing. We are urging. We are urging the President to go and seek a U.N. authorization. The President may or may not decide that such a resolution, if there is one, includes U.N. ground forces, naval forces, or air forces.

So I hope that answers both questions directly.

Mr. WARNER. Mr. President, in the opening statement of the distinguished Senator from Delaware, after sort of lecturing the Senate on a freshman course in what this means—I think most of us understood what it meant—he used the word "authorized" many times: "Authorizes the President, authorizes the President does not authorize the President." That is why I elected to use the same words that the Senator from Delaware said.

Mr. BIDEN. If the Senator will yield on that point on my time, Mr. President?

I used the word "authorizing" in the context of "seek a U.N. authorization." There is a distinction here. There is a Senate authorization, which would come after, if it came at all, the U.N. Security Council authorized force.

There is, preceding, if you will, the two other steps—first, there is an urging step. We are at the urging step. But as my friend from Maine says, it is not idle urging. It is clear, it is implied that if we go on record and urge the President to seek such an authorization from the U.N. Security Council, and he then comes to us for congressional authorization to use U.S. forces, we are implying that if what he is seeking is within the realm of reason, we would be inclined to authorize it.

If he came and sought an authorization for the use of atomic weapons, we obviously would be less inclined than if he came and sought the authorization to use air power or some ground forces.

If he came seeking an authorization for 500,000 American troops in conjunction with other troops, as occurred in the Persian Gulf, we might not authorize that. If he came seeking authorization for the use of 10,000, or 1,000, or 500 American troops, we may very well authorize that.

I would like to speak to the point that my friend from Maine said. He said we are taking no action. One serious action we are taking.

Underlying this debate is the unstated, and sometimes stated, concern that this may put the President in a politically difficult position. It is designed on the part of the Senator from Delaware and others to do exactly the opposite.

The President of the United States is going into a difficult period, as all Presidents do when they seek reelection. It is now the eve of his convention and his renomination. It would seem to me, if the Democrats along with the Republicans in the U.S. Senate said: Mr. President, that which you have already enunciated, that you believe the U.N. Security Council should, under certain conditions, authorize the use of forces, we agree with you—it seems to me that takes the political sting out of what exposure he might otherwise have without a resolution coming out of a Democratically controlled U.S. Senate.

So the design is not as some have implied, to embarrass the President. I would think the President would be anxious to have us on board with him in seeking from the United Nations an authorization for a multilateral use of force. He is not seeking an authorization to use U.S. forces. The President of the United States does not have to go to the United Nations if he wants to put in U.S. forces. He comes here, to the Congress.

If the President wanted to send in American troops he does not go to New York, he comes to Washington—up the Hill. Or he does what other Presidents have done, ignore the Hill and go ahead and send them, and create a constitutional crisis. But he does not go to New York.

By going to New York, the President will take the first step in achieving what he referred to last year as a "new world order." If force does become necessary, it should be a multilateral force. That is what he said a year-and-a-half ago. That is what he is saying now.

All we are saying is, Mr. President, we are with you in seeking that.

When you get to the fine print, Mr. President, as to how many U.S. forces, if any, you intend to use, you do what was envisioned when the U.N. Charter was debated in this body, and what the Constitution demands. You come back to the Congress.

But my friend from Maine is correct. We would be being duplicitous if we said to the President: All right, you did what we asked of you. You came back. It is reasonable what you are asking. But, it is now a political hot potato and I sure do not want to be voting in this election year, to risk any U.S. lives over there. So we are not going to give you the authorization.

It would seem to me this would benefit the President. It is consistent with what he already indicated that he wants to do. And the fact of the matter is, if I am not mistaken, the distinction, by the way I might add, between Somalia and Bosnia is best stated by Brent Scowcroft. Brent Scowcroft talked about our security being involved in Europe and our national interest. Let me quote.

"First of all, there is a general example of this kind of conflict which, if it cannot be controlled by the United Nations, could be replicated in many other areas around the globe. Second, there is a danger of the widening of this conflict. There are Albanian minorities within Serbia, within Macedonia, there is concern by the Greeks," and he goes on. So it is a fundamental distinction.

One last thing while I have the floor, and I will yield in 30 seconds. We hear Hungary mentioned all the time, and we will hear it mentioned again. And "Are we doing what we did in Hungary?" I might point out to my friends there is a big difference.

The decision by President Eisenhower, whether or not to send forces into Hungary, was not just a humanitarian concern. It was a concern of possibly precipitating world war III.

There was a minor problem involving a country called the Soviet Union. There was a thing called the Warsaw Pact. Sending forces into Hungary, any rational woman or man making that decision had to sit down and say: Am I potentially engaging the United States in the start of world war III? Am I, as a consequence of the U.S. forces going into Hungary, confronting the Soviet Union and risking a nuclear war?

And the answer was "yes."

This ain't Hungary. It is as important in terms of people's lives. It is as significant. But in terms of America's National interests and the risks involved, there is a vast difference. There is no Warsaw Pact. And the countries involved do not have nuclear weapons.

And last, if the U.N. Security Council decides that there should be an authorization for the use of force, it must mean that Russia is part of this effort.

So I hope we will not hear any more about Hungary. We are no longer facing the potential of a nuclear holocaust.

I yield the floor.

Mr. CRANSTON. Will the Senator yield some time to this Senator?

Mr. COHEN. I think the Senator from Virginia has the floor.

Mr. WARNER. Mr. President, I shall propound another question and ask it be charged against the time of the Senator from Virginia, in response to the Senator from Delaware.

Does the Senator from Delaware clearly understand that nothing in this resolution, in any way, abrogates the President's constitutional power to act in any way he thinks is in the best interest of the United States and not come back to the Congress, except pursuant to the provision of the war powers which has always been in dispute?

Mr. BIDEN. Mr. President, if the President of the United States has constitutional authority to act, he has it regardless of this resolution. If he does not have the constitutional authority to act, nothing in this resolution gives him that authority.

Mr. WARNER. That is a good law school answer. What are we doing this resolution for and saying, Mr. President, go up there and do these things, but then come back here? Is it you feel it is necessary to even do the resolution? What do we achieve if he has the powers? What do we achieve by the resolution then?

We are sending out a message from this Chamber, the Senate acts, and all the niceties about the sense of the Senate is lost.

The PRESIDING OFFICER. The Chair advises the Senator from Virginia, as requested, that he has 1 minute left.

Mr. WARNER. I will let the Senator respond.

Mr. BIDEN. Mr. President, the Senator just answered his own question. We are sending a message. I thought that what we have been trying to do in this new era is introduce a foreign policy that reflects a changed world by speaking with one voice.

What is everybody so worried about? The U.S. Senate is doing what my friends have urged for years: Supporting the President. It is important that a message go out to the world, that it is not merely the President of the United States of America, but the U.S. Senate as well that supports the President's initiative to get a resolution passed out of the U.N. Security Council. That is the answer, I say to my friend.

Mr. DECONCINI. Will the Senator from Delaware yield?

Mr. WARNER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair first advises the Senator from Virginia that his time has expired. It is the second time the Senator from Delaware talked and had not requested time.

Who yields time?

Mr. BIDEN. I yield 10 minutes to my friend from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. I thank the Senator. Mr. President, I rise to support the resolution that is before us. I participated in its drafting in the Foreign Relations Committee. I participated in the redrafting that occurred before the full Senate at the end of last week. I am disappointed that one clause was dropped in the negotiations which I helped write in the Foreign Relations Committee. It would have been a final clause 3 stating:

> Subsequent to any United Nations Security Council authorization of the actions specified in paragraph, 1, the Congress should consider expeditiously authorization for use of United States military forces pursuant to such United Nations Security Council action.

The purpose of that was not to mandate. We cannot do that, but to enhance the prospect that the President would come back to the Congress before committing American forces to any action pursuant to whatever action the United Nations Security Council took.

I, for one, believe that one of the most important powers of the Congress is the power to declare war or not to declare it and to be involved in decisions about the use of American forces, except in times when the President is required in the defense of the United States to take action when there is not time to consult the Congress. I believe and I know that Presidents have felt otherwise, that the Constitution requires that we be consulted before American forces are committed to the danger of hostile actions and possible casualties and deaths for those troops, or those military individuals in our Armed Forces.

Mr. President, the world is groping toward a new world order, a new world civilization where we hope that international instrumentalities under the banner of the United Nations will be able to keep and enforce the peace on this Earth. We also seem to be groping toward a time when we recognize that the violent actions of leaders or groups in various countries that become genocide are of concern to the world and cannot be tolerated.

It is true that if we get involved in trying to restore order and tranquility in the former Yugoslavia, there may be some American casualties if we are part of an international force. It is also true that if there is no international force, no international pressure is brought to bear adequately to restore tranquility in the former Yugoslavia and in Bosnia-Hercegovina, that there may be a spreading of violence beyond that part of the world that could lead to a far vaster number of American casualties sometime in the future. We should not forget that World War I sprang from an assassination of Archduke Ferdinand in Sarajevo, the very city whose plight now concerns us.

We should not forget that it was later on in Adolf Hitler's Germany that the processes of genocide begun by a tyrannical leader that led to the embroilment of the whole world and, again, the United States in World War II.

We now face the danger that if we do not take responsible action, do not encourage responsible international U.N. action, we may once again see what seems to be a faraway conflict not of great interest or concern to us spreading until it becomes a conflagration that engulfs us.

Margaret Thatcher in the New York Times on last Thursday wrote a very thoughtful statement about the situation there which appeared under the headline: "Stop the Excuses. Help Bosnia Now."

I would like to read portions of that article by Margaret Thatcher. She stated as follows:

> It is argued by some that nothing can be done by the West unless we are prepared to risk permanent involvement in a Vietnam- or Lebanon-style conflict and potentially high Western casualties. That is partly alarmism, partly an excuse for inertia. There is a vast difference between a full-scale land invasion like Desert Storm, and a range of military interventions from lifting the arms embargo on Bosnia, through supplying arms to Bosnian forces, to direct strikes on military targets and communications.
>
> Even if the West passes by on the other side, we cannot expect that others will do so. There is increasing alarm in Turkey and the Muslim world. More massacres of Muslims in Bosnia, terrible in themselves, would also risk the conflict spreading.

That is what concerns me; that if we do not suggest as this resolution does "international action," we may see this terrible plight and violence now in one small part of the world spreading until much of the world is involved in mayhem and violence.

Margaret Thatcher went on to state:

> The West's ultimate aim should be the restoration of the Bosnian state, backed by international guarantees within a regional pact, perhaps under C.S.C.E. supervision, and guaranteeing the rights of the three main groups in Bosnia (but not allowing for its partition into three cantons).
>
> Such a solution would prevent the irredentist wars that the partition of the country between Serbia and Croatia would inevitably provoke. Also, keeping the Muslims in a united Bosnia would discourage their radicalization, which would be inevitable if the Muslims were to be dispersed under alien rule. A desperate Muslim diaspora—not unlike the Palestinian one—could then turn to terrorism. Europe would have created an islamic time bomb.
>
> Serbia will not listen until forced to listen. Only the prospect of resistance and defeat will lead to the rise of a more democratic and peaceful leadership. Waiting until the conflict burns itself out will be not only dishonorable but also very costly; refugees, terrorism, Balkan wars drawing in other countries and worse.
>
> Hesitation has already proved costly. The matter is urgent. There are perhaps a few weeks left for a serious initiative before it is too late and a Serb victory is accomplished with terrible long-term consequences.

Again I state the world is groping its way toward a time when the United Nations will undertake responsibilities to keep and to enforce the peace. The United Nations and the world are groping their way toward a time when they will intervene when acts of genocide in one part of the world threaten to spread violence everywhere. The polite term for what is happening in Bosnia-Hercegovina is ethnic cleansing. I believe a more accurate term is genocide. The world should not stand by when genocide is undertaken in any part of this world. It is for these reasons and others that I support this resolution.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I was not present when the time was distributed. I would ask unanimous consent that I be permitted to speak for 10 minutes.

Mr. BIDEN. Mr. President, I object on behalf of the majority leader.

I would be delighted to accommodate time on my side. I told the Senator from Arizona he would be recognized for 10 minutes now, and I promise my friend that if he cannot get time on the Republican side we will find time for him to speak on this side. But I object to extending the time as requested.

Mr. SPECTER. Mr. President, may I ask the Senator from Delaware if I might have that time following the Senator from Arizona?

Mr. BIDEN. The Senator is somewhat persistent, and my inclination is to say no because I promised to give him the time. But my answer is yes, because he is my friend. So the answer is "Yes."

Mr. LEVIN. Would the Senator, while we are allocating timing, allocate 10 minutes to me following the Senator from Pennsylvania?

Mr. BIDEN. Yes, but I will not allocate time to anyone for any other reason unless speakers are finished.

Mr. WARNER. Mr. President, could we rotate speakers?

Mr. BIDEN. We certainly can.

Mr. WARNER. The Senator is not ordering speakers.

Mr. BIDEN. Mr. President, no. Let me be specific. To the extent the Senator from Delaware seeks and is granted recognition, I will next, after the Senator from Arizona speaks, yield to the Senator from Pennsylvania and then the Senator from Michigan. But I assume we will alternate as we have in the past.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank the Senator from Delaware. I ask the Chair to advise me when there is 1 minute remaining.

Mr. President, we have before us a resolution which cannot be taken lightly—I think the debate has indicated some real interest in this subject matter—because it does advocate U.N. authorization for the use of multilateral military force to at least partially restore a degree of renewed humanity and relief to an extremely brutal and volatile situation, a situation fraught with many dangers.

Just as we are compelled to take this issue seriously, I believe we are equally compelled by our principles to support this resolution and the action it implies with a clear and firm resolve of which the aggressor cannot help but take notice.

There is no question of the risk involved. I appreciate those who want to continue to call it to our attention. Nobody is kidding anybody here.

Anyone who has had to deal with the political crisis and civil conflict in the disintegrating Yugoslavia during the past 2 years knows the complexity of the root causes of the conflict before us and of the almost unbelievably extreme hatred which has plagued this region of Europe for so long. Combined with the geography of Bosnia-Hercegovina and the strength of the Yugoslavian armed forces and paramilitary forces that are to be faced here, even the simple objective of securing humanitarian relief becomes, indeed, a huge challenge.

Outweighing all these risks, however, is the clear risk of inaction. First, there are the risks—indeed the certainty—that tens of thousands more people will die, if not by the sniper's bullet, then by cruel starvation and hideous torture in internment camps set up by the Serbian forces for their reprehensible, Nazi-like games that are being played, that are enacted there.

If our country and the world has advanced in any respect since World War II, it has been by the addition of a moral component to our foreign policy that obligates us to respond to situations exactly like this.

Now that we know of these camps and these atrocities, additional deaths will no longer be just the responsibility of the murderers, but it will be the responsibility of us as well. And now that we know, we can be sure that the aggressors in Bosnia-Hercegovina will look at our inaction with a grin and then continue, if not escalate, their inhumanity to new heights in the knowledge that they can do so with impunity.

Second, there is a risk to our own national interests to say that this is entirely a European problem of no direct concern to us is speaking the clearest folly that I can think of. Those who know the complex history of the region also must be aware of the explosive nature of this region. War in one part of the Balkans can easily set off a chain reaction which we have seen before through a great deal of the peninsula. In the past, it has enveloped the entire European Continent that we know so well and have heard the history of several times today.

We have many friends and allies in this region beyond Boznia-Hercegovina, from Albania and Hungary and Turkey and Greece, who are increasingly threatened by this war that is going on and the atrocities that are taking place. If they are drawn into it, inevitably we can and will be, if nothing is done, and then we will not just be talking about surgical air strikes or what kind of forces possibly to be used here.

As the Senator from Delaware so clearly pointed out, this is a nonbinding urging of the President to take action through the Security Council.

This is the danger our Nation faces if we do not act, and act now. The situation calls for leadership that only the United States can take, and it is for times like these that we have NATO forces in the first place that could be made available.

Now, many have worked on this effort for a long time, and it is time that we set aside all of the concern which I think is respectfully raised out of not understanding what this resolution is. This resolution is clear. It is concise. It says what our objective is. It is not to take a side on the civil war but to be sure that humanitarian aid is delivered and that the camps are inspected. That is all. That is all. It does not say what kind of force, if any force.

Maybe this could be such a message that force would not be necessary.

In addition to a multimilitary force, an international tribunal must be established, and this resolution calls for it to prosecute—yes, prosecute—those responsible for the death and the destruction in the former Yugoslavia that constitutes crimes under international law of today including the Fourth Geneva Convention and the Genocide Convention. We have an obligation to those countless, often unknown and now silent victims of heinous crimes in the past, to see that justice is done. We have a chance to speak out for it.

In doing so we may also be saving lives by sending a message to potential aggressors elsewhere that we will not sit idly by as atrocities such as these are committed.

Finally, we must do so with long-term interests in mind because where there is not justice, there will certainly be desire for vengeance. Those who have suffered throughout the former Yugoslavia must see the satisfaction, and the deterring example, of what justice is if we are to see a chance for the killings that have historically plagued this region to end once and for all.

The long-term risk of allowing this to not be addressed is too great.

Finally, I want to call to my colleagues' attention the risk that Bosnia-Hercegovina President Alijo Izebegovic bravely took in the hope of avoiding such a war. As cochairman of the Helsinki Commission of the Congress, I have traveled to Sarajevo. We have had observers there from the Commission. It was a beautiful city 1 year ago.

We met with the President. I have met with the Foreign Minister here in Washington, as well as with the President, and in Helsinki just 3 weeks ago. He did not want war. It would certainly destroy his country and his people. He did not prepare for war, which he might have been able to do. He thought there was a chance that the Western nations could put the influence on Serbia not to take this action.

Indeed, he encouraged the building of democracy. And 1 year ago, there were Moslems, Serbs, and Croats running the government on a bipartisan or a multipartisan basis. There was hope for freedom, and there was optimism instead of this awful situation.

When war began in neighboring republics, the President immediately called for international assistance to prevent it. I talked to Cyrus Vance, attempting to get him to recommend to the Security Council that they deploy peacekeeping troops there, when they were deploying in Croatia. He said: We cannot do that now; we have to wait until something erupts.

Something has erupted. I do not know that those peacekeepers could have kept that from happening, but we saw what happens when no action is taken. Above all, the President was not preparing for war. He really believed the international community would step forward and help his people.

Now is the time to send that clear message. I am not afraid to send it. I am not afraid that this is going to launch the United States into a ground action. I do not believe that is going to happen. But that is for the United Nations and for the United States to decide, once the United Nations might adopt something similar to what we have suggested here.

Mr. President, it is necessary for this country not to let this pass by. It is deeply important to us as a Nation. It is deeply important to us in the world, to the rule of law that we are trying to advance.

The Commission on Security and Cooperation in Europe has taken all of these new Republics in, including Bosnia, Croatia, Slovenia, and Serbia. They have all agreed to abide by the Helsinki Accord of 1975. That is being violated today by Serbia. We cannot stand by and permit this atrocity to continue.

I hope my colleagues will look at this from the standpoint of what is morally right and not get bogged down. Do not get so complicated that you cannot send a clear message in a nonbinding resolution to the aggressors, the Serbian civilian government, as well as the military forces there that are literally murdering people as we talk, this very moment.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 2925

(Purpose: To express the Senate's support for the measures announced by the President.)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. DOLE, and Mr. STEVENS, proposes an amendment numbered 2925.

At the end of the resolution, add the following new paragraph:

(4) The United States Senate strongly supports the measures announced by the President on August 6, 1992.

Mr. WARNER. Mr. President, in response to a question by the Senator from Virginia—what is the purpose of this resolution—the Senator from Delaware said very clearly: To achieve a jointness between the executive and legislative branches.

This amendment, Mr. President, draws into focus precisely the objective as stated by the Senator from Delaware, and shows a parallel. The language is taken from an earlier version of the Foreign Relations Committee proposal.

Mr. President, parliamentary inquiry. The Senator from Virginia, in my understanding, has under the unanimous consent request two amendments with a time of 30 minutes equally divided between the Senator from Virginia and the manager of the bill.

Am I not correct on that?

The PRESIDING OFFICER. The Senator from Virginia is correct.

Mr. WARNER. I am propounding this amendment under that time agreement.

Mr. BIDEN addressed the Chair.

Mr. WARNER. I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I compliment my colleague from Virginia on his amendment. If he is willing to yield back the remainder of his time, I will yield back the remainder of my time, and we will accept his amendment.

I would like to see a copy of the amendment, if I could. I just want to read the exact verbiage.

Mr. WARNER. Mr. President, I am very hopeful of that outcome, and very appreciative because this language is language which we felt, on this side, should be included. We fought vigorously to include it, and it was resisted with equal vigor. So we are, indeed, making progress on this resolution.

Mr. BIDEN. Mr. President, I wish the Senator and I had had a chance to talk. We could have saved everybody a lot of time on this. But is someone getting the Senator from Delaware a copy of that amendment?

I see staff shaking their heads. Good. I yield the floor.

Mr. WARNER. Mr. President, I will speak to a second amendment that I will send to the desk shortly, so as to utilize the time.

But in the remarks of the distinguished Senator from Delaware, he frequently said that which is obvious. It was part of his—I think—lecture, not to Senators, but to others who are wishing to ensure the purport of this amendment; that is, the pending matter, that nothing abridges the constitutional powers of the President.

Yet, he said we will ask the President to go to the United Nations; ask the President to lead; ask the President to make convincing arguments to other nations as to the requirements to fulfill the goals of the pending measure. But that—I think I have the words correct—we, the Senate, can then review. The President will come back to the Senate.

Am I not correct in that statement?

Mr. BIDEN. Mr. President, the Senator is correct.

Mr. WARNER. Then my second amendment clarifies the conditions under which the President will act following the U.N. action.

I am prepared to send that to the desk as soon as we can dispose of the pending amendment.

Mr. BIDEN. Mr. President, with regard to the first amendment, that the United States—as I read it—strongly supports the measures announced by the President on August 6, 1992.

I would make one technical amendment. It says at the end of the resolution: "Add the following new paragraph numbered 4." I believe it would have to be: "Add the following paragraph numbered 3."

Mr. WARNER. Mr. President, I thank the Senator for his courtesy. He is correct.

Mr. BIDEN. Mr. President, I am prepared, if the Senator is, as well, to yield back the remainder of my time on Warner amendment number one. And we are prepared to accept the amendment.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. I ask unanimous consent that a statement by the President on August 6, which is the subject of the amendment, be printed in the RECORD and I will see that it is placed on each desk so Senators can be fully informed.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

THE WHITE HOUSE,
August 6, 1992.

REMARKS BY THE PRESIDENT UPON DEPARTURE, PATERSON AIR FORCE BASE, COLORADO SPRINGS, CO

The PRESIDENT: A few remarks on the situation in Bosnia and the former Yugoslavia and what the United States—working with the international community—is doing to contain and defuse this escalating crisis.

Like all Americans, I am outraged and horrified at the terrible violence shattering the lives of innocent men, women, and children in Bosnia. The aggressors and extremists pursue a policy, a vile policy, of ethnic cleansing, deliberately murdering innocent civilians, driving others from their homes. And already the war has created over 2.2 million refugees, roughly the population of greater Pittsburgh and Baltimore. This is, without a doubt, a true humanitarian nightmare.

Now, the war in Bosnia-Hercegovina and Croatia is a complex, convoluted conflict that grows out of age-old animosities. The blood of innocents is being spilled over century-old feuds. The lines between enemies and even friends are jumbled and fragmented. Let no one think there is an easy or a simple solution to this tragedy. The violence will not end overnight, whatever pressure and means the international community brings to bear. Blood feuds are very difficult to resolve. Any lasting solution will only be found with the active cooperation and participation of the parties themselves. Those who understand the nature of this conflict understand that an enduring solution cannot be imposed by force from outside on unwilling participants.

Defusing this crisis and preventing its spread will require patience and persistence by all members of the democratic community of nations and key international organizations. Bringing peace again to the Balkans will literally take years of work.

For months now we've been working with other members of the international community in pursuing a multifaceted and integrated strategy for defusing and containing the Baltic conflict. Let me explain the crucial steps that we already have underway to help defuse and to contain this crisis.

First, we must continue to work to see that food and medicine get to the people of Sarajevo and elsewhere in Bosnia no matter what it takes. To this end I have directed the Secretary of State to press hard for quick passage of a United Nations Security Council resolution authorizing the use of all necessary measures to establish conditions necessary for, and to facilitate the delivery of, humanitarian assistance to Bosnia-Hercegovina. This resolution is critical—it is absolutely critical to our efforts to bring food and medicine to the people of Bosnia.

This resolution will authorize the international community to use force, if necessary, to deliver humanitarian relief supplies. My heartfelt hope is that that will not prove necessary. But the international community cannot stand by and allow innocent children, women and men to be starved to death. You can be assured that should force prove necessary, I will do everything in my power to protect the lives of any American servicemen or women involved in this international mission of mercy.

To truly end the humanitarian nightmare we must stop ethnic cleansing and open any and all detention camps to international inspection. We will not rest until the international community has gained access to any and all detention camps.

Second, we must support the legitimate governments of Slovenia, Croatia and Bosnia-Hercegovina. And to this end, I have decided that the United States will move now to establish full diplomatic relations with those governments. And I'll shortly submit to the Senate my nomination for ambassadors to these posts.

Third, we must continue to isolate Serbia economically and politically until all the United Nations Security Council resolutions are fully implemented. We must continue to tighten economic sanctions on Serbia so that all understand that there is a real price to be paid for the Serbian government's continued aggression. And the United States proposes that the international community place monitors in neighboring states to facilitate the work of those governments to ensure strict compliance with the sanctions.

Fourth, we must engage in preventive diplomacy to preclude a widening of the conflict into Kosovo, Vojvodina, Sandzhak, or Macedonia. And therefore, the United States is proposing that the Conference on Security and Cooperation in Europe, CSCE, place continuous monitoring missions in these locations to provide an international presence and inhibit human rights abuses and violence.

Fifth, we must contain the conflict and prevent its spilling over into neighboring states like Albania, Hungary, Bulgaria, Romania and Greece. And to this end, the United States proposes that the international community again place civilian monitors, thereby reassuring these governments of our concern for their welfare and inhibiting any aggression against them.

And sixth, we are consulting with our allies in NATO on all aspects of this crisis and how the Alliance, how the NATO Alliance might be of assistance to the United Nations.

Now, these steps represent an integrated strategy for defusing and containing this conflict. We've been working with the international community to advance our work on each of these, and will continue to do so in the weeks ahead. It is through international cooperation, through the U.N., NATO, the EC, CSC, other institutions that we will be able to help bring peace to that troubled region.

Mr. BIDEN. Mr. President, I ask my friend from Virginia whether or not he would be willing to temporarily lay aside his amendment because I am under the impression that Senators on both sides, thought that there would be no votes this early in the evening.

Mr. WARNER. Mr. President, I certainly wish to accommodate the Senate as a whole, and the managers and the leadership.

Why do we not check with the majority leader and determine the time that would be convenient to leadership?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WARNER. Do we have a parliamentary inquiry? What is the pending question before the Senate?

The PRESIDING OFFICER. The Warner amendment.

Mr. WARNER. Have not the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. WARNER. I believe they have not as yet been set aside.

Mr. BIDEN. Mr. President, I ask unanimous consent that the vote on the Warner amendment, not take place until 7:30.

Mr. WARNER. Reserving the right to object, I will not object——

Mr. DOLE. It will occur at 7:30.

Mr. BIDEN. I say, quite frankly, I have not had a chance to check with the majority leader as to whether or not 7:30 is——

Mr. CRANSTON. That is being done right now, if the Senator will yield.

Mr. BIDEN. Mr. President, if we could ask unanimous consent to lay this aside for 10 minutes. Has all time been yielded back on the Warner amendments?

The PRESIDING OFFICER. All time has not been yielded back.

Mr. BIDEN. I will retain the time the Senator from Delaware controls on that, Mr. President, and at this moment, with the permission of my colleagues, I yield 10 minutes to the Senator from Pennsylvania.

Mr. WARNER. I want to accommodate the Senator from Pennsylvania, Mr. President. But I have a second amendment which, under the unanimous consent agreement, I am entitled to.

Is there any reason why I could not proceed with that and then complete this phase of my participation?

Mr. SPECTER. I have been on the floor for the better part of an hour waiting for the 10 minutes. I think I have recognition.

Mr. WARNER. I will accord my colleague whatever he desires. Could I then be recognized following the Senator from Pennsylvania for the purpose of clarifying the time on the pending amendment and to raise a second amendment?

Mr. BIDEN. Mr. President, we can settle this now with regard to the vote on the first Warner amendment, that the vote take place as the Republican leader suggested, at 7:30. It is agreeable with the manager of the bill on this side that the vote on the Warner amendment begin at 7:30 and that the yeas and nays be ordered.

The PRESIDING OFFICER. Is there objection to that unanimous-consent request?

Mr. BIDEN. Mr. President, I respectively suggest that, rather than move to additional amendments, we hear from a number of Senators who have been here waiting to speak on the bill as a whole. Mr. President, I ask that I be able to yield, on my time on the Warner amendment, 10 minutes to the Senator from Pennsylvania. That will give me 10 minutes to talk with the Senator from Virginia to see about the next move.

Mr. WARNER. I thank the Senator.

AMENDMENT NO. 2925, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a modification of my amendment that is now pending.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2925), as modified, is as follows:

At the end of the resolution, add the following new paragraph:

(3) The United States Senate strongly supports the measures announced by the President on August 6, 1992.

Mr. SPECTER. Mr. President, I have sought recognition to support this resolution. In my judgment, it is an appropriate stand to be taken at this time, without subjecting the United States to undue risk.

The resolution recites the horrible atrocities which are being committed by Serbian-backed forces against the civilian population, calling it "ethnic cleansing." What is really being committed is genocide.

The resolution recites the inability of the International Committee of the Red Cross to gain access to prison camps, where horrible atrocities are being committed. It then calls for the President to call for an emergency meeting of the U.N. Security Council to consider the use of force, multilateral military force under a Security Council mandate, in order to provide this humanitarian aid.

Mr. President, I believe that this is a very sound resolution, under the principles of collective security, to take action against the atrocious crimes being committed against humanity. The concept of collective security has been a dream for many years, going back to President Woodrow Wilson in his efforts for collective security under the League of Nations in 1919. We had never seen it in this world, collective security, until the action taken by the United Nations in the gulf, where, with the leadership of the United States, there was action to repel aggression and to oust Saddam Hussein from Kuwait.

We now have a situation which has developed in Bosnia, where the atrocious crimes against humanity have been documented and are well recognized. The question that now remains is: How does the world proceed from there?

The thrust of this resolution is very reasonable and very realistic. It calls upon the United Nations to make a decision as to a multilateral military force. Once that has been decided upon, then it will be up to the Congress, pursuant to our constitutional authority, to declare war, to authorize the use of force, and to make a decision after those preliminary steps have been taken.

In January of 1991, this Congress acted, after some dispute as to whether congressional authority was necessary. But a resolution for the use of force was debated on this floor, and was approved 52 to 47 on January 12 of 1991. If such resolution is necessary, the Senate and the House can take it up in due course.

There is one very important provision here, Mr. President, and that is subparagraph 2(c) of the resolution, which calls for the convening of a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of former Yugoslavia. This tribunal is to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes. That is a very important step, Mr. President, and it follows the precedent of the Nuremberg tribunals. It follows what many of us called for after the gulf war to bring Saddam Hussein to trial as a war criminal. So the totality of this resolution is a very appropriate step for the enforcement of international law.

We are taking a measured response to thwart crimes against humanity. This can best be achieved through collective security where there is not the risk of a major international war, because the major powers would all have to agree, since they have the veto power. It preserves the authority of the Congress of the United States to make the ultimate decision, after the United Nations decides what is appropriate force, and what the multilateral military force would be. It contains an appropriate guarantee that other nations will bear a fair share, where the Congress of the United States does not need to authorize the use of force, and in setting up the provision for an international tribunal, it puts notice on everyone in the world that, collectively, the United Nations will not stand by and see such atrocities being committed. We talk about Somalia and we talk about other nations in the world. It may be that at an appropriate time that, too, will be considered.

I think it is plain to see that the United States has very significant security interests in Western Europe, but I also feel that this action is justified entirely on moral grounds to stop crimes against humanity. This is sound collective security. It is moderate in its approach. It does not commit the United States to any prolonged war. It preserves the right of the Congress to take a close look at whatever may be proposed. I urge my colleagues to adopt the resolution.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

Mr. BIDEN. Mr. President, how much time remains in my control?

The PRESIDING OFFICER. The Senator has 5 minutes 45 seconds.

Mr. BIDEN. I yield 5 minutes on the amendment and 5 minutes on the resolution to my friend from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Chair, and I thank our distinguished colleague from Delaware for yielding to me.

Mr. President, this resolution is a resolution in the best tradition of the U.S. Senate. It is bipartisan. It represents the work of Members on both sides of the aisle. It is based on a resolution which has been worked on by Senators DECONCINI, LIEBERMAN, and the leadership, Senators DOLE and MITCHELL and, of course, the Senators on the Foreign Relations Committee, Senator BIDEN, Senator PELL, and Senator LUGAR. They have all worked on this resolution before us. It is an important resolution, it is a serious resolution, and it urges the President to go to the United Nations in an emergency session and urge the United Nations to act with force, if necessary, to accomplish two limited purposes.

The purposes, and the goals are specified clearly in the resolution. It is not a blank check. It does not say end the civil war. It says to accomplish two specific, limited goals. One is to assure the delivery of humanitarian aid. This is exactly what the President is doing at the United Nations already, right now as we speak. In the words of the President, the resolution that he is seeking at the United Nations "will authorize the international community to use force, if necessary, to deliver humanitarian relief supplies."

That is the President speaking. That is not this resolution. But this resolution in its first goal also does precisely that. It urges the President to go to the United Nations and to seek force, if necessary, to accomplish that goal. And so there is no difference between this resolution and the President on that issue.

We are about to adopt the resolution of our friend from Virginia on this, and we are going to commend the President and support the President in going to the United Nations for that purpose. The President is already committed to go to the United Nations seeking the use of force, if necessary, to achieve that limited goal.

If my friend from Virginia were participating here now I would ask him if that is not true, that the President is committed to use force, if necessary, to achieve the delivery of humanitarian assistance. It is clear that the President is committed to that goal.

But there is another goal in this resolution, an additional goal, one in which the President is not yet committed but which this Senate will vote on. That is the question of whether, in addition to urging the United Nations to put together an international force to achieve the delivery of humanitarian assistance, such a force would also be used, if necessary, to achieve access for the Red Cross to the camps where prisoners are being held in Bosnia.

That is the difference. That is what we are really going to be debating about, not whether or not we should go to the United Nations seeking the use of force, if necessary. The President is committed to that goal. It is whether or not, in addition to the goal that he seeks to use that force, if necessary, for the delivery of humanitarian assistance, we should add the goal of achieving access to the camps where there is credible evidence that a genocide has occurred and where there is credible evidence that the Red Cross has been denied access.

That is the issue.

What is the nature of the force that the United Nations would use? We do not decide that, nor should we, nor can we.

But the United Nations would hopefully decide soon.

Will we like the international force that is put together at the United Nations? Will we like our role in it? Our answer is, if we do not, we can veto it. But we cannot design that international force here. This resolution does not do it nor should it.

That has to be designed at the United Nations and if we do not approve of it, if we do not like our role in it, if it has any U.S. ground forces and we do not want any U.S. ground forces, we can veto it.

Why the camps? Why do we want to add the camps? That is the issue before us. Do we want to add that additional limited goal to the delivery of humanitarian assistance? Why do we want to do it?

Because there is a Geneva Convention which requires that the Red Cross have access to these camps. Every civil war does not violate international law. But the denial of access to a prisoner-of-war camp violates international law. It is because we believe that the United Nations must stand for something in terms of enforcement of international law and because there is credible evidence of mass executions going on right now in camps in Bosnia, that we believe that an additional limited goal is not only a legitimate use of international force but is a required use of force, an international force.

We have seen death camps and have seen genocides in Europe this century. We have had enough. If the United Nations will not act in this situation, in an area which could easily spread into another broad war in Europe, when will it act?

When will the United Nations act if it will not enforce international law now where there is credible evidence of a violation of that law in the camps?

I emphasize what our friend from Delaware has said, this is not an effort to urge the United Nations to involve itself in a civil war and to end it through the use of force. There are in this resolution two narrow military objections and goals, one of which has already been adopted by the President.

I think we owe a great debt to our friends from Virginia and Arizona, and others, for pointing out the necessity of having clear goals and a clear means to achieve those goals.

I do not know whether my good friend from Virginia will, at the end when this amendment process is over, be voting for this resolution or not. But, I know that in any event he has made a contribution by insisting that the goals be clear, that we know what we are getting into. The President presumably does, when he says he supports the use of force by an international U.N. body, if necessary, to deliver humanitarian assistance.

The Senator from Virginia has already proposed an amendment supporting the use of force to deliver humanitarian assistance, because his amendment says we support the President in what he has done, and I think the Senator from Virginia is correct in pointing that out. And I do support the use of force and I gather the Senator from Virginia does, too, because his amendment supports the President's action in going to the United Nations for a U.N. resolution which authorizes the use of force by all means necessary to deliver humanitarian assistance.

He has performed a function again in urging us on to the delineation of clear goals. There are risks in this course, Mr. President, make no mistake about it. There are risks any time we use force or urge the United Nations to put together an international force in order to accomplish the goal of a U.N. resolution. But there are greater risks in the United Nations failure to act, the risk of an ever-widening war in Europe and the risk of a genocide being allowed to occur in 1992 in camps where there is credible evidence of mass executions occurring in Bosnia.±

The resolution is carefully crafted. It is bipartisan. It is offered in the best traditions of this body, and I am proud to be a cosponsor of it.

I congratulate our friends Senator LIEBERMAN, Senator DECONCINI, Senator BIDEN, Senator PELL, and our leadership, Senator DOLE and Senator MITCHELL, for their effort in putting together this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. COHEN. Mr. President, I yield 10 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Maine yields 10 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I thank my friend from Maine.

I rise to indicate that I cannot support the resolution that has been offered by my friend from Connecticut.

Specifically, my objection deals with what I consider to be a limitation that this resolution would in fact place upon the President himself. If it was a binding resolution, it would be worse, but even as a nonbinding resolution it bothers me that we would begin to get engaged in these kinds of offerings at the very moment, it seems to me, when this body should not be looking for this kind of detailed specific restriction to place on the President.

For us to come to the floor and declare our support of the President taking military action, declare our support of the President taking multilateral action, for our opposition to what the Serbians are doing or any other sort of declaration seems to me to be entirely appropriate.

Mr. President, my fear with this kind of resolution in fact has come to pass as I have listened to this debate. It has been entirely too political. It has been entirely too political perhaps as a consequence of just the nature of any sort of political statement in a time period less than 100 days before a Presidential election.

Foreign policy, particularly today, Mr. President should not be reduced into partisan politics. I believe the Democrats have made a good-faith effort with this resolution to keep partisan politics out of it. But nonetheless partisan politics have intruded and they have deteriorated the quality of the debate, at the very moment when such a deterioration cannot be afforded.

There is a larger context for what is going on in Yugoslovia. I have heard some talk expressed that perhaps we should use a military strike force to liberate the camps in Yugoslavia. Mr. President, I think that is a foolish sort of suggestion.

I have heard some talk about the surgical strikes to destroy bridges between Serbia and Bosnia. Again, Mr. President, I think it is a foolish sort of suggestion; given the fact that we are not on the ground, we could provoke the very thing we seek to avoid.

It may occur that the Serbians say: Well, we will not do ethnic cleansing. We will simply clear everyone. Well, if we are not on the ground, we are not likely to be able to prevent that.

I do not hear anyone on this floor suggesting that we should move unilaterally on the ground, and I believe correctly so. We need not just to exhibit strength of the purpose, I think, but we need to exhibit clarity of purpose as well.

There are two moments of horror that are important for us as we have watched what has gone on in Bosnia. The first is the bombing of Sarajevo itself and the killing of innocent civilians on the streets of Sarajevo, so courageously reported by John Burns of the New York Times.

The second level of horror has in many ways much greater importance, and that is the idea of ethnic cleansing, the idea of camps incarcerating individuals. That is what led, it seems to me, to such outrage and such immediate response on the part of many Americans that something needs to be done.

The larger context and the importance of the United States of America responding to this ethnic cleansing I believe needs to be observed. The larger context is that we are now 229 days into the end of the Soviet Union. And though the Soviet Union has ended, the revolution itself is not over. The revolution moving the people of Russia and the people of the other former members of the Soviet Union toward democracy is much more important than what we sometimes focus on a great deal, and that is the economic reforms. We worry about the economic reforms, but it is the political reforms that are far more important.

The people of the newly independent States look to the United States of America as an example, and they do heed our words. This resolution is important for that very reason. They look to us as an example.

Our revolution of 1776, our democratic effort is what is important. And I say, Mr. President, that it is important for us to stand together as a nation, not politically divided in a political season, but together as a Nation against this ethnic cleansing, because it is entirely possible for it to spread to the East.

This is an idea, Mr. President, of a way to deal with an ethnic minority. It is the Serbians' idea of a way to deal with an ethnic minority: Get them out of the way. It is an idea that one could easily imagine transplanted into the Baltic Republics.

Mr. President, it is important for us to stand in a unified way against ethnic cleansing, convince the world and particularly those who would choose to do this horrible thing that the United States of America will stand united and undivided in opposing this kind of effort.

My fear, Mr. President—and I appreciate my friend from Maine yielding the time—is that this kind of resolution will make it more difficult for us to stand together on a very important issue of foreign policy.

I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor who yields time.

Mr. BIDEN. Mr. President, I yield myself 30 seconds.

I want to point out to my friend from Nebraska, for whom I have an inordinate amount of respect, that I was confused by his statement.

I would like to point out to him this is a bipartisan resolution. The Senate Foreign Relations Committee supported it, Republicans as well as Democrats. The acting ranking member, Senator LUGAR, is a cosponsor of the amendment. Senator DOLE is a supporter of the amendment.

So I am confused as to how all of sudden this became a partisan undertaking. Everything the Senator said I agree with, with regard to the need for a unified effort.

The purpose of this is to put us all on record in support of what the President indicated he intends to do, wishes to do, and is desirous of the United Nations doing.

So there is nothing partisan about this. This is bipartisan. And, I might add, there is bipartisan opposition to this.

So I yield the floor.

Mr. KERREY. Will the Senator yield me 1 minute to respond?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WARNER. Parliamentary inquiry, Mr. President. As I understand the pending business is the amendment of the Senator from Virginia, which is to be voted on in about 2 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. The Senator from Virginia has not yielded back his time under that amendment.

The PRESIDING OFFICER. The time would be forfeited when we reach the hour of 7:30.

Mr. WARNER. That is correct.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, how much time is remaining from the 10 minutes that were allocated to the Senator from Nebraska? How much time did he consume?

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. COHEN. Does the Senator wish to respond?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Thank you, Mr. President.

I appreciate the opportunity to respond, and I appreciate that perhaps I created some confusion with my observation that this debate has become politicized.

But indeed the conclusion that I have reached that it has been politicized is not as a consequence of seeing this resolution being offered just by Democrats. I understand and see it has bipartisan support.

But as I view it from the outside looking in, as one watches the evening news, the conclusion the outside world is reaching is that the Democrats are kicking the President, going after the President. I understand the distinguished Senator from Delaware has not done that.

I have not heard a great deal of people coming to the floor saying that the President is wrong. But, nonetheless, those words have gotten out and the appearance is that Democrats in the Senate are going after the President because of mistakes he has made in Yugoslavia. I am prepared to offer my list of mistakes he has made in Yugoslavia.

But it seems to me that at this critical moment unity is required. I appreciate the distinguished Senator from Delaware has attempted to create and hold unity in this debate.

I would observe for a variety of reasons beyond the control of the distinguished Senator from Delaware this debate has deteriorated into something other than what he intended.

The PRESIDING OFFICER. The hour of 7:30 having arrived, under the unanimous-consent previously agreed to, the vote is to occur on the amendment as offered by the Senator from Virginia. The question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 90, nays 5, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—90

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Chafee
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Warner
Wellstone
Wirth

NAYS—5

Byrd
Coats
Hatfield
Smith
Wallop

NOT VOTING—5

Burdick
Exon
Gore
Helms
Wofford

So the amendment (No. 2925), as modified, was agreed to.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Can we have the attention of our colleagues?

I believe there is a general inquiry as to how many amendments may be offered this evening. I am advised that the Senator from Kentucky [Mr. MCCONNELL] may have an amendment this evening; the Senator from Wyoming [Mr. WALLOP] may have an amendment this evening; each of which would——

Mr. PRESSLER. I may have an amendment.

Mr. COHEN. Require votes.

I believe the Senator from Arizona [Mr. MCCAIN] has an amendment which may require a vote; and the Senator from South Dakota [Mr. PRESSLER] has an amendment which would require a vote. So we have at least four or five measures this evening which may require votes.

Mr. BIDEN. Mr. President, the Senator from Colorado has an amendment, also. We may be able to work out something on accepting that amendment. But there could be additional votes.

I inquire of my colleagues who have these amendments, are they prepared to move? Is anyone prepared to move on amendment now?

Mr. MOYNIHAN. If I may say to the distinguished——

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. BIDEN. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, while we are discussing possible amendments, I would like to take just a moment to make a general point about the amendments which we just adopted, which congratulates and thanks the President for the measures he has taken so far in this regard. This Senator voted for it, and I am happy to see that 90 Senators did.

I see the Senator from Kentucky is on the floor, and it might be useful to some Members who are not of the Committee on Foreign Relations to know of our debate—it was hardly a debate; our discussion—of the resolution now before us.

It appeared to the Senator from Kentucky that there might be some intended criticism of the administration. And this Senator—and I think we had complete agreement on our side—said certainly not.

Under chapter VII of the U.N. Charter a sequence of actions is set forth whereby the world community can respond to acts of aggression by one state against another, which is the case before us in the Balkans in the aggression by the Serbian Government against Bosnia-Hercegovina.

The United States has supported in the Security Council measures under article 41, economic measures. There is a very considerable amount of doctrine about what can be done with article 41 sanctions: Cutting off mail, cutting off telephones, certain kinds of embargoes, certain kinds of financial actions.

The charter then goes on to say, in the next article, article 42, that if actions under acticle 41 have not brought about a cessation in aggression, the Council may then move to consideration of the use of force by air, land, and sea forces.

It speaks, as does this resolution, of demonstrations of force: flying over; taking out specific, identified, preannounced targets; a naval blockade; a blockade of oil, moving up the Danube by barge—Serbia having no oil save from the Adriatic and Dalmatian coast and barge traffic from the Black Sea.

I said to the Senator from Kentucky, that in our view, we were saying that article 41 not having succeeded, the United States would be correct in moving to consideration of actions under article 42. And we were trying, as a unified committee—and I hope a unified Senate—to say to the President: Yes, now is the time to move on to these next clearly more powerful measures.

And that is what the world awaits. That is what Margaret Thatcher said yesterday, on "This Week With David Brinkley." This is a defining, moral issue. This is the circumstance that Woodrow Wilson, in fashioning the League of Nations, anticipated and said the world community under law would respond to.

This is exactly the situation that President Roosevelt, Cordell Hull, and men of that age saw could come again, because it had come repeatedly all through the 20th century.

We have been mesmerized by the cold war and the notion of some great armegeddonic clash of ideological visions of a world system, one or the other. The reality of the 20th century has been, rather, of ethnic conflict from the first.

The First World War broke out in Sarajevo. Out of that First World War, total war came with the totalitarianism of the 1920's and 1930's, which persisted until a year ago. But all through that, in every one of those wars, ethnic conflict, the brutality of groups that cannot live together or will not live together, has been the source of world conflict. If you look around the world today, it remains such.

I am sorry.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time? If the Senator will suspend, who yields time?

Mr. BIDEN. I ask my colleague from New York how much more time he thinks he needs?

Mr. MOYNIHAN. Five minutes to make my point. I have more than made it.

Mr. BIDEN. I yield an additional 5 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, there are 171 states attending the Olympics. There will be 50 more in 50 years and, almost without exception, the new states will be formed out of ethnic conflicts within existing countries.

Learning to manage this evolution, learning to somehow teach the lesson that aggression, that genocide, that torture will not prevail, this is the defining moment at which we find ourselves. All over the former Soviet Union, there are ethnic conflicts going on now, heating up, cooling down some of them. All over central Europe, all over Africa, the same thing. We think of Somalia as a situation in which there is one nationality. There are, in fact, two distinctive clans in Somalia fighting an ethnic war. Today, 1,000 people died in Kabul, in the aftermath of the overthrow of the Communist Government there. What we have on the part of the Mujahidin is fierce ethnic battles between groups of Shiites and Sunnis, different languages, different territories, different histories, ancient enmities. It happens everywhere.

We are hardly spared this kind of conflict, although blessedly not in the form that takes place elsewhere in the world.

We are trying to learn our way. We know very little about this. The world community has never successfully managed such a conflict.

Now, after the two vast disasters of the World Wars, we have tried to set in place a mechanism that might do it. Here is the first chance we have. If we lose this, it will be the lesson of "Why die for Danzig?" The lesson of "Who cares about the Sudeten Germans if the Germans want them from Czechoslovakia?" Adolf Hitler smashed into Czechoslovakia under the banner of what he specifically said was Woodrow Wilson's principle of self-determination. The charter guarantees self-determination. The world does not know what that means and has not learned to bring it about with a measure of comity and peace and success.

That is all we are trying. It is not partisan. I have listened to our conversations in this matter throughout the last 2 weeks and I have not heard a partisan comment on our side. I hope there would not be any on the other side, because it is a bipartisan measure.

Finally, Mr. President, this measure comes to the Senate under the sponsorship of that most eminently fair and nonpartisan chairman of the Foreign Relations Committee, CLAIBORNE PELL, of Rhode Island, who was present in San Francisco in 1945 when we put these measures in place, measures we are trying to at last put into action.

Finally, Mr. President, as a measure of what we might have in mind, a very learned, experienced friend in New York—a Yugoslav by nationality, American by citizenship—has sent me two pages of suggestions regarding the Bosnian question, which I find wise, thoughtful, and prudent.

I ask unanimous consent that they be printed in the RECORD at this point for Senators who might wish to review them in the morning, and for the consideration of the executive branch when this resolution is adopted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOME SUGGESTIONS REGARDING THE BOSNIAN QUESTION

1. HUMANITARIAN REQUIREMENTS

(a) Secure several corridors for humanitarian aid, which can be delivered in required quantities only by land. This can be done through 20 kilometer wide corridors through the conflicted areas, safeguarded by a limited number of foreign military units (3000 troops per corridor) covered by air surveillance and support. One corridor could start from Zagreb through the U.N. Protected Area (UNPA) to the besieged northwestern region of Cazinska Krajina; the second from the Croatian border town Slavonski Brod to the Bosnian town Zenica; the third from Croatian port split (or Ploce), through territory controlled by Croatian troops from Bosnia to Sarajevo; a wing of the third route could be extended to the besieged town of Gorazde.

(b) Secure Red Cross inspections of the reported detention and concentration camps.

(c) Provide necessary humanitarian aid for the refugee centers in Croatia and in Bosnia, build new ones on the territory under the control of Muslim and Croatian troops in Bosnia and prepare them for the winter.

2. MILITARY ACTION

(a) Use of military force should be gradual and limited to selective targets and goals But it has to demonstrate a resolute military presence, such as overflights of NATO aircraft, air surveillance and electronic countermeasures, closing of air space for military flights from Serbia, Montenegro and Serb-controlled parts of Bosnia.

(b) If this will not stop aggression and atrocities by Serbian forces, Muslim and Croation Forces in Bosnia should be provided with military aid. At the very least, the weapons embargo which applies all across former Yugoslavia ought be lifted with respect to the Bosnian and Croatian forces in Bosnia who are defending against Serbian aggression. As it now stands, the Serbian forces, notwithstanding the embargo, have virtually an unlimited supply of weapons and munitions from stockpiles of the former JNA, the Yugoslav Peoples Army.

3. ULTIMATUM TO SERBIA AND MONTENEGRO

Serbia and Montenegro should be given a clear ultimatum to comply with Western demands regarding:

(a) immediate recognition of the neighboring states and their constitutional and internationally recognized borders;

(b) recognition of all principles and documents of the EC sponsored conference on Yugoslavia, which were accepted by all former Yugoslav republics;

(c) full cooperation in the return of refugees;

(d) cessation of Serbia's military and economic support for war against Bosnia and Croatia.

4. POLITICAL SOLUTION FOR BOSNIA

(a) Immediate cease-fire, with retaliatory actions against units breaking it.

(b) Support for the international peace conference, sponsored by the EC and the UN, which will strengthen principles, documents and achievements of the Lord Carrington conference on Yugoslavia, but which should concentrate primarily on building mechanisms of implementing and enforcing these principles and provide international guaranties for the listing regional security and cooperation.

(c) Introduce a comprehensive and international sponsored trusteeship (Namibian or Cambodian formula) until constitutional arrangements between three constitutive nations are reached and free elections in Bosnia organized.

(d) After these horrible hostilities the constitutional arrangement cannot rest on a unitary state, but will have to provide wide territorial autonomy of the regional (cantonal) units, including parity representation in the central government in Sarajevo. Muslims have to reject the idea of a unitary or Islamic state, while Serbs and Croats have to reject the idea of secession to Serbia or Croatia. Partition of Bosnia will lead to even bigger resettlement of the population and will be inconsistent with international law.

Mr. MOYNIHAN. Mr. President, I thank the managers of the measure, and I yield the floor.

Mr. BIDEN. Mr. President, I yield 10 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I do not plan to use the full 10 minutes, and I will summarize my remarks in the interest of others wishing to speak.

First of all, let me say I think we are at a defining moment in American history. We are now dealing with one superpower and numerous small states around the world. This situation will require a new approach in terms of diplomacy.

Some years ago, I gave a speech on the Senate floor about the importance of small state diplomacy. That speech was ridiculed, in fact, by some in the press. Today, however, we are entering an era in which we have many small states emerging. This is true, for example, in central Asia from which I just returned. We are now in a new era, a new order, whatever you may wish to call it.

One of the things we will have to do as part of this new order, if we are to maintain our position as the major power in the world, is to work with the United Nations or our allies in Europe, to establish the capability to use air strikes, or perhaps to have an international commando strike force to bring food and medical care into certain situations. If we fail in this, we will see one of these newly emerging countries establish itself as a superpower.

We can have 40 or 50 years of dominance in the world—time in which democracy can take root and grow, but we now have to work skillfully through the United Nations, and with our European and Japanese partners to promote what is right in the world. That is hard to do. One of the things we must do is recognize we are a superpower. We must provide leadership. That will cost us something in terms of money and lives at some point. Howevers, if we carry out such a policy carefully, it does not mean major land invasions, it does not mean major ground force utility. We have the technology and the air power to do much in the world. But it does mean working with the United Nations, and with other international groups in providing leadership.

I say that this is a defining moment in American history because we must learn to deal with a large number of small countries, both diplomatically and militarily. It is a new order, but it is in some ways much more difficult than the old order. To have diplomacy with small countries, you have to deal with them through ambassadors who can speak their language and who are specially trained. Rather than just dealing with a single superpower—such as a Soviet Union which took care of all 10 or 11 countries in the Soviet Union—you must deal now with 10 or 11 countries individually, each of which has different demands.

Mr. President, I find it strange that there is a resistance in the Senate to function on the situation in the former Yugoslavia. I want the Senate to be very active. I want the Senate to provide leadership. I think we need an activist role. That does not mean we are going to be invading a bunch of countries. However, we have to recognize that we have a new order, a new group of small countries to deal with, and we must go forward.

I also find it very strange here in the Senate, because—I guess maybe in a Biblical analogy—I would say the hawks have become doves and the doves have become hawks. Many of those I would have thought would actively support the resolution we are debating tonight appear reluctant to do so, while others I thought would oppose such a resolution strongly support its intent. That aside, I think we must carry out our international responsibility, and by that I do not mean invasions of countries or similar actions.

Some years ago when Lawrence Eagleburger was confirmed, I predicted what would happen in Yugoslavia if the United States followed its policies. During his hearings—and I am proud of this—I disagreed with U.S. policy as it then existed. My concerns proved to be well founded.

Recently, I visited some of the countries of central Asia, and the Jewish and Russian minorities there told me they were afraid. As in the states emerging from the former Soviet Union, we cannot send invasion armies into the former Yugoslavia, but we can influence the situation through our embassies by taking a strong stand. We can influence policies in all of these new small states through such things as the consideration and approval process of trade agreements, bilateral investment treaties, and tax treaties. We have a great deal of leverage as the great power in the world, and we should use it responsibly.

We also have considerable military power, without sending in a major land force. In addition, we have immense power in terms of economic sanctions. In the former Yugoslavia we could shut the Danube River down. We could establish a real embargo against Serbia. We could also have an international commando strike force supported by air strikes to ensure the relief supplies are delivered.

Many people, both in Europe and the United States, would volunteer and be active in these types of activities. I am not talking about drafting a lot of people, but I do know that with a commando force of 1,000 well-trained men supported by air strikes, you can accomplish a great deal in these situations. In fact, you can paralyze a country. I think we should take our responsibility.

Mr. President, I conclude by saying that whatever we do here, we have to recognize that in the new world order—a new world reality with many small states—the United States must take an activist role, diplomatically and otherwise. We have a world of small states with which to deal, and it is going to be tough to adjust.

I am not advocating great ground forces going here and there. We can manage without doing that. We should look upon our current actions regarding Yugoslavia as one of the examples of how that new world order will function. If we do not act, if the Senate does not act, then we will have failed our duty.

I yield my time.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 10 minutes to the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, let me first express my gratitude to the majority leader, to the Senate Republican leader, to the leadership of the Foreign Relations Committee, to my colleagues generally, for the fact that this debate is occurring, occurring not just as an amendment to an unrelated bill, occurring not with a pressurized time agreement, occurring earlier this afternoon on a more informal basis and now under a unanimous-consent agreement on a more formal basis, and in an extended and serious way.

This is a profound question that we are addressing, obviously, in terms of what is happening in Bosnia today. But also in terms of what the reaction of the United States and the rest of the world will be.

It was my pleasure to work with a group of colleagues—the Senator from Arizona [Mr. DECONCINI]; the Senator from New York [Mr. D'AMATO]; the Senator from South Dakota [Mr. PRESSLER]; the Senator from Michigan [Mr. LEVIN]; and others—in fashioning a resolution and working over the last 2 or 3 weeks to try to engender action on it by this Chamber as an expression of our moral outrage and an expression of the strategic national security interests of the United States of America.

So it is first with some sense of satisfaction and pride that I stand, that we are giving this question not just attention, but the serious attention and discussion that it deserves.

Mr. President, why should we be adopting this resolution? It is easy to say that there are many conflicts in the world, and this is a faraway place. What interest do we have? Well, much has been said about the moral interest that we have, and I agree we do. I read earlier today on the floor, and I will repeat it briefly, from today's New York Times: 300,000 increasingly desperate residents of northwest Bosnia, surrounded by Serbian forces, only because they are Moslem. Muslim Ibrahim Kozlica, who operates a cafe in Bihac says:

> They are trying to clear the area of Moslem people. I wanted to send my wife and children out, but there is no way. We are waiting for God to save us.

United Nations official Cedric Thornberry said:

> It is a human and political calamity just waiting to happen. It will require a major change in policy on the part of the Serbs, if that calamity is not to occur, and many of us have nightmares about it.

The commander of the U.N. military mission coming from a meeting with the local Serbian leaders says:

> They said they want to move all the Moslems out of Bosnia and replace them with Serbs. They really do not have any military objective. The shelling is directed to civilian areas to terrorize people.

Mr. President, I saw a quote that I had not seen in a long time the other day. I think it was in a George Will column, from F. Scott Fitzgerald, where Fitgerald said: "France is a land, Britain is a people, but America is an idea, a unique idea, a moral idea, a principled idea." And it is from that idea, no matter what else we are, that we ultimately take not just our purpose but our strength, and that idea of our uniqueness, our moral strength is tested here. That is the first reason, having seen and heard the outrages and atrocities that have been much discussed in this debate occurring in Bosnia, that we must act.

Second, the Senator from New York, with his characteristically superb historical analysis, has told us what we are dealing with here is ethnic conflict of the kind that can and will spread throughout what used to be the former Soviet Union if we do not act to stop it here.

Mr. President, comparisons have been made between this action and Operation Desert Storm—a proud moment, Operation Desert Storm, in America's military, diplomatic and moral history. We stood for a principle. But I suggest to my colleagues here this evening that what we are facing today in Bosnia is a test that is much more typical of those we and the rest of our allies will face in the post-cold-war world than was operation Desert Storm.

The course of what happened over the last year is clear. The Serbs, from the moment of dissolution of Yugoslavia, began to march, first into Croatia, taking perhaps a third of that country, until they were confronted with strength and then stopped; beginning to move into Slovenia, again confronted with strength and stopped; now moving into Bosnia against a people, the Bosnian Moslems that are effectively defenseless, with insufficient arms to meet the threat; Serbs moving with abandon where and when they want, doing to people the most brutal bestial acts, unresponded to.

Twice in this century, the United States has been tested by conflict in Europe, attempting repeatedly at the outset to turn away from it, not our business, let us go, only to find each time that we ended up inevitably being drawn into it and ultimately paying a much dearer price, certainly, in the blood of Americans.

I do not want that to happen again. This is the occasion in our national interest to send a message of strength to aggressors in Yugoslavia to stop the aggression. What does the resolution do? The resolution, as has been said, urges the President, urges the President to do what he has begun to do and has done, which is to go to the United Nations and seek authorization to use force to implement the decisions of the United Nations.

It leaves to the Commander in Chief what will happen after that. We have the veto at the United Nation. We reserve the right to determine what force will and should be used.

It is a message to the Serbs that we have had enough. Let us talk about this Serbian leadership of Milosevic. It does not enjoy unanimous support at home. Tens of thousands of citizens of Belgrade have been out in the streets demonstrating against Milosevic. The head of the Serbian Orthodox Church has spoken out against what is happening in Bosnia and Serbian aggression.

As I pointed out, each time forces confronted the Serbians they backed down. But in Bosnia they are moving with abandon and demolishing a people. It is time for us to send this message of strength. First, through humanitarian relief with the military force to protect it. Second, as the resolution requires, through the use of military force if necessary to gain access to these detention camps that we know and I have seen with our own eyes exist.

There are other parts to this resolution and they are important to stress. We ask the Security Council to review the effects on Bosnia-Hercegovina of the arms embargo imposed on all the states in the former Yugoslavia and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country.

Mr. President, I think everyone on the floor will agree here in this debate that we do not want American ground forces engaged in a civil war there. The truth is there are ground forces in that country today. They are ground forces of the Bosnian people, the Moslem people, but they do not have the arms to fight. Let us give them at least the wherewithal to put up a fair fight and hopefully help to bring the Serbs to the table, which is the goal that we have in this entire involvement.

Mr. President, it is with some pride that I note that this is a bipartisan agreement, a bipartisan resolution, and has been made even more so by the amendment we just adopted.

Finally, let me say this. Repeatedly Members have said on the floor here: "What do we say to Americans? Why should Americans care about this? Do Americans really care about it?"

I say yes, the American people understand that quote from Fitzgerald that I mentioned a few moments ago that while France may be a land and Britain may be a people, America is an idea. Americans understand and want to be a people that stands tall, proud of our moral strength, proud of our leadership of the world, and proud of the fact that we are willing to come to the aid of those in need along with our allies in Europe. And we are willing once again to stand up against aggression, because Americans understand perhaps in their wisdom better than ours here in this Chamber, as is so often the case, that we have something on the line in what is happening in Bosnia today. Our moral strength, our strategic interest, and ultimately our security. Because when we turn away, turn our backs on the acts that are occurring in that country today that we know and have seen with our own eyes, we diminish ourselves, we diminish the security in which we and our families want to live.

Mr. President, I am proud to be here in this Chamber to support this resolution. I hope and believe it will pass overwhelmingly and send a message of strength to the American people, a message of pride to the American people, and a message of will to the leadership of Serbia.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Maine.

Mr. COHEN. Mr. President, I yield myself 1 minute. Perhaps I could just alert my colleagues to where we are at this time. The Senator from New York [Mr. D'AMATO] has requested 15 minutes to speak on the general resolution. He has indicated he does not intend to take the full 15 minutes.

Mr. D'AMATO. Correct.

Mr. COHEN. Something closer to 5 minutes, as I recall. And following his presentation I do not know on the Democratic side.

Mr. BIDEN. Mr. President, there are those who wish to speak. But I understand our distinguished friend from Arizona has an amendment ready to go. We are ready to move amendments.

Mr. COHEN. As soon as Senator D'AMATO completes his remarks we will recognize Senator McCAIN offering an amendment, and we anticipate a vote on that amendment in a reasonably short period of time.

The PRESIDING OFFICER. The Senator from Maine has 3 minutes and 13 seconds remaining.

Mr. CHAFEE. Could I ask a question?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wonder if the managers of the resolution could do three things: One, tell us whether if they know how the Senator from Arizona will take on his amendment. Two, will he have a vote? Three, following that, what will happen? Are there more amendments coming up? How long do they anticipate this evening to take?

Mr. COHEN. I advise my colleague that the Senator from Arizona has reserved 1 hour equally divided. I doubt very much it will take 1 hour equally divided for his amendment, but I do anticipate he will request a rollcall vote.

Mr. CHAFEE. The next question is, What will transpire following that? Do the managers know?

Mr. COHEN. I am in position to say we anticipate possibly an amendment from the Senator from Kentucky and possibly one from the Senator from Wyoming.

Mr. CHAFEE. That is all going to take place tonight?

Mr. COHEN. That could take place tonight.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I say to our friend from Rhode Island there are a potential of five other amendments, but my guess is that this thing would roll out fairly quickly and there may only be one or two amendments that would require a vote, maybe one after this one, and then we would be prepared for one vote tomorrow and final. I think that is the hope. But that is not a promise.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mr. BIDEN. Surely.

Mr. LEAHY. Mr. President, we appear to be now in the hour that we are in sort of the Dracula form of legislation. We do not vote in daylight hours. We vote only after the Sun goes down, which I understand happens late in the summertime. We had a lot of talk and quorum calls earlier, and so on. We have a number of amendments. It would be nice if we could take them en bloc and vote them. The results would probably be the same.

Has there been any discussion? As far as many of these, it is difficult to tell the difference other than the difference in names of those who submitted them and those differences spelled out in the press releases of various ones who sent them, who are concerned as well as we are as to what happened there. Is there any possibility of having the vote on all these and start the vote at 7:30 or 8 o'clock tomorrow morning and vote them one after another?

Mr. BIDEN. In the interest of time, the answer is no. I could give a longer explanation. I share the Senator's frustration, maybe even a little more than he feels it, but the answer to the question is I think if we just keep moving on we may find that the time collapses very rapidly and we may get this finished.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I yield up to 15 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 15 minutes.

Mr. D'AMATO. Mr. President, I have difficulty understanding what it is that this body is in such a turmoil about in terms of enacting this resolution. It has taken so long for so many to have to work to even get it up for consideration, because people are going to filibuster it, do all kinds of things.

Let us understand it. This is a bipartisan resolution. This has been drafted by Republicans and Democrats who had input into it. The Republican leader has been part of it. This Senator and my colleagues on the Democratic side have had input.

Let me tell you what I am talking about specifically. This resolution pales in comparison to one that the Senate of the United States adopted by voice vote unanimously, one that was approved and worked over by the Foreign Relations Committee on June 11 of this year. And on June 12 it was accepted here on the floor and cleared by both sides. What do we find? All of a sudden my colleagues have found out that we are urging the use of force to see to it if necessary that the United Nations has the ability to enforce that which it sought, that which it was given, that which it was sworn to do, those mandates which it passed. Let me tell you and let me read to you just one portion of what we passed on June 12.

We said:

> Be it resolved that the Senate calls upon the President of the United States to urge the United Nations Security Council to direct the Secretary General of the United Nations to provide a plan and a budget for such intervention as may be necessary to enforce the Security Council resolution seeking cessation of hostilities in the former republics of Yugoslovia.

To enforce.

Now what is this namby-pamby nonsense and the conjuring up that the President of the United States, the Commander in Chief, that he is going to send our men on a death march? That is the kind of thing that we have heard, that he is not going to be guided by his military commanders. Shame on us for conjuring up the worst of the worse. And where is our moral leadership and responsibility?

How long do we have to wait? It was 10 months ago—10 months ago—when we saw Dubrovnik being shelled and bombarded and we got the killer to cease and desist for a while and his armies marched on, and it has been nothing but broken promise after broken promise, diplomatic effort, one after another, after another, has failed.

And he states the fact that we have failed to authorize the use of necessary force, to see to it the basic human rights are protected.

And let me tell you, unless we have a credible threat of a use of an international force, Milosevic will continue the rape, the murder, the ethnic purification and expand his aggrandizement for a greater Serbia. That is what is happening.

We do not have the guts and courage to come out strong and say, yes, Mr. President, we will support you; we want you to go to the United Nations, we urge you to urge them to stand up and to be counted in this very defining moment.

And I have to tell you, we will have more horror on our hands. And here is an opportunity for this country to stand up for an oppressed people who are Moslems.

It is rather important, because there are other areas in the world with large populations of Moslems that may look upon this as a very defining moment to say, yes, that maybe a world that does not believe and have the same religion that we do has the same value in the terms of the sanctity of life, and we can implore them and go to them when we see these ethnic conflicts which eventually will break out to use the same kind of moral discipline and to stand for what is right: Basic human rights for all, regardless of their religion, regardless of their ethnic background. And that is what we seek here.

Mr. President, I would ask unanimous consent to have printed in the RECORD a copy of the RECORD which indicates that on June 12, 1992, we adopted this resolution so that the resolution in its entirety may be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 330

Whereas continuing hostilities in the former republics of Yugoslavia are killing thousands of noncombatants, displacing hundreds of thousands of civilians, and causing massive destruction and starvation;

Whereas there is a threat of ever-widening conflict in the republics of the former nation of Yugoslavia, which conflict could extend to other nations in the region;

Whereas resolutions of the United Nations Security Council denouncing the hostilities in the former republics of Yugoslavia, and demanding that they cease, have not been heeded;

Whereas the United Nations Security Council, under Chapter VII of the Charter of the United Nations, has adopted Resolution 757, imposing sanctions on the Yugoslav government, and requesting that the Secretary General work to create a security zone to assure unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Herzegovina;

Whereas the United Nations Security Council may, under Chapter VII of the United Nations Charter, make plans for the application of armed force to maintain or restore international peace and security, and the United States and other permanent members of the Security Council may veto resolutions of the Security Council;

Whereas officials of the United Nations and the United States have not determined what resources would be required to enforce a cessation of hostilities and bring peace to the former republics of Yugoslavia and, specifically, to enforce Resolution 757;

Whereas knowledge of the resources and military forces needed for such a task would enable the United States and other nations to make an informed judgment about how to take such action;

Whereas the process of devising a plan and budget for such action could, in itself, signal greater resolve at the United Nations to take action; and

Whereas the United States cannot and should not be the world's policeman, but is the one nation with the moral authority and military strength to provide leadership at the United Nations for stronger international coalition efforts to enforce peace: Now, therefore, be it

Resolved, That the Senate calls upon the President of the United States to urge the United Nations Security Council to direct the Secretary General of the United Nations to provide a plan and budget for such intervention as may be necessary to enforce the Security Council resolutions seeking cessation of hostilities in the former republics of Yugoslavia.

SEC. 2. The Secretary of the Senate shall transmit this resolution to the President.

Mr. D'AMATO. I yield back my remaining time.

Mr. COHEN. Mr. President, I think we are making progress. I thank the Senator from New York. He did, in fact, speak less than 15 minutes, much to the surprise of the Senator from Maine. But I thank him very much.

As a result of that, I think we will be able to make more progress this evening.

Let me just review where we are right now.

The Senator from Arizona, I believe, intends to offer an amendment and take approximately 10 minutes to debate that amendment.

Mr. McCAIN. I say to my friend from Maine there are others who want to speak on the amendment. I may have to use my entire half-hour agreed to by the previous unanimous-consent agreement.

Mr. COHEN. Does the Senator at this point intend to proceed with the amendment?

Mr. McCAIN. Yes, if it is agreeable to the managers of the bill.

Mr. COHEN. And to ask for a vote?

Mr. McCAIN. Yes.

Mr. COHEN. I yield to the Senator from Arizona. I think he has his own time.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 2926

Mr. McCAIN. I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 2926.

Strike the words "giving particular considerations to the possibility of demonstrations of force," from section 1.

Mr. McCAIN. Mr. President, my amendment is a simple one, as was just read. It focuses on one of the many contradictions in the text and logic of the resolution before us. I find it hard to understand how this body is going to propose to authorize the use of force, or military demonstrations, and yet not really do so—as the statements made by the sponsors of this resolution indicate is the case.

What these sponsors are saying, and I have heard them say it throughout the day, is that we are authorizing the use of force but we are not really authorizing it because the President will have to come back to the Congress and ask for the use of force to be authorized. This makes some of us wonder what this resolution is all about.

One of the most egregious aspects of this resolution is the misuse of U.N. rhetoric regarding demonstrations. This is the part of the resolution which my amendment attempts to delete, and it is the most classic example of the consideration of the possibility of authorizing the nonauthorization of force. The resolution talks about demonstration of force.

Mr. President, the world will not see this as mere U.N. rhetoric. It will see this as a promise and a threat. Yet, I do not know why such demonstrations should succeed. I have not the foggiest notion why a flyover, as described by one of the authors of this particular piece of the resolution would succeed. I do not know why a naval blockade, taking out a mountain side or destroying a bridge should succeed. I don't know how anyone can refer to U.N. rhetoric on the one hand and threaten force on the other. This shows profound ignorance of the nature of a conflict which has been going on in the Balkans for hundreds of years and of the nature of this civil war.

Worse, this is exactly the same kind of vague rhetoric we heard in 1965. We said then that if we shell the Coast of Vin from North Vietnam, the Vietnamese will decide to quit. We said that if we launch limited air strikes into North Vietnam, then the Vietnamese will be so frightened so that Ho Chi Minh will call off the war.

Mr. President, far too often demonstrations do not work or lead to massive and sustained escalation. We cannot indulge in token action. We either go in with military force supported by the Congress and the American people or we do not.

One of my favorite military leaders is Gen. Maxwell Taylor. Gen. Maxwell Taylor, was Chairman of the Joint Chiefs of Staff under President Kennedy. He was the Ambassador of the United States to Saigon, and he was a World War II combat veteran.

Maxwell Taylor said that there were five criteria for military involvement. First, the objective of our involvement must be explainable to the man in the street in one or two sentences. Second, there must be clear support of the President by the Congress for the involvement. Third, there must be a reasonable expectation of success. Fourth, we must have the support of our allies for objectives. And, finally, there must be clear U.S. national interests at stake.

Mr. President, I do not see that this resolution or the contemplated use of force meets these criteria.

Let us take the first one. The objectives of the involvement must be explained to the man in the street. How can I explain this resolution, Mr. President? What we are saying is we are telling the President he can use force, but he cannot use force until the United Nations authorizes it, and he then comes back for a vote from the Congress of the United States. I am not sure the man in the street can really understand that. I am not sure I can.

Second, there must be clear support of the President by the Congress.

I have not seen support of the President by the Congress here displayed today. What I have seen is support for a resolution that says the President might use force under certain circumstances. But, whatever the outcome of this resolution, he still must come back to the Congress of the United States.

Third, there must be reasonable expectation of success.

Mr. President, where is the military expert, the proven military tactician or strategist, who can describe to me or the American people, a tactical and strategic plan for the use of force, or demonstration of force, that will bring about a successful resolution to this terrible tragedy?

Mr. President, Maxwell Taylor must be spinning in his grave. How in the world is a demonstration going to offer us a reasonable expectation of success.

Once again, I know this kind of language is viewed by some as harmless U.N. rhetoric, but that is not the message that we are sending to the world from the U.S. Congress. The message is we threaten demonstrations, without either really supporting them or dealing with the risks of escalation.

Mr. McCONNELL. Will the Senator yield?

Mr. WALLOP. Will the Senator yield?

Mr. McCAIN. I would be glad to yield first to my friend from Kentucky and then my friend from Wyoming.

Mr. McCONNELL. Mr. President. I say to my friend from Arizona, we discussed this demonstration of force language in the Foreign Relations Committee. It is reminiscent of the time when it was reported that President Johnson himself would pick out targets.

I just wonder, my friend from Arizona has had experience as a pilot in wartime. Who is going to pick out the site? Who is going to pick out the site? Where are these demonstrations of force going to occur? Does my friend from Arizona have any idea how this might be done and by whom?

Mr. McCAIN. I would say to my friend from Kentucky, if I could respond very quickly, I do not know. I have not the foggiest notion of what targets would be chosen or of why they would have the desired effect. I have heard talk we should bomb a powerplant outside Belgrade or we should take out a half a mountainside. There is a wide variety of options we can destroy, but it is unclear that striking at any of them will make things better, and such strikes could well make things worse.

One of the most enlightening readings I could commend to my colleagues on this subject is the Pentagon papers. In 1965, the then Deputy Secretary of Defense, a man named John McNaughton, recommended to Secretary of Defense McNamara and the President that if we shelled the radar installations at Vinh, Ho Chi Minh would get the message and would immediately stop supporting the Vietcong in south Vietnam. This reference to "demonstrations" may be drawn from U.N. rhetoric, but it is all too reminiscent of the logic that led us into Vietnam.

I yield to my friend from Wyoming for his question.

Mr. WALLOP. I say to my friend, he almost answered it. It seems to the Senator from Wyoming, this is sort of a typical bully boy posture that the United States could embrace for a policy.

Contrary to Teddy Roosevelt, instead of walk softly and carry a big stick, this would be walk with your overshoes on and carry no stick at all.

The signal that it sends is somehow or another that the United States is willing to do something as a demonstration but not willing to do anything that is consequential.

I have been quoting Clausewitz a lot. Machiavelli has a quote on this that is very useful to the Senate, and that is, "Never do your enemy a little harm."

A bully demonstration like that will do absolutely nothing but mobilize the intentions of people. Would the Senator agree?

Mr. McCAIN. I would totally agree with my friend from Wyoming.

One of the witnesses before the Senate Armed Services Committee tomorrow, a committee of which the Senator from Wyoming is a member, will be General McKenzie of the Canadian Army. He will testify before the committee. I strongly suspect that he will say in no uncertain terms that he sees no viable military option.

This is the person who is in charge of the U.N. peacekeeping forces on the ground in Sarajevo. This is a proven peacekeeper. I say to my friend from Wyoming that we have to listen to such people.

Mr. WALLOP. Will the Senator yield for one further question? Would it not be rational to suppose that what we have already had was a demonstration of force, with 15,000 peacekeeping troops on the ground? And unable to accomplish a mission that General McKenzie will describe?

Mr. McCAIN. I will say that is correct. I have already heard some estimates of the forces required by military experts on peacekeeping. I do not have the specialized expertise, experience, or knowledge to make such estimates, but there are those who do who say it will take 200,000 troops to bring security to the people of Bosnia. I do not know if that is true or not, but some military experts say that is the case.

I want to emphasize again, no one feels as terrible about this tragedy as the Senator from Wyoming, the Senator from Kentucky, and I do. We share the world's anger, sympathy, and concern.

The question is, Can we translate this sympathy, anger, and disgust into concrete action that will really help these people and not bring greater harm to them? Unless we have very specific plans, unless we have a U.N. commitment to employ a truly massive multinational force, and unless the world will stay the course, we may well make things worse.

I also suggest that our first obligation is to the young men and women who serve in our military who are the ones who will be sent into this quagmire. We must not use them in political or military experiments. We must not risk them unless our military experts are fully convinced that our actions will succeed.

Mr. WALLOP. The Senator, having been in harm's way more than most in this body, would, I think, be among the first to recognize that not only do you not want to send them in harm's way but you do not want to send them without having a clear purpose of what the ultimate goal of our presence is going to be. And a demonstration of force is not an ultimate statement of purpose; is that correct?

Mr. McCAIN. I certainly agree with my friend from Wyoming.

Let me say that I have made as many mistakes as any Member of this body. But I do remember in 1983 when I was a new Member of the other body, brand new, and I heard that we were going to dispatch young marines to Beirut, Lebanon, as a demonstration, as a peacekeeping force. I asked then, to do what? To secure the airport? Does this have a familiar ring?

At that time I went to the floor of the other body and I said we should not do this. They asked for peacekeepers. There was no peace. They said there was a strategy. There was no strategy. I am sorry to tell my friend from Wyoming that that time I was right. Over 200 young marines lost their lives because we put them in harm's way without a real strategy, without a real plan, and without a recipe for victory.

I am not prepared to see that happen again.

Let me make one other comment. It has been said several times on the floor that this is only a sense-of-the-Senate resolution. Its supporters have said that it really does not mean that much, that it is not binding, that it will not have the weight of legislation requiring the President of the United States or the United Nations to do anything.

I think that reasoning badly underestimates the impact on the world of taking such an action and of a vote taken by the Senate of the United States of America.

The media reports throughout the world will not be that we passed a nonbinding sense-of-the-Senate resolution. The media reports will be: "United States Senate calls for the use of force in Bosnia."

Mr. President, we are not actually prepared to use massive amounts of force if we do not have a plan, and if we do not have a strategy, we should not pass this resolution. Most of all, we should not pass it unless we have the full support of the military leadership of this country. We need to hear their views, as the Senate Armed Services Committee will do to some degree tomorrow. We need their views on what our options are, how we can execute them, and what prospect we have for success before we enact this resolution. We must not send America's young men and women into harm's way without their advice and support.

I yield to my friend from Kentucky.

Mr. MCCONNELL. I commend my colleague from Arizona for his observations. Could it not be argued that big countries, real superpowers, really cannot afford to bluff? What would be the effect if we passed this resolution, demonstration of force, and then we did not do it?

Mr. MCCAIN. I think I could list for my friend from Kentucky a few of the other times in history when bluffs, demonstrations, promises, and unmet commitments failed: Ethiopia, Spain, the Sudetenland, Manchuria, China, Czechoslovakia—between the wars, Hungary in 1966; Rolling Thunder in Vietnam, and the multinational force in Lebanon. These were all cases where we either threatened military action we did not take, or halfheartedly used military force, and ended up with tragic consequences. In all of these cases, the consequences were tragic for the peoples and nations that we were attempting to assist. In several, they were tragic for America's fighting men and women.

Mr. MCCONNELL. I just want to thank my friend from Arizona. This is an amendment right on the mark and I commend him for enlightening us as to the past history when we have tried this sort of thing, and laid out for us, as skillfully as anyone has, that this is clearly the wrong path for us to be going at this point.

Mr. MCCAIN. I thank my friend from Kentucky. I would also like to thank him for his active participation in this debate, both on the very important Foreign Relations Committee and on the floor.

Mr. President, I ask my friend from Delaware a question. This is, I do not intend to call for a vote on this amendment because I think the hour is late. There is important debate to be addressed on the issue of the many other amendments.

If and when the Senator from Delaware is prepared to do so, I will ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will yield back my time in about 2 minutes. Just let me start off by saying I would like to compliment my friend from Arizona, because if anyone understands what it means to blithely commit a young woman or man to battle—whether it is demonstration, peacekeeping, anything—he does. It does not matter to a family, God forbid, if the young woman or man that is taking out the bridge or participating in the demonstration, et cetera is killed—a death is a death is a death. A war, is a war, is a war.

The Senator from New York, Senator MOYNIHAN, was the one who suggested we add this language. I wanted to—in fairness to the Senator from New York—point out to my colleagues where the phrase "demonstration" came from. It is a term used in the U.N. Charter.

Let me read article 42 of the U.N. Charter. It says:

> Should the Secretary Council consider that measures provided for in article 41 would be inadequate—

That basically relates to sanctions—economic sanctions, and the like. Should they prove to be inadequate, the Security Council—

> may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such actions may include demonstrations, blockade, or other operations by air, sea, or land forces of members of the United Nations.

The point here, is that the Senator was using a term of art as blockade is a term of art used in article 42.

When the Senator from New York was referring to blowing off the side of the mountain, it was in the context of what General MacKenzie, head of the U.N. forces, who was quoted here today, says:

> It is easy to find the weaponry, the heavy weaponry.

One of the debates on this resolution was whether we could take out the language referring to heavy weaponry. And the point the Senator from New York was making was that the heavy weaponry is located in the mountains around the airport. He was referencing taking out, destroying, the heavy weaponry if it meant blowing off the side of the mountain, heavy weaponry that General MacKenzie says is easy to find.

I do not want to take issue with my friend from Arizona, who knows much more about the difficulty of taking something out by air than the Senator from Delaware would ever know. I do not pretend to even put myself in the same league.

But what was being discussed here was this notion of demonstration as a term of art under the U.N. Charter.

One other thing I should point out, as well, is it is argued that demonstrations have never worked. I might point out, I was the one, along with my friend from Arizona, who was, in the early 1980's arguing against putting the U.S. Marines in Beirut. It was the Biden resolution on the floor of the Senate that tried to stop sending those Marines, because there was no clearly defined purpose, in my view, and in the view of the Senator from Arizona.

Here, whether the Senator would agree or not, the attempt in this resolution is to clearly define two missions. Granted, they could be broad missions. One is to bring in humanitarian aid; and two is to gain access to the camps, the prisoner-of-war camps, the detention camps, for the Red Cross. So the attempt, at least, is to define it more clearly.

Last, it is not the United States who would authorize the use of force; it is the United Nations that would authorize the use of the force under a U.N.-led coalition, if force ultimately was used. We would however, still have to approve U.S. participation in that force.

So, again, in the interest of time, let me again compliment my friend from Arizona. It is a very legitimate concern.

But I want to make it clear that my friend from New York did not take lightly the notion that American lives are at risk if any demonstration were to be used.

I yield the floor.

Mr. MCCAIN. Mr. President, before my friend from Delaware yields, my colleague from Indiana had wanted to comment. So before I yield back and withdraw, I would like to recognize my colleague from Indiana for 7 minutes.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fifteen minutes, four seconds.

Mr. MCCAIN. I would like to yield 10 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. COATS. Mr. President, I thank the Senator from Arizona for the time. I want to explain a couple of things.

One, my vote on the previous amendment. It was not easy for this Senator from Indiana to come down here and vote against an amendment that supports the decisions made by the President of the United States on August 6 relative to this issue. I did not want to do that, because I believe I have a pretty good understanding of what the President is trying to do and what he believes it is not possible to do. I think we are pretty much in accord on that.

But I voted against that because I have concerns about some of the language in the statement made by the President, that might involve the use of U.S. troops in supporting a U.N. resolution to provide humanitarian relief to those who desperately need that humanitarian relief.

I think it is important to note, I doubt that there is any Senator in this body who does not share the deep concern over the plight of those refugees and those suffering from the fighting going on in what we used to know as Yugoslavia; and the agony, as we watch day to day, and the memory of a situation that occurred before my lifetime—in the lifetime of many here—but is fresh in all of our memories, and burned and etched into our memories, of a so-called ethnic solution, ethnic cleansing, final solution that will be a blot on the stain of humanity for as long as the world exists. We are agonizing over that.

And no one objects to the goal which this resolution seeks to achieve. We want to stop the fighting. We want to get relief to those who are suffering. And we want to bring peace to this region.

The question, though, is not whether or not we care or whether or not we agonize or whether or not we want to do something. The question is, How do we achieve this? And what is involved in achieving this?

In that regard, the President's statement on August 6 is important, because I think it outlines the complexity and the difficulty of doing this. I quote from that statement:

> The war in Bosnia-Hercegovina is a convex, convoluted conflict that grows out of age-old animosities. The blood of innocents is being spilled over century-old feuds. The lines between enemies and even friends are jumbled and fragmented.
>
> Let no one think that there is an easy or simple solution to this tragedy. The violence will not end overnight. Whatever pressure and means the international community brings to bear, blood feuds are difficult to resolve and any lasting solution will only be found with the active cooperation and participation of the parties themselves.
>
> Those who understand the nature of the conflict understand that an enduring solution cannot be imposed by force from outside on unwilling participants, and bringing peace to the Balkans will take years of work.

Mr. President, I believe that statement to be absolutely true. The information that I have received as a member of the Armed Services Committee, the intelligence briefing that I have received, fully indicates that what I just quoted from the President's August 6 statement is absolutely true.

The question that we have to answer in seeking this resolution is what is the ultimate end of this, and what are we committing, and what are we asking the United Nations to do, and what consequences will it have for this country, and particularly for men and women in uniform in this country?

The question is, Are we willing to commit U.S. troops to the situation in Croatia, Bosnia, and surrounding areas? Are we willing to do that? Because even if you say this is only for humanitarian purposes, it is impossible to deliver relief supplies, food and medicine, to those suffering in this region without committing forces to do so. Just to fly in the material into Sarajevo requires securing the airport. And securing the airport, by many estimates, will require two divisions.

Let us say it requires two companies. Let us say is requires one platoon to secure the airport at Sarajevo so that we can fly in a C-130 and unload supplies, humanitarian supplies. Are we willing to commit one platoon to that effort? And then we have to load those on the trucks, and we have to take them to all parts of the war-torn region.

Are we willing to put those in trucks and send American soldiers in those trucks and drive them through the mountains, so that we can deliver those supplies? That is what is at issue here.

It is not a grandiose goal, providing humanitarian aid. We all want to do that. The question is: How do we do it, and does it involve U.S. troops?

No other country is rushing forward to commit their troops. No other nation is rushing forward to say: Oh, we will take up the call. No; it has to be a unified effort, and everybody has to participate in it.

To be sure, there will be U.N. troops from other countries.

Does anyone here believe that U.S. troops will not be involved? Does anyone here believe that U.S. C-130's will not land at the airport? Does anyone believe that Marines will not unload supplies for those troops?

Mr. President, I voted and supported the effort to send the Marines to Beirut. I was in the House of Representatives, when my friend from Arizona was saying, "I have been there; it is a mistake; there is no defined objective; there is no strategy; we are sending them there on the hope that their presence will bring about peace." I supported that policy. Then I traveled to Beirut, and I spent 4 hours at that airport. A helicopter dropped Congressman WOLF and myself off. There was not a marine there who was willing to come out on the tarmac to meet us. They probably thought, what are these two stupid Congressmen standing out there on the tarmac for?

But I was so concerned about my vote and so concerned about what I might be subjecting our marines to, and based upon the reports I was reading, I was beginning to think maybe we had made a mistake. There I stood on the tarmac, and a marine was waving at me saying, "Get down, get down. Crawl in this foxhole, crawl in this barricade." They were not willing to run out and even escort us there. These are Marines.

That 4 hours I spent on the ground, including time standing in front of a destroyed barracks at which more than 200 young men in our uniform were killed in their sleep through a truck bomb, convinced me that I would never again put U.S. troops in a situation where there was not a clearly defined objective, where there was not a clearly defined strategy, where we know exactly what our mission was and we had the means to secure the safety of those troops.

Now, I have asked some people who for a living make decisions about what it takes to secure those troops. They have told me that it may take up to as many people as we sent to the Persian Gulf to protect troops that are stationed and moved in for the purpose of providing humanitarian efforts and humanitarian relief to suffering people who need the relief.

Are we as a Senate willing to do that? It is easy to pass a resolution saying we want to end this agony. It is very difficult to translate this into actual policy, actual tactics, actual strategy. At the very least, I hope my colleagues will wait until the Armed Services Committee meets tomorrow—and I invite all 100 Senators to come to that meeting—and listen to what our commanders are saying relative to what it will take to accomplish this particular mission, not the mission of ending the fighting, not the mission of ending the bloodshed, just the mission of delivering a carton of relief, of medical supplies or food supplies to those who are suffering.

What is it going to take to do that, to run that truck through the mountain roads to the back outposts? What is it going to take? And how many car bombs is it going to take and mortar shells fired from areas where we are not sure where they are coming from, or missiles fired at U.S. planes or a missed bombing so that a school is hit instead of a strategic installation? How many of those incidents are going to have to happen before we say, here we are in another quagmire; here we are in another Beirut; no defined mission, dribbling it in, plane by plane, troop by troop, hoping not to get everybody worked up by sending divisions and ships to provide the protection, hoping for the best, fearing the worst.

We need to look to the end of this resolution, not the beginning, because we are starting down a slippery slope that we have been down before, and I do not think we should go down it again.

The PRESIDING OFFICER (Mr. SIMON). The time of the Senator from Indiana has expired.

Mr. COATS. I thank my friend.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my friend from Indiana.

To reinforce his views, I would like to mention for the record that Serbia has over 1,500 tanks, over 2,000 heavy artillery weapons, over 1,500 other armored vehicles, and I have no idea how many more mortars and small arms and RPG's, weapons of war that would be aimed and fired at American troops under certain circumstances.

Mr. President, at this time I ask unanimous consent, if it is agreeable, to withdraw my amendment.

The PRESIDING OFFICER. The Senator withdraws his amendment.

The amendment (No. 2926) was withdrawn.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I thank my colleague. Let me say—and I am not being gratuitous—I respect the passion and concern of the Senator from Indiana, and I think we are better for him having spoken on this issue. I would, in another context, maybe on the bill itself, argue it does not do quite what he says. He is, it may be presumptive of me to say, approaching this issue as we all should approach this issue and not take it lightly, and I compliment him on his concern.

Mr. President, my distinguished colleague, Senator COHEN, managing the time on the Republican side of the aisle, indicated to me, as he had to step off the floor for just a moment, that he is prepared to yield 15 minutes, I believe. Is that correct?

Mr. McCONNELL. I say to my friend from Delaware, to his relief, the Senator from Kentucky will not be offering the amendment which I had an opportunity to offer under the UC agreement. Instead, I will take 15 minutes on the bill.

Mr. BIDEN. So the Senator from Maine has instructed me to yield on his time 15 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 15 minutes.

Mr. McCONNELL. Mr. President, first, I commend the Senator from Indiana. I just had an opportunity to listen to his remarks this evening. I think he was right on the mark. His own personal experience with the fiasco in Beirut I think added a great deal to the debate.

Mr. President, we are cleared not interested, it seems to me, in taking sides in what used to be Yugoslavia. I want to point out that one of the Members of Congress is a Serbian-American, Congresswoman HELEN BENTLEY. Congresswoman BENTLEY called me earlier this evening just to make a couple of points in the hopes that we can keep this debate at least somewhat balanced in terms of the views of those in this country who are Serbian-Americans.

She points out that while we have focused on detention camps of Bosnians, there may be another untold story. Serbian Orthodox bishops in the United States have called attention to 22 concentration camps holding Serbian civilians. Congresswoman BENTLEY has submitted a list of the villages and camps under siege where Serbians, it is alleged, have been murdered or starved.

Mr. President, I do not know, frankly, the veracity of this, but Congresswoman BENTLEY, a respected Member of Congress, has passed this on just to provide some balance in the debate on these items, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DETAILS OF CONCENTRATION CAMP SITES AND DETENTION FACILITIES USED FOR THE IMPRISONMENT OR EXTERMINATION OF BOSNIAN-SERBS

1. LIVNO: The camp is situated in the fortress in the Old Town. About 300 Serbs are imprisoned.

2. DUVNO: The camp is located on the site of a former secondary school in the village. About 500 Serbs are detained.

3. RASCANI: All the Bosnian-Serbs from this village are blockaded without any food or medical supplies.

4. BUGJNO: The home of a murdered Bosnian-Serb (Relja Lukic) is being used to detain an unknown number of Bosnian-Serbs. In addition around 700 Bosnian-Serbs are detained in the "Slavko Rodic" factory in the town.

5. JAJCE: In the old Fortress about 300 Bosnian-Serbs are detained.

6. BIHAC: In the "Jedinsrvo football stadium" about 900 Bosnian-Serbs are detained.

7. ORASJE: About 100 Bosnian-Serbs are detained in a concentration camp under the command of Pero Vincentic from V.Donje Mahale.

8. ODZAK: 3,000 Bosnian-Serbs; 400 aged from 18–70 are kept in the elementary school under the control of camp commander Mijo Barisic; 150 men and women in the "Stolit" company; 1,500 women and children in Novi Grad; 59 in the elementary school in the suburb of Poljari; 300 in the former military depot in V. Rabici.

9. POLJARI: Up to 100 Bosnian-Serbs were moved from the concentration camp of V. Poljari and V. Rabic towards Bosanski Brod. Here Mr. Fuad Alijagic was ordered to bury executed Serbs with a mechanical digger in the Moslim graveyard near the hospital of Odzak.

10. KONJIC: 3,000 Bosnian-Serbs are detained in the "Ivan" railway tunnel above Bradina.

11. HADZIC: A substantial but unknown number of Bosnian-Serbs are detained in the cultural centre in Pazari.

12. ILIDAZ: In Hrasnica near Ilidza women and children are being detained, in numbers not possible to establish, shrieks can be heard from the nearby Bosnian-Serb controlled territory.

13. TUZLA: 4,000 Bosnian-Serbs are detained in the "Tusanj" stadium.

14. SARAJEVO: 6,000 Bosnian-Serbs are detained in a variety of locations including; "Kososvo" football stadium, Zetra railway station, the womens prison, the Mladen Stojanovic student hostel, the Viktor Bubanj barracks the 25 Maj childrens home in Syrakino Selo, The Sipad storehouse and the central prison which comes under the command of the notorious criminal nicknamed "Ceb."

15. ZENICA: 2,000 Bosnian-Serbs are detained in the Penitentiary of which there are confirmed reports of 100 already killed.

16. B.BROD: 400 Bosnian-Serbs detained.

17. JABLANICA: 500 Bosnian-Serbs detained at V. Celebici near the Jablanica Lake.

SOME TYPICAL EXAMPLES OF MASSACRES CF BOSNIAN-SERBS BY UNITS OF THE CROATIAN ARMY IN B-H AND THE BOSNIAN TERRITORIAL DEFENCE

KUPRES: In the town of Kupres, by the beginning of April, 52 Bosnian-Serbs had been murdered. The principle methods of execution and mutilation were the severing of heads or the extraction of the brains of living victims. In addition mallets were often used to smash skulls.

Prior to death it was common practice to gouge out eyes, cut off ears and break both arms and legs of victims.

An unidentified number of Bosnian-Serbs were murdered around the village of Gornji Malovan near Kupres. The corpses were buried in a mass grave on Borova Glava. We are now in possession of proof, in the form of photographs, video tapes and tape recordings which can be produced.

BRATUNAC: On 21 May 1992, in V. Derventa, a Moslem TD unit under the command of Hedib Sulejmanovic massacred Bosnian-Serbs from the village. They slaughtered 31 people, mainly old age pensioners, women and children. This Bosnian-Serb village was then burned to the ground.

GORAZDE: In the village of Vukasinovici a Moslem TD unit under the command of Suad Hamzic slaughtered 8 Bosnian-Serbs: Veljko Vukasinovic (72), his wife Danien Vukasinovic (60) Vukasin Vukasinovic (90) his wife Boza Vukasinovic (75), Milorad Vukasinovic (78) and Grozda Vukasinovic (56) the wife of the only survivor Perko Vukasinovic. Following the killings the assassins who also included Ferid Aganovic and Ibro Salispahic, burned the family homes together with the corpses.

LELECI: The night after the Vukasinovic killings the same team slaughtered 9 Bosnian-Serbs in the small village of Leleci and burned their homes.

MOSTAR: On 26 May 1992 units of the Croatian Army attached the Bosnian-Serb villages of Raska Gora and Bogodol on the outskirts of Mostar. Here they slaughtered 200 Bosnian-Serbs and burned down the village.

CEMERNICA: On 2 June 1992, units of the Moslem TD from Olovo and Kladanj killed 32 Bosnian-Serbs in the village of Cemernica. These included seven from both the Trifkovic and Bunjevac families, six from the Petrovic family and twelve members of the Damjanovic family.

One young man was burned alive in a stable before the entire village was ignited.

Only one young woman escaped, but needed to be detained in hospital for 20 days and has subsequently had a complete nervous break-down.

She was able to describe the way in which the villagers were first executed and then their bodies were mutilated with axes, picks and shovels.

CRKVINE: On 15 June 1992 units of the Moslem TD attacked the following villages; Crkvinje, Opaci, Orahovica, Bibici, Biogor, Turija, Podrid, Postolje, Darasnica, Crni Vrh, Karno., Grubanovici, Jasenova, Spat and Cicevci i Bukova Glava. All these villages were plundered and the entire population massacred. All the houses were set light and burned to the ground.

The same unit then attacked Bosnian-Serbs in Pribicevac whilst they were attending a funeral. Most of those were old women and children. The total death toll amounts to more than 400.

SREBRENICA: On 21 June 1992, Moslem extremists attacked the remaining five Bosnian-Serb villages around Srebrenica: Dvorista, Ducici, Polimac, Gornji Raikovici and Donji Ratkovici. In those villages not a single Bosnian-Serb was left living and all the village buildings and houses were destroyed by fire.

ZITOMISLICI MONASTERY: During the last ten days, the Croatian Army in Hercegovina has burned down the Serbian-Orthodox monastery of Zitomisici and 14 more Orthodox churches in the Nererva valley, whilst at the same time they slaughtered all the villagers of Prebilovci and burned down the entire village.

The data on the aggression of the Republic of Croatia against Bosnia & Hercegovina is not yet complete and is very difficult to compile due to the ever increasing flood of new Croatian battle units flowing across the border into Bosnia & Hercegovina.

The area of Bosanska Posavina and Hercegovina are particularly heavily occupied and it is our fear that it is in these areas that the genocide is the greatest.

There is an abundance of documentation on aggression by the Republic of Croatia against Bosnia and Hercegovina and the ongoing genocide. The blockade placed on Yugoslavia makes it very difficult for us to reproduce this material, however, it is available for the world to inspect and check.

"ETHNIC CLEANSING" AGAINST BOSNIAN-SERB VILLAGES AND TOWNS

Following reports that Bosnian-Serb forces were engaged in a policy of "ethnic cleansing" as part of a political and racial process, a claim that is strongly denied, the following document offers evidence of a sustained policy of intimidation, persecution and forced eviction of Bosnian-Serbs.

1. KUPRES: The entire town of Kupres and the villages of Gornji and Donji Malovan have been completely destroyed and burned to the ground.
2. BUGOJNO: The village of Perna comprising 100 Bosnian-Serb households was completely destroyed by fire.
3. BIHAC: All Bosnian-Serb households under the control of the Moslem Territorial Defense Force have been looted and plundered.
4. BRCKO: The Bosnian-Serb villages of Bijela and Cerik have been burned to the ground.
5. ZWORAIK: The Bosnian-Serb village of Boskovici has been burned to the ground.
6. KALAGIJA: The Bosnian-Serb village of Dubica, Zole and Juginov Kuk have been destroyed.
7. ZIVINICE: The Bosnian-Serb village of Brnjica has been burned to the ground.
8. KLADANJ: The Bosnian-Serb villages of Matijevici, Olevei, Vranovici, Gradine, Miadovo, Brdijell, Oberveac, Pajici, Kovacici, Pjevor and Stupari have all been completely destroyed.
9. ROGATICA: The Bosnian-Serb village of Starcici has been completely burned to the ground.
10. MORTAR: The Bosnian-Serb village of Ruska Gora and Bogodol have been totally destroyed by fire.
11. BRATUNAC: The Bosnian-Serb village of Derventa has been totally destroyed.
12. KONJIC: The Bosnian-Serb village of Bradina has been destroyed by fire.
13. N. TRAVNIK: The Bosnian-Serb villages of Trnovac and Opare were demolished.
14. VITEZ: The Bosnian-Serb village of Tolavici was destroyed.
15. OLOVO: The Bosnian-Serb village of Cermernice was burned down.
16. SREBRENICA: The Bosnian-Serb villages of Crkvine, Opaci, Orchovica, Bibici, Biogor, Takija, Podrid, postolfe, Garasnica, Crni Vrh, Karno, Crubanovici, Jasenova, Spai, Cicevci, Pribicevac, Dvorista, Ducici, Polinci, Gornji Ratkovici, and Danji Ratkovici were burned down.
17. BASANSKI: Brod The Bosnian-Serb villages of Stjekovac and Novo Selo were demolished.
18. SARAJEVO: All Bosnian-Serb households have been plundered and all Bosnian-Serb homes in the suburb of Pofalici have been burned to the ground.

The list of totally destroyed villages and villages totally "cleansed" of Bosnian-Serbs is not complete and we are only in a position to confirm 70 such places.

BOSNIAN-SERB TOWNS AND VILLAGES WHERE THE SERB POPULATIONS HAS BEEN DISPLACED OR "CLEANSED"

In addition to the entire population of all Bosnian-Serb villages that were burned down, the following Bosnian-Serb villages have also been totally de-populated of Bosnian-Serbs by force.

The Municipality of:

1. Srebrenik: V. Spionica, V. Podpec, V. Jasenica.
2. Gradacav: V. Srnice.
3. Lopare: V. Breza, V. Miladici, V. Sibosnica, V. Visori.
4. Tuzla. V. Konjkovici, V. Kovacica, V. Pozarnico, V. Simin.
5. Han: V. Kovacevo Selo and V. Caklovicic.

All Bosnian-Serb villages in the following municipalities have been totally destroyed and "cleansed" of Bosnian-Serbs. The remaining population are either Moslem or Croat.

1. Zininice, Banovici, Kladrnj, Srebrenica (apart from Skelani), Modrica, Gracanica, Kresevo, Busovaca, Vitez, Novi Travnik, Travnik, Zenica, Gornji Vakuf, Olovo, Breza Kakanj and Vares.

MILITARY INTERVENTION BY THE REPUBLIC OF CROATIA IN THE REPUBLIC OF BOSNIA AND HERCEGOVINA

There is little doubt about the aggression instigated by the Republic of Croatia against the Republic of Bosnia and Hercegovina. Every day regular units of the Croatian Army enter the territory of Bosnia and Hercegovina. There are now full battle units of the Croatian Army in Bosnia and Hercegovina performing combat missions against Bosnian-Serb forces.

According to estimates from London, some 40,000 Croatian soldiers, in uniform are now occupying territory in Bosnia and Hercegovina.

In particular the following formations and personnel are present in the territory.

1. "Bruno Basic" regiment under the command of Ciro Crubisic, is active in the Posusje region.
2. The Second CA (Croatian Army) Battalion was transferred from Arzan to the Hutova region of Hercegovina where it has seen active service.
3. An independent CA Brigade known as the "King Tomislav Brigade" is operating in the Mostar area under the command of Mate Sarlija, nicknamed Daidza.
4. The First Croatian Army Brigade (an elite CA formation specializing in offensive action and formed in Zagreb and entirely staffed by professional soldiers) is currently in the boarder area of Zaplanik and Uskoplje and moving towards the Serb populated region of Trebinje.
5. Battalions from the fourth CA Brigade (formed in Split) is in the vacinity of Mostar.
6. The 128th CA Brigade (formed in Gospic) is currently engaged in combat action in Western Hercegovina.
7. Part of the 203 CA Brigade (formed in Vukovar) is now performing a combat role in Hercegovina having moved from the Kupres battlefield.
8. An independent CA Battalion (formed in Zadar) is located in the area of Siroki Brijeg near Citluk.
9. An independent CA Battalion (formed in Trogir) is located in the area of Neum near Metkovici.
10. 111 CA Brigade (formed in Brinja) is currently active in Hercegovina.
11. 116 CA Brigade (formed in Metkovic) is currently engaged in active service in Mostar.
12. 118 CA Brigade (formed in Makarska) is stationed in the area of Ploce.
13. The Independent Battalion of "Francopan" (made up of foreign mercenaries trained in Kumovor near Zagreb) is now located in Hercegovina. Mario Pesa a United States Citizen of Croatian extraction was arrested whilst sabotaging military aircraft. He is still in detention. It was learned that the unit was formed to engage in terrorist and sabotage activity deep behind lines and that the slogan of the unit is "no prisoners".
14. Parts of the 115 CA Brigade are still in the Hercegovina theatre of operation.
15. 2 CA Brigade (formed in Dugo Selo near Zagreb) is performing combat action on the boarder with Trebinje under the command of Boris Jastovic.
16. 163 Brigade is currently performing combat action in the Trebinje boarder area. Attack orders were intercepted on 30 June 1992 which detailed clear offensive strategy beginning with 2 Brigade of ZNG forming a development line from V. Bujici, V. Martinovici, V. Gornil Bragat and V. Knezica. These are followed by clear strategic objectives.
17. 163 Brigade is backed up, to it right flank, by a defensive force with orders to fiercely defend all positions taken by the 2 Brigade and to keep some forces in battle readyness for offensive action in the direction of V. Petraca, Zvijezda, Rupni Do and V. Glavska.
18. 163 Brigade is to be ready to take over all positions taken by 1, 2 and 4 Brigade. In command of parts of the 2 Brigade is Colonel Drago Matanovic.

The above mentioned sites are in the municipality of Trebinje, making it clear that Croat forces plan an attack on the town.

19. 4 Independant Battalion "Zrinjski" (composed of foreign mercenaries and outlaws formed and trained in Kumrovec near Zogrob) is currently located in the Livno a and has participated in the Kupres theater of operations.
20. 141 CA Brigade (formed in Split) is stationed in the area of Tomislavrod and was under the command of Colonel Zarko Tole (a former major in the Yugoslav Peoples Army). The Colonel was captured on 26 May 1992 and is still held prisoner.
21. 144 CA Brigade is momentarily located in the Livno theatre operations.

22. 126 CA Brigade (formed in Sink) is located in the area of Busko Jezero.

23. 158 CA Brigade (formed in Split) is located in the area of Tomislavgral. On 1 July 1992 Bosnian-Serb forces shot down a piston-engined aircraft of the Croatian Air Force whilst it was attacking their positions.

24. 3 CA Brigade (formed in Ostjek) under the command of Lt. Colonel Krnjak is currently stationed in the Orasfe area.

25. 103 CA Brigade (formed in Dakovo is currently engaged in active duty in the Slavonski Brod area.

26. 105 CA Brigade was formerly active in Morica and is now performing in the area of Odzak. The Brigade is commanded by Pero Stanic.

27. 107 CA Brigade is currently performing in the area of 1 under the command of * * * Miljacevic.

28. 108 CA Brigade is located on the territory of Broko with HQ in the village of Gornji Rahic under the command of Commander Miro Lovrie.

29. 114 CA Brigade (formed in Zadar) is now engaged in combat in the north Zivinice area. The HQ is in the Hotel Svatovel on the north slopes of mount Vijenac near Zivinice.

30. 122 CA Brigade (formed in Dakovo) is performing combat operations in the area of Odzark near Morica.

31. 123 CA Brigade (formed in Slavonska Pozega) is performing in the combat area around Orasle.

32. 139 CA Brigade (formed in Vrpolfe) is performing combat operations in the Bosanski Samac region.

33. 157 CA Brigade (formed in Slavonski Brod) is performing combat operations in the Bosanski Brod area.

In this area on 22 June 1992 Bosnian-Serb forces shot down a Croatian Air Force MIG-21 aircraft whilst it was performing combat operations against Serb positions.

34. 77 CA Brigade (formed in Rijeka) is now performing in the combat area of Tarcin and Pazaric near Sarajevo. The Brigade is under the command of Commander Mustars Parobic.

CONCLUSIONS

At the current time there are the following active Croatian units performing in the territory of Bosnia and Hercegovina; 17 complete brigades, parts of 6 brigades, 1 independant regiment, 5 battalions and one independent company, supported by the Croatian Air Force.

[Press Release]

West Ignores Plea of Serbian Orthodox Bishops; Serb Civilians Held in 27 Camps—West Fails To Investigate

"SHOCK AND OUTRAGE FOR RELIGIOUS LEADERS"

The West has not followed up on an anguished May 27 appeal by the Bishops of the Serbian Orthodox Church to immediately investigate the 27 concentration and detention camps throughout Bosnia-Hercegovina and Croatia, where Serbian Orthodox civilians—not military personnel—are being illegally held.

At their August 6 meeting in Pittsburgh, PA, the Serbian Orthodox Bishops of the United States and Canada expressed shock and outrage over the inaction and indifference of the world media, watch dog groups, and governments. They called for immediate and urgent attention to their May 27 appeal, and reiterated their urgent demand for investigations into the atrocities being inflicted on the Serbian Orthodox people in Bosnia-Hercegovina and Croatia.

According to a profusion of eye-witness reports relayed to the Bishops by members of their Church, the Moslems and Croats are illegally holding Serbian Orthodox Christians in the following concentration and detention camps: Suhopolje, Virovitica, Odjak, Duvno, Livno, Smilijan, Tornislavgrad, Bugojno, Jajcc, Bihac, Orasje, Odjak, Kosjic, Konjic, Hadjici, Ilidja, Tuzla, Bosanski Brod, Zenica, Jabianica, Kladanji, Sarajevo, and elsewhere.

The Bishops demand that the United Nations, the United States, the Red Cross, and other appropriate bodies, immediately inspect these camps.

They also demand fair and equal treatment for all the victims of the Yugoslav conflict, and call for the vigorous pursuit of human rights and justice for the innocent and suffering Serbian Orthodox people throughout the territory of the former Yugoslavia.

Statement of Serbian Orthodox Bishops

SERBIAN ORTHODOX BISHOPS EXPRESS SHOCK AND DISMAY—27 CONCENTRATION CAMPS HOLD SERBS IN CROATIA AND BOSNIA

While the Episcopal Council of the Serbian Orthodox Church in the United States of America and Canada expresses its profound concern and regret over the recent reports and visits to purportedly Serbian-held concentration camps in the former Yugolsav Republic of Bosnia and Hercegovina, it is shocked and dismayed over the incomprehensible lack of concern evidenced among civic and media leaders over the 22 concentration and detention camps where Serbian civilians—not military personnel—are being illegally held in Bosnia and Hercegovina.

The Bishops of the Serbian Orthodox Church in America, convened at their meeting on August 6, 1992, in Pittsburgh, PA, draw the world's attention to Memorandum of the Holy Assembly of the Serbian Orthodox church, issued at its regular session in Belgrade, Yugoslavia, on May 27, 1992, in which with pain in our souls we notified the international media of the following concentration camps opened for Serbian civilians in Croatia and Bosnia and Hercegovina; Suhopolje, Virouitica, Odjak, Dhuna, Livno, Similjan, and others , and that innocent Serbian Orthodox civilians were being killed and disposed of in the caves of Shurmancima (near Medjugorje) and Mount Velebit's Katina pit.

While other sections of this Memorandum were focused on in the world press, we were and remain astonished that our anguished plea concerning concentration and detention camps was and remains overlooked, and that the necessary investigations have not been undertaken by the appropriate watch dog groups, governments, and media outlets.

Since that time, we have been informed by our long-suffering Serbian Orthodox faithful in Croatia, Bosnia and Hercegovina, the Republic of Serbian Krajina, and the Serb Republic of Bosnia and Hercegovina, that the following, additional camps have been opened: Tamislabgrad, Bugojna (the home of slain Serb Aelja Lukic), Bugojno (the "Slauko Hadic" factory), Jajce, Bihac, Orasje, Odjak (the Odjak primary school), Odjak (the "Stolit" Firm Building), Odjak ("Novl Grad" Village), Odjak (the Paijanl primary school), Odjak (the four military warehouses), Kanjic, Hadjicl, Ilidja, Tuzia, Bosenski Brod, Zenice, Jablanice, Kladanj), and several locations in Sarajevo.

We commend the United Nations Security Council for demanding that the Red Cross be allowed to inspect these camps, and, with confidence in their intentions and abilities, we call upon this humanitarian organization to exhibit fair and equal concern for all of the victims of this tragic conflict in all areas of Bosnia-Hercegovina and Croatia. We call upon the United Nations, the United States, the Red Cross, and all other concerned bodies, to vigorously pursue human rights and justice for the suffering Serbian Orthodox people throughout the territory of the former Yugoslavia.

We also draw the world's attention to the recent, written plea of the World Council of Churches, in which Dr. Herman Goitz, Studies Secretariat for the European Council of Churches (811)(41)(22)791–6111, warned that Croatian troops are penetrating into Eastern Hercegovina where they are committing an "ethnocide" against the Serbs that "could turn into a genocide." Dr. Goitz also appealed to all ecumenical organizations to save Serbian Orthodox Bishop Alanasije of Hercegovina. Bishop Alanasije is under violent attack by Croatian forces, and has become a symbol of Serbian Orthodox suffering in Bosnia and Hercegovina.

We also express sincere regret over the uneven presentation of facts in the media. It is with great concern for the objectivity of our media, and our trust in both broadcast and print journalism, that we point out that conclusions about alleged atrocities, based on no evidence whatsoever, are all too often publicly disseminated, only to be later discredited and corrected. Our faithful member, John Shatian, a reporter currently in Belgrade, toured with journalists from England, France, Germany and the United States, the alleged site of a Serb-held Concentration Camp in Bijeljina, Serb Republic of Bosnia and Hercegovina. John writes: "Reports in the western media that Serbs were executing Croat and Moslem civilians in a concentration camp in a mine complex near [Bijeljina] are false as some 35 foreign correspondents toured the complex today without finding any sign of a camp, prisoners or bodies."

"What the journalists did see earlier at the military headquarters prison in Bijeljina was 70 Serbian paramilitary troops, who were arrested and incarcerated by soldiers of the regular army of the Serb Republic of Bosnia-Hercegovina, under the command of its leader, Radouan Karadzic. (According to Yugoslavia's Prime Minister Milan Panic, this is the first time that members of a paramilitary formation had been arrested since the start of conflicts in the former Yugoslav republics. Panic hoped Croatia and the Moslems would arrest paramilitary troops of their nationality.)"

We firmly and prayerfully desire peace for all the suffering people throughout the tragic lands of the former Yugoslavia.

The Joint Episcopal Councils of the Serbian Orthodox Church in the United States of America and Canada, Metropolitan of Midwestern America, Metropolitan of New Gracanica, Bishop of Eastern America, Serbian Orthodox Diocese of Eastern America.

THE EFFECT OF "ETHNIC CLEANSING" AGAINST BOSNIAN-SERBS IN BOSNIA AND HERCEGOVINA

[Contrasted with the Census of 1991]

Municipality	Bosnian-Serbs 1991	Bosnian-Serbs today
Morica (percent)	33.0	None
Tuzla (percent)	15.5	4.5
Zivinice (percent)	5.0	None
Kladanj (percent)	26.0	None
Banovici (percent)	14.0	None
Kalesija (percent)	18.0	None

THE EFFECT OF "ETHNIC CLEANSING" AGAINST BOSNIAN-SERBS IN BOSNIA AND HERCEGOVINA—Continued

[Contrasted with the Census of 1991]

Municipality	Bosnian-Serbs 1991	Bosnian-Serbs today
Travnik (percent)	11.0	None
N. Travnik (percent)	13.3	None
Bugojno (percent)	18.9	5.0
Derventa (percent)	40.8	5.0
B. Brod (percent)	33.8	None
Jajce (percent)	19.3	4.0
Sarajevo (percent)	33.0	7.0
Bihac	[1] 7,000	[2] 500
Livno	[1] 2,800	[3] 837
Duvno	[1] 1,000	[3] 400
Mostar (percent)	[1] 20,000	[2] 1,000

[1] Serbs.

[2] About.

[3] All in a concentration camp.

NB: In total around 300,000 Bosnian-Serbs have been displaced by "ethnic cleansing."

I have, today, instructed the Serbian forces around the town of Gorande, to begin an immediate unilateral ceasefire. I have ordered the Serbian forces in that region not to react to outside provocation, even if the Serbian inhabitants are still prevented from leaving the town. I have informed Lord Carrington and the U.N. Secretary General of my orders, I have also told them that I would welcome the deployment of U.N.-observers to Gorazde, in order to monitor the ceasefire.

RADOVAN KARADZIC.

LONDON, *16 July 1992.*

Mr. MCCONNELL. Mr. President, over the past weeks, the tragedy in Bosnia has taken a dark turn for the worse. We have all seen the agonizing images of women and children attacked as they bury babies. The pictures from death camps have shocked our collective conscience. No one can watch the unfolding horror and walk away untouched.

The resolution we are considering tries to speak to the unspeakable atrocities the world has already witnessed. It gives expression to our moral outrage and frustration over the continuing crisis.

But I caution my colleagues to look carefully at this resolution before they leap. Either this measure is a time-consuming exercise echoing the diplomatic efforts already underway or it is an authorization for the U.S. to engage in war in Bosnia.

It is either a waste of our time or it is a waste of lives. In the hours of hearings and debate in the Foreign Relations Committee some of the cosponsors argued not to worry, this is only an expression of the Senate's interest in promoting the United States to generate discussion at the United Nations about the use of multilateral force.

If indeed that is the case, let me point out that the United States is actively engaged already in just such a debate. It is going on. It went on today, and will go on tomorrow. But I think a different calculation has been going on. I think a cynical political game is being played by some in an effort to persuade the public that George Bush is not doing enough to help those suffering in the battle for Bosnia. Some of the Members and Governor Clinton needed to prove they can pull the trigger too.

I think we need to make sure, Mr. President, that American soldiers are not the victims of this ready-fire-aim approach to foreign policy. Members of this body who calculate that this will draw attention to U.S. policy shortcomings should familiarize themselves with just what has and what is being done.

You would think, Mr. President, that nothing was being done. But as we speak the United States is actively engaged in an effort at the United Nations to forge a consensus plan of action. The President is also working closely with Prime Minister Major and his European counterparts to settle differences and move forward to protect the U.N. relief lifeline of food and medicine and end the crisis.

The President's record is solid and sure. What has he done? He ejected the Serbian Ambassador, and he froze Serbian financial assets, and last Thursday he announced his intention to appoint ambassadors to Slovenia, Croatia, and Bosnia, further isolating Serbia. The administration has worked at the United Nations to impose comprehensive economic sanctions and has deployed Naval assets in the Adriatic to enforce those sanctions.

We are making a major contribution to the relief effort, and the President has consistently declared his willingness to support any multilateral military effort to protect those humanitarian operations. In fact, he has charged the Secretary of State with the responsibility to assure quick passage of a resolution authorizing all necessary means to provide humanitarian relief—all necessary means. To that end, the administration is consulting with NATO to determine how best our allies can serve U.N. goals and plans.

Mr. President, the list goes on. Last week the administration called for an emergency meeting of the U.N. Human Rights Commission to review and investigate the shocking allegations of death camps and other atrocities. As we speak 30 nations have endorsed the President's proposal and the commission is scheduled to hold an emergency session Thursday.

To complement this effort, the administration has asked the Conference on Security Cooperation in Europe to appoint a special rapporteur to report the charges, and we are moving forward on a resolution in the Security Council to urge all States to collect information on war crimes.

I think the President is actively exploring every option. I think he is on the right course. And if that is what all the sponsors of this bill would admit, in view of the facts, I would, as the saying goes, sit down and shut up.

But I do not think that is what has developed. Thursday it was said in committee that this was an effort to offer the President cover for action he might want to take. The President does not need cover. His policy has been consistent; his record is substantial and trustworthy.

Maybe it is Governor Clinton who needs cover. Frankly, I think for some that is exactly what this is all about—not for everyone, but for some. Many people thought they could craft legislation saying the President must do "more," get the headline, run from the responsibility of what "more" means.

What more means is our involvement in this conflict. I do not think we are ready to commit American troops or shed American blood in Bosnia.

Any further military options must be carried out in close consultation with the United Nations and the Europeans who have the matter in sharp focus. No one needs to tell Germany, England, or France the human toll of a battle in the Balkans. Individually and collectively, they know first hand the cold cost in blood, in lives lost.

And frankly, that bloody calculation is precisely the cause of their cautious, prudent approach. The President and our allies cannot afford to be driven by moral indignation. They must balance frustration with facts.

And when they look at the facts, they listen to General MacKenzie, whom Senator MCCAIN was quoting a few moments ago, General MacKenzie, the recent commander of the United Nations forces stationed in Croatia and Sarajevo, on his ninth peace-keeping mission. Appearing on "Larry King Live", he confirmed the factions will not turn in their weapons and observe a cease-fire as called for the by the United Nations. In expressing his amazement at the level of hostility between the warring factions—this is General MacKenzie just having come back from being on the ground in Bosnia. He said:

> The United Nations is there to help both sides, in spite of the fact that they don't understand that in Bosnia. In every other peace-keeping mission I have been involved in they do.* * * The fact of the matter is I have never seen a level of hatred like this * * * if the leaders said tomorrow, "OK let's call it quits * * * we'll sign something" I'm not sure if the momentum of hatred would let that happen.

Mr. President, There is no doubt in my mind that the crisis in Bosnia is one which has simmered, boiled, and erupted over centuries. We are witness to the most recent cycle of violence, but we should understand the history of the crisis, the number of lives lost over the centuries before we enter the fray.

As we consider our future options, General MacKenzie had further insight as to what lies ahead. Larry King asked the General to respond to the President's statement "Before I commit American forces to a battle, I want to know what's the beginning, what's the objective, what's the end," exactly the point that Senator COATS was making a few minutes ago.

General MacKenzie said:

> "He's spot-on. If I may be permitted to say, the President of the United States needs clearly defined foreign policy objectives and has to think extremely carefully before he gets involved in combat in the Balkans. If we read our history, it is one extremely difficult place to fight. And you want to make pretty sure of what you want to achieve before you go in there, and you'd better be prepared to stay for a long time. * * * The Germans had over 30 divisions in Bosnia during the last war, hundreds of thousands of casualties—most of them Yugoslavs killing other Yugoslavs. If you're going in there, you're going into country God-given for guerilla type operations—better than Nicaragua, better than Salvador, better than Guatemala."
>
> Larry King then said: You're saying, General, don't go.
>
> General MacKenzie could not have been clearer: Yes, I am saying that.
>
> King: Would the direct threat of U.N. force have any effect?
>
> MacKenzie: No.

This is a United Nations peacekeeper who has served in Beirut, an objective eyewitness to the carnage and destruction, this is a trained soldier who is telling the President, "Don't involve the United States, do not go it alone."

In light of General MacKenzie's unsetting analysis, let us look carefully at exactly what the United Nations is doing. The highest priority in United Nations discussions has been the delivery of food, medicine, and humanitarian relief.

This week members of the Security Council will take up a U.S.-supported resolution to guarantee the delivery of that assistance. To my way of thinking this is a reasonable, focused use of multilateral capabilities.

Beyond humanitarian relief, the United Nations has already passed a resolution urging the factions to give up their weapons and support a ceasefire. They have not. They will not and the wanton slaughter continues.

The language reported from the Foreign Relations Committee demands that the United Nations now authorize the force necessary to capture and control Serbian and Bosnian weapons of war. By all estimates we are talking about more than 1,000 pieces of heavy artillery.

I understand that provision may have been deleted. It has been in fact been deleted.

But the amendment still requires the United Nations to authorize the use of force to be used to secure access to the camps.

It seems to me that we have substituted people for artillery. If I have to choose between protecting people or securing guns, I am obviously going to put people first.

But in debating the general goals of military force, we have a responsibility to consider how they can be achieved, whether it is liberating concentration camps or silencing the artillery, the enormous problems presented to military planners are all the same.

As my colleagues pointed out, we have reports of dozens of prison camps scattered throughout the country. To carry our stated goal to its logical conclusion that we are directing the U.N. to use force, secure camps or round up heavy weapons, we must admit that it will require significant force. That means only one thing: A vote for this resolution to direct the use of force means we, the American people, are in it for a long, bloody haul.

Air strikes alone, Mr. President, will not work. The Senate simply cannot declare goals and ignore how they are to be implemented. We cannot say we expect the U.N. to use force to protect civilians or secure camps and not understand that that will mean the commitment of ground divisions.

Some of my colleagues have made suggestions as to how that goal can be achieved without significant use of troops. I have heard some Senators, and Governor Clinton earlier, support bombing targets in Serbia. That will bring them to the negotiating table, they say. The discussion in committee, in the Foreign Relations Committee, followed this track and suggested we rely on article 42 of the U.N. Charter, authorizing "demonstrations of force." That is something we have just discussed here on the McCain amendment, which was earlier offered and subsequently withdrawn after a useful discussion of that possibility.

In fact, one draft of the amendment I saw included that recommendation. Well, I just ask, as I said earlier, any of my colleagues to point to a target. We have Serbia here. What are we going to do, pick out the targets, like President Johnson in the Vietnam war?

I confess that it borders on the absurd for Members of Congress sitting on the sidelines to tell the military exactly how to wage this war. To point out how absurd it is for the Senate to play armchair chief of staff, try coming over here and pick out a spot. Do you want to land a bomb on Belgrade? Knock out a bridge here or there? What are we going to tell the public when we attack a mobile artillery site and find out it is right next to an orphanage?

I also find the talk that bombing Serbian targets will stop the battle in Bosnia is shortsighted. Whether the Serbian Government is or is not directly coordinated and supporting the insurgence in Bosnia is really not the issue. The fact of the matter is a couple of strikes in Serbia will not stop the fighting in Bosnia. Again, we must admit they will not be surgical, clean, and simple. We will be involved on the ground, in the air, and at sea for a long, long time.

Our rhetoric and the real risk are battlefields apart. To me, the military targets are murky at best.

So when Prime Minister Major says there is no front line to this war, there is no single enemy, I think we should listen. When he unequivocally declares air power cannot be used in sufficient force to make any difference, I think we should listen. When General MacKenzie warns that the direct threat of U.N. force is unlikely to have any meaningful effect, I think we should listen. This is the reasonable advice the President of the United States is listening to, which is why the President has had the good judgment to rule out the unilateral use of American troops, and why he is engaging our allies in a determined, deliberate manner to reach a durable—repeat, durable—solution.

The President understands that this is not Iraq and Kuwait. This is Lebanon and Vietnam. The President understands that the principles of freedom and self-determination, which are in peril, are the foundation of the new world order we are shaping.

He sees this as the crisis the world shares. It is not just a European problem, but the President knows that it is essential that the European Community be a part of the answer and not be left to us acting alone to police their continent.

It is easy work to be morally indignant, to play upon the public's emotional response to the vicious cruelty splattered across every newspaper and TV screen. That can have a direct impact on the polls. But let us assume that we launched an air strike accidentally against an orphanage in Bosnia while trying to knock out Serbian artillery. I suspect that would have an enormous impact on the polls and the public, which seems to be for intervention one day would be against it the next day. Moral mandates will not stop the massacre. A strong international consensus must be harnessed to the careful use of multilateral military force. This is the President's course, which I believe the Senate should support fully.

I am apprehensive about the legislation before us as much because I believe it will require the engagement of U.S. troops in Bosnia as I am about the fact that the authors are divided by what it means. On the one hand, we have Senators who have had a longstanding interest and commitment to seeing this crisis resolved, who believe that it simply endorses the President's efforts and envisions no use of ground force.

Others, such as Senator LIEBERMAN, have said American lives may be lost because of this legislation, a view echoed in committee by the Senator from South Dakota [Mr. PRESSLER]. In the discussion in the committee, Senator PRESSLER acknowledged that this legislation commits us to the use of ground troops, that we may pay in American lives, but that it is a price we must pay as we arrive at a defining moment in history.

Mr. President, I respectfully suggest that both interpretations cannot be correct. It is either an endorsement of the President's actions and policies, or it is a significant step as we march the United States to war. The resolution cannot be both. These are mutually inconsistent.

So I believe the decision we must admit we are faced with today is whether we should use American military troops in Bosnia. Mr. President, I think the answer is clearly no, and upon adoption, I will indeed vote "no."

Mr. President, I yield the floor.

Mr. COHEN. Mr. President, I yield 5 minutes to Senator BURNS.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BURNS. I thank my friend from Maine for yielding 5 minutes. I know it is getting late at night.

Mr. President, I do not think I have listened to a debate on this issue as closely as I have listened to this one. I do not serve on the Foreign Relations Committee. But I know that this is a very, very serious moment for this country and for this body and for this President. I imagine he is spending many hours just trying to figure out how to deal with it, because in this country—coming back from my home State of Montana, where I had an opportunity to visit with a lot of folks who still have family in Yugoslavia, both from Montenegro, and Serbia, and Croatia, I have found that no one likes to commit troops, and I have to believe that in this country there are enough related people and talented people that may be in the area of like the Senator from South Dakota said, small-country diplomacy; I think we have an opportunity here.

I really believe that is what President Bush wants to do, and I support him in that. In private consultation with the President, we know that is the preferred action.

I, too, like the Senator from Indiana, have a troubled mind, because we really do not define what this resolution does, and I think the whole world is watching us. I do not hear great speeches being made in other parliaments, especially in Europe, Western Europe, on how to deal with this or committing any kind of dollars or manpower to solve it.

Maybe it is because they understand the area. They still remember very vividly those days of World War II when over 30 divisions of Hitler's troops not only did not disarm that population, they fought each other then, plus the Germans. So you can say nobody won.

I visited Yugoslavia, and I have traveled there along the Adriatic, and I can tell you those mountains over there are solid granite. And if those people for their own preservation and the preservation of their society as they know it will retreat into the hills, you will never get them out no matter how many troops you commit.

So I would suggest to the President, I would suggest to this body, that we look for those people who are citizens of the United States that have families there, that maybe there is a chance drawing these people together. And why could we not use those people, why could not the Foreign Relations Committee and the Senators that serve on that committee form a delegation and, yes, take a step in the right direction and say, hey, we would like to try before we commit troops to stand in harm's way?

We have had advice from military people that have seen combat that have tasted it, and they advise this is dangerous. We have talked to people who were raised in Yugoslavia and they tell us do not go because they not only have a working knowledge but also family and history of the area.

The debate has gone on, but I think it sends a strong message to the President, and if there is one thing we do not want to do is put the President in a position to where you set your spurs so deep you cannot get loose.

So let us try. Let us enlist those people who are here that speak all of the languages in the area from Serbia, Croatia, and Montenegro. Let us try. I think it is worth a shot, a shot of bringing peace to that area without putting American lives in harm's way or taxing a Treasury that right now cannot afford it.

There is not one person in this body that is not sensitive to the conditions going on there now, not one person in this body. There is not one person in this body that can accept what is going on there now.

The PRESIDING OFFICER. The Chair informs the Senator his 5 minutes expired.

Mr. BURNS. I ask unanimous consent to have 30 seconds to sum up.

Mr. COHEN. I yield the Senator a minute.

Mr. BURNS. Not one person is not sensitive to that and not one person in this body is not sensitive to the fact that, yes, with the jet engine and with satellite communications, this Earth is only as big as this inkwell tonight.

What happens thereafter affects all of us. We must try to solve it in a peaceful way.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Maine.

Mr. COHEN. I yield myself 1 minute.

AMENDMENT NO. 2927

(Purpose: To ensure U.S. military personnel are proceeding with the full commitment and support of the American people)

Mr. COHEN. Mr. President, on behalf of the Senator from Colorado [Mr. BROWN] I have an amendment which has been cleared on both sides, and I would just recite it, briefly.

In the resolve clause, add the following new subsection: "No U.S. military personnel shall be introduced into combat or potential combat situations without clearly defined objectives and sufficient resources to achieve those objectives."

This has been cleared on our side and cleared on the majority side, and I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BIDEN). The Clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for Mr. BROWN, proposes an amendment numbered 2927.

Mr. COHEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the resolved clause, add the following new subsection:

"(4) No United States military personnel shall be introduced into combat or potential combat situations without clearly defined objectives and sufficient resources to achieve those objectives."

The PRESIDING OFFICER. Do both Senators yield back their time?

Mr. COHEN. I yield back.

Mr. PELL. I yield back the time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment.

So, the amendment (No. 2927) was agreed to.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in support of the resolution. I think there are a few things we know from history. One is when an empire shrinks or disintegrates, there is a certain amount of difficulty and chaos. It was true with Britain in India, Pakistan, and now Bangladesh. It was true for the United States when we withdrew from the Philippines. It is true for the disintegration of the Soviet Union. It is true for Yugoslavia.

This resolution as the Presiding Officer, Senator BIDEN, has pointed out is not partisan. People from both sides are sponsoring it, including the minority leader and the at least temporary ranking member of the committee and the former chairman of the Foreign Relations Committee, Senator LUGAR, and it was about 8 weeks ago, Mr. President, that the Secretary of State came to our Foreign Relations Committee and said the time has past for just words. We have to learn from history. And the lesson of history I think is very clear. You cannot let situations like this multiply. And if we do nothing, we will have those situations multiply.

For those of us who voted against the use of force at that point in the Iraq-Kuwait situation, Iraq was in a very different situation so that an economic embargo would work against Iraq.

Mr. MOYNIHAN. Exactly.

Mr. SIMON. In the case of Serbia, at best, it is 50 percent effective. So that an economic embargo hurts but is not doing the job.

No one here that I have heard has suggested that we should use ground troops at this point. We are talking about a limited use of air power.

But one of the problems that we face is that we either authorize the use of force or we do not, and when we authorize the use of force we do not know whether we are talking about 500,000 troops or 5,000.

That is why the bill introduced by the Senator from Delaware [Mr. BIDEN] to authorize the limited use of force by the President of the United States when the Security Council authorizes the use of force, I think, makes a great deal of sense. And I am working with the Senator from Delaware to try and help shape that so maybe we say you can use 2,000 American troops who are volunteers from our Armed Forces in this kind of a limited response.

What is clear is if we sit back and just morally posture this is a terrible thing that is going on over there and do nothing more, we will be condemned by history, and we will be inviting problems down the road that I cannot tell you what they are, and when we hear talk about ethnic purity, I shudder. One of the reasons, also, I believe it is in our long-term best interests here we have a situation where among the targets, the principal targets, Moslems in Bosnia and there are those in the Moslem world who say a nation that is predominantly Christian, like the United States, will not respond when Moslems are being attacked by Christians.

I think it is important that we stand up on the principle that you cannot violate the borders of any country. We ought to guarantee air power so that we can get the food and medicine not just into Sarajevo but into other beleaguered communities.

I heard my friend from Kentucky.

Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I yield 1 additional minute to the Senator from Illinois.

Mr. SIMON. Mr. President, I heard my friend from Kentucky say air strikes alone will not work. I am old enough and, with all due respect to the Presiding Officer, he is old enough now to remember the Berlin airlifts when some people said air power alone is not going to do the trick. The Berlin airlift worked.

I am not standing here and saying that air power alone will do the trick. I am standing here saying making speeches on the floor of the Senate and making speeches from any other forum is not going to do the trick. We have to show a willingness to protect these people and we have to do it at some risk.

Mr. President, I yield the floor.

(Later the following occurred and appears at this point by unanimous consent.)

Mr. BIDEN. Mr. President, I would like to briefly comment on the remarks of the Senator from Illinois. I want to thank him for his words of support for a bill I have introduced, Senate Joint Resolution 325, the Collective Security Participation Act. That bill would reaffirm section 6 of the U.N. Participation Act, which states that if the President negotiates a special agreement with the Security Council to make U.S. forces available under article 43 of the U.N. Charter, it shall be subject to the approval of Congress.

I plan to conduct hearings in the Foreign Relations Committee next month, and I look forward to Senator SIMON'S participation.

I simply wanted to make clear that the resolution to which the Senator from Illinois was referring was my bill and not the resolution pending before the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I yield 15 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 15 minutes.

(Mr. SIMON assumed the chair.)

Mr. GORTON. Mr. President, with all respect to my close friend from the State of Illinois, the resolution upon which we are called to vote is very specific with respect to what it asks us to seek authorization for from the United Nations, and I quote the operative words: "military force to ensure the provision of humanitarian relief in Bosnia-Hercegovina and to gain access to refugee and prisoner-of-war camps in former Yugoslavia."

There is nothing limited in that authority. No limitations to antiseptic air strikes. No statement of limited military force at all, military force presumably sufficient to reach those goals.

This is not a county fair or a picnic which we are asked to authorize the use of American, among other, forces for.

On several occasions during the course of this debate, former Secretary of Defense Weinberger has been quoted with respect to six conditions he felt necessary when we weigh the use of American combat forces abroad. For the purposes of my remarks, I need only refer to the first three.

First, Secretary Weinberger stated the United States should not commit forces to overseas combat unless the engagement or occasion is deemed vital to our national interests.

Second, that if we do make such a decision, we must do it with the clear intention of winning and the commitment of forces necessary to achieve those objectives.

Third, if we make such a decision, we should have clearly defined political and military objectives.

The senior Senator from New York, who just a moment ago left the floor, apparently this afternoon had a substitute for those rules. He stated that this was a moral question and that our intervention was determined by the answer to that moral question. Evidently whenever the morality of the question is sufficient, we should ignore the wise counsel of the former Secretary of Defense and simply "do what is right."

But if we should succeed in ensuring humanitarian relief and gaining access to refugees and prisoners of war, what have we gained, Mr. President? In order to do that, we must secure communications with dozens—perhaps 50, 60 or 100—of locations within Bosnia-Hercegovina by military force, all with tenuous lines of communications along roads and river valleys surrounded by hills from which snipers apparently can act unimpeded.

But what have we gained? Half or more of the ethnic cleansing, which is apparently the goal of the Serbs, has already been accomplished. Serbia has already accomplished most of its goals.

Is it an appropriate military objective simply to provide relief to a half dozen cities and to two or three dozen concentration camps? Is not the real goal a free Bosnia, its independence, which has been recognized both by this country and in the resolution on which we are asked to vote?

Do we seriously think that we can restore the status quo ante that we can get these three quarreling factions, whose differences have occupied half a millennium, to return to their homes to forget all this violence and to live in peace together? Or is our implicit goal some kind of partition of Bosnia? Or is it the removal from Bosnia of all of the Serbs who have taken up arms against their neighbors? What is our goal and how will we achieve it?

I tell you most earnestly, Mr. President, we are not going to achieve that security by a few isolated air strikes.

I listened to the junior Senator from New York early this afternoon saying the air strikes can go at Serbia itself; that is the cause of the problem. We can knock out communications systems and powerplants in Belgrade.

I find that a fascinating prescription when it is precisely in Belgrade that we have tens of thousands, perhaps hundreds of thousands, of Serbians who are on our side, who demonstrate, sometimes daily or weekly, against their own government. So presumably it is their power and their communications we are to knock out in order to discipline their kinsmen in Bosnia-Hercegovina. We will simply create more enemies for ourselves rather than fewer by such a course of action.

Before we vote for this resolution, this Senator wants to know how much air power will be necessary to attain these ends. How many casualties among American airmen will we be willing to sustain to attain this end? How much in the way of ground support are we willing to supply? Between ourselves and our allies, 30 divisions were insufficient for the Germans during the course of World War II.

And how many of those divisions will come from the United States? How many from Germany? How many from Moslem countries? How many from France and from the United Kingdom?

How long are we willing to stay? If all we are to do is to provide relief and not settle the underlying quarrel, we will be there being shot at for a long time, Mr. President, an extremely long time.

How many casualties are we willing to sustain? We should decide that before we start this adventure, Mr. President, not after it is half accomplished.

How do we determine when we have won? Only when there is a peaceful Bosnia? Only when there is a peaceful Yugoslavia? How long has that peace been absent? And how long will we wait until we return?

It may well be that sanctions and a blockade will not work. Unlike the previous speaker, I do not agree that they would have worked in Iraq or that there is the slightest evidence that they work even today for limited objectives there. And I certainly make no claim that they will work, even though they will impose some difficulties on Serbia, at the present time.

This Senator sees an unsatisfactory but better solution, and it is a solution which has both the weight of history and the weight of success behind it.

Bosnians wish to be free. They have a right to be free. Let us arm them and let them establish their own freedom. We have higher quality weapons than the Serbians have. We can make this a fair fight and perhaps a winning fight without risking our lives and the lives of our European allies.

It is utterly absurd, Mr. President, that we should have an arms embargo which penalizes effectively only those in Bosnia and Croatia, who are fighting for their freedom, and has no adverse impact on the aggressors whatsoever.

Mr. President, in this case, the President of the United States has already gone too far, and we propose to go further. For once in the history of this body, we should exercise our God-given ability to remain silent, to let the President of the United States set our policy, to let the United Nations set its policy, and to make our determination as to what to authorize without having committed ourselves in advance to a U.N. solution we know not the outlines of.

It is sufficient for us to debate that resolution after it has been passed, after we have a specific proposal, after we have some determination as to what our political goals are, after we have expert military advice as to what it will cost us to attain those goals, and after we have a far better determination than we do today as to how long we are willing to pursue these goals, and at what cost in treasure and in blood.

This resolution, no matter how modified—and all of its modifications have been for the good so far—no matter how modified, is of grave danger to the United States, of grave danger to the United Nations, of danger to the cause of peace, and should be rejected out of hand.

The PRESIDING OFFICER. Who yields time? The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9—

Mr. President, I had begun to propound a unanimous consent request, which I had been advised was cleared on both sides. I am now advised there is an objection on the Republican side.

I will withdraw my request, awaiting the arrival of the Senator who wishes to express the objection.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2928

(Purpose: To express the sense of the Senate regarding the importance to Romania of the Romanian national elections scheduled for September 27, 1992, and any run-off elections, being conducted in a free and fair manner)

Mr. PELL. Mr. President, on behalf of Senator BYRD, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for Mr. BYRD, for himself, Mr. MITCHELL, Mr. BOREN, Mr. DECONCINI, Mr. REID, Mr. SPECTER, Mr. D'AMATO, Mr. FOWLER, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. KERREY, Mr. MOYNIHAN, Mr. LIEBERMAN and Mr. KENNEDY, proposes an amendment numbered 2928.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, add the following:

SEC. . (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) Although international human rights monitors have observed that Romania has made progress in the area of human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily on the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonably equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and inter-

national observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent run-off elections that may be held, are conducted in a free and fair manner.

Mr. BYRD. Mr. President, I am offering an amendment expressing the Sense of the Senate, on behalf of myself and the distinguished majority leader, Mr. MITCHELL, Mr. BOREN, the chairman and other members of the Helsinki Commission, Mr. DECONCINI, Mr. REID, Mr. SPECTER, Mr. D'AMATO, and Mr. FOWLER, as well as other Senators concerned about developments in Romania, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. KERREY, Mr. MOYNIHAN, Mr. LIEBERMAN and Mr. KENNEDY pertaining to the upcoming Presidential and Parliamentary elections in Romania. While I would have preferred to offer this in the form of a free-standing resolution as it was originally drafted, rather than as an amendment to this measure, we have been unable to get unanimous consent to bring the measure up on the floor. Because of the time-sensitive nature of this issue, for the Resolution to have the desired effect on developments in Romania, it should be considered expeditiously. Consequently, I feel I must bring it to the attention of my colleagues at this time.

The manifestation of democracy in Romania is an important part of the historic and dramatic shift away from communism and dictatorship in the countries of the defunct Soviet Empire and Warsaw Pact in Eastern Europe. These nations are shaking off decades of crud and crust piled upon them by Soviet occupation and corrupt Communist dictatorships. After decades of life under the Soviet imposed dictatorial boot, in some of the nations of Eastern Europe progress has been swift, such as in Czechoslovakia and Poland, yet in others, important work remains left to be accomplished to put into place stable democratic institutions and practices. Romania falls into this second category and is facing an extremely important test of its progress this fall when presidential and parliamentary elections are scheduled to be held. It would be fair to say that Romania faces a watershed in its progress toward real working democracy.

There have been some encouraging recent signs that these elections will be held freely and fairly, and with reasonable access to the audio-visual media for the competing candidates. Local elections were held in February 1992 and have generally been given good marks for procedural fairness and peacefulness, free of intimidation or harassment from holdovers of the previous Communist regime of the irrational dictator, Mr. Ceausescu, and his family.

Nevertheless, there have been indications pointing in the wrong direction as well. Romania has seen its share of violence during the last 5 years. Unlike the so-called velvet revolution in Czechoslovakia, the Ceausescu regime was overcome in the midst of violent street battles in December 1989, and he and his wife were preemptorily killed execution-style without a trial. Since the elections of 1990, peaceful street demonstrations have been marred by the regime's use of miners to brutally suppress such demonstrations. In addition, and of real concern for the elections this fall, the current Parliament, dominated by the regime in power, enacted legislation which restricts the role of domestic observers at the polling places, putting the question of the conduct of the elections under some cloud. While an atmosphere of fear and intimidation no longer pervades Romania, concern has been expressed over restrictions that have been imposed on domestic observers, as well as the overwhelming control that the current regime has over access to TV broadcasting.

Romania's economy has been struggling to overcome the command practices of the former Communist states, and is committed to free-market principles. Nevertheless, the transition has proven difficult and the GNP declined over 10 percent last year and may decline even more this year. One item that Romania badly needs to help stabilize its economy and as a signal to international investors, is the passage by this body of most-favored-nation trade status with the United States. Such an agreement has been signed by the administration and submitted to the Senate for its approval. However, Mr. President, I believe that the Senate must make clear its concern over the future of democratic institutions in Romania by withholding approval of MFN until the elections have been held and it has been determined that the outcome was the result of free and fair procedures, with reasonable access to the media for the competing candidates. By doing so, we are giving the Romanian leadership an important incentive to make sure that this is in fact what does occur.

In addition, it is important that an effective delegation of international election observers be present to ascertain that these procedures and principles have been followed. Accordingly, the amendment calls for the Secretary of State to take a leadership role in putting together a credible and effective international observer delegation for both the elections of September 27, and any run-off elections that might be necessary subsequent to that.

Thus, the purpose of the amendment we are offering is to send a clear message to the leadership and competing parties in Romania that the conduct of the upcoming elections is a critical litmus test for future relations with the United States; that free, fair, and open campaigning and proper conduct of the polling apparatus will be of the utmost importance; and that a stable, growing and favorable economic relationship with the United States will be very much dependant upon what happens in that process.

I urge all my colleagues to support this amendment and the progress of democracy taking firm root in Romania.

Mr. DODD. Mr. President, I rise to join the distinguished chairman of the Appropriations Committee on the introduction of this amendment, and I want to commend him for his effort on this very important subject.

Mr. President, there can be no doubt that the Romanian Government has taken remarkable strides toward democracy and freedom since the fall of Nicolae Ceausescu in 1989. And there can be no doubt that the favorable trade treatment accorded under MFN status would certainly help the Romanians strengthen their progression to free markets and true democratic pluralism.

But for all that has changed in Romania over the past few years, there is much that still remains the same. Parliamentary and presidential elections, once scheduled for the spring, have now been postponed until September 27. Access to the media remains severely limited. And the recent resurgence of anti-Semitism, along with the continued discrimination against ethnic Hungarians and gypsies, serve as stark reminders that half a century of Communist rule is not easily overcome.

And so the question on MFN status, Mr. President, is not so much a question of whether but rather when. We all agree that extension of most-favored-nation status would be beneficial to the Romanian economy. But it is for exactly this reason that MFN is a useful instrument in bringing about positive change. Grant MFN too quickly, and we will have lost a unique opportunity to help foster true democracy in Romania.

Accordingly, Mr. President, this amendment is a simple one. It states the will of the Senate that MFN should not be granted until free and fair elections have been held in Romania. Certainly this basic test of democracy is a reasonable price to pay for normalized trade relations with the United States.

Mr. President, while I strongly support this amendment and commend the Senator from West Virginia for sponsoring it, I want to make clear my belief that the Romanian commitment to democracy must extend beyond the issue of elections. In fact, on July 24, 13 Senate colleagues and I sent a letter regarding this issue to Secretary of State James Baker.

In the letter, which I will submit for the RECORD, we spelled out the areas in which we will look for substantial improvements as we consider approval of MFN for Romania. Those areas include the holding of free and fair elections, the establishment of civilian control over the Romanian intelligence service, the operation of an independent media, and the protection of human rights and civil liberties, including the rights of minorities.

It is my sincere hope that the Romanian leadership will undertake legitimate reform in all of these areas between now and September. And it is my hope that the State Department will do everything in its power during that time to encourage Romania to bring about these changes.

Mr. President, I know MFN was not designed as a political tool. And I know many members of this body are hesitant to use it as one. But today in Romania, it is not just democracy and human rights that are on the line, but the permanent emergence of a nation from half a century of Soviet rule. If a delay in MFN can possibly help democratic change take root in Romania, that seems to me a chance well worth taking.

I ask unanimous consent that the letter to Secretary Baker, signed by 14 Members of the Senate, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 24, 1992.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington, DC.

DEAR SECRETARY BAKER: As the U.S. and Romania continue to chart a course for closer political and economic relations, we are writing to let you know of our concerns about the issue of Most Favored Nation (MFN) status for that country.

We believe the eventual restoration of MFN status to be an important step for Romania as it faces up to its serious economic challenges. Indeed, we look forward to the day when Romania casts off the last vestiges of its autocratic legacy and becomes a full-fledged member of the family of democratic nations. Sadly, that day has not yet arrived.

As we understand it, the Administration has set down three markers for the restoration of Romania's MFN status: free and fair elections, an independent media, and civilian control of the Romanian Intelligence Service (SRI). We support these goals and would add a fourth: the protection of human rights and civil liberties, including the rights of minorities. Before supporting the restoration of MFN, we will look for significant progress in these areas.

In the area of elections, once-promising progress has recently been set back. We are deeply troubled by the recent decision to postpone elections until the fall, a further setback for this fundamental test of democracy. Furthermore, the election law now under consideration would eliminate or severely restrict domestic observers, contravening the spirit of the CSCE Copenhagen Document. And other serious problems remain, notably the existence of a county perfect system which gives broad power to centrally-appointed officials.

We will also look for improvement in the tolerance and protection of an independent media. Independent and opposition reporters continue to be subject to harassment and arbitrary denial of press privileges. The long-awaited establishment of an independent nationwide television station has not yet been achieved. And minority language television broadcasts—effectively halved under a February 3, 1991 order—have not been reinstated.

As for civilian control of the SRI, limited progress has been made to place this agency under suitable civilian control and to abandon ties with the former Securitate. Indeed, we view the recent appointment to the SRI leadership of Ion Talpes—a former advisor to President Ion Iliescu with well-established ties to the Securitate—as a serious setback. Furthermore, the Romanian Government has yet to adequately distance itself from extremist, SRI-supported entities such as the anti-Hungarian Vatra Romaneasca and anti-Semitic publications such as Romania Mare and Europa.

Finally, the protection of basic human and civil rights—especially where applicable to minorities—has been uneven at best. Three months ago, for example, the Mayor of the City of Cluj unilaterally cancelled a conference involving an ethnic Hungarian political party and issued a autocratic ban on bilingual signs. He has also led efforts to evict the Hungarian youth organization Madisz and the Hungarian journal Korunk from their offices.

At the national level. Romanian officials continue to limit television broadcasts in Hungarian, refuse to re-open the Hungarian Bolyai University in Cluj, and have introduced a draft Education Law which would eliminate Hungarian-language instruction in all medical technical and business schools. And ethnic Hungarians and Gypsies who have been victims of anti-minority violence lack suitable legal protection and remedies, while many have been imprisoned on false charges.

Modern Romania has reached a turning point. Today its political leaders must decide, once and for all, whether they are truly ready to embrace democracy and its ideals. With a firm and principled hand, the United States can play a positive role in this historic moment—or we can sit on the sidelines. The process of restoring MFN status presents the United States with a unique opportunity to encourage true and lasting democratic reform in Romania. Let us not waste it.

We appreciate your prompt consideration of this matter, and we look forward to hearing from you at your earliest convenience.

Sincerely,
Christopher J. Dodd, Joseph I. Lieberman, Paul Simon, Brock Adams, Alan J. Dixon, Edward M. Kennedy, Claiborne Pell, Alfonse M. D'Amato, Dennis DeConcini, Frank R. Lautenberg, Daniel K. Akaka, Jesse Helms, John Glenn, George J. Mitchell.

Mr. DECONCINI. Mr. President, I am pleased to be an original cosponsor of this amendment, regarding the upcoming parliamentary and presidential elections in Romania, and I commend my colleague Senator BYRD for introducing this timely amendment. It sends a clear and simple message to the Romanian authorities: The preparation and administration of the September 27 elections will be a critical component of our consideration of most-favored-nation trade status for Romania.

Mr. President, Romania stands at a critical point in its journey toward democracy. Despite the brave hopes of those who toppled the Ceausescu regime in the bloody street battles of December 1989, this journey has been difficult from the start—besieged by political instability, occasional violence, and a debilitating legacy of mistrust. Progress in the area of human rights has been hampered by unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

Over the past year, nonetheless, Romania has taken a number of important steps. Prime Minister Theodor Stolojan and his caretaker government have overseen the adoption of a new Constitution, the continuation of economic reforms, and the holding of local elections in February 1992, that made considerable progress toward meeting CSCE standards and guidelines.

The local elections were noteworthy not only for their procedural improvements relative to the general elections of May 1990, but also because they demonstrated a major shift in the political inclinations of the Romanian voters. The Democratic Convention, an opposition alliance, won the majorships of many important urban centers, including the capital, Bucharest. The ruling National Salvation Front, in contrast, saw its support decline precipitously—from 66 percent to 33 percent of the vote.

Unfortunately, developments since then have been less than encouraging. The general elections, originally slated for May, were ultimately postponed to September. Furthermore, the parliament passed electorial legislation purporting to restrict the role of domestic observers, contravening the spirit of Romania's CSCE commitments.

I firmly believe, Mr. President, that the upcoming elections represent an important test of the Romanian authorities' commitment to democratic procedures and institutions. Our resolution asks the U.S. Secretary of State to initiate an international effort to ensure a sufficient number of United States and international observers to monitor the elections and runoffs; the Helsinki Commission, of which I am cochairman, will also be sending a staff observer, and I understand that the National Democratic Institute and the International Republican Institute have plans to organize a joint observer mission, as they did for the elections of May 1990 and February 1992.

Delaying congressional consideration of most-favored-nation status adds extra incentive for all forces in Romania to ensure that the September 27 elections are truly free and fair, and to anchor the foundations of democracy and rule of law. I urge my colleagues to join me in support of this important amendment.

Mr. PELL. Mr. President, this amendment concerns the forthcoming democratic elections in Romania. It has been cleared on both sides. I hope we can consider it.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, my understanding is it has been cleared by Senator DOLE and the staff.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2928) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, may I inquire, does the Senator from Alaska wish to proceed with a discussion of his amendment at this time?

Mr. STEVENS. Mr. President, I will be happy to do that. I have been waiting. I will be happy to yield to the leadership at any time they wish to proceed with the unanimous-consent agreement that I have already looked at, if that is in order at this time, Mr. President.

AMENDMENT NO. 2929

(Purpose: To express the sense of the Senate regarding authorization of multilateral action in Bosnia-Hercegovina under Article 42 of the United Nations charter)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2929.

At the end of the resolution, insert the following new section.

(4) The United States Senate pledges to provide such funds as are necessary for United States participation in such humanitarian relief and multilateral military force activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it is my intention to ask for a vote on this. I will explain why later. But I do want to point out the agreement that is going to be entered into will specify that this amendment will be voted on tomorrow, after 30 minutes has expired on this amendment tomorrow.

I will address it slightly tonight.

I would like to start off, though, with just a question to the two leaders on this resolution. It is my understanding that the basic resolution does not really authorize the commitment of forces to the mandates that are to be sought from the Security Council, but that it will contemplate there will be another resolution brought before the Congress if we are to provide the President with authority to commit U.S. forces abroad pursuant to such a mandate.

Is that correct?

Mr. COHEN. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. COHEN. That is a matter that is open to constitutional debate, Mr. President. It is the understanding of the Senator—I believe I can speak safely for the Senator from Delaware, who is no longer with us this evening, but had to drive back home—that he believes that this particular resolution does nothing in the way of authorizing the President to commit U.S. forces into that region without first coming back to this body and to the House.

I might point out, if we are drawing parallels with what took place with respect to the Persian Gulf, at that time President Bush expressed some questions as to whether or not, constitutionally, he was required, once having sought and gained authority from the United Nations—whether or not he was required to come back and seek authority for him to go forward in the Persian Gulf from both Houses of Congress.

That is a matter which cannot be resolved by anything that we do. We can neither grant greater constitutional powers to the President than he has, nor can we subtract any constitutional powers that he currently has.

So on that matter I believe I can say it is the understanding of the Senator from Delaware, and it is my fervent belief as well, that this resolution simply urges the President to seek U.N. action and, following that authority that might be granted by the United Nations, whatever that authority might be, the President would be obliged to return to the Congress to seek specific authority to use force.

But that, again, is a matter of constitutional interpretation.

Mr. STEVENS. Mr. President, I am delighted to hear that. I was one of the Senators who called upon the President of the United States after a visit to the Persian Gulf, following the invasion of Kuwait by Iraq, and urged the President to seek a resolution authorizing the use of force.

I understand this first section of the resolution, which is a sense-of-the-Senate, to mean that we are calling upon the President to seek an emergency meeting of the U.N. Security Council to authorize, under article 42, all necessary means for the use of multilateral military forces under a Security Council mandate; that that is not, in effect, the same type of resolution we passed for Kuwait. And we passed that resolution after the mandate.

That is the reason in this amendment I have just offered that we have the final clause which says "consistent with the terms of this resolution." Because I certainly do not want this resolution to be, in any way, interpreted to amend the basic resolution in a manner that would be interpreted to be a finding, now, that such force is authorized by the Senate by this resolution.

Mr. STEVENS. Mr. President, as I indicated, I am constrained to mention an experience before the State legislature of Alaska, the times that we spent debating resolutions. They were memorials and petitions sent to the Congress of the United States. We labored long and hard on those resolutions and sent them here. When I came to the U.S. Senate, I found that such resolutions are received by the clerk, given to the Secretary of the Senate to promptly, formally reply and thank the Alaska legislature for their resolution, and that is the end of it.

I suggest this is a Senate resolution, it is a sense-of-the-Senate resolution, and sometimes I think that we overemphasize the impact of what we are doing. But it is true that it will have a binding effect on the President, I think, because I do think that he will and has and does listen to the U.S. Senate when we seek his cooperation and when we particularly support his action, as we have in this resolution. We have, after all, endorsed the position taken by the President of the United States.

I first heard about this resolution last week, and it was my intention to join in supporting it because I thought it was a resolution to support what the President had outlined he wished to do. I heard some comments on the floor that led me to believe that may not be a unanimous position of the Senate. But at least from the point of view of this Senator, I intend to support this resolution, and I will support it whether or not my amendment is adopted because I believe that the President of the United States does support it and that this is the course he wants to take and will take and we are really reinforcing his position.

Let me cite just a few things, and I will not take the time of the Senate for too long. I want to put some things in the RECORD. I do believe the situation is similar to Kuwait in some aspects. I believe we must have a U.N. mandate to proceed with the use of force in this area; that it must be a multilateral force; that no action of the U.S. military should take place outside of the framework of the United Nations; and that we should realize that in this instance it is necessary to have a proportional participation by our allies in such a multinational force. That, of course, would mean that we would be linking our participation with that of our allies in Europe.

I heard it called for U.N. action. I heard another call for NATO action. Clearly, this is primarily a U.N. mission that we are seeking to be part of, and there is no question that we can only succeed as partners with our friends in the European Community. I think that the majority and minority leaders in the Senate have done the right thing to put us in the position of backing what the President is doing and that we should realize that, notwithstanding the similarity I mentioned to the Persian Gulf, this is an entirely different military circumstance.

We took advantage of well-developed ports, roads, and airfields, which permitted the rapid deployment movement of U.S. forces to the Persian Gulf. We had a host nation that was willing to pay a substantial portion of the bill to make certain we had the facilities that we could use. The desert terrain there maximized the superiority we held in terms of air power, the power of our forces on the land and, of course, we used our sea forces, our naval forces very effectively. As I indicated, it is not insignificant that the host Government spent over $15 billion providing us the facilities to use.

In terms of Bosnia, there is no question that our participation in any multinational force will be at our expense. That is the reason for this amendment. I want to make certain that the people who vote for it know what they are doing and that they pledge, as a Member of the Senate, that they will support the moneys that are necessary to fund the actions of our forces should they be dispatched as a portion of any multinational force under the U.N. mandate.

I have some of the costs of our U.S. forces in the Desert Shield/Desert Storm days. Those costs were significant, and I think they are indicative of the kind of costs that we are going to face in terms of transportation costs, personnel costs, operational costs, fuel costs, and the total problems of transportation and support for our forces that went to the Persian Gulf.

Some people say, and I heard them say today, "But this is not the gulf." This certainly is not the gulf. This is different. Many people have quoted General MacKenzie today. I ask unanimous consent that this be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, this is the "CBS This Morning" interview that took place on the 5th day of this month, and in it General Lewis MacKenzie was interviewed by Harry Smith. Smith asked him this question:

> There are also new calls among some of the U.S. Congress that there should be some sort of military intervention or at least a strong military backup to help the U.N. do what it's trying to do there. Do you support that?
>
> General MACKENZIE. Well, what I have to say is that if you're going to jump from chapter 6 to chapter 7 of the U.N. charter and move from peacekeeping to force, then you better get the peacekeeping force out first.

Mind you, Mr. President, you better get the peacekeeping force out of there.

> Otherwise, you got 1,500 to 1,600 hostages sitting there 200 kilometers from the nearest secure border. You can't combine these two.
>
> And if you're going to get involved in the Balkans, then we better read a bit of history, because we're talking about an area that gobbled up 30 divisions during the last war. Unsuccessfully, by the way, in keeping the peace in Yugoslavia. Unsuccessful in tracking down Tito and finding him in Macedonia. So you're talking about a very, very major undertaking.
>
> Not only that; when they leave, with the amount of hate that's been generated on both sides, it's going to break out and start all over again unless you come to some sort of political constitutional solution for that country.

Question from Mr. Smith:

> President Bush has said that before he goes in there he needs to know what the objective is, he needs to know what the rules are, what the end game is actually.
>
> Is there a way to know the answer to those questions in a place like Yugoslavia right now? Or what used to be Yugoslavia?
>
> General MACKENZIE. Well, yeah, you're not deciding it for Yugoslavia, you're deciding it for the United States. Foreign policy objectives have to be clearly defined. You don't just go in there to try and do this thing or that thing. What you have to do is have a clearly defined objective. I would certainly support those type of recommendations. And any time you come up with a final solution, when you back off and look at the resources you're going to require and the time over which you're going to require them, you're going to have to be fully committed, because you're in there for the long term.
>
> Mr. SMITH. When you talk about fully committed, give me just some rough estimates of numbers.
>
> General MACKENZIE. That's all it would be, that's MacKenzie's guestimate, that's all. It's got nothing to do with the U.S., it's personal opinion.
>
> Mr. SMITH. Right.
>
> General MACKENZIE. But you're talking about more forces than you put into the Gulf, that's for sure.

Now, let me repeat that. "You're talking about more forces than you put into the gulf, that's for sure."

Now, Mr. President, I am supporting this because I believe that we have a President who understands the military concepts involved, served in World War II, was the head of the CIA, was Vice President for 8 years, and certainly understands how to read intelligence reports. He certainly knows what this is all about, and I am willing to give him this authority and urge him to go to the United Nations because I think he knows how to handle that.

As I have said, I ask unanimous consent that the full text of the CBS interview appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CBS THIS MORNING INTERVIEW

GUEST: General Lewis MacKenzie, former commander of the United Nations peacekeeping forces, August 5, 1992.

HARRY SMITH: The Canadian general who commanded the U.N. peace keeping force in Sarajevo through last month says the situation in the Bosnian capital is getting worse, not better. The question is what to do next. Joining us this morning, Major General Lewis MacKenzie. Good morning, sir.

General Lewis MacKenzie, (Former commander, U.N. peacekeeping forces): Good morning, Harry.

Q: First what I'd like to talk about is this on again off again talk about death camps. The U.S. State Department yesterday backed off its—whether or not it knows of their existence. What can you tell us about it?

General LEWIS MACKENZIE. Well, very little, because to explain our mandate was strictly Sarajevo and the areas attached to Sarajevo. All I can say is that we get protests every day from both sides claiming the other side have detention camps, concentration camps, whatever you want to call them.

But there is no way to confirm that at this time because there are no eyes around the rest of Bosnia. The spotlight of the world is on Sarajevo. What I would say, in accordance with other statements that have been made, it would be really nice to get the international Red Cross in there in large numbers. As you know, one of their people was killed in Sarajevo and they're in the process now of coming back into Bosnia. They're the experts, they're the ones who should take a look.

Q. The U.N. said let's get the Red Cross in there, let's get them in to inspect these camps. The Serbians aren't going to allow that, are they?

General LEWIS MACKENZIE. Well, I wouldn't just pin it on one side. Both sides admittedly have their own detention camps, and both sides, the pressure is going to have to be brought to bear to let the inspectors go in.

There's always this problem in every war, and we'll always be totally convinced that there are some camps we're not going to find. But at least if you start the process, it's a step in the right direction.

Q. There are also new calls among some of the U.S. Congress that there should be some sort of military intervention or at least a strong military back up to help the U.N. do what it's trying to do there.

Do you support that?

General LEWIS MACKENZIE. Well, what I have to say is that if you're going to jump from chapter six to chapter seven of the U.N. charter, and move from peace keeping to force, then you better get the peace keeping force out first. Otherwise you got 1,500–1,600 hostages sitting there 200 kilometers from the nearest secure border. So you can't combine these two.

And if you're going to get involved in the Balkans, then we better read a bit of history,

> because we're talking about an area that gobbled up 30 divisions during the last war. Unsuccessfully by the way, in keeping the peace in Yugoslavia. Unsuccessful in tracking down Tito and finding him in Macedonia. So you're talking about a very, very major undertaking.
>
> Not only that, when they leave, with the amount of hate that's been generated on both sides, it's just going to break out and start again unless you come to some sort of political constitutional solution for the country.
>
> President Bush has said that before he goes in there he needs to know what the objectives is, he needs to know what the rules are, what the end game is actually.
>
> Is there a way to know the answer to those questions in a place like Yugoslavia right now? Or what used to be Yugoslavia?
>
> General MACKENZIE. Well, yeah, you're not deciding it for Yugoslavia, you're deciding it for the United States. Foreign policy objectives have to be clearly defined. You don't just go in there to try and do this thing or that thing. What you have to do is have a clearly defined objective. I would certainly support those type of recommendations. And any time you come up with a final solution, when you back off and look at the resources you're going to require and the time over which you're going to require them, you're going to have to be fully committed, because you're in there for the long term.
>
> Q. When you talk about fully committed, give me just some rough estimates of numbers.
>
> General MACKENZIE. That's all it would be, that's Mackenzie's guestimate, that's all. It's got nothing to do with the U.S., it's personal opinion.
>
> Q. Right.
>
> General MACKENZIE. But you're talking about more forces than you put into the Gulf, that's for sure.
>
> Q: How do you think this is all going to end?
>
> General MACKENZIE. Well, there are two different scenarios. If the presidential side, for all kinds of reasons that are very, very justifiable for them, the presidency of Bosnia-Hercegovina, continues to refuse to negotiate with the other side, because they look upon them as an aggressor army, and therefore they only deal with Belgrade or the Yugoslavian headquarters in Belgrade, then there is no solution. Because the war will continue. And one side will win and one side will lose. Maybe it will take two months, maybe it will take ten years.
>
> But certainly it would appear to me that there is no chance for a solution until the sides talk.
>
> Now, the Serbs, for reasons known to them, are prepared to talk now anytime, any place.
>
> The presidency is very concerned about that, because they see that as freezing the status quo. And as far as territorial gains go right now, they don't have much territory. So you can understand their lack of willingness.
>
> But at some stage, we have to ratchet up the political process. You're not going to resolve it probably by meeting now and then outside of the country for a few days here and a few days there. That is a tremendous contribution to the process, but ultimately the sides have to sit down, square off across the table, and come to some sort of constitutional agreement.
>
> Q: Thank you.

Mr. STEVENS. I have another item, Mr. President. As I told the Senate this morning, once I heard last week that we were going to get into this debate, I spent the weekend reading a series of things that the Library of Congress and my staff dug out so that I might try to understand this a little bit more.

One of them was another report, this one was issued the next day following General MacKenzie's comment. It was a Reuters article dated the 6th of this month, and its question was:

> Is Yugoslavia a military black hole, waiting to swallow up divisions if the West is rash enough to intervene? Or could limited military action silence the big guns and bring relief to trapped civilians?

Then I am skipping down through another quote.

> The head of the nine-nation Western European Union, Willem van Eekelen, told Dutch radio Thursday that only military means could now end the slaughter. "This cannot go on," he said.
>
> But the outgoing commander of U.N. peacekeeping forces in what remains of Yugoslavia, Lt. Gen. Lewis MacKenzie, had words of warning for those contemplating military action.
>
> "I have never seen an intense hatred between peoples," he told Britain's Daily Mail.
>
> "If there is no diplomatic solution and the world thinks seriously of putting in an occupation force, then they should be prepared for a very long stay. I'd say for the next 20 years—and even then, who knows what would happen when they left?"

The report goes on to give the NATO preliminary estimates that at least 12,000 troops backed up with heavy equipment would be needed to take control of just the airport at Sarajevo, and up to 100,000 men with permanent air cover would be needed to open up a land corridor to the city.

Mr. President, I ask that that report from Reuters appear in the RECORD after my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STEVENS. I am seeking the floor tonight to try to focus a little bit of the Senate's attention on the fact that this is a very dangerous undertaking on which we are not supporting the President of the United States. We are seeking an emergency session of the Security Council to talk about the use of an international force, a multinational force to deal with this problem in Bosnia.

One of the reports that I got ahold of over the weekend was a CRS report for Congress by Steven J. Woehrel dated July 31 of this year, and I want to read just one portion to the Senate. He reported that: "The history of interwar Yugoslavia not a harmonious one." This was following, of course, the assassination by some Bosnia-Serb student of Archduke Francis Ferdinand in Sarajevo in June of 1914, an event which he points out touched off the First World War.

In the interwar period:

> Serbia imposed a centralized state, which it dominated, and faced resistance from Croats, who wanted a loose federation. Bosnian Muslims, while unhappy with Serb domination, reached a modus vivendi with Serb leaders in exchange for religious toleration and an easing of land reform provisions that threatened Muslim landowners in the province. Nevertheless, hundreds of thousands of Slavic Muslims emigrated to Turkey.
>
> After the German conquest of Yugoslavia in 1941, Bosnia-Hercegovina was annexed to the Independent State of Croatia, a puppet state headed by the Croatian fascist Ustashe (Uprising) movement. The proclaimed goal of the Ustashe was to expel a third of the Serbs, convert a third to Catholicism and kill the remainder.

That was their stated goal then. This is 50 years ago, Mr. President. People think that somehow, by dispatching a group of military people to have a demonstration, we will have an impact on this bloodbath that has been going on since the 11th century?

That is what bothers me about the comments that have been made on the floor, not with what the resolution says but what some people on the floor of the Senate have interpreted it to mean; that we are going to go in and liberate these concentration camps, these abominable things.

Certainly, we should be totally revolted by the reports we are getting out of that area. But I think we should also listen to General MacKenzie. And I hope the Senate does listen to him tomorrow and understand what we are doing, because we are certainly not, in this resolution, authorizing the President of the United States to dispatch U.S. military forces to liberate either, as part of a multinational unit or on our own, anyone from those camps.

Mr. President, I have taken enough time of the Senate tonight. I would point out just one thing, the Yugoslav Government in the postwar years after World War II listed partisan and Yugoslav losses at nearly 250,000 people, and the report was mostly they killed each other.

We all know the stories of the fight between Tito and Makhailovich in World War II. It is time for us to realize that this country, this Senate acting on a resolution, which does not become law, which is the sense-of-the-Senate, has no binding effect on anyone, whether it is the President of the United States, the Congress of the United States, or the United Nations. It is not going to solve this problem. But the one thing I want everyone to do when they vote for this resolution, is to vote for this amendment which will mean one thing.

If a Member of the Senate votes for this amendment he is committing himself or herself to support the funds to keep our people in the field if they are dispatched pursuant to the course that we are setting tonight, that we are initiating tonight or tomorrow when we pass this resolution. I believe that those people who in the past have not supported the United Nation ought to realize that if we are going to authorize our participation in a multinational force, this time we are going to pay the whole bill.

When we pay it, I hope the Senate will look at this briefing I prepared in terms of what it cost to deploy the U.S. military forces from August of last year through May 31, of this year.

They point out, for instance, that just the airlift and sealift cost $8.2 billion. Remember, General MacKenzie said we will need even more people than that.

Second, Mr. President, it is my hope that those people who back in the days of the Vietnam war stopped supporting appropriations for the war in order to try to end it realize that that cannot go on in this situation either. General MacKenzie indicated his judgment is if we get forces in there, they will be there for 20 years unless we get a political solution. If we start down this course, we are going to have to have the money, and this resolution says we pledge we will supply the funds to maintain those forces in the field.

I think it is important that we make that pledge if it is important to pass the resolution.

I will make my further remarks tomorrow.

EXHIBIT 1

COSTS TO DEPLOY U.S. MILITARY FORCES

(All Figures through May 31, 1992)

TRANSPORTATION COSTS

In Operation Desert Shield/Desert Storm, the costs of airlift and sealift to both deploy and return U.S. forces to the Persian Gulf total $8.2 billion.

Airlift costs totaled $3.3 billion.

Sealift costs totaled $4.9 billion.

For the Army, transportation costs totaled $1.3 billion for airlift, and $3.8 billion for sealift.

For the Navy, transportation costs totaled $1.1 billion for airlift, and $666 million for sealift.

For the Air Force, transportation costs totaled $746 million for airlift, and $405 million for sealift.

PERSONNEL COSTS

Costs related to additional pay and allowances for personnel assigned to the Persian Gulf totaled $6.5 billion.

Costs included imminent hazard pay, and active duty pay for National Guard and Reserve personnel.

For the Army, personnel costs totalled $4.1 billion.

For the Navy, personnel costs totalled $1.3 billion.

For the Air Force, personnel costs totalled $1.0 billion.

As of July 15, 1992, 180,000+ DoD military personnel remain deployed in the Persian Gulf region, receiving increased pay and allowances for their service.

OPERATIONAL COSTS

Increased incremental operating costs (not including fuel) for Operation Desert Shield/Desert Storm totalled $19.99 billion.

Such costs include increased operating tempo (OPTEMPO), spare parts, communications and maintenance activities.

Operating costs for the Army totalled $12.1 billion.

Operating costs for the Navy totalled $4.6 billion.

Operating costs for the Air Force totalled $3.2 billion.

FUEL COSTS

Additional fuel costs associated with the deployment and operational activities for Operation Desert Shield/Desert Storm totalled $4.8 billion.

Additional fuel costs for the Army totaled $224 million.

Additional fuel costs for the Navy totaled $1.4 billion.

Additional fuel costs for the Air Force totaled $2.7 billion.

EXHIBIT 2

YUGOSLAVIA: MILITARY BLACK HOLE OR RIPE FOR STRIKE?

(By Nicholas Doughty)

BRUSSELS, BELGIUM.—Is Yugoslavia a military black hole, waiting to swallow up divisions if the West is rash enough to intervene? Or could limited military action silence the big guns and bring relief to trapped civilians?

Most military analysts believe it could be Europe's Vietnam, a quagmire without an end in sight.

But NATO military officials, although they have little enthusiasm for getting involved, say some operations could be feasible if their objectives were properly defined.

In any case, diplomats say, military considerations may not be the dominant factor for much longer.

There is a massive groundswell of revulsion in the West over the savage fighting in Bosnia, particularly the shooting of two infants by snipers and reports of concentration camps run by Serbs.

The head of the nine-nation Western European Union, Willem van Eekelen, told Dutch radio Thursday that only military means could now end the slaughter. "This cannot go on," he said.

But the outgoing commander of U.N. peacekeeping forces in what remains of Yugoslavia, Lt. Gen. Lewis Mackenzie, had words of warning for those contemplating military action.

"I have never seen such an intense hatred between peoples," he told Britain's Daily Mail.

"If there is no diplomatic solution and the world thinks seriously of putting in an occupation force, then they should be prepared for a very long stay. I'd say for the next 20 years—and even then, who knows what would happen when they left?"

Nevertheless, NATO officials are discussing a range of possible military options which could be carried through if the United Nations approves the use of limited force.

Alliance sources say these range from air strikes on Serbian artillery and mortar positions around the beleaguered city of Sarajevo to setting up safe havens for civilians or creating a land corridor for aid delivery from the Adriatic coast.

Preliminary NATO estimates suggest at least 12,000 troops, backed up with heavy equipment, would be needed to take control of Sarajevo airport. Up to 100,000 men, with permanent air cover, would be needed to open a land corridor to the city.

But the cost could be high. The mountainous, wooded terrain cost Hitler several divisions in World War II due to losses from guerrilla attacks. Small mortars and snipers are hard to hit, with the risk of high civilian casualties.

If a political decision is taken to commit forces, military officials said all the objectives must be clear.

For example, if you are going to take Sarajevo airport by force so that aid can be flown in, how long do you hold it for? How do you reinforce troops there if needed and how do you get them out again? And does that mean you have to go into other areas of Bosnia, too?

Any mission would need a legal mandate, presumably from the United Nations. It would also need a single, unified command to work properly. Who would run it?

The United States had overall command in the Gulf War and is unlikely to commit forces to Yugoslavia unless it holds the same dominant position.

NATO has a military structure but cannot go beyond the defense of its member states. The Western European Union has no command structure.

"The whole question of command, where the troops come from and who pays is very unclear," said Paul Beaver, publisher of the authoritative Jane's Defense Weekly. "That would have to be sorted out first, otherwise you risk making big mistakes."

A key consideration for the politicians is to ensure that international and popular opinion is behind any military action before it happens.

"Once we go in, we're the enemy," said one NATO diplomat. "We have to be ready to deal with bodybags coming back to London or Paris."

Mr. COHEN. Mr. President, I yield myself such time as I may consume.

Mr. President, I want to respond briefly as I can to the Senator from Alaska, especially his final comments about this resolution.

As I understand his rationale, the Senator from Alaska is supporting this resolution which he believes is unnecessary. He believes that from a legal point of view it is completely unnecessary to pass any resolution to grant or urge the President to go to the United Nations to secure authority to participate in a military operation against Serbia. But he is going to support the resolution because he firmly believes that President Bush would never be foolish enough to commit substantial amounts or levels of ground forces to achieve a military solution.

The Senator from Alaska raises the kind of, I guess, complexity that is involved in this entire debate. There have been parallels drawn between the Persian Gulf and this particular conflict. In the Persian Gulf we know that they were fighting in a desert, and the lines were very clearly defined in that desert. The enemy was quite clearly identified, the goal was very simply explained, if not easily achieved, and that was to drive Saddam Hussein out of Kuwait and back to his bunker in Baghdad.

We have something quite different however when it comes to this particular conflict. A number of people have tried to at least express what the role of the United States ought to be, following the collapse of the Soviet Union. It has been frequently declared that we are not a policeman of the world, and that has been reiterated throughout the day today and tonight. But that we are, at least if not the policeman of the world, the conscience of the world.

So this issue of conscience, should we not do something in the face of this unmitigated brutality that is being inflicted by the Serbian Government? Everyone has expressed being horrified by the actions taken by the Serbs. Many have also expressed their hesitancy to commit U.S. troops to resolve that particular conflict.

Some have said this is simply a nonbinding resolution, as if what we are engaged in merely is the expression of words, a sense of sentiment, a sort of moral commitment for the President to push him in the direction he is already moving. But I think there is more than words involved.

As the debate evolved during the course of the day we understand that if in fact we go on record to urge the President to go to the United Nations and there to develop a consensus for the use of whatever force is necessary to achieve the goals expressed in this particular resolution, and that if in fact he does achieve that consensus, and if in fact they pass a resolution urging the use of whatever force is necessary, it would indeed be hypocritical for any who support this resolution for the President to come back to the Senate and to the House—assuming he feels he has to by the way. That is not altogether clear, because during the debate on the Persian Gulf on a number of occasions he expressed considerable doubt as to whether he once having gone to the United Nations then had to turn around and come back to the Congress to get authority because every President since the passage of the War Powers Act has declared it to be unconstitutional. Every President has felt it is within the powers inherent of the Commander in Chief's position that he or she be allowed to commit forces in the national security interest of this country without going to Congress to secure that particular authority.

But assuming the President were to come back to the Congress and say: Now, I have got this document, here is the United Nations declaration. It would be hypocritical, to say the very least, for any Member of Congress who had voted for the resolution to say: Wait a minute, I have had second thoughts about this, Mr. President. We are not so sure we like the allocation of responsibility. We know that we had originally intended simply to use air power. We are going to use the air power of this country to strike bridges, strategic targets, to knock out energy supplies, to dam up certain rivers in order to isolate their government. But we had no intention of doing what the Senator from Alaska suggested, that the general thought might be necessary, and that is commit 30,000, 50,000, 100,000, 500,000 troops to that region, because there is a serious question as to how long they have to be committed, serious questions as to when if at any time they could be withdrawn, and what happens following their withdrawal.

I raise this because I think it has typified the debate here today. Many of us are still of divided mind about what is the appropriate thing to do.

The Senator from Washington said we do not need this resolution. The President is doing just fine. He has the authority without Congress taking any action whatsoever to seek a resolution out of the United Nations, to then report back to us, and then outline what he would propose for military action on the part of the United States. He does not need our help whatsoever.

But we are giving him some added incentive. What we are I saying is: You, if you get that authority, come on back. We will be with you 100 percent, 100 percent in the terms of use of force. We are also with you 100 percent in terms of what it is going to cost.

That is what the Senator from Alaska is saying: No mistake. No backing out. When the bullets start flying we intend to spend whatever millions or billions are required in order to achieve this particular objective.

So that is the nature of the debate that has been taking place today, that many people say: Well, it is only a nonbinding resolution, we are simply urging him, pushing him to go to the United Nations. He is not bound by anything we say or do, and we are not bound by anything he does. When in fact once we are on record as urging him to take certain action and he returns, we are in fact, those who support the resolution bound to support the President in whatever he seeks to do provided it does not involve what Senator BIDEN suggested, a nuclear attack on what was formerly Yugoslavia, or a commitment of some half-a-million or perhaps more ground forces to that region.

Mr. President, I want to repeat again what I read earlier this morning. One of the chief cosponsors of the resolution I think articulated the kind of hesitancy that was expressed back during the debate on the Persian Gulf war. He said:

> Before we plunge into a difficult conflict which can have no simple ending we must know, and the American people who will be fighting and dying must know, what kind of a solution we are seeking. The complex problems of the gulf region do not lend themselves to simple solutions.

I would suggest what the Senator from Alaska has just read into the RECORD would in fact follow precisely this. It does not lend itself to a simple solution if history is any guide as to what has taken place over the centuries in that region.

Then going back to the Persian Gulf debate, the Senator said: "We must find a course which will enable our Arab allies to find their own way to peace in the region," and concluding, "but until we have a greater clarity of vision that war will result in a secure peace, and until we have truly exhausted all economic and diplomatic means, I cannot in good conscience vote to give the President the authority to pursue military action from which there is no turning back."

That was I think not an unusual statement. I think it was a statement that was made with great conviction and out of conscience, but I think it reflected the kind of deep feelings that were involved in that debate. That debate do not forget took at least 6 months to evolve, at least 6 months from the time that Saddam Hussein invaded Kuwait and the President decided to commit forces to defend Saudi Arabia, so-called Desert Shield, that full 6 months while we were deploying up to 500,000 troops, the debate started in this country, exactly what were we getting into, how many people would have to be deployed. What kind of war are we going to fight? Are we going to go at it ground to ground, or simply from the air. How many would die? How many body bags are we going to order. What are we talking about in terms of casualties? What are the calculations involved?

All of that was involved in the debate as we continue to try to develop a policy that would ultimately support the President's use of force. It took 6 months and many hearings, many long hours of hearings with witnesses coming and giving their best estimates in terms of what would happen, should we go to war with Saddam Hussein.

The issue came up of whether or not Saddam Hussein had any possibility of using chemical or biological weapons. How close was he getting to nuclear weapons? All of those issues were involved, because we were so hesitant to take on an enemy who was so clearly identified and located, or could be located—Saddam Hussein. We have something far more complex here, something with an equally complex tradition in terms of trying to resolve ethnic hatred.

So, Mr. President, we are going to have to resolve this issue tomorrow. We are going to have a hearing before the Armed Services Committee. I see the distinguished ranking Republican Member here on the floor this evening. Unfortunately, we will not have much time to ponder that testimony before we are called upon to vote. It puts us in a rather difficult position that we should hold a hearing to take the testimony of witnesses, who will give their best judgment to the members of the committee and, yet, the committee members will have little, if any, opportunity other than the 5 minutes perhaps allocated to the Senator from Virginia, to express to our colleagues the nature of the testimony before the committee.

So, for all practical purposes, we will be voting tomorrow based upon what we have discussed this day, and the doubts we continue to experience along with the heartfelt concerns we have for the people who are dying and starving to death in that tortured country right now.

Mr. WARNER. Mr. President, first, may I say to my colleague and friend from the State of Maine, how well he has managed a very difficult assignment, given that many Senators at this time are still trying to determine on which side their final vote will be taken on this.

I think the Senator has posed, time and time again, the pertinent questions that each Senator must answer for himself or herself, as we deliberate our vote on this. But I want to also commend the Senator from Alaska for this very good summary of this situation. And on this amendment, I want to ask a question.

First, I draw your attention to what appears to be the title. It says: Relating to Authorization of Multilateral Action in Bosnia-Hercegovina. I understand the proponents of this as saying the underlying amendment authorizes nothing. It simply says to the President: Go to the United Nations and argue the case pursuant to this amendment; then come back to us, and we will decide, Mr. President, whether we area going to support you. That is the essence of it, and that is where I have absolutely my greatest concern with this amendment.

So I wonder—well, it does appear, and this has been replaced by another document, I say to the Senator.

Mr. STEVENS. That is true, but it is now: Express the sense-of-the-Senate regarding authorization of multilateral action. That is still the purpose.

Mr. WARNER. Apparently.

Mr. STEVENS. It is not part of the resolution, I say. It is a stated purpose at the beginning.

Mr. WARNER. It is misleading, I would say, if we are to take what the Senator from Delaware has said over and over, earlier this afternoon and this evening.

Mr. STEVENS. There will be, as I understand it, an amendment to that clause, before we are through, unless I am wrong. That is the first knowledge I have.

Mr. COHEN. My understanding is that there will be no such amendment.

Mr. WARNER. So on its face it is misleading. I want to get to the key question here. Mr. President, if I could direct this to the Senator from Alaska. The Senator who spoke this evening, Senator BIDEN, made it absolutely clear to all present: Worry not, the President will go. We will ask him to do certain things, but he has to come back to this body.

As I read this, does this not cut off the option of Senators? If they are to support the Senator from Alaska, to what extent does that limit their options, if in fact the President does come back to this body to seek specific authorization to take action with the U.N. forces and delineate specifically what components of the U.S. military are to be utilized by the United States?

For example, time and time again, throughout the 5 days that we have worked on this, Senators have gotten up and said—I have gone to the record—we will not utilize ground forces. Supposing he comes back and says that it is my judgment that it is essential that we take the same level of risk as do other nations if we are going to achieve the goals as laid down by this resolution?

If a Senator were to vote tomorrow in support of the Senator from Alaska, could that Senator then in good conscience turn around and vote against the President's recommendations to incorporate ground forces as a part of the overall force that we will commit to such resolutions as the United Nations made up?

Mr. STEVENS. Yes. This amendment contemplates such a possibility, because it is specifically limited by the last clause which stays consistent with the terms of this resolution. This resolution is a sense-of-the-Senate resolution, which is designed, as I understand it, to give the President of the United States an urging.

Mr. WARNER. Yes; he does not need the authority.

Mr. STEVENS. It is an urging to go to the United Nations and ask for an emergency meeting. But it just is predatory in the sense that it says he should. In my judgment, what I am saying is that people who are voting for this pledge that when a U.S. force participates with a multilateral military force——

Mr. WARNER. If I can interrupt the Senator. Let us take it in sequence. We vote tomorrow for the resolution, and Senators vote for the amendment of the Senator from Alaska; the President goes to the United Nations, and the United Nations does vote a resolution consistent with this resolution, at which time the President makes certain commitments with respect to our military forces. Now it is anticipated that that decision of the President will be reviewed by the Senate, and if certain Senators are not in agreement with the quantum and, most specifically, the types of military forces the President commits, he or she then is free to vote against the President.

Mr. COHEN. If the Senator will yield. Legally, obviously, any Senator is free to vote against the President, coming back and saying, this is what I propose we do. This is the commitment I made. That would be hypocritical, totally hypocritical, for anybody to vote on this measure thinking I voted for it, but I did not have any intention of ever supporting the use of ground forces, and I am thinking only of air power or naval gun power, and nothing else.

And then to come back to the President, and he says here is my opinion. No, Mr. President, we are sorry, but we cannot agree to that. That would be the height of hypocrisy on our part, and it would also be the height of demoralizing the very issue raised about Hungary earlier today. It would be the same thing, raising people's expectations only to dash them, particularly under the circumstances where the President is in a major political battle. I think it would be a terrible message to be sending. I think if you support this, you support the——

Mr. WARNER. What is this Senator, the underlying resolution, or the amendment? I ask the Senator from Alaska.

Mr. COHEN. The Senator is putting us on record saying whether you support the underlying resolution or not, if we agree to urge the President to get this kind of authority, we are agreeing we are going to pay for it.

Mr. WARNER. I am wondering when do you make that commitment, at the time we pass this resolution to support the payments, or at such a time as the decision of the President comes back for another review by the Senate?

Mr. STEVENS. Mr. President, do I have the floor? I would like to answer these questions. I think we are getting off on a rabbit trail here.

The PRESIDING OFFICER. In the judgment of the chair, the Senator from Virginia had the floor.

Mr. WARNER. Mr. President, I yield to the Senator from Alaska for a response.

Mr. STEVENS. It was my understanding that the Senator asked me a question, and I was supposed to answer it. If he has the floor, it is all right. But I have to tell the Senator this has as much legal impact on a Member of the Senate as the resolution itself does, just a sense-of-the-Senate resolution.

Mr. WARNER. Mr. President, I agree.

Mr. STEVENS. What this says is the U.S. pledges. It does not say Senator COHEN or Senator WARNER or Senator PELL or Senator LEAHY or myself, that we personally pledge.

I want the Senate on record to say if we are going to urge the President to do this, to go to the United Nations and ask for the emergency meeting of the Security Council, and we do in fact end up by having American forces in this multilateral military force pursuant to a mandate adopted by the United Nations, that he will in fact know that we will provide the funds. That we will not have the same situation develop as developed in Vietnam or developed so many times since we have been here that people urge the President to do things and when it comes down to paying the bill they will not pay it.

Besides that, as I pointed out, some of our Members do not support the

United Nations itself, yet they are calling on the United Nations to get involved in this. The United Nations does not have the deep pockets that Saudi Arabia has. If we get involved in this one, this is on us.

Mr. WARNER. Mr. President, it is my understanding of the Senator's amendment it simply states that the Senate as a body will continue to support the President of the United States in his decision to utilize our forces as he so determines consistent with the U.N. resolution and it reinforces what the Senator from Maine has been saying all along. It would be hypocrisy if we come back and review it and decided not to support.

Am I not correct?

Mr. COHEN. Mr. President, what I am saying, this is not simply a nonbinding resolution. It is phrased as a nonbinding resolution. Fact is this is more than words. There is a message to the President: Do this job, go to the United Nations, get the mandate, and then come back and we will support you. But you cannot separate it out; you cannot say it is only a nonbinding resolution. We are binding ourselves, making a commitment to the President that we are going to follow his lead when he comes back from the United Nations to take whatever action he determines is in our national security interest, because it has been identified as having a bearing on national security interest.

Mr. WARNER. I agree with the Senator from Maine in his analysis.

Mr. STEVENS. Will the Senator yield for one more comment?

Mr. WARNER. Yes.

Mr. STEVENS. You can look through the resolution and the Senate does not pledge to do anything until it comes to my amendment. The Senate is really asking the President to do all these things and asking the Security Council to do certain things, and I do not disagree with them. But where is the Senate saying we are going to do anything? I think we ought to say if you do this, we pledge we are going to be with you. That is what this amendment does.

Mr. WARNER. Mr. President, that is precisely the point I wish to make and, on that, I yield the floor, because the Senator has satisfied this Senator.

Mr. STEVENS. I reserve the remainder of my time for tomorrow.

Mr. COHEN. For the record, the Senator has reserved a total of 30 minutes for tomorrow on his amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. COHEN. Mr. President, I might indicate for the record that I was sort of kidnaped by this management position today. I was on my way to another meeting and Senator DOLE happened to see someone who was unescorted at that time and asked me to manage this bill. But I will indicate that I believe that one of the members of the Foreign Relations Committee on the Republican side tomorrow will have to conclude the management of the bill since I have a hearing with Senator LEVIN that begins early in the morning.

Mr. DOMENICI. Mr. President, I was a cosponsor of the original version of this resolution regarding the situation in Bosnia. I support the modified resolution we are considering today.

I regret that what began as a somewhat routine expression of Senate concern about the fate of Bosnia's civilians became a vehicle for the bickering and delay that increasingly characterizes this body.

None of us know for certain what is happening in the detention camps and besieged cities in Bosnia, but what we have learned over the past week adds new urgency to a situation that was already terrible. That is why some of us from both parties here decided to introduce a resolution that would give the President some political protection to act more forcefully in this matter during an election year.

In fact, since the original resolution was drafted, the President accelerated an international program of action to limit these atrocities. As far as I can determine, both candidates fully recognize the need for action. I fail to understand the fear that this has become a partisan issue.

Why is this a matter of U.S. national interest? It is a matter of our national interest because of the locale and history of Yugoslavia in the heart of Europe. Bosnia, Croatia, and Serbia are surrounded by other countries with restive national minorities.

I strongly suspect that Serbs are not the only ones in the region who are capable of starving and shooting civilians of other ethnic groups. Others in Eastern Europe appear ready to follow the example of Serbia and undertake "ethnic cleansing" on a massive scale.

The year 1992 was going to be the year of Europe—of European unification. Instead we find that a European nation—Serbia—is practicing policies that resemble nothing less than genocide. That this is happening now, 47 years after we thought that this crime has disappeared from Europe forever, gives a new meaning to the slogan "Europe 1992."

Europe is a vital part of the global economy that we have come to depend on over the last decade or two. If the "ethnic cleansing" spreads from Yugoslavia to other countries bordering our major trading partners in Europe, Europe cannot contribute to the trade, jobs, and investment badly needed here in the United States. That is why the policies encouraged by this resolution are in America's self interest.

I do have two questions about this matter of Bosnia that have not been answered to my satisfaction: our utter reliance on the United Nations, and the lack of intelligence about the detention camps.

I agree with all who have spoken here that the United States should not act alone in Eastern Europe. But the Secretary General of the United Nations has publicly observed that regional institutions could function better than the United Nations in Yugoslavia. There are other insitutions, NATO for example, that may serve our objectives better than the United Nations.

My other unanswered question relates to our massive intelligence capacity developed during the cold war. Why did we have to learn from a newspaper in Long Island and TV reporters in England what was going on in the camps?

I commend the Senators from Arizona, Connecticut, and Kansas who originated this resolution. Like Secretary of State Jim Baker several months ago, these Senators were moved to demand action by the international community.

Finally, I ask unanimous consent to place in the RECORD at this point a statement written by the Acting Secretary of State on the afternoon, 5 days ago, when the Senate originally discussed this amendment. At that time, the State Department spokesman explained exactly what the administration was doing with regard to this situation. Since then the President has personally amplified and expanded upon this statement several times.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REGULAR STATE DEPARTMENT BRIEFING, AUGUST 5, 1992

(Briefer: State Department Deputy Spokesman Richard Boucher)

This is a statement by the acting secretary, Lawrence S. Eagleburger, which I will read to you, which I have been entrusted to read to you on his behalf.

Over the past week we have seen an increasing number of reports about detention centers in Bosnia-Hercegovina and Serbia, including reports that indicate the possibility of executions, torture and other gross human rights abuses. These reports have included press interviews, charges and countercharges by the parties, and reports from others in the area.

The International Committee of the Red Cross has visited nine facilities where they registered 4,300 prisoners. At this point the Red Cross has reported on very difficult conditions of detention, but they have not found any evidence of death camps. Nonetheless, there are reports of many other detention centers which the Red Cross has not been able to visit and it is at some of these that atrocities have been reported.

These reports, although unconfirmed, are profoundly disturbing. It is vital that any and all prisons and detention centers be open to the Red Cross and other neutral parties. Urgent action is required to reveal the truth and to prevent any abuses which may be occurring.

Yesterday morning we began a series of steps to support such access. We instructed our diplomatic personnel immediately to contact senior Serbian, Bosnian and Croatian officials to insist that the International Committee of the Red Cross be granted immediate, unimpeded and continuing access to any places of detention.

We have asked the United Kingdom, the presidency country of the European Community, and through them, the other members of the EC, to make similar approaches.

We have asked the Russians to use their influence with the Serbs to the same end.

We proposed and we obtained a statement by the Security Council yesterday evening which endorsed this demand and reminded those involved in any abuses that they can be held individually responsible for breaches of the Geneva Conventions.

Today we have called for an emergency extraordinary meeting of the United Nations Human Rights Commission in Geneva to examine the situation in more detail, to discuss gross human rights violations and to press for full access to detention camps. We look to the Human Rights Commission to forcefully exercise its mandate in this regard by appointing a special representative, who should be granted access to investigate these charges and report back to the members of the United Nations with his recommendations.

This will be the first ever such meeting by the United Nations Human Rights Commission. We have been urging governments throughout the world to support this call immediately, even before the formal proposal was circulated, so that the meeting could take place as soon as possible.

Our proposal has now been circulated in Geneva asking the 53 members for their views by 1:00 Eastern Daylight Time on Monday, August 10. We hope to see the necessary endorsement from at least 27 members even before that, if possible.

In addition, we are undertaking other steps immediately. We're calling on the CSCE to invoke the appropriate measure of the CSCE human dimension mechanism in order to telescope the process of choosing a rapporteur to look into the allegations. We're undertaking renewed efforts to tighten sanctions enforcement, in addition to the efforts that we made earlier this month which have met with some success.

We will facilitate the deployment of monitors to Romania to ensure that the effect of the U.N. sanctions on the Serbian economy is as devastating as possible, and we are developing a Security Council resolution which would call on states and organizations to collect substantiated information concerning war crimes and to make that information available to the Security Council.

There are today some indications that our urgings are being heard. In Belgrade Mr. Panic promised our charge to invite international observers to sites of alleged camps in Serbia and Montenegro.

Mr. Panic also pledged his support to the U.N. presidency statement demanding the opening of camps run by Serbians in Bosnia.

Press reports today indicate leaders of the so-called Serbian Republic of Bosnia have said that they are ready to open all facilities to international inspection. Bosnia President Izetbegovic told our charge in Belgrade that he has offered access to international observers to all facilities within Bosnia.

President Tudjman told our consul-general in Zagreb yesterday that he would contact Croatian leaders in Bosnia to request their complete cooperation with ICRC. These promises are welcome but what is important is real action. We cannot allow excuses such as those used in the past, that the safety of the ICRC delegates could not be ensured to block their important mission. We will press to see that real action is achieved.

Let me also add to that we are intent upon seeing a U.N. Security Council resolution to ensure the humanitarian assistance is delivered through whatever means are necessary and that we have been discussing with our key allies a draft of such resolution.

MORNING BUSINESS

Mr. PELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION, AND REPRESENTATION IN THE CASE OF UNITED STATES OF AMERICA VERSUS CLAIR E. GEORGE

Mr. PELL. Mr. President, on behalf of the majority leader and the Republican leader, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 332) to authorize testimony, documentary production, and representation of Members and employees of the Senate in United States of America versus Clair E. George.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the Senate recently agreed to Senate Resolution 323, authorizing several current or former Members and employees of the Senate to testify in the case of United States of America versus Clair E. George, at the request of Independent Counsel Lawrence Walsh. The jury began hearing testimony in that case on Friday, July 24.

Counsel for the defendant has served subpoenas calling for the production of Senate records on the records custodians for the Committee on Foreign Relations and the Select Committee on Intelligence. In the interests of evenhanded justice, the Senate should authorize the production of records to the defendant.

Also, both sides have indicated that they may make further requests for testimony or records from the Senate as the trial unfolds. Accordingly, in addition to authorizing the Foreign Relations and Intelligence Committees to respond to the existing requests, this resolution will authorize Members and employees to testify or produce documents in the event that additional requests materialize as the trial progresses, including during the August recess.

The resolution also authorizes the Senate legal counsel to represent the witnesses in connection with their testimony.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are both agreed to.

The resolution (S. Res. 332), with its preamble, is as follows:

S. RES. 332

Whereas, in the case of *United States of America* v. *Clair E. George*, Crim. No. 91-521, pending in the United States District Court for the District of Columbia, counsel for the defendant has requested the production of documents from the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence, and current or former Members and employees of the Senate from whom testimony may be necessary, are authorized to testify and produce documents in the case of *United States of America* v. *Clair E. George*, except, with respect to Members of the Senate, when their attendance at the Senate is necessary for the performance of their legislative duties, and except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence, and current or former Members and employees of the Senate from whom testimony may be necessary, in connection with their testimony in *United States of America* v. *Clair E. George*.

Mr. PELL. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—S. 3163

Mr. PELL. Mr. President, I ask unanimous consent that S. 3163, introduced earlier today by Senators KENNEDY and HATCH, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUG AMENDMENTS OF 1992

Mr. KENNEDY. Mr. President, today Senator HATCH, Senator DECONCINI, and I are introducing the Prescription Drug Amendments of 1992. This legislation would extend the deadline for States to comply with the Prescription Drug Marketing Act, in order to ensure that citizens across the country will continue to have access to prescription medications.

The PDMA set a September 14, 1992, deadline for States to license prescription drug wholesalers. As of this month, 23 States are in full compliance with the requirement. While most of the remaining States have introduced legislation or regulations to bring themselves into compliance, it is clear that some States that are important distribution centers of prescription drugs will not be in compliance by the September deadline. An extension of the original deadline would guarantee continued access to the full range of prescription drugs for all Americans. Otherwise, prescription drug wholesalers in States that have not yet met the legislative requirements of the PDMA will be subject to civil and criminal penalties.

Senator HATCH and I have worked with industry groups, the administration, and consumers in drafting this amendment. The bill includes a sunset provision, so that the PDMA deadline is extended by only 2 years. This gives States the time they need to legislate and implement their registration programs. Until then, the FDA may register companies in States that have not yet licensed their prescription drug wholesalers.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that a section-by-section summary of the bill and a clarification of legislative intent on several key issues be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE

SEC. 2 DISTRIBUTOR REGISTRATION

Establishes a temporary (2 year) registration program with the FDA for wholesale distributors of prescription drugs in interstate commerce in states that do not license such persons in accordance with existing requirements of the FD&C Act.

SEC. 3. PENALTY CLARIFICATION

Adds a "knowingly" standard to the felony provision of the Prescription Drug Marketing Act (PDMA). In its present form, the act provides severe punishment for criminal violations without expressly requiring any scienter on the part of the offender.

Substitutes the words "institution of criminal proceeding" for "arrest" or "arrest of" in current law. There are rarely arrests in connection with criminal proceedings under the PDMA.

Revises section 303 (c) and (d) to conform with section 303 (a) and (b) as amended by the PDMA, and corrects subsection (d).

SEC. 4. DRUG SAMPLES

Clarifies the prohibition against the distribution of drug samples by anyone other than the manufacturer or the manufacturer's authorized distributor. Makes clear that providing a drug sample to a patient by (or in very limited circumstances at the direction of) a licensed practitioner is not prohibited.

Makes clear that any wholesale distribution of a prescription drug (any sale to anyone other than a consumer or patient, including any sale to an authorized distributor of record to a retail pharmacy) by anyone other than the preceded by a statement identifying each prior sale of the drug. The identifying statement must in all cases include the dates of each transaction involving the drug and the names and addresses of all parties to the transaction, and must contain such other information as the Secretary may require.

SEC. 5. TECHNICAL AMENDMENT

Subparagraph 503(e)(2)(A) of the current law is intended to ensure that any person engaging in the wholesale distribution of prescription drugs in interstate commerce shall be licensed in the state in which it does business and that state licensing requirements meet certain minimum requirements are contained in regulations promulgated by the Secretary. The effective date for subparagraph 503(e)(2)(A) is September 14, 1992.

While many states have taken steps to meet the licensing requirements and are expected to meet the deadline, current data indicate that some states may not enact prescription drug wholesaler licensing requirements by September 14, 1992. Therefore, the amendments to section 503(e) provide for a temporary registration program within the Department of Health and Human Services for persons engaging in the wholesale distribution of prescription drugs in states that have not yet adopted licensing programs. This temporary registration provision is not intended to create a federalized registration program and will expire without extension on September 14, 1994. Ultimate responsibility for licensing wholesale distributors shall remain with the states.

The bill's sponsors understand that the FDA has the discretion to implement this provision in a manner that is consistent with its resources.

Addition of the word "knowingly" in 21 U.S.C. §333(b)(1) is intended to clarify that the offenses described in that section require an element of knowledge. The amendment conforms with prosecutorial experience and practice.

The offenses described in section 333(b)(1) are treated differently from other offenses in the FDCA. In general, a violation of the FDCA is punishable as a misdemeanor without proof of consciousness of wrongdoing, 21 U.S.C. §333(a)(1); United States v. Park, 421 U.S. 658 (1975), or as a three-year felony when the violation is second offense, or when it is committed with the intent to defraud or mislead. 21 U.S.C. §333(b)(2). The prescription drug marketing offenses described in section 333(b)(1) are excepted from this scheme, carrying only a felony penalty.

As originally enacted, section 333(b)(1) stated no mental element for the offenses it described. This silence potentially could create confusion about what kind of conduct Congress was addressing. Indicia of Congress' intent are available in other parts of the statute and then the legislative history. For example, Congress was careful to explain that a pharmaceutical company would not be criminally responsible for every drug diversion perpetrated by a company employee. 21 U.S.C. §353(c)(1); House Report 100–76 at 12. This is strong evidence that 333(b)(1) was not intended to create a strict liability offense under the FDCA. In the absence of specific language describing the intended mental element of the offense, however, the statute might be subject to conflicting or erroneous interpretation by the courts.

The present amendment should make clear that the offenses described in section 333(b)(1) are committed when an individual "knowingly" commits acts that are proscribed by the PDMA, (for example selling a prescription drug sample, importing a prescription drug, or selling a drug that had been purchased by a health care entity). This knowledge extends only to the prohibited act; it would not be necessary in a prosecution for the government to prove that the defendant knew that the act was a violation of any law. Thus, for example, an offense under amended section 333(b)(1)(B) would be committed when an individual sold a prescription drug that had been purchased by a health care entity, if he was aware of these circumstances, whether or not he also knew that the sale of the drug was a violation of section 353(c)(3).

Mr. HATCH. Mr. President, despite 2 years' notice to the States, a nationwide shutoff of prescription medications to pharmacies and practitioners, including hospitals, physicians' offices, nursing homes, clinics, and retail pharmacies, is imminent.

In 1990, States were given a 2-year deadline to comply with a Federal law requiring them to license prescription drug wholesalers and manufacturers. With little more than a month remaining until the Federal deadline, less than half of the States have complied with the Prescription Drug Marketing Act of 1987, despite intensive efforts by the industry to help these States meet the mandated deadline.

If the September 14, 1992, deadline is not met, Mr. President, wholesalers and manufacturers in those States that are not in compliance will not be able to distribute prescription drug products legally. Distribution without the appropriate licenses carries penalties of $250,000 and/or 10 years in prison.

Two States and one territory with the largest concentrations of pharmaceutical manufacturing facilities—New Jersey, Pennsylvania, and Puerto Rico—are among those that have not complied with the Federal law. Therefore, after September 14, products produced in these locations will not be available nationwide.

For this reason, Mr. President, I am pleased to join my colleagues Senator KENNEDY and Senator DECONCINI, in introducing the Prescription Drug Amendments of 1992. This legislation will ensure that the millions of Americans who rely on drug therapy will be able to receive their medications without disruption.

This proposal will allow drug wholesalers and manufacturers located in States that are not in compliance to temporarily register with the FDA. The registration program would be an interim remedy, and would sunset in 2 years.

The need for expeditious passage of this legislation is obvious due to the health consequences for millions of Americans who depend on drug therapy. I urge the support of all Senators for this legislation which will allow the distribution of vital pharmaceutical products to continue.

ENGROSSMENT OF H.R. 4111

Mr. PELL. Mr. President, I ask unanimous consent that the engrossment of H.R. 4111 be modified with the change I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS EQUITY ENHANCEMENT ACT

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 609, H.R. 5191, relating to small business equity capital, that the committee substitute amendment be agreed to; that the bill be read a third time, passed; that the motion to reconsider be laid upon the table; that a section-by-section analysis and any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes, which had been reported from the Committee on Small Business, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Equity Enhancement Act of 1992".

SEC. 2. LEVERAGE (MATCHING FUNDS) FORMULA.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) by inserting "or participating securities" after "debentures" in the first and sixth sentences;

(2) by striking paragraphs (1) through (3) of subsection (b) and inserting in lieu thereof the following:

"(1) The total amount of debentures and participating securities that may be guaranteed by the Administration and outstanding from a company licensed under section 301(c) of this Act shall not exceed 300 percent of the private capital of such company: Provided, That nothing in this paragraph shall require any such company that on March 31, 1993, has outstanding debentures in excess of 300 percent of its private capital to prepay such excess: And provided further, That any such company may apply for an additional debenture guarantee or participating security guarantee with the proceeds to be used solely to pay the amount due on such maturing debenture, but the maturity of the new debenture or security shall be not later than September 30, 2002.

"(2) After March 31, 1993, the maximum amount of outstanding leverage made available to a company licensed under section 301(c) of this Act shall be determined by the amount of such company's private capital—

"(A) if the company has private capital of not more than $15,000,000, the total amount of leverage shall not exceed 300 percent of private capital;

"(B) if the company has private capital of more than $15,000,000 but not more than $30,000,000, the total amount of leverage shall not exceed $45,000,000 plus 200 percent of the amount of private capital over $15,000,000; and

"(C) if the company has private capital of more than $30,000,000, the total amount of leverage shall not exceed $75,000,000 plus 100 percent of the amount of private capital over $30,000,000 but not to exceed an additional $15,000,000.

"(3) Subject to the foregoing dollar and percentage limits, a company licensed under section 301(c) of this Act may issue and have outstanding both guaranteed debentures and participating securities: Provided, That the total amount of participating securities outstanding shall not exceed 200 percent of private capital.

"(4) In no event shall the aggregate amount of outstanding leverage of any such company or companies which are commonly controlled as determined by the Administration exceed $90,000,000, unless the Administration determines on a case by case basis to permit a higher amount for companies under common control and imposes such additional terms and conditions as it determines appropriate to minimize the risk of loss to the Administration in the event of default.";

(3) by inserting before the period at the end of subsection (c)(6) the following: ", except as provided in paragraph (7)"; and

(4) by adding the following at the end of subsection (c):

"(7) The Administration may guarantee debentures or may guarantee the payment of the redemption price and prioritized payments on participating securities under subsection (g) from a company operating under section 301(d) of this Act in amounts above $35,000,000 but not to exceed the maximum amounts specified in section 303(b) subject to the following:

"(A) The interest rate on debentures and the rate of prioritized payments on participating securities shall be that specified in subsection 303(g)(2) without any reductions.

"(B) Any outstanding assistance under paragraphs (1) to (6) of this subsection shall be subtracted from such company's eligibility under section 303(b)(2)(A).".

SEC. 3. PARTICIPATING SECURITIES.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is further amended by adding the following new subsections:

"(g) In order to encourage small business investment companies to provide equity capital to small businesses, the Administration is authorized to guarantee the payment of the redemption price and prioritized payments on participating securities issued by such companies which are licensed pursuant to section 301(c) of this Act, and a trust or a pool acting on behalf of the Administration is authorized to purchase such securities. Such guarantees and purchases shall be made on such terms and conditions as the Administration shall establish by regulation. For purposes of this section, (A) the term 'participating securities' includes preferred stock, a preferred limited partnership interest or a similar instrument, including debentures under the terms of which interest is payable only to the extent of earnings and (B) the term 'prioritized payments' includes dividends on stock, interest on qualifying debentures, or priority returns on preferred limited partnership interests which are paid only to the extent of earnings. Participating securities guaranteed under this subsection shall be subject to the following restrictions and limitations, in addition to such other restrictions and limitations as the Administration may determine:

"(1) Participating securities shall be redeemed not later than 15 years after their date of issuance for an amount equal to 100 percent of the original issue price plus the amount of any accrued prioritized payment: Provided, That if, at the time the securities are redeemed, whether as scheduled or in advance, the issuing company (A) has not paid all accrued prioritized payments in full as provided in paragraph (2) below and (B) has not sold or otherwise disposed of all investments subject to profit distributions pursuant to paragraph (11), the company's obligation to pay accrued and unpaid prioritized payments shall continue and payment shall be made from the realized gain, if any, on the disposition of such investments, but if on disposition there is no realized gain, the obligation to pay accrued and unpaid prioritized payments shall be extinguished: Provided further, That in the interim, the company shall not make any in-kind distributions of such investments unless it pays to the Administration such sums, up to the amount of the unrealized appreciation on such investments, as may be necessary to pay in full the accrued prioritized payments.

"(2) Prioritized payments on participating securities shall be preferred, cumulative, and payable out of the retained earnings available for distribution, as defined by the Administration, of the issuing company at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on such securities, adjusted to the nearest one-eighth of 1 percent, plus, at the time the guarantee is issued, such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes, but not to exceed 2 percent.

"(3) In the event of liquidation of the company, participating securities shall be senior in priority for all purposes to all other equity interests in the issuing company, whenever created.

"(4) Any company issuing a participating security under this subsection shall commit to invest or shall invest and maintain an amount equal to the outstanding face value of such security solely in equity capital. As used in this subsection, 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features which is not amortized and which provides for interest payments contingent upon and limited to the extent of earnings.

"(5) The only debt (other than leverage obtained in accordance with this title) which any company issuing a participating security under this subsection may have outstanding shall be temporary debt in amounts limited to not more than 50 percent of private capital.

"(6) The Administration may permit the proceeds of a participating security to be used to pay the principal amount due on outstanding debentures guaranteed by the Administration, if (A) the company has outstanding equity capital invested in an amount equal to the amount of the debentures being refinanced and (B) the Administration receives profit participation on such terms and conditions as it may determine, but not to exceed the percentages specified in paragraph (11).

"(7) For purposes of computing profit participation under paragraph (11), except as otherwise determined by the Administration, the management expenses of any company which issues participating securities shall not be greater than 2.5 percent per annum of the combined capital of the company, plus $125,000 if the company's combined capital is less than $20,000,000.

For purposes of this paragraph, (A) the term 'combined capital' means the aggregate amount of private capital and outstanding leverage and (B) the term 'management expenses' includes Salaries, office expenses, travel, business development, office and equipment rental, bookkeeping and the development, investigation and monitoring of investments, but does not include the cost of services provided by specialized outside consultants, outside lawyers and outside auditors, who perform services not generally expected of a venture capital company nor does such term include the cost of services provided by any affiliate of the company which are not part of the normal process of making and monitoring venture capital investments.

"(8) Notwithstanding paragraph (9), if a company is operating as a limited partnership or as a subchapter s corporation or an equivalent pass-through entity for tax purposes and if there are no accumulated and unpaid prioritized payments, the company may make annual distributions to the partners or shareholders in amounts not greater than each partner's or shareholder's maximum tax liability. For purposes of this paragraph, the term 'maximum tax liability' means the amount of income allocated to each partner or shareholder (including an allocation to the Administration as if it were a taxpayer) for Federal income tax purposes in the income tax return filed or to be filed by the company with respect to the fiscal year of the company immediately preceding such distribution, multiplied by the highest combined marginal Federal and State income tax rates for corporations or individuals, whichever is higher, on each type of income included in such return. For purposes of this paragraph, the term 'State income tax' means the income tax of the State where the company's principal place of business is located.

"(9) After making any distributions as provided in paragraph (8), a company with participating securities outstanding may distribute the balance of income to its investors, specifically including the Administration, in the percentages specified in paragraph (11), if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full, subject to the following conditions:

"(A) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 200 percent of the amount of private capital, any amounts distributed shall be made to private investors and to the Administration in the ratio of leverage to private capital.

"(B) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 100 percent but not more than 200 percent of the amount of private capital, 50 percent of any amounts distributed shall be made to the Administration and 50 percent shall be made to the private investors.

"(C) If the amount of leverage outstanding is 100 percent, or less, of the amount of private capital, the ratio shall be that for distribution of profits as provided in paragraph (11).

"(D) Any amounts received by the Administration under subparagraph (A) or (B) shall be applied first as profit participation as provided in paragraph (11) and any remainder shall be applied as a prepayment of the principal amount of the participating securities or debentures.

"(10) After making any distributions pursuant to paragraph (8), a company with participating securities outstanding may return capital to its investors, specifically including the Administration, if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full. Any distributions under this paragraph shall be made to private investors and to the Administration in the ratio of private capital to leverage as of the date of the proposed distribution: Provided, That if the amount of leverage outstanding is less than 50 percent of the amount of private capital or $10,000,000, whichever is less, no distribution shall be required to be made to the Administration unless the Administration determines, on a case by case basis, to require distributions to the Administration to reduce the amount of outstanding leverage to an amount less than $10,000,000.

"(11)(A) A company which issues participating securities shall agree to allocate to the Administration a share of its profits determined by the relationship of its private capital to the amount of participating securities guaranteed by the Administration in accordance with the following:

"(i) If the total amount of participating securities is not more than 100 percent of private capital, the company shall allocate to the Administration a percentage share computed as follows: the amount of participating securities divided by private capital times 9 percent.

"(ii) If the total amount of participating securities is more than 100 percent but not greater than 200 percent of private capital, the company shall allocate to the Administration a percentage share computed as follows:

"(I) 9 percent, plus

"(II) 3 percent of the amount of participating securities minus private capital divided by private capital.

"(B) Notwithstanding any other provision of this paragraph—

"(i) in no event shall the total percentage required by this paragraph exceed 12 percent, unless required pursuant to the provisions of clause (ii),

"(ii) if, on the date the participating securities are marketed, the interest rate on Treasury bonds with a maturity of 10 years is a rate other than 8 percent, the Administration shall adjust the rate specified in paragraph (A) above, either higher or lower, by the same percentage by which the Treasury bond rate is higher or lower than 8 percent, and

"(iii) this paragraph shall not be construed to create any ownership interest of the Administration in the company.

"(12) A company may elect to make an in-kind distribution of securities only if such securities are publicly traded and marketable. The company shall deposit the Administration's share of such securities for disposition with a trustee designated by the Administration or, at its option and with the agreement of the company, the Administration may direct the company to retain the Administration's share. If the company retains the Administration's share, it shall sell the Administration's share and promptly remit the proceeds to the Administration. As used in this paragraph, the term 'trustee' means a person who is knowledgeable about and proficient in the marketing of thinly traded securities.

"(h) The computation of amounts due the Administration under participating securities shall be subject to the following terms and conditions:

"(1) The formula in subsection (g)(11) shall be computed annually and the Administration shall receive distributions of its profit participation at the same time as other investors in the company.

"(2) The formula shall not be modified due to an increase in the private capital unless the increase is provided for in a proposed business plan submitted to and approved by the Administration.

"(3) After distributions have been made, the Administration's share of such distributions shall not be recomputed or reduced.

"(4) If the company prepays or repays the participating securities, the Administration shall receive the requisite participation upon the distribution of profits due to any investments held by the company on the date of the repayment or prepayment.

"(5) If a company is licensed on or before March 31, 1993, it may elect to exclude from profit participation all investments held on that date and in such case the Administration shall determine the amount of the future expenses attributable to such prior investment: Provided, That if the company issues participating securities to refinance debentures as authorized in subsection (g)(6), it may not elect to exclude profits on existing investments under this paragraph.".

SEC. 4. POOLING.

Section 321 of the Small Business Investment Act of 1958 (15 U.S.C. 687l) is amended to read as follows:

"SEC. 321. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

"(a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies, including companies operating under the authority of section 301(d), and guaranteed by the Administration under this Act, or participating securities which are issued by such companies and purchased and guaranteed pursuant to section 303(g): Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures or guaranteed participating securities.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures or the redemption price of and priority payments on the participating securities, which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, or participating securities are redeemed, either voluntarily or involuntarily, or in the event of default of a debenture or voluntary or involuntary redemption of a participating security, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture or redeemed participating security and priority payments represent in the trust or pool. Interest on prepaid or defaulted debentures, or priority payments on participating securities, shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures or redemption, whether voluntary or involuntary, of all participating securities residing in the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect a fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the

Administration of its ownership rights in the debentures or participating securities residing in a trust or pool against which trust certificates are issued.

"(f)(1) The Administration shall provide for a central registration of all trust certificates sold pursuant to this section. Such central registration shall include with respect to each sale—

"(A) identification of each small business investment company;

"(B) the interest rate or prioritized payment rate paid by the small business investment company;

"(C) commissions, fees, or discounts paid to brokers and dealers in trust certificates;

"(D) identification of each purchaser of the trust certificate;

"(E) the price paid by the purchaser for the trust certificate;

"(F) the interest rate on the trust certificate;

"(G) the fee of any agent for carrying out the functions described in paragraph (2); and

"(H) such other information as the Administration deems appropriate.

"(2) The Administrator shall contract with an agent or agents to carry out on behalf of the Administration the pooling and the central registration functions of this section including, notwithstanding any other provision of law, maintenance on behalf of and under the direction of the Administration, such commercial bank accounts as may be necessary to facilitate trusts or pools backed by debentures or participating securities guaranteed under this Act, and the issuance of trust certificates to facilitate such poolings. Such agent or agents shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government.

"(3) Prior to any sale, the Administrator shall require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument.

"(4) The Administrator is authorized to regulate brokers and dealers in trust certificates sold pursuant to this section.".

SEC. 5. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking in subsection (g)(3) "stock and $221,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $221,000,000 in guarantees of debentures, of which $40,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $100,000,000 in guarantees of participating securities";

(2) by striking in subsection (i)(3) "stock and $232,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $232,000,000 in guarantees of debentures, of which $42,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $250,000,000 in guarantees of participating securities"; and

(3) by adding the following new subsections at the end thereof:

"(k) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $23,000,000 in purchases of preferred securities, $244,000,000 in guarantees of debentures, of which $44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $400,000,000 in guarantees of participating securities.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out subsection (k), including salaries and expenses of the Administration.

"(m) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $24,000,000 in purchases of preferred securities, $256,000,000 in guarantees of debentures, of which $46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $550,000,000 in guarantees of participating securities.

"(n) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out subsection (m), including salaries and expenses of the Administration.

"(o) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in purchases of preferred securmties, $268,000,000 in guarantees of debentures, of which $48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $700,000,000 in guarantees of participating securities.

"(p) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out subsection (o), including salaries and expenses of the Administration.".

SEC. 6. SAFETY AND SOUNDNESS.

(a) FINANCIAL VIABILITY DETERMINED.—Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by adding the following at the end of subsection (a): "The Administration shall also determine the ability of the company, both prior to licensing and prior to approving any request for financing, to make periodic payments on any debt of the company which is interest bearing and shall take into consideration the income which the company anticipates on its contemplated investments, the experience of the company's owners and managers, the history of the company as an entity, if any, and the company's financial resources.".

(b) VALUATION GUIDELINES AND RESPONSIBILITY.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by adding at the end thereof the following new subsection:

"(d) Each small business investment company shall adopt written guidelines for determination of the value of investments made by such company. The board of directors of corporations and the general partners of partnerships shall have the sole responsibility for making a good faith determination of the fair market value of the investments made by such company. Determinations shall be made and reported to the Administration not less than semiannually or at more frequent intervals as the Administration determines appropriate: Provided, That any company which does not have outstanding financial assistance under the provisions of this title shall be required to make such determinations and reports to the Administration annually, unless the Administration, in its discretion, determines otherwise.".

SEC. 7. EXAMINATIONS.

(a) EXAMINATION BY INVESTMENT DIVISION.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking from subsection (b) "Administration by examiners selected or approved by" and by inserting in lieu thereof the following: "Investment Division of"; and

(b) TRANSFER OF RESOURCES.—Effective October 1, 1992, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, and other funds employed, held, used, arising from, available or to be made available, which are related to the examination function provided by section 310 of the Small Business Investment Act of 1958 shall be transferred by the Inspector General of the Small Business Administration to the Investment Division of the Small Business Administration.

SEC. 8. NON-FINANCED SBICS.

(a) INVESTMENT LIMITATION.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

"(a) If any small business investment company has obtained financing from the Administration and such financing remains outstanding, the aggregate amount of obligations and securities acquired and for which commitments may be issued by such company under the provisions of this title for any single enterprise shall not exceed 20 percent of the private capital of such company, without the approval of the Administration.".

(b) CONFORMING AMENDMENT.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by inserting before the semicolon at the end of subsection (c)(5) the following: "; if such restriction is applicable".

(c) TEMPORARY INVESTMENT OF FUNDS.—Section 308(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687(b)) is amended by inserting after "Such companies" in the third sentence the following: "with outstanding financings".

(d) REGULATORY REVIEW.—Not later than 90 days after the effective date of this Act, the Small Business Administration shall complete a review of those regulations intended to provide for the safety and soundness of those small business investment companies which obtain financing from the Administration under the provisions of the Small Business Investment Act of 1958. The Administration is directed to exempt from such regulations, or to separately regulate, those companies which do not obtain financing from the Administration.

(e) REPORT TO CONGRESS.—The Administration, within 180 days after the effective date of this Act, shall report on actions taken pursuant to section 8(d) of this Act to the Committees on Small Business of the Senate and the House of Representatives, including the rationale for its actions.

SEC. 9. MINIMUM CAPITAL.

Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by striking from subsection (a) "1979 pursuant to sections 301 (c) and (d) of this Act shall be not less than $500,000" and inserting in lieu thereof the following: "1992 pursuant to section 301(c) of this title shall be not less than $2,500,000 and pursuant to section 301(d) of this title shall be not less than $1,500,000".

SEC. 10. DEFINITIONS.

Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended as follows:

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) notwithstanding any other provision of law, the term 'private capital'—

"(A) includes the private paid-in capital and paid-in surplus of a corporate licensee (or the private partnership capital of an unincorporated licensee), inclusive of—

"(i) any funds invested in the licensee by a public or private pension fund;

"(ii) any funds invested in the licensee by a State or local government entity (to the extent that such investment does not exceed 33 percent of a licensee's total private capital and otherwise meets criteria established by the Administration); and *"(iii) unfunded commitments from institutional investors that meet criteria established by the Administration (except that such unfunded commitments may not be used for the purpose of meeting the minimum amount of private capital required by this Act or as the basis for the Administration to issue obligations to provide financing); and*

"(B) does not include any funds that are—

"(i) borrowed by the licensee from any source; or

"(ii) obtained or derived, directly or indirectly, from any Federal source, including the Administration; and

"(10) the term 'leverage' includes debentures purchased or guaranteed by the Administration, participating securities purchased or guaranteed by the Administration, or preferred securities issued by companies licensed under section 301(d) of this Act and which have been purchased by the Administration.".

SEC. 11. INTEREST RATE CEILING.

Section 305 of the Small Business Investment Act of 1958 (15 U.S.C. 685) is amended by striking the period at the end of subsection (c) and by inserting in lieu thereof the following: ": Provided, That the Administration also shall permit those companies which have issued debentures pursuant to this Act to charge a maximum rate of interest based upon the coupon rate of interest on the outstanding debentures, determined on an annual basis, plus such other expenses of the company as may be approved by the Administration.".

SEC. 12. PREFERRED PARTNERSHIP INTERESTS.

Section 303(c) of the Small Business Investment Act of 1958 (15 U.S.C. 683(c)) is amended—

(1) by striking from the first sentence the word "preferred";

(2) by inserting after the second sentence the following: "As used in this subsection, the term 'securities' means shares of nonvoting stock or other corporate securities or limited partnership interests which have similar characteristics."; and

(3) by striking from paragraph (1) "shares of nonvoting stock (or other corporate securities having similar characteristics)" and inserting in lieu thereof "such securities".

SEC. 13. INDIRECT FUNDS FROM STATE OR LOCAL GOVERNMENTS.

Section 303(e) of the Small Business Investment Act of 1958 (15 U.S.C. 683(e)) is amended—

(1) by inserting after the word "company" the following: "licensed under section 301(d) and notwithstanding section 103(9)"; and

(2) by striking "to the effective date of this Act." and inserting "to November 21, 1989: Provided, That such companies may include in private capital for any purpose funds indirectly obtained from State or local governments. As used in this subsection, the term 'capital indirectly obtained' includes income generated by a State financing authority or similar State institution or agency or from the investment of State or local money or amounts originally provided to nonprofit institutions or corporations which such institutions or corporations, in their discretion, determine to invest in a company licensed under section 301(d).".

SEC. 14. SBIC APPROVALS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (a)(2): "Subject to approval in appropriations Acts, amounts authorized for preferred securities, debentures or participating securities under title III of the Small Business Investment Act of 1958 may be obligated in one fiscal year and disbursed or guaranteed in the following fiscal year.".

SEC. 15. EXCEPTION FROM BANKRUPTCY AUTHORITY.

Section 109(b)(2) of title 11, United States Code, is amended by inserting "a small business investment company licensed by the Small Business Administration under subsection (c) or (d) of section 301 of the Small Business Investment Act of 1958," after "homestead association,".

SEC. 16. STUDIES AND REPORTS.

(a) SBA ANNUAL REPORT.—Section 308(g) of the Small Business Investment Act of 1958 (12 U.S.C. 687(g)) is amended by adding at the end the following new paragraph:

"(3) In its annual report for the fiscal year 1993, and in each succeeding annual report made pursuant to section 10(a) of the Small Business Act, the Administration shall include a full and detailed description or account relating to—

"(A) the number of small business investment companies the Administration licensed, the number of licensees that have been placed in liquidation, and the number of licensees that have surrendered their licenses in the reporting period, identifying the amount of government leverage each has received and the type of leverage instruments each has used;

"(B) the amount of government leverage that each licensee received in the reporting period and the types of leverage instruments each licensee used;

"(C) for each type of financing instrument, the sizes, geographic locations, and other characteristics of the small business investment companies using them, including the extent to which the investment companies have used the leverage from each instrument to make small business loans, equity investments, or both; and

"(D) the number and amount of investments during the reporting period in small business investment companies made—

"(i) by any State or local government entity; and

"(ii) by any public or private pension fund; and

"(E) the frequency with which each type of investment instrument has been used in the reporting period and a comparison of the reporting period with previous reporting periods.".

(b) REPORT OF THE COMPTROLLER GENERAL.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Committees on Small Business of the House of Representatives and the Senate a report that reviews the Small Business Investment Company program (established under the Small Business Investment Act of 1958) for the 3-year period following the date of enactment of this Act, with respect to each item listed in section 308(g)(3) of the Small Business Investment Act of 1958, as amended by subsection (a).

SEC. 17. IMPLEMENTATION.

Notwithstanding any law, rule, regulation or administrative moratorium, except as otherwise expressly provided in this Act, the Small Business Administration shall—

(1) within 90 days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act and the amendments made by this Act; and

(2) within 180 days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act, and enter such contracts as are necessary to implement this Act and the amendments made by this Act.

SEC. 18. BUY AMERICA.

Section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661) is amended by adding at the end the following: "It is the intention of the Congress that in the award of financial assistance under this Act, when practicable, priority be accorded to small business concerns which lease or purchase equipment and supplies which are produced in the United States and that small business concerns receiving such assistance be encouraged to continue to lease or purchase such equipment and supplies.".

SEC. 19. NO EFFECT ON SECURITIES LAWS.

Nothing in this Act (and no amendment made by this Act) shall be construed to affect the applicability of the securities law, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or any of the rules and regulations thereunder, or otherwise supersede or limit the jurisdiction of the Securities and Exchange Commission or the authority at any time conferred under the securities laws.

THE SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992

Mr. BUMPERS. Mr. President, I am pleased the Senate is considering H.R. 5191, the Small Business Equity Enhancement Act of 1992, which was reported by the Committee on Small Business on August 6. This bill, Mr. President, is the product of a long series of hearings which I began in 1990 examining some serious failings in the Small Business Investment Company, or SBIC, program at SBA. Let me take a moment to put the program in perspective.

In 1958, 5 years after passage of the Small Business Act and before the existence of a private venture capital industry as we know it today, the Senate under the leadership of Lyndon B. Johnson determined to address the acute shortage of equity capital for small business which had been identified in a study by the Federal Reserve. the result was the Small Business Investment Act of 1958 and the SBIC Program.

The SBIC Program licenses privately owned venture capital companies to provide equity and long-term debt financing to small businesses. SBIC's may be partnerships, sole proprietorships, or in the corporate form. Some are bank-owned, thereby granting a limited exemption from the Glass-Steagall Act. Under the current program, SBIC's are permitted to borrow funds with SBA's guaranty, thereby allowing them access to capital at approximately the U.S. Treasury's cost of money, although the program is financed outside the Treasury. SBIC's have been permitted to borrow as much as $4 for each $1 of private capital.

In the 1970's, a special subgroup of SBIC's known as MESBIC's, or minority enterprise SBIC's, was created to address the extreme shortage of capital for businesses owned by socially and economically disadvantaged individuals. These companies are also referred to as special SBIC's or as section 301(d) companies, and they are financed by SBA through a different mechanism which includes purchase of preferred stock in the MESBIC.

SBIC's have helped produce some of the most prominent names in corporate America. Federal Express, Nike, Compaq, Apple Computer, Digital, Genentech, Essence magazine, and Cray Research are among the winners which would likely not exist at all today had it not been for SBIC's. Regular SBIC's have invested over $2 billion in American small businesses, while MESBIC's have invested almost $500 million in minority-owned small businesses.

The pending bill is full of hope for the future Cray's and Nike's. At the same time, it contains strong medicine to curb some egregious abuses of the system. SBIC's were not immune to the ripoff artists and loose corporate morality which characterized American high finance throughout the 1980's.

In the course of budget hearings on the administration's fiscal year 1991 budget request, it came to my attention that SBA was facing about $500 million in losses in the SBIC program, mostly from failures in the previous 5 years. Moreover, there had been some recent, spectacular losses by a few companies. The press had reported on the bankruptcy of River Capital Corp. located in Virginia. That company, which had about $7.5 million in private capital, had borrowed some $28 million through SBA at the time it went belly-up. Borrowings had been approved by SBA within a year of the bankruptcy. Most astounding, the bankruptcy examiner reported that the assets of the company were virtually zero. That later turned out to be only a slight exaggeration, but the bankruptcy court ruled that SBA was in last position as a creditor, and the Government's loss was total. River Capital, unhappily, was not the only financial disaster for the SBIC program.

There was also the strange case of Royal Business Funds, a New York company placed in liquidation in the early 1980's by SBA. The press was fascinated with Royal because its collapse left SBA owning a ski resort in Colorado and a real estate development in Florida. The most bizarre aspect of the case was the way that SBA elected to handle the liquidation. Our committee's hearings revealed that SBA employees had, with approval from higher-ups, established a corporation, owned by SBA and managed by them, which was conducting the liquidation by managing the ski resort, the real estate development company, and other Royal ventures. The corporation was also illegally paying some expenses of the Government employees. Astonishingly, some lawyers at SBA defended this enterprise against the clear language of the Corporation Control Act, which says that agencies may establish corporations only with approval of Congress. SBA's Administrator requested a formal opinion from the Attorney General, and the Justice Department ruled against SBA on the Corporation Control Act question.

It soon became apparent that the SBIC program was in a serious tailspin. Frankly, there were myriad problems which we identified in the course of these hearings. A lack of adequate resources to effectively manage and oversee the program was cited by SBA as the chief culprit. This was especially acute in the liquidation area, where SBA had a literal handful of employees, each one responsible for more than 10 times the private sector standard for liquidators. Typically, the administration blamed Congress for not appropriating enough money for staff. Presidents Reagan and Bush, however, never requested more resources, and it is well known that OMB strictly controls personnel ceilings.

In River Capital and other cases, there were evident problems with valuation of investments by the board of directors. Seriously exaggerated valuations were not noticed by certified public accountants from one of the Big Eight firms who sat through a day-long meeting with the board. The accountants failed even to note that one stock value assigned by the directors vastly exceeded the value listed on that day in the over-the-counter market.

Two spectacular failures of New York SBIC's, Columbia Capital and Clinton Capital, had at least overtones of outright fraud against the Government and have been the subject of civil and criminal litigation. In River Capital and other cases, the inspector general also failed in his duty to examine the licensees annually or semiannually as prescribed by law. But he, too, pleaded a lack of resources. Even when IG audits were conducted, as in the case of River Capital, the IG staff, like the public accountants, often failed to notice gross errors. It should be noted that the IG has received a 25-percent increase in budgetary resources in the last 2 years.

There was clearly a neglectful attitude throughout the last decade by SBA's top management about this growing problem, at least until our hearings focused the attention of Administrator Engeleiter and her staff on the issues. Of course, bear in mind that the Reagan administration expended most of its energy trying to abolish SBA and this program entirely. Mrs. Engeleiter did respond to the problems by proposing an overhaul of the SBIC regulatory scheme, and by replacing management of the program with one of SBA's most seasoned and respected administrators.

Among the regulatory changes proposed by Mrs. Engeleiter was an increase in capitalization requirements from a minimum of $1 to $2.5 million for regular SBIC's and $1.5 million for MESBIC's. That increase was adopted by SBA and has been codified in H.R. 5191 so that there will be no confusion between the statute and the regulations. Most of the other proposed regulations, however, were simply inapposite to the problems our hearings had identified. The regulations provoked a firestorm of criticism, and many of the proposals were eventually discarded.

In 1991, the Senate Committee on Small Business commissioned a study of the program by two outside experts, Messrs. Edwin Holloway and John Werner. Both were retired from SBA's finance and investment division and have impeccable reputations. They produced a comprehensive report on the program's shortcomings and a series of recommendations which were released shortly after Mrs. Patricia Saiki took office as administrator, replacing Mrs. Engeleiter.

Mrs. Saiki asked the committee for a year to get the SBIC program back on course, and she also took the initiative to establish her own panel of outside experts, the Investment Advisory Council. Under the leadership of its chair, Pat Cloherty, the IAC studied the accomplishments and failings of the program since its inception. Ms. Cloherty, incidentally, had served as Deputy Administrator of SBA under President Carter, and she put an enormous amount of time into the council's work.

To make a long story somewhat shorter, the IAC recommended legislation which eventually became H.R. 5191, the pending measure.

The most salient conclusion of our committee's hearings of Messrs. Holloway and Werner, and of the IAC is that a fundamental flaw exists in both the theory and practice of the SBIC program as currently constituted. It is simply not workable to finance long-term equity investments in small business by using currently payable debt, and that is largely what we have done for 34 years. Time and again, Congress has reiterated the primary purpose of SBIC as the creation of equity investment capital for small firms. However, public policy has perversely rewarded those firms who make more equity investments by allowing them more borrowing. The fourth tier of leverage, for example, has been available only for those SBIC's which agree to put the proceeds in equity investments. The most highly leveraged companies, however, we now know have been the most likely to fail. This bill repeals the fourth tier of leverage.

Of all the SBIC's which have failed, the primary risk factor has been the degree of leverage. The amount of capital, per se, has been less of a risk factor than the ratio of borrowing to paid-in capital. For a company which merely relends SBA's money, debt financing is not necessarily so risky. But these are not the companies which we most need to encourage. Straight lenders, in my view, merely duplicate existing loan programs such as the section 7(a) loan guaranty program and the section 504 development company program. Moreover, there is no shortage of banks and other lenders. There is a serious shortage of sources of equity financing for American small business, and it is this shortage which H.R. 5191 hopes to bridge.

This bill has several purposes, not the least of which is reducing the Government's risk of loss in the SBIC program. H.R. 5191, make many changes aimed at reducing the taxpayer's exposure to loss and reducing opportunities for abuse, while at the same time reinvigorating the only Government-supported equity capital program for small business. There remains today the shortage of patient money for growth-oriented emerging businesses which spawned this program 34 years ago. So, while we need to prevent, as best we can, some of the abuses which have characterized the SBIC program since 1986, we also need to invest in the companies which will build the future economy.

H.R. 5191 will revitalize the investment company program by creating a financing mechanism for equity-oriented SBIC's. This new instrument, called a Participating Preferred security, will allow SPA to essentially take an equity stake in the SBIC's which elect to participate. Although, the Government will not exercise ownership rights in the SBIC, it will share in the company's profits, if any. In addition, the borrower will pay interest based on the cost of money. On the other hand, the Government participates in the risk as well. If there are no profits, no interest will be due. The principal remains owing nonetheless, and SBA's participating security will take priority in the event of liquidation over all other equity interests, whenever created.

The bill also reforms the program to better protect the Government's interests. The bill eliminates the fourth tier of SBA leverage for all SBIC's. The maximum leverage will be reduced from 4:1 to 3:1. Of this amount, not more than 2:1 may be under the new participating security.

The bill strictly limits overhead or management expenses for investment companies so that profits cannot be dissipated with inflated salaries to top management. Not more than 2.5 percent of capital may be used annually for overhead, plus an additional $125,000 for smaller SBIC's. H.R. 5191 requires all SBIC's to have written valuation guidelines and makes the board directly responsible for valuation decisions.

The substitute committee amendment will, among other things, flatly prohibit SBIC's from filing bankruptcy petitions. This provision, which I regard as essential to the bill, has already passed the Senate as part of S. 1985, the bankruptcy reform bill. The SBIC bankruptcy prohibition has been scored by CBO as saving $44 million to the Treasury over a 5-year period. This provision will more than pay for the cost of this new program over the next 2 years. It is strongly supported by the administration and I ask unanimous consent that a letter from SBA Administrator Saiki be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, September 6, 1991.
Hon. DALE L. BUMPERS,
Chairman, Committee on Small Business,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request at the hearing of July 31, 1991 of the Senate Committee on Small Business, for the views of this Agency on the current state of the Bankruptcy law with respect to Small Business Investment Companies (SBIC). As you know, an SBIC is able to avail itself of the protection of the Bankruptcy Code unless an order entered by a court of competent jurisdiction prohibits it from doing so. This has proved extremely detrimental to the liquidation and collection efforts of the Small Business Administration (SBA) with respect to indebtedness owed to it by SBIC's which obtain protection under the Bankruptcy Code.

For example, as you have pointed out, notwithstanding our best efforts, SBA has on several occasions been beaten to the courthouse by defaulting SBICs which have obtained Bankruptcy protection prior to the granting to SBA of a receivership order. Also, some SBICs have obtained such protection after we have made demand for payment. Since we are a subordinated and unsecured creditor under those circumstances, our ability to recover on the indebtedness owed is greatly compromised by such a course of conduct.

As I testified, currently there are eight SBICs which have obtained protection under Chapter 11 of the Bankruptcy Code. SBA has provided a total of $109.5 million in leverage to these SBICs. River Capital Corporation filed for protection in 1988, two other SBICs filed for protection in FY 1990 and five have done so in FY 1991. We believe administrative costs associated with Bankruptcy proceedings are higher than receivership proceedings. Thus, bankruptcy proceedings not only compromise our liquidation and collection efforts by taking advantage of our subordinated and unsecured creditor position, but they also deprive SBA of a source of funds which might otherwise be available to satisfy obligations owed to us.

We recognize the equitable and policy considerations involved in depriving a class of financial institutions of the protection afforded by the Bankruptcy laws. However, Congress has seen fit to do so with respect to other entities which have government backing or for which there exists a sufficient public policy reason. These entities include railroads, banks, savings and loan associations, credit unions and insurance companies.

Based upon the above mentioned adverse effect on our liquidation and collection efforts, we believe legislative action is appropriate with respect to SBICs as well. Therefore, I have enclosed a proposed draft of an amendment to the Bankruptcy Code which I feel would satisfy our mutually expressed interests. I view this as a working draft that your staff and ours as well as other Executive Agencies and Departments and Committees of Congress can use as a point of departure for the development of legislation to cure this problem.

The Office of Management and Budget has advised that from the standpoint of the Administration's program there is no objection to the presentation of these views to your Committee.

I look forward to working with you and the Committee on this matter and hope that we can strengthen the Agency's position in these cases.

Sincerely,

PATRICIA SAIKI,
Administrator.

Mr. BUMPERS. H.R. 5191 is a rare exception to the legislative gridlock which everyone rightly bemoans. The bill has the support of the administration and of members on both sides of the aisle in the House and Senate.

I urge Senators to support the Small Business Committee's amendment and to pass this bill, and ask that its section-by-section analysis be printed in the RECORD.

Mr. President, I want to thank our distinguished ranking member, Senator KASTEN. he has been a cooperative partner throughout the hearing process and in preparation of this bill.

Mr, President, I ask unanimous consent to print in the RECORD a section-by-section analysis of the bill.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF H.R. 5191

SECTION 1. SHORT TITLE

The short title for this bill is the "Small Business Equity Enhancement Act of 1992".

SECTION 2. LEVERAGE (MATCHING FUNDS) FORMULA

This section authorizes the Small Business Administration to guarantee debentures and new investment instruments, called participating securities, which are issued by regular small business investment companies (SBICs). The purpose of this new authority is to increase the availability of equity capital to small businesses.

Government financing, called leverage, is available for regular debentures up to a ratio of 3:1 for leverage to private capital, including the participating securities, up to a ratio of 2:1. In addition, the amount of leverage for a licensee must conform to formulae established in this section which are keyed to the amount of the SBIC's private capital as follows: An SBIC with up to $15 million in private capital may obtain up to $45 million in leverage; an SBIC with more than $15 million, but less than $30 million in private capital may obtain up to $75 million in leverage; and an SBIC with more than $30 million, but less than $45 million in private capital may obtain up $90 million in leverage. The fourth tier of leverage under the existing program is no longer available for SBICs under this revised program.

Individual and commonly controlled SBICs are capped at $90 million, which cap the Administration may increase on a case-by-case basis. However, the Committee substitute amendment deletes an automatic inflation adjustment which would have been applicable to the cap and to the dollar figures in the leverage formulae under the House-passed bill. Existing law permits each SBIC to obtain up to $35 million in government leverage. In the Committee's view, an increase from $35 million to $90 million without an automatic inflation adjustment is adequate to encourage growth in the program.

A Specialized SBIC (SSBIC), which meets the required private capital and other requirements, may also obtain leverage up to the $90 million cap, however, the maximum leverage under this section will be reduced by the amount of the SSBIC's outstanding preferred stock or reduced interest debentures.

SECTION 3. PARTICIPATING SECURITIES

This section authorizes SBIC's to issue a new security which is aimed at resolving the mismatch of the program's goal of encouraging long-term equity investments and its funding mechanism which requires the SBIC to begin repayment 6 months after receiving funding. Under the bill, SBICs pay interest equal to the Federal cost of money, but only to the extent the SBIC has profits. At such time as the SBIC distributes profits from investments made with the SBIC's combined capital (private capital and SBA leverage), the SBA receives a share of profits in addition to interest.

SBA's share is calculated based on the ratio of its leverage to the SBIC's private capital as follows: If the ratio of leverage to private capital is 1:1, SBA's share equals 9 percent of the profits. If the ratio is 2:1, SBA's share is 12 percent. If the ratio is higher than 1:1, but less than 2:1, SBA's share of the profits is calculated proportionately between 9 percent and 12 percent.

Under the Committee amendment, SBA's profit share is indexed to an 8 percent 10-year Treasury bill rate. If the Treasury bill rate at the time the participating security is sold is other than 8 percent, the percentage of profit participation is proportionately adjusted upward or downward. For example, if the 10-year Treasury bill rate is 9 percent on the date of sale of the participating securities, SBA's share of the profits would be 1 point higher. Conversely, if the 10-year Treasury bill rate is 7½ percent on the date of sale of the participating securities, SBA's share of the profits would be ½ percent lower.

To foster the goal of increasing the availability of equity capital to small businesses, SBICs issuing participating securities are required to use the funding for equity investments in small businesses.

This section also contains several protections for the Government against loss or erosion of profits by the SBIC. Management expenses of the SBIC are limited to 2.5 percent for all SBICs plus an additional $125,000 for SBICs with combined capital of less than $20,000,000. Management expenses are defined in the bill to include expenses relating to salaries, office expenses, travel, etc., but not costs associated with outside consulting services and other services not normally performed by venture capital companies.

In addition, the participating securities are required to be senior to all other equity investments in the SBIC, regardless of when the other investments occur. The only debt an SBIC issuing participating securities may have outstanding, other than that obtained pursuant to the Small Business Investment Act, is temporary, short-term debt. Short-term debt is limited to 50 percent of private capital and may not exceed one year. This need to borrow short-term operating capital, for example, while it is awaiting a financing from SBA. However, the provision also protects the Government from being subordinated to outside debt should a liquidation be necessary.

SECTION 4. POOLING

SBA is already authorized to pool SBIC debentures, to sell shares of the pools to private investors and to guarantee the payment of principal and interest on the shares. This section would authorize identical pooling authority for the new participating securities. Participating securities are to be pooled separately from debentures under the existing program.

SECTION 5. AUTHORIZATIONS

This section adds authorizations program levels for the participating securities for the five-year period of the pilot program as follows: $100 million for fiscal year 1993, $250 million for fiscal year 1994, $400 million for fiscal year 1995, $550 million for fiscal year 1996 and $700 million for fiscal year 1997.

SECTION 6. SAFETY AND SOUNDNESS

This section requires SBA to make a determination of financial viability for each SBIC prior to licensing and prior to approving each request for financing. Specifically, each SBIC must be found able to make periodic payments on its debt.

Each licensee is required to adopt written guidelines for valuing its investments. The guidelines must require that the board of directors or general partners (whichever is applicable) have the sole responsibility for making a good faith determination of the fair market value of the SBIC's investments. The determinations must be made at least semiannually. For SBICs with leverage, the determinations must also be reported to SBA at least semiannually. SBA may require the reports more frequently if deemed necessary.

SECTION 7. EXAMINATIONS

This section transfers, as of October 1, 1992, the authority to perform periodic examinations of companies participating in the SBIC program from the Office of the Inspector General (Office of Audits and Investigations) to SBA's Investment Division. The function to be transferred includes personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations and any other related funds. The Office of the Inspector General will retain the responsibility, and associated resources, for conducting audits and investigations of the SBIC program, as authorized or required under the provisions of the Inspector General Act of 1978, as amended.

SECTION 8. NON-FINANCED SBICS

This section exempts SBICs which have no government leverage from a requirement which was imposed to protect the Government's risk of loss. Such companies are exempted from the prohibition that no more than 20 percent of an SBIC's private capital may be invested in any one small business. This section also directs SBA to examine its regulations within 90 days of this legislation's enactment to identify and modify similar regulatory provisions which should not apply to SBICs which have no leverage. SBA must report to Congress on the results of its review within 6 months of this legislation's enactment.

SECTION 9. MINIMUM CAPITAL

This section increases the statutory minimum private capital required to become licensed as an SBIC from $500,000 to $2,500,000 for regular SBICs and $1,500,000 for Specialized SBICs. This change is a codification of existing SBA regulations.

SECTION 10. DEFINITIONS

This section amends the definition of "private capital" for purposes of determining eligibility to become an SBIC and to receive leverage. The House-passed bill included funds from public or private pension funds within the definition. The Senate substitute also includes funds from State or local governments within the definition, provided that no more than 33 percent of an SBIC's private capital is comprised of such funds. The 33 percent limitation is intended to prevent State or local control of such companies. SBA is also authorized to impose regulatory restrictions on the use of state and local government funds, if deemed necessary, to maintain private control of the SBICs or to otherwise maintain the integrity of the program. This section also amends the definition of leverage to include the new participating securities purchased or guaranteed by the Small Business Administration.

SECTION 11. INTEREST RATE CEILING

Under existing law, the maximum interest rate which may be charged by an SBIC is set by SBA, based upon the current interest rate on financial assistance from the Agency to the SBIC, even though the SBIC may be paying a different interest rate under a debenture issued years ago. If the interest rates have fallen, such a company may not be recovering its cost of money; conversely, if they have increased, the company may be receiving a windfall.

This bill requires SBA to provide, as an alternative interest rate ceiling, a cap on the maximum interest rate which an SBIC may charge based upon the interest rate of the debenture financings provided to each SBIC by the SBA.

SECTION 12. PREFERRED PARTNERSHIP INTERESTS

The bill authorizes limited partnership-type Specialized SBICs to sell partnership interests to the SBA with the equivalent of a 4 percent dividend under the same terms and conditions which apply to corporate form companies when they sell preferred stock to SBA.

SECTION 13. INDIRECT FUNDS FROM STATE OR LOCAL GOVERNMENTS

This section authorizes Specialized SBICs to use funds indirectly obtained from State or local government sources, provided that the funds have taken on a private character. For example, monies from a non-profit entity which is funded by a State would be permissible private capital for Specialized SBICs.

SECTION 14. SBIC APPROVALS

Subject to provisions of appropriations acts, this section permits SBA to make obligations for debentures and preferred securities in one fiscal year and disburse or guarantee them in the following fiscal year.

SECTION 15. EXCEPTION FROM BANKRUPTCY AUTHORITY

This section excepts SBIC's from eligibility for filing a petition under the Bankruptcy Code. There exists an adequate administrative system for addressing liquidations of troubled SBICs. In recent years, SBA has suffered several major losses as the result of SBICs filing for bankruptcy before the matter was referred to SBA's regulatory system. This provision is intended to protect the government against losses, while maintaining a regulatory system for addressing financial problems of troubled SBICs.

SECTION 16. STUDIES AND REPORTS

This section requires SBA to include a description and an analysis of its progress in implementing the new participating securities and other reforms in its annual report to Congress on the SBIC/SSBIC programs. At the end of 4 years, the General Accounting Office is required to report to Congress on the SBA's progress in implementing the reforms contained in this bill and on the effectiveness of the reforms in generating equity capital for small businesses.

SECTION 17. IMPLEMENTATION

This section requires SBA to publish proposed regulations within 90 days, and final regulations within 6 months, of the date of enactment of this bill.

SECTION 18. BUY AMERICA

This section notes the Congress' support for financing small businesses which buy American-made products and American services.

SECTION 19. NO EFFECT ON SECURITIES LAWS

This provision makes clear that the authority to regulate the SBICs, their securities and the pooling of such securities in no way affects the applicability of the securities laws as defined in section 3(a)(47) of the Securities Exchange Act of 1934, or any regulations issued thereunder.

So the bill (H.R. 5191) was deemed read a third time and passed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on August 5, 1992, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5630. An act to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities, and for other purposes; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following joint resolution, received from the House of Representatives for concurrence on August 5, 1992, was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S.J. Res. 317. A joint resolution approving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the Republic of Albania (Rept. No. 102–362).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3359. A bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027) and for other purposes (Rept. No. 102–363).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 4364. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes (Rept. No. 102–364).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2870. A bill to authorize appropriations for the Legal Services Corporation, and for other purposes (Rept. No. 102–365).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1880. A bill to amend the District of Columbia Spouse Equity Act of 1988 (Rept. No. 102–366).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1602. A bill to ratify a compact between the Assinibone and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana (Rept. No. 102–367).

S. 3118. A bill to increase employment and business opportunities for Indians, and for other purposes (Rept. No. 102–368).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 2263. A bill to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself, Mr. CRAIG, Mr. GARN, Mr. HATCH, Mr. LOTT, Mr. THURMOND, and Mr. HELMS):

S. 3159. A bill to amend the Endangered Species Act of 1973 to reauthorize such Act and to provide a means whereby endangered species and threatened species may be preserved and the habitat needs of the endangered and threatened species may be balanced and harmonized with the needs of man, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID (for himself, Mr. BRYAN, Mr. D'AMATO, and Mr. GRAHAM):

S. 3160. A bill to amend the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. SIMON):

S. 3161. A bill to designate May of each year as "Asian/Pacific American Heritage Month"; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself and Mr. DURENBERGER):

S. 3162. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 3163. A bill to amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, and for other purposes.

By Mr. RIEGLE (for himself and Mr. JEFFORDS):

S. 3164. A bill to establish a program to demonstrate the environmental, economic, and social benefits and feasibility of carrying out response actions to remediate environmental contamination and redeveloping or reusing land blighted by environmental contamination; to the Committee on Environment and Public Works.

By Mr. REID:

S.J. Res. 331. A joint resolution to designate the month of January 1993 as "National Cowboy Poetry Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 332. A resolution to authorize testimony, documentary production, and representation of Members and employees of the Senate in United States of America v. Clair E. George; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself, Mr. CRAIG, Mr. GARN, Mr. HATCH, Mr. LOTT, Mr. THURMOND, and Mr. HELMS):

S. 3159. A bill to amend the Endangered Species Act of 1973 to reauthorize such act and to provide a means whereby endangered species and threatened species may be preserved and the habitat needs of the endangered and threatened species may be balanced and harmonized with the needs of man, and for other purposes; to the Committee on Environment and Public Works.

PROGRESSIVE ENDANGERED SPECIES ACT OF 1992

Mr. SYMMS. Mr. President, I rise before my colleagues today to introduce what I consider to be one of the most important pieces of legislation that will come before Congress this year, the Progressive Endangered Species Act of 1992.

It is a comprehensive improvement over what is arguably the most powerful—and in my opinion, one of the most ineffective—environmental laws in our history; a law which is much more far-reaching and more powerful than most Americans and perhaps many of us here today realize; a law that is basically out of control.

The name, Progressive Endangered Species Act, is not arbitrary, for this truly is a progressive bill. This legislation will take us out of the stone age of conservation and enable us to move forward using man's art and science to make things better for all species, humans included.

This bill is progressive because it recognizes a simple truth, that economics is not adverse to conservation. It will reestablish the positive link between economics and conservation through incentives for humans to become active in species protection. With this bill, we don't have to apologize for our free enterprise system. On the contrary, this bill allows us to use it wherever possible to benefit species.

This bill is progressive because it reestablishes the link between humans and the rest of the living world—it is called coexistence. And by requiring high scientific standards throughout, we will no longer list or refuse to delist species based purely on emotions and hype.

This bill is progressive because it reestablishes cooperation between local, State and Federal authorities. For too long, we have caused these groups to be adversaries, and that certainly has not benefitted our endangered species.

This bill is progressive because it provides for real management. Rather than the massive bureaucratic listing process we have today, the Progressive Endangered Species Act will serve as a useful, active tool designed to achieve results.

To set the stage, Mr. President, for the changes I am proposing, I am going to share a story about an American citizen. His name is Mr. Don Walker, Jr. As a matter of fact, he is here today in the Senate gallery with his wife Kay. Mr. Walker happens to be a former logger, but he could be a shrimper from the Gulf States, or a fisherman from the east coast, a logger from the Pacific Northwest, a farmer from the heartland, a rancher from the Plains or any one of millions of private property owners who are struggling to deal with the current Endangered Species Act. Mr. Walker wrote a letter to the editor of the Wall Street Journal, and here is the text of his letter:

> My name is Donald Walker, Jr. For 30 years, I was an Oregon logger. I have been out of work since August 1989, when the company I worked for closed out it operations near Oakridge, where my wife and I live.
>
> Times have been pretty tough since then, though I think we have been luckier than many woodsworkers. We still have our home, where we raised our children. Many younger loggers, with small children at home, have lost everything as a result of the spotted owl controversy that has tied Congress in knots.
>
> FAITH AND HOPE
>
> My wife has an office job with the same company I worked for, but she had to accept a transfer to another office a four hour drive from home. Now we see each other only on weekends.
>
> It gets pretty lonely here without her, but our faith in God has kept us strong, and we continue to hope for better days when we can be together again like a family should be.
>
> After I lost my job I took some courses at a local community college, thinking that I might be able to make a new start in life. I figured my best hope was to learn enough to start some sort of small business that was related to my 30 years of woods experience.
>
> I took welding, some small business classes and a couple of courses in interpersonal communications. Can you imagine a logger in an interpersonal communications class!
>
> Community college helped me a lot personally, but starting over when you are 55 years old isn't easy. Since 1989 the only work I've been able to find is as a part-time caretaker on some private timber land near here.
>
> I've also worked seasonally as a yew bark collector for an outfit that has a contract with a big drug company that is searching for a cure for cancer. They think Taxol, which comes from yew bark, might be a miracle cancer cure.
>
> I also work on the family tree farm, and that is the other part of this story.
>
> My dad and my grandad bought this farm in 1932. Our family has been logging it for 60 years. We've replanted as we've gone along, or converted the land to fields where we graze a few cattle.
>
> Our land was burned badly in a fire in 1912, so we don't have any of the old growth timber Oregon is famous for. None of our trees are more than 80 years old.
>
> One of the hopes I have held onto since I lost my job is that I could supplement our income by continuing to manage our tree farm as my father and grandfather did for so many years. But it doesn't look like this is going to pan out either.
>
> Last November, I received a letter from an outfit called the Forest Conservation Council telling me that if I cut any more timber on our land it would sue me for violating the Endangered Species Act, which protects spotted owls, and makes it a crime to tamper with their habitat.
>
> I have never seen a spotted owl on our place, and I have never met anyone from the Forest Conservation Council. So far as I know, it's never even been on our farm. But I do have a typewritten, single-spaced, four page letter from their lawyer saying that what we have been doing on our tree farm for 60 years is no longer legal.
>
> I might have felt a little bit better about the letter if they had offered to buy the land, or at least pay the taxes, which we have also been doing for 60 years. But they didn't and I guess I'm not surprised. From what I've read about these people, they don't believe in private property rights.
>
> About 200 Oregon tree farmers got the same letter I got. There are actually many more tree farmers in Oregon, but for some reason we were singled out. It got me to thinking about how what has happened to us could happen to any private property owner. In fact, the newspapers are filled with stories like ours. It's happening to people all over the United States.
>
> There is even a Supreme Court case now involving a fellow in South Carolina who paid almost a million dollars for a couple of beachfront lots he has been told he can't build on because somebody thinks the land should be left to nature.
>
> A lot of news reporters have visited our place since we got our letter from the Forest Conservation Council. I think they're impressed with the beauty of our farm, but I'm afraid they don't grasp the significance of what is happening to us, or to other private landowners across the country. Do they understand that the right of ownership of private property is fundamental to our democracy? I don't think so. I think they are too busy collecting what are called six-second sound bites, and that is not something I am very good at.
>
> Some people say we should cut down all our trees now, while we still can, before the Forest Conservation Council letter becomes a court case. But we don't want to. We're conservationists. This tree farm is our home, and the trees are part of our way of life. We work with nature to grow a crop the Nation needs. The crop is wood. It puts food on our tables.
>
> BANKRUPTCIES AND LAWSUITS
>
> In 26 years of married life, we have never been late on a bill we owed. The pressure on us now is hard to describe. My wife won't even read the newspaper anymore, because it's filled with stories about loggers losing everything, and preservationists filing more lawsuits.
>
> Where does it all end? Do people count anymore? Do private property rights still have meaning in America? Who will compensate us for our loss? The public? The Forest Conservation Council? So far, I haven't heard from anyone except the property tax collector.
>
> The problem isn't the owl, or even old growth for that matter. The problem is an out-of-control preservationist movement that doesn't care about people or their rights.
>
> Our tree farm is our last hope. It is worth fighting for, and I intend to fight for it every way I know how.

Mr. President, I think that is a very powerful letter and I hope my colleagues will look through it.

I ask unanimous consent at the end of my remarks that the letter to Mr. Walker from the Forest Preservation Council be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, would my colleagues not agree, after hearing this, that it is time this body acts to correct this situation? For Don Walker and the millions of people like him, we must do the responsible thing and improve the Endangered Species Act.

My bill will amend that legislation which was passed in 1973 and amended several times since then. I did not vote for it then because I could see some of the potential problems that loomed ahead; however, I would have never predicted a situation this severe.

The 1973 bill was enacted at a time of rapid growth for this country and when we all thought Government resources were unlimited. Well, we now find ourselves with a Federal debt of over $4.0 trillion and a deficit of $400 billion.

These figures are important, Mr. President, because the inspector general of the Interior Department estimates that in the late 1990's, it will require $4.6 billion to recover only part of the species listed at that time and part of the listed candidate species. This estimate, which reaches $6.65 to $8.1 billion today, does not include those costs associated with permitting, consultation, law enforcement, listing, delisting, mitigation and, most importantly, cost to society. We are ignoring or denying the cost to society, as Mr. Walker's letter points out. Regardless of what environmental groups want us to believe, the current Endangered Species Act is creating havoc with the social fiber of this country. And oddly enough, it doesn't have to.

After reviewing present and future costs of implementing the current act, there is no question that we cannot afford to save every threatened, endangered and candidate species, subspecies and population. There are over 1,200 species, subspecies and vertebrate populations listed as endangered or threatened under the current act, 727 of them in the United States. Over 3,500 more are official candidates which do not have a high enough priority to undergo the listing process.

The U.S. Fish and Wildlife Service tries to list at least 50 species each year. The Interior Department estimates that it would take nearly 50 years and $114 million to review and list the current official candidates. Meanwhile, Federal officials must review numerous petitions each year to list additional species, subspecies and populations. In its 1990 annual report, the Council on Environmental Quality noted that the Natural Heritage data base reported as many as 9,000 domestic species were at risk.

And what has all this effort and millions of dollars bought us? Have we really saved species and have we made measurable progress? Mr. President, the short but true answer is: No. The majority of species which have been delisted have been delisted or should have been delisted on the grounds of data error—9 of 16 total delistings. This demonstrates that there is an obvious need for more objective science and stricter guidelines as to what should and should not be listed. For every plant or animal mistakenly added to the list, it costs nearly $100,000—an average of $60,000 to list and $37,000 to delist.

Mr. President, in the nearly two decades since the act's implementation, there is not yet one legitimate recovery. This is not a problem which requires more money, but a fundamental change in approach of how the law is handled.

To more graphically express the extent to which the current act is tightening its grip on the social and economic fiber of this country, we have prepared two charts depicting endangered species habitat that were created using data taken directly from currently available U.S. Fish and Wildlife Service recovery plans.

This first chart shows all of the critical habitat that has been designated in the United States as well as all essential habitat. Critical habitat receives the law's strictest protection because it is habitat that is critical to the continued existence of a species. Essential habitat denotes an area's importance to a species' existence, but it does not receive any higher degree of protection under the law. Most likely, these are areas which the authors of the recovery plans felt should be designated as critical habitat. There is a considerable amount of critical and essential habitat. The critical habitat shown, however, represents only 3.3 percent of all listed species in the United States.

This first overlay, as I will explain, depicts the habitat range of threatened and endangered plants and animals in the United States, areas where these species can be found or are likely to occur. First, we have 49 species of reptiles, amphibians, and invertebrates. To point out a few—the Alabama redbellied turtle, and some 21 fresh water mussels occurring throughout Tennessee and surrounding States.

The second overlay shows 65 species of fish and mammals. This orange area represents the Indiana bat. I do not mean to suggest that there is an Indiana bat at every point in his range, but his map was made to show where the Fish and Wildlife Service says these endangered species can occur—just about anywhere, which means there is nothing to keep an Indiana bat from feeding on insects over on your farm or to prevent a red-cockaded woodpecker from nesting in your backyard.

The third overlay is the range and habitat of 68 species of birds and plants, which makes for quite a colorful image, a very disturbing image, nonetheless, but keep in mind that this represents less than one-quarter of all species that are currently listed in the United States—172 of the currently listed 727 species. Furthermore, it does not include the over 3,500 category 1 and 2 candidate species, 296 of which are snails. Can you imagine what this map will look like when the data if finally available on the remaining 75 percent of the species?

Mr. President, you can see that the impact of the current legislation is awesome. To think about what we are trying to do, it is impossible under the current act to put all this into effect.

Among some of the most flawed aspects of the current legislation is the critical habitat designation. The act allows certain areas to be excluded from designation if the economic and other benefits of exclusion outweigh the scientific benefits of inclusion but only if the failure to designate the area will not result in the extinction of the species.

The Fish and Wildlife Service frequently evades consideration of economics by invoking the act's extraordinary circumstance clause to avoid designation. And even though one Federal court already found the agency's use of these criteria to be improper in the *Northern Spotted Owl* v. *Lujan*, 758 F. Supp. 621 [W.D. Wash. 1991], by rule and policy the Fish and Wildlife Service has written economics out of the designation process.

Furthermore, the agencies often have designated as critical habitat all suitable habitat within the entire range of a listed species, which takes all meaning from the word "critical."

Mr. President, there has to be a better way to achieve our goals of listing and defining critical habitat and recovery than this piecemeal approach we are now taking. That is why my bill will require a comprehensive listing process that includes: First, a scientific determination of whether a species is threatened or endangered; second, an economic analysis that must contain sector-by-sector impacts; and third, critical habitat designations.

This information will help us make better decisions, for species and for people.

Mr. President, among the many species, subspecies and populations that continue to be listed, many are done so indiscriminately. And when a listing occurs, a recovery plan is supposed to be developed. The plan must describe the steps Federal, State and local agencies and private individuals should follow to assist the species to survive and recover. However, recovery plans have been prepared for less than half of all listed domestic species.

Most of the completed plans were prepared long after the listing. That leaves private citizens, like Mr. Walker, and public officials uninformed about the consequences of listing a species when the listing occurs. They are not given timely guidance on how to comply with the act. Even if a landowner fervently follows a recovery plan, the plan provides no assurance that he will not still be sued for a "taking." Would you not agree that Mr. Walker would like to have an opportunity to take part in a recovery plan with the assurance that he would not be sued? Yet, agencies are free to ignore the recovery plans and place more stringent conditions on landowners.

Recovery plans are drafted for the most part by agency employees without significant involvement of the public and do not calculate or disclose the full public and private costs of recovery. That is one of the reasons my bill requires that an economic analysis be conducted concurrently with the listing process. We must know, the public has a right to know the cost of recovery.

The Progressive Endangered Species Act will open up the process. It makes local public hearings more accessible to affected citizens.

My legislation will require notification by certified mail of critical habitat designation that will impact property owners and those holding leases and permits on Federal lands.

It further opens the process by allowing judicial review of the determination of critical habitat and of whether or not a species is endangered. Recovery teams will have to work in open meetings rather than in private working groups behind closed doors.

My bill also contains strict "conflict of interest" language. In other words, the individual who petitions to have a species listed cannot benefit by being a member of the recovery team.

The act can only work when the public is allowed to participate, to be part of the process. The changes I am recommending will allow this to happen and will have a positive effect on the process.

And in regards to private property, Mr. President, many reasonable and productive uses are being substantially curtailed or terminated altogether by the current act. Landowners have been prohibited from cutting trees, clearing brush, using pesticides, planting crops, building homes, grazing livestock, and protecting livestock from predators.

The act has deprived landowners of the only economic uses they can make of their properties, as in Mr. Walker's case—uses which are productive and contribute to local, regional, and national economies and welfare and which contribute tax dollars for implementation of species protection. Property values have been depressed or, in some cases, destroyed in complete disregard of the constitutional protection of property rights. The Government has shown no inclination to compensate citizens for the unconstitutional taking of their property, Mr. President. This is an outrageous situation.

We cannot, in all good conscience, allow this to continue. There is a private property movement in this country that has reached great magnitude, and we need to address it if we are to honestly represent our constituents' rights.

That is why the Progressive Endangered Species Act contains language similar to my private property rights bill, S. 50. It basically says that when an agency makes new rules, that agency must follow approved guidelines that assess the potential "takings" of private property. And if a "taking" occurs, the landowner is compensated. For too long, we have allowed agencies to implement regulations that deny landowners use of their private property. Fundamentally, morally, constitutionally, that is wrong. But just as importantly, it is bad economic policy, as well. It impacts landowners' livelihoods; it impacts what may be the best use of the land; and it has a severe impact on the tax revenues that are generated from managing those lands.

Why can we not encourage landowners to manage their lands for traditional and historic uses and threatened or endangered species? Rather than command and control regulation, let us allow self-interest and individual responsibility to promote conservation of species. My bill will include a provision that will encourage people to provide habitat for an endangered species. All they will have to do is write to the Fish and Wildlife Service describing the action they will take. The Service then decides if the action will be a net benefit to the species, and if so, authorizes the landowners to take that action.

Additionally, my bill requires us to focus our efforts on more reliable and objective biological units by removing future listings of subspecies and distinct populations. That will allow us to focus our attention and resources on those biological units and finally achieve some long overdue recoveries.

Removing the disincentives is partly what this legislation is about. The best thing we can do for endangered species is to make them popular, as opposed to the current law. It has brought about the saying "Shoot, shovel, and shut up!" The people who say this don't hate endangered species but recognize the possible regulatory nightmare that comes with their presence—a nightmare which can threaten private property, business, and the future livelihood of Americans.

Mr. President, I have heard from many grassroots organizations from all over the country; many have come into my office asking for these changes. That is why I say that this is a grassroots drive bill. It comes from citizens all over the country who want to do something positive for species, who want to be part of a process that protects rare species from extinction and who feel that that process should include human beings—not exclude them.

As my colleague from Oregon, Senator HATFIELD, said earlier this year in a reauthorization hearing on the Endangered Species Act:

> Today the ESA is being applied across entire states, across entire regions. The result: it now affects millions upon millions of acres of publicly and privately owned land; it affects tens of thousands—if not hundreds of thousands—of human beings; and it affects scores—if not hundreds of rural communities.

Mr. President, it is time to change the current act, and we, as the elected body of this country, need to recognize that we can proactively and progressively improve the act. I submit to you today the Progressive Endangered Species Act of 1992 to begin a thoughtful and productive process to improve the current legislation.

Mr. President, I want to commend several people for the effort they extended in drafting this legislation. Embodied in this bill are ideas the National Wilderness Institute has been bringing to the forefront of this debate, and I want to thank Jim Lacey for his contributions. These include such common sense ideas as utilizing active management, not just bureaucratic listing; using objective, not subjective science; using incentives, not disincentives; and using markets and free enterprise, not command and control methods to achieve conservation.

The personal time dedicated by Robert Gordon, Benjamin Patton, and Jim Streeter has been critical to developing a truly new approach to solving our endangered species problems, and I want to take this opportunity to thank them for that dedication. I also want to thank Taylor Bolden and Susan Fagan who also dedicated countless hours to this endeavor.

Mr. President, this bill will work in the following way. It has some very basic principles of how it works: private property rights. For this act to work, it must respect the rights of property owners. This bill that I am introducing today recognizes the rights of private property owners and provides just compensation when property rights have been taken.

Private sector involvement. This bill will provide tax incentives for those who modify or manage private habitat to benefit species. It provides the means for the private sector to bid in the recovery process. It creates a U.S. biodiversity foundation to tap the knowledge and skills of private natural resource professionals in species recovery and it encourages voluntary and cooperative efforts on private property.

Sound science in determining species. This bill will redefine species to exclude less reliability defined biological units such as subspecies and extinct population while grandfathering in currently listed species with some exceptions. The sunshine clause opens up the process. This bill will eliminate the secretive and controversial God Squad while opening up the process to administrative appeal according to the procedures to be promulgated by the Fish and Wildlife Service and judicial review in a court of competent jurisdiction.

Economic impact. This perhaps is the heart of the bill, Mr. President. As you have heard today, we are listing ourselves into oblivion. It simply will not work. We are like a credit card junkie gone wild. We are listing species after species with no idea how large the bill is going to be for recovery or how we are going to pay for it when it comes due.

This bill will do three simple things. First, the determination whether or not a species is on the brink of extinction will remain a purely scientific endeavor.

Second, concurrently, with the scientific analysis of a species' status, a recovery plan must be developed.

And third, also concurrently, the costs associated with the recovery plan, both the direct cost of bringing the species back and the indirect cost of the effect to the economy, will be developed. All three of these items must be filed together. We will know the scientific status of the species and we will know what we have to do to recover it, and we will know what it costs.

Now that we know what it costs, what are we going to do with it? That is the next question. This bill calls for automatic recovery whenever the costs are below $10 million. Automatically it has to be recovered. However, when the costs of recovery are more than $10 million, a less expensive stabilization plan will immediately be developed to stabilize where we are, and the proposed listing is sent to the U.S. Congress. It will then be, Mr. President, the U.S. Congress as the representative of the people responsible for raising taxes and paying the Government's bills that will finally determine if the U.S. Government will pay the cost of recovery. The Congress has three options. It can reorder the recovery to take place. It can order a less expensive stabilization plan to continue or they can order the species not to be listed. If they do nothing, the species is automatically delisted.

I believe these changes are absolutely essential if we are to finally address the endangered species controversy with the goal of accomplishing something and solving the problem.

Mr. President, I thank the indulgence of my colleagues and the Chair, and I hope there will be other Senators who will join in the cosponsorship of this legislation. I know my colleague from Idaho, Senator CRAIG, and a few others have sponsored it. I send to the desk the bill to be introduced and assigned to the correct committee for myself, Mr. CRAIG, Mr. GARN, Mr. HATCH, Mr. LOTT, Mr. THURMOND, and Mr. HELMS, and invite all Senators to join in this effort.

EXHIBIT 1

FOREST CONSERVATION COUNCIL,
November 26, 1991.

Re Notice of Intent to File Citizen Suit Under the Endangered Species Act for Unlawful Taking of Northern Spotted Owls by Private Timber Operations

MANUEL LUJAN,
Secretary, Department of the Interior, Washington, DC.

JAMES BROWN,
State Forester, Oregon Department of Forestry, Salem, OR.

JOHN TURNER,
Director, U.S. Fish & Wildlife Service, Washington, DC.

MARVIN PLENART,
Regional Director, U.S. Fish & Wildlife Service, Portland, OR.

DEAR SECRETARY LUJAN AND OTHER NAMED PARTIES: I am writing on behalf of the Forest Conservation Council (FCC) to notify each of you named above, as well as those commercial forest landowners and timber operators named in the service list attached herein, of our intent to file a citizen suit to enforce the duty of all public and private parties named and served notice herein to prevent an unlawful take of northern spotted owls under Section 9 of the Endangered Species Act.

The U.S. Supreme Court has observed that it is "beyond doubt" that "Congress intended endangered species to be afforded the highest of priorities" in enacting the Endangered Species Act. Tennessee Valley Authority, 437 U.S. 153, 174 (1978). "The plain intent of Congress in enacting this statute was to halt and reverse the trend toward species extinction, whatever the cost." Id. at 184.

Section 9 of the ESA prohibits any person, including private parties, as well as state and federal agencies, from taking endangered or threatened species. 16 U.S.C. 1538(a)(1)(B). The term "take" includes harassment and harm. 16 U.S.C. 1532(19). U.S. Fish and Wildlife Service regulations and federal case law establish that a "take" includes acts causing habitat modification or degradation that significantly impairs "essential behavioral patterns including breeding, feeding, or sheltering." See Palila versus Hawaii Department of Natural Resources, 852 F.2d 1106 (9th Cir. 1988) (Palila II); Palila versus Hawaii, 639 F.2d 495 (9th Cir. 1981) (Palila I); 50 C.F.R. 17.3.

All of the private operations identified by Oregon Department of Forestry Notification Number in Exhibits "A" and Exhibits "B" are proposed logging and herbicide applications activities which will affect both the habitat and behavior patterns of northern spotted owls nesting on adjacent Bureau of Land Management forests. These private operations will occur in close proximity to, or within, lands recognized by BLM, the U.S. Fish and Wildlife Service, and the Interagency Scientific Committee on the Northern Spotted Owl as essential owl habitat areas for nesting and forage of individual owl pairs, and as essential for the long term recovery of spotted owl populations in the region.

The ISC strategy expressly recognizes that ecologically sensitive management of private lands in and around federally protected reserves are an integral part of maintaining effective spotted owl habitat and recommends that "resource managers of . . . private lands use forestry and silvicultural techniques and practices that maintain or enhance habitat characteristics associated with spotted owls." (ISC at 29–30).

Specifically, all of these operations are located in proximity to or on: (1) lands designated as "Habitat Conservation Areas," by the Bureau of Land Management; (2) lands designated as "Critical Habitat" by the U.S. Fish and Wildlife Service; (3) lands within the same 1.3 mile radius of nest sites for northern spotted owls as timber sales on BLM lands found to "jeopardize the continued existence" of northern spotted owl; and, (4) lands within a 1.3 mile radius of northern spotted owl nest sites where suitable owl habitat is less than 40% coverage. These proposed operations, both individually and cumulatively, will cause a take of northern spotted owls, in clear violation of Section 9 of the ESA.

Both the BLM and the U.S. Forest Service have recognized that sales impacting northern spotted owl nest sites on public lands with similar attributes as described above would constitute a take, and would therefore be prohibited. In fact, many sales on public lands in the vicinity of these private operations have been voluntarily suspended by the federal land management agencies. However, the Oregon Department of Forestry has allowed potential taking activities to go forward on private lands, and allowed private operators to proceed under circumstances that unequivocally will result in violation of the ESA.

The operations listed in Exhibits "A" are logging activities on private lands that will disrupt normal behavior patterns of owls nesting on adjacent public lands, and will weaken or nullify adopted strategies of the federal agencies for protecting the long term viability of owl populations. The northern spotted owl is recognized as in indicator species for large, undisturbed old growth forest stands. Logging activities such as those proposed in Exhibit "A" will remove essential breeding, feeding, and sheltering habitat for existing pairs, and will cause injury in fact by allowing increased predation by competitor species, loss of nest sites, disturbance of breeding patterns, and reduction of food sources and shelter. (See 50 C.F.R. 17.3).

The operations listed in Exhibit "B" involve other intensive forest management activities including application of chemical herbicides, insecticides, and fertilizers, road building, slash burning, precommercial thinning, and other disruptive activities which will cause direct and indirect impacts to northern spotted owl pairs and their essential habitat. For example, aerial spray operations will cause direct impacts to northern spotted owl pairs by physical harassment involving low flying helicopters and other aircraft in the vicinity of nesting and activity centers. These disturbances will cause owls to flee nest sites and will disrupt normal breeding activities. In addition, direct harm will occur from chemical exposure.

Other indirect impacts from chemical applications involve bioaccumulation in the food chain, especially in prey species such as the northern flying squirrel, woodrats, voles, and rodents which graze on grasses in open clearcuts and ingest these chemicals. Many of these chemicals have been shown to cause tumors, skin sores, eye damage, and kidney enlargement in laboratory animals. Some of these chemicals are accompanied by manufacturers warnings stating "do not graze treated areas or feed treated forage." Other intensive forest management activities listed herein, including slash burning, salvage, thinning, and road building are equally disruptive to northern spotted owls, and, in fact, are prohibited activities on federal lands in the vicinity to protect this species. (*See e.g.*, ISC Report at pg. 30).

FCC believes that because the operations listed in Exhibits "A" and "B" will cause a take of spotted owls in violation of ESA, private landowners and operators, or the State of Oregon, must seek a prior "incidental take permit" from the U.S. Fish and Wildlife Service. (16 U.S.C. 1539(a)1(B).) Such a permit could, if granted, provide permission to take listed species "incidentally" in the course of an otherwise lawful activity. *Id.* However, an applicant for an incidental take permit must submit to the U.S. Fish and Wildlife Service, a Habitat Conservation Plan (HCP). The HCP must specify: (1) the effects of the proposed activities on the northern spotted owl; (2) steps that will be taken to monitor, minimize, and mitigate adverse impacts; (3) consideration of alternatives that could prevent a taking; and, (4) other measures specified by the U.S. Fish and Wildlife Service that are necessary and appropriate. 50 C.F.R. 17.32(b)(1).

We have reviewed all the notifications listed herein, and have consulted with the Department of Forestry, the Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the Office of the Governor, and have determined that neither private operators and landowners nor the state of Oregon has requested or received an incidental take permit for any of these activities.

We encourage you, as responsible land managers and private foresters, to follow the requirements of the ESA in seeking incidental take permits for each of the activities named above. We also encourage the State of Oregon to take a systematic approach to this problem by developing a state-level HCP. By doing this, the State would enable private landowners and operators to participate in a state conservation strategy, and minimize the administrative and legal costs associated with obtaining hundreds of individual incidental take permits.

REQUEST FOR RELIEF

Forest Conservation Council hereby requests that the parties named herein cease and desist from all of the specific operations described in Exhibits "A" and "B" (attached herein), and comply with Section 9 of the Endangered Species Act to prevent and avoid the unlawful taking of Northern Spotted Owl. FCC further requests that these parties request an incidental take permit from the U.S. Fish & Wildlife Service for each of the operations listed herein.

If you wish to discuss any of the points in this letter, please contact my office at (503) 686-3277. I am hopeful that the parties involved can cooperate to avoid any violations of law, and, thereby, obviate the need for litigation.

Yours Truly,

DANIEL J. STOTTER,
Attorney At Law.

By Mr. REID (for himself, Mr. BRYAN, Mr. D'AMATO, and Mr. GRAHAM):

S. 3160. A bill to amend the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of such act, and for other purposes; to the Committee on Labor and Human Resources.

TREATMENT OF INMATES UNDER THE FAIR LABOR STANDARDS ACT

Mr. REID. Mr. President, a court has ruled that prisoners must be paid minimum wage if they work. I think this is wrong. Today, I am introducing legislation on my behalf and that of my colleague, Senator BRYAN, and my friend from Florida, Senator GRAHAM, to clarify the intention of Congress in regulating the employer-employee relationship under the Fair Labor Standards Act.

Mr. President, I regret that the introduction of legislation is necessary. However, we have at this time Federal courts in conflict.

We have State governments, already staggering from budget deficits, who are concerned they may owe millions to prisoners. And we have prisoners, who may lose their job training, lose the opportunity to produce something during their incarceration, and lose the incentive to reform themselves and return to society.

The Fair Labor Standards Act of 1938 was enacted as a progressive measure to insure all able-bodied working men and women a fair day's pay for a fair day's work. Further, this act had a humanitarian purpose: To provide a minimum standard of living necessary for health, efficiency, and the general well-being of workers.

Much to the surprise of the State governments in the ninth judicial circuit—the circuit covering California, Nevada, and the Western part of The United States—this act has been held to cover prison labor. The goals of the act in regulating the labor of nonincarcerated workers are completely separable and distinguishable from the reasons that prisoners work.

Prisoners do not earn wages in order to pay for their room and board. That is obvious. The State has complete control over them and responsibility for the living conditions of these prisoners. That is obvious. The taxpayers pay for their cells, food, and entertainment.

And now, should the taxpayers pay minimum wage and overtime for work performed while they are having their room paid for, their food paid for, and their cable TV paid for, among other things?

The legislation I am introducing today clarifies that the protections in the Fair Labor Standards Act were intended for hard-working individuals, and not for criminals in our prisons. This bill removes prisoners from the act, and allows States to continue their successful work programs. One of the few good things coming from the prison system is the work program.

This legislation is necessary today because of confusion by the courts. And I am sorry to say that most of the confusion comes as a result of decisions from my circuit, the ninth circuit.

The Ninth Circuit Court of Appeals has said in Hale versus Arizona, that the act covers prison labor and concluded that inmates are entitled to receive minimum wage for their work.

Further, the court feels that it would be an encroachment upon the legislative prerogative for a court to hold that a class of unlisted workers is excluded from the act. I must add that I try to understand all reasonings of the courts. This is difficult to do.

This body—this Congress—has a duty to clearly express our intention in this matter.

The eighth circuit has found in Wentworth versus Solem, that a working prisoner is not held to be a State employee and, therefore, is not entitled to minimum wages under the act.

The sixth circuit has said in Sims versus Parke Davis & Company, that prisoners who work for private corporations at the prisons and are paid by the State are not covered by the act.

The fifth circuit held in Alexander versus SARA, Inc., that prisoners were not covered, but in Watson versus Graves, held that they were covered, and without overruling the previous case, which is also difficult to comprehend.

The second circuit has held in Carter versus Dutchess Community College, that the act may apply to inmates, but since Congress did not expressly exempt them, it would be improper for the courts to do so. Further, the U.S. Claims Court has held in Emory versus U.S., that the act does not cover Federal prison inmates.

Only one court has said definitively that prisoners are covered. The other courts have found that they may be covered, or they are covered, under limited circumstances. Most courts have found, consistently, that they are not covered. This legislation merely maintains the status quo.

The Hale case to which I referred earlier, overruled a case decided a year before in the same circuit.

We have been called upon by the courts to dispose of this issue with legislative action.

They have asked Congress to step in and decide. And I am grateful that the courts would invite that because I think this is something that should be corrected. I think it is wrong that prisoners, whose room and board and other necessities are paid for by the taxpayers, that the taxpayers are also called upon to pay minimum wage for the work that they do in prison.

My bill takes the necessary action by interpreting the original intent of this act, and providing that prisoners are not within the act's definition of "employee."

Prisoners currently perform a variety of jobs and, in some cases, actually produce goods. Prisons, however, in employing their inmates, incur great overhead costs. Why? Because security in the prison is both enhanced by prison labor, and also made more costly.

The prisons benefit from the fact that prison laborers are expending their energies in work and production, rather than on other less-constructive activities. However, prison guards must closely watch those working with tools and machinery, and those given a certain amount of freedom in their labor.

To require States to pay prisoners minimum wage would render the prison labor effort uneconomical and unsustainable.

At the Northern Nevada Correctional Institution, nearly 50 prisoners are currently employed in the production of waterbeds for the Vinyl Products Co.

The program has been running since 1985, and pays the prisoners between $3 and $4.25 per hour. This is a unique program authorized under Federal legislation which mandates what costs may be recovered and wages paid. More importantly, the prisoners are in a job training program that will benefit them upon their release.

In all of Nevada's prison industries programs, there are under 300 prisoners employed in various industries, including upholstery, woodworking, and ranching. The State of Nevada has estimated that imposing the Federal minimum wage would incur an additional cost to the state of up to $12,5000 per week.

If I may stress again, the dramatic increase in costs is on a program that assists a small number of the State's prisoners. Most prison industry programs are designed to reduce the costs of goods and services to State and local governments.

Elimination of the program would undoubtedly increase the costs of goods and services to these units of government at a time when one State is even issuing IOU's in place of checks.

Increased wages, without addressing whether prisoners will also be entitled to unemployment and worker's compensation, will certainly render prison labor not worthwhile. Remember, if they are going to pay them minimum wage is it next they are entitled to unemployment compensation? Worker's comp, if they get injured on the job? I think it is ridiculous. I do not believe this is a decision we want to force our States to make. The most critical finding of the Hale decision is that prisoners are considered State employees and therefore entitled to coverage under the act. In Nevada, there are between 1,200 and 1,500 prisoners employed by the Forestry Service and the Bureau of Land Management to fight fires and perform land projects. We just finished fighting a costly fire where these people were involved.

These inmates are compensated at a very low wage. To increase their salaries to the Federal minimum wage would cost millions of dollars per year. In Nevada, there are in excess of 500 prisoners who assist in institutional maintenance, such as cooking and cleaning. To raise their wages to minimum wage would also cost millions of dollars per year.

As I mentioned before, if the State cannot afford to engage these employees in meaningful work with some small compensation, and if these prisoners are forced to sit idle in their cells all day long, then we must prepare ourselves for the likelihood of disruptive behavior.

Legislation already exists to govern these programs. My legislation will not expand any current programs nor authorize new ones. But for those States that rely upon their prisoners to produce and supply anything from license plates to mattresses, this court decision has been and will be devastating.

We must express our intention not—and I underline not—to include prisoners in the protections afforded laborers under the Fair Labor Standards Act.

Mr. President, this legislation should not be controversial.

If a State wants to contract with the prisoners it houses for services, such as data entry for the university system, or running an informational phone bank for the State travel bureau, or hammering out State road signs, why should the Fair Labor Standards Act interfere with their relationship? Why should it hold that the prisoners are State employees, and require the State to pay them minimum wage?

The decision I refer to, the Hale decision, I respectfully submit is ridiculous and I think we as a Congress should rectify it and do it quickly.

Mr. GRAHAM. Mr. President, I would like to take this opportunity to commend my colleague from Nevada for coming forward promptly with this legislation to reverse what is clearly an irrational interpretation of the Minimum Wage Act, and also to point out what the potential, pernicious impacts of this are, both in terms of the effect inside the prison setting and in terms of the life of the inmates after they leave the prison.

We know one of the principal causes of disruptive behavior and violence in a prison setting is idleness. Thus, the prescription of effective work programs, programs that help the institution function, such as in the food service areas, the maintenance areas, the health care areas as well as those that prepare persons for employment after they leave the prison, are an extremely important component of functioning within an incarceration setting.

Beyond that, there are positive things that can happen inside a prison setting that will contribute to the likelihood that the individual, upon release, will live a peaceful, law-abiding, and contributing life. And probably the most significant thing that the prison can do is provide this individual with the skills of gainful employment after they leave the prison.

Most persons who come into a prison have never held a job, certainly never held a steady job. One of the reasons they have taken to a life of crime is because they have been unable to find another alternative as a means of supporting themselves.

So it makes eminent good sense, as many States, including the State of Nevada and the State of Florida have done, to establish prison industry programs to prepare people so when they leave, they can have a job making furniture, printing, in construction trades, or all the other areas that are in need of skilled personnel and where that training can be provided inside a prison setting.

So this, I think, very misguided judicial interpretation, which would make it much more difficult for States to provide exactly those kinds of services, would, in my opinion, have a negative impact both in terms of increasing the likelihood of violence within a prison setting and increasing the likelihood of recidivism for those who leave the prison no better prepared for life than they were when they entered.

So, Mr. President, I commend our colleague for his action today. I am very pleased to join as an original cosponsor in this amendment. I hope this Congress will not adjourn without dealing with this issue.

Mr. REID. Mr. President, through you to my friend from Florida—my friend from Florida understands probably as well as anybody in this Chamber the importance of productivity from the prison sector, having been chief executive of one of the largest States in the Union and having been involved in rehabilitation programs. There is no question that we must pass this legislation. We have to have more people in the prison system involved in productive labor, not less.

As my friend from Florida indicated, many, many, if not most of the people who go to prison for the first time have never had a job. They have never had a job.

So it is important while they are incarcerated that they learn how to work—how to report to work on time, to meet certain goals. These seem simple but it is very important.

This legislation must be passed. I think the court decisions which are in conflict, principally as a result of the ninth circuit, we must do something to change and change quickly.

Mr. BRYAN. Mr. President, I join Senator REID today as sponsor of S. 3160 to clarify the status of prison inmates under the Fair Labor Standards Act. This bill will exempt State prison inmates from the definition of "employee," and therefore from coverage under the Fair Labor Standards Act.

In April 1991, the Ninth Circuit Court of Appeals concluded in Gilbreath versus Cutter Biological, Inc., that it was "highly implausible that Congress intended the Fair Labor Standards Act's minimum wage protection be extended to felons serving time in prison." The court held that neither the Arizona State Department of Corrections nor the operator of a plasma treatment center located in the State prison was an employer under the Fair Labor Standards Act. It further held that State prison inmates who worked in the center were in an entirely custodial status, which was obviously not within the traditional meaning of an employee, therefore an employment relationship did not exist.

However, in June of this year, the ninth circuit in Hale versus State of Arizona, et al., has now held that prison inmates are indeed covered under the minimum wage requirements of the Fair Labor Standards Act. Hale concluded an employer-employee relationship under the Fair Labor Standards Act's "economic reality test" existed between the State prison inmates and Arizona Correctional Industries. This decision was written by the dissenting judge in the earlier Gilbreath decision.

Since the inmate-made products would compete in interstate commerce, the court also found that unless the inmates making the products received minimum wages, the products would have an unfair competitive advantage over other products subject to the Fair Labor Standards Act requirements.

The Fair Labor Standards Act has a detailed listing of employees exempted from the act's minimum wage requirements, 29 U.S.C. 213. Prison inmates, however, have never been included in this listing, although additions and deletions to the list have been made. Given the ninth circuit's Hale decision, it now appears time to clarify FLSA's relationship to prison inmates.

As a former Governor, I have been among those who encouraged the creation of State prison employment programs, both to ensure inmates' working time be used productively, and to enable inmates to learn an employable skill. No one, however, contemplated that these programs would result in the establishment of an employer-employee relationship between the prison and the inmates, and coverage under the Fair Labor Standards Act. As the ninth circuit stated in its earlier decision in *Gilbreath*, 931 F.2d 1320, 1991, "* * * it is highly implausible that Congress intended the FLSA's minimum wage protection be extended to felons serving time in prison." Id. at 1324.

In my home State of Nevada, inmates work in many State prison employment programs ranging from traditional kitchen and dairy activities to soap and furniture manufacturing. Inmates involved in these programs are paid by the hour—at rates that begin at 70 cents an hour. The average inmate earns between $20 and $100 monthly.

Additionally, Nevada has agreements with private industries to provide inmate workers in the prison with other opportunities to participate in a work situation. Inmate earnings from these programs are reduced through deductions for prison room and board, and a 5 percent contribution to the State's victims' compensation fund.

There is a legitimate concern that products made by prison inmates, who are unpaid or paid less than minimum wage, would have an unfair advantage when competing in interstate commerce against businesses required to meet the Fair Labor Standards Act. The Federal Criminal Code has already addressed this concern by criminalizing the transportation of prison-made goods in interstate commerce, through a fine of no more than $1,000 or more than 1 year imprisonment, unless the employer has paid wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, 18 U.S.C. 1761.

Hale opens the gates for inmates to file lawsuits to recover minimum wage payments under FLSA for work done as an inmate in prison. Add to this the potential for lawsuits seeking retroactive payment of minimum wages, and the magnitude of the problem created by Hale is readily apparent.

The Hale decision has already impacted the State of Arizona. Inmates are requesting information on their work hours; the reason for the request is obvious. Inmate lawsuits will soon be filed in Arizona and across the country.

Many of our State governments are already under serious budget duress—California exemplifies how great that duress can become. My own State of Nevada has had to make very substantial funding cuts to its programs this year. Approximately 34 other States also were required to adjust their budgets this year to address budget shortfalls. To add the possibility of Fair Labor Standards Act inmate lawsuits with retroactive award potential will result in State budget chaos. For many States, the result may also be the termination of prison employment programs altogether.

Given current budget situations, States simply cannot survive another round of lawsuits and retroactive awards. Our States cannot wait to have this issue settled through the court appeal process.

I encourage my colleagues to join Senator REID and me to resolve this problem before all of our States are unduly harmed by the Hale decision.

By Mr. INOUYE (for himself and Mr. SIMON):

S. 3161. A bill to designate May of each year as "Asian/Pacific American Heritage Month"; to the Committee on the Judiciary.

ASIAN/PACIFIC AMERICAN HERITAGE MONTH

• Mr. INOUYE. Mr. President, I am pleased to introduce legislation that will designate the month of May as Asian/Pacific American Heritage Month. Last year, we had over 50 cosponsors and previous legislation had expanded the week to a full month. This new legislation will make the observance an annual event.

Since its inception in 1978, Asian/Pacific American Heritage Month has helped to foster a greater public appreciation of the contributions of Asian and Pacific Island Americans to our national heritage. It has also engendered a greater sense of pride among Americans of Asian and Pacific Island ancestry, ranging from Pacific islanders whose Polynesian ancestors inhabited the islands long before Captain Cook discovered them, to the most recent immigrants from Southeast Asia. It is rewarding to note that Asian/Pacific American Heritage Month has been observed not only by Federal, State and local government agencies throughout the country, but in public schools, public libraries, art galleries, and by many civic organizations.

As you may know, 1990 census figures show that Asian/Pacific American population is the fastest growing population in the United States. The population of Asian/Pacific Americans has increased in every State in the past 10 years as have their contributions to all walks of American life. This is also the case historically. The month of May holds great significance for the more than 8 million Americans who can trace their roots to Asian/Pacific ancestors. The month of May has been chosen in order to recognize Golden Spike Day, May 10, 1869, when the first transcontinental railroad in the United States was completed with significant contributions from Chinese American pioneers and to commemorate May 7, 1843 when the first Japanese immigrants arrived in the United States.

Over the years, these loyal Americans have achieved prominence in science, the arts and architecture, education, business, and politics at all levels. They have helped make our country the great Nation that it is today, yet all too often even those who were born and raised here are treated as foreigners. The observance of Asian/Pacific American Heritage Month would help make their achievements more visible to their fellow Americans, and would also engender a greater appreciation of their ancestral roots among Asian and Pacific Americans.

Mr. President, I hope that my bill will receive early, favorable consideration in committee and on the Senate floor.

I request unanimous consent that a copy of my bill be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) on May 7, 1843, the 1st Japanese immigrants came to the United States;

(2) on May 10, 1869, Golden Spike Day, the 1st transcontinental railroad in the United States was completed with significant contributions from Chinese pioneers;

(3) in 1979, at Congress's direction, the President proclaimed the week beginning on May 4, 1979, as Asian/Pacific American Heritage Week, providing an opportunity for the people of the United States to recognize the history, concerns, contributions, and achievements of Asian and Pacific Americans;

(4) in 1990, 1991, and 1992, Congress designated, and the President proclaimed, the month of May as Asian/Pacific American Heritage Month;

(5) nearly 8,000,000 people in the United States can trace their roots to Asia and the islands of the Pacific; and

(6) Asian and Pacific Americans have contributed significantly to the development of the arts, sciences, government, military, commerce, and education in the United States.

SEC. 2. ANNUAL COMMEMORATION.

(a) DESIGNATION.—May of each year is designated as "Asian/Pacific American Heritage Month".

(b) FEDERAL PROCLAMATION.—The President is authorized and requested to issue annually a proclamation calling on the people of the United States to observe the month designated in subsection (3) with appropriate programs, ceremonies and activities.

(c) STATE PROCLAMATIONS.—The chief executive officer of each State is requested to issue annually a proclamation calling on the people of the State to observe the month designated in subsection (a) with appropriate programs, ceremonies and activities.

(d) DEFINITION.—For purposes of subsection (c), the term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshal Islands the Federated States of Micronesia, and Palau.●

By Mr. JEFFORDS (for himself and Mr. DURENBERGER):

S. 3162. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding; to the Committee on Finance.

PENSION FUNDING IMPROVEMENT ACT

● Mr. JEFFORDS. Mr. President, today, my distinguished colleague, Senator DURENBERGER, and I are introducing a bill to improve the deteriorating financial condition of the Pension Benefit Guaranty Corporation [PBGC], the Government agency that insures the defined benefit pension plans of over 40 million Americans. I am extremely pleased to say that Congressman JAKE PICKLE, chairman of the Subcommittee on Oversight, House Ways and Means Committee, will also be introducing a companion bill. Congressman PICKLE has been a leader on PBGC and other pension matters for years and I am honored to be introducing a bill with him today. Congressman PICKLE's subcommittee will hold a hearing on this important issue tomorrow.

The problem, simply put, is that big companies in troubled times are taking advantage of our pension insurance system. They promise big pensions to workers and regularly increase benefits while making the most minimal funding contributions permitted under the law. The troubled companies then terminate their pension plan and pass along their pension debt to the PBGC.

Our solution is the Pension Funding Improvement Act of 1992, a three-part bill we are introducing today. Part I includes stronger funding rules for underfunded plans, to ensure the faster funding of present pension obligations. Part II prevents a bad situation from getting worse, by requiring plan sponsors to immediately fund their plan or put up collateral in order to increase pension benefits. Part III includes a Congressional Budget Office study of what premiums would need to be for the PBGC insurance program to be actuarially sound.

As of today, the PBGC has a deficit of $2.5 billion, largely as a result of the following recent pension plan terminations; First, in 1990, Eastern Airlines terminated its plan with $700 million in unfunded liabilities. Next, in 1991, Pan American Airlines terminated its plan with $900 million in unfunded liabilities. Then, this past February, Blaw Knox terminated with $81.6 million in unfunded liabilities. Finally, in March, C.F. & I Steel Co. terminated with $270 million in unfunded liabilities.

And the trend is expected to increase. This is not surprising since current pension law has provided a way for struggling companies to shift the costs of their pension benefits. These companies routinely grant employees increases, knowing full well that if their company continues to be financially troubled they will be able to terminate their pension plans and dump the pension plans obligations onto the PBGC. The PBGC predicts that it is significantly at risk for about $13 billion in benefits provided by pension plans of companies in the steel, auto, airline, tire, and rubber industries.

Each year the PBGC publishes a list of those top 50 underfunded pension plans who are the most at risk. When one compares corporate funding over the last 3 years, the facts unfortunately show that plan funding for the top 50 has gone down by $9 billion since 1989. Collectively, the top 50 are $21.5 billion in the red. This means that the PBGC is more at risk than ever before.

Last week the Wall Street Journal reported that TWA, in emerging from bankruptcy, is beginning to settle with its creditors. The article goes on to say that PBGC will be lucky to collect even $500 million of TWA's current $1.2 billion pension debt. And who is going to pay or the other $700 million in promised benefits the company hasn't funded for? This is my concern.

For some time now, underfunded pension plans have been promising significant amounts of new benefits in lieu of wage increases. Approximately 80 percent of these benefits are guaranteed by the PBGC. And while the trend is occurring in the steel, tire, and rubber industries, I must say that the automobile industry is the worst offender. The latest round of auto industry negotiations has left Chrysler and GM with an additional $5 to $7 billion in underfunding. Before this increase in benefits, these companies had less than three-quarters of the money needed to pay previously promised benefits.

If this isn't bad enough, earlier this year, we witnessed further corporate practices that are just obscene: Companies already in bankruptcy are agreeing to retroactive benefit increases.

In January, TWA filed for bankruptcy. It was considered 84 percent funded for guaranteed benefits. However, this number is misleading. Since then, it gave a retroactive increase in benefits that caused an additional $53 million in underfunding. It is now $1.2 billion underfunded.

In April, a bankruptcy court approved benefit increases for Continental Airlines pilots that will almost double the plan's underfunding to about $191 million.

Now, some people will argue that financially distressed companies need to minimize contributions to the pension plan so that this money can instead be put into the company, to increase productivity and competitiveness. I personally would argue that it is precisely because a company is financially vulnerable, that an extra effort should be made to be sure that the pension plan is financially sound. So if workers need to take early retirement due to financial downsizing resulting from problems in the global marketplace, at least that money will be there.

Others will argue that the PBGC was deliberately designed to subsidize companies in ailing industries. They are, however, at direct odds with the many who believe the PBGC should operate like a private sector insurer and set premiums more precisely related to the risk that a company would have of defaulting on its pension promises.

Regardless of what one thinks about the purpose of the PBGC, the reality is our public policy options on how to rectify the PBGC's deficit problem are limited. Furthermore, it is in the best interest of the 40 million workers who currently have PBGC insurance protection, as well as the defined benefit plan system, that we review our objectives for the PBGC and act quickly to resolve the PBGC's deficit problems.

What are our options? The PBGC is currently financed exclusively from premiums plan sponsors pay into the system, those pension assets remaining in terminated underfunded plans and interest. Given this fact, one alternative would be to raise PBGC premiums that employers pay into the system. This may be inevitable, given the PBGC's current deficit. The PBGC estimates that it would have to significantly increase premiums, even if it takes on only $500 million a year in underfunded liabilities, which is business as usual for them. If the economy gets worse, and distressed companies start to terminate at greater frequency, premiums paid by all single employer plan sponsors will rise to $58 per person for well funded plans, and to as much as $219 per participants for poorly funded plans. We have already raised premiums considerably from those days in 1974 when all plan sponsors paid a dollar a head for each plan participant.

How much is too much? When will responsible employers with well funded plans say they've had enough of premium increases to pay for obligations promised by other companies, terminate their own defined benefit plans and instead offer to make contributions to a defined contribution plan under which employer liabilities are fixed and employees have no insurance protection. I'm not sure. Even at present premium levels, the trend I am sure is to stay away from defined benefit plans. Pension experts from all political philosophies, who don't always agree on other matters, agree that the defined benefit plan universe is shrinking. The number of defined benefit plan terminations is increasing, and fewer and fewer new defined benefit plans are entering into the system.

On August 4, the Senate Labor Subcommittee held a hearing on current pension trends. At this hearing our knowledgeable subcommittee Chairman, Senator METZENBAUM, spoke of his deep concern about the future of the defined benefit plan system. I completely agree with his point and would like to quote from his statement, "Employers are abandoning defined benefit pension plan which are designed to provide specific levels of retirement income." He goes on to say that the effects of this trend are devastating for low-income workers. At this same hearing, the American Academy of Actuaries stated that one of the main reasons for this trend away from defined benefit plans is the unsound PBGC. To quote from the group's testimony:

> Congress and the Executive branch must work to restore confidence among defined benefit plan sponsors, that the PBGC can properly fulfill its mission of guaranteeing private defined benefit plans. Continuing speculation about the PBGC premium increases and comparison of the PBGC to the Federal Deposit Corporation (FDIC) only intensifies the pressure, subsequently driving employers away from defined benefit plan sponsorship.

Another option Congress has would be to try to stabilize the premium, so as not to deter plan sponsors away from the system, and instead let the Federal Government absorb the loss. This option is a reality which even the administration cannot deny. In the President's budget for fiscal year 1993, the administration has already introduced the idea of budgeting for fixed and expected future PBGC liabilities. Unfortunately, it did not accurately assess how much would be obtained from premium income and collections of plan assets. Therefore, the likely long term impact on the budget could not be realistically assessed. But one thing is for certain, adding billions to our $4 trillion national debt is no way to help balance the budget.

Our third option is to be sure that companies fund their pension promises and promise within their means. This can be done through stricter funding rules for underfunded plans, to require the faster funding of present obligations. An additional requirement, that companies fund up their plan or put up collateral if they increase benefits, will prevent presently underfunded plans from getting worse.

It might seem cruel to some to force companies to promise within their means. But it is far more cruel for workers to expect a certain level of benefits when they retire, only to find out later that the money they expected to have for their retirement isn't there. After all even the PBGC only guarantees, on average, about 80 percent of what is currently promised.

Our bill incorporates the principles embodied in the third alternative, because as one can deduce, it is the only choice that ensures a responsible national retirement income policy.

Time and time again we as legislators need to be reminded that there is no such thing as a free lunch. Programs need to be paid for with real money, not I.O.U's. Retirement benefits need to be paid for. As workers live longer they will need a sufficient amount of pension money to be assured some quality of life. All segments of society need to play a role in this. Social Security alone will not suffice. Employees at all income levels need to save. Employers need to offer pension plans and responsibly fund for what they promise to provide. Government needs to encourage adequate funding so that pension money can earn interest. Companies should not have the stress of needing to use this year's corporate earnings to pay for this year's retirees. This is especially dangerous for companies in cyclical and declining industries.

So let's act now to enact the Pension Funding Improvement Act. Let us not wait until 10 years down the road when the Federal Government is forced to step in to examine the debris leftover from the defined benefit plan system. Let's act now and send a message to America that the defined benefit plan system, and indeed our Nation's retirement income policy as a whole, needs to grow and flourish. While enactment of the Pension Funding Improvement Act is not the total answer to our country's retirement policy problems, it will greatly diminish our PBGC deficit problem by ensuring that workers have funded pensions today in order to be sure they are not a burden to their children tomorrow. It's a positive step in the right direction, deserving the serious attention of all those concerned with the future.

Hopefully, all my colleagues will consider it worthy of their serious attention today.•

By Mr. RIEGLE (for himself and Mr. JEFFORDS):

S. 3164. A bill to establish a program to demonstrate the environmental, economic, and social benefits and feasibility of carrying out response actions to remediate environmental contamination and redeveloping or reusing land blighted by environmental contamination; to the Committee on Environment and Public Works.

ECONOMIC OPPORTUNITY AND ENVIRONMENTAL IMPROVEMENT THROUGH RECYCLING LAND ACT

• Mr. RIEGLE. Mr. President, today I rise to introduce with Senator JEFFORDS the Economic Opportunity and Environmental Improvement Through Recycling Land Act of 1992.

This legislation addresses a basic issue of environmental and economic policy in this country: whether we allow contaminated industrial and commercial sites to be abandoned, or whether we reinvest in the infrastructure of these sites and recycle them for new uses that will help rehabilitate and provide jobs in some of our Nation's most distressed areas.

The legislation I am introducing today seeks to demonstrate the wisdom of conserving public and private capital by recycling this Nation's industrial and commercial sites and facilities where economically feasible.

For several years now the U.S. Congress has been debating the need to reinvest in the infrastructure that supports the efficient operation of our economy.

I believe that this country cannot afford to abandon the sites that have employed thousands of our Nation's workers. We do not have the capital to be so profligate. We should conserve our resources as much as possible.

This legislation responds to those needs. In my State of Michigan alone, thousands of sites are contaminated from past industrial or commercial uses. These sites where previously successful businesses lie in some kind of economic limbo, need rehabilitation to make them viable for reuse. This legislation provides funds and assistance for that regeneration.

In fact, the Michigan State Legislature is creating a special committee to consider aggressively what initiatives the State might take to facilitate the recycling of these sites for contemporary uses that will attract or retain private employers. And, Michigan is not alone in its focus on this problem. States and cities throughout America, from California to New Jersey, from Long Beach and Oakland to Trenton and Newark, are similarly seeking to conserve resources and reuse abandoned industrial sites and facilities.

The legislation I am introducing today will complement and support these efforts at the State and local level and enhance the capacity of those governments to respond to the very pressing demand to act now to remediate those facilities and improve the economic prospects of its citizens—particularly the disadvantaged and chronically unemployed who live near these areas. This focus is good social policy as well as good environmental and economic policy.

Mr. President, there are some who argue that protection of the Earth's natural environment is our most urgent national and international goal. There are others who argue that providing economic opportunity for our citizens—particularly during the current, protracted recession—is our most urgent national purpose. I argue—and my bill demonstrates this—that we can and must both protect the environment and create economic opportunity, especially for the benefit of the unemployed and disadvantaged. My bill is designed to protect the environment by recycling, where feasible, land—one of this Earth's obviously limited resources—and the improvements to that land.

Land reuse has the same environmental goal and benefit as recycling other resources in limited supply. This country is becoming more aware of the need to recycle newspapers, glass bottles, aluminum cans, and other materials and products. Recycling our land and the very substantial public and private utilities and other infrastructure that has improved the value of that land is the next logical step.

Mr. President, representatives of State economic development agencies and environmental regulatory agencies, counties, cities, economic and community development organizations, Federal Reserve System banks, environmental and land policy organizations, the Office of Technology Assessment, and other groups and individuals have contributed to the development of this legislation and support its purpose and concept.

I intend the bill to be part of the community revitalization initiatives that I hope the Congress will act during the balance of this session. Members of my staff and staff of members of the Environment and Public Works Committee have discussed this bill. I look forward to working closely and intently with my colleagues on that Committee to move aggressively on this legislation.

Mr. President, I ask unanimous consent that the text of the bill be included in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Opportunity and Environmental Improvement Through Recycling Land Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) past uses of land in the United States for industrial and commercial purposes have created many sites throughout the United States that are blighted with environmental contamination;

(2) the Congress and the governments of States and political subdivisions of States have enacted laws to prevent future environmental contamination and to carry out response actions to correct past instances of environmental contamination;

(3) many of the sites are located in or near the cities and urban communities in which large portions of the population, including poor and unemployed individuals, have concentrated;

(4) the manner in which the population of the United States is distributed and the manner in which communities accommodate the growth of the national economy affects employment opportunities, the availability of capital to provide economic opportunity, environmental conditions, and the availability of natural resources for the enjoyment of the people of the United States;

(5) the private market demand for sites impacted by environmental contamination is reduced or eliminated;

(6) the capital available for the redevelopment or reuse of the impacted sites is limited by the continuation of environmental contamination at the sites;

(7) the abandonment or underutilization of the impacted sites impairs the ability of the Federal Government and the governments of States and political subdivisions of States to provide economic opportunities for the people of the United States, particularly the poor and unemployed;

(8) the abandonment or underutilization of the impacted sites also results in the inefficient use of public facilities and services as well as land and other natural resources, and extends conditions of blight in local communities;

(9) cooperation among Federal agencies, State and local departments and agencies and between the departments and agencies and private persons is required to accomplish timely response actions and redevelopment or reuse of impacted sites; and

(10) there is a need for a program to demonstrate the public purposes and benefits of response actions and redevelopment or reuse of impacted sites.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Environmental contamination.—The term "environmental contamination" means the existence at a facility of one or more hazardous substances that may pose a risk to public health or the environment for which a response action is required under law.

(3) Facility.—The term "facility" has the meaning provided under section 101(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(9)).

(4) Hazardous substance.—The term "hazardous substance" has the meaning provided under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(5) Impacted site.—The term "impacted site" means a facility (other than a facility used primarily or exclusively for a residential use) or a combination of economically related facilities within the same unit of general local government that has environmental contamination that prevents the timely redevelopment or reuse of the facility primarily for an employment purpose in accordance with State or local community development strategies.

(6) Response action.—The term "response action" has the same meaning as given the term "response" under section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. (42 U.S.C. 9601(24)).

(7) Secretary.—The term "Secretary" means the Secretary of Housing and Urban Development.

(8) State.—The term "State" has the meaning provided under section 102(a)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(a)(2)).

(9) Unit of general local government.—The term "unit of general local government" has the meaning provided in the first sentence of section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

SEC. 4. DEMONSTRATION PROGRAM.

(a) In General.—The Administrator, in consultation with the Secretary, shall establish and carry out a program to provide grants to States to establish a State program to provide grants to units of general local government, or a direct grant program to provide grants to units of general local government to demonstrate—

(1) the economic feasibility of redevelopment or reuse of impacted sites;

(2) the environmental, economic, and social benefits to distressed communities from focusing financial resources and cooperative action on the redevelopment or reuse of impacted sites;

(3) the beneficial impacts on patterns of community development and use of public resources of redevelopment or reuse of impacted sites;

(4) the feasibility of timely, cooperative action among Federal agencies and departments and agencies of States and political subdivisions of States that have jurisdiction over response actions and redevelopment or reuse of impacted sites, as well as between those agencies and private parties; and

(5) the use of response actions as an integral part of a facility redevelopment or reuse project.

(b) Scope of Program.—

(1) In general.—In carrying out the demonstration program established under subsection (a), the Administrator, in consultation with the Secretary, may award a grant to a State pursuant to section 5, or unit of local government that submits an approved application to the Administrator pursuant to paragraph (2).

(2) Grant application.—An application for a grant under this section shall include a proposal for a response action and redevelopment or reuse of an impacted site, and shall be in such form as the Administrator, in consultation with the Secretary, determines to be appropriate.

(3) Selection of sites.—For each of the fiscal years 1993 and 1994, the Administrator, in consultation with the Secretary, may select not more than 50 impacted sites as the subject for a grant award. For each of the fiscal years 1993 and 1994, the Administrator, in consultation with the Secretary, shall select not more than 3 impacted sites in any State as the subject of a grant award. If the Governor of a State establishes a State demonstration program pursuant to section 5, the Governor shall select the impacted sites to receive assistance under the grant program.

(4) Grant awards.—Except as provided in paragraph (5), the aggregate amount of grants awarded for response actions at an impacted site for fiscal years 1993 and 1994 shall not exceed—

(A) $4,000,000; or

(B) an amount equal to 75 percent of the total eligible costs of carrying out a response action at the impacted site,

whichever is lower. Each unit of general local government that receives a grant award under this Act shall be required to make a non-Federal contribution in an amount equal to 25 percent of the total eligible costs of carrying out a response action at the impacted site that is the subject of the grant award.

(5) Exception.—Subject to section 9, the Administrator, in consultation with the Secretary (or in the case of a State demonstra-

tion program under section 5, the Governor) may fund up to 100 percent of the total eligible costs of carrying out a response action at an impacted site if the Administrator (or the Governor) obtains satisfactory assurances from the grant recipient that—

(A) a transfer of the impacted site to be remediated will occur as part of a response action and redevelopment or reuse of the site;

(B) the net proceeds realized from the transfer of the site will reasonably approximate at least 25 percent of the eligible costs of carrying out a response action at the site; and

(C) an amount reasonably approximating 25 percent of the eligible costs referred to in subparagraph (B) from the net proceeds referred to in subparagraph (B), will be paid promptly by, or on behalf of, the grant recipient to the Administrator (or the Governor) as reimbursement for funds to be received pursuant to a grant to be awarded pursuant to this section.

SEC. 5. DELEGATION OF IMPLEMENTATION TO STATE DEMONSTRATION PROGRAM.

(a) In General.—The Administrator, in consultation with the Secretary, may, in lieu of awarding grants to individual units of general local government, award a grant to the Governor of each State that submits an approved application to the Administrator to conduct a State demonstration program to award grants to carry out the purposes referred to in section 4(a). Subject to the limitations referred to in section 4(b), under a State demonstration program, the Governor of a State shall have the authority to select impacted sites and allocate assistance from amounts awarded to the Governor pursuant to this section.

(b) Allocation of Funds.—If the Administrator, in consultation with the Secretary, chooses to establish a demonstration program to provide grants to States, the Administrator, subject to the limitations of section 4(b), and in coordination with the Governors of the States that submit an approved application, shall allocate the amount of assistance made available pursuant to this Act for each fiscal year among those States. In allocating the assistance, the Administrator, in consultation with the Secretary, shall consider—

(1) the relative commitment of each State to achieving successfully the purposes referred to in section 4(a);

(2) the need to allocate funds in amounts that will contribute to achieving successfully the purposes referred to in section 4(a); and

(3) the desirability of carrying out demonstration projects that vary in location, characteristics, issues, and types of participants.

SEC. 6. NON-FEDERAL CONTRIBUTION; WINDFALLS.

(a) In General.—The non-Federal contribution required by section 4(b)(4) may be made in the form of grants, loans, abatement of past due or future property or income taxes, in-kind contributions, private party contributions, or other direct or indirect financial contributions approved by the Administrator, in consultation with the Secretary. The unit of general local government that is the recipient of the grant may make the contribution or another person may make the contribution on behalf of the unit of general local government.

(b) Avoidance of Windfall To Grant Recipient.—A grant recipient under this Act, must, as a condition to receiving a grant award, enter into an agreement with the Administrator (or in the case of a State demonstration program under section 5, the Governor) that states that, if the grant recipient recovers compensation for any cost of carrying out a response action at an impacted site that is the subject of a grant award under this Act from another person, other than as contemplated by section 4(b)(5), the grant recipient shall pay the Administrator (or the Governor)—

(1) if the amount recovered is greater than or equal to the aggregate amount of grant awards received under this Act by the grant recipient, the aggregate amount of the grant awards received under this Act by the grant recipient; and

(2) if the amount recovered is less than the aggregate amount of grant awards received under this Act by the grant recipient, the full amount recovered.

(c) Other Recovery of Federal Assistance.—

(1) In general.—As part of the agreement referred to in subsection (b), a recipient of a grant award under this Act, must, as a condition to receiving the grant, agree that if, with respect to the impacted site that is the subject of the grant—

(A) a response action for the facility has not been initiated by the date that is 1 year after the date that the grant is awarded;

(B) redevelopment or reuse has not been initiated by the date that is 1 year after the date of completion of all required response actions; or

(C) the redevelopment or reuse has not been completed in a timely manner (as determined by the Administrator, in consultation with the Secretary, or, in the case of a State demonstration program under section 5, the Governor),

the grant recipient shall be required to repay the full amount of the grant award (in addition to making the non-Federal contribution described in subsection (a)), plus interest accrued from the date of the awarding of the grant. Any such repayment shall be due immediately following notice to the grant recipient by the Administrator (or the Governor) that any of the conditions described in subparagraphs (A) through (C) has been met.

(2) Interest.—Any interest payable under this Act shall be accrued at the same rate as specified for interest earned pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)).

(3) Waiver.—The Administrator (or the Governor) may waive (in whole or in part) the requirement for repayment under paragraph (1) if the Administrator, in consultation with the Secretary, (or the Governor) determines that—

(A) the grant recipient acted in a manner consistent with the requirements of the grant program and the purposes described in section 4(a); and

(B) exigent circumstances contributed to the delay.

SEC. 7. CRITERIA FOR SITE SELECTION.

(a) In General.—The Administrator (or in the case of a State demonstration program under section 5, the Governor) after receiving completed applications for grant awards under this Act, shall select impacted sites and allocate assistance by taking into account the following criteria:

(1) The extent to which the environmental, economic, and social benefits of the response action and redevelopment or reuse are likely to exceed the costs of the response action and redevelopment or reuse. The benefits referred to in the preceding sentence shall be measured by factors that include a consideration of the amount of job opportunities to be retained or created, expected increases in economic activity and synergy within the community, expected increases in local tax revenue, and capital and natural resources to be conserved.

(2) The extent of contribution of non-Federal resources, including capital investment by private parties, expected to occur in connection with the response action and redevelopment or reuse of the site.

(3) The level of economic and social distress of the unit of general local government in which the site is located, measured by any community employment loss in the industrial sector, the rate and period of unemployment, and any decline in economic activity, population loss, or population growth disproportionate to local economic opportunity.

(4) The degree of cooperation among appropriate governmental agencies, as well as between those agencies and private persons.

(5) Whether or not the State or unit of general local government has established an ongoing program for response actions at impacted sites.

(6) Whether or not the environmental contamination at the site will be satisfactorily and efficiently addressed by the proposed response action.

(7) Such other factors as the Administrator considers relevant to the purposes of the program authorized by this Act.

(b) Priority.—The Administrator (or in the case of a State demonstration program under section 5, the Governor) shall give the greatest degree of priority to the criteria referred to in paragraphs (1) through (6) of subsection (a), and shall give equal priority to each criterion referred to in such paragraphs.

SEC. 8. FEDERAL SUPERFUND SITES AND FEDERAL MILITARY FACILITIES EXCLUDED; UNDERGROUND STORAGE TANKS.

(a) Excluded Sites.—The impacted sites selected by the Administrator (or in the case of a State demonstration program under section 5, the Governor) shall not include—

(1) a site on or expected to be included on the National Priority List maintained by the Environmental Protection Agency under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and

(2) a site controlled or to be remediated by a military department, Defense Agency, or the Department of Energy.

(b) Sites With Underground Storage Tanks.—The Administrator (or in the case of a State demonstration program under section 5, the Governor) shall provide no assistance under this Act for the removal or replacement of, or other response action with respect to, any underground storage tank for which assistance for such activities may be obtained pursuant to subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

SEC. 9. ELIGIBLE COSTS.

(a) Eligible Costs.—For the purposes of the grant program established under section 4, eligible costs for response actions under this section shall include administrative and nonadministrative costs.

(b) Nonadministrative Costs.—For the purposes of this section, the term "nonadministrative costs" shall include the cost of—

(1) identifying the probable extent and nature of, and preferred manner of carrying out a response action at an impacted site;

(2) fees relating to applications for agency approvals necessary to response actions;

(3) costs of removal, or on-site or off-site treatment of contamination; and

(4) costs of monitoring ground water or other natural resources.

(c) ADMINISTRATIVE COST LIMITATION.—Not more than 10 percent of the amount of a grant award under this Act may be used for administrative costs.

SEC. 10. LIABILITY UNDER OTHER LAW; AVOIDANCE OF WINDFALL.

(a) LIABILITY UNDER OTHER LAW.—Nothing in this Act shall be construed or interpreted to relieve any person from liability under, or the requirements of, any other law regarding environmental contamination.

(b) AVOIDANCE OF WINDFALL.—The Administrator, in consultation with the Secretary (or in the case of a State demonstration program under section 5, the Governor) shall implement the grant program under this Act in a manner that does not—

(A) relieve from liability under any other law regarding environmental contamination any person who, prior to the initiation of a response action assisted by a grant award under this Act, was potentially liable for the response action with respect to the impacted site that is the subject of the grant; and

(B) reduce the incentive of a person described in subparagraph (A) to participate in funding the non-Federal contribution required under section 6.

SEC. 11. EVALUATION AND REPORT.

(a) EVALUATION.—

(1) IN GENERAL.—Not later than March 31, 1995, the Administrator, in consultation with the Secretary, shall conduct an evaluation of the grant program established under section 4. The evaluation shall be based on information available at the time of the evaluation.

(2) DATA COLLECTION.—As a condition to receiving a grant under this Act, the Administrator (or the Governor) shall require each grant recipient to submit data that indicate the actual costs, benefits, sources and uses of funds, and results of an assisted response action and redevelopment or reuse project.

(b) REPORT.—Upon completion of the evaluation referred to in subsection (a), but not later than March 31, 1995, the Administrator shall submit a report to Congress that describes the findings and recommendations of the Administrator.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated (from funds other than the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986), to carry out this Act, $100,000,000 for fiscal year 1993, and $100,000,000 for fiscal year 1994, to remain available until expended.●

● Mr. JEFFORDS. Mr. President, I am pleased to be an original cosponsor of Senator RIEGLE's bill to promote the reuse of abandoned manufacturing facilities. These idle facilities—mining operations in the West, textile mills in the South, steel mills in the Northeast, and machine tool shops along the Great Lakes—represent a tremendous waste of physical resources and capital. And too often, the abandonment of these facilities and sites has led to the deterioration of the surrounding communities, many of which are located in our inner cities.

This bill builds upon the pioneering work the Northeast-Midwest Institute has done to promote industrial facility reuse. It convened a conference on the subject last year and has published "New Life for Old Buildings," which contains scores of successful reuse case studies from around the Nation. I successfully offered an amendment to the highway bill directing the Department of Transportation [DOT] to conduct a study of the impediments to reuse. Transportation Secretary Card has informed me that in addition to conducting the study, DOT will also compile an inventory of abandoned facilities nationwide. I anxiously await their report.

Mr. President, abandoned manufacturing facilities have tremendous potential. Infrastructure—roads, utilities, rail sidings, and the like—already is in place. Surrounding communities usually are economically distressed and hungry for good jobs. We have to reinvest in our cities, and in our manufacturing. The bill that Senator RIEGLE and I are introducing tonight is a start in the long process of bringing these sites and communities back to life.●

By Mr. REID:

S.J. Res. 331. Joint resolution to designate the month of January 1993 as "National Cowboy Poetry Month"; to the Committee on the Judiciary.

NATIONAL COWBOY POETRY MONTH

● Mr. REID. Mr. President, each year, in the last week of January, ranchers, cowboys, and lovers of the West travel long distances to a remote town in northeastern Nevada called Elko. Arriving from many different parts of the country, these individuals meet to celebrate the long tradition of the American West by listening to cowboys share their poetry about life on the range. The Cowboy Poetry Gathering is a unique cultural event providing entertainment for those men and women who treasure the memory of our western heritage. The nature of this heritage is re-created and retold in poems depicting the emotion, character, and environment of the cowboy.

The first poetry meeting was held in 1985 in Elko, a town rich in the cowboy tradition. Since then, the Cowboy Poetry Gathering has flourished as a cultural event, attracting thousands of participants including folklorists, academics, musicians, artists, journalists, and tourists. Cowboy songs, music, and dance, as well as handcrafted paraphernalia, create an exciting atmosphere that preserves and invigorates the undying legacy of the cowboy. As Darrell Arnold wrote in "The Western Horseman," "No amount of words and pictures can truly convey the mood of the assemblage, the excitement of the participants, and the joy of reuniting with people who share a philosophy of the West that is akin to one's own."

This year, the eighth Cowboy Poetry Gathering drew 10,000 people for 6 extraordinary days of poetry reading. Cowboy poets have been featured on National Public Radio and the "Tonight Show." As a result of its success, the Cowboy Poetry Gathering has inspired similar meetings in Texas, Montana, Oklahoma, North Dakota, Utah, New Mexico, Colorado, Wyoming, and Idaho. Additionally, poetry readers can now subscribe to their own cowboy poetry magazines.

The cowboys of yesterday and today stand as living embodiments of a vital aspect of our national character. They represent those qualities of independence and fortitude that contributed so much to the building of this Nation.

We should be grateful that this tradition is carried on in the present day by those who still dedicate themselves to life on the range. Why do they do it? William Kittredge, author of "Hole in the Sky: A Memoir," perhaps said it best:

> People stick to ranching because they love the feel of a quick little horse moving intently after cattle, or the smell of greasewood after summer rain or new-cut alfalfa on a spring morning, or the stretch of damp rawhide as they work at braiding a riata, or the look of a mother cow as she trails her dusty way back to her calf after a long walk to water. People stick to it because they enjoy the feel and smell and sound of things, and because they share those mostly unspoken loves with other people they can trust as being somewhere near to decent.
>
> All over the American West, cowboys and ranchwomen . . . have been gathering to declaim their verse to one another . . . These are celebrations of things ranchland people respect and care about most deeply—the land they have chosen to live on, their work, and, right at the center, one another, this companionship.

To designate the month of January 1993 as "National Cowboy Poetry Month" is to proclaim our appreciation and regard for the history of the U.S. cowboy. May the efforts of these active poets and their readers continue to commemorate the age-old tradition of writing poems of historic and traditional value. ●

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. MITCHELL, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the U.S. shipbuilding and repair industry caused by subsidized foreign ships.

S. 1677

At the request of Mr. DASCHLE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1677, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid Program, and for other purposes.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from Missouri [Mr. BOND], the Senator from Virginia [Mr. WARNER], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 2083

At the request of Mr. CRAIG, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 2083, a bill to provide for an extension of regional referral center classifications, and for other purposes.

S. 2103

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2268

At the request of Mr. CRANSTON, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2268, a bill to make the import alert issued by the Food and Drug Administration with respect to the drug RU-486 ineffective and for other purposes.

S. 2400

At the request of Mr. PRYOR, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2400, a bill to amend title XVIII of the Social Security Act to extend special payments under part A of Medicare for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are Medicare beneficiaries.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2769

At the request of Mr. D'AMATO, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2769, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for economic growth and affordable housing, and for other purposes.

S. 2810

At the request of Mr. SASSER, his name was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2837

At the request of Mr. HARKIN, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2837, a bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

S. 2873

At the request of Mr. BREAUX, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2873, a bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits.

S. 2904

At the request of Mr. MURKOWSKI, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2904, a bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Forces.

S. 2940

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2940, a bill to reduce to 100,000 the number of members of the Armed Forces of the United States assigned to permanent duty ashore in NATO countries of Europe by the end of fiscal year 1995.

S. 3002

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to provide for optional coverage under State medicaid plans of case-management services for individuals who sustain traumatic brain injuries, and for other purposes.

S. 3008

At the request of Mr. ADAMS, the names of the Senator from Tennessee [Mr. SASSER], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 3008, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

S. 3085

At the request of Mr. LAUTENBERG, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 3085, a bill to amend the Internal Revenue Code of 1986 to provide that amounts in individual retirement plans not be counted in determining eligibility for aid to families with dependent children, to allow withdrawals from such plans to pay for higher education expenses, and for other purposes.

S. 3118

At the request of Mr. CONRAD, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 3118, a bill to increase employment and business opportunities for Indians, and for other purposes.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. AKAKA, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. INOUYE], the Senator from Wisconsin [Mr. KOHL], the Senator from Virginia [Mr. WARNER], the Senator from Alabama [Mr. SHELBY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Concurrent Resolution 133, a concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 133, supra.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 134, a resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

SENATE RESOLUTION 332—AUTHORIZING TESTIMONY AND PRODUCTION OF DOCUMENTS BY MEMBERS AND EMPLOYEES OF THE SENATE

Mr. PELL (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 332

Whereas, in the case of United States of America V. Clair E. George, Crim. No. 91-521, pending in the United States District Court for the District of Columbia, counsel for the defendant has requested the production of documents from the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence, and current or former Members and employees of the Senate from whom testimony may be necessary, are authorized to testify and produce documents in the case of United States of America v. Clair E. George, except, with respect to Members of the Senate, when their attendance at the Senate is necessary for the performance of their legislative duties, and except concerning matters for which a privilege should be asserted.

SEC. 2. That the Senate Legal Counsel is authorized to represent the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence, and current or former Members and employees of the Senate from whom testimony may be necessary, in connection with their testimony in United States of America v. Clair E. George.

AMENDMENTS SUBMITTED

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

WARNER (AND OTHERS) AMENDMENT NO. 2925

Mr. WARNER (for himself, Mr. DOLE, and Mr. STEVENS) proposed an amendment to the resolution (S. Res. 330) relating to authorization of multilateral action in Bosnia-Hercegovina under article 42 of the United Nations Charter, as follows:

At the end of the resolution, add the following new paragraph:

(4) The United States Senate strongly supports the measures announced by the President on August 6, 1992.

MCCAIN AMENDMENT NO. 2926

Mr. MCCAIN proposed an amendment to the resolution (S. Res. 330), supra, as follows:

Strike the words "giving particular considerations to the possibility of demonstrations of force," from section 1.

BROWN AMENDMENT NO. 2927

Mr. COHEN (for Mr. BROWN) proposed an amendment to the resolution (S. Res. 330), supra, as follows:

In the resolved clause, add the following new subsection:

"(4) No United States military personnel shall be introduced into combat or potential combat situations without clearly defined objectives and sufficient resources to achieve those objectives."

BYRD (AND OTHERS) AMENDMENT NO. 2928

Mr. PELL (for Mr. BYRD, for himself, Mr. MITCHELL, Mr. BOREN, Mr. DECONCINI, Mr. REID, Mr. SPECTER, Mr. D'AMATO, Mr. FOWLER, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. KERREY, Mr. MOYNIHAN, Mr. LIEBERMAN, and Mr. KENNEDY) proposed an amendment to the resolution (S. Res. 330), supra, as follows:

At the end of the resolution, add the following:

SEC. . (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) Although international human rights monitors have observed that Romania has made progress in the area of human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily on the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonably equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent run-off elections that may be held, are conducted in a free and fair manner.

STEVENS AMENDMENT NO. 2929

Mr. STEVENS proposed an amendment to the resolution (S. Res. 330), supra, as follows:

At the end of the resolution, insert the following new section.

(4) The United States Senate pledges to provide such funds as are necessary for United States participation in such humanitarian relief and multilateral military force activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests. The purpose of the hearing is to receive testimony on grazing management and grazing fee issues.

The hearing will take place Thursday, September 3, 1992, beginning at 9 a.m. and concluding at approximately 4 p.m. The hearing will be held at the Wyoming Oil and Gas Conservation Commission Building, 777 West First Street, Casper, WY.

A number of witnesses representing a cross-section of views and organizations will be invited by the subcommittee to testify. Time will also be set aside to accommodate as many other individuals as possible who would like to make a brief statement of no more than 3 minutes.

Although the subcommittee will attempt to accommodate as many individuals desiring to speak as time permits, it may not be possible to hear from all those wishing to testify.

Written statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material submitted for the record. Comments for the record may be brought to the hearing or submitted to the Subcommittee on Public Lands, National Parks and Forests, room 304 of the Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Mona White in Senator WALLOP'S Casper office at (307) 261-5415 or David Brooks of the subcommittee staff in Washington, DC at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Monday, August 10, at 9 a.m. for a hearing on the subject: The Effects of Traffic Radar Guns on Law Enforcement Officers.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Credit be allowed to meet during the session of the Senate on Monday, August 10, 1992, in SR-332 on S. 3119, the USDA National Appeals Division Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ROBERT WOODS JOHNSON FOUNDATION ARTICLE

• Mr. BRADLEY. Mr. President, I recently read an excellent statement, included as part of the annual report of the Robert Woods Johnson Foundation in Princeton, NJ, concerning a new nemesis facing our country. The article points out that the longtime political rival of the United States, the Soviet Union, has disintegrated into a number of smaller republics struggling for democracy. That political rivalry between our two countries has now changed from competition to one of cooperation and assistance as we work to encourage democracy throughout Eastern Europe.

However, the foundation correctly points out there is a new nemesis that is threatening the safety and health of our citizenry—one that is embedded within all of the serious problems we face, from crime, to poverty, to drug abuse, to jobs and education. One that transcends economic, social, and ethnic classifications and affects the poor, the elderly, our children, families, the unemployed as well as the working men and women all across America. The new Nemesis is the health care crisis, where tens of millions of Americans have little or no access to basic health care and all of us face a growing threat from skyrocketing costs. The foundation has authored an eloquent nomination to designate the health care crisis as our Nation's "New Nemesis." I second that nomination and ask that the statement be printed in the RECORD at this point.

The statement follows:

STATEMENT: THE NEW NEMESIS

There is nothing quite so shattering, politically or philosophically, as having one's nemesis inconveniently die—as this nation is beginning to discover upon the demise of the Soviet Union. It will be interesting to see whether we have the maturity and courage to look for a replacement archenemy within our own borders and souls.

There are plenty of worthy candidates: ignorance, crime, intolerance or any of a host of social inequities.

And every one of them—every moral, political and economic fault or failing—figures in our present health care crisis. Every problem a society experiences ultimately presents itself in some form at the hospital door.

A pessimist may find in that interconnectedness reason to despair of any solution to this crisis. But there might be equal reason to see it as an opportunity to learn how our society really works—or doesn't work.

If we are to solve the country's health care problems, we can't limit ourselves to dealing with them at the door of the emergency room or the doctor's office. We will be obliged to discover where they originate, how they mutate into medical problems, and how to stop the process. And stopping the process will mean solving those original problems or, at the very least, greatly reducing their effect.

That would be a worthy undertaking for a great nation—and a sound approach to the myriad problems we confront as a society. The health care crisis is an ideal focal point for such an endeavor. It is acknowledged to be a matter of the utmost urgency by virtually every leader of every political persuasion; it leads back to the most diverse array of problems; it is an issue of great importance and cost to the nation; and the success or failure of its reform can be readily measured.

Moved that the forces depriving this nation of comprehensive, cost-effective health care be declared the new Nemesis.

Do we hear a second?•

(At the request of Mr. DOLE the following statement was ordered to be printed in the RECORD)

NATIONAL HOSIERY WEEK—AUGUST 10-16

• Mr. HELMS. Mr. President, the week of August 10-16 marks the 21st annual observance of "National Hosiery Week." It is with great pride that I use this occasion to recognize an industry which has contributed so much to the free enterprise system of our Nation as well as to the economy of North Carolina.

During the past year, the hosiery industry has made great strides in the area of foreign trade. Exports in 1991 leaped 30 percent over 1990 levels to 8,949,962 dozen pairs. This increase in exports helped push total U.S. production to 320,149,000 dozen pairs—and that, Mr. President, is a lot of hosiery.

At a time of rising levels of imports, it is vital that we continue to support the textile and apparel industry which employs so many American workers. The hosiery industry represents significant portion of the textile and apparel complex. It alone employs more than 70,000 people in 417 plants around the Nation and continues to grow. The large size of the hosiery industry makes it a major contributor to our Nation's economy.

But Mr. President, it is in the many smaller communities where the hosiery industry makes its most significant contribution, because it is there that these companies constitute a large part of the local economy. In many cases, a hosiery company will serve as the major employer in the area, providing good, stable jobs for its employees.

Mr. President, members of the National Association of Hosiery Manufacturers produce and distribute 85 percent of U.S. hosiery, contributing more than $6 billion to the U.S. economy each year. The hosiery industry has made great strides in improving productivity in its mills and in improving the quality of its product. These efforts to make the hosiery industry more competitive have resulted in significant technological and design improvements in the manufacture of hosiery.

Mr. President, National Hosiery Week is of special importance to me because North Carolina is the leading textile and hosiery State in the Nation. North Carolina is proud of the leadership of the hosiery industry and the fine quality of life that it has provided for so many people.

On behalf of my fellow North Carolinians, I extend my sincere thanks and congratulations to the hosiery industry and to its many thousands of employees for their outstanding contribution to our State and Nation.•

TAKING THE LEAD ON EDUCATION

• Mr. KASTEN. Mr. President, we all know that education is the highway of hope—the sure-fire way for young people to start building a successful future. I would like to draw the attention of my colleagues to one Wisconsin community that takes education very seriously.

The River Cove Apartments in Stevens Point, WI, are a 40-unit subsidized section 8 HUD housing project. But they are a housing project with a difference.

Fact: One out of every four tenants at the River Cove Apartments is currently enrolled at an institution of higher education.

These tenants know that what you earn depends on what you learn. They are taking their future into their own hands and mounting the ladder of economic opportunity. Dozens of River Cove tenants have already succeeded in finding better jobs, and others are on their way.

The key to educational success is creating a climate where learning is respected and encouraged. I commend Jane Staples, the owner and operator of River Cove Apartments, for her work in making this happen. And I hope all my colleagues will join me in applauding the River Cove tenants, who are fighting for their own dreams—and in succeeding, setting an example for us all.•

CORPORATE RESPONSIBILITY

• Mr. SIMPSON. Mr. President, I realize we have a short time agreement, and I appreciate the opportunity to briefly express my appreciation to Senator BYRD and Senator DOMENICI for bringing this amendment to the consideration of the Senate. I am very pleased to be cosponsor of the amendment.

The first amendment is a sacred right which all of us possess—yet it does not preclude the right to condemn the speech of others which acts to desensitize a civilized society. The lyrics of "Cop Killer" are beyond disgusting.

I also found the lyrics of a little ditty entitled "KKK Bitch"—which is found on that same recording—to be particularly offensive. If any one of my colleagues wishes to have me send a copy of the lyrics of these songs—if you can call them that—I certainly shall. I believe you will agree that anyone with any degree of human sensitivity would be appalled by these lyrics. Corporations should demonstrate more civic responsibility than that. And I shall name names for Time-Warner has shown us very little of that attribute with this recording.

I cannot speak more eloquently than Charlton Heston did to a meeting of the shareholders of Time-Warner on this topic. He laid it all out very succinctly—and he named names. I have written to Mr. Heston to commend him for the position he took. It is a position which I am confident is overwhelmingly supported by a vast majority of the American people.

He is owed a debt of gratitude from all of us in the Senate. So are Senators BYRD and DOMENICI for sponsoring this resolution.•

TRIBUTE TO J. EMMANUEL WILLETT, Ph.D.

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a gentleman whose career has had a positive impact on countless Kentuckians. J. Emmanuel Willett will be retiring at the end of this month after a 25-year career of serving the northern Kentucky community in the field of mental health.

During the past quarter of a century as president and chief executive officer of the Comprehensive Care Centers and Children's Psychiatric Hospital of Northern Kentucky, Mr. Willett has build a wealth of services for those suffering from mental health disabilities.

Mr. Willett's path to the office of executive director of Northern Kentucky Mental Health/Mental Retardation Regional Board and the Comprehensive Care Centers it operates has been no simple walk in the park. His trek began as a University of Kentucky graduate student. At that time Mr. Willett was supported by a State stipend program which included working summers at the Albert B. Chandler Medical Center. After finishing his internship, he worked full time at Thomas Moore College.

To repay his stipend, Mr. Willett became involved in organizing the regional board and construction plans for the new Northern Kentucky Comprehensive Care Center. After his task was completed he was offered the position of executive director of the center. Mr. Willett was not only the first, but has been the only executive director employed by the center.

During the past 25 years, Mr. Willett has worked dutifully to ensure that the center remains a model of quality mental health care. During Mr. Willett's tenure, the regional board has developed a number of innovative services to help the community.

Mr. President, please join me in honoring this doctor, educator, and visionary who has realized his dream of being able to help others. J. Emmanuel Willett, Ph.D., is a point of light to the many citizens of Kentucky who have received the special care they needed at the Comprehensive Care Center and Children's Psychiatric Hospital of Northern Kentucky.

I wish Mr. Willett a wonderful retirement and the best of luck in his future endeavors.

Mr. President, I would like the following article from the Kentucky Psychological Association Newsletter to be submitted into the CONGRESSIONAL RECORD.

The article follows:

PROFILE OF CENTERS' PRESIDENT

The journey of life is full of turning points, both personally and professionally. For J. Emmanuel Willett, Ph.D., President, two such moments occurred in 1954. It was that year he married his wife, Dorothy, whom he grew up with in his hometown of Fancy Farm, Kentucky. He also visited his sister in Cincinnati who thought he needed to get out of his present construction job and go back to teaching. She lined up interviews for him with a number of local colleges, but it wasn't until six months later that he was offered a position teaching education at Mount St. Joseph College. A few years previously, he had attended St. Mary's College in Lebanon, Kentucky with his eye on the ministry. He realized the ministry wasn't where he belonged, but continued to have a desire to help others. He considered a career in teaching and enrolled in the MA program in Guidance and Counseling at Catholic University.

He taught at Mt. St. Joseph for seven years and at the same time took courses at the University of Cincinnati. It was there Dr. Willett met George Kisker and took an Introduction to Clinical Psychology. He realized then that this could be a means of helping others. Dr. Willett took a sabbatical and finished graduate school at the University of Kentucky, concentrating on clinical psychology. Graduate school included two years of coursework and one year as a clinical psychology intern at the Albert B. Chandler Medical Center. After finishing his internship, he worked at a mental health center on a full-time basis and taught part time at Thomas More College. During his graduate school career, he commuted via Greyhound bus from Cincinnati to Lexington, staying at a boarding house throughout the week.

Dr. Willett's involvement with the development of the Center began when he was working for the Department of Mental Health in 1964 to repay the state for financial assistance which helped him to complete his doctoral work at UK. To serve out the remaining twelve month indenture, Commissioner Dale Farabee charged him with the task of organizing the newly incorporated Northern Kentucky Mental Health-Mental Retardation Regional Board. This was accomplished in May 1966. His state commitment would be satisfied by December, so he began planning to search for employment elsewhere—only to have the Board offer him the position of Executive Director of Northern Kentucky Community Mental Health Centers. He assumed his new position on October 1, 1966. He was not only the first, but has been the only Executive Director employed by the Center. Never forgetting his commitment to teaching, Dr. Willett taught part time at Thomas More College until 1983, donating his salary back to the institution.

Dr. Willett is a native of Fancy Farm, a small, rural community in Western Kentucky. He was raised on a farm settled in 1821 by his great-grandfather, Samuel Willett. As a high school student at Fancy Farm, he took four years of Latin, English, and Math, along with Chemistry and French classes. In 1942, at age 16, he received his high school diploma. He was too young for the military and decided to stay with his sister in Cincinnati to work as an apprentice glass-blower in a war plant. He later apprenticed as an electrician and then enlisted in the Air Force in 1944. He was a clerical worker until his discharge.

For twenty-five years Dr. Willett has worked faithfully, offering his time and expertise to ensure that the Center remains the best provider of quality services that it can be. Under his leadership, the Center has experienced positive changes and growing pains. With the support of the Regional Board, he and the Center staff have been able to maintain quality, professional mental health and mental retardation services in the Northern Kentucky Region. Dr. Willett's dedicated leadership has provided stability to the Center's history of struggles and successes.●

THE FREEDOM OF CHOICE BILL

● Mr. MOYNIHAN. Mr. President, this bill is an attempt to prohibit States from enacting laws that regulate abortion in a manner inconsistent with the Supreme Court's decision in Roe versus Wade. This attempt arises from a concern over the Court's recent decisions to narrow the scope of the constitutional right to abortion established in Roe, and indeed by a concern over the fact that four sitting Justices now favor overturning Roe outright.

I lend my support to the bill because I share these concerns, although I am not entirely persuaded that a legislative option is truly available to us. It seems likely to me that if this bill ever becomes a law, its application would be challenged as a violation of State sovereignty in these areas. It seems equally likely that the very Court we are trying to circumvent would sustain such a challenge, as conservative Courts are wont to do. I tend to think the current Court would not uphold this bill as an enactment under either the commerce power or section 5 of the 14th amendment. But the question is perhaps close enough to make the attempt worth a try.

In my view, it remains the case that the best, and perhaps only, remedy against further erosion of a woman's right to choose is to elect a President who would make the appropriate appointments to the Supreme Court. I would hope that in the rush to pass this bill, this reality not be overlooked.●

SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992

● Mr. KASTEN. Mr. President, I rise today in support of the Senate substitute for H.R. 5191, the Small Business Equity Enhancement Act of 1992, a bill that will positively impact small businesses and job creation by helping to get more investment capital to America's entrepreneurs.

Venture capital is the key to creating new jobs in the United States. Along with a good business idea, venture capital makes it possible for prospective entrepreneurs to take on the risk of jumping in and fighting to make a new business succeed.

This legislation, which will help reform the U.S. Small Business Administration's Small Business Investment Company [SBIC] Program, is the culmination of nearly 2 years of work by the Senate and House Small Business Committees. It addresses the needs of equity-based and debt-based SBIC's, both of which are important to the SBIC Program. Two years ago the SBIC industry was having problems, and the steady flow of capital to small businesses through SBIC's was threatened.

The SBIC Program has had a successful history. Over the years, the SBIC Program has been one of the few constant and effective sources of support for small business entrepreneurs.

The past accomplishments of SBIC's are well documented. Over 70,000 small businesses have created an estimated 1 million new jobs with the help of SBIC financing, and this number is growing. These jobs are created more efficiently—with less venture financing needed to provide each job—than those produced by Fortune 500 companies. In the last 15 years, SBIC's have reported over $2 billion in pretax income, and corporate SBIC's have paid over $500 million in Federal taxes. Clearly the program fills a real need across the country, and in my home State of Wisconsin where we have a number of successful SBIC's.

Recently, however, the available pool of venture capital has been shrinking in the United States, due to the recession and to the changes made in 1986 which dramatically increased the capital gains tax rate. The capital and credit crunch in many parts of the United States makes it urgent that the initiatives in H.R. 5191 be implemented soon.

The biggest problem for SBIC's has been to make equity investments in companies. Under the current program, there is a fundamental mismatch between Government leverage and the needs of the SBIC industry.

The Small Business Act of 1958 currently states that SBIC's making equity investments can only receive debt financing from the Government. In other words, SBIC's would have to pay back SBA loans right away, but might have to wait several years to receive dividend payments from the companies they invested in. New start-up businesses, the kind that SBIC's often invest in, usually don't show a profit during the first several years. SBIC's are often trapped by the mismatch of leverage, and this hinders the effectiveness of equity investments.

Equity investments are important because they help form a lasting partnership between the business and the financier. The level of SBIC funds going toward equity investments increased in the last decade—showing a desire by many in the industry to make more equity investments.

H.R. 5191 creates a new preferred participating security which will allow the Federal Government to share the profits made by an SBIC, and make it easier for SBIC's to make equity investments. I want to stress that this security is an original idea to promote SBIC equity investments. The Government will cover the cost to an SBIC during the early years of an investment. Once the SBIC begins to show a profit, the Government will be first in line to have their money repaid and then will collect a portion of the remaining profits.

Mr. President, I also want to address the question of risk to the Government. This legislation will implement important reforms in the program to protect taxpayers' dollars from risk.

One reform is an adjustment of the leverage ratio between Government and private capital. H.R. 5191 will create a leverage system where the share of Government dollars at risk will decrease as the size of an SBIC increases. In other words, the larger the SBIC, the lower the Government's participation or the more the Government is protected.

The Government will also become the senior investor in SBIC's. This means no money will go to private sources until the SBIC has paid off its debt to the SBA. Profits will then be shared between private sources and the SBA so that everyone can benefit from positive investments.

One important addition in the Senate substitute for H.R. 5191 that is not in the original House version is a provision included by the distinguished chairman from Arkansas preventing SBIC's from declaring bankruptcy—and leaving the Government with nothing. This section has already passed the Senate as part of the Bankruptcy Reform Act, S. 1985. I believe this is an appropriate addition to H.R. 5191, and that it will help improve confidence in the SBIC Program.

H.R. 5191 also takes the important step of allowing State and local government funds to be invested in SBIC's. Pension funds are the single largest source of investment capital in the United States. Opening up SBIC's to State and local investment will not only increase the pool of capital for the industry, but it will also help government directly contribute to job creation in their community. SBIC's can effectively direct public dollars to stimulate job creation. This will be an important future resource for small business entrepreneurs.

This bill has the strong support of the Bush administration, the SBIC industry, and both Democratic and Republican members of the House and Senate Small Business Committees. Mr. President, I hope that we can reconcile the House and Senate versions of this bill, send it on soon to the President so he can sign it into law, and get back to creating opportunities for entrepreneurs and jobs for Americans.•

GRAZING AND CONSERVATION COMPATIBLE

• Mr. WALLOP. Mr. President, while reading the Sunday, August 2, edition of the Washington Post, I came across a very nice piece about Wyoming rancher Jack Turnell, a longtime friend and fellow cattle producer. The article is a very fitting description of a man who, like so many ranchers utilizing public and private lands throughout our Nation, cares deeply about environmental preservation and is committed to proving that ranching and environmental concerns are compatible. He is a fine example of the ongoing partnership between Government and industry to maintain, utilize, and improve our environment.

The article discusses specific steps which can and are being taken by Jack to "bridge the gap between environmentalists, the bureaucracy, and industry." Although not mentioned in the article, he was appropriately recognized by the National Cattlemen's Association just this year, when he received the National Environmental Stewardship Award. I have stayed with Jack and his lovely wife Lili on their beautiful Pitchfork Ranch in Meeteetsee, and I've seen firsthand the spectacular job being done there.

A few years ago, Jack brought livestock producers, environmental groups, land and water management agencies, and the cattle industry together to form the Wyoming Riparian Association. The association develops workable, environmentally conscious, riparian management programs. The Federal grazing allotment on the Pitchfork is one of many successful efforts underway in the cattle industry nationwide to improve riparian areas.

As we consider various national issues affecting agriculture, this is an opportune occasion to remind ourselves and others that cattle ranchers, like Jack and Lili, throughout our country are committed to the beneficial use of our natural resources. For generations, they have successfully managed America's vast public and private lands while improving water, forage, and other essential resources on those lands for wildlife and livestock. Last year, while improving range resources available for wildlife, the Pitchfork produced 300,000 more pounds of beef than it did 10 years ago. With Jack's permission, the U.S. Forest Service and others utilize his ranch for tours to demonstrate that productive ranching and environmental concerns are complementary.

Mr. President, once again, my congratulations to Jack Turnell, one of America's outstanding land managers. I request that the Washington Post article "The Lesson of the Black-Footed Ferret: Grazing and Conservation Compatible, Preaches Wyoming Cattleman" be entered into the RECORD.

The article follows:

[From the Washington Post, Aug. 2. 1992]

THE LESSON OF THE BLACK-FOOTED FERRET: GRAZING AND CONSERVATION COMPATIBLE, PREACHES WYOMING CATTLEMAN

(By Tom Kenworthy)

MEETEETSE, WY.—If Wyoming rancher Jack Turnell were rewriting the lyrics to that old standard "Home on the Range," it might begin something like this: "Oh give me a home, in a riparian zone."

At a time when ranchers and environmentalists throughout the West are at each others' throats over an assortment of issues involving cattle grazing on federal land, Turnell is something of an oddity, a cowboy who gets along with the greens and talks about biodiversity and streamside ecology as fluently as he talks about Herefords.

"I guess I've learned how to bridge the gap between the environmentalists, the bureaucracies and the industry," Turnell said as he took a visitor on a tour of the Pitchfork Ranch, a spectacularly beautiful spread south of Cody that extends into the Absaroka Mountains on the Shoshone National Forest. The ranch takes in 120,000 acres, including 40,000 acres of Forest Service land where Turnell has grazing rights.

This is a ranch rich in history: Butch Cassidy committed his first crime here—horse theft—and did his drinking at a saloon in town that is still in business.

Since he was converted to more environmentally sensitive range management techniques several years ago, Turnell has become something of a shuttle diplomat between cattlemen and the environmental movement. This year, for example, he spoke at the annual meeting of the Greater Yellowstone Coalition, a conservation group active in efforts to protect America's oldest national park and its larger ecosystem. He also makes the circuit of cattle groups, preaching to ranchers, some of whom "think I've lost my marbles."

For the first decade after he took over management of the Pitchfork Ranch, which has been in his wife's family for four generations, Turnell says he punched cows pretty much as his predecessors always had. He knew little about the plant physiology of native grasses or the sensitivity of riparian (streamside) areas in the mostly arid West.

"I'd never heard the word 'riparian,' even though I went to college," Turnell said.

Turnell's early indifference to range science is not atypical, according to numerous studies by the government in recent years showing the poor condition of much of the 250 million acres of federal forest and grassland used by about 26,000 public land ranchers in the United States.

Critics of livestock grazing on public acreage controlled by the Interior Department's Bureau of Land Management and the Agriculture Department's Forest Service charge that after decades of heavy use, America's fragile public range lands are in lousy shape from overgrazing, erosion of stream banks and depletion of water supplies.

The deterioration of this land has prompted some environmentalist to call for removing sheep and cattle from the public range and returning the land to the antelope and deer. "Cattle Free in '93" is their battle cry. At the same time, congressional efforts to raise the fees that public land ranchers pay the government are gaining strength every year.

Neither makes any sense, said Turnell, who believes that if cattlemen are kicked off the public range, ranches like his will quickly be sold off to developers and chopped up into vacation sites.

What does make sense, he said, is better stewardship of the land, a process that he began about a decade ago with the discovery of a small population of black-footed ferrets on the Pitchfork Ranch. The ferret was supposed to be extinct, and the discovery brought a flood of scientists and environmentalists to the ranch.

"The ferret forced me to cooperate with people who I'd traditionally been an adversary of," said Turnell, who had shared the prevailing western contempt for such agencies as the Fish and Wildlife Service. "I found out, by God, they were people and they were interested in something good."

One thing led to another, and Turnell gradually began changing how he operated the Pitchfork. He systematically began rotating pastures, keeping his cows away from the river and streams that course out of the mountains until the surrounding grasses had matured and spread their seed for the next season, gave up most use of fertilizers and pesticides, and crossed his Hereford and Angus with a French breed that does not like to congregate around water. Most decisions are now made in consultation with range and wildlife scientists, and progress is monitored religiously with photographic studies.

Over time, Turnell said, the results have been impressive. The Greybull River and other streams on the ranch are lined with willow and other plant life, providing lush habitat for an expanding population of wildlife. Antelope scamper almost everywhere , and the ranch is host to deer, moose, elk, bear and mountain lion.

And Turnell makes more money because better quality grass puts more meat on his cattle. "We're selling 300,000 more pounds of beef per year than we did in 1987," Turnell said. "It makes sense to do it right."

"Sure, we graze cattle on the top of that mountain," said Turnell, pointing up at the 13,000-foot peaks of the Absarokas and the Shoshone National Forest. "But we don't hassle the elk and the antelope and the deer when they come down here in the winter. To me, that's a fair trade."•

ACCESSIBILITY AND AFFORDABILITY OF PRESCRIPTION DRUGS FOR OLDER AMERICANS: A STATUS REPORT

• Mr. PRYOR. Mr. President, today, Senator COHEN, is joining with me in releasing a very shocking and eye-opening report of the Special Committee on Aging. The information in this report confirm what we have been saying all along: that the spiraling costs of prescription drugs are forcing many older Americans to go without taking their lifesaving medications.

Mr. President, just 2 weeks ago, the American Association of Retired Persons released a report that found that about 8 million Americans over 45—almost 10 percent of this age group—say that they have to cut back on food or fuel to pay for their medications. The report also found that about 43 percent of older Americans age 55 and over—23 million in this age group—have absolutely no prescription drug coverage.

The information contained in this Aging Committee report adds to this mounting evidence that Congress needs to address the cost of prescription medications before its too late. More and more elderly are going without their drugs. More and more elderly are not having prescriptions filled. More and more elderly are having to split their tablets in half or skip a dose to stretch out their prescription. How many more stories like these do we have to hear before we are willing to act?

Mr. President, here are the reasons why we have reached this unacceptable situation in our Nation today:

First, older Americans need to take more prescription medications because they usually have more than one medical condition, such as high blood pressure, diabetes, and arthritis. In fact, the average older American takes about 15 prescriptions each year—more than 3 times the number of prescriptions taken by the average American under 65.

Second, although they take a significant number of medications, it is very difficult for older Americans to find or afford any type of private insurance coverage that will pay for the cost of medications. Because of this, most older Americans pay for their drug costs out-of-pocket.

Third, drug industry has pushed up prices at three times the rate of inflation over the past 10 years. Since 1982, prescription drug price increases have made many elderly forgo the medicines that they need to stay alive.

Fourth, older Americans' prescription drug buying power has dropped sharply. While the average annual increase in the typical older American's Social Security check has only been 3.8 percent since 1985, the average prescription drug price has increased 8.8 percent since that time.

Mr. President, some will say, "Well, we have Medicaid and Medicare for older Americans that cannot afford their medications. Medicaid and Medicare covers the cost of drugs for most poor older Americans." Unfortunately, nothing is further from the truth. Only about 2 million poor or near poor older Americans qualify for the Medicaid prescription drug program, only 16 percent of all indigent elderly. The fact is that about 10 million near poor or poor elderly—84 percent—do not have the Medicaid safety net for prescription drugs. And, while Medicare does a good job of covering hospital and doctor bills, it does not cover the cost of medications for our older Americans. Medicare does not have a drug benefit.

When we look to Canada or to Europe, we see that other countries have done a much better job of providing prescription drugs at a reasonable cost for their citizens. Government-funded health care programs in many other industrialized nations pay for the majority—if not all—of the costs of prescription drugs. In contrast, only a small percentage of the costs of precription drugs—12 percent—are paid for by Government-funded programs in the United States.

In spite of the industry's pronouncements that drug inflation is slowing down, between June 1991 and June 1992, while the overall rate of inflation was 1.5 percent, drug manufacturer inflation was 6.3 percent, more than four times the increase. Mr. President, older Americans do not believe that drug inflation is slowing down, I do not believe it, and data from the Bureau of Labor Statistics do not show it.

What we can believe is that drug manufacturers are making more profits than ever off the backs of the sick and poor. While most Americans are trying to survive the longest economic downturn since the Great Depression, second quarter 1992 data show that drug manufacturers are still on the economic gravy train. Older Americans are sick and tired of subsidizing the obscene profits of the drug industry.

Mr. President, drug manufacturers say that they have special programs that provide their medications free-of-charge to poor people that have no means to pay for them. The unfortunate truth is that very few older Americans or their doctors know that these programs exist or take advantage of them. Drug companies simply do not do enough to publicize them. Even when a poor American does use one of these programs, it often takes weeks for the patient to get their drugs. In short, these programs are woefully inadequate and poorly publicized. This report will help to correct this unfortunate situation. It lists 36 drug companies that have these programs, and tells poor people and their doctors how to use them. I call on the drug manufacturers to do more to make the American public aware that these programs exist.

Mr. President, this report and the AARP report should make every Senator become committed to bringing the cost of medications under control. We must work together as the health care reform debate continues to ensure that we enact strong cost containment measures for drugs, and expand private and public prescription drug coverage insurance for all Americans, especially older Americans. Only then will reports like these become a thing of the past.

The report follows:

EXECUTIVE SUMMARY

The purpose of this report is to provide an update on the accessibility to and affordability of prescription drugs for older Americans. The report makes the following findings:

Finding 1: In 1990, over 10 percent of all health care expenditures in the United States—about $67 billion—were for prescription drugs. Without some form of pharmaceutical cost containment enacted under health care reform, these expenditures are expected to increase to $145 billion by the year 2000 (Chart 1).

Finding 2: Unlike costs for hospitalization and physician services, most prescription drug costs in the United States are paid out-of-pocket. In fact, while only 5 percent of hospital costs and 19 percent of physician costs, are respectively paid out-of-pocket, over 70 percent of prescription drug costs in the United States are paid out-of-pocket (Chart 2).

Finding 3: The inability of many older Americans to afford their prescription medications has reached a crisis point in the United States. Contributing to this crisis are many factors, which include:

Prescription drug price increases in the United States that have tripled the rate of general inflation increases since 1980 (Chart 3);

Prescription drug price increases that have far outpaced increases in the income of the average older American (Chart 4);

The fact that the average older American takes about 15 prescriptions each year to treat multiple chronic medical conditions—more than three times the number of prescriptions taken by the average American under 65 (Chart 5); and

The lack of affordable public or private outpatient prescription insurance coverage for older Americans in general.

Finding 4: The majority of prescription drug costs for older Americans—over 64 percent—are paid out-of-pocket. However, for older Americans classified as poor or near poor—those within 100 to 200 percent of the poverty level—out-of-pocket outpatient prescription drug costs increase to a staggering 75 percent.

Finding 5: Medicaid is the primary public (Government) prescription drug insurance program for the elderly. However, only about 16 percent of older Americans—about 1.9 million—that are classified as poor and near-poor elderly qualify for Medicaid and its prescription drug program. Almost 84 percent of poor or near poor older Americans—about 10 million—do not qualify for Medicaid prescription drug coverage, and must pay for their medications out-of-pocket.

Finding 6: Government-funded health care programs in many other industrialized nations pay for the majority—if not all—of the costs of prescription drugs for their citizens. In contrast, only a small percentage of the cost of prescription drugs—12 percent—is paid for by Government-funded programs in the United States. This coverage is provided primarily through the Medicaid program (Chart 6).

Finding 7: Medigap plans—which help to pay for those medical services not covered by the Medicare program—are a very inadequate source of prescription drug coverage for many older Americans. Many elderly Americans, already living on very limited incomes, cannot afford the additional premiums necessary to purchase these policies. Therefore, Medigap policies are unlikely to meet the growing need for prescription drug insurance coverage for older Americans.

Finding 8: As a result of the inability of many older Americans to afford their medications, quality of care is suffering and therapeutic outcomes may be compromised in certain patients. Many older Americans are not taking their drugs as scheduled because they are trying to "stretch" a prescription by splitting tablets in half, or simply not having prescriptions filled or refilled. By not complying with their prescriptions as directed, the health care system may be incurring more costs in hospitalizations and other medical care services because older Americans are not getting better, or because their medical conditions are going uncontrolled.

Finding 9: Almost all major brand name pharmaceutical manufacturers have programs to make prescription drugs available free of charge to indigent patients. These are patients who are not poor enough to qualify for Medicaid, or that cannot afford private drug insurance, but have high out-of-pocket costs for prescription drugs. While many of these manufacturer-based programs have existed for a number of years, it appears that only a very small number of indigent patients are knowledgeable of, or take advantage of these programs. There is an urgent need to increase awareness among indigent patients about the existence and availability of these programs. In addition, the pharmaceutical industry should undertake major reforms of the programs to make them more "user friendly" for indigent patients and their physicians. (To increase public awareness of the existence of these programs, this report includes a directory of current drug manufacturer indigent patient programs.)•

A CHILD NAMED DISASTER

• Mr. DASCHLE. Mr. President, every hungry child has a name and a face. We sometimes forget that. Perhaps we forget because we leaders and the media fail to give these children the attention they deserve. Perhaps we forget because it is too painful to remember.

But it is our moral duty to remember, and in an editorial in the August 3, 1992, New York Times, Michael Dorris helps us. "The Elements Defy Hungry Zimbabwe" tells the story of "a child named Disaster," whose struggle symbolizes Zimbabwe's, and southern Africa's, struggle to survive a drought much worse than the 1980's drought that inspired the generosity of so many Americans.

Hunger and poverty threaten children on every continent. The images of swollen stomachs in Ethiopia, of Kurdish children barefoot in the snow, of orphans tied to bus seats in Bosnia, will never leave us. For each of those children we see, there are hundreds of thousands who suffer beyond the camera's eye.

In the face of the deteriorating human conditions brought on by the combination civil war and drought, Disaster, Zimbabwe, and much of the world depend, as Dorris writes, "on sustained human empathy, even over long distances, even with the repetition of demand."

How shall we sustain our empathy? By opening ourselves up to stories like Disaster's.

Mr. President, I ask that the full text of "The Elements Defy Hungry Zimbabwe" be printed in the RECORD following these remarks.

The article follows:

[From the New York Times, Aug. 3, 1992]

THE ELEMENTS DEFY HUNGRY ZIMBABWE

(By Michael Dorris)

CHUNGA, ZIMBABWE.—I went to Zimbabwe, the House of Stone, and met a child named Disaster. She was born in September 1991, a daughter of the Tonga tribe, and now—and until she reaches her fifth birthday or dies—she is eligible, through a joint emergency program of Save the Children and the Zimbabwean Government, to receive one meal of corn mush a day. Even so, she hasn't gained any weight since April.

Sometimes when she's able, her mother, Angeline, who cares for four other children, including two whose parents died of AIDS, varies the diet with a wild fruit she must gather, cook, peel and cook again with ashes, to neutralize its natural poison.

"Is it good? I ask her in the way of ordinary conversation.

Angeline looks at me as if we have experienced a language problem. "It's food," she corrects.

Most Zimbabweans, unlike their counterparts in Ethiopia, the Sudan or Somalia, have never before had to worry about basic sustenance. Their 13-year-old country normally exports grain, and in and around Harare, the aquifer-fed sprinklers still keep golf courses and lawns green. The prosperous city looks like the rest of Zimbabwe before the rains stopped coming in February, before this year's crops failed, before the river beds turned to dust. For those who still manage to live as they used to, depleting in the process the finite underground water, the imminent prospect of famine seems the stuff of someone else's very bad dream.

And yet by most estimates Southern Africa has an immediate and desperate need to import five times the tonnage of food that the nations of the Horn required during the worst hungry years of the 1980's.

When Disaster—whose name was chosen not for its meaning but because it sounded exotic—grows up, she'll spend most of her time walking the eight miles to the shallow well near the river where she'll compete with impala and elephants for water. She'll try to catch five gallons, lug it home and return again to the muddy hole—hoping not to meet a starving lion like the one that killed a cousin, implicitly trusting, because she has no choice, that the silty, loamy soil will act as an effective filter against typhoid bacteria.

If she takes after her mother, Disaster will be beautiful, smiling, shy and strong. She'll own one dress at a time and no shoes. She'll curtsy to strangers and live in a society of women; the men are mostly off at commercial fishing companies or the mines. Her homeland to the north was flooded to make a dam, and now she dwells in a dusty lower veldt, a place where the January summer temperatures can reach 120 degrees and where, in winter, the skies fill with the smoke of slash-and burn fires.

Several hundred miles to the south, in Mutema, water is the chief concern of a pump minder, Jonathan Bhizeki. Only five of the 35 deep wells and one of the 14 bore holes for which he bears responsibility have water, and they are rapidly becoming exhausted. For the 12,000 people in and around this plateau, it has been a calamitous year. Not a single crop could be harvested, there is no food in the shops and no rain is expected until November. Handsome and distracted, Jonathan Bhizeki looks almost embarrassed, as if the sky's failure were his own.

Dressed formally, as befits his position, in a tan tie beneath a maroon and white argyle sweater, Clever Gwenzi, principal of the local elementary school, is not hopeful. Even his father, born fewer than 15 miles away, has never seen such a drought. Children are fainting in the classrooms from lack of food. And it would cost an impossible 700 Zimbabwean dollars (about $140) to provide healthful lunches to the 423 students each week. If the well that serves the community clinic and the school—in addition to much of the area's population—fails, everything will close down.

In the dazzling African sunset, aridity is invisible. Stark white buildings stand in relief against a red-orange cloudless sky, and not even the sound of birds intrudes on the silence. There's a dying tree in the center of a circle of stones, a gesture toward landscaping. I ask the species, but no one knows. It's not indigenous.

"I had a farm in Africa," quotes Gerry Salole, Save the Children's regional director. And I understand my host's allusion to Isak Dinesen, for indeed, the romantic European view of Africa is gentler than the parched bed of the nearby Sabe River, marred with animal carcasses.

One of the worries of emergency relief workers is that Zimbabweans are not psychologically prepared for catastrophe. The country, formerly the British colony of Southern Rhodesia, has had a healthy, varied economy, and so the population is schooled in optimism. "Rain will no doubt come," I was told again and again by urban and rural people. "It always has. It must."

But, according to meteorologists, it won't, barring a miracle. And even with ideal weather, no crops will be ready for harvest before late May. In the interim there are several crucial needs, none of them impossible to meet. Existing wells must be deepened, at an average cost of $600 each. New dug wells cost $3,000. Trucks to transport the emergency food supplies en route must be leased or brought.

Philanthropic and supplementary feeding programs now in place must be sustained at current levels, despite the decline in contributions experienced by many international charities—often attributed to a malaise on the part of the fortunate known as "famine fatigue." Enough goats and cattle need to be kept alive through the next six months to form the core of communal livestock herds.

These things are matters of life and death. The longer-term social issues will have to wait: a minimum monthly wage roughly equivalent to the cost of 10 Wimpie double cheeseburgers (about $30); the residual "racialism," as it's locally termed; the fact that most of the affluent believe they must hire a poor man to stand outside their homes all night to deter intruders. In the advent of a disaster, complication is a luxury necessarily deferred.

Zimbabwe, after all, even with about half of its population in need of food assistance, is the success story of a region that includes Mozambique, Angola, Malawi and Zambia—all far worse off in one way or another. Zimbabwe has the political infrastructure, the good roads, the system of dependable communications to be stable—but not if it must impoverish itself in order to merely survive, not if it must buy food with money set aside for economic development.

There are 641 foreign nongovernmental organizations registered in Zimbabwe. Some, like CARE, Save the Children, the Red Cross and Africair, are working directly to mitigate the suffering caused by the drought, but they depend upon philanthropy and that, in turn, depends on sustained human empathy, even over long distances, even with the repetition of demand. If the font of global generosity dries up, along with the water, Southern Africa will face a food and water crisis of truly enormous proportions.

Disaster, Angeline's daughter, needs a response, and she needs it before her stomach swells with hunger, before pellagra sets in, before her shallow bowl is completely empty. When it doesn't rain, she simply needs a deeper well.●

THE 100TH ANNIVERSARY OF AFRO-AMERICAN

● Mr. SARBANES. Mr. President, this year marks the 100th anniversary of one of our Nation's foremost African-American owned newspapers, the Afro-American. The Afro, as it is commonly called, is held in the highest regard because of its rich history, tradition, and unswerving commitment to its African-American readership and to the community. That commitment is reflected in its coverage of local, national, and international news that most directly affects African-Americans.

In its early years the Afro declared itself to be "independent in all things, neutral in nothing." The philosophy has been the underpinning of the paper, which has always spoken out decisively on issues dealing with all aspects of African-American life—civil rights, health, education, housing, and employment.

Like most African-American newspapers, the Afro grew from religious roots. In August of 1892, Rev. William M. Alexander, pastor of Sharon Baptist Church, established a paper he called the Afro-American to disseminate church news and advertise his store. John H. Murphy, a 50-year-old former Montgomery County slave and superintendent of St. John A.M.E. Sunday school, started a paper with which he hoped to unite State Sunday schools into a convention. His paper was called the Sunday School Helper. Rev. George F. Bragg, pastor of St. James Episcopal Church, also printed a religious community oriented paper called the Ledger.

Mr. Murphy purchased the Afro-American from Reverend Alexander for $200 and combined the two papers into a commercial enterprise keeping the name Afro-American. In 1970, the Ledger was merged with the Afro-American. John H. Murphy headed the Afro-America until his death in 1922. At his death, John Murphy insisted that the paper be kept in the family. His son Carl then took control of the paper and thrust it into national prominence by reporting on the news of the African-American community which at that time was not covered by the white press.

During this time the Afro, like its readership, fought for equal opportunity on all fronts. On a local level, it fought to integrate Baltimore's police force and the University of Maryland Law School. It also served as a role model for the community by sponsoring campaigns to improve city neighborhoods.

The Afro, however, is and always was much more than a community newspaper. The paper has covered events depicting the horror of lynchings in Georgia and the segregation of black troops in the Armed Forces during World War II. An Afro reporter was covering the first "Freedom Ride" when the bus on which he was riding was firebombed by white racists. Another reporter was on hand to report the bombing of the 16th Street Baptist Church in Birmingham, AL.

Presently, the Afro is one of the oldest and most respected voices in African-American newspapers. The Afro has regional editions in Washington, DC, and Richmond, VA, and also publishes the nationally distributed Dawn magazine. This revered Baltimore institution is celebrating its 100th anniversary with a firm pledge to continue to serve its constituents. Still operated by the family, the paper continues to be a calm steadying voice for African-Americans.

Mr. President, the Afro can be proud of the vital role it has played in Maryland's history. The need for an informed and enlightened people cannot be overstated, and the Afro has consistently provided this service for 100 years. I join in wishing the Afro well as it continues to voice African-Americans' views on the social, economic, and political issues of the time.●

The PRESIDING OFFICER. The majority leader is recognized.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Tuesday, August 11, that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately following the Chair's announcement, the Chair lay before the Senate the conference report accompanying S. 5, the family and medical leave bill, that the Senate proceed to its immediate consideration; that once the conference report has been reported, and without intervening action or debate, the conference report be adopted, and the motion to reconsider laid upon the table; and that upon adoption of the conference report, there then be 45 minutes for debate on the conference report with the time controlled as follows: Thirty minutes under the control of Senator DODD or his designee and 15 minutes under the control of the Republican leader or his designee; that when the Senate resumes consideration of Senate Resolution 330 at 10 a.m. tomorrow, the only amendment remaining in order be the Stevens amendment on which there be 30 minutes of debate equally divided and controlled in the usual form, with Senator STEVENS being recognized at 10:30 a.m. to offer his amendment; that at the conclusion or yielding back of time on the Stevens amendment and on Senate Resolution 330, the resolution be laid aside until 12:15 p.m., at which time the Senate proceed to vote on the Stevens amendment; that upon disposition of the Stevens amendment the Senate stand in recess until 2:15 p.m., in order to accommodate the respective party conferences. And at 11 a.m. the Senate proceed to the consideration of Calendar No. 590, H.R. 11, the urban aid bill, for debate only, prior to 2:15 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object I understand the 30 minutes will be used tomorrow but we will use some of the time this evening, is that correct?

Mr. MITCHELL. My understanding of the agreement is that the Senator can use as much time as he wishes this evening and will have an additional 30 minutes in the morning. The 30 minutes tomorrow morning is unaffected by the length of time used by the Senator tonight.

Mr. STEVENS. I thank the Senator. My amendment has been offered. I had offered an amendment that was originally a 2-hour time limit. I do not intend to use the full time this evening. There will be 30 minutes left tomorrow equally divided, is my understanding.

Mr. COHEN. Will the Senator yield? I ask he include in that unanimous-consent request that the Republican time under the agreement be divided as follows: Senator DOLE 10 minutes and Senator WARNER 5 minutes.

Mr. MITCHELL. Mr. President, I so modify my request.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I would like to add to my request that, following the party conferences, at 2:15 p.m. the Senate vote on adoption of the resolution without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their courtesy, and I yield the floor.

RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. PELL. Mr. President, if there is no further business, on behalf of the majority leader, I now ask unanimous consent that the Senate stand in recess as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 10:46 p.m., recessed until Tuesday, August 11, 1992, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate August 10, 1992:

DEPARTMENT OF STATE

HARRY J. GILMORE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. HANSFORD T. JOHNSON, [redacted] U.S. AIR FORCE.

EXTENSIONS OF REMARKS

A LONG AWAITED REVOLUTION AT THE U.S. POSTAL SERVICE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. BROOMFIELD. Mr. Speaker, Postmaster General Runyon's announcement of major changes at the U.S. Postal Service should come as good news to millions of its customers, who are fed up with rising postal costs and declining postal service.

It should also come as good news to the Service's many employees. Recent shootings in post offices around the country have demonstrated that there has been something terribly wrong with the relations between postal management and their employees.

Finally, it comes as good news to me. For a year now, I have been urging Congress to adopt a resolution I introduced which would create a commission to study the Postal Service.

For a long time I have been receiving a large volume of mail from my constituents reporting that the Postal Service has allowed service to deteriorate, that it has closed some of its post offices on Saturdays, reduced window hours at other post offices, and removed collection boxes from convenient locations.

I had hoped that the relevant committees in Congress would welcome the opportunity presented by my resolution to launch a thorough, bipartisan study of the Postal Service. After all, it has been 22 years since the old Post Office has been established as a quasi-independent agency. This would have been a good time to take a fresh look at this organization.

Despite the fact that my resolution had as many as 127 cosponsors, the relevant committees never did take the issue up. They buckled under the pressure from the postal unions.

The new Postmaster General, in a refreshing break with the past, has taken matters into his own hands. Last Friday, August 7, he introduced a major program to, as he put it, "revolutionize the Postal Service."

His new plan addresses many of the concerns that I raised in my attempt to create a bipartisan commission, and many of the concerns, I might add, that were voiced by the 127 cosponsors who signed onto my resolution.

In a meeting in July, he said, "Let me be your commission." He pledged to spend the next 60 days examining the Postal Service from top to bottom and taking corrective action.

The plans he outlined in a speech to his employees last Friday show a commitment to do what he promised. I am impressed by his admission that the Postal Service no longer has a competitive edge and by his intention to do something about it.

I am also impressed that so much of the impetus for institutional reform and better service comes from the employees themselves. A letter from one employee to the Postmaster General sums it up for me: "I'd like to be able to retire from a healthy and viable Postal Service," he wrote. "It's up to you to take us in that direction. I will help you in any way I can."

I feel the same way. The new Postmaster General has stuck his neck out. He has taken the initiative, and we in Congress should make sure he gets the support and the encouragement to thoroughly reform the Postal Service.

Postmaster General Runyon has followed up on his pledge to me to "be your commission." It's now time to make sure that the plans he announced on Friday are carried out throughout the postal system.

Mr. Speaker, I insert Postmaster General Runyon's speech to be printed in the RECORD.

SPEECH BY MARVIN RUNYON, POSTMASTER GENERAL OF THE UNITED STATES

Good afternoon or good morning, depending on where you are.

Thank you for joining me here today. I understand that people in more than 200 locations are participating in today's broadcast, and I've asked that we have as many employees and union and management association representatives present as possible.

Before I begin, I want to apologize that many of you have learned the details of our plans from the media. I have a very strong belief that employees should hear news about their company and their jobs from their company and not from the media.

That is the way we had planned this announcement. However, as you know, we have many constituents with whom we share, in advance, a broad outline of our planned actions.

For that reason, we spoke with these people on an embargoed basis beginning yesterday. Unfortunately, someone felt inclined to notify the media.

It's been 24 days since our last conference, when we outlined the basic criteria necessary for our success as a business. We talked about the importance of making the Postal Service more accountable, more credible and more competitive.

We set three goals, our first steps in changing the Postal Service to be more businesslike. The goals are: one, to improve service quality and customer satisfaction; two, to hold postal rates constant by eliminating the projected $2 billion deficit for 1993; and, three, to reduce layers of bureaucracy and postal overhead, starting at the top.

Many people have participated in helping to formulate the changes we will announce today. I've continued to meet with many groups of postal employees, managers, postmasters, union leaders, and Congressional representatives. I've also talked with large mailers and individual customers.

The result of all of these conversations is that they are convinced that postal employees can do a good job. They feel we are dedicated, loyal, and competent. However, they think that our organization is broken and needs to be fixed.

Ultimately, competition is settled by the customer. They keep score and decide with their dollars who wins and who loses. We must meet their communications needs and expectations, or someone else will.

The Postal Service is being challenged by the competition. Alternative delivery services are going door knob-to-door knob delivering magazines we used to carry.

UPS has so much of the parcel market, they aren't concerned about the large surcharges they've placed on residential deliveries . . . I guess they figure we can't or won't step up to the opportunity. And, electronic technology threatens to siphon off 50 percent of our mail volume and 40 percent of our revenue.

No one is awed by our monopoly . . . customers have alternatives and they are giving them our business. Parcel by parcel, magazine by magazine, piece by piece, we are being privatized a little more each day.

Our own performance isn't helping matters much. Right now, on-hand mail volume in our system is up 65-to-70 percent compared with two years ago and is near Christmas-level record highs. We're seeing a deterioration of two-day and three-day service, too. And, millions of pieces of First-Class Mail are taking the long way home . . . they're taking more than five days to be delivered.

Customer loyalty depends in large part on service quality. According to the Customer Satisfaction Index, 43 percent of all residential customers surveyed would consider dropping us and using a competitor to deliver First-Class Mail if they had the option. Of those who rate us "fair" or "poor," 87 percent would consider switching if they had the option.

All of you are concerned, too. I've received hundreds of letters from employees calling for change, urging us to become more businesslike, asking for the chance to take on the competition.

I'd like to read you a few quotes.

"We have a lot of pencil pushers that should be carrying the mail or selling stamps," writes one employee from Los Angeles. "The Postal Service's job is quite simple. Take in mail, sort, and distribute in the most equitable manner."

From Harrisburg, Pennsylvania, another employee writes, "Our office was cut in hours and we (will soon) close from noon to 2 p.m. We do a lot of business at that time. People are on their lunch breaks, and come to the office and do business. Of course, now they can't."

Another writes, "The Postal Service needs to be taken in a new direction in order to fulfill our obligation to the American public. Another rate increase similar to the last one will surely be a fatal blow to an outstanding institution. I'd like to be able to retire from a healthy and viable Postal Service. It is up to you to take us in that direction. I will help you any way I can."

And, another . . . "In the final analysis, we are all in the same boat, and if the boat sinks, then the supervisors, and clerks, carriers, rural carriers, mail handlers, etc., drown the same. Our objective, if we are to achieve very good or excellent ratings, lies in the public perception of how well we perform."

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I have carefully studied the preliminary results of the Employee Opinion Survey that was taken in April, in which 511,000 postal employees took part, and the pilot survey conducted last November involving 37,000 employees. The results point to the need for structural and cultural changes within the Postal Service, changes we are beginning to make today. We'll be sharing with you the final results of the national Employee Opinion Survey when we get them in the near future.

At that time, we'll also tell you the actions we'll be taking to resolve the other issues you've raised.

From all sides, the message is the same. To survive . . . we must compete. To compete . . . we must change. And, continue to change.

Today, we take our next steps to revolutionize the Postal Service. Everyone will have a part to play in our success. And, after today, there is no turning back. The evolution of the Postal Service has begun.

Today, we'll cover five items: First, the new organizational structure and how it reduces bureaucracy, starting at the top; Second, steps we are taking to minimize the impact on employees; Third, additional ways we will reduce the projected $2 billion deficit in 1993; Fourth, new initiatives to improve service quality; and, Fifth, our vision of the Postal Service, our culture, and our partnerships with customers, employees, unions and management associations.

Let's start with the new structure. It reduces senior management by 43 percent, from 42 Officers to 24. It cuts PCES by 40 percent, 450-to-500 positions. And, it affects about 30,000 overhead positions throughout the Postal Service.

In the structure, the purpose of the 12 Vice Presidents of the corporate staff offices is to set policy in all areas, so that we have consistency in all parts of the Postal Service. Each of these will report to me, so that there is a consistency of direction in their activities. Mike Coughlin, as the Deputy Postmaster General, will assist me as needed, much like a chief of staff.

Joe Caraveo will be Executive Vice President and Chief Operating Officer. He'll also report to me and will be responsible for the total operations effort. He'll have the necessary staffs to assist him in his job. In addition, he's the chief customer of all the 12 staff offices reporting to me.

I'd like to take a moment and briefly describe the functions of the offices. The names of the Vice Presidents will be announced in two weeks.

The first office is Vice President for Diversity Development. This is an important new department that will serve as the social conscience of the Postal Service. Being the largest non-military employer in the country, the Postal Service is a reflection of our society.

This department will be responsible for increasing our awareness of and appreciation for ethnic and cultural diversity. It will make sure that in all our vendor programs, the proper attention is paid to women- and minority-owned businesses. It will ensure that all career and succession planning takes advancement for women and minorities into consideration, and that the cultural makeup of our communities is represented in our work force.

The next office is the Vice President for Labor Relations. This department will be responsible for strengthening our partnerships with all the labor organizations.

Then, we have Vice President for Quality. This department will make the Total Quality Process a part of all aspects of the Postal Service.

Next is Vice President for Communications. In addition to its messaging and information responsibilities, this function will also oversee our corporate visual identity.

The next department is that of the Consumer Advocate. This Vice President will serve as my quality control officer for customer satisfaction.

The next office is Vice President for Government Relations. This department will be responsible for working with federal, state and local government.

The next Officer is the Chief Inspector. This function will continue to audit and police the integrity of our system, and safeguard the rights of those who use the mail.

The General Counsel is next. This individual will serve as our corporate lawyer.

Then we have the Judicial Officer. This person will be our independent administrative law judge regarding contract appeals and other legal cases.

The next office is the Vice President for Employee Relations. What's new about this function is that it will now assume responsibility for training and development.

Then we have the Vice President for Information Systems. This person will oversee information technology policies and standards.

Finally, we have the Vice President for Finance and Planning. As its new name suggests, this department has now assumed responsibility for strategic planning.

Now, let's look at the Headquarters structure that will support field operations. Joe will have nine Vice Presidents reporting to him, three with direct responsibility and accountability for customer focus and operational performance.

The first part of our field structure is "Marketing and Sales." This department will be responsible for keeping our products and services focused on meeting customer needs. They will oversee product and service design, pricing, market research, classification, advertising and promotion.

Then, we have "Customer Services." This Vice President will oversee 10 area offices and 85-90 customer services districts focused on delivering the mail and providing top quality retail services. Our more than 29,000 post offices will report to these units.

The third part of our field structure is "Processing and Distribution." This Vice President will manage 10 area Processing and Distribution Offices and 230-235 Mail Processing Facilities focused on mail distribution and logistics. These will include Area Distribution Centers, Bulk Mail Centers and Air Mail Facilities.

We're still working on staffing for the area offices, district offices and facilities offices, so I don't have all the answers yet. We want to talk more with all of you, and hear your thoughts and suggestions to help us complete these changes. I will provide more information on the field structure in my "60-Day Announcement," when we talk about how we will achieve all of our goals.

Six other functional Vice Presidents will report to the Chief Operating Officer.

The first department is Vice President for Engineering Research and Development. All of our engineering and research functions will be combined in this department.

Next is the Vice President for Transportation. This individual will be responsible for managing our air and surface transportation requirements.

Then, we have the Vice President for Operations Support. Among this department's responsibilities are facility activation, delivery policy, and operations requirements.

Next is the Vice President for Customer Service Support. This person will look after retail services and policies, and relations with our medium and small business accounts.

Then comes Facilities. This Vice President will manage our real estate portfolio.

Finally, we have the Vice President for Purchasing. This is a new name for the former procurement and supply department.

We said 24 days ago we would reduce bureaucracy and layers of management, and as you can see we have, starting at the top. We've eliminated Associate Postmasters General, Senior Assistant Postmasters General, Regions, Divisions and Management Sectional Centers as they now exist. The new Headquarters structure will be in place by the middle of September, and the entire restructuring will be completed in 90 days.

To guide our transition, we have created a project management work team. Representatives from each major function are working together to identify the tasks that need to occur and in what timing and sequence. Each Customer Service Center and Mail Processing Area Office will also create transition teams to phase out the old structure and phase in the new.

I want to ask all of you to have patience, as change can be frustrating. And I'm asking for your support and involvement in this process. Changing over to this new structure is a challenge for all of us.

The second item I want to discuss is the impact the new structure will have on a lot of people through no fault of their own. The decisions to restructure and rightsize our organization are being made very rapidly. However, in your letters to me and in individual and group meetings, you have encouraged me to move quickly so that everyone will know where they stand. Many of us who have worked on the restructuring have had to make some very difficult decisions. The toughest decision any manager has to make is to tell a loyal and dedicated employee that their present job no longer exists.

To help achieve our goals and reduce overhead, we will be giving about 140,000 employees who qualify—through a combination of time in service and age—the opportunity to retire and leave with a cash incentive of six months' pay. People who are currently eligible to retire, as well as those who are age 50 or older with 20 years of service, and those who are any age with 25 years of service will have the opportunity to retire from August 17 through October 3 and receive the cash incentive. The exceptions to the early out option and the lump-sum retirement incentive are Rural Carriers, processing equipment maintenance employees, Postal Inspectors, and Postal Police Force employees.

We expect approximately 40,000 people to take advantage of this incentive opportunity. Each eligible employee will receive a letter announcing the special retirement option, a personalized annuity estimate and a benefit summary, all the information they need to make this important decision. These materials are being mailed this weekend. By next Friday, personnel offices will have the necessary forms and information on hand to assist those who want to exercise the retirement option. Personnel offices will receive additional training on the early-out option via satellite.

Many of you are probably wondering what we'll do if we don't get the necessary people to take the early-out option. My position is we just have to wait and see. We'll keep you apprised of the results.

The third item I want to discuss today is what we're doing besides reducing overhead to eliminate the projected deficit. We're taking three steps: one, reducing funding for Headquarters programs; two, looking at our financial options; and, three, exploring ways to generate more revenue.

First, we've eliminated funding for several Headquarters programs, including the Robotics Applications program and the Licensing Program for Designer Postal Service clothing.

We've also reduced funding for a lot others. We've taken $33 million in funding from the Olympic Marketing Program. We've reduced funding for advertising. And, we are going to reduce and restructure ODIS, including eliminating the monitoring centers.

We're also reducing our capital expenditures and cutting back on furniture, supplies and equipment.

Second, we are looking at several financial initiatives. We plan to covert all of our 20 million check payments per year from Treasury checks to commercial bank checks to get better control of our cash and to realize the full return on our funds until they clear the banking system. We also intend to pursue refinancing of our existing Federal Financing Bank debt.

And, third, we are exploring several steps to generate more revenue and respond to customer needs. A bulk Small Parcel Service would help us become more competitive in the parcel shipping market and enhance our overall lineup of package services. We will look at implementation two new advertising mail services to challenge the competition—"Saturday Certain" delivery and a "Three-Day Delivery Window" service—enhancements customers are asking for. We also want to expand our lineup of international services and market better our 9 million post office boxes.

Through these and other cost-reduction and revenue-generation initiatives, we will succeed in eliminating next year's $2 billion deficit and extending the current postage rates for at least another year.

The fourth item I want to discuss is the aggressive steps we are taking in a variety of areas to improve customer service quality. As a business, we have to look at all of our services the way our customers experience them. We'll expand the concept of external, independent measurement of service quality to other types of mail. In November, we'll request vendor proposals for a measurement system for third-class mail. We hope to submit a similar proposal for second-class mail in late 1993.

For our existing External First-Class measurement system, we are raising the bar on service performance goals. For First-Class Mail intended for overnight delivery, our goal will be 90 percent in 1993, 95 percent in 1994, and 98 percent in 1995, with 100 percent of the mail delivered within one day of the standard. These are aggressive goals, but we can and will achieve them by improving our performance, not reducing our reach and lowering our standards.

Second, in addition to our residential customers, we'll measure the satisfaction level of our business customers, too. We'll introduce a new Business Customer Satisfaction Index system in early 1993.

Third, we're focusing on improving retail service. Six million cash-paying customers visit postal lobbies every day. We've got to make it convenient for them to do so. We're going to examine retail service hours nationwide. I'll be asking our Customer Service Centers to canvass their local communities to identify and meet the shopping needs of our customers.

Finally, we're going to improve our complaint handling process. We'll install toll-free telephone numbers in two locations in September, and evaluate their effectiveness and the customers' response. If it works well, we'll phase it in nationwide.

Some people have told me they don't think we can maintain service quality during this transition. I believe the new structure and the very necessary changes we are making will help us improve our service performance. The new structure gives us more direct control and accountability and will improve communications by reducing the number of levels. You'll have more opportunity for input and responsibility for your actions, and relationships will improve at all levels. I believe this new structure will help improve postal performance.

This brings me to my last point, my vision for the Postal Service * * * our culture * * * and our partnerships with customers, employees, unions and management associations.

I want all employees to be proud to say they work for the Postal Service. That pride, that employee satisfaction, will come from customers satisfaction, from knowing that we're giving them the highest quality service at the lowest possible price.

We will know we have succeeded when customers ask for the Postal Service instead of our competitors, when quality, accountability, competitiveness and value come to their minds each time they think of the Postal Service.

To do that, we have to change our culture throughout the organization. We must move from being adversarial and confrontational to working together in a spirit of cooperation and appreciation. Respect * * * dignity * * * and trust are fundamental tools to help us achieve success, more important than automated equipment or vehicles or stamps. They must become standard operating procedure at every level of our organization.

Each of us today is empowered to engage in a continuous process of change. Each of us plays a part in our achieving the three criteria of business success—accountability, credibility and competitiveness. These are the keys to the future of the Postal Service.

Businesses are accountable. For the Postal Service, accountability has a double edge. It requires that we safeguard the great public trust that we've been granted. And, it demands that we deliver quality service the first time, every time, while keeping our prices in line with the marketplace.

Credibility is essential to our success. Credibility is the bond we have with our customers that allows us to sell our services. We want people to think of the post office in terms of quality, responsiveness, timeliness, reliability and value for the dollar. These are the benchmarks of leadership in the communications business, and we must be a leader if we are to succeed.

When we have accountability and credibility, we also will have competiveness. We will be treating each other as partners. We will be working together to achieve "win-win" solutions, knowing that if any of us loses, we all lose.

We'll be engaged in continuous change * * * striving for continuous improvement in the quality and value of our products and services. We will be forging an alliance that values and balances concern for the customer, concern for our employees and concern for our company.

I realize that the actions we are taking today to revolutionize the Postal Service and begin this process of continuous change represent challenges for all of us. We are making these changes because our survival as a viable communications business is important to this nation and to each and every citizen in it. To survive as an organization, we must be competitive so that we can succeed in meeting the needs of all our 250 million customers.

The changes we make today are just the beginning. We've made a lot of tough decisions. We've got a structural framework set up and we're ready to roll out some solid cost, revenue and service initiatives. But, we're far from having all the answers. We'll be consulting with employee organizations on many issues. We need your help, too. We want you to have a part in shaping the future of the Postal Service. We need you to take ownership and responsibility for our success.

With the commitment of all of our employees and the support of our customers, we can and will make these changes work and bring accountability, credibility and competitiveness to the U.S. Postal Service.

HONORING THE THROGGS NECK HOMEOWNERS ASSOCIATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I recognize today two special events that are being celebrated together this week in my district, the 350th anniversary of Throggs Neck and the 40th anniversary of the Throggs Neck Homeowners Association.

Since 1642, when John Throckmorton set up a colony of 35 families under a charter from the Dutch Governor, Throggs Neck has been characterized by hard work and community spirit. Through the years, immigrants from many nations have built the American dream here, finding jobs and building modest homes for their families.

The Throggs Neck Homeowners Association has continued to keep that community spirit alive. By giving the people of Throggs Neck a place to meet and discuss the future of their neighborhood, the association has helped maintain the quality of life in the community. Be it in a battle to keep an inappropriate homeless shelter out of a residential neighborhood, or sponsoring an antigraffiti program to beautify a shopping district, the association always works with the community's best interests at heart.

I have been proud to be a part of many of the successful projects the Homeowners Association has taken on, and it has been a privilege to serve the people of Throggs Neck. Although reapportionment has moved my district away from Throggs Neck, I will always stand ready to help the community if called upon.

On behalf of my constituents, I thank the members of the Throggs Neck Homeowners Association for their dedication to community.

A LEARNING BANK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. GINGRICH. Mr. Speaker, I would like all my colleagues to read the following article that appeared in the Atlanta Jewish Times titled "A Learning Bank". This project is a wonderful example of what can happen when not only parents, but those in the community, become involved in their children's education.

A LEARNING BANK

(By Richard Bond)

Textbooks and workbooks just weren't working. Scott Heyman, the 11-year-old son of Gail and Lyons Heyman, could not grasp mathematics. Born with the chromosomal disorder Fragile X Syndrome, the youngster's learning disability made it difficult for him to comprehend numbers in the abstract.

"Children who are mildly intellectually disabled just don't understand numbers unless they are attached to something that has real-life meaning," said Mrs. Heyman, who lit upon an idea that school systems around the state are eyeing with interest.

Using her considerable powers of persuasion, Mrs. Heyman, a bright, eager activist-mother, got Bank South to open a mini-branch for the special education students at East Cobb Middle School. It looks just like any bank would, with teller windows, computers, account forms, a telephone and calculators.

Called the Bank South Branch for Learning, the model allows teachers to devise curricula that can be applied to real life. To open an account, youngsters must be able to read and fill out the proper forms. To maintain the balance of their account, they must be able to add and subtract.

"My students will also be able to learn social skills, like how to wait your turn in line," said special ed teacher Margaret Oliver, whose classroom contains the model bank. "Other teachers in the school can incorporate the bank in their subjects."

Ms. Oliver said the telephone at the bank—supplied by Contel Cellular—will also be an instructional tool. "I can teach them how to make a doctor's appointment, how to call 911 in case of emergency, even how to order a pizza," she said. "They'll be learning how to communicate."

Several dozen people gathered at East Cobb Middle School April 23 to open the Bank South Branch for Learning. Mrs. Heyman led a brief ceremony, which included Bank South senior vice president Lee Sessions, Margaret Gary, vice president of Contel Cellular, and U.S. Rep. Newt Gingrich.

The Republican congressman joked that he might have benefited from an early lesson in banking, a reference to his overdrafts at the House of Representative's bank.

"The functional activities of being alive are being bonded to learning," Mr. Gingrich said of the student bank, which he called a welcome partnership between business and community.

"In the real world, there is no way to achieve what you want simply by paying somebody else to do it," he said. "This bank says that learning has to be in the community and of the community. It cannot just be paying your taxes and walking on."

Mrs. Heyman's Bank South project comes on the heels of a similar one she pushed for through Kroger Supermarkets.

In October of last year, the ribbon was cut to open the first-ever Kroger mini store at Sope Creek Elementary School. The mock store is stocked with actual products supplied by Kroger. Students are taught to shop wisely, comparing price, quantity and ingredients.

"The amazing thing is the power of an idea," said Mrs. Heyman, who notes that Kroger is planning to open other mini stores around the state. "People want to do more for children, but they don't know how," she said. "These (the model bank and the mini store) give them a vehicle."

DARE TO MAKE A DIFFERENCE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of my colleagues the dedicated work of one of my constituents, Lt. Tab Turke of the Morgan County Sheriff's Department.

Lieutenant Turke was recently installed as the head of the National DARE Officers Association. He has been head of the DARE, Drug Abuse Resistance Education, Program in Morgan County for several years and was instrumental in the implementation of the program in Morgan County area schools.

The following is an article from the Jacksonville Journal-Courier entitled "D.A.R.E. Leader Puts County on Map" which tells of Lt. Turke's selection as the head of the National DARE Officers Association and his dedicated work in the community.

D.A.R.E. LEADER PUTS COUNTY ON MAP

Morgan County is proud of Lt. Tab Turke.

The county's Drug Abuse Resistance Education officer was installed this month as the head of the National D.A.R.E. Officers Association, which makes him the leader of one of the most popular police organizations in the country.

His selection says a lot about Mr. Turke and about the local D.A.R.E. program. It says that leadership comes from communities large and small, and that this nation will need to cultivate such leadership everywhere if we are to win this long-running war against drug and alcohol abuse.

Those problems are not confined to Los Angeles, Chicago, Atlanta and New York; those are problems with which every farming community in the Midwest, every small industrial city in New England, every factory town in the South, every sprouting suburb in the West must contend.

We cannot afford to lose a generation of our children; they are too precious to us, and the futures of our communities too dependent on them to allow them to fall under the spell of drug dependency.

One need only meet Mr. Turke and his counterparts in Jacksonville and other local counties to know how sincere D.A.R.E. officers are about helping our children to resist the lure of drugs. And one need only talk with local children about the police officers who come into their schools to realize that the program works. It helps instill values in preteens that allow them to resist the pressure to use drugs or alcohol at an early age.

We should not pretend that D.A.R.E. is the only answer in the drug war. It is not, as Mr. Turke and other police officers are the first to admit. Older teens face extraordinary pressures to use alcohol particularly, and the lessons D.A.R.E. teaches younger children must be reinforced.

We also must make it easier for those who already are hooked on alcohol and drugs to get help when they seek it and consistently enforce the law against those who sell drugs.

But despite all that, D.A.R.E. is one of the most effective tools at our disposal for arming children to resist, and we are proud of the work that D.A.R.E. officers have done on our children's behalf.

Tab Turke is an example of why the program works, and we are confident that he will do an outstanding job of leading the nation's D.A.R.E. officers in a fight we must win.

H.R. 5231, THE NATIONAL COMPETITIVENESS ACT OF 1992

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mrs. MINK. Mr. Speaker, at this time I would like to submit an essay written by one of my summer interns, Brent K. Yamashita, a student at Princeton University. Brent makes an argument in favor of H.R. 5231, The National Competitiveness Act. He is majoring in electrical engineering and public policy, so I feel that he understands the importance of technology and productivity in the national economy. When H.R. 5231 comes up for a vote, I encourage all of my colleagues to consider the arguments that Brent makes here:

We are living in a historic time. The Cold War has ended, Communism has fallen in Eastern Europe and the former Soviet Union, and for the first time we may have peace between Israel and the Arabs. The European Community will soon unite into an economic bloc, and old adversaries like Germany and France will now become economic allies. We have a tremendous opportunity for unprecedented peace and global cooperation, to create a "New World Order."

This era of peace will usher in an increasingly integrated global economy. What will be the role of the United States? Since the end of World War II, we have been the dominant military and economic power in the world. However, if we are indeed headed towards an era of peace, other nations will become less dependent on our protection, and our military might will become less important. Instead, it seems that economic power, and not military power, will determine who leads the world in the 21st Century.

It is evident that we no longer operate as the lone, dominant economic power in the world. Japan invests a substantial amount of money in Research and Development and in helping new industries to get started, and it has established itself as a major player. The European Community, propelled by a unified Germany that is investing billions in infrastructure and industries, will soon assume its place alongside America and Japan. If America is to maintain its economic strength, we too must invest more to increase our competitiveness.

The areas where we must invest more are *industry*, *infrastructure*, *education*, and *technology*. Despite our budget deficit, we must spend more on these things, and not less. I believe that cutting funds in these areas, although it may reduce the deficit, will have a deleterious effect on the economy in the long-run. Congress will soon consider a bill that increases America's technological and manufacturing capability, and thus, helps us to compete in the global market. H.R. 5231, the National Competitiveness Act, represents a serious commitment on the part of Congress to strengthen America's economic position as we venture on into a new era of global competition.

Manufacturing is a key element of our economy. Its productivity can be greatly enhanced by experimenting with new production methods and by accessing information provided by government agencies. Section 202 of the bill states the findings of Congress that "new developments in flexible, computer-integrated manufacturing, electronic manufacturing communications networks, and other technologies make possible dramatic improvements across all industrial sectors in productivity quality, and the speed with which manufacturers can respond to changing market opportunities."

H.R. 5231 provides the funds to do all of this. Increases in productivity lead to lower costs in the manufacturing of American products, and this makes us more competitive in the global market. On the May 5, 1992, at a hearing before the Technology and Competitiveness Subcommittee of the House Committee on Science, Space, and Technology, Nobel Laureate Robert Solow stated that the United States government should take the lead in a "reformation of manufacturing," and many scholars agree with him. A team effort between government and industry is essential if we are to compete successfully with the European Community and Japan.

Technology also increases productivity, and thus, competitiveness. Examples of this would be the cotton gin, the assembly line, and the computer, all of which revolutionized American industries. Michael Baroody of The National Association of Manufacturers reported to the same Technology and Competitiveness Subcommittee that of the 3.25 percent average annual growth in gross domestic nonfarm output in 1954–90, approximately 29 percent is attributed to technological advance. 39 percent is ascribed to labor inputs, 22 percent to capital inputs, and 6.7 percent to government capital. To maintain America's standard of living and competitiveness, we must continually search for new tools, products, and methods of production, and this is precisely what H.R. 5231 accomplishes.

To authorize $1.4 billion in additional funding for the Advanced Technology Program (ATP), under the auspices of the Department of Commerce. This year the ATP was given $68 million, enough for 38 companies researching such projects as switches for optical computers and new plastics for cars.

One of the main provisions of the bill provides $1.4 billion in additional funding for the Advanced Technology Program (ATP). The ATP is a program under the auspices of the Department of Commerce which provides grants, usually about $2 million, to companies to conduct industry-related research and experiments. This year the ATP was given $68 million, enough for 38 companies to research such projects as optical computer switches and plastics for cars. H.R. 5231 will allow even more industries to explore cutting-edge techniques and products that current credit limitations prevent them from doing. In the past, the government has given several billion dollars a year to the Department of Defense to research and develop in such areas as electronics, communications, and aerospace. As we pare down the defense budget, it seems logical that we reallocate some of those funds into R&D in non-military areas.

Many critics argue that the bill adds to the deficit, authorizing approximately $2.2 billion in fiscal 1993–1997, while creating no new revenue. However, the real payoffs from this expenditure would help our nation's economy much more than, say, the $40 billion Space Station. When considering whether the $2.2 billion is worth it, one has to ask what the cost of becoming more uncompetitive in the world market will be for the United States. Can we afford to fall further behind Japan and the EC? Indeed, investing $2.2 billion now may save us from losing even more money in the international market in future years, and I call this a wise investment.

I do not wish to imply that America's competitive problems can be cured by one bill. What is needed is a strong effort by both government and industry. Industries can do their part by investing in new equipment and training for its workers. In the meantime, government cannot stand idle as our competitiveness deteriorates and other nations pass us by. It is time for our government to take on an active role to assist our industries.

As the global economy continues to integrate, it is in America's best interest to maintain our position as an economic leader. To do this, we must increase our competitiveness. Industry and academia feel that H.R. 5231 is a step in the right direction, and I agree. I urge all Members to vote in favor of H.R. 5231, and in doing so dedicate themselves to maintaining America's tradition of economic strength.

HONORING THE U.S.S. "RADFORD"—DD446

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. APPLEGATE. Mr. Speaker, the success or failure of the United States during times of military conflict has often been determined by the equipment that goes with the men and women who have served in our Armed Forces; and when it comes to the great ships that have achieved naval victories for America, the U.S.S. *Radford* certainly ranks among the most important vessels in our history.

The U.S.S. *Radford* had a history of service to our Nation which spanned 3 major conflicts; World War II, Korea, and Vietnam. The *Radford* was in service for over a quarter of a century, and it was involved in some of the most important naval engagements of the Second World War. This destroyer, launched in May 1942, eventually went on to earn 21 battle stars and 14 campaign ribbons, along with Presidential citations from the United States, Korea, and Vietnam.

During the weekend of October 9th through the 12th of this year, the first ever national reunion of crew members from the *Radford* will be held in New Philadelphia, OH, at which time the U.S.S. *Radford* Association will be founded and a swearing in of officers will be performed. I want to take this opportunity to congratulate Vane S. Scott of Newcomerstown, OH, for all of his hard work and efforts in bringing about this special day for the crew members and the ship which has captured the admiration of many. The U.S.S. *Radford* was one of America's greatest fighting ships.

Mr. Speaker, I would like to take this opportunity to include in the CONGRESSIONAL RECORD the outstanding history of the U.S.S. *Radford* as is detailed in the Dictionary of American Naval Fighting Ships, and I wish to join with all of my colleagues in Congress in paying a special tribute to those, alive and departed, who saw service on the *Radford*. All Americans are deeply proud of them.

"RADFORD"

Rear Adm. William Radford was born in Fincastle, Va., 1 March 1808 and entered the U.S. Navy during 1825. He commanded the landing party from Warren which captured the Mexican warship Malek Adhel at Mazatlan and took part in other Pacific coast operations of the Mexican war. During the Civil War, he commanded the ill-fated Cumberland but was on board the frigate Roanoke as a member of a Court of Inquiry when his ship was attacked by the Confederate casemate ram Virginia. Captain Radford subsequently commanded the armored ship New Ironsides during Union attacks on Fort Fisher in December 1864 and in January 1865. Promoted rear admiral in 1866, he commanded the European Squadron during 1869 and 1870. Rear Adm. Radford died at Washingon, DC., 8 January 1890.

(Destroyer No. 120: dp. 1,090; 1.314′5″; b. 31′8″; dr. 9′9¾″; s. 35 k.; cpl. 142; a. 4 4″, 2 3″, 12 21″ tt.; cl. Wickes)

The first Radford, a steel, flush-deck-type destroyer, was launched 5 April 1918 by Newport News Shipbuilding & Drydock Co., Newport News, Va.; sponsored by Miss Mary Lovell Radford; and commissioned 30 September 1918 at Norfolk Navy Yard, Lt. Comdr. Arthur S. Carpenter in command.

Assigned to the Destroyer Force, Atlantic Fleet, Radford departed Norfolk 12 October on a shakedown cruise to Melville, R.I. She returned to Hampton Roads 21 October 1918 to join the escort force for the Newport News section of Troop Convoy 76 bound for New York and European waters.

Radford subsequently operated on the U.S. east coast into 1919, sailing southward to Cuba 14 January 1919. While based at Guantanamo Bay, she also cruised to Guacanayabo Bay and Santiago, Cuba, before returning north 13 March 1919. Radford operated from Hampton Roads with the Atlantic Fleet from March until July 1919.

Radford was reassigned to the Pacific Fleet in July 1919, and cleared Hampton Roads 19 July for Balboa, C.Z., and San Diego. Upon her arrival at San Diego 7 August, she joined the Destroyer Force, Pacific Fleet. Radford operated from Mare Island Navy Yard, San Diego, and San Pedro into 1922, taking part in training exercises and squadron maneuvers as a unit of Division 12, Squadron 10, Destroyer Flotilla 4. She called at Seattle, Tacoma, and Bellingham, Wash., during September 1919, and at Portland, Ore., in December 1920. Designated DD–120, Radford decommissioned 9 June 1922 and remained in reserve at San Diego for almost 15 years.

Radford was reclassified AG–22 on 16 April 1932 following the decision to convert her to a mobile target vessel. Conversion work was never undertaken and Radford reverted to

DD–120 on 27 June 1932. Struck from the Navy list 19 May 1936, Radford was sunk 5 August 1936 in accordance with the provisions of the London Treaty for the limitation and reduction of naval armament.

(DD–446: dp. 2,940 (f.); 1.376′5″; b.39′7″; dr. 17′9″; s.35 k.; cpl. 3.29; a. 5 5″, 10 40mm., 7 20mm., 10 21″ tt., 6 dcp., 2 dct.; cl. *Fletcher*)

The second *Radford* (DD–446) was laid down by the Federal Shipbuilding & Dry Dock Co., Kearny, N.J., 2 October 1941; launched 3 May 1942; sponsored by Mrs. Francois E. Matthes; and commissioned 22 July 1942, Lt. Comdr. William K. Romoser in command.

After shakedown off the New England coast, *Radford* towed the burning transport *Wakefield* (AP–21) to Halifax where the fires were extinguished. Antisubmarine patrol off the east coast followed and on 5 December *Radford* got underway for the Pacific.

At Noumea *Radford* joined TG 67.5 with which she bombarded Japanese positions and installations on Guadalcanal 19 January 1943. On the night of 23–24 January, she attacked the enemy staging area on Kolombangara and within the next week had splashed three enemy planes. *Radford* then retired to Tulagi, whence she sailed to cover the occupation of the Russell Islands by U.S. troops. *Radford* shelled Munda Airfield and installations on New Georgia Island on the night of 5–6 March 1943 and, on the nights of 15 and 16 March, bombarded Kolombangara.

On 29 June *Radford* steamed with the First Echelon of the Western Force for Rendova to provide shore bombardment and antisubmarine patrol to cover the landing of troops.

During this action she shot down five planes. On 1 July she damaged a Japanese submarine with gunfire and depth charges. She was involved in the night surface engagement off Kula Gulf, 5–6 July, firing on three enemy ships and picking up survivors of *Helena*. During the night of 12–13 July, *Radford* acted as a screening unit for TG 36.1 while that force conducted an offensive sweep against the "Tokyo Express."

On 17 July, she left the Solomons for the New Hebrides; Auckland, New Zealand; and Noumea, New Caledonia. Returning to Guadalcanal 14 September, she sank a number of enemy barges and on 25 November sent the Japanese submarine *I–40* to the bottom off Makin. After the Gilbert Islands operations, *Radford* steamed for Pearl Harbor and San Francisco where she arrived 15 December for overhaul.

By 2 February 1944 *Radford* was back at Majuro atoll. On the 18th, she screened tankers as they fueled the Truk Island striking force, then escorted the replenishment force to the New Hebrides. In March, she returned to the Solomons and shelled gun emplacements on Bougainville.

Proceeding to New Guinea in April, *Radford* bombarded the beach at Humboldt Bay in support of landings there on the 22d. She steamed back to the Solomons; stopped at Noumea; and returned to the New Guinea area in early June. Into September she continued support of the New Guinea campaign with escort runs and gunfire support missions.

On 12 September *Radford* sailed for Pearl Harbor for repairs. On 20 November she steamed for Eniwetok and Ulithi. On 4 December she got underway escorting a group of merchant vessels to Leyte Gulf. She operated there and off Mindoro until steaming for Lingaven Gulf 4 January 1945. After supporting the landings on Luzon, she delivered fire support on the beaches of the Bataan Peninsula. While maneuvering into Mariveles Harbor to take the mine-damaged *La Vallette* in tow, *Radford* was herself damaged by a mine.

Sailing for Leyte Gulf 20 February, she continued on to Eniwetok Atoll, Pearl Harbor, and San Francisco. She remained there undergoing repairs until 30 September 1945. *Radford* decommissioned 17 January 1946.

After conversion to an escort destroyer (DDE–446), 26 March 1949, especially equipped for antisubmarine warfare, *Radford* recommissioned at San Francisco 17 October 1949. Following shakedown off the California coast, she sailed to her homeport of Pearl Harbor. In May 1950 she escorted *Valley Forge* (CVA–45) to Subic Bay and Hong Kong. With the outbreak of the Korean Conflict, she was dispatched to Korea where she operated until returning to Pearl Harbor 9 November.

Occupied with overhaul and type training at Pearl Harbor for the next year, *Radford* then sailed 19 November 1951 for operations with Task Force 77, a fast carrier striking group, off Korea. Other operations found her with British units off the west coast of the embattled peninsula and steaming close inshore for bombardment and to support minesweeping operations. She also rescued survivors from the grounded S.S. *Easton* off the coast of Japan, before returning to Pearl Harbor 21, June 1952.

Radford cleared Pearl Harbor 4 September 1952 for operations on patrol and in exercises in the western Pacific, based at Eniwetok. She returned to Pearl Harbor 25 November for type training until 3 May 1953, when she headed for the Far East. Once more *Radford* operated with TF 77, bombarding the east coast of Korea. From 12 to 22 July, in company with *Manchester* (CL–83), she steamed off Wonsan Harbor, firing on targets in the vicinity of Hode Pando, and later entered the harbor itself. Following duty on the southern patrol in the Taiwan Strait, she returned to Pearl Harbor 30 November.

During the next 16 years *Radford* alternated operations in the Hawaiian area with deployments to the Far East. During this period she made 11 WestPac cruises, serving on the Taiwan Patrol in 1954, 1955, and 1956 and operating in Japanese waters in 1957, 1958, and 1959. On 25 March 1960 she entered the U.S. Naval Shipyard at Pearl Harbor to begin her 7-month long FRAM (Fleet Rehabilitation and Modernization) II overhaul, which gave her a helicopter hangar and flight deck. During 1961 she operated continuously in the Hawaiian area, picking up the nose cone of Discoverer XXV on 19 June and rescuing 5 fishermen from the sea 16 November.

On 5 February 1962 *Radford* sailed for the western Pacific as a unit of Antisubmarine Warfare Task Group 70.4 composed of *Bennington* (CVS–20) and the eight destroyers of Destroyer Divisions 252 and 92. She participated in joint SEATO operations, was called to the South China Sea to help meet the Laotian crisis in May, and in June was called to the Taiwan Straits due to heavy Communist buildups in the area. She returned to Pearl Harbor 18 July and became DD–446 again 7 August 1962. On 3 October *Radford* was stationed a few hundred miles east of Midway Island in the 4th orbit recovery area for Project Mercury's Sigma 7 flight.

In a 1963 overhaul Variable Depth Sonar and DASH equipment was installed. *Radford* steamed to WestPac again in 1963, 1965 and 1966. During 1967, 1968, and 1969, she operated on Yankee Station and bombarded Viet Cong targets in South Vietnam. *Radford* decommissioned at San Francisco and was struck from the Navy list 10 November 1969, to be sold for scrap.

Radford earned 12 battle stars for World War II service, five battle stars for Korean War service; and four for Vietnam service.

CONGRATULATING DOUGLASS C. JEFFORDS ON HIS RETIREMENT FROM THE U.S. NAVAL RESERVE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. CLEMENT. Mr. Speaker, I am pleased to join family and friends in congratulating Capt. Douglass C. Jeffords on his retirement from the U.S. Naval Reserve.

Captain Jeffords has had a distinguished and honorable career serving our Nation. A 1958 civil engineering graduate and NROTC scholarship student of Vanderbilt University, he was commissioned a surface line officer and first served aboard the U.S.S. *Lynde McCormick*. He made two deployments to the Western Pacific before serving on the U.S.S. *St. Paul*.

Following his release from active duty in June 1968, he affiliated with the Naval Reserve Surface Division in Nashville. He was an instructor in a number of specialties and commanded a number of reserve units, including the advanced base functional component headquarters which was assigned to the Commander Naval Activities Eastern Atlantic.

In October 1988, he was assigned as commanding officer, Naval Activities United Kingdom Headquarters Detachment 108, and as Chief of Staff, Commander Naval Activities Eastern Atlantic. In this assignment, he was responsible for planning for the mobilization, training, organization and activation of over 600 naval reservists in 20 units located in eight different readiness commands. His efforts resulted in new organizational structures, concepts and procedures for more effective utilization of Reserve forces who provide logistics support to operating forces.

Following Desert Shield/Desert Storm, Captain Jeffords proposed a new Reserve organization to augment logistic support functions. This concept has been adopted for use throughout the Navy.

At present, Captain Jeffords is Assistant Deputy for Readiness in region nine, Memphis. In this position, he is responsible for the training and readiness of over 5,000 naval reservists in a five-State area.

During this time, Captain Jeffords found time to earn a master of science degree in structural engineering from Vanderbilt. He also attended the Naval War College in Newport and is an active member of a number of professional associations. His awards include the Navy Commendation Medal and the Armed Forces Expeditionary Medal.

Mr. Speaker, I commend Captain Jeffords for his dedication and perseverance. A military career has many challenges and hurdles. As we well know, these challenges and hurdles confronted not only Captain Jeffords but also his wife and three sons and they all have met them with distinction and honor.

It is a pleasure to be able to congratulate Capt. Douglass C. Jeffords on his retirement from the Naval Reserve.

A PRESCRIPTION TO PREVENT TAKEOVER MANIA

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of our colleagues the following article authored by Lee Thomas, a longtime friend and a business and civic leader of wide renown in Louisville, KY.

The article appeared in the summer 1992 issue of Business and Society Review. It is entitled, "Hostile Takeovers: When the Vultures Call," and it recommends steps to be taken to prevent the return of the takeover-buyout mania which characterized the 1980's—and whose pernicious economic effects plague us to this very day.

Mr. Thomas is the former president and chairman of Vermont American Corp., headquartered in Louisville. Lee is a trained, perceptive, and knowledgeable business person with a distinctly uncommon characteristic: a social conscience.

Mr. Speaker, Lee Thomas and I have talked about the evils of the takeover binge of the go-go 1980's and the damage it did to the industrial capability of American business and to the health, well-being and prosperity of U.S. workers.

We cannot slip back into the old ways of the decade of the 1980's when greedy, rapacious Gorden Geko-types destroyed old line American businesses and exported abroad tens of thousands of high wage-high skill jobs through leveraged buyouts and hostile takeovers.

Mr. Speaker, I encourage our colleagues to heed the words of my friend, Lee Thomas, for they offer a strong antidote against a recurrence of the takeover-buyout fever of the 1980's.

In 1986, when I was the chairman of Vermont American Corp., the power tool accessories manufacturer, the Newell Company began to acquire shares in our company in a process known as a "creeping tender." As a defensive measure, Vermont American began to buy back its own stock. Then in mid-1989, Newell tendered for a large block of our stock at $30.50 per share; they also went to court and obtained an injunction on the theory that our buyback program was a fraudulent use of company funds by me to enrich myself.

I found out that our second largest shareholder was cooperating with Newell and planned to sell to that company. At this point, we sought a "white knight." A holding company owned by Emerson Electric, Robert Boosch, and Sears Roebuck bought Vermont American just before the end of 1989 for $41 a share. (Just prior to the tender, the stock was selling on the American Stock Exchange for $26 a share.) In the trial, I was found innocent—but the company was lost and I was out.

Since the purchase, three plants have been closed and production has been consolidated. In recent months, the company has done well and morale seems up.

Vermont American fared better than many corporations involved in takeover attempts. Many other companies declared bankruptcy during the recent recession, casualties of overleveraging.

Though merger and acquisition activity has slowed considerably from the frenetic pace of the 1980s, we have not yet adequately identified the dangers corporate takeovers pose to our free-market system. Nor has Congress enacted legislation to guard against the excesses of the past decade from happening again.

Without the enemy of communism to oppose, America seems to be left with a pernicious enemy within: greed. It is a potentially fatal disease. Its symptoms are many: disregard for the environment, monopolistic practices, and insider trading, among others. And the practice of expending enormous sums of capital to make businesses larger and less efficient while lining the pockets of few seems to be the most egregious symptom. Hostile takeovers do not create new markets, produce breakthroughs in research, or result in superior products in the marketplace. The increase in debt strengthens neither our nation's economy nor the world's.

Why have we not examined this problem fully? It may be that we have taken at face value the myths perpetuated by the investment bankers and lawyers who reap enormous profits from engineering takeover deals. Let's examine a few of these myths.

Myth One: Companies being bought out are poorly managed, so it is better to have them weeded out of the system.

While badly run companies may sometimes get taken over, that is not the general rule. Corporate raiders look for firms that bear the marks of good management:

A brand with national recognition is an important asset that reflects good marketing management.

A low debt-to-equity ratio (total debt burden as a percentage of the stockholder's net worth) is very important to the acquiring company. They can use the borrowing capacity of the acquired company. They can use the borrowing capacity of the acquired company to generate cash to help finance the takeover. But a company's conservative balance sheet reflects good management: it keeps business options open, enables a firm to weather unforeseen adversities, and allows for long-term investments in research and development, employee training, and modernizing facilities.

Corporate raiders zero in on companies with a low price-to-earnings ratio (the cost of a share of a company's stock divided by the reported earnings per share for the most recent year). Occasionally, a company's stock is priced low because the stock market has no confidence in the company's management due to poor past performance. Equally possible, if not more plausible, a low price-to-earnings ratio exists because the company's good management insists on operating for long-term gain rather than short-term objectives. In other words, if management puts off spending money on environmental control, quality improvement programs, retraining workers, and other programs for the long term, the earnings will be up for awhile—and the price-to-earnings ratio may be high enough to discourage a takeover. In this scenario, the poorly run company is more likely to remain independent than a well-run firm.

Undervalued assets are extremely attractive to corporate raiders. But assets often appear undervalued as a result of good tax planning. Further, some of a business' most valuable assets do not even appear on the balance sheet: customer trust and loyalty, new products in the pipeline, and, most important, outstanding people who work well together.

Myth Two: Corporate takeovers are a boon to individual investors, who receive an above-market price for their shares.

Investors must remember that people who take over companies do so for their own gain. Raiders may believe that the company is worth more broken up and sold off in pieces. Or, they may wish to establish themselves in a controlling position in order to milk the company for private gain. Or, they may think they are good enough managers to realize the long-term potential of the company for themselves.

Independent shareholders would do well to consider what existing management might be able to accomplish for the shareholder in the long run. Remember that the old management should know the industry—they did build a business worth buying.

The real boon here is to the investment bankers, such as Bear Stearns. If a company wants to hire expert help in defending itself against a takeover, Bear Stearns is at your service. If a company or an individual wants to pursue a hostile takeover with expert help, again, Bears Stearns is at your service. Last year, Bear Stearns Chairman Ace Greenberg made more than $7 million. And the investment bank's president Jimmy Cayne, brought home more than $6.1 million.

The losers are the individual shareholders who have lost the potentially greater gain of long-term growth had the company not been bought out.

Myth Three: Unfriendly corporate takeovers benefit society because they increase efficiency in production and business management.

Size does not contribute to efficiency. True, some industries, such as car manufacturing, require huge capital investment that only a big company can provide. But in most industries, it is small- and middle-sized entrepreneurial companies that experience the greatest growth.

Some investors, of course, might like a merger that creates a monopoly within an industry. The profits could be increased by raising prices. Of course, this practice does not benefit consumers or society. Further, our government enacted antitrust laws to protect us from abuses. Oddly enough, part of our current economic ills is caused by the reluctance to enforce those antitrust laws in the 1980s.

Third, mergers are frequently paid for, in part by selling off divisions and closing plants. This can be enormously disruptive to communities and devastating to displaced workers. The enormous corporation debt taken in the 1980s', also has been cited as a cause of length and depth of the recession.

Nor do hostile takovers necessarily promote good management and efficiency. For example, when Vermont American Corp. first went into the cutting-tool business, its best source of steel was Sharon Steel. Sharon was an extremely well-run, middle-size company, a leader in developing participatory management. Then, Victor Posner, one of the early corporate raiders, bought out the company. Sharon's pricing became chaotic and deliveries became irregular. The company was then leveraged in order to raid other companies. Vermont American scrambled to find other sources of steel, but none was as good as Sharon under its old management. Last year, Sharon filed for bankruptcy under chapter 11.

PARANOIA SETS IN

The management of a well-run entrepreneurial firm invariably panics when the corporate raider calls. Managers know their jobs are in jeopardy. The acquiring company will likely provide the new top management and the larger company will need only one legal department, one benefits department, and one tax department.

When the raider calls, paranoia sets in. Management gets sidetracked from running a good business. It must take defensive measures to protect the company. It hires expensive lawyers and even more expensive investment bankers. Those fees skim off millions of dollars that could have been channeled into improving products, research and development, or other investments.

To block a merger, management sometimes tries to sponsor a leveraged buyback, in which the company borrows huge sums of money to buy back its stock from the raider at an exorbitant price ("green mail"). In other cases, management buys back all of the company's stock and takes the company private. In either case, the debt load leaves the company vulnerable to any downturn in the economy.

One of Vermont American's suppliers, Belknap Hardware, went bankrupt this way. The inventory was liquidated and every employee lost his job. Clearly, this was not a good thing for anybody.

So, do hostile takeovers and mergers help society? In most cases the answer is no. Entrepreneurs, aware of potential takeovers, may well avoid taking their companies public. To keep their firm independent, entrepreneurs may intelligently decide not to tap into public capital markets and instead grow more slowly with whatever funds that can be internally generated. This attitude does not contribute to a healthy capitalist system. For it is the new growth companies with new stock issue traded over the counter or on the American Stock Exchange that stimulate the money markets and fuel a dynamic capitalist system.

SOCIAL COSTS

Hostile takeovers have heavy social costs as well. Small- and middle-size companies are an important presence in communities. Local companies are the big users of the local bank. They buy their insurance through local insurance agents. They use local attorneys and accountants. Top executives are well paid and can be expected to contribute to various good causes including charities, art and culture, and the local college. Local employees keep their money in area banks, buy real estate in town, pay municipal taxes, and shop on Main Street.

When factories and offices are cut back or closed, managers, craftsmen, and workers are dealt a severe blow. When termination benefits run out, it is difficult for people to find comparable jobs. The more specialized a person's skill, the greater the difficulty. Even employees who stay on after a takeover may ultimately lose their job when the company down-sizes in a struggle to make a profit on its investment.

Takeover companies are also subject to the great and evil temptation to raid the bought-out company's pension fund to help reduce debt. The takeover company can reduce its contribution to the pension fund or just remove cash that its actuaries determine is an "overfunded" amount. Conscientious employers, in contrast, want to be overfunded and use conservative actuarial assumptions. Raiding pension funds represents a betrayal of trust and threatens the financial security of workers.

In the long term, hostile takeovers also hurt a community's capital base. In the short term, the sale of a local company benefits shareholders who live in the community. But, as time goes by, these wealthy individuals die off and the absence of the wealth-creating enterprise takes its toll.

What about the top management of a bought-out company? Golden parachutes notwithstanding, successful business leaders and top managers who have built a business and have plenty of valuable experience to offer society are suddenly taken out of a productive field of activity. Although they walk away with lots of cash to invest, they are no longer able to use their expertise in the creative activity they know best.

Age discrimination can prevent senior executives from taking top jobs in other firms. And with so many mergers taking place, there are fewer companies to employ top executives. It is a considerable loss to society and disheartening to those who have proved their leadership capabilities.

It is tempting to compare America's situation with the Japanese. There are few hostile takeovers in Japan. There have, however, been mergers that have created the huge keiretsus that dominate the Japanese economy. We can wonder about the efficiency of these companies in the long run. There is no doubt that their economy has been aided by the education of so many engineers and scientists while ours has been hurt by the education of so many lawyers and investment bankers.

It is also tempting to compare our situation with the former Soviet Union. Hard-liners in the U.S.S.R. believed that business and industry should be centrally controlled. But that approach is 180 degrees off, as history demonstrated. Giant entities like the former Soviet ministries are notoriously inefficient and place too much power in the hands of too few people. They discourage individual initiative, stifle innovation, eliminate healthy competition, and respond poorly to customers.

Indeed, the seeds that brought about communism's failure can be seen in American corporate mergers, especially hostile takeovers. The corporate giants create situations damaging to workers, management, and to the American entrepreneurial spirit.

America needs to cure herself if she wants to regain her economic health. We should use our democratic system to correct the flaws that threaten our economy. Only then do we stand a chance of competing successfully with market economies smart enough to favor long-term growth as essential to innovation and healthy, free enterprise.

LEGAL REMEDIES

Here are some legislative suggestions that address the problem of hostile takeovers:

Eliminate the tax deduction for interest on corporate debt incurred in takeovers.

Require takeover initiators to provide reasonable protection for employees who are displaced or demoted within three years of a takeover.

Require enough equity in a takeover to protect the credit rating and thus the value of existing debt. Such a move would, for example, protect investments of retirees.

Criminal penalties for companies that raid or reduce the percentages of payroll paid into a pension plan within five years after a takeover. Laws now only protect against the worst such abuses.

When a company acquires 30 percent of another company, it should by law offer all shareholders the highest price paid for any shares in the previous twelve months.

Protect pension fund trustees who vote company shares owned by any pension plans. Now, they face lawsuits no matter how they vote.

Protect communities from lost concessions when plants are closed after takeovers. States and cities often offered incentives to lure plants. When plants close, the communities have the expenses to amortize but not the promised jobs.

Strengthen and enforce antitrust laws.

THE MINING LAW OF 1872 DEBATES

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. RAHALL. Mr. Speaker, last week the other body engaged in several hours of debate on the subject of reforming the mining law of 1872.

It was a fascinating debate to watch. The senior Senator from Arkansas offered an amendment to the fiscal year 1993 Interior appropriation bill to place a 1-year moratorium on the issuance of mining claim patents. This amendment would simply have prohibited the BLM from allowing mining claims to be purchased for $2.50 or $5 an acre for a 1-year period. Such a provision would in no way affect the ability of the claimholders to locate mining claims or to mine unpatented claims.

However, watching the debate one would have thought that the lifestyle of the Western United States would end if the amendment was adopted. We heard many touching stories about the western hardrock mining industry. Why, I could just see the lone prospector, pick in hand, accompanied by his trusty packmule, out there staking those mining claims.

In this end, the amendment was not adopted. This is a tribute to the stunning oratorical prowess of those arrayed against the Senator from Arkansas. I was greatly impressed.

The fact is that the mining of hardrock minerals on public domain lands in this country is in the national interest. But I would also submit that of concern is not the lone prospector of old, but the large corporations, many of them foreign controlled, who are mining gold owned by the people of the United States for free, and snapping up valuable Federal land at fast-food-hamburger prices.

The senior Senator from Arkansas made this point, and he made it quite well.

I would also submit that the mining law of 1872 needs to be reformed in a comprehensive fashion. With all due respect to the other body, the mining law amendments that it ultimately approved would not accomplish that goal.

This body may be interested in knowing that the authorizing committee, the Committee on Interior and Insular Affairs, has approved a comprehensive bill to reform the mining law of 1872, H.R. 918. This body may also be interested to know that this legislation has a great deal of support from the folks in the West.

We have many touching stories relating to their predicament as well.

As the sponsor of H.R. 918, I have received many letters from westerners in support of the bill. At this point in the RECORD I am submitting a sampling of the letters, but have removed the names and street addresses from them in order to protect the privacy of the individuals who wrote them.

BOZEMAN, MT,
June 16, 1992.

Hon. NICK JOE RAHALL,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE RAHALL: The opportunity for reform of the Mining Law of 1872 comes on June 24th. The Mining Subcommittee Chairman, Nick Joe Rahall will offer a strengthened substitute for H.R. 918, which has been the vehicle for widespread debate in the past two sessions of Congress. I urge you to support this legislation by resisting amendments that may be offered to weaken the bill and, in turn, consider a royalty provision that will bring to the government fair return for extraction of the public mineral resource. This bill should then be marked up and passed out of the House Interior Committee for consideration in the Senate.

I am native to the west, and am proud of a mining heritage that saw its beginnings with my great grandfather in California in 1852, and continued in the family through the 40s. I have lived in communities where mining is the primary development, and in towns where the conversion to non-extractive industry is proceeding. I am equally proud to have been active in environmental organizations for the past 30 years in Colorado and Montana.

I am not opposed to all mining, but I am opposed to the right to mine in all places. I realize that there are areas withdrawn from mineral entry, and that "gold is where you find it". However, I have seen responsible land managers thwarted by the 1872 Mining Law; I have seen abuses and non-mining speculation on patented "mining" claims; I have seen the legacy of polluted land and water (3,000 + miles of streams in Colorado, 1,300 + miles in Montana); I have seen clandestine exploration and development; I have seen intimidated agency personnel in pursuit of their monitoring and enforcement duties and I have seen frightened citizens, without legal resource against onerous proposals. This bill will address these inequities to our land, water, economy and communities.

The reform of the 1872 Mining Law must proceed at this juncture. The industry will not be harmed as they claim, but the industry will join the ranks of the regulated for the public good, and the public, under this legislation, will be assured of responsible land allocation decisions and management. Please support this legislation.

GARDINER, MT,
June 15, 1992.

Representative NICK RAHALL,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE RAHALL: I am writing to thank you for introducing H.R. 918. I am a born and bred Westerner. I come from a mining family. My father was a hard rock miner all his life. However, my family and I feel very strongly that the country needs a mining law that makes sense not one that only protects the interests of the mining industry. I have sent a similar letter to all the Democrats on the House Interior Committee asking them to support your bill.

I support all the provisions that strengthen your original bill. However, I strongly support the provision that gives federal agencies the right to deny mining proposals in sensitive locations. This provision is very important to me because I live near Cooke City, Montana. This area is facing a very dangerous mining proposal by Canadian-owned Noranda Limited called the New World Mining Project. The project is located two miles from Yellowstone Park. The potential for acid mine drainage is significant. The ability to reclaim the area is extremely doubtful.

Added to this, I have had dealings with Noranda when they were in Salmon, Idaho, I know them to be a company that makes many promises but reneges on agreements once their project is approved. They were embroiled in a law suit with the state of Idaho over broken agreements to clean-up old acid mine drainage problems at the Blackbird Mine.

If the U.S. had a common sense mining law, such a dangerous proposal as the one for the New World Mine site would not even be considered because of its impact to the headwaters of the Yellowstone River, Yellowstone Park and the healthy—and sustainable—recreation economy of Cooke City. But, such is not the case.

Our country needs a mining law that is based on common sense and one that recognizes the value of other resources and the rights of other resource users. H.R. 918 is a good step toward such a law.

COEUR D'ALENE, IDAHO,
14 July 1992.

Hon. NICK J. RAHALL,
Repr. of W.VA.,
Chairman, Subcommittee on Mining & Natural Resources.

re: The 1872 Mining Law and H.R. 918

It is my fervent hope that Congress will reform the mining laws before all the mountain streams of this fair country have been completely destroyed. My chief concern is the destruction wrought by Placer Mining in the West although being a native of West Virginia (born March 3, 1904 in Kingwood—Preston County, graduate of the Univ—El Eng. 1925) I have always been concerned with the sulfur pollution of our once beautiful trout streams. In the West it is unfortunate that most of our mountain streams bear small amounts of placer gold; and be it said that these streams left unspoiled are the loveliest creations of God's handiwork on the face of the Earth. There is no crying need for gold in our economy—enough in Fort Knox to last ten thousand years. Yet for the greed and enrichment of a few, placer mining has already destroyed a goodly portion of streams in the National lands and with the sanction of the 1872 Mining Law little if any will be left in a few more years. (Most of Central Idaho is claimed or in process and much of all the other mountain states). Once placer mined these streams, regardless of what they say will not be restored in a thousand years. Hundreds, perhaps thousands of miles have already been destroyed and no effort worth while has ever been made (and none planned) to improve the gravel piles.

As you may know another side to this problem. Many mining claims are merely a subterfuge to acquire a scenic mt. ranch or retreat or especially real estate development on the 'Cheap'. Properly situated at the lower end of a canyon will guarantee many thousands of acres of Nat. Forest for one's private game preserve.

Thanks for your efforts to stop this fraud, senseless destruction and robbery of the Public Domain.

CUPERTINO, CA,
July 9th, 1992.

Hon. NICK JOE RAHALL,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE NICK JOE RAHALL, Thank you! for your support of H.R. 918.

I just want to thank you for your key role in the Strengthened Substitute for H.R. 918, the 1872 Mining Law reform.

You already know the virtues of the bill, so I won't restate those here. I want to tell you something else. As I look at the voting record of you and other Democrats, and I compare that to the voting records of the Republicans, I realize that I have left the Republican party.

As a citizen living in the West, I simply cannot support the irresponsible extraction practices with which the Republicans of the West identify themselves. As a citizen of the United States, I must insist on proper stewardship of public lands, as decreed by law, for the benefit of the people.

Your historic action, and that of your colleagues, is more than a single victory in one of many battles. For me, it turns the tide of the war, and I can no longer support the party I so steadfastly upheld for its principals of victory in the cold war and fiscal restraint. From this point, I will support the party that wants to win the peace.

On to the Senate! The fight continues against weakening amendments! We will succeed!

EUGENE, OR,
July 6, 1992.

Congressman NICK JOE RAHALL,
House Office Building, Washington, DC.

DEAR CONGRESSMAN RAHALL: Thanks to your efforts and leadership, mining law reform at last seems possible. Congratulations on the passage of your strengthened version of H.R. 918 by the House Committee. The news was received with much jubilation by those of us who support and work for a saner land ethic and a more just way of dealing with resources from public lands. You have given us new hope.

Thanks again!

INTRODUCTION OF CHRISTIANITY TO AMERICAN INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA
IN THE HOUSE OF REPRESENTATIVES
Monday, August 10, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues an excerpt from a speech given by Red Jacket, a member of the Iroquois tribe, as published in a book entitled Native American Testimony. The editorial comment which precedes the article is provided also.

WE NEVER QUARREL ABOUT RELIGION

(In this excerpt from a famous speech delivered in 1828, the Iroquois leader Red Jacket replies to a representative of the Boston Missionary Society named Mr. Cram. The missionary had asked for approval to spread his faith among tribes within the Iroquois sphere of influence in northern New York State. When the meeting was over, Cram refused to shake the Indians' outstretched hands. There could be no fellowship between the religion of God and the works of the devil, he announced. The Iroquois are reported to have smiled.)

Friend and Brother! It was the will of the Great Spirit that we should meet together this day. He orders all things, and he has given us a fine day for our council. He has taken his garment from before the sun, and caused it to shine with brightness upon us. Our eyes are opened that we see clearly. Our ears are unstopped that we have been able to hear distinctly the words you have spoken. For all these favors we thank the Great Spirit, and him only. . . .

Brother! Continue to listen. You say that you are sent to instruct us how to worship the Great Spirit agreeably to his mind; and if we do not take hold of the religion which you white people teach, we shall be unhappy hereafter. You say that you are right and we are lost. How do we know this to be true? We understand that your religion is written in a book. If it was intended for us as well as for you, why has not the Great Spirit given it to us; and not only to us, but why did he not give to our forefathers the knowledge of that book, with the means of understanding it rightly? We only know what you tell us about it. How shall we know when to believe, being so often deceived by the white people?

Brother! You say there is but one way to worship and serve the Great Spirit. If there is but one religion, why do you white people differ so much about it? Why do not all agree, as you can all read the book?

Brother! We do not understand these things. We are told that your religion was given to your forefathers, and has been handed down from father to son. We also have a religion which was given to our forefathers, and has been handed down to us their children. We worship that way. It teacheth us to be thankful for all the favors we receive, to love each other, and to be united. We never quarrel about religion. * * *

RED JACKET,
Iroquois.

END RACIAL DISCRIMINATION IN EDUCATIONAL TESTING

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. ROHRABACHER. Mr. Speaker, due to an outrageous decision of a Federal District Court for the Northern District of California intelligence tests in California are administered on a racially discriminatory basis.

Specifically, IQ tests may not be administered to black students even if requested by a parent or guardian in situations where they are routinely administered to students of other races.

In one celebrated case a mother of a student attempted to prevent her son from being held back a grade by having an IQ test privately administered. The Fontana (California) School District refused to consider the test and kept her son back.

If the educational reform legislation, H.R. 4323, comes up this week I intend to offer an amendment that will allow parents to get equal treatment in the administering of educational tests for their sons and daughters.

Mr. Speaker, I insert in the RECORD several articles about this racially discriminatory policy. I commend them to the attention of my colleagues who are interested in righting a terrible wrong.

[From the San Francisco Chronicle Aug. 14, 1991]

LAWSUITS AND DEBATES: NEW CHALLENGES TO SCHOOL IQ TESTS

(By Louis Freedberg)

A lawsuit by a group of black parents demanding that their children be given IQ tests has intensified the controversy surrounding the use of intelligence tests in California schools. The lawsuit is in response to a landmark 1986 court ruling that declared it illegal to use the test to screen slow-learning black students into special education classes in California schools.

The suit has prompted educators to take a closer look at these tests, which have been criticized as culturally biased and measuring only a small portion of a child's abilities. If anything, the lawsuit could hasten the demise of IQ tests in California.

"It has raised the issue of whether we should be using these tests for any kids," California Superintendent of Public Instruction Bill Honig said in reference to the lawsuit.

The state's largest school districts, including San Francisco and Los Angeles, have expanded the 1986 ban to cover all children who are having academic difficulties. However, many districts still use the test to assess non-black students. And the test is widely used to help screen children for gifted programs.

Honig, along with a growing number of educators around the nation, contend that the best measurement of a student's potential is to look at actual performance in or out of the classroom.

"IQ tests are not particularly useful or necessary," said Honig. "The broader point is that we shouldn't be doing high-priced diagnoses of a student's potential—we should be looking at how kids learn and what we are going to do about it."

California is now investigating a relatively new way of measuring a child's ability, called curriculum-based assessment, which is being used in several states, including Pennsylvania, Louisiana and Connecticut. The approach looks at how a child is performing in class, rather than on a standardized test designed to come up with a score of a child's intellectual ability.

"IQ test is still the assessment of choice in most states, but it is losing ground rapidly," said James Tucker, director of special education in the Pennsylvania Department of Education.

"In the 1930s and '40s, there was hardly a workplace or a school that did not reflexively turn to the IQ test, and that is not the case now," said Howard Gardiner, a professor of psychology at Harvard University and a leading critic of IQ tests. "I would value far more what I would get from viewing a kid at the Exploratorium (in San Francisco) way more than what I would get from an IQ test," Gardiner added.

On the other side are school psychologists who say the test is a valuable diagnostic tool. "it's one of the best tests around," said Eva Newbrun, director of A Learning Place, an Oakland testing service.

IQ tests generally refer to the Stanford-Binet test, the first IQ test devised by Alfred Binet in Paris 1906 and later revised by Stanford professor Lewis Terman, and the Wechsler Intelligence Scale for Children, the brainchild of psychiatrist David Wechsler of New York's Bellevue Hospital, who came up with the test in 1939.

To take the test, a child sits down alone in front of an examiner for about an hour, and goes through 12 subtests, ranging from vocabulary to arranging pictures in sequence to tell a story. The examiner then may come up with a single score that measures the child's "general intelligence."

California is the only state that has outlawed using these tests as a tool for screening black children into special education classes.

The ban emerged out of a 1971 court lawsuit, Larry P. vs. Riles, that alleged that IQ tests were biased against black students and were responsible for the disproportionate number of blacks in classes for the mentally retarded in San Francisco.

In 1986, U.S. District Judge Robert Peckham expanded a 1979 ruling and said that IQ tests could not be used to screen black students into any special education classes.

That was the situation when Joyce Pina's son Terrence, who is black, experienced difficulties at Lakeshore Elementary School in San Francisco. His teachers recommended that he repeat kindergarten because he was "immature." Pina suspected that her child might have learning disabilities. So she had him tested at a private testing agency. The results, partially based on IQ tests, showed that he suffered a language handicap that made him eligible for special education classes.

She was shocked when the psychologist at Terrence's school rejected the test results, saying that they could not be used because they were based on IQ tests. Her son was eventually admitted to a class for students with language disabilities, but only after he spent an extra year in kindergarten.

Pina maintains that Terrence, now 11, wasted a year in school. "The decision should be with the parent and not with the board of education," she said.

She then joined a 1987 lawsuit, which was filed by the Landmark Legal Foundation, a conservative public interest law firm in Kansas City.

"It's condescending and demeaning to black children to say that because you're black you can't do something, and that you're not equipped to make a decision that your child can take this test," said attorney Pete Hutchison.

Three weeks ago, Judge Peckham backed down on his earlier ruling, issuing a preliminary ruling allowing two of the plaintiffs to take the test.

Clouding the debate is the test's past association with dubious racial theories. The test was first used by Stanford's Terman to show that 80 percent of immigrants were "feebleminded." "Their dullness seems to be racial, or at least in the family stocks from which they came," Terman wrote in 1916.

"IQ tests are racially and culturally discriminatory and cannot be used for assessment purposes," asserted Armando Menocol, an attorney with Public Advocates in San Francisco, the public interest law firm that filed the Larry P. case in 1971.

Some leading researchers, however, insist that the scientific evidence shows that the test is not biased against minorities and that if they do poorly on the test, it has to do with cultural and environmental experiences, rather than innate intelligence.

Doing away with IQ tests, said Nadine Lambert, a professor of education at the University of California at Berkeley, would be "like throwing away a blood pressure thermometer because the average blood pressure from different groups was different."

IQ tests have also been criticized for focusing too heavily on intellectual abilities at the expense of a child's potential in other areas.

Yale University psychologist Robert Sternberg says the tests fail to measure creativity, such as the ability to come up with ideas, as well as commonplace practical abilities, such as assessing advertising claims and sizing up people.

Some school psychologists may fight further restrictions on the use of IQ tests.

"You're hamstringing a professional's ability to use certain instruments to assess a child's learning strengths and weaknesses," said Loeb Aronin, who directs psychological services in the Los Angeles schools and also heads the Special Education Committee of the California Association of School Psychologists.

Opponents of the test are equally passionate.

"Tests are like drugs," said Cinthia Schuman, executive director of FairTest, a Boston-based advocacy organization that lobbies against the use of tests. She points out that the "special education" label can be stigmatizing to a child.

"We put warning labels on drugs," said Schuman. "We need to do the same thing for tests. That is how dangerous they can be for human beings."

[From the Los Angeles Times, Aug. 5, 1991]

COURT BAN ON IQ TEST FOR BLACKS SPARKS PARENTS' SUIT

(By Jean Merl)

Mary Amaya was stunned that day in May, 1987, when she opened a letter from Alder Junior High School in Fontana and read what it had to say about her younger son, Demond Crawford. What disturbed her was not the recommendation that her son be tested for learning disabilities. She had been baffled by Demond's recent poor performance in school and welcomed the chance to get to the bottom of things.

What did upset her, she said last week, was the letter's postscript. "Because Demond is black," it began, those first words underlined, "we will be unable to give him an intelligence test per Peckman's decision."

"They made it a racial issue. . . that just didn't sit well with me," Amaya said.

She had never heard of U.S. District Judge Robert F. Peckham and his landmark 1979 ruling. Peckham has barred California public schools from using standardized IQ tests for determining whether academically struggling black students should be placed in special classes for the mildly mentally retarded. Siding with black parents and others who sought to stop the practice, Peckham found that the commonly used tests were racially and culturally biased and resulted in large numbers of blacks being wrongly labeled as retarded and consigned to "dead-end" programs.

But the shock and fury triggered by the letter's postscript led Amaya—and the parents of eight other black children—to Peckham's San Francisco courtroom as central players in a widely watched attempt to overturn the since-expanded decision. Their 1988 suit—boosted by a preliminary ruling last month clearing the way for three of the children to be tested—is likely to quicken the pace of the state Department of Education's efforts to revamp its student evaluation policies.

State Supt. of Public Instruction Bill Honig said last week he will propose that the state stop reimbursing school districts for administering the IQ tests to all students who are having trouble in school.

He said he would prefer to see the expensive and controversial tests, which arrive at an "intelligence quotient," phased out in favor of other assessment methods. He wants to see more emphasis on helping a struggling student do better and less on trying to measure the gap between the student's potential, which an IQ test is supposed to measure, and achievement.

The Crawford case, brought by the conservative Landmark Legal Foundation of Kansas City, Mo., on behalf of the California families, also has fanned the long debate over the usefulness of such tests and whether they discriminate against minorities.

Officials of the National Center for Fair and Open Testing (FairTest) of Cambridge, Mass., one of the leading opponents of standardized tests, contend that the Crawford case is an effort to bring back a practice that was found to be harmful to blacks.

"We viewed (the 1979 ruling) as a watershed case . . . because Judge Peckham did find IQ tests to be racially and culturally biased, and he stopped wholesale indiscriminate testing and tracking," said Bob Schaeffer, public education director for FairTest.

"Since then there has been a whole national movement" away from using IQ tests to segregate children according to ability, Schaeffer said. "Indeed, we believe IQ tests should not be used as the sole criterion for anyone, and certainly not for anyone from a minority culture.

Mark J. Bredemeier, general counsel for Landmark, said the purpose of the Crawford suit "is not to validate standardized tests . . . the purpose is to provide equal access. The whole point of this litigation was to provide equal access to testing for any and all black families who think it may benefit their children."

Bredemeier said his client's beef is not with Peckham's initial ruling that with its 1986 expansion, which, based on complaints that the ban was routinely violated, extended it to include any black students who are being considered for special education or other remedial classes.

"This is a situation in which good intentions have resulted in some bad policy, and that's where we come in," Bredemeier said.

California's court battle over the IQ tests began in 1971 when Public Advocates, a liberal San Francisco legal group, filed a class-action suit on behalf of five black students who had been placed in classes for the mentally retarded based on standardized intelligence tests. Because only blacks were included in the suit and subsequent rulings, there developed a situation in which IQ tests were prohibited for black students having academic difficulties, but not for other minorities or whites having similar troubles.

By the time Amaya got her letter in 1987, several districts in California—including Los Angeles and San Francisco—had stopped using the tests for anyone except to evaluate promising students of any race for their academically gifted programs. (However, most districts still use the exams as a diagnostic tool for non-black students who are doing poorly.)

State education officials, who had discontinued the practice of putting youngsters into classes for the so-called "educable mentally retarded," were beginning to seek new ways to assess students' academic progress.

Amaya said Fontana school officials tried to explain their action by showing her copies of Peckham's 131-page ruling. Because Amaya is a Latina and Demond of mixed racial heritage, officials told her she could have her son reclassified as Latino and he could be tested.

"What was I supposed to do? Deny he had a black father and make him ashamed of half his heritage? I really don't think color should have anything to do with it," Amaya said.

She told her story to a local newspaper, and when the account was picked up by the wire services, it brought a burst of national attention—including the interest of William B. Allen, an appointee by former President Ronald Reagan to the U.S. Commission on Civil Rights. Attorneys for Landmark also heard about it and contacted Amaya and other families about pressing their case. Their suit was filed in Los Angeles but transferred to Peckham's court and consolidated with the earlier case.

Last month's ruling came too late for Demond Crawford, now 19. He graduated this year from Fontana's Citrus High, a small continuation school his mother said gave him the attention he needed to succeed. After touring China this summer with a basketball team, he plans to attend Azusa Pacific College in the fall.

Only three children, two from Redlands and one from San Francisco who are still in school, remain in the case. Landmark attorneys said they will try to get last month's ruling lifting those youngsters' testing ban expanded to cover all blacks whose parents want them to have IQ tests. Blacks account for 8.7% of the state's public school enrollment, state officials said.

Loeb Aronin, a coordinator of psychological services for the Los Angeles Unified School District and chairman of the special education committee for the California Assn. of School Psychologists, thinks IQ tests are more helpful than harmful if used properly.

"So much has changed" since the 1979 decision, said Aronin, who assisted Landmark on the Crawford case. He said special education programs and the use of IQ tests have improved since those days.

Harold E. Dent, a psychologist who specializes in testing and was an expert witness for the plaintiffs in the earlier case, adamantly disagrees.

"I am quite concerned about the Crawford case because I do believe it is a very pernicious effort to undermine the 1979 ruling," Dent said.

"To say IQ tests are helpful is a lot of baloney. That has not been proven to be true. . . . Parents are concerned about an education for their children, and school districts do not need IQ tests to help children achieve," Dent said.

Barry Zolotar, the education department attorney who has been trying to get the Crawford case dismissed, said none of the students in the case were denied special education services.

"What is hard to understand is these parents" maintaining they somehow know in advance their children could not be harmed by a test ruled culturally and racially discriminatory," Zolotar said. He added that the best solution may be Honig's proposal to phase out the use of IQ tests altogether.

"In my judgment they are a waste of time and money," said Honig, who is readying his department's recommendations—in the works for about five years—for the State Board of Education.

"We can go fight in court or we can solve the problem by using a better kind of diagnosis (and shifting IQ testing monies to the classroom)."

INTELLIGENCE TESTS FOR BLACKS

California's court battle over intelligence tests for academically struggling black students has spanned 20 years.

1971: Public Advocates, a liberal San Francisco legal group, files a class-action suit on behalf of five black students, challenging the use of standardized intelligence tests for evaluating black students. The plaintiffs argue the tests are racially and culturally biased and yielded inaccurate results that permanently damaged the students' educations.

1972: Public Advocates obtains a preliminary injunction to stop the San Francisco schools from using the tests to place black students in classes for the retarded. Students of other races are not included in the ban.

1974: U.S. District Judge Robert F. Peckham extends the temporary ban to the entire state.

1979: In a 131-page opinion, Peckham rules unconstitutional the state's use of IQ tests that placed "grossly disproportionate" numbers of blacks into "dead-end" classes for the mentally retarded.

1984: The U.S. 9th Circuit Court of Appeals upholds Peckham's ruling by a margin of 2 to 1.

1986: At the request of the plaintiffs and the state Department of Education, Peckham expands the ban to prohibit use of the IQ tests for all black students who are candidates for special education or other remedial classes. Only those black youngsters being considered for programs for the academically gifted can be tested.

1988: Landmark Legal Foundation of Kansas City, Mo., files suit on behalf of Mary Amaya and her son, Demond Crawford, and the families of eight other black students, alleging the ban as expanded in 1986 discriminates against black families who want their children to be tested.

July 15, 1991: Saying the 1986 expansion went "beyond the findings" on which he based his 1979 ruling, Peckham issues a preliminary injunction granting the family of two students the right to have their children tested. A third student can be tested if his family moves to a district that uses IQ tests, Peckham rules.

NEXT STEP

Attorneys must decide whether to try to settle or proceed to trail. The education department is considering revamping its student assessment procedures, including discouraging the continued use of IQ tests for all struggling students, not just for blacks.

JOHNSON MATTHEY & CO., LTD.

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. WELDON. Mr. Speaker, I rise today to speak in recognition of Johnson Matthey & Co., Ltd. Over the past 150 years, Johnson Matthey has distinguished itself as a leader in the field of platinum group metals.

Platinum group metals are called precious metals because of their special properties and worldwide scarcity. Some 150 years ago, in 1842, Joaquim Bishop capitalized on these characteristics by melting, refining, and manufacturing various implements made of the platinum group metals. In 1858, with the incorporation of J. Bishop & Co. Platinum Works in Philadelphia, Joaquim Bishop moved the company to Chester County. The operation grew and expanded and in 1931 was purchased by Johnson Matthey & Co., Ltd.

Johnson Matthey has since made tremendous advancements in the field of platinum group metals. While the metals continue to provide the much-needed platinum fabricated products J. Bishop produced in the last century, the metals are today also used in such exciting fields as cancer chemotherapy, auto catalyst, and environmental pollution control.

It is my privilege to recognize the historic achievement of 150 years of discovery and advancement in the field of platinum group metals. The contribution Johnson Matthey has made to the Delaware Valley through the company's progress is commendable, and I would like to take this opportunity to say congratulations to this important local company.

TRIBUTE TO MR. BRIAN KEITH THOMPSON, ALBUQUERQUE

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. SCHIFF. Mr. Speaker, I rise today to pay tribute to the outstanding work of a young New Mexican, Mr. Brian Keith Thompson, of Albuquerque.

Brian was recently honored by the Veterans of Foreign Wars of the United States and its ladies auxiliary as the State winner of their Voice of Democracy broadcast scriptwriting contest.

Brian, the son of James and Barbara Thompson of Albuquerque, turns 18 on Aug. 4, 1992, so I also wish to congratulate him on achieving this important milestone in his life.

Brian is a senior at La Cueva High School and plans to pursue a career in either politics or law. He is a member of his high school's debate team and has won numerous debating awards. He also was recognized by "Who's Who of American High School Students."

It is my honor and privilege to include Brian's speech, entitled "Meeting America's Challenge," with these remarks, and to ask that it be inserted into the CONGRESSIONAL RECORD.

I would also like to pay special tribute to the Veterans of Foreign Wars of the United States and its ladies auxiliary for sponsoring this important scriptwriting program. The program, now in its 45th year, requires high school student entrants to write and record a 3 to 5 minute script on a patriotic theme. The program now offers scholarships to 22 students, totaling $76,500.

MEETING AMERICA'S CHALLENGE

(By Brian K. Thompson, New Mexico Winner, 1991/92 VFW Voice of Democracy Scholarship Program)

As we near the quincentennial of Columbus' discovery of the New World, we are reminded of how divided our planet once was—how entire cultures were isolated by oceans and mountains, how even the colossal empires of Europe and Asia were unaware of the entire western hemisphere. It seems that Roman astronomers often knew more about planets millions of miles away than they did about their own Mother Earth. Today, it's difficult to envision this kind of seclusion when you can pick up the telephone and "reach out and touch someone" halfway around the globe almost instaneously. Long-distance phone calls, transatlantic flights, and international news broadcasts have so innundated our culture that we take our global awareness for granted. Yet to do so is criminal! If we forget or ignore our common bond with the rest of humanity, our morals and our strength will be at grave risk. Indeed, the challenge facing America is to remain concerned in the welfare of other nations and to avoid returning to the isolated conditions so common in the Pre-Columbian Era.

Today, more than ever, we live in an international house of cards—a community in which each and every nation is dependent upon the others for ecological protection, economic prosperity, and political stability. Take away one card, and the house collapses, for as Martin Luther King Jr. once said, "Injustice anywhere is a threat to justice everywhere." America, as leader of the free industrialized world, plays a vital role in this global balancing act. More than any other nation, we possess the ability to have a profound influence on the world around us. We must ensure that this opportunity to help and protect other is not wasted. By utilizing our wealth and power in a productive and positive manner, we can ensure that the American ideals of freedom, justice, and equality are served everywhere, not just here in America. As Nelson A. Rockefeller said in his book, The Future of Federalism, "The federal idea, which our Founding Fathers applied in their historic act of political creation in the eighteenth century, can be applied in this twentieth century in the larger context of the world of free nations—if we will but match of forefathers in courage and vision."

Naysayers both at home and abroad have long complained that America is already too big for its britches—that it interferes too often in the soverign rights of other nations as a sort of global policeman. Yet the cause of serving others is all the more noble when those whom we shelter, feed, and protect live beyond our own borders.

On a philosophical level, it would be morally unjustified to ignore the plights of others simply because of their nationality. Indeed, that is the greatest danger in the wealth, splendor, and power so characteristic of our nation. It's very easy to forget that people are dying of starvation around the world when a five minute drive to an abundantly supplied supermarket will replenish your refrigerator with an endless supply of food. It is also very easy to forget that not everyone enjoys the same democratic rights given to Americans when we are allowed to elect our representatives at local, state, and federal levels. We must avoid, at all costs, the temptation to cloak ourselves behind a rich, democratic version of the iron curtain. By coming out from behind our relative fortunes and becoming a part of mankind, we can redefine our existence in less politically loaded terms and regain the sense of humanity so often lost from our everyday lives. Whether its sending food to starving Muscovites, providing shelter to victims of a Bangladesh hurricane, or freeing Kuwait from an Iraqi invasion, helping other nations out of desire and not obligation is of the highest order.

Yet in an age when the only thing that seems to matter is the bottom line, it's difficult to convince many people, let alone an entire nation, to act generously toward others just for the sake of so. Hard-line pragmatists will always demand some kind of visible reward for their actions. But even they can be appeased through this kind of American role in the New World Order. Although the advantages are typically long-term and less easy to quantify, they are still very real. By encouraging the acceptance of democracy by both old and new nations alike, while helping them overcome adversity, we can secure our own place in the global future. The journey ahead will be much less difficult if we no longer have to worry about confrontations with hostile nations. By helping forge a more harmonious coexistence between the nations of the world, America will benefit as much as anyone else, for a more peaceful global community would significantly decrease the need for the enormous military arsenals currently held by the U.S. We could then devote more of our resources toward internal problems, such as our failing schools, faltering economy, or high crime rate, all without having to worry about major armed conflict. As Dwight D. Eisenhower often emphasized, the greatest risk of continuing the arms race is that we will spend so much time trying to defend our countries from without that we will fail to make them worth defending from within.

By basing our national goals on these altruistic intentions, we can ensure that Bush's vision of a New World Order is more than just a dream, and once and for all put to rest the isolationist mindset that has prevailed since the Pre-Columbian Era.

ELIMINATE WASTE IN MEDICARE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, today we have an opportunity to save millions of dollars for American taxpayers by reducing fraud and abuse in the Medicare Program.

The Federal Program Improvement Act [H.R. 3837] incorporates recommendations of the Task Force on Government Waste by ensuring that Medicare doesn't foot the bill for health care already covered by another insurance company.

Often, Medicare beneficiaries have private, primary insurers that should pick up the cost of covered medical services and procedures. However, a recent GAO study found that the Health Care Financing Administration was unable to adequately identify when another payer was responsible for reimbursing the health care provider. As a result, Medicare may have been paying as much as $200 million in claims that should have been paid by private insurers.

In testimony before the Ways and Means Committee, GAO cited the case of a single Medicare contractor paid at least $8.8 million in claims that should have been paid by a private insurer. The Federal Program Improvement Act aims to curtail these kinds of abuses by taking the following steps: First, requiring HCFA to poll new Medicare beneficiaries to determine if they have primary insurers; second, requiring Medicare carriers to submit annual reports describing their plans for recovering mistaken Medicare payments; and third, requiring the GAO to study the effectiveness of the Medicare secondary payer program.

This proposal is a testament to my belief that we can reduce Government waste and reduce our national debt without reducing benefits under important Government programs. The Federal Program Improvement Act takes positive steps to stop unnecessary waste, and I wholeheartedly support this bill.

JACOB LEINENKUGEL BREWING CO. CELEBRATES 125TH ANNIVERSARY

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. OBEY. Mr. Speaker, this is a momentous year in Wisconsin, a State recognized worldwide for its brewing excellence. In 1867, Jacob Leinenkugel opened a brewery in Chippewa Falls. Because of his commitment to quality and the acceptance of this legacy by his descendants, the Jacob Leinenkugel Brewing Co. this year celebrates its 125th anniversary.

Over the past 125 years, the Leinenkugel family developed a wonderful local tradition. Today, Leinenkugel's beer is enjoyed by people all across the Upper Midwest. It has won numerous award for its superior taste, and the company is one of the fast-growing small brewers in America. True to its heritage, Leinenkugel has maintained a reputation as a brewer dedicated to brewing beer the way it used be brewed following Old World traditions.

More than just a brewer of fine beer, Leinenkugel has had a positive impact on the residents of northwest Wisconsin by providing steady employment for hundreds of workers through the years. In addition, the company has demonstrated its commitment to the local commonwealth through active participation and continued support of community activities and civic endeavors.

Leinenkugel is known as a company that fully accepts its responsibility to be a good employer, an upstanding corporate citizen and a brewer of a product of unparalleled quality.

On behalf of my constituents in Wisconsin and people everywhere who enjoy the distinctive taste of Leinenkugel's, I would like to wish everyone associated with the Jacob Leinenkugel Brewing Co. a happy anniversary and many more years of continued success.

TRIBUTE TO JAMES A. CARRARA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. REED. Mr. Speaker, I rise today to pay tribute to the late James A. Carrara as he is honored posthumously on the occasion of the Silverlake Little League Tournament. I am proud to join in this tribute of an outstanding young gentleman who was a true sportsman and a distinguished Rhode Islander.

James Carrara was born on January 25, 1972 and was a lifelong resident of Cranston. He graduated with honors from Cranston East High School and went on to pursue a career in law enforcement at the Community College of Rhode Island. James was a loyal parishioner at St. Ann's Church and served as an altar boy for 8 years.

After attending just 1 short year at the community college, James was diagnosed with cancer. James fought this battle with his winning attitude and an uplifting spirit. He became an honorary member of the Silverlake Little League and was commended by Cranston public officials for his sportsmanship and performance in competition.

On May 17, 1992 James A. Carrara died at the age of 20.

Mr. Speaker, I ask my colleagues to join me in saluting James A. Carrara. He displayed true compassion and faith to his family and friends. James will always have a special place in the hearts of the citizens of Cranston, Providence, and our entire State.

HONORING THE NATIONAL ALLIANCE OF POSTAL AND FEDERAL EMPLOYEES

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. ENGEL. Mr. Speaker, I rise today to recognize the valuable contributions to our country made by the National Alliance of Postal and Federal Employees on the occasion of its 40th biennial convention.

As the Nation's oldest predominantly black labor union, the alliance has been in the front lines of battles for workers rights and civil rights for nearly 80 years. The delegates at this year's convention represent some 18,000 postal and Federal employees, some of the hard-working Americans who are the backbone of our Nation.

The history of the National Alliance is full of great moments, since a group of railroad mail clerks banded together in 1913 to fight discrimination in the postal system. In 1923, it became the first industrial union to open its membership to any postal employee who desired to join, and it has continued its policy of inclusion through the years. In 1964, the National Alliance was the only Federal labor union to support the Civil Rights Act, and in 1965 it opened its membership to all Federal employees.

Some may say the union agenda is no longer relevant in American society, but those of us committed to a strong America know that the struggle for equality in the workplace is far from finished. We need organizations like the National Alliance to speak for the working men and women of our Nation and fight for their rights. Having been raised in a union household, I hold dear to my heart the goals and mission of the union movement.

That is why I extend my warmest regards and best wishes to the National Alliance on this great occasion.

TRIBUTE TO JOHN E. DU PONT

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. WELDON. Mr. Speaker, I rise today to pay tribute to John E. du Pont, the manager of the U.S. Olympic wrestling team and a constituent of mine from Newtown Square, PA. John owns and operates the Foxcatcher Farms where young hopefuls come to train for the chance to represent America in the Olympics.

John is not an ordinary manager; he is very accomplished wrestler in his own right. John is a national champion in the 50 to 54 age category and earlier this year he competed in the Masters World Championship in Columbia. He has tirelessly dedicated his time and financial resources to help younger athletes train.

Wrestling is not the only vocation in which John has made an impact. His accomplishments in sports and public service are too long to recount here, so let me mention the highlights. He took the initiative to organize the first triathlon—swimming, biking, and running—in America on his farm in 1966 with seven competitors—now over 1 million athletes compete in the sport.

John is also an avid photographer whose work has appeared in Life magazine and National Geographic magazine. John believes in giving something back to his community, and he has served as a volunteer officer of the Newtown Township Police Department and was responsible for training rookies at the pistol range on his farm.

John is also a sponsor of the national SwimAmerica Program, that introduces thousands of children to aquatic sports and encourages participation in those sports. He has devoted his life to athletics and to children.

Mr. Speaker and my colleagues, please join me in congratulating John for his leadership. He has helped mold the lives of many young people, and he has inspired these athletes to represent the United States in international competition.

INTRODUCTION OF THE FIREARM THEFT REPORTING ACT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. SCHUMER. Mr. Speaker, today I am introducing the Firearm Theft Reporting Act which will help law enforcement keep firearms from the hands of violent felons by providing additional means to deter gun theft and to halt black market proliferation. Deterring theft and black market supply is extremely important, if we are serious about keeping guns out of the hands of criminals. According to a recent National Institute of Justice study, 32 percent of felons' handguns were stolen and another 16 percent were purchased on the black market.

The Firearm Theft Reporting Act would require any federally licensed firearms importer, manufacturer, dealer, or collector to report the theft or loss of a firearm to the Bureau of Alcohol, Tobacco and Firearms and local law enforcement officials. The report must be made within 24 hours of discovery of the theft or loss.

These reports will greatly expedite the efforts of BATF and local law enforcement to deter thefts and losses of firearms as well as investigate those which have occurred. In addition by creating criminal penalties for failure to report theft or loss, this bill gives licensees strong incentives not to engage in the illegal albeit lucrative business of peddling firearms to the black market. In addition, stopping these conduits of illegal firearm commerce will alleviate tracing difficulties that BATF and other law enforcement agencies encounter during criminal investigations.

Last, this bill represents a modest and reasonable measure that places no restriction on individual lawful gun owners. It merely requires no more than what common sense dictates—that thefts of firearms be reported so law enforcement has a chance to intercept them before they get into the wrong hands.

INTRODUCTION OF THE ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1992

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. BOUCHER. Mr. Speaker, today I have introduced a bill to implement the protocol on environmental protection to the Antarctic Treaty. The protocol was signed by the United States last October and submitted earlier this year to the Senate for ratification. The bill was prepared by the Antarctic policy group, which is comprised of the Federal agencies involved in supporting scientific research and in maintaining the U.S. presence in Antarctica.

The protocol establishes specific principles and rules for protection of the Antarctic environment from the effects of human activities. It deals with protection of fauna and flora, imposes strict limitations on discharge of pollutants, and requires environmental impact assessment of planned governmental and nongovernmental activities. The protocol also prohibits all activities relating to Antarctic mineral resources, except for scientific research, and provides that this prohibition cannot be amended by less than unanimous agreement for at least 50 years.

A particularly important aspect of the protocol is its reinforcement of the status of Antarctica as a natural reserve devoted to peace and science. This is entirely appropriate because Antarctica is a unique scientific laboratory of enormous value to the international community.

The upper atmosphere over the pole is a screen for viewing the results of interactions of solar plasmas and the Earth's magnetic field, and for detecting evidence of space physics processes. The extremely stable, clean and dry atmosphere enables astronomers and astrophysicists to probe the universe with unprecedented precision from a ground-based site.

It is an ideal biological laboratory for studying such effects as adaption of organisms under extremes of light, temperature, and moisture, where, for example, a fish has developed natural antifreeze.

Antarctica's extreme climate, which can induce social, psychological and physiological stresses, provides an appropriate location to study human health and performance. NASA will use this natural lab for human studies tied to the manned space program.

Antarctica is also a major part of the global heat engine that determines world climate. The vast Antarctic ice sheet interacts with oceanic and atmospheric circulation to modulate global climate. Accordingly, the behavior of the ocean/atmosphere system in Antarctica is expected to provide an early warning of climate change.

The 2-mile thick ice sheet covering the pole is a repository of the past climate record of great benefit to climatologists and other scientists.

Many naturally occurring global events are greatly magnified in the Antarctic environment, with the result that changes such as ozone layer depletion and climate change are detected there first.

In sum Antarctica is one of the world's most valuable scientific research platforms, and it is essential to ensure its continued availability for a broad range of research.

The value and importance of Antarctic research are well understood. Unfortunately, the United States and other nations which maintain permanent Antarctic research facilities have been less careful about their environmental protection practices than can be either justified or accepted. At the same time, it is recognized that research activity itself will cause some environmental disturbance in this pristine region, where traces of human activity are preserved virtually forever. The goal must be to weigh the environmental effects against the value of the science and develop workable approaches to minimize adverse effects.

I believe this overall goal will be achieved by the comprehensive provisions of the Environmental protocol and its five annexes. Therefore, I have introduced legislation to ensure that the protocol is fully implemented with regard to all activities sponsored under the U.S. Antarctic Program, administered by the National Science Foundation, and with regard to all other activities of U.S. citizens while in Antarctica. The legislation amends the Antarctic Conservation Act, Public Law 95–541, and replaces the Antarctic Protection Act of 1990, Public Law 101–594, with restrictions on minerals activities which conform to the protocol.

The responsibilities of Federal agencies under the provisions of the bill are consistent with their past roles and areas of expertise and with their responsibilities under the Antarctic Conservation Act. The National Science Foundation is responsible for issuing implementing regulations for protection of fauna and flora, for control of discharge of pollutants, and for entry into specially protected areas. The Department of State is charged with implementing the emergency response provisions of the protocol with respect to nongovernmental activities in Antarctica. The Department of State, in conjunction with the Council on Environmental Quality, is responsible for issuing regulations for implementing the environmental impact assessment provisions of the protocol with respect to nongovernmental activities in Antarctica. Finally the Department of Commerce is responsible for issuing regulations implementing provisions of the protocol associated with mineral resource activities. A more complete summary of the provisions of the bill follows this statement.

Mr. Speaker, the Antarctic Environmental Protection Act of 1992 represents a comprehensive implementation of the provisions of the environmental protocol and its five annexes. It will allow for the continuation of a vigorous U.S. research program in Antarctica, while ensuring that the pristine environment of the continent is preserved for future generations.

SUMMARY OF THE ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1992

Title I of the Antarctic Environmental Protection Act of 1992 amends the Antarctic Conservation Act of 1978 (ACA), PL 95-541, to bring the provisions of that Act into conformity with the Protocol on Environmental Protection to the Antarctic Treaty and annexes. Title II repeals the Antarctic Protection Act of 1990, PL 101-594, replacing that Act with a prohibition on mineral resource activities in Antarctica that is consistent with the Protocol.

Title I of the bill amends the ACA to establish a more comprehensive statutory scheme for the conservation of Antarctic fauna and flora as set forth in the Protocol. Existing authority of the Director of the National Science Foundation (NSF) to promulgate regulations to control waste disposal in Antarctica, and to protect and manage designated areas with great environmental sensitivity or scientific value, is also revised consistent with the Protocol. In addition, Title I expressly extends the NSF Director's current general authority to promulgate regulations to carry out any provision of the ACA, to cover any provision of the Protocol. This provision ensures that regulatory power will exist to address any environmental issues under the Protocol that may arise.

Title I provides for the Secretary of State to prescribe regulations, in conjunction with the Chairman of the Council on Environmental quality, to implement the environmental impact assessment provisions of the Protocol with respect to non-governmental activities, including tourism, in Antarctica, and in conjunction with NSF and the Coast Guard, to require private persons to comply with the provisions of the Protocol related to emergency response action. These tasks can be carried out by the Department as part of its current responsibilities for gathering and circulating information about non-governmental activities in Antarctica.

Title I also strengthens civil and criminal penalties under the ACA to increase the deterrent effect of the legislation. Provisions of the Protocol dealing with environmental impact assessment and emergency response requirements for the U.S. Antarctic Program (USAP) are not addressed in Title I since these provisions can be implemented through existing legislative, executive and regulatory authority already applicable to Antarctica. With the exception of sewage disposal, which is included in the authority granted to the NSF Director to promulgate waste disposal regulations, implementation of the provisions of the Protocol concerning prevention of marine pollution is already provided for in the Act to Prevent Pollution from Ships, 33 U.S.C. SS 1901 et seq.

Title II of the bill implements Article 7 of the Protocol, which states: "Any activity relating to mineral resources, other than scientific research, shall be prohibited." Title II repeals the Antarctic Protection Act of 1990, which was intended as an interim measure pending entry into force of an international agreement providing an indefinite ban on Antarctic mineral resource activities. Article 7, which has no termination date and is not reviewable for fifty years following entry into force of the Protocol, constitutes such as indefinite ban.

Title II prohibits Antarctic mineral resource activities by persons subject to the jurisdiction of the United States. The prohibition covers prospecting, exploration and development activities, as well as collecting, removing or transporting such resources. Activities exempted from the prohibition are those directly related to scientific research, construction, operation and maintenance of facilities, and provision of mineral resource specimens for museums and similar institutions. Title II provides for implementation by the Secretary of Commerce and authorizes the Coast Guard to exercise certain enforcement powers.

RIDGEFIELD NATIONAL WILDLIFE REFUGE INTERPRETIVE CENTER AUGUST 10, 1992

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mrs. UNSOELD. Mr. Speaker, I offer Congress a unique opportunity: an opportunity to provide the Pacific Northwest with a regional interpretive center that draws upon the biological richness of the lower Columbia River wetlands; an opportunity to share the rich history and culture of the Pacific Northwest native Americans and settlers; and an opportunity for a partnership with State and local entities to share the expenses of constructing, operating, and maintaining this regional interpretive center.

The legislation I am introducing today would authorize the U.S. Fish and Wildlife, after public comment, to establish an interpretive center at the Ridgefield National Wildlife Refuge in southwest Washington. This facility will provide the public with a regional center for environmental and historical education and research, taking advantage of the refuge's wetland ecosystems, diverse wildlife, and archaeological sites.

With the close proximity of the Portland-Vancouver metropolitan area to this facility, the millions who visit the region will have easy access to its attractions. They will share in the natural history of the Columbia River and its adjacent wetlands—areas of critical importance to migrating and wintering waterfowl, salmon, and many other species.

Historically and culturally this location served as the site of a large native American settlement which was visited by early explorers, including the 1804 Lewis and Clark Expedition. We, as a society, have often neglected to share with our children the valuable and interesting contributions made by native Americans to our culture. This facility will offer future generations a glimpse back in time to the peoples who were caretakes of the land before us.

Perhaps the most unique aspect of this legislation is the opportunity it offers the Federal Government to engage in cost sharing. Already a nonprofit foundation has been established to seek State, local, and private funds toward the construction and operation of this interpretive center. The foundation's goal is to provide a substantial share of the construction costs of the facility, as well as to cover the cost of operation and maintenance.

This bill brings together in this one educational facility the study of nature and its fragile ecosystems, the cultures of Americans before us, and the chance to model a unique funding partnership. This unique opportunity deserves our consideration and approval.

ACCESS TO JUSTICE FOR VETERANS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. EDWARDS of California. Mr. Speaker, in 1988, Congress passed the Judicial Review Act which established the U.S. Court of Veterans Appeals [CVA]. Because of this legislation, our veterans are now able to pursue legal recourse against the Department of Veterans' Affairs [DVA] to obtain rightly earned benefits. All reports indicate that the Court is working well and that veterans are taking full advantage of this appeals process. I commend the Department for its diligence in establishing the court system.

Today, I am introducing two bills which will improve veterans' access to the CVA. The first bill would allow veterans who bring claims before the CVA to recover attorney's fees from the DVA in those instances where the Department's actions in denying a claim were unreasonable. Essentially, this bill would apply the Equal Access to Justice Act [EAJA] to the CVA in the same way that it applies to many other Federal courts.

This legislation is necessary because often veterans cannot afford private attorneys to represent them, and the dollar amounts involved are usually not large enough to attract an attorney on a contingency basis. The Equal Access to Justice Act was adopted so that citizens would not be deterred from seeking the review of unreasonable governmental action. Applying the EAJA statute to the Court of Veterans' Appeals is in keeping with the spirit of that act.

I have also introduced a second bill which would allow veterans to file class action suits in the Court of Veterans' Appeals. This legislation would simply allow veterans to use a procedural tool which is available in other Federal courts.

Although the CVA has done an admirable job in its first few years of operation, I have heard reports from veterans that CVA decisions are not always widely distributed within the Department of Veterans Affairs. For example, the CVA may have established a precedent with respect to certain benefit payments. However, a veteran with an identical claim may be denied simply because other officials within the DVA are not aware of the CVA decision. This veteran would then have to file his own claim, and start the appeals process for an issue which has already been decided in his favor.

A class action suit would allow all veterans with identical claims to file just one cause of action. The decision of the CVA in such a case would be binding on all veterans with similar claims. This would save veterans the cost of individual litigation and would allow those with future claims on a particular issue to simply point to the decision in the class action suit to support their case.

Mr. Speaker, these two bills represent refinements of an important process, judicial review of DVA administrative rulings. Both of these measures will improve the effectiveness of the court and its accessibility, and I urge my colleagues to support them.

A 20TH ANNIVERSARY TRIBUTE TO THE REDLANDS THEATRE FESTIVAL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a truly remarkable story about how dreams still come true. This dream is the result of years of dedication, commitment, and hard work by many supportive people in my hometown of Redlands, CA.

The Redlands Theatre Festival began as little more than an idea 20 years ago. Equipped with a vision, $300, and a staff of five, festival impresario Cliff Cabanilla saw great potential in a dusty hilltop at Prospect Park. In that first year, with little funding, and dreams of something big down the road, the Redlands Theatre Festival was born.

A successful inaugural season gave supporters great hopes for future growth and success. Early in their endeavor, organizers hoped their creation would become widely recognized for bringing cultural, economical, and educational benefits to the Inland Empire. To achieve this, they outlined a vision for a fully functional theatre, built to complement the beauty of Prospect Park and serve the growing community. By the eighth season, a permanent theatre was constructed and, by the following summer, seating for 450 people completed.

There are many elements needed to sustain a theatre over a long period of time. The talent, time, and energy needed to produce and stage a festival is simply enormous. The diversity of skills—from planning the productions, constructing sets, staging auditions, and, of course, acting the parts—has brought people of various skills, backgrounds, and talents together to create theatre at its very best.

Never overlooked in all of the planning, of course, is one of the most important elements of a successful theatre—the audience. As the Redlands Daily Facts said recently, "the ultimate achievement of the Redlands Theatre Festival as it enters its 20th season is the development of larger, more discriminating audiences." Indeed, the outstanding support of our community has given the Redlands Theatre Festival the means of educating and enriching us all.

Mr. Speaker, I ask that you join me, our colleagues, and the many supportive people in Redlands and the Inland Empire in saluting the Redlands Theatre Festival as it celebrates 20 years of growth and success. By staging productions old and new, and embracing our ever changing world, the Redlands Theatre Festival speaks to us all. Like all of its generous patrons I, too, look forward to another 20 years of success and outstanding contributions to our community.

CONGRATULATIONS FOR SERVICE

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. SARPALIUS. Mr. Speaker, I rise today to congratulate my good friend, Walter Hagan, who has served American Airlines for 45 years and presently is American's manager of special services. I am submitting an article that was originally printed on June 25 in a Dallas/Fort Worth news publication entitled "DFW People."

The article tells the informative story of American Airlines' overseas service operations to Europe since 1945, which coincide with Walter Hagan's exciting career with the airline that has led him to many parts of the world and put him in the company of many renowned individuals, both heads of state and celebrities. Walter has always shown himself to be a sterling example to others and has touched the lives of all who have known him over the years, from celebrities, to his friends at home.

Being on the ground floor of commercial overseas air travel, Walter has been a goodwill ambassador for not only American Airlines, but the United States as well. Through his friendly and hard working ways, Walter has distinguished himself by being on the forefront of an industry that has flourished during his career. Along the way, Walter has not only helped others, but, has also enjoyed his work and found much satisfaction in performing his job. I hope my colleagues find the story as interesting as I.

AMERICAN AIRLINES—FIRST AIRLINE TO SERVE ALL THREE OF LONDON'S AIRPORTS

(By Bill Leader)

With American Airlines, Tuesday, June 16, inauguration service from Chicago to London's Stansted Airport, the Fort Worth-based carrier is now the only US carrier to fly into all three of London's airports.

Queen Elizabeth II formally opened London's newest airport on March 15, 1991. Stansted is located northeast of London and yet enjoys the same fast rail link (45 minutes) to downtown London as does Gatwick, south of London.

American started direct service into Gatwick Airport in 1982 but the breakthrough came July 1, 1991, when American inaugurated service into London's Heathrow. Heathrow, currently building its fifth terminal, is England's main hub to Europe. It was the plum American especially desired.

For Walter H. Hagan of American Airlines there was a dream-like quality about the July 1, 1991, ceremonies inaugurating flights from London's Heathrow Airport to the United States.

Hagan, American's manager of special services, had seen it all before . . . 45 years ago.

As a relief manager and in his first year with American Airlines, Hagan was present May 31, 1946, when American Overseas Airways—a subsidiary of American Airlines—inaugurated service from London's new airport at Heathrow to the United States. Adding some extra glamour to the event, American Overseas Airways used the occasion for the maiden flight of its latest airliner—the four-engine triple-tailed Lockheed Constellation.

Hagan's executive office in Terminal 3-E at DFW International Airport is a treasure of airline memorabilia with models of the Lockheed Electra and Douglas DC-3. Signed photographs of movie stars and former U.S. presidents and their wives line the walls. Through his job with special services Hagan has met so many of them. Last year he accompanied country 'n western singing star Dolly Parton to the city of Dingle in western Ireland.

Country 'n western music has its roots in Irish folk music and, as a coincidence, Hagan has roots in Ireland—although born in the United States his mother is from Derry, Ireland.

"Since my mother was born in Ireland I am entitled to an Irish passport," Hagan explained.

A Derry newspaper described Hagan as "vice president of American Airlines.' As an amusing acknowledgment of the newspapers' mistake, American Senior Vice President Ralph Richardi had a sign made up for the door to Hagan's office—"Walter H. Hagan—vice president—special assistant to Dolly Parton."

Hagan was present July 1 when American Airlines Chairman and President Robert L. Crandall with Sir John Egan, chairman of the British Airport Authority, cut a ribbon marking the start of American service from Heathrow.

American now has four daily flights between Heathrow and New York; one daily flight from Boston, Newark and Los Angeles. American began service from DFW Airport to London's Gatwick Airport in 1982 having purchased the route from Braniff International.

As exciting as the new service to Heathrow, Hagan wonders why the media didn't pick up on the fact that American was one of the pioneers of flights into London's Heathrow.

Even the advertising slogans haven't changed very much. Hagan produced an old AOA advertisement from a British publication which proclaimed "AOA to the USA." Today's slogan is American to America.

Hagan's association with American actually began when he was with the U.S. Army Air Corps in North Africa and he met Cyrus Rowlett "C.R." Smith, legendary chairman of American Airlines. At the time Mr. Smith was head of the ATC—Air Transport Command. During one conversation Mr. Smith asked Hagan what career he intended to pursue after the war. Hagan said he wasn't sure and Mr. Smith suggested he consider a career with American Airlines.

"I joined American at LaGuardia in New York, January 10, 1946, which happened to be my birthday," Hagan said.

After initial training he was transferred to operations and then sent to Europe as a relief manager. This job involved a lot of travel between the airports, which American Overseas Airways served. These airports included London, Prestwick, Scotland, Rhein-Man Airport, Frankfurt, Germany; Copenhagen, Denmark; and Stockholm, Sweden.

In 1945, shortly after the end of World War II, American Airlines purchased the air service of the American Export Steamboat Line. This acquisition came shortly after Congress enacted a law making it illegal for a steamship company to operate an airline. This was due to anti-trust laws.

Renamed American Overseas Airways, this subsidiary of American Airlines began once-a-week service from Chicago to London, November 19, 1945. At that time there was no Heathrow Airport and AOA airliners landed at Hurn Airport near Bournemouth, on England's southern coast.

On May 31, 1946, AOA transferred its service to London's new airport at Heathrow.

AOA used Douglas DC-4 airliners for its service to England. This airplane carried 34 passengers.

Hagan recalls many trips across the Atlantic aboard the DC-4. This four-engined airliner made the trip in three legs—New York to Gander, Newfoundland; Gander to Shannon, Ireland; and then Shannon to Hurn Airport, England. The longest leg of the trip was Gander to Shannon, a distance of 1,976 miles and which took, depending on winds, about 14 hours. This airplane was unpressurized and flew at about 8,000 feet. The navigator on board kept the aircraft's position over the Atlantic using celestial navigation or "shooting the stars."

In those days the pilots made out a flight plan, which included a PNR—"point of no return."

"The PNR was marked on the route. If for some reason the airplane developed engine trouble but had already passed the PNR it had to keep going forward. You couldn't go back," he explained.

But Hagan recalls these trips with great fondness.

"On the way back to the States we'd stop at Shannon and leave the airplane while it was being prepared for the trip over the Atlantic. They'd give us a great dinner at Shannon Airport," he said.

The galleys on board the DC-4s he remembers as quite elaborate.

"As the airplane approached Gander you could smell the eggs and bacon being cooked in the galley," he recalled.

However the inauguration of London's new Heathrow Airport also coincided with AOA's maiden flight of the latest in airliners—the Lockheed Constellation L49. This airplane had a pressurized cabin and could seat 43 passengers.

The change in Heathrow after 45 years are dramatic.

"When it opened up they were using quonset huts and tents. There were only 43 passengers coming off our airplane. They really didn't need a large terminal," he explained.

AOA purchased a hotel in London for its people in a fashionable area known as Green Park. Hagan, with some time off from the July ceremonies, made a nostalgic trip back to the hotel on Half Moon Street in Green Park.

"It's still a very nice hotel. From the outside it looks just the same. The new owners kept the facade but the inside has been gutted and modernized."

He decided not to introduce himself to any of the staff.

"I was going to and then, you think it was 45 years ago, they wouldn't have remembered any of the people I knew who stayed there. I stood there on the street and looked up and down, watched the action and reminisced about what it was like then.

"I still enjoy London and it hasn't really changed that much. Everybody is so polite, the cab drivers, everyone. It has a lot of class. It was a cosmopolitan city back then and it's still a cosmopolitan city," he said.

He did get to meet some of the British people, who worked for AOA 45 years ago. Mrs. Crandall, he noted, seemed especially interested to meet these people.

On January 25, 1949, an AOA Constellation set a new speed record with a flight from New York to Shannon, Ireland, completed in only eight hours and 47 minutes.

On August 17, 1949, AOA began service with the "last word" in luxurious flying—the Boeing 377 Stratocruiser. The Stratocruiser was actually a double-decked version of the famous Boeing B-29 bomber—the airplane from which the first atomic bomb was dropped on Japan, August 6, 1945. The lower "lobe" of the Stratocruiser as well as the tail section, wings and landing gear were basically a B-29. Known as the "Cadillac of the Skies" the Stratocruiser was the most spacious airliner to date. It could carry 63 passengers and they were invited to spend some time in the "downstairs lounge."

AOA flew to Germany, Denmark, Finland, Sweden and Norway.

In the days before the jetliners, air travel was the exclusive preserve of the rich and famous. In his special services capacity Hagan met many of the movie stars, diplomats and top politicians.

He recalls flights with Lewis O'Douglas, the U.S. ambassador to England and a personal friend of C.R. Smith.

John Wayne, the movie star, became a friend. He met the actor shortly after he had finished filming "The Quiet Man" with Maureen O'Hara in Ireland.

Hagan keeps a letter from John Wayne written to him in 1975 in which Wayne, then in ill-health, complained about not being allowed to drink any liquor.

"And right at the moment, I know how dull it is to be sober, but it hasn't helped me to breathe which has been my problem for the last three months; but to hell with that."

The movie actor signed the letter "Duke."

Hagan has pictures of himself with movie star Jimmy Stewart and 1950s teenage sensation Sandra Dee; Barbara Mandrell; Larry "J.R. Ewing" Hagman.

He recalled flights with presidents including Lyndon B. Johnson—"He was tough. He was a good man but he wanted things right"—and John FitzGerald Kennedy. It was C.R. Smith, Hagan said, who persuaded the presidential candidates to charter one of American's Lockheed Electra airplanes during their presidential campaigns.

Of Kennedy, Hagan said, "He was impressive. I remember the stewardesses were very impressed. He was so charismatic."

In July, 1950, President Harry Truman and the CAB (Civil Aeronautics Board) approved the sale of AOA to Pan American World Airways.

A decade later, with the introduction of the jetliners such as the Boeing 707 and the Douglas DC-8, flying became accessible to the general public. Travel by rail or steamship began to slump as more and more people opted to go "by air."

As the jetliners became larger, the glamour associated with the old piston-driven airlines disappeared.

After taking a flight a person, almost invariably was asked, "Who was on the plane?" It was just assumed a famous politician or movie star would be on board.

Working for an airline in the period just after World War II must have been exciting.

Leaning back in his chair, hands behind his head and a happy smile on his face, Hagan agreed. "It was fun," he said.

LINDA L. KAMPE, PUBLIC SERVANT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, it pleases me today to inform you of someone who truly symbolizes the hard-working energy of our local public servants. That person is the assistant town clerk for the town of Oxford, MA, Linda L. Kampe.

Service to the community is nothing new to the Kampe family. Linda's grandfather, M. Harold Harrington, and grandmother, Florence Harrington, were both town clerks of Oxford. Linda's mother, F. Pansy Kennedy, is currently the town clerk.

Linda L. Kampe has served the citizens of Oxford for 23 years as the assistant town clerk. Along with being assistant town clerk, Linda has also acted as assistant burial agent, member of Oxford's insurance advisory committee, former secretary to the Oxford Planning Board. She is also a notary public and justice of the peace.

Linda was born in Oxford and attended local school there. She is a graduate of Oxford Memorial High School and New England Municipal Clerks Institute at Salva Regina College at Newport, RI. Linda is married to Kenneth Kampe and has three beautiful children: Nancy, Eric, and Thomas. I must mention that in keeping the spirit of public service in the family, Kenneth is a member of the board of registrars.

Mr. Speaker, on August 14, 1992, a testimonial will be held in Linda Kampe's honor at the Knights of Columbus in Oxford, MA. The citizens of Oxford will come to honor a woman who has made their town a better place in which to live. It is my privilege to commend and thank Ms. Kampe for all her good work for the community.

SUPPORT FUNDING FOR JUSTICE DEPARTMENT PROGRAMS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. MAZZOLI. Mr. Speaker, I rise in strong support of H.R. 5678, a bill making appropriations for fiscal year 1993, for the Departments of Commerce, Justice, State, and related agencies. At this time, I would like to thank the gentleman from Iowa [Mr. SMITH], the gentleman from Kentucky [Mr. ROGERS], and their colleagues on the committee for their diligent work in bringing this important legislation before the House.

H.R. 5678, I am happy to note, appropriates $1 million for a proven juvenile justice program—the Court Appointed Special Advocate Program, otherwise known as CASA. In my hometown of Louisville, KY, the CASA Program, under the leadership of Ms. Sally Erny, trains volunteers to become advocates for our most vulnerable children—those who have been abused, neglected, or abandoned. This funding will allow for an expansion of an enormously successful program that ensures that the best interests of some very unfortunate children are served.

I am also pleased to note the H.R. 5678 provides $1.9 million to improve prosecution of child abuse cases. This appropriation will support the efforts back home of Jefferson County attorney, Michael Conliffe and Jefferson County District Judges Richard Fitzgerald and Kevin Delahanty, thoroughgoing professionals who are doing excellent work in this area.

The bill's appropriation of $463.5 million to help State and local governments in their drug control and other law enforcement efforts is noteworthy; $389.6 million of that amount is earmarked for formula grants to States, which in turn distribute funds to local governments. In my District, this funding will permit the Louisville and Jefferson County Crime Commission, under the direction of Ms. Kim Allen, to continue its promising drug enforcement, treatment, and prevention programs.

Mr. Speaker, finally, I am sorry that H.R. 5678 provides $5 million below the 1992 level for the operations of the Immigration and Naturalization Service [INS]. I sincerely hope the committee can give consideration in a future supplemental appropriations to fully fund INS. Otherwise, I fear the INS will not have the resources to handle its difficult operational mission.

I strongly support H.R. 5678 and I urge my colleagues to vote for the bill.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, August 11, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 12

9:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2762, to assure the preservation of the northern spotted owl and the stability of communities dependent on the resources of the public lands in Oregon, Washington, and northern California.

SD-406

Labor and Human Resources

Business meeting, to mark up S. 1622, to revise the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, S. 2837, DES Education and Research Amendments, S. 492, Live Performing Arts Labor Relations Amendments, proposed legislation authorizing funds for the Agency for Health Care Policy and Research, Department of Health and Human Services, proposed legislation relating to breast cancer screening safety, and to consider pending nominations.

SD-430

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine alleged corruption in the professional boxing industry.

SH-216

Select on Indian Affairs

Business meeting, to mark up S. 2975, to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona; to be followed by an oversight hearing on Indian trust fund management.

SR-485

Select on POW/MIA Affairs

To continue hearings to review private sector and official efforts on POWs/MIAs.

SR-325

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the state of the U.S. economy and competitiveness, focusing on implications for labor changes in the U.S. economy and the increasing globalization of our economy.

SD-538

Joint Economic

To hold a roundtable discussion on the current condition of the economy.

2359 Rayburn Building

12:00 p.m.

Foreign Relations

Business meeting, to consider S. Con. Res. 134, commending the People of the Philippines on their general elections, S. Res. 331, commemorating the Hungarian National Holiday, and pending nominations.

S-116, Capitol

Governmental Affairs

To hold hearings to examine the accuracy of the U.S. Census Bureau's population estimates and its impact on State funding allocations.

SD-342

2:00 p.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

SEPTEMBER 9

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study on implementation of the Fishery Conservation Amendments of 1990 (P.L. 101-627).

SR-253

SEPTEMBER 17

9:30 a.m.

Energy and Natural Resources

To hold hearings on provisions of S. 2335, National Beverage Container Reuse and Recycling Act, relating to the energy conservation implications of beverage container recycling.

SD-366

SEPTEMBER 22

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations by the American Legion.

334 Cannon Building

SENATE—*Tuesday, August 11, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 9:15 a.m., and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

The PRESIDING OFFICER. Today's prayer will be offered by the guest chaplain, the Reverend R. Richard Edgar, pastor of the Reality Gospel Church, Alexandria, VA.

PRAYER

The Reverend Richard Edgar, pastor of the Reality Gospel Church, Alexandria, VA, offered the following prayer:

Let us pray:

O, Lord, our God, how majestic is Your name in all the Earth. Each one has entered into this House today with visions and anticipations of the future of our Nation. Without vision, You said, we perish.

Place in our hearts those graces, patience, and stamina to follow in new paths, to see the new, shimmering horizons that beckon us. Give us courage and guidance to follow.

Let there be a new awakening in us that what we do here is passed on to our children and our children's children. So will You, Almighty God, encompass our beings with life, with love, and with hope.

Give us a teachable attitude, a humble heart, and let thankfulness survive in us, and let us not be weary in well doing: For in due season we shall reap if we faint not.

Thine, O Lord, is the greatness, and power, and the glory, and the victory, and the majesty: For all that is in the heavens and in the Earth is Thine.

Now, therefore, our God, we thank Thee and praise Thy glorious name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 11, 1992.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later today.

FAMILY AND MEDICAL LEAVE ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senate will now proceed to the consideration of the conference report accompanying S. 5, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The ACTING PRESIDENT pro tempore. Under the previous order, the conference report is agreed to.

So the conference report was agreed to.

The ACTING PRESIDENT pro tempore. There will now be 30 minutes under the control of the Senator from Connecticut [Mr. DODD] or his designee; 10 minutes under the control of the Republican leader, or his designee; and 5 minutes under the control of the Senator from Virginia [Mr. WARNER].

Mr. DODD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

PRIVILEGE OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that the following staff members of the Subcommittee on Children and Family be granted floor privileges during the consideration of the conference report on S. 5: Trammell Alexander, Anne Ford, and Judy Ezzell.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise this morning to speak on behalf of this conference, S. 5, known as the Family and Medical Leave Act of 1992.

Last October, the Senate approved, by more than a two-thirds margin, this critical measure to provide short-term job security for working parents in times of family or medical emergencies.

There is a lot of talk these days in the Halls of Congress and on the campaign trail about helping working families—families who have lost hundreds of thousands of jobs in the worst economic downturn since the Great Depression; families who look at unemployed neighbors and wonder if their jobs are next; families who ask themselves how they would care for a child or an elderly parent who suddenly becomes ill; families who, for the first time in generations, cannot count on a better life for their children.

So far, all these families have heard from Washington, quite frankly, Mr. President, is talk. Despite the rhetoric, despite all the speeches and the promises, I believe that we have failed to provide the real solutions to the real problems that average families face every single day.

Mr. President, now is the time. It is time to replace family values rhetoric with real policies that truly value families. It is time to say no to big business lobbyists and yes to hard-pressed working parents; it is time to show that we can be pro business and pro family at the same time.

The American family has changed. It has changed dramatically over the last number of years. And fortunately Government, with this legislation, recognizes that change and tries to do something about it. The Family and Medical Leave Act is an idea whose time is long overdue. In America today, life is a daily struggle to balance the competing demands of work and family responsibilities.

Two-thirds of all women with children work full time. Let me repeat that, Mr. President. Two-thirds of all women with children are working full time today in America's economy. One-quarter of all children live with a single parent. Millions of three-generation households now care for elderly parents. And almost 1 million women care for their parents and children while working full time.

Take Jeanne, from western Connecticut. She was forced to give up a $35,000 annual salary when her employer denied a request for leave to care for a newly adopted daughter. Jeanne returned to the job market 2 months later, only to find her options limited to jobs that paid one-third of her original salary. After months of emotional and financial stress, Jeanne's marriage ended in divorce.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Or take Carmen, from Chicago, IL; a single mother of three. Carmen lost her job of 19 years as a pharmacy technician when she needed to have leave to recover from a very difficult pregnancy and to care for a newborn child with Down's syndrome. After two decades, 20 years of bringing home a paycheck, Carmen was forced onto the welfare rolls just to feed her children.

Or take Sandra, from a small town in Wisconsin. When her 82-year-old father had two serious heart attacks Sandra's employer refused her request for 1 week—1 week—of unpaid leave to help care for her father. Ironically, Sandra was offered 3 days' leave, should her father die. That was part of the policy. But no time for the chance to comfort her mother or to help the nurse and help her father back to health.

For these families and thousands like them, the Family and Medical Leave Act of 1992 provides an answer. If you need time off to care for a new child or care for a sick child or an elderly parent, your job and your health insurance will be there when you return.

With technical and conforming changes, the conference report that we have just adopted is the same legislation that we approved last October by a more than two-thirds margin. This legislation ensures up to 12 weeks of unpaid leave for the birth or adoption of a child or the serious illness of an immediate family member: yourself, your child, your spouse, or your elderly parent.

Small businesses are exempt completely and strong protections have been included for those employers covered by the legislation. It is a simple but compelling idea: Job security during a key family crisis that can remove the primary breadwinner from the labor force and cripple a family's economic security. This legislation is the product of more than a dozen congressional hearings and countless discussions with business people and State officials from around the country.

We have amassed strong and convincing evidence that a national family leave law is not only good public policy, but it also makes good business sense.

According to a recent study conducted by the Small Business Administration—and I quote from that report, Mr. President:

> The net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee.

This SBA study, commissioned and paid for by the Bush administration, pegged the cost of family leave at less than 2 cents—at less than 2 cents—per covered employee per day without even factoring in employer savings from reductions in terminations costs.

Another recent study commissioned by the Ford Foundation examined employer practices in four States that have enacted family leave policies. Nine out of ten employers in those four States reported that the laws were easy to implement and that they were not forced to provide fewer health benefits. Eight out of ten employers reported no increase in training or unemployment insurance costs.

Aetna Life & Casualty Co., one of the largest employers in my State of Connecticut, recently reported that its family leave program saved them $2 million each year in reduced employee turnover and lower hiring and training costs. Prior to implementing its policy, only 77 percent of Aetna's female employees returned to work after child birth. Now 91 percent of those who take family leave return to their jobs.

Across the country, employers with leave policies in place report tremendous savings in terms of employee training, productivity, loyalty, and reduced absenteeism.

States with family leave laws report minimal costs for enforcement, minimal costs to businesses, and an improved atmosphere of labor-management cooperation. Most important of all, I believe we have put to rest once and for all the specious argument put before us by Washington lobbyists, and that is that the evidence is clear and unequivocal, employers simply do not take away other employee benefits when a family leave policy is put in place.

Almost 4 years ago, in September of 1988, a prominent national leader stood at a podium in Rockford, IL. He said:

> We need to assure that women do not have to worry about getting their jobs back after having a child or caring for a child during a serious illness.

That is a statement that I would be proud to call my own. It promotes family leave as a right, not a privilege; a guarantee that every working parent should and must have. I am sad to say, however, that this remark belongs to President Bush, the same man who vetoed this bill in 1990 and who has threatened a veto again this year. American families read the President's lips but so far he has offered only lip service in return.

The President talks about family values but fights a policy that values families.

He would deny a woman's right to choose but rejects a bill that promotes adoption and provides real options for women who must work and raise children at the same time.

He talks about the health insurance crisis but will not protect those who could lose their coverage, now, during a family or medical emergency.

He reports welfare reform but rejects the bill that would enable low-income, single parents to raise their children and be productive working members of our society.

Over the next 3 months the President will have the chance to make an old campaign promise made in Rockford, IL, in September 1988—he will have a chance to make that promise and that commitment made on that day a reality in the new law of this land; a chance to place the needs of American families ahead of the big business lobby's narrow political agenda; a chance, in his words, Mr. President, to assure that working parents never again are forced to choose between the jobs they need and the families that they love. I hope the President will not let this opportunity pass him by.

Mr. President, I reserve the remainder of my time and yield whatever time the majority leader needs.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, today the Senate will pass the Family and Medical Leave Act. That is the result of a lot of hard work by a lot of people. But no person deserves credit for this significant action more than the Senator from Connecticut. With great perseverance, with deep commitment, and with a tremendous effort at leadership, the Senator from Connecticut [Mr. DODD] has led the way to passage of this important legislation. He deserves the gratitude of every American family because job protection during times of childbirth and family illness is important to every American family.

Too many women have been forced to make a painful choice between the economic imperative of working to supplement their family's income and the anxiety of caring for a seriously ill child. We ought not force women to choose between their job and their families. The Family and Medical Leave Act will strengthen families. Well over half of American women do not have maternity leave. Well over half of American parents do not have leave to care for seriously or even terminally ill children. Very little consideration is given to those working adults who are also caring for their aging parents.

Poll after poll shows that the American people want a Family and Medical Leave Act. Americans want to know that they have some basic job protection during times of family crisis. A substantial majority of House Members are on record as supporting this legislation. The same is true in the Senate. What is preventing this legislation from enactment is the threat of a veto by the President. That is truly regrettable. Family leave ought not be a partisan issue. To know the worker has the flexibility to take care of a newborn child or to take care of an ailing parent without the fear of losing a job ought not to be remarkable. It really ought not to require a law. It ought to be a matter of course.

This legislation will strengthen families. Those who believe in family values should be supporting this family legislation. It will provide job security to those who need it most. I urge the

President to reverse his position and sign this bill into law.

Mr. President, I want to close, as I began, by commending Senator DODD for his truly outstanding leadership, his patience and perseverance and, most of all, his deep commitment to the kind of values that I believe are important for American families.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank the majority leader for his very generous remarks and thank him for his support. I will be glad to yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. I see my good friend, Senator BOND, on the floor. How much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has 16 minutes and 40 seconds left.

Mr. KENNEDY. Mr. President, first of all, all of us on the Labor and Human Resources Committee want to express our appreciation to the majority leader for his cooperation on this legislation. The struggle to provide family and medical leave to all working Americans has been a long and continuing journey, and we appreciate his cooperation in scheduling this matter, as well as his strong support for the legislation itself. He has been enormously helpful.

I also want to join in commending my good friend, the Senator from Connecticut [Mr. DODD] for bringing us to where we are today. This has been a 7-year effort. We must not forget the hundreds of hours of hearings that were held all across the country in the early days, when this legislation was being fashioned. The step the Senate takes today is enormously important, ensuring continued progress toward achieving the goals of this legislation, but we must remain mindful of all the steps that have been taken in the past.

I also want to express appreciation to our Republican colleagues and friends who have supported this legislation. As the Senator from Connecticut has pointed out many times, the effort to enact family and medical leave has been a bipartisan effort in the Senate as well as the House. We would never have been able to get as far as we have without their support, and I think it is important to note that fact.

Mr. President, this legislation is enormously important and it deserves to become law this year. Every year that goes by without this legislation, tens of thousands of families are put through the enormous personal tragedy of having to decide to risk their job or ignore the needs of a family member who is seriously ill.

The extraordinary fact is that individuals who lose their jobs under those circumstances often lose their health care benefits as well. While these individuals are trying to cope with an enormous emotional trauma, they lose their jobs, and they lose their health insurance—just when they most need it.

It is difficult, I think, for many of us to recognize that this is happening across this country, but it is happening. It may not happen to employees of the U.S. Senate. As I have mentioned on other occasions, I had the opportunity to take family leave from the U.S. Senate when my son, Teddy, who lost his leg to cancer, needed a 2-year chemotherapy treatment, every 3 weeks for a period of 3 days. I was able to take leave. No one was threatening to cut off my health insurance; no one was threatening to take away my job. It was absolutely indispensable that I take that leave, and it meant the world to both my son and to myself.

Countless Members of this body, as well as the House of Representatives have faced a similar situation. Nonetheless, we still have to fight to try and achieve this right for the working men and women of this country.

As has been pointed out and as I will discuss more extensively later in my remarks, Mr. President, this is neither an expensive nor a burdensome bill. The record indicates quite clearly that companies that currently provide leave are able to deal with the administrative challenges which providing such leave may present, and that the estimates that were given earlier about the cost of this program were not based upon real-life experience.

Yet by not enacting this family and medical leave law, we are putting additional burdens on our taxpayers, who must pay the increased costs of welfare, unemployment compensation, Medicaid, food stamps, and all the other programs that workers who lose their jobs because they lack job-guaranteed leave must turn to. The cost to taxpayers is not unimportant. It is not the major reason this legislation should go into effect, but it is something that we ought to carefully consider.

Finally, Mr. President, the value of this legislation in terms of relieving the anxiety that parents feel during a time of family crisis is immeasurable. While this benefit cannot be valued in terms of dollars and cents, the relief it offers those families from intense anxiety, fear, and frustration is of enormous importance.

It is gratifying Congress is finally completing consideration of the Family and Medical Leave Act. Working Americans have waited far too long for this very important piece of legislation.

The Family and Medical Leave Act stands for a basic principle. It embodies a national consensus that no worker should be forced to choose between caring for their loved ones and keeping their job. When a child is born or a serious illness strikes a family member, working Americans should be guaranteed the right to take a reasonable amount of time off, without fear that they will lose their job.

Despite the controversy surrounding it, the requirements of this legislation are neither burdensome nor expensive. The act requires firms to permit employees to take up to 12 weeks a year of unpaid leave if they are seriously ill themselves, if they need time off from their job to care for a new baby or a newly adopted child, or if an immediate family member is seriously ill.

The bill also requires that employers continue providing regular health benefits for workers who take family or medical leave, since such benefits may be especially important during that period.

The conference agreement is identical in most respect to the substitute amendment adopted by the Senate last October by a vote of 65 to 32. It differs from that bill in three respects. First, it adds the requirement that leave to care for a newborn child must be in order to care for the child. Second, it makes several changes to title II to make it more consistent with other laws on Federal employees. Third, it improves the coverage of Senate employees by incorporating the enforcement mechanism in last year's Civil Rights Act.

Like the bill passed by the Senate last fall, the conference report contains an extensive series of provisions to protect employers and ensure that the right to leave is not abused:

It exempts firms with 50 or fewer employees—approximately 95 percent of all businesses.

Leave must be provided only to employees who have worked for the firm for at least a year, and who worked at least 1,250 hours during that year.

It permits employers to deny leave to key employees.

It allows employers to recover health premiums, if an employee chooses not to return to work at the end of the leave period.

It requires employees to provide 30 days' notice for foreseeable leaves, to make a reasonable effort to schedule planned medical treatments so as not to disrupt the firm, and to provide medical certifications; employers may require a second medical opinion and reasonable subsequent recertifications.

It allows a firm to transfer an employee who intends to take intermittent leave to an equivalent alternative position.

It allows a firm to require employees to substitute accrued paid leave for any portion of the 12-week unpaid leave.

The bill also contains a limited damages remedy. It incorporates enforcement provisions parallel to the Fair Labor Standards Act, to encourage the resolution of claims in administrative rather than judicial proceedings. It restricts damages to double the amount of lost wages or actual monetary losses. It further limits damages against employers who act in good faith and have reasonable grounds to believe their actions did not violate the act.

A GAO cost estimate confirms that the act will not unduly burden employers. GAO estimates that the total cost of the legislation will be only about $5.30 per covered employee per year.

The estimate does not even take into account the significant benefits to the employer of providing leave, such as reduced turnover, improved employee morale and a more experienced, loyal, and committed work force.

As researchers from Cornell University and the University and the University of Connecticut have concluded:

> The net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee. Therefore, while there will be costs to firms of mandating leave by the Federal Government, these costs will be relatively small as compared to the cost of terminating the worker who desires the leave.

The conclusion that providing family and medical leave is neither burdensome nor costly is supported by the experience of employers in States that have already enacted family leave.

According to a study commissioned by the Ford Foundation and undertaken by the Families and Work Institute: 91 percent of employers in four States reported that the State laws were not difficult to implement; 93 percent reported that the State laws had not forced them to provide fewer health benefits; 73 percent reported that the laws had not resulted in an increase in health benefit costs; and a majority reported that the laws resulted in no change in training costs, unemployment insurance costs, or administrative costs.

As I mentioned briefly earlier, providing reasonable job-protected family and medical leave is not costly. But ignoring the need for such leave is. A 1990 study by the Institute for Women's Policy Research found that workers who become seriously ill and who lack job-protected medical leave suffer $12.2 billion in lost earnings annually. Working women lose another $607 million due to lack of parental leave. Taxpayers pay an additional $4.4 billion annually in welfare, unemployment compensation, food stamps, and Medicaid payments to workers who lose their jobs due to the lack of job-guaranteed leave.

Enligtened employers already recognize the benefits that flow from adopting a responsible family and medical leave policy. Indeed, some provide more generous leave than is required by this bill. Since 1988, Aetna Life & Casualty Co. has provided workers with up to 6 months of unpaid family leave a year, with continued benefits and seniority. Aetna reports that its program saved the company $2 million in 1991, by cutting down employee turnover and reducing costs for hiring and training.

But far too many working families continue to suffer because of the lack of a reasonable family and medical leave law.

The vast majority of men and women are denied reasonable leave to care for a newborn child. A 1990 study by the Bureau of Labor Statistics found that only 37 percent of female employees in firms with 100 or more workers had maternity leave, and a 1991 BLS study found that only 14 percent of women in firms with fewer than 100 workers had such leave. Even in the Nation's largest companies, more than half of all workers lack maternity leave beyond a basic maternity-as-disability period—typically 6 weeks.

Even fewer men have the right to take time off from work to care for their newborn children. A 1988 study found that only 14 percent of companies had a formal paternity leave policy.

A 1990 BLS study found that only 18 percent of fathers at medium and large firms are covered by an unpaid paternity leave policy, and only 6 percent of fathers at small firms had the right to take leave.

The situation is even more grim for medical leave. According to the Chamber of Commerce, 82 percent of employers provide no leave to care for a sick child. A 1988 study found that 86 percent provide no leave to care for a sick parent. Even where leave is provided, it often consists of only a few weeks a year—not the 12 weeks provided in this legislation, and not enough time off to deal realistically with many serious illnesses.

The vast majority of Americans believe in family leave and expect Congress to do something to correct the current shortsighted situation. In poll after poll, 70 to 80 percent of those asked, support Federal legislation guaranteeing unpaid, job-protected leave to care for a new child or a seriously ill family member.

It is not enough to say that workers and employers should negotiate over family and medical leave. Workers deserve such leave as a basic right, on par with basic guarantees like the minimum wage, health, and safety on the job, and other fair labor standards.

I join with the majority leader and the Senate from Connecticut in urging the Senate to pass this measure, and to vote to override President Bush's veto if he continues to maintain his irresponsible ideological opposition to this fundamental right. No workers in this day and age should be forced to choose between the job they need and the child or parent they love. And no humane society would ask them to make that choice.

Mr. President, I yield back the remainder of my time.

Mr. DODD. Mr. President, I want to thank the Senator from Massachusetts. We would not be here at all without his support and the backing of the committee, during, as he put it, the 7-year battle on this measure. I would be terribly remiss if I did not commend him for the help he and his staff have given us over the years.

I yield 3 minutes to the Senator from Missouri.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I express my thanks to my colleague and friend from Connecticut.

Over these past few years we have heard many people discussing the family, family values and how we must strengthen the family. As one who believes that for far too long government has ignored the importance of families, or worse yet, has created policies more likely to break them up than keep them together, I welcome this discussion.

Many of the problems facing society today can be attributed to the weakening of the American family. Drugs, violence, crime, declining educational performance, and poverty can be traced back to an empty childhood or a shattered family. There is a great need to strengthen the American family by reinforcing the bond and sense of responsibility between parents and children.

Of all the efforts and initiatives that I have been involved in since coming to the Senate, none have been more important to me than my efforts in the area of family preservation and children's issues.

Thus for the past several years, working with organizations in Missouri as well as interested individuals I have been actively pushing a series of reforms and new policies designed for the sole purpose of keeping families together.

I believe that programs to help children and families are long-term investments by today's generation that will brighten the future of our Nation. I believe that our solutions should be preventive rather than reactive. We must address the root causes of problems rather than simply applying Band-Aids to deep cuts.

America's children hold the key to our long-term prosperity. They will share America in the years to come and affect the progress of our country. The motivation and the capacity to learn start from birth and need constant attention. Parental involvement in the education of their children is the single most important factor in ensuring long-term academic success for youngsters. Parents are their children's first and most influential teachers. As Governor, I established Missouri's statewide parents as teachers program, making Missouri the first in the Nation. It is designed to assist parents in fostering their children's language cognitive and motor development skills, and to provide advice to parents on what to expect at each stage of a child's development. Because of the program's success, 35 other States have used the Missouri model to develop their own programs.

Recently, I worked with the St. Louis Salvation Army to create a new, innovative housing and counseling center to address the needs of homeless families with children to get them out of the emergency shelters and into a program to rehabilitate their lives.

With the Senator from Maryland [Ms. MIKULSKI] I worked on getting the new family unification program up and running. This will help keeps kids out of foster care who would otherwise be split up because of housing deficiencies and reunite other families already split up because the lacked affordable housing. This is an extremely important program, and I am proud to be associated with it.

But while all these efforts are important I believe the single most important step we can take to help all families in America, is by taking steps to reinstill individual and family responsibility. And to do that, we as a society need to make family obligation something we encourage rather than discourage. That's why I believe we should pass and the President should sign into law the Family and Medical Leave Act we have before us today.

As a society we should never force a parent to choose between a sick child and her or his job.

We should never force a parent to choose between caring for an aged parent and a job.

And we should never force a mother to leave her newborn days after its birth in order to stay employed.

That is why I developed the compromise before us today, which I believe is reasonable that is why I so strongly support this conference report, and that is why I will continue to urge the President to support this bill.

Mr. President, some may feel this issue is about mandates. But I believe it is much more about the strong signal that as a society we place a very high value on parenting and family obligation.

The workplace of the nineties cannot live by the rules of the 1950's. The fact is that more mothers of young children, even infants, work outside the home than ever before. In 1988, married women with young children comprised the majority of new entrants in to the labor force. More than half of women with young infants return to work outside the home within a year of their child's birth. And contrary to what some may have you believe, it is not necessarily out of choice—it simply takes two incomes to pay the bills.

To prove my point: We know that more than two-thirds of women in the work force today are either single parents or have husbands who earn less than $18,000 per year. The fact is a family of three or four cannot live comfortably on under $18,000 per year in most parts of this country. Surveys show us that many married couples would choose to have one person stay home full time if money were not an object, but it is.

So what happens when a family faces an emergency, an illness, or unexpected chance to adopt, but both partners work? Well, they had better hope they have an understanding employer. A 1990 Bureau of Labor Statistic study found that only 37 percent of female employees have maternity leave. And of the Fortune 1,500 companies, where one might expect the best coverage of workers, only half offered parental leave beyond the standard 6-week maternity as disability period.

Paternity leave is extremely scarce. A 1990 Bureau of Labor Statistics study found that only 18 percent of fathers at medium and large firms are covered by unpaid paternity leave.

According to the Chamber of Commerce, 82 percent of employers provide no leave to care for sick children.

And if an employee is sick himself or herself, there is a good chance that he or she works for a company that does not even provide sick leave.

That is why this bill is vital. During that unforeseen family emergency, we want our Nation's parents to think about their family's wellbeing, and not also worry about whether their job will be there when their youngster gets out of the hospital.

Mr. President, I have thought long and hard about these issues, and I believe the compromise developed with Senator DODD last year, which is now embodied in the conference report, is important, necessary, and should be signed into law.

As a society we should never force a parent to choose between a sick child and her or his job.

We should never force a parent to choose between caring for an aged parent and a job.

We should never force a mother to leave her newborn days after its birth in order to stay employed.

And by all means, if we believe in family values, we should encourage a policy of family obligation when at all possible.

Mr. President, I urge my colleagues to do the right thing and vote to get this conference report to the President.

Mr. DODD. Mr. President, before the Senator from Missouri leaves the floor, I want to make it abundantly clear—I mentioned the tremendous support provided by the Senator from Massachusetts, the chairman of the committee—without the efforts of the Senator from Missouri in building a compromise position, we would never have achieved the level of support we did. We might have passed the bill, but I think it would have been a narrow passage. That 68 Members of this body support the family and medical leave legislation in no small measure is due to the efforts of the Senator from Missouri. I am deeply grateful and appreciate of his efforts.

I want to make the same comment of the Senator from Indiana, who is the ranking minority member on the subcommittee. Senator COATS was with me through the hearing process. He has been tremendously supportive, again, good ideas, good suggestions, a far better bill because of his involvement and making a couple of additions to the legislation that I think strengthened the idea and made it more acceptable to a broader spectrum of people, and I am deeply grateful to him.

I will yield 3 minutes to the Senator from Indiana.

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I thank my colleague for yielding the time and for his assistance and leadership in this important issue.

Each year, increasing numbers of mothers are forced into the workplace by family financial pressures. Today, about two-thirds of the Nation's adult women are in the work force, and over half of the mothers with children are employed full-time for some portion of the year. Two-thirds of the new entrants into the work force between now and the year 2000 will be women, most in their childbearing years. Clearly, one of the tasks we face as a Nation is to reconcile the conflicting needs of parents, work, and children.

I support S. 5, the family and medical leave bill. I do so however recognizing that the business community has legitimate concerns, many of which have been addresses in this legislation. However, I want to again express, as I have on several occasions, my desire to continue to work with the business community to encourage the development of, and Federal support for more flexible work arrangements. These policies include, but are not limited to preferential rehire, flex time, telecommuting, and home based employment. These are policies, which, coupled with a reasonable leave package like the one we are voting out today, assure that no family will be forced to choose between work and a child.

While this legislation is not a perfect solution, indeed, I had hoped for many years that it would not have been necessary, it represents a sincere attempt to address the needs of business and working families. To remain competitive in the global economy, to recruit and retain good employees and to improve productivity, particularly in a time of growing labor shortages, employers have already recognized the need to offer more attractive benefits to its employees. Many already offer plans similar to the one in this legislation and those employers should be commended. However, there are those employers who have policies that are not only unfavorable to families, but are actually hostile toward families. Those are the employers we are trying to reach with this legislation.

There is no substitute for the love, care and concern that a parent can give to its child. We need a Federal policy that recognizes the fact that children need their parents to be intimately involved in their lives, not just during the first 12 weeks after birth, but for many years after. We as a nation should support families and encourage parents to spend more time with their children. A parent should never be forced to choose between their children and economic survival. Yet, without a family leave policy we will force many families to do just that.

Mr. President, few can argue with the concept that mothers need to spend time with their newborn children. Few, if any, can argue the concept that mothers and fathers need to spend time with a critically sick or ill child or that working men and women need to spend time with critically ill and dying parents.

These are some of the most important and critical times of life. Few can argue that that should be interrupted or that a choice should be forced upon that individual between job and family. Strengthening the American family ought to be one of our top, if not the top, goals that we as a society face because the family provides so much of what society needs in dealing with the many problems that all of us face on a day-to-day basis.

So I support S. 5, the family and medical leave bill because the concept that it advances is a very valid concept. Throughout this process, there were very legitimate concerns raised by business about the impact of this bill on their business.

I find to my astonishment that most businesses and business people today think of this bill as the bill that was originally introduced 3 or 4 years ago. There have been very substantial modifications. With the support and help of the Senator from Connecticut, with the very able assistance and leadership of the Senator from Missouri, and others, there has been a significant recognition of the very legitimate concerns raised by business relative to potential abuses in this bill.

I have with me a two-page addendum of changes that were made to the bill to accommodate those legitimate business concerns. So what we have before us today is truly a compromise that takes a very valid concept, recognizes legitimate concerns, and melds the two together.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. COATS. It is an effective bill. I am pleased to support it.

Mr. DODD. How much time does the Senator from Connecticut have?

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has 3 minutes 15 seconds.

Mr. DODD. Mr. President, I would like to reserve the remainder of my time. There is 10 minutes, I believe for the Republican leader, is that correct?

The ACTING PRESIDENT pro tempore. The Republican leader has 15 minutes.

Mr. DODD. I am not sure whether or not the Republican leader or others are going to come to the floor, but I would like to reserve at least a minute or two of my time at the end to rebut any comments from the opposition.

Granted, the opposition is very small in this body; only a handful of people oppose this legislation, but if they wish to be heard on this, now would certainly be the time to do so.

Let me yield 2 minutes to my colleague from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has 2 minutes 30 seconds remaining.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio be permitted to speak for 5 minutes without it being charged to either side.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise in support of this conference report on family medical leave. I was both an original cosponsor and I was a Senate conferee. But the man who really gets so much of the credit for this legislation is the Senator who sits to my right, Senator DODD, because his steadfast leadership on this critical issue for working families has been just a privilege to behold. He has been there constantly, resolutely, and without him it never would have come to pass.

Frankly, this legislation should have been signed into law years ago. But, regrettably, President Bush vetoed it. We have heard a lot of talk from the administration about family values, but when the President had a chance actually to do something for America's working families, he turned out one of the thousand lights about which he had spoken previously.

In the past two decades, we have witnessed profound changes in the American working family. It is totally different than that which it was 30 years ago. Today, most American families cannot survive on just one income. Both parents have to work just to put food on the table and pay the rent for a roof over their heads.

The President says he favors voluntary but not mandatory leave. But the reality is that most of corporate America has not responded to this revolutionary change. Even in the biggest companies only half of all the working mothers have adequate maternity leave. Roughly, a third of American businesses provide no sick leave at all, and only 14 percent of American businesses provide spousal or elder care leave.

Workers are all too often faced with an agonizing choice between their job and their family. No worker should lose a job because he or she needs to take a few days or a few weeks off to care for a newborn infant, a sick child or dying parent or spouse.

Let us not kid ourselves. It is low-income workers who are most likely to have no leave. It is low-income families who are most dependent on two wage earners, and it is they who stand to lose the most when they lose a job because they have to care for a sick family member.

The administration's opposition to this legislation is absurd.

First, let us remember this bill provides only unpaid leave—not paid leave, unpaid leave. In a study of States that already require family and medical leave, 91 percent of employers said the requirements were not difficult to implement. And under the bill's small business exemption, 95 percent of the businesses in this country would not even be covered, leaving over 60 percent of the work force unprotected. This bill ought to protect all workers but not just in arbitrary fashion. But I recognize that compromise is part of the legislative process and it is a major step in the right direction.

The pro family legislation is a matter of basic human decency. Over 70 percent of Americans support it, as did 68 Members of this body.

I urge the President to come to his senses and sign this legislation when it comes across his desk. It will be a better country. We will be a better Nation if he does so.

Mr. President, I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DODD. Mr. President, I will yield my time after the minority has come in to speak in opposition.

I ask unanimous consent that the vote tally that occurred in October of last year, that reflects the 65 to 32 outcome of that recorded vote in the Senate, be printed in the RECORD.

Second, Mr. President, I ask unanimous consent that the names of those Members who were unavoidably absent that day, but who support the legislation, be included as well in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—32

Brown, Burns, Cochran, Craig, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Heflin, Helms, Kasten, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Pressler, Rudman, Seymour, Simpson, Smith, Stevens, Symms, Thurmond, Wallop, Warner.

NAYS—65

Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Bond, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Chafee, Coats, Cohen, Conrad, Cranston, D'Amato, Danforth, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Hatfield, Hollings, Inouye, Jeffords, Johnston, Kassebaum, Kennedy, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Packwood, Pell, Reid, Riegle, Robb, Rockefeller, Roth, Sanford, Sarbanes, Sasser, Shelby, Simon, Specter, Wellstone, Wirth, Wofford.

NOT VOTING—3

Harkin, Kerrey, Pryor.

Mr. DODD. Mr. President, while waiting for the opposition to appear on this bill, I would just reemphasize these points.

It has been 7 years, almost, since this legislation was first introduced. It has been a long and arduous fight. It is a better bill, I think, today than it was when we first introduced it, because the hearing process and the conversations with others have improved it and made it a stronger piece of legislation.

Mr. President, we have a lot of talk about change. Change seems to be the password this year that will get you into any audience in this country, and will get you the opportunity for people to listen to you. Here is a chance to actually really do something about change; to really make a difference in average people's lives.

There is a real problem for people, trying to balance work responsibilities and family responsibilities. Not a single person in this body does not understand what that means. It is very difficult today for families. All we are saying is exhaust all your other benefits; but when you have exhausted them all, and you have a family crisis of significant proportions, you should not lose your job. You should not lose your health insurance. We will not pay you for those 12 weeks, but you have at least an equivalent job to come back to at the end of that family crisis.

That is all we are trying to do with this legislation. I used to make the speech that we were only one of two industrialized countries in the world that did not have a family and medical leave policy. I can no longer make that statement. South Africa has now adopted a family and medical leave policy. We are the only industrialized nation in the world that does not recognize the difficult burdens of trying to be a good employee, a good parent, a good spouse, a good child, and taking care of the elderly parent.

Mr. President, I urge the President, I hope the President will reverse the view that he has maintained and sign this legislation into law, and really do something for change.

The ACTING PRESIDENT pro tempore. The Senator from Kansas, the Republican leader, is recognized.

Mr. DOLE. Mr. President, do I have 15 minutes?

The ACTING PRESIDENT pro tempore. The Republican leader has 15 minutes.

Mr. DOLE. Mr. President, I do not think I will use 15 minutes. Two of my colleagues are unable to be here at the moment. My colleague from Kansas, Senator KASSEBAUM, and the Senator from Mississippi, Senator COCHRAN, are tied up in committee meetings.

I will just take a few moments.

Mr. President, there is no controversy here over whether family leave is good or not. I strongly support such programs and believe that they have served—and will continue to serve—a very important role in the workplace where more and more American families find both parents out of the home.

For similar reasons, Mr. President, I also support health insurance benefits, disability plans, life insurance, vacation, sick leave, maternity leave programs, training and continuing education programs, and all the other infinite types of programs and benefits that the employers of this Nation voluntarily provide to their work force.

But this is not the issue.

The debate is not whether family leave is a good idea. If that were the issue the vote would always be unanimous in support of such programs.

Instead, what we are really deciding is whether the Government knows best how to spend everyone's benefit dollars.

FLEXIBILITY VERSUS MANDATE

I keep saying that the old liberals never die. I keep reading about all the changes in the Democratic Party. But the change is for more government, more programs, more mandates, telling people what to do all over America. That is not the change that I understand the American worker or the American employer want.

That is what they are going to continue to receive from those who think the Government knows best—the Government can tell us what to do, the Government has one size that fits all.

So it seems to me that this approach is the fatal flaw of this legislation.

While we live in an era of freedom of choice, where employees and employers bargain over their salaries and benefit packages as best meets their collective and individual needs, we have before us a conference report which says "one size fits all."

Regardless of whether you are single or married, whether you have children, whether your children are infants or grown up, whether your family is healthy or sick, whether your parents are dead or alive, you will get family and medical leave to the detriment of benefits better suited to your own personal needs and desires. You may not want that mix of benefits, but you are going to get it if a bill like this should pass.

For younger workers, their priority may be child care and life insurance; for older workers, it may be pension benefits and retiree health benefits.

And the response of the proponents of this legislation to this preemption of individual choice and flexibility is: Too bad, Washington knows best, as always.

MANDATES HARM BUSINESS AND WORKERS

We can fix it for you. We fix everything in Washington. We raise your taxes, we raise the deficit, we have more regulations, so we can give you more mandates and tell your employer what to do in Topeka, KS, or wherever it may be in America.

I do not dispute the good intentions of the sponsors of this legislation. Everybody wants to do good. But some think the Government is the only one who knows how we do good—that we cannot do good through the private sector.

Well, Mr. President, this is one of those cases where Washington does not know best.

It is a basic fact of life that business can allocate only a specific amount of money for benefits. Like the Federal Government and State governments, they have projections and budgets. But in the businesses, they have to meet their budget or they go out of business. We just charge it to our children and our grandchildren. We have been doing that to the tune of about $4.2 trillion now, and the deficit is getting bigger and bigger.

And part of those projections and budgets of businesses is how much they will spend on salaries and how much they will spend on benefits.

So if we are going to spend more on benefits, we will probably spend less on salaries.

The real world impact of this well-intentioned legislation—this mandate—is that employers will revisit those projections and budgets and cut back on something else, including creating new jobs at the very time that we need new jobs.

A recent poll by the Gallup organization—a pretty good organization—of over 950 small businesses indicated that if this bill were to become law, more than half of small firms would establish stricter personnel policies and cut back employee benefits such as paid vacations and health insurance.

So, although we are hearing in the speeches today that this conference report is a win-win for everybody, it is more of a lose-lose.

It is a bad law for business which is trying to emerge from the recession and gets hit with this hidden tax.

This is another tax. Do not kid anybody. When you have a mandate that says you have to do A, B, or C, that is another tax on business.

It is a bad law for workers and their families who are able to negotiate this much less of their benefit package on their own. They will have fewer options.

And it is a bad law for those workers and their families who do not fit within this one-size-fits-all mandate. They are the real losers under this conference report for they are the ones forced to subsidize benefits for others.

In this connection, Mr. President, I might add that another Gallup poll found that only 1 percent of 1,000 respondents listed parental leave as their most valuable employee benefit.

And a January 1991 Penn & Shoen survey found that 89 percent of 1,000 respondents preferred that employee benefits be decided privately between employers and employees rather than mandated by the Federal Government.

LEGISLATION WILL BE VETOED

Mr. President, President Bush has repeatedly made clear his intention to veto this legislation.

He strongly supports family leave programs. He does not support universal mandates that treat everyone the same when in fact we are all very different.

I also ask unanimous consent that an editorial which appeared in USA Today on August 10, 1992, be included in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, this piece further underscores the point that with States and businesses taking an aggressive lead on family and medical leave benefits, Congress should step aside. The Government ought to get out of the way.

As with other benefits like health insurance, vacation, and sick leave, family and medical leave is charting its own course in the employment market.

No good, and perhaps a great deal of harm, can only come from this unnecessary congressional intervention.

EXHIBIT 1

NO TO FAMILY LEAVE BILL

With states and business taking the lead on family leave, the federal government should step aside.

Family leave is a terrific concept that could turn into a not-so-hot federal law. But Congress wants you to have one anyway.

A bill near nearing passage and favored by Democratic presidential candidate Bill Clinton would require employers with more than 50 workers to offer up to 12 weeks of unpaid leave per year for the birth or adoption of a child or the serious illness of the employee or an immediate family member. Other benefits would continue, and workers would be entitled to the same or comparable jobs when they returned.

This is a ham-handed way to speed up a process that's well under way. President Bush is right to threaten a veto.

Only 5% of employers and 50% of workers would be covered. And satisfying an inflexible federal mandate takes away money businesses might use for benefits workers prefer, such as day care.

Worse, the idea comes at a time when companies and states are finding solutions for themselves. Most companies already provide some family leave—some more and some less than Congress proposes—not just because it's good-hearted, but because it's good business.

Family leave policies reduce job turnover—a high-priced item for business. Replacing a worker costs an average 1.5 times the employee's annual salary, according to the Families and Work Institute, a non-profit research group.

Aetna Life & Casualty credits its extended family leave policy with a $2 million saving on turnover. Under the new policy, half as many women who took maternity leave left the company.

In addition to company efforts, at least 30 states now require employers to offer family leave, most for pregnancy. More states are considering legislation.

With states and companies designing a range of family leave policies to suit individual circumstances, a federal law is a clumsy nuisance.

Mr. COCHRAN. Mr. President, the Senate should recognize that federally mandated, one size fits all approach, medical and family benefits do not take into account the changing nature and changing needs of an increasingly diverse work force. More and more employees request, and employers more and more provide, flexible, family oriented, medical benefits. The cost of any new federally mandated benefit, including parental and medical leave, will ultimately be paid for by employees through lower wages or the loss of other preferred benefits such as dental coverage or paid prescriptions.

The proponents of federally mandated parental leave have often pointed to Europe where family leave policies are said to be more progressive. Progress, in this instance, is certainly in the eye of the beholder, as the liberal and progressive family leave policies of Austria, Canada, France, Finland, West Germany, Italy, Japan, and Sweden are all financed by those Governments.

Furthermore, Mr. President, European labor markets are often criticized for their rigidities which inhibit adaptation to changing economic, demographic, and competitive situations. Perhaps their adoption of progressive labor policies, such as mandated leave, are part of their problem. If we take the mandated, less flexible approach to employee benefits as the Europeans have, at least we ought to recognize and acknowledge the likely result—fewer jobs and a less competitive economy.

Mr. President, the United States during the 1980's was referred to as the "great American job machine." Between 1980 and 1989, job growth in the United States greatly surpassed job growth in Europe. At the beginning of the decade, employment in Europe surpassed that of the United States, but by 1989, total employment in this country climbed to over 199 million, while European employment rose to only 108 million.

Between 1980 and 1989, the United States generated jobs at a rate four times faster than Europe. Job growth in the United States accounted for slightly over 80 percent of the combined job growth in both the United States and Europe—four out of five jobs generated in both the United States and Europe were in the United States. The United States has been able to provide employment for 63 percent or almost two-thirds of our workage population, compared to only 52 percent, or slightly more than half in Europe.

Mr. President, the mandated parental leave entitlement guaranteed by this legislation is unfair to those employees who neither need nor want it. For example, singles, childless couples, and older workers will have no interest in parental leave and would prefer other uses for their limited benefit dollars.

The marketplace already provides strong incentive for employers to provide appropriate fringe benefits for employees. Employers periodically change their benefit policies to meet the changing needs of the work force and enhance the ability of the company to compete for employees with the talents and skills they require.

Mr. President, current economic conditions are forcing employers to make more efficient and effective use of limited dollars available for employee benefits, to provide the most cost-effective and flexible benefits needed by employees. This legislation, however, would undermine that effort by reducing that flexibility and limiting choice.

We ought also to recognize that labor costs of American companies are rising, and those increasing costs do not reflect escalating wages, but instead reflect the availability and the increasing costs of employee or fringe benefits.

While wages and salaries accounted for 72.7 percent of total compensation in 1989, benefits represented 27.3 percent or more than one-fourth of all compensation. Between 1980 and 1989, real benefit costs increased more than five times the rise in wages and salaries.

Mr. President, mandated benefits in the form of payroll taxes to finance Social Security, workers' compensation, and unemployment insurance constitute the largest cost to employers among the benefit categories, accounting for almost one-third of each benefit dollar. While legally mandated benefits are among the most rapidly increasing components of employee compensation, health insurance costs are also skyrocketing.

Federally mandated parental and medical leave would be one of the first legally mandated benefits not financed through the tax system. The individual employer would bear the entire cost of this benefit. For some companies, other benefits may be reduced to cover the cost of the new government mandated leave program.

Mr. President, no one, including employers, objects to the provision of parental and medical leave to employees who are in need of it. However, a federally mandated, one size fits all program for every workplace is not the answer to meeting those needs.

PARENTAL LEAVE

Mr. HATCH. Mr. President, let me say right up front that no one on this side of the aisle—and not the President of the United States—opposes family leave. We do not differ with the Senator from Connecticut on the concept of family leave.

Where we disagree is on the method that has been chosen to promote family leave. The legislation before us calls for a mandated, inflexible, one-size-fits-all benefit.

We can argue all day long about the cost estimates; but, the plain fact is that this proposal is not free. To comply with this bill, employers must make adjustments in the benefits they offer workers.

They must continue to pay benefits for employees who are not working. This obviously incurs a cost. As a result, workers may not get the compensation packages they actually prefer because Government has not only required a family leave benefit, but a family leave benefit that measures up to the Federal standard.

So, Mr. President, the first reason Senators should not support S. 5, even in its modified form, is because it is not only a mandate on employers, it is a mandate on workers as well.

The second reason, Mr. President, is that all of this cost shifting is not good for the economy as a whole. Employers must be free of the same kind of rigidities that have plagued the economies of many nations in Europe.

Every new requirement we impose on business renders American industry less able to adapt to changing economic conditions. We become less competitive.

Finally, S. 5 is not the only answer to the problems confronting families. There is an alternative. I believe the American Family Protection Act offers advantages to families that S. 5 does not. This alternative does so in a way that permits maximum flexibility and choice for both employers and workers.

Mr. President, I recognize the diligence of my friend from Connecticut in passing this bill. Particularly since we worked so hard together on the Child Care Development Block Grant Act, I regret that we disagree on this issue.

I have to agree with President Bush. You do not have to be for this bill to be profamily. You cannot separate the interests of the family from the interests of a healthy, strong economy.

This bill will impose new mandates on all Americans: mandated costs to employers; an inflexible leave policy for employees; and costs that are passed on to workers and consumers alike.

This is not the way to help families.

If we are going to be profamily, let us make sure we do not mandate mothers and dads out of the ability to negotiate their own pay and benefits, or worse, mandate them out of a job.

Mr. DODD. Mr. President, I have run out of time. I ask unanimous consent to proceed for 2 minutes off the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, first of all, I thank the minority leader for being here. I must say I disagree, obviously, in regard to a number of his comments regarding these mandates. This is 2 cents per covered worker per day. That is a very modest amount for a very important benefit. If you ask people who need family and medical leave legislation, you get an entirely different response. No one ever thinks they are going to need this. No one thinks their child is going to get seriously sick or be in an emergency room. No one thinks their parent is going to need special care. It is only when it happens and they want to take some time to care for them that they realize it.

I supported the Americans with Disabilities Act. It was a very important piece of legislation. I know the distinguished minority leader is a strong supporter of that legislation. I do not know if there has been a single larger mandate that was adopted by Congress in recent years. The Americans with Disabilities Act is an extremely important piece of legislation.

There were those who opposed it and said, "Let the employers figure out how to do that and decide how to put in the architectural improvements and figure out how they would hire people with various forms of disabilities." We said, "Look, we tried that. Unfortunately, it does not work." That is no way to deal with these. Unfortunately, you have to make some basic requirements, or you are never going to deal with the problem.

That is true here as well. I would never have pursued this bill had the trend lines showed us to be moving in a direction where the private sector was stepping forward and doing something about family medical leave. As the Senator from Indiana [Mr. COATS], and the Senator from Missouri [Mr. BOND] pointed out, we still have some 80 percent-plus of the firms in this country that only provide a modest amount of maternity leave. We are not talking about serious illness of a child. So, unfortunately, the trend lines do not show any improvement in this area.

Last, Mr. President, we exempt all small business. The only firms covered by this are 5 percent of employers in this country. Ninety-five percent of all businesses are exempt under this legislation. Those 5 percent of employers who employ more than 50 people cover some 45 to 50 percent of the work force in this country. I have confidence that in a small work environment, a smaller employer will take care of these problems. They know each other, the secretaries, and the people who work on the shop floor. When you get to the larger enterprises, it is impossible for the chief executive officer to know everybody. They cannot do it. It is unfair to expect them to. So in the larger situation, it becomes important that these kinds of benefits are included, because there is no way that we have been able to see that they are actually covered by it.

One more point: This is not a dental plan. This is not vacation time we are talking about here. We are talking about human decency—basic human decency, that if your child is in a hospital someplace, you ought to be able to be with that child and not lose your job. If you have a spouse who is seriously ill and needs your attention and care, you ought not to lose your job. You ought to be able to be with that person. Unfortunately, most people in this country are not in that situation. To maintain your health insurance for a few days, to be a good worker and a good parent and a good spouse is not too much to ask. It ought not to be compared with getting your teeth cleaned or going fishing for a week. This is far more basic than that.

I urge the President to sign this legislation into law. I think it is something he would be proud of. He made a statement in Rockford, IL, in 1988. He said he was for it. Today, I hope he will live up to that and sign the legislation.

Mr. DOLE. Mr. President, I do not disagree with a thing the Senator said, that we ought to be sensitive and do all this. But should the Government do it? I say to those who want the Government to solve every problem, to make parents do what they should do, or to mandate family values, in my view, it is a fairly big assignment for the Federal Government. We do not do anything very well. The last thing we need to do is get into every family problem. We ought to have family leave. I am looking for corporations to continue their progress, and we will provide other ways through credits.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I rise today to support passage of the Family and Medical Leave Act.

I can think of no other group of Americans in greater need of protective legislation than working mothers.

In this campaign season, we hear so much about candidates being pro-family. This legislation is pro-family and will provide the job protection our families need in desperate times.

This bill provides 12 weeks of unpaid, and I emphasize, unpaid leave per year for the birth of a child.

If a working woman chooses to have a child, we should do all we can to ensure that the family is not strained by the prospect of her losing her job.

Fathers, as well, should have the opportunity to spend the first few months of his baby's life without the fear of unemployment.

This bill contemplates the concerns business owners may have and addresses them adequately. Ninety-five percent of businesses are exempt.

Thirty days notice is required. Medical certification can be requested. Part-time employees are not included.

We must recognize that we live in a society that cares about families and children. And we must recognize that to force these employees out of work, we are asking them to begin receiving public assistance. If they are not working, they are neither receiving a salary, nor any health coverage.

We then increase the number of people on welfare and on Medicaid.

Working mothers constitute a greater percentage of our work force every year. And single mothers are growing in numbers each year. These single working moms are some of the hardest working people I know.

Some work multiple jobs, without any assistance from their absent spouse, so that they may better the lives of their children.

This bill, in a small way, will improve the lives of millions of children and ease some of the great burdens on our working parents—both mothers and fathers.

If this Congress commits itself to invest in families, by allowing parents the flexibility needed for handling serious medical emergencies and pregnancies, then America guarantees satisfied and more productive employees and stronger, healthier families.

I urge passage of this important legislation. American families deserve our support.

Mr. BRADLEY. Mr. President, I am again pleased to have the opportunity to express my support for the Family Medical Leave Act. This important piece of legislation allows American families to accomplish two critical needs—to devote time to their family when medical needs calls for it, and to maintain their job as a productive member of the work force. However, I remain discouraged and dismayed, for although a large majority of the Congress recognizes the need to strengthen support for our families, the President will likely veto this bill.

The bill provides up to 12 weeks per year of unpaid job protected leave for employees for personal or family medical reason, and for parents upon the birth or adoption of a child up to the age of 18. Businesses with fewer than 50 employees would be exempt from the bill. This act supports the American family and supports American economic growth into the 21st century through support of the American work force.

The changing nature of our work force, with both parents having to maintain jobs to make ends meet, has made family medical leave an issue of growing concern. Nationally, 51 percent of mothers of children under the age of 1 are working, 66 percent of mothers with school-aged children are working, and 96 percent of all fathers with school-aged children are working. In addition, more than 2 million families provide care in their own home for elderly relatives who may require significant care and attention.

Mr. President, I am increasingly concerned that we find ways to reconcile the need to help families care for their children—as well as their aging parents—with the need for working parents to remain productive members of the work force. I believe that the Family Medical Act addresses the concerns of working parents and provides appropriate job security for these families.

The American work force should not be forced to choose between their jobs and caring for their families. I urge adoption of this legislation and I urge the President not to veto it. America's families need and deserve this support.

Mr. WELLSTONE. Mr. President, I rise today to express my support for the conference report on the Family and Medical Leave Act of 1991. If we work at it, Mr. President, this bill can be the first step in the development of a comprehensive policy designed to support American families. I hope that adoption of this conference report will signal a shift in our priorities as a nation regarding families and children.

This is not a complicated piece of legislation. It is not hard to explain. S. 5, the Family and Medical Leave Act, is designed to protect the jobs of American workers when they are faced with a family crisis. It says that you should not have to choose between having a family and having a job. It says that we believe in families in America, that we are willing to pay the small price, as a nation, for making families possible for people who work. It signals that we recognize that many American workers have trouble supporting their families and keeping them together in difficult times, concerned about the effect of taking leave time on their jobs. It is not television sitcoms that are destroying American families. It is our unwillingness to help people support their families. With enactment of this long-awaited conference report, we can begin to change that situation.

I want to make it clear, Mr. President, that I consider this legislation to be just a beginning, a modest start toward a more comprehensive family policy. We provide, with this act, 12 weeks of unpaid, job-protected leave per year for employees who are faced with the birth or adoption of a child, or who need to take care of an immediate family member who has fallen seriously ill. This is not much and it is very late—in the United Kingdom, the first policy of this sort was instituted in 1911, and the current leave policy there dates back to 1946. Canada's policy dates to 1962. Sweden has had a sickness and maternity leave policy since 1891. It is true, we can be a conservative, prudent country when it comes to adopting social legislation. But now that we have had close to a century in which to observe how these policies work around the world, I believe we must adopt our own, modest plan.

We are still the only developed country in the world with no family leave policy. If our observation of other nations tells us that this bill is hardly a radical new idea, it also tells us that it is hardly a family leave policy either. In Canada, workers are provided with 18 total weeks of leave and they receive 90 percent salary during the first 16 weeks of that leave. In France, employees can take up to 16 weeks leave, including 6 before giving birth, and they typically receive 84 percent of their pay during that period. Two of the nations most often cited as our major competitors for international markets, Germany and Japan, provide family leave policies—in Germany it is 14 weeks, paid at 100 percent of salary and in Japan, 12 weeks at 60 percent of salary. So we have a long way to go, if we are to catch up. And I must admit, Mr. President, that I do not understand why we must settle for anything but the best policies in this country.

So here, with this bill and this conference report, we will begin to update American family policy, to catch up with the rest of the developed world. This may be a minimal family leave policy, Mr. President, but it is a step in the right direction. It could not come at a more critical time for this country. More and more, Mr. President, we are a country of working families. Currently, 96 percent of all fathers and 66 percent of all mothers with school-aged children are in the work force. Over half of all women with infants work outside the home. What little progress we have made in the past 20 years on average incomes in this country has been due to the increase of two wage-earner families. If we are not going to make it possible to support a family on one income any longer, then we must make it possible for at least one family member to take some time out of work in case of emergencies.

If the lessons we have learned from other countries, and from studies of our own, prove correct, this policy will prove to be good for American business as well as for American families. According to a 1990 study by the Institute for Women's Policy Research, workers who suffer bouts of serious illness and who have no job-protected leave lose about $12.2 billion in earnings every year. Taxpayers pay an additional $4.3

billion annually through various support programs for workers who have lost their jobs due to lack of this sort of leave. A 1990 study from the Small Business Administration concludes that "the net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee."

As discussed in the conference report we have before us, this policy is expected to cost about $5.30 per covered employee. Keep in mind, however, that the only employees who are covered are those who work in firms that employ 50 or more workers, so that 95 percent of employers are not covered by this policy. In 1989, the General Accounting Office [GAO] estimated that this policy would cost about $244 million annually. That is clearly a bargain.

Mr. President, we do not have to look to foreign countries for examples of the effectiveness of family leave policies. We can look at several of the States for examples of the benefits of this policy. In my own State, we have a parental leave law that requires an employer to provide up to 6 weeks of unpaid parental leave to a mother or father upon birth or adoption of a child. A 1991 study by the Families and Work Institute of our policy along with similar policies in Oregon, Rhode Island, and Wisconsin, found that employers were able to implement the law easily and inexpensively, with little or no impact on other benefits. It did not lead to increases in the cost of health insurance, or unemployment insurance, training or administration, as some critics have predicted. It did promote healthier practices among parents, especially mothers, who were able to take medically recommended leaves to recuperate from childbirth and to be with their children.

By voting for this conference report, we are making a commitment, as a nation to support families, in all their forms. We are making a commitment to children. We are making it possible for parents to work and provide for their families. If we are serious about families, we will take this initial step. If we are serious about competing with Europe and Japan, we will take this step. If we want to make it clear that the values we believe in are rooted in the family, then we will begin by helping to shore up that family. This is, I hope, the first of a new set of policies that will show that we are, in this country, committed to putting our immense national resources behind our children and our families.

I want to thank the sponsors of this legislation for providing us with this opportunity and with the conferees for bringing this report before us. I enthusiastically support this conference report. And I urge President Bush, who has indicated his opposition to this legislation, to reconsider his position and sign this measure into law.

Mr. ADAMS. Mr. President, I rise to express my strong and longstanding support for the Family and Medical Leave Act. Working families in my State of Washington and throughout the United States need this legislation.

This year family values have unfortunately become a Republican campaign buzzword. The President says he understands what it is like to have a seriously sick child from his own experience. I am sure he would want every American to be able to spend time with their sick children. Yet the President vetoed this bill in 1990. I hope he will sign this bill this year.

We are at a critical point in the economic and social future of our Nation. Ten million Americans need jobs, but they also need to care for their families. The two things, work and family should not be opposing forces. They should not be mutually exclusive. It is time for American businesses to recognize that what is good for workers and families is also good for them and the economy.

This bill is very simple. It guarantees that someone who works will have the same job after a short leave to care for a new child or ill family member, or to recover from his or her own serious illness. According to the GAO, the costs are de minimis. The cost of $5.30 per eligible employee per year is negligible when compared to the cost savings to employers from reduced employee turnover and recruiting.

America lags far behind other industrialized nations on this issue. These countries are competitive and productive, while at the same time they support families. We cannot afford to fall farther and farther behind in the global marketplace. This legislation will help to make America first in the world again.

This is also the Year of the Woman. This legislation recognizes the contributions of our mothers, sisters, and daughters. Many more women work outside of the home today and the number is expected to continue to rise. A large number of these women are single parents who cannot depend on someone else to take care of a sick child. One-third of the 2.2 million Americans that care for our elderly are in the work force. Three out of four caregivers are women.

A woman who needs to work or wants to work should not be penalized because family members depend on her during times of injury or illness.

I urge all of my colleagues to vote for this legislation and I urge President Bush to sign this bill. No American family should be forced to choose between a paycheck and the needs of a sick family member.

Mr. HARKIN. Mr. President, American families are suffering. During the past 12 years, family income has dropped while health care and college costs have escalated. And many are worried about losing their jobs if they need to take time off when a child is born or a family member is sick. Today, we have the opportunity to deal with this concern by adopting the conference report on the Family and Medical Leave Act.

The United States lags far behind our industrial competitors in providing family and medical leave protection to workers. In fact, most other countries provide paid leave while this modest measure provides workers unpaid leave for up to 12 weeks for the birth or adoption of a child or to care for a seriously ill child, parent, or spouse. In fact, the United States is the only industrialized Nation without family and medical leave protection. It's time for this to change.

Many claim this modest bill will bankrupt small businesses, but, a 1990 nationwide survey by the U.S. Small Business Administration found that the cost of providing family and medical leave is substantially less than the cost of terminating an employee. In part, the report said, "the net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee."

Others claim family and medical leave would be difficult to administer, yet, surveys of businesses in States with such laws contradict these arguments. A study by the Ford Foundation surveyed employers in four States with family leave laws; 91 percent said the leave was not difficult to administer.

The bill is a modest, but vital investment in U.S. families. It's time to replace profamily rhetoric with pro-family action by adopting this conference report to provide workers with vital job security at times when they are most vulnerable.

In closing, I would like to commend Senator DODD for his outstanding leadership on this issue for the past 6 years. This legislation is long overdue. It is my sincere hope that President Bush will finally sign this pro-family bill.

Mr. PACKWOOD. Mr. President, I rise today along with Senator DODD, Senator BOND, and numerous other Senators, both Republican and Democrat, in strong support of the family and medical leave conference report. I am a longtime advocate of family and medical leave legislation.

On October 2, 1991, the Senate passed S. 5, the Family and Medical Leave Act, in the form of a compromise bill which was the result of the hard work of Senators BOND and DODD to respond to the concerns of the business community. The conference report which we have before us is essentially that same legislation. It provides up to 12 weeks of unpaid leave for the addition of a new child to the family, or for serious illness of the worker or their immediate family.

My State of Oregon is an excellent example of the success of family and medical leave laws. In 1988, Oregon enacted legislation to allow 12 weeks of parental leave for parents of newborns and seriously ill children. At the time, a great deal of opposition and concern was heard from those who feared it would cost too much, be difficult to implement, and that employers would be forced to cut back other benefits to employees. I am happy to say that experience has proved these claims meritless.

Oregon was so pleased with the benefits of the original legislation that last year it expanded the law to add leave for serious medical conditions. Oregon's new law is one of the Nation's most comprehensive family and medical leave plans.

A report entitled "Beyond the Parental Leave Debate: The Impact of Laws in Four States" was issued in 1991 by the Families and Work Institute. The study featured Oregon and 3 other States which already have family leave laws. The vast majority of employers in those States reported at that they had no problems with those laws—91 percent said that the laws' requirements were not difficult to implement. In fact, 42 percent of Oregon employers said it was actually extremely easy to implement.

There may be skeptics who will say, just because a few States have a good experience with family leave, why should I want it for my State? The best answer I can give you is that the Family and Medical Leave Act is pro-family. Whatever side of the political spectrum you may be on, pro-family legislation benefits your constituents. This bill allows parents to spend the first few critical weeks of their child's life with the child. It also allows a worker whose child, parent, spouse or who himself is critically ill, to take the necessary time for recovery at home. Having the opportunity to deal with a crisis without fear of job loss strengthens families and keeps them together.

I would like to address some of the concerns about the cost of this legislation. From a fiscal standpoint, it is win-win. The taxpayers win, and business wins. Let me explain. When a worker loses a job due to a family crisis, they experience a loss in earnings that is passed on to the taxpayer. Workers who cannot return to their jobs often must resort to receiving assistance from welfare or unemployment. In its 1989 cost estimate of the Family and Medical Leave Act, the General Accounting Office estimated that the cost to the public of not having family and medical leave amounts to about $8 billion annually.

Business wins, too. A study commissioned by the Small Business Administration found that the cost of permanently replacing an employee is significantly greater than that of granting family or medical leave—demonstrating that the Family and Medical Leave Act may actually reduce costs to business.

The family and medical leave conference report deserves our support for all these reasons. I am pleased that we are adopting it.

Mr. BIDEN. Mr. President, I strongly support the conference report on S. 5, the Family and Medical Leave Act. A national policy on this issue—a national policy dealing with the changing nature of the American work force and a national policy to strengthen American families—is long overdue.

I have spoken before on the urgent need for this legislation and will not take much time here today. I do, however, wish just briefly to highlight and reiterate the important need for his legislation.

By choice and by economic necessity, the one-wage earner family is no longer the norm. Gone are the days of father as breadwinner, mother as bread maker. Gone are the days when the men went to work and the women cared for the children. Those were the days of my childhood; but they are not the days of today's children.

Two-thirds of all mothers with children under the age of 3 now work outside the home. Some choose to; some have to. The reasons may vary, but the result does not. The result is that, today, a parent may not be able to be at home in the crucial early days of childhood and during times of great family need. The result is that, today, far too many parents are faced with a difficult choice—a choice between work and family.

Imagine a single mother, working 40 hours a week in a low-wage job to provide for her two children. One day, one of those children becomes seriously ill. In most jobs, that hard-working mother faces a dilemma. Does she keep working, all the while worrying about the well-being of her child? Or does she leave work to care for the child, possibly losing the health insurance that covers the child's illness and the job that allows her to contribute to the economy instead of being a burden on it? And, unfortunately, this is not an imaginary dilemma; it is one in which thousands of Americans find themselves.

This hard choice between work and family—a false choice, in my view—is being thrust upon too many parents. In today's environment, for too many working parents, balancing work and family is a zero-sum game. It is time to change the equation, and that is what the Family and Medical Leave Act does.

It will provide up to 12 weeks of unpaid leave to care for a newborn or newly adopted child, or a seriously ill family member; continue the employee's health benefits; and guarantee that person his or her job upon return. It gives families in need a chance to care for each other without having to risk economic disaster. It is, in short, one of the most important steps Congress can take to strengthen our Nation's families.

And, Mr. President, the Family and Medical Leave Act—despite assertions to the contrary—can strengthen American businesses as well. The General Accounting Office found that the requirements of this legislation will cost businesses just $5.30 per employee per year. That's it: $5.30.

In return, businesses have workers who do not forfeit serious family concerns when they walk through the door. A 1988 study examining State parental leave laws found that small business employment in those States with mandatory pregnancy leave policies grew at a rate 21 percent greater than small businesses in States without leave policies. The reason is simple: leave policies make workers feel safer and happier, which leads to a more productive work force and a more competitive business.

Mr. President, this legislation has been before the Senate several times. Despite the need to help our families and despite the attention to family values, I fear that this legislation will fail again to become law. I suspect that a Presidential veto—and our inability to override that veto—will preclude the Family and Medical Leave Act from enactment. America's families and our economy deserve better.

Mr. DeCONCINI. Mr. President, I rise today in support of the conference report on the Family and Medical Leave Act. Although conferees were named only last week, I am pleased that they were able to complete action on this report quickly. I understand that the report contains the same provisions that were included in the bill passed by the Senate last October.

This will be the second time that the Congress will send a bill to the President that provides working families with some job protection during the birth or adoption of a child or in the event of a serious illness of an immediate family member. He vetoed the first bill in 1990, which the House was unable to override the President's veto. I am hopeful that this year, with the attention that the administration has focused on family values, that the President will see his way clear to signing this bill into law.

Although I have always been a strong supporter of family leave, I would suggest to my colleagues that this legislation is more important now than it was when it was first introduced in 1985. Figures from the 1990 Census showed that 10.1 million American families were headed by single parents—a figure that is the highest in the world—and 86.5 percent of whom were women. The declining economy has forced many families to generate two incomes in order to keep their heads above water. It is projected that by the year 2000, three out of every four American children will have mothers in the work force.

Mr. President, working parents should not have to choose between a job they can't afford to lose and a child or family member who needs them. We can send a strong message to the working men and women of this country by enacting this legislation. We can send a message that says we care about protecting their jobs and their economic security without forcing them to compromise their responsibilities to their families.

We have all heard the arguments against this legislation. Representing a State with an economy that depends on small businesses, I can appreciate concerns that mandated family leave would be devastating to small businessowners. However, I would point out that this conference report is the product of an ongoing bipartisan effort to arrive at a reasonable compromise. The provisions of S. 5 allow an exemption for businesses with less than 50 employees. That is more than 95 percent of all employers. It also allows an employer some flexibility to substitute accrued paid leave for any part of the 12-week period and allows them to recapture health insurance premiums if the employee does not return to work.

While many industrialized nations provide their workers with some form of family leave, most of them do so with compensation. Workers in Germany and Japan—our toughest trade competitors—get 14 weeks of leave with pay. Even countries like Libya, Iran, and Cuba provide maternity leave with pay. S. 5 provides up to 12 weeks of unpaid leave for the birth or adoption of a child or the serious illness of the employee or immediate family member. A General Accounting Office report estimates that the annual cost of providing unpaid family leave is $5.30 per employee—costs incurred primarily through the continuation of health insurance benefits for employees on unpaid leave. That seems a small price to pay for the measureless impact that time can have on a family welcoming a newborn or struggling through a serious illness.

President Bush, if your administration truly believes in preserving family values, you will sign this legislation. It reflects the needs of the changing American family—the one that can't afford to stay home during the first 12 weeks of a child's life without the fear of becoming unemployed or the family who can't afford in-home care for a sick parent or spouse, and can't afford to stay home to care for them. Children today are fighting against tremendous odds. The high risk of teen pregnancy, gang violence, drug and alcohol abuse are part of the world in which our young people live. The least we can do is give them the first 12 weeks of their lives with their parents. It is no guarantee that they will avoid these threats to their well-being, but it's a good start. I urge my colleagues to support this conference report.

FAMILY AND MEDICAL LEAVE ACT

Mr. SARBANES. Mr. President, I rise in strong support of the conference report on S. 5, the Family and Medical Leave Act. This legislation, which would provide for 12 weeks of unpaid leave for employees to care for a seriously ill child, spouse, or parent, or in the event of the birth or adoption of a child, is long overdue. As you know, similar legislation was passed by the Congress in 1990 but was, regrettably vetoed by President Bush.

It is important to note that the United States is the only industrialized country without a national family leave policy. In fact, almost every country in the world has a national parental leave requirement, including our most successful economic competitors in Western Europe and Asia, and these nations typically have requirements which go beyond those of the legislation we are considering today with respect to leave duration and income replacement. For example, in Europe, 5 to 6 months of paid leave is the norm for new mothers, and even Japan, which is often behind European nations in terms of labor standards, provides 12 to 14 weeks of partially paid leave with full job guarantees.

In contrast, we are attempting to once again pass a proposal today which merely provides job protection for workers with new babies or who are faced with family or medical emergencies. It does not require employers to pay such workers for this leave, and excludes entirely employers with fewer than 50 employees. The only thing that would be involved in this legislation that carries any cost would be the maintenance of health benefits. Other than that, this is unpaid leave. Workers are not automatically entitled to it and must, in fact, go through a very stringent screening process to demonstrate that they have a sick child, a sick spouse, or a sick parent, and that their presence is required in order to bring them back to health.

Mr. President, when in this country are we going to get to the point when parents are not put to the choice between looking after their sick child or keeping their job? How much longer are we going to go on confronting people with that dilemma? While we hear much talk from the White House and its supporters about family values and being pro-family, we are unable to enact legislation which would allow our citizens to meet pressing family obligations related to the birth, adoption, or the health of a child. Many employers have such arrangements with their employees, and I salute and commend them. However, there are sufficient instances in which this is not the case to make it reasonable to try to move legislation to address this critical issue.

The Family and Medical Leave Act will assist many Americans in balancing the demands of the workplace with the needs of their families. As a matter of plain human decency, it attempts to take some of the stress and strain off American families without placing a burden on American employers. I strongly support the passage of this important legislation and would urge my colleagues to join me in ensuring its passage and subsequent enactment.

Mr. DURENBERGER. Mr. President, I rise in support of final passage of the conference committee's agreement on S. 5, the Family and Medical Leave Act of 1992.

I do so wishing this conference committee agreement would not have taken so long to come back to this body for its final approval.

And, I do so wishing the important issues in this debate could have been resolved in a way that would have produced a greater degree of consensus among Republicans and Democrats, between the President and the Congress, and among America's employers and their employees, all of whom must balance workplace and family responsibilities every day of their lives.

That has been my personal goal in working on this legislation over the past two Congresses—to reach bipartisan, cooperative consensus that targets effective solutions to our most pressing problems. That continues to be my goal today.

In achieving that goal, I do not believe that America's workers and their families deserve to be treated like election-year cannon balls, dragged out and fired in a manner that may document differences among candidates, but that leaves a high national priority still unresolved.

But, despite these misgivings about tactics and timing, Mr. President, I intend to vote to approve this conference committee agreement, for the same reasons I supported the Senate's version of this bill on final passage.

I support this agreement because I believe we are long past the time when national policy should be on the side of the millions of workers and parents who must juggle their jobs and family responsibilities in ways our parents' generation never knew.

I also intend to vote to approve this conference agreement because I represent a State that has been at the forefront of helping workers and parents meet their often conflicting responsibilities at home and at work.

Members and others who have followed this issue closely know that I introduced a family and medical leave bill of my own about 18 months ago.

That legislation was based in part on this bill and, in part on a Minnesota law that allows employees to use sick leave benefits to care for sick family members.

I continue to believe that approach represents a positive alternative to the largely untested new medical leave benefit we are mandating in this bill.

Experience tells us that most workers need relatively short periods of easily accessible time off to deal with all the obligations they face as members of a family.

And, common sense also tells us that having these periods of time off be paid leave will give this new benefit even greater value—especially for low-wage workers.

While some important changes have been made in the original S. 5 to deal with very real issues of concern to smaller employers, I also continue to believe the binding arbitration amendment I offered on the Senate bill would ease its implementation and speed resolution of disputes that will inevitably arise.

The beneficiaries of this legislation should be workers, their children and their family members—not lawyers.

Where differences over interpretation occur, those differences deserve to be resolved quickly. I believe my amendment would have brought that goal much closer to reality.

But, despite my preference for the initiatives I have offered, I intend to vote for this conference agreement because it is the vehicle now before us that assures greater balance in the lives of workers and parents of young children.

I believe it represents an important step forward in affirming not only the value of children but also the important obligations that family members inevitably must have to each other.

Finally, I want to pay special tribute to my distinguished colleague from Connecticut, who has given this issue so much of his time and attention over many, many years.

And, I want to thank my distinguished colleagues from Missouri and Kentucky, whose efforts to address some very legitimate concerns of employers has made it possible to me and others to support the legislation we now have before us.

The time has come, Mr. President, to make a strong statement about the value of families and of children, and a strong statement about the contribution that society as a whole must make, to helping families do what they do best by taking care of each other.

I believe this legislation takes an important step down that long road. I believe it deserves our support. I'm proud to say it continues to have mine.

Thank you, Mr. President. I yield the floor.

Mr. MOYNIHAN. Mr. President, I rise today to support the conference report on S. 5, the Family and Medical Leave Act of 1991.

This legislation is long overdue. All our major competitors, including Germany, Japan, and Canada, as well as many Third World nations, have recognized that they have a national interest in helping families balance work and family responsibilities. It is time for the United States to do the same.

According to a survey by the U.S. Chamber of Commerce, 82 percent of all employers do not provide leave to care for sick children; 85 percent provide no leave for elder care; and 75 percent offer no parental leave for fathers. Only six States and about a quarter of employers offer leave time for adoption, even though such leave is required by most adoption agencies when the child being adopted is an infant.

This bill provides 12 weeks of unpaid—unpaid—leave for childbirth, adoption, or serious illness of an immediate family member. For parents having a child, or wanting to adopt a child, or for families dealing with a terminal illness, this legislation provides an essential opportunity.

And what of the burden on employers? According to GAO estimates, the total cost of this legislation to employers will be around $5.30 per covered employee per year. Some evidence on this question comes to us from the State of Oregon which implemented a parental and pregnancy leave law in 1988. In a study commissioned by the Oregon's Bureau of Labor and Industries, 88 percent of the employers found the bill to be easy to implement and the cost modest.

Mr. President, this bill is long past due, and I urge the President to sign the Family and Medical Leave Act into law.

Mr. JOHNSTON. Mr. President, I rise today in strong support of the conference report of the Family and Medical Leave Act. It is a much needed job protection bill which removes the potential penalty of an employee of having to choose between his or her job and family needs.

This legislation recognizes the realities of the changing American family. It recognizes the dramatic increase of single-parent households and two-income families.

The reality of the American family is no longer the idyllic dream of a bygone age. The reality is that our Nation is comprised of hard-working people who, in the most difficult times of their lives, have to make extreme choices between economics and personal imperatives.

Such choices place an undue burden on our citizens. The Family and Medical Leave Act asserts a reasonable balance between the needs of business to retain valued employees, and employees to expeditiously fulfill their family obligations in times of crisis and need while maintaining their commitments to their employers.

I have listened to the arguments on both sides of this issue. Those opposed to this legislation claim costs to business would increase and that it creates unnecessary regulatory burdens. However, studies commissioned by the administration clearly show that this reasoning is both unrealistic and unfounded.

We have debated the costs to business, but I ask, what of the costs to affected employees and our economy? In these times of economic uncertainty and distress, the Family and Medical Leave Act will add a needed measure of confidence in the workplace.

Finally, I consider it a tragedy that our Nation is currently the only western industrialized nation without such a policy. Ultimately we must ask the question, if our competitors are able to afford much more expansive policies of paid leave, can we not afford a policy which would allow an employee to take a potential 12 weeks of unpaid leave and would only apply to firms of more than 50 employees? The answer, as far as I am concerned, is that family and medical leave policies enhance our competitive strengths asserting the value of every employee.

Mr. President, we have come too far to turn our backs on the needs of our families. Thanks to the perseverance and dedication of my good friend from Connecticut, we are finally on the brink of enacting this measure.

It is my hope that the administration will reconsider their previous objections to the bill and reconsider the veto threat. Our families are counting on us.

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report Senate Resolution 330.

The assistant legislative clerk read as follows:

A resolution (S. Res. 330) relating to authorization of a multilateral action in Bosnia-Hercegovina under Article 42 of the United Nations Charter.

The Senate resumed consideration of the resolution.

Pending:

Stevens amendment No. 2929, to express the sense of the Senate regarding authorization of multilateral action in Bosnia-Hercegovina under article 42 of the United Nations Charter.

The PRESIDING OFFICER (Mr. AKAKA). The majority manager on the resolution controls 15 minutes for debate. The Republican leader controls 10 minutes. The Senator from Virginia [Mr. WARNER] controls 5 minutes. In addition, there will be 30 minutes divided equally in the usual form on the Stevens amendment No. 2929.

Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield myself 5 minutes.

Mr. President, 47 years ago, in San Francisco, there were a group of us discussing theoretically how peace can be brought on the face of the Earth and how arrangements could be made to ensure that there would be peace.

I would like to read into the RECORD the names of those who were working on the Committee on Enforcement Arrangements at the San Francisco conference. We had at that time as chairman, Camilo Ponce Enriquez, of Ecuador; raporteur, Joseph Paul-Boncour, of France; secretary, William T.R. Fox; assistant secretary, Christian de Margerie; assistant secretaries, Ward Allen, Hugh D. Farley, CLAIBORNE PELL.

We were to take from an organization that had failed, the League of Nations, lessons to make a structure that would survive and could enforce peace.

I think one of the good things about the debate on the Bosnia resolution has been that all of us who believe in the United Nations, who are U.N. afficionados are really very pleased to see the way articles 39 to 45 have been brought into the general discussion of the Senate. More than at any other time that I can recall in the last 47 years, these articles have been discussed. More reliance is being placed on them. And to those of us who believe that the United Nations can provide the means to keep the peace, enforce the peace, it has brought a good deal of satisfaction. I think this is one of the fallouts of this debate. I am not sure the central part of the debate has been all that productive. We are, in many cases, duplicating what is being done by the President. But what is important is the reference and the reliance that we are placing on the United Nations and on the chapter 7 action with respect to peace, threats to the peace, breaches of the peace and acts of aggression.

I think, too, some of us, as we look through this little booklet, Officials of the U.N. Conference and International Organization, San Francisco, 1945, could take great interest in it and satisfaction in seeing so many of the names of the young people who were there, who got more responsible jobs afterward. The young people who were there were almost entirely young officers who were in the allied forces, young officers. We were in civilian clothes for the first time in several years. I know my wife had not seen me in civilian clothes, except pajamas, until the San Francisco conference when we took off our uniforms.

I yield 5 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from Rhode Island. I want to speak on the resolution concerning what is happening in Bosnia.

And I thank the junior Senator from Connecticut [Mr. LIEBERMAN] for his leadership.

Mr. President, sometimes I listen to debates on the floor of the Senate and it is easy for me to muster up quite a bit of indignation. It is not personal. If I hear Senators arguing for tax breaks for people that do not need tax breaks, or for large corporations that are doing fine economically, but at the same time hear that we do not have money to feed hungry children, it is easy for me to feel indignation. The debate is clear; I know where I stand.

Other times on the floor of the Senate we have debates, and political truth is very illusive, and knowing the right thing to do is very difficult. I believe that has been the case with this debate on what is happening in Bosnia today.

I have listened to Senators like Senator MCCAIN from Arizona, and when they speak and they say we have to be careful to enunciate our objectives, that we have to be careful to know what the means are to achieve those objectives, and that we have to make sure that we are not involving young people in our country—men and women—in some kind of quagmire, I listen to them very carefully. They speak, I think, with great, great moral authority, and I take their words very seriously.

Mr. President, as I have analyzed this debate, I think there are probably two central dynamics to it. One of them has to do with the history of Vietnam and what happened in Lebanon and not wanting to repeat those mistakes again. And many, many Senators have been eloquent about that. But there is also I think another historical experience and time in the history of the world that is our reference point. And that is the Holocaust.

Mr. President, when I was a teacher I used to remind my students that the way we think about politics is very personal. It has much to do with our parents, our families, our communities, maybe our religion or personal experiences that have happened to us. In my particular case that is certainty so.

I have here in my hands a book by David Wyman called "Abandonment of the Jews." Preface: "Between June 1941 and May 1945, 5 to 6 million Jews perished at the hands of the Nazis and their collaborators," and then he goes on in this book to talk about the abandonment of the Jews, that the world knew but the world did not react.

Mr. President, when I see on TV the pictures of screaming children and dying children and I hear about the war camps and about ethnic purification, it sends chills down my spine. And I believe, though I take this debate so seriously and I know people argue in good faith on both sides, that sometimes silence is betrayal. Sometimes in the history of the world and the history of humankind, silence is betrayal. And I believe this is such a time and that is why I feel so strongly that we must support this resolution.

Mr. President, let me conclude by saying there are some who argue, "Well, but you have to, Senator WELLSTONE, talk about this in terms of the framework of our national interest." It is in the national interest of my country, the United States of America, to speak out when we hear discussions about ethnic purification, to speak out against these camps, to speak out against the torture of people. It is in the national interest of my country, the United States of America, to occupy high moral ground, to not turn our gaze away, and to not turn our backs away from people who are suffering.

Mr. President, we must pass this resolution. We must not be silent.

The PRESIDING OFFICER. The time yielded to the Senator from Minnesota has expired.

The Republican leader is recognized.

Mr. DOLE. Mr. President, it is my understanding this Senator has 15 minutes.

The PRESIDING OFFICER. The Senator is incorrect. The Republican leader has 10 minutes.

Mr. DOLE. And the Senator from Virginia has 5 minutes, which I claim, because he is not able to be here.

I yield 10 of those 15 minutes to our colleague from West Virginia, the President pro tempore, Senator BYRD.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank my friend, the distinguished Republican leader, Mr. DOLE.

Mr. President, the resolution that is before the Senate represents the best and worst in us, the willingness of Americans to refuse to countenance the moral outrages of bullies and oppressors—here the Serbs—on the one hand, and the lack of clarity and focus on how we will match our hopes with decisive acts that can be supportable by the American people over an extended period of time, on the other.

I am reminded by the situation in the Balkans, and by the intent of the resolution, to the situation we confronted in Lebanon in the middle half of the 1980's, a situation which ended in a sharp loss of the lives of hundreds of United States marines, a hasty withdrawal of American forces and the virtual extinction of United States influence in Lebanon from that time through today. Have we not learned about the political results of overreaching? Instead of bringing our influence to bear on a situation in a way which we can sustain at home over the long run, we are in the process here of raising expectations. These are expectations that I believe we cannot deliver on, and in failing to do so we erode the leadership of America in the world. The result may well be the unintended reverse of the laudable goals of the authors of this resolution.

It is fairly clear what is needed to bring peace in Bosnia. It is the presence of a peacekeeping force, or whatever you want to label the army that will have to be inserted into that conflict, of thousands, perhaps a hundred or more thousands of troops. There could be loss of lives in such an enterprise. What is our purpose with this resolution? It is the policing of the ethnic hatreds, now in the form of Serbian atrocities and aggression in Bosnia, in the age old cauldron of ethnic divisions that we call the Balkans. The Balkans beckon us to enter the fray, and none here can say how many lives will be expended in an attempt to bring peace to the warring States of what was once Yugoslavia and what was once Illyria, going back to the years before Christ. The Battle of Pydna was fought in 168 BC. And the result of that battle of Pydna was the extinction of the Antigonid dynasty in Macedon forever. It is a region long accustomed to wars of conquest.

The question here is simple: What kind of forces and levels of commitment should we embark on that the American people will sustain? To what extent can we impose our will in a situation that is inherently the business of the European states to police? We are debating this measure here today because the states of Europe are unwilling to police the conflict with the use of their ground armies. That is the simple reality. No amount of fancy language about U.N. Security Council meetings and resolutions will erase that reality. No amount of brave talk about the potency of American airpower to take out artillery pieces or other weaponry can paper over the military problem. Airpower will not do it. Airpower has never done it. It did not do it in Vietnam. It did not do it in Lebanon. It did not do it in the sands of Kuwait, where we had deployed 500,000 personnel.

This resolution would be more to the point if it said, Europe, do not expect America to save you from your history now. You, Europe, have to take history by the throat. We will support you, but you have to lead. We will play a supporting role, we can provide some logistics, some airpower, some naval gunfire support—but this is all marginalia. Somebody has to be on the ground to enforce the lines of entry and distribution of humanitarian aid and to break the way to the camps. Someone has to crash the gates of those concentration camps or whatever you wish to call them, and put them under the auspices of the Red Cross or some other organization which will save the inmates from perishing. Someone has to wish to give up their children for the safety of the Balkans. Do Senators really believe that the American people are prepared to give up their children in a place we call the Balkans, to take the right side in nationalistic hatreds, wars, bloodshed, and atrocities which, sadly, are part and parcel of the long history of that region?

It was the same in the days of the Roman conquests before the end of the Republic, and during the centuries of the empire. There is where the most warlike, the fiercest warriors came from—Illyria, Illyricum—there and from Germany.

So, Mr. President, I oppose this resolution because it appears to sanction the use of U.S. ground forces within a multinational force under United Nations auspices to "ensure the provision of humanitarian relief and to gain access for United Nations and International Red Cross personnel to refugee and prisoners of war camps." Second, such a force apparently would be responsible for implementing a ceasefire plan "which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under U.N. supervision." As presently drafted, unless European ground forces are committed in substantial numbers to these purposes, the resolution accomplishes nothing but to cut the wires connecting this body to political reality.

The question that this body faces is the limits of its power to establish a new security order that will keep the peace in the Balkans. This conflict in Bosnia is not an isolated event. The problem is far deeper. The Balkans have traditionally been an area of political turmoil and violence. The explosion of nationalisms throughout the region and the interventions of the great powers in the 19th century have caused the region to be dubbed the powder keg of Europe. It was this powder keg which ignited World War I. The problem is then, age-old, and it is this: How can we establish a new security order in the Balkans and dampen the nationalistic conflicts of the region which have again reemerged in the absence of the discipline of the bipolar bloc politics of the cold war? It is not just the Serbs and the Croats. Yugoslavia is not the beginning and end of the problem. There are serious ethnic tensions between Hungarians and Romanians in Romania. The status of Turkish minorities are a source of heated controversy in Bulgaria and in Greece. There is the age-old question of the future of Macedonia—about which I spoke earlier—which could serve as a flashpoint dragging into war Serbia, Greece, and Bulgaria. Yugoslavia is only the opening gun of what could well be a spreading zone of instability. It is a test of the political will of the U.N. Security Council, to some extent, and to that point this resolution points the finger in one right direction. But, more fundamentally, Mr. President, it is a test of the European Community, the so-called European Community, and its willingness to establish mechanisms of a new security order in the Balkans. America cannot do it for them, this body cannot ask the Nation to impose its will on a continent that will not even begin such a process. It can call the attention of Europe to its responsibilities, but it cannot do much more than that.

Mr. President, are we going to be the policeman of the world?

Yes, my heartstrings are torn, too, when I see on television and in the printed media what is going on. But we cannot police the world, Mr. President.

What is going on in Somalia is likewise troubling. But do we intend to do in Somalia what we are advocating that we do now in Bosnia?

Where does this all stop? What is to be the cost? What is to be the human cost? What is to be the cost in treasure?

We have a $400 billion deficit this year. We anticipate a $400 billion deficit next year. The war in the Persian Gulf cost over $60 billion. Who is there to say that an adventure in former Illyriaum will not cost many times that amount?

Mr. President, let us think carefully before we vote today. This is just the first step. The second step will be when the President comes back and asks us to put up the money and the manpower. If we do, then we are heading into a bottomless pit. If we refuse, then we will be viewed as hypocritical.

Let us remember the words of Croesus to Cyrus, "In peace, the sons do bury their fathers, but in war, the fathers do bury their sons."

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Rhode Island has 6 minutes. The Republican leader has 5 minutes.

Mr. PELL. I yield 3 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, each morning for the past week we have awakened to new reports of the horrors that are taking place in Serb detention camps in the former Yugoslav Republic of Bosnia.

We hear of Croats and Slavic Muslims being beaten, raped, and killed, or left to die without food, water, or protection from the elements.

Now we are hearing reports of Bosnian Serbs suffering in camps.

News of detention camps, prisoners packed into boxcars, and ethnic cleansing brings to mind the horrors of World War II Nazi concentration camps. And those of us who served in World War II are very concerned about this, but we feel that history has given us a second chance.

To characterize this conflict—as some have—as an age-old regional blood feud that vents itself every 50 or 60 years is cynical. We must move beyond the past in a new world of all pervasive communication and rapid change.

People know about everything now. We did not know about everything in world war II as we were finishing it.

The incredible toll in human lives and suffering that we have witnessed should spur more concrete and constructive efforts.

I do not rise on the floor today to attack others or to place blame, but it must be said that there is a moral imperative before us. This situation cries out for leadership, and we must provide that leadership now. Soon it will be too late.

This is precisely the kind of situation that the United Nations was set up to handle. I was in the U.S. Navy in 1945 and 1946 in the bay area of San Francisco when they were signing the U.N. Charter, and I remember the debate over the multilateral use of force.

What the international community was trying to set up was a structure to handle regional conflicts. It was a world without superpowers at that time. The structure was to include the imposition of sanctions and other economic and diplomatic measures, to be followed by military force as a last resort.

Not that U.N. forces were to take sides in civil wars or regional struggles. The U.N. troops were to be the peacekeepers and the custodians of international order.

Unfortunately, the United Nations was never able to make good on its collective security mandate. And those of us who were living then were watching that debate in the San Francisco area as we were preparing to board ships for the assault in the final part of the war which we were only saved from by the peacekeeping in 1946—or actually the military victory.

The rigid cold war of the post-war world provided 40 years of vetoes by Soviets, Chinese, and yes, the United States in the U.N. Security Council.

I would say to my colleagues: History has given us—and the United Nations—a second chance. An opportunity to strengthen the United Nations and broaden the international community's ability to deal with these kinds of regional conflicts is now before us. I repeat: This is not a call for immediate U.S. military action. The resolution before us requires nothing. But all options available to the international community should be considered.

The leadership of Serbia must be put on notice once and for all that we will not allow this behavior to continue. We seek narrow objectives. Humanitarian relief efforts must go forward, and the International Red Cross must have access to all prison and detention camps.

The United States has traditionally been a beacon of hope to people around the world. We must demonstrate in no uncertain terms that the new world order will be guided not by cynicism and expediency but by the principles of morality and humanity. A test case is before us. I hope that we will rise to the challenge.

Mr. President, just as a final word, I knew well some of the members of the Council Five of Yugoslavia, particularly Anton Zelic, who ruled after Tito. We are not taking about a military force into the mountains of Yugoslavia. We are talking about narrow, defined actions as set forth in articles 42 through 44 of the United Nations Charter. So I hope this will happen and I hope we will meet the challenge.

I thank the Senator from Rhode Island for giving me this time, and I thank the Senator from Kansas for having given his leadership time.

I recognize the problem of the Senator from Alaska. I hope we can reach a bipartisan position on this because this is our chance, again.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I rise in support of this bipartisan resolution. I know it is a very troublesome resolution. It is one that I think is very difficult for some Members to decide. But I think just to make certain, there has been a lot of debate about Bosnia—more than, I think, anybody anticipated. There was also a lot of debate about Yugoslavia itself and the collapse of Yugoslavia.

We had a lot of debate yesterday which is not even related to the text of the resolution.

So I would just like to point out two things and remind my colleagues of two things: This is not an authorization for the use of force. That is No. 1.

No. 2, this is not a binding amendment. It is a sense of the Senate. The Senate has passed by voice vote—in fact the Senator from New York [Mr. D'AMATO] pointed out—in June—a much more rigorous resolution. We pointed out to the United Nations that it ought to have a budget and it ought to have a plan for intervention. This much tougher sense-of-the Senate resolution passed by voice vote.

I ask unanimous consent that copies of the previous resolutions be made a part of the RECORD so somebody reading the entire RECORD will understand. We have done this in the past. Maybe we should not have. Maybe there should have been a focus at that time. But things have a way, sometimes, of sort of slipping through the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, June 12, 1992

S. RES. 306

Whereas continuing hostilities in the former republics of Yugoslavia are killing thousands of noncombatants, displacing hundreds of thousands of civilians, and causing massive destruction and starvation;

Whereas there is a threat of ever-widening conflict in the republics of the former nation of Yugoslavia, which conflict could extent to other nations in the region;

Whereas resolutions of the United Nations Security Council denouncing the hostilities in the former republics of Yugoslavia, and demanding that they cease, have not been heeded;

Whereas the United Nations Security Council, under Chapter VII of the Charter of the United Nations, has adopted Resolution 757, imposing sanctions on the Yugoslavia government, and requesting that the Secretary General work to create a security zone to assure unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Hercegovina;

Whereas the United Nations Security Council may, under Chapter VII of the United Nations Charter, make plans for the application of armed force to maintain or restore international peace and security, and the United States and other permanent members of the Security Council may veto resolutions of the Security Council;

Whereas officials of the United Nations and the United States have not determined what resources would be required to enforce a cessation of hostilities and bring peace to the former republics of Yugoslavia and, specifically, to enforce Resolution 757;

Whereas knowledge of the resources and military forces needed for such a task would enable the United States and other nations to make an informed judgment about how to take such action;

Whereas the process of devising a plan and budget for such action could, in itself, signal greater resolve at the United Nations to take action; and

Whereas the United States cannot and should not be the world's policeman, but is the one nation with the moral authority and military strength to provide leadership at the United Nations for stronger international coalition efforts to enforce peace; Now, therefore, be it

Resolved, That the Senate calls upon the President of the United States to urge the United Nations Security Council to direct the Secretary General of the United Nations to provide a plan and budget for such intervention as may be necessary to enforce the Security Council resolution seeking cessation of hostilities in the former republics of Yugoslavia.

SEC. 2. The Secretary of the Senate shall transmit this resolution to the President.

[From the CONGRESSIONAL RECORD, Apr. 29, 1992]

SENATE RESOLUTION 290—REGARDING THE AGGRESSION AGAINST BOSNIA-HERCEGOVINA AND CONDITIONING UNITED STATES RECOGNITION OF SERBIA

Mr. PRESSLER (for Mr. DOLE, for himself, Mr. PELL, Mr. HELMS, Mr. D'AMATO, Mr. GORE, Mr. GORTON, Mr. PRESSLER, Mr. MCCAIN, Mr. BREAUX, Mr. GARN, Mr. SEYMOUR, and Mr. MACK) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas from February 19–March 1, 1992, the Republic of Bosnia-Hercegovina held a referendum in which 99.7% of the citizens who participated voted for independence from the former Yugoslavia;

Whereas on April 6, 1992, the Republic of Bosnia-Hercegovina was granted diplomatic recognition by the European Community and on April 7, 1992, was recognized by the United States;

Whereas since April of 1992 the Serb-led Yugoslav Army and Serbian militants have been engaged in brutal military action against the government and people of the Republic of Bosnia-Hercegovina resulting in the death of innocent civilians, the diplacement of tens of thousands of persons, and the destruction of homes, schools, mosques, synagogues and churches;

Whereas the attack on Bosnia-Hercegovina follows aggression against the newly independent Republic of Croatia which resulted in the death of more than 10,000 people, the displacement of more than 700,000 persons, and the occupation of a significant portion of Croatia's territory;

Whereas the attacks on Bosnia-Hercegovina and Croatia by the Yugoslav Army and Serb militants constitute an attempt by the Government of the Republic of Serbia to alter borders by the use of force;

Whereas according to an official with the United Nations High Commissioner on Refugees, Serbian-led forces are delaying, diverting, and stealing humanitarian relief supplies donated to Bosnia-Hercegovina by the United States and other countries;

Whereas the Serbian government has maintained a brutal and repressive regime of martial law in Kosova and deprived the two million Albanians of Kosova of their political and human rights, including their right to self-determination;

Whereas Serbia's repressive policies in Kosova and the aggression of the Serb-led Yugoslav Army in Bosnia-Hercegovina and Croatia constitute serious violations of the Helsinki Accords and the Helsinki Final Act;

Whereas the United States, the European Community and the Conference on Security and Cooperation in Europe have condemned the aggression of the Serbian-led Yugoslav Army and Serbian irregulars, as well as the martial law regime in Kosova;

Whereas, on April 23, 1992, 25,000 Serbian citizens in Belgrade participated in an antiwar protest;

Whereas, extensive international diplomatic efforts, and the deployment of United Nations monitors and peacekeeping forces, have failed to achieve the withdrawal of Serbian-led forces and the restoration of peace in the Republics of Bosnia-Hercegovina and Croatia;

Whereas, the Socialist Federal Republic of Yugoslavia has ceased to exist: Now, therefore, be it

Resolved, That—

(1) The United States should hold accountable the Government of Serbia for the attacks on and occupation of the Republics of Bosnia-Hercegovina and Croatia, and for the extensive and systematic abuse of human rights in Kosova.

(2) The United States should withhold diplomatic recognition of Serbia and its ally Montenegro, who proclaimed themselves the "Federal Republic of Yugoslavia" on April 28, 1992, until Serbia ceases its aggression against the independent states of Bosnia-Hercegovina and Croatia; withdraws its forces from Bosnia-Hercegovina and Croatia; and halts its brutal repression of the Albanian people in Kosova and denial of the right to self-determination.

(3) The United States should actively encourage its allies to follow the same course.

S. RES. 176

Whereas, following the Declaration of Independence by the Republic of Slovenia on June 25, the conflict between the Yugoslav Army and the Slovenian Government and its citizens resulted in over one hundred casualties before a settlement was reached on July 10 regarding the withdrawal of the Yugoslav Army;

Whereas, over four hundred people have been killed in Croatia, including civilians, as a result of fighting that began after the Republic of Croatia declared its independence on June 25, 1991, and despite several attempted ceasefires;

Whereas, according to the Department of State and the European Community Ministers, the Serbian Republic leadership is actively supporting and encouraging the use of force in Croatia by Serbian militants and the Yugoslav Military;

Whereas, according to the State Department and the European Community observers in Yugoslavia, the Federal Yugoslav Military units in Croatia have not been serving as an impartial guarantor of a ceasefire, but have been actively supporting local Serbian forces violating the ceasefire, and causing loss of life to the citizens they are constitutionally bound to protect;

Whereas, the Republic of Serbia is continuing its brutal repression of the Albanian population in the Province of Kosova which has been under martial law for more than three years;

Whereas, the European Community is actively engaged in efforts to observe and mediate the conflict in Croatia and convened a peace conference on September 7, 1991;

Whereas, the European Community sponsored peace conference on Yugoslavia does not include an Albanian representative from the Province of Kosova; and

Whereas, continued violence and unrest in Yugoslavia will jeopardize the stability and security of Central Europe: Now, therefore, be it

Resolved, That—

(1) the Senate condemns the policies of violent aggression perpetrated by Serbian President Slobodan Milosevic, the Yugoslav Army and Serbian extremist guerrillas in Croatia;

(2) the Senate condemns the continuing and increasing repression against the Albanian population in the Province of Kosova;

(3) the Senate urges the administration to base its policy toward the six republics and two provinces of Yugoslavia on the democratic principles enunciated by Secretary of State on September 4, 1991, with respect to the Soviet Union;

(4) the deteriorating situation in Yugoslavia requires the United States to intensify efforts to resolve this crisis;

(5) the Senate commends the European Community for its efforts to mediate the crisis in Yugoslavia;

(6) the Senate urges the European Community to fully include an Albanian representative from the Province of Kosova in the European Community sponsored peace conference in order that a just and genuine settlement to the present crisis in Yugoslavia may be achieved and that potential violence in Kosova may be averted;

(7) the Senate calls on the administration to press for the inclusion of an Albanian representative form the Province of Kosova in the European Community peace conference; and

(8) the Senate urges the administration to raise the issue of Serbian Government sponsored aggression against the Croatian Government and the citizens of the Republic of Croatia, as well as against the two million Albanians in the Province of Kosova, at the Conference on Security and Cooperation in Europe meeting on the Human Dimension which convened in Moscow on September 10, 1991.

S. RES. 153

Whereas in 1990 the republics of Bosnia-Hercegovina, Croatia, Macedonia and Slovenia elected non-communist governments committed to democracy and free market economics;

Whereas in 1990 the republics of Montenegro and Serbia elected communist governments;

Whereas in 1990 the provinces of Kosova and Vojvodina were stripped of their autonomous status by the government of the Republic of Serbia and thereby denied representation to the collective presidency of Yugoslavia;

Whereas the leaders of Slovenia and Croatia and the other Yugoslav republics have been engaged in negotiations on the future structure of Yugoslavia since October, 1990;

Whereas these negotiations have not included representatives from the provinces of Kosova and Vojvodina;

Whereas on June 25, 1991, the republics of Croatia and Slovenia declared their independence;

Whereas the Yugoslav Army responded to these declarations by mobilizing and deploying tanks and troops in Slovenia, Croatia and Kosova;

Whereas the unwillingness of the Yugoslav central government and the military authorities to negotiate with the democratically elected leadership of Slovenia and Croatia has led to unnecessary bloodshed;

Whereas there have been numerous reports of deaths of civilians, policemen, militiamen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia, and as a result of repression against the Albanian population in Kosova: Now, therefore, be it

Resolved, That—

(1) the Senate supports the principles of democratization and self-determination for the six republics and two provinces of Yugoslavia;

(2) the Senate urges that the United States use its leadership to ensure that concerns regarding the restoration of political stability in Yugoslavia will not preclude the chief objective of promoting and securing democracy and self-determination;

(3) the Senate condemns the use of force by the Yugoslav authorities against civilians;

(4) the Senate urges the peaceful resolution of political differences in Yugoslavia and the inclusion of Kosova and Vojvodina in that process;

(5) the Senate calls on the Yugoslav Army to refrain from obstructing the functioning of the democratic governments of Slovenia and Croatia and calls on the government of Serbia to cease from using force against the Albanian population of Kosova;

(6) the Senate calls for free and fair elections to be held in the provinces of Kosova and Vojvodina;

(7) the Senate urges the President to explore means of increasing direct diplomatic, political and economic ties with the democratic governments of the republics of Croatia and Slovenia;

(8) the Senate urges the State Department to expand direct contacts with the leaders of the democratic opposition of Kosova and Vojvodina; and

(9) the Senate recommends that the administration shape its foreign assistance, trade and technical assistance programs to support the republics of Croatia and Slovenia and the other democratic republics in Yugoslavia, and to encourage democracy in the rest of Yugoslavia.

S. RES. 147

Whereas since May 15, 1991, Government of the Republic of Serbia has blocked the constitutional rotation of the Federal Presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas on June 25, 1991, the democratic Republics of Croatia and Slovenia declared their independence;

Whereas in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other Republics of Yugoslavia on the future of Yugoslavia;

Whereas on June 26, 1991, in response to these declarations, the Yugoslav Central Government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas the Yugoslav Army is presently carrying out those instructions;

Whereas there are reports of growing numbers of deaths of civilians, militiamen, policemen, and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the Republics of Slovenia and Croatia; and

Whereas in its June 26 statement on Yugoslavia, the United States Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia": Now, therefore, be it

Resolved, That the Senate—

(a) condemns the use of force to resolve political differences within Yugoslavia;

(b) calls on the Yugoslav Central Government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement; and

(c) calls on the Government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

S. RES. 106

Whereas in 1990 four of the six republics in Yugoslavia elected non-Communist democratic governments;

Whereas in 1990 two republics in Yugoslavia elected Communist governments;

Whereas in 1990 the provinces of Kosova and Vojvodina were stripped of their autonomous status by the government of the Republic of Serbia;

Whereas the United States Department of State's 1990 annual report on human rights state that, "in the province of Kosova, Serbian authorities continued and intensified repressive measures that featured in 1990 thousands of political arrests, tens of thousands of politically motivated job dismissals, and widespread police violence against ethnic Albanians."

Whereas the Yugoslav Army has threatened the use of military force to undermine the democratic republics of Yugoslavia and to suppress human rights in the province of Kosova and elsewhere;

Whereas despite continuous and good-faith efforts by the democratic republics to come to a negotiated agreement on the future structure of Yugoslavia, there remains a threat of a military crackdown; and

Whereas the political situation in Yugoslavia is highly uncertain: Now, therefore, be it

Resolved, That—

(a) United States policy toward Yugoslavia should be based on support for democracy and human rights for all of the people of Yugoslavia;

(b) the Senate calls on Serbian President Slobodan Milosevic to cease all repressive policies against the Albanian population of Kosova;

(c) the Senate calls on Yugoslav President Jovic and the Yugoslav Army to refrain from the use of coercive tactics and force against the democratically elected governments of the republics of Bosnia-Hercegovina, Croatia, Macedonia and Slovenia;

(d) the Senate notes that the criteria established in Section 599A of Public Law 101-513 have not been met by the Yugoslav and Serbian governments; and

(e) In the event of a military crackdown by the Yugoslav Army or the imposition of martial law in Yugoslavia, the President should immediately suspend all economic and technical benefits provided by the United States to Yugoslavia.

Mr. DOLE. This resolution, does not direct the President to do anything. It basically reflects the President's efforts to bring relief to the people of Bosnia, and in effect, urges him to continue to pursue the policy on which he is already embarked.

And, I might say for the record that both President Bush and Secretary Baker have personally indicated to me that they do not object to this resolution.

Mr. President, I would hope, that as this resolution is considered we keep in mind the desperate plight of the Bosnian people.

We are getting used to the words "starvation" and "concentration camps" and some may be getting accustomed to the pictures we see on television or in the newspapers. But there is no doubt about it, particularly for the Moslems and the Croats, it has been a living hell for some time.

It is indeed hard to believe. Little did we think that at the end of the cold war we would find not a new world order in the Balkans, but a new world horror. A new world horror in which savage barbarism and brutal dictatorship—unseen on the European continent for 50 years—is threatening to take hold of the Balkans and destroy whole nations and peoples. This time, however, Serbian President Milosevic is to blame.

Yet, while this has been going on in the middle of Europe, the Europeans have done little to prevent the spread of Belgrade's terror. The Europeans have done just enough, just enough to ward off feelings of guilt—guilt for not taking steps to stop Milosevic in his tracks when he first ordered the attack on Slovenia over a year ago.

What are we going to do about it? We, obviously, cannot be the world's policemen. We obviously cannot get involved in every ethnic conflict. There are going to be lots of them. There are many right now. Some would say, if you are going to do this with this part of the world, what about Somalia? Why are they different? Why can we not do the same for Somalia?

My view is we talk about a new world order. But, we have not seen a new world order yet for the Balkans. We do not know precisely what the Serbs have in mind. And there is a lot of confusion, I would say—not in defense of the Serbs but as a matter of fact. There may be other things happening that are not inspired by the Serbs, not initiated by the Serbs. But they were the aggressor.

Maybe we were a little slow 6 months, 8 months, 10 months, 12 months ago, both in Congress and in the administration, by not sending a strong signal at that time. I think the Serbs may have assumed, well, maybe we can do anything; nobody seems to care in the world. But that has changed, too.

Milosevic, the Serbian President, is the last hard-line Communist dictator in Europe. He certainly has not indicated any willingness to cooperate at all.

So we are going to pass this resolution. I do not believe Milosevic is over there trembling, waiting for the Senate to act. My view is he could care less. It probably will not make any difference.

I ask unanimous consent to have printed in the RECORD at this point the text of the United Nation's draft resolution on the Balkan crisis, which is not very strong. It is not very strong at all. But it is an indication that the international community wants to do something about this very difficult problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF THE U.N.'S DRAFT RESOLUTION ON THE BALKAN CRISIS

UNITED NATIONS, August 10.—Following is a draft of the Security Council resolution being considered to authorize the use of force to insure that aid is delivered to Bosnia and Herzegovina.

The Security Council,

Underlining once again the imperative need for an urgent negotiated political solution to the situation in Bosnia-Herzegovina,

Recognizing that the provision of humanitarian assistance in Bosnia-Herzegovina is an important element in the Council's effort to restore international peace and security in the area,

Commending the United Nations Protection Force (UNPROFOR) for its continuing action in support of the relief operation in Sarajevo and other parts of Bosnia-Herzegovina,

Deeply disturbed by the situation that now prevails in Sarajevo, which has severely complicated UNPROFOR's efforts to fulfill its mandate to insure the security and functioning of Sarajevo Airport and the delivery of humanitarian assistance in Sarajevo and other parts of Bosnia-Herzegovina pursuant to resolutions 743, 749, 761, and 764, and the reports of the Secretary General cited therein,

Dismayed by the continuation of conditions that impede the delivery of humanitarian supplies to destinations within Bosnia-Herzegovina and the consequent suffering of the people of that country,

Deeply concerned by reports of abuses against civilians imprisoned in camps, prisons, and detention centers, Determined to establish as soon as possible the necessary conditions for the delivery of humanitarian assistance wherever needed in Bosnia-Herzegovina, in conformity with the mandate given by resolution 764 of 13 July 1992,

Acting under Chapter VII of the Charter of the United Nations,

1. Reaffirms its demands that all parties to the conflict immediately cease all military activity in Bosnia-Herzegovina;

2. Calls upon all states to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations' humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia-Herzegovina;

3. Demands that unimpeded and continuous access to all camps, prisons and detention centers be granted immediately to the ICRC and other relevant humanitarian organizations and that all detainees therein receive humane treatment, including adequate food, shelter and medical care;

4. Calls upon all states to report to the Secretary General on measures they are taking in coordination with the United Nations to carry out this resolution, and invites the Secretary General to keep under continuous review any further measures that may be necessary to insure unimpeded delivery of humanitarian supplies;

5. Requests all states to provide appropriate support for the actions undertaken in pursuance of this resolution;

6. Requests the Secretary General to report to the Security Council on a periodic basis on implementation of this resolution;

7. Decides to remain actively seized of the matter.

Mr. DOLE. This appeared today in the New York Times. It may be voted on in the U.N. Security Council later this week. It may be changed to some extent, but I think at least it ought to be in the RECORD to indicate that other nations are having difficulty dealing with this problem, too, because of what the distinguished Senator from West Virginia has said and others have said on the floor. We do not want to get involved in a quagmire.

Mr. President, it seems to me, though, we do need to send some kind of signal. Maybe it is not going to be heard beyond this Chamber. I have not seen many headlines on what the Senate has been debating in the last couple of days. Maybe it is not going to be heard at the United Nations. It will be heard in the countries of the former Yugoslavia, though. I can say this, based on experience. The people in Sarajevo will know about the resolution. The people in Croatia will know about the resolution. People in Belgrade will know about the resolution. It might have some small impact if the vote is almost unanimous, as I hope it may be.

We do have an obligation to be the leader in the international community. That does not mean we have the obligation to commit troops. Nobody is suggesting ground forces. But all we suggest, for humanitarian purposes, there may be certain cases where we might have to use all necessary means.

So, Mr. President, I ask unanimous consent to include in the RECORD the President's six-point plan which is referred to in the resolution, and also a statement by the President, to indicate that this is not only bipartisan in the Congress, but bipartisan across the board.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE PRESIDENT

Ladies and gentlemen: Today I want to discuss with you the situation in Bosnia-Hercegovina and the former Yugoslavia and what the United States—working with the international community—is doing to contain and defuse this escalating crisis.

Like all Americans, I am outraged and horrified at the terrible violence shattering the lives of innocent men, women, and children in Bosnia. The aggressors and extremists pursue a policy of "ethnic cleansing," deliberately murdering innocent civilians and driving others from their homes. Already, the war has created over 2.2 million refugees—roughly the population of greater Pittsburgh or Baltimore. This is without a doubt a true humanitarian nightmare.

The war in Bosnia-Hercegovina and Croatia is a complex, convoluted conflict that grows out of age-old animosities. The blood of innocents is being spilled over century old feuds. The lines between enemies—and even friends—are jumbled and fragmented.

Let no one think there is any easy or simple solution to this tragedy. The violence will not end overnight, whatever pressure and means the international community brings to bear. Blood feuds are difficult to resolve, and any lasting solution will only be found with the active cooperation and participation of the parties themselves. Those who understand the nature of this conflict understand that an enduring solution cannot be imposed by force from outside on unwilling participants.

Defusing this crisis and preventing its spread will require patience and persistence by all members of the democratic community of nations and key international organizations. Bringing peace again to the Balkans will take years of work.

For months now, we have been working with other members of the international community in pursuing a multi-faceted and integrated strategy for defusing and containing the Balkan conflict. Let me explain the critical steps we already have underway to help defuse and contain this crisis.

First, we must continue to work to see that food and medicine get to the peoples of Sarajevo and elsewhere in Bosnia no matter what it takes.

To this end, I have directed the Secretary of State to press hard for quick passage of a UN Security Council Resolution authorizing the use of all necessary measures to establish conditions necessary for, and to facilitate the delivery of, humanitarian assistance to Bosnia-Hercegovina. This Resolution is critical to our efforts to bring food and medicine to the people of Bosnia.

This Resolution will authorize the international community to use force, if necessary, to deliver humanitarian relief supplies. My heartfelt hope is that will not prove necessary. But the international community cannot stand by and allow innocent children, women, and men to be starved to death. You can be assured that should force prove necessary, I will do everything in my power to protect the lives of any American servicemen or women involved in this international mission of mercy.

To truly end the humanitarian nightmare, we must also accelerate our efforts to stop "ethnic cleansing" and to open any and all detention camps to international inspection. I urge the international community to join with us in an extraordinary session of the United Nations Human Rights Commission to find assured ways to gain access to any and all detention camps.

Second, we must support the legitimate governments of Slovenia, Croatia, and Bosnia-Hercegovina. To this end, I have decided that the United States will move now to establish full diplomatic relations with those governments. I will shortly submit to the Senate my nominations for ambassadors to these posts.

Third, we must continue to isolate Serbia economically and politically, until all UNSC Resolutions are fully complied with. We must continue to tighten economic sanctions on Serbia so that all understand there is a real price to be paid for the Serbian government's continued aggression. The United States proposes that the international community place monitors in neighboring states to facilitate the work of those governments to ensure strict compliance with sanctions.

Fourth, we must engage in preventive diplomacy to preclude a widening of the conflict into Rosovo, Vojvodine, Sandehak, or Macedonia. Therefore, the United States is proposing that the Conference on Security and Cooperation in Europe place continuous monitoring missions in these locations to provide an international presence and inhibit human rights abuses and violence.

Fifth, we must contain the conflict and prevent it spilling over into neighboring states like Albania, Hungary, Bulgaria, Romania, and Greece. To this end, the United States proposes that the international community again place civilian monitors, thereby reassuring these governments of our concern for their welfare and inhibiting any aggression against them.

Sixth, we are consulting with our allies in NATO on all aspects of this crisis and how the Alliance might be of assistance to the United Nations.

These six steps represent an integrated strategy for defusing and containing this conflict. We have been working with the international community to advance our work on each and will continue to do so in the weeks ahead. It is only through international cooperation—through the UN, NATO, the EC and other such institutions—that we will be able to help bring peace to that troubled region. Those who frantically call for unilateral action do not understand the magnitude of the crisis, history, or the requirements of a responsible foreign policy.

Mr. DOLE. Clearly, no one person has the answer. No one is willing to commit American troops, as the President said: Who is going to choose whose son to send to Yugoslavia?

But at the same time, it is my view that we have a responsibility in this particular case. This resolution is not a blank check. It is not a Gulf of Tonkin resolution. It is a simple statement of the Senate's conviction that the United States should attempt to get from the United Nations authorization to use all necessary means to give effect to Security Council decisions. If they do not make any decisions then our sense-of-the-Senate resolution has even less impact.

Mr. President, in addition to that, I have received a copy of a paper written by a very distinguished member of the International Institute for Strategic Studies about military intervention in the Bosnian conflict, Francois Heisbourg, Director of the International Institute for Strategic Studies which will be printed on August 14, but I have permission to put it in the RECORD at this time. He is an expert on the subject who comes to the position that this is a very close call, that we should do something, that we should express ourselves, and we should make certain that we do all we can to provide humanitarian aid.

I ask unanimous consent that the article be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MILITARY INTERVENTION IN THE BOSNIAN CONFLICT

(By Francois Heisbourg, Director, International Institute for Strategic Studies (IISS))

(Article for "Die Zeit" (14.08.92))

In examining options for international military action in Bosnia-Herzegovina going beyond "blue helmet" peace keeping operations, several pre-requisites need to be kept in mind:

(1) The missions of such an intervention have to be formulated in clear terms—unlike what happened in Beirut in 1982–84 with the force deployed for humanitarian purposes by France, the US, Italy and the UK. The necessary material means and rules of engagement have to be established allowing for the accomplishment of the assigned missions. This article will attempt to outline some of these missions and their implications.

(2) coherent command arrangements need to be set up—here again, unlike what occurred in the Beirut debacle of 1982–84.

(3) military missions have to be in full coherence with clearly formulated political aims, which in this case should entail precise objectives concerning the future status, structure and borders of Bosnia-Herzegovina as well as specific humanitarian goals regarding the fate of the civilian population.

The discussion of political objectives is not entered into here, but it imperatively needs to be held, and resolved, by the intervening parties—be they the UN, the CSCE, NATO, the WEU or an ad hoc coalition—before entering into forceful military operations.

(a) The militarily least demanding mission would be to impose a military blockade as a means to enforce sanctions against Serbia/Montenegro. Timely detection of unauthorized and significant air, road, sea and river traffic can be ensured by a combination of available means: the fleets and naval air in the Adriatic; NATO and/or British and French AWACS aircraft; monitors to be deployed along the borders of Romania, Hungary, Bulgaria, etc., although in practice coordination between the detection of a violation and a timely military response could be difficult. Naval forces and combat air patrols operating from Italy and carrier vessels would be in a position to interdict unauthorized movements, although his could entail politically difficult decisions, since airliners, ships or trucks may have to be threatened with destruction as a last resort. Risks to the blockaders would be small, although some losses could occur. Fighter aircraft stationed in Western Europe are more than able to deal with a Serbian air force which only possesses some twenty top-of-the-line MIG-29s (along with a hundred or so rather older MIG-21s). That being said, a military blockage would do less to implement the sanctions than effective compliance by the neighboring states. The main advantage of forceful blockade would be to bring home to Belgrade the point that international military intervention has become a real possibility.

(b) International military intervention could also seriously hinder large-scale offensive movements by the Serbian forces in Bosnia and help prevent their reinforcement from Serbia. Air strikes could be undertaken against arms, munitions and fuel depots, military production facilities, choke-points (roads, rail-bridges in the narrow valleys of Bosnia), military vehicle convoys, as well as against artillery batteries and armored formations in the field. Given the distances involved, and the need for intervening aircraft to have to time to locate worthwhile targets, it would be useful to be able to operate from airfields in Croatia and the more peaceful parts of Bosnia. However, aircraft operating from Italy and aircraft carriers could perform the mission. There are potential drawbacks to such air operations:

"Surgical strikes" would be the exception rather than the rule; Bosnia is not a desert: many targets, and notably artillery batteries, will be located near houses, and cannot be "taken out" without civilian casualties. To reduce these, bombing will often have to be made from a very close range. In addition, the weather will frequently hamper air operations

Serbian air defense includes a broad range of hand-held and mobile SAM launchers which would cause significant losses against aircraft coming in at close quarters.

Bombing operations could be initiated promptly by the international community with a telling military, as well as political, effect. Heavy arms operations by the Serbs in Bosnia and support from Serbia would be seriously hampered. Long-range artillery around Sarajevo could be partially neutralized, although the same would not apply to roving mortar squads and snipers.

(c) Extracting the blue helmets from Sarajevo could call for a forceful military operation of some magnitude. A withdrawal may be necessary if the UN peacekeeping and humanitarian efforts were consistently frustrated by hostile action, particularly if UN forces were deliberately targeted as they have been lately, for example in retaliation to military measures of the sort described above. Moving the two thousand blue helmets to safety in the face of hostile fire would entail the provision of dense close air support to the UN convoy which would have to cross several dozens of kilometers of dangerous territory before reaching safety. Such air support should include combat helicopters in order to pin down mortar, anti-tank and machine gun ambushes. This may require use of a facility close to the Croatian-Bosnian border, along with the close-to-shore deployment of the "Iwo Jima".

(d) Breaking the sieges of Sarajevo and Goradje would entail much greater military difficulties. In order to secure a 25km radius around the town of Sarajevo, intervening forces would have to defend a circumference of some 150 kilometers. Even accepting that part of the perimeter would already be in more or less friendly hands, it would require at least a large division of combat forces to man the line plus extra forces to patrol the zone and to ensure the logistics, in effect a total of at least two divisions. Casualties could be substantial. Indeed, the site of Sarajevo offers the political charms of Beirut combined with the topographical attractions of Dien Ben Phu. In other words, inserting combat forces into Sarajevo would be a high-risk venture, which should not be considered if other options are available.

(e) More generalized military operations physically to prevent "ethnic cleansing", to open up forcefully permanent road corridors in hostile territory, and/or to reverse territorial gains by the Serb (and the Croat) forces in Bosnia would call for commensurately greater forces and casualties, even if parallels with World War II operations against Tito's partisans should not be applied to a rather different politico-military situation. However, it may be militarily more feasible to prevent "ethnic cleansing" in areas which have not yet been overrun by hostile forces and to provide humanitarian assistance by force to areas where Serb forces are not heavily concentrated. Foreign military forces with the appropriate artillery and combat helicopter support could be deployed by road to regions yet relatively untouched by combat, for example in the northwestern, Muslim-populated corner of Bosnia and in Herzegovina. These forces would have to be re-inforcable at short notice, via Croatia. In order to be able to cope with a possible all-out effort by Belgrade in support of Serb forces in Bosnia, it would be prudent for such an international expeditionary force to be of at least army corps size (3 to 5 divisions), since Serbia's army disposes of some 100,000 men on active duty. The insertion of an international expeditionary force is not as risky as the "Sarajevo option", since much of this corps could be kept in reserve, and would have secure lines of communications, and its role would be largely deterrent or defensive.

In summary, there are no simple or easy options. In view of military constraints, political realities and the broader context of Europe's effective security regime, it is my considered opinion that the following steps can, and should be considered:

The leaders of Europe and the United States have to impress on the Serb leaders in Serbia and Bosnia that the use of force is a real option, whereas until recently the tendency has been to convince them of the opposite. . . . In particular, we have to induce the leadership in Belgrade to apply to the Bosnian Serb warlords the same sort of pressure which was exercised on Serb leaders in Croatia last January.

The reality of the military option can be readily materialised not only by the mounting of a blockade. Much could be achieved in the way of signalling resolve by mounting intensive reconnaissance and intelligence-gathering flights over Serb-controlled or Serb-threatened territory in Bosnia by aircraft such as the TR1-A or even JSTARS. Such activity is in any case vital to the success of any subsequent bombing campaign.

Bombing operations should commence if the Serb leadership in Bosnia did not rapidly comply with whatever political and humanitarian conditions the international community deemed appropriate such as full Red Cross access to detention camps, a halt to ethnic cleansing, suspension of artillery fire against Sarajevo. Such bombing should be conducted exclusively on Bosnian territory, since this could be done at the request of the Bosnian government on the basis of Article 51 of the UN Charter. In military terms, this would permit both a greater concentration of firepower while reducing the risk of losses from air defenses which are largely concentrated in Serbia proper. Prior to a bombing campaign, it may be necessary to move the UN force out of Sarajevo. If this were undesirable, a combat force of at least two divisions with a full complement of supporting artillery would have to be inserted into the Sarajevo area.

In parallel to the threat of a bombing campaign, countries of the CSCE, either on an ad hoc basis (a Gulf-style coalition), or in the framework of subregional organisations (NATO), (WEU) should prepare for the deployment of an expeditionary force equivalent to a full army corps of some 50- to 100,000 men with a view to deploy in the areas of Bosnia-Herzegovina as yet saved from the scourge of ethnic cleansing. These forces should have the same sort of clean-cut command structure as during the Gulf war. In this respect the baroque NATO-WEU command arrangements in the Adriatic are not only ridiculous: they would become a tragedy if they were applied to ground or air forces in a combat situation when human lives are at stake.

I have come to these conclusions with reluctance: as the IISS has consistently pointed out, the military difficulties are great and are vastly enhanced by the political complexities involved. However, we have reached the stage where the consequences of not intervening have become greater than the dangers of a forceful intervention. There will be no security in Europe during the next decades if "ethnic cleansing", and its cortege of atrocities, is seen as a viable policy by brutal leaders in ethnically diverse regions in Eastern Europe and the former Soviet Union. The warlords of Bosnia must be checked, and Serbia (and Croatia) must not be allowed to extend their borders at the expense of Bosnia-Herzegovina, however fragile and artificial that state may appear to be: it is a recognized member of the UN and of the CSCE and therefore UN and CSCE rules must apply there, if they are to prevail elsewhere in post-communist Europe.

Mr. DOLE. Mr. President, has time expired?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Mr. President, the distinguished minority leader gave two-thirds of his time to me. I ask unanimous consent he may have 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the distinguished Senator from West Virginia.

I would also like to compliment the distinguished Senator from Connecticut [Mr. LIEBERMAN] for his tireless efforts on this issue. Because he has been the leader in this effort. It is a difficult call. The Senator understands that. This Senator understands that.

I would hope my colleagues, though—I would say in conclusion—take a look at the resolution. We are talking about supporting the decisions of the United Nations. So far they have not made any decisions. It is not a commitment. It is not an authorization.

If this were an authorization, if we were debating an authorization on the Senate floor, then it would be an entirely different thing. This is a freebie for some. They can vote for this. It does not have that much meaning. But, if this were an authorization as we had in the gulf crisis it would be a much different debate, a much longer debate. And I am not certain what the outcome would be. I would not want to guess at this point.

But this is not an authorization. This is a sense-of-the-Senate resolution. It is not binding. But I do believe based on other resolutions we pass and what many of us really believe, that we should pass this resolution, we should have strong bipartisan support, and that we ought to do that later today.

Mr. President, I yield the floor.

I thank the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS] controls 15 minutes on his amendment No. 2929. The manager of the resolution also controls 15 minutes on the amendment.

Who yields time?

The Senator from Rhode Island.

Mr. PELL. Mr. President, is there any time remaining to me on the bill itself?

The PRESIDING OFFICER. The Senator has less than 1 minute remaining.

Mr. PELL. I yield that less than 1 minute to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Senator from Rhode Island, and I look forward to having a few more seconds to speak on the amendment of the Senator from Alaska. Let me use this less than 1 minute to thank the Senate Republican leader for his statement, for his kind words and for his leadership on this, which really has shown that this is a bipartisan expression of outrage at what is happening in Bosnia, and it is essentially a call to police. It is not an assumption by the United States as the role of policemen of the world. In fact, it specifically says it calls for an international multilateral effort.

The fact is the Europeans, in whose neighborhoods this disaster is occurring, should take the lead. But just as the British and French stood with us in Operation Desert Storm, we should stand with them in this expression of outrage and support for the use of all appropriate means, not to win a war, but to bring the Serbian aggressors to the peace table.

Mr. President, I thank the Chair, and urge adoption of the resolution, and yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 2929, AS MODIFIED

Mr. STEVENS. Mr. President, I have a modification to my amendment. It contains two technical amendments as suggested by the majority staff.

I ask that my amendment be modified. It changes the paragraph number and changes "are" to "may be."

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment, as modified, is as follows:

At the end of the resolution, insert the following new section.

"(5) The United States Senate pledges to provide such funds as may be necessary for United States participation in such humanitarian relief and multilateral force activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution.".

Mr. STEVENS. Mr. President, I will use a portion of my time as allocated to me. I believe it is important to keep in mind what the Republican leader just said, that we are not dealing with a blank check. In October 1990, as Operation Desert Shield began, the Congress and the President entered into a budget agreement that recognized the possible extraordinary costs of that United States deployment to the Persian Gulf. To that end, Congress created a $15 billion reserve fund to be available only in an emergency to defray such costs. All Desert Shield-Desert Storm related costs were deemed to be off budget for the purpose of the budget summit agreement.

At this stage, of course, any discussion or assumption of costs for any potential United States deployment as part of a multilateral force concerned with the Bosnia question would be purely speculative. What is not speculative is the impact of any such deployment on our defense budget which is now pending before the Senate in the form of a Defense authorization bill. That bill makes no assumption of any large-scale overseas deployment of forces. As a matter of fact, I would call it a bare-bones budget. It was cut by $20 billion by the President from the 1992 level. In addition to that, this authorization bill has been reported by the Armed Services Committee to cut another $7 billion from the President's request.

In this context, any United States participation in a multilateral deployment to Bosnia will cost more than we are currently considering for defense in 1993. Let me emphasize that. Any multilateral deployment to Bosnia will cost the United States more than we are currently considering for defense in 1993.

The limited airlift role played by the Air Force so far has been accommodated within the training costs, the normal training budget, though such funds are now very tight as we end this fiscal year.

I want to make these comments not to plead for more money for defense, although I believe this year's level may come out to be too low, but I want to alert the Senate to this reality. Senator INOUYE, as chairman of our Defense Subcommittee, and I are working even now to figure out a way to report a defense appropriations bill within the reduced 602(b) allocation that we have received. There will be no margin in that bill for this Bosnia operation or, as a matter of fact, for any other peacekeeping or war-stopping mission for the United States military forces. We will have to come back to the Senate for more money for any such events.

I do believe that we must support the President's initiative to attempt to bring peace to these warring States. But I want to make sure that we are aware of the fact that we do have severe budget problems. Those problems should not be linked to the decision on whether or not we attempt such an endeavor as participating in a multilateral force. If it is the right thing to do, we are going to do it, obviously, and this Senator is going to support this resolution.

But the Senate and the President must consider where we are going to get the money from. My amendment does one simple thing. It says, as we urge the President to bring about another meeting of the United Nations Security Council, as we urge the United Nations to create a multilateral force to demonstrate our consistent feeling about what is going on in Bosnia, we have to remember the Senate must do something, too, if these two events take place; and that is, we must be prepared to work out the funding for this operation.

Last night I put in the RECORD a series of comments from General MacKenzie, who is testifying before the Armed Services Committee now. I firmly believe that if we support the President now and we show solidarity to the leaders of the United Nations and to the perpetrators of the atrocities in Belgrade, we may not need to send one single U.S. soldier to participate in a multilateral military force now. I do believe that.

The amendment is important. But I also believe it is important for us to keep in mind that this time we pay the bill and, when we pay that bill, we cannot do so at the expense of all the Department of Defense operations to maintain peace elsewhere in the world. We will have to work out a new concept of financing for this operation.

I think that we really can only take one action to lend credence to our words. What we are saying is if the President acts in accordance with our urging, we will stand by him and the United Nations in working to bring peace, and we are prepared to pay that bill. We cannot issue a call to action without pledging our continued support for the costs that may be incurred in such action.

I pointed out last night that my amendment has no more standing than the resolution itself. It is a sense-of-the-Senate resolution. That is not an appropriation. This amendment in no way commits any Senator to any specific course of action. It indicates that morally we understand that we are bound to support our servicemen and women if they are sent overseas as part of a multilateral peacekeeping force.

I do believe the amendment should challenge Members who have come to the floor to exhort the President to action, to exhort the United Nations to action, to contemplate the full ramifications of the President and the United Nations listening to us. But it should strengthen the President's hand and reassure those in the United Nations and it should send an even more ringing message to both Serbia and Bosnia.

I do believe that it is necessary for us to adopt this amendment and to demonstrate that the Senate is willing to go on record that we will support the funding required if the action we contemplate is in fact found necessary by the United Nations and the President. We should not act except under a mandate from the United Nations in this instance and, if that is received, I believe we should indicate we are prepared to finance the operation.

How much time remains?

The PRESIDING OFFICER. The Senator has 7 minutes and 15 seconds.

Mr. STEVENS. I yield 2 minutes and 15 seconds to my friend from New York. I pledge the other 5 minutes. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, my position as relates to this crisis I think is well known by my colleagues. I want to take the time now to commend the Senator from Alaska [Mr. STEVENS]. I intend to support his amendment. It is important that we do more than just verbalize our concerns. It is important that we do more than just urge the President to pursue a certain course of action with the United Nations and to move the United Nations into a policy of action to save people. It is important that this body understands that, indeed, there may be and there will be fiscal implications to our taxpayers and that we are willing to make the hard decisions and say, yes, it is not just rhetoric in the commitment we expect from others.

But we ourselves will be prepared to maybe make some decisions, and be called upon to make some decisions to provide the resources that are not going to be so easy. But we cannot just ask others to be courageous, and to do the things that we ourselves have a responsibility to do. It is the right amendment at the right time, and it is the right course of action that we are pursuing.

I commend the Senator from Alaska, and I ask to join with him as a cosponsor of his amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I yield to the Senator from Connecticut for 5 minutes.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN] is recognized for 5 minutes.

Mr. LIEBERMAN. I thank the Senator from Rhode Island. I thank the Chair.

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Shelley Cohen of my staff be permitted floor privileges for the remainder of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I will say very briefly that Shelley has been with me for 2 years, has served the office, the State, and really the Nation with distinction.

She is leaving to go to graduate school. We wish her well in everything she does.

Mr. President, I rise to support the amendment offered by our colleague from Alaska, understanding that in my own opinion, action that might be engendered under this resolution by the U.S. military would be so limited that it could be met within existing appropriations to the Department of Defense.

But I am supporting this not so much as an exercise in appropriations but as an assumption of responsibility that in the resolution, we have expressed our values, our willingness to work with our allies in Europe to bring order to the new world order in the Balkans and beyond; but that we have, in a general sense, a responsibility to be prepared to put our money where our mouth is.

I think that Senator STEVENS has challenged us to do that with this amendment. I welcome the challenge, and I support the amendment, because what this entire resolution is about is responsibility. What is our responsibility as we watch the circumstances that are unfolding in the Balkans today?

Mr. President, there have been references in the debate to the history of conflict in that region, to the historic ethnic tensions, to the complexity of the conflict that is there, too. And, of course, all of that is true.

I think we know, not only in this situation but in so much that we do in this Chamber, so many judgments that we make, we cannot turn away from making judgments between what is better and what is worse, what is acceptable and what is unacceptable, particularly in situations that are complex. We are rarely handed a simple, factual situation. And so too, here.

Again, in this morning's paper, Peter Maass has two stories in the Washington Post, one from the Omarska Camp, with notes handed to him:

> There's no doctor here. As soon as you get sick you are shot.

A handwritten note:

> About 500 people have been killed here with sticks, hammers, and knifes. * * * Please help us. * * * Once there is no media attention focused on us, it is not known what will happen to us.

Yes, the Serbs, Moslems, and Croatians have had a history of tensions. But uniquely, in this country of Bosnia, under the leadership of the current Moslem President, President Izetbegovic, this has not been the case. I do not think we could blur that as we consider what our responsibility is here.

Peter Maass says, in this report from Bosnia today:

> Unlike Croatian President Franjo Tudjman, whose strident nationalism gave Serbs there cause for fear, Izetbegovic eschewed stridency. As Bosnia declared its independence from the old six-republic Yugoslav federation, he championed a cantonal plan that would have given significant local powers to each of the three major communal groups and guaranteed minority rights to all.
>
> Sarajevo and other Bosnian cities had been models of toleration until militant local Serb leaders stirred up fears of an Islamic power grab that would deprive Serbs of their ancient rights and lands. For centuries before, Muslims, Serbs and Croats had lived side by side in the same villages and apartment buildings and paid respects to each other on their respective religious holidays.

So to me there is a judgment to be made. The Serbs are aggressors. They have spoiled a nation that worked together, and we have to ask ourselves what is our responsibility, Mr. President? The question is as old as the conversation between God and Cain when God asked Cain: "Where is your brother?" Cain said: "I don't know. Am I my brother's keeper?" And God chastised Cain and said: "What are you telling me? I hear your brother's blood crying to me from the ground."

Mr. President, we hear the blood of our brothers and sisters crying to us from the ground of Bosnia today, and the question is as current as our responsibility in this country any time we confront random violence.

I have been thinking lately of that story of Kitty Genovese, that woman in New York who was attacked and raped in the middle of the night, who cried out. Later, investigators found that—if I remember correctly—37 people heard those cries, closed their windows, pulled down the blinds, went back to bed, and refused to even pick up the phone to call the police. They did not want to get involved. We were all outraged by that.

The question is whether now we are going to allow Bosnia to become the international Kitty Genovese. I say we cannot and we cannot because we know that once we allow an attacker, a rapist, to attack or rape someone we do not know, they will turn next on us and our families and our friends. It is true of the international community, as well.

Twice in this century an explosion has occurred in Europe that drew us inevitably in at a much higher cost in blood.

Mr. President, the reality is that we are tied historically and culturally to what happens in Europe. If we do not draw the line in the Balkans, there is a danger that is palpable that ethnic conflict will break out in a wider scale within what used to be the former Soviet Union, and we will be drawn into a far costlier battle.

This is all about responsibility. And this amendment focuses that responsibility.

Mr. President, finally I would say this.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. Mr. President, I hope this amendment will be adopted as an expression of the willingness of this Senate, a majority herein, to accept that responsibility.

I am hopeful and confident that this afternoon, when we vote on the underlying resolution, a strong, bipartisan majority, understanding all the complexities involved in Bosnia, nonetheless will stand up and vote strongly as an expression of our responsibility and our intention to make sure that the new world order really does have order, and the hope of peace and security, not just for our generation, but for the generations to follow.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 7 minutes and 50 seconds.

The Senator from Alaska has 5 minutes and 30 seconds remaining.

Mr. PELL. Mr. President, I know that I welcome the amendment of the Senator from Alaska, and I believe that what he is doing is correct.

I would emphasize in connection with the debate yesterday that all the United States is expected to pay for is the United States share. It is not the cost of the total operation. I would also add, and I repeat again, the welcome fallout from this debate, from both the underlying resolution, and in the Senate from the amendment of the Senator from Alaska, is more references to the United Nations, to the Security Council, to enforcement arrangements, than I believe there has been in the history of the United Nations today.

I think, as we realize the necessity of relying on the United Nations, it will become an increasingly important player—a prime player—in the international scene, and more so with resolutions of this sort.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, is there any time for the opposition to this amendment?

The PRESIDING OFFICER. The time is divided between the Senator from Alaska and the Senator from Rhode Island.

Mr. BYRD. I would like to speak in opposition, Mr. President.

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank my friend.

Mr. President, the distinguished Senator from Connecticut [Mr. LIEBERMAN] has spoken to the effect that this is a question, an issue, of responsibility. I am not even paraphrasing his words very well, but I respect him greatly. Mr. President, the point is, the responsibility is that of the European nations, not the responsibility of our country.

Mr. President, I compliment the Senator from Alaska on his amendment. He is injecting a point of reality into the debate. He is talking about money. He is talking about paying the costs. He is saying that this body ought to say here and now—today—that we will stand up and vote for the appropriations that may be needed in the future—sight unseen, a pig in the poke. That is what we are buying, in effect, today.

But the able Senator from Alaska [Mr. STEVENS] is injecting a note of reality. I hope that Senators will approach the vote on the amendment soberly and also the vote on the resolution. I am opposed to the resolution. That is why I am opposed to the amendment, because there may come a day when we have to pay.

Yes, we are saddened daily by what we see occurring. But, Mr. President, again I say we cannot police the world. These things go on and on and on all down the river of time. Caesar, in his Gallic Wars, wrote of the massacre of 40,000 men, women, and children, old and young, the total population of one city—40,000. Only 800 escaped. Caesar, in his Gallic Wars, also stated that he auctioned off the entire population of another city in one lot—a total of 53,000 souls. Had we been living in that day, had the United States been a part of the world in that day, I suppose this body, if it had existed then, would have addressed the horrors that accompanied those conquests, the Roman conquests, and would have advocated a multilateral force to stop the fighting and the atrocities. These things will continue to happen as long as the world stands. What is going on in Somalia is likewise such a terror. Who is going to advocate that we put American men and women in Somalia if the U.N. mandates a multilateral force to stop that civil war?

Mr. President, we do not have the treasure in blood or in gold to police the whole world. This can cost billions of dollars, and if it comes time for the Senate to pay up to what in essence is a kind of commitment here today, then the Senators will have to retire again to their budget sheets and look at the deficits. They will have to explain to the American people again why we are sending their boys and girls into a guerrilla war.

We have to be concerned. Mr. President, the responsibility is on the Europeans. We can do some things, but let us not buy a pig in a poke. There are limits to what we can do.

I am issuing a warning that we had better take a look at what those limits are, and realize that the United States no longer is a country that is without a massive debt. This no longer is a country that confronts only small deficits. Let us fact up to reality.

I compliment the Senator from Alaska, but I shall vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska controls 15 minutes, 5 minutes on his amendment.

Mr. STEVENS. The distinguished Senator from Rhode Island has how much time?

The PRESIDING OFFICER. Two minutes.

Mr. STEVENS. Mr. President, I yield myself 5 minutes.

I appreciate the statement made by my good friend from West Virginia, and I understand his position well. It is not my desire to join him in that position in this instance. But I do want the Senate to face the total resolution with reality.

I read at length last night the statements that were made by General MacKenzie. I really believe that we have to keep in mind what we are getting into. For instance, I read from the congressional report concerning the aftermath of the action of the German forces in this area. Let me read again one paragraph from that report that talked about the period after the assassination of the Archduke Francis Ferdinand in Sarajevo in 1914. After the time the Germans had been in there—this is a quote:

> After the German conquest of Yugoslavia in 1941, Bosnia was annexed to the independent state of Croatia, a puppet state headed by the Croatian fascist Ustashe movement. The proclaimed goal of the Ustashe was to expel a third of the Serbs, convert a third to Catholicism, and kill the remainder.

I believe that the enmity and hatred in this area is so bad we have to be very realistic about the problem. The problem is, if we commit ourselves to a course of action to support the United Nations, and the United Nations does, in fact, end up mandating the use of force to liberate these camps, then we must realize what we are into. I, for one, am prepared to go that direction as long as everybody understands what is involved. General MacKenzie said it could be 20 years that we would have to have forces in there—20 years. On the other hand, it also could be, if the world unites and indicates that it will not countenance such action again in this century, that perhaps both the Serbs and their opponents will come to reality and sit down once again and try to work this out.

We have the ability in the united forces of both the United States and the United Nations, if we desire to do so, to level this area. I hope we do not have to do it.

But I want the Senate to know I want to be on record as saying there is a severe cost financially to this prospect. We are prepared to meet that cost if the United Nations follows our request upon the President's urging—it is demonstrated in his six points—and says to these combatants that the world will not tolerate this area becoming the flash point of World War III. I am prepared to support that. I hope the Senate is prepared to go on record as saying, yes, it will in fact finance these operations.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island has 2 minutes.

Mr. PELL. Mr. President, I think it would be useful to read into the RECORD the exact commitment that we are making here, the request that we are making. The way it reads is:

> The President should immediately call for an emergency meeting of the U.N. Security Council in order to authorize, under article 42 of the U.N. Charter, all necessary means, including the use of multilateral force under a Security Council mandate, during particular consideration to the possibility of demonstrations of force, to give effect to the Security Council decisions to ensure the provisions of humanitarian relief in Bosnia-Hercegovina, gain access for the U.N. and ICRC personnel to refugee and prisoner-of-war camps in the former Yugoslavia.

This is what we are asking for. We are asking for U.N. action and recommendations. Then if we see fit, we will go along with them.

What this whole exercise has done, in my mind, is to increase our faith in and our reliance upon the United Nations in the chapter 7 provision for the enforcement of the peace and the regaining of such peace.

I imagine my time has expired. I yield back any time remaining.

Mr. STEVENS addressed the Chair.

Mr. STEVENS. I, too, shall use the remainder of my time. At the time we had before us the Persian Gulf resolution, I spent a considerable amount of time reviewing the history of the United Nations and the commitments of those member nations to support the U.N. mandates. I told the Senate I was prepared to support the Kuwait resolution, because I believed it was following the original intent of the United Nations, and that we should understand that once we indicate our support for the United Nations' actions and we support a mandate such as was issued at that time, we are committed to support our action militarily, and we are committed to dispatch the forces that are necessary to carry out the mandate that we have sought from the United Nations.

I believe in the United Nations. I believe in the concept of being one of the leaders of the United Nations, and assuming our full responsibility. It is my understanding that we are not taking such action today. We are urging the President to seek a mandate through an emergency meeting of the Security Council. We know that there is a meeting scheduled now sometime later this week, and that we have now, today, a draft resolution that will be presented.

I must say, to this Senator, it is rather nebulous as to what really is before the United Nations now. It does not contemplate what I am hearing on the floor in terms of the specifics of the action to be undertaken. But my amendment simply says what the President decides is best, and I hope he will, once again, seek the support of Congress through a resolution, which should be supported by the Senate in terms of a commitment to provide the funds that are necessary.

Again, in my judgment, the funds are not there in the 1992 or 1993 budget to support such a massive action, if it in fact becomes necessary. Thus, this commitment, morally, is one that we should make to the President and to the United Nations.

Mr. BIDEN. Mr. President, I would like to briefly discuss with my friend from Alaska his amendment now pending. As I understand it, the amendment puts the Senate on record as pledging to provide whatever funding may be necessary to pay for United States participation in a multilateral force in Bosnia. Do I accurately characterize my friend's amendment.

Mr. STEVENS. The Senator from Delaware is correct.

Mr. BIDEN. If that is the purpose of his amendment, I have no objection to it. However, I want to make clear that this amendment should not be construed to confer authorization upon the President to use U.S. Armed Forces in a multilateral force that may be endorsed by the U.N. Security Council. It is my firm belief that once the U.N. Security Council endorses the use of force in Bosnia, the Congress must then provide a formal authorization to the President to deploy United States troops in any multilateral force. Neither this amendment nor the underlying resolution provides such an authorization.

Moreover, I want to make it clear that any defense appropriations—either current fiscal year funding or fiscal year 1993 appropriations—should not be interpreted as endorsing the use of United States forces in Bosnia. Only a statutory authorization, approved by both houses of Congress and signed by the President, can provide such authority.

Does the Senator from Alaska agree?

Mr. STEVENS. I agree with the Senator from Delaware. My amendment, let me reiterate, is designed to demonstrate that the United States must be prepared to pay its own way for any use of force in Bosnia. It does not imply any authorization to the President to deploy U.S. forces, and I agree with the Senator that the President should seek an authorization from Congress.

Mr. WARNER. Mr. President, I have just filed at the desk an amendment to the pending action by the Senate on the Bosnia resolution. The purpose of this amendment, which is No. 2930, is to conform the proposed resolution, nonbinding resolution, sense-of-the-Senate resolution on Bosnia, with the purported action to be taken tomorrow by the United Nations. I think it imperative, if it is the true desire of the Senate—and I accept the representations of the sponsors of the Senate resolution that it is to support the President of the United States in his actions before the United Nations.

One of the advantages of having this time interval of 4 or 5 days in which to have debated this resolution was to allow the United Nations, in consultation with world leaders, the Security Council, to come up with a resolution, which they now have, and which will be acted on, we are told, tomorrow.

At this moment the Senate Armed Services Committee is having a hearing, receiving testimony from a variety of witnesses on this issue. I shall at this time petition the leadership for an opportunity for members of the Armed Services Committee and members of the Intelligence Committee—that second committee is likewise at this hour holding hearings on Bosnia—to at least have a brief period in which to acquaint Senators with the very valuable testimony that is being received this morning by the Senate.

For the Senate to go ahead with this vote this afternoon at the scheduled hour without having the benefit of just a resume of this testimony in my judgment would be a mistake. So I now indicate my desire for the leadership to somehow adjust the time to allow just a few Members—if necessary only the chairmen of each committee, hopefully the ranking member would have some small amount of time—to acquaint the Senate with the testimony received both in the Armed Services Committee and Intelligence Committee.

But during the course of the deliberations in the Armed Services Committee hearing, which I just left momentarily, there has been a great deal of attention focused on the resolution pending before the Senate and the resolution in the United Nations, and it is clear that there is a difference. And the purpose of this amendment is to conform the amendment—the resolution before the Senate to that action we anticipate that will be taken by the United Nations tomorrow.

We are all joined in trying to bring about a cessation of atrocities which we have witnessed, now, and learned about in greater detail. And we are now learning this morning about added details of these atrocities. We want to act. We want to support our President and we want to support the United Nations. But I ask, Mr. President, that we do it consistent with what is to be done tomorrow by the United Nations. Otherwise we are moving off in two directions. And what we do not need now is confusion—confusion here in the Senate, confusion abroad as to why the Senate is moving in directions which are beyond those being taken by the United Nations.

I had under the unanimous-consent agreement an opportunity for a second amendment. I was not able to draw up that amendment until I knew with greater precision what the United Nation was doing. I now have had that opportunity to learn what the United Nations is doing, to draw the amendment, and I petitioned the leadership of the Senate and the managers of the pending resolution on Bosnia to consider on their own initiative accepting this amendment or to draw one up of their own so we are speaking with one voice, the Senate, the President, and the United Nations—and avoiding confusion.

Mr. President, I do hope the leadership will consider some opportunity for Senators to speak about the hearings this morning. We are learning new aspects of this conflict, a conflict between three religions, a conflict between three ethnic groups in the area of Bosnia, which is between Serbia—which has roots going back to the Ottoman Empire—and Croatia, which has its roots going back to the Austria-Hungarian empire. This small country, the size of two or three of our small States, has some of the most difficult terrain.

In the testimony this morning of the General of the Joint Chiefs of Staff, this terrain is exceedingly difficult to conduct military operations. Over 200,000 different people possess arms. There are five recognized armies. There are 20 warlords. That is the first time I have heard that mentioned—20 different warlords within this geographic area. And it is very difficult to find out who is fighting whom.

The testimony this morning indicated that, while the world is focusing on what Serbia is doing by way of atrocities to prisoners from Bosnia, there is also now testimony that an equal amount of atrocities—not equal, but atrocities in some magnitude are being committed by the other side on Serbian prisoners.

So I think there is much to be learned about this conflict. The Senate should try and inform itself as best it can before it makes this judgment. Because even though this is a nonbinding resolution, it is an act by this body and the nonbinding feature will, I think, be lost as the message travels across the ocean and will inspire hopes in this war-torn country, inspire hopes around the world for those of us who want to see the atrocities stopped.

Mr. President, I hope that the leadership will consider my two requests: First, that we consider an amendment in the nature of conforming with the U.N. action, with the Senate speaking; and, second, that members of the two committees be allowed to address the Senate, if only for a brief period, to share what we have learned by virtue of their testimony this morning.

I yield the floor.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

In the resolving clause, strike out paragraphs (1) and (2) and insert in lieu thereof the following:

"(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of multilateral military force under a Security Council mandate, giving particular attention to the possibility of "demonstrations" of force, to give effect to Security Council decisions to facilitate the provision of humanitarian relief in Bosnia-Hercegovina;

"(2) during such meeting, the Security Council should—

"(a) demand, and develop a plan to ensure, access for United Nations and International Red Cross personnel to refugee and prisoners of war camps in the former Yugoslavia;

"(b) develop the means by which to implement the July 17, 1992, United Nations-sponsored cease-fire plan, which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under United Nations supervision;

"(c) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

"(d) convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes.".

Mr. WARNER. Mr. President, the amendment which I have just sent to the desk more clearly reflects the actions that our President is seeking from the U.N. Security Council than does the underlying resolution. For the past few days, we have heard statement after statement from the sponsors of the resolution that they are merely seeking to lend the Senate's support to the U.N. Security Council resolution on the use of force in Bosnia which was initiated by President Bush. If that is truly the intent of the sponsors of Senate Resolution 330, then they should embrace my amendment.

According to the testimony which the Senate Armed Services Committee has just received from Assistant Secretary of State Niles and Assistant Secretary of Defense Hadley, the Administration is seeking a U.N. Security Council resolution authorizing "all necessary means" to facilitate the delivery of humanitarian assistance. The United States will also press for a U.N. Security Council resolution demanding that international organizations be granted immediate and unimpeded access to all camps and detention centers. My amendment reflects these goals.

Where Senate Resolution 330 differs from my amendment and from the President's position as reflected in the resolution under consideration in the U.N. Security Council, is that Senate Resolution 330 calls for a U.N. Security Council resolution authorizing all necessary means to gain access to the camps. In my opinion, we do not have enough information at this point to commit to the use of force for that reason. At this point, we have no confirmation of the existence of death camps, although no one questions that atrocities have been committed; and, we are not even sure who is guilty of all of the atrocities. According to testimony we have received before the Senate Armed Services Committee from General MacKenzie, the former U.N. commander of UNPROFOR, all sides in the conflict are probably guilty of inhumane treatment of prisoners. While this is not a reason for inaction, it is an indication of the complexity of the situation in Bosnia and one of the reasons why I advise caution and the utilization of further political measures before we rush ahead with the commitment of U.S. military forces.

But perhaps more important, I believe that the Senate is considering the use of force without fully understanding the objectives of any military involvement, the resources that would be required to achieve those objectives, and the losses we could expect to suffer. I agree with the President that we are responsible for the lives of our soldiers, sailors, and airmen. We should take that responsibility very seriously.

Mr. President, I urge the Senate to agree to consideration of the amendment which I have sent to the desk. I believe that the amendment more accurately expresses the objectives of the resolution which the Security Council has under active consideration than does Senate Resolution 330. I support the very limited possible use of force as envisioned by the Security Council for the sole purpose of assisting in the delivery of humanitarian relief supplies. I do not support expanding the mission of any possible miltiary intervention at this time, given the paucity of information we have on the consequences of an expanded use of force. If Senators actually want to endorse the actions proposed by our President and endorsed by the United Nations, then they should vote for my amendment.

The PRESIDING OFFICER (Mr. WOFFORD). All time has expired.

Mr. BYRD. Mr. President, has all time expired?

The PRESIDING OFFICER. The Senators have used all their time.

Mr. BYRD. I did not understand that they had used all their time,

The PRESIDING OFFICER. They have used all their time.

Mr. STEVENS. If I may explain, last evening we did agree to shorten the time to 30 minutes this morning, and the time has expired. It is my understanding that the tax bill will come up now.

I ask for the yeas and nays on my amendment. There is a vote scheduled for 12:15.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska for injecting a note of reality into the debate.

Mr. President, I hope that Senators will read the amendment carefully. It says that "the United States Senate pledges to provide such funds as may be necessary for United States participation in such humanitarian relief and multilateral military force activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution."

The U.S. Senate cannot today commit the U.S. Senate in the 103d Congress. We cannot commit future Congresses in this manner.

But, Mr. President, the Senators who vote for this amendment today and who will still be here in the next Congress, will certainly have made a commitment which, if the time ever comes that they have to face up to their pledge, will find it very difficult to back away from this commitment.

"To provide such funds as may be necessary." The sky is the limit. "Pursuant to such mandates as may be adopted by the United Nations Security Council." Not mandates adopted by the Senate, but "such funds as may be necessary * * * pursuant to such mandates as may be adopted by the United Nations Security Council."

I hope that Senators will look before they leap and vote against the amendment and against the resolution. I thank the Chair.

The PRESIDING OFFICER. All time has expired. A vote on the pending amendment will occur at 12:15 today.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed on my leader time for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAWRENCE WALSH—INDEPENDENT COUNSEL

Mr. DOLE. Mr. President, as Members of this body know, I have been quite critical in the past about Iran-Contra independent counsel Lawrence Walsh.

I have criticized him for the $35 million cost of his investigation. I have criticized him for not shutting his investigation down. I have criticized him for smearing the names of some outstanding public servants.

Despite all this, Mr. President, I never thought that one day I would be standing here to suggest that it's time to appoint an independent counsel to investigate the independent counsel.

Some here might not have seen the information recently discovered by Congressman GERALD SOLOMON, and reported in the media. Others might have glossed right over the information, since the investigation has been going on for so long that no one really cares.

So let me share the information with you.

Congressman SOLOMON obtained some of the vouchers and expense reports for Mr. Walsh and his crew—these vouchers confirm a point I have made before: That Mr. Walsh's inquisition is based in some of the most luxurious real estate in town—just how luxurious? Well, so far, the documents show that the taxpayers have shelled out $5.6 million for office space.

But not only does Mr. Walsh choose to work in the most expensive real estate, he also chooses to stay in expensive hotels. Now, that would be fine if he was paying the bill. But he doesn't. The taxpayers pay the bill.

Documents for the Office of Independent Counsel show that $655,000 has been spent on what is termed "per diem and subsistence."

And, apparently, up to $300,000 of this amount has been used to pay the personal living expenses of Judge Walsh and his chief deputy, Craig Gillen.

Those personal living expenses include Mr. Walsh's hotel bills at the Watergate Hotel, a countless number of $17 room service breakfasts, and room service dinners, which run between $25 to $40 each.

In fact, by Congressman SOLOMON'S calculations, you and I and all the rest of American taxpayers have shelled out $25,000 for Lawrence Walsh's breakfasts and $40,000 for Lawrence Walsh's dinners.

The taxpayers are paying Mr. Walsh's hotel and restaurant bills because Judge Walsh lists his principal duty station as Oklahoma City on his Government travel vouchers.

And Mr. Gillen, his full-time deputy who has really taken over the entire operation, lists his principal duty station as Atlanta.

They do this even though there is no Independent Counsel Office in Atlanta—and even though there's only a part-time one in Oklahoma City.

By listing their principal duty stations as Oklahoma City and Atlanta, Judge Walsh and Mr. Gillen are able to bill the taxpayers for their travel from Oklahoma City and Atlanta to Washington and back, and all their living expenses while in Washington.

Congressman SOLOMON has calculated that Mr. Gillen has collected at least $100,000—that is $100,000—in living and travel expenses above and beyond his legally established salary.

Congressman SOLOMON has also learned that Mr. Walsh and Mr. Gillen receive special rates from the corporation that owns the Watergate Hotel.

I guess I should not complain about this special discount, since it saves the taxpayers money—but I wonder if it might also qualify as an improper supplementation of salary.

There are other expenses that are coming to light: $881,000 in incidental expenses, $401,000 for maintenance, $698,000 for contractual services. The list goes on and on. And I think all of America can now understand why Mr. Walsh and Mr. Gillen are going on and on.

CPB AND THE PERCEPTION OF IMBALANCE

Mr. DOLE. Mr. President, I would like to bring to the attention of my colleagues a perceptive article by Brent Bozell that appeared in the August 4 edition of the Washington Times. In his article, "Moyers Under Glass," Mr. Bozell exposes the blatantly liberal record of Bill Moyers, one of the so-called stars of public broadcasting, and a future central to the so-called perception of journalistic imbalance on public television.

"I say there is one giant step toward correcting that perception," Mr. Bozell writes. "Dump Bill Moyers, or give a conservative as much air time as he gets. This incumbent needs a term limit."

Of course, despite all the promises, few people expect anything like that to happen. As Mr. Bozell argues, "doing nothing underlines that journalistic imbalance at PBS isn't a perception. It's a daily fact of life."

Now, I consider myself a supporter of public broadcasting. I have contributed personal funds to public television, and I supported the President's generous 3-year CPB funding request of $825 million. But whenever I or anyone else raises legitimate questions about public broadcasting's legal requirement of objectivity or about the taxpayer-subsidized video production empire that Bill Moyers says is none of the taxpayers business, we get hit with all kinds of nasty labels.

But some of us are getting a little tired of all the promises. It's time to turn the imbalance—perceived or not—into genuine objectivity.

I think we are all aware of the imbalance. Some do not like to talk about imbalance but it is there by public broadcasting subsidized by the taxpayers whether or not they agree with Mr. Moyers who made millions and millions of dollars out of this little effort. Of course he does not have to account for it, does not have to tell anybody, because they are not covered by the Freedom of Information Act.

Mr. President, I ask unanimous consent that Mr. Bozell's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Aug. 4, 1992]

MOYERS UNDER GLASS

(By Brent Bozell)

Sheila Tate, the new head of the Corporation of Public Broadcasting, began her tenure by announcing that public television would have to deal with its "perception" of journalistic imbalance. I say there is one giant step toward correcting that perception: Dump Bill Moyers, or give a conservative as much air time as he gets. This incumbent needs a term limit.

At a Jan. 6 press conference, Mr. Moyers, the preening PBS omnipresence, protested: "Anybody who looks at the bulk of my work over the last 20 years knows that it's a fallacious attack to find in it a left-wing agenda. . . . They've been able to offer no substantive analysis of my work that would confirm their desire to label [me] . . . a 'left-wing Democrat.'"

What a fraud. Conservatives have years of examples and books of transcripts to prove his left-wing bias. Try "The Secret Government," his 1987 documentary on the Iran-Contra affair. Mr. Moyers insisted it was a "terrorist war" the Contras were fighting where "old men, women and children are caught in the middle or deliberately killed as the Contras use violence against peasants." Mr. Moyers said nothing about the Sandinistas' human-rights record.

His most infamous hatchet job, the 1982 CBS documentary "People Like Us," was rebroadcast in 1989 on PBS, and Mr. Moyers added a new conclusion: "The poor and the working poor have born the brunt of the cost of the Reagan revolution. . . . Meanwhile, rich people got big tax breaks. And the middle class kept most of their subsidies intact. As a result, the Reagan years brought on a wider gap between rich and poor."

Don't even go back a few years. Look up his interview with Bill Clinton on his "Listening to America" program July 7: "What do you think the American people get for their government? We have no universal health care, we have no federal guarantee of higher education. . . . The regulatory agencies have in many cases been gutted. . . . Why not just say, 'We will have universal health care and we will raise taxes to pay for it?'"

How can Mr. Moyers deny a left-wing agenda?

Even far-left PBS critics have found in him one of their own. Jeff Cohen, head of the far-left group Fairness and Accuracy in Reporting (FAIR), told a C-SPAN interviewer: "Bill Moyers, of course, was an aide to a very conservative Democratic administration, now is very much, I would say, a liberal or progressive." Protesting PBS promotion of conservatives through "The McLaughlin Group" and "Firing Line," FAIR Washington activist Dennis Perrin argued on C-SPAN that Mr. Moyers is the only regularly scheduled left-wing activist on PBS: "The only example that you can point out to me is Bill Moyers, who, I will grant to you, is definitely left of center."

Remember, this is no mainstream left-wing group: They criticized "Nightline" for bringing on Sen. Christopher Dodd as an "insider opponent," an insufficiently liberal critic of U.S. policy in Nicaragua.

Mr. Moyers' partisan colors shined brightly during his stint as a CNN commentator at the Democratic National Convention. After Mario Cuomo's speech, he declared: "It's worth dying prematurely so you can hear somebody else do your eulogy if that somebody is Mario Cuomo."

Mr. Moyers also praised Jesse Jackson: "Now you know a speech like this reaches me. I'm from East Texas. My daddy was a New Deal Democrat, and I love the vibrations and the rhythms and the cadences and the power that he puts behind lost causes. But they've got to go beyond that."

Jerry Brown emerged as Mr. Moyers' preferred candidate: "I thought all through the primaries that Brown had the message—that this is a party that is spoiled, that this is a two-party system that is corrupt."

Of course, all this talk of greedy companies and corrupt governments is just Bill Moyers being a hypocrite. To this day, no one knows how many millions in profits he's made through his books and PBS Home Video cassettes, all of it thanks to the taxpayers who fund PBS. He's admitted raising more than $15 million for his company, Public Affairs Television, but when the public has demanded more knowledge of his PBS profits, Mr. Moyers replied that his company "is an independently owned production company—like so many others in the field—and our business affairs are none of your business."

Would Mr. Moyers say the same for other government contractors—say General Dynamics?

After all this, I don't expect Sheila Tate or anyone at CPB will actually even say anything to Bill Moyers about his record. But doing nothing underlines that journalistic imbalance at PBS isn't a "perception." It's a daily fact of life.

Mr. DOLE. I reserve the remainder of my leader's time.

TAX ENTERPRISE ZONES ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill, H.R. 11, which is to be considered at this time for debate only.

The legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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TITLE I—PROVISIONS RELATING TO DISTRESSED URBAN AND RURAL AREAS

Subtitle A—Urban Tax Enterprise Zones, Rural Development Investment Zones, and Indian Reservation Tax Enterprise Zones

SEC. 1101. STATEMENT OF PURPOSE.

It is the purpose of this subtitle to establish a demonstration program of providing incentives for the creation of tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses, and

(2) to promote meaningful employment for tax enterprise zone residents.

SEC. 1102. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES, RURAL DEVELOPMENT INVESTMENT ZONES, AND INDIAN RESERVATION TAX ENTERPRISE ZONES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Tax Enterprise Zones

"Part I. Designation of tax enterprise zones.
"Part II. Incentives for tax enterprise zones.

"PART I—DESIGNATION OF TAX ENTERPRISE ZONES

"Sec. 1391. Designation procedure.
"Sec. 1392. Eligibility and selection criteria.
"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—For purposes of this title, the term 'tax enterprise zone' means any area which is, under this part—

"(1) nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone, and

"(2) designated by—

"(A) the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone,

"(B) the Secretary of Agriculture, in consultation with the Secretary of the Interior, in the case of a rural development investment zone, and

"(C) the Secretary of the Interior in the case of an Indian reservation tax enterprise zone.

"(b) NUMBER OF DESIGNATIONS.—

"(1) AGGREGATE LIMIT.—The appropriate Secretaries shall designate 25 nominated areas as tax enterprise zones under this section, of which 15 shall be urban tax enterprise zones, 8 shall be rural development investment zones, and 2 shall be Indian reservation tax enterprise zones. Such designations may be made only during calendar years after 1992 and before 1997 and shall be subject to the availability of eligible nominated areas.

"(2) ANNUAL LIMITS.—

"(A) URBAN TAX ENTERPRISE ZONES.—The number of urban tax enterprise zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 6,

"(ii) in calendar year 1994 shall not exceed the sum of 4 plus the carryover amount for such year,

"(iii) in calendar year 1995 shall not exceed the sum of 3 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the sum of 2 plus the carryover amount for such year.

"(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 3,

"(ii) in calendar year 1994 shall not exceed the sum of 2 plus the carryover amount for such year,

"(iii) in calendar year 1995 shall not exceed the sum of 2 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the sum of 1 plus the carryover amount for such year.

"(C) INDIAN RESERVATION TAX ENTERPRISE ZONES.—The number of Indian reservation tax enterprise zones under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 1,

"(ii) in calendar year 1994 shall not exceed the sum of 1 plus the carryover amount for such year, and

"(iii) in calendar years 1995 and 1996 shall not exceed the carryover amount for such year.

"(D) CARRYOVER AMOUNT.—For purposes of subparagraphs (A), (B), and (C), the carryover amount for any calendar year shall be equal to the amount by which—

"(i) the limitation under such subparagraph for the preceding calendar year, exceeds

"(ii) the number of designations made under paragraph (1) for the type of tax enterprise zone to which such subparagraph relates in such preceding calendar year.

"(3) ADVANCE DESIGNATIONS PERMITTED.—For purposes of this subchapter, a designation during any calendar year after 1992 shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

"(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

"(1) the local governments and the State in which the nominated area is located have the authority—

"(A) to nominate the area for designation as a tax enterprise zone, and

"(B) to provide assurances satisfactory to the appropriate Secretary that the commitments under section 1392(c) will be fulfilled,

"(2) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(3) the State and local governments certify that no portion of the area nominated is already included in a tax enterprise zone or in an area otherwise nominated to be a tax enterprise zone.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a tax enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 10th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary shall revoke the designation of an area as a tax enterprise zone if such Secretary determines that the local government or the State in which it is located—

"(i) has significantly modified the boundaries of the area, or

"(ii) is not complying substantially with the State and local commitments pursuant to section 1392(c).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record at which officials of the State or local government are given the opportunity to participate and after an opportunity for the State or local government to correct any deficiencies the Secretary determines under subparagraph (A).

"(C) REVOCATION TO BE PROSPECTIVE.—Any revocation under subparagraph (A) shall not take effect before the date of the final determination under subparagraph (A) (after application of subparagraph (B)).

"SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.

"(a) IN GENERAL.—The appropriate Secretary may make a designation of any nominated area under section 1391 only on the basis of the eligibility and selection criteria set forth in this section.

"(b) ELIGIBILITY CRITERIA.—

"(1) URBAN TAX ENTERPRISE ZONES.—A nominated area which is not a rural area (and any portion of which is not located on an Indian reservation) shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the 1990 or subsequent census data) of not less than 20,000.

"(B) DISTRESS.—The nominated area is one of pervasive unemployment and general distress.

"(C) SIZE.—The nominated area—

"(i) is one contiguous area, and

"(ii) is located within not more than 2 States.

"(D) POVERTY RATE.—The poverty rate (as determined by the 1990 or subsequent census data)—

"(i) for each population census tract within the nominated area is not less than 25 percent, and

"(ii) for not less than 80 percent of the population census tracts within the nominated area is not less than 35 percent.

"(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(2) RURAL DEVELOPMENT INVESTMENT ZONES.—A nominated area which is a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the 1990 or subsequent census data) of not less than 10,000.

"(B) ADDITIONAL CRITERIA.—The criteria set forth in subparagraphs (B), (C), (D), and (E) of paragraph (1).

"(3) INDIAN RESERVATION TAX ENTERPRISE ZONES.—A nominated area which is an Indian reservation tax enterprise zone shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) SIZE.—The nominated area—

"(i) is located on an Indian reservation,

"(ii) is one contiguous area, and

"(iii) is located within not more than 2 States.

"(B) ADDITIONAL CRITERIA.—The criteria set forth in subparagraphs (B), (D), and (E) of paragraph (1).

"(4) SPECIAL RULE WITH RESPECT TO COURSE OF ACTION CRITERIA.—In the case of a nominated area which is—

"(A) described in paragraph (2) and is located on an Indian reservation, or

"(B) described in paragraph (3),

the criteria set forth in subparagraph (E) of paragraph (1) shall apply only to the extent the reservation governing body has legal authority to comply with such criteria.

"(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

"(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a tax enterprise zone, the governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in the area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both governments and nongovernmental entities, may not be funded from proceeds of any Federal program (other than discretionary proceeds), and—

"(A) shall include—

"(i) a certification by the State insurance commissioner (or similar State official) that basic commercial property insurance of a type comparable to that insurance generally in force in urban or rural areas, whichever is applicable, throughout the State is available to businesses within the tax enterprise zone,

"(ii) a program to ensure the necessary rehabilitation of publicly owned property within the tax enterprise zone,

"(iii) an increase in the level, or efficiency of delivery, of local public services within the tax enterprise zone,

"(iv) the involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(v) the giving of special preference to contractors owned and operated by members of any socially and economically disadvantaged group (within the meaning of section 8(a) of the Small Business Act (15 U.S.C. 637(a)), in connection with an activity any part of which occurs within the tax enterprise zone,

"(vi) the establishment of a program to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to tax enterprise zone businesses, with emphasis on locally-owned businesses and on small-business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)),

"(vii) the giving of special preference to qualified low-income housing projects located in tax enterprise zones, in the allocation of the State housing credit ceiling applicable under section 42, and

"(viii) the giving of special preference to facilities located in tax enterprise zones, in the allocation of the State ceiling on private activity bonds applicable under section 146, and

"(B) may include—

"(i) a reduction of tax rates or fees applying within the tax enterprise zone,

"(ii) the gift (or sale at below fair market value) of surplus land in the tax enterprise zone to neighborhood organizations agreeing to operate a business on the land, and

"(iii) the establishment of a program under which employers within the tax enterprise zone may purchase health insurance for their employees on a pooled basis.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

"(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist any establishment in relocating from 1 area outside the nominated area to the nominated area.

"(B) EXCEPTION.—The limitation established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if—

"(i) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

"(d) SELECTION CRITERIA.—

"(1) ELIGIBILITY.—The appropriate Secretary shall make a determination as to whether a nominated area meets the eligibility requirements under subsection (b) for designation as a tax enterprise zone.

"(2) DESIGNATION.—From among the nominated areas determined to be eligible for designation under paragraph (1), the appropriate Secretary shall make designations of tax enterprise zones on the basis of the following factors (each of which is to be given equal weight).

"(A) STATE AND LOCAL COMMITMENTS.—The strength and quality of the commitments which have been promised as part of the course of action relative to the fiscal ability of the nominating State and local governments.

"(B) IMPLEMENTATION OF COURSE OF ACTION.—The effectiveness and enforceability of the guarantees that the course of action will actually be carried out, including the specificity with which the commitments under subparagraph (A) are described in order that the applicable Secretary will be better able to determine annually under section 1391(d)(2)(A)(ii) whether the commitments are being carried out.

"(C) PRIVATE COMMITMENTS.—The level of commitments by private entities of additional resources and contributions to the economy of the nominated area, including the creation of new or expanded business activities.

"(D) LEVELS OF POVERTY AND DISTRESS.—The relative levels of distress and poverty under subparagraphs (B) and (D) of subsection (b)(1).

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"For purposes of this subchapter—

"(1) URBAN TAX ENTERPRISE ZONE.—The term 'urban tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(1).

"(2) RURAL DEVELOPMENT INVESTMENT ZONE.—The term 'rural development investment zone' means a tax enterprise zone which meets the requirements of section 1392(b)(2).

"(3) INDIAN RESERVATION TAX ENTERPRISE ZONE.—The term 'Indian reservation tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(3).

"(4) GOVERNMENTS.—If more than 1 government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(5) INDIAN RESERVATION.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(6) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(7) NOMINATED AREA.—

"(A) IN GENERAL.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone under this subchapter.

"(B) INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to the area.

"(8) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of the Interior, to be a rural area. Such term may include an area within an Indian reservation.

"(9) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of urban tax enterprise zones,

"(B) the Secretary of Agriculture in the case of rural development investment zones, and

"(C) the Secretary of the Interior in the case of Indian reservation tax enterprise zones.

"(10) POPULATION CENSUS TRACTS.—If areas are not tracted as population census tracts, the equivalent county divisions as defined by the Bureau of the Census for purposes of defining poverty areas shall be treated as population census tracts.

"PART II—INCENTIVES FOR TAX ENTERPRISE ZONES

"SUBPART A. Enterprise zone employment credits.

"SUBPART B. Investment incentives.

"SUBPART C. General provisions.

"Subpart A—Enterprise Zone Employment Credits

"Sec. 1395. Enterprise zone employment credit.

"SEC. 1395. ENTERPRISE ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the enterprise zone employment credit determined under this section with respect to any employer for any taxable year is 40 percent of the qualified zone wages paid or incurred during such taxable year.

"(b) QUALIFIED ZONE WAGES.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee to the extent such wages do not exceed $20,000.

"(c) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a tax enterprise zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such tax enterprise zone.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual unless such individual either—

"(i) is employed by the employer at least 90 days, or

"(ii) has completed at least 120 hours of services performed for the employer, and

"(D) any individual employed by the employer at any facility described in section 144(c)(6)(B).

"(d) CREDIT REFUNDABLE FOR SMALL EMPLOYERS.—

"(1) IN GENERAL.—In the case of so much of the credit allowed by section 38 which is attributable to the enterprise zone employment credit of a small employer—

"(A) section 38(c) shall not apply, and

"(B) for purposes of this title, such credit shall be treated as if it were allowed under subpart C of this part (relating to refundable credits).

"(2) SMALL EMPLOYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'small employer' means, with respect to any taxable year, any employer which had gross receipts not greater than $2,000,000 during the preceding taxable year.

"(B) PHASEOUT.—In the case of an employer which had gross receipts in excess of $1,000,000, the amount of the credit to which paragraph (1) would otherwise apply shall be reduced by the amount which bears the same ratio to the amount of the credit as such excess bears to $1,000,000.

"(C) GROSS RECEIPTS; PREDECESSORS.—For purposes of this paragraph, rules similar to the rules of subparagraphs (B), (C), and (D) of section 448(c)(3) shall apply.

"(e) NOTICE OF AVAILABILITY OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.—No credit shall be allowed to any employer which fails to notify all of the employees of such employer eligible to receive advanced payments of the credit under section 32 (relating to the earned income credit) of the availability of such advanced payments.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—

"(A) IN GENERAL.—The term 'wages' has the same meaning as when used in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(B) CERTAIN TRAINING AND EDUCATIONAL BENEFITS.—

"(i) IN GENERAL.—The following amounts shall be treated as wages paid to an employee:

"(I) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person which is not a related person.

"(II) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

"(ii) RELATED PERSON.—A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

"(2) CONTROLLED GROUPS.—

"(A) TREATED AS SINGLE EMPLOYER.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart.

"(B) PROPORTIONATE SHARE.—The credit (if any) determined under this section with respect to each employer described in subparagraph (A) shall be such employer's proportionate share of the wages giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"Subpart B—Investment Incentives

"Sec. 1397. Additional expensing allowance.

"Sec. 1397A. Accelerated depreciation.

"Sec. 1397B. Deduction for purchase of enterprise zone stock.

"Sec. 1397C. Low-income housing credit.

"Sec. 1397D. Ordinary loss treatment for certain property.

"SEC. 1397. ADDITIONAL EXPENSING ALLOWANCE.

"(a) IN GENERAL.—In the case of a qualified enterprise zone business, for purposes of section 179—

"(1) qualified zone property shall be treated as section 179 property,

"(2) the limitation under subsection (b) shall apply in lieu of the limitation under section 179(b)(1), and

"(3) in the case of section 179 property other than qualified zone property, the limitation under section 179(b)(1) (as reduced under section 179(b)(2)) applicable to such property shall be reduced (but not below zero) by the cost of qualified zone property placed in service during the taxable year.

"(b) LIMITATION.—

"(1) IN GENERAL.—The aggregate cost of qualified zone property which may be taken into account under section 179(a) for any taxable year shall not exceed $75,000.

"(2) REDUCTION IN LIMITATION.—The limitation under paragraph (1) for any taxable year shall be reduced (but not below zero) by 50 percent of the amount by which the cost of qualified zone property placed in service during such taxable year exceeds $300,000.

"(c) QUALIFIED ENTERPRISE ZONE BUSINESS.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'qualified enterprise zone business' means—

"(A) any qualified business entity, and

"(B) any qualified proprietorship.

"(2) QUALIFIED BUSINESS ENTITY.—For purposes of this subsection, the term 'qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year—

"(A)(i) every trade or business of such entity is the active conduct of a qualified business within a tax enterprise zone, and

"(ii) at least 80 percent of the total gross income of such entity is derived from the active conduct of any such business,

"(B) substantially all of the use of the tangible property of such entity (whether owned or leased) is within a tax enterprise zone,

"(C) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,

"(D) substantially all of the services performed for such entity by its employees are performed in a tax enterprise zone,

"(E) at least 1/3 of its employees are residents of a tax enterprise zone, and

"(F) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to—

"(i) collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of any such business, or

"(ii) nonqualified financial property.

"(3) QUALIFIED PROPRIETORSHIP.—For purposes of this subsection, the term 'qualified proprietorship' means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

"(A) at least 80 percent of the total gross income of such business is derived from the active conduct of such business in a tax enterprise zone,

"(B) substantially all of the use of the tangible property of such business (whether owned or leased) is within a tax enterprise zone,

"(C) substantially all of the intangible property of such business is used in, and exclusively related to, the active conduct of such business,

"(D) substantially all of the services performed for such business by employees of such business are performed in a tax enterprise zone,

"(E) at least 1/3 of such employees are residents of a tax enterprise zone,

"(F) less than 5 percent of the average of the aggregate unadjusted bases of the property of such business is attributable to—

"(i) collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, or

"(ii) nonqualified financial property.

For purposes of this paragraph, the term 'employee' includes a self-employed individual (within the meaning of section 401(c)(1)).

"(4) QUALIFIED BUSINESS.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified business' means any trade or business.

"(B) RENTAL OF REAL PROPERTY.—The rental of any building or structure located in a tax enterprise zone shall be treated as a qualified business if and only if at least 50 percent of the gross rental income from the building or structure is from enterprise zone businesses (without regard to this subparagraph).

"(C) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental of tangible personal property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

"(D) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term 'qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

"(E) CERTAIN BUSINESSES EXCLUDED.—The term 'qualified business' shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

"(5) NONQUALIFIED FINANCIAL PROPERTY.—For purposes of this subsection, the term 'nonqualified financial property' means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

"(A) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

"(B) accounts or notes receivable described in section 1221(4).

"(6) TERMINATION OF ENTERPRISE ZONE BUSINESS.—An activity shall cease to be a qualified enterprise zone business as of the date on which the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 1391(d). The preceding sentence shall not apply—

"(A) during the 1st taxable year of an activity,

"(B) to property placed in service before the date of the termination or revocation of such designation, or

"(C) to property placed in service on or after such date pursuant to a binding, written contract in effect before such date and at all times thereafter.

"(d) QUALIFIED ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies—

"(A) if such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the tax enterprise zone took effect,

"(B) the original use of which in a tax enterprise zone commences with the taxpayer, and

"(C) substantially all of the use of which is in a tax enterprise zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) SPECIAL RULE FOR SUBSTANTIAL RENOVATIONS.—In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the tax enterprise zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

"(3) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after application of section 280F(b) (relating to listed property with limited business use).

"(e) SPECIAL RULES FOR SALE-LEASEBACKS.—For purposes of subsection (b)(2), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(f) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified zone property of any business which ceases to be a qualified enterprise zone business.

"SEC. 1397A. ACCELERATED DEPRECIATION.

"(a) IN GENERAL.—For purposes of section 168, with respect to qualified zone property (as defined in section 1397(d)) of a qualified enterprise zone business (as defined in section 1397(c)), the applicable recovery period shall be determined in accordance with the table contained in subsection (b) in lieu of the table contained in section 168(c)(1).

"(b) APPLICABLE RECOVERY PERIOD FOR QUALIFIED ZONE PROPERTY.—For purposes of subsection (a)—

"In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	20 years.

"SEC. 1397B. DEDUCTION FOR PURCHASE OF ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to 50 percent of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of enterprise zone stock.

"(b) LIMITATION.—

"(1) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer for the taxable year shall not exceed the lesser of—

"(A) $25,000, or

"(B) the excess of $250,000 over the amount allowed as a deduction under this section to the taxpayer for all prior taxable years.

"(2) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under paragraph (1)(A)—

"(A) the amount of such excess shall be treated as an amount paid to which subsection (a) applies during the next taxable year, and

"(B) the deduction allowed for any taxable year shall be allocated proportionately among the enterprise zone stock purchased by such person on the basis of the respective purchase prices per share.

"(3) AGGREGATION WITH FAMILY MEMBERS.—The taxpayer and members of the taxpayer's *family (as defined in section 267(c)(4)) shall be treated as one person for purposes of paragraph (1), and the limitations contained in such paragraph shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock.*

"(c) ENTERPRISE ZONE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock is acquired on original issue from the corporation, and

"(B) such corporation is, at the time of issue, a qualified enterprise zone issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ZONE PROPERTY.—The term 'enterprise zone stock' shall include such stock only to the extent that the proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to purchase (as defined in section 179(d)(2)) qualified zone property (as defined in section 1397(d)).

"(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic C corporation if—

"(1) such corporation is a qualified enterprise zone business (as defined in section 1397(c)) or, in the case of a new corporation, such corporation is being organized for purposes of being such a qualified enterprise zone business,

"(2) such corporation does not have more than one class of stock,

"(3) the sum of—

"(A) the money,

"(B) the aggregate unadjusted bases of property owned by such corporation, and

"(C) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $3,000,000, and

"(4) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned directly by individuals or estates or indirectly by individuals through partnerships or trusts.

The determination under paragraph (3) shall be made as of the time of issuance of the stock in question but shall include amounts received for such stock.

"(e) DISPOSITIONS OF STOCK.—

"(1) BASIS REDUCTION.—For purposes of this title, the basis of any enterprise zone stock shall be reduced by the amount of the deduction allowed under this section with respect to such stock.

"(2) DEDUCTION RECAPTURED AS ORDINARY INCOME.—For purposes of section 1245—

"(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

"(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If—

"(i) a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

"(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disposition by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(f) DISQUALIFICATION.—

"(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(g) OTHER SPECIAL RULES.—

"(1) APPLICATION OF LIMITS TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (b) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

"(2) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section.

"SEC. 1397C. LOW-INCOME HOUSING CREDIT.

"For purposes of section 42(d)(5)(C), any building located in a tax enterprise zone shall be treated in the same manner as if located in a qualified census tract.

"SEC. 1397D. ORDINARY LOSS TREATMENT FOR CERTAIN PROPERTY.

"(a) IN GENERAL.—Loss on any qualified zone asset held for more than 2 years (5 years in the case of real property) shall be treated as an ordinary loss.

"(b) QUALIFIED ZONE ASSET.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'qualified zone asset' means—

"(A) in the case of an individual, any qualified zone stock or any qualified zone partnership interest, and

"(B) any qualified zone business property.

"(2) QUALIFIED ZONE STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was an enterprise zone business, or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business, and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

"(B) EXCLUSION OF STOCK FOR WHICH DEDUCTION UNDER SECTION 1397B ALLOWED.—The term 'qualified zone stock' shall not include any stock the basis of which is reduced under section 1397B(e)(1).

"(C) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(3) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was an enterprise zone business, or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business, and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(C) shall apply for purposes of this paragraph.

"(4) QUALIFIED ZONE BUSINESS PROPERTY.—The term 'qualified zone business property' means—

"(A) any qualified zone property (as defined in section 1397(d)), and

"(B) any land which is an integral part of an enterprise zone business.

"(5) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' means a qualified business entity (as defined in section 1397(c)(2)).

"(6) REAL PROPERTY.—The term 'real property' means any property which is section 1250 property (as defined in section 1250(c)).

"(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as a tax enterprise zone shall be disregarded for purposes of determining whether any property is a qualified zone asset.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF PASS-THRU ENTITIES.—

"(A) SALES AND EXCHANGES.—Loss on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years shall be treated as ordinary loss described in subsection (a) to the extent such loss is attributable to amounts which would be loss on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 5 years and throughout the period the taxpayer held such interest. A rule similar to the rule of

subparagraph (B)(iii) shall apply for purposes of the preceding sentence.

"(B) DISTRIBUTIONS.—

"(i) IN GENERAL.—Any loss described in clause (ii) shall be treated as ordinary loss described in subsection (a).

"(ii) REQUIREMENTS.—A loss is described in this clause if—

"(I) such loss is attributable to loss on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

"(II) such amount is included in computing the taxable income of the taxpayer by reason of the holding of an interest in such entity.

"(C) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any partnership,

"(ii) any S corporation,

"(iii) any regulated investment company, and

"(iv) any common trust fund.

"(2) CERTAIN TAX-FREE AND OTHER TRANSFERS.—

"(A) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this paragraph applies, the transferee shall be treated as—

"(i) having acquired such asset in the same manner as the transferor, and

"(ii) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this paragraph) by the transferor.

"(B) TRANSFERS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any transfer—

"(i) by gift,

"(ii) at death, or

"(iii) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of paragraph (2)(B) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1), (2), and (3) of section 1244(d) shall apply.

"(4) COORDINATION WITH SECTION 1231.—Losses treated as ordinary losses by reason of this subsection shall not be taken into account in applying section 1231.

"Subpart C—General Provisions

"Sec. 1397E. Regulations.

"SEC. 1397E. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including—

"(1) regulations limiting the benefit of this part in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government, and

"(2) regulations preventing avoidance of the provisions of this part."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"SUBCHAPTER U. Designation and treatment of tax enterprise zones."

SEC. 1103. TAX ENTERPRISE ZONE BONDS.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended by striking "or" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(12) qualified enterprise zone facilities."

(b) DEFINITION.—Section 142 is amended by adding at the end thereof the following new subsection:

"(j) QUALIFIED ENTERPRISE ZONE FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'qualified enterprise zone facilities' means any qualified zone property (as defined in section 1397(d) (other than paragraph (3) thereof)) of a qualified enterprise zone business (as defined in section 1397(c)), and any land located within a tax enterprise zone which is an integral part of such business.

"(2) TAX ENTERPRISE ZONE.—For purposes of this subsection (and for applying sections 1397(c) and 1397(d) under paragraph (1)), the term 'tax enterprise zone' has the meaning given such term by section 1391(a), except that such term also includes any other nominated area for the 5-year period beginning with the date such area determined by the appropriate Secretary under section 1392(d)(1) to be eligible for designation as a tax enterprise zone.

"(3) USE OF PROCEEDS.—

"(A) PERIOD TO SPEND PROCEEDS.—

"(i) GENERAL RULE.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless the proceeds are spent for the governmental purpose of the issue within an 18-month period of the date of the issuance of the bond.

"(ii) EXCEPTION.—Clause (i) shall not apply to any bond if—

"(I) the issuer pays a penalty equal to 3 percent of the amount of available proceeds of the issue which is not spent for the governmental purpose of the issue as of the close of the 18-month period described in clause (i), and

"(II) the issuer redeems such bond not later than 24 months after the date of the issuance of the bond.

"(B) LIMITATION ON AMOUNT OF BONDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond if, at any time, the face amount of such bond plus the aggregate face amount of any outstanding bonds issued as part of an issue described in subsection (a)(12) used or to be used with respect to any qualified enterprise zone business which is a principal user of a facility financed by the proceeds of the issue exceeds $1,000,000 (not including as outstanding any bond which is to be redeemed). For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person.

"(C) HOUSING LOANS EXCLUDED.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond if any portion of the proceeds are used directly or indirectly to provide residential real property."

(b) CERTAIN RULES NOT TO APPLY.—Subsection (h) of section 147 (relating to other requirements applicable to certain private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(3) BONDS FOR QUALIFIED ENTERPRISE ZONE FACILITIES.—Subsections (c)(2) and (d) shall not apply to any bonds the proceeds of which are used to finance qualified enterprise zone facilities."

(c) VOLUME CAP ONLY CHARGED WITH 50 PERCENT OF TAX ENTERPRISE ZONE BONDS.—Subsection (g) of section 146 (relating to volume cap) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(5) 50 percent of any bond issued as part of an issue described in subsection 142(a)(12)."

(d) PENALTIES FOR LOANS MADE TO BUSINESSES THAT CEASE TO BE ENTERPRISE ZONE BUSINESSES, ETC.—Subsection (b) of section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) TAX ENTERPRISE ZONE BONDS.—In the case of any qualified enterprise zone facility with respect to which financing was provided by an issue described in section 142(a)(12)—

"(A) NO DEDUCTION ALLOWED.—No deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the first day of the calendar year which includes the date on which—

"(i) the trade or business to which the financing was provided ceases to be a qualified enterprise zone business (as defined in section 1397(c)), or

"(ii) substantially all of the use of such facility (determined in accordance with subchapter U) with respect to which the financing was provided ceases to be in a tax enterprise zone. For purposes of this subparagraph (and for applying section 1397(c) under this subparagraph), the term 'tax enterprise zone' has the meaning given such term by section 142(j)(2).

"(B) PENALTY IMPOSED ON BUSINESS.—If at any time during the 10-year period beginning on the date such financing was provided—

"(i) such facility ceases to be in use in a qualified enterprise zone business (as so defined), or

"(ii) substantially all of the use of such facility ceases to be in a tax enterprise zone (as so defined),

there is hereby imposed on such business to which such financing was provided a penalty equal to 1.25 percent of so much of the face amount of all financing provided (whether or not from the same issue and whether or not such issue is outstanding) before such cessation to such business using such facility.

"(C) EXCEPTION IF ZONE CEASES.—Subparagraphs (A) and (B) shall not apply solely by reason of the termination or revocation of a tax enterprise zone designation.

"(D) EXCEPTION FOR BANKRUPTCY.—Subparagraphs (A) and (B) shall not apply to any cessation resulting from bankruptcy."

(e) BANK INTEREST DEDUCTION.—

(1) IN GENERAL.—Clause (ii) of section 265(b)(3)(B) (relating to exception for certain tax-exempt obligations) is amended—

(A) by striking "or" at the end of subclause (I),

(B) by redesignating subclause (II) as subclause (III), and

(C) by inserting after subclause (I) the following new subclause:

"(II) any bond elected not to be treated as private activity under clause (iii), or".

(2) ELECTION NOT TO TREAT QUALIFIED ENTERPRISE ZONE FACILITY BONDS AS PRIVATE ACTIVITY BONDS.—Section 265(b)(3)(B) is amended by adding at the end thereof the following new clause:

"(iii) ELECTION NOT TO TREAT QUALIFIED ENTERPRISE ZONE FACILITY BONDS AS PRIVATE ACTIVITY BONDS.—A bond issued as part of an issue described in section 142(a)(12)) shall not be treated as a private activity bond if, on or before the date of the issue of such bond, the issuer irrevocably elects not to treat such bond as a private activity bond for purposes of clause (i)(II)."

(3) CONFORMING AMENDMENT.—Subclause (I) of section 265(b)(3)(B)(i) (defining qualified tax-exempt obligation) is amended by inserting "or is an obligation issued as part of an issue described in section 142(a)(12)" after "issues".

SEC. 1104. EXPANSION OF TARGETED JOBS CREDIT.

(a) ALLOWANCE OF CREDIT FOR HIRING TAX ENTERPRISE ZONE RESIDENT.—Paragraph (1) of section 51(d) (defining members of targeted groups), as amended by section 2148 of this Act, is amended by striking "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and by adding at the end the following new subparagraph:

"(L) a tax enterprise zone resident."

(b) Tax Enterprise Zone Resident.—Section 51(d), as so amended, is amended by adding at the end thereof the following new paragraph:

"(18) TAX ENTERPRISE ZONE RESIDENT.—

"(A) In general.—The term 'tax enterprise zone employee' means an individual whose principal place of abode while performing services for the employer is within a tax enterprise zone (as defined in section 1391(a)).

"(B) Coordination with zone employment credit.—For purposes of this paragraph, the term 'qualified wages' shall not include wages taken into account in determining the credit under section 1395."

SEC. 1105. OTHER PROVISIONS.

(a) Alternative Minimum Tax.—

(1) EMPLOYMENT CREDIT MAY OFFSET REGULAR AND MINIMUM TAX.—

(A) Regular tax.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR EMPLOYMENT CREDIT.—

"(A) In general.—This section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the employment credit, and

"(ii) then with respect to the employment credit.

"(B) Rules for application of employment credit.—

"(i) In general.—In the case of the employment credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) Net chapter 1 tax.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the employment credit).

"(C) Employment credit.—For purposes of this paragraph, the term 'employment credit' means the credit allowable under subsection (a) by reason of section 1394, other than that portion of such credit which is treated under section 1394(d) as allowable under subpart C."

(B) Minimum tax.—Paragraph (2) of section 55(c) is amended to read as follows:

"(2) Cross references.—

"(A) For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(B) For provisions allowing employment credit against the tax imposed by this section, see section 38(c)(3)."

(2) Expensing.—Subparagraph (A) of section 56(a)(1) (relating to adjustments in computing alternative minimum taxable income), is amended—

(A) in clause (i), by striking "or (ii)" and inserting "(ii), or (iii)", and

(B) by adding at the end thereof the following new clause:

"(iv) Expensing for qualified tax enterprise zone property.—The allowance provided by section 1397(a) for qualified zone property shall be allowed."

(b) Enterprise Zone Employment Credit Part of General Business Credit.—

(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) the enterprise zone employment credit determined under section 1394(a)."

(2) Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(3) No carryback of section 1394 credit before enactment.—No portion of the unused business credit for any taxable year which is attributable to the enterprise zone employment credit determined under section 1394 may be carried to a taxable year ending before the date of the enactment of section 1394."

(c) Denial of Deduction for Portion of Wages Equal to Enterprise Zone Employment Credit.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1394(a)", and

(B) by striking "Targeted Jobs Credit" in the subsection heading and inserting "Employment Credits".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the enterprise zone employment credit determined under section 1394(a)."

(d) Acquisitions.—Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

"(26) Enterprise zone provisions.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

(e) Nonitemizers Allowed Deduction for Enterprise Zone Stock.—Subsection (a) of section 62 is amended by adding at the end thereof the following new paragraph:

"(14) Enterprise zone stock.—The deduction allowed by section 1397B."

(f) Coordination With Refund Provision.—For purposes of section 1324(b)(2) of title 31 of the United States Code, section 1395(d) of the Internal Revenue Code of 1986 (as added by this Act) shall be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

SEC. 1106. EFFECTIVE DATE.

(a) General Rule.—The amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) Requirement for Rules.—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue rules—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this subtitle),

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by subtitle B, and

(4) providing that State and local governments shall have at least 5 months after such rules are published to file applications for nominated areas before such applications are evaluated and compared and any area designated as a tax enterprise zone.

Subtitle B—Study

SEC. 1111. STUDY OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) In General.—The Secretary of the Treasury, in consultation with the appropriate Secretary (as defined in section 1393(9), as added by subtitle A), shall contract within 3 months of the date of the enactment of this Act, with the National Academy of Sciences (hereafter in this section referred to as the 'Academy') to conduct a study of the effectiveness of the incentives provided by subtitle A in achieving the purposes of such subtitle in tax enterprise zones.

(b) Conduct of Study.—If the Academy contracts for the conduct of the study described in subsection (a), the Academy shall develop a study methodology and shall oversee and manage the conduct of such study.

(c) Reports.—The Academy shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1997, an interim report setting forth the findings as a result of such study, and

(2) not later than July 1, 2000, a final report setting forth the findings as a result of such study.

(d) Funding.—There are authorized to be appropriated to carry out the study and reports described in this section, $500,000 for fiscal year 1993, and such sums as are necessary for each succeeding fiscal year.

TITLE II—GROWTH INCENTIVES

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

Subpart A—Restoration of IRA Deduction

SEC. 2001. RESTORATION OF IRA DEDUCTION.

(a) In General.—Section 219 (relating to deduction for retirement savings) is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(b) Technical and Conforming Amendments.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end thereof the following new paragraph:

"(5) Termination.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1993."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2002. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) In General.—Section 219, as amended by section 2001, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Cost-Of-Living Adjustments.—

"(1) In general.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) Cost-of-living amount.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) Cost-of-living adjustment.—For purposes of this subsection—

"(A) In general.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Nondeductible Tax-Free IRAs

SEC. 2011. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) QUALIFIED TRANSFER.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section, the term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3)."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 2021(c), is amended by adding at the end thereof the following new paragraph:

"(8) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1993.

(2) QUALIFIED TRANSFERS IN 1993.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1993.

PART II—PENALTY-FREE DISTRIBUTIONS

SEC. 2021. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES, OR BY THE LONG-TERM UNEMPLOYED.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C) or (D)".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child, or grandchild of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan (other than a plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

(e) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7))."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1992.

SEC. 2022. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by section 2011(b), is amended by adding at the end thereof the following new paragraph:

"(9) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

"(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

"(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(C) SPECIAL RULE FOR ROLLOVERS.—

"(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c) applied.

"(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.

"(D) SPECIAL ACCOUNTS.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (8)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1993.

Subtitle B—Economic Development Provisions

PART I—INVESTMENT IN REAL ESTATE

Subpart A—Modification of Passive Loss Rules

SEC. 2101. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) SPECIAL RULES FOR REAL ESTATE ACTIVITIES.—

"(1) LOSSES FROM CERTAIN RENTAL REAL ESTATE ACTIVITIES TREATED AS NOT PASSIVE.—If the taxpayer meets the requirements of paragraph (2) for the taxable year, subsection (a) shall not apply to so much of the passive activity loss for such taxable year as does not exceed the lesser of—

"(A) the net loss for such taxable year from rental real estate activities in which the taxpayer materially participates, or

"(B) an amount equal to the lesser of—

"(i) the net income of the taxpayer for the taxable year from real property trade or business activities which are not passive activities, or

"(ii) the taxable income of the taxpayer for the taxable year determined without regard to this subsection.

A similar rule shall apply to any passive activity credit.

"(2) REQUIREMENTS.—The taxpayer meets the requirements of this paragraph for any taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(3) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(4) SPECIAL RULES.—

"(A) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of paragraph (2), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer.

"(B) CLOSELY HELD C CORPORATIONS.—This subsection shall not apply to any interests held by a closely held C corporation.

"(5) COORDINATION WITH SUBSECTION (i).—

"(A) IN GENERAL.—This subsection shall be applied after the application of subsection (i).

"(B) AMOUNTS ALLOWED UNDER SUBSECTION (i).—For purposes of this subsection—

"(i) the passive activity loss and passive activity credit, and

"(ii) the net loss referred to in paragraph (1)(A),

shall not include any amount allowed under subsection (i)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subpart B—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 2111. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) Modifications of Exceptions.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) Special Rules for Purposes of the Exceptions.—Except as otherwise provided by regulations—

"(i) Small Leases Disregarded.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) Commercially Reasonable Financing.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) Qualifying Sales by Financial Institutions.—

"(i) In General.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) Qualifying Sale.—For purposes of this clause, there is a qualifying sale by a financial institution where—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 30 percent of the value of the property (determined as of such time).

"(iii) Property to Which Subparagraph Applies.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) Financial Institution.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) Foreclosure Property.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) Conforming Amendment.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) Effective Dates.—

(1) In General.—The amendments made by this section shall apply to acquisitions on or after July 28, 1992.

(2) Small Leases.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after July 28, 1992.

SEC. 2112. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) Modification to Anti-Abuse Rules.—Paragraph (9) of section 514(c) (as amended by section 2211) is amended by adding at the end thereof the following new subparagraph:

"(J) Partnerships Not Involving Tax Avoidance.—

"(i) De Minimis Rule for Certain Large Partnerships.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II). For purposes of subclause (II), interests owned by individual retirement plans (as defined in section 7701(a)(37)) shall not be taken into account.

"(ii) Disqualified Persons.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) Repeal of Special Treatment of Publicly Traded Partnerships.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) Effective Date.—The amendments made by this section shall apply to partnership years ending after July 28, 1992.

SEC. 2113. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) General Rule.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) Conforming Amendment.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2114. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) General Rule.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were not) in excess of 20 percent of the net selling price of the property with respect to such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) Effective Date.—The amendment made by subsection (a) shall apply to property acquired on or after July 28, 1992.

SEC. 2115. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) Loan Commitment Fees.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) Option Premiums.—The second sentence of section 512(b)(5) is amended by inserting "or real property" before the period.

(c) Effective Date.—The amendments made by this section shall apply to amounts received on or after July 28, 1992.

SEC. 2116. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) PENSION-HELD REIT.—The purposes of subparagraph (C)—

"(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

Subpart C—First-Time Homebuyer Credit

SEC. 2121. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) LIMITATIONS.—

"(1) MAXIMUM OVERALL CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) MAXIMUM FIRST YEAR CREDIT.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) SPECIAL RULE FOR CERTAIN CONTRACTS OF DEED.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such section.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 and 22,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

Subpart D—Discharge of Indebtedness

SEC. 2131. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) In General.—Paragraph (1) of section 108(a) (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) in the case of an individual, the indebtedness discharged is qualified real property business indebtedness."

(b) Qualified Real Property Business Indebtedness.—Section 108 is amended by inserting after subsection (b) the following new subsection:

"(c) Treatment of Discharge of Qualified Real Property Business Indebtedness.—

"(1) Basis reduction.—

"(A) In general.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

"(B) Cross reference.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) Limitations.—

"(A) Indebtedness in excess of value.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

"(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(ii) the fair market value of the real property described in paragraph (3)(A) (as of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

"(B) Overall limitation.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

"(3) Qualified real property business indebtedness.—The term 'qualified real property business indebtedness' means indebtedness which—

"(A) was incurred or assumed by an individual in connection with real property used in a trade or business and is secured by such real property,

"(B) was incurred or assumed before July 30, 1992, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

"(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

"(4) Qualified acquisition indebtedness.—For purposes of paragraph (3)(B), the term 'qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

"(5) Regulations.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means."

(c) Technical Amendments.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

"(B) Insolvency exclusion takes precedence over qualified farm exclusion and qualified real property business exclusion.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 is amended by striking "Subsections (a), (b), and (g)" each place it appears in the heading thereof and in the text and headings of paragraphs (6) and (7)(A) and inserting "Subsections (a), (b), (c), and (g)".

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) is amended by inserting "or under paragraph (3)(B) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) is amended by inserting "or (c)(1)" after "subsection (b)(5)".

(8) Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

"(F) Special rules for qualified real property business indebtedness.—In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

"(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

"(ii) subparagraph (E) shall not apply, and

"(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a)."

(d) Effective Date.—The amendments made by this section shall apply to discharges after December 31, 1991, in taxable years ending after such date.

PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 2141. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) In General.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) Conforming Amendment.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(c) Effective Date.—The amendments made this section shall apply to taxable years ending after June 30, 1992.

SEC. 2142. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) In General.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) Conforming Amendment.—Paragraph (2) of section 104(a) of the Tax Extension Act of 1991 is hereby repealed.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2143. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (6) of section 162(l) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) Conforming Amendment.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2144. QUALIFIED MORTGAGE BONDS.

(a) In General.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) Mortgage Credit Certificates.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) Financing Allowed for Contract of Deed Agreements.—

(1) In general.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by inserting "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (i)(1)(C) and any residence to be constructed thereon,".

(2) Exception to new mortgage requirement.—Paragraph (1) of section 143(i) (relating to mortgages must be new mortgages) is amended by adding at the end the following new subparagraph:

"(C) Exception for certain contract of deed agreements.—

"(i) In general.—In the case of land possessed under a contract of deed by a mortgagor with family income (as defined in subsection (f)(2)) of less than $15,000 in the year in which owner-financing is provided, the contract of deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) Contract of deed defined.—For purposes of this section, the term 'contract of deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

"(iii) Adjustment to income level.—In the case of any calendar year after 1992, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof."

(3) Acquisition cost includes cost of land.—Clause (iii) of section 143(k)(3)(B) (relating to exceptions to acquisition cost) is amended by inserting "(other than land described in subsection (i)(1)(C)(i))" after "cost of land".

(d) Effective Dates.—

(1) Bonds.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) Certificates.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) Contract of deed agreements.—The amendments made by subsection (c) shall apply to loans originated after the date of the enactment of this Act.

SEC. 2145. QUALIFIED SMALL ISSUE BONDS.

(a) In General.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is

amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

SEC. 2146. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "December 31, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "January 1, 1994".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 2147. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—

(A) Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended—

(i) by inserting ", for any calendar year after 1993" after "paragraph (2)",

(ii) by striking "to any amount allocated after June 30, 1992" in subparagraph (A), and

(iii) by striking "June 30, 1992" in subparagraph (B) and inserting "1993".

(B) Paragraph (2) of section 42(o) is amended—

(i) by striking "July 1, 1992" each place it appears and inserting "1994",

(ii) by striking "June 30, 1992" in subparagraph (B) and inserting "December 31, 1993",

(iii) by striking "June 30, 1994" in subparagraph (B) and inserting "December 31, 1995", and

(iv) by striking "July 1, 1994" in subparagraph (C) and inserting "January 1, 1996".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42 (m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) such facilities are designed to serve qualifying tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) CARRYFORWARD RULES.—The amendments made by paragraph (1) shall apply to calendar years beginning after December 31, 1991.

(C) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and shall be subject to the taxpayer entering into a compliance monitoring agreement pursuant to section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986 with the housing credit agency for the jurisdiction within which such building is located. Once made, the election shall be irrevocable.

SEC. 2148. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) INCREASE IN AGE REQUIREMENTS OF ECONOMICALLY DISADVANTAGED YOUTH.—Subparagraph (B) of section 51(d)(3) (defining economically disadvantaged youth) is amended by striking "age 23" and inserting "age 25".

(c) ALLOWANCE OF CREDIT FOR HIRING LONG-TERM UNEMPLOYED.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) a long-term unemployed individual."

(2) LONG-TERM UNEMPLOYED.—Section 51(d) is amended by adding at the end thereof the following new paragraph:

"(17) LONG-TERM UNEMPLOYED.—

"(A) IN GENERAL.—The term 'long-term unemployed individual' means an individual—

"(i) who has been receiving unemployment compensation at all times during the 6-month period ending with the last day of the month preceding the hiring date, or

"(ii) who—

"(I) was receiving unemployment compensation but exhausted all rights to such compensation, and

"(II) has remained unemployed during the period beginning on the date such rights were exhausted and ending on the day before the hiring date.

"(B) EFFECTIVE PERIOD.—Notwithstanding subsection (c)(4), in the case of a long-term unemployed individual, the term 'wages' shall include amounts paid or received for individuals who begin work for the employer during the 6-month period beginning on the date of the enactment of this paragraph, or during any subsequent 6-month period, if, for any month during the preceding 6-month period, the national average rate of total unemployment as determined by the Secretary of Labor exceeds 7 percent.

"(C) UNEMPLOYMENT COMPENSATION.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(D) SPECIAL RULE FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any long-term unemployed individual subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'."

(3) CERTAIN INDIVIDUALS ELIGIBLE.—Section 51(i) (relating to certain individuals ineligible) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR LONG-TERM UNEMPLOYED.—No wages shall be taken into account under subsection (a) with respect to any long-term unemployed individual (as defined in subsection (d)(17)) unless—

"(A) notwithstanding paragraph (3), the individual is employed by the employer at least 120 days, and

"(B) the employer certifies on the return of tax for the taxable year for which credit is claimed that the individual was hired after the employer took reasonable actions to specifically recruit long-term unemployed individuals."

(d) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless—

"(A) such individual is employed by the employer at least 90 days, or

"(B) in the case of an individual described in subsection (d)(12) either—

"(i) is employed by the employer at least 14 days, or

"(ii) has completed at least 20 hours of services performed for the employer."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

(2) LONG-TERM UNEMPLOYED AND MINIMUM PERIOD.—The amendments made by subsections (c) and (d) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 2149. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2150. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2151. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

PART III—OTHER INCENTIVES

SEC. 2161. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after August 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after August 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before August 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after August 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before January 1, 1994.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(iii) REPAIRED OR RECONSTRUCTED PROPERTY.—Except as otherwise provided in regulations, the term 'qualified equipment' shall not include any repaired or reconstructed property.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after August 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after August 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after August 1, 1992, in taxable years ending on or after such date.

SEC. 2162. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service in taxable years beginning after the date of the enactment of the Revenue Act of 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

Subtitle C—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used In Noncommercial Boats

SEC. 2201. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.
"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.
"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) TECHNICAL AMENDMENTS.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect before the date described in subsection (d)(1), is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on January 1, 1992.

(2) INDEXING FOR INFLATION.—Subsection (e) of section 4001 of the Internal Revenue Code of 1986 (relating to inflation adjustment), as added by this section, shall apply with respect to passenger vehicles (as defined in such section 4001) purchased on or after July 1, 1992.

(3) DEMONSTRATOR VEHICLES.—Subsection (b)(3) of section 4002 of the Internal Revenue Code of 1986 (relating to exemption for demonstration use), as added by this section, shall apply with respect to passenger vehicles (as defined in such section 4001) the use of which begins on or after July 1, 1992.

(4) CERTAIN EQUIPMENT FOR USE BY DISABLED INDIVIDUALS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 2202. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered boat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN BOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) in the case of diesel fuel, a boat employed in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation."

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following flush sentence:

"For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 1992, and before October 1, 1997.

TITLE III—OFFSETTING REVENUE INCREASES

Subtitle A—General Provisions

SEC. 3001. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale,

"(C) any security acquired—

"(i) by a floor specialist (as defined in section 1236(d)(2)) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

"(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

"(I) the security is included on the National Association of Security Dealers Automated Quotation System,

"(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

"(III) as of the last day of the taxable year, the taxpayer has been actively and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date), and

"(D) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (D) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), (C), or (D) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(D) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in its capacity as a dealer in securities, or

"(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

If the net amount determined under subparagraph (C) exceeds the net amount which would have been determined under subparagraph (C) if the taxpayer had been required by this section to change its method of accounting for its last taxable year beginning before March 20, 1992, subparagraph (C) shall be applied with respect to such excess by substituting "4-taxable year" for "10-taxable year".

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by, or provision of, this section. All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

SEC. 3002. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(ii) and inserting "120 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 6654(i)(1) is amended by striking "and without regard to subparagraph (C) of subsection (d)(1)".

(2) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply".

(3) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

SEC. 3003. CORPORATE ESTIMATED TAX PROVISIONS.

(a) INCREASE IN ESTIMATED TAX.—

(1) IN GENERAL.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(A) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "100 percent",

(B) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "100 PERCENT", and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	*The applicable percentage is:*
1st	*25*
2nd	*50*
3rd	*75*
4th	*100."*

(B) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(3) The last sentence of section 6655(f)(3)(A) is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 3004. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after October 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after October 1, 1992, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after October 1, 1992, regardless of the taxable period to which such refund relates.

SEC. 3005. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any

assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by the treatment of FSLIC assistance credited before such date in a manner other than the manner described in subsection (a). All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

SEC. 3006. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

SEC. 3007. REPEAL OF SPECIAL RULES FOR RENTAL USE OF DWELLING FOR LESS THAN 15 DAYS PER YEAR.

(a) IN GENERAL.—Subsection (g) of section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations providing such de minimis rules as the Secretary may deem appropriate."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3008. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

"Nonresidential real property .... 40 years.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after July 28, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before July 28, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before July 28, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 3009. INFORMATION REPORTING OF REAL PROPERTY TAXES.

(a) IN GENERAL.—Subsection (a) of section 6050E (relating to State and local income tax refunds) is amended to read as follows:

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes or real property taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local real property taxes aggregating $10 or more,

shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name, address, and TIN of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 6050E is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E is amended to read as follows:

"(c) PERSON.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(3) REGULATORY AUTHORITY.—Section 6050E is amended by adding at the end thereof the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section in cases where real property taxes are paid by a person on behalf of another person."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 6050E is amended to read as follows:

"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6050E and inserting the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made or received in calendar years after 1993.

SEC. 3010. MODIFICATIONS TO DEDUCTIONS FOR CERTAIN MOVING EXPENSES.

(a) IN GENERAL.—

(1) RESIDENCE SALE, PURCHASE, OR LEASE EXPENSES.—Section 217(b)(1) (defining moving expenses) is amended—

(A) by striking subparagraph (E),

(B) by striking ", or" at the end of subparagraph (D) and inserting a period, and

(C) by inserting "or" at the end of subparagraph (C).

(2) MEAL EXPENSES.—Section 217(b)(1) is amended—

(A) by striking "meals and" in subparagraphs (B) and (C), and

(B) by striking "of meals and lodging" in subparagraph (D) and inserting "of lodging (but not meals)".

(b) CONFORMING AMENDMENTS.—

(1) Section 217(b) (defining moving expenses) is amended—

(A) by striking paragraph (2),

(B) by striking the second sentence in paragraph (3)(A), and

(C) by striking ", and by substituting '$1,500' for '$3,000'" in paragraph (3)(B).

(2) Section 217 is amended by striking subsection (e).

(3) Section 217(h) (relating to special rules for foreign moves) is amended—

(A) by striking "and by substituting '$6,000' for '$3,000'" in paragraph (1)(B), and

(B) by striking ", and by substituting '$3,000' for '$6,000'" in paragraph (1)(C).

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1992.

SEC. 3011. INCREASE IN EXCISE TAX ON WAGERING.

(a) IN GENERAL.—Subsection (a) of section 4401 (relating to tax on wagers) is amended by striking "0.25 percent" in paragraph (1) and inserting "1 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wagers placed after the date of enactment of this Act.

SEC. 3012. CLASSIFICATION OF CERTAIN INTEREST AS STOCK OR INDEBTEDNESS.

(a) GENERAL RULE.—Section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by adding at the end thereof the following new subsection:

"(c) EFFECT OF CLASSIFICATION BY ISSUER.—

"(1) IN GENERAL.—The characterization (as of the time of issuance) by the issuer as to whether an interest in a corporation is stock or indebtedness shall be binding on such issuer and on all holders of such interest (but shall not be binding on the Secretary).

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—Except as provided in regulations, paragraph (1) shall not apply to any holder of an interest if such holder on his return discloses that he is treating such interest in a manner inconsistent with the characterization referred to in paragraph (1).

"(3) REGULATIONS.—The Secretary is authorized to require such information as the Secretary determines to be necessary to carry out the provisions of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

SEC. 3013. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTION TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution,

had been distributed by such partnership to another partner.

"(c) BASIS RULES.—

"(1) PARTNER'S INTEREST.—The adjusted basis of a partner's interest in a partnership shall be increased by the amount of any gain recognized by such partner under subsection (a). Except for purposes of determining the amount recognized under subsection (a), such increase shall be treated as occurring immediately before the distribution.

"(2) PARTNERSHIP'S BASIS IN CONTRIBUTED PROPERTY.—Appropriate adjustments shall be made to the adjusted basis of the partnership in the contributed property referred to in subsection (b) to reflect gain recognized under subsection (a).

"(d) EXCEPTIONS.—

"(1) DISTRIBUTIONS OF PREVIOUSLY CONTRIBUTED PROPERTY.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) COORDINATION WITH SECTION 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after June 25, 1992.

SEC. 3014. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1992.

SEC. 3015. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ADDITIONAL BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical for any calendar year (determined without regard to this subparagraph) shall be increased by the amount determined under the following table for such calendar year:

"For calendar year:	The base tax amount is increased by:
1992	$0.15
1993	0.25
1994	0.35
1995 and each calendar year thereafter	0.45."

(b) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) (relating to halons) is amended to read as follows:

"In the case of:	The applicable percentage is:	
	For sales or use during 1992	For sales or use during 1993
Halon-1211	4.58	2.78
Halon-1301	1.38	0.83
Halon-2404	2.29	1.39".

(c) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.76", and

(B) by striking "10" and inserting "8.33".

(d) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use after September 30, 1992, and before January 1, 1994, of any substance to sterilize medical devices, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed:

"In the case of sales or use during:	The applicable percentage is:
1992	91.76
1993	55.67.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance described in clause (i)—

"(I) for use by the purchaser to sterilize medical devices, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used after September 30, 1992, and before January 1, 1994, by any person to sterilize medical devices, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, over

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(e) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "January 1 of 1991, 1992, 1993, and 1994" and inserting "January 1 of 1991 and 1992, October 1, 1992, and January 1 of 1993 and each calendar year thereafter".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or October 1" after "January 1", and

(ii) by inserting "or March 31 of the succeeding calendar year, respectively," after "such year".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after October 1, 1992.

Subtitle B—Extension of Existing Provisions

SEC. 3101. EXTENSION OF TOP ESTATE AND GIFT TAX RATES.

(a) GENERAL RULE.—

(1) Subparagraph (A) of section 2001(c)(2) (relating to rate schedule) is amended by striking "1993" and inserting "1998".

(2) Subparagraph (D) of section 2001(c)(2) is amended by striking "1993" each place it appears (including in the subparagraph heading) and inserting "1998".

(3) Paragraph (3) of section 2001(c) is amended by striking "1992" and inserting "1997".

(b) Effective Date.—The amendments made by subsection (a) shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 3102. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION FOR HIGH-INCOME TAXPAYERS.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 3103. EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Section 68 (relating to overall limitations on itemized deductions) is amended by striking subsection (f).

Subtitle C—Alternative Taxable Years

SEC. 3201. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) Limitations on Taxable Years Which May Be Elected.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) Taxable Year Must Be Same as Reporting Period.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) Period of Election.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) Period of Election.—

"(A) In general.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) Change not treated as termination.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) Exception for Trusts.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) Exception for certain structures that include trusts.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) Regulations.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

SEC. 3202. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) Additional Required Payment.—

(1) In General.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) Required Payment.—For purposes of this section—

"(1) In General.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) Additional Payment for New Applicable Election Years.—

"(A) In General.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) New Applicable Election Year.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) Additional Amount.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) Required Payment.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) Due Date.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

"(2) Due Date.—

"(A) In General.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

"(B) Special Rule Where New Applicable Election Year Adopted.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins."

(3) Penalties.—

(A) In General.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

"(D) Failure to Pay Additional Amount.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

"(i) subparagraph (A) shall not apply, but

"(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year."

(B) Conforming Amendment.—Section 7519(f)(4)(A) is amended by striking "In" and inserting "Except as provided in subparagraph (D), in".

(4) Refunds.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

"(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or".

(5) Conforming Amendments.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking "subsection (b)(2)" and inserting "subsection (b)(1)(B)", and

(ii) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(A)".

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) Other Definitions and Special Rules.—

(1) Refund.—Paragraph (3) of section 7519(c) (relating to date on which refund is payable) is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(2) Deferral Ratio.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: "Except as provided in regulations, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year."

(3) Net Income.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

"(D) Excess Applicable Payments for Base Year.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

"(i) the applicable payments taken into account in determining net income for the base year, over

"(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year."

(4) Deferral Period.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

"(1) Deferral Period.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year."

(5) Base Year.—

(A) In General.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

"(A) Base Year.—The term 'base year' means, with respect to any applicable election year, the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation preceding such applicable election year."

(B) Conforming Amendment.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

"(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i)."

(c) INTEREST.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund."

SEC. 3203. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year."

(c) DISALLOWANCE OF NOL CARRYBACKS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) CONFORMING AMENDMENT.—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(e)(1)".

SEC. 3204. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after December 31, 1992.

Subtitle D—Withholding Provisions

SEC. 3301. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402(g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less then 28 percent. The preceding sentence shall apply to payments made after December 31, 1992.

SEC. 3302. INCREASED WITHHOLDING ON GAMBLING WINNINGS.

(a) IN GENERAL.—Section 3402(q)(1) (relating to extension of withholding to certain gambling winnings) is amended by striking "20 percent" and inserting "28 percent".

(b) EFFECTIVE DATE.—The amendment made by this section applies to payments received after December 31, 1992.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 4101. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE IN CASE OF DIVORCE OR FROZEN DEPOSITS.

(a) IN GENERAL.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraphs:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale.

"(6) The running of any period of time specified in subsection (a) or this subsection (other than the period referred to in paragraph (4)) shall be suspended during any time the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has frozen deposits (as defined in section 402(a)(7)(B)) during the 2-year period beginning on the date of the sale of the old residence, except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

(b) EFFECTIVE DATES.—

(1) DIVORCES.—Section 1034(c)(5) (as added by subsection (a) of this section) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

(2) FROZEN DEPOSITS.—Section 1034(c)(6) (as added by subsection (a) of this section) shall apply to old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) sold or exchanged—

(A) after December 31, 1990, or

(B) on or before such date, if the rollover period under such section (determined without regard to the amendments made by this section) expires on or after such date.

SEC. 4102. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4103. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200 ($400 in the case of a joint return), and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4104. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4105. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting

before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1991.

SEC. 4106. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and to otherwise simplify the individual income tax returns, including—

(1) (if appropriate) allowing taxpayers who itemize deductions to file their return on Form 1040A, and

(2) removing or raising the taxable income limitations on taxpayers who may file Form 1040A.

(b) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4107. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4108. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 4109. SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(b) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(c) REPEAL OF INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) (relating to supplemental young child credit) is amended by striking the second sentence.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a)."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501(a) or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee."

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(e)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply", and

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution."

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) (as in effect after the amendments made by the Unemployment Compensation Amendments of 1992 and before the amendments made by this Act) shall apply.

SEC. 4202. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 4203. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	**The number of anticipated payments is:**
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1992.

SEC. 4204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½,

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408(a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1993.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) MODIFICATION OF PARTICIPATION REQUIREMENTS.—Section 408(k)(2)(B) is amended to read as follows:

"(B) has at least 1 year of service (as determined under section 411(a)(5)) with the employer, and".

(c) REPEAL OF PARTICIPATION REQUIREMENT.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(d) ALTERNATIVE TEST.—Clause (iii) of section 408 (k)(6)(A) is amended by adding at the end thereof the following new flush sentence:

"The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 4212. PRIME ACCOUNTS.

(a) ESTABLISHMENT OF PRIVATE RETIREMENT INCENTIVES MATCHED BY EMPLOYERS.—

(1) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) PRIME ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'PRIME account' means an individual retirement plan—

"(A) with respect to which the requirements of paragraphs (3), (4), (5), and (6) are met; and

"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—

"(i) an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the PRIME account on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $3,000 for any year, and

"(iii) the employer—

"(I) is required to make a matching contribution to the PRIME account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed 3 percent of compensation, and

"(II) may make no other matching contribution.

"(B) ELIGIBLE EMPLOYER.—For purposes of this subsection, the term 'eligible employer' means an employer who normally employs fewer than 100 employees on any day during the year.

"(C) ARRANGEMENT MUST BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or amounts were accrued, for any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) SERVICE CREDIT.—A qualified plan maintained by an employer shall provide that, in computing the accrued benefit of any employee, no credit shall be given for service during a year for which such employee was eligible to participate in a qualified salary reduction arrangement of such employer.

"(iii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a PRIME account if the employee's rights to any contribution to the PRIME account are nonforfeitable. For purposes of this paragraph, the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—The requirements of this paragraph are met with respect to any PRIME account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who are reasonably expected to work at least 1,200 hours during such year are eligible to make the election under paragraph (2)(A)(i). Notwithstanding the preceding sentence, an arrangement may provide that an employee is not eligible to make such election until the employee has completed a year in which the employee worked at least 1,200 hours.

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any PRIME account if, under the qualified salary reduction arrangement—

"(A) an employer must make the elective employer contributions under paragraph (2)(A)(i) and the employer matching contributions under paragraph (2)(A)(iii) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made,

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so elects, the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate for any year may elect, during the 60-day period before the beginning of such year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

"(6) SPOUSAL CONSENT.—The requirements of this paragraph are met if requirements similar to the requirements of section 401(a)(11) are met. For purposes of applying section 401(a)(11)(B)(iii), the arrangement shall be treated in the same manner as a defined contribution plan.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(B) YEAR.—The term 'year' means the calendar year."

(2) COMMON FUNDS.—Any common trust fund or common investment fund of PRIME account assets shall be treated as if it were a common trust fund or common investment fund of assets of a trust exempt from taxation under section 501(a) which is described in section 401(a).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1993.

(b) TAX TREATMENT OF PRIME ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR PRIME ACCOUNTS.—This section shall not apply with respect to any amount contributed to a PRIME account established under section 408(p)."

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end thereof the following new clause:

"(vi) any PRIME account (within the meaning of section 408(p)), or".

(2) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF PRIME ACCOUNTS.—The rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a PRIME account under section 408(p)."

(B) Section 408(d)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) PRIME ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a PRIME account (as defined in section 408(p)) unless it is paid into another PRIME account."

(C) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(h)(1)(B)" and inserting "section 402(h)(1)(B) or (k)".

(3) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR PRIME ACCOUNTS.—If an employer establishes a PRIME account (within the meaning of section 408(p)) on behalf of an employee, and such employee receives any amount from such account during the 3-calendar-year period beginning with the calendar year for which elective contributions under section 408(p)(2) were first made by such employer on behalf of such employee, paragraph (1) shall be applied to such amount by substituting '25 percent' for '10 percent'."

(B) FAILURES TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTIES RELATING TO PRIME ACCOUNTS.—

"(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $100 for each day on which such failures continue.

"(2) TRUSTEE PENALTIES.—A trustee who fails—

"(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $100 for each day on which such failures continue, or

"(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $100 for each day on which such failures continue.

"(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any failure due to reasonable cause and not to willful neglect."

(4) REPORTING REQUIREMENTS.—

(A)(i) Section 408(l) is amended by adding at the end thereof the following new paragraph:

"(2) PRIME ACCOUNTS.—

"(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

"(B) SUMMARY DESCRIPTION.—The trustee of any PRIME account established pursuant to a qualified salary reduction arrangement under subsection (p) shall prepare, and provide to the employer maintaining the arrangement, each year a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits generally available under the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals from the arrangement.

"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B)."

(ii) Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(B) Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a PRIME account under subsection (p), only one report under this subsection shall be required to be submitted to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar quarter, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar quarter."

(5) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking the "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or" and by adding after subparagraph (C) the following new subparagraph:

"(D) a PRIME account described in section 408(p)."

(B) Section 402(g)(3) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any employer contribution under section 408(p)(2)(A)."

(C) Subsections (b) and (c) of section 414 are each amended by inserting "408(p)," after "408(k),".

(D)(i) Section 415(a)(2) is amended by striking "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by adding after subparagraph (C) the following new subparagraph:

"(D) a PRIME account described in section 408(p),"

(ii) Section 415(a)(2) is amended—

(I) by striking "or pension" and inserting "pension, or account", and

(II) by striking "or 408(k)" and inserting "408(k), or 408(p)".

(iii) The second last sentence of section 415(c)(2) is amended—

(I) by inserting a comma after "408(d)(3))", and

(II) by inserting ", and without regard to contributions to a PRIME account which are excludable from gross income under section 408(p)" after "408(k)(6)".

(iv) Section 415(e)(5) is amended by inserting "or PRIME account" after "simplified employee pension".

(v) Section 415(k)(1) is amended by striking "or" at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ", or", and by inserting after subparagraph (F) the following new subparagraph:

"(G) a PRIME account described in section 408(p)."

(E) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding after clause (iii) the following new clause:

"(iv) any PRIME account (within the meaning of section 408(p))."

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1993.

SEC. 4213. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning on or after December 31, 1992, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 4214. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—NONDISCRIMINATION PROVISIONS

SEC. 4221. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) had compensation for the preceding year from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d)."

(b) SPECIAL RULE WHERE NO EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—If no employee is treated as a highly compensated employee under paragraph (1), the highest paid officer for the year shall be treated as a highly compensated employee. The preceding sentence shall not apply for purposes of section 401 (k) or (m) and shall not apply with respect to employees of an employer described in section 457(e)(1)."

(c) TREATMENT OF FAMILY MEMBERS.—Paragraph (6) of section 414(q) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993, except that an employer may elect not to have such amendments apply to years beginning in 1994.

SEC. 4222. ELECTION TO TREAT BASE PAY AS COMPENSATION.

(a) IN GENERAL.—Section 414(s) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ELECTION TO USE BASE PAY.—An employer may elect to determine an employee's compensation solely by reference to that portion of the employee's compensation attributable to such employee's base pay. Such election shall apply for purposes of all applicable provisions and to all employees and, once made, may be revoked only with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1993.

SEC. 4223. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 25 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to years beginning after December 31, 1991.

(2) ELECTION.—A plan may elect to have the amendment made by this section apply as if such amendment was included in the amendment made by section 1112(b) of the Tax Reform Act of 1986. Such election shall be made at such time, and in such form, as the Secretary of the Treasury may prescribe.

SEC. 4224. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

PART IV—MISCELLANEOUS SIMPLIFICATION

SEC. 4231. TREATMENT OF LEASED EMPLOYEES.

(a) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 4232. ELIMINATION OF HALF-YEAR REQUIREMENTS.

(a) IN GENERAL.—Each of the following provisions are amended by striking "age 59½" and inserting "age 59":

(1) Section 72(q)(2)(A).
(2) Section 72(q)(3)(B)(i).
(3) Section 72(q)(3)(B)(ii).
(4) Section 72(t)(2)(A)(i).
(5) Section 72(t)(4)(A)(ii)(I).
(6) Section 72(t)(4)(A)(ii)(II).
(7) Section 72(v)(2)(A).
(8) Section 401(k)(7)(C).
(9) Section 402(e)(4)(D)(i)(II).
(10) Section 403(b)(7)(A)(ii).
(11) Section 403(b)(11)(A).
(12) The heading for section 403(b)(11).
(13) Section 4978(d)(1)(B).

(b) OTHER PROVISIONS.—Each of the following provisions is amended by striking "70½" and inserting "70":

(1) Section 219(d)(1).
(2) The heading for section 219(d)(1).
(3) Section 401(a)(9)(B)(iv)(I).
(4) Section 401(a)(9)(C)(i)(I).
(5) Section 401(a)(9)(C)(ii)(I).
(6) Section 401(a)(9)(C)(iii).
(7) Section 408(b).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 4233. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)(A)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period is the calendar quarter beginning October 1, 1986.

"(C) BASE PERIOD FOR SEPARATIONS.—For purposes of paragraph (1)(B), the base period is the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1) and 408(k)(2)(C) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4234. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4235. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 4236. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to an election if—

"(I) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar.

"(II) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(ii) TRANSITION PERIOD.—In the case of any election period beginning on and after July 1, 1992, and before January 1, 1994, the requirements of clause (i) shall not apply and the requirements of this subparagraph are met with respect to such election period if—

"(I) FILING DATE.—Notice of election is filed with the Secretary by October 1, 1992.

"(II) INFORMATION.—The notice sets forth the name and tax identification number of the plan sponsor, the names and tax identification numbers of the plans to which the election applies, the limitation under paragraph (7) (determined with and without regard to this paragraph), and a signed certification by an officer of the employer stating that the requirements of this paragraph have been met.

"(iii) REVENUE OFFSET PROCEDURES.—The Secretary shall, by January 1, 1993, notify defined benefit plans that have not made an election under this paragraph for the transition period described in clause (ii) of the adjustment required by subparagraph (H). The revenue offset for the transition period shall apply to plan years beginning on or after July 1, 1992, and before January 1, 1994.

"(iv) EXCESS CONTRIBUTIONS MADE BY NONELECTING PLANS.—To the extent a defined benefit plan sponsor makes a contribution to a defined benefit plan with respect to the transition period described in clause (ii) which exceeds the limitation of paragraph (7), as adjusted by the Secretary for the transition period, the sponsor shall offset the excess contribution against allowable contributions to the plan in subsequent quarters in the taxable year of the sponsor. If no subsequent contributions may be made for the taxable year, the trustee of the defined benefit plan shall return the excess contribution to the sponsor in that taxable year or the following taxable year. Notwithstanding any other provision of this title, no deduction shall be allowed for any contribution made in excess of the limitation of paragraph (7), as adjusted by the Secretary for the transition period, and no penalty shall apply with respect to contributions made in excess of such limitation to the extent such excess contributions are either used to offset subsequent contributions, or returned to the plan sponsor, as provided in this clause.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 percent of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4237. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1011(k)(9) of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 4238. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately

after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end thereof the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting the words ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "An election made pursuant to the preceding sentence to have the provisions of this paragraph applied to the plan may be revoked not later than the last day of the 3rd plan year beginning after the date of enactment with respect to all plan years as to which such election has been applicable and all subsequent plan years; provided that any amount paid by the plan in a taxable year ending after revocation of such election in respect of benefits attributable to a taxable year during which such election was in effect shall be includible in income by the recipient in accordance with the rules of this chapter in the taxable year in which such amount is received (except that such amount shall be treated as received for purposes of the limitations imposed by this section in the earlier taxable year or years to which such amount is attributable)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4239. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits, and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph—

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses."

(b) EXCEPTION FROM TAX ON SELF-DEALING.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4240. REPORTS OF PENSION AND ANNUITY PAYMENTS.

(a) AMENDMENTS RELATED TO DEFINITION OF INFORMATION RETURN.—

(1) Subparagraph (A) of section 6724(d)(1) is amended—

(A) by redesignating clauses (iv) through (vii) as clauses (vi) through (ix),

(B) by inserting after clause (iii) the following new clause:

"(v) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), and

(D) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (1) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of clauses (i) and (v) of subparagraph (A), such term shall include only those statements filed with the Secretary with respect to information required to be supplied to both the Secretary and the recipient of the payment."

(b) Amendments Related to Definition of Payee Statement.—

(1) Paragraph (2) of section 6724(d) is amended—

(A) by redesignating subparagraphs (H) through (S) as subparagraphs (J) through (U),

(B) by inserting after subparagraph (G) the following new subparagraph:

"(I) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating subparagraphs (A) through (G) as subparagraphs (B) through (H), and

(D) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (2) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraphs (A) and (I), such term shall only include statements with respect to information required to be supplied to both the Secretary and the recipient of the payment."

(c) Amendments Related to Reports of Designated Distribution.—

(1) Subsection (i) of section 408 is amended by inserting "aggregating $10 or more" after distributions".

(2) Section 6047(d)(1) is amended by adding at the end thereof the following sentence: "However, no returns or reports shall be required with respect to payments of designated distributions aggregating less than $10 to any person in any year."

(d) Technical Amendments.—

(1) Paragraph (1) of section 6047(f) is amended by striking "section 6652(e)" and inserting "sections 6652(e), 6721, and 6722".

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following: "However, failures to file returns and statements also described in section 6724(d)(1) or 6724(d)(2) shall be subject to penalties under part II of chapter 68B of this subtitle, and not under this section."

(e) Effective Date.—The amendments made by this section shall apply to returns and statements required to be filed after December 31, 1992.

SEC. 4241. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) All Disabled Participants Receiving Contributions.—Section 415(c)(3)(C) is amended by adding at the end thereof the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4242. AFFILIATED EMPLOYERS.

(a) In General.—For purposes of Treasury Regulations section 1.501(c)(9)–2(a)(1), employers shall be deemed to be affiliated if they satisfy the requirements of subsection (b).

(b) Affiliation.—The requirements of subsection (b) shall be satisfied with respect to employers if—

(1) the employers are in the same line of business,

(2) the employers act jointly to perform tasks that are integral to the activities of each of the employers,

(3) the employers act jointly to such an extent that the joint maintenance of a voluntary employees' beneficiary association is not a major part of the employers' joint activities, and

(4) a substantial number of the employers are exempt from tax under subtitle A of the Internal Revenue Code of 1986.

(c) Effective Date.—The amendments made by this section shall apply to years beginning before, on, or after the date of the enactment of this section.

SEC. 4243. DISAGGREGATION OF UNION PLANS.

(a) In General.—Paragraph (3) of section 410(b) (relating to exclusion of certain employees) is amended by adding at the end thereof the following new sentence: "At the election of an employer, subparagraph (A) (and the exclusion of employees described in subparagraph (A) for purposes of section 401(a)(4) and 414(r)) shall not apply to a unit of employees who benefit under the plan on the same terms."

(b) Conforming Amendment.—Paragraph (4) of section 401(a) is amended by inserting "and except as provided in section 410(b)(3)," after "paragraph,".

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4244. UNIFORM RETIREMENT AGE.

(a) Discrimination Testing.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end thereof the following new subparagraph:

"(F) Social Security Retirement Age.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities which are based in whole or in part on an employee's social security retirement age (as so defined) shall be treated as being available to employees on the same terms."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4245. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) General Rule.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) Effective Date.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4246. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) In General.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

"(a) Establishment.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

"(b) Membership.—

"(1) The Commission shall consist of—

"(A) 6 members to be appointed by the President;

"(B) 6 members to be appointed by the Speaker of the House of Representatives; and

"(C) 6 members to be appointed by the President pro tempore of the Senate.

"(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

"(c) Duties and Functions of Commission; Public Hearings in Different Geographical Areas; Broad Spectrum of Witnesses and Testimony.—

"(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

"(d) Report to the President and Congress; Recommendations.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1994, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

"(e) Time of Appointment of Members; Vacancies; Election of Chairman; Quorum; Calling of Meetings; Number of Meetings; Voting; Compensation and Expenses.—

"(1)(A) Members of the Commission shall be appointed during the period beginning February 1, 1993, and ending March 1, 1993, for terms ending on September 1, 1994.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4) The Commission shall meet at the call of the Chairman.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f) Executive Director and Additional Personnel; Appointment and Compensation; Consultants.—

"(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments *and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.*

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

"(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

"(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993 and 1994, such sums as may be necessary to carry out this section.

"(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

"(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

"(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 44, United States Code."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7524. National Commission on Private Pension Plans."

SEC. 4247. CHURCH PLANS.

(a) VESTING REQUIREMENTS.—

(1) IN GENERAL.—Section 411(e) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CHURCH PLANS.—A plan described in paragraph (1)(B) shall be treated as meeting the requirements of this section for purposes of section 401(a) if the plan satisfies the requirements of subparagraph (A) and either of the requirements of subparagraph (B) or (C):

"(A) EMPLOYEE CONTRIBUTIONS ARE NONFORFEITABLE.—An employee's rights in the employee's accrued benefit derived from the employee's own contributions are nonforfeitable.

"(B) 10-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(C) 5- TO 15-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

"Years of Service	*Nonforfeitable percentage*
5	*25*
6	*30*
7	*35*
8	*40*
9	*45*
10	*50*
11	*60*
12	*70*
13	*80*
14	*90*
15 or more	*100.*

"(D) YEARS OF SERVICE.—For purposes of this paragraph, an employee's years of service shall be determined in accordance with any reasonable method selected by the plan."

(2) CONFORMING AMENDMENTS.—Section 411(e) is amended—

(A) by inserting "or (3)" after "(2)" in paragraph (1), and

(B) by inserting "(other than paragraph (1)(B))" after "paragraph (1)" in paragraph (2).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1993.

(b) RULES GENERALLY APPLICABLE TO CHURCH PLANS.—

(1) IN GENERAL.—Section 414(e) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES APPLICABLE TO CHURCH PLANS.—For purposes of sections 401 and 403, the following rules shall apply:

"(A) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—If one or more organizations maintaining a church plan fail to satisfy the requirements of section 401 (or in the case of a contract described in section 403), such plan shall not be treated as failing to satisfy the requirements of section 401 or 403, whichever is applicable, with respect to other organizations maintaining such plan.

"(B) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—No employee shall be considered an officer, person whose principal duties consist in supervising the work of other employees, or highly compensated employee with respect to a church plan if—

"(i) such employee during the year or the preceding year received compensation from the employer of less than $50,000, or

"(ii) such employee is an employee described in section 410(b)(3)(A).

The Secretary shall adjust the $50,000 amount under this paragraph at the same time and in the same manner as under section 415(d).

(2) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning before, on, or after December 31, 1991.

(c) PARTICIPATION BY MINISTERS.—

(1) ANNUITY CONTRACTS.—Section 403(b) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATION BY MINISTERS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or any duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is employed by an organization other than an organization described in section 501(c)(3).

"(B) TREATMENT OF EMPLOYEE.—For purposes of this subsection, an individual treated as an employee under subparagraph (A) shall be treated as an employee of an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

"(C) COMPENSATION AND YEARS OF SERVICE.—

"(i) COMPENSATION.—In determining the compensation of a minister to whom subparagraph (A) applies who is a self-employed minister, such minister's earned income (within the meaning of section 401(c)(2)) shall be substituted for compensation received from an employer under paragraph (3).

"(ii) YEARS OF SERVICE.—In determining the years of service of a minister to whom subparagraph (A) applies who is a self-employed minister, the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) shall be included for purposes of paragraph (4)."

(2) MINISTERS EXCLUDED FOR CERTAIN PURPOSES.—Section 414(e) is amended by adding at the end the following new paragraph:

"(6) EXCLUSION OF MINISTERS.—Notwithstanding any other provision of this title, if a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry participates in a church plan (within the meaning of section 414(e)), then such minister shall be excluded from consideration for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as such sections in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410, to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)) described in this part. For purposes of this part, the church plan in which such minister participates shall be treated as a plan or contract meeting the requirements of section 401(a), or 403(b) (including section 403(b)(9)) with respect to such minister's participation."

(3) DEDUCTIBILITY.—Section 404(a) is amended by adding at the end the following new paragraph:

"(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—If contributions are made by a minister described in section 403(b)(13)(A) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions shall be treated as made to a trust which is exempt from tax under section 501(a) which is a part of a plan which is described in section 401(a) and shall be deductible under this subsection to the extent such contributions do not exceed the exclusion allowance of such minister determined under section 403(b)(2).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for years beginning before, on, or after December 31, 1991, except that the amendment made by paragraph (3) shall be effective for years beginning after December 31, 1991.

(d) DISTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Subparagraph (A) of section 403(b)(11) is amended by inserting "or, in the case of a retirement income account described in paragraph (9), within the meaning of section 401(k)(2)" after "section 72(m)(7)".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1988.

(e) BEGINNING DATE FOR DISTRIBUTIONS.—

(1) IN GENERAL.—Clause (iv) of section 401(a)(9)(C) is amended by striking the last sentence and inserting the following new sentence: "For purposes of this clause, the term 'church plan' has the meaning given such term by section 414(e)."

(2) EFFECTIVE DATE.—In the case of years beginning before January 1, 1994, to which the amendments made by section 1121(b) of the Tax Reform Act of 1986 apply, the required beginning date under section 401(a)(9)(C) of the Internal Revenue Code of 1986 for any employee of a church plan (as defined in section 414(e) of such Code) shall not begin before April 1 of the calendar year following the calendar year in which the employee retires (or, if later, the date determined without regard to this paragraph).

(f) CHURCH PLAN MODIFICATION TO SEPARATE ACCOUNT REQUIREMENT OF SECTION 401(h).—

(1) EXCEPTION TO SEPARATE ACCOUNT REQUIREMENT.—Section 401(h) is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, in the case of a pension or annuity plan that is a church plan (within the meaning of section 414(e)) which is maintained by more than one employer, paragraph (6) shall not apply to an employee who is a key employee for purposes of section 416 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)).".

(2) APPLICATION OF SECTION 415(l).—Section 415(l)(1) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, the following shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c):

"(A) contributions allocated to any individual medical account which is part of a pension or annuity plan; and

"(B) the actuarially determined amount of prefunding for the insurance value of benefits which are—

"(i) described in section 401(h);

"(ii) paid under a pension or annuity plan that is a church plan (within the meaning of section 414(e));

"(iii) paid under a plan maintained by more than one employer; and

"(iv) payable solely to an employee who is a key employee for purposes of section 415 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)), his spouse, or his dependents.

Subparagraph (B) of section (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.".

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after March 31, 1984.

(g) REPEAL OF ELECTIVE DEFERRAL CATCH-UP LIMITATION FOR RETIREMENT INCOME ACCOUNTS—

(1) IN GENERAL.—Clause (iii) of section 402(g)(8)(A) is amended to read as follows:

"(iii) except in the case of elective deferrals under a retirement income account described in section 403(b)(9), the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3) made by the organization on behalf of such employee for prior taxable years (determined in the manner prescribed by the Secretary).".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective as if included in the provision of the Tax Reform Act of 1986 to which such amendment relates.

(h) CHURCH PLANS MAY INCREASE BENEFIT PAYMENTS.—

(1) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, or a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) of such Code, shall not fail to be described in such sections merely because it provides additional benefit payments to participants (and their beneficiaries)—

(A) on an annual basis, to take into account favorable interest and mortality experience in a plan year, or

(B) in an amount not in excess of 5 percent per year.

(2) EFFECTIVE DATE.—This subsection shall be effective for years beginning before, on, or after December 31, 1991.

SEC. 4248. COORDINATION OF ELECTIVE DEFERRAL AND SECTION 457 LIMITS.

(a) IN GENERAL.—The first sentence of paragraph (2) of section 457(c) (relating to coordination with certain deferrals) is amended to read as follows: "The limitation under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the limitation applicable to the individual for the taxable year under section 402(g)(1), over

"(B) the sum of—

"(i) any amount excluded from gross income under section 403(b) for the taxable year, plus

"(ii) any amount excluded from gross income under section 402(a)(8) or section 402(h)(1)(B) for the taxable year, plus

"(iii) any amount with respect to which a deduction is allowable by reason of a contribution to an organization described in section 501(c)(18) for the taxable year."

(b) CONFORMING AMENDMENTS.—

(1) The last sentence of paragraph (2) of section 457(c) is amended by striking "Subparagraph (B)" and inserting "Clauses (ii) and (iii) of subparagraph (B)".

(2) Paragraph (2) of section 457(c) is amended by adding at the end the following new sentence: "In determining under paragraph (1) the maximum amount which may be deferred under subsection (a) for any taxable year to which subsection (b)(3) applies, the plan ceiling for such taxable year shall be reduced in an amount equal to the amounts described in subparagraph (B)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after the date of the enactment of this Act.

SEC. 4249. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1995, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.

"Sec. 772. Simplified flow-through.

"Sec. 773. Computations at partnership level.

"Sec. 774. Other modifications.

"Sec. 775. Large partnership defined.

"Sec. 776. Special rules for partnerships holding oil and gas properties.

"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of

any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution,

"(B) section 704(c) shall not apply to such property, and

"(C) section 737 shall not apply.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph. If the property distributed consists of an interest in an entity, this subclause shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for *the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.*

''(D) TRANSACTIONS AT PARTNER LEVEL.—

''(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

''(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

''(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

''(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution),

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

''(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

''(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

''(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

''(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

''(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

''(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

''(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

''(I) the rules of subclause (I) of clause (i) shall apply, and

''(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

''(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

''(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

''(i) the fair market value of the contributed property as of the time of the contribution, over

''(ii) the adjusted basis of such property immediately before such contribution.

''(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

''(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

''(A) as of the time of such contribution, such partnership is a large partnership, or

''(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

''(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

''(1) IN GENERAL.—In the case of a large partnership—

''(A) any credit recapture shall be taken into account by the partnership, and

''(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

''(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

''(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

''(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

''(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

''(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

''(1) The credit provided by section 34.

''(2) Any credit or refund under section 852(b)(3)(D).

''(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

''(1) all interests in such partnership shall be treated as held by disqualified organizations,

''(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

''(3) subparagraph (D) of section 860E(e)(6) shall not apply.

''(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

''(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

''(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

''(a) GENERAL RULE.—For purposes of this part—

''(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year ending on or after December 31, 1993, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

''(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

''(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

''(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

''(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

''(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

''(B) are retired partners who had performed such substantial services, or

''(C) are spouses of partners who are performing (or had previously performed) such substantial services.

''(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

''(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

''(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

''(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

''(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

''(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

''(b) SPECIAL RULES WHERE PART APPLIES.—

''(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

''(A) the allowance for depletion under section 611 with respect to any partnership oil or gas

property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment, or

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where

there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1993.

(b) SPECIAL RULE FOR SECTION 4304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 4304 shall only apply to partnership taxable years ending on or after December 31, 1998.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that

the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 4317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 4317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 3317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.

Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) Exemption of Foreign Corporations From Accumulated Earnings Tax and Personal Holding Company Rules.—

(1) Accumulated earnings tax.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) Personal holding company rules.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) Treatment of Certain Service Contracts Under Subpart F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) Personal service contracts.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.

"Subpart B. Interest on holdings to which subpart A does not apply.

"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.

"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) General Rule.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) Basis Adjustments.—

"(1) In general.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) Special rule for stock constructively owned.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) Character and Source Rules.—

"(1) Ordinary treatment.—

"(A) Gain.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) Loss.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) Source.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) Unreversed Inclusions.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) Coordination With Section 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) Treatment of Controlled Foreign Corporations Which are Shareholders in Passive Foreign Corporations.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) Stock Owned Through Certain Foreign Entities.—Except as provided in regulations—

"(1) In general.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) Treatment of certain dispositions.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) Coordination With Section 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) Transition Rules.—

"(1) Individuals becoming subject to U.S. tax.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) Marketable stock held before effective date.—

"(A) In general.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United

States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of *the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.*

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"SUBPART B—INTEREST ON HOLDINGS TO WHICH SUBPART A DOES NOT APPLY

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includible in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B)(i) with respect to each of such corporation's taxable years which begin after December 31, 1992, and include any portion of the taxpayer's holding period in such stock—

"(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

"(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

"(ii) with respect to each of such corporation's taxable years which begin after December 31, 1986, and before January 1, 1993, and include any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such corporation is a controlled foreign corporation without regard to this part,

the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only two days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) EXCEPTIONS.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY IN CERTAIN CASES.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(f) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—Under regulations—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"SUBPART C—GENERAL PROVISIONS

"Sec. 1296. Passive foreign corporation.

"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or

which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) Passive Income.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) Exceptions.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation, or

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(3) Treatment of income from certain assets.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.

"(4) Treatment of certain matched repurchase transactions.—

"(A) In general.—In the case of any foreign corporation engaged in the active conduct of a trade or business as a dealer in securities—

"(i) an amount properly treated as interest income by reason of a qualified matched transaction shall be netted with the amount properly treated as interest expense by reason of such transaction, and any net income resulting from such netting shall be treated as an item of gross interest income, and

"(ii) the offsetting positions which are part of such transaction shall be netted and the net position shall be treated as a single asset.

"(B) Qualified matched transaction.—For purposes of subparagraph (A) the term 'qualified matched transaction' means a sale and repurchase agreement with respect to a security and an offsetting reverse agreement with respect to the same security, entered into by the foreign corporation in the active conduct of its trade or business of being a dealer in securities, and properly treated as offsetting agreements in a matched book.

"(C) Security.—For purposes of this paragraph, the term 'security' has the meaning given such term by section 1236(c).

"(c) Look-Through in Case of 25-Percent Owned Corporation.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) United States Person.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).

"(b) Controlled Foreign Corporation.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) Marketable Stock.—For purposes of this part—

"(1) In general.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) Special rule for regulated investment companies.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) Other Special Rules.—For purposes of this part—

"(1) Certain corporations not treated as passive.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) Certain corporations changing businesses.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) Treatment of certain foreign corporations owning stock in 25-percent owned domestic corporation.—

"(A) In general.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) Qualified stock.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) Treatment of corporation which was a PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if and only if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) Separate interests treated as separate corporations.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) Treatment of Certain Leased Property.—For purposes of section 1296(a)(2)—

"(1) In general.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) Determination of value.—

"(A) In general.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) Present value.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) Exceptions.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) Election by Certain Passive Foreign Corporations To Be Treated as a Domestic Corporation.—

"(1) In general.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall pre-

scribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corporation during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year."

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of such year,".

(d) TREATMENT OF CERTAIN PREVIOUSLY TAXED AMOUNTS.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).", and

(2) by striking "AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248" in the subsection heading and inserting "CERTAIN PREVIOUSLY TAXED AMOUNTS".

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(11) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Clause (ii) of section 864(b)(2)(A) is amended by striking "(other than" and all that follows down through "holding company)" and inserting "(other than a corporation which would be a personal holding company but for section 542(c)(5) and which is not United States controlled (as defined in section 1292(a)(2))".

(14) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(15)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(16) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(17) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(18) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(19) Paragraph (5) of section 1014(b) is hereby repealed.

(20) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(21) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation."

(22) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(23) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(24)(A) Subsection (a) of section 6035 is amended by striking "foreign personal holding company (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

*(B) The section heading for section 6035 is amended by striking "**FOREIGN PERSONAL HOLDING COMPANIES**" and inserting "**CLOSELY HELD PASSIVE FOREIGN CORPORATIONS**".*

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking "foreign personal holding companies" in the item relating to section 6035 and inserting "closely-held passive foreign corporations".

(25) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(26) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) Constructive dividends.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(27) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) Clerical Amendments.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 4404. EFFECTIVE DATE.

(a) General Rule.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) Denial of Installment Sales Treatment.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) Basis Rule.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) General Rule.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) Gain on Certain Stock Sales by Controlled Foreign Corporations Treated as Dividends.—

"(1) In general.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) Same country exception not applicable.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) Clarification of deemed sales.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) Amendment of Section 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) General Rule.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) Section 1248 Gain Taken Into Account in Determining Pro Rata Share.—

(1) In general.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) Effective date.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) Basis Adjustments In Stock Held by Foreign Corporation.—

(1) In general.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) Basis Adjustments in Stock Held by Foreign Corporation.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) Effective date.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) Determination of Previously Taxed Income In Section 304 Distributions, Etc.—

(1) In general.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) Adjustments for Certain Transactions.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) Clarification of Treatment of Branch Tax Exemptions or Reductions.—

(1) In general.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) Accrued Taxes Translated by Using Average Rate for Year to Which Taxes Relate.—

(1) In general.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) Foreign Income Taxes.—

"(1) Translation of accrued taxes.—

"(A) In general.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) Exception for taxes not paid within following 2 years.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) Exception for inflationary currencies.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) Cross reference.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) Translation of taxes to which paragraph (1) does not apply.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) Foreign income taxes.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.

"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4501. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4502. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corpora-

tion as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof of the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 4503. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4504. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph:

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking "**SUBCHAPTER C**" and inserting "**ACCUMULATED**".

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 4505. CERTAIN TRUSTS PERMITTED TO BE SHAREHOLDERS IN S CORPORATIONS.

(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

"(v) An electing small business trust."

(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end thereof the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period."

(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361 is amended by adding at the end thereof the following new subsection:

"(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

"(1) ELECTING SMALL BUSINESS TRUST.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if

"(i) such trust does not have as a beneficiary any person other than an individual or estate,

"(ii) no interest in such trust was acquired by purchase, and

"(iii) an election under this subsection applies to such trust.

"(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not include—

"(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

"(ii) any employees' trust described in section 401(a) and exempt from tax under section 501(a).

"(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

"(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

"(3) ELECTION.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

"(4) CROSS REFERENCE.—

"For special treatment of electing small business trusts, see section 641(d)."

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—

"(1) IN GENERAL.—For purposes of this chapter—

"(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

"(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:

"(A) Except as provided in subsection (l)(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

"(B) The exemption amount under section 55(d) shall be zero.

"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

"(i) The items required to be taken into account under section 1366.

"(ii) Any gain or loss from the disposition of stock in an S corporation.

"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

"(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—

"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

"(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

"(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

"(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—ACCOUNTING PROVISIONS

SEC. 4511. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 4512. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4513. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OPERATORS OF LICENSED COTTON WAREHOUSES.

(a) GENERAL RULE.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR OPERATORS OF LICENSED COTTON WAREHOUSES.—

"(1) IN GENERAL.—In the case of any taxpayer which is the operator of a licensed cotton warehouse and the taxable income of which is computed under an accrual method of accounting, such taxpayer shall not be required to accrue any amounts to be received for processing and storing cotton at such warehouse until such amounts are actually received.

"(2) INTEREST ON DEFERRED TAX LIABILITY.—

"(A) IN GENERAL.—If any deferred amount is received during any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of the interest determined under subparagraph (B) with respect to such deferred amount.

"(B) AMOUNT OF INTEREST.—The amount of interest determined under this subparagraph with respect to any deferred amount shall be determined—

"(i) on the amount of the tax for such taxable year which is attributable to such deferred amount,

"(ii) for the period beginning on the due date for the taxable year of the deferral and ending on the due date for the taxable year in which such deferred amount is received, and

"(iii) by using the Federal short-term rate in effect under section 1274 as of the due date for the taxable year in which such deferred amount is received, compounded semiannually.

"(3) TREATMENT AS INTEREST.—Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during the taxable year.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) LICENSED COTTON WAREHOUSE.—The term 'licensed cotton warehouse' means any warehouse for the storage of cotton which is licensed under the United States Warehouse Act (7 U.S.C. 241, et seq.) or under any similar State law.

"(B) DEFERRED AMOUNT.—The term 'deferred amount' means any amount which is includible in gross income for the taxable year but which would have been includible in gross income for a prior taxable year but for this subsection.

"(C) TAXABLE YEAR OF DEFERRAL.—The taxable year of the deferral is the taxable year for which the deferred amount would have been includible in gross income but for this subsection.

"(D) DUE DATE.—The term 'due date' means the date prescribed for filing the return of tax imposed by this chapter, determined without regard to any extension.

"(5) ELECTION.—This subsection shall apply to a taxpayer only if such taxpayer makes an election under this paragraph. Such an election shall apply to the taxable year for which made and for all subsequent taxable years unless revoked with the consent of the Secretary."

(b) CONFORMING AMENDMENT.—Subparagraph (N) of section 26(b)(2) is amended by striking "sections 453(l)(3)" and inserting "sections 451(h)(2), 453(l)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts accrued in taxable years beginning after December 31, 1991.

PART III—TAX-EXEMPT BOND PROVISIONS

SEC. 4521. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 4522. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 4523. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 4524. ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST.

(a) EXCEPTION FROM PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST FOR SMALL ISSUERS INCREASED TO $25,000,000.—

(1) IN GENERAL.—Subparagraphs (C) and (D) of section 265(b)(3) (relating to exception for certain tax-exempt obligations) are each amended by striking "$10,000,000" each place it appears and inserting "$25,000,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to obligations issued in calendar years beginning after December 31, 1992.

(b) DEDUCTIBILITY AVAILABLE TO PARTICIPANTS IN POOLED ISSUES.—

(1) IN GENERAL.—Subparagraph (A) of section 265(b)(3) is amended by inserting "and any qualified tax-exempt pooled obligation acquired after December 31, 1992," after "after August 7, 1986,".

(2) QUALIFIED TAX-EXEMPT POOLED OBLIGATION DEFINED.—Section 265(b)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) QUALIFIED TAX-EXEMPT POOLED OBLIGATION.—For purposes of subparagraph (A), the term 'qualified tax-exempt pooled obligation' means a tax-exempt obligation—

"(i) which is issued after December 31, 1992,

"(ii) which is not a private activity bond (as defined in section 141),

"(iii) which is designated by the issuer for purposes of this paragraph, and

"(iv) the proceeds of which are used exclusively (other than to pay the issuance costs of such obligation) to acquire from the issuer obligations—

"(I) which satisfy the requirements of this paragraph but are not designated for purposes of this paragraph, and

"(II) the weighted average maturity of which equals or exceeds the weighted average maturity of such obligation."

SEC. 4525. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) IN GENERAL.—Subsection (a) of section 150 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT PERSON.—

"(A) IN GENERAL.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) GOVERNMENTAL UNIT NOT TO INCLUDE FEDERAL GOVERNMENT.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) ORGANIZATION.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(b) REPEAL OF QUALIFIED 501(c)(3) BOND DESIGNATION.—Section 145 (relating to qualified 501(c)(3) bonds) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 141(b) is amended—

(A) by striking "government use" in subparagraph (A)(ii)(I) and subparagraph (B)(ii) and inserting "exempt person use",

(B) by striking "a government use" in subparagraph (B) and inserting "an exempt person use",

(C) by striking "related business use" in subparagraph (A)(ii)(II) and subparagraph (B) and inserting "related private business use",

(D) by striking "RELATED BUSINESS USE" in the heading of subparagraph (B) and inserting "RELATED PRIVATE BUSINESS USE", and

(E) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(2) Subparagraph (A) of section 141(b)(6) is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Paragraph (7) of section 141(b) is amended—

(A) by striking "government use" and inserting "exempt person use", and

(B) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(4) Section 141(b) is amended by striking paragraph (9).

(5) Paragraph (1) of section 141(c) is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN ISSUES USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) SUBSTANTIAL REHABILITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) CERTAIN PROPERTY TREATED AS NEW PROPERTY.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) IN GENERAL.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE NO OPERATING STATE OR LOCAL PROGRAM FOR TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing."

(7) Section 141(f), as redesignated by paragraph (6), is amended—

(A) by adding "or" at the end of subparagraph (E),

(B) by striking ", or" at the end of subparagraph (F), and inserting in lieu thereof a period, and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) is amended by striking "(determined" and all that follows to the period.

(9) Clause (ii) of section 144(c)(2)(C) is amended by striking "governmental unit" and inserting "exempt person".

(10) Section 146(g) is amended—

(A) by striking paragraph (2), and

(B) by redesignating the remaining paragraphs after paragraph (1) as paragraphs (2) and (3), respectively.

(11) The heading of section 146(k)(3) is amended by striking "GOVERNMENTAL" and inserting "EXEMPT PERSON".

(12) The heading of section 146(m) is amended by striking "GOVERNMENT" and inserting "EXEMPT PERSON".

(13) Subsection (h) of section 147 is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d) *shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond."*

(14) Section 147 is amended by striking paragraph (4) of subsection (b) and redesignating paragraph (5) of such subsection as paragraph (4).

(15) Subparagraph (F) of section 148(d)(3) is amended—

(A) by striking "or which is a qualified 501(c)(3) bond", and

(B) by striking "GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3)" in the heading thereof and inserting "EXEMPT PERSON".

(16) Subclause (II) of section 148(f)(4)(B)(ii) is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Clause (iv) of section 148(f)(4)(C) is amended—

(A) by striking "a governmental unit or a 501(c)(3) organization" each place it appears and inserting "an exempt person", and

(B) by striking "qualified 501(c)(3) bonds,".

(18) Subparagraph (A) of section 148(f)(7) is amended by striking "(other than a qualified 501(c)(3) bond)".

(19) Paragraph (2) of section 149(d) is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)", and

(B) by striking "CERTAIN PRIVATE" in the heading thereof and inserting in lieu thereof "PRIVATE".

(20) Section 149(e)(2) is amended—

(A) by striking "which is not a private activity bond" in the second sentence and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)", and

(B) by adding at the end thereof the following new sentence: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person."

(21) The heading of subsection (b) of section 150 is amended by striking "TAX-EXEMPT PRIVATE ACTIVITY BONDS" and inserting "CERTAIN TAX-EXEMPT BONDS".

(22) Paragraph (3) of section 150(b) is amended—

(A) by inserting "owned by a 501(c)(3) organization" after "any facility" in subparagraph (A),

(B) by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" in subparagraph (A) and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person", and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(23) Paragraph (5) of section 150(b) is amended—

(A) by striking "private activity" in subparagraph (A),

(B) by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond" in subparagraph (A),

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) such facility is required to be owned by an exempt person, and", and

(D) by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" in the heading thereof and inserting "EXEMPT PERSONS".

(24) Section 150, as amended by section 4525, is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN RULES TO APPLY TO BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued)."

(25) Section 1302 of the Tax Reform Act of 1986 is repealed.

(26) Subparagraph (C) of section 57(a)(5) is amended by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(27) Paragraph (3) of section 103(b) is amended by inserting "and section 150(f)" after "section 149".

(28) Paragraph (3) of section 265(b) is amended—

(A) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 (or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)))).''; and

(B) by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)" in subparagraph (C)(ii)(I).

(f) EFFECTIVE DATE; SPECIAL RULE.—The amendments made by this section shall apply to bonds issued after December 31, 1992.

(2) SPECIAL RULE FOR CERTAIN BONDS ISSUED AFTER DATE OF ENACTMENT.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any bond which—

(i) is issued after the date of the enactment of this Act, and

(ii) is part of an issue which is subject to any transitional rule under subtitle B of title XIII of the Tax Reform Act of 1986.

(B) ELECTION OUT.—This paragraph shall not apply to any issue with respect to which the issuer elects not to have this paragraph apply.

SEC. 4526. AUTHORITY TO TERMINATE REQUIRED INCLUSION OF TAX-EXEMPT INTEREST ON RETURN.

Subsection (d) of section 6012 (relating to tax-exempt interest required to be shown on return) is amended by adding at the end thereof the following new sentence: "The Secretary may by regulations provide that the preceding sentence shall not apply in any case in which the Secretary determines that the disclosure of such interest is not useful for tax administration."

SEC. 4527. TAX-EXEMPT FINANCING FOR UNITED NATIONS OFFICE BUILDINGS.

(a) IN GENERAL.—A bond described in subsection (b) shall be treated as described in section 141(e)(1) of the Internal Revenue Code of 1986, but section 147(d) of such Code shall not apply to such bond.

(b) BOND DESCRIBED.—A bond is described in this subsection if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance any office building (including land and space for supporting activities which are functionally related and subordinate thereto) for the United Nations or any agency or instrumentality thereof.

SEC. 4528. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 4529. AUTHORITY TO WAIVE YIELD RESTRICTIONS ON TAX-EXEMPT BOND ARBITRAGE.

(a) IN GENERAL.—Subsection (i) of section 148 (relating to arbitrage) is amended to read as follows:

"(i) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(2) REGULATIONS MAY PERMIT REBATE TO SATISFY YIELD RESTRICTION.—Except as provided in paragraph (3), notwithstanding the yield restriction requirements of subsections (a), (c), and (d), the Secretary may prescribe regulations permitting any investment of the proceeds of an issue in higher yielding investments without causing any bond which is part of such issue to be an arbitrage bond if the requirements of paragraphs (2) and (3) of subsection (f) are met.

"(3) EXCEPTIONS.—The regulations prescribed under paragraph (2) shall not apply for purposes of—

"(A) section 149(d)(3) (relating to advance refundings), and

"(B) subsection (f)(4)(C)(viii)(II) (relating to election to terminate 1½ percent penalty)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4530. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

PART IV—INSURANCE PROVISIONS

SEC. 4531. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and inserting "or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".

(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4532. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

"(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

"(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—

"(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—

"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

"(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract, and

"(3) for which reserves are valued at market for annual statement purposes.

"(e) REGULATIONS.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3) and 807(d)(2)(B) with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and using a method that approximates the yield on the assets underlying the contract, and to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company, and

"(4) as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) TREATMENT OF NET ADJUSTMENTS.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1991.

PART V—COOPERATIVES

SEC. 4541. DISCHARGE OF INDEBTEDNESS INCOME FROM PREPAYMENT OF REA LOANS.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking ", 306B," in clause (ii), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) from the prepayment of a loan under section 306B(b) of the Rural Electrification Act of 1936 (as in effect on January 1, 1991)."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 501(c)(12) is amended—

(1) by striking "or" in clause (iii),

(2) by striking "306B" in clause (iv),

(3) by striking the period at the end of clause (iv) and inserting ", or", and

(4) by adding at the end the following new clause:

"(v) from the prepayment of a loan under section 306B(b) of the Rural Electrification Act of 1936 (as in effect on January 1, 1991)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to prepayments made after December 31, 1992.

SEC. 4542. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end thereof the following new clause:

"(v) from billing and collection services performed for a nonmember telephone company.".

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) is amended by inserting before the comma at the end thereof ", other than income described in subparagraph (E)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1992.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income. For the purposes of the preceding sentence, income referred to in subparagraph (B) shall not be taken into account."

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

"(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

"(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

"(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

For purposes of the preceding sentence, income referred to in section 501(c)(12)(B) shall not be taken into account.

"(2) RESERVE INCOME.—For purposes of paragraph (1), the term 'reserve income' means income—

"(A) which would (but for this subsection) be excluded under subsection (b), and

"(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1992.

SEC. 4543. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.—Section 277(b) *(relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:*

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E))."

(b) APPLICATION OF RULES RELATING TO TAX TREATMENT OF COOPERATIVES.—

(1) PATRONAGE EARNINGS MAY BE OFFSET ONLY BY PATRONAGE LOSSES.—Section 1388(a) is amended by adding at the end the following new sentence: "In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings."

(2) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388 is amended by adding at the end the following new subsection:

"(k) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(2) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(A) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(B) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(C) In the case of a limited equity cooperative housing corporation, rental income from other than tenant-stockholders to the extent attributable to any project operated by the corporatior..

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(B) LIMITED EQUITY COOPERATIVE HOUSING CORPORATION.—The term 'limited equity cooperative housing corporation' means a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year.

"(C) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

(3) CONFORMING AMENDMENT.—Section 1388(j) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the provisions of this section shall be construed as a change in the treatment of income derived by any cooperative housing corporation, or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and the treatment of such income for any year to which the amendments made by this section does not apply shall be made as if this section had not been enacted.

SEC. 4544. TREATMENT OF SAFE HARBOR LEASES INVOLVING RURAL ELECTRIC COOPERATIVES.

(a) IN GENERAL.—In the case of a rural electric cooperative described in section 1381(a)(2)(C) of the Internal Revenue Code of 1986, any interest income in connection with a transaction involving qualified leased property which was treated as a lease under section 168(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by the Tax Reform Act of 1986) or any corresponding prior provision of law shall be offset by any rental expense in connection with such transaction before allocation of such income or expense to members and nonmembers of such cooperatives for purposes of such Code.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

PART VII—TREATMENT OF INTANGIBLES

SEC. 4551. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 16-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any—

"(i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(B) COMPUTER SOFTWARE.—For purposes of subparagraph (A), the term 'computer software' means any program designed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof:

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

"(i) has a fixed duration of less than 16 years, or

"(ii) is fixed as to amount and, without regard to this section, would be amortizable under a method similar to the unit-of-production method.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) MORTGAGE SERVICING.—Any right to service indebtedness which is secured by residential real property unless such right is acquired in a transaction (or series of related transactions) involving the acquisition of assets (other than rights described in this paragraph) constituting a trade or business or substantial portion thereof.

"(8) PROPERTY ACQUIRED FROM A QUALIFIED RESEARCH ENTITY.—At the election of the taxpayer, any property acquired by the taxpayer from a qualified research entity (as defined in subsection (g)), but only if substantially all of the section 197 intangibles (determined without regard to this paragraph) acquired in the transaction (or series of related transactions) in which the property was acquired—

"(A) were created by the qualified research entity, or

"(B) were acquired by the qualified research entity in a transaction (or series of related transactions) to which this paragraph would have applied (without regard to subsection (c)(1)(A)) if an election had been made.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable under this chapter before the effective date of this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary.

"(B) EXCEPTION WHERE GAIN RECOGNIZED.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

"(I) to recognize gain on the disposition of the intangible, and

"(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

"(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(D) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(E) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) QUALIFIED RESEARCH ENTITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research entity' means any person which meets—

"(A) the value requirement of paragraph (2),

"(B) the receipts and research expenditures requirements of paragraph (3), and

"(C) the ownership requirements of paragraph (4).

"(2) VALUE REQUIREMENT.—

"(A) IN GENERAL.—The requirement of this paragraph is met with respect to any person if, as of the acquisition date, the excess of—

"(i) the fair market value of the assets of such person, over

"(ii) the aggregate amount of indebtedness of the person with a maturity of one year or less at the time of issuance,

does not exceed $50,000,000.

"(B) SPECIAL RULE FOR SOLE PROPRIETORS.—In the case of a sole proprietor, only assets and indebtedness allocable to trades or businesses of the proprietor shall be taken into account under subparagraph (A).

"(3) RECEIPTS AND RESEARCH EXPENDITURES.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any person if—

"(i) the person did not have any gross receipts during any period preceding the 5-year period ending on the acquisition date, and

"(ii) during the person's entire period of existence on or before the acquisition date, the aggregate amount of expenditures for research or experimentation (within the meaning of section 174) which are technological in nature is not less than the greater of—

"(I) $500,000, and

"(II) 30 percent of the person's aggregate gross receipts during such period.

"(B) EARNINGS ON SHORT-TERM INVESTMENTS.—For purposes of subparagraph (A), gross receipts shall not include earnings on any

short-term investment of amounts held to meet the reasonable business needs of the person for working capital.

"(C) SPECIAL RULE FOR SOLE PROPRIETORSHIPS.—In the case of a sole proprietorship, this paragraph shall be applied only with respect to receipts and expenditures in connection with one or more trades or businesses of the sole proprietor from which the property to which the election under subsection (e)(8) applies was acquired.

"(D) GROSS RECEIPTS.—For purposes of this paragraph, a rule similar to the rule of subparagraph (C) of section 448(c)(3) shall apply.

"(4) OWNERSHIP REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any person if, at all times during the period of existence of the person on or before the acquisition date—

"(i) at least 50 percent of its fair market value is held directly by 5 or fewer persons other than corporations, and

"(ii) at least 50 percent of its fair market value is held by individuals.

"(B) ATTRIBUTION RULES.—For purposes of subparagraph (A)(ii), the constructive ownership rules of subparagraphs (A) and (B) of section 318(a)(2) shall apply.

"(C) EXCEPTION.—This paragraph shall not apply to any sole proprietor.

"(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

"(A) ACQUISITION DATE.—The term 'acquisition date' means the date of the acquisition to which the election under subsection (e)(8) applies.

"(B) AGGREGATION RULES.—All persons treated as a single taxpayer under section 41(f)(1) shall be treated as 1 person for purposes of this paragraph. This subparagraph shall not apply to a sole proprietor for purposes of paragraph (3).

"(C) PREDECESSORS.—For purposes of this subsection and subsection (e)(8), a rule similar to the rule of section 448(c)(3)(D) shall apply.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to—

"(1) prevent avoidance of the purposes of this section through related persons or otherwise, and

"(2) prevent the avoidance of the $50,000,000 limitation under subsection (g)(2) through the sale, spin-off, or other disposition of assets prior to a sale, through covenants not to compete or employment contracts, or through the manipulation of short-term indebtedness."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible or any such software acquired in a transaction to which subsection (e)(8) applies.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCE.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTION TO SETTLE TREATMENT OF PROPERTY FOR PURPOSES OF ALL OPEN YEARS.—

(A) IN GENERAL.—If an election under this paragraph applies to any taxpayer—

(i) in the case of—

(I) any applicable intangible acquired during a return year, 75 percent of the applicable adjusted basis of the intangible shall be treated for purposes of the Internal Revenue Code of 1986 for all open years in the same manner as on the taxpayer's Federal income tax return for such year, and

(II) any applicable intangible acquired during a taxable year which is not a return year, the amendments made by this section shall apply for all open years to 75 percent of the applicable adjusted basis of the intangible, and

(ii) 25 percent of the applicable adjusted basis of the intangible for all open years shall be treated for purposes of the Internal Revenue Code of 1986 as goodwill with respect to which a deduction for depreciation or amortization is not allowable.

(B) APPLICABLE INTANGIBLE; OPEN YEAR.—For purposes of this paragraph—

(i) APPLICABLE INTANGIBLE.—The term "applicable intangible" means any property which is an amortizable section 197 intangible under section 197(c) of the Internal Revenue Code of 1986 (without regard to paragraph (1)(A) thereof) which is amortized as an intangible asset on the taxpayer's Federal income tax return. Such term shall not include any intangible with respect to which a settlement or closing agreement, or final judicial determination, provided an irrevocable resolution of the proper Federal income tax treatment of the intangible.

(ii) OPEN YEARS.—A taxable year is an open year if—

(I) the period prescribed by section 6501 of such Code for the assessment of any tax for such taxable year has not expired before June 16, 1992 (determined without regard to subparagraph (D)(iii)), and a settlement or closing agreement, or final judicial determination, has not been entered into before the date of the election under this paragraph which provides an irrevocable resolution of the proper Federal income tax treatment for such year of all deductions attributable to applicable intangibles, or

(II) as of June 16, 1992, a claim for refund is pending with the Internal Revenue Service (or a refund suit is pending in a Federal court), but only if such claim or suit involves (or may involve) the proper Federal income tax treatment for such year of any applicable intangible.

(iii) IRREVOCABLE RESOLUTION.—For purposes of this subparagraph, the resolution of an item shall not be treated as irrevocable unless the taxpayer consents, in the election under this paragraph, to forego any right to challenge such resolution.

(C) APPLICABLE ADJUSTED BASIS.—For purposes of this paragraph, the term "applicable adjusted basis" means—

(i) in the case of property acquired during a return year, the adjusted basis (for purposes of determining gain) allocated to such property as reflected on the Federal income tax return for such year (or, if different, as reflected on the Federal income tax return for the following taxable year if such year is a return year), and

(ii) in the case of property not acquired during a return year, its adjusted basis (for purposes of determining gain) as determined under the Internal Revenue Code of 1986.

(D) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

(i) RETURN YEARS.—A return year is a taxable year for which a Federal income tax return has been filed before June 16, 1992.

(ii) AMENDED RETURNS.—In the case of a return year, any determination under subparagraph (A)(i)(I), (B)(i), or (C)(i) as to the treatment of an item on a Federal income tax return shall be made on the basis of the return, taking into account only amendments to such return filed on or before July 25, 1991, and settlement or closing agreements entered into before the date an election is made under subparagraph (E).

(iii) EXTENSION OF STATUTE.—If the assessment of any deficiency of tax attributable to an election under this paragraph is barred on the date of the enactment of this Act, or at any time within the 2-year period beginning on the date the election is made, by any law or rule of law, such deficiency may, nevertheless, be assessed within the 2-year period.

(iv) UNDERPAYMENTS.—If an election under this paragraph results in any underpayment of tax for a return year, such election shall not be treated as valid unless the taxpayer pays such tax (and any interest thereon) before January 1, 1993.

(v) ANTI-CHURNING RULES.—In the case of property to which subparagraph (A)(i) applies which was acquired in a taxable year other than a return year—

(I) subsection (f)(9) of section 197 of the Internal Revenue Code of 1986 (as added by this section) shall not apply with respect to any property acquired by the taxpayer on or before July 25, 1991, and

(II) in applying such subsection to property acquired after July 25, 1991, and before the date of the enactment of this Act, the modifications to such subsection contained in clauses (ii) and (iii) of paragraph (2)(A) shall apply.

(E) ELECTION.—

(i) IN GENERAL.—An election under this paragraph shall be made before January 1, 1993, and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election, once made, may be revoked only with the consent of the Secretary.

(ii) LIMITATION ON ELECTION.—No election may be made under this paragraph unless the election would apply to an asset acquired on or before July 25, 1991.

(iii) CONTROLLED GROUPS.—In the case of 2 or more persons under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Internal Revenue Code of 1986), an election under this paragraph shall be made by the common parent corporation (or equivalent person) and shall apply to all persons under such common control after February 14, 1992, and before the date on which such election is made. The Secretary of the Treasury or his delegate shall prescribe rules for the application of the election to persons which were not under common control for all open years, including rules allowing persons to make an election under this paragraph for open years in which such persons were not under common control.

(4) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act, and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) or (3) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 4552. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying after February 14, 1992.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring after February 14, 1992, if a written contract to purchase such partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter before such purchase.

PART VIII—OTHER PROVISIONS

SEC. 4561. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1992.

SEC. 4562. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after December 31, 1991.

SEC. 4563. AUTHORIZATION FOR BUREAU OF LAND MANAGEMENT USE OF REFORESTATION TRUST FUND.

Section 303 of Public Law 96-451 (16 U.S.C. 1606a) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "$30,000,000" and inserting "$45,000,000"; and

(B) by adding at the end thereof the following new paragraphs:

"(4) Of the amounts transferred to the Trust Fund under paragraph (1) in any fiscal year—

"(A) $30,000,000 shall be allocated and made available to the Secretary of Agriculture; and

"(B) the remaining balance shall be allocated and made available to the Secretary of the Interior.

"(5)(A) If the remaining balance allocated and made available to the Secretary of the Interior under paragraph (4)(B) is less than $15,000,000 in any fiscal year, the Secretary of the Treasury shall transfer to the Trust Fund and make available to the Secretary of the Interior, in accordance with subparagraph (B), an amount equal to the difference between $15,000,000 and the remaining balance.

"(B) The amount transferred pursuant to subparagraph (A) shall be obtained as follows:

"(i) $93\frac{1}{3}$ percent of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from the Coos Bay Wagon Road grant lands in Oregon; and

"(ii) the remainder of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from public domain lands in the States.";

(2) in the first sentence of subsection (c)(1) by inserting "and the Secretary of the Interior" after "Secretary of Agriculture";

(3) in subsection (d)—

(A) by striking "available" and inserting "available to the Secretary of Agriculture"; and

(B) by striking "amounts" and inserting "amounts that were available to the Secretary of Agriculture but"; and

(4) by adding at the end thereof the following new subsection:

"(e)(1) In accordance with paragraph (2), the Secretary of the Interior may obligate, in each fiscal year, such sums as are available to the Secretary of the Interior in the Trust Fund to supplement expenditures of the Bureau of Land Management for, in order of priority—

"(A) reforestation and forest development of public lands administered by the Secretary of the Interior acting through the Bureau of Land Management, including projects to improve the overall health and productivity of the forest ecosystem;

"(B) negotiation and implementation of cooperative relationships, including the acquisition of voluntary cooperative conservation easements, when such relationships promote or en-

hance successful reforestation or forest development or contribute to the long-term productivity of the forest ecosystem; and

"(C) properly allocable administrative costs of the Federal Government for the activities described in subparagraphs (A) and (B).

"(2) The Secretary of the Interior shall allocate the sums described in paragraph (1) as follows:

"(A) $14,000,000 for Oregon and California Railroad and Coos Bay Wagon Road grant lands in Oregon; and

"(B) $1,000,000 for public domain lands, to be allocated among the States in which the lands are located by taking into account, in order of priority—

"(i) the level of timber sales (measured in board feet) from the public domain lands within each State in the previous calendar year;

"(ii) the amount of reforestation backlog in the State;

"(iii) the need for planting as part of the reforestation program; and

"(iv) the need for forest development as part of the reforestation program."

SEC. 4564. PRIVATE FOUNDATIONS PERMITTED TO USE COMMON INVESTMENT FUNDS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is comprised solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization, or, if later, beginning after the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is organized and controlled by its members but is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisors, following reasonable notice, if members holding a majority of interest in the account managed by such advisor vote to remove such advisor,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends (and such private foundation shall take into account its allocable share of the deductions referred to in section 4940(c)(3) of the organization).

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4945(d) is amended by adding at the end the following new flush sentence:

"Paragraph (4)(B) shall not apply to a grant to an organization described in section 501(n)."

(2) Section 4942(g)(1)(A) is amended by inserting "or an organization described in section 501(n)" after "subsection (j)(3))".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after December 31, 1992.

SEC. 4565. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subparagraph (A) of section 29(c)(2) (relating to gas from geopressured brine, etc.) is amended by adding at the end the following new sentence: "If the Federal Energy Regulatory Commission ceases to make the determinations described in the preceding sentence, the Secretary shall make such determinations in accordance with section 503 of such Act."

(b) CONFORMING AMENDMENT.—Section 29(c)(2)(A) is amended by inserting "(as in effect before its repeal by the Natural Gas Wellhead Decontrol Act of 1989) after "Natural Gas Policy Act of 1978".

Subtitle F—Estate And Gift Tax Provisions

SEC. 4601. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4602. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4603. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4604. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 4605. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4606. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4607. REPEAL OF CERTAIN THROWBACK RULES APPLICABLE TO DOMESTIC TRUSTS.

(a) ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Section 665 is amended by adding at the end the following new subsection:

"(f) ACCUMULATION DISTRIBUTIONS AFTER 1992.—For purposes of this subpart—

"(1) IN GENERAL.—In the case of a qualified trust, any distribution in any taxable year beginning after December 31, 1992, shall be computed without regard to any undistributed net income.

"(2) QUALIFIED TRUST.—For purposes of this subsection, the term 'qualified trust' means any trust other than—

"(A) a foreign trust, or

"(B) a trust created before March 1, 1984, unless it is established that the trust would not be aggregated with other trusts under section 643(f) if such section applied to such trust."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 665 is amended by inserting "except as provided in subsection (b)," after "subpart,"

(b) PROPERTY TRANSFERRED TO TRUSTS.—Subsection (e) of section 644 is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or ", and by adding at the end the following new paragraph:

"(5) in the case of a qualified trust (as defined in section 665(f)(2)), any sale or exchange of property after December 31, 1992."

(c) EFFECTIVE DATES.—

(1) ACCUMULATION DISTRIBUTION.—The amendments made by subsection (a) shall apply to distribution in taxable years beginning after December 31, 1992.

(2) TRANSFERRED PROPERTY.—The amendments made by subsection (b) shall apply to sales or exchanges after December 31, 1992.

SEC. 4608. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end thereof the following new paragraph:

"(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to with respect to rentals occurring after December 31, 1976.

SEC. 4609. INTEREST ACCRUING ON SALES BETWEEN FAMILY MEMBERS.

(a) IN GENERAL.—Section 7872(f) is amended by adding at the end the following new paragraph:

"(13) QUALIFIED SALES BETWEEN FAMILY MEMBERS.—In the case of interest accruing after July 31, 1993, on a loan arising in connection with a qualified sale to which section 483(e) applies, the determination as to whether there is foregone interest on such loan or whether such loan is a below-market loan shall be made by substituting 6 percent for the applicable Federal rate (if 6 percent is less than such rate) to the extent the sales price does not exceed the amount to which section 483(e) applies."

(b) CONFORMING AMENDMENT.—Section 483(g) is amended by adding at the end the following new paragraph:

"(3) For treatment of qualified sales under subsection (e) for purposes of estate and gift taxes, see section 7872(f)(13)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing after July 31, 1993, in taxable years ending after such date.

Subtitle G—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

SEC. 4701. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4702. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) REFUNDS TO CERTAIN SELLERS OF DIESEL FUEL AND AVIATION FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) LIMITATIONS ON AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered motorboat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

Paragraph (14) shall not apply with respect to any mixture sold or used after September 30, 2000.

"(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) for purposes of the tax imposed under section 4091, a motorboat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4703. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4704. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) USE BY PRODUCER OR IMPORTER.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesig-

nating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4705. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4711. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4712. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4713. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4714. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4715. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4716. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on

unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4717. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4718. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4719. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4720. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4721. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4731. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4732. SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.

(a) IN GENERAL.—Section 4182 (relating to exemptions), is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a manufacturer, producer, or importer who manufactures, produces, or imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUP.—Persons who are members of the same controlled group of corporations shall be treated as 1 manufacturer, producer, or importer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such section.".

(b) EFFECTIVE DATE; REFUNDS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1983.

(2) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendments made by this section shall not expire before the date which is 1 year after the date of the enactment of this Act, and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendments made by this section) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 4733. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

SEC. 4734. EXEMPTION FOR TRANSPORTATION ON CERTAIN FERRIES.

(a) GENERAL RULE.—Subparagraph (B) of section 4472(1) (relating to exception for certain voyages on passenger vessels) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN VOYAGES.—The term 'covered voyage' shall not include—

"(i) a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States, and

"(ii) a voyage of less than 12 hours on a ferry between a port in the United States and a port outside the United States.

For purposes of the preceding sentence, the term 'ferry' means any vessel if normally no more than 50 percent of the passengers on any voyage of such vessel return to the port where such voyage began on the 1st return of such vessel to such port."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to voyages beginning after December 31, 1989; except that—

(1) no refund of any tax paid before the date of the enactment of this Act shall be made by reason of such amendment, and

(2) any tax collected before the date of the enactment of this Act shall be remitted.

SEC. 4735. APPLICATION OF CERTAIN TAXES TO CERTAIN BUSINESS AIRCRAFT.

(a) IN GENERAL.—Subsection (a) of section 4282 (relating to transportation by air for other members of affiliated group) is amended by adding at the end the following new sentence: "The determination under paragraph (2) shall be made on a per flight basis."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle H—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4801. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domes-

tic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4802. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4803. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4804. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4805. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the

taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 4811. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4812. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4813. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4814. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4821. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

PART IV—EMPLOYMENT TAX PROVISION

SEC. 4831. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 3121(b)(20) is amended to read as follows:

"(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(3) CONFORMING AMENDMENT.—Section 6050A(a) (relating to reporting requirements of certain fishing boat operators) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting "; and" and by adding at the end the following new paragraph:

"(5) any cash remuneration described in section 3121(b)(20)(A)."

(b) AMENDMENT OF SOCIAL SECURITY ACT.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 210(a)(20) of such Act is amended to read as follows:

"(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to remuneration paid after December 31, 1992.

(2) SPECIAL RULE.—The amendments made by this section shall also apply to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

TITLE V—TAXPAYER BILL OF RIGHTS 2

SEC. 5000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 2".

Subtitle A—Taxpayer Advocate

SEC. 5001. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office, including all problem resolution officers, shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the Chief Counsel for the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than October 31 of each calendar year after 1992, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the following calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than June 30 of each calendar year after 1992, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue taxpayer assistance orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers, and

"(IX) include such other information as the Taxpayer Advocate may deem advisable.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate."

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to taxpayer assistance orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

(3) The table of sections for subchapter A of chapter 80 of subtitle F is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5002. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of taxpayer assistance orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by inserting "take any action as permitted by law," after "cease any action,".

(b) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded only by the Taxpayer Advocate, the Commissioner, or any superior of either."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Modifications to Installment Agreement Provisions

SEC. 5101. NOTIFICATION OF REASONS FOR TERMINATION OR DENIAL OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) DENIALS.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE REQUIREMENTS FOR DENIALS.—The Secretary may not deny any request for an installment agreement under this section unless—

"(1) a notice of the proposed denial is provided to the taxpayer not later than the day 30 days before the date of such denial, and

"(2) such notice includes an explanation why the Secretary intends to deny such request.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which a request for an agreement under this section relates is in jeopardy."

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5102. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR, OR TERMINATION OF, INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments), as amended by section 5101, is amended by adding at the end thereof the following new subsection:

"(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of denials of requests for, or terminations of, installment agreements under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1993.

Subtitle C—Interest

SEC. 5201. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by striking "In the case" and inserting "With respect to any eligible taxpayer, in the case",

(2) by striking "in performing a ministerial act" in subparagraph (A),

(3) by striking "being erroneous or dilatory in performing a ministerial act" in subparagraph (B),

(4) by inserting "unreasonable" before "error" each place it appears, and

(5) by adding at the end thereof the following new sentence: "For purposes of this paragraph, a taxpayer is eligible if such taxpayer meets the requirements referenced in section 7430(c)(4)(C)."

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "Assessments" and inserting "Abatement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 5202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6651(a) (relating to addition to tax for failure to file tax return or pay tax) is amended by striking "10 days" and inserting "21 days".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after the date 6 months after the date of the enactment of this Act.

Subtitle D—Joint Returns

SEC. 5301. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having

material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary may disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5302. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Collection Activities

SEC. 5401. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice thereof at the same office as the withdrawn notice. A copy of such notice shall be provided to the taxpayer.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe.".

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(c) MODIFICATIONS IN CERTAIN LEVY EXEMPTION AMOUNTS.—

(1) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(A) by striking "If the taxpayer is the head of a family, so" and inserting "So", and

(B) by striking "$1,650 ($1,500 in the case of levies issued during 1989)" and inserting "$1,700".

(2) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession exempt from levy) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,200".

(3) INDEXED FOR INFLATION.—Section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(f) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1992, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXEMPT AMOUNTS.—The amendments made by subsection (c) shall take effect with respect to levies issued after December 31, 1992.

SEC. 5402. OFFERS-IN-COMPROMISE.

(a) GENERAL RULE.—Subsection (a) of section 7122 (relating to compromises) is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interests of the United States.".

(b) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5403. NOTIFICATION OF EXAMINATION.

(a) IN GENERAL.—Section 7605 (relating to restrictions on examination of taxpayer) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) NOTIFICATION REQUIREMENT.—No examination described in subsection (a) shall be made unless the Secretary notifies the taxpayer in writing by mail to an address determined under section 6212(b) that the taxpayer is under examination and provides the taxpayer with an explanation of the process as described in section 7521(b)(1). The preceding sentence shall not apply in the case of any examination if the Secretary determines that—

"(1) such examination is in connection with a criminal investigation or is with respect to a tax the collection of which is in jeopardy, or

"(2) the application of the preceding sentence would be inconsistent with national security needs or would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 7521(b) (relating to safeguards) is amended by striking "or at".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5404. MODIFICATION OF CERTAIN LIMITS ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) STANDARDS OF CONDUCT.—Subsection (a) of section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by striking "recklessly or intentionally" and inserting "negligently, or recklessly or intentionally."

(b) DOLLAR LIMITS WITH RESPECT TO STANDARD OF CONDUCT.—Section 7433(b) (relating to damages) is amended—

(1) by inserting ($1,000,000, in the case of reckless or intentional disregard)" after "$100,000", and

(2) by inserting "negligent, or" before "reckless or intentional" in paragraph (1).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 5405. SAFEGUARDS RELATING TO DESIGNATED SUMMONS.

(a) STANDARD OF REVIEW.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) NOTICE REQUIREMENTS FOR ISSUANCE.—Section 6503(k) is amended by adding at the end thereof the following new paragraph:

"(4) NOTICE REQUIREMENTS.—With respect to any summons referred to in paragraph (1)(A) issued to any person other than the corporation, the Secretary shall promptly notify the corporation, in writing, that such summons has been issued with respect to such corporation's return of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summons issued after the date of the enactment of this Act.

Subtitle F—Information Returns

SEC. 5501. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).

(2) Section 6041A(e)(1).

(3) Section 6042(c)(1).

(4) Section 6044(e)(1).

(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SEC. 5502. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

"(1) 4 years after the date of the filing of the false or fraudulent information return, or

"(2) 1 year after the date such false or fraudulent information return would have been discovered by exercise of reasonable care.

"(d) COPY OF COMPLAINT FILED WITH IRS.—Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

"(e) FINDING OF COURT TO INCLUDE CORRECT AMOUNT OF PAYMENT.—The judgment of the court in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

"(f) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.

"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to false or fraudulent information returns filed after the date of the enactment of this Act.

SEC. 5503. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall present reasonable and probative information concerning such deficiency in addition to such information return."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle G—Modifications To Penalty for Failure to Collect and Pay Over Tax

SEC. 5601. PRELIMINARY NOTICE REQUIREMENT.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PRELIMINARY NOTICE REQUIREMENT.—

"(1) IN GENERAL.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the date 90 days after the date on which such notice was mailed.

"(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5602. NO PENALTY IF PROMPT NOTIFICATION OF THE SECRETARY.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end thereof the following new subsection:

"(d) PENALTY NOT APPLICABLE WHERE PROMPT NOTIFICATION OF FAILURE.—

"(1) IN GENERAL.—A person shall not be liable for any penalty under subsection (a) by reason of any failure referred to in subsection (a) if—

"(A) such person is not a significant owner of the trade or business with respect to which such failure occurred,

"(B) such person notifies the Secretary (in such manner as he may prescribe) that such failure has occurred within 21 days after the date of such failure,

"(C) such notification was before any notice by the Secretary to any person with respect to such failure, and

"(D) such failure is not a part of a plan to defraud the Federal Government.

"(2) SIGNIFICANT OWNER DEFINED.—For purposes of paragraph (1), the term 'significant owner' means—

"(A) any person holding an interest as a proprietor in a trade or business carried on as a proprietorship, and

"(B) in the case of a trade or business conducted by a corporation or partnership, any person who is a 5-percent owner (as defined in section 416(i)(1)) in such corporation or partnership, as the case may be.

"(3) SPECIAL RULES.—

"(A) ONE-TIME RELIEF.—This subsection shall apply only once with respect to—

"(i) any person, and

"(ii) any trade or business with respect to which the failure described in subsection (a) occurred.

"(B) APPLICATION OF SUBSECTION.—This subsection shall not apply if it results in no person being held liable for the penalty described in subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5603. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 5301, is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5604. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—

(A) IN GENERAL.—The penalty under section 6672 of the Internal Revenue Code of 1986 shall not be imposed on unpaid, volunteer members of any board of trustees or directors of an organization referred to in section 501 of such Code to the extent such members are solely serving in an honorary capacity, do not participate in the day-to-day or financial operations of the organization, and do not have actual knowledge of the failure on which such penalty is imposed.

(B) APPLICATION OF PARAGRAPH.—This paragraph shall not apply if it results in no person being held liable for the penalty described in section 6672(a) of the Internal Revenue Code of 1986.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board

members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes described in section 6672 of the Internal Revenue Code of 1986 of such failure within 30 days after the return was filed reflecting such failure or after the date on which the Secretary is first aware of such failure. If the person failing to make the deposit is not an individual, the Secretary shall notify the entity subject to such deposit requirement and that entity shall notify, within 15 days of the notification by the Secretary, all officers, general partners, trustees, or other managers of the failure.

Subtitle H—Awarding of Costs and Certain Fees

SEC. 5701. MOTION FOR DISCLOSURE OF INFORMATION.

Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) MOTION FOR DISCLOSURE OF INFORMATION.—Once a taxpayer substantially prevails as described in subparagraph (A)(ii), the taxpayer may file a motion for an order requiring the disclosure (within a reasonable period of time) of all information and copies of relevant records in the possession of the Internal Revenue Service with respect to such taxpayer's case and the substantial justification for the position taken by the Internal Revenue Service."

SEC. 5702. INCREASED LIMIT ON ATTORNEY FEES.

Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following:

"In the case of any calendar year beginning after 1992, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

SEC. 5703. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

SEC. 5704. EFFECTIVE DATE.

The amendments made by this subtitle shall apply in the case of proceedings commenced after the date of the enactment of this Act.

Subtitle I—Other Provisions

SEC. 5801. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5802. TREATMENT OF SUBSTITUTE RETURNS UNDER SECTION 6651.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 5803. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

"(A) The date on which such regulation is filed with the Federal Register.

"(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

"(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

"(2) EXCEPTION FOR PROMPTLY ISSUED REGULATIONS.—Paragraph (1) shall not apply to regulations issued within 12 months of the date of the enactment of the statutory provision to which the regulation relates.

"(3) PREVENTION OF ABUSE.—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse of a statute to which the regulation relates.

"(4) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

"(5) INTERNAL REGULATIONS.—The limitations of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices or procedures.

"(6) CONGRESSIONAL AUTHORIZATION.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

"(7) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

"(8) APPLICATION TO RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall apply with respect to—

(A) any temporary or proposed regulation filed on or after July 28, 1992, and

(B) any temporary or proposed regulation filed before July 28, 1992, and filed as a final regulation after such date.

(2) SPECIAL RULE.—Section 7805(b)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply only to statutes enacted on or after the date of the enactment of this Act.

(3) REGULATIONS RELATING TO EXCHANGE RATES.—The amendment made by subsection (a) shall not apply to any regulation issued pursuant to paragraph (1)(C) or (4) of section 986(a) of the Internal Revenue Code of 1986, as added by section 4421.

SEC. 5804. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or the Secretary's delegate (hereafter in the section referred to as the "Secretary") from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 5805. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) USE OF INFORMATION LIMITED.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, any information so obtained shall not be admissible as evidence in any judicial proceeding to which the taxpayer is a party, except to rebut a false representation made by such taxpayer."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Unauthorized enticement of information disclosure."

(b) CIVIL DAMAGES.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"(a) IN GENERAL.—If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be *the exclusive remedy for recovering damages resulting from such actions.*

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

"(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

"(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

"(e) MANDATORY STAY.—Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending, shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

"(f) CRIME-FRAUD EXCEPTION.—Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and by adding at the end thereof the following new items:

"Sec. 7434. Civil damages for unauthorized enticement of information disclosure.

"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

Subtitle J—Form Modifications; Studies

SEC. 5900. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(3) TAX-WRITING COMMITTEES.—The term "tax-writing Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART I—FORM MODIFICATIONS

SEC. 5901. EXPLANATION OF CERTAIN PROVISIONS.

(a) GENERAL RULE.—The Secretary shall take such actions as may be appropriate to ensure that taxpayers are aware of the provisions of the 1986 Code permitting payment of tax in installments, extensions of time for payment of tax, and compromises of tax liability. Such actions shall include revising the instructions for filing income tax returns so that such instructions include an explanation of—

(1) the procedures for requesting the benefits of such provisions, and

(2) the terms and conditions under which the benefits of such provisions are available.

(b) COLLECTION NOTICES.—In any notice of an underpayment of tax or proposed underpayment of tax sent by the Secretary to any taxpayer, the Secretary shall include a notification of the availability of the provisions of sections 6159, 6161, and 7122 of the 1986 Code.

SEC. 5902. IMPROVED PROCEDURES FOR NOTIFYING SERVICE OF CHANGE OF ADDRESS OR NAME.

The Secretary shall provide improved procedures for taxpayers to notify the Secretary of changes in names and addresses. Not later than June 30, 1993, the Secretary shall institute procedures for timely updating all Internal Revenue Service records with change-of-address information provided to the Secretary by taxpayers.

SEC. 5903. RIGHTS AND RESPONSIBILITIES OF DIVORCED INDIVIDUALS.

The Secretary shall include in the Internal Revenue Service publication entitled "Your Rights As A Taxpayer" a section on the rights and responsibilities of divorced individuals.

PART II—STUDIES

SEC. 5911. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

(a) GENERAL RULE.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) REPORT.—Not later than June 30, 1993, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5912. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.

(a) GENERAL RULE.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) REPORT.—Not later than June 30, 1993, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5913. REPORTS ON TAXPAYER-RIGHTS EDUCATION PROGRAM.

Not later than April 1, 1993, the Secretary shall submit a report to the tax-writing Committees on the scope and content of the Internal Revenue Service's taxpayer-rights education program for its officers and employees. Not later than June 30, 1993, the Secretary shall submit a report to the tax-writing Committees on the effectiveness of the program referred to in the preceding sentence.

SEC. 5914. BIENNIAL REPORTS ON MISCONDUCT BY INTERNAL REVENUE SERVICE EMPLOYEES.

During June 30, 1993 and during June of each second calendar year thereafter, the Secretary shall report to the tax-writing Committees on all cases involving complaints about misconduct of Internal Revenue Service employees and the disposition of such complaints.

SEC. 5915. STUDY OF NOTICES OF DEFICIENCY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study on—

(1) the effectiveness of current Internal Revenue Service efforts to notify taxpayers with regard to tax deficiencies under section 6212 of the 1986 Code,

(2) the number of registered or certified letters and other notices returned to the Internal Revenue Service as undeliverable,

(3) any follow-up action taken by the Internal Revenue Service to locate taxpayers who did not receive actual notice,

(4) the effect that failures to receive notice of such deficiencies have on taxpayers, and

(5) recommendations to improve Internal Revenue Service notification of taxpayers.

(b) REPORT.—Not later than June 30, 1993, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5916. NOTICE AND FORM ACCURACY STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct annual studies of the accuracy of 25 of the most commonly used Internal Revenue Service forms, notices, and publications. In conducting any such study, the Comptroller General shall examine the suitability and usefulness of Internal Revenue Service telephone numbers on Internal Revenue Service notices and shall solicit and consider the comments of organizations representing taxpayers, employers, and tax professionals.

(b) REPORTS.—The Comptroller General shall submit to the tax-writing Committees a report on each study conducted under subsection (a), together with such recommendations as he may deem advisable. The first such report shall be submitted not later than June 30, 1993.

SEC. 5917. INTERNAL REVENUE SERVICE EMPLOYEES' SUGGESTIONS STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study of the Internal Revenue Service employee-suggestion programs. Such study shall include a review of the suggestions which were accepted and rewarded by the Internal Revenue Service, an analysis as to how many of the suggestions were implemented, and an analysis of why other suggestions were not implemented.

(b) REPORT.—Not later than June 30, 1993, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

TITLE VI—TECHNICAL CORRECTIONS

SEC. 6100. COORDINATION WITH OTHER TITLES.

For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Revenue Provisions

SEC. 6101. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "24".

(3) Clause (ii) of section 32(b)(1)(B) is amended by inserting a comma after "greater".

(4) Section 541 is amended by striking "28 percent" and inserting "31 percent".

(5) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF DEDUCTION FOR MEDICAL INSURANCE OF SELF-EMPLOYED.—In determining the amount of adjusted gross income for purposes of this section, the amount of the deduction under section 162(l) shall be determined without regard to section 162(l)(3)(B)."

(6) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

(2) Subsection (b) of section 4082 is amended to read as follows:

"(b) TAX ON CERTAIN USES.—If any person uses gasoline (other than in the production of gasoline or special fuels referred to in section 4041), such use shall for purposes of this chapter be considered a removal."

(3)(A) Subparagraph (B) of section 4093(c)(2) is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l) is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(4) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(5) Paragraph (1) of section 9502(e) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990."

(6) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraph (I) as subparagraph (H).

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause added by section 11212(e) of the Revenue Reconciliation Act of 1990 and inserting ", or", and

(C) by redesignating the clause added by section 11323(c)(2) of such Act as clause (xiii).

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates."

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary."

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Paragraph (9) of section 132(h) is amended by striking "or the last sentence of subsection (c)(1) thereof".

(2) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(3) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1) Subsection (d) of section 39 is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), and

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2).

(2)(A) Subsection (h) of section 56 is amended—

(i) by striking "subsection (g)(4)(G)" in paragraph (5) and inserting "subsection (g)(4)(F)", and

(ii) by striking "section 613(e)(3)" in paragraph (7)(B) and inserting "section 613(e)(2)".

(B) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).".

(C) Subparagraph (B) of section 56(g)(1) is amended by striking "and the alternative tax net operating loss deduction" and inserting ", the alternative tax net operating loss deduction, and the deduction under subsection (h)".

(3) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(4) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(5) Paragraph (2) of section 55(c) is amended by striking "29(b)(5)" and inserting "29(b)(6)".

(6) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

(7) Clauses (iii) and (iv) of section 53(d)(1)(B) are each amended by striking "section 29(b)(5)(B)" and inserting "section 29(b)(6)(B)".

(8) Subparagraph (B) of section 56(h)(4) is amended by striking "For purposes of subparagraph (A), the" and inserting "The".

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section."

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701(d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3)(B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse."

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes "shall be treated as holding" and inserting:

"(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual".

(C) Section 2704(c)(3) is amended by striking "section 2701(e)(3)(A)" and inserting "section 2701(e)(3)".

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

"(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,".

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

"(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments."

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: "A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election."

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for calendar year 1991.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest."

(10) Section 2701(e)(6) is amended by inserting "or to reflect the application of subsection (d)" before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking "to the extent" and inserting "if" in clause (i),

(ii) by striking "or" at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting ", or", and

(iv) by adding at the end thereof the following new clause:

"(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section."

(B)(i) Section 2702(a)(3) is amended by striking "incomplete transfer" each place it appears and inserting "incomplete gift".

(ii) The heading for section 2702(a)(3)(B) is amended by striking "incomplete transfer" and inserting "incomplete gift".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking ", or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock" in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: "For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock."

(B) Paragraph (1) of section 1248(e) is amended by striking "or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock".

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking "or 361(c)(1)" and inserting "355(c)(1), or 361(c)(1)".

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section."

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking "section 408(b)" and inserting "section 408(b)(12)".

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting ", but only with respect to taxable years beginning after December 31, 1989" before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end thereof the following new subclause:

"(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).".

(B) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(b), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.".

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended—

(A) by striking "in a trade or business" and inserting "a trade or business", and

(B) by adding at the end thereof the following new sentence: "Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units and horses".

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subsections (a)(45), (b)(14), and (c)(21) of section 11801 of the Revenue Reconciliation Act of 1990 are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted.

(i) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 6102. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

"(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

(1) IN GENERAL.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

"(6) SUBSECTION NOT APPLICABLE TO MINIMUM TAX.—

"(A) IN GENERAL.—This subsection shall not apply for purposes of computing alternative minimum taxable income.

"(B) SPECIAL RULE.—Any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect as if included in the amendments made by section 671 of the Tax Reform Act of 1986.

(B) SPECIAL RULE.—Section 860E(6)(B) of the Internal Revenue Code of 1986 (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act.

(f) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "dusted" and inserting "adjusted".

*(4)(A) The heading for section 112 is amended by striking "**COMBAT PAY**" and inserting "**COMBAT ZONE COMPENSATION**".*

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1) (A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subparagraph (B) of section 4092(b)(1) is amended by striking "or" at the end of clause (i).

(9) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(10) Section 1463 is amended by striking "this subsection" and inserting "this section".

(11) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(12) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(13) Paragraph (2) of section 4978(b) is amended by striking the period at the end of subparagraph (A) and inserting a comma, and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(14) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(15) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(16) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(17) Subsection (k) of section 6166 is amended by striking paragraph (6).

(18) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(19) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(20) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(21) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(22)(A) Section 7232 is amended—

*(i) by striking "**LUBRICATING OIL**" in the heading, and*

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(23) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(24) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(25) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(26) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)".

(27) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(28) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(29) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

(30) Paragraph (1) of section 460(b) is amended by striking "the look-back method of paragraph (3)" and inserting "the look-back method of paragraph (2)".

(31) The heading for paragraph (2) of section 6427(b) is amended by striking "3-CENT" and inserting "3.1-CENT".

(32) Subparagraph (C) of section 50(a)(2) is amended by striking "subsection (c)(4)" and inserting "subsection (d)(5)".

(33) Subparagraph (B) of section 172(h)(4) is amended by striking the material following the heading and preceding clause (i) and inserting "For purposes of subsection (b)(2)—".

(34) Subparagraph (A) of section 355(d)(7) is amended by inserting "section" before "267(b)".

(35) Subparagraph (C) of section 420(e)(1) is amended by striking "mean" and inserting "means".

(36) Paragraph (4) of section 537(b) is amended by striking "section 172(i)" and inserting "section 172(f)".

(37) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(38) Paragraph (4) of section 856(a) is amended by striking "section 582(c)(5)" and inserting "section 582(c)(2)".

(39) Sections 904(f)(2)(B)(i) and 907(c)(4)(B)(iii) are each amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" after "section 172(h)".

(40) Subsection (b) of section 936 is amended by striking "subparagraphs (D)(ii)(I)" and inserting "subparagraphs (D)(ii)".

(41) Subsection (c) of section 2104 is amended by striking "subparagraph (A), (C), or (D) of section 861(a)(1)" and inserting "section 861(a)(1)(A)".

(42) Paragraph (1) of section 5002(b) is amended by striking "section 5041(c)" and inserting "section 5041(d)".

(43) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(44) Clause (iv) of section 6103(e)(1)(A) is amended by striking all that follows "provisions of" and inserting "section 1(g) or 59(j);".

(45) The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101–624 is redesignated as subsection (g).

(46) Subsection (b) of section 7454 is amended by striking "section 4955(e)(2)" and inserting "section 4955(f)(2)".

(47) Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if "comma" appeared instead of "period" and as if the paragraph (9) proposed to be added ended with a comma.

(48) Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "paragraph" appeared instead of "subparagraph" in the material proposed to be stricken.

(49) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting "(relating to definitions)" after "section 6038(e)".

(50) Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if "subsection" appeared instead of "section" in the material proposed to be stricken.

(51) Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 56(g)" appeared instead of "section 59(g)".

(52) Subparagraph (C) of section 11801(c)(8) of the Revenue Reconciliation Act of 1990 shall be applied as if "reorganizations" appeared instead of "reorganization" in the material proposed to be stricken.

(53) Subparagraph (H) of section 11801(c)(9) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 1042(c)(1)(B)" appeared instead of "section 1042(c)(2)(B)".

(54) Subparagraph (F) of section 11801(c)(12) of the Revenue Reconciliation Act of 1990 shall be applied as if "and (3)" appeared instead of "and (E)".

(55) Subparagraph (A) of section 11801(c)(22) of the Revenue Reconciliation Act of 1990 shall be applied as if "chapters 21" appeared instead of "chapter 21" in the material proposed to be stricken.

(56) Paragraph (3) of section 11812(b) of the Revenue Reconciliation Act of 1990 shall be applied by not executing the amendment therein to the heading of section 42(d)(5)(B).

(57) Clause (i) of section 11813(b)(9)(A) of the Revenue Reconciliation Act of 1990 shall be applied as if a comma appeared after "(3)(A)(ix)" in the material proposed to be stricken.

(58) Subparagraph (F) of section 11813(b)(13) of the Revenue Reconciliation Act of 1990 shall be applied as if "tax" appeared after "investment" in the material proposed to be stricken.

(59) Paragraph (19) of section 11813(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "Paragraph (20) of section 1016(a), as redesignated by section 11801," appeared instead of "Paragraph (21) of section 1016(a)".

(60) Paragraph (5) section 8002(a) of the Surface Transportation Revenue Act of 1991 shall be applied as if "4481(e)" appeared instead of "4481(c)".

SEC. 6103. PENSION TECHNICALS.

(a) AMENDMENTS TO SUBTITLE B OF TITLE V OF UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—

(1) AMENDMENTS TO SECTION 402.—

(A) Section 402(b)(4)(A) is amended by striking "paragraph (1) or (2)" and inserting "paragraph (1),".

(B) Section 402(c)(2) is amended by inserting "or subsection (e)(4)" after "paragraph (1)" the second place it appears.

(C) Section 402(c)(4) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting a comma and by adding at the end the following:

"(C) any distribution described in section 401(k)(2)(B)(i) (IV) or (V) or 403(b)(11) (B) or (C),

"(D) any distribution described in section 401(k)(8), 401(m)(6), or 402(g)(2), or any similar distribution specified by the Secretary in regulations,

"(E) any amount treated as a distribution by reason of a default on a loan described in section 72(p)(2), or any similar distribution specified by the Secretary in regulations, and

"(F) any distribution which is an applicable dividend (as defined in section 404(k)(2)).

For purposes of subparagraph (A), any social security supplemental payment described in the last sentence of section 411(a)(9) shall be disregarded in determining whether payments are substantially equal."

(D) Clause (iii) of section 402(d)(4)(A) is amended by striking "the" before "service".

(E) Section 402(e)(4)(A) is amended—

(i) by striking "the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any" and inserting "there shall be excluded from gross income the", and

(ii) by inserting "if any portion of the distribution is transferred in a transfer" after "distribution" in the last sentence thereof.

(F) The heading for section 402(e)(4)(B) is amended to read as follows: "(B) LUMP SUM DISTRIBUTION.—".

(G) Section 402(f)(1) is amended by adding at the end the following new sentence:

"In the case of a series of distributions, notice under this paragraph shall be required only before the first distribution in such series to which this subsection applies."

(2) AMENDMENTS RELATING TO DIRECT ROLLOVERS.—

(A) Section 401(a)(31)(A) is amended—

(i) by inserting "or portion thereof" after "such distribution" each place it appears,

(ii) by striking "trustee-to-trustee transfer" and inserting "rollover", and

(iii) by adding at the end the following new sentence:

"In the case of a series of distributions, an election under this subparagraph shall apply to all distributions which are part of the series after the election is made and before the election is revoked."

(B) Section 401(a)(31)(B) is amended—

(i) by striking "transferred" and inserting "directly rolled over", and

(ii) by inserting ", 402(e)(4)" after "402(c)".

(C) Section 401(a)(31)(C) is amended by inserting ", except that such term shall not include a distribution of less than $500, any distribution to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)), or any other distribution specified in regulations prescribed by the Secretary which is similar to distributions described in subparagraph (C), (D), or (E) of section 402(c)(4)" before the end period.

(D) Section 401(a)(31)(D) is amended by striking "it is a defined contribution plan, the terms of which" and inserting "the terms of the trust".

(E) Section 401(a)(31) is amended by adding at the end the following new subparagraph:

"(E) TREATMENT OF TRANSFER.—For purposes of this title, a direct rollover to which this paragraph applies (or in the case of an annuity contract under section 403(b), in a rollover to which section 402(c)(8) applies) shall be treated in the same manner as a distribution which the distributee transfers in a rollover to which section 402(c) applies."

(F) The heading for section 401(a)(31) is amended by striking "TRANSFER" and inserting "ROLLOVER".

(G) Section 402(e) is amended by striking paragraph (6).

(H) Section 403(a) is amended by striking paragraph (5).

(I) Section 403(b)(10) is amended by striking the last sentence.

(3) AMENDMENTS RELATED TO WITHHOLDING.—

(A) Section 3405(c)(2) is amended by striking "if" and inserting "to the extent".

(B) Section 3405(c)(3) is amended by striking "402(f)(2)(A)" the first place it appears and inserting "401(a)(31)(C)".

(C) Section 3405(c)(3) is amended by striking "402(f)(2)(A)" the second place it appears and inserting "403(b)(8)".

(D) Section 3405(c)(3) is amended by inserting ", except that such term shall not include a distribution of less than $500" before the end period.

(E) Section 3405(c) is amended by adding at the end the following new paragraph:

"(4) COORDINATION WITH SECTION 401(a)(9).—If a portion of a designated distribution—

"(A) is not an eligible rollover distribution by reason of being required under section 401(a)(9), and

"(B) is de minimis in relation to the total designated distribution, such portion shall be treated as part of the eligible rollover distribution to which this subsection applies."

(4) OTHER AMENDMENTS.—

(A) Section 401(a)(20) is amended by striking "or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(B) Section 403(a)(4)(B) is amended by striking "(7)" and inserting "(8)".

(C) Section 411(d)(3) is amended by striking "on the day" and inserting "no later than".

(D) Section 522(d) of the Unemployment Compensation Amendments of 1992 is amended—

(i) by striking "a direct trustee-to-trustee transfer" and all that follows up to "the amendments" and inserting "a direct rollover from a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986)", and

(ii) by striking "ANNUITY CONTRACTS" in the heading and inserting "GOVERNMENTAL PLANS".

(E) Section 523 of the Unemployment Compensation Amendments of 1992 is amended—

(i) by inserting "the first day of" before "the first plan year", and

(ii) by striking "1994" and inserting "1995".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by the Unemployment Compensation Amendments of 1992.

(b) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO VETERANS' REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

"(u) SPECIAL RULES RELATING TO VETERANS' REEMPLOYMENT RIGHTS.—

"(1) TREATMENT OF CERTAIN REQUIRED CONTRIBUTIONS.—If any contribution is made by an employer under an individual account plan with respect to an employee and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service—

"(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 403(b), 404(a), 408, 415, or 457, and

"(B) such plan shall not be treated as failing to meet any requirement of this part or section 457 by reason of the making of such contribution and such contribution shall not be taken into account in applying the limitations referred to in subparagraph (A) to other contributions.

For purposes of the preceding sentence, any additional elective deferral made under paragraph (2) shall be treated as an employer contribution required by reason of the employee's rights under such chapter 43.

"(2) REEMPLOYMENT RIGHTS WITH RESPECT TO ELECTIVE DEFERRALS.—

"(A) IN GENERAL.—If an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, such employer shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals if such employer—

"(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B)) during the period (not longer than 5 years) which begins on the date of the reemployment and has the same length as the period of qualified military service which resulted in such rights, and

"(ii) makes a matching contribution in respect of any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

"(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph is the maximum amount of elective deferrals that the individual would have been permitted to make under the plan during his period of qualified military service if he had continued to be employed by the employer during such period and received compensation at the same rate as the individual received from the employer immediately before such qualified military service. Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

"(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term 'elective deferral' has the meaning given to such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

"(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—Nothing in chapter 43 of title 38, United States Code, shall be construed as requiring—

"(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

"(B) any allocation with respect to the period of qualified military service of any of the following amounts—

"(i) any forfeiture,

"(ii) any employer contribution which was voluntary, and

"(iii) any employer contribution the total amount of which was determined without reference to the number of, or compensation of, plan participants before being allocated to the accounts of participants.

"(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the repayment of any loan made to an individual for the period while such individual is performing qualified military service, such suspension shall not be taken into account for purposes of section 72(p).

"(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term 'qualified military service' means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter 43, with respect to such service.

"(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan and any eligible deferred compensation plan (as defined in section 457(b)).

"(7) REFERENCES.—Any reference in this subsection to chapter 43 of title 38 of the United States Code shall be treated as a reference to such chapter as in effect on January 1, 1993."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply in cases where the employee is reemployed on or after August 1, 1990, but only if there is enacted a law passed by the 102d Congress which amends chapter 43 of title 38 of the United States Code to expressly provide pension rights for reemployed veterans.

Subtitle B—Corrections Relating to Social Security, Income Security and Human Resources, and Medicare

PART I—SOCIAL SECURITY

SEC. 6201. TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(1) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(2) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or".

(b) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(2) by redesignating the paragraph (5) as amended thereby as paragraph (6).

(c) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5106 RELATING TO COORDINATION OF RULES UNDER TITLES II AND XVI GOVERNING FEES FOR REPRESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS UNDER BOTH TITLES.—

(1) CALCULATION OF FEE OF CLAIMANT'S REPRESENTATIVE BASED ON AMOUNT OF PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER APPLICATION OF WINDFALL OFFSET PROVISION.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

"(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase '(as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a))' for the parenthetical phrase contained therein; and".

(2) CALCULATION OF PAST-DUE BENEFITS FOR PURPOSES OF DETERMINING ATTORNEY FEES IN JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(i) by inserting "(A)" after "(b)(1)"; and

(ii) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph—

"(i) the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

"(ii) amounts of past-due benefits shall be taken into account to the extent provided under the rules applicable in cases before the Secretary.".

(B) PROTECTION FROM OFFSETTING SSI BENEFITS.—The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a–6(a)) is amended by striking "section 206(a)(4)" and inserting "subsection (a)(4) or (b) of section 206".

(3) APPLICATION OF SINGLE DOLLAR AMOUNT CEILING TO CONCURRENT CLAIMS UNDER TITLES II AND XVI.—

(A) IN GENERAL.—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

"(C) In any case involving—

"(i) an agreement described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

"(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement only if the total fee or fees specified in such agreement does not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).".

(B) CONFORMING AMENDMENT.—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(d) AMENDMENT RELATED TO PROVISIONS IN SECTION 5115 RELATING TO ADVANCE TAX TRANSFERS.—Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended in the last sentence by striking "and" the second place it appears.

(e) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates.

PART II—INCOME SECURITY AND HUMAN RESOURCES

SEC. 6211. REPEAL OF PROVISION INADVERTENTLY INCLUDED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

SEC. 6212. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking "a semicolon" and inserting " '; and' ".

(b) AMENDMENTS RELATED TO SECTION 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) by striking "Section 1631(a)(2)(E)" and inserting "Section 1631(a)(2)(F)"; and

(2) by redesignating the subparagraph (E) as amended thereby as subparagraph (F).

(c) AMENDMENT RELATED TO SECTION 5105(a)(1)(B).—The second paragraph of section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(d) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(e) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) of the Social Security Act (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(f) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(g) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(h) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 6213. REDESIGNATION OF CERTAIN PROVISIONS.

(a) IN GENERAL.—Section 1631(e)(6) of the Social Security Act (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1989 to which the amendment relates at the time such provision became law.

SEC. 6214. MODIFICATION TO FEDERAL UNEMPLOYMENT ACCOUNTS.

(a) IN GENERAL.—Paragraph (1) of section 905(b) of the Social Security Act is amended by striking "determined by him" and all that follows through "(d)." and inserting: "determined by the Secretary to be equal to—

"(A) 20 percent of the amount by which transfers during such month to the employment security administration account pursuant to section 901(b)(2) exceed

"(B) payments during such month from the employment security administration account pursuant to section 901 (b)(3) and (d)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the provisions of and amendments made by section 531 of the Unemployment Compensation Amendments of 1992 to which it applies.

PART III—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 6220. REFERENCES TO OBRA–1990; REFERENCES TO SOCIAL SECURITY ACT; EFFECTIVE DATE.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this part, the term "OBRA–1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) REFERENCES TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this part an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) EFFECTIVE DATE.—Except where otherwise provided, the amendments made by this part and the provisions of this part shall take effect as if included in the enactment of OBRA–1990.

Subpart A—Amendments Relating to Part A of the Medicare Program

SEC. 6221. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION (SECTION 4003 OF OBRA–1990).

The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is amended by striking "and includes" and inserting "and (in the case of a subsection (d) hospital) includes".

SEC. 6222. ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) (42 U.S.C. 1395i–4(a)(1)) is amended by striking "7" and inserting "9".

(b) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(1) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(2) in subsection (e)(1)(A) (as redesignated by paragraph (1))—

(A) by striking ", (ii)" and inserting "or (ii)",

(B) by striking "or (iii)" and all that follows through "section,", and

(C) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(c) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(1) IN GENERAL.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated by a State pursuant to paragraph (1) shall be eligible to receive a grant under subsection (a)(2).".

(2) CONFORMING AMENDMENT.—Section 1820(c)(1) (42 U.S.C. 1395i–4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(d) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i–4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(e) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a) and 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services,".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services,"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

SEC. 6223. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for the services described in paragraph (3).

(2) FACILITIES DESCRIBED.—The facilities described in this paragraph are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(3) SERVICES DESCRIBED.—The services described in this paragraph are services—

(A) that were provided under chapter 55 of title 10, United States Code, during the period beginning October 1, 1986, and ending December 31, 1989, to members or former members of the uniformed services, or their dependents, who were also beneficiaries under title XVIII of the Social Security Act; and

(B) for which payment under title XVIII of such Act would otherwise have been authorized.

(b) STUDY OF JOINT MEDICAL FACILITY.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall conduct a study of the feasibility and desirability of establishing a joint medical facility among the Department of Defense, the Department of Veterans Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facility.

(2) REPORT.—Not later than June 1, 1992, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives.

SEC. 6224. TECHNICAL CORRECTION RELATING TO NURSING HOME REFORM (SECTION 4008 OF OBRA–1990).

Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i–3(b)(3)(C)(i)(I)), as amended by section 4008(h)(2)(C) of OBRA–1990, is amended by striking "not later than" before "14 days".

Subpart B—Amendments Relating to Part B of the Medicare Program

SEC. 6231. PHYSICIAN PAYMENT PROVISIONS (SECTIONS 4101 THROUGH 4118 OF OBRA–1990).

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA–1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)), as added by section 4101(b) of OBRA–1990, is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA–1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) (as previously redesignated by section 4102(a)(1) of OBRA–1990) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)), as inserted by section 4102(a)(2) of OBRA–1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA–1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)), as inserted by section 4102(d) of OBRA–1990, is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)), as added by section 4102(g)(2)(B) of OBRA–1990, is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA–1990).—(1) Section 4103(a) of OBRA–1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)), as inserted by section 4103(a)(2) of OBRA–1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA–1990).—(1) Section 4107(c) of OBRA–1990 is amended by inserting "(a)(1)" after "subsection".

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA–1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) RECIPROCAL BILLING ARRANGEMENTS (SECTION 4110 OF OBRA–1990).—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as inserted by section 4110(a)(2) of OBRA–1990, is amended to read as follows: "(D) payment may

be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician.".

(h) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA–1990).—Section 4113 of OBRA–1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(i) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)), as amended by section 4104(a) of OBRA–1990, is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)), as added by section 4105(c)(2) of OBRA–1990, is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)), as amended by section 4106(a)(1) of OBRA–1990, is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)), as amended by section 4106(a)(1) of OBRA–1990, is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)), as added by section 4118(c)(2) of OBRA–1990, is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) (42 U.S.C. 1395w–1(e)), as amended by section 4118(j)(1)(D) of OBRA–1990, is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)), as added by section 4118(k) of OBRA–1990, is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

SEC. 6232. SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS (SECTION 4151 OF OBRA–1990).

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than July 1, 1993, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(ii) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1994), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.".

(C) The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA–1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

SEC. 6233. DURABLE MEDICAL EQUIPMENT (SECTION 4152 OF OBRA–1990).

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)), as added by section 4152(b)(4) of OBRA–1990, is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)), as added by section 4152(e) of OBRA–1990, is amended to read as follows:

"(15) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1992, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)), as added by section 4153(a) of OBRA–1990, is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1993—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)), as inserted by section 4152(c)(2)(D) of OBRA–1990, is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)), as added by section 4152(c)(2)(F) of OBRA–1990, is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)), as amended by section 4152(c)(3) of OBRA–1990, is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

SEC. 6234. OTHER PART B ITEMS AND SERVICES (SECTIONS 4154 THROUGH 4164 OF OBRA–1990).

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) The Omnibus Budget Reconciliation Act of 1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "1989" and inserting "1989 and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4155(b)(2) of OBRA–1990, is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)), as added by section 4155(b)(3) of OBRA–1990, is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)), as added by section 4155(b)(3) of OBRA–1990, is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)), as amended by section 4155(d) of OBRA–1990, is amended by striking "this Act" and inserting "this title".

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)), as amended by section 4151(c)(1)(A) of OBRA–1990, are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA–1990).—Section 1833(l)(4)(B)(ii)(VII) (42 U.S.C. 1395l(l)(4)(B)(ii)(VII)), as inserted by section 4160(3) of OBRA–1990, is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as added by section 4161(b)(1) of OBRA–1990, is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N); and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended—

(i) in subsection (s)(2)(O), by striking "subsection (jj)" and inserting "subsection (kk)"; and

(ii) in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)), as inserted by section 4164(b)(1) of OBRA–1990, is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

Subpart C—Amendments Relating to Parts A and B

SEC. 6241. PROVISIONS RELATING TO PARTS A AND B (SECTIONS 4201 THROUGH 4207 OF OBRA–1990).

(a) HOME DIALYSIS DEMONSTRATION PROJECT (SECTION 4202 OF OBRA–1990).—Section 4202 of OBRA–1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(3) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)"; and

(4) in subsection (f), by striking "AUTHORIZATION OF APPROPRIATIONS.—The Secretary" and inserting "FUNDING.—The Secretary".

(b) EXTENSION OF SECONDARY PAYOR PROVISIONS (SECTION 4203 OF OBRA–1990).—(1) The sentence in section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) added by section 4203(c)(1)(B) of OBRA–1990 is amended—

(A) by striking "on or before January 1, 1996," and inserting "before January 1, 1996"; and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(4) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(c) HEALTH MAINTENANCE ORGANIZATIONS (SECTION 4204 OF OBRA–1990).—(1) Section 4204(b) of OBRA–1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than January 1, 1993, the Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1994 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In making the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas; and

"(iii) the difference in costs associated with medicare beneficiaries 65 years of age or older for whom medicare is the secondary payor under section 1862(b)(1)(A) of the Social Security Act and beneficiaries for whom medicare is the primary payor.

"(2) Not later than March 1, 1993, the Secretary shall cause to have published in the Federal Register a proposed rule describing the proposed revisions in the payment methodology.

"(3) Not later than May 1, 1993, the Comptroller General shall review the proposal made pursuant to paragraph (1), and shall report to Congress on the appropriateness of the proposed modifications.

"(4) Taking into account the recommendations in the report made pursuant to paragraph (3), not later than August 31, 1993, the Secretary shall issue a final rule implementing the revised payment methodology, effective for contract years beginning on or after January 1, 1994.".

(2) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(4) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(5) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)), as added by section 4204(e)(1)(B) of OBRA–1990, is amended by striking the comma after "contributed to".

(6) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(7) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(8) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)), as added by section 4204(g)(1) of OBRA–1990, is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(d) PEER REVIEW ORGANIZATIONS (SECTION 4205 OF OBRA–1990).—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)), as inserted by section 4205(a)(1)(B) of OBRA–1990, is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) (42 U.S.C. 1320c–3(a)(9)(B)), as added by section 4205(d)(1)(A)(ii) of OBRA–1990, is amended by striking "this subsection" and inserting "section 1156(a)".

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c–9(d)) (as added by section 4205(e)(1) of OBRA–1990) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(e) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to *section 353 of the Public Health Service Act)"; and*

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(f) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)), as added by section 4206(a)(2) of OBRA–1990, is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (P) two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)), as inserted by section 4201(d)(2) of OBRA–1990, is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(O)".

(5) Section 4201(d)(2) of OBRA–1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(6) The section following section 4206 of OBRA–1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subsection is referred to as section 4207 of OBRA–1990.

(7) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

(8) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(9) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(10) Section 1877 (42 U.S.C. 1395nn) is amended—

(A) in the fourth sentence of subsection (f)—

(i) by striking "provided" and inserting "furnished", and

(ii) by striking "provides" and inserting "furnish".

(B) in the fifth sentence of subsection (f)—

(i) by striking "providing" each place it appears and inserting "furnishing",

(ii) by striking "with respect to the providers" and inserting "with respect to the entities", and

(iii) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial topography scans, and ultrasound services";

(C) in subsection (h)(1)—

(i) by striking "; REMUNERATION.—(A)" and inserting ".—",

(ii) in subparagraph (A), by striking "any remuneration" and all that follows and inserting "any payment (whether directly or indirectly, overtly or covertly, in cash or in kind) made by an entity to a physician (or immediate family member).", and

(iii) by striking subparagraph (B); and

(D) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(11) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(12) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(13) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(14) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(15) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(16) Section 4207(j)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(17) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

Subpart D—Medicare Supplemental Insurance Policies

SEC. 6251. CORRECTIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES (SECTIONS 4351 THROUGH 4361 OF OBRA-1990).

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES (SECTION 4351 OF OBRA–1990).—(1) Section 4351 of OBRA–1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)), as added by section 4351 of OBRA–1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(3) The Secretary of Health and Human Services shall publish in the Federal Register a list described in section 1882(p)(10) of the Social Security Act by not later than December 31, 1992.

(4)(A) For purposes of section 1882 of the Social Security Act (hereafter in this paragraph referred to as the "Act"), when the National Association of Insurance Commissioners (hereafter in this paragraph referred to as the "Association") modifies its 1991 NAIC Model Regulation (adopted in July 1991) to delete from section 15C the exception which begins with "unless", such modification shall be considered to be part of such Regulation.

(B) If subsection (p)(1)(A) of section 1882 of the Act is applicable, until the Association makes the modification described in subparagraph (A), such section shall be applied as if such exception had been deleted. Any 1991 Federal Regulation adopted under such section shall not include such exception.

(C) If the Secretary of Health and Human Services, in consultation with the Association, identifies a State as requiring changes to laws or regulations in order to conform such State's regulatory program to the modification described in subparagraph (A), such State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Act due solely to failure to make such modification until the close of the first regular legislative session that begins after the date of the enactment of this Act.

(b) GUARANTEED RENEWABILITY (SECTION 4352 OF OBRA–1990).—Section 1882(q) (42 U.S.C. 1395ss(q)), as added by section 4352 of OBRA–1990, is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS (SECTION 4353 OF OBRA–1990).—(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)), as added by section 4353(a)(2)(B) of OBRA–1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION (SECTION 4354 OF OBRA–1990).—(1) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(A) in subparagraph (A)—

(i) by striking "(A)" and inserting "(A)(i)";

(ii) by inserting ", other than a medicare supplemental policy or a policy described in clause (ii)," after "issue a health insurance policy";

(iii) by inserting "substantially" after "such policy"; and

(iv) by striking the last two sentences and adding at the end the following new clause:

"(ii) This subparagraph shall not apply to a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual.";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A of this title or enrolled under part B of this title with knowledge that such policy duplicates health benefits to which such individual is otherwise entitled under another medicare supplemental policy or under this title or title XIX. Whoever violates this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a person other than the issuer of the policy) for each such prohibited act. A seller (who is not the issuer of a medicare supplemental policy) shall not be considered to have violated this subparagraph if the policy is sold in compliance with subparagraph (C) and the statement under subparagraph (C) indicates on its face that the sale of the policy will not duplicate health benefits to which the individual is otherwise entitled. This subparagraph shall not apply to a seller until such date as the Secretary publishes a list of the standardized benefit packages that may be offered consistent with subsection (p).".

(2) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)), as redesignated by paragraph (1) and as amended by section 4354(a)(2) of OBRA–90, is amended—

(A) in clause (i)(I), by striking "clause (II)" and inserting "clause (ii)",

(B) in clause (ii)(II), by striking "65 years of age or older",

(C) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the individual's full liability for medicare cost-sharing (as defined in section 1905(p)(3)).".

(3) Section 1882(d)(3)(D) (42 U.S.C. 1395ss(d)(3)(D)), as redesignated by paragraph (1), is amended by striking "the selling" and inserting "the sale or issuance".

(4) Subparagraphs (A) and (B) of section 1882(q)(5) (42 U.S.C. 1395ss(q)(5)), as added by section 4354(b) of OBRA–1990, are each amended by striking "of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS (SECTION 4355 OF OBRA–1990).—(1) Section 1882(r) (42 U.S.C. 1395ss(r)), as added by section 4355(a)(3) of OBRA–1990, is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under the policies after such date.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue. In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until January 1, 1994.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) in paragraph (2)(C), by striking "policy year" and inserting "calendar year";

(J) in paragraph (4), by striking "disllowance", "loss-ratios" each place it appears, and "loss-ratio", and inserting "disallowance", "loss ratios", and "loss ratio", respectively;

(K) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(L) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended—

(A) by transferring and inserting the subparagraph (G) added by section 4355(c)(3) of OBRA–1990 immediately after the subparagraph (F) added by section 4353(c)(3) of such Act; and

(B) in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(4)(A) For purposes of section 1882 of the Social Security Act (hereafter referred to in this paragraph as the "Act"), when the National Association of Insurance Commissioners (hereafter referred to in this paragraph as the "Association") modifies its 1991 Model Regulation (adopted in July 1991) to apply (in the manner provided in section 1882(r) of the Act, as amended by this subsection) the loss ratio and premium refund provisions of such Regulation to medicare supplemental policies issued prior to the date specified in section 1882(p)(1)(C) of the Act and renewed after such date, such modification shall be considered part of such Regulation.

(B) If subsection (p)(1)(A) of section 1882 of the Act is applicable, until the Association makes the modification described in subparagraph (A), such section shall be applied (as of the date specified in paragraph (5)) as if the loss ratio and premium refund provisions in the 1991 NAIC Model Regulation were applicable (in the manner provided in subsection (r) of such section, as amended by this subsection) to medicare supplemental policies issued prior to the date specified in subsection (p)(1)(C) of such section and renewed after such date.

(C) If the Secretary of Health and Human Services, in consultation with the Association, identifies a State as requiring changes to laws or regulations in order to conform such State's regulatory program to the modifications described in subparagraph (A), such State regulatory program shall not be considered out of compliance with the requirements of section 1882 of the Act due solely to failure to make such required changes until the close of the first regular legislative session that begins after the date of enactment of this Act.

(5) The provisions of this subsection shall be effective January 1, 1993, for medicare supplemental policies issued prior to the date specified in section 1882(p)(1)(C) of the Social Security Act and renewed after such date.

(f) TREATMENT OF HMO'S (SECTION 4356 OF OBRA–1990).—(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)), as amended by section 4356(a) of OBRA–1990, is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1993, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS (SECTION 4357 OF OBRA–1990).—Section 1882(s) (42 U.S.C. 1395ss(s)), as added by section 4357(a)(2) of OBRA–1990, is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or", and

(2) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES (SECTION 4358 OF OBRA–1990).—(1) Section 1882(t) (42 U.S.C. 1395ss(t)), as added by section 4358(a) of OBRA–1990, is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", *(C) in paragraph (1)(A), by inserting “or agreements” after “contracts”,*

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking “NAIC standards” and inserting “standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation”, and

(E) in paragraph (2), by inserting “the issuer” before “is subject to a civil money penalty”.

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c–3(a)(4)(B)), as amended by section 4358(b)(3) of OBRA–1990, is amended—

(A) by inserting “that is” after “(or”, and

(B) by striking “1882(t)” and inserting “1882(t)(3)”.

(i) HEALTH INSURANCE COUNSELING (SECTION 4360 OF OBRA–1990).—Section 4360 of OBRA–1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking “Act” and inserting “Act)”;

(2) in subsection (b)(2)(D), by striking “services” and inserting “counseling”;

(3) in subsection (b)(2)(I), by striking “assistance” and inserting “referrals”;

(4) in subsection (c)(1), by striking “and that such activities will continue to be maintained at such level”;

(5) in subsection (d)(3), by striking “to the rural areas” and inserting “eligible individuals residing in rural areas”;

(6) in subsection (e)—

(A) by striking “subsection (c) or (d)” and inserting “this section”,

(B) by striking “and annually thereafter, issue an annual report” and inserting “and annually thereafter during the period of the grant, issue a report”,

(C) in paragraph (1), by striking “Statewide”, and

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM (SECTION 4361 OF OBRA–1990).—(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: “; MEDICARE AND MEDIGAP INFORMATION”,

(B) by inserting “(a)” after “1804.”, and

(C) by adding at the end the following new subsection:

“(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.”.

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

“(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).”.

(3) Section 1889 (42 U.S.C. 1395zz), as inserted by section 4361(a) of OBRA–1990, is repealed.

Subtitle C—Tariff and Customs

SEC. 6301. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) IN GENERAL.—The Harmonized Tariff Schedule of the United States is amended as follows:

(1) REMOVAL OF GDR FROM COLUMN 2 RATE LIST.—General Note 3(b) is amended by striking “German Democratic Republic”.

(2) TAPESTRY AND UPHOLSTERY FABRICS.—The article description for subheading 5112.19.20 is amended by striking “of a weight exceeding 300 g/m^2”.

(3) GLOVES.—

(A) Chapter 61 is amended by redesignating subheading 6116.10.45 as subheading 6116.10.48.

(B) Chapter 62 is amended by striking the superior text “Other:” that appears between subheadings 6216.00.46 and 6216.00.52.

(4) AGGLOMERATE STONE FLOOR AND WALL TILES.—The article description for subheading 6810.19.12 is amended to read as follows: “Of stone agglomerated with binders other than cement”.

(5) 2,4-DIAMINOBENZENESULFONIC ACID.—The article description for heading 9902.30.43 is amended by striking “2921.51.50” and inserting “2921.59.50”.

(6) MACHINES USED IN THE MANUFACTURE OF BICYCLE PARTS.—The article description for heading 9902.84.79 is amended by striking “8479.89.90” and inserting “8462.49.00, 8479.89.90 or 9031.80.00”.

(7) COPYING MACHINES AND PARTS.—The article description for heading 9902.90.90 is amended by inserting “or 8473.40.40” after “8472.90.80”.

(b) STAGED RATE REDUCTIONS FOR GLOVES.—Any staged reduction of a special rate of duty set forth in subheading 6116.10.45 of such Schedule that takes effect on or after October 1, 1990, by reason of section 10011(a)(2) of Omnibus Budget Reconciliation Act of 1990 shall apply to the corresponding rate of duty in subheading 6116.10.48 (as redesignated by subsection (a)(3)(A)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry—

(i) that was made after the applicable date and before the 15th day after such date of enactment; and

(ii) with respect to which there would have been a lesser or no duty if any amendment made by subsection (a) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(B) For purposes of this subsection, the term “applicable date” means—

(i) if such amendment is made by subsection (a)(4) or (a)(7), December 31, 1988; and

(ii) if such amendment is made by subsection (a)(2), (a)(3), (a)(5), (a)(6), September 30, 1990.

SEC. 6302. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) by striking “and” at the end of clause (iv);

(2) by striking the period at the end of clause (v) and inserting “; and”; and

(3) by inserting after clause (v) the following new clause:

“(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the merchandise subject to duty under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

(c) APPLICATION OF FEES TO CERTAIN AGRICULTURAL PRODUCTS.—The amendment made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 shall apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

SEC. 6303. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) IN GENERAL.—Paragraph (2) of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking “the date of enactment of this Act” and inserting “January 1, 1989”; and

(B) by striking “such date of enactment” and inserting “January 1, 1989”; and

(2) in subparagraph (B), by striking “such date of enactment” and inserting “January 1, 1989”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for;

be treated as the rate in effect on January 1, 1989.

SEC. 6304. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking “, or withdrawn from warehouse for consumption,” and inserting “for transportation in bond”.

SEC. 6305. TECHNICAL AMENDMENTS REGARDING CERTAIN BENEFICIARY COUNTRIES.

(a) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)) is amended by adding at the end thereof the following flush sentence:

“The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.”.

(b) ANDEAN TRADE PREFERENCE ACT.—Section 204(c)(1) of the Andean Preference Act (19 U.S.C. 3203(c)(1)) is amended by adding at the end thereof the following flush sentence:

“The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.”.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to—

(1) articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act, and

(2) articles entered after December 31, 1991, and before such 15th day, which are not liquidated before such 15th day.

SEC. 6306. CLARIFICATION OF FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended—

(1) by striking “centralized hub facility or” in clause (i); and

(2) in clause (ii)—

(A) by striking “facility—” and inserting “facility or centralized hub facility—”,

(B) by striking "customs inspectional" in subclause (I), and

(C) by striking "at the facility" in subclause (I) and inserting "for the facility".

(b) DEFINITIONS.—Section 13031(b)(9)(B) of the Consolidated Omnibus Reconciliation Act of 1985 (19 U.S.C. 58C(b)(9)(B)) is amended by striking "paragraph:" and all that follows through "The term" in clause (ii) and inserting "paragraph, the term".

TITLE VII—INCOME SECURITY AND RELATED PROGRAMS

SEC. 7000. AMENDMENT OF SOCIAL SECURITY ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—Miscellaneous Improvements in the Old-Age, Survivors, and Disability Insurance Program

SEC. 7001. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS FOR JURY SELECTION PURPOSES.

(a) IN GENERAL.—Section 205(c)(2) (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking "(E)" in the matter preceding subclause (I) and inserting "(F)";

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) It is the policy of the United States that any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law.

"(ii) The additional purposes described in this clause are the following:

"(I) identifying duplicate names of individuals on master lists used for jury selection purposes, and

"(II) identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

"(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

"(iv) For purposes of this subparagraph, the term 'State' has the meaning such term has in subparagraph (D).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 7002. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.—Section 203(i) (42 U.S.C. 403(i)) is repealed.

(b) COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.—Section 203(a)(4) (42 U.S.C. 403(a)(4)) is amended by striking "section 222(b). Whenever" and inserting the following: "section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for any month on the basis of the same wages and self-employment income as another person—

"(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

"(B) who does not live in the same household as such individual, and

"(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3). Whenever".

(c) CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.—The third sentence of section 203(h)(1)(A) (42 U.S.C. 403(h)(1)(A)) is amended by striking "Such report need not be made" and all that follows through "The Secretary may grant" and inserting the following: "Such report need not be made for any taxable year—

"(i) beginning with or after the month in which such individual attained age 70, or

"(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

"(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

"(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

"(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant".

(d) CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF REPEAL.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1993.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1993, in taxable years ending after such date.

SEC. 7003. COMPARABLE SEVERITY DISABILITY FOR CHILDREN UNDER DISABILITY INSURANCE PROGRAM.

(a) IN GENERAL.—Section 223(d)(1)(A) (42 U.S.C. 423(d)(1)(A)) is amended by inserting before the semicolon the following: "(or, in the case of a child under the age of 18, if such child suffers from any medically determinable physical or mental impairment of comparable severity)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 7004. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) IN GENERAL.—

(1) UNAUTHORIZED DISCLOSURE.—Section 1106(a) (42 U.S.C. 1306(a)) is amended—

(A) by striking "misdemeanor" and inserting "felony";

(B) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(C) by striking "one year" and inserting "5 years".

(2) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) (42 U.S.C. 1307(b)) is amended—

(A) by inserting "social security account number," after "information as to the";

(B) by striking "misdemeanor" and inserting "felony";

(C) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(D) by striking "one year" and inserting "5 years".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

Subtitle B—Foster Care; Substance Abuse Prevention and Treatment; and Related Programs

PART I—FOSTER CARE, ADOPTION, AND CHILD WELFARE SERVICES

SEC. 7101. INNOVATIVE CHILD AND FAMILY SERVICES PROGRAMS.

(a) IN GENERAL.—Part B of title IV is amended by adding at the end thereof the following new section:

"INNOVATIVE CHILD AND FAMILY SERVICES

"SEC. 429. (a)(1) For the purpose of enabling States to plan, develop, expand, or operate innovative programs of child and family services in order to preserve and strengthen families and prevent the need for unnecessary placement in foster care, there are authorized to be appropriated for each fiscal year, in addition to amounts otherwise appropriated under this part, such sums as may be necessary to carry out the purposes of this section.

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, the sum of $8,000,000 to carry out the purposes of subsection (c)(1).

"(b)(1) From the sums appropriated therefore, the Secretary shall, subject to the provisions of this section, pay as an entitlement to each State for each quarter an amount equal to 75 percent of the total expenditures during that quarter for the purpose of planning, developing, expanding, or operating an innovative program of child and family services (in accordance with the requirements of this section) to incorporate any of the following services:

"(A) Preplacement preventive services designed to help children at risk of foster care placement remain with their families (including adoptive families), where appropriate.

"(B) Reunification services designed to help children return to the families (including adoptive families) from which they have been removed, where appropriate.

"(C) Follow up services designed to sustain and further strengthen families (including adoptive families) after a child has returned home from foster care placement.

"(D) Where appropriate, services designed to help children be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement.

"(E) Respite care to provide assistance for any foster care family, adoptive family, or any other family that the State agency determines needs such care in order to preserve family stability, with priority to the family of a child with a physical, mental, or emotional condition that requires special assistance (as determined by the Secretary).

"(F) Family support services to strengthen the functioning of a family (including an adoptive or foster care family), including services designed to improve parenting skills.

"(2) The total amount paid to a State under paragraph (1) for a fiscal year may not exceed the sum of—

"(A) the amount to which a State is entitled under paragraph (3) for the fiscal year; and

"(B) any unexpended portion of the amount to which a State was entitled for the preceding fiscal year.

"(3)(A) The amount to which a State is entitled under this paragraph for a fiscal year shall *be determined in the manner specified in section 421(a), except that the total amount to which all States are entitled under this paragraph may not exceed—*

"(i) $150,000,000 for fiscal year 1993,

"(ii) $250,000,000 for fiscal year 1994,

"(iii) $300,000,000 for fiscal year 1995,

"(iv) $350,000,000 for fiscal year 1996, and

"(v) $400,000,000 for fiscal year 1997, and each subsequent fiscal year.

"(B) The amount to which a State is entitled under this paragraph for a fiscal year shall remain available for such fiscal year and the succeeding fiscal year.

"(4) Payments to a State under this subsection for any fiscal year shall be made in accordance with the procedures described in section 423(b).

"(5) As a condition of receiving a payment under this section, a State shall provide written assurance (in such form as the Secretary shall prescribe by regulation) that the aggregate amount of funds expended by the State and its political subdivisions from non-Federal resources for the purpose of providing child welfare services (excluding foster care maintenance and adoption assistance payments) shall be maintained at a level of funding that is equal to or exceeds the level of such funding for such services for fiscal year 1991.

"(c)(1)(A) The Secretary shall conduct evaluations of programs under this section according to criteria that the Secretary shall establish.

"(B) In developing the criteria described in subparagraph (A), the Secretary shall consult with—

"(i) individuals who administer programs under this part and part E of this title;

"(ii) private, nonprofit organizations with an interest in child welfare; and

"(iii) other individuals and organizations with recognized expertise in the evaluation of child welfare services programs or other related programs.

"(C) The Secretary may enter into a contract with one or more independent research organizations to carry out a program evaluation under this subsection.

"(2) Funds expended by a State to conduct evaluations of programs of child and family services administered by the State shall be deemed expenditures for which payment may be made under subsection (b)(1). Such evaluations shall be conducted in accordance with requirements that the Secretary shall prescribe by regulation.

"(3) Program evaluations conducted pursuant to paragraph (1) or (2) shall—

"(A) use methodologies to measure outcomes with respect to children and families who participate in the programs under this section that enable comparison with similar outcome measurements of children and families who have not received the services offered by the programs under this section; and

"(B) include an assessment of family functioning.

"(4) In carrying out the program evaluations described in paragraph (1), the Secretary shall ensure that an appropriate portion of such evaluations shall use experimental and control groups (of a sample size determined in accordance with appropriate statistical practices).

"(5)(A) The Secretary shall develop procedures to facilitate the coordination of evaluations conducted by the Secretary and by the States.

"(B) Upon request by a State, the Secretary shall provide technical assistance to facilitate the planning and design of program evaluations under this section.

"(6) For fiscal year 1995, and annually thereafter until the programs authorized under this section are completed, the Secretary shall issue a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes—

"(A) information concerning the status of evaluations conducted by the Secretary under this subsection;

"(B) findings from the evaluations described in subparagraph (A);

"(C) information concerning the status of evaluations conducted by States under this subsection; and

"(D) a summary of the findings from the State evaluations described in subparagraph (C).

"(7) The Secretary shall, upon completion of a review of the evaluations conducted under this subsection by the Secretary and by States (but not later than December 1, 1996), submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes recommendations for legislation to improve child and family services provided under this title to strengthen families, to reduce the number of cases in which it is necessary to remove a child from home and place the child in foster care, to promote the reunification of families of children who have been placed in foster care, and to promote planned, permanent living arrangements for children, including adoption, where appropriate.".

(b) STATE PLANS AND REPORTS.—Section 422 (42 U.S.C. 622) is amended by adding at the end the following new subsections:

"(c) Not later than January 1, 1993 (with respect to fiscal year 1993), and not later than the July 1 preceding each fiscal year thereafter, each State with an innovative program of child and family services (as described in section 429(a)) that intends to provide services that qualify for payments under section 429(b) shall submit to the Secretary for approval, as an amendment to the plan described in subsection (a), a detailed description of the services that such State intends to provide during such fiscal year.

"(d) Not later than January 1, 1993, each State with an innovative program of child and family services (as described in section 429(a)) that intends to provide services under such program that qualify for payments under section 429(b), shall submit to the Secretary a report containing a statement of goals that the State expects to achieve during the 5-year period beginning with fiscal year 1993.

"(e) Not later than January 1, 1994, and annually thereafter, each State shall submit to the Secretary a report that summarizes activities carried out with funds made available under this title. Such report shall cover the most recently completed fiscal year, and shall be in such form and contain such information as the Secretary shall require by regulation.".

(c) CONFORMING AMENDMENTS.—Section 423(a) (42 U.S.C. 623(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purposes of this section, the 'amounts expended under the plan' described in paragraph (1) shall not include amounts for which payment is made under section 429(b) for services described in section 429(a).".

SEC. 7102. DEMONSTRATION PROJECTS TO IMPROVE COORDINATION OF SERVICES.

(a) IN GENERAL.—Title IV is amended by inserting after section 474 the following new section:

"DEMONSTRATION PROJECTS FOR THE COORDINATION OF CHILD AND FAMILY SERVICES

"SEC. 474A. (a) In order to improve the coordination of child and family services, the Secretary shall authorize not more than 15 States to conduct demonstration projects, to be carried out in accordance with this section.

"(b) An application submitted by the Governor of a State shall include a description of the measures to be employed to improve the coordination of the services and benefits provided by child and family services programs carried out under the State plan under this part with programs which provide services to families and children including some or all of the following programs and services:

"(1) The program of aid and services for needy families with children carried out under the State plan pursuant to part A.

"(2) The child support and spousal support enforcement program carried out under the State plan pursuant to part D.

"(3) The job opportunities and basic skills training program carried out under the State plan pursuant to section 402(a)(19) and part F.

"(4) The special supplemental food program for woman, infants, and children (the WIC program) authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(5) The maternal and child health block grant program under title V.

"(6) Medical assistance furnished under the State plan approved under title XIX.

"(7) Educational programs that provide services to children or families.

"(8) Drug treatment programs and other substance abuse programs.

"(9) Mental health services programs.

"(10) Juvenile justice programs.

"(11) Programs for developmentally disabled individuals.

"(12) Any additional services for children and families that the State determines necessary to meet the needs of all family members in order to carry out the purposes of this section that are approved by the Secretary.

"(c) A demonstration project conducted under this section may be conducted for a period of not more than 3 years.

"(d)(1) Each State that conducts a demonstration project authorized by the Secretary shall, as a part of such demonstration project, conduct an evaluation of the effectiveness of the demonstration project in improving the coordination and the funding of child and family services.

"(2) Amounts expended by the State for the purposes of conducting an evaluation under this subsection shall be deemed amounts expended pursuant to subparagraph (C) of section 474(a)(3).

"(e) Upon completion of a demonstration project under this section, each State shall submit a report concerning the results of the evaluation described in subsection (d) to the Secretary.

"(f) Each State shall submit to the Secretary at such time as the Secretary may prescribe by regulation—

"(1) a description of administrative policies and laws of the Federal Government and the State or a political subdivision of the State, identified by the State as impediments to the coordination of the delivery of the child and family services described in subsection (b); and

"(2) a description of the measures that the State has taken or intends to take to eliminate or reduce impediments described in paragraph (1) that are attributable to administrative policies and laws of the State or a political subdivision of the State.".

(b) PAYMENTS TO STATES FOR DEMONSTRATION PROJECTS.—(1) Section 474(a) (42 U.S.C. 674(a)) is amended—

(A) by striking the period at the end of paragraph (4)(B)(ii) and inserting "; plus"; and

(B) by adding at the end the following new paragraph:

"(5) if such State is authorized to conduct a demonstration project pursuant to section 474A, 50 percent of so much of such expenditures (not to exceed $750,000 for each quarter during the

period of such demonstration project) to carry out the demonstration project.".

(2) The amendments made by paragraph (1) shall apply to expenditures made after September 30, 1992.

(c) Review of Administrative Policies and Regulations.—(1) The Secretary of the Department of Health and Human Services, the Secretary of Agriculture, the Secretary of Education, and the Attorney General of the United States shall review the administrative policies and regulations relating to the funding and delivery of services for families and children (as described in section 474A(b) of the Social Security Act, as added by subsection (a) of this section) of the Department of Health and Human Services, the Department of Agriculture, the Department of Education, and the Department of Justice, respectively, to determine whether changes in such administrative policies and regulations may be made without statutory changes to improve the funding and delivery of such services.

(2) In conducting a review pursuant to paragraph (1), the heads of departments described in paragraph (1) shall consult with appropriate representatives of the governments of States and political subdivisions of States.

(3) Not later than July 1, 1993, the heads of the departments described in paragraph (1) shall collectively (or separately after consultation with the others) issue a report to the Congress that includes—

(A) recommendations for statutory changes, as well as changes in regulations and administrative policies, to improve the coordination of the funding and delivery of child and family services;

(B) a description of the technical assistance that the heads of the departments will make available to the States to improve the coordination of the funding and delivery of child and family services; and

(C) an analysis of the impediments identified pursuant to section 474A(f)(1) of the Social Security Act, as added by subsection (a) of this section, as such impediments relate to Federal policies and laws.

SEC. 7103. FOSTER CARE AND ADOPTION ASSISTANCE.

(a) Requirements for Documentation for Adoption Placement Procedures.—Section 475(5) (42 U.S.C. 675(5)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(E) with respect to any child who is legally eligible for adoption, a court or administrative body that conducts a case review pursuant to subparagraph (C), shall determine and document—

"(i) the specific measures taken by the State agency responsible for the placement of the child in an adoptive family to make such a placement; or

"(ii) a finding that placement of the child in an adoptive family would be inappropriate.".

(b) Disrupted Adoptions.—(1) Section 471(a) (42 U.S.C. 671(a)) is amended—

(A) in paragraph (1), by inserting "paragraph (18) and" before "section 473";

(B) by striking "and" at the end of paragraph (16);

(C) by striking the period at the end of paragraph (17) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(18) provides that, at the option of the State, a child whose adoption has been set aside by a court may, for purposes of sections 472 and 473, during any subsequent period of time during which such child would be eligible for assistance under this part as a child in foster care or an adoptive child (but for the adoption or the disruption of the adoption), be deemed to be eligible for such assistance.".

(2) Section 474 (42 U.S.C. 674) is amended by adding at the end the following new subsection:

"(e) For purposes of subsection (a) of this section, a child with respect to whom a State exercises the option described in paragraph (18) of such subsection (a) shall be deemed an eligible child under sections 472 and 473 of this part.".

(c) Effective Dates.—(1) The amendments made by subsection (a) shall apply to case reviews conducted on or after October 1, 1993.

(2) The amendments made by subsection (b) shall apply to payments under part E of title IV of the Social Security Act for expenditures made after September 1992.

SEC. 7104. ADOPTION EXPENSE DEDUCTION.

(a) In General.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 221 as section 222 and by inserting after section 221 the following new section:

"SEC. 221. SPECIAL NEEDS ADOPTION EXPENSES DEDUCTION.

"(a) Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the individual for such taxable year.

"(b) Limitations.—

"(1) Maximum dollar amount.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $3,000.

"(2) Denial of double benefit.—

"(A) In general.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) Reimbursements.—If a taxpayer is reimbursed for any qualified adoption expenses for which a deduction was allowed under subsection (a), the amount of such reimbursement shall be includable in the gross income of the taxpayer in the taxable year in which such reimbursement was received.

"(c) Definitions.—For purposes of this section—

"(1) Qualified adoption expenses.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses which—

"(A) are directly related to the legal adoption of a child with special needs by the taxpayer,

"(B) are not incurred in violation of State or Federal law, and

"(C) are of a type eligible for reimbursement under the adoption assistance program under part E of title IV of the Social Security Act.

"(2) Child with special needs.—The term 'child with special needs' means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act.".

(b) Deduction Allowed Whether or Not Taxpayer Itemizes Deductions.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (13) the following new paragraph:

"(14) Adoption expenses.—The deduction allowed by section 221 (relating to deduction for expenses of adopting a child with special needs).".

(c) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 221 and by inserting the following new items:

"Sec. 221. Special needs adoption expenses deduction.
"Sec. 222. Cross reference.".

(d) Effective Date.—The amendments made by this section shall apply to adoptions occurring in taxable years beginning after December 31, 1992.

SEC. 7105. STUDY OF REASONABLE EFFORTS REQUIREMENT BY ADVISORY COMMITTEE.

(a) In General.—Not later than 90 days after the date of the enactment of this title, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish an Advisory Committee on Foster Care Placement (hereafter in this section referred to as the "Advisory Committee") to study and make recommendations concerning the requirements under section 471(a)(15) of the Social Security Act (42 U.S.C. 671(a)(15)) for each State plan for foster care and adoption assistance.

(b) Membership.—(1) The Advisory Committee shall consist of no fewer than 9 members. In appointing members to the Advisory Committee, the Secretary shall include representatives of the following organizations and agencies:

(A) Private, nonprofit organizations with an interest in child welfare (including such organizations that provide child protective services, foster care services, or adoption services).

(B) Hospitals that treat a significant number of boarder babies (as determined by the Secretary).

(C) Agencies of States and political subdivisions thereof responsible for child protective services, foster care services, or adoption services.

(D) Judicial bodies of States and political subdivisions thereof responsible for adjudicating issues of family law (as defined and determined by the Secretary).

(2) Members of the Advisory Committee who are not full-time Federal employees shall, while engaging in the business of the Advisory Committee (including travel time) be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the daily rate specified at the time of such service under level IV of the Executive Schedule.

(3) While away from their homes or regular places of business and on the business of the Advisory Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(c) Report.—Not later than January 1, 1994, the Advisory Committee shall submit a report to the Secretary and to the Congress that includes recommendations for making improvements in the implementation of the requirements under section 471(a)(15).

SEC. 7106. CASE REVIEW SYSTEM REQUIREMENT.

(a) In General.—Subparagraph (A) of section 475(5) (42 U.S.C. 675(5)) is amended by inserting "and most appropriate" after "(most family like)".

(b) Citizen Volunteer Input.—Section 475(5) (42 U.S.C. 675(5)), as amended by section 7103, is further amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(F) to the extent determined appropriate by the State, citizen volunteers may participate in making recommendations at either the court or administrative reviews described in subparagraph (B) or at the dispositional hearings described in subparagraph (C).".

(c) Effective Dates.—

(1) The amendments made by subsection (a) shall take effect with respect to case reviews conducted on or after October 1, 1992.

(2) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 7107. DEMONSTRATION PROJECT TO FACILITATE THE REUNIFICATION OF A CHILD WITH HIS OR HER FAMILY.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with not more than 6 States with an approved plan under section 402 of the Social Security Act (42 U.S.C. 602) (hereafter in this section referred to as the "State plan") to conduct demonstration projects under this section.

(2) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section, and shall approve up to 6 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section.

(3) Demonstration projects under this section shall meet such conditions and requirements as the Secretary shall prescribe by regulation. No such project shall be conducted for a period of more than 3 years, and no such project may be conducted after January 1, 1997.

(b) EFFECT OF ACCELERATED AFDC ELIGIBILITY ON FAMILY REUNIFICATION.—For each State conducting a demonstration project under this section, notwithstanding any provision of title IV of the Social Security Act, in order to test the effect on facilitating the reunification of families with children for whom out-of-home placement was determined to be necessary, the Secretary shall establish rules under which the State may deem the family of any such child (who would otherwise be considered a dependent child, as defined in section 406(a) of the Social Security Act, but for the placement of the child outside of the home of the family) to be eligible to receive aid under the State plan (including aid that the State may elect to provide for meeting any special needs) for the month immediately preceding the month during which such child is reunited with the family.

(c) DEMONSTRATION PROJECT EVALUATIONS.—Each State that conducts a demonstration project under this section, shall, after such project has been carried out for one year and again when such project is completed, submit to the Secretary a detailed evaluation of the project and of the contribution of the project to the achievement of the purpose of this section.

(d) STATUTORY CONSTRUCTION.—Title IV of the Social Security Act and the regulations promulgated under such title shall apply to demonstration projects conducted under this section to the extent such title is not inconsistent with the purposes of the demonstration projects.

SEC. 7108. DATA COLLECTION SYSTEMS.

(a) AUTOMATED DATA COLLECTION SYSTEMS.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (E); and

(3) by inserting after subparagraph (B) the following new subparagraphs:

"(C) 90 percent of so much of such expenditures as are for the planning, design, development, or installation of such statewide mechanized data collection and information retrieval systems (including 90 percent of the full amount of expenditures for hardware components for such systems), but only if such systems—

"(i) meet the requirements for data collection systems provided in regulations issued pursuant to 479(b)(2);

"(ii) have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating the verification of the eligibility of foster children); and

"(iii) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under the State plan approved under part B or the State plan approved under this part,

"(D) 50 percent of so much of such expenditures as are for the operation of a data collection and information system for the purposes of administering programs under the State plan under this part, and".

(b) OPERATING COSTS.—Section 425(a) (42 U.S.C. 625(a)) is amended by adding at the end the following new paragraph:

"(3) Funds expended by a State for any calendar quarter with respect to the operation of a data collection and information system described in section 474(a)(3)(C) for the purposes of administering programs under this part, shall be deemed to have been expended for child welfare services.".

(c) CONFORMING AMENDMENT.—Section 474A(d)(2), as added by section 7102 of this subtitle, is amended by striking "subparagraph (C)" and inserting "subparagraph (E)".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to expenditures made—

(1) after January 1, 1993; and

(2) with respect to section 474(a)(3)(C) of the Social Security Act, as added by such subsection, before October 1, 1995.

SEC. 7109. INDEPENDENT LIVING.

(a) ACCUMULATION OF ASSETS.—Section 477 (42 U.S.C. 677) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) inserting after subsection (h) the following new subsection:

"(i) Notwithstanding any other provision of this title and of title XIX, with respect to a child who is included in a program established under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for the purposes of determination of eligibility for programs under this title or title XIX may be disregarded for the purpose of allowing such child to establish a household. Such amount may not exceed an amount determined by the State agency responsible for the administration of the program as reasonable for the purpose of establishing a household.".

(b) INITIATIVE PAYMENTS MADE PERMANENT.—Section 477 (42 U.S.C. 677) is amended—

(1) by striking the last sentence in subsection (a)(1),

(2) by striking "any of the fiscal years 1988 through 1992" in subsection (c) and inserting "any subsequent fiscal year",

(3) by striking "for each of the fiscal years 1987 through 1992" in subsection (e)(1)(A) and inserting "for each fiscal year",

(4) by striking "fiscal years 1991 and 1992" in subsection (e)(1)(B) and inserting "fiscal year 1991 and any subsequent fiscal year", and

(5) by striking "for fiscal year 1992" in subsection (e)(1)(C)(ii)(II) and inserting "for fiscal year 1992 and any subsequent fiscal year".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1992.

SEC. 7110. TRAINING ACTIVITIES.

(a) CHILD WELFARE TRAINEESHIPS.—(1) Title IV is amended by inserting after section 426 the following new section:

"CHILD WELFARE TRAINEESHIPS

"SEC. 426A. (a) The Secretary shall approve an application for a grant to a public or nonprofit institution of higher learning to provide traineeships with stipends under section 426(a)(1)(C), only if the application—

"(1) provides assurances that each individual who receives a stipend with such traineeship (hereafter in this section referred to as a 'recipient') shall enter into an agreement with the institution of higher learning under which the recipient shall agree—

"(A) to participate in onsite training at a public or private child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

"(B) to be employed for a period of years equivalent to the period of the traineeship in a public or private nonprofit child welfare agency in any State after completing the postsecondary education for which the traineeship was awarded (within such period of time as is determined by the Secretary by regulation);

"(C) to provide the institution of higher learning and the Secretary with evidence of compliance with subparagraphs (A) and (B); and

"(D) in the event that the conditions of subparagraph (A) or (B) are not complied with (except as provided in the exceptions to repayment provisions described in subsection (b)), to repay to the Secretary all or part of the amount of the stipend, plus interest, and if applicable, reasonable collection fees (in compliance with regulations that the Secretary shall promulgate);

"(2) provides that an agreement entered into with a recipient shall fully disclose the terms and conditions under which the traineeship with stipend is granted; and

"(3) provides assurances that the institution of higher learning shall—

"(A) provide appropriate support and supervision of recipients;

"(B) enter into agreements with child welfare agencies for the onsite training of recipients;

"(C) develop and implement a curriculum in the field of child welfare services that—

"(i) incorporates the most recent information concerning best practices for the delivery of child welfare services; and

"(ii) incorporates information relating to clause (i) supplied to the institution through consultation with child welfare agencies;

"(D) permit a student who is employed in the field of child welfare services (at the time such student applies for a traineeship) to apply for a traineeship with a stipend if such traineeship furthers the student's progress towards the completion of degree requirements; and

"(E) develop and implement a system that tracks for a period of 3 years, beginning on the date of completion of any student of a child welfare services program of study, the employment record of such student in the field of child welfare services (for the purpose of determining the percentage of students who secure employment in the field of child welfare services and remain employed in such field).

"(b) A recipient shall not be considered in violation of the agreement entered into pursuant to subsection (a)(1) during any period in which the recipient satisfies repayment exceptions that may be prescribed by the Secretary by regulation.".

(2) Subparagraph (C) of section 426(a)(1) (42 U.S.C. 626(a)(1)) is amended by inserting "described in section 426A" after "including traineeships".

(3) The amendments made by this section shall apply to grants awarded on or after January 1, 1993.

(b) TRAINING FOR EMPLOYMENT IN CHILD WELFARE AGENCIES.—In order to improve the capacity of State and local child welfare agencies to administer the programs authorized under parts B and E of title IV of the Social Security Act and to provide services to families and children, the Secretary of Health and Human Services shall not later than April 1, 1993—

(1) publish final regulations establishing detailed guidelines to assist States in using Federal matching funds authorized under section 474(a)(3) for the purpose of providing training for individuals who are employed or preparing for employment by such agencies; and

(2) develop and publish a model staff recruitment, training, and staff retention program for use by such agencies.

(c) EXTENSION OF FUNDING FOR TRAINING OF ADOPTIVE AND FOSTER PARENTS AND STAFF MEMBERS.—Paragraph (3) of section 8006(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1992" and inserting "1995".

SEC. 7111. HEALTH CARE PLANS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 475(1)(C) (42 U.S.C. 675(1)(C)) is amended—

(1) in clause (i) by striking "and addresses" and inserting ", addresses, and telephone numbers",

(2) in clause (vii) by striking "and", and

(3) by redesignating clause (viii) as clause (ix) and inserting after clause (vii) the following:

"(viii) a record indicating that the child's foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic, and treatment services under title XIX; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to case plans established or reviewed on or after January 1, 1993.

SEC. 7112. CHILD WELFARE DEMONSTRATION PROJECTS.

Part E of title IV (42 U.S.C. 470 et seq.) is amended by adding at the end the following new section:

"SEC. 480. DEMONSTRATION PROJECTS.

"(a) IN GENERAL.—In order to grant States the flexibility and resources necessary to develop innovative policies and appropriate service networks to preserve and strengthen families with children at risk of needing placement outside their home, to reunite children with their families as promptly as possible if an out-of-home placement is found to be necessary, and to place children in adoptive homes or other permanent arrangements, including guardianships and placements with relatives, in a timely fashion if reunification with their families is impossible or is not in the best interest of any such child, and to provide for the evaluation of innovative State programs and the assessment of the impact of such programs on children and families, the Secretary may authorize not more than 10 States to conduct demonstration projects, which may be carried out throughout the State or in limited areas of the State, in accordance with this section.

"(b) CONSIDERATION OF APPLICATIONS.—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section.

"(c) CONTENTS OF APPLICATIONS.—

"(1) GENERAL RULES.—Each application by a State to conduct a demonstration project under this section shall—

"(A) propose a project designed to—

"(i) provide, in accordance with paragraph (2), preventive services and assistance to families which have problems that may lead to the removal of a child from the family;

"(ii) promote, in accordance with paragraph (3), the treatment of family problems so as to achieve the reunification of children with their families as promptly as possible after the time it becomes necessary to remove the child from the family;

"(iii) facilitate, in accordance with paragraph (4), the timely and permanent placement of children who are in foster care or who have been abandoned at or shortly after birth;

"(iv) develop, in accordance with paragraph (5), community-based family support services that are provided by trained individuals who live in the community;

"(v) provide adult mentoring services by adult volunteers to low-income or at-risk children or young adults who are in need of additional, on-going contact with adult role models; or

"(vi) address, in accordance with paragraph (6), any combination of child welfare services issues;

"(B) specify the area or areas of the State in which the project is to be conducted;

"(C) contain a commitment by the State—

"(i) to carry out the project during a period of not less than 2 and not more than 5 consecutive fiscal years beginning with fiscal year 1994; or

"(ii) if the State will not be able to properly plan the project before the beginning of fiscal year 1995, to plan the project during fiscal year 1995 and carry out the project during a period of not less than 4 consecutive fiscal years beginning with fiscal year 1996;

"(D) specify the provisions of part B and this part which, but for subsection (g)(1), would prevent the State from conducting the demonstration project;

"(E) identify who will receive services under the project;

"(F) provide assurances that payments to foster families will be sufficient to ensure an adequate number of foster parents; and

"(G) contain such other information as the Secretary may require by regulation.

"(2) PROJECTS TO PREVENT FAMILY DISSOLUTION.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(i) shall outline the services and procedures the State will offer to prevent family dissolution whenever possible. In addition, each such application by a State shall include the following:

"(A) CASE PLANS.—A commitment by the State to provide each child with a case plan, developed to the extent feasible, in consultation with family members.

"(B) MEASURES TO ASSIST FAMILIES IN ADDRESSING PROBLEMS THAT MAY LEAD TO REMOVAL FROM THE HOME.—A description of the measures to be employed by the State to ensure that families are assisted in addressing the problems that may result in the removal of the child from the home.

"(C) MEASURES TO KEEP PARENTS REQUIRING DRUG OR ALCOHOL TREATMENT WITH THEIR CHILDREN.—A description of the measures to be employed by the State to keep parents and their young children together, where appropriate, while the parent participates in drug or alcohol treatment.

"(D) DRUG AND ALCOHOL TREATMENT MEASURES.—A description of the measures to be employed by the State to ensure that drug and alcohol treatment programs are made available to parents who are substance abusers.

"(E) MEASURES TO COORDINATE FAMILY WELFARE FUNDING AND SERVICES.—A description of the measures to be employed by the State to coordinate the funding of, and the services and benefits provided by, programs which provide services to families with children at risk of being placed in the care of a child welfare, mental health, or juvenile justice agency, including the following programs:

"(i) The State's child welfare services program carried out under the State plan approved under part B.

"(ii) The maternal and child health block grant program under title V.

"(iii) The job opportunities and basic skills training program carried out pursuant to section 402(a)(19) and part F.

"(iv) Medical assistance under the State plan approved under title XIX.

"(v) Drug and other substance abuse treatment programs.

"(vi) Mental health services programs.

"(vii) Any new services for children and families that the State deems necessary to meet the needs of all family members in order to carry out the purposes of this section.

"(viii) Such other programs as the State deems appropriate.

"(3) FAMILY REUNIFICATION PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(ii) shall include the following:

"(A) DESCRIPTION OF PROPOSED PROCEDURES TO ASSIST FAMILY REUNIFICATION.—A description of how the State will—

"(i) design a treatment plan for addressing the family problems that led to removal of the child from the home;

"(ii) to the extent feasible, involve all family members in executing the plan;

"(iii) coordinate the programs and resources necessary to address the problem that led to removal of the child from the home;

"(iv) reunify the child with the family as soon as possible (consistent with the best interests of the child); and

"(v) implement improvements in laws and procedures so as to ensure timely hearings and decisions.

"(B) REASONS WHY PROPOSED PROCEDURES WOULD RESULT IN EARLIER FAMILY REUNIFICATION.—A discussion of why the particular procedures proposed in the application are likely to result in earlier or more successful family reunification than is achieved under the present policies and procedures of the State.

"(4) PERMANENT PLACEMENT PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(iii) shall describe how the State will improve its laws and administrative procedures so as to provide, where appropriate, more expeditious, permanent placement of children who are in foster care, are boarder babies, were abandoned at or shortly after birth, have parents addicted to drugs, or were abused.

"(5) FAMILY SUPPORT DEMONSTRATION PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(iv) shall include a description of—

"(A) how the State will conduct innovative programs which train individuals who live in a community to provide family support services to other families in the community with children at risk of being placed in foster care, using services which are based on a self-help model; and

"(B) how such programs will be coordinated with other child welfare and family support services available in the area.

"(6) PROJECTS PROVIDING ADULT MENTORING.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(v) shall include a description of—

"(A) how the State will support the provision by private, nonprofit, community-based organizations of one or more projects which provide adult mentoring services through adult volunteers for low-income or at-risk children or young adults, who can benefit from the guidance, encouragement, and experience of such volunteers through frequent and regular contact with such volunteers;

"(B) the length of time, not to exceed 5 years, for which funds will be required for the provision of adult mentoring services; and

"(C) how such projects will be coordinated with other programs which provide educational services, job counseling and training services, social services, or a combination of such services for low-income or at-risk children or young adults, if such coordination is appropriate.

Funds shall be available beyond the first year of a project which provides adult mentoring services only upon successful provision of such services in the previous year.

"(7) PROJECTS ADDRESSING OTHER CHILD WELFARE ISSUES.—Each application by a State to

conduct a demonstration project under this section of the type described in paragraph (1)(A)(vi) shall describe a project designed to test an innovative approach to any number of significant child welfare services issues, which may include—

"(A) avoiding out-of-home placements;

"(B) achieving, where appropriate, speedy reunification of families from which it has been necessary to remove a child;

"(C) reducing the time it takes to permanently place children who have been removed from their families when such placement is appropriate;

"(D) where appropriate, permitting children to remain with, or be quickly reunited with, their parents while their parents receive treatment for substance abuse; and

"(E) identifying risk factors which would allow child welfare agencies to identify and offer assistance to families that may need protective services.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Within 12 months after the date of the enactment of this section—

"(A) the Secretary shall transmit to each State a detailed explanation of the requirements for participation in the demonstration program established by this section;

"(B) any State interested in conducting a demonstration project under this section shall transmit to the Secretary a letter of intent containing a tentative description of the project; and

"(C) the Secretary shall, subject to paragraph (4), approve not more than 10 applications which meet the applicable requirements of subsection (c).

"(2) DISTRIBUTION OF DEMONSTRATIONS BY STATE POPULATION.—The Secretary, to the extent feasible (in view of the number of approvable applications received), shall provide that in approving applications to conduct demonstration projects under this section that—

"(A) at least 2 and not more than 4 of such applications approved are the applications of States with populations of less than 1.5 million;

"(B) at least 3 and not more than 5 of such applications approved are the applications of States with populations between 1.5 and 7 million; and

"(C) at least 2 and not more than 4 of such applications approved are the applications of States with populations over 7 million.

"(3) DISTRIBUTION OF DEMONSTRATIONS BY REGION.—The Secretary shall provide that in approving applications to conduct demonstration projects under this section that no more than 4 of such applications shall be approved for any one geographical region (as determined by the Secretary) of the country.

"(4) FREEDOM OF STATES TO SELECT AREAS IN WHICH TO CONDUCT DEMONSTRATION.—The Secretary may not, as a condition of approval, require any State to conduct a project under this section in any area of the State not specified in the application therefor.

"(5) CERTIFICATION REQUIRED.—The Secretary shall not approve the application of a State to conduct a demonstration project under this section unless the State certifies that all cost savings resulting from the project will be used to provide child welfare services (within the meaning of section 425(a)(1)) to families.

"(e) GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants in accordance with this subsection to each State whose application to conduct a demonstration project under this section is approved by the Secretary, in accordance with a contract prepared by the Secretary (in consultation with the entity or entities selected pursuant to subsection (f)) which specifies the duties of the Secretary, the State, and the entity selected to evaluate the project in achieving the purpose described in subsection (a).

"(2) USE OF GRANTS.—Each State which receives funds under the demonstration program under this section may use such funds to improve the provision of child welfare, foster care, and adoption assistance services in any manner that the State deems appropriate.

"(3) ANNUAL GRANTS.—The Secretary shall make grants to States under paragraph (1) for each fiscal year for which the State is authorized to conduct a demonstration project under this section.

"(4) AMOUNT OF GRANT TO INCLUDE STATE DEMONSTRATION BONUS.—

"(A) CALCULATION OF AMOUNT OF GRANT.—The amount of the grant to be paid under paragraph (1) to a State for a fiscal year shall be an amount equal to the applicable percentage of the sum of—

"(i) the amounts paid to the State for fiscal year 1992 pursuant to sections 423 and 474 (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance);

"(ii) the portion of the amount (if any) by which the amounts appropriated for the fiscal year for payments to States under part B exceed the amounts so appropriated for fiscal year 1992, that would be payable to the State pursuant to such part if the State were not authorized to conduct a demonstration project under this section; and

"(iii) 20 percent of the amount that would have been payable to the State for the immediately preceding fiscal year pursuant to section 423 if the State were not authorized to conduct a demonstration project under this section.

"(B) APPLICABLE PERCENTAGE DEFINED.—

"(i) As used in subparagraph (A), the term 'applicable percentage' means, with respect to a State and a fiscal year, the quotient set forth in clause (ii) as determined by the Secretary after taking into account the estimates made under subsection (f)(2)(B) for the fiscal year with respect to the State.

"(ii) The quotient set forth in this clause is—

"(I) the number of children in the areas in which the State is conducting a demonstration project under this section with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct the project; divided by

"(II) the total number of children in the State with respect to whom the State would have so made such payments for the fiscal year.

"(5) NOTIFICATION TO STATES OF AMOUNT OF GRANTS.—On the 1st day of each fiscal year for which a State is to be made a grant under paragraph (1), the Secretary shall notify the State of the amount of the grant.

"(6) GRANTS TO BE PAID IN EQUAL QUARTERLY INSTALLMENTS.—The Secretary shall pay each grant under paragraph (1) in equal quarterly installments.

"(7) SUPPLEMENTARY PAYMENT.—Within 3 months after the end of each fiscal year with respect to which estimates are made under subsection (f)(2)(B) with respect to a State, the Secretary shall—

"(A) take such estimates into account in determining the amount that would have been payable to the State under section 474 for the fiscal year (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance) if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct a demonstration project under this section; and

"(B) pay the State the amount (if any) by which—

"(i) the amount determined under subparagraph (A) exceeds

"(ii) the amount paid to the State pursuant to section 474 for fiscal year 1992 (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance).

"(f) EVALUATION OF DEMONSTRATION PROJECTS.—

"(1) SELECTION OF EVALUATING ENTITY.—The Secretary shall—

"(A) publish in the Commerce Daily a request for applications from entities that are capable of, and interested in, performing the functions described in paragraph (2) in time for such an entity to participate in the development of contracts under subsection (e)(1); and

"(B) enter into a contract with 1 or more entities to perform such functions.

"(2) FUNCTIONS OF EVALUATING ENTITY.—The functions of the entity or entities selected by the Secretary pursuant to paragraph (1) are—

"(A) to assist the Secretary and the States in devising a detailed plan for the evaluation of demonstration projects conducted under this section;

"(B) within 30 days after the end of each fiscal year, to submit a report to the Secretary, with respect to each such project, that estimates in accordance with the data collection provisions of the contract described in subsection (e)(1)—

"(i) the number of children in the areas in which the State is conducting a demonstration project under this section with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct the project; and

"(ii) the average length of time for which such payments would have been so made with respect to such children;

"(C) prepare in accordance with paragraph (3), and submit to the Secretary, with respect to each such project, interim reports that evaluate the costs and benefits of the project; and

"(D) prepare in accordance with paragraph (3), and submit to the Secretary, with respect to each such project, a final report that—

"(i) describes in detail, and documents, the ways in which the project has changed the provision of preventive services, reunification services, adoption assistance services, and other related child welfare and foster care services in the State; and

"(ii) evaluates the costs and benefits of the project.

"(3) EVALUATION REQUIREMENTS.—In evaluating a demonstration project conducted by a State under this section, the entity or entities selected by the Secretary to perform the evaluation shall—

"(A) collect such information as may be necessary to analyze the impact of the project on—

"(i) foster care placement rates;

"(ii) child development and behavior (including academic performance, intellectual development, and health); and

"(iii) family relationships;

"(B) collect such other information on outcomes as the Secretary or the State deems appropriate; and

"(C) use methodologies to measure outcomes with respect to children and families who participate in the projects under this section that enable comparison with similar outcome measurements of children and families who have not *received the services offered by the projects under this section.*

In selecting evaluating entities, the Secretary shall ensure that an appropriate portion of the evaluations shall use experimental and control groups (of a sample size determined in accordance with appropriate statistical practices).

"(4) DUTY OF STATES TO PROVIDE INFORMATION.—Each State which conducts a demonstration project under this section shall provide the entity or entities selected by the Secretary to evaluate the project with such information with respect to the project and the State programs carried out pursuant to part B and this part as the entity or entities may request under the contract described in subsection (e)(1) entered into by the Secretary, the entity, and the State.

"(5) COSTS OF EVALUATIONS.—The Secretary shall pay the costs incurred during each fiscal year by any State in assisting the evaluation of the demonstration project conducted by the State under this section, to the extent that such costs exceed the amount (estimated by the Secretary) that the State would have expended during the fiscal year to comply with the data reporting requirements of part B and this part if the Secretary had approved the State plans under such parts for the fiscal year and the State were not authorized to conduct the project.

"(g) APPLICABILITY OF PART B AND OTHER SECTIONS OF THIS PART.—During the period in which a State is conducting a demonstration project under this section—

"(1) part B (other than section 427) and the other provisions of this part (other than section 471(a)(1) requiring the State plan to provide for adoption assistance in accordance with section 473, paragraphs (8), (12), (13), (15), and (16) of section 471(a), sections 473, 474 (as it relates to adoption assistance under section 473), and section 479) shall not apply to the State; and

"(2) the State shall, for purposes of section 402(a)(20), be deemed to have in effect a State plan approved under this part.

"(h) PROHIBITION AGAINST IMPAIRMENT OF ENTITLEMENT TO FOSTER CARE BENEFITS.—A State may not carry out a demonstration project under this section in a manner which impairs the entitlement of any qualified child to foster care benefits under a State plan approved under this part.".

SEC. 7113. HOME REBUILDERS DEMONSTRATION PROJECT.

(a) IN GENERAL.—Upon written application of the State of New York (in this section referred to as the "State"), and after the Secretary of Health and Human Services approves the application as meeting the requirements set forth in subsection (b), the State may conduct a demonstration project for the purpose of testing how to enhance the practices and procedures that will expedite the discharge of children from foster care, including the appropriate reunification of children with their families, or the adoption of children by suitable adoptive parents.

(b) PROJECT REQUIREMENTS.—In an application submitted under subsection (a), the State shall provide that the following terms and conditions shall be in effect under the demonstration project:

(1) Services and assistance for reunification of children with their families or adoption may be provided to not more than 2,000 eligible children (exclusive of siblings).

(2) Services and assistance shall be provided to explore and test innovative means to facilitate expedited and appropriate discharge of children from foster care. Such services and assistance may include social services and other forms of assistance designed to ameliorate or remedy personal problems, behaviors, or home conditions.

(3) For the purpose of testing an alternative to the per diem method of provider reimbursement, payments to participating agencies for total costs associated with providing foster care maintenance, services, and assistance on behalf of children will be disbursed pursuant to an approved per capita reimbursement methodology. The per capita payment will be based on the total number of care days the eligible population of children can reasonably be expected to use during the demonstration period.

(4) Eligibility for the demonstration project shall be based on the age of the child, the length of time in foster care, the type of placement, and the permanency planning goal.

(5) If an eligible child has siblings in foster care, siblings may be regarded as eligible project participants for the purpose of estimating total reimbursements in a manner approved by the Secretary of Health and Human Services.

(6) The Federal Government shall pay to the State with respect to children eligible for the demonstration project who are receiving maintenance payments, services, and assistance under the demonstration project the same amounts as would have been payable with respect to such children under parts B and E of title IV of the Social Security Act as if the families were receiving benefits under the State plan in effect during the period of the demonstration and such amounts shall be in lieu of amounts otherwise payable under such parts. The State and the Secretary of Health and Human Services shall agree to a methodology for determining such amounts prior to the beginning of the demonstration project.

(c) WAIVERS.—The Secretary of Health and Human Services may waive compliance with requirements in part E of title IV of the Social Security Act (other than paragraphs 8, 12, 13, 15, and 16 of section 471(a)) which (if applied) would prevent the State from carrying out the demonstration project under this section or prevent the State from effectively achieving the purpose of such a project.

(d) DATE OF COMMENCEMENT.—The demonstration project under this section shall commence not later than December 31, 1993.

(e) DURATION OF DEMONSTRATION.—The demonstration project under this section shall be conducted for a period not to exceed 3 years after the date such project begins.

(f) EVALUATION OF REPORTS.—The State shall collect data and conduct an appropriate evaluation of the demonstration project so as to demonstrate the effectiveness of the project. The evaluation design shall be approved by the Secretary of Health and Human Services. The State shall provide an interim and final evaluation report to the Secretary of Health and Human Services at such times and in such manner as such Secretary determines appropriate.

(g) PROHIBITION AGAINST IMPAIRMENT OF ENTITLEMENT TO FOSTER CARE BENEFITS.—The State may not carry out the demonstration project under this section in a manner which impairs the entitlement of any qualified child to foster care benefits under a State plan approved under part E of title IV of the Social Security Act.

SEC. 7114. CHILD WELFARE SERVICES PROGRAM REVIEWS.

Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note; 103 Stat. 2490) is amended—

(1) by striking "1991" and inserting "1993";

(2) by striking "triennial";

(3) by striking "1992" and inserting "1994"; and

(4) in the section heading—

*(A) by striking "**TRIENNIAL** and*

*(B) by striking "**1991**" and inserting "**1993**".*

SEC. 7115. CHILD WELFARE REVIEW SYSTEM.

(a) RECOMMENDATIONS BY SECRETARY.—

(1) IN GENERAL.—Before May 1, 1993, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate recommendations for legislation to establish a system for—

(A) the review of each State child welfare program for the purposes of—

(i) assessing whether the program is being carried out as required by parts B and E of title IV of the Social Security Act;

(ii) identifying any area in which the program is not being carried out as so required, and the degree to which the program is not being so carried out; and

(iii) identifying the circumstances under which financial penalties shall be imposed in cases of any failure to comply with the requirements of such parts B and E, unless action is taken to correct such failure; and

(B) the provision of technical assistance to any such program.

(2) STATE CHILD WELFARE PROGRAM DEFINED.—As used in this section, the term "child welfare program" means, with respect to a State—

(A) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan for child welfare services developed in accordance with section 422 of the Social Security Act; and

(B) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan approved by the Secretary under part E of such Act.

(b) CONTENT OF RECOMMENDATIONS.—The recommendations required by subsection (a) shall include provisions—

(1) requiring each State child welfare program to be reviewed periodically to determine—

(A) whether and, where appropriate, the degree to which, the program complies with the requirements of the State plans referred to in subsection (a)(2); and

(B) the extent to which the amounts claimed to have been expended by the State for foster care maintenance payments under section 472 of the Social Security Act and for adoption assistance payments under section 473 of such Act are eligible for reimbursement under part E of such Act; and

(2) specifying the criteria that are to be used to assess, with respect to each subparagraph of paragraph (1)—

(A) whether the program has complied with the requirements that apply to the matters described in such subparagraph; and

(B) the degree of such compliance.

(c) DEVELOPMENT OF RECOMMENDATIONS.—The recommendations required by subsection (a) shall be developed in consultation with—

(1) representatives of State agencies administering the State plans referred to in subsection (a)(2);

(2) representatives of private, nonprofit organizations which have an interest in child welfare; and

(3) such other individuals as the Secretary of Health and Human Services may determine.

SEC. 7116. PAYMENT OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

Section 474 of the Social Security Act (42 U.S.C. 674) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary shall pay any State claim for reimbursement for expenditures pursuant to subsection (a) within 90 days of the receipt of such claim unless the Secretary issues a deferral or a disallowance of such claim prior to the expiration of such 90 day period.".

SEC. 7117. COMMISSION ON CHILDHOOD DISABILITY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary")

shall appoint a Commission on the Evaluation of Disability in Children (hereafter in this section referred to as the "Commission").

(b) APPOINTMENT OF MEMBERS.—(1) The Secretary shall appoint 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children,

(ii) the study of congenital, genetic, or perinatal disorders in children, or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology,

(ii) education and rehabilitation,

(iii) law, or

(iv) the administration of disability programs, and

(v) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed within 90 days after the date of the enactment of this Act, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chairman of the Commission for a term equivalent to the duration of the Commission.

(c) ADMINISTRATIVE PROVISIONS.—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of any provision of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for Level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(d) ASSISTANCE TO COMMISSION.—The Commission may engage such technical assistance from individuals skilled in medical and other aspects of childhood disability as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(e) STUDY BY THE COMMISSION.—(1) The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the effects of the definition of "disability" under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) in effect on the date of enactment of this Act, as such definition applies to determining whether a child under the age of 18 is eligible to receive benefits under such title XVI, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 is eligible to receive benefits under title XVI.

(2) The study described in paragraph (1) shall include issues of—

(A) recommendations for revision of the Childhood Listing of Impairments under regulations promulgated under Part B of Appendix 1 to Subpart P, section 404 of title 20, Code of Federal Regulations;

(B) the validity of a presumption of disability for children under age 4 with a genetic, congenital, or perinatal disorder;

(C) whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI, might appropriately be met through expansion of Federal health assistance programs (including Medical Assistance under title XIX of this Act); and

(D) such other issues that the Secretary determines to be appropriate.

(f) REPORT.—Not later than September 1, 1994, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance in the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on September 30, 1994.

PART II—PROVISIONS RELATING TO COMPREHENSIVE SUBSTANCE ABUSE PROGRAMS FOR PREGNANT WOMEN AND CARETAKER PARENTS WITH CHILDREN

SEC. 7121. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAMS FOR PREGNANT WOMEN AND CARETAKER PARENTS.

Part B of title IV, as amended by section 7101, is further amended by adding at the end thereof the following new section:

"PAYMENTS TO STATES FOR CERTAIN SERVICES FURNISHED UNDER COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAMS

"SEC. 430. (a) For the purpose of enabling States to establish comprehensive programs of substance abuse treatment for certain low-income pregnant women, caretaker parents, and their children, there are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section.

"(b)(1) Subject to paragraphs (2) and (3), the Secretary shall pay as an entitlement to each State for each quarter, from the sums appropriated therefor, an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended by the State for that quarter in planning, developing, and operating a qualified comprehensive substance abuse treatment program, and in providing nonmedical substance abuse treatment support services for qualified individuals under such program.

"(2) The total amount paid to a State under paragraph (1) for a fiscal year may not exceed the sum of—

"(A) the amount to which a State is entitled under paragraph (3) for the fiscal year; and

"(B) any unexpended portion of the amount to which a State was entitled for the preceding fiscal year.

"(3)(A) The amount to which a State is entitled under this paragraph for a fiscal year shall be determined in the manner specified in section 421(a), except that the total amount to which all States are entitled under this paragraph may not exceed $75,000,000 for each of the fiscal years 1993 and 1994, $100,000,000 for each of the fiscal years 1995 and 1996, and $125,000,000 for fiscal year 1997.

"(B) The amount to which a State is entitled under this paragraph for a fiscal year shall remain available for such fiscal year and the succeeding fiscal year.

"(4) Payments to a State under paragraph (1) shall be made in the manner specified in section 423(b).

"(c) As a condition of receiving payment under subsection (b)(1) for a fiscal year, a State shall provide to the Secretary (in such form as the Secretary may prescribe) written assurances that—

"(1) the total amount of funds expended by the State (and any political subdivision thereof) from non-Federal sources for the fiscal year for the purpose of providing nonmedical substance abuse treatment support services for the fiscal year will not be less than the total amount expended for such services from such sources for the immediately preceding fiscal year, and

"(2) an individual who is referred to a program receiving funds authorized under this section by a State agency described in section 422(b)(1) shall be given priority in admission to such program.

"(d) The Secretary shall require each State receiving payments under subsection (b)(1) to report (in such manner and form and at such time as the Secretary determines to be appropriate) such information as may be necessary to permit the Secretary and the Congress to evaluate the operation and effectiveness of comprehensive substance abuse treatment services under this section. Such information shall include the number of individuals participating in such program in the State, any limits imposed by the State on the number of individuals who may enroll in the program, and the number of individuals on any waiting list maintained by the State for participation in the program.

"(e) For purposes of this section:

"(1) The term 'nonmedical substance abuse treatment support services' means—

"(A) home visitation services, nutrition services, child care, and parenting education;

"(B) substance abuse prevention, treatment, and follow-up services (to the extent such services are not furnished under a State plan approved under title XIX); and

"(C) any other services (such as room and board at a residential substance abuse treatment facility for a qualified individual and, where appropriate, the individual's child) that are determined by the State (in accordance with regulations promulgated by the Secretary) to be necessary and appropriate to support the participation of a qualified individual in a qualified comprehensive substance abuse treatment program.

"(2) The term 'qualified individual' means an individual who is—

"(A) a pregnant woman or caretaker parent who is eligible for medical assistance under a State plan approved under title XIX;

"(B) at the option of the State, any other pregnant woman or caretaker parent whose income does not exceed an amount specified by the State; and

"(C) where appropriate, any child of an individual specified in subparagraph (A) or (B).

"(3) The term 'qualified comprehensive substance abuse treatment program' means a program, established by a State, that—

"(A) makes available to qualified individuals (either directly or through arrangements with others) at least the following services:

"(i) substance abuse prevention, treatment, and follow up services (on an outpatient basis and, at the option of the State, in a residential facility);

"(ii) prenatal, gynecological, and pediatric medical services;

"(iii) transportation; and

"(iv) nonmedical substance abuse treatment support services;

"(B) provides for appropriate coordination of substance abuse treatment-related medical services furnished to individuals under the program (under title V or XIX) and nonmedical substance abuse support services for which payment may be made under this section; and

"(C) is administered by an agency (or agencies) designated by the Governor of the State.

"(4) The term 'caretaker parent' means a parent who personally provides (or expects to provide) care for a child.".

PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 7131. DISREGARD OF INCOME AND RESOURCES DESIGNATED FOR EDUCATION, TRAINING, AND EMPLOYABILITY.

(a) Disregard as Resource.—Subparagraph (B) of section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended—

(1) by striking "or" before "(iv)", and

(2) by inserting ", or (v) at the option of the State, in the case of a family receiving aid under the State plan (and a family not receiving such aid but which received such aid in at least 1 of the preceding 4 months or became ineligible for such aid during the preceding 12 months because of excessive earnings), any amount not to exceed $8,000 in a qualified asset account (as defined in section 406(i)) of such family" before "; and".

(b) Disregard as Income.—

(1) In general.—Subparagraph (A) of section 402(a)(8) (42 U.S.C. 602(a)(8)) is amended—

(A) by striking "and" at the end of clause (vii), and

(B) by inserting after clause (viii) the following new clause:

"(ix) shall disregard any interest or income earned on a qualified asset account (as defined in section 406(i)); and".

(2) Treatment as income.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the semicolon at the end of subparagraph (C) and inserting "; and", and

(C) by adding at the end the following new subparagraph:

"(D) shall treat as income any distributions from a qualified asset account (as defined in section 406(i)(1)) which do not meet the definition of a qualified distribution under section 406(i)(2);".

(c) Qualified Asset Accounts.—Section 406 (42 U.S.C. 606) is amended by adding at the end the following:

"(i)(1) The term 'qualified asset account' means a mechanism approved by the State (such as individual retirement accounts, escrow accounts, or savings bonds) that allows savings of a family receiving aid to families with dependent children to be used for qualified distributions.

"(2) The term 'qualified distributions' means distributions for expenses directly related to one or more of the following purposes—

"(A) the attendance of a member of the family at an eligible post-secondary education institution or an eligible training program,

"(B) the improving of the employability (including self-employment) of a member of the family (such as through the purchase of an automobile), or

"(C) the purchase of a home for the family.

"(3) A post-secondary institution's or training program's eligibility under this subsection shall be determined by the State under guidelines established by the Secretary.".

(d) Report.—The Secretary of Health and Human Services shall conduct a study of the use of qualified asset accounts established pursuant to the amendments made by this section, and shall report on such study and any recommendations for modifications of such amendments to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 1997.

(e) Effective Date.—The amendments made by this section shall take effect on October 1, 1993, with respect to accounts approved on or after such date and before October 1, 1997.

SEC. 7132. DISREGARD OF INCOME AND RESOURCES RELATED TO SELF-EMPLOYMENT.

(a) State Plan Requirements.—Section 402(a) (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (44);

(2) by striking the period at the end of paragraph (45) and inserting "; and"; and

(3) by inserting after paragraph (45) the following new paragraph:

"(46) at the option of the State, provide that the State agency—

"(A)(i) shall not include as a resource of the family of which a child referred to in paragraph (7)(A) is a member, for purposes of paragraph (7)(B), the first $10,000 of the net worth (assets reduced by liabilities with respect thereto) of all microenterprises (as defined in section 406(j)(1)) owned, in whole or in part, by the child or by a relative or other individual referred to in paragraph (7)(A), for a period not to exceed 2 years; and

"(ii) shall take into consideration as earned income of the family of which the child is a member, only the net profits (as defined in section 406(i)(2)) of such microenterprises; and

"(B) shall ensure that caseworkers are able to properly advise recipients of aid under the State plan of the option of microenterprise as a legitimate route towards self-sufficiency, and that caseworkers encourage recipients of such aid who are interested in starting a microenterprise to participate in a program designed to assist them in such effort.".

(b) Definitions.—Section 406 (42 U.S.C. 606), as amended by section 7131, is further amended by adding at the end the following:

"(j)(1) The term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

"(2) The term 'net profits' means, with respect to a microenterprise, the gross receipts of the business, minus—

"(A) payments of principal or interest on a loan to the microenterprise;

"(B) transportation expenses;

"(C) inventory costs;

"(D) expenditures to purchase capital equipment;

"(E) cash retained by the microenterprise for future use by the business;

"(F) taxes paid by reason of the business;

"(G) if the business is covered under a policy of insurance against loss—

"(i) the premiums paid for such insurance; and

"(ii) the losses incurred by the business that are not reimbursed by the insurer solely by reason of the existence of a deductible with respect to the insurance policy;

"(H) the reasonable costs of obtaining 1 motor vehicle necessary for the conduct of the business; and

"(I) the other expenses of the business.".

(c) Inclusion of Microenterprise Training and Activities in the JOBS Program.—

(1) In general.—Section 482(d)(1) (42 U.S.C. 682(d)(1)) is amended adding at the end the following:

"(C) The services and activities referred to in subparagraph (A)—

"(i) in the case that at least 3 percent of the adult recipients of aid under the State plan approved under part A (as of the close of the immediately preceding fiscal year) elect to participate in microenterprise activities, shall include programs described in paragraph (4); or

"(ii) in the case that not more than 3 percent of the adult recipients of such aid elect to participate in microenterprise activities, may include programs described in paragraph (4).".

(2) Microenterprise programs.—Section 482(d) (42 U.S.C. 682(d)) is amended by adding at the end the following:

"(4) The programs described in this paragraph are programs of public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

"(A) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to business planning, financing, marketing, and other microenterprise development activities) to owners of microenterprises and persons developing microenterprises; and

"(B) providing general support (such as peer support and self-esteem programs) to owners of microenterprises and persons developing microenterprises.".

(d) Effective Date.—The amendments made by this section shall apply to payments under part A of title IV of the Social Security Act for calendar quarters beginning on or after October 1, 1992.

SEC. 7133. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC-UP PROGRAM.

Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking "October 1, 1992" and inserting "the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act".

SEC. 7134. STATE OPTION TO USE RETROSPECTIVE BUDGETING WITHOUT MONTHLY REPORTING.

(a) In General.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended—

(1) by striking all that precedes subparagraph (A) and inserting the following:

"(13) provide, at the option of the State and with respect to such category or categories as the State may select and identify in the State plan, that—"; and

(2) in each of subparagraphs (A) and (B), by striking ", in the case of families who are required to report monthly to the State agency pursuant to paragraph (14)".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1993 and such payments for succeeding fiscal years.

PART IV—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

SEC. 7141. FUNDING FOR THE JOBS PROGRAM.

(a) Enhanced Match for Fiscal Years 1993, 1994, and 1995.—Section 403(l) (42 U.S.C. 603(l)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Subclause (I) of paragraph (1)(A)(ii) shall be applied by substituting—

"(i) '65 percent' for '50 percent', in fiscal year 1993;

"(ii) '60 percent' for '50 percent', in fiscal year 1994; and

"(iii) '55 percent' for '50 percent', in fiscal year 1995.

"(B) Subclause (II) of paragraph (1)(A)(ii) shall be applied by substituting—

"(i) 'the sum of 15 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1993;

"(ii) 'the sum of 10 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1994; and

"(iii) 'the sum of 5 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1995.

"(C) This paragraph shall not apply with respect to any State in any fiscal year in which State or local funds expended for the costs of operating a program established under part F in such fiscal year (determined without regard to this paragraph) are not at least at the level expended for the prior fiscal year.".

(b) INCREASE IN FUNDING CAP FOR FISCAL YEARS 1993 AND 1994.—Section 403(k)(3) (42 U.S.C. 603(k)(3)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by striking subparagraphs (C) and (D) and inserting the following:

"(C) $1,000,000,000 in the case of each of the fiscal years 1991 and 1992,

"(D) $1,100,000,000 in the case of fiscal year 1993,

"(E) $1,200,000,000 in the case of fiscal year 1994,".

SEC. 7142. EXPANSION OF COVERAGE FOR INDIAN TRIBES.

(a) IN GENERAL.—Section 482(i)(2)(A) (42 U.S.C. 682(i)(2)(A)) is amended by striking "members of such Indian tribe receiving aid to families with dependent children" and inserting "Indians receiving aid to families with dependent children who reside on the reservation or within the designated service area".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 7143. ASSIGNMENT OF INDIVIDUALS TO WORK SUPPLEMENTATION PROGRAM.

(a) IN GENERAL.—Section 484(c) (42 U.S.C. 684(c)) is amended by striking "section 482(e) or (f)" and inserting "section 482(f)".

(b) ASSIGNMENT IN PRIVATE SECTOR.—Section 482(e) (42 U.S.C. 682(e)) is amended—

(1) by striking subparagraph (C) of paragraph (3) and inserting the following new subparagraph:

"(C) For purposes of this section, a supplemented job is a job provided to an eligible individual by any nonpublic employer for which all or part of the wages are paid by the State or local agency administering the State plan under part A. A State may subsidize under the program any job which such State determines to be appropriate."; and

(2) by striking subparagraph (A) of paragraph (5) and inserting the following new subparagraph:

"(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide that an eligible individual filling a job position provided by a nonpublic employer shall be given employee status by such employer during the first 13 weeks such individual fills such position.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to assignments made on or after October 1, 1992.

PART V—COMMUNITY WORKS PROGRESS DEMONSTRATIONS.

SEC. 7151. COMMUNITY WORKS PROGRESS DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et. seq.) is amended by adding at the end the following new section:

"COMMUNITY WORKS PROGRESS DEMONSTRATION PROJECTS

"SEC. 1144. (a) ESTABLISHMENT.—The Secretary shall, in consultation with the Secretary of Labor, award grants to public and private nonprofit organizations (hereafter in this section referred to as "organizations" or an "organization") to carry out demonstration projects for community works progress.

"(b) PROJECT REQUIREMENTS.—

"(1) IN GENERAL.—A community works progress project conducted under this section shall serve a significant public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and child care.

"(2) ADDITIONAL REQUIREMENTS.—Any organization which conducts a community works progress project under this section shall ensure that the project complies with the nonduplication and nondisplacement requirements set forth in subsections (a) and (b) of section 177 of the National and Community Service Act of 1990 and that the project does not impair any contracts for services or any collective bargaining agreements existing at the time the project commences.

"(3) FAILURE TO MEET REQUIREMENTS.—The Secretary may suspend or terminate payments under this section for a community works progress project if the Secretary determines that an organization conducting such project has materially failed to comply with this section, the application submitted under subsection (e), or any other terms and conditions of a grant under this section agreed to by such organization and the Secretary.

"(c) PARTICIPATION IN PROJECTS.—

"(1) IN GENERAL.—To be eligible to participate in a community works progress project under this section, an individual shall be—

"(A) receiving, eligible to receive, or have exhausted (while participating in such a project), unemployment compensation under an unemployment compensation law of a State or of the United States,

"(B) receiving, eligible to receive, or at risk of becoming eligible to receive, aid to families with dependent children under part A of title IV, or

"(C) a noncustodial parent of a child who is receiving aid to families with dependent children under part A of title IV.

"(2) PARTICIPANTS IN JOBS PROGRAM.—If an individual is receiving aid to families with dependent children under part A of title IV and participating in the job opportunities and basic skills training program under part F of such title, such individual may be assigned by the State agency to participate in a community works progress project if—

"(A) such participation does not conflict with the requirements of such part F, and

"(B) such individual is referred to participate in the community works progress project in accordance with the procedures established under such part F.

"(3) REQUIREMENTS RELATED TO PARTICIPATION.—

"(A) IN GENERAL.—In order to assure that each individual will have time to seek alternative employment or to participate in an alternative employability enhancement activity, no individual may work as a participant in a community works progress project under this section for more than 32 hours per week.

"(B) ADDITIONAL REQUIREMENTS.—

"(i) INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION.—Except as provided in subparagraph (A), individuals who are receiving unemployment compensation under an unemployment compensation law of a State or of the United States shall agree to work as participants in a community works progress project on a weekly basis the number of hours determined by dividing—

"(I) the amount of the weekly unemployment compensation received by such individual, by

"(II) the Federal minimum wage or the applicable State minimum wage, whichever is greater.

"(ii) INDIVIDUALS RECEIVING AFDC.—In addition to the limitation set forth in subparagraph (A), individuals who are receiving aid to families with dependent children under part A of title IV may not be required to work as participants in a community works progress project on a monthly basis more than the number of hours determined by dividing—

"(I) the amount of monthly assistance the family of the individual is eligible to receive under such part, by

"(II) the Federal minimum wage or the applicable State minimum wage, whichever is greater.

"(4) TESTING AND EDUCATION REQUIREMENTS.—

"(A) TESTING.—Except as provided in subparagraph (C), each participant in a community works progress project shall be tested for basic reading and writing competence prior to employment under such project.

"(B) EDUCATION REQUIREMENT.—

"(i) FAILURE TO SATISFACTORILY COMPLETE TEST.—Participants who fail to complete satisfactorily the basic competency test required in subparagraph (A) shall be furnished counseling and instruction.

"(ii) LIMITED-ENGLISH.—Participants with limited-English speaking ability may be furnished such instruction as the organization conducting the project deems appropriate.

"(C) PARTICIPANTS IN JOBS PROGRAM.—Any individual who is a participant in the job opportunities and basic skills training program under part F of title IV shall not be required to be tested under subparagraph (A) if such individual has been tested under such program.

"(d) COMPENSATION FOR PARTICIPANTS.—

"(1) IN GENERAL.—

"(A) INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION OR AFDC.—Each participant in a community works progress project who is receiving unemployment compensation under an unemployment compensation law of a State or of the United States or receiving aid to families with dependent children under part A of title IV shall, notwithstanding any other provision of law, be compensated for participation in such project on a monthly basis, an amount equal to 10 percent of the average (as estimated by the organization conducting such project) amount of—

"(i) unemployment compensation under such unemployment compensation law of a State or of the United States, and

"(ii) aid to families with dependent children under such part A,

paid to recipients of such benefits in the area served by such project on a monthly basis. Such amount shall be paid from grant funds awarded to the organization conducting such project and shall be in addition to the benefit received by such participant as unemployment compensation under an unemployment compensation law of a State or of the United States or aid to families with dependent children under part A of title IV.

"(B) INDIVIDUALS NOT RECEIVING UNEMPLOYMENT COMPENSATION OR AFDC.—Each participant in a community works progress project who is not described in subparagraph (A) shall, notwithstanding any other provision of law, be paid for each hour worked as a participant on such project an amount equal to the Federal minimum wage or the applicable State minimum wage, whichever is greater. Such amount shall be paid from grant funds awarded to the organization conducting such project.

"(2) PAYMENTS OF AFDC AND UNEMPLOYMENT COMPENSATION.—Any State agency responsible for making a payment of benefits to a participant in a community works progress project under part A of title IV or under an unemployment compensation law of a State or of the United States may transfer such payment to the organization conducting such project and such payment shall be made by such organization to such participant in conjunction with any payment made under subparagraph (A) of paragraph (1).

"(3) ADDITIONAL WORK HOURS.—

"(A) INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION—If an individual who is receiving unemployment compensation under an unemployment compensation law of a State or of the United States accepts an offer to work hours in addition to the number of hours determined under subsection (c)(3)(B)(i), such individual shall be paid for each such additional hour an amount equal to the Federal minimum wage or the applicable State minimum wage, whichever is greater.

"(B) INDIVIDUALS RECEIVING AFDC.—If an individual who is receiving aid to families with dependent children under part A of title IV accepts an offer to work hours in addition to the number of hours determined under subsection (c)(3)(B)(ii), such individual shall be paid for each such additional hour an amount equal to the Federal minimum wage or the applicable State minimum wage, whichever is greater.

"(4) ALTERNATIVE COMPENSATION METHODS.—The Secretary may approve any application submitted under subsection (e) which provides for an alternative to the method of compensation for participants in a community works progress project set forth in this section if such alternative method—

"(A) does not reduce the amount received by any participant on an hourly basis below the Federal minimum wage or the applicable State minimum wage, whichever is greater; and

"(B)(i) in the case of an individual receiving unemployment compensation under an unemployment law of a State or of the United States, results in a weekly payment which would be greater than the weekly amount the participant receives as such compensation; or

"(ii) in the case of an individual receiving aid to families with dependent children under part A of title IV, results in a monthly payment which would be greater than the monthly amount the family of the participant receives as such aid.

"(5) TREATMENT OF COMPENSATION OR BENEFITS UNDER OTHER PROGRAMS.—

"(A) HIGHER EDUCATION ACT OF 1965.—In determining any grant, loan, or other form of assistance for an individual under any program under the Higher Education Act of 1965, the Secretary of Education shall not take into consideration the compensation and benefits received by such individual under this subsection for participation in a community works progress project.

"(B) RELATIONSHIP TO OTHER FEDERAL BENEFITS.—Notwithstanding any other provision of law, any compensation or benefits received by an individual under this subsection for participation in a community works progress project shall be excluded from any determination of income for the purposes of determining eligibility for benefits under sections 402, 1612, and 1613 and title XIX.

"(6) SUPPORTIVE SERVICES.—Each participant in a community works progress project conducted under this section shall be eligible to receive, out of grant funds awarded to an organization conducting such project, assistance to meet necessary costs of transportation, child care, and uniforms and other work materials.

"(e) APPLICATIONS.—

"(1) IN GENERAL.—An application for a grant to conduct a community works progress project under this section shall be submitted at such time and in such manner as the Secretary shall require and shall include—

"(A) a description of the type of project to be carried out, including a description of the types and duration of training and work experience to be provided to participants in such project,

"(B) a comprehensive description of the objectives and performance goals for the community works progress project to be conducted,

"(C) a description of a plan for managing and funding the project,

"(D) an assurance that, prior to the placement of a participant under the project, the organization will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such project,

"(E) a description of any formal job training or job search arrangements to be made available to the participants, in cooperation with State agencies,

"(F) an assurance that the community works progress project will be coordinated with other Federally assisted education programs, training programs, social service programs, and other appropriate programs,

"(G) an assurance that the community works progress project will participate in cooperative efforts among community-based agencies, local educational agencies, and local government agencies (as defined in paragraphs (3), (11), and (12), respectively, of section 101 of the National and Community Service Act of 1990), businesses, and State agencies, to develop and provide supportive services,

"(H) a description of fiscal control, accounting, audit, and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this section,

"(I) a projection of the amount the organization conducting a community works progress project under this section intends to spend in each fiscal year for such project.

"(2) CONSIDERATION OF APPLICATIONS.—The Secretary shall consider all applications received from organizations desiring to conduct community works progress projects under this section and shall approve 3 applications for projects to be conducted in urban areas and 2 applications for projects to be conducted on a statewide basis. In selecting an organization to conduct a community works progress project under this section, the Secretary shall consider—

"(A) the unemployment rate for the area in which the project will be conducted,

"(B) the proportion of the population receiving public assistance in the area in which the project will be conducted,

"(C) the per capita income for the area in which the project will be conducted,

"(D) the degree of involvement and commitment demonstrated by public officials in the area in which the project will be conducted,

"(E) the likelihood that the project will be successful,

"(F) the contribution that the project is likely to make toward improving the quality of life of residents of the area in which the project will be conducted,

"(G) geographic distribution,

"(H) the extent to which the project will emphasize the development of projects encouraging team approaches to work on real, identifiable projects,

"(I) the extent to which private and community agencies will be involved, and

"(J) such other criteria as the Secretary deems appropriate.

"(3) APPLICATION NOTICE.—The Secretary shall publish a notice regarding applications for grants under this section no later than January 1, 1993.

"(f) COMPLETION OF PROJECTS.—An organization conducting a community works progress project under this section shall complete such project within the 4-year period beginning on the date of the approval of such organization's application.

"(g) EVALUATIONS AND REPORTS.—

"(1) BY THE ORGANIZATIONS.—Each organization conducting a community works progress project under this section shall conduct ongoing evaluations of the effectiveness of such project (including the effectiveness of such project in meeting the goals and objectives described in the application approved by the Secretary) and, for each year in which such project is conducted, shall submit an annual report to the Secretary concerning the results of such evaluations at such time, and in such manner, as the Secretary shall require. The report shall include an analysis of the interaction, if any, of project participants with employees that are not participating in the project. Up to 3 percent of the amount granted to such organization under subsection (h) may be used to conduct evaluations under this paragraph.

"(2) BY THE SECRETARY.—The Secretary shall submit an interim annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives concerning the effectiveness of the community works progress projects conducted under this section for each year in which such a project is conducted and a final report to such committees within 90 days after the completion of the last of the projects. Such report shall analyze the reports received by the Secretary under paragraph (1) from each participating organization.

"(h) PAYMENTS TO ORGANIZATIONS CONDUCTING PROJECTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for each of fiscal years 1994 through 1997, the Secretary shall pay as an entitlement to each organization conducting a community works progress project under this section an amount equal to such organization's expenditures to carry out such project for such fiscal year.

"(2) LIMITATION ON PAYMENTS.—For any fiscal year, the amount any organization is entitled to receive under paragraph (1) shall be limited to an amount equal to the product of—

"(A) the total amount of funds appropriated under subsection (i) for such fiscal year; and

"(B) the amount determined by dividing—

"(i) the amount such organization projects to spend for such project during the fiscal year as set forth in such organization's application under subsection (e)(1), by

"(ii) the total amount projected to be spent during such fiscal year by all organizations conducting community works progress projects under this section as set forth in the applications submitted under such subsection.

"(3) CAPITAL COSTS.—Not more than 25 percent of the amount paid to any organization under paragraph (1) may be used for capital expenditures.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, $100,000,000 for each of fiscal years 1994, 1995, 1996, and 1997. Any amount made available to a project for a fiscal year shall remain available to be expended in the succeeding fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of the enactment of this Act.

PART VI—SUPPLEMENTAL SECURITY INCOME

SEC. 7161. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY FOR, AND AMOUNT OF, SSI BENEFITS WHEN SPOUSE OR PARENT OF BENEFICIARY IS ABSENT FROM THE HOUSEHOLD DUE TO ACTIVE MILITARY SERVICE.

(a) ABSENT PERSON GENERALLY DEEMED TO BE LIVING IN THE HOUSEHOLD.—Section 1614(f) of the Social Security Act (42 U.S.C. 1382c(f)) is amended by adding at the end the following:

"(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.".

(b) EXCLUSION FROM SSI INCOME OF HAZARDOUS DUTY PAY RECEIVED WHILE IN ACTIVE MILITARY SERVICE.—Section 1612(b) of such Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (18), by striking "and" the 2nd place such term appears;

(2) in paragraph (19), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(20) special pay received pursuant to section 310 of title 37, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 2d month that begins after the date of the enactment of this Act.

SEC. 7162. ELIGIBILITY FOR CHILDREN OF ARMED FORCES PERSONNEL RESIDING OUTSIDE THE UNITED STATES OTHER THAN IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking "the District of Columbia" and all that follows to the period and inserting "and who, for the month before the parent reported for such assignment, received a benefit under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 7163. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) IN GENERAL.—Section 1614(a)(3)(A) of the Social Security Act (42 U.S.C. 1382c(a)(3)(A)) is amended by striking "a child" and inserting "an individual".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 7164. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE WHEN THERE IS A COST OF LIVING ADJUSTMENT IN SSI BENEFITS.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by striking "and (5)" and inserting "(5), and (6)"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this title by reason of section 1617 shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this title to an individual (and the eligible spouse, if any, of the individual) for the 1st 2 months for which the increase in benefits applies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits paid after the calendar year 1992.

SEC. 7165. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) TREATMENT OF EITC AS EARNED INCOME.—Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) ADJUSTMENT OF BENEFITS DUE TO TREATMENT OF EITC AS EARNED INCOME.—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

PART VII—OTHER INCOME SECURITY PROVISIONS

SEC. 7171. MEASUREMENT AND REPORTING OF WELFARE DEPENDENCY.

(a) FINDINGS.—The Congress finds that welfare dependency has reached threatening levels:

(1) In the period since 1960 the average annual caseload of the aid to families with dependent children (AFDC) program under title IV of the Social Security Act has quintupled.

(2) In 1990 there were on average almost twice as many households receiving aid to families with dependent children payments as the number of households and individuals receiving unemployment compensation benefits.

(3) Nearly one-quarter of children born in the period 1967 through 1969 were dependent on welfare (AFDC) before reaching age 18. For minority children this ratio approached three-quarters.

(4) At any given time one-quarter of school children are from single parent families, or households with neither parent. The National Assessment of Educational Progress has documented the educational losses associated with single parent or no parent households.

(5) Only one-quarter of father-absent families receive full child support and over one-half receive none.

(6) The average aid to families with dependent children benefit has declined by more than one-third since 1960.

(7) The burden of welfare dependency is an issue of necessary concern to women, who in overwhelming proportion are the heads of single parent families.

(8) The rate of welfare dependency is rising. However, the statistical basis on which to assess this national issue is wholly inadequate, much as the statistical basis for addressing issues of unemployment was inadequate prior to the Employment Act of 1946, which required the creation of the annual economic report of the President and the development of unemployment rates.

(b) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce welfare dependency to the lowest possible level, and to assist families toward self-sufficiency, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and to underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare dependency to improve their education and job skills, to obtain access to necessary support services, and to take such other steps as may assist them to meet their responsibilities to become financially independent; and

(4) it is the purpose of this section to aid in lowering welfare dependency by providing the public with generally accepted measures of welfare dependency so that it can track dependency over time and determine whether progress is being made in reducing welfare dependency and enabling families to be self-sufficient.

(c) DEVELOPMENT OF WELFARE DEPENDENCY INDICATORS, RATES, AND PREDICTORS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") in consultation with the Secretary of Agriculture shall develop indicators, rates, and predictors of welfare dependency.

(2) DEVELOPMENT.—The Secretary shall—

(A) develop—

(i) indicators and rates related to the level of welfare dependency in the United States; and

(ii) predictors that are correlated with welfare dependency;

(B) assess the data needed to report annually on the indicators, rates, and predictors, including the ability of existing data collection efforts to provide such data and any additional data collection needs; and

(C) not later than 2 years after the date of the enactment of this section, provide an interim report containing conclusions resulting from the development and assessment described in subparagraphs (A) and (B), to—

(i) the Committee on Ways and Means of the House of Representatives;

(ii) the Committee on Education and Labor of the House of Representatives;

(iii) the Committee on Agriculture of the House of Representatives;

(iv) the Committee on Energy and Commerce of the House of Representatives;

(v) the Committee on Finance of the Senate;

(vi) the Committee on Labor and Human Resources of the Senate; and

(vii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(3) CONSIDERATIONS.—In developing the indicators, rates, and predictors, the Secretary shall consider the complexity of patterns of welfare dependency and self-sufficiency attainment, and the external factors, including the economy, that affect welfare dependency.

(d) ADVISORY BOARD ON WELFARE DEPENDENCY.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Dependency (referred to in this section as the "Board").

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of indicators, rates, and predictors of welfare dependency, and the identification of data collection needs and existing data collection efforts, described in subsection (c)(2)(B); and

(B) providing advice on the development and presentation of the annual report on welfare dependency indicators, rates, and predictors required under subsection (e).

(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in subsection (d)(4) have been completed, but in any case prior to the submission of the first report required under subsection (e).

(e) ANNUAL WELFARE DEPENDENCY REPORT.—

(1) PREPARATION.—The Secretary shall prepare an annual report on welfare dependency in the United States. The report shall attempt to identify indicators, rates, and predictors of wel-

fare dependency and trends in dependency, and provide information and analysis on the causes of dependency.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the Supplemental Security Income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each report shall set forth—

(A) for each of the means-tested benefit programs described in paragraph (2)—

(i) current trends in the number and rates of recipients and the characteristics, including age, sex, marital status, presence of children, labor force participation, and disability, of the recipients; and

(ii) total expenditures;

(B) the proportion of the total population receiving each of the programs and patterns of multiple program participation and recipiency duration;

(C)(i) characteristics of each such program, including total expenditures broken down by Federal and State shares, gross income limit, need standards, and maximum potential benefit by State; and

(ii) a description of the interactions among the programs;

(D) in the case of the second, or a subsequent, report, changes in the information described in subparagraphs (A) through (C) from the previous year, and trends in program participation;

(E) annual numerical goals for recipients, and expenditures, within each program and within significant subgroups within the population, for the calendar year in which the report is transmitted and for each of the following 4 calendar years, which goals shall, consistent with other essential national goals, reflect the objectives of—

(i) reducing welfare dependency to the lowest possible level; and

(ii) increasing family self-sufficiency at or above the Federal poverty level to the greatest extent possible;

(F)(i) the programs and policies as the Secretary, in consultation with the Board, determines are necessary to meet the goals for each of the 5 years; and

(ii) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce welfare dependency; and

(G) interim goals for reducing the proportion of children, and families with children, who are recipients of aid to families with dependent children to 10 percent of families with children, adjusted for economic conditions.

(4) SUBMISSION.—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section, and annually thereafter, to the committees specified in subsection (c)(2)(C). The report shall be transmitted during the first 60 days of each regular session of Congress.

SEC. 7172. EXTENSION OF NATIONAL COMMISSION ON CHILDREN.

(a) IN GENERAL.—Section 1139(e)(1)(A) (42 U.S.C. 1320b–9(e)(1)(A)) is amended by striking "March 31, 1991" and inserting "December 31, 1992".

(b) AUTHORITY.—Notwithstanding any other provision of law, the National Commission on Children shall terminate on December 31, 1992. The Commission shall retain the authority provided to such Commission on the date of enactment of section 1139 of the Social Security Act (42 U.S.C. 1320b–9) until December 31, 1992. The Executive Director and staff of such Commission shall have a reasonable period of time, not to extend beyond March 31, 1993, to conduct those activities that have been determined by the Chairman of the Commission to be required to close down the operations of the Commission.

SEC. 7173. SECRETARIAL REPORT ON THE DIFFERENCES IN PROGRAM RULES UNDER THE FOOD STAMP, AID TO FAMILIES WITH DEPENDENT CHILDREN, AND MEDICAID PROGRAMS.

(a) IN GENERAL.—No later than 6 months after the date of the enactment of this section, the Secretary of Health and Human Services and the Secretary of Agriculture shall jointly submit to the President and the Congress a report which includes—

(1) the rules which govern the food stamp program operated under the Food Stamp Act of 1977, the program of aid to families with dependent children under part A of title IV of the Social Security Act, and the program of medical assistance under title XIX of the Social Security Act;

(2) how the rules differ across such programs;

(3) which of the rules under such programs require statutory action in order to achieve uniformity with respect to such programs (including specific statutory citations); and

(4) which of the rules could be made uniform without statutory action.

(b) RULES TO BE EVALUATED.—

(1) IN GENERAL.—The rules to be evaluated in the report required by subsection (a) shall include all rules related to administrative procedures (described in paragraph (2) of this subsection), definitions of countable income, and definitions of income disregards and exemptions. Income eligibility levels shall be excluded from such report.

(2) ADMINISTRATIVE PROCEDURES DEFINED.—The administrative procedures to be evaluated in the report required by subsection (a) include procedures governing—

(A) quality control error measurements;

(B) the effective dates by which State and local agencies must implement rule changes;

(C) verification of applicant or recipient circumstances;

(D) establishment of claims for overpayment;

(E) recipient reporting requirements;

(F) income budgeting methods for applicants and recipients;

(G) eligibility redeterminations;

(H) hearings for those aggrieved by a State or local agency decision on eligibility or benefits;

(I) determinations of citizen or alien status;

(J) time limits for processing applications;

(K) response time and other requirements with respect to notices to recipients affecting their eligibility or benefits;

(L) policies on strikers;

(M) incentives to combat fraud; and

(N) work requirements.

SEC. 7174. ADULT IN FAMILY OR HOUSEHOLD ALLOWED TO ATTEST TO CITIZENSHIP STATUS OF FAMILY OR HOUSEHOLD MEMBERS UNDER AFDC AND MEDICAID.

(a) IN GENERAL.—Section 1137(d)(1)(A) (42 U.S.C. 1320b–7(d)(1)(A)) is amended to read as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing, under penalty of perjury—

"(i) in the case of an individual who is an adult member of a family or household applying for or receiving such benefits, by such individual or another adult member of such family or household on such individual's behalf, or

"(ii) in the case of an individual who is a child, by an adult on the individual's behalf, or

"(iii) in the case of an individual born into a family or household receiving such benefits, by an adult member of such individual's family or household on the individual's behalf no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to benefits provided on or after October 1, 1992.

SEC. 7175. EXCLUSION FROM INCOME OF $4,000 OF INCOME RECEIVED IN ANY YEAR BY INDIANS FROM INTERESTS INDIVIDUALLY HELD IN TRUST OR RESTRICTED LANDS.

(a) SSI.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (19), by striking "and" after the semicolon;

(2) in paragraph (20), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(21) the first $4,000 of income received in any year by any Indian (within the meaning of the Act of October 19, 1973) from interests individually held by the Indian in trust or restricted lands.".

(b) AFDC.—Section 402(a)(8)(A) (42 U.S.C. 602(a)(8)(A)) is amended—

(1) in clause (viii), by striking "and" after the semicolon; and

(2) by adding at the end the following:

"(x) shall disregard the first $4,000 of income received in any year by any Indian (within the meaning of the Act of October 19, 1973) from interests individually held by the Indian in trust or restricted lands; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992.

SEC. 7176. EXTENSION OF DEMONSTRATION TO EXPAND JOB OPPORTUNITIES.

Section 505 of the Family Support Act of 1988 is amended—

(1) in subsection (e), by striking "3-year period" and inserting "5-year period",

(2) in subsection (f)(2), by striking "January 1, 1993" and inserting "January 1, 1994", and

(3) in subsection (g), by striking "1991, and 1992" and inserting "1991, 1992, 1993, and 1994".

SEC. 7177. DISCLOSURE OF INFORMATION TO RAILROAD RETIREMENT BOARD.

Section 6103(l)(1)(C) of the Internal Revenue Code of 1986 is amended to read as follows:

"(C) taxes imposed by chapters 22 and 23A, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement and Railroad Unemployment Insurance Acts.".

SEC. 7178. IMPROVEMENT AND CLARIFICATION OF PROVISIONS PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, MEDICARE, MEDICAID, OR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.—Section 1140(a) (42 U.S.C. 1320b–10(a)) is amended—

(1) in paragraph (1), by striking "Administration', the letters 'SSA' or 'HCFA'," and inserting "Administration', 'Supplemental Security Income', 'Medicaid', the letters 'SSA', 'HCFA', or 'SSI',"; and

(2) in paragraph (2), by striking "Social Security Administration" each place it appears and inserting "Social Security Administration or Health Care Financing Administration", and by striking "or of the Health Care Financing Administration".

(b) INCLUSION OF REASONABLENESS STANDARD.—Section 1140(a), as amended by subsection (a) of this section, is further amended, in the matter following paragraph (2), by striking "convey" and inserting "convey, or in a manner which reasonably could be interpreted or construed as conveying,".

(c) VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.—Section 1140(b)(1) (42 U.S.C. 1320b–10(b)(1)) is amended by adding at the end the following new sentence: "In the case of any items referred to in subsection (a) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation.".

(d) ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.—

(1) REPEAL.—Paragraph (2) of section 1140(b) (42 U.S.C. 1320b–10(b)(2)) is repealed.

(2) CONFORMING AMENDMENTS.—Section 1140(b) is further amended—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking "subparagraph (B)" and inserting "paragraph (2)".

(e) REMOVAL OF FORMAL DECLINATION REQUIREMENT.—Section 1140(c)(1) (42 U.S.C. 1320b–10(c)(1)) is amended by inserting "and the first sentence of subsection (c)" after "and (i)".

(f) ANNUAL REPORTS.—Section 1140 (42 U.S.C. 1320b–10) is amended by adding at the end the following new subsection:

"(d) The Secretary shall include in the annual report submitted pursuant to section 704 a report on the operation of this section during the year covered by such annual report. Such report shall specify—

"(1) the number of complaints of violations of this section received by the Social Security Administration during the year,

"(2) the number of cases in which a notice of violation of this section was sent by the Social Security Administration during the year requesting that an individual cease activities in violation of this section,

"(3) the number of complaints of violations of this section referred by the Social Security Administration to the Inspector General in the Department of Health and Human Services during the year,

"(4) the number of investigations of violations of this section undertaken by the Inspector General during the year,

"(5) the number of cases in which a demand letter was sent during the year assessing a civil money penalty under this section,

"(6) the total amount of civil money penalties assessed under this section during the year,

"(7) the number of requests for hearings filed during the year pursuant to sections 1140(c)(1) and 1128A(c)(2),

"(8) the disposition during such year of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2), and

"(9) the total amount of civil money penalties under this section deposited as miscellaneous receipts of the treasury of the United States during the year.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

Subtitle A—Charitable Contribution Provisions

SEC. 8001. ALTERNATIVE MINIMUM TAX TREATMENT.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 is amended by striking paragraph (6) (relating to the appreciated property charitable deduction under the alternative minimum tax) and by redesignating paragraph (7) as paragraph (6).

(b) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (6)" and inserting "and (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in calendar years ending on or after December 31, 1992.

(d) REPORT ON ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied. Such report shall address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, recommendations for legislative action needed to implement the proposed procedure.

SEC. 80028. ALLOCATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 864 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) ALLOCATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS.—For purposes of sections 861(b), 862(b), and 863(a)—

"(1) 55 percent of the deduction for charitable contributions provided by section 170 shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

"(2) the remaining portion of such deduction shall be apportioned on the basis of gross income.

For purposes of the preceding sentence, all members of an affiliated group (as defined in subsection (e)(5)(A)) shall be treated as 1 corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made on or after July 1, 1993.

SEC. 8003. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

"(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $100 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph (B) if it provides information sufficient to substantiate the amount of the deductible contribution. If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1993.

SEC. 8004. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

"(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution, the organization shall, in connection with the solicitation or receipt of the contribution—

"(1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

"(2) provide the donor with a good faith estimate of the value of such goods or services.

"(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization."

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

"SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

"(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause."

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new item:

"Sec. 6115. Disclosure related to quid pro quo contributions.

"Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

"Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions."

(d) EFFECTIVE DATE.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1993.

SEC. 8005. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection, the term 'qualified sponsorship payment' means any payment by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use of the name or logo of such person's trade or business in connection with any qualified public event. For purposes of this paragraph, the use of the name or logo of such person's trade or business does not include advertising or promotion of such person's products or services.

"(3) QUALIFIED PUBLIC EVENT.—For purposes of this subsection, the term 'qualified public event' means any public event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c) or by an organization described in section 511(a)(2)(B) if—

"(A) substantially all the activities of the organization in conducting the event are not subject to tax under section 511, and

"(B) the net proceeds from the event are used for purposes described in section 170(c)(2)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments received in connection with events conducted after the date of the enactment of this Act.

Subtitle B—Foreign Provisions

SEC. 8101. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES RECEIVED BY NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

(a) GENERAL RULE.—

(1) NONRESIDENT ALIEN INDIVIDUALS.—Section 871 (relating to tax on nonresident alien individuals) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXEMPTION FOR CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

"(1) INTEREST-RELATED DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any interest-related dividend received from a regulated investment company.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to any interest-related dividend received from a regulated investment company by a 10-percent shareholder of such company,

"(ii) to any interest-related dividend received from a regulated investment company by a person who is not a 10-percent shareholder of such company to the extent such dividend is attributable to interest received by such company on indebtedness issued by such person or by any corporation or partnership with respect to which such person is a 10-percent shareholder,

"(iii) to any interest-related dividend with respect to stock of a regulated investment company if the person who would otherwise be required to deduct and withhold tax from such dividend under chapter 3 has not received a statement (which meets requirements similar to the requirements of subsection (h)(4)) that the beneficial owner of such stock is not a United States person, and

"(iv) to any interest-related dividend paid to any person within a foreign country (or any interest-related dividend payment addressed to, or for the account of, persons within such foreign country) during any period described in subsection (h)(5) with respect to such country.

Clause (iv) shall not apply to any dividend with respect to any stock which was acquired on or before the date of the publication of the Secretary's determination under subsection (h)(5).

"(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph, an interest-related dividend is any dividend (or part thereof) which is designated by the regulated investment company as an interest-related dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section 855) is greater than the qualified net interest income of the company for such taxable year, the portion of each distribution which shall be an interest-related dividend shall be only that portion of the amounts so designated which such qualified net interest income bears to the aggregate amount so designated.

"(D) QUALIFIED NET INTEREST INCOME.—For purposes of subparagraph (C), the term 'qualified net interest income' means the qualified interest income of the regulated investment company reduced by the deductions properly allocable to such income.

"(E) QUALIFIED INTEREST INCOME.—For purposes of subparagraph (D), the term 'qualified interest income' means the sum of the following amounts derived by the regulated investment company from sources within the United States:

"(i) Any amount includible in gross income as original issue discount (within the meaning of section 1273) on an obligation payable 183 days or less from the date of original issue (without regard to the period held by the company).

"(ii) Any interest (including original issue discount) on an obligation which is in registered form; except that this clause shall not apply to any interest on an obligation issued by a corporation or partnership if the regulated investment company is a 10-percent shareholder in such corporation or partnership.

"(iii) Any interest referred to in subsection (i)(2)(A).

"(F) 10-PERCENT SHAREHOLDER.—For purposes of this paragraph, the term '10-percent shareholder' has the meaning given to such term by subsection (h)(3).

"(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any short-term capital gain dividend received from a regulated investment company.

"(B) EXCEPTION FOR ALIENS TAXABLE UNDER SUBSECTION (a)(2).—Subparagraph (A) shall not apply in the case of any nonresident alien individual subject to tax under subsection (a)(2).

"(C) SHORT-TERM CAPITAL GAIN DIVIDEND.—For purposes of this paragraph, a short-term capital gain dividend is any dividend (or part thereof) which is designated by the regulated investment company as a short-term capital gain dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section 855) is greater than the qualified short-term gain of the company for such taxable year, the portion of each distribution which shall be a short-term capital gain dividend shall be only that portion of the amounts so designated which such qualified short-term gain bears to the aggregate amount so designated.

"(D) QUALIFIED SHORT-TERM GAIN.—For purposes of subparagraph (C), the term 'qualified short-term gain' means the excess of the net short-term capital gain of the regulated investment company for the taxable year over the net long-term capital loss (if any) of such company for such taxable year. The amount determined under the preceding sentence shall be reduced by any deductions of the company properly allocable to the net short-term capital gain."

(2) FOREIGN CORPORATIONS.—Section 881 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TAX NOT TO APPLY TO CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

"(1) INTEREST-RELATED DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1) of subsection (a) on any interest-related dividend (as defined in section 871(k)(1)) received from a regulated investment company.

"(B) EXCEPTION.—Subparagraph (A) shall not apply—

"(i) to any dividend referred to in section 871(k)(1)(B), and

"(ii) to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company from a person who is a related person (within the meaning of section 864(d)(4)) with respect to such controlled foreign corporation.

"(C) TREATMENT OF DIVIDENDS RECEIVED BY CONTROLLED FOREIGN CORPORATIONS.—The rules of subsection (c)(4)(A) shall apply to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company which is described in clause (ii) of section 871(k)(1)(E) (and not described in clause (i) or (iii) of such section).

"(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—No tax shall be imposed under paragraph (1) of subsection (a) on any short-term capital gain dividend (as defined in section 871(k)(2)) received from a regulated investment company."

(3) WITHHOLDING TAXES.—

(A) Subsection (c) of section 1441 is amended by adding at the end thereof the following new paragraph:

"(12) CERTAIN DIVIDENDS RECEIVED FROM REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from the tax imposed by section 871(a)(1)(A) by reason of section 871(k).

"(B) SPECIAL RULE.—For purposes of subparagraph (A), clause (ii) of section 871(k)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause. A similar rule shall apply with respect to the exception contained in section 871(k)(2)(B)."

(B) Subsection (a) of section 1442 is amended—

(i) by striking "and the references in section 1441(c)(10)" and inserting "the reference in section 1441(c)(10)", and

(ii) by inserting before the period at the end thereof the following: ", and the references in section 1441(c)(12) to section 871(a) and 871(k) shall be treated as referring to sections 881(a) and 881(e) (except that for purposes of applying subparagraph (A) of section 1441(c)(12), as so modified, clause (ii) of section 881(e)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause)".

(b) TREATMENT OF REGULATED INVESTMENT COMPANIES UNDER SECTION 897.—

(1) Paragraph (1) of section 897(h) is amended by striking "REIT" each place it appears and inserting "qualified investment entity".

(2) Paragraphs (2) and (3) of section 897(h) are amended to read as follows:

"(2) SALE OF STOCK IN DOMESTICALLY CONTROLLED ENTITY NOT TAXED.—The term 'United States real property interest' does not include any interest in a domestically controlled qualified investment entity.

"(3) DISTRIBUTIONS BY DOMESTICALLY CONTROLLED QUALIFIED INVESTMENT ENTITIES.—In the case of a domestically controlled qualified investment entity, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain."

(3) Subparagraphs (A) and (B) of section 897(h)(4) are amended to read as follows:

"(A) QUALIFIED INVESTMENT ENTITY.—The term 'qualified investment entity' means any real estate investment trust and any regulated investment company.

"(B) DOMESTICALLY CONTROLLED.—The term 'domestically controlled qualified investment entity' means any qualified investment entity in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons."

(4) Subparagraphs (C) and (D) of section 897(h)(4) are each amended by striking "REIT" and inserting "qualified investment entity".

(5) The subsection heading for subsection (h) of section 897 is amended by striking "REITS" and inserting "CERTAIN INVESTMENT ENTITIES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after the date of the enactment of this Act; except that the amendment made by subsection (b)(2) shall take effect on such date of enactment.

SEC. 8102. ELECTION TO BE EXEMPT FROM 90-PERCENT LIMITATION ON MINIMUM TAX FOREIGN TAX CREDIT.

(a) GENERAL RULE.—Paragraph (2) of section 59(a) (relating to limitation to 90 percent of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ELECTION TO HAVE LIMITATION NOT APPLY.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any domestic corporation to which an election under this subparagraph applies.

"(ii) ELECTION.—An election under this subparagraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(iii) CROSS REFERENCE.—

"For effect of election on application of subpart F, see section 965."

(b) TREATMENT OF ELECTING CORPORATIONS UNDER SUBPART F.—

(1) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 965. SPECIAL RULES FOR CORPORATIONS TO WHICH CERTAIN ELECTIONS APPLY.

"(a) ELECTIONS UNDER SECTION 59(a)(2)(D).—

"(1) IN GENERAL.—In determining the amount includible under section 951 in the gross income of any domestic corporation to which this subsection applies—

"(A) sections 954, 964(a), and 964(b) shall not apply, and

"(B) section 952 shall be applied as if it read as follows:

" 'SEC. 952. SUBPART F INCOME.

" '(a) GENERAL RULE.—For purposes of this subpart, the term 'subpart F income' means the earnings and profits of the controlled foreign corporation for the taxable year computed with the following adjustments:

" '(1) There shall be excluded the amount of the earnings and profits which are attributable to income from sources within the United States which is effectively connected with the conduct by the controlled foreign corporation of a trade or business within the United States, except to the extent such income is exempt from taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States. For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States.

" '(2) In determining earnings and profits (or the deficit in earnings and profits), the amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) shall not be taken into account to decrease such earnings and profits or to increase such deficit. The payments referred to in the preceding sentence are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person.

" '(3) Under regulations prescribed by the Secretary, there shall be excluded the part of any earnings and profits if it is established to the satisfaction of the Secretary that such part could not have been distributed by the controlled foreign corporation to United States shareholders who own (within the meaning of section 958(a)) stock of such controlled foreign corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

" '(4) Earnings and profits shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

Except as provided in this subsection and section 312(k)(4), the earnings and profits of any foreign corporation, and the deficit and earnings and profits of any foreign corporation for any taxable year shall be determined according to rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary.

" '(b) CERTAIN DEFICITS MAY BE TAKEN INTO ACCOUNT.—

" '(1) TREATMENT OF CERTAIN PRIOR YEAR DEFICITS.—

" '(A) IN GENERAL.—The amount included in the gross income of any United States shareholder under section 951(a)(1)(A)(i) for any taxable year with respect to any controlled foreign corporation shall be reduced by the amount of such shareholder's pro rata share of any qualified deficit of such controlled foreign corporation.

" '(B) QUALIFIED DEFICIT.—For purposes of this paragraph—

" '(i) IN GENERAL.—The term 'qualified deficit' means any deficit in the earnings and profits of the controlled foreign corporation for any prior taxable year which began after December 31, 1992, and for which such corporation was a controlled foreign corporation, but only to the extent such deficit has not previously been taken into account under this paragraph.

" '(ii) SPECIAL RULE FOR DEFICITS BEFORE 1993.—The term 'qualified deficit' includes any deficit in earnings and profits for any taxable year beginning before January 1, 1993, to the extent that such deficit qualified as a qualified deficit under subsection (c)(1)(B) of section 952; except that any such deficit may be taken into account under this paragraph only to offset amounts attributable to the same activity as the activity giving rise to such deficit.

" '(C) PRO RATA SHARE.—For purposes of this paragraph, the shareholder's pro rata share of any deficit shall be determined under rules similar to the rules of section 951(a)(2) for whichever of the following yields the smaller share:

" '(i) the close of the taxable year, or

" '(ii) the close of the taxable year in which the deficit arose.

" '(2) CERTAIN DEFICITS OF MEMBER OF THE SAME CHAIN OF CORPORATIONS MAY BE TAKEN INTO ACCOUNT.—

" '(A) IN GENERAL.—A controlled foreign corporation may elect to reduce the amount of its subpart F income for any taxable year by the amount of any deficit in earnings and profits of a qualified chain member for a taxable year ending with (or within) the taxable year of such controlled foreign corporation. To the extent any deficit reduces subpart F income under the preceding sentence, such deficit shall not be taken into account under paragraph (1).

" '(B) QUALIFIED CHAIN MEMBER.—For purposes of this paragraph, the term 'qualified chain member' means, with respect to any controlled foreign corporation, any other corporation which is created or organized under the laws of the same foreign country as the controlled foreign corporation but only if—

" '(i) all the stock of such other corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such controlled foreign corporation, or

" '(ii) all the stock of such controlled foreign corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such other corporation.

" '(C) COORDINATION.—This paragraph shall be applied after paragraph (1).

" '(3) DETERMINATION OF DEFICIT.—In determining the amount of any deficit in earnings and profits, the adjustments set forth in subsection (a) shall apply.'

"(2) CORPORATIONS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any domestic corporation if—

"(i) an election under section 59(a)(2)(D) applies to such corporation, or

"(ii) such corporation is a member of an expanded affiliated group which includes a corporation to which such an election applies.

"(B) EXPANDED AFFILIATED GROUP.—For purposes of subparagraph (A), the term 'expanded affiliated group' means any group of corporations which would be treated as members of the same affiliated group if—

"(i) section 1504(b) were applied without regard to paragraph (2) thereof,

"(ii) the exception contained in section 1504(b)(3) did not apply for purposes of determining whether any domestic corporation is a member of such group,

"(iii) the constructive ownership rules of section 1563(e) apply for purposes of section 1504(a), and

"(iv) the requirements of paragraph (2) of section 1504(a) were treated as met if the requirements of subparagraph (A) or (B) of such paragraph (2) are met (determined by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears)."

(2) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N

of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 965. Special rules for corporations to which certain elections apply.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of domestic corporations beginning after December 31, 1992, and to taxable years of controlled foreign corporations which end with or within such taxable years of domestic corporations.

SEC. 8103. ALLOCATION OF INTEREST EXPENSE IN CASE OF AFFILIATED GROUPS INCLUDING REGULATED GAS OR ELECTRIC UTILITIES.

(a) GENERAL RULE.—Subsection (e) of section 864 (relating to rules for allocating interest, etc.) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SPECIAL RULES FOR ALLOCATING INTEREST EXPENSE IN CASE OF REGULATED GAS OR ELECTRIC UTILITIES.—

"(A) ALLOCATION FORMULA.—The interest expense of a qualified utility group to which an election under this paragraph applies shall be allocated and apportioned to income from sources outside the United States to the extent that the amount of such expense does not exceed the excess (if any) of—

"(i) the foreign-sourced interest expense of the expanded group, over

"(ii) the foreign-sourced interest expense of the foreign corporations in such expanded group.

"(B) FOREIGN-SOURCED INTEREST EXPENSE.—For purposes of this paragraph—

"(i) The foreign-sourced interest expense of the expanded group is the portion of the total interest expense of the expanded group which would be allocated and apportioned to income from sources outside the United States if all of the members of such group were a single corporation. For purposes of the preceding sentence, only the pro rata shares of the interest expense and assets of the foreign corporations which are members of such group shall be taken into account. For purposes of the preceding sentence, pro rata share shall be determined on the basis of the portion of the stock in any such foreign corporation held directly by members of the qualified utility group and shall be appropriately reduced to take into account any reduction in subpart F income under section 952(a)(3) (as modified under section 965).

"(ii) The foreign-sourced interest expense of the foreign corporations which are members of the expanded group shall be determined under the rules of clause (i) by treating all of such foreign corporations as a single corporation.

"(C) EXPANDED GROUP.—For purposes of this paragraph, the term 'expanded group' means the qualified utility group and any foreign regulated gas or electric utility with respect to which members of such group meet the stock ownership requirements of section 902(a).

"(D) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(E) QUALIFIED UTILITY GROUP.—For purposes of this paragraph, the term 'qualified utility group' means any affiliated group if—

"(i) 80 percent or more of the gross income of such group is attributable to the production, transmission or distribution of electricity, or the distribution of gas,

"(ii) 65 percent or less of the average daily total capital of such group for the taxable year is in the form of debt, and

"(iii) one or more members of the group is regulated by one or more State regulatory commissions with respect to the distribution of gas or electricity.

Such term shall not include any affiliated group which is part of an expanded affiliated group (as defined in section 965(a)(2)(B)) if the requirements of the preceding sentence are not met with respect to such expanded affiliated group.

"(F) FOREIGN REGULATED GAS OR ELECTRIC UTILITY.—For purposes of this paragraph, the term 'foreign regulated gas or electric utility' means any foreign corporation if—

"(i) 80 percent or more of the gross income of such corporation is attributable to the production, transmission or distribution of electricity, or the distribution of gas,

"(ii) 65 percent or less of the average daily total capital of such corporation for the taxable year is in the form of debt, and

"(iii) the activities of such foreign corporation referred to in clause (i) are regulated by one or more regulatory commissions established pursuant to foreign law."

(b) TREATMENT UNDER SUBPART F.—Section 965 (as added by section 8102) is amended by adding at the end thereof the following new subsection:

"(b) TREATMENT OF QUALIFIED UTILITY GROUPS TO WHICH ELECTION UNDER SECTION 864(e)(7) APPLIES.—

"(1) IN GENERAL.—In determining the amount includible under section 951 in the gross income of any domestic corporation to which this subsection applies—

"(A) the modifications of subparagraphs (A) and (B) of subsection (a)(1) shall apply, and

"(B) the term 'controlled foreign corporation' includes any foreign corporation with respect to which the stock ownership requirements of section 902 are met by such corporation or by corporations which are members of the expanded affiliated group which includes such corporation.

"(2) CORPORATIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any domestic corporation—

"(A) which is a member of a qualified utility group (as defined in section 864(e)(7)(E)) to which an election under section 864(e)(7) applies, or

"(B) which is a member of an expanded affiliated group which includes a qualified utility group referred to in subparagraph (A).

"(3) EXPANDED AFFILIATED GROUP.—For purposes of this subsection, the term 'expanded affiliated group' has the meaning given to such term by subsection (a)(2)(B)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of domestic corporations beginning after December 31, 1992, and to taxable years of foreign corporations which end with or within such taxable years of domestic corporations.

SEC. 8104. TREATMENT OF COMMODITY TRANSACTIONS UNDER SUBPART F.

(a) IN GENERAL.—Clause (ii) of section 954(c)(1)(C) (relating to commodity transactions) is amended to read as follows:

"(ii) are active business gains or losses from the sale of commodities by the controlled foreign corporation as an active producer, processor, merchant, or handler of commodities, or".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1992.

SEC. 8105. INTERNATIONAL COMPETITIVENESS.

(a) GENERAL RULE.—The Secretary of the Treasury shall conduct a study of tax issues relating to the maintenance and enhancement of the competitiveness of the American economy in light of changing economic policies in Europe and the increasing globalization of the world economy.

(b) REPORT.—Not later than January 1, 1994, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under this section (together with such recommendations as he may deem advisable).

Subtitle C—Other Revenue Provisions

SEC. 8201. INCOME EXCLUSION FOR EDUCATION BONDS EXPANDED.

(a) IDENTIFYING INFORMATION REQUIRED.—Section 135(b)(2) is amended to read as follows:

"(2) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO INDIVIDUAL FOR WHOM EXPENSES PAID.—No amount shall be allowed as an exclusion under subsection (a) unless the taxpayer includes the name, address, and taxpayer identification number of the person for whom qualified higher education expenses were paid on the return on which the exclusion is claimed."

(b) ELIMINATION OF AGE RESTRICTION.—Section 135(c)(1) (defining qualified United States savings bonds) is amended—

(1) by striking subparagraph (B),

(2) by inserting "and" at the end of subparagraph (A), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) EXCLUSION EXPANDED TO ALL INDIVIDUALS.—Subparagraph (A) of section 135(c)(2) (defining qualified higher education expenses) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for enrollment or attendance of any individual at an eligible educational institution."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1989, and redeemed after December 31, 1992.

SEC. 8202. TAX TREATMENT OF PAYMENTS UNDER LIFE INSURANCE CONTRACTS FOR TERMINALLY ILL INDIVIDUALS.

(a) TREATMENT AS INSURANCE.—

(1) GENERAL RULE.—Section 101 (relating to certain death benefits) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF AMOUNTS PAID WITH RESPECT TO TERMINALLY ILL INDIVIDUALS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid or advanced to an individual under a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount paid by reason of the death of such insured.

"(2) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a licensed physician as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1989.

(b) TAX TREATMENT OF COMPANIES ISSUING QUALIFIED TERMINAL ILLNESS RIDERS.—

(1) QUALIFIED TERMINAL ILLNESS RIDER TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) QUALIFIED TERMINAL ILLNESS RIDER TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to life insurance shall be treated as including a reference to a qualified terminal illness rider.

"(2) QUALIFIED TERMINAL ILLNESS RIDER.—For purposes of this subsection, the term 'qualified terminal illness rider' means any rider or addendum on, or other provision of, a life insurance contract which provides for payments to an individual upon the insured becoming a terminally ill individual (as defined in section 101(g)(2))."

(2) DEFINITIONS OF LIFE INSURANCE AND MODIFIED ENDOWMENT CONTRACTS.—For purposes of

applying section 7702 or 7702A of the Internal Revenue Code of 1986 to any contract (or determining whether either such section applies to such contract), the issuance of a qualified terminal illness rider (as defined in section 818(g)(2) of such Code) with respect to any contract shall not be treated as a modification or material change of such contract.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning before, on, or after December 31, 1989.

(c) APPLICANTS OR RECIPIENTS UNDER PUBLIC ASSISTANCE PROGRAMS NOT TO BE REQUIRED TO MAKE ELECTION RESPECTING ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE POLICIES.—

(1) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"TREATMENT OF ACCELERATED DEATH BENEFITS

"SEC. 1143. (a) IN GENERAL.—Notwithstanding any other provision of law, no individual who is an applicant for or recipient of aid or assistance under a State plan approved under title IV, X, XIV, XVI, or XIX, of assistance funded by payments under title V or XX, or of benefits under the Supplemental Security Income program established by title XVI shall—

"(1) be required, as a condition of eligibility for (or of continuing to receive) such aid, assistance, or benefits, to make an election to receive an accelerated death benefit under a policy of life insurance, or

"(2) by reason of failure to make such an election, be denied (or suffer a reduction in the amount of) such aid, assistance, or benefits.

"(b) ACCELERATED DEATH BENEFIT.—For purposes of this section, the term 'accelerated death benefit' means any payment made under the terms of a life insurance policy, while the insured individual is alive, as a result of a recalculation of the insured individual's life expectancy."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on January 1, 1990.

SEC. 8203. BASIS ADJUSTMENT FOR DISALLOWED LOSSES ON PRIOR SALES OF PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INCREASE IN BASIS FOR CERTAIN PRIOR LOSSES ON SALES OF PRINCIPAL RESIDENCES.—

"(1) IN GENERAL.—If property used by the taxpayer as his principal residence is sold by him, and within the period applicable under section 1034, property is purchased and used by the taxpayer as his principal residence, any loss from such sale which is not allowed as a deduction shall be applied to increase the basis of the property so purchased and used by the taxpayer.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c) and (f) of section 1034 shall apply for purposes of paragraph (1).

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term, 'principal residence' has the same meaning as when used in section 1034."

(b) CROSS REFERENCE.—Subsection (l) of section 1034 is amended to read as follows:

"(l) CROSS REFERENCES.—

"(1) For one-time exclusion of gross income of gain from sale of principal residence by individual who has attained age 55, see section 121.

"(2) For increase in basis for loss on prior sale of principal residence, see section 1016(e)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses on sales and exchanges after the date of the enactment of this Act; except that such amendments shall not apply for purposes of determining gain on any sale or exchange before January 1, 1994.

SEC. 8204. LIMITATION ON STATE TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:

"§114. Limitation on State income taxation of pension income

"(a) No State may impose an income tax (as defined in section 110(c)) on the qualified pension income of any individual who is not a resident or domiciliary of such State.

"(b)(1) For purposes of subsection (a), the term 'qualified pension income' means any payment from a qualified plan—

"(A) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient or for the joint lives or joint life expectancies of the recipient and the recipient's designated beneficiary, or

"(ii) a period of not less than 10 years, or

"(B) which is not described in subparagraph (A) and which—

"(i) is received in a taxable year for which an election under this subsection is in effect, and

"(ii) is received on or after the date on which the recipient has attained the age of 59½,

except that the aggregate amount of payments to which this subparagraph may apply for any taxable year shall not exceed $25,000.

"(2) For purposes of paragraph (1), the term 'qualified plan' means—

"(A) an employees' trust described in section 401(a) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code,

"(B) a simplified employee pension described in section 408(k) of such Code,

"(C) an annuity plan described in section 403(a) of such Code,

"(D) an annuity contract described in section 403(b) of such Code,

"(E) an individual retirement plan described in section 7701(a)(37) of such Code, or

"(F) an eligible deferred compensation plan under section 457 of such Code.

"(3)(A) An election under paragraph (1)(B), once made for a taxable year, may not be made for any other taxable year.

"(B) In calendar years beginning after 1992, the $25,000 amount referred to in paragraph (1)(B) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) of such Code for such calendar year by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

"(c) For purposes of subsection (a), the term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 8205. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

"(a) GENERAL RULE.—For purposes of section 38, the employer social security credit determined under this section for the taxable year is an amount equal to the excess employer social security tax paid or incurred by the taxpayer during the taxable year.

"(b) EXCESS EMPLOYER SOCIAL SECURITY TAX.—For purposes of this section, the term 'excess employer social security tax' means any tax paid by an employer under section 3111 with respect to tips received by an employee during any month, to the extent such tips—

"(1) are deemed to have been paid by the employer to the employee pursuant to section 3121(q), and

"(2) exceed the amount by which the wages (excluding tips) paid by the employer to the employee during such month are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act).

"(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 (relating to current year business credit), as amended by section 1105(b), is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding at the end the following new paragraph:

"(9) the employer social security credit determined under section 45(a)."

(2) LIMITATION ON CARRYBACKS.—Subsection (d) of section 39 (relating to transitional rules), as amended by section 1105(b), is amended by adding at the end the following new paragraph:

"(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the employer social security credit determined under section 45 may be carried back to a taxable year ending before the date of the enactment of section 45."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45. Employer social security credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) after the date of the enactment of this Act.

SEC. 8206. CLARIFICATION OF TREATMENT OF VETERANS' BENEFITS.

(a) IN GENERAL.—Section 134(b)(1) (relating to qualified military benefit) is amended by adding at the end thereof the following flush sentence: "For purposes of this paragraph, the term 'qualified military benefit' includes any allowance or benefit administered by the Secretary of Veterans Affairs."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 8207. STUDY OF SEMICONDUCTOR MANUFACTURING EQUIPMENT.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of semiconductor manufacturing equipment to determine the appropriate recovery period and class life under section 168 of the Internal Revenue Code of 1986 for such equipment.

(b) REPORT.—The report of such study shall be submitted before April 1, 1993, to the Commit-

tee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 8208. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) General Rule.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Nonrecognition Treatment for Certain Transfers to Regulated Investment Companies.—

"(1) In general.—If—

"(A) a common trust fund transfers substantially all of its assets to a regulated investment company in exchange solely for stock in such company, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) Basis rules.—

"(A) Regulated investment company.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) Participants.—The basis of any stock in a regulated investment company which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged.

"(3) Treatment of assumptions of liability.—

"(A) In general.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in the regulated investment company, the assumption by such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

"(B) Special rule where assumed liabilities exceed basis.—

"(i) In general.—If in any transfer referred to in paragraph (1)(A) the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company—

"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

"(II) the basis of the assets received by the regulated investment company in such transfer shall be increased by the amount so recognized, and

"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

"(ii) Assumed liabilities.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the common trust fund assumed by the regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) Common trust fund must meet diversification rules.—This subsection shall not apply to any common trust fund which, if it were a corporation, would not meet the requirements of section 368(a)(2)(F)(ii). For purposes of the preceding sentence, clause (iv) of section 368(a)(2)(F) shall not apply and Government securities shall not be treated as securities of an issuer in applying the 25 percent and 50 percent tests.

"(5) Limitation on subsequent transfer.—This subsection shall not apply in the case of a common trust fund that received assets from a regulated investment company in a transfer to which section 852(g)(1) applied."

(b) Conforming Amendment.—Section 584, as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(j) Cross Reference.—

"For transfers from a regulated investment company to a common trust fund, see section 852(g)."

(c) Effective Date.—The amendment made by subsection (a) applies to transfers after the date of the enactment of this Act.

SEC. 8209. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY REGULATED INVESTMENT COMPANIES TO COMMON TRUST FUNDS.

(a) General Rule.—Section 852 (relating to the taxation of regulated investment companies and their shareholders) is amended by inserting after subsection (f) the following new subsection:

"(g) Nonrecognition Treatment for Certain Transfers to Common Trust Funds.—

"(1) In general.—If—

"(A) a regulated investment company transfers substantially all of its assets to a common trust fund (as defined in section 584) in exchange solely for participating interests in such common trust fund, and

"(B) such participating interests are distributed by such regulated investment company to the shareholders of such regulated investment company in exchange for their shares in the regulated investment company,

no gain or loss shall be recognized by such regulated investment company by reason of such transfer or distribution, and no gain or loss shall be recognized by any shareholder of such regulated investment company by reason of such exchange.

"(2) Basis rules.—

"(A) Common trust fund.—The basis of any asset received by a common trust fund in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the regulated investment company.

"(B) Shareholders.—The basis of any participating interest in a common trust fund which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the shares exchanged.

"(3) Treatment of assumptions of liability.—

"(A) In general.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for interests in the common trust fund, the assumption by such common trust fund of a liability of the regulated investment company, and the fact that any property transferred by the regulated investment company is subject to a liability, shall be disregarded.

"(B) Special rule where assumed liabilities exceed basis.—

"(i) In general.—If in any transfer referred to in paragraph (1)(A) the assumed liabilities exceed the aggregate adjusted bases (in the hands of the regulated investment company) of the assets transferred to the common trust fund—

"(I) notwithstanding paragraph (1), gain shall be recognized to the regulated investment company on such transfer in an amount equal to such excess, and

"(II) the basis of the assets received by the common trust fund in such transfer shall be increased by the amount so recognized.

"(ii) Assumed liabilities.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the regulated investment company assumed by the common trust fund in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) Regulated investment company must meet diversification rules.—This subsection shall not apply to any regulated investment company which does not meet the requirements of section 368(a)(2)(F)(ii). For purposes of the preceding sentence, clause (iv) of section 368(a)(2)(F) shall not apply and Government securities shall not be treated as securities of an issuer in applying the 25 percent and 50 percent tests.

"(5) Limitation on subsequent transfer.—This subsection shall not apply to a regulated investment company that received assets from a common trust fund in a transfer to which section 584(h)(1) applied."

(b) Conforming Amendment.—Section 852, as amended by subsection (a), is amended by adding at the end thereof the following new section:

"(h) Cross Reference.—

"For transfers from a common trust fund to a regulated investment company, see section 584(h)."

(c) Effective Date.—The amendments made by this section apply to transfers after the date of the enactment of this Act.

SEC. 8210. TAX-FREE SALES OF TRUCKS ASSEMBLED BY EDUCATIONAL ORGANIZATIONS.

(a) In General.—Section 4053 (relating to exemptions) is amended by adding at the end thereof the following new paragraph:

"(8) Trucks assembled by nonprofit educational organizations.—Any article described in section 4051(a) which is, or is part of, an automobile truck, truck trailer, or semitrailer which is assembled by students, and sold, as part of a program included in the regular curriculum of a nonprofit educational organization, but only if the proceeds from such sale are to be used solely for the purpose of defraying costs incurred in connection with such program."

(b) Allowance of Credit or Refund.—Section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended by inserting after paragraph (6) the following new paragraph:

"(7) Truck chassis, bodies, and semitrailers sold by certain nonprofit educational organizations.—If—

"(A) a nonprofit educational organization has sold an automobile truck, truck trailer, or semitrailer assembled by students as part of a program included in the regular curriculum of such organization and the proceeds from such sale are to be used solely for the purpose of defraying costs incurred in connection with such program, and

"(B) the tax imposed by section 4051 has been paid with respect to such sale,

such tax shall be deemed to be an overpayment by such organization."

(c) Effective Date.—The amendments made by this section shall apply to sales after December 31, 1992.

SEC. 8211. TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) In General.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking subparagraph (D) and inserting the following:

"(D) any educational organization so described if such loan is made—

"(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under

which the funds from which the loan was made were provided to such educational organization, or

"(ii) pursuant to a program of such educational organization designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs; except that this clause shall not apply in the case of any discharge if the discharge is on account of services performed for any employer and such employer directly or indirectly provides funds for such discharge.

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness after the date of the enactment of this Act.

SEC. 8212. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1993 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

SEC. 8213. FRINGE BENEFITS OF AIRLINE AFFILIATE EMPLOYEES.

(a) QUALIFIED AFFILIATE.—Section 132(h)(6)(A) is amended—

(1) by inserting "or is an entity at least 80 percent of which is owned directly by one or more corporations which operate an airline," after "airline," in clause (i), and

(2) by inserting "or by an owner of such entity" after "member" in clause (ii).

(b) CONFORMING AMENDMENT.—Section 132(h)(6)(B) is amended by inserting "or other entity" after "corporation".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8214. TREATMENT OF PARTNERSHIP INVESTMENT EXPENSES UNDER MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 56(b)(1) (relating to limitation on deductions) is amended to read as follows:

"(A) DISALLOWANCE OF CERTAIN DEDUCTIONS.—

"(i) IN GENERAL.—No deduction shall be allowed—

"(I) for any miscellaneous itemized deduction (as defined in section 67(b)), or

"(II) for any taxes described in paragraph (1), (2), or (3) of section 164(a).

"(ii) TREATMENT OF PARTNERSHIP INVESTMENT EXPENSES.—Subclause (I) of clause (i) shall not apply to the taxpayer's distributive share of the expenses described in section 212 of any partnership; except that the aggregate amount allowed as a deduction by reason of this sentence shall not exceed the lesser of (I) the aggregate adjusted investment income of the taxpayer from partnerships, or (II) the excess of the aggregate of the taxpayer's distributive shares of such expenses over 2 percent of adjusted gross income. For purposes of the preceding sentence, the term 'adjusted investment income' means investment income (as defined in section 163(d)(4)(B)) reduced by investment interest (as defined in section 163(d)(3)).

"(iii) TREATMENT OF CERTAIN TAXES.—Subclause (II) of clause (i) shall not apply to any amount allowable in computing adjusted gross income."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 8215. TREATMENT OF UNPAID CHILD SUPPORT.

(a) ALLOWANCE OF BAD DEBT DEDUCTION FOR PARTIALLY UNPAID CHILD SUPPORT PAYMENTS.—

(1) IN GENERAL.—Section 166 (relating to deduction for bad debts) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN UNPAID CHILD SUPPORT PAYMENTS.—

"(1) IN GENERAL.—In the case of any eligible taxpayer who has any applicable child support payments remaining unpaid as of the close of the taxable year—

"(A) subsections (a) and (d) shall not apply to such payments, and

"(B) there shall be allowed as a deduction for such taxable year an amount equal to the amount of such payments.

"(2) PER CHILD LIMITATION ON DEDUCTION.—The aggregate amount allowable as a deduction for any taxable year under paragraph (1) with respect to any child for whom applicable child support payments are required to be paid shall not exceed $5,000.

"(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means an individual—

"(A) whose adjusted gross income for the taxable year does not exceed $50,000,

"(B) with respect to whom the amount of applicable child support payments remaining unpaid as of the close of the taxable year is equal to or greater than $500, and

"(C) who meets the identification requirements of paragraph (5).

"(4) APPLICABLE CHILD SUPPORT PAYMENT.—

"(A) IN GENERAL.—The term 'applicable child support payment' means, with respect to any taxable year of the eligible taxpayer—

"(i) any periodic payment of a fixed amount, or

"(ii) any payment of a medical or educational expense, insurance premium, or other similar item,

which is required to be paid to such taxpayer during such taxable year by an individual under a support instrument meeting the requirements of paragraph (8) for the support of any qualifying child of such individual.

"(B) QUALIFYING CHILD.—For purposes of this paragraph, the term 'qualifying child' means a child of an eligible individual with respect to whom a deduction is allowable under section 151 for the taxable year (or would be so allowable but for paragraph (2) or (4) of section 152(e)) or, while eligible for such deduction, was determined to be disabled under subtitles 2 or 16 of chapter 42.

"(C) PAYMENTS MUST BE DELINQUENT FOR AT LEAST ENTIRE YEAR.—Any payment described in subparagraph (A) which is required to be made by an individual to an eligible taxpayer shall not be treated as an applicable unpaid child support payment if at least half of the payments which are required to be paid to the eligible taxpayer during the 12-month period ending on the last day of the taxable year are paid. In the case of the 1st taxable year to which this subsection applies to payments from any individual, the preceding sentence shall be applied by substituting '24-month' for '12-month'.

"(D) COORDINATION WITH AFDC.—The term 'applicable child support payment' shall not include any payment the right to which has been assigned to a State under section 402(a)(26) of the Social Security Act (42 U.S.C. 602(a)(26)).

"(5) IDENTIFICATION REQUIREMENTS.—The requirements of this paragraph are met if the eligible taxpayer includes on the return claiming the deduction under this subsection the name, address, and taxpayer identification number of—

"(A) each child with respect to whom child support payments to which this subsection applies are required to be paid, and

"(B) the individual who was required to make such child support payments.

In the case of a failure to provide the information under subparagraph (B), the preceding sentence shall not apply if the eligible taxpayer certifies that any such information is not known.

"(6) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning after 1992, the $5,000 amount under paragraph (2)(A), the $50,000 amount under paragraph (3)(A), and the $500 amount under paragraph (3)(B) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied by substituting '1991' for '1989'.

"(7) SUBSEQUENT PAYMENTS.—If any payment with respect to which a deduction was allowed under paragraph (1) is subsequently made, such payment shall be included in gross income of the eligible taxpayer for the taxable year in which paid. This paragraph shall not apply to any amount if an individual has assigned the right to receive such amount to a State (and the State does not pay such amount to such individual).

"(8) SUPPORT INSTRUMENT.—For purposes of this subsection, a support instrument meets the requirements of this paragraph if it is—

"(A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

"(B) a written separation agreement, or

"(C) a decree (not described in subparagraph (A)) of a court or administrative agency requiring a parent to make payments for the support or maintenance of 1 or more children of such parent."

(2) DEDUCTION FOR NONITEMIZERS.—Section 62(a) is amended by adding at the end thereof the following new paragraph:

"(14) UNPAID CHILD SUPPORT PAYMENTS.—The deduction allowed by section 166(f)."

(3) CONFORMING AMENDMENT.—Section 166(d)(2) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or" and by adding at the end thereof the following new subparagraph:

"(C) a debt which is an applicable child support payment under subsection (f)."

(b) INCLUSION IN INCOME OF AMOUNT OF UNPAID CHILD SUPPORT PAYMENTS.—Section 108 (relating to discharge of indebtedness income) is amended by adding at the end thereof the following new subsection:

"(h) UNPAID CHILD SUPPORT PAYMENTS.—

"(1) IN GENERAL.—For purposes of this chapter, any taxable unpaid child support payments of a taxpayer for any taxable year shall be treated as amounts includible in gross income of

the taxpayer for the taxable year by reason of the discharge of indebtedness of the taxpayer.

"(2) TAXABLE UNPAID CHILD SUPPORT PAYMENTS.—For purposes of this subsection, the term 'taxable unpaid child support payments' means payments—

"(A) which were applicable child support payments which the taxpayer was required to pay under a support instrument for the support of a child of the taxpayer, and

"(B) with respect to which the notice requirements of paragraph (3) are met.

"(3) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—During January of the second calendar year following a calendar year in which there begins a taxable year for which a deduction allowed under section 166(f) was claimed, the eligible taxpayer shall send a notice (in such form as the Secretary may prescribe) to the individual who failed to make payments which contains—

"(i) the amount of the applicable child support payments for such taxable year, and

"(ii) notice that the individual is required to include such amount in gross income for the taxable year beginning in the preceding calendar year.

"(B) NOTICE BY SECRETARY.—If notice cannot be provided under subparagraph (A) because the address is not known to the eligible taxpayer, the Secretary shall send such notice if the address is available to the Secretary.

"(C) ADDRESS UNKNOWN.—If notice cannot be provided under subparagraph (A) or (B) because there is no known address, no income shall be included in gross income for any taxable year beginning before the calendar year preceding the calendar year in which such notice may be sent.

"(4) SUBSEQUENT PAYMENTS.—If any payment required to be included in gross income under paragraph (1) is subsequently made, the amount of such payment shall be allowed as a deduction for the taxable year in which such payment is made.

"(5) DEFINITIONS.—For purposes of this subsection, the terms 'applicable child support payments' and 'eligible taxpayer' have the meanings given such terms by section 166(f)."

(c) NO EFFECT ON RIGHTS AND LIABILITIES.—Nothing in this section shall be construed to affect—

(1) the right of an individual or State to receive any child support payment; or

(2) the obligation of an individual to pay child support.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8216. TREATMENT OF NOT-FOR-PROFIT RESIDUAL MARKET INSURANCE COMPANIES.

(a) IN GENERAL.—Subsection (d) of section 56 (relating to alternative tax net operating loss deduction) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR NOT-FOR-PROFIT RESIDUAL MARKET INSURANCE COMPANIES.—Subparagraphs (A)(i) and (B)(ii) of paragraph (1) shall be applied by substituting '100 percent' for '90 percent' with respect to any insurance company which is created by a State or an instrumentality thereof and which is operated on a not-for-profit basis for the primary purpose of providing coverage to individuals or businesses for high-risk needs where coverage is not otherwise available or affordable."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

Mr. STEVENS. If the Senator would yield, parliamentary inquiry. There is no necessity to have a motion to proceed under the agreement. We are going to be on this finance bill at this time?

The PRESIDING OFFICER. That is the pending business.

Mr. STEVENS. For debate only. When will it be open for amendment?

The PRESIDING OFFICER. At 2:15 today, it will open for amendment, after the 2:15 vote.

Mr. STEVENS. I place the Senate on notice that I wish to be consulted concerning a unanimous-consent request. I maintain that motion, and I wanted the record to show that.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, today I introduce legislation that takes several steps. Some of them are large and some of them small, but they are all positive, in trying to accomplish some of the objectives this country is deeply concerned about. They are steps toward goals that concern the U.S. Senate—goals like revitalizing our cities, increasing savings and capital formation, aiding troubled families, and improving business competitiveness.

Unfortunately, parties outside this Chamber have already attempted to color dialog on the first of these issues. Recently, the Secretary of Housing and Urban Development declared that enterprise zone proposals in this bill are "a hoax to the poor" and a "message to Los Angeles to drop dead." He insisted, in the billboard of a news release, that this proposal would not qualify Los Angeles as an enterprise zone. And he followed immediately with personal calls to mayors and legislators making other misrepresentations.

ENTERPRISE ZONES

Mr. President, this measure does not deny any city enterprise zone status because it does not name cities that are eligible. Rather, it specifies standards of poverty, unemployment, and general economic distress and leaves the naming of specific zones to the Secretary of HUD—gives him great flexibility—and other Cabinet officers. I assure you, Mr. President, areas of Los Angeles definitely qualify under those standards. Therefore, the only way they can be denied enterprise zone status is if the Secretary himself turns them down.

The Secretary has criticized the measure because it lacks a back-end capital gains provision—lay your money on the table, maybe get a break after 5 years. Mr. President, what we do in this one is put those breaks up front. We put the incentives up front, the discounts up front to encourage business people to make those kinds of investments. Remember this, that locations that meet enterprise zone criteria are fierce economic challenges. Any reasonable horizon for appreciation in business assets shimmers far out there in the distance. Investors know that. What is more, capital gains preferences benefit people who sell businesses. Preferences do not support businesses while they struggle to become vital long-term enterprises, and that is what we are trying to do, after all.

This measure offers meaningful incentives to people who will use them inside the enterprise zone. That is who we are trying to help. It does not create tax shelters for arm's length capitalists. It rewards shirtsleeve entrepreneurs who build jobs, businesses, futures and tax bases inside the enterprise zone. And it does so through incentives that offer their payback up front, not on the hazy horizon.

Mr. President, the Finance Committee did not pull the incentives in this legislation from an ill-fitting hat of political dogma. Staff worked around the country with mayors, city planners, legislators, local government, local business people. Those folks—whose authority comes from being on the front lines—told us what they needed to bring involvement and investment and they needed the up-front incentives. The Finance Committee acted on what they advised us.

They said we could stimulate employment through wage credits for the employer, and that is why this bill provides a very generous one.

They lamented on how many employees lacked skills and training—you just do not find that within these distressed areas—and what should be done about it.

And this bill provides the incentives to train those workers. They told us that our problem is not capital gains—it is borrowing money. It is financing. It is being sure they are going to be able to get insurance to protect that investment in that building. Getting loans was their problem. And that is why this measure authorizes tax-exempt bonds for building businesses—and permits the banks to buy them.

And just to be sure, there is an emphasis on equity in this measure. This bill lets investors deduct 50 percent—half—of their investment in stock of enterprise zone businesses.

Mr. President, I want another fact to be as clear as humanly possible: This measure is absolutely no less generous than the $2.5 billion the administration has requested and that the House has accepted. What it does not do is spread the benefits so thin that they do not begin to address the problem, and that is the case where you allocate $2.5 billion to 150 zones.

I cannot help but recall how Model Cities started out. There were just a few cities that it was going to help. But then it became almost a political patronage for it spread across the country and you diminished the effort so much that it failed.

Let us look how the numbers shake out on 150 zones. If you are talking about $2.5 billion in tax incentives for

150 zones spread over 5 years, that is $3.2 million per zone per year, $3.2 million a year to raise Americans from our Nation's most desperate poverty. Los Angeles alone had over a 1 billion dollars' worth of damages. At least Marie Antoinette offered the poor a whole cake. This one says: "Let them eat the crumbs."

That amount per zone will never give you a realistic measure of whether enterprise zones work or not. I am not sure they do. I read every bit of material I get my hands on. I have looked at our plans. I have looked at State plans. I have looked at the British and what they have done. But as long as we are going to do it, then let us make every effort to see that they succeed. So let us put up some parameters. Let us measure and see what effect we have and if they are working let us intensify that effort. Let us do a lot more of it. But give it a chance to work, not just a life-enriching promise for the impoverished that we pass out during an election year.

Mr. President, I could shower this Chamber with a Niagara of detailed comparisons between this measure and the Secretary of HUD's—eligible populations, economic entitlement versus economic empowerment. And I think this one beats it on all counts. And there will be a time for those comparisons.

There is one final opinion I add to my own. In testimony before the Finance Committee, Secretary Jack Kemp said it was more worthwhile to honor Los Angeles Mayor Tom Bradley's ideas than Jack Kemp's. So I quote a letter from Mayor Bradley and Mayor Tom Lanier of Houston. Their endorsements are echoed in letters from the National League of Cities; the National Association of State Treasuries; the National Association of Counties; and the Government Finance Officers Association.

Mayors Bradley and Lanier describes the wage credit as "The most important incentive for providing zone residents with jobs," saying it "will dramatically and immediately reduce an employer's cost of doing business and it is a major step in reducing the unemployment problems in our cities."

Of the Finance Committee's credit for job training expenses, they write, "We believe this new and innovative proposal will greatly encourage businesses to assist in our efforts to provide inner city residents with improved jobs skills particularly with respect to high school aged youth."

They call the bill's inducements for businesses to rehabilitate ravaged buildings and plan new ones "a powerful incentive to rebuild the city."

The bill imposes no limit on the size of enterprise zones, a fact their letter praises because it "gives cities flexibility to design enterprise zones which address widespread poverty."

They write, "it is significant that your tax-exempt bond provisions would apply to more than 200 cities. * * * So even those areas that are not officially designated—as enterprise zones—will qualify for tax-exempt bonds."

Mr. President, I also point out how this legislation includes $2 billion in other measures that bolster the economic foundation of our cities. Those measures include low-income housing credits, mortgage revenue bonds and a targeted jobs tax credit. A vote for this measure is a vote for the future of American cities and Americans who live and work in them.

REVIVING THE IRA

All Americans stand to benefit from another proposal in this bill, the one restoring and improving the real IRA. American business cannot be competitive when it lacks capital to invest particularly when our world competitors enjoy savings rates two and three times greater than ours.

The German rate is twice ours; the Japan rate is three times ours. They have the kind of savings and the kind of capital to build a new and modernized plan to increase their productivity, to increase their international competitiveness.

We have to stop the decay in household savings if we expect to turn around business investment.

When it was fully deductible—universally available—the IRA was the most popular savings vehicle since the cookie jar, and it sure did its job. In 1985, 16 million tax returns showed $38 billion in IRA contributions. And by 1989, after the IRA was neutered: 6 million returns, $11 billion in contributions and our savings rate crumbled one-third to a postwar low.

The American people have confirmed the IRA as a means to spur savings. My Republican colleague BILL ROTH, 76 Senators, and 270 Congressmen who cosponsor its return, and improvement, mirror that consensus.

This measure not only brings IRA's out of retirement. It touches more reasons why people save by granting penalty-free withdrawals for first homes, education, catastrophic medical bills, and protracted unemployment.

It even lets savers choose between tax-deductible contributions now or untaxed withdrawals later.

TAX CREDITS, ALLOWANCES, REAL ESTATE, LUXURY TAX

Besides expanding capital, this measure facilitates business investment and business operations in immediate ways. It extends the R&D tax credit. It repeals depreciation restrictions under ACE rules within the alternative minimum tax.

At urgent request from both sides of the aisle—Republicans and Democrats—this measure repeals the luxury tax that combined with recession to devastate America's boating and aircraft industries, with a great loss of jobs. It aids our afflicted real estate sector through passive loss relief for real estate professionals—not the doctors, not the lawyers, not the people not involved in the business, not the people that they created tax shelters for before. And it makes it easier for pension funds to invest in real estate.

FAMILY ASSISTANCE PACKAGE

Home and family is the focus for another aspect of this legislation, which dedicates more than $2.7 billion over 5 years to lift our society's most vulnerable. This measure supports State programs that address victims of parental and maternal substance abuse.

How many of you have gone into a hospital, looked in that intensive care area, see the rows of babies, some of them no larger than your hand, tubes running in all directions. They call them boarder babies. No one comes to claim them.

This measure supports State programs that address victims of parental and maternal substance abuse. Those are the crack babies that are casualties at birth. It funds education and training that prepare welfare recipients for productive jobs. It launches programs to covert welfare rosters into community service payrolls and to check the alarming pace at which children are farmed out to foster care.

Mr. President, these initiatives yield numberless returns—improved quality of our work force and greater competitiveness as a nation—more opportunity, more people working and more families working to stay together.

TAXPAYER RIGHTS, SIMPLIFICATION

And this measure also assists the people who ultimately pay for everything, the American taxpayer. It further assures he and she are protected and represented as they try to conform with tax laws. It reduces some of their difficulty by making the Tax Code easier to understand. It clarifies relationships and responsibilities and recourse. Especially, it eliminates many complexities and inconsistencies in pension regulations.

CONCLUSION

In closing, Mr. President, I want to emphasize the high degree of consensus that brings this measure before us. It passed the House because there was great accord for action in the areas it addresses. The Finance Committee reported it to this Chamber without dissent. Its Framers consulted closely with the administration and included virtually all its proposals. At each rung in the process it received a hand up from bipartisan cooperation. It is legislation that confronts the concerns of mainstream Americans and draws more Americans into that mainstream. This is legislation that can carry us forward.

Mr. President, I withhold the remainder of my time.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I want to thank the distinguished chairman of the Finance Committee for his hard work on this important legislation.

He has put together a bipartisan bill that covers a lot of ground, and it successfully addresses many issues that all of us—on both sides of the aisle—want to see resolved.

The bill includes: enterprise zones; a new child welfare program and adoption of special needs children; six of the President's seven economic growth proposals; 18-month extensions of various tax provisions that expired on June 30; repeal of the luxury tax on all items except autos; and the taxpayers' bill of rights, tax simplification and a host of other provisions.

In short, this bill takes care of most of our unfinished business on the tax front.

However, let me make a few comments on the enterprise zone proposal in this bill.

Clearly, the Los Angeles riots brought home the severity of the problems in urban America. There is no one among us who is not concerned about the lack of opportunity and lack of hope that exists for many who live in our inner cities. I believe enterprise zones can bring economic opportunity and jobs to these distressed areas.

However, there is a philosophical difference between those of us who would like to see more cities qualify for enterprise zone status, and others who prefer the approach in the bill of a very limited number of zones.

The Finance Committee heard compelling testimony from officials of midsized cities, including Portland, OR, who are faced with severe problems with crime, gang violence, drugs, and minority youth unemployment. In order for these midsized cities to have a chance at this program, the number of zones in the bill must be increased.

Additionally, many of us on this side of the aisle would like to see some form of capital gains relief added to the bill's investment incentives.

I understand that there will be an amendment dealing with these issues.

I am very pleased to see that the bill expands the reforestation trust fund, which is very important to my State of Oregon. In 1980, I introduced the original legislation that led to the creation of the reforestation trust fund. Since that time, the reforestation trust fund has been very successful in reducing the backlog of reforestation projects on Forest Service lands—which was our original goal.

Today, a backlong exists in Oregon, and other States, on land administered by the Bureau of Land Management [BLM]. The expansion of the trust fund in the bill will help reduce this backlog by providing additional money for BLM lands. Increasing the number of trees planted on BLM lands and managing their growth is good for the environment. It also ensures a sustainable harvest that will return money to the States and counties, provide jobs for timber workers, and go a long way toward eliminating the timber supply crisis.

Another provision in this bill that has my enthusiastic support is my PRIME retirement account proposal. The PRIME retirement account is a very simple way for smaller employers to offer retirement savings plans for their employees.

The bill also includes several provisions I have been pushing for which will give a much needed boost to the real estate industry. These include a $2,500 tax credit for first homes, penalty-free IRA withdrawals for first homes, and fairer passive loss rules for real estate professionals. The real estate industry has led us out of recessions in the past and this bill should give them the wherewithal to do it again.

I am very pleased to see the child welfare provisions in this bill. We all know of the alarming number of children in foster care—almost twice as many today than just 10 years ago. Some of this increase is due to growing crack cocaine use by women. The bill will provide needed resources to help pregnant women get drug treatment, parents care for their children, prevent the breakdown of families, and keep children out of foster care. The bill also includes a provision the chairman of the Finance Committee and I have been working on for the last couple of years. It gives parents who are generous enough to adopt a mentally or physically handicapped child some help with adoption expenses in the form of a tax deduction of up to $3,000.

Again I commend the chairman of the Finance Committee for the fine job he has done on this bill. While we do have some differences on some matters, it is by and large a consensus bill and I hope we can complete floor action on this bill quickly, hopefully before we go home for the recess tomorrow.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I thank the ranking member on the committee for the work he has done and for his very generous comments concerning the work we have been able to do together. It is always pleasing when you can bring about a consensus and do these things in a bipartisan way.

In all candor, I think the American public is a little weary of excess partisanship. And this is an example of trying to accomplish something, and bring it forward, that is going to help move this economy of ours forward and take care of some of our people in the most distressed areas.

Mr. BENTSEN. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, as I understand it there is a vote scheduled for 12:15. I ask unanimous consent that I might proceed as in morning business until 12:15.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECENT HANDGUN SHOOTINGS AND DEATHS

Mr. CHAFEE. Mr. President, just about 1 month ago, I introduced legislation, S. 2913, to prohibit the sale, manufacture, and possession of handguns—those deadly, easily concealed and easily available weapons. I call my measure the Public Health and Safety Act, and I named it so for good reason.

All of us cannot help but be horrified by the steady stream of news reports on handgun shootings and deaths—each one more senseless and unimaginable than the previous one. It is utterly insane what is taking place in this Nation of ours, and always a handgun is involved.

Look at this report, dated July 20, from Santa Clara, CA: A 49-year-old man shot his next door neighbor to death. Apparently, the man and his wife returned from a 3-day trip and found their newspaper all wet. Assuming the neighbor's dog to be the culprit, the man threw the paper over the fence; the neighbor threw it back; heated words were exchanged; the first man fetched his .357-revolver; a shot is fired, and the neighbor loses his life—all for a wet, day-old newspaper.

In Bridgeport, CT, an 11-year-old girl was shot by a 13-year-old boy. The bullet lodged in her neck; but somehow she survived, although the bullet remains in her neck. Why shoot her? Apparently the boy had given her money to buy candy from a store but said upon her return that she was 35 cents short. So he pulled out a gun and shot her. Because he thought he was ripped off a 13-year-old boy shoots an 11-year-old girl.

Look at this report from Providence, RI: "Boy Held in Assault on Pizza Deliverer." Four teenage boys spending the evening playing basketball decide to quit and order a pizza. All four were armed with 9-millimeter handguns; one of the boys apparently decided that he wanted to use his. Just after midnight, when the pizza deliverer appeared with the food, the 15-year-old boy tried unsuccessfully to rob him, shot him instead, and fled on his bicycle. The pizzaman was hit three times: One bullet in the chest, one in the hand, and a third that hit both legs. Why? Because the boy wanted to and he had a handgun readily available.

Here in the District this past weekend, I think every single Washingtonian was horrified at what took place. It was 4 o'clock on a lovely August afternoon. Alain Colaco was out in his front yard. He had finished mowing the lawn and had started weeding the front sidewalk; an unknown man fired a semiautomatic handgun repeatedly at him. Alain was hit in the chest and head; he died almost immediately. Alain Colaco, 15 years old, honor student, most valuable track performer in his school, excellent soccer player, hoped for a career as a scientist, had a sought-after internship with the American Cancer Society. Alain Colaco, dead at age 15 because of the prevalence of handguns.

This horror, this insanity, has got to stop. We must ban all handguns in the United States. Ban the purchase, the sale, the manufacture, and the possession of all handguns.

If we do not, Mr. President, this senseless slaughter of which I have just given a figment, a partial, minute clip of what takes place every day, every weekend, every week across our Nation, this senseless slaughter will continue and, Mr. President, it soon will affect every single family in America.

Mr. President, I ask unanimous consent that the news clippings that I have referred to be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 10, 1992]

SUSPECT TELLS OF "URGE" TO KILL NW TEENAGER

(By Ruben Castaneda)

The man charged with slaying an upper Northwest Washington teenager has told investigators that he killed the honor student because he had the "urge" to do it, according to a law enforcement source familiar with the investigation.

The Friday afternoon shooting of Alain Manuel Colaco, 15, who was shot to death as he was gardening in front of his home, apparently was a random, unprovoked act of violence, said the source, who requested anonymity.

Detectives have turned up no evidence that the suspect, Sean Lee Qualls, 21, of the 6600 block of Piney Branch Road NW, knew Colaco or even exchanged words with him before the shooting, the source said.

The two lived about three miles apart. However, "nowhere down the line had their paths crossed" before the shooting, the source said. Colaco was shot in the head and chest. His attacker fled on foot, according to witnesses.

In an interview with homicide detectives, the only reason Qualls could cite for shooting Colaco was that "he had the urge to do it," the source said. Colaco, a junior at Georgetown Day School, was his track team's most valuable player in the last school year, and was an avid soccer player and budding scientist.

The Colaco shooting occurred about 4 p.m. in a community of two-story and ranch-style houses in the 5400 block of 27th Street NW in Chevy Chase. The neighborhood, a block from Rock Creek Park, previously had been largely spared the violence that has visited some poorer neighborhoods in the District.

Saturday afternoon, a handgun that police believe was used in the slaying was recovered from woods near Rock Creek Park. Though no witnesses appeared to have seen the actual shooting, some reported seeing a man fleeing and ditching a gun in the area where police searched, the source said.

Qualls turned himself in to workers at D.C. General Hospital's psychiatric unit early Saturday morning, telling them he was responsible for the Colaco slaying, the source said. Qualls's mother is a psychiatric nurse who has worked at D.C. General, the source said. Efforts to reach her and hospital officials for comment yesterday were unsuccessful.

Qualls, who was held without bond, is scheduled to be arraigned today in D.C. Superior Court.

Colaco's family was traveling in Europe at the time he was shot; Colaco had stayed at home so he could work at Children's Hospital, where he was assigned to the biochemistry laboratory on a fellowship from the American Cancer Society. Colaco was one of eight Washington area youths to be awarded the prestigious fellowships.

The apparent random senselessness of the killing "reminded me of 'Little Man' James," the source said, referring to Henry James, who allegedly told his companions that he "felt like killing someone" before shooting a woman on the Anacostia Freeway.

MAN ALLEGEDLY KILLS NEIGHBOR BECAUSE DOG WET ON NEWSPAPER

SANTA CLARA, CA (AP)—A man allegedly shot his next-door neighbor to death because he thought the neighbor's dog had urinated on his newspaper, police said.

Michale DeBaets, 49, was being held Monday at the Santa Clara County jail on suspicion of homicide, police Sgt. Monte Macer said. He was schedlued for arraignment Tuesday.

Macer said DeBaets and his wife, Robin, had an ongoing series of problems with their neighbor, Martin Myslinski, 33, including arguments regarding parking, trees, Myslinski's dog and the DeBeats' cat.

When the couple came home from a three-day trip out of town and found their newspaper wet with what they thought was dog urine, Robin DeBaets placed it in Myslinski's convertible, according to police. Myslinski then threw it back onto the DeBaets' property, and the woman threw it back, police said.

Myslinski and Robin DeBaets then began having a discussion about the matter when her husband came out of the house and allegedly shot Myslinski once in the chest with a .357-caliber revolver, authorities said. He was pronounced dead on arrival at Kaiser Hospital.

Macer said Myslinski's wife was apparently inside when the argument and shooting occurred.

"This is an ongoing type of thing that has gone on for two years and possibly more," he said of the tension between the neighbors. "It's just a silly disagreement that ultimately led to murder. It's a sad situation, really."

Robin DeBaets wasn't charged in connection with the incident, he said.

[From the Providence Journal, July 17,1992]

GIRL SHOT FOR 35 CENTS

BRIDGEPORT, CT.—An 11-year-old girl was shot and injured by a 13-year-old boy who thought she shortchanged him by 35 cents, police said yesterday. The boy had given her money to buy candy Wednesday, but when she returned from a store, he said she was short 35 cents, pulled out a gun and shot her. A bullet was lodged in the girl's neck, and doctors hadn't decided yesterday whether to remove it. The boy, held as a juvenile, was charged with first-degree assault.

[From the Providence Journal]

BOY HELD IN ASSAULT ON PIZZA DELIVERER

(By Diane Bakst)

PROVIDENCE.—A 15-year-old Providence youth was arrested early yesterday in connection with the shooting last weekend of a pizza deliveryman on Suffolk Street.

Maj. Milton R. Wilson said the boy, originally from Roxbury, Mass., and now living in the Chad Brown housing project, is being held at the state Training School pending an appearance in Family Court tomorrow. Wilson said that in addition to firearms charges, the boy faces charges of assault with intent to murder, robbery and attempted robbery.

The boy is accused of shooting Domino's Pizza employee Charles Shuck Jr. of 150 George M. Cohan Blvd. as Shuck was delivering a pizza to a house on Suffolk Street just after midnight on July 25.

Wilson said the shooting appears to be an act of "random violence."

According to Wilson, the boy had been playing basketball earlier that night with three friends, all juveniles from Roxbury. All three youths were armed with 9mm weapons, Wilson said, and apparently the Providence teenager decided he wanted to use his gun.

The youth apparently tried to rob Shuck, but when Shuck refused to give up his money, the youth shot him, then fled on a bicycle, Wilson said. No money was taken, he said.

One bullet entered Shuck's right arm and lodged in his chest, a second bullet hit both of his legs, and a third hit his left hand.

He was listed in satisfactory condition yesterday at Rhode Island Hospital.

Two witnesses later identified the youth as the assailant, Wilson said. He said the witnesses also recognized the bicycle on which the youth fled.

Wilson said police visited Shuck at the hospital yesterday but would not say whether he had identified the youth as his assailant.

Police were traveling yesterday to Roxbury to pursue the three other juveniles, Wilson said.

15-YEAR-OLD FATALLY SHOT IN HIS YARD

(By Santiago O'Donnell and Martin Weil)

A 15-year-old was shot and killed yesterday afternoon in front of his house in a quiet upper Northwest Washington neighborhood that has been largely immune to the wave of violence in much of the city.

The victim, identified as Alain Colaco, the son of Mr. and Mrs. Francis Colaco, was shot several times with a handgun about 4 p.m. Police reported that a man approached him as he was doing yardwork in front of the family's home in the 5400 block of 27th Street NW.

Investigators said they had no idea why the youth, who finished 10th grade this year at Georgetown Day School, was shot. A brief statement released yesterday evening by police said the assailant "for unknown reasons" drew a handgun and fired before running off.

Based on accounts gathered at the scene, police described the assailant as a black man who appeared to be between 30 and 35 years old, about 5 foot 8, with a medium or heavy build and a medium complexion. They said he wore a dark shirt and dark pants. Anyone with information was asked to call the police Crimesolvers unit at 202–393–2222.

The youth's father is director of the Eastern Africa department at the World Bank here, according to one of his associates. The father and mother and Alain Colaco's older brother, Antoine, were in Europe on a trip yesterday and were told of the shooting by telephone, friends said.

Those who knew the youth and his family were stunned by news of the shooting. "These are such outstanding, nice people," said Francis Lethem, a project adviser for East Africa at the World Bank.

Colaco "was a very good student, very attentive [with many] friends," who was "never in any difficulty," said Gladys Stern, the headmistress of Georgetown Day School.

A family friend said Colaco was an excellent soccer player and a member of the school's soccer and track teams. "He was a very good athlete, and soccer was his thing," said the friend, who asked not to be identified.

"This is the most senseless killing I have known," said a neighbor, Phyllis Wetherill. Colaco "was the kind of boy everybody would want to have."

According to neighbors, Colaco, wearing shorts and a cap, had mowed the lawn earlier in the day and at the time of the shooting was pulling weeds from along the front sidewalk.

A few minutes before 4 p.m., Wetherill said, she heard four abrupt noises that sounded like "somebody banging against the garage door." She looked out, saw nothing and then walked out to go to the movies.

As she headed from her house, she saw Colaco lying on the sidewalk with what appeared to be bullet wounds in his chest and head. The Colaco family's housekeeper was at his side.

After learning that help already had been summoned, Wetherill said, she knelt to administer cardiopulmonary resuscitation.

But she said that the youth's throat and nose were filled with blood, and she saw that Colaco "was already dead."

The shooting was "highly unusual," a veteran investigator said yesterday evening. "I can't remember anything like this ever happening in that area."

The family has lived in the neighborhood for the last 15 years, several neighbors said.

[From the Washington Post, Aug. 9, 1992]

D.C. MAN CHARGED IN TEENAGER'S SLAYING

(By Avis Thomas-Lester and Santiago O'Donnell)

A man who walked into a D.C. psychiatric ward early yesterday was arrested and charged with the Friday afternoon slaying of a 15-year-old youth who had been gardening in front of his upper Northwest Washington home.

The suspect, Sean Lee Qualls, 21, of the 6600 block of Piney Branch Road in the Takoma section of the District, apparently did not know the victim, police said. Qualls was questioned for several hours by homicide detectives and made statements, but police officials said they knew of no motive for the slaying of Alain Manuel Colaco.

Yesterday afternoon, police searched the woods near Colaco's home in the 5400 block of 27th Street NW in Chevy Chase and found a handgun they believe was used to shoot him in the head and chest. About 5:30 p.m., several officers executed a search warrant at the suspect's home, a weathered one-story house near the Prince George's County line.

The officers entered the house through windows, and after 15 minutes, they left. An officer refused to say what, if anything, was seized.

A source familiar with the investigation said Qualls told police he had taken drugs Friday.

Qualls had gone to D.C. General Hospital's psychiatric ward early yesterday morning and later was transferred to St. Elizabeths Hospital, the city's psychiatric hospital, where he was arrested at 2 p.m., police said. He was charged with first-degree murder and held without bond pending arraignment tomorrow, police said.

While detectives talked with Qualls at D.C. police headquarters yesterday, relatives from as far away as Toronto and Los Angeles gathered at the Colaco home to lend support to the youth's family.

The community of two-story and ranch-style homes a block from Rock Creek Park has been largely immune from the violence that has troubled other city neighborhoods.

But about 3:55 p.m. Friday, police said, a man had walked up to Alain Colaco, who was pulling up weeds on the front lawn. The man raised a handgun, fired several shots and ran away. At the time of the shooting, the Colacos' housekeeper, Annie Castillo, was in the house with her young child. She ran outside screaming when she realized the teenager had been injured.

Yesterday, several neighbors gathered near the home as officers converged on the lawn about 12:30 p.m. Some feared the police were there to protect the family from another shooting.

But within a few minutes, about 15 officers began searching the area, following a path between the Colaco home and a brick house next door, beating shrubs with their batons. Thirteen minutes after the search began, police found a semiautomatic handgun in the woods at the edge of Rock Creek Park.

Police said information provided by witnesses had led them to the gun.

Francis Colaco, the slain youth's father, looked shaken and his eyes filled with tears when he was told that an arrest had been made. "I don't want to know about that," he said.

Colaco said he had last spoken with his son a week before he died. Colaco, director of the East Africa department for the World Bank, had been on a weeklong business trip in Africa. He had left Tanzania and was on a stopover in Paris en route to meetings in Scandinavia when a close family friend called to tell him that his son was dead.

The youth's mother, Marie-Henriette, was visiting relatives in Amsterdam with the couple's other son, Antoine, 20. She was notified by Francis Colaco and was met by family members when she flew into Dulles International Airport with Antoine yesterday afternoon.

"When I heard, I didn't know what to think," Francis Colaco said. "We are a very close family. He was a wonderful boy, truly. He was a very good-hearted child."

Relatives said Alain Colaco, a junior at Georgetown Day School, had stayed at home during his family's summer trip so he could work at Children's Hospital, where he was one of two students working in the biochemistry laboratory on a fellowship from the American Cancer Society.

Colaco, who was planning a career as a scientist, was one of eight Washington area youths to be awarded the prestigious fellowships. Among his projects this summer was a study on the effects of cholesterol in young people. He also witnessed a five-hour open-heart surgery, his father said.

At a closing ceremony for the program, hours before he died, Colaco made a speech from a neatly typed manuscript that sat on his family's coffee table yesterday afternoon.

The speech read in part: "I think the greatest experience I gained through my stay at Children's was just a basic understanding of how hospitals, and laboratories in general, work. It also provided me with opportunities I would not have had otherwise, such as . . . the opportunity to sit and talk to patients. These are things that will help me no matter what I do in life."

Francis Colaco said, "He loved science, and he loved seeing that operation—he was very enthused about that. Because he was so good at science, people would ask him about studying medicine. He said he could never do that because he would not have been able to dissect animals in biology class. He was against that because he had a great love for animals."

Dr. Steven Soldin, director of clinical chemistry at Children's Hospital and the supervisor for Alain Colaco and a schoolmate during their fellowship, said, "He was a very quiet, serious individual, but he related extremely well to everybody. He was very diligent and performed his tasks very, very well."

But acquaintances said the youth also had a lighter side. He was looking forward to attending a concert next week by the rock band U2. He also was looking forward to a whitewater rafting trip later this month in Colorado, said his uncle, Joseph Colaco. "He's a neat kid, what a neat kid," Joseph Colaco said yesterday as he stood across the lawn from where his nephew was slain.

All day, acquaintances arrived at the home—friends of Alain Colaco's from Georgetown Day and the Sheridan School, which he also had attended; co-workers of his father's from the World Bank; co-workers of his mother's from the International Monetary Fund.

People who knew the youth described him as an honor student and avid sportsman who had begun his own regime of exercise and healthy eating in preparation for the coming soccer season. He also ran track and was named his team's most valuable player in the last school year, Francis Colaco said. He also was involved in his school's theater program, acquaintances said. His only pet, a gray cat named Fritz, was a stray "who adopted Alain and was adopted by Alain" several years ago, his father said. The youth spent the last two summers volunteering at a senior citizens home.

"I think he had a combination of things—he was a very good student, very studious, and he was very much into athletics," Francis Colaco said. His son planned to try out for the U.S. Olympic soccer team.

About 50 people gathered at Georgetown Day School yesterday to mourn the slain youth—girls who remembered him for his politeness, boys who remembered his support on the athletic field, teachers who delighted in his intelligence. About 20 people spoke about their friendships with the youth.

"We didn't try to explain it—I just basically said it is with great sadness that we have invited you here today to share our feelings about this wonderful young man . . . who was admired and appreciated by all of us," school headmistress Gladys Stern said. "The senselessness of this wanton killing has outraged us and left us with heavy hearts. . . . Random, senseless violence has been foreign to us."

In Takoma, several neighbors said Sean Qualls has lived at the home with his mother for several years, but few people seemed to know them. "They keep to themselves," said John Matthews, a neighbor.

Qualls's mother, whose name could not be learned, was not at the home. Qualls did not answer a reporter's questions at police headquarters.

Mr. CHAFEE. Mr. President, I thank the Chair.

Mr. METZENBAUM. Mr. President, I commend the Senator from Rhode Island for his courageous leadership on this issue. He is addressing himself to an issue that concerns many of us—continued loss of life by handguns in this country. He is attempting to do something about it. It takes a great deal of courage to provide this leadership. I hope he carries on and he has my support.

Mr. CHAFEE. I thank the distinguished Senator from Ohio who has been a loyal supporter of these efforts and indeed has been involved in efforts for handgun control and now my legislation, which is to ban handguns right from the beginning. I commend him.

Mr. President, many people say that what I am attempting to do, by banning handguns is a unique step.

Mr. President, it is not unique to ban handguns. It is unique to have the prevalence of handguns that we have in the United States of America today. No other nation in the world permits this, permits anybody to go out and buy a handgun. They are advertised, as everybody knows in the Washington Post or whatever paper it might be, "handgun specials, $29.95." There are no restrictions in some sections of the country.

Some people point out that Washington, DC, is the slaughter capital of the Nation, and they do have some control. Why does it take place? Anybody in Washington, DC, can go to Virginia and buy a handgun with no restrictions whatsoever. Mr. President, the solution is not for individual entities. Try though they might, a city or a State, to have handgun delays in the purchase, or controls of some type, it cannot be done in that manner. It can only be done with a national ban on all handguns.

Mr. President, this is a theme I will be talking about rather continually, because the horrible incidents continue to come forward. Think of that young boy, 15 years old. How can you be more innocent? Fifteen years old, in his own front yard, minding his business, and along comes, in this instance, apparently a deranged individual who easily obtained a handgun, never had seen this boy before, and he just shot and killed him.

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

The Senate continued with the consideration of the resolution.

Mr. METZENBAUM. Mr. President, I rise in support of the pending resolution regarding Serb atrocities in Bosnia. As we near the dawn of a new century, we are once again confronted with ethnic cleansing—the latest euphemism for racial purification.

Mr. President, I rise in shock; I rise in outrage; but most of all, I rise with a sense of conviction—conviction that we cannot stand idly by if yet another ethnic minority is being systematically obliterated.

Mr. President, the many Senators voicing their rage at Serb atrocities are not naive: We all know that countless atrocities are committed every day, around the world.

We are not naive enough to believe that ethnic and racial minorities have lived in peace since the end of World War II.

We are not naive enough to believe that the United States can impose peace on the globe unilaterally.

No, Mr. President, we are not naive. Surely there is oppression and persecution that should receive the attention of the Senate, the attention of the entire world.

But the fact that suffering in one area goes unaddressed by us does not mean that we should ignore suffering in another.

We cannot ignore the way in which Bosnia is being forced to suffer.

We cannot ignore pictures of gaunt, haggard men, peering from behind rows of barbed wire.

We cannot ignore reports of ongoing, systematic sorting, isolation, and torture of Bosnian Moslems at the hands of Serb attackers.

We cannot ignore the methodical destruction of the Bosnian Moslem community.

For weeks, Serb gunners have rained death and destruction upon Sarajevo. Many are regular forces, and many more are irregular, undisciplined thugs.

They have turned their guns on women and children.

They have even turned their guns on U.N. relief workers.

It seems that they have also turned their guns on the helpless civilian men rounded up and held in the camps.

Mr. President, Bosnian Moslems present no political threat to their Serb neighbors. They clearly do not present a military threat. The Bosnians represent an ethnic threat.

Serbia does not fear Bosnians for political or military reasons.

No, Serbian political and territorial integrity is not threatened by Bosnia.

Mr. President, Serbia fears for its racial integrity. Serbia is taking organized, methodical steps aimed at insuring its racial purity. This is the truly chilling factor in the Bosnia crisis. This is what largely sets Bosnia apart from the many other conflicts raging around the globe.

Mr. President, I support the strong language of this resolution.

The Senate is going on record in support of "collective security". Collective security means that nations act together to quell a common threat. Such threats may be strategic, they may be economic, or they may be moral. They may threaten the moral fibre of the international community in such a way that we simply cannot stand by.

Mr. President, ethnic cleansing poses exactly such a threat to our standards of morality—our standards of decency. We cannot stand mute, we cannot watch passively—because such inaction will remain as a signal to future dictators.

Truly, the world's inaction today will sow the seeds for more pain, and more suffering than that currently gripping Bosnia.

Mr. President, I do not call for an American invasion of the Balkans.

I do not call for the United States to rush ahead of the international community.

However, I do believe that it is time for the nations of the world to act, to use collective force if necessary.

Mr. President, we have been discussing legislation that authorizes nearly $274 billion in spending for our Armed Forces. Our allies in Europe spend similar amounts on their own military forces. It has been said during debate on this resolution that there is nothing Western forces can do short of a full-scale invasion of Yugoslavia. We are reminded of the 37 German divisions that were pinned down by Balkan fighters.

Mr. President, I find it hard to believe that our military experts, working with the international community, cannot devise some plan, some type of action, should all other avenues for relief be closed.

If the gold-plated armed forces of the West and former Soviet bloc can't be employed in a fight against senseless racial purification, then I wonder what fight it is for which we are saving them.

I appreciate the concern about a Bosnian quagmire.

I appreciate the concern for acting under a U.N. mandate. The pending resolution attempts to address these concerns. But let's face it: There is no such thing as a perfect target, and there is no such thing as a perfect conflict.

Mr. President, how many times have we witnessed organized "ethnic cleansing" in this century?

How many times did we quibble when reports of atrocities surfaced?

How many times did we wish we had acted more quickly once the full story was told?

Mr. President, how short are our memories? We should not be urging Security Council action—we should be demanding it.

This resolution should pass overwhelmingly, and the international community should overwhelmingly endorse action in Bosnia.

AMENDMENT NO. 2929, AS MODIFIED

The PRESIDING OFFICER. The hour of 12:15 having arrived, the yeas and nays having been previously ordered, the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] and the Senator from Pennsylvania [Mr. SPECTER], are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 13, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—82

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burns
Chafee
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—13

Brown
Byrd
Coats
Exon
Gorton
Hatfield
Hollings
Kerrey
Lott
McConnell
Rudman
Smith
Wirth

NOT VOTING—5

Burdick
Gore
Helms
Seymour
Specter

So the amendment (No. 2929) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I ask that when the vote is taken on Senate Resolution 330, under the unanimous-consent agreement at 2:15, that it be by the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:42 p.m., the Senate recessed until 2:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

The Senate continued with the consideration of the resolution.

STOP, LOOK, AND LISTEN

Mr. HOLLINGS. Mr. President, with regard to Senate Resolution 330, it is time for the Senate to stop, look, and listen.

Yes, I am fully aware of the passions and outrage kindled by scenes of war from Bosnia. I share that outrage. I, too, am revulsed by Serbia's aggression and ethnic cleansing, by Serbia's concentration camps, by Serbia's targeting of innocent women and children in Sarajevo. These are despicable and cowardly acts. There is not a person in America who does not feel an impulse to want to reach out and right all the wrongs in Bosnia and the Balkans.

Likewise, it is perhaps understandable that the Presidential candidates of both parties—caught up in the supercharged atmosphere of the campaign—have called for military intervention on behalf of the besieged Bosnians. Both candidates have urged multilateral action under the U.N. Charter—action that could very well entail the commitment of U.S. forces to combat in the Balkans within a matter of days.

Mr. President, it is exactly in this kind of supercharged atmosphere, with Washington politicians inflamed by passions of the moment, that the Senate must act as a brake and a buffer. It is the institutional duty of this body to meet passion with dispassion. As Washington said to Jefferson, "We pour legislation into the senatorial saucer to cool it."

So let us cool our passions and reflect what is at stake here. Let us not trip willy-nilly into a combat commitment of American GI's in the Balkans. By way of caution, I can cite no better authority than Deputy Secretary of State Lawrence Eagleburger, our former Ambassador to Yugoslavia, who said on Face the Nation this past Sunday, "If we are not careful about how we deal with it, we will find ourselves enmeshed in what I do not apologize to say could become another Lebanon or another Vietnam."

Mr. President, if we learned anything in Vietnam it is that the road to tragedy and quagmire is paved with good intentions. Again in 1983, when President Reagan deployed United States Marines to Beirut, the road was paved with good intentions. Likewise, today, the road to Sarajevo is paved with good intentions.

But let us be under no illusions about this particular road to Sarajevo. Down through history, it is a well-traveled and much-bloodied road. The Ottoman Turks went down that road in 1389 and spent the next five and a half centuries in a bloody struggle with Serbian rebels and guerrillas. Hitler marched down that road in 1941 and for the next 4 years was obliged to commit 37 German divisions to contend with savage resistance by the Serbs and others.

Can the American military traverse the Balkan killing fields more successfully than the Turkish Janissaries and German Wehrmacht? Are we Americans truly prepared for the road to Sarajevo and all that entails?

And for what purpose, Mr. President? Of course we are outraged by the camps and the killings in Bosnia. But there are camps and killings in many countries around the world, from Somalia to Siberia to China to Cambodia to Iraq and tens of other countries. Are we to nobly intervene in each of these terrible conflicts in order to assuage our passions and conscience? If so, Mr. President, then the 82d Airborne Division is going to be one very busy group of soldiers, indeed.

Mr. President, I feel the same outrage and passion for the suffering people of Bosnia that I feel for the Shiites now being massacred by Saddam in southern Iraq or for the millions of starving innocents in Somalia who are no less tragic victims of war. But we do not intervene militarily in southern Iraq or in Somalia for a simple reason: There is no direct national interest of the United States at stake to justify the shedding of American blood in those godforsaken lands. And that some prudent test must apply in Bosnia: There is no United States national interest at stake there.

Mr. President, I must vote against Senate Resolution 330. I refuse to send American boys to fight and die on Europe's most ancient and notorious killing fields for a purpose that is ill-defined and open-ended. I don't know what size contingent of United States troops the President envisions sending to Bosnia. But if those troops are being sent there to resurrect Bosnia, it will be too few, and if they are being sent there to die, it will be too many.

THE RIGHT APPROACH TO PEACE MAKING IN YUGOSLAVIA

Mr. McCAIN. Mr. President, no one could deplore the atrocities taking place in Bosnia, and in other parts of the former Confederation of Yugoslavia more than I do. Racism is insane at any time, but the situation in Bosnia is racism that has been elevated to murder. A kindred people is being murdered in the name of purification over religion and language. Women, children, and babies are being murdered for reasons the world should have long ago outgrown.

Also contributing to our revulsion over the repression in Yugoslavia is our bitter disappointment that amidst the breathtaking pace of democratization throughout Eastern Europe, the promise for freedom for the nations of Yugoslavia once seemed so close at hand. Yet, now, the world's hopes for freedom in that former Confederation have been dashed by reactionary Communists in Belgrade and the violent despotism of Serbian officials.

As the world's leading democracy, the United States must serve the cause of freedom whenever it is opposed by racism, imperialism, and the violent ambitions of tyrants. Such is the case in Bosnia today. And, I submit, the United States, under the leadership of President Bush, has taken strong action to defend the rights of those poor people and attempt to cease the atrocities which Serbia has inflicted on them. In a few moments, I will detail those actions.

I do, however, wish to warn this body that we cannot resolve this conflict alone, nor can we help Bosnia and the other nations of Yugoslavia prevail in their struggle against Serbian hegemony alone. I believe that President Bush is right in insisting that such goals cannot be obtained without the collective action of the entire civilized world, most especially from the democratic States of Europe, who share our concerns for human rights, and whose vital interests are even more directly threatened by the violence in Yugoslavia.

My liberal friends have through the years denounced almost every exercise of U.S. military force. They always premised their denunciations on the observation that the United States is not the world's policeman. I want to point out to them now that the world does not confront this tragic situation in Yugoslavia because the United States failed to act. We confront it because Europe failed to act. And I wish to repeat to them their frequent advice: The United States is not the world's policeman.

The President believes that the decision to use U.S. force in a crisis must be carefully and thoroughly deliberated, and that the costs and objectives of such action be completely understood before it is undertaken. The President's opponents may believe the contrary. But as the President correctly observed, it is he, not Bill Clinton, who must make the decision to send America's sons and daughters into harm's way. And before he does so, he will be certain such action is necessary, that the goal is achievable, and that all due precautions for the safety of our troops have been taken. The President understands the costs of military action from personal experience. Bill Clinton does not.

Bosnia is part of Europe. It is in what is supposed to be a civilized part of the world. It is part of a community of European nations which are supposed to be in the process of unification, and which are supposed to be committed to peace, to democracy, and to human rights. Mr. President, this was supposed to be the year of Europe. This was supposed to be the year that Europe emerged as a new economic superpower.

Where is Europe? We have seen Lord Carrington act as a representative of Europe to negotiate a resolution of this crisis, but the extent of his support from his own government is unclear. We have seen Germany recognize the sovereignty of some Yugoslavian nations, but what evidence of leadership have they demonstrated beyond that action? We have seen President Mitterand go to Yugoslavia, and to send limited numbers of peacekeepers into the conflict which represents a beginning at least for Europe. But where is the European Community? Where is the Western European Union? Where are Sweden and Switzerland—nations that always seem willing to draw moral lines when there is no real cost for them?

Second, Mr. President, if we are to realistically seek an end to the conflict, we will need to field a United Nations peacemaking force that is composed primarily of European elements and that has strong and decisive European support. Europe is the only place from which we can draw the land forces, police forces, emergency workers, and aid to carry out a successful peacemaking effort and then keep that peace.

Mr. President, we are not talking about firing a few shots or dropping a few bombs. We are not talking about some minor effort that will last a few days. We are talking about hundreds of thousands of people who have been thrust into a massive civil war based on hate and the worst kind of inhumanity.

Even if we can halt today's atrocities with limited military action, and I have good reason to doubt that fact, we will need peacemaking forces on the ground. We will need sufficient force to suppress a guerrilla war, we will need sufficient force to allow people to live in security, and we will need sufficient force to allow reason to heal a divided people.

Mr. President, no one can guarantee an end to this tragedy without a major European presence and without some European show of unity and will—at least by Europe's major powers.

This is why, Mr. President, I believe that we should not be concentrating our pressure on President Bush. We should be exerting our influence in Europe and in the Security Council of the United Nations which is precisely what the President has done. We should praise those Europeans who have had the courage to act, but we should criticize the current temporizing of some Europeans, and the utter inaction of Europe's ever-moralizing neutrals.

Third, Mr. President, I want to issue a warning. I believe in airpower. I believe there are times in which airpower can be successfully used to defend freedom and protect human rights. The key to the successful use of force, however, is that the means must be tailored to the contingency in both political and military terms.

We learned the hard way in Korea, Vietman, and Lebanon that it is one thing to defeat a regular military force in the field and another thing to intervene in a guerrilla or popular war. In simple technical terms, it can take us several fighter bombers to locate and kill a single artillery piece. We can never be sure of locating and killing mortars and rocket launchers.

There is no way to be surgical about air strikes against scattered infantry forces or guerrillas mixed in with civilian populations. Vietnam has taught us that you need massive amounts of airpower, you do immense amounts of damage to everything around your target, and you often fail. No one has ever stopped a major guerrilla war through airpower alone, and no one ever will.

We may be able to force some kind of pause, or make the atrocities less visible, if we start the equivalent of a war against Serbia, and strike at the power base of the dictator that has driven this war to its present level of tragedy. We are, however, now hearing calls for air strikes against the armed forces of an entire country, and not just against the irregular forces that threaten Bosnia's civilians today.

We may end up involving ourselves in an escalating conflict where more civilians suffer. We may see the kind of pause we saw in Vietnam, where a totalitarian regime backs down for a while, and then returns to new atrocities later. We may simply see Serbian extremists go on fighting, or inflicting atrocities on Bosnians that are less visible to the world.

We can certainly support decisive European and United Nations action, just as Europe and the United Nations supported us during the gulf war. We must certainly support President Bush in pushing the United Nations and European action. We can continue to assist in efforts to assure the delivery of humanitarian assistance to the suffering population of Bosnia. What we must not do is try to return to 19th century gunboating, or confuse our carefully planned and measured success in Desert Storm, backed by sufficiency of force of every kind, with the situation in Bosnia and the rest of Yugoslavia.

Only sheer luck can make U.S. airpower the answer to this crisis. It is far more likely that we will be confronted with the choice between failure or steadily escalating our involvement and having to send in troops. If we do, the model we should remember is Lebanon, not Kuwait. Even if we are seen as liberators for the moment, we will be in the middle of a civil war based on racism and hate.

Our men and women in uniform have proved their courage and willingness to take losses in a good cause. The fact is, however, that the 235 men who died in the Marine Corps barracks outside Beirut did not bring peace. They died in a good cause, but their deaths did not bring peace nor an end to suffering.

When I was a Member of the other body, I opposed the continued presence of American Marines in Lebanon, a presence that ended in terrible tragedy. The reasons I cited for my opposition then were the criteria for military involvement that Gen. Maxwell Taylor had once elaborated. "First, the objectives of our involvement must be explainable to the man in the street in one or two sentences. Second, there must be clear support of the President by the Congress for the involvement. Third, there must be a reasonable expectation of success. Fourth, we must have the support of our allies for our objectives. And finally, there must be a clear U.S. national interest at stake."

I did not believe that all of General Taylor's criteria were met by our involvement in Lebanon. I do not believe they would all be met by unilateral and immediate United States military action in Yugoslavia. Before I will ask American men and women to risk their lives in this conflict, all of those requirements must be fully and clearly fulfilled.

Mr. President, there are good reasons why President Bush has encouraged action within the United Nations. There are good reasons why he has drawn on his vast experience in foreign affairs, and his admirable understanding of the consequences of using military force to pursue the course of action he has chosen. The focus of our attention should be on forcing all the nations which have a stake in European peace, and a commitment to democratic values, to involve themselves in a concerted attempt at resolving the tragedy in Yugoslavia. We should convince our allies that it is their responsibility to avoid further repeating their failures of the 1920's and 1930's.

Finally, Mr. President, I would like to remind both our European allies and the President's critics, that the United States has not failed to act or to show the kind of leadership that is rightly expected of the world's leading democracy. Most recently of course, the President has announced his intention to seek a U.N. Security Council resolution that would authorize appropriate, collective and not unilateral action to assure the delivery of humanitarian assistance to Bosnia.

I have prepared a short chronology of the actions, the Bush administration has taken prior to the President's statement yesterday to deal with this crisis. I believe that anyone who questions our approach to this crisis should examine that record, and then consider whether rushing forward to use force without the support of Europe or multinational action by the United Nations is the right approach. I also ask unanimous consent that a detailed record of our humanitarian assistance to the struggling nations of Yugoslavia prepared by the United States Agency for International Development be included in the RECORD at this point, should anyone persist in doubting the President's commitment to these people.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President, the U.S. has already taken the following actions:

On September 25, 1991, speaking before the United Nations Security Council, the Secretary stated that, "the Government of Serbia and the Yugoslav federal military bear a special and indeed growing responsibility for the grim future which awaits the people of Yugoslavia if they do not stop the bloodshed and reverse the violent course now being pursued." The Secretary underscored that this policy "represents a direct threat to international peace and security." The Secretary went on to say that "we must collectively protect as well against the spread of this cycle of violence to yet another Yugoslav Republic. There can be no mistaking that the fate of Bosnia-Hercegovina also hangs in the balance."

The Secretary's statement was a clear warning of the direction of Serbian aggression. Moreover, it was made at a time when others were far more reticent in voicing concerns about the developing crisis. The Secretary's remarks helped galvanize support for a UN arms embargo which was adopted that same day.

During meetings with EC leaders in march 1992, the U.S. took the lead in pressing for recognition of Bosnia-Harcegovina and Macedonia. Bosnia-Hercegovina was recognized by the U.S. and the EC in April.

Over the Easter weekend, we provided the first airlift of humanitarian relief to Sarajevo.

On May 16, we advised the Serbian leadership that the U.S. would deny JAT its operating authority in the U.S. if Belgrade did not provide reliable assurances that relief convoys would be allowed to enter Sarajevo and that the airport would be returned to Bosnian civilian control.

On UN sanctions, the U.S. strongly and successfully pressed its allies to adopt a comprehensive set of economic sanctions rather than to pursue a gradual approach. The U.S. also took the lead in pressing for the inclusion of an oil embargo. It was largely as a result of U.S. efforts that a prompt, comprehensive embargo was adopted.

On May 21, we advised our friends and allies that we planned to announce the withdrawal of military attaches from Belgrade, close two "Yugoslav" Consulates General, and implement a partial drawdown of our staff and terminate JAT's operating authority in the U.S. We strongly urged other governments to take similar steps in an effort to deter Serbian aggression.

On May 25, we announced the closure of the "Yugoslav" Consulates General in New York and San Francisco and the expulsion of two "Yugoslav" military attaches. We subsequently undertook a considerable drawdown of our staff at Embassy Belgrade. In all of these measures, we have been well in front of our allies.

In May 1992, the U.S. led efforts to suspend Serbia/Montenegro from participation in decisions affecting Yugoslavia at the CSCE.

On June 23, the Secretary told the Senate Foreign Relations Committee we were witnessing a humanitarian nightmare in Bosnial. He announced that we would no longer accept representation from Belgrade at ambassadorial level and would close the Chicago Consulate General (both steps have since been taken). The Secretary also said we would broaden our efforts to suspend Serbia and Montenegro from participation in the international community.

In July 1992, under the leadership of the U.S. Delegation, the CSCE Committee of Senior Officials extend the suspension of participation by "Yugoslavia" (Serbia-Macedonia) in CSCE activities until October 14.

On July 16, 1992, NATO agreed to a U.S. proposal and initiated monitoring of the Adriatic for possible violations of UN sanctions against Serbia-Montenegro with NATO STANAVFORMED naval task force in cooperation with WEU naval task force.

On July 25, 1992, at a meeting of NACC representatives in Brussels, Romania invited member countries to send monitors to Romania to oversee compliance with UN "Yugoslav" sanctions at the suggestion of Secretary Baker. We are in the process of working with the Romanians and NATO to implement this effort.

We are making demarches in Belgrade, Zagreb and Sarajevo demanding that the ICRC be given immediate an unimpeded access to sites which are alleged to be detention camps. We are asking the UK presidency to raise this issue with member states and urge them similarly to request access on behalf of the ICRC. We are also asking the Russians to use their influence with the Serbs to this same end.

Mr. President, no nation on Earth has spent more, has suffered more to secure the success of liberty everywhere in the world than the United States. Because the American people expect no less, the United States has undertaken to help the people of Bosnia and the other struggling nations in Yugoslavia. The President, as evident by his actions to date, is committed to a course that is intended to bring a resolution to the conflict, and the liberation of nations whose God-given rights have been brutally repressed. His leadership has been forceful, and what his critics have failed to see, offers the best chance of alleviating the suffering of these afflicted peoples, and providing them the opportunity to live peacefully in freedom.

[Agency for International Development, Office of U.S. Foreign Disaster Assistance, July 21, 1992]

Note: *New information since the last situation report, dated June 19, is in italic.*

FORMER YUGOSLAVIA—CIVIL STRIFE

Date: June 1991 and ongoing.

Location: All republics of the former Yugoslav nation are affected, but fighting has been most intense in Croatia and Bosnia-Hercegovina.

No. Dead: An estimated 10,000 in the six-month conflict (June 1991–January 1992) in Croatia, *7,561 dead and 27,412 wounded* in the ongoing struggle in Bosnia-Hercegovina *(media quote of Bosnian officials on July 5).*

No. Affected: *Some 1.75 million displaced people and refugees within the former Yugoslavia (UNHCR report of July 7) (This does not include the displaced who have fled to other countries.)*

Total USG Assistance: *$51,052,595.*

BACKGROUND

Since June 1991, warfare between the nations of the former state of Yugoslavia has taken a severe toll in lives, displaced large populations, and inflicted enormous damage to property and infrastructure.

Six-months of fighting between Serbs and Croats followed the June 1991 declaration of independence by Slovenia and Croatia. A cease-fire was agreed to in January 1992 and a U.N.-peace-keeping force was deployed in April to areas of Croatia still controlled by Serbs.

Inter-ethnic fighting flared anew in the still smoldering Yugoslav war after the republic of Bosnia-Hercegovina (B–H) voted for independence on February 29, 1992. The majority of the republic's population, made up of Muslims (44%) and Croats (17%), voted in favor of independence. Most ethnic Serbs (31% of the Bosnian population) boycotted the independence vote, while Bosnian Serb leaders called for a separate Serbian republic of Bosnia and Hercegovina. Since early April 1992, Bosnian Serb secessionists backed by the Yugoslav military, Serbian paramilitary groups from Serbia, and by Serbia have applied force to create such a Bosnian Serb republic and to expel all non-Serbs from its territory.

The European Community (EC) recognized the sovereignty of Croatia and Slovenia in December 1991, and of Bosnia-Hercegovina in April 1992. The United States announced recognition of all three republics in early April. Macedonia, a fourth former Yugoslav republic that has also declared its sovereignty, has not yet received widespread international recognition. Serbia and Montenegro, which remain allied, have proclaimed the establishment of a new, truncated Yugoslav state, whose claim to be the continuity of the former Yugoslavia is rejected by the U.S. and has not been generally accepted by U.N. members.

GENERAL SITUATION

Despite recent cease-fire agreements, fierce fighting has continued in the capital Sarajevo and other parts of B-H. The stream of displaced people seeking refuge in other republics and other European countries has grown steadily. Civilians still remaining in Sarajevo and other B-H cities and villages have been cut off from desperately needed aid by barricades and intensified fighting.

The UNHCR, *UNICEF*, *ICRC*, and others have managed to truck supplies to accessible areas in B-H; however, the relief effort has been hindered by security concerns. The ICRC and UNHCR temporarily suspended operations in Sarajevo after an ICRC staffer was killed in an attack on a convoy in May. *Both organizations have resumed operations in B–H. ICRC will concentrate activities in Bihac. Bania Luka, Mostar, Zenica, and other affected towns and will also provide assistance to 19 hospitals in B–H. To supplement the airlift into Sarajevo, the UNHCR is trying to establish permanent land corridors into the besieged capital.*

Critical to the delivery of desperately needed relief supplies for the 300,000 or more residents of Sarajevo and suburbs trapped by the fighting has been the reopening of the Sarajevo airport. Serb forces agreed on June 5 to turn over control of the airport to the U.N. Protective Forces (UNPROFOR), and a team of U.N. military observers from existing peacekeeping forces in Croatia was sent to Sarajevo. Fighting continued, however, between Serbs militiamen and Bosnian Defense Forces in the vicinity of the airport, prompting world capitals to consider a forced military intervention. On June 26, U.N. Secretary General Boutros Boutros-Ghali issued an ultimatum to both sides that a cease-fire must be in effect within 48 hours, and the U.N. Security Council voted to send a 1,000 member Canadian infantry battalion to Sarajevo to shore up security at the airport. The U.N. raised its flag at the airport on June 27, and the first planes of a French relief airlift, also carrying 125 French marine commandos, arrived at the Sarajevo airport on June 30. EC and U.S. military flights followed, beginning June 2 in the U.N.-sponsored relief effort. Other countries participating include the United Kingdom, Denmark, Canada, Germany, Greece, Italy, Kuwait, Turkey, Netherlands, Belgium, Norway, Spain, Tunisia and Saudi Arabia. Zagreb is the staging point for the U.N. flights. Relief materials reaching Sarajevo are delivered to Non-Governmental Organizations (NGOs) for distribution or placed in temporary storage; however, the security situation hampers the distribution of relief goods. Shelling continues near the airport and elsewhere in the city. The siege also continues in Gorazde and other towns in B–H, and the exodus of non-Serbs continues.

Cease fire violations have also continued in Croatia. Dubrovnik came under attack on May 29 for the first time in six months, *and Vinkovei was attacked on June 15.* Croatia has appealed for assistance to care for refugees from B–H.

To protest Serbia's aggression against Bosnia-Hercegovina, the United States and EC countries recalled their ambassadors from Belgrade in mid-May. On May 30, the U.N. Security Council voted to impose economic sanctions on the Yugoslavia federation of Serbia and Montenegro.

ASSISTANCE PROVIDED BY U.S. GOVERNMENT

In August 1991, an inter-agency U.S. Embassy team visited the first people displaced by hostilities on the Croatian front. They reviewed efforts and plans for the care of those displaced with social welfare. Red Cross, and voluntary agencies in Croatia, Vojvodina, and Serbia and shared their findings with the international relief agencies.

In September 1991, the State Department's Bureau of Refugee Programs (RP) allocated $1 million to ICRC for aid to displaced persons.

On Nov. 26, 1991, U.S. Ambassador Warren Zimmermann issued a disaster declaration, authorizing $25,000 in emergency assistance. The funds were used to purchase 11,000 kilos of high protein weaning foods to be distributed by the Red Cross of Bosnia-Hercegovina to infants of all ethnic groups.

From Dec. 5 to 21, 1991, a U.S. assessment team, comprising representatives from the U.S. Embassy, A.I.D., and the International Rescue Committee (a New York-based PVO), traveled to Bosnia-Hercegovina, Croatia, Vojvodina and Serbia to observe the situation first-hand and determined what further U.S. assistance would be appropriate.

President Bush announced on Dec. 17 that the United States would provide an additional $7 million to help meet the urgent needs of displaced people. This contribution, authorized from RP's Emergency Refugee and Migration Account (ERMA) included the following grants: $2 million to ICRC and $3 million to UNHCR in January 1992 and $1 million to UNICEF and $1 million to UNHCR for Bosnian relief in April 1992.

Two military flights authorized by the Department of Defense carried excess DOD medical supplies and food to the war victims in July and December 1991. The first flight landed in Serbia and the second went to Vienna for overland shipment to the affected areas.

In January, the International Rescue Committee sent a three-person team to Yugoslavia, under an OFDA grant arrangement, to work with local and international organizations in the affected areas. Their objectives were to monitor the distribution of donor resources, facilitate donor coordination and logistics, provide information to U.S. PVOs interested in assisting the relief effort, and to report on the impact of USG-provided resources to the relief effort.

A.I.D.'s Europe Bureau sent a three-person Project Hope team to the former Yugoslavia from April 5 to 9 to assess the medical needs in Bosnia-Hercegovina. Based on the team's findings, Project Hope arranged for the shipment of *$3.0* million worth of medical supplies. *One-half of the medical shipment was airlifted to the region on June 15, and trucked to warehouses in Zagreb. The balance is being shipped by ocean freight.* As the security situation in Bosnia-Hercegovina permits, the medical supplies are being transported by Medecins sans Frontieres/Holland (MSF/H) to affected populations in that region. *A.I.D. Europe provided $600,000 and leveraged $2.4 million of the $3 million shipment.*

FHA/OFDA funded five U.S. Air Force C-141 flights to Sarajevo on April 18–19. The airlifts carried 10,800 wool blankets from the OFDA stockpile in Leghorn, Italy; 90,000 meals-ready-to-eat (MREs) from DOD stocks; and over $200,000 worth of medicine and supplies from Amsterdam under an OFDA grant to MSF/H.

On May 16, a DOD C–130 and two C–141s, carrying 40 tons of MREs (about 55,000 meals) landed in Zagreb. The food stocks were placed in UNHCR storage facilities and will be distributed to displaced people temporarily housed in and around Split, a city located southwest of Sarajevo on the Adriatic sea.

OFDA also arranged with DOD to truck 155 sea containers of MREs (120 from Camp Darby in Livorno, Italy, and 35 from Rotterdam, the Netherlands) to Zagreb. The cost of the transport is $775,000, and the 3,214,080 MREs are valued at $13,659,840. The DOD road convoys began arriving in Zagreb on June 13. *All 155 truckloads had arrived in Zagreb by July 7. Some of the MREs are being airlifted to Sarajevo; others have been transferred to Split. DOD has committed an additional 80 sea containers of MREs, valued at about $7 million for future delivery as needed.*

RP announced additional contributions totaling $9 million in response to the latest international appeals: $6 million to UNHCR and $3 million to ICRC. This brings RP's total contribution to date to $17 million. OFDA sent an assessment team to the former Yugoslavia the first week of June to identify needs of displaced persons in Macedonia at the request of local authorities, and determine an appropriate USG response. The team included an OFDA disaster operations officer, an assessment/logistics expert, and representatives of the International Rescue Committee, the Centers for Disease Control, the Office of Food for Peace, and USAID/Europe Bureau. The logistics expert assessed the logistical and storage capacities of Zagreb and Split in Croatia. The team leader joined a USG delegation in Brussels to attend a G–24 meeting on June 22, where the international community discussed the current emergency in the former Yugoslavia. The OFDA team identified a range of needs for the consideration of the international donor community to assist both the hard-pressed Government of Macedonia and the refugees from B-H seeking relief assistance in the country.

Following the assessment in Macedonia, OFDA arranged with UNICEF to procure $66,000 worth of medicine and medical supplies for distribution there. In late June, OFDA sent two consultants to the former Yugoslavia, one to assist with the distribution of medical supplies in Macedonia and the other to monitor the delivery and distribution of MREs arriving in Zagreb. OFDA also sent a consultant to work on the subgroup of logistical and management experts in Brussels, in response to a G–24 request for personnel.

In July, OFDA purchased 10 medical kits from UNICEF, each kit containing essential medicine and disposable medical supplies sufficient to serve 10,000 people for three months. The kits and transportation were valued at $82,240.

The U.S. military launched Operation Provide Promise on July 3, flying C–130 Hercules transport planes to Sarajevo from Rhein Main Air Force Base near Frankfurt, Germany, carrying logistics equipment and MREs. DOD is also trucking powdered milk, valued at $165,000, to Macedonia. DOD has committed $1,000,000 for the airlifts.

A.I.D.'s Office of Food for Peace (FHA/FFP) has approved the provision of $6,650,000 worth of wheat flour, lentils, peas, vegoil, corn-soy milk, and wheat-soya blend for all areas of the former Yugoslavia, as well as $2,700,000 worth of wheat for Macedonia. The commodities are being programmed for October 1992 delivery. The cost includes ocean freight and internal transport.

Summary of USG assistance

The source of funding and the primary recipient are indicated in parentheses:

Ambassador's Authority (OFDA) (B–H)	$25,000
Travel of assessment team member (Dec. 1991) (OFDA) (all areas)	6,198
Grants to ICRC, UNHCR, and UNICEF (RF) (all areas)	17,000,000
Grant to IRC (OFDA) (all areas)	243,013
DOD airlifts (OFDA) (B–H)	125,000
Value of 10,800 wool blankets (OFDA) (B–H)	45,684
Travel of Project Hope Medical Assessment Team (Europe Bureau) (B–H)	15,000
Value of 90,000 MREs (DOD) (B–H)	383,625
Grant to MSF/H for medicine (OFDA) (B–H)	206,057
Value of May 16 airlifts and food (DOD) (B–H)	200,000
DOD truck transport of MREs and of powdered milk to Macedonia (OFDA) (B–H)	775,000
Value of 3,214,080 MREs (DOD) (B–H)	13,659,840
Travel of OFDA assessment team to Macedonia (June 1992) (OFDA) (Macedonia)	45,618
Travel of Europe Bureau assessment team member to Macedonia (Europe) (Macedonia)	4,900
Value of medical supplies being delivered by Project Hope (includes $600,000 funded by Europe Bureau and $2,400,000 leveraged) (B–H)	600,000
Travel of consultant for logistics support in Macedonia (June 1992) (OFDA) (Macedonia)	10,072
Travel of consultant for logistics support in Zagreb (June 1992) (OFDA) (B–H)	20,010
UNICEF procurement of medicine (OFDA) (Macedonia)	66,000
Travel of logistics expert to G–24 (OFDA) (B–H)	24,338
Value of 10 UNICEF kits and transport (OFDA) (B–H)	82,240
FFP commodities and transport (FFP) (all areas)	6,650,000
FFP wheat and transport (FFP) (Macedonia)	2,700,000
Value of DOD powdered milk (DOD) (Macedonia)	165,000
DOD commitment of additional MREs (DOD)	7,000,000
DOD commitment for Sarajevo airlifts (DOD) (B–H)	1,000,000
Total FHA/OFDA	1,674,230
Total RP	17,000,000
Total DOD	22,408,485
Total Europe Bureau (funded)	619,900
Total FFP	9,350,000
Total	51,052,595

ASSISTANCE PROVIDED BY U.S. VOLUNTARY AGENCIES

Adventist Development and Relief Agency—is sending food, blankets, medicine, baby food, and dried milk to Zagreb for distribution through 45 centers in Croatia.

American Jewish Joint Distribution Committee—is providing unspecified emergency assistance.

American Red Cross—has sent 2,500 food parcels to ICRC for distribution in B-H.

AmeriCares—has flown 11 airlifts of relief supplies to the former Yugoslavia. A portion of the supplies will be distributed to refugees from B-H in Hungary. The supplies are valued at $21,400,000.

Baptist World Alliance—has provided funds for relief to the Baptist Union of Croatia, as well as food, seeds, and financial aid through other organizations.

Brother's Brother Foundation (BBF)—has sent or committed *35 ocean-going containers* of food, medical supplies, and seeds, all valued at *about $3,000,000,* to Croatia and other regions of the former Yugoslavia. Consignees are the Baptist Union, the Serbian Orthodox Church, and the Catholic Church of Croatia.

Church World Service (CWS)—distributed $70,000 worth of medicine and blankets with funds raised by a September 1991 appeal. CWS has issued a second appeal.

Interchurch Medical Assistance—has supplied medicine and medical supplies through their member and associate-member programs.

International Rescue Committee—sent a 3-person team, funded by an OFDA grant, to the conflict areas to work with local and international agencies in the relief effort.

Lutheran World Relief—approved a $50,000 grant for emergency supplies for Croatia and B-H.

MAP International—has provided over $7,000,000 worth of medical supplies for Croatia, B-H, and Macedonia. MAP has also delivered 12 WHO emergency kits to Croatia and Belgrade.

Project Hope—fielded a 3-person team from April 5 to 9, funded by an A.I.D. Europe Bureau grant, to determine medical needs in Bosnia-Hercegovina. *On June 15, Project Hope shipped $3,000,000 ($600,000 funded by A.I.D. bureau) worth of medical supplies to Medecins sans Frontieres in Zagreb for distribution in B-H. DOD provided air transport to Graz for one-half of the shipment.*

World Relief—contributed $25,000 to the Evangelical Church of Croatia to provide soap, diapers, and toiletries for refugee families.

World Vision Relief and Development—is implementing a $60,000 project that provides food, blankets, beds, medicine, and a truck through the relief arm of the Evangelical Church of Croatia.

ASSISTANCE PROVIDED BY THE INTERNATIONAL COMMUNITY

INTERNATIONAL ORGANIZATIONS

European Community (EC)—has attempted to mediate the conflicts by sending observers to crisis areas and sponsoring a peace conference. The EC earmarked about $23,750,000 for relief operations, and, on May 11, announced a further contribution of $37,500,000 to the U.N. program. *A further aid package of about $150,000,000 for B–H was announced on July 2.* The EC contributions are in-kind as well as cash.

Federation of Red Cross and Red Crescent Societies—works with local chapters in non-conflict areas to complement the work of ICRC and UNHCR.

International Committee of the Red Cross (ICRC)—as a neutral intermediary, has worked in Yugoslavia since mid-1991, acting in its traditional role of providing protection and emergency medical assistance, tracing missing persons, and disseminating information on international humanitarian law. The ICRC has distributed thousands of family parcels donated by Red Cross national societies, as well as medical supplies to hospitals. A first ICRC appeal was launched on Sept. 9, 1991, and a revised appeal was issued on April 21, 1992.

OPEC—provided $100,000 for relief supplies for B–H to be administered by UNICEF.

UNICEF—has carried out a program in Bosnia-Hercegovina, providing milk for infants, vaccines, and emergency health kits to meet the needs of women and children. UNICEF donated $250,000. Under a new U.N. appeal, UNICEF plans to focus on information programs, supplementary feeding programs, assistance to sick children, and vaccination programs.

UNHCR—began a program complementing that of ICRC in November 1991. Working with people displaced by the war, UNHCR distributes food parcels and domestic items and provides social services and transport and logistics assistance. UNHCR/UNICEF/WHO launched a joint appeal on Dec. 3, 1991, for humanitarian assistance programs in Yugoslavia and revised the appeal in April 1992. A joint U.N. appeal in May for over $165 million superseded the April appeal.

WHO—sent a mission to assess health and sanitation needs. WHO plans a program to provide support for war traumatized children, to rehabilitate health services, to provide essential drugs, and to monitor the impact of the conflict on existing health infrastructure. WHO has provided UNHCR with health kits which will provide basic medical care for 20,000 people for three months. WHO has developed a health strategy, employing a team of specialists, to look at health problems in the former Yugoslavia.

GOVERNMENTS

Australia—*about $577,000 in emergency funds*
Austria—$172,413 to UNHCR
Canada—$581,197 to UNHCR and $127,226 to ICRC
Denmark—*$1,108,475* to UNHCR
Finland—*$1,178,832* to UNHCR
France—*$456,204* to UNHCR and $44,964 to ICRC
Germany—$928,000 to UNHCR and $443,425 to ICRC
Italy—has allocated a total of about $117,000,000 for emergency assistance to refugees from the former Yugoslav republics.
Iran—sent 15 truckloads of food and medical supplies for B-H
Japan—$436,730 to UNHCR
Liechtenstein—$6,579 to UNHCR
Luxembourg—$88,235 to UNHCR
Netherlands—$2,111,111 to UNHCR
Sweden—*$4,941,356* to UNHCR, $250,000 to UNICEF, and $80,000 to WHO
Switzerland—$27,572 to ICRC
Thailand—$4,000 to UNHCR
Tunisia—$2,000 to UNHCR
United Kingdom—$266,729 to UNHCR and $63,380 to ICRC

NON-GOVERNMENTAL ORGANIZATIONS

European UNICEF Committees—$572,584
German Foundation for UNHCR—$62,500

UNHCR

Soroptomist International (Japan)—$16,030
Stichting Vluchteling (Netherlands)—$50,000
Private donations (Japan)—$4,819 to UNHCR
Private donations (Switzerland)—$194 to UNHCR

DAYTON MAXWELL,
Acting Director, Office of
U.S. Foreign Disaster Assistance.

THE RIGHT APPROACH TO PEACE MAKING IN YUGOSLAVIA

(By Senator John McCain)

Mr. President, I am now sending an amendment to the desk and ask for its immediate consideration.

My amendment is very simple. It makes it unambiguously clear that the Congress must vote to approve any U.S. use of military force in the former Republic of Yugoslavia, just as it voted to approve the use of force in the Gulf.

My reasons for this amendment are twofold. First, I do not want U.S. men and women to be committed to even the most limited use of force, even as part of a UN approved multi-national peace-keeping mission, unless the Congress is firmly on record as having taken full responsibility for the outcome of the course of action involved.

We must never, never, again vote the equivalent of the Tonkin Gulf resolution. We must never casually, under the emotional and political pressures of the moment, start a course of action we are not fully and formally committed to supporting.

Second, I have deep reservations about taking words on this issue that can lead to our taking action without fully understanding the situation we are interfering in.

Mr. BOND. Mr. President, the situation in Bosnia and Hercegovina has captured the world's attention. The killings and other atrocities that have been taking place there for a long time have finally been brought home by the graphic pictures we have seen in recent days.

We cannot simply stand by and watch these horrors without taking action. The United States, as the leader of the free world, has an obligation to take a leadership role in getting the United Nations to make clear to all sides in the conflict that we will not let these actions go unpunished.

The doctrine of ethnic cleansing is repugnant to us all and it brings to mind the actions of the Nazis during the thirties and forties. We must express our outrage. But that is not enough, we must also take action to ensure that relief supplies and aid get through to the innocent civilians—the women and children—who are being slaughtered, raped, and abused every day.

On Sunday, I had the opportunity to meet in St. Louis with representatives of the National Association of American Muslims and other groups. All of the people I spoke with had friends or relatives in the areas of the fighting. Their pain over the current situation was obvious, and the message they delivered to me was clear—the United Nations must act to provide humanitarian relief, to bring the heavy artillery under control, to inspect the camps and to bring the guilty to justice.

As we speak on this floor today, the U.N. Security Council is considering resolutions to address the situation in the former Yugoslavia. Those resolutions are the work of our Government along with the French, the British, and others. I believe the President and the U.N. Security Council are on the right track with the pending resolutions. We need to provide humanitarian assistance to the victims of the fighting in Bosnia. And, although we all hope that military action will not become necessary, we need to make clear our resolve to use it if necessary to provide that aid.

As I stated earlier, the United States has a role to play in this matter, but we must make clear to everyone—especially our European allies—that we will not allow this to become a U.S. problem. The Germans, French, British, and others have just as great an interest—if not greater—in resolving the fighting in the region, and they have an obligation to act accordingly.

It is also important, Mr. President, that the Security Council make clear several other points. First, that the International Red Cross and other monitoring groups must be given access to all camps in the region so that independent inspectors can determine what has been taking place there.

Second, we must make it clear that those guilty of committing atrocities will be held responsible and tried as war criminals by an appropriate international body. The civilized world must make clear to those throughout the world who commit the crimes that we saw in Kuwait and that we are now seeing in Bosnia, that we will not let them go free—that we will make them answer for their actions.

The resolution before us today puts the Senate on record in support of the President's recent actions. I believe it is an important statement for this body and I intend to support it.

Mr. JEFFORDS. Mr. President, I wish to indicate my support for this resolution, and my misgivings.

I fully agree with the sponsors of this resolution that we must strongly condemn reported human rights abuses and demand immediate access by international relief personnel to refugee and prisoner of war camps. The reports of murder and torture must be immediately investigated. I also support the participation of the United States in a U.N. effort to ensure the delivery of humanitarian aid to Bosnia, knowing that this effort will probably require the use of force. The President is working hard to gather support for just such an international effort. And it is appropriate for the U.S. Senate to articulate its backing of this objective, realizing that U.S. military personnel may be called on to participate.

The delivery of humanitarian supplies will no doubt be a difficult job if the U.N.'s experience at the Sarajevo Airport is any indication. But it must be attempted in view of the increasingly desperate situation of the besieged Bosnians. I think there is relative agreement in this Chamber on the importance of that mission and the wisdom of the President's decision to seek a U.N. mandate to accomplish it.

Notwithstanding this general agreement, the debate on this resolution has centered on the larger issue of whether the United States should become directly involved in the Bosnian conflict. The version of this resolution presented to the Foreign Relations Committee last week contained language calling on the United Nations Security Council to develop a plan for putting all heavy weapons under U.N. control and implied that the Senate would approve use of U.S. military forces to do so. This resolution was adopted by the committee on a 12 to 4 vote.

I could not support a resolution that in effect would commit U.S. troops to the vague task of trying to disarm the parties to this conflict. Most military experts agree that such a task would require ground troops, would probably take a long time to accomplish and could exact heavy casualties. My colleagues must remember that much of Bosnia is extremely rugged country and that this is a centuries-old conflict. Disarming the parties could bog down U.N. troops for an extended period in the midst of a guerrilla war. Is this not a potential repeat of the Lebanon fiasco when our Marines were bombed while guarding the airport and forced to withdraw? It seems to me that we should avoid such a situation if at all possible, and if we were to decide to become engaged, it should be only with very clearly stated goals and a firm understanding of the likely risks and costs involved. Neither of these exist at this point. While the resolution before us today puts disarmament in the context of a U.N.-orchestrated cease-fire, it is still highlighted as an objective for the Security Council, which may not be a wise move at this juncture.

I am even more troubled by the larger implications of this debate. As some of my colleagues have commented, this indeed is a defining moment in the evolution of U.S. foreign policy. With the demise of cold war nuclear threat, the United States may feel freer to become engaged in conflict situations around the globe that previously would have been avoided for fear of precipitating a United States-Soviet confrontation. Suddenly it seems possible to project limited force into an area in an effort to promote regional stability. And the new impetus to coordinate efforts through the United Nations makes it seem safer to contemplate military action. But I would argue that we are running the risk of being lulled by the seemingly less dangerous climate of the post-cold war into potentially dangerous conflicts.

Mr. President, the crisis in Bosnia is just one of several very tragic situations around the world. The front page of today's Washington Post brought one of those tragedies home—the suffering of a Somalian mother holding her starving child. Estimates are that hundreds, and perhaps even thousands of people are dying each day from starvation. According to the Post, a U.N. inspector referred to the area around Baidoa as the land of the dead. Adverse weather conditions combined with violence between rival clans are creating a famine perhaps worse than that suffered by Ethiopia in 1984. In many ways, it would be much easier and less costly in military terms to intervene in the Somalian civil war and get humanitarian aid to the people who so desperately need it. Why focus our attention solely on Bosnia and not on Somalia, where the suffering of innocent people may be of even greater proportions?

I agree that we must take immediate action to express our outrage over Serbian policies of ethnic cleansing. The Senate agrees that the attempt to displace all Moslems from Bosnia cannot go unchallenged. But why have we not been equally outraged at the Chinese efforts to subjugate the Tibetan and forcibly absorb these proud and independent people into the Chinese population? Why did we not take action against Saddam Hussein when he used poison gas on the Iraqi Kurds? The list goes on of small ethnic and religious groups threatened with annihilation.

After passage of this resolution, I strongly urge that we step back from the particulars of the Bosnian situation and try to develop a new set of criteria that can guide us in the new world order. How do we decide which ethnic and regional crises to get involved in? Should U.S. involvement be bilateral, or should the United Nations be the primary vehicle for U.S. action? When should military force be contemplated, and under whose flag: the American flag? NATO? The U.N. banner? Should U.S. national interest be the main criteria for involvement, or should humanitarian principles primarily guide our actions?

This is indeed a critical moment in U.S. history. We must respond to the demands of the moment in a manner that shows we are cognizant of what may lie ahead and the precedent we may be setting for future conflicts.

Mr. CHAFEE. Mr. President, yesterday I expressed my outrage regarding the atrocities taking place in Bosnia. I also voiced my concerns regarding the resolution before us. As carefully, as I could I pointed out the dangers in becoming involved on the land in that area of the world.

As a general rule, I do not believe we should be expressing the Sense of the Senate, on matters such as this, which ought to be within the sole discretion of the President. Having said that, I would still like to explain why I intend to vote for its adoption.

Through this resolution we are exhorting the President to seek United Nations approval to use "all necessary means" in Bosnia to ensure the delivery of humanitarian aid and to gain access to refugee and prisoner camps. At the same time, I along with Senator after Senator, expressed reservations about the possibility of involving U.S. forces on the ground in Bosnia. There is indeed an inconsistency in these positions.

However, there is value in this resolution if it helps to gain the attention of Serbian Nationalists. I hope that this resolution will have a sobering effect on them and persuade them to cooperate with the United Nations.

Mr. President, I have great confidence in President Bush, who has demonstrated a keen appreciation of the pitfalls associated with the commitment of U.S. forces in Bosnia. I feel confident that President Bush will not permit our country to get dragged into a quagmire in Bosnia, and I therefore can support this resolution. Finally, this is a nonbinding resolution, and I know that we would have to vote again before U.S. forces could be committed to conflict.

I, therefore, intend to support this resolution in the hope that it will promote greater respect for human rights on the part of the Serbian Government and Serbian guerrillas in Bosnia.

Mr. KERRY. Mr. President, the choice presented by this resolution is clear. Are we going to stand by and watch a bunch of thugs and murderers commit virtual genocide; or are we going to do what we can, as civilized people, in cooperation with the rest of the civilized world, to stop them?

In the fall of 1990, at the time of Operation Desert Shield, the President told us that by confronting Saddam Hussein, we could help bring about a "new era, freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace * * * a world in which nations recognize their shared responsibility for freedom and justice and where the strong respect the rights of the weak."

The question we face today is whether those words mean anything at all. This is a defining moment, not only for the suffering people of Bosnia, but for the international community as well.

Because if we stand by and do nothing while orphans are murdered, while defenseless men and women and children are herded into cattle cars and shipped to detention camps, while civilian homes and apartments are shelled day after day, while those trying to provide food and medicine to the sick and starving are threatened and shot at, and while a process of so-called ethnic cleansing is followed to its logical, deadly conclusion, we will not simply have failed the people of former Yugoslavia, we will have aided and abetted their destruction. And we will have sent a message to dictators and potential dictators from the hills of Cambodia to the mountains of Peru that as long as it is only human lives and not oil that is at stake, you can get away with just about anything you have the power and the ruthlessness to attempt.

During debate on this issue in the Foreign Relations Committee, concern was expressed about the precedent that we might be setting by this resolution. After all, if we participate in using force to stop the bloodshed in Bosnia, what about the civil war in Somalia, what about Nagorno-Karabach, what about Kashmir, what about any number of conflicts that are now raging or that may break out around the globe? I think this is an understandable concern, Mr. President, but I also think there are good answers to it.

First of all, what is happening in Bosnia is not—as some have said—a civil war. Make no mistake about that; it is international aggression. The Bosnian Serbs have received arms, training, supplies, and direction from the Government in Belgrade and the majority of those now fighting as Bosnian Serbs are former members of the regular Yugoslav Army. Like Kuwait in 1990, Bosnia has rights under international law that are being abused. Like Kuwait, Bosnia has a right to expect the international community to respond.

Second, the goals we have set are limited. No one has proposed sending in United States, or for that matter, United Nation troops to fight a land war in the Balkans. We are talking about humanitarian intervention. We ask only that relief efforts be protected, that the Red Cross have unimpeded access to prison and detention camps, and that efforts be made to investigate allegations that atrocities are occurring or have occurred. These are all straightforward goals, and all are designed for the single purpose of saving lives.

Third, there is an inherently inhibiting factor built into this resolution: It depends on action by the Security Council of the United Nations. Those who say that if we get involved here, we will get involved everywhere, forget that. We are not talking about going it alone. We are talking about mobilizing Russia, China, Europe, and the rest of the international community to protect international standards of law and rights. That is not going to happen every day or everywhere—but it should happen in Bosnia and it should happen now.

Finally, I ask my colleagues, what is wrong with a precedent that says to Mr. Milosevic, you will not get away with genocide? What is wrong with a precedent that says there are consequences to lying repeatedly to the United Nations? What is wrong with a precedent that attaches a price to shooting at caravans of food and medicine and trucks carrying refugees? What is wrong with a precedent that says suspected death camps are a matter of international concern? These are not precedents to the feared. These are precedents for international peacekeeping and humanitarian relief that we must establish if any of our rhetoric, or the President's rhetoric, in recent years is to have any meaning at all.

And as for those who are worried about the United States getting involved in humanitarian relief efforts in Somalia, all I can say is that my worry is the opposite: That we will not do enough, quickly enough, to save the thousands on the verge of starvation in that troubled land.

The second major concern that has been expressed about this resolution on Bosnia is more serious and that is that the process it envisions will not work. The argument goes that military intervention on a scale that would make a difference cannot be supported; while military intervention on a scale that can be supported would not make a difference. As a veteran of Vietnam, this is an argument I can not help but think about with great care. We do not want another Vietnam or Lebanon. We do not want to raise the expectation in Bosnia that American or United Nations troops will be able to roll back and undo the aggression that has already been perpetrated against their land—because as much as we might desire that, it is very, very unlikely to occur.

We should not go forward with military force under this resolution or under the U.N. resolution that will be approved tomorrow unless we are clear about what we hope to accomplish and clear, as well, about how we intend to accomplish that goal.

That is why it is important to remember that this resolution does not authorize the use of American ground troops in Bosnia, nor does it specifically authorize the use of air or naval power. It simply associates the U.S. Senate with the current policies of this administration and of the Security Council of the United Nations. It states the principle embodied in the draft of the United Nations resolution, to be approved this week, that we are

> determined to establish as soon as possible the necessary conditions for the delivery of humanitarian assistance wherever needed in Bosnia.

We do not know, at this point, how much force this will take or if it will require the substantial application of force at all. We will not know what will work until we try to make it work. But given the limited nature of our goals, clearly there are many options short of the full-scale engagement of troops on the ground that some have said—without cause—would result from this resolution. Those options should be explored.

There have been some, during this debate, who have simply assumed that the Serbians will never yield, never flinch, never give up, and never change policy no matter how much pressure is brought to bear against them.

But the fact is that the Serbian forces, to date, have not been tested. All they have done so far is fight like cowards—sitting in the hills firing artillery at apartment houses and bread lines, using sniper fire to scare teenage boys. They have been able to do this because they have a monopoly on heavy weapons. We do not know how these forces will stand up against even the threat of opposing air power. We do not know how they might respond to the threat of attacks on supply lines or on military targets inside Serbia if those should prove necessary. We do not know how they would respond if we lifted the arms embargo—as we should if Serbian attacks do not immediately cease—so that Bosnians can defend themselves and their families. And we do not know whether President Milosevic can withstand the growing opposition of his own people, at least some of whom, despite a lack of good information, are appalled by the policies he is carrying out.

As I said, there are those who have argued that the United States and the world community should not even bother trying to stand up to the Serbs because they are a brave and stubborn people. We are told over and over again that tens of thousands of Nazi troops tried to defeat the Serbs during the Second World War and could not do it. But I submit there is a difference between stubbornness in opposition to Nazi policies and stubbornness in support of policies that can fairly be described as Nazi-like. The former generates solidarity and encourages sacrifice; the latter is demoralizing and divisive.

Day after day, we read tiny accounts from Moslems and Croats about acts of kindness and help from individual Serbs—their former neighbors. We know there have been large, popular demonstrations in Belgrade in opposition to the policies of Milosevic. We know there is opposition to Milosevic in the business community and among intellectuals. We need not—and should not assume—that Serbian policies will not change; nor should we accept that those now responsible for Serbian atrocities will remain indefinitely in power.

A third concern about this resolution that I wish to discuss is the question of taking sides. Some say that it would be a mistake for the United States or the United Nations to intervene in an ethnic dispute that goes back centuries. Obviously, there is a basis for this concern in the history of relations between Serbians and Croats, and the uneasy status of Albanians, Moslems, and other minorities within the former Yugoslavia today. Given this history and given the reports that we have heard about killings and abuses committed by all sides, there are obvious grounds for caution.

But let us be clear that this resolution does not call upon us to take the side of one ethnic group against another. Its mandate is even-handed: To provide relief to all who need it; to see that emergency medical care is available to the injured or wounded on all sides; to obtain access to all prisons and detention camps and to investigate allegations of war crimes by all sides.

Mr. President, the difficulty of bringing peace to an area as far away and as ordinarily remote from American concerns as the Balkans does not absolve us from the need to act, nor does it eliminate our capacity to influence events. It is a cliche of history that all it takes for evil to prosper is for good men and women to do nothing. We have no guarantee that the measures recommended in this resolution will succeed in halting the bloodshed in Bosnia or in erasing the shame that the international community should feel for its failure to act earlier.

But although many lives have already been lost, many more remain at stake. Their faces stare out at us each morning from the pages of newspapers; and each evening from the television. Their prayers reach us from makeshift prisons and hospitals, from shot out storefronts, and from makeshift cemeteries where mourners gather to bury the dead in a land that has literally run out of wood for making coffins.

We are not asked to do much. Only to try. Only to live up, just a little bit, to our own pretentions and principles. Only to define, in a way that has meaning, what a new world order is really all about.

Mr. President, I hope that we will approve this amendment by an overwhelming vote. I hope that the United States and the United Nations will go forward; that some stark choices will be presented to the Serbians, both in Belgrade and in Bosnia; that the tide of events will soon change course; and that history will record that in this case when the call came, the international community did respond and civilization and decency did prevail.

Mr. KOHL. Mr. President, last week I made some comments about the general situation in the former State of Yugoslavia. At that time I was expressing my support for the efforts by Senator LIEBERMAN and Senator DECONCINI to offer an amendment, which I cosponsored, condemning the inhuman ethnic cleansing policy practiced by Serbian forces and calling on the President to work with the United Nations to deal with the human crisis those policies have created.

Ever since the effort was made to bring that amendment before the Senate, we have had people opposing it. But—and this is critical—they have not opposed the factual basis for the amendment or the resolution now before us. They have not disputed the claim that the current hostilities were precipitated by Serbia and Serbian-backed forces. They have not disputed the claim that supplies of food and medicine are being repeatedly blocked and in some cases have been attacked by Serbian-backed forces. And most critically, they have not disputed the claim that Serbian forces are committing horrible atrocities including the ethnic-cleansing of regions inhabited by non-Serbs.

They have not disputed the fact that there is all too sufficient reason to believe that a genocide is being carried out in Bosnia-Hercegovina. A genocide. Undisputed.

Mr. President, when those claims are not disputed, I do not know how anyone can dispute the need to act.

I understand the concerns that have been raised. People are concerned that the need to act could be translated into American ground forces being sent into a conflict that would be hard to win and would involve great risk. I share that concern. But the resolution before us does not transform the need to act into any particular policy. In fact, to the extent that the resolution is suggestive about the type of force to be used, it implies an inclination to favor a demonstration of force, probably air strikes against selected Serbian positions. But it is important, Mr. President, to recognize the fact that the resolution before us does not commit us to any particular military course of action. Indeed, it does not commit the United States to being involved in any military action. All the resolution calls for is the President to urge the U.N. Security Council to meet in order to authorize all necessary means, including the use of military force, to achieve specific goals. Those goals are not broad political statements like bring peace to the people or end the conflict. They are specific and I believe they can be achieved through the use of military force. But even if the President responds to this resolution and even if the United Nations authorizes the use of force, that does not commit a single American soldier, sailor, or aviator to combat. We have not surrendered our sovereignty to the United Nations. No matter what the United Nations authorizes, America will decide what forces to deploy, if any, and what the goals and tactics of those forces will be.

Now Mr. President, over a year ago I voted against the immediate use of force against Iraq. I thought there were other options which we should explore before using force. I do not wish to revisit that debate today. But I do want to make three points about the relationship between that decision and this one.

First, while Desert Storm turned out well—while the loss of American life was miraculously small—we did not go into that conflict thinking that our losses would be measured in the tens of dozens rather than tens of thousands. Those who voted for the use of force in the Persian Gulf had to be willing to risk the loss of thousands of American lives there. They were willing to do so because they believed that the cause was just and that there was no recourse other than force. Are those who oppose this resolution suggesting that this cause—to prevent a genocide—is somehow suspect? I hope not. But they may be suggesting that this cause, while just, is not directly related to our national self-interest. The national self-interest in the Persian Gulf, to quote our Secretary of State, was "jobs, jobs, jobs." The national self-interest in this case isn't that simple, but it is just as clear. It is to prevent genocide. To prevent one nation, Serbia, from invading the sovereign territory of other nations, Bosnia in this case, Croatia just a few months ago. To bring some meaning to the new world order, a phrase which until now has been largely symbolic rather than substantive. If that is not in America's self-interest then we have too narrow a notion of what America is all about. We are about jobs, jobs, jobs. But we are about more than that. We are also about human rights and human dignity. And that is what this resolution is about as well.

Second, Mr. President, in Iraq we had an alternative to the use of force—economic sanctions—which some people thought was a viable way to achieve our goals. But none of the opponents of this resolution have pointed to any option other than sitting on the sidelines and saying how sorry we are about the destruction of a people and a sovereign state. And that, Mr. President, is unacceptable.

Third, in the Persian Gulf we allegedly had a clear aim and we allegedly deployed military forces to assure it was achieved. In hindsight, I am not at all sure we understood what those goals were and were not; nor am I sure that we achieved them. We certainly have not achieved the goal of giving United Nations observers the right to inspect Iraqi weapons facilities. And I suspect that some people thought our goal was to eliminate Saddam Hussein. We clearly did not do that. Nor did we protect the Kurds. But, put that aside for the moment.

The goals in this resolution are clear: Provide humanitarian relief to civilians, inspect all the prisoner of war camps in all the republics of the former Yugoslavia, review the desirability of lifting the arms embargo applied to Bosnia, evaluate the feasibility of establishing a war crimes tribunal.

Is it impossible for the United States, as part of a United Nations force, to provide humanitarian relief to civilians? The irony here is worth considering for a moment. Initially, this resolution was to have been offered as an amendment to legislation authorizing the expenditure of over $270 billion this year for the Department of Defense. Are the opponents of this resolution telling us that $270 billion, in combination with the trillions we have spent in the past few years, are not sufficient to allow us, in combination with other nations, to achieve those specific and limited goals against the forces of Serbia? What are we about, Mr. President? What have we done? Prepared to wage a war against a Soviet state that no longer exists but failed to prepare to protect the peace in the wake of the Soviet demise? Mr. President, if we do not have the ability to achieve limited goals against Serbia, then we might as well defeat the DOD authorization bill and start all over again. We are not proposing that we send soldiers to some airfield in Beirut with an undefined mission and no role to play other than watch and wait. We are proposing that we review the desirability of engaging in a real military mission. And as the Brown amendment we adopted makes clear, we will not send a single American man or woman into a combat situation unless their mission is clear and we have given them the resources to accomplish it.

Mr. President, I hope I have made it clear that this resolution does not commit a single American man or woman to go to Bosnia. I also hope I have made it clear why the conditions in Bosnia justify considering that commitment. When the Soviet state existed, we would not have gone to war about conditions in their satellite republics. We did not in Hungary. We did not in Poland. But there is no Soviet state now. There is a new reality in the world. And if we do not deal with this first sign of ethnic instability in a post-cold war environment, if we do not respond to this initial breakdown in civilized structure, we will see worse. We will see much worse. So let us face up to our responsibilities—our moral responsibility as a people and our political responsibility as a great nation—and adopt this resolution.

Mr. GORTON. Mr. President, there is no disagreement in this body about the agony and outrage imposed upon the non-Serbian citizens of Bosnia. Its horrors rank with those of Cambodia of a few years ago, of the Soviet invasion of Afghanistan, of the Iraqi invasion of Kuwait, and the slaughter in Somalia. The Serbian ethnic cleansing may constitute the most vile case of aggression since World War II, as we watch Serbs systematically remove over 2 million people from their homes on the basis of race.

But, the question today is whether our horrified reaction to these atrocities will also lead us toward appropriate public policy. The resolution we are considering specifically authorizes all means necessary for a vague and intermediate goal, which may well require the use of ground troops. Before we adopt such a policy, we must first determine a precise political goal, next, what military strategy must be used to attain that goal, and finally, once we are in, how we will get out.

First, what is the political goal of the United States and the United Nations? The answer which this resolution offers is the provision of humanitarian relief to the citizens of Bosnia. It is not limited to creating a landline to supply food and medicine to the people of Sarajevo, but also includes the relief of perhaps 100 concentration camps in Bosnia, containing over 70,000 people. Assuming that we feed these people, do we then offer them prolonged protection there, send them to other European countries, or return them to their homes? If to their homes, it will be to a new, disturbed country of which Serbia controls 70 percent. And even this limited goal will, those on the ground estimate, require 100,000 troops and many casualties for an indefinite period.

Having undertaken this expense, we will not even have responded to the Bosnians' requests. Yesterday, the Bosnian Ambassador to the United Nations said that the anticipated resolution addresses the symptoms but not the illness. It is tantamount, he said, to fattening up Bosnians before their slaughter. Humanitarian assistance doesn't advance the Bosnians' true goal of living in an independent Bosnia.

I am not certain, however, that some are not recklessly contemplating this goal, and considering it implicitly included in this resolution. After all, we have recognized Bosnia's independence and have included that independence as a justification for our intervention in this conflict. If that is our goal—and it is for many countries—is the United Nations going to concern itself with the security as well as the independence of Bosnia? If so, this would require the disarming of Serbians who have stayed, or moved, into Bosnia, and a return of that portion of the 2 million refugees who wish to move back into their homes in Bosnia. It will almost certainly require a formal, Desert Storm-type war with Serbia itself.

Is it a realistic goal for the United Nations to quell the fighting in an area fired by hatreds that go back half a millennium? Roman Catholics have fought Orthodox Christians there since 1221 and the Serbs cling to their 1389 defeat by the Turks. Can we expect these people to coexist peacefully once we have provided humanitarian assistance? Or is our implicit goal to end the integration with some kind of partitioning of Bosnia? Mr. President, these are questions which I believe we must answer before we begin any military action in Bosnia. For all of their noble intentions, this resolution's goals are not specific enough and their cost is gravely underestimated.

Second, once we have defined our goal—and I believe that anything short of allowing Bosnia to be an independent country is a fatally intermediate goal—what will be our military strategy toward attaining that goal? One of the attractive assumptions in this debate has been that we can achieve our goals through air strikes. But if we are to free Sarajevo as well as the untold number of concentration camps in the north of Bosnia, we will need to secure communication lines with dozens—perhaps 50, 60, or 100—of locations within Bosnia, all with tenuous lines of communications along roads and river valleys surrounded by hills from which snipers can apparently act unimpeded.

If we are to vote for this resolution, I would like to know now many casualties we are willing to accept. Winston Churchill might have been exaggerating in 1944 when he said that Yugoslavia's guerrillas were occupying 14 German divisions, but as we know, Germany was never successful in subduing Yugoslavia.

Currently at the United Nations, we are pursuing a resolution which authorizes an unstated degree of force. One official quoted in today's Washington Post said, "The numbers, the game plan, we're not aware of such a thing." Apparently, diplomatic efforts are continuing independently of military consultation. When asked how many troops would be required to fulfill this mission, one military specialist estimated 100,000. Are any of us here willing to commit 100,000 U.N. troops? Are we prepared to send half that number of Americans?

And of those men who are killed, how many will be American? We have heard a great deal from the Germans, who have been magnanimous in accepting refugees, but are nonetheless haunted by their history in Yugoslavia, and appear reluctant to enter. How many troops can we expect the United Kingdom to contribute? At the moment, it has more misgivings than we do. How many troops can we expect from the Moslem countries, from France, from Russia?

Third, Mr. President, I believe we should ask ourselves how we get ourselves out once we are in? If we define our goal as the relief of Sarajevo and the concentration camps, will we be able to leave once these people fall under attack? And if we cannot allow ourselves to leave, for how long do we choose to protect them? For 2 months or 2 years? At what point could we declare our victory? Even if we were to feed and protect these people for 2 years, it's likely that any cease-fire would collapse as soon as one party was left defenseless. I ask those who propose our intervention to identify the scenario in which we soon remove ourselves from this conflict, leaving behind a peaceful resolution in Bosnia.

Mr. President, last week, British Prime Minister John Major wrote that, "It is the nature of the Yugoslav tragedy that solutions cannot be imposed from the outside." We should accept that any role we assume here will be unsatisfactory. There is, however, an approach better than the one we are now considering.

The Bosnians have a wish to be free. They have a fundamental right to be free. We should arm them and let them establish their own freedom. We can make this a fair fight, and perhaps a winning fight, without risking our lives and the lives of our European allies.

At the moment, we are adhering to a U.N. arms embargo which effectively penalizes only those in Bosnia who are fighting for their freedom and does nothing to hinder their aggressors. In fact, while the Bosnians have remained woefully underequipped, German television has reported that Serbia is receiving arms through its long, porous border with Romania. Others have reported that ships have deposited weapons at the port of Bar, Montenegro. If we are going to impose an embargo upon former Yugoslavia, at the very least, we should be certain that it does not benefit the aggressors more than the victims.

What's more, the resolution we are now debating asks for the provision of humanitarian aid. The Bosnians are now warning that this aid will be useless unless they have some means to defend themselves. We are laboring over dangerous military actions whose worth is questioned by its recipients. Mr. President, I propose that, in addition to a total and complete blockade, we listen to Bosnians, and give them the ability to fight for their own freedom. As we did in Afghanistan, we can allow the Bosnians to defend themselves and their land, without risking lives in the United States.

Mr. President, I believe that this resolution, no matter how modified, presents a grave danger to the United States. It authorizes an unspecified amount of force, for unclear goals which do not even include, I fear, the true goals of some of this body. For once, I believe that we should exercise silence, and allow the President to bring before us a specific proposal on which we can debate the clarity of its political goals, the means and costs of its goals, and how long we are willing to pursue its goals. At that time we can hear from military experts who will speak specifically toward the proposal. Until then, a vote for this resolution is a tacit vote for authorization beyond what I think we are truly willing to extend.

Mr. COHEN. Mr. President, like all those who have followed the situation in Bosnia, my heart grieves for the suffering people there. The images of children and grandmothers being shot, the stories of concentration camps and sealed trains, the shortages of food and medical supplies, all of these demand action.

There is complete agreement in the Senate that humanitarian relief supplies need to be provided, detention centers need to be opened to international human rights groups, and negotiations must be conducted to address the underlying problems that are feeding the violence.

The question Mr. President is, What actions can we take that would be most effective in promoting these objectives? If there was good reason to believe that the use of military force would alleviate that suffering and bring us closer to the resolution of the problems that have produced that suffering, I would not hesitate to support such force.

But the best evidence available to us clearly indicates that using military force will only make that suffering worse, will only increase the violence, and will only reduce the amount of humanitarian aid that can be delivered.

This view, Mr. President, is supported by this morning's testimony by the U.N. official who until last week was in charge of delivering humanitarian aid in Sarajevo.

We all wish that our powerful military forces could end this tragedy. But we must base our decision on the clear evidence that intervening militarily, and even threatening to intervene, will only heighten the violence and deepen the suffering.

Instead of threatening to use force, we should act through the U.N. Protection Forces to improve the supply of humanitarian goods to Bosnia, we should act through the International Committee of the Red Cross to improve access to and conditions in detention centers, and we should act through the United Nations, the European Community, and the Conference on Security and Cooperation in Europe to get underway serious negotiations on the future of Bosnia.

AIR POWER NOT ENOUGH

Throughout the debate, the proponents of this resolution have repeatedly sought to assure the Senate and the American people that it only is meant to express support for the use of air power and naval power, not ground troops. Several Senators were more candid in their remarks when they acknowledged that at least some ground forces would probably be necessary. But, in general, the chorus we have been hearing from proponents is air power and the images we have been fed have been of antiseptic, surgical air strikes that knock out aggressors and leave innocent civilians untouched.

Unfortunately, Mr. President, the professional opinions presented by knowledgeable military officers completely contradict this.

Maj. Gen. Lewis MacKenzie served until a few days ago as the commander of the U.N. Protection Force in Sarajevo. General MacKenzie has served in nine U.N. peacekeeping operations around the world and he has spent most of this year in Croatia and Bosnia. He left Sarajevo just last week for a new assignment.

Two days ago, General MacKenzie was asked if the U.N. "Security Council passes a resolution authorizing the use of force to ensure humanitarian assistance" would "air power alone * * * be enough to get the job done?"

After indicating that he was constrained in what he could say, he clearly stated: "I think probably I could say no."

This morning, the Armed Services Committee held a hearing on the question of the use of force in Bosnia. I am going to be citing testimony from this morning's hearing and since we do not yet have a transcript I will be reciting what I would term faithful efforts at quotation. Although a later review of the transcript may reveal some difference in words, I do not think there will be a difference in content.

One of the witnesses at today's hearing was Lt. Gen. Barry McCaffrey, who is the Assistant to the Chairman of the Joint Chiefs of Staff, General Powell.

Senator WARNER asked General McCaffrey whether the objectives of this Senate resolution could be accomplished with air and sea power alone. General McCaffrey's response was "the short answer is no."

ARMY CORPS FOR SARAJEVO ALONE

Senator COATS later asked how many troops would be required to secure the airport and a land route to Sarajevo. General McCaffrey responded that we would need to secure a 30-kilometer circle around Sarajevo and a 201-mile corridor from Split on the Adriatic to Sarajevo. He testified that this would require "an army corps, about 60,000 to 120,000 troops." This is what would be required for Sarajevo alone.

Since General McCaffrey testified that his mandate would extend beyond this to provide humanitarian relief throughout Bosnia, I asked how many total troops would be required to meet that mandate. After noting that Bosnia was the size of South Vietnam and there are some 200,000 armed individuals in Bosnia, he testified that the delivery of humanitarian aid throughout Bosnia would require a "field army."

There is no set size to a field army. In Vietnam and in the gulf war, we deployed a field army, although the size of that force differed in those two cases.

But earlier in the hearing in response to a question from Senator EXON, General McCaffrey testified that 400,000 troops would be needed, which is consistent with the concept of a field army.

Four hundred thousand troops, Mr. President.

Perhaps not all of these would be Americans. But it is difficult to predict what other nation might provide troops. British Prime Minister John Major has repeatedly stated that Great Britain will not provide ground troops. Germany says that its constitution, as well as history, prevents deployment of ground troops in Yugoslavia, and its deployment of warships in the Adriatic just to monitor the embargo has been challenged in Germany's constitutional court. Italy says it will not send troops, given the history of Italian aggression in Yugoslavia during World War II. The French have made no commitments to provide forces. The Russians would be very reluctant to fight another Slavic group, and the fact is that Russia's military leadership made clear that its sympathies lie not with the Bosnian Moslems but with the Serbs.

So perhaps not all 400,000 troops would be American, but we have no indication from our allies that they would be willing to provide troops.

Moreover, Mr. President, the number of troops is only one relevant question.

Another is how long we would need to deploy those troops. The U.N. commanding general, Lewis MacKenzie, was quoted as mentioning the possibility of deploying troops for 20 years in Yugoslavia. Assuming this might be a realistic possibility, Mr. President, the decision we make today could conceivably result in American children not yet born being sent to a Bosnian war zone as 18-year-old privates two decades from now.

And General MacKenzie has repeatedly pointed out that sending troops will solve nothing and when the troops are withdrawn the situation will return to the way it had been only with much worse suffering.

General McCaffrey echoed such sentiments during today's hearing when he testified that, while the U.S. Armed Forces are prepared to go in harm's way, he is concerned that using military force would not make the situation better. He expressed the hope that military action would only be a backdrop to political efforts to resolve the underlying problems. But such political efforts are not on the verge of success. And, in fact, General MacKenzie testified that our even talking about military intervention would keep the parties away from the negotiating table.

GENERAL MACKENZIE: DON'T INTERVENE

Mr. President, the most persuasive testimony Congress has received on Bosnia was provided today by General MacKenzie, who until last week commanded the U.N. protection force in Sarajevo and earlier commanded U.N. Forces in Croatia.

He clearly and categorically argued against even considering to use military force in an effort to deliver humanitarian supplies. Let me quote as best I can from his testimony:

> General MACKENZIE. There is no military solution. There is no way intervention will do anything but escalate the violence.
>
> Sen. NUNN. When you say intervention will escalate the violence, do you include humanitarian assistance as intervention?
>
> Gen. MACKENZIE. I'm sorry but I'm afraid so.

General MacKenzie went on to note that the United Nations is currently delivering humanitarian supplies to Sarajevo, both by air and by land. While there have been some disruptions of that, he argued that any effort to use military force would actually interrupt even this supply of humanitarian goods.

Clearly there is suffering in Sarajevo and elsewhere in Bosnia. If there was good reason to believe that the use of military force would alleviate that suffering and bring us closer to the resolution of the problems that have produced that suffering, I would not hesitate to support this resolution. But the evidence available to us clearly indicates that using military force will only make that suffering worse.

General MacKenzie emphasized that there was no possibility that once we committed to using force that we could contain that force to simply trying to deliver humanitarian supplies, but instead we would inevitably be drawn into fighting various groups in Bosnia.

He also emphasized that the Bosnian Government wants us to intervene. He quoted the Bosnian President as stating that—

> . . . this is what we have been hoping for. Let Bush take the roads, have his helicopters shot at. He'll shoot back and pretty soon he'll be fighting the same war as we are.

He testified that even talking about military intervention was a carrot encouraging the fighting in Bosnia to continue, rather than a stick to get the fighting to stop. "You're playing their hand," he testified.

And, as I stated, he repeatedly testified that intervention and talk of intervention will prevent any possibility of talks to address the underlying problems among the groups in Bosnia:

> The more we talk about intervention—and that includes humanitarian aid, because that will grow, I guarantee, to more intervention—they will not talk. The answer is to rip the rug of intervention out from under them, because until they do they won't talk.
>
> The first thing I'd recommend is get away from the carrot of intervention.

Mr. President, this is the testimony of the man who until a few days ago was the U.N. military commander in Sarajevo. He knows the military situation on the ground there. He knows the individuals involved as real people, not just as figures on a television screen. He has been involved in numerous other U.N. peacekeeping operations in Central America, the Middle East, and elsewhere and has seen first hand what works and what does not work in these situations. We ought to give great weight to his unequivocal testimony.

ADDITIONAL HILL AUTHORIZATION NEEDED?

I'm a bit confused by the debate that has been posited so far. On the one hand, we have Members urging us to take action and, on the other hand, they say this is a nonbinding resolution.

When I left my first job, I was given a watch. On the back it has a three-word inscription in Latin. It said, "Virtute, non verbis," which means "Deeds not words."

Yet according to the arguments of some, we are talking here about words and not deeds. According to the sponsor, if we pass this resolution, we are not in fact authorizing the President to take unilateral action.

I raise this in the context of what we went through on the Persian Gulf debate. I remember, for example, that President Bush went to the United Nations first and got a resolution passed in the Security Council. At that point he indicated to some of us that he did not feel it was necessary, constitutionally, to come to the Congress for approval for the use of force against Saddam Hussein.

Now, if we adopt this resolution and authorize the President to seek U.N. support for the use of force to achieve these goals, there arises the question or what happens next week after we go into recess. Would the President call us back into session?

Adoption of the resolution is urgent, we are told. Yet, we are also told, the resolution authorizes nothing and the President must come back to Congress before he acts, although we are out of session until after Labor Day. This seeming contradiction, together with the fact that the President has nearly completed negotiations for a security resolution which might be adopted as early as this afternoon, calls into question why this resolution is being handled as it is.

CONCLUSION

In the end, Mr. President, the decisions Senators must make is whether we will focus on intent or on consequences. The resolution before the Senate expresses the statement—a sincere and incontrovertible statement, but nonetheless nothing more than a statement—that the situation in Bosnia is abhorrent and we wish that our military forces could end the tragedy there. But the consequences of this resolution, if we were to follow through on its provisions, would, in fact, make the situation in Bosnia even more abhorrent. It would heighten the violence and deepen the suffering. It would make less likely the possibility of negotiations to resolve the underlying problems. And it would make it less likely that we would ever use our military forces in other situations in which they might, in fact, be able to alleviate suffering and counter aggression.

For all these reasons, Mr. President, and others I have expressed before, I will vote against this resolution.

Mr. CRAIG. Mr. President, the sense-of-the-Senate resolution before us on the conflict in Bosnia-Hercegovina is an important policy issue that deserves the attention of the U.S. Senate and the American people.

As a member of the Helsinki Commission on Human Rights. I have long been concerned about the suffering and destruction in this land torn by conflict. In an effort to help restore peace and stability I have supported previous legislation imposing sanctions, S. 2743.

The resolution we have before us expresses the concern that I share with many of my colleagues and this administration about the deterioration of the situation in the former Yugoslavian republic. While I agree with the intent of Senate Resolution 330, I have concerns about some of the language in the bill. The administration has been working diligently with our allies in Europe and through the auspices of the United States to ensure the delivery of humanitarian aid. I support the actions of the administration and will continue to support our President's efforts in securing our national interests.

I am also concerned about the direction taken in Senate Resolution 330. I cannot support even the tacit discussion of the use of the United States military without a clearly defined and achievable objective and strategic plan that will get us to that objective. There has been a great deal of concern expressed by military advisers because of the mountainous terrain and many other geographical barriers to a successful campaign in the region. Also, entering a conflict with multiple players is difficult at best.

This does not mean that I feel we, as a nation, should sit idly by and watch the slaughter continue. I will continue to support the administration's efforts. If the use of force becomes an issue, and the above concerns are clearly addressed, I will then make a decision on whether or not to support the use of American troops in conjunction with a multilateral force.

There is no question that the tragic humanitarian situation, especially in Bosnia-Hercegovina, is unacceptable. I welcome the efforts made to ensure the delivery of aid, and will continue to support negotiations and diplomatic efforts to end hostilities and reestablish peace in that region. However, for the reasons outlined above, I will not support this bill.

Mr. KENNEDY. Mr. President, I give my strong support to this resolution calling for more effective action by the United States under the auspices of the United Nations to deal with the brutality and devastation being caused by the vicious aggression of Serbia.

During the past few weeks and months, the world has watched with horror as Serbian forces in Bosnia have indiscriminately shelled cities and villages, killing large numbers of innocent civilians.

Non-Serbian survivors have been rounded up in an ethnic cleansing campaign that is all too reminiscent of the atrocities perpetuated half a century ago by Nazi Germany.

So far, diplomatic and economic pressure on Serbia has not ended that government's aggression against Bosnia. In fact, our timid response during the past year has consistently been too little and too late. It may well have encouraged Serbia to expand its aggression and undertake its brutal, racist policy of ethnic cleansing that has raised the specter of genocide.

We have already delayed too long in mounting an effective response. If the international community is to protect basic principles of law and human rights, we must act now. And we must be willing to use military force as a last resort if other steps fall short. That may well be the only language that the Serbian dictators understand.

There are substantial risks involved in any action we take. But as we have witnessed in recent days, there are substantial risks involved in our failure to act.

The international community cannot afford to shy away from this crisis. The leadership and credibility of both the United States and the United Nations are at stake. If atrocities and racist policies are tolerated in Bosnia, they will be encouraged in many other lands. The time to stop them is now.

No one underestimates the difficulty of carrying out effective U.N. military action against Serbia. All of us hope that it will not be necessary. But we know that this aggression must be stopped—before it becomes even worse, before the cost of stopping it becomes even higher.

America is at its best when we stand up for human rights—both for our own citizens and for all peoples throughout the world. We must do all we can to stop this monstrous aggression and assist the innocent victims.

I urge the Senate to support this timely and important resolution.

Mr. DODD. Mr. President, I rise in strong support of this very important resolution. And I want to commend Senator PELL and Senator BIDEN for steering this legislation through the Foreign Relations Committee and bringing it to the floor so quickly.

I also want to make note of the important contributions of Senator DECONCINI and Senator LIEBERMAN, both of whom have been instrumental in bringing this matter to the attention of the Senate.

Mr. President, for the better part of a year the land once known as Yugoslavia has been consumed by upheaval and ravaged by war. It was a conflict, until recently, for the back pages of America, a sad but distant tragedy on the other side of the world.

Every one of us was appalled by the brutality of the fighting, shocked by the disregard for the value of human life. And all of us were shaken by the relentless attacks that left civilians without homes and a people without hope.

But as the war carried on we remained on the sidelines, a silent observer to this murderous game. It was a battle over traditions we did not understand, a war over values we could not comprehend. And as the death toll increased we safely kept our distance, secure in the belief that the problem was not ours.

In the course of the last several days, Mr. President, all that has changed.

It changed when we heard of the Serbian refugee camps, little pockets of hell where only terror prevailed. It changed when we heard of the boarded up trains, the firing squads, the mass executions. It changed when we heard of the scale of the tragedy: More than 100 refugee camps in this once peaceful land.

It changed when we heard of a camp called Omarska, where inmates were held in a four-level cage. It changed when we heard of the fate of the prisoners: that hundreds if not thousands were said to have died. And it changed when we heard of the so-called ethnic cleansing, a policy of fear in a land full of hate.

And it changed when we heard of the personal tragedies—the tales and the stories of torture and starvation.

One story was given, Mr. President, by a former prisoner at Omarska. In last Sunday's edition of New York Newsday, he told of civilians being held in a renovated mining complex, crowded like cattle at least 300 strong. They were given nothing to eat for days on end, forced to exist in their own filth and squalor.

Every few days, Mr. President, the door would open and 10 prisoners, sometimes 15, would be led away. The prisoner then tells the rest. "They would take them to a nearby lake," he said. "You'd hear a volley of rifles. And they'd never come back."

Those that were spared the firing squad, Mr. President, were hardly lucky. As one guard said, "We won't waste our bullets on them. They have no roof. There is sun and rain, cold nights, and beatings two times a day. We give them no food and no water. They will starve like animals."

Mr. President, I hope and I pray with all of my heart that these tragic reports turn out to be false. I hope we can be told that there really are no killings, that the stories are all wrong, that the hatred is not real.

But if these reports are true, Mr. President, then the conclusion is inescapable. What is happening in the Balkans may well be the makings of a modern genocide. And we can no longer stand on the sidelines and watch.

We can no longer wait for endless negotiations and futile cease-fires. We can no longer wait as civilians are bombed and tiny orphans are murdered. We can no longer wait as human beings are rounded up like cattle, led to a fate that defies all description.

Mr. President, it would be easy to stand here and call for a United States invasion of Yugoslavia. It would be easy to call for a full-scale intervention to bring Slobodan Milosevic to his knees. Our hearts and our passions might compel such a response.

But before we get carried away with emotion, Mr. President, we should pause for a moment and let reason be our guide. We should investigate our options, define our objectives, and carefully select the right course of action.

First of all, Mr. President, we should be wary of hasty conclusions and misleading comparisons. We have often heard it said that this is another Holocaust, that the actions of the Serbs can be compared to the Nazis, that Slobodan Milosevic is a modern version of Hitler.

The atrocities in Yugoslavia are certainly appalling. On that point, Mr. President, I have no doubt. But, Mr. President, I have always believed that the Holocaust was a singular moment in history, an episode of human suffering that will never be repeated. I will cling to that notion until I am forced to believe otherwise.

Second, Mr. President, let us not fall prey to casual generalizations about Serbian passions or the Serbian people. Not all Serbs are driven by hatred. Not all Serbs are supportive of this war. Not all Serbs have taken up arms against the Croatian and Bosnian people.

The truth is, we know very little about the conflict in the Balkans. We have little comprehension of the age-old passions involved. And the wrong move by an international military force might tragically backfire, turning popular rage against the Western world.

So let us not meet madness with more madness. Let us not meet insanity with greater insanity. Let us not blindly rush forward, and only compound the tragedy.

Let us instead take careful steps toward a legitimate bipartisan consensus. That is the principal intent of the resolution before us.

We started with the premise that anything we do must be in the framework of multilateral action. This is not the time for Rambo-like heroics. This is not the time for Globocop. We have neither the resources nor the capability to solve this problem on our own.

The resolution before us today calls on the President to convene an emergency meeting of the U.N. Security Council to consider military action, if necessary, for two narrowly defined purposes: To provide humanitarian relief to civilians in Bosnia and to gain access for United Nations and International Red Cross personnel to refugee and prisoner-of-war camps.

The resolution also calls on the Security Council to develop a plan for placing heavy weapons belonging to all factions in the conflict under U.N. supervision; to review and consider removing the arms embargo on Bosnia; and finally, to plan for a tribunal to investigate war crimes and crimes against humanity committed within the territory of the former Yugoslavia.

Mr. President, let me make one thing clear. This is not an authorization of force. If the President intends to use U.S. military forces, in connection with a U.N.-sponsored effort, he would have to ask Congress for the proper authorization as required under the Constitution. We would consider such a request at that time.

The purpose of this resolution, Mr. President, is to put the U.S. Senate on record as condemning in the strongest possible terms the senseless acts of violence taking place on Bosnia-Hercegovina. And it is to put the Serbian leaders on notice that we are prepared to consider military action if all other methods fail.

Mr. President, in the murky world of the Balkan civil war, the only thing for sure is that there are no easy solutions. The war in the former Yugoslavia will not come to an end overnight. The fighting will not be halted because of mere popular outrage.

But if there is to be a long-range solution to the war in the Balkans, our post-cold-war experience leaves us just one conclusion: Peace will not be imposed by unilateral action alone. Only through a legitimate multilateral consensus, supported if necessary by multilateral action, can we truly come to grips with the horrors in Bosnia.

That is the purpose of the resolution before us today. I hope it will be adopted with the strong support of this body.

Mr. BAUCUS. Mr. President, I raise today to discuss my vote on Senate Resolution 330.

It is trite to say that this is an enormously difficult vote. No decision of this body is more arduous than a choice contemplating the use of force.

I intend to support this sense-of-the-Senate resolution because I think we must demonstrate our solidarity with the innocent victims of conflict in the former Yugoslavia. In my view, this resolution is the only current vehicle we have for expressing our collective concern.

My support for this resolution is not without grave reservations. Despite the efforts to narrowly craft the resolution, too many questions remain unanswered.

I believe that when the United States decides to risk the lives of American servicemen, we must do so only with a clear sense of our goals. We must have a sense of the amount of force we are willing to bring to bear. And we must have the reasonable expectation that our goals are achievable.

On its face, the goals of this resolution seem clear. It is not a declaration of war, or even an authorization for the use of U.S. force. Rather, it is an expression of support for using United Nations leverage: First, to deliver humanitarian relief; and second, to gain international access to refugee and prisoner of war camps in the former Yugoslavia. I strongly support these goals.

I suspect that in a matter of a few weeks the Senate will return to this issue. At that time, the question will be whether to use force. I listened with great interest to the debate over this resolution. Before we vote on the use of force, we will need a lot more information than any of us appears to have today.

We will need a far clearer idea of the degree of force being contemplated. We will need a far clearer estimation of whether any amount of force will bring about our goals.

In the end, no United States action is likely to do more than buy a brief window of opportunity for the people of the former Yugoslavia. I sincerely hope that they, with the support of the international community, will use this opportunity to find a peaceful solution to the violence that plagues their land.

Mr. LAUTENBERG. Mr. President, I commend the authors of this resolution and the course of action it recommends. We must find a way to provide humanitarian relief to Bosnia-Hercegovina and to gain access for international inspectors to refugee and prisoner-of-war camps.

We have all been shocked and disturbed by the revelations of killing and injury taking place in Bosnia-Hercegovina. The faces of childern crying in pain haunt us. The knowledge that children are being orphaned and others separated from their families cries out for our attention. The photographs of bombed out communities and emaciated refugees disturbs all sensibilities.

Mr. President, this is more than a civil war. The actions we are witnessing are motivated by so-called ethnic cleansing. The reports are haunting. They bring back memories of Hitler and World War II. Racial purification. Death camps and the intolerable treatment of innocent humans.

One of the most painful lessons we learned from World War II is that genocide is possible. We learned that ruthless hatred, if unchallenged, can lead to the senseless, brutal death of innocents. We also learned that silence, as written by the philosopher and writer Elie Wiesel, is a crime unto itself. We learned that never again can the world be silent in the face of racially motivated barbarity. Never again.

People should not be assaulted or murdered because they believe in a different religion or because they are different culturally. Basic decency and humanity command that religious and cultural differences between the Serbs, Croats, and Moslems be tolerated.

Mr. President, we have a responsibility to speak out. I hope this resolution will send a strong message to the aggressors in the former Yugoslavia that the killing must stop. This resolution does not call for the automatic deployment of U.S. troops. It is not a blank check for the use of U.S. military force. Rather, it is a statement of the principles of freedom and respect for basic human rights that the United States is willing to uphold internationally. It is a call for the President to work with the United Nations to find a way to bring relief and to gain access to the camps.

No one in this Senate wants to make a reckless commitment of U.S. military forces. But doing nothing is a violation of ethics and morality that the United States or other free countries should not accept.

I urge my colleagues to support this resolution.

Mr. DANFORTH. Mr. President, the news from Bosnia is horrifying. We are hearing about atrocities against innocent civilians, taken from their homes, driven into exile, because of their ethnicity and where they live. This is the policy of ethnic cleansing. It is grotesque. Yet it is the goal driving many in the civil war underway in Bosnia.

We will never stand by as systemmatic genocide, involving the shipment of people to death camps to exterminate them, is occurring. This country will never turn its back on the deliberate, premeditated extermination of a people.

However, this resolution would make things worse—not better. Guaranteeing humanitarian aid throughout Bosnia would mean engaging ground troops in a civil war without end, in a war where the sides are not clear and the fighting and atrocities are everywhere. It would mean putting the United Nations protection forces already on the ground at risk—a possibility that their former commander, General MacKenzie, has thundered against at every opportunity.

Mr. President, let us tell the parties to this conflict something that is unmistakeable in its clarity. Let us tell them that we will not tolerate death camps. Let us tell them that we are watching very, very carefully. And if we determine that death camps, involving a program of systematic extermination, do exist, then we will punish the perpetrators swiftly and surely. That is what this Senate should be saying today. That is the resolution I would support. It is not the resolution before us today.

The PRESIDING OFFICER. The hour of 2:15 having arrived, under the previous order, the question is on agreeing to the resolution (S. Res. 330) as relating to the multilateral action in Bosnia-Hercegovina. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from California [Mr. SEYMOUR] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 22, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—74

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Chafee
Cochran
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wellstone
Wirth
Wofford

NAYS—22

Bingaman
Brown
Burns
Byrd
Coats
Cohen
Craig
Danforth
Durenberger
Gorton
Gramm
Hatfield
Hollings
Kerrey
McCain
McConnell
Murkowski
Roth
Rudman
Smith
Wallop
Warner

NOT VOTING—4

Burdick
Gore
Helms
Seymour

So the resolution (S. Res. 330), as modified and amended, was agreed to.

The preamble, as modified and amended, was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 330

Whereas the Republic of Bosnia-Hercegovina is internationally recognized as an independent state and is a member of the United Nations and a participant in the Conference on Security and Cooperation in Europe;

Whereas attempts to bring about a permanent cessation of hostilities precipitated by Serbia and Serbian-backed forces in Bosnia-Hercegovina through negotiations have repeatedly failed;

Whereas horrible atrocities are being committed by Serbian-backed forces against the civilian population, including the "ethnic-cleansing" of regions inhabited by non-Serbs;

Whereas the United States and other Contracting Parties to the International Convention on the Prevention and Punishment of the Crime of Genocide may, under Article VIII, "call upon the competent organs of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide" or any of the other "Acts Constituting Genocide" enumerated in Article III;

Whereas officials of the International Committee of the Red Cross have been denied access to prison camps and internment camps throughout Bosnia-Hercegovina even though such officials are entitled to access to such camps under Article 143 of the 1949 Geneva Convention;

Whereas United Nations and Red Cross relief convoys carrying much needed supplies of food and medicine are being repeatedly blocked and in some cases have been attacked by Serbian-backed forces;

Whereas the Security Council of the United Nations voted unanimously to dispatch additional forces to reopen Sarajevo's airport, and the delivery of supplies of humanitarian assistance to the city's beleaguered population is taking place under the protection of these forces but with great difficulty;

Whereas the Security Council also endorsed the cease-fire plan negotiated by the European Community Envoy which would place all heavy weapons in the possession of factions in Bosnia-Hercegovina under international supervision;

Whereas the president of the democratically elected Government of Bosnia-Hercegovina has issued urgent appeals for immediate assistance from the international community;

Whereas the situation in Sarajevo and elsewhere in Bosnia-Hercegovina has reached a critical point requiring immediate and decisive action by the international community; and

Whereas the President on August 6, 1992, announced a six-point plan, to be implemented through the United Nations, the Conference on Security and Cooperation in Europe and NATO, to respond to the situation in Bosnia-Hercegovina, and to attempt to prevent the conflict's spread into Kosova and neighboring countries: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of multilateral military force under a Security Council mandate, giving particular consideration to the possibility of "demonstrations" of force, to give effect to Security Council decisions to ensure the provision of humanitarian relief in Bosnia-Hercegovina and to gain access for United Natons and International Red Cross personnel to refugee and prisoners of war camps in the former Yugoslavia;

(2) during such meeting, the Security Council should—

(A) develop the means by which to implement the July 17, 1992, United Nations-sponsored cease-fire plan, which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under United Nations supervision;

(B) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

(C) convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes;

(3) the United States Senate strongly supports the measures announced by the President on August 6, 1992;

(4) no United States military personnel shall be introduced into combat or potential combat situations without clearly defined objectives and sufficient resources to achieve those objectives; and

(5) the United States Senate pledges to provide such funds as may be necessary for United States participation in such humanitarian relief and multilateral military force

activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution.

SEC. 2. (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) although international human rights monitors have observed that Romania has made progress in the area of human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily on the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonably equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent run-off elections that may be held, are conducted in a free and fair manner.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX ENTERPRISE ZONES ACT

Mr. MITCHELL. Mr. President, Senator BENTSEN has discussed the following matter with members of the Finance Committee, and after so doing, a majority of the members of the committee have authorized me on behalf of the committee to make a modification to the reported committee amendment.

Therefore, on behalf of the committee I modify the reported committee amendment to H.R. 11. I send the modification to the desk.

The PRESIDING OFFICER. The Senator has that right. The clerk will report the modification, and the amendment is modified.

The PRESIDING OFFICER. The Senator from Texas.

The Senate will now resume consideration of H.R. 11 which the clerk will report.

I have recognized the Senator from Texas. I apologize to the minority leader. I already granted recognition and reported the bill.

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. I say to the Senate Republican leader I surely do not want to be unfair in any way.

Mr. DOLE. How do you modify a bill that is not before us?

The PRESIDING OFFICER. That modification was done by the majority leader.

The bill was not before us but the majority leader has the right or the floor manager to modify the amendment and has that right and it has been ordered that it be modified pursuant to his request. That is the status of H.R. 11.

Mr. DOLE. Further parliamentary inquiry.

The bill was not before us then; the majority leader would now have to ask consent?

The PRESIDING OFFICER. The Republican leader is correct.

Mr. DOLE. I ask for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Wait a minute. There is a parliamentary inquiry there.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

MODIFICATION TO COMMITTEE AMENDMENT

Mr. MITCHELL. Mr. President, Senator BENTSEN has discussed the following matter with members of the Finance Committee, and after so doing, a majority of the members of the committee have authorized me on behalf of the committee to make a modification to the reported committee amendment.

Therefore, on behalf of the committee, I modify the reported committee amendment to H.R. 11. The modification is at the desk.

The PRESIDING OFFICER. The amendment is now so modified.

The modification is as follows:

On page 816, line 3, strike "25" and insert "125".

On page 816, line 4, strike "15" and insert "75".

On page 816, line 5, strike "8" and insert "40".

On page 816, line 6, strike "2" and insert "10".

On page 816, line 16, strike "6" and insert "11".

On page 816, line 18, strike "4" and insert "14".

On page 816, line 21, strike "3" and insert "25".

On page 816, line 24, strike "2" and insert "25".

On page 817, line 6, strike "3" and insert "8".

On page 817, line 8, strike "2" and insert "8".

On page 817, line 11, strike "2" and insert "12".

On page 817, line 14, strike "1" and insert "12".

On page 817, line 20, strike "1" and insert "2".

On page 817, line 22, strike "1" and insert "2".

On page 817, line 23, strike "and".

On page 818, strike lines 1 through 3, and insert:

"(iii) in calendar year 1995 shall not exceed the sum of 3 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the sum of 3 plus the carryover amount for such year.

On page 818, between lines 21 and 22, insert:

"(4) CERTAIN ZONES MUST BE IN SMALL CITIES, ETC.—For purposes of this subsection—

"(A) of the 75 urban tax enterprise zones, at least 40 shall be from nominated areas which are nominated by 1 or more local governments having jurisdiction over areas with an aggregate population (as determined by the 1990 or subsequent census data) of less than 500,000, and

"(B) of such zones designated during any calendar year, at least 8 shall be from areas described in subparagraph (A).

On page 821, line 19, insert "(10,000 in the case of any urban tax enterprise zone described in section 1391(b)(4))" after "20,000".

On page 822, line 22, strike "10,000" and insert "5,000".

On page 832, line 22, strike "40 percent" and insert "30 percent".

On page 833, line 5, strike "$20,000" and insert "$15,000".

On page 834, line 6, strike "and".

On page 834, line 9, strike the period and insert ", and".

On page 834, between lines 9 and 10, insert:

"(E) any individual employed by a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the unadjusted basis of the assets of the farm exceed $500,000.

On page 838, strike lines 12 through 22, and insert:

"(b) LIMITATION.—Subject to the limitation of section 179(b)(2), the aggregate cost of qualified zone property which may be taken into account under section 179(a) for any taxable year shall not exceed the sum of—

"(1) $10,000, plus,

"(2) 50 percent of so much of such cost as exceeds $10,000 but does not exceed $50,000.

On page 842, line 20, insert "or of operating a trade or business the principal activity of which is farming (within the meaning of subparagraph (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the unadjusted basis of the assets of the farm exceed $500,000" after "section 144(c)(6)(B)".

On page 847, line 3, strike "$25,000" and insert "$20,000".

On page 847, line 4, strike "$250,000" and insert "$200,000".

On page 849, line 15, strike "$3,000,000" and insert "$2,000,000".

On page 867, line 24, strike "employee" and insert "resident".

On page 868, between lines 2 and 3, insert:

"(B) SPECIAL RULE FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any tax enterprise zone resident, subsection (a) shall be applied by substituting '30 percent' for '40 percent'.

On page 868, line 3, strike "(B)" and insert "(C)".

On page 912, beginning with line 4, strike all through page 918, line 14.

On page 942, beginning with line 9, strike all through page 947, line 4.

Strike section 3011 and insert the following:

"SEC. 3011. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING."

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired."

(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(h) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

On page 1022, between lines 7 and 8, insert:

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992."

On page 1519, line 5, insert "excess inclusions (as defined in section 860E(c) of such Code) in" before "taxable years".

On page 1527, between lines 22 and 23, insert:

"(g) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

"(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

On page 1788, line 1, insert "and notwithstanding paragraph (3)," after "paragraph,".

At the end of title VIII, insert:

"SEC. ____. GAINS AND LOSSES FROM CERTAIN DISPOSITIONS BY FARMERS COOPERATIVES."

(a) IN GENERAL.—Section 1388 is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF GAINS OR LOSSES ON THE DISPOSITION OF CERTAIN ASSETS.—For purposes of this title, in the case of any farmer cooperative—

"(1) IN GENERAL.—A farmer cooperative may elect to include gain or loss from the sale or other disposition of any asset (including stock or any other ownership or financial interest in another entity) in net earnings of the organization from business done with or for patrons, if such asset was used by the organization to facilitate the conduct of business done with or for patrons. Any such gain or loss shall be allocated proportionately to patrons.

"(2) ALLOCATION.—An election under paragraph (1) shall not apply to gain or loss on the sale or other disposition of any asset to the extent that such asset was used for purposes other than to facilitate the conduct of business done with or for patrons. For purposes of this paragraph, the extent of such use may be determined on the basis of any reasonable method for making allocations of income or expense between patronage and nonpatronage operations.

"(3) PERIOD OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the organization. Any such revocation shall be effective for taxable years beginning after the date on which notice of the revocation is filed with the Secretary.

"(4) ELECTION AFTER REVOCATION.—If an organization has made an election under paragraph (1) and such election has been revoked under paragraph (3), such organization shall not be eligible to make an election under paragraph (1) for any taxable year before its 3rd taxable year which begins after the 1st taxable year for which such revocation is effective, unless the Secretary consents to such election.

"(5) COORDINATION WITH SECTION 1231.—If an organization has made an election under paragraph (1), section 1231 shall be applied separately with respect to both patronage-sourced gains and losses and nonpatronage-sourced gains and losses.

"(6) FARMER COOPERATIVE.—For purposes of this subsection, the term 'farmer cooperative' means any farmers', fruit growers', or like association to which subpart I of this subchapter applies.

"(7) NO INFERENCE.—Nothing in this subsection shall be construed to infer that a change in the law is intended for farmer cooperatives not having in effect an election under paragraph (1) or other organizations. Any gain or loss from the sale or other disposition of any asset by such organization shall be treated as if this subsection had not been enacted."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or other dispositions in taxable years beginning after date of enactment.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays on the bill, as modified, the substitute that is now before us.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, this modification relates to the enterprise zone proposal, the investment tax allowance proposal, and first-time home buyer credit proposal, and also makes minor modifications relating to wager excise tax, tax treatment of farmer cooperatives, and five other technical amendments.

I ask unanimous consent that an explanation of these changes and a summary of the proposed committee floor modification be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROPOSED COMMITTEE FLOOR MODIFICATION

1. Addition of Technical Amendment to Passive Loss Rules (sec. 6102(e) of the House Bill and sec. 469(g)(1)(A) of the Code).

This provision was inadvertently excluded from the Finance Committee amendment, although it was accurately described in the "Technical Explanation of the Finance Committee Amendment" at 138 Cong. Rec. S11364 (August 3, 1992). In general, the provision would clarify the rule relating to the computation of the overall loss upon the disposition of a passive activity.

2. Correction of Effective Date to REMIC Technical Correction (sec. 6102(e) of the Senate Amendment and sec. 860E of the Code).

Under the modification, the effective date of this provision would apply to "excess inclusions" in taxable years beginning after December 31, 1986.

3. Correct Effective Date For Earned Income Tax Credit Provision (sec. 4109 of the Senate Amendment).

Under the modification, the effective date of this provision would be taxable years after December 31, 1992, as opposed to December 31, 1991.

4. Eliminate H.R. 11 Provision Increasing Excise Tax on Wagering (sec. 3011 of the Senate Amendment).

H.R. 11 (as reported by the Senate Finance Committee) increases the excise tax on certain State-authorized wagers from one-fourth of one percent to one percent of the amount wagered, effective with respect to wagers entered into on or after the date of enactment. This committee modification would delete this provision from H.R. 11.

5. Treatment of certain gains and losses of farmer cooperatives (sec. 1388 of the Code).

Under the provision, a "farmer cooperative" may elect to include gain or loss on the sale or other disposition of certain assets as patronage source income. For this purpose, a "farmer cooperative" is any farmers', fruitgrowers', or like organization or association to which part I of subchapter T applies. The provision would apply to any asset used by the farmer cooperative to facilitate the conduct of its patronage business. This provision would apply, at the election of the farmer cooperative, to all dispositions of such assets during the taxable year for which the election is made and all subsequent taxable years, until revoked by the farmer cooperative. Following a revocation of its election and absent the consent of the Treasury Department, a farmer cooperative would not be eligible to re-elect patronage treatment for dispositions of assets until the third taxable year following the taxable year for which the revocation is effective.

EFFECTIVE DATE

The provision would be effective for dispositions of property occurring in taxable years beginning after the date of enactment.

6. Technical Correction to Include Provision Requiring Reporting of Taxpayer Identification Numbers of Parties in Seller-Financed Mortgage Transactions (sec. 6109 of the Code).

This provision was inadvertently excluded from the statutory text of the Senate Finance Committee amendment, although it was included in the Chairman's mark and adopted by the committee. The provision provides that, if any taxpayer claims a deduction for qualified residence interest on any seller-provided financing, such taxpayer (the buyer) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the seller) to whom the interest is paid or accrued. In general, this information must be furnished on Schedule A of the buyer's tax return for every year in which the buyer deducts this interest.

If any person receives or accrues interest from seller-provided financing, such person (the seller) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the buyer) from whom the interest is received or accrued. In general, this information must be furnished on Schedule B of the seller's tax return for every year in which the seller is required to include this interest in income.

If any person involved in seller-provided financing is required to include on his or her tax return the taxpayer identification number of another person, such other person is required to furnish his or her taxpayer identification number to such person. Information would not be required to be reported under this provision to the extent it would be duplicative of existing information reporting requirements.

Failure to meet the requirements for information reporting described above are subject to information reporting penalties under section 6723. In general, these penalties are $50 for each failure.

It is anticipated that all parties to real estate closings will make every effort to inform both buyers and sellers of the requirements of this provision, and will also facilitate (to the maximum extent possible) the exchange of taxpayer identification numbers between buyers and sellers.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 1991.

7. Clarification of treatment of veterans' benefits (sec. 8206 of the Senate Amendment).

Section 8206 of H.R. 11 as reported by the Senate Finance Committee provides that benefits administered by the Secretary of Veterans Affairs are excludable from gross income. The amendment would correct a drafting error to make it clear that all benefits administered by the Secretary of Veterans Affairs, including benefits modified after September 9, 1986, are excludable from gross income.

8. Modification to Enterprise Zone Provisions (secs. 1101-1106 and 1111 of the Senate amendment).

The following modifications would be made to the enterprise zone provisions (secs. 1101-1106, 1111) of H.R. 11 as reported by the Committee on Finance:

Designation of tax enterprise zones

125 enterprise zones.—A total of 125 tax enterprise zones will be designated during 1993-1996. Of the designated tax enterprise zones, 75 urban zones will be designated by the Secretary of HUD, 40 rural zones will be designated by the Secretary of Agriculture, and 10 Indian reservation zones will be designated by the Secretary of the Interior.[1]

Zone designations generally will remain in effect for 10 years.

Eligibility criteria for zones.—(Same as the Finance Committee amendment to H.R. 11, except that urban zones in mid-size cities will have a minimum population requirement of 10,000, and rural zones will have a minimum population requirement of 5,000.)

To be eligible for nomination as a tax enterprise zone, a nominated area will be required to have the following characteristics: (1) a population of at least 20,000 (10,000 in the case of urban zones in mid-sized cities, 5,000 in the case of rural zones, and no minimum population for Indian reservation zones); (2) a condition of unemployment and general distress (indicated by factors such as high crime rates, or designation of the area as a disaster area or high-intensity drug trafficking area ("HIDTA") under the Anti-Drug Abuse Act of 1988); (3) is one contiguous area; (4) is located within not more than two State; (5) poverty rates of at least 25 percent in each of the area's census tracts; (6) poverty rates of at least 35 percent in each of at least 80 percent of the area's census tracts; and (7) a satisfactory course of action (described below) adopted by the State and local governments designed to promote economic development in the nominated area.

Course of action.—(Same as the Finance Committee amendment to H.R. 11) In order for a nominated area to be eligible for designation as a tax enterprise zone, the local government and State in which the area is located are required to agree in writing that they will adopt (or continue to follow) a specified course of action designed to reduce burdens borne by employers or employees in the area.

Selection process and criteria.—(Same as the Finance Committee amendment to H.R. 11) All designated tax enterprise zones will be selected from nominated areas on the basis of the following factors: (1) the strength and quality of promised contributions by State and local governments relative to their fiscal ability; (2) the effectiveness and enforceability of the guarantees that the promised course of action will be implemented, including the specificity with which the commitments enumerated in the course of action are described in order that it could be determined annually by the applicable Secretary whether such commitments actually are being carried out; (3) the level of commitments by private entities of additional resources to the economy of the nominated area, including the creation of new or expanded business activities; and (4) the relative levels (compared to other nominated areas) or unemployment, general distress, and poverty in the nominated area.

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[1] Designation of the 75 urban zones will be phased in as follows: 15 zones in 1993, 15 zones in 1994, 25 in 1995, and 20 in 1996. At least 40 of the urban zones will be located in cities with a population of less than 500,000.

Designation of the 40 rural zones will be phased in as follows: 8 zones in 1993, 8 zones in 1994, 12 in 1995, and 12 in 1996.

The 10 Indian reservation zones will be phased in as follows: 2 zones in 1993, 2 zones in 1994, 3 zones in 1995, and 3 zones in 1996.

Tax incentives

Employer wage credit.—A 30-percent credit against income tax liability is available to all employers for the first $15,000 of wages paid to each employee who (1) is a zone resident (i.e., his or her principal place of abode is within the zone, and (2) performs substantially all employment services within the zone in a trade or business of the employer.

The wage credit (and the capital incentives described below) are not available to large farms (defined as businesses with assets with an unadjusted basis exceeding $500,000 that conduct farming operations as described in present-law sections 2032A(e)(5) (A) and (B)).[2]

The maximum credit per qualified employee is $4,500 per year. Wages paid to a qualified employee continue to be eligible for the credit if the employee earns more than $15,000, although only the first $15,000 of wages are eligible for the credit. The wage credit is available with respect to a qualified employee, regardless of the number of other employees who work for the employer or whether the employer meets the definition of an "enterprise zone business" (which applies for the investment tax incentives described below).

Qualified wages include the first $15,000 of "wages," defined as (1) salary and wages as generally defined for FUTA purposes, and (2) certain training and educational expenses paid on behalf of a qualified employee, provided that (a) the expenses are paid to an unrelated third party and are excludible from gross income of the employee under present-law section 127, or (b) in the case of an employee under age 19, the expenses are incurred by the employer in operating a youth training program in conjunction with local education officials.

The credit is allowed with respect to both full-time and part-time employees. However, the employee must be employed by the employer for a minimum period of at least 90 days or 120 hours of service. Wages are not eligible for the credit if paid to certain relatives of the employer or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, wages are not eligible for the credit if paid to a person who owns more than five percent of the stock (or capital or profits interests) of the employer.

To be eligible for the wage credit, an employer is required to notify all employees eligible to receive advance refundability of the earned income tax credit (EITC) of the availability of such advance refundability.

For certain small employers, the credit is refundable (and may be used to reduce tentative minimum tax). For this purpose, the term "small employers" is defined as employers with gross receipts not greater than $2 million during the preceding taxable year, although refundability is phased out for employers with gross receipts between $1 million and $2 million. For employers that are not "small employers," the credit is not refundable. For such employers, the credit is subject to the general business credit limitations (sec. 38) and, therefore, may not be used to reduce tentative minimum tax.

An employer's deduction otherwise allowed for wages paid is reduced by the amount of credit claimed for that taxable year.

Expansion of targeted jobs tax credit.—The present-law targeted jobs tax credit (TJTC) is expanded so that a person who resides in a tax enterprise zone is treated as a member of a targeted group for purposes of that credit.[3] However, the TJTC credit rate for zone residents is 30 percent. Thus, employers located outside enterprise zones are entitled to claim the 30-percent TJTC credit on up to $6,000 of qualified first-year wages paid to employees who reside within a tax enterprise zone.

As under present-law, an employer's deduction otherwise allowed for wages is reduced by the amount of TJTC claimed for that taxable year.

Definition of "enterprise zone business".—(Same as the Finance Committee amendment to H.R. 11, except large farming operations excluded.) The investment tax incentives described below (but not the labor incentives described above) are available only with respect to trade or business activities that satisfy the criteria for an "enterprise zone business." Under the bill, an "enterprise zone business" is defined as a corporation or partnership (or proprietorship) if for the taxable year: (1) the sole trade or business of the corporation or partnership is the active conduct of a qualified business within a tax enterprise zone;[4] (2) at least 80 percent of the total gross income is derived from the active conduct of a qualified business within a zone; (3) substantially all of the use of its tangible property occurs within a zone; (4) substantially all of its intangible property is used in, and exclusively related to, the active conduct of such business; (5) substantially all of the services performed by employees are performed within a zone; (6) at least one-third of the employees are residents of the zone; and (7) no more than five percent of the average of the aggregate unadjusted bases of the property owned by the business is attributable to (a) certain financial property, or (b) collectibles not held primarily for sale to customers in the ordinary course of an active trade or business.

A "qualified business" is defined as any trade or business, other than a trade or business that consists predominantly of the development or holding of intangibles for sale or license, a large farming operation (described above), or a business consisting of the operation of a facility described in present-law section 144(c)(6)(B). In addition, the leasing to others of any structure or building located within a tax enterprise zone is treated as a qualified business only if at least 50 percent of the gross rental income from the building or structure is derived from property leased to enterprise zone businesses. The rental of tangible personal property to others is not a qualified business unless substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

Additional expensing of equipment and buildings.—Enterprise zone businesses are allowed to expense 100 percent of the first $10,000 of investment in equipment and buildings. In addition, 50 percent of the next $40,000 of such investment also may be expensed.[5] The amount of such investment not expensed is eligible for accelerated depreciation, as described below.

"Qualified zone property" eligible for expensing is defined as depreciable tangible property (including buildings), provided that: (1) such property was acquired by the taxpayer (but not from a related party) after the zone designation took effect; (2) the original use of the property in the zone commences with the taxpayer; and (3) substantially all of the use of the property is in the zone in the active conduct of a trade or business by the taxpayer in the zone. In the case of property which is substantially renovated by the taxpayer, however, such property need not be acquired by the taxpayer after zone designation nor originally used by the taxpayer within the zone if during any 24-month period after zone designation the additions to the taxpayer's basis in such property exceed 100 percent of the taxpayer's basis in such property at the beginning of the period of $5,000 (whichever is greater).

The increased expensing allowance is allowed for purposes of the alternative minimum tax (i.e., it will not be treated as an adjustment for purposes of the alternative minimum tax). The section 179 expensing deduction will be recaptured if the property is not used predominantly in an enterprise zone business (under rules similar to present-law section 179(d)(10)).

Accelerated depreciation.—(Same as the Finance Committee Amendment to H.R. 11.) An enterprise zone business (as defined above) will determine depreciation deductions with respect to "qualified zone property"[6] (also defined above) by using the following recovery periods:

	Years
3-year property	2
5-year property	3
7-year property	4
10-year property	6
15-year property	9
20-year property	[7]12
Nonresidential real property	20

The shorter recovery periods allowed for qualified zone property of enterprise zone businesses will not be allowed for alternative minimum tax purposes.

Ordinary loss treatment.—(Same as the Finance Committee Amendment to H.R. 11.) Loss incurred by an individual or corporate taxpayer on disposition of certain property used in an enterprise zone business is treated as ordinary loss. The provision applies to tangible property used in an enterprise zone business for at least two years (five years in the case of real property). Loss on disposition of a stock or partnership interest in an enterprise zone business held by an individual for at least two years also is treated as ordinary loss. Ordinary loss treatment is not available under the provision for intangible property, other than stock or partnership interests in enterprise zone businesses.

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[2] In addition, the wage credit and capital incentives are not available with respect to any facility described in present-law section 144(c)(6)(B) (i.e., a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises).

[3] The TJTC (sec. 51) expired on June 30, 1992, but is extended for 18 months (i.e., through December 31, 1993) by another provision contained in the bill.

[4] This requirement does not apply to a business carried on by an individual as a proprietorship.

[5] As under present-law section 179, the additional expensing is phased out for taxpayers with investment during the taxable year exceeding $200,000.

[6] Accelerated depreciation will be available with respect to property that is not expensed under section 179.

[7] Thus, the recovery period for commercial real property used in an enterprise zone business would be reduced by 50 percent, because another provision of the Finance Committee amendment to H.R. 11 increases the general recovery period for nonresidential real property to 40 years.

Stock interests eligible for the ordinary loss treatment must be acquired by the individual taxpayer on original issue from the corporation solely in exchange for cash at a time when the corporation was an enterprise zone business (or was being organized for the purpose of being an enterprise zone business) and, during substantially all of the taxpayer's holding period, the corporation qualified as an enterprise zone business. Similar rules would apply to partnership interests in enterprise zone businesses. Property used in an enterprise zone business is eligible for the ordinary loss treatment under the bill if the property (1) meets the definition of "qualified zone property" (defined above), or (2) is land which is an integral part of an enterprise zone business.

The ordinary loss treatment applies only to losses that are attributable to the period that the property is used in an enterprise zone business. The ordinary loss treatment is to apply for purposes of computing alternative minimum tax.

Stock expensing.—An individual is allowed a 50-percent deduction for the amount paid in cash during the taxable year to purchase certain stock in an enterprise zone business. The amount of the deduction is limited to $20,000 per year (with a $200,000 lifetime cap).[8] The deduction is allowed to an individual as an above-the-line deduction (regardless of whether the individual claims the standard deduction).

Stock qualifies for the expending deduction only if it was stock acquired on original issue from a domestic C corporation that: (1) meets the definition of an enterprise zone business (defined above); (2) does not have more than one class of stock outstanding; (3) the sum of (a) the unadjusted bases of the assets owned by the corporation and (b) the value of leased assets does not excess $2 million; (4) more than 20 percent of the total value and total voting power of the stock of the corporation is owned by individuals (directly or through partnerships or trusts) or by estates; and (5) the case paid for the stock is used by the issuing corporation within 12 months to acquire property (a) which is depreciable tangible property (whether real or personal) to which section 168 applies, (b) the original use of which in the zone commences with the issuing corporation, and (c) substantially all of the use of which is in the zone.

For purposes of the $20,000 annual limitation and the $200,000 lifetime cap, an individual and members of his family (as defined in present-law section 267(c)(4) are treated as a single individual.

The basis of stock for which a deduction is claimed under the provision is reduced by the amount of the deduction. In addition, gain or disposition of the stock is treated as ordinary income to the extent of the amount allowed as a deduction, and interest is payable on certain premature dispositions. The deduction is allowed for purposes of the alternative minimum tax.

Low-income housing credit expansion.—Same as the Finance Committee amendment to H.R. 11.) For purposes of the low-income housing credit (LIHC),[9] tax enterprise zones automatically qualify as "difficult to develop" areas, within which the eligible basis of buildings for purposes of computing the credit is 130 percent of the cost basis. (Thus, for LIHC projects in tax enterprise zones, the credit will be based on 91 percent of present value instead of the regular LIHC rate of 70 percent of present value.) The present-law State credit cap continues to apply.

Qualified enterprise zone facility bonds

(Same as the Finance Committee amendment to H.R. 11.)

In general.—The bill authorizes a new category of exempt-facility private activity bonds, qualified enterprise zone facility bonds, for use in areas certified as eligible to be enterprise zones. Qualified enterprise zone facility bonds are bonds 95 percent or more of the net proceeds of which are used to finance qualified enterprise zone property (as defined generally under the bill) for a qualified enterprise zone business[10] and land located in the zone the use of which is an integral part of such a business.

Unlike the other tax incentives provided for designated tax enterprise zones, these bonds may be issued for us in all areas that are eligible for designation as one of the 125 tax designated tax enterprise zones, regardless of whether the appropriate Secretary designates the area such.[11] However, an area is eligible for use of these new exempt-facility bonds only if an application is made to the appropriate Secretary for such a designation and that Secretary certifies that the application demonstrates that the area meets the eligibility criteria enumerated above for designation (including the required course of action by the State and local governments).

Qualified enterprise zone facility bonds may be issued for use in an area only during the 60-month period following the earlier of (a) the date the zone is certified by the appropriate Secretary as an eligible area, or (b) the date on which the zone is designated the tax enterprise zone.

Prompt expenditure required.—The proceeds of qualified enterprise zone facility bonds must be spent no later than 18 months after the date on which the bonds are issued. Tax-exemption on the bond interest will not be affected if this expenditure requirement is not satisfied, however, if (a) all unspent proceeds as of the end of the 18-month period are used to redeem bonds that are a part of the issue during the succeeding six months, and (b) the issuer pays a penalty equal to three percent per year of the unspent proceeds for the period beginning on the date the bonds are issued and ending on the date the unspent proceeds are used to redeem bonds.

Special rules on issue size and use to finance certain facilities.—The aggregate face amount of a qualified enterprise zone bond issue may not exceed the excess of $1 million over all outstanding prior issues of such bonds with respect to any qualified enterprise zone business which is a principal user of the bond proceeds. For purposes of this determination, all businesses that are related parties, within the meaning of section 52 (a) or (b) are treated as a single business.

The bill exempts qualified enterprise zone facility bonds from the general restrictions on financing the acquisition of existing property (sec. 147(d)). Additionally, these bonds may not be used to finance the acquisition of farmland, including such land for use by certain first-time farmers (sec. 147(c)(2)).

Penalty for failure to continue as zone business or to use bond-financed property in the zone business.—The bill extends change-in-use rules to qualified enterprise zone facility bonds. Accordingly, interest on all bond-financed loans to a business that no longer qualifies as an enterprise zone business, or on loans to finance property that ceases to be used by the business in the enterprise zone, becomes nondeductible, effective from the first day of the taxable year in which the disqualification or cessation of use occurs.

Further, if less than substantially all of the use of bond-financed property continues to be in the enterprise zone or the borrower ceases to be an enterprise zone business at any time within 10 years after the financing is provided, a penalty of 1.25 percent of the face amount of all qualified enterprise zone facility bond financing provided to the borrower is imposed. This penalty is in addition to the loss of interest deductions, described above.

The bill provides that the change-in-use and 1.25 percent penalties are waived in the case of borrowers that cease to qualify as enterprise zone businesses or that cease to use bond-financed property in the zone in that business as a result of bankruptcy, or solely as a result of a zone's ceasing to be eligible as such (e.g., as a result of the passage of time). Further, the committee intends that the Treasury Department may waive these penalties in the case of violatoins caused by circumstances beyond the control of the borrower if the violations are corrected within a reasonable period after the business has reason to know of them.

Partial exemption from State volume limitations.—Qualified enterprise zone facility bonds are allowed a 50-percent exclusion from the otherwise applicable State private activity bond volume limitations.

Exception from bank pro rata interest deduction disallowance.—The bill provides that the general rule requiring banks to forego a portion of their otherwise allowable interest expense deduction if they invest in tax-exempt bonds does not apply to investments in qualified enterprise zone facility bonds, if the issuer elects.

Rules

(Same as the Finance Committee amendment to H.R. 11.)

Within four months after the date of enactment, the Secretaries of HUD, Agriculture, and Interior are required to promulgate rules (by notice or regulation) regarding: (1) procedures for nominating areas for designation as tax enterprise zones; (2) the method for comparing the enumerated selection criteria; and (3) recordkeeping requirements to assist in the preparation of studies to be submitted to Congress (described below). Such rules must provide that State and local governments shall have no less than five months after issuance to submit their applications for zone designation before such applications are evaluated and compared and any area is designated as a tax enterprise zone.

Study

(Same as the Finance Committee amendment to H.R. 11.)

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[8] Thus, in order for an individual to claim the maximum $20,000 per-year deduction, the individual must purchase $40,000 of qualified stock during the taxable year

Individuals are permitted to carry excess amounts (above the $20,000 per year limit) to the next taxable year (subject to the $200,000 lifetime cap).

[9] The LIHC (sec. 42) expired on June 30, 1992, but is extended for 18 months (i.e., through December 31, 1993) by another provision of the bill.

[10] For purposes of the tax-exempt bond provisions, the term qualified enterprise zone business includes a business located in a certified enterprise zone area (see below) that satisfies with respect to the certified area in which it is located all of the criteria applicable to such businesses that are located in designated tax enterprise zones.

[11] However, for areas that are not designated as a tax enterprise zone, the minimum population requirement will be 20,000 for an urban area and 10,000 for a rural area. There will be no minimum population requirement for areas located on Indian reservations.

The bill provides for a study to be conducted under the auspices of the National Academy of Sciences, analyzing the effectiveness of the tax incentives in the tax enterprise zones. An interim report of this study is required to be submitted to Congress by July 1, 1997, and a final report by July 1, 2000. The Secretary of the Treasury (in consultation with the Secretaries of Housing and Urban Development, Agriculture, and Interior) is directed to contract with the National Academy of Sciences within three months after the date of enactment to conduct this study.

Effective date

(Same as the Finance Committee amendment to H.R. 11.)

Tax enterprise zone designations will be made only during calendar years 1993 through 1996. The tax incentives provided for are available during the period that the designation remains in effect, which generally will be for 10 years after the designation first becomes effective.

9. Eliminate H.R. 11 Provision on Special Depreciation Allowance for Certain Equipment Acquired in 1992 (sec. 2161 of the Senate Amendment).

Section 2161 of H.R. 11 (as reported by the Senate Finance Committee) allows an additional first-year depreciation deduction equal to 15 percent of the adjusted basis for certain property acquired in 1992 and placed in service before 1994. This committee modification would delete this provision from H.R. 11.

10. Eliminate H.R. 11 Provision on First-Time Homebuyer Credit (sec. 2121 of the Senate Amendment).

Section 2121 of H.R. 11 (as reported by the Senate Finance Committee) provides a tax credit for the purchase of a principal residence by a first-time homebuyer. This committee modification would delete this provision from H.R. 11.

Mr. BENTSEN. Mr. President, I brought to the desk a Finance Committee modification that includes eight noncontroversial changes in the tax bill reported out last week by the Finance Committee. It also includes one substantive modification to the enterprise zone legislation that a majority of the committee has agreed to and that I want to discuss in some detail.

Since the riots in Los Angeles, my goal for the enterprise zone proposal, a goal which I think every Member of this Senate supports and shares, is to make the proposal work for the residents in those distressed areas. That is why the proposal the Finance Committee reported out is based on incentives that target the benefits to the zone residents, and that is why the number of zones was limited in the first place to the extent it was.

Nevertheless, I recognize the legitimate concerns about providing only 25 full-fledged enterprise zones. The problem is that the committee felt that we could not go a great deal higher than that without diluting the benefits to the point of meaninglessness. If we stayed with the $2.5 billion revenue ceiling that the administration get.

The committee has now decided to abandon that last assumption and commit to a much longer number of zones with the same meaningful benefits.

Those benefits would be funded by deleting the investment tax allowance and the tax credit for first-time home buyers.

I hear one of my colleagues on the other side critizing those provisions because they would expire at the end of the year. Nevertheless, these two temporary provisions provide $3 billion more which we can use to increase the number of zones.

We increased the number of zones, five times the number of zones even though we increased the amount of money by a little over twice. The reason for that is the more zones you establish, the smaller the area and hence the revenue loss. Our proposal provides that at least 40 of the 75,000 urban zones must go to cities with less than 500,000 population.

With respect to the question of which cities would qualify, I have to respond to Secretary Kemp's outrageous change that Los Angeles would not qualify. If anyone thinks that my committee would develop and endorse, an enterprise zone proposal that disqualified Los Angeles, they do not know my committee very well. Our criteria was clear—enterprise zones would be selected on the basis of relative poverty, unemployment, and general distress.

Anyone who would think Los Angeles was not distressed with $1 billion worth of damage and 58 lives lost would have to be absurd, indeed. But, nevertheless, Secretary Kemp made that outlandish and false claim that Los Angeles would not quality.

The measures that we delete, the investment tax allowance and the tax credit for first-time home buyers—were included in the original bill at the administration's request in their exact form, before the administration changed its position and indicated that they would veto the tax measure.

And frankly, no one has given a 21-gun salute to those two provisions. In fact despite the fact that the administration requested them, the two incentives have come under criticism from Senator DOMENICI who stated that the economic incentives were terribly late and short on time. Deleting those two provisions will save $3 billion and we would allocate every penny of that to the enterprise zones, so we are able to retain meaningful tax incentives and yet substantially increase the number of zones from 25 to 125.

Let me summarize some of those changes to the tax incentives.

First, the modified proposal would provide a 30 percent tax credit for the first $15,000 of wages paid by an enterprise business to a zone resident. The original proposal provided a 40-percent credit for the first $20,000 of wages.

The wage credit in the modified proposal is still very powerful, a maximum of $4,500 for each zone resident that is hired. That is a powerful incentive to hire residents of those distressed areas. The first goal of an enterprise zone should be to provide jobs to those zone residents, and that is what a generous wage credit would do.

Another problem this proposal addresses is the lack of incentives for job training. Our proposal provides the same tax credit for the training of zone residents so they can qualify for productive jobs.

Second, 50 percent expensing of buildings and equipment would be allowed for small businesses up to $50,000. That compares with 100 percent of expensing up to $75,000 of equipment and buildings in the original proposal.

The accelerated depreciation provisions available to both large and small business would be unchanged from the original proposal.

Third, individuals would be able to deduct 50 percent of the stock investment in zone businesses up to an annual cap of $20,000 for the deduction and a lifetime cap of some $200,000 for that deduction. The change here is that the original proposal provided original and lifetime caps of $25,000 and $250,000 respectively. Also, the size of the zone businesses eligible for this incentive would be decreased from $3 to $2 million of gross assets.

And, finally, farms with assets of over $500,000 would not be eligible for the zone benefits. The reason for this change is that we had members on the Finance Committee from farming States who were deeply concerned that the proposal would provide incentives for corporate farming at the expense of family farms. So that limitation was put in response to their concerns.

Those are the enterprise zone changes agreed to by a majority of the committee. I firmly believe the modified proposal represents a package that has a real chance of helping our cities and these troubled rural areas. This is a serious response to one of our Nation's most serious problems. The provisions requiring studies of zones will stay in the bill—we will continue to monitor this project carefully.

I must tell my friends that I have brought together all the studies I can find on enterprise zones. We find people who feel very strongly they succeed and others who think they do not. It is a mixed array of information.

But if the President wants enterprise zones and the leadership is supporting the President in that regard, then let us do everything we can to make them work.

I congratulate my friends on the other side, and Mr. LIEBERMAN, and Secretary Kemp who have abandoned talk about an entitlement program. I think it would be a serious mistake to put this in the category of an entitlement with so many questions still remaining.

What we would do is put limits in at the very beginning to evaluate and study the success of these enterprise zones. Let us have the National Academy of Sciences, a nonpartisan group, evaluate it. If they are what we hope they are, if they really turn these places around with jobs and training and an improvement of the infrastructure, then let us intensify that effort in the future and continue it.

I think this enterprise zone proposal is one in which the whole Senate, including those who want more zones and those who want more revenue in the zones, can wholeheartedly support.

Mr. President, the committee modification also includes seven noncontroversial changes to the tax bill reported out last week by the Finance Committee. Five are technical. One deletes a revenue-raising provision, and one clarifies the tax treatment of farmer cooperatives.

Two technicals were inadvertently left out of the committee bill. The first clarifies a provision in the passive loss rules and is included in the House version of H.R. 11. The second technical provision correction concerns the provision that requires information reporting by parties to a seller-financed mortgage transaction. That provision was included in the chairman's markup, approved by the Finance Committee, and inadvertently left out of the statutory text of the amendment before drafting. This technical simply restores the statutory language.

Two technicals clarify the effective dates for a real estate mortgage investment conduit, and a technical provision in the earned income tax credit simplification provision.

The fifth change clarifies that veterans' benefits administered by the Department of Veterans' Affairs are tax exempt no matter when those benefits are granted.

The sixth change deletes the increase in excise tax on wagering.

And the seventh change clarifies, on a prospective basis, the tax treatment of gains and losses on the sale of assets by farmer cooperatives. The bill would allow these cooperatives to elect to treat the gains or losses as patronage source income that can be passed through to the patron owners as patronage dividends, if the assets were used by the cooperatives to facilitate business done with the patrons. That provision is necessary to give certainty to farmer cooperatives in determining the amount of patronage source dividends they must pay to patrons.

Mr. President, I yield the floor.

STATEMENT OF SENATOR SASSER UNDER SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, I hereby submit revised budget authority and outlay allocations to the Senate Committee on Finance and aggregates under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 287, in connection with H.R. 11, the Revenue Act of 1992.

Sections 9 (a) and (b) of the budget resolution state:

SEC. 9. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE FOR FAMILY AND ECONOMIC SECURITY INITIATIVES IN ACCORDANCE WITH PROVISIONS OF THE SUMMIT AGREEMENT.

(a) Initiatives To Improve the Health and Nutrition of Children and To Provide for Services To Protect Children and Strengthen Families.—

(1) In general.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to improve the health and nutrition of children and to provide for services to protect children and strengthen families within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997.

(2) Revised allocations.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) Reporting revised allocations.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(b) Economic Growth Initiatives.—

(1) In general.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding for economic recovery or growth initiatives, including unemployment compensation or other, related programs within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997.

(2) Revised allocations.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) Reporting revised allocations.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

The Committee on Finance has reported H.R. 11, the Revenue Act of 1992, with a committee amendment. As reported, H.R. 11 includes, among other things, several provisions that would strengthen foster care, adoption, and child welfare services, would make improvements to the Aid to Families With Dependent Children Program, better known as AFDC, would provide comprehensive substance services to pregnant women, and would modify the earned income tax credit, which benefits families. In the words of section 9(a) of the budget resolution, these provisions would increase "funding to improve the health and nutrition of children and to provide for services to protect children and strengthen families."

As reported by the Finance Committee, H.R. 11 also includes provisions that would temporarily increase matching rates for job opportunities and training programs, would provide for employment demonstration programs, and would expand a targeted jobs wage credit. In the words of section 9(b) of the budget resolution, these provisions would increase "funding for economic recovery or growth initiatives."

H.R. 11, as reported by the Finance Committee, also meets the other requirement of sections 9 (a) and (b) of the budget resolution that "to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit—by virtue of either contemporaneous or previously passed deficit reduction—in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997."

As H.R. 11 as reported complies with the conditions set forth in the budget resolution, under the authority of sections 9 (a)(2) and (b)(2) of the budget resolution, it is therefore appropriate that I file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection.

Note that have I twice submitted similar revisions during the past two weeks in connection with the Comprehensive National Energy Policy Act, H.R. 776. Those statements appear at pages 20076 through 20078 of the Congressional Record for July 29, 1992, and page 21020 of the Congressional Record for August 3, 1992. Even though the Senate passed the Comprehensive National Energy Policy Act on Thursday, July 30, 1992, Congress has not yet completed action on it. Consequently, in keeping with precedent, the Budget Committee has not yet added the Comprehensive National Energy Policy Act into its estimate of the current level of budget authority, outlays and revenues.

The filing that I make today displays revised allocations and aggregates in two ways: with the estimates of the Comprehensive National Energy Policy Act excluded and included. Consistent with the precedent of excluding legislation from the current level of spending and revenues until Congress has completed action, the Budget Committee will compare its estimate of the current level of spending and revenues to the revised allocations and aggregates that exclude the revisions associated with the Comprehensive National Energy Policy Act until Congress completes action on that act. The allocations and aggregates excluding the Comprehensive National Energy Policy Policy Act will govern until Congress submits it to the President. The allocations and aggregates including that act will govern if and when Congress enacts both the Comprehensive National Energy Policy Act and the Revenue Act of 1992 in their current form.

With this explanation, I hereby file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised functional levels and aggregates in connection with H.R. 11.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SEC. 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993—ASSUMING ENACTMENT OF H.R. 11

[In millions of dollars]

	1993	1993–97
Spending allocations and revenue totals:		
Resolution revenue totals	848,672	4,817,372
Reserve fund change—H.R. 11	499	3,153
Revised revenue total	849,171	4,820,525
Finance Committee Budget authority allocations	517,888	3,012,184
Reserve fund change—H.R. 11	463	3,051
Revised Finance Committee budget authority allocations	518,351	3,015,235
Finance Committee outlay allocations	515,512	2,998,421
Reserve fund change—H.R. 11	499	3,153
Revised Finance Committee outlay allocations	516,011	3,001,574

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SEC. 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993—ASSUMING ENACTMENT OF H.R. 11 AND H.R. 776

[In millions of dollars]

	1993	1993–97
Spending allocations and revenue totals:		
Resolution revenue total	846,672	4,817,372
Reserve fund change—H.R. 776	218	1,247
Reserve fund change—H.R. 11	499	3,153
Revised revenue total	849,389	4,821,772
Finance Committee Budget authority allocations	517,888	3,012,184
Reserve fund change—H.R. 776	218	1,247
Reserve fund change—H.R. 11	463	3,051
Revised Finance Committee budget authority allocations	518,569	3,016,482
Finance Committee outlay allocations	515,512	2,998,421
Reserve fund change—H.R. 776	218	1,247
Reserve fund change—H.R. 11	499	3,153
Revised Finance Committee outlay allocations	516,229	3,002,821

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SEC. 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993—ASSUMING ENACTMENT OF H.R. 11

[In millions of dollars]

	1993	1994	1995	1996	1997
Resolution aggregates:					
Resolution revenue aggregates	848,672	911,920	968,430	1,017,875	1,070,475
Reserve fund change—H.R. 11	499	644	659	647	704
Revised resolution revenue aggregates	849,171	912,564	969,089	1,018,522	1,071,179
Resolution budget authority total	1,249,722	1,270,020	1,309,930	1,375,175	1,468,755
Reserve fund change—H.R. 11	463	641	597	638	712
Revised resolution budget authority total	1,250,235	1,270,661	1,310,527	1,375,813	1,469,487
Resolution outlay total	1,242,072	1,255,720	1,258,230	1,304,975	1,416,175
Reserve fund change—H.R. 11	499	644	659	647	704
Revised resolution outlay total	1,242,571	1,256,364	1,258,889	1,305,622	1,416,879

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SEC. 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993—ASSUMING ENACTMENT OF H.R. 11 AND H.R. 776

[In million of dollars]

	1993	1994	1995	1996	1997
Resolution aggregates:					
Resolution revenue aggregates	848,672	911,920	968,430	1,017,875	1,070,475
Reserve fund change—H.R. 776	218	300	250	243	236
Reserve fund change—H.R. 11	499	644	659	647	704
Revised resolution revenue aggregates	849,389	912,864	969,339	1,018,765	1,071,415
Resolution budget authority total	1,249,772	1,270,020	1,309,930	1,375,175	1,468,775
Reserve fund change—H.R. 776	218	300	250	243	236
Reserve fund change—H.R. 11	463	641	597	638	712
Revised resolution budget authority total	1,250,453	1,270,961	1,310,777	1,376,056	1,469,723
Resolution outlay totals	1,242,072	1,255,720	1,258,230	1,304,975	1,416,175
Reserve fund change—H.R. 776	218	300	250	243	236
Reserve fund change—H.R. 11	499	644	659	647	704
Revised resolution outlay total	1,242,789	1,256,664	1,259,139	1,305,865	1,417,115

COOPERATIVE SALE OF ASSET AMENDMENT

Mr. BOREN. Mr. President, I wish to commend the chairman of the Finance Committee, the distinguished Senator from Texas, for his modification today which contains provisions to clarify the tax treatment of gain or loss resulting from the sale of an asset by a farmer cooperative. It is important to farmers and their cooperatives both in my State of Oklahoma and across the country.

Disputes between farmer cooperatives and the Internal Revenue Service over the tax treatment of gain or loss resulting from the sale of assets used by cooperatives in their patronage operations have increased in recent years. Simply put, the disputes involve whether gains or losses from such dispositions should be considered to be derived from patronage or nonpatronage sources.

The patronage/nonpatronage distinction is vital to the operation of the single tax system of subchapter T of the Internal Revenue Code. Gain from patronage sources is eligible to be distributed to patrons as a patronage dividend which is deductible to a cooperative and taxable to the patron. Of course, nonpatronage sourced income is taxable to a nonexempt agricultural cooperative whether or not it is distribution to the farmer patrons.

Agricultural cooperatives have taken different approaches toward the classification of gain or loss from the sale of assets used in the patronage operation. Some cooperatives, relying on the test used in over nine court cases, have treated this gain or loss as patronage sourced on the ground that the assets sold were directly related to or actually facilitated the marketing, purchasing, or service activities of the cooperative.

Other cooperatives have treated gain or loss from the sale of assets used in the patronage operation as nonpatronage sourced in reliance on an example in Treasury regulation section 1.1382–3(c)(2) and the IRS's administrative position that capital gain—or gain treated as capital gain under section 1231—is automatically nonpatronage sourced.

Recent court decisions have consistently applied a directly related/actually facilitates test to distinguish between patronage and nonpatronage income. In one case, a court found that gain from the disposition of a capital asset used in the patronage operation was directly related to the patronage operation and thus patronage sourced. Notwithstanding these decisions, the IRS has continued to assert deficiencies in such cases.

The position taken by the IRS in a variety of factual contexts, when considered against the applicable legal authorities as well as other IRS rulings, has created confusion and uncertainty as the proper treatment for the gain from the sale of property used or held to facilitate business done with or for patrons.

In general, this amendment recognizes that patronage-sourced income includes the gains and losses from assets used to facilitate the cooperative's conduct of business done with or for its patrons. Accordingly, this provision clarifies that gain or loss from the disposition by a farmer cooperative of any asset may be treated as patronage sourced if the farmer cooperative is able to demonstrate, as a matter of fact, that the asset was used to facilitate business done with or for its members. This provision adopts the test applied in numerous court cases and recognized by the IRS in Rev. Rul. 69-576. The amendment also allows the cooperative and its patrons to agree to a different arrangement. The provision therefore does not change present law with respect to nonelecting cooperatives. However, no inference should be drawn from this legislation that the Internal Revenue Service's interpretation of present law on this issue is correct.

Mr. KASTEN. Mr. President, let me just for 2 or 3 minutes tell the Senate where we are and where we are not, and what this new modification seems to us to be. Let me begin by saying I think it is a partial victory, because one of the struggles has been that we have been trying to expand the number of zones. Some have felt that 25 zones would be adequate, because they did not agree with the basic idea of enterprise zones, and they wanted to try out a few models. Well, we seem to have won that argument. We are going to go forward with approximately 125 zones.

So we are beyond the idea that it is just a small number, because we do not think enterprise zones will work. Maybe now we are winning the argument for entrepreneurial solutions.

But what is really happening here is that we have increased the zones; but how? The administration in the original Kasten proposal, the original Lieberman proposal, the original efforts we were making months ago, was not for 25, 125, 150, but 300 enterprise zones. That is where we began.

We started struggling with the revenue estimate. The Joint Tax Committee finally said it was going to be $2.5 billion, because the Finance Committee had a $2.5 billion price tag on their revenue with regard to their enterprise zone proposal for 25 zones. We have been working within that $2.5 billion and we were able, the Senator from Connecticut and I, to, by making some changes, to get 150 zones and still stay within that revenue estimate which was actually $2.498 billion.

We would not have had a point of order against us. We would have won the amendment, and we would have been successful. And I believe that is why this change has been made. Anybody here can count votes. The Senator from Connecticut and the Senator from Wisconsin would have won. We would have defeated the committee position, and we would have had 150 zones at a cost of $2.498 billion.

Now we have some confusion here. We are still not at the 300 we wanted, because we now have 125 zones. How do we get those 125 zones? What within this bill has changed? No. 1, the final committee modification for the investment tax allowance. That was whereby we were going to encourage people to buy machinery in order to put people to work, and they were going to be able to get a speedup, if you will, of their depreciation. That was originally an administration proposal. I believe it was in the State of the Union Address, that this was one of the ways we could get the immediate kick we wanted, the push right away, not long term. This was first year.

All right, that has been thrown out. That was in the Finance Committee bill and has been thrown out by the committee modification, in order to go from $2.5 to $5.5 billion, which is the price tag of the present Finance Committee bill, as modified.

So we no longer are concerned, I guess, about incentives for small business, to put plant machinery into America—not just zones.

What else has the Finance Committee modification thrown out? After all of the talk about, again, the engine that was going to pull us out of the recession, about incentives that were going to make a difference right now, we have decided home building and real estate is no longer key, because the modification has knocked out that important incentive in order to get to the $5.5 billion estimate. I do not know what my friends in real estate and home building are going to say about that. They are probably just learning about it right this minute. But the modification knocked that out in order to somehow work this political solution to what was a difficult problem for the Finance Committee.

So, the modification has knocked out the investment tax allowance to help people invest in machines and equipment that are going to provide jobs, and it has also knocked out the first-time homebuyer and is no longer concerned about housing and real estate leading us out of this recession.

What have we ended up with? We have ended up with 125 zones. But what do we have in those zones? We used to have, as I understood it, an $8,000 tax credit—and the chairman referred to this a moment ago—but now that $8,000 tax credit, talking about the importance of wages and wage earners, has gone to $4,500. So we have cut that about in half, as I understand the proposal, and we are still trying to analyze it. What have we forgotten about?

It is very hard to have employment if you do not have employers. It is very hard to have jobs and wages to which you would apply a credit if you do not have people providing those jobs.

What is missing here, and has been missing in the Finance Committee proposal from the very beginning, is some kind of incentive for people to target their investment for employers to decide to put plant, machinery, and equipment into a zone, so that we could then have the wages that would then be subject to the credit.

It is pretty hard to have wages if you do not have jobs. It is pretty hard to have jobs if you do not have people putting plants, machinery, and equipment into these zones.

So we are missing the capital gains component and missing the incentives for locating the plants in the zones. We have forgotten about the employer. We are thinking about the employment or the wages, even though we reduced that.

Now, I believe that what we need are effective tax incentives, and I believe they ought to be in this bill. The capital gains provision is critical because under the static models, unfortunately, the Joint Tax Committee, and others we are working on, even under those models, the Government loses no revenues unless the zones are successful and can result in capital gains that can be realized under the finance bill, even as modified.

You pour all of these different tax drains into the zones up front before you know whether the business will even be successful. The key is you cannot have jobs without people providing the jobs. You cannot have employees without employers. And there is no incentive, either, to invest anywhere, particularly in regard to investing in the zone.

I am hopeful that we can, at this particular moment, step back, review where we stand, and see what we can get with the Lieberman-Kasten kinds of proposals now that we have a $5.5 billion number to shoot at as opposed to just $2.5 billion. I certainly do not want to give up on the first-time home buyer component. That is important. And I still believe real estate and home building can help pull us out of the recession.

I am not crazy about giving upon the 15-percent investment tax allowance, either. That is something we need and I hope we can keep in the bill. So we might not be able to have a price tag of $5.5 billion on a revised program. It might be somewhere between $2.5 and $5.5 billion.

So, yes; this is a victory. Yes; we have expanded the zones. Yes; the mayors across this country, Republican Democrat, and Independent, have had their voices heard in this body. They said they would not accept just 25 zones, and now we have won. So we can claim victory on the numbers. We can claim victory on the idea that enterprise zones will work.

But what kind of enterprise zones? And, particularly, where are the incentives to provide the jobs and produce the employment that is needed. Just to have the employment we need employers. And the key here is there is little for investing right now in plants and machinery that are going to provide those jobs.

I also wish we would not have to back up on the wage credit all the way to $4,500.

So I think we have some work today, and I see the Senator from Connecticut, the sponsor of this amendment. And we say that we have won part of this battle. Maybe even we can say we won more than half. But we have not won a number of key parts of this battle. My hope is that when we have a chance to review this modification, we can come back and see if we cannot still improve, particularly in terms of incentives for employers, incentives of people with capital to invest. Because without jobs and without job creators, we sure as heck are not going to have wages upon which we can have tax credits.

So I hope we can get off of this subject in a moment, and go on with probably an IRA amendment—I see a chart here with regard to IRA's—and come back and visit this question later.

We have won an important battle, the mayors; Republicans, and Democrats have won a battle. We have the numbers up which are part of the battle. But we still do not have incentives that we need in order to make this program as good as it can be.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

Mr. President, I rise to join my colleague from Wisconsin, and cosponsor of the amendment, regarding enterprise zones, and to speak just a bit about enterprise zones. And I particularly rise to thank the chairman of the Finance Committee, the Senator from Texas, for the modification that he has made to the enterprise zone component of the urban aid bill that is before us, because I think it is significant and it certainly sets the context for the kind of bipartisan agreement that there ought to be on enterprise zones.

It is directly responsive to the needs of a lot of cities in rural areas and Indian reservations around this country, and it is responsive to the calls and pleas of so many of the mayors of our cities and smaller areas, rural areas, around the country, for just this kind of help.

Mr. President, in my opinion, enterprise zones are a concept that works. They started actually in Connecticut in this country about 10 years ago. There are now 36 States and the District of Columbia that have enterprise zones. According to numbers we put together speaking to the economic development offices of the various States and the District in that 10 years, more than $28 billion has been invested in enterprise zones, creating 258,000 new jobs.

And all that without the most significant sweetener that was contemplated when the idea was first introduced in America, and that is the Federal tax incentive. Let us remember, when it was first introduced in Congress, it was very much a bipartisan proposal, associated appropriately with then Congressman—now Secretary—Jack Kemp, but also cointroduced by Congressman Bob Garcia of New York.

As the proposal took shape within the Finance Committee in response to the troubles, the riots in Los Angeles earlier this year, I think we have made significant progress, and very significant progress in the modification proposed here.

The appeal of enterprise zones as an instrument or urban aid are that by the use of tax incentives they leverage every dollar spent—or one might say lost—in lost revenue by the Federal Government by drawing in a multiple of investments from the private sector. So that, unlike other ways in which the Federal Government can and in fact should assist cities, as opposed to a dollar's worth of service for a dollar's worth of investment, here, every time we invest a dollar in tax incentives in one of the poor areas of our country, we get back at least $3 from the investment.

That is what the experience of the last 10 years shows. And we directly help the mayors in dealing with one of their most serious problems and one of the cities' most serious problems, which is the decline of the urban tax base and the poor rural tax base. Businesses depart; they take their tax revenue with them. Cities are compelled to rely on a small tax base, and have to increase taxes very often on residential taxpayers, and too often force too many middle-class taxpayers out of the city, increasing the decline of the cities.

Second: Obviously, we hope that enterprise zones—and we have seen over the 10 years that they can and will—bring capital into the cities and create jobs for people who live there. I think the proposal, the modification, that the Senator from Texas has made significantly achieves those goals.

It is true that one of the elements that I have favored and others have favored, which is the use of a capital cost reduction, some form of a capital gains reduction, targeted for the central city, is not there. And I hope we can find a way to put it there.

But let us not overlook the fact that there are at least two very significant capital cost reduction incentives in the proposal of the committee. One, a stock expensing of 50 percent deduction, limited to $25,000 per year; $250,000 lifetime cap per taxpayer. You can put in $50,000, and deduct $25,000 right at the outset. That is going to be a tremendous incentive to move capital into companies in the poor areas. And, second, is the capital expensing equipment, expensing up to $75,000, I believe, in the last proposal.

I would like to see us go even further. I know in my home State, in New Haven, CT, we have an enterprise zone in which a lot of new startup, high-tech research oriented businesses are locating, the kind that really could attract more investment, if there was a capital gains incentive. People would be willing to put money down, hoping for a dramatic increase, if they knew that the capital gains taxes would be reduced in the end.

I want to say that I am personally grateful for the tremendous progress that has been made. I think the good news here for America's poorest cities and rural areas is that there is going to be enterprise zone legislation adopted this year, and it is going to be good legislation.

What remains is some discussion that I would consider to be effectively around the margins of the issue, to try to make it as good as we possibly can.

So I look forward to joining with my colleague from Wisconsin in a more detailed consideration of the modification that we have just been informed of.

But I really hope—understanding that this is a zero-sum, and being limited in what we can do by the revenue limitations we have and that we have to make some choices here—that we do the best we can to reach an agreement that a strong, bipartisan majority can support when it comes to enterprise zones.

And it is in that spirit that I again express my gratitude to the chairman of the Finance Committee for the substantial progress that has been made in this discussion, and for hope that it gives poor people that they are going to get some help from this Senate and Congress his year.

Mr. BENTSEN. I thank the distinguished Senator from Connecticut for his comments concerning that.

When he talks about an equity approach and trying to cut the cost of capital, we certainly did that. And part of it was the Senator's recommendation that we accepted when we talked about the expensing of 50 percent of stock investments in business up to a cap of $20,000 a year and an overall cap of $200,000. That was the Senator's suggestion. We took it.

I listened to my friend from Wisconsin make his comments about how disappointed he was that we had to cut our wage credits $4,500. I looked at the wage credit in his on the earned income tax credit of $357—$4,500 to $357.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, with reference to enterprise zones, I think there obviously has been a significant change on the part of the majority and it is going to take some time to analyze.

Of course, the down side is that you get pretty much the number of zones, but you do not get the capital gains provision. To do that, you sacrifice two portions of the President's program—investment tax allowance and first-time home buyer credit, that pick up the $3 billion that was pushed into the other proposal. I might suggest it come from the millionaire IRA provision or others, but that is not what happened.

So we will have that debate later on IRAs. But it is a significant change. It is going to be some time, I think, before we can find out precisely what the distinguished Senator from Wisconsin, the Senator from Connecticut, and others, who have been the leaders on enterprise zones on a bipartisan basis, wish to do.

But I hope, having said that, we could move on to other features of the bill, have a debate, and have some votes. I understand the Senator from Rhode Island is prepared to do that.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I was going to proceed with an amendment.

If the Senator from Louisiana has a short comment, I would be glad to yield, because I will be some time.

Mr. BREAUX. Will the Senator yield?

Mr. CHAFEE. I am happy to yield.

Mr. BREAUX. I have some general comments that should not take too long, unrelated to any amendment.

Mr. CHAFEE. By not too long, would the Senator say 10 minutes?

Mr. BREAUX. Yes.

Mr. CHAFEE. All right.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair and I also thank my colleague from Rhode Island. I will not be that long.

I would like to talk about one very important provision of the bill.

Mr. President, all of America watched as Los Angeles burned a few months ago. A great deal of sympathy went out to the people of Los Angeles and California, because the problems that they were experiencing really were a result of a lot more factors than the Rodney King verdict.

Let us face it. The problems in Los Angeles had been brewing for a number of years. The Rodney King incident was just the culmination of a high degree of frustration that the citizens of Los Angeles were experiencing because of a number of factors, including poverty, lack of jobs, lack of training.

Mr. President, I suggest that there are a lot of Los Angeleses throughout the United States. They are not named Los Angeles, of course, but they are cities throughout this country that have the same potential problems that erupted in Los Angeles. That mass explosion of humanity resulted in the destruction of property, the death of innocent citizens, and the destruction of a lifestyle of law-abiding citizens who work hard every day, pay their taxes, pay the mortgage, and try to send their children to school.

There are a number of cities that have the same circumstances, as we saw highlighted on the floor of the Senate in the summer of 1992. These cities are just waiting for a Rodney King incident to cause an explosion of frustration and violence.

That is something that we, in America, cannot be very proud of and, in fact, have to bear the responsibility for the conditions that allow these circumstances to occur.

The legislation that the distinguished chairman of the Finance Committee, the Senator from Texas, brings to the floor today is an approach that I think addresses not the Rodney King problem per se, but the circumstances that led up to a city burning in America in 1992. The degree of frustration that we saw exhibited in those violent outbreaks I think was in a large degree, due to the frustration of these young people with a system that does not provide them the jobs and education to give them the hope and opportunity to go out into the real world and earn a decent salary in order to achieve the American dream.

The enterprise zone legislation, crafted by the Senator from Texas, brings hope. It brings opportunity. It encourages responsibility in what I think is a major effort—the first by the Congress—to address these types of social problems across the board.

I would like to speak to one particular provision of the enterprise zone proposal that I think is of major importance.

The bill is replete with tax incentives to get companies to locate where they might not locate otherwise—in enterprise zones, areas of high poverty, areas of high risk for any businessman. It is important that business does not turn their backs on these areas; that business sees an opportunity to be successful inside the central cities and in many rural areas of this country.

I know, and I think every Member would realize, that American business is not going to go locate in a different area unless there are some incentives. This legislation contains a number of tax incentives that make it profitable for these companies to locate an expansion of their business, or to locate their principal business enterprise inside one of these areas that the administration will designate under guidelines set out in this legislation.

So, there will be incentives to get the businesses to locate in these areas. But that is not enough. It is not enough for a business that makes, for instance, widgets, to locate in an enterprise zone if nobody in that zone can go to work for the widget factory because they do not know how to make widgets.

I daresay that what we saw in the Los Angeles riots; the fights, the brutality, the gangs—highlight the fact none of the members of those gangs would know how to go to work at a plant if the plant was open in that area tomorrow morning and put out a sign and said we have 500 jobs for people who want to make widgets. None of those young people, I would say, are qualified to go to work in that widget factory because they do not have the training, they do not have the background, they do not have the education.

So it is not enough to merely get a business to move its physical plant into an enterprise zone unless it is able to hire people from that area. And they can only hire people from that area if there is a training program that has taught them or will teach them how, in my example, to make widgets, and to do so with the necessary degree of productivity.

Therefore what I want to point out in the chairman's legislation is the wage credit for those businesses that locate in that zone. That wage credit is a 30 percent credit for wages that are paid to employees in that area. The definition of wages includes not only the salary that is paid to that employee in that area, but also includes any training expenses that are incurred by that employer in operating a youth training program or a youth apprenticeship program.

Mr. President, that is very significant. This is the first time in my memory that the Federal Government is involved in giving tax incentives to a business to establish a youth apprenticeship type training program.

This legislation, crafted by the chairman, will say to that company that if it hires a person who is over the age of 19 years old, that it would receive a 30 percent credit on the expenses that it incurs to send the employee to a third party for training. If that employee is under the age of 19, that company will get a 30 percent credit for the expenses that are incurred in operating a youth training program in conjunction with some local education officials.

What we are doing in this legislation for the very first time in my memory, is to encourage businesses to locate in enterprise zone areas. Everybody agrees with that. But the second ingredient is to encourage them to participate in training programs to train youngsters to work in that widget factory.

There are hundreds of thousands of young people in this country who become frustrated with high school. They sit in class with a glazed-over look in their eyes as the teacher tries to explain calculus, chemistry, physics, and complicated subjects that really have no relation to what that student is going to be doing in the real world. As a result, that bored youngster gets kicked out of school, drops out of school, or gets frustrated and leaves high school because he believes that what he is learning, or not learning, is not going to have any relation to the real world that he or she is going to live in.

This legislation would encourage employers to set up apprenticeship programs to train youngsters in the skills needed to go to work in plants that are located in their neighborhood.

I think this provision is going to give young people in this country some degree of hope and optimism. They know if they stay in school and participate in this apprenticeship program that when they get out of high school they will have two things. Number one, they will have a high school degree. But, number two, they will have a skill that allows them to go out in the real world and work for a real employer located in their neighborhood. They will have the skills to go to that employer and say: "Hire me, I can provide a service to your company."

Mr. President, I think the training incentives are key to helping distressed areas around the country. Just perhaps, this legislation with its training incentives will prevent the outcome we saw in Los Angeles, from occurring in other cities that are at the boiling point.

I commend the chairman and members of the committee. I will have more to say on some other features of the legislation at an appropriate time, and therefore yield back the floor.

ISRAELI LOAN GUARANTEES

Mr. DOLE. Mr. President, the White House is the ultimate hot seat.

The heat is always intense when the President makes decisions affecting the national security of the United States.

It can be even more intense when the President's decisions—taken in the American interest—are at odds with the policies or actions of a close ally.

And the temperature shoots to the boiling point when those same Presidential decisions are contrary to the strongly held views of well-organized and politically potent groups and individuals in this country.

President Bush occupies the hot seat and, in the view of this Senator, does so with wisdom, foresight and determination. When the national security of the United States is at stake, he does what he must, period.

On no issue has President Bush demonstrated this quality more vividly than on the issue of loan guarantees for Israel.

He has taken a lot of heat. He has been the target of a lot of cheap shots.

But he has stood his ground, because he believed he was doing the right thing for the United States.

And today the verdict is in—President Bush was right.

Today, the President and Israeli Prime Minister Rabin have announced agreement on a package of loan guarantees that will advance overall United States interests in the region; will encourage, rather than undermine, the peace process; will bolster, rather than undermine, those Israeli political forces most strongly inclined to seek a lasting peace.

President Bush will be meeting with the congressional leadership this afternoon, if our floor schedule permits, and will ask us to move quickly to approve the program.

This important decision was taken in the context of yesterday's announcement of a resumption of the peace talks, and the expectation that Rabin's government will bring to those talks creative new proposals that could move the process forward.

As both President Bush and Prime Minister Rabin said this morning, the decision reflects a renewed warmth in United States-Israeli relations, underscores the profound convergence of fundamental interests between our two countries, and now—with the election of Rabin—demonstrates the strong convergence of goals and views between our two governments.

President Bush deserves our commendation. He did it right—and in doing it right advanced the national interest of the United States, enhanced the long-term security of Israel, and renewed the hope for real progress toward a lasting peace in the Middle East.

ISRAELI LOAN GUARANTEES

Mr. CHAFEE. Mr. President, I would like to briefly comment on the very exciting news today from Kennebunkport that President Bush and Israel's Prime Minister, Yitzhak Rabin, announced an agreement on a loan package for Israel. This is a major breakthrough, for it signifies the validation of the President's leadership and discipline in resisting earlier loan guarantee requests without the cessation, or requirement that the President had that no loan guarantees, except there was a cessation of new settlements in the West Bank and the Gaza Strip.

The President's position as we all recall was roundly criticized by many in our Nation. His position is quite different from that of the present Democratic candidate for President. President Bush should be commended for taking a visionary position which has now contributed so significantly to a Mideast peace agreement. I think it is without dispute that had President Bush listened to his critics the Shamir government most likely would still be in power, the settlements would be continuing, and the peace process would be deadlocked.

Now, Mr. President, I think it is only fair—this is a political year—to note that the President's position was quite different from that of Governor Clinton regarding the loan guarantees. When Governor Clinton was asked about the subject on "CBS This Morning" he stated the guarantees should be granted unconditionally because we have a 20-year commitment to help relocate Jews from the former Soviet Union.

Mr. President, President Bush stood up to his critics. He took the many slings and arrows and today he has shown his policy was absolutely correct. So I salute him as I think we all should. The American people and millions of Arabs and Israelis alike, I believe, should rejoice that we have moved closer to a meaningful peace in the Middle East.

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, America has waited a long time for this moment, especially that segment of America that is quite literally the backbone of our Nation, the hard working middle class. While I cannot agree with all of the provisions in this Finance Committee legislation, I can safely say that some of the measures are necessary and long overdue. Particularly, Mr. President, I am speaking about the individual retirement account—the Bentsen-Roth Super IRA.

I don't want to take the time to outline the countless proposals adopted by this body over the last 8 to 12 years that have not only bruised but pummelled the American taxpayer. The pressure Congress—with its appetite for unbridled spending—has placed on the hardworking American family is crushing. Aside from strapping the weight of the Government on the back of the middle class, Congress has done little, if anything, for the average American family, that stable institution upon which Government depends almost entirely for its sustenance.

It's ironic. Without bleeding middle America of its resources, Government would dry up like a desert bed after a storm. On the other hand, Government does next to nothing to provide for the economic needs of this same segment of society. Today we can change that, Mr. President. Today we can do something that—as an editorial writer back home wrote this weekend—is "good for people and for the country."

Today we can give back to Americans their individual retirement accounts—a critical step for the future of our country that is long overdue—a step that I have advocated time and again, standing on this floor, suggesting that the biggest mistake Congress made in the eighties was to take away the IRA in the first place.

Restoring the individual retirement account with the Bentsen-Roth super IRA is a necessary measure to correct that mistake—a measure that is needed not only to help middle class Americans remain economically vital and self-reliant, but to strengthen America's economic future. In providing incentives for middle America to save, the Bentsen-Roth IRA has family written all over it. It is in harmony with the values that made America: thrift, hard work, sacrifice, self-reliance, and family unity.

It promotes these concepts, allowing working taxpayers to contribute up to $2,000 annually; nonworking spouses can contribute another $250, indexed for inflation in $500 increments. It is flexible, providing IRA contributors the option to select the tax deduction that best suits their needs, either when they contribute the money or when they withdraw it upon retirement. It's even possible for the taxpayers to combine their IRA's—to take half the deduction up front, when they deposit the money, and the other half later on, when they withdraw if after 5 years or more.

Likewise, Bentsen-Roth gives American families peace of mind, control over their finances by allowing IRA contributions to be withdrawn without penalty to make a downpayment on a first home, or to pay for college, or to defray catastrophic health care costs. This IRA can even be used in emergencies, after a specified period of unemployment. And this is what's so wonderful about Bentsen-Roth, Mr. President, it allows families to work together. Parents can help their children with their first-time home purchase, or college with expenses. Children can help their parents with medical costs.

Even grandparents and grandchildren can withdraw IRA funds penalty free to help one another. It's multigenerational, built on concepts that have been instrumental to the success of the American experience. I'm proud to have my name on this legislation. And Chairman BENTSEN and I are not alone in supporting it. This one proposal has 76 cosponsors in the Senate and over 250 in the House of Representatives. A clear majority.

If it doesn't pass, Mr. President, Bentsen-Roth will demonstrate a serious flaw in the dynamics of the legislative process and the inability of these two powerful deliberative bodies to provide even the most basic and necessary economic measures for the American people.

And when I say "people," I mean all Americans, not only the middle class, but even those working to join the middle class. In fact, Mr. President, along with the Bentsen-Roth Super IRA, we will also consider another IRA proposal I introduced in committee—a proposal that will allow families receiving subsidies through Aid to Families With Dependent Children to also save money for college educations.

Under current law, such responsible savings—such responsible behavior—actually penalizes our families on welfare and tragically affects their children. Once these families save over $1,000 for college, their AFDC benefits are in jeopardy. One example of a young woman in New Haven, CT, illustrates my point. Sandra Rosado, trying to break out of the welfare trap that has locked in her mother and seven brothers and sisters, worked at a local community center after school to save money for college. In all, she managed to save $4,900 toward her dream of becoming a teacher.

And how was she rewarded? A stiff penalty from the Connecticut Commissioner of Income Maintenance took away her savings and cost her mother over $9,000 in benefits because under current law the family violates the Federal AFDC eligibility rules.

This isn't how we encourage self-reliance; it's not how we inspire our children to become more than we are and to work to help them toward that end.

I have legislation that will change this, legislation that will allow families like the Rosados to save for their children's educational future without disqualifying them from Government assistance. This will be done through IRA's, and I am pleased that Chairman BENTSEN has joined me to meet this objective as well.

This is good. It will be productive, a strong step toward self-reliance and personal responsibility. Still, it does not overshadow the most important reason why I support individual retirement accounts. Quite simply, I support IRA's because right now almost half of all Americans feel ill-prepared for retirement. Bentsen-Roth will help them prepare.

Tragically, Americans aged 45 to 54 average only $2,300 in financial assets. This is bad for American families, and it's bad for America's future. For the family, this dirth of savings is especially concerning because Americans are living longer.

Statistics indicate that by the end of the century Americans will be living longer in retirement than in their working years. For the country, this lack of savings is disconcerting because our future ability to compete with nations like Japan will rely on a solid pool of savings for research and development. Investment is our key to a successful, prosperous future; savings is the key to investment. Both will result in higher paying jobs for Americans.

For those who do feel prepared for their retirement—those who already have solid savings accounts—the Bentsen-Roth Super IRA will help them become even better prepared. At its foundation, this is what our proposal is all about, providing for self-reliance and economic security in retirement. This is perhaps of greater significance for working women, who, by a large margin, feel less prepared than men to meet the financial needs of retirement.

While I believe passing Bentsen-Roth is essential for the family as well as for security in retirement, I am equally adamant about what it will do for America. Even the most conservative estimates show that Bentsen-Roth will provide $40 billion in new savings—savings as essential to the health of our economy as air is to life. There is no getting around the fact that if America is to remain first among equals in the global community, it will be done by investing in our future, by creating jobs, building homes, researching, developing, and providing educations that are second to none.

If we are to progress in these areas we can no longer afford to penalize savings; we must encourage the growth of capital. This will continue to bring down interest rates and encourage investment.

One study, by the well-respected Lewin/ICF, shows that Bentsen-Roth will have a positive and immediate affect on interest rates. Another study by DRI/McGraw Hill, shows that the Bentsen-Roth IRA will stimulate the economy in the short-run without the "Treasury seeing a measurable impact on the deficit." By 1996, it is estimated that the change in real GNP will be about an $80 billion increase, housing starts will go up by almost 50,000 a year, and over 1 million new jobs will be created.

Another study even estimates that GNP will increase by $447.2 billion by the year 2000, and $12.6 billion in new revenue will result from increased economic growth, bringing with it increased tax revenues.

Mr. President, America cannot afford to let this opportunity pass. Besides the positive affect Bentsen-Roth will have on the economy, beyond the strong statement it makes in support of the American family and the self-reliance it will promote, Bentsen-Roth will prove that when it comes to doing what must be done, Congress can work; both sides of the aisle can come together, setting politics aside, to promote pro-growth, pro-family, pro-America initiatives. The Bentsen-Roth Super IRA must be passed.

With the support it already has in both Chambers of Congress, and the need we have to once again return to supporting those who support Government, there is no reason why Bentsen-Roth cannot be passed.

AMENDMENT NO. 2933

(Purpose: Striking the IRA provisions)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. DURENBERGER, proposes an amendment numbered 2933.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 875, beginning with line 13, strike all through page 885, line 16, and insert:

PART I—IRA DEDUCTION

SEC. 202. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) In General.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Cost-of-Living Adjustments.—

"(1) In general.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) Cost-of-living amount.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) Cost-of-living adjustment.—For purposes of this subsection—

"(A) In general.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI for any calendar year.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) Applicable dollar amount.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) Conforming Amendments.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) In General.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) Coordination with elective deferral limit.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the exess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) Conforming Amendment.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) Cross reference.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

On page 893, line 7, strike "2011(b)" and insert "2021(c)".

On page 893, line 9, strike "(9)" and insert "(8)".

On page 893, lines 13 and 14, strike "(other than a special individual retirement account)".

On page 894, strike lines 19 through 21.

Mr. CHAFEE. Mr. President, this amendment is very simple. What it does is to strike that part of the committee amendment which restores fully deductible IRA's, and creates the new special IRA's. In this, my amendment, we do retain the penalty-free withdrawals from existing IRA's for education, for first-time home buyers, for medical expenses, et cetera.

The chairman of the committee has proposed to provide greater access to individual retirement accounts in the hope that this will encourage more people to save, thereby improving our Nation's very low savings rate.

Let me say that I share the chairman's concern over the low level of saving that exists in our Nation. Americans save a significantly lower portion of their incomes than do their counterparts in many of our major trading partners. This low level of private savings hampers our ability to make the necessary investments to remain competitive in the world economy. To make matters worse, the Federal Government is running record budget deficits, pushing our national saving rate even lower.

However, I am skeptical that expanding IRA's will improve personal savings. I do not think this proposal will work for two principal reasons.

First, evidence based upon the expansion of IRA's from 1982 to 1986—Mr. President that was the period in which we changed the law in 1981 allowing, starting in 1982, a very considerable expansion of IRA's.

The evidence, based upon that expansion from 1982, 1983, 1984, 1985, and 1986, is inconclusive.

Second, whatever gains we may make in improving private savings will be fully offset by decreased public savings, public savings being the deficit.

Let me explain, first, why I do not think expanded IRA's will have much effect on private savings. I think it is important that everybody realize what the current law is, what can be done.

Before these amendments, the existing law in the Nation is that fully deductible IRA's, $2,000 fully deductible, are currently available for single taxpayers with incomes up to $25,000, or families with income up to $40,000, and by fully deductible, I mean the $2,000 is all deductible.

The Joint Committee on Taxation estimates that in 1990, four out of five families, 80 percent of families in the United States of America, were able to contribute to an IRA and take the full deduction, full advantage, of the total tax deduction—80 percent of the families in the United States of America.

Mr. President, this figure would be even greater if you included those American families who are able to contribute to an IRA and take a partial deduction, because the way it works is, as a family you can take the $2,000 deduction up to $40,000 income, and then you can take a partial deduction up to $50,000. In other words, your income is $45,000; you can take $1,000 deduction, partial, not the total.

So if you include those families, then even more than 80 percent of the families would be able to take advantage of some part of the IRA deduction.

So, Mr. President, the chairman's proposal to expand existing IRA's will have no impact on the majority of Americans since most, as I say, can already take advantage of this tax break.

Let me reemphasize. More than 80 percent of all taxpayers with earned incomes can currently contribute to the IRA, take a tax deduction and defer savings on the earnings to the account until the money is withdrawn.

That is what an IRA is, Mr. President. You contribute $2,000, you deduct it from your income, you put it in there, it appreciates with either appreciation or interest. There is no tax to the individual during that period and when the money is taken out at age 72 or earlier under one of the circumstances I previously mentioned, that is when the tax is paid.

So, Mr. President, this represents a significant savings incentive that already exists for an overwhelming number of American families and individuals.

So the chairman's proposal is directed to relatively few families. What the chairman has proposed is everybody be able to do this, and mostly, upper-income families that currently cannot take an income deduction for contributions.

Some call this a millionaire's IRA. Certainly it is a bonanza for millionaires, no question about it. Everybody, the richest person in the country, will be able to put the $2,000 in and get the deduction.

Mr. President, I think it is important to remember that families who will benefit from this proposal are now only precluded from taking the deduction. In other words, even now the rich families can put in the $2,000. It is not a deduction at the time. But the appreciation, the interest, the growth in the account is not taxable to that individual while it is incurring.

So there already exists considerable incentive for an individual at the upper-income brackets to go ahead and put money in. No other way can he put money in some kind of an account and have the interest or appreciation completely deferred.

Economists have studied whether savings incentives, such as IRA's, are effective at encouraging families to save more. This is the nub of the problem, Mr. President. Results from these studies: Do IRA's promote more savings in the United States of America? The studies are inconclusive.

Some economists have come to the conclusion that they do have a positive effect on savings. Several of us, such as Jane Gravelle with the Congressional Research Service, in a 1989 report have concluded: "The evidence does not support the contention that IRA's increase savings."

Obviously, there are a number of factors that go into a family's decision to spend or to save, and tax incentives is just one of these factors.

I do think, Mr. President, we can look to past experience to gain an insight as to how these savings incentives might work. When originally enacted, IRA's were only available to those workers who had no access to an employer-provided retirement plan. That is how these things came about.

Most of us remember this was the era when Keogh plans were developed, other savings programs, for those individuals who might be self-employed or working in an organization that had no retirement plan. We had to do something for those folks. And so the Keogh and the IRA's were developed. At that time, it was available only to those workers who had no access to an employer-provided retirement plan.

However, the law was changed, as I mentioned, in 1981 and starting in 1982, up through 1986, IRA's were available to all taxpayers, just as the chairman's proposal would do—all taxpayers, providing they had earned income.

So what happened to the savings rate?

Mr. President, here is a chart. As you note, the red on the chart is here that the law was changed; as you note, before the law was changed, the investment in IRA's. In other words, up to here, only those who did not have an employer-provided retirement plan could use an IRA.

And so here was the percentage—these are percentages—personal savings as a share of disposable personal income. These are the percentages on the side for the Nation. That, it seems to me, is a significant factor.

Is it doing any good? We see in 1982 it was about 7 percent. In 1981, 7.5 percent. So we changed the law. Somehow this is going to encourage savings. And what happened? It came down, as you can see, in a very steady fashion until 1986.

Here is where individuals can put them in. We changed the law to make them accessible to more individuals, anybody, a millionaire, anybody could come in, just like the proposed law, and noticed the savings rate dropped over 7 percent down to a little over 4 percent.

In 1986, we changed the law again. We went through the tax reform measures, you will recall. We said why should we permit these individuals, many of them have pension plans available, why should they be able to have an IRA?

Our objective, you will recall, Mr. President, was to reduce the rates, the overall rates, and we did bring them down, and we changed the law in 1986. The immediate effect was the next year the savings rate was lower, but then it built up again, and so here we are coming upward until currently it is about 4.5 percent.

Mr. President, now the suggestion is that we go back to the days when everybody could take advantage of it. That is nice. I think everybody in the audience, everybody in the Senate, whose incomes are fairly substantial and who all have advantage currently of pension plans are saying this is nice. But what is it going to do to the country? Let us take a look.

As you can see in this chart, the Department of Commerce data shows that personal savings as a percentage of disposable income fell, as I mentioned, from 7.5 percent in 1981 when IRA's were limited to 4.4 percent in 1985 when they were expanded.

So clearly it did not do any good. This occurred despite the fact that a record $38 billion was contributed to IRA's.

Now, Mr. President, this chart shows all savings. We will get perhaps some dramatic charts showing what happened to IRA's. IRA's are just a part of savings. Individual savings accounts obviously are included in here. The charts we have will show how the IRA's shot up, and indeed they did because what a break it was. If you had your money in a savings account, it was taxable; the buildup was taxable, taxable every year. But if you had it in an IRA, no tax. So what we had was not a growth in net savings, and indeed a decline in net savings took place; we had a shift in savings and that clearly did not do the Nation any good.

So as I say, proponents of the chairman's proposal will claim that IRA's were effective at increasing personal savings because $170 billion was invested in IRA's during this period between 1982 and 1987. They are right. It was a bonanza. All that indicates, Mr. President, is that IRA marketeers were successful in pointing out the very significant tax advantages these savings accounts provided.

Of course, you can see, despite the fact there was a shift, the overall trend was downward.

Now, Mr. President, the second reason I am concerned about expanding IRA's is it results in a tremendous loss for the Federal Government. The Joint Committee on Taxation estimates that expanding existing IRA's to all taxpayers will cost $12.6 billion over the next 5 years—$12.6 billion.

I have indicated I am convinced that expanding IRA's will not encourage more people to increase their savings. Yes; it will encourage more people to put them in IRA's but the overall increase in savings will not take place in our Nation.

Mr. President, I am concerned about the effect of the revenue loss that I just mentioned—$12.6 billion. That is a gross figure. Now, it will be pointed out that the net figure for the loss during that time is only $5.8 billion.

What is the difference? I say $12.6—$12.5. Let us make it simple. The opposition will say, oh, no, the loss is a little less than $6 billion. The difference is that because of another feature they have in here, there will be an immediate, swift, rapid payment to the Government as people shift their money out of certain accounts, pay a tax, and that will be to the benefit of the Federal Government during this 5-year period. The trouble is, Mr. President, that at the end of the 5-year period the deluge comes, and I will point that out in just a minute.

Total savings involve not only private savings, that is, what individuals do, and businesses, but public savings represented by local, State, and Federal Government surpluses or deficits. When we decrease Federal tax receipts, thereby increasing the budget deficit, we directly reduce our total savings rate.

The committee's proposal does guarantee increased savings and the tax benefits under the proposal will go to anyone who invests in an IRA even if the money comes from an existing savings account. The point is there is nothing that guarantees this will be new savings. This is just a shifting around of money.

The high cost of IRA's reflects the fact that taxpayers will take advantage of a tax favored investment. It does not take any rocket scientist, Mr. President—and the American people are very, very smart when it comes to handling their money. If they see something that is tax free, they will take their money out of something that is taxable, a savings account, and shift it.

That is why tax shelters were so prevalent. That is why we had the tax reform bill of 1986.

Many of the beneficiaries of this proposal will simply take $2,000 a year out of an existing savings account and put it in IRA's so they will get a benefit of the tax deduction. This is certainly one plausible explanation for the decrease in the savings as I mentioned previously.

All of the taxpayers—and I want to say this once again—all of the taxpayers who benefit from this position, the position suggested by the chairman, all of them currently can have a tax benefit now. True, richer ones have to use the after-tax money, the after-tax $2,000, but once it is in the account the buildup is tax free.

Now, Mr. President, that is part of the program. This splits in two, the suggestion the chairman has in this legislation—it is not a suggestion. It is in. One is this proposal that everybody—you might call it the millionaire's IRA section. Everybody can take advantage of the $2,000 deduction.

But now we go on to an even more questionable position, and this is the creation of what are called special IRA's. This IRA does the following: An individual foregoes the immediate tax deduction in favor of an even bigger benefit. All income earned under this new IRA is not only tax free while it is being built up, it is tax free when it comes out.

Here is a situation, Mr. President, Mr. President. Anybody in the Nation, no matter how rich, can put $2,000 a year aside in an account. This is after taxes. It is not a deduction. And then at the end of 5 years—I do not know why it is an IRA. In IRA, "R" stands for retirement. There is no retirement involved in this. You just wait 5 years. I think this violates the truth-in-labeling law by calling it an IRA. It has nothing to do with retirement. At the end of 5 years, you can take out all the buildup, all the money, tax free.

So let us take this case. Suppose you put in $2,000 a year for 5 years. You have $10,000 in there. And then you keep putting in $2,000 per year up to 10 years. You can take out the first $10,000 you put in plus all the appreciation. Let us say you put it in Coca Cola and it doubles. You can take that all out tax free. Who has ever heard of a bonanza like this? The thing that astonishes me, some people in this Chamber have worries about cutting the capital gains rate. This is cutting the capital gains rate to zero, no tax.

Mr. ROTH. Will the Senator yield for a question?

Mr. CHAFEE. Sure. I do not want my thought interrupted too much. I do not want a long dialog, but I will yield for a question.

Mr. ROTH. As the Senator knows, as he himself proposed a 7-year family savings plan, what this so-called new IRA does is follow through on the recommendations of the President. But my question to the Senator is this. Last year when I first introduced the back-ended IRA, I proposed that the funds could only be withdrawn without penalty at the age 59½ with certain limitations. If we withdrew this 5-year provision, would that satisfy the Honorable Senator from Rhode Island as to the viability of IRA's?

Mr. CHAFEE. Mr. President, my problem is I just do not know what the effect is on the deficit. I must say, any proposal that is totally tax free—the withdrawal of the buildup is totally tax free—gives me a lot of difficulty. So I do not know what the consequences are.

As the distinguished Senator from Delaware well knows, we are not able to get estimates from the Joint Tax Committee on revenue effects beyond the 5-year period. So on this measure—if I can call it the Roth provision, or the back-ended IRA, or the special IRA—we have not been able to get exact cost-figure estimates. All of these are estimates on what this will cost, because nothing happens during the first 5 years. The tax consequences are zero, in effect, in the first 5 years because, as I pointed out, it is not deductible. It is an after-tax $2,000 that goes in; the buildup is tax free, as it would be in any IRA.

You could do that right now. Under the law you can put $2,000 in, after-tax dollars, and the buildup is tax free. But under this provision, at the end of 5 years, you can take out all the appreciation with no tax whatsoever.

I must say, I am shocked by that, at the end of 5 years, that that can occur.

So, Mr. President, there we have it. A tremendous expansion of IRA's; the first that says anybody can use an IRA. It just obliterates what we did in the 1986 Tax Code, where we restricted IRA's to those who had either no pension plans, or fell within the $25,000 for an individual or $40,000 for a family.

Then, the other portion, which we call the back-loaded IRA's, or the special IRA's, provides that you put the money in after taxes and the buildup is tax free, and tax free when it comes out.

Mr. President, perhaps the Senator from Delaware can correct me on this. But as I understand this proposal, that there is a further provision that if your money is currently in an IRA, where you have put it in, taking the deduction, and it is built up—let us say you have $40,000 in an IRA. As I understand it, an individual can take the entire $40,000 out and pay tax on it; or, as I understand it, you do not even have to pay tax on it at all. You pay one-quarter of the tax, and you spread the tax over 4 years. And you put the $40,000, or what is left after the deduction of the first year's taxes, back into the special IRA.

So you have this. It is not just some simple thing of somebody having $2,000. And people can dismiss that: Oh, well, that is not much. How many millionaires are going to fool around with $2,000? As I understand this proposal—I am prepared to be corrected—if you have an IRA built up over the years, you can take it all out and pay the tax. And, as I understand, you only pay the tax over 4 years, and put that money back into the special IRA, where you get this tremendous buildup. I would think millionaires would think that was splendid.

What is this going to cost the Nation? The best estimate that we have been able to get from the Congressional Budget Office was that it was estimated as a long-term revenue loss on a simple proposal offered by the administration. As the distinguished Senator from Delaware has pointed out, that could be as high as $17 billion a year. That is serious money, Mr. President: $17 billion a year that this is going to cost.

Mr. President, what is taking place here? We have completely lost the rationale for the creation of these instruments. As I mentioned, they were originally designed to take care of those citizens who did not have a retirement plan.

I can remember when I was practicing law as an individual, and along came the Keogh. I thought that was wonderful, because as an individual practitioner, I could put some money aside in a Keogh, and the IRA was the same thing. But that is wrong.

Under the chairman's provision, the first part of this says you do not have to wait; no matter that you have a wonderful plan. I mean, these people who are millionaires and these big executives can all use this. They can all put $2,000 aside. I do not know why we give them this advantage because, as I have said several times, they can already put $2,000 aside. But the difference is it is after tax. This lets them deduct it and have all the buildup.

Then, we come from that with the back-loaded one, where they have a choice. So they pay taxes on it and put it in. The buildup is free. Everybody recognizes that. That is true now. But when they take it out, the appreciation, there is not one nickel of tax. I wonder if that shocks everybody here as much as it does me?

Here we are, worrying about millionaries getting away with a pretty easy situation. And this is a great giveaway program for them.

As I say, it has nothing to do with retirement, because at the end of 5 years, one can take it.

So, Mr. President, we are abandoning the Tax Reform Act of 1986; we are abandoning the thought of these accounts being for retirement; and, once again, we are creating some tax shelters. They are not shelters for the purpose of encouraging retirement. There is no requirement that anything be involved with the retirement here. The only requirement that must be met to receive the zero tax rate is that the money be held in the account for 5 years.

Mr. President, I do not know who can defend spending this $5.8 billion—that is a net figure, every year, under the first part of this; and then, the outyear program is going to cost $17 billion a year—when we are facing, this Nation is facing these horrible deficits of over $300 billion a year.

So, Mr. President, I urge my colleagues to support this amendment. I think we are treating the wealthy pretty well in this Nation right now. I do not think we have to give them any bonanzas like this.

I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. ROTH. Mr. President, America has waited a long time for this moment. I believe that the enactment of the Bentsen-Roth IRA is without question one of the most significant steps that can be taken in the interest of this Nation, and in the interest of the American family.

Almost without exception, every economist will tell you that the most important thing this country can do for its long-term future is to promote savings. It is a fact that American savings is far below that of most other Western countries, including Japan, Germany, and Canada. In the case of Canada, for many years, our savings rates paralleled each other, until Canada improved its rate of incentive for savings and the United States backed out.

When that happened, Canada began saving far in excess of what this country is currently saving. Why is that important? Savings are important because it provides us with the capital, with the funds, to invest in new plants and equipment.

The most important problem this Nation faces is becoming competitive in this emerging global competition. If we are going to be competitive in this emerging global competition, it means that our workers, our people, must have the most up-to-date, modern facilities that incorporate the latest technology.

It is a fact that Japan has spent trillions of dollars in the last few years just to ensure that their facilities are among, if not the most modern in the world. If we are going to have jobs, meaningful jobs for our young people, for our blue-collar workers, for all Americans, it is critically important that we have the most modern facilities in the world. And that cannot be accomplished unless this country begins to save more.

I was interested when the Chairman of the Federal Reserve came before us, and I pressed him on the question of savings, and he said, yes, savings were critically important to our long-term growth. And he also agreed that IRA's were worth trying as a means of improving savings. So that is point No. 1.

IRA's are good for the Nation, because it promotes savings, and savings help make us competitive. But it is also good for the family. It is important to understand that the typical American by the end of this century will live in retirement as long as he or she will live in his or her working years. So it is important that we provide incentives that enable the typical American to begin saving for that long period of retirement.

The fact is, this is not a program for the millionaire, as my distinguished colleague from Rhode Island claimed. It is a proposal to promote savings for all Americans. The fact is that a single person loses his IRA, or it is phased out at $25,000. In the case of a married couple, the IRA is currently phased out at $40,000. Are we saying that a single person who makes $30,000 is a millionaire, or is rich? I do not think so. But what we are trying to do with the Bentsen-Roth IRA is to provide the incentive for people to begin savings.

Why was this put in this 5-year proposal? Well, as I said, it was in recognition that the President contained that proposal in his budget statement. And the reason the President proposed it is that it was felt that it would encourage the young people to save. The one group that tends to save the least is the younger generation. Many people felt that if you require them to retain the funds until age 59½, there was not sufficient incentive to get them to save. That was the reason the 5-year proposal was included in this legislation.

As I said, as far as I am concerned, if the distinguished Senator would support the legislation, I would be personally happy to withdraw it. But it does serve a certain purpose.

Mr. President, the fact shows that in 1986 when the IRA was modified and made not available to many Americans, there was a drop in IRA contributions of $24 billion, or 67 percent. A third of the decline, or $8 billion, came from taxpayers with incomes below $15,000 a year. We are not talking about wealthy people, rich people; we are talking about middle America, and we are trying to help every American family to prepare for the future.

The claim has been made that what happened in the IRA was that savers just shuffled funds from other savings. Again, careful studies have been made and just the opposite has been shown.

No. 1, the typical American family has roughly $1,000 to $6,000 in liquid assets. So the typical American family does not have many funds to shift over the IRA's. As a matter of fact, several careful studies made by economists who initially were of the other school, who believed that IRA's did not result in new savings, came to the opposite conclusion after making a careful examination of the facts.

The fact is that Americans were not shifting from there savings. Not only were they not shifting from other savings, but the fact is that, at the same time they were putting new funds into IRA's, they were continuing and, in many cases, even increasing their contributions to other types of savings.

So the facts do not bear out the charge that IRA's have not resulted in new savings. Persons, as I say, who contribute to an IRA or a Keogh do not appear to have reduced their assets any more than persons who did not have an IRA or Keogh. IRA's were also found not to have been financed by borrowing.

Mr. President, I think it is important to understand that two-thirds of the beneficiaries of IRA deductions were middle or lower income. Of the more than 15 million tax returns with IRA contributions, over 10.5 million, or 66.9 percent, were of families or individuals with adjusted gross incomes of less than $50,000. These returns showed that 58 percent of the total dollars were contributed to IRA's.

Both the number of contributors to IRA's and the level of contributors increased substantially after eligibility was expanded in 1982, and they fell sharply after that eligibility was limited in 1987.

Mr. President, I think it is important to recognize again that the creation of an IRA for all Americans is indeed a very, very important step for the future welfare and growth of this Nation. It is important equally for the welfare of the typical American family. Americans, as I said, are living longer and longer. They are not currently able to meet their needs.

I do not think there are many that would argue that. The IRA does provide a new approach that is both good for the family and good for the Nation.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all I commend our colleague from Delaware for his statement and the Senator from Texas for including this provision in this tax bill.

In 1986, I offered the amendment to retain preexisting treatment of IRA's and I lost that vote in this Chamber by a margin of three votes. I remember very well that that debate went on for a number of hours. The central question was whether or not the IRA's were worthwhile.

The Senator from Delaware is absolutely correct that the major argument raised during that debate was the contention that IRA's do not generate any new savings, but draw savings away from other important financial investments in the country.

Mr. President, we did not have the advantage during that debate in 1986 of an important study conducted by Merrill Lynch. That study found that IRA's, so long as all were allowed the full deduction, generated totally new savings in this country, on the order of some $137.8 billion. The study also found that IRA's did no damage whatsoever to other types of savings that were occurring simultaneously in this country.

One point needs to be made and emphasized here. We can have study after study. Lord knows, if you want to find an economist to support your particular point of view, it is not terribly difficult to do. But I think most people in this country agree that one of the most troubling economic problems we have is our very low savings rate. The United States regretfully has one of the lowest personal savings rates of any of the industrialized nations in the world. It is a third of that of Germany and a quarter of that of Japan.

The low savings rate means that too much of our budget deficit is financed by foreign dollars—dollars that investors can choose to withdraw, of course, almost at will. It also means that funds needed to invest in new businesses, and expand existing businesses are too costly. It means that too many people have insufficient savings to meet an emergency and plan for their children's education.

Mr. President, this is a problem that we can and must do something about, and this legislation does it. Ironically, the one proven vehicle for increasing savings, individual retirement accounts, was hobbled, as I mentioned earlier, by the Tax Reform Act of 1986. As I noted earlier, a study sponsored by Merrill Lynch titled "Save, America" estimated that between 1982 and 1986, $137.8 billion in new savings were generated by the IRA's.

Mr. President, we all understand the importance of savings to capital formation, a major concern in this country to assure our future standards of living and global competitiveness. As the "Save, America" study done by Merrill Lynch clearly states: "Savings invested in productive assets increases the capital stock, which in turn results in greater amounts of output and income."

Not surprisingly, as a Fortune magazine article entitled "How Capital Costs Cripple America" points out, "Like all prices, the price of capital is a matter of supply and demand, with the puny supply of U.S. savings guaranteeing that the price will be high." How high? A 1986 study of capital costs by economists B. Douglas Bernheim of Northwestern and John B. Shoven of Stanford reveals that throughout the 1980's the United States has borne the highest cost of capital of the leading industrialized nations, nearly twice that of Japan.

Capital formation is particularly important at a time when we still have not tamed the budget deficit. Despite the promises of supply side economics, our savings rate continues to decline, from 8.7 percent of GNP between 1971 and 1975, to 6.2 percent between 1981 and 1985, to 4 percent between 1985 and 1988. The "Save, America" study points out the importance of this decline by noting "a 2.5-percent increase in the personal savings rate could add roughly 10 percentage points to the GNP or $500 billion in terms of today's economy."

Let me address some of the questions our distinguished friend from Rhode Island raised about the IRA's and our experience with it. The first question raised was, "Wasn't the IRA tax deduction in effect during the decline in saving during the 1980's?" The answer is: Yes, it was. But as Michael Boskin wrote in "A Closer Look at Recent U.S. Saving", "There is a substantial reason to believe that the saving rate would still be lower had universal IRA accounts not been instituted." His conclusion is supported by several other recent studies, including one by David Venti and Steven Wise, "The Evidence on IRA's," published in January, 3 years ago. That study concluded that "IRA's have had a substantial positive net effect on personal savings." The authors of that study found that 80 percent of IRA contributions were new savings; with more than one-half of each marginal IRA dollar coming from reduced consumption and another 20 to 30 percent from reduced taxes.

A second question often raised is, "Aren't IRA's a rich person's gimmick?" This is one we hear quite often. Obviously wealthy people potentially have more money to save; however, the data show that IRA's were used predominantly by moderate- and middle-income people. IRS statistics show that for 1986, fully two-thirds of all taxpayers claiming an IRA deduction were families with incomes under $50,000 a year. Moreover, those returns accounted for almost 60 percent of the payments to IRA's.

The changing demographics of our society also create an imperative for increased private retirement savings. Obviously as people live longer, they will need more resources. In addition, many baby boomers will be unable to accrue significant benefits under private retirement plans because today's increased job mobility will result in them not staying in pension plans long enough for their benefits to vest.

However, many people cannot afford to tie up their money until they retire. They have other more immediate concerns: The potential devastation of a serious illness; a job loss; or a need to put money aside for children's college education. Therefore, this IRA proposal, recognizing the difficulty of buying a home, recognizing the high cost of higher education, and recognizing the financial burdens of a devastating medical crisis that can occur, allows for penalty-free early withdrawal of these funds.

Let me point out as well, and I think we have discovered this just back and talking with our constituencies, that IRA's are tax driven. Go and talk to most middle-income people in our respective States and what you will find is most people take out IRA's between January 1 and May 15, as they calculate their taxes for the previous year. Most average income earners in this country do not have the advantages of passive losses, depreciation, rental properties, and a lot of other things. The IRA was a tax break that was attractive to these hard working middle-income people. It allowed them to lower their tax obligations and put resources that would otherwise have been expended into their personal savings accounts.

Mr. President, one can point out in any piece of legislation improvements he or she might make or to narrow them somewhat. But on the whole, I think the evidence from when the tax treatment of IRA's was more favorable is pretty strong that they were worthwhile.

Last, let me point out that consumer debt continues to rise. More and more people are in bankruptcy. A lot of this is due to the recession but, nonetheless, for whatever the reason, there are an awful lot of people engaging in consumer buying with plastic and incurring considerable debt.

We need to change those trend lines. We need to encourage more savings and less consumer debt, and to encourage more economic stability and empowerment for people. I am not going to suggest that the IRA proposal in this bill is the total panacea for all of that, but clearly anything that we can do to encourage savings is in our interest.

We need to establish the fact that Americans are not genetically incapable of saving. They were certainly not incapable when IRA's were in place. To strike the IRA provisions entirely from the legislation would do great damage to a very worthwhile proposal, one that will go a long way in pushing this country toward economic recovery.

With all due respect to my good friend from Rhode Island, for whom I have the highest regard, I think the chairman of the committee has done an excellent job with this proposal. It deserves broad-based support, and I hope that any amendments to erode this particular IRA provision or to strike it would be defeated.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, while the distinguished Senator from Connecticut is still on the floor, I wonder if he would be good enough to answer a couple of questions that I might have.

I would like to ask the Senator from Connecticut if he is conscious of the second portion of this IRA proposal, the so-called back loaded provision, if you would.

Is he aware it is not the normal IRA that you are familiar with, where you can contribute and thus take a deduction? The so-called back-loaded provision, in the best estimates that we can get, will cost $17 billion of lost revenue a year.

Let me just describe it, and perhaps the Senator is familiar with it. The so-called back-loaded provision permits anyone, regardless of income, to put into an IRA after taxes, $2,000 per year. The buildup is tax free. And when one comes to take the money out, which can be as early as 5 years, the total proceeds are tax free, not just the contribution you originally made but the total appreciation, dividends, interest, whatever it might be.

Is the Senator familiar with that provision?

Mr. DODD. I am familiar with that. As I mentioned earlier there are some elements that one might have written differently. For example, the 5-year period is a legitimate point to raise.

But it seems to me that on the whole, encouraging people to put dollars aside with the limitations that are included in this legislation helps create the kind of capital that I think is in our interest as a Nation to encourage.

Now, my colleague from Rhode Island talks about the net loss to the Treasury as a result of back loading—and I am not going to argue with my colleague about that number—about the $17 billion. But I would say that the net benefit of encouraging savings seems to me to outweigh the economic loss even if the Senator from Rhode Island is correct.

Mr. CHAFEE. Mr. President, I would say this. Every economist that comes before the Finance Committee, as the Presiding Officer knows so well, says that the single, greatest deterrent to investment, to the cost of capital in the United States of America, is the deficits, the Federal deficits. And so when we do something that results in a substantial increase in those deficits, we are harming the very area that the distinguished Senator from Connecticut expressed concern over; namely, lack of investment in our Nation and the cost of capital.

The cost of capital is driven, I think there is no argument against this, the cost of capital in the United States is driven by these horrible deficits, and the U.S. Government being out there competing for whatever money that can be borrowed, thus driving up the interest rates and driving up the cost of capital.

Mr. DODD. If my colleague will yield on that point, I think all of us would agree that the mounting deficit is a serious problem and has to be addressed. But it is not the only problem that we face in this country. I think you will also find that most economists, when they recite the litany of what things we ought to be doing, will add that the savings rate is something that has to be improved in this country to achieve economic stability and long-term economic growth.

So I do not disagree with him about the deficit issue, but it is not the only problem we face. Savings rates also need to improved.

I would point out—and I am sure my colleague is aware of this—but the average IRA of a person with an income of $20,000 was, as I recall, around $1,800 which is a pretty substantial IRA for someone in that income level. If we can encourage people at that income level to save, that is in the interest of this country. That is an individual and a family that is contributing to their long-term economic stability. And that is very much in the interest of this country.

Mr. CHAFEE. Mr. President, I notice others wish to speak. I would merely point out to the Senator from Connecticut—and I am sure he is conscious of this—that already we have tremendous incentives for individuals to invest in IRA's. The buildup is tax free.

If you are in the income bracket the Senator from Connecticut was talking about, there is a deduction available. After all, that is pretty nice, plus we have these added features that I have not changed in my amendment which would permit individuals to withdraw from an IRA—IRA standing for retirement. But we have done away with that under the proposal, so an individual can withdraw for education, health expenses, first-time home buying and so forth.

I thank the Chair.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from New Jersey.

Mr. BRADLEY. Madam President, I rise in support of the amendment offered by the distinguished Senator from Rhode Island. I think it is an important debate that we have to have, and I think it will be increasingly important as this bill matures toward passage in September and as we think about the budget deficit in the next Congress.

First, let me begin by stating what is probably obvious to most people in this body, and that is there are about 114 million taxpayers in America, and that number of Federal taxpayers far exceeds the number of voters in any Presidential election.

The fact of the matter is that the tax system reaches out and touches many millions more than ever choose to exercise their right to vote and, therefore, it is clearly one of the elements of our democracy that affects more people than any other.

The next question is, who are the taxpayers?

So often we have a debate in the Senate about a provision that affects a very small number of taxpayers. And often that number is at the upper-income level. We spend a great deal of time debating provisions that affect a percent, 2 percent, a half of 1 percent of the taxpayers and not a whole lot of time talking about the issues that affect all 114 million taxpayers.

So, for the benefit of the Senate, let us make a quick review of who pays taxes in this country and what their incomes are: 30 percent of all taxpayers earn under $10,000 in America—30 percent earn under $10,000. About 43 percent of all taxpayers earn between $10,000 and $40,000. So fully 73 percent of all taxpayers in America earn under $40,000.

About 9 percent are in between $40,000 and $50,000, about 13 percent between $50,000 and $70,000, and about 5 percent above $75,000. The number of Americans who earn over $100,000 is 2 percent—2 percent—of all Americans. And the number of taxpayers who earn over $200,000 is about seven-tenths of 1 percent.

So in taking a quick snapshot of who the taxpayers are, we see that the overwhelming majority of the taxpayers are people earning under $40,000, under $50,000. And yet our discussions so often affect issues that will benefit primarily people who earn more than $50,000 or $75,000, or $200,000. And I believe that these numbers have to be kept in mind as we consider the amendment that is before us now.

I know it is popular to walk in a room and tell people you are going to give them back their IRA's. The fact of the matter is that most people in America now have fully deductible IRA's.

Under the Tax Reform Act of 1986, anyone who earns under $40,000 on a joint return has a fully deductible IRA. That means that if you can afford $2,000 out of your $35,000 salary, given your four kids and health costs and the cost of keeping everybody afloat, if you can afford $2,000, if you have not spent it just to keep things going, you can put it in an IRA account and fully deduct the $2,000. Then it can accrue interest over the lifetime of the account. And at the end, you take it out and pay your tax.

The fact of the matter is that 73 percent of all Americans are now in a position where they can do that. So when individuals come up on the floor and talk about that person who earns $20,000 and needs an IRA—they have an IRA. If people come out and talk about that young family that makes $35,000 and they need to have an IRA so they can save for the future—they have an IRA. They are not denied an IRA in current law. It exists.

In 1986 we phased out the IRA deduction for joint filers between $40,000 and $50,000. But anyone earning under $50,000 has access to either a fully deductible or partially deductible IRA. That is 82 percent of America; 82 percent of all taxpayers have access to a fully deductible or partially deductible IRA.

So when I hear the distinguished Senator from Connecticut come out and talk in opposition to this amendment, mentioning that two-thirds of the IRA's in 1986 came from people who earned under $50,000, I see that not as an argument for this amendment. That is an argument for the bill we passed in 1986. Because all of those people have a partially or fully deductible IRA,

So it is very important that we keep in mind who will benefit from the IRA expansion that is embodied in the text of this bill. The people who will benefit are the top 18 percent earners in America; 73 percent will not benefit at all. They already have it. But it is the top 18 percent who benefit the most; those people who make more than $50,000.

Some of them are people that I know—the distinguished Senator from Oregon is on the floor. I see him nodding his head. We all know these individuals. Many times they are two-earner families. Many times they are struggling. But the reality is that 82 percent of the people are now fully covered or partially covered. And this portion of the bill addresses only 18 percent of the people.

By the way, those 18 percent now have the benefit, if they choose to take out an IRA—they have the complete benefit of a tax-free buildup. In other words if I am making $60,000 or $70,000 a year, I can take my $2,000 and put it in an IRA account and next year put another $2,000 in. It is after-tax. But every year the interest on the $2,000, $4,000, $10,000, $15,000, $20,000, is not taxed. Under current law you are allowed to have a tax-free buildup. This amendment does not add anything to that.

In addition, what the distinguished Senator from Rhode Island has allowed is, for certain pressing needs, to be able to withdrew funds from your IRA account. I think that is an important addition.

The real question here is whether we want to spend about $5 billion, roughly, to give the top 18 percent in this country a fully deductible IRA. I personally think that is not the way to go.

Then you look at the other provisions and aspects of this IRA and I think it conclusively is not the way to go. Because what we have here is not just the IRA that existed before 1986, but we have what is called a back-loaded IRA, which means if I want to, in 1993, I can take $2,000—I have already paid my taxes so I am not getting any deduction here—I can take my $2,000 and put it in an IRA account and keep it there forever. Interest will grow, interest will grow, interest will grow. And in 5, 10 or 15 years, when I take it out, I do not pay any tax on that at all. I do not pay any tax on the interest buildup.

It sounds good except if you are trying to keep the deficit down, because if you are trying to keep the deficit down, what this means is, lying out there in our future is an enormous increase in the deficit. The more back-loaded IRA's are used, the bigger the increase in the deficit will be.

Then there is another provision here that allows us to raise money. It says if you are an American out there today who has an IRA, and say you have $10,000, $15,000, $20,000 in the IRA account now—that has built up over time—you could immediately roll it over. You could take it out, pay your tax, and put it immediately in a back-loaded IRA. It gives you a big chunk of money early. But of course, waiting down the road is the big loss that comes from the back-loaded IRA.

So, Madam President, I think we have to face the central question, which is what are we going to do about our deficit. This provision I think, the provision in the bill that deals with IRA's, is a deficit explosion in our future. It is a deficit explosion in our future. And not too distant future.

We have had the distinguished Joint Tax Committee come to us and say, no, our view of this is that in the long run it will not increase the deficit. Of course, that is correct. It is a very technical explanation. What I would like to do is to show some of the folly of the 1990 Budget Act by explaining why, technically, we do not have an increase in the deficit in the out years with this provision.

Under the 1990 Budget Act, if Congress enacted a provision that raised revenue but expired beyond 5 years, when that provision expired it would not increase the deficit according to the Revenue Act—the Budget Act of 1990. The baseline for revenues would simply be dropped. Even though obviously the deficit would dramatically increase.

Let me illustrate this by an absurd hypothetical. But it is relevant to this bill and relevant to our calculations as to whether IRA loses money in the long run.

Let us assume that we passed a law that says the entire income tax will expire in 6 years, We all know if the entire income tax expired in 6 years we would have $500 billion less.

Oh, no, no, not according to the Budget Act of 1990. If we decided we were going to renew it, not let it expire, but continue it, say in year 3, we would be credited with raising $500 billion. It is an absurdity upon an absurdity. Yet that is the rule we are operating under now. So here we have an IRA provision that has a deficit explosion out there waiting in our future and the argument is, no, no, it does not increase the deficit.

Why does it not increase the deficit? Because there are a couple of tax provisions that will expire in 1995 and 1996 that we extend. It is an absurd position. But that is an absurd position that is not caused by the distinguished chairman of this committee nor caused by the Joint Tax Committee but is caused by the Senate and the Congress as a whole when we passed the 1990 Budget Act that had this provision in it.

So, Madam President, the issue is whether we should expand the IRA, make it a back-loaded IRA, allow you to roll over, put a deficit explosion in our future, give the bulk of the benefits to the top 5 percent—all of the benefits to the top 18 percent of the taxpayers in this country

I think the answer to that is clearly no. The distinguished Senator from Rhode Island, I thought, made a very compelling case that if we really are interested in getting things moving in this country, we have to get the deficit down. That is the No. 1 problem. You do not pass bills that increase the deficit.

I heard the distinguished Senator from Connecticut saying that a study showed that between 1982 and 1986, there were $137 billion more in savings as a result of the IRA. It is about, as I calculate it, $34 billion a year.

So let me propose the startling idea that maybe if we reduce the deficit by that amount or more, we would have more money available for people to go to the bank and borrow. Instead of them loaning money to the U.S. Government to finance our deficit, it would instead be in banks and institutions around this country, available for people to buy homes and buy cars and finance consumer purchases, and everything else. But we cannot do that as long as over $200 billion a year is paid in interest on a national debt that continues to go up.

And if you believe that providing this sliver of incentive for the top 18 percent of the population is going to produce an explosion of savings that will offset an increasing budget deficit and the need to finance that deficit, then I have a bridge in Brooklyn that I would like to sell you.

The fact of the matter is that we have to get serious in this body about what we want to do with taxpayer dollars. We have a $333 billion budget deficit. What do we want to do with taxpayer dollars? Do we want to continue to have Federal spending benefits—spending benefits; not the Tax Code, but Federal spending benefits—do we want to continue to have the average Federal spending benefit to people earning $100,000 in income, be $5,690? Do we want to continue to have the average Federal spending benefit for people making under $10,000 be $5,560? It seems to me that is at least a debate we ought to have.

Do we want to continue to have $400 billion of the entire budget go to people who are over 62, and $20 to $30 billion go to children under 5? We ought to discuss that.

We ought to have a debate about whether we want public expenditures to be based on need. Do we want public expenditures to be based, a little more balanced, on generational grounds? And then, the final debate is, do we want to take taxpayer dollars and shove it into the pockets of various businesses, industries, companies, and interests who are always lined up outside the Finance Committee?

Do we want to take that wage earner, who is making $25,000, and take that amount of tax they pay and give it to companies to buy equipment? Do we want to take that money and give it to financial institutions, or give it to energy industries, or whatever? That is a debate we ought to have, because we cannot continue along the path that we are now headed. It will not work; $400 billion budget deficits to the horizon is a recipe for disaster.

Here we have a limited amount of money, about $5 billion. Would you rather spend that money by giving it to people in the top 18 percent of the population, so they do not have to pay the tax, or is it conceivable that it would be better spent by reducing the deficit by that amount? Or conceivably spent better to help people who are lower income, or people who are young children?

Those are debates that I think we ought to have, that of course we will not have if we are focused only on the narrow question—and a question that I think is not backed up by evidence—that passing this IRA provision in the bill will dramatically increase savings.

So, Madam President, I hope we will support the amendment of the distinguished Senator from Rhode Island.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, the chairman of the Finance Committee.

Mr. BENTSEN. Madam President, let us look at some of these numbers my friends are talking about. When they talk about 82 percent or 74 percent being eligible for the IRA's, what they are talking about is everybody, all taxpayers. They are talking about all those millions of college students, part-time employees, and unemployed drawing unemployment compensation. Everyone. What we are talking about is families. That is where the difference in the numbers is.

If you are talking about two-income families, 60 percent of them now do not qualify for the IRA. They tell me that by next year, almost 50 percent of all families will not qualify for the IRA.

What kind of people are we talking about? Wealthy people, millionaires, I was told. What they do not tell you is if you are wealthy, you are maxed out on the 401(k); about $8,700 this year, and you cannot use the IRA under our bill. You do not get the deduction for the IRA. Those are the realities of the situation.

Some ask whether you get a net increase in savings. That is a legitimate debate. Economists used to say—the vast majority of them—it is just a shift in savings, not an increase in savings. But then in 1986 we neutered the IRA. The year before that change took effect, we saw $38 billion going into IRA's; and the next year, we saw $14 billion; and now we see $11 billion.

Let's look at the national savings rate. Look at the national savings rate as a percentage of GNP and how it continues to go down. If we are going to continue to have the capital we need to increase productivity, to be internationally competitive, to keep the jobs at home, we have to increase capital available for investment. That means long-term savings.

We have had before the Finance Committee, experts talking about whether or not there is an increase in savings from the IRA. Let me give you some of them. Studies by economists in places like Harvard, Dartmouth, and the University of Virginia, economists who looked at the IRA and found it to be effective: Lawrence Summers of the World Bank; Robert Reich of Harvard; Federal Chairman Alan Greenspan; and Martin Feldstein; economists from the right and the left, Democrats and Republicans.

One of the things you saw when you looked at IRA's is what was gained in advertising because the IRA was universally available. Once we neutered the IRA, we had a 40-percent drop in IRA participation by people who still qualified, because they did not understand it and did not see the ads.

But when you have universal IRA's, all the financial institutions run full-page ads the week before April 15. It is drummed into you to save. Sure, there is a carrot there; sure, there is an incentive there. That is what other countries do in trying to encourage their people to save.

Today, savings in this country is one-third that of the Japanese, per capita; and one-half of the Germans. And those are our principal competitors.

This is the difference in the household savings rate as a percentage of disposable income, 1990: Japan, over 14 percent; Germany, over 12 percent; United States, just above 4 percent.

Let's also look at what happened to the percentage of decline in IRA contributions after the 1986 act. Was it the wealthy who suffered from the IRA cutbacks of 1986?

No; it was not the wealthy. The ones who were hit the hardest had incomes between $50,000 and $75,000. Not poor, but they sure don't think they are rich. Look at the folks with income between $30,000 and $50,000, many of those probably still were qualified but they no longer understood it. They no longer saw full-page ads. They stopped contributing and even those with income from zero to $30,000 saw contributions drop by over 40 percent.

The drop in the contributions to IRA's since 1986 has been staggering. That is why it is important to restore the IRA, to bring it out of retirement. It's only available to working Americans. Those are the only ones who can qualify, the kind of people you see in the grocery store every day: a schoolteacher and a carpenter with three children with combined income perhaps of $45,000, the single mother with two kids who works in an office and earns $30,000.

Those who say the new IRA only helps the wealthy, ought to ask Paula Baker, of Dover, DE, if she thinks she is wealthy. She told the Finance Committee that her job at her child's day care center, combined with her husband's pay from the U.S. Air Force makes her now ineligible for an IRA.

Ask Barbara Green of Boston, a secretary, and her husband Larry, an electrician, trying to save for a home to raise their two sons, if they are rich.

Ask Vaughn Hobson of Raleigh, NC, working now that her children are grown. She learned that her income as the manager of a small office, when added to her husband's income, caused them to be ineligible for an IRA. I know she doesn't consider herself well off, she's having a tough time saving for retirement that seems to be just around the corner. She wants to save, but does not qualify for the IRA. She does not think it is fair that she can't use the IRA.

We also put in penalty-free withdrawals to achieve some of the objectives most cherished by families today. To be able to buy that first home. Too many young couples are finding out they can't get enough for the downpayment. They have to live with mom and dad, when they'd really rather be out on their own. And mom and dad thinking that is a pretty good idea, too.

Try to send your kids to college nowadays. See what it costs today. What does it cost to go to Princeton, the Senator from New Jersey's alma mater? I can remember when my son went there and it costs a bundle. The same is true for any other college, even State-owned colleges. So what we are saying is, we are going to give you an incentive, we are going to give you a carrot to save for the future. For the education of your children.

This is a tough, competitive world we are facing, and you want that education for your kids. You hope they can live as well as you have. But they are not going to do it if they do not have an equivalent education.

Or you are talking about having an unexpected catastrophic illness or unemployment that could wipe out your savings or cause you to lose your home. Once again, we talk about a penalty-free withdrawal to be able to help in that circumstance.

And, of course, the IRA is there for your retirement, as my friend from Delaware was talking about. Today, with improved health care, with technological advances, the number of years people can expect to live after they have retired is much longer. One of the worst things that can happen, is to outlive your money. The IRA will help on that by encouraging Americans to save for their future. That has been an American tradition. Let us bring it back. Let us help people to do it.

Madam President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I have listened with interest to my friend and colleague from Texas, the chairman of the committee, about the fact that some witnesses said they could not—at $40,000—participate in an IRA. I do not think there would be any real discussion on the floor today if somebody had proposed there be some cost-of-living adjustment to the present law. That is not what we are discussing.

We are talking about changing the law all the way over to the point that the wealthiest people in the country can accumulate their money in an IRA without paying any taxes on the interest or the investments they make with that money, without paying any taxes on the money when it is distributed. That goes too far. That goes much further than we ought to be going.

Frankly, I am pleased the Senator from Rhode Island has offered this amendment because my concern about this bill is not alone with the specifics of this provision; it is with the overall provisions of the bill. This is a bill that does not do for America that which we should be doing. It does not address itself to the question of jobs for all Americans. It does not address itself to the problems of the agricultural community. It does not address itself to the problems of the economy. It hits some specific tax issues and helps the wealthy of this country, but does very little for other than those.

Now, there are enterprise zone provisions in the bill, and I am not sure whether they are great or not so great. But I do not take issue with that. I respect the chairman of the committee and those who think these are an appropriate way of solving the problems of the inner cities. I am comfortable with that. As a matter of fact, with some other areas there is much to commend. I recognize this bill as being a bipartisan effort on the part of the committee to address the chronic economic decay in our cities that was violently revealed earlier this year in Los Angeles. The bill also contains a number of sound tax and economic proposals that enjoy widespread support.

But in many ways I am frank to say I am more pleased about what is not in the bill than what is in it. I am grateful that the committee has sent us a bill without a section on capital gains tax cuts. I am also grateful that the chairman has reported a tax bill that departs markedly from a disturbing historical pattern. In the past, tax bills would be loaded with single-shot provisions for individual taxpayers or individual corporations, or with transition rules which carved out a particular interest for special benefit. I find none of those in this bill, and I commend the chairman for seeing to it they are not in the bill.

While there are a number of provisions that do benefit a small portion of the taxpaying community, it is nothing like the Christmas trees of years gone by, and for that I am most pleased.

However, in my opinion, there are a good many additional provisions that ought to be missing from this bill but are not. Born from the rubble in south central Los Angeles, this legislation began as a bipartisan effort to address the decay in our inner cities. I hoped that it would have confined itself to that issue. Regrettably, it has become a bipartisan tax break behemoth that benefits the big businesses that brought us much of the ruin of the 1980's.

I do not find fault with the motives of the members of the Finance Committee who put together this package. I know that they genuinely believe that the tax provisions contained in this legislation will stimulate our stagnant economy. I simply do not share that view. I have great difficulty with the entire package by reason of the fact.

I am supportive of the urban aid provisions as far as they go. You can argue for or against the creation of enterprise zones, one could argue for 25, or 50, or 125 enterprise zones, or even 1 in every congressional district, as Secretary Kemp seems to advocate. Whatever your position, at least this is something that is something new. We are employing a new approach. We are changing the status quo, and that is for the good. But the fact is that up until this morning when the bill was changed there was only $2.5 billion in this bill for the enterprise zones and about $31 billion in tax breaks for the wealthy of this country and the largest corporations of this country.

Since that time the bill has been amended. I believe now that the enterprise zone provision provides for $5.4 billion, or something approximating that amount, and that is a move in the right direction. But it is the tax provisions in the bill where I find ideas that have been rejected, retreaded, and resurrected.

We have tried this kind of thing before and it did not work, and it will not work now. It is because much of this bill is nothing more than another entitlement program for corporate America. A $31 billion collection of tax breaks for business and wealthy individuals; $31 billion of tax breaks for corporations and wealthy individuals, versus $5.4 billion for enterprise zones. It builds in the theory that more money in corporate hands and less intrusion from the Government will allow our economy to grow right out of our recession. I cannot buy that concept.

This bill contains much of the same voodoo economics that George Bush learned to love. You remember the story: cut the taxes on corporations, and the wealthy, and the captains of industry will set sail, investing in our Nation, expanding in their manufacturing facilities, creating new jobs, and rebuilding our economy. That was a fairy tale, Madam President. It did not work before, and it will not work now.

All that actually resulted from those voodoo economics of the past, among other things, was a massive Federal budget deficit, takeover fever, leveraged buyouts, paper profits, the savings and loan disaster, bankrupt banks, record unemployment, and the worst recession since the Great Depression. It seems to me that in a year in which the political clarion call is for change we should either try something different or try nothing at all. More of the same will simply dig us deeper into this national rut and it will make it harder to climb out next year.

I cannot see how this bill will help the families who are trapped without jobs, or education, in America's cities. I cannot see how it will benefit the middle-class families who, while not living in the inner city, are rapidly losing ground due to layoffs and the increase in low-wage jobs. This bill will not help our declining educational system and skyrocketing health care costs.

This bill fails to take the steps that are needed. But that is not really the fault of its proponents. We have been handcuffed by a veto-mad administration. The proponents of this legislation are doing what they think is right but more importantly, they are doing all they think they can realistically do with a do-nothing White House.

For the past 4 years our President has refused to support legislation to get this country moving. He has refused to try something new. He has resisted change. He has sent us 31 vetoes, all of which have been sustained by the Members on the other side of this aisle.

Now the President is sending signals that he may actually sign this bill. That does not surprise me because this bill contains more of the same failed policies that have dragged this country down.

This bill is not about change, and George Bush is not about change. The President has made it quite clear that he will not support the type of aid that cities really need: Increased funding for education, job training, and public works projects to rebuild our cities and create jobs.

If we can find $31 billion in this bill to take care of the wealthy and the corporate structure in America just think what that $31 billion would do for education, for job training, for public works, to rebuild our cities, to create new jobs. The cities need money to provide better education to children. The cities need job training programs for teenagers and adults who do not have the skills to enter the job market. The cities need to rebuild the houses and buildings that have been torn down or fallen apart. The cities need to rebuild their roads, and bridges, and public transportation systems. That is what the cities need.

Unfortunately in its attempt to do something for the cities that President Bush will support we now have a bill that aids the very same sector that let us down in the eighties, big businesses and investors.

We give them wage credits, depreciation deductions, tax losses, breaks for stock purchases, tax-exempt bonds. Somehow we hope that something will trickle down to the inner cities and to the jobless of America. It is as if we have learned nothing from the failed policies of the past 12 years. Trickle-down economics does not work.

Under Reagan-Bush we have given tax break after tax break to the rich in the hope that somehow it would spur the economy and help working people. But none of that has happened. Instead the rich got richer and the poor and the middle class paid the bill, and in the process we bankrupted America.

The modified bill contains $5.5 billion to directly encourage businesses to invest in impoverished areas. It contains another $31 billion in tax breaks for corporate America. Again, I repeat, $31 billion in giveaways to the rich and corporate America.

America is in the middle of the worst recession since the Great Depression. History will probably label it the Great Recession. Unemployment is at record levels with almost 10 million Americans out of work. The economy is not recovering. We are risking the future of our children and grandchildren with a Federal deficit that is out of control. How do we here in the Senate respond? With $31 billion in tax breaks for corporations and the well-to-do.

I ask my colleagues, look through this bill. Look at who benefits from this bill. This bill is 1,811 pages. Look through it and see who gets the benefits.

First we have restoration of the so-called passive loss deduction for real estate investors. We battled that one a number of times here in the U.S. Senate. We finally won the issue, and now it is back in our lap once again.

Does the average taxpayer have access to passive loss deductions from rental property? Does the average taxpayer know what a passive loss is?

You may not know what a passive loss is, but it is going to cost the American people something like $1.5 billion, or $1.8 billion. If a family owns a duplex and cannot find another family to share it, can they qualify for a tax deduction? Of course not. So who is benefiting here? Individuals in the real estate industry, developers who overspeculated in property in office buildings and shopping malls in the 1980's. Those properties are now standing vacant and these developers want to take the 100 percent deduction against their real estate income for space that is going unrented.

Congress fought to get rid of this provision in 1986. It is back 6 years later, and at a cost to the taxpayers. I was wrong in my original figure. It is $2.2 billion. And it will allow many of the eighties' highest real estate rollers to pay no income tax at all.

There also is a provision accelerating the depreciation method for the adjusted earnings of corporations. That is a big mouthful, and most people do not understand what that means. This section gives businesses faster depreciation write-offs against their minimum tax. That comes straight from the President's proposed budget, and its effect is simple. It slashes the amount of minimum tax a profitable corporation has to pay, and at a cost of $1.4 billion to all the taxpayers of this country.

Then we have restoration of individual retirements accounts for upper-income taxpayers, and creation of a new IRA. I commend the Senator from Rhode Island for offering the amendment to strike that provision. I have joined with him as a cosponsor of this amendment. I think he is right on target. Since individuals earning under $25,000 and couples earning under $40,000 are allowed to have IRA's under current law, this provision would only benefit the top 20 percent taxpayers.

I admit that $25,000 and $40,000 limits need to be indexed for inflation. Completely eliminating the income limits will result in a new tax break for those who need it the least.

Under this bill, we go from a maximum of $25,000 for the individual, $40,000 for the couple, and take the top off entirely. We let those people who have the extra dollars invest them, let them accrue, without any tax being paid on them, and let them be then distributed to those same individuals in a later year without any tax being paid.

There is a suggestion that somehow the IRA's are going to help the economy, provide the dollars to stimulate the economy. I believe that those dollars in the hands of the average person would provide better buying power in the economy, rather than being socked away. Socking away is not going to solve the problem for this country.

I do not oppose the whole concept of IRA's. I do oppose the concept of taking off the cap. I believe that the amendment of the Senator from Rhode Island should be adopted.

In addition to that part of the IRA provision, this bill creates a new IRA, in which the principal is subject to tax, but all interest is tax free. Someone who puts in $2,000 a year for 20 years will recover $20,000 in tax-free interest.

According to the Joint Tax Committee, the cost of restoring IRA's is $12.6 billion over 5 years. Some of this revenue loss is offset by permitting individuals to transfer existing IRA's to a nondeductible IRA. But look closer at the so-called offset. By allowing individuals to pay tax now on the income which they put into the IRA's, we will, in effect, lose revenue outside of the 5-year budget window. We are claiming to raise money now but, in fact, we are losing $12 billion, and we will lose even more after that, which will be in 1997.

What happens is this: In making the computations for this bill, it was assumed that those with present IRA's would switch over, that they would then have some tax burden, that that tax burden would then pick up some dollars. But, then, all of the rest of the years during the 5-year period, the Treasury would be losing tax dollars, and when we went beyond the 5-year period, the limit would keep going up and up in losses of tax revenue.

We cannot afford that. We have a deficit; it is almost $400 billion a year. What are we doing about it? We are providing new tax gimmicks in this legislation.

According to the Congressional Research Service, the IRA provisions will lose $11 billion a year after 1997. The CRS says that the IRS provisions will lose $11 billion a year after 1997, until we have lost a grand total of $60 billion.

Does this Senate really want to vote into effect, into law, a provision that would cost $60 billion after 1997, including part of the money coming before 1997? The last time I looked, we did not have $60 billion to lose. And who takes that $60 billion? Ninety-five percent of it—95 percent of the tax loss to the taxpayers—will go to the top 5 percent of American wage earners.

What else is in this bill? We have repeal of the luxury tax on expensive boats, airplanes, jewelry, and fur. We only enacted that one in 1990. Two short years later, it is being repealed. Clearly, the wealthy do not like to have to pay extra for their extras. The cost to the American people: $500 million.

Supposedly, this bill is revenue neutral over the next 5 years, so how does it pay for all these tax breaks?

Well, there is a change in the depreciation period for real property. That does not mean business is going to lose anything. It just means it will take them a little bit longer to get the full deduction. We stretch the deduction an extra 9 years, from 31 to 40 years, and claim to raise $3 billion in the process.

Then there are a few provisions to speed up how fast individuals and companies have to pay their taxes. Again, this does not mean they have to pay any more, just that they have to pay it a little sooner, and it means we will be collecting less in the future to pay for something we want to have now, and our grandchildren stand to lose, and the net loss in revenue is a significant number of billions of dollars.

There also is a continuation of limits in the amount of personal itemized deductions that the wealthy may take. No one expected these limits to be phased out anyway. It was expected they would be renewed.

By continuing these provisions, it is claimed—and I do not accept the claim—that we are raising $7.8 billion. But these provisions could be used to reduce the deficit, and now they will be used to pay for the IRA provisions in this bill. That is not logical, and it is not good tax sense. Again, we are increasing the deficit at a time when we should be reducing it.

Finally, the biggest boondoggle in the bill has to do with allowing companies to take and amortize the value of what are known as intangible assets, things like good will and other gimmicks. As I understand it, some companies currently have claimed those deductions on their tax returns, even though no deduction is permitted.

This bill retroactively changes the law to let these businesses keep 75 percent of the deduction they took and makes them pay back 25 percent to the Government. We are retroactively rewarding companies that took a tax deduction that was not permitted under the law in order to pretend to raise $6 billion in 1992 and 1993. That is no raising of dollars at all. These companies owe the money. They are in Tax Court. If they do not owe it, let the cases be decided. You cannot claim we are raising any money just because we are settling those cases.

By giving another tax break to business, retroactively, do we actually raise any money? No; of course not. In the future, we will permanently let companies take these deductions, which will cost us up to $2 billion a year, and which many experts believe will lead to a revival of merger and takeover activity.

Just when we thought the wheeling and dealing of the 1980's that bankrupted much of America was over, we are about to encourage it all over again, according to the Congressional Research Service, at a long-term annual cost of $2 billion a year. Again, we are increasing the deficit and not raising offsetting revenues to pay for it after the budget period.

Madam President, I could go on and on. I hope I have made my point. I do not expect everyone to agree with it. But as strongly as the proponents believe this bill will aid our cities and our economy, I am equally convinced that the bill takes us down the wrong path. It will do too little for the cities, the economy, or the American people. It will not reduce the deficit—that rope around the necks of our children, grandchildren, and our great grandchildren.

Mr. BRADLEY. Will the Senator yield for a question?

Mr. METZENBAUM. Yes.

Mr. BRADLEY. What is the Senator's position on the amendment before the body?

Mr. METZENBAUM. I am a cosponsor of that amendment.

Maybe, Madam President, it is true that the bill is an attempt to make the best of a bad situation. Maybe it is the best the Finance Committee can do.

The President has drawn his line in the sand. He will not listen to new ideas. He will not sign anything ambitious that we can send him. He is content to serve the status quo and no more. America needs leadership and leaders who are willing to act in the national interest of the country to change our way of thinking, to offer alternatives, to accept new ideas.

We are failing in our mission to serve the interests of the American people. I believe that if we adopt the Chafee amendment, getting rid of all of the IRA provisions, we will have made a major step in making this into a better bill than it is.

I hope that it will be adopted. I believe it should be adopted. I believe it will help, as far as balancing the budget is concerned, and I think it will be fair for all Americans.

Mr. BENTSEN. Madam President, the job of the chairman of a Finance Committee is an interesting job.

This morning I was being pilloried for being not supportive enough of business. This afternoon they are working me over because I am too supportive of business. Maybe we have done something right in this bill. We are talking about 1,800 pages in a bill, and I sympathize with that and I understand that. Let me also say that over 600 pages of that is the House bill which we are rejecting. Let me say three-quarters of all you see there has been before this Senate before and has been acted on by the Senate in the past.

When my friend points to all these tax breaks, and says business is getting them, he fails to mention that business is paying for a big part of it. How do you think the securities dealers in New York, investment bankers, think about marking securities to market? It is costing them $2.5 billion. They are pretty upset and strongly protested to the Finance Committee proposal. Most of them have done very well this year. I notice some of the biggest incomes we have seen in the country.

Talking about lengthening the depreciation period for real estate, the Senator said that does not mean anything to the real estate industry; it just takes them longer to get their deduction. Nevertheless, it costs some money not to have that. Then the Senator talks about passive losses, and what happened there in the past. There is no question that the way passive losses were being handled before 1986 in this country wasn't proper. What you saw was limited partnerships with investments by doctors, lawyers, bankers, and people not in the real estate business. In Houston, TX, I began to see the see-through buildings. The same in Dallas. Without question people were building buildings for tax reasons and not economic reasons.

Senator PACKWOOD, the ranking member of the Finance Committee, the former chairman of the committee, moved to correct some of that. The problem is, as often happens, there was an overcorrection. We finally got in the situation where real estate operators did not have the same kind of treatment that people did in other businesses. They weren't allowed to match up their winners and their losers. Now we have acted to correct that, with the assistance of the ranking member of the Finance Committee.

We did not go back and create the windfalls for the limited partnerships and the tax shelters. This is a more restrictive bill than you see in the House in that regard. I do not see the inequity in saying to people in the real estate business, you are entitled to match up your winners and match up your losers. You can do that in the parking lot business. You can do that in other businesses that the Senator and I have been involved in. I think that is fair.

It extends PEP, the personal exemption phaseout. That is for couples making over $150,000 a year.

Itemized deductions, for higher income taxpayers, that is for people making well over $100,000 a year. There is an extension of that. It is true that the Joint Tax Committee only estimates for 5 years, because it gets fuzzy going out beyond that in trying to find out what items cost—what you save and what you collect in taxes. The Joint Tax Committees does tell us that in their best judgment, beyond the 5-year window. This tax bill comes out pretty even, the gains and the losses offset each other.

The Senator talks about not charging wealthy people. The extension of the 55-percent estate tax on large estates, that is one of the highest estate taxes of any major industrial country. That is extended. That proposal brings in $1.4 billion. I did not hear the Senator mention that. That is sure not poor folks.

There is a change in the corporate estimated tax rules. That is large corporations we are talking about. That is another $2.5 billion.

The Senator seems to think this bill is targeted to the wealthy. Don't you believe it. We have targeted jobs credits in here. We have low-income housing in here.

Then we try to keep children from being farmed out to foster homes. There has been an incredible increase in that. We are talking about counseling, treatment and help for substance abuse by mothers help for crack babies, babies that no one wants to claim. They call them boarder babies. It cost over $100,000 a year to maintain life support systems for some of these babies in hospitals today. It is a great moral problem at a time when there is a limitation on what we can provide in health care. But those things are addressed. That is not for rich people. That is for people with compassion and concern about the children. Trying to give kids a better chance to be born with healthy minds and bodies. Trying to make sure they aren't farmed out to foster homes. Trying to hold families together, and trying to see that the husband is going to support that mother and that child. Those are things in this piece of legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Rhode Island, Senator CHAFEE. I appreciate the opportunity to be here on the floor and listen first to his comments and then to the comments of the chairman of the committee and a variety of other Senators.

I was particularly interested in the comments of our chairman, Senator BENTSEN. It is obviously a thankless job, being chairman of the Finance Committee. You wonder why 19 people on the committee are lined up to take it away from him if he would choose not to continue with it. But maybe this bill is an illustration of how difficult it is to be the chairman of the committee, because many of the things that have been critiqued by my colleague from Ohio have to do with urban policy. Is this good policy to resuscitate cities and provide jobs, and so forth?

I would certainly agree as a tax bill, in my view, it is not a good urban policy bill, and I will have more to say on that subject later when we get around to talking at greater length about enterprise zones.

But I do not think there is much in here that is effectively going to restore jobs to the people who are stuck in the inner cities of America. And yet the Finance Committee got handed the job of doing an urban aid bill and it got handed the job of putting enterprise zones in there because enterprise zones are sort of the frontispiece, if you will, of the administration's urban program.

I must say there is a lot of good tax policy in this bill and I think it has been much criticized by those who look at it in totality rather than those who take the time to look at it in its specifics. But it is also a good income security bill and the chairman of the committee has made some comments on that. It is good for foster kids, boarder babies, good for children, for it has many things in it that the Finance Committee has jurisdiction over that committee seems to be the principal vehicle for exercising jurisdiction that helps the needy and applying new and better policies in this country.

Unfortunately, there is nothing in there about health care, which happens to be the No. 1 and No. 2 issue in the country. The chairman and I believe that we are overdue on fixing the small group insurance reform and a variety of other national legislation that enables States and local communities to help us come to grips with these policies.

There are major parts of this bill which is policy that this Senator has disagreed with and will continue to disagree with. This happens to be one. But I could name others. The problem with naming all the others is that most of them appear in my President's economic recovery package and either I am not being a very loyal Republican or it is too late for the economic recovery and sort of sour grapes on my part to stand here and object. This happens to be one. Some of the provisions on first-time home buyers are another.

Mr. President, like you and like many people in this Chamber, I am driven by the deficit and by the concern that my generation is using a credit card to impoverish its kids.

And so, whether it is income security or health policy or tax policy or urban policy, I cannot really afford not to look closely at each of the policy provisions in this bill.

Now IRA's. Much has been said about IRA's and I do not intend to take a lot of time talking about the details. There are some very good charts up here, all of which seem to point in the same direction. I am not sure exactly what they mean, but they do point in the same direction.

I know they are popular with nearly all of our constituents and why should they not be. All of us remember the blitz of advertising that used to take place in the couple of weeks just before April 15 of every year.

I did not have any of that advertising to bring to the floor with me, but I think we all remember that somewhere between April 1 and April 15, while everybody was making decisions about how to maximize their tax benefits, if you will, IRA's become a very popular form of newspaper advertising. Banks used to advertise IRA's as the quickest and easiest way to cut the family's tax bite, and a lot of people bought, including this Senator. For a time, the banks even encouraged us to take out a loan to fund our IRA's.

I think it was our colleague from Missouri, Senator DANFORTH, who raised that as an issue in the Senate Finance Committee. And we offset the advantage of being able to go into the bank over here, borrow the money and put it in the bank over here to buy an IRA. But that is the sort of thing that went on. If we think that was going on with people who make $25,000 and $30,000 a year, I think we have another think coming.

For many other people, especially the wealthiest citizens in our States, money was merely shifted from a taxable savings account into a tax-deductible IRA and obviously the net effect on savings was nil.

So, Mr. President, for as long as I have served as a member of the Senate Finance Committee, I have noted the genuine concern of all of my colleagues about the dismally low rate of savings in this country. And this concern has led us to adopt measures of occasionally dubious value.

I mentioned my colleague from Missouri earlier. In a rush to good judgment 1 year, he created something called the all-savers certificate. I think that lasted for about a year, year and a half, until we found out it was one of the biggest plugs we ever pulled out of the deficit dike and all of the money was running out of it.

We also had something called universal IRA's, and they did about the same thing.

There is no question that banks and similar institutions love tax subsidized gimmicks like IRA's, and so do our constituents. But did any of these tax subsidies really make a difference in our national savings rate? In this Senator's view, the answer is no.

But the evidence is quite clear as to what is going to happen to this provision.

You look in the August 6 issue of Roll Call, which is our campus magazine around here, our campus newspaper, and you see a lot of advertisements on this subject.

One of them, the most impressive one, is by Merrill Lynch, which has a tradition of trusting the people who sponsor the things that maintain Merrill Lynch in this country. Seventy-five of our colleagues are on this list. There is everyone from Senator BROCK ADAMS to Senator HARRIS WOFFORD, and 73 people in between, plus the coaches, Senator LLOYD BENTSEN and Senator BILL ROTH. And these are the people who are committed to helping America's future through bringing us Super IRA's, as they are called.

So I am not sure exactly what we are going to accomplish with this debate today, since a lot of people have already signed up in advance for some version of this particular program. But it reflects the fact that these things are popular with our constituents.

As I have said, it is popular with the banks and everybody else, because in the same issue of Roll Call, there is a full-page ad—and this is not as big as your hometown newspaper because it is a smaller newspaper, but this is a full-page ad. And it is entitled "What Can Congress Do To help Us Save, America?"

I do not know whether they want to save America, or what can they do to save, and they are addressing this to America. This is hardly read by America. But maybe they want to save America. Who are these people? They are the Savings Coalition of America.

Do you think this is all of our constituents out there? Well, no. This is mainly some of the same folks that back in 1982 got all of our constituents stirred up to tell us that what we did on withholding of dividend and interest was antisavings as well.

I can read just some of the names to give you an idea of perhaps the motivation that the savings coalition would have us invest so much of our children's future in this program.

It begins with A.G. Edwards, Inc., American Association of Engineering Societies, American Bankers Association, American Council for Capital Formation, American Council of Life Insurance, American Council on Education, American Indian Health Care Association, American League of Financial Institutions, Association of American Universities, Association of Jesuit Colleges and Universities, Citicorp/Citibank, College Savings Bank, Consumer Bankers Association, Credit Union National Association, Dean Witter Financial Service Group, Delaware Charter Guarantee & Trust Co., Edward D. Jones & Co., EMJAY Corp., First Pension Corp., and I could go all the way to the end, which is U.S. Chamber of Commerce and the U.S. League of Savings Institutions.

I ask unanimous consent that this list of the members, at least as of August 6, of the institutions which are bringing us the opportunity to save in America be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE SAVINGS COALITION OF AMERICA

A.G. Edwards, Inc.

American Association of Engineering Societies.

American Bankers Association.

American Council for Capital Formation.

American Council of Life Insurance.

American Council on Education.

American Indian Health Care Association.

American League of Financial Institutions.

Association of American Universities.

Association of Jesuit Colleges and Universities.

Citicorp/Citibank.

College Savings Bank.

Consumer Bankers Association.

Credit Union National Association.

Dean Witter Financial Services Group.

Delaware Charter Guarantee & Trust Company.

Edward D. Jones & Co.

EMJAY Corporation.

First Pension Corporation.

First Trust Corporation.

Gold Institute.

Independent Bankers Association of America.

Independent Insurance Agents of America.

Independent Trust Corporation.

IEEE—United States Activities.

Investment Company Institute.

Lincoln Trust Company.

Merrill Lynch & Co., Inc.

Mortgage Bankers Association of America.

National Association of Black Real Estate Professionals.

National Association of Federal Credit Unions.

National Association of Independent Colleges and Universities.

National Association of Life Companies.

National Association of Securities Dealers, Inc.

National Association of State Universities and Land-Grant Colleges.

National Center for Financial Education.

National Council of Community Bankers.

National Rural Electric Cooperative Association.

Prudential Securities Incorporated.

Resources Trust Company.

Retirement Accounts, Inc.

Retirement Industry Trust Association.

Savers & Investors League.

Securities Industry Association.

Sterling Trust Company.

Transcorp Pension Service.

Bill Gray, President, United Negro College Fund.

United States Chamber of Commerce.

U.S. League of Savings Institutions.

Mr. DURENBERGER. Mr. President, there are experts who are asked about the issue of savings: Is this positive on savings; not so positive on savings? I suppose the experts will come down on both sides of the issue. I did not rise here to quibble with the experts. But I must note that throughout the 1980's, during the period when universal IRA's were available, the Nation's savings rate was lower than it was in the 1950's, lower than it was in the 1960's, and lower even than it was in the 1970's.

What this suggests to me is that we made the right decision in 1986 to restrict IRA's and we should not go back on that decision for what we see as a political reason.

Moreover the budget consequences of these so-called special IRA's could be catastrophic. These are not individual retirement accounts. Let me say that again. These are not individual retirement accounts; they are tax shelters, pure and simple.

An individual can transfer money out of his current IRA, into the special IRA and pay no penalty. The individual then pays taxes over 4 years on the gains in the terminated IRA. The money transferred into the special IRA and any gains in the account can then be withdrawn tax-free after only 5 years.

Mr. President, this is a back-door IRA. This back-door IRA will raise money in the first few years because just about everybody who currently has an IRA will close the IRA and begin trading in their new special IRA.

People will now be able to trade stocks in their IRA's with the knowledge that after 5 years all the gains can come out tax-free. In other words, a zero capital gains rate for those individuals who shift their money into IRA's.

According to the Joint Tax Committee, after 1997, this proposal could lose more than $17 billion a year. I believe that is an underestimate. In 1981, we experimented with tax breaks for growth and savings. We got some growth, but we did not get savings. What we also got was the deficit.

Mr. President, there are two young people around here now promoting something called "Lead or Leave." And they are asking all of us and Members of the House to sign a pledge that we are either going to participate in reducing the national budget deficit by 50 percent over the next 4 years, by 1996, or leave this place.

These are the people—who I have been predicting since 1984–85, when I got started—from something called Americans for Generational Equity, one day would either show up in this Chamber and change it or they would start a campaign built on the example of our colleague KENT CONRAD from North Dakota, who actually made the promise and then left—or is in the process of leaving. They are going to ask us all to sign up for this.

So I take this proposal with its $17 billion loss proposed in 1997, probably underestimated, and I say thank God it is 1997. You know, maybe it will not impact by the time I have to decide whether to leave or not. But everybody in this place ought to sign that pledge. Or ought to make a commitment to some similar kind of pledge, and to be prepared to do something about it.

I am concerned when I hear the chairman say we ought to bring back the old days of IRA's. I think we ought to begin a new day. And I think that new day ought to begin, not with the savings gimmicks that we have spent so much time working on, but with a commitment that all current income that is saved or invested is taxed at a lower rate or a zero rate compared with current income that is consumed. Something that cuts across the board and cannot be gimmicked.

Mr. ROTH. Will the Senator yield for a question?

Mr. DURENBERGER. I will be pleased to yield.

Mr. ROTH. The Senator used a figure of $17 billion of the cost. The cost came from the Joint Taxation. I am not aware—and I have been so advised by Joint Tax—that they have never used such a figure.

Mr. DURENBERGER. I have that figure as referenced to the Joint Tax Committee, that it is possible it could lose that much.

Mr. President, I understand, and my colleague from Delaware, I have been given to understand this figure comes from the Congressional Budget Office, CBO—rather than from the Joint Tax Committee. The Joint Tax Committee has a different estimate. I would be pleased to include their estimate in my remarks as well.

The point is simply that I have learned a lesson from the 1981 experience with IRA's. And I suggest even to my colleagues who are on this list of having signed up for the super IRA, that that does not necessarily commit them to having to be on this IRA. They might distinguish super IRA from this one, and consider that the amendment by the Senator from Rhode Island is a sensible amendment. It is an amendment to eliminate a portion of a basically good bill that does not create new savings.

Mr. President, I hope we will not repeat some of our earlier tax policy mistakes. I urge all the rest of my colleagues to support the amendment by my colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I wonder if I could ask the Senator from Texas, could he put back up the chart on the national savings, please, that one there? The one that shows the 1950's—yes. That is the one.

I want to use it. I want to make a few comments. I want to use this to explain how confusion over statistics can happen. The chart is titled, "Net National Savings as a Percentage of Gross National Product, Selected Years 1950 to 1990." To the right is the average for 1980–89. It appears to be about 3 percent average.

If you would look at the chart that Senator CHAFEE used which is titled, "Personal Savings as a Share of Disposable Personal Income." On his chart, the last line is the average for the 1980's. I would judge the average to be about 4.5 percent. Maybe the Senator from Rhode Island can correct me. The red line in 1987 is just about 3 percent. Everything else is above it.

I use this only to say you want to be very careful how you use these figure about savings. We are talking about two different kinds of savings. But each side would use the charts to prove the point they want to prove. And I do not mean in this sense any bad will or malice. I just want to illustrate that you want to be careful with statistics.

The chart also shows deposits. Comparing ourselves to Japan and Japan and Germany is fair, but there was a time when we did not have to save as much as they did. Our savings rate in the 1950's averaged about 7.75 percent. The closest it ever got to that rate was '60 to '69 when the savings rate was close to 8 percent. We had 2 years in the seventies when I think it was about 9 percent, but that was unusual. Our average savings rate during the forties, fifties, sixties, and early seventies, when we were growing well was never averaged more than about 7 to 7.5 percent, whereas Germany's and Japan's was much higher.

But all during the 1950's, Germany's and Japan's savings rate was higher for a very specific reason. These were devastated countries. They had to rebuild factories. If they did not have high savings rates, they did not have any capital. The United States was not pouring money into these countries. We contributed some money into the Marshall plan, but it was a modest amount compared to what the countries did themselves. If they did not have a high savings rate they could not reindustrialize. We were not destroyed in World War II. Therefore, we did not have to save 15 to 18 percent in order to succeed.

Second, we had surpluses during those years of the 1950's. We did not have to have a high savings rate to finance a deficit. Whereas today we need to have a higher savings rate than we have ever had before to finance the deficit. I am not sure foreign countries are going to be able to afford to invest in the United States for long periods of time. Japan's economy is falling and seems to be in a free-fall. Germany is occupied, justifiably, trying to reindustrialize East Germany and pick them up from communism. That is going to be a $300 to $500 billion job for West Germany over the next 5 years. They will not be able to invest as much in our debt as perhaps they used to. So there is no question that we are going to need a higher savings rate, personal savings, to help finance the deficit.

The question is a difficult one, and it is one of the reasons, frankly, I support a balanced budget amendment. I am not sure we are ever going to get to where we must be until we are compelled to. The balanced budget is for another time, for another debate.

The question is, will IRA's increase our national savings? Here the evidence is mixed. If you look at the chart of the Senator from Rhode Island, the personal savings rate went down when fully deductible IRAs were in place. The rate went up when we limited IRA's. This is true for savings as a percent of disposable personal income. That is a different figure than total savings. If the total income in the United States is $1,000 and we save $100, the savings rate is 10 percent. If the next year the total income of the United States is $2,000 and we only save $100, the savings rate has fallen to 5 percent. The total amount of savings has not fallen, but the percent of disposable income is cut in half. So this is why you should be careful when examining some of these statistics.

Having said all that, I think we need to increase savings. The question is, will IRA's induce new savings?

First, let us get over the argument that IRA's are a millionaire's device. We discovered this when we eliminated deductible IRA's in 1986 for upper-income people. Once a couple earned above $100,000, the IRA was not a large portion of their savings plan. They used it but did not rely on it. This is especially true if the couple was eligible for 401(k) plans or any other kind of savings plan. After 1986, they were not allowed to have a deductible IRA. IRA's were really a device used by people with earnings below $100,000.

So it is not a rich person's device. Frankly, current statistics show it is not used by lower income people even though after 1986 they can still take a full deductible. If you are making $20,000 a year, you cannot afford to put aside $2,000. Even though you can deduct it, you cannot afford to put it aside. You do not have it. So the people who heavily invested in IRA's were in the $35,000 income bracket. These amounts are from 5 years ago. I do not know whether that argues for or against the amendment of the Senator from Rhode Island. Suffice it to say we are going to have to save a lot more in this country than we used to save in the 1950's and 1960's because we have, simply, a bigger deficit to finance. Also, there is going to be less foreign money to help us finance it.

Mr. BRADLEY. Will the Senator yield?

Mr. PACKWOOD. Yes; I will.

Mr. BRADLEY. Today on the floor we have had charts that purport to show national savings, household savings, personal savings. We can have any variety of savings. But would the Senator not agree that the basic question is national savings? Because our national savings is the pool of money that is available for investment. Investment produces growth. Growth produces higher standards of living.

And in economic terms, it makes no difference as to whether the deficit is reduced by $1 billion or personal savings increases $1 billion.

That means that a billion dollars is available for investment. And the basic question is whether you can ever determine what is net personal savings. A far better course, would not the Senator agree, is to reduce the deficit? If you reduce the deficit, you know you have money available for national savings—money available for whatever—more money to buy homes, more money to buy cars.

Mr. PACKWOOD. Mr. President, I hear what the Senator is saying, but our experience with extra money has not been to reduce the deficit. If we have it, we spend it. It is a figure I have cited often on the floor.

In 1950, in this country, if you counted all of the governments of the United States—Federal, State, local, all the school districts, all the water districts—we taxed about 20 percent of the gross national product and we spent about 22 percent.

So collectively we had a deficit—counting all the governments within the United States. Forty years later, we are taxing about 31 or 32 percent of it and we are spending about 35 percent of the gross national product.

So the tax has gone way up, and we have not used them to reduce the deficit, we spent the money, so we still have the deficit.

While I agree with your theory, I will wager that any extra money we have someplace in this bill will not go to reduce the deficit, it would go to be spent for something. Until we are compelled to reduce the deficit, and I mean constitutionally, we will not do it. We have proven that, unfortunately, over the years.

I wanted to comment about what the Senator from Ohio said about the passive losses. I want to use an illustration to make it clear, because passive losses is an insider's term of art.

Depreciation is something most people would understand, it creates passive losses. For example, you have a rental building, and as the building gets older, you take depreciation deductions. This may create what we would call a passive loss.

Let us take an example of what the situation was after the 1981 Tax Act.

First, we said that buildings had a life of 15 years. They do not have a life of 15 years. They usually have a life of 30, 40, 50, or 60 years, but we said 15 years. You could depreciate the whole value of the building in 15 years.

Let us say the building cost $1.5 million, and for the moment, I am going to use what we call straight line depreciation, $100,000 a year for 15 years.

You can take that $100,000 and you can offset it—this is depreciation, it is not real money you have lost—you can offset that against your income as a lawyer, doctor, or whatever else. You can offset this against your other income even though you were not involved in the real estate business; you were just an investor.

Let us say they earned $100,000 from practicing law—and I am using this for illustrious purposes—you were allowed to offset against all your other income. In other words, you could get your income down to zero.

For purposes of illustration, you take $100,000 less from depreciation and offset it against $100,000 of real income, cash income, and you have no taxable income; you pay zero taxes. That is why these buildings become a wonderful device for sucking up money. The building made no economic sense, but they made wonderful tax sense. They made doubly wonderful tax sense when you realize if you had $100,000 of income, you were in the 50 percent tax bracket.

Here is what happens with the building. You have a 15-year building, $1.5 million, you keep it for 5 years and you deduct $100,000 each year passive losses, against your income and getting your income down to zero or close to it. even though the tax rate was 50 percent, you were not paying 1 cent in taxes.

Now at the end of 5 years, you sell the building, and there has been some inflation, you sell the building for $2 million. Now your basis, as we call it in the tax law, how much profit you made, is not the difference between $1.5 and $2 million, it is between $1 and $2 million because you have depreciated the building, 5-year's worth. And it was a capital gain. So you only paid a 20 percent tax on the million dollar gain.

So for a number of years, you avoided paying taxes altogether when you were at the 50 percent rate and then you have $1 million profit 1 year and pay a 20 percent tax. It is no wonder people built these buildings.

There is a wonderful quote—I guess he is not the manager of the hotel anymore—from a fellow who used to be the manager of the Western Hotel in 1989. He said, "The hotel business used to be a wonderful business. People invested in it for a tax shelter." He said, "Now people will not invest in hotels unless they can make money." That is what we intended.

But we really hit real estate hard in 1986. We did not treat them like any other business. We just said, in essence, in real estate after 1986 you cannot have any passive losses that you can offset against your other active income.

In any other business, if you are what we would call an active participant in the business—you are running your grocery store, your gas station or chain of 10 services stations and you are actually the manager, the owner, the operator, the participant, the one actively involved in the business—then you can deduct those losses against your other active income. They really are not passive losses.

We said with real estate, you cannot do that. It did not matter if you built the apartment, lived in the apartment, you managed the apartment, you cleaned the toilets, swept the floors, and collected the rents, you could not offset the losses from your rental real estate activities against your other active real estate business income.

All this bill does is provide that those in the real estate business will now be treated like professionals in other businesses. We are not going back to where we were in 1981. You have to be an active participant in the business and you have to meet a certain threshold that is a commonly known threshold for the Internal Revenue Service, and they know how to figure it. You have to prove you materially participate and, if you do, you will be able to write off your rental real losses against your other real estate trade or business income.

There is nothing wrong with that. The reason in 1986 we hit real estate so hard is because it was the largest tax shelter. When you could couple passive losses, capital gains and really no effective minimum tax, that is how you got these stories every year that came from the IRS of how 580 people made $1 million last year and paid no taxes. In 1986, we would have to go home and attempt to justify this to people making $25,000 and paying $1,000, $1,500 in taxes.

We still have a very tough minimum tax. We have not significantly changed that.

This bill increases the depreciation period for commercial property to 40 years. Now remember, just 10 years ago we were talking about 15 years; 8 years ago we were talking about 15 years. We now say 40 years, no up-front deductions, and no accelerated depreciation.

So we have now made the building closer to its useful life, some buildings might be shorter and some buildings might be longer, but 40 years is reasonable. Many people in the real estate business would say that 40 years is an artificially long period. The 40-year depreciation is not an egregious break to the real estate industry.

As for the other comments the Senator from Ohio made, I might agree with some, but I will say the chairman has done a good job, although I do disagree with the bill in the enterprise zones, and we will get to that debate, and where we have taken out the first-time home buyer credit.

I thought that was a good credit. Young people trying to buy a home have a difficult time. But by and large this bill is not a giveaway to the rich. We tried to correct some errors where we thought there were some errors. There may be some honest differences of opinion as to whether we did that properly.

On balance, the bill is a good bill and a fair bill. I hope eventually—I fear now in September—I hope eventually that this bill will pass.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield to the Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished chairman. I was former Finance Committee chairman and can commiserate with the Senator from Texas and the Senator from Oregon, and former chairman.

I want to make it clear, I do not think anybody opposes IRA's on the Finance Committee. In fact, the concept of the universal IRA originated when I was chairman of the Finance Committee in 1981. We adopted the universal IRA because we thought it was good savings policy and we thought it was good retirement policy. And the initial response, as has already been demonstrated here, was overwhelming, each more than we expected. When we last discussed this issue in 1986, we discussed that the actual revenue impact was about four times as large as we had originally estimated.

But this unexpected revenue loss led to efforts to cut back on IRA's as a budget initiative because we could not do all the other things in the tax bill and still have the universal IRA, but we rejected most of those efforts. When the time came in 1986 to review and restructure the entire Revenue Code, we had to strike a balance so we might reduce the rates for all taxpayers. And no doubt about it, the IRA's were part of that tradeoff. We could not have it both ways then, Mr. President, and I am not certain we can have it both ways today.

I know that the Senator from Texas and the Senator from Delaware have spent hundreds and hundreds of hours on this issue. It has particularly been a mission for the distinguished Senator from Delaware, but a dramatic increase in IRA's today, if paid for PEP and PEASE, will result in a tax increase; a tax increase I might add to pay for a tax benefit for the more well-to-do. No question about it, this is for the more well-to-do, and no doubt about it, IRA's favor upper-income retirement over a family struggling to save enough to buy a home or send a child to college.

According to a mutual fund survey, the typical taxpayer who contributes to an IRA is 40 to 60 years of age, higher educated and has a higher income than the average taxpayer.

The people we care about, at least if we listen to all the Senators around here, the low- and middle-income, can under current law continue to make tax deductible contributions to IRA's. So it is not this group we are trying to help; it is the upper-income people, the group we keep talking about we ought to make pay more taxes, we ought to make them do a lot of things.

As my distinguished colleague from New Jersey correctly pointed out, more than 70 percent can claim a deduction now. Why do we need more at a time when our deficit should be a priority—I happen to believe that is still what everybody believes—as it is really what is killing the economy and putting us all at risk.

I certainly support penalty free withdrawals from individual retirement accounts for purchase of a first home, educational expenses, catastrophic medical expenses or in cases of long-term unemployment.

I believe these situations warrant the penalty-free status accorded by the Bentsen bill and that many needy individuals and families will benefit.

But I think the expansion of the IRA sort of dwarfs these necessary changes.

There have been all kinds of editorials, all kinds of estimates—nobody knows for certain—we are going to loose estimated revenues of about $10 billion per year.

Now, if the deficit is a problem, and if we are not trying to help the rich or the upper income or the wealthy, it seems to me that there are other things we might do. I would like to have the home buyers credit restored with some of the money we may be spending here. I would like to have the investment tax allowance restored. They were removed earlier in modification by the majority to make way for additonal enterprise zones. So there are a number of priorities that I think we might want to address.

I ask unanimous consent that certain editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 10, 1992]

WORM IN THE TAX BILL

The Senate is scheduled to take up a tax bill today that is supposed to strengthen both the economy and the cities but in the long run will reduce the ability of government to come to the aid of either one. The bill's most important provision would put an entire new category of investment income beyond the reach of the tax collector.

Taxable now, this broad stream of income would become permanently tax-exempt. The Treasury would eventually lose—and the mostly upper-income beneficiaries would gain—an estimated $10 billion a year. That's how much larger than otherwise the future deficit would be, how much more the government would have to borrow and how much less it would have to spend on other purposes—urban aid, for example. The theory is that the tax forgiveness would increase national savings; the likely effect would be a reduction instead. This damaging proposal ought to be struck from the bill, or the bill should be killed.

The rest of the bill is pretty ordinary; for a tax bill in a presidential election year, it is even tame. Partly it is a housekeeping measure, extending various "temporary" provisions that were never intended except on paper to expire, tidying up some ragged others. Partly it also includes the weak remains of last spring's full-throated promises on the part of both parties to aid the cities; not much there. Most of all, as a way of neutralizing the president's complaint that Congress won't act on his proposals to revive the economy, it has become the repository for his "growth initiatives," which represent neither much likely growth nor much initiative. To these the members have added some mostly minor pet provisions of their own.

These routine provisions could be more solidly financed, but they're not the problem. The problem is an innocent-sounding provision to create a new kind of IRA, or individual retirement account.

The old IRA benefit was merely tax deferral. A taxpayer or spouse could contribute up to $2,000 a year and deduct it. Taxes were paid on the contributions and earnings later in life as the money was withdrawn. In the 1986 tax reform act, Congress took the benefit away from upper-income taxpayers on grounds they didn't need it and were mainly transferring into tax-advantaged IRAs money they were going to save anyway would reverse the reform, then also create the new kind of IRA. Contributions to these would not be deductible, but then the earnings—so long as the money was left in for at least five years—would never be taxed at all.

It's a giveaway, constructed so that the full effects would not be felt until after the five-year estimating periods that is all that counts under the budget rules. The sponsors claim they nonetheless have paid for it, and indeed they have—mainly by declaring permanent two other "temporary" tax provisions adopted as part of the 1990 budget agreement that no one expected to expire, either. A huge new tax break is offset by a comparable "increase" that involves no change in current levels of liability.

The Democrats are caught between two deficits these days, one fiscal, the other social. The Republicans love it, because the Democrats are hamstrung; they don't have the billions they need to carry out their social agenda. If a Democratic Congress enacts this regressive provision, they'll have $10 billion less.

[From the Washington Post]

YES, VETO THE TAX BILL

Jack Kemp says that the president should veto the Senate Finance Committee tax bill if it reaches him in its present form. The irrepressible housing secretary is absolutely right, but unfortunately for all the wrong reasons. Most of the tax cuts that second-rate buffet contains would do little economic good and aren't really paid for, so that in the aggregate, by increasing the deficit, they would do considerable harm. The unregenerate Mr. Kemp's supply-side solution to the problem would be to exacerbate it; a bill without a cut in the capital gains tax—at least such a cut within enterprise zones—is not worth having, he says. His cure would make the problem worse, not better.

This bill was written and seems likely to pass much more for political reasons than for any economic virtue. The president has accused the Democrats of contributing to the economy's weakness by failing to pass his "growth initiatives." The bill would give him most of these minor adjustments; the table of contents comes largely from his budget. He gets most of his program at the cost of an issue; the Democrats neutralize the issue, shift the finger of blame back to him and have a legislative trophy to wave besides. Government works; that will be part of the message you will hear from both parties.

But not many people are seriously claiming that the bill itself will work—that the provisions as distinct from the parliamentary achievement will make that much difference. Senate majority leader and Finance Committee member BOB DOLE was climbing off the measure even as he helped to send it to the floor. "It's not going to change the economy in three months very much, but at least it's an indication we can get things done," he was quoted as saying.

One provision from the president's budget is an "investment tax allowance" or special depreciation rate for equipment bought in the next year. But the government then would quickly recover the taxes forgone, or most of them, because the businesses would have that much less depreciation to claim later; the stimulus is a deferral only. Another provision would give a $2,500 credit for the rest of this year only to first-time home buyers; what will that turn around? The alternative minimum taxes on profitable corporations and well-off individuals were slightly eased; the minimums are meant to make sure that such companies and people pay something no matter how good their tax attorneys are. A number of minor breaks were also given to the hurting real estate industry.

There's more, but none of it calculated to give much lift to a $6 trillion economy. The most important provision is a huge, unwarranted and unfunded future giveaway to the better-off in the form of a new IRA, or individual retirement account. It would add $10 billion a year to turn-of-the-century deficits and the inability to govern. Instead of debating that, the administration and senators are debating what the capital gains tax rate should be in a handful of enterprise zones. This is a debate over symbols, not substance; the bill itself is a symbol of a government that has ceased to function in a serious way.

[From the Washington Post, July 31, 1992]

WORST BILL OF THE YEAR

In the misappropriate names of fiscal responsibility, urban aid and economic growth, the Senate Finance Committee has produced what could well be the worst bill of the year. This is a tax bill whose real effect would be to reduce the future ability of the government either to manage the economy or to aid the cities; it would do this by adding billions of unacknowledged dollars to the deficit, largely in the form of benefits to the better-off.

The sponsors claim the mislabeled bill is revenue-neutral. The neutrality is a fiction, the product of a set of blind-eye accounting conventions that artificially increase revenues while obscuring costs. More than half the tax increases that the bill would ostensibly impose in the next five years to pay for the cuts it would give are artificial. The counterfeit claim is likewise made that the bill would stimulate growth by increasing national savings, when in fact by increasing the deficit it would much more likely reduce those savings. The urban provisions, the bill's original rationale, have meanwhile been reduced to a footnote; they are inconsequential.

The legislation is said to contain about $30 billion in matching tax increases and cuts over the next five years. In fact, by the committee's own reckoning, at least $17.5 billion of these "increases" are merely speed-ups, money the government would have gotten a few months or years later anyway. Ultimate tax liability would be unchanged, and in some cases revenues would be increased between now and 1997 only by reducing them thereafter. Another $7.7 billion would be achieved by simply extending two provisions of current law: the phase-out of the personal exemption and limits on deductions for higher-income taxpayers that were voted in 1990 and no one expected to expire. Again, current liability would be unchanged. Meanwhile, some of the larger cuts in the bill were carefully constructed so that their full effects would not show up until after the five-year accounting period; the costs are masked.

The most flagrant such masking involves a new kind of backloaded IRA, or individual retirement account. It and the other generous IRA provisions in the bill are projected to have a net cost of $7.7 billion over the five-year period. But in the long run this provision alone is expected to cost as much as $10 billion in a single year. The IRA provisions, which the administration also supports, would end up shifting an enormous share of the country's investment income from taxable to tax-deferred or tax-exempt status. That, in the name of growth, is the election-year handiwork of some of the same politicians who not too many weeks ago were piously urging adoption of a balanced-budget amendment to the Constitution in the face of the $400 billion deficit that they have created.

The bill is full of such supposed stimuli for savings and growth. Not even most of the people who will vote for it think that it will produce very much of either. For all the rhetoric that will surround it, its main effect will be to shift even more of the burden of government to middle class that can't afford it. The urban aid has meanwhile been turned into a minor pumpkin of some enterprise zones that hardly anyone believes in, either, plus a little bit of social spending. They ought to kill this hulk, just a they killed the year's earlier tax bill. The main purpose of this bill is not so much to produce results as to give the appearance of producing them in an election year.

Mr. DOLE. It seems to me that notwithstanding the argument that has been made—and I do not quarrel with the argument that has been made—this is not what will restore the economy and get the economy moving. There is no certainty there is anything we can do in the Congress that is going to get the economy moving, but I am not certain this should be the centerpiece. I hope that the Chafee amendment might prevail.

Mr. BENTSEN. Mr. President, I have discussed this with the author of the legislation, and at some point I will be moving to table. I would prefer to do that at 7 o'clock, if he feels he has had adequate time to discuss this issue. We have been at it for some time.

I would like to say, with respect to the comments of the minority leader, no, this bill is not going to turn the economy around overnight. There is no question about that. We did not get into this mess overnight. It is going to take awhile to accomplish it.

I would like to look at it as being a downpayment to try to move us in the direction of getting this economy moving again, and much more of it has to be done in the year to come. I am sure it will be a big part of the Presidential debate this year on both sides. But to the degree that we can make this a bipartisan movement in that direction, that is what I am trying to do.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I will be very brief.

I congratulate the Senator from Texas and the Senator from Delaware on their leadership in cosponsoring the Super-IRA provisions of this bill. I think it is evident to all of us that America is losing the international savings game. As a percentage of our gross domestic product, Americans save less than do citizens of Canada, Japan, France, Germany, or United Kingdom. Our savings rates are now 25 percent lower than they were in 1980 and a full 50 percent below what they were in the 1950's, 1960's, and 1970's.

I think it is legitimate to question what this may mean, Mr. President. It is no secret money goes to the highest return the least risk. We have attracted tremendous amounts of foreign savings in purchases of our Treasury bills to offset the financing of our deficit, nearly $4 trillion of accumulated debt, and the interest on that is running about 15 percent of our current budget.

I think it is evident that IRA's have proved themselves in the past. In 1986, IRA's accounted for nearly one-third of the personal savings in this country, but the savings rate fell back to its lowest point in a century following the cutback in IRA's in 1986. It is simple. The full deductible IRA's worked well and I am pleased to say that this bill will bring them back.

I would also note that H.R. 11 includes a provision to include penalty-free withdrawals for first-time home purchases. I remind my colleagues that the value of that incentive has already been lost as a consequence of the crunch in the Pacific Northwest timber market which has resulted from the spotted owl issue. That crunch, if you will, has increased the cost of the average home on the west coast by approximately $5,000 per home for a home roughly 2,800 square feet.

So we really have not gained much there.

On another issue, I think we should reflect on the policy which has prevailed in this Nation for some time, and that is that more often than not we have rewarded the accumulation of debt. We do not have to go back many years to the time when debt was deductible, your credit card debt was deductible on your income tax, and clearly to have a system that rewards debt and does not induce or provide incentives for savings is contrary not just to fiscal responsibility but to the fact that in order to have a prosperous Nation we must have adequate sources of savings, and to have high savings we must have the inducement to save. I am pleased to say that is what the Bentsen and Roth Super IRA provisions of H.R. 11 do. I am pleased to support those provisions.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to confess right up front I was a cosponsor of Senators BENTSEN and ROTH's special or Super IRA bill. But I rise tonight, to support Senator CHAFEE's motion to strike the IRA provisions from the bill. Let me take a couple of minutes of the Senate's time to discuss it.

I do not think there is any question but that the United States of America has a serious problem with sustained economic growth at low inflation rates, which ought to be the principal, prime policy goal of this Nation and all of our leaders, because sustained economic growth at low inflation rates means increased opportunity for everyone.

Economic growth provides more Americans with a chance to do for themselves and attain upward mobility than any other policy we could have.

Having said that, there may be a number of things that adversely affect our ability to sustain, with any consistency, a high rate of growth. But there is one that is certain, and that is the lack of savings by the U.S. people. There are too few savings available to stock and feed the machines of growth.

Actually, one can talk about trying to sensitize the American people to save more. But the truth of the matter is that until and unless you change our appetite for deficit spending, you cannot really significantly increase the net savings rate. You can do all of the sensitizing you want, but if the deficit keeps going up, you have a gobble machine, gobbling up the savings, even if you had a nice, neat way to excite people about savings.

I see my friend from New Jersey wants to ask a question or make an observation.

Mr. BRADLEY. Yes, Mr. President. Does the Senator not admit that the GAO report, that we jointly requested, "The Deficit and its Growth," shows that if there are no changes made by the year 2020, interest on the Federal debt will be $1 trillion?

Mr. DOMENICI. That is correct.

Mr. BRADLEY. Does the Senator not agree, Mr. President, that if we are truly interested in savings, that reducing the budget deficit is the best way to achieve national savings?

Mr. DOMENICI. No question; we repeat what many others have said.

Mr. BRADLEY. Does the Senator also not agree that the provision that purports, without sufficient evidence, to increase personal savings a small amount, but costs in the longrun large increases in the Federal deficit, is not worth it at this time?

Mr. DOMENICI. No question about it, Mr. President.

Now that I have made my initial thoughts known to the Senate, let me proceed with a couple of additional ones.

Actually, we are not going to do a great deal to change the personal habits of the American people regarding savings, I regret to say, until we change the emphasis of the Tax Code of the U.S. Government.

We have a kind of a policy that one part of it goes to the left, and one part goes to the right. Most current tax policies regarding savings have the effect of discouraging savings. On the other hand, we say we want savings. So we enact certain specialty incentives, yet overall tax policy is against it.

The Tax Code encourages consumption. The more you borrow, the more you buy on installment, the less you save; the better off you are under our Tax Code. That goes for individuals and it goes for business. Therefore, how are you going to get savings up until you face that issue?

If you want to know what President Bush, if he is reelected ought to do to change things, it is to come forward with a statement that the Tax Code of the United States will ruin the American people and the economy. Because you cannot tell the American people: "Spend, don't save"; and on the other hand, say "The economy needs savings." Impossible. You have to change the basic Tax Code to some kind of consumption-based income tax; that will encourage saving and discourage consumption.

Even that kind of model has been produced of late, and it is pretty good. I say such a tax can be made progressive; it can be an income tax that is based upon consumption. It is a rather exciting concept, and it ought to be advocated by some American leaders who are in charge of changing the laws.

Having said that, let me suggest that the deficit, which eats up what savings we have, should not be added to here on the Senate floor by reinstituting IRA's. It is ironic that we would add to the deficit in the name of savings.

You see, we now have less than 3 years left on this budget agreement. So if you can get anything outside the window, you are not governed by anything like what is the effect of the revenues. You are exempt from the so-called "Hey, let us be sensible about this." Let us sort of pay-as-you-go.

And it is not perfect. The pay-as-you-go has some very serious idiosyncrasies. We really should let you average over the years, instead of making you meet that pay-as-you-go each year. We are inviting some distortions. And this special IRA takes advantage of that, because—it is an accident of it—it makes some revenue in the first years.

So it is nice for those writing tax bills, because you can give this great, great gift to the American people; meet the onerous burdens of the budget agreement; and say to everyone: Everybody is coming out fine. Except that 5, 6, 7, 8, 9, and 10 years from now, you are starting to add $10 billion a year, even $15 billion a year in less revenue take. But it is outside the window of the budget agreement.

I am fully aware that nobody who is proposing this is suggesting that it do anything but good for the country. Those who suggest it say it is going to cause dramatic changes in the savings patterns of our people.

If I believed that for a minute—that it would dramatically change them and dramatically accelerate the amount of savings, out of proportion or disproportionate to the increase in the deficit—then I would say maybe we have something.

But I am not at all convinced that that is the case. I am convinced the amount that you are going to add to the deficit by loss of revenues is in no way going to be made up by the addition to the net savings pot and pool of American total resources by way of savings. And, therefore, it is a net loser in that regard.

From my standpoint, talking about where we were 5, 6, 8 months ago versus today, we have lost something very important in that period of time. Those on that side of the aisle would say it is the President's fault; we would say, on this side of the aisle, that it was their fault. We lost the investment tax credit—the temporary one, the 15 percent one—called an allowance. We lost the incentive for the home buyers.

Some do not think it is necessary, but 7, 8, 9 months ago, those were two very important parts of a minimum package.

In this bill that is brought to the floor, those two have been relegated to 3 or 4 months anyway. So they were not worth much. I have been heard to say that heretofore. But the point of it is, in order to fill the gap for the IRA's, what it would cost, you had to narrow down or skinny down those two to 3 or 4 months. And I do not think that was worthwhile, either. I would have had the two in for the next 18 months, even if you could not afford any of the IRA's—the normal one or this one. But that did not happen.

I am here on only one issue. I commend the Senator from Rhode Island for bringing the issue to us.

I do not want to use any more time. Much has been said about this.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we are coming close to a vote. At this point, I would like to briefly summarize.

First, what is the existing situation as far as IRA's go? Everybody who is an individual with an income of $25,000 or less can get the complete deduction. Families with incomes of $40,000 or less can get the complete deduction. That is 80 percent of the individuals in the United States of America which are eligible.

In addition, for those who are above those brackets, Mr. President, still an IRA has an enticement to it, because those who are above those brackets can put after-tax dollars, to the extent of $2,000, into an IRA. During that period until the individual retires, and indeed, up to the age of 72 of that individual, the total buildup within that IRA is tax free. It is not taxable to the individual every year—the appreciation, the interest, and the dividend.

So, Mr. President, that is a very, very satisfactory arrangement. In addition, there is one more feature. Even if an individual is a millionaire, if they are not a participant in a pension plan, that individual can get the total deduction under the IRA.

So, Mr. President, nobody can say that IRA's are not very generous right now—right now.

What has the chairman of the committee proposed? He has proposed the following: First, that everybody, regardless of his or her income, earned income, can have the benefit of an IRA, the total deduction of $2,000.

In addition—this is the kicker, Mr. President, that I really find appalling in these times of tremendous deficits—there is a provision that if you so choose to not take a deduction, but instead put in after-tax dollars, not only will the total buildup within that individual retirement account be nontaxable, while it is occurring, but when you withdraw it—and indeed you can withdraw it as early as 5 years, so it really has nothing to do with retirement. When you withdraw it, you can get all that appreciation, interest, and dividends tax free.

Mr. President, I am astonished at this proposal.

Mr. BRADLEY. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. BRADLEY. Does the Senator mean to say that—contrary to the way we have always thought of IRA's, which was that you get your $2,000 deduction, you put your money in an account, and it accrues interest, tax free; and when you retire, you take it out and you pay taxes on it—the Senator is saying that under this provision you put in after-tax dollars, it accrues interest tax free, and then you take out whatever amount it is and pay no taxes?

Mr. CHAFEE. The Senator is absolutely right. If you can be fortunate enough to invest it in Merck, Coca-Cola, and maybe you triple your money like any other citizen in the United States, you take that money out tax free.

Mr. BRADLEY. That increases the deficit.

Mr. CHAFEE. This is the ultimate in zero capital gains. I mean, it is so odd that many in this body are disturbed over a cut in the rate of capital gains. This is zero capital gains.

What will this cost the Treasury of the United States? Mind you, Mr. President, this takes place 5 years out. So, as I previously mentioned, the Joint Tax Committee will not give us an estimate. However, we have two estimates that are not that far apart, although they are dealing with something that occurs 5 years out.

The Congressional Research Service, in a March 5, 1992, letter from Jane G. Gravelle, senior specialist in economic policy, says: "We estimate that the long-run, steady-State cost, at current income levels, would be slightly over $11 billion per year."

Mr. President, we have here an estimate, as I previously gave, from the Congressional Budget Office, prepared at the request of the Senate Committee on Appropriations. On page 44, an analysis. There, depending on how much would shift, "the annual loss would stabilize at about $17 billion."

Mr. President, which is right, I do not know. All I am saying is that this is an extremely expensive program, particularly the so-called backloaded IRA's that, as I say, should not—it should be an IA, individual account, not an individual retirement account, because it has nothing to do with retirement. Mr. President, there we are. I hope that everybody who is deeply concerned, as I believe every Senator is, about the deficits of the United States of America will vote in favor of this amendment.

Mr. BRADLEY. Will the Senator yield for another question?

Mr. CHAFEE. Yes.

Mr. BRADLEY. Does this provision in the tax bill do anything for people making $20,000 or $30,000 or $40,000?

Mr. CHAFEE. If they are a family, it does nothing for them.

Mr. BRADLEY. Would it be correct to perhaps call this an expanded tax entitlement for the top 18 percent of taxpayers in this country?

Mr. CHAFEE. There ought to be jubilation in all of the country clubs in America, Mr. President. This really is a great program for those who are in the upper-income brackets.

Mr. LEVIN. Mr. President, I am voting to table the Chafee amendment because I support expanding the eligibility for individual retirement accounts [IRA's]. I believe that IRA's for which a deduction is given at the time a person deposits money into the IRA is an important savings incentive. I think it was a major error in the 1986 tax reform bill when we greatly restricted the availability of this form of IRA. It was one of the reasons why I voted against the Tax Reform Act of 1986.

However, I am concerned about the portion of the Finance Committee bill, known as the back-loaded IRA. Although there does not appear to be an official estimate of the long-term revenue loss associated with this proposal, there have been references during the debate to the possibility that this provision could cost billions of dollars in revenue after 1997. I would urge the Finance Committee to look further into this issue while the bill is still on the floor or in the conference with the House. I have talked many times on this floor about the dangers of the budget deficit to the long-term economic health of our country. We must be very careful to avoid making it more difficult to deal with that urgent and serious problem.

Mr. BENTSEN. Mr. President, we have had a good debate and a thorough debate, and all sides have expressed their views. What we are talking about is trying to increase savings in this country, trying to have the capital to be able to modernize, to make ourselves internationally competitive. We are looking at our top competitors, the Japanese, saving at three times our rate, the Germans at twice our rate.

We are trying to let people accomplish some of their most cherished objectives, such as owning their first home, sending their kids to college, taking care of a catastrophic illness, and taking care of their retirement. We have 78 cosponsors on this piece of legislation, who believe this is the way to go.

And, we pay for it. We pay for it all the way beyond the 5-year window, and the Joint Tax Committee says we have done that. We pay for it by people having a phaseout of the personal exemption of those making over $150,000 or more, by putting a limitation on our itemized deductions for those people making $100,000 to $125,000 or more. So we have matched them together to accomplish an objective that is good for our country—increasing our savings.

Mr. President, I join with the distinguished Senator from Delaware [Mr. ROTH] and I move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 25, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—72

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burns
Coats
Cochran
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Garn
Glenn
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Johnston
Kasten
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Seymour
Shelby
Smith
Specter
Symms
Thurmond
Wallop
Wirth
Wofford

NAYS—25

Bradley
Byrd
Chafee
Cohen
Dole
Domenici
Durenberger
Gorton
Graham
Jeffords
Kassebaum
Kerrey
Kerry
Lugar
Metzenbaum
Moynihan
Packwood
Rudman
Sarbanes
Sasser
Simon
Simpson
Stevens
Warner
Wellstone

NOT VOTING—3

Burdick
Gore
Helms

So the motion to table the amendment (No. 2933) was agreed to.

FARMER COOPERATIVES

Mr. DANFORTH. Mr. President, I wish to commend the distinguished Senator from Texas for his modification regarding farmer cooperatives to the Finance Committee amendment to H.R. 11.

Mr. President, this is vitally important legislation for farmer cooperatives. Leaders from both local cooperative associations in Missouri and from the regional cooperatives they own have spoken to me about the need for congressional action in this area. Radical change in the Code is not needed. Clarification of congressional intent is. Presently, cooperatives are receiving conflicting signals from the courts and the Internal Revenue Service as to what may be treated as patronage sourced income. This has been a particular problem with respect to sales of assets held by cooperatives for use in connection with day-to-day patronage operations. As a result, cooperatives face great uncertainty in their tax and financial planning. They also are incurring millions of dollars of outlays in administrative disputes with the IRS in litigation in the courts.

Under subchapter T of the Internal Revenue Code, farmer cooperatives are required to determine whether income or loss items derive from patronage or nonpatronage sources. The distinction is important because patronage sourced items are not subject to tax at the cooperative level provided it is distributed as a patronage dividend. Nonpatronage sourced income is taxable at the cooperative level whether or not it is distributed to patrons. There is substantial case law discussing what is properly characterized as patronage income. The courts have repeatedly endorsed the facilitative test as the standard for determining whether an income or loss item is patronage sourced. By this measure, patronage treatment results whenever a cooperative realizes income or loss from a sale or other transaction involving any asset that is used in more than an incidental manner to facilitate the conduct of business done with or for patrons.

The proposed amendment would codify the facilitative test and clarify that the test applies to all types of assets whether they are tangible or intangible, depreciable or nondepreciable, capital or noncapital. Therefore, I would like to emphasize, in particular, that the amendment is aimed at clarifying the facilitative test. The application of that test requires what is essentially a factual inquiry: namely, whether the asset disposed of, whatever its nature or character, was actually used by cooperative "to facilitate the conduct of business done with or for patrons." Under the proposed amendment, the burden of proof for this test remains with the farmer cooperative.

It is my understanding that the very same factual inquiry is required under existing law. In view of the clarifying purpose of the modification, the IRS should make every effort to resolve current disputes in a manner consistent with the facilitative test provision of the modification.

Mr. President, farmer cooperatives play a unique role in meeting the enormous agricultural demands of this great country. Enactment of this legislation will remove a substantial and unnecessary impediment that cooperatives and their member-patrons now face in carrying out that important role.

This is important for Missouri. It is important for the Nation.

CREATION OF TREASURY FORFEITURE FUND

Mr. GLENN. Mr. President, I rise today to voice my objection to the creation of a new forfeiture fund in the Department of the Treasury by this amendment, which is titled the Treasury Forfeiture Fund Act of 1992.

As chairman of the Governmental Affairs Committee I have taken an active role in the implementation, effectiveness, and efficiency of the Department of Justice [DOJ] and Customs Service forfeiture funds. In May of last year my Committee held a hearing on the possibility of consolidating the two funds then in existence. The GAO had completed a study at the Committee's direction and determined that the consolidation of management functions would save the government money. One big factor in that determination was the elimination of duplication of similar efforts by different government agencies. The Justice and Treasury Departments are the two leaders in seizing assets. GAO testified that a needed first step in asset consolidation included these two agencies.

This proposal would create a new forfeiture fund in the Treasury Department that does exactly what the Justice fund does. How many little slush funds, administered by department heads and unaccountable to Congress do we need?

In May of last year, after the GAO testified, both the Treasury and Justice Departments pledged to work together toward a consolidation of management of assets and the elimination of duplication of effort. This act would defeat the very purpose that the Justice and Treasury Departments were trying to achieve. Rather than streamlining and downsizing duplicative purposes and functions, it would increase the Treasury Department management, without significantly reducing the Justice asset management office. This is simply not good management or good government. It is a waste, and an unnecessary expense.

The new Treasury fund would simply create competing interests among law enforcement agencies. Apart from the obvious waste of resources, this duplication of effort and services would encourage a dash for cash among local law enforcement officers who want to share in the profits based on their participation in Federal cases. An unhealthy competition would be created in which local law enforcement officials could sell their services to the highest bidder. We would wind up with a law enforcement effort fueled not by solid law enforcement principles, but rather by free market capitalism.

The Justice Department currently administers a fund which collects, manages and disperses the assets seized by agents of the FBI, DEA, Postal Inspectors, IRS, Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Immigration and Naturalization Service. In addition, the Customs Service has its own fund. When members of the Governmental Affairs Committee staff met with representatives of all of these law enforcement agencies, they expressed satisfaction with the way the Justice Department was handling the fund, and did not complain of unreasonable delays nor did they find fault with Justice's decisions.

Now the Treasury Department has come to Congress claiming that the Justice Department fund has not served its purposes and it needs to run its own fund. Mr. President, this situation is becoming just like the "M" accounts where agencies are able to create slush funds that are outside the review of the appropriators and everyone else in Congress. As we have found with these M accounts, they do not die, they multiply.

Why is the Treasury Department insisting that it needs its own fund? We are told that it is because of problems in decisionmaking and delays at the Justice Department. This just does not wash. I am sure the Justice Department can improve the management of its fund. But I am equally sure that the creation of a new fund in another agency will serve no useful purpose.

I understand that Attorney General Barr has taken the position that he does not oppose the creation of this second forfeiture fund. That is all very well and good, but I still do not think we here in Congress should then acquiese simply because the Justice Department has decided it can live with this decision. It is our responsibility and duty to look at the bigger picture, the scope of the entire Government, and determine whether this makes good management sense. It is my firmly held position that it does not. Therefore I urge the chairman of the Finance Committee to delete this amendment from the bill, and I urge my colleagues to agree with me and strike this amendment if it is offered.

Mr. MOYNIHAN. Mr. President, I rise to call attention to two provisions of the Revenue Act.

In the hope that these words might be heard, and perhaps read, I will be brief.

The bill incorporates the Charitable Contributions Tax Act of 1992, which I introduced earlier this year along with Senators DANFORTH and BOREN. It provides for permanent repeal of restrictions on the deductibility of gifts of appreciated property. These include works of art, securities, collections, and such. It also removes the cap on the amount of tax-exempt bonds that can be issued by private colleges and universities, and restores to them their status as exempt persons under the Tax Code.

This section could well be the most important tax legislation of this decade. It will not be seen as such; which is precisely the reason it could be. The United States is the only country on Earth in which by and large the most important institutions of the civic culture are private. Which is to say, they are not Government institutions. This comes so naturally to us that we hardly notice it.

But consider, 60 percent of all first professional degrees in fields such as medicine, engineering, business, and law are granted by private colleges and universities. We take this for granted; it would be unimaginable in, say, Europe where education is overwhelmingly the domain of government. Similarly, our great research hospitals, our treasure-filled museums, our symphony orchestras, opera companies, zoological and botanical institutes, are almost all of them—outside of the capital—institutions founded by private citizens and to this day run by boards made up of private citizens. They are heavily dependent on private endowments and private gifts.

We also take for granted, or somehow assume, that these private institutions are wealthy. Well, they aren't. We look up and find them, especially the research universities, in trouble all over the land. This trouble could develop to the point where the finest institutions of learning on Earth, the most productive sector of American society, begin an irreversible decline. It wouldn't take long. The great Viennese economist, Joseph Schumpeter, predicted that the decline of liberal society would come about through the conquest of the private sector by the public sector. We are betting that it needn't. It is a big bet.

New York State is home to more of these private institutions than any other State in the Nation, more than any other nation on earth. Consider just some of our research universities: Columbia, NYU, Rockefeller, Rochester, Cornell. These are institutions of world status. And they go far back in our history, and in the history of modern science. Columbia, as King's College, received its charter from George II in 1754. Just so, our medical centers, New York Hospital, which received its charter from George III in 1771; Columbia-Presbyterian, Mount Sinai, the list goes on. Our New York Philharmonic was founded in 1842, before, that is, nine-tenths of the nations in the world today even existed. Our Metropolitan Opera, was founded in 1883. Come to think, Lorenzo da Ponte, who wrote the libretto of Don Giovanni, ended his career as a professor of Italian at Columbia. As for the Metropolitan Museum, the Museum of Modern Art, the Guggenheim, the Jewish Museum, the Brooklyn Museum, the New York Botanical Gardens, the Brooklyn Academy of Music—I could go on and on—they have few peers anywhere. In the nice phrase used by New York University, private institutions in the public service.

Upstate we are blessed with a string of world-class institutions, including the Buffalo Philharmonic and that City's Albright Knox Art Gallery; Rochester's Philharmonic and Memorial Art Gallery; the Syracuse Symphony Orchestra and Utica's Munson-William-Proctor Institute. Again, I could go on.

The tax legislation of the 1980's resulted in a serious cutback in the amount of private giving to such institutions. In the case of Columbia, NYU, Rochester, Cornell, and Rockefeller University, it stopped tax-exempt borrowing for capital improvements such as laboratories, libraries, infrastructure. The Revenue Act of 1992 repeals the restrictions on bonds and on gifts of appreciated property.

It does more. It restores to these universities their status in law as exempt persons. That is to say, the law recognizes their public purpose, and gives them equal status with State-run institutions. As also with state governments and other government bodies. For research institutions of any kind, this status is indispensable. To have stripped the private institutions of this status, as we did, in 1986, was indefensible. But it was done, and there was little, if any, notice. That fact should put us on notice. The private sector is in jeopardy, if not better understood. It is estimated that the provision will cost $420 million over the next 5 years. I hope and trust it will turn out to be more. There could hardly be a more deserving tax expenditure.

The bill makes permanent the limitations on itemized deductions and personal exemptions that were enacted on a temporary basis in 1990. In effect, this is a permanent increase in the top tax rate of 3 percent for a couple with two children. One percent (0.93 percent) from the limitation on itemized deductions, and about one-half percent for each of four exemptions claimed.

The case can be made that this revenue is needed. But no case can be made for hiding the tax increase in an unfathomable ten-step calculation that only a tax lawyer could love. I read from the IRS instructions for complying with the itemized deductions limitation:

Itemized Deductions Worksheet—Line 26 (keep for your records)

1. Add the amounts on Schedule A, lines 4, 8, 12, 16, 17, 18, 24 and 25 .... 1. ____
2. Add the amounts on Schedule A, lines 4, 11, and 17, plus any gambling losses included on line 25 .... 2. ____

Itemized Deductions Worksheet—Line 26 (keep for your records)—Continued

Caution: *Be sure your total gambling losses are clearly identified on the dotted line next to line 25.*

3. Subtract line 2 from line 1. (If the result is zero, **STOP HERE;** enter the amount from line 1 above on Schedule A, line 26.) .... 3. ____
4. Multiply line 3 above by 80% (.80) .... 4. ____
5. Enter the amount from Form 1040, line 32 .... 5. ____
6. Enter $100,000 ($50,000 if married filing separately) .... 6. ____
7. Subtract line 6 from line 5. (If the result is zero or less, **STOP HERE;** enter the amount from line 1 above on Schedule A, line 26.) .... 7. ____
8. Multiply line 7 above by 3% (.03) .... 8. ____
9. Compare the amounts on lines 4 and 8 above. Enter the smaller of the two amounts here .... 9. ____
10. **Total itemized deductions.** Subtract line 9 from line 1. Enter the result here and on Schedule A, line 26 .... 10. ____

Set at a 3-percent disallowance rate, the effect of the itemized deduction limitation is more or less neutral as between different States with different tax systems and tax burdens. But should the rate begin to climb the point would soon be reached where New York would be unfairly burdened. And charitable giving could well be affected for the worse. I would like to lay down a marker here. No such increase will be enacted if I can help it. And as second ranking member of the Committee on Finance majority, I certainly intend to see to it.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2931

(Purpose: Limiting individuals eligible to use IRA deductions and simplified IRA's)

Mr. METZENBAUM. Mr. President, on behalf of Senator RUDMAN and myself, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. RUDMAN, proposes an amendment numbered 2931.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 875, beginning with line 13, strike through page 876, line 9, and insert:

Subpart A—IRA Deduction

SEC. 2001. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$100,000", and

(2) by striking "$25,000" and inserting "$75,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable year beginning after December 31, 1993.

On page 884, strike lines 5 through 9, and insert:

"(e) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the applicable dollar amount.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

AMENDMENT NO. 2934 TO AMENDMENT NO. 2931

(Purpose: First-time homebuyer credit)

Mr. DOLE. Mr. President, I send a second-degree amendment on behalf of Senator PACKWOOD to the desk.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. PACKWOOD, proposes an amendment numbered 2934 to amendment No. 2931.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

SEC. 2001A. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER

"(a) ALLOWANCE OF CREDIT.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) LIMITATIONS.—

"(1) MAXIMUM OVERALL CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) MAXIMUM FIRST YEAR CREDIT.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) SPECIAL RULE FOR CERTAIN CONTRACTS OF DEED.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such section.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) The purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 and 22.

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1).

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time home-buyer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

SEC. 2001B. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after July 1, 1992.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the two amendments which have just been offered be laid aside for approximately 1 minute in order to take up the agricultural appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. BUMPERS. Mr. President, I submit a report of the committee of conference on H.R. 5487 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 7, 1992.)

Mr. BUMPERS. Mr. President, I ask unanimous consent that the conference report be agreed to; that the Senate concur, en bloc, with the amendments of the House to the amendments of the Senate; that statements by Senators BUMPERS, COCHRAN, LEAHY, a colloquy between Senators DOLE and COCHRAN, and a colloquy between Senator LEAHY and myself be printed in the RECORD, as if read; and that all the preceding motions be reconsidered, en bloc, and tabled.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments of the House to the amendments of the Senate are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$7,250,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$73,411,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$20,795,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$430,143,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$1,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$1,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$414,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$10,428,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert ": *Provided further*, That, hereafter, funds made available to the Agricultural Cooperative Service shall be available for a field office in Hawaii".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert "$228,266,000, to remain available until expended (7 U.S.C. 2209b)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert: "$313,039,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

For the cost of guaranteed lines of credit available pursuant to an emergency declaration as provided at section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $9,000,000, to remain available until expended, but not beyond fiscal year 2009: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to establish a guaranteed line of credit program level of $30,000,000, to remain available until expended, but not beyond fiscal year 2009, which the Department shall make available for the purpose of purchasing grains or cellulosic materials for the production of alcohol fuels at established cooperative facilities as necessary to meet deliveries under contract: *Provided further*, That a guarantee fee of one percent shall be paid at the time a guarantee is issued.

In addition, for administrative expenses necessary to carry out the credit guarantee program, $100,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: "That of this amount, $25,000,000 shall be available for water and waste disposal systems to benefit the Colonias along the U.S./Mexico border, including grants pursuant to section 306C: *Provided further*, That, with the exception of the foregoing $25,000,000,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "*Provided further*, That amounts made available under this heading in fiscal year 1992 shall be available in fiscal year 1993".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$6,826,553,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 99 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$2,536,098,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$1,661,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$509,996,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 730. For loan guarantees authorized under sections 1465–1469 of Public Law 101–624 for the Agricultural Resource Conservation Demonstration Program, $10,000,000. For the cost, as defined in section 502 of the Congressional Budget Act of 1974, $3,644,000: *Provided*, That, hereafter, no other funds are available in this or any other Act to carry out this program, other than those provided for in advance in Appropriations Acts, except for the cost of administering the program: *Provided further*, That such limitation shall not apply with respect to the duties and obligations of the Secretary regarding any loan or note guarantees, interest assistance agreements, or other understandings entered into during fiscal year 1992, and the personnel of the Department shall carry out the duties and obligations of the Secretary, and any other requirements imposed on the Secretary regarding such Agricultural Resource Conservation Demonstration Loan Program with respect to the loan made and guaranteed in 1992.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 731. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a program within the Agricultural Stabilization and Conservation Service for the purchase of computer hardware and software and other costs in support of long-range Information Resources Management objectives in Automated Data Processing if the aggregate amount of funds transferred by the Commodity Credit Corporation to the Agricultural Stabilization and Conservation Service for such purchases exceeds $52,400,000.

Mr. BUMPERS. Mr. President, I am pleased to bring before the Senate, the conference report on H.R. 5268, the appropriations bill for agriculture, rural development, and related agencies for fiscal year 1993. I hope my colleagues will support it.

The conference report contains several significant changes from the Senate-passed version of the bill. First of all, the conferees were unable to fund the Wetlands Reserve Program due to the tight fiscal constraints. This action by no means indicates a lack of support for this program. I would like to read from the conference report what we said about the Wetlands Reserve Program.

> The conferees fully support the concept of the Wetlands Reserve Program and are disappointed that the Department has not provided the reports required by the House, Senate, and conference reports on the fiscal year 1992 Agriculture Appropriations Act. The conferees direct that these reports, along with a complete analysis of the fiscal year 1992 sign-up, be submitted to the appropriate committees of Congress by February 1, 1993. Pending the results of this information, the conferees expect the Department to consider submitting a supplemental appropriations request.

A second major change from the Senate-passed version of the bill is that the Market Promotion Program is funded at a level of $147,734,000 instead of $170,700,000 as proposed by the Senate. Again, due to fiscal constraints, the funding had to be reduced. Again, the conferees have drawn attention to the program and reiterated the Senate's request for a report on the program covering the last 5 years including: First, the number of companies or groups receiving MPP funds for the first time in each fiscal year compared to the number of companies or groups that received MPP funds in at least one of the previous 5 fiscal years; second, the dollar value of the annual export sales of MPP participants and the percentage of the MPP participant's marketing budget represented by MPP funds; third, the number of small business participants in the MPP program; fourth, whether MPP participants would have entered an export market regardless of the availability of MPP funds; fifth, the dollar value of annual export sales directly attributable to MPP funds; and sixth, the number of new applicants for MPP funds, especially small businesses, that were not funded compared to the number of companies or groups that received MPP funds in at least one of the previous 5 fiscal years.

In addition to this Senate language, the conferees added the following:

> The Market Promotion Program should focus its resources on promoting value-added agricultural exports to maximize job creation. The Market Promotion Program should make certain that the content of agricultural products it promotes is predominantly U.S. grown and manufactured. Promotion funds should be allotted to U.S.-based participants which export agricultural products and should encourage smaller, medium-sized, and new-to-export participants. The Department is expected to review marketing plans submitted to assure that products are predominantly U.S. grown and manufactured.

The Public Law 480 program has also been changed from the Senate version. Rather than providing $13 million for debt restructuring under the Enterprise for the Americas Initiative, the conference agreement provides $40 million. As a result, the title I program level has been reduced from $581 to $555 million and the title III program level has been reduced from $344 to $334 million.

Domestic food assistance programs remain a high priority in the bill. Based on current estimates of need, child nutrition programs are funded at a level of $758 million above this year and the Food Stamp Program is increased by $4.8 billion over this year's level. The WIC Program is funded as proposed by the House and Senate, at $260 million over the 1992 level. Mr. President, I want to reiterate that almost two-thirds of the bill—64 percent—or $38.4 billion is for domestic food programs that go predominantly to urban areas.

For the Food and Drug Administration, the bill restores the $200 million in funds assumed by the administration through user fees and has added $20 million over the 1992 appropriations for the agency.

The conference agreement provides funding levels similar to the Senate bill for agricultural research, rural development, conservation, extension, and inspection programs.

In summary, the conference bill proposes to spend $60.5 billion.

I commend the conference report to my colleagues and recommend that it be accepted.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, we have before us the conference report on H.R. 5487, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill for fiscal year 1993. This agreement was reached Thursday, August 6, and filed on Friday, August 7. The other body passed it earlier today.

H.R. 5487 makes funds available for the many programs administered by the Department of Agriculture, such as research and extension, conservation, rural housing and farm loans, and farm income and price support programs.

Total obligational authority in this conference agreement is $60.5 billion, which is $166.6 million more than the budget estimates for new authority for 1993.

A major part of this bill—64 percent of the total amount appropriated—consists of funding for the various domestic food programs administered by the U.S. Department of Agriculture. These include the Food Stamp Program; the child nutrition programs—school lunch and breakfast, summer food programs, and child and adult day care, etc.—; the feeding program for Women, Infants and Children [WIC]; and the Emergency Food Assistance Program. I believe the funding levels provided for these important nutrition programs are justified by the current estimates of need that have been received by the Congress.

Mr. President, I am pleased to report that this conference agreement supports continuation of the existing conservation programs administered by the Soil Conservation Service and the Agricultural Stabilization and Conservation Service. These activities are critical to improving and conserving our soil and water resources.

An important element in the success of agriculture in the United States is the support it has enjoyed from both private and public research. In this agreement, $1.6 billion is directed specifically to research and extension programs. Of this amount, $97.5 million has been provided for the National Research Initiative, a program which has proven successful in attracting high quality research proposals from a broad spectrum of scientists.

This conference agreement places increased emphasis on rural development. Almost one-fourth of the bill total is available for programs that assist rural areas. Specifically, the agreement provides funding for rural water and waste disposal loans and grants, solid waste management grants, emergency community water assistance grants, and low-income housing loans. Many of these programs have been very beneficial and have improved the lives of those who live in our Nation's small towns and rural communities.

Through various programs, the conference agreement also attempts to strengthen U.S. agriculture's potential in world markets. Continued efforts to expand agricultural markets overseas are critical to a healthy domestic farm economy. Reflected in this agreement is continued support of the intermediate and short-term export credit guarantee programs, export credit guarantees to emerging democracies, the Public Law 480 or Food for Peace Program, the Export Enhancement Program, and the Market Promotion Program. In addition, the conferees provided $40 million for Public Law 480 debt restructuring under the Enterprise for the Americas Initiative, EAI. This debt reduction can provide substantial benefits for economic growth and environmental protection in Latin America and the Caribbean.

Funding is provided for the Commodity Futures Trading Commission and for the Department of the Treasury for interest expenses incurred by the Farm Credit System Financial Assistance Corporation, and a limitation is established on the administrative expenses of the Farm Credit Administration.

The committee of conference on H.R. 5487 considered 124 amendments in disagreement between the two Houses. Although the conferees were faced with some major challenges due to the current fiscal conditions that we face, I believe those challenges were met and the differences were resolved to make this an agreement that is fiscally responsible and reflective of agricultural needs.

Mr. President, I urge my colleagues to approve this conference agreement.

Mr. LEAHY. Mr. President, last Thursday the House and Senate conferees on the agricultural appropriations bill decided to provide no funds for the Wetlands Reserve Program in fiscal year 1993. I cannot express how profoundly disappointed and disturbed I feel by this decision of the conferees. Last Tuesday, when the Senate decided to add $54.9 million to the bill, I felt we had saved the program. But the decision of the conferees on Thursday made it a dark day for the environment, and one that I believe the Congress and the agricultural community will come to regret.

I am disappointed for many reasons. The first and primary is because, by approving the conference report before us now, Congress will miss the historic opportunity the wetlands reserve presents us. The program is unique because it brought the farmers and environmentalists together in a way that we had never before achieved. It was one of the programs that offered us the most hope that we could find our way out of the seemingly endless fighting between the two communities.

I am also disturbed because the program is immensely popular. This year was its first, and the program had enough funds to enroll 50,000 acres. Farmers responded by offering to enroll 466,000 acres—10 times the intended amount. We are cutting this program down dead in its tracks. And I just do not understand why.

Some may say—"This is not really a set-back for the program. The Department and farmers can go ahead and act as if they can sign up for the program, and we will just wait until 1994 to provide the moneys." This position ignores the tremendous damage the conferees action will do to the credibility of the program and the farming community's willingness to participate.

My amendment on the Senate floor stopped certain computer purchases at USDA pending USDA's reorganization. If I have a choice between wasteful spending, and investment in our future, my choice is clear. If I have choice between making bureaucrats wait for new computers, and helping farmers help the environment, my choice is clear.

Fortunately the conference did include funding for other critical initiatives such as the Water Quality Incentives Program. This program assists farmers in their efforts to farm in a more environmentally positive fashion.

The conference also included funding for the Organic Standards Certification Program and the Low Input Sustainable Agriculture Program, two of the many environmental initiatives in the 1990 farm bill.

It also included a significant increase in funding for the Rural Water and Sewer Program, which is important to both clean water and economic development in rural areas.

Finally, a number of the environmental initiatives in the farm bill are not dependent on funding decisions. These include reorienting the Conservation Reserve Program from a land retirement program, to focusing on environmentally significant land, and the pesticide recordkeeping requirements.

These permanent changes in the law still stand.

Mr. President, I would like to engage in a colloquy with the manager of the bill, H.R. 5487, that has come from the House.

The report contains language related to the recovery of the administrative costs of the Organic Certification Program.

Am I correct that the conference committee was not directing that the planning costs in 1993 must be recovered when the program becomes operational in 1994, but instead was stating its belief that the administrative costs should be recovered, as is required in the 1990 farm bill?

Mr. BUMPERS. The Senator is correct. The Department must make a determination, consistent with the law, about which costs are properly recoverable and which are not.

Mr. DOLE. Mr. President, I was pleased to see that the agriculture conference report includes funds for the rural development grants add to the Senate bill. One of those grants would provide $400,000 for the North Central Kansas electric cooperative, NCK, to replace equipment destroyed by an inland hurricane on July 8.

Soon after the Senate accepted my floor amendment, the Jewell-Mitchell Cooperative Electric Co. contacted my office with a similar problem. The cooperative has suffered losses of $228,007 as the result of two major storms in

June and July. This co-op faces very serious financial consequences as a result of storm damage, but unfortunately, I received their request too late to be of assistance.

I discussed this situation with the Rural Development Administration, RDA, and they see no problem with allowing both co-ops to be eligible for the $400,000 grant for disaster assistance. It seems only fair to let both co-ops use the funding, since they both face similar difficulties.

Would the Senator from Mississippi foresee any problems with the Jewell-Mitchell co-op using a portion of the funds set aside for the NCK co-op? I would like the Senator's thoughts on this subject, because, as ranking Republican on the subcommittee, he has been of such great assistance in securing the funding for the NCK co-op.

Mr. COCHRAN. I appreciate the Senator from Kansas bringing this to my attention, and I certainly would have no problem with this grant being allocated between the two co-ops in Kansas who have suffered these losses. In fact, I would strongly encourage the RDA to work closely with these co-ops to resolve the problems they have encountered.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, as indicated, there will be no further rollcall votes this evening. I assume the distinguished chairman of the committee will want the opportunity to review the amendment just filed before debate and action is taken on that.

I would like at this moment, with the Republican leader present on the floor and the distinguished chairman of the Judiciary Committee present, to make a brief statement about the executive calendar. There are a number of nominations pending on the executive calendar. These are noninations which have been made by the President, have been reviewed by the various committees of jurisdiction of the Senate and are now ready for Senate action.

As majority leader, I have received a large and growing number of telephone calls and letters from people concerned about these nominations and urging actions on these nominations. I have checked with the distinguished Republican leader, and I have checked with the chairman of the Judiciary Committee. I am advised that the nominations are being held up by a Republican Senator.

I just want to make the RECORD clear for all of those who have been calling and writing me about these nominations by the President and insofar as I am concerned, we are prepared to act on these nominations. But we have been prevented from doing so at the request of a Republican Senator.

So I would like now to yield to the distinguished Republican leader, if he wishes to make any comment, and then I know that the distinguished chairman of the Judiciary Committee wants to comment on this matter.

I just want there to be no misunderstanding about this. I personally have no objection to any of these nominees and am prepared to act on them. I am advised that we can proceed with respect to all but three of the persons on the calendar, including the persons listed under the judiciary calendar items 571, 634, 635, 636, and 637, which I believe are the most controversial items.

And so, therefore, I would hope that we could act with respect to as many of these nominations as possible before the Senate recesses tomorrow evening.

Mr. President, I would like to yield to the distinguished Republican leader for any comment he may choose to make if he wishes to do so.

Mr. DOLE. Mr. President, I thank the majority leader. In addition to nominations, there are also a number of treaties, some rather important treaties, that are also being held up because of an objection on this side.

I have notified the Senator who has the objection and asked him to come to the floor. I hope he will come to the floor. I hope that he will be here to make his case.

But I would also suggest, as pointed out by the majority leader, we could now clear all but three of these that have been on the calendar for some time. A number of these involve people who have made changes in their entire life, sold their property, prepared to move to a new station, and who are now being denied that opportunity because of one Senator with one hold. It seems to me that we cannot tolerate that. We are going to have to move forward. If that Senator wishes to discuss these all night and all day tomorrow, and whatever, that certainly is his prerogative and his right.

But there is a problem in the Judiciary Committee, as I am advised by the Senator in question, on getting one of his nominations for the U.S. district attorney on the agenda tomorrow in the Judiciary Committee.

I would just say that nobody is holding that nominee on this side of the aisle, and I understand nobody is holding it on that side of the aisle. But it is hard to explain to the Senator in question why, if that is the case, his nominee is not on the agenda for tomorrow.

So I would be very happy to yield the floor. I know the Senator, the chairman of the Judiciary Committee, is here and will make a statement on that particular nomination.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, I thank the leaders for the opportunity to speak to this.

Quite frankly, we have been working now for 18 months to deal with Senator PRESSLER's nominee as U.S. attorney. And the Judiciary Committee has not held up that nominee. There have been requests from the executive department relating to the need to follow up on a number of things relating to that nominee.

Now, it is true that a supplemental report—which is the fancy language for saying, in the Judiciary Committee, the report we needed to get from the executive branch—came in, I guess it was 12 days ago. It is an inch thick. I have no reason to believe there is anything in that report that suggests this gentleman should not become a U.S. attorney.

But I must tell you, A, the Judiciary Committee has not held him up. B, the Democrats have not held him up. C, nobody, to the best of my knowledge, in the Senate has held hin up. And the fact we have been going out of our way—and I see some of our Republican colleagues on the floor; I think they will tell you. It is fair to say we have done everything in our power to get as many of these judges up as quickly as we can, even some who were relatively controversial.

Now here we are, on the eve of adjourning—as we should and must—for a national convention, and we are trying to pass some of these folks out. As a matter of fact, there are people we held hearings on today. And the problem—I say for the RECORD, and I say to my friend from South Dakota, Mr. PRESSLER, who is listening—is just that this fellow has not been a priority. We got this thing on—do not hold me to Monday; but we got it within the last 12 days, while everybody is trying to work on all the other nominees. There are not but 15 Senators on this floor who have not, understandably, come to the Senator from Delaware and said: It is urgent; my judge must come up; can you follow up on the FBI report; can the staff look at it?

I might add for the RECORD, we would be able to move some of this faster. But we tried to work out, with the help of the ranking member, Senator THURMOND, and myself, having to ask the Justice Department and the White House whether they will allow us more investigators. And they would not allow us to have more investigators to have access to clear these things.

All I am trying to explain is that there is a bit of a gridlock here. And if my friend from South Dakota would reconsider holding everyone up—everyone; not just judicial nominees. There are people in the Department of Justice, Department of Energy, the National Institute of Building Sciences, the Department of Defense, et cetera. There are 30-some people being held up here.

I can assure the Senator that we just have not had the time, the staff, to sit down and read the report. And this is the last thing I will say. We read the report, Mr. President. The investigative staff reads the RECORD. And it usually takes someone between three and five followup telephone calls, in the regular course of business during the day, because it is the only time you can get these people, to follow up on what is said in the report and just to sign off on them.

So I can assure my friend that that is being done, and will be done. But it will not be done by the time the Judiciary Committee meets tomorrow.

Lastly, even if, when the Judiciary Committee meets in executive session, even if we were to favorably report on this U.S. attorney for Senator PRESSLER, under the Senate rules, under committee rules, there are 7 days, I believe it is, 7 working days, before he can be reported to the floor, without unanimous consent, to come to the floor to be voted on.

So, Mr. President, I hope our friend, Senator PRESSLER, will reconsider this. I have spoken to him repeatedly about this. I have—and I think he would be prepared to tell you on the RECORD over the last year and a half, helped him move this nominee through the maze downtown, where there was less than a receptive ear. So I would hope we not do this, and reconsider this.

I thank my colleagues for the opportunity to explain this. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, I have notified the Senator from South Dakota, and I hope that he will come to the floor. Otherwise, I hope the majority leader will take care of these nominations. If you want to object, you want to put on a hold, then you had better be here and protect yourself. I have done about all the protecting I care to do in this instance. We have tried to be reasonable, tried to work it out. I do not think that is going to happen.

I understand the frustration of the Senator from South Dakota, but there comes a time when we also have to understand other people may be a bit frustrated. And they may be the people involved and the families involved and the others involved, who may not have asked for these appointments, who may have been recruited for these appointments, and now are being blocked under the rules, which the Senator has the right to do.

So I hope the Senator from South Dakota will come to the Senate floor and give us his explanation.

My view is that we can accommodate the Senator's request, or try to accommodate the Senator's request. And if everything else fails, I would hope the majority leader will put all these nominations en bloc before us. Some of us are prepared to spend all night here, if necessary, to resolve this matter. We should not penalize innocent nominees because someone has a problem, particularly when that problem is being addressed by both sides of the aisle.

So I hope that if the Senator from South Dakota does not appear within the next 5 or 10 minutes, the majority leader will let us proceed to these nominations and get them out of here. People have paid the price for public service. They did not expect all this.

So, Mr. President, I hope that within the next 10 minutes, the majority leader might renew his request.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I want to thank Senator DOLE and Senator BIDEN for their comments on the floor.

I happen to have a U.S. attorney from the State of New Mexico on this list for tonight. There is absolutely no reason that he should be held up. The man is a splendid individual. He has served the public for years, and he anxiously awaits the confirmation that he is the U.S. attorney. He has been acting for months. It is not fair to him.

Tomorrow, there will be reported out by the Judiciary Committee a U.S. attorney of the State of New Mexico. Let me suggest that there is no reason for that to be held up tomorrow by anyone on the floor, in particular with the facts that have been discussed. This gentleman, for reasons that he had nothing to do with, has been held up for a long time. His family has suffered. His business has suffered. I just do not believe we ought to hold him up because somebody feels they have been dealt short shrift.

So I thank those on the floor tonight who talk sense. I will stay here if the leader needs me tonight, in case somebody wants to debate. I will be glad to do that. But the Senator ought to come down here and have to spend some time holding this up, not just by remote control. I think our leader on the Republican side, speaking for most of us, has indicated that, and I commend him.

Now, Mr. President, I am not sure what the order of business is, but I want to make some remarks on a subject that is unrelated specifically to this. I do not want to shut anyone off from this debate.

Is it appropriate for the Senator from New Mexico to speak now as if in morning business?

The PRESIDING OFFICER. The Senator may speak on any subject. The 3-hour Pastore rule has expired.

Mr. DOMENICI. I want to yield the floor, however, because I see the Senator from Wyoming desires to speak.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, it has been a very difficult matter. Indeed, it has.

I was elected to the Senate in 1978, and one of my fine colleagues was Senator PRESSLER from South Dakota, my neighboring State.

I have the highest regard for him. I consider him a friend. I have campaigned with him, I have laughed with him, we have legislated together, we have done things in my role as assistant leader. I worked with him. He has been quite supportive of the administration in most cases. We do not ask a test of purity, but I just say—and I think my colleague is on the floor, and I am pleased that he is, I address the Chair but I know that he is listening intently. I do not know what more our leader, Senator BOB DOLE, could do to accommodate my friend from South Dakota.

Mr. PRESSLER. Will my friend yield for a question?

Mr. SIMPSON. Indeed.

Mr. PRESSLER. What is the Senator from a small State to do when a judicial vacancy in his State lays open after he has submitted the names of all the Democrats, Republicans, Independents, and people who have applied or have been interested? I fight very hard for my small State of South Dakota. I know it. This is the first time in my career I have put a hold on any nomination. I just did it this morning. But what kind of ineptitude—maybe it is my ineptitude—is there in the U.S. Government that we cannot get these appointments moving faster than we have? Today I held them up for, so far, about an hour, I guess, from when they would have moved. But a small State Senator at some point has no choice but to stand up on the floor of the Senate and fight for his small State.

There are only three U.S. Federal judges in my State. Two of them are now working overtime, doing Indian cases over which they have primary jurisdiction. I discussed this matter with the Justice Department last December. I said, "I will take anybody you appoint if you want to appoint this person or that person."

What do I do? Do I just sit silently by and let my State suffer? What is the role? What am I supposed to be doing here as a Senator? Do I pack my bags and sit at home? What is the advice of my colleague?

Mr. SIMPSON. Mr. President, I can talk about a smaller State than the State of South Dakota—the one I represent. I can tell you what this Senator would do. I would try to move through the avenues of comity, courtesy, common sense, and good judgment. I have, and my senior colleague, the Senator from Wyoming, MALCOLM WALLOP, presented a name for Federal district judge which has not gone anywhere yet. But I have not chosen to come to the floor of the U.S. Senate and place a hold on people that have no possible communication or contact with me in any way, who do not even know me, whose families have been uprooted, whose children have been removed from the schools, and who have been waiting for weeks and months to be processed by the U.S. Senate. That I can express to my friend from South Dakota.

I do not know that will happen with that hope-to-be-judge of Wyoming. But I do know that I will continue to work through the process with it as carefully as I can, knowing that time alone is my greatest enemy.

Mr. PRESSLER. If my friend will yield for a question, I am learning things. I learn new things every day. How long has there been a vacancy in the State of Wyoming?

Mr. SIMPSON. Mr. President, we have a senior judge who was in senior status who died, a very dear and respected man named Ewing T. Kerr. That just recently occurred. And we have another judge on senior status, and it has been many months. I will be glad to furnish that for the RECORD.

Mr. PRESSLER. Will my friend yield further? This was a vacancy that we anticipated, and we gave the necessary information. I did everything I was supposed to do as a Senator. What more do I do? If I do not come to the floor, what would my constituents say?

Mr. SIMPSON. Mr. President, constituents have a way of speaking every 6 years in a manner of clarity which is rather staggering to us all. So I cannot possibly discern that. But I wonder what the constituents would say in my State if, at each occasion, because I very much wanted a person who had been on my staff to be placed in a position within the Federal Government, especially as sensitive as U.S. attorney—I did not know Mr. Kevin Schafer, but I have read the FBI report just this afternoon. It took me an hour and a half. Personally, I cannot share with anyone what is in it, but certainly there is nothing in it, in my mind, that would prevent that man from being appointed as U.S. attorney.

There are certain things that appear there, the disgruntled employee of the Senator from South Dakota who apparently decided to pull the chain on the nominee who is now sitting as acting U.S. attorney in South Dakota. Those allegations then were renewed and reviewed by the FBI, and the Bureau then submitted a supplemental report—its most recent designation, I believe, is July 30—stating that certainly there is nothing to proceed with with regard to any kind of criminal conduct or further activities of the Department of Justice against this person.

I would say that his record—and I can go no further—is certainly one that would allow him to be sitting as U.S. attorney. But for one thing, he has had no experience as a lawyer nor as a trial attorney, and he must have had it now because he is acting attorney, and I hope it is going well. I have no problem with that at all. But that is the fact. And then, not only has the Senator from South Dakota presented the nominee of his choice—and it certainly should be considered, just like the one from the senior Senator from Wyoming [Mr. WALLOP] or the Senator from California [Mr. SEYMOUR] who has one there that he cannot move either, or the Senator from New Mexico, who has been waiting patiently while a man gave up his entire career.

I am just saying that it is time to move forward. So when we move forward, then, if I am not mistaken, I will ask the Senator from South Dakota a question, that there was even a possibility that the man who is sitting as the acting U.S. attorney is now being considered by the Senator from South Dakota as the Federal district judge appointment. Is this correct?

Mr. PRESSLER. No; that is not directly correct. Let me say this: I always seek the advice and wisdom of others in this body. I come from a very small State, and I am amazed at how, on Federal projects, we have to fight doubly hard. I am amazed at how in getting judgeships, still we have to fight twice as hard. Senators from a small State cannot deliver Presidential votes, they cannot deliver large PAC contributions. I do not know if that is the reason. Maybe it is my own shortcoming.

But my concern here is the United States Federal judgeship and why there has not been action on that. That is the point that I am trying to raise. I am not worried. I have not read through the files my friend has read, and I thank him. I have the highest regard for the person he has mentioned and everything I know is of a very positive nature.

I do think that in the Senate I have conducted myself with comity and courtesy—maybe not good judgment, but I have always been available to the Senator from Wyoming to help him on matters that are of importance to him.

I am seeking to somehow make the point that this is a classic example, a judgeship, and that regarding the judgeship in South Dakota there has not been any action and there has not been any reason for it. The person he mentioned is not among those last December who expressed an interest. I sent their names to the Justice Department. But may I ask my friend from Wyoming how long ago it was?

May I ask my friend how long has it been since he submitted his names to the Department of Justice?

Mr. SIMPSON. Mr. President, many months ago, 6, 8. I would be glad to furnish that for the RECORD. I do not recall, but it has been many, many months.

But the Senator from South Dakota has asked me questions about "what do you do when you represent a small State?" I have tried to respond. I am responding myself, and I can only say if I had a gigantic beef with one agency of the Federal Government—maybe it is the Justice Department, or maybe it is the President of the United States—I would not direct my anguish and frustration and concern to 31 people who are on this calendar, who are waiting to be processed, because of a sitting U.S. attorney in a small State.

Mr. PRESSLER. That is not my only reason. This is the first time I have ever placed a hold on nominations in nearly 18 years in the Congress. I sympathize with all of the people who are trying to get through. I want to move them through faster. Let us find out why it takes so long. What is it that takes months and years to move things forward? Who do I talk to? I placed four calls to Boyden Gray. None of them have been returned. I am sure he is a busy man. Where do I go?

Mr. SIMPSON. Mr. President, I wish I could chronicle it for this body, but it would be an exhausting chronicle of how many times I have tried to intervene to help my friend from South Dakota with problems in South Dakota. I have personally, on many occasions, spoken to the Chief of Staff, then John Sununu, to counsel Boyden Gray, to the present Chief of Staff, and to the President of the United States on more than several occasions with regard to requests from the Senator from South Dakota, and each and every time, whatever is accomplished is never enough. It is an insatiable maul of requests that I can no longer meet.

Therefore, I honestly say to my friend from South Dakota, whatever you wish to do, I will be here in a friendly adversary position to prevent you from doing it. And that is my intent, whether it be all night at the old corral, or here, or wherever it would be, high noon, low noon. But we are not going to sit still and watch 31 people dragged down because of some personal obsession with a single person, who I hope will receive whatever Federal position he wants. And I hope that the rest of them will be considered, just like mine are being considered. And I will get a list of all of the people I have requested to be appointed to this administration.

I am known as a personal friend of the President of the United States. I will get my scorecard out, which I think shows that I have recommended 340 people for positions in this administration, and 9 of them have been selected. If I were keeping score day after day after day, there would have been no calendar passed in this body. I do not. We cannot.

Therefore, I say with the greatest respect, whatever the Senator from

South Dakota thinks has to be done, he should do. I will do everything in my power to do a singular thing, and that is move 31 people out of the turnstile here in the dungeon deep, who do not deserve to be there in any sense, under any circumstances, under anybody's sense of good faith and just plain old fairness.

Mr. PRESSLER. If my friend will yield, I say that it is not my intention to deprive 31 people of their jobs. But I do want to raise the issue of the judgeship in Pierre, South Dakota. It is primary Indian jurisdiction, original jurisdiction. I am meeting with the Sioux Indian tribal leaders later this month and again in October. I do not know why we have not been able to have progress on that judgeship, because we began discussing it in December.

It is not the U.S. Attorney that is my principal concern here. It is the U.S. judgeship. I cannot understand why I cannot get my calls returned from Boyden Gray. I cannot get a response as to what is wrong with any of the candidates. Now the judge from Rapid City has to take over the work in Pierre.

This is primarily a court of Indian original jurisdiction where Indian people have matters that would not normally be dealt with by a Federal judge.

Today, when I put this hold on, for the first time this year, I had a call from the Chief of Staff of the White House. That was pretty nice to get a call from Mr. Skinner. He said, "one of those guys is acceptable to us." I think it is a little too late to go forward this year. So I am kind of beaten down.

But I think this leads to the philosophical question of, what does the Senator from a small State do in a situation like this, when he is trying to protect his State? I do not intend to keep this hold on these people. I think this is a good exchange we are having. Maybe I am learning something.

Mr. SIMPSON. Well, Mr. President, I can understand the commitment of the Senator from South Dakota to the native American population. I represent a State that has two tribes, the Arapahos and the Shoshone. So I understand that.

I understand, too, the situation the Senator is in. I understand that. I hope the Senator understands, too, as I have done in the past with great regularity and sincerity, I will take this matter to the highest levels of the administration. I will try very much to go to bat again and again, and again, as I have in the past on this occasion. And that will be the case, regardless of what happens here, whether we have 4 nights and 4 days of vigorous discussion, or whatever it takes before this recess takes place, because I am perfectly willing to be here myself and to have others. Senator DOMENICI has indicated that he is ready to assist. But there are so many nuances and ramifications of this.

If you want to address the Indian issue, then it is my understanding that the former U.S. attorney was an Indian, or of Indian origin, or at least part Indian, and that person was displaced by this appointment. I understand the Indian community was quite incensed by that. So maybe that is in there, too.

Mr. PRESSLER. If my friend will yield, that is not the case. But that is not the purpose of my hold. We are talking about two different things.

Mr. SIMPSON. Is that the case?

Mr. PRESSLER. No.

Mr. SIMPSON. Who was the former U.S. Attorney?

Mr. PRESSLER. Mr. Hogan.

Mr. SIMPSON. Mr. Hogan is part Indian; is that correct?

Mr. PRESSLER. Yes.

Mr. SIMPSON. I understand the native American population was quite disturbed at the fact that Mr. Hogan, a skilled trial attorney who had served and done some very fine work, was replaced by a former staff member of the Senator's office with no previous legal experience, no trial experience, nothing; is that correct?

Mr. PRESSLER. No; that is not correct. The Indian community in South Dakota is very strongly supporting that appointment. In fact, there is currently a dispute going on that demonstrates just the opposite of what my friend has said.

The fact of the matter is that my position on the floor tonight is regarding a U.S. judge. If you wish to talk about the U.S. attorney, fine, but it is a vacancy in the U.S. judgeship in Pierre that has bothered me very much.

Mr. SIMPSON. Mr. President, do I have the floor? I believe that is correct.

The PRESIDING OFFICER (Mr. BRYAN). The Senator retains the floor.

Mr. SIMPSON. Let me retain the floor and yield to my friend from New Mexico.

The PRESIDING OFFICER. Without objection, the Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank the Senator from Wyoming and thank Senator PRESSLER. I think the exchange to the extent it helped the Senator, I am very pleased he saw fit to indicate he does not intend to hold the 31 nominees the Senator from Wyoming and Senator DOLE referred to.

I happen to have a U.S. attorney on that list. Tomorrow I hope late in the day I will have a U.S. district judge. I thank the Senator very much.

I frankly believe every U.S. attorney situation is different, I say to Senator PRESSLER. It is not easy to get any of them through. It takes a lot of time, obviously a lot of clearance, and obviously the U.S. Attorneys General and their staff have a lot to do and say about whether the nominee is going to clear or not. I think your principal argument is with them, as I see it.

I cannot tell anyone how to handle that. I had my share of problems. I am going to clear a judge soon. We started to work, you wonder about time, last February or March. He is clearing tomorrow. He got to the Senate about 6 months ago. All remaining time was in negotiating, FBI preliminary reports and those kinds of things. It happens. It is difficult to put in an exact formula or a way to do each one.

I do not know that it is a small State problem. I am a small State. Wyoming is a small State. There are a number of small States. It must be some other peculiarities.

MORATORIUM ON IMPLEMENTATION OF REGULATIONS UNDER THE SAFE DRINKING ACT

Mr. DOMENICI. Mr. President, a while ago I rose to try to get a statement in the RECORD regarding a moratorium I am going to try to have the Senate vote on as part of the HUD appropriation bill. I have a statement explaining what I am going to do. I am going to ask it be made a part of the RECORD in its entirety after I make just a couple remarks, with the Senator from Wyoming's permission, and they will be brief.

Let me indicate that the legislation is going to give the Administrator of the Environmental Protection Agency the authority—during the time of the moratorium—to implement additional regulations that present significant risk to human health. Despite what some may say, this is real authority that I expect the Administrator to exercise. To the extent there is concern that roadblocks make it difficult for him to act, I am prepared to make appropriate changes to ensure prompt action.

In addition, I have repeatedly stated I expect the first regulation that the Administrator would move forward on would be the lead and copper rule. The health risks from lead and copper are well known, particularly for young children. While I believe there is sufficient authority for the Administrator to move forward on this rule, for the sake of insuring that is the case, when I offer Senate bill 2900 as an amendment, it will be altered to pull the lead and copper rule from under the moratorium.

Third, there has been a tremendous amount of misinformation about this bill and thus this amendment. I have listed each one of the criticisms, some from environmental groups, some from others, and I have listed the truth about them. I am hopeful that Senators who have cosponsored this—there are now 20—and those who are thinking about it will read this statement or their staffers will, because I believe we are doing right by all the small communities of the United States, and we are not incurring any risk for small children and grown adults or senior citizens in its adoption.

Mr. President, I would like to take a few moments of the Senate's time to discuss legislation I introduced on June 26, along with Senators BROWN and NICKLES—S. 2900.

This legislation imposes a moratorium on the implementation of further regulations under the Safe Drinking Water Act until EPA completes an in-depth review of the program, submits recommended changes to the Congress, and the Congress reauthorizes the statute.

Mr. President, serious problems exist with this program. The excessive costs to administer and implement the program are being called into question because many of the contaminants slated to be regulated pose absolutely no risk in drinking water.

This bill has three purposes: First, it provides relief to small water systems who have argued they cannot afford to meet Federal monitoring requirements; second, it is an interim measure that will provide the authorizing Committee time to review the impacts of the Safe Drinking Water Act and consider fundamental changes to the program; and third, it will ensure the continued protection of public health and monitoring for a very large number of contaminants.

Communities all over the country do not understand why they must comply with regulations for contaminants that do not even exist in their water systems, or at levels well below health concerns.

I would like to bring this body up-to-date on several developments on this issue.

First, the National Governors' Association last week adopted a resolution, endorsing the basic tenets of S. 2900.

The Governors' strongly worded statement points out the serious problems with this program. The Governors' recommendations are divided into three components—statutory change, improving program efficiency, and addressing funding shortfalls. I would like to share with this body the recommended statutory changes:

> It will not be possible to make the Safe Drinking Water Act work properly without Congressional action. The Governors believe that the following three actions are the minimum necessary:
>
> 1. Until the Safe Drinking Water Act is reauthorized, Congress should freeze implementation of the national primary drinking water regulations at the thirty-five rules that states have implemented in full as of July 1992, and place a moratorium on promulgation of new rules. Congress should require that EPA conduct risk assessment studies of the contaminants referenced in and listed pursuant to Safe Drinking Water Act section 1412. Congress should require that EPA promulgate and/or implement national primary drinking water regulations for any contaminants if the risk-assessment studies indicate that regulation is justified by significant risk to public health.
>
> 2. Congress should reauthorize the Safe Drinking Water Act as soon as feasible and eliminate rigid provisions that require regulation of specified numbers of contaminants regardless of the risk they present. The law should allow EPA and the States to focus on the most significant risks.
>
> 3. If the administrative proposals recommended in items 5 and 6 are not allowed under existing statutory authority, they should be incorporated in the reauthorization of the Safe Drinking Water Act. The goal is to have clean and simple standards and to allow States maximum flexibility in meeting these standards.

Second, in my discussions with other Members, I have indicated my intention to make changes to S. 2900, as introduced. The bill now halts further implementation of regulations beyond the 35 contaminants being regulated at the time the bill was introduced.

However, the legislation gives the Administrator of the Environmental Protection Agency the authority—during the time of the moratorium—to implement additional regulations that present significant risk to human health. Despite what some may say, this is real authority that I expect the Administrator to exercise. To the extent there is concern that roadblocks make it difficult for the Administrator to act, I am prepared to make appropriate changes to ensure prompt action once the Administrator determines regulation is warranted.

In addition, I have repeatedly stated that I expect the first regulation the Administrator would move forward on would be the lead and copper rule. The health risks from lead are well-documented, particularly for young children. While I believe there is sufficient authority for the Administrator to move forward on that rule, for the sake of ensuring that is the case, when I offer S. 2900 as an amendment, it will be changed to pull the lead and copper rule out from under the moratorium.

Third, a tremendous amount of misinformation is being spread around about this bill and the potential impacts of it.

I would like to set the record straight.

The existing standards that would continue under this bill represent the contaminants that pose the greatest risk to public health. One estimate is that these standards will prevent nearly 440 cases of cancer each year. In addition, they include important microbiological and virus protection.

The standards that would be put on hold, by one estimate, prevent only .8 cancer cases per year and health effects arise only after long-term or lifetime exposure. Obviously, because this bill establishes only a temporary moratorium, significant exposure is not realistically expected.

Significant monitoring, beyond the 35 contaminants, would continue during the time of the moratorium. There are 12 methods used to monitor for the 35 standards. Those 12 methods can identify more than 60 contaminants—providing valuable information to the Administrator to support a decision to issue additional regulations in the future.

Regulations in place prior to the cutoff for the moratorium would remain in effect—including those standards regulated under the interim primary drinking water regulations. I believe members have received information stating that these regulations would be stopped under the bill. That is simply not correct and I want that to be understood by everyone.

For example, you have been told that a standard for nitrates would be placed under the moratorium. Nitrates contamination causes blue baby syndrome, a serious, serious health problem. Let me make it perfectly clear, the nitrates standard would continue in effect under this bill. The information you received on this is not correct.

A tremendous amount of information is being circulated about the health hazards of disinfection byproducts, a problem that one study concludes causes 10,700 cases of colon and rectal cancers per year. The existing standard applying to trihalomethanes—one disinfection byproduct—is not affected by the moratorium. In addition, EPA would continue in its current process of studying whether additional regulation is warranted.

Some have expressed concern that with this bill, we are suggesting that different health standards apply to small systems than to large systems. Let me make it clear, while I believe we need to review whether or not we should provide a different regulatory structure for small systems, I have never advocated less health protection for rural areas than for cities.

Finally, there are some who argue that this is simply an issue of providing more money to the States in order to get the job done. Mr. President, I wish it were that easy.

On the one hand, we are hearing from our States because they do not have sufficient resources to administer this program.

On the other hand, we are hearing from water systems around the country who do not have sufficient resources to implement the requirements of the act. It is estimated that the monitoring requirements of the program may cost over $200 per family per year for small systems. When many of these contaminants don't even occur in drinking water, it is inconceivable why we are asking people to spend scarce resources.

Mr. President, the Congress cannot ignore this problem any longer. We must act affirmatively on S. 2900, and move forward in addressing the numerous problems with the Safe Drinking Water Act.

S. 2900 sets up a rational process by which such a review can occur.

ORDER OF PROCEDURE

Mr. DOMENICI. I thank the Senator for giving me time. If he thinks I should remain to help with this matter I will. If not, I will yield the floor and leave at this time.

Mr. PRESSLER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Wyoming retains the floor.

Mr. SIMPSON. I yield for a question to my friend.

Mr. PRESSLER. My friend from Wyoming has said something about a replacement of the U.S. attorney in South Dakota. Let me emphasize my main concern here is a judgeship in South Dakota. The previous U.S. attorney served 10 years. The Justice Department notified me—I did not initiate this—that they wanted to rotate after 2 years or something to that effect. I wanted to make that part of the record.

Let me also say in terms of the Indian communities being incensed, I believe every tribal chief in South Dakota will strongly support this U.S. attorney. I have not heard that this is not true. As far as I know, this attorney is supported by Senator DASCHLE and myself and many others. We are trying to get him confirmed or trying to find out why he is not confirmed or, at least, what is going on.

The real issue is the U.S. judge in Pierre. We have now two judges doing the work of one. I spoke with one judge the other night, Judge Battey. This is a tough thing. I feel responsible.

People in the State asked me, and should, they should kick me in the pants: What is wrong with you? Why do we not have another U.S. judge?

We had a retirement announced well in advance. I went to the Justice Department well in advance. I remember once calling to speak to the Attorney General or someone over there last year. I have done everything I can do.

By putting a hold on for 8 or 10 hours here today I seem to have created a firestorm. There is something wrong in the way we do this. There should be orderly procedure. This is a professional position, U.S. Federal judge. We get good quality people to apply in our State, the best people.

That is where I stand. I am not going to object. But I wanted to say my piece.

Mr. SIMPSON. I plan to assist the Senator from South Dakota in any possible way that I can to achieve his objective, just as I have promised, not just promised but done in the past, and I will continue to do that at every level. It is not my position here to get into the merits of the nominees. Neither should we be checking the merits of 31 people who are disruptive of clearness, who are truly in a sense innocent victims of whatever it is that we do and we do these things.

But am I hearing from the Senator from South Dakota that he is willing to accept my word that I will do everything I can, I mean that, to break this logjam, and hopefully Wyoming judge, too? If he will help me on that one I will help him on this one. There is no quid pro quo, I jest. That is where we are. We do not get the things we want here and certainly I have not. I think I hope that we can go forward and I will make that pledge.

Mr. PRESSLER. Mr. President, I look forward to working with the Senator from Wyoming.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I understand the distinguished Senator from South Dakota no longer objects to considering the nominees. It will be. I first thank the Senator from South Dakota and indicate as the Senator from Wyoming has that we will continue. I hope this Senator has in the past to be of assistance to all of my colleagues on this side, particularly my friend from South Dakota, and I appreciate his sensitivity to this rather important issue, because other Members indicated that they were prepared if necessary to have extended debate on the nominations. That will not now be necessary. For that I thank the distinguished Senator from South Dakota.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 102-325, appoints the following Senators as members of the National Commission on the Cost of Higher Education:

The Senator from New Jersey [Mr. LAUTENBERG], from the Appropriations Committee; and

The Senator from Rhode Island [Mr. PELL], from the Committee on Labor and Human Resources.

The Chair recognizes the majority leader.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 330

Mr. RUDMAN. Mr. President, I rise in strong opposition to Senate Resolution 330, a resolution urging the President to seek Security Council authorization for the use of force in Bosnia-Hercegovina to provide humanitarian relief for civilians, to secure access to the refugee and POW camps, and to place heavy weapons under U.N. supervision.

Like all Americans, Mr. President, I am horrified by the news reports and television pictures coming out of Bosnia and the rest of the former country of Yugoslavia. As terrible as the atrocities and fighting are, however, the decision to commit the U.S. Armed Forces to combat is one that must be undertaken after very hard and realistic thinking about our objectives, the national security interests at stake, the forces we are prepared to commit, and their relationship to the objectives, the sacrifices we are prepared to ask of our servicemen, and the willingness of the American people to support such a commitment.

Regrettably, the pending resolution is not the product of such a careful analysis. Instead, this resolution represents an emotional response, albeit for the best of reasons, to the tragedy unfolding in the Balkans. It states objectives which cannot be met without the massive application of American force, probably for a period of years. That is a commitment I am not now prepared to make, and that I am confident the American people are not prepared to support.

The area encompassing the former nation of Yugoslavia has been racked by tension and conflict for over 1,000 years. The fighting has been between the Slavic people indigenous to the region and the great powers which occupied it for much of the time, as well as among those Slavs who have been, and are, separated by religion and nationality. They fought the Ottoman Empire, the Austro-Hungarian Empire, and each other at the same time. When Nazi Germany invaded in 1942, they fought the Germans even while continuing to fight and kill each other. It is worth noting that the German invasion force consisted of 550,000 men, and over 30 German divisions could not suppress the partisan guerrillas during the 2-year German occupation.

In 1945, guerrilla leader Josip Broz Tito took power and established a Communist government. While Tito was able to suppress the religious and ethnic divisions which had plagued the nation during his 35 years of rule, he faced a new problem following his break with Stalin and the Soviet Union in 1948: He feared a Warsaw Pact invasion. To forestall this, he took two steps. First, he opened a relationship with the United States. Second, and more important under the present circumstances, military service was made mandatory and every household was armed. In short, the Yugoslav Government decided to prepare for a prolonged guerrilla war if necessary to fight Soviet and other Warsaw Pact forces.

That brings us to the present time. We have a bitter conflict bred by centuries of religious, ethnic, and national divisions; Lebanon represents the prime example of how difficult such a conflict is to resolve. We have a geographic area consisting primarily of heavily wooded mountains. Finally, we have a people who have been trained in the use of arms, and who have the arms to use.

As a result, there are hundreds of thousands of Serbian, Croatian, and Bosnian militiamen fighting in Bosnia. There is another large number of Serbian and Croatian militiamen in Croatia, who continue to fight each other notwithstanding the presence of a 15,000 man U.N. peacekeeping force. Finally, the Serbian-dominated Yugoslav army and more Serbian militiamen remain in reserve in Serbia. The control by the civilian governments of the three countries over these forces varies widely, and, in many cases, is tenuous at best. Atrocities have been committed by all sides, although the Serbians seem to be guilty of more of them.

Senate Resolution 300 proposes to address this tragedy by setting out objectives that cannot, in all probability, be met without the massive application of force. The resolution specifically urges the adoption of a U.N. Security Council resolution authorizing the use of force to ensure the delivery of humanitarian supplies and international access to refugee and POW camps. In addition, the resolution calls on the Security Council to develop the means to implement a cease-fire plan, including placing all heavy weapons in Bosnia under U.N. control.

Let us examine what it will take to meet these objectives. First, it requires the commitment of ground troops. Airpower cannot suppress armed militias and snipers. There are no key command and control facilities to knock out, no critical logistic depots to destroy, and no important lines of communication to interdict. It is also very difficult to hit artillery in mountains from the air. Even if the first attack has some success, the artillery will then be dispersed and dug in, making them more difficult to find and attack thereafter.

Our military experts have estimated that it would take at least two divisions, or 30,000 troops, to secure Sarajevo airport alone. Alternately, there have been discussions about opening a Croatia to Sarajevo road; General Galvin, the former commander of NATO and U.S. forces in Europe, estimated just yesterday that such an effort would take about 70,000 troops.

But, while such a large commitment might secure the airport or the road, it does not protect the soldiers. What happens when these soldiers are attacked? Do we continually expand the allied zone of control in an effort to drive the militias back? How far do we expand our lines—until we have the entire country? What is our response, when the Serbs go to ground and start launching guerrilla or terrorist attacks, as will inevitably occur?

Access to the camps would require an additional commitment of troops and, 150,000 troops later, nothing will have been done to resolve the territorial disputes, the settlement of refugees, and centuries of hatred in the region. As General Galvin stated yesterday: "We could drive down the level of fighting, but it would still be a guerrilla war, and we would have to put a lot of forces in for a long time. We'd have to take casualties. It would cost a lot of money, and it would be unpredictable. It would be like Afghanistan with the tribes fighting each other and us in the middle."

As for gaining control over the heavy weapons, none of the militias will agree to turn over what they have. Moreover, the pending resolution contains seeds which poison whatever minimal chance there was of Serbian cooperation in such an endeavor by raising the prospect of trying Serbians for war crimes and lifting the existing arms embargo for the Bosnians alone. Once again, to meet this objective, it will require the deployment of ground troops, and that means significant casualties.

Where will these ground troops come from? Even if our NATO allies are willing to substantially contribute to this endeavor, and that is doubtful, a large percentage will have to be from the United States. I seriously doubt the American people are willing to support such a massive effort.

Some Members have suggested that demonstrations of force, primarily involving air power, will be enough to make the Serb militias see reason. That, I regret to say, is the worst kind of wishful thinking. It ignores the powerful forces of hatred at work, the tenuous control civilian authorities have over the militias, the fact that those militias control territory they will not voluntarily yield, the nature of the terrain, and hundreds of years of history.

The reality is that a serious and effective effort to bring an end of the fighting and the atrocities will involve a massive deployment of troops to occupy most of Bosnia, parts of Croatia, and possibly all or most of Serbia. It will be a long-term commitment, there will be many casualties, and violent attacks on the occupying force and elsewhere in the world will continue at some level for years. While such a plan might be militarily feasible, I hear no Member suggesting that he or she is willing to incur the resulting costs. And if we level with the American people about what is involved, their answer will be a resounding "No."

Eight years ago, Secretary of Defense Weinberger laid down the conditions he felt had to be met to commit U.S. troops to combat. They included that the "vital" interest of the United States be at stake, that the United States have a "clear intention of winning," that the political and military objectives to be achieved be clearly defined, and that there be reasonable assurance of support by Congress and the American people. None of these conditions have been met to date in this case.

Accordingly, I believe that it is irresponsible for the Senate to urge the United Nations to adopt a course of action which, if followed through on, will inevitably require the commitment of U.S. forces to combat.

Mr. President, in closing, let me state that I appreciate the compassion that led to this resolution, and I recognize the human tragedy now taking place in Bosnia and Croatia. But millions have died from brutal fighting and starvation in many countries throughout the world in the last few decades—Nigeria, Ethiopia, and Cambodia are a few examples—and the United States chose to not intervene because there was no compelling national interest or way to achieve the objective at a cost we were willing to incur. Similarly, there are no calls today to intervene in Somalia, where it is estimated that one-quarter of the people will die in the next 6 months due to fighting between various clans.

As tragic as the situation now is in the former Yugoslavia, it is not significantly different from the others. The American national interest does not justify the costly commitment being proposed by this resolution, and accordingly, I cast my vote against it.

Mr. President, I yield the floor.

CRISIS IN BOSNIA-HERCEGOVINA

Mr. GLENN. Mr. President, like people everywhere, I am horrified by the senseless slaughter and destruction that is taking place in Bosnia. Who cannot be moved by the pictures we see daily of dead and wounded civilians—waiting in line outside a store to buy bread; at a cemetery burying a murdered grandchild? Who is not shocked by the stories coming out with flood of refugees; stories of ethnic cleansing, of death, and mistreatment in camps eerily reminiscent of the Holocaust. What is so chilling about the civilian toll is that these unfortunates are not inadvertently caught in the crossfire; they are the intended targets and victims of a deliberate and horrific campaign to rid greater Serbia of any unwanted inhabitants of the wrong ethnic or religious background.

Seeing these pictures and hearing these stories, many people are calling for the United States to do something—a most natural reaction. I am a veteran of two wars and am wary of any military engagement where the goals are unclear and the means are uncertain. We have to be clear about what we are, and are not, willing to do in Bosnia.

I think the resolution recommended by the Senate Foreign Relations Committee last week, outlines a specific, measured course of intervention aimed at protecting the aid pipeline. The resolution anticipates a multilateral effort under U.N. auspices. Further, the resolution does not authorize anything. Rather it urges the President to do exactly what he is doing—seeking a U.N. consensus on appropriate multilateral actions to be taken in response to the crisis in Bosnia. When and if, with U.S. leadership, such a consensus is reached, the President will come back to the Congress and to the American people to explain what the goals of the U.N. action will be and what role the United States will play in that operation.

Undeniably, ensuring the delivery of humanitarian supplies to the people of the beleaguered Bosnian nation will not be a risk-free operation. And if we make such a commitment, we must be prepared to follow through—we cannot bluff. The United States, of course, enjoys a veto over any Security Council action. Therefore, we can rest assured that any action by the Security Council will have to be satisfactory to the U.S. Government.

On the other hand, I believe we should be very careful when talking about bringing peace to Bosnia through military force. Inserting ourselves into an ongoing war driven by ethnic animosity that is centuries old would require a major U.S. force commitment of indeterminable duration, with the very real probability of casualties. I am not at all sure the American people, outraged as they are about the atrocities occurring in Bosnia, are prepared to make that kind of commitment.

Nevertheless, expressing caution about one end of the spectrum of possible U.S. intervention—militarily imposing peace on the region—does not mean we should throw up our hands and conclude that we can do nothing about this continuing tragedy but wring our hands. I believe there is a middle ground. I believe the President is pursuing this middle ground in the United Nations; I believe this resolution, a bipartisan resolution, brings the executive and the legislative branches together in this pursuit.

BOSNIA-HERCEGOVINA

Mr. RIEGLE. Mr. President, I rise today in support of Senate Resolution 330, a sense-of-the-Senate resolution urging the President to call an emergency meeting of the U.N. Security Council in order to accomplish two specific objectives.

First, the resolution urges the President to seek U.N. Security Council authorization of all necessary means, including multilateral military force, to provide humanitarian relief to the civilians in Bosnia-Hercegovina. Second, the resolution states that the question of how to ensure access of United Nations and International Red Cross personnel to refugee and prisoner of war camps in the former Yugoslavia should be discussed.

Mr. President, the Senate is considering this resolution today not because we are trigger-happy and seek to involve this country in a very difficult conflict overseas.

We are considering this resolution today simply because President Bush has failed to provide the necessary leadership on this issue.

For months, war has been raging in Bosnia, and the administration has been unwilling to take American policy beyond an ineffective economic and diplomatic embargo of Serbia. Torture and executions of civilians in Bosnia are only tragic examples of what can happen when the leader of the free world acts too late and too timidly in the face of aggression and murderous campaigns of ethnic cleansing.

The American people, who, for the first time last week saw pictures of internment camp victims, are asking why our Government is so late in calling attention to, and demanding a halt, to these atrocities, particularly when we responded so dramatically to aggression in Kuwait.

Why, they ask, were we willing to spend billions of taxpayers dollars to liberate Kuwait, but when it comes to taking meaningful steps to provide relief to the citizens of Bosnia who are being slaughtered, the administration requires evidence of Nazi-style death camps before deciding to act.

What did the President think would occur when Serbian armies in Bosnia began pursuing policies of ethnic cleansing?

With reports that Serbia is engaged in its own final solution against non-Serbs and those Serbs who disagree with the present policy, no further delay can be justified; no more excuses can be tolerated. We ignored Hitler's genocide against 6 million Jews, and we must not make the same mistake again.

After earlier criticizing as reckless Bill Clinton's support for the use of force, if needed, President Bush has finally decided that force may be necessary to ensure the delivery of humanitarian aid. In addition, the administration has now decided to extend full diplomatic recognition to Bosnia-Hercegovina, Croatia, and Slovenia.

While these steps are welcome, the American people are asking where our President, who prides himself on his foreign policy expertise, has been for the last month, 5 months, or 10 months while this brutal war raged on?

Standing silent in the face of the kind of human suffering we are witnessing in Bosnia is not what the new world order is supposed to be all about.

Mr. President, the United States, in concert with our allies, must wait no longer to respond to the atrocities occurring there and throughout the former Yugoslavia.

The resolution now before the Senate, which urges the United States seek United Nations authorization for all necessary means to implement U.N. Security Council resolutions, represents an important response to the situation in the Balkans.

The actions proposed by this resolution are not reckless, but responsible. What is reckless is the administration's failure to act up to now, and its apparent inability to understand the facts.

First, this is not simply a civil war, but a situation where independent and sovereign states are being brutally invaded.

Second, while atrocities are occurring on all sides, it is clear that the aggressor is Serbia, armed with guns and ammunition supplied by Belgrade.

And, third, the United States does have strategic interests which require that we not turn our backs on this crisis. The risks of doing so are spelled out in an article entitled "It is bad policy to neglect the Balkans" by Daniel Nelson, which appeared in the June 25, 1991 edition of the San Francisco Chronicle. I ask unanimous consent that that article be printed in full at the conclusion of my remarks.

Mr. President, U.S. policy concerning the former Yugoslavia has been woefully inadequate. The economic and diplomatic embargo of Serbia has not been effective in stopping Serbian aggression against Bosnian civilians, and past expressions of American condemnation have been dismissed as pure rhetoric.

Adoption of the resolution before us today will demonstrate our resolve to address the crisis in Yugoslavia in a serious manner, and I strongly urge my colleagues to give it their support.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the San Francisco Chronicle, June 25, 1991]

IT IS BAD POLICY TO NEGLECT THE BALKANS

(By Daniel Nelson)

Mention the Balkans and you inspire visions of backwardness, corruption, Count Dracula and the Orient Express.

But behind these images is political reality—that Balkan discontents repeatedly have fueled European crises. In the 1990s, this Balkan imbroglio may again spill over to affect states from the Atlantic to the Urals, and the West seems not to care.

What is it that makes this peninsula between the Black, Adriatic, Aegean and Mediterranean seas so volatile?

Ethno-nationalism, a symbiosis between ethnic identity and intolerant chauvinism, is a key propellant. Soviet occupation, the weight of Communist bureaucracy and secret police repressed, but never ameliorated these visceral emotions.

The wrenching shift from centrally planned to market economics has raised the ante. For Romania, Bulgaria and Albania, the Stalinist model prevailed more completely than even in the U.S.S.R., and changes now are abrupt and costly. Yugoslavia's economic halfway house led to unimaginable corruption by the party elite.

But why should we care? In the 1990s, the Balkans have regained autonomy but with little assurance of peace or prosperity. Today the region is fertile ground for demands fanned by nationalist rhetoric.

During the 1980s, moreover, Albanians and Turks were the continent's fastest growing ethnic groups. The Balkans are also far poorer than the rest of Europe. As the European Community grapples with the issue of mass migration, a surge of Balkan peoples toward economic opportunity causes Western Europe great anxiety.

Finally, we ought not forget that the furtherance of democractic values and institutions will nowhere be tested more vigorously than in southeastern Europe. Here democracy's re-birth will be slow and painful.

This reading is one that ought to turn Western heads. The poorest and demographically fastest-growing part of Europe is, simultaneously, where democratic development is most challenged by volatility. To most, this spells trouble.

Indeed, the case with Yugoslavia suggests that domestic unrest could, in short order, spread throughout the region. Unless we foolishly assume that we can insulate the rest of Europe from desultory politics of the Balkans, there is no way to make European security immume from these afflictions.

A notion of a Europe whole and free and the ideals of the Charter of Paris cease to be universal if the West chooses to defend them selectively. If we accept that the Balkans can be left to endure new traumas without our concern, then new European walls will be erected.

The Balkans are not without hope. Turning the corner from a rigidly constrained political sphere provides new strength from below. Leaders and their policies are today matters of public discourse, and it would be impossible to again repress this.

But absent substantial Western commitments to the Balkans' development and security, the Balkans will once again be the Achilles heel of European peace. What can we do?

Secretary of State James Baker's June 18 speech in Berlin offered small-scale, technical aid proposals and vague institutional ties. Instead, tangible economic measures ought to be foremost—debt swaps, debt foregiveness, and additional multilateral loans from the European Bank for Reconstruction and Development. Heightened political and security assistance can be provided by institutionalizing the role of Conference on Security and Cooperation in Europe in all domains.

But specific proposals are less critical at this jucture than Western engagement. The Balkans can become an open wound from which European and U.S. interests will suffer. Balkan neglect is bad policy.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,999,397,071,325.80, as of the close of business on Friday, August 7, 1992.

On a per capita basis, every man, woman, and child owes $15,570.40—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

RELEASE OF SENATE SPECIAL COMMITTEE ON AGING'S REPORT ON THE AFFORDABILITY AND ACCESSIBILITY OF PRESCRIPTION DRUGS

Mr. COHEN. Mr. President, today I am joining Senator PRYOR, the Chairman of the Senate Special Committee on Aging, in releasing a report which once again dramatically illustrates the huge difficulties that senior citizens across this Nation are having in meeting the costs of their prescription drugs.

For millions of older Americans, taking prescription drugs can mean the difference between life or death. Unfortunately, however, far too many older Americans are unable to afford the drugs they need to sustain life, or to avoid hospitalization, because the price of prescription drugs has skyrocketed over the past decade.

As this report illustrates, far too often senior citizens are left on their own to pay prescription drug prices, which have soared beyond their reach.

Unlike hospital or physician services, there is little public—or affordable private—coverage for prescription drugs. While Medicaid does provide some prescription drug coverage for very low-income Americans, millions more low-income older Americans are exposed to potentially catastrophic prescription drug costs. In addition, Medicare does not cover out patient prescription drugs, and Medigap insurance policies generally offer inadequate prescription drug coverage.

The consequence of all this is to leave millions of older Americans living on fixed incomes at the mercy of exorbitant, unrelenting increases in prescription drug prices.

I want to share with my colleagues a few of the real-life stories behind the statistics.

A 79-year-old woman from Lisbon Falls, ME, testified earlier this year at an Aging Committee field hearing that the $200 per month she and her husband spend on medications takes a major chunk out of their limited income from Social Security. Because of high prescription drug bills, they depend on neighbors and friends to pay for food and heating.

A man from Presque Isle, ME, wrote me to say that his drug costs reach about $3,000 every 90 days. While he has some prescription drug coverage, the price of these drugs has more than doubled over the past decade.

A widow from central Maine wrote:

> I am living on a fixed income and wonder each month what food I can cut to pay for my prescriptions.

A senior citizen from Lubec wrote:

> There are people who don't get their prescriptions filled because they don't have the money. Those who do take only half their prescription and make do, because they cannot afford them.

I could go on and on, but it is clear from these comments that the problem of escalating prescription drug prices is far-reaching and so severe that people across the country are forced to make life or death decisions on whether to eat, keep warm, or take their medicine.

While our senior citizens are scrimping and reaching deeper into their pockets to pay for their prescriptions, the pharmaceutical companies are hitting the American public with a one-two punch: they are reaping the benefits of excessive tax subsidies with one hand and continuing to raise the price of their products with the other.

The annual profit margin of the drug industry is more than three times the profit margin of the average Fortune 500 company. Prescription drug price increases have tripled the rate of general inflation since 1980. While there is nothing wrong with profits, they should not be collected at the expense of the most vulnerable in our society.

Some major drug companies would have us believe that the way to make prescription drugs more available to seniors is through more insurance coverage or through a Medicare outpatient drug benefit. Mr. President, unless we take steps to curb excessive price increases, these solutions simply shift the cost of inflated drug prices to other payors, and do not address the underlying problem of massive increases in the cost of prescription drugs themselves. In my view, cost containment must come first—or at least hand-in-hand with—more coverage for prescription drugs.

Some drug companies also point to their own indigent drug problems which provide drugs free of charge to poor Americans as a means of improving access to prescription drugs. As the report we are releasing today illustrates, these programs are commendable efforts, but they are by no means a substitute for curbing high drug prices. Some drug programs exclude large segments of indigent patients, have cumbersome distribution procedures, and are not widely used by doctors whose patients could qualify for the programs.

While the pharmaceutical industry has taken steps in recent months to promote their indigent drug programs more extensively, these programs are still not a substitute for more affordable drug prices.

The report we are releasing today makes several recommendations on how physicians, patients, and pharmacists can make better use of these drug programs, and I hope it will be useful to physicians, patients, and agencies which serve elderly and low-income Americans.

Mr. President, in closing, I want to state that the drug companies should not be expected to give their drugs away free, nor should they be castigated for making reasonable profits. Gouging a public which is dependent on prescription drugs is, however, outrageous and should not be tolerated.

TRIBUTE TO MAJ. GEN. CHARLES A. HINES

Mr. HEFLIN. Mr. President, I want to take this opportunity to salute Maj. Gen. Charles A. Hines who, as of August 31, 1992, will retire from the Army after 38 years of continuous service. General Hines will be retiring from his post as the Commanding General of Fort McClellan Army Base, near Anniston, AL. It was General Hines' consummate professionalism that helped rescue Fort McClellan from closure last year.

General Hines has held a wide variety of important command and staff positions during his military tenure. He has worked in the Army as the Director of Manpower for the Office of the Deputy Chief of Staff for Personnel. His assignments have also included a role as Strategic Research Analyst and Director of Evaluation and Organization Effectiveness for the U.S. Army War College. He was Commander of the 14th Military Police Brigade of U.S. Army in Europe. In July 1989, General Hines took over at Fort McClellan, becoming the first black commanding general of a major military installation in the South.

Soon after the general took over the position, he was told that the base had been selected for closure. Luckily, the base closure process was revamped and the base was spared. But the base was again slated for closure in April of last year. The base again escaped closure as the Base Realignment and Closure Commission caused it to remain open. While he had to act within restraints imposed by the Department of Defense, his advice and leadership, exercised in a superb professional manner, proved to be of enormous value.

With base closure behind him, General Hines shrewdly began concentrating on finding additional missions for the post. His efforts paid off when the 11th Chemical Company moved its operations there last December. The 209th Military Police Company is also relocating to Fort McClellan. Other Federal and State agencies have used the post facilities for many types of training. The Alabama Army National Guard has more personnel training at the base now than at any time in the past 25 years. The Departments of Defense and the Army have begun investing more resources in the fort's future. Millions of dollars have been released or earmarked to augment current training or to initiate new programs. These projects are due in no small part to the general's expert leadership.

One need look no further than General Hines' impressive list of awards and decorations to realize just how important his service has proven over the years. He has received the Legion of Merit three times, the Bronze Star Medal and the Meritorious Service Medal six times each, and the Army Commendation Medal twice.

The general's energies have not all been spent on military matters. He was personally involved in a number of programs designed to encourage and motivate young people. He tutored grade school children, invited others to the fort for a tour and a visit to his office, and challenged boys and girls in foster care programs and local chapters of national organizations to work diligently as they sought to reach their goals. He presently serves as an advisor to the President's Committee on Employment of People With Disabilities.

Members of the business community of Anniston and Calhoun county have said that none of Fort McClellan's previous commanding generals has ever received or deserved more respect or admiration than Chuck Hines. According to Gerald Powell, chairman of the Military Affairs Committee of the Calhoun County Chamber of Commerce:

> It would be difficult, if not impossible, to find anyone in the area who would say that he did not do an outstanding job at Fort McClellan. His personality and commitment merged in excellent fashion with the local leadership, and he seemed to have as much concern for the welfare of the community as he did for the fort itself.

Another prominent leader of the business community, Mike Claborne, executive director of the Chamber of Commerce, says that General Hines' "professional conduct and caring attitude endeared him to the people of this area during his command at Fort McClellan. It is easy to understand why he has been so successful in his military career and in life. Few people have the combination of integrity, intelligence, charisma, and concern for others possessed by this unique man."

Mr. President, General Hines' service at Fort McClellan has indeed been invaluable and will be sorely missed. He can be justly proud of his career of service to the United States military. He has excelled in every one of his many diverse assignments in the Army. The tenacity and fortitude with which he has tackled every one of his jobs can be an example to every young soldier just entering the service of how hard work does have its rewards.

I proudly commend and congratulate General Hines on his long career of exemplary military service, and wish him and his entire family all the best as they return to Washington, DC, his hometown. The Smithsonian Institution, where he will direct the Protection Services upon his arrival in the Capital, will have yet another living treasure with the addition of General Hines.

TRIBUTE TO JAMES QUINNON STANPHILL

Mr. HEFLIN. Mr. President, on August 4, a dear friend of mine and of the north Alabama community which he called home died. James Quinnon Stanphill was a long-time resident of the Quad Cities area, made up of Sheffield, Florence, Tuscumbia, and Muscle Shoals.

James Stanphill was the owner of Alabama Oil Co., located in Sheffield. He was a past member of the Shoals Community College Foundation board of directors and a founding director and chairman of the board of First Metro Bank in Muscle Shoals. Upon learning of James' death, First Metro's president, Billy Bowling, remarked that its founder was one of the most dedicated men he had ever known.

In addition, James was a member of the Northwest Junior College Foundation Board; a member of the American Association of Retired Persons Alabama Legislative Committee; a past director of the Muscle Shoals Chamber of Commerce; a member of the Salvation Army Advisory Board; and past president of the Alabama Oil Marketers Association. This impeccable community and State leader was also a World War II veteran.

James Stanphill was a person who inspired others by his strong sense of values and of serving others. He was a good friend to many and was highly respected. Like the many others who were fortunate to have known Jim, things that always impressed me about him were his insight into what was going on in the community and his high standards of moral value.

Jim had a keen sense of humor and a contagious laugh. He would play practical jokes on his friends, and frequently they rejoined him in kind. He was affectionately and jokingly called "the Oil Sheik" on occasion. Sometimes his friends would get mad at each other, but Jim had the ability to bring about harmony and reconciliation. He was a wonderful person to eat a meal with. His thought-provoking and humorous conversation was more than a dessert.

I extend my sincere condolences to James' wife, Marvaline, and their entire family. He will be sorely missed by all who knew him.

TRIBUTE TO LENA LANDEGGER

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the memory of Mrs. Lena Landegger, who died on July 25. This esteemed businesswoman, philanthropist, and community leader resided in New York, but also maintained a home in my home State where she presided over the operations of the family business, Parsons & Whittemore. Under the leadership of Mrs. Landegger and her late husband, Karl Landegger, Parsons & Whittemore became the world's largest nonintegrated producer and seller of market paper pulp.

Mrs. Landegger was born in Moscow, Russia, in 1908, and came to the United States in 1940 after living with her husband, a manufacturer of pulp and paper and pulp- and papermaking machinery, in Austria and Great Britain.

In America, the Landeggers established the parent firm that opened the Alabama River Pulp Co. in 1979 and Alabama Pine Pulp Co. in 1991. Alabama River Newsprint Co., which began as a joint project with Abitibi-Price of Canada, started operation in 1990. In tribute to Mrs. Landegger upon her death, all three pulp mills shut down operations for 1 day.

Mrs. Landegger's activities and achievements stretched far beyond the business arena. As the president of the Landegger Charitable Foundation, she supervised the organization's educational and rehabilitational works around the world. Her view was that sound education is the best preparation for the challenges of life. In Alabama, she was active in the development of the Writing to Read Program. Additionally, she took great interest in the adult literacy program and the construction of Our Place teen center.

In 1987, Georgetown University awarded Mrs. Landegger an honorary doctoral degree, the accompanying citation of which read, in part:

> Lena Landegger is a woman who has lived the type of life about which novels are written. It is a life full of joy and grief, of participation in great successes and being subject to great reverses. Through it all her inner strength and outer peace have enabled her to achieve the primary goal around which her whole life has been built. Mrs. Landegger's internal strength and the confidence she brought to her husband and her family contributed in large measure to the success achieved in the United States * * *.

Mr. President, I stand with Lena Landegger's many friends in sending my sincere condolences to her family. She led an extraordinary life, and was a true citizen of the world.

EFFORTS OF UNITED CHURCH OF CHRIST AND NATIONAL COUNCIL OF CHURCHES OF CHRIST

Mr. LIEBERMAN. Mr. President, I rise today to acknowledge the tireless efforts of the United Church of Christ and the National Council of the Churches of Christ in working to end the carnage and bloodshed in Bosnia-Herzegovina. Since the world learned of the concentration camps run by the Serbian Army last week, and indeed, throughout this terrible civil war, the United Church of Christ and the National Council of the Churches of Christ have been striving to offer relief services and humanitarian aid to victims and refugees of this war while concomitantly seeking a political solution to this crisis.

As we in Congress work to shape Government policy and force Serbian leader to desist their practice of ethnic cleansing and war on civilians, we must also remember the essential role of charities and private relief efforts in helping bring justice to this beleaguered part of the world. Mr. President, on behalf of the Senate I would like to thank the United Church of Christ and the National Council of the Churches of Christ for their efforts, and encourage their continued dedication to bringing a lasting peace to the Balkans.

TRIBUTE TO ARKANSAS' OLYMPIC ATHLETES

Mr. PRYOR. Mr. President, I rise today to recognize the efforts of nine Olympic athletes close to the hearts of all Arkansans.

The entire world marveled at the skills of Hamburg native Scottie Pippen, who as part of the Dream Team, set new standards for excellence in men's basketball.

Fayeteville resident Mike Conley added to an already brilliant track and field career by capturing the gold in the men's triple jump.

Equally inspiring as these gold-medal performances was the courage of 800 meters runner Julie Jenkins. Mrs. Jenkins' ability to come back from a 1991 accident and compete in Barcelona, is a shining example of the Olympic spirit.

In addition to Mike Conley, the University of Arkansas' successful track program could boast ties to six other athletes, representing four different nations. Reuben Reina, Frank O'Mara, Paul Donovan, Graham Hood, Edrick Floreal, and Brian Wellman are to be congratulated for their efforts.

I know I speak for everyone across our State, when I commend these individuals for their dedication to excellence and adherence to the ideals of the Olympic games.

THE FAMILY AND MEDICAL LEAVE ACT

Mr. KERREY. Mr. President, I am proud to rise today in support of the conference report on the Family and Medical Leave legislation passed by the Senate today. I was a cosponsor of this legislation and am pleased to see it move a step closer to law. I urge the President to sign the bill to make a long overdue and much-needed change for American families.

America's families are presented with a number of difficult challenges today. Over the past several decades there have been vast changes in our economy and the way American families must respond to those changes. It has become increasingly difficult for families to provide economic opportunities to their children. Today, at least half of all mothers with children under the age of 1 work outside the home, two-thirds of mothers with children under 3 work outside the home. Yet, should a child become seriously ill, parents risk losing their jobs and jeopardizing the family's income if they take leave to care for their child.

Similarly, on the other end of the age spectrum our Nation is changing. Americans are living longer and with more chronic disabilities and illnesses. Changing demographics squeezes the working Americans between caring for their children, maintaining a job, and caring for aging parents. At least 7 million Americans provide informal care to the elderly today. The majority of these caregivers are women. With no comprehensive long-term care policy in this country and nursing home costs that average at least $30,000 a year, we must do what we can to support these caregivers in their efforts.

The Family and Medical Leave Act does this. It provides much-needed support and assistance to hard-working Americans as they attempt to meet the needs and demands of their jobs and their families.

Mr. President, we owe it to the families of America to provide them the assistance they need to balance the demands of work and family, promote economic security and stability of families, and allow workers to take reasonable leave without the fear of losing their jobs.

THOMAS PAINE MEMORIAL—SENATE CONCURRENT RESOLUTION 110

Mr. SYMMS. Mr. President, I rise today to ask unanimous consent that my friend and colleague Senator GRAMM of Texas be added to our 73 colleagues as a cosponsor of Senate Concurrent Resolution 110, the Thomas Paine Memorial.

Seventy-four Senators have joined more than 125 members, professors, department chairs, and presidents of colleges, universities, and organizations throughout our Nation.

Additionally, I ask unanimous consent that the current list of endorsing entities be included in the RECORD, followed by the names of each of the Senators who are now cosponsors of this legislation to allow the private sector to honor, on the Capitol Grounds of our Nation, the patriot who first called for separation from England, the abolition of slavery and a written constitution to protect the civil, religious and property rights of men and women of all races.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Entities With Members, Professors, Chairs or Presidents Endorsing S. Con. Res. 110—The Thomas Paine Memorial, August 10, 1992

AFL–CIO, National Headquarters—Washington, D.C.

American Antiquarian Society—Worcester, MA.

American Historical Association—Washington, D.C. (President-Elect Tilly).

The American University—Washington, D.C.

Amherst College—Amherst, MA (Dr. Henry Steele Commager).

Arizona State University—Tempe, AZ (B.R. Burg and The Historian).

Arizona, University of—Tucson, AZ.

Arkansas State University—Jonesboro, AR.

Bates College—Lewiston, ME.

Bellarmine College—Louisville, KY.

Brown University—Providence, RI (Gordon Wood).

Boise State University—Boise, ID.

Buffalo, University of—Buffalo, NY.

Brigham Young University—Provo, UT.

California at Los Angeles, University of—L.A., CA (J. Appleby, Pres O.A.H.).

Canadian Philosophical Association (President Marcil-Lacoste/Montreal U.).

Case Western Reserve University—Cleveland, OH.

Centre College—Danville, KY (Dr. C.R. Lee, Matton Prof.).

Charleston, University of—Charleston, WV.

Chicago, University of—Chicago, IL.

Cincinnati, University of—Cincinnati, OH.

City University of New York—New York, NY (Arthur Schlesinger).

Colgate University—Hamilton, NY.

Columbia University—New York, NY (Eric Foner, Pres-Elect O.A.H.).

Columbia University, City of New York—New York, NY.

Connecticut, University of (State Historian, Dr. Christopher Collier).

Cornell University—Ithaca, NY.

Democracy, College of—Arlington, VA.

Democrats of King County—King County, WA.

Drew University—Madison, NJ (President, Gov. Thomas Kean).

Eastern Kentucky University—Richmond, KY.

Emory University—Atlanta, GA.

First Unitarian Church of Cleveland—Shaker Heights, OH.

Fordham University—Bronx, NY.

Genesco, State University of New York—Genesco, NY.

George Mason University—Fairfax, VA.

George Washington, The Papers of—Charlottesville, VA.

George Washington University—Washington, D.C.

Georgetown College—Georgetown, KY.

Governor, State of New York—Albany, NY.

Governor, State of New Jersey—(The Hon. Thomas Kean).

Harvard University—Cambridge, MA (Dr. Bernard Bailyn, for himself).

Hawaii at Manoa, University of—Honolulu, HI.

Houston, University of—Houston, TX (President James Pickering).

Hunter College—New York, NY.

Hoover Institution—Stanford, California.

Illinois, University of, at Urbana-Champaign—Urbana, IL.

Indiana Historical Society—Indianapolis, IN.

Irish National Caucus—Washington, D.C.

James Madison Encyclopedia—(Prof Emeritus U.VA, Robert Rutland).

Kansas, University of—Lawrence, KS.

Kentucky, University of—Lexington, KY (Thomas Clark—KY Historian Laureate).

Kentucky, University of—Lexington, KY (History Department—Chair et.al).

Kentucky, University of—Lexington, KY (Political Science—Acting Chair).

Kentucky Historical Society—Frankfort, KY.

Kentucky, Wesleyan University—Owensboro, KY.

London, University of—London, England (Claeys-Wash U. St. Louis) 2x.

Lander College—Greenwood, SC (Dr. J. Wilson—Co-Author, Thomas Paine).

Louisville, University of—Louisville, KY.

Maine, University of—Orono, ME (Chair, J. Nadelhaft).

Marquette University—Milwaukee, WI.

Marshall University—Huntington, WV.

Maryland at College Park, University of—Coll. Pk., MD (Depts: History, Gov't-Pol).

Maryland State Archives—Annapolis, MD.

Mary Washington College—Fredericksburg, VA.

Massachusetts Institute of Technology—Cambridge, MA (Pauline Maier).

Memphis State University—Memphis, TN.

Miami University—Oxford, OH.

Murray State University—Murray, KY.

New Jersey Archives, State of—Trenton, NJ.

New Jersey, State Legislature.

New Rochelle, City of—City Historian.

New Rochelle, College of—New Rochelle, NY.

New School for Social Research—New York, NY (Louise Tilly).

New York, City University of—New York, NY (David Hawke, Author: Paine).

Notre Dame, University of—Notre Dame, IN (chair).

Oregon Historical Society—Portland, OR.

Oregon, University of—Eugene, OR.

Pace University—Pace Plaza, NY.

Patterson School of Diplomacy, U.K.—Lexington, KY (director, a.d.).

Penn State University—University Park, PA (head et. al).

Penn State University, Presidential Performance—Reading, PA.

Pennsylvania, University of—Philadelphia, PA.

Pepperdine University—Malibu, CA (entire department).

Phi Alpha Theta—History Honor Society (Dr. D. Baird—Pepperdine).

Pittsburgh, University of—Pittsburgh, PA.

Pittsburgh at Johnstown, University of—Johnstown, PA.

President of the Organization of American Historians (Joyce Appleby).

Princeton University—Princeton, NJ.

Rhode Island College—Providence, RI (Dean of Arts and Sciences).

Rhode Island, University of—Kingston, RI.

Richmond, University or—Richmond, VA.

Rochester, University of—Rochester, NY.

Rue Royal Inn—New Orleans, LA.

Rutgers University of—New Brunswick, NJ.

San Diego Mesa College—San Diego, CA.

Scranton, University of—Scranton, PA.

Southbury, CT—James A. Rousmaniere, Selectman.

St. Francis College—Ebensburg, PA.

Stanford University—Stanford, CA.

Syracuse University—Syracuse, NY.

Tennessee, University of—Chattanooga, TN.

Thomas Paine National Historical Association—New Rochelle, NY.

Thomas Paine Society—West Sussex, England.

Transylvania University of—Lexington, KY.

United States Capitol Historical Society—Washington, DC (Hon. F. Schwengel).

Utah State University of—Logan, UT.

Utah, University of—Salt Lake City, UT.

Vassar College—Poughkeepsie, NY.

Virginia, University of—Charlottesville, VA (Corcoran Dept. History)

Virginia Historical Society—Richmond, VA (director et. al.)

Washington State University—Pullman, WA (Dir. Am. Studies & A. Prof. Hist.).

Washington University in St. Louis—St. Louis, MO.

Wayne State University—Detroit, MI.

Westchester County—Westchester, NY.

Westchester County Board of Legislators—White Plains, NY (Chairman).

Western Kentucky University—Bowling Green, KY.

Western Reserve Historical Society—Cleveland, OH.

West Liberty State College, West Liberty, WV.

West Virginia, College of—Beckley, WV.

West Virginia Historical Association (unanimous vote).

West Virginia University—Morgantown, WV.

Wichita State University—Wichita, KS.

Williamette University—Salem, OR.

Wisconsin—Madison, University of—Madison, WI.

Wisconsin, University of—Milwaukee, WI (Dir. Ctr. 20th Century Studies).

Wisconsin State Historical Society, Madison, WI.

Yale University—New Haven, CT.

York College—York PA.

Adams, Brock (WA)
Akaka, Daniel K. (HI)
Bond, Christopher S. (MO)
Boren, David L. (OK)
Breaux, John B. (LA)
Brown, Hank (CO)
Burdick, Quentin N. (ND)
Burns, Conrad R. (MT)
Coats, Dan. (IN)
Cochran, Thad (MS)
Cohen, William S. (ME)
Conrad, Kent (ND)
Craig, Larry E. (ID)
Cranston, Alan (CA)
D'Amato, Alfonse (NY)
Danforth, John C. (MO)
Daschle, Thomas A. (SD)
DeConcini, Dennis (AZ)
Dodd, Christopher J. (CT)
Dole, Bob (KS)
Domenici, Pete V. (NM)
Durenberger, Dave (MN)
Fowler, Wyche, Jr. (GA)
Garn, Jake (UT)
Glenn, John (OH)
Gorton, Slade (WA)
Gramm, Phil. (TX)
Grassley, Chuck (IA)
Harkin, Tom (IA)
Hatch, Orrin G. (UT)
Hatfield, Mark O. (OR)
Heflin, Howell (AL)
Helms, Jesse (NC)

Hollings, Ernest F. (SC)
Inouye, Daniel K. (HI)
Jeffords, James M. (VT)
Kassebaum, Nancy L. (KS)
Kasten, Robert W., Jr. (WI)
Kennedy, Edward M. (MA)
Kerry, John F. (MA)
Lautenberg, Frank R. (NJ)
Levin, Carl (MI)
Lieberman, Joseph I. (CT)
Lott, Trent (MS)
Lugar, Richard (IN)
Mack, Connie (FL)
McCain, John (AZ)
McConnell, Mitch (KY)
Mikulski, Barbara A. (MD)
Murkowski, Frank H. (AK)
Nickles, Don (OK)
Nunn, Sam (GA)
Packwood, Bob (OR)
Pell, Claiborne (RI)
Pressler, Larry (SD)
Reid, Harry (NV)
Riegle, Donald W., Jr. (MI)
Robb, Charles S. (VA)
Rockefeller, John D., IV (WV)
Roth, William V., Jr. (DE)
Rudman, Warren B. (NH)
Sanford, Terry (NC)
Sarbanes, Paul S. (MD)
Seymour, John (CA)
Shelby, Richard C. (AL)
Simon, Paul (IL)
Simpson, Alan K. (WY)
Smith, Robert C. (NH)
Specter, Arlen (PA)
Stevens, Ted (AK)
Symms, Steve (ID)
Thurmond, Strom (SC)
Warner, John (VA)
Wellstone, Paul D. (MN)
Wofford, Harris (PA)

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 634, Susan H. Black, to be U.S. circuit judge;

Calendar 635, Sonia Sotomayor, to be U.S. district judge;

Calendar 636, Loretta A. Preska, to be U.S. district judge;

Calendar 637, Irene M. Keeley, to be U.S. district judge;

Calendar 685, Bruno V. Manno, to be Assistant Secretary of Education for Policy and Planning;

Calendar 686, William D. Hansen, to be chief financial officer, Department of Education;

Calendar 687, Emerson J. Elliott, to be Commissioner of Education Statistics;

Calendar 699, I. Lewis Libby, Jr., to be Deputy Under Secretary of Defense for Policy;

Calendar 700, David S. Addington, to be general counsel for the Department of Defense;

Calendar 701, Carol J. Johns, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences;

Calendar 702, Robert S. Silberman, to be an Assistant Secretary of the Army;

Calendar 730, Timothy D. Leonard, to be U.S. district judge;

Calendar 731, Lourdes G. Baird, to be U.S. district judge;

Calendar 732, Irma E. Gonzalez, to be U.S. district judge;

Calendar 733, Rudolph T. Randa, to be U.S. district judge;

Calendar 734, Don J. Svet, to be U.S. attorney;

Calendar 735, John S. Simmons, to be U.S. attorney;

Calendar 736, Henry E. Hudson, to be Director of the U.S. Marshals Service;

Calendar 737, Timothy E. Flanigan, to be an Assistant Attorney General;

Calendar 738, Stephen G. Greene, to be Deputy Administrator of Drug Enforcement;

Calendar 742, John J. Easton, Jr., to be an Assistant Secretary of Energy;

Calendar 743, Virginia S. Douglas, to be a member of the Board of Directors of the National Institute of Building Services;

Calendar 744, John H. Miller, to be a member of the Board of Directors of the National Institute of Building Sciences;

Calendar 745, Walter S. Blackburn, to be a member of the Board of Directors of the National Institute of Building Sciences;

Calendar 746, C.C. Hope, Jr., to be a member of the Board of Directors of the Federal Deposit Insurance Corporation;

Calendar 747, James D. Jameson, to be an Assistant Secretary of Commerce; and

Calendar 763, Linton F. Brooks, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Susan H. Black, of Florida, to be U.S. circuit judge for the Eleventh Circuit.

Sonia Sotomayer, of New York, to the U.S. district judge for the Southern District of New York.

Loretta A. Preska, of New York, to be U.S. district judge for the Southern District of New York.

Irene M. Keeley, of West Virginia, to be U.S. district judge for the Northern District of West Virginia.

DEPARTMENT OF EDUCATION

Bruno Victor Manno, of Ohio, to be Assistant Secretary of Education for Policy and Planning.

William Dean Hansen, of Idaho, to be Chief Financial Officer, Department of Education.

Emerson J. Elliott, of Virginia, to be Commissioner of Education Statistics, for a term expiring June 20, 1995.

DEPARTMENT OF DEFENSE

I. Lewis Libby, Jr., of the District of Columbia, to be Deputy Under Secretary of Defense for Policy.

David Spears Addington, of Virginia, to be general counsel for the Department of Defense.

Carol Johnson Johns, of Maryland, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences.

Robert S. Silberman, of Maryland, to be an Assistant Secretary of the Army.

THE JUDICIARY

Timothy D. Leonard, of Oklahoma, to be U.S. district judge for the Western District of Oklahoma.

Lourdes G. Baird, of California, to be U.S. district judge for the Central District of California.

Irma E. Gonzalez, of California, to be U.S. district judge for the Southern District of California.

Rudolph T. Randa, of Wisconsin, to be U.S. district judge for the Eastern District of Wisconsin.

DEPARTMENT OF JUSTICE

Don J. Svet, of New Mexico, to be U.S. attorney for the District of New Mexico.

John S. Simmons, of South Carolina, to be U.S. attorney for the District of South Carolina.

Henry Edward Hudson, of Virginia, to be Director of the U.S. Marshals Service.

Timothy E. Flanigan, of Virginia, to be an Assistant Attorney General.

Stephen H. Greene, of Maryland, to be Deputy Administrator of Drug Enforcement.

DEPARTMENT OF ENERGY

John J. Easton, Jr., of Vermont, to be an Assistant Secretary of Energy (Domestic and International Energy Policy).

NATIONAL INSTITUTE OF BUILDING SCIENCES

Virginia Stanley Douglas, of California, to be a member of the Board of Directors of the National Institute of Building Sciences.

John H. Miller, of Connecticut, to be a member of the Board of Directors of the National Institute of Building Sciences.

Walter Scott Blackburn, of Indiana, to be a member of the Board of Directors of the National Institute of Building Sciences.

FEDERAL DEPOSIT INSURANCE CORPORATION

C.C. Hope, Jr., of North Carolina, to be a member of the Board Directors of the Federal Deposit Insurance Corporation.

DEPARTMENT OF COMMERCE

James D. Jameson, of California, to be an Assistant Secretary of Commerce.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Linton F. Brooks, of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

STATEMENT ON THE NOMINATION OF JUDGE RUDOLPH THOMAS RANDA

Mr. KASTEN. Mr. President, I am certainly pleased that Judge Randa has been nominated by the President, and now confirmed by the Senate, to fill the open judgeship on the Federal District Court for the Eastern District of Wisconsin.

I was not surprised when Judge Randa was one of the five candidates that was considered most qualified by the Federal Merit Selection Commission that was established. That Commission included members chosen by

Senator KOHL, the State Bar of Wisconsin and me.

The Commission had the difficult job of reviewing the credentials of 22 highly qualified individuals. Though the qualifications of the five individuals recommended by the Commission reflected the high caliber of jurists and practitioners that we have in Wisconsin, I was pleased to recommend to the President the fine jurist that we have now confirmed.

Judge Randa has distinguished himself as both a practicing attorney and as a jurist in Wisconsin's fine judicial system. He has practiced on his own, served for 5 years in the Milwaukee City Attorney's Office, and then has served since 1975 as a judge on various courts.

Prior to his current position as Milwaukee County circuit court judge, which he has held for 10 years, Judge Randa also served as a judge on the Milwaukee Municipal Court, an earlier stint as a Milwaukee County circuit judge, and service on two different panels of our State's Court of Appeals.

Though we all wish it were not so, Wisconsin—and the Milwaukee area in particular—have been hit hard by the crime and drug problems that plague this Nation. Beyond the sadness that such problems mean to the individuals involved as victims, a severe strain is put on the whole judicial system as criminal cases must take precedence over civil matters.

The Eastern District bench needs for the current vacancy to be filled as soon as possible. Working from the premise that justice delayed is justice denied, the 19-month time period that civil matters take to get through the Eastern District must be reduced. A great step in that direction has been taken with this confirmation.

STATEMENT ON THE NOMINATION OF MR. HENRY HUDSON

Mr. THURMOND. Mr. President, I rise today to briefly comment on the nomination of Mr. Henry Hudson who was selected to be Director of the U.S. Marshals Service.

Mr. Hudson earned an undergraduate degree from the American University School of International Service in 1969. In 1974, he obtained a juris doctorate degree from American University Law School.

Mr. Hudson began working as a deputy sheriff for Arlington County while completing his undergraduate studies, and during law school, he served as deputy clerk of the Circuit Court for Arlington County. In 1974, Mr. Hudson became an assistant Commonwealth's attorney, and in 1978, he joined the U.S. Attorney's Office for the Eastern District of Virginia where he was an assistant U.S. attorney. In 1979, he entered into the private practice of law, and in 1980 Mr. Hudson became the Commonwealth's attorney for Arlington County where he served for 6 years. In 1986, Mr. Hudson was appointed as the U.S. attorney for the Eastern District of Virginia and served in this position until 1991. At which time, he became of counsel with the law firm of Reed, Smith, Shaw and McClay. President Bush nominated Mr. Hudson to be the Director of the U.S. Marshal Service on November 20, 1991, and in February 1992, Mr. Hudson began serving as the Acting Director.

Mr. President, I have reviewed Mr. Hudson's record and I believe his background as a prosecutor as well as his management experience will be a tremendous asset to him in this very important position. I strongly support his nomination and I urge my colleagues to do the same.

STATEMENT ON THE NOMINATION OF JOHN J. EASTON

Mr. WALLOP. Mr. President, on August 5, 1992, the Committee on Energy and Natural Resources favorably reported the nomination of John Easton to be Assistant Secretary of Energy for Domestic and International Energy Policy by a unanimous vote.

Mr. Easton currently serves the Department of Energy as general counsel and previously was Assistant Secretary of Energy for International Affairs and Energy Emergencies. Prior to joining DOE, Mr. Easton was in private law practice, and from 1981–85, he served as attorney general for the State of Vermont. Mr. Easton holds a doctor of laws degree from Georgetown University Law Center.

Mr. President, Mr. Easton is well qualified for the position to which he has been nominated, and I urge my colleagues to join me in supporting his confirmation.

STATEMENT ON THE NOMINATION OF C.C. HOPE, JR.

Mr. SANFORD. Mr. President, I rise today to express my strong support for the nomination of C.C. Hope, Jr., to serve another term as a member of the Board of Directors of the Federal Deposit Insurance Corporation [FDIC]. C.C. Hope, Jr., brings not only his impressive credentials as a banker to the FDIC, but also his numerous talents as reflected in his experience as a leader of financial and civil organizations.

Mr. Hope has had a long, distinguished career in banking, which he began some 45 years ago as a teller at First Union National Bank in Charlotte, NC. At that time, First Union National was a $35 million bank. During his 38 years at First Union, C.C. served in several capacities in the bank, participated in the negotiations for 28 mergers, and helped the bank grow into a multibillion-dollar institution. He also played a key role in establishing the bank holding company, First Union Corp., which now has assets of approximately $45 to $50 billion. In addition, C.C.'s talents and accomplishments did not go unnoticed by the State of North Carolina, as evidenced by his service as secretary of the North Carolina Department of Commerce from 1983 to 1985.

Mr. Hope's successful banking career has naturally placed him in leadership positions in a variety of financial organizations. He has served as president of the American Bankers Association and also as chairman of the ABA task force on relationships with the bank regulatory agencies. This task force conducted seminars across the Nation between banks and regulators, including the FDIC, the Comptroller of the Currency, and the Federal Reserve Board. He has also served on the advisory board of the Federal National Mortgage Association, and the Comptroller of the Currency's Advisory Committee.

Mr. Hope's strong interest in education has certainly been evident; a graduate of Wake Forest University, he has also completed graduate work at the Harvard Business School, and the Stonier Graduate School of Banking at Rutgers University. Currently, he is vice chairman and former chairman of the board of Wake Forest University; he is chairman of the board of the foundation, and has served as dean of Southwestern Graduate School of Banking at Southern Methodist University in Dallas, TX.

Finally, C.C. Hope, Jr., is a decorated veteran who has also contributed to his local business and religious communities. He led the effort to establish the Charlotte Coliseum, has spoken out for arts and education, and is chairman of the Neighborhood Reinvestment Corp. He is a deacon in his church and a Sunday school teacher.

Mr. President, C.C. Hope, Jr., is a man of talent and integrity. He has had 6 years experience already at the FDIC, and his contributions could not have come at a more important time. I am pleased that his nomination has been considered in such an expedited manner, it is important that we return him to his post so that he can continue to apply the knowledge he has gained from a long distinguished career to the FDIC, to facilitate the safety and soundness of our Nation's banking system.

EXECUTIVE CALENDAR

UNANIMOUS CONSENT ON TREATIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to consider the following matters.

Mr. President, these are treaties, conventions, and protocols. I will identify them by calendar number—Executive Calendar Item Nos. 29, 37, 38, 39, 40, 41, 42, 43, 44.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary states up to and including the presentation of the resolutions of ratification; that the recommended understandings to Executive Calendar Item No. 29 be considered as having been agreed to, that no other amendments, provisos, understandings or reservations be in order; that any statements appear as if read in the RECORD; and that the Senate vote en bloc on the resolutions of ratification without any intervening action or debate with one vote to count as nine.

I now ask for a division vote.

The PRESIDING OFFICER. All those in favor of the resolutions of ratification stand and be counted. [After a pause.]

All those opposed to the resolutions of ratification stand and be counted.

Two-thirds of those voting, having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification considered and agreed to are as follows:

(The resolution of ratification on the Basel Convention of Transboundary Movements of Hazardous Wastes and Their Disposal will be printed in a future edition of the RECORD:)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the People's Republic of the Congo Concerning the Encouragement and Reciprocal Protection of Investment, signed at Washington, February 12, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Republic of Tunisia Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol, signed at Washington on May 15, 1990.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Democratic Socialist Republic of Sri Lanka Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and a Related Exchange of Letters, signed at Colombo, Sri Lanka on September 20, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Czech and Slovak Federal Republic Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and Three Related Exchanges of Letters, signed at Washington on October 22, 1991.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Russian Federation Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and Related Exchanges of Letters, signed at Washington on June 17, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of Finland to the Treaty of Friendship, Commerce, and Consular Rights of February 13, 1934, as Modified by the Protocol of December 4, 1952, signed at Washington on July 1, 1991.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of Ireland to the Treaty of Friendship, Commerce and Navigation of January 21, 1950, signed at Washington on June 24, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Conservation of Anadromous Stocks in the North Pacific Ocean, with Annex, which was signed by the United States, Canada, Japan, and the Russian Federation on February 11, 1992, in Moscow.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the motions to reconsider the votes be tabled en bloc; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

Mr. PELL. Mr. President, today the Senate has before it for its consideration the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

The convention was negotiated under the auspices of the United Nations Environment Programme. Its goal—as described by the Department of State—is "the reduction of risks to health and the environment posed by improperly-managed wastes."

There can be no doubt about the need for strict controls on waste exports. I suspect that we all have heard horror stories about hazardous waste dumping. Perhaps the most publicized of these incidents was the 1986 saga of the Philadelphia "garbage barge" which left port with nearly 14,000 tons of toxic incinerator waste. The ship made a number of unsuccessful attempts to unload its cargo in the Caribbean and along the coast of Africa. Ultimately the ship appeared off the coast of Singapore with a new name, but without its cargo of ash. Presumably the ash was dumped at sea.

Reforms in Eastern Europe have shone a new light on the use of that region as a dumping ground for waste from throughout Europe.

Mr. President, the convention has three basic features. First, it requires the "environmentally sound management" of all transboundary shipments of hazardous and other wastes. The convention defines this as "taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes." Technical guidelines for "environmentally sound" waste management will be determined by the parties to the convention at their first meeting.

Second, the convention establishes a notice and consent system. Any export of hazardous waste requires the prior approval of the exporting State, any transit States, and the recipient State prior to its shipment. States are obligated to prohibit the export of wastes covered by the convention if they have reason to believe that the wastes will not be handled in an environmentally sound manner.

Third, the convention prohibits trade in hazardous and other wastes between parties and nonparties except under separate bilateral or multilateral waste agreements. Preexisting agreements, such as the United States bilateral agreements with Canada and Mexico, must be "compatible with the environmentally sound management of hazardous wastes and other wastes as required by the convention." New agreements must contain provisions ensuring that internationally transported wastes will be managed in a manner "not less environmentally sound than those provided for by this Convention. * * *"

The administration has requested that the Senate provide its advice and consent to the convention with four understandings. The committee agreed to the administration's request and these understandings have been incorporated in the resolution of ratification recommended to the Senate.

The first understanding makes clear that, in accordance with customary international law, the convention does not apply to sovereign immune vessels and aircraft. The second understanding clarifies that the notification requirements in the convention do not apply to ships passing through territorial seas and exclusive economic zones.

The third understanding relates to the U.S. understanding of Article 4(9)(a) of the convention which states: "Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if: (a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner;" The understanding states that the United States will consider the cost of disposal, including the comparative cost of environmentally sound disposal outside the United States, as one factor in deciding whether disposal sites in the United States are "suitable."

The fourth understanding clarifies the U.S. interpretation of article 9(2) of the convention. This article states:

> In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are: (a) taken back by the exporter or the generator, or, if necessary, by itself into the State or export, or, if impracticable, (b) are otherwise disposed of in accordance with the provisions of this Convention.* * *

The understanding clarifies that the general language of the convention is not interpreted to create an obligation for the exporting state with regard to cleanup, beyond taking such wastes back, or disposing of them in accordance with the convention.

The State Department has informed the committee that it will not ratify the convention prior to the enactment of implementing legislation both in the Letter of Submittal accompanying the convention itself, and in a subsequent letter on July 24, 1992. I ask unanimous consent that the letter appear following my remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Mr. President, the Basel Convention could mark a significant advance in efforts to promote the sound management of the international trade in hazardous wastes or it could simply ratify the status quo. As is so often the case, the devil is in the details. A key issue facing parties to the convention will be the elaboration of technical guidelines that give substance to the convention's requirement of "environmentally sound management." It is my hope, and the committee's hope, that these guidelines will provide equivalent environmental protection to standards established in U.S. law.

Finally, Mr. President, I want to make some brief comments about Article 26(1) of the convention which states that "no reservation or exception may be made to this convention." As chairman of the Committee on Foreign Relations I would like to record my concern with the practice exemplified in article 26(1) of this convention, and most recently in article 24 of the Antarctic Protocol (Treaty Doc. 102–22), of including in treaties a provision which has the purported effect of inhibiting the Senate from attaching reservations deemed necessary in the national interest or of preventing the Senate from exercising its constitutional duty to give its advice and consent to all treaty commitments before they can in any way have a binding effect upon the United States.

Whatever justifications may have existed for inclusion of such a prohibition in the Antarctic Protocol (Treaty Doc. 102–22) or the Basel Convention (Treaty Doc. 102–5) in view of the peculiar circumstances there present, the Senate's approval of these treaties should not be construed as a precedent for such clauses in future agreements with other nations requiring the Senate's advice and consent. This committee has made its position on this issue clear in the past (S. Exec. Rpt. No. 3, 85th Congress, 1st Session, p. 17, 1957). The President's agreement to such a prohibition can not constrain the Senate's constitutional right and obligation to give its advice and consent to a treaty subject to any reservation it might determine is required by the national interest.

Mr. President, I urge my colleagues to support ratification of the convention.

EXHIBIT 1

U.S. DEPARTMENT OF STATE,
Washington, DC, July 24, 1992.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: On March 12, Principal Deputy Assistant Secretary of State Richard J. Smith testified before your committee on the importance of ratification of the Basel Convention on Control of Transboundary Movements and Hazardous Wastes and Their Disposal. In requesting prompt Senate action in support of ratification, he also stressed the urgent need for Congressional approval of proposed Administration legislation to implement the Convention. Both actions are needed before the U.S. can ratify the Convention.

Since Mr. Smith's testimony, international developments have made U.S. ratification of the Convention even more urgent. On May 5, the Basel Convention entered into force for those countries having ratified the Convention.

I would like to take this opportunity to re-emphasize the reasons we attach such importance to the issue of ratifying this Convention.

First, the Basel Convention represents an important step in reducing the potential risks to health and the environment posed by improperly managed wastes. It also establishes a uniform scheme worldwide to control those transboundary movements that do occur, both for disposal and for recycling. It is very important for the United States to take a leadership role in fostering and developing this regime.

Second, since the United States is not a Party to the Basel Convention, there may be significant disruptive effects on the movement of wastes out of and into the United States for disposal, and particularly for recycling. Articles 4(5) and 11(1) of the Convention obligate Parties to prohibit exports to and imports from non-Parties of Basel-covered wastes, except where there is a regional, multilateral or bilateral agreement providing for the environmentally sound management of transboundary movements of such wastes. U.S. recycling trade with other OECD members will continue under a Council Decision adopted on March 30, and movements of hazardous wastes between the United States and Canada and the United States and Mexico will be governed by existing bilateral agreements, all other transboundary movements of Basel-covered wastes with respect to Basel Convention Parties are now prohibited.

For several years, the U.S. has exported small volumes of hazardous wastes to Finland, primarily dioxins for disposal in a highly sophisticated incinerator. Since May 5, exports of these wastes to Finland (now a Party to the Basel Convention) have been stopped. No facility for appropriate disposal of such materials currently exists in the United States. These exports to Finland are not permissible under the OECD Council Decision because they are not exported to Finland for recycling. We have determined that we do not have sufficient legislative authority, in the absence of our proposed implementing legislation, to enter into a bilateral agreement with Finland that "stipulates provisions no less environmentally sound" than the Basel Convention.

Finally, under Article 15, the first meeting of the Conference of the Parties to the Convention must take place within the first year after the Convention's entry into force. The Basel Interim Secretariat has tentatively scheduled this first meeting for November 30–December 4, most likely in Montevideo, Uruguay. Important implementation decisions will be made and processes set into motion in Montevideo to develop technical guidelines for environmentally sound management as well as possible protocols to the Convention, such as one covering liability and compensation. The United States, if it has not ratified the Convention by that time, would not be able to be a full participant in this meeting, and therefore would not be able to promote fully U.S. approaches and views in developing such technical guidelines and protocols.

Failure to become a Party would preclude United States involvement in important first steps in the life of the Convention and would have a significant impact on the interests of U.S. exporters and importers of hazardous and other wastes. We continue to believe that it is critical for the United States to ratify the Basel Convention at the earliest possible time. We remain anxious to assist in this process in any way we can.

I look forward to hearing from you in the very near future.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

BILATERAL INVESTMENT TREATIES WITH CZECH AND SLOVAK FEDERAL REPUBLIC, THE CONGO, THE RUSSIAN FEDERATION, SRI LANKA, AND TUNISIA

Mr. PELL. Mr. President, pending before the Senate are bilateral investment treaties with the Russian Federation, signed at Washington on June 17, 1992, and transmitted by President Bush on July 28, 1992 (Treaty Doc. 102–33); the Czech and Slovak Federal Republic, signed at Washington on October 22, 1991, and transmitted by President Bush on June 2, 1992 (Treaty Doc. 102–31); the People's Republic of the Congo, signed at Washington, February 12, 1990, and transmitted by President Bush on March 19, 1991 (Treaty Doc. 102–1); the Democratic Socialist Republic of Sri Lanka signed at Colombo, Sri Lanka on September 20, 1991, and transmitted by President Bush on March 24, 1992 (Treaty Doc. 102–25); and the Republic of Tunisia, signed at Washington on May 15, 1990, and transmitted by President Bush on May 17, 1991 (Treaty Doc. 102–6).

The principal purpose of the bilateral investment treaties is to promote the free flow of international investment and to encourage and protect U.S. investment in developing countries.

Before entering into negotiations, the United States developed a model treaty which sought to incorporate provisions which would facilitate the free flow of investment, prohibit practices which have emerged in various countries which inhibit that free flow, and generally codify rules on investment and dispute settlement, which the United States views as well-established international law and precedent. Specifically, the model treaty seeks to achieve the following objectives:

The better of either national or most-favored-nation treatment, for each party to the treaty, thereby providing in the case of United States companies a level playing field in competing with national and third country investors, subject to specified exceptions set forth in the annex to each treaty;

International law standards shall apply to the expropriation of investments, permitting expropriation only for a public purpose and requiring the payment of prompt and fair compensation;

The free transfer of funds associated with an investment into and out of the host country;

Access to binding international arbitration for settlement of investment disputes;

A prohibition on the imposition of performance requirements, which have become important as countries have increasingly imposed requirements to use domestically produced goods; and

The right of companies to hire top managers of their choice, regardless of nationality.

The earliest formal economic treaties that the United States negotiated with other countries were a series of Friendship, Commerce, and Navigation [FCN] treaties. These treaties set the framework for U.S. trade and investment relations with foreign countries.

With the advent of the General Agreement on Tariffs and Trade [GATT] in 1948, U.S. trade relations began to be set with foreign countries through multilateral trade agreements and the use of FCN treaties faded; the last two FCN's were negotiated in the late 1960's. This multilateral approach left a gap in relations with foreign countries involving U.S. investment abroad, since investment matters are currently outside the scope of GATT. However, the United States has included the investment issue of performance requirements in the Trade Related Investment Measures [TRIMMS] of the current Uruguay trade negotiations. The North American Free-Trade Agreement also has investment provisions similar to a bilateral investment treaty.

In an attempt to promote the free flow of investment internationally, in the absence of multilaterally agreed to rules, the United States began, in 1981, to negotiate a new series of treaties called Bilateral Investment Treaties [BIT's]. The BIT Program is designed to provide certain mutual guarantees and protections and to create a more stable and predictable legal framework for foreign investors with each of the treaty partners. A special tenet of the program is to ensure that United States direct investment abroad and foreign investment in the United States should receive fair, equitable and nondiscriminatory treatment. The BIT's are, therefore the modern successor on the investment side to the Friendship, Commerce, and Navigation Treaty series. In comparison with its predecessor, the BIT is far more detailed and provides greater protection for the foreign investor, including an investor-to-state disputes mechanism that generates to United States investors the right to binding arbitration against the host state without the involvement of the U.S. Government.

The Senate gave its advice and consent to ratification of BIT's with Senegal, Zaire, Morocco, Turkey, Cameroon, Bangladesh, Egypt, and Grenada in 1988, and in 1990 a BIT with Panama and a business and economic relations treaty with Poland which contained BIT elements. The treaty with Poland was the first extension of this program to facilitate the continuation of economic and political changes which have taken place in Eastern Europe over the last 4 years. All of these treaties have entered into force except the one with Poland. The treaty with Poland has not been brought into force because Polish law on intellectual property rights has not yet been revised in conformity with the terms of the treaty.

The negotiation of BIT's has accelerated dramatically since 1990. The administration has signed a BIT with Kazakhstan, Argentina, and Romania. These treaties should be submitted to the Senate later this year. Negotiations are currently ongoing with Uruguay, Bolivia, Nigeria, Hungary, Jamaica, Armenia, Costa Rica, Hong Kong, Venezuela, Colombia, Pakistan, Peru, Mongolia, Kyrgyzstan, Barbados, and Bulgaria. In addition, there are 14 other countries with which the administration hopes to initiate negotiations in the near future.

The administration has informed the committee that there have been no major problems involving a United States investment, with the exception of Zaire, in countries with which bilateral investment treaties are in force. They have also stated there have been no cases in which the bilateral investment treaty dispute settlement mechanism for international arbitration has been invoked.

The administration has indicated that in a number of the countries with BIT's in effect, U.S. investment has increased since the BIT went into force. However, the administration has pointed out that the existence of a BIT will not guarantee increased U.S. investment. Because investment decisions are based on a variety of factors and the BIT's have only been in force for a short period of time, the administration says it would be difficult to draw a relationship between increased investment and the BIT's.

The proposed treaties with Russia, the Czech and Slovak Federal Republic, the Congo, Sri Lanka, and Tunisia generally satisfy the major objectives contained in the model treaty and variations from these objectives are set forth in the committee's reports.

During the committee's hearing on August 4, 1992, Assistant Secretary of State for Economic and Business Affairs, Eugene J. McAllister urged the Senate to give its advice and consent to the treaty as soon as possible:

> At first glance, given the possible separation of Czechoslovakia into two states, it may appear to be premature to act at this time. However, we believe it is important to act quickly. While separation of the country appears likely, it is still not a certainty that the Czech and Slovak Federal Republic will split.

The administration has urged the committee and the Senate to act quickly to give advice and consent to ratification of this treaty. It is scheduled for consideration by the Czech and Slovak Federal Republic Federal Assembly in September. The administration has said it does not expect any opposition to the treaty and that the Czech and Slovak Federal Government is prepared to bring the treaty into force once ratified.

If the two governments are able to bring this treaty into force prior to a possible separation of the Federal Republic the committee has been assured by the administration that the treaty would be binding under international law on the successor states.

In the event the treaty is not ratified by the Czech and Slovak Federal Republic and does not enter into force prior to any separation of the Federal Republic, the administration has informed the committee that it would ask the successor states to accept the treaty for ratification as is. In the event any substantive changes in the treaty are agreed to with a successor state to the Czech and Slovak Federal Republic, the administration has agreed to submit the revised treaty for advice and consent.

The committee acknowledges the confidence expressed by the administration that it is possible for this treaty to enter into force prior to any possible separation of the Czech and Slovak Federal Republic, and its representation that the treaty will be binding upon any successor states should a separation subsequently occur. Accordingly, the committee has accepted the urging of the administration to act quickly on this treaty and recommends that the Senate give its advice and consent to ratification at the earliest possible date.

On August 4, 1992, the Committee on Foreign Relations held a hearing on these treaties. Testimony was received by the Honorable Eugene J. McAllister, Assistant Secretary for Economic and Business Affairs Bureau, Department of State.

The committee also received answers from the administration to numerous questions regarding the operation of the bilateral investment treaty program and the provisions of this treaty. This material, together with the administration's description of the U.S. Model Bilateral Investment Treaty [BIT] of February 1992 has been made a part of the official record of these hearings.

In addition, the committee received statements in support of the treaty from the National Association of Manufacturers, the U.S. Council for International Business, and Kenneth J. Vandevelde, associate professor of law, Western State University College of Law, San Diego, CA.

The Committee on Foreign Relations voted to report favorably these treaties, and recommend that the Senate give its advice and consent to their ratification at a meeting on August 6, 1992.

Mr. President, I urge that the Senate advise and consent to the bilateral investment treaties with Russia, the Czech and Slovak Federal Republic, the Congo, Sri Lanka, and Tunisia.

PROTOCOLS TO THE FRIENDSHIP, COMMERCE AND NAVIGATION TREATIES WITH FINLAND AND IRELAND

Mr. PELL. Mr. President, pending before the Senate are protocols to the existing Friendship, Commerce and Navigation Treaties with Finland (Treaty Doc. 102-34) and Ireland (Treaty Doc. 102-35), transmitted by President Bush on July 30, 1992.

These protocols will establish the legal basis by which the United States may issue investor (E-2) visas to qualified nationals of Finland and Ireland by supplementing the United States-Finland and United States-Ireland friendship, commerce, and navigation [FCN] treaties to allow for entry and sojourn of investors, a benefit provided in the large majority of United States FCN treaties. United States investors are already eligible for Finnish and Irish visas that offer comparable benefits to those that would be accorded nationals of Finland and Ireland under E-2 visa status.

The protocols are a precondition to the issuance of a treaty investor visa to a Finnish or Irish national, inasmuch as section 101(a)(15)(E)(ii) of the Immigration and Nationality Act [INA], 8 U.S.C. 1101(a)(15)(E)(ii), permits issuance of an E-2 visa only to a nonimmigrant who is "* * * entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national * * * solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital."

Although the United States FCN treaties contain a provision qualifying the treaty partner's nationals for E-2 visas, the existing United States-Finland and United States-Ireland treaties do not. The protocols are intended to overcome this deficiency.

The Treaty protocols reflect language found in the INA and in U.S. FCN and investment treaties generally. The principal substantive article of the protocols provide that:

> Nationals of either Contracting Party shall be permitted, subject to the laws relating to the entry and sojourn of aliens, to enter the territories of the other Party and to remain therein for the purpose of developing and directing the operations of an enterprise in which they have invested, or in which they are actively in the process of investing, a substantial amount of capital.

The administration has informed the committee that Finnish direct investment in the United States totaled $1.763 billion at yearend 1990, while United States direct investment in Finland amounted to $542 million. Irish direct investment in the United States totaled $905 million at yearend 1990, while United States direct investment in Ireland amounted to $6.776 billion.

On August 4, 1992, the Committee on Foreign Relations held a hearing on these protocols. Testimony was received by the Honorable Eugene J. McAllister, Assistant Secretary of State for Economic and Business Affairs Bureau. On August 6, 1992, the committee voted to report favorably these protocols and recommended that the Senate give its advice and consent to their ratification.

Mr. President, I urge that the Senate advice and consent to the pending protocols with Finland and Ireland.

CONVENTION FOR THE CONSERVATION OF ANADROMOUS STOCKS IN THE NORTH PACIFIC OCEAN

Mr. PELL. Mr. President, today the Senate has before it for its consideration the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, or, more simply, the Salmon Convention.

The convention prohibits the directed take of salmon stocks, and requires that their incidental take be reduced to the maximum extent practicable. The convention applies to the area of the North Pacific Ocean north of 33 degrees north latitude and beyond coastal state 200-mile exclusive economic zones [EEZ's].

The need for this convention was underscored in a hearing before the committee by our colleague from Oregon, Senator PACKWOOD; as well as Mr. Richard Lauber, the chairman of the North Pacific Fisheries Management Council and the commissioner of the International North Pacific Fisheries Council; and Mr. David Colson, the Deputy Assistant Secretary for Oceans and Fisheries Affairs.

The convention is notable for its conclusion of enforcement mechanisms. It authorizes parties to take measures cooperatively and individually to prevent trafficking in illegally harvested stocks. Further, the convention authorizes the boarding, search, and seizure of ships of states parties or the arrest of individuals by duly authorized officials of another party. Any ship seized or individual arrested in this manner shall be turned over to their government as soon as possible for appropriate legal action.

The convention also establishes a new organization—the North Pacific Anadromous Fish Commission—to promote the conservation of anadromous stocks in the convention area. The convention vests the Commission with broad authority to make recommendations and collect information. This includes authority to: Recommend measures for the conservation of anadromous stocks; promote the exchange of information about activities contrary to the purpose of the convention; consider and make proposals for the enactment of schedules of equivalent penalties for activities contrary to the convention; and recommend amendments to the convention. All important Commission decisions will be made by consensus, with each party having the right to decide if an issue is important.

Mr. President, the committee's report makes three recommendations with regard to the convention. First, it notes that the convention is consistent with agenda 21—the program of action to promote sustainable development adopted at the recently concluded U.N. Conference on Environment and Development—and urges the administration to continue its support for agenda 21. Second, the committee strongly encourages the U.S. representatives on the Commission to advocate proposals for the adoption by each of the parties of uniform certificate of origin programs. Finally, the committee encourages the administration to seek adherence to the terms of the convention by those nonparties whose fishing activities affect the conservation of Pacific salmon.

One final note Mr. President, I would note that the convention draws heavily on principles found in customary international law, as reflected in article 66 of the 1982 U.N. Convention on the law of the sea. That article recognizes that states in whose rivers anadromous stocks originate have primary interest in and responsibility for these stocks, even when they move to the high seas.

In my view, the fact that the administration so frequently draws on the law of the sea, as it has in this convention, underscores the desirability of seeing this convention submitted to the Senate for this advice and consent.

Mr. President, I am aware of no opposition to this treaty, and I urge my colleagues to support its approval.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

PROVIDING FOR THE CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE AND THE HOUSE

Mr. MITCHELL. Mr. President, on behalf of the two leaders, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 135) providing for a conditional recess or adjournment of the Senate from Wednesday, August 12, 1992 until Tuesday, September 8, 1992, and a conditional adjournment of the House on the legislative day of Wednesday, August 12, 1992, until Wednesday, September 9, 1992.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Without objection, the concurrent resolution is agreed to.

So the concurrent resolution (S. Con. Res. 135) was agreed to, as follows:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Wednesday, August 12, 1992 pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12 noon, or until such time as may be specified by the majority leader, or his designee, in the motion to adjourn or recess, on Tuesday, September 8, 1992, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on the legislative day of Wednesday, August 12, 1992, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand adjourned until 12 noon on Wednesday, September 9, 1992, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The majority leader of the Senate and the Speaker of the House, acting jointly after consultation with the minority leader of the Senate and the minority leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REHABILITATION ACT AMENDMENTS OF 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 589, S. 3065, a bill to revise and extend the Rehabilitation Act of 1973.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3065) to revise and extend the Rehabilitation Act of 1973, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 3065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rehabilitation Act Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

Sec. 101. Findings and purpose.
Sec. 102. Definitions.
Sec. 103. Allotment percentage.
Sec. 104. Nonduplication.
Sec. 105. Reports.
Sec. 106. Review of applications.
Sec. 107. Carryover.
Sec. 108. Client assistance information.

Subtitle B—Vocational Rehabilitation Services

Sec. 111. Policy; authorization of appropriations.
Sec. 112. State plans.
Sec. 113. Determinations of eligibility and individualized written rehabilitation program.
Sec. 114. Scope of vocational rehabilitation services.
Sec. 115. Non-Federal share for construction.
Sec. 116. State Rehabilitation Advisory Council.
Sec. 117. Evaluation.
Sec. 118. Monitoring and review.
Sec. 119. Reallotment.
Sec. 120. Payments to States.
Sec. 121. Client assistance program.
Sec. 122. Innovation and expansion grants.
Sec. 123. Study of needs of American Indians with handicaps.
Sec. 124. Review of data collection system.
Sec. 125. Exchange of data.
Sec. 126. Issuance of regulations.
Sec. 127. Social Security reimbursement payments.

TITLE II—RESEARCH

Sec. 201. Declaration of purpose.
Sec. 202. Authorization of appropriations.
Sec. 203. National Institute on Disability and Rehabilitation Research.
Sec. 204. Interagency committee.
Sec. 205. Research.
Sec. 206. Rehabilitation Research Advisory Council.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

Sec. 301. Declaration of purpose; organization.
Sec. 302. Training.
Sec. 303. Special training initiatives.
Sec. 304. Community rehabilitation programs for individuals with disabilities.
Sec. 305. Loan guarantees for community rehabilitation programs.
Sec. 306. Comprehensive rehabilitation centers.
Sec. 307. General grant and contract requirements.
Sec. 308. Authorization of appropriations for special projects and supplementary services.
Sec. 309. Special demonstration programs.
Sec. 310. Migratory workers.
Sec. 311. Special recreational programs.
Sec. 312. Independent living services for older individuals who are blind.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

Sec. 401. Establishment.
Sec. 402. Duties of National Council.
Sec. 403. Compensation of members.
Sec. 404. Compensation of staff.
Sec. 405. Authorization of appropriations.

TITLE V—ACCESS

Sec. 501. Access.
Sec. 502. Effect on existing law.
Sec. 503. Employment of individuals with disabilities.
Sec. 504. References to the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Employment under Federal contracts.
Sec. 506. Nondiscrimination under Federal grants and programs.
Sec. 507. Secretarial responsibilities.
Sec. 508. Interagency Coordinating Council.
Sec. 509. Electronic and information technology accessibility guidelines.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Sec. 601. Pilot program.
Sec. 602. Treatment of personal assistance services costs.
Sec. 603. Definitions.
Sec. 604. Authorization of appropriations.
Sec. 605. Projects With Industry.
Sec. 606. Authorization of appropriations.
Sec. 607. Supported employment.

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

Sec. 701. Centers and services.

TITLE VIII—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

Sec. 801. Congressional findings.
Sec. 802. Continued operation of Center.
Sec. 803. Audit, monitoring, and evaluation.

Sec. 804. Authorization of appropriations.
Sec. 805. Definitions.
Sec. 806. Construction of Act, effect on agreements.
Sec. 807. Establishment of a program.
Sec. 808. Technical and conforming amendments.

Subtitle B—Other Programs

Sec. 811. Committee for Purchase from People Who Are Blind or Severely Disabled.
Sec. 812. Individuals With Disabilities Education Act.
Sec. 813. Technology-Related Assistance for Individuals With Disabilities Act of 1988.
Sec. 814. President's Committee on Employment of People With Disabilities.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

SEC. 101. FINDINGS AND PURPOSE.

Section 2 (29 U.S.C. 701) is amended to read as follows:

"SEC. 2. FINDINGS; PURPOSE; POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

"(2) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) contribute to society;

"(E) pursue meaningful careers; and

"(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(4) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purpose of this Act is to empower individuals with disabilities to achieve economic self-sufficiency, independence, and inclusion and integration into the society, through—

"(1) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(2) independent living centers and services;

"(3) research;

"(4) training;

"(5) demonstration projects; and

"(6) the guarantee of equal opportunity.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, family member, guardian, advocate, or authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.".

SEC. 102. DEFINITIONS.

(a) DESIGNATED STATE AGENCY.—Section 7(3) (29 U.S.C. 706(3)) is amended by striking "(3)" and inserting the following:

"(3)(A) The term 'designated State agency' means an agency designated under section 101(a)(1)(A).

"(B)".

(b) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—Section 7(4) is amended—

(1) by striking "rehabilitation facility" each place the term appears and inserting "community rehabilitation program";

(2) by striking "means" and inserting "includes"; and

(3) by striking "facilities)" and inserting "facilities for community rehabilitation programs)".

(c) DRUG.—Section 7 is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraph (22) as paragraph (5); and

(3) by inserting paragraph (5) (as so redesignated by paragraph (2) of this subsection) after paragraph (4).

(d) EMPLOYMENT OUTCOME.—Section 7(6) is amended to read as follows:

"(6) The term 'employment outcome' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act.".

(e) FEDERAL SHARE.—Section 7(7) is amended—

(1) in subparagraph (A), by striking "80 percent" and inserting "78.7 percent";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(4) in subparagraph (B) (as redesignated by paragraph (3) of this subsection), by striking "section 301(b)(3)" each place the term appears and inserting "section 111(a)(3)".

(f) INDIVIDUAL WITH DISABILITIES.—Section 7(8) is amended—

(1) in subparagraph (A)—

(A) by striking "handicaps" and inserting "a disability";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "handicap" and inserting "impediment"; and

(C) in clause (ii)—

(i) by striking "reasonably be expected to";

(ii) by striking "employability" and inserting "an employment outcome"; and

(iii) by striking "titles I and III" and inserting "titles I, III, and VI";

(2) in subparagraph (B)—

(A) by striking "(C) and (D)" and inserting "(C), (D), and (E)";

(B) by striking "handicaps" and inserting "a disability"; and

(C) by striking "titles IV and V" and inserting "sections 2, 14, and 15, and titles II, IV, and V";

(3) in subparagraph (C)—

(A) in clause (i), by striking "handicaps" and inserting "a disability";

(B) in clause (ii), by striking "handicaps" and inserting "a disability";

(C) in clause (iv)—

(i) by striking "handicapped student" and inserting "student who is an individual with a disability and"; and

(ii) by striking "nonhandicapped students" and inserting "students who are not individuals with disabilities"; and

(D) in clause (v) by striking "handicaps" and inserting "a disability"; and

(4) by adding at the end the following:

"(E) For the purposes of sections 501, 503 and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) For the purposes of sections **[**503**]** *501*, *503*, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.".

(g) NONPROFIT.—Section 7(10) is amended by striking "with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by" and inserting "with respect to a community rehabilitation program, means a community rehabilitation program carried out by".

(h) PERSONAL ASSISTANCE SERVICES.—Section 7 is amended—

(1) by striking paragraph (13);

(2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(3) by inserting after section (10) the following:

"(11) The term 'personal assistance services' means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability.".

(i) REHABILITATION TECHNOLOGY.—Section 7(13) (as so redesignated by subsection (h)(2)) is amended—

(1) by striking "rehabilitation engineering" and inserting "rehabilitation technology"; and

(2) by adding at the end the following: "The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.".

(j) INDIVIDUAL WITH A SEVERE DISABILITY.—Section 7(15) is amended—

(1) in subparagraph (A)—

(A) by striking "subparagraph (B)" and inserting "subparagraph (B) or (C)";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "employability" and inserting "an employment outcome"; and

(C) in clause (iii), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) For purposes of title VII, the term 'individual with a severe disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) For purposes of section 13 and title II, the term 'individual with a severe disability' includes an individual described in subparagraph (A) or (B).".

(k) STATE.—Section 7(16) is amended to read as follows:

"(16) The term 'State' includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association).".

(l) SUPPORTED EMPLOYMENT.—Section 7(18) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for those individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(m) PUBLIC OR NONPROFIT.—Section 7(19) is amended to read as follows:

"(19) The term 'public or nonprofit', with respect to an agency or organization, includes an Indian tribe.".

(n) ADDITIONAL DEFINITIONS.—Section 7 (as amended by subsection (c)(2)) is amended by adding at the end the following new paragraphs:

"(22) The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

"(B)(i) to the extent additional data is necessary, a comprehensive assessment of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment may include—

"(I) to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(II) an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

"(ii) the administration of the assessment described in clause (i);

"(C)(i) referral;

"(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

"(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

"(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

"(23) The term 'assistive technology device' means an item, a piece of equipment, or a product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"(24) The term 'assistive technology service'—

"(A) means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device; and

"(B) includes—

"(i) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the customary environment of the individual;

"(ii) purchasing, leasing, or otherwise providing for the acquisition by individuals with disabilities of assistive technology devices;

"(iii) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(iv) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with existing education and rehabilitation plans and programs;

"(v) training or technical assistance for an individual with disabilities, or, if appropriate, the family of an individual with disabilities; and

"(vi) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, individuals with disabilities.

"(25) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(26) The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, IV, and V, a physical or mental impairment that substantially limits one or more major life activities.

"(27) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(28)(A) The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)));

"(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

"(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(29) The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(30) The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services for individuals with cognitive and sensory disabilities, including life skills training, interpreter and reader services;

"(vi) personal assistance services, including the training of personnel providing such services;

"(vii) supported living;

"(viii) transportation;

"(ix) physical rehabilitation;

"(x) therapeutic treatment;

"(xi) prostheses and other appliances and devices;

"(xii) health maintenance;

"(xiii) individual and group social and recreational services;

"(xiv) services for children;

"(xv) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future; and

"(xvi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(31)(A) The term 'individuals with disabilities' means more than one individual with a disability.

"(B) The term 'individuals with severe disabilities' means more than one individual with a severe disability.

"(C) The term 'individuals with the most severe disabilities' means more than one individual with the most severe disability.

"(32) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development and placement;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, family members, guardians, or legal representatives of the individuals, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(33) The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

"(34) The term 'transition services' means a coordinated set of activities for a student that—

"(A) are designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

"(B) are based on the needs of the individual student, taking into account the preferences and interests of the student; and

"(C) include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.".

(o) Conforming Amendments; Individuals With Disabilities.—

(1) The title (29 U.S.C. 701 et seq.) is amended—

(A) by striking "those with the most severe handicaps" and inserting "individuals with the most severe disabilities"; and

(B) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(2) The table of contents relating to the Act is amended—

(A) by striking the item relating to section 501 and inserting the following:

"Sec. 501. Employment of individuals with disabilities.";

(B) by striking the item relating to the title heading for title VI and inserting the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

(C) by striking the item relating to the part heading for part A of title VI and inserting the following:

"Part A—Community Service Employment Programs for Individuals With Disabilities";

(D) by striking the item relating to the part heading for part B of title VI and inserting the following:

"Part B—Projects With Industry and Business Opportunities for Individuals With Disabilities";

and

(E) by striking the item relating to section 622 and inserting the following:

"Sec. 622. Business opportunities for individuals with disabilities.".

(3) Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (13) (as so redesignated by subsection (h)(2)) by striking "handicaps" and inserting "disabilities";

(B) in paragraph (15)(A)—

(i) by striking "severe handicaps" and inserting "a severe disability"; and

(ii) by striking "handicaps (as defined in paragraph (8))" and inserting "a disability"; and

(C) in paragraph (17) by striking "handicaps" and inserting "disabilities".

(4) The last sentence of section 13 (29 U.S.C. 712) is amended by striking "handicaps" and inserting "disabilities".

(5) Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" and inserting "disabilities".

(6) Section 15 (29 U.S.C. 714) is amended—

(A) in subsections (a) and (b) by striking "handicaps" each place the term appears and inserting "disabilities";

(B) in subsection (a)(2) by striking "handicapping conditions" and inserting "disabilities"; and

(C) in subsection (c) by striking "the Handicapped" and inserting "Individuals with Disabilities".

(7) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (1)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities";

(ii) in subparagraph (A)(i)—

(I) by striking "the blind" each place such term appears and inserting "individuals who are blind"; and

(II) by striking "the adult blind" and inserting "adults who are blind"; and

(iii) in subparagraph (B), by striking "the blind" and inserting "individuals who are blind"; and

(B) in paragraph (2)(B) by striking "the blind" and inserting "individuals who are blind";

(C) in paragraphs (2), (4), (5), (6), (10), (11), (12), [14], (15), and (21), by striking "handicaps" each place such term appears and inserting "disabilities";

(D) in paragraph (9) by striking "handicaps" and inserting "a disability";

(E) in paragraph (13)(B) by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained";

(F) in paragraph (20)—

(i) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(ii) by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(G) in paragraph (22)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "handicaps" and inserting "disabilities".

(8) Subsections (c) and (d) of section 102 (29 U.S.C. 722 (c) and (d)) are amended by striking "handicaps" and inserting "a disability".

(9) Section 103 (29 U.S.C. 723) is amended—

(A) in the matter preceding paragraph (1) in subsection (a), and in subsection (b)(2), by striking "handicaps" and inserting "a disability";

(B) except as provided in subparagraph (A) of this paragraph, by striking "handicaps" each place such term appears and inserting "disabilities";

(C) in subsection (a)—

(i) in paragraph (4)—

(I) in subparagraph (A), by striking "handicap" each place such term appears and inserting "impediment"; and

(II) in subparagraph (E), by striking "suffering from" and inserting "with";

(ii) in paragraph (6), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iii) in paragraph (8), by striking "the blind" and inserting "individuals who are blind"; and

(D) in subsection (b)(4)—

(i) by striking "the blind" and inserting "individuals who are blind"; and

(ii) by striking "the deaf" and inserting "individuals who are deaf".

(10) Section 112 (29 U.S.C. 732) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(11) Section 130 (29 U.S.C. 750) is amended—

(A) in subsections (a) and (b)(1)(B) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(B) in subsection (b)(1)(B) by striking "individuals with handicaps" and inserting "individuals with disabilities".

(12) Section 202 (29 U.S.C. 761a) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (c)(1) by striking "the Handicapped" and inserting "Disability".

(13) Subsections (b) and (c) of section 203 (29 U.S.C. 761b (b) and (c)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(14) Section 204 (29 U.S.C. 762) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "individuals suffering from" and inserting "individuals with"; and

(ii) in paragraph (8)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities";

(iii) in paragraph (10), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iv) in paragraph (11)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "children with severe handicaps" each place the term appears and inserting "children who are individuals with severe disabilities"; and

(B) except as provided in subparagraph (A) of this paragraph, by striking "handicaps" each place such term appears and inserting "disabilities".

(15) Section 300 (29 U.S.C. 770) is amended—

(A) in paragraph (2) by striking "handicaps" and inserting "disabilities"; and

(B) in paragraph (3)—

(i) by striking "individuals with handicaps" each place the term appears and inserting "individuals with disabilities";

(ii) by striking "older blind individuals, and deaf individuals" and inserting "older individuals who are blind, and individuals who are deaf";

(iii) by striking "workers with handicaps" and inserting "workers who are individuals with disabilities"; and

(iv) by striking "farmworkers with handicaps" and inserting "farmworkers who are individuals with disabilities".

(16) Section 302 (29 U.S.C. 772) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) in subsections (b) and (c) by striking "handicaps" each place such term appears and inserting "disabilities".

(17) Section 303(a) (29 U.S.C. 773(a)) is amended by striking "handicaps" and inserting "disabilities".

(18) Section 304 (29 U.S.C. 774) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (b)(2)(B), by striking "handicap" and inserting "disability".

(19) Section 305(a) (29 U.S.C. 775(a)) is amended—

(A) in paragraph (1), by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in paragraph (2) by striking "the deaf" and inserting "individuals who are deaf".

(20) Subsections (f) and (h) of section 306 (29 U.S.C. 776 (f) and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(21) Section 311 (29 U.S.C. 777a) is amended—

(A) in subsection (a)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(ii) in paragraph (1), by striking "blind or deaf individuals" and inserting "individuals who are blind or individuals who are deaf";

(B) in subsection (c)(1) by striking "with handicaps" and inserting "who are individuals with disabilities";

(C) in subsection (d)(3), by striking "handicaps" and inserting "disabilities"; and

(D) in subsection (e)(1), by striking "with severe handicaps" and inserting "who are individuals with severe disabilities".

(22) Section 312 (29 U.S.C. 777b) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(23) Section 314 (29 U.S.C. 777d) is amended—

(A) in the section heading, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(B) in subsection (a)(1), by striking "blind persons" and inserting "individuals who are blind and";

(C) in subsection (a)(2)—

(i) by striking "available to blind persons" and inserting "available to individuals who are blind";

(ii) by striking "needs of blind persons" and inserting "needs of such individuals"; and

(iii) by striking "to assist blind persons" and inserting "to assist such individuals"; and

(D) in paragraphs (1), (2), (5) and (6) of subsection (c), by striking "blind persons" and inserting "individuals who are blind".

(24) Section 315 (29 U.S.C. 777e) is amended—

(A) in the section heading, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF";

(B) in subsection (a), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(C) in subsection (b)(1), by striking "to the maximum number of deaf individuals feasible" and inserting "to the maximum feasible number of individuals who are deaf";

(D) in subsection (c), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf"; and

(E) in subsection (d), by striking "deaf individuals" and inserting "individuals who are deaf and".

(25) Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended—

(A) by striking "individuals with handicaps" each place the term appears and inserting "individuals with disabilities"; and

(B) by striking "peers without handicaps" and inserting "peers who are not individuals with disabilities".

(26) Section 400(a) (29 U.S.C. 780(a)) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(27) Section 401(a) (29 U.S.C. 781(a)) is amended—

(A) in paragraph (4) by striking "individuals with handicaps and" each place such term appears; and

(B) in paragraphs (5), (6), and (7), by striking "handicaps" each place such term appears and inserting "disabilities".

(28) Section 403(a)(1) (29 U.S.C. 783(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(29) Section 501 (29 U.S.C. 791) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES";

(B) in subsection (a) by striking "Handicapped Employees" and inserting "Employees who are Individuals with Disabilities";

(C) in subsections (a), (b), (c), (d), and (f) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(D) in subsection (b) by striking "employees with handicaps" and inserting "employees who are individuals with disabilities".

(30) Subsections (a), (b), (c), (g), and (h) of section 502 (29 U.S.C. 792 (a), (b), (c), (g), and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(31) Section 503 (29 U.S.C. 793) is amended—

(A) in subsection (a) by striking "handicaps as defined in section 7(8)" and inserting "disabilities"; and

(B) in subsection (b)—

(i) by striking "individual with handicaps" and inserting "individual with a disability"; and

(ii) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(32) Section 504 (29 U.S.C. 794) is amended in subsection (a)—

(A) by striking "handicaps" and inserting "a disability"; and

(B) by striking "handicap" and inserting "disability".

(33) Section 508 (29 U.S.C. 794d) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "handicaps" and inserting "disabilities"; and

(ii) in paragraph (3), by striking "Handicapped Employees" and inserting "Employees with Disabilities"; and

(B) in subsection (c), by striking "with handicaps" and inserting "with a disability".

(34) Title VI is amended in the title heading by striking "HANDICAPS" and inserting "DISABILITIES".

(35) Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

(36) Part A of title VI is amended in the part heading, by striking "HANDICAPS" and inserting "DISABILITIES".

(37) Subsections (a) and (b) of section 611 (29 U.S.C. 795 (a) and (b)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(38) Section 615(a)(1) (29 U.S.C. 795d(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(39) Section 616(2) (29 U.S.C. 795e(2)) is amended, by striking "handicaps" and inserting "disabilities".

(40) Part B of title VI is amended in the part heading by striking "HANDICAPS" and inserting "DISABILITIES".

(41) Section 622 (29 U.S.C. 795h) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) by striking "handicaps" and inserting "disabilities".

SEC. 103. ALLOTMENT PERCENTAGE.

Section 8(a)(1) (29 U.S.C. 707(a)(1)) is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association)".

SEC. 104. NONDUPLICATION.

The second sentence of section 10 (29 U.S.C. 709) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

SEC. 105. REPORTS.

The fourth sentence of section 13 (29 U.S.C. 712) is amended by inserting "including types of rehabilitation technology services provided," after "types of services provided,".

SEC. 106. REVIEW OF APPLICATIONS.

(a) TRANSFERS.—Section 16(b) (29 U.S.C. 715(b)) is amended by striking "one-half of".

(b) COMPENSATION.—Section 18 (29 U.S.C. 717) is amended by striking "the rate provided for grade GS–18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 107. CARRYOVER.

(a) IN GENERAL.—The Act is amended by adding after section 18 (29 U.S.C. 717) the following new section:

"SEC. 19. CARRYOVER.

"Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, part C of title VI, or part B, C, or D of title VII that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 18 the following:

"Sec. 19. Carryover.".

SEC. 108. CLIENT ASSISTANCE INFORMATION.

(a) IN GENERAL.—The Act is amended by adding after section 19 (as added by section 107(a)) the following new section:

"SEC. 20. CLIENT ASSISTANCE INFORMATION.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals or their parents, guardians, or legal representatives of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 19 (as added by section 107(b)) the following:

"Sec. 20. Client assistance information.".

Subtitle B—Vocational Rehabilitation Services

SEC. 111. POLICY; AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS; PURPOSE; POLICY.—Section 100 (29 U.S.C. 720) is amended—

(1) in the section heading, by striking "PURPOSE" and inserting "POLICY"; and

(2) by striking subsection (a) and inserting the following:

"(a)(1) Congress finds that—

"(A) work—

"(i) is a valued activity, both for individuals and society; and

"(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

"(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

"(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

"(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

"(i) discrimination;

"(ii) lack of accessible and available transportation;

"(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

"(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

"(E) enforcement of title V and of the Americans with Disabilities Act of 1990 holds the promise of ending discrimination for individuals with disabilities; and

"(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

"(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

"(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

"(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

"(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

"(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational services they receive.

"(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

"(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

"(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

"(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.".

(b) REAUTHORIZATION.—Section 100 is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) For the purpose of making grants to States under part B of this title (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997 except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

"(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.";

(2) in subparagraphs (A) and (B) of subsection (c)(2), by striking out "authorized to be appropriated under subsection (b)(1) for

the subsequent fiscal year is the amount authorized to be" each place the term appears and inserting "to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount"; and

(3) in subsection (d)(1)(B)—

(A) by striking "1992" the first place the term appears and inserting "1997"; and

(B) by striking "or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,".

(c) Table of Contents.—The table of contents relating to the Act is amended by striking the item relating to section 100 and inserting the following:

"Sec. 100. Policy.".

SEC. 112. STATE PLANS.

(a) Period.—The first sentence of section 101(a) (29 U.S.C. 721(a)) is amended by striking "for a three-year period" and all that follows and inserting the following: "for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.".

(b) State Agency.—Section 101(a)(1)(A) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by inserting before the semicolon at the end the following: ", (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa, and (iv) in the case of each of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association), the appropriate State agency shall be the head of government of the entity".

(c) Plans; Policies; Methods.—Section 101(a)(5) is amended—

(1) in subparagraph (A)—

(A) by striking "existing rehabilitation facilities to the maximum extent feasible;" and inserting "community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,"; and

(B) by inserting before "and shall be consistent" the following: "in accordance with criteria established by the State,"; and

(2) by striking subparagraph (C) and inserting the following:

"(C) describe—

"(i) how rehabilitation technology services will be provided at each stage of the rehabilitation process;

"(ii) how such rehabilitation technology services will be provided on a statewide basis; and

"(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;".

(d) Facilities Compliance.—Section 101(a)(6)(B) is amended by inserting before the semicolon at the end the following: ", with section 504 of this Act, and with the Americans with Disabilities Act of 1990".

(e) Personnel.—Section 101(a) is amended by striking paragraph (7) and inserting the following:

"(7)(A) provide for a comprehensive system of personnel development for professionals and paraprofessionals employed by the State agency, which system shall include—

"(i) the development, updating, and implementation of a plan that will address current and projected personnel needs of the State agency and that will coordinate and facilitate efforts to recruit, prepare, and retain qualified personnel; and

"(ii) a description of the procedures and activities the State will undertake to ensure that all personnel needed by the State agency to carry out this part are appropriately and adequately prepared, including—

"(I) training regarding responsibilities established by the Rehabilitation Act Amendments of 1992;

"(II) surveys to determine training needs;

"(III) a system for the continuing education of personnel; and

"(IV) procedures for acquiring and disseminating to personnel significant knowledge derived from research and other sources;

"(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel needed by the State agency to carry out this part are appropriately and adequately prepared and trained, including—

"(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State; and

"(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;".

(f) Availability of Comparable Services.—Section 101(a)(8) is amended by striking "except that" and all that follows and inserting "except that such determinations shall not be required—

"(A) if the determinations would delay the provision of such services to any individual at extreme medical risk; or

"(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;".

(g) Use of Existing Information.—Section 101(a)(9) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(2) by striking "(9) provide that" and inserting "(9) provide that—

"(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;";

(3) in subparagraphs (B), (C), and (D), as redesignated by paragraph (1) of this subsection, by indenting the subparagraphs to the same measure as subparagraph (A); and

(4) in subparagraphs (B) and (C), as so redesignated, by striking the comma at the end and inserting a semicolon.

(h) Interagency Cooperation.—Section 101(a)(11) is amended—

(1) by striking "(11) provide for entering into cooperative agreements" and inserting "(11)(A) provide for interagency cooperation";

(2) in subparagraph (A), as designated by paragraph (1) of this subsection—

(A) by striking "and" after "Individuals with Disabilities Education Act,"; and

(B) by adding after "the Carl D. Perkins Vocational Education Act" the following: ", and the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938, (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.); and"; and

(3) by adding at the end the following:

"(B) in providing for interagency cooperation under subparagraph (A), to provide for such cooperation by means including, if appropriate—

"(i) establishing interagency working groups; and

"(ii) entering into formal interagency cooperative agreements that—

"(I) identify policies, practices, and procedures that can be coordinated (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals) among the agencies;

"(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

"(III) include all additional components necessary to ensure meaningful cooperation and coordination;".

(i) Community Rehabilitation Programs.—Section 101(a)(12) is amended—

(1) in subparagraph (A), by striking "facilities" and inserting "programs"; and

(2) in subparagraph (B), by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(j) Continuing Statewide Studies.—Section 101(a) is amended—

(1) in the matter preceding paragraph (16) by striking "provide for continuing" and inserting "(15) provide for continuing"; and

(2) in paragraph (15)(B), as so designated by paragraph (1), by striking "capacity and condition of rehabilitation facilities, plans for improving such facilities," and inserting "capacity and effectiveness of community rehabilitation programs, plans for improving such programs,".

(k) Review and Efforts.—Section 101(a)(16) is amended to read as follows:

"(16) provide for—

"(A) annual review and reevaluation (including input by the individual with a disability, or by the family of the individual if the individual with a disability requests, desires, or needs assistance) of the status of individuals with disabilities placed in extended employment settings in community rehabilitation programs (including workshops) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) to determine the interests, priorities, and needs of such individuals for their employment, or training for competitive employment, in integrated settings in the labor market; and

"(B) maximum efforts, including the provision of vocational rehabilitation services, designed to promote movement from extended employment to integrated employment (including supported employment);".

(l) CONSTRUCTION.—Section 101(a)(17) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(m) VIEWS CONSIDERED.—Section 101(a)(18) is amended by inserting "the Director of the client assistance program under section 112," after "field of vocational rehabilitation,".

(n) STRATEGIC PLAN.—Section 101(a)(19) is amended by inserting before the semicolon the following: ", and for developing and updating the strategic plan required under part C".

(o) PUBLIC COMMENT.—Section 101(a)(23)(A) is amended by inserting after "comment on the State plan" the following: "before development of the plan by the State".

(p) GOALS AND PUBLIC EDUCATION.—Section 101(a)(24) is amended to read as follows:

"(24) contain plans, policies, and methods to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(B)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

"(A) facilitate the development and accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives and goals and objectives related to independent living before a student leaves a school setting, to the extent such goals and objectives are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services; and

"(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(3) to an individual, consistent with the individualized written rehabilitation program of the [individual]. *individual; and*".

(q) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 101(a) is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting a semicolon; and

(3) by adding at the end the following:

"(26) provide for coordination and working relationships with the Statewide Independent Living Council established under section 704 and independent living centers within the State;

"(27) provide satisfactory assurances to the Commissioner that the State has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title;

"(28)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

"(B) provide satisfactory assurances that the system in no way impedes such accomplishment;

"(29) describe how the State is taking steps to work with disability organizations, business, industry, and labor to expand employment opportunities for individuals with disabilities, including—

"(A) furnishing training and technical assistance with respect to changes made to the Act by the Rehabilitation Act Amendments of 1992; and

"(B)(i) furnishing training and technical assistance with respect to methods for complying with sections 503 and 504 of this Act and with title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); or

"(ii) otherwise ensuring equal opportunity for applicants and employees who are individuals with disabilities (regardless of whether an applicant or employee has applied for or is receiving vocational rehabilitation services under this Act); and

"(30) provide satisfactory assurances to the Commissioner that—

"(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

"(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

"(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the State agency to such advice and recommendations (including explanations with respect to advice and recommendations that were rejected); and

"(iv) the designated State unit transmits to the Council—

"(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner;

"(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

"(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings; or

"(B) an independent commission—

"(i) is responsible under State law for overseeing the operation of the designated State agency;

"(ii) is consumer-controlled by persons who—

"(I) are individuals with physical or mental impairments that substantially limit major life activities; and

"(II) represent individuals with a broad range of disabilities;

"(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

"(iv) undertakes the function set forth in section 105(c)(3); or

"(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

"(i) an independent commission is responsible under State law for both such agencies and meets the requirements of subparagraph (B)(ii); or

"(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

"(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.".

(r) TECHNICAL AMENDMENT.—Section 101 is amended by striking subsections (c) and (d).

SEC. 113. DETERMINATIONS OF ELIGIBILITY AND INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) ELIGIBILITY.—Section 102(a) (29 U.S.C. 722(a)) is amended to read as follows:

"(a)(1) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A) shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

"(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the preliminary assessment described in subparagraph (C)(iii)(II), of section (7)(22).

"(5)(A) The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

"(i) the designated State unit notifies the individual with a disability that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual with a disability agrees that an extension of time is warranted; or

"(ii) such an extended evaluation is required.

"(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(ii).

"(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

"(A) the reasons for such a determination;

"(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(C) the availability of services provided by the client assistance program under section 112 to the individual.".

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the designated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

"(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

"(I) such eligible individual (or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative, of such individual); and

"(II) the vocational rehabilitation counselor or coordinator; and

"(ii) such program meets the requirements set forth in subparagraph (B).

"(B) Each individualized written rehabilitation program shall—

"(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

"(ii) include a statement of the long-range rehabilitation goals based on the assessment of rehabilitation needs for the individual;

"(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through an assessment of rehabilitation needs carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

"(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service; and

"(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate objectives and long-term rehabilitation goals for the individual;

"(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

"(vi) provide for—

"(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

"(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

"(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(viii) include the terms and conditions under which goods and services described above will be provided to the individual;

"(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

"(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, family member, guardian, advocate, or authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

"(xi) include, if necessary, an amendment specifying—

"(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

"(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(xiii) provide a description of the availability of a client assistance program established pursuant to section 112.

"(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative."; and

(2) in paragraph (2), by inserting after the first sentence the following: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program.".

(c) TECHNICAL AMENDMENT.—Section 102(c) is amended—

(1) by striking "Commissioner shall also insure" and inserting "Director of the designated State unit shall also ensure"; and

(2) in paragraph (2), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of paragraph (22)".

(d) SELECTION OF IMPARTIAL HEARING OFFICER.—Section 102(d) is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) The impartial hearing officer shall be selected to hear a particular case, either on a random basis or by agreement between the director of the designated State unit and the individual with a disability, from among a pool of qualified persons identified jointly by—

"(i) the designated State unit; and

"(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (D) through (H) of section 105(b)(1);

"(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(30); or

"(III) the commissions described in section 101(a)(30)(C)(ii).";

(2) in paragraph (3) by striking subparagraph (C) and inserting the following:

"(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

"(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision.

"(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.";

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) Unless the individual with a disability so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.".

SEC. 114. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) IN GENERAL.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;";

(2) in paragraph (2)—

(A) by striking "referral,"; and

(B) by striking ", and other services" and all that follows through "under this Act";

(3) in paragraph (3)—

(A) by striking "and services" and inserting "such services"; and

(B) by striking ": *Provided*, That" and inserting ", except that";

(4) in paragraph (5), by striking ", not exceeding the estimated cost of subsistence, during rehabilitation" and inserting "for additional costs incurred while participating in rehabilitation";

(5) by striking "and" at the end of paragraph (11);

(6) in paragraph (12), by striking "engineering services." and inserting "technology services;"; and

(7) by adding at the end the following:

"(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

"(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

"(15) on-the-job or other related personal assistance services provided to assist an individual in performing work-related functions necessary to obtain and retain competitive work in an integrated work setting and to fulfill the functions of a job while the individual is actively involved in a rehabilitation program that includes the provision of other services authorized under this section; and

"(16) supported employment services.".

(b) ADDITIONAL VOCATIONAL REHABILITATION SERVICES.—Section 103(b)(2) is amended by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting "the establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)".

SEC. 115. NON-FEDERAL SHARE FOR CONSTRUCTION.

Section 104 (29 U.S.C. 724) is amended—

(1) by striking "costs of construction or establishment of a public or nonprofit rehabilitation facility" and inserting "costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program"; and

(2) by striking "construction or establishment of a facility" and inserting "establishment of such a program or construction of such a facility".

SEC. 116. STATE REHABILITATION ADVISORY COUNCIL.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following:

"SEC. 105. STATE REHABILITATION ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(30) to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the 'Council') in accordance with this section.

"(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) at least one representative of the Statewide Independent Living Council established under section 704, which representative may be the chairperson or other designee of the Council;

"(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

"(C) at least one representative of the client assistance program established under section 112;

"(D) at least one vocational rehabilitation counselor, who shall not be employed by the designated State unit, with knowledge of and experience with vocational rehabilitation programs;

"(E) at least one representative of community rehabilitation program providers;

"(F) at least one representative of business and industry;

"(G) at least one representative of labor;

"(H) representatives of disability advocacy groups representing a cross section of—

"(i) individuals with physical, cognitive, sensory, and mental disabilities; and

"(ii) parents, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(I) current or former applicants for, or recipients of, vocational rehabilitation services.

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(8)(B); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—The Council shall select a chairperson from among the membership of the Council.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) review, analyze, and advise the designated State unit in the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

"(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

"(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

"(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 704, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x-4(e)); and

"(6) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 104 the following:

"Sec. 105. State Rehabilitation Advisory Council.".

SEC. 117. EVALUATION.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by section 116(a), is further amended by adding at the end the following:

"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

"(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

"(b) COMPLIANCE.—

"(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) PROGRAM IMPROVEMENT.—

"(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) REVIEW.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) REPORT TO CONGRESS.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 105 (as added by section 116(b)) the following:

"Sec. 106. Evaluation standards and performance indicators.".

SEC. 118. MONITORING AND REVIEW.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by sections 116(a) and 117(a), is further amended by adding at the end the following:

"SEC. 107. MONITORING AND REVIEW.

"(a) IN GENERAL.—

"(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction surveys;

"(G) information provided by the State Rehabilitation Advisory Council established under section 105;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits;

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(28) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) REVIEW.—

"(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6(c) (29 U.S.C. 705(c)) is amended by striking "101" and inserting "107".

(2) The table of contents relating to the Act is amended by inserting after the item relating to section 106 (as added by section 117(b)) the following:

"Sec. 107. Monitoring and review.".

SEC. 119. REALLOTMENT.

(a) TERRITORIES.—Section 110(a)(3) (29 U.S.C. 730(a)(3)) is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau".

(b) REALLOTMENT.—Section 110(c) is amended by adding at the end the following:

"(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year that will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallotment to other States until reallotted.".

SEC. 120. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1), by striking out "(including any additional payment to it under section 110(b))";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking out "(and any additional payment under subsection (b))"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year."; and

(3) by adding at the end the following new paragraph:

"(3) The amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a)), in such State except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such subsection.".

SEC. 121. CLIENT ASSISTANCE PROGRAM.

(a) DIRECTLY RELATED SERVICES.—Section 112(a) (29 U.S.C. 732(a)) is amended—

(1) in the first sentence—

(A) by inserting "and provide advocacy on behalf of" after "to assist"; and

(B) by inserting "and advocacy" after "including assistance"; and

(2) by inserting after the second sentence the following: "In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.".

(b) REDESIGNATION OF AGENCY.—Section 112(c)(1) is amended by striking subparagraph (B) and inserting the following:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(i) the Governor has given the agency notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

"(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.".

(c) MINIMUM STATE ALLOTMENTS.—Section 112(e)(1) is amended—

(1) in subparagraph (B), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association)";

(2) in subparagraph (C), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau"; and

(3) in subparagraph (D)(ii)—

(A) by striking "subsection (c)" and inserting "clause (i)"; and

(B) by striking "by more than the percentage increase in the Consumer Price Index published monthly by the Bureau of Labor Statistics".

(d) EVALUATION.—Section 112 is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 112(h) (as so redesignated by subsection (d)(2) of this section) is amended by striking "$7,100,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.".

SEC. 122. INNOVATION AND EXPANSION GRANTS.

(a) AMENDMENT.—Part C of title I (29 U.S.C. 740 et seq.) is amended to read as follows:

"PART C—INNOVATION AND EXPANSION GRANTS

"SEC. 120. STATE ELIGIBILITY.

"Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

"SEC. 121. CONTENTS OF STRATEGIC PLANS.

"(a) PURPOSE AND POLICY.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

"(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

"(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of title VI;

"(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

"(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

"SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS.

"(a) PERIOD AND UPDATES.—The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

"(b) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 704.

"(c) CONSIDERATION OF RECOMMENDATIONS.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

"(d) PROCEDURE.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

"(e) DISSEMINATION.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

"SEC. 123. USE OF FUNDS.

"A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

"(1) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

"(2)(A) programs, projects, and activities designed to initiate, expand, and improve vocational rehabilitation services for individuals with the most severe disabilities (including increasing the availability of integrated, community-based service options and job opportunities through the redesign of existing service options);

"(B) special programs to initiate, expand, or improve services to classes of individuals with disabilities who have unusual or complex rehabilitation needs; and

"(C) programs that maximize the use of rehabilitation technology, including, if appropriate, the evaluation and adaptation to the workplace or training program;

"(3) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

"(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

"(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education and continuing education, and businesses, industry, and labor organizations in order to create and facilitate cooperation in—

"(i) planning and implementing services; and

"(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

"(C) improve the ability of professionals, consumers, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

"(4) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

"(5) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

"(6) support the provision of training and technical assistance to consumers, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by Rehabilitation Act Amendments of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

"(7) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 704.

"SEC. 124. ALLOTMENTS AMONG STATES.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $200,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraph (1)(B) and under paragraph (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2) as increased in accordance with subsection (a)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to part C of title I and inserting the following:

"PART C—INNOVATION AND EXPANSION GRANTS

"Sec. 120. State eligibility.
"Sec. 121. Contents of strategic plans.
"Sec. 122. Process for developing strategic plans.
"Sec. 123. Use of funds.
"Sec. 124. Allotments among States.".

SEC. 123. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.

(a) REPEAL.—Part D of title I is amended by repealing section 131 (29 U.S.C. 751).

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 131.

SEC. 124. REVIEW OF DATA COLLECTION SYSTEM.

(a) REVIEW.—The Commissioner of the Rehabilitation Services Administration shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973, particularly data on clients of the programs under title I of the Rehabilitation Act of 1973.

(b) CONSIDERATIONS.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of rehabilitation services, professionals in the field of vocational rehabilitation, consumers and organizations representing consumers, National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) SUBMISSION OF REPORT.—The Commissioner shall submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

SEC. 125. EXCHANGE OF DATA.

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973, and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.

SEC. 126. ISSUANCE OF REGULATIONS.

(a) ORDER OF SELECTION.—The Secretary of Education shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) of the Rehabilitation Act of 1973 if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

(b) QUALITY OF SERVICES.—

(1) IN GENERAL.—The Secretary of Education shall promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services under section 102, and the procurement of such services directly by an individual with a disability consistent with section 102 of the Rehabilitation Act of 1973.

(2) PROCEDURES.—The regulations shall specify—

(A) procedures that States must adopt to ensure that the services are of sufficient scope and quality and that the costs of such services are reasonable; and

(B) procedures that prevent fraud, waste, and abuse with respect to the provision of such services.

SEC. 127. SOCIAL SECURITY REIMBURSEMENT PAYMENTS.

Any State that uses, during fiscal year 1992, program income from Social Security reimbursement payments generated under the State vocational rehabilitation services program under title I of the Rehabilitation Act of 1973 or the State supported employment services program under part C of title VI of such Act to support allowable expenditures under any other rehabilitation program under such Act may continue such use until October 1, 1994.

TITLE II—RESEARCH

SEC. 201. DECLARATION OF PURPOSE.

Section 200 (29 U.S.C. 760) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

"(3) ensure the widespread distribution of practical information generated by research, demonstration projects, training, and related activities in usable formats regarding state-of-the-art practices, improvements in the services authorized under this Act, and new knowledge regarding disabilities to rehabilitation professionals, individuals with disabilities, and other interested parties; and

"(4) promote the transfer and utilization of rehabilitation technology to individuals with disabilities in order to enable such individuals to live more independently.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1), by striking "fiscal year 1987" and all that follows through the semicolon and inserting "each of fiscal years 1993 through 1997;" and

(2) by striking paragraph (2) and inserting the following:

"(2) to carry out title II, except with respect to expenses provided for under paragraph (1), such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 203. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

(a) ESTABLISHMENT.—Section 202(a) (29 U.S.C. 761a(a)) is amended—

(1) in the first sentence—

(A) by striking "In order" and all that follows through "there" and inserting "(1) There"; and

(B) by striking the period at the end and inserting the following: ", in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204;

"(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities."; and

(2) by striking the second sentence and inserting the following:

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).".

(b) RESPONSIBILITIES.—Section 202(b) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and their families;";

(2) in paragraph (4)—

(A) by adding "widely" before "disseminating"; and

(B) by striking "and to public" and all that follows and inserting the following: "to public and private entities, rehabilitation practitioners, and individuals with disabilities and their families, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(3) in paragraph (6), by striking "concerning" and all that follows and inserting the following ", concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(4) by striking paragraph (7) and inserting the following:

"(7) preparing and submitting to the President and the appropriate committees of Congress an annual report on the implementation and conduct of programs and activities carried out under this title, including—

"(A) information on specific advances and developments produced by such programs and activities and the specific impact of the programs and activities on—

"(i) vocational rehabilitation services for individuals with disabilities; and

"(ii) the quality of life of individuals with disabilities;

"(B) a description of the manner in which such information was disseminated; and";

(5) in paragraph (8)—

(A) by inserting "the Health Care Financing Administration," after "the Bureau of the Census";

(B) by inserting "widely" before "disseminating"; and

(C) by inserting ", individuals with disabilities and their families," after "rehabilitation professionals"; and

(6) by adding at the end the following new paragraph:

"(9) coordinating with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).".

(c) Director.—

(1) In general.—Section 202(c)(1) is amended by striking the fourth sentence.

(2) Qualifications.—Section 202(c)(2) is amended—

(A) by inserting after the first sentence the following: "The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.";

(B) in the sentence beginning "The Deputy Director shall be compensated"—

(i) by striking "the rate provided for grade GS–17 of the General Schedule under section 5332" and inserting "a rate that does not exceed the rate specified for level V of the Executive Schedule under section 5316"; and

(ii) by striking "or disability of the Director" and inserting "of the Director or the inability of the Director to perform the essential functions of the job"; and

(C) in the last sentence, by striking "in grade GS–17" and inserting "above grade GS–15".

(d) Fellowships.—Section 202(d) is amended by inserting ", including individuals with disabilities," after "fellows".

(e) Scientific Review.—Section 202(e) is amended—

(1) by inserting "(1)" after "(e)";

(2) by striking "within" and inserting "by"; and

(3) by striking the period at the end and inserting the following: "competent to review research grants and programs, including knowledgeable individuals with disabilities and family members of individuals with disabilities. Individuals comprising such peer review groups shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

"(2) In providing such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities and their representatives.".

(f) Use of Funds.—Section 202 is amended by striking subsection (f) and inserting the following:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.".

(g) Long-Range Plan.—Section 202(g) is amended—

(1) in the matter preceding paragraph (1), by striking "within eighteen months after the effective date of this section";

(2) in paragraph (1), by striking "problems encountered" and all that follows and inserting "full inclusion and integration into society of individuals with disabilities, especially in the area of employment;";

(3) by striking "and" at the end of paragraph (2);

(4) by striking the period at the end of paragraph (3) and inserting "; and"; and

(5) by adding at the end the following new paragraphs:

"(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and their families, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

"(5) specify plans for widespread dissemination of research results in practical, usable formats to rehabilitation practitioners, individuals with disabilities, including individuals with disabilities who are from diverse ethnic and cultural backgrounds, or from populations unserved, or underserved, by programs under this Act, and the families of the individuals;

"(6) be developed by the Director—

"(A) in coordination with the Commissioner; and

"(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established under section 203, individuals with disabilities and their families, and any other persons or entities the Director considers appropriate; and

"(7) be revised, in the manner required by this section—

"(A) at least once every 5 years; and

"(B) at any time determined to be necessary by the Director.".

(h) Research Program.—Section 202(i)(2) is amended by striking "this section" and inserting "this title".

(i) Pediatric Rehabilitation Research.—Section 202(j) is amended—

(1) in paragraph (1), by striking "for the establishment of" and inserting "to support"; and

(2) in paragraphs (2) and (3), by striking "establish" and inserting "support".

(j) Rehabilitation Researchers.—Section 202(k) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to areas of research that improve the effectiveness of services authorized under this Act.".

(k) Recommendations and Study.—Section 202 is amended by striking subsections (l) and (m).

SEC. 204. INTERAGENCY COMMITTEE.

(a) Establishment.—Section 203(a)(1) (29 U.S.C. 761b(a)(1)) is amended by inserting "the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services," after "designees): the Director,".

(b) Identification, Assessment, and Coordination.—Section 203(b) is amended by striking "The" and inserting "After receiving input from individuals with disabilities and their families, the".

(c) Report.—Section 203(c) is amended by striking ", not later than" and all that follows through "shall" and inserting "shall annually".

SEC. 205. RESEARCH.

(a) In General.—Section 204(a) (29 U.S.C. 762(a)) is amended—

(1) in the first sentence, by striking "demonstrations," and all that follows and inserting "demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, and VII of this Act."; and

(2) in the last sentence—

(A) by striking "special problems of homebound and institutionalized individuals" and inserting "studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized"; and

(B) by striking the period at the end and inserting the following: ", particularly individuals with disabilities, and individuals with the most severe disabilities, who are from populations that are unserved, or underserved, by programs under this Act.".

(b) Research Activities.—Section 204(b) is amended—

(1) by redesignating paragraphs (4) through (15) as paragraphs (7) through (18), respectively;

(2) by striking the matter preceding paragraph (1) and all that follows through paragraph (3) and inserting the following:

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research activities described in paragraphs (2) through (18).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services, to serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and their families.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

"(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities and their families, and public and private agencies through conferences, workshops, public education programs, in-service training programs, and similar activities.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) research to develop and evaluate interventions, policies, and services that support families of children and adults who are individuals with disabilities; and

"(vi) research that will improve services and policies that foster the productivity, independence, and social integration and enable individuals with disabilities to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

"(i) be of sufficient size, scope and quality as to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) have the ability to carry out the training activities either directly or through another entity that can provide such training.

"(K) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(L) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(M) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and their families.

"(N) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Technology Research and Resource Centers operated by or in collaboration with institutions of higher education or nonprofit private organizations to conduct research, demonstration projects, and training activities regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for, better meeting the needs of, and addressing the barriers confronted by individuals with disabilities in employment, rehabilitation, education, transportation, communication, access to information, recreation, and other aspects of independent living.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out research and demonstration activities by—

"(i) planning and conducting research and development activities designed to produce new scientific knowledge, to identify new or emerging technologies, to develop or improve the design of rehabilitation technologies, to improve the design and usability of mass market products and environments, or to document the utilization, effectiveness, and benefits of such technologies, products, or environments; or

"(ii) facilitating service delivery systems change, by documenting, evaluating, and disseminating innovative, cost-effective service delivery models that—

"(I) are consumer responsive and individual and family centered; and

"(II) promote prompt utilization of a wide range of rehabilitation technologies, with special attention to service delivery to individuals with severe disabilities and service delivery in rural and urban areas.

"(C) To the extent consistent with the nature and type of research or demonstration activities provided under subparagraph (B), such Centers shall—

"(i) assist, train, and provide information to individuals with disabilities and their families to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options and entitlements available at the national, State, and local levels; and

"(ii) train individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology.

"(D) Areas of focus for the activities conducted by a Center shall include—

"(i) a life area consisting of—

"(I) early childhood life, including early intervention and family support;

"(II) education at the elementary and secondary levels, including transition from school to postschool activities;

"(III) employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 and title V; or

"(IV) independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills and activities of daily living; or

"(ii) a functional area, including an area such as seating and positioning, mobility, computer and information system access and use, augmentative communication, or alternative communication.

"(E) The Director may fund an additional Center with an area of focus not identified in subparagraph (D) that conducts research or demonstration activities relating to emerging program trends and technologies, based on public input and the recommendation of the Rehabilitation Research Advisory Council established under section 205.

"(F) Each Center shall—

"(i) have an advisory committee—

"(I) of which the majority of members are individuals with disabilities who are users of, or parents, family members, guardians, advocates, or authorized representatives of users of, rehabilitation technology; and

"(II) the full membership of which shall be broadly representative of individuals and groups having an interest in rehabilitation technology, from various perspectives, including providers, manufacturers, funders, and practitioners, and members of minority groups;

"(ii)(I) demonstrate effective working relationships with the State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals with Disabilities Act;

"(II) respond to needs of all individuals with disabilities who may benefit from the application of technology in a particular life or functional area that is the designated focus of the activities of the Center;

"(III) coordinate efforts, encourage planning and collaboration, and promote the interchange of data, reports, and other information, among the agencies, programs and organizations; and

"(IV) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, an annual report that documents the impact and outcomes of the program, including efforts to enhance the inclusion of individuals with disabilities in work, school, home, and other natural environments.

"(G) The Director shall make grants under this paragraph for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(H) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(4)(A) Research grants may be used as grants to States and to public or nonprofit agencies and organizations, including institutions of higher education, to pay for part or all of the costs of conducting a program for spinal cord injury research, including the costs of special projects and demonstrations related to spinal cord injuries that will—

"(i) ensure dissemination of research findings among all spinal cord injury centers;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any project or demonstration assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, or improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with barriers faced by individuals with spinal cord injuries in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed spinal cord injury center and the appropriate geographic and regional allocation of such centers.

"(5) Research grants may be used to establish model systems of comprehensive service delivery to individuals with severe disabilities other than spinal cord injuries requiring a multidisciplinary system of providing vocational and other rehabilitation services where the Director determines that the development of such systems is needed.

"(6) Research grants may be used to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.";

(3) in paragraphs (7) through (18), as so redesignated by paragraph (1), by striking "Conduct" the first place in each such paragraph that the term appears and inserting "Research grants may be used to conduct"; and

(4) in paragraph (11), as so redesignated by paragraph (1), to read as follows:

"(11) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.".

(c) SIZE OF GRANT.—Section 204(d)(2) is amended by striking the period at the end and inserting the following: ", or the Director makes a determination that there is sufficient information to make an award without a site visit.".

(d) CONFORMING AMENDMENT.—Section 7303(b) of title 38, United States Code, is amended by striking "section 204(b)(2)" and all that follows through "(relating to Rehabilitation Engineering" and inserting "section 204(b)(3) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(3)) (relating to Rehabilitation Technology".

SEC. 206. REHABILITATION RESEARCH ADVISORY COUNCIL.

(a) COUNCIL.—Title II is amended by adding at the end the following new section:

"SEC. 205. REHABILITATION RESEARCH ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, and the community of individuals with disabilities and their families. At least one-half of the members shall be individuals with disabilities or members of their families.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—Each member of the Council who is not an employee of the Federal Government may receive compensation, which shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Council, including attendance at meetings and conferences of the Council, and travel to conduct the duties of the Council.

"(2) TRAVEL EXPENSES.—Each member of the Council shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by inserting after the item relating to section 204 the following:

"Sec. 205. Rehabilitation Research Advisory Council.".

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

SEC. 301. DECLARATION OF PURPOSE; ORGANIZATION.

(a) PURPOSE.—Section 300 (29 U.S.C. 770) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (4), (3), (2), and (5), respectively;

(2) by inserting paragraphs (2) and (3) (as so redesignated by paragraph (1) of this subsection), respectively, before paragraph (4) (as so redesignated by paragraph (1) of this subsection);

(3) by inserting before paragraph (2) the following:

"(1) authorize grants and contracts to—

"(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

"(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

"(C) provide training and information to individuals with disabilities, their parents, families, guardians, advocates, or authorized representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;";

(4) in paragraph (2) (as so redesignated by paragraph (1)) by striking "and" at the end;

(5) in paragraph (3) (as so redesignated by paragraph (1)) by striking "training" and inserting "rehabilitation"; and

(6) in paragraph (4) (as so redesignated by paragraph (1)) by striking "construction" and all that follows and inserting "development and improvement of community rehabilitation programs; and".

(b) ORGANIZATION.—Title III (29 U.S.C. 770 et seq.) is amended—

(1) by striking the headings for the title and part A of the title and inserting the following:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS";

(2) by striking section 301 (29 U.S.C. 771);

(3) by redesignating sections 302 through 304 (29 U.S.C. 772 et seq.) as sections 303, 304, and 301; and

(4) by inserting section 301 (as so redesignated by paragraph (2)) after section 300.

(c) CONFORMING AMENDMENTS.—The table of contents relating to title III is amended to read as follows:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

"Sec. 300. Declaration of purpose.
"Sec. 301. Training.
"Sec. 302. Special training initiatives.
"Sec. 303. Vocational rehabilitation services for individuals with disabilities.
"Sec. 304. Loan guarantees for community rehabilitation programs.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 314. Reader services for the individuals who are blind.
"Sec. 315. Interpreter services for the individuals who are deaf.

"Sec. 316. Special recreational programs.
"Sec. 317. Independent living services for older individuals who are blind.".

SEC. 302. TRAINING.

(a) TRAINING GRANTS.—Section 301(a) (as so redesignated by section 301(b)(3)) is amended—

(1) in the first sentence—

(A) in the matter preceding paragraph (1), by inserting ", and other services provided under this Act," after "rehabilitation services";

(B) in paragraph (1), by striking "specially" and inserting "specifically";

(C) in paragraph (2), by inserting before the comma at the end the following: ", including needs for rehabilitation technology services";

(D) in paragraph (3)—

(i) by striking "comprehensive services for independent living" and inserting "independent living services"; and

(ii) by striking "and" at the end;

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3) the following: "(4) personnel specifically trained to deliver services, through supported employment programs, to those individuals with the most severe disabilities, and";

(2) in the second sentence, by striking "give due regard" and all that follows and inserting "submit to the Commissioner a detailed description of strategies that will be utilized to recruit and train members of minority groups and individuals with disabilities."; and

(3) in the last sentence, by striking ", in addition" and all that follows and inserting "furnish training regarding the services provided under this Act and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out the provisions of this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of the provisions of section 504 and of the Americans with Disabilities Act of 1990.".

(b) PROJECTS.—Section 301(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

"(B) Projects described in subsection (a) may include—

"(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

"(ii) projects to train personnel to provide—

"(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individuals from populations who are unserved, or underserved, by programs under this Act;

"(II) job development and job placement services to individuals with disabilities;

"(III) supported employment services, including services of employment specialists;

"(IV) specialized services for individuals with severe disabilities; or

"(V) recreation for individuals with disabilities; and

"(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities."; and

(2) in paragraph (3)(A), by striking clause (i) and inserting the following:

"(i) maintain employment—

"(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

"(II) on a full- or part-time basis; and

"(III) for a period of not less than the full-time equivalent of two years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and".

(c) GRANTS FOR INTERPRETERS.—Section 301(d) is amended—

(1) in paragraph (1)—

(A) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind"; and

(B) by striking the second sentence; and

(2) in paragraph (2)—

(A) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(B) in subparagraph (C), by adding "and" at the end;

[B] *(C)* by striking subparagraph (D); and

[C] *(D)* by redesignating subparagraph (E) as subparagraph (D).

(d) COMPENSATION OF EXPERTS AND CONSULTANTS.—Section 301(e) is amended—

(1) in paragraph (1), by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(2) in paragraph (2), by striking "the daily rate payable for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 301(f) is amended—

(1) by inserting "(1)" after "(f)";

(2) in the first sentence of paragraph (1) (as so designated by paragraph (1)) by striking "$31,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(3) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), at least 20 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used for projects for inservice training of rehabilitation personnel, including projects designed—

"(i) to address recruitment and retention of qualified rehabilitation professionals;

"(ii) to provide for succession planning;

"(iii) to provide for leadership development and capacity building; and

"(iv) for fiscal years 1993 and 1994, to provide training on the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

"(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 20 percent of the sums described in subparagraph (A) to designated State agencies for such inservice training.".

SEC. 303. SPECIAL TRAINING INITIATIVES.

Title III (29 U.S.C. 770) is amended by inserting after section 301 (as so redesignated by section 301(b)(3)) the following:

"SEC. 302. SPECIAL TRAINING INITIATIVES.

"(a) REHABILITATION TRAINING PROJECTS.—

"(1) ESTABLISHMENT.—For the purpose of addressing unmet and emerging needs in the area of rehabilitation training, the Commissioner may make grants to and enter into contracts with State and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of establishing rehabilitation training projects.

"(2) PROJECTS.—Such a rehabilitation training project may provide training, traineeships, inservice training, continuing education, workshops, and technical assistance, and carry out related activities, designed to—

"(A) develop or improve the skills of rehabilitation personnel, including supported employment program personnel, client assistance program personnel, independent living center personnel, and personnel providing rehabilitation technology, to provide services under this Act to individuals with disabilities;

"(B) provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act; or

"(C) develop the skills of individuals with disabilities, their parents, family members, guardians, advocates, or authorized representatives, and other appropriate parties, to become active decisionmakers in the rehabilitation process.

"(3) AREAS.—An agency or organization that receives a grant or enters into a contract under paragraph (1) shall use funds made available through the grant or contract to establish a rehabilitation training project concerning—

"(A) rehabilitation technology;

"(B) job placement;

"(C) transition services;

"(D) best practices in serving individuals with specific disabilities, including disability groups that are emerging, or are unserved, or underserved, by programs under this Act;

"(E) best practices in serving individuals from diverse ethnic and cultural backgrounds; or

"(F) the provisions of this Act and related Acts, including the Americans with Disabilities Act of 1990.

"(4) CONSIDERATIONS.—In making a grant to, or entering into a contract with, an agency or organization under paragraph (1), the Commissioner shall consider the ability of the agency or organization—

"(A) to maximize training opportunities for the widest possible audience, including the ability to provide such training in rural or remote areas through distance training techniques;

"(B) to utilize multidisciplinary training for persons from a variety of rehabilitation settings, such as—

"(i) community rehabilitation program personnel;

"(ii) personnel of client assistance programs, independent living centers, and supported employment programs; and

"(iii) individuals with disabilities and their families; and

"(C) to provide training materials in accessible formats.

"(5) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(b) TRAINING AND INFORMATION GRANTS.—

"(1) DEFINITION.—As used in this subsection, the term 'covered individual' means—

"(A) an individual with a disability;

"(B) a parent, family member, guardian, advocate, or authorized representative, of such an individual; and

"(C) another appropriate party.

"(2) ESTABLISHMENT.—The Commissioner may make grants to nonprofit private organizations to establish training and information programs for covered individuals to enable such individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities.

"(3) REQUIREMENTS.—Such training and information programs shall be designed to—

"(A) meet the unique training and information needs of covered individuals, including covered individuals who are members of groups that have been traditionally underrepresented, who are living in the area to be served by the grant; and

"(B) serve individuals with disabilities with the full range of disabilities, the parents, family members, guardians, advocates, and authorized representatives, of such individuals, and other appropriate parties.

"(4) AWARD OF GRANTS.—In making grants under this subsection, the Commissioner shall ensure that—

"(A) the grants are distributed geographically to the greatest extent possible throughout all the States; and

"(B) targeted to covered individuals—

"(i) in both urban and rural areas;

"(ii) within a State; or

"(iii) within a region.

"(5) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), a nonprofit private organization shall—

"(A)(i) be governed by a board of directors that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals; or

"(ii)(I) have a membership that represents the interests of individuals with disabilities; and

"(II) establish a special governing committee to operate the training and information program under this section, that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals; and

"(B) submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to conduct effectively the training and information activities authorized under this section.

"(6) CONSULTATION.—Each nonprofit private organization operating a training and information program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist covered individuals located in the jurisdictions served by the program.

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

"(8) COORDINATION AND TECHNICAL ASSISTANCE.—The Commissioner shall, by grant, contract, or cooperative agreement, provide coordination and technical assistance for establishing, developing, and coordinating such training and information programs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 304. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (as so redesignated by section 301(b)(3)) is amended by striking "1987" and all that follows and inserting "1993 through 1997".

(b) ESTABLISHMENT.—Section 303(b) is amended—

(1) in paragraph (1)—

(A) by striking "training" and inserting "rehabilitation services or employment support services"; and

(B) by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) For purposes of this section, vocational rehabilitation services shall include—

"(i) training with a view toward career advancement;

"(ii) training (including on-the-job training) in occupational skills; and

"(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

"(I) are related to training described in clause (i) or (ii); and

"(II) are required by the individual to engage in such training."; and

(B) in subparagraph (B)—

(i) by inserting after "(B)" the following new sentence: "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.";

(ii) in the second sentence, by striking "and such allowances" and all that follows and inserting a period; and

(iii) in the sentence beginning "In determining"—

(I) by striking "training services" and inserting "vocational rehabilitation services"; and

(II) by striking "gainful and suitable" and inserting "competitive"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) ADDITIONAL GRANTS.—Section 303 is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants upon application approved by the designated State agency to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

SEC. 305. LOAN GUARANTEES FOR COMMUNITY REHABILITATION PROGRAMS.

Section 304 (as so redesignated by section 301(b)(3)) is amended—

(1) in the title, by striking "REHABILITATION FACILITIES" and "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

SEC. 306. COMPREHENSIVE REHABILITATION CENTERS.

Section 305 (29 U.S.C. 775) is amended—

(1) in subsection (d)(1), by striking "facility" and inserting "center"; and

(2) in subsection (g), by striking "1987," and all that follows and inserting "1993 through 1997.".

SEC. 307. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking "section 302" and inserting "section 303";

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

SEC. 308. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.

Section 310 (29 U.S.C. 777(a)) is amended—

(1) by striking "(a)" after "310.";

(2) by striking "and 316" and inserting "312, 316, and 317";

(3) by striking "$15,860,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(4) by striking subsection (b).

SEC. 309. SPECIAL DEMONSTRATION PROGRAMS.

(a) ESTABLISHMENT.—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1), by striking "and, where appropriate, constructing facilities";

(2) in paragraph (3), by striking "and, where appropriate, renovating and constructing facilities"; and

(3) by striking the last sentence.

(b) PROJECTS TO INCREASE CLIENT CHOICE.—Section 311 is amended by striking subsection (b) and inserting the following:

"(b)(1)(A) The Commissioner may make grants to States and public and nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the choice of providers of vocational rehabilitation services.

"(B) An entity that receives a grant under subparagraph (A) may use funds made available through the grant—

"(i) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(ii) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

"(2) In making grants under paragraph (1), the Commissioner may take into consideration the—

"(A) diversity of strategies to be used to increase client choice, including choice among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(3) To be eligible to receive a grant under paragraph (1), an entity shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) a description of—

"(i) the manner in which the entity intends to promote increased consumer choice, including a description, if appropriate, of the manner in which the entity will determine the value of any voucher offered to an eligible client; and

"(ii) the outreach activities to be conducted by the entity to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals of the client;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for the initiation of the services, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule for determining whether such goals are being achieved.

"(4) Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(5) At least 80 percent of the funds awarded for any project under this subsection must be used for direct services, as specifically chosen by the eligible clients.

"(6)(A) The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers.

"(B) The Commissioner may reserve funds to carry out the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

"(7) As used in this subsection:

"(A) The term 'direct services' means the vocational rehabilitation services specified in section 103(a).

"(B) The term 'eligible client' means an individual with a disability as defined in section 7(8)(A) who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.".

(c) SPECIAL PROJECTS AND DEMONSTRATIONS PROVIDING SUPPORTED EMPLOYMENT.—Section 311(d) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) in subparagraph (B), by striking "community-based rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (3)(A), by striking ", 1988, and on each subsequent June 1" and inserting "of each year"; and

(3) in paragraph (4), by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

(d) MODEL STATEWIDE TRANSITIONAL PLANNING SERVICES.—Section 311(e) is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (5) as paragraph (3); and

(3) in paragraph (3) (as so redesignated by paragraph (2) of this subsection) by striking "$450,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(e) DEMONSTRATION PROJECTS.—Section 311 is amended by adding at the end the following new subsections:

"(f)(1) The Commissioner may make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations providing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with severe disabilities.

"(2) The recipient of the grant shall—

"(A) identify exemplary models that can be replicated for achieving such placements; and

"(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.

"(g)(1) The Commissioner may make grants to public and nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

"(2) To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(3) An agency or organization that receives a grant under this paragraph shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

"(h)(1) The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

"(2) To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.".

SEC. 310. MIGRATORY WORKERS.

(a) COLLABORATION.—The first sentence of section 312 (29 U.S.C. 777b) is amended—

(1) by inserting "(a)" after "312."; and

(2) by inserting "or to nonprofit agencies working in collaboration with such State agency," after "section 101,".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 312 is amended by adding at the end the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.".

SEC. 311. SPECIAL RECREATIONAL PROGRAMS.

(a) GRANTS.—Section 316(a) (29 U.S.C. 777f(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "part or all" and inserting "the Federal share"; and

(ii) by inserting "employment" after "aid in the"; and

(B) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(2) in paragraph (2), by striking "a minimum of a three-year period." and inserting "a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.";

(3) in paragraph (3), by striking "and that with respect" and all that follows and inserting a period; and

(4) by adding at the end the following new paragraphs:

"(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project will be made generally available; and

"(B) the means by which the service program will be continued after Federal assistance ends.

"(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) The Federal share of the costs of the recreation programs shall be 90 percent for the first year of the grant, 75 percent for the second year and 50 percent for the third year.".

(b) Authorization of Appropriations.—Section 316(b) is amended by striking "$2,330,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 312. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

Title III is amended by adding at the end the following new section:

"SEC. 317. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

"(a) Grants.—The Commissioner may make grants to any designated State unit to provide independent living services and related services designed to assist older individuals who are blind to adjust to blindness by becoming more able to care for individual needs.

"(b) Use of Grants.—

"(1) Required services.—A designated State unit shall use funds received under a grant described in subsection (a) to provide independent living skills training, information and referral services, peer counseling, and individual advocacy training.

"(2) Additional services.—A designated State unit may use funds received under a grant described in subsection (a) to provide—

"(A) services to help correct blindness, such as—

"(i) outreach services;

"(ii) visual screening;

"(iii) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(iv) hospitalization related to such services to help correct blindness;

"(B) the provision of eyeglasses and other visual aids;

"(C) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(D) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(E) guide services, reader services, and transportation;

"(F) any other appropriate services designed to assist an older individual who is blind in coping with daily living activities, including supportive services or rehabilitation teaching services; and

"(G) other independent living services.

"(c) Application.—

"(1) In general.—To be eligible to receive a grant under this section, a designated State unit shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including the information and assurances described in paragraph (2), and shall obtain approval of the application.

"(2) Contents.—An application for a grant under this section shall contain—

"(A) an assurance that the designated State unit will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the designated State unit will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 703.

"(d) Grants to Agencies or Organizations.—A designated State unit may use funds received under a grant described in subsection (a) to make grants to public or nonprofit private agencies or organizations to—

"(1) conduct activities that will improve or expand services for older individuals who are blind and help improve public understanding of the problems of such individuals; and

"(2) provide independent living services and related services in accordance with subsection (b) to older individuals who are blind.

"(e) Definition.—For purposes of this section, the term ["older individual who is blind"] *"older individual who is blind"* means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.".

TITLE IV—NATIONAL COUNCIL ON DISABILITY

SEC. 401. ESTABLISHMENT.

(a) In General.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting after the first sentence the following:

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs."; and

(C) in the last sentence, by striking "five" and inserting "a majority of"; and

(2) by striking paragraph (2) and inserting the following:

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.".

(b) Terms.—Section 400(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis."; and

(2) by striking paragraph (2) and inserting the following:

"(2) No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.".

SEC. 402. DUTIES OF NATIONAL COUNCIL.

(a) Duties.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) provide advice to the Director with respect to the policies and administration of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;";

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "all policies, programs, and activities" and inserting "policies, programs, practices, and procedures";

(B) in subparagraph (B), by inserting "and regulations" after "statutes"; and

(C) in the matter following subparagraph (B), by striking "activities," and inserting "practices, procedures,".

(3) in paragraph (5), by striking "and activities" and all that follows and inserting "practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(4) in paragraph (6)—

(A) by inserting "with respect to the duties described in paragraphs (1) through (5) and in paragraph (9)," after "(6)";

(B) by striking "and" after "the Secretary,"; and

(C) by striking "respecting ways" and all that follows and inserting "and other officials of Federal executive agencies, respecting ways to better promote the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(5) in paragraph (7), by striking "(A)" and all that follows and inserting "a summary of the activities and accomplishments of the Council;";

(6) in paragraph (8), by striking the period and inserting "; and"; and

(7) by adding at the end the following:

"(9) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.".

(b) REPORT.—Section 401 is amended by striking subsection (b) and inserting the following:

"(b)(1) Not later than October 30, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of Congress, a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education.

"(3) The report shall assess the status of the Nation in achieving the policies set forth in subparagraphs (A) and (B) of section 400(a)(1), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall include recommendations for policy changes.

"(4) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report in accordance with paragraph (3), the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.".

(c) 1995 REPORT.—The National Council on Disability shall include, in a report submitted not later than October 30, 1995 in accordance with section 401(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 781(b)(1)), information and analysis concerning the implementation by the designated State agencies and the Department of Education of the amendments made by Rehabilitation Act Amendments of 1992.

SEC. 403. COMPENSATION OF MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "at a rate equal to the rate of basic pay payable for grade GS–18 of the General Schedule under section 5332" and inserting "at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 404. COMPENSATION OF STAFF.

(a) NUMBER OF POSITIONS.—Section 403(a)(2) (29 U.S.C. 783(a)(2)) is amended by striking "not to exceed seven" and inserting "seven or more".

(b) RATE OF PAY.—Section 403(b)(1) is amended by striking "not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332" and inserting "not to exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by striking "1987" and all that follows and inserting "1993 through 1997".

TITLE V—ACCESS

SEC. 501. ACCESS.

(a) TITLE.—Title V (29 U.S.C. 790 et seq.) is amended by striking the title heading and inserting the following:

"TITLE V—ACCESS".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to the title heading for title V and inserting the following:

"TITLE V—ACCESS".

SEC. 502. EFFECT ON EXISTING LAW.

(a) REPEAL.—Title V (29 U.S.C. 790 et seq.) is amended by repealing section 500.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 500.

SEC. 503. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

(a) ESTABLISHMENT.—Section 501(a) (29 U.S.C. 791(a)) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans Affairs, and" and inserting "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs"; and

(2) by amending the second sentence to read as follows: "Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons or the Director or Chairman shall serve as sole chairperson, as the Director and Chairman jointly determine, from time to time, to be appropriate.".

(b) STANDARDS.—Section 501 is amended by adding at the end the following new subsection:

"(g) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.".

SEC. 504. REFERENCES TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by striking "the 'Board'" and inserting "the 'Access Board'";

(2) by striking "the Board" each place the term appears and inserting "the Access Board"; and

(3) by striking "The Board" each place the term appears and inserting "The Access Board".

(b) COMPOSITION.—Section 502(a) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least one-half"; and

(B) in subparagraph (B), by adding at the end the following:

"(xii) Department of Commerce.";

(2) in paragraph (2)(A)—

(A) in the first sentence—

(i) by inserting "(i)" after "(A)"; and

(ii) by striking "three years" and inserting "4 years, except as provided in clause (ii)";

(B) in the second sentence, by striking "four" and inserting "at least three"; and

(C) by adding at the end the following:

"(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

"(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

"(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

"(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.";

(3) in paragraph (3), by striking "such an" and inserting "a Federal"; and

(4) in paragraph (5)(A), by striking "the daily rate prescribed for GS–18 under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(c) FUNCTION.—Section 502(b) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service) including enforcing all standards under such Act, and ensuring that all waivers and modifications to standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

"(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

"(9) make to the President and to the Congress such recommendations for legislation and administration as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5) of this subsection; and

"(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.".

(d) INVESTIGATIONS AND HEARINGS.—Section 502(d) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "In carrying out its functions under this Act, the Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or for profit organizations, carry out its functions under subsections (b) and (c) of this section, and" and inserting "The Access Board"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(e) INTERAGENCY AGREEMENTS.—Section 502(f) is amended—

(1) by striking “The departments” and inserting the following:

“(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

“(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

“(C) The Access Board may arrange to carry out the responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

“(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

“(2) The departments”; and

(2) in paragraph (2), as so designated by paragraph (1)—

(A) by striking “subsection” and inserting “paragraph” in the second sentence; and

(B) in the second sentence—

(i) by striking “Secretary” and inserting “Chairperson”; and

(ii) by striking “the daily pay rate for a person employed as a GS-18 under section 5332” and inserting “the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316”.

(f) REPORT.—Section 502(g) is amended—

(1) by inserting “(1)” after “(g)”;

(2) in paragraph (1), as so designated by paragraph (1) of this subsection—

(A) in the second sentence, by striking “clauses (5) and (6)” and inserting “paragraphs (7) and (8)”; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following:

“(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.”.

(g) REPORT CONTAINING ASSESSMENT.—Section 502(h) is amended—

(1) by striking paragraph (1) and all that follows through “(2)” and inserting “(1)”;

(2) in paragraph (1), as so redesignated by paragraph (1) of this subsection, by striking the second and third sentences; and

(3) by adding at the end the following:

“(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (2) and (4) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered to be a gift, devise, or bequest to the United States.

“(B) The Access Board shall issue regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a government program or any official involved in the program.”.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 502(i) is amended by striking “fiscal years 1987 through 1992” and inserting “fiscal years 1993 through 1997”.

SEC. 505. EMPLOYMENT UNDER FEDERAL CONTRACTS.

(a) CONTRACTS.—Section 503(a) (29 U.S.C. 793(a)) is amended—

(1) by striking “$2,500” each place the term appears and inserting “$10,000”; and

(2) in the first sentence, by striking “, in employing persons to carry out such contract,”.

(b) WAIVER.—Section 503(c) is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following:

“(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

“(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.”.

(c) STANDARDS AND PROCEDURES.—Section 503 is amended by adding at the end the following:

“(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.

“(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.”.

SEC. 506. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.

Section 504 is amended by adding at the end the following new subsection:

“(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.”.

SEC. 507. SECRETARIAL RESPONSIBILITIES.

(a) ACCESS.—Subsections (a) and (c) of section 506 (29 U.S.C. 794b) are amended by inserting “Access” before “Board” each place the term appears.

(b) COMMUNITY REHABILITATION PROGRAMS.—Section 506(a)(1) is amended by striking “rehabilitation facilities” and inserting “community rehabilitation programs”.

(c) COMPENSATION.—Section 506(b) is amended by striking “the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332” and inserting “the rate specified for level V of the Executive Schedule under section 5316”.

(d) CONFORMING AMENDMENT.—Section 506(c) is amended by striking “502(h)(2)” and inserting “502(h)(1)”.

SEC. 508. INTERAGENCY COORDINATING COUNCIL.

The first sentence of section 507 (29 U.S.C. 794c) is [amended—]

[(1)] *amended* by striking “Chairperson of the Office of Personnel Management” and inserting “Director of the Office of Personnel Management”[; and

(2) by inserting “Access” before “Board”]

SEC. 509. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

(a) GUIDELINES.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

“SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

“(a) GUIDELINES.—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce and have access to information and data comparable to the access of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

“(b) COMPLIANCE.—Each Federal agency shall comply with the guidelines established under this section.”.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act by striking the item relating to section 508 and inserting the following:

“Sec. 508. Electronic and information technology accessibility guidelines.”

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

SEC. 601. PILOT PROGRAM.

(a) DEFINITION.—Section 611(a) (29 U.S.C. 795(a)) is amended by striking “section 7(8)” and inserting “section 7(8)(A)”.

(b) PERSONAL ASSISTANCE SERVICES.—Section 611(b)(1)(K) (29 U.S.C. 795(b)(1)(K)) is amended by striking “attendant care” and inserting “personal assistance services”.

SEC. 602. TREATMENT OF PERSONAL ASSISTANCE SERVICES COSTS.

Section 613(c) (29 U.S.C. 795b(c)) is amended by striking “attendant care” and inserting “personal assistance services”.

SEC. 603. DEFINITIONS.

Section 616 (29 U.S.C. 795e) is amended—

(1) by striking “; and” at the end of paragraph (2) and inserting a period; and

(2) by striking paragraph (3).

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 617 (29 U.S.C. 795f) is amended by striking “1987” and all that follows and inserting “1993 through 1997.”.

SEC. 605. PROJECTS WITH INDUSTRY.

(a) IN GENERAL.—Section 621(a) (29 U.S.C. 795g(a)) is amended to read as follows:

"(a)(1) The purpose of this part is to create and expand job opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job opportunities and the skills needed to perform such jobs, to create practical job readiness and training programs, and to provide job placements.

"(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, which shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor; and

"(II) individuals with disabilities and their representatives;

"(ii) identify job availability within the community;

"(iii) identify the skills necessary to perform the jobs identified; and

"(iv) prescribe training programs designed to develop job skills appropriate for the jobs in individuals with disabilities;

"(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment in the competitive market;

"(C) provide job placement services;

"(D) to the extent appropriate, provide for—

"(i) the development and modification of jobs to accommodate the special needs of such individuals;

"(ii) the distribution of rehabilitation technology to such individuals; and

"(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

"(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment for which the individuals have received training under this part.

"(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

"(A) the numbers and types of individuals with disabilities served;

"(B) the types of services provided;

"(C) the sources of funding;

"(D) the percentage of resources committed to each type of services provided;

"(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

"(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

"(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

"(H) the number of project participants who were terminated from project placements and the duration of such placements.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 as the Act relates to employment of individuals with disabilities.".

(b) AGREEMENT.—Section 621(b) is amended to read as follows:

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated co-workers of the individual, and that such individuals with disabilities shall not be segregated from the co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.".

(c) EVALUATION.—Section 621(d) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

"(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations."; and

(2) by redesignating paragraph (4) as paragraph (3).

(d) ADMINISTRATION.—Subsections (e) through (i) of section 621 are amended to read as follows:

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2)(A) The Commissioner shall to the extent practicable assure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are not currently served or are underserved by projects.

"(B) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable.

"(3) The Commissioner shall review each annual evaluation report submitted under subsection (b)(3) and, using indicators described in subsection (f)(1), make a determination concerning the termination, modification, or renewal of each grant under this section.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) The Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h)(1) Consistent with the purpose of this section, the Commissioner may award grants to partnerships or consortia that include private business concerns or industries to assist the partnerships or consortia in developing and carrying out model demonstration projects for workers with disabilities to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

"(2) Grants awarded under this subsection shall be for a 3-year period.

"(3) Any partnership or consortia desiring a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) providing assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of the project;

"(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of subsection (a)(2);

"(iii) the partnership or consortium will disseminate information on the model program conducted;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

"(v) an evaluation report containing data specified by the Commissioner will be submitted at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

"(4) Federal payments under this subsection with respect to any project may not exceed 80 percent of the costs of the project.

"(i) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) Except as used in subsection (h), the term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

"(4) The term 'workers with disabilities' shall mean more than one individual with a disability who—

"(A) is working in competitive employment; and

"(B) needs new or upgraded skills to—

"(i) improve the employment opportunities of the individual; and

"(ii) adapt to emerging technologies, work methods, and markets.".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 623 (29 U.S.C. 795i) is amended by striking "$16,070,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 607. SUPPORTED EMPLOYMENT.

(a) PROGRAM.—Title VI is amended by striking part C (29 U.S.C. 795j et seq.) and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"SEC. 631. PURPOSE.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for those individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

"SEC. 632. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that no State shall receive—

"(A) less than $250,000, or one-third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) for a fiscal year in which the amounts appropriated to carry out this part exceed by not less than $1,000,000 the appropriations made to carry out this part in fiscal year 1992, less than $300,000, or one-third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) OTHER JURISDICTIONS.—

"(A) DEFINITION.—For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

"(B) MINIMUM ALLOTMENT.—Each of the jurisdictions described in subparagraph (A) shall be allotted not less than one-eighth of 1 percent of the amounts appropriated for each such jurisdiction for the fiscal year for which the allotment is made, except that Palau shall be allotted not less than such one-eighth for the fiscal year, pending ratification of the Compact of Free Association.

"(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State to carry out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State for such year.

"SEC. 633. AVAILABILITY OF SERVICES.

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (d) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

"SEC. 634. ELIGIBILITY.

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with the most severe disabilities; and

"(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A) identifies supported employment as the appropriate rehabilitation objective for the individual.

"SEC. 635. STATE PLAN.

"(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) CONTENTS.—Each such plan supplement shall—

"(1) designate each agency such State designated under section 101(a)(2)(B) as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment of the rehabilitation needs of individuals with severe disabilities conducted under section 101(a)(5), with respect to the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of efforts to identify and make arrangements with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of efforts to identify and make arrangements with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) that the comprehensive assessments conducted under section 102(b)(1)(A) and funded under title I of individuals with severe disabilities will include consideration of supported employment as an appropriate rehabilitation objective;

"(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized written rehabilitation program;

"(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided onsite; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

"SEC. 636. RESTRICTION.

"Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

"SEC. 637. SAVINGS PROVISION.

"(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by striking the items relating to part C and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"Sec. 631. Purpose.
"Sec. 632. Allotments.
"Sec. 633. Availability of services.
"Sec. 634. Eligibility.
"Sec. 635. State plan.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

SEC. 701. CENTERS AND SERVICES.

(a) PROGRAMS.—The Act is amended by striking title VII (29 U.S.C. 796 et seq.) and inserting the following new title:

"TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

"PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE.

"The purpose of this title is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

"(1) providing financial assistance to develop and support statewide networks of centers for independent living;

"(2) providing financial assistance to States for providing, expanding, and improving the provision of independent living services; and

"(3) providing financial assistance to States to improve working relationships among—

"(A) centers for independent living;

"(B) Statewide Independent Living Councils established under section 704;

"(C) State vocational rehabilitation programs receiving assistance under title I;

"(D) State programs of supported employment services receiving assistance under part C of title VI;

"(E) client assistance programs receiving assistance under section 112;

"(F) programs receiving assistance under other titles of this Act;

"(G) programs receiving assistance under other Federal programs; and

"(H) programs receiving assistance through non-Federal sources.

"SEC. 702. DEFINITIONS.

"As used in this title:

"(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with disabilities; and

"(B) provides an array of independent living services.

"(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

"SEC. 703. STATE PLAN.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—To be eligible to receive financial assistance under this title, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such information as the Commissioner may require, including, at a minimum, the information required under this section.

"(2) SUBMISSION.—The plan shall be jointly signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) REVIEW AND REVISION.—The plan shall provide for the review and revision, not less often than once every 3 years, of the plan to ensure the existence of appropriate planning, financial support, coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the development and support of a statewide network of centers for independent living;

"(B) the provision of independent living services; and

"(C) working relationships among—

"(i) such centers and services; and

"(ii) the vocational rehabilitation program established under title I and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this title until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 704.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this title based on the plan;

"(2) provide administrative support services for programs under parts B and C;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this title.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this title to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this title to meet such objectives.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 724.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, the State plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) WORKING RELATIONSHIPS.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the Statewide Independent Living Council and centers for independent living; and

"(2) the designated State unit, other State agencies represented on the Statewide Independent Living Council, councils that address the needs of specific disability populations and issues under other Federal law, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION BETWEEN CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES.—The plan shall describe how services provided under part B will be coordinated with, or complement, services provided under part C.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—The plan shall set forth steps to be taken regarding outreach to unserved and underserved populations with respect to services provided under this title and centers funded under this title.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this title will—

"(1) notify all individuals seeking or receiving services under this title about the availability of the Client Assistance Program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this title;

"(4)(A) keep such records, as the Commissioner may determine to be appropriate including records that fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit; and

"(B) afford such access to such records, and submit such reports with respect to information contained in such records, as the Commissioner may determine to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives to be achieved under the plan, including evaluation of satisfaction by individuals with disabilities.

"(o) ADMINISTRATIVE COSTS.—The plan shall include an assurance that the designated State agency will not use more than 5 percent of the financial assistance made available under this title to pay for the administrative costs of carrying out this title. Funds used to support the resource plan for the Statewide Independent Living Council under section 704(e) shall not be considered to be used to pay for such administrative costs.

"SEC. 704. INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this title, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within another State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—The Council shall be composed of members—

"(A) who provide statewide representation;

"(B) who represent a broad range of individuals with disabilities;

"(C) who are knowledgeable about centers for independent living and independent living services; and

"(D) a majority of whom are persons who are—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF THE COUNCIL.—The Council shall—

"(1) develop and submit (in conjunction with the designated State agency) the State plan required by this title;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under part B of this title and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

"SEC. 705. RESPONSIBILITIES OF THE COMMISSIONER.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 703 that the Commissioner determines meets the requirements of section 703, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 703.

"(B) APPLICATION.—For purposes of the application describe in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 703.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 724.

"(c) ON-SITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards set forth in section 724. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this title.

"SEC. 706. AUTHORIZATION OF APPROPRIATIONS.

"(a) INDEPENDENT LIVING SERVICES.—There are authorized to be appropriated to carry out part B such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"(b) CENTERS FOR INDEPENDENT LIVING.—There are authorized to be appropriated to carry out part C such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—There are authorized to be appropriated to carry out part D such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"PART B—INDEPENDENT LIVING SERVICES

"SEC. 711. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 705 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraph (1)(C) and under paragraph (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (a)(1)(B), or under subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2) as increased in accordance with subsection (a)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

"(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 705. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 705.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) DETERMINATION.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"SEC. 713. AUTHORIZED USES OF FUNDS.

"The State shall use funds received under this part to provide the resources described in section 704(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

"(1) to provide independent living services;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to unserved and underserved populations with respect to services provided under this title.

"PART C—CENTERS FOR INDEPENDENT LIVING

"SEC. 721. PROGRAM AUTHORIZATION.

"(a) IN GENERAL.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (e).

"(b) RESERVATION FOR TRAINING AND TECHNICAL ASSISTANCE.—

"(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, the lesser of—

"(A) the amount of the excess; or

"(B) $550,000 or 2 percent of such funds, whichever is greater.

"(2) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

"(c) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 705 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than $3,500,000, the allotment to any State under subparagraph (A) shall be not less than $500,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $500,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts; and

"(ii) if such excess is less than $3,500,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraphs (1)(C) and (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made; minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(d) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (c)(1)(B), or under subsection (c)(1)(C) as increased under subsection (c)(3), or to provide allotments under subsection (c)(2) as increased in accordance with subsection (c)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (c)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $500,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(3).

"(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"(f) TRANSITION RULES.—

"(1) RESERVATION.—

"(A) FISCAL YEAR 1993.—For fiscal year 1993, the Secretary shall first reserve from the funds appropriated to carry out this part, $550,000 or 2 percent of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

"(B) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

"(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

"(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

"(C) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(D) PROHIBITION ON COMBINED FUNDS.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

"(2) IN GENERAL.—

"(A) GRANTS.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies and organizations described in subparagraph (B) to operate centers for independent living.

"(B) AGENCIES.—

"(i) FISCAL YEAR 1992 RECIPIENTS.—Private nonprofit agencies that received funding directly or through subgrants or contracts under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993 such agencies will meet the standards described in section 724(b) and that contain the assurances described in section 724(c). In determining whether a center meets the standards described in section 724(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

"(ii) OTHER AGENCIES.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

"(C) PRIORITY.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c), (d), or (e) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 724.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 703, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 724 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 724; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 724.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 724;

"(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

"(v) budgets and cost-effectiveness;

"(vi) evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently not served, or are underserved, by independent living programs, consistent with the provisions of the State plan submitted under section 703 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living that comply with the standards and assurances set forth in section 724, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living that comply with the standards and assurances set forth in section 724.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 724. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 724, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c), (d), or (e) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 724.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 703, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 724 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 724;

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 724.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 703 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 724 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 724;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living that comply with the standards and assurances set forth in section 724, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living that comply with the standards and assurances set forth in section 724.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 724. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 724, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of a State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS FOR INDEPENDENT LIVING.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this title and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall assist in the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

"(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services specified in section 7(30)(B).

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

"(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this title.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 703;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with a severe disability on the same terms and conditions required with respect to the employment of individuals with a disability under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with severe disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with severe disability receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the Client Assistance Program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach unserved and underserved populations of individuals with severe disabilities;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (7);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (7) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 703(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

"SEC. 725. DEFINITIONS.

"As used in this part, the terms 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 726. CENTERS OPERATED BY STATE AGENCIES.

"(a) FISCAL YEAR 1993.—

"(1) IN GENERAL.—Notwithstanding section 702(1), if—

"(A) no nonprofit private agency—

"(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(ii) obtains approval of the application under section 722 or 723; and

"(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(f)(2) for the conduct, administration, and evaluation of such a center.

"(2) COMPLIANCE.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

"(b) FISCAL YEAR 1994 AND SUCCEEDING FISCAL YEARS.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

"SEC. 727. EFFECTIVE DATE.

"The provisions of this part shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of the Rehabilitation Act of 1973, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

"PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"SEC. 731. PURPOSE.

"It is the purpose of this part to support systems to protect the legal and human rights of individuals with disabilities whose request for services cannot be addressed by, or who are ineligible for, the Client Assistance Program under section 112 and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 6041 et seq.) (referred to in this part as 'protected individuals').

"SEC. 732. PROGRAM AUTHORIZATION AND ALLOTMENTS.

"(a) TECHNICAL ASSISTANCE.—From the amount appropriated to carry out this part for a fiscal year, the Secretary shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this part.

"(b) APPROPRIATIONS LESS THAN $5,500,000.—

"(1) ALLOTMENTS.—After making the reservation required by subsection (a), for any fiscal year in which the amount appropriated to carry out this part is less than $5,500,000, the Secretary may make allotments from the remainder of such amount in accordance with paragraph (2) to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this part for protected individuals.

"(2) BASIS.—From such remainder for each such fiscal year, the Secretary shall allot an equal amount to each eligible system, except as provided in paragraph (3).

"(3) ELIGIBILITY.—An eligible system that received funds from appropriations for fiscal year 1992 to carry out part D of title VII of this Act, as in effect on the day before the date of enactment of this section, shall not be eligible for such allotments under this part for fiscal year 1993 unless the amount of the allotment as determined in paragraph (2) is greater than the amount of funds received by such system for such year under such part.

"(4) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States.

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) ALLOTMENTS.—After making the reservation required by subsection (a), for any fiscal year in which the amount appropriated to carry out this part equals or exceeds $5,500,000, the Secretary may make allotments from the remainder of such amount in accordance with paragraph (2) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this part for protected individuals.

"(2) BASIS.—From such remainder for each such fiscal year, the Secretary shall allot to each eligible system within a State an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States. Except as provided in paragraph (3), the allotment to any system under the preceding sentence shall not be less than $100,000 or one-third of 1 percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this part for any fiscal year that is less than $100,000 or one-third of 1 percent of such remainder shall be increased to the greater of the two amounts.

"(3) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States and shall each be allotted not less than $50,000 for the fiscal year for which the allotment is made.

"(d) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraphs (2) and (3) of subsection (a) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(1) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made; minus

"(2) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(e) REALLOTMENTS.—

"(1) IN GENERAL.—The amount of an allotment to a State for a fiscal year under subsection (b) or (c) that the Secretary determines will not be required by the State during the period for which the allotment is available for the purpose for which it was allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made.

"(2) PROPORTION.—The amount shall be available for reallotment to such States, except as provided in paragraph (3) in proportion to the original allotments of such States for such fiscal year.

"(3) REDUCTION.—The sum to be reallotted to a State under paragraph (2) shall be reduced to the extent the sum exceeds the sum the Secretary estimates such State needs and will be able to use during such fiscal year. The total of such reduction shall be similarly reallotted among the States whose sums were not so reduced. Any such amount reallotted to a State under this subsection for a fiscal year shall be deemed to be part of the allotment of the State for such fiscal year.

"SEC. 733. ELIGIBILITY FOR ASSISTANCE.

"As used in this part, the term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act and that meets the requirements of section 734.

"SEC. 734. SYSTEM REQUIREMENTS.

"(a) ELIGIBILITY.—To be eligible to receive assistance under this part, a system shall—

"(1) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act;

"(2) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including individuals with disabilities and their representatives, as appropriate, and other persons, an opportunity to comment on the objectives and priorities established and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this part with protection and advocacy programs established under the Developmental Disabilities Assistance and Bill of Rights Act and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986, the Client Assistance Program under section 112, and the State long-term care ombudsmen program established under the Older Americans Act of 1965; and

"(3) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with disabilities have full access to services of the system.

"(b) ASSURANCES.—To be eligible to receive assistance under this part, a system shall provide assurances to the Secretary that funds made available under this part will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided and such additional assurances and information as the Commissioner considers appropriate.

"SEC. 735. DIRECT FUNDING.

"Notwithstanding any other provision of law, the Secretary shall pay directly to any system that complies with the provisions of this part, the amount of the allotment of the system under this part, unless the system designates another entity to receive payment.

"SEC. 736. DELEGATION.

"The Secretary may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to title VII and inserting the following:

"TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. State plan.
"Sec. 704. Independent living council.
"Sec. 705. Responsibilities of the Commissioner.
"Sec. 706. Authorization of appropriations.

"PART B—SERVICES FOR INDEPENDENT LIVING

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 724. Centers for independent living.
"Sec. 725. Definitions.
"Sec. 726. Centers operated by State agencies.
"Sec. 727. Effective date.

"PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"Sec. 731. Purpose.
"Sec. 732. Program authorization and allotments.
"Sec. 733. Eligibility for assistance.
"Sec. 734. System requirements.
"Sec. 735. Direct funding.
"Sec. 736. Delegation.".

TITLE VIII—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

SEC. 801. CONGRESSIONAL FINDINGS.

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by inserting ", the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing," after "1960's"; and

(2) in paragraph (5), by striking "invested approximately $10,000,000" and inserting "made a substantial investment".

SEC. 802. CONTINUED OPERATION OF CENTER.

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) in subsection (a) (as so redesignated by paragraph (2))—

(A) by striking "pursuant to section 313 of the Rehabilitation Act of 1973" and inserting "prior to the date of enactment of this Act"; and

(B) by striking "(c)" and inserting "(b)"; and

(4) in subsection (b) (as so redesignated by paragraph (2))—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;";

(C) by striking "and" after the semicolon in paragraph (3) (as so redesignated by subparagraph (A));

(D) by striking the period in paragraph (4) (as so redesignated by subparagraph (A)) and inserting "; and"; and

(E) by inserting after paragraph (4) (as so redesignated by subparagraph (A)) the following new paragraph:

"(5) maintain a national registry in order to provide information and data regarding individuals who are deaf-blind.".

SEC. 803. AUDIT, MONITORING, AND EVALUATION.

Section 204 of the Helen Keller National Center Act (29 U.S.C. 1903) is amended in subsection (a) by striking "at such time as the Secretary shall prescribe" and inserting "within 15 days following the completion of the audit and acceptance of the audit by the Center".

SEC. 804. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended in subsection (a) by striking "1987 through 1992" and inserting "1993 through 1997".

SEC. 805. DEFINITIONS.

Section 206 of the Helen Keller National Center Act (29 U.S.C. 1905) is amended—

(1) in paragraph (1), by striking "section 313 of the Rehabilitation Act of 1973 and continued under"; and

(2) in paragraph (2), to read as follows:

"(2) the term 'individual who is deaf-blind' means any individual—

"(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or, if there is a field defect, central acuity of 20/200 such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

"(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

"(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

"(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

"(C) meets such other requirements as the Secretary may prescribe by regulation; and".

SEC. 806. CONSTRUCTION OF ACT, EFFECT ON AGREEMENTS.

Section 207 of the Helen Keller National Center Act (29 U.S.C. 1906) is amended by striking "Industrial Home for the Blind, Incorporated" and inserting "Helen Keller Services for the Blind, Incorporated".

SEC. 807. ESTABLISHMENT OF A PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

"SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the 'Endowment Fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) FEDERAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

"(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c) INVESTMENTS.—

"(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) LIMITATIONS.—

"(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia.

"(B) REAL ESTATE.—The Endowment Fund corpus and income may not be invested in real estate.

"(C) CONFLICT OF INTEREST.—The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

"(D) ENCUMBRANCES.—The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) IN GENERAL.—For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

"(2) OPERATIONAL AND COMMERCIAL EXPENSES.—

"(A) IN GENERAL.—The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

"(B) LIMITATION.—The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

"(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

"(B) EXCEPTION.—The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by a natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) REPORTING REQUIREMENTS.—

"(1) FINANCIAL RECORDS.—The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

"(2) AUDIT AND REPORT.—

"(A) AUDIT.—The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

"(B) REPORT.—The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

"(3) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

"(g) DEFINITIONS.—For the purposes of this section:

"(1) ENDOWMENT FUND.—The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) ENDOWMENT FUND CORPUS.—The term 'Endowment Fund corpus' means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

"(3) ENDOWMENT FUND INCOME.—The term 'Endowment Fund income' means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.".

SEC. 808. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEAF-BLIND INDIVIDUALS.—Paragraphs (1) through (4) of section 202, and section 203(b)(3) (as so redesignated by paragraphs (2) and (4)(A) of section 802), of the Helen Keller National Center Act (29 U.S.C. 1901 and 1902(b)(3)) are amended by striking "deaf-blind individuals" each place the term appears and inserting "individuals who are deaf-blind".

(b) DEAF-BLIND INDIVIDUAL.—Section 203(b)(1) of such Act (29 U.S.C. 1902(b)(1)) (as so redesignated by section 802(2)) is amended by striking "deaf-blind individual" and inserting "individual who is deaf-blind".

(c) DEAF-BLIND YOUTHS AND ADULTS.—

(1) Sections 202(4), 203(a) (as so redesignated by section 802(2)), and 206(1) of such Act (29 U.S.C. 1901(4), 1902(a), and 1905(1)) are amended by striking "Deaf-Blind Youths and Adults" each place the term appears and inserting "Youths and Adults who are Deaf-Blind".

(2) Section 203 (29 U.S.C. 1902) is amended in the section heading by striking "DEAF-BLIND YOUTHS AND ADULTS" and inserting "YOUTHS AND ADULTS WHO ARE DEAF-BLIND".

Subtitle B—Other Programs

SEC. 811. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

(a) WAGNER-O'DAY ACT.—Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "the Blind and Other Severely Handicapped" and inserting "People Who Are Blind and Severely Disabled".

(b) SMALL BUSINESS ACT.—Section 15(c)(1) of the Small Business Act (15 U.S.C. 644(c)(1)) is amended by striking "the Blind and Other Severely Handicapped" and inserting "People Who Are Blind or Severely Disabled".

SEC. 812. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) TRAINING OR RETRAINING.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who—

"(A) are involved in providing instruction to individuals who are deaf; and

"(B) are not certified as teachers of such individuals,

to meet the communications needs of such individuals.".

(b) NOTICE.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall issue a Notice of Inquiry concerning the definition of the term "serious emotional disturbance" as used in the Individuals with Disabilities Education Act.

(2) PUBLIC COMMENT.—The Secretary of Education shall provide a public comment period of at least 90 days and shall request and consider—

(A) comments from the public on the need to revise the definition of the term in the regulations implementing such Act; and

(B) comments from the public on whether the term as used in such Act should be changed and on whether the substitution of the term "emotional and behavioral disorders" would be appropriate, or whether some other term should be used.

(3) DEFINITION.—The Notice of Inquiry shall contain the following proposed definition for use in the regulations implementing such Act:

"(1) As used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):

"(A) The term 'serious emotional disturbance' means a disability that is—

"(i) characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills;

"(ii) more than a temporary, expected response to stressful events in the environment;

"(iii) consistently exhibited in two different settings, at least one of which is school-related; and

"(iv) unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.

"(B) The term includes such a disability that co-exists with other disabilities.

"(C) The term includes a schizophrenic disorder, affective disorder, anxiety disorder, or other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).

"(2) The term 'seriously emotionally disturbed' means, with respect to a child, that the child has a serious emotional disturbance.".

(4) REPORT.—The Secretary shall, within 7 months after the end of the comment period, prepare a report containing a summary of the public comments described in paragraph (2)(B) received as a result of the Notice of Inquiry, and recommendations concerning whether such Act should be amended. The report shall be submitted to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate.

SEC. 813. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is amended—

(1) in section 221(a)(1) (29 U.S.C. 2251(a)(1)), by striking "nonprofit or for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,";

(2) in section 222(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,"; and

(3) in section 231(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,".

SEC. 814. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

The Joint Resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (36 U.S.C. 155a) is amended—

(1) by striking "handicapped persons" and inserting "persons with disabilities";

(2) by striking "the handicapped" and inserting "such persons";

(3) by striking "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991," and inserting "for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,"; and

(4) by striking "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

AMENDMENT NO. 2935

(Purpose: To provide a substitute)

Mr. MITCHELL. Mr. President, on behalf of Senator HARKIN, I call up an amendment in the nature of a substitute already filed at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. HARKIN, proposes an amendment numbered 2935.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. Mr. President, I rise today in strong support of an amendment in the nature of a substitute to S. 3065, the Rehabilitation Act Amendments of 1992. This is a truly bipartisan, consensus bill. S. 3065 is cosponsored by all 17 members of the Labor and Human Resources Committee: Senators DURENBERGER, KENNEDY, HATCH, SIMON, JEFFORDS, ADAMS, KASSEBAUM, BINGAMAN, DODD, PELL, WELLSTONE, COCHRAN, METZENBAUM, COATS, MIKULSKI, and THURMOND, as well as the distinguished minority leader, Senator DOLE.

The Congressional Budget Office found that the reported bill would affect direct spending and, therefore, would be subject to pay-as-you-go procedures in the amount of $11 million for fiscal year 1993, $14 million for fiscal year 1994, and $15 million for fiscal year 1995. Although I disagree with CBO's conclusion, the amendments eliminate all of the direct spending identified by CBO with the exception of spending for technical assistance grants under section 621(a) of the act, as amended, and spending for the endowment program for the Helen Keller National Center. This direct spending is offset by $2 million in savings from the Higher Education Reauthorization Act.

In sum, this bill, as amended, does not in any way create any new direct spending and, therefore, would not be subject to the pay-as-you-go procedures.

The amendment moves several of the new programs originally set out in titles II, III, and VIB in the reported bill to a new title VIII. It also specifies that there shall be established an account with a distinct designated budget account identification code number in the President's budget for activities under this title. Funding for the such activities shall be available to such extent as is provided, or in such amounts as are provided, in appropriations acts. The account for this title shall be separate and distinct from the accounts for all other activities under titles I through VII of the Rehabilitation Act. The amendment also includes other technical changes that eliminate the direct spending identified by CBO.

I particularly want to acknowledge Senator DURENBERGER for his wisdom and counsel during this reauthorization process. Senator DURENBERGER and Ann Silberman of his staff have worked long and hard on this bill and they deserve credit for their commitment to the consensus building process that made this bill possible. In addition, a number of our distinguished colleagues here in the Senate from both sides of the aisle provided critical input on the bill.

I also want to thank my staff, including Bob Silverstein, Linda Hinton, and Melanie Gabel, for their contribution to this legislation.

During the development of this legislation, we enjoyed the support and constructive guidance of the staff of the Department of Education. The Subcommittee and the administration's staffs met numerous times over the past many months to work out the details of the changes to the bill. Nell Carney, Commissioner of the Rehabilitation Services Administration, described this interaction in her testimony before the Subcommittee on Disability Policy and specifically applauded "the excellent spirit of cooperation between our staffs that has characterized the development of your bill."

As we worked on the reauthorization of this legislation, we had the assistance of many organizations, groups and individuals. In particular, I want to express my gratitude to the employment and training task force of the consortium for citizens with disabilities, the Council of State Administrators of Vocational Rehabilitation, the various national, regional, and local independent living organizations, representing rehabilitation service providers and professionals, numerous State agency officials and private citizens whose thoughtful commentary and ideas have been so helpful in this process.

Mr. President, 29 member organizations of the employment and training task force of the consortium for citizens with disabilities signed a letter of support for S. 3065. All of these groups were involved in the dialog that marked the development of the bill. The letter best describes the final results of this productive dialog:

> The resulting proposal incorporates important changes to existing authorities which will significantly assist persons with disabilities in achieving their employment and independent living goals. The bill builds on the provisions of the Americans with Disabilities Act, it represents sound public policy, and it will move the field of rehabilitation forward in a rational manner.

Mr. President, I ask unanimous consent that the entire letter from the consortium for citizens with disabilities supporting the Rehabilitation Act Amendments of 1992 be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HARKIN. On July 26, 1990, the President signed into law the Americans With Disabilities Act of 1990. I am proud to have been the chief sponsor of the ADA. I have referred to the ADA as the 20th century emancipation proclamation for individuals with disabilities. The ADA represents the philosophy of inclusion, empowerment, and elimination of barriers in society that keep persons with disabilities from fully participating in the economic, political, social, cultural, and educational mainstream of American society.

We have just recently celebrated the second annivesary of the passage of the ADA, July 26, 1992. In addition, July 26, 1992, marked the day the provisions in the ADA barring employment discrimination went into effect.

We can all be proud of what we have achieved. But obviously, our work is not done. We cannot rest until we have established a national disability policy that is based on the values and precepts of the ADA.

We need a national disability policy that:

Empowers individuals with disabilities to make meaningful contributions to their family and their community;

Provides individuals with disabilities with the choice to live in their own homes and communities and receive an education, work, and play alongside their nondisabled peers;

Guarantees affordable health care, including the elimination of exclusions for preexisting conditions;

Addresses the need for consumer-directed personal assistance services; and

Provides a Social Security System that rewards independence, not dependence.

The Rehabilitation Act Amendments of 1992 represents the continuation of vital components of our national disability policy. Barring employment discrimination opens the doors of opportunity, but people with disabilities need the skills and support services provided by vocational rehabilitation to enable them to achieve their career goals. And people with disabilities need independent living programs to ensure that they are empowered to control their own lives and be fully included in all aspects of our society.

With the current state of the economy and the high unemployment rate among persons with disabilities, we simply must continue our commitment to meeting the vocational rehabilitation and independent living needs of these individuals.

This bill reauthorizes the Rehabilitation Act of 1973, as amended, and the Helen Keller National Center Act and amends both to improve the operation of the programs and services provided. There are seven basic purposes for this legislation. They are:

To ensure that the values embedded in the Americans With Disabilities Act are reflected in the Rehabilitation Act;

To improve the functioning of the vocational rehabilitation system by streamlining access, ensuring appropriate access for those individuals with the most severe disabilities, improving interagency working relationships and cooperation, improving relationships with business, industry, and labor, and providing for a comprehensive system of personnel development;

To promote a philosophy of independent living in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities by supporting statewide networks of centers for independent living and assisting States to provide, expand, and improve the provision of independent living services;

To increase consumer choice and involvement at the individual and the system level;

To increase accountability and quality of services provided;

To ensure that the basic formula grant programs remain state-of-the-art by ensuring that the discretionary programs of research, demonstrations, and training respond to identified needs; and

To update the terminology used in the legislation.

I urge my colleagues to join me in support of S. 3065. It represents improvements that are essential if we are to see the dream of the Americans with Disabilities Act become a reality—an America where people with disabilities, including those with severe disabilities, are competitively employed in integrated work settings and are making meaningful contributions to their families and communities.

Mr. President, I ask unanimous consent that the detailed section-by-section analysis of S. 3065 also be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE REHABILITATION ACT AMENDMENTS OF 1992—S. 3065

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

SUBTITLE A—ADMINISTRATION

I. FINDINGS, PURPOSE, AND POLICY

Section 2 of the bill amends section 2 of the Act to specify findings, purpose, and policy for the entire Act that are consistent with the principles of the Americans with Disabilities Act. The policies include respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities; inclusion, integration, and full participation of such individuals; and support for individual and systemic advocacy and community involvement.

II. DEFINITIONS

Section 102 of the bill amends section 7 of the Act to update current definitions and add several new definitions.

The Federal share is changed to 78.7 percent. Currently, the Federal share is 80 percent for the payments less than the fiscal year 1988 amount received by the State and 75 percent for the excess beginning in fiscal year 1993.

The term "individual with a disability" is updated by including the phrase "can benefit in terms of employment outcome" in lieu of the phrase "reasonably be expected to benefit in terms of employability." The term "employment outcome" is defined.

For purposes of title V, the term "individual with a disability" is also amended by including the exclusions set forth in the Americans with Disabilities Act.

The term "rehabilitation technology" replaces the term "rehabilitation engineering" and the definition is modified to make it clear that "rehabilitation engineering, assistive technology devices, and assistive technology services" are included under the definition.

The term "assessment for determining eligibility and vocational rehabilitation needs" replaces the term "evaluation of rehabilitation potential" and the definition is reorganized to reflect the dual purposes of determining both eligibility and needs. Further, the definition places a new emphasis on the use of existing data.

The bill adds a definition for the term "personal assistance services." The bill also includes definitions for several terms used with respect to the provisions of supported employment: "supported employment," "supported employment services," "extended services," and "ongoing support services."

The bill also defines the term "impartial hearing officer."

The bill also defines the term "independent living core services" to include information and referral services, independent living skills training, peer counseling, and individual and systems advocacy. The bill also defines the term "independent living services."

The bill also includes the term "transition services" and uses the definition set forth in the Individuals with Disabilities Education Act.

III. CARRYOVER

Section 107 of the bill adds a new section 18 to the Act which authorizes recipients of formula grants to carryover funds, consistent with such authority currently available to education grantees.

IV. CLIENT ASSISTANCE INFORMATION

Section 108 of the bill adds a new section 20 to the Act that clarifies the obligation of all grantees to advise individuals with disabilities and others regarding the availability of client assistance programs.

SUBTITLE B—VOCATIONAL REHABILITATION SERVICES

I. FINDINGS, PURPOSE, AND POLICY

Section 111 of the bill amends section 100 of the Act to include specific findings, purposes, and policy for title I of the Act (the basic program of vocational rehabilitation services). The policy specifies that title I programs must be carried out in a manner consistent with the following principles, among others:

Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment in integrated settings;

Individuals must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals, objectives, and services; and

Accountability measures must facilitate and not impede the accomplishment of program.

II. AUTHORIZATION LEVELS

The bill includes "such sums" as the authorization level for the period of the reauthorization.

III. STATE PLAN

A. Submission of plan. The bill permits a State to submit its plan under this Act to coincide with submission of plans under other acts such as the Individuals with Disabilities Education Act.

B. Order of selection. The bill requires each State to explain the methods by which it will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible. Further, the bill specifies that the State, not the Federal Government, has the authority to adopt criteria for determining which individuals have the most severe disabilities.

C. Rehabilitation technology. The bill clarifies the States' responsibilities with respect to rehabilitation technology.

D. Facilities compliance. The bill requires that community rehabilitation programs comply with section 504 of the Act and the Americans with Disabilities Act.

E. Personnel. The bill provides for the establishment of a comprehensive system of personnel development, including training in the changes made by this bill. The bill also includes the personnel qualification standards currently set forth in the Individuals with Disabilities Education Act.

F. Comparable services. The bill provides that the State agency need not make a determination of the existence of comparable benefits before providing services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits.

G. Use of existing information. The bill provides that, to the maximum extent appropriate and consistent with the requirements under this Act, existing information available from other programs and information provided by the individual or the family must be used.

H. Interagency cooperation. The bill provides for interagency cooperation including, if appropriate, the entering into of cooperative agreements.

I. Review of individuals in extended employment. The bill provides for maximum efforts to promote movement from extended employment to integrated employment, including supported employment.

J. Construction. The bill continues to permit the use of title I funds for construction, but only under special circumstances.

K. Goals and public education. The bill specifies that the State agency must establish policies and methods (including the entering into of interagency agreements with State education agencies) to facilitate the development and accomplishment of long-term rehabilitation goals and goals related to independent living as part of the student's individual education plan and to facilitate the transition to rehabilitation under the responsibility of the State agency.

L. Coordination and improved working relationships with independent living centers and the Statewide Independent Living Council. The bill provides for such coordination.

M. Strategic plan. The bill provides that the State must develop a strategic plan for expanding and improving vocational rehabilitation services on a statewide basis.

N. Evaluation of rehabilitation personnel. The bill provides that a State must develop an accountability system that facilitates the accomplishment of the goals of the legislation, including serving, among others, those with the most severe disabilities and must assure that the system does not impede such accomplishments.

O. Coordination with business and industry. The bill provides that the State must take steps to work with business and industry and disability organizations to expand employment opportunities for individuals with disabilities, including providing training on the ADA.

P. Rehabilitation Advisory Council. The bill specifies that the State must establish an advisory council unless a consumer controlled independent commission is responsible for overseeing the program.

IV. DETERMINATIONS OF ELIGIBILITY

A. In general. Section 113 of the bill clarifies section 102 of the Act. In general, an individual is eligible if he or she is an individual with a disability and requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

B. Social Security presumption. An individual who has a disability or is blind as determined under title II or XVI of the Social Security Act shall be considered to have a physical or mental impairment under the first prong of the definition of an individual with a disability.

C. Determinations by other agencies. Determinations by other agencies, particularly education agencies regarding whether an individual is an individual with a disability shall be used to the extent appropriate and available and consistent with the requirements or the Act.

D. Presumption of benefit. The bill provides that it shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services unless the designated State agency can demonstrate by clear and convincing evidence that such individual is incapable of benefiting. In making the demonstration with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State agency must first conduct an extended evaluation.

E. Timelines. The State agency must make eligibility determinations within 60 days unless exceptional and unforeseen circumstances exist that are beyond the control of the State agency and the individual concurs with the extension.

V. INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

A. Timeframe. The bill provides that as soon as a determination has been made that an individual is eligible, the State agency must complete a comprehensive assessment (if necessary to determine the goals, objectives, and services to be provided).

B. Joint agreement. The IWRP must be jointly developed, agreed upon, and signed.

C. Contents. The IWRP must be designed to achieve the employment objective of the individual, consistent with his or her unique strengths, priorities, abilities, and capabilities. The IWRP must include a statement of goals and objectives, the specific services to be provided, an evaluation procedure, the terms and conditions under which goods and services are provided, the entity or entities that will provide the services, the process used to provide or procure such services, and a statement by the individual in the individual's own words describing how they were informed about and involved in choosing among alternative goals, objectives, services, entities providing services, and methods used to provide or procure such services.

D. Copy. The individual must be provided a copy of the IWRP and any amendments thereto.

VI. IMPARTIAL HEARING OFFICER

A. Selection. The impartial hearing officer must be selected on a random basis or by agreement between the parties. The pool of qualified hearing officers must be identified jointly by the State agency and the consumer members of the State Rehabilitation Advisory Council.

B. Overturning decision. The director may not overturn or modify a decision that supports the position of the individual unless the decision is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

C. Receipt of services pending administrative review. Pending completion of the administrative review, the individual must continue to receive the services provided under the IWRP.

VII. SCOPE OF VOCATIONAL REHABILITATION SERVICES

Section 114 of the bill amends section 103 of the Act to clarify that vocational rehabilitation services under title I include on-the-job or other related personal assistance services provided to assist an individual in performing work-related functions necessary to obtain and retain competitive work and fulfill the functions of the job while the individual is actively involved in a rehabilitation program that includes the provision of other authorized services. The bill also specifies that transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and objectives are included as are supported employment services.

VIII. STATE REHABILITATION ADVISORY COUNCIL

Section 116 of the bill adds a new section 105 to the Act that sets forth the policies concerning the State Rehabilitation Advisory Council. The bill provides for the establishment, composition and appointment (including a majority of persons with disabilities and term limits), functions of the Council (advisory in nature), management authority (preparation of resource plan, in consultation with the director of the State agency), conflict of interest, meetings, compensation and expenses, hearings and forums, and use of existing councils.

IX. EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Section 117 of the bill adds a new section 106 to the Act, which provides for the establishment and publication of evaluation standards and performance indicators for the vocational rehabilitation program. The bill provides for public comment. States are required to report the extent to which they are meeting the standards and indicators. If the Commissioner determines that the performance of a State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan.

X. MONITORING AND REVIEW

Section 118 of the bill adds a new section 107 to the Act, which prescribes rules governing the monitoring of programs. The Commissioner must provide for the annual review and periodic onsite monitoring of programs and determine whether the State is complying with the provisions of its State plan and the evaluation standards and indicators.

The bill also includes procedures for review, procedures for monitoring, areas of inquiry, the provision of technical assistance, and the significance of a failure to comply.

XI. REALLOTMENT

Section 119 of the bill amends section 110 of the Act to specify that monies available for reallotment shall remain available for such purpose until reallotted.

XII. MAINTENANCE OF EFFORT

Section 120 of the bill amends section 111 of the Act to modify the maintenance of effort provisions to make them more workable.

XIII. CLIENT ASSISTANCE PROGRAM

Section 121 of the bill amends section 112 of the Act in several respects. First, the bill permits CAPs to provide advocacy on behalf of an individual and provides that a CAP may provide assistance with respect to services that are directly related to facilitating the employment of the individual. Further, the bill clarifies the circumstances under which a redesignation may occur and the minimum allotment may be increased by adopting the policy in the Developmental Disabilities Act pertaining to protection and advocacy systems.

XIV. INNOVATION AND EXPANSION GRANTS

Section 122 of the bill amends section 120 of the Act by redesigning the innovation and expansion grant program (currently not funded). Effective October 1, 1993, the bill provides for the development of a strategic plan and authorizes funding for the following types of uses: improving working relationships between vocational rehabilitation and independent living, increasing the availability of integrated community-based service options through the redesign of existing service options, improving the functioning of the vocational rehabilitation system by increasing the ease of access into the system and the quality of services, and improving the working relationships of State agencies.

In addition, funds may be used to improve the comprehensive system of personnel development to support the training of consumers and business and industry, and to support the advisory council established under this title and the council established under title VII pertaining to independent living.

The formula is not changed (population base) and the minimum allotment is set at $200,000.

XV. REVIEW OF THE FEDERAL DATA COLLECTION SYSTEM

Section 124 of the bill directs the Commissioner to undertake a comprehensive review of the current system for collecting and reporting data under the Act, particularly data on clients of the programs under title I.

XVI. EXCHANGE OF DATA BETWEEN THE DEPARTMENT OF EDUCATION AND THE SOCIAL SECURITY ADMINISTRATION

Section 125 of the bill directs the Department of Education and the Social Security Administration to enter into a memorandum of understanding regarding the exchange of information.

XVII. ISSUANCE OF REGULATION

Section 126 of the bill directs the Secretary to issue regulations regarding the requirements for the implementation of an order of selection under section 101(a)(5)(A), if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

The bill also provides for the issuance of regulations to establish criteria pertaining to the selection of vocational rehabilitation services and the procurement of such services directly by an individual specifying procedures that States must follow to ensure that the services are of sufficient size, scope, and quality and that the costs of such services are reasonable and to prevent fraud, waste, and abuse with respect to the provision of such services.

XVIII. SOCIAL SECURITY REIMBURSEMENT PAYMENTS

Section 127 of the bill provides States with discretion to continue to use money reimbursed by the Social Security Administration for purposes permissible under the Rehabilitation Act until October 1, 1994. After that date, these funds may only be used for title I purposes.

TITLE II—RESEARCH

I. DECLARATION OF PURPOSE

Section 201 of the bill amends section 200 of the Act to incorporate the policy of full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities into the purpose of title II.

The bill adds that there should be a particular emphasis on research and demonstrations that emphasize improving the effectiveness of services authorized under the Act.

The bill emphasizes the dissemination of information generated from activities funded under this title in usable formats to individuals with disabilities and their families, among others.

II. NATIONAL INSTITUTE ON REHABILITATION AND DISABILITY RESEARCH

Section 203 amends section 202 of the Act in the following ways:

A. Report to Congress. The bill clarifies the Director's duty to report to Congress annually and adds a requirement that this report include the activities undertaken to disseminate the findings, conclusions, and recommendations from its activities.

B. Coordination with Attorney General. The Director must coordinate all information, training, or technical assistance activities regarding the Americans with Disabilities Act with the Attorney General.

C. Qualifications of Deputy Director. The bill clarifies that the Deputy Director must meet the same qualifications as the Director.

D. Peer review. The bill clarifies that peer review of research projects should be conducted by qualified peer reviewers including knowledgeable individuals with disabilities and knowledgeable family members of individuals with disabilities, that reviewers should be trained to conduct peer reviews, and that input from individuals with disabilities and their families should be received and considered as part of the review process.

E. Long range plan. The long range plan must be developed with the advice of the Rehabilitation Research Advisory Council established under section 205 and the full participation of individuals with disabilities and their families, organizations representing individuals with disabilities, rehabilitation service providers, and rehabilitation researchers. The plan must specify the plans for widespread dissemination of research results in practical, usable formats to practitioners and individuals with disabilities, including those from multicultural, unserved and underserved populations and their families.

III. RESEARCH

Section 205 of the bill amends section 204 of the Act as follows:

A. In General. The bill incorporates the policy of the Act to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities incorporated into the purpose of the research section and emphasizes research into areas related to the services authorized under the Act.

B. Research and Training Centers. The bill clarifies that grants for centers may be awarded to entities other than institutions of higher education.

The bill requires that the centers must be of sufficient size, scope, and quality to effectively carry out the required activities in an efficient manner consistent with appropriate State and Federal laws and must have the ability to carry out the training activities either directly or through another entity that can provide such training.

The bill includes that center grants are to be for a period of five years except where the grant is made to a new recipient or the grant would support new or innovative research.

C. Rehabilitation Technology Research and Resource Centers. The bill changes the name of the Rehabilitation Engineering Centers to conform with the language changes made in the definitions section of the bill.

The bill retains the focus in current law on research and demonstrations and includes, to the extent consistent with the nature and type of research being conducted, training of individuals and their families and training of researchers.

The bill includes areas of focus for centers in specified life areas and illustrative functional areas.

The bill requires the centers to have an advisory committee the majority of whose members are individuals with disabilities and their families.

IV. REHABILITATION RESEARCH ADVISORY COUNCIL

Section 205 of the bill establishes the Rehabilitation Research Advisory Council within the Department of Education to advise the Director with respect to research priorities and the development and revision of the long range plan.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

I. DECLARATION OF PURPOSE

Section 301 of the bill amends section 300 of the Act to include training in the purpose section of the title, to delete section 301, Grants for Construction of Rehabilitation Facilities, and to move section 304 dealing with personnel training to the beginning of the title.

II. TRAINING

Section 302 of the bill amends section 304 of the Act in the following ways:

A. In general. The bill adds personnel in rehabilitation technology and supported employment in the general categories of personnel to be trained. Grantees are required to provide a detailed description of the strategies that will be utilized to recruit and train members of minority groups and individuals with disabilities as rehabilitation personnel and to provide training of appropriate personnel in the amendments to the Act and the Americans with Disabilities Act.

B. Payback. The payback provision is amended to shorten the time period for repayment and to increase the opportunities for scholarship recipients to meet the employment requirement in order to forego repayment of the scholarship.

C. Interpreter programs. The cap of twelve such programs is deleted and the training of interpreters for individuals who are deaf-blind is added to the authority.

D. Authorization of appropriations. A 20 percent set-aside for inservice training of personnel in the amendments to the Act and for projects to recruit and retain qualified personnel, to provide for succession planning, and to provide for leadership development and capacity building is included, if the Commissioner can meet the set-aside without reducing funds already committed to other grant recipients.

PART B—SPECIAL DEMONSTRATIONS

The bill provides authority for the Commissioner to fund projects to identify appropriate incentives to vocational rehabilitation counselors, such as weighted case closures, to achieve high quality placements for individuals with severe disabilities.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

I. MEMBERSHIP

A. Recommendations for members. Section 401 of the bill amends section 400 of the Act to require that the President solicit recommendations for the selection of members of the National Council from organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

B. Qualifications. The bill requires that the members of the Council shall be individuals with disabilities or individuals with substantial knowledge or experience relating to disability policy or programs with a majority of the members being individuals with disabilities or family members of individuals with disabilities.

II. PURPOSE

The purpose of the Council is amended to clarify that it is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of disability and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

III. TERMS

The bill provides for three year terms, with no member serving more than two full terms, consecutively.

IV. DUTIES

Section 402 of the bill amends section 401 of the Act to modify the Council's duties in regard to the National Institute on Disability and Rehabilitation Research from establishing general policies to providing advice with respect to policies. The change conforms the policy in the legislation to current practice.

Section 402 of the bill also amends section 401 of the Act to add to the duties of the Council to review and evaluate on a continual basis new and emerging disability policy issues.

V. REPORTS

The Council is to prepare a report by October 30, 1993, and annually thereafter, entitled "National Disability Policy: A Progress Report" including data on various disability issues, assessing the status of the Nation in meeting the policies of the title, and recommendations for policy changes. In addition to this information, the 1995 report is to include information and analysis of the implementation of the amendments made by the Rehabilitation Act of 1992.

VI. STAFF

Section 404 of the bill amends section 403 of the Act to change the number of staff from a maximum of seven to a minimum of seven.

TITLE V—EQUAL ACCESS

I. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES AT THE FEDERAL LEVEL

The bill amends section 501 of the Act to specify that standards used to determine if the section has been violated in a complaint alleging non-affirmative action employment discrimination under this section shall be the standards applied under title I and the employment provisions of title V of the Americans with Disabilities Act.

II. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The bill amends section 502 of the Act by making several technical and conforming amendments. It increases the number of members of the Board and adds the Department of Commerce to the list of agencies represented.

III. EMPLOYMENT UNDER FEDERAL CONTRACTS

The bill amends section 503 of the Act in several respects. First, the bill increases from $2,500 to $10,000 the trigger for the provision. This conforms to the trigger used under Executive Order 11246. Second, the bill clarifies the scope of the provision to make it parallel to the scope of coverage under Executive Order 11246. Third, the bill includes waiver authority currently set forth in regulations implementing section 503 and the Executive Order 11246 and directs the Secretary of Labor to promulgate regulations that set forth the standards used for granting waivers.

Fourth, the bill amends section 503 of the Act to specify that standards used to determine if the section has been violated in a complaint alleging non-affirmative action employment discrimination under this section shall be the standards applied under title I and the employment provisions of title V of the Americans with Disabilities Act.

Finally, the bill directs the Secretary of Labor to develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act. This identical provision is included in the ADA.

IV. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS

The bill amends section 504 of the Act to specify that standards used to determine if the section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I and the employment provisions of title V of the Americans with Disabilities Act.

V. ELECTRONIC EQUIPMENT ACCESSIBILITY

The bill updates section 508 of the Act. Current law refers to dates and deadlines that have already been met, and fails to take into account technological changes that have occurred and that are likely to occur in the future. It focuses on hardware, while the issues regarding electronic accessibility have shifted to software, interface systems and operating systems. Updating section 508 will ensure that persons with disabilities have comparable access to electronic information and data.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS

The bill amends part A to make conforming language changes.

PART B—PROJECTS WITH INDUSTRY

I. ELIGIBILITY

Section 605 of the bill amends section 621 to clarify who is eligible to receive services from Projects with Industry grantees. The individual must be determined by the designated State unit to be an individual with a disability as defined in section 7(8)(A) or an individual with a severe disability as defined in section 7(15)(A). The State unit is to rely on the determination made by the grant recipient to the extent appropriate and available and consistent with the requirements of the Act. If the designated State unit does not make a determination within 60 days, the individual will be considered eligible.

II. TERMINATIONS

The bill includes in the items to be reported annually the number of project participants who were terminated from project placements and the duration of such placements.

III. TECHNICAL ASSISTANCE

The bill includes authority for the Commissioner to include, as part of the agreements with grant recipients, authority to provide technical assistance to employers regarding hiring of individuals with disabilities, improving relationships with Projects with Industry, and understanding and meeting the requirements of the Americans with Disabilities Act as it relates to employment of individuals with disabilities.

PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

The bill strikes the current part C and inserts the following. Key definitions are set out in title I of the bill.

I. PURPOSE

The purpose of this part is to provide grants, in addition to grants for vocational rehabilitation under title I, to assist States to provide supported employment services for those individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

II. ALLOTMENTS

Funds are allocated on the basis of relative population, with minimum of $250,000 (current law) or $300,000 if the appropriation increases by $1 million or more over the fiscal year 1992 level.

III. AVAILABILITY OF SERVICES

Funds provided under this part may be used to provide supported employment services. Funds provided under this part, section 311(c) and 311(d), and title I may not be used to provide extended services to individuals who are eligible under this part or title I.

IV. ELIGIBILITY

An individual is eligible under this part to receive supported employment services if the individual is eligible for vocational rehabilitation services, the individual is determined to be an individual with the most severe disabilities, and a comprehensive assessment done under title I identifies supported employment as the appropriate rehabilitation objective for the individual.

V. STATE PLAN

A. State plan supplement. To be eligible under this part, the State must submit to the Commissioner a supplement to its State plan.

B. Contents. Each supplement must, among other things:

Designate the designated State agency as the agency to administer the program;

Describe the supported employment services to be provided;

Demonstrate evidence of efforts to identify and make arrangements with other State agencies and other appropriate entities to assist in the provision of supported employment services and extended services;

Provide assurance that an individualized written rehabilitation program will be developed and updated in order to specify the supported employment services to be provided, the expected extended services needed, and the source of extended services, which may include natural supports, or, to the extent that it is not possible to identify the source of the extended services at the time the IWRP is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available.

To the extent jobs skills training is provided, the training will be provided on-site; and

Supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of the individual.

VI. RESTRICTION

State agencies must collect client information separately for supported employment clients under this part and for supported employment clients under title I.

VII. SAVINGS PROVISIONS

Nothing in this part shall be construed to prohibit a State from providing discrete post employment services under title I to an individual who is eligible under this part.

VIII. AUTHORIZATION OF APPROPRIATIONS

The bill includes "such sums" for all years.

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

Title VII of the Act is completely revised.

PART A—GENERAL PROVISIONS

I. PURPOSE

The purpose of the title is to promote a philosophy of independent living by providing financial assistance to States to provide, expand, and improve the provision of independent living services; providing financial assistance to develop and support a statewide networks of centers for independent living; and providing financial assistance to States to improve working relationships among related programs.

II. DEFINITIONS.

A. Center for independent living. The term means a consumer-controlled, community-based, cross-disability, nonresidential, private non-profit agency that is designed and operated within a local community by individuals with disabilities and provides an array of independent living services.

B. Consumer control. The term means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

C. Independent living services and independent living core services are defined in title I of the bill.

III. STATE PLAN

A. Eligibility. To be eligible for assistance under title VII, a State must submit to the Commissioner a State plan that is jointly signed by the director of the State agency and the chairperson of the Statewide Independent Living Council acting on behalf of and at the direction of the Council.

B. Council. The plan must provide for the establishment of a Statewide Independent Living Council.

C. Designation of State unit. The plan must designate the vocational rehabilitation agency as the agency that accounts for and disburses the Federal funds received by the State under the title.

D. Objectives. The plan must specify the objectives to be achieved and explain how they are consistent with and further the purposes of the title.

E. Independent living services. The plan must provide that independent living services will be provided in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such plan is unnecessary.

F. Scope and arrangements. The plan must describe the extent and scope of independent living services to be provided.

G. Network. The plan must set forth a design for the establishment of a statewide network of centers that complies with the standards and assurances specified in part C.

H. Centers. In States in which State funding for centers equals or exceeds the Federal allotment, the State plan must include policies governing the awarding of grants to centers and oversight of such centers.

I. Working relationships. The plan must set forth the steps that will be taken to maximize cooperation, coordination, and working relationships among concerned parties.

J. Coordination between services and centers. The plan must describe how services provided under part B will be coordinated with and complement services provided by centers under part C.

K. Coordination between centers and services funded from Federal and State sources. The State plan must describe efforts to coordinate Federal and State funded centers and services.

L. Outreach. The plan must set forth steps to be taken regarding outreach to unserved and underserved populations.

M. Assurances. The plan must include specified assurances, including fiscal control and fund accounting.

N. Evaluation. The plan must establish a method of periodic evaluation.

O. Administrative costs. The plan must include an assurance that the designated State agency shall not use more than 5 percent of the assistance made available under the title to pay for the administrative costs of carrying out this title. The 5 percent limitation does not apply to costs and expenses incurred with respect to the functioning of the Statewide Independent Living Council.

IV. INDEPENDENT LIVING COUNCIL

A. Establishment. Each State must establish a Statewide Independent Living Council.

B. Composition and appointment. Members of the Council must be appointed by the Governor or the appropriate entity within the State responsible for making appointments after soliciting recommendations from the disability community. The Council must include at least one director of a center chosen by the directors of the centers within the State and additional members from specified categories.

Members must provide statewide representation, represent a broad range of individuals with disabilities, and be knowledgeable about centers and independent living services. Further, a majority of the members must be persons with disabilities. Members shall serve three year terms and no member may serve more than two consecutive full terms.

C. Functions of the Council. Functions of the Council include: developing and submitting (in conjunction with the designated State unit) the State plan, monitoring implementation, coordination with other entities, and submitting periodic reports.

D. Hearings and forums. The Council is authorized to hold hearings and forums.

E. Management authority. Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council from amounts under part B of title VII and part C of title I, and other public and private sources.

F. Compensation and expenses. The Council may use funds to reimburse members for forfeited wages and travel expenses.

G. Use of existing councils. The State may use existing councils for the first year and then must establish a council that fully meets the requirements of this section.

V. RESPONSIBILITIES OF THE COMMISSIONER

A. Approval of State plans. The Commissioner shall approve State plans.

B. Indicators. Not later than October 1, 1993, the Commissioner shall develop and publish indicators of minimum compliance consistent with the standards set forth in this title.

C. On-site compliance reviews. The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers.

VI. AUTHORIZATION OF APPROPRIATIONS

The bill includes "such sums" for part B (services), part C (centers), and part D (protection and advocacy).

PART B—INDEPENDENT LIVING SERVICES

I. ALLOTMENTS

In general, funds will be allotted on the basis of population. The bill includes a minimum allotment of $275,000 or ⅓ of 1 percent of such funds. However, the bill includes a hold harmless so that no State receives less than the amount the State received in fiscal year 1992 under part A, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992. The bill also provides for an increase in the minimum allotment on a proportionate basis.

II. PAYMENTS TO STATES FROM ALLOTMENTS

From the allotment to each State, the State shall be paid the Federal share (90 percent).

III. AUTHORIZED USES OF FUNDS

The State shall use funds under part B to pay for the resources described in the plan pertaining to the operation of the Statewide Independent Living Council and may use funds for the following uses, among others: to provide independent living services; to demonstrate ways to expand and improve independent living services; to support the operation of centers; to support the development of comprehensive approaches or systems for providing independent living; to conduct analyses; to train individuals with disabilities and others regarding the independent living philosophy, and to provide outreach.

PART C—CENTERS FOR INDEPENDENT LIVING

I. PROGRAM AUTHORIZATION

A. 1994 and subsequent fiscal years. The bill includes a reservation for training and technical assistance. In any fiscal year in which the amount of funds appropriated to carry out part C exceed the amount appropriated for fiscal year 1993, the Commissioner shall reserve the lesser of the amount of the excess or $550,000 or 2 percent, whichever is greater.

The funds are to be allocated among the States on the basis of population except as described in the following sentences. First, a State's allotment may not be less than the amount of financial assistance received by centers in the State for fiscal year 1993. Second, if the appropriations exceed the fiscal year 1992 amount by $3.5 million, the minimum allotment shall be $500,000 or one-third of 1 percent of such sums, whichever is greater. If less than $3.5 million, the minimum allotment shall approach, as nearly as possible, the minimum specified in the previous sentence. The minimum allotment shall be adjusted in accordance with the same policy applicable to independent living services under part B.

B. Transition rules for fiscal year 1993. For fiscal year 1993, the Commissioner shall first reserve from the amounts appropriated to carry out this part $550,000 or 2 percent, whichever is greater for training, technical assistance, and transition assistance. After the above reservation is made, the Secretary must make grants to nonprofit agencies that received grants for fiscal year 1992 under part B as in effect on the day before the date of enactment of this bill, if they comply with the standards and assurances in the bill.

II. GRANTS TO CENTERS IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING

A. Establishment. In any fiscal year in which the amount of State funds that are earmarked by a State to support the general operation of centers is less than the Federal allotment, the Commissioner shall make grants directly to eligible agencies within the State.

B. Eligible agencies. In States with approved plans, the Commissioner may make grants to eligible agencies.

C. Existing eligible agencies. The Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in this part.

D. New centers. If there is no center serving a region of the State or a region is underserved, and the increase in the State's allotment is sufficient to support an additional center, the Commissioner may award a grant to the most qualified applicant, consistent with the provisions of the State plan. The bill includes criteria for making the selection and includes guidance to the Commissioner regarding the order of priorities in allocating funds among centers within a State.

Centers receiving support for the general operation of the center from part B (formerly part A) are not considered "existing centers" and are thus eligible to compete as "new centers."

E. Periodic review. The Commissioner must review each center periodically to ensure compliance with standards and assurances. If found to be in noncompliance, the Commissioner must terminate all funds 90 days after the date of notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

III. GRANTS TO CENTERS IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING

A. Establishment. For any preceding fiscal year in accordance with regulations issued by the Commissioner in which the amount of State funds that are earmarked by a State to support the general operation of centers equaled or exceeded the amount of Federal funds allotted to the State and for any subsequent fiscal year, the director of the designated State unit may award grants to eligible agencies (if it submits an application demonstrating that it has met or exceeded the minimum amount). In subsequent years, the State may retain this authority if it maintains this level. If it does not, the State loses its eligibility to administer the program.

If the designated State agency chooses not to exercise its discretion, the Commissioner shall make the grants directly in accordance with the previous section.

B. Eligible agencies. In States with approved plans, the State agency may make grants to eligible agencies.

C. Existing eligible agencies. The director of the State agency shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in this part.

D. New centers. If there is no center serving a region of the State or a region is underserved, and the increase in the State's allotment is sufficient to support an additional center, the director may award a grant to the most qualified applicant, consistent with the provisions of the State plan.

In selecting from among eligible agencies in awarding grants for new centers, the director of the designated State unit and the chairperson of or other individual designated by the Council, acting on behalf of and at the direction of the Council shall jointly appoint a peer review committee that must rank applications. The peer review committee must use the criteria contained in the bill for making its recommendations. The director must make the award on the basis of the recommendations of the peer review committee, if the actions of the committee are consistent with Federal and State law.

The bill also includes guidance to the director regarding the order of priorities in allocating funds among centers within a State.

E. Review. The director must periodically review each center to determine whether the center is in compliance with the standards and assurances. The director must notify the center if it is found to be in noncompliance. The Director shall terminate all funds 90 days after the date of notification by the State director or, if the center requests an appeal to the commissioner, the date of a final decision unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director or, if appealed, by the Commissioner.

F. On-site compliance review. The director must conduct on-site compliance reviews composed of a team that includes at least one person who is not an employee of a State agency, who has experience in the operation of centers, and who is jointly selected by the director of the State agency and the chairperson or other person designated by the Council acting on behalf of and at the direction of the Council.

G. Adverse actions. If the director of the State agency proposes to take a significant adverse action against a center, the center may seek mediation and conciliation by an individual who is free of conflicts identified by the Council. If the issue is not resolved, the center may appeal to the Commissioner.

IV. CENTERS FOR INDEPENDENT LIVING

Centers must comply with the standards and assurances set forth in this section, including the assurance that the center will have a board that is the principal governing body of the center and a majority of which is composed of individuals with severe disabilities.

V. SPECIAL PROVISIONS

The bill includes a special provision allowing a center for independent living that was operated directly by the State on the day before the date of enactment of the Rehabilitation Act Amendments of 1992 to continue to operate the center if there are no applications submitted by nonprofit agencies in the State and the center is otherwise in compliance with the standards and assurances included in the legislation (other than the provision that the recipient be a nonprofit agency).

VI. EFFECTIVE DATE

Awards made to centers before October 1, 1992, may be carried out in accordance with the requirements of law in effect prior to the enactment of the Rehabilitation Act Amendments of 1992.

PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

I. PURPOSE

The purpose is to support systems to protect the legal and human rights of individuals with disabilities whose request for services cannot be addressed by or who are ineligible for the client assistance program and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986.

II. PROGRAM AUTHORIZATION AND ALLOTMENTS

If the amount of the appropriation is less than $5.5 million each State receives a proportionate share after reserving funding for training and technical assistance. If the appropriation level exceeds $5.5 million, after the reservation for training and technical assistance, the remainder shall be distributed in accordance with population with a minimum allotment of $100,000 or one-third of 1 percent.

III. ELIGIBILITY FOR ASSISTANCE

"Eligible systems" means a protection and advocacy system that is established under part C of the Developmental Disabilities Act.

IV. SYSTEM REQUIREMENTS

To be eligible, a system must have the same general authorities as are set forth in part C of the Developmental Disabilities Act, develop a statement of objectives, and establish a grievance procedure and assure that funds will supplement and not supplant non-Federal funds.

V. DIRECT FUNDING

The Secretary shall pay directly to any system that complies with the provisions of this part the amount of the allotment, unless the system designates another entity to receive the payment.

VI. DELEGATION

The Secretary may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

TITLE VIII—SPECIAL RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

Title VIII adds a new title to the Act for special research, training, and demonstration projects. The bill establishes an account with a distinct designated budget account identification code number in the President's budget for activities under this title. Funding for such activities shall be available to such extent as is provided, or in such amounts as are provided, in appropriations Acts. The account for this title shall be separate and distinct from the accounts for all other activities under titles I through VII of such Act.

I. DEMONSTRATION PROJECTS

A. Client choice demonstrations. The bill provides authority for the Commissioner to fund projects to demonstrate ways to increase client choice in the rehabilitation process including the choice of providers of vocational rehabilitation services.

B. Transition demonstrations. The bill provides authority for the Commissioner to fund projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community.

C. Improvements of management and service delivery systems. The bill provides authority for the Commissioner to fund studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

D. Job retention/career advancement demonstrations. Consistent with the purpose of section 621, Projects with Industry, the bill authorizes the Commissioner to award grants for model demonstration projects for workers with disabilities who need new or upgraded skills to adapt to emerging technologies, work methods, and markets.

II. TRAINING INITIATIVES

A. Rehabilitation training projects. Section 803 of the bill includes authority for grants to address unmet and emerging training needs including the training needs of supported employment program personnel, client assistance program personnel, independent living center personnel, and rehabilitation technology personnel, and the training needs of impartial hearing officers.

B. Training and information grants. The bill includes authority to establish training and information programs for individuals with disabilities and their parents, family members, guardians, advocates, or authorized representatives to enable such individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities.

C. Braille training grants. The bill authorizes grants for training in the use of Braille for personnel providing rehabilitation services or educational services to individuals who are blind.

III. RESEARCH INITIATIVES

A. Rehabilitation Technology Research and Resource Center. The bill authorizes a Rehabilitation Research and Resource Center in an area of focus not identified in section 204(b)(2) and shall conduct research or demonstration activities relating to emerging program trends and technologies, based on public input and the recommendation of the Rehabilitation Research Advisory Council established under section 205.

B. Model Systems. The bill authorizes grants to establish model systems of comprehensive service delivery for individuals with severe disabilities similar to the spinal cord injury program.

C. Model Personnel Assistance Services Systems. The bill authorizes grants to establish model personnel assistance service systems and other innovation service systems to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.

TITLE XI—AMENDMENTS TO OTHER ACTS

SUBTITLE A—HELEN KELLER NATIONAL CENTER

The bill reauthorizes the Helen Keller National Center Act, makes conforming language changes, includes in the definition of an "individual who is deaf-blind" those who are functionally deaf-blind where measurement cannot be accurately made, and authorizes the establishment of the Helen Keller National Center Federal Endowment Fund consistent with other Federal endowment funds.

SUBTITLE B—OTHER PROGRAMS

I. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Section 911 of the bill amends the Wagner-O'Day Act to change the name of the "Committee for Purchase from the Blind and Other Severely Handicapped" to the "Committee for Purchase from People Who Are Blind or Severely Disabled."

II. INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Section 912 of the bill amends section 631(a) of the Individuals with Disabilities Education Act to transfer the authority of the Secretary to provide training or retraining of regular education teachers in the communication needs of individuals who are deaf from the Rehabilitation Act to the Individuals with Disabilities Education Act.

The bill also provides for a notice of inquiry relating to the definition of the term "seriously emotionally disturbed."

III. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988

Section 913 of the bill amends section 221(A)(1) of the Technology-Related Assistance for Individuals with Disabilities Act of 1988 to make conforming language changes.

IV. PRESIDENT'S COMMITTEE ON THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

Section 914 of the bill amends the "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week" to make technical and conforming changes.

EXHIBIT 1

CONSORTIUM FOR CITIZENS
WITH DISABILITIES,
July 28, 1992.

Senator TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: The undersigned members of the Employment and Training Task Force of the Consortium for Citizens with Disabilities (CCD) are pleased to support the Senate bill for reauthorization of the Rehabilitation Act. Under your leadership as Chairman of the Subcommittee on Disability Policy, and that of Senator David Durenburger, Ranking Minority Member of the Subcommittee on Disability Policy, this bill was developed with significant input and dialogue with the disability community. The resulting proposal incorporates import changes to existing authorities which will significantly assist persons with disabilities in achieving their employment and independent living goals. The bill builds on the provisions of the Americans With Disabilities Act, it represents sound public policy, and it will move the field of rehabilitation forward in a rational manner.

The undersigned members of the CCD Employment and Training Task Force strongly support the Senate bill and urge its adoption and passage by the full Senate as soon as possible.

Sincerely,

American Academy of Physical Medicine and Rehabilitation.

Amerian Congress on Rehabilitation Medicine.

American State of the Art Prosthetic Association.

Amputee Coalition of America.

Conference of Educational Administrators Serving the Deaf.

Convention of American Instructors of the Deaf.

Council of State Administrators of Vocational Rehabilitation.

Epilepsy Foundation of America.

Goodwill Industries of America.

International Association of Psychosocial Rehabilitation.

Learning Disabilities Association.
National Alliance for the Mentally Ill.
National Association of Developmental Disabilities Councils.
National Association of Private Residential Resources.
National Association of Protection and Advocacy Systems.
National Association State Mental Health Program Directors.
National Association State Mental Retardation Program Directors.
National Council on Rehabilitation Education.
National Easter Seal Society.
National Mental Health Association.
National Multiple Sclerosis Society.
National Parent Network on Disability.
National Recreation and Parks Association.
National Rehabilitation Association.
NISH Creating Employment Opportunities for People with Severe Disabilities.
Spina Bifida Association of America.
The Arc (formerly the Association for Retarded Citizen).
The Association for Persons with Severe Handicaps.
United Cerebral Palsy Association, Inc.

Mr. KENNEDY. Mr. President, I welcome Senate passage of S. 3065, legislation that will reauthorize the Rehabilitation Act of 1973. S. 3065 carries forward and improves programs of vital importance to our fellow citizens with disabilities, and I look forward to its speedy enactment into law.

I am pleased to be an original cosponsor of this bill, which has been authored by Senator HARKIN, the chairman of the Disability Subcommittee of the Labor and Human Resources Committee. Senator HARKIN and Senator DURENBERGER, the subcommittee's ranking member, have done a superb job of crafting a bipartisan, consensus reauthorization bill on this complex subject. They engaged in extensive consultation with the disability community, with State officials, and with the Federal Department of Education. S. 3065 was the subject of a hearing in the Disability Subcommittee on June 29 of this year, and was reported favorably by the full Labor Committee on July 29 by unanimous voice vote.

The Rehabilitation Act authorizes training and related services to enable individuals with disabilities to become employable and to live independently. In addition to vocational training, the act funds programs that assist persons with disabilities to live in the community, and funds research on technological devices that can assist the disabled in such areas as mobility and communication.

The Rehabilitation Act is a vital complement to the Americans With Disabilities Act of 1990 [ADA], which became effective just last month. Services under the Rehabilitation Act enable many of the severely disabled to take advantage of the legal opportunities afforded to them by the ADA.

Many of the improvements in the current reauthorization are technical and administrative in nature, but the underlying policy goals of the reauthorization are clear: to incorporate the philosophy of integration and inclusion of the ADA into the Rehabilitation Act; to streamline access into vocational rehabilitation for the severely disabled; to develop statewide networks of independent living centers for the disabled; to increase consumer choice and involvement in all aspects of the act; and to increase the accountability and quality of services provided.

That is important, carefully considered legislation, and I am pleased to support it. I will seek to schedule a prompt conference committee meeting with our colleagues on the House Education and Labor Committee soon after the August recess, so that we can resolve any differences between the two bills and bring a conference report before the Senate in an expeditious fashion.

Mr. HATCH. Mr. Chairman, I support passage of S. 3065, the Rehabilitation Act Amendments of 1992. I believe all interested parties in this bill had the same goal: To provide individuals with disabilities the tools to become independent members of society through employment. The discussion has been open and extensive, resulting in broad-based, bipartisan support for this bill.

I would like to share an excerpt from a letter sent to a rehabilitation counselor working in my home State of Utah. It illustrates what rehabilitation can do for people. The note says:

> Thanks a lot for helping me out, and understanding my many trials * * * thank you for understanding [our] problems * * * people will ignore and set aside. [It is] like letting people with disabilities fall thru the cracks.

Mr. President, the goal of this legislation is to prevent individuals with disabilities from falling through the cracks. I am pleased with the bill on a number of different counts.

I believe this bill has been drafted with an eye toward the empowerment of individuals with disabilities, increasing choices, independence, and also the responsibility of those who may need and want rehabilitation services. I believe individuals desire to be more self-reliant, and rehabilitation programs give them the means to seize opportunities and take responsibility for those decisions in their lives. Helping people help themselves is true empowerment.

One way consumer empowerment is achieved in this bill is by ensuring the involvement of individuals with disabilities in developing their individual written rehabilitation plan [IWRP]. This type of involvement already works in Utah and has received good marks 'from an another Utahn. She states:

> * * * People in mine and similar situations need to be treated as human beings who need to form a new direction to their lives. This can only be done with the sensitivity of the unique individual guidance plan such as the one [my counselor] and I have worked out together. The together part is most important * * *

I hope that the together part is incorporated in every State across the country.

Individuals with disabilities will also have greater input in policy development by the establishment and continuation of State rehabilitation advisory councils and State independent living councils. The bill also gives the commissioner authority to fund projects to demonstrate ways to increase client choice.

There are provisions aimed at improving the operation of the program. I hope that provisions streamlining eligibility, requiring the use of existing data where possible and increasing interagency cooperation will all have positive results. I believe that improving the transition between school systems and vocational rehabilitation is also a step in the right direction. The legislation continues to support independent living centers and services.

As with any compromise, there are individuals and groups who would have liked to see different provisions than those included in the bill. I am aware of that fact. Individuals with disabilities, their families, and others have made known their frustrations with some aspects of the current system.

I also recognize the concerns of those who administer the program. They, too, have frustrations resulting from the desire to fulfill the goals and directives of the Rehabilitation Act within severe budgetary constraints.

As elected representatives working to develop good public policy, we have been charged to spend tax dollars wisely. We all agree that accountability must be incorporated into all government programs. The search for measures of efficiency and effectiveness, important elements of accountability, have always been important, and not always easy. This is especially true when agencies must quantify successes that cannot be measured by numbers. Such is the case with this program.

The Congress has given State rehabilitation agencies the responsibility for providing rehabilitation training for those individuals with disabilities that need assistance to become employed and live independently. Congress has also placed a priority on services to the most severely disabled when there are not enough resources to serve everyone. Clearly, services to this population are more costly than to other segments of eligible participants. We must recognize, given this challenge, that the historical measures of efficiency and effectiveness may need to be adjusted and that a cost-benefit ratio may not tell the entire story. For example, counting the number of individuals served is a measurement of efficiency, but it may not be one that is appropriate to judge the Rehabilitation Program.

Mr. President, I would also like to comment briefly on the creation of title VIII in this legislation. The creation of title VIII should not be indicative of a lesser priority placed on the programs in this title. These programs were placed in this title for the purpose of scorekeeping, in deference to the Budget Committee, and is not intended to create additional limitations on the Secretary's authority to fund discretionary programs.

In the process of reauthorizing legislation, the focus is often on what is wrong with the program. However, this program has had many successes of which we can be proud. I have read a number of letters commending the work of rehabilitation counselors in my home State of Utah. One such letter states:

> When I first contacted [my counselor] and informed him of my situation, he was sympathetic, but the outlook was rather dim. But [my counselor's] relentless efforts to help me regain my self esteem did not go unrewarded. The fact is that my entire family feel indebted to him. My family and I are truly grateful to him. And I consider it a privilege to have him as my counselor.

The level of concern, personal interest, and encouragement they received have been in evidence from letters such as these. I am proud that counselors of this caliber are working in Utah.

Utah has a proud tradition of helping people help themselves and, in many ways, this philosophy is a hallmark of vocational rehabilitation. This result is evident in another letter, in which a client states:

> * * *instead of living on others' tax dollars, my own taxes are going back to help other people in similar situations.* * *

This emphasis on short-term help has assisted thousands of individuals become independent, self-reliant members of society. I support the continuation of this approach.

Mr. President, in conclusion, I would like to thank Senator DURENBERGER and Senator HARKIN for their excellent leadership on this legislation. Their staffs have also put in many hours over the past year in bringing this bill to fruition and should be commended.

I would also like to thank members of the Utah Task Force on Disabilities. Dr. Marvin Fifield, who serves as the chairman of this task force, has been invaluable. I would also like to thank specifically Dr. Blaine Peterson, executive director, Utah State Office of Rehabilitation Services, Mr. Don Uchida, director, Division of Rehabilitation Services, and Mrs. Helen C. Roth, executive director of the Northern Utah Center for Independent Living, who were also helpful in providing feedback on various proposals.

From what I have observed, those involved in the vocational rehabilitation program in Utah have contributed to a spirit of cooperation. I would hope that those who are disabled, those who represent the disabled, State rehabilitation administrators, counselors, and others involved in making this program successful, continue to be open and cooperative in making rehabilitation work for everyone across the country.

Mr. DURENBERGER. Mr. President, I am pleased to once again be on this floor with my colleagues from Iowa to present a piece of legislation to our colleagues which is designed to help make us one America—the Rehabilitation Act of 1992.

Through the twists and turns of our history, the truth has been proven over and over again that "united we stand and divided we fall." This generation of Americans is taking on the challenge of eliminating artificial separation among our people on the basis of disability. Each prejudice we enlighten, each barrier we remove, America stands taller.

The historic Americans With Disabilities Act has just celebrated it's second birthday. The leadership within our committee, Senator KENNEDY and Senator HATCH, the Senate leadership and very consistent and tangible leadership from President George Bush were crucial to that bill's passage. Our former colleague Lowell Weicker played an indispensable role. The foremost credit within this Congress for ADA belongs to my friend and subcommittee chair, TOM HARKIN.

But we probably all have the same feeling about our role in passage of ADA. Like Winston Churchill said after World War II: "It was the people who had the lion's heart. I had the luck to give the roar." It was the heart and wisdom and determination of millions of Americans of every description that made ADA a reality; we just got to make the speeches when it did.

Mr. President, it is one thing to articulate a set of rights. It is quite another to fashion programs which allow people to take full advantage of them. That is the challenge which this legislation begins to live up to. This measure is unfortunately not worthy of the title many of us had hoped would be on it: ADA Implementation Act. But it represents major progress.

When this act was first passed in 1920, its sole purpose was job related: to help injured workers get back to their jobs. Over the past seven decades, and especially the last 14 years, it has been expanded to deal with a far broader set of human needs. "Rehabilitation" in the 1990's means vocational rehabilitation as well as training to assist community living, mobility and communication.

The bill before us contains several major accomplishments:

A revision of the act that ensures the concepts of empowerment for individuals with disabilities will be followed including respect for individual dignity, self-determination, inclusion, integration, and full participation of individuals with disabilities.

A presumption that individuals with disabilities, including individuals with the most severe disabilities, are capable of benefiting from vocational rehabilitation services unless the State agency can demonstrate by clear and convincing evidence that the individual cannot benefit.

An improved relationship between the State agencies and public schools through a directive to establish policies and methods, including interagency agreements, to facilitate both the long-term rehabilitation goals for students and the transition of students from schools to State rehabilitation agencies.

Increased consumer involvement and choice by requiring a joint signoff between consumer and counselor in the Individualized Written Rehabilitation Program.

The establishment of a State Rehabilitation Advisory Council for the basic grant program, a majority of whose members shall be persons with disabilities.

A choice demonstration project which gives States broad authority to implement consumer choice programs.

A counselor incentive demonstration to allow the Commissioner to fund projects to identify appropriate incentives to vocational rehabilitation counselors, such as weighted case closures, to achieve high quality placements for individuals with severe disabilities.

The establishment of the Rehabilitation Research Advisory Council within the Department of Education to advise the Director of the National Institute on Disability and Rehabilitation Research with respect to research priorities.

Increased accountability and quality through the consumer councils and State plans.

Mr. President, like many, I am disappointed that this bill does not measure up to some of the high hopes we had when we began this process. But there can be some consolation that we have made a downpayment here on each of the major goals we have set. Within the budgetary guidelines we operate under, both here and in the State capitals around the country, we have done the best we could. The Senator from Iowa, as chairman of Labor, Health and Human Resources Subcommittee of the Appropriations Committee knows those constraints better than any of us.

The excellent support we have been given by the Labor and Human Resources Committee is much appreciated, as is the skillful, diligent staff work we have come to expect from the committee staff of the Subcommittee on Disability Policy on both the majority and minority side.

Mr. President, special recognition must be given to the staff director of the Subcommittee on Disabilities, Robert "Bobby" Silverstein. This bill would not be here today if Bobby Silverstein was not here. His work on this bill can only be described as brilliant. And I also want to recognize the extraordinary efforts of my subcommittee staffer, Annie Silberman. She worked tirelessly with Bobby to see that this bill would become law.

I would also like to credit the valuable input I have received from the people of Minnesota on this measure. I want to thank: Colleen Wieck, the director of the Governor's Council on Developmental Disabilities; Mary Shorthall, the director of the State vocational rehabilitation process; Paula Goldberg, and the other parent advocates in the group called Pacer; Jerry Krueger, Jay Johnson, and the other independent living directors in Minnesota; Charlie Lakin; Dan Klint, who testified before the subcommittee; Mike Ehrlichmann, chair of the Regional Transit Board; Margo Imdieke, director of the Minnesota State Council on Disability; Bruce Johnson, Office of Ombudsman for Mental Health and Mental Retardation; Mary O'Hara-Anderson; Elin Ohlsson; David Schwartzkopf; Kurt Strom, with the Minnesota State Council on Disability; Leah Welch, director of Independence Crossroads; Kathy Wingen, Advocacy Plus Action; Rachel Wobschall, Governor's initiative on technology for people with disabilities, and the many many other Minnesotans who have consulted with either me or my staff about this legislation.

I urge my colleagues to support this bill today. And I also urge them to work together to break the fiscal stalemate which prevents us from moving boldly forward in the empowerment of the citizens this legislation is designed to serve.

Mr. DODD. Mr. President, I rise today in support of S. 3065, the Rehabilitation Act Amendments of 1992. I am proud to say that I am an original cosponsor of this bill, which the Labor and Human Resources Committee has unanimously approved.

Mr. President, this legislation makes many needed improvements in the Rehabilitation Act and goes a long way toward embracing the principles set forth in the Americans with Disabilities Act. Although there are many important modifications in these amendments, two of the most important improvements, in my view, are streamlining of the eligibility process and increased participation of consumers in the provision of services. I believe the amendments demonstrate a commitment to helping individuals with disabilities realize their full potential—and all Americans stand to gain from that.

I urge my colleagues to support this important measure.

Mr. JEFFORDS. Mr. President, I rise in support of S. 3065, the reauthorization of the Rehabilitation Act. I wish to commend the chairman and ranking member and their staff on the Subcommittee for Disability Policy for their tireless efforts to reauthorize this important bill.

We are entering a new era of recognition of the rights of individuals with disabilities. The Americans with Disabilities Act, some provisions became effective 2 weeks ago, is one of the most far-reaching bills guaranteeing equal rights to disabled persons. The bill, long overdue, is a dramatic and historic step to assuring full participation by individuals with disabilities into everyday life.

With the passage of the ADA, the Rehabilitation Act takes on even greater importance. The Rehabilitation Act provides essential services to assure that persons with disabilities receive training to become employed and live independently. This training is essential and often makes the difference between a life of productivity or a life of frustration and dependence. Training and employment are key areas of the Rehabilitation Act and are strengthened and enhanced in the reauthorized bill.

In general, S. 3065 enjoys strong bipartisan support. It is an important bill and a good bill. I would be remiss, however, if I did not express my continued concern with the possible shift in emphasis and policy changes in title II, Research and Training.

Title II of the bill establishes the National Institute on Disability and Rehabilitation Research [NIDRR] and authorizes research and related activities. In turn, the NIDRR administers research and training centers, rehabilitation engineering centers, research and demonstration projects, and field-initiated research projects.

One such center exists in my State. The Vermont Rehabilitation Engineering Center, located at the University of Vermont, has established itself as the premier research center for the study of lower back disorders. Back and spine impairments, excluding those of the spinal cord, are the third leading cause of impairment in the United States, second only to hearing and sight impairments. Total medical costs for those disabled by back disorders have been estimated to be as much as $100 billion a year. Compensation awards in the Social Security disability program increased by 2800 percent between 1957 and 1976 reflecting a growth rate of 14 times that of the population, and back injuries on the job represent 32 percent of compensable injuries.

Yet, those with chronic back pain report considerable frustration over the lack of helpful information as well as the lack of adequate accommodations in the workplace and in the public sector. They also want to know how to prevent reinjury and further pain.

Accommodating people with back disabilities requires much more research-based knowledge, the application of research findings, and the training of people who can apply these findings. More information is needed about economic, psychosocial, and demographic risk factors, different types of workplaces and different workers, mechanisms of injury, gender-based differences and age-related changes in tissue strength endurance and range of motion. This research-based knowledge must be shared with health-care providers, employers, patients, and the public.

But Vermont is not the only State with a rehabilitation engineering center nor is lower back pain the only subject of research. Ten other centers exist whose priorities of research range from adaptive computers and information systems to augmentative and alternative communication devices to research to improve wheelchair mobility.

My point is that the research aspects of this bill are essential and the results of the work have had direct and tangible benefits for those with disabilities. Yet, changes in the bill might be read to diminish the emphasis on research. In addition, the language might appear to take away the focus on particular disabilities and substitutes instead a focus on life areas or functional areas across disabilities. While there is no arguing that life areas ought to be considered and information disseminated, it should not be at the expense of research.

NIDRR plays a key role in disability related research, education, and training. For the past 20 years, NIDRR has led the Nation in efforts to reduce the prevalence of certain disabilities, as well as to improve employment opportunities for those with impairments. Their research programs have resulted in new treatments, and surgical techniques, improvements in clinical and laboratory technology, new information, and the targeting of a multitude of disability risk factors. More than any other, NIDRR has helped to inform health care providers, employers, insurers, and the public about new technology and research related to individuals with disabilities.

The research aspects of this bill are essential to the needs of individuals with disabilities and key to providing the technological solutions to problems confronting individuals with disabilities. While I have been assured that it is not the intent of the legislation to diminish research nor to discourage single disability research, I have added language to the committee report to reinforce my position and establish legislative intent.

The PRESIDING OFFICER. Without objection the substitute amendment is agreed to.

The amendment (No. 2935) was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed to have been read the third time and passed.

So the bill (S. 3065) was deemed read three times and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL REHABILITATION WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of following joint resolutions: House Joint Resolution 411, designating "National Rehabilitation Week" and Senate Joint Resolution 242, designating "National Rehabilitation Week"; that the Senate then proceed en bloc to their immediate consideration; that the joint resolutions be deemed read three times, passed, and the motions to reconsider laid upon the table en bloc, and the preambles agreed to en bloc; that the consideration of these items appear individually in the RECORD and any statement appear at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 411) was deemed read three times, and passed.

So the joint resolution (S.J. Res. 242) was deemed read three times and passed, as follows:

S.J. RES. 242

Whereas the designation of a week as "National Rehabilitation Week" gives the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities in this Nation and recognize dedicated health care professionals who work daily to help such individuals achieve independence;

Whereas there are significant areas where the needs of such individuals with disabilities have not been met, such as certain research and educational needs;

Whereas half of the people of this Nation will need some form of rehabilitation therapy.

Whereas rehabilitation agencies and facilities offer care and treatment for individuals with physical, mental, emotional, and social disabilities;

Whereas the goal of the rehabilitative services offered by such agencies and facilities is to help disabled individuals lead active lives at the greatest level of independence possible; and

Whereas the majority of the people of this Nation are not aware of the limitless possibilities of invaluable rehabilitation services in this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of September 13, 1992, through September 19, 1992, is designated as "National Rehabilitation Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to heighten public awareness of the types of rehabilitative services available in this Nation and the manner in which such services improve the quality of life of disabled individuals; and

(2) each State governor; and each chief executive of each political subdivision of each State, is urged to issue proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to observe such week in the manner described in paragraph (1).

PRESCRIPTION DRUG AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3163, a bill to coordinate Federal and State regulation of wholesale drug distribution; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table, and that any statements on this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 3163) was deemed read three times and passed, as follows:

S. 3163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug Amendments of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. DISTRIBUTOR REGISTRATION.

(a) REQUIREMENT.—Section 503(e)(2)(A) (21 U.S.C. 353(e)(2)(A) is amended by inserting before the period the following: "or has registered with the Secretary in accordance with paragraph (3)".

(b) REGISTRATION.—Section 503(e) (21 U.S.C. 353(e)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) Any person who engages in the wholesale distribution in interstate commerce of drugs that are subject to subsection (b) in a State that does not have a program that meets the guidelines established under paragraph (2)(B) shall register with the Secretary the following:

"(A) The person's name and place of business.

"(B) The name of each establishment the person owns or operates that is engaged in the wholesale distribution of drugs in a State that does not have a program to license persons engaged in such distribution.".

(c) TECHNICAL.—Section 503(f)(1)(B) (21 U.S.C. 353(f)(1)(B)) is amended by striking out "and order" and inserting in lieu thereof "an order".

(d) SUNSET.—Effective September 14, 1994, the amendments made by subsections (a) and (b) shall no longer be in effect.

SEC. 3. PENALTY CLARIFICATION.

(a) SCIENTER.—Paragraph (1) of section 303(b) (21 U.S.C. 333(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsection (a), any person who violates section 301(t) by—

"(A) knowingly importing a drug in violation of section 801(d)(1),

"(B) knowingly selling, purchasing, or trading a drug or drug sample or knowingly offering to sell, purchase, or trade a drug or drug sample, in violation of section 503(c)(1),

"(C) knowingly selling, purchasing, or trading a coupon, knowingly offering to sell, purchase, or trade such a coupon, or knowingly counterfeiting such a coupon, in violation of section 503(c)(2), or

"(D) knowingly distributing drugs in violation of section 503(e)(2)(A), shall be imprisoned for not more than 10 years or fined not more than $250,000, or both.".

(b) CLARIFICATION.—Section 303 (21 U.S.C. 333) is amended—

(1) in subparagraphs (A) and (B)(i) of subsection (b)(4), by striking out "the arrest and conviction of" each time it occurs and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(2) in subparagraph (B)(i) of subsection (b)(4), by striking out "the arrest of" and inserting in lieu thereof "the institution of a criminal proceeding against";

(3) in subsection (b)(5), by striking out "the arrest and conviction of" and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(4) in subsections (c) and (d), by striking out "subsection (a) of this section" and inserting in lieu thereof "subsection (a)(1) of this section"; and

(5) in subsection (d), by striking out ", and no person" and all that follows through "mislead".

SEC. 4. DRUG SAMPLES.

Section 503 (21 U.S.C. 353) is amended—

(1) in subsection (d), by amending paragraph (1) to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), no person may distribute any drug sample. For purposes of this subsection, the term 'distribute' does not include the providing of a drug sample to a patient by a—

"(A) practitioner licensed to prescribe such drug,

"(B) health care professional acting at the direction and under the supervision of such a practitioner, or

"(C) pharmacy of a hospital or of another health care entity that is acting at the direction of such a practitioner and that received such sample pursuant to paragraph (2) or (3).".

(2) in paragraphs (2) and (3) of subsection (d), by striking out "distributor" each place it occurs and inserting in lieu thereof "authorized distributor of record" and in subsection (d)(3) by striking out "distributors" each place it occurs and inserting in lieu thereof "authorized distributors of record";

(3) in subsection (e), by amending paragraph (1) to read as follows:

"(e)(1)(A) Each person who is engaged in the wholesale distribution of a drug subject to subsection (b) and who is not the manufacturer or an authorized distributor of record of such drug shall, before each wholesale distribution of such drug (including each distribution to an authorized distributor of record or to a retail pharmacy), provide to the person who receives the drug a statement (in such form and containing such information as the Secretary may require) identifying each prior sale, purchase, or trade of such drug (including the date of the transaction and the names and addresses of all parties to the transaction).

"(B) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug."; and

(4) in subsection (e)(4) (as so redesignated by section 2(c)), by inserting before the dash the following: "and subsection (d)".

SEC. 5. TECHNICAL AMENDMENT.

Section 801(d)(1) (21 U.S.C. 381(d)(1)) is amended by striking out "person who manufactured" and inserting in lieu thereof "manufacturer of".

Passed the Senate August 11 (legislative day, August 5), 1992.

NONDISCRIMINATORY TREATMENT OF THE PRODUCTS OF THE REPUBLIC OF ALBANIA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 611, House Joint Resolution 507, a joint resolution approving the extension of most-favored-nation status for products from Albania, that the joint resolution be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 507) was deemed read the third time, and passed.

Mr. BENTSEN. Mr. President, I rise in support of House Joint Resolution 507, which would approve the extension of most-favored-nation [MFN] treatment to imports from Albania, as well as the trade agreement between the United States and Albania that was signed May 14, 1992. That resolution is identical to Senate Joint Resolution 317, which was approved by the Finance Committee on August 4, 1992.

Our relations with Albania—both political and economic—are in their infancy. We restored diplomatic relations with Albania just over a year ago—after a 45-year break. We did not know much about Albania during that 45-year period, since it was one of the most isolated countries in Eastern Europe.

But in the past year, I think the Albanians have made impressive progress. The new government, controlled by the Democratic Party, is moving ahead quickly with a radical economic reform program. The Albanian Government and the people know that the road ahead is not going to be an easy one, but they have gotten off to a good start.

This trade agreement, and the extension of reciprocal MFN treatment, will be one step in the direction of closer economic relations. We have a long way to go. Our two-way trade last year was only $21 million. Over time, and with the help of this agreement, that should improve. I urge my colleagues to approve House Joint Resolution 507, so that MFN treatment may be promptly extended to Albania.

Mr. PACKWOOD. Mr. President, I rise in strong support of passage of this resolution which approves the United States-Albania trade agreement and provides Albania most-favored-nation [MFN] trading status. On its face, providing Albania MFN or nondiscriminatory trading status may seem rather routine. After all, we provide MFN to all nations with the exception of a handful of Communist countries. But by approving this resolution, we are sending a very powerful and important message of support to the people and the new government in Albania, the Balkan countries, and to the world.

I, like all Americans, am horrified and saddened with what is happening in Yugoslavia. I remind my colleagues that Yugoslavia borders Albania to the north and to the east. During these critical times, we need to do everything possible to maintain stability in each of the Balkan countries. I firmly believe that providing Albania MFN trading status at this time will help provide confidence to the Albanian people and go a long way in promoting Albania's goal of becoming a free market economy.

There is no question that Albania's fragile economy is in need of immediate reform. Unemployment is running at more than 50 percent. Gross industrial output is falling dramatically due in large part to severe shortages of raw materials and spare parts. Inflation in 1991 totaled 104 percent and continues to spiral in 1992. The supply of food and goods to the population has broken down and living standards are poor.

However, there are many bright spots in Albania's future. With the recent elections in March, Albania joined with other East European countries in discarding its Communist and isolationist past and establishing a democratic, reform minded party led by Dr. Sali Berisha—Albania's new President. Already, President Berisha and the new Prime Minister Aleksander Meksi presented a comprehensive program for reforming Albania's economy. Some of these reforms include privatizing agricultural land, dismantling state-owned monopolies, encouraging private sector investment, and reforming Albania's banking and financial sector. While all of these reforms are positive, make no mistake, the economic reform process will be painful and may take years to complete.

It is critically important that the United States does everything possible to ensure that the reform minded government in Albania succeeds. By approving this trade agreement, we are taking an important first step. In addition to giving Albania MFN, the agreement has numerous provisions designed to promote and expand two-way trade and for the protection of intellectual property rights.

In the past, trade between the United States and Albania has been small. In 1991, United States exports to Albania reached $18 million—primarily coal and wheat—while United States imports totaled $3.2 million—primarily crude vegetable materials. This agreement will boost trade and economic cooperation between the two countries. Already in 1992, United States exports to Albania have exceeded 1991 levels and should continue to grow further under the agreement. Albania's exports to the United States will also increase. Albania is rich in raw materials—chromium, cooper, nickel, iron ore—that are only being partially tapped. Once tapped, they can be exported and will benefit in particular from reduced U.S. tariffs.

It is interesting to note that a sideletter to the agreement promotes tourism within Albania. Just imagine the potential. With most European beaches becoming either expensive or crowded, Albania's beautiful Adriatic coast could become one of the hottest tourist spots in Europe—not to mention a major source of investment in Albania's economy.

In conclusion, I have longed believed that the best way we can help struggling democracies succeed is to help them help themselves. The Albania Government's economic reform plan is headed in the right direction. By approving this trade agreement, we are promoting trade and investment within Albania, and helping the Albanian people in their road to success. I urge all my colleagues to support the resolution.

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 317

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Calendar No. 610, Senate Joint Resolution 317, the Senate companion, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING CERTAIN TRAVEL EXPENSES

Mr. MITCHELL. Mr. President, on behalf of myself and the Republican leader I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 333) authorizing certain travel expenses.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 333) was agreed to; as follows:

S. RES. 333

Resolved,

SECTION 1. TRAVEL EXPENSES.

The appropriations account "Miscellaneous Items", in the contingent fund of the Senate, is available for the payment of official travel expenses, authorized by the President pro tempore, majority leader or minority leader of the Senate, incurred by the Chaplain of the Senate, upon vouchers approved by the President pro tempore, majority leader, or minority leader.

SEC. 2. ADVANCEMENTS.

The Secretary of the Senate is authorized to advance funds under the authority of this resolution for travel expenses under section 1 in the same manner provided for committees of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING THE TESTIMONY OF SENATE EMPLOYEE

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution authorizing the testimony of a Senate employee and the production of documents by the Committee on Banking, Housing, and Urban Affairs, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 334) to authorize the testimony of Senate employee and release of documents by the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, Independent Counsel Arlin M. Adams, who was appointed on March 1, 1990, by the special division of the U.S. Court of Appeals for the District of Columbia to investigate allegations that Federal officials and others conspired to defraud the United States in connection with the administration of Department of Housing and Urban Development programs, has requested documents in the custody and control of the Committee on Banking, Housing, and Urban Affairs, as well as the trial testimony of a Senate employee. The documents and testimony are sought for the case of *United States* v. *Dean*, Cr. No. 92-0181 and *United States* v. *Demery and McCafferty*, Cr. No. 92-0227, pending in the U.S. District Court for the District of Columbia.

In United States versus Dean, the charges against the defendant includes making false statements to the Banking Committee and committing perjury in testimony before the committee in connection with its consideration of the defendant's nomination to the position of HUD Assistant Secretary for Community Planning and Development. In United States versus Demery and McCafferty, defendant Demery, who was nominated and confirmed to the position of HUD Assistant Secretary of Housing, is charged with conspiring to defraud the United States and commit offenses against it by participating in decisions at HUD in which he had a personal financial interest. The indictment charges that in furtherance of the conspiracy, Mr. Demery made certain representations to the Banking Committee in order to obtain confirmation as Assistant Secretary.

The following resolution would authorize the chairman and ranking minority member of the Banking Committee, acting jointly, to furnish Committee records to Independent Counsel Adams and would authorize the Senate employee to testify. It also would authorize the Senate legal counsel to represent the Senate employee in connection with her testimony and would authorize the committee to release additional documents to the independent counsel to assist him in his investigation of other matters within his authority.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 334) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 334

Whereas, in the cases of United States v. Dean, Cr. No. 92-0181, and United States v. Demery and McCafferty, Cr. No. 92-0227, Independent Counsel Arlin M. Adams has requested the testimony of Lory Breneman, a Senate employee on the staff of the Committee on banking, Housing, and Urban Affairs, and documents within the control of the Committee on Banking, Housing, and Urban Affairs;

Whereas, the Independent Counsel also has requested certain documents within the custody and control of the Committee on Banking, Housing, and Urban Affairs to assist his office in its investigation of other matters relating to the Department of Housing and Urban Development;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2)(1988), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity; Now, therefore, be it

Resolved, That the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs, acting jointly, are authorized to provide to the Independent Counsel documents in the custody and control of the Committee, except those for which a privilege should be asserted.

SEC. 2. That Lory Breneman is authorized to testify in the case of United States v. Dean, Cr. No. 92-0181 (D.D.C.), except concerning matters for which a privilege should be asserted.

SEC. 3. That the Senate Legal Counsel is directed to represent Lory Breneman in connection with the testimony authorized under section 2.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR—S. 3174

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 3174, introduced earlier today by Senators RIEGLE, GARN, GRAHAM, and MACK, a bill making technical corrections in the International Banking Act of 1978; be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, on behalf of myself and Senators GARN, GRAHAM, and MACK, I offer S. 3174, a bill that makes a technical correction to section 214(a)(3) of last year's banking bill. That provision added a new subsection 6(c) to the International Banking Act of 1978, which requires foreign banks to take insured deposits in subsidiary banks incorporated in this country rather than in direct branches of the foreign bank.

Concerns have been expressed by the Federal Reserve Board, other regulators, and some State officials that section 214(a)(3) could be interpreted to prevent branches and agencies of foreign banks from accepting certain types of nonretail, uninsured deposits of less than $100,000 in their wholesale branches. It was not my intention in sponsoring section 214(a) to void regulations promulgated by the FDIC and OCC that permit them to do so. See 12 CFR 28.8 and 12 CFR 346.6. This technical amendment will clarify that matter. It will not, however, remove the discretion of the responsible agencies to revise their regulations governing nonretail deposit accounts under $100,000 if such revision is deemed appropriate.

This is the same technical correction to section 214(a)(3) of last year's banking bill that the Senate passed on March 26 in S. 2482, a bill that provided funding for the Resolution Trust Corporation [RTC]. Final passage of that bill has been delayed in the House. This same technical correction also passed the Senate on July 1 as part of S. 2733, a bill to improve the regulation of Government-sponsored enterprises.

I ask my colleagues to pass this legislation making the technical correction to section 6 recommended.

MEASURE PLACED ON THE CALENDAR—S. 3175

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 3175, a bill introduced earlier today by Senator KENNEDY, to improve the administrative provisions and make corrections in the National and Community Service Act, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, today I am introducing the National and Community Service Technical Amendments Act of 1992. This legislation makes minor technical and administrative changes in the National and Community Service Act of 1990. These modifications will help the Commission on National Service, the independent agency created to administer the Act, to do a more effective job of carrying out its mission of involving more Americans in service to their community and their country.

These amendments have the support of the National Service Commission, the Bush administration, and Senators HATCH and MIKULSKI. These changes will improve the Commission's ability to expand the numbers of citizens involved in addressing the most pressing problems facing communities across the Nation, such as illiteracy, homelessness, drug abuse, and poverty.

These amendments will enhance implementation of the act in several ways. They will allow the Commission to perform better evaluations of programs it funds, thereby improving the efficiency and effectiveness of the act. The amendments clarify Congress intent that the Commission has the ability to appoint an Executive Director, bring in outside experts from the community service field to provide the best technical assistance possible, and hire such staff as is necessary to handle day-to-day administration.

Also, the amendments make explicit the Commission's authority to hire consultants, accept donations of services and property, and enter into agreements with other Federal agencies in order to share information or personnel. Finally, the amendments raise the authorization level for the Commission from $2 to $3 million a year. The budgetary increase is essential for the Commission to fulfill its numerous statutory mandates, monitor the grants awarded in the first year of implementation, and distribute an anticipated increased number of grants in the second year.

The National Service Commission is guided by an extraordinarily diverse and talented Board of Directors. It has shown commendable energy and dedication throughout the implementation process. In less than a year, they have issued preliminary rules and regulations, held hearings across the country to receive public comments, promulgated final regulations, accepted grant applications, and just recently awarded the first round of grants. The Commission and its staff deserves great credit for these tireless efforts. These technical amendments will facilitate this important work, and I look forward to prompt approval of the amendments by Congress.

This is a summary of the National and Community Service Technical Amendments of 1992. It addresses several unforeseen administrative problems the Commission is now facing as they get further into the implementation process. The amendment:

First, expands the definition of "Summer Program" to include several existing programs that extends into May and September.

Second, corrects several drafting errors where "Secretary" was used rather than "Commission."

Third, allow the Commission to fund several existing programs that include corps members as young as 14.

Fourth, corrects an overly strict confidentiality provision which might prohibit the Commission from using aggregate information about participants in service programs to conduct the required evaluation.

Fifth, clarifies the Board's authority to appoint an Executive Director.

Sixth, removes the staff ceiling on Commission technical employees, now being interpreted by GSA as 10.

Seventh, clarifies the Commission's authority to: use consultants, detailed personnel from other Federal agencies, and the U.S. mails; accept donations and volunteer services; receive relevant information from other Federal agencies; contract for office space; and participate in GSA's Sources of Supply Program.

Eighth, authorizes more money for the Commission to use for administrative expenses without adding to the total authorization of the law, especially as the Commission becomes responsible for distributing larger appropriations for grants under Title I, and clarifies allowed uses of unallocated funds.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

ANNUAL REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 266

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1991.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through Center technical reports, the Radiological Health Bulletin, and other publicly available sources. This annual report serves little useful purpose and diverts Agency resources from more productive activities.

GEORGE BUSH.

THE WHITE HOUSE, *August 11, 1992.*

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years; and

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 132. A concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need.

The message also announced that the House disagrees to the amendment of the Senate to the amendment of the

House to the amendment of the Senate to the bill (H.R. 429) to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Interior and Insular Affairs, for consideration of titles I and VII–XL of the Senate amendment, and titles I and VII–XXXIV of the House amendment, and modifications committed to conference: Mr. MILLER of California, Mr. RAHALL, Mr. GEJDENSON, Mr. VENTO, Mr. KOSTMAYER, Mr. DE LUGO, Mr. LEHMAN of California, Mr. MARKEY, Mr. HANSEN, Mr. RHODES, Mr. THOMAS of Wyoming, Mr. YOUNG of Alaska, and Mr. MARLENEE.

From the Committee on Interior and Insular Affairs, for consideration of title II–VI of the Senate amendment, and title II–VI of the House amendment, and modifications committed to conference: Mr. MILLER of California, Mr. RAHALL, Mr. GEJDENSON, Mr. VENTO, Mr. KOSTMAYER, Mr. DE LUGO, Mr. LEHMAN of California, Mr. OWENS of Utah, Mr. HANSEN, Mr. RHODES, Mr. THOMAS of Wyoming, Mr. YOUNG of Alaska, and Mr. MARLENEE.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles II–VI, IX, XXXIII, XXXIV, XXXVI, and XXXVIII of the Senate amendment, and titles II–VI, IX, XXX and XXXIV of the House amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. HUGHES, Mr. HERTEL, Mr. CARPER, Mr. MANTON, Mrs. LOWEY of New York, Mrs. UNSOELD, Mr. DAVIS, Mr. FIELDS, Mr. HERGER, Mr. DOOLITTLE, and Mr. CUNNINGHAM.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles I, VII, XI, XII, XIV, XV, XIX, and XX of the Senate amendment, and titles I, VII, XI, and XVIII–XX of the House amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, and Mr. DAVIS.

As additional conferees from the Committee on Public Works and Transportation, for consideration of titles XXI, XXXI, and XXXVIII and sections 3001 to 3004, 3007, 3508, and 3509 of the Senate amendment, and section 3411 of the House amendment, and modifications committed to conference: Mr. ROE, Mr. ANDERSON, Mr. MINETA, Mr. NOWAK, Mr. BORSKI, Mr. KOLTER, Mr. VALENTINE, Mr. HAYES of Louisiana, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. CLINGER, Mr. PETRI, and Mr. PACKARD.

As additional conferees from the Committee on Public Works and Transportation, for consideration of title VII and section 3404(c)(7) of the Senate amendment, and title VII of the House amendment, and modifications committed to conference: Mr. ROE, Mr. NOWAK, and Mr. HAMMERSCHMIDT.

As additional conferees from the Committee on Agriculture, for consideration of section 212 of the Senate amendment, and title XXV and section 212 of the House amendment, and modifications committed to conference: Mr. DE LA GARZA, Mr. ENGLISH, Mr. DOOLEY, Mr. CONDIT, Mr. HUCKABY, Mr. STENHOLM, Mr. STALLINGS, Mr. CAMPBELL of Colorado, Mr. COLEMAN of Missouri, Mr. MORRISON, Mr. HERGER, Mr. SMITH of Oregon and Mr. MARLENEE.

As additional conferees from the Committee on Agriculture, for consideration of titles XIII, XIV, XVIII, and XXXVI and section 202 of the Senate amendment, and titles XIX and XX and sections 301, 305, 308, and 2302 of the House amendment, and modifications committed to conference: Mr. DE LA GARZA, Mr. VOLKMER, and Mr. COLEMAN of Missouri.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3360. An act to amend the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety, and for other purposes;

H.R. 4016. An act to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of;

H.R. 3848. An act to encourage the growth and development of commercial space activities in the United States, and for other purposes; and

H.R. 5334. An act to amend and extend certain laws relating to housing and community development.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1770. An act to convey certain real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center;

S. 2079. An act to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes;

H.R. 2926. An act to amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes;

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes;

H.R. 3795. An act to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California; and

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day".

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2936. An act to establish programs at the National Science Foundation for the advancement of technical education and training in advanced technology occupations, and for other purposes;

H.R. 5008. An act to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rates of payments for benefits under the Montgomery GI bill, and for other purposes;

H.R. 5061. An act to establish the Dry Tortugas National Park in the State of Florida;

H.R. 5751. An act to provide for the distribution within the United States of certain materials prepared by the United States Information Agency;

H.R. 5763. An act to provide equitable treatment to producers of sugar cane subject to proportionate shares; and

H.R. 5764. An act to amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 179. A concurrent resolution expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing counties financed by the Government of Japan.

At 5:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5487) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 6, 17, 21, 23, 27, 46, 59, 72, 73, 83, 102, 105, and 114 to the bill, and agrees thereto, and that it recedes from its disagreement to the amendments of the Senate numbered 2, 4, 7, 8, 15, 16, 18, 19, 24, 35, 47, 67, 69, 74, 80, 98, 99, 101, 106, 119, and 120 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1216) to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to the foreign state; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3215. An act to reinvigorate cooperation between the United States and Latin America in science and technology;

H.R. 3603. An act to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services;

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug;

H.R. 4404. An act to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes;

H.R. 5087. An act to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes;

H.R. 5688. An act to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes; and

H.R. 5741. An act entitled the "Perishable Agriculture Commodities Act Technical Amendments of 1992".

The message further announced that pursuant to the provisions of section 6010(d)(1) of Public Law 102–240, the Speaker appoints Mr. Walter J. Shea of Annapolis, MD, from private life to the National Council on Surface Transportation Research on the part of the House.

The message also announced that pursuant to the provisions of section 4(a) of Public Law 98–399, as amended by Public Law 101–30, the Speaker reappoints as members of the Martin Luther King, Jr., Federal Holiday Commission the following Members on the part of the House: Mr. WHEAT, Mr. SAWYER, Mr. REGULA, and Mr. FRANKS of Connecticut.

At 7:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3033) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 4111) to amend the Small Business Act to provide additional loan assistance to small businesses, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the Senate bill (except sections 113–114, 118, 126, 134, 136(d) and 146), and the House amendment (except title IV), and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. SOLARZ, Mr. BERMAN, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. BROOMFIELD, Mr. GILMAN, Mr. LEACH, and Mr. BEREUTER.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 113–114, 118, 126, 134, 136(d) and 146 of the Senate bill, and title IV of the House amendment, and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, and Mr. BROOMFIELD.

As additional conferees from the Committee on Agriculture, for consideration of sections 107, 116, 120, 148–149, 157, 403, and 405 of the Senate bill, and section 702 of the House amendment, and modifications committed to conference: Mr. DE LA GARZA, Mr. ROSE, Mr. PENNY, Mr. GLICKMAN, Mr. COLEMAN of Missouri, and Mr. ROBERTS.

As additional conferees from the Committee on Armed Services, for consideration of sections 110, 131, 137–138 of the Senate bill, and title V of the House amendment, and modifications committed to conference: Mr. ASPIN, Mr. MCCURDY, and Mr. DICKINSON.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 113–114, 118, 126, 134, 136(d) and 146 of the Senate bill, and title IV of the House amendment, and modifications committed to conference: Ms. OAKAR, Mr. NEAL of North Carolina, Mr. LAFALCE, Mr. TORRES, Mr. KLECZKA, Mr. KENNEDY, Mr. WYLIE, Mr. LEACH, Mr. BEREUTER, and Mr. MCCANDLESS.

As additional conferees from the Committee on Energy and Commerce, for consideration of section 151 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, Mr. COOPER, Mr. BRUCE, Mr. HARRIS, Mr. SCHEUER, Mr. LENT, Mr. MOORHEAD, Mr. DANNEMEYER, and Mr. OXLEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 108 and 123 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, and Mr. LENT.

As additional conferees from the Committee on the Judiciary, for consideration of section 704 of the House amendment, and modifications committed to conference: Mr. BROOKS, Mr. MAZZOLI, and Mr. FISH.

As additional conferees from the Committee on Public Works and Transportation, for consideration of section 156 of the Senate bill, and modifications committed to conference: Mr. ROE, Mr. OBERSTAR, and Mr. HAMMERSCHMIDT.

As additional conferees from the Committee on Science, Space, and Technology, for consideration section 135 of the Senate bill, and section 504 and title IV of the House amendment, and modifications committed to conference: Mr. BROWN of California, Mr. BOUCHER, and Mr. WALKER.

The message also announced that the House has passed the following bill, in which is requests the concurrence of the Senate:

H.R. 5483. An act to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2936. An act to establish programs at the National Science Foundation for the advancement of technical education and training in advanced technology occupations, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 3215. An act to reinvigorate cooperation between the United States and Latin America in science and technology; to the Committee on Commerce, Science, and Transportation.

H.R. 3360. An act to amend the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3603. An act to promote family preservation and the prevention of foster care with emphasis on families where abuse and alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services; to the Committee on Finance.

H.R. 3848. An act to encourage the growth and development of commercial space activities in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug; to the Committee on Labor and Human Resources.

H.R. 4404. An act to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses,and for other purposes; to the Committee on Armed Services.

H.R. 5008. An act to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rates of payments for benefits under the Montgomery GI bill, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5061. An act to establish the Dry Tortugas National Park in the State of Florida; to the Committee on Energy and Natural Resources.

H.R. 5087. An act to amend title 38, United States Code, with respect to veterans education assistance, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5483. An act to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 5741. An act entitled the "Perishable Agricultural Commodities Act Technical Amendments of 1992"; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5751. An act to provide for the distribution within the United States of certain materials prepared by the United States Information Agency; to the Committee on Foreign Relations.

H.R. 5763. An act to provide equitable treatment to producers of sugar cane subject to proportionate shares; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5764. An act to amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts; to the Committee on Agriculture, Nutrition, and Forestry.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 179. A concurrent resolution expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5334. An act to amend and extend certain laws relating to housing and community development, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1690. A bill to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes (Rept. No. 102–369).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 2099. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Jose Antonio Vaillamil, of Florida, to be Under Secretary of Commerce for Economic Affairs; and

Mary Jo Jacobi, of Mississippi, to be an Assistant Secretary of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

The following named officer under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Robert A. Tiebout, [redacted] USMC.

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. John R. Dailey, [redacted] USMC.

The following named officer for appointment as Assistant Commandant of the Marine Corps under title 10, United States Code, section 5044.

To be general

Lt. Gen. Walter E. Boomer [redacted] USMC.

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Charles C. Krulak, [redacted] USMC.

By Mr. NUNN, from the Committee on Armed Services:

Joseph J. DiNunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for the remainder of the term expiring October 18, 1995.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I reported favorably to attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of March 18, June 17, July 1, July 2, July 20, August 4, and August 7, 1992, at the end of the Senate proceedings.)

*In the Air Force there is 1 appointment to the grade of brigadier general (Eugene A. Lupia) (Reference No. 457–7)

**In the Army there are 2,013 promotions to the grade of major (list begins with Frank J. Abbott) (Reference No. 967)

*In the Air Force there is 1 appointment to the grade of brigadier general (Thomas J. Lennon) (Reference No. 993–1)

*In the Air Force Reserve there are 18 appointments to the grade of major general and below (list begins with Gary L. Eichhorn) (Reference No. 1189)

*In the Air Force Reserve there are 18 appointments to the grade of major general and below (list begins with Hugh L. Cox III) (Reference No. 1205)

**In the Army there are 611 promotions to the grade of colonel (list begins with Anders B. Aadland) (Reference No. 1237)

*Lt. Gen. Paul G. Cerjan, USA, to be reappointed in the grade of lieutenant general (Reference No. 1253)

*Maj. Gen. Daniel R. Schroeder, USA, to be lieutenant general (Reference No. 1254)

*Maj. Gen. Alcide M. LaNoue, USA, to be surgeon general and to be lieutenant general (Reference No. 1255)

*Maj. Gen. Arthur E. Williams, USA to be lieutenant general and Chief of Engineers (Reference No. 1256)

**In the Air Force Reserve there is 1 appointment to the grade of colonel (astronaut Frances A. Gaffrey) (Reference No. 1264)

**In the Air Force Reserve there is 1 appointment to the grade of colonel (astronaut Charles L. Veach) (Reference No. 1265)

**In the Air Force there are 5 appointments to the grade of second lieutenant (list begins with Craig R. Baker) (Reference No. 1266)

**In the Army Reserve there are 26 promotions to the grade of colonel and below (list begins with Earl P. Ewing) (Reference No. 1268)

*Maj. Gen. William H. Forster, USA to be lieutenant general (Reference No. 1286)

*Lt. Gen. Peter A. Kind, USA for reappointment to the grade of lieutenant general (Reference No. 1287)

*Maj. Gen. Leo J. Pigaty, USA to be lieutenant general (Reference No. 1289)

**In the Army there are 212 promotions to the grade of lieutenant colonel (list begins with Richard L. Agee) (Reference No. 1290)

**In the Army there are 199 promotions to the grade of lieutenant colonel (list begins with Samuel J. Angulo) (Reference No. 1291)

**In the Army there are 61 promotions to the grade of major (list begins with Larr Adamsthompson) (Reference No. 1292)

*Col. Douglas M. Padgett, ANG to be brigadier general (Reference No. 1297)

**In the Army there are 443 promotions to the grade of major (list begins with Phillip L. Aday) (Reference No. 1315)

**In the Air Force Reserve there are 17 promotions to the grade of lieutenant colonel (list begins with James D. English) (Reference No. 1319)

**In the Air Force there are 12 appointments to the grade of second lieutenant (list begins with Andrea D. Begel) (Reference No. 1320)

**In the Army there are 5 promotions to the grade of colonel and below (list begins with Joel D. Miller) (Reference No. 1321)

**In the Army Reserve there are 37 promotions to the grade of colonel and below (list begins with Landry K. Appleby) (Reference No. 1322)

**In the Army there are 5 promotions to the grade of lieutenant colonel and below (list begins with Alfred F. Livaudais) (Reference No. 1323)

Grand total: 3,694.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. DURENBERGER, and Mr. SIMON):

S. 3165. A bill to promote the use of State-coordinated health insurance buying programs and assist States in establishing Health Insurance Purchasing Cooperatives, through which small employers may purchase health insurance, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DECONCINI:

S. 3166. A bill to amend the Food Stamp Act of 1977 to provide that narcotic addicts or alcoholics, and their children, who live under the supervision of a private nonprofit institution, or a publicly operated community mental health center, for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions and shall be considered individual households, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself, Mr. DASCHLE, Mr. PRESSLER, Mr. GRASSLEY, Mr. BURNS, Mr. BURDICK, Mr. CONRAD, Mr. KERREY, and Mr. HARKIN):

S. 3167. A bill to amend the Federal Crop Insurance Act to modify the provisions governing yield averages, to provide late planting coverage, and other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES:

S. 3168. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve control of acid mine drainage, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG:

S. 3169. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes; to the Committee on Finance.

By Mr. DIXON:

S. 3170. A bill to suspend until January 1, 1995, the duty on certain toys representing troll figures; to the Committee on Finance.

By Mr. DODD (for himself, Mrs. KASSEBAUM, and Mr. KENNEDY):

S. 3171. A bill to amend the Head Start Act to improve certain provisions with respect to training, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER:

S. 3172. A bill to amend section 337 of the Tariff Act of 1930 and title 28 of the United States Code to provide effective procedures to deal with unfair practices in import trade and to conform section 337 and title 28 to the General Agreement on Tariffs and Trade, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 3173. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to provide that GS-083 Federal police officers be treated in the same manner as other Federal law enforcement officers for purposes of that Act; to the Committee on Governmental Affairs.

By Mr. RIEGLE (for himself, Mr. GARN, Mr. GRAHAM, and Mr. MACK):

S. 3174. A bill to make technical corrections to the International Banking Act of 1978.

By Mr. KENNEDY:

S. 3175. A bill to improve the administrative provisions and make technical corrections in the National and Community Service Act of 1990.

By Mr. SASSER (for himself, Mr. BENTSEN, Mr. BURDICK, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. MURKOWSKI, Mrs. KASSEBAUM, Mr. PRYOR, Mr. ROCKEFELLER, and Mr. SANFORD):

S.J. Res. 332. A joint resolution to establish the month of October, 1992 as "Country Music Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 333. A resolution authorizing certain travel expenses; considered and agreed to.

S. Res. 334. A resolution to authorize the testimony of Senate employees and release of documents by the Committee on Banking, Housing, and Urban Affairs; considered and agreed to.

S. Con. Res. 135. A concurrent resolution providing for a conditional recess or adjournment of the Senate from Wednesday, August 12, 1992, until Tuesday, September 8, 1992, and a conditional adjournment of the House on the legislative day of Wednesday, August 12, 1992, until Wednesday September 9, 1992; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. DURENBERGER, and Mr. SIMON):

S. 3165. A bill to promote the use of State-coordinated health insurance buying programs and assist States in establishing Health Insurance Purchasing Cooperatives, through which small employers may purchase health insurance, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH INSURANCE PURCHASING COOPERATIVES ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that represents a first step toward realistic, comprehensive reform of our Nation's health care system. My good friend and colleague, Senator DURENBERGER, has worked closely with me in developing this bipartisan measure, and we are pleased to have Senator SIMON joining us today in introducing the Health Insurance Purchasing Cooperatives Act.

Every day, we hear new statistics about soaring health care costs and a system out of control. Costs are rising so rapidly that none of us can feel confident that we will be able to take care of our family's medical problems without losing our savings or our homes. Peace of mind will come only through change in our health care system, the most expensive system in the world. The United States spent $732 billion on health care last year, exceeding the gross national product of all but six of the world's countries. It is sobering to realize that modification of our health care system is comparable to changing the economy of a major nation.

It is the sheer magnitude of our health care system that makes it so difficult to reform. Yet, we cannot afford to delay the task any longer. I am convinced that major structural alterations must be the foundation of reform. Cosmetic changes are not good enough. Many of my colleagues have reached the same conclusion, and it is difficult to count the number of health reform proposals now pending in the Congress.

Why are so many bills being put forth? First, there is a widespread recognition of the problems inherent in our current health care system. But the number of proposals also reflects the lack of consensus on how to solve the problems we face. Without consensus, it will be extremely difficult, if not impossible, to implement any type of comprehensive reform.

Despite the lack of widespread consensus, I believe it is possible for Congress to act on some aspects of health care reform. Careful examination of the proposals put forth by the administration and the Democratic and Republican leadership in the Congress reveals that each group has identified three common problems:

First, the need to reform the small group health insurance market;

Second, the need to create greater efficiency in health insurance billing and claims processing; and

Third, the need to create a common data base or system of assessing effectiveness of health care interventions.

Mechanisms for addressing these problems are included in the President's health reform proposal; in S. 1936, the Senate Republican leadership bill; and in S. 1227, HealthAmerica, the Democratic leadership bill. At this point of consensus, we should take the first step in reform of the health care system. Over time, additional steps will lead to a comprehensive overhaul of our health care system and providing quality care at affordable prices.

The insurance marketplace is replete with failings, but none is as egregious as the failure of the small group insurance market. Insurance for employees of small business has become a luxury few can afford. Insurers have found creative ways to cover healthy individuals, while increasing premiums for individuals who actually need or use their health insurance.

A curious form of natural selection has developed for employees of small business: the employee who becomes ill is dropped from the company's policy, to preserve lower prices for the remaining employees. The disparity in premiums can be enormous, depending on where a beneficiary lives and the type of work he or she performs. We have reached a point where no one who works for a small employer can be confident he or she will have health insurance next year.

When considering how to reform this particular system, an understanding of history—of how we got to this point—is useful:

For the past 100 years, we have pursued a pluralist health care system. Seeking checks and balances, we have allowed a combination of competing sectors to evolve. Driven by pressures from third-party payers and Government regulators, the system has contracted in some areas, but in only in response to pressure. No overall direction or management of the system has been developed or encouraged. To the contrary, our health care system has proven resistant to comprehensive management.

Many other countries have sought a balanced, centralized approach to providing health services. In the United States, suspicion of government has lead us to eschew such remedies. Americans have struggled to define and distinguish adequate government protection and undue meddling. Ambivalence to the role of charity and government intrusion has created a pluralist health care system in which every individual has enormous freedom and no one person or entity can guide the direction of American health policy.

I believe our pluralist health care system needs management—management that can effectively channel market forces and allow disenfranchised groups, like employees of small business, to have a voice. But effective management requires information; and today, that is something we do not have. In fact, most of us in policymaking positions know very little about our health care. The pluralist system we have developed defies evaluation and has created a situation that can only be poorly described. If we ever expect to reach comprehensive reform, we need to know more about our system.

The three first steps to health care reform I have outlined—reform of the small group health insurance market; creating administrative efficiencies; and acquiring information for managing the system—will be most effective if linked with a fourth step: one that allows consumers to make choices on the basis of cost and quality.

Over the years, we have not been able to make many health care choices based on cost, and we have had access to only limited information with which to make decisions about quality. The bill we are introducing today addresses this problem, as well as the other three, by encouraging States to create large purchasing cooperatives for small employers, which will allow consumers to base decisions on cost and quality.

For some time, companies that have purchased large quantities of health care services have demonstrated that buying leverage can impact the health care system. Large buyers can demand discounts and quality services. Very few small employers enjoy this leverage. This bill will help give small business the buying power and leverage enjoyed by large companies.

The bill will establish a management model for the small employer health insurance market. It will restrict the wild fluctuations in insurance ratings that have been applied to individuals seeking insurance through small groups.

The bill will create administrative savings in two ways:

First, it mandates that insurers participating in the new system use electronic administration of claims and billing. Insurers will provide consumers with electronic credit cards, which summarize their medical benefits, treatment history, and health history; and

Second, and more important, the bill will create a mechanism for consumers to make knowledgeable choices about quality and cost when choosing medical benefits.

Our bill achieves these objectives by helping States create health insurance purchasing cooperatives, or HIPC's. A new Federal grant program will be authorized within the Department of Health and Human Services, through which States can apply for funding to help establish an HIPC system. I ask unanimous consent that a summary of our bill be included in the RECORD at the conclusion of our remarks.

States participating in the program will assign exclusive regional franchises to each HIPC; and in participating States, HIPC's will be the exclusive mechanisms for small employers—50 employees and less—to purchase health insurance.

An independent national health board will be established by the President. This board will recommend several levels of health benefit packages, which will be offered through the HIPC's. Recommendations will be based on demonstrated efficacy of interventions, including cost effectiveness. The board will also determine which outcome measures should be used in assessing the medical services delivered through HIPC's.

HIPC's will: seek bids from insurance carriers seeking to provide the care and benefits described in the bid request; act as a health benefit office for small employers; offer small employers and employees a range of health packages; and ensure that employees receive all appropriate services, including any mandated Federal benefits.

The Congressional Research Service has estimated national implementation of steps like these will save as much as 9 percent on the average cost of health insurance premiums. At the same time, under ideal conditions, our bill will open the health insurance market to 17 million Americans currently lacking health benefits. If HIPC's are adopted by a smaller number of States, 10, for example, substantial savings could still occur. Using 10 States representing a range of size and population characteristics, the Congressional Research Service estimates 21 million individuals could be covered. As many as 7 million of these individuals, or 32 percent, currently have no health benefits.

Under the Health Insurance Purchasing Cooperatives Act, these 7 million individuals will be brought into the health benefits market, and the average premium would still be 2 percent less than current rates. Moreover, the small employer market would be stabilized—no more red-lining or churning that deprives individuals of coverage or threatens continued coverage.

In November 1991, Secretary Sullivan charged the insurance industry to devise strategies for improving administrative efficiency of the health Insurance industry. The Workgroup for Electronic Data Interchange [WEDI] issued their report on July 21, 1992. The WEDI report includes many steps emphasized in our bill. WEDI estimates implementation of electronic uniform health system could save between $4 and $10 billion annually. Our bill will authorize $25 million for the grant program for the first year, and $30 million per year thereafter.

Mr. President, in closing, we are introducing the Health Insurance Purchasing Cooperatives Act today because we believe a consensus now exists that will allow us to take the first four steps toward comprehensive health care reform. By taking these four steps, more than 32 million workers who work for small employers, and their 28 million dependents, could finally have peace of mind. And finally, we will have clearly set out the direction for comprehensive health care reform over the next several years. Thank you.

I ask unanimous consent that the bill summary and a copy of my bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Purchasing Cooperatives Act".

SEC. 2. HEALTH INSURANCE PURCHASING COOPERATIVES GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall award grants to States, which submit applications and otherwise meet the requirements of this Act, to assist such States in establishing coordinated buying programs through which small employers may purchase health insurance for their employees.

(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application in such form, at such time, and containing such information, certifications, and assurances as the Secretary shall reasonably require, including a certification that—

(1) the State has, through State law, executive order, or regulation, initiated the steps necessary to establish a coordinated buying program that meets the requirements of subsection (d), through which each small employer in the State desiring to purchase health insurance for its employees shall purchase such insurance; or

(2) in the case of a State which the Secretary identifies, in consultation with the National Association of Insurance Commissioners, as—

(A) requiring State legislation (other than legislation appropriating funds) to establish a coordinated buying program that meets the requirements of subsection (d); and

(B) having a legislature that does not meet during the first year after the date of enactment of this Act in a legislative session in which such legislation may be considered;

the State has established a plan, to be fully implemented not later than 2 years after the date on which the grant is awarded to such State by the Secretary, for the establishment of a coordinated buying program that meets the requirements of subsection (d).

(c) Use of Funds.—Amounts awarded under this section may be used to finance the administrative costs associated with planning, developing, and implementing a coordinated buying program, comprised of one or more Health Insurance Purchasing Cooperatives, for small employers. Such administrative costs may include the costs associated with—

(1) engaging in education and outreach efforts to inform small employers, carriers, and the public about the coordinated buying program;

(2) soliciting bids and negotiating with carriers to make available health benefit plans, consistent with section 3, through the coordinated buying program and one or more Health Insurance Purchasing Cooperatives; and

(3) preparing and disseminating the documentation required by Federal agencies to certify participation in the coordinated buying program and one or more Health Insurance Purchasing Cooperatives.

(d) Coordinated Buying Program.—To receive funding under this section, a State coordinated buying program shall—

(1) be authorized and enforced under State law, executive order, or regulation as the sole mechanism through which health insurance or a health plan for employees of small employers shall be purchased or provided in such State, except a State may authorize limited exemptions for small employers who acquire health insurance from bona fide associations as defined under section 6 that offer health insurance as a service to members on the date of enactment of this Act;

(2) provide each small employer in the State with access to health insurance for its employees and their dependents, through one or more Health Insurance Purchasing Cooperatives qualified under subsection (e);

(3) require that each Health Insurance Purchasing Cooperative participating in the State coordinated buying program meet the requirements of section 5 with respect to reporting data to a Regional Data Collection Center and participating in the National Health Insurance Data System; and

(4) meet such other criteria as reasonably required by the Secretary, the National Health Board, State Health Insurance Purchasing Cooperative Board, or mandated under this Act.

(e) Health Insurance Purchasing Cooperative.—

(1) Requirements.—To be a qualified Health Insurance Purchasing Cooperative an entity shall—

(A) be a nonprofit entity established and regulated in accordance with State law in a manner that will ensure an economy of scale based on the State's geographic and demographic characteristics;

(B) be designated by the State as the exclusive agent for purchasing, coordinating, and administering services among carriers on behalf of small employers and their employees within a defined geographic area (hereafter referred to in this section as a "district");

(C) except as provided under paragraph (3), certify that it will not contract with any carriers that deny, limit, or condition coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history or lack of evidence of insurability, of an individual;

(D) after the date that is 2 years after the date of enactment of this Act, certify that it will not contract with any carriers that do not meet the minimum benefits requirements established by the National Health Board under section 4;

(E) not less than annually, hold an open enrollment period for all employees covered by the Health Insurance Purchasing Cooperative health benefit plans;

(F) use adjusted community ratings (under which the only factors that may be applied are age, gender, and geography within a district) to determine the cost for each covered employee or dependent; and

(G) meet such other criteria as reasonably required by the State or the Secretary, or mandated under this Act.

(2) Governance.—

(A) In general.—To be eligible to receive a grant under this section, a State shall establish a State Health Insurance Purchasing Cooperative governing board comprised of seven members, three of which shall be appointed by the governor of the State and four of which shall be elected by participants of the Health Insurance Purchasing Cooperative within the State. The Governor of the State will serve as an ex officio member of the board.

(B) Terms.—In establishing such board, a State shall ensure that the terms of the members of the board are staggered.

(C) Responsibility.—The board shall be responsible for providing oversight over the functioning of all Health Insurance Purchasing Cooperatives within the State, including monitoring compliance of Health Insurance Purchasing Cooperatives with State law, providing expertise to Health Insurance Purchasing Cooperatives, coordinating activities among districts, and resolving disputes arising in the implementation of this Act.

(3) Activities.—Within its district, each Health Insurance Purchasing Cooperative shall—

(A) provide for the comprehensive purchasing of health insurance and services for all small employers;

(B) act as an agent for the small employers and, based on the recommendations of the National Health Board, assist the small employers, employees, and dependents in determining appropriate health benefit plans;

(C) solicit bids from and contract with carriers for specific health benefit plans, which shall include those benefits determined by the National Health Board under section 4, and, notwithstanding any other provision of Federal or State law—

(i) hold confidential proprietary information upon which estimates on bids are derived; and

(ii) issue contracts only to those carriers providing both cost effective and quality health benefits, plans, and services;

(D) administer all aspects of health insurance coverage for all small employers, their employees and dependents, including routine health benefits, COBRA benefits, relevant Federal health insurance earned income tax credits, and the collection of premiums paid under section 1906 of the Social Security Act;

(E) inform employees and dependents about their benefits, rights, and responsibilities and enable employees and dependents to select benefits based on standardized plans that compete in cost and quality; and

(F) in a timely fashion, report, as required by section 5, all relevant data, including health outcomes data, to the appropriate Regional Health Insurance Data Collection Center and the State Health Purchasing Insurance Cooperative Board.

(4) Exclusion of coverage.—Notwithstanding paragraph (1)(C), a Health Insurance Purchasing Cooperative may, in accordance with this subsection, contract with a carrier for a health benefit plan that limits exclusion of coverage, with respect to services related to treatment of a preexisting condition, to a period not exceeding 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

(f) Relation To Other Laws.—

(1) Antitrust laws.—Notwithstanding any provision of the antitrust laws, it shall not be considered a violation of the antitrust laws for a State, in accordance with this section, to develop a State coordinated buying program comprised of Health Insurance Purchasing Cooperatives, or for any carrier, in accordance with this section, to participate in such a program or Cooperative.

(2) Definition.—For purposes of this section, the term "antitrust laws" means—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, commonly known as the "Sherman Act" (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

(B) the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

(C) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, commonly known as the "Clayton Act" (38 Stat. 730; chapter 323; 15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660, 3285, 3691; 29 U.S.C. 52, 53); and

(D) any State antitrust laws that would prohibit the activities described in paragraph (1).

(3) ERISA.—A State whose coordinated buying program meets the requirements of this Act shall require any small employer that chooses to provide a health benefit plan for employees (including a self-insured plan) to provide such plan by purchasing health insurance through a Health Insurance Purchasing Cooperative, notwithstanding the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(a)).

(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 1993, and $30,000,000 for each of the fiscal years 1994 through 1997.

SEC. 3. NATIONAL HEALTH CARE BOARD.

(a) In General.—There is hereby established a National Health Care Board (hereafter referred to in this section as the "Board") which shall be composed of 11 members to be appointed by the President by and with the advice and consent of the Senate not later than 6 months after the date of enactment of this Act.

(b) MEMBERSHIP.—

(1) REPRESENTATION.—The membership of the Board shall include individuals with national recognition for their expertise in health insurance, health economics, health care provider reimbursement, and related fields. In appointing individuals under subsection (a), the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, and health care providers and carriers.

(2) CHAIRPERSON.—The members of the Board shall elect a Chairperson.

(3) TERMS.—Members of the Board shall be appointed to serve for terms of 5 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any year. The term of the Chairperson shall be coincident with the term of the President. Individuals appointed to fill a vacancy created in the Board shall be appointed for the remainder of the term.

(c) DUTIES.—

(1) PRECEPTS.—The Board shall establish Coordinated Buying Program Precepts, that shall set forth criteria for—

(A) establishing a uniform data system that will assist in designating qualified Health Insurance Purchasing Cooperatives and carriers;

(B) determining and implementing a system for the collection of relevant health outcomes data, including quality monitors, functional status, expense reporting methods (including the costs associated with providing services within State coordinated buying program), demographic and behavioral measures, and changes in clinical conditions as a result of therapeutic interventions expressed in Quality Life Years in a manner that assumes confidentiality of patient information; and

(C) determining and revising, if necessary, appropriate minimum benefit requirements of a qualified health benefit plan, consistent with section 4 and developing additional benefit plans as necessary to provide more extensive benefits.

(2) SCIENTIFIC BASIS.—To the extent practicable, the precepts of the Board shall be derived from an evaluation of the extant scientific literature and outcome data collected under this Act.

(3) ASSISTANCE TO SECRETARY.—The Board shall make written recommendations on at least an annual basis to the Secretary and the States in the planning, development, and implementation of all components of the National Health Insurance Data System established under section 5, including the determination of health outcomes data to be collected through the standardized universal electronic card, and shall provide such other assistance as the Secretary or the States may request.

(d) MISCELLANEOUS.—

(1) AUTHORITY.—The Board may—

(A) employ and fix the compensation of an Executive Director and solicit other personnel (not to exceed 15) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

(D) make advance, progress, and other payments which relate to the work of the Board.

(2) COMPENSATION.—While serving on the business of the Board (including traveltime), a member of the Board shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from the member's home and regular place of business, a member may be allowed travel expenses, as authorized by the Chairperson of the Board.

(3) ACCESS TO INFORMATION, ETC.—The Board shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies. The Board shall be subject to periodic audit by the General Accounting Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, $500,000 for each of the fiscal years 1993 through 1997.

SEC. 4. HEALTH BENEFITS.

(a) ESTABLISHMENT OF REQUIREMENTS.—Not later than 18 months after the date of enactment of this Act, the National Health Board shall establish minimum benefit requirements for health benefit plans offered through Health Insurance Purchasing Cooperatives. Such minimum benefits shall include—

(1) inpatient and outpatient hospital care, except that treatment for a mental disorder is subject to the special limitations described in paragraph (6)(A);

(2) inpatient and outpatient physician services, except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in paragraph (6)(B);

(3) diagnostic tests;

(4) prenatal care and well-baby care provided to children who are 1 year of age or younger;

(5) preventive and early intervention services, including—

(A) well child care;

(B) pap smears; and

(C) mammograms; and

(6)(A) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization, residential care, or outpatient treatment may be substituted for days of inpatient care according to a ratio established by the Board; and

(B) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

(i) is a physician; or

(ii) meets the standards of subsection (e)(2)(B) and is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

(b) EXCEPTIONS.—Subsection (a) shall not be construed as requiring the Board to specify that a plan include payment for—

(1) items and services that are not medically necessary; or

(2) experimental services and procedures, except that the Board may include coverage of routine medical costs associated with peer-reviewed and approved protocols conducted in connection with peer-reviewed and approved research programs, pursuant to standards established by the Board.

(c) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—Except as provided in subsection (b), a health benefit plan shall place no limits on the amount, scope, or duration of benefits described in paragraphs (1) through (3) of subsection (a).

(d) LIMITATIONS.—

(1) PANELS AND MANAGED CARE SYSTEMS.—Nothing in State law or this Act shall prohibit a health benefit plan from providing benefits for the items and services described in this section through a managed care system, and from selecting particular health care providers or types, classes, or categories of health care providers to participate in such managed care system. Such managed care system shall provide reasonable access, as defined by the Board, to care by plan enrollees.

(2) DIFFERENT LEVELS OF PAYMENTS.—Nothing in State law or this Act shall prohibit a health benefit plan from establishing a different level of payments for reimbursement for different health care providers furnishing the benefits for the items and services described in this section.

(3) DENIAL OF PAYMENT TO EXCLUDED PROVIDERS.—Nothing in State law or this Act shall require a health benefit plan to make payment to any health care provider that is excluded from participation in any Federal health care program.

(e) MENTAL HEALTH CARE.—

(1) INPATIENT CARE.—Subject to the provisions of subsection (d), inpatient hospital care described in subsection (a)(6)(A) shall include reimbursement for professional care provided to the individual while the individual is receiving such inpatient care, by a physician or duly licensed or certified clinical psychologist operating within the scope of practice of the physician or psychologist, as determined appropriate under State law. Nothing in this subsection shall be construed to modify hospital practices with regard to scope of practice, admitting privileges, or billing arrangements.

(2) OUTPATIENT CARE.

(A) USE OF PROVIDERS.—Subject to the provisions of subsection (d), a health benefit plan that provided benefits with respect to outpatient psychotherapy described in subsection (a)(6)(B) prior to January 1, 1993, shall not be required under such subsection to provide benefits for outpatient psychotherapy provided by any health care provider (or type, class, or category of health care provider) described in subsection (a)(6)(B)(ii), other than duly licensed or certified clinical psychologists and health care providers being used by the plan on January 1, 1993. This subparagraph shall not apply to plans offered under part C.

(B) STANDARDS FOR CERTAIN PROVIDERS.—The Board shall establish standards that providers referred to in subsection (a)(6)(B)(ii) must meet to be eligible for payment under a health benefit plan and such standards shall require that such providers have training and education equivalent to a licensed clinical social worker (as defined in title XVIII of the Social Security Act).

(f) ADDED BENEFIT PLANS.—Not later than 24 months after the date of enactment of this Act, the Board shall establish minimum benefit requirements for two additional health benefit plans that—

(1) shall provide benefits more extensive or more innovative, such as new models of orga-

nized or managed care, than those provided by the plan developed under subsection (a); and

(2) may be compared on the basis of cost and quality outcome measures.

(g) STUDIES.—

(1) INITIAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Board shall—

(A) review the appropriateness of the minimum benefits and services required to be covered under subsection (a); and

(B) review the effects of State benefit and provider mandates; and

(C) prepare and submit to the Secretary and the appropriate committees of Congress a report concerning the cost-effectiveness and desirability of such benefits and services and making recommendations for changes in the list of such benefits and services.

(2) BIENNIAL REPORT.—Not later than 2 years after the date on which the report is submitted under paragraph (1), and every 2 years thereafter, the Board shall prepare and submit to the Secretary and the appropriate committees of Congress a report updating the preceding report and reviewing, consistent with paragraph (1), the additional benefits and services included in the plans developed under subsection (f).

(h) EXEMPTION FROM HMO REQUIREMENTS.—Section 1301 of the Public Health Service Act (42 U.S.C. 300e) is amended by adding at the end thereof the following new subsection:

(d) The provisions of this title relating to health services offered by a health maintenance organization shall not apply with respect to those health maintenance organizations that provide services that meet the requirements for health insurance plans offered through Health Insurance Purchasing Cooperatives under section 4 of the Health Insurance Purchasing Act.".

SEC. 5. NATIONAL HEALTH INSURANCE DATA SYSTEM.

(a) IN GENERAL.—Using advanced technologies to the maximum extent practicable, the Secretary shall establish and maintain a National Health Insurance Data System, which shall be comprised of—

(1) a centralized National Data Base for Health Insurance and Health Outcomes Information;

(2) a network of no more than five Regional Health Insurance Data Collection Centers; and

(3) a standardized, universal mechanism for electronically processing health insurance and health outcomes data.

(b) NATIONAL DATA BASE FOR HEALTH INSURANCE INFORMATION.—The National Data Base for Health Insurance Information shall—

(1) be centrally located;

(2) rely on advanced technologies to the maximum extent practicable; and

(3) be readily accessible by each State coordinated buying program for data input and retrieval.

(c) REGIONAL HEALTH INSURANCE DATA COLLECTION CENTERS.—The Secretary shall designate not more than five regional centers, to be located throughout the United States, for the initial collection and analysis of data on each State coordinated buying program, as described in section 3(c)(1)(B), and such other information as determined useful to the Secretary or the National Health Board. The regional centers shall transmit relevant data, as determined appropriate by the Secretary and the National Health Board, to the National Data Base for Health Insurance and Health Outcomes Information.

(d) ELECTRONIC DATA COLLECTION CARD.—The Secretary, upon the recommendation of the National Health Board, shall—

(1) establish uniform billing and claims forms and mandatory reporting requirements, including information on member eligibility, benefits, use, outcomes, and efficacy, which shall be adopted for use by each State and State coordinated buying program receiving funding under section 2; and

(2) ensure that no State receives funding under this Act if carriers in such State do not agree to issue to each participant in the State coordinated buying program an electronic data processing card approved by the Secretary that shall—

(A) contain information, as determined necessary by the Secretary and the National Health Board, which can be conveyed electronically to a regional data processing center; and

(B) enable health care providers to enter information into a participant's file concerning administrative matters, treatment, such as diagnosis based on standard codes, and outcome, except that participating health care providers must agree to provide data in standard format, which shall be established by the Secretary and the National Health Board.

(e) RELIGIOUS OBJECTIONS.—Nothing in this Act shall be construed to require any State coordinated buying program or Health Insurance Purchasing Cooperative to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under a health benefit plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds.

(f) CONFIDENTIALITY.—The Secretary, upon the recommendation of the National Health Board, shall ensure that all patient information collected under this section is managed so that confidentiality is protected.

(g) AUTHORIZATION OF APPROPRIATIONS.—There shall be authorized to be appropriated, annually, $1,000,000 for fiscal years 1993 through 1997.

SEC. 6. DEFINITIONS.

As used in this Act:

(1) BONA FIDE ASSOCIATION.—The term "bona fide association" means any entity that—

(A) offers health insurance plans that comply with all Federal and State requirements applicable to the association group market, including the criteria established in section 2(e);

(B) has 100 or more employers serving a single or related industry or profession; and

(C) has formed for purposes other than to purchase insurance.

(2) CARRIER.—The term "carrier" means any person or entity that offers a health benefit plan, whether through insurance or otherwise, including a licensed insurance company, a pre-paid hospital or medical service plan, or a health maintenance organization or self-insured plan.

(3) ELIGIBLE EMPLOYEE.—The term "eligible employee" means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

(4) HEALTH BENEFIT PLAN.—The term "health benefit plan" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract, including any self-insured plan or Multiple Employer Welfare Arrangement, but does not include any of the following offered by a carrier—

(A) accident only, dental only, disability only insurance, or long-term care only insurance;

(B) coverage issued as a supplement to liability insurance;

(C) workmen's compensation or similar insurance; or

(D) automobile medical-payment insurance.

(4) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" has the meaning given the term "eligible organization" in section 1876(b) of the Social Security Act.

(5) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(6) PREEXISTING CONDITION.—The term "preexisting condition" means, with respect to coverage under a health benefit plan issued to a small employer, employee or dependent by a carrier, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

(7) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(8) SMALL EMPLOYER.—The term "small employer" means, with respect to a calendar year, an employer that normally employs at least 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term "employer" includes a self-employed individual.

SUMMARY OF THE HEALTH INSURANCE PURCHASING COOPERATIVES ACT

THE SMALL GROUP INSURANCE MARKET IS BROKEN

In comparison with workers in large firms, employees in small companies are less likely to be insured and lose health insurance benefits more frequently. It costs small firms a lot more to administer insurance for their employees, adding to premium costs.

Only 31 percent of workers in firms with less than 25 employees have any insurance coverage, and over 2 million workers lost coverage in 1990. Small business pays as much as 35 cents on a dollar to administer insurance, compared with about 6 cents for a larger company.

HOW WILL HIPC'S HELP?

The Bingaman-Durenberger bill, The Health Insurance Purchasing Cooperatives Act takes a step toward fixing the small group market. Health Insurance Purchasing Cooperatives (HIPCs) help small business in the selection and administration of health insurance by:

Acting as a health benefits office helping employees select wisely on the basis of reliable cost and quality information;

Serving as the exclusive purchasing agents thus streamlining and reducing the costs of buying and administering plans; and

Saving money for all buyers. HIPCs will cost $133 million over 4 years and CRS data indicates HIPCs could save as much as 10 percent in premiums.

HOW DO HIPC'S WORK?

Each state will have the option to apply for federal start-up grants to establish HIPCs for small employers (less than 50 employees). Once operational, HIPCs will be fiscally self-sufficient.

States will establish: regional HIPCs based on geography and population to achieve economies of scale; and, a State HIPC Board to provide oversight, ensure compliance with state and federal laws, and coordinate activities.

HIPCs will: serve as purchasing agents for all small businesses, solicit bids for specific benefits packages and purchase large blocks of insurance, thus motivating providers and carriers to offer high quality, cost-effective services and coverage; and, serve as health benefits offices participating employers, providing information to employees about comparative health plan benefits.

ROLE OF THE FEDERAL GOVERNMENT

National Health Care Board: An 11 member National Health Care Board representing a spectrum of participants in our health care system to: develop model health insurance packages with periodic review; and, establish data collection requirements for quality monitors, expense reporting and health outcome and efficacy data.

National Health Insurance Data System: The Department of Health and Human Services (DHHS) will establish a comprehensive national data base for health information, including standardized magnetic cards for beneficiaries to collect billing data, eligibility and health outcomes.

HIPC's Promote Important Health Care Values: Encourages equity among large and small firms; makes health insurance more affordable; contains costs through smart buyers and economy of scale; supports individual choice among competing plans; and promotes competition on the basis of price and quality.

Mr. DURENBERGER. Mr. President, one of the refreshing breezes in the winds of change blowing through this city and this chamber is the call from the American people that we devote ourselves to the common interest of all, rather than the special interest of the few well financed groups who make so much noise in Washington.

One of the best ways we can serve the common interest of Americans is to address the welfare of our Nation's small businesses. The business pages of our newspapers and the ads we see on TV don't communicate it, but small business is the backbone of our economy. That's where most Americans work. That's where most innovation takes place. That's where our economy will stand or fall.

And that's why Senator JEFF BINGAMAN and I are here on this floor this morning to introduce the Health Insurance Purchasing Cooperative Act, S. 3165. One of the best things we can do to help small businesses move ahead is to help them to deal with health insurance. Affordable, reliable, quality coverage for employees is an absolute must to attract employees and be competitive, but the dysfunctional marketplace for health insurance is not providing that to small businesses. That's why this legislation is so necessary.

What the Senator from New Mexico and I propose to do is to use a solution to fix this urgent problem that is based on a concept we know well. We want to encourage the States to establish health insurance cooperatives—HIPC's—so that small businesses can band together to buy insurance.

The history of the economic progress of America's heartland is largely the story of the cooperative movement. Rural citizens have always faced the economic disadvantages of geographic dispersion and distance, which meant they paid higher prices for goods and services than their urban neighbors or they didn't get them at all.

But rural citizens in my State, drawing from their Scandinavian heritage, founded cooperatives first to buy the things they needed—electricity, motor fuel, consumer goods—and then sell the things they produced—farm commodities, lumber and the like. Co-ops have generated buying power, better information and a level playing field for rural citizens for generations.

Small businesses face those same kinds of competitive disadvantages when they enter the market for health insurance. Large companies get the best rates and broadest coverage; small companies often pay far more for lesser coverage, and some are forced into the situation of being lucky to get any coverage at all. Establishing health insurance buying coops is part of the solution to that problem.

We know that these cooperatives arrangements will reduce costs of insurance. The Congressional Research Service estimates that there would be a 10-percent reduction in health insurance premiums if the HIPC's were in place. Mr. President, in this era of double digit health care inflation, a 10 percent reduction is nothing short of miraculous.

Under our bill, the States would have the option of establishing HIPC's. These coops will:

Any health plan offered to members would be required to provide information on how its costs compare with other plans; all plans would also have to provide information to consumers on the quality of the services it offers.

Act as a health benefits office. That means it would help employees make wise selections among the plans that are available;

Serve as exclusive purchasing agents for small business. This service creates one-stop shopping for small business seeking insurance. The HIPC relieves them of the burden of selecting and monitoring insurance companies.

The HIPC's will provide small business purchasers with efficient service and greater choice, which is now available only to larger groups like government workers and employees in big firms. HIPC's give small firms the market power of larger ones. They offer economies of scale for employers and wider and more meaningful choice for employees.

It has worked throughout our Western States, and it will work for America's small businesses.

Mr. President, we have a long hard journey ahead of us before we arrive at the kind of health care system the American people need and deserve. Our goal is universal access to high quality care through a system of universal coverage of financial risk.

How do we get there from here?

In a time of expanding needs and soaring deficits, our greatest need is to improve the productivity of our system: finding ways to help the system produce more services with fewer resources. Every actor in the system—consumers, insurers, employers, providers, and yes, even government, must learn to do what it does best.

The path of greater government control of private health care decisions will not take us there, in my view. Government always produces less at a greater cost. Government can do a better job, but greater regulation is not the answer.

Instead, government needs to apply its energy to restoring the greatest productivity-enhancer humankind has ever invented: the marketplace. When the market fails, as it has in the small business insurance area, government should step in and fix it. Members of the so-called Jackson Hole health reform group and I call this concept managed competition, and it is the only alternative to government health care.

S. 1872, which I have introduced with Chairman BENTSEN of the Finance Committee is a companion bill to this bill. It reforms the health insurance market from the sellers side, ending business practices which have increased the cost and reduced the supply of coverage for small businesses. Shortly I will also introduce legislation to amend ERISA to allow states to require self-insured companies to participate in financing expansion of health care access to uninsured people. There are important steps down the road to functional health marketplaces.

Mr. President, when the American people call for change I believe they are asking us to address the basic problems that confront them every day. For thousands of businesses and millions of workers and their families, health insurance is a daily concern. This bill will help restore a measure of fairness and affordability to them and move America toward a healthier future.

On the campaign trail, and in this chamber, there are fundamental differences on health policy. But what health reform needs right now is not more emotion, but more forward motion. I urge my colleagues to study this modest step and join us as cosponsors.

I am saddened, Mr. President, by the increasingly partisan nature of the health reform debate in the last week or two. To fix the problems in our health care system requires bipartisan cooperation, not bickering between the parties. Frankly, Mr. President, I believe that either party can do this alone.

I think it is particularly important to continue to be bipartisan. The Bingaman-Durenberger bill is bipartisan. It will do good for small business owners; it will do good for employees of small business. I urge my colleagues on both sides of the aisle to support it.

By Mr. DECONCINI:

S. 3166. A bill to amend the Food Stamp Act of 1977 to provide that narcotic addicts or alcoholics, and their children, who live under the supervision of a private nonprofit institution, or a publicly operated community mental health center, for the purpose of regular participation in a drug or alcohol treatment program shall not be considered residents of institutions and shall be considered individual households, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMPS FOR ELIGIBLE CHILDREN IN RESIDENTIAL DRUG TREATMENT

• Mr. DECONCINI. Mr. President, today I am introducing legislation which would amend the Food Stamp Act of 1977 to allow eligible children who accompany a parent into residential substance abuse treatment to participate in the Food Stamp Program. Under current law, "narcotic addicts or alcoholics" who are eligible for the Food Stamp Program can use food stamps for their meals while they are in residential treatment, while otherwise eligible family members who may accompany that individual into treatment are prohibited from doing so. Once these family members enter a treatment facility, current law dictates they can no longer receive food stamps for the duration of their stay. Depending upon the treatment facility, these individuals are expected to pay for their meals or they are forced to depend upon the largess of the facility. Such a policy is a deterrent to participation in a treatment approach which has proved successful in keeping families together and in breaking the cycle of addiction from one generation to another.

Because most of the children will have been receiving food stamps before moving to the treatment center, my bill would not significantly increase the spending for the Food Stamp Program. The Congressional Budget Office has estimated that my legislation would cost the Treasury less than $500,000 next year. It would cost only $4 million over 5 years.

The potential cost savings, however, are significant. Mr. President, I do not have to remind anyone in this body of the devastating effect drugs are having on families in American today. The Institute on Medicine, using data from the National Institute on Drug Abuse's Household Survey, has estimated that each year between 350,000 and 625,000 infants are exposed to one or more illegal drugs in uterus. Special care for cocaine-exposed babies adds more than $500 million a year nationally to the costs of normal labor, delivery and newborn care. The $500 million covers hospital costs for cocaine-exposed infants only, and does not include the money we spend each year on foster care for these children nor does it include the special care some of these children require in order to be prepared and ready for school.

Given the magnitude of these costs, effective treatment programs for mothers who abuse drugs, including alcohol, could yield significant savings within their first year of operation. Nevertheless, despite recommendations of researchers over the past 2 decades, women and children have been the lowest priority in terms of delivered drug treatment services. It has been estimated, for example, that 280,000 pregnant women in this country need drug treatment, but only 1 in 10 receives any help—1989 survey by the National Association of State Alcohol and Drug Abuse Directors. And according to the National Council on Alcoholism, women account for only 20 percent of those in treatment for alcoholism.

Only recently have we witnessed a new national effort to provide treatment resources for this long-neglected vulnerable population. Toward this end, an increasing number of treatment centers are permitting substance-abusing women to bring their children with them into residential treatment. This approach removes one of the major barriers to recovery for low-income mothers, particularly single mothers, who all too often are forced to choose between the treatment they need and the children they love. It's a choice with the cards stacked against families. Mothers who do opt for treatment are frequently forced to put their children into an already overburdened foster care system.

Moreover, studies indicate that mothers whose children reside with them during treatment for substance abuse consistently stay in treatment longer than women separated from their children, thereby increasing their chances of recovery. Amity, Inc. offers long-term residential treatment in my home town of Tucson, Arizona. According to officials there, it is common for women enrolled in the Amity therapeutic community to have left their children in drug houses as collateral for drug trades, or even to have sold them for drugs.

Prior to August 1981, the Amity program had been traditionally male dominated. Changes were instigated that August, and a specialized women's program was put in place. As space permitted, women were allowed to bring their children into treatment with them. Mr. President, the results are impressive. Women whose children resided with them during drug treatment at Amity stayed in treatment longer than women separated from their children—506 days versus 182 days, on average.

We see similar results at Odyssey House in New York City. Seventy percent of the adult population there are parents. Sixty-eight percent are second or third generation substance-abusers. Mothers who are allowed to bring their children into treatment with them stay at Odyssey House twice as long as those without children.

Operation PAR is a comprehensive substance abuse treatment organization in the Tampa Bay area of Florida. It takes a family approach to treating addiction.

Operation PAR has data which support the notion of a high early dropout rate among women in residential treatment facilities which do not address women's issues. In these facilities, 23 percent of the men left treatment within the first 60 days. In contrast, 63 percent of the women left within this same time frame. And the reason most women gave for leaving treatment? They needed to go home to take care of their children.

To repeat: We have in place a food stamp policy which is a blatant deterrent to family participation in residential treatment programs which have been proven effective in treating addiction. Mr. President, we have a precedent for changing such a policy. In 1980, Congress amended the Food Stamp Act to allow eligible women and children residing in shelters for battered women to use food stamps for their meals. I see little difference between this category of individuals and the families of substance abusers in residential treatment centers as far as their need for food stamps is concerned.

Mr. President, I ask for my colleagues' support in my legislation. This change in our food stamp policy will help preserve families, provide for protection of children and increase the opportunity for successful recovery from addiction. I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CHILDREN OF NARCOTIC ADDICTS OR ALCOHOLICS PARTICIPATING IN DRUG OR ALCOHOLIC TREATMENT PROGRAMS.

(a) IN GENERAL.—The last sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after "narcotic addicts or alcoholics" the following: ", together with their children,".

(b) CONFORMING AMENDMENT.—Section 3(g)(5) of such Act is amended by inserting after "or alcoholics" the following: ", and their children,".•

By Mr. DURENBERGER:

S. 3167. A bill to amend the Federal Crop Insurance Act to modify the provisions governing yield averages, to provide late planting coverage and prevented planting coverage, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL CROP INSURANCE FAIRNESS ACT

• Mr. DURENBERGER. Mr. President, I rise today to introduce the Federal Crop Insurance Fairness Act, S. 3167. This bill has taken 6 months to draft and goes a long way toward improving the Federal Crop Insurance Program. The FCIC Fairness Act will make the program more fair for farmers by giving them adequate coverage for their actual crop yields. It will also help taxpayers by increasing participation in Federal crop insurance and reducing the reliance that American agriculture has on ad hoc disaster assistance.

The best thing about this bill is that it was created by the real crop insurance experts—the farmers themselves. In the spring of 1991, Minnesota farmers suffered under heavy rains which either damaged their eventual yield or prevented farmers from planting altogether. Early this year, I met with Minnesota corngrowers who told me how Federal crop insurance failed to deliver when they finally needed to collect.

These farmers realized too late that the Federal Crop Insurance Program was unable to offer them adequate coverage. The reason for this is that farmers who are new to FCIC programs often have to supplement their actual production history with as many as nine transitional yields, or regional averages, to fulfill the 10-year FCIC production requirement. For many farmers, their yield coverage is lowered by these regional averages. It was clear to these Minnesota farmers last fall, and it is clear to them now, that a new formula for determining yield coverage is needed. I have worked with farmers to come up with a fair yield average formula. This bill does that.

The FCIC Fairness Act reforms the yield coverage provisions in order to more clearly reflect a farmer's actual production. This is done by limiting the use of transitional yield data to no more than 4 years.

Farmers currently have to provide 10 years of production history to be insured by FCIC. Since most farmers do not have 10 years of actual yield data when they enter the crop insurance program, they are forced to supplement their actual yield data with as many as 9 years of transitional yield data. Transitional yields work against the farmer by lowering his coverage, and work against FCIC by discouraging farmer participation in the program. The current system also works against the American taxpayers by forcing costly ad hoc disaster assistance during times of regional drought or heavy rains.

Inadequate coverage is the most glaring problem with FCIC, that is why this program has never lived up to its expectations. It has never given farmers a viable and fair alternative to ad hoc disaster payments. S. 3167 gives farmers the confidence that Federal crop insurance will be better for them than taking a risk with disaster assistance.

The FCIC Fairness Act requires farmers to provide no more than 4 years of transitional yield data if they cannot provide 4 or more years of actual production history. A farmer will build upon his production history until he has 4 years of actual production data. Once a farmer reaches 4 years of actual production data, he will just continue to build on that until he has 10 years of actual data. This will ensure that farmers get adequate coverage.

Furthermore, it provides for a minimum yield coverage floor which will protect farmers from having a string of disasters, lower their coverage to an artificially low level. This way, if a farmer has 1 year of good actual production and 3 years of zero production, he can still purchase adequate coverage.

The FCIC Fairness Act also improves late planting coverage by extending the late planting period 5 days to 25 days after the final planting date. It changes the reduction in coverage from 10 percent every 5 days to 1 percent per day for the first 10 days to 2 percent per day for the remaining 15 days.

And, S. 3167 increases prevented planting coverage by 15 percent, guaranteeing farmers fully 50 percent of the coverage for their crop if natural disasters prohibit them from planting.

Under the FCIC Fairness Act, both late planting coverage and prevented planting coverage will be included as part of the basic FCIC policy. This will protect farmers who in the past have been unaware that they needed to request these options from their agent—and have lost their coverage.

Mr. President, this is a good bill. The Federal Crop Insurance Fairness Act is a bill by farmers for farmers. These changes will make the program more farmer friendly and, through increased participation, will finally put the Federal Crop Insurance Corporation on sound footing.

I am proud to say that this bill is supported by the National Association of Wheat Growers, American Soybean Association, National Corn Growers Association, National Barley Growers Association, American Oat Association, Minnesota Corn Growers Association, Minnesota Soybean Association, Minnesota Association of Wheat Growers, and Minnesota Barley Growers Association.

I urge my colleagues to join me in support of this bill.•

By Mr. SARBANES:

S. 3168. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve control of acid mine drainage, and for other purposes; to the Committee on Energy and Natural Resources.

ACID MINE DRAINAGE ABATEMENT ACT

• Mr. SARBANES. Mr. President, today I am introducing legislation to help address a serious pollution problem—acidic runoff from abandoned coal mines—which continues to degrade the water quality of our Nation's rivers and streams. My legislation would enable States to utilize more of their allocations under the Abandoned Mine Reclamation Fund for environmental remediation activities.

Abandoned mine drainage is the unfortunate legacy of coal mining in the years before environmental laws were enacted requiring coal companies to reclaim mined land. After the coal was extracted, the land was left riddled with coal waste, known as gob piles, and pock-marked with holes. The mining activity also unearthed sulfur compounds and metals such as aluminum, manganese, and iron. When exposed to the elements, the sulfur compounds produce sulfuric acid which in turn leaches metal loads into the streams, poisoning the water and killing the fish. There are in excess of 7,600 miles of streams in 11 States that are adversely affected by abandoned mine drainage.

In the Appalachian region, which suffers the most serious mine drainage problems, the acidic runoff has left a major segment of our Nation's river, the Potomac River, virtually devoid of life. Much of the North Branch of the Potomac, from its headwaters near Kempton, MD to the Jennings Randolph Lake, is biologically dead. I recently visited this area and an abandoned mine site just north of the Jennings Randolph Lake and saw firsthand the environmental devastation caused by acid mine drainage. Nearly 700 miles of the North Branch's streams are currently incapable of supporting fish and other aquatic life because of this drainage. Along this stretch of the Potomac there are over 4,000 acres of abandoned mine lands, including the worst offender, Kempton Mines, which discharges approximately 3 million gallons of abandoned mine drainage each day.

The Surface Mining Control and Reclamation Act of 1977 [SMCRA] established a regulatory program for current mining activities requiring land reclamation and control of acid drainage at active mine sites to assure that today's mines do not become tomorrow's abandoned mines. It also established an abandoned mine lands reclamation [AML] fund, paid for by a fee imposed on current mining production, to address problems caused by abandoned coal mines. Current law and regulations require that priority be placed on alleviating public health and safety problems posed by abandoned mine lands. However, States are authorized to set aside up to 10 percent of their allocations under the AML fund annually in a special account for addressing adverse environmental effects caused by abandoned mine acid drainage. These funds are insufficient to clean up the acid mine drainage problems.

My bill would provide greater flexibility for States to use existing abandoned mine reclamation funds for acid mine drainage abatement as well as health and safety problems. Specifically, it would increase from 10 to 30 percent the portion of a State's abandoned mines reclamation funds that could be set aside for addressing environmental problems caused by acid drainage. Additionally, it authorizes a discretionary grants program enabling States to apply for up to a 50-percent cost share of an acid mine abatement project, potentially doubling available funds. I ask unanimous consent that a section-by-section analysis of this bill be included in the RECORD.

Mr. President, great progress has been made in restoring the health of America's rivers in the 3 decades since President Lyndon Johnson vowed to make the Potomac a national model for restoring the Nation's waters. Today, much of the Potomac is a haven for fish and wildlife and provides tremendous recreational and economic opportunities. However, the North Branch of the Potomac remains in marked contrast to these improvements. The States of Maryland and West Virginia and the Interstate Commission on the Potomac River Basin have been working together in a cooperative effort to restore the North Branch's health, thereby improving the quality of life and opening tremendous opportunities for economic development including tourism and outdoor recreation. Unfortunately, the job cannot be accomplished without the assistance made available under this legislation. The North Branch of the Potomac is only one of many areas that could greatly benefit from improved environmental conditions made possible by this measure.

I urge my colleagues to join me in supporting this bill in order to provide States with the flexibility and additional resources needed to better address environmental problems associated with acid mine drainage.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY SECTION SUMMARY OF THE ACID MINE DRAINAGE ABATEMENT ACT OF 1992

Section 1: Short Title.—This legislation may be cited as the "Acid Mine Drainage Abatement Act of 1992."

Section 2: Acid Mine Drainage.—This section modifies the set-aside provisions so states can use higher amounts of allocated funds for environmental remediation. Current law allows states to retain up to 10% of their annual funds to establish either an interest bearing account to redress public health and safety problems beyond 1995 when the act is scheduled to expire, or to establish a special acid mine drainage abatement and treatment fund to redress adverse environmental effects from acid mine drainage. This bill allows states to take advantage of both set-asides, retaining the 10% set-aside for the post-1995 interest bearing account while raising the percentage for the acid mine drainage abatement and treatment fund to 30% instead of 10%.

This section also allows states to apply to the Secretary of the Interior for grants to alleviate the adverse environmental effects of acid mine drainage in qualified hydrologic units, abandoned areas covered by the Act that have biological resources that have been adversely affected by acid mine drainage. The grant would be taken out of a Secretarial discretionary account from unused acid mine funds. The Secretary could cost share up to 50 percent of the cost for any acid mine abatement or treatment project.•

By Mr. LAUTENBERG:

S. 3169. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes; to the Committee on Labor and Human Resources.

PREVENTING OUR KIDS FROM INHALING DEADLY SMOKE [PRO-KIDS] ACT OF 1992

• Mr. LAUTENBERG. Mr. President, I rise today to introduce the Preventing Our Kids from Inhaling Deadly Smoke [PROKIDS] of 1992. PROKIDS would protect children from secondhand smoke while they are participating in federally funded children's programs such as Head Start, WIC, health care and day care programs. This bill would require participants in federally funded programs to establish a nonsmoking policy if they provide health services to children under the age of 5 or provide other social services primarily to children under the age of 5.

Mr. President, this legislation is designed to prevent our children from being exposed to a carcinogen, environmental tobacco smoke or secondhand smoke. In a recent draft report, the Environmental Protection Agency concluded that secondhand smoke was indeed a group A carcinogen, a group that includes toxins such as asbestos, benzene and arsenic.

The evidence is clear that secondhand smoke is taking an enormous toll on the health of Americans, particularly our children. According to the EPA, an estimated 2,500 to 3,300 lung cancer deaths per year among nonsmokers result from exposure to secondhand smoke. Secondhand smoke causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations. Furthermore, secondhand smoke exacerbates asthmatic symptoms in children and is associated with 8,000 to 26,000 new asthma cases in children. In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease and emphysema and that approximately 50 percent of all children are exposed to secondhand smoke.

This legislation is not overreaching or burdensome. This legislation would simply require nonsmoking policies that would limit indoor smoking in facilities associated with these federally funded programs to those areas which are not normally used to serve children and which are ventilated separately from these areas. Evidence accumulated by the EPA and other entities shows that separate ventilation is necessary to prevent secondhand smoke from recirculating through the ventilation system right into the rooms used by the children. In cases where unusual extenuating circumstances prevent total compliance, programs could apply for a partial waiver from this provision if they protect children from exposure to secondhand smoke to the extent possible.

Mr. President, the Federal Government has a series of requirements that grantees must comply with in order to receive Federal funds. In order to receive Federal funding, grantees must certify to the Federal Government that they are complying with Federal laws like the Drug-Free Workplace Act and the Americans With Disabilities Act. I would also note that this legislation will not establish a smoking policy or stop funding to an entity if a person defiantly smokes in front of children. It simply requires that the recipients adopt such a nonsmoking policy and make a good faith effort to enforce it.

The Department of Health and Human Services has already banned smoking in all of its buildings because our top health officials understand the danger of environmental tobacco smoke. We've banned smoking on all domestic airplane flights. Children are the most vulnerable members our society. They depend upon us to protect them and safeguard their health. They are the future of this country. Isn't it time to give our children, especially those who depend on the Federal Government for valuable services like health care and preschool training, the same protection we already accord to some Federal workers and airplane travelers?

As a Department of Health and Human Services report notes:

> Twenty-five years ago, smoking in the workplace and public places was considered a virtual birthright. Today, acceptance of smoking in public places has largely disappeared, replaced by an increasing recognition of the right to breathe air free from the harmful effects of tobacco smoke.

We've come a long way, baby. But we still have a way to go. We should prohibit smoking in federally funded institutions which serve children under the age of 5 immediately, so that our children can breath healthy air.

This legislation has been endorsed by the American Heart Association, the American Lung Association, the American Cancer Society, the Association for Respiratory Care, the Association of Maternal and Child Health Programs, the Asthma and Allergy Foundation of America, and the National Coalition for Cancer Research.

I urge my colleagues to support this legislation.

I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preventing Our Kids From Inhaling Deadly Smoke (PRO-KIDS) Act of 1992".

SEC. 2. PROHIBITION OF FEDERAL FUNDS OR FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds or financial assistance may be provided to, or used by, any person with respect to the provision of children's services by such person, unless such person establishes and makes a good faith effort to enforce a nonsmoking policy that meets or exceeds the requirements of subsection (b).

(b) NONSMOKING POLICY.—A nonsmoking policy meets the requirements of this subsection if such policy prohibits smoking in each portion of an indoor facility used in connection with the provision of children's services, and, where appropriate, such policy requires that signs reading "no smoking" be posted in each such facility to communicate the policy. Such policy may allow smoking in those portions of the facility—

(1) in which such services are not normally provided directly to children; and

(2) that are ventilated separately from those portions of the facility in which such services are normally provided directly to children.

(c) WAIVER.—A person described in subsection (a) may publicly petition the Federal agency from which the person receives Federal funds or financial assistance for a waiver of the requirements of subsection (b). A waiver may be granted, after an opportunity for public hearing and comment, only if the person provides assurances satisfactory to the Federal agency that—

(1)(A) unusual extenuating circumstances prevent the person from establishing or enforcing the nonsmoking policy described in subsection (b) (such as the person shares space in an indoor facility with another person and cannot obtain an agreement with the other person to abide by the nonsmoking policy described in subsection (b)); and

(B) the person will establish and make a good-faith effort to enforce an alternative nonsmoking policy that will protect children from exposure to environmental tobacco smoke to the maximum extent possible; or

(2) the person will establish and make a good-faith effort to enforce an alternative nonsmoking policy that will protect children from exposure to environmental tobacco smoke to the same degree as the policy described in subsection (b).

(d) TECHNICAL ASSISTANCE.—The Secretary of Health and Human Services (or a designee of the Secretary) shall provide technical assistance to Federal agencies and other persons who request such assistance, including—

(1) information on smoking cessation programs for employees; and

(2) information to assist such agencies and persons in complying with this Act.

(e) DEFINITIONS.—As used in this section:

(1) CHILDREN.—The term "children" means individuals who have not attained the age of 5.

(2) CHILDREN'S SERVICES.—The term "children's services" means—

(A) direct health services routinely provided to children; or

(B) any other direct services routinely provided primarily to children.

SEC. 3. EFFECTIVE DATE.

This Act shall become effective on October 1, 1992.●

By Mr. DIXON:

S. 3170. A bill to suspend until January 1, 1995, the duty on certain toys representing troll figures; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN TOYS

● Mr. DIXON. Mr. President, I am introducing legislation today to temporarily suspend the duty on troll toys. This bill is simple and noncontroversial. It eliminates the duty on toys representing troll figures that are not produced in the United States. It is a reasonable request.

U.S. companies have been granted duty suspension for imported toys that are not cost effective to make in the United States. Already we provide tariff suspension to stuffed toys under 30 inches tall. We also provide tariff suspension to imported products that create employment in the United States. This product fulfills both these conditions.

The doll is a flesh-colored plastic figure standing erect on two legs and is approximately 2½ inches tall and comes dressed in over 500 costume options. All the troll dolls are accessorized in the United States by U.S. workers.

In addition, the distribution centers for these troll dolls employ hundreds of workers. In my State of Illinois, I have a distribution center that employs approximately 200 people. These are decent jobs with decent wages. The U.S. harmonized tariff system was not created to handicap U.S. workers.

These dolls are very, very popular with children. A duty suspension is also appropriate to reduce consumer costs since there are no competing U.S. manufacturers.

Mr. President, this is a meritorious bill, and I look forward to working with my colleagues to ensure its prompt enactment.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN TOYS REPRESENTING TROLLS OR TROLL FIGURES.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.95.03	Toys representing trolls or troll figures (provided for in subheading 9503.49.00)	Free	No change	No charge	On or before 12/31/94."

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. DODD (for himself, Mrs. KASSEBAUM, and Mr. KENNEDY):

S. 3171. A bill to amend the Head Start Act to improve certain provisions with respect to training, and for other purposes; to the Committee on Labor and Human Resources.

HEAD START TRAINING IMPROVEMENT ACT

● Mr. DODD. Mr. President, today I am introducing legislation that addresses an aspect of Head Start that is just as critical to meeting the needs of low-income children as expanding their opportunities to participate. I speak of the quality of the program itself and the training Head Start staff receive so they can ensure that quality. I am pleased to have as cosponsors Senators KASSEBAUM and KENNEDY, both of whom are tireless champions of the Head Start Program.

When we speak of Head Start, we often focus on the idea of giving every eligible child the opportunity to participate. No one could be more supportive of this goal than I, as chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism, which oversees Head Start. In 1990, I sponsored legislation authorizing for the first time full funding for Head Start. But that legislation accomplished more than just authorizing the money so that every child could find a place in Head Start. It also focused on the need to make sure that, when they got into the program, they would be met with high quality services. For without ensuring quality, the effects of increased participation will surely be blunted.

The Head Start Training Improvement Act continues this theme. It concentrates on the most critical element of early childhood programs, the qualifications of its staff. Studies have shown that staff training, more than any other individual factor, determines the quality of a program. In the 1990 reauthorization, we set aside funds for training, so access to training will grow as the program grows. We also required that by 1995 every Head Start classroom would have a teacher with at least a child development associate [CDA] credential. The legislation I am introducing today would help make sure the increased training funds are spent efficiently and effectively and ensure that the CDA credential remains within reach of early childhood professionals.

The legislation clarifies existing language regarding a national credentialing program for early childhood and child care providers, that is, the CDA. The CDA is earned through a mixture of classroom training and practical experience and therefore provides an excellent opportunity for providers to improve their qualifications. Many Head Start parents, working in the program, have sought to obtain this credential. Since 1985, a national organization, the Council for Early Childhood Professional Recognition, has received a grant through Head Start to administer the CDA program, thereby keeping the credential's cost within reach of workers who are chronically underpaid. The legislation I am offering ensures that funding for this program will continue and that early childhood workers will continue to have access to a credential that helps ensure quality services and gives them a boost up the career ladder, as well.

The legislation also would require the Department of Health and Human Services to develop a systematic approach to training, including setting specific goals for program improvement and staff development. This approach must ensure continuing input from the Head Start community. We are pumping a lot of money into Head Start training, approximately $44 million in 1992, up from about $28 million in 1990. We need to know how this money is being used, where we want to go with improving Head Start qualifications, and how we are going to get there. The National Head Start Association has listed the need for this type of approach to training as a major policy priority.

A third provision would require the Secretary to fund staff training in helping children cope with the effects of living amidst community violence. A few weeks ago, I chaired a hearing on children and violence at which experts testified that children exposed to chronic violence can suffer deep psychological and development harm. I believe it is imperative that Head Start staff be prepared to help children whose communities are under siege.

Finally, the legislation explicitly provides that Head Start training funds may be used for programs that teach staff how the performing and visual arts, as well as interactive video programming, may be used to enhance children's learning experiences. In one such program, the Wolf Trap Institute for Early Learning Through the Arts has worked with early childhood programs all over the country to show how the arts can help young children acquire a variety of skills and concepts. Public broadcasting in my own State of Connecticut and around the country has been exploring the idea of using television programming as a training and learning tool. For example, this approach has been used effectively by the Children's Television Workshop, which built on "Sesame Street" with activities and learning materials to be shared by children, child care providers, and parents. The program enhances, rather than replaces, normal activities offered by the provider.

Mr. President, these are small changes, to be sure. But they fine tune an area that cannot be overlooked as we push to expand Head Start. For preschools, just being there is not enough. They have to have teachers and other staff who are knowledgeable about their ways of learning, about the problems their families face; staff who can challenge and stimulate them so they enter school ready to learn. I hope my colleagues will join me in supporting these adjustments in this critical area.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Head Start Training Improvement Act of 1992".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;

(2) to increase the ability of Head Start staff to address the problems facing Head Start families;

(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and

(4) to allow the use of training funds for creative approaches to learning for children.

SEC. 3. TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking paragraph (2) and inserting the following: "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end thereof the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including specific goals and objectives for program improvement and professional development, a process for continuing input from the Head Start community, and a strategy for delivering training and technical assistance; and

"(2) report on such approach to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".•

By Mr. ROCKEFELLER:

S. 3172. A bill to amend section 337 of the Tariff Act of 1930 and title 28 of the United States Code to provide effective procedures to deal with unfair practices in import trade and to conform section 337 and title 28 of the General Agreement on Tariffs and trade, and for other purposes; to the Committee on Finance.

INTELLECTUAL PROPERTY PROTECTION ACT OF 1992

• Mr. ROCKEFELLER. Mr. President, several times over the past few years I have stated—here on the Senate floor, in my Foreign Commerce and Tourism Subcommittee, as well as in other public speeches and private meetings—my conviction that the protection of intellectual property is one of the most important trade issues facing U.S. businesses around the world at the present time. Intellectual property is the technology that determines our national income, our social well-being, and our international competitiveness. When the intellectual property of Americans is not protected, our country loses not only jobs, production, and profits today, but also our ability to undertake the research and the investments that lead to further technological progress tomorrow.

The legislation I am introducing, the Intellectual Property Protection Act of 1992, addresses these critical issues. I hope that this proposal will get very serious consideration and early approval. When it is approved, this legislation will help ensure that foreign companies cannot steal U.S. technology and then use that stolen property to compete against the rightful owners. With this protection against intellectual property rights infringement, U.S. competitiveness and U.S. jobs can be preserved.

Mr. President, as you well know, Americans are an invective, creative people. We have long held to the principle that inventors and authors have the right to meaningful protection for their inventions or literary creations and that others should not be allowed to steal them. Machines, processes, music scores, trademarks, movies, computer chips and software must all be protected against illegal copying.

Section 337 of the Tariff Act of 1930 gives the U.S. International Trade Commission authority to exclude imports that violate U.S. copyright, patent, trademark, and computer chip mask work registrations or that injure U.S. industry by unfair methods of competition. It is one of the most important laws available to U.S. businesses to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices.

On November 23, 1988, a GATT panel found section 337 to be in violation of U.S. obligations under the GATT because some procedures established by section 337 do not provide national treatment for imported goods, and because some aspects of these procedures were not necessary for effective enforcement of a GATT-consistent law. In that decision, national treatment was the GATT test; "necessary for enforcement of an otherwise GATT-consistent provision" was the permitted exception.

On November 7, 1989, the U.S. Government allowed adoption of the GATT Panel Report and thus assumed a commitment to reform section 337 to comply with our GATT obligations. The U.S. trade representative has not yet proposed a reform of section 337 in order to meet this commitment. It had hoped to introduce such a proposal as part of the Uruguay round implementing legislation. Well, the Uruguay round negotiations have dragged on for 7 years now, and there is still no end in sight. Other nations, however, will not let us wait forever to fix the problems of section 337. I believe we should act now to remove any uncertainty about the continued effectiveness of this important law. As a result of the current uncertainty, use of section 337 has begun to decline.

The problem, in summary, faced by the United States as we try to meet our GATT obligations while at the same time maintaining an effective enforcement process against illegal imports, is that the Federal district courts cannot provide efficient adjudication of import issues because each district court normally exercises jurisdiction only over persons found within the district. Because of the need in import cases to exercise far-flung jurisdiction—often in several countries and in several States—that is not customary in district court proceedings, section 337 was written 70 years ago to give the ITC the necessary authority: in rem jurisdiction for the entire country.

In rem jurisdiction is authority over a thing, the imports, rather than over a person. Because of the difficulty of enforcing intellectual property rights against imports which are manufactured outside the normal jurisdiction of U.S. courts, these special enforcement procedures are necessary to enforce intellectual property rights against infringing imports. The GATT allows such special enforcement procedures when they are no less favorable than those used against domestic products or, if less favorable, are necessary to secure compliance with GATT-consistent regulations or procedures. Some parts of section 337 did not meet this test.

The GATT panel did recognize as necessary the ITC's in rem jurisdiction and the automatic enforcement of its orders against illegal imports by the U.S. Customs Service. The special enforcement procedures of section 337—those that are different from the process in district courts—judged not necessary by the GATT were:

First, the statutory time limits in the ITC process. There are no time limits imposed by statutes on the courts nor, given the independence of our judiciary, can we in the Congress impose any such time limits;

Second, the prohibition of counterclaims in the ITC process. Counterclaims are allowed by the courts in intellectual property cases;

Third, the availability of a choice of fora to challenge imports with only a single forum available to challenge alleged domestic infringement. Under current law, only a U.S. industry can bring a section 337 complaint to the ITC;

Fourth, possible duplicative proceedings in the ITC and a district court. A respondent in a section 337 case may have to defend in two fora, often at the same time, whereas a domestic respondent has only a court case to answer.

The bill I am introducing today addresses each of these issues while maintaining the ITC's ability to act quickly and effectively against violations of U.S. intellectual property rights. In preparing this bill, I have consulted extensively with representatives of U.S. industry and with the lawyers who specialize in intellectual property protection issues. I would characterize their views broadly as being at three different points along the continuum.

First, there are a few who think we can best maintain an effective section 337 procedure by thumbing our nose at the GATT and doing nothing to change the current law. Mr. President, I reject that approach. We expect other countries to abide by their GATT obligations, and they should be able to expect the same of the United States. We cannot flaunt international trade rules and expect other nations to obey them.

The second approach is called by some the minimalist approach. That means we should make only minimal changes in section 337—only those changes necessary to comply with our GATT obligations—while preserving the ITC's ability to act quickly and effectively against violations of U.S. intellectual property rights and other unfair trade practices.

Mr. President, this is the approach I believe we should adopt. It is the approach incorporated into this bill. It has very broad support in the U.S. business and legal communities.

A third approach is advocated by those who think that the only way to comply with the GATT panel is to put the import cases in the district courts with the domestic cases. Under this concept, all complaints would have to be initiated in district courts, which—because the courts will not have jurisdiction over the imports or the foreign companies that produce them—could send parts of the complaints to the ITC, but only for provisional relief and only in restricted cases. The determinations of the ITC commissioners would then be subject to review by a district court judge, who could tell the ITC what to do about any final relief orders.

Mr. President, I reject such an approach. It would strip the ITC of most of its current authority and would deprive U.S. businesses an effective enforcement mechanism against imports.

Mr. President, I would like to share with the Senate some of the comments on my bill that I received last week from Thomas V. Heyman, the President of the ITC Trial Lawyers Association. Mr. Heyman, on behalf of the group he heads, wrote,

> For the following reasons, we believe your approach will well serve the interests of the United States while meeting this country's GATT's obligations to our trading partners. . . . While the United States must react to the GATT decision, it should not overreact. It should not change its patent enforcement system. It should not change the focus of Section 337 from an import relief statute to an alternative form of preliminary injunctive relief in connection with imported goods. It should not sacrifice the ability to obtain expeditious relief in the vast majority of cases. It should not trade the flexibility of administrative proceedings for the rigidity of district court rules. What it should do is what your bill proposes—the minimum necessary to preserve the advantages of Section 337 while meeting U.S. international obligations.

Mr. Heyman goes on to examine the specific provisions of the bill in some detail and then writes,

> In conclusion, our Association believes that your proposed legislation will serve to solve the long-standing GATT issue regarding Section 337 in a manner that will not only be supported by U.S. industry, but will bring this country into compliance with its international obligations.

Mr. President, I ask unanimous consent that the full text of the ITC Trial Lawyers Association's letter be printed at the conclusion of my remarks. I also expect to receive similar assessments from other representative industry and legal groups in the near future, which I will also share with Senators.

Section 337 is an important law, one of the most effective available to U.S. businesses to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices. But section 337 has a real problem that needs to be fixed. It has been found to be in violation of our international obligations under the GATT and it should be brought into line.

This is not merely an academic exercise. The use of the ITC's section 337 process has fallen significantly since the USTR allowed the GATT panel to be adopted. I have been told by U.S. businesses that the drop in such cases is not due to greater respect by foreign companies for U.S. intellectual property rights. Rather it is because some potential U.S. complainants fear that any determination they obtained in the ITC could be invalid because the U.S. Government has accepted the GATT ruling against the current procedures, or that an investigation could be stopped part way through, after a great deal of time and money had been spent, when the rules change.

We should not let that situation continue. The protection of the intellectual property rights of U.S. businesses—their copyright, patent, trademark, and computer chip mask work registrations—is too important. With the enactment of the bill I am introducing today, we can maintain and reinforce the authority section 337 of the Tariff Act of 1930 gives the U.S. International Trade Commission to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices. I urge the Senate to take expeditious action on this proposal.

Mr. President, I ask unanimous consent that the full text of the bill and the letter referred to earlier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ITC TRIAL LAWYERS ASSOCIATION,
July 29, 1992.

Re Section 337.

Senator JOHN D. (JAY) ROCKEFELLER IV,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER: Thank you for sharing with our organization your draft legislation for amending Section 337 (19 U.S.C. §1337). For the following reasons, we believe your approach will well serve the interests of the United States while meeting this country's GATT obligations to our trading partners.

Since the 1974 amendments, in over 330 investigations, Section 337 has proven to be an effective tool for enforcing U.S. intellectual property rights—many times against multiple offenders—in connection with unfair imports into the United States. Over that period, the four most advantageous aspects of these administrative proceedings have been the ability to reach multiple parties in one forum, efficient foreign discovery, expeditious resolution and border enforcement by the U.S. Customs Service. While the GATT ruling in the *Aramid Fibers* case found fault with Section 337 in four respects, the only one of the foregoing advantages of the statute that might be affected by your proposed legislation in expedition, and it is by no means certain that this element has to be sacrificed.

While the United States must react to the GATT decision, it should not overreact. It should not change its patent enforcement system. It should not change the focus of Section 337 from an import relief statute to an alternative form of preliminary injunctive relief in connection with imported goods. It should not sacrifice the ability to obtain expeditious relief in the vast majority of cases. It should not trade the flexibility of administrative proceedings for the rigidity of district court rules. What it should do is what your bill proposes—the minimum necessary to preserve the advantages of Section 337 while meeting U.S. international obligations.

Your bill would retain the principal advantages of Section 337 administrative actions while preserving the possibility of preliminary injunctive relief for those cases where such an extraordinary remedy is warranted. Most Section 337 cases, in the future as in the past, will not be driven by the need to obtain temporary exclusion orders. They will remain cases which are brought to the ITC because they involve one or more of the following elements: multiple offenders, a need to obtain effective discovery here and abroad, the desire to obtain relief faster than that which is available from most district courts and the benefit of U.S. Customs Service enforcement of limited or general exclusion orders. Temporary or preliminary relief, along with these advantages, will, nonetheless, continue to be available to those complainants who can pass the same test in the ITC that they would have to meet to obtain a district court preliminary injunction. Alternatively, failing to obtain temporary relief at the ITC, some parties may simply choose to terminate their Section 337 action and pursue their remedies in district court.

Since expedition is the key to Section 337, that is the one element that cannot be sacrificed, as it would be if, for instance, the statute were relegated to the district courts. Under the separation of powers doctrine, neither Congress nor the President would be in a position to dictate to the district courts that import-related patent cases be handled expeditiously, nor should they, when one considers the many competing interest that vie for scheduling advantage in the federal court system. The only hope for maintaining prompt relief in import-related patent cases is to keep Section 337 enforcement exclusively at the ITC where, because of continued Congressional oversight, pressure can be applied if that agency fails to do its job properly. Moreover, unlike the district courts, the ITC, because of its responsibilities in the fields of antidumping and countervailing duties, is very sensitive to the need to protect domestic parties against unfair foreign competition. It does not take too great an act of faith to believe that an agency that is in the vanguard of protecting this country's natural advantages would recognize the need to provide expeditious relief for the protection of intellectual property rights against foreign infringers.

Turning to your bill's proposal to create a new declaratory judgment action before the ITC, the very limited opportunity for the nature of this right is apparent. First of all, the right to bring such an action would not arise unless two conditions are met—there must be a specific threat made of an action to bar importation, and the rights holder must meet the test of a "domesitc industry" for the ITC to have jurisdiction to adjudicate the parties' rights. In other words, not every threatened infringement action would give rise to an ITC adjudication, nor could a U.S. patent holder who is engaged in no domestic activity have his patent challenged before the ITC. Finally, because *res judicata* does not apply, the adjudication of the patent by the ITC will only be for purposes of Section 337, thus giving the threatened party little incentive to choose the ITC over the district court as the forum in which to initiate its action if it is seeking a dispositive determination of patent rights.

As we read your proposal, it would allow respondents to raise directly related counterclaims, not to obtain affirmative relief, but rather to bar the imposition of relief under Section 337. It would appear that, since Section 337 is a trade, not patent statute, a respondent need only be given the opportunity to prevent the imposition of border relief. In fact, the *Aramid Fibers* case involved a refusal by the ITC to allow respondent to raise as a counterclaim its own process patent in the same field in which it was accused. Had both parties' claims been successful, under your proposal revision to the statute, the ITC would simply have been empowered to deny trade relief to complainant, thus properly relegating the dispute to the district court as a mutual patent infringement action. The narrow ability to raise directly related counterclaims is likely to be of limited value to respondents seeking to thwart relief, since the facts of the *Aramid Fibers* situation were the exception, not the rule.

The most troubling aspect of the GATT ruling is the dual forum issue. That question can never be fully solved as long as both a trade remedy and an infringement action lie against imported goods. However, your legislation deals with the underlying inequities raised by the dual forum issue, namely, the expense and inconvenience of two proceedings, whether simultaneous or seriatim. While your proposal eliminates simultaneous proceedings against respondents, it also deals with the cost of multiple actions by preserving as much of the ITC record as possible for use by the parties in district court.

In conclusion, our Association believes that your proposed legislation will serve to solve the long-standing GATT issue regarding Section 337 in a manner that will not only be supported by U.S. industry, but will bring this country into compliance with its international obligations. We would be pleased to provide additional information if that would be of assistance.

Sincerely,

THOMAS V. HEYMAN,
President.

S. 3172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intellectual Property Protection Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is one of the most important laws available to United States businesses to deal with unfair practices in import trade

and to enforce intellectual property rights against infringing imports.

(2) On November 23, 1988, a panel of the General Agreement on Tariffs and Trade (hereafter in this Act referred to as "GATT") found section 337 to be in violation of United States obligations under the GATT, because certain procedures under section 337 did not provide national treatment for imported goods and because some aspects of the procedures were unnecessary for effective compliance with United States patent law.

(3) On November 7, 1989, the United States allowed adoption of the GATT panel report on section 337, thereby assuming an obligation to reform section 337 to comply with its obligations under the GATT.

(4) Because of the special difficulties in enforcing intellectual property rights against unfairly traded imports, special enforcement procedures that apply only to imports are necessary to effectively enforce intellectual property rights against infringing imports.

(5) The GATT allows special enforcement procedures when such procedures are not less favorable than the procedures used against domestic products or such procedures are necessary to secure compliance with copyright, patent, trademark, and mask work registration protection laws or regulations.

(6) To be effective, such enforcement procedures must establish administrative proceedings which can reach multiple parties in one forum, allow efficient foreign discovery, provide expeditious dispute resolution, and provide border enforcement by the United States Customs Service.

(b) PURPOSE.—The purpose of this Act is to conform section 337 of the Tariff Act of 1930 and title 28 of the United States Code to the provisions of the GATT to ensure that section 337 procedures can reach multiple parties in one forum, allow efficient foreign discovery, provide expeditious dispute resolution even in the absence of a deadline for final determinations, and provide border enforcement of determinations.

SEC. 3. AMENDMENT OF SECTION 337 OF THE TARIFF ACT OF 1930.

(a) INVESTIGATION.—Section 337(b) of the Tariff Act of 1930 (19 U.S.C. 1337(b)) is amended—

(1) by striking "; TIME LIMITS" in the heading;

(2) in paragraph (1), by striking "The Commission shall conclude any such investigation" and all that follows through the end period and inserting the following: "The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall establish, in consultation with the parties, a target date for its final determination."; and

(3) by striking the fifth sentence in paragraph (3).

(b) DETERMINATION; REVIEW.—Section 337(c) of such Act is amended—

(1) by striking "a settlement agreement" in the first sentence and inserting "an agreement between the parties";

(2) by striking "subsection (d) or (e)" in the second sentence and inserting "subsection (d), (e), or (f) (and each declaration under subsection (o))"; and

(3) by striking "(f), or (g)" in the fourth sentence and inserting "(f), (g), or (o)".

(c) EXCLUSION OF ARTICLES FROM ENTRY.—Section 337(d) of such Act is amended by inserting after the first sentence the following new sentence: "No article shall be excluded from entry where the Commission determines that the owner, importer, or consignee of the articles has established a sufficient counterclaim directly related to the unfair methods or acts determined by the Commission to exist.".

(d) ENTRY UNDER BOND.—Section 337(e) of such Act is amended—

(1) in the last sentence of paragraph (1), by striking "determined by the Commission" and all that follows through the end period and inserting: "prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.";

(2) by adding at the end of paragraph (2), the following new sentence: "If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent."; and

(3) by adding at the end thereof the following new paragraph:

"(4) The Commission may prescribe the terms and conditions under which bonds may be forfeited under paragraphs (1) and (2).".

(e) CEASE AND DESIST ORDERS.—Section 337(f)(1) of such Act is amended—

(1) by inserting after the first sentence the following new sentence: "A cease and desist order shall not be issued if the Commission determines that the owner, importer, or consignee of the articles has established a sufficient counterclaim directly related to the unfair methods or acts determined by the Commission to exist."; and

(2) by adding at the end thereof the following: "If a temporary cease and desist order is issued in addition to, or, in lieu of, an exclusion order under subsection (e), the Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission may prescribe the terms and conditions under which bonds may be forfeited under this paragraph.".

(f) DECLARATORY RELIEF.—Section 337 of such Act is amended by adding at the end thereof the following new subsection:

"(o) COMPLAINT FOR DECLARATORY RELIEF BY OWNER, IMPORTER, OR CONSIGNEE.—In a case of actual controversy as to the existence of unfair methods of competition and unfair acts described in subsection (a), upon the filing of a complaint for declaratory relief under oath by the owner, importer, or consignee of an imported article (or part thereof), the Commission may declare the rights and other legal relations of the parties, whether or not further relief is or could be sought. A declaration made under this subsection shall have the force and effect of a final determination of the Commission and shall be reviewable as such. In the case of unfair acts involving the validity of patents as described in subsection (a)(1)(B), such a declaration shall be only for the purpose of determining whether there is a violation of this section and shall not have the effect of claim or issue preclusion.".

SEC. 4. AMENDMENT OF TITLE 28, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission

"(a) STAY.—In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), at the request of a party that is a respondent in the proceeding before the Commission (other than a respondent to a counterclaim in a proceeding for declaratory relief), a district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission.

"(b) USE OF COMMISSION RECORD.—After dissolution of a stay under subsection (a), portions of the record of the proceeding before the United States International Trade Commission that bear on issues in a civil action shall be admissible in the civil action to the extent permitted under the Federal Rules of Evidence and the Federal Rules of Civil Procedure.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1659. Stay of actions pending disposition of proceedings before the United States International Trade Commission.".●

By Mr. SPECTER:

S. 3173. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to provide that GS-083 Federal police officers be treated in the same manner as other Federal law enforcement officers for purposes of that Act; to the Committee on Governmental Affairs.

PAY REFORM FOR FEDERAL POLICE OFFICERS ACT

● Mr. SPECTER. Mr. President, today I am introducing legislation to overturn an unwarranted decision by the Office of Personnel Management to restrict the applicability of the Federal Law Enforcement Pay Reform Act of 1990. We enacted this law to provide badly needed pay increases to Federal law enforcement officials in order to retain those on the various forces and make it easier to recruit the best candidates.

Once the law was enacted, however, the Office of Personnel Management determined that its provisions did not apply to Federal officials who perform police duties such as maintaining law and order, protecting Federal property, and guarding against violations of the law. Rather, the law was held to apply only to agencies like the Federal Bureau of Investigation and the Drug Enforcement Administration. The differentiation made by the Office of Personnel Management makes no sense. Some of those who have been excluded from the benefits of the 1990 act perform actual police work.

This problem has been brought to my attention by Michael Petrecz and John Shaw of the Fraternal Order of Police, which represents the Federal police officers at the Philadelphia Navy Yard. The GS–083 series officers in the union perform the full range of police duties. Yet, in the judgment of the Office of Personnel Management they are not entitled to the benefits of the 1990 Pay Act. This makes no sense to me, as the rationale behind that act applies with equal force to all Federal officers with law enforcement responsibilities.

I urge my colleagues to join me in cosponsoring this bill, designed to bring justice and equity for Federal police officers and to rectify the bad judgment exercised by the Office of Personnel Management.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402 of the Federal Law Enforcement Pay Reform Act of 1990, as contained in the Treasury, Postal Service and General Government Appropriations Act of 1991 (Public Law 101–509; 104 Stat. 1465) is amended by striking "apply." and inserting in lieu thereof "apply, and includes a Federal police officer (GS–083).".●

ADDITIONAL COSPONSORS

S. 1170

At the request of Mr. DURENBERGER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1170, a bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with local law enforcement officials of the State for 10 years after release from prison, parole, or supervision.

S. 1675

At the request of Mr. EXON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1675, a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the medicare program, and for other purposes.

S. 2134

At the request of Mr. NUNN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2134, a bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2540

At the request of Mr. COATS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2540, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of individual medical savings accounts to assist in the payment of medical and long-term care expenses and other qualified expenses, to provide that the earnings on such accounts will not be taxable, and for other purposes.

S. 2553

At the request of Mr. INOUYE, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2553, a bill to amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under the Act, and for other purposes.

S. 2632

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2632, a bill to establish the National Environmental Technologies Agency.

S. 2914

At the request of Mr. DURENBERGER, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2941

At the request of Mr. RUDMAN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 3008

At the request of Mr. ADAMS, the names of the Senator from Nevada [Mr. REID], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 3008, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3108

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 3108, a bill to amend title 38, United States Code, with respect to housing loans for veterans.

SENATE CONCURRENT RESOLUTION 110

At the request of Mr. SYMMS, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Concurrent Resolution 110, a concurrent resolution to authorize the construction of a monument on the United States Capitol Grounds to honor Thomas Paine.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. DECONCINI, the names of the Senator from Washington [Mr. GORTON], the Senator from Alabama [Mr. SHELBY], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia.

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. AKAKA, the names of the Senator from Kentucky [Mr. FORD], the Senator from North Dakota [Mr. CONRAD], the Senator from Missouri [Mr. DANFORTH], the Senator from Connecticut [Mr. DODD], the Senator from North Dakota [Mr. BURDICK], the Senator from Nevada [Mr. REID], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Illinois [Mr. DIXON], the Senator from South Dakota [Mr. PRESSLER], the Senator from Idaho [Mr. CRAIG], the Senator from Washington [Mr. ADAMS], the Senator from New York [Mr. D'AMATO], the Senator from Florida [Mr. MACK], the Senator from New York [Mr. MOYNIHAN], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Concurrent Resolution 133, a concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Concurrent Resolution 134, a resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

SENATE CONCURRENT RESOLUTION 135—RELATING TO THE ADJOURNMENT OF THE CONGRESS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Wednesday, August 12, 1992 pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon, or until such times as may be specified by the Majority Leader, or his designee, in the motion to adjourn or recess, on Tuesday, September 8, 1992, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on the legislative day of Wednesday, August 12, 1992, pursuant to a motion made by the Majority Leader, or his designee in accordance with this resolution, it stand adjourned until 12:00 noon on Wednesday, September 9, 1992, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 333—RELATING TO THE AUTHORIZATION OF CERTAIN TRAVEL EXPENSES

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 333

Resolved,

SECTION 1. TRAVEL EXPENSES.

The appropriations account "Miscellaneous Items", in the contingent fund of the Senate, is available for the payment of offical travel expenses, authorized by the President pro tempore, Majority Leader or Minority Leader of the Senate, incurred by the Chaplain of the Senate, upon vouchers approved by the President pro tempore, Majority Leader, or Minority Leader.

SEC. 2. ADVANCEMENTS.

The Secretary of the Senate is authorized to advance funds under the authority of this resolution for travel expenses under section 1 in the same maner provided for committees of the Senate.

SENATE RESOLUTION 334—RELATING TO THE AUTHORIZATION OF SENATE EMPLOYEE TESTIMONY AND RELEASE OF DOCUMENTS BY A SENATE COMMITTEE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 334

Whereas, in the cases of *United States* v. *Dean*, Cr. No. 92–0181, and *United States* v. *Demery and McCafferty*, Cr. No. 92–0227, Independent Counsel Arlin M. Adams has requested the testimony of Lory Breneman, a Senate employee on the staff of the Committee on Banking, Housing, and Urban Affairs, and documents within the control of the Committee on Banking, Housing, and Urban Affairs;

Whereas, the Independent Counsel also has requested certain documents within the custody and control of the Committee on Banking, Housing, and Urban Affairs to assist his office in its investigation of other matters relating to the Department of Housing and Urban Development;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §288b(a) and 288c(a)(2)(1988), the Senate may direct its counsel to represent committees, Members, officers, and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs, acting jointly, are authorized to provide to the Independent Counsel documents in the custody and control of the Committee, except those for which a privilege should be asserted.

SEC. 2. That Lory Breneman is authorized to testify in the case of *United States* v. *Dean*, Cr. No. 92–0181 (D.DC.), except concerning matters for which a privilege should be asserted.

SEC. 3. That the Senate Legal Counsel is directed to represent Lory Breneman in connection with the testimony authorized under section 2.

AMENDMENTS SUBMITTED

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

WARNER AMENDMENT NO. 2930

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the resolution (S. Res. 330) relating to authorization of multilateral action in Bosnia-Hercegovina under article 42 of the United Nations Charter, as follows:

In the resolving clause, strike out paragraphs (1) and (2) and insert in lieu thereof the following:

"(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of multilateral military force under a Security Council mandate, giving particular attention to the possibility of "demonstrations" of force, to give effect to Security Council decisions to facilitate the provision of humanitarian relief in Bosnia-Hercegovina;

"(2) during such meeting, the Security Council should—

"(a) demand, and develop a plan to ensure, access for United Nations and International Red Cross personnel to refugee and prisoners of war camps in the former Yugoslavia;

"(b) develop the means by which to implement the July 17, 1992, United Nations-sponsored cease-fire plan, which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under U.N. supervision;

"(c) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

"(d) convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes.".

TAX ENTERPRISE ZONES ACT

METZENBAUM (AND RUDMAN) AMENDMENT NO. 2931

Mr. METZENBAUM (for himself and Mr. RUDMAN) proposed an amendment to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

On page 875, beginning with line 13, strike through page 876, line 9, and insert:

Subpart A—IRA Deduction

SEC. 2001. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$100,000", and

(2) by striking "$25,000" and inserting "$75,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

On page 884, strike lines 5 through 9, and insert:

"(e) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the applicable dollar amount.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section

219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

SIMON AMENDMENT NO. 2932

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following new section.

SEC. . SENSE OF THE SENATE REGARDING DEDUCTIBILITY OF DIVIDENDS.

It is the sense of the Senate that the Committee on Finance of the Senate shall, as soon as practicable, hold hearings and study legislation which allows for the partial deduction of dividends paid by corporations, including legislation to pay for any revenue loss, such as reducing the deductibility of interest.

• Mr. SIMON. Mr. President, today, I am introducing legislation I plan to offer as an amendment to H.R. 11, the Revenue Act of 1992. The amendment expresses the sense of the Senate that the Finance Committee should take early action on proposals relating to the deductibility of corporate dividends.•

CHAFEE AMENDMENT NO. 2933

Mr. CHAFEE proposed an amendment to the bill H.R. 11, supra, as follows:

On page 875, beginning with line 13, strike all through page 885, line 16, and insert:

PART I—IRA DEDUCTION

SEC. 202. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the exess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

On page 893, line 7, strike "2011(b)" and insert "2021(c)".

On page 893, line 9, strike "(9)" and insert "(8)".

On page 893, lines 13 and 14, strike "(other than a special individual retirement account)".

On page 894, strike lines 19 through 21.

PACKWOOD AMENDMENT NO. 2934

Mr. DOLE (for Mr. PACKWOOD) proposed an amendment to amendment No. 2931 proposed by Mr. METZENBAUM (and Mr. RUDMAN) to the bill H.R. 11, supra, as follows:

At the end of the amendment add the following:

SEC. 2001A. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) LIMITATIONS.—

"(1) MAXIMUM OVERALL CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) MAXIMUM FIRST YEAR CREDIT.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) SPECIAL RULE FOR CERTAIN CONTRACTS OF DEED.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such section.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 and 22,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.— No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under under subsection (a) and such disposition occurs at any time with 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility peroid) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

"(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time home buyer."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

SEC. 2001B. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

"(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after July 1, 1992.

REHABILITATION ACT AMENDMENTS

HARKIN AMENDMENT NO. 2935

Mr. MITCHELL (for Mr. HARKIN) proposed an amendment to the bill (S. 3065) to revise and extend the Rehabilitation Act of 1973, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rehabilitation Act Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

Sec. 101. Findings and purpose.
Sec. 102. Definitions.
Sec. 103. Allotment percentage.
Sec. 104. Nonduplication.
Sec. 105. Reports.
Sec. 106. Review of applications.
Sec. 107. Carryover.
Sec. 108. Client assistance information.

Subtitle B—Vocational Rehabilitation Services

Sec. 111. Policy; authorization of appropriations.
Sec. 112. State plans.
Sec. 113. Determinations of eligibility and individualized written rehabilitation program.
Sec. 114. Scope of vocational rehabilitation services.
Sec. 115. Non-Federal share for construction.
Sec. 116. State Rehabilitation Advisory Council.
Sec. 117. Evaluation.
Sec. 118. Monitoring and review.
Sec. 119. Reallotment.
Sec. 120. Payments to States.
Sec. 121. Client assistance program.
Sec. 122. Innovation and expansion grants.
Sec. 123. Study of needs of American Indians with handicaps.
Sec. 124. Review of data collection system.
Sec. 125. Exchange of data.
Sec. 126. Issuance of regulations.
Sec. 127. Social Security reimbursement payments.

TITLE II—RESEARCH

Sec. 201. Declaration of purpose.
Sec. 202. Authorization of appropriations.
Sec. 203. National Institute on Disability and Rehabilitation Research.
Sec. 204. Interagency committee.
Sec. 205. Research.
Sec. 206. Rehabilitation Research Advisory Council.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

Sec. 301. Declaration of purpose; organization.
Sec. 302. Training.
Sec. 303. Community rehabilitation programs for individuals with disabilities.
Sec. 304. Loan guarantees for community rehabilitation programs.
Sec. 305. Comprehensive rehabilitation centers.
Sec. 306. General grant and contract requirements.
Sec. 307. Authorization of appropriations for special projects and supplementary services.
Sec. 308. Special demonstration programs.
Sec. 309. Migratory workers.
Sec. 310. Special recreational programs.
Sec. 311. Independent living services for older individuals who are blind.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

Sec. 401. Establishment.
Sec. 402. Duties of National Council.
Sec. 403. Compensation of members.
Sec. 404. Compensation of staff.
Sec. 405. Authorization of appropriations.

TITLE V—ACCESS

Sec. 501. Access.
Sec. 502. Effect on existing law.
Sec. 503. Employment of individuals with disabilities.
Sec. 504. References to the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Employment under Federal contracts.
Sec. 506. Nondiscrimination under Federal grants and programs.
Sec. 507. Secretarial responsibilities.
Sec. 508. Interagency Coordinating Council.
Sec. 509. Electronic and information technology accessibility guidelines.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Sec. 601. Pilot program.
Sec. 602. Treatment of personal assistance services costs.
Sec. 603. Definitions.
Sec. 604. Authorization of appropriations.
Sec. 605. Projects With Industry.
Sec. 606. Authorization of appropriations.
Sec. 607. Supported employment.

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

Sec. 701. Centers and services.

TITLE VIII—RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

Sec. 801. Projects.

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

Sec. 901. Congressional findings.
Sec. 902. Continued operation of Center.
Sec. 903. Audit, monitoring, and evaluation.
Sec. 904. Authorization of appropriations.
Sec. 905. Definitions.
Sec. 906. Construction of Act, effect on agreements.
Sec. 907. Establishment of a program.
Sec. 908. Technical and conforming amendments.

Subtitle B—Other Programs

Sec. 911. Committee for Purchase from People Who Are Blind or Severely Disabled.
Sec. 912. Individuals With Disabilities Education Act.
Sec. 913. Technology-Related Assistance for Individuals With Disabilities Act of 1988.
Sec. 914. President's Committee on Employment of People With Disabilities.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

SEC. 101. FINDINGS AND PURPOSE.

Section 2 (29 U.S.C. 701) is amended to read as follows:

"SEC. 2. FINDINGS; PURPOSE; POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

"(2) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) contribute to society;

"(E) pursue meaningful careers; and

"(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(4) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purpose of this Act is to empower individuals with disabilities to achieve economic self-sufficiency, independence, and inclusion and integration into the society, through—

"(1) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(2) independent living centers and services;

"(3) research;

"(4) training;

"(5) demonstration projects; and

"(6) the guarantee of equal opportunity.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, family member, guardian, advocate, or authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.".

SEC. 102. DEFINITIONS.

(a) DESIGNATED STATE AGENCY.—Section 7(3) (29 U.S.C. 706(3)) is amended by striking "(3)" and inserting the following:

"(3)(A) The term 'designated State agency' means an agency designated under section 101(a)(1)(A).

"(B)".

(b) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—Section 7(4) is amended—

(1) by striking "rehabilitation facility" each place the term appears and inserting "community rehabilitation program";

(2) by striking "means" and inserting "includes"; and

(3) by striking "facilities)" and inserting "facilities for community rehabilitation programs)".

(c) DRUG.—Section 7 is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraph (22) as paragraph (5); and

(3) by inserting paragraph (5) (as so redesignated by paragraph (2) of this subsection) after paragraph (4).

(d) EMPLOYMENT OUTCOME.—Section 7(6) is amended to read as follows:

"(6) The term 'employment outcome' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act.".

(e) FEDERAL SHARE.—Section 7(7) is amended—

(1) in subparagraph (A), by striking "80 percent" and inserting "78.7 percent";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(4) in subparagraph (B) (as redesignated by paragraph (3) of this subsection), by striking "section 301(b)(3)" each place the term appears and inserting "section 111(a)(3)".

(f) INDIVIDUAL WITH DISABILITIES.—Section 7(8) is amended—

(1) in subparagraph (A)—

(A) by striking "handicaps" and inserting "a disability";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "handicap" and inserting "impediment"; and

(C) in clause (ii)—

(i) by striking "reasonably be expected to";

(ii) by striking "employability" and inserting "an employment outcome"; and

(iii) by striking "titles I and III" and inserting "titles I, III, and VI";

(2) in subparagraph (B)—

(A) by striking "(C) and (D)" and inserting "(C), (D), and (E)";

(B) by striking "handicaps" and inserting "a disability"; and

(C) by striking "titles IV and V" and inserting "sections 2, 14, and 15, and titles II, IV, and V";

(3) in subparagraph (C)—

(A) in clause (i), by striking "handicaps" and inserting "a disability";

(B) in clause (ii), by striking "handicaps" and inserting "a disability";

(C) in clause (iv)—

(i) by striking "handicapped student" and inserting "student who is an individual with a disability and"; and

(ii) by striking "nonhandicapped students" and inserting "students who are not individuals with disabilities"; and

(D) in clause (v) by striking "handicaps" and inserting "a disability"; and

(4) by adding at the end the following:

"(E) For the purposes of sections 501, 503 and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.".

(g) NONPROFIT.—Section 7(10) is amended by striking "with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by" and inserting "with respect to a community rehabilitation program, means a community rehabilitation program carried out by".

(h) PERSONAL ASSISTANCE SERVICES.—Section 7 is amended—

(1) by striking paragraph (13);

(2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(3) by inserting after section (10) the following:

"(11) The term 'personal assistance services' means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability.".

(i) REHABILITATION TECHNOLOGY.—Section 7(13) (as so redesignated by subsection (h)(2)) is amended—

(1) by striking "rehabilitation engineering" and inserting "rehabilitation technology"; and

(2) by adding at the end the following: "The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.".

(j) INDIVIDUAL WITH A SEVERE DISABILITY.—Section 7(15) is amended—

(1) in subparagraph (A)—

(A) by striking "subparagraph (B)" and inserting "subparagraph (B) or (C)";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "employability" and inserting "an employment outcome"; and

(C) in clause (iii), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) For purposes of title VII, the term 'individual with a severe disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) For purposes of section 13 and title II, the term 'individual with a severe disability' includes an individual described in subparagraph (A) or (B).".

(k) STATE.—Section 7(16) is amended to read as follows:

"(16) The term 'State' includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association).".

(l) SUPPORTED EMPLOYMENT.—Section 7(18) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for those individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(m) PUBLIC OR NONPROFIT.—Section 7(19) is amended to read as follows:

"(19) The term 'public or nonprofit', with respect to an agency or organization, includes an Indian tribe.".

(n) ADDITIONAL DEFINITIONS.—Section 7 (as amended by subsection (c)(2)) is amended by adding at the end the following new paragraphs:

"(22) The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

"(B)(i) to the extent additional data is necessary, a comprehensive assessment of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment may include—

"(I) to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(II) an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

"(ii) the administration of the assessment described in clause (i);

"(C)(i) referral;

"(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

"(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

"(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

"(23) The term 'assistive technology device' means an item, a piece of equipment, or a product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"(24) The term 'assistive technology service'—

"(A) means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device; and

"(B) includes—

"(i) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the customary environment of the individual;

"(ii) purchasing, leasing, or otherwise providing for the acquisition by individuals with disabilities of assistive technology devices;

"(iii) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(iv) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with existing education and rehabilitation plans and programs;

"(v) training or technical assistance for an individual with disabilities, or, if appropriate, the family of an individual with disabilities; and

"(vi) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, individuals with disabilities.

"(25) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(26) The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, IV, and V, a physical or mental impairment that substantially limits one or more major life activities.

"(27) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(28)(A) The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)));

"(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

"(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(29) The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(30) The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services for individuals with cognitive and sensory disabilities, including life skills training, interpreter and reader services;

"(vi) personal assistance services, including the training of personnel providing such services;

"(vii) supported living;

"(viii) transportation;

"(ix) physical rehabilitation;

"(x) therapeutic treatment;

"(xi) prostheses and other appliances and devices;

"(xii) health maintenance;

"(xiii) individual and group social and recreational services;

"(xiv) services for children;

"(xv) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future; and

"(xvi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(31)(A) The term 'individuals with disabilities' means more than one individual with a disability.

"(B) The term 'individuals with severe disabilities' means more than one individual with a severe disability.

"(C) The term 'individuals with the most severe disabilities' means more than one individual with the most severe disability.

"(32) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development and placement;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, family members, guardians, or legal representatives of the individuals, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(33) The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

"(34) The term 'transition services' means a coordinated set of activities for a student that—

"(A) are designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

"(B) are based on the needs of the individual student, taking into account the preferences and interests of the student; and

"(C) include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.".

(o) CONFORMING AMENDMENTS; INDIVIDUALS WITH DISABILITIES.—

(1) The title (29 U.S.C. 701 et seq.) is amended—

(A) by striking "those with the most severe handicaps" and inserting "individuals with the most severe disabilities"; and

(B) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(2) The table of contents relating to the Act is amended—

(A) by striking the item relating to section 501 and inserting the following:

"Sec. 501. Employment of individuals with disabilities.";

(B) by striking the item relating to the title heading for title VI and inserting the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

(C) by striking the item relating to the part heading for part A of title VI and inserting the following:

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES";

(D) by striking the item relating to the part heading for part B of title VI and inserting the following:

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

and

(E) by striking the item relating to section 622 and inserting the following:

"Sec. 622. Business opportunities for individuals with disabilities.".

(3) Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (13) (as so redesignated by subsection (h)(2)) by striking "handicaps" and inserting "disabilities";

(B) in paragraph (15)(A)—

(i) by striking "severe handicaps" and inserting "a severe disability"; and

(ii) by striking "handicaps (as defined in paragraph (8))" and inserting "a disability"; and

(C) in paragraph (17) by striking "handicaps" and inserting "disabilities".

(4) The last sentence of section 13 (29 U.S.C. 712) is amended by striking "handicaps" and inserting "disabilities".

(5) Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" and inserting "disabilities".

(6) Section 15 (29 U.S.C. 714) is amended—

(A) in subsections (a) and (b) by striking "handicaps" each place the term appears and inserting "disabilities";

(B) in subsection (a)(2) by striking "handicapping conditions" and inserting "disabilities"; and

(C) in subsection (c) by striking "the Handicapped" and inserting "Individuals with Disabilities".

(7) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (1)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities";

(ii) in subparagraph (A)(i)—

(I) by striking "the blind" each place such term appears and inserting "individuals who are blind"; and

(II) by striking "the adult blind" and inserting "adults who are blind"; and

(iii) in subparagraph (B), by striking "the blind" and inserting "individuals who are blind"; and

(B) in paragraph (2)(B) by striking "the blind" and inserting "individuals who are blind";

(C) in paragraphs (2), (4), (5), (6), (10), (11), (12), (15), and (21), by striking "handicaps" each place such term appears and inserting "disabilities";

(D) in paragraph (9) by striking "handicaps" and inserting "a disability";

(E) in paragraph (13)(B) by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained";

(F) in paragraph (20)—

(i) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(ii) by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(G) in paragraph (22)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "handicaps" and inserting "disabilities".

(8) Subsections (c) and (d) of section 102 (29 U.S.C. 722 (c) and (d)) are amended by striking "handicaps" and inserting "a disability".

(9) Section 103 (29 U.S.C. 723) is amended—

(A) in the matter preceding paragraph (1) in subsection (a), and in subsection (b)(2), by striking "handicaps" and inserting "a disability";

(B) except as provided in subparagraph (A) of this paragraph, by striking "handicaps" each place such term appears and inserting "disabilities";

(C) in subsection (a)—

(i) in paragraph (4)—

(I) in subparagraph (A), by striking "handicap" each place such term appears and inserting "impediment"; and

(II) in subparagraph (E), by striking "suffering from" and inserting "with";

(ii) in paragraph (6), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iii) in paragraph (8), by striking "the blind" and inserting "individuals who are blind"; and

(D) in subsection (b)(4)—

(i) by striking "the blind" and inserting "individuals who are blind"; and

(ii) by striking "the deaf" and inserting "individuals who are deaf".

(10) Section 112 (29 U.S.C. 732) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(11) Section 130 (29 U.S.C. 750) is amended—

(A) in subsections (a) and (b)(1)(B) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(B) in subsection (b)(1)(B) by striking "individuals with handicaps" and inserting "individuals with disabilities".

(12) Section 202 (29 U.S.C. 761a) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (c)(1) by striking "the Handicapped" and inserting "Disability".

(13) Subsections (b) and (c) of section 203 (29 U.S.C. 761b (b) and (c)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(14) Section 204 (29 U.S.C. 762) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "individuals suffering from" and inserting "individuals with"; and

(ii) in paragraph (8)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities";

(iii) in paragraph (10), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iv) in paragraph (11)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "children with severe handicaps" each place the term appears and inserting "children who are individuals with severe disabilities"; and

(B) except as provided in subparagraph (A) of this paragraph, by striking "handicaps" each place such term appears and inserting "disabilities".

(15) Section 300 (29 U.S.C. 770) is amended—

(A) in paragraph (2) by striking "handicaps" and inserting "disabilities"; and

(B) in paragraph (3)—

(i) by striking "individuals with handicaps" each place the term appears and inserting "individuals with disabilities";

(ii) by striking "older blind individuals, and deaf individuals" and inserting "older individuals who are blind, and individuals who are deaf";

(iii) by striking "workers with handicaps" and inserting "workers who are individuals with disabilities"; and

(iv) by striking "farmworkers with handicaps" and inserting "farmworkers who are individuals with disabilities".

(16) Section 302 (29 U.S.C. 772) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) in subsections (b) and (c) by striking "handicaps" each place such term appears and inserting "disabilities".

(17) Section 303(a) (29 U.S.C. 773(a)) is amended by striking "handicaps" and inserting "disabilities".

(18) Section 304 (29 U.S.C. 774) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (b)(2)(B), by striking "handicap" and inserting "disability".

(19) Section 305(a) (29 U.S.C. 775(a)) is amended—

(A) in paragraph (1), by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in paragraph (2) by striking "the deaf" and inserting "individuals who are deaf".

(20) Subsections (f) and (h) of section 306 (29 U.S.C. 776 (f) and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(21) Section 311 (29 U.S.C. 777a) is amended—

(A) in subsection (a)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(ii) in paragraph (1), by striking "blind or deaf individuals" and inserting "individuals who are blind or individuals who are deaf";

(B) in subsection (c)(1) by striking "with handicaps" and inserting "who are individuals with disabilities";

(C) in subsection (d)(3), by striking "handicaps" and inserting "disabilities"; and

(D) in subsection (e)(1), by striking "with severe handicaps" and inserting "who are individuals with severe disabilities".

(22) Section 312 (29 U.S.C. 777b) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(23) Section 314 (29 U.S.C. 777d) is amended—

(A) in the section heading, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(B) in subsection (a)(1), by striking "blind persons" and inserting "individuals who are blind and";

(C) in subsection (a)(2)—

(i) by striking "available to blind persons" and inserting "available to individuals who are blind";

(ii) by striking "needs of blind persons" and inserting "needs of such individuals"; and

(iii) by striking "to assist blind persons" and inserting "to assist such individuals"; and

(D) in paragraphs (1), (2), (5) and (6) of subsection (c), by striking "blind persons" and inserting "individuals who are blind".

(24) Section 315 (29 U.S.C. 777e) is amended—

(A) in the section heading, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF";

(B) in subsection (a), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(C) in subsection (b)(1), by striking "to the maximum number of deaf individuals feasible" and inserting "to the maximum feasible number of individuals who are deaf";

(D) in subsection (c), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf"; and

(E) in subsection (d), by striking "deaf individuals" and inserting "individuals who are deaf and".

(25) Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended—

(A) by striking "individuals with handicaps" each place the term appears and inserting "individuals with disabilities"; and

(B) by striking "peers without handicaps" and inserting "peers who are not individuals with disabilities".

(26) Section 400(a) (29 U.S.C. 780(a)) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(27) Section 401(a) (29 U.S.C. 781(a)) is amended—

(A) in paragraph (4) by striking "individuals with handicaps and" each place such term appears; and

(B) in paragraphs (5), (6), and (7), by striking "handicaps" each place such term appears and inserting "disabilities".

(28) Section 403(a)(1) (29 U.S.C. 783(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(29) Section 501 (29 U.S.C. 791) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES";

(B) in subsection (a) by striking "Handicapped Employees" and inserting "Employees who are Individuals with Disabilities";

(C) in subsections (a), (b), (c), (d), and (f) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(D) in subsection (b) by striking "employees with handicaps" and inserting "employees who are individuals with disabilities".

(30) Subsections (a), (b), (c), (g), and (h) of section 502 (29 U.S.C. 792 (a), (b), (c), (g), and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(31) Section 503 (29 U.S.C. 793) is amended—

(A) in subsection (a) by striking "handicaps as defined in section 7(8)" and inserting "disabilities"; and

(B) in subsection (b)—

(i) by striking "individual with handicaps" and inserting "individual with a disability"; and

(ii) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(32) Section 504 (29 U.S.C. 794) is amended in subsection (a)—

(A) by striking "handicaps" and inserting "a disability"; and

(B) by striking "handicap" and inserting "disability".

(33) Section 508 (29 U.S.C. 794d) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "handicaps" and inserting "disabilities"; and

(ii) in paragraph (3), by striking "Handicapped Employees" and inserting "Employees with Disabilities"; and

(B) in subsection (c), by striking "with handicaps" and inserting "with a disability".

(34) Title VI is amended in the title heading by striking "HANDICAPS" and inserting "DISABILITIES".

(35) Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

(36) Part A of title VI is amended in the part heading, by striking "HANDICAPS" and inserting "DISABILITIES".

(37) Subsections (a) and (b) of section 611 (29 U.S.C. 795 (a) and (b)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(38) Section 615(a)(1) (29 U.S.C. 795d(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(39) Section 616(2) (29 U.S.C. 795e(2)) is amended, by striking "handicaps" and inserting "disabilities".

(40) Part B of title VI is amended in the part heading by striking "HANDICAPS" and inserting "DISABILITIES".

(41) Section 622 (29 U.S.C. 795h) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) by striking "handicaps" and inserting "disabilities".

SEC. 103. ALLOTMENT PERCENTAGE.

Section 8(a)(1) (29 U.S.C. 707(a)(1)) is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association)".

SEC. 104. NONDUPLICATION.

The second sentence of section 10 (29 U.S.C. 709) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

SEC. 105. REPORTS.

The fourth sentence of section 13 (29 U.S.C. 712) is amended by inserting "including types of rehabilitation technology services provided," after "types of services provided,".

SEC. 106. REVIEW OF APPLICATIONS.

(a) Transfers.—Section 16(b) (29 U.S.C. 715(b)) is amended by striking "one-half of".

(b) Compensation.—Section 18 (29 U.S.C. 717) is amended by striking "the rate provided for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 107. CARRYOVER.

(a) In General.—The Act is amended by adding after section 18 (29 U.S.C. 717) the following new section:

"SEC. 19. CARRYOVER.

"Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, part C of title VI, or part B, C, or D of title VII that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.".

(b) Technical Amendment.—The table of contents relating to the Act is amended by inserting after the item relating to section 18 the following:

"Sec. 19. Carryover.".

SEC. 108. CLIENT ASSISTANCE INFORMATION.

(a) In General.—The Act is amended by adding after section 19 (as added by section 107(a)) the following new section:

"SEC. 20. CLIENT ASSISTANCE INFORMATION.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals or their parents, guardians, or legal representatives of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.".

(b) Technical Amendment.—The table of contents relating to the Act is amended by inserting after the item relating to section 19 (as added by section 107(b)) the following:

"Sec. 20. Client assistance information.".

Subtitle B—Vocational Rehabilitation Services

SEC. 111. POLICY; AUTHORIZATION OF APPROPRIATIONS.

(a) Findings; Purpose; Policy.—Section 100 (29 U.S.C. 720) is amended—

(1) in the section heading, by striking "PURPOSE" and inserting "POLICY"; and

(2) by striking subsection (a) and inserting the following:

"(a)(1) Congress finds that—

"(A) work—

"(i) is a valued activity, both for individuals and society; and

"(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

"(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

"(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

"(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

"(i) discrimination;

"(ii) lack of accessible and available transportation;

"(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

"(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

"(E) enforcement of title V and of the Americans with Disabilities Act of 1990 holds the promise of ending discrimination for individuals with disabilities; and

"(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

"(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

"(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

"(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

"(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

"(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational services they receive.

"(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

"(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

"(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

"(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.".

(b) Reauthorization.—Section 100 is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) For the purpose of making grants to States under part B of this title (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997 except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

"(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.";

(2) in subparagraphs (A) and (B) of subsection (c)(2), by striking out "authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be" each place the term appears and inserting "to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount"; and

(3) in subsection (d)(1)(B)—

(A) by striking "1992" the first place the term appears and inserting "1997"; and

(B) by striking "or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,".

(c) Table of Contents.—The table of contents relating to the Act is amended by striking the item relating to section 100 and inserting the following:

"Sec. 100. Policy.".

SEC. 112. STATE PLANS.

(a) Period.—The first sentence of section 101(a) (29 U.S.C. 721(a)) is amended by striking "for a three-year period" and all that follows and inserting the following: "for a 3-

year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.".

(b) STATE AGENCY.—Section 101(a)(1)(A) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by inserting before the semicolon at the end the following: ", (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa, and (iv) in the case of each of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association), the appropriate State agency shall be the head of government of the entity".

(c) PLANS; POLICIES; METHODS.—Section 101(a)(5) is amended—

(1) in subparagraph (A)—

(A) by striking "existing rehabilitation facilities to the maximum extent feasible;" and inserting "community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,"; and

(B) by inserting before "and shall be consistent" the following: "in accordance with criteria established by the State,"; and

(2) by striking subparagraph (C) and inserting the following:

"(C) describe—

"(i) how rehabilitation technology services will be provided at each stage of the rehabilitation process;

"(ii) how such rehabilitation technology services will be provided on a statewide basis; and

"(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;".

(d) FACILITIES COMPLIANCE.—Section 101(a)(6)(B) is amended by inserting before the semicolon at the end the following: ", with section 504 of this Act, and with the Americans with Disabilities Act of 1990".

(e) PERSONNEL.—Section 101(a) is amended by striking paragraph (7) and inserting the following:

"(7)(A) provide for a comprehensive system of personnel development for professionals and paraprofessionals employed by the State agency, which system shall include—

"(i) the development, updating, and implementation of a plan that will address current and projected personnel needs of the State agency and that will coordinate and facilitate efforts to recruit, prepare, and retain qualified personnel; and

"(ii) a description of the procedures and activities the State will undertake to ensure that all personnel needed by the State agency to carry out this part are appropriately and adequately prepared, including—

"(I) training regarding responsibilities established by the Rehabilitation Act Amendments of 1992;

"(II) surveys to determine training needs;

"(III) a system for the continuing education of personnel; and

"(IV) procedures for acquiring and disseminating to personnel significant knowledge derived from research and other sources;

"(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel needed by the State agency to carry out this part are appropriately and adequately prepared and trained, including—

"(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State; and

"(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;".

(f) AVAILABILITY OF COMPARABLE SERVICES.—Section 101(a)(8) is amended by striking "except that" and all that follows and inserting "except that such determinations shall not be required—

"(A) if the determinations would delay the provision of such services to any individual at extreme medical risk; or

"(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;".

(g) USE OF EXISTING INFORMATION.—Section 101(a)(9) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(2) by striking "(9) provide that" and inserting "(9) provide that—

"(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;";

(3) in subparagraphs (B), (C), and (D), as redesignated by paragraph (1) of this subsection, by indenting the subparagraphs to the same measure as subparagraph (A); and

(4) in subparagraphs (B) and (C), as so redesignated, by striking the comma at the end and inserting a semicolon.

(h) INTERAGENCY COOPERATION.—Section 101(a)(11) is amended—

(1) by striking "(11) provide for entering into cooperative agreements" and inserting "(11)(A) provide for interagency cooperation";

(2) in subparagraph (A), as designated by paragraph (1) of this subsection—

(A) by striking "and" after "Individuals with Disabilities Education Act,"; and

(B) by adding after "the Carl D. Perkins Vocational Education Act" the following: ", and the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938, (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.); and"; and

(3) by adding at the end the following:

"(B) in providing for interagency cooperation under subparagraph (A), to provide for such cooperation by means including, if appropriate—

"(i) establishing interagency working groups; and

"(ii) entering into formal interagency cooperative agreements that—

"(I) identify policies, practices, and procedures that can be coordinated (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals) among the agencies;

"(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

"(III) include all additional components necessary to ensure meaningful cooperation and coordination;".

(i) COMMUNITY REHABILITATION PROGRAMS.—Section 101(a)(12) is amended—

(1) in subparagraph (A), by striking "facilities" and inserting "programs"; and

(2) in subparagraph (B), by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(j) CONTINUING STATEWIDE STUDIES.—Section 101(a) is amended—

(1) in the matter preceding paragraph (16) by striking "provide for continuing" and inserting "(15) provide for continuing"; and

(2) in paragraph (15)(B), as so designated by paragraph (1), by striking "capacity and condition of rehabilitation facilities, plans for improving such facilities," and inserting "capacity and effectiveness of community rehabilitation programs, plans for improving such programs,".

(k) REVIEW AND EFFORTS.—Section 101(a)(16) is amended to read as follows:

"(16) provide for—

"(A) annual review and reevaluation (including input by the individual with a disability, or by the family of the individual if the individual with a disability requests, desires, or needs assistance) of the status of individuals with disabilities placed in extended employment settings in community rehabilitation programs (including workshops) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) to determine the interests, priorities, and needs of such individuals for their employment, or training for competitive employment, in integrated settings in the labor market; and

"(B) maximum efforts, including the provision of vocational rehabilitation services, designed to promote movement from extended employment to integrated employment (including supported employment);".

(l) CONSTRUCTION.—Section 101(a)(17) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(m) VIEWS CONSIDERED.—Section 101(a)(18) is amended by inserting "the Director of the client assistance program under section 112," after "field of vocational rehabilitation,".

(n) STRATEGIC PLAN.—Section 101(a)(19) is amended by inserting before the semicolon the following: ", and for developing and updating the strategic plan required under part C".

(o) PUBLIC COMMENT.—Section 101(a)(23)(A) is amended by inserting after "comment on the State plan" the following: "before development of the plan by the State".

(p) GOALS AND PUBLIC EDUCATION.—Section 101(a)(24) is amended to read as follows:

"(24) contain plans, policies, and methods to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(B)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

"(A) facilitate the development and accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives and goals and objectives related to independent living before a student leaves a school setting, to the extent such goals and objectives are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services; and

"(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(3) to an individual, consistent with the individualized written rehabilitation program of the individual; and".

(q) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 101(a) is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting a semicolon; and

(3) by adding at the end the following:

"(26) provide for coordination and working relationships with the Statewide Independent Living Council established under section 704 and independent living centers within the State;

"(27) provide satisfactory assurances to the Commissioner that the State has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title;

"(28)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

"(B) provide satisfactory assurances that the system in no way impedes such accomplishment;

"(29) describe how the State is taking steps to work with disability organizations, business, industry, and labor to expand employment opportunities for individuals with disabilities, including—

"(A) furnishing training and technical assistance with respect to changes made to the Act by the Rehabilitation Act Amendments of 1992; and

"(B)(i) furnishing training and technical assistance with respect to methods for complying with sections 503 and 504 of this Act and with title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); or

"(ii) otherwise ensuring equal opportunity for applicants and employees who are individuals with disabilities (regardless of whether an applicant or employee has applied for or is receiving vocational rehabilitation services under this Act); and

"(30) provide satisfactory assurances to the Commissioner that—

"(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

"(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

"(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the State agency to such advice and recommendations (including explanations with respect to advice and recommendations that were rejected); and

"(iv) the designated State unit transmits to the Council—

"(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner;

"(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

"(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings; or

"(B) an independent commission—

"(i) is responsible under State law for overseeing the operation of the designated State agency;

"(ii) is consumer-controlled by persons who—

"(I) are individuals with physical or mental impairments that substantially limit major life activities; and

"(II) represent individuals with a broad range of disabilities;

"(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

"(iv) undertakes the function set forth in section 105(c)(3); or

"(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

"(i) an independent commission is responsible under State law for both such agencies and meets the requirements of subparagraph (B)(ii); or

"(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

"(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.".

(r) TECHNICAL AMENDMENT.—Section 101 is amended by striking subsections (c) and (d).

SEC. 113. DETERMINATIONS OF ELIGIBILITY AND INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) ELIGIBILITY.—Section 102(a) (29 U.S.C. 722(a)) is amended to read as follows:

"(a)(1) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A) shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

"(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the preliminary assessment described in subparagraph (C)(iii)(II), of section (7)(22).

"(5)(A) The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

"(i) the designated State unit notifies the individual with a disability that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual with a disability agrees that an extension of time is warranted; or

"(ii) such an extended evaluation is required.

"(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(ii).

"(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

"(A) the reasons for such a determination;

"(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(C) the availability of services provided by the client assistance program under section 112 to the individual.".

(b) Individualized Written Rehabilitation Program.—Section 102(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the designated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

"(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

"(I) such eligible individual (or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative, of such individual); and

"(II) the vocational rehabilitation counselor or coordinator; and

"(ii) such program meets the requirements set forth in subparagraph (B).

"(B) Each individualized written rehabilitation program shall—

"(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

"(ii) include a statement of the long-range rehabilitation goals based on the assessment of rehabilitation needs for the individual;

"(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through an assessment of rehabilitation needs carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

"(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service; and

"(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate objectives and long-term rehabilitation goals for the individual;

"(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

"(vi) provide for—

"(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

"(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

"(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(viii) include the terms and conditions under which goods and services described above will be provided to the individual;

"(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

"(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, family member, guardian, advocate, or authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

"(xi) include, if necessary, an amendment specifying—

"(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

"(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(xiii) provide a description of the availability of a client assistance program established pursuant to section 112.

"(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative."; and

(2) in paragraph (2), by inserting after the first sentence the following: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program.".

(c) Technical Amendment.—Section 102(c) is amended—

(1) by striking "Commissioner shall also insure" and inserting "Director of the designated State unit shall also ensure"; and

(2) in paragraph (2), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of paragraph (22)".

(d) Selection of Impartial Hearing Officer.—Section 102(d) is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) The impartial hearing officer shall be selected to hear a particular case, either on a random basis or by agreement between the director of the designated State unit and the individual with a disability, from among a pool of qualified persons identified jointly by—

"(i) the designated State unit; and

"(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (D) through (H) of section 105(b)(1);

"(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(30); or

"(III) the commissions described in section 101(a)(30)(C)(ii).";

(2) in paragraph (3) by striking subparagraph (C) and inserting the following:

"(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

"(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision.

"(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.";

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) Unless the individual with a disability so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.".

SEC. 114. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) In General.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;";

(2) in paragraph (2)—

(A) by striking "referral,"; and

(B) by striking ", and other services" and all that follows through "under this Act";

(3) in paragraph (3)—

(A) by striking "and services" and inserting "such services"; and

(B) by striking ": *Provided*, That" and inserting ", except that";

(4) in paragraph (5), by striking ", not exceeding the estimated cost of subsistence, during rehabilitation" and inserting "for additional costs incurred while participating in rehabilitation";

(5) by striking "and" at the end of paragraph (11);

(6) in paragraph (12), by striking "engineering services." and inserting "technology services;"; and

(7) by adding at the end the following:

"(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

"(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

"(15) on-the-job or other related personal assistance services provided to assist an individual in performing work-related functions necessary to obtain and retain competitive work in an integrated work setting and to fulfill the functions of a job while the individual is actively involved in a rehabilitation program that includes the provision of other services authorized under this section; and

"(16) supported employment services.".

(b) Additional Vocational Rehabilitation Services.—Section 103(b)(2) is amended by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting "the establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)".

SEC. 115. NON-FEDERAL SHARE FOR CONSTRUCTION.

Section 104 (29 U.S.C. 724) is amended—

(1) by striking "costs of construction or establishment of a public or nonprofit rehabilitation facility" and inserting "costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program"; and

(2) by striking "construction or establishment of a facility" and inserting "establishment of such a program or construction of such a facility".

SEC. 116. STATE REHABILITATION ADVISORY COUNCIL.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following:

"SEC. 105. STATE REHABILITATION ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(30) to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the 'Council') in accordance with this section.

"(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) at least one representative of the Statewide Independent Living Council established under section 704, which representative may be the chairperson or other designee of the Council;

"(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

"(C) at least one representative of the client assistance program established under section 112;

"(D) at least one vocational rehabilitation counselor, who shall not be employed by the designated State unit, with knowledge of and experience with vocational rehabilitation programs;

"(E) at least one representative of community rehabilitation program providers;

"(F) at least one representative of business and industry;

"(G) at least one representative of labor;

"(H) representatives of disability advocacy groups representing a cross section of—

"(i) individuals with physical, cognitive, sensory, and mental disabilities; and

"(ii) parents, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(I) current or former applicants for, or recipients of, vocational rehabilitation services.

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(8)(B); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—The Council shall select a chairperson from among the membership of the Council.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) review, analyze, and advise the designated State unit in the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

"(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

"(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

"(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 704, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x-4(e)); and

"(6) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(i) Use of Existing Councils.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) Technical Amendment.—The table of contents relating to the Act is amended by inserting after the item relating to section 104 the following:

"Sec. 105. State Rehabilitation Advisory Council.".

SEC. 117. EVALUATION.

(a) Amendment.—Part A of title I (29 U.S.C. 720 et seq.), as amended by section 116(a), is further amended by adding at the end the following:

"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

"(a) Establishment.—

"(1) In general.—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

"(2) Measures.—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

"(3) Comment.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

"(b) Compliance.—

"(1) State reports.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) Program improvement.—

"(A) Plan.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) Review.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) Withholding.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) Report to Congress.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) Technical Amendment.—The table of contents relating to the Act is amended by inserting after the item relating to section 105 (as added by section 116(b)) the following:

"Sec. 106. Evaluation standards and performance indicators.".

SEC. 118. MONITORING AND REVIEW.

(a) Amendment.—Part A of title I (29 U.S.C. 720 et seq.), as amended by sections 116(a) and 117(a), is further amended by adding at the end the following:

"SEC. 107. MONITORING AND REVIEW.

"(a) In General.—

"(1) Duties.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) Procedures for reviews.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction surveys;

"(G) information provided by the State Rehabilitation Advisory Council established under section 105;

"(H) reports; and

"(I) budget and financial management data.

"(3) Procedures for monitoring.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits;

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) Areas of inquiry.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(28) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) Technical Assistance.—The Commissioner shall—

"(1) provide technical assistance to programs regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) Failure To Comply With Plan.—

"(1) Withholding payments.—Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) Period.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) Disbursal of withheld funds.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) Review.—

"(1) Petition.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6(c) (29 U.S.C. 705(c)) is amended by striking "101" and inserting "107".

(2) The table of contents relating to the Act is amended by inserting after the item relating to section 106 (as added by section 117(b)) the following:

"Sec. 107. Monitoring and review.".

SEC. 119. REALLOTMENT.

(a) TERRITORIES.—Section 110(a)(3) (29 U.S.C. 730(a)(3)) is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau".

(b) REALLOTMENT.—Section 110(c) is amended by adding at the end the following:

"(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year that will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallotment to other States until reallotted.".

SEC. 120. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1), by striking out "(including any additional payment to it under section 110(b))";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking out "(and any additional payment under subsection (b))"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year."; and

(3) by adding at the end the following new paragraph:

"(3) The amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a)), in such State except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such subsection.".

SEC. 121. CLIENT ASSISTANCE PROGRAM.

(a) DIRECTLY RELATED SERVICES.—Section 112(a) (29 U.S.C. 732(a)) is amended—

(1) in the first sentence—

(A) by inserting "and provide advocacy on behalf of" after "to assist"; and

(B) by inserting "and advocacy" after "including assistance"; and

(2) by inserting after the second sentence the following: "In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.".

(b) REDESIGNATION OF AGENCY.—Section 112(c)(1) is amended by striking subparagraph (B) and inserting the following:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(i) the Governor has given the agency notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

"(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.".

(c) MINIMUM STATE ALLOTMENTS.—Section 112(e)(1) is amended—

(1) in subparagraph (B), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association)";

(2) in subparagraph (C), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau"; and

(3) in subparagraph (D)(ii)—

(A) by striking "subsection (c)" and inserting "clause (i)"; and

(B) by striking "by more than the percentage increase in the Consumer Price Index published monthly by the Bureau of Labor Statistics".

(d) EVALUATION.—Section 112 is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 112(h) (as so redesignated by subsection (d)(2) of this section) is amended by striking "$7,100,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.".

SEC. 122. INNOVATION AND EXPANSION GRANTS.

(a) AMENDMENT.—Part C of title I (29 U.S.C. 740 et seq.) is amended to read as follows:

"PART C—INNOVATION AND EXPANSION GRANTS

"SEC. 120. STATE ELIGIBILITY.

"Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

"SEC. 121. CONTENTS OF STRATEGIC PLANS.

"(a) PURPOSE AND POLICY.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

"(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

"(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of title VI;

"(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

"(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

"SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS.

"(a) PERIOD AND UPDATES.—The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

"(b) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 704.

"(c) CONSIDERATION OF RECOMMENDATIONS.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

"(d) PROCEDURE.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

"(e) DISSEMINATION.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

"SEC. 123. USE OF FUNDS.

"A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

"(1) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

"(2)(A) programs, projects, and activities designed to initiate, expand, and improve vocational rehabilitation services for individuals with the most severe disabilities (including increasing the availability of integrated, community-based service options and job opportunities through the redesign of existing service options);

"(B) special programs to initiate, expand, or improve services to classes of individuals with disabilities who have unusual or complex rehabilitation needs; and

"(C) programs that maximize the use of rehabilitation technology, including, if appropriate, the evaluation and adaptation to the workplace or training program;

"(3) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

"(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

"(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education and continuing education, and businesses, industry, and labor organizations in order to create and facilitate cooperation in—

"(i) planning and implementing services; and

"(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

"(C) improve the ability of professionals, consumers, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

"(4) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

"(5) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

"(6) support the provision of training and technical assistance to consumers, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by Rehabilitation Act Amendments of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

"(7) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 704.

"SEC. 124. ALLOTMENTS AMONG STATES.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $200,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraph (1)(B) and under paragraph (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2) as increased in accordance with subsection (a)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to part C of title I and inserting the following:

"PART C—INNOVATION AND EXPANSION GRANTS

"Sec. 120. State eligibility.
"Sec. 121. Contents of strategic plans.
"Sec. 122. Process for developing strategic plans.
"Sec. 123. Use of funds.
"Sec. 124. Allotments among States.".

SEC. 123. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.

(a) REPEAL.—Part D of title I is amended by repealing section 131 (29 U.S.C. 751).

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 131.

SEC. 124. REVIEW OF DATA COLLECTION SYSTEM.

(a) REVIEW.—The Commissioner of the Rehabilitation Services Administration shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973, particularly data on clients of the programs under title I of the Rehabilitation Act of 1973.

(b) CONSIDERATIONS.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

(d) Views.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of rehabilitation services, professionals in the field of vocational rehabilitation, consumers and organizations representing consumers, National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) Submission of Report.—The Commissioner shall submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

SEC. 125. EXCHANGE OF DATA.

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973, and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.

SEC. 126. ISSUANCE OF REGULATIONS.

(a) Order of Selection.—The Secretary of Education shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) of the Rehabilitation Act of 1973 if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

(b) Quality of Services.—

(1) In general.—The Secretary of Education shall promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services under section 102, and the procurement of such services directly by an individual with a disability consistent with section 102 of the Rehabilitation Act of 1973.

(2) Procedures.—The regulations shall specify—

(A) procedures that States must adopt to ensure that the services are of sufficient scope and quality and that the costs of such services are reasonable; and

(B) procedures that prevent fraud, waste, and abuse with respect to the provision of such services.

SEC. 127. SOCIAL SECURITY REIMBURSEMENT PAYMENTS.

Any State that uses, during fiscal year 1992, program income from Social Security reimbursement payments generated under the State vocational rehabilitation services program under title I of the Rehabilitation Act of 1973 or the State supported employment services program under part C of title VI of such Act to support allowable expenditures under any other rehabilitation program under such Act may continue such use until October 1, 1994.

TITLE II—RESEARCH

SEC. 201. DECLARATION OF PURPOSE.

Section 200 (29 U.S.C. 760) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

"(3) ensure the widespread distribution of practical information generated by research, demonstration projects, training, and related activities in usable formats regarding state-of-the-art practices, improvements in the services authorized under this Act, and new knowledge regarding disabilities to rehabilitation professionals, individuals with disabilities, and other interested parties; and

"(4) promote the transfer and utilization of rehabilitation technology to individuals with disabilities in order to enable such individuals to live more independently.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1)—

(A) by striking "other than expenses to carry out section 204" and inserting "which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204"; and

(B) by striking "fiscal year 1987" and all that follows through the semicolon and inserting "each of fiscal years 1993 through 1997;"; and

(2) by striking paragraph (2) and inserting the following:

"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 203. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

(a) Establishment.—Section 202(a) (29 U.S.C. 761a(a)) is amended—

(1) in the first sentence—

(A) by striking "In order" and all that follows through "there" and inserting "(1) There"; and

(B) by striking the period at the end and inserting the following: ", in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204;

"(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities."; and

(2) by striking the second sentence and inserting the following:

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).".

(b) Responsibilities.—Section 202(b) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and their families;";

(2) in paragraph (4)—

(A) by adding "widely" before "disseminating"; and

(B) by striking "and to public" and all that follows and inserting the following: "to public and private entities, rehabilitation practitioners, and individuals with disabilities and their families, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(3) in paragraph (6), by striking "concerning" and all that follows and inserting the following ", concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(4) by striking paragraph (7) and inserting the following:

"(7) preparing and submitting to the President and the appropriate committees of Congress an annual report on the implementation and conduct of programs and activities carried out under this title, including—

"(A) information on specific advances and developments produced by such programs and activities and the specific impact of the programs and activities on—

"(i) vocational rehabilitation services for individuals with disabilities; and

"(ii) the quality of life of individuals with disabilities;

"(B) a description of the manner in which such information was disseminated; and";

(5) in paragraph (8)—

(A) by inserting "the Health Care Financing Administration," after "the Bureau of the Census";

(B) by inserting "widely" before "disseminating"; and

(C) by inserting ", individuals with disabilities and their families," after "rehabilitation professionals"; and

(6) by adding at the end the following new paragraph:

"(9) coordinating with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).".

(c) Director.—

(1) In general.—Section 202(c)(1) is amended by striking the fourth sentence.

(2) Qualifications.—Section 202(c)(2) is amended—

(A) by inserting after the first sentence the following: "The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.";

(B) in the sentence beginning "The Deputy Director shall be compensated"—

(i) by striking "the rate provided for grade GS–17 of the General Schedule under section

5332" and inserting "a rate that does not exceed the rate specified for level V of the Executive Schedule under section 5316"; and

(ii) by striking "or disability of the Director" and inserting "of the Director or the inability of the Director to perform the essential functions of the job"; and

(C) in the last sentence, by striking "in grade GS-17" and inserting "above grade GS-15".

(d) Fellowships.—Section 202(d) is amended by inserting ", including individuals with disabilities," after "fellows".

(e) Scientific Review.—Section 202(e) is amended—

(1) by inserting "(1)" after "(e)";

(2) by striking "within" and inserting "by"; and

(3) by striking the period at the end and inserting the following: "competent to review research grants and programs, including knowledgeable individuals with disabilities and family members of individuals with disabilities. Individuals comprising such peer review groups shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

"(2) In providing such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities and their representatives.".

(f) Use of Funds.—Section 202 is amended by striking subsection (f) and inserting the following:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.".

(g) Long-Range Plan.—Section 202(g) is amended—

(1) in the matter preceding paragraph (1), by striking "within eighteen months after the effective date of this section";

(2) in paragraph (1), by striking "problems encountered" and all that follows and inserting "full inclusion and integration into society of individuals with disabilities, especially in the area of employment;";

(3) by striking "and" at the end of paragraph (2);

(4) by striking the period at the end of paragraph (3) and inserting "; and"; and

(5) by adding at the end the following new paragraphs:

"(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and their families, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

"(5) specify plans for widespread dissemination of research results in practical, usable formats to rehabilitation practitioners, individuals with disabilities, including individuals with disabilities who are from diverse ethnic and cultural backgrounds, or from populations unserved, or underserved, by programs under this Act, and the families of the individuals;

"(6) be developed by the Director—

"(A) in coordination with the Commissioner; and

"(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established under section 203, individuals with disabilities and their families, and any other persons or entities the Director considers appropriate; and

"(7) be revised, in the manner required by this section—

"(A) at least once every 5 years; and

"(B) at any time determined to be necessary by the Director.".

(h) Research Program.—Section 202(i)(2) is amended by striking "this section" and inserting "this title".

(i) Pediatric Rehabilitation Research.—Section 202(j) is amended—

(1) in paragraph (1), by striking "for the establishment of" and inserting "to support"; and

(2) in paragraphs (2) and (3), by striking "establish" and inserting "support".

(j) Rehabilitation Researchers.—Section 202(k) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to areas of research that improve the effectiveness of services authorized under this Act.".

(k) Recommendations and Study.—Section 202 is amended by striking subsections (l) and (m).

SEC. 204. INTERAGENCY COMMITTEE.

(a) Establishment.—Section 203(a)(1) (29 U.S.C. 761b(a)(1)) is amended by inserting "the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services," after "designees): the Director,".

(b) Identification, Assessment, and Coordination.—Section 203(b) is amended by striking "The" and inserting "After receiving input from individuals with disabilities and their families, the".

(c) Report.—Section 203(c) is amended by striking ", not later than" and all that follows through "shall" and inserting "shall annually".

SEC. 205. RESEARCH.

(a) In General.—Section 204(a) (29 U.S.C. 762(a)) is amended—

(1) in the first sentence, by striking "demonstrations," and all that follows and inserting "demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, and VII of this Act."; and

(2) in the last sentence—

(A) by striking "special problems of homebound and institutionalized individuals" and inserting "studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized"; and

(B) by striking the period at the end and inserting the following: ", particularly individuals with disabilities, and individuals with the most severe disabilities, who are from populations that are unserved, or underserved, by programs under this Act.".

(b) Research Activities.—Section 204(b) is amended—

(1) by redesignating paragraphs (4) through (15) as paragraphs (5) through (16), respectively;

(2) by striking the matter preceding paragraph (1) and all that follows through paragraph (3) and inserting the following:

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research activities described in paragraphs (2) through (16).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services, to serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and their families.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services; and

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) continuation of research to develop and evaluate interventions, policies, and services that support families of children and adults who are individuals with disabilities; and

"(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration and enable individuals with disabilities to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation related courses of study for credit; and "(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

"(i) be of sufficient size, scope and quality as to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) have the ability to carry out the training activities either directly or through another entity that can provide such training.

"(K) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(L) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(M) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and their families.

"(N) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Technology Research and Resource Centers operated by or in collaboration with institutions of higher education or nonprofit private organizations to conduct research, demonstration projects, and training activities regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for, better meeting the needs of, and addressing the barriers confronted by individuals with disabilities in employment, rehabilitation, education, transportation, communication, access to information, recreation, and other aspects of independent living.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out research and demonstration activities by—

"(i) planning and conducting research and development activities designed to produce new scientific knowledge, to identify new or emerging technologies, to develop or improve the design of rehabilitation technologies, to improve the design and usability of mass market products and environments, or to document the utilization, effectiveness, and benefits of such technologies, products, or environments; or

"(ii) facilitating service delivery systems change, by documenting, evaluating, and disseminating innovative, cost-effective service delivery models that—

"(I) are consumer responsive and individual and family centered; and

"(II) promote prompt utilization of a wide range of rehabilitation technologies, with special attention to service delivery to individuals with severe disabilities and service delivery in rural and urban areas.

"(C) To the extent consistent with the nature and type of research or demonstration activities provided under subparagraph (B), such Centers shall—

"(i) assist, train, and provide information to individuals with disabilities and their families to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options and entitlements available at the national, State, and local levels; and

"(ii) train individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology.

"(D) Areas of focus for the activities conducted by a Center shall include—

"(i) a life area consisting of—

"(I) early childhood life, including early intervention and family support;

"(II) education at the elementary and secondary levels, including transition from school to postschool activities;

"(III) employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 and title V; or

"(IV) independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills and activities of daily living; or

"(ii) a functional area, including an area such as seating and positioning, mobility, computer and information system access and use, augmentative communication, or alternative communication.

"(E) Each Center shall—

"(i) have an advisory committee—

"(I) of which the majority of members are individuals with disabilities who are users of, or parents, family members, guardians, advocates, or authorized representatives of users of, rehabilitation technology; and

"(II) the full membership of which shall be broadly representative of individuals and groups having an interest in rehabilitation technology, from various perspectives, including providers, manufacturers, funders, and practitioners, and members of minority groups;

"(ii)(I) demonstrate effective working relationships with the State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals with Disabilities Act;

"(II) respond to needs of all individuals with disabilities who may benefit from the application of technology in a particular life or functional area that is the designated focus of the activities of the Center;

"(III) coordinate efforts, encourage planning and collaboration, and promote the interchange of data, reports, and other information, among the agencies, programs and organizations; and

"(IV) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, an annual report that documents the impact and outcomes of the program, including efforts to enhance the inclusion of individuals with disabilities in work, school, home, and other natural environments.

"(F) The Director shall make grants under this paragraph for period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(G) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(4)(A) Research grants may be used as grants to States and to public or nonprofit agencies and organizations, including institutions of higher education, to pay for part or all of the costs of conducting a program for spinal cord injury research, including the costs of special projects and demonstrations related to spinal cord injuries that will—

"(i) ensure dissemination of research findings among all spinal cord injury centers;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any project or demonstration assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, or improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with barriers faced by individuals with spinal cord injuries in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed spinal cord injury center and the appropriate geographic and regional allocation of such centers.";

(3) in paragraphs (5) through (16), as so redesignated by paragraph (1), by striking "Conduct" the first place in each such paragraph that the term appears and inserting "Research grants may be used to conduct"; and

(4) in paragraph (9), as so redesignated by paragraph (1), to read as follows:

"(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.".

(c) SIZE OF GRANT.—Section 204(d)(2) is amended by striking the period at the end and inserting the following: ", or the Director makes a determination that there is sufficient information to make an award without a site visit.".

(d) CONFORMING AMENDMENT.—Section 7303(b) of title 38, United States Code, is amended by striking "section 204(b)(2)" and all that follows through "(relating to Rehabilitation Engineering" and inserting "section 204(b)(3) or 804(b) of the Rehabilitation Act of 1973 (relating to Rehabilitation Technology".

SEC. 206. REHABILITATION RESEARCH ADVISORY COUNCIL.

(a) COUNCIL.—Title II is amended by adding at the end the following new section:

"SEC. 205. REHABILITATION RESEARCH ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, and the community of individuals with disabilities and their families. At least one-half of the members shall be individuals with disabilities or members of their families.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—Each member of the Council who is not an employee of the Federal Government may receive compensation, which shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Council, including attendance at meetings and conferences of the Council, and travel to conduct the duties of the Council.

"(2) TRAVEL EXPENSES.—Each member of the Council shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by inserting after the item relating to section 204 the following:

"Sec. 205. Rehabilitation Research Advisory Council.".

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

SEC. 301. DECLARATION OF PURPOSE; ORGANIZATION.

(a) PURPOSE.—Section 300 (29 U.S.C. 770) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (4), (3), (2), and (5), respectively;

(2) by inserting paragraphs (2) and (3) (as so redesignated by paragraph (1) of this subsection), respectively, before paragraph (4) (as so redesignated by paragraph (1) of this subsection);

(3) by inserting before paragraph (2) the following:

"(1) authorize grants and contracts to—

"(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

"(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

"(C) provide training and information to individuals with disabilities, their parents, families, guardians, advocates, or authorized representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;";

(4) in paragraph (2) (as so redesignated by paragraph (1)) by striking "and" at the end;

(5) in paragraph (3) (as so redesignated by paragraph (1)) by striking "training" and inserting "rehabilitation"; and

(6) in paragraph (4) (as so redesignated by paragraph (1)) by striking "construction" and all that follows and inserting "development and improvement of community rehabilitation programs; and".

(b) ORGANIZATION.—Title III (29 U.S.C. 770 et seq.) is amended—

(1) by striking the headings for the title and part A of the title and inserting the following:

"TITLE III—TRAINING AND
DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND
COMMUNITY REHABILITATION PROGRAMS";

(2) by striking section 301 (29 U.S.C. 771);

(3) by redesignating sections 300, 302, 303, and 304 (29 U.S.C. 770 et seq.) as sections 301, 303, 304, and 302, respectively; and

(4) by inserting section 302 (as so redesignated by paragraph (3)) after section 301.

(c) CONFORMING AMENDMENTS.—The table of contents relating to title III is amended to read as follows:

"TITLE III—TRAINING AND
DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND
COMMUNITY REHABILITATION PROGRAMS

"Sec. 301. Declaration of purpose.
"Sec. 302. Training.
"Sec. 303. Vocational rehabilitation services for individuals with disabilities.
"Sec. 304. Loan guarantees for community rehabilitation programs.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 314. Reader services for the individuals who are blind.
"Sec. 315. Interpreter services for the individuals who are deaf.
"Sec. 316. Special recreational programs.
"Sec. 317. Independent living services for older individuals who are blind.".

SEC. 302. TRAINING.

(a) TRAINING GRANTS.—Section 302(a) (as so redesignated by section 301(b)(3)) is amended—

(1) in the first sentence—

(A) in the matter preceding paragraph (1), by inserting ", and other services provided under this Act," after "rehabilitation services";

(B) in paragraph (1), by striking "specially" and inserting "specifically";

(C) in paragraph (2), by inserting before the comma at the end the following: ", including needs for rehabilitation technology services";

(D) in paragraph (3)—

(i) by striking "comprehensive services for independent living" and inserting "independent living services"; and

(ii) by striking "and" at the end;

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3) the following: "(4) personnel specifically trained to deliver services, through supported employment programs, to those individuals with the most severe disabilities, and";

(2) in the second sentence, by striking "give due regard" and all that follows and inserting "submit to the Commissioner a detailed description of strategies that will be utilized to recruit and train members of minority groups and individuals with disabilities."; and

(3) in the last sentence, by striking ", in addition" and all that follows and inserting "furnish training regarding the services provided under this Act and, in particular, services provided in accordance with amendments made by the Rehabilitation Act

Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out the provisions of this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of the provisions of section 504 and of the Americans with Disabilities Act of 1990.''.

(b) PROJECTS.—Section 302(b) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

''(B) Projects described in subsection (a) may include—

''(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

''(ii) projects to train personnel to provide—

''(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individuals from populations who are unserved, or underserved, by programs under this Act;

''(II) job development and job placement services to individuals with disabilities;

''(III) supported employment services, including services of employment specialists;

''(IV) specialized services for individuals with severe disabilities; or

''(V) recreation for individuals with disabilities; and

''(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities.''; and

(2) in paragraph (3)(A), by striking clause (i) and inserting the following:

''(i) maintain employment—

''(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

''(II) on a full- or part-time basis; and

''(III) for a period of not less than the full-time equivalent of two years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and''.

(c) GRANTS FOR INTERPRETERS.—Section 302(d) is amended—

(1) in paragraph (1)—

(A) by striking ''deaf individuals'' and inserting ''individuals who are deaf and individuals who are deaf-blind''; and

(B) by striking the second sentence; and

(2) in paragraph (2)—

(A) by striking ''deaf individuals'' and inserting ''individuals who are deaf and individuals who are deaf-blind'';

(B) in subparagraph (C), by adding ''and'' at the end;

(C) by striking subparagraph (D); and

(D) by redesignating subparagraph (E) as subparagraph (D).

(d) COMPENSATION OF EXPERTS AND CONSULTANTS.—Section 302(e) is amended—

(1) in paragraph (1), by striking ''rehabilitation facilities'' and inserting ''community rehabilitation programs''; and

(2) in paragraph (2), by striking ''the daily rate payable for grade GS-18 of the General Schedule under section 5332'' and inserting ''the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 302(f) is amended—

(1) by inserting ''(1)'' after ''(f)'';

(2) in the first sentence of paragraph (1) (as so designated by paragraph (1)) by striking ''$31,000,000'' and all that follows and inserting ''such sums as may be necessary for each of fiscal years 1993 through 1997.''; and

(3) by adding at the end the following:

''(2)(A) Subject to subparagraph (B), at least 20 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used for projects for inservice training of rehabilitation personnel, including projects designed—

''(i) to address recruitment and retention of qualified rehabilitation professionals;

''(ii) to provide for succession planning;

''(iii) to provide for leadership development and capacity building; and

''(iv) for fiscal years 1993 and 1994, to provide training on the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

''(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 20 percent of the sums described in subparagraph (A) to designated State agencies for such inservice training.''.

SEC. 303. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (as so redesignated by section 301(b)(3)) is amended by striking ''1987'' and all that follows and inserting ''1993 through 1997''.

(b) ESTABLISHMENT.—Section 303(b) is amended—

(1) in paragraph (1)—

(A) by striking ''training'' and inserting ''rehabilitation services or employment support services''; and

(B) by striking ''rehabilitation facilities'' and inserting ''community rehabilitation programs'';

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

''(A) For purposes of this section, vocational rehabilitation services shall include—

''(i) training with a view toward career advancement;

''(ii) training (including on-the-job training) in occupational skills; and

''(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

''(I) are related to training described in clause (i) or (ii); and

''(II) are required by the individual to engage in such training.''; and

(B) in subparagraph (B)—

(i) by inserting after ''(B)'' the following new sentence: ''Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.'';

(ii) in the second sentence, by striking ''and such allowances'' and all that follows and inserting a period; and

(iii) in the sentence beginning ''In determining''—

(I) by striking ''training services'' and inserting ''vocational rehabilitation services''; and

(II) by striking ''gainful and suitable'' and inserting ''competitive''; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking ''gainful and suitable employment'' and inserting ''competitive employment, or to place or retain such individual in competitive employment'';

(B) in subparagraph (B)—

(i) by striking ''suitable for and'';

(ii) by striking ''training'' each place the term appears and inserting ''vocational rehabilitation''; and

(iii) by striking ''rehabilitation facility'' and inserting ''community rehabilitation program'';

(C) in subparagraph (C), by striking ''training'' and inserting ''vocational rehabilitation''; and

(D) in subparagraph (D), by striking ''rehabilitation facility and the training'' and inserting ''community rehabilitation program and the vocational rehabilitation''.

(c) ADDITIONAL GRANTS.—Section 303 is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

''(c) The Commissioner is also authorized to make grants upon application approved by the designated State agency to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs.''; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking ''rehabilitation facilities'' and inserting ''community rehabilitation programs''; and

(B) by striking ''such facilities'' and inserting ''such programs''.

SEC. 304. LOAN GUARANTEES FOR COMMUNITY REHABILITATION PROGRAMS.

Section 304 (as so redesignated by section 301(b)(3)) is amended—

(1) in the title, by striking ''REHABILITATION FACILITIES'' and ''COMMUNITY REHABILITATION PROGRAMS'';

(2) in subsection (a), by striking ''facilities for'' and inserting ''community rehabilitation''; and

(3) in subsection (b)—

(A) by inserting ''under special circumstances and'' after ''may,''; and

(B) by striking ''rehabilitation facilities'' and inserting ''facilities for community rehabilitation programs''.

SEC. 305. COMPREHENSIVE REHABILITATION CENTERS.

Section 305 (29 U.S.C. 775) is amended—

(1) in subsection (d)(1), by striking ''facility'' and inserting ''center''; and

(2) in subsection (g), by striking ''1987,'' and all that follows and inserting ''1993 through 1997.''.

SEC. 306. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking ''section 302'' and inserting ''section 303'';

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.

Section 310 (29 U.S.C. 777(a)) is amended—

(1) by striking "(a)" after "310.";

(2) by striking "and 316" and inserting "312, 316, and 317";

(3) by striking "$15,860,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(4) by striking subsection (b).

SEC. 308. SPECIAL DEMONSTRATION PROGRAMS.

(a) Establishment.—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1), by striking "and, where appropriate, constructing facilities";

(2) in paragraph (3), by striking "and, where appropriate, renovating and constructing facilities"; and

(3) by striking the last sentence.

(b) Projects To Achieve High Quality Placements.—Section 311 is amended by striking subsection (b) and inserting the following:

"(b)(1) The Commissioner may make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations providing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with severe disabilities.

"(2) The recipient of the grant shall—

"(A) identify exemplary models that can be replicated for achieving such placements; and

"(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.".

(c) Special Projects and Demonstrations Providing Supported Employment.—Section 311(d) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) in subparagraph (B), by striking "community-based rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (3)(A), by striking ", 1988, and on each subsequent June 1" and inserting "of each year"; and

(3) in paragraph (4), by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

(d) Model Statewide Transitional Planning Services.—Section 311(e) is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (5) as paragraph (3); and

(3) in paragraph (3) (as so redesignated by paragraph (2) of this subsection) by striking "$450,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 309. MIGRATORY WORKERS.

(a) Collaboration.—The first sentence of section 312 (29 U.S.C. 777b) is amended—

(1) by inserting "(a)" after "312."; and

(2) by inserting "or to nonprofit agencies working in collaboration with such State agency," after "section 101,".

(b) Authorization of Appropriations.—Section 312 is amended by adding at the end the following new subsection:

"(b) Authorization of Appropriations.—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.".

SEC. 310. SPECIAL RECREATIONAL PROGRAMS.

(a) Grants.—Section 316(a) (29 U.S.C. 777f(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "part or all" and inserting "the Federal share"; and

(ii) by inserting "employment" after "aid in the"; and

(B) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(2) in paragraph (2), by striking "a minimum of a three-year period." and inserting "a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.";

(3) in paragraph (3), by striking "and that with respect" and all that follows and inserting a period; and

(4) by adding at the end the following new paragraphs:

"(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project will be made generally available; and

"(B) the means by which the service program will be continued after Federal assistance ends.

"(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) The Federal share of the costs of the recreation programs shall be 90 percent for the first year of the grant, 75 percent for the second year and 50 percent for the third year.".

(b) Authorization of Appropriations.—Section 316(b) is amended by striking "$2,330,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 311. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

Title III is amended by adding at the end the following new section:

"SEC. 317. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

"(a) Grants.—The Commissioner may make grants to any designated State unit to provide independent living services and related services designed to assist older individuals who are blind to adjust to blindness by becoming more able to care for individual needs.

"(b) Use of Grants.—

"(1) Required Services.—A designated State unit shall use funds received under a grant described in subsection (a) to provide independent living skills training, information and referral services, peer counseling, and individual advocacy training.

"(2) Additional Services.—A designated State unit may use funds received under a grant described in subsection (a) to provide—

"(A) services to help correct blindness, such as—

"(i) outreach services;

"(ii) visual screening;

"(iii) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(iv) hospitalization related to such services to help correct blindness;

"(B) the provision of eyeglasses and other visual aids;

"(C) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(D) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(E) guide services, reader services, and transportation;

"(F) any other appropriate services designed to assist an older individual who is blind in coping with daily living activities, including supportive services or rehabilitation teaching services; and

"(G) other independent living services.

"(c) Application.—

"(1) In general.—To be eligible to receive a grant under this section, a designated State unit shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including the information and assurances described in paragraph (2), and shall obtain approval of the application.

"(2) Contents.—An application for a grant under this section shall contain—

"(A) an assurance that the designated State unit will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the designated State unit will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 703.

"(d) GRANTS TO AGENCIES OR ORGANIZATIONS.—A designated State unit may use funds received under a grant described in subsection (a) to make grants to public or nonprofit private agencies or organizations to—

"(1) conduct activities that will improve or expand services for older individuals who are blind and help improve public understanding of the problems of such individuals; and

"(2) provide independent living services and related services in accordance with subsection (b) to older individuals who are blind.

"(e) DEFINITION.—For purposes of this section, the term 'older individual who is blind' means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.".

TITLE IV—NATIONAL COUNCIL ON DISABILITY

SEC. 401. ESTABLISHMENT.

(a) IN GENERAL.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting after the first sentence the following:

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs."; and

(C) in the last sentence, by striking "five" and inserting "a majority of"; and

(2) by striking paragraph (2) and inserting the following:

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.".

(b) TERMS.—Section 400(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis."; and

(2) by striking paragraph (2) and inserting the following:

"(2) No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.".

SEC. 402. DUTIES OF NATIONAL COUNCIL.

(a) DUTIES.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) provide advice to the Director with respect to the policies and administration of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;";

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "all policies, programs, and activities" and inserting "policies, programs, practices, and procedures";

(B) in subparagraph (B), by inserting "and regulations" after "statutes"; and

(C) in the matter following subparagraph (B), by striking "activities," and inserting "practices, procedures,".

(3) in paragraph (5), by striking "and activities" and all that follows and inserting "practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(4) in paragraph (6)—

(A) by inserting "with respect to the duties described in paragraphs (1) through (5) and in paragraph (9)," after "(6)";

(B) by striking "and" after "the Secretary,"; and

(C) by striking "respecting ways" and all that follows and inserting "and other officials of Federal executive agencies, respecting ways to better promote the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(5) in paragraph (7), by striking "(A)" and all that follows and inserting "a summary of the activities and accomplishments of the Council;";

(6) in paragraph (8), by striking the period and inserting "; and"; and

(7) by adding at the end the following:

"(9) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.".

(b) REPORT.—Section 401 is amended by striking subsection (b) and inserting the following:

"(b)(1) Not later than October 30, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of Congress, a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education.

"(3) The report shall assess the status of the Nation in achieving the policies set forth in subparagraphs (A) and (B) of section 400(a)(1), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall include recommendations for policy changes.

"(4) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report in accordance with paragraph (3), the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.".

(c) 1995 REPORT.—The National Council on Disability shall include, in a report submitted not later than October 30, 1995 in accordance with section 401(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 781(b)(1)), information and analysis concerning the implementation by the designated State agencies and the Department of Education of the amendments made by Rehabilitation Act Amendments of 1992.

SEC. 403. COMPENSATION OF MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "at a rate equal to the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 404. COMPENSATION OF STAFF.

(a) NUMBER OF POSITIONS.—Section 403(a)(2) (29 U.S.C. 783(a)(2)) is amended by striking "not to exceed seven" and inserting "seven or more".

(b) RATE OF PAY.—Section 403(b)(1) is amended by striking "not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "not to exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by striking "1987" and all that follows and inserting "1993 through 1997".

TITLE V—ACCESS

SEC. 501. ACCESS.

(a) TITLE.—Title V (29 U.S.C. 790 et seq.) is amended by striking the title heading and inserting the following:

"TITLE V—ACCESS".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to the title heading for title V and inserting the following:

"TITLE V—ACCESS".

SEC. 502. EFFECT ON EXISTING LAW.

(a) REPEAL.—Title V (29 U.S.C. 790 et seq.) is amended by repealing section 500.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 500.

SEC. 503. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

(a) ESTABLISHMENT.—Section 501(a) (29 U.S.C. 791(a)) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans Affairs, and" and inserting "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs"; and

(2) by amending the second sentence to read as follows: "Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons or the Director or Chairman shall serve as sole chairperson, as the Director and Chairman jointly determine, from time to time, to be appropriate.".

(b) STANDARDS.—Section 501 is amended by adding at the end the following new subsection:

"(g) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.".

SEC. 504. REFERENCES TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by striking "the 'Board'" and inserting "the 'Access Board'";

(2) by striking "the Board" each place the term appears and inserting "the Access Board"; and

(3) by striking "The Board" each place the term appears and inserting "The Access Board".

(b) COMPOSITION.—Section 502(a) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least one-half"; and

(B) in subparagraph (B), by adding at the end the following:

"(xii) Department of Commerce.";

(2) in paragraph (2)(A)—

(A) in the first sentence—

(i) by inserting "(i)" after "(A)"; and

(ii) by striking "three years" and inserting "4 years, except as provided in clause (ii)";

(B) in the second sentence, by striking "four" and inserting "at least three"; and

(C) by adding at the end the following:

"(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

"(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

"(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

"(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.";

(3) in paragraph (3), by striking "such an" and inserting "a Federal"; and

(4) in paragraph (5)(A), by striking "the daily rate prescribed for GS-18 under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(c) FUNCTION.—Section 502(b) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service) including enforcing all standards under such Act, and ensuring that all waivers and modifications to standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

"(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

"(9) make to the President and to the Congress such recommendations for legislation and administration as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5) of this subsection; and

"(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.".

(d) INVESTIGATIONS AND HEARINGS.—Section 502(d) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "In carrying out its functions under this Act, the Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or for profit organizations, carry out its functions under subsections (b) and (c) of this section, and" and inserting "The Access Board"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(e) INTERAGENCY AGREEMENTS.—Section 502(f) is amended—

(1) by striking "The departments" and inserting the following:

"(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

"(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

"(C) The Access Board may arrange to carry out the responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

"(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

"(2) The departments"; and

(2) in paragraph (2), as so designated by paragraph (1)—

(A) by striking "subsection" and inserting "paragraph" in the second sentence; and

(B) in the second sentence—

(i) by striking "Secretary" and inserting "Chairperson"; and

(ii) by striking "the daily pay rate for a person employed as a GS-18 under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(f) REPORT.—Section 502(g) is amended—

(1) by inserting "(1)" after "(g)";

(2) in paragraph (1), as so designated by paragraph (1) of this subsection—

(A) in the second sentence, by striking "clauses (5) and (6)" and inserting "paragraphs (7) and (8)"; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following:

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

(g) REPORT CONTAINING ASSESSMENT.—Section 502(h) is amended—

(1) by striking paragraph (1) and all that follows through "(2)" and inserting "(1)";

(2) in paragraph (1), as so redesignated by paragraph (1) of this subsection, by striking the second and third sentences; and

(3) by adding at the end the following:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (2) and (4) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered to be a gift, devise, or bequest to the United States.

"(B) The Access Board shall issue regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a government program or any official involved in the program.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 502(i) is amended by striking "fiscal years 1987 through 1992" and inserting "fiscal years 1993 through 1997".

SEC. 505. EMPLOYMENT UNDER FEDERAL CONTRACTS.

(a) CONTRACTS.—Section 503(a) (29 U.S.C. 793(a)) is amended—

(1) by striking "$2,500" each place the term appears and inserting "$10,000"; and

(2) in the first sentence, by striking ", in employing persons to carry out such contract,".

(b) WAIVER.—Section 503(c) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

"(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.".

(c) STANDARDS AND PROCEDURES.—Section 503 is amended by adding at the end the following:

"(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.

"(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.".

SEC. 506. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.

Section 504 is amended by adding at the end the following new subsection:

"(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.".

SEC. 507. SECRETARIAL RESPONSIBILITIES.

(a) ACCESS.—Subsections (a) and (c) of section 506 (29 U.S.C. 794b) are amended by inserting "Access" before "Board" each place the term appears.

(b) COMMUNITY REHABILITATION PROGRAMS.—Section 506(a)(1) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(c) COMPENSATION.—Section 506(b) is amended by striking "the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332" and inserting "the rate specified for level V of the Executive Schedule under section 5316".

(d) CONFORMING AMENDMENT.—Section 506(c) is amended by striking "502(h)(2)" and inserting "502(h)(1)".

SEC. 508. INTERAGENCY COORDINATING COUNCIL.

The first sentence of section 507 (29 U.S.C. 794c) is amended by striking "Chairperson of the Office of Personnel Management" and inserting "Director of the Office of Personnel Management".

SEC. 509. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

(a) GUIDELINES.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

"(a) GUIDELINES.—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce and have access to information and data comparable to the access of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) COMPLIANCE.—Each Federal agency shall comply with the guidelines established under this section.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act by striking the item relating to section 508 and inserting the following:

"Sec. 508. Electronic and information technology accessibility guidelines.".

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

SEC. 601. PILOT PROGRAM.

(a) DEFINITION.—Section 611(a) (29 U.S.C. 795(a)) is amended by striking "section 7(8)" and inserting "section 7(8)(A)".

(b) PERSONAL ASSISTANCE SERVICES.—Section 611(b)(1)(K) (29 U.S.C. 795(b)(1)(K)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 602. TREATMENT OF PERSONAL ASSISTANCE SERVICES COSTS.

Section 613(c) (29 U.S.C. 795b(c)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 603. DEFINITIONS.

Section 616 (29 U.S.C. 795e) is amended—

(1) by striking "; and" at the end of paragraph (2) and inserting a period; and

(2) by striking paragraph (3).

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 617 (29 U.S.C. 795f) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

SEC. 605. PROJECTS WITH INDUSTRY.

(a) IN GENERAL.—Section 621(a) (29 U.S.C. 795g(a)) is amended to read as follows:

"(a)(1) The purpose of this part is to create and expand job opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job opportunities and the skills needed to perform such jobs, to create practical job readiness and training programs, and to provide job placements.

"(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, which shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor; and

"(II) individuals with disabilities and their representatives;

"(ii) identify job availability within the community;

"(iii) identify the skills necessary to perform the jobs identified; and

"(iv) prescribe training programs designed to develop job skills appropriate for the jobs in individuals with disabilities;

"(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment in the competitive market;

"(C) provide job placement services;

"(D) to the extent appropriate, provide for—

"(i) the development and modification of jobs to accommodate the special needs of such individuals;

"(ii) the distribution of rehabilitation technology to such individuals; and

"(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

"(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment for which the individuals have received training under this part.

"(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

"(A) the numbers and types of individuals with disabilities served;

"(B) the types of services provided;

"(C) the sources of funding;

"(D) the percentage of resources committed to each type of services provided;

"(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

"(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

"(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

"(H) the number of project participants who were terminated from project placements and the duration of such placements.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 as the Act relates to employment of individuals with disabilities.".

(b) AGREEMENT.—Section 621(b) is amended to read as follows:

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated co-workers of the individual, and that such individuals with disabilities shall not be segregated from the co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.".

(c) EVALUATION.—Section 621(d) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

"(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations."; and

(2) by redesignating paragraph (4) as paragraph (3).

(d) ADMINISTRATION.—Subsections (e) through (h) of section 621 are amended to read as follows:

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2)(A) The Commissioner shall to the extent practicable assure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are not currently served or are underserved by projects.

"(B) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable.

"(3) The Commissioner shall review each annual evaluation report submitted under subsection (b)(3) and, using indicators described in subsection (f)(1), make a determination concerning the termination, modification, or renewal of each grant under this section.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) The Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

"(4) The term 'workers with disabilities' shall mean more than one individual with a disability who—

"(A) is working in competitive employment; and

"(B) needs new or upgraded skills to—

"(i) improve the employment opportunities of the individual; and

"(ii) adapt to emerging technologies, work methods, and markets.".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 623 (29 U.S.C. 795i) is amended by striking "$16,070,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 607. SUPPORTED EMPLOYMENT.

(a) PROGRAM.—Title VI is amended by striking part C (29 U.S.C. 795j et seq.) and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"SEC. 631. PURPOSE.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for those individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

"SEC. 632. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that no State shall receive—

"(A) less than $250,000, or one-third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) for a fiscal year in which the amounts appropriated to carry out this part exceed by not less than $1,000,000 the appropriations made to carry out this part in fiscal year 1992, less than $300,000, or one-third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) OTHER JURISDICTIONS.—

"(A) DEFINITION.—For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

"(B) MINIMUM ALLOTMENT.—Each of the jurisdictions described in subparagraph (A) shall be allotted not less than one-eighth of 1 percent of the amounts appropriated for each such jurisdiction for the fiscal year for which the allotment is made, except that Palau shall be allotted not less than such one-eighth for the fiscal year, pending ratification of the Compact of Free Association.

"(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State to carry out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State for such year.

"SEC. 633. AVAILABILITY OF SERVICES.

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (d) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

"SEC. 634. ELIGIBILITY.

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with the most severe disabilities; and

"(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A) identifies supported employment as the appropriate rehabilitation objective for the individual.

"SEC. 635. STATE PLAN.

"(a) State Plan Supplements.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) Contents.—Each such plan supplement shall—

"(1) designate each agency such State designated under section 101(a)(2)(B) as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment of the rehabilitation needs of individuals with severe disabilities conducted under section 101(a)(5), with respect to the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of efforts to identify and make arrangements with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of efforts to identify and make arrangements with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) that the comprehensive assessments conducted under section 102(b)(1)(A) and funded under title I of individuals with severe disabilities will include consideration of supported employment as an appropriate rehabilitation objective;

"(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized written rehabilitation program;

"(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided onsite; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

"SEC. 636. RESTRICTION.

"Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

"SEC. 637. SAVINGS PROVISION.

"(a) Supported Employment Services.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) Postemployment Services.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) Table of Contents.—The table of contents relating to title VI is amended by striking the items relating to part C and inserting the following:

"Part C—Supported Employment Services for Individuals With Severe Disabilities

"Sec. 631. Purpose.
"Sec. 632. Allotments.
"Sec. 633. Availability of services.
"Sec. 634. Eligibility.
"Sec. 635. State plan.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

SEC. 701. CENTERS AND SERVICES.

(a) Programs.—The Act is amended by striking title VII (29 U.S.C. 796 et seq.) and inserting the following new title:

"TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

"Part A—General Provisions

"SEC. 701. PURPOSE.

"The purpose of this title is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

"(1) providing financial assistance to develop and support statewide networks of centers for independent living;

"(2) providing financial assistance to States for providing, expanding, and improving the provision of independent living services; and

"(3) providing financial assistance to States to improve working relationships among—

"(A) centers for independent living;

"(B) Statewide Independent Living Councils established under section 704;

"(C) State vocational rehabilitation programs receiving assistance under title I;

"(D) State programs of supported employment services receiving assistance under part C of title VI;

"(E) client assistance programs receiving assistance under section 112;

"(F) programs receiving assistance under other titles of this Act;

"(G) programs receiving assistance under other Federal programs; and

"(H) programs receiving assistance through non-Federal sources.

"SEC. 702. DEFINITIONS.

"As used in this title:

"(1) Center for independent living.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with disabilities; and

"(B) provides an array of independent living services.

"(2) Consumer control.—The term 'consumer control' means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

"SEC. 703. STATE PLAN.

"(a) Eligibility.—

"(1) In general.—To be eligible to receive financial assistance under this title, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such information as the Commissioner may require, including, at a minimum, the information required under this section.

"(2) Submission.—The plan shall be jointly signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) REVIEW AND REVISION.—The plan shall provide for the review and revision, not less often than once every 3 years, of the plan to ensure the existence of appropriate planning, financial support, coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the development and support of a statewide network of centers for independent living;

"(B) the provision of independent living services; and

"(C) working relationships among—

"(i) such centers and services; and

"(ii) the vocational rehabilitation program established under title I and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this title until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 704.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this title based on the plan;

"(2) provide administrative support services for programs under parts B and C;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this title.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this title to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this title to meet such objectives.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 724.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, the State plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) WORKING RELATIONSHIPS.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the Statewide Independent Living Council and centers for independent living; and

"(2) the designated State unit, other State agencies represented on the Statewide Independent Living Council, councils that address the needs of specific disability populations and issues under other Federal law, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION BETWEEN CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES.—The plan shall describe how services provided under part B will be coordinated with, or complement, services provided under part C.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—The plan shall set forth steps to be taken regarding outreach to unserved and underserved populations with respect to services provided under this title and centers funded under this title.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this title will—

"(1) notify all individuals seeking or receiving services under this title about the availability of the Client Assistance Program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this title;

"(4)(A) keep such records, as the Commissioner may determine to be appropriate including records that fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit; and

"(B) afford such access to such records, and submit such reports with respect to information contained in such records, as the Commissioner may determine to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives to be achieved under the plan, including evaluation of satisfaction by individuals with disabilities.

"(o) ADMINISTRATIVE COSTS.—The plan shall include an assurance that the designated State agency will not use more than 5 percent of the financial assistance made available under this title to pay for the administrative costs of carrying out this title. Funds used to support the resource plan for the Statewide Independent Living Council under section 704(e) shall not be considered to be used to pay for such administrative costs.

"SEC. 704. INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this title, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within another State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—The Council shall be composed of members—

"(A) who provide statewide representation;

"(B) who represent a broad range of individuals with disabilities;

"(C) who are knowledgeable about centers for independent living and independent living services; and

"(D) a majority of whom are persons who are—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF THE COUNCIL.—The Council shall—

"(1) develop and submit (in conjunction with the designated State agency) the State plan required by this title;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under part B of this title and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

"SEC. 705. RESPONSIBILITIES OF THE COMMISSIONER.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 703 that the Commissioner determines meets the requirements of section 703, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 703.

"(B) APPLICATION.—For purposes of the application describe in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 703.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 724.

"(c) ON-SITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards set forth in section 724. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this title.

"SEC. 706. AUTHORIZATION OF APPROPRIATIONS.

"(a) INDEPENDENT LIVING SERVICES.—There are authorized to be appropriated to carry out part B such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"(b) CENTERS FOR INDEPENDENT LIVING.—There are authorized to be appropriated to carry out part C such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—There are authorized to be appropriated to carry out part D such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"PART B—INDEPENDENT LIVING SERVICES

"SEC. 711. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 705 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraph (1)(C) and under paragraph (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(b) Proportional Reduction.—Amounts necessary to increase the allotments of States under subsection (a)(1)(B), or under subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2) as increased in accordance with subsection (a)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) Reallotment.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

"(a) Payments.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 705. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) Federal Share.—

"(1) In general.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 705.

"(2) Non-federal share.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) Determination.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"SEC. 713. AUTHORIZED USES OF FUNDS.

"The State shall use funds received under this part to provide the resources described in section 704(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

"(1) to provide independent living services;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to unserved and underserved populations with respect to services provided under this title.

"Part C—Centers for Independent Living

"SEC. 721. PROGRAM AUTHORIZATION.

"(a) In General.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (e).

"(b) Reservation for Training and Technical Assistance.—

"(1) Grants; contracts; other arrangements.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, the lesser of—

"(A) the amount of the excess; or

"(B) $550,000 or 2 percent of such funds, whichever is greater.

"(2) Training and technical assistance.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) Funding priorities.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) Review.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(5) Prohibition on combined funds.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

"(c) In General.—

"(1) States.—

"(A) Population basis.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 705 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) Maintenance of 1992 amounts.—Subject to the availability of appropriations to carry out this part the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) Minimums.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than $3,500,000, the allotment to any State under subparagraph (A) shall be not less than $500,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $500,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts; and

"(ii) if such excess is less than $3,500,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts.

"(2) Other jurisdictions.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) Adjustment.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraphs (1)(C) and (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made; minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year, bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(d) Proportional Reduction.—Amounts necessary to increase the allotments of States under subsection (c)(1)(B), or under subsection (c)(1)(C) as increased under subsection (c)(3), or to provide allotments under subsection (c)(2) as increased in accordance with subsection (c)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (c)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $500,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(3).

"(e) Reallotment.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"(f) Transition Rules.—

"(1) Reservation.—

"(A) Fiscal year 1993.—For fiscal year 1993, the Secretary shall first reserve from the funds appropriated to carry out this part, $550,000 or 2 percent of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

"(B) Training and technical assistance.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

"(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

"(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

"(C) Review.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(D) Prohibition on combined funds.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

"(2) In general.—

"(A) Grants.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies and organizations described in subparagraph (B) to operate centers for independent living.

"(B) Agencies.—

"(i) Fiscal year 1992 recipients.—Private nonprofit agencies that received funding directly or through subgrants or contracts under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993 such agencies will meet the standards described in section 724(b) and that contain the assurances described in section 724(c). In determining whether a center meets the standards described in section 724(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

"(ii) Other agencies.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

"(C) Priority.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) Establishment.—

"(1) In general.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c), (d), or (e) of section 721 for such year.

"(2) Grants.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 724.

"(b) Eligible Agencies.—In any State in which the Commissioner has approved the State plan required by section 703, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 724 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 724; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) Existing Eligible Agencies.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 724.

"(d) New Centers for Independent Living.—

"(1) In general.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) Selection.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 724;

"(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

"(v) budgets and cost-effectiveness;

"(vi) evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently not served, or are underserved, by independent living programs, consistent with the provisions of the State plan submitted under section 703 regarding establishment of a statewide network of centers for independent living.

"(3) Current centers.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) Order of Priorities.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living that comply with the standards and assurances set forth in section 724, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living that comply with the standards and assurances set forth in section 724.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 724. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 724, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c), (d), or (e) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 724.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 703, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 724 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 724;

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 724.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 703 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 724 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 724;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living that comply with the standards and assurances set forth in section 724, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living that comply with the standards and assurances set forth in section 724.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 724. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 724, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of a State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council.

"(h) Adverse Actions.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS FOR INDEPENDENT LIVING.

"(a) In General.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this title and the objective of providing assistance effectively and efficiently.

"(b) Standards.—

"(1) Philosophy.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) Provision of services.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) Independent living goals.—The center shall assist in the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

"(4) Community options.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

"(5) Independent living core services.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services specified in section 7(30)(B).

"(6) Activities to increase community capacity.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

"(7) Resource development activities.—The center shall conduct resource development activities to obtain funding from sources other than this title.

"(c) Assurances.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 703;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with a severe disability on the same terms and conditions required with respect to the employment of individuals with a disability under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with severe disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with severe disability receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the Client Assistance Program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach unserved and underserved populations of individuals with severe disabilities;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (7);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (7) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 703(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

"SEC. 725. DEFINITIONS.

"As used in this part, the terms 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 726. CENTERS OPERATED BY STATE AGENCIES.

"(a) Fiscal Year 1993.—

"(1) In general.—Notwithstanding section 702(1), if—

"(A) no nonprofit private agency—

"(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(ii) obtains approval of the application under section 722 or 723; and

"(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(f)(2) for the conduct, administration, and evaluation of such a center.

"(2) Compliance.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

"(b) Fiscal Year 1994 and Succeeding Fiscal Years.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

"SEC. 727. EFFECTIVE DATE.

"The provisions of this part shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of the Rehabilitation Act of 1973, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

"Part D—Protection and Advocacy of Individual Rights

"SEC. 731. PURPOSE.

"It is the purpose of this part to support systems to protect the legal and human rights of individuals with disabilities whose request for services cannot be addressed by, or who are ineligible for, the Client Assistance Program under section 112 and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 6041 et seq.) (referred to in this part as 'protected individuals').

"SEC. 732. PROGRAM AUTHORIZATION AND ALLOTMENTS.

"(a) TECHNICAL ASSISTANCE.—From the amount appropriated to carry out this part for a fiscal year, the Secretary shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this part.

"(b) APPROPRIATIONS LESS THAN $5,500,000.—

"(1) ALLOTMENTS.—After making the reservation required by subsection (a), for any fiscal year in which the amount appropriated to carry out this part is less than $5,500,000, the Secretary may make allotments from the remainder of such amount in accordance with paragraph (2) to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this part for protected individuals.

"(2) BASIS.—From such remainder for each such fiscal year, the Secretary shall allot an equal amount to each eligible system, except as provided in paragraph (3).

"(3) ELIGIBILITY.—An eligible system that received funds from appropriations for fiscal year 1992 to carry out part D of title VII of this Act, as in effect on the day before the date of enactment of this section, shall not be eligible for such allotments under this part for fiscal year 1993 unless the amount of the allotment as determined in paragraph (2) is greater than the amount of funds received by such system for such year under such part.

"(4) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States.

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) ALLOTMENTS.—After making the reservation required by subsection (a), for any fiscal year in which the amount appropriated to carry out this part equals or exceeds $5,500,000, the Secretary may make allotments from the remainder of such amount in accordance with paragraph (2) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this part for protected individuals.

"(2) BASIS.—From such remainder for each such fiscal year, the Secretary shall allot to each eligible system within a State an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States. Except as provided in paragraph (3), the allotment to any system under the preceding sentence shall not be less than $100,000 or one-third of 1 percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this part for any fiscal year that is less than $100,000 or one-third of 1 percent of such remainder shall be increased to the greater of the two amounts.

"(3) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States and shall each be allotted not less than $50,000 for the fiscal year for which the allotment is made.

"(d) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraphs (2) and (3) of subsection (a) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(1) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made; minus

"(2, the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(e) REALLOTMENTS.—

"(1) IN GENERAL.—The amount of an allotment to a State for a fiscal year under subsection (b) or (c) that the Secretary determines will not be required by the State during the period for which the allotment is available for the purpose for which it was allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made.

"(2) PROPORTION.—The amount shall be available for reallotment to such States, except as provided in paragraph (3) in proportion to the original allotments of such States for such fiscal year.

"(3) REDUCTION.—The sum to be reallotted to a State under paragraph (2) shall be reduced to the extent the sum exceeds the sum the Secretary estimates such State needs and will be able to use during such fiscal year. The total of such reduction shall be similarly reallotted among the States whose sums were not so reduced. Any such amount reallotted to a State under this subsection for a fiscal year shall be deemed to be part of the allotment of the State for such fiscal year.

"SEC. 733. ELIGIBILITY FOR ASSISTANCE.

"As used in this part, the term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act and that meets the requirements of section 734.

"SEC. 734. SYSTEM REQUIREMENTS.

"(a) ELIGIBILITY.—To be eligible to receive assistance under this part, a system shall—

"(1) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act;

"(2) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including individuals with disabilities and their representatives, as appropriate, and other persons, an opportunity to comment on the objectives and priorities established and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this part with protection and advocacy programs established under the Developmental Disabilities Assistance and Bill of Rights Act and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986, the Client Assistance Program under section 112, and the State long-term care ombudsmen program established under the Older Americans Act of 1965; and

"(3) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with disabilities have full access to services of the system.

"(b) ASSURANCES.—To be eligible to receive assistance under this part, a system shall provide assurances to the Secretary that funds made available under this part will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided and such additional assurances and information as the Commissioner considers appropriate.

"SEC. 735. DIRECT FUNDING.

"Notwithstanding any other provision of law, the Secretary shall pay directly to any system that complies with the provisions of this part, the amount of the allotment of the system under this part, unless the system designates another entity to receive payment.

"SEC. 736. DELEGATION.

"The Secretary may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to title VII and inserting the following:

"TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. State plan.
"Sec. 704. Independent living council.
"Sec. 705. Responsibilities of the Commissioner.
"Sec. 706. Authorization of appropriations.

"PART B—SERVICES FOR INDEPENDENT LIVING

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 724. Centers for independent living.
"Sec. 725. Definitions.
"Sec. 726. Centers operated by State agencies.
"Sec. 727. Effective date.

"PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"Sec. 731. Purpose.
"Sec. 732. Program authorization and allotments.
"Sec. 733. Eligibility for assistance.
"Sec. 734. System requirements.
"Sec. 735. Direct funding.
"Sec. 736. Delegation.".

TITLE VIII—RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

SEC. 801. PROJECTS.

(a) IN GENERAL.—The Act (29 U.S.C. 701 et seq.) is amended by adding at the end the following:

"TITLE VIII—RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

"SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEMONSTRATION PROJECTS.—There are authorized to be appropriated to carry out section 802, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(b) TRAINING INITIATIVES.—There are authorized to be appropriated to carry out section 803, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(c) RESEARCH INITIATIVES.—There are authorized to be appropriated to carry out section 804, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"SEC. 802. DEMONSTRATION PROJECTS.

"(a) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

"(1) GRANTS.—

"(A) ESTABLISHMENT.—The Commissioner may make grants to States and public and nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the choice of providers of vocational rehabilitation services.

"(B) USE OF FUNDS.—An entity that receives a grant under subparagraph (A) may use funds made available through the grant—

"(i) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(ii) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

"(2) AWARD OF GRANTS.—In making grants under paragraph (1), the Commissioner may take into consideration the—

"(A) diversity of strategies to be used to increase client choice, including choice among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(3) APPLICATION.—To be eligible to receive a grant under paragraph (1), an entity shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) a description of—

"(i) the manner in which the entity intends to promote increased consumer choice, including a description, if appropriate, of the manner in which the entity will determine the value of any voucher offered to an eligible client; and

"(ii) the outreach activities to be conducted by the entity to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals of the client;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for the initiation of the services, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule for determining whether such goals are being achieved.

"(4) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(5) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection must be used for direct services, as specifically chosen by the eligible clients.

"(6) EVALUATION.—

"(A) IN GENERAL.—The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers.

"(B) RESERVATION.—The Commissioner may reserve funds to carry out the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

"(7) DEFINITIONS.—As used in this subsection:

"(A) DIRECT SERVICES.—The term 'direct services' means the vocational rehabilitation services specified in section 103(a).

"(B) ELIGIBLE CLIENT.—The term 'eligible client' means an individual with a disability as defined in section 7(8)(A) who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.

"(b) TRANSITION DEMONSTRATION PROJECTS.—

"(1) GRANTS.—The Commissioner may make grants to public and nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(3) EVALUATION.—An agency or organization that receives a grant under this paragraph shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

"(c) STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICE DELIVERY.—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(d) DEMONSTRATION PROJECTS TO UPGRADE WORKER SKILLS.—

"(1) GRANTS.—Consistent with the purpose of section 621, the Commissioner may award grants to partnerships or consortia that include private business concerns or industries to assist the partnerships or consortia in developing and carrying out model demonstration projects for workers with disabilities to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

"(2) PERIOD.—Grants awarded under this subsection shall be for a 3-year period.

"(3) APPLICATION.—Any partnership or consortium desiring a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) providing assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of the project;

"(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of section 621(a)(2);

"(iii) the partnership or consortium will disseminate information on the model program conducted;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

"(v) an evaluation report containing data specified by the Commissioner will be submitted at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

"(4) FEDERAL PAYMENTS.—Federal payments under this subsection with respect to any project may not exceed 80 percent of the costs of the project.

"(5) DEFINITION.—As used in this subsection, the term 'workers with disabilities' shall mean more than one individual with a disability who—

"(A) is working in competitive employment; and

"(B) needs new or upgraded skills to—

"(i) improve the employment opportunities of the individual; and

"(ii) adapt to emerging technologies, work methods, and markets.

"SEC. 803. TRAINING INITIATIVES.

"(a) REHABILITATION TRAINING PROJECTS.—

"(1) ESTABLISHMENT.—For the purpose of addressing unmet and emerging needs in the area of rehabilitation training, the Commissioner may make grants to and enter into contracts with State and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of establishing rehabilitation training projects.

"(2) PROJECTS.—Such a rehabilitation training project may provide training, traineeships, inservice training, continuing education, workshops, and technical assistance, and carry out related activities, designed to—

"(A) develop or improve the skills of rehabilitation personnel, including supported employment program personnel, client assistance program personnel, independent living center personnel, and personnel providing rehabilitation technology, to provide services under this Act to individuals with disabilities;

"(B) provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act; or

"(C) develop the skills of individuals with disabilities, their parents, family members, guardians, advocates, or authorized representatives, and other appropriate parties, to become active decisionmakers in the rehabilitation process.

"(3) AREAS.—An agency or organization that receives a grant or enters into a contract under paragraph (1) shall use funds made available through the grant or contract to establish a rehabilitation training project concerning—

"(A) rehabilitation technology;

"(B) job placement;

"(C) transition services;

"(D) best practices in serving individuals with specific disabilities, including disability groups that are emerging, or are unserved, or underserved, by programs under this Act;

"(E) best practices in serving individuals from diverse ethnic and cultural backgrounds; or

"(F) the provisions of this Act and related Acts, including the Americans with Disabilities Act of 1990.

"(4) CONSIDERATIONS.—In making a grant to, or entering into a contract with, an agency or organization under paragraph (1), the Commissioner shall consider the ability of the agency or organization—

"(A) to maximize training opportunities for the widest possible audience, including the ability to provide such training in rural or remote areas through distance training techniques;

"(B) to utilize multidisciplinary training for persons from a variety of rehabilitation settings, such as—

"(i) community rehabilitation program personnel;

"(ii) personnel of client assistance programs, independent living centers, and supported employment programs; and

"(iii) individuals with disabilities and their families; and

"(C) to provide training materials in accessible formats.

"(5) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(b) TRAINING AND INFORMATION GRANTS.—

"(1) DEFINITION.—As used in this subsection, the term 'covered individual' means—

"(A) an individual with a disability;

"(B) a parent, family member, guardian, advocate, or authorized representative, of such an individual; and

"(C) another appropriate party.

"(2) ESTABLISHMENT.—The Commissioner may make grants to nonprofit private organizations to establish training and information programs for covered individuals to enable such individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities.

"(3) REQUIREMENTS.—Such training and information programs shall be designed to—

"(A) meet the unique training and information needs of covered individuals, including covered individuals who are members of groups that have been traditionally underrepresented, who are living in the area to be served by the grant; and

"(B) serve individuals with disabilities with the full range of disabilities, the parents, family members, guardians, advocates, and authorized representatives, of such individuals, and other appropriate parties.

"(4) AWARD OF GRANTS.—In making grants under this subsection, the Commissioner shall ensure that—

"(A) the grants are distributed geographically to the greatest extent possible throughout all the States; and

"(B) targeted to covered individuals—

"(i) in both urban and rural areas;

"(ii) within a State; or

"(iii) within a region.

"(5) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), a nonprofit private organization shall—

"(A)(i) be governed by a board of directors that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals; or

"(ii)(I) have a membership that represents the interests of individuals with disabilities; and

"(II) establish a special governing committee to operate the training and information program under this section, that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals; and

"(B) submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to conduct effectively the training and information activities authorized under this section.

"(6) CONSULTATION.—Each nonprofit private organization operating a training and information program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist covered individuals located in the jurisdictions served by the program.

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

"(8) COORDINATION AND TECHNICAL ASSISTANCE.—The Commissioner shall, by grant, contract, or cooperative agreement, provide coordination and technical assistance for establishing, developing, and coordinating such training and information programs.

"(c) BRAILLE TRAINING GRANTS.—

"(1) ESTABLISHMENT.—The Commissioner may make grants to and enter into contracts with State and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of Braille for personnel providing rehabilitation services or educational services to youth and adults who are blind.

"(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

"(A) development of Braille training materials; and

"(B) inservice or preservice training in the use of Braille and methods of teaching Braille to youth and adults who are blind.

"(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"SEC. 804. RESEARCH INITIATIVES.

"(a) GRANTS.—

"(1) ESTABLISHMENT.—In addition to carrying out projects under section 204, the Director of the National Institute on Disability and Rehabilitation Research may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research activities described in paragraphs (2) through (4).

"(2) REHABILITATION TECHNOLOGY RESEARCH AND RESOURCE CENTER.—Such grants may be used for the establishment and support of a Rehabilitation Technology Research and Resource Center that meets the requirements of subparagraphs (A) through (C), and (E) through (G), of section 204(b)(3). Such a Center shall have an area of focus not identified in section 204(b)(3)(D) and shall conduct research or demonstration activities relating to emerging program trends and technologies, based on public input and the recommendation of the Rehabilitation Research Advisory Council established under section 205.

"(3) MODEL SYSTEMS.—Research grants may be used to establish model systems of comprehensive service delivery to individuals with severe disabilities other than spinal cord injuries requiring a multidisciplinary system of providing vocational and other rehabilitation services where the Director determines that the development of such systems is needed.

"(4) MODEL PERSONAL ASSISTANCE SERVICES SYSTEMS.—Research grants may be used to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.".

(b) ACCOUNT.—There shall be established an account with a distinct designated budget account identification code number in the President's budget, for activities under title VIII of the Rehabilitation Act of 1973. Funding for such activities shall be available only to such extent as is provided, or in such amounts as are provided, in appropriations Acts. Such account shall be separate and distinct from the accounts for all other activities under titles I through VII of such Act.

(c) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by adding at the end the following:

"TITLE VIII—RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

"Sec. 801. Authorization of appropriations.
"Sec. 802. Demonstration projects.
"Sec. 803. Training initiatives.

"Sec. 804. Research initiatives.".

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

SEC. 901. CONGRESSIONAL FINDINGS.

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by inserting ", the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing," after "1960's"; and

(2) in paragraph (5), by striking "invested approximately $10,000,000" and inserting "made a substantial investment".

SEC. 902. CONTINUED OPERATION OF CENTER.

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) in subsection (a) (as so redesignated by paragraph (2))—

(A) by striking "pursuant to section 313 of the Rehabilitation Act of 1973" and inserting "prior to the date of enactment of this Act"; and

(B) by striking "(c)" and inserting "(b)"; and

(4) in subsection (b) (as so redesignated by paragraph (2))—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;";

(C) by striking "and" after the semicolon in paragraph (3) (as so redesignated by subparagraph (A));

(D) by striking the period in paragraph (4) (as so redesignated by subparagraph (A)) and inserting "; and"; and

(E) by inserting after paragraph (4) (as so redesignated by subparagraph (A)) the following new paragraph:

"(5) maintain a national registry in order to provide information and data regarding individuals who are deaf-blind.".

SEC. 903. AUDIT, MONITORING, AND EVALUATION.

Section 204 of the Helen Keller National Center Act (29 U.S.C. 1903) is amended in subsection (a) by striking "at such time as the Secretary shall prescribe" and inserting "within 15 days following the completion of the audit and acceptance of the audit by the Center".

SEC. 904. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended in subsection (a) by striking "1987 through 1992" and inserting "1993 through 1997".

SEC. 905. DEFINITIONS.

Section 206 of the Helen Keller National Center Act (29 U.S.C. 1905) is amended—

(1) in paragraph (1), by striking "section 313 of the Rehabilitation Act of 1973 and continued under"; and

(2) in paragraph (2), to read as follows:

"(2) the term 'individual who is deaf-blind' means any individual—

"(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or, if there is a field defect, central acuity of 20/200 such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

"(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

"(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

"(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

"(C) meets such other requirements as the Secretary may prescribe by regulation; and".

SEC. 906. CONSTRUCTION OF ACT, EFFECT ON AGREEMENTS.

Section 207 of the Helen Keller National Center Act (29 U.S.C. 1906) is amended by striking "Industrial Home for the Blind, Incorporated" and inserting "Helen Keller Services for the Blind, Incorporated".

SEC. 907. ESTABLISHMENT OF A PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

"SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the 'Endowment Fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) FEDERAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

"(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c) INVESTMENTS.—

"(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) LIMITATIONS.—

"(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia.

"(B) REAL ESTATE.—The Endowment Fund corpus and income may not be invested in real estate.

"(C) CONFLICT OF INTEREST.—The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

"(D) ENCUMBRANCES.—The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) IN GENERAL.—For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

"(2) OPERATIONAL AND COMMERCIAL EXPENSES.—

"(A) IN GENERAL.—The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

"(B) LIMITATION.—The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

"(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

"(B) EXCEPTION.—The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by a natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) REPORTING REQUIREMENTS.—

"(1) FINANCIAL RECORDS.—The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

"(2) AUDIT AND REPORT.—

"(A) AUDIT.—The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

"(B) REPORT.—The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

"(3) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

"(g) Definitions.—For the purposes of this section:

"(1) Endowment fund.—The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) Endowment fund corpus.—The term 'Endowment Fund corpus' means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

"(3) Endowment fund income.—The term 'Endowment Fund income' means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

"(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.".

SEC. 908. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Deaf-Blind Individuals.—Paragraphs (1) through (4) of section 202, and section 203(b)(3) (as so redesignated by paragraphs (2) and (4)(A) of section 902), of the Helen Keller National Center Act (29 U.S.C. 1901 and 1902(b)(3)) are amended by striking "deaf-blind individuals" each place the term appears and inserting "individuals who are deaf-blind".

(b) Deaf-Blind Individual.—Section 203(b)(1) of such Act (29 U.S.C. 1902(b)(1)) (as so redesignated by section 902(2)) is amended by striking "deaf-blind individual" and inserting "individual who is deaf-blind".

(c) Deaf-Blind Youths and Adults.—

(1) Sections 202(4), 203(a) (as so redesignated by section 902(2)), and 206(1) of such Act (29 U.S.C. 1901(4), 1902(a), and 1905(1)) are amended by striking "Deaf-Blind Youths and Adults" each place the term appears and inserting "Youths and Adults who are Deaf-Blind".

(2) Section 203 (29 U.S.C. 1902) is amended in the section heading by striking "DEAF-BLIND YOUTHS AND ADULTS" and inserting "YOUTHS AND ADULTS WHO ARE DEAF-BLIND".

Subtitle B—Other Programs

SEC. 911. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

(a) Wagner-O'Day Act.—Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "the Blind and Other Severely Handicapped" and inserting "People Who Are Blind and Severely Disabled".

(b) Small Business Act.—Section 15(c)(1) of the Small Business Act (15 U.S.C. 644(c)(1)) is amended by striking "the Blind and Other Severely Handicapped" and inserting "People Who Are Blind or Severely Disabled".

SEC. 912. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) Training or Retraining.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who—

"(A) are involved in providing instruction to individuals who are deaf; and

"(B) are not certified as teachers of such individuals,

to meet the communications needs of such individuals.".

(b) Notice.—

(1) In general.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall issue a Notice of Inquiry concerning the definition of the term "serious emotional disturbance" as used in the Individuals with Disabilities Education Act.

(2) Public comment.—The Secretary of Education shall provide a public comment period of at least 90 days and shall request and consider—

(A) comments from the public on the need to revise the definition of the term in the regulations implementing such Act; and

(B) comments from the public on whether the term as used in such Act should be changed and on whether the substitution of the term "emotional and behavioral disorders" would be appropriate, or whether some other term should be used.

(3) Definition.—The Notice of Inquiry shall contain the following proposed definition for use in the regulations implementing such Act:

"(1) As used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):

"(A) The term 'serious emotional disturbance' means a disability that is—

"(i) characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills;

"(ii) more than a temporary, expected response to stressful events in the environment;

"(iii) consistently exhibited in two different settings, at least one of which is school-related; and

"(iv) unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.

"(B) The term includes such a disability that co-exists with other disabilities.

"(C) The term includes a schizophrenic disorder, affective disorder, anxiety disorder, or other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).

"(2) The term 'seriously emotionally disturbed' means, with respect to a child, that the child has a serious emotional disturbance.".

(4) Report.—The Secretary shall, within 7 months after the end of the comment period, prepare a report containing a summary of the public comments described in paragraph (2)(B) received as a result of the Notice of Inquiry, and recommendations concerning whether such Act should be amended. The report shall be submitted to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate.

SEC. 913. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is amended—

(1) in section 221(a)(1) (29 U.S.C. 2251(a)(1)), by striking "nonprofit or for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,";

(2) in section 222(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,"; and

(3) in section 231(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,".

SEC. 914. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

The Joint Resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (36 U.S.C. 155a) is amended—

(1) by striking "handicapped persons" and inserting "persons with disabilities";

(2) by striking "the handicapped" and inserting "such persons";

(3) by striking "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991," and inserting "for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,"; and

(4) by striking "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".

NOTICE OF HEARING

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, August 12, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 3095, Jena Band of Choctaws Louisiana Restoration Act; and for other purposes, to be followed immediately by an oversight hearing on Indian Trust Fund Management.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., August 11, 1992, to receive testimony on S. 3127, the Outer Continental Shelf Deep Water Production Incentives Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 12, 1992, at 10 a.m. to hold a hearing on the reauthorization of the Office of Justice Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Tuesday, August 11, 1992, at 10 a.m. to conduct a hearing on the consolidation of the professional liability section of the RTC Legal Division.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Tuesday, August 11, 1992, at 9:30 a.m. in room 325 of the Russell Senate Office Building for hearings to examine U.S. Government and other efforts on behalf of the POW/MIA's in Southeast Asia.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, August 11, 1992, to hold a hearing on corruption in professional boxing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, August 11, 1992, immediately following the conclusion of the 10 a.m. open session, in executive session, to discuss possible additional hearings and witnesses on Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, August 11, 1992, at 10:00 a.m., in open session, to receive testimony on the situation in Bosnia and appropriate United States and Western responses.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., August 11, 1992, to receive testimony on S. 2505, to amend the Land and Water Conservation Fund Act of 1965 to provide for the establishment of the America the Beautiful Passport to facilitate access to certain federally administered lands and waters, and enhance the recreation and visitor facilities thereon, to authorize the Secretary of Agriculture to enter into challenge cost-share agreements, and for other purposes; S. 2723, and H.R. 4999, to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; S. 3100, to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes; and H.R. 4276, to amend the Historic Sites, Buildings, and Antiquities Act to place certain limits on appropriations for projects not specifically authorized by law, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, August 11, 1992, at 2 p.m., to hold a hearing on reauthorization of the independent counsel law.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 11, 1992, at 2:30 p.m. to hold a hearing on the nomination of Dennis Jacobs to be U.S. circuit judge for the second circuit, Anita B. Brody to be U.S. district judge for the Eastern District of Pennsylvania, C. Leroy Hansen to be U.S. district judge for the District of New Mexico, Nathaniel M. Gorton to be U.S. district judge for the District of Massachusetts, John Phil Gilbert to be U.S. district judge for the Southern District of Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 11, 1992, at 10 a.m. on pending committee business.

Agenda:

1. S. 2642, Aviation Noise Improvement and Capacity Act of 1992 (Sam Whitehorn, Carol Carmody);
2. H.R. 5465, Aviation Insurance Act (Carol Carmody, Sam Whitehorn);
3. S. 2297, Land Remote Sensing Policy Act of 1992 (Steve Palmer, Mike Nelson);
4. S. 3150, Federal Trade Commission Act Amendments of 1992 (Moses Boyd, Claudia Simons)
5. S. 3096, Bicycle Helmet Promotion Act (Moses Boyd, Claudia Simons)
6. H.R. 1297, Clean Vessel Act of 1991 (Mike Nussman, Penny Dalton)
7. S. 1898, Marine Mammal Health and Stranding Response Act (Penny Dalton, Mike Nussman)
8. Nomination of Jose Antonio Villamil, of Florida, to be Under Secretary of Commerce for Economic Affairs (Loretta Dunn, Becky Kojm); and
9. Nomination of Mary Jo Jacobi, of Mississippi, to be Assistant Secretary of Commerce for Congressional and Intergovernmental Affairs (Becky Kojm).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TROOPS IN THE BALTICS

• Mr. SIMON. Mr. President, one of the things that still disturbs many of us is the continued presence of Russian troops in the Baltic nations.

Recently, the New York Times ran an article titled "Why Are Russians Still Here? the Free Baltics Ask." It is written by Celestine Bohlen. Whenever I see her byline, I wonder whether she is related to former Ambassador "Chip" Bohlen. I don't know the answer to that.

But the excellent story outlines why there are serious concerns.

The new Russian Government could create a great deal of goodwill for itself if it were to remove those troops as expeditiously as possible.

I recognize the delicacy of the situation that President Yeltsin faces. He does not want to offend the military too much. But I would hope that gradually the Russians could join everyone in recognizing that the presence of these troops is not desirable.

And I would say to the Russians that we understand when troops are not welcome. The situation in the Philippines was dramatically different. But the people of the Philippines expressed a desire for the United States military to leave bases there, and we have slowly complied with the wishes of the people of the Philippines. We were somewhat reluctant to do it, as the Russians are in the Baltic countries, but we are doing it, and we're better off for doing it; and the Russians will be better off once they do it, too.

I'm taking the liberty of sending a copy of this article, as well as my statement, to the Russian Ambassador.

I ask to insert the article into the RECORD at this point.

The article follows:

WHY ARE RUSSIANS STILL HERE? THE FREE BALTICS ASK

(By Celestine Bohlen)

TALLINN, ESTONIA.—Russia's slow and uncertain withdrawal of its troops from the three Baltic states is adding new poison to a relationship already polluted by unresolved legacies of Soviet rule.

A recent shooting outside a Russian navy depot here, where Russian paratroopers moved in to regain control of a building seized hours before by Estonian troops, has underscored fears that the tensions could veer out of control and lead to even more dangerous incidents.

But for the Baltic governments, preparing to celebrate their first year of independence from the old Soviet Union, the greatest concern is that Russia, which ruled this region in czarist times, is not ready to relinquish its imperial ambitions.

[Meeting on Thursday in Moscow with the foreign ministers of Estonia, Latvia and Lithuania, the Russian Foreign Minister, Andrei V. Kozyrev, proposed 1994 as the deadline for withdrawal, if the Baltic states make concessions. These include a renunciation of claims on land lost to Russia after the republics' annexation by the Soviet Union in 1940 and an end to demands for compensation for damages done by the Soviet Army during its 50-year occupation.

[According to the news agency Interfax, Mr. Kozyrev also said Russia would insist that its troops in the Baltics, now estimated at 130,000, be granted legal status until their withdrawal, and that laws "infringing on the political and economic rights of ethnic Russians" be amended. Russia's demands promise a new round of tough negotiations.]

FIREFIGHT ON MARYA STREET

Here in Estonia, the smallest of the three Baltic states, anxieties about the Russian military presence increased in July when Russian paratroopers opened fire in a street in Tallinn, firing off 985 machine-gun rounds as they took over a navy vehicle depot that had been seized by the Estonian Defense Forces. Two Russians were slightly wounded.

Many details about the shooting on Marya Street are still unclear, including who on each side gave approval for troops to be moved in.

The Government at first said the Estonian Defense Forces had been dispatched without authorization. But Jaan Manitski, the Foreign Minister, argued vehemently that on all matters concerning the continuing presence of Russian troops, right is always on Estonia's side.

"WHO IS TO BLAME"

"As long as there are tens of thousands of military personnel on our soil who don't follow our laws and who don't honor international law, then the details are not important," he said in an interview. "The basic issue is who is to blame, and the Estonian side does not feel it is."

Mr. Manitski, who spent almost all of his life in exile and returned to Estonia only after it regained its independence, still smarts from the Russian military's refusal to grant him permission to visit Paldiski, the site of a submarine base. "But it is not just a submarine base, it is an Estonian town, where Estonians live, and the Estonian Government has no access," he said.

"Five percent of Estonian territory is still under Russian control," he said. "There is an island in Tallinn harbor that is entirely occupied. We even have a foreign military unit stationed 300 meters from our Parliament."

The unresolved status of the troops has worsened another sore point in Estonia and Latvia, where sizable Russian minorities—more than 30 percent of Estonia's 1.6 million residents and Latvia's 2.7 million—have been made stateless by strict citizenship laws.

Last month, the Russian Parliament passed a resolution threatening economic sanctions against Estonia over its treatment of ethnic Russians, which Moscow saw as a violation of democratic principles. In Tallinn, the vote was taken as a sign of rising Russian nationalism, which, given the Estonians' history, many here fear is only a step away from Russian imperialism.

Estonia is also pressing its claim for the return of territories that were handed over to the Russian federation during Soviet rule. "We have no territorial claim on Russia," Mr. Manitski said. "We only want recognition of the legal borders" established between Russia and Estonia in 1920, when Estonia was independent.

Withdrawal of Russian troops has topped the agenda at talks between Russia and all three Baltic states. But according to both Estonians and Western diplomats, Russia has been slow to start negotiating in earnest. "We are increasingly convinced that the Russians do not want to get out of the Baltics," said one Western diplomat.

THE SLOW WITHDRAWAL

Last May, Russia's defense minister, Gen. Pavel Grachev, said the Baltic states were "unfair" in their call for a rapid pullout. "We are not an occupying force," he said in a published interview. "We shall withdraw in stages on the basis of treaties, as we are doing with troops based in Germany and Poland." Russian officials have repeatedly cited the problems of finding new housing for returning soldiers.

In fact, Russia is withdrawing troops from Estonia, but on its own terms. A year ago, the number of troops was estimated at 50,000; today, the estimate ranges from 15,000 to 20,000.

In Lithuania, only a few thousand troops have been withdrawn, leaving about 30,000, according to official figures. The greatest concentration is in Latvia, where the total may be as high as 80,000.

In Estonia, a base for Backfire bombers near the university town of Tartu and a tactical-fighter base near Parnu have been evacuated, diplomats said. "All along the coast, where you used to come up to a fence guarded by Russian soldiers, you now see open gates, swinging on their hinges," one diplomat said.

KEEPING NEWCOMERS OUT

One reason for the drop in troop levels has been Estonia's successful effort to stop the influx of conscripts through strict visa regulations.

But according to Mr. Manitski, the Russians' departure has been almost as insulting as their presence. "They have left some bases but what we are sorry to see is their behavior when they leave," he said. "Everything has been stripped or destroyed. This is something we cannot understand."

Mr. Manitski suggested that such destruction was one reason why the Estonian Defense Forces occupied the vehicle depot on Marya Street. "We cannot allow foreign countries to destroy our property as they are about to leave," he said. "This was our property that they occupied 50 years ago."●

TRIBUTE TO RED McILVAINE

● Mr. BRYAN. Mr. President, it is my privilege to rise today to pay tribute to one of Nevada's most well-loved media personalities, and my personal friend, Red McIlvaine.

Red's legendary broadcasting career began while he was still in high school. At the age of 16, he was hired as an announcer for a New Jersey radio station. By the age of 17, he successfully auditioned for the famous band leader Horace Heidt, and became the youngest radio announcer on network radio. After touring the world for 6 years with the Heidt Orchestra, Red turned his attention to serving his country. He entered the military where he continued his career as an entertainer by appearing in shows with Air Force Special Services.

After serving with the Air Force, Red returned to radio. He became a top-rated deejay in Phoenix and then moved on to Los Angeles where he became one of America's leading radio personalities.

In 1966, Red came to Las Vegas where he has been brightening the lives of Nevada residents ever since with his keen wit and warm spirit. He was the morning man on KORK radio and became so popular he was given the host position on the successful Nevada television show "Today at Noon" on KVBC. Both his radio show and his television show were the highest rated programs in the history of Las Vegas broadcasting.

Red was also the TV news anchor on KTNV-TV in Las Vegas and served as the advertising and public relations director for the Frontier Hotel. He performed an invaluable service when he toured the country as an ambassador for Las Vegas, broadcasting his radio show in cities across America. He even found time to write a successful book entitled "Your Guide to Las Vegas." Most recently Red has written columns for the Las Vegas Sun.

Red has selflessly devoted himself to Nevada children's charities with the same commitment he puts into everything he does. He has served as emcee, telethon host, and press advocate for such worthy causes as the Children's Miracle Network, the March of Dimes, the Kidney Foundation, the Sunshine Bus Committee, the B'nai B'rith, and the Help Them Walk Again Foundation among others.

On Friday, August 21, 1992, Red's family, friends, and colleagues will gather at the Stardust Hotel in Las Vegas, to honor him. Red McIlvaine has enriched the lives of Nevadans for 25 years with his bright sense of humor and energetic personality. He is a well-loved man who has given freely of himself to the people of the community as a successful author, media personality, and humanitarian. He is a treasured friend whose good work has changed Nevada for the better and we are truly in his debt.●

TALENTED NAPERVILLE HIGH SCHOOL STUDENT

• Mr. SIMON. Mr. President, we have in our country a great many talented young people, who pay attention to issues and who really give me encouragement for the future.

Recently I saw a column written by Jennifer Chen for her high school newspaper, the North Star, in Naperville, IL. Jennifer is the daughter of Nancy Chen, who ably runs my Chicago office.

Those who read the CONGRESSIONAL RECORD may agree or disagree with what she has to say, written at the time of the Clarence Thomas hearings and before the Senate vote, but the fact that she shows an interest and writes clearly and sensitively about what is taking place should be a matter of encouragement to everyone.

We need more young people—as well as people of all ages—who pay attention to the issues and are sensitive to the problems of the rest of humanity.

I ask to insert into the RECORD the article written by Jennifer Chen.

The article follows:

STRIDES

(By Jennifer Chen)

This summer, witnessed an end of a judicial era as eighty-three year old Supreme Court Justice Thurgood Marshall resigned after twenty-three years of protecting and fighting for individual freedoms in the nation's highest court. Even before his Supreme Court days, he proved to be a brilliant litigator when he argued the landmark case Brown v. The Topeka Board Education before the Supreme Court and when he helped integrate Little Rock Central High School in 1957. As a champion of individual liberties, he was considered to be the architect of civil rights. Although we say farewell to Marshall, we are endowed with his contributions.

Replacing Justice Marshall is a difficult task. President Bush nominated a black conservative, Judge Clarence Thomas, to fill the vacant seat. So far, his nomination has evoked strong concerns from liberals and the African-American community. His nomination itself contradicts Bush's opposition of quotas because many believe that Bush nominated Thomas solely on the basis of his race. Thomas does not have the support of organizations like NAACP or that of 25 out of 26 black congressmen. Will Judge Thomas be able to fill Justice Marshall's shoes?

One of Clarence Thomas's contradictions is his belief in "black self help." Like Booker T. Washington, he believes that Africa-Americans should build strength in their own communities instead of relying on others. That's fair, but while he opposes affirmative action programs, he himself benefited from minority-aid programs throughout his life. And now he wants to deny others what he enjoyed? As the chairman of the Equal Employment Opportunity Commission, he failed to remedy the civil rights violations as his predecessors had, and also let thousands of age discrimination cases lapse.

Will Clarence Thomas be a champion for the less fortunate as Justice Marshall was in the past quarter of a century? To make his "self help" point in a speech in 1980, Thomas unashamedly used his sister as an example of a welfare dependent person. Thomas's sister, Emma Mae Martin, was the opposite of "dependent." She remained with her mother, while her brother was sent off to live with his grandfather so he could have a better education. She graduated from high school, and balanced two minimum wage jobs while her brother was attending Yale law school. She was deserted by her own husband and had to stop working to care for an elderly aunt. The story of Emma Mae Martin isn't one of a woman who did not utilize Judge Thomas's "self help" method; it's a story about hard work. It's ironic how Thomas, given all of the advantages his sister lacked, did not use his success to help her. (His sister not holding any grudges, faithfully sat behind him during his confirmation hearings before the Senate Judiciary Committee.)

The Supreme Court now, already dominated by conservatives may overturn Roe v. Wade, the landmark case which gave woman the right to choose abortion. As women's reproductive and privacy rights may again be challenged in the Supreme Court, Clarence Thomas' view on abortion is a great concern to women's groups.

The American Bar Association gave Clarence Thomas a "qualified" rating, a very marginal approval. Past Supreme Court Nominees who were confirmed have all received "well qualified" ratings. Thomas's judicial experience is also minimal. He served in the U.S. Circuit Court of Appeals in Washington D.C. for less than two years. Clarence Thomas is only 43 years old. Justice Marshall retired at the age of 83. We can logically expect Thomas to serve on the Supreme Court for forty years. Are we ready for a Justice Clarence Thomas?•

UNFORTUNATE PLIGHT OF HAITIAN PEOPLE

• Mr. BRADLEY. Mr. President, I ask unanimous consent that two letters authored by Mr. Robert R. Klein, professor of public administration at Rutgers University, be printed in the RECORD to emphasize the complex nature of the state of affairs in Haiti and the unfortunate plight that has befallen the Haitian people.

The letter follows:

[From the Star-Ledger, Apr. 17, 1992]

THE U.S. OWES HAITI HELP NOT EMBARGO

DEAR EDITOR:

With the controversy raging about forcibly sending Haitian exiles back to their country ruled by a repressive military junta that overthrew a democratically elected government, Americans should keep in mind a history that links the United States with Haiti:

Haiti and the U.S. were the first two nations in our hemisphere to attain independence from foreign domination.

Haitian military men under French command fought for the U.S. in the American Revolution.

U.S. Marines occupied Haiti for almost 20 years, 1915-1934, as the State Department wrote and rewrote Haitian constitutions and made and unmade Haitian presidents—all in Washington, D.C.

For 30 years U.S. presidents, with the exception of John F. Kennedy and Jimmy Carter, looked the other way as Francois (Papa Doc) Duvalier and his son repressed, terrorized and murdered thousands of political opponents.

In December 1990, millions of ordinary Haitians voted overwhelmingly for a democratic president and later for a legislature at the public urging and with the financial underwriting of the U.S. government through the Organization of American States and the U.N. This writer was an official observer for the Organization of American States.

Now, doesn't the United States owe Haitians at least temporary refuge from a military gang that overthrew our election? Don't the American people—who have given millions in foreign aid to Haiti over the years—still now owe Haiti something for the 2,000 Haitian resisters who were killed opposing the Marine occupation?

Does not our great nation owe Haiti more than an embargo that is devastating the Haitian economy and punishing not the Haitian colonels and elite, but the poorest of the poor in city and rural areas?

Doesn't the U.S. owe Haiti something other than letting the kind, gentle, artistic, pro-American Haitian people hang out to dry, just as we allowed the Kurds and Shities to be crushed because we did not finish the job against Saddam Hussein? Does the United States not owe its Haitian friends liberation?

ROBERT R. KLEIN.

[From the Star-Ledger, June 13, 1992]

BUSH IS DENOUNCED AS HEARTLESS ON HAITI

DEAR EDITOR: When George Bush ordered that persecuted Haitians fleeing a brutal military dictatorship be forced back to Haiti, it was one of the most cruel, hypocritical and cynical acts of a heartless administration.

This one act is redolent of U.S. and western countries in the 1930s which refused to give temporary refuge to hundreds of thousands of persecuted Jews who were shipped back to Hitler's Nazi death camps.

In the past 30 years the United States has accepted refugees from Cuba, Salvador, Guatemala, Vietnam, the Soviet Union, Afghanistan, Cambodia, Lebanon and Kuwait among others. Have Americans forgotten that from 1840 to 1921 our government welcomed 35 million immigrants from almost every country in the world who, like the Haitians, were fleeing political and economic persecution? My own parents fled both Czarist anti-Semitic pogroms and Communist terror arriving in the United States in 1922. What would have become of me and my immigrant parents had George Bush been President in 1922? Bodies for the Nazi death camps or the Soviet Gulag Archipelago! Instead, I was born an American, attended three universities, became a United States Foreign Service Reserve Officer, served a governor and President of the United States—and this as the first generation son of immigrants who spoke broken English until the day they died!

What Americans must understand is that we owe Haiti special debts that we can never repay even with millions in foreign aid. Here are the historical facts from one who lived and worked in Haiti:

Haitian troops under French command fought the British at the battle of Savannah blockading English ships in what George Washington called one of the decisive battles of the American Revolution.

In 1915 U.S. Marines invaded and occupied Haiti for 19 years killing 2,000 Haitian resisters, one of whom was Charlemagne Peralte, a Haitian national hero. The Marines left behind many excellent public works as well as a legacy of intimidation and segregation. Yet Haitians never hated Americans; they admired and trusted our democracy—until George Bush decided that Haitians are not human beings.

During World War II Haiti declared war against Nazi Germany at the urging of the United States. The U.S.A. was allowed to experiment in Haiti with a plant substitute for rubber and ruined thousands of acres of Haiti's already poor land.

During 40 years of Cold War, Haitian representatives at the United Nations and the Organization of American States (OAS) supported every major American initiative against Communist expansionism.

During the 30-year Duvalier dynasty from 1957–86, the United States government covertly and openly supported the Duvalier dictatorship although the embassy in Port au Prince had a daily record of Duvalier's arrests, imprisonments, beatings, disappearances and murders. I was a Cultural and Public Affairs Officer in the American embassy and was privy to much of this information from 1957 to 1959. Of our presidents only John F. Kennedy and Jimmy Carter suspended aid to Haiti in protest against Duvalier's violations of human rights.

In early 1959 a fatuous and ignorant Republican administration dispatched a U.S. Marine mission to Port au Prince to "train" Duvalier's army. The mission wound up training the army and the repressive police, while Haitians viewed the Marines as symbols of official U.S. support for dictator Duvalier.

In the 1960s the American embassy called in American doctors from Guantanamo Naval Base to treat Duvalier's near fatal heart attack, misdiagnosed by Duvalier's own palace physician. The U.S. government saved dictator Duvalier's life! Duvalier's personal physician was head of the murderous Tons Tons Macoutes or secret police! So the Bush reward for Haiti is continued suspension of foreign economic aid and an Executive Order declaring that fleeing Haitian refugees will be sent back to the very military gang we have denounced, condemned and embargoed! Is this being done to Haitians because they are poor or is it because they are black?

We must compel the OAS and the United Nations to establish multiple refugee camps for Haitians throughout Latin America identical to those in the Middle East for Palestinian refugees. And we must recruit an OAS military force ready to challenge the Haitian military junta. Such public recruitment would send Haitian military leaders into planes en route to Miami or Paris without one shot being fired. In 200 years the Haitian Army has never fought or repelled a substantial foreign invader. It's only task has been to suppress and murder innocent Haitians and kick presidents out of power.

Our problem is not Haiti: It is George Bush. President Bush suffers from Politicus Interruptis: He sends us to fight Saddam Hussein but hesitates to deliver the coup de grace! He denounces the Haitian military coup, but imposes an embargo that starves the poor Haitian who came out in the millions at U.S. urging to vote for a president.

I ask George Bush: When was the last time an embargo brought down an oppressive regime? The 30-year embargo against Castro? The embargo against Saddam Hussein? The time for embargoes is over. What the United States owes Haiti is liberation from a corrupt, repressive and illegal dictatorship by whatever means available!

ROBERT R. KLEIN.

TRENTON.•

GENERATION TO GENERATION AWARDEE

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to a truly extraordinary person, Ms. Roberta Peters, on the occasion of the B'nai B'rith International Dor L'Dor Awards. On Monday, September 7, B'nai B'rith will present its highest award to Ms. Roberta Peters of the Metropolitan Opera for her multifarious contributions to the arts.

Ms. Peters has enchanted audiences for more than 40 years with her incandescent vocal radiance. Her beautiful voice, great showmanship, and winning charm have continued to captivate a worldwide public since her debut as Zerlina in Mozart's "Don Giovanni." She immediately became one of the Metropolitan's most prized sopranos.

Roberta Peters has maintained a tremendous schedule of concerts recitals and personal appearances throughout her career, singing an average of 40 engagements each season. She has performed with the world's major orchestras, on its major recital stages and at such celebrated summer festivals as the Salzburg Festival, Ravinia, the Hollywood Bowl, and Robin Hood Dell.

Ms. Peters was born in New York City and spent the whole of her teen years studying voice in order to make singing her career. At the tender age of 19, Roberta Peters was signed by the Metropolitan Opera and has performed well over 500 performances since then.

Best known for her coloratura heroines of grand opera, Ms. Peters is also acclaimed for heroines in other styles. She is also active in the fields of operetta and musical comedy.

Although opera is the center of Ms. Peters artistic life, it certainly isn't the whole of her life. She has devoted herself to social causes, such as the National Cystic Fibrosis Foundation, for which she served as National Chairman for a number of years, to Israel Bonds, and most recently to appearances and concerts benefiting AIDS research. She has taken an active part in efforts by Congress to aid in Government funding for the arts, and serves on boards of the Metropolitan Opera Guild and the Carnegie Hall. In 1991, she was appointed by President Bush to the National Council on the Arts, a post to which she has been confirmed by the Senate for a term that extends through 1996.

For the great lady that she is, and all that she has given to the world, it is only right that she is being honored with an award that is aptly named the Generation to Generation Award. Roberta Peters, I congratulate you for this great honor and wish to thank you for your many contributions to the great State of New York, indeed the world. I wish you many more successes in all of your future endeavors.•

THE 80TH BIRTHDAY RECOGNITION OF MS. MARY BURKE

• Mr. BINGAMAN. Mr. President, I rise today to express my very best wishes to Ms. Mary Burke as she celebrates her 80th birthday. Mary reigns as one of New Mexico's most esteemed citizens, a woman who dedicated her life to education and community service.

Mary was born on August 18, 1912, in Santa Rosa, NM. It was in Santa Rosa that she received her eighth grade graduation certificate signed by her mother, who served as the superintendent of schools. After finishing her high school education in Silver City, Mary entered the University of New Mexico. However, her pursuit of a higher education was abbreviated, cut short by the Depression. Forced to leave the university, Mary received a teaching certificate and taught school in Gallup. But when she married in the mid-1930's, Mary was compelled to leave her job—the school district would not allow married women to serve as teachers. It was not until the beginning of World War II, when the men in the community were called to serve their country, that Mary was able to again pursue her life's dedication. In 1951 she began work with the Albuquerque Public School District, remaining there until her retirement in 1976.

Dedicated to her own educational pursuits, Mary was determined to complete her college degree. During summer breaks from teaching, with four children in tow, Mary would spend her vacation months in Colorado, eventually receiving a bachelors degree in education in 1950 from the University of Denver. Eight years later, she received a masters degree in education from the University of New Mexico. Mary graduated in the same class as one of her daughters, who received her bachelors degree on the same day.

Mr. President, the New Mexican Democratic Party has also been a beneficiary of Mary Burke's talent and enthusiasm. An active party participant, Mary served as a New Mexico delegate to the 1976 Democratic National Convention. She still, today, fondly recalls the convention at which the party nominated Jimmy Carter as their presidential candidate. Never a year went by when Mary did not serve the party in some way. Mary volunteered her time and energy to me in both my campaigns for the U.S. Senate. No volunteer worked harder than Mary did on my behalf.

Today, Mary remains an extraordinary community participant. She serves on the Keep Albuquerque Beautiful Committee. Between her community tasks and her 13 grandchildren, Mary maintains an active, productive life. I am happy to stand before you today to recognize but a few of Mary's accomplishments over the past 80 years, and on behalf of all New Mexicans to wish her many happy years to come.•

TO COMMEND TRULY HUMANITARIAN WORK

• Mr. D'AMATO. Mr. President, I rise today on behalf of some of my constituents who do some pretty amazing work in New York, the Metropolitan Jewish Geriatric Center. On September 10 they will be celebrating their 85th anniversary. This monumental milestones offers a time to reflect on the multifarious achievements of the past, and a time to look to the future with a renewed sense of purpose. Their future will include playing a major role in assuring the highest standards of care for a burgeoning segment of the population.

From its beginning in 1907, a commitment to provide the quality of care for the aged has been the hallmark of Metropolitan Jewish Geriatric Center [MJGC] in Brooklyn, NY.

Like the founders of what was then the Brooklyn Hebrew Home and Hospital for the Aged, those who guide Metropolitan's destiny today give expression to the principle that the elderly should enjoy their later years in a productive, stimulating, and compassionate environment which affirms the right to receive care with dignity, respect and love.

Through its residential and extensive outreach programs and its affiliated services, MJGC is already setting a standard for high quality care for the aging. Perhaps the most vivid example of this can be found in the Shorefront Jewish Geriatric Center in Coney Island where considerable emphasis is placed on the care and treatment of patients with Alzheimer's disease.

The September 10 celebration also will pay a well-deserved tribute to Eli S. Feldman, MJGC's executive vice president and chief executive officer.

During his 25-year career with MJGC, Mr. Feldman has been the guiding force behind the introduction of a number of pace-setting programs and services that have been emulated by geriatric care facilities throughout the Nation. Especially noteworthy are those that serve older adults living at home, programs that are at once cost-effective yet meet the medical and related needs of the elderly.

Mr. Feldman and all the officers and board of directors of MJGC are to be commended for performing truly humanitarian work. They represent the best of New York and I wish to salute them.•

TROJAN NUCLEAR POWERPLANT

• Mr. HATFIELD. Mr. President, yesterday the Portland General Electric Co. [PGE] announced that it would close the Trojan Nuclear Powerplant in 1996. This is a significant event for Oregon and the Nation, and I fully support PGE's management and board of directors' decision to close Oregon's only commercial nuclear powerplant.

Trojan is located in Rainier, OR, 42 miles north of Portland on the Columbia River. The plant generates 1,100 megawatts of electricity and employs over 1,300 people. It comprises about 25 percent of PGE's total energy supply, and between 10 and 15 percent of all the electricity consumed in Oregon. In other words, Mr. President, regardless of whether you are an opponent or a supporter of nuclear power, this facility has been an important component of the Pacific Northwest's energy supply for many years.

While I applaud the company's decision to phase-out the operation of Trojan over the next 4 years, I also recognize that it will take several years to plan and build the new generating resources necessary to replace Trojan. To complicate the picture, the Pacific Northwest has only recently moved out of a period of energy surplus and now finds itself in the position of needing to increase its electricity supply by at least 2,300 megawatts by the turn of the century.

Given this situation, there is no doubt in my mind that PGE has made the wisest possible decision. The company has determined that phasing out Trojan is the most cost effective alternative for its customers, has taken into account the public's skepticism of the long-term safety of the facility, and has allowed itself ample time to build new generating facilities. The phase-out period also will provide adequate time for relocating and retraining the Trojan work force.

Mr. President, the Trojan plant has been the subject of considerable controversy during its 16 years of operation. There have been concerns relating to the plant's ability to withstand earthquakes, controversies and lawsuits over construction flaws, numerous criticisms by the Nuclear Regulatory Commission concerning safety procedures, and a string of State ballot initiatives seeking immediate closure of the plant until a permanent commercial waste repository is in operation.

Perhaps the most serious problem for the facility occurred last June when, during a period of routine maintenance, hairline cracks were found in 3,000 tubes in Trojan's four steam generators, posing a threat of radioactive water leaks. The plant was shutdown for nearly a year while the faulty tubes were repaired or plugged. The reactor was finally restarted on February 29. The plant has operated without a hitch for the past 5 months, and in fact, has earned its highest marks ever from the NRC during this time. PGE's management recognized, however, that the four steam generators would have to be replaced eventually if the plant was to be operated throughout the remainder of its existing license period, which ends in 2011. The company estimated the cost of replacing the steam generators to be approximately $200 million.

With this huge expenditure staring it in the face, PGE set out on a least cost planning process 10 months ago to identify the most cost effective course of action. The company considered three alternatives: First, immediate closure of the facility; second, phaseout of the plant over 4 to 6 years; and third, replacement of the four steam generators and operate the plant for the remainder of its useful life.

Yesterday's action was a sound business decision, and was the result of an intense least cost planning process. The analyses associated with the process showed the 4-year phaseout of the plant to be more cost effective than either immediate termination or repairing and operating the plant until the end of its useful life in 2011. Not only is this a sound business strategy, it also is good public policy.

Mr. President, the management and board of directors of PGE have taken a bold and visionary step with this decision. This action will usher in a new era of electric energy resources in Oregon which will be more closely aligned with the State's environmental values. I expect this action to accelerate the region's investments in energy conservation and renewable energy resources. I strongly support this decision, and hope my fellow Oregonians will see the wisdom in it.•

CONCERNING THE NOMINATION OF ED CARNES

• Mr. SHELBY. Mr. President, last Friday the Senate began the debate on the nomination of Ed Carnes to be a judge on the 11th Circuit Court of Appeals. I totally support this nomination and believe that if all Senators closely examine Mr. Carnes' record, they will agree that he is qualified for this important judicial position.

In order to give my colleagues an opportunity to study Mr. Carnes' record, I ask that a number of articles and letters concerning Ed Carnes be printed in the RECORD.

The material follows:

[From the Atlanta Journal/the Atlanta Constitution, Feb. 13, 1992]

ED CARNES A GOOD CHOICE FOR 11TH CIRCUIT BENCH

Because I know Ed Carnes, I would like to respond to the recent Constitution editorial opposing his nomination to the 11th Circuit Court of Appeals.

I doubt if anyone could ever fill Judge Frank Johnson's shoes, but in fairness, his public remarks about Ed's nomination should be noted.

In a Birmingham News article, Judge Johnson praised the quality of Ed's work in the 11th Circuit and said that it made him a "very good" choice for the court.

As the executive director of the Southern Poverty Law Center, I have defended many defendants facing the death penalty and have litigated against Ed often. Although I am a foe of the death penalty, I know that Ed is a person of tremendous integrity and talent.

He has consistently refused to knuckle under to political pressure from state prosecutors bent on upholding death sentences at any cost. As an assistant attorney general, he has argued against the prosecution position taken by district attorneys in capital cases.

Ed also has promptly disclosed exculpatory material he has found hidden in the files of local prosecutors, resulting in convicted murderers being given new trials. He has embarrassed local prosecutors and incurred their wrath in an effort to ensure fair trials.

He has also stood up to bias on the bench. On two occasions, he has successfully prosecuted misconduct charges against state judges who engaged in racist behavior. In both instances, the judges were removed from office.

I can understand why those who are opposed to the death penalty could have a visceral reaction to his nomination and might have a motive for misrepresenting his record.

All I can say is that he is a person of integrity, competence and outstanding character. He will make a fine judge.

MORRIS DEES.

MONTGOMERY, AL.

[From the Mobile Press, May 4, 1992]

CARNES PUBLICLY AND PRIVATELY OPPOSED RACIAL DISCRIMINATION

(EDITOR'S NOTE: The following column is a response to a syndicated column by Colman McCarthy, which appeared April 27 in the afternoon Press.)

(By Joan Byers)

The recent column by Colman McCarthy arguing against confirmation of Edward Carnes' nomination to the U.S. Court of Appeals typifies the opposition to this nomination.

Those opposing Carnes are using his nominations as a forum to re-argue an issue they have lost in every other forum—the issue of capital punishment. Every witness who appeared to testify against Carnes at his confirmation hearing admitted strong opposition to capital punishment.

Those opposing this nomination have a problem. About three-fourths of the American people believe capital punishment is a necessary weapon in society's arsenal against crime, as do at least 73 members of the Senate, according to the last roll call vote on the issue.

For the opponents of this nomination to admit their true motivations would be to concede the battle. So, they cloak their opposition in terms of race and fairness, all the while being unfair to the nominee. McCarthy's column typifies that tactic.

Apparently assuming that Carnes is responsible for every prosecutorial, jury and judicial decision in every Alabama capital case, McCarthy proceeds to argue that in Alabama, and in other states, capital punishment is administered in a racially discriminatory way.

As with so many critics of capital punishment, McCarthy has his facts wrong. The percentage of blacks who have been executed in Alabama in the modern era matches the percentage of blacks who have been arrested for homicide.

A statistical study done in the 1980s (by an opponent of capital punishment) found that 53 percent of Alabama capital defendants tried for killing a white were sentenced to death, while 68 percent of capital defendants tried for killing a black received the death penalty.

Specific cases further disprove McCarthy's thesis. One Alabama capital case has gone to execution in which the defendant was under two death sentences—one in a white victim case and the other in a black victim case. That defendant was executed for murdering the black victim, not the white victim.

The one execution carried out in Alabama involving both white and black co-defendants also indicates an absence of racial discrimination. A white man hired two black hit men to murder his wife. The white man was executed, while his two black co-defendants received prison sentences.

The argument that capital punishment should be abolished to guard against racial discrimination is one with which many black survivors of capital murder victims disagree.

A young black woman whose mother was brutally raped, sodomized and murdered by a convict out on a work-release pass had only one complaint when the murderer was executed in Alabama. Her complaint was that it had taken almost 11 years to have that sentence carried out.

A black woman whose 11-year-old child was blown to bits by an anti-personnel bomb placed on her porch by a man with a grudge against the family had a similar complaint. Before that murderer was finally executed in Alabama, the mother of the victim said, "So long as he is alive there's a chance he may get out and get the rest of us. I can't rest until he gets the chair." There is a wide gulf between people who live issues and those, like McCarthy, who only write about them.

It is absurd for McCarthy to argue against Carnes because the Alabama statute does not contain a provision prohibiting racial discrimination in jury selection. No capital punishment statute in the country contains such a provision.

None is necessary, because the Constitution prohibits such discrimination. Carnes is responsible for writing into law a provision requiring the Alabama appellate courts to review every death sentence to insure that it is not tainted by "passion, prejudice or other arbitrary factor."

Attacking Carnes' nomination under guise of racial discrimination is particularly unfair because of his civil rights record. Morris Dees is the foremost civil rights lawyer in the South and one of the strongest supporters of Carnes' nomination.

Dees has accurately described Carnes' record against racial discrimination as "outstanding." Carnes worked to ban the importation of South African coal mined by indentured labor. He has represented black public officials sued by whites. Carnes prosecuted two judges on judicial disciplinary charge for engaging in racist behavior. He got both of them removed from the bench.

Carnes also successfully handled the legal effort to have the murder conviction upheld in the 16th Street Baptist Church bombing case, where the Ku Klux Klan murdered four young black girls who were attending Sunday school.

He has also been the leader in the effort to prevent white defendants from striking blacks off juries for racially discriminatory reasons. In one case, involving the Ku Klux Klan murder and lynching of a young black man, Carnes' efforts on that issue in the Supreme Court were joined by the Southern Christian Leadership Conference and the Southern Poverty Law Center.

As Dees has pointed out, Carnes' public record against racial discrimination parallels his private conduct. He attends an integrated church. Unlike so many nominees, he has never belonged to a country club or other organization that discriminates based on race or sex.

If those opposing this nomination were truly concerned with civil rights, instead of pursing their anti-capital punishment agenda, they would be among Carnes' strongest supporters.

They would join Judge Frank Johnson Jr. who has publicly stated that Carnes is a "very good" choice for the position. But then, Johnson is known for his principled judgment stand forthrightness, not for duplicity and unfairness.

[From the National Law Journal, July 27, 1992]

ED CARNES IS A FOE OF RACIAL DISCRIMINATION

In criticizing Ed Carnes, who was nominated to the 11th U.S. Court of Appeals because of Judge Frank Johnson's retirement, Jack Bass insults the judge by suggesting that his published comments favoring Carnes were based upon ignorance. ("A Worthy Successor He is Not," NLJ, July 20.) The true explanation for Judge Johnson's position is his fairness.

Mr. Carnes has been an ardent foe of racial discrimination both in and out of the courtroom. He worked to bar the importation of South African coal. He personally prosecuted disciplinary charges against two racist judges and had them removed from the bench. As chief counsel for the state on appeal, he preserved the conviction of the Klansman who murdered four young black girls in the notorious 16th Street Baptist Church bombing case.

Mr. Carnes told the Judiciary Committee that racially discriminatory jury strikes were always unfair. And he has acted according to that belief. Long before the Batson decision. Carnes urged district attorneys not to discriminate against blacks in jury selection. He even advised the Alabama attorney general to move the trial of a black defendant to a venue where more black people would serve on the jury.

After the Batson decision. Mr. Carnes successfully pushed to have the ruling extended in Alabama to prevent white defendants from discriminating against black jurors. In published remarks three years ago, he explained that his position was not that the defense and prosecution should be "working at the same level, but that racial discrimination is wrong."

Mr. Carnes' professional stand against racial discrimination is reflected in his private life. Unlike so many nominees, he has never belonged to a racially exclusive club, and he attends an integrated church.

Mr. Carnes is not a Republican hack. He has served under four state attorneys general, all of whom were Democrats and all of whom wholeheartedly support his nomination. He has the strong support of both Alabama's Democratic senators. He also has the strong support of elected officials in Alabama who are black, including Supreme Court Justice Oscar Adams, Circuit Judge Charles Price and State Rep. Alvin Holmes, chairman of the Affirmative Action Committee of the Black Legislative Caucus.

Mr. Bass quotes Representative Holmes' glowing tribute to Judge Johnson during the ceremony naming the courthouse in the Judge's honor. What he fails to quote is Mr. Holmes' endorsement of Mr. Carnes. In a letter to the Judiciary Committee, Mr. Holmes stated: "I have known Mr. Carnes for many years and have known him to be fair and impartial toward all citizens without regard to race or color."

In my view, Mr. Holmes was right about both Judge Johnson and Ed Carnes. Ed is a person of intelligence and character. He will be an excellent judge.

MORRIS DEES,
Executive Director,
Southern Poverty Law Center.
MONTGOMERY, AL.

[From the Fulton County Daily Report, Apr. 29, 1982]

RESPONSE TO BRENT NEWTON'S LOST HEROES

(By Morris Dees)

I have not tried to live my life to be one of Brent Newton's "heroes," but I was sorry to learn nevertheless that I've lost his admiration because of my support for Ed Carnes. Let me explain why Brent and I differ on the Carnes nomination.

Like Brent, I am an opponent of the death penalty. During my career, I have represented approximately 50 capital defendants. (I hope that Brent represents as many during his career once he gets out of law school.) I have also helped write capital case trial manuals and have lectured widely on representing defendants facing the death penalty.

Unlike Brent, I do not believe that support for capital punishment should be a litmus test for the bench. (Brent told an attorney recently that one's stance on capital punishment was a "pretty good litmus test" and expressed the view that the death penalty violates three provisions of the Constitution.) Although I believe that I have the courage of my convictions, I try not to let them lead me into thinking that everyone who disagrees with me is evil or immoral. I'm afraid that Brent has fallen prey to just this tendency.

Perhaps because he has no answer to it, Brent completely ignores the fact Judge Johnson supports Carnes. The Judge has publicly stated that Carnes is a "very good" choice for the bench. He pointed to the high quality of Carnes' work and noted that Carnes' background as a prosecutor would be an asset for the court. As I have emphasized before, anyone with walking-around sense should realize that Judge Johnson would have declined to comment were he not strongly in favor of Carnes.

Judge Johnson's public endorsement of Carnes must be baffling to Brent. If I am a "lost hero" because I support Carnes to replace Judge Johnson (Brent's Carnes as "absolutely principled.") A former United States Magistrate and law clerk to Judge Johnson who represented two of the nine defendants who have been executed in Alabama told the Senate Judiciary Committee that "[n]o opponent has been more straight-forward and more forthcoming" than Carnes.

These attorneys have been involved in litigation with Carnes. Brent has only read about him.

The charge that Carnes has tried to handicap his opponents by keeping their funding low is simply false. Carnes actually was single-handedly responsible for doubling the compensation available to appointed counsel in capital cases for out-of-court work through an Attorney General's opinion he wrote. He also drafted legislation to increase compensation for appointed counsel in capital cases at trial and in state collateral proceedings (the legislation did not pass), and he pushed through a provision that appropriated funds to pay litigation expenses for capital defendants in post-conviction proceedings. In explaining Carnes' role in encouraging judges to authorize more funds for indigent capital defense, the presiding criminal court judge in Alabama's largest circuit told the Judiciary Committee that "Carnes has preached for years [about the need] to treat indigent defendants as first class citizens."

Brent tries to portray Carnes as an opponent of increased funding by pointing to the following Carnes quote reported in USA Today: "If a guy gets effective representation, what does it matter whether the attorney got $10 per hour or $100 per hour?" What Brent chose not to point out was that the USA Today reporter noted in the same paragraph that Carnes stated that indigent capital case compensation was too low.

One need not be convinced that the death penalty in Alabama is race neutral to realize that Brent's portrayal of Carnes as a bigot is quite unfair. Carnes is a lawyer who has specialized in post-conviction work. He does not decide who to indict. (Dr. Bernard Bray's highly critical study of Alabama's death penalty suggests that race has an effect on prosecutors' decisions to pursue capital cases but not particularly on the outcome of capital cases that go to trial. Given the racial breakdown in crime statistics, the comparisons Brent makes between the racial composition of the State as a whole and the racial composition of those on death row and of those executed are virtually meaningless. Judge Johnson has voted to uphold death sentences in at least 12 cases in which defendants were eventually executed. The fact that 50 percent of these defendants were black when only 20 percent of the persons in the states covered by the Eleventh Circuit are black does not make Judge Johnson a racist.) Carnes also does not decide who to strike from juries. To maintain that Carnes endorses racism in jury selection when he raises "legal technicalities" to *Baston* claims is equivalent to arguing that a lawyer endorses crime when he secures the acquittal of a defendant on the basis of "legal technicalities." Like a defense lawyer, a government lawyer is entitled to "prosecute with earnestness and vigor" and to "strike hard blows." *Berger* v. *United States*, 295 U.S. 78, 88 (1935)

Because Brent describes me as "perhaps the best known Southern civil rights lawyer alive today," I'd like to take the opportunity to offer my opinion about Carnes' record on racial discrimination. Quite simply, I think that his record is outstanding. As a young attorney, he worked to ban the importation of coal from South Africa. Before it became fashionable to do so, he represented black public officials sued by whites. He succeeded in having two racist state court judges removed from the bench. With the Southern Christian Leadership Conference and the Southern Poverty Law Center, he worked to prevent white defendants from discriminating against blacks during the jury selection. As chief counsel for the State on appeal, he preserved the conviction of a Klansman responsible for killing four young black girls in the infamous bombing of the Sixteenth Street Baptist Church in Birmingham.

Carnes' stand against discrimination in the courtroom has been matched by his stand in the community. When he learned that a racially insensitive remark had appeared in the student newspaper at his daughter's school, he immediately wrote the principal and expressed his outrage in this way: "Racial discrimination is wrong. Racially hostile and denigrating comments are wrong. Publishing or condoning such comments is wrong."

Carnes' sentiments were not the product of a "confirmation conversion." Unlike many other nominees, Carnes has never been a member of an organization that discriminated on the basis of race or sex. He has long attended one of the few integrated churches in Montgomery.

Brent's inability to look beyond his own preconceptions about race and Carnes is reflected by his reading of Carnes' comments about the portrayal of Alan Dershowitz in "Reversal of Fortune." Dershowitz had represented two white men from Arizona in the famous *Tison* capital case. When the movie about Dershowitz was made, the facts of the case were changed to fit Hollywood stereotypes. The defendants became black, and the state became Alabama. Carnes criticized the film, perhaps too sarcastically, for misrepresenting the facts and pandering to negative racial stereotypes about blacks. The fact that Brent misunderstood Carnes' comment and believed the story in the film shows that Hollywood knows its audience well.

Brent's literalness also shows through in his reading of the following Carnes statement: "Under Alabama law you can't execute someone who is insane. You have to send him to an asylum, cure him up real good, then execute him." Anyone who knows Carnes would realize that he was condemning, in a mocking fashion, the law that would permit sending death row inmates for treatment in order to execute them. (Harvard grads like Carnes don't say things like "cure him up real good" except for effect.) Brent, on the other hand, claims that the statement shows that Carnes is "inhumane."

To add fuel to his charge that Carnes is a moral monster and to denigrate his courage in standing up to a district attorney who wanted to argue in favor of executing a 15 year old (the D.A. apparently took the position that the 5-4 Supreme Court decision prohibiting such executions would come out differently if the issue were raised again), Brent writes "that Carnes personally handled an appeal in which a fifteen-year old (with an I.Q. of 76) was sentenced to death" and cites *Potts* v. *State*, 426 So.2d 886 (Ala. Crim. App. 1982). The only problem with Brent's point is that the defendant in *Potts* was never sentenced to death. Brent apparently cited the case without reading it.

At bottom, Brent is simply incapable of giving Carnes credit for anything that he has ever done. Brent lives in a world of "heroes" and "demigods." Because Judge Johnson is Brent's idol, Carnes must be "everything Frank M. Johnson is not." Carnes' principled stands deserve no recognition, according to Brent, because Carnes was only doing his duty.

An attorney whose client received a new trial after Carnes turned over exculpatory evidence he had found hidden in a district attorney's file saw Carnes somewhat differently.

"Ed Carnes could have pretended to overlook the evidence he found in the district attorney's file. He had no reason to doubt the defendant's actual guilt. He could have justified it to himself, telling himself that the failure of this evidence to appear at trial was harmless error. By turning over the evidence he aroused considerable ire from the local district attorney. * * * If Ed had not confessed error in that case, there is no way that we possibly could have discovered the additional exculpatory evidence on our own. [The defendant] would not be alive today."

Of course, Carnes is a Republican, and I am a lifelong Democrat. If I were the President of the United States, I'd probably nominate someone else to the Eleventh Circuit—probably someone like United States Magistrate John Carroll, the former Legal Director of the Southern Poverty Law Center who worked with me defending numerous capital defendants and argued against Carnes in the United States Supreme Court. But, if we allow capital punishment to be the "litmus test" that Brent believes it should be, then surely the tables will turn and lawyers like Jonn Carroll (lawyers who have tried to use "legal technicalities" to get cold-blooded killers off the hook) will never be nominated or confirmed. Because I am old enough to know what goes around comes around and because Carnes will be an excellent judge, I hope that he is confirmed.

APRIL 22, 1992.

Re nomination of Edward Carnes to the United States Court of Appeals for the Eleventh Circuit.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: We are the Attorneys General of the three states of the Eleventh Circuit, and we are writing to wholeheartedly urge the Senate to confirm the nomination of Edward Carnes to the United States Court of Appeals for the Eleventh Circuit.

As you know, the American Bar Association Standing Committee for the Judiciary unanimously rated him qualified for the position. Mr. Carnes is of the highest character, and he has a reputation for ethical propriety that is unsurpassed. Many attorneys who have litigated against him over the years have stated publicly that he has always been fair and straightforward with opposing counsel and with the courts. He has earned and enjoys a reputation as one of the finest attorneys in the Eleventh Circuit.

As the chief legal officers for our states, we are disturbed by the tactics being employed by those who are opposing confirmation of Mr. Carnes' nomination. While the opposition obviously springs from the capital punishment issue, the opponents are unfairly attacking Mr. Carnes because of the role he has had as an advocate for his client, the State of Alabama, in post-conviction review of convictions and sentences. It is the duty of state attorneys general and their assistants to advocate that convictions be sustained when there is any legally appropriate basis for doing so. All attorneys, including government attorneys, have a duty to represent their clients to the utmost of their abilities. It is only if that duty of advocacy is carried out that our criminal justice system, which relies upon a vigorous presentation of competing arguments by opposing advocates, can work.

It is preposterous for those opposing Mr. Carnes' nomination to suggest that rather than doing his duty as an advocate he should have taken it upon himself to decide the merits of each case or argument and acted accordingly. That is not the role of an attorney in our system, as you know. Any attorney who modifies his representation of a client based upon his personal feelings about how a case should come out is not carrying out his ethical duty to represent his client zealously within the law. If the position of those opposing this nomination is adopted, then no government attorney who has carried out the ethical duty of being an advocate can be confirmed to the federal bench.

We have also heard that Mr. Carnes' nomination is being opposed by some because he supported the version of federal habeas corpus reform that passed the Senate last year. Fifty-eight Senators voted for that measure, and each of us supported it. Mr. Carnes' views on habeas reform are certainly not outside the mainstream.

The Eleventh Circuit is the busiest federal appeals court in the nation. It has been two-and-a-half years since the Court had a full complement of active judges, and it is currently operating with only seventy-five percent of its judgeships filled. We fear that there may soon be serious delay in the decision of cases if the vacancies are not filled promptly. We would appreciate anything you and the Senate could do to expedite the confirmation process for all three pending appointments to the Eleventh Circuit.

JAMES H. EVANS,
Alabama Attorney General.
ROBERT A. BUTTERWORTH,
Florida Attorney General.
MICHAEL J. BOWERS,
Georgia Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, April 22, 1992.

Re nomination of Edward Carnes to Federal Appeals Court.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in response to allegations about the *Tomlin* case that are contained in a written statement of Stephen B. Bright in opposition to the nomination of Ed Carnes to the United States court of Appeals for the Eleventh Circuit.

Mr. Bright's allegations against Mr. Carnes are false. I know, because I am the one who did what he accuses Carnes of doing. Mr. Carnes did not do it, nor did he know I was doing it.

I am not now and never have been in Mr. Carnes' Capital Litigation Division. At the time of the events in question, I was in the Criminal Prosecution Division of the office. I was one of the two prosecutors who retried the *Tomlin* case in 1990. After the guilt stage and jury sentencing stage was over, I prepared two sentencing orders to submit to the judge—one for a life without parole sentence (which was the minimum penalty) and one for a death sentence. Because of his knowledge about capital punishment law, I asked Mr. Carnes to look over the two proposed orders I had written and make any suggestions or criticisms.

Later, after I had finished the final draft of the two proposed orders, I sent them with a cover letter dated March 26, 1990, to the trial judge in the case. In my letter, I informed the judge that I had not served a copy on opposing counsel. Mr. Carnes knew nothing about that. I later received a message from the judge to send a copy to opposing counsel, and did so. Opposing counsel had a copy of the two proposed orders I submitted at least a full week before the hearing in front of the judge.

I did not tell Mr. Carnes that I was not going to serve a copy of the proposed orders I was preparing on opposing counsel. He had no reason to believe I was not going to serve opposing counsel. I did not give him a copy of my March 26, 1990 letter to the trial judge.

I regret my mistake in not immediately serving opposing counsel with a copy of the proposed orders in the *Tomlin* case. It was my error entirely.

Sincerely,
J. RANDALL MCNEIL,
Assistant Alabama Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, July 6, 1984.

Re State v. Tomlin, No. CC 77-001396.

Hon. FERRILL D. MCRAE,
Judge, Circuit Court of Mobile County, Mobile County Courthouse, Mobile, AL.

DEAR JUDGE MCRAE: I hope you won't think it presumptuous of me, but, in the interest of minimizing the burden on the Court, I have drafted the attached proposed sentencing findings and order. Ed Carnes and Don Valeska have both collaborated with me in this. Nothing in this proposed order contradicts anything in your original sentencing order.

I realize that with the question of Tomlin's attorney somewhat up in the air, consideration of the contents of the sentence order is somewhat premature. However, this proposal, should you decide to use it, could provide a starting point for your own drafting.

Please let us know if we can be of any further assistance.

Respectfully,
JOSEPH G.L. MARSTON III,
Assistant Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, April 22, 1992.

Re allegations by Stephen Bright against Edward Carnes concerning the Tomlin case.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Stephen Bright is making some false accusations against Edward Carnes, whose nomination to the Eleventh Circuit Court of Appeals is pending. I know those accusations are false, because I have personal knowledge of the facts.

On page 5 of his April 1, 1992 written statements to your Committee, Mr. Bright discusses the first trial, appeal, and remand for further sentence proceedings in an Alabama capital case, that part of which I handled on direct appeal. He refers to "an assistant attorney general" who wrote a letter to Judge McRae on July 6, 1984. That assistant attorney general was me. The letter I wrote, a copy of which is attached hereto, clearly shows that I served a copy of the letter and the enclosed proposed draft order on Jim Lackey, a Mobile attorney for the defendant.

Mr. Bright points out that Mr. Lackey was not actually formally appointed to represent the defendant until after I served a copy of my July 6, 1984 letter and proposed order on him. That is true. That is why I said in the letter that the question of Tomlin's attorney was "somewhat' up in the air'." Nonetheless, at the time I sent the letter, I had talked with Mr. Lackey and I knew, as he did, that he was going to be appointed to represent the defendant. Rather than send the copy to the defense lawyers who had already withdrawn from the case, I sent it to the lawyer I believed (correctly) would be representing the defendant in connection with the documents I was filing. There is absolutely nothing wrong with that. Nothing was done ex parte.

As to Mr. Carnes' role, all he did was let me run my proposed order to him for his input as to its contents. I do not recall if I made any changes as a result of him looking at it. Anyway, Mr. Carnes did not have anything to do with whom I served my proposed order on.

I have always been in the Appeals Division, and I have never worked under Mr. Carnes' supervision.

Mr. Bright's accusations are utterly groundless.

Sincerely,

JOSEPH G.L. MARSTON, III,
Assistant Alabama Attorney, General.

CIRCUIT COURT.
THIRTEENTH JUDICIAL CIRCUIT,
Mobile, AL, February 27, 1992.

Re Ed Carnes nomination to the eleventh circuit court of appeals.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC

DEAR SENATOR BIDEN: It is my pleasure to write you regarding the nomination of Ed Carnes to the Eleventh Circuit Court of Appeals. Mr. Carnes is an excellent attorney with good character and a fine reputation. He should be confirmed to the Eleventh Circuit.

I have been a judge on the Circuit Court, which is Alabama's trial court of general jurisdiction, in one of Alabama's largest cities for over twenty years. I have had an opportunity to observe thousands of attorneys during that period of time, and I can and do say to you that no attorney before my court has ever shown greater knowledge of the criminal law than Mr. Carnes has.

His specialty is capital murder cases which, as you know, is a very complex area of the law. It is my opinion that he knows more about criminal law and procedure in general than any other attorney I have met. The federal courts could use someone with his depth of knowledge in the criminal law area.

He also has an excellent reputation for integrity and ethical behavior. The consensus of the criminal defense attorneys is that he is a tough opponent but always fair. I have heard many of them compliment him as an attorney and as a gentleman.

Mr. Carnes is knows to be a fierce foe of racial discrimination. In a case in my court, he argued passionately for an innovative holding that would have prohibited some white defendants, who were accused of violent crimes against a black man, from using their peremptory strikes against black jury veniremembers. Because I believe at that time the law did not deprive a white defendant of that right in the use of his peremptory challenges, I ruled against Mr. Carnes on that point. The Supreme Court of the United States has, within the past few months, changed the then existing law to the position advocated by Mr. Carnes. Even though I ruled against Mr. Carnes' position, I was very impressed with his argument and with the obvious feeling he had against racial discrimination in any form or context.

It is without hesitation that I highly recommend the confirmation of Ed Carnes for the Eleventh Circuit Court of Appeals. I am confident that if he is confirmed, he will not only bring credit upon himself in this position but also upon the Eleventh Circuit and you as the confirmation authority.

Very truly yours,

MICHAEL E. ZOGHBY,
Circuit Judge.

APRIL 16, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: We the undersigned attorneys in the Alabama Attorney General's Office are writing to express our support for Ed Carnes and to urge the confirmation of his nomination to the United States Court of Appeals for the Eleventh Circuit.

As African-Americans, we regret that there has been an attempt at racial polarization by a handful of people whose opposition to this nomination is motivated by their opposition to capital punishment. Some of us are strongly opposed to capital punishment. Some of us support it, and some of us have ambivalent feelings about it. But we all recognize that Ed Carnes is an excellent lawyer, he is fair, and he is opposed to racial discrimination.

We have heard that a few people are contending that Mr. Carnes has condoned racial discrimination because as an attorney assigned to advocate the State's position in post-conviction proceedings he has argued, where there is a legal basis for doing so, that a conviction should be affirmed even though the defendant raises a Batson claim on appeal. That contention is absurd, and it is offensive to those African-American attorneys who as advocates have argued the same positions Ed Carnes has.

The Code of Professional Responsibility requires that every attorney represents his client "zealously within the bounds of the law." It is the ethical duty of every government attorney to raise in a post-conviction proceeding any and all available arguments on behalf of sustaining a conviction. That duty is a necessary part of our adversary system. Some of us, as part of our duty as attorneys representing the State in post-conviction proceedings, have also argued that convictions should be upheld even where Batson claims are raised, if there is any legal basis for doing so. We are not condoning racism when we do that, nor is Mr. Carnes. To say that a government attorney who carries out his ethical duty to advocate in favor of sustaining convictions is condoning racism is like saying that criminal defense attorneys who advocate on behalf of their clients are condoning crime.

Far from supporting racial discrimination, Ed Carnes has a strong record of achievement in the area of minority rights. During his career, he has worked to ban the importation of South African coal into Alabama; he has defended black public officials who were sued by whites; he has personally prosecuted misconduct charges against two judges for racist conduct and got both of them removed from the bench; and on more than one occasion he has gone into court against white racists, including Ku Klux Klansman, who had committed violent crimes against African-American citizens.

We are all independent of the supervision of Mr. Carnes. We hold various political views. However, we know Ed Carnes. Based upon our knowledge of him and his record, we endorse his nomination and urge his confirmation.

Sincerely,

GERRILYN V. GRANT.
TORI ADAMS-BURKS.
ROBERT WARD.
JAMES PRUDE.
FRED BELL.
COURTNEY W. TARVER.

OFFICE OF DISTRICT ATTORNEY,
Tuscaloosa, AL, April 6, 1992.

Re nomination of Ed Carnes to the Eleventh Circuit Court of Appeals.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: For eleven years, I have been District Attorney of the Sixth Judicial Circuit of Alabama. Although I did not personally prosecute the Patricia Jackson capital murder case, an Assistant District Attorney, who is no longer a member of my office, did. I am personally familiar with the post-conviction events in the case and with Mr. Ed Carnes' role in them.

I have been furnished a copy of the written statement of Stephen Bright in opposition to Mr. Carnes' nomination, and I want to correct the grossly false impression that Mr. Bright is attempting to create concerning that case and Mr. Carnes' role in it.

First and foremost, Mr. Carnes did not make the decision to appeal the federal district court's order granting relief in the Jackson case. That was not his role in the case. I know, because I am the one who decided that that order should be appealed.

In Alabama, District Attorneys prosecute criminal cases, and the Alabama Attorney General's Office handles litigation at the appellate stage including any federal habeas corpus proceedings and appeals therefrom. There are dozens of Assistant Attorneys General. They do not decide which cases will be pursued on appeal and which ones will not be. That authority belongs in a strict sense to the Alabama Attorney General himself, but as a practical matter the decision is actually made by the District Attorney who will have to retry the case if an order setting aside the conviction is not appealed. During the entire eleven years I have been a District Attorney, the Attorney General's Office has never failed to appeal an order setting aside a conviction without my express consent. That has always been the policy of the Alabama Attorney General. It is not a policy of Mr. Carnes.

After the Federal District Court set aside the conviction and sentence in the Jackson case, I received a copy of the decision and order in that case. Although Mr. Carnes did not personally handle that capital case in the state collateral or Federal District Court stages, I talked to him about the appeal of the decision to the Eleventh Circuit, and I told him in absolutely no uncertain terms that decision had to be appealed and that all available grounds for reversing it should be asserted. I made that decision. He did not. If Mr. Carnes had declined to appeal the decision in the Jackson case, I would have contacted the Alabama Attorney General and insisted that he either order Mr. Carnes to appeal it or assign someone else to do it. I felt very strongly about the matter, and I know I could have convinced the Attorney General to appeal if it had been necessary for me to go to him.

The reason I felt so strongly about the necessity of an all-out appeal on all available grounds is that the Federal District Court made some findings and holdings about my office as a whole that were wrong and that falsely branded my entire office with having followed race-based policies. Whatever may have been the actions and motivation of the single prosecutor who tried the Jackson case—and who is no longer employed in my office—the office as a whole has certainly not engaged in the practice of excluding black citizens from jury service. I consider the District Court's contrary finding to be wrong and to be an unfair mark against me and my entire office. I do not want that erroneous holding to stand.

Moreover, there are some more specific fact findings that the Federal District Court made that are simply wrong and that must be corrected. As just one example, the District Court held that my office had manipulated the trial docket in a racially discriminatory way. That is blatantly false. The evidence, and all the evidence, was that that had happened in the administration of a prior District Attorney. It had not taken place at all during my administration, and it did not occur during the Jackson trial. I hope you can understand why I could not simply stand aside and let the erroneous finding that my office had engaged in such conduct become final.

Moreover, if the District Court's broadly sweeping language stands, it could possibly invalidate scores, or even hundreds of older convictions, even though the Defendants were guilty and clearly dangerous. Because of the great difficulty of retrying old cases, the decision in the Jackson case could lead to large numbers of guilty, violent criminals going free. That is especially true because the District Court effectively "repealed" Alabama's contemporaneous objection rule. If procedural default doctrine is going to be abandoned and hundreds of cases jeopardized, it should not be because of the opinion of a single District Court judge.

All of these reasons are why I decided an appeal must be pursued in the Jackson case. I still feel that way.

Mr. Bright also conveniently omits from his statement the fact that Mr. Carnes tried to get Patricia Jackson out from under a death sentence. After the District Court decision, Mr. Carnes contacted me and asked that I agree to a settlement whereby Jackson would receive a life imprisonment without parole sentence instead of a death sentence in return for not contesting the validity of her conviction. I was reluctant at first, because Ms. Jackson has murdered two people in cold blood several years apart. Nonetheless, Mr. Carnes persisted, and I agreed to the proposal provided the District Court opinion with its erroneous findings would be vacated. I did tell Mr. Carnes in no uncertain terms that I would take nothing less than a life imprisonment without parole sentence. I was later informed that Jackson's attorney favored the sentence reduction proposal, but Jackson vetoed it. In any event, Mr. Carnes tried to get her sentence reduced.

For these reasons, and others, Mr. Bright's criticisms of Mr. Carnes' role in the Jackson case is completely off base. Mr. Carnes did not decide to appeal the order granting relief. I did. Mr. Carnes, after some resistance on my part, got me to agree to a reduction in sentence proposal for Jackson. But she rejected it. Jackson's present situation is not the result of anything Mr. Carnes did. Instead, it is the product of my decision to have the case appealed and her decision to reject a reduction in sentence offer.

I would like to point out in closing that Jackson's two murder victims were not white. Each one was a black or African-American citizen. If she gets out and kills again, in all probability, her next victim will also be the same. It seems clear to me who has the most to lose from Jackson ever being released.

Respectfully submitted,

CHARLES FREEMAN,
District Attorney.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, April 6, 1992.
Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I understand that in connection with the nomination of Edward Carnes, some question has arisen about the policies of the Alabama Attorney General's Office concerning appeals from orders overturning convictions or sentences.

I know those policies, because in addition to being the present Attorney General, for eighteen continuous years before assuming my present position I was District Attorney of Montgomery County, and in that capacity I worked very closely with the three previous Alabama Attorneys General.

It is and always has been the policy of this Office to vigorously represent the interest of the people of this state in sustaining state court convictions. Towards that end, we do not forego appeals. We do not confess error, and we do not waive procedural bars. The only exception is where I am absolutely convinced that no colorable argument at all can be made in favor of sustaining the judgment of the state court that convicted and sentenced the criminal defendant. Both the district attorney who prosecuted the case and I have to be convinced of that. No assistant attorney general, including Ed Carnes, has the authority to vary my policies in respect to all out defense of state court judgments.

This has been my policy, and the policy of my predecessors in this Office, because we are elected to represent the people of this state as vigorously as we can. That is our authority and our duty.

In very rare instances no argument can be made and a confession of error occurs. Even then, I have insisted that all assistants in this office receive the express permission of the district attorney involved before that is done. That policy of mine applies to Mr. Carnes, as well as to others. In fact, I made sure that was the policy because I strongly disagreed with my predecessor's permitting Mr. Carnes to litigate against the district attorney's position on open file discovery in the Ex parte Monk case.

The case of Clayton Joel Flowers v. State is the only time during my administration that an assistant attorney general has been allowed to take a position contrary to that of a district attorney in the appeal of a criminal case. Ed Carnes convinced me to allow him to argue that the death sentence in that case should be reduced even though the district attorney disagreed. After Ed made that argument, I changed my mind and the position of this office in the case to agree with the district attorney. The Court of Criminal Appeals sided with Carnes, anyway. I then assigned another assistant to handle the remainder of the appeal and to advocate the district attorney's position.

To reiterate, as I have had occasion to tell assistants in this Office, including Mr. Carnes, I am the Attorney General. They are not.

Sincerely,

JAMES H. EVANS,
Alabama Attorney General.

DISTRICT ATTORNEY,
29TH JUDICIAL CIRCUIT OF ALABAMA.
Talladega, AL, May 7, 1992.

Re nomination of Ed Carnes.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in response to what I understand to be some accusations that Ed Carnes has been insensitive to the problem of black prospective jurors being struck from juries for racially discriminatory reasons. Let me tell you why such accusations are completely unfair.

Long before the Batson v. Kentucky decision ever came down, Mr. Carnes urged Alabama district attorneys, including me, not to strike blacks off juries unless there were race-neutral reasons to do so. He told us not to strike a black juror unless we would strike a white juror in the same situation. Before the Batson decision came down in 1986, Mr. Carnes admonished us not to use such strikes in a racially discriminatory manner and he felt it was wrong.

I, for one, followed Mr. Carnes' advice. I also ordered every assistant district attorney in my office to follow a strictly race-neutral jury strike policy even before the Batson decision came out.

It is simply unfair to accuse Mr. Carnes of being insensitive to the problem of race discrimination in jury selection when he did his very best to end racial discrimination in jury selection long before the Batson decision forced an end to it.

Please see that Mr. Carnes gets credit for the extraordinary action he took in trying to end racial discrimination in jury selection.

With every good wish, I am

Yours very truly,

ROBERT L. RUMSEY.

OFFICE OF THE DISTRICT ATTORNEY,
TENTH JUDICIAL CIRCUIT,
Birmingham, AL, May 8, 1992.
Chairman JOSEPH R. BIDEN, Jr.,
Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: I am District Attorney of Jefferson County, the most populous judicial circuit in Alabama, and I have been a prosecutor for twenty years. I have known Ed Carnes for over fifteen years. I know his attitudes about many subjects, including racial discrimination. He is adamantly opposed to it.

I have been told that his nomination to the federal appeals court is being opposed because some people say he did not do enough to stop racial discrimination in jury selection. That is not true.

At least as early as the early to mid-1980's, Mr. Carnes in talking with district attorneys, including me, spoke out against the use of peremptory strikes in a racially discriminatory way. In that pre-Batson era, there were very few practical restrictions on the way a prosecutor could use his peremptory strikes, and as a practical matter, there was no effective remedy for a defendant if a prosecutor removed blacks from the jury because they were black. Still, Mr. Carnes, on more than one occasion, told Alabama district attorneys not to do that. I personally heard him say that. It was before the 1986 Batson decision.

Those opposing Mr. Carnes' nomination seem to be concerned only with the possibility of racially discriminatory strikes by prosecutors. I can tell you that defense attorneys, particularly those representing white defendants charged with crimes against black victims, often strike all the blacks off a jury just because of their race. That is wrong, and no one in this entire country has done as much to stop that pernicious practice as Ed Carnes has.

Mr. Carnes drafted legislation to extend the prohibition against racial discrimination in jury selection that already applies to prosecutors to defense counsel as well. The purpose of that legislation was to ensure that neither side removed black citizens from jury service because of race. Mr. Carnes' bill, which was supported by the Alabama Black Legislative Caucus, did not pass the Alabama Legislature. Mr. Carnes did succeed in getting the Alabama appellate courts to adopt the rule of law that criminal defense attorneys, like prosecutors, could not strike black jurors because of their race. That success came only after Mr. Carnes had raised and argued the issue on a number of different occasions. Once he took the issue all the way to the Supreme Court in a case involving the Ku Klux Klan lynching of a black man. So tenacious was Mr. Carnes in his fight against racial discrimination in jury selection that he convinced forty-five other states to join his effort in that case. The Southern Christian Leadership Conference and the Southern Poverty Law Center also joined him.

The Rodney King case, and its aftermath, shows the wisdom of Mr. Carnes' years of efforts to ensure that white defendants accused of crimes against blacks are not permitted to arrange an all-white jury. What Mr. Carnes has spent much effort doing is obtaining a rule of law to prevent any white defendants, including white policemen, from striking all the blacks off their jury because of race. That rule, which he has almost single-handedly established as the law of Alabama, will help reduce the number of all-white juries like those in the Rodney King case. That case vindicates Mr. Carnes' efforts. It is evidence that his nomination should be confirmed.

I do not know anyone else who has done nearly as much as Ed Carnes to fight racial discrimination in jury selection.

To say that Ed Carnes has not done enough to end racial discrimination in jury selection does a grave injustice not only to Mr. Carnes but also to the truth.

Very truly yours,

DAVID BARBER,
District Attorney.

THE SOUTHERN POVERTY LAW CENTER,
Montgomery, AL, June 8, 1992.

Re nomination of Edward Carnes.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: I write to urge you to vote to confirm Ed Carnes for a position on the Court of Appeals for Eleventh Circuit.

I am a lifelong Democrat who has been active in national party affairs. In 1972, I served as the national finance director for Senator George McGovern's Presidential effort. In 1976, I had the same role in President Carter's campaign.

I have also been active in opposing the death penalty. As the chief trial counsel for the Southern Poverty Law Center, I have represented approximately 50 criminal defendants in capital cases.

Given my background, I can assure you that I would not be actively supporting Ed Carnes—a Bush nominee who has represented the State in death penalty prosecutions—unless I was convinced he was an exceptional candidate.

No one questions Ed's competence. The legendary Frank Johnson—the Judge whose seat Ed has been nominated to take—has publicly stated that Ed is a "very good" choice for the job. The ABA Committee that reviewed Ed's background and work unanimously found him to be qualified.

Despite Judge Johnson's and the ABA's endorsement of him, the charge has been made that Ed has turned a blind eye to racial discrimination in jury selection. Some draw a parallel between his supposed lack of sensitivity and the circumstances that led to the outcome in the Rodney King beating trial.

In my view, these accusations are misguided. Before the Supreme Court's decision in *Batson v. Kentucky* provided an effective mechanism to stop prosecutors from excluding black jurors, Ed had urged Alabama's district attorney's to put an end to the practice.[1] In one case, Ed actually advised the Alabama Attorney General to move the trial of a black defendant to a venue where it was more likely that black persons would serve on the jury—precisely the reverse of what occurred in the Rodney King case.[2]

After the *Batson* decision, Ed successfully pushed to have the ruling extended in Alabama to prevent white defendants from discriminating against black jurors. As a result of Ed's work, what happened in the Rodney King case—the spectacle of having a jury with no black members try a white defendant charged with a crime against a black victim—is far less likely to happen here.

Ed has taken other strong stands against racial discrimination in his professional life. Early in his career, he worked to bar the importation of coal from South Africa. He personally prosecuted disciplinary charges against two racist judges and succeeded in having both removed from the bench. As chief counsel for the state on appeal, he preserved the conviction of a Klansman responsible for murdering four young black girls in the notorious bombing of the Sixteenth Street Baptist Church in Birmingham.

Ed's stand against discrimination in the courtroom has been matched by his stand in the community. When he learned several years ago that a racially insensitive remark had appeared in the student newspaper at his daughter's school, he immediately wrote the principal and expressed his outrage in this way: "Racial discrimination is wrong. Racially hostile and denigrating comments are wrong. Publishing or condoning such comments is wrong."

Ed's sentiments were not the product of a "confirmation conversion." Unlike many other nominees, Ed has never been a member of an organization that discriminated on the basis of race or sex. He has long attended an integrated church.

I have practiced law in Alabama for over thirty years. I have known many lawyers and many judges. Ed is one of the few judicial nominees, offered by either party, that I can support without reservation.

Sincerely,

MORRIS DEES,
Executive Director.

CHERRY, GIVENS, TARVER, PETERS,
LOCKETT & DIAZ, P.C.,
Mobile, AL, May 11, 1992.

Re Nomination of Ed Carnes.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I understand that in discussing Ed Carnes' nomination in last Thursday's Judiciary Committee meeting, you mentioned in a complimentary fashion that prosecutors in a Miami case were seeking a change of venue to ensure that there would be blacks on the jury at a retrial. I wanted you to know that Ed Carnes had done a similar thing which was even more praiseworthy.

While I was Alabama Attorney General, my office was considering the retrial of a case involving a black defendant charged with the brutal murder of a white victim. The two prior trials of the defendant, which produced convictions, had been before all-white juries. Even though Ed Carnes had had nothing to do with those prior trials, I asked him to look over the files and give me his advice.

He did so. Mr. Carnes told me that he thought it essential to fairness and to public acceptance of the result that any retrial of the case be before a jury which contained a substantial number of black citizens. He also advised me that if there was a retrial we should seek a change of venue to a county with a higher black population so that we could guarantee that there would be a balanced, multi-racial jury. I accepted his advice and intended to do just that.

As it turned out, that case was never retried. However, I thought you would find it interesting that Mr. Carnes had done several years ago what you complimented some Miami Prosecutors for doing recently. Indeed, Mr. Carnes' action are even more praiseworthy than that of the Miami prosecutors. In the Miami case, it was within the prosecutorial interest to have more blacks on the jury because the victims were black and the defendant is not. In our case, the opposite was true. The defendant was black and the victim was white. Mr. Carnes took the position that we should act to ensure more blacks on the jury not because of any interest in obtaining a conviction, but out of a sense of fairness.

I hope that after you consider this new information about Mr. Carnes' racial sensitivity, you will support his nomination.

Sincerely,

DON SIEGELMAN.

KENNETH F. INGRAM,
JUSTICE—SUPREME COURT OF ALABAMA,
Montgomery, AL, January 30, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing to urge your committee to confirm the nomination of Ed Carnes to the Eleventh Circuit Court of Appeals.

During the past twenty-nine years, I have been a practicing attorney, a judge on a state trial court of general jurisdiction, a judge on an intermediate level state appellate court, and a Justice on the Alabama Supreme Court. I am familiar with the work and reputation of the top attorneys in Alabama, and I know from personal observation that Ed Carnes is one of the very best attorneys in this state. He has a sterling reputation and is known throughout the bench and bar as a tough advocate but one who is fair and whose ethics are above reproach. He has skillfully handled cases of mind-boggling complexity and has shown a gift for analyzing, organizing, and solving difficult problems.

Let me also tell you about Ed Carnes' dedication to the cause of judicial ethics. For eight years I served on the Alabama Judicial Inquiry Commission. During six of those years, I served as chairman of the Commission, which is the body the Alabama Constitution gives the authority and responsibility to investigate and bring charges against Alabama judges for misconduct in office or violation of the canons of judicial ethics. Any charges the Commission brings are tried in the Alabama Court of the Judiciary. Throughout the entire time I was on the Judicial Inquiry Commission, Ed served as counsel to the Commission. He not only met with us each month, and advised us on legal matters, but he also litigated in the Alabama Court of the Judiciary the charges we brought against judges.

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[1] See letter from Jefferson County D.A. David Barber to Senator Biden (attached); letter from Talladega D.A. Robert L. Rumsey to Senator Biden (attached).

[2] See letter from former Alabama Attorney General Don Siegelman to Senator Biden (attached).

As the Commission's attorney, Ed prosecuted eighteen cases against judges charged with misconduct in office or unethical behavior. In every single case, he was successful—all eighteen judges he prosecuted either resigned from office or were convicted after a trial and received sanctions, ranging from a public censure to removal from office. Ed has been absolutely tenacious in his commitment to and insistence upon the highest level of judicial ethics. I can think of no better attribute for a nominee to a judgeship.

Every judge and lawyer I have spoken with concerning this nomination is absolutely delighted that one who is so well qualified and who has such high moral character and dedication to public service has been chosen.

Sincerely,

KENNETH F. INGRAM.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, April 24, 1992.

Mr. CARL RAUSCHER,
c/o The Daily Report,
Atlanta, GA.

DEAR MR. RAUSCHER: I have read Brent Newton's opinion piece opposing the nomination of Ed Carnes. Because part of my duties at the Alabama Attorney General's Office involve statistics relating to capital punishment, I would like to respond to that part of Mr. Newton's piece in which he distorts the facts concerning race and capital punishment in Alabama.

Mr. Newton's conclusions are based upon false premises. He says that "during Mr. Carnes' tenure almost half of the executions were for black-on-white murders." In fact, only one-third of them have been. Thirty-three percent is not "almost half." Mr. Newton also says that "well over half of Alabama's death row is black." According to the latest figures circulated by the NAACP Legal Defense Fund, Alabama's death row contains 55 blacks, 56 whites, and 1 hispanic. *Death Row U.S.A.* (Winter 1991). It is simply false to state, as Mr. Newton does, that "well over half" of Alabama's death row is black.

Blacks account for sixty-six percent of the homicide arrests in Alabama, and sixty-four percent of the prison population. Thus, the percentage of blacks under sentence of death is *less* than the percentage of homicide arrests and of the prison population.

Mr. Newton's comparison of the percentage of executions involving black-on-white murders to the percentage of black-on-white killings annually (Mr. Newton's "four percent of all murders" figure) is very misleading. Mr. Newton's "all murders" figure is drawn from homicide statistics that do not distinguish capital murders for non-capital murders or even from cases of manslaughter. Of course, capital punishment is not available in non-capital murder and manslaughter cases. In any event, we know from the statistical studies in the famous *McClesky* case that, "white-victim cases tend to be more aggravated while black-victim cases tend to be more mitigated." *McClesky v. Zant*, 580 F.Supp. 338, 363 (N.D. Ga. 1984), *aff'd*, 753 F.2d 877 (11th Cir. 1985) (en banc), *aff'd*, 481 U.S. 279 (1987). Thus, if capital punishment is based upon aggravating and mitigating factors, as it should be, one would expect more death sentences in white victim cases.

The one statistical study that has been done on Alabama capital cases, completed in the early 1980's, found that 53 percent of the capital defendants tried for killing a white were sentenced to death while 68 percent of the capital defendants tried for killing a black received death sentences. That finding certainly does not indicate race-of-victim prejudice against blacks. (In fairness, it should be noted that the study did not consider aggravating and mitigating circumstances.)

Specific cases that have gone to execution in Alabama also evidence an absence of racial discrimination. For example, one case has gone to execution in which the defendant was under two separate death sentences—one received in a white victim case and one received in a black victim case. That defendant was executed for the black victim murder, not for the white victim murder.

Likewise, the one execution to be carried out involving a crime with black and white co-defendants also disproves Mr. Newton's thesis. A white man hired two black hit men to murder his wife. The white co-defendant was executed, while the two black hit men received prison sentences.

It is disingenuous of Mr. Newton to suggest that because Mr. Carnes argued against the so-called Racial Justice Act, he is not opposed to racial discrimination. That legislation has nothing to do with racial justice and everything to do with the de facto abolition of capital punishment. That is why Congress has consistently refused to enact it. Mr. Carnes supported the Equal Justice Act which would have prohibited any racial discrimination by the prosecution *and* the defense. A majority of the House of Representatives voted to substitute the Equal Justice Act for the so-called Racial Justice Act. A majority of the Senate also rejected the RJA.

I wanted to set the record straight and correct Mr. Newton's erroneous statements and conclusions.

Sincerely,

SANDRA J. STEWART,
Assistant Alabama Attorney General.

HOUSE OF REPRESENTATIVES,
ALABAMA STATE HOUSE,
Montgomery, AL, March 6, 1992.

Hon. JOSEPH BIDEN,
Chairman, Senate Judiciary Committee,
Washington, DC.

DEAR SENATOR BIDEN: It is my understanding that Edward E. Carnes, an Assistant Alabama Attorney General, has been nominated to be a United States District Judge in the Middle District of Alabama.

This letter comes to highly recommend Mr. Carnes for said position. I have known Mr. Carnes for many years and have known him to be fair and impartial toward all citizens without regard to race or color.

As Chairman of the Affirmative Action Committee of the Alabama Black Legislative Caucus, one of my responsibilities is to observe public officials and others in their actions toward minorities in the state of Alabama and I have found nothing that is negative in regards to Mr. Carnes' record in this matter.

Please give Mr. Carnes your great consideration.

Sincerely,

ALVIN HOLMES,
State Representative.

MONTGOMERY AL, *March 12, 1992.*

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in support of Ed Carnes who has been nominated to a position on the United States Court of Appeals for the Eleventh Circuit.

I am particularly qualified to speak about Mr. Carnes, because I have known him for over fifteen years, and I have observed his work from three different perspectives. I first came to know Ed when he and I were both employed by the Alabama Attorney General's Office in the 1970's. Later, I knew and worked with him after I became an assistant district attorney. Finally, I have had an opportunity to observe Ed as an attorney in my court during the nine years I have been a state trial court judge in Montgomery, Alabama.

Without reservation, I can say that Ed Carnes is an excellent attorney who is eminently qualified to be on the Eleventh Circuit Court of Appeals. He is one of the leading criminal law experts in this state.

More importantly, Ed is completely fair and has an excellent reputation for integrity and candor. On occasion, when a particularly thorny legal issue has arisen in a criminal case, some of the judges in this state, including me, have called upon Ed to join a conference and offer his views to the court and counsel for both sides. We have done that because we know that no one knows more about the criminal law than Ed Carnes does, and we also know that if the law is against the State's position Ed will not hesitate to tell us that. In fact, on more than one occasion when his advice was solicited, he informed the court and counsel for both sides that the prosecutor was wrong and defense counsel was right.

For these and other reasons, Ed Carnes has an unsurpassed reputation for fairness. I urge your committee to confirm him.

Sincerely,

CHARLES PRICE.

CIRCUIT COURT,
Anniston, AL, February 26, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Mr. Ed Carnes of Alabama is currently being considered for appointment to the 11th United States Court of Appeals and is currently beginning, as I understand it, the process of Senate review. I would like to bring to your attention a case in which I was involved with Mr. Carnes, because I believe it says a great deal about his fitness for the bench.

I am the trial judge after whom the Alabama Supreme Court case of Ex Parte Monk derives its name. This case commenced upon me entering a judicial order requiring the district attorney to maintain an "open file" policy in a capital case. The D.A. sought mandamus to require me to rescind my order as it greatly expanded the scope of discovery as governed by Alabama procedural rules. While he was under no legal obligation to do so, Mr. Carnes, through the Attorney General's Office, represented me in this action. The requested mandamus was initially issued by the Alabama Court of Criminal Appeals. The Alabama Supreme Court, primarily due to Mr. Carnes efforts, overturned the intermediate appellate court and held that my order was not an abuse of discretion because of the exceptional circumstances encompassed in capital litigation.

I entered the discovery order under review in Ex Parte Monk after attending a judicial seminar in Tuscaloosa at which Mr. Carnes asked the assembled judges to consider such orders in capital cases. He told us about some capital cases in which he had discovered and disclosed exculpatory evidence that the prosecutor had kept hidden in his office files. While he discussed the practical benefits of maintaining an open file policy for all those involved in the criminal justice system, the principal thrust of Mr. Carnes' remarks was that fairness dictated such a policy. We further discussed his feelings in a private conversation after his presentation. Based upon this, I can unequivocally tell you and the other members of the Committee that I understood his thoughts and suggestions to be based just as much upon moral conviction as legal practicality.

During the pendency of Ex Parte Monk, Mr. Carnes and I further discussed his thoughts about this issue. In this case, he could have elected to have had the local D.A.'s petition dismissed on a technicality; however, Mr. Carnes wanted precedent set for the state, not just our local circuit.

Were it not for Mr. Carnes, the most limited discovery provisions of our rules governing criminal procedure would prevail in Alabama. Now, other judges are entering open file discovery orders on request of the defendants. Mr. Carnes argued against the District Attorneys' Association in defense of my order and continues to suffer criticism from some D.A.s even today.

I think I know the real Ed Carnes. Though he is a dedicated advocate, I know him to be a moral, ethical and compassionate individual who is concerned about the rights of all litigants. I seriously doubt that I would have ordered the state to open its file further than the extent required by law had it not been for the expressed feelings and opinions of Mr. Carnes. A man who subjects himself to the public criticism of his colleagues is doing what he thinks is right, not what he might think is expedient. He would be an asset to the federal bench.

I hope my thoughts on Mr. Carnes and on the point of his moral and ethical makeup are helpful.

Sincerely,

SAMUEL H. MONK II,
Presiding Judge,
7th Circuit of Alabama.

CIRCUIT COURT,
Birmingham, AL, February 26, 1992.

Re Ed Carnes, Prospective Appointee, U.S. Court of Appeals for the 11th Circuit.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I write to wholeheartedly endorse Ed Carnes' candidacy for appointment to the 11th Circuit bench.

I have known Mr. Carnes for over ten years, having consulted him when I was a practicing lawyer and more significantly as a trial level judge here in Alabama.

You know that Mr. Carnes is a distinguished lecturer and author and the preeminent scholar in death penalty law here in Alabama and neighboring states. In fact, Mr. Carnes fields questions concerning death penalty litigation from judges and practitioners all over the county.

I have presided over twenty five or so capital cases at the jury trial level and have tried few capital cases without calling Mr. Carnes to check on new developments in the field. Often times during the course of litigating a case the lawyers, state and defense, will conference with Ed about an evidentiary question that was unforeseen.

Though I have not read the offending article appearing in the Atlanta Constitution, I read in my local paper that Ed was accused in the Atlanta article of being biased against defendants in capital cases and unduly using his cognitive skills and knowledge of the law to effect convictions. The author of this article could not be further from the mark!±

Through telephone conferences with Ed many capital cases are settled with the state bargaining not to seek the death penalty. When giving an advisory opinion re an evidentiary question Ed's counsel can be summed up as 'better safe than sorry', thus, a restrictive ruling ensues diminishing the criminating force of the state's case.

Because of Ed's counsel we trial judges have learned to authorize expenditures of state monies in appointed cases that place Alabama in a class of enlightened jurisdictions in the manner that our indigent defendants are represented. For example;

Two lawyers are appointed to represent an indigent, one must have at least 5 years of experience in the criminal field, special monies are awarded for private investigators, psychological or psychiatric workup, for scientific testing by one's own expert and payment of incidental expenses for travel, long distance phone, postage, etc. This and much more because Ed Carnes has preached for years to treat the indigent defendant as first class citizens.

Those of us who work in the death penalty field don't do so because we enjoy this very specialized area of the law nor are we advocates for the death penalty. It just comes with the turf.

As you know the state legislatures in Alabama, Florida and Georgia, served by the 11th Circuit, have all passed death penalty legislation subsequent to the 1972 Furman vs. Georgia case declaring the death penalty scheme unconstitutional as it existed. In fact, approximately thirty-five states have enacted new statutes that provide for the death penalty for the commission of certain crimes wherein the victim is intentionally killed.

Ed Carnes should be applauded for serving with distinction the people of Alabama, judges, the defense and prosecution bar and that spectrum of citizens touched by crime and the defendants charged.

Through the writings, seminars and numerous personal consults over the years Ed have given clarity to all of us laboring in the imposing arena of death penalty law. A sage once said "the law in an island of technicalities in a sea of discretion."

Ed Carnes has schooled me and many others about the technicalities, the discretion is jury and judge work.

Ed has never sentenced anyone nor recommended a particular sentence to a sentencing authority, he has performed his job as assistant attorney general with sagacity, diligence and humility.

Ed Carnes has brought great honor to this name and the office that he has held in the Attorney General's Office. He will distinguish himself as a jurist on the Eleventh Circuit. You and your colleagues will be proud of a job well done in confirming Ed Carnes to the lofty position that he seeks.

Thank you for the kindnesses I know that you will extend to Ed and his family when he is in Washington and for the industry you and the Judiciary Committee have exhibited over the past several years.

Yours truly,

JAMES H. HARD.

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401 Church Street Post Office Drawer 1129
Mobile, AL January 29, 1992.

Re nomination of Ed Carnes to the U.S. Court of Appeals for the Eleventh Circuit Court of Appeals.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I know Ed Carnes, who has been nominated for an Eleventh Circuit judgeship, because he served under me when I was Alabama Attorney General, from 1986 through 1990. Ed was one of my division chiefs, I had daily contract with him, and I am familiar with his intellect, his industriousness, and his character.

Ed is one of the brightest lawyers I have ever known. You can see from his record of academic achievement that he is extremely intelligent, but he also has a wealth of common sense. Over and over again, while I was Alabama Attorney General. I saw Ed analyze complex problems, break them down into manageable parts, and solve them expeditiously. He can write clearly, concisely, and persuasively.

Ed is also industrious. On countless nights and weekends I saw him at the office hard at work. He turns out a prodigious amount of work.

Most importantly, Ed has an unassailable reputation and unimpeachable character. I do not know of any lawyer, certainly not any prosecutor, who has a better reputation throughout this state than Ed does. He is know as a tough advocate but one who is completely fair and ethical. While I was Attorney General, Ed came to me on a number of occasions and told me that he had to confess error in a criminal case because the prosecutor had engaged in some misconduct that Ed could not argue in good conscience was harmless, or because the defendant's rights clearly had been violated in some other way. On every such occasion, I acceded to Ed's request, because I trusted his judgment and I saw the strength of this views.

Let me give you one example. In 1990, the last year I was Attorney General, a district attorney convinced a judge to sentence to death a defendant who was only fifteen years of age at the time of the murder. The murder was especially brutal and depraved, but Ed was adamant that a Supreme Court decision precluded the death penalty for anyone who was fifteen years old at the time of the crime. The case generated a considerable amount of publicity where it occurred, and there was some public pressure for the Attorney General's Office to argue on appeal that the death sentence should be upheld. Ed refused. He persuaded me that the Supreme Court had held that the Constitution forbade a death sentence for such a defendant, and that it would be unethical to argue that the Alabama appellate courts should ignore the law of the land. Representing the State of Alabama on appeal, Ed confessed that there was error in the judgment and argued that the Court of Criminal Appeals should follow the Constitution and reverse the death sentence. The district attorney argued to the contrary, but he lost. The Court of Criminal Appeals reduced the sentence of life imprisonment.

Senator, as you know, I am a lifelong Democrat, but partisan politics should not matter. Ed Carnes has integrity and dedication to the rule of law, and that is what matters.

Sincerely,

DON SIEGELMAN.

THE SOUTHERN POVERTY
LAW CENTER,
Montgomery, AL, February 6, 1992.

Re nomination of Edward Carnes to the United States Court of Appeals for the Eleventh Circuit.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I wrote you a brief letter earlier to alert you to my support of the then-impending nomination of Ed Carnes to the United States Court of Appeals for the Eleventh Circuit. Now that Ed has been formally nominated for that position, I would like to set down in greater detail, and for the record, the reasons why I feel it is so important that this nomination be confirmed.

Ed Carnes is a brilliant attorney who has excellent credentials for this position. I doubt if any other attorney in this state has argued as many cases before the Eleventh Circuit Court of Appeals and the Supreme Court as he has. I know no other attorney has argued any more ably in those courts than he has. His objective qualifications are apparent from his record. The reasons I wholeheartedly support Ed go beyond his resume.

Let me begin by saying that he and I do not agree on all legal and policy issues. For example, I differ with him on the subject of capital punishment. However, more people agree with him than with me on that issue, so his views are not outside the mainstream. Ed is not an ideologue, and he is not an extremist. He has been a vigorous and effective advocate, and he presses all of the legal doctrines and defenses his client has. In our adversary system, that is an ethical obligation of every attorney, and I would not want anyone on the federal bench who had not demonstrated those traits. What sets Ed Carnes apart and has earned my respect is the highly principled manner in which he has conducted himself in a difficult are of the law, and the deep and abiding sense of fairness he has displayed throughout his career.

I know of at least two instances in which Ed Carnes has gone into court as an assistant attorney general and argued against the prosecutorial position taken by a district attorney in a capital case. He did it once when a district attorney refused to open his files to full discovery by the defense. Even though it has never been held that the Constitution requires such a rule, Ed was convinced that fairness and good policy supported such a rule, and he persuaded our state supreme court to adopt it. In doing so, he argued against a district attorney with a more narrow view. You can see from reading the opinion in Ex parte Monk, 557 So.2d 832, 835–837 (Ala. 1989), that Ed is personally responsible for Alabama having one of the most progressive discovery rules in capital cases in this country.

Another example of Ed Carnes taking a stand based on principle in opposition to the views of a district attorney in a capital case occurred in the Flowers case last year. The district attorney had convinced a judge to sentence to death a defendant who was 15 years old at the time he committed the murder. Ed, as an assistant attorney general, refused to argue in favor of that result in the Alabama appellate courts and instead argued that a Supreme Court decision precluded it. The district attorney argued the opposite position, and the appellate court agreed with Ed. So far as I know, Ed Carnes is the only assistant attorney general in the history of this state to ever appear in the appellate courts and argue, as a matter of conscience, against the position taken by a local prosecutor, and he has done it twice.

Moreover, on several occasions, after a local prosecutor has gotten a conviction and Ed has obtained the files later in the appeal, he has discovered and promptly disclosed exculpatory evidence which resulted in a new trial. In one capital case he not only discovered and disclosed exculpatory evidence but within a matter of hours confessed error in the conviction and drafted the court order granting relief. I do not know of any other assistant attorney general or prosecutor anywhere in the country who can match his proven record of integrity.

Even though he represents the other side, Ed has also attempted to improve the quality of indigent defense representation in capital cases. He co-authored, with a former Chairman of the Alabama Bar's Indigent Defense Representation Committee, legislation to increase the amount paid to appointed counsel in capital cases. That legislation did not pass, but Ed was successful in having the amount of funds available to pay for defense expenses in state court collateral proceedings increased. That was not part of his job, but he did it out of a sense of fairness. I do not know of any other assistant attorney general in the country who has ever worked for an increase in indigent defense funds.

Ed Carnes also has a demonstrated record against racial discrimination. He has successfully prosecuted judicial misconduct charges against two state judges who engaged in racist behavior, and through his efforts both of those judges were removed from the bench. Ed has also tirelessly sought to prohibit the practice of white defendants accused of race crimes using peremptory strikes to remove black citizens from juries. On behalf of the Southern Christian Leadership Conference, I filed an amicus curiae brief in support of one of Ed's efforts on that issue. No one has done more on behalf of ensuring the rights of black citizens to serve on juries in cases involving hate crimes against blacks than Ed has.

All of these reasons explain why Ed Carnes enjoys tremendous respect throughout the bench and bar of this entire state. Prompt and unanimous confirmation of his nomination will send a valuable message reinforcing the importance of having government attorneys like him who perform their duties in a fair and principled manner.

As I mentioned in my earlier letter, I will be glad to testify on Ed's behalf should that be necessary.

Sincerely,

MORRIS DEES.

SAMFORD UNIVERSITY,
Birmingham, AL, February 7, 1992.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in support of the nomination of Edward E. Carnes to a judgeship on the Eleventh Circuit Court of Appeals. While I know Mr. Carnes personally and know very well his professional reputation as an excellent lawyer and person of the highest integrity, my professional relationship with him has been confined to our mutual interest in dealing with the problem of post-conviction death penalty cases.

In 1987, the Board of Commissioners of the Alabama State Bar authorized the creation of a Task Force to define the Bar's responsibility to defendants in post-conviction capital proceedings. I chaired that Task Force.

The Task Force convened interested parties to make recommendations to the Bar. Included were the judges of the United States District Court in Alabama; the Alabama judges on the Eleventh Circuit Court of Appeals; state court judges and justices representing Alabama's trial and appellate courts; representatives of the governor and legislature of Alabama, the state bar, and the American Bar Association; and the Alabama Attorney General. Mr. Carnes was the assistant attorney general assigned to this initiative.

After numerous meetings, the Task Force recommended the creation by the state bar of the Alabama Capital Representation Resource Center designed to recruit attorneys to represent indigent defendants in post-conviction death penalty cases, to provide assistance through research and counsel to those attorneys, to educate lawyers in the defense of capital cases, and to monitor pending cases to assist the courts in dealing with the cases.

The state bar responded by establishing the Resource Center. It has operated since 1989.

Mr. Carnes participated actively in the establishment of the Resource Center. Although one of his responsibilities as an assistant attorney general was representing the state in post-conviction capital proceedings, he demonstrated his commitment to the principle of adequate and effective representation for these defendants.

Criminal defense lawyers have commented to me about the very professional manner in which Mr. Carnes handled these cases, about his cordial relationship with opposing counsel, and his willingness to accommodate opposing counsel when time constraints and other demands made it difficult for counsel to be prepared. Thus the rights of many defendants were protected by Mr. Carnes concern for, and commitment to, fairness in the criminal justice system.

Mr. Carnes has a brilliant legal mind. He has proven his ability to practice in widely divergent areas of the law. He enjoys an excellent reputation. His temperament is even, considerate, warm and friendly. His personal compassion and his devotion to the law and to the equal application of the law commend his selection. He will be a great judge and should be promptly confirmed.

Respectfully,

ALBERT P. BREWER.

FAWAL & SPINA,
ATTORNEYS AT LAW,
Birmingham, AL, March 12, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: This letter is written for the purpose of recommending Mr. Edward Carnes for confirmation by the United States Senate Committee on the Judiciary for an appointment to the United States Court of Appeals for the Eleventh Circuit. The undersigned is a practicing attorney in Birmingham, Jefferson County, Alabama. During my career, I have handled two capital murder cases. The first being the case of *Chastine Lee Raines* v. *Fred Smith*, CV 83–P–1080–S. The second being the case of *Coulter* v. *Fred Smith*, later *Coulter* v. *Morris Thigpen*, CV 86–HM–5648–NW. In both instances, Ed Carnes represented the Respondent.

In the case of Chastine Lee Raines, Mr. Raines' Petition for Habeas Corpus Relief was granted by the Honorable Sam Pointer in the District Court for the Northern District of Alabama as the direct result of information provided to me by Mr. Carnes. Raines had been convicted of capital murder during the commission of a robbery in Birmingham, Alabama. Raines was a non-trigger-man accomplice. The trigger-man in the case was Darryl Travis Watkins. Raines' trial occurred prior to the trial of Watkins. Watkins was also convicted of capital murder. During the direct appeal of Watkins' case, Mr. Carnes discovered a police investigation report which disclosed that an informant who gave his name as Johnny Jackson stated to the police that he knew the true identity of the individuals who had perpetrated the crime and murder for which Mr. Watkins and Mr. Raines were subsequently convicted. The report disclosed an address for the informant and stated that the informant had been a student at Woodlawn High School.

This information has not been disclosed by the District Attorney at the time of Mr. Raines' trial. Mr. Carnes immediately informed me of the existence of the police report and the "Brady" material contained therein. Judge Pointer found that the information should have been disclosed to trial counsel and granted our Petition for Habeas Corpus Relief.

In the more recent case of David Lee Coulter, Mr. Carnes represented the respondent through original Federal Court Habeas proceedings, subsequent State Court proceedings, and again at the Federal level. Once the Federal District Court proceedings were terminated, I withdrew from further representation of Mr. Coulter because of the demands of my civil practice and he is now represented by other counsel. During my representation of Mr. Coulter, there were numerous instances when Mr. Carnes cooperated in obtaining information and facts beneficial to Mr. Coulter.

I have always found Ed Carnes to be fair and reasonable while at the same time performing his duties as an Assistant Attorney General with the utmost professionalism and integrity. I have never found him to be dishonest or in any way arbitrary in the performance of his duties. He has always been an able opponent, but never acted in a manner inconsistent with the highest moral and professional standards.

Based upon my personal experience and my understanding of Ed Carnes' reputation in the legal community in Alabama, I confidently and without reserve recommend him for confirmation by the Committee.

Yours very truly,

JOSEPH A. FAWAL.

MONTGOMERY, AL,
March 2, 1992.

Re nomination of Edward E. Carnes, U.S. Eleventh Circuit Court of Appeals.

Hon. JOSEPH R. BIDEN,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I write in support of the President's nomination of Ed Carnes to fill a vacancy on the Eleventh Circuit Court of Appeals. My support does not come because I am a death penalty advocate or because I am pro-prosecution. I am neither.

I initially came to Montgomery, Alabama in 1980, to work for Legal Services Corporation of Alabama, where I represented indigent people in civil matters. Subsequently, I entered the private practice of law. A substantial portion of that practice consisted of representing indigent criminal defendants. In 1989, I left private practice to accept a position with the Alabama Department of Public Health. While I hold a commission as an assistant attorney general, I do not prosecute criminal cases; I neither draw a salary from nor report to the Attorney General of Alabama. The small amount of litigation I now handle is entirely civil in nature and concerns licensure of health care facilities. My relationship with Mr. Carnes has been exclusively as a fellow professional and opposing counsel. I am not in favor of the death penalty and certainly entertain no bias in favor of criminal prosecutors.

While in private practice, I handled some capital murder cases, both as appointed, reimbursed counsel in trials and direct appeals and as a volunteer in collateral appeals. In 1985, I was privileged to be the first recipient of the Alabama State Bar's annual Clarence Darrow Award, which is given for volunteer work in capital murder cases. I received this award in recognition of work I did on behalf of William "Chick" Bush. Ed Carnes was my opponent on that case. He proved his integrity and honesty. I want to share the story.

In late 1983, I was recruited by the Alabama Prison Project to assist Chick Bush. He had been convicted of capital murder in late 1981 and sentenced to die. His trial attorney had handled direct appeals as far as the Alabama Supreme Court, for which he was reimbursed. The same attorney filed a certiorari petition to the U.S. Supreme Court without compensation. When the petition was denied, he told his client that he would not handle any further appeals. The Alabama Supreme Court set a December 30 execution date.

I had never handled a capital murder case. I was relatively inexperienced and very reluctant to get involved. I did so only on condition that another, experience attorney be recruited to help me. Eventually, the NAACP Legal Defense and Education Fund, Inc., volunteered Mr. Deval Patrick, a very able lawyer working in their New York City office. By December 22, I was able to file in state court papers that had been prepared by Mr. Patrick. This was a collateral appeal of Mr. Bush's conviction and a request for stay of execution pending the collateral appeal.

In late 1983, pending executions were page five news as they are today. There had been only one execution under Alabama's latest death penalty statute: Alabama's prior statute had been held unconstitutional several years before. The first man executed under the new statute, John Louis Evans, had for all intents and purposes withdrawn his appeal a few months prior to his execution date. Chick Bush's execution would be fully contested, and as the date grew near, there was a considerable amount of publicity, much more than is drawn by an execution today.

The state court judge hearing the case scheduled a hearing for Saturday, December 24. I will never forget that day. I was all alone, the only person seated at the petitioner's counsel table. The judge was extremely upset with me because my application for writ of error and application for stay of execution were filed at such a late date (eight days before the execution). Ed Carnes was opposing counsel. He did not try to take advantage of the judge's anger nor did he inflame the situation. Instead, he very calmly explained to the judge that I was entitled to a full round of collateral remedy hearings in federal court, that I would almost certainly receive a prompt stay of execution from a federal court judge, that it was necessary for me to have that stay denied by a state court judge before going to federal court, that the judge should simply deny my state court application so that the case could proceed to federal court where we all agreed it belonged, and that I was merely doing my job.

The following Monday, December 26, I filed a habeas corpus petition and an application for stay of execution in federal court. The execution was still scheduled for 12:01 a.m., Friday, December 30. Mr. Carnes, Mr. Patrick, and I held repeated telephone conferences with the judge during that week. That judge repeatedly expressed reluctance to grant the stay, to my growing consternation. Mr. Carnes again and again told the judge that he should grant the stay. Finally, at noon, on Thursday, December 29, twelve hours before the execution, the judge issued a stay which stopped execution.

The largest radio station in Montgomery broadcast an editorial that night criticizing the judge's decision and castigating me by name. Mr. Carnes again did not make any inappropriate or inflammatory comments. I am sure that he had ample opportunity to do so, judging from the dozens of calls and inquiries that I received from reporters.

As discovery progressed in the case, Mr. Patrick and I became increasingly pessimistic about our chances. Our lynchpin arguments concerned the disproportionate number of death sentences given in Alabama to those convicted of murdering white victims rather than black victims. We had held out great hopes for the *McClesky* v. *Zant* case, which was then pending in U.S. District Court in Georgia and which raised the same issue about the death penalty there. During the course of our preparation, the district court there ruled against Mr. McClesky, and as you may be aware, this ruling was later affirmed by the Eleventh Circuit Court of Appeals and the U.S. Supreme Court. Mr. McClesky was recently executed.

In March, I received a phone call from Ed Carnes. While preparing his case, he had discovered a document in the district attorney's file. It was a piece of plainly exculpatory evidence that had not been elicited by the defense at trial. Ed told me that this meant that the evidence either had not been provided to the defense, a clear violation of the defendant's constitutional rights, or that its non-use by the defense made out a case of ineffective assistance of counsel. Either way, the defendant was entitled to a new trial and he intended to let the judge know that.

Chick Bush got his new trial. I'm sorry to say that he was convicted again, but the state did have some rather impressive evidence against him, including a taped confession to the murder. That conviction was also overturned on appeal, and he received a third trial where he was again convicted. That conviction is presently on appeal. Chick Bush is alive today on Alabama's death row, more than nine years after his last-minute stay of execution.

Ed Carnes could have pretended to overlook the evidence he found in the district attorney's file. He had no reason to doubt the defendant's actual guilt. He could have justified it to himself, telling himself that the failure of this evidence to appear at trial was harmless error. By turning over the evidence he aroused considerable ire from the local district attorney. He must have been tempted to save the state endless additional appeals and expense. If Ed Carnes had not confessed error in that case, there is no way that we possibly could have discovered the additional exculpatory evidence on our own. Chick Bush would not be alive today.

What Ed Carnes did in the Bush case was fundamentally honest and courageous. I am impressed, as is everyone who has opposed him, with his intelligence and legal ability. But I am most impressed with his integrity. If he could be a fair and impartial prosecutor in the atmosphere that surrounded the Bush case in 1983, then I have no doubt that he will easily do the same as a federal judge. I would be comfortable arguing any kind of case before him. I whole-heartedly support his nomination.

Sincerely,

RICK HARRIS.

[From the Birmingham News, Feb. 17, 1992]

POLITICS ASIDE

Alabama's Ed Carnes, nominated by President Bush for the 11th Circuit Court of Appeals in Atlanta, is:

A man with an excellent legal mind.

A man with an unusually high quotient of personal integrity.

The Alabama assistant attorney general who argues death penalty cases.

In the minds of some people, including the *Atlanta Constitution*, the third item on that list cancels out others. But those minds concentrate more on judicial politics than justice.

The Senate should have no trouble confirming Carnes. President Bush made an excellent choice. Sens. Heflin and Shelby should push hard for him.

The *Constitution* ran a blistering attack on Carnes last week, saying, among other things, that he "has done everything in his power to make sure indigent defendants in capital cases do not get a fair shake" and implying that was a shameful choice to fill the shoes of Frank Johnson.

But note that Judge Johnson himself has called Carnes a "very good" choice. As for depriving indigent defendants of a fair trial, we have the remarks of former Alabama Gov. Albert Brewer, who chaired a state bar task force on how indigent appeals in capital cases should be handled.

Carnes served on that task force in a way that showed "his commitment to the principle of adequate and effective representation for these defendants," says Brewer in a letter to Judiciary Committee Chairman Joseph Biden. And later, "the rights of many defendants were protected by Mr. Carnes' concern for, and commitment to, fairness in the criminal justice system."

Throw in another letter to Biden, this one from Alabama Supreme Court Justice Kenneth Ingram. Ingram Commended Carnes for his work as counsel to the state Judicial Inquiry Commission in which he prosecuted 18 state judges for misconduct, including two for racial bias on the bench.

Then top it all off with a fairly astonishing letter printed in the *Constitution* shortly after its editorial. It was written by Morris Dees, head of the Southern Poverty Law Center, which has defended a number of indigents in death penalty cases here.

Dees called Carnes a person of "tremendous integrity and talent." He said Carnes actually had gone to court and argued against positions taken by local prosecutors in death penalty cases when he thought they were wrong.

Further, that Carnes had disclosed evidence hidden in local prosecutors' files that tended to support defendants, even though doing so resulted in convicted murderers getting new trials.

Carnes is an honest and bright legal scholar who has spent most of his career helping victims instead of criminals. Politics aside, he'll make an outstanding judge.

[From the Alabama Journal, Apr. 3, 1992]

NOT REASON ENOUGH

The nomination of Alabamian Ed Carnes for a seat on the 11th U.S. Circuit Court of Appeals is assailed by civil rights organizations troubled by his vigorous support of appeals of death-penalty cases as an assistant state attorney general. That alone is not reason enough to deny him confirmation for the judgeship, especially not in light of the generally high marks for character and integrity he has received from many who have worked with him and even some who have opposed him in the courtroom.

There is a great deal of legal and philosophical disagreement over capital punishment, with people of high intelligence and good conscience found on each side. Mr. Carnes favors capital punishment. He drafted Alabama's death penalty statute and has defended it in numerous cases.

Some opponents of capital punishment seem to believe that makes Mr. Carnes unfit for the federal bench—where, by the way, he would not be hearing these death penalty cases. They claim he could not be an impartial judge with the desired sensitivities because of his forceful efforts to have Alabama's death penalty law enforced.

That's unfair to Mr. Carnes, in our view. He has worked zealously in behalf of his client—the state of Alabama—in these cases and it hardly seems fair to hold diligence against him. A defense attorney who worked equally hard for his client wouldn't be criticized for it.

Mr. Carnes does not appear to have been the sort of maddog prosecutor that opponents seek to portray. Indeed, on several occasions he has gone to court to correct errors made by local prosecutors which harmed the cases of defendants. Surely that indicates a commitment to having cases decided on the basis of the law properly applied.

Particularly telling is the support of Mr. Carnes' nomination by Morris Dees of the Southern Poverty Law Center, whose opposition to the death penalty is well known. Mr. Dees testified in favor of the nominee, calling him "an ardent foe of racial intolerance."

Others who know Mr. Carnes and do not share his views on capital punishment cite what they see as a high level of integrity in the man. If there are valid reasons why he should not be confirmed for this judgeship, they have not been revealed. His death penalty work is in no way an adequate justification for opposing him.

[From the Birmingham News, Apr. 2, 1992]

CARNES AND POLITICS

The Senate Judiciary Committee should, indeed, fully explore Ed Carnes' personal and professional record before signing off on the Alabama prosecutor's nomination to the 11th U.S. Circuit Court of Appeals in Atlanta—just as it should all federal judicial nominees.

But the Judiciary Committee must not allow petty partisan politics to sour its examination of Carnes in hearings under way this week in Washington.

Some civil rights activists are trying to derail Carnes' confirmation because, as an Alabama assistant attorney general, he argues death penalty cases. Carnes also is credited with helping rewrite Alabama's death penalty statute, another reason opponents say they are against him.

But that, in fact, is to Carnes' credit. As were death penalty laws in other states, Alabama's law was declared unconstitutional by the U.S. Supreme Court. Carnes helped make Alabama's law constitutional, which included passing government scrutiny.

Some opponents to Carnes are sincerely against the death penalty, therefore they are against Carnes. But it's downright unfair to characterize Carnes as an enemy of justice or civil rights because he performed well as an Alabama assistant attorney general.

Just the opposite is true, no better underscored than by the support Carnes has received from both Frank Johnson, the well-known U.S. district judge he'll replace, and from prominent civil rights lawyer Morris Dees, director of the Southern Poverty Law Center in Montgomery.

Johnson, who served 37 years on the federal bench, said President Bush made a "very good" choice when he nominated Carnes. Johnson is absolutely correct.

Dees, meanwhile, has called Carnes a person of "tremendous integrity and talent." Dees noted that Carnes has, in fact, gone to court and argued against positions taken by local prosecutors in death penalty cases when he thought they were wrong. That Dees and Carnes have been on opposite sides before in the courtroom is worthy of note.

There's no question that Carnes has an excellent legal mind—a point conceded even by his opponents. He also has a high degree of personal integrity.

And while Carnes may disagree with his opponents on the death penalty and other issues, that in no way means he's not qualified for the federal bench.

Alabama's Sen. Howell Heflin, the Judiciary Committee member who is chairing the Carnes' hearings, should be thorough and should be fair. But the Judiciary Committee must focus on the issues at hand: Carnes' personal and professional qualifications.

And while all sides should be heard, simply zeroing in on political differences, whether real or perceived, is wrong.

[From the Mobile Register, May 11, 1992]

CARNES GOOD CHOICE

The Senate Judiciary Committee showed uncommon good sense the other day in voting to confirm Alabama Assistant Attorney General Ed Carnes for the federal appeals seat held by retiring Judge Frank M. Johnson. The committee voted 10–4 to send the 41-year-old George Bush nominee for the U.S. Court of Appeals for the 11th Circuit before the full body for a vote.

The vote came after another of those now-predicatable campaigns by liberals to try rejecting any Bush nominee deemed politically incorrect. In the case of Carnes, his opponents wanted him rejected because he has been excellent in doing his job as a public servant.

The bottom line of the opposition was that Carnes has been in charge of writing and enforcing the death penalty law in Alabama.

As Alabama's leading advocate in death penalty appeals, Carnes for years has had the lead role in defending capital murder convictions. He helped draft our state's death-penalty law and heads Alabama's capital-punishment litigation division.

Committee chairman Joseph Biden, D-Del., said he voted against Carnes primarily because he never once refused to pursue an appeal in which prosecutors were accused of racial discrimination in jury selection.

The six Republicans on the panel voted along party lines while the eight Democrats split. Insiders said the split was caused largely because the nomination is strongly supported by Howell Heflin. D-Ala.

Heflin emphasized that the nomination of Carnes was supported by Johnson, a noted civil rights champion who is retiring from the 11th Circuit and would be replaced by Carnes, and influential lawyer and death penalty opponent Morris Dees, head of the Southern Poverty Law Center.

"What I was able to discover and pick up here was that he followed the law. . . . One thing that was not reflected on his resume was his fairness. He was not a win at all cost attorney," said Alan Simpson, R-Wyo.

Similar praise was showered on Carnes from colleagues around the nation as well as those who know him well in Alabama.

We trust the full Senate will follow the lead of the Judiciary Committee in getting this well-qualified man on the bench as soon as possible.

[From the Montgomery Advertiser, June 28, 1992]

ED CARNES: SENATE SHOULD CONFIRM ED CARNES

Ed Carnes' nomination to fill a vacancy on the 11th U.S. Circuit Court of Appeals has come under fire from civil rights groups which are working to prevent his Senate confirmation.

An assistant attorney general and chief of the state's capital-punishment litigation division, Carnes helped draft Alabama's death penalty law.

His opponents argue that Carnes has often defended systematic exclusion of blacks from juries in cases involving black defendants.

Despite that opposition, the nomination of Carnes, 41, an honors graduate of the University of Alabama and cum laude graduate of Harvard Law School, was approved 10-4 by the Senate Judiciary Committee.

It's long past time for the full Senate to follow the Judiciary Committee's example.

Carnes is far more complex than the portrait of a one-dimensional ogre his opponents seek to paint. As chief counsel for the state, Carnes persuaded appeals courts to affirm the conviction of the Ku Klux Klansman who killed four black girls in the 16th Street Church bombing case.

As chief prosecutor for the Judicial Inquiry Commission, it as Carnes who successfully led the effort to remove two state judges who were found guilty of sexual harassment and racially derogatory rulings and statements.

Unlike many judges already on the bench, he has never belonged to a club which discriminates against blacks, and he is a member of an integrated church.

While it is his job to argue the state's position in appeals courts, in two cases, after black defendants were convicted and sentenced to death, Carnes disclosed evidence favorable to them from the local prosecutor's file. Both defendants got new trials. That is hardly the *modus operandi* of a death penalty-obsessed, Darth Vader-style prosecutor.

His supporters in Alabama cover the political spectrum. A Republican patronage panel nominated him, but he is supported by U.S. Sen. Howell Heflin, civil rights attorney Morris Dees, Judge Oscar Adams (the State's only black Supreme Court justice) Circuit Court Judge Charles Price and state Rep. Alvin Holmes of Montgomery.

Outside the state, 27 attorneys general from both major political parties have endorsed his nomination. As Attorney General Jimmy Evans has noted, Carnes has been an extremely effective advocate for the state's position as part of his job.

As a judge, his role will shift to that of referee. And The Advertiser believes he will be both effective and fair on the appellate bench as a good referee should be. Opponents have managed to stall his nomination for far too long. The U.S. Senate should stop being held hostage on this matter and expeditiously confirm Carnes' nomination.

[From the Birmingham News, May 11, 1992]

CARNES' STRONG SHOWING

The Senate Judiciary Committee was right on target Thursday when it gave Ed Carnes's nomination to the 11th U.S. Circuit Court of Appeals in Atlanta its strong endorsement. Sen. Howell Heflin did a good job of keeping the committee focused on Carnes' qualification, not petty politics.

Carnes deserved the overwhelming 10-4 endorsement, especially considering, when you get right down to it, the few opponents to his nomination are against him simply because he did such a good job arguing death penalty cases as an Alabama assistant attorney general.

The usual suspects on the committee—Sens. Joseph Biden, Edward Kennedy, Howard Metzenbaum and Paul Simon—voted against him, all listing Carnes' strong support of capital punishment as the reason for their vote.

Now opponents are taking their futile fight to the Senate floor, but they'll accomplish little except making Carnes' nomination yet another referendum on the death penalty.

One opposed, Steve Bright, director of the Southern Center for Human Rights in Atlanta, even went as far as to bring the Los Angeles police beating trial into the Carnes's debate.

"The critical factor is the Rodney King case and the increased awareness in this country of what the results of racial exclusion from the judicial system are," Bright said.

Bright is grasping wildly at straws and shows he really doesn't know much about Carnes.

Credit Heflin, too, for making sure the Judiciary Committee knew before it voted that Alabama civil rights leaders give Carnes high marks for integrity, fairness and ethical conduct.

And Morris Dees, director of the Southern Poverty Law Center in Montgomery and one of the nation's most prominent civil rights lawyers, said Carnes has "by far the strongest record on civil rights of any federal judicial nominee in the state in at least the past decade."

The full Senate should quickly confirm Carnes. He'll make an outstanding judge.

[From the Decatur Daily, Feb. 20, 1992]

CARNES WOULD BE GOOD JUDGE

Federal judges like Supreme Court justices, have long-lasting effects on the nation. Sometimes judges, like Supreme Court justices, get appointed for political reasons rather than for their legal brilliance. The result is bad law that either weaves its way into society or gets overturned in what sometimes is a long process.

Too often the best people are not interested in judgeships. Too often, the best people don't have the connections needed to get nominated.

Those elements, however, appear to be in place for the vacancy on the U.S. Court of Appeals for the 11th Circuit in Montgomery. Ed Carnes, a long-time assistant attorney general, has been nominated for that position. He has the reputation of being a brilliant attorney and has demonstrated integrity and compassion during his 16 years in the attorney general's office.

In 1972, he became the fifth person in the then 51-year history of the University of Alabama's School of Commerce and Business Administration to graduate with a 3.0 point grade average on a 3.0 scale.

He graduated cum laude from Harvard Law School in 1975.

He is a North Alabama product, having grown up in Albertville.

The nomination is before the Senate Committee on the Judiciary. We join many others in urging that he be approved. Mr. Carnes' long service to the state, his education achievements and his reputation are strong indications that he would make an outstanding federal judge.

[From the Selma Times-Journal, May 12, 1992]

CARNES SHOULD BE HONORABLE FEDERAL JURIST

Last week U.S. Senators Teddy Kennedy, Joe Biden, Howard Metzenbaum and Paul Simon voted against the nomination of Ed Carnes to fill a vacancy on the 11th Circuit Court of Appeals. Ten other Senators approved Carnes to replace legendary Judge Frank M. Johnson.

The jurisdiction of the 11th circuit includes Alabama, Georgia and Florida.

Carnes was nominated by President Bush based in part on Carnes' service as head of the Capital Litigation Division of the Attorney General's Office of Alabama. This made Carnes a highly-publicized target of many prominent politicians and national activists groups.

Bush nominated Carnes knowing full well that the nominee would be placed under the most intense scrutiny because of Carnes' role in sending criminals to death row. Despite extensive investigations of Carnes' background, no critic was able to produce anything to harm the nomination, other than his strong record as a defender of the public's rights.

"I was surprised to learn of his strong support from the civil rights community in Alabama," testified Sen. Howell Heflin, who interviewed many Alabamians about their knowledge of Carnes." . . . The answer that I got was that Ed Carnes was a highly intelligent, competent lawyer, a tenacious advocate, but an individual of the highest integrity and who at all times practiced fairness and ethical conduct."

Despite the concerns of Kennedy and others, none other than Frank Johnson has gone on record supporting Carnes for the job. Were looking forward to seeing Carnes in action.

[From the Mobile Press, Feb. 28, 1992]

EXCELLENT PICK FOR APPEALS COURT

President Bush made an excellent choice in nominating Alabamian Ed Carnes for the 11th Circuit Court of Appeals in Atlanta.

Carnes, who graduated cum laude from Harvard Law School in 1975, for the last decade has headed the division of the attorney general's office that handles appeals in death penalty cases.

After the U.S. Supreme Court declared Alabama's death penalty law unconstitutional in 1980, Carnes wrote a new law that has been upheld by the courts. He also wrote a child pornography statute that set penalties of up to life in prison.

Carnes has been widely praised, even by those who have opposed him in the courtroom, for his fairness, integrity, skills, intelligence and hard work.

Alabama Sens. Howell Heflin and Richard Shelby should now push hard for Senate confirmation of the Alabama assistant attorney general to replace Judge Frank Johnson.

[From the Birmingham News, July 31, 1992]

CARNES UNCANNED

It's good to see Majority Leader George Mitchell keeping his promise to call a vote on Ed Carnes' nomination to the 11th Circuit Court of Appeals before the Senate recesses Aug. 12.

Some misguided opponents of the Carnes' nomination in the Senate, U.S. House and elsewhere have been trying to convince Mitchell not to bring it up for debate at all.

But to his credit, Mitchell is following the advice of Alabama Sens. Howell Heflin and Richard Shelby, both strong supporters of the Carnes nomination, and is going forward.

If opponents to Carnes really have a case, they should make it before the full Senate during debate.

The problem opponents have is that their charges against Carnes just don't hold up. That was apparent after the Senate Judiciary Committee approved his nomination by a 10–4 vote.

Thus they have discovered the only way they can derail Carnes is to prevent his nomination from ever coming to a vote.

Carnes, an assistant Alabama attorney general, has drawn opposition from civil rights groups who contend he has been overzealous in defending the practices of prosecutors in death penalty cases.

Yet Carnes gets high marks for fairness and integrity from civil rights leaders who have seen him at work. One of his strongest supporters is Morris Dees, head of the Southern Poverty Law Center.

Unfortunately, the Carnes' nomination has come down to a referendum on the death penalty. That's unfair to Carnes, who should be judged on his qualifications, personal integrity, ethics and fitness for the court. And litmus tests are always the wrong way to go about picking a federal judge.

Heflin and Shelby should stand fast, and Mitchell must not buckle under the pressure from a small but vocal group that wants him to keep the Carnes' nomination off the floor.

[From the Alabama Journal, June 26, 1992]

Helpful Opposition

The fact that supporters of Lyndon LaRouche are opposing the nomination of Alabamian Ed Carnes to the 11th U.S. Circuit Court of Appeals is clearly a point in his favor. It's almost enough by itself to justify his confirmation.

LaRouche is running for president again, this time from a prison cell, where he most decidedly belongs.

His loony blend of conspiracy theories has found an audience, but opposition to Mr. Carnes from his corner of the fringe has to help a lot more than it hurts.

The more that people associated with this extremist speak against Mr. Carnes, the further they erode the credibility of other opponents.

[From the Birmingham Post-Herald, May 13, 1992]

Misplaced Opposition

Confirming a nominee for a federal judgeship should never be simply a process of checking off that individual's resume against an arbitrary list of education and legal experience. The nominee's general legal philosophy and temperament are also areas that senators should explore and consider before voting to confirm or reject the president's choice.

However, there is a difference between finding a nominee's general legal views unacceptable and deciding to oppose the nominee because of his or her views on a single issue. The former is a legitimate reason to reject a nominee, as happened to Robert Bork a few years ago. The latter is not.

A majority of the Senate Judiciary Committee made the proper distinction last week when 10 members voted to recommend the confirmation of Ed Carnes, an Alabama assistant attorney general, to a seat on the 11th U.S. Circuit Court of Appeals.

However, the committee was not unanimous. Four senators—Joseph Biden, Edward Kennedy, Howard Metzenbaum and Paul Simon—voted against Carnes because of his strong advocacy for Alabama's capital punishment laws and despite their agreement that he is well qualified.

Their reasoning is so flawed it doesn't bear even cursory scrutiny. The establishment of a death penalty for certain crimes is a legislative function. The role of the courts is to ensure that when it is imposed, the law is being constitutionally applied to the particular defendant.

While Carnes has been an advocate for the death penalty, he has also been sensitive to the legal rights of defendants.

Furthermore, Carnes' views on capital punishment are largely irrelevant to sitting on the appeals court. While he will be called on to rule on death penalty appeals, he must follow the Supreme Court's lead. And as they recently demonstrated in a California case, the justices take a very active role in death penalty cases.

Assuming he is confirmed by the full Senate—as he should be—Carnes is likely to make his mark as a judge in areas of the law other than capital punishment.

[From the Decatur Daily, May 17, 1992]

Carnes Should Be Judge

Civil rights lobbyists have not done their homework in opposing Ed Carnes' nomination to the 11th U.S. Circuit Court of Appeals.

They have zeroed in on one aspect of this dedicated assistant Alabama attorney general's record and used that to pronounce him an unfit judge.

The rumor mill works overtime as opponents of the death penalty try to delay Senate confirmation.

Civil rights advocates incorrectly have concluded that because Mr. Carnes is a strong advocate of the death penalty that he is weak on civil rights, while the opposite is true.

Mr. Carnes has been an active foe of the Ku Klux Klan. He has opposed the routine striking of black jurors from jury lists because of their race. He represented black defendants who were being sued by whites when it wasn't politically correct.

On a 10–4 vote, the Senate Judiciary Committee recently recommended Mr. Carnes' confirmation. But Sen. Alan Cranston, D–Calif., has asked Senate Majority Leader George Mitchell, D–Maine, to delay full Senate consideration on the nominee until next month.

Mr. Carnes' opponents cite the Rodney King verdict as a reason to slow the confirmation. But this appointment is not about Rodney King or police brutality. This issue is about the death penalty.

Ed Carnes is not a zealot of the electric chair and does not advocate frying 'em until the eyes pop, but he supports the penalty when it fits the crime.

The Senate has the opportunity to give its approval to an outstanding young legal mind, something the federal bench presently lacks because of a decade of political appointments.

[From the Mobile Press Register, May 30, 1992]

True Supporters of Civil Rights Back Carnes

People for the American Way says it is miffed because "ideologues" have been appointed to federal courts. More correctly, however, the organization is angry not because ideologues may have been appointed, but because its brand of ideologues haven't been.

PAW issued a 300-page report this week pointing to the nomination of Alabama death penalty prosecutor Ed Carnes to a federal appeals court as a prime example of how the Reagan and Bush administrations have packed the courts in the name of judicial restraint.

Carnes has been nominated for the 11th U.S. Circuit Court of Appeals vacancy created by the retirement of Frank M. Johnson, a noted civil rights judge.

PAW has tried to paint Carnes as an enemy of civil rights because of his support for the death penalty. But the facts belie such an accusation. Carnes has worked to ban the importation of South African coal mined by indentured labor, represented black public officials sued by whites and got two judges removed from the bench for engaging in racist behavior.

The South's leading civil rights attorney, Morris Dees, has described Carnes' record against racial discrimination as "outstanding." Dees has endorsed Carnes' nomination, as has Judge Johnson whom Carnes would replace.

If PAW was truly concerned with civil rights, instead of pursuing a hidden agenda over the death penalty, it would be among Carnes' strongest supporters.

[From the Tuscaloosa News, May 17, 1992]

Not This Lamb

Will Ed Carnes become the Reginald Denny of the federal courts?

Carnes, a first-rate prosecutor in the Alabama Attorney General's Office, is beginning to share a single misfortune with Denny, the truck driver who was pulled from his vehicle and savagely beaten at a South Central Los Angeles intersection: Both men were in the wrong place at the wrong time when the Rodney King verdict was released.

Denny has been released from a West Coast hospital, but out on the East Coast, some members of the U.S. Senate and some assorted activists are just beginning to land their blows on Carnes, who was nominated to replace U.S. Circuit Court Judge Frank Johnson on the federal appeals bench in Atlanta.

Carnes' major sticking point has been that he argued capital cases in Alabama for the Attorney General's office—not that he argued them poorly or unethically, but simply that he argued them. Some activists are insisting that Carnes has shown racial insensitivity, despite vociferous arguments on Carnes' behalf from many black and liberal leaders in Alabama.

The Senate Judiciary Committee approved the Carnes nomination 10-4, with Ted Kennedy, Joe Biden, Howard Metzenbaum and Paul Simon in opposition. Now other liberal Senators are preparing to pile on the nominee—with Alan Cranston, the best senator that money can buy—in the lead.

We think this senseless Senate carnage ought to stop. Howell Heflin, in arguing on behalf of his fellow Alabamian, noted that a long list of even-minded Alabamians have spoken out on behalf of Carnes, who is a University of Alabama graduate and Harvard trained lawyer.

Frank Johnson called Carnes a "very good choice"; state Supreme Court Justice Oscar W. Adams, the first black elected to the high court, strongly supports Carnes.

Morris Dees, perhaps Alabama's single most identifiable figure in matters of civil rights and the courts, testified on Carnes' behalf and wrote an impassioned letter to the SCLC, urging support for the Alabamian.

Despite Carnes' skilled efforts for the state in capital cases, Dees wrote that "Ed Carnes has done more than virtually any other attorney in Alabama to increase state funding for indigent capital defendants. . . For once, we have a nominee who has fought the Klan and who has fought racist judges. For once, we have a nominee with a strong record of fairness."

Does it sound like Carnes is a bigot? Not to us.

He's is a good man caught between the outrage generated by the L.A. verdict and opportunists on the hunt for a sacrificial lamb. Let them find another lamb.

[From the Montgomery Advertiser, July 31, 1992]

APPROVE CARNES: SENATE SHOULD OK JUDICIAL NOMINEE

Senate Majority Leader George Mitchell wisely refused to surrender to demands from civil rights leaders that he stop a scheduled vote on nomination of Edward Carnes to a vacancy on the 11th Circuit Court of Appeals.

National black political leaders Wednesday tried to block consideration of the nomination by the full Senate. The Senate Judiciary Committee approved Carnes' nomination 10-4.

Civil rights leaders have worked against the nomination. Mitchell has promised the necessary confirmation vote before the Senate begins its summer recess on Aug. 12.

Carnes, 41, is an honors graduate of the University of Alabama, cum laude graduate of Harvard Law School, and assistant attorney general and chief of Alabama's capital-punishment litigation division.

His opponents charge that he has been too zealous in defending systematic exclusion of blacks from juries in cases involving black defendants. They now threaten extended debate of the nomination in an attempt to kill it.

Reportedly, black political leaders like the Rev. Jesse Jackson and U.S. Reps. John Conyers, D-Mich., and Ron Dellums, D-Calif., told Mitchell that Carnes is racially insensitive.

But those charges are hogwash. His public record indicates that he is a forceful advocate, but no racist. In fact, his record shows that he is just the opposite of a bigot.

As chief counsel for the state, Carnes persuaded appeals courts to affirm the convictions of Ku Klux Klansmen who killed four black girls in the 16th Street Baptist Church Birmingham bombing case.

As chief prosecutor for the Alabama Judicial Inquiry Commission, Carnes successfully led efforts to remove two state judges who were found guilty of sexual harassment and racially derogatory rulings and statements.

Unlike many judges already on the federal bench, he has never belonged to a club which discriminates against blacks, and he is a member of an integrated church.

And although it is Carnes' job to argue for the state in death penalty appeals, he has twice disclosed evidence from local prosecutors' files which helped to obtain new trials for black defendants who had been convicted and sentenced to death.

His supporters in the state cover a wide political spectrum. Although the Bush administration nominated him with the backing of a Republican patronage panel, he has strong support from the state's Democratic senators, Howell Heflin and Richard Shelby. Justice Oscar Adams (the state's only black Supreme Court justice), Montgomery Circuit Court Judge Charles Price, state Rep. Alvin Holmes and civil rights attorney Morris Dees have backed the nomination.

If his nomination is blocked, Carnes will be punished for being good at his job of prosecution. As a judge, his role will shift to that of arbitrator and umpire, and we are convinced he would do an equally outstanding job in that role as well.

There should be a vote on Carnes' nomination before Congress recesses. That vote already has been delayed too long. The Senate should approve Carnes' nomination and go on about its business.

[From the Connecticut Law Tribune, May 11, 1992]

INJUDICIOUS TREATMENT OF JUDICIAL NOMINATION

(By Rosa Davis)

When Monroe Freedman, Hofstra University Law School professor of legal ethics, called me about a column he was writing for *The Connecticut Law Tribune* and other American Lawyer Media papers concerning Edward Carnes' nomination to the U.S. Court of Appeals for the 11th Circuit, I was glad to talk with him. A handful of people who oppose capital punishment with religious fervor have been attacking Carnes, who heads the Capital Punishment Division of the Alabama attorney general's office, and they have been less than candid about the nominee's record. As the chief of the Office of the Alabama Attorney General's Appellate Division and someone who has observed Carnes' work for more than 16 years, I welcomed the opportunity to share what I knew with Freedman or anyone else.

I confess I had some misgivings about Freedman's objectivity because he told me that he had already written the Senate to oppose Carnes' nomination—before he had called to ascertain the facts.

My misgivings were also based upon the source of Freedman's prejudgment of Carnes—Stephen Bright, an Atlanta attorney who has spearheaded the Carnes' opposition with an intensity that matches Bright's aversion to the imposition of capital punishment. Bright's ardor may spring from the fact that last month Alabama executed one of his clients, Larry Gene Heath, a man who had hired two men to murder his nine-months pregnant wife. To his credit, Bright fought tenaciously for his client, but he lost. To add insult to Bright's emotional injury, the result contradicted cherished stereotypes about the administration of capital punishment. Heath, a white man, was executed, while the hit men, both African-Americans, ultimately received non-death sentences.

Notwithstanding the source of Freedman's prejudgment of the Carnes' nomination, I hoped that some exposure to the facts might prevent him from parroting the Stephen Bright story line. Freedman's column in the Tribune ("The Ghostwriter Behind the Bench," April 27, 1992, Page 20) proved my hopes naive. Freedman repeats Bright's charge that Carnes has written numerous judicial opinions adopted by Alabama judges and that such a practice "raises some serious ethical issues."

At least Freedman does acknowledge that there is nothing wrong with an attorney submitting, with a copy to opposing counsel, proposed orders that judges are free to change. As Freedman concedes, neither Carnes nor anyone else can be faulted for acting as an advocate in such a situation. Freedman then proceeds to abandon the wisdom of his acknowledgment.

Freedman criticizes Carnes for one sentence that appeared in one order (actually drafted by another attorney) that stated that the judge "after long deliberation," could not "erase from my mind the circumstances surrounding this most senseless crime." That sentence, which Freedman says imputes to the court "a conscientious deliberative process and a subjective sense of outrage," supposedly supported reviewing courts' deference to the judge's decision.

That sentence, however, made fair inferences: The murder was outrageous and, in deciding to sentence a defendant to death, a judge certainly should follow a conscientious deliberative process. Moreover, the judge was free to modify that part of the sentence order as he modified other parts of it. It is as though Freedman is saying an attorney can be an advocate in preparing judicial orders but he cannot be a good one.

MANUFACTURING MISCONDUCT

During Carnes' confirmation hearings, Bright also attempted to implicate Carnes in the one instance in which the Alabama attorney general's office even submitted a draft order without simultaneous service of a copy on opposing counsel. The difficulty for Bright is that it is undisputed that Carnes neither condoned nor knew anything at all about that action. The first time Carnes heard of it was when he was given a copy of Bright's statement to the Senate Judiciary Committee, just three hours before the confirmation hearing began. That was two years after the events had occurred. The attorney who submitted the draft does not work under Carnes' supervision and never did. He has told everyone who will listen, including Freedman, that Carnes knew nothing about the *ex parte* submission.

The treatment of the "one instance of *ex parte* communication by Carnes" that Freedman says I acknowledged shows how desperate the opposition is to find misconduct where none exists. That incident involved a judge's inquiry about the timing of the filing of a pleading, clearly a procedural matter. Disciplinary rules prohibit *ex parte* communications "as to the merits of a cause" but not about procedural matters.

Carnes testified at his confirmation hearing that the judge called to ask him when he would file an answer to a state collateral petition. Carnes told the judge that opposing counsel had said he intended to file an amendment to the petition, and that Carnes would file his answer after that amendment was filed. Soon thereafter, Carnes set up a conference call with the judge and opposing counsel to discuss when the amendment, and then the answer, would be filed. So not only did Carnes stay well within disciplinary rules discussing only procedural matters, he went out of his way to involve opposing counsel, even though he was not required to do so.

Of all people, Freedman should be sensitive to baseless ethical aspersions. He is the leading proponent of the position that criminal-defense attorneys should actively assist their clients, if they insist, in presenting perjured testimony. Those views once led a bar grievance committee to investigate Freedman, who had merely espoused his opinion on the subject. Although his bizarre views were condemned, Freedman quite properly escaped any disciplinary action.

RESCUED FROM DEATH ROW

The attacks on Carnes are doubly unjust because no attorney has a better and more well-deserved reputation for fairness. He is the only assistant attorney general in the history of Alabama to have taken a position in court opposed to that of a district attorney. He did that in one case to establish the rule, which he has long espoused, that the prosecutor's entire file should be open to the defense in capital cases—even though the Constitution does not require such an open-file policy.

In that case, the judge ordered a prosecutor to open his file to a capital defendant, and the prosecutor appealed that order. Carnes represented the judge on appeal against the entire district attorneys association. He won. The Alabama Supreme Court adopted a rule authorizing trial courts to order an open-file policy in capital cases, giving Alabama one of the country's most liberal discovery rules in capital cases.

In another case, Carnes argued against the district attorney that a death sentence had been imposed unconstitutionally and should be reversed. Again he won.

A Mobile attorney who had represented two inmates executed in Alabama testified before the Senate Judiciary Committee about Carnes: "In my 19 years since law school, no opponent has been fairer to me. No opponent has been more straightforward and forthcoming."

"I think he's absolutely principled," another Montgomery attorney, who has represented five capital defendants, publicly stated about Carnes. "I don't think he ever misleads counsel or the court. He is completely scrupulous."

In a letter to the Judiciary Committee, a Birmingham attorney told how Carnes had discovered and immediately disclosed exculpatory evidence that won the attorney's death-row client a new trial. A Montgomery attorney also testified before the Judiciary Committee that Carnes had literally saved his client's life. Not only did Carnes persuade a reluctant judge to grant a stay of execution so the man's claims could be heard, but he discovered and promptly disclosed exculpatory evidence, resulting in a new trial.

Carnes' fairness is such that even Bright, who rarely has anything good to say about any opposing counsel, is on record as crediting Carnes with assisting one of his death-row clients. After Carnes succeeded in having the death sentence of one of Bright's clients reduced based upon some new mitigating-circumstances evidence, Bright thanked Carnes for taking the extraordinary step of persuading the district attorney to support the lesser sentence after the death penalty had been repeatedly upheld. "I wish to express again my appreciation to you for working out this disposition of this case," Bright wrote, "I am most grateful." Bright's gratitude evaporated, however, when Carnes was nominated to the 11th Circuit.

EFFECTIVE ASSISTANCE

As Carnes' harshest critic, Bright charges and Freedman repeats that Carnes has "cynically sought to maintain a system of ineffective assistance of defense counsel in capital cases." Underlying that contention is the assumption that Carnes has complied with his ethical duty as an advocate and pleaded procedural default bars where applicable under the law. That is true, but there's nothing wrong with it. Freedman, whose expertise lies in other fields, assumes that asserting such procedural default bars takes advantage of ineffective assistance of counsel. That assumption is a legal non sequitur. A finding of ineffective assistance lifts any waiver that would otherwise exist should a procedural default occur at trial or an appeal. Therefore, it would be impossible for anyone to seek to maintain a system of ineffective assistance to further a regime of procedural default.

The real problem Bright and others have is that they think the Supreme Court decisions establishing the procedural default doctrine are wrong and that the standard for constitutionally effective assistance of counsel recognized in *Strickland* v. *Washington*, 466 U.S. 668 (1984), is too low. Carnes of course did not write any of these opinions; he just follows the law.

Freedman also echoes Bright's criticism of Carnes' statements to an American Bar Association task force that capital defendants, despite some exceptions, receive effective assistance of counsel. As usual, Carnes has data to back up his statements. At the time the task force convened, Alabama's capital statue had been in force for nearly 14 years and scores of capital cases had been tried. Yet, in only two cases had ineffective assistance of counsel been adjudicated and in one of these cases the attorney had been retained. It is hard to infer widespread ineffectiveness of appointed counsel from those facts.

Freedman claims that Carnes' defense of the capital-punishment scheme proved to be contrary to "the overwhelming conclusion of the task force report, as modified by the ABA's Criminal Justice Section." The final report and recommendations were fully embraced by only three of the 10 task-force members. Five members dissented because they thought it went too far, and two dissented because they thought it did not go far enough. Bright, as might be expected, was one of the two members who thought the report and recommendations did not go far enough. Eight members of the ABA's Criminal Justice Section Council also dissented, stating that the report "proposes reforms not in the best interest of our criminal justice system." Congress has never enacted any of those proposals.

Well-meaning attorneys and judges disagree about what should be done to cure problems in the capital litigation area. No fair-minded person, however, can dispute that Carnes has worked to improve the quality of representation provided indigent capital defendants. He wrote and signed the Alabama attorney general's official advisory opinion doubling the amount of out-of-court compensation paid to appointed counsel in capital cases.

He also co-wrote with the chair of the Alabama Bar Indigent Defense Committee legislation to raise the hourly rates and ceilings on compensation paid to appointed capital counsel at trial and in state collateral proceedings. Despite his efforts, that legislation did not pass. Carnes was successful, however, in persuading the legislature to appropriate funds for capital defendants in state collateral proceedings to hire expert witnesses and investigators. No other assistant state attorney general in the country has done as much as Carnes to improve indigent capital defense.

DELAYING TACTICS

The most disappointing aspects of Freedman's column about the Carnes' nomination is that he appears to embrace, perhaps unwittingly, Bright's politically motivated delaying tactics. In a letter to another Carnes opponent last month, Bright made clear that one of his aims is to delay the nomination in hopes that a new president would appoint someone more to his philosophical liking. Accordingly, even though the nomination has been pending for two months, Bright waited until the morning of the confirmation hearing to dump on the Judiciary Committee a lengthy written diatribe against Carnes. Now, Bright is orchestrating a campaign to delay a vote on the nomination. These are unworthy tactics and they should not be permitted to succeed.

As Freedman did at the end of his column, it is possible to summarize the evidence: (1) there is a preponderance of evidence that Freedman was duped by Bright; (2) the evidence is clear and convincing that Freedman prejudged the Carnes nomination and has been unfair in his treatment of it; and (3) there is overwhelming evidence that Carnes' nomination should be confirmed.

[From the Washington Post, Apr. 4, 1992]

WORTHY NOMINEE

Ed Carnes, nominee to the Court of Appeals for the 11th Circuit and subject of Nat Hentoff's column "A Shameful Judicial Appointment" [op-ed, March 7] has two serious problems.

First, Carnes is no stealth nominee. He has been involved in one of the most controversial areas of law—death penalty litigation. He has not been quietly working in a corporate firm and golfing on the weekends.

Second, and most important, Carnes has the unenviable task of following in the footsteps of Frank Johnson. Hentoff is not alone in viewing Johnson in heroic terms. Any replacement would pale in comparison.

But let's be fair to Carnes and acknowledge that Johnson publicly praised him in a Birmingham News interview as a "very good" choice for the bench. He pointed to the high quality of Carnes's work and added that his background as a prosecutor would be an asset for the court.

Carnes has a reputation for fairness. The charge that in one case he circulated "glossy color pictures of the victim" to the court of appeals "before any appeal was even pending in that court" is grossly misleading. The photographs were trial exhibits directly relevant to an issue raised at the eleventh hour by the defendant.

The notion that Carnes has tried to block funding for defense resource centers is equally misleading. On the state level, he has in fact obtained increased funding for indigent capital defendants. On the national level, he has called for equal funding for both sides for federal court work.

Carnes has been particularly sensitive to minority concerns. He personally prosecuted two state judges for making racist remarks and had them removed from the bench. And he successfully represented the state on appeal against a member of the Ku Klux Klan convicted of killing four young black girls in the notorious bombing of a Baptist church in Birmingham.

Carnes has not bowed to political pressure from district attorneys. In fact, he has enraged them by urging courts to reverse death sentences that were obviously unconstitutional and by disclosing material favorable to the defense hidden away in prosecutor's files. Some capital defendants have been put to death, and Carnes has been responsible for representing the state in each instance.

For this reason, it may be difficult for opponents of the death penalty to put aside their personal feelings and look at Carnes objectively. But if his support for capital punishment does not automatically disqualify him—if his qualifications and temperament mean anything—Carnes should be confirmed.

MORRIS DEES.

(The writer is executive director and chief trial counsel at the Southern Poverty Law Center.)

[From the Washington Post, July 1, 1992]

Ed Carnes' Record on Jury Selection

Nat Hentoff's arguments against the judicial nomination of Ed Carnes ["Wrong Judge for the Job," op-ed, June 16] were based upon distortions of Mr. Carnes' record and statements.

Mr. Hentoff mischaracterized Mr. Carnes' statements about a case in which the prosecutor had a list dividing jurors into categories of strong, medium, weak and black. Mr. Carnes had nothing to do with that and never defended it. He disagreed with the attorney general's policy against confessing error and gave that case as an example.

Further, Mr. Carnes never testified that sorting a jury by race would not violate fundamental fairness. He said, "Racial discrimination in jury selection is a loathsome practice which is always fundamentally unfair to the excluded jurors who are victims of it and to society at large."

He also said that whether discriminatory jury selection rendered the result of a particular trial fundamentally unfair by undermining the reliability of the guilty verdict depends upon the facts and circumstances. Mr. Carnes gave as an example a case in which all the blacks were struck off a jury that was trying a member of the Ku Klux Klan for murder (something Mr. Carnes had tried to prevent). Mr. Carnes said that the tactic of removing all the black jurors was wrong but that it did not undermine the reliability of the all-white jury's verdict that convicted the Klansman.

Mr. Carnes concluded, however, "Whether it affects the outcome of a particular case or not, racial discrimination against jurors is wrong because racial discrimination is wrong."

Mr. Hentoff attacked what he said was "Carnes' approval of all-white juries." Mr. Carnes not only did not approve of all-white juries, he has done everything in his power to prevent them. Even before the Batson decision, Mr. Carnes urged prosecutors not to strike blacks off juries because of race. In a case involving a black defendant and a white victim, he advised the attorney general to seek a change of venue to ensure a substantial number of blacks on the jury. That is exactly the opposite of what happened in the Rodney King case.

Mr. Carnes went to the Supreme Court in an effort to have the Batson rule extended to prevent racial discrimination by white defendants against black jurors. The Southern Christian Leadership Conference joined him in that effort. He persuaded an Alabama appellate court to adopt a rule prohibiting defendants from striking blacks from juries on racial grounds. No other judicial nominee in recent years can match that record or Mr. Carnes' strong civil rights record in other areas.

While Sen. Joseph Biden (D–Del.) voted against this nomination, he also favorably assessed Mr. Carnes' overall civil rights record. He said, "I acknowledge that if you were going to just sit down and say, on balance, if you put all the positive marks next to this man's name and all the negative marks, that the positive marks far outweigh on civil rights, the negative marks, in my view."

Mr. Hentoff failed to mention that.

Rosa H. Davis,
Assistant Alabama Attorney General.
Montgomery, AL.

[From the Washington Times, June 24, 1992]

Release Edward Carnes

The nomination of Edward Carnes, President Bush's choice to be a judge on the 11th U.S. Circuit Court of Appeals, was reported out of the Senate Judiciary Committee on May 7 on a vote of 9–4. That was seven weeks ago, and Democrats in the Senate continue to stall on scheduling a floor vote for the nominee.

The opponents of Mr. Carnes do not seem to have a reasonable prospect of defeating him on the Senate floor at the moment. Their apparent strategy is to delay the vote in the hope of producing a new trumped-up charge that will do the trick. Or at least to show the left-wing special interest groups that they're flexing their muscles.

The real objection to Mr. Carnes is his handling of death penalty cases in Alabama's appellate courts. Although Mr. Carnes, Alabama's assistant attorney general, does not prosecute capital cases at the trial level, he and the attorneys he supervises must defend a death sentence on appeal. In other words, Mr. Carnes is being attacked for doing his job well. A letter signed by attorneys general from 30 states is currently circulating on Capitol Hill, taking Mr. Carnes' opponents to task for this absurdity.'

The opponents have wrongly portrayed Mr. Carnes as a bloodthirsty prosecutor, a view that is not supported even by many of those who have opposed him in court. One defense lawyer, whose client received a new trial after Mr. Carnes turned over new evidence he had found hidden in a district attorney's file wrote: "Ed Carnes could have pretended to overlook the evidence he found in the district attorney's file. He had no reason to doubt the defendant's actual guilt. He could have justified it to himself, telling himself that the failure of this evidence to appear at trail was harmless error. Buy turning over the evidence he aroused considerable ire from the local district attorney. . . . If Ed had not confessed error in that case, there is no way that we possibly could have discovered the additional exculpatory evidence on our own. [the defendant] would not be alive today."

The liberals know they are outside the mainstream of public opinion on the death penalty issue. So they have tried to inject the specter of racism into the nomination debate by bringing up the fact that in post-conviction proceedings, Mr. Carnes has argued against the validity of claims sometimes made by black defendants that prosecutors used pre-emptory challenges or strikes to eliminate blacks from juries.

The pre-emptory challenge issue is once again a clear-cut matter of Mr. Carnes representing his client, the people of Alabama. In a letter sent to Sen. Joseph Biden, the Judiciary Committee chairman, six black lawyers wrote: "It is the ethnical duty of every government attorney to raise at post-conviction proceeding any and all available arguments on behalf of sustaining a conviction. That duty is a necessary part of our adversary system. . . . To say that a government attorney who carries out his ethical duty . . . is condoning racism is like saying that criminal defense attorneys who advocate on behalf of their clients are condoning crime."

Mr. Carnes' most prolific defender has turned out to be Morris Dees, the executive director of the Southern Poverty Law Center and perhaps the most distinguished civil rights lawyer in the South today. In a letter to The Washington Post, he wrote: "Carnes has been particularly sensitive to minority concerns. He personally prosecuted two state judges for making racist remarks and had them removed from the bench. And he successfully represented the state on appeal against a member of the Ku Klux Klan convicted of killing four young black girls in the notorious bombing of a Baptist church in Birmingham."

Finally, in this Senate testimony; Mr. Dees stated: "I am not Ed Carnes' friend. I have never been in his house. I am not in the same political party. And I have been part of, in my own organization, defending probably 75 people who face the death penalty. . . . But I am down here to speak out for Ed Carnes, because I believe Ed Carnes is a fair person."

Mr. Dees was able to separate his differences with the nominee from the issue of whether or not Mr. Carnes is a person "who wants to follow the rule of law." This is a distinction that Mr. Carnes' liberal opponents are simply unable or unwilling to make anymore.

[From the Montgomery Advertiser, May 17, 1992]

Carnes' Life Illustrates Racial Progress

(By James J. Kilpatrick)

Washington.—On May 17, 1954, when Brown vs. Board of Education came down, Ed Carnes was not quite 4 years old. He was 5 when Rosa Parks refused to sit in the back of a bus in Montgomery. He was just past 12 when James Meredith fought his way into the University of Mississippi.

All this came flooding back the other afternoon. I was sitting in the empty hearing room of the Senate Judiciary Committee, going over the file on Carnes, and I fell to musing on the changes in his life and mine. We grew up in different worlds.

For the record, President Bush has nominated Carnes to succeed the venerable Frank Johnson on the U.S. Court of Appeals for the 11th Circuit. He is pretty well assured of Senate confirmation, now that the committee has voted 10–4 in his favor, but the nomination merits a friendly boost anyhow. With Sens. Kennedy, Biden, Metzenbaum and Simon against him, who could fail to vote in his favor?

Further for the record: Carnes is 41, a native Alabamian who got his degree at Harvard Law in 1975 and went immediately to work as an assistant attorney general in Montgomery. After four years of handling general trial work, he became chief of the division involved in capital sentences. That has been his specialty ever since.

The NAACP sent two witnesses to testify against his confirmation. Lillian Jackson charged him with "indifference and insensitivity to racial discrimination." George J. Kendall charged him with supporting local Alabama prosecutors who classify prospective jurors as "strong, medium, weak and black." Such a view is "smoking gun evidence" of intentional discrimination.

This adverse testimony was largely discounted by the support of a dozen Southerners, black and white, who have been closely identified with civil rights and desegregation. Carnes has the backing of Sens. Howell Heflin and Richard Shelby, both Democrats, and of Rep. Bill Dickinson, a Republican. Dickinson complained lightly that Carnes has "a dearth of Republican credentials," which is true. He is about as non-political as a man can get in public life.

What set me to musing was Carnes' account of his first jury trial as an assistant attorney general. He was assigned to represent the sheriff of Macon County and his three deputies. They had been charged in a civil suit with violating the civil rights of two plaintiffs by arresting them wrongly.

The interesting thing is that the sheriff and his deputies were black and the plaintiffs were white. "In 1976 it was noteworthy," said Carnes, putting the matter mildly, "to find two white lawyers employed by Alabama to defend four black citizens."

Noteworthy? In my day it would have been unheard of. I was born in 1920, a child of the wholly segregated South. By 1950, thanks to desegregation of the armed forces in World War II, the walls of segregation were beginning to crack. In 1964, with the Civil Rights Act, they would all come tumbling down.

As a reporter in the 1940s, I covered racist judges. One luminary of the police court bench spoke openly of the tough sentences "niggers" could expect from him. By the time Ed Carnes came of age in Alabama, it was very different.

An Alabama judge, Wilson Hayes, tried a divorce case involving a black husband who asked to be awarded the homestead he had brought to his marriage. The husband had fathered a number of children, some of them illegitimate. Judge Hayes offered to award him the property if the man would undergo a vasectomy.

"I felt that attitude had no place in Alabama and no place in the judiciary," Carnes said. He prosecuted charges against the judge that led to his removal from office. In another case, a judge publicly used a racial epithet. After an investigation, Carnes had him removed also.

The world goes round and round. In the 1930s, as a teen-ager, I would have scoffed at the notion that Alabama ever would have black mayors, black sheriffs, black judges. Today Ed Carnes numbers among his supporters Justice Oscar Adams, who sits on the Alabama Supreme Court, and Judge Charles Price, who sits on the Circuit Court bench in Montgomery.

In the ugly light of a burning city, it is apparent that the United States has a long way to go in race relations. Everyone knows that. But in reflecting on the nomination of Edward Earl Carnes of Montgomery, I am bound to believe that in his lifetime, and mine, we have come quite a long way.

[From the Wall Street Journal, May 5, 1992]

ANOTHER HOLDUP

Meet Edward E. Carnes, President Bush's nominee to one of the three vacant seats on the busy 11th Circuit of the Court of Appeals. Why is Joe Biden's Judiciary Committee holding up his confirmation?

Anthony Lewis, the New York Times's liberal columnist, concedes in an otherwise hostile story that there's no question of Mr. Carnes' "skill and intelligence." Morris Dees, director of the Southern Poverty Law Center and founder of the Klanwatch civil rights group, says Mr. Carnes "is a person of integrity, competence and outstanding character. He will make a fine judge." The attorneys general (all Democrats) of the three states of the circuit—Florida, Alabama and Georgia—have put in writing their view that Mr. Carnes is "one of the finest attorneys in the 11th Circuit."

For all this, Mr. Carnes has joined 64 other judicial nominees in a protracted senatorial limbo, waiting like Beckett characters for the Judiciary Committee to make up its august mind about them.

Mr. Carnes is the assistant attorney general of the state of Alabama, and head of that state's Capital Litigation Unit. Alabama law mandates the death penalty for murder under certain conditions. And it has been Mr. Carnes's responsibility, under Alabama law, to argue for the application of the death penalty in those cases. In the minds of his opponents, the execution of that responsibility disqualifies him from the bench.

Nobody has suggested that Mr. Carnes's behavior as an advocate has been less than admirable. He initiated the practice in Alabama of opening the state's entire file, rather than just material that the state attorneys consider exculpatory, to defense attorneys in capital cases. He has also, says Mr. Dees, "promptly disclosed exculpatory material found hidden in the files of local prosecutors, resulting in convicted murderers being given new trials."

Nor is there any suggestion that Mr. Carnes' advocacy has been tainted with bigotry in any way. In a case involving a gang of Klansmen who had kidnapped and lynched a black victim in 1981, Mr. Carnes fought to deny the Klansmen's attorneys the right to use their power to challenge jurors to exclude blacks from the jury. Only two Alabama judges have ever been removed from office for expressing racial prejudice. Mr. Carnes prosecuted both of them. Given the viciousness of the innuendoes and hints that his opponents have been circulating about him, it's probably worth noting that Mr. Carnes doesn't belong to any all-white clubs.

What Mr. Carnes has been doing in his dozen years as assistant attorney general of Alabama is carry out the law of his state. What his detractors at the Alliance for Justice and the NAACP apparently think is that, instead of bearing the responsibilities imposed upon him by that law, Mr. Carnes should have indulged himself in the sort of civil disobedience, as Robert Bork calls it, indulged in by the anti-death penalty judges of the Ninth Circuit.

In the opinion of Mr. Carnes' detractors, the sort of person who should sit on the appellate bench is not one who enforces the existing law as fairly as he can, but one who uses the judicial power invested in him as an opportunity for adventures of his own. If Senator Biden and the Senate Judiciary Committee assent to the further stalling of the Carnes nomination, they will be making it clear that they too subscribe to that view of the judge's role.•

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Wednesday, August 12; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately following the Chair's announcement, the Senate resume consideration of H.R. 11.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Will the majority leader yield? I understand we will be back on the bill at 9:30 a.m. and I will just indicate to the majority leader, in the event that the Senator from Ohio wishes to set aside the amendment, we can accommodate the chairman and the manager on this side, Senator BENTSEN and Senator PACKWOOD, if we have amendments on this side, not surprise amendments, ones I think Senator BENTSEN is aware of that we will be prepared to offer on section 29 and on enterprise zones and the permanent so-called PEP and PEASE provisions in the tax bill.

Mr. MITCHELL. Mr. President, I have just a few moments ago been advised that Senator METZENBAUM may wish to have his amendment set aside for a brief period of time. In that event, I will convey to Senator BENTSEN, the manager, the gracious request of the distinguished Republican leader. I hope that we can get one or more amendments up in the morning and several amendments disposed of tomorrow, if that is possible. I thank my colleague.

TRIBUTE TO MAINE OLYMPIC ATHLETES

Mr. MITCHELL. Mr. President, before the Senate recesses this evening, I want to pay tribute to the outstanding performances of Michael Poulin and Kevin Mahaney, who are Olympic athletes from Maine.

Michael Poulin, a resident of Fairfield, ME, won a bronze medal in equestrian dressage.

Kevin Mahaney, from Bangor, ME, earned a silver medal as skipper of the U.S. soling team, which is the largest and heaviest of the Olympic yachting classes. This is the first year there has been Olympic match racing in this category.

There has been a lot of attention given to young athletes, but I would like to mention that neither of these fine athletes is a teenager. Both are adults, and their expertise has been earned over years of effort and dedication.

I am proud to represent a State with such fine athletes as Kevin Mahaney and Michael Poulin. I applaud the hard work by them that, I know, went into winning these Olympic medals.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 8:45 p.m., recessed until Wednesday, August 12, 1992, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 11, 1992:

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. ROBERT K.U. KIHUNE, U.S. NAVY, [redacted]

CONFIRMATIONS

Executive Nominations Confirmed by the Senate August 11, 1992:

DEPARTMENT OF EDUCATION

BRUNO VICTOR MANNO, OF OHIO, TO BE ASSISTANT SECRETARY OF EDUCATION FOR POLICY AND PLANNING.

WILLIAM DEAN HANSEN, OF IDAHO, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF EDUCATION.

EMERSON J. ELLIOTT, OF VIRGINIA, TO BE COMMISSIONER OF EDUCATION STATISTICS, FOR A TERM EXPIRING JUNE 20, 1995.

DEPARTMENT OF DEFENSE

I. LEWIS LIBBY, JR., OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY.

DAVID SPEARS ADDINGTON, OF VIRGINIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF DEFENSE.

CAROL JOHNSON JOHNS, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 1997.

ROBERT S. SILBERMAN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

DEPARTMENT OF JUSTICE

HENRY EDWARD HUDSON, OF VIRGINIA, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE.

TIMOTHY E. FLANIGAN, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

STEPHEN H. GREENE, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT.

DEPARTMENT OF ENERGY

JOHN J. EASTON, JR., OF VERMONT, TO BE AN ASSISTANT SECRETARY OF ENERGY (DOMESTIC AND INTERNATIONAL ENERGY POLICY).

NATIONAL INSTITUTE OF BUILDING SCIENCES

VIRGINIA STANLEY DOUGLAS, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1993.

JOHN H. MILLER, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1993.

WALTER SCOTT BLACKBURN, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1993.

FEDERAL DEPOSIT INSURANCE CORPORATION

C.C. HOPE, JR., OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING FEBRUARY 28, 1993.

DEPARTMENT OF COMMERCE

JAMES D. JAMESON, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

LINTON F. BROOKS, OF VIRGINIA, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

SUSAN H. BLACK, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT.

SONIA SOTOMAYOR, OF NEW YORK, TO THE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

LORETTA A. PRESKA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

IRENE M. KEELEY, OF WEST VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF WEST VIRGINIA.

TIMOTHY D. LEONARD, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.

LOURDES G. BAIRD, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

IRMA E. GONZALEZ, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

RUDOLPH T. RANDA, OF WISCONSIN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

DEPARTMENT OF JUSTICE

DON J. SVET, OF NEW MEXICO, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NEW MEXICO FOR THE TERM OF 4 YEARS.

JOHN S. SIMMONS, OF SOUTH CAROLINA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF 4 YEARS.

HOUSE OF REPRESENTATIVES—*Tuesday, August 11, 1992*

The House met at 12 noon.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We are grateful, O God, that people before us have pointed the way of justice and good will. We are thankful, O God, that many in the past have spoken of the values that represent the best of our Nation's history. We are aware, O God, that Your abiding word calls each of us to a commitment to work for understanding between all people, of every community and background and responsibility. Grant us, gracious God, a sense of purpose and will that honors our history and all that we have learned and may we express that purpose in our time by earnestly serving people in their needs and in their hopes. This is our prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MARLENEE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. BOUCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 116, not voting 71, as follows:

[Roll No. 377]

YEAS—247

Abercrombie
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Bacchus
Bateman
Beilenson
Bennett
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Combest
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Evans
Fascell
Fazio
Fish
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Kopetski
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Matsui
Mazzoli
McCloskey
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morrison
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roemer
Rose
Rostenkowski
Rowland
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Scheuer
Schumer
Sharp
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Wheat
Whitten
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—116

Allard
Allen
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Cox (CA)
Crane
Dannemeyer
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Goodling
Goss
Gradison
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
McCandless
McCrery
McDade
McEwen
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Quillen
Ramstad
Regula
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Smith (OR)
Smith (TX)
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—71

Ackerman
Alexander
Atkins
AuCoin
Barnard
Berman
Boxer
Campbell (CO)
Clay
Collins (IL)
Collins (MI)
Condit
Coughlin
Cunningham
DeFazio
Dickinson
Dixon
Dymally
Early
Edwards (OK)
Espy
Feighan
Flake
Ford (TN)
Gingrich
Hall (OH)
Hansen
Hatcher
Hoyer
Hyde
Kennedy
Kolter
Kostmayer
LaFalce
Lehman (FL)
Livingston
Markey
Martin
Martinez
Mavroules
McCollum
McCurdy
Mfume
Moran
Mrazek
Neal (MA)
Oakar
Owens (NY)
Patterson
Paxon
Rangel
Ridge
Roe
Roybal
Russo
Sanders
Schulze
Serrano
Slattery
Solarz
Solomon
Tallon
Thornton
Towns
Traxler
Walker
Weber
Weiss
Williams
Wilson
Wise

□ 1227

So the Journal was approved.

The result of the vote was announced as above recorded.

Mr. KOSTMAYER. Mr. Speaker, I was unavoidably detained during roll call, vote No. 377. Had I been present, I would have voted "aye."

□ 1230

PLEDGE OF ALLEGIANCE

The SPEAKER. Would the gentlewoman from Nevada [Mrs. VUCANOVICH] please lead the House in the Pledge of Allegiance.

Mrs. VUCANOVICH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4111. An act to amend the Small Business Act to provide additional loan assistance to small businesses, and for other purposes, and

H.R. 5191. An act to encourage private concerns to provide equity capital to small business concerns, and for other purposes.

The message also announced that the Senate agreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) entitled "An act to grant employees family and temporary medical leave under certain circumstances, and for other purposes."

REAPPOINTMENT AS MEMBERS OF MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

The SPEAKER. Pursuant to the provisions of section 4(a) of Public Law 98-399, as amended by Public Law 101-30, the Chair reappoints as members of the Martin Luther King, Jr. Federal Holiday Commission the following Members of the House:

Mr. WHEAT of Missouri;
Mr. SAWYER of Ohio;
Mr. REGULA of Ohio; and
Mr. FRANKS of Connecticut.

APPOINTMENT AS MEMBER OF NATIONAL COUNCIL ON SURFACE TRANSPORTATION RESEARCH

The SPEAKER. Pursuant to the provisions of section 6010(d)(1) of Public Law 102-240, the Chair appoints Mr. Walter J. Shea of Annapolis, MD, to the National Council on Surface Transportation Research.

PARLIAMENTARY INQUIRIES

Mr. MARLENEE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MARLENEE. Mr. Speaker, I would ask the Chair, is a motion to adjourn a privileged motion?

The SPEAKER. The gentleman is correct.

Mr. MARLENEE. A further parliamentary, Mr. Speaker. Does that require a quorum?

The SPEAKER. An affirmative vote does not require a quorum. A negative voice vote could precipitate a roll call.

Mr. MARLENEE. A further parliamentary inquiry, Mr. Speaker. If a Member moved to adjourn, the Speaker could immediately call for the vote?

The SPEAKER. The Chair will put the question, yes.

Mr. MARLENEE. At that point, Mr. Speaker, if a quorum was not present, one could object to the vote because a quorum was not present?

The SPEAKER. If the vote were declared to be a negative vote, the question of a quorum could be raised.

Mr. MARLENEE. A further parliamentary inquiry, Mr. Speaker. At what point can a motion to adjourn be laid before the House?

The SPEAKER. At almost any point during the proceedings of the House.

Mr. MARLENEE. I thank the Chair for his response.

MAKING IN ORDER ON TODAY CALL OF THE PRIVATE CALENDAR

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be considered on today.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Virginia?

There was no objection.

PRIVATE CALENDAR

The SPEAKER pro tempore. Pursuant to the unanimous consent agreement just agreed to, this is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

RODGITO KELLER

The Clerk called the bill (H.R. 240) for the relief of Rodgito Keller.

There being no objection, the Clerk read the bill as follows:

H.R. 240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), in the administration of the Immigration and Nationality Act, Rodgito Keller shall be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon the approval of a petition filed under section 204 of that Act by Edward D. Keller, citizen of the United States. The petition may be filed in the United States. (Include the following if child is in the United States.) Upon the approval of such petition, his status shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if he meets the requirements of clauses (1) through (3) of section 245(a) of that Act.

(b) Subsection (a) shall only apply if the classification petition is filed within two years after the date of the enactment of this Act.

(c) The natural parents, brothers, and sisters of the beneficiary under subsection (a) shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment in the nature of a substitute:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. IMMEDIATE RELATIVE STATUS FOR RODGITO KELLER.

(a) IN GENERAL.—Subject to subsection (b), Rodgito Keller shall be classified as a child under section 101(b)(1)(E) of the Immigration and Nationality act upon the filing of an application for an immigrant visa or adjustment of status.

(b) DEADLINE FOR APPLICATION.—Subsections (a) and (c) shall apply only if the application is filed within 2 years after the date of the enactment of this Act.

(c) ADJUSTMENT OF STATUS.—Subject to subsection (b), if Rodgito Keller enters the United States before the filing deadline specified in subsection (b), he shall be considered to have been lawfully admitted to the United States, and be eligible for processing, for purposes of adjustment of status under section 245 of the Immigration and Nationality act as of the date of the enactment of this Act.

(d) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Rodgito Keller shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment on the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. FASCELL. Mr. Speaker, I am pleased that today we are able to consider H.R. 240, a private bill that I introduced for the relief of Rodgito Keller. Passage of this measure will help to alleviate what I firmly believe to be the unique situation this family currently faces and reunite Rodgito with his adoptive family in the United States.

Edward Keller, Rodgito's adoptive father, served several tours of duty with the U.S. Air Force in the Philippines. In 1984, during his final tour of duty, his wife's nephew, Rodgito, came to live with the family. A warm and close-knit family relationship developed and the Kellers subsequently adopted Rodgito in 1986. The Kellers first started adoptive proceedings in 1985 prior to Rodgito's 16th birthday, but were not able to complete the process because of the court system until after his 16th birthday. Although his natural parents are still living, they have voluntarily given up Rodgito and have no claims. They live in a different island in the Philippines and would receive no benefit from enactment. During the 5 years Rodgito lived with the Kellers in the Philippines, he worked very diligently at improving himself, learning English and becoming "Americanized."

In 1989, Mr. Keller's tour of duty ended and because Rodgito's adoption became final several months after he was 16, he was not allowed to return with them. Rodgito is currently residing with family friends of the Kellers in the Philippines. Since their return to the United States, the Kellers have been, and continue to be, Rodgito's sole source of financial and family support. The family remains in close touch through letters, cards, and telephone calls. Rodgito's continued separation from his family has only increased the hardship he now faced. This young man wants only to be reunited with his adoptive parents and brother in the United States.

The length of time Rodgito lived with his adoptive family both before and after his adoption, the fact that his adoption was finalized just after his 16th birthday and the Kellers have continued to provide almost full financial support and have continued to act as his parents and family in spite of the difficulties of such a long distance with the inherent problems of communications make this bill truly unique. From my knowledge of this situation and family, I believe that this legislation is truly merited.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIE D. HARRIS

The Clerk called the bill (H.R. 760) to permit Willie D. Harris to present a claim against the United States in the manner provided for in chapter 171 of title 28, United States Code, and for other purposes.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LUIS FERNANDO BERNATE CHRISTOPHER

The Clerk called the bill (H.R. 1100) for the relief of Luis Fernando Bernate Christopher.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HOWARD W. WAITE

The Clerk called the bill (H.R. 1123) for the relief of Howard W. Waite.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

EARL B. CHAPPELL, JR.

The Clerk called the bill (H.R. 1280) for the relief of Earl B. Chappell, Jr.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JAMES B. STANLEY

The Clerk called the bill (H.R. 1759) for the relief of James B. Stanley.

There being no objection, the Clerk read the bill as follows

H.R. 1759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROPRIATION OF FUNDS.

(a) PAYMENT.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $625,000 to the trustee, designated pursuant to section 4, for the benefit of James B. Stanley.

(b) BASIS.—The payment required by between (a) shall be to compensate James B. Stanley for the physical, psychological, and economic injuries sustained by him as a result of the administration to him, without his knowledge, of lysergic acid diethylamide by United States Army personnel in 1958.

SEC. 2. SATISFACTION OF CLAIMS.

The payment made pursuant to section 1(a) shall be in full satisfaction of all claims James B. Stanley may have against the United States for—

(1) the injuries received by him as described in section 1; and

(2) for any injuries received by him subsequent to his discharge from the United States Army that are the result of the injuries described in section 1.

SEC. 3. INELIGIBILITY FOR ADDITIONAL BENEFITS.

James B. Stanley shall not be eligible for any compensation or benefits from the Department of Veterans Affairs or the Department of Defense for any injury received by him as described in section 1.

SEC. 4. PAYMENTS TO TRUSTEE.

(a) ESTABLISHMENT OF TRUST.—The sum paid pursuant to section 1(a) shall be paid to a bank located in Florida as trustee for James B. Stanley, under a trust agreement to be entered into by such bank and James B. Stanley. Any such trust agreement shall be approved by the Attorney General prior to its being entered into by such bank and James B. Stanley.

(b) PROVISIONS OF TRUST.—The trust agreement entered into pursuant to between (a) shall provide that the trustee—

(1) initially pay the outstanding debts and obligations of James B. Stanley, including the legal fees and reimbursable expenses, as limited by section 5, incurred in connection with the benefits provided by this Act;

(2) invest the amount remaining after paying the outstanding debts and obligations described in paragraph (1) and hold the principal and interest in trust for the benefit of James B. Stanley;

(3) pay to James B. Stanley during his lifetime all of the net income of the trust on a monthly basis, and also pay or apply such amounts of the principle as the trustee deems necessary for the health, welfare, comfort, and maintenance of James B. Stanley; and

(4) pay to the estate of James B. Stanley, upon his death, all assets held in trust.

SEC. 5. LIMITATION OF ATTORNEYS' OR AGENTS' FEES.

It shall be unlawful for an amount of more than 10 per centum of the amount paid pursuant to section 1 to be paid to or received by any attorney or agent of James B. Stanley for any service rendered in connection with the benefits provided by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

With the following committee amendments:

Page 1, line 6 and page 2, line 1, strike "$625,000 to the trustee, designated pursuant to section 4, for the benefit of" and insert "$465,577 to".

Strike section 4 (page 2, line 23 through page 3, line 25 and redesignate section 5 as section 4.

Page 4, line 6, strike "benefits provided" and insert "payment made."

Mr. JOHNSTON of Florida. Mr. Speaker, I ask that the following explanatory documents be inserted in the RECORD immediately following consideration of H.R. 1759, for the relief of James Stanley.

BREAKDOWN FOR NON-ECONOMIC DAMAGES

I. DISSOLUTION OF FAMILY—$62,000

Causes

A. Violent with his wife.

Violent with his children.

For example: He would occasionally awake at night and beat his family and was then unable to recall the incident.

B. The smallest problem would send him into a violent fit of rage.

C. During blackouts he was unaware of his own actions, which were often reckless.

For example: He awoke one morning to find himself in his car with a woman he did not recognize.

F. Incapable of expressing himself.

G. Experienced depressions that would render him useless as a husband and a father.

Results

A. His wife left him.

B. His wife took his children away.

C. He no longer had any role in his childrens' lives.

II. PSYCHOLOGICAL TRAUMA—$55,000

A. violent nightmares.

B. hallucinations.

C. flashbacks.

D. blackouts/memory loss.

E. severe bouts of depression.

F. questioned his own sanity.

G. violent reactions/behavior.

III. THE EFFECTS OF THE 17 YEAR FAILURE TO BE INFORMED OF THE ADMINISTRATION OF LSD—$18,000

A. did not know what was wrong with him.

B. did not have the opportunity for treatment.

C. compounded his distress because he did not understand what was happening to him.

Mr. BOUCHER (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

AMENDMENT TO THE COMMITTEE AMENDMENTS OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer an amendment to the committee amendments.

The Clerk read as follows:

Amendment to the committee amendments offered by Mr. SENSENBRENNER: In lieu of the matter proposed to be inserted in section 1(a) of the bill by the committee amendment, insert "$400,577 to".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER] to the committee amendments.

The amendment to the committee amendments was agreed to.

The SPEAKER pro tempore. The question is on the committee amendments as amended.

The committee amendments, as amended, were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LLOYD B. GAMBLE

The Clerk called the bill (H.R. 3590) for the relief of Lloyd B. Gamble.

There being no objection, the Clerk read the bill as follows:

H.R. 3590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROPRIATION OF FUNDS.

(a) PAYMENT.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Lloyd B. Gamble of Fairfax, Virginia, the sum of $318,488.

(b) BASIS.—The payment required by subsection (a) shall be to compensate Lloyd B. Gamble for the injuries sustained by him as a result of the administration to him, without his knowledge, of lysergic acid diethylamide by United States Army personnel in 1957.

SEC. 2. SATISFACTION OF CLAIMS.

The payment made pursuant to section 1 shall be in full satisfaction of all claims Lloyd B. Gamble may have against the United States for any injury described in such section.

SEC. 3. INELIGIBILITY FOR ADDITIONAL BENEFITS.

Upon payment of the sum referred to in section 1, Lloyd B. Gamble shall not be eligible for any compensation or benefits from the Department of Veterans Affairs or the Department of Defense for any injury described in such section.

SEC. 4. LIMITATION OF AGENTS AND ATTORNEYS FEES.

It shall be unlawful for an amount of more than 10 percent of the amount paid pursuant to section 1 to be paid to or received by any agent or attorney for any service rendered to Lloyd B. Gamble in connection with the benefits provided by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: Page 1, line 7, strike "$318,488" and insert "$253,488".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading and engrossment of the bill.

The bill was ordered to be engrossed and read a third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARLENEE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 377, nays 0, answered "present" 1, not voting 56, as follows:

[Roll No. 378]

YEAS—377

Abercrombie
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Dannemeyer
Darden
Davis
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Evans
Ewing
Fascell
Fawell
Fazio
Fields
Fish
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

ANSWERED "PRESENT"—1

Ray

NOT VOTING—56

Ackerman
Alexander
Atkins
Barnard
Berman
Boxer
Campbell (CO)
Clay
Collins (IL)
Collins (MI)
Condit
Cunningham
de la Garza
DeFazio
Dickinson
Dymally
Early
Edwards (OK)
Espy
Feighan
Flake
Ford (TN)
Gingrich
Hatcher
Hyde
Kennedy
Kolter
Kostmayer
Lehman (FL)
Lowery (CA)
Markey
Martin
McCollum
McGrath
Mfume
Montgomery
Mrazek
Neal (MA)
Oakar
Owens (NY)
Pursell
Ridge
Sanders
Schulze
Serrano
Slattery
Solarz
Solomon
Tallon
Towns
Traxler
Walker
Weber
Weiss
Williams
Wilson

☐ 1257

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. KOSTMAYER. Mr. Speaker, I was unavoidably detained during roll call vote No.

378. Had I been present, I would have voted "aye."

□ 1300

The SPEAKER pro tempore (Mr. McNULTY). The Clerk will call the next individual bill on the Private Calendar.

MELISSA JOHNSON

The Clerk called the bill (H.R. 455) for the relief of Melissa Johnson.

There being no objection, the Clerk read the bill, as follows:

H.R. 455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT FOR THE BENEFIT OF CLAIMANT.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $125,000 to Melissa Johnson of Barryville, New York. Such sum shall be in full and complete settlement of all claims against the United States arising out of the personal injuries and mental pain and suffering incurred as a result of the sexual assault and molestation of Melissa Johnson by an employee of the United States Postal Service on June 3, 1982, and various other dates.

SEC. 2. DEPOSIT OF AMOUNT IN TRUST ACCOUNTS.

Barbara Johnson Lizzi of Barryville, New York, the mother of Melissa Johnson, shall deposit the sum paid under section 1 in a federally insured depository institution in an interest bearing account or accounts in trust for Melissa Johnson. Barbara Johnson Lizzi shall serve as sole trustee of such account or accounts and, as such trustee—

(1) shall pay those debts and obligations which are outstanding at the time the sum is paid under section 1 to the extent those debts and obligations arise from the injuries and pain and suffering described in section 1;

(2) shall, until Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay, from the amounts in the trust account or accounts, expenses incurred for Melissa Johnson's medical care and education; and

(3) shall, when Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay to Melissa Johnson all amounts remaining in the trust account or accounts.

SEC. 3. LIMITATION ON ATTORNEYS' FEES.

Not more than 10 percent of the amount appropriated by section 1 may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claim described in section 1, notwithstanding any contract which provides otherwise. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PATRICIA A. McNAMARA

The Clerk called the bill (H.R. 712) for the relief of Patricia A. McNamara.

There being no objection, the Clerk read the bill, as follows:

H.R. 712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TIME LIMITATIONS.

(a) IN GENERAL.—The time limitations set forth in section 3702(b) of title 31, United States Code, shall not apply with respect to a claim for the reimbursement of retirement benefits prior to November 1, 1982, Patricia A. McNamara of Deerfield Beach, Florida.

(b) DEADLINE.—Subsection (a) shall apply only if Patricia A. McNamara submits a claim pursuant to such subsection before the expiration of the 6-month period beginning on the date of the enactment of this Act.

Mr. SHAW. Mr. Speaker, I would first like to commend the efforts of the Judiciary Committee in getting this important bill to the floor. I am speaking to you today in an effort to correct an injustice that has been committed by the Navy upon Mrs. Patricia A. McNamara and her family.

On April 8, 1974, the late Laurence Vincent McNamara, husband of Patricia, received an advance to the rank of lieutenant (03–E). With this advance in rank should have come an increase in retirement pay. Unfortunately, due to an error by the Naval Personnel Department, Lieutenant McNamara never received the pay increase.

The McNamaras first became aware of the error when a Navy-assigned Survivor's Officer pointed it out during a routine check of Mrs. McNamara's records shortly after his death in 1988. After learning of the mistake, Patricia McNamara and her son, Laurence V. McNamara, contacted the Navy Finance Center on behalf of their father and husband to receive this lost pay. On March 1, 1989, Mrs. McNamara received a check for $30,095.46 in backpay.

This check only represents the amount owed to Lieutenant McNamara retroactive to November 1, 1982. Due to section 1 of Public Law 820, any claim not received in the General Accounting Office within 6 full years after the date the claim first accrued is barred from consideration. Therefore, additional moneys owed to Lieutenant McNamara prior to November 1, 1982, totaling $34,911.84, were not paid.

This is an error that deserves to be corrected. That is why I introduced H.R. 712, a bill to waive the statute of limitations on reimbursement of retirement benefits owed to Patricia McNamara. The original intent of section 1 of Public Law 820 was to serve as a cost-saving measure to prevent citizens from filing unsubstantiated claims against the Government.

In the McNamara case, this is not an issue. The moneys owed have been clearly documented by Government records. The Navy has admitted its error and the amount of money owed to the McNamara's is not in dispute. In a letter to the chairman of the House of Representatives Committee on the Judiciary, Rear Adm. W.J. Flanagan, Jr., of the Department of the Navy writes:

> The Department of Defense generally opposes private relief legislation of this type which has the effect of waiving the statute of limitations in a preferential manner. In the case of Lieutenant McNamara, however, in view of any uncertainty over the amount involved, the Department does not oppose the proposed bill.

With this information, I am hopeful that this error can be corrected and that Mrs. McNamara and her family can receive the $34,911.84 rightly owed to them for the service rendered to the Navy by their late husband, Laurence Vincent McNamara. I urge this body's favorable consideration of H.R. 712.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WILLIAM A. KUBRICK

The Clerk called the bill (H.R. 2345) for the relief of William A. Kubrick.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

RICHARD W. SCHAFFERT

The Clerk called the bill (H.R. 2563) for the relief of Richard W. Schaffert.

There being no objection, the Clerk read the bill as follows:

H.R. 2563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TIME LIMITATIONS.

(a) IN GENERAL.—The limitations set forth in sections 6511 and 6514(a) of the Internal Revenue Code of 1986 (relating to filing and allowing claim for credit or refund of tax overpayment) shall not apply to a claim filed by Richard W. Schaffert of Lincoln, Nebraska, for credit or refund of an overpayment of the individual Federal income tax Richard W. Schaffert paid for the taxable year 1983.

(b) DEADLINE.—Subsection (a) shall apply only if Richard W. Schaffert submits a claim pursuant to such subsection within the 1-year period beginning on the date of the enactment of this Act.

Mr. BEREUTER. Mr. Speaker, this Member rises today in support of H.R. 2563, a private bill for the relief of Mr. Richard Schaffert.

Mr. Schaffert is one of this Member's constituents who served this country in Vietnam, was injured in the course of that service, and who has been treated in a most unfortunate manner by the Government since his retirement from the military in 1983.

This Member will be brief in outlining the situation which has made this private relief bill necessary.

Mr. Schaffert served as a Navy fighter pilot for 17 years. As a result of the strain placed upon his body by the forces at work in launching, flying, and landing a fighter plane, Mr. Schaffert became disabled, unable to walk more than short distances and subject to painful, and extended leg cramps. At his retirement in 1983, Mr. Schaffert was rated at 10 percent disability by the Veterans Administration. He appealed this rating, and 4 years and

8 months later the VA altered their determination and found Mr. Schaffert 80 percent disabled.

Under the Internal Revenue Code, veterans are entitled to tax-free status on VA compensation. Upon receiving the 80 percent disability determination by the VA, Mr. Schaffert sought to amend his IRS tax returns for years 1983, 1984, 1985, and 1986. He received refunds for years 1984 thru 1986, but was informed that the statute of limitations for amending his 1983 tax return had expired on April 15, 1987, 11 months before the VA had completed processing his claim. The amount of refund from 1983 that Mr. Schaffert is entitled to is a sum just over $3,000. Correspondence from the IRS, which this Member requests to be inserted into the RECORD at this point, states that the only solution to this dilemma would be the passage of special legislation.

Hence, Mr. Schaffert contacted this Member. In the 101st Congress, this Member introduced H.R. 2492, a measure similar to H.R. 2563, but no action was taken on that bill. Action has been more favorable on H.R. 2563. It is this Member's sincere hope that the House will pass H.R. 2563, and give Mr. Schaffert the relief he rightly deserves and for which he has waited so long.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

IRWIN RUTMAN

The Clerk called the bill (H.R. 3664) for the relief of Irwin Rutman.

There being no objection, the Clerk read the bill, as follows:

H.R. 3664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PUBLIC SAFETY OFFICER DESIGNATION.

For purposes of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.), relating to benefits for survivors of public safety officers, Irwin Rutman of Staten Island, New York, shall be deemed to have been a public safety officer on October 29, 1990, and his family shall be entitled to death benefits under such part.

SEC. 2. LIMITATION OF ATTORNEYS' AND AGENTS' FEES.

No amount exceeding 10 percent of a payment made under section 1 may be paid to or received by any attorney or agent for services rendered in connection with the payment. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to fine in the amount provided under title 18, United States Code.

SEC. 3. EFFECTIVE DATE.

The provisions of section 1 shall take effect on the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of the estate of Irwin Rutman."

A motion to reconsider was laid on the table.

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the call of the remainder of the Private Calendar be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. MARLENEE. Reserving the right to object, Mr. Speaker, would the gentleman restate the unanimous-consent request?

Mr. BOUCHER. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Virginia.

Mr. BOUCHER. The unanimous consent request is that the reading of the remainder of the Private Calendar be dispensed with.

Mr. MARLENEE. How many do we have?

Mr. BOUCHER. Mr. Speaker, if the gentleman will yield, there are 19 additional bills on the Calendar which have not been reported by the committee a sufficient length of time to be considered on the floor.

Mr. MARLENEE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the bill just passed on the Private Calendar.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ABUSE OF SPEECH AND DEBATE CLAUSE

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, the speech and debate clause protects the independence of this institution, but we are open to attack for its abuse or misuse and we need to be careful when we use it to cover remarks regarding the private lives of individuals.

Last week, my colleague, the gentleman from California [Mr. DORNAN] made some unwarranted remarks about both Gov. Bill Clinton, the Democratic Presidential candidate, and about Kate Michaelman, the president of NARAL.

First of all, candidates for President are no different from any Member who is running for higher office, or the President himself, and should be treated in the same manner.

More importantly, in Ms. Michaelman's case, the gentleman from California [Mr. DORNAN] made an irrelevant reference to her personal affairs, a reference which I found not only disrespectful to her, but to all women.

Additionally, Ms. Michaelman's medical history is her personal, private business, and has no bearing on the legislative business of this body.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield? She discussed it in front of the Supreme Court.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. DORNAN] is out of order.

The time of the gentleman from California [Mr. FAZIO] has expired.

WHO ARE THE RICH, MR. CLINTON?

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I yield 30 seconds of my time to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I appreciate the gentleman yielding this time to me.

I hope we can continue to confine ourselves to meaningful, relevant debate on issues of importance to the Nation, that we can avoid such comments and not set a precedent for using the well for remarks about private citizens who are not permitted to be on the floor to defend themselves. When the gentleman from California makes these inappropriate comments, it strikes at the heart of the speech and debate clause and undermines this institution.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BARTON] has 30 seconds remaining.

Mr. BARTON of Texas. Mr. Speaker, Arkansas Governor Bill Clinton wants to raise taxes if he becomes President.

Today, he claims he will raise taxes only on the rich, but if he becomes President, he will change the definition of rich to include anyone who has a job.

Quoting the Pine Bluff Commercial: "If Congress followed the example Bill Clinton has set as Governor of Arkansas, it would pass a program that hits the middle class the hardest."

Under Clinton's economic plan, he says he will raise $83 billion with an income tax increase.

However, Governor Clinton's idea to raise the top rate from 31 percent to 36 percent only raises $50 billion. Where will the rest of the money come from? You guessed it. The middle class.

Mr. Speaker, the voters should beware. In Clinton-speak, rich really means middle class.

In my mind, and in the mind of George Bush, the middle class already pays too many taxes.

BROKEN PROMISES

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the Republican Convention will take place next week in George Bush's hometown of Houston. The President has already said that he expects the No. 1 issue of this campaign to be trust.

But before you listen to all the promises that the President will make in Houston, the American people have to make the decision on whether they should trust him to keep them. I would like to remind you, however, of some of the promises he made last campaign.

He promised no new taxes and raised taxes over 100 times.

He promised 30 million new jobs, but gave us record unemployment.

He promised to balance the budget, and yet allowed our Federal debt to explode, asking Congress to approve his budgets, which were billions of dollars in the red. We approved less than he asked for.

He promised to sign a family medical leave bill, and promptly and proudly vetoed it.

He promised not to raid Social Security, and then raided it himself to pay for the deficit.

Mr. Speaker, when America is watching the Republican Convention next week I hope they remember all the promises the President has broken, and remember that trust is indeed one of the most important issues this fall.

THE CHARLETTE PERRY REPLACEMENT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, if anybody on the majority side wants to stand in front of me before my 1 minute is up and yell "regular order" as the gentleman from North Carolina [Mr. HEFNER] did the other day, then we are going to go off the clock until the rude Member is out of my face because I will get my full 1 minute.

The gentleman from California [Mr. FAZIO] reaches way back to a speech I made about the director of the National Abortion League, Kate Michelman. If I brought her up in this, mentioned her in an abortion debate, it is understandable. Because she came out to my district and did her best to defeat me—with hundreds of thousands of dollars—and made radio spots herself. All this in a Republican primary.

In one radio spot she called me "a really dangerous individual, a dangerous man." Mr. FAZIO insinuates that I somehow revealed personal information about Michelman in my speech. That's baloney. Five years ago on CNN's "Crossfire," Michelman told the world that she aborted her fourth child because her husband deserted her. Tragic, but her call to go public.

But then she goes before the U.S. Senate Judiciary Committee to testify against Justice Clarence Thomas, again on national television, and discloses her abortion of her fourth child. She usually adds she was a Catholic. Why? And each time Michelman acts as if she is revealing this destruction of a life for the first time. And that is exactly the way it was covered on all three major networks. A new tragic confession. Every time Michelman reveals her tragic past, it's handled by liberals as a new, new heartbreaking revelation.

Now, I would like to say, if you Democrats want to depoliticize this, well then go ahead, be as tough as the gentleman from Florida [Mr. SMITH] just was. He was tough but fair, as I have always tried to be. But stop characterizing the President of the United States, a bona fide carrier attack pilot war hero with 58 combat missions, as a two-faced man who is always lying. I am wearing this Bush torpedo bomber pin in his honor.

I wear it also to remind people that Bill Clinton let three high school graduates from Hot Springs, AR, take his place in the draft in June 1968, April 1969, and August 1969. He also took a qualified lady, Charlette Perry, who happens to be African-American, and gave a job that should have been hers to Gennifer Flowers, who was unqualified. The job—the job that rightfully belonged to Mrs. Perry—paid $3,000 a year more than the Arkansas Lieutenant Governor.

Tomorrow, I will submit for the RECORD the transcript from the now infamous Flowers-Clinton tapes about this unseemingly incident, where the Governor clearly tells Flowers to lie to the press about the Charlette Perry job.

I am also submitting a short analysis of this incident done by a group called Concerned Citizens. And the fact is that if Bill Clinton is elected, an awful lot of people are going to be in the same boat as Mrs. Charlette Perry, in other words, without a job.

The Joint Economic Committee's Republican staff has studied the Clinton economic plan carefully and has determined it would result in 1.8 million jobs lost. America doesn't need that kind of help. Remember Charlette Perry.

I yield back the balance of my time, Mr. Speaker.

THE ECONOMY NEEDS A NEW DRIVER

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the economy—like an automobile running on empty—sputters and shakes.

For the past 4 years, President George Bush has detoured around job creation and he has put the brakes on the economic recovery.

Since the beginning, the Bush administration has demonstrated its preference for overseas travel at the expense of U.S. jobs and the American worker. The President would rather fly to Tokyo than take a bus trip to Chicago.

We need to revitalize the economy and to shift the recovery out of neutral. Between now and November, the White House may take joy rides along the "Lane of Family Values." Such outings, however, are no more than cruises on the "Boulevard of Broken Promises."

Jobs. Jobs. Jobs. That is what it will take to fuel this economy.

Mr. Speaker, the American people do not need a new car. They require a new driver. It is time to revoke George Bush's license.

INTRODUCTION OF LEGISLATION TO REPEAL SERVICE CONTRACT ACT OF 1965

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, I am going to speak about laws, and not the Presidential campaign.

I also hear a lot from my constituents that instead of adding laws, let us repeal some laws.

So rather than add more laws last week, I introduced legislation to repeal the Service Contract Act of 1965.

The counterproductive Service Contract Act requires service contractors to pay their employees a federally mandated and inflated prevailing wage rate, which is often based on collective bargaining agreements in a general region. Businesses which contract with the Federal Government should not be required to pay higher wages than private sector contractors normally pay.

This inflated wage requirement, and the bureaucratic red tape accompanying this law, make small businesses reluctant to seek contracts with the Federal Government. Repealing this misguided law will increase opportunity for small business people and provide more job opportunities for Americans.

In addition, this legislation is estimated to save taxpayers $2 billion over 5 years.

The bill is supported by the National Federation of Independent Businesses, the National Taxpayers Union, the Heritage Foundation, and the Contract Services Association. I would invite my colleagues to join me in sponsoring this legislation to help small business and taxpayers.

□ 1310

PROMISES SHOULD NOT BE BROKEN

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, one of the first things a child is taught is that promises should not be broken. We say to our children, "If you make a promise, you should keep it."

President Bush promised not to raise taxes, but he did. He promised 30 million new jobs and has given us the slowest job growth since the Great Depression. And in 1988, George Bush promised to protect Social Security. He said, "I will not permit Social Security to be raided for social spending programs. Nothing I have proposed suggests that I would do that."

Mr. Speaker, I agree with George Bush. Social Security should be protected, however President Bush does not seem to agree with candidate Bush. President Bush has borrowed heavily from the Social Security trust fund every year since his Presidency, $281 billion in the last 4 years, and now the President's advisers have come up with a plan that would cut taxes for the rich and finance it with cuts in Social Security and Medicare.

Mr. President, President Bush is being told once again to break a promise. This is a violation of a sacred trust with the American people, particularly older Americans. We do not need more broken promises. We need leadership for a change.

CLINTON AND HIS TAXES

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, all Americans had better beware: Bill Clinton claims he will tax only the rich to bring down our deficit. But in looking at his actions so far, we know this is not true.

Bill Clinton has already imposed 128 taxes and fees on the people of Arkansas while Governor, 50 of which were directed to middle-income families. Do you consider that "fair?"

Clinton's economic plan calls for a $150 billion tax increase, twice as big as Walter Mondale's and Michael Dukakis' proposals combined. His plan will put 2.6 million people out of work. Are we going to allow Clinton to hide behind his rhetoric?

It is time for the American people to see through this charade. Bill Clinton equals higher taxes. His tax increases will hit families of all incomes. Don't let him fool you.

THE WHITE HOUSE EFFECT

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, remember when candidate George Bush 4 years ago promised he would be the environmental President? And he told us then, "Those who think we're powerless to do anything about the greenhouse effect are forgetting about the White House effect."

Mr. Speaker, the White House effect on the environment has been a whitewash.

William Reilly, EPA Administrator and head of the U.S. delegation to the Earth Summit, stated in an interagency memo the failures of this administration at the Earth Summit. He said:

> "We assigned a low priority to the negotiations of the biodiversity treaty, were slow to engage the climate issue, were last to commit our president to attend Rio. We put our delegation together late, and we committed few resources. No doubt, this contributed to negative feelings toward the United States."

Ironically, Mr. Speaker, George Bush, who claims to be our foreign affairs President, is an isolationist when it comes to the environment, and domestically, when the President tries to fire up tired rhetoric about his environmental achievements, his Vice President has been assigned to work behind the scenes to reduce environmental protection regulations to ashes.

Mr. Speaker, it will take more than a backdrop of the Grand Canyon, or the California Sequoias, to convince the American public that there is any reality behind the rhetoric. There has been a White House effect, all right, but it has not had a good effect on the environment. The President promised the American people he would be the environmental President. Instead, he is an environmental disaster.

REPEATING HISTORY

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, those who do not believe in history are doomed to repeat it.

Bill Clinton doesn't believe the Carter years were all that bad.

And now he wants to repeat them.

He cannot believe that this country actually suffered from double-digit inflation and high interest rates. He will not believe that Carter's economic policies caused stagflation.

Now, he is intent on repeating those same serious errors that caused the economic disasters of the late seventies.

In his tax plan, Bill Clinton raises taxes and increases the deficit. That is definitely a prescription for disaster.

But Clinton doesn't see it that way. No, to him it is the old fairness issue.

Winston Churchill once said that the inherent virtue of socialism is the equal sharing of miseries.

Well, that's what Bill Clinton, if elected, will surely accomplish. Spread the misery to everyone.

Misery this Nation has not known or seen since the Carter years.

Maybe that is the fundamental goal of the Clinton campaign. Or perhaps they just don't remember their history.

They just do not get it.

THE AMERICAN PEOPLE WERE FOOLED ONCE BUT WILL NOT BE FOOLED AGAIN

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, one of the biggest problems in dealing with the deficit is the so-called double standard which says, "Your spending increases the deficit, and my spending reduces the deficit."

The best example of that was the promise that was made in the early 1980's by the supply-siders who said that they could dramatically reduce taxes, largely for the wealthy and add to the deficit about $750 billion, but that growth would somehow reduce the deficit. Growth occurred, but it was the wrong kind of growth. Unemployment grew, poverty grew, taxes actually were increased by $1.2 trillion, and the deficit quadrupled to $4 trillion.

Yesterday a group of Republicans said, "That worked so well we'd like to do it again," in recommending supply-side, part 2, which would cut taxes and add $1 trillion to the deficit over 5 years and that growth would take care of it.

The real question right now is: Where does the President stand on all these issues? Is he for supply-side, part 2, and adding $1 trillion to the deficit? Is he for reducing the deficit, as he did in the budget agreement and for which he has apologized, or will he promise to do both?

The American people were fooled once. They will not be fooled again.

CONGRESS MUST APPLY THE SAME REGULATIONS TO ITSELF AS IT DOES FOR EVERYONE ELSE

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, in January in this House there was great interest in doing something about the tarnished collective image of the Congress. Unfortunately, not much has come about, and that has been replaced by interest in individual campaigns.

Mr. Speaker, at that time I proposed a declaration of credibility. It has to do with jobs, an economic package, tax reform and reducing the tax burden. It had to do with budget reform, line item veto and a budget amendment. It had to do with campaign reform, which we have not done, and a work schedule based on accomplishment, not recess deadlines. But, most of all, it said, "The Congress ought to live under the same regulations that apply to everyone else."

Mr. Speaker, last week the Committee on Government Operations said to the White House and to the Competitiveness Council, "Let's have some sunshine laws." I think that is fine.

I had an amendment that said, "Why don't we in the Congress live under that same sunshine law?" Of course the Congress said no, that we do not want to do that; we simply want to impose it on someone else.

Mr. Speaker, it is too bad that the Congress will never have credibility unless it applies to itself the same regulations it applies to everyone else.

THE TAX AND SPEND GANG

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, there is a new gang on the road today. Like Butch Cassidy and the Sundance Kid, like Bonnie and Clyde, this new gang has captured the media's imagination.

They are known best as the "Tax and Spend Gang."

The leader of the gang, Mr. Tax, has savaged the State of Arkansas for over 10 years and 128 times he has forced the people of Arkansas to fork over more money in taxes and fees.

His partner, Mr. Spend, has done most of his dirty work in Washington D.C. He is one of the most proficient spenders in Senate history.

In fact, he was rated the biggest spender by the National Taxpayers Union 2 years in a row, 1989 and 1990.

And now the Tax and Spend Gang want a bigger piece of the action: The Presidency.

To get there, they have promised to raise taxes only on the rich. But they won't tell you their definition of rich includes the middle class.

Mr. Speaker, the Tax and Spend Gang may be media darlings today, but if elected, they will be the worst nightmare the middle class ever had.

WHAT ABOUT AMERICA?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Bush said yes to $10 billion worth of loan guarantees for Israel, and Israel officially said, "Great." These loan guarantees will not only be used for housing, but they will help to create thousands and thousands of jobs desperately needed in Israel.

Mr. Speaker, last year 70 billion for Kuwait, 13 billion last week for Russia, 10 billion this week for Israel. Tell me, Mr. Speaker, what about America?

Mr. Speaker, if we could find loan guarantees for Russia and Israel and we can liberate Kuwait, what about the cities of our own country?

I say to my colleagues, "I don't know about you, but I can't justify this helping to create jobs in Russia, and Israel and all over the world when American workers are backed up miles long in unemployment lines all over our own country. I think it's time to use some of our own money for our own people who are basically down and out."

WHAT'S WRONG WITH SOME BUDGET SUNSHINE?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, southwest Floridians are outraged that spending is approved by the Congress without debate or separate vote. People wonder how dubious and highly specialized low priority projects win continued funding without the full scrutiny of Congress? The problem in part is the outdated and perversely complicated budget process in which all-powerful committee chairmen load voluminous appropriations legislation with these questionable expenditures. While it is clear from our $4 trillion debt that this process just does not work, it defies logic as to why the majority leadership is still blocking the necessary reform. We have tried no fewer than 4 times this year to approve a line item veto allowing the president to strike out wasteful spending from mammoth appropriations bills. People ask, "What's the majority leadership afraid of? What's wrong with a little bit of sunshine and open debate on the merits of spending programs?" If a program is worthwhile, there should be nothing to fear and everything to gain from a line item veto. Now is a time to get serious about chopping waste. Americans across the land are demanding it.

IT IS TIME FOR A CHANGE

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, after 4 years of failure Mr. Bush says, "America is poised for an economic recovery."

Where has he been? Bushonomics in 4 years has sent more jobs and industries to Mexico, China, and Japan. There are more people on the unemployment lines, a million and a half more than when he came into office. It has caused 45,000 business failures, just in the first 5 months of this year. That is a 16-percent increase.

The Bushonomics answer to all of this is: More tax breaks for the rich, and he will get it because he controls Congress. Why? He only needs a majority of votes here. If the Democrats want to pass anything, they need two-thirds of a majority to override a veto.

Clearly Bushonomics controls by veto power. It is time for a change. Give the Government back to the people.

□ 1320

FLORIDA STATE UNIVERSITY RECLAIMS ITS ACRONYM—FSU

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, it has come to my attention that Congress and the media have begun to misuse an acronym which has caused great confusion in this Nation. For example, a recent international news bulletin asks how does Congress plan to keep F.S.U. science running. A $100,000 Department of Defense proposal would reemploy an estimated 200 F.S.U. weapons jocks in nuclear powerplants to supervise retooling hazardous reactors. As you may have noticed, the acronym F.S.U. has been misused to refer to the "former Soviet Union." This could most certainly cause confusion among many in this Nation who know those initials mean "Florida State University." I am sure you can understand how the fine reputation Florida State University enjoys could be distorted by published news articles such as the one mentioned above.

I believe a more appropriate alternate designation for the U.S.S.R. would be the "Commonwealth of Independent States" [C.I.S.]. Therefore, I urge my fellow colleagues to use this or a different acronym when referring to the group of nations which was once the Soviet Union.

U.S. OLYMPIC GOLD MEDAL WINNERS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. DREIER of California. Mr. Speaker, as the Presidential campaign heats up here in the well of the House, I feel almost guilty standing up and talking about something other than that campaign. I rise to talk about the XXV Olympiad that took place in Barcelona.

I have not yet heard any 1-minutes about that, and I would like to take this time to extend hearty congratulations to all the Americans who participated and specifically congratulations to those who come from in and around the southern California area which I am privileged to represent.

First of all, we all remember Oscar de la Hoya, who is from Los Angeles. I think he probably comes from MARTY MARTINEZ' district or EDDIE ROYBAL's district. he won a gold medal for boxing.

Joel Thomas, from Pasadena, won a gold medal for swimming;

Steve Lewis, from Los Angeles, won a gold medal in track and field;

Mike Powell, from Alta Loma, won a silver medal in track and field;

Dave Johnson, from Pomona, won a bronze medal for track and field;

Janeene Vickers, from Pomona, won a bronze medal for track and field; and

Hal Haenel, from Los Angeles, won a gold medal for yachting.

Mr. Speaker, I enter into the RECORD here the names of the other southern Californians from our area who represented the United States so courageously at the Olympics:

Rhett Hardy, Whittier, soccer.
John Vargas, Hacienda Heights, water polo.
Nomar Garciaparra, Whittier, baseball.
Jason Giambi, W. Covina, baseball.
Willie Adams, La Mirada, baseball.
Mike Barnett, Glendora, track and field (7th in Javelin).
Evelyn Ashford, Walnut, track and field (5th in 100M semi-final).
Donna Mayhew, Glendale, track and field (12th in Javelin).

DEMOCRATIC REFORM IN KUWAIT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, Desert Storm represented an unprecedented effort by the United States to liberate a tiny, feudal monarchy from foreign aggression. Well, nearly a year and a half later, things look much the same: Saddam Hussein is still in power, and the al-Sabah monarchy continues to stifle democracy and individual rights in Kuwait.

In fact, immediately after we helped to rebuild his royal palace, the Emir of Kuwait declared martial law in his country and ordered hundreds of civilian arrests. Unfortunately, this cruel overreaction was consistent with the Kuwaiti monarchy's long tradition of indifference toward democracy, human rights, and Western interests. Indeed during the height of the cold war, Kuwait voted against the United States at the United Nations more often than did the hardline Soviet leadership.

They also refused to support the U.S. efforts to reverse the infamous Zionism-equals-racism resolution in the United Nations.

The ruling family maintains a closed dictatorial government. And the Bush administration has failed to press them for significant democratic reforms. We rushed to Kuwait's defense in the name of liberty and freedom, and yet we left the gulf without claiming even a small token for democracy and human rights.

On August 2, the second anniversary of Iraq's invasion of Kuwait, the Iraqi news agency vowed that Kuwait "shall return to the right people." Mr. Speaker, if we must again defend this tiny monarchy from Iraqi aggression, let's use our influence to encourage democratic reform after the shooting stops. And let us encourage them, and other oil-rich gulf coast countries, to establish a regional development fund of perhaps $50 to $100 billion to help their poor Arab neighbors—Egypt, for example—enjoy a higher standard of living. American foreign policy should give more than lip service to the promotion of democratic ideals.

□ 1330

McGOVERN'S WISDOM

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, I would like to read some excerpts from a recent Wall Street Journal article and then I would like for my Democrat colleagues to try and guess its author. I think they will be quite shocked by the answer.

QUOTE 1

> We know that to create job opportunities we need entrepreneurs who will risk their capital against an expected payoff. Too often however, public policy does not consider whether you are choking off those opportunities.

QUOTE 2

> One-size-fits-all rules for business ignore the reality of the marketplace. And setting thresholds for regulating guidelines at artificial levels, 50 employees or more, $500,000 in sales, etc. takes no account of other realities, such as profit margins, and local market economics.

QUOTE 3

> The challenges we faced drove operating costs and finance charges beyond what a small business can handle. Our Connecticut hotel went bankrupt, etc. * * *

Probably some free-market economist or well-heeled businessman—Right? Wrong. I have some news for my Democrat colleagues. These are the words of your very own George McGovern. Yes. The George McGovern, the ultra-liberal Democrat Presidential candidate of 1972. It seems that Mr. McGovern left Government to dabble in capitalism. He bought a hotel. And he was quickly bankrupted by the Government regulation, redtape, and high taxes. And now his employees are all out of work as well. The failed policies that his very own Democratic Party stands for—big Government, more regulation, more burdens on employers—are what destroyed Mr. McGovern's hotel and cost the jobs of his employees. Ironic, isn't it?

Mr. Speaker, this would all be very amusing if only Mr. McGovern were the one hurt by all this, but as McGovern himself is quick to point out: when government chokes off the opportunities for entrepreneurs, it is their employees that suffer in the end.

CONGRESS AND PRESIDENT SHOULD WORK TOGETHER

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, few people can remember a time when relations between the White House and the Congress have been as bad as they are at the present time.

Last week, the Washington Post, in a five-part series, emphasized that the Federal Government is in gridlock.

Last Monday's headline in the Washington Post: "In a System Divided, Partisan Politics Has Stranglehold on Progress."

The Post says our legislative scorecards reads gridlock:

First, as to the soaring Federal deficit;

Second, violent crime;

Third, campaign finance reform, and

Fourth, revitalizing our Nation's schools.

Then last Sunday, the New York Times' front page headline—"President Bush and Congress: Rising Feud Produced a Legislative Deadlock."

A quote from the Times article:

> Rarely in modern American history, say scholars and politicians in both parties, has the relationship between the President and Congress been as sour and the legislative record as meager.

President Bush blames the Congress.

Many in Congress blame the President.

President Bush and the Congress are sliding downward in the polls.

I once again urge that we in Congress and the White House work together during the remaining few weeks of this 102d Congress to pass meaningful legislation for the American people helpful to them now and in the future.

CLINTON'S TAX OF THE DAY: TAXES ON FOREIGN INVESTMENT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I rise to share with my colleagues how absolutely flabbergasted I am after sifting through the doubletalk and fantasy-land language of Bill Clinton's economic plan. Have you seen it? It is simply incredible. As someone who knows a thing or two about taxes and budgets, I shudder for my country when I think that Mr. Clinton may get his chance to try this plan out on the American economy next year. Here is one of the things that really shocked me about the plan: As if he was not satisfied with raising taxes on businesses and others innumerable times as Governor, Mr. Clinton, as President, wants to squeeze $13.5 billion in taxes out of U.S. businesses operating abroad and on foreign companies investing here in the United States. Have we not lost enough jobs Mr. Clinton?

Doesn't anyone advising Mr. Clinton tell him what this kind of tax on businesses will do to the economy? My suggestion is for Mr. Clinton to hire Steve Entin, an economist at the Institute for Research on the Economics of Taxation. Here is what Mr. Entin has to say:

> Additional taxes on foreign investment by American firms will not cause them to shift the investment back to the U.S.; it will merely reduce foreign investment. U.S. firms will become less competitive * * * they will order fewer U.S. made parts * * * and U.S. savings, investment, employment and income will be lower.

Do us all a favor, Mr. Clinton. Hire better advisers before you raise our taxes.

BOSNIANS SHOULD BE GIVEN ARMS TO DEFEND THEMSELVES

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, the Bush administration at last has started to act on the ongoing tragedy in the Balkans. It is good that the President, with the United Nations, is pledging military force to ensure delivery of relief supplies to a starving Bosnia. Shocked and appalled people everywhere endorse the belated demand for access to and disbandment of the camps. However, this benignly intended but minimalist policy is quite incomplete. A better nourished Bosnian people will still likely be slaughtered by massively superior Serbian forces.

It will take more than we have done so far to deal with slaughter of civilians, closed railway cars, ethnic cleansing, genocide, and territorial aggression.

Without some credible threat of additional military force, Milosevic wins: Bosnia is essentially gone; Macedonia and Kosovo await his tender mercies.

The present arms embargo affecting Bosnia disarms them. If nothing else, we should let them defend themselves.

ATTORNEY GENERAL SAYS NO TO LYNCH MOB

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I do not like to be partisan, and I do not think I will be. But I say thank God that we have an Attorney General in America with intellectual integrity. Our Attorney General is not intimidated by a pack of Bill Clinton's hunting dogs here in the House.

After seven different committees controlled by the Democrats peeped into every window and sniffed under every bed, they came up empty. They found nothing, nothing. Not an iota of illegality.

These shameless Democrats, the same Democrats who have controlled this House for 38 consecutive years since 1954, now these Democrats say they demand the Attorney General appoint an independent counsel, costing our taxpayers millions. These Democrats have already spent millions on this so-called investigation, which in truth, in reality, is nothing more than a witch hunt. They have come up empty. Now they demand that others get involved in this political charade.

Mr. Speaker, thank God we still have men of courage and men of honor left in America. Your Attorney General, Mr. and Mrs. America, had the courage to say no to a lynch mob.

FAMILY VALUES IN AMERICA

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, family values, family values, it is being repeated almost as a mantra or some magic incantation which, if repeated often enough and long enough, will actually become reality. But we all know that it takes hard work and action to secure better family values.

One such action that this House can take is passage of S. 5, if necessary over a Presidential veto. S. 5 is the Family and Medical Leave Act which would provide up to 12 weeks of unpaid leave to longstanding employees, steady employees, who because of adoption or birth of a child, personal illness, or illness in their immediate family, need some time off.

In 1990 the President vetoed the Family and Medical Leave Act. That veto did not promote family values. The President's signature of S. 5 this year would indeed promote family values.

On the contrary, a veto of that bill would disparage family values and not promote them. I hope the President signs it. If he does not, we need to pass it over his veto.

BALANCED BUDGET AMENDMENT

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, Congressman ALLARD called me on Friday to say he had campaigned for a line-item veto in the last election and wanted to raise the awareness level of this issue. He noticed I was the first in this Congress to file a resolution calling for a constitutional amendment to give the President line-item-veto authority. Was I willing to help raise the awareness level of the issue? I said you betcha. I said we'll never get a vote on the issue unless we discharge the committee and the chances are not very good even then. I'll file a discharge petition if you will be the No. 1 signer. I have filed a discharge petition and Congressman ALLARD was the No. 1 signer.

Both of us supported a constitutional amendment to balance the budget. It failed by nine votes with all Republicans voting for it. We realize the numbers are not very good—267 Democrats to 166 Republicans. But if you think you are right you keep trying. And we know we are right.

□ 1340

A POLICY OF GRAPHIC MISTAKES

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, we are getting good news from the President. August, Kennebunkport, here is what the President says:

> The administration and most private forecasters believe that the recession has ended. Although the unemployment rate may continue to react with a lag, it should decline further with the economic growth that is forecast for the rest of this year.

The bad news is that he said this last year. This was from August 1991. The decline in unemployment he talked about went from 6.8 down to 7.7. That is what we sometimes call a reverse decline, otherwise known as an increase. In fact, we have the anniversary coming up of George Bush a year ago standing in Kennebunkport and killing an unemployment compensation extension because he said we did not need it.

He later said people should be grateful to him because they finally got it by Thanksgiving. He was right. If it had not been for him, the unemployed would have gotten it by Labor Day.

This is our glaring example I can think of, but not the only one, of the sadly mistaken economic policies of this administration. A year ago they began this policy of graphic mistakes.

SUPPORT FOR THE LINE-ITEM VETO

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, today, Congressman WYLIE and I are announcing that we are spearheading an effort to discharge House Joint Resolution 4, legislation that will provide the President of the United States with the line-item veto, from committee and bring it to the floor for consideration by the Congress.

The time has come for Congress to act on giving the President of the United States a line-item veto. For 13 terms Congressman WYLIE has introduced legislation calling for a line-item veto—that's 26 years, six Presidential administrations, and not once has it ever been brought to the floor for consideration.

With both President Bush and Governor Clinton endorsing the line-item veto, the partisan politics has been eliminated on this issue. Currently, 43 Governors across the Untied States have the right to exercise the line-item veto, and guess what?

All 43 of those States have balanced budgets, including Colorado. Why? Because the Governors of each of these States use the line-item veto to eliminate wasteful spending.

We must pass a line-item veto this session because at this point no one can predict with certainty who our next President will be.

The time has come for Congress to address this issue head-on, instead of continuing to feed voters' perception that this institution is unwilling to tackle our budget deficit.

After January it will be too late. One party will control the White House and the other may hesitate to work for passage of line-item veto.

This is not an issue of Republicans versus Democrats.

Instead, it's a matter of someone having the responsibility to eliminate the wasteful expenditures from our budget. Passage of a line-item veto is certain to send a clear message to all Americans that Congress is listening to their call for bringing our Nation's budget under control.

Last week I, along with many of my colleagues, sent a letter to Speaker FOLEY and minority leader MICHEL, asking for their leadership in bringing any one of the many line-item veto bills to the floor for consideration. This is one of the bills that we would like considered.

My colleague, as many of you know, is retiring at the end of the session. It the case that his attempts to discharge House Joint Resolution 4 is not successful or if the bill is defeated on the floor, I pledge that it will be the first legislation that I introduce next session in Congress, no matter who is the President.

LOAN GUARANTEES FOR AMERICAN CITIES

(Ms. WATERS asked and was given permission to address the House for 1 minute.)

Ms. WATERS. Mr. Speaker, there is a conclusion in this country that our cities and our towns are in trouble. On May 29, my city, the city of Los Angeles, burned.

Some would disagree with what happened, but that does not matter. The fact of the matter is, our cities are in trouble.

We passed legislation, the Freedom Support Act, on this floor last Thursday that would fund Russia, IMF loans, loan guarantee programs, food for progress, Desert Storm surplus, transportation assistance, and strategic weapon dismantlement.

We are about to embark on loan guarantees for Israel.

We have not been able to respond to the crisis in America.

I have a piece of legislation for loan guarantees for our cities. We cannot get the kind of support that is needed in order to guarantee that our cities have funds that they can lend to small entrepreneurs and do low-income housing.

I am going to continue to challenge this House and to challenge the President. We need resources for our cities. We need a response to the crisis in America. We need support for loan guarantees for our cities right here in this country.

DC STATEHOOD

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, poised for the Republican Convention, the country is waiting for the vision thing. And what do we get? District bashing.

The attack on the Nation's Capital in the Republican platform is the cheapest shot of this campaign. But Americans know a foul when they see one, and they are not buying cheap shots this year.

The pejorative platform rhetoric is a feeble preemptive strike by Republicans who see statehood coming. They cannot stand the prospect of what they believe would be two more Democrats in a Senate that they already have little chance of controlling.

The Republicans see a Democrat on a bus to the White House and they know that his strong support for D.C. statehood is riding on that bus.

Crassly politicizing the issue of the basic right to self-government will not sell in a democracy. Democratic party control of the democratically elected D.C. government has done the country no harm. It is one-party rule by Republicans for 12 years that has driven the country into the ground.

That is why so many Americans have jumped on Bill Clinton's bus. District bashing will not slow it down.

A TRIPLE-DIP RECESSION

(Mrs. LOWEY of New York, asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, every time our ailing economy shows signs of life, the President and his team of spin doctors announce that the recovery is at hand.

And every time they do so, things take a turn for the worse.

In June, the coincident economic indicators showed the economy slipping into contraction once again.

That is the third time since 1990 that the economy turned downward.

The spin doctors have been busy at work portraying the President as an agent of fundamental change. And with respect to economic growth, they are right: We have experienced a great deal of change.

Unemployment is up.

Earnings are down.

Home sales are flat.

Consumer confidence is flagging.

And we are experiencing something totally new in modern economic times: A triple dip recession.

I thought a triple dip was something at Baskin Robbins.

Mr. Speaker, I scream, you scream, we all scream for leadership to get this economy moving again.

Across America, families are desperately hoping that the President will put as much energy into a constructive economic plan as he does into putting a spin on the bad economic news.

A REPUBLICAN-CONTROLLED HOUSE

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, it is amazing. I listened to the last two speakers talk about President Bush. He is but one man. This House has been lead by Democrats for 48 years and longer as a majority. That is what is wrong with this country. That is where the taxes have been raised. That is where the money has been spent. That is where the programs have come that have bankrupt this Nation.

I served under Jimmy Carter, under that great Democrat leader from the South, Senator Bill Clinton, and watched malaise and high inflation, 22-percent interest, unemployment in double digit figures.

It was this House then; it is this House now. This House needs to be controlled by the Republican side for once. Let us quit blaming the President. Let us blame really those who are at fault.

It is this House that is led by the Democrat Party too long, too often, and too corrupt.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The chair will remind our guests, we are delighted to have them with us, but they are to refrain from responding to statements made on the floor either positively or negatively.

ISRAELI LOAN GUARANTEES

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, just a few hours ago, President Bush, along with Israeli Prime Minister Rabin, announced an agreement on loan guarantees for Israel. The President said that he would speak with the leadership of Congress today and would urge them to support the loan guarantees.

I urge our leadership to strongly support the loan guarantees and urge both Houses of Congress, the House and the Senate, to quickly pass them.

Israel has been the best ally the United States has had during the past 40 years in the world. Not just in the Middle East, but in the world.

If one looks at the votes in the United Nations during the past 40 years, Israel has voted with the United States more times than any other nation on this Earth: More than England, more than France, more than Japan, Germany, Canada, or any other nation one could name.

Israel is the only democracy in the Middle East. Israel is a strategic ally of the United States.

For years we told the Soviet Union to allow free emigration and now that the Soviet Union is no more and Russia and the Ukraine are allowing free emigration, we have a moral obligation, I think, to support the loan guarantees.

The important thing is this, loan guarantees will cost the U.S. Taxpayers not one penny. It is not foreign aid, it is only guaranteeing a loan. It enables Israel to borrow the money to build housing for refugees at cheaper rates because it is guaranteed by the United States.

Israel has never defaulted on a loan and will not default now. It will cost the taxpayers of America not one penny. Let us pass the loan guarantees.

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PASSING THE BLAME TO ELECT A DEMOCRAT PRESIDENT

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, to hear the Democrats and the majority accuse the White House of being the cause of the deficit and the economic problems is unbelievable. The fact of the matter is that all spending, all spending, originates right here in this Chamber. All tax increases originate right here in this Chamber.

The only thing the Chief Executive of this country can do is veto what we in the legislative branch do. He cannot spend a dime without our consent, without us appropriating it. He cannot raise one dime in taxes without us appropriating it. All he can do is veto it, and then this body and the other body can override his veto.

The fact of the matter is that the entitlements 20 years ago were $90 billion. They are $800 billion now, a nine-times increase because of this body, because this body has not capped the entitlements as we should have, put a lid on it.

All of the appropriations bills this year, each and every one of them, are much higher than last year. The President did not do that, we did it right here in this body, so do not cast the blame at 1600 Pennsylvania Avenue.

They know where the responsibility lies and what they are trying to do is pass the blame so they can elect a Democrat President. I hope the American people do not buy it.

AMERICA CAN PAY ITS OWN BILLS AND RECLAIM RESPONSIBILITY

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, I rise today to introduce legislation to limit the influence of foreign governments on our Library of Congress. Unbeknownst to most Members of Congress, the Library of Congress has solicited and accepted a gift of $1,500,000 from the Center for Global Partnership, which is funded by the Government of Japan through its own Parliament. This is not the first sizable grant the Library has accepted recently from a foreign government. In 1991, the Library of Congress went hat in hand and began a new policy by accepting $1 million by the Government of Korea. I strongly object to our Library accepting the money that comes directly from a foreign government or any instrumentality of that foreign government, nor do I agree with the recent policy of the Library to depend for a growing number of its activities on sources of foreign funding. It is time for America to pay its own bills and reclaim responsibility for ourselves.

NO STATEHOOD FOR D.C.

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, a moment ago one of my colleagues expressed concern that the Republican platform opposes statehood for the District of Columbia. It was called District bashing. That speaker suggested that Republicans were concerned that there would be two Senators, two Democratic Senators from the city of the District of Columbia.

In fact, I am proud of the Republican platform in this regard. It would be absolutely absurd to have two Senators from one city. In my county, there are 2½ million people. They do not have their own 2 Senators, let alone the 10 that the principle of one person-one vote would accord them if District of Columbia were to get 2. My State has 30 million people, but we have only 2 Senators. Were District of Columbia to get statehood, arguably we ought to have 60 Senators.

We are long past the principle that gave rise to the great compromise requiring a bicameral legislature in order for States to give up their sovereignty and sign a Federal compact. That great compromise necessarily did violence to the principle of one person-one vote. Taxpayers across America will pay far more of their share of local expenses than the District of Columbia. Let us not add to that injury, further injury to the principle of one person-one vote.

The Republican platform is right. No statehood for District of Columbia.

A DISTORTION OF BILL CLINTON'S ECONOMIC PROPOSAL

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, some people think there is a rule in politics: If they have no plan, attack the other party's plan; if they have no plan and are running way behind, not only attack it but distort it. That is what the Republicans did yesterday about Bill Clinton's economic proposal.

They talk about a health care proposal of Bill Clinton's losing over 700,000 jobs. Then they acknowledge this morning they are not talking about the Clinton plan, but a program that is in the House. They talk about environmental regulations in the Clinton plan losing a certain number of jobs, but it turns out there is no such regulation proposed on the Clinton plan at all.

With minimum wage, the same story, it will lose a certain number of jobs, despite evidence that the last increase in minimum wages cost no jobs, perhaps increased them. Then the training tax they say will lose a certain number of jobs, even though many, many corporations, most of the larger ones, are already paying or spending the percentage and a half.

Finally, when it comes to taxes, claiming that Bill Clinton is suggesting a raise in taxes, despite the fact that since 1981, under this administration and the previous one, Federal taxes have been raised 327 times.

COMING HOME, BUT NOT AS A HERO

(Mr. WASHINGTON asked and was given permission to address the House for 1 minute.)

Mr. WASHINGTON. Mr. Speaker, I would like to welcome my Republican colleagues to Houston, TX, hometown of President George Bush, home of 19-percent unemployment, home of 331,000 working people who have no health care, home of 260,000 high school dropouts since 1980, home of crumbling infrastructure, home of environmental disaster, home of the third highest crime rate per capita in the United States of America, home of higher infant mortality than most Third World countries.

Mr. Speaker, in case the President does not remember, Houston is east of San Antonio, south of Dallas, west of Beaumont, and north of the Gulf of Mexico.

Mr. Speaker, I hope the President will come home to Houston and prove that old adage that "one is never a hero in one's own home town."

LOAN GUARANTEES TO ISRAEL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, President Bush's announcement today that he has reached basic agreement on $10 billion of Israeli loan guarantees is welcome, if long overdue, news. Yes, indeed, these loan guarantees are desperately needed to help create a humanitarian movement of people fleeing the Soviet Union, the former Soviet Union, and moving for once into freedom. Yet, it will not cost the United States a penny, because they are loan guarantees, and the amount of money that is scored against them will be taken care of.

Mr. Speaker, I can assure the President that Congress will pass these loan guarantees with alacrity. We have circulated a letter. Over 240 Members of Congress have said that they would support those loan guarantees, and I suspect the margin will be greater.

One final mention. The President has spent a long time jawboning the State of Israel on the settlements. It is now time to start jawboning the Arab States on the boycott, the Arab boycott which isolates Israel, prevents American firms from selling goods in those markets, and should be ended. If Kuwait and Saudi Arabia are such good friends, they can prove it by ending the boycott and the President ought to join in helping that to happen.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4168

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 4168.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that I may be permitted to include tables, charts, and other extraneous material on the bill (H.R. 5487) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 5487, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. McHUGH. Mr. Speaker, pursuant to the order of the House of Thursday, August 6, 1992, I call up the conference report on the bill (H.R. 5487) making appropriations for Agriculture, rural development, food and drug administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes, and ask for its immediate consideration.)

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, August 6, 1992, the conference report is considered as having been read.

(For conference report and statement, see Proceedings of the House of Friday, August 7, 1992, at page H-7727.

The SPEAKER pro tempore. The gentleman from New York [Mr. McHUGH] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, first I yield such time as he may consume to the distinguished chairman of this subcommittee and the full committee, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, we bring before you today the conference agreement on appropriations for the Department of Agriculture, the Food and Drug Administration, and related agencies programs for fiscal year 1993. The bill we bring you today provides the necessary funding for this most important of industries.

As I have pointed out so many times in the past, American agriculture is the envy of the world and is often described as the Eighth Wonder of the World. It is our largest industry—larger than the auto, steel, and housing industries combined. It is our largest employer, the largest market for the products of industry and labor, and our biggest dollar earner in world trade.

Agriculture is basic to the American economy and the American way of life. It is the foundation upon which all other segments of the economy depend. It is the key component of the U.S. economy. Its assets of about $1 trillion are equal to about one-half of all manufacturing corporations in the United States. It employs more workers than any other major industry. The Department of Agriculture estimates that nearly 21 million people work in some phase of agriculture from the farm to the consumer.

The total appropriation is within the 602(b) allocation, in terms of both budget authority and outlays. There were 124 amendments involving approximately 400 items that had to be resolved by the conferees.

Mr. Speaker, the conference agreement totals $60,547,821,000 in budget authority. Only 20 percent of the bill is discretionary domestic spending. Almost 80 percent of the bill is mandatory spending not under the control of the Committee on Appropriations. In these cases, such as food stamps, the eligibility requirements are spelled out in law and anyone meeting those criteria is entitled to receive the benefits. To adjust the criteria requires a change in the authorization, which is beyond the authority of the Committee on Appropriations.

Mr. Speaker, over 68 percent of the bill is in food and consumer programs: $38.4 billion for food programs; $1.6 billion for Food for Peace; $780 million for the Food and Drug Administration; and $490 million for food inspection.

The biggest dollar differences in the conference agreement are in the food programs and reflect the Office of Management and Budget's mid-session review. The mid-session review was transmitted to Congress on July 24, 1992, and printed as House Document 102-365. Since these programs are entitlement programs, the conferees adjusted them to reflect the latest estimates submitted by the Office of Management and Budget. As a result, the child nutrition programs are $152,000,000 higher than the House bill and the Food Stamp Program is $1,396,000,000 higher than the House bill. The conferees adjusted these two programs upward to reflect the mid-session review submitted by the Office of Management and Budget in order to avoid the need for a supplemental later in the year.

The conference agreement funds the WIC Program at $2,860,000,000, an increase of $260,000,000 above the amount available for fiscal year 1992.

Mr. Speaker, the conference agreement provides funds for water and sewer, rural housing, REA, and for the conservation programs, including ACP and watershed and flood prevention. The conference agreement also funds all of the research programs of the Department, food inspection, and all the other programs which are so important to our food supply.

For the Market Promotion Program the conferees agreed on $147,734,000. The conferees agreed that the operation of the program needs to be brought into better focus by the Department. We also call on the Department to complete the evaluation of the Market Promotion Program as directed in the Senate report by February 1, 1993.

Mr. Speaker, the conference agreement does not fund the Wetlands Reserve Program. The conferees agreed that it would be premature to fund this program in fiscal year 1993 because the pilot program funded for fiscal year 1992 is not completed and the results of the pilot will not be available until well into fiscal year 1993. Therefore, the conferees have not funded the program and will reconsider the program in connection with a supplemental or the fiscal year 1994 appropriations bill after the pilot program is completed and the benefits and costs of the program can be taken into account.

For watershed and flood prevention operations the conference agreement provides $228,266,000, an increase of $23,000,000 over the amount available for fiscal year 1992. The increase over fiscal year 1992 is not earmarked by the conference agreement.

Additional funds are included in the Food for Peace Program for title II, the Food Donations Program. These funds will be available to assist in the famine in sub-Saharan Africa, as well as other disaster or emergency situations throughout the world.

The conference agreement funds the Washington office and the seven regional offices of the Rural Development Administration. We have funded no other offices at this time. We have provided, however, that the field staff remain as employees of the Farmers Home Administration and continue to operate under the memorandum of agreement as they are now doing.

This year the subcommittee received over 600 written requests from Members and 26 Members testified before our subcommittee. We held 5 weeks of hearings in which a total of 235 witnesses appeared. Our hearing record totals 6,116 pages. The House bill and the conference agreement reflect, to the best of our ability, the concerns of the Members who contracted our subcommittee and the information developed during those 5 weeks of hearings.

Mr. Speaker, there are many who deserve credit on this bill. I want all Members to know that the members of his subcommittee and many others in the Congress deserve their fair share of credit. They have done a great job, and yet they have done it with a minimum of expenditures.

Mr. Speaker, I want to thank my colleagues on the subcommittee who have worked hard all year in hearings and in conference—BOB TRAXLER, our ranking member; MATT MCHUGH, who has been of such great help this year; BILL NATCHER, a long-time subcommittee member and vice chairman of the Appropriations Committee and chairman of the Labor-Health and Human Services Subcommittee; DICK DURBIN; MARCY KAPTUR; DAVID PRICE; BOB MRAZEK; NEAL SMITH; JOE SKEEN, our ranking member; JOHN MYERS, another long-time subcommittee member; as well as VIN WEBER; BARBARA VUCANOVICH; and our ranking minority member on the full committee, JOE MCDADE.

I especially want to thank BOB TRAXLER, MATT MCHUGH, BOB MRAZEK, and VIN WEBER, who will be leaving the Congress at the end of this session. They have worked long and hard for American agriculture during their years on this subcommittee and they deserve the thanks of the American people for their efforts.

Mr. Speaker, this is a good agreement and it deserves the support of the Members. I trust we shall have that.

At this point in the RECORD I will insert the detailed bill tables on the conference agreement:

Agriculture, Rural Development, Food & Drug Administration, and Related Agencies (H.R. 5487)

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - AGRICULTURAL PROGRAMS						
Production, Processing, and Marketing						
Office of the Secretary	2,282,000	2,747,000	2,282,000	2,282,000	2,282,000	
Office of the Deputy Secretary	543,000	575,000	543,000	543,000	543,000	
Office of Budget and Program Analysis	6,149,000	5,756,000	5,756,000	5,756,000	5,756,000	-393,000
Office of the Assistant Secretary for Administration	596,000	693,000	596,000	596,000	596,000	
Rental payments (USDA)	51,203,000	50,503,000	50,503,000	50,503,000	50,503,000	-700,000
Building operations and maintenance	25,700,000	26,482,000	25,700,000	25,700,000	25,700,000	
Advisory committees (USDA)	2,038,000	1,905,000	952,000	952,000	952,000	-1,086,000
Hazardous waste management	26,350,000	27,966,000	16,000,000	16,000,000	16,000,000	-10,350,000
Departmental administration	25,064,000	28,591,000	25,014,000	25,014,000	25,014,000	-50,000
Office of the Assistant Secretary for Congressional Relations	1,307,000	1,446,000	1,307,000	1,307,000	1,307,000	
Office of Public Affairs	8,925,000	9,236,000	8,925,000	8,925,000	8,925,000	
Intergovernmental affairs	468,000	484,000	468,000	468,000	468,000	
Total, Office of Public Affairs	9,393,000	9,720,000	9,393,000	9,393,000	9,393,000	
Office of the Inspector General	62,786,000	67,238,000	62,786,000	62,786,000	62,786,000	
Office of the General Counsel	24,554,000	26,314,000	24,554,000	24,554,000	24,554,000	
Office of the Assistant Secretary for Economics	580,000	608,000	580,000	580,000	580,000	
Economic Research Service	58,720,000	60,372,000	58,720,000	58,720,000	58,720,000	
National Agricultural Statistics Service	82,601,000	87,087,000	80,941,000	81,066,000	81,004,000	-1,597,000
World Agricultural Outlook Board	2,367,000	2,516,000	2,367,000	2,367,000	2,367,000	
Office of the Assistant Secretary for Science and Education	560,000	595,000	560,000	560,000	560,000	
Alternative Agricultural Research and Commercialization	4,500,000	10,000,000	4,500,000	10,000,000	7,250,000	+2,750,000
Agricultural Research Service	658,379,000	684,178,000	658,379,000	658,379,000	658,379,000	
Special fund	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	
Buildings and facilities	50,564,000	27,300,000	34,514,000	23,210,000	34,514,000	-16,050,000
Total, Agricultural Research Service	711,443,000	713,978,000	695,393,000	684,089,000	695,393,000	-16,050,000
Cooperative State Research Service	430,711,000	416,023,000	412,395,000	416,926,000	430,143,000	-568,000
Buildings and facilities	75,270,000		33,611,000	52,101,000	52,101,000	-23,169,000
Extension Service	419,325,000	417,320,000	417,928,000	422,944,000	424,928,000	+5,603,000
National Agricultural Library	17,715,000	18,025,000	17,253,000	17,715,000	17,715,000	
Office of the Assistant Secretary for Marketing and Inspection Services	550,000	590,000	550,000	550,000	550,000	
Animal and Plant Health Inspection Service:						
Salaries and expenses	345,577,000	332,682,000	347,577,000	349,538,000	349,538,000	+3,961,000
Special fund, user fees	85,362,000	86,147,000	83,362,000	83,362,000	83,362,000	-2,000,000
Buildings and facilities	21,396,000	10,400,000	10,400,000	10,400,000	10,400,000	-10,996,000
Total, Animal & Plant Health Inspection Service	452,335,000	429,229,000	441,339,000	443,300,000	443,300,000	-9,035,000
Food Safety and Inspection Service	473,512,000	450,967,000	489,867,000	489,867,000	489,867,000	+16,355,000
Federal Grain Inspection Service	11,397,000	4,694,000	11,397,000	11,397,000	11,397,000	
Standardization activities (proposed user fees)		(6,888,000)				
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(40,176,000)	(42,784,000)	(42,784,000)	(42,784,000)	(42,784,000)	(+2,608,000)
Agricultural Cooperative Service	5,640,000	4,852,000	5,640,000	5,640,000	5,640,000	
Technical assistance to cooperatives (proposed user fees)		(450,000)				
Agricultural Marketing Service:						
Marketing Services	56,636,000	53,400,000	56,520,000	45,401,000	56,221,000	-415,000
Standardization activities (proposed user fees)		(4,427,000)				
(Limitation on adminstrative expenses, from fees collected)	(50,735,000)	(52,861,000)	(52,861,000)	(55,953,000)	(55,953,000)	(+5,218,000)
Funds for strengthening markets, income, and supply (transfer from section 32)	10,360,000	10,309,000	10,309,000	10,309,000	10,309,000	-51,000
Payments to States and possessions	1,250,000	1,019,000	1,250,000	1,250,000	1,250,000	
Miscellaneous trust funds	1,850,000					-1,850,000
Total, Agricultural Marketing Service	70,096,000	64,728,000	68,079,000	56,960,000	67,780,000	-2,316,000
Packers and Stockyards Administration	12,009,000	12,223,000	11,996,000	11,996,000	11,996,000	-13,000
Total, Production, Processing, and Marketing	3,067,296,000	2,943,743,000	2,978,502,000	2,992,164,000	3,026,677,000	-40,619,000
Farm Income Stabilization						
Office of the Under Secretary for International Affairs and Commodity Programs	551,000	652,000	551,000	551,000	551,000	

Agriculture, Rural Development, Food & Drug Administration, and Related Agencies (H.R. 5487), cont.

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Agricultural Stabilization and Conservation Service:						
Salaries and expenses	719,289,000	712,894,000	714,134,000	700,826,000	712,926,000	-6,363,000
Export loans (by transfer)	(589,000)	(621,000)	(589,000)	(589,000)	(589,000)	....
P.L. 480 (by transfer)	(573,000)	(1,036,000)	(573,000)	(1,036,000)	(1,036,000)	(+463,000)
Subtotal, Salaries and expenses	(720,451,000)	(714,551,000)	(715,296,000)	(702,451,000)	(714,551,000)	(-5,900,000)
Dairy indemnity program	5,000	....	5,000	5,000	5,000	....
Total, Farm Income Stabilization	(721,007,000)	(715,203,000)	(715,852,000)	(703,007,000)	(715,107,000)	(-5,900,000)
CORPORATIONS						
Federal Crop Insurance Corporation:						
Administrative and operating expenses	322,870,000	335,377,000	303,896,000	309,948,000	309,948,000	-12,922,000
Federal crop insurance corporation fund	260,500,000	285,794,000	285,794,000	285,794,000	285,794,000	+25,294,000
Total, Federal Crop Insurance Corporation	583,370,000	621,171,000	589,690,000	595,742,000	595,742,000	+12,372,000
Commodity Credit Corporation:						
Reimbursement for net realized losses	7,250,000,000	9,200,000,000	9,200,000,000	9,200,000,000	9,200,000,000	+1,950,000,000
Hazardous waste (limitation on administrative expenses)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	....
General Sales Manager (transfer from Commodity Credit Corporation)	(5,098,000)	(4,053,000)	(4,668,000)	(4,668,000)	(4,668,000)	(-430,000)
Export loans (by transfer)	(2,731,000)	(3,262,000)	(2,731,000)	(2,731,000)	(2,731,000)	....
P.L. 480 (by transfer)	(1,242,000)	(1,467,000)	(1,242,000)	(1,467,000)	(1,467,000)	(+225,000)
Subtotal, General Sales Manager	(9,071,000)	(8,782,000)	(8,641,000)	(8,866,000)	(8,866,000)	(-205,000)
Total, Corporations:						
New budget (obligational) authority	7,833,370,000	9,821,171,000	9,789,690,000	9,795,742,000	9,795,742,000	+1,962,372,000
(By transfer)	(9,071,000)	(8,782,000)	(8,641,000)	(8,866,000)	(8,866,000)	(-205,000)
Total, title I, Agricultural Programs:						
New budget (obligational) authority	11,620,511,000	13,478,460,000	13,482,882,000	13,489,288,000	13,535,901,000	+1,915,390,000
(By transfer)	(10,233,000)	(10,439,000)	(9,803,000)	(10,491,000)	(10,491,000)	(+258,000)
(Limitation on administrative expenses)	(93,911,000)	(98,645,000)	(98,645,000)	(101,737,000)	(101,737,000)	(+7,826,000)
TITLE II - CONSERVATION PROGRAMS						
Office of the Assistant Secretary for Natural Resources and Environment	563,000	598,000	563,000	563,000	563,000	....
Soil Conservation Service:						
Conservation operations	564,129,000	572,492,000	576,539,000	576,539,000	576,539,000	+12,410,000
River basin surveys and investigations	13,251,000	10,082,000	13,251,000	13,251,000	13,251,000	....
Watershed planning	9,545,000	6,391,000	9,545,000	9,545,000	9,545,000	....
Watershed and flood prevention operations	205,266,000	152,961,000	205,266,000	238,266,000	228,266,000	+23,000,000
Resource conservation and development	32,516,000	23,631,000	32,516,000	32,516,000	32,516,000	....
Great Plains conservation program	25,271,000	25,271,000	25,271,000	25,271,000	25,271,000	....
Total, Soil Conservation Service	849,978,000	790,828,000	862,388,000	895,388,000	885,388,000	+35,410,000
Agricultural Stabilization and Conservation Service:						
Agricultural conservation program	194,435,000	125,000,000	194,435,000	188,785,000	194,435,000	....
Water quality incentives program	(6,750,000)	(10,000,000)	(6,750,000)	(15,000,000)	(15,000,000)	(+8,250,000)
Forestry incentives program	12,446,000	12,446,000	12,446,000	12,446,000	12,446,000	....
Water bank program	18,620,000	11,395,000	18,620,000	18,620,000	18,620,000	....
Emergency conservation program	6,000,000	....	3,000,000	3,000,000	3,000,000	-3,000,000
Colorado River Basin salinity control program	14,783,000	14,783,000	14,783,000	12,783,000	13,783,000	-1,000,000
Conservation reserve program	1,611,277,000	1,606,540,000	1,578,517,000	1,578,517,000	1,578,517,000	-32,760,000
Wetlands reserve program	46,357,000	160,893,000	....	54,900,000	....	-46,357,000
Total, Agricultural Stabilization and Conservation Service	1,903,918,000	1,931,057,000	1,821,801,000	1,869,051,000	1,820,801,000	-83,117,000
Total, title II, Conservation Programs, new budget (obligational) authority	2,754,459,000	2,722,483,000	2,684,752,000	2,765,002,000	2,706,752,000	-47,707,000
TITLE III - FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS						
Office of the Under Secretary for Small Community and Rural Development	572,000	650,000	572,000	572,000	572,000	....
Rural Development Administration:						
Salaries and expenses	....	14,787,000	14,787,000	14,787,000	14,787,000	+14,787,000
Loan administrative expenses:						
RDIF (by transfer)	....	(57,294,000)	(21,755,000)	(21,755,000)	(21,755,000)	(+21,755,000)
RDLF (by transfer)	....	(524,000)	(524,000)	(524,000)	(524,000)	(+524,000)
Total, salaries and expenses	....	(72,605,000)	(37,066,000)	(37,066,000)	(37,066,000)	(+37,066,000)

Agriculture, Rural Development, Food & Drug Administration, and Related Agencies (H.R. 5487), cont.

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Farmers Home Administration:						
Rural Housing Insurance Fund Program Account:						
Loan authorizations:						
Low-income housing (sec. 502)	(1,245,000,000)	(450,000,000)	(1,245,000,000)	(1,245,000,000)	(1,245,000,000)	
Unsubsidized direct	(50,000,000)		(50,000,000)	(50,000,000)	(50,000,000)	
Unsubsidized guaranteed	(329,500,000)	(300,000,000)	(329,500,000)	(200,000,000)	(329,500,000)	
Subsidized guaranteed		(400,000,000)				
Housing repair (sec. 504)	(11,330,000)	(11,100,000)	(11,330,000)	(11,330,000)	(11,330,000)	
Farm labor (sec. 514)	(16,300,000)	(16,250,000)	(16,300,000)	(16,300,000)	(16,300,000)	
Rental housing (sec. 515)	(573,900,000)	(341,000,000)	(500,000,000)	(573,900,000)	(573,900,000)	
Site loans	(600,000)		(600,000)	(600,000)	(600,000)	
Credit sales of acquired property	(250,000,000)	(200,000,000)	(200,000,000)	(187,000,000)	(187,000,000)	(-63,000,000)
Total, Loan authorizations	(2,476,630,000)	(1,718,350,000)	(2,352,730,000)	(2,284,130,000)	(2,413,630,000)	(-63,000,000)
Loan subsidies:						
Single family (sec. 502):						
Direct	283,868,000	109,575,000	303,158,000	303,158,000	303,158,000	+19,290,000
Unsubsidized direct				3,785,000	3,785,000	+3,785,000
Unsubsidized guaranteed	3,723,000	5,550,000	6,096,000	3,700,000	6,096,000	+2,373,000
Subsidized guaranteed		97,280,000				
Housing repair (sec. 504)	4,999,000	4,456,000	4,578,000	4,548,000	4,548,000	-451,000
Farm labor (sec. 514)	9,002,000	8,005,000	8,029,000	8,029,000	8,029,000	-973,000
Rental housing (sec. 515)	248,499,000	243,167,000	356,550,000	305,602,000	305,602,000	+57,103,000
Site loans	9,000					-9,000
Credit sales of acquired property	36,725,000	26,780,000	26,780,000	25,039,000	25,039,000	-11,686,000
Total, Loan subsidies	586,825,000	494,813,000	705,191,000	653,861,000	656,257,000	+69,432,000
RHIF expenses:						
Salaries and expenses	427,111,000	383,214,000	404,846,000	401,202,000	404,746,000	-22,365,000
Administratives expenses		44,530,000	22,265,000	22,265,000	22,265,000	+22,265,000
Total, RHIF expenses	427,111,000	427,744,000	427,111,000	423,467,000	427,011,000	-100,000
Rental assistance program	319,900,000	202,000,000	319,900,000	355,498,000	337,699,000	+17,799,000
Total, Rural Housing Insurance Fund:						
New budget (obligational) authority	1,333,836,000	1,124,557,000	1,452,202,000	1,432,826,000	1,420,967,000	+87,131,000
(Loan authorization)	(2,476,630,000)	(1,718,350,000)	(2,352,730,000)	(2,284,130,000)	(2,413,630,000)	(-63,000,000)
Self-Help Housing Land Development Fund:						
Loan authorization	(500,000)		(500,000)	(500,000)	(500,000)	
Loan subsidy	43,000		22,000	22,000	22,000	-21,000
Administrative expenses	21,000		21,000	21,000	21,000	
Agricultural Credit Insurance Fund Program Account:						
Loan authorizations:						
Farm ownership loans:						
Direct	(66,750,000)	(27,900,000)	(66,750,000)	(66,750,000)	(66,750,000)	
Guaranteed	(488,750,000)	(300,000,000)	(488,750,000)	(488,750,000)	(488,750,000)	
Subtotal	(555,500,000)	(327,900,000)	(555,500,000)	(555,500,000)	(555,500,000)	
Operating loans:						
Direct	(850,000,000)	(314,100,000)	(850,000,000)	(800,000,000)	(825,000,000)	(-25,000,000)
Guaranteed unsubsidized	(1,800,000,000)	(1,250,000,000)	(1,500,000,000)	(1,500,000,000)	(1,500,000,000)	(-300,000,000)
Guaranteed subsidized	(182,140,000)	(760,000,000)	(238,354,000)	(238,354,000)	(238,354,000)	(+56,214,000)
Subtotal	(2,832,140,000)	(2,324,100,000)	(2,588,354,000)	(2,538,354,000)	(2,563,354,000)	(-268,786,000)
Soil and water loans:						
Direct	(5,500,000)		(2,337,000)	(2,300,000)	(2,337,000)	(-3,163,000)
Guaranteed	(1,500,000)		(1,415,000)	(1,415,000)	(1,415,000)	(-85,000)
Subtotal	(7,000,000)		(3,752,000)	(3,715,000)	(3,752,000)	(-3,248,000)
Indian tribe land acquisition loans	(1,000,000)		(1,000,000)	(1,000,000)	(1,000,000)	
Emergency disaster loans	(600,000,000)	(100,000,000)	(115,000,000)	(115,000,000)	(115,000,000)	(-485,000,000)
Watershed and flood prevention	(4,000,000)		(4,000,000)	(4,000,000)	(4,000,000)	
Resource conservation loans	(600,000)		(600,000)	(600,000)	(600,000)	
Credit sales of acquired property	(200,000,000)	(125,000,000)	(125,000,000)	(50,000,000)	(88,000,000)	(-112,000,000)
Total, Loan authorizations	(4,200,240,000)	(2,877,000,000)	(3,393,206,000)	(3,268,169,000)	(3,331,206,000)	(-869,034,000)
Loan subsidies:						
Farm ownership:						
Direct	15,241,000	5,444,000	13,023,000	13,023,000	13,023,000	-2,218,000
Guaranteed	24,545,000	12,630,000	20,576,000	20,576,000	20,576,000	-3,969,000
Farm operating:						
Direct	130,472,000	47,412,000	128,265,000	120,756,000	124,530,000	-5,942,000
Guaranteed unsubsidized	22,455,000	15,129,000	18,150,000	18,150,000	18,150,000	-4,305,000
Guaranteed subsidized	15,350,000	55,539,000	15,350,000	15,350,000	15,350,000	
Soil and water loans:						
Direct	456,000		456,000	456,000	456,000	
Guaranteed	43,000		43,000	43,000	43,000	

Agriculture, Rural Development, Food & Drug Administration, and Related Agencies (H.R. 5487), cont.

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Indian tribe land acquisition	253,000		226,000	226,000	226,000	-27,000
Emergency disaster	55,000,000	26,750,000	30,762,000	30,762,000	30,762,000	-24,238,000
Watershed and flood prevention loans	1,000					-1,000
Resource conservation	1,000					-1,000
Credit sales of acquired property	59,880,000	31,825,000	31,825,000	12,730,000	22,405,000	-37,475,000
Total, Loan subsidies	323,697,000	194,729,000	258,676,000	232,072,000	245,521,000	-78,176,000
ACIF expenses:						
Salaries and expenses	230,179,000	211,673,000	215,712,000	215,712,000	215,712,000	-14,467,000
Administratives expenses		28,933,000	14,467,000	14,467,000	14,467,000	+14,467,000
Total, ACIF expenses	230,179,000	240,606,000	230,179,000	230,179,000	230,179,000	
State mediation grants	3,750,000	2,000,000	2,750,000	3,475,000	3,000,000	-750,000
Total, Agricultural Credit Insurance Fund:						
New budget (obligational) authority	557,626,000	437,335,000	491,605,000	465,726,000	478,700,000	-78,926,000
(Loan authorization)	(4,200,240,000)	(2,877,000,000)	(3,393,206,000)	(3,268,169,000)	(3,331,206,000)	(-869,034,000)
Rural Development Insurance Fund Program Account:						
Loan authorizations:						
Water and sewer facility loans:						
Direct	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	
Guaranteed	(35,000,000)		(35,000,000)	(35,000,000)	(35,000,000)	
Subtotal	(635,000,000)	(600,000,000)	(635,000,000)	(635,000,000)	(635,000,000)	
Community facility loans:						
Direct	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	
Guaranteed	(25,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	(+75,000,000)
Subtotal	(125,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(+75,000,000)
Industrial development loans:						
Guaranteed	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	(100,000,000)	
Total, loan authorizations	(860,000,000)	(900,000,000)	(935,000,000)	(935,000,000)	(935,000,000)	(+75,000,000)
Loan subsidies:						
Water and sewer:						
Direct	89,880,000	87,360,000	87,360,000	87,360,000	87,360,000	-2,520,000
Guaranteed	630,000					-630,000
Community facility:						
Direct	12,011,000	8,410,000	8,410,000	8,410,000	8,410,000	-3,601,000
Guaranteed	508,000					-508,000
Industrial development	5,870,000	5,440,000	5,440,000	5,440,000	5,440,000	-430,000
Total, Loan subsidies	108,899,000	101,210,000	101,210,000	101,210,000	101,210,000	-7,689,000
RDIF expenses:						
Salaries and expenses	52,286,000	57,294,000	57,294,000	57,294,000	57,294,000	+5,008,000
Administratives expenses		1,827,000	914,000	914,000	914,000	+914,000
Total, RDIF expenses	52,286,000	59,121,000	58,208,000	58,208,000	58,208,000	+5,922,000
Total, Rural Development Insurance Fund:						
New budget (obligational) authority	161,185,000	160,331,000	159,418,000	159,418,000	159,418,000	-1,767,000
(Loan authorization)	(860,000,000)	(900,000,000)	(935,000,000)	(935,000,000)	(935,000,000)	(+75,000,000)
Rural Development Loan Fund Program Account:						
(Loan authorization)	(32,500,000)	(35,000,000)	(28,387,000)	(32,500,000)	(32,500,000)	
Loan subsidy	16,260,000	20,048,000	16,260,000	18,616,000	18,616,000	+2,356,000
RDLF expenses:						
Salaries and expenses	689,000	524,000	524,000	524,000	524,000	-165,000
Administratives expenses		10,000	5,000	5,000	5,000	+5,000
Total, RDLF expenses	689,000	534,000	529,000	529,000	529,000	-160,000
Agricultural Resource Conservation Demonstration Program Account:						
(Loan authorization)	(10,000,000)	(10,000,000)				(-10,000,000)
Loan subsidy	3,617,000	3,644,000				-3,617,000
Alcohol Fuels Credit Guarantee Program Account:						
(Loan authorization)				(45,000,000)	(30,000,000)	(+30,000,000)
Loan subsidy				13,500,000	9,000,000	+9,000,000
AFCG expenses:						
Administratives expenses				150,000	100,000	+100,000
Rural water and waste disposal grants	350,000,000	300,000,000	400,000,000	381,000,000	390,000,000	+40,000,000
Very low-income housing repair grants	12,500,000	5,000,000	12,500,000	12,500,000	12,500,000	
Rural housing for domestic farm labor	11,000,000	10,000,000	11,000,000	11,000,000	11,000,000	
Mutual and self-help housing	8,750,000		8,750,000	12,750,000	12,750,000	+4,000,000
Supervisory and technical assistance grants	2,500,000		2,500,000		2,500,000	

Agriculture, Rural Development, Food & Drug Administration, and Related Agencies (H.R. 5487), cont.

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Rural community fire protection grants	3,500,000		3,500,000	3,500,000	3,500,000	
Compensation for construction defects	500,000		500,000	500,000	500,000	
Rural rental assistance payments (voucher program)		140,000,000				
Rural housing preservation grants	23,000,000	10,000,000	23,000,000	23,000,000	23,000,000	
Rural development grants	20,750,000	35,000,000	20,750,000	20,750,000	20,750,000	
Solid waste management grants	3,000,000		3,000,000	3,000,000	3,000,000	
Emergency community water assistance grants	10,000,000			10,000,000	10,000,000	
Subtotal, grants and payments	445,500,000	500,000,000	485,500,000	478,000,000	489,500,000	+44,000,000
Office of the Administrator	600,000		600,000	600,000	600,000	
Salaries and expenses	38,298,000	23,802,000	23,802,000	23,802,000	23,802,000	-14,496,000
Loan administrative expenses:						
RHIF (by transfer)	(427,111,000)	(383,214,000)	(404,846,000)	(401,202,000)	(404,746,000)	(-22,365,000)
ACIF (by transfer)	(230,179,000)	(211,673,000)	(215,712,000)	(215,712,000)	(215,712,000)	(-14,467,000)
RDIF (by transfer)	(52,286,000)		(35,539,000)	(35,539,000)	(35,539,000)	(-16,747,000)
RDLF (by transfer)	(689,000)					(-689,000)
Self-Help HLDF (by transfer)	(21,000)		(21,000)	(21,000)	(21,000)	
AFCG (by transfer)				(150,000)	(100,000)	(+100,000)
Total, salaries and expenses	(748,584,000)	(618,689,000)	(679,920,000)	(676,426,000)	(679,920,000)	(-68,664,000)
Total, Farmers Home Administration:						
New budget (obligational) authority	2,557,675,000	2,270,251,000	2,629,959,000	2,593,210,000	2,601,275,000	+43,600,000
(By transfer)	(710,286,000)	(594,887,000)	(656,118,000)	(652,624,000)	(656,118,000)	(-54,168,000)
(Loan authorization)	(7,579,870,000)	(5,540,350,000)	(6,709,823,000)	(6,565,299,000)	(6,742,836,000)	(-837,034,000)
Rural Electrification Administration:						
Rural Electrification and Telephone Loans Program Account:						
Loan authorizations:						
Direct loans:						
Electric	(622,050,000)	(523,740,000)	(625,035,000)	(625,035,000)	(625,035,000)	(+2,985,000)
Telephone	(239,250,000)		(219,325,000)	(239,250,000)	(239,250,000)	
Subtotal	(861,300,000)	(523,740,000)	(844,360,000)	(864,285,000)	(864,285,000)	(+2,985,000)
FFB loans:						
Electric	(813,450,000)	(813,450,000)	(813,450,000)	(813,450,000)	(813,450,000)	
Telephone	(119,625,000)		(119,625,000)	(119,625,000)	(119,625,000)	
Subtotal	(933,075,000)	(813,450,000)	(933,075,000)	(933,075,000)	(933,075,000)	
Guaranteed loans:						
Electric		(176,266,000)				
Modified direct loans	(493,700,000)	(266,000,000)	(266,000,000)			(-493,700,000)
Total, Loan authorizations	(2,288,075,000)	(1,779,456,000)	(2,043,435,000)	(1,797,360,000)	(1,797,360,000)	(-490,715,000)
Loan subsidies:						
Direct loans:						
Electric	117,319,000	98,306,000	117,319,000	117,319,000	117,319,000	
Telephone	40,290,000		40,290,000	43,950,000	43,950,000	+3,660,000
Guaranteed loans:						
Electric		71,000				
FFB Loans	14,152,000	35,304,000	35,475,000	35,388,000	35,388,000	+21,236,000
Modified direct loans		47,880,000	47,880,000			
Total, Loan subsidies	171,761,000	181,561,000	240,964,000	196,657,000	196,657,000	+24,896,000
RETRF salaries and expenses	29,163,000	32,822,000	29,163,000	30,330,000	29,163,000	
Total, Rural Electrification and Telephone Loans Program Account:						
New budget (obligational) authority	200,924,000	214,383,000	270,127,000	226,987,000	225,820,000	+24,896,000
(Loan authorization)	(2,288,075,000)	(1,779,456,000)	(2,043,435,000)	(1,797,360,000)	(1,797,360,000)	(-490,715,000)
Rural Telephone Bank Program Account:						
Direct loans (limitation on obligations)	(177,045,000)	(475,000,000)	(177,045,000)	(177,045,000)	(177,045,000)	
Direct loan subsidy	3,629,000	10,109,000	35,000	35,000	35,000	-3,594,000
RTB salaries and expenses	8,632,000		8,632,000	8,977,000	8,632,000	
Distance Learning and Medical Link Programs	5,000,000		5,000,000	5,000,000	5,000,000	
Rural Economic Development Loans Program Account:						
Direct loans (limitation on obligations)	(8,406,000)	(15,563,000)	(9,215,000)	(15,563,000)	(12,389,000)	(+3,983,000)
Direct subsidy	2,546,000	4,300,000	2,546,000	4,300,000	3,423,000	+877,000
Office of the Administrator	243,000		243,000	243,000	243,000	

Agriculture, Rural Development, Food & Drug Administration, and Related Agencies (H.R. 5487), cont.

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Salaries and expenses:						
Electric and telephone loans (by transfer)	(29,163,000)	(32,822,000)	(29,163,000)	(30,330,000)	(29,163,000)	
Rural telephone bank (by transfer)	(8,632,000)		(8,632,000)	(8,977,000)	(8,632,000)	
Loan origination fee		(9,500,000)				
Subtotal	(37,795,000)	(42,322,000)	(37,795,000)	(39,307,000)	(37,795,000)	
Total, Rural Electrification Administration:						
New budget (obligational) authority	220,974,000	228,792,000	286,583,000	245,542,000	243,153,000	+22,179,000
(By transfer)	(37,795,000)	(32,822,000)	(37,795,000)	(39,307,000)	(37,795,000)	
(Loan authorization)	(2,288,075,000)	(1,779,456,000)	(2,043,435,000)	(1,797,360,000)	(1,797,360,000)	(-490,715,000)
(Limitation on obligations)	(185,451,000)	(490,563,000)	(186,260,000)	(192,608,000)	(189,434,000)	(+3,983,000)
Total, title III, Rural Development Programs:						
New budget (obligational) authority	2,779,221,000	2,514,480,000	2,931,901,000	2,854,111,000	2,859,787,000	+80,566,000
(By transfer)	(748,081,000)	(685,527,000)	(716,192,000)	(714,210,000)	(716,192,000)	(-31,889,000)
(Loan authorization)	(9,867,945,000)	(7,319,806,000)	(8,753,258,000)	(8,362,659,000)	(8,540,196,000)	(-1,327,749,000)
(Limitation on obligations)	(185,451,000)	(490,563,000)	(186,260,000)	(192,608,000)	(189,434,000)	(+3,983,000)
TITLE IV - DOMESTIC FOOD PROGRAMS						
Office of the Assistant Secretary for Food and Consumer Services	542,000	600,000	542,000	542,000	542,000	
Food and Nutrition Service:						
Child nutrition programs	1,393,223,000	2,398,524,000	2,384,066,000	2,477,029,000	2,536,098,000	+1,142,875,000
Baseline change		9,941,000				
Benefits change		-200,318,000				
Transfer from section 32	4,675,092,000	4,272,138,000	4,290,455,000	4,290,455,000	4,290,455,000	-384,637,000
Total, Child nutrition programs	6,068,315,000	6,480,285,000	6,674,521,000	6,767,484,000	6,826,553,000	+758,238,000
Special milk program	23,011,000	14,898,000	14,898,000	14,898,000	14,898,000	-8,113,000
Special supplemental food program for women, infants, and children (WIC)	2,600,000,000	2,840,000,000	2,860,000,000	2,860,000,000	2,860,000,000	+260,000,000
Commodity supplemental food program	90,000,000	90,000,000	94,500,000	94,500,000	94,500,000	+4,500,000
Food stamp program:						
Expenses	20,849,975,000	27,999,500,000	23,168,691,000	25,500,000,000	24,564,357,000	+3,714,382,000
Increased participation grants		500,000				
Subject to budget request	1,500,000,000		2,500,000,000	2,500,000,000	2,500,000,000	+1,000,000,000
Nutrition assistance for Puerto Rico	1,002,175,000	1,051,000,000	1,040,175,000	1,040,175,000	1,040,175,000	+38,000,000
Cattle tick eradication	10,825,000		10,825,000	10,825,000	10,825,000	
Total, Food stamp program	23,362,975,000	29,051,000,000	26,719,691,000	29,051,000,000	28,115,357,000	+4,752,382,000
Food donations programs for selected groups:						
Needy family program	81,945,000	81,020,000	81,601,000	81,601,000	81,601,000	-344,000
Elderly feeding program	151,492,000	142,912,000	142,912,000	142,912,000	142,912,000	-8,580,000
Subtotal	233,437,000	223,932,000	224,513,000	224,513,000	224,513,000	-8,924,000
Soup kitchens	32,000,000	32,000,000	32,000,000	32,000,000	32,000,000	
Total, Food donations programs	265,437,000	255,932,000	256,513,000	256,513,000	256,513,000	-8,924,000
The emergency food assistance program	45,000,000	45,000,000	45,000,000	45,000,000	45,000,000	
Commodity purchases - TEFAP	120,000,000	120,000,000	120,000,000	120,000,000	120,000,000	
Total, The emergency food assistance program	165,000,000	165,000,000	165,000,000	165,000,000	165,000,000	
Food program administration	103,535,000	108,690,000	103,535,000	103,535,000	103,535,000	
Total, Food and Nutrition Service	32,678,273,000	39,005,805,000	36,888,658,000	39,312,930,000	38,436,356,000	+5,758,083,000
Human Nutrition Information Service	10,788,000	13,716,000	10,788,000	10,788,000	10,788,000	
Total, title IV, Domestic Food Programs, new budget (obligational) authority	32,689,603,000	39,020,121,000	36,899,988,000	39,324,260,000	38,447,686,000	+5,758,083,000
TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS						
Foreign Agricultural Service	110,023,000	109,789,000	110,023,000	110,023,000	110,023,000	
Ameri Flora '92 Exposition	500,000					-500,000

Agriculture, Rural Development, Food & Drug Administration, and Related Agencies (H.R. 5487), cont.

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Public Law 480 Program Account:						
Title I - Credit sales:						
Program level	(563,804,000)	(512,099,000)	(563,804,000)	(581,359,000)	(555,276,000)	(-8,528,000)
Direct loans	(511,619,000)	(473,849,000)	(511,619,000)	(538,295,000)	(509,996,000)	(-1,623,000)
Ocean freight differential	52,185,000	38,250,000	52,185,000	43,064,000	45,280,000	-6,905,000
Title II - Commodities for disposition abroad:						
Program level	(710,087,000)	(639,800,000)	(763,842,000)	(810,000,000)	(810,000,000)	(+99,913,000)
Appropriation	710,087,000	639,800,000	763,842,000	810,000,000	810,000,000	+99,913,000
Title III - Commodity grants:						
Program level	(333,594,000)	(326,700,000)	(333,594,000)	(344,269,000)	(333,594,000)	
Appropriation	333,594,000	326,700,000	333,594,000	344,269,000	333,594,000	
Loan subsidies	388,319,000	317,763,000	317,800,000	360,981,000	342,003,000	-46,316,000
Debt restructuring		69,531,000	69,531,000	13,183,000	40,000,000	+40,000,000
Debt restructuring for CCC		14,350,000				
Salaries and expenses:						
General Sales Manager	1,242,000	1,467,000	1,242,000	1,467,000	1,467,000	+225,000
ASCS	573,000	1,036,000	573,000	1,036,000	1,036,000	+463,000
Subtotal	1,815,000	2,503,000	1,815,000	2,503,000	2,503,000	+688,000
Total, Public Law 480:						
Program level	(1,607,485,000)	(1,478,599,000)	(1,661,240,000)	(1,735,628,000)	(1,698,870,000)	(+91,385,000)
Appropriation	1,486,000,000	1,408,897,000	1,538,767,000	1,574,000,000	1,573,380,000	+87,380,000
CCC Export Loans Program Account:						
Loan guarantees:						
Short-term export credit	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	
Intermediate export credit	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	
Emerging democracies export credit	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	
Loan subsidy	155,524,000	388,170,000	388,170,000	388,170,000	388,170,000	+232,646,000
Salaries and expenses (Export Loans):						
General Sales Manager	2,731,000	3,262,000	2,731,000	2,731,000	2,731,000	
ASCS	589,000	621,000	589,000	589,000	589,000	
Subtotal	158,844,000	392,053,000	391,490,000	391,490,000	391,490,000	+232,646,000
Office of International Cooperation and Development	7,247,000	6,491,000	7,247,000	7,247,000	7,247,000	
Scientific activities overseas (foreign currency program) (limitation on administrative expenses)	(1,062,000)		(1,062,000)	(1,062,000)	(1,062,000)	
Total, title V, International Programs, new budget (obligational) authority	1,762,614,000	1,917,230,000	2,047,527,000	2,082,760,000	2,082,140,000	+319,526,000
TITLE VI - RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION						
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Food and Drug Administration						
Salaries and expenses	725,962,000	557,038,000	744,135,000	746,035,000	746,035,000	+20,073,000
Buildings and facilities	8,350,000	8,350,000	8,350,000	8,350,000	8,350,000	
Rental payments	25,612,000	25,612,000	25,612,000	25,612,000	25,612,000	
Total, Food and Drug Administration	759,924,000	591,000,000	778,097,000	779,997,000	779,997,000	+20,073,000
DEPARTMENT OF THE TREASURY						
Financial Management Service:						
Payments to the farm credit system financial assistance corporation	112,606,000	84,614,000	84,614,000	84,614,000	84,614,000	-27,992,000
INDEPENDENT AGENCIES						
Commodity Futures Trading Commission	47,300,000	52,834,000	47,300,000	47,300,000	47,300,000	
Farm Credit Administration (limitation on administrative expenses).	(40,290,000)	(43,244,000)	(38,686,000)	(39,908,000)	(39,908,000)	(-382,000)
Farm Credit System Assistance Board (limitation on administrative expenses)	(2,175,000)	(809,000)	(809,000)	(809,000)	(809,000)	(-1,366,000)
Total, title VI, Related Agencies:						
New budget (obligational) authority	919,830,000	728,448,000	910,011,000	911,911,000	911,911,000	-7,919,000
(Limitation on administrative expenses)	(42,465,000)	(44,053,000)	(39,495,000)	(40,717,000)	(40,717,000)	(-1,748,000)
TITLE VII - GENERAL PROVISIONS						
Reduction of appropriations (sec. 732)			-49,303,788			
Agricultural Resource Conservation Demonstration Program Account:						
(Loan authorization)					(10,000,000)	(+10,000,000)
Loan subsidy					3,644,000	+3,644,000

Agriculture, Rural Development, Food & Drug Administration, and Related Agencies (H.R. 5487), cont.

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
RECAPITULATION						
Grand Total:						
New budget (obligational) authority	52,526,238,000	60,381,222,000	58,907,757,212	61,427,332,000	60,547,821,000	+8,021,583,000
(By transfer)	(758,314,000)	(695,966,000)	(725,995,000)	(724,701,000)	(726,683,000)	(-31,631,000)
(Loan authorization)	(15,567,945,000)	(13,019,806,000)	(14,453,258,000)	(14,062,659,000)	(14,250,196,000)	(-1,317,749,000)
(Limitation on administrative expenses)	(137,438,000)	(142,698,000)	(139,202,000)	(143,516,000)	(143,516,000)	(+6,078,000)
(Limitation on obligations)	(185,451,000)	(490,563,000)	(186,260,000)	(192,608,000)	(189,434,000)	(+3,983,000)
Title I - Agricultural programs	11,620,511,000	13,478,460,000	13,482,882,000	13,489,288,000	13,535,901,000	+1,915,390,000
Title II - Conservation programs	2,754,459,000	2,722,483,000	2,684,752,000	2,765,002,000	2,706,752,000	-47,707,000
Title III - Farmers Home and Rural development programs	2,779,221,000	2,514,480,000	2,931,901,000	2,854,111,000	2,859,787,000	+80,566,000
Title IV - Domestic food programs	32,689,603,000	39,020,121,000	36,899,988,000	39,324,260,000	38,447,686,000	+5,758,083,000
Title V - Foreign assistance and related programs	1,762,614,000	1,917,230,000	2,047,527,000	2,082,760,000	2,082,140,000	+319,526,000
Title VI - Related agencies and Food and Drug Administration	919,830,000	728,448,000	910,011,000	911,911,000	911,911,000	-7,919,000
Title VII - General provisions			-49,303,788		3,644,000	+3,644,000
Total, new budget (obligational) authority	52,526,238,000	60,381,222,000	58,907,757,212	61,427,332,000	60,547,821,000	+8,021,583,000

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I intend to be very brief because the chairman, the gentleman from New York [Mr. McHugh], and the gentleman from Mississippi have done a good job, I think, of detailing the inclusions in the conference agreement. They have done it well in their usual, comprehensive and efficient manner.

Mr. Speaker, let me say at the outset that it is truly a great honor for me to serve on the subcommittee as the ranking member. We are indeed very fortunate, and I might add so are all of America's farmers and consumers, that our important agricultural appropriations are directed under the leadership of a remarkable chairman, the distinguished gentleman from Mississippi [Mr. Whitten]. All of the other members of the subcommittee from both sides of the aisle are dedicated and very efficient contributors to the enhancement of agricultural programs which are of great importance to our Nation and its future growth.

Unfortunately, one of the brightest and best talents on the subcommittee, the gentleman from New York, and my good friend [Mr. McHugh], will be leaving us at the end of this session. We will greatly miss his wisdom and intelligence, and his valuable contributions to our subcommittee's work. And I feel that they are not easily replaceable.

The same is also true for other great losses to the subcommittee by the departure of our good friend, the gentleman from Michigan [Mr. Traxler], and also the gentleman from Minnesota [Mr. Weber]. We wish them all continued success and good wishes in all of their future work.

Mr. Speaker, in general the conference report we are now considering, which I am pleased to say is the first of this year's harvest for the 13 appropriations bills, should be described as a moderate and well-balanced agreement. In fact this conference report is one of only two appropriations bills to have passed the House which does not have any veto threat associated with it. As our chairman has already stated, the spending totals provided in the conference report are within the subcommittees very constrained 602(b) discretionary budget authority allocations for fiscal year 1993. Of the total $60.547 billion in new budget authority made available for all Agriculture and related agencies programs including the Food and Drug Administration, only $13.8 billion can be controlled as discretionary spending through the regular appropriations process.

The largest spending increase for the discretionary area is for the WIC Program at $2.860 billion a $260 million increase above last year.

The majority of all program costs—over 60 percent of the total—must be used to pay for mandatory or entitlement programs. For example, the food stamp program now costs over $28 billion, an increase of more than $5 billion above fiscal year 1992. Income and commodity support payments under the Commodity Credit Corporation account generates mandatory spending of $9.2 billion, an increase of $1.5 billion over last year.

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In the international spending area, funds are provided for the various Public Law 480 export credit programs at a level of $2.5 billion, about $685 million more than last year. I am disappointed that in this part of the conference agreement, despite our strong efforts, we were not successful in maintaining the House level for the Public Law 480 title I direct loan program, which was accepted by a wide margin by the House on an amendment offered by the gentleman from Washington [Mr. Miller] and the gentleman from Ohio [Mr. Kasich].

Our Nation's food commodity exports to other countries are now more than $40 billion per year, and it is by far the most, or one of the most, important and favorable elements of our balance of trade and its components.

In this regard, I believe the marketing promotion program, otherwise known as the MPP, has been most helpful. The conference report not only continues funds of $147.8 million for MPP, but also includes program reforms.

Overall, it is important to underscore the fact that this year's conference report recommends spending for $13.8 billion, only $1.5 billion more than the 1992 for the discretionary programs.

I am pleased that the conference agreement includes the $25 million provided in the House bill to address some of the critical needs for water and sewer improvements along the United States-Mexican border in that area known as the colonias.

Mr. Speaker, in conclusion, let me say that while the administration is not indicating any veto recommendations for this conference report, they still have several concerns. For instance, the administration objects to no funding for the wetlands reserve program; also, reductions to their request for the national research program and opposition to the funding for a new alcohol fuel credit guarantee program and the reduction of funds provided in the House bill for debt restructuring for the Enterprise of the Americas.

Despite these problem areas, I believe that we have a good conference report, one that the President will sign into law.

I recommend that all of my colleagues in the House vote for it.

Mr. Speaker, I reserve the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report and urge my colleagues to support it.

I would like to begin by again paying tribute to our chairman, Jamie Whitten of Mississippi. He has led this subcommittee on Agriculture almost continuously since 1949, and in the entire country there is no one more expert on these programs than he. My service on the subcommittee dates only from 1978, so I have had the rare opportunity to learn from the master, and it has been a privilege indeed. I also would like to express my appreciation to our distinguished ranking member, our friend from New Mexico, Mr. Skeen, to the other members of the subcommittee on both sides of the aisle, and to our very capable staff. It has been a pleasure to work with each and every one of them.

Mr. Speaker, this conference report is below our 602(b) allocation on both outlays and budget authority. While aggregate spending is higher than the House version of the bill, it is below the Senate bill. It is a true compromise that reflects the essential needs of our people as well as our budget constraints.

The increases above the original House bill are primarily accounted for by increases in mandatory programs reflected in OMB's customary midsession review. When OMB reestimated entitlement spending for programs such as food stamps and those related to child nutrition, spending levels for fiscal year 1993 were estimated to be higher than the estimates we had available when the House bill was first considered. As you know, our committee has no choice but to appropriate these funds, and we hope that doing so now will avoid the need for a later supplemental.

Mr. Speaker, many of the discretionary programs financed in this bill are at last year's level or below it. From the outset the House has sought to apply strict budgetary standards. For example, the House bill appropriated no money for new research projects and provided no additional funds for ongoing research grants. The conference report generally follows that strict standard. With only one exception, any new research grant had to be offset by a cut in spending in current projects. All other research grants were at or below last year's number.

Inevitably, there had to be some compromises on individual programs. For example, the conference report increases the House number for the market promotion program, a program which some of us have expressed reservations about. However, the number the conference report recommends is below the President's request and below the figures in the Senate bill. It is a true compromise. Moreover, we have included language in the Statement of Managers which addresses the concerns some of us have expressed.

One of the discretionary programs that has been increased, Mr. Speaker, is the WIC Program. The conference report provides $2,860,000,000, an increase over the current year of $260 million. This will facilitate a modest expansion of the program. I wish we could have done better because this is one of our most cost-effective programs, saving at least $3 in medical costs for every dollar invested in WIC. However, budget constraints once again imposed a limit on what we could recommend.

Mr. Speaker, this is a fair and responsible conference report, and I do urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH], a member of the subcommittee.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report.

I would like to congratulate all of the parties who worked hard to keep spending down on this conference report and thank all of the staff who worked so hard to take care of all of the needs and tried to be responsible to both the Senate and House.

This is a true compromise. I think it is a fair and responsible conference, and I rise in support of the conference report.

Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. COLEMAN], the ranking Republican on the Committee on Agriculture, the authorizing committee.

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, would the gentleman from New York join me in a statement of commendation for the work of the conferees and a question with respect to the conference report to H.R. 5487.

Mr. MCHUGH. Mr. Speaker, if the gentleman will yield, I would be happy to do that.

Mr. COLEMAN of Missouri. Mr. Speaker, I was pleased to note and extend my commendation and that of my constituents in Missouri to the inclusion of a statement of the conferees in the conference report urging, expecting and agreeing that cost sharing for the rural water supply component of the project known as the East Yellow Creek Watershed, that is consistent with the 1989 statement of the USDA reaffirming its rural water cost-sharing policy, should be provided under H.R. 5487, as enacted.

My question is, is it the position of the conferees that the Director, Office of Management and Budget, is urged to approve the Federal cost-sharing for such project?

Mr. MCHUGH. Mr. Speaker, if the gentleman will yield, yes.

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman for that response and I thank the committee chairman for his cooperation on this matter, and also special appreciation to the gentleman from New Mexico [Mr. SKEEN], who assisted me in this matter as well.

Mr. MCHUGH. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, this is the first of the conference reports on the appropriation bills to come back to the House, and as such I would like to report on how it stands with regard to the budget resolution and the budget agreement.

The bill provides $13.8 billion in total discretionary budget authority, and $13.4 billion in total discretionary outlays, which are $1 million less than the 602(b) subdivision for budget authority and equal to the 602(b) subdivision for outlays, respectively, for this subcommittee.

I want to commend Chairman WHITTEN, and I want to commend the gentleman from New York [Mr. MCHUGH], as well as the ranking member, the gentleman from New Mexico [Mr. SKEEN] for the work they have done in adhering to the limits that are in the budget agreement and the 1993 budget resolution.

I also want to commend them for the amount they put in for the WIC Program.

The problem we have with this area is that there is a tremendous amount of mandatory spending that is part of this, both with regard to agricultural programs as well as the Food Stamp Program. That obviously puts pressure on the subcommittee in terms of the amounts that are part of it; but understanding those pressures, this committee has done an outstanding job in standing by the elements of the budget resolution in the budget agreement, and for that reason I support this conference report.

Mr. Speaker, I rise in support of H.R. 5487, the Agriculture, Rural Development, Food and Drug Administration, and related agencies appropriations bill for fiscal year 1993. This is the first conference report on an annual appropriations bills for 1993 to be presented to the House.

This bill provides $13.873 billion in total discretionary budget authority and $13.420 billion in total discretionary outlays, which are $1 million less than the 602(b) subdivision for budget authority and equal to the 602(b) subdivision for outlays, respectively, for this subcommittee.

I want to commend Chairman WHITTEN and the ranking member of the subcommittee, Mr. SKEEN, for the work they have done in adhering to the limits set forth in the budget agreement and the 1993 budget resolution.

As chairman of the Budget Committee, I will continue to inform the House of the impact of all spending legislation. I have provided a "Dear Colleague" letter describing how each appropriation measure considered so far compared to the 602(b) subdivisions for that subcommittee. I will provide similar information about the other conference reports on fiscal year 1993 appropriations bills.

I look forward to working with the Appropriations Committee in the future.

COMMITTEE ON THE BUDGET,
Washington, DC, August 10, 1992.

DEAR COLLEAGUE: Attached is a fact sheet on the conference report to accompany H.R. 5487, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill for Fiscal Year 1993, which is scheduled for floor consideration on Tuesday, August 11, 1992.

This is the first appropriations conference report to be considered for Fiscal Year 1993. This conference report is $1 million below the 602(b) subdivision for this subcommittee in discretionary budget authority. Outlays are equal to the 602(b) subdivision total.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact sheet]

CONFERENCE REPORT TO ACCOMPANY H.R. 5487, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1993 (H. REPT. 102–815)

The House Appropriations Committee filed the conference report to accompany H.R. 5487, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill for 1993 on Friday, August 7, 1992. The full House is scheduled to consider this conference report on Tuesday, August 11, 1992.

COMPARISON TO THE 602(B) SUBDIVISION

The conference report provides $13,873 million in *total* discretionary budget authority, $1 million less than the Appropriations 602(b) subdivisions for this subcommittee. The estimated total discretionary outlays in the conference report are equal to the subdivisions for this subcommittee. These totals include amounts in both the domestic and international categories.

The conference report provides $12,299 million of domestic discretionary budget authority, $1 million less than the Appropriations domestic subdivision for this subcommittee. The conference report provides $11,841 million of domestic discretionary outlays, which equals the domestic discretionary outlay subdivision for this subcommittee. A comparison of the conference report to the domestic spending allocations for this subcommittee follows:

COMPARISON TO DOMESTIC DISCRETIONARY SPENDING ALLOCATION

[In millions of dollars]

	Agriculture, rural development appropriations bill		Appropriations Committee 602(b) subdivision		Bill over(+)/under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	12,299	11,841	12,300	11,841	−1	
Mandatory	41,123	32,370	41,123	32,370		
Total	53,422	44,211	53,423	44,211	1	

[1] Conforms to budget resolution estimates of existing law.

Note. BA—New budget authority; O—Estimated outlays.

The conference report provides $1.573 million of international discretionary budget authority for P.L. 480 Food for Peace programs, $1 million less than the Appropriations international subdivision for this subcommittee. The conference report provides outlays equal to the subdivision for international discretionary outlays.

COMPARISON TO INTERNATIONAL DISCRETIONARY SPENDING ALLOCATION

[In millions of dollars]

	Agriculture, rural development appropriations bill		Appropriations Committee 602(b) subdivision		Bill over(+)/under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	1,573	1,579	1,574	1,579	−1	....

Note. BA—New budget authority; O—Estimated outlays.

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays on June 11, 1992. These subdivisions are consistent with the allocation of spending responsibility to House committees continued in House Report 102-529, the conference report to accompany H. Con. Res. 287, the Concurrent Resolution on the Budget for Fiscal Year 1993, as adopted by the Congress on May 21, 1992.

PROGRAM HIGHLIGHTS

The following are the major program highlights for the conference report to accompany H.R. 5487, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill for Fiscal Year 1993:

[In millions of dollars]

	Budget authority	New outlays
Agriculture programs:		
Commodity Credit Corporation (mandatory)	9,200	....
Market Promotion Program (MPP) limit	−26	−26
Agricultural Research Service	695	522
Extension Service	425	297
Animal and Plant Health Inspection Service	443	368
Cooperative State Research Service	482	221
Federal Crop Insurance Corporation (mandatory in part)	596	318
Food Safety and Inspection Service	490	446
Agricultural Stabilization and Conservation Service	713	656
Conservation and Rural Development programs:		
Rural Electrification Administration:		
New loan subsidies	248	32
Administrative expenses	29	26
Farm operation and ownership loans:		
New loan subsidies	246	238
Administrative expenses	230	219
Rural Housing:		
New loan subsidies	656	326
Administrative expenses	427	380
Rental Assistance program	338	7
Rural Development loans:		
New loan subsidies	101	5
Administrative expenses	58	52
Soil Conservation Service conservation operations	577	532
Rural water and waste disposal grants	390	8
Watershed and flood prevention operations	228	126
Conservation Reserve (mandatory)	1,579	1,579
Nutrition programs:		
Food Stamp Program (mandatory)	27,064	21,450
Child nutrition programs (mandatory)	6,827	5,478
Supplemental feeding programs (WIC)	2,860	2,688
Nutrition assistance for Puerto Rico (mandatory)	1,051	1,047
Food donations for selected groups	257	209
Emergency Food Assistance Program	165	150
Other programs:		
Public Law 480, Food for Peace	1,533	1,165
Food and Drug Administration	780	641
Payment to the Farm Credit System (mandatory)	85	85
Commodity Futures Trading Commission	47	41

Brady Backs Review of Plans to Alter Fed—Failure to Spur Money Supply Irks Treasury Chief

(By David Wessel and Rick Wartzman)

WASHINGTON.—Treasury Secretary Nicholas Brady, frustrated by the Federal Reserve's failure to get the money supply growing, said he favors a review of congressional proposals to alter the Fed to make it more responsive to the economy.

In an interview with The Wall Street Journal, Mr. Brady said the Bush administration "could undertake some useful exploration" of proposals made by Rep. Lee Hamilton (D., Ind.), co-chairman of the Joint Economic Committee.

Mr. Hamilton, has proposed, among other things, blocking presidents of the district Federal Reserve banks from voting on monetary policy, on grounds that they are appointed by private-sector bank directors without presidential or congressional review. He has also called for requiring regular meetings between administration economic officials and the entire Fed policy-making committee.

Mr. Brady said the Treasury hasn't begun studying on its own whether to restructure the Fed, but he said he is interested in "bringing Fed deliberations closer to the actual circumstances in the economy." he added, "I don't think we should change the basic theory of Fed independence. That's stood as well over the years."

His expression of interest in restructuring the Fed is a clear shot across the central bank's bow. Mr. Brady partly blames the Fed for the current sluggishness of the U.S. economy. "In my opinion, you cannot have satisfactory growth in the economy with a negative money supply," he said. The M2 measure of the money supply—currency, checking accounts, money market funds and some certificates of deposit—has been shrinking since February.

GREENSPAN'S VIEW

Fed Chairman Alan Greenspan has argued that the traditional link between the money supply and the economy seems to be broken and that weak money growth doesn't necessarily presage a weakening economy. Mr. Greenspan argues that even though the Fed hasn't managed to increase the money supply as conventionally measured, it has reduced short-term interest rates substantially.

Usually, Fed action to pump credit into the economy both increases the money supply and reduces short-term rates; Mr. Greenspan has said the Fed is still examining the reasons that isn't happening now.

By law, monetary policy is made by the seven Fed governors in Washington and five of the 12 presidents of the district reserve banks, who serve in rotation as members of the Fed's Open Market Committee. Only the governors are appointed by the president and confirmed by the Senate.

Although Rep. Hamilton's bill isn't moving on Capitol Hill, Fed officials take it seriously because it is backed by respected members of Congress, it isn't as radical as some past proposals, and it comes at a time of anxiety about the economy. The legislation would also require the Open Market Committee to meet three times a year with the secretary of the Treasury, the White House budget director and the chairman of the Council of Economic Advisers. It also would give every president the right to pick a new Fed chairman one year after his inauguration; Fed chairmen now serve four-year terms that don't always coincide with the president's.

Despite his argument that the money supply isn't growing enough to permit the economy to expand. Mr. Brady said that he expects the economy to perk up soon, in part because of Fed-engineered reductions in interest rates. Rising corporate profits are also a harbinger of good things, he said.

DEFENSE OF BUDGET ACCORD

In the interview, Mr. Brady defended the administration's controversial 1990 budget-deficit agreement with Congress and said he expects another round of talks aimed at deficit-reduction if Mr. Bush is re-elected. But next time, he vowed, Mr. Bush won't agree to tax increases.

Here are excerpts from the interview:

Q. What is the biggest risk to the economy now?

A. We are in a growth phase, but a great many of our trading partners aren't in the same phase. Japan—not doing very well. Germany—not doing very well. The fact that Germany is not doing well is holding up the growth in Eastern Europe. But Latin America is doing very well, and Canada seems to be getting better. We're growing in the U.S. nowhere near fast enough . . . but the extra zip we need from export growth is something . . . we'd like to see a little more of.

Q. Was the Bundesbank's recent increase in interest rates helpful?

A. No. Germany has domestic problems they have to solve. The reunification of Germany was more expensive than they thought. It's holding up growth for the rest of the European Community.

Q. For a year and a half, the U.S. didn't intervene to support the dollar. Recently you did. Why?

A. I don't believe in intervention on a daily basis. There are certain times when finance ministers and certain central bankers think the market gets ahead of itself or behind itself, where it makes sense for intervention to take place. This is one of those moments. I think it was successful.

Q. It has been almost two years since the budget deal of 1990. Was it good for the economy?

A Nothing I say should be viewed as contradictory to what the president has said. I know what he meant when he said it was a mistake. The Democrats have taken it as a sign that the solution to all problems involves the raising of taxes. That was a mistake. However, there were some things in the agreement which were important principles. Almost any member of Congress would tell you that the pay-as-you-go provisions are a very, very heavy control on congressional spending.

Q. Is the deficit smaller than it would have been without the deal?

A. No question about it.

Q. But do you think the economy is better off than if you hadn't had an agreement?

A. That's question you can't answer. Those who argue that the deficit is too big now certainly can't argue that a reduction is a bad idea. And, obviously, there was a very fortuitous relationship between the signing of the budget agreement and the Fed's reduction in interest rates. That was not an accident.

Q. Wasn't the argument for the 1990 deal that it was better to have tax increases than no deficit reduction at all?

A. Tax increases and spending reductions. That one time, yes. But not again.

Q. If Mr. Bush is re-elected, do you think you should sit down and try another round of deficit reduction?

A. Definitely. I think these new members of Congress are going to have a different way of solving it. I don't think there are going to be a lot of people elected on the platform of higher taxes. I think there will be a lot of people elected on the basis of lower spending. You could say that has always been true. On the other hand, it looks as though we'll have 150 new people in Congress.

Q. There are suggestions that you don't want to be around for a second term if there is one. Is that so?

A. I am totally at the president's service. Never discussed it with him. Those suggestions are idle.

Q. A number of Republicans say you are a liability to the president. Have you considered resigning?

A. I don't think about that talk for 30 seconds.

Q. Not even 30 seconds? Didn't you ask the vice president to call Sen. Connie Mack (R. Fla.) when he asked for your resignation?

A. No. I didn't ask him to call Connie Mack. He offered to call Connie Mack, asked me what it was all about. I said I don't know, call Connie Mack. I don't think it does the president any good to have internal dissension.

Mr. MYERS of Indiana. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague from Indiana for yielding me this time.

Every time we have an appropriation bill or a conference committee bill on appropriations come back, I always hear everybody talking about what a great job everyone is doing, how we are staying within the 302(b) allocations and how we are doing a really good job for the American people.

Well, let us just talk about this particular bill for a minute. The growth in entitlements in this bill is almost 18 percent above last year's spending levels, 18 percent. Most of the entitlements we have had that have come before this body in the appropriation bills have increased between 15 percent this last year to 25 percent a year.

Now, the rate of inflation has been about 3 percent, so we have seen between five and eight times growth over the rate of inflation in the last year.

Let us look at what that means, to my colleagues back in their offices who may not be paying attention or who may not be here on the floor. In 1972, we had $92 billion in entitlements. Twenty years later, it is $805 billion in entitlements, and last week after my colleagues said they were going to do something to get control of spending, they came up with a new entitlement bill that passed here that increased the entitlements by $3.5 billion.

The bottom line is spending on entitlements is out of control, and yet we continue to say on this floor that we are doing a great job.

This conference committee report is $8.021 billion above the fiscal year 1992 year level. It is $1.64 billion above the bill we passed here just two weeks ago, and yet everybody says we are doing a good job. I do not think so.

What this portends for the future is economic chaos, and we will have to start printing money to pay off this debt because we will not even be bringing in enough money in taxes to pay the interest on the debt, so we will have to print money to pay off the debt and we will be paying the interest on it.

At that point, you have heard me say this before, that is when bread goes to $30 a loaf and milk goes to $30 a quart.

Now, let us look at some other figures here. This according to the Federal Reserve Board is the growth in the national debt. Look where we are today, here in 1992. It just went over $4 trillion. I think last Sunday we went over $4 trillion.

The projections are that in the next 7½ years we are going to be at $13½ trillion. We will not even be able to pay the interest on the debt. The tax revenues coming into the Treasury today are about $1.3 or $1.4 trillion a year.

This is what the interest alone is going to be on the debt in 7 or 8 years, and we are not seeing a growth in the economy. It has flattened out, so the tax revenues are not going to increase that much unless we do something dramatic, which is not likely the way we are heading, and so the tax revenues are not even going to exceed the interest on the debt.

So how are you going to pay for Medicaid, Medicare and all these entitlement programs, the WIC Program and everything else we are talking about today? You will not be able to unless we print money to pay off the debt. That is going to be a big problem.

Now, many of my colleagues say, well, as long as the debt is not increasing as a percentage of the gross national product, we will be all right. Well, let us look at that.

Here is the gross national product where we were in 1980, 1990 and 1992. You will see that the gross national product today is just about at 33.2 percent and the debt is 57.4 percent, so it is almost half the growth in the GNP, and 10 years it was much less than that, so you see it is outrunning the growth in GNP. So the argument that as long as we keep the debt at a certain percentage of GNP that we are going to be all right, just does not hold water, because the debt is increasing at a much more rapid rate than the growth in GNP, by almost 2 to 1.

Let me just say, Mr. Speaker, that I will be opposing the motion to recede and concur on several of these amendments today, about 5 of them, so we will be calling for votes on them; but I want to say to my colleagues that we can no longer afford to come down here and pat each other on the back and say we are all doing a great job when the country is going to hell in a handbasket.

I am telling you, the deficit is out of control and this bill that left the House two weeks ago has come back after conference even higher than it was when it left this place, and yet we say we are doing a good job.

The American people know we are not doing a good job. They know the country is in economic chaos and they know it is going to get worse if we do not get control of spending, and all of us are going to be answerable to the electorate this November and in the years to come.

So I would like to say to my colleagues, let us cap the entitlements. Let us put a small percentage of growth on there and cap them. We cannot let them grow 15 to 25 percent a year indefinitely without economic chaos.

□ 1430

I do not think I have a great deal more to say other than this debate has taken place week in, week out throughout this year, last year and the year before that, and every year the situation gets worse and worse and worse.

We are going to be held accountable not just by the people of today but by the future generations.

There are a lot of books out about it right now; one book that I have been talking about is the "Coming Economic Earthquake," by a guy named Larry Burkett. It tells where we are heading.

It tells what is going to happen if we do not get control of spending.

So I say to my colleagues let us start dealing with it today, let us not put it off any longer.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I would yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the comments of the gentleman, but he is preaching to the wrong group here. The very word "entitlement" means it is taken out of control of the Appropriations Committee. What the gentleman is speaking of here is beyond our control.

Entitlements are a problem to our country. If we are going to balance the budget, we all recognize we have to do something about it. But these entitlements are completely out of the control of the Committee on Appropriations, as the gentleman well knows. If we had our way, I think we would do much differently. But we can do little but just appropriate the amounts of money that are needed. That is how the entitlements were created in the first place, to escape the restrictions and controls that the Appropriations Committee tried to impose on some of these programs.

Mr. BURTON of Indiana. Let me just say that the entitlements are the big problems. We all know that. But in the appropriations process the Appropriations Committee still has a lot of what I consider to be pork-barrel projects. Granted, it is not the big problem, but it is one of the major problems. I think we need to deal with the appropriations process itself and get control of these special projects that we are giving to individual congressmen for their districts which I consider to be pork-barrel projects.

But the gentleman is absolutely correct, the Appropriations Committee is moving in the right direction, but we have got to get the Budget Committee and the other areas of Government on board as far as the entitlements are concerned, or we are going to have chaos.

Mr. MYERS of Indiana. The next session of the Congress must address this problem, I think we all recognize this.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

I do so simply to emphasize what the gentleman from Indiana [Mr. MYERS] has pointed out. I agree, and I think many Members of this body would agree with the gentleman from Indiana, that unless we get entitlement spending under control, the national debt problem is simply not going to be resolved or even significantly mitigated.

But the Committee on Appropriations does not in fact have any authority over entitlement programs. We are bound to fund those mandatory programs which are on the books.

I would say to my friend from Indiana that 80 percent of the bill that is before us is mandatory spending. So, in terms of discretionary programs we are dealing with only a fraction of this entire bill, which really ties our hands in many respects.

Mr. BURTON of Indiana. Mr. Speaker, will my colleague yield?

Mr. McHUGH. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, one of the problems is that the people who watch what we do around here and many of my colleagues around here do not understand how the entitlements work. I would like for my colleague to explain just briefly why there is a 17.6-percent increase in the entitlement portion of this bill and how that happened, and how the Budget Committee does that.

Mr. McHUGH. I thank the gentleman for his comments.

Basically, entitlements are established by law. That is, they go through the authorizing committees, they are acted upon by the House and the Senate and signed by the President.

So once an entitlement becomes part of the law, the Committee on Appropriations has to fund every benefit under the entitlement program that is earned by virtue of the terms of the law.

Now, what happened in this particular bill, in response to the question of the gentleman, is that with the economy being slow, with our having gone through a recession, more people have become unemployed and those people, in many cases, become entitled under the law to food stamps, to cite just one example. There are other laws which also provide entitlements to benefits when people are out of work or where their income is low.

So in this particular bill, for example, we have a number of entitlement programs such as food stamps, which have grown simply because the economy has been in recession and sluggish, more people have become unemployed. Therefore, as their incomes have gone down, they have become entitled to benefits under the law, and we have no choice in this bill but to fund those benefits.

Mr. BURTON of Indiana. Let me make just one more comment. The chart that I have on the floor just a few moments ago that shows the growth in entitlements had gone from $90 billion in 1972 to $805 billion in 1992, it shows that the growth in entitlement has been consistent, going up anywhere from 10 to 20 percent per year. I submit to my colleagues, in most of those years we were not in a recession. The growth in entitlements is consistent, consistently going up even in the good years and the bad. That is why we need to address it, to put a cap on it, because if we do not, everything is going to explode around this place and in the country.

Mr. McHUGH. I thank the gentleman for his comments. I do believe we need to make changes in the law, in the authorizing legislation which deals with our entitlement programs, if we are serious about dealing with our debt.

What I also point out, to put this in perspective, is that on the discretionary side, where we do have control in the Appropriations Committee, there has been a significant pattern since 1945 in providing less funds than requested by the President in his annual budgets. Specifically, since 1945, appropriation bills have been $188.8 billion below the total of the amounts requested by the President.

Therefore, I think it is fair to say that while entitlements have been increasing, we do have to do something about controlling them. On the discretionary side of our budget, where we have control, we have made some significant cuts and some restraints have been imposed.

Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. I thank the gentleman for yielding. I thank the gentleman for his good work on a very important bill, as well as my congratulations and commendations to the gentleman from Kentucky [Mr. NATCHER] and my colleague, the gentleman from Mississippi [Mr. WHITTEN] on this important bill.

Mr. Speaker, there are a lot of things about this bill that I am very supportive of. One is that I am particularly pleased that the House has agreed to accept the Senate amendment regarding the rural health and safety education program. This program, which would be coordinated between the Extension Service and the Office of Rural Health Policy over at HHS, Department of Health and Human Services, is of the utmost importance to the people of rural America and people of rural Mississippi.

Since 1981, 22 of our rural hospitals have been closed. Fifty-nine of Mississippi's eighty-two counties are classified by Health Care Financing Administration as health manpower shortage areas for primary medical care. Fifth-two percent of Mississippi's primary care physicians live and practice in 8 counties, which contain only 35 percent of the population. Rural Mississippi is in desperate need of health care, and we know, Mr. Speaker, that is not an anomaly.

I would also like to express my support for the $1 million appropriation to carry out a portion of section 2501 of the 1990 farm bill which relates to minority farmers.

Today, less than 1 percent of our farmers are minority farmers. In a time in which all farmers are losing their land at an unprecedented rate, the disappearance of minority-owned land is even more astounding. Discrimination, historical patterns of neglect, lack of access, and limited education have made it hard for minority farmers to keep their land. I am really proud, Mr. Speaker, that we were able to get about $1 million for this appropriation bill.

I am really proud, Mr. Speaker, that we were able to get about $1 million in this appropriation bill. We have allowed for the implementation of the outreach and technical assistance program outlined in section 2501 of the FACT Act will help to end the blight of our minority farm families.

I would like to close by expressing my disappointment in the failure of the conference committee to continue the Wetlands Reserve Program. Mississippi was fortunate enough to be designated as one of the pilot project States to receive an appropriation for the program in the 1992 appropriation bill. I think that the WRP Program is one of the most beneficial conservation and environmental programs in years. I have no doubt that the results of the 1992 program sign-up will show outstanding benefits. I sincerely hope that the Congress will see fit to continue this program on a nationwide basis beginning in 1994.

On balance, Mr. Speaker, this is a great bill. I rise in support of it and congratulate my colleagues for their efforts.

Mr. McHUGH. Mr. Speaker, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report which is within the limits set by the 1993 budget resolution.

I do so to correct any wrong impressions the public may have about the legitimacy and importance of our Nation's agriculture, food, and rural programs. I speak today not only as a Member of this body, but also as a farmer and someone who has lived my life in rural America.

To listen to those that oppose this legislation, one might think farmers around the country were living high on the hog. That is simply not the case. According to USDA, the price of hogs has fallen during the last decade. In fact, barrows and gilts have fallen by $6.30 per hundredweight. During that same period of time, the price of wheat has fallen by 44 cents a bushel. The price of fluid grade milk has dropped by $1.50 per hundredweight—and manufacturing grade milk has fallen by 30 cents per hundredweight. And the price of corn has dropped by two cents a bushel.

To compound the problems in rural America, during this same period of time, farmers in dozens of States have been faced with numerous natural disasters, and are having greater difficulty obtaining credit with low interest rates.

So, farmers in this country are not living high on the hog, and rural America is not doing all that well either.

But despite all of the negatives, there is something positive to say about our agriculture producers. In the United States, we have the best fed, at the lowest cost, people in the world.

I am proud of what our agricultural producers do for a living—and for our country—that they work hard and are thoughtful stewards of the land. I am also proud of what is going on in rural America—innovations in technologies and education and new approaches to affordable health care.

I strongly urge my colleagues to continue the partnership that the Federal Government has had with rural America by voting in favor of the conference report today.

□ 1440

Mr. McHUGH. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I wanted to join in the accolades that were directed toward the gentleman from Mississippi [Mr. WHITTEN], the chairman of this subcommittee for many years.

This has been a particularly tough year, as has been pointed out in debate. This bill is only $1.5 billion beyond last year's outlay funding. With the growth of entitlements, particularly the growth of the Food Stamp Program during this recession, it shows that this committee has been particularly responsible in the way it has dealt with the departmental programs, and of course they are so important to the future of American agriculture because it is there that we get the increase in productivity and acreage production.

So, Mr. Speaker, at this point I will be revising and extending my remarks in some depth on a number of programs, and, once again, I congratulate this committee for the outstanding job it did within the limited resources it had.

Mr. Speaker, I rise in support of the conference report. I want to congratulate Chairman WHITTEN, the gentleman from New York [Mr. McHUGH], the members of the subcommittee, and the subcommittee staff for their efforts to bring this conference report to the floor. This conference report represents the first of 13 appropriations bills that we will consider in the coming months. If this conference report is representative of those to follow, then we can take pride in the accomplishments of the appropriations process and of the Appropriations Committee.

The conference report on H.R. 5487 is an excellent bill that provides funding for many critical programs in the U.S. Department of Agriculture. The conference committee was able to meet many of the demands on the agriculture budget despite tight funding levels. The result is a well-balanced and fair bill.

In particular, I want to highlight certain provisions of the bill which benefit agriculture in northern California. The conference report on H.R. 5487 provides the final installment of Federal funding, $582,000, for the construction of the grape importation and clean stock facility at University of California-Davis [UC-Davis]. The grape importation facility will play a major part in the industry's effort to recover from the phylloxera problem, which threatens 80 percent of the grapevines in Napa and Sonoma Counties.

The new facility will enable California wineries to bring new stock in from Europe, ensure that it is clean and enable more rapid replacement of vines. However, the facility has broad implications for the entire domestic industry and will significantly increase the volume of rootstock that is brought into the country. The importance of this new facility is highlighted by the broad-based support it has enjoyed from throughout the country.

Additionally, the conference report provides $178,000 to continue planning for the pest containment and quarantine facilities also associated with the University of California. These facilities are badly needed to improve research into pests, such as the white fly and africanized bee, many of which have already taken a significant toll on agriculture. There is currently no similar facility in the United States. The new facilities at UC-Riverside and UC-Davis will take integrated pest management research to the next level.

Rural technology assistance programs will receive $1 million of support under the conference agreement. This assistance is used to support rural technology centers throughout the country which, in turn, conduct research, training, and education activities to promote rural cooperative development in areas such as housing, telecommunications, health care, education, and employment. It is my hope and indeed, the conferees intent, that California will expand its role in this area, particularly through the Center for Cooperatives at UC-Davis.

Mr. Speaker, I want to take a moment to discuss the bill's treatment of the Market Promotion Program. The Market Promotion Program [MPP] has come under attack this year for being corporate welfare. I believe that this perception is simply a misunderstanding of how the program works. Over 84 percent of MPP participants are small businesses. And, individual growers have benefited tremendously from the assistance that the MPP has provided in promoting American agricultural products throughout the world.

American agricultural exports account for about $40 billion in annual sales. Agriculture provides a positive balance of payments in the U.S. trade account of approximately $17 billion. Future growth in U.S. agriculture will depend on export growth. Expansion of agricultural exports is critical for related sectors of the economy. Each U.S. dollar of agricultural exports generates an additional $1.59 in economic growth. Every $1 billion in agricultural exports maintains 27,000 jobs.

Efforts that are being undertaken to eliminate MPP funding could seriously jeopardize the enormous gains in foreign markets that have been achieved since the inception of this program. Unfortunately, I do not believe that opponents of MPP fully understand how the program works. I am hopeful that we can educate people as to the benefits of the MPP, and that we can continue this valuable program in the future.

To its credit, the conference committee has provided $147 million for the program with instructions for the Department to review its operation of the MPP. I believe that this review process will bear out the fact that there is very little, if any, abuse of this program, and that it is very effective in opening markets overseas and creating jobs here at home.

Finally, Mr. Speaker, I want to congratulate the committee for their strong support of the Special Supplemental Food Program for Women, Infants, and Children [WIC]. This year, the committee increased WIC funding $260 million for a total of $2.86 billion. WIC provides critical nutrition and health benefits to low-income pregnant women and young children. These benefits reduce infant mortality, avert low weight births, and help ensure that our Nation's needy children can learn in school and reach their full potential. And, WIC saves money. Each dollar invested in WIC's prenatal component saved between $1.77 and $3.13 in Medicaid costs.

Overall, Mr. Speaker, this conference report is a good effort. It continues support for our domestic agriculture industry. It funds many programs and projects that are important to California, my district, and the country as a whole. I urge my colleagues to give it their support.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the farmer from Texas, the gentleman from Texas [Mr. ARMEY]. I could be stretching the point.

Mr. ARMEY. Let me say, Mr. Speaker, I was bitterly disappointed to find out that the conference returned to us a bill that included some 145 or so million dollars for the Market Promotion Program. If ever there has been a program in the history of American agriculture policy that should be more an embarrassment to the advocates of American agriculture policy, it is this one.

This provision does nothing for small American farmers. This provision does nothing to guarantee American consumers a stable, inexpensive food supply. This provision allows us to fund overseas advertising for large agribusiness corporations, even retailing. They have provisions here, and the way they have allocated this money for McDonald's Corp., it is to advertise Chicken McNuggets in Asia.

Now tell me how that helps the small struggling American farmer.

Hershey Corp., which prides itself in having built this wonderful American success story without ever spending a dime on advertising domestically is dipping into the market promotion fund to advertise abroad. Would they do that without these free bucks from the Government? I doubt it. I imagine they would follow the same practices internationally that they did domestically.

Paul Newman of "Hustler" fame got $40,000 to advertise his salad dressing abroad. Now come on. Paul Newman can afford to advertise his salad dressings without the help of the Federal Government.

Clearly, Mr. Speaker, the committee and the Senate committee have decided they do not mind the public seeing this big, fat, ugly, obnoxious wart in the middle of American farm policy. But insofar as anybody can vote for a bill that takes our money for this purpose, given our deficits, do not ever come to the floor again and try to tell me we need a farm program to ensure a stable, safe, cheap food supply for the American consumers or to help the small family farm.

"I'm sorry," I say to my colleagues, "but if you continue to fund the market promotion plan as you do, you've broken your cover. This is just a big pork barrel for all the porkies that try to get into Uncle Sam's pocket. I think you ought to be embarrassed about it and get rid of it."

Mr. McHUGH. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, it is very easy to be critical with quips and humorous allusions about the MPP Program, but I think the most important thing for us to focus on is that it fills a very real, GATT-acceptable need in export promotion for value-added agricultural products.

The first thing I think most of us do not understand is that the European Community, a major agricultural competitor in the international market, is spending $1.5 billion in direct promotional and advertising revenue. We are talking about spending something close to $150 million as a result of the efforts of this subcommittee. It is just a very minor contribution to the kind of international competiton that we face in agriculture, and of course this is one of the most productive areas of our export economy. We have a $40 billion annual export sale from agriculture. We have a net balance of payment of $17 billion on the plus side in this area of our economy, and, frankly, it is one of those areas where we get tremendous income for American workers as a result of the efforts that we make.

The gentleman from Texas [Mr. ARMEY] was mentioning the efforts of the McDonald's Corp. and others who have started stores to sell their products in Asia. McDonald's, for example, has 59 outlets in Hong Kong and 42 in Singapore. The $12 million in sales of American chicken to those facilities in those two countries have created 3,780 jobs in the United States in 1991.

People also need to realize that these dollars do not flow without a matching amount of funds from businesses, large and small, whether they are a small businessman, like the actor that was mentioned earlier, Paul Newman, who, by the way, gives his profits to charity, or whether or not they are a large cooperative or corporation promoting agricultural sales overseas. They have to match dollar for dollar the funds in the program that is established within USDA.

Now the committee has understood some of the criticisms that were leveled at this program when the agricultural appropriations bill was on the floor several months ago. The report language, which I think has been alluded to, goes a long way to requesting a review of the program through the Department with its participants, and I am convinced that by the early part of next year those problems that have been identified around the margins can be eliminated and the program can be increasingly effective at promotion of value-added agricultural products, including, I might add, branded name products. It is so important that we not simply promote generically and then lose the advantages of that advertising and marketing revenue for American producers by simply increasing consumption of a product that may well have been produced in some other country. We have to be pragmatic and practical about promotion of American agricultural products.

I believe this committee has been very supportive, as well as they could have been given the other stresses and strains that are imposed on this bill this year, and I will be extending my remarks in the RECORD so that we may have even more evidence as to the value of this very important program for American agriculture.

Mr. Speaker, let me include the comments of the Secretary in support of this program.

DEPARTMENT OF AGRICULTURE,
Washington, DC, June 23, 1992.

Hon. VIC FAZIO,
House of Representatives,
Washington, DC.

DEAR VIC: I would like to take this opportunity to urge strongly that Congress continue funding for the Market Promotion Program (MPP) at the $200-million level provided in the President's FY 1993 budget. All the statistics we have about U.S. agricultural exports and all the current trends in global agricultural trade suggest that a cut in funding for the Department (USDA) Market Promotion Program at this time would be short-sighted.

High-value products constitute the fastest-growing component of the world's agricultural trade and by the end of this century are expected to represent at least three-quarters of world trade. In other words, the high-value market is where future growth will be for U.S. farmers and exporters. More than 80 percent of MPP funding is targeted toward building exports of high-value products.

If Congress were to reduce funding for the MPP now, it would seriously jeopardize the ability of U.S. agriculture to compete in this vibrant sector of world trade. The European Community (EC), our main competitor in the high-value market, paid out direct subsidies of nearly $1.5 billion to producers and exporters of high-value products in 1990. In addition, the EC and member governments also offered their exporters many other indirect subsidies. USDA's $200-million annual program level for MPP pales by comparison, but it has been sufficient up until now to help U.S. farmers and exporters boost their exports of high-value products. Such exports have risen 75 percent since 1985, reaching a record-high $19.9 billion in 1991, with another record forecast this year.

The MPP also helps support the creative market expansion work conducted by bulk commodity producer organizations to convince potential customers of the quality attributes, new uses, and superior advantages of U.S. farm products.

U.S. agricultural exports generated as a result of the MPP are directly responsible for as many as 38,000 jobs on and off America's farms and represent as much as $2.23 billion in additional activity for the U.S. economy.

The MPP has had its critics however, and I would like to address some of the main points of controversy surrounding the program.

Some have claimed the MPP has not really worked to help small exporters. This is not true, however. Small businesses accounted for 84 percent of the 287 firms participating in the MPP last year. The goal of the MPP is to increase agricultural exports as much and as effectively as possible. Thus, neither the law nor USDA discriminates by size of company or type of ownership.

Some critics believe the U.S. Government has no business promoting branded products. The MPP however, promotes American food and farm products, not American companies. It is a fact of life that, if we are going to promote high-value-product sales, we are going to have to promote branded products. Two-thirds of the world's high-value-products trade consists of processed items; virtually all of these are produced by branded companies.

An exclusive focus on unbranded activities runs the risk that generic demand can be met by a non-U.S. supplier with a less expensive, lower quality product. For high-value commodities, U.S. taxpayers may get a better return on their investment with branded promotions which build consumer loyalty to a product containing American rather than foreign commodities.

Others have asserted that tighter management controls by USDA would allow the MPP to be operated with less money. In reality, both USDA and participants have a vested interest in running the MPP as efficiently as possible because both have substantial sums of money invested.

The Department takes its role as guardian of the taxpayers' money very seriously. In the last year, we have put in place new allocation criteria that targets MPP funds so as to receive the "biggest bang for the buck." We are not renewing programs that have proven not to be cost effective or that have reached a plateau. We require all participants to submit comprehensive strategic marketing plans and to evaluate the effectiveness of every promotional activity. All participants are subject to full, top-to-bottom audits. Finally, we have published detailed regulations to which all participants must adhere and made other substantial changes to tighten management controls.

MPP participants also have a stake in efficient program management since they are required to invest their own money in MPP projects. In the case of branded promotions, participants are required to put up at least half of the cost of the MPP activity.

I appreciate this opportunity to set the record straight on what the MPP really means to U.S. agriculture and U.S. business. Once again, I urge that Congress maintain its commitment to expanding U.S. agricultural exports by supporting the currently authorized $200 million program level for MPP.

Sincerely,

EDWARD MADIGAN,
Secretary.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

□ 1450

CONFERENCE REPORT ON H.R. 5487, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I am sure that the conferees on both sides of the aisle worked hard on this report which they have brought back to us. But in addition to the criticisms voiced by my colleagues, the gentleman from Indiana [Mr. BURTON] and the gentleman from Texas [Mr. ARMEY], many of which I believe are legitimate, I must add one more criticism of this agricultural appropriations conference report. I refer to that part of the bill which is really a piece of our foreign aid program, although it is included in the agriculture bill, and that is the so-called Food for Peace Program.

Several of my colleagues and I, when this bill was on the floor, attempted to point out that while the original purpose of the Food for Peace Program was noble, and humane, and good—that is, supplying food for those abroad that faced starvation, and hunger, and famine—that a good part of that program, that part in title I of this bill, now does not help those who are starving abroad but mainly has been used to dump food on recipient nations' economies with the result that Korean farmers were put out of business in the sixties, Somalia farmers were put out of business in the seventies, and El Salvadoran farmers were put of out business in the eighties.

In other words, it has not developed the local farm economies at all; it has served to destroy them. Therefore, I proposed an amendment to slash $242 million from this wasteful part of the program.

Many of my colleagues got up and said, well, your criticisms are legitimate, but let us not go too fast. So a substitute was offered that only cut $25 million. This passed this House by a vote of 410 to 4. This House went on record.

Then we went to conference. What do we have coming back? The $25 million has been restored, right back where we started. It is true that the Senate would have added even more, but basically there is no change in the program.

Mr. Speaker, I would say that is another reason to vote no on this conference report, so that we can send a message and start building a foreign aid program that deserves the support of the American people.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, today I rise in strong support of H.R. 5487, the Agriculture and related agencies appropriations conference report for fiscal year 1993. I commend the House Agriculture Appropriations Subcommittee and its distinguished chairman, Mr. WHITTEN, for producing a fiscally responsible bill. The gentleman from Mississippi [Mr. WHITTEN] and the subcommittee he chairs also deserves recognition for bringing this conference report to the House floor in an expeditious manner.

While this important legislation contains many fine provisions, I would like to bring to my colleagues' attention one particular provision that is extremely important to the environment of my home State of Florida. The proposal to which I refer is an increase in the budget for the Aquatic Plant Management Laboratory in Davie, FL, for Melaleuca control research. Earlier this year, I appeared before Mr. WHITTEN's subcommittee urging that more attention be given to controlling this noxious weed. I am pleased that a provision was included in the conference report stating that:

> The Committee will expect the Department [of Agriculture] to devote the necessary resources to Melaleuca control research at the Aquatic Plant Management Laboratory.

As some 800,000 acres in the south Florida area are already infested with Melaleuca, having the USDA commit additional resources will be welcome indeed. I look forward to seeing what steps the USDA takes to address this problem, which is literally growing bigger every day.

Mr. Speaker, H.R. 5487 is a fine piece of legislation, and I urge my colleagues to pass this needed bill.

Mr. MCHUGH. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN], a distinguished member of our subcommittee.

Mr. DURBIN. Mr. Speaker, I would like to salute the chairman of the subcommittee, the gentleman from Mississippi [Mr. WHITTEN], as well as the gentleman from Indiana [Mr. MYERS], and also my colleague, the gentleman from New York [Mr. MCHUGH], who will be retiring at the end of this session, for what I consider to be an excellent effort in producing this conference committee report.

My colleague, the gentleman from Texas [Mr. ARMEY], addressed the Market Promotion Program earlier. I would like to say, to the surprise of the gentleman, I agree with him in many respects.

I have worked in the past for additional funding to the targeted Export Assistance Program as well as the Market Promotion Program, and yet I agree with him that there have been things done in this program that do not reflect well on the U.S. Department of Agriculture. That is the reason why the House committee reduced the amount of money for this program from $200 million to $75 million.

Our friends in the Senate prevailed on us to restore that money to a level of $150 million. I would say to my friend from Texas, that is still a 25-percent cut. And we put clear language in the bill that we expect the administrators of this program to take very seriously our admonition to work for value-added products, to make certain that the products that we are supporting are predominantly American grown and manufactured, and also to try to concentrate on small- and medium-sized and new-to-export firms.

We are looking for job creation and enhancing the ag sector.

Let us put this in perspective for my friend, the economist from Texas.

We have $42 billion in ag exports each year from the United States. The amount of money we are putting in the Market Promotion Program, our Government effort at promoting ag exports, comes to less than one-third of 1 percent of the total of our exports. That money must be spent wisely.

I agree with the gentleman completely: The administrators of the program must be put on notice to do so. But let us not abandon this very valuable program. Let us make it better. I think this conference report does just that.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself 1 minute to make an observation and say first, this is a very good conference report. It certainly is not the first choice of any of the members of this subcommittee or anyone else. If we were able to fashion an appropriation bill for agriculture and its related agencies, we would do a much different job than we have. But as has been stated by many, the entitlements, if nothing else, have forced us into a corner, and second, we just have not had enough money this year to fund some of the research, particularly in agriculture and alternate sources for agricultural products which would enhance and help encourage the use of agricultural products elsewhere throughout the world. But we are not privileged to have this opportunity to do it this year. So every appropriation bill has been very tight.

I particularly want to thank our committee chairman, the gentleman from Mississippi [Mr. WHITTEN]. This year has been a very difficult year for the gentleman. Earlier in the year the gentleman was hospitalized and we did not get started as early. But as soon as we were able to, we got started, and the gentleman from New York [Mr. McHUGH] who took over, ran the hearings. I thank both of them for the very fine job that both of them have done, and of course the fine staff that we have always had.

It has been a very difficult year for all the subcommittees, but particularly this committee, with the gentleman from Mississippi [Mr. WHITTEN] being somewhat under the weather early in the session, it was difficult year. But we have come out with a very good product which deserves the support of everyone here.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just want to make one comment. This is $1.64 billion above the House-passed bill. It has come back from the conference committee with $1.64 billion in it. For that reasons I will be asking for a rollcall vote on this.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong support of the conference report, and in support of the recommended funding for the Market Promotion Program.

We hear a great deal about getting tough on unfair trade practices in this Chamber, but the MPP is one of the few truly effective methods of doing that.

The Market Promotion Program develops new markets for American farm products, and increases agricultural exports. The $200 million we spent on MPP last year generated more than $400 million in foreign sales. This program is doing something concrete to reduce our trade deficit.

MPP funds are used primarily to promote commodities that face unfair trade barriers in overseas markets. These promotion programs have increased sales of U.S. commodities dramatically. In Japan, for example, MPP has helped increase sales of American-grown walnuts by 201 percent. Export sales of U.S. table grapes have risen $142 million with 8 million dollars' worth of MPP assistance. That is an 18 to 1 return on investment.

Every $1 of MPP funding generates 2 to 7 dollars' worth of sales of American commodities. The USDA estimates that MPP-generated sales have created between 11,000 and 28,000 American jobs.

Moreover, this program is targeted at nations who are subsidizing their own growers, such as the European Community. MPP helps level the playing field for American growers, who do not receive such subsidies.

Let us preserve a program that is increasing American exports in markets like Japan and Europe and adopt this conference report today.

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Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to our colleague on the Committee on Appropriations, the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman from Indiana for yielding time to me.

I simply want to rise to express my deep appreciation to the chairman and to the leadership on our side relative to this agricultural appropriations report. It is a tough bill. They have gone through a very difficult process in dealing with the Senate, but overall, I think they have done a very, very fine job.

I would like to also associate myself with the remarks of my colleague from California who just preceded me.

Mr. Speaker, less than 2 months ago, the President of Russia, Boris Yeltsin, stood in this very chamber.

He announced that his country was open for business—American business.

His presence before a joint session of Congress symbolized the incredible changes that have swept the globe over the last few years.

And we're talking about changes which have greatly increased the opportunities for American companies, opportunities to market their products in foreign lands.

So, we find ourselves in the position to reap benefits from the billions and billions of dollars which we invested to win the cold war.

However, we're faced in our own country with a proposal to slash funding for a program that produces $7 for each $1 we invest.

Where I come from, we call that penny-wise and pound foolish.

I understand the desire of my colleagues to find places to cut the budget—to help reduce our deficit.

But, it doesn't make sense to put ourselves at a competitive disadvantage with the European Community, with Japan, and with other countries, whose governments actively and aggressively promote their products and businesses.

It's time we recognized that U.S. producers cannot compete fairly against foreign producers, not when foreign producers are financially backed by foreign treasuries.

To overcome this disadvantage, we need a private-public partnership such as the Market Promotion Program.

There are those who claim that this program is nothing more than corporate welfare.

Since when is promoting American products, American jobs, and American workers called welfare?

I, for one, don't see how a program which seeks to level the international playing field can be called welfare.

I don't see how a program that returns $7 for every $1 can be called welfare.

This program, the MPP, accounts for only 1 percent of Federal farm support income programs, and MPP is not considered a subsidy under the proposed General Agreement on Tariffs and Trade.

Already, more than $1 billion of additional agricultural exports from American farmers have been generated annually through MPP funding.

And so, Mr. Speaker, I urge my colleagues not to resort to the sort of knee-jerk business-bashing that hinders America's competitive standing.

I ask my colleagues not to use this program as a scapegoat for our fiscal problems.

I ask my colleagues not to put American businesses at a competitive disadvantage with companies in other nations.

A Russian President has proclaimed his nation open for business.

Under the guise of saving the taxpayers a few million dollars, let's not cost America's businesses billions of dollars in sales.

Under the guise of getting tough on corporation welfare, let's not put 38,000 Americans out of work and on the unemployment compensation rolls.

Mr. McHUGH. Mr. Speaker, may I inquire how much time is left?

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from New York [Mr. McHUGH] has no time remaining, and the gentleman from Indiana [Mr. MYERS] has 4 minutes remaining.

Mr. MYERS of Indiana. Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. McHUGH], for the purpose of controlling that time.

The SPEAKER pro tempore. Without objection, the gentleman from New York [Mr. McHUGH] may control the time.

There was no objection.

Mr. McHUGH. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, for many years I have been trying to get cuts in what was originally the TEA program and is now the MPP program. It seems to me, however worthy the program is, and I wonder about it in a time of runaway budget deficits, should the Federal Government be subsidizing already huge advertising budgets of corporations like General Mills, McDonald's, Sunkist, and Oscar Meyer? Should the American public be shelling out money to advertise brand names like M&M's, Gallo Wines, and Paul Newman Salad Dressing at a time when we are cutting thing after thing?

I rose on the floor a few weeks ago to praise my colleagues in the House, and I know they waged a valiant fight. The chairman of the committee, the gentleman from Mississippi [Mr. WHITTEN] has long seen the folly of this program, and the House bill had a cut from $200 million to $75 million.

Unfortunately, in the Senate bill it is up to $147 million; a $50 million cut is too little.

I am very disappointed in the level of funding of the MPP.

Mr. McHUGH. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Speaker, I rise in strong support of the conference report and also in strong support of the MPP, which has received some criticism on the floor today.

I think we need to understand what the original intent of this program was. And that was to attack unfair barriers to trade.

There's been some talk about how this program does not benefit the small farmer. I can tell my colleagues that is false. The California avocado growers who receive money from this program average about 20 acres in size. The average almond grower is 40 acres in size. The average citrus grower is 40 acres, and the average kiwi fruit grower is 11 acres.

This small farmer would have no way to impact and have an impact on expanding trade opportunities unless they had access to a program such as the MPP.

The MPP Program has been a tremendous success in expanding market opportunities for growers that have no other assistance from our Federal Government. This is a program that has a proven record of success. It is not a program that is perfect. It has some room for improvement.

I am pleased that the conference report has provided provisions that will allow us to look into these areas in which we can make improvements upon them.

Mr. CONDIT. Mr. Speaker, I rise today to applaud the efforts of the Senate Appropriations Committee and the conference committee to restore approximately $75 million in funding for the Market Promotion Program in H.R. 5487. Despite efforts by some Members of this body, the conference committee saw the value and merits of the Market Promotion Program. I fail to see the justification for the constant badgering of a program that gives so much to the taxpayer, the farming community, and aids in reducing our trade deficit. I agree that there have been problems with the management of the program by USDA. This, however, does not justify the elimination of a program that provides the United States so much.

When we debated the merits of the Market Promotion Program in June, I explained to the Members of this body that the House Agriculture Committee had instituted management controls for the MPP during the 1990 farm bill reauthorization.

Guidelines included:

Marketing plans that describe advertising or other market oriented export promotion activities.

USDA was instructed to describe the manner in which assistance received by the eligible trade organization in conjunction with funds and services provided by the eligible trade organization will be expanded in implementing the marketing plan.

Establish market goals to be achieved as a result of the Marketing Promotion Program.

Also, the Secretary has been instructed to terminate any assistance made or to be made available if he determines that a trade organization is not:

Adhering to the terms or conditions of the program.

Not adequately implementing approved marketing plan or not adequately meeting the established goals of the Marketing Promotion Program.

And not adequately contributing its own resources to the Market Promotion Program.

In addition, the Agriculture Committee has directed the Secretary to monitor expenditures of funds received under the Market Promotion Program including:

Evaluating the effectiveness of the program in developing or maintaining markets for U.S. agriculture commodities.

Evaluate whether assistance provided is necessary to maintain such markets.

A thorough accounting of the expenditure of MPP funds by the trade organization.

The Agriculture Committee also set limitations on the Market Promotion Program assistance that will not exceed 50 percent of the cost in implementing the marketing plan.

These program controls are now being implemented along with recommendations by the General Accounting Office. I would also like to concur with and strongly support the conferees' recommendation that the Market Promotion Program focus its resources on the promotion of value-added agricultural exports. It is this sensible reasoning by Members of Congress who understand the positive effects agriculture exports provide the U.S. economy that I plan to stand by.

I have additional comments to include for the record that I hope Members will look at seriously and discover why this program is so vital to American agriculture.

Agricultural exports account for production on about 1 in 3 acres in the United States and account for about $40 billion in sales. Agriculture provides a positive balance of payments in the U.S. trade account of approximately $17 billion. When exports were growing the United States was able to bring productive acreage back into use. However, when export growth slowed, it became necessary to take acreage out of production in order to limit buildup of large price-depressing inventories and Government outlays.

Future growth in U.S. agriculture depends on export expansion. Since U.S. population growth is projected at a rate less than the growth in agricultural productivity, we will continue to face the need to take resources out of production if a growing commercial export market is not available. The expansion of agricultural exports is critical for related sectors of the U.S. economy. Each dollar of agricultural exports generates an additional $1.59 in supporting economic growth in related sectors. Every $1 billion in agricultural exports maintains 27,000 jobs.

The performance of an industry is measured by its market share and U.S. agriculture has been losing ground in the bulk and value-added markets. World trade in bulk agriculture commodities has averaged around $70 to $75 billion for the last 10 years, about $10 billion below the 1980–81 peak. However, during this period the U.S. share has declined from 35 percent to 29 percent.

World trade in value-added agricultural commodities during the last 10 years has gone from around $94 billion to nearly $140 billion. However, our market share declined through the first half of the 1980's and has only recently rebounded to the levels a decade ago. In fact, the rebound in market share of both bulk and value-added commodities is a direct result of the changes in U.S. agricultural and trade policies that have been put into effect since 1985.

Reversing the decline in the market share would have been far more difficult without the MPP, which has allowed U.S. agriculture to aggressively promote its products in international markets. The reality is that the United States has a one-third share of a world bulk trade market that has declined in value. At the same time it has been unable to expand its share of the world value-added market which has grown by nearly 50 percent over the last 10 years and now represents two-thirds of total world agriculture products.

To be successful in the export market, two things are required. First, the industry must be economically competitive, and we are. Second, the policies and programs must also be competitive, and this is where we fail. The level of internal government support is well below that of our major competitor the European Community. In terms of budget expenditures for agricultural support, U.S. farmers are currently receiving only one-third of the over $30 billion level of direct support enjoyed by farmers within the European Economic Community [EEC]. This does not include the implicit subsidy that consumers in the EEC pay as a result of policies to keep domestic prices well above world price levels. To move excess productions created by such high internal prices, the EEC in turn uses $9 to $10 billion of their expenditures to subsidize exports. This is about five times that of the United States.

Since 1985, U.S. agricultural policy has moved toward a more market oriented system with less Government price support, more assistance to meet the competition in the export market, and expanded promotion assistance to help open markets. Three major programs were implemented including: First, Marketing

Loan Program; second, Export Enhancement Program [EEP]; and third, Market Promotion Program [MPP]. Each of these had a specific purpose.

The Marketing Loan Program was a way in which price competition could be met for those commodities priced out of the international market because of our internal price supports. The EEP was designed to directly meet the export subsidies of the EEC for those commodities facing direct subsidies by our competitors.

The Market Promotion Program [MPP] was designed to assist in the promotion of U.S. agricultural products, both bulk, and value added. While marketing loans and EEP help penetrate the market from the outside, the MPP was designed to penetrate from the inside. By making foreign consumers aware of the quality and competitive price of U.S. food and agricultural products, exporters could penetrate markets where barriers have been difficult to break down.

With continued reductions in U.S. Government price and income supports and the growing impediments to trade imposed by foreign governments, the MPP has taken on added importance. The program is a cost-sharing partnership between the U.S. Government and the private sector to help expand export markets for U.S. agricultural commodities and provide for increased sales and farm income.

Based on the Dunkel text of a GATT proposal presently on the table, the MPP would be considered nontrade distortive, or in the so-called green box of acceptable policies. A successful GATT agreement from the U.S. perspective will be based on convincing the rest of the world, particularly the EEC, that the United States is serious and has the political resolve to establish its position in world trade. The world reacts to what the United States does, not what it says.

Any retrenchment in support for major export initiatives that were put in place to demonstrate U.S. determination regarding agricultural trade reform will be interpreted as a weakening in political support. A reduction in financial support for MPP would be a clear signal to the EEC, and others that their best strategy would be to prolong the negotiations and wait for further erosion in the U.S. position.

It doesn't matter if you are a large company or a small company, participating in international trade in food and agriculture is a risky business particularly when the competition is generally set by government policy rather than comparative advantage. By providing assistance through promotion of U.S. agricultural production, we do two things. First, we help make it less risky for companies to move into new markets more quickly than perhaps they would otherwise and, second, we tie them to using U.S. agricultural production as opposed to foreign sourcing.

How does MPP work? The MPP is a cost-sharing program in partnership with the private sector. The Foreign Agricultural Service [FAS] of USDA provides cost-share assistance to eligible trade organizations for promotion activities which can take on various forms such as advertising, in-store promotions, or foreign market research. The current present funding level is $200 million, or about one-half of 1 percent of the value of U.S. agricultural exports, and only 2 percent of the export subsidies the EEC provides its agricultural sector.

Is branded promotion necessary? Yes; branded promotion works well as part of the overall market promotion program. When brands are promoted that represent value added U.S. agricultural production, the benefits are tied directly back to expanded sales of U.S. produced commodities. In addition, teaming up with companies and brands that contain U.S. source production as the primary ingredient ties the company closer to U.S. production as their raw materials source. This serves as a deterrent to countries always looking to switch to competitive sources on the slightest price shift.

Then why have generic promotion? Branded and generic promotions go hand in hand. U.S. agriculture has a good story to tell about the quality and price of U.S. farm products. Promoting this through generic efforts educates consumers about the quality and availability of abundant and reasonably priced U.S. foods. Many of these items may be unavailable to them because of various foreign government interventions. Thus, branded and generic promotion complement each other and provide U.S. taxpayers and U.S. agriculture with a effective industry/government partnership. It is an effective partnership which promotes growth in a U.S. industry which has a comparative advantage over the rest of the world, but is unable to exercise that advantage due to trade distortions and restrictions imposed by foreign governments.

Has MPP been successful? By any measure the program has been a success. While it has come under criticism recently in some highly publicized attacks by those who do not believe that government partnership with industry to help penetrate foreign markets through promotion, the facts do not warrant the criticism. Quite the contrary. The facts point to a highly successful program.

USDA's final regulatory impact analysis of MPP indicated that the total increase in U.S. agricultural exports attributable to program funding over the 1986 to 1988 period ranged from $2 to $7 for each dollar of funding. In other words, a $200 million program could result in a net increase in exports of $400 million to $1.4 billion. This level of export would provide 11,000 to 38,000 jobs and generate an additional $636 million to $2.23 billion in related economic activity.

The Market Promotion Program promotes American food and American farm products, not individual company names. Companies and industries put up funds and MPP provides matching funds for certain promotional expenses. It is a fact that for American farmers to compete and win in global markets, we must promote branded products. We must continue the expansion of U.S. agricultural exports or we will fail as the breadbasket of the world.

Mr. CHANDLER. Mr. Speaker, I urge my colleagues to support the Agriculture appropriations conference report. The bill would provide over $60 billion for rural development, food assistance, and the promotion of U.S. exports. These projects are vital to our country and need our support.

Farming is Washington State's leading industry. Washington farmers produce $4.3 billion of agricultural commodities and employ over 120,000 men and women each year. Many programs in this bill are essential to Washington farm communities.

For example, exports are key to agriculture's success. Yet trade barriers and structural impediments discriminate against American farmers. The Market Promotion Program shares the cost of promoting U.S. agricultural programs abroad with private U.S. trade companies and organizations. The program emphasizes building markets for U.S. goods in countries where competing exporters engage in unfair trade practices. In an unfair world market, this program is essential for the survival of agriculture in Washington State.

Nine out of ten bushels of Washington wheat are exported, and Washington apples are shipped to 30 countries. These exports help balance America's trade deficit, and sustain agricultural production for domestic consumption. This bill only partly restores funding for the Market Promotion Program. I strongly believe Congress should provide the full $200 million for this essential equalizer. However, the $148 million compromise is a vast improvement over the original, marginal funding.

In addition to export enhancement programs, this bill funds nearly $6 million of research programs in the Northwest. These projects include pesticide research, small fruit, wheat, and crop disease research. These small-dollar initiatives have a big-time impact on Washington farmers. For example, Washington leads the Nation in the production of apples, sweet cherries, hops, pears, concord grapes, and red raspberries. Yet these commodities are classified as minor crops and growers face declining accessibility to safe pesticides. The bill also would provide $187,000 for needed small fruit research programs.

Farmers in southeastern Washington produce more wheat per acre than any other dryland farming area in the country. Whitman County is the top wheat-producing county in the Nation. Yet without this bill's appropriation of $437,000 to research the Russian wheat aphid, wheat farming would be in jeopardy.

This bill is not perfect. Market Promotion Program funding should be increased. But the programs in this bill are too important to delay. I strongly urge my colleagues to pass the Agriculture appropriations conference report.

Mr. McDADE. Mr. Speaker, I am pleased to rise in support of H.R. 5487, the conference report making appropriations for Agriculture and related programs for fiscal year 1993.

This conference report is a fine work product. It represents an excellent job done by my good friend, the distinguished chairman of the full committee and of this subcommittee, the gentleman from Mississippi. The same holds true for my good friend, the gentleman from New Mexico, who is ranking member of the subcommittee, and who has contributed so much of value to the important work of the committee.

Despite the tremendous differences of more than 124 items between the House and Senate, the chairman and the ranking member and all of the dedicated and capable members of the subcommittee have brought back a conference agreement that is fair and balanced. And I am pleased to recommend it.

Mr. Speaker, let me seek special recognition for the many years of intelligent and outstanding service of one of our good friends and colleagues who will be departing at the end of the session. The gentleman from New York, MAT MCHUGH, is truly our most valuable player on the subcommittee. And both he and another very talented and hard-working member, the gentleman from Michigan, our good friend, BOB TRAXLER, will be leaving. Both will be greatly missed, and we all wish them continued success and happiness in their future work.

Mr. Speaker, the specifics of the conference report have already been explained in the usual comprehensive way by the chairman and the ranking member, so I will briefly comment on a few items of importance which are covered in the conference report.

First, I wish to stress the overall importance of the Agriculture and Food and Drug Administration programs to the national economy and well-being of the Nation and to my own home Commonwealth of Pennsylvania which are addressed by this conference report. Over $60 billion is made available in programs which improve the quality and quantity of our Nation's food supply. American agriculture is by far among our most efficient and productive industries, which accounts for more than $40 billion in export trade and value-added products each year.

But of this total of over $60 billion in the conference report, only a little more than $13 billion falls under the classification of controllable domestic discretionary spending. More than 65 percent of the dollars appropriated is directed to mandatory spending programs—$36 billion alone for payments for food stamps and other domestic food assistance programs such as school breakfast, school lunch, and low-income elderly food assistance programs. The largest program under the discretionary category is the WIC Program which at $2,860 billion is an increase of $260 million over 1992.

The direct benefits for the various agricultural and related programs funded in this conference report provide significant advantages to farmers and consumers. For example, Pennsylvania alone will receive about $1.8 billion for agriculture research, farm stabilization, conservation, rural housing and development, and domestic food assistance programs in fiscal year 1993.

As indicated by the gentleman from New Mexico earlier, the discretionary spending levels in the conference report are within the 602(b) budget ceilings. And the administration, while indicating several trouble spots, is not recommending a Presidential veto.

I am deeply appreciative that the spending provided for the Farmers Home Administration Rural Housing Loan Guarantee Program, which I introduced and is now authorized by the National Affordable Housing Act, is maintained at my requested level of $329.5 million. This amount of loan guarantees will assure that at least 7,000 low- and moderate-income families living in rural areas will become homeowners, and as well it will generate thousands of new jobs for the homebuilding industry.

In conclusion, Mr. Speaker, I believe that this conference report does a very good job in setting priorities for agriculture and food and drug safety and is also a fiscally responsible measure which deserves our support. I recommend its approval by this House.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the conference report on H.R. 5487, making appropriations for agriculture, rural development, food safety, and related programs for fiscal year 1993.

This is an extremely important and vital funding bill not only to American agriculture but our whole society. Under this legislation, funding is provided for programs ranging from agricultural research to food stamps to food safety.

I want to commend the conferees for their expeditious consideration of this measure. And I want to particularly commend Chairman WHITTEN and Mr. SKEEN, the ranking minority member, for their leadership of the Subcommittee on Rural Development, Agriculture and Related Agencies.

I am particularly pleased that the conference report provides funding for several agriculture and rural development projects important to south Texas.

I am particularly pleased that the conferees agreed to provide $25 million for improving water services to the impoverished colonias along the border. I also support the Appropriations Committee's request that the President develop a comprehensive action plan for tackling the environmental and health problems associated with the colonias. The funding and the action plan requirement are two big steps in our effort to improve conditions in the colonias.

I would also note that funding is provided for the control of the Mexican fruit fly and the sweetpotato whitefly that have been plaguing south Texas fruit and vegetable growers.

Mr. Speaker, I would have preferred that this conference report include funding for the Wetland Reserve Program authorized under the 1990 Farm Act. I am hopeful that this is only a temporary setback and that eventually Congress will see the wisdom of this program.

Overall, however, I believe this conference report is a solid product that will continue our commitment to our farmers and consumers within the constraints of the budget. I am proud to support its passage.

Mr. TRAXLER. Mr. Speaker, I rise in support of the conference report to accompany H.R. 5487, the Agricultural appropriations bill for fiscal 1993. I offer my compliments to our distinguished chairman, Mr. WHITTEN of Mississippi, Mr. MCHUGH of New York who so ably assisted our chairman, and our ranking minority member, Mr. SKEEN of New Mexico, for bringing forward an agreement that maintains the House position on so many important items, and improves upon the House bill where merited.

Mr. Speaker, this conference agreement represents the best that can be done in a very difficult year. The work done by our members and our outstanding subcommittee's staff deserves the support of the House.

I want to comment on a very few number of specific items to help explain the intentions behind our actions. I am very pleased that we were able to maintain the House levels of funding on the various special research grants in Michigan. These ongoing projects have been most worthwhile, and will for the most part need to be continued beyond fiscal year 1993. These projects have received level funding for a number of years, even though they are faced with escalating costs. Few Federal research projects have level annual funding outside of agriculture.

We did make some reductions in certain construction projects for both the Agricultural Research Service and for the Cooperative State Research Service. Every House and Senate project absorbed a proportionate reduction in order to make room for the many projects. In some cases, these reductions will delay completions. In other cases, it may add an additional year to complete funding. And perhaps, in a limited number, the reductions can be absorbed.

We make one reduction with the Agricultural Research Service for the Poultry Research Center in East Lansing, MI, a reduction from $250,000 to $212,000. This project will need additional funds for planning and design work next year, and the actual construction dollars beyond that. ARS has testified that this is a very needed facility, and that it has been a long time since adequate rehabilitation work has been done. I am hopeful that the agency can include the necessary funds for completing this project in their fiscal year 1994 request.

We also made a reduction of $740,000 in the amount provided for the Food Toxicology Center at Michigan State University. We had been expecting to complete funding for this project this year, and the House-passed amount was based upon the completion cost. This reduction may very well mean that an additional appropriation might have to be provided in fiscal year 1994. But this reduction is based on our overall budget situation, and does not signify any lesser degree of support for this project on the part of the House.

There are a number of research items addressed in the House report ranging from asparagus to the consortium for international Earth sciences information network to taxol, which were either not addressed by the Senate or were not disagreed to by the Senate. Given this situation, the expectation of the committee is that the House report directives stand, and we expect the agencies to comply with those directives.

I want to call particular attention to report language that the conferees approved for the Foreign Agricultural Service. Our report calls upon the agency to consider developing a dry bean marketing demonstration program, including a proposal from the Michigan dry bean industry. Let there be no doubt whatsoever about this language: While it identifies other potential applicants for this program, it in no way requires coordination of an application among potential applicants. Just as the Market Promotion Program has approved numerous sole State applications, the proposal brought forth by the Michigan dry bean industry is equally worthy of consideration. The matter will be pursued in the days to come.

Mr. Speaker, it has been a great pleasure and honor to have been a member of the Subcommittee on Rural Development, Agriculture, and Related Agencies for the past 16 years. I admire and respect immensely the members of this subcommittee, and the staff of this subcommittee who work so hard for all of us here and throughout the Nation. I will miss these wonderful associations, and I wish everyone the very best for their individual and collective futures.

I urge adoption of the conference report.

Mr. EMERSON. Mr. Speaker, today I rise in strong support of the agriculture, rural development, and related agencies appropriations conference report for fiscal year 1993. I would also like to thank the chairman of the subcommittee, Mr. WHITTEN, and the ranking member, Mr. SKEEN, and also the gentleman from Kentucky [Mr. NATCHER] for their hard work and diligence in preparing such a balanced package within a highly constrained budget.

This legislation represents what has been a long and deliberative process which meets many of today's agricultural needs, but yet reflects much-needed fiscal responsibility. This legislation represents many difficult budget decisions that continue to prove that Agriculture is willing to pull its fair share of the budget reduction load.

Additionally, I am also pleased to note a particular item within this appropriations measure that continues to benefit agricultural producers across the Nation. For several years now, research on the soybean cyst nematode problem has been conducted in my district at the Delta Area Agricultural Research Center in Portageville, MI. This facility is ideally suited to conducting this research, given its extensive work in the past on the problem and the fact that many farmers in the country continue to face a serious cyst nematode problem.

By including this research as a part of the Appropriations package, I believe we will be saving a number of farmers from financial ruin in the long run. As many as 25 million acres of farmland in the United States are contaminated with the cyst nematode, including all major soybean-producing counties in Missouri, along with many other midwest and southern soybean-growing States. It has been estimated that in 1991 the soybean nematode cost our Nation's farmers over $400 million in reduced yields. But because of the work being conducted on this problem, the Federal Government will easily save many times the $359,000 we will spend on soybean cyst nematode research next year.

This measure also includes funding for the Rural Electrification Administration to meet the increasing needs of our Nation's rural electric systems. In the past 10 years, insured REA loan funds have declined substantially despite continued inflation. Though we are not nearly at the level of funding to meet all REA loan needs, rural electric insured loans will continue to address growing rural development demands.

Additionally, H.R. 5487 includes funding for the highly successful, export-producing, market promotion program. Since the inception of this program, U.S. exports of consumer-oriented agricultural products have increased considerably, creating domestic jobs in the production, processing, and distribution sectors of our national economy. These funds have also enabled my home State of Missouri to increase overseas exports of agricultural products, thereby creating needed jobs and economic revenue in many rural Missouri towns and communities.

Likewise, there are many other fine projects and research efforts contained in this bill along with needed funding for the supplemental food program for women, infants, and children and continued funding for other vital domestic food and nutrition programs. I urge my colleagues to show their support for these worthy programs by favorable adoption of this appropriations measure.

Mr. LAGOMARSINO. Mr. Speaker, I rise in opposition to the conference report but also to express my strong support for the Market Promotion Program [MPP].

Given what we've seen in the media and the numerous "Dear Colleague" letters from my respected colleague from Texas, I suspect several Members on our side of the aisle are wondering why I've risen in defense of a program characterized as corporate welfare and trade subsidies.

They know that I've spent almost 20 years in Congress fighting for free trade and self-determination of nations; and they know that I am a fiscal conservative opposed to wasteful Government spending and subsidies. What they might not realize, however, is that the MPP is one of our best tools for breaking into foreign markets that have been closed to American business by foreign tariffs, subsidies, and nontariff barriers.

As a senior member of the Foreign Affairs Committee, I've worked to ensure that free trade and self-determination remain the foundation of our foreign policy. After the Second World War, we made a strategic decision to create a global economy based on free trade. We did this because we know that the United States could not long survive—and certainly not prosper—in a world that was not free.

In the short term, our policies have required tremendous sacrifices from the American people. We opened our markets to the world while we tolerated a degree of protectionism in the new European democracies. Despite the financial burdens, the lost jobs and markets for our products, we knew that it was in the best interest of the United States. And we were right.

Today, we are the strongest economic power in the world, and we have a global economy that is characterized, first and foremost, by free trade.

However, there is one notable exception to this success story. Agriculture. World agricultural trade is marked by massive Government subsidies, high tariffs, and the most pervasive nontariff barriers imaginable. Foreign governments protect and vigorously pursue markets with government handouts and intervention.

The rules of the market as we know them do not apply. Despite the fact that American farmers and farmer cooperatives produce superior products at lower prices, they cannot compete with foreign governments.

Given this situation we have two basic policy options; each with its own set of consequences.

The first—which my friend from Texas is asking you to choose—is to do nothing. Yet by doing nothing, we are resigning ourselves, and our farmers, to failure. We will write off an entire sector of the global economy to protectionism. And we will send a message from Tokyo to Brussels that it's OK to lock up entire markets with trade barriers and subsidies.

The second, is to remain true to the principle of free trade and support policies which tear down barriers and combat production subsidies. As I see it, the real question is not if we should open foreign markets to American farmers, but how we should do it.

One option is to dump billions of dollars into production subsidies like the Europeans and most other countries so that our growers can compete on price alone. This floods world markets with commodities, drives down prices, destroys grower returns, and wastes billions of taxpayers' dollars.

Another option is the MPP. This program allows American farmers to penetrate foreign markets by creating a demand for U.S. products abroad. The MPP provides farmer cooperatives and companies with financial incentives to undertake long term market development initiatives.

MPP marketing strategies are designed to create demands for specific U.S. products and commodities, like Sunkist oranges or American cotton. This aspect of the program is critical because it allows consumers to distinguish between American products and those from other countries. This is the only way U.S. growers can compete against subsidized crops on the basis of quality.

By increasing consumer demand, the MPP allows for increased production and grower returns. The MPP represents a fraction of what this country spends on program crop subsidies, yet it realizes billions of dollars in foreign agricultural sales and thousands of U.S. jobs.

When compared to the more traditional agricultural polices, the MPP has enjoyed considerable success in opening foreign markets during its short lifetime.

Agricultural trade represents 20 percent of the global economy, and—given a level playing field—our farmers and farmer cooperatives are the most competitive in the world. We should not turn our backs to this type of trade, and I strongly urge my colleagues to oppose further cuts or restrictions on the program.

Mr. AUCOIN. Mr. Speaker, I rise in support of this conference report. As we consider fiscal year 1993 appropriations for Agriculture, rural development, and the FDA, we also are appropriating funds for basic and applied agriculture research in various fields which include livestock, plant sciences, and nutrition. Agriculture is a key component of Oregon's economy and way of life. In Oregon we have 37,000 farms that produce more than 170 commodities. This bill provides loans which are vital to our farmers because they face recession and the sixth year of drought. I also support the conference report for the programs vital to feeding our children, the elderly, and low-income people. Programs such as WIC and TEFAP are more important than ever as we strive to eradicate hunger in this country.

I would like to thank the conferees for continuing to fund programs which are especially important to Oregon. The bill continues to support research on eastern filbert blight, small fruits research, Russian wheat aphid, soil erosion, and water quality, and marketing and varietal development of potatoes.

I am especially pleased the conferees maintained a couple of the Senate provisions that the House was unable to include in the House bill. In my district, funds to construct a new seafood research laboratory in Astoria, OR, will be provided. And critical nutrition research is also recognized in the Senate report.

The original seafood lab, built in 1940 and operated by Oregon State University, has helped the Northwest seafood industry become one of the most productive and important in the world. But the current facility is inadequate to meet the demands of this dynamic industry. The new lab has the strong support of State and local governments, the community of Astoria, and private investment. The lab will be part of a larger complex, the Seafood Consumer Research and Education Center, which involves numerous activities in seafood including research, education, training, marketing, information and promotion of seafood.

Mr. Speaker, this is an outstanding proposal that will greatly benefit the seafood industry and Astoria. I would like to thank my colleagues who served as conferees on this bill for agreeing to provide a total of $2,151,000 for construction and initial operating costs.

In addition, Mr. Speaker, I am also very pleased the conferees have in effect accepted language included in the Senate report which urges the Department of Agriculture to work with the Oregon Health Sciences University to continue important calcium nutrition research. Researchers at OHSU have pioneered the identification of protective effects of dietary calcium and its impact on cardiovascular disease including high blood pressure, stroke, diabetes, reduction in premature birth rates, and low birth weight babies. Last year our colleagues in the Senate recognized the vital role that this research plays in today's medical science. As a result, current but temporary funding by USDA has allowed the Institute for Nutrition and Cardiovascular Research at Oregon Health Sciences University to continue its efforts designed to improve health and reduce the health care budget of this country.

Research focusing on the benefits of calcium continues to receive congressional support because of its critical contributions to the future financial integrity of the dairy industry as well as laying the foundation for low-cost strategies to promote health and reduce disease. Thus, continued funding for this research is imperative in our Nation's health agenda. It has implications for programs including WIC, the school lunch program, dairy price supports, and dietary guidelines. I fully expect the Department to continue assistance for this important program.

Mr. DORGAN of North Dakota. Mr. Speaker, the conferees on this bill have provided specific directions to the Rural Electrification Administration to follow the intent of Congress in implementing laws controlling the ways that rural electric cooperatives can invest in rural economic development ventures.

The language in amendment 88 of the conference report is another example of the need for Congress to chase, prod, and corral an administration that does not like a policy that Congress has put into law, and therefore tries its best to thwart the law through the drafting of regulations.

In our Budget Reconciliation Act of 1987, we increased the amount of investment that rural electric cooperatives could make in various economic and community development efforts in their home service areas, and we restricted that investment to a total of 15 percent of the value of a cooperative's plant assets. This is a reasonable policy, encouraging the cooperatives to be active in helping the development of their own communities through loans and investments, but not allowing the cooperatives to become over-extended in such activities to the point that their financial health is put at risk.

By regulation, the administration has tried to thwart our policy by inventing ways to reduce the amount of economic investment that we allowed for the cooperatives. The administration has done this through regulation that would count the profits on investments of a completely separate subsidiary as part of a cooperative's allowance for economic development efforts. In addition, the REA has created rules that would force a cooperative to immediate increase electric rates to its members to cover a 1-year operating loss of a completely separate subsidiary, and would force such a rate increase even though the subsidiary has retained earnings to cover the loss.

The rules I've just mentioned are entirely outside the intent of our 1987 law, and are contrary to long-established public policy on rural electric cooperatives as well as other public utilities.

The directive of the conferees tries to ensure that Basin Electric Cooperative, based in North Dakota, and other cooperatives are entitled to the opportunity for limited investment in their local rural economies as we have prescribed in previous law. I only hope that the administrator of REA and other administration officials have no difficulty reading the directive and following it so that we must not have to try to legislate commonsense policy in this area again in the next Congress.

Ms. SNOWE. Mr. Speaker, I rise today in support of the fiscal year 1993 agriculture appropriations conference report. In several ways, this legislation looks toward the future of agriculture. In order to remain a viable industry in the years ahead, agriculture must use research to improve growing practices while protecting the environment. Agriculture must also expand markets all over the world. This bill will help farmers accomplish these goals.

For instance, the New England region will be able to perform important research to improve growing techniques, to reduce pesticide use, and to expand markets. The Wild Blueberry Industry in Maine, which produces 98 percent of the Nation's wild blueberries, will receive some help from this bill to perform their research on quality improvements, harvesting procedures, and pesticide use.

Potato farmers in Aroostook County in Maine will be able to improve their research with funds to construct a seriously needed new facility which is necessary to ensure the success of the seed potato industry. A year and a half ago, seed potatoes from Canada were infected with the potato virus PVY–N, creating a potential for the devastation of the Seed Potato Industry in the Northeast. The construction of this laboratory is essential to prevent the spread of such diseases as well as to perform research on quality and protecting the environment in potato producing areas.

The potato industry has also been able to expand its markets in Japan and Korea through the Market Promotion Program which is funded in this bill. It will also allow the University of Maine to purchase new equipment for its Integrated Pest Management Program which has helped to make more effective uses of fewer pesticides on potatoes and other Maine crops.

I am pleased to note that several industries in Maine, New Hampshire, and Vermont will benefit from the Northern New England Product Development and Marketing Center which receives support in this bill. This center conducts a variety of studies ranging from product development and quality improvement to the expansion of both foreign and domestic markets. For example, the center is researching Northern New England's sustainable timber supply, international markets for fresh and processed apples, and the region's marketing infrastructure. It has the support of not only the agricultural industry, but also regional businesspeople have supported the project, attesting to its widespread benefits.

It is this type of support that will help agriculture remain profitable in this country. With improved quality, new products and new markets, farmers will be able to maintain a way of life that is such a large part of our country's history.

Mr. McHUGH. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 299, nays 100, not voting 35, as follows:

[Roll No. 379]

YEAS—299

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
AuCoin
Bacchus
Baker
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer

Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fields
Foglietta
Ford (MI)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schiff
Sharp
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Staggers
Stallings
Stenholm
Stokes
Sundquist
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—100

Allard
Allen
Applegate
Archer
Armey
Atkins
Ballenger
Beilenson
Bilbray
Broomfield
Burton
Campbell (CA)
Cox (CA)
Crane
Dannemeyer
DeLay
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Fawell
Fish
Frank (MA)
Goss
Gradison
Grandy
Hancock
Hansen
Hefley
Henry
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Jontz
Kennedy
Kolbe
Kyl
Lagomarsino
Lent
Lewis (FL)
Machtley
Markey
Marlenee
McEwen
McGrath
Meyers
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Neal (MA)
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Patterson
Penny
Petri
Porter
Pursell
Ramstad
Rhodes
Riggs
Ritter
Roberts
Rohrabacher
Roukema
Santorum
Schaefer
Scheuer
Schroeder
Schumer
Sensenbrenner
Shays
Shuster
Sikorski
Stark
Stearns
Studds
Stump
Swett
Taylor (NC)
Thomas (WY)
Vander Jagt
Vento
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—35

Ackerman
Anthony
Barnard
Berman
Boxer
Campbell (CO)
Clay
Cunningham
DeFazio
Dickinson
Dymally
Early
Flake
Ford (TN)
Gaydos
Gingrich
Hatcher
Hunter
Hyde
McCollum
Neal (NC)
Oakar
Savage
Schulze
Serrano
Slattery
Solarz
Solomon
Tallon
Towns
Traxler
Walker
Waxman
Weber
Wilson

☐ 1527

The Clerk announced the following pair:

On this vote:

Mr. Serrano for, with Mr. Cunningham against.

Messrs. ROHRABACHER, VENTO, KENNEDY, and MARKEY changed their vote from "yea" to "nay."

Messrs. ROTH, SMITH of Texas, and HUGHES changed their vote from "nay" to "yea".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WHEAT. Mr. Speaker, I rise to explain my vote on H.R. 5487, the Conference Report on Agriculture Appropriations for Fiscal year 1993. I inadvertently voted "yea"; however, I intended to vote "nay." Had I realized my mistake prior to the time the vote closed, I would have voted "nay."

As I have throughout my career in Congress, I strongly support the portions of H.R. 5487 which provide funding for vital programs such as the Special Supplemental Food Program for Women, Infants and Children [WIC], Food Stamps and Child Nutrition Programs. It is imperative that those in need of the basic necessity of food be availed to adequate and nutritional meals. This measure also maintains and strengthens many programs of importance to American farmers and the agricultural community.

However, a number of news reports and investigations have exposed considerable evidence of waste, fraud, and abuse throughout USDA programs and offices. Unfortunately, even after these abuses had been uncovered, it appears that this bill makes little progress toward addressing these issues. Potentially serious problems relating to departmental overhead costs, meat inspection offices, certain subsidy programs, and inadequate wetland conservation measures demonstrate that we must implement more dramatic reform of the Department of Agriculture.

For example, under the conference report, the Market Promotion Program will continue to receive about $148 million in funding. It is questionable, at best, whether this program serves any useful purpose other than to subsidize the marketing costs of major American corporate exporters, most of which need no taxpayer subsidy to market their products abroad.

The bill does not provide any funding for the Wetlands Reserve Program, a crucial element of the 1990 farm bill designed to preserve our wetlands. Continued funding for this program is imperative if we are to wage a real fight to protect our Nation's wetland ecosystems.

Any finally, while there is certainly a legitimate need for USDA field offices across the country, it has become clear through various news reports that consolidation of these field offices could create significant taxpayer savings without affecting the USDA ability to deliver its services to the public.

Because of these and other related reasons, I am discouraged by the lack of progress we have made in addressing the existing problems in the USDA. It is critical that we cut unnecessary waste and improve the efficiency of programs in the Department. The USDA—and all other Government agencies—should be run efficiently and effectively while remaining responsive to the diverse needs of the American people.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman will state his parliamentary inquiry.

Mr. MARLENEE. Mr. Speaker, is a motion to adjourn in order at this moment?

The SPEAKER pro tempore. That is a privileged motion.

MOTION TO ADJOURN

Mr. MARLENEE. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Montana [Mr. MARLENEE].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MARLENEE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So, the motion was rejected.

☐ 1530

ELECTION OF MEMBER TO COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. HOYER. Mr. Speaker, by direction of the Democratic Caucus, I call up a privileged resolution (H. Res. 549) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 549

Resolved, That the following named Member be, and is hereby, elected to the following standing committees of the House of Representatives: Committee on Standards of Official Conduct: Kweisi Mfume, Maryland.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ESTABLISHING RANK OF MEMBERSHIP ON COMMITTEE ON FOREIGN AFFAIRS

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 550) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 550

Resolved, That Antonio J. Colorado, of Puerto Rico, elected to the Committee on Foreign Affairs on March 17, 1992, pursuant to H. Res. 400, shall rank after Eni F.H. Faleomavaega, of American Samoa, thereon.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5487, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, August 6, 1992, the amendments in disagreement and motions printed in the joint statement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: Page 10, line 23, strike out "$4,500,000" and insert: "$10,000,000 is appropriated to the Alternative Agricultural Research and Commercialization Revolving Fund".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$7,250,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 15, line 4, strike out "$57,688,000" and insert: "$61,612,000".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$73,411,000".

Mr. BURTON of Indiana. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. Is the gentleman from New Mexico [Mr. SKEEN] opposed to the motion?

Mr. SKEEN. Mr. Speaker, I am not opposed to the motion.

The SPEAKER pro tempore. Is the gentleman from Indiana [Mr. BURTON] opposed to the motion?

Mr. BURTON of Indiana. Mr. Speaker, I am, and in that case, I ask the time be divided.

The SPEAKER pro tempore. Pursuant to rule XXVIII, the gentleman from New York [Mr. MCHUGH] will be recognized for 20 minutes, the gentleman from New Mexico [Mr. SKEEN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, because there is pressing business later on this evening, I will try to go through some of these amendments fairly rapidly. I would like to talk about amendments numbered 4, 7, 8, 18, 19, and 47.

For the edification of my colleagues, it has been stated, or it was said on the House floor just a few moments ago, that the Committee on Appropriations has done a very good job in keeping the discretionary spending down, and while they have made steps in the right direction, I submit that many of the amendments that were added during the conference committee involved pork-barrel projects for various congressional districts around the country.

Mr. Speaker, amendment No. 4 is a cooperative State research service special research grant that amounts to $73.411 million. This is $281,000 above fiscal year 1992. It is $15.7 million above the House bill that passed here about 2 weeks ago. It is $11.8 million above the Senate bill, and it is $44.5 million above the administration's request, and it is over 2½ times what the President asked for.

It contains also $1.3 million for wood utilization research centers in Maine and North Carolina. That is pure, unadulterated pork. As I said before, amendment No. 4 is 2½ times what the administration requested, and it is a very pork-laden amendment.

Amendment No. 7 deals with the Federal administration of the cooperative State research service, and this is the same as fiscal year 1992, but it is $1.625 million above the House bill and $750,000 above the Senate bill.

Amendment No. 8, the cooperative State research service projects, this is pork-laden. It has $430.143 million in it. This is $281,000 above fiscal year 1992. It is $17.7 million above the House bill and $13.2 million above the Senate bill.

Amendment No. 18 is Extension Service excluding Federal administration, $414.5 million. This is $6.5 million above fiscal year 1992, and it is $4.5 million above the House bill, $1.05 million above the Senate bill.

Amendment No. 19, Federal administration of the Extension Service, $10.428 million; this is $919,000, and I guess this one is below fiscal year 1992, and yet it is $2.5 million above the House bill which passed here recently and almost $1 million above the Senate bill.

No. 47, the Farmers Home Administration, section 502, that is $25.448 million above fiscal year 1992, $3.8 million above the House bill, and $2.4 million above the Senate bill.

These are examples of the pork that we have been talking about week in and week out and month in and month out in this body, but we are not really doing much about it.

Granted, the big increase in this appropriation bill is in the entitlements. But right here we have millions and hundreds of millions of dollars in excessive spending that the Committee on Appropriations could have dealt with.

I submit to my colleagues that this is the kind of thing that we have got to deal with now. Otherwise, we are going to pay the consequences later.

I will not ask for a rollcall vote on these amendments, but I bring it to my colleagues' attention so that maybe in the future we will deal more responsibly with these issues.

Mr. Speaker, I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion.

This particular item in the bill is one where the House took a rather stringent standard in terms of funding existing programs and new starts.

The conference report, by and large, has followed the same standard. More specifically, with respect to the House bill, we took the position that there would be no new research grants, that is, grants which were not already funded in the current year's appropriation.

We also took the position that there would be no additional funding over and above the current year's appropriation for existing and ongoing grants.

Now, in the conference, of course, as is always the case, the Senate had some different research grants funded than the House bill did.

This is not a unicameral legislature. It is important in conference to reach some reasonable compromises, and inevitably we had to do that, but in conference we applied a similar standard to the House approach.

Specifically we said that any existing ongoing grant that received additional funding as proposed by the Senate would have to be offset by comparable cuts in other existing projects. So with only one exception, which I will mention in a moment, in all other cases, if there was an addition in funding for an existing ongoing research project, it was offset by a comparable cut in another existing research project.

The same approach was taken with respect to many new research grants. We did not have any new research grants in the House bill, but the Senate bill had a few. We said to our colleagues in the other body in conference, "If you want to start a new research program, you have to find the money to finance that by a cut in some other existing research grant," and with one exception, that was the rule that was followed.

So I think that in conference we did exercise fiscal responsibility. The only exception in all of these grants to that general approach was on the wood utilization research program, which the gentleman from Indiana mentioned.

□ 1540

There we did increase an existing research project, but we did not earmark in the legislation where that increase should go. It remains available for a national program.

We did mention in the report, in the statement of managers, that the USDA should look at and consider applications which we know the State of Maine and North Carolina will submit, but that is not an earmarking and there is no requirement that the agency fund those applications.

So Mr. Speaker, I would hope that the motion would be adopted and we can move on.

Mr. SKEEN. Mr. Speaker, I rise in support of the motion. I think it has been adequately discussed.

I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that Senate amendments numbered 6, 17, 23, 27, 46, 59, 72, 83, 102, 105, and 114 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The texts of the various Senate amendments referred to in the unanimous consent request are as follows:

Senate amendment No. 6: Page 16, line 11, after "expenses;" insert: "$400,000 for State agricultural weather information systems pursuant to section 1640 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3318);".

Senate amendment No. 17: Page 18, line 20, after "$1,500,000;" insert: "payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,000,000;".

Senate amendment No. 23: Page 22, line 9, after "9701" insert: "*Provided further*, That none of these funds shall be used to pay the salary of any Department veterinarian or Veterinary Medical Officer who, when conducting inspections at horse shows, exhibitions, sales, or auctions under the Horse Protection Act, as amended (15 U.S.C. §§1821–1831), relies solely on the use of digital palpation as the only diagnostic test to determine whether or not a horse is sore under such Act".

Senate amendment No. 27: Page 26, after line 17, insert: "In fiscal years 1993 and 1994, section 32 funds shall be used to promote sunflower and cottonseed oil exports to the full extent authorized by section 1541 of Public Law 101–624 (7 U.S.C. 1464 note), and such funds shall be used to facilitate additional sales of such oils in world markets."

Senate amendment No. 46: Page 46, line 19, after "property" insert: "*Provided*, That up to $35,000,000 of these funds shall be made available for section 502(g), Deferral Mortgage Demonstration".

Senate amendment No. 59: Page 49, line 11, after "$125,000,000" insert: : "*Provided*, That loan funds made available herein shall be completely allocated to the States and made available for obligation in the first two quarters of fiscal year 1993".

Senate amendment No. 72: Page 53, line 10, after "310B(c)" insert: "and 310B(j)".

Senate amendment No. 83: Page 56, line 2, after "borrower" insert: "*Provided further*, That funds appropriated to the Farmers Home Administration shall be used to establish and maintain a Farmers Home Administration State office in Nevada".

Senate amendment No. 102: Page 63, line 17, after "1994" insert: ", of which up to $3,000,000 may be used to carry out the farmer's market coupon demonstration project".

Senate amendment No. 105: Page 65, line 11, after "$224,513,000" insert: "to remain available through September 30, 1994".

Senate amendment No. 114: Page 72, line 23, after "9701" insert: : *Provided further*, That $1,900,000 for the funds made available to the Food and Drug Administration shall be available to fund a clinical pharmacology pilot program".

MOTION OFFERED BY MR. MC HUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendments of the Senate numbered 6, 17, 23, 27, 46, 59, 72, 83, 102, 105, and 114 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 7: Page 16, line 12, strike out "$19,170,000" and insert: "$20,045,000".

MOTION OFFERED BY MR. MC HUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$20,795,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment Number 8: Page 16, line 23, strike out "$412,395,000" and insert: "$416,926,000".

MOTION OFFERED BY MR. MC HUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$430,143,000"

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH).

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 18, line 20, after "$1,500,000;" insert: "payments to establish and operate centers of rural technology developed as authorized by section 2347 of Public Law 101–624 (7 U.S.C. 1932), $2,000,000;".

MOTION OFFERED BY MR. MC HUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$1,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 16: Page 18, line 20, after "$1,500,000;" insert: "payments for outreach and assistance for socially disadvantaged farmers and ranchers as authorized by section 2501 of Public Law 101-624 (7 U.S.C. 2279), $2,000,000;".

MOTION OFFERED BY MR. MCHUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$1,000,000".

Mr. BURTON of Indiana. Mr. Speaker, I oppose the motion to recede and concur.

The SPEAKER pro tempore. Is the gentleman from New Mexico [Mr. SKEEN] in opposition to the motion?

Mr. SKEEN. Mr. Speaker, I support the motion.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. SKEEN] supports the motion; therefore, under rule XXVIII, the gentleman from New York [Mr. McHUGH] will be recognized for 20 minutes, the gentleman from New Mexico [Mr. SKEEN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, amendment No. 16 in technical disagreement provides $1 million for outreach and assistance to socially disadvantaged farmers, whatever that means. Maybe one of my colleagues can explain to me what a socially disadvantaged farmer is.

The Senate bill had about $2 million for this and the House bill that passed here 2 weeks ago had nothing in it.

It appears to me that we can help socially disadvantaged farmers through all the other agricultural programs which we are funding already in this bill and we do not need to be spending an additional $1 million for this particular program.

Mr. Speaker, I reserve the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, it is regretful that we would even discuss this amendment in this place at this time.

In the course of human events, there are lapses of the human element that cause grievances many times beyond repair. As the world became more enlightened and we as a country became more enlightened, there were instances where you had to offer corrective action for injustices of the past. This is one of those.

I will tell very clearly and very succinctly to my distinguished friend and colleague, the gentleman from Indiana, what is a socially disadvantaged farmer? The thrust of the law which was adopted in the Agriculture Committee is that you help a socially disadvantaged farmer by outreach, by working with them. The definition is, a would-be farmer went to the ASES office and was told, "You don't apply here, boy." That is what a socially disadvantaged farmer is.

He went to a Farmers Home Office in south Texas and they said, "Aqui no, hombre," "not here, man." That is what a socially disadvantaged farmer is. Need I say anymore?

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, if they make that kind of a comment to a person applying for assistance from these agencies, do they not have recourse through the American Civil Liberties Union and other agencies that we fund and through other agricultural programs, and is there not some legal recourse to them, rather than setting up a new program that we are going to spend $1 million for?

Mr. DE LA GARZA. Mr. Speaker, I would answer my distinguished colleague that the lapse of human nature was sanctioned by Government, our Government, our Supreme Court and our courts sanctioned what I am describing. Therefore, our Government has a responsibility to address to the tune of $1 million when you degraded an individual, when you attacked his dignity, when you told him, "You are not a member of our society. You don't apply here, boy."

It seems that we should do a little bit. This is so that the 1890 institutions, so that colleges and universities can work with those people, and maybe now the sons and grandchildren. I mean, it is embarrassing to state that you would still have sons or grandchildren of those who suffered the brunt in the beginning.

We have outreach for everything. We have outreach in every social program. The gentleman may not agree to them, but we do, and the outreach here is so that a group who was neglected because of human prejudice, sanctioned by Government, would have an opportunity, and this is a very simple community-based organization, because there are still those—I have a county adjoining my congressional district that does not have a single Hispanic in the ASES office, and for one who barely knows how to read and write, he goes hat in hand and many times he does not go in. My friend from his area and from his lifestyle and I guess the luck of having been born from another ethnic group, I do not think can understand the depth of desperation that people have when they are treated that way.

It is unfortunate here in 1992 we would be discussing this and being told, "Can't the American Civil Liberties help them?"

We caused the problem. Government adding to the inhumanity of humans caused the problem.

I would hope that the gentleman would understand that I am as fiscally responsible as I can be. Actually, in agriculture, what you are discussing here today, the bulk of it does not go to agriculture. The gentleman knows that. It goes to food stamps, school lunches, other programs.

This is one little thing we can do, saying "We understand. You can go to that office and they won't call you 'boy.'"

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there was not any money for this program in the House bill when it left the House. The conferees put this $1 million in.

It kind of gets to me that my good friend, the gentleman from Texas, looks across the Chamber at me because I have a suit and tie on and says, "You never experienced this kind of hardship. Therefore, you don't understand."

□ 1550

You could not be further from the truth, not further from the truth. I lived in a white ghetto in Indianapolis, in west Indianapolis in a place called the Valley, and we did not have any money, we did not have any welfare, we did not have anything. I shined shoes at J.D. Rushton's barbershop. So do not start telling me I do not understand poverty and I do not understand the problem.

I would just like to say that there are Members in this body and probably in the other body as well who started out in abject poverty. So we do understand a little bit about the situation.

But the fact of the matter is this country is going into the tank at a very, very rapid rate. The deficit is rapidly approaching well over $4 trillion, and it is going to be over $13 trillion, $13.5 trillion in just the next few years. It is going to be economic chaos.

Yet we keep coming up with these new ideas to spend $1 million, $5 million, $100 million, $200 million, for new programs that really do not do anything. If a person is being discriminated against and he is going to apply for a farm program, they have a lot of recourse. There is a lot of outreach programs right now, and we do not need to be starting a new one.

If we put $1 million into this thing this year, we will be back asking for $2 million, $5 million, $10 million a year from now, because there will be more and more people applying for help under this program. We do not need any new programs. We do not need any new entitlements.

So I just say to my colleagues, even though this is only $1 million right now, it is a step in the wrong direction that will lead to more spending down the road, and I submit to my colleagues there are other resources for people who are experiencing this kind of prejudice. Just because somebody is called "boy" or "you," or whatever, that every time that happens we have to start a new Government program. There are options for those people in the legal system to deal with those things.

Mr. Speaker, I reserve the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Speaker, I am not talking about poverty. All of us here either lived in or near poverty. I am not talking about poverty. What I am talking about is the responsibility of Government for the lapses of the human element, the prejudice that went beyond Government but was sanctioned by the Government.

I shined shoes also. So we are colleague shoeshine boys. That has nothing to do with what I am talking about. What we are talking about was prejudice that is still, and it is still endemic, inherent in the way of life that everyone took as a way of life, and this is now that you reach out to those that were neglected. I think Government has a legitimate responsibility here. This is not an entitlement. I agree with the gentleman on the entitlements and what we need to do there. This is not an entitlement. This is basically, I guess, if the gentleman would allow me, and he probably would agree to some degree at least, for me it is easing our conscience of what we did in the past. And if you can do it for this minimal amount in the thrust of $1.3 million, I think that you make some degree of amends because we are losing the small farms, we are losing the family farms.

Agriculture is not yet out of the woods. We are having tremendous problems. This is for those small farmers that will have 5, 10, 15, 20 acres that are yet hesitant to go into an office or to go into farming, which was their way of life and the life of their families. That is why you go to the 1890 institutions, the historically black institutions, you go to areas where you have majority Hispanic-type colleagues, you work within the resources. If the gentleman would read the law, you work within the existing resources of the Department of Agriculture.

So I do hope the gentleman understands that I agree with him on the necessity to reduce the budget. We agree on that. I agree with him that it is not nice to be poor. But it was not a question of being poor that we were addressing here. It was addressing a question that, because you were an Indian or a black or a Mexican, you just did not need to apply.

That is what we are trying to correct now. I do hope, with the kindness and charity that I know my good friend has in his heart, he would understand what we are trying to do here.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are a million reasons why we spend more money for new programs every single day and the taxpayers sit at home and they hear about these new programs that we come up with, and we start with $1 million and then it is $2 million, $5 million, $10 million, and before you know it, it could be up to $100 million, and they do not understand why. They do not understand why Government is growing at such a rapid rate that it is out of control and they do not understand why Government is taking more and more of the money that is available to expand the economy away from the private sector.

This is one of the reasons, because we keep coming up with new ideas, new programs that do not sound like they are very onerous at the very beginning, but before you know it they are costing millions and then billions, and the system just cannot handle it.

So I would just like to say to my colleagues that this is a small amount of money, $1 million, and normally I would not mess with it because we have a lot of bigger fish to fry around here, but I think it is a new program and we ought to have a vote on it, and I will ask for a vote.

Mr. Speaker, I yield back the balance of my time.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is not a new idea, it is not a new program. It is a worthwhile effort. We spend our time in committees making these decisions. Fine, challenge us on the floor, that is good. That is what this process is all about.

I support the motion for approval.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 144, not voting 41 as follows:

[Roll No. 380]

YEAS—249

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bereuter
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Cardin
Carper
Carr
Chapman
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Espy
Evans
Fazio
Feighan
Fields
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gibbons
Gilchrest
Gonzalez
Goodling
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hansen
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Jefferson
Jenkins
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rogers
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (TX)
Spratt
Staggers
Stallings
Stark
Studds
Sundquist
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—144

Allen
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clinger
Coble

Condit
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Erdreich
Ewing
Fawell
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gillmor
Gingrich
Glickman
Goss
Gradison
Hall (TX)
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Houghton
Hughes
Hunter
Hutto
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Johnston
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nichols
Nussle
Oxley
Packard
Pallone
Paxon
Penny
Petri
Pickett
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Slattery
Smith (NJ)
Smith (OR)
Snowe
Spence
Stearns
Stenholm
Stump
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Walsh
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—41

Ackerman
Barnard
Berman
Boxer
Broomfield
Campbell (CO)
Clay
Cunningham
DeFazio
Dickinson
Dymally
Early
Edwards (OK)
Fascell
Flake
Ford (TN)
Gephardt
Gilman
Hatcher
Hyde
Ireland
Jones (GA)
Kolter
Lehman (FL)
McCollum
Michel
Morrison
Oakar
Obey
Savage
Schulze
Solarz
Solomon
Stokes
Tallon
Towns
Traxler
Walker
Waxman
Weber
Wilson

□ 1617

Mr. BAKER and Mr. RAVENEL changed their vote from "yea" to "nay."

Messrs. EMERSON, LAUGHLIN, GOODLING, and GILCHREST changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNULTY). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 18, line 23, strike out "$410,000,000" and insert: "$413,443,000".

MOTION OFFERED BY MR. MCHUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$414,500,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore (Mr. McNULTY). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 19, line 13, strike out "$7,928,000" and insert: "$9,501,000".

MOTION OFFERED BY MR. MCHUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$10,428,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore (Mr. McNULTY). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 21: Page 19, line 24, after "improvements" insert: ": *Provided further*, That $462,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3818), in addition to other funds available in this appropriation for grants under this section".

MOTION OFFERED BY MR. MCHUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 21, and concur therein.

Mr. BURTON of Indiana. Mr. Speaker, I oppose the motion to recede and concur.

The SPEAKER pro tempore. Is the gentleman from New Mexico [Mr. SKEEN] in support of the motion?

Mr. SKEEN. Mr. Speaker, I support the motion.

□ 1620

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from New York [Mr. McNULTY] will be recognized for 20 minutes, the gentleman from New Mexico [Mr. SKEEN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the last amendment was for assistance to socially disadvantaged farmers. This one must be for socially disadvantaged Senators because it provides for a porkbarrel project for the chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies in the other body. It provides $462,000 for the National Center for Agricultural Law Research and Information at the Leflar School of Law in Fayetteville, AR.

This was put in the Senate bill by the senior Senator from Arkansas who is the acting chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies.

The SPEAKER pro tempore. The Chair would caution the gentleman from Indiana not to characterize the motivations of Members of the other body.

Mr. BURTON of Indiana. Mr. Speaker, I thank the Chair.

This is pure pork for Arkansas, pure unadulterated pork.

The Agriculture Department did not request it. It has not been specifically authorized, and it was not in the House bill.

I know it is only $462,000, but it is a perfect example of how in the conference committees, we have the leading members of the various Committees on Appropriations in both the House and the other body being able to get things they want for their particular districts in the bill.

This is $462,000, not authorized, not requested by the Agriculture Department and was not in the House bill.

I submit to my colleagues, we should not be spending the money for it.

Mr. Speaker, I reserve the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the motion. As the gentleman from Indiana has indicated, this appropriation was not in the House bill. However, it was in the Senate bill. It has been in the Appropriation bill for each of the last 5 years now.

This is the fifth year in which the Congress has provided money for this program. The conference agreement provides the same level of funding as last year.

It is a program which provides legal research on issues which relate to farmers and their relationship with the Government, and the benefits of this research are distributed to law schools and to farm organizations across the country.

Again, I would point out that although we did not provide the funds in our bill, it was provided in the Senate bill.

We have to reach some compromises between the House and the Senate in conference. We cannot stamp our feet and insist upon our position on all the issues.

This is something which we think has some merit and which the Congress has funded now for 5 years. It is the same amount as we provided last year. There is no increase.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the motion. I have no requests for time, and I yield back the balance of my time.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say to my colleagues, I will not ask for a vote on this, but I do want them to realize, I hope they realize that $462,000 put in the conference committee for a law library in somebody's specific district, when they already have libraries at that university, is a pure porkbarrel project. And that is one of the problems that we have around here.

The gentleman says that we cannot stand and stamp our feet because something like that is put in and so we put millions and billions of dollars' worth of porkbarrel projects in these bills all the time, and the appropriations bills continue to go up.

The average increase in the appropriations bills this year has been over 12, 14 percent. And the inflation rate has been 3 percent. So how do we get control of spending?

We have to start looking at these porkbarrel projects as well as the entitlements when they put them in the bill.

I will not ask for a rollcall vote on this, but I would like to say to my colleagues, especially those on the Committee on Appropriations, when they go to conference, please think about the taxpayers, please think about the waste. And let us cut these porkbarrel projects out.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore (Mr. MCNULTY). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 25, line 2, after "3109" insert: ": *Provided further*, That $99,000 of these funds shall be available for a field office in Hawaii".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided further*, That, hereafter, funds made available to the Agricultural Cooperative Service shall be available for a field office in Hawaii".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. (Mr. MCNULTY). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 35: Page 37, line 14, strike out "$205,266,000" and insert: "$238,266,000".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The Clerk read as follows:

The SPEAKER pro tempore. The clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: "$228,266,000, to remain available until expended (7 U.S.C. 2209b)".

Mr. BURTON of Indiana. Mr. Speaker, I oppose the motion to recede and concur.

The SPEAKER pro tempore. Does the gentleman from New Mexico [Mr. SKEEN] support the motion?

Mr. SKEEN. Mr. Speaker, I support the motion.

The SPEAKER pro tempore. The gentleman from New York [Mr. MCHUGH] will be recognized for 20 minutes, the gentleman from New Mexico [Mr. SKEEN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana. [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

This amendment in technical disagreement provides $228 million for watershed and flood control operations. This is $23 million above both the fiscal year 1992 and the House bill that left here just a couple of weeks ago. Here is the main problem.

The Senate report language earmarks $33 million for projects in West Virginia. West Virginia has less than 1 percent of the Nation's population, but it is receiving almost 15 percent of all the watershed and flood control money.

I submit to my colleagues, it is because the gentleman in the other body that has control of this committee is from West Virginia. So they are getting 15 times what any other State would be getting for flood control and watershed projects simply because of the position he occupies.

These projects were not in the House bill or the House report language. Every Member here is being taken to the cleaners when we allow one person in the other body to get 15 times what they should be getting simply because they have a powerful position on the Committee on Appropriations.

We all know who that gentleman is, so I say to my colleagues, when do we draw the line on this wasteful spending? When do we draw the line on these porkbarrel projects?

I say to my colleagues, this is a perfect example of where we can cut and where we ought to cut.

Mr. Speaker, I reserve the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the motion.

Very briefly, I am sure the gentleman would not argue that there is important work in watershed restoration and preservation that needs to be done. Therefore, the increase in this program is relatively modest as compared with the need throughout the country.

The objection the gentleman raises, I think, is that there is an earmarking in the report for the State of West Virginia. The fact is that we on the House side in conference were sensitive to this problem because we do not believe that the money, which is provided for in this account, should go solely to the State of West Virginia. So to that extent, I thoroughly agree with the gentleman from Indiana.

The report, however, does not earmark the money for West Virginia. The Senate language urges that the Soil Conservation Service consider a number of projects which were included in the report language from West Virginia, but that is not an earmarking.

Frankly, I appreciate the gentleman from Indiana raising this point, because I would like to make it clear in the RECORD that I do not, as a manager of the bill, I do not consider this to be an earmarking for West Virginia.

It is an increase in the funding for national purposes. The agency can consider the West Virginia projects, but there is no earmarking here.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

I appreciate what the gentleman said. I understand he has the same concerns I have. But it is in the report language. And because of the position that is occupied by the gentleman in the other body, we all know that that $33 million is going to get to his State, just like he wanted the FBI lab and the CIA center and all those road projects down there.

My colleagues, we have got to do something about that. We should defeat this technical disagreement, this amendment, and send it back over there.

□ 1630

Mr. Speaker, I do not believe we will, and therefore I will not ask for a rollcall vote on it, but we have to start doing it sometime.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 46, line 23, strike out "$309,254,000" and insert: "$310,643,000".

MOTION OFFERED BY MR. McHUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$313,039,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 67: Page 51, after line 14, insert:

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

For the cost of guaranteed lines of credit available pursuant to an emergency declaration as provided at section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $13,500,000, to remain available until expended, but not beyond fiscal year 2009: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to establish a guaranteed line of credit program level of $45,000,000, to remain available until expended, but not beyond fiscal year 2009, which the Department shall make available for the purpose of purchasing grains for the production of alcohol fuels at established cooperative facilities as necessary to meet deliveries under contract: *Provided further*, That a guarantee fee of one percent shall be paid at the time a guarantee is issued.

I addition, for administrative expenses necessary to carry out the credit guarantee program, $150,000.

MOTION OFFERED BY MR. McHUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

For the cost of guaranteed lines of credit available pursuant to an emergency declaration as provided at section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $9,000,000, to remain available until expended, but not beyond fiscal year 2009: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to establish a guaranteed line of credit program level of $30,000,000, to remain available until expended, but not beyond fiscal year 2009, which the Department shall make available for the purpose of purchasing grains or cellulosic materials for the production of alcohol fuels at established cooperative facilities as necessary to meet deliveries under contract; *Provided further*, That a guarantee fee of one percent shall be paid at the time a guarantee is issued.

In addition, for administrative expense necessary to carry out the credit guarantee program, $100,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 69: Page 51, line 20, strike out all after "Provided," down to and including "further," in line 23.

MOTION OFFERED BY MR. McHUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 69 and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: "That of this amount, $25,000,000 shall be available for water and waste disposal systems to benefit the Colonias along the U.S./Mexico border, including grants pursuant to section 306C: *Provided further*, That, with the exception of the foregoing $25,000,000,".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 73: Page 53, line 18, after "ment" insert: "*: Provided further*, That $2,000,000 shall be available for grants to statewide private, nonprofit public television systems in predominantly rural States to provide information and services on rural economics and agriculture *: Provided further*, That grants made to or to be made to these television systems during fiscal years 1990 through 1992 under the Consolidated Farm and Rural Development Act shall for all purposes be deemed to have been made pursuant to Section 310B(j) of such Act".

MOTION OFFERED BY MR. McHUGH

Mr. McHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. McHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 73, and concur therein.

Mr. BURTON of Indiana. Mr. Speaker, I rise in opposition to the motion to recede and concur.

The SPEAKER pro tempore. Does the gentleman from New Mexico [Mr. SKEEN] support the motion?

Mr. SKEEN. I support the motion, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New York [Mr. McHUGH] will be recognized for 20 minutes, the gentleman from New Mexico [Mr. SKEEN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, amendment No. 73 in technical disagreement provides $2 million for grants to public television stations. This was not in the Senate bill, it was not in the House bill, it was unauthorized. The Agriculture Department did not request it, and we are already spending a lot of money on public television.

Mr. Speaker, if these stations need taxpayer dollars, let them obtain this money through the Corporation for Public Broadcasting. We should not be adding $2 million that is not in either the House or the Senate bill, and it is unauthorized. The Department of Agriculture did not want it, and we are putting it in there.

Mr. Speaker, this is $2 million in pork. I do not think it should be spent. For that reason, I think we should disagree with this amendment.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion. First of all. Mr. Speaker, this $2 million was included in the Senate bill, so it was an item in conference between the House and the Senate. It is true that the House did not provide the $2 million in our bill initially, but the Senate did have it in theirs, and of course, it was an item that we had to deal with. The House in this case receded to the position of the Senate. It is a program which has been funded for a number of years. It is not an increase over last year's level. It is the same level of spending as we provided for in last year's bill.

Therefore, Mr. Speaker, I think it is consistent with the restraint we attempted to show in conference, and I would urge passage of the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 74: Page 53, line 18, after "ment" insert:" : *Provided further*, That $400,000 of the amount made available under this heading in fiscal year 1992 shall be made available to the Vermont State Colleges in fiscal year 1992: *Provided further*, That $400,000 of the amount made available by this paragraph shall be made available to the Vermont State Colleges to construct, maintain and operate additional educational and learning centers and to provide educational programming in fiscal year 1993".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

": *Provided further*, That amounts made available under this heading in fiscal year 1992 shall be available in fiscal year 1993".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 80: Page 55, line 4, after "account," insert: "$150,000 shall be derived by transfer from the Alcohol Fuels Credit Guarantee Program Account in this Act and merged with this account,".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$100,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 98: Page 61, line 3, strike out "$6,674,521,000" and insert: "$6,767,484,000".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$6,826,553,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 99: Page 61, line 4, strike out "$2,384,066,000" and insert: "$2,477,029,000".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 99 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$2,536,098,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 101: Page 62, line 19, strike out "$1,322,000 shall be available" and insert: "$2,000,000 shall be available to provide financial and other assistance".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 101 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$1,661,000",

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 67, line 17, strike out "$511,619,000" and insert: "$538,295,000".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: "$509,996,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 119: Page 83, strike out lines 9 to 14.

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 119 and concur therein with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 730. For loan guarantees authorized under sections 1465-1469 of Public Law 101-624 for the Agricultural Resource Conservation Demonstration Program, $10,000,000. For the cost, as defined in section 502 of the Congressional Budget Act of 1974, $3,644,000: *Provided*, That, hereafter, no other funds are available in this or any other Act to carry out this program, other than those provided for in advance in Appropriations Acts, except for the cost of administering the program: *Provided further*, That such limitation shall not apply with respect to the duties and obligations of the Secretary regarding any loan or note guarantees, interest assistance agreements, or other understandings entered into during fiscal year 1992, and the personnel of the Department shall carry out the duties and obligations of the Secretary, and any other requirements imposed on the Secretary regarding such Agricultural Resource Conservation Demonstration Loan Program with respect to the loan made and guaranteed in 1992."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 120: Page 83, line 15, strike out "731" and insert: "730".

MOTION OFFERED BY MR. MCHUGH

Mr. MCHUGH. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. MCHUGH moves that the House recede from its disagreement to the amendment of the Senate numbered 120 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

"731. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a program within the Agricultural Stabilization and Conservation Service for the purchase of computer hardware and software and other costs in support of long-range Information Resources Management objectives in Automated Data Processing if the aggregate amount of funds transferred by the Commodity Credit Corporation to the Agricultural Stabilization and Conservation Service for such purchases exceeds $52,400,000.''.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MCHUGH].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I was attending a meeting at the White House and did not vote on rollcall No. 380, to recede and concur in Senate amendment No. 16 to H.R. 5487, the Agriculture and related agencies appropriations for fiscal year 1993. Had I been present to vote, I would have voted "yea."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3515

Mr. DAVIS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3515.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NEW RIVER WILD AND SCENIC STUDY ACT OF 1992

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5021, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5021, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 359, nays 41, not voting 34, as follows:

[Roll No. 381]

YEAS—359

Abercrombie
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—41

Armey
Ballenger
Barrett
Barton
Boehner
Burton
Carr
Coble
Combest
Crane
Dannemeyer
DeLay
Doolittle
Duncan
Ewing
Fawell
Fields
Gekas
Goodling
Hancock
Hansen
Herger
Holloway
Inhofe
Johnson (TX)
Marlenee
McCandless
McMillan (NC)
Nichols
Packard
Petri
Pursell
Rohrabacher
Roth
Sensenbrenner
Stearns
Stump
Taylor (NC)
Thomas (WY)
Vucanovich
Zeliff

NOT VOTING—34

Ackerman
Alexander
Barnard
Berman
Boxer
Brewster
Broomfield
Campbell (CO)
Clay
Coughlin
Cunningham
DeFazio
Dickinson
Dymally
Early
Edwards (OK)
Flake
Ford (TN)
Hatcher
Hyde
Kolter
McCollum
Mrazek
Oakar
Schulze
Smith (FL)
Solarz
Solomon
Tallon
Towns
Traxler
Walker
Weber
Wilson

□ 1720

Mr. ZELIFF changed his vote from "yea" to "nay."

Messrs. PAYNE of Virginia, DREIER of California, HENRY, ARCHER, and ALLEN changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4175

Mr. LEWIS of Florida. Mr. Speaker, I ask unanimous consent that my time be removed as a cosponsor of the bill (H.R. 4175).

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4323, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. WHEAT, from the Committee on Rules, submitted a privileged report (Rept. No. 102-838) on the resolution (H. Res. 551) providing for the consideration of the bill (H.R. 4323) to improve education for all students by restructuring the education system in the States, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON S. 2532, FREEDOM SUPPORT ACT OF 1992

Mr. FASCELL. Mr. Speaker, pursuant to House Resolution 545, I move that the House insist on its amendment to S. 2532 to support freedom and open markets in the independent states of the former Soviet Union, and for other purposes, and request a conference with the Senate thereon.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL].

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BROOMFIELD moves that the managers on the part of the House be instructed to insist on title V, regarding nonproliferation and disarmament activities, of the House amendment.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes, and the gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. FASCELL. On the gentleman's motion, Mr. Speaker, as far as this side is concerned, we have no disagreement with it.

Mr. Speaker, I yield back my time.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time, and I move the previous question on that motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan [Mr. BROOMFIELD].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Foreign Affairs, for consideration of the Senate bill (except sections 113–14, 118, 126, 134, 136(d) and 146), and the House amendment (except title VI), and modifications committed to conference: Messrs. FASCELL, HAMILTON, SOLARZ, BERMAN, JOHNSTON of Florida, ENGEL, BROOMFIELD, GILMAN, LEACH, and BEREUTER.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 113–14, 118, 126, 134, 136(d) and 146 of the Senate bill, and title IV of the House amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON and BROOMFIELD.

As additional conferees from the Committee on Agriculture, for consideration of sections 107, 116, 120, 148–49, 147, 403, and 405 of the Senate bill, and section 702 of the House amendment, and modifications committed to conference: Messrs. DE LA GARZA, ROSE, PENNY, GLICKMAN, COLEMAN of Missouri, and ROBERTS.

As additional conferees from the Committee on Armed Services, for consideration of sections 110, 131, 137–38 of the Senate bill, and title V of the House amendment, and modifications committed to conference: Messrs. ASPIN, MCCURDY, and DICKINSON.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 113–14, 118, 126, 134, 136(d) and 146 of the Senate bill, and title IV of the House amendment, and modifications committed to conference: Ms. OAKAR, and Messrs. NEAL of North Carolina, LAFALCE, TORRES, KLECZKA, KENNEDY, WYLIE, LEACH, BEREUTER, and MCCANDLESS.

As additional conferees from the Committee on Energy and Commerce, for consideration of section 151 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, SHARP, COOPER, BRUCE, HARRIS, SCHEUER, LENT, MOORHEAD, DANNEMEYER, and OXLEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 108 and 123 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, SHARP, and LENT.

As additional conferees from the Committee on the Judiciary, for consideration of section 704 of the House amendment, and modifications committed to conference: Messrs. BROOKS, MAZZOLI, and FISH.

As additional conferees from the Committee on Public Works and Transportation, for consideration of section 156 of the Senate bill, and modifications committed to conference: Messrs. ROE, OBERSTAR, and HAMMERSCHMIDT.

As additional conferees from the Committee on Science, Space and Technology, for consideration of section 135 of the Senate bill, and section 504 and title IV of the House amendment, and modifications committed to conference: Messrs. BROWN, BOUCHER, and WALKER.

There was no objection.

REPORT ON ADMINISTRATION OF RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1991.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through Center technical reports, the Radiological Health Bulletin, and other publicly available sources. This annual report serves little useful purpose and diverts Agency resources from more productive activities.

GEORGE BUSH.

THE WHITE HOUSE, *August 11, 1992.*

SMALL BUSINESS CREDIT AND BUSINESS OPPORTUNITY ENHANCEMENT ACT OF 1992

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4111) to amend the Small Business Act to provide additional loan assistance to small businesses, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Credit and Business Opportunity Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act shall be as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

Sec. 101. Short title.
Sec. 102. Authorizations.
Sec. 103. Buy American preference.
Sec. 104. State limitations on interest rates.

Subtitle B—Microloan Demonstration Program Amendments

Sec. 111. Short title.
Sec. 112. Findings.
Sec. 113. Microloan demonstration program amendments.
Sec. 114. Regulations.
Sec. 115. Authorization of appropriations.

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

Sec. 201. Extension of demonstration programs.

Sec. 202. Management improvements to the small business competitiveness demonstration program.
Sec. 203. Amendments to the dredging demonstration program.

Subtitle B—Defense Economic Transition Assistance

Sec. 211. Section 7(a) loan program.
Sec. 212. Small business development center program.

Subtitle C—Small Business Administration Management

Sec. 221. Disadvantaged small business status decisions.
Sec. 222. Establishment of size standards.
Sec. 223. Management of Small Business Development Center Program.

Subtitle D—Technical Amendments and Repealers

Sec. 231. Commission on minority business development.

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

Sec. 301. Short title.
Sec. 302. Survey.
Sec. 303. Report.
Sec. 304. Definitions.

Subtitle B—Small Business Loan Secondary Market Study

Sec. 311. Secondary market for loans to small businesses.

Subtitle C—Contract Bundling Study

Sec. 321. Contract bundling study.

Subtitle D—Resolution Regarding Small Business Access to Capital

Sec. 331. Sense of the Congress.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Small Business Credit Crunch Relief Act of 1992".

SEC. 102. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) Except as may be otherwise specifically provided by law, the amount of deferred participation loans authorized in this section—

"(A) shall mean the net amount of the loan principal guaranteed by the Small Business Administration (and does not include any amount which is not guaranteed); and

"(B) shall be available for a national program, except that the Administration may use not more than an amount equal to 10 percent of the amount authorized each year for any special or pilot program directed to identified sectors of the small business community or to specific geographic regions of the United States.";

(2) by amending subsection (e)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $5,978,000,000 in deferred participation loans and other financing. Of such sum, the Administration is authorized to make—

"(A) $5,200,000,000 in general business loans, as provided in section 7(a);

"(B) $53,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $725,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.";

(3) amending subsection (g)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $7,030,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $6,200,000,000 in general business loans as provided in section 7(a);

"(B) $55,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $775,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958."; and

(4) by amending subsection (i)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $8,083,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $7,200,000,000 in general business loans, as provided in section 7(a);

"(B) $58,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $825,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.".

SEC. 103. BUY AMERICAN PREFERENCE.

In providing financial assistance with amounts appropriated pursuant to the amendments made by this Act, the Administrator of the Small Business Administration shall, when practicable, accord preference to small business concerns which use or purchase equipment and supplies produced in the United States. The Administrator shall also encourage small business concerns receiving such assistance to purchase such equipment and supplies.

SEC. 104. STATE LIMITATIONS ON INTEREST RATES.

Section 7(a)(4) of the Small Business Act (15 U.S.C. 636(a)(4)) is amended by striking "The rate of interest on financings made on a deferred basis shall be legal and reasonable but" and inserting the following: "Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any financing made on a deferred basis pursuant to this subsection".

Subtitle B—Microloan Demonstration Program Amendments

SEC. 111. SHORT TITLE.

This subtitle may be cited as the "Microlending Expansion Act of 1992".

SEC. 112. FINDINGS.

The Congress finds that—

(1) nationwide, there are many individuals who possess skills that, with certain short-term assistance, could enable them to become successfully self-employed;

(2) many talented and skilled individuals who are employed in low-wage occupations could, with sufficient opportunity, start their own small business concerns, which could provide them with an improved standard of living;

(3) most such individuals have little or no savings, a nonexistent or poor credit history, and no access to credit or capital with which to start a business venture;

(4) women, minorities, and individuals residing in areas of high unemployment and high levels of poverty have particular difficulty obtaining access to credit or capital;

(5) providing such individuals with small-scale, short-term financial assistance in the form of microloans, together with intensive marketing, management, and technical assistance, could enable them to start or maintain small businesses, to become self-sufficient, and to raise their standard of living;

(6) banking institutions are reluctant to provide such assistance because of the administrative costs associated with processing and servicing the loans and because they lack experience in providing the type of marketing, management, and technical assistance needed by such borrowers;

(7) many organizations that have had successful experiences in providing microloans and marketing, management, and technical assistance to such borrowers exist throughout the Nation; and

(8) loans from the Federal Government to intermediaries for the purpose of relending to start-up, newly established and growing small business concerns are an important catalyst to attract private sector participation in microlending.

SEC. 113. MICROLOAN DEMONSTRATION PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(A)—

(A) by amending clause (i) to read as follows:

"(i) to assist women, low-income, and minority entrepreneurs and business owners and other such individuals possessing the capability to operate successful business concerns, and, in particular, those entrepreneurs and business owners located in labor surplus areas or low-income areas;"; and

(B) in clause (iii)(I), by inserting ", particularly loans in amounts averaging not more than $5,000," after "small-scale loans";

(2) in paragraph (3)(A)—

(A) by striking "As part of" and inserting the following:

"(i) IN GENERAL.—As part of";

(B) by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(C) in subclause (III), as redesignated, by striking "economic and unemployment" and inserting "economic, poverty, and unemployment";

(D) by amending subclause (VIII), as redesignated, to read as follows:

"(VIII) any plan to involve other technical assistance providers (such as counselors from the Service Corps of Retired Executives or small business development centers) or private sector lenders in assisting selected business concerns."; and

(E) by adding at the end the following:

"(ii) SELECTION OF INTERMEDIARIES.—In selecting intermediaries to participate in the program established under this subsection, the Administration shall give priority to those applicants that provide loans to small business concerns located in labor surplus areas or in low-income areas.";

(3) by amending paragraph (3)(F) to read as follows:

"(F) LOAN DURATION; INTEREST RATES.—

"(i) LOAN DURATION.—Loans made by the Administration under this subsection shall be for a term of 10 years.

"(ii) APPLICABLE INTEREST RATES.—Except as provided in clauses (iii) and (iv), loans made by the Administration under this subsection to an intermediary shall bear an interest rate equal to one-half of 1 percentage point below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(iii) RATES APPLICABLE TO LOANS IN LABOR SURPLUS AND LOW-INCOME AREAS.—Loans made by the Administration to an intermediary that predominantly serves small business concerns and entrepreneurs located in labor surplus and low-income areas shall bear an interest rate that is 1.25 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(iv) RATES APPLICABLE TO CERTAIN SMALL LOANS.—Loans made by the Administration to an intermediary described in clause (iii) that

makes loans to small business concerns and entrepreneurs averaging not more than $5,000, shall bear an interest rate that is 2 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(v) RATES APPLICABLE TO MULTIPLE SITES OR OFFICES.—The interest rate prescribed in clause (ii), (iii), or (iv) shall apply to each separate loan-making site or office of 1 intermediary only if such site or office meets the requirements of that clause.

"(vi) RATE BASIS.—The applicable rate of interest under this paragraph shall—

"(I) be applied retroactively for the first year of an intermediary's participation in the program, based upon the actual lending practices of the intermediary as determined by the Administration prior to the end of such year; and

"(II) be based in the second and subsequent years of an intermediary's participation in the program, upon the actual lending practices of the intermediary during the term of the intermediary's participation in the program.

"(vii) COVERED INTERMEDIARIES.—The interest rates prescribed in this subparagraph shall apply to all loans made to intermediaries under this subsection on or after October 28, 1991.";

(4) in paragraph (4)—

(A) in subparagraph (A), by striking "Subject to" and inserting "Except as otherwise provided in subparagraphs (C) and (D) and subject to"; and

(B) by adding at the end the following:

"(C) GRANTS FOR INTERMEDIARIES IN LABOR SURPLUS AREAS AND LOW-INCOME AREAS.—

"(i) IN GENERAL.—Except as otherwise provided in subparagraph (D), each intermediary that receives a loan under paragraph (1)(B)(i) and that predominantly serves small business concerns and entrepreneurs located in labor surplus or low-income areas shall be eligible to receive a grant in an amount equal to 25 percent of the total outstanding balance of loans made to it under this subsection to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

"(ii) CONTRIBUTION.—As a condition of any grant made under clause (i), the Administration shall require the intermediary to contribute an amount equal to 25 percent of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

"(D) ADDITIONAL TECHNICAL ASSISTANCE GRANTS FOR MAKING CERTAIN LOANS.—

"(i) IN GENERAL.—Each intermediary that meets the requirements of subparagraph (C) and that has a portfolio of loans made under this subsection that averages not more than $5,000 during the period of the intermediary's participation in the program shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection, in addition to grants made under subparagraph (C)(i).

"(ii) PURPOSES.—A grant awarded under clause (i) may be used to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

"(iii) CONTRIBUTION EXCEPTION.—The contribution requirements in subparagraph (C)(ii) do not apply to grants made under this subparagraph.

"(E) ELIGIBILITY FOR MULTIPLE SITES OR OFFICES.—The eligibility for a grant described in subparagraph (A), (C), or (D) shall be determined separately for each loan-making site or office of 1 intermediary.";

(5) in paragraph (5)(A), by striking "2 grants" and inserting "6 grants";

(6) in paragraph (6), by amending subparagraph (C) to read as follows:

"(C) INTEREST LIMIT.—Notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received, or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this subsection shall not exceed the rate of interest applicable to a loan made to an intermediary by the Administration—

"(i) in the case of a loan made by the intermediary to a small business concern or entrepreneur other than those described in clauses (ii) and (iii), by more than 7 percentage points;

"(ii) in the case of a loan of more than $5,000 made by the intermediary to a small business concern or entrepreneur located in a labor surplus or low-income area, by more than 7.75 percentage points; and

"(iii) in the case of a loan of not more than $5,000 made by the intermediary to a small business concern or entrepreneur located in a labor surplus or low-income area, by more than 9.5 percentage points.";

(7) in paragraph (7)—

(A) in subparagraph (A), by striking "35 microloan programs" and inserting "60 microloan programs";

(B) in subparagraph (B), by striking "25 additional" and inserting "50 additional";

(C) by amending subparagraph (C)(i) to read as follows:

"(i) be awarded more than 4 microloan programs in the first 2 years of the demonstration program nor more than 2 microloan programs in any year thereafter;";

(D) in subparagraph (C)(ii), by striking "$1,000,000" and inserting "$1,500,000"; and

(E) in subparagraph (C)(iii), by striking "$1,500,000" and inserting "$2,500,000";

(8) by amending paragraph (8) to read as follows:

"(8) ASSISTANCE TO RURAL AREAS, LABOR SURPLUS AREAS, AND LOW-INCOME AREAS.—In funding microloan programs, the Administration shall ensure that not less than 70 percent of the programs funded under this subsection will provide microloans to small business concerns and entrepreneurs located in rural areas, labor surplus areas, and low-income areas.";

(9) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively;

(10) by inserting after paragraph (8) the following:

"(9) TECHNICAL ASSISTANCE FOR INTERMEDIARIES.—

"(A) IN GENERAL.—The Administration may procure technical assistance for intermediaries participating in the Microloan Demonstration Program to ensure that such intermediaries have the knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs.

"(B) ASSISTANCE AMOUNT.—The Administration shall transfer 3 percent of its annual appropriation for loans under this subsection to the Administration's Salaries and Expense Account for the specific purpose of providing 1 or more technical assistance grants to experienced microlending organizations to achieve the purpose set forth in subparagraph (A)."; and

(11) in paragraph (11), as redesignated—

(A) by amending subparagraph (A) to read as follows:

"(A) the term 'intermediary' means—

"(i) a private, nonprofit entity;

"(ii) a nonprofit community development corporation;

"(iii) a consortium of private, nonprofit organizations or nonprofit community development corporations; or

"(iv) a quasi-governmental economic development entity (such as a planning and development district), other than a State, county, municipal government, or any agency thereof, if—

"(I) no application is received from an eligible nonprofit organization; or

"(II) the Administration determines that the needs of a region or geographic area are not adequately served by an existing, eligible nonprofit organization that has submitted an application,

that seeks to borrow or has borrowed funds from the Administration to make microloans to small business concerns under this subsection;";

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

"(D) the term 'low-income area' means—

"(i) a county or parish; or

"(ii) a census tract or block numbering area within a central city of a metropolitan area,

in which not less than 20 percent of the population has an annual income below the poverty level, as determined by the most recently available census data; and

"(E) the term 'labor surplus area' means an area designated as such by the Secretary of Labor.".

(b) EFFECTIVE DATES.—The amendments made by paragraphs (4) and (5) of subsection (a) shall become effective on October 1, 1992.

SEC. 114. REGULATIONS.

Not later than 45 days after the date of enactment of this Act, the Small Business Administration shall promulgate interim final regulations to implement the amendments made by this subtitle.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS.—To carry out the program established under section 7(m), there are authorized to be appropriated to the Small Business Administration—

"(1) for fiscal year 1992—

"(A) $45,000,000, to be used for the provision of loans; and

"(B) $10,000,000, to be used for the provision of grants;

"(2) for fiscal year 1993—

"(A) $80,000,000, to be used for the provision of loans; and

"(B) $25,000,000, to be used for the provision of grants; and

"(3) for fiscal year 1994—

"(A) $60,000,000, to be used for the provision of loans; and

"(B) $35,000,000, to be used for the provision of grants.".

(b) REPEAL OF EXISTING PROVISION.—Section 609 of Public Law 102–140 (105 Stat. 831) is amended by striking subsection (l).

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

SEC. 201. EXTENSION OF DEMONSTRATION PROGRAMS.

(a) SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.—Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3889) is amended to read as follows:

"(c) PROGRAM TERM.—The Program shall commence on January 1, 1989, and terminate on September 30, 1996.".

(b) ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES.—Section 721(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3895) is amended by striking "September 30, 1992" and inserting "September 30, 1996".

(c) EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.—Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by striking "During fiscal years 1989, 1990, 1991, and 1992, the" and inserting "The"; and

(2) by inserting before the period at the end ", commencing on October 1, 1989 and terminating on September 30, 1996".

SEC. 202. MANAGEMENT IMPROVEMENTS TO THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) IMPLEMENTATION ON A FISCAL YEAR BASIS.—Section 712(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3890) is amended—

(1) in paragraph (1), by striking "4 quarters" in the third sentence and inserting "4 fiscal year quarters"; and

(2) in paragraph (3), by inserting "fiscal year" before "quarter".

(b) TARGETED APPLICATION OF REMEDIAL MEASURES.—Section 713(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended—

(1) in the first sentence, by striking "to the extent necessary for such agency to attain its goal" and inserting "only at those buying activities of the participating agency that failed to attain the small business participation goal required by section 712(a)";

(2) by striking the third sentence; and

(3) by inserting after the first sentence, the following new sentence: "Upon determining that its contract awards to small business concerns again meet the goals required by section 712(a), a participating agency shall promptly resume the use of unrestricted solicitations pursuant to subsection (a).".

(c) RELATIONSHIP TO RELATED LAW.—Section 713 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(d) RELATIONSHIP TO OTHER APPLICABLE LAW.—Solicitations for the award of contracts for architectural and engineering services (including surveying and mapping) issued by a Military Department or a Defense agency shall comply with the requirements of subsections (a) and (b) of section 2855 of title 10, United States Code.".

(d) SUBCONTRACTING ACTIVITY.—Section 714 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) SUBCONTRACTING ACTIVITY.—

"(1) SIMPLIFIED DATA COLLECTION SYSTEM.—The Administrator for Federal Procurement Policy shall develop and implement a simplified system to collect data on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) as other than prime contractors.

"(2) PARTICIPATING INDUSTRIES.—The system established under paragraph (1) shall be used to collect data regarding contracts for architectural and engineering services (including surveying and mapping). The Administrator for Federal Procurement Policy may expand such system to collect data regarding such other designated industry groups as deemed appropriate.

"(3) PARTICIPATING AGENCIES.—As part of the system established under paragraph (1) data shall be collected from—

"(A) the Environmental Protection Agency;

"(B) the National Aeronautics and Space Administration;

"(C) the United States Army Corps of Engineers (Civil Works); and

"(D) the Department of Energy.

The Administrator for Federal Procurement Policy may require the participation of additional departments or agencies from the list of participating agencies designated in section 718.

"(4) DETERMINING SMALL BUSINESS PARTICIPATION RATES.—The value of other than prime contract awards to small business concerns furnishing architectural and engineering services (including surveying and mapping) (or other services provided by small business concerns in other designated industry groups as may be designated for participation by the Administrator for Federal Procurement) shall be counted towards determining whether the small business participation goal required by section 712(a) has been attained.

"(5) DURATION.—The system described in subsection (a) shall be established not later than October 1, 1992 (or as soon as practicable thereafter on the first day of a subsequent quarter of fiscal year 1993), and shall terminate on September 30, 1996.".

(e) STATUS OF SMALL BUSINESS CONCERNS.—Section 714(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) (as redesignated by subsection (d)) is amended—

(1) in the subsection heading, by inserting "AND STATUS" after "SIZE";

(2) by inserting "and the status of the small business concern (as a small business concern owned and controlled by socially and economically disadvantaged individuals)" after "size of the small business concern".

(f) REPORTS TO CONGRESS.—Section 716 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3893) is amended—

*(1) in the section heading, by striking "**REPORT**" and inserting "**REPORTS**";*

(2) in the first sentence of subsection (a), by striking "fiscal year 1991 data is" and inserting "data for fiscal year 1991 and 1995 are"; and

(3) in subsection (c), by striking "report" and inserting "report to be submitted during calendar year 1996".

(g) IMPROVING ACCURACY OF DATA PERTAINING TO A–E SERVICES.—Section 717(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3894) is amended by inserting before the period at the end the following: ", and such contract was awarded under the qualification-based selection procedures required by title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

(h) PROCUREMENT PROCEDURES.—Restricted competitions pursuant to section 713(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) shall not be imposed with respect to the designated industry group of architectural and engineering services if the rate of small business participation exceeds 35 percent, until the improvements to the collection of data regarding prime contract awards (as required by subsection (g)) and the system for collecting data regarding other than prime contract awards (as required by subsection (d)) have been implemented, as determined by the Administrator for Federal Procurement Policy.

(i) TEST PLAN AND POLICY DIRECTION.—The Administrator for Federal Procurement Policy shall issue appropriate modifications to the test plan and policy direction issued pursuant to section 715 of the Small Business Competitiveness Demonstration Program Act of 1988, to conform to the amendments made by this section and section 201(a).

SEC. 203. AMENDMENTS TO THE DREDGING DEMONSTRATION PROGRAM.

(a) MODIFICATION OF THE SMALL BUSINESS PARTICIPATION GOALS.—The first sentence of section 722(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3895) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) 20 percent during fiscal year 1993, and each subsequent year during the term of the program, including 5 percent of the dollar value of suitable contracts that shall be reserved for emerging small business concerns.".

(b) EXCLUSION OF CERTAIN CONTRACTS.—Section 722(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is further amended—

(1) by striking "total dollar value of contracts" and inserting "aggregate value of all suitable contracts"; and

(2) by striking the last sentence and inserting the following: "The total value of contracts to be performed exclusively through the use of so-called dustpan dredges or seagoing hopper dredges is deemed to be generally unsuitable for performance by small business concerns and is to be excluded in calculating whether the rates of small business participation specified in subsection (b) have been attained.".

(c) QUALIFIED SMALL BUSINESS COMPETITORS.—Section 722(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) Prior to making a determination to restrict a solicitation for the performance of a dredging contract for exclusive competition among 2 or more eligible small business concerns in accordance with section 19.5 of the Government-wide Federal Procurement Regulation (48 C.F.R. 19.5, or any successor thereto), the contracting officer shall make a determination that each anticipated offeror is a responsible source (as defined under section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)) and has (or can demonstrate the capability to obtain) the specialized dredging equipment deemed necessary to perform the work to be required in accordance with the schedule to be specified in the solicitation.".

(d) REPORTS.—Section 722(f) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is amended—

(1) in paragraph (1), by striking "September 30, 1992" and inserting "September 30, 1995"; and

(2) in paragraph (2), by striking "of the fiscal years 1989, 1990, and 1991" and inserting "fiscal year during the term of the program established under subsection (a)".

Subtitle B—Defense Economic Transition Assistance

SEC. 211. SECTION 7(a) LOAN PROGRAM.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(21)(A) The Administration may make loans under the authority of this subsection—

"(i) to a small business concern that has been (or can reasonably be expected to be) detrimentally affected by—

"(I) the closure (or substantial reduction) of a Department of Defense installation; or

"(II) the termination (or substantial reduction) of a Department of Defense program on which such small business was a prime contractor or subcontractor (or supplier) at any tier; or

"(ii) to a qualified individual seeking to establish (or acquire) and operate a small business concern.

"(B) Recognizing that greater risk may be associated with a loan to a small business concern described in subparagraph (A)(i), any reasonable doubts concerning the firm's proposed business plan for transition to nondefense-related markets shall be resolved in favor of the loan applicant when making any determination regarding the sound value of the proposed loan in accordance with paragraph (6).

"(C) Loans pursuant to this paragraph shall be authorized in such amounts as provided in advance in appropriation Acts for the purposes of loans under this paragraph.

"(D) For purposes of this paragraph a qualified individual is—

"(i) a member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement;

"(ii) a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement; or

"(iii) an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program.".

SEC. 212. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) by striking subparagraph (D);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively; and

(3) by inserting before subparagraph (H) the following new subparagraph:

"(G) assisting small businesses to develop and implement strategic business plans to timely and effectively respond to the planned closure (or reduction) of a Department of Defense facility within the community, or actual or projected reductions in such firms' business base due to the actual or projected termination (or reduction) of a Department of Defense program or a contract in support of such program—

"(i) by developing broad economic assessments of the adverse impacts of—

"(I) the closure (or reduction) of the Department of Defense facility on the small business concerns providing goods or services to such facility or to the military and civilian personnel currently stationed or working at such facility; and

"(II) the termination (or reduction) of a Department of Defense program (or contracts under such program) on the small business concerns participating in such program as a prime contractor, subcontractor or supplier at any tier;

"(ii) by developing, in conjunction with appropriate Federal, State, and local governmental entities and other private sector organizations, the parameters of a transition adjustment program adaptable to the needs of individual small business concerns;

"(iii) by conducting appropriate programs to inform the affected small business community regarding the anticipated adverse impacts identified under clause (i) and the economic adjustment assistance available to such firms; and

"(iv) by assisting small business concerns to develop and implement an individualized transition business plan.".

Subtitle C—Small Business Administration Management

SEC. 221. DISADVANTAGED SMALL BUSINESS STATUS DECISIONS.

(a) PUBLICATION OF DECISIONS.—A decision issued pursuant to section 7(j)(11)(F)(vii) of the Small Business Act (15 U.S.C. 636(j)(11)(F)(vii)) shall—

(1) be made available to the protestor, the protested party, the contracting officer (if not the protestor), and all other parties to the proceeding, and published in full text; and

(2) include findings of fact and conclusions of law, with specific reasons supporting such findings or conclusions, upon each material issue of fact and law of decisional significance regarding the disposition of the protest.

(b) PRECEDENTIAL VALUE OF PRIOR DECISIONS.—A decision issued under section 7(j)(11)(F)(vii) of the Small Business Act that is issued prior to the date of enactment of this Act shall not have value as precedent in deciding any subsequent protest until such time as the decision is published in full text.

SEC. 222. ESTABLISHMENT OF SIZE STANDARDS.

(a) IN GENERAL.—Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by striking "In addition" and all that follows through the end period and by adding at the end the following new paragraphs:

"(2) In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards (by number of employees or dollar volume of business) by which a business concern is to be recognized as a small business concern for the purposes of this Act or any other Act. Unless specifically authorized by statute, the Secretary of a department or the head of a Federal agency may not prescribe for the use of such department or agency a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(A) is being proposed after an opportunity for public notice and comment;

"(B) provides for determining, over a period of not less than 3 years—

"(i) the size of a manufacturing concern on the basis of the number of its employees during that period; and

"(ii) the size of a concern providing services on basis of the average gross receipts of the concern during that period; and

"(C) is approved by the Administrator.

"(3) When establishing or approving any size standard pursuant to paragraph (2), the Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.".

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue proposed regulations to implement the amendments made by subsection (a). Final regulations shall be issued not later than 270 days after such date of enactment.

(2) LISTING OF ADDITIONAL SIZE STANDARDS.—The regulations required by paragraph (1) shall include a listing of all small business size standards prescribed by statute or by individual Federal departments and agencies, identifying the programs or purposes to which such size standards apply.

SEC. 223. MANAGEMENT OF SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit to the Committees on Small Business and the Committees on Appropriations of the Senate and the House of Representatives, proposed regulations for the Small Business Development Program authorized by section 21 of the Small Business Act (15 U.S.C. 648). Such proposed regulations shall not be published in the Federal Register.

Subtitle D—Technical Amendments

SEC. 231. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

(a) TERMINATION.—Section 505(f) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note; 102 Stat. 3887) is amended by inserting before the period at the end "or September 30, 1992, whichever is later".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if it were included in the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note).

SEC. 232. TECHNICAL CORRECTIONS.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Small Business Act (15 U.S.C. 837) is amended—

(1) in subsection (a)(1)(B), by striking the period and inserting a semicolon;

(2) in subsection (a)(1)(C), by striking the period and inserting "; and";

(3) in subsection (a)(6)(C)(i), by striking "to (A)" and inserting "to subparagraph (A)";

(4) in subsection (a)(6)(C)(ii), by striking "7(j)(10)(H)" and inserting "7(j)(10)(G)";

(5) in subsection (a)(12)(E), by striking "to (D)" and inserting "to subparagraph (D)";

(6) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(7) by inserting after subsection (b) the following:

"(c) [Reserved].";

(8) in subsection (d)(4)(F)(ii) (as redesignated by paragraph (6) of this subsection), by striking "impositon" and inserting "imposition"; and

(9) in subsection (h)(2) (as redesignated by paragraph (6) of this subsection), by striking "Administration" and inserting "Administrative".

(b) AMENDMENTS TO SECTION 15.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (c)(2)(B), by striking "Blindmade" and inserting "Blind-made";

(2) in paragraphs (3) and (5) of subsection (k), by striking the semicolon and inserting a comma;

(3) in subsection (l)(6), by adding a period at the end; and

(4) in subsection (m)(2)(B), by striking "requirement" and inserting "requirements".

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Small Business Access to Surety Bonding Survey Act of 1992".

SEC. 302. SURVEY.

(a) IN GENERAL.—The Comptroller General shall conduct a comprehensive survey of business firms, including using a questionnaire described in subsection (b), to obtain data on the experiences of such firms, and especially the experiences of small business concerns, in obtaining surety bonds from corporate surety firms.

(b) CONTENT OF SURVEY QUESTIONNAIRE.—In addition to such other questions as the Comptroller General deems appropriate to ensure a comprehensive survey under subsection (a), the questionnaire used by the Comptroller General shall include questions to obtain information from a surveyed business on—

(1) the frequency with which the firm was requested to provide a corporate surety bond in fiscal year 1992;

(2) whether the frequency with which the firm was requested to provide a corporate surety

bond increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(3) the frequency with which the firm provided a corporate surety bond in fiscal year 1992;

(4) whether the frequency with which the firm provided a corporate surety bond increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(5) the average size of corporate surety bonds provided by the firm in fiscal year 1992;

(6) whether the average size of the corporate surety bonds provided by the firm increased or decreased during fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(7) the dollar amount of the largest corporate surety bond provided by the firm in fiscal year 1992;

(8) whether the dollar amount of the largest corporate surety bond provided by the firm increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(9) the dollar amount of work performed by the firm by type of construction owner, including the Federal Government, State and local governments, other public entities, and private entities, in each of fiscal years 1990, 1991, and 1992;

(10) the dollar amount of such work bonded by a corporate surety company for the firm by type of construction owner, including construction owners referred to in paragraph (9), for each of fiscal years 1990, 1991, and 1992;

(11) whether the firm purchased its corporate surety bonds through an insurance agent or directly from a surety company;

(12) the means used by the firm to identify its source for the purchase of corporate surety bonds;

(13) the average corporate surety bond premium (expressed as a percentage of contract amount) paid by the firm in fiscal year 1992;

(14) any increase or decrease in the average corporate surety bond premium (expressed as a percentage of the contract amount) paid by the firm in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(15) whether or not the underwriting requirements (including state of accounts receivable, financial procedures, need for personal indemnification, and requirements for collateral) changed in fiscal year 1990, 1991, or 1992;

(16) the nature of any changes in underwriting requirements experienced by the firm in fiscal years 1990, 1991, and 1992 and the reason for any such changes, if known;

(17) whether or not the source of surety bonds (a surety agent or company) provided reasons for such changes in underwriting requirements and whether these reasons were provided orally or in writing;

(18) whether or not the bonding capacity (total dollar amount and number of bonds) for the firm changed in fiscal year 1990, 1991, or 1992;

(19) whether or not the source of surety bonds (a surety agent or company) provided reasons for any changes in bonding capacity and whether these reasons were provided orally or in writing;

(20) the services provided and advice given by the firm's source of corporate surety bonds in fiscal years 1990, 1991, and 1992;

(21) whether or not the firm obtained a corporate surety bond with the assistance of a Federal program (such as the surety bond guarantee program of the Small Business Administration and the bonding assistance program of the Department of Transportation) or a State or local program in fiscal year 1990, 1991, or 1992;

(22) whether or not the firm used any alternative to corporate surety bonds (such as individual surety bonds, letters of credit, certificates of deposit, and government securities) in fiscal year 1990, 1991, or 1992;

(23) if the firm has not provided any corporate surety bonds in fiscal year 1990, 1991, or 1992, the reasons the firm has not done so;

(24) the number of times the firm has had an application for a corporate surety bond denied in fiscal years 1990, 1991, and 1992, and the reason for any such denial, if known;

(25) whether or not the proposed source for the corporate surety bond (a surety agent or company) provided the reasons for its denial of that application and whether that explanation was provided orally or in writing;

(26) the length of time the firm has been in business;

(27) the number of years of construction experience of the firm's officers (if a corporation), partners, or owner (if a sole proprietorship), and those responsible for managing the execution of the firm's construction operations, and how many years of such experience is in the type of construction that provides the majority of the firm's annual sales volume;

(28) the approximate annual sales volume of the firm in fiscal years 1990, 1991, and 1992;

(29) the net worth (total assets less total liabilities) of the firm at the close of the firm's most recent fiscal year;

(30) the working capital (current assets less current liabilities) of the firm at the close of the firm's most recent fiscal year;

(31) the average age of the firm's accounts receivable (the average number of days required to collect payments due);

(32) whether the firm made a profit in fiscal year 1990, 1991, or 1992;

(33) the form and frequency of such firm's financial statements (statements audited and certified by an independent certified public accountant, statements reviewed by such a certified public accountant, compilation financial statements, or other forms of financial statements), and whether such statements were furnished with applications for bonding, if requested; and

(34) the 4-digit standard industrial classification code in which the firm performs the majority of its work.

(c) FIRMS TO BE SURVEYED.—The Comptroller General shall develop a statistically valid sample of business firms from the most recent list of construction firms maintained by the Dun and Bradstreet Company (identified as the "DUN Market Identifier" file) for which data regarding sales is available.

SEC. 303. REPORT.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General, in consultation with the Small Business Administration, shall conduct an assessment of the data obtained in the survey conducted pursuant to section 302 and submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of such assessment.

(b) CONTENTS OF THE REPORT.—

(1) IN GENERAL.—The report required by subsection (a) shall contain—

(A) a summary of responses of business firms to the survey conducted pursuant to section 302; and

(B) a description of any trends found by the Comptroller General in such responses.

(2) INFORMATION ON SMALL BUSINESS CONCERNS.—In presenting summaries of responses and descriptions of trends pursuant to paragraph (1), the Comptroller General shall provide specific information on the responses and trends of small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals.

SEC. 304. DEFINITIONS.

For purposes of this subtitle—

(1) the term "fiscal year" means the fiscal year of the business firm being surveyed;

(2) the term "small business concern" has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632);

(3) the term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the same meaning as in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)) (as redesignated by section 232(a)(6) of this Act); and

(4) the term "small business concern owned and controlled by women" has the same meaning as in section 127(d) of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 637 note).

Subtitle B—Small Business Loan Secondary Market Study

SEC. 311. SECONDARY MARKET FOR LOANS TO SMALL BUSINESSES.

(a) STUDY.—The Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission, in consultation with the Administrator of the Small Business Administration, shall conduct a study of the potential benefits of, and legal, regulatory, and market-based barriers to, developing a secondary market for loans to small businesses. The study shall include consideration of—

(1) market perceptions and the reasons for the slow development of a secondary market for loans to small businesses;

(2) any means to standardize loan documents and underwriting for loans to small businesses relating to retail and office space;

(3) the probable effects of the development of a secondary market for loans to small businesses on financial institutions and intermediaries, borrowers, lenders, real estate markets, and the credit markets generally;

(4) legal and regulatory barriers that may be impeding the development of a secondary market for loans to small businesses; and

(5) the risks posed by investments in loans to small businesses.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission shall transmit to the Congress a report on the results of the study under paragraph (1). The report shall include recommendations for legislation to facilitate the development of a secondary market for loans to small businesses.

Subtitle C—Contract Bundling Study

SEC. 321. CONTRACT BUNDLING STUDY.

(a) IN GENERAL.—The Administrator of the Small Business Administration, acting through the Associate Administrator for Procurement Assistance, shall conduct a study regarding the impact of the practice known as "contract bundling" on the participation of small business concerns in the Federal procurement process.

(b) PURPOSE.—In addition to such other matters as the Associate Administrator for Procurement Assistance deems appropriate to assure the conduct of a comprehensive study and the development of practical recommendations, the study required by subsection (a) shall—

(1) identify the benefits and adverse effects of contract bundling to the procuring agencies;

(2) identify the benefits and adverse effects of contract bundling on small business concerns;

(3) examine the adequacy of the policy direction to agency procurement officials regarding the bundling of contract requirements;

(4) examine the extent to which agencies have been combining their requirements for the procurement of goods and services (including construction) into solicitations requiring an offeror to be able to perform increasingly larger contracts covering multiple and diverse elements of performance;

(5) consider the appropriateness of the explanatory statements submitted by the procuring agencies pursuant to section 15(a) of the Small Business Act regarding bundling of contract requirements; and

(6) determine whether procurement center representatives, small business specialists, or other agency procurement officials can, under existing guidance and authority, have the necessary policy direction and effective authority to make an independent assessment regarding a proposed bundling of contract requirements.

(c) PARTICIPATION.—

(1) IN GENERAL.—In conducting the study described in subsection (b), the Associate Administrator for Procurement Assistance shall provide for participation by representatives of—

(A) the Office of the Chief Counsel for Advocacy;

(B) the Office of Federal Procurement Policy; and

(C) the 10 Federal departments or agencies having the greatest dollar value of procurement awards during fiscal year 1991.

(2) ADDITIONAL CONSULTATION.—In conducting the study, the Associate Administrator for Procurement Assistance shall consult with representatives of organizations representing small business government contractors and such other public and private entities as may be appropriate.

(d) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Associate Administrator for Procurement Assistance shall publish in the Federal Register a plan for the study required by this section. The study shall be completed not later than March 31, 1993.

(e) REPORT.—Not later than May 15, 1993, the Administrator of the Small Business Administration shall submit a report to the Committees on Small Business of the Senate and the House of Representatives. The report shall contain the results of the study required by subsection (a), together with recommendations for legislative and regulatory changes to maintain small business participation in the Federal procurement process, as the Administrator deems appropriate.

(f) DEFINITION.—For purposes of this section, the term "contracting bundling" or "bundling of contract requirements" refers to the practice of consolidating into a single large contract solicitation multiple procurement requirements that were previously solicited and awarded as separate smaller contracts, generally resulting in a contract opportunity unsuitable for award to a small business concern due to the diversity and size of the elements of performance specified and the aggregate dollar value of the anticipated award.

Subtitle D—Resolution Regarding Small Business Access to Capital

SEC. 331. SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns remain a thriving and vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to either debt or equity capital is a critical component of small business formation, expansion, and success;

(3) small business concerns, which represent higher degrees of risk in financial markets than do large businesses, are experiencing increased difficulties in obtaining credit;

(4) minority-owned business enterprises have found extraordinary difficulties in obtaining credit; and

(5) demand for credit under the loan guarantee program contained in section 7(a) of the Small Business Act is insufficient to meet current demands.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) financial institutions should expand their efforts to provide credit to small business concerns, with special emphasis on minority-owned small business concerns;

(2) legislation and regulations considered by the Congress should be carefully examined to ensure that small business concerns are not negatively impacted; and

(3) legislation and regulations that enhance the viability of small business concerns, including changes in tax and health care policy, should be given a priority for passage by the Congress.

Amend the title so as to read: "An Act to amend the Small Business Act and related Acts to provide loan assistance to small business concerns, to extend certain demonstration programs relating to small business participation in Federal procurement, to modify certain Small Business Administration programs, to assist small firms to adjust to reductions in Defense-related business, to improve the management of certain program activities of the Small Business Administration, to provide for the undertaking of certain studies, and for other purposes.".

House amendment to Senate amendments: In lieu of the language proposed by the Senate, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Credit and Business Opportunity Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act shall be as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

Sec. 101. Short title.
Sec. 102. Authorizations.
Sec. 103. Buy American preference.
Sec. 104. State limitations on interest rates.

Subtitle B—Microloan Demonstration Program Amendments

Sec. 111. Short title.
Sec. 112. Findings.
Sec. 113. Microloan demonstration program amendments.
Sec. 114. Regulations.
Sec. 115. Authorization of appropriations.

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

Sec. 201. Extension of demonstration programs.
Sec. 202. Management improvements to the small business competitiveness demonstration program.
Sec. 203. Amendments to the dredging demonstration program.

Subtitle B—Defense Economic Transition Assistance

Sec. 211. Section 7(a) loan program.
Sec. 212. Small business development center program.

Subtitle C—Small Business Administration Management

Sec. 221. Disadvantaged small business status decisions.
Sec. 222. Establishment of size standards.
Sec. 223. Management of Small Business Development Center Program.
Sec. 224. National Seminar on Small Business Exports.
Sec. 225. Co-sponsored training.
Sec. 226. Viability of Secondary Markets.

Subtitle D—Technical Amendments and Repealers

Sec. 231. Commission on minority business development.

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

Sec. 301. Short title.
Sec. 302. Survey.
Sec. 303. Report.
Sec. 304. Definitions.

Subtitle B—Small Business Loan Secondary Market Study

Sec. 311. Secondary market for loans to small businesses.

Subtitle C—Contract Bundling Study

Sec. 321. Contract bundling study.

Subtitle D—Resolution Regarding Small Business Access to Capital

Sec. 331. Sense of the Congress.

TITLE IV—SMALL BUSINESS INVESTMENT ACT AMENDMENTS

Sec. 401. Short Title.
Sec. 402. Leverage (Matching Funds) Formula.
Sec. 403. Participating Securities.
Sec. 404. Pooling.
Sec. 405. Authorizations.
Sec. 406. Safety and Soundness.
Sec. 407. Examinations.
Sec. 408. Non-Financed SBICs.
Sec. 409. Minimum Capital.
Sec. 410. Definitions.
Sec. 411. Interest Rate Ceiling.
Sec. 412. Preferred Partnership Interests.
Sec. 413. Indirect Funds From State or Local Governments.
Sec. 414. SBIC Approvals.
Sec. 415. Implementation.
Sec. 416. Buy America.
Sec. 417. Studies and Reports.
Sec. 418. No Effect on Securities Laws.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Small Business Credit Crunch Relief Act of 1992".

SEC. 102. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) Except as may be otherwise specifically provided by law, the amount of deferred participation loans authorized in this section—

"(A) shall mean the net amount of the loan principal guaranteed by the Small Business Administration (and does not include any amount which is not guaranteed); and

"(B) shall be available for a national program, except that the Administration may use not more than an amount equal to 10 percent of the amount authorized each year for any special or pilot program directed to identified sectors of the small business community or to specific geographic regions of the United States.";

(2) by amending subsection (e)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $5,978,000,000 in deferred participation loans and other financing. Of such sum, the Administration is authorized to make—

"(A) $5,200,000,000 in general business loans, as provided in section 7(a);

"(B) $53,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $725,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.";

(3) amending subsection (g)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $7,030,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $6,200,000,000 in general business loans as provided in section 7(a);

"(B) $55,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $775,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958."; and

(4) by amending subsection (i)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $8,083,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $7,200,000,000 in general business loans, as provided in section 7(a);

"(B) $58,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $825,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.".

SEC. 103. BUY AMERICAN PREFERENCE.

In providing financial assistance with amounts appropriated pursuant to the amendments made by this Act, the Administrator of the Small Business Administration shall, when practicable, accord preference to small business concerns which use or purchase equipment and supplies produced in the United States. The Administrator shall also encourage small business concerns receiving such assistance to purchase such equipment and supplies.

SEC. 104. STATE LIMITATIONS ON INTEREST RATES.

Section 7(a)(4) of the Small Business Act (15 U.S.C. 636(a)(4)) is amended by striking "The rate of interest on financings made on a deferred basis shall be legal and reasonable but" and inserting the following: "Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any financing made on a deferred basis pursuant to this subsection".

Subtitle B—Microloan Demonstration Program Amendments

SEC. 111. SHORT TITLE.

This subtitle may be cited as the "Microlending Expansion Act of 1992".

SEC. 112. FINDINGS.

The Congress finds that—

(1) nationwide, there are many individuals who possess skills that, with certain short-term assistance, could enable them to become successfully self-employed;

(2) many talented and skilled individuals who are employed in low-wage occupations could, with sufficient opportunity, start their own small business concerns, which could provide them with an improved standard of living;

(3) most such individuals have little or no savings, a nonexistent or poor credit history, and no access to credit or capital with which to start a business venture;

(4) women, minorities, and individuals residing in areas of high unemployment and high levels of poverty have particular difficulty obtaining access to credit or capital;

(5) providing such individuals with small-scale, short-term financial assistance in the form of microloans, together with intensive marketing, management, and technical assistance, could enable them to start or maintain small businesses, to become self-sufficient, and to raise their standard of living;

(6) banking institutions are reluctant to provide such assistance because of the administrative costs associated with processing and servicing the loans and because they lack experience in providing the type of marketing, management, and technical assistance needed by such borrowers;

(7) many organizations that have had successful experiences in providing microloans and marketing, management, and technical assistance to such borrowers exist throughout the Nation; and

(8) loans from the Federal Government to intermediaries for the purpose of relending to start-up, newly established and growing small business concerns are an important catalyst to attract private sector participation in microlending.

SEC. 113. MICROLOAN DEMONSTRATION PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(A)—

(A) by amending clause (i) to read as follows:

"(i) to assist women, low-income, and minority entrepreneurs and business owners and other such individuals possessing the capability to operate successful business concerns; and

(B) in clause (iii)(I), by inserting ", particularly loans in amounts averaging not more than $7,500," after "small-scale loans";

(2) in paragraph (3)(A)—

(A) by striking "As part of" and inserting the following:

"(i) IN GENERAL.—As part of";

(B) by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(C) in subclause (III), as redesignated, by striking "economic and unemployment" and inserting "economic, poverty, and unemployment";

(D) by amending subclause (VIII), as redesignated, to read as follows:

"(VIII) any plan to involve other technical assistance providers (such as counselors from the Service Corps of Retired Executives or small business development centers) or private sector lenders in assisting selected business concerns."; and

(E) by adding at the end the following:

"(ii) SELECTION OF INTERMEDIARIES.—In selecting intermediaries to participate in the program established under this subsection, the Administration shall give priority to those applicants that provide loans in amounts averaging not more than $7,500.";

(3) by amending paragraph (3)(F) to read as follows:

"(F) LOAN DURATION; INTEREST RATES.—

"(i) LOAN DURATION.—Loans made by the Administration under this subsection shall be for a term of 10 years.

"(ii) APPLICABLE INTEREST RATES.—Except as provided in clause (iii), loans made by the Administration under this subsection to an intermediary shall bear an interest rate equal to 1.25 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(iii) RATES APPLICABLE TO CERTAIN SMALL LOANS.—Loans made by the Administration to an intermediary that makes loans to small business concerns and entrepreneurs averaging not more than $7,500, shall bear an interest rate that is 2 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(iv) RATES APPLICABLE TO MULTIPLE SITES OR OFFICES.—The interest rate prescribed in clause (ii) or (iii) shall apply to each separate loan-making site or office of 1 intermediary only if such site or office meets the requirements of that clause.

"(v) RATE BASIS.—The applicable rate of interest under this paragraph shall—

"(I) be applied retroactively for the first year of an intermediary's participation in the program, based upon the actual lending practices of the intermediary as determined by the Administration prior to the end of such year; and

"(II) be based in the second and subsequent years of an intermediary's participation in the program, upon the actual lending practices of the intermediary during the term of the intermediary's participation in the program.

"(vii) COVERED INTERMEDIARIES.—The interest rates prescribed in this subparagraph shall apply to all loans made to intermediaries under this subsection on or after October 28, 1991.";

(4) in paragraph (4)—

(A) in subparagraph (A), by striking "Subject to" and inserting "Except as otherwise provided in subparagraph (C) and subject to"; and

(B) by striking subparagraph (A) and inserting in lieu thereof:

"(A) GRANT AMOUNTS.—Except as otherwise provided in subparagraph (C) and subject to subparagraph (B), each intermediary that receives a loan under subparagraph (B)(i) of paragraph (1) shall be eligible to receive a grant to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection. Except as provided in subparagraph (C), each intermediary meeting the requirements of subparagraph (B) may receive a grant of not more than 25 percent of the total outstanding balance of loans made to it under this subsection.";

(c) in subparagraph (B), by striking "an amount equal to one-half of the amount of the grant" and inserting in lieu thereof "an amount equal to 25 percent of the amount of the grant";

(D) by adding at the end the following:

"(C) ADDITIONAL TECHNICAL ASSISTANCE GRANTS FOR MAKING CERTAIN LOANS.—

"(i) IN GENERAL.—Each intermediary that meets the requirements of subparagraph (C) and that has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection, in addition to grants made under subparagraph (A).

"(ii) PURPOSES.—A grant awarded under clause (i) may be used to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

"(iii) CONTRIBUTION EXCEPTION.—The contribution requirements in subparagraph (B) do not apply to grants made under this subparagraph.

"(D) ELIGIBILITY FOR MULTIPLE SITES OR OFFICES.—The eligibility for a grant described in subparagraph (A) or (C) shall be determined separately for each loan-making site or office of 1 intermediary.";

(5) in paragraph (5)(A), by striking "2 grants" and inserting "6 grants";

(6) in paragraph (6), by amending subparagraph (C) to read as follows:

"(C) INTEREST LIMIT.—Notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received, or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this subsection shall not exceed the rate of interest applicable to a loan made to an intermediary by the Administration—

"(i) in the case of a loan of more than $7,500 made by the intermediary to a small business

concern or entrepreneur by more than 7.75 percentage points; and

"(ii) in the case of a loan of not more than $7,500 made by the intermediary to a small business concern or entrepreneur by more than 8.5 percentage points.";

(7) in paragraph (7)—

(A) in subparagraph (A), by striking "35 microloan programs" and inserting "60 microloan programs";

(B) in subparagraph (B), by striking "25 additional" and inserting "50 additional";

(C) by amending subparagraph (C)(i) to read as follows:

"(i) be awarded more than 4 microloan programs in the first 2 years of the demonstration program nor more than 2 microloan programs in any year thereafter;";

(D) in subparagraph (C)(ii), by striking "$1,000,000" and inserting "$1,500,000"; and

(E) in subparagraph (C)(iii), by striking "$1,500,000" and inserting "$2,500,000";

(8) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively;

(9) by inserting after paragraph (8) the following:

"(9) TECHNICAL ASSISTANCE FOR INTERMEDIARIES.—

"(A) IN GENERAL.—The Administration may procure technical assistance for intermediaries participating in the Microloan Demonstration Program to ensure that such intermediaries have the knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs.

"(B) ASSISTANCE AMOUNT.—The Administration shall transfer 3 percent of its annual appropriation for loans under this subsection to the Administration's Salaries and Expense Account for the specific purpose of providing 1 or more technical assistance grants to experienced microlending organizations to achieve the purpose set forth in subparagraph (A)."; and

(10) in paragraph (11), as redesignated—

(A) by amending subparagraph (A) to read as follows:

"(A) the term 'intermediary' means—

"(i) a private, nonprofit entity;

"(ii) a nonprofit community development corporation;

"(iii) a consortium of private, nonprofit organizations or nonprofit community development corporations; or

"(iv) a quasi-governmental economic development entity (such as a planning and development district), other than a State, county, municipal government, or any agency thereof, if—

"(I) no application is received from an eligible nonprofit organization; or

"(II) the Administration determines that the needs of a region or geographic area are not adequately served by an existing, eligible nonprofit organization that has submitted an application,

that seeks to borrow or has borrowed funds from the Administration to make microloans to small business concerns under this subsection;";

(b) EFFECTIVE DATES.—The amendments made by paragraphs (4) and (5) of subsection (a) shall become effective on October 1, 1992.

SEC. 114. REGULATIONS.

Not later than 45 days after the date of enactment of this Act, the Small Business Administration shall promulgate interim final regulations to implement the amendments made by this subtitle.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS.—To carry out the program established under section 7(m), there are authorized to be appropriated to the Small Business Administration—

"(1) for fiscal year 1992—

"(A) $45,000,000, to be used for the provision of loans; and

"(B) $10,000,000, to be used for the provision of grants;

"(2) for fiscal year 1993—

"(A) $80,000,000, to be used for the provision of loans; and

"(B) $25,000,000, to be used for the provision of grants; and

"(3) for fiscal year 1994—

"(A) $60,000,000, to be used for the provision of loans; and

"(B) $35,000,000, to be used for the provision of grants.".

(b) REPEAL OF EXISTING PROVISION.—Section 609 of Public Law 102-140 (105 Stat. 831) is amended by striking subsection (l).

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

SEC. 201. EXTENSION OF DEMONSTRATION PROGRAMS.

(a) SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.—Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3889) is amended to read as follows:

"(c) PROGRAM TERM.—The Program shall commence on January 1, 1989, and terminate on September 30, 1996.".

(b) ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES.—Section 721(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3895) is amended by striking "September 30, 1992" and inserting "September 30, 1996".

(c) EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.—Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by striking "During fiscal years 1989, 1990, 1991, and 1992, the" and inserting "The"; and

(2) by inserting before the period at the end ", commencing on October 1, 1989 and terminating on September 30, 1996".

SEC. 202. MANAGEMENT IMPROVEMENTS TO THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) IMPLEMENTATION ON A FISCAL YEAR BASIS.—Section 712(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3890) is amended—

(1) in paragraph (1), by striking "4 quarters" in the third sentence and inserting "4 fiscal year quarters"; and

(2) in paragraph (3), by inserting "fiscal year" before "quarter".

(b) TARGETED APPLICATION OF REMEDIAL MEASURES.—Section 713(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended—

(1) in the first sentence, by striking "to the extent necessary for such agency to attain its goal" and inserting "only at those buying activities of the participating agency that failed to attain the small business participation goal required by section 712(a)";

(2) by striking the third sentence; and

(3) by inserting after the first sentence, the following new sentence: "Upon determining that its contract awards to small business concerns again meet the goals required by section 712(a), a participating agency shall promptly resume the use of unrestricted solicitations pursuant to subsection (a).".

(c) RELATIONSHIP TO RELATED LAW.—Section 713 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(d) RELATIONSHIP TO OTHER APPLICABLE LAW.—Solicitations for the award of contracts for architectural and engineering services (including surveying and mapping) issued by a Military Department or a Defense agency shall comply with the requirements of subsections (a) and (b) of section 2855 of title 10, United States Code.".

(d) SUBCONTRACTING ACTIVITY.—Section 714 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) SUBCONTRACTING ACTIVITY.—

"(1) SIMPLIFIED DATA COLLECTION SYSTEM.—The Administrator for Federal Procurement Policy shall develop and implement a simplified system to collect data on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) as other than prime contractors.

"(2) PARTICIPATING INDUSTRIES.—The system established under paragraph (1) shall be used to collect data regarding contracts for architectural and engineering services (including surveying and mapping). The Administrator for Federal Procurement Policy may expand such system to collect data regarding such other designated industry groups as deemed appropriate.

"(3) PARTICIPATING AGENCIES.—As part of the system established under paragraph (1) data shall be collected from—

"(A) the Environmental Protection Agency;

"(B) the National Aeronautics and Space Administration;

"(C) the United States Army Corps of Engineers (Civil Works); and

"(D) the Department of Energy.

The Administrator for Federal Procurement Policy may require the participation of additional departments or agencies from the list of participating agencies designated in section 718.

"(4) DETERMINING SMALL BUSINESS PARTICIPATION RATES.—The value of other than prime contract awards to small business concerns furnishing architectural and engineering services (including surveying and mapping) (or other services provided by small business concerns in other designated industry groups as may be designated for participation by the Administrator for Federal Procurement) shall be counted towards determining whether the small business participation goal required by section 712(a) has been attained.

"(5) DURATION.—The system described in subsection (a) shall be established not later than October 1, 1992 (or as soon as practicable thereafter on the first day of a subsequent quarter of fiscal year 1993), and shall terminate on September 30, 1996.".

(e) STATUS OF SMALL BUSINESS CONCERNS.—Section 714(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) (as redesignated by subsection (d)) is amended—

(1) in the subsection heading, by inserting "AND STATUS" after "SIZE";

(2) by inserting "and the status of the small business concern (as a small business concern owned and controlled by socially and economically disadvantaged individuals)" after "size of the small business concern".

(f) REPORTS TO CONGRESS.—Section 716 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3893) is amended—

(1) in the section heading, by striking "**report**" and inserting "**reports**";

(2) in the first sentence of subsection (a), by striking "fiscal year 1991 data is" and inserting "data for fiscal year 1991 and 1995 are"; and

(3) in subsection (c), by striking "report" and inserting "report to be submitted during calendar year 1996".

(g) IMPROVING ACCURACY OF DATA PERTAINING TO A–E SERVICES.—Section 717(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3894) is amended by inserting before the period at the end the following: ", and such contract was awarded under the qualification-based selection procedures required by title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

(h) PROCUREMENT PROCEDURES.—Restricted competitions pursuant to section 713(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) shall not be imposed with respect to the designated industry group of architectural and engineering services if the rate of small business participation exceeds 35 percent, until the improvements to the collection of data regarding prime contract awards (as required by subsection (g)) and the system for collecting data regarding other than prime contract awards (as required by subsection (d)) have been implemented, as determined by the Administrator for Federal Procurement Policy.

(i) TEST PLAN AND POLICY DIRECTION.—The Administrator for Federal Procurement Policy shall issue appropriate modifications to the test plan and policy direction issued pursuant to section 715 of the Small Business Competitiveness Demonstration Program Act of 1988, to conform to the amendments made by this section and section 201(a).

SEC. 203. AMENDMENTS TO THE DREDGING DEMONSTRATION PROGRAM.

(a) MODIFICATION OF THE SMALL BUSINESS PARTICIPATION GOALS.—The first sentence of section 722(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3895) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) not less than 20 percent during fiscal year 1993, and each subsequent year during the term of the program, including not less than 5 percent of the dollar value of suitable contracts that shall be reserved for emerging small business concerns.".

(b) EXCLUSION OF CERTAIN CONTRACTS.—Section 722(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is further amended—

(1) by striking "total dollar value of contracts" and inserting "aggregate value of all suitable contracts"; and

(2) by striking the last sentence and inserting the following: "The total value of contracts to be performed exclusively through the use of so-called dustpan dredges or seagoing hopper dredges is deemed to be generally unsuitable for performance by small business concerns and is to be excluded in calculating whether the rates of small business participation specified in subsection (b) have been attained.".

(c) QUALIFIED SMALL BUSINESS COMPETITORS.—Section 722(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) Prior to making a determination to restrict a solicitation for the performance of a dredging contract for exclusive competition among 2 or more eligible small business concerns in accordance with section 19.5 of the Governmentwide Federal Procurement Regulation (48 C.F.R. 19.5, or any successor thereto), the contracting officer shall make a determination that each anticipated offeror is a responsible source (as defined under section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)) and has (or can demonstrate the capability to obtain) the specialized dredging equipment deemed necessary to perform the work to be required in accordance with the schedule to be specified in the solicitation.".

(d) CONTRACT AWARD PROCEDURES.—Section 722(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is further amended—

(1) in the first sentence of paragraph (1), by striking "in paragraphs (2) and (3)" and inserting "in paragraphs (3) and (4)"; and

(2) in paragraph (4) (as redesignated by subsection (c)), by striking "attaining" and inserting "exceeding".

(e) REPORTS.—Section 722(f) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is amended—

(1) in paragraph (1), by striking "September 30, 1992" and inserting "September 30, 1995"; and

(2) in paragraph (2), by striking "of the fiscal years 1989, 1990, and 1991" and inserting "fiscal year during the term of the program established under subsection (a)".

Subtitle B—Defense Economic Transition Assistance

SEC. 211. SECTION 7(a) LOAN PROGRAM.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(21)(A) The Administration may make loans under the authority of this subsection—

"(i) to a small business concern that has been (or can reasonably be expected to be) detrimentally affected by—

"(I) the closure (or substantial reduction) of a Department of Defense installation; or

"(II) the termination (or substantial reduction) of a Department of Defense program on which such small business was a prime contractor or subcontractor (or supplier) at any tier; or

"(ii) to a qualified individual seeking to establish (or acquire) and operate a small business concern.

"(B) Recognizing that greater risk may be associated with a loan to a small business concern described in subparagraph (A)(i), any reasonable doubts concerning the firm's proposed business plan for transition to nondefense-related markets shall be resolved in favor of the loan applicant when making any determination regarding the sound value of the proposed loan in accordance with paragraph (6).

"(C) Loans pursuant to this paragraph shall be authorized in such amounts as provided in advance in appropriation Acts for the purposes of loans under this paragraph.

"(D) For purposes of this paragraph a qualified individual is—

"(i) a member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement;

"(ii) a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement; or

"(iii) an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program.".

SEC. 212. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) by striking subparagraph (D);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively; and

(3) by inserting before subparagraph (H) the following new subparagraph:

"(G) assisting small businesses to develop and implement strategic business plans to timely and effectively respond to the planned closure (or reduction) of a Department of Defense facility within the community, or actual or projected reductions in such firms' business base due to the actual or projected termination (or reduction) of a Department of Defense program or a contract in support of such program—

"(i) by developing broad economic assessments of the adverse impacts of—

"(I) the closure (or reduction) of the Department of Defense facility on the small business concerns providing goods or services to such facility or to the military and civilian personnel currently stationed or working at such facility; and

"(II) the termination (or reduction) of a Department of Defense program (or contracts under such program) on the small business concerns participating in such program as a prime contractor, subcontractor or supplier at any tier;

"(ii) by developing, in conjunction with appropriate Federal, State, and local governmental entities and other private sector organizations, the parameters of a transition adjustment program adaptable to the needs of individual small business concerns;

"(iii) by conducting appropriate programs to inform the affected small business community regarding the anticipated adverse impacts identified under clause (i) and the economic adjustment assistance available to such firms; and

"(iv) by assisting small business concerns to develop and implement an individualized transition business plan.".

Subtitle C—Small Business Administration Management

SEC. 221. DISADVANTAGED SMALL BUSINESS STATUS DECISIONS.

(a) PUBLICATION OF DECISIONS.—A decision issued pursuant to section 7(j)(11)(F)(vii) of the Small Business Act (15 U.S.C. 636(j)(11)(F)(vii)) shall—

(1) be made available to the protestor, the protested party, the contracting officer (if not the protestor), and all other parties to the proceeding, and published in full text; and

(2) include findings of fact and conclusions of law, with specific reasons supporting such findings or conclusions, upon each material issue of fact and law of decisional significance regarding the disposition of the protest.

(b) PRECEDENTIAL VALUE OF PRIOR DECISIONS.—A decision issued under section 7(j)(11)(F)(vii) of the Small Business Act that is issued prior to the date of enactment of this Act shall not have value as precedent in deciding any subsequent protest until such time as the decision is published in full text.

SEC. 222. ESTABLISHMENT OF SIZE STANDARDS.

(a) IN GENERAL.—Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by striking "In addition" and all that follows through the end period and by adding at the end the following new paragraphs:

"(2) In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards (by number of employees or dollar volume of business) by which a business concern is to be recognized as a small business concern for the purposes of this Act or any other Act. Unless specifically authorized by statute, the Secretary of a department or the head of a Federal agency may not prescribe for the use of such department or agency a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(A) is being proposed after an opportunity for public notice and comment;

"(B) provides for determining, over a period of not less than 3 years—

"(i) the size of a manufacturing concern on the basis of the number of its employees during that period; and

"(ii) the size of a concern providing services on the basis of the average gross receipts of the concern during that period; and

"(C) is approved by the Administrator.

"(3) When establishing or approving any size standard pursuant to paragraph (2), the Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.".

(b) Regulations.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue proposed regulations to implement the amendments made by subsection (a). Final regulations shall be issued not later than 270 days after such date of enactment.

(2) Listing of additional size standards.—The regulations required by paragraph (1) shall include a listing of all small business size standards prescribed by statute or by individual Federal departments and agencies, identifying the programs or purposes to which such size standards apply.

SEC. 223. MANAGEMENT OF SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

(a) Section 21(a)(3) of the Small Business Act (15 U.S.C. 648) is amended by adding the following at the end thereof:

"(A) Small business development centers are authorized to form an association to pursue matters of common concern. If more than a majority of the small business development centers which are operating pursuant to agreements with the Administration are members of such an association, the Administration is authorized and directed to recognize the existence and activities of such an association and to consult with it and develop documents (i) announcing the annual scope of activities pursuant to this section, (ii) requesting proposals to deliver assistance as provided in this section and (iii) governing the general operations and administration of the Small Business Development Center Program, specifically including the development of regulations and a uniform negotiated cooperative agreement for use on an annual basis when entering into individual negotiated agreements with small business development centers.

"(B) Provisions governing audits, cost principles and administrative requirements for Federal grants, contracts and cooperative agreements which are included in uniform requirements of Office of Management and Budget (OMB) Circulars shall be incorporated by reference and shall not be set forth in summary or other form in regulations.".

(b) Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit to the Committees on Small Business and the Committees on Appropriations of the Senate and the House of Representatives, proposed regulations for the Small Business Development Center Program authorized by section 21 of the Small Business Act (15 U.S.C. 648). Such proposed regulations shall not be published in the Federal Register.

SEC. 224. NATIONAL SEMINAR ON SMALL BUSINESS EXPORTS.

(a) Seminar.—The Administration shall conduct a National Seminar on Small Business Exports in Buffalo, New York, in connection with the World University Games Buffalo '93 during July, 1993, in order to develop recommendations designed to stimulate exports from small companies. The Seminar shall build upon the information collected by the Administration through previously conducted regional small business trade conferences and the prior conference in the State of Washington.

(b) Assistance by Experts.—For the purpose of ascertaining facts and developing policy recommendations concerning the expansion of United States exports from small companies, the Seminar shall bring together individuals who are experts in the fields of international trade and small business development and representatives of small businesses, associations, the labor community, academic institutions, and Federal, State and local governments.

(c) Recommendations Concerning Utility of International Conference.—The Seminar shall specifically consider the utility of, and made recommendations regarding, a subsequent International Conference on small Business and Trade that would—

(1) help establish linkages between United States small business owners and small business owners in foreign countries;

(2) enabled United States small business owners to learn how others organize themselves for exporting; and

(3) foster greater consideration of small business concerns in the GATT and other international trade agreements to which the United States is a signatory.

SEC. 225. CO-SPONSORED TRAINING.

Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 Note) is amended by striking "October 1, 1992" in the first sentence and inserting in lieu thereof "October 1, 1994".

SEC. 226. VIABILITY OF SECONDARY MARKETS.

The Administrator of the Small Business Administration is authorized and directed to take such actions in the awarding of contracts as is deemed necessary to assure the continued long term viability of the secondary markets in loans, debentures or other securities guaranteed by the Administration.

Subtitle D—Technical Amendments

SEC. 231. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

(a) Termination.—Section 505(f) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note; 102 Stat. 3887) is amended by inserting before the period at the end "or September 30, 1992, whichever is later".

(b) Effective Date.—The amendment made by subsection (a) shall apply as if it were included in the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note).

SEC. 232. TECHNICAL CORRECTIONS.

(a) Amendments to Section 8.—Section 8 of the Small Business Act (15 U.S.C. 837) is amended—

(1) in subsection (a)(1)(B), by striking the period and inserting a semicolon;

(2) in subsection (a)(1)(C), by striking the period and inserting "; and";

(3) in subsection (a)(6)(C)(i), by striking "to (A)" and inserting "to subparagraph (A)";

(4) in subsection (a)(6)(C)(ii), by striking "7(j)(10)(H)" and inserting "7(j)(10)(G)";

(5) in subsection (a)(12)(E), by striking "to (D)" and inserting "to subparagraph (D)";

(6) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(7) by inserting after subsection (b) the following:

"(c) [Reserved].";

(8) in subsection (d)(4)(F)(ii) (as redesignated by paragraph (6) of this subsection), by striking "impositon" and inserting "imposition"; and

(9) in subsection (h)(2) (as redesignated by paragraph (6) of this subsection), by striking "Administration" and inserting "Administrative".

(b) Amendments to Section 15.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (c)(2)(B), by striking "Blindmade" and inserting "Blind-made";

(2) in paragraphs (3) and (5) of subsection (k), by striking the semicolon and inserting a comma;

(3) in subsection (l)(6), by adding a period at the end; and

(4) in subsection (m)(2)(B), by striking "requirement" and inserting "requirements".

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Small Business Access to Surety Bonding Survey Act of 1992".

SEC. 302. SURVEY.

(a) In General.—The Comptroller General shall conduct a comprehensive survey of business firms, including using a questionnaire described in subsection (b), to obtain data on the experiences of such firms, and especially the experiences of small business concerns, in obtaining surety bonds from corporate surety firms.

(b) Content of Survey Questionnaire.—In addition to such other questions as the Comptroller General deems appropriate to ensure a comprehensive survey under subsection (a), the questionnaire used by the Comptroller General shall include questions to obtain information from a surveyed business on—

(1) the frequency with which the firm was requested to provide a corporate surety bond in fiscal year 1992;

(2) whether the frequency with which the firm was requested to provide a corporate surety bond increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(3) the frequency with which the firm provided a corporate surety bond in fiscal year 1992;

(4) whether the frequency with which the firm provided a corporate surety bond increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(5) the average size of corporate surety bonds provided by the firm in fiscal year 1992;

(6) whether the average size of the corporate surety bonds provided by the firm increased or decreased during fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(7) the dollar amount of the largest corporate surety bond provided by the firm in fiscal year 1992;

(8) whether the dollar amount of the largest corporate surety bond provided by the firm increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(9) the dollar amount of work performed by the firm by type of construction owner, including the Federal Government, State and local governments, other public entities, and private entities, in each of fiscal years 1990, 1991, and 1992;

(10) the dollar amount of such work bonded by a corporate surety company for the firm by type of construction owner, including construction owners referred to in paragraph (9), for each of fiscal years 1990, 1991, and 1992;

(11) whether the firm purchased its corporate surety bonds through an insurance agent or directly from a surety company;

(12) the means used by the firm to identify its source for the purchase of corporate surety bonds;

(13) the average corporate surety bond premium (expressed as a percentage of contract amount) paid by the firm in fiscal year 1992;

(14) any increase or decrease in the average corporate surety bond premium (expressed as a percentage of the contract amount) paid by the firm in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(15) whether or not the underwriting requirements (including state of accounts receivable, financial procedures, need for personal indemnification, and requirements for collateral) changed in fiscal year 1990, 1991, or 1992;

(16) the nature of any changes in underwriting requirements experienced by the firm in fiscal years 1990, 1991, and 1992 and the reason for any such changes, if known;

(17) whether or not the source of surety bonds (a surety agent or company) provided reasons for such changes in underwriting requirements and whether these reasons were provided orally or in writing;

(18) whether or not the bonding capacity (total dollar amount and number of bonds) for the firm changed in fiscal year 1990, 1991, or 1992;

(19) whether or not the source of surety bonds (a surety agent or company) provided reasons for any changes in bonding capacity and whether these reasons were provided orally or in writing;

(20) the services provided and advice given by the firm's source of corporate surety bonds in fiscal years 1990, 1991, and 1992;

(21) whether or not the firm obtained a corporate surety bond with the assistance of a Federal program (such as the surety bond guarantee program of the Small Business Administration and the bonding assistance program of the Department of Transportation) or a State or local program in fiscal year 1990, 1991, or 1992;

(22) whether or not the firm used any alternative to corporate surety bonds (such as individual surety bonds, letters of credit, certificates of deposit, and government securities) in fiscal year 1990, 1991, or 1992;

(23) if the firm has not provided any corporate surety bonds in fiscal year 1990, 1991, or 1992, the reasons the firm has not done so;

(24) the number of times the firm has had an application for a corporate surety bond denied in fiscal years 1990, 1991, and 1992, and the reason for any such denial, if known;

(25) whether or not the proposed source for the corporate surety bond (a surety agent or company) provided the reasons for its denial of that application and whether that explanation was provided orally or in writing;

(26) the length of time the firm has been in business;

(27) the number of years of construction experience of the firm's officers (if a corporation), partners, or owner (if a sole proprietorship), and those responsible for managing the execution of the firm's construction operations, and how many years of such experience is in the type of construction that provides the majority of the firm's annual sales volume;

(28) the approximate annual sales volume of the firm in fiscal years 1990, 1991, and 1992;

(29) the net worth (total assets less total liabilities) of the firm at the close of the firm's most recent fiscal year;

(30) the working capital (current assets less current liabilities) of the firm at the close of the firm's most recent fiscal year;

(31) the average age of the firm's accounts receivable (the average number of days required to collect payments due);

(32) whether the firm made a profit in fiscal year 1990, 1991, or 1992;

(33) the form and frequency of such firm's financial statements (statements audited and certified by an independent certified public accountant, statements reviewed by such a certified public accountant, compilation financial statements, or other forms of financial statements), and whether such statements were furnished with applications for bonding, if requested; and

(34) the 4-digit standard industrial classification code in which the firm performs the majority of its work.

(c) FIRMS TO BE SURVEYED.—The Comptroller General shall develop a statistically valid sample of business firms from the most recent list of construction firms maintained by the Dun and Bradstreet Company (identified as the "DUN Market Identifier" file) for which data regarding sales is available.

SEC. 303. REPORT.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General, in consultation with the Small Business Administration, shall conduct an assessment of the data obtained in the survey conducted pursuant to section 302 and submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of such assessment.

(b) CONTENTS OF THE REPORT.—

(1) IN GENERAL.—The report required by subsection (a) shall contain—

(A) a summary of responses of business firms to the survey conducted pursuant to section 302; and

(B) a description of any trends found by the Comptroller General in such responses.

(2) INFORMATION ON SMALL BUSINESS CONCERNS.—In presenting summaries of responses and descriptions of trends pursuant to paragraph (1), the Comptroller General shall provide specific information on the responses and trends of small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals.

SEC. 304. DEFINITIONS.

For purposes of this subtitle—

(1) the term "fiscal year" means the fiscal year of the business firm being surveyed;

(2) the term "small business concern" has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632);

(3) the term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the same meaning as in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)) (as redesignated by section 232(a)(6) of this Act); and

(4) the term "small business concern owned and controlled by women" has the same meaning as in section 127(d) of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 637 note).

Subtitle B—Small Business Loan Secondary Market Study

SEC. 311. SECONDARY MARKET FOR LOANS TO SMALL BUSINESSES.

(a) STUDY.—The Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission, in consultation with the Administrator of the Small Business Administration, shall conduct a study of the potential benefits of, and legal, regulatory, and market-based barriers to, developing a secondary market for loans to small businesses. The study shall include consideration of—

(1) market perceptions and the reasons for the slow development of a secondary market for loans to small businesses;

(2) any means to standardize loan documents and underwriting for loans to small businesses relating to retail and office space;

(3) the probable effects of the development of a secondary market for loans to small businesses on financial institutions and intermediaries, borrowers, lenders, real estate markets, and the credit markets generally;

(4) legal and regulatory barriers that may be impeding the development of a secondary market for loans to small businesses; and

(5) the risks posed by investments in loans to small businesses.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission shall transmit to the Congress a report on the results of the study under paragraph (1). The report shall include recommendations for legislation to facilitate the development of a secondary market for loans to small businesses.

Subtitle C—Contract Bundling Study

SEC. 321. CONTRACT BUNDLING STUDY.

(a) IN GENERAL.—The Administrator of the Small Business Administration, acting through the Associate Administrator for Procurement Assistance, shall conduct a study regarding the impact of the practice known as "contract bundling" on the participation of small business concerns in the Federal procurement process.

(b) PURPOSE.—In addition to such other matters as the Associate Administrator for Procurement Assistance deems appropriate to assure the conduct of a comprehensive study and the development of practical recommendations, the study required by subsection (a) shall—

(1) identify the benefits and adverse effects of contract bundling to the procuring agencies;

(2) identify the benefits and adverse effects of contract bundling on small business concerns;

(3) examine the adequacy of the policy direction to agency procurement officials regarding the bundling of contract requirements;

(4) examine the extent to which agencies have been combining their requirements for the procurement of goods and services (including construction) into solicitations requiring an offeror to be able to perform increasingly larger contracts covering multiple and diverse elements of performance;

(5) consider the appropriateness of the explanatory statements submitted by the procuring agencies pursuant to section 15(a) of the Small Business Act regarding bundling of contract requirements; and

(6) determine whether procurement center representatives, small business specialists, or other agency procurement officials can, under existing guidance and authority, have the necessary policy direction and effective authority to make an independent assessment regarding a proposed bundling of contract requirements.

(c) PARTICIPATION.—

(1) IN GENERAL.—In conducting the study described in subsection (b), the Associate Administrator for Procurement Assistance shall provide for participation by representatives of—

(A) the Office of the Chief Counsel for Advocacy;

(B) the Office of Federal Procurement Policy; and

(C) the 10 Federal departments or agencies having the greatest dollar value of procurement awards during fiscal year 1991.

(2) ADDITIONAL CONSULTATION.—In conducting the study, the Associate Administrator for

Procurement Assistance shall consult with representatives of organizations representing small business government contractors and such other public and private entities as may be appropriate.

(d) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Associate Administrator for Procurement Assistance shall publish in the Federal Register a plan for the study required by this section. The study shall be completed not later than March 31, 1993.

(e) REPORT.—Not later than May 15, 1993, the Administrator of the Small Business Administration shall submit a report to the Committees on Small Business of the Senate and the House of Representatives. The report shall contain the results of the study required by subsection (a), together with recommendations for legislative and regulatory changes to maintain small business participation in the Federal procurement process, as the Administrator deems appropriate.

(f) DEFINITION.—For purposes of this section, the term "contracting bundling" or "bundling of contract requirements" refers to the practice of consolidating into a single large contract solicitation multiple procurement requirements that were previously solicited and awarded as separate smaller contracts, generally resulting in a contract opportunity unsuitable for award to a small business concern due to the diversity and size of the elements of performance specified and the aggregate dollar value of the anticipated award.

Subtitle D—Resolution Regarding Small Business Access to Capital

SEC. 331. SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns remain a thriving and vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to either debt or equity capital is a critical component of small business formation, expansion, and success;

(3) small business concerns, which represent higher degrees of risk in financial markets than do large businesses, are experiencing increased difficulties in obtaining credit;

(4) minority-owned business enterprises have found extraordinary difficulties in obtaining credit; and

(5) demand for credit under the loan guarantee program contained in section 7(a) of the Small Business Act is insufficient to meet current demands.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) financial institutions should expand their efforts to provide credit to small business concerns, with special emphasis on minority-owned small business concerns;

(2) legislation and regulations considered by the Congress should be carefully examined to ensure that small business concerns are not negatively impacted; and

(3) legislation and regulations that enhance the viability of small business concerns, including changes in tax and health care policy, should be given a priority for passage by the Congress.

TITLE IV—SMALL BUSINESS INVESTMENT ACT AMENDMENTS

SECTION 401. SHORT TITLE.

This Act may be cited as the "Small Business Equity Enhancement Act of 1992".

SEC. 402. LEVERAGE (MATCHING FUNDS) FORMULA.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) by inserting after the word "debentures" in the first and sixth sentences of subsection (b) the following: "or participating securities";

(2) by striking paragraphs (1) through (3) of subsection (b) and inserting in lieu thereof the following:

"(1) The total amount of debentures and participating securities that may be guaranteed by the Administration and outstanding from a company licensed under section 301(c) of this Act shall not exceed 300 per centum of the private capital of such company: Provided, That nothing in this paragraph shall require any such company that on March 31, 1993, has outstanding debentures in excess of 300 per centum of its private capital to prepay such excess: And provided further, That any such company may apply for an additional debenture guarantee or participating security guarantee with the proceeds to be used solely to pay the amount due on such maturing debenture, but the maturity of the new debenture or security shall be not later than September 30, 2002.

"(2) After March 31, 1993, the maximum amount of outstanding leverage made available to a company licensed under section 301(c) of this Act shall be determined by the amount of such company's private capital—

"(A) if the company has private capital of not more than $15,000,000, the total amount of leverage shall not exceed 300 per centum of private capital;

"(B) if the company has private capital of more than $15,000,000 but not more than $30,000,000, the total amount of leverage shall not exceed $45,000,000 plus 200 per centum of the amount of private capital over $15,000,000; and

"(C) if the company has private capital of more than $30,000,000, the total amount of leverage shall not exceed $75,000,000 plus 100 per centum of the amount of private capital over $30,000,000 but not to exceed an additional $15,000,000.

"(3) Subject to the foregoing dollar and percentage limits, a company licensed under section 301(c) of this Act may issue and have outstanding both guaranteed debentures and participating securities: Provided, That the total amount of participating securities outstanding shall not exceed 200 per centum of private capital.

"(4) In no event shall the aggregate amount of outstanding leverage of any such company or companies wkich are commonly controlled as determined by the Administration exceed $90,000,000, unless the Administration determines on a case by case basis to permit a higher amount for companies under common control and imposes such additional terms and conditions as it determines appropriate to minimize the risk of loss to the Administration in the event of default.";

(3) by inserting before the period at the end of subsection (c)(6) the following: ", except as provided in paragraph (7)"; and

(4) by adding the following at the end of subsection (c):

"(7) The Administration may guarantee debentures or may guarantee the payment of the redemption price and prioritized payments on participating securities under subsection (g) from a company operating under section 301(d) of this Act in amounts above $35,000,000 but not to exceed the maximum amounts specified in section 303(b) subject to the following:

"(A) The interest rate on debentures and the rate of prioritized payments on participating securities shall be that specified in subsection 303(g)(2) without any reductions.

"(B) Any outstanding assistance under paragraphs (1) to (6) of this subsection shall be subtracted from such company's eligibility under section 303(b)(2)(A).".

SEC. 403. PARTICIPATING SECURITIES.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is further amended by adding the following new subsections:

"(g) In order to encourage small business investment companies to provide equity capital to small businesses, the Administration is authorized to guarantee the payment of the redemption price and prioritized payments on participating securities issued by such companies which are licensed pursuant to section 301(c) of this Act, and a trust or a pool acting on behalf of the Administration is authorized to purchase such securities. Such guarantees and purchases shall be made on such terms and conditions as the Administration shall establish by regulation. For purposes of this section, (A) the term 'participating securities' includes preferred stock, a preferred limited partnership interest or a similar instrument, including debentures under the terms of which interest is payable only to the extent of earnings and (B) the term 'prioritized payments' includes dividends on stock, interest on qualifying debentures, or priority returns on preferred limited partnership interests which are paid only to the extent of earnings. Participating securities guaranteed under this subsection shall be subject to the following restrictions and limitations, in addition to such other restrictions and limitations as the Administration may determine:

"(1) Participating securities shall be redeemed not later than 15 years after their date of issuance for an amount equal to 100 per centum of the original issue price plus the amount of any accrued prioritized payment: Provided, That if, at the time the securities are redeemed, whether as scheduled or in advance, the issuing company (A) has not paid all accrued prioritized payments in full as provided in paragraph (2) below and (B) has not sold or otherwise disposed of all investments subject to profit distributions pursuant to paragraph (11), the company's obligation to pay accrued and unpaid prioritized payments shall continue and payments shall be made from the realized gain, if any, on the disposition of such investments, but if on disposition there is no realized gain, the obligation to pay accrued and unpaid prioritized payment shall be extinguished: Provided further, That in the interim, the company shall not make any in-kind distributions of such investments unless it pays to the Administration such sums, up to the amount of the unrealized appreciation on such investments, as may be necessary to pay in full the accrued prioritized payments.

"(2) Prioritized payments on participating securities shall be preferred and cumulative and payable out of the retained earnings available for distribution, as defined by the Administration, of the issuing company at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on such securities, adjusted to the nearest one-eighth of 1 per centum, plus, at the time the guarantee is issued, such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes, but not to exceed 2 per centum.

"(3) In the event of liquidation of the company, participating securities shall be senior in priority for all purposes to all other equity interests in the issuing company, whenever created.

"(4) Any company issuing a participating security under this subsection shall commit to invest or shall invest and maintain an amount equal to the outstanding face value of such security solely in equity capital. As used in this subsection, 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features which is not amortized and which provides for interest payments contingent upon and limited to the extent of earnings.

"(5) The only debt other than leverage obtained in accordance with this title which

any company issuing a participating security under this subsection may have outstanding shall be temporary debt in amounts limited to not more than 50 per centum of private capital.

"(6) The Administration may permit the proceeds of a participating security to be used to pay the principal amount due on outstanding debentures guaranteed by the Administration, if (A) the company has outstanding equity capital invested in an amount equal to the amount of the debentures being refinanced and (B) the Administration receives profit participation on such terms and conditions as it may determine, but not to exceed the per centums specified in paragraph (11).

"(7) For purposes of computing profit participation under paragraph (11), except as otherwise determined by the Administration, the management expenses of any company which issues participating securities shall not be greater than 2.5 per centum per annum of the combined capital of the company, plus $125,000 if the company's combined capital is less than $20,000,000. For purposes of this paragraph, (A) the term 'combined capital' means the aggregate amount of private capital and outstanding leverage and (B) the term 'management expenses' includes salaries, office expenses, travel, business development, office and equipment rental, bookkeeping and the development, investigation and monitoring of investments, but does not include the cost of services provided by specialized outside consultants, outside lawyers and outside auditors, who perform services not generally expected of a venture capital company nor does such term include the cost of services provided by any affiliate of the company which are not part of the normal process of making and monitoring venture capital investments.

"(8) Notwithstanding paragraph (9), if a company is operating as a limited partnership or as a subchapter s corporation or an equivalent pass-through entity for tax purposes and if there are no accumulated and unpaid prioritized payments, the company may make annual distributions to the partners or shareholders in amounts not greater than each partner's or shareholder's maximum tax liability. For purposes of this paragraph, the term 'maximum tax liability' means the amount of income allocated to each partner or shareholder (including an allocation to the Administration as if it were a taxpayer) for Federal income tax purposes in the income tax return filed or to be filed by the company with respect to the fiscal year of the company immediately preceding such distribution, multiplied by the highest combined marginal Federal and State income tax rates for corporations or individuals, whichever is higher, on each type of income included in such return. For purposes of this paragraph, the term 'State income tax' means the income tax of the State where the company's principal place of business is located.

"(9) After making any distributions as provided in paragraph (8), a company with participating securities outstanding may distribute the balance of income to its investors, specifically including the Administration, in the per centums specified in paragraph (11), if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full, subject to the following conditions:

"(A) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 200 per centum of the amount of private capital, any amounts distributed shall be made to private investors and to the Administration in the ratio of leverage to private capital.

"(B) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 100 per centum but not more than 200 per centum of the amount of private capital, 50 per centum of any amounts distributed shall be made to the Administration and 50 per centum shall be made to the private investors.

"(C) If the amount of leverage outstanding is 100 per centum, or less, of the amount of private capital, the ratio shall be that for distribution of profits as provided in paragraph (11).

"(D) Any amounts received by the Administration under subparagraph (A) or (B) shall be applied first as profit participation as provided in paragraph (11) and any remainder shall be applied as a prepayment of the principal amount of the participating securities or debentures.

"(10) After making any distributions pursuant to paragraph (8), a company with participating securities outstanding may return capital to its investors, specifically including the Administration, if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full. Any distributions under this paragraph shall be made to private investors and to the Administration in the ratio of private capital to leverage as of the date of the proposed distribution: Provided, That if the amount of leverage outstanding is less than 50 per centum of the amount of private capital or $10,000,000, whichever is less, no distribution shall be required to be made to the Administration unless the Administration determines, on a case by case basis, to require distributions to the Administration to reduce the amount of outstanding leverage to an amount less than $10,000,000.

"(11)(A) A company which issues participating securities shall agree to allocate to the Administration a share of its profits determined by the relationship of its private capital to the amount of participating securities guaranteed by the Administration in accordance with the following:

"(i) If the total amount of participating securities is 100 per centum of private capital or less, the company shall allocate to the Administration a per centum share computed as follows: the amount of participating securities divided by private capital times 9 per centum.

"(ii) If the total amount of participating securities is more than 100 per centum but not greater than 200 per centum of private capital, the company shall allocate to the Administration a per centum share computed as follows:

"(I) 9 per centum, plus

"(II) 3 per centum of the amount of participating securities minus private capital divided by private capital.

"(B) Notwithstanding any other provision of this paragraph—

"(i) in no event shall the total per centum required by this paragraph exceed 12 per centum, unless required pursuant to the provisions of (ii) below,

"(ii) if, on the date the participating securities are marketed, the interest rate on Treasury bonds with a maturity of 10 years is a rate other than 8 per centum, the Administration shall adjust the rate specified in paragraph (A) above, either higher or lower, by the same per centum by which the Treasury bond rate is higher or lower than 8 per centum, and

"(iii) this paragraph shall not be construed to create any ownership interest of the Administration in the company.

"(12) A company may elect to make an in-kind distribution of securities only if such securities are publicly traded and marketable. The company shall deposit the Administration's share of such securities for disposition with a trustee designated by the Administration or, at its option and with the agreement of the company, the Administration may direct the company to retain the Administration's share. If the company retains the Administration's share, it shall sell the Administration's share and promptly remit the proceeds to the Administration. As used in this paragraph, the term 'trustee' means a person who is knowledgeable about and proficient in the marketing of thinly traded securities.

"(h) The computation of amounts due the Administration under participating securities shall be subject to the following terms and conditions:

"(1) The formula in subsection (g)(11) shall be computed annually and the Administration shall receive distributions of its profit participation at the same time as other investors in the company.

"(2) The formula shall not be modified due to an increase in the private capital unless the increase is provided for in a proposed business plan submitted to and approved by the Administration.

"(3) After distributions have been made, the Administration's share of such distributions shall not be recomputed or reduced.

"(4) If the company prepays or repays the participating securities, the Administration shall receive the requisite participation upon the distribution of profits due to any investments held by the company on the date of the repayment or prepayment.

"(5) If a company is licensed on or before March 31, 1993, it may elect to exclude from profit participation all investments held on that date and in such case the Administration shall determine the amount of the future expenses attributable to such prior investment: Provided, That if the company issues participating securities to refinance debentures as authorized in subsection (g)(6), it may not elect to exclude profits on existing investments under this paragraph."

SEC. 404. POOLING.

Section 321 of the Small Business Investment Act of 1958 (15 U.S.C. 687l) is amended to read as follows:

"SEC. 321. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

"(a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies, including companies operating under the authority of section 301(d), and guaranteed by the Administration under this Act, or participating securities which are issued by such companies and purchased and guaranteed pursuant to section 303(g): Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures or guaranteed participating securities.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures or the redemption price of and priority payments on the participating securities, which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, or participating securities are redeemed, either voluntarily or involuntarily, or in the event of default of a debenture or voluntary or involuntary redemption of a participating security, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the

amount of principal and interest such prepaid debenture or redeemed participating security and priority payments represent in the trust or pool. Interest on prepaid or defaulted debentures, or priority payments on participating securities, shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures or redemption, whether voluntary or involuntary, of all participating securities residing in the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect a fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures or participating securities residing in a trust or pool against which trust certificates are issued.

"(f)(1) The Administration shall provide for a central registration of all trust certificates sold pursuant to this section. Such central registration shall include with respect to each sale—

"(A) identification of each small business investment company;

"(B) the interest rate or prioritized payment rate paid by the small business investment company;

"(C) commissions, fees, or discounts paid to brokers and dealers in trust certificates;

"(D) identification of each purchaser of the trust certificate;

"(E) the price paid by the purchaser for the trust certificate;

"(F) the interest rate on the trust certificate;

"(G) the fee of any agent for carrying out the functions described in paragraph (2); and

"(H) such other information as the Administration deems appropriate.

"(2) The Administrator shall contract with an agent or agents to carry out on behalf of the Administration the pooling and the central registration functions of this section including, notwithstanding any other provision of law, maintenance on behalf of and under the direction of the Administration, such commercial bank accounts as may be necessary to facilitate trusts or pools backed by debentures or participating securities guaranteed under this Act, and the issuance of trust certificates to facilitate such poolings. Such agent or agents shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government.

"(3) Prior to any sale, the Administrator shall require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument.

"(4) The Administrator is authorized to regulate brokers and dealers in trust certificates sold pursuant to this section.".

SEC. 405. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking in subsection (g)(3) "stock and $221,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $221,000,000 in guarantees of debentures, of which $40,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $100,000,000 in guarantees of participating securities";

(2) by striking in subsection (i)(3) "stock and $232,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $232,000,000 in guarantees of debentures, of which $42,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $250,000,000 in guarantees of participating securities"; and

(3) by adding the following new subsections at the end thereof:

"(k) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $23,000,000 in purchases of preferred securities, $244,000,000 in guarantees of debentures, of which $44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $400,000,000 in guarantees of participating securities.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out subsection (k), including salaries and expenses of the Administration.

"(m) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $24,000,000 in purchases of preferred securities, $256,000,000 in guarantees of debentures, of which $46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $550,000,000 in guarantees of participating securities.

"(n) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out subsection (m), including salaries and expenses of the Administration.

"(o) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in purchases of preferred securities, $268,000,000 in guarantees of debentures, of which $48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $700,000,000 in guarantees of participating securities.

"(p) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out subsection (o), including salaries and expenses of the Administration.".

SEC. 406. SAFETY AND SOUNDNESS.

(a) Financial Viability Determined.—Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by adding the following at the end of subsection (a): "The Administration shall also determine the ability of the company, both prior to licensing and prior to approving any request for financing, to make periodic payments on any debt of the company which is interest bearing and shall take into consideration the income which the company anticipates on its contemplated investments, the experience of the company's owners and managers, the history of the company as an entity, if any, and the company's financial resources.".

(b) Valuation Guidelines and Responsibility.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by adding at the end thereof the following new subsection:

"(d) Each small business investment company shall adopt written guidelines for determination of the value of investments made by such company. The board of directors of corporations and the general partners of partnerships shall have the sole responsibility for making a good faith determination of the fair market value of the investments made by such company. Determinations shall be made and reported to the Administration not less than semiannually or at more frequent intervals as the Administration determines appropriate: Provided, That any company which does not have outstanding financial assistance under the provisions of this title shall be required to make such determinations and reports to the Administration annually, unless the Administration, in its discretion, determines otherwise.".

SEC. 407. EXAMINATIONS.

(a) Examination by Investment Division.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking from subsection (b) "Administration by examiners selected or approved by" and by inserting in lieu thereof the following: "Investment Division of"; and

(b) Transfer of Resources.—Effective October 1, 1992, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, and other funds employed, held, used, arising from, available or to be made available, which are related to the examination function provided by section 310 of the Small Business Investment Act of 1958 shall be transferred by the Inspector General of the Small Business Administration to the Investment Division of the Small Business Administration.

SEC. 408. NON-FINANCED SBICS.

(a) Investment Limitation.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

"(a) If any small business investment company has obtained financing from the Administration and such financing remains outstanding, the aggregate amount of obligations and securities acquired and for which commitments may be issued by such company under the provisions of this title for any single enterprise shall not exceed 20 per centum of the private capital of such company, without the approval of the Administration."

(b) Conforming Amendment.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by inserting before the semicolon at the end of subsection (c)(5) the following: ", if such restriction is applicable".

(c) Temporary Investment of Funds.—Section 308(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687(b)) is amended by inserting after "Such companies" in the third sentence the following: "with outstanding financings".

(d) Regulatory Review.—Not later than 90 days after the effective date of this Act, the Small Business Administration shall complete a review of those regulations intended to provide for the safety and soundness of those small business investment companies which obtain financing from the Administration under the provisions of the Small Business Investment Act of 1958. The Administration is directed to exempt from such regulations, or to separately regulate, those companies which do not obtain financing from the Administration.

(e) Report to Congress.—The Administration, within 180 days after the effective date of this Act, shall report on actions taken pursuant to section 8(d) of this Act to the Committees on Small Business of the Senate and the House of Representatives, including the rationale for its actions.

SEC. 409. MINIMUM CAPITAL.

Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by strik-

ing from subsection (a) "1979 pursuant to sections 301(c) and (d) of this Act shall be not less than $500,000" and inserting in lieu thereof the following: "1992 pursuant to section 301(c) of this title shall be not less than $2,500,000 and pursuant to section 301(d) of this title shall be not less than $1,500,000".

SEC. 410. DEFINITIONS.

Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended as follows:

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) notwithstanding any other provision of law, the term 'private capital' means the private paid-in capital and paid-in surplus of a corporate licensee, or the private partnership capital of an unincorporated licensee, inclusive of (A) any funds invested in the licensee by a public or private pension fund, (B) any funds invested in the licensee by State or local government entities, to the extent that such investment does not exceed 33 percent of a licensee's total private capital and otherwise meets criteria established by the Administration, and (C) unfunded commitments from institutional investors that meet criteria established by the Administration, but it excludes any funds which are borrowed by the licensee from any source or which are obtained or derived, directly or indirectly, from any Federal source, including the Administration: Provided, That no unfunded commitment from an institutional investor may be used for the purpose of meeting the minimum amount of private capital required by this Act or as the basis for the Administration to issue obligations to provide financing; and

"(10) the term 'leverage' includes debentures purchased or guaranteed by the Administration, participating securities purchased or guaranteed by the Administration, or preferred securities issued by companies licensed under section 301(d) of this Act and which have been purchased by the Administration.".

SEC. 411. INTEREST RATE CEILING.

Section 305 of the Small Business Investment Act of 1958 (15 U.S.C. 685) is amended by striking the period at the end of subsection (c) and by inserting in lieu thereof the following: ": Provided, That the Administration also shall permit those companies which have issued debentures pursuant to this Act to charge a maximum rate of interest based upon the coupon rate of interest on the outstanding debentures, determined on an annual basis, plus such other expenses of the company as may be approved by the Administration.".

SEC. 412. PREFERRED PARTNERSHIP INTERESTS.

Section 303(c) of the Small Business Investment Act of 1958 (15 U.S.C. 683(c)) is amended—

(1) by striking from the first sentence the word "preferred";

(2) by inserting after the second sentence the following: "As used in this subsection, the term 'securities' means shares of nonvoting stock or other corporate securities or limited partnership interests which have similar characteristics."; and

(3) by striking from paragraph (1) "shares of nonvoting stock (or other corporate securities having similar characteristics)" and inserting in lieu thereof "such securities".

SEC. 413. INDIRECT FUNDS FROM STATE OR LOCAL GOVERNMENTS.

Section 303(e) of the Small Business Investment Act of 1958 (15 U.S.C. 683(e)) is amended—

(1) by inserting after the word "company" the following: "licensed under section 301(d) and notwithstanding section 103(9)"; and

(2) by striking "prior" and all that follows through the period at the end and inserting "to November 21, 1989: Provided, That such companies may include in private capital for any purpose funds indirectly obtained from State or local governments. As used in this subsection, the term 'capital indirectly obtained' includes income generated by a State financing authority or similar State institution or agency or from the investment of State or local money or amounts originally provided to nonprofit institutions or corporations which such institutions or corporations, in their discretion, determine to invest in a company licensed under section 301(d).".

SEC. 414. SBIC APPROVALS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (a)(2): "Subject to approval in appropriations Acts, amounts authorized for preferred securities, debentures or participating securities under title III of the Small Business Investment Act of 1958 may be obligated in one fiscal year and disbursed or guaranteed in the following fiscal year.".

SEC. 415. IMPLEMENTATION.

Notwithstanding any law, rule, regulation or administrative moratorium, except as otherwise expressly provided in this Act, the Small Business Administration shall—

(1) within 90 days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act and the amendments made by this Act; and

(2) within 180 days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act, and enter such contracts as are necessary to implement this Act and the amendments made by this Act.

SEC. 416. BUY AMERICA.

Section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 1661) is amended by adding at the end the following: "It is the intention of the Congress that in the award of financial assistance under this Act, when practicable, priority be accorded to small business concerns which lease or purchase equipment and supplies which are produced in the United States and that small business concerns receiving such assistance be encouraged to continue to lease or purchase such equipment and supplies.".

SEC. 417. STUDIES AND REPORTS.

(a) SBA Annual Report.—Section 308(g) of the Small Business Investment Act of 1958 (12 U.S.C. 687(g)) is amended by adding at the end the following new paragraph:

"(3) In its annual report for the year ending on December 31, 1993, and in each succeeding annual report made pursuant to section 10(a) of the Small Business Act, the Administration shall include a full and detailed description or account relating to—

"(A) the number of small business investment companies the Administration licensed, the number of licensees that have been placed in liquidation, and the number of licensees that have surrendered their licenses in the previous year, identifying the amount of government leverage each has received and the type of leverage instruments each has used;

"(B) the amount of government leverage that each licensee received in the previous year and the types of leverage instruments each licensee used;

"(C) for each type of financing instrument, the sizes, geographic locations, and other characteristics of the small business investment companies using them, including the extent to which the investment companies have used the leverage from each instrument to make small business loans, equity investments, or both; and

"(D) the frequency with which each type of investment instrument has been used in the current year and a comparison of the current year with previous years.".

(b) Report of the Comptroller General.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Committees on Small Business of the House of Representatives and the Senate a report that reviews the Small Business Investment Company program (established under the Small Business Investment Act of 1958) for the 3-year period following the date of enactment of this Act, with respect to each item listed in section 308(g)(3) of the Small Business Investment Act of 1958, as amended by subsection (a).

SEC. 418. NO EFFECT ON SECURITIES LAWS.

Nothing in this Act (and no amendment made by this Act) shall be construed to affect the applicability of the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or any of the rules and regulations thereunder, or otherwise supersede or limit the jurisdiction of the Securities and Exchange Commission or the authority at any time conferred under the securities laws.

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

Mr. IRELAND. Mr. Speaker, I reserve the right to object, and I will not object.

Mr. Speaker, we concur fully in the program outlined by the chairman of the Small Business Committee, and it has our strong support.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

□ 1730

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNulty). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, August 12, 1992.

CONFERENCE REPORT ON H.R. 3033, JOB TRAINING REFORM AMENDMENTS OF 1992

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 3033) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youths and adults, and for other purposes.

(For conference report and statement, see proceedings of the House of Thursday, August 6, 1992 at page H7646.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. PERKINS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. GUNDERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. PERKINS].

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3033.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the Subcommittee on Employment Opportunities, I bring before the House today the conference agreement on H.R. 3033, the Job Training Reform Amendments of 1992. The House and Senate conferees unanimously support the agreement and continue the bipartisan commitment of the Congress to reform the Nation's worker training program. H.R. 3033 passed the House, during the first session of this Congress, overwhelmingly back in October of 1991 by a vote of 420 to 6. The House and Senate passed bills were very similar in spirit and content and thus the conference was highly amicable and proceeded in a bipartisan manner.

The conference agreement represents a critical component in the strategy of the Congress to present a strong and reliable platform of assistance to America's workers. The Job Training Partnership Act [JTPA] is the centerpiece of our Nation's plantform.

The efforts to reform the JTPA program have fallen short in the past for a variety of reasons, but today we stand one step closer to seeing a successful culmination of the efforts leading to reform. Some may ask why this reform is necessary. Many are aware of the reports and investigations of the JTPA program that have painted with a broad brush the entire program as rife with abuse. If the proponents of this agreement had found no redeeming merit in the program we would not be here today reforming the program but we would be advocating the replacement of it. We have found that this program works if run correctly.

We have read the variety of reports and findings from the GAO, the inspector general, committees of the Congress, and many other independent sources that have pointed to flaws that do exist. We have addressed all of these concerns with this reform package. We have also brought the Department of Labor into the process as a more active participant in the oversight and implementation of this program. The active oversight and constructive involvement by the Department is a critical part of the reform of this program.

This legislation targets the problem of abuse in the contracting process by increasing Federal oversight and cost accountability at the local level. This reform will answer the charge that the program creams only the most able bodied and skilled for training by focusing the targeting of the programs funds onto the disadvantaged, such as the chronically unemployed, dropouts, and the poor by providing them with comprehensive, longterm services, as well as child care, transportation, and financial assistance.

With the enactment of this agreement we will have succeeded in putting into place provisions that would require or encourage the reform of the procurement process; the establishment of stringent and challenging performance standards; the tightening of restrictions on the use of on-the-job training funds; the allowance of a locally determined additional barrier to employment; the promotion of a greater level of coordination among human resource programs; the retention of a State set-aside for older workers; the increase in funding for training of our veterans; and a programs wide emphasis on training JTPA professional staff. All of these issues, as well as many others are successfully addressed in this agreement.

I am indebted for the support of my chairman and his staff and wish to publicly thank Chairman FORD for his commitment and effort in shepherding this bill through the process. Chairman FORD'S contributions, as well as the contributions of the many other Members who have participated in the crafting of the final agreement have all assisted in making this a true reform package.

I feel that a great strength of this agreement is the bipartisan manner in which it has been produced. Beginning with Congressman GUNDERSON at the subcommittee level, Congressman GOODLING in the full Committee, the Republican Senate conferees, and the Department of Labor, throughout the process we have experienced a superb level of cooperation.

Whenever a legislative package of this size and magnitude moves through the Congress it is a result of many hours of staff work and this agreement is no exception. I want to thank all of the staff that worked so hard on this project and put together the pieces that make up the product we have in front of us.

I ask that the House move in unanimous agreement to support the conference agreement today so that we can send it onto the President for his signature.

Mr. Speaker, I reserve the balance of my time.

Mr. GUNDERSON. Mr. Speaker, I yield myself such time as I my consume.

Mr. Speaker, I too would like to rise in strong support of the conference agreement on H.R. 3033, the Job Training Reform Amendments of 1992.

I want to take this time to begin by paying a special tribute to the staff on both sides of the aisle who helped bring this conference report here, as well as to my colleague, the gentleman from Kentucky [Mr. PERKINS]. This is very likely going to be the last major piece of legislation the gentleman from Kentucky will bring to this Congress, either as chairman of this committee or as a member.

I know I speak for Members on both sides of the aisle when I say to the gentleman from Kentucky [Mr. PERKINS], we have enjoyed your service. We wish you well and we commend you for this particular piece of legislation.

Mr. Speaker, I would also like to pay a special thanks to the Assistant Secretary of Labor, Mr. Jones, who has been a key part in helping both sides of the aisle work out this particular agreement that we have before us.

Mr. Speaker, this represents a 4-year update of the Nation's Job Training Partnership Act as we try to prepare this legislation for the needs that we have in front of us and as we prepare this work force for the future. We have made a number of significant changes, mainly to make improvements in the program and to address the concerns that have arisen over the past 4 years as we have looked at this particular legislation.

There has been some criticism of the Job Training Partnership Act. I would suggest that most of it has not been justified. Most of it perhaps has been misleading or unfair, but we have tried to respond to those criticisms wherever we have seen them.

Mr. Speaker, I am very proud of the Job Training Partnership Act in this country. It is an act designed for flexibility, allowing each community and service delivery area to respond to the unique needs of their particular area.

I am happy to have in my western Wisconsin district three unique service delivery or job training private industry council programs. One is in LaCrosse, which this year received a Presidential award; one is in west central Wisconsin in Menomonie, responding to major layoffs as we speak, and the third in southwestern Wisconsin, a private industry council serving the southwestern corner of the State, a much more rural area.

Legitimate improvements can and should be made, and I think are being made in this particular act, both to improve the quality of services and to reinstill confidence in the country's only job training program.

In particular, I would like to respond to two special segments of the bill. There is one segment that focuses on the criticism that we do not adequately target our job training programs. The conference agreement establishes separate year-round programs for adults and youth to try to respond to this. It revises program eligibility criteria to ensure service to participants with significant barriers to employment.

Specifically, the conference agreement requires that a majority of the participants, 65 percent under both the adult and the youth programs, must have at least one additional barrier to employment. Also authorizes a new youth opportunities unlimited program under title IV.

We also tried to improve program quality under the program by including provisions aimed at providing more intensive and comprehensive services to program participants. Under the program each participant must be assessed and a service strategy must be developed. Likewise, performance standards are now revised to include basic skills and employment competencies to complement the current standards and to promote long-term employability, job placement, and retention.

Those points are important to be considered as we look at this bill for the five basic principles that we now include: maintaining the successful cornerstone of JTPA; targeting the services, as I have just emphasized; enhancing program quality, as I just emphasized; achieving a comprehensive, coordinated human delivery system; and increasing fiscal integrity and accountability.

□ 1740

This is good piece of legislation. It was worthy of support, and I would encourage by colleagues on both sides of the aisle to do that.

Mr. Speaker, I reserve the balance of my time.

Mr. PERKINS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I would like to start by complimenting the members of the subcommittee who finally worked this bill out and did such a grand job that it took us only minutes in conference with the Senate to come back to our colleagues.

The work on these reforms, which is the first rewrite of JTPA since it was passed in 1982, started a few years ago under my predecessor, Gus Hawkins, when the inspector general from the Labor Department was not satisfied with the performance of the program in some parts of the country, not all parts of the country, just some parts of the country.

And the committee began to pursue by whatever means we had with the participation of the Labor Department, and I want to tell my colleagues that on this legislation there has been more active participation by the administration through the Labor Department than I have seen on any legislation since this administration came to power.

I give a good deal of that credit to somebody already mentioned by my Republican colleague over there, Bob Jones, who used to work on the committee for the Republicans years ago and administers the program and administratively corrected a number of the problems that had been brought to Chairman Hawkins' attention.

And when they reached what they felt was the limit of how far the could go administratively, they turned to us to write legislation.

The legislation brought here by the gentleman from Kentucky [Mr. PERKINS] today is the result of all that effort, and it has been a cooperative effort from the very beginning.

Nobody was out to prove anybody was wrong. We have not identified any of the areas with the problems specifically, but as this legislation has been considered, I have had numerous meetings in my office by people from PIC's around the country who heard about it and came in to say things that sort of go like this: "We used to do the kind of things that you don't want done, but we figured that that was wrong and we changed it."

Clearly, what we have here is a solution that will pick up only the stragglers, the people who have not become alert themselves and cleaned up the problem. And that includes a couple of places in my own State of Michigan where they acknowledged that they were doing some of the things that the inspector general and the GAO found to be outside the intent, scope, and intent of the act.

They have cleaned it up. So this is a case of legislating to the lowest common denominator, because most of the PIC's around the country that found out that this legislation was being worked on and found out what the problems were that it was aimed at took the initiative to correct the problems themselves locally.

It is one of the pleasant experiences I have had in my time here in terms of self-policing and recognition by people that they had to clean up their own act before we had to compel them to do it.

I do not look at this act at this point as being something that is imposing anything really onerous in the way of compulsory new rules on the PIC's out around the country. The number who have already moved to do these things on their own is clear evidence of the fact that the ones who are lagging should have no trouble catching up once this becomes law.

I have no reason to believe that it will not be signed promptly, as soon as we pass it here, because, as I say, it has been developed with strong and very able cooperation of the Labor Department and the labor committees in both the House and the Senate.

Mr. Speaker, I rise in support of the conference report on H.R. 3033, the first comprehensive overhaul of the Job Training Partnership Act since it was first enacted in 1982. H.R. 3033 is the product of 4 years of work by the labor committees of the House and Senate, the administration, and the General Accounting Office. This legislation, the Job Training Reform Amendments of 1992, is proof that from time to time, for the good of the Nation, we can overcome our partisan and ideological differences and work out solutions to recognized problems.

The Job Training Partnership Act [JTPA] is the law governing most of our largest and best known Federal training programs—Job Corps, the title III dislocated workers program, the Summer Youth Employment Program, and title II–A, the basic training program for our poorest and most disadvantaged citizens. In total, JTPA accounts for more than $4 billion of employment and training programs, and H.R. 3033 affects all of them, to varying degrees.

At their best, JTPA training programs can make a crucial difference in the lives of the people they serve and can contribute measurably to national goals of building a better skilled, more literate work force. Everyone benefits when a high school dropout with two kids attains a high school equivalency diploma, gets a good job paying $8 plus health benefits at the local power company, and leaves the welfare system. JTPA has done that over and over again in my congressional district and around the country. Its successes should be repeated a thousandfold and the people who make them happen should be recognized and rewarded with greater funding in order to expand their good works.

But far too often, the results of JTPA services have been much less. Poorly thought-out incentives have encouraged the local and State administrators of JTPA programs to provide cheap, quick services to clients selected because they were already employable, rather than to provide real training to people who might be unemployable without it. Cream skimming does not give the public a real return on the money they have invested in job training.

Even worse, a combination of these misconceived incentives and overly cozy relationships have encouraged some administrators to turn their programs into pure subsidies to local businesses, paying half the wages for a constant stream of new employees who train on the job as carwashers, dishwashers, or broom pushers for 6 months until the subsidy runs out, their training ends, and a new trainee replaces them. The results of this kind of training can be shocking. A recently reported study of 16 local programs found that young men who were served by JTPA had lower earnings over an 18-month period than similar young men who were turned away without receiving any assistance.

A stream of similar, well-documented criticisms of JTPA by the GAO, the Department of

Labor's inspector general, and the Department's own officials persuaded me almost 4 years ago that dramatic changes were needed in the law and its administration. The conference report we have brought to the House is designed to address every one of the major problems that have been identified over the years, without changing the basic structure of the system Congress and the President agreed to 10 years ago—a decentralized system overseen by the Governors of the States but directly administered by local, business-dominated governing boards known as private industry councils, or PIC's.

I believe that if the legislative changes we are making today do not put an end to the abuses and too-frequent failures of the system, the system itself will have to be changed. In that sense, H.R. 3033 represents a test for the system itself, and especially for the PIC's.

Several themes dominate the changes made by this conference report. The most important is the emphasis on providing skill training that will make an enduring difference for the trainee, as opposed to simple job search assistance such as résumé writing, interview practice, and job referrals. The placement of a 19-year-old dropout in a low-paying, dead-end job is not success. Helping him acquire a skill that will allow him to get a job and retain it is success, especially if he attains his GED and becomes sufficiently literate to learn on his own in the future. That kind of training is more expensive, difficult, and time-consuming. But the return to the taxpayers, to the community, and to the individual who is helped is many times greater than the cheaper, easier alternative.

Accountability is the second most important theme of this legislation. It has made me angry and bitter over the years to see how many people are willing to misspend the scarce Federal training dollars we provide and how slow the Government has been at every level to crack down on abuse. There is no excuse for training funds being spent on foreign travel, local business development schemes, or to encourage interstate business relocations. If the rules were not clear in the past, they are clear now. If PIC's approve such abuses, they will be forced to repay the misspent funds and will be restructured if they persist. Any State or PIC that assists a business relocation that causes the loss of jobs will be assessed a penalty in addition to repayment.

Agencies at any level of the system that attempt to convert training funds by making a profit will be clearly prohibited from doing so. Administrators who have routinely padded their administrative accounts by writing fixed unit price performance based contracts will find the practice flatly prohibited. Businesses that hire trainees to take advantage of wage subsidies, but never retain them after the subsidies expire will be denied access to the program. And because JTPA is funded with Federal tax dollars, States that fail to enforce performance standards will have funds withheld from them by the U.S. Department of Labor.

Congress cannot and will not tolerate abuse of Federal job training funds.

Better targeting is another theme of this legislation. The program's local administrators will be required to concentrate their services not just on the poor, but on individuals with additional barriers to employment, such as dropouts, the homeless, welfare recipients, and people lacking such basic skills as the ability to speak or read English.

At the urging of Senator KENNEDY, the conferees have rewritten JTPA title V to create incentives for States and local administrators to target job training services on the absent parents of children receiving AFDC. To the extent a State's JTPA agencies succeed in training such parents for jobs that allow them to pay child support for their children, the States will receive a bonus to distribute among the contributing agencies. Thus, if Michigan JTPA programs train and find jobs for 1,000 absent fathers who subsequently pay $3 million a year in child support, the Secretary of Labor will pay a $3 million bonus to Michigan to reinvest in its JTPA programs. I applaud Senator KENNEDY for this innovative approach to a very tough problem and thank my fellow conferees on the part of the House for agreeing to give it a try.

At the same time that we are requiring stricter accountability for the States, local administrators, and those who enter into contracts involving JTPA funds, we have provided new flexibility and reduced administrative burdens in other areas. The conference report makes it easier for administrators to document the poverty status of their clients and permits the shifting of funds between the adult and youth programs, depending on local need. And to help them cope with the additional expense associated with individual assessments of trainees' needs and better case management, the cost categories that govern local spending have been relaxed.

I believe that this consensus legislation will bring about solid improvements in the quality of services provided under the Job Training Partnership Act. Secretary of Labor Lynn Martin and her staff deserve praise for their constructive role in developing these amendments. Chairman PERKINS should be proud of his accomplishment, as should Representative GOODLING and Representative GUNDERSON, who have joined me in pushing for reform for the last 3 years.

The United States of America needs and deserves a first-rate training system. I urge my colleagues to vote for this conference report and move us toward the kind of excellence our future demands.

Mr. GUNDERSON. Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the full committee, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, a lot of people are very happy about this conference report today, but none probably more happy than former Secretary Elizabeth Dole who, when she came back from visiting all of these JTPA sites, indicated that there are some things that need changing. And she tried to get us to move. Something happened on the other side, the other body, that we did not get it done when we on this side wanted to get it done.

This Secretary has been encouraging us to do likewise. So I am happy to support the conference agreement.

I think there are three themes particularly that have already been mentioned that I would like to reemphasize. One is in increased targeting of JTPA resources and programs toward those most in need of job training services. The second one would be the conference agreement has an amendment to improve both the quality and the integrity of the program, which is very important. And third, the final theme of the conference report we are considering today is recognition that the obtaining services provided under JTPA will be most effective when offered in conjunction with related services provided under other Federal, State, and local human resource programs.

Too many times each group is going off doing their own thing. Nothing is coordinated. We spend a lot of money; we do not accomplish what it is we intend to accomplish.

I think this conference report will give us the kind of job training program we will need, not only for tomorrow but for years to come.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. OLVER], a member of the subcommittee.

Mr. OLVER. Mr. Speaker, I rise in strong support of the conference report on H.R. 3033 and I would like to express my appreciation to my distinguished chairman from Kentucky for the opportunity to work with him on this legislation.

Mr. Speaker, H.R. 3033 represents a major step forward in meeting the needs of Americans, young and old, for better job training services. JTPA is our most important program to help people upgrade their skills and find permanent employment, and this legislation will help ensure that our training dollars are spent effectively.

By creating a separate youth program, including the Youth Opportunities Unlimited Program and its job guarantees, we will begin to help dropouts and other youth who are not headed to college to get long overdue assistance in joining the work force. The bill also makes great strides forward in reaching out to hard-to-serve individuals to help them become productive members of society.

As I think everyone recognizes, particularly those of us who worked on these improvements to JTPA, much remains to be done to improve our job training services for the disadvantaged, for displaced workers, and for noncollege bound youth.

This legislation improves targeting, increases fiscal accountability, and increases coordination of resources—all important goals as we invest in Americans—in our human capital so crucial to our future economic growth.

But none of us should consider these amendments sufficient to ensure our continued economic strength, productivity, and high standard of living. We need to aggressively adopt a high skills, high wage strategy which depends on an active school-to-work transition and life-long training opportunities.

I would also say that this conference was a model in its bipartisan cooperation. We need to demonstrate more frequently that Democrats and Republicans can come together, laying aside partisan politics, and work together to find common solutions to the problems which face America.

I thank my colleagues on both sides of the aisle for the opportunity to work with them, and I look forward to continuing to work with them as we forge the job training programs that our future requires.

□ 1750

Mr. GUNDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. HENRY], another member of our subcommittee who has been actively involved in this legislation through the months.

Mr. HENRY. Mr. Speaker, one of the concerns I in particular have had has been the whole issue of preserving a separate category of services for seniors, unemployed adults over the age of 55, under the JTPA. One of the problems we had over the last 4 years that we have been working on this reauthorization is the fact that under the original act many States did not avail themselves of this program, and yet some of those who did have very effective programs, and the distinguished chairman of the subcommittee, the gentleman from Kentucky [Mr. PERKINS] at the same time was resisting attempts to carve out all sorts of set-asides which would in fact diminish the flexibility of States to tailor programs to local needs.

Mr. Speaker, I want to acknowledge the balance with which he approached that issue, and the fact that we have the bill, which I think protects program integrity and flexibility, but at the same time does indeed protect special allocations and set-asides for delivery assistance to our older workers under this act.

Also, in keeping with the attempt to try to integrate JTPA with other social services, I would point out that the bill includes specific provisions on coordination between the older workers' program under JTPA and title V, "Community Service Employment," under the Older Americans Act.

For these and many other reasons, Mr. Speaker, I join with my colleagues on both sides of the aisle in urging adoption of the conference report.

Mr. Speaker, I rise in support of the conference report on H.R. 3033, the Job Training Reform Amendments of 1992.

These amendments have been a long time in working their way through the legislative process. The changes to JTPA are generally rather technical, but they respond to criticisms made over the years of the JTPA Program, and in doing so help to strengthen the program.

I especially want to cite the older worker provisions of the conference report. The conference report maintains the current system of a set-aside from the State's title IIA allocation for programs serving unemployed adults 55 years old and older. The State set-aside however will be increased from 3 percent to 5 percent of the State's title IIA allocation. I have been very supportive of maintaining a set-aside for older worker programs in order to preserve the separate and distinct focus of these programs within JTPA, and I am pleased that the conference report does indeed maintain and increase separate older worker funding.

Criticisms have been made in the past regarding a lack of accountability in some areas for the older worker programs. In addition to maintaining the State set-aside for funding, the conference report adds a number of requirements to address these concerns. States must develop performance criteria specifically for older worker programs. The conference report also requires that States serve older workers throughout the State on an equitable basis. Finally, the bill includes specific provisions on coordination between the older worker programs under JTPA and the title V community service employment under the Older Americans Act.

Overall, in the older worker program and in other areas, the conference report responds to concerns and criticisms without undercutting the program. I am pleased to support conference, and I urge my colleagues to support it.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I would like to congratulate Chairmen FORD and PERKINS for their work in moving this conference report before us today.

This legislation incorporates my Job Corps amendments, H.R. 1364 of last year, which more than 90 of my colleagues cosponsored. These amendments: First, clarify the authority to permit concurrent or subsequent participation in Job Corps and JTPA for the benefit of the individual; second, increase the limitation on nonresidential participation in Job Corps from 10 percent to 20 percent nationally; third, provide alcohol and drug abuse counseling; fourth, permit up to 20 percent of the individuals enrolled to be age 22 to 24; fifth, provide child care services; and sixth, protect against the contracting out of the administration by a nongovernment entity of Civilian Conservation Corps Job Corps centers on public lands.

In addition, it includes my legislation, H.R. 1365, the Disaster Relief Employment Act. This legislation, with more than 40 cosponsors, creates permanent authority to continue to allow the Secretary to respond to natural disasters, such as fires, tornadoes, hurricanes, and droughts.

The conference report includes the necessary reforms to insure the role of the State education agency in spending the 8 percent funds for education coordination under this act.

This legislation adopted my language to establish a national training network using computer-based technologies to improve the quality of service delivery at the local level. It also reforms the administration of Indian programs under this act.

It provides a job guarantee for youth who are progressing in school or school equivalency.

The conference agreement incorporates new assurances that training funds are not used to encourage the relocation of existing jobs. Finally, it also provides that when JTPA's labor protections are violated, workers are assured their grievances will be heard by the Secretary of Labor and the effective remedies are available when such violations occur.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MARTINEZ], former chairman of the subcommittee.

Mr. MARTINEZ. Mr. Speaker, I rise in support of the conference report on H.R. 3033, the Job Training Reform Amendments of 1992, which amends the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults.

I want to praise the diligence of the chairman of the Committee on Education and Labor, Mr. FORD, as well as the chairman of the Subcommittee on Employment Opportunities, Mr. PERKINS, for producing a conference report on JTPA following 4 years of deliberations.

Work on the JTPA reform bill began 4 years ago when I was the chairman of the Subcommittee on Employment Opportunities. Back then, former Education and Labor Committee Chairman Gus Hawkins and I believed that JTPA could be more accountable to taxpayers and reach the hardest to serve individuals if the program was fine-tuned through a new legislative mandate.

Our bill, H.R. 2039, was approved by a margin of 416 to 1 in the House on September 27, 1990. Unfortunately, the House bill died in the 101st Congress because the other body failed to act until the last day of that session. By then it was too late.

But today it is not too late. Today, we have the opportunity to vote for a conference report that will make JTPA a better program by: Targeting the hard-to-serve; creating a year-round youth program; initiating objective participant assessments; reforming on-the-job training; improving fiscal accountability; and updating performance standards.

In addition to these crucial reforms, the conference agreement includes provisions to combat discrimination and underservice to racial and ethnic minorities and women in the JTPA Program.

I offered these antidiscrimination provisions on behalf of Government Operations Committee Chairman CONYERS and Employment and Housing Subcommittee Chairman LANTOS during the Education and Labor Committee markup of H.R. 3033. It is our hope that these provisions guarantee greater participation of minorities and women in our Nation's job training programs.

Finally, this conference report will result in the initiation of the Jobs for Employable Dependent Individuals Act Program—otherwise known as JEDI. Senator EDWARD KENNEDY and I first acquired an authorization for the JEDI Program in the Stewart B. McKinney Homeless Assistance Act.

The JEDI Program, as amended in the conference report, would encourage States to provide job training and placement to absent parents of children who receive AFDC or Social Security disability income. JEDI will award bonuses to States for reducing welfare costs and placing participants in employment.

I am grateful to the conferees for recognizing that JEDI is a long-term, cost-efficient, and human solution to getting people off welfare and keeping them off the welfare rolls.

Mr. Speaker, the JEDI Program and other job training reforms in this conference report reaffirms JTPA's original mandate to help the most disadvantaged members of our community become economically self-sufficient. For that reason, I strongly urge my colleagues to approve this conference report.

Mr. PERKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I rise in strong support of H.R. 3033.

I commend the gentleman from Michigan [Mr. FORD] and the gentleman from Kentucky [Mr. PERKINS] for their outstanding work and leadership on this vital job training bill.

The underlying philosophy of the Job Training Partnership Act is to train disadvantaged workers by means of a partnership between government and industry.

Over the years, this partnership has worked well in my district in Louisville and Jefferson County.

I would like to call attention to two important provisions in H.R. 3033: The out-of-school youth provision and the schoolwide projects provision.

I understand that H.R. 3033 provides that 50 percent of the youths served must be out of school.

I also understand that bill permits the continuation of schoolwide programs, which target students who are at risk of dropping out of school.

The Louisville education and employment partnership in my district is a 5-year-old schoolwide program which provides students with job counseling and pairs each with a mentor.

The program has been hailed as a national model for its success in keeping students in school, and the provisions of H.R. 3033 will assure that exemplary programs like this will continue.

I urge my colleagues to vote for the conference report.

Mrs. MINK. Mr. Speaker, I rise in support of the conference report on H.R. 3033, the Job Training Partnership Act.

The JTPA is sensible legislation that puts people first. It invests in the people of our Nation—our most valuable commodity—by encouraging the development of human potential. The surest way for government to encourage the development of human potential is to provide the people with the means to empower themselves. The JTPA does just that by providing job training and a means to self-improvement.

The conference report on H.R. 3033 will improve the services provided under the JTPA, which is currently the largest Federal program that educates and trains our work force, by targeting services to ensure that it reaches those who actually need it the most, by separating services for adults and youth into two distinct groups so that the special needs of each group can be addressed more effectively, by providing individualized assessments of the education, skills, and service needs of each participant, by strengthening fiscal accountability and by reaching out to poor communities to enable the JTPA to provide comprehensive services to low-income youth. These improvements to the JTPA reflect a broad consensus among Federal, State, and local service providers about what changes are necessary to improve the program and to better coordinate its delivery to the disadvantaged.

The conference report retains the House provision providing for the voluntary establishment of State human resource investment councils in each State. These councils will provide the vehicle to better coordination of job training, vocational education, adult education, community service, unemployment compensation, food stamp, and other domestic programs. The final agreement allows for expanded participation on the council and greater flexibility to insure that States can best meet their employment and job training needs.

In the challenging economic times we live in, training and skills are necessary to compete in the job market. A well-trained work force is a powerful weapon in the war against recession and worker displacement. On a global scale, workers who possess the skills to produce a product or service that can withstand challenge from any other nation is assured of supremacy in the competitive world market. The JTPA is designed to harness our entire labor pool giving us that competitive edge in the world market and thereby ensuring the economic well-being of the entire Nation.

In my home State of Hawaii, the JTPA has provided Federal funds for many worthwhile programs such as the Hawaii Job Corps, the Summer Youth Program, the Seasonal Farmworkers Program on the Islands of Maui and Hawaii, the Veteran's Program, Alu Like for people of Hawaiian ancestry, and other programs geared toward the needs of Pacific Island and Asian immigrants. These are a few of the many programs that have reached out to different factions of our society in Hawaii, and encouraged involvement and participation through job training.

The JTPA is not a government handout, it is an opportunity to grow, to develop individual talents and skills necessary to achieve a fuller, more meaningful participation in the work force. The JTPA targets the disadvantaged, those with the most barriers to employment. By providing job training for the disadvantaged, we go back to our roots as a government for the people.

The JTPA has funded many worthwhile programs throughout the States, and its benefits are apparent. The JTPA deserves our continued support. I urge all of my colleagues to support the conference report on H.R. 3033.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of the conference report on H.R. 3033, the Job Training Reform Amendments of 1992. I would like to commend the leadership of the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources for their hard work and leadership on this legislation. Through their good work, JTPA will be serving the poorest of the poor—those most in need of job training, education, and economic opportunity.

I am pleased to say that the conference report includes two microenterprise proposals developed by the leadership of the House Select Committee on Hunger. For many people, Mr. Speaker, the route out of poverty is through their own small business. Yet most of our welfare-to-work programs have not offered that option. The conference report on H.R. 3033 clarifies that JTPA funds can be used for microenterprise training, and authorizes the Secretary of Labor to set up 10, $500,000 competitive grants for States to develop community-based microenterprise programs.

I commend both committees and the conferees for their vision and commitment to innovative proposals to enable the poor to make their own way in the world. I urge my colleagues to support this important bill.

□ 1800

Mr. GUNDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Kentucky [Mr. PERKINS] that the House suspend the rules and agree to the conference report on the bill, H.R. 3033.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 5466, AIRLINE COMPETITIVENESS ENHANCEMENT ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 541 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 541

Resolved, That at any time after the adoption of this resolution the speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 5466) to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 541 is an open rule providing for consideration of H.R. 5466, the Airline Competition Enhancement Act. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Public Works and Transportation Committee.

The rule makes in order the Public Works committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment. Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the Airline Competition Enhancement Act will enhance competition among air carriers by regulating the computer reservation systems used by travel agents to check airline schedules, make reservations, and issue tickets. The bill would prohibit an air carrier that operates a computer reservation system from discriminating against other air carriers that participate in the system as well as travel agents which subscribe to the system. The bill limits the terms of contracts between a computer reservation service and travel agent to 3 years and prohibits computer reservation services from including certain restrictive provisions in such contracts.

The bill also contains provisions to amend the Federal Aviation Act that govern airline service to small communities and requires commuter airlines to comply with regulations concerning on-time performance. Finally, the bill would clarify that the Federal Aviation Administration may require criminal history background checks to be conducted on certain industry employees.

Mr. Speaker, House Resolution 541 is a fair rule that will expedite consideration of this important legislation. I urge my colleagues to support the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may consume.

By way of background, Mr. Speaker, virtually all tickets sold by travel agents are sold through a computer reservation system. American and United Airlines control more than 60 percent of the national market and an even higher percentage of certain regional markets. Investigations by the Justice Department, Transportation Department, and GAO have all concluded that American and United have monopoly powers in the computer reservation system industry and are using these powers to inhibit competition in the airline industry.

It has also been found that American and United Airlines have charged other airlines participating in their computer reservation system's excessive booking fees which have produced returns on capital of 50 percent for United and 75 percent for American. United's and American's computer reservation systems also have architectural bias which makes it easier and more reliable for a travel agent to obtain information and make a booking on the airline owning the computer reservation system than on other airlines.

H.R. 5466 would amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system. It also limits contracts between computer reservation system vendors and users to 3 years.

H.R. 5466 also directs the Department of Transportation to consider reducing drug-testing rates for airline employees and requires commuter airlines to publish their flight cancellation statistics.

I do want to point out that the administration strongly opposes enactment of the bill. Among other things, the administration finds that the bill would mandate such diverse and detailed matters as computer reservations systems contract expiration dates, liquidated damages clauses, and the conditions for upgrading computer hardware or software. The administration believes that freezing such details in statutes will create problems as circumstances change and different solutions become available. The policy statement states that the bill unnecessarily interferes with the Department of Transportation's exercise of its rulemaking authority and the orderly development of regulations through notice and public comment.

Mr. Speaker, this bill is not without opposition. However, under this open rule there is an opportunity to correct any problems. I urge adoption of the rule.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank the distinguished Republican chairman emeritus of the Committee on Rules for yielding me this time. I rise simply to extend congratulations to my colleagues on the Rules Committee for granting this open rule.

Over the past several months we have had a wide range of Members who when time constraints have been imposed on amendments or limitations on debate, they still like to label the rule an open rule. Those are not open rules, Mr. Speaker. This is an open rule. And it is for that reason that I would like to stand here and congratulate my very good friend, the deputy whip from South Carolina, and my friend from Tennessee for moving ahead with legislation that clearly is controversial, but the procedure under which we will consider this bill is a very favorable one, and I hope that we use it more often in the legislative process here, and follow the lead often set by the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], who regularly likes to ask for open rules.

So, I thank my friend for yielding me the time, and I hope that we will have support for this open rule.

Mr. HAMMERSCHMIDT. Mr. Speaker, I support this rule.

I was pleased to join with the leadership of the Public Works and Transportation Committee in their request for an open rule on H.R. 5466. The Rules Committee is to be commended for proposing to grant that request here.

The bill that is the subject of this rule has not been without controversy. However, it does address many of the problems facing the airline industry. With this open rule, Members will have an opportunity to offer other ways to address the serious issues we are confronting here.

Accordingly, I would urge the adoption of this rule by the House.

Mr. QUILLEN. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that when the House adjourn today it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

SMALL BUSINESS INNOVATION DEVELOPMENT AMENDMENT ACT OF 1992

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4400) to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Innovation Development Amendment Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Small Business Innovation Research Program established by the Small Business Innovation Development Act of 1982 has been effective in encouraging the participation of small businesses in Federal research and development.

(2) The Small Business Innovation Research Program has stimulated technological innovation by small businesses participating in the program.

(3) Small businesses participating in the Small Business Innovation Research Program have demonstrated that they are among the most competent and cost-effective providers of high quality research and development.

(4) Small businesses participating in the Small Business Innovation Research Program have provided innovative products and services which are vital to the national defense, the exploration of space, the advancement of science, the promotion of the health, safety, and welfare of United States citizens, and many other fields important to the functions of the Federal Government.

(5) The Small Business Innovation Research Program has been successful in converting Federal research and development into innovative products benefiting both the United States Government and the commercial marketplace.

(6) By moving technology from the laboratory to the marketplace, the Small Business Innovation Research Program has expanded business opportunities, increased productivity, created jobs, stimulated the introduction of new products by high technology-related firms, and made United States industry more competitive.

(7) The Small Business Innovation Research Program has also resulted in a positive benefit to the Nation's balance of trade by increasing exports from small businesses.

(8) Federal employees have exhibited skill and innovation in implementing the Small Business Innovation Research Program.

(9) The Small Business Innovation Research Program can provide productive employment to the Nation's scientists and engineers who have been displaced due to cuts in the budget of the Department of Defense and due to economic recession.

(10) Despite the fact the Small Business Innovation Research Program has achieved its participation goals, the proportion of Federal funds for industrial research and development received by small businesses remains at 3 percent (the same level as in 1982), although private sector use of small businesses for research and development doubled during the 1980's.

(b) PURPOSES.—The purposes of this Act are—

(1) to expand and improve the Small Business Innovation Research Program;

(2) to modify the Small Business Innovation Research Program to emphasize private sector commercialization of technology derived from Federal research and development; and

(3) to increase the opportunity for participation in Federal research and development by small businesses.

SEC. 3. EXTENSION OF SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

Section 5 of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note) is amended by striking "1993" and inserting "2000".

SEC. 4. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) DEFINITION OF SBIR.—Subsection (e)(4) of section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential (as described in subparagraph (C)) and that are" after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) a second phase, to further develop proposed ideas which meet particular program needs, in which awards shall be made—

"(i) based on the scientific and technical merit and feasibility of the idea as evidenced by the first phase; and

"(ii) taking into consideration factors relating to the commercial potential of the idea, including—

"(I) whether or not the idea is proposed by a small business concern that has been as successful as comparable awardees in the commercial application of SBIR research;

"(II) whether or not there are commitments for contributions to second phase funding of the idea;

"(III) whether or not there are third phase, follow-on commitments for the idea; and

"(IV) whether or not the idea has other qualities indicating commercial potential that will be difficult to achieve without SBIR assistance or similar assistance; and

"(C) where appropriate, a third phase in which non-Federal capital pursues commercial applications of the research or research and development and which may also involve follow-on, non-SBIR funded awards with a Federal agency for products or processes intended for use by the United States Government and which is a continuation of research or research and development that has been competitively selected using peer review or scientific review criteria established pursuant to subparagraphs (A) and (B);".

(b) REPEAL OF EXCLUSION OF CERTAIN ACTIVITIES.—

(1) DOD OPERATIONAL SYSTEMS DEVELOPMENT.—Subsection (e)(1) of such section is amended by striking "except that for the Department of Defense" and all that follows through "development, and".

(2) DOE DEFENSE-RELATED R&D ACTIVITIES.—

(A) Subsection (e)(1) of such section is further amended by striking the semicolon at the end and inserting ", and except that for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs;".

(B) Subsection (f) of such section is amended by striking paragraph (2).

(c) REQUIRED EXPENDITURES FOR SBIR BY FEDERAL AGENCIES.—

(1) Subsection (f) of such section, as amended by subsection (b)(2), is amended to read as follows:

"(f)(1) Each Federal agency which for any fiscal year has an extramural budget for research, or for research and development, in excess of $100,000,000 shall expend for that fiscal year and each fiscal year thereafter not less than the percentage of that extramural budget for that year specified in paragraph (2) with small business concerns specifically in connection with a small business innovation research program that meets the requirements of this section and regulations issued under this section.

"(2)(A) The percentage under paragraph (1) for any fiscal year for each Federal agency is determined in accordance with the following table:

"For fiscal year:	The percentage is:
1993	1.25
1994	1.5
1995	1.75
1996	2.0
1997	2.25
1998 and thereafter	2.5.

"(B) If the determination of the head of a Federal agency under subparagraph (C) is a negative determination (as set forth in that subparagraph), then the percentage under paragraph (1) for that Federal agency for fiscal years after fiscal year 1996 shall remain at the level applicable for fiscal year 1996 (notwithstanding the percentages specified in subparagraph (A) for fiscal years after fiscal year 1996).

"(C) Not later than June 30, 1996, the head of each Federal agency that is covered by paragraph (1) during fiscal year 1996 shall determine whether there has been a demonstrable reduction in the quality of research performed under funding agreements awarded by that agency under the SBIR program since the beginning of fiscal year 1993 such that increasing the percentage under subparagraph (A) for fiscal years after fiscal year 1996 with respect to that agency would adversely affect the performance of the agency's research programs. If the determination of the head of the agency is that there has been such a demonstrable reduction in the quality of research such that increasing the percentage under subparagraph (B) for fiscal years after fiscal year 1996 with respect to that agency would adversely affect the performance of the agency's research programs, the head of the agency shall be considered for purposes of subparagraph (B) to have made a negative determination. The determination of the head of an agency under this subparagraph shall be made after considering the assessment of the Comptroller General with respect to that agency in the report transmitted under subparagraph (D).

"(D) Not later than March 30, 1996, the Comptroller General shall transmit to the Congress and the head of each agency that is covered by paragraph (1) during fiscal year 1996 a report setting forth the Comptroller General's assessment, with respect to each such agency, of whether there has been a demonstrable reduction in the quality of research performed under funding agreements awarded by that agency under the SBIR program since the beginning of fiscal year 1993 such that increasing the percentage under subparagraph (A) for fiscal years after fiscal year 1996 with respect to that agency would adversely affect the performance of the agency's research programs.

"(E) The results of each determination under subparagraph (C) shall be transmitted to the Congress not later than June 30, 1996.

"(3) A Federal agency may not make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for any fiscal year for basic research that exceeds the percentage specified in paragraph (1) applicable to that fiscal year.

"(4) A funding agreement with a small business concern for research, or for research and development, that results from competitive or single source selection other than a small business innovation research program shall not be counted as meeting any portion of the percentage requirements of paragraph (1) for any fiscal year.".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1992.

(d) SBIR SOLICITATIONS.—Section 9(g) of such Act (15 U.S.C. 638(g)) is amended—

(1) by inserting after paragraph (2) the following new paragraph:

"(3) unilaterally determine research topics within the agency's SBIR solicitations, giving special consideration to topics which permit substantial applicant participation in the formulation of the research project consistent with the agency's mission;"; and

(2) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively.

(e) DEADLINE FOR FINAL PAYMENT UNDER SBIR AGREEMENTS.—Paragraph (7) of section 9(g) of such Act (as redesignated by subsection (d)(2)) is amended by inserting before the semicolon the following: "and, in all cases, make payment to recipients under such agreements in full subject to audit on or before the last day of the 12-month period beginning on the date of completion of such requirements".

(f) MODIFICATIONS TO SBIR POLICY DIRECTIVES.—

(1) IN GENERAL.—Section 9(j) of such Act is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking ", within one hundred and twenty days" and all that follows through "of 1982,"; and

(ii) by striking "providing for—" and inserting "providing for the following:";

(B) by capitalizing the first letter of the first word of each of paragraphs (1) through (7);

(C) by striking the semicolon at the end of each of paragraphs (1) through (5) and inserting a period;

(D) by striking "; and" at the end of paragraph (6) and inserting a period; and

(E) by adding at the end the following new paragraphs:

"(8) Retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of at least four years.

"(9) Continued use by a small business concern as a directed bailment for a period of not less than two years beginning on the date of participation in phase III of a small business innovation research program of any property transferred by a Federal agency to the small business concern in phase II of the program.

"(10) Procedures to ensure that, to the extent practicable, an agency which intends to pursue research, development, or production of a technology developed by a small business concern under a small business innovation research program enter into follow-on, non-SBIR funded contracts with the small business concern for such research, development, or production.

"(11) A level of $75,000 for the amount of funds which an agency may award in the first phase of a small business innovation research program, such amount to be adjusted by the Administration on October 1, 1997, and each five years thereafter to reflect economic adjustments and programmatic considerations.

"(12) Procedures to ensure that a small business concern that submits a proposal for a phase II SBIR funding agreement and that has received more than 20 phase I SBIR awards during the preceding five fiscal years is required to document in its proposal the extent to which it has been able to commercialize previous SBIR research.".

(2) EFFECTIVE DATE.—The policy directives required by paragraphs (8), (9), (10), (11), and (12) of section 9(j) of the Small Business Act, as added by paragraph (1), shall be issued not later than 90 days after the date of the enactment of this Act.

(g) ELIMINATION OF OFFICE OF SCIENCE AND TECHNOLOGY POLICY REPORTING REQUIREMENT.—Section 9 of such Act (15 U.S.C. 638) is amended by striking subsection (k).

(h) REPORTING OF CERTAIN AWARDS.—

(1) IN GENERAL.—Section 9 of such Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(k)(1) If a Federal agency required by subsection (f) to establish a small business innovation research program makes a phase I award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in the next annual report required of the agency by subsection (g)(8).

"(2) If such an agency makes a phase II award to an entity that has received more than 20 phase I SBIR awards during the preceding five fiscal years and that has been unable to achieve an average rate of success in the commercialization of SBIR research (as determined by the agency in consultation with the Administration), the agency shall provide written justification for making that award in the next annual report required of the agency by subsection (g)(8).".

(2) CONFORMING AMENDMENT.—Paragraph (5) of section 9(g) of such Act (as redesignated by subsection (d)(2)) is amended by inserting "subject to subsection (k)," before "unilaterally".

(i) INFORMATION ON ALLOWABLE EXPENSES.—Paragraph (5) of section 9(g) of such Act (as redesignated by subsection (d)(2) and amended by subsection (h)(2)) is further amended by inserting before the semicolon the following: "and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement".

SEC. 5. REPORT BY COMPTROLLER GENERAL ON SBIR PROGRAM IMPLEMENTATION.

Not later than September 30, 1996, the Comptroller General shall transmit to the Congress a report on the implementation of the amendments to section 9 of the Small Business Act made by section 4. The report shall contain the following:

(1) A review of the progress made by Federal agencies in meeting the requirements of section 9(f)(1) of the Small Business Act, (relating to minimum expenditures under a small business innovation research program), including increases in such minimum expenditures required by the amendments to such section made by section 4.

(2) An analysis of participation by small business concerns in the third phase of small business innovation research programs described in section 9(e)(4)(C) of the Small Business Act, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization.

(3) An analysis of the extent to which awards under small business innovation research programs are made pursuant to section 9(k) in cases in which a program solicitation receives only one proposal.

(4) The results of any periodic random audits of the extramural budget (as defined in section 9(e)(1) of the Small Business Act) of each Federal agency conducted by the General Accounting Office.

SEC. 6. SENSE OF CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that an entity that is awarded a funding agreement under the Small Business Innovation Research Program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

(b) NOTICE TO SBIR AWARDEES.—Each Federal agency that awards funding agreements under the Small Business Innovation Research Program shall provide to each recipient of such an award a notice describing the sense of Congress set forth in subsection (a).

SEC. 7. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.

(a) ADDITIONAL SBA DUTIES.—Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (4), by inserting "and small business technology transfer" after "small business innovation research"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place it appears.

(b) SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM DEFINED.—Section 9(e) of such Act (15 U.S.C. 638(e)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(2) by adding at the end the following new paragraphs:

"(6) the term 'Small Business Technology Transfer Program' or 'STTR' means a program under which a portion of a Federal agency's research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having —

"(A) a first phase for determining, insofar as possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

"(B) a second phase, to further develop proposed ideas which meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea as evidenced by the first phase and by other relevant information; and

"(C) where appropriate, a third phase in which non-Federal capital pursues commercial applications of the cooperative research and development and which may also involve follow-on, non-STTR funded awards with a Federal agency for products or processes intended for use by the United States Government and which is a continuation of research or research and development that has been competitively selected using peer review or scientific review criteria established pursuant to subparagraphs (A) and (B);

"(7) the term 'cooperative research and development' means research or research and development conducted jointly by a small business concern and a research institution in which a minimum of 30 percent of the work is performed by the small business concern and a minimum of 30 percent of the work is performed by the research institution; and

"(8) the term 'research institution' means—

"(A) a Federal laboratory, as defined in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)); and

"(B) a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(5)).".

(c) ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS BY CERTAIN FEDERAL AGENCIES.—Section 9 of such Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

"(l)(1) Each Federal agency which for any fiscal year has a budget for research, or for research and development, in excess of $1,000,000,000 shall expend for that fiscal year and each fiscal year thereafter not less than the percentage of that budget for that year specified in paragraph (2) with small business concerns specifically in connection with a small business technology transfer program that meets the requirements of this section and regulations issued under this section.

"(2)(A) The percentage under paragraph (1) for any fiscal year for each Federal agency is determined in accordance with the following table:

"For fiscal year:	The percentage is:
1994	0.05
1995	0.1
1996	0.15
1997	0.2
1998 and thereafter	0.25

"(B) If the determination of the head of a Federal agency under subparagraph (C) is a negative determination (as set forth in that subparagraph), then (notwithstanding the percentages specified in subparagraph (A))—

"(1) the percentage under paragraph (1) for that Federal agency for fiscal year 1997 shall be 0.15; and

"(2) that agency shall not be subject to this subsection for fiscal years after fiscal year 1997.

"(C) Not later than June 30, 1996, the head of each Federal agency that is covered by paragraph (1) during fiscal year 1996 shall determine whether there has been a demonstrable reduction in the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program such that increasing the percentage under subparagraph (A) for fiscal years after fiscal year 1996 with respect to that agency would adversely affect the performance of the agency's research programs. If the determination of the head of the agency is that there has been such a demonstrable reduction in the quality of research such that increasing the percentage under subparagraph (B) for fiscal years after fiscal year 1996 with respect to that agency would adversely affect the performance of the agency's research programs, the head of the agency shall be considered for purposes of subparagraph (B) to have made a negative determination. The determination of the head of an agency under this subparagraph shall be made after considering the assessment of the Comptroller General with respect to that agency in the report transmitted under subparagraph (D).

"(D) Not later than March 30, 1996, the Comptroller General shall transmit to the Congress and the head of each agency that is covered by paragraph (1) during fiscal year 1996 a report setting forth the Comptroller General's assessment, with respect to each such agency, of whether there has been a demonstrable reduction in the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program such that increasing the percentage under subparagraph (A) for fiscal years after fiscal year 1996 with respect to that agency would adversely affect the performance of the agency's research programs.

"(E) The results of each determination under subparagraph (C) shall be transmitted to the Congress not later than June 30, 1996.

"(3) A Federal agency may not make available for the purpose of meeting the requirements of paragraph (1) an amount of its budget for any fiscal year for basic research that exceeds the percentage specified in paragraph (1) applicable to that fiscal year.

"(4) A funding agreement with a small business concern for research, or for research and development, that results from competitive or single source selection other than under a small business technology transfer program shall not be counted as meeting any portion of the percentage requirements of paragraph (1) for any fiscal year.

"(m) Each Federal agency required by subsection (l) to establish a small business technology transfer program shall, in accordance with this Act and regulations issued under this Act, have the authority and the responsibility to do the following:

"(1) Unilaterally determine categories of projects to be in its STTR program.

"(2) Issue STTR solicitations in accordance with a schedule determined cooperatively with the Small Business Administration.

"(3) Unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to topics which permit substantial applicant participation in the formulation of the research project consistent with the agency's mission.

"(4) Unilaterally receive and evaluate proposals resulting from STTR solicitations.

"(5) Unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement.

"(6) Administer its own STTR funding agreements (or delegate such administration to another agency).

"(7) Make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full subject to audit on or before the last day of the 12-month period beginning on the date of completion of such requirements.

"(8) Make an annual report on the STTR program to the Small Business Administration and the Office of Science and Technology Policy.

"(n) The Small Business Administration shall issue policy directives for the general conduct of the STTR programs within the Federal Government. Such policy directives shall be issued after consultation with the Federal agencies required by this section to establish a small business technology transfer program. Such policy directives shall include providing for the following:

"(1) Simplified, standardized, and timely STTR solicitations.

"(2) A simplified, standardized funding process which provides for—

"(A) the timely receipt and review of proposals;

"(B) outside peer review, if appropriate;

"(C) protection of proprietary information provided in proposals;

"(D) selection of awardees;

"(E) retention of rights in data generated in the performance of funding agreements;

"(F) transfer of title to property provided by the agency to the STTR awardee if such a transfer would be more cost effective than recovery of the property by the agency;

"(G) cost sharing;

"(H) cost principles and payment schedules; and

"(I) one-year phase I awards generally not to exceed $100,000, and two-year phase II awards generally not to exceed $500,000, with agency flexibility to make awards of greater or lesser amounts.

"(3) Minimizing regulatory burden associated with participation in the STTR programs.

"(4) Development by the agencies of model agreements between small business concerns and research institutions governing allocation of STTR awards and intellectual property rights.

"(5) Development by the agencies of procedures to address issues of conflict of interest and of fair access to the Federal laboratories that may arise under the STTR programs, including (with respect to conflict of interest issues) procedures to—

"(A) use outside peer review, as appropriate; and

"(B) ensure that Federal laboratory employees who wish to submit an STTR proposal with a small business concern do not have unfair access to agency employees who are involved in the preparation of agency STTR solicitations.

"(6) Development of a minimum standard for commercial viability that a small business concern must meet in order to participate in the STTR program, on the basis of—

"(A) whether the small business concern contains at least one full-time employee in a management position who is not also employed by the research institution with which the small business concern wishes to submit an STTR proposal;

"(B) whether the small business concern can demonstrate evidence of a significant source of financing other than the STTR award; and

"(C) whether the small business concern can demonstrate evidence of a commercialization plan.

"(7) Development by the agencies of procedures for assessing the commercial merit and feasibility of proposals submitted jointly by a small business concern and a research institution pursuant to an STTR program solicitation, based on such criteria as—

"(A) whether or not the small business concern has been as successful as comparable awardees in the commercial application of previous STTR and SBIR research;

"(B) whether or not there are commitments for contributions for first-phase or second-phase funding;

"(C) whether or not there are third-phase, follow-on commitments; and

"(D) whether or not there are other qualities indicating commercial potential that will be difficult to achieve without STTR assistance or similar assistance.".

(d) EFFECTIVE DATE FOR STTR POLICY DIRECTIVES AND AGENCY IMPLEMENTATION.—

(1) POLICY DIRECTIVES.—The policy directives required to be issued by the Small Business Administration under subsection (n) of section 9 of the Small Business Act, as added by subsection (c), shall be issued not later than six months after the date of the enactment of this Act.

(2) AGENCY IMPLEMENTATION.—Each Federal agency required to establish a Small Business Technology Transfer Program under subsection (l) of section 9 of the Small Business Act, as added by subsection (c), shall implement paragraphs (4), (5), and (7) of subsection (n) of such section not later than October 1, 1993.

(e) CONFORMING AMENDMENT.—Section 5 of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), as amended by section 3, is further amended by striking "(k)" and inserting "(n)".

SEC. 8. REPORT BY COMPTROLLER GENERAL ON STTR PROGRAM IMPLEMENTATION.

(a) REPORT.—Not later than September 30, 1996, the Comptroller General shall transmit to the Congress a report on the implementation of the small business technology transfer programs required to be established by the amendments to section 9 of the Small Business Act made by section 7. The report shall contain the following:

(1) A systematic comparison of the quality of research and development conducted under the STTR programs with the quality of other research and development funded by Federal agencies.

(2) A systematic comparison of the amount of commercialization resulting from research under the STTR programs with the amount of commercialization resulting from other research and development funded by Federal agencies.

(3) the judgments of the heads of Federal agencies participating in STTR programs as to the effect of such programs on research programs.

(b) CONSULTATION IN PREPARATION OF REPORT.—The report under subsection (a) shall be prepared after consultation with economists who study technological change.

SEC. 9. ADDITIONAL SBIR AND STTR PROVISIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by sections 4 and 7, is further amended by adding at the end the following new subsection:

"(o)(1) In the case of a small business concern that is awarded a phase II funding agreement under an SBIR or STTR program, a Federal agency may enter into a phase III contract with that business concern for additional work to be performed during or after the phase II period. The phase II funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to phase III agreements with that agency or any other agency.

"(2) In this subsection, the term 'phase III contract' means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

"(3) Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes, and the gentleman from Florida [Mr. IRELAND] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to rise today in support of H.R. 4400, the Small Business Innovation Development Amendment Act of 1992. This legislation would reauthorize and expand the existing Small Business Innovation Research Program—SBIR. All three committees of the House that have looked at this legislation have reported favorably on it—the Small Business Committee, the Armed Services Committee, and the Science, Space, and Technology Committee. In addition, we have worked in consultation with the Energy and Commerce Committee to make sure that its concerns are met. Today I join with the chairman of the Armed Services Committee, LES ASPIN, and the chairman of the Science Committee, GEORGE BROWN, to offer a substitute amendment which has the support of all three chairmen.

This moment is particularly meaningful for me. Ten years ago last month, I stood in this Chamber and managed floor consideration of the bill which created the SBIR program. We were on the House floor for 3 days, but with the help of Representatives ANDY IRELAND, IKE SKELTON, NEAL SMITH, NICK MAVROULES, JOE MCDADE, Parren Mitchell, Berkeley Bedell, and others, the small business community won a major victory.

Today I look back with a great sense of pride in what we accomplished then, because SBIR, during its 10 years of existence, has established itself as perhaps the most effective technology program in the Federal Government. Study after studies by the GAO and SBA show that this program has generated a remarkable amount of innovation by small companies. The most recent GAO study documented that SBIR awards over 1984–87 generated more than $1 billion in commercial spinoff of innovative products and developmental funding, and are likely to generate $3 billion more by the end of 1993.

The significance of the program therefore transcends the small business community and the Federal R&D effort; it goes to the much larger issue of long-term economic growth in this country. In the effort to revive long-term growth, nothing is more important than new technology. Technological advance accounts for nearly 50 percent of growth in GNP per person employed during this century, according to growth-accounting studies. And so programs like SBIR, which can give a major impetus to technological innovation, may be the key to reversing the economic stagnation of the past 4 years and, indeed, of the past two decades.

That is clearly the reason why congressional support for this program is so strong. But SBIR is also a success even if it is judged solely by its effect on agency R&D programs. In a 1989 GAO study, all 11 Federal agencies which participate in SBIR reported that SBIR has had a favorable impact on their research programs. The study also found that the quality of SBIR research is comparable to, and in some cases exceeds, the quality of other agency-funded research.

On the basis of such compelling evidence, a number of highly respected groups have called for an expansion of the SBIR program. The National Academy of Sciences, in a recent report, called for an expansion of SBIR, describing it as "an important program that supports civilian technology development." In the House, an Armed Services Committee panel on the defense industrial base, under the leadership of Representative DAVE MCCURDY, called for a doubling of the size of DOD's SBIR program. And in the Senate, a Republican leadership report on defense change called for a doubling of the program.

The substitute amendment that we consider today would raise the SBIR percentage from its current level of 1.25 percent to 2.5 percent by fiscal year 1998. It would also expand the base of extramural research at the Defense Department out of which the SBIR percentage is calculated. As a hedge, the agencies would be able to stop the expansion of the program at 2 percent in fiscal year 1996 if they find that there has been a demonstrable reduction in the quality of SBIR research between 1993 and 1996. But from everything we have learned about the SBIR program to date, I personally am overwhelmingly confident that the quality of SBIR research will continue to be very strong, and that the program will reach the 2.5 percent level by fiscal year 1998. The bill would also increase the program's emphasis on commercialization.

I wish to say a few words about an important new initiative in this bill—

the Small Business Technology Transfer program—STTR. This initiative was pioneered by Representative GLENN POSHARD in close cooperation with myself and Representatives IKE SKELTON and NICK MAVROULES of the Small Business Committee. In the Armed Services Committee, it received strong support from Mr. MAVROULES and Representative MARILYN LLOYD. In the Science Committee, it received strong support from Ms. LLOYD and Representative TIM VALENTINE. STTR was explicitly authorized by both the Small Business Committee and the Armed Services Committee, and the Science Committee expressed its support in report language.

Simply put, this initiative would fund cooperative research projects involving a small, innovative company and a researcher at a university, Federal laboratory, or nonprofit research institution. The goal is to foster widespread commercialization of research at these institutions, and thereby harness the great strength of our research institutions for our Nation's economic benefit. As under SBIR, all STTR research would support the mission of the sponsoring agency.

This new program, though modest in size, could make an important contribution to this Nation's economic performance. Our universities, Federal laboratories, and nonprofits represent a huge, and largely untapped, reservoir of commercially promising ideas. Together, these institutions perform $40 billion in R&D each year, and employ one out of every four scientists and engineers in the country. Now, these scientists and engineers spend their careers conducting basic and applied research, and, in the course of that research, they often recognize important commercial applications. But no efficient mechanism exists to enable them to pursue those applications. And so, many great ideas for new commercial products are left unexplored and unexploited.

STTR would draw upon the talents of small, innovative companies to move such ideas from the research institution to the market. Thus, I believe that STTR will make a major contribution to the technological competitiveness of American industry. And from a more parochial standpoint, STTR will stimulate small business, high technology economic development around research institutions in every State of this country.

I wish to address an issue that was raised 10 years ago with respect to SBIR and has been raised again this year with respect to SBIR and STTR. It deserves to be put to rest. That issue concerns agency research budgets. I have heard it said that SBIR and STTR are a drain on agency research budgets in a time when those budgets are declining. This is completely untrue. SBIR and STTR do not take a dime out of agency research budgets. Rather, they direct each agency to spend a small percentage of its R&D budget with certain performers of R&D—namely small companies.

But the evidence is very clear that this small reallocation of R&D performers does not adversely affect the agencies' research programs. As I have mentioned, in GAO's 1989 study all 11 agencies that participate in SBIR reported that SBIR has had a positive impact on their research programs, and GAO found that the quality of SBIR research compares favorably with that of other agency research. There is every reason to believe that STTR would, likewise, sponsor mission-oriented research of the highest quality.

The SBIR reauthorization process began over a year ago. I wish to recognize the important role of the chairman of our Procurement Subcommittee, IKE SKELTON, in developing the original legislation and guiding it through our committee. I also want to recognize the important role that our ranking minority member, ANDY IRELAND, has played in forcefully advocating a larger role for small business in the Federal R&D effort.

Mr. Speaker, I would like to explain certain provisions of the substitute amendment that were the subject of discussion among the three committees.

Section 4(c) of the substitute amendment directs the agencies to gradually increase the SBIR percentage starting in fiscal year 1994, until it reaches 2.5 percent in fiscal year 1998. The three committees agreed that there should be a quality check in fiscal year 1996, when the program is at the 2 percent level. The concern, expressed most forcefully by the Armed Services Committee, was that the quality of SBIR research might suffer as a result of the program's expansion, and that the expansion should not be fully phased in if it appears that quality is deteriorating. The committees agreed that the test of quality should be readily verifiable, so as not to leave room for an agency to stop the expansion of SBIR arbitrarily. The history of SBIR is replete with examples of agencies opposing the creation of SBIR programs and opposing any increases in the programs.

Thus, the committees agreed on a strict, historical test of quality: In order to stop the expansion of the program at the 2 percent level, the agency must show that "there has been a demonstrable reduction in quality of [SBIR] research [at that agency] since the beginning of FY 1993," and, furthermore, the reduction must be such that "increasing the percentage [beyond the 2 percent level at] that agency would adversely affect the performance of the agency's research programs." The presumption is that the program would expand to the 2.5 percent level absent such a finding by the agency.

The same quality check would apply to the STTR Program, as provided for in section 7(c) of the substitute amendment. The only difference is that if an agency finds a demonstrable reduction in quality, as discussed above, the STTR Program at that agency would sunset at the end of fiscal year 1997.

To provide the agencies with a sound empirical basis for making their quality determinations, the substitute amendment directs the GAO to conduct a study, the results of which would be transmitted to Congress in early 1996, to determine whether there has been such a demonstrable reduction in quality at each agency. Although GAO can devise its own methodology, our committee believes that the project officers at the agencies, who oversee agency research grants and contracts, would be in the best position to determine whether there has been a decrease in quality. The GAO surveyed these project officers in its 1989 study of the quality of SBIR research.

Section 4(a) of the substitute amendment addresses the evaluation criteria that agencies would use in evaluating phase I and phase II SBIR proposals. These criteria should not be interpreted in a way that discriminates against smaller companies, start-up companies, or companies new to the SBIR Program. Specifically, as set forth in the section, agencies should, in evaluating phase II proposals, consider the track record of the proposing company in commercializing previous SBIR research. This was intended to discourage agencies from making awards to multiple-award winners which have not shown successful commercialization of previous SBIR research, and to give a boost to proposals from companies with a strong record in commercialization of SBIR research. This criterion would be neutral with respect to a company with no previous experience in the SBIR Program.

The section also directs the agencies, in evaluating phase II proposals, to consider whether the proposing company can produce any commitments for contributions to second phase funding. Again, this should be interpreted by the agencies in such a way that it does not discriminate against smaller SBIR applicants, which may not have the resources to make a significant phase II contribution.

These caveats regarding the evaluation criteria apply to the STTR evaluation criteria as well, as set forth in section 7(c) of the substitute amendment.

Section 4(h) of the substitute amendment contains two reporting requirements. The first of these, regarding phase I awards made with respect to a solicitation topic which received only one proposal, has been described in the Small Business Committee report on H.R. 4400. The second reporting requirement, regarding multiple-award winners, originated with the Science Committee. It requires agencies to justify phase II awards made to multiple-award winners which are unable to achieve an average rate of commercialization, as determined by the agency. As an example, an agency might justify such an award on the grounds that the SBIR awardee, while achieving a low rate of commercialization, has achieved one big commercial success which offsets the many commercial failures. Or the agency might justify the award on the grounds that the type of research conducted by the SBIR awardee is long term in nature, and that the awardee is continuing its efforts to develop the research into a commercial product.

Section 4(f) of the substitute amendment, also suggested by the Science Committee, requires each multiple-award winner to document in its phase II proposals the extent to which it has been able to commercialize previous SBIR research.

Section 2 of the substitute amendment contains the purposes of this reauthorization act. By listing these purposes, we do not in any way intend to supersede the purposes of the original Small Business Innovation Development Act of 1982, which remain part of statutory law. Purposes of the original act, other than those mentioned in this reauthorization act, include using small business to meet Federal R&D needs, and fostering and encouraging particpation by minority and disadvantaged persons in technological innovation.

The Foreign Affairs Committee obtained a sequential referral of H.R. 4400, but did not report out a bill. The Foreign Affairs Committee did make a suggestion, with which I concur, that the exemptions in section 9(e)(1) of the Small Business Act 915 U.S.C. 638(e)(1)) concerning the extramural budget of the Agency for International Development [AID] be interpreted broadly. First, the reference to "amounts obligated solely for general institutional support" of international research centers should be interpreted as referring to amounts obligated for support of international research centers, because AID does not discriminate between general institutional support and other forms of support. Second, the reference to "grants to foreign countries" should be interpreted as referring to obligations where developing countries are the primary intended beneficiaries, because AID on occasion makes loans, as well as grants, and many of its obligations are managed through a U.S. recipient but actually implemented by an institution in a developing country.

Implementation of the STTR program, as set forth in section 7, was delayed until fiscal year 1994 at the suggestion of the Science Committee. The reason was to give the agencies time to resolve issues that may arise in the course of implementing the program. Sections 7 (c) and (d) direct the SBA to issue policy directives, within 6 months of enactment, for the general conduct of STTR programs at the agencies. These provisions also direct the agencies, by October 1, 1993, to develop model STTR agreements, to develop procedures to address conflict of interest and fair access issues, and to develop procedures for assessing commercial merit and feasibility of STTR proposals.

While the agencies bear the primary responsibility for development of model agreements and of procedures to address conflict of interest, fair access, and commercial merit, section 7(c) gives SBA the authority to oversee the agencies' development of such model agreements and such procedures. The reason for this is to ensure a degree of uniformity amount the agencies' model agreements and procedures. Uniformity is important because it minimizes the burden on the STTR applicant. The intent is to avoid a situation where a potential STTR applicant must master a vastly different set of rules and procedures depending on which agency it is applying to.

Section 7(c) also directs SBA to develop a minimum standard for commercial viability that a small business must meet in order to participate in the STTR program. Each company would have to show, in its STTR proposal, that it meets this minimum standard. This provision is not intended to exclude large numbers of companies from participating in the program. It is intended, rather, to ensure that each company which participates in STTR has something—or someone—is at risk if the projects fails, and therefore has a real stake in the commercial success of the project. So, for example, each small company that participates in the program must contain at least one full-time employee in a management position who is not also employed by the research institution. And each small company must demonstrate evidence of a significant source of financing other than the STTR award.

In addition, each small company must demonstrate evidence of a commercialization plan. The company need not submit such a plan with its proposal, but it would need to provide some evidence that it has thought through such issues as market size, potential customers, competitive products, and method of manufacture and marketing.

The definition of "cooperative research and development", contains in section 7(b) of the substitute amendment, is slightly different than the definition contained in the bill as originally reported by the Small Business and Armed Services Committees. In the original bills, cooperative R&D referred to R&D conducted jointly by a small business and an employee of a research institution. In the substitute amendment, cooperative R&D refers to R&D conducted jointly by a small business and a research institution. The reason for this change is to clarify that the small business must contract with the researcher's institution, rather than directly with the individual researcher. This is standard procedure for such collaborations between research institutions and companies. It enables the institutions to oversee the conduct of their researchers, and thereby to prevent systematic conflict of interest problems.

Finally, section 8 of the substitute amendment directs GAO to conduct a study of the STTR program during 1996. As part of that study, GAO would assess the quality of STTR research compared to the quality of other applied research that the Agency funds, and also would compare the amount of commercialization resulting from STTR research with that resulting from other applied research that the Agency funds. Since STTR research is applied in nature, it should be compared with other Agency research that is applied in nature. We intend for GAO to conduct a survey of Agency project officers similar to the survey that GAO conducted as part of its 1989 study of the SBIR program.

□ 1810

Mr. Speaker, I reserve the balance of my time.

Mr. IRELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, and yield myself such time as I may consume.

Let me quickly, but warmly, thank our colleagues Mr. LAFALCE, Mr. SKELTON and Mr. HANCOCK, along with their staffs, for working with such intelligence, dedication, and enthusiasm on behalf of the Small Business Innovation and Research Program.

My thanks, as well, to the House Committees on Armed Services and on Science, Space and Technology for their willingness to forge a compromise we can all live with.

Mr. Speaker, as you know, 10 years ago, Congress came up with a simple, straightforward, and practical idea to help bring technological innovations to the marketplace while meeting the program needs of Federal agencies at the same time. In short, Congress directed agencies with large, extramural research and development budgets to dedicate a small percentage of those funds to small, innovative enterprises with new ideas or products the agencies needed and which promised to be commercially feasible.

Over these last 10 years, the Government Accounting Office, the Small Business Administration, and the Small Business Committee took the SBIR program, poked it, dissected it, slid it under a microscope—and found that the Federal Government had actually created a program that truly worked.

No scandals were uncovered about misappropriated funds, about taxpayers' dollars going for yachts or dinners or fancy houses rather than research and development.

Money was not thrown at silly, unworkable ideas dreamed up by mad scientists in their laboratories.

And agencies were not flooded with crackpot products that sat on shelves gathering dust.

Indeed all of us who have scrutinized the program inside, outside, right side up, and upside down, can only speak of SBIR in glowing terms—and our high praise extends to the small enterprises that made SBIR such a success.

SBIR has invested our tax dollars in high-quality, dramatically innovative ideas and products that have improved our quality of life here at home and our ability to compete abroad—and helped create jobs to boot.

I wish we could say the same about all our research and development dollars.

But rather than singing the praises of SBIR until we're all dewy-eyed, let me run through some numbers to help put the SBIR program in perspective and, in the process, help you understand that the trivial increase we are asking for in H.R. 4400 is reasonable and justified.

And let me quickly remind our colleagues that we are not talking about increased spending at all. We are talking about redirecting a small percentage of the available funds to their best possible use for the taxpayers.

Mr. Speaker, in fiscal year 1992, based on estimates from the Office of Technology Assessment, we expect the Federal Government to spend about $75 billion for research and development over all.

Of that amount, $38 billion will go to agencies for extramural research and development. That is the pot that funds SBIR, university R&D, the 39 Federal research labs, and so on.

From our $38 billion universe, some $15 billion—40 percent of all available funds—will go to colleges and universities. By contrast, under current law, only $460 million, or only 1.25 percent, go to our Nation's 20 million small enterprises.

Let me repeat those numbers: $15 billion go to universities, but only $460 million go to small enterprises—businesses which, by the way, account for over 50 percent of our country's patents.

The compromise version of H.R. 4400 recommends that we nudge the percentage dedicated for small enterprises up a bit, from the current 1.25 percent to 2.5 percent over the next 5 years. Using today's numbers, the increase would place small enterprises' share of the extramural pot at about $950 million. That's only 6 percent of the amount universities receive.

And we should note that the $490 million increase does not have to come from the universities' share.

Still, Mr. Speaker, I would imagine that just about all our colleagues have a university or college in or near their districts, and that our colleagues may be somewhat sensitive to their reaction. So let me offer more numbers and a bit more perspective.

There are 3,500 colleges and universities in the United States. However, 84 percent of the extramural funds go to only 100 universities. In other words, fully $13 billion of the $15 billion going to universities end up at just 100 institutions.

In fact, the top 10 university money winners garner about $2.2 billion annually—well over twice the amount we're asking to have set aside for 20 million small businesses—or at least the 3,000-4,000 small firms that participate in SBIR.

So there are a few points here. First, 3,400 colleges and universities see little or none of the extramural Federal research funds. Second, our increase asks that 3,000-4,000 SBIR businesses vie for less than half the amount of funding that goes to only 10 of our Nation's universities.

I do not think that is an unreasonable recommendation, and frankly I am embarrassed by how paltry the share for small enterprises is by comparison.

Now Mr. Speaker, I do not begrudge the universities their research and development funds, and I congratulate them on the many wonderful new technologies—some of them life-saving—that their work has brought to our country and the world.

Still, the SBIR program has proven itself to be a tremendous success. We have examined it vigorously and found nothing wanting: No scandals; no blemishes; no embarrassments. H.R. 4400 seeks to keep this success alive.

Mr. Speaker, let me note that compromises have been made to accommodate the concerns of everyone involved. Personally, I think the bill should have come to the floor with the modest 3 percent set aside that the Small Business Committee unanimously recommended. The compromise version recommends 2.5 percent.

Then, too, if Congress is going to demand that the SBIR program be tested, yet again, for the quality of its products, then why do not we test all the Government's extramural R&D programs as well?

I think the recent embarrassments surrounding the Federal research labs and university R&D programs recommend such an effort, but the bill fails to do this. And I have to wonder why the taxpayers must blindly hand over more money each year to the same people who have defrauded the Government of tens of millions of dollars when there are other capable institutions out there?

Finally, to my mind the restrictions on multiple SBIR award winners contained in the compromise are much too stringent and may prove counterproductive to the goals and purposes of SBIR.

Still, by definition, a compromise means that no one is completely satisfied with the final product. Rather, the test of a compromise rests in whether the good outweighs the bad.

Mr. Speaker, I can confidently say that what is good about H.R. 4400 far exceeds what is bad, and so I enthusiastically urge our colleagues to support the bill.

It is time for Congress to unleash the potential that SBIR offers, remembering that our Nation's small businesses create more new jobs and more new innovations than any other segment of our economy. Unlike other research expenditures, we know what the taxpayers will get for their investment in SBIR firms: New, innovative products that work for the Government and work for the marketplace.

Again, Mr. Speaker, I urge passage of H.R. 4400.

□ 1820

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. SKELTON], the chairman of the Subcommittee on Procurement, Tourism, and Rural Development, of the Committee on Small Business.

Mr. SKELTON. Mr. Speaker, I thank the gentleman from New York [Mr. LAFALCE], the chairman of our full committee, for yielding me this time.

This is really a tribute, Mr. Speaker, to him because he is the one who initially began this whole Small Business Innovative Research Program some 10 years ago. My hat is off to him and I compliment him on a successful program that has been put together by the Congress of the United States, one that actually works and works well. So this is a real tribute to him and to the ranking minority member, the gentleman form Florida [Mr. IRELAND]. No one could have been a greater supporter through this than the gentleman and my subcommittee ranking minority member, the gentleman from Missouri [Mr. HANCOCK]. My Sincere thanks to him for bringing this bill together.

I also want to thank the members of my subcommittee, particularly GLENN POSHARD, who worked so hard on the STTR portion of our bill. My thanks also go the members and staff of the Armed Services Committee and the Science and Technology Committee for the long hours and hard work they put in on the consensus bill we have before us today. I think we have preserved the best parts of H.R. 4400 while adding some useful provisions.

The current SBIR Program—success of the basic structure:

How the SBIR Program Works: Under the SBIR program, each of the 11 Federal agencies with extramural R&D budgets in excess of $100 million per year is required to earmark at least 1.25 percent of that budget to fund research projects as small businesses. The purpose is to use small, innovative businesses to meet the Federal agencies' R&D needs, and thereby stimulate the development of new commercial technologies and innovations to benefit the economy.

Effectiveness of SBIR: During its 10 years of existence, the SBIR program has established itself as one of the most effective technology programs in the Federal Government:

A 1992 report of the National Academy of Sciences recommended an increase in the size of the program, describing SBIR as "an important program that supports civilian technology development."

A 1989 GAO study found that the quality of SBIR research was at least comparable to the quality of other agency-funded research, and was in some cases better. The study also found that SBIR research was significantly more likely to lead to innovation than non-SBIR research.

All 11 agencies which participate in the SBIR program, report that it has had a favorable impact on their research programs.

A 1992 study by GAO found that the SBIR program has been strikingly successful in stimulating the development of new commercial products. The study found that SBIR awards over 1984-1987 generated more than $1 billion in new commercial activity, and are expected to generate more than $2 billion in additional commercial activity by the end of 1993.

A House Armed Services Committee panel on the defense industrial base (the McCurdy panel) recently called for a doubling of the size of the Defense

Department's SBIR program, as did the Senate Republican Task Force on the Adjustment of the Defense Base.

Typical of the views of the Federal agencies is this comment from a report of the Secretary of Health and Human Services:

> * * * SBIR has succeeded in filling a variety of scientific gaps in the Public Health Service's research programs. * * * More than any other single feature, the SBIR program has clearly accelerated the translation of research findings into useful and marketable products. SBIR awardees have sought innovative means of exploiting fundamental knowledge and technology to develop products that are not only cleverly designed but meet a market need.

After all of the reports and oversight of the program, no waste, fraud, or abuse has been found. None.

The SBIR bill adopted by the Small Business Committee as amended by the Armed Services Committee and the Science and Technology Committee:

General explanation: H.R. 4400, as reported by the Small Business Committee, the Armed Services Committee and the Science and Technology Committee, changes existing law in four ways:

First, H.R. 4400 would reauthorize and expand the SBIR program. It would reauthorize the program for 7 more years, until October 1, 2000. It would gradually increase the set-aside percentage starting in fiscal year 1994, from the current 1.25 percent to 2.5 percent in fiscal year 1997—an expansion over 5 years! To insure that the program does not outgrow its small business base, the GAO and each participating agency head will conduct a study after 3 years and the program will be capped at 2 percent if at that point the program is having growth problems.

Second, H.R. 4400 would increase the program's emphasis on commercialization of SBIR research done for the Federal Government.

Third, H.R. 4400 would enhance the protections for participating small businesses in the following areas: Data rights, timely payment of award money, use of equipment, and subsequent agency work resulting from an SBIR project.

Fourth, H.R. 4400 would create a Small Business Technology Transfer [STTR] program. STTR, a separate but parallel program to SBIR, would use small, innovative companies to commercialize research at universities, Federal laboratories, and nonprofit research institutions through joint ventures. Again, since this is a new program, a study will be done in 3 years and if the program cannot sustain itself, STTR will sunset.

The increased level of SBIR is warranted:

Amendment reducing SBIR level from 3 percent to 2 percent—The Small Business Committee maintains (with the concurrence of the other Committees) that the success of the program has earned it the right to a higher percentage.

In 1982, the original SBIR proposal set the award level at 3 percent of extramural R&D budgets, Some jointly referred Committees expressed concern about devoting the full portion to an untried program, referring to test the concept at a much more limited level and withholding complete support until SBIR proved itself. The level of 1.25 percent was finally agreed to and some types and categories of research were excluded. (In particular the areas of intelligence, nuclear, and applied research.)

As explained above, the SBIR program has been thoroughly studied and has now proved itself successful beyond anyone's expectations. Indeed, other nations have studied the program and copied it. The commercialization program has garnered praise for its effectiveness and its unique ability to deliver innovative ideas to the marketplace by leveraging federal technology using private sector investment and techniques. Based on GAO research, fully 27 percent of SBIR Phase II winners commercialize their research.

When compared to other private research purchases by the Federal Government, the SBIR share is truly modest. According to estimates by the Office of Technology Assessment, the Federal Government can expect to spend $75 billion for R&D in fiscal year 1992. Of that, $38 billion will be spent for extramural R&D—the pot that pays for university research, SBIR, and so forth.—Of that $38 billion, 3,500 of the Nation's colleges and universities will receive $15 billion, with 84 percent, or $13 billion, going to the top 100 institutions. SBIR firms will receive about $460 million, or about 3.5 percent of the amount universities receive.

At the 2.5 percent level recommended by the committees, SBIR firms will be awarded just under $1 billion, after 5 phasein years, or about 6 percent of what all universities get and only half of what the Nation's top 10 university winners receive. When you consider, as agency project officers have, that SBIR participants are twice as likely to commercialize their innovations, it becomes clear that this small investment will pay for itself in jobs, growth, and increased tax revenue.

The Small Business Committee argued that, having proven itself worthy, the SBIR program had earned its wings and deserved the opportunity to be restored to the level originally proposed, 3 percent with all extramural budgets restored. The Armed Services Committee and the Science Technology Committee have reached a compromise which doubles the program—2.5 percent—over 5 years. This would include new categories such as nuclear energy and applied research. To allay their concerns about the adequacy of the small business base to support such growth, we have agreed to a review of the program once we reach the 2 percent level. At this point, each agency head will make a determination about the impact of the program's growth on the quality of research. We believe that the administrators—and the GAO which will be performing a companion study—will find small business fully able to meet the Government's research needs.

STTR is needed.

Purpose of STTR: SBIR has been remarkably successful at cultivating commercially promising ideas within the small business community. STTR, by contrast, is designed to exploit a vast new reservoir of commercially promising ideas in universities, Federal laboratories, and nonprofit research institutions, using an approach parallel to that of SBIR. STTR would foster the kind of small business, high-tech economic development now seen along Route 128 in Massachusetts, in the Silicon Valley in California, and around research institutions throughout the country. At the same time, STTR would—like SBIR—sponsor top-quality research that meets the Government's R&D needs.

How STTR would work: Under STTR, each Federal agency whose total R&D budget exceeds $1 billion per year would earmark a modest 0.25 percent of that budget to fund cooperative research projects involving a small company and a researcher from a university, Federal laboratory, or nonprofit research institution. Each STTR research project would thus combine the two elements that are essential for successful innovation—the scientific and technical expertise of the researcher, and the commercialization expertise of the small company. As under SBIR, each research project would support the mission of the sponsoring agency.

STTR addresses key problem in U.S. competitiveness: One major roadblock is our inability to translate our leadership in research into economic advantage. As the MIT Commission on Industrial Productivity has written:

> * * * the nation's technological strength depends on far more than the health of its research laboratories, important as that is. Prowess in research does not lead automatically to commercial success. * * * The United States is still unarguably the leader in basic research. The scale of its scientific enterprise is unequaled, and it is second to none in making new discoveries. Yet U.S. companies increasingly find themselves lagging behind their foreign rivals in the commercial exploitation of inventions and discoveries.

Technology transfer mechanism needed: What is needed is an effective, systematic "technology transfer" mechanism to move new knowledge from the research institution to industry, where it can be used for the nation's economic benefit. STTR would provide that mechanism. As John Preston, Director of Technology Licensing at MIT and Lincoln Laboratories, has testified:

> The STTR proposal would supply funding at the most critical point in technology commercialization—before investors are willing to make risk investments, and after Government research funding sources consider the project too commercial to fund. Much of our technology has languished in this gap only to be recognized by foreign competitors and developed abroad. There is no question in my mind that the STTR program would strengthen U.S. competitiveness."

H.R. 4400 provides necessary safeguards to small businesses.

H.R. 4400 clarifies that the phase I and phase II awards process satisfies the Competition in Contracting Act for the award of a phase III contract by an agency and specifically authorizes the agency to make such award based on the competition.

Requires agency to experiment with broad topics which small R&D businesses participate in writing and refining.

Requires agencies to make final payment in lieu of audit within 12 months after completion of their research or research and development.

Extends small businesses rights in the data they have developed from 2 years to 4 years.

Permits small business participants to continue to use property they have developed for 2 years as long as they are actively pursuing phase III commercialization.

Requires agencies to use awardees to the extent practicable if the agency chooses to go further with the project or production.

Increases the phase I award ceiling from $50,000 to $75,000.

Requires the reporting to SBA of any single proposal awards.

Requires the GAO to report on the following:

Progress of the increase in the program and ability of the small business high technology community to provide top quality research in view of the growth.

Progress in implementing commercialization.

Amount of sole source awards.

Random audits of the base budget.

Addresses multi-winner commercialization.

The GAO report indicated that Congress should continue to observe multi-winners those who win five SBIR awards or more. Their level of commercialization appeared to be low when compared to participants who have won fewer awards. While we accepted a compromise on this point in order to permit the process of the bill, I want to point out that we on the Small Business Committee believed that we had addressed the issue. Indeed, as testimony at our hearings made clear, some multi-winners who have not commercialized up to the so-called average are doing complex, long-term projects that will have real value for our Nation.

We included in our report, for example, a diagram from Foster Miller, one of our largest SBIR winners, showing the fascinating, yet unbelievably complex network of projects they are doing in just one area—liquid crystal polymers. They also demonstrated, for example, that only 18 percent of their income comes from SBIR and that they themselves produce many of the products that are the products of their research.

While we have accepted the Science and Technology Committee's amendment, which requires an agency to justify making awards to multi-winners who have commercialized below the industry average, I would simply warn that we would not want to close out the Foster Millers' or others who have the wherewithal and the talent to tackle super-complex research tasks.

In conclusion, Mr. Speaker, I would point out that the SBIR program is neither a giveaway nor a set-aside. I believe that there is ample proof in the record that these businesses have provided first class, top quality research that benefits the agency and benefits the taxpayer by providing jobs, exports, and a higher standard for research. I can only hope that all agencies will do as some agencies have done and increase this program on their own above the floor level we seek to set today. This is not a set-aside for small businesses—it is instead a gold mine for our country. Our Nation should be using programs like SBIR to lead the way into the 21st century.

Mr. IRELAND. Mr. Speaker, I have no further requests for time, and I yield the balance of my time to the committee chairman, the gentleman from New York [Mr. LAFALCE], who I know has a couple of speakers.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman very much for his generosity.

Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. MAVROULES], the previous chairman of the Subcommittee on Procurement, Tourism, and Rural Development, of the Committee on Small Business, who handled the last reauthorization of the SBIR Program a number of years ago.

Mr. MAVROULES. Mr. Speaker, first I want to thank the gentleman for yielding me this time.

I would also like to thank the chairman for the very kind expressions given to a number of us here this evening, but the fact is that he has been the real driving force behind the SBIR Program, and I want to commend the gentleman from New York [Mr. LAFALCE].

Mr. Speaker, today, we are considering a proposal to reauthorize the Small Business Innovation Research [SBIR] Program—a program that has proved to be one of our most successful small business programs. It has provided opportunities for small high tech companies to strut their stuff in a very competitive arena before Federal agencies. And it has provided Federal agencies an opportunity to take advantage of new ideas to fulfill their missions.

I am proud of the strong showing among small high tech companies in my home State. Massachusetts currently ranks second in this highly competitive program. For example, OPTRA, Inc. of Beverly MA has successfully marketed several products developed as a result of SBIR assistance. The company specializes in the use of laser technology for optical metrology. Another firm, Foster-Miller of Waltham, developed a metallic Velcro which has been picked up by NASA for an astronaut-friendly space fastener; the company also has provided Velcro Armor to the Marines for their light armored vehicles. And optical sensing systems, developed by Geo-Centers of Newton Centre, are being successfully sold to both government and private industry.

There is no doubt in my mind that small high tech firms represent one of our Nation's most valuable innovative resources.

The SBIR program is now 10 years old—and based on its track record I think it is time we expand this successful initiative.

The bill before us today, H.R. 4400, will do just that. The percentage of R&D funds that agencies must set-aside for SBIR would be doubled from its current level of 1.25 percent to 2.5 percent. In addition, the statutory exclusion of some defense R&D money would be lifted—this includes the atomic energy research done by DOE, except for nuclear weapons and naval reactors, and operational research, the so-called 6.6 funds. Put together, these changes mean that H.R. 4400 would almost triple the size of the program by 1998.

In fact, what we do today will mirror action taken by the House earlier this year in the defense authorization bill. A provision in the reinvestment section of the House-passed bill also reauthorizes and expands the SBIR program, along lines similar, though not identical, to H.R. 4400.

I would like to take a moment to address the issue of the quality of the SBIR awards. According to a 1989 report by the General Accounting Office, SBIR projects have been equal or of higher quality than other agency research.

But I have heard a number of people express concern that by tripling the program we may lower the quality standard for SBIR projects and end up funding mediocre proposals. To address this, the Armed Services Committee, in its consideration of H.R. 4400, required an assessment of the quality of the proposals being received. This report would be done in 1996 by the head of the agency, when the program reaches the 2-percent level. Looking at the SBIR projects funded since 1993, the agency head would determine whether there has been a demonstrable reduction in the quality of those proposals, and whether that reduction would adversely affect the performance of the agency's research programs. Under this requirement, agency heads are given wide latitude to determine the specific standards for evaluation of the SBIR Program; their assessment could include such factors as cost-effectiveness and a comparison between non-SBIR and SBIR proposals. If the report is positive, then a high quality SBIR Program would move forward automatically to 2.5 percent. If an agency is funding a program of low quality at 2 percent, then a negative determination presumably would be made.

We have asked, also, for the GAO to do an independent assessment. This report should be ready in time for the results to be used in the agency review.

A similar report would also be required for the Small Business Technology Transfer Program.

A notable addition to this bill is the creation of the Small Business Technology Transfer Program [STTR] program. This would create a separate program aimed at allowing small businesses to team with universities and Federal labs to capitalize on technology developed at these institutions. Such ventures will help bring new and innovative ideas to the commercial marketplace. In the Commonwealth of Massachusetts, I can assure you, small businesses already have a successful relationship with universities and Federal labs. Further opening the doors between these two groups will help make the United States more competitive abroad.

Small businesses, our Nation's most innovative sector, have a key role to play in defense diversification—a concept I have pushed for over a decade. H.R. 4400 will provide additional tools to these firms to carry out that role.

I urge my colleagues to vote yes to H.R. 4400, as amended.

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Mr. LaFalce. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. Poshard], the author of the STTR Program and its chief promoter, both in our committee and in other committees, without whose efforts it would not become the law of the land as it is going to be.

Mr. POSHARD. I thank the gentleman for yielding this time to me.

Mr. Speaker, I also rise in support of H.R. 4400. I strongly endorse the reauthorization and expansion of the SBIR program. But I wish to direct my remarks primarily to section 7 of the bill, which would establish a new Small Business Technology Transfer Program [STTR]. With the support and assistance of Chairman LaFalce, I offered the amendment to create STTR in the Small Business Committee, to express my gratitude to him, as well as to my Subcommittee Chairman Ike Skelton, and I appreciate the leadership of Chairman LaFalce and minority spokesman Mr. Ireland and colleagues Nick Mavroules, Tim Valentine, and Marilyn Lloyd for their crucial support of this initiative as it worked its way through three committees. In the end, all three committees endorsed the proposal.

Our universities employ some of the brightest scientists and engineers in the country, who are engaged in research projects that, in many cases, could potentially lead to the development of new commercial products to benefit the economy. But the way that research funding works in this country, there is no efficient mechanism enabling these scientists and engineers to pursue commercial applications of their research. Regular research grants generally do not fund commercially oriented research, and these researchers cannot participate in the SBIR program in a significant way as long as they remain primarily employed at the university.

And so, many potential commercial applications languish in the research laboratory and never see the light of day. That is true at universities in my State, and it is true at research institutions across the United States, from the research triangle in North Carolina, to the national laboratories in Tennessee and New Mexico, to the great research universities of California. This is a potentially major resource for economic development that is being vastly underutilized. The size of the resource is breathtaking.

Together, universities, Federal laboratories, and nonprofit research institutions perform more than $40 billion in R&D each year, or one-quarter of all R&D done in the United States in the public and private sectors combined, and these institutions employ one in every four scientists and engineers in the country. If we can devise a systematic vehicle for moving commercially promising ideas from these institutions to the marketplace, we could spark a revolution in economic development in this Nation.

I believe that the proposed STTR program could be the vehicle for moving ideas from those federal labs, universities, and nonprofit institutions to the market. STTR would use an approach that parallels that of the successful SBIR program.

Under STTR, each of the six Federal agencies whose total R&D budget exceeds $1 billion per year would earmark a small percentage of that budget to fund cooperative R&D projects involving a small company and a researcher at a university, Federal laboratory, or nonprofit research institution. Each STTR project would thus join the two elements that are essential for successful innovation—the scientific and technical expertise of the researcher, and the commercialization expertise of the small company. The STTR percentage would start at five one-hundredths of 1 percent in fiscal year 1994, which amounts to about $30 million, and would rise to one-fourth of 1 percent by fiscal year 1998. As under SBIR, the research project would have to support the mission of the sponsoring agency.

Whereas SBIR exploits commercially promising ideas that originate in the small business community, STTR would use the talents of small, innovative companies to exploit a vast new reservoir of commercially promising ideas that originate in universities, Federal laboratories, and nonprofit research institutions. Thus STTR, I believe, could create the kind of small business, high-technology economic development now seen along route 128 in Massachusetts and in Silicon Valley in California, around research institutions across the United States.

STTR would also address a key issue in U.S. economic competitiveness. This country's enormous investment of resources in its research institutions has brought the United States to undisputed world leadership in basic research and many areas of applied research. But perhaps the core of the American competitiveness problem lies in our ability to translate that leadership into technology and commercial applications which benefit the economy. The MIT Commission on Industrial Productivity expresses the consensus view when it states that:

> . . . the nation's technological strength depends on far more than the health of its research laboratories, important as that is, prowess in research does not lead automatically to commercial success. . . . The United States is still unarguably the leader in basic research.
>
> The scale of its scientific enterprise is unequaled, and it is second to none in making new discoveries. Yet U.S. companies increasingly find themselves lagging behind their foreign rivals in the commercial exploitation of inventions and discoveries.

What is needed is an effective, systematic technology transfer mechanism to move new knowledge from the research institution to industry, where it can be exploited for the nation's economic benefit.

I come from a largely rural area of downstate Illinois. Like many parts of this country, we are losing our manufacturing base, and while we have a lot of dedicated and hard working people, economic development and new job creation is a mighty challenge. But what we do have in Illinois, Mr. Speaker, is a system of public and private universities and colleges, which I believe could hold the key to economic development in the region. The same is true for states across this country, and particularly the rural regions of those States.

STTR would provide that mechanism. As John Preston, director of technology licensing at MIT and Lincoln Laboratories, stated in testimony before the Small Business Committee:

> The STTR proposal would supply funding at the most critical point in technology commercialization—before investors are willing to make risk investments, and after Government research funding sources consider the project too commercial to fund. Much of our technology has languished in this gap only to be recognized by foreign competitors and developed abroad. There is no question in my mind that the STTR program would strengthen U.S. competitiveness.

Mr. Speaker, I believe that STTR will be a landmark in the economic development of this nation. I thank my colleagues for their support, and urge its adoption.

I would like to enter into the RECORD further testimony clarifying some questions which may come up in further debate.

Mr. Speaker, I would like to address a number of specific questions that have arisen regarding the proposed STTR Program.

What is the purpose of the STTR program?

STTR would be a vehicle for converting the Nation's $40 billion per year investment in research at universities, Federal laboratories, and nonprofit research institutions into new commercial technologies, in order to advance U.S. economic competitiveness and high-tech economic development. To move ideas from the research institution to the market, STTR would draw upon the talents of small, innovative companies, and use an approach parallel to that of the successful SBIR Program.

How would STTR complement the existing SBIR Program?

SBIR exploits commercially promising ideas which originate in the small business community, and university involvement in SBIR projects, while common, tends to be in a minor consulting or subcontracting role. STTR would use small companies to exploit a vast new reservoir of commercially promising ideas which originate in universities, Federal laboratories, and nonprofit research institutions.

While the two programs would be separate and distinct, they would both harness the ability of small businesses to innovate and commercialize research.

Why does STTR fund cooperative R&D between small companies and research institutions? Is that the best way to move ideas from the institution to the marketplace?

A large body of evidence indicates that university collaboration with small companies in R&D has a potent effect on innovation—more potent than company R&D performed solely in a company laboratory. That has been established in systematic studies of emerging industries like biotechnology as well as more established manufacturing industries, and is evident in the examples of Route 128 and Silicon Valley.

Since such collaboration is so important, it makes sense to create a separate pot of money [STTR] which can only be accessed through such collaborations. That creates a strong incentive for researchers and small companies to find each other and work together, because the only way they can access STTR funding is by working together. The program also gives the research institutions themselves a strong incentive to facilitate R&D collaborations between their researchers and small companies, because only through such collaborations can the institutions and their researchers access STTR funding and patent royalties.

Why does STTR target small companies as the vehicle for moving ideas from the research institution to the marketplace?

According to the evidence, small companies are best suited for the job. Recent studies show that, on average, small companies contribute 2.5 times as many innovations per employees as large companies, and also contribute a disproportionately large share of the most significant innovations. As discussed earlier, other studies show that university collaboration with industry—and particularly with small companies—has a potent effect on innovation.

Wouldn't STTR drain agency research budgets at a time when those budgets are declining?

No. STTR, like SBIR, does not take a dime out of agency research budgets. Rather, it directs each agency to spend a small percentage of its R&D budget with certain performers of R&D—namely small companies working cooperatively with research institutions. If the record of SBIR is any indication, that small reallocation of R&D performers will not adversely affect the agencies' research programs. The record is very clear on this with respect to SBIR—all 11 agencies that participate in that program report that it has had a positive impact on their research programs, and GAO found that the quality of SBIR research compares favorably with that of other agency research. There is every reason to believe that STTR would, likewise, sponsor mission-oriented research of the highest quality.

What effect would STTR have on basic research?

I believe that basic research in this country would be an important beneficiary of the STTR Program, because public support for funding of basic research depends ultimately on whether the public can see tangible evidence of a payoff to the economy and to the quality of life.

The Federal Technology Transfer Act of 1986 established procedures for cooperative R&D involving Federal laboratories. How would STTR dovetail with the 1986 act?

STTR would build upon the framework established in the Federal Technology Transfer Act. That act set up the basic statutory and regulatory structure on which STTR is built. It set up the Cooperative Research and Development Agreement [CRDA] mechanism at the Federal laboratories. It enabled Federal laboratory researchers to benefit financially from their patented inventions. And it directed the agencies to develop the conflict of interest regulations that govern cooperative R&D. STTR would operate within this existing statutory and regulatory structure and would not change it.

By almost all accounts, we are only beginning to tap the vast potential of our Nation's Federal laboratories and universities, despite more than 10 years of technology transfer legislation. What STTR would do is to dramatically accelerate the process—dramatically increase collaborations between researchers and companies—because it would add to the existing statutory and regulatory structure a very powerful incentive: Money. STTR would, for the first time, establish a pot of money which can only be accessed by research institutions working collaboratively with small companies. Research institutions which sit on their hands and don't get into the technology transfer business will not get any of the STTR money. But research institutions which are good at linking their researchers with small companies will get a share of the STTR money, and will also get a share of the resulting patent royalties. And so, STTR would create a healthy competition among research institutions for technology transfer funding, and that competition could do dramatic things for economic development in this country.

How important would the Federal laboratories be in this program?

The Federal laboratories perform over $20 billion in R&D each year, or 14 percent of all R&D done in this country in both the public and private sectors. They are, by most accounts, an enormous—and largely untapped—reservoir of commercially promising ideas. STTR would provide a systematic mechanism for moving such ideas to the market, without impairing the missions of the laboratories.

Is there precedent for university or Federal laboratory researchers benefiting financially from federally funded research?

The precedent is well-established in existing law. For example, the Federal Technology Transfer Act of 1986 requires the agencies to give Federal laboratory inventors 15 percent of the patent royalties from their inventions, and to develop a cash awards program for such inventors. Similarly, the Bayh-Dole Act of 1980 provides that Federal R&D contractors which are small businesses, universities, or nonprofits retain the patent rights to inventions resulting from their R&D contract. The purpose of both of these laws was to give performers of Federal R&D the financial incentive to commercialize their research, because of the tremendous benefit that innovation represents for the economy.

It is important to remember that, as under SBIR, all research funded under STTR must support the mission of the sponsoring agency—it must respond to an agency R&D need or interest as set forth in the agency's STTR solicitation. Thus, although a particular STTR research project may result in a financial benefit to the researcher, the project will also meet an R&D need or interest of the Federal Government.

Does the STTR legislation contain any safeguards to prevent conflict of interest problems that may arise when researchers collaborate with industry?

Yes, the legislation gives the agencies 1 year to develop procedures to address such issues of conflict of interest in accord with existing law. To a large extent, these conflict of interest issues have been addressed in previous legislation, such as the Federal Technology Transfer Act of 1986, and in existing agency rules. STTR does not conflict with any existing conflict of interest statutes.

In addition, the STTR legislation provides that, in STTR projects, the small business would contract with the research institution itself, rather than with the individual researcher who will be involved in the collaboration. This will give such institutions the ability to ovesee the conduct of their researchers and to prevent systematic conflict of interest problems.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I thank the gentleman for yielding.

Mr. Speaker, in listening to this debate while waiting for our bill to come up, and having served for a dozen years on the Committee on Science, Space, and Technology, I just want to point out how important this endeavor is, how important it is for America to take this wonderful basic and applied research from our magnificent laboratories and universities and get it out into the field, into the economy so that we can employ more workers and make ourselves more competitive. There is no delivery mechanism, I would say, that is more efficient at doing this than the community of small businesses who are highly flexible and mobile and can take ideas quickly into the marketplace and make them into products and processes that create jobs and new markets and help boost our economy.

Mr. HOPKINS. Mr. Speaker, I rise in support of H.R. 4400, as amended to reflect the changes made by the Armed Services Committee in consultation with the Small Business and Science and Technology Committees.

My colleague and chairman, NICK MAVROULES, has done a good job in laying out what is being proposed. I would just add that I remain one of those concerned that the SBIR program may be expanding too far, too fast.

In my view, to triple the size of this program overnight—as was done in the defense conversion package contained in the defense authorization bill—is unrealistic, and imperils the integrity of a successful small business program.

Frankly, I would have been content to expand the program from the current 1.25 percent of R&D dollars to the 2 percent level supported by the Department of Defense. This alone would increase the amount of R&D work available from the Department of Defense to small businesses from $250 million per year to about $576 million.

But, since an increase to 2.5 percent was the consensus position in the House, I am pleased that all parties agreed to build in a firebreak provision to ensure that the quality of this program is not degraded as it grows.

Under our amendment, before the percentage of SBIR awards go beyond 2 percent, a quality check must be done to make sure there are enough quality proposals out there to justify binding DOD and the other agencies to even higher set-aside requirements.

On balance, I believe this is a sound, rational and responsible approach and commend it to my colleagues for support.

Mr. ASPIN. Mr. Speaker, 10 years ago, Congress, with its eye on the future, passed a small but highly significant initiative called the Small Business Innovative Research [SBIR] Program. Today, again looking toward our Nation's future, we are considering a proposal, H.R. 4400, to reauthorize the SBIR Program for an additional 7 years.

SBIR recognizes a couple of critical points: First, technological innovation is an essential component in economic growth and power; and, second, while contributions to innovation by small business are impressive, small high technology companies do not receive a fair share of Federal R&D money.

The intent of the SBIR Program is to strengthen the role of small innovative companies in Federal research and development. And it has done just that—increasing opportunities for small firms even beyond the SBIR Program.

For the Department of Defense, which provides the largest amount of SBIR funds of any of the 11 agencies participating in the program, the amount and percentage of DOD's R&D funds going to small firms increased from $831 million or 6.1 percent in fiscal 1983, when the SBIR Program began, to $1.7 billion or 9 percent in fiscal 1990.

Indeed, the small business community has proven to be a valuable source of technology and innovation to accomplish the defense mission. But beyond that, many technologies developed under DOD SBIR awards have a potential for commercial and other nonmilitary applications, particularly in the health and environmental arenas. For example, the Navy's SBIR Program funded research to develop freeze dried transfusable red blood cells, a product of increasing importance to both DOD and civilian blood banks. A low-cost air purification device that destroys airborne pollutants was also developed under a DOD SBIR award.

Considering such success stories, today's action to reauthorize and expand the SBIR Program is timely and necessary.

H.R. 4400, would increase the current set-aside of Federal agency R&D funds of 1.25 percent to 2.5 percent. H.R. 4400 would also remove some statutory restrictions on the use of certain portions of the defense research budget related to operational research and atomic energy research conducted by the Department of Energy—excluding nuclear weapons activities and naval reactors. By approving H.R. 4400, as amended, we would be adding approximately $81 million to the SBIR Program each year.

I would like to point out to my colleagues that the Armed Services Committee took similar action on its own earlier this year. A provision—sec. 4204—of the reinvestment section of the House-passed fiscal year 1993 defense authorization bill addresses these same SBIR related issues.

In its 10 years, the SBIR Program has been extremely competitive, the awards of the highest quality. This has led some folks to worry that by tripling the program we could lose that high quality, the trademark of the SBIR Program, and end up funding mediocre proposals. That is why the Armed Services Committee, in its consideration of H.R. 4400, required an assessment, to be done by the agency head, of the quality of the proposals being received. This report would be done in 1996, when the program reaches the 2 percent level. The agency head would determine whether there has been a demonstrable reduction in the quality of SBIR proposals funded since 1993, and determine whether that reduction would adversely affect the performance of the agency's research programs. Agency heads would be given wide latitude to determine the specific standards for evaluation of the SBIR Program; presumably, such an assessment would include cost effectiveness and a comparison of non-SBIR and SBIR proposals. If the report is positive, then then amount of funding for SBIR would automatically move up to 2.5 percent; if not, the agency's funding would remain at the 2 percent level—it would not, however, return to 1.25 precent.

The General Accounting Office, in addition, would conduct its own independent assessment, which would be ready before the agency heads begin their review—this will allow the results of the GAO study to be used in the agency review.

I think this reporting requirement is important for maintaining the integrity of the SBIR Program.

A similar report would also be required for the Small Business Technology Transfer [STTR] Program, a separate program also established under H.R. 4400 which would fund research between small businesses, universities, and Federal labs.

Time and time again, we've heard that small businesses are more innovative than large firms. The SBIR Program recognizes that. By reauthorizing and expanding the program today, we are continuing a valuable source of technology that will carry us into the start of the 21st century.

Therefore, I urge my colleagues to vote yes on H.R. 4400 as amended.

Mrs. LLOYD. Mr. Speaker, I rise today in the strongest support for H.R. 4400, a bill to reauthorize The Small Business Technology Transfer Program.

Mr. Speaker, I have a long record of support for the small businesses of this country. Their contributions to the economic stability of our country are immeasurable. The reauthorization of the Small Business Innovative Research [SBIR] Program in front of us, represents a needed improvement in an already well received and highly successful program. I am pleased that this body has been afforded to reauthorize this important legislation.

This bill could not come up for reauthorization at a more appropriate time. As we continue our efforts to shake off this recession, our small businesses continue to suffer. Under the SBIR program, thousands of businesses nationwide have played a crucial role in the development and commercialization of critical technologies and innovations that represent the future for United States industry. At the same time, these small businesses have contributed to the job base. Continuing the incentive for small businesses to work with the government to proliferate breakthroughs in all areas of industry, is unarguably, sound economic policy making.

Included within H.R. 4400 is a new program called The Small Business Technology Transfer [STTR] Program. STTR is an innovative program designed to tap into new areas of research expertise in our National laboratories and universities. Both institutions have strong records of accomplishments in diverse fields of research—in areas from medicine and disease to nuclear weapons and space technologies. The STTR program allows individuals with bright ideas in our universities and National labs to explore the possibilities of commercializing their important research efforts. Because of certain regulations, this powerful research force has been excluded from participation in the SBIR program.

STTR, modeled after the highly regarded and productive SBIR program, would put the necessary mechanisms in place to allow National lab employees and university scientists to share with the commercial sector, many of the research breakthroughs they have made. These collaborations with industry would be partially funded by the appropriate government agency in a process similar to the SBIR program.

I have long regarded technology transfer as critical to the future of a robust economic base, long before it became a buzzword. In fact it was in this committee that my Technology And Competitiveness Act, which is now law, originated. My colleagues, I know I do not have to go on about the benefits from technology transfer. But let me say that STTR affords the government another important opportunity to capitalize on the advances of the research society.

Mr. Speaker, as a Member who has a National lab in their district, and the very distinguished University of Tennessee in Chattanooga. I know first hand about the quality of research out there and of its important applications in the commercial sector. If we are serious about improving and diversifying our national economic base, we should move ahead with STTR.

I urge my colleagues to support both the reauthorization of SBIR and the creation of STTR. Vote yes on H.R. 4400.

Mr. IRELAND. Mr. Speaker, I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I have no further requests for time and, I therefore, yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from New York (Mr. LAFALCE) that the House suspend the rules and pass the bill, H.R. 4400, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMTRAK CAPITAL ACQUISITION AND TECHNOLOGY DEVELOPMENT ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amtrak Capital Acquisition and Technology Development Act".

SEC. 2. SAFETY IMPROVEMENTS.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end the following new section:

"SEC. 811. RAIL AT-GRADE CROSSINGS.

"(a) ELIMINATION.—The Secretary, in consultation with the States along the main line of the Northeast Corridor, shall develop a plan for the elimination of all highway at-grade crossings of such main line by December 31, 1997.

"(b) EXCEPTIONS.—The Plan developed under subsection (a) may provide that the elimination of a highway at-grade crossing not be required if eliminating such crossing is impracticable or unnecessary and the use of the crossing will be consistent with such conditions as the Secretary considers appropriate to ensure safety.

"(c) FUNDING.—The Corporation shall pay 20 percent of the cost of the elimination of each highway at-grade crossing pursuant to the Plan.".

SEC. 3. EXPERIMENTATION WITH NEW TECHNOLOGIES.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end the following new section:

"SEC. 812. EXPERIMENTATION WITH NEW TECHNOLOGIES.

"(a) PLAN.—The Corporation shall develop a plan for the demonstration of new technologies in rail passenger equipment. Such plan shall provide that any new equipment procured by the Corporation that may significantly increase train speeds over existing rail facilities shall be demonstrated, to the extent practicable, throughout the national intercity rail passenger system.

"(b) REPORT TO CONGRESS.—The Corporation shall, not later than September 30, 1993, submit to the Congress a report summarizing the plan developed under subsection (a), including its goals, locations for technology demonstration, and a schedule for implementation of the plan.".

SEC. 4. NORTHEAST CORRIDOR PROGRAM MASTER PLAN.

(a) AMENDMENT.—Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended by adding at the end the following new section:

"SEC. 708. PROGRAM MASTER PLAN.

"Within 1 year after the date of enactment of the Amtrak Capital Acquisition and Technology Development Act, the Secretary, in consultation with the Corporation and the commuter and freight railroads operating over the Northeast Corridor main line between Boston, Massachusetts, and New York, New York, shall develop and submit to the Congress a program master plan for a coordinated program of improvements to such main line that will permit the establishment of regularly scheduled, safe, and dependable rail passenger service between Boston, Massachusetts, and New York, New York, including appropriate intermediate stops, in 3 hours or less. Such plan shall include—

"(1) a description of the implications of such improvements for the regional transportation system, including the probable effects on general travel trends and on travel volumes in other transportation modes, and the implications for State and local governments in attaining compliance with the Clean Air Act;

"(2) an identification of the coordinated program of improvements and the specific projects that comprise that program, including their estimated costs, schedules, timing, and relationship with other projects;

"(3) an identification of the financial responsibility for the specific projects that comprise the program, and the sources of those funds;

"(4) an operating plan for the period of construction of the improvements demonstrating a coordinated approach to scheduling intercity and commuter trains;

"(5) an operating plan, for the period after completion of the program, for the coordinated scheduling of intercity and commuter trains, including the provision of priority scheduling, dispatching, and occupancy of tracks for appropriately frequent, regularly scheduled intercity rail passenger service of 3 hours or less between Boston, Massachusetts, and New York, New York, with appropriate intermediate stops;

"(6) a comprehensive plan to control future congestion on the Northeast Corridor attributable to increases in intercity and commuter rail passenger service;

"(7) an assessment of long-term operational safety needs and a list of specific projects designed to maximize operational safety; and

"(8) any comments the Corporation submits to the Secretary regarding the contents of the Plan.

The Secretary shall submit to the Congress any modifications made to the program master plan, along with any comments the Corporation submits to the Secretary regarding such modifications.".

(b) CONFORMING AMENDMENT.—The table of contents for the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting after the item relating to section 707 the following new item:

"Sec. 708. Program master plan.".

SEC. 5. AUTHORIZATION OF PREFERRED STOCK.

Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end the following new paragraph:

"(4) No amendment to the articles of incorporation of the Corporation shall be required for the issuance of the preferred stock required to be issued pursuant to this subsection.".

SEC. 6. PROPERTY FINANCING.

Section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546(n)) is amended to read as follows:

"(n)(1) The Corporation shall not be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or right-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, 'additional taxes' means taxes or fees (A) on the acquisition, improvement, ownership, or operation of personal property by the Corporation; and (B) on real property other than taxes or fees on the acquisition of real property, or on the value of real property which is not attributable to improvements made, or the operation of such improvements, by the Corporation.

"(2) For purposes of this subsection, the term 'Corporation' includes the Corporation's railroad subsidiaries and any lessors and lessees of the Corporation or its railroad subsidiaries.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended to read as follows:

"SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

"(a) CAPITAL ACQUISITION AND CORRIDOR DEVELOPMENT.—

"(1) Northeast corridor.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.)—

"(A) $272,000,000 for fiscal year 1993; and

"(B) $281,000,000 for fiscal year 1994.

"(2) General capital expenditures.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under this Act—

"(A) $300,000,000 for fiscal year 1993; and

"(B) $309,304,000 for fiscal year 1994.

"(3) New corridor development.—

"(A) In general.—Of the amounts appropriated pursuant to paragraphs (1) and (2), not more than 15 percent of each amount shall be made available for projects described in subparagraphs (B) and (C) of this paragraph.

"(B) Corridors between densely populated cities.—(i) Except as provided in clause (ii), funds made available under subparagraph (A) shall be used to develop new intercity rail passenger service on corridors—

"(I) between cities undergoing significant population growth; and

"(II) where such service can reasonably be expected to provide travel times comparable with other surface transportation modes.

"(ii) Amounts shall be expended for the purposes described in clause (i) only if the service is requested by a State or States and the Corporation and such State or States agree that—

"(I) at least 90 percent of the cost of the acquisition of rolling stock for such service shall be paid by the Corporation; and

"(II) at least 90 percent of the cost of improvements in the right-of-way, including track structure, signal systems, passenger station facilities, highway and pedestrian grade crossings, and other safety equipment or facilities, shall be paid by the State or States.

"(iii) Service described in clause (i) shall be subject to section 403(b) with respect to operating expenses.

"(C) Long distance rail passenger corridor development.—(i) Except as provided in clause (ii), funds made available under subparagraph (A) shall be used to initiate new long distance intercity rail passenger service.

"(ii) Amounts shall be expended for the purposes described in clause (i) only if the service is requested by a State or States and the Corporation and such State or States agree that—

"(I) at least 75 percent of the cost of the acquisition of rolling stock for such service shall be paid by the Corporation; and

"(II) at least 90 percent of the cost of improvements in the right-of-way, including track structure, signal systems, passenger station facilities, highway and pedestrian grade crossings, and other safety equipment or facilities, shall be paid by the State or States.

"(iii) Service described in clause (i) shall be subject to section 403(b) with respect to operating expenses.

"(b) Operating Expenses.—

"(1) Core system.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses—

"(A) $389,820,000 for fiscal year 1993; and

"(B) $321,500,000 for fiscal year 1994.

Of the amounts appropriated in subparagraphs (A) and (B), not more than 5 percent for each fiscal year shall be used for the payment of operating expenses under section 403(b) of this Act for service in operation as of September 30, 1992.

"(2) New state-supported service.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses under section 403(b) of this Act for service commencing after September 30, 1992—

"(A) $7,500,000 for fiscal year 1993; and

"(B) $9,500,000 for fiscal year 1994.

The expenditure by the Corporation of funds appropriated for operating expenses under section 403(b) of this Act for service commencing after September 30, 1992, shall not be considered to be an operating expense for purposes of calculating the revenue-to-operating expense ratio of the Corporation.

"(c) Mandatory Payments.—There are authorized to be appropriated to the Secretary $150,000,000 for fiscal year 1993, and $157,000,000 for fiscal year 1994, for the payment of—

"(1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in such fiscal years in excess of amounts needed to fund benefits for individuals who retire from the Corporation and for their beneficiaries;

"(2) obligations of the Corporation under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in such fiscal years in excess of its obligations calculated on an experience-rated basis; and

"(3) obligations of the Corporation due under section 3321 of the Internal Revenue Code of 1986.

Funds appropriated under this subsection shall not be considered a Federal subsidy of the Corporation.

"(d) Fiscal Year 1992.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation $712,000,000 for fiscal year 1992.

"(e) Administration of Appropriations.—Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisitions and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with the Secretary's budget request as approved or modified by Congress at the time of appropriation. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.".

(b) Conforming Amendment.—Section 403(b)(1)(B)(iii) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)(B)(iii)) is amended by striking "and 50 percent of the associated capital costs" and inserting in lieu thereof "and, except as provided in section 601(a), at least 50 percent of the associated capital costs".

(c) Repeal.—Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is repealed.

SEC. 8. DEFINITION.

Section 103 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) by redesignating paragraphs (13) through (17) as paragraphs (14) through (18), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) 'Northeast Corridor' has the meaning given such term in section 701(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851(c)).".

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The SPEAKER pro tempore (Mr. McNulty). Pursuant to the rule, the gentleman from Washington [Mr. Swift] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. Ritter] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. Swift].

GENERAL LEAVE

Mr. SWIFT. Mr. President, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4250, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers H.R. 4250, a bill to reauthorize the activities of the National Railroad Passenger Corporation, better known as Amtrak. I would like to commend the excellent work of the ranking member of the full committee [Mr. Lent] and the ranking member of the subcommittee [Mr. Ritter] in helping develop H.R. 4250. Their efforts on this bill will ensure Amtrak's ability to continue as a vital cog in the Nation's transportation system.

Amtrak today is a far cry from the rag-tag railroad scraped together from remnants of the freight railroads by Congress during the Nixon administration. Since 1981, Amtrak has improved its revenue-to-cost ratio from 0.48 to 0.79 and its revenue-to-cost ratio from 0.48 to 0.79 and its passenger miles traveled by 27 percent. At 79 percent cost coverage, Amtrak is the most efficient passenger rail system in the world. To spur this growth, Congress has provided investment at critical times to enable Amtrak to improve its financial performance. In return, the public has received rail service as an important link in the national transportation system. In rural areas, in large cities, and crisscrossing suburbs, Amtrak has been a constant for communities everywhere. Ridership today is 40 million passengers per year and growing. On the Northeast corridor alone, Amtrak is the largest single carrier of passengers, including airlines.

H.R. 4250 seeks to help Amtrak to continue improving itself. The bill rests on sound business principles: "Ya gotta have money to make money." Amtrak has concluded it can continue improving, and even reach operational self-sufficiency, but only with significant capital investment. Likewise, a report released to my committee February 19, 1992 by the U.S. Department of Transportation found that Amtrak could increase revenues by as much as $125-$150 million per year by purchasing new equipment, adding capacity, and marketing routes more aggressively.

H.R. 4250 authorizes capital grants that combine for approximately $580 million for each of the next 2 years. These funds will be used to continue the acquisition of new rolling stock for Amtrak service nationwide, and to develop high-speed operations in the Northeast. In addition, the bill authorizes operating assistance in fiscal years 1993 and 1994 for Amtrak to maintain its existing route structure.

The bill provides incentives for both Amtrak and States to initiate new passenger rail service where economically justified. It sets aside up to 15 percent of the capital authorizations for corridor improvement, and roughly 8 percent of the operating authorization for new and existing 403(B) (State Supported) Service. In taking these steps, H.R. 4250 envisions constructive public-private partnerships for the provision of rail service that will return tangible benefits to communities in every region of the country.

H.R. 4250 also increases safety and encourages the acquisition of new, more efficient rail passenger equipment. The bill requires the Secretary of Transportation to develop a plan to eliminate all highway-rail grade crossings on the Northeast corridor. It directs the Secretary to develop a master plan for further capital improvements, including electrification, in the Northeast corridor. And it requires the corporation to develop a plan for the demonstration of new, efficient, high-speed equipment throughout the intercity rail passenger system.

I want to conclude today by making a few remarks about rail in general. Passenger rail in this country is undergoing a renaissance. Congestion in highways and airports has policymakers around the country looking for ways to provide new capacity. Transit funding for commuter rail is on the increase. Cities seeking to comply with the Clean Air Act are turning to rail as a clean mode.

The Office of Technology Assessment [OTA] reports that population in this country will increase by 32 million between now and 2010. Over the next 30 years, OTA estimates that highway traffic volume will double. With these increases will come corresponding increases in energy consumption and pollution. As this happens, we would do well to remember a train can move the same amount of passengers as automobiles, buses, or aircraft at less energy cost and creating less pollution.

Even the administration has had a change of heart about Amtrak; last year marked the first time it has recommended funding Amtrak since the early 1980's. In short, people are coming back to the rails, much as they are in Europe and throughout the world. Amtrak is positioned to respond to communities seeking to maintain or improve their quality of life.

Current funding for Amtrak expires September 30, of this year; therefore,we must move forward with this sensible bipartisan authorization now. I urge my colleagues' strong support for H.R. 4250. It will be good for our transportation system, good for economic development throughout the country, good for the environment, and good for the transportation consumer.

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Washington [Mr. SWIFT], our Transportation Subcommittee chairman, and our committee chairman, the gentleman from Michigan [Mr. DINGELL] and the committee's ranking member, and the gentleman from New York [Mr. LENT] for their outstanding efforts in moving this bipartisan legislation forward.

As Amtrak completes its 21st year of intercity rail service, the Nation is beginning to appreciate how badly we need a balanced national transportation policy of trains, planes, and automobiles. This is especially true in an era when we are concerned with dependence on foreign energy sources and with the effect of our transport activities on the environment.

This consensus on the importance of rail service was far from evident when Amtrak took over the passenger trains in 1971. But in the intervening years, largely through the able leadership of Graham Claytor, Amtrak has proven its worth and is well on the way to achieving its declared goal of operational self-sufficiency by the end of this decade.

To do this, Amtrak must have the resources—particularly capital such as rolling stock and right-of-way improvements—to provide reliable, high-quality service to its customers. After all, the travel market is one in which the customer reigns supreme, and without quality and value, the business will go elsewhere.

Unfortunately, Amtrak is faced with more than merely maintaining its fleet. It is suffering the effects of virtual capital starvation during the 1980's. As a result, its locomotives and equipment are being pressed far beyond their normal service lifetimes. In addition, these capital shortages are preventing Amtrak from expanding service where the demand clearly justifies doing so.

The reauthorization bill we are considering today establishes a basic framework for a balanced Federal role in supporting Amtrak: adequate capital and a short-term continuation of operating subsidies to get Amtrak to the point of self-sufficiency by the end of the decade. Amtrak has already improved its revenue-to-cost ratio from 48 percent in 1981 to 79 percent in 1991.

As we contend with ever-increasing congestion at our airports and on our highways, this legislation helps focus national policy on support for our most energy-efficient and environmentally benign form of passenger transport.

The cost for improvements to rail lines is a small fraction of the cost for constructing new multi-billion-dollar airports or highways. In some cases, improved rail facilities can eliminate the need for new airports. For example, over 20 percent of the air traffic out of Boston's extremely congested Logan International Airport is destined for New York City. A new airport in the Boston area could cost well over $10 billion, including ancillary facilities and roads, and raise numerous environmental concerns.

Congress has approved funding for improvements to the Northeast corridor between New York and Boston to reduce trip time to under three hours. A 1990 study concluded that high-speed service between these two cities would permit cutting back up to 50 air shuttle trips daily and free up between 8 and 10 airport gates for longer distance operations.

This legislation is also a mandate for seeing through the commendable effort, already commenced by Amtrak's management, to attain self-sufficiency for the Nation's intercity rail carrier. I therefore strongly support this legislation and urge its prompt approval.

Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. I rise in strong support of the bill before us.

I first wish to commend the author of the legislation, the gentleman from Washington, who so ably chairs our Subcommittee on Transportation and Hazardous Materials, for his strong leadership in bringing this measure to fruition. I also wish to commend the ranking Republican of the subcommittee, the gentleman from Pennsylvania, for his strong support and significant contributions to this important legislation. Finally, I wish to convey my deep respect and warm affection for my good friend and distinguished colleague, the gentleman from New York, who serves as the ranking Republican of our committee, and to recognize him for his great abilities, his good judgment, his good humor, and his untiring efforts in the many, many legislative accomplishments we have shared through the years. I count as one of these accomplishments the bipartisan legislation we have enacted time after time during the past decade to keep Amtrak running. This accomplishment has been of particular importance in light of the administration's unyielding determination to cut all Federal assistance to Amtrak. Without the leadership of Representative LENT and many others in this body, Amtrak would have become a thing of the past and would not have made the progress it has been able to attain.

There are a few signs that the administration's position may have shifted somewhat during the past few months. While the President's most recent budget is woefully inadequate to provide Amtrak with needed capital, it at least recognizes that some funding for Amtrak is justified. Similarly, Secretary of Transportation Card appears, at a minimum, to be willing to reexamine the administration's historic policies regarding Amtrak and, hopefully, is prepared to recommend dramatic changes in these policies to enable Amtrak to be what it should and can be. As well, the Office of Management and Budget, while noting its objections today to the bill, has in no manner suggested that a veto by the President—as occurred 2 years ago—will be recommended. While these relatively modest indications do not rise to the level of support for Amtrak that the vast majority of Members of Congress have demonstrated repeatedly—reflecting, in my judgment, the views of most Americans—they have been duly noted. As always, I stand ready and willing to work with the administration to ensure in the future that Amtrak will be a first-class citizen that serves the American public, its workers, and numerous national policies.

Last fall, the Congress enacted the Intermodal Surface Transportation Efficiency Act [ISTEA]. In signing the legislation, President Bush joined a nearly unanimous chorus of voices from the Congress to praise the attributes of what many considered to be a landmark accomplishment. In signing the measure, the President embraced the legislation, saying that it "will build roads, fix bridges, improve mass transit and create new jobs." In fact, at the same time, President Bush underscored that the legislation will "support more than 600,000 jobs in this fiscal year." The bill provides more than $150 billion for highways and mass transit over the next 6 years, creating a new 155,000-mile National Highway System that will be eligible to receive the bulk of the Federal funds authorized therein. Indeed, there were many in the Congress who would have supported even higher levels of funding for the programs and projects addressed in the legislation. in fact, during the recent House debate on the 1993 transportation appropriations bill, H.R. 5518, an amendment was offered and approved that would shift significant expenditures from foreign operations to certain transportation accounts. While I supported the amendment, I note with great disappointment that not one penny of the additional funds would be used to supplement Amtrak appropriations, despite the fact that the level of Amtrak appropriations set forth in the House bill are well below the level needed for Amtrak's immediate needs, much less its long-term prosperity. Proponents of the provision, echoing the love-in accompanying passage of the ISTEA, claimed that the amendment would create roughly 150,000 jobs and would fulfill the promise Congress made to the American people in ISTEA that we will address the Nation's highway and other transportation needs.

I actively supported enactment of ISTEA. I therefore find it to be inconsistent, illogical, and incomprehensible that any other supporter of that legislation would object in any manner to provisions of the bill before us today, particularly given the relatively meager aspects of the financial implications of the legislation. The authorization levels in this bill are but a drop in the bucket compared to the billions of dollars that Members of Congress and the President supported in ISTEA. We consistently support billions of Federal dollars to be spent on highways, airports, and mass transit. But every time that we bring an Amtrak bill to the floor, it is all too predictable that there is substantial opposition to its modest funding levels. By doing so, we ensure that Amtrak can at best limp along as a second-class operation. We ensure that the traveling public, Amtrak's employees, and public policies, including furtherance of environmental laws and policies and support for an integrated and healthy national transportation system are disserved. Our support for Amtrak, when compared to historic and continued investment levels for passenger rail in other developed countries, is nearly laughable. Those who vote against Amtrak funding turn around and scratch their heads and wonder why the French, German, British, and Japanese rail systems are able to outperform Amtrak without understanding the financial commitment made to passenger rail service in these and other countries.

The benefits of a national passenger rail operation are critical to the well-being of the Nation. Our committee report accompanying H.R. 4250 outlines the environmental and transportation policies that a healthy Amtrak operation furthers, including mitigation of congested highways and airways, decreased air pollution, better integration of all transportation modes, and increased usage of an underutilized infrastructure, as well as describing the basic dilemma Amtrak faces. A severe lack of capital—epitomized by the fact that Amtrak inherited a fleet of already-dilapidated passenger cars from privately owned railroads more than two decades ago when Congress perceived the need to establish a national passenger rail company—not only inhibits further productivity and efficiency gains but jeopardizes Amtrak's current performance by increasing operating expenses and related maintenance costs and decreasing the quality of service, thus resulting in a large current capital deficit of $500 million. The lack of capital also threatens the safe operation of Amtrak trains. Despite the severe funding cuts in Federal assistance Amtrak has experienced during the past decade, it has shown a remarkable ability to improve its revenue-to-cost ratio, from only 48 percent in 1981 to about 80 percent in the last few years. However, this steady improvement indicator has leveled out since 1990 and further improvements will not be achievable without capital investment in new equipment, plant modernization, and track upgrading.

H.R. 4250 targets Amtrak's current needs while looking ahead to future systemwide improvements and innovations. The bill provides a much-needed shot in the arm in the area of capital assistance that will allow Amtrak to purchase new equipment and improve its track and plant. The bill also authorizes needed funds for the Northeast corridor, including the elimination of grade crossings, and directs Amtrak to plan and implement major improvements between New York and Boston. The committee believes Amtrak's investment in the Northeast corridor must be preserved and enhanced. Studies and marketing analyses indicate the unequivocal benefits that will be achieved if further improvements are made to the Northeast corridor, including Amtrak's ability to improve its revenues, as evidenced by Amtrak's historic performance between Washington, DC, and New York. The bill also directs Amtrak to expend funds to develop new routes throughout the Nation, including projects between densely populated areas, as well as long-distance rail passenger corridor development.

I also take this opportunity to emphasize Amtrak's critical role in establishing high-speed rail corridors throughout the country. Today, Amtrak owns and operates the Nation's only high-speed rail operation between Washington and New York. The success of this premiere operation has been demonstrated amply, with Amtrak enjoying the position today as the largest single carrier of passengers on the corridor, including both surface transportation and air modes. The need for similar operations throughout the country was recognized in certain provisions of the ISTEA legislation, developed by our committee, where the Secretary of Transportation has been directed to select five high-speed rail corridors that will be eligible for Federal funds to eliminate hazards of grade crossings. I firmly believe that this approach makes abundant sense by building on the existing rail infrastructure and utilizing existing technologies and equipment, while allowing for future innovations and improvements. In my own home State of Michigan, plans are well underway to apply for these ISTEA funds prior to the end of this month for the Detroit-Chicago corridor. I am confident that Secretary Card will agree with me that the selection of the five corridors, based on the criteria provided in ISTEA, should be completed no later than early October. This modest first step for high-speed rail development is long overdue and needs to be taken as soon as possible. The bill we are considering today goes hand in hand with the development of high-speed rail activities and will serve to benefit passengers and communities throughout the country.

In closing, I wish to commend the efforts of the president of Amtrak, Mr. Graham Claytor, as well as the Amtrak workers who serve the railroad. When Mr. Claytor assumed the reins of Amtrak over a decade ago, after an already distinguished career in public service and the rail industry, Amtrak was in dire straits. In spite of declining Federal funding and intense opposition to Amtrak by the administration, Graham Claytor has made significant and lasting improvements to our national passenger railroad system. His dedication and persistence have been without parallel. As well, I commend the efforts of those men and women who work for Amtrak. Without their hard work and dedication, Amtrak would not be able to survive.

Mr. Speaker, I strongly urge all Members to support this important legislation.

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Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to support something that the gentleman from Michigan [Mr. DINGELL] was saying. In an era when we are withdrawing from the great competition for weapons production and defense production, although we do want to keep a mindful eye that we are in a dangerous world, it makes some sense to take a look at this growing need for trains, in addition to planes and automobiles, to solve our transportation problems, and to begin to think about in some sense converting some of that wonderful high-technology production capacity toward better trains, intercity trains, to solve some of the congestion problems.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. ROWLAND], a member of the committee.

Mr. ROWLAND. Mr. Speaker, I commend the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee, for his excellent work on H.R. 4250, the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and also the gentleman from Pennsylvania [Mr. RITTER], the ranking minority member on the subcommittee, and the gentleman from New York [Mr. LENT], the ranking member on the full committee.

Mr. Speaker, a national rail passenger system is an essential part of the country's transportation infrastructure and, in my view, will become increasingly important in the years ahead. This is why I rise today in support of H.R. 4250. It is fiscally sound legislation that will enable Amtrak to continue to make progress in providing the kind of national system the country needs.

Unfortunately, the job of developing a truly national system is not finished. Several gaps exist in various parts of the country, including one through the area I represent in middle and south Georgia—the proposed Chicago-to-Jacksonville route that would pass through Atlanta and other points in Georgia. With the Olympics coming to Atlanta in 1996, it is particularly crucial that we move forward on this project.

Amtrak has repeatedly stated it supports the completion of the system as soon as it is financially feasible. The bill we are considering today gives Amtrak the authority to proceed on this course. It authorizes new routes that are needed to link up densely populated cities and complete the nationwide network of passenger service.

Many issues have to be settled before any new route can be implemented. Those of us who are involved in the Chicago-to-Jacksonville route are working to resolve these issues at all levels. This bill is a step in the right direction. In fact, it is a step forward for the whole country.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, today we consider a measure of vital significance to the economies of the entire Northeast region. Securing funding for Amtrak has been a constant, hard-fought battle—a battle to save our Nation's crumbling transportation infrastructure and help revitalize our ailing economy.

Today's bill authorizes significant new funding for improvements to the Northeast rail corridor. No single transportation project is more important for the entire Northeast region. The 465-mile Northeast corridor serves the mass transit needs of over 40 million Americans in a region with the highest population density of the Nation.

Growing demands have placed new strains on our aging transportation infrastructure. In my State of Connecticut, long-term economic and social vitality is threatened by a transportation system that is no longer capable of meeting the present and future needs of our communities.

The renewed Federal commitment to the Northeast rail corridor offers new hope to the commuters of the Northeast region. It says the Federal Government is now back in the business of helping our communities develop an economical, environmentally sound and energy efficient response to the increasing travel demands of our States.

Work on the Northeast corridor also brings with it thousands of new and desperately needed jobs to a region suffering through the longest recorded recession since the Great Depression. This crucial investment will also bring mass-transit improvements that promise at least one-half billion dollars a year in increased economic activity in the region, and thousands of additional new jobs that this activity will bring with it.

Mr. Speaker, I congratulate my colleagues for their work in renewing the Federal commitment to this essential link in our Nation's transportation infrastructure. It is this kind of far-sighted commitment that will help lay a solid foundation for long-term economic growth, and for competitiveness in the global marketplace of the future.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I want to express my agreement with the gentlewoman from Connecticut [Ms. DELAURO]. The gentlewoman is absolutely correct on the importance of this high-speed rail and the Northeast corridor in general. I have been pleased to work with the gentlewoman and want to say that this is a very important piece of legislation from the environmental, energy, and economic standpoint. So I am delighted to be able to support it.

Mr. SWIFT. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, I want to commend the gentlewoman from Connecticut [Ms. DELAURO] on her statement, and also say she is a great credit to the State of Connecticut.

Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from Washington [Mr. SWIFT] may know, I was here in Washington, DC on Capitol Hill as a staffer before I was a Member of Congress back in the late sixties and early seventies and I worked on the original authorization of Amtrak. So I rise in strong support of the chairman's efforts now 20 years later to reauthorize Amtrak, and particularly want to thank the gentleman from Washington [Mr. SWIFT] for his efforts in this legislation to clear the way for the establishment of new rail services.

Mr. Speaker, as Members know, I have worked for some time in my State of Montana to reopen Amtrak's southern route and again make Amtrak available to the many towns and cities along the southern tier of Montana, service they enjoyed for much of this century. This bill provides important consensus to our efforts to open the southern route, or any new route, for that matter.

Mr. Speaker, I wish to also thank those Members of the minority that have risen here today to support a strong continuation of Amtrak, because I know this is not an easy position to take in light of the administration's continued opposition, or, at the very best, mild support for public rail service.

Mr. Speaker, this legislation marks another step in our fight with this and the previous administration to maintain a passenger railroad in the United States. Under the privatization strategy of the 1980's the administration zeroed out Amtrak year after year, and this year the administration proposed a funding level which, if enacted, would have been the death knell for Amtrak.

Mr. Speaker, Amtrak provides our people with reasonably priced, enjoyable, and above all energy efficient transportation. Most Americans understand the importance of Amtrak and believe that if the Federal Government has to invest to keep it going, then that is a good investment. Over the long run we will be glad we made the effort to keep this system up and running.

□ 1900

I would also like to encourage my colleagues to join the gentleman from Washington [Mr. SWIFT], as I have, in working for passage of his legislation to earmark one penny of the gas tax for Amtrak. Without this type of approach, I think we may never develop the funding stability needed for a strong, excellent, first-class, sound rail passenger service system in this country. Without this type of financial support, those opposed to Amtrak will continue their efforts and possibly one day succeed in destroying something that serves as a cornerstone for economic development in my State of Montana as well as so many others.

Mr. Speaker, Montanans want to strengthen the service we have and expand service in those areas that have lost it. I am pleased that this is the business we are about today.

Again, let me say that I commend the chairman for his strong support for Amtrak, for his diligent work on this reauthorization, and the gentleman from Washington [Mr. SWIFT] for trying to earmark that penny.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman. I would point out that the earmark is not in this bill, unfortunately. But it is not in this bill. It will be going through another committee, and I have some considerable optimism that in the next Congress we will be able to deal with that effectively. I thank the gentleman for bringing that point up.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I rise in strong support of H.R. 4250, and I rise to commend the gentleman from Washington [Mr. SWIFT] for his excellent work on this bill.

In 1977, 16 years ago, my first year in Congress, I spoke on the floor of this House in favor of more funds for Amtrak. I think that it is to the credit of Congress that we have supported Amtrak steadfastly during the 1980's, when one administration tried very hard to get rid of it.

I know whereof I speak. My wife and I, in the last 8 years, have traveled over 40,000 miles by Amtrak on virtually every route. I regularly take Amtrak from Cleveland-Elyria in my own district back to Washington, when I go home on the weekend.

And I am impressed with the service provided by Amtrak under somewhat difficult circumstances, I might add, since Amtrak does have to run over freight railroads and since it has to operate with equipment which in many cases is 50 years old.

Anyone who rides Amtrak east of the Mississippi knows that the Amtrak crews which refurbish that old equipment do a magnificent job. The equipment is really in very good shape, very well maintained, despite its age.

I think if we were to reward or to pass legislation around here based on rewarding government agencies for their good work in the past, we certainly ought to be very much in Amtrak's favor and very generous in our authorization for Amtrak.

It is my personal experience and observation that the management of Amtrak is good, very efficient, very hardworking, that the crews on Amtrak trains are very, very fine.

There is a certain comradery among Amtrak employees, which I find to be quite remarkable, especially since they have not had very many pay increases recently.

Finally, I would like to pay tribute to one particular Amtrak employee, whose name is Ernie, who runs the ticket office here in the Capitol. He has been unfailingly helpful and cooperative to us over the years. To me, he is a walking advertisement for Amtrak, our national rail system.

I hope very much that we can continue Amtrak and strengthen it in the years ahead because we will surely, surely need train travel as an adjunct for automobile traffic in the future.

There is no way we can continue to operate just with the highways that we have as inner-city traffic continues.

Again, my congratulations to the committee and my appreciation to the gentleman from Washington [Mr. SWIFT] for yielding time to me.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

I might just call attention to this idea of train travel and rails being part of our overall need to invest in transportation infrastructure, just like an interstate highway system, just like the airport system.

I would like to point out that between 1980 and 1992, over $27 billion in general revenues, exclusive of trust fund expenditures, have been used to fund the FAA's operations and air traffic control programs.

In fiscal 1992 alone, $2.2 billion in general revenues were used to fund the air traffic control system. Air travel is also federally subsidized through the use of tax-free revenue bonds used to fund grants-in-aid for airports.

The use of tax-free revenue bonds deprives the Federal Treasury of tax revenues, and this kind of constitutes a Federal subsidy.

In addition, the Federal Government contributes trust fund moneys to the construction of new airports and airport improvements.

So when we talk about Federal subsidies for trains, I think we have to put it in some context with what we see for highways and what we see for airports. When we put it in that kind of context, trains have been relatively starved in terms of national infrastructure.

Mr. LENT. Mr. Speaker, I want to commend our transportation subcommittee chairman, the gentleman from Washington, and the subcommittee's ranking Member, the gentleman from Pennsylvania, as well as our committee chairman, the gentleman from Michigan, for the diligent bipartisan efforts that went into fashioning this legislation. This bill will assure that Amtrak is reauthorized on a timely basis.

Twenty years ago, when Amtrak took over intercity rail service, it seemed a fragile and risky venture into a field of transportation that the freight railroads were eager to abandon. But since then, largely due to the management of Graham Claytor, Amtrak has not only prospered, but has managed to reduce drastically its reliance on Federal operating subsidies.

Given adequate capital, Amtrak can be operationally self-sufficient by the turn of the century. But capital is essential. No enterprise, public or private, can function without adequate investment to maintain its equipment and infrastructure. In Amtrak's case, this means replacing and modernizing locomotives, rolling stock, and equipment on a timely basis.

The bill we are considering today provides the basic charter for Amtrak's continued right to balanced Federal support—both operating and capital funds. If we follow through on this effort to sustain Amtrak with the capital it needs, we can have a thriving and self-supporting intercity rail network in just a few short years

Those of us in the northeast have long appreciated the benefits of rail service as a sensible antidote to increasing airway and highway congestion. Rail transport is also environmentally sound—a critical consideration in light of current and future environmental requirements, including the Clean Air Act.

Partly because of environmental requirements, other regions of the Nation are now beginning to share the Northeast's appreciation of the advantages of rail transportation. H.R. 4250 is a balanced approach to maintaining and improving Amtrak as a national asset. I strongly support its enactment.

Mr. LAROCCO. Mr. Speaker, I rise today in strong support of H.R. 4250, the Amtrak Capital Acquisition and Technology Development Act sponsored by Congressman SWIFT.

As many of my colleagues can attest, Amtrak provides a necessary service throughout the United States. At a time when Americans are traveling more than ever before, rail passenger service affects us all. Many small, rural towns have neither air nor bus services. And there are communities in Idaho where Amtrak is the only national transportation option available. Its continued service must be protected.

As our Nation's population continues to grow, we are becoming increasingly attuned to the environment, to clean air standards and to the overall reduction of our energy consumption. Transportation planners view rail passenger services as the solution to many of these problems. And there is no greater nationwide passenger rail line than Amtrak.

Amtrak is also a sound business investment for America. By increasing revenues, productivity and efficiency, Amtrak has managed to greatly reduce its dependence on Federal funding. Ten short years ago, Amtrak met less than half of its annual operating expenses. This year, however, it will cover more than 80 percent of its overhead, en route to its goal of full self-sufficiency.

Mr. Speaker, a changing and growing nation requires a transportation network which can meet the needs of all its people. Amtrak's record ridership and economic growth reveal that it is a vital component of America's transportation infrastructure. I intend to support this important legislation and would encourage my colleagues to do the same.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 4250, the Amtrak authorization bill for fiscal years 1993 and 1994. I also want to commend the gentleman from Washington [Mr. SWIFT] for bringing this important legislation before us today.

Mr. Speaker, last year proved to be another record-breaking year for Amtrak. Total ridership rose to over 40 million passengers and brought in record earnings of $1.36 billion. More importantly, Amtrak continues to become more self-sufficient each year. This year, Amtrak projects that it will be able to cover 82 percent of operating costs from its own sources and continues to strive for the goal of 100 percent self-sufficiency by the year 2000. Dramatic progress has been made in this area since 1981 when Amtrak covered only 48 percent of its costs. Thus, on a nationwide basis, Amtrak continues to be a wise and productive investment in our nation's transportation systems.

Amtrak is also important to California. Amtrak employs over 2,700 Californians. Nearly 5.5 million passengers, including nearly 180,000 from the Sacramento area, commuted or travelled on Amtrak in 1991. Amtrak is an important component of our State's efforts to keep pace with the travelling and commuting demands of Californians. In fact, growing traffic congestion problems in metropolitan centers throughout the state, as well as country, simply underscore the need to emphasize the development of mass transit systems. As such, we should be channeling more funding toward the development of commuter and passenger rail services.

In this regard, H.R. 4250 provides that Amtrak purchases of new, more modern equipment targeted at increasing speeds over existing rail lines should be demonstrated on a nationwide basis. This provision is important to California and other Amtrak-friendly States because these demonstration projects have historically been limited to the Northeast corridor.

Of equal importance to California is the bill's provision which encourages Amtrak to develop intercity rail services in high-growth corridors and initiate new long distance intercity rail passenger service. California is home to three of the highest growth corridors in the country. Moreover, H.R. 4250 will help expand several existing intercity rail lines which have origination and destination points in California.

Clearly, Mr. Speaker, Amtrak continues to be important source of transportation for millions of Americans. H.R. 4250 helps steer Amtrak away from its Northeastern bias, and will improve Amtrak service on a nationwide basis. Amtrak is proving that the demand for rail service continues to grow and that the investment we are making in it is worthwhile. I strongly urge my colleagues to support Amtrak and support H.R. 4250.

Mr. ANDREWS of Maine. Mr. Speaker, I stand in strong support of H.R. 4250, which reauthorizes the National Railroad Passenger Corporation, or Amtrak. I want to thank the chairman of the Transportation Subcommittee, Mr. SWIFT, for his demonstrated leadership in recognizing Amtrak as an essential part of our Nation's transportation system.

I strongly believe passenger rail must serve as a viable transportation mode both in my State of Maine and across the Nation. Rail is a valuable transportation alternative. It offers the opportunity to improve air quality, reduce congestion, and strengthen our economy. This bill will enhance and improve Amtrak's operations, efficiency and service.

In particular, I support the funding levels in the bill included under new corridor development and new service operating costs. Maine is one of only three States in the continental United States that does not have Amtrak service. This legislation would facilitate the return of passenger rail to service to Maine. Amtrak in Maine would provide a convenient, alternative mode of transportation for travelers and commuters to and from Portland, Boston, and significant points between the these cities.

The State of Maine is committed to seeing the return of passenger rail service through Amtrak. Even in these difficult economic Times, last year Maine transportation officials were authorized under a new law to seek at least $40 million to help revive passenger rail service between Portland and Boston. The law grew from a citizen-initiated bill brought before the legislature—the first such a bill has become law without a referendum. Marine transportation officials are working closely with Amtrak to secure funding, rights of way, and other necessary steps to expedite the process. Clearly, the people of Maine support the return of passenger rail service to our State.

Maine is proud of its innovative solutions regarding its environmental and economic development policies. Passenger rail service conforms with Maine's ethic of developing sound and innovative policy options. The Nation as a whole must adopt these goals as well. Amtrak is a vital part of that solution. I urge my colleagues to support this bill and provide America with a dymanic, cost-efficient, environmentally sound passenger rail system.

Mr. PETERSON of Florida. Mr. Speaker, I rise in strong support of the Amtrak authorization because the improvements outlined in this bill are essential due to the key role that our rail system will play as we search for ways to solve both the transportation and energy problems of this Nation as we head into the 21st century.

The positive economic impact of this bill will increase the revenue available to Amtrak, not only in the northeast United States, but throughout this Nation. The measures contained in this legislation will fill the transportation void that currently exists in many areas of the southeast, particularly in Florida, Alabama, Louisiana, and Mississippi. It increases access and increases revenue miles for Amtrak by allowing for the expansion of rail service throughout the country.

I also strongly support the section contained in this bill requiring Amtrak to develop a plan for demonstrating new high-speed passenger rail equipment. Mr. Speaker, the development of high-speed rail is absolutely essential because America has a lot of catching-up to do, both in relieving the escalation of the traffic and gridlock that is overwhelming commuters in our urban areas, and in dealing with the energy and environmental questions that await us if we continue to ignore the problem.

In short, I support this bill because it will increase access for many areas that currently lack rail service, and it is a step in the right direction in regard to the energy and environmental problems facing us as we look toward the 21st century. The capital improvement in this authorization represent a wise investment in the Nation's future.

Mr. RITTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 4250, as amended.

The question was taken; and on a division (demanded by Mr. SENSENBRENNER) there were—ayes 8, noes 3.

So, (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL FRIDAY, AUGUST 14, 1992, TO FILE REPORT ON H.R. 5730, TOXIC SUBSTANCES CONTROL ACT AMENDMENT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce have until 5 p.m. on Friday, August 14, 1992, to file the committee report on H.R. 5730, to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CALIFORNIA TRIBAL STATUS ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2144) to provide restoration of the Federal trust relationship with and assistance to the terminated tribes of California Indians and the individual members thereof; to extend Federal recognition to certain Indian tribes in California; to establish administrative procedures and guidelines to clarify the status of certain Indian tribes in California; to establish a Federal commission on policies and programs affecting California Indians, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "California Tribal Status Act".

SEC. 2. FINDINGS.

The Congress has reviewed the social, economic, and political circumstances of California Indians and of governmental policies and programs affecting California Indians and finds that—

(1) the Congress has recognized a special government-to-government relationship with Indian tribes in the United States;

(2) due to the unique historical circumstances of the Indians of California, Federal law and policies have often dealt specifically with California Indians;

(3) there is an urgent need to clarify both the eligibility of California Indian tribal groups to be recognized as Indian tribes with all the rights and powers attendant to that status, and the right of those groups already so recognized to be secure in the enjoyment of that status;

(4) there is among California Indians a continuing social and economic crisis, characterized by, among other things, alcohol and substance abuse, critical health problems, family violence and child abuse, lack of educational and employment opportunities, and significant barriers to tribal economic development;

(5) these conditions exist even though public policies and programs adopted by the Federal Government have been intended to improve the conditions of California Indians; and

(6) California Indian tribes and tribal organizations have expressed a need for a review of the public policies and programs affecting California Indians and to make such policies and programs more effective in accomplishing Federal policy objectives.

TITLE I—AUBURN INDIAN COMMUNITY RESTORATION

SEC. 101. DEFINITIONS.

For purposes of this title:

(1) The term "Tribe" means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 107.

(4) The term "member" means those persons meeting the enrollment criteria under section 106(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 104.

SEC. 102. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided herein, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this title shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85-671), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this title.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this title, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation. Notwithstanding any other provision of law, the Tribe shall be considered an Indian tribe for the purpose of the Indian Tribal Governmental Tax Status Act of 1982 (26 U.S.C. 7871).

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this title shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this title, nothing in this title shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 103. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 108, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 104.

SEC. 104. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Placer County, California, not to exceed 1,000 acres, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or such distributees' or dependent members' Indian heirs or successors in interest.

(c) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the Tribe's reservation.

(d) LANDS TO BE NONTAXABLE.—Any real property conveyed or transferred to the Secretary and taken into trust for the benefit of the Tribe under this section shall be exempt from all local, State, and Federal taxation as of the date of such transfer.

SEC. 105. CRIMINAL AND CIVIL JURISDICTION.

The State shall exercise criminal and civil jurisdiction within the boundaries of the reservation, in accordance with section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code, respectively. Retrocession of such jurisdiction may be obtained pursuant to section 403 of the Act of April 11, 1968 (28 U.S.C. 1360 note).

SEC. 106. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within 1 year after the date of the enactment of this title, the Secretary shall compile a membership roll of the Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted pursuant to section 108, an individual shall be placed on the membership roll if such individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, and if—

(A) such individual's name was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85-671;

(B) such individual was not listed on but met the requirements that had to be met to be listed on the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85-671; or

(C) such individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After adoption of a tribal constitution pursuant to section 108, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll shall be of United Auburn Indian Community ancestry and shall not be a member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF UNITED AUBURN INDIAN COMMUNITY ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

SEC. 107. INTERIM GOVERNMENT.

Until a new tribal constitution and bylaws are adopted and become effective under section 108, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this title, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution adopted July 20, 1991. Any new members filling vacancies on the Interim council shall meet the enrollment criteria set forth in section 106(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

SEC. 108. TRIBAL CONSTITUTION.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 106(a) and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (25 U.S.C. 476), except that absentee balloting shall be permitted regardless of voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

TITLE II—ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) The term "California Indian tribe" means any federally recognized or unacknowledged Indian tribe located in the State of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(4) The term "federally recognized Indian tribe" means any Indian tribe, band, group, or community that—

(A) has been federally recognized by the United States Government through an Act of Congress or an administrative decision by the Secretary pursuant to part 83 of title 25, Code of Federal Regulations;

(B) was terminated by an Act of Congress and has been restored through an Act of Congress or by a judicial decision; or

(C) is included, as of the date of the enactment of this Act, on the list of federally recognized tribes maintained by the Secretary.

(5) The term "unacknowledged Indian tribe" means any Indian tribe, band, group, or community that—

(A) is not federally recognized by the United States Government; or

(B) has been terminated by an Act of Congress and has not been restored through an Act of Congress, a judicial decision, or an administrative determination by the Secretary.

(6) The term "Council" means the Advisory Council on California Indian Policy established pursuant to section 202.

SEC. 202. ESTABLISHMENT OF ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established the Advisory Council on California Indian Policy.

(b) MEMBERS.—The Council shall be composed of 16 members who shall be appointed by the Secretary not later than 90 days after the date of the enactment of this Act as follows:

(1) Two duly elected tribal leaders (or their designees) from the federally recognized Indian tribes located within the Northern California Agency area of the Bureau, including all field and subagencies.

(2) Two duly elected tribal leaders (or their designees) from the unacknowledged Indian tribes located within the Northern California Agency area of the Bureau.

(3) Three duly elected tribal leaders (or their designees) from the federally recognized Indian tribes located within the Central California Agency area of the Bureau.

(4) Three duly elected tribal leaders (or their designees) from the unacknowledged Indian tribes located within the Central California Agency area of the Bureau.

(5) Two duly elected tribal leaders (or their designees) from the federally recognized Indian tribes located within the Southern California Agency area of the Bureau.

(6) Two duly elected tribal leaders (or their designees) from the unacknowledged Indian tribes located within the Southern California Agency area of the Bureau.

(7) The Area Director of the California Area Office of the Bureau and the Area Director of the California Area Office of the Indian Health Service who shall serve as nonvoting members of the Council.

(c) RECOMMENDATIONS FROM CALIFORNIA INDIAN TRIBES.—In making appointments to the Council under subsection (b), the Secretary shall give careful consideration to recommendations submitted by California Indian tribes.

(d) INITIAL MEETING.—The Council shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Council have been appointed.

(e) VACANCY.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(f) QUORUM.—8 voting members shall constitute a quorum for the transaction of business, but a smaller number, as determined by the Council, may conduct hearings.

(g) CHAIRPERSON; VICE CHAIRPERSON.—The Council shall select a Chairperson, a Vice Chairperson, and such other officers as it deems necessary.

(h) COMPENSATION.—Members of the Council shall serve without compensation. All members of the Council shall be reimbursed for travel expenses, including per diem in lieu of subsistence, during the performance of duties of the Council while away from home or their regular place of business in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

SEC. 203. DUTIES OF THE COUNCIL.

The Council shall—

(1) establish a comprehensive list of California Indian tribes and the descendency list for each tribe based upon documents held by the Bureau and specified in section 204;

(2) identify the special problems confronting unacknowledged Indian tribes and propose reasonable mechanisms to provide for the orderly and fair consideration of requests by such tribes for Federal recognition;

(3) review and update the 1984 report of the California Indian Task Force;

(4) develop an implementation plan for such updated report of the California Indian Task Force;

(5) secure and maintain copies of documents which identify and clarify the services being provided to Indian tribes nationwide and those that are provided to and needed by California Indians, including information that identifies the tribal affiliation and whether or not the group is federally recognized, for each of the California Indian tribes receiving services within the State;

(6) conduct a comprehensive study of—

(A) the social, economic, and political status of California Indians; and

(B) the effectiveness of those policies and programs of the United States that affect California Indians;

(7) conduct public hearings on the subjects of such study;

(8) develop recommendations for specific actions that—

(A) will help to ensure that California Indians have life opportunities comparable to other American Indians of federally recognized tribes, while respecting their unique traditions, cultures, and special status as California Indians;

(B) will address, among other things, the needs of California Indians for economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems; and

(C) will respect the important cultural differences which characterize California Indians and California Indian tribes and tribal groups;

(9) submit, by no later than the date that is 18 months after the date of the first meeting of the Council, a report on the study conducted under paragraph (6) together with the recommendations developed under paragraph (8) and such other information obtained pursuant to this section as the Council deems relevant, to the Congress, the Secretary, and the Secretary of Health and Human Services; and

(10) make such report available to California Indian tribes, tribal organizations, and the public.

SEC. 204. ACCESS TO DESCENDENCY LISTS.

The Secretary shall provide to the Council, not later than 30 days after the first meeting of the Council, the following documents:

(1) The roll of California Indians developed in 1972 pursuant to the distribution of the Indian Claims Commission award of July 20, 1964, including but not limited to dockets

Nos. 31, 37, 80, 80–D, 176, 215, 333, and 347, and authorized by the Act of September 21, 1968 (82 Stat. 860).

(2) The rolls of California Indians developed in 1950 and 1955 pursuant to the distribution of the 1944 United States Court of Claims judgment award and authorized by the Act of June 30, 1948 (62 Stat. 1166), the Act of May 24, 1950 (64 Stat. 189), and the Act of June 8, 1954 (68 Stat. 240).

(3) The rolls of California Indians developed in 1928 and 1933 pursuant to the distribution of the United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602).

(4) The rolls of California Indians developed pursuant to section 19 of the Act of June 18, 1934 (48 Stat. 984).

(5) The rolls of California Indians developed pursuant to the Acts of Congress terminating reservations and rancherias, including distributee rolls developed for the distribution of assets under the Act of August 18, 1958 (72 Stat. 619), the Act of July 10, 1957 (71 Stat. 283), and the Act of March 29, 1956 (70 Stat. 58).

(6) Current tribal membership rolls of California Indian tribes.

SEC. 205. POWERS OF THE COUNCIL.

(a) STAFF.—(1) Subject to such rules and regulations as may be adopted by the Council, the Chairperson of the Council shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to the number, classification, and General Schedule rates) of an Executive Director of the Council and of such other personnel as the Council deems advisable to assist in the performance of the duties of the Council, at rates not to exceed a rate equal to the maximum rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title.

(2) Service of an individual as a member of the Council shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Council, or as an employee of the Council, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(b) ACTIONS.—The Council may hold such hearings and sit and act at such times, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, make such expenditures, and take such other actions, as the Council may deem advisable. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

(c) TASK FORCES.—The Council is authorized to establish task forces which include individuals who are not members of the Council only for the purpose of gathering information on specific subjects identified by the Council as requiring the knowledge and expertise of such individuals. Any task force established by the Council shall be chaired by a voting member of the Council who shall preside at any task force hearing authorized by the Council. No compensation (other than compensation authorized under section 202(h) to a member of the Council) may be paid to a member of a task force solely for their service on the task force, but the Council may authorize the reimbursement of members of a task force for travel expenses, including per diem in lieu of subsistence, during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Council shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Council staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Council.

(d) FUNDING.—The Council is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of California, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this title.

(e) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Council.

(f) COOPERATION OF FEDERAL AGENCIES.—(1) The Council is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Council may require to carry out the purposes of this title, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics, directly to the Council, upon request made by the Chairperson of the Council.

(2) Upon the request of the Council, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Council and detail any of the personnel of such department, agency, or instrumentality to the Council, on a nonreimbursable basis, to assist the Council in carrying out its duties under this title.

(3) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 206. TERMINATION.

The Council shall cease to exist on the date that is 180 days after the date on which the Council submits the report required under section 203(9). All records, documents, and materials of the Council shall be transferred to the National Archives and Records Administration on the date on which the Council ceases to exist.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $700,000 to carry out the provisions of this title. Such sums shall remain available, without fiscal year limitation, until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. RHODES. Mr. Speaker, H.R. 2144 is the California Tribal Status Act. The amended bill provides for the restoration of the United Auburn Indian Community and establishes an advisory council on California Indian policy.

After extensive hearings and meetings on this subject, the committee learned of two great problems facing Indian tribes in California: lower levels of Federal funding for tribes and higher numbers of unacknowledged tribes.

These two problems stem from a tragic history. In 1851, 18 treaties were negotiated with California tribes in which the tribes relinquished all rights to California land. Because of pressure from the California delegation, the 18 treaties were never ratified by the Senate. The Indian land was taken anyway, leaving the tribes homeless. In 1906, Congress established several rancherias for the California Indian tribes. However, in 1953 Congress terminated most of the rancherias. Today, although California has the second largest population of Indian people of any State, funding has historically been low because of a small land base and a large segment of the tribal population that the administration refuses to recognize as federally acknowedged tribes.

Today we take a small step to try to undo these sins of the past. The United Auburn Indian Community had a long and pround history before it was terminated by a 1958 act. This Indian Community of 125 people deserves restoration and should get it immediately. There are several other tribes equally deserving of Federal recognition in the State of California, and in the days and years ahead the committee hopes to recognize these other tribes as well.

It has been the experience of the committee that the solutions for the problems of Indian country have always come from Indian country. This bill is no exception. A working group of California tribes came up with the idea of a study commission for the historically based funding disparity between tribes in California and tribes in the rest of the country. Then, a working group of unacknowledged tribes refined this idea to include a study of acknowledgement problems. The bill melds the two concepts and requires that seven federally recognized tribal leaders and seven leaders from unacknowledged tribes work in tandem to provide a report to Congress and the administration.

This report will provide a blueprint for the future of California Indians. We will use the recommendations of the council as we approach California Indian policy in the 1990's and on into the next century. The bill puts the tribes at the helm and empowers them to come up with new ideas to achieve funding equity and to resolve the plight of unacknowledged tribes.

I urge my colleagues to support this measure.

BACKGROUND ON H.R. 2144—THE CALIFORNIA TRIBAL STATUS ACT

Estimates range from 133,000 to 200,000 Indians in California in the 16th century when the first Spanish expeditions explored the area. There were seven major language groups among these tribes and it was noted that they lived in a peaceable manner. Twenty-one Spanish missions were established in the 18th century and Spanish law was enforced in California. Lands were held in trust for the crown and Indians residing on those lands were used as serfs. Hence, California Indians were sometimes used as slaves during this period and communities and cultures were destroyed. European diseases also contributed to the diminishment of the tribal groups.

In 1848, the Treaty of Guadalupe Hidalgo ended the war with Mexico and ceded California and other territories to the jurisdiction of United States. In 1850, the California legislature passed an act "for the Government and Protection of Indians" which provided for a minimum of federal interference in state land issues and also effectively allowed for the sale of Indians into slavery. This Act was repealed in 1863 but had a devastating effect on California Indians.

From 1851-52, Indian Commissioners were assigned to provide for a "just and equitable settlement with the Indians of California" on behalf of the United States. The Commissioners negotiated eighteen treaties with tribal leaders and one supplemental agreement. These came to be known as the "Barbour Treaties."

Under the Barbour Treaties, tribes relinquished all rights and title to California land. In exchange, the tribes were to receive over 8.5 million acres of land as well as other goods, subsistence, supplies, livestock and clothing. Guarantees of teachers, farmers, carpenters and other workmen were included in the treaties.

Because of pressure from the California delegation, the Barbour Treaties were never ratified by the United States Senate. The tribes, who had bargained in good faith and signed the documents, were not notified of the Senate's rejection of the treaties until 1905.

In spite of the Senate's failure to ratify the treaties, lands which had been occupied by tribes were surveyed as public lands and sold. In 1851, the California Indian population was estimated at over 100,000. By 1890, because of homelessness, hunger, disease and extermination, the population was around 15,000.

The Smiley Commission was appointed around 1890 to conduct a survey of the conditions of Southern California Indians. The Mission Relief Act of 1891 was the result of the commission's work and it set aside small parcels of land in Southern California for Indians.

In 1905, the Barbour Treaties, which many of the tribes still retained as part of their oral history, were "rediscovered." Beginning in 1906, lands were purchased by Congress for the homeless Indians of California. Families were assigned to these small parcels called rancherias.

In 1934, the Indian Reorganization Act (IRA) provided for the organization of tribal governments and many of the rancherias voted on the application of the IRA to their communities. Hence, the management of internal affairs by California tribes became recognized by the Bureau of Indian Affairs.

However in 1953, Congress passed House Concurrent Resolution 108 which called for the assimilation of Indians into the mainstream of America and for a termination of federal responsibilities towards tribes. Several termination statutes followed. In 1958, P.L. 85-671 entitled the "Rancheria Act" called for the termination of the federal trust responsibility to 41 rancherias. Distribution plans for trust assets were prepared and carried out through the mid-1960's. Tribes in the Coyote Valley of California were terminated under separate but similar legislation.

In 1970, President Nixon declared the termination policy a failure. In the 100th Congress, the termination policy was expressly repudiated by the Senate and the House. Most tribes terminated in the 1950's and 1960's have been restored by Congress. Others, such as some of the rancherias, have been "unterminated" through the judicial process.

RESTORATION OF THE UNITED AUBURN INDIAN COMMUNITY

In August of 1958, the "Rancheria Termination Act" passed the Congress as Public Law 85-671. The Act provided for the distribution of land and other assets of certain Indian rancherias or reservations within the State of California. The law affected 41 different Indian trust properties.

The Auburn Rancheria was among the 41 terminated tribes. The Rancheria was established in 1910 when twenty acres of land was purchased for four-hundred dollars from the Indian Land Act of June 21, 1906 (31 Stat. 325) and the Indian Land Act of April 30, 1908 (35 Stat. 70). The total acreage was forty-one acres. Forty acres were purchased by the federal government and one acre was purchased by singer Harry "Bing" Crosby in the early 1940's.

The residents of the Rancheria, which is thirty-five miles north of Sacramento, belong mainly to the Southern Maidu or Hill Nisenan and Miwok and Tehama tribes of California Indians. The Auburn area is at the southern reach of the aboriginal territory of the Maidu where it adjoined the aboriginal territory of the Miwok. This probably accounts for the fact that most of the members of the Tribe are of Maidu of Miwok descent. However, two California Indians of Pomo and Wailaki Indian descent, respectively intermarried with members of the Tribe and were subsequently listed on the distribution roll prepared by the Bureau of Indian Affairs on August 13, 1959 pursuant to P.L. 85-671. It is the Committee's position that the United Auburn Indian Community includes all distributees and their descendants.

The Auburn Rancheria was not organized under the Indian Reorganization Act of 1934 (IRA) due to a negative vote of the fifty reservation residents. However, the bill authorizes the tribe to follow the procedures of the IRA until a tribal constitution is adopted.

The Committee notes that the tribe is authorized to acquire land and to have it placed in federal trust status. It should be noted that the implementation of the Rancheria Act resulted in the division and distribution of rancheria lands formerly held in tribal or community ownership. Distribution was made to individual Indians and to associations of Indians established under California law. These associations, which were composed of those persons named as distributees in the rancheria distribution plan, took title to the rancherias' water storage and distribution systems and any additional lands intended to be held in community ownership.

On the Auburn Rancheria, the White Oak Ridge Association was formed and took title to the rancheria water system, the land on which a small church is located, and a communal park area. The remaining lands of the Rancheria were distributed to individual Indians of the Rancheria. This Act allows those distributees or dependent members who presently own land on the Rancheria, or their Indian heirs or successors in interest, to return their lands to trust status. Similarly, the lands held by the White Oak Ridge Association could be returned to trust status. Title to the lands returned to trust status would be held by the United States in trust for the individual Indian or, in the case of the communally-held lands of the White Oak Ridge Association, in trust for the Tribe or tribal entity. These lands, once placed in trust, would become part of the Tribe's reservation.

The State of California is one of six states mandatorily under the aegis of Public Law 83-280. In essence, the 1953 Act conferred state civil and criminal jurisdiction over Indian lands. However, the jurisdictional scheme under the Act is complex and the section providing for application of State civil and criminal jurisdiction under P.L. 280 is intended to reflect controlling Supreme Court and Ninth Circuit interpretations of that Act. The Supreme Court in *Bryan* v. *Itasca County*, 426 U.S. 373 (1976), and later in *California* v. *Cabazon Band of Mission Indians* 480 U.S. 202 (1987), substantially limited the scope of State civil regulatory authority in Indian country. And the Ninth Circuit has recently held in *Native Village of Venetie* v. *State of Alaska*, 944 F.2d 548 (9th Cir. 1991), that P.L. 280 did not divest tribes of their inherent jurisdiction which coexists concurrently with that vested in the States under P.L. 280.

The Committee notes that 27 of the 41 tribes terminated by the 1958 Act have been restored. The Committee asserts that the 69 adults of the United Auburn Indian community and their descendants (making a total of about 125) deserve immediate restoration. The Committee understands the blood quantum of the United Auburn Indian Community is quite high and it expects the initial enrollment list to be made up of persons of at least one-eight Indian blood quantum.

THE ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY

The California Indian Task Force, established in 1983, was created to ensure the substantive participation of Tribal leaders in developing recommendations to address California tribal problems. In 1984, a Report of the Task Force was released; however, no implementation plan was included.

In 1990, H.R. 5436 was introduced and included the recognition of several Indian tribes, the restoration of several terminated tribes, a separate administrative process to recognize California Indian tribes and a Commission made up of three Congressmen, three Senators and three Indians. The 100th Congress ended without action on H.R. 5436.

In 1991, the bill was reintroduced as H.R. 2144. At the October 2, 1991, hearing, the Administration opposed all of the provisions of the bill except the restoration of terminated Indian tribes. The Committee invited California Indian tribes to submit suggested amendments to H.R. 2144.

A working group of tribes met on March 18, 1992, to discuss the drafting of a substitute bill. Subsequent meetings were held and on May 28th at a hearing of the Interior Committee, a proposed amendment in the nature of a substitute was submitted by California Indian tribes to the Committee. The substitute recommended a study commission made up of 3 representatives from federally recognized tribes from each of the 3 Bureau of Indian Affairs agency service areas in California. In addition to these 9 members, 3 representatives from unacknowledged tribes and the BIA and IHS area directors were to be commission members as well. The Commission was to update the 1984 Task Force Report and establish an implementation plan for the updated report.

On July 14, 1992, Committee staff met with several unacknowledged Indian tribes in San Jose, California. The unacknowledged groups asserted that half of the membership of the Commission should be comprised of representatives unacknowledged tribes and half of the focus be devoted to the issues of non-federally recognized tribes.

Ultimately, the Committee determined that the Advisory Council on California Indian Policy needed to be comprised of 7 unacknowledged tribal leaders and 7 federally recognized tribal leaders. The BIA and IHS area directors would be included as non-voting members. The Central California Agency area would be allowed additional membership because of a larger population.

The Committee determined that Council needed to address two problems:

(1) Funding

California has 4.14% of the federally recognized Indians in the United States as determined by the 1990 BIA Labor Force Report. However, the Sacramento Area Office received just 1.86% of federal funds directly allocated to the 12 BIA area offices in FY 1990. 1990 funding should have been $37.7 million, instead it was $16.9 million, 55% below its fair share. There are 97 federally recognized tribes in California, most of which are quite small. California has about 33% of the small tribes in the U.S., yet only received 15% of the Small Tribes Management program funds. The Council will address these issues and provide an implementation plan.

(2) Unacknowledged Tribes

H.R. 2144 initially proposed to Federally recognize several Indian tribes. The amendment requests information and a plan for how Congress should proceed with unacknowledged groups. The Committee seeks a list of all tribes and all Indians, recognized and unrecognized, in the State of California. The Committee has required the Secretary of Interior to provide the Council with the major enrollment lists of this Century. The Committee expects the equivalent of a California Indian census as a result of the Council's updating these enrollments lists with the living descendants.

It is estimated that there are 15 terminated tribes not yet restored in California and at least 32 unacknowledged tribes. In the Council's report, the Committee does not seek a mere list of tribes to be immediately recognized. Rather, the Committee seeks a reasonable mechanism to proceed with recognition requests. The Committee seeks hard information on tribal enrollment matters, the aboriginal and current location of tribes, and blood quantum estimates.

CONCLUSION

The Committee asserts that the true strength of California Indians is in their ability to survive adversity, and their true power is in their ability to generate new, innovative ideas. The Committee has required the federally recognized tribes to work with unacknowledged tribes on the Council. The Committee has done this because the two groups need each other as they plan the future for the Indian tribes of California. The Committee has every confidence that the Indians of California will find creative solutions to their problems and that many tribes across the country will benefit from the work product of the Advisory Council on California Indians.

SECTION-BY-SECTION ANALYSIS OF H.R. 2144—THE CALIFORNIA TRIBAL STATUS ACT

Section 1

Section 1 cites the short title of the Act as the "California Tribal Status Act".

Section 2

Section 2 sets out the findings of the Congress.

TITLE I—UNITED AUBURN INDIAN COMMUNITY RESTORATION

Section 101—Definitions

Section 101 sets out the definitions used in Title I of this bill.

Section 102—Restoration of Federal Recognition, Rights and Privileges

Subsection (a) extends Federal recognition to the United Auburn Indian Community and provides that all laws and regulations of general application to Indians shall be applicable to the United Auburn Indian Community and its members.

Subsection (b) provides that all rights and privileges of the United Auburn Indian Community and its members under Federal treaty, Executive order or statute which were diminished or lost under the Rancheria Termination Act of August 18, 1958 (P.L. 85-671) shall be inapplicable to the tribe and its members after the date of enactment.

Subsection (c) provides that after enactment of this title, the United Auburn Indian Community and its members shall be eligible for all Federal services and benefits furnished to other federally recognized Indian tribes and their members notwithstanding any other provision of law and without regard to the existence of a reservation. It further provides that the United Auburn Indian Community shall be considered an Indian tribe for the purpose of the Indian Tribal Government Tax Status Act (26 U.S.C. 7871).

Subsection (d) provides that nothing in this Act shall affect in any way the hunting, fishing, trapping, and water rights of the United Auburn Indian Community and its members.

Subsection (e) provides that the Indian Reorganization Act (48 Stat. 984) as amended shall apply to the United Auburn Indian Community and its members.

Subsection (f) provides that nothing in this Act shall alter any property right, contractual rights or any obligation for taxes levied.

Section 103—Economic Development

Section 103 provides that the Secretary shall work cooperatively with the Community to develop an economic development plan for the Community. This plan shall be developed within two years of enactment.

Section 104—Transfer of Land To Be Held in Trust

Section 104 provides that the Secretary shall accept into trust any real property located in Placer County for the benefit of the United Auburn Indian Community. In order to be placed in trust status, these lands cannot exceed 1,000 acres and cannot be subject to any adverse legal claims. Lands held communally or by distributees are to be eligible for trust status. It further provides that lands taken into trust by the United States shall be made part of the United Auburn Indian reservation. It also provides that any real property taken into trust for the benefit of the Tribe shall be exempt from all local, state, and Federal taxes upon the date of transfer.

Section 105—Criminal and Civil Jurisdiction

Section 105 provides that the State shall exercise criminal and civil jurisdiction within the boundaries of the reservation in accordance with 18 U.S.C. 1162 and 28 U.S.C. 1360. The tribe may obtain retrocession of the jurisdiction pursuant to section 403 of the Act of April 11, 1968 (82 Stat. 77).

Section 106—Membership Rolls

Section 106 provides that within one year of enactment, the Secretary shall compile a roll of the United Auburn Indian Community. It provides that until a tribal constitution is adopted, persons eligible for enrollment shall not be enrolled in another Federally recognized Indian tribe and must be of United Auburn Indian Community ancestry, and must meet the following conditions: be listed on or be eligible to be listed on the United Auburn Indian Rancheria distribution roll of August 13, 1959, or is a lineal descendant of such an individual. After the adoption of the tribal constitution, the constitution shall govern membership in the tribe except that any person added to the roll must be of United Auburn Indian ancestry and cannot be a member of a Federally recognized tribe.

Section 107—Interim Government

Section 107 provides that until a new tribal constitution is adopted and becomes effective, the executive council of the United Auburn Indian Community shall serve as an Interim Council and continue to operate in a manner prescribed in the existing tribal constitution and bylaws.

Section 108—Tribal Constitution

Section 108 provides that upon the written request of the Interim Council of the tribe, after completion of the membership roll, the Secretary shall conduct an election by secret ballot for the purpose of adopting a tribal constitution. This election shall be conducted consistent with section 16 of the Act of June 18, 1934 (48 Stat. 984).

Subsection (b) provides that not later than 120 days after the adoption of a tribal constitution and bylaws the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials.

TITLE II—ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY

Section 201—Definitions

Section 201 sets out the definitions used in this title.

Section 202—Establishment of the Advisory Council

Section 202 establishes an advisory council on California Indian Policy which shall consist of sixteen members. There shall be two members from Federally recognized tribes and two members from unacknowledged tribes located in the Northern California Agency of the BIA, three members from Federally recognized tribes and three members from unacknowledged tribes located in the Central California Agency, and two members from Federally recognized tribes and two members from unacknowledged tribes located in the Southern California Agency. In addition, the Area Director of the BIA and the IHS shall serve as non-voting, ex officio members. It further provides that eight voting members shall constitute a quorum.

Finally, it provides that members of the council shall serve without compensation but shall be eligible for reimbursement for travel and per diem during the performance of their duties while away from home or their regular place of business.

Section 203—Duties of the Council

Section 203 provides that the Council shall establish a comprehensive list of California Indian tribes and a descendency list for each Indian tribe, conduct a comprehensive study of the social, economic and political status of California Indians, review and update the 1984 Report of the California Indian Task Force, develop an implementation plan for the updated report of the Task Force, and identify special problems confronting unacknowledged Indian tribes and propose reasonable mechanisms to provide for the orderly and fair consideration of requests for Federal recognition. It also provides that the Council shall report on the study conducted under this section no later than 18 months after the date of the first meeting of the Council. This report shall be made to the Congress, the Department of Interior and the Department of Health and Human Services.

Section 204—Access to Descendency Lists

Section 204 provides that the Secretary shall provide to the Council within 30 days of their first meeting the 1972 roll of California Indians for distribution of the Indian Claims Commission award of July 20, 1964; the 1950 rolls of California Indians for the distribution of the 1944 judgment award of the U.S. Court of Claims; the 1928 and 1933 rolls of California Indians for distribution of the judgment award under the Act of May 18, 1928; the rolls of California Indians developed under section 19 of the Act of June 18, 1934; the rolls of California Indians developed pursuant to the acts of August 18, 1958, July 10, 1957, and March 29, 1956; and any current tribal membership rolls of California Indian tribes.

Section 205—Powers of the Council

Section 205 provides that the Chairman shall have the power to appoint and terminate an Executive Director and such other personnel as the Council deems advisable to assist in the performance of the duties of the Council. It also provides that an individual member or employee of the Council shall not be considered an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable Federal law.

Section (b) provides that the Council may hold hearings and take testimony, enter into contracts, make such expenditures and take such other actions as the Council may deem advisable.

Subsection (c) provides that the Council is authorized to establish task forces which can include individuals who are not members of the Council for the purpose of gathering information. Any task force established shall be chaired by a voting member of the Council who shall preside at any task force meeting. Members of a task force shall not receive compensation for serving on the task force. However, members of a task force may be reimbursed for travel expenses during the performance of duties. Council staff and resources may be used by a task force for the purpose of compiling data and information.

Subsection (d) provides that the Council is authorized to accept gifts of property, services or funds and to expand funds derived from non-federal sources appropriate and necessary to carry out the provisions of this title.

Subsection (e) provides that the Federal Advisory Committee Act shall not apply to the Council.

Subsection (f) provides that the Council is authorized to secure from any office, department, agency, establishment, or instrumentality of the Federal government such information as the Council may require to carry out the purposes of this title. Each officer, department, agency establishment, or instrumentality is authorized and directed to provide such information to the extent permitted by law. It also provides that upon the request of the Council any Federal department or agency may make any facilities or services available to the Council and detail any personnel of such agency or department to the Council. The Council may use the mails in the same manner and under the same conditions as departments and agencies of the United States.

Section 206—Termination

Section 206 provides that the Council shall cease to exist 180 days after the date on which the report required under section 203(9) is filed. All records and materials shall be transferred to the National Archives and Records Administration on the date of termination.

Section 207—Authorization of Appropriations

Section 207 provides that there are authorized to be appropriated $700,000 to carry out the provisions of this title. Such sums shall be available without fiscal year limitation, until expended.

□ 1910

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield myself such time as I may consume.

(Mr. RHODES asked and was given permission to revise and extend his remarks.)

Mr. Speaker, I rise in support of H.R. 2144. The gentleman from California [Mr. MILLER] has adequately explained the bill's provisions. I would simply note that the legislation enjoys bipartisan support, and the restoration of the Auburn trial community is not opposed.

However, I must take some exception with the gentleman's statements that the problems experienced by Indians in California stem in large part from the fact that the administration refuses to federally recognize a large segment of the population. There are around 140 tribal entities in California.

Approximately two-thirds of those entities are federally recognized. Of the remaining 47 unacknowledged groups, only 9 have applied for Federal recognition under the established BIA process. One—the Death Valley Timbi-Sha Shoshone Band—was recognized by the BIA in 1983, another—the Kaweah Indian—was denied recognition in 1985, and the remaining seven have not yet satisfactorily completed their petitions.

I agree with the gentleman that there may be other groups in California deserving of Federal recognition. I cannot agree with his position that such recognition is the responsibility of the Interior Committee.

I have introduced legislation which is designed to reform and revise the recognition process. I think we all agree that the process needs assistance. It needs assistance through legislation. It does not need assistance through us legislatively recognizing tribes.

I do want to thank the chairman of the committee for scheduling my legislation for hearing early in September, and it would be my hope that hearing will lay the groundwork for legislative activity early next year to revise the recognition process so that deserving entities such as those in California can go through a process that will lead them in a timely fashion to the recognition that they deserve.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time.

Mr. RHODES. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, this may in fact be a good piece of legislation, as were a number of other meritorious suspensions that have come before this body in the past 1½ to 2 days now.

My point is that every one of these suspensions costs the taxpayers dollars, 26 suspensions yesterday for some $2.5 billion or some estimate like that; 16 suspensions today for some $6 billion; almost $10 billion under suspension, without any recorded votes, without any accountability to the taxpayers or to the voters as to how their Congressman voted. This is objectionable. This is obscene. The House must stop the practice.

Mr. Speaker, I intend to ask for a recorded vote when the opportunity arises on the suspensions, and the taxpayers should ask for no less.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time. I want to thank the gentleman from Arizona [Mr. RHODES] for his cooperation on this legislation and on this subject matter, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 2144, as amended.

The question was taken.

Mr. MARLENEE. Mr. Speaker, on that I demand the yeas and nays.

The question was taken.

Mr. MARLENEE. Mr. Speaker, I object to the vote on the grounds that a quorum is not present, and I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Speaker, I have a parliamentary inquiry.

Mr. Speaker, at this time is a motion to adjourn in order? Is it a privileged motion?

The SPEAKER pro tempore. A motion to adjourn is a privileged motion.

FALSE CLAIMS AMENDMENTS ACT

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 4563, with an amendment.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Speaker, I had a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MARLENEE. Mr. Speaker, I did not receive a response on my parliamentary inquiry.

The SPEAKER pro tempore. The gentleman did receive a response. The motion is a privileged motion.

MOTION TO ADJOURN

Mr. MARLENEE. Mr. Speaker, I move that the House do now adjourn.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MARLENEE. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count for a quorum.

PARLIAMENTARY INQUIRIES

Mr. GEKAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. Mr. Speaker, is the Chair empowered to declare a recess?

The SPEAKER pro tempore. No; he is not. The Chair is counting for a quorum.

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, in light of the fact that the gentleman who is objecting was upset that bills cost money, is it relevant that the next bill is a saving to the taxpayer, according to OMB and CBO, since it is a False Claims Amendment Act? Maybe the gentleman would like to let us save a few million dollars.

The SPEAKER pro tempore. The Chair cannot entertain that inquiry, which is not a parliamentary inquiry, when he is counting for a quorum.

Mr. FRANK of Massachusetts. I knew that, Mr. Speaker, but the gentleman was listening.

□ 1930

Mr. MARLENEE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman will state his parliamentary inquiry.

Mr. MARLENEE. Mr. Speaker, what would be the effect of my withdrawing the point of order?

The SPEAKER pro tempore. If the gentleman withdrew his point of order, the Chair would rely on his earlier declaration that the noes had it on the voice vote and the motion would not be agreed to.

PROCEDURES OF THE HOUSE QUESTIONED

(Mr. MARLENEE asked unanimous consent and was given permission to address the House out of order.)

Mr. MARLENEE. Mr. Speaker, I truly meant what I said about the obscene process, the obscene process of votes under suspension that cost, in the past 2 days, that cost the taxpayers $10 billion without accountability.

The House must seek to end this practice.

Mr. Speaker, I withdraw my point of order.

The SPEAKER pro tempore. The gentleman withdraws his point of order of no quorum.

So the motion to adjourn was rejected.

FALSE CLAIMS AMENDMENTS ACT OF 1992

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4563) to amend the False Claims Act to provide certain limitations on Federal employees filing qui tam actions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "False Claims Amendments Act of 1992".

SEC. 2. PROVISIONS RELATING TO INFORMATION LEARNED IN THE COURSE OF GOVERNMENT EMPLOYMENT.

Section 3730(b)(4) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(4)";

(3) in clause (ii), as so redesignated, by inserting ", subject to subparagraph (B)," after "shall"; and

(4) by adding at the end the following:

"(B) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government may move to dismiss from the action the person bringing the action if such person learned of the information that underlies the alleged violation of section 3729 that is the basis of the action, in the course of the person's employment by the United States, and the following has not occurred:

"(i) In a case in which the employing agency has an Inspector General, such person, before bringing the action—

"(I) disclosed in writing substantially all material evidence and information that relates to the alleged violation and that the person possessed, to such Inspector General, and

"(II) notified in writing the person's supervisor and the Attorney General of the disclosure under subclause (I).

"(ii) In a case in which the employing agency does not have an Inspector General, such person, before bringing the action—

"(I) disclosed in writing substantially all material evidence and information that relates to the alleged violation and that the person possessed, to the Attorney General, and

"(II) notified in writing the person's supervisor of the disclosure under subclause (I).

"(iii) 12 months have elapsed since the disclosure of information and notification under either clause (i) or (ii) were made and the Attorney General has not filed an action based on such information. Prior to the expiration of such 12-month period and upon notice to the person who has disclosed information and provided notice under either clause (i) or (ii), the Attorney General may file a motion seeking an extension of such 12-month period. Such 12-month period may be extended by a court for an additional period of not more than 12 months upon a showing by the Government that the additional period is necessary for the Government to decide whether or not to file such action. Any such motion may be filed in camera and may be supported by affidavits or other submissions in camera.

"(C) For purposes of subparagraph (B)(i)(II) and (ii)(II), a person's 'supervisor' is the officer or employee of the next highest rank to that of the person, who has supervisory authority over that person, and who the person believes is not culpable of the violation upon which the action under this subsection is brought by that person.".

SEC. 3. CERTAIN ACTIONS BARRED.

(a) RECOVERY.—Section 3730(d)(1) of title 31, United States Code, is amended by striking the second sentence.

(b) JURISDICTION.—Section 3730(e)(4) of title 31, United States Code, is amended to read as follows:

"(4)(A) No court shall have jurisdiction over an action brought under subsection (b) in which all of the material facts and allegations are obtained from a news media report or reports, or a disclosure to the general public of a document or documents—

"(i) created by the Federal Government;

"(ii) filed in a lawsuit to which the Federal Government is a party; or

"(iii) relating to an open and active investigation by the Federal Government;

unless the person bringing the action is an original source of such facts and allegations.

"(B) For purposes of this paragraph, an individual is an 'original source' of material facts and allegations if such individual has knowledge, independent from the sources listed in subparagraph (A), of such facts and allegations and has voluntarily provided them to the Government. The person bringing the action shall also be considered an original source of any material facts or allegations developed as a result of information provided to the Government by that person.".

SEC. 4. EXCLUSION.

Section 3729(e) of title 31, United States Code, is amended by striking "1954" and inserting "1986, or to any violation under any of sections 8a through 8d of the Agricultural Adjustment Act (7 U.S.C. 608a through 608d)".

SEC. 5. WHISTLEBLOWER PROTECTION.

Section 3730(h) of title 31, United States Code, is amended—

(1) by striking "(h)" and inserting "(h) WHISTLEBLOWER PROTECTION.—(1)"; and

(2) by adding at the end the following:

"(2) In any action brought by an employee under paragraph (1), the employee shall be entitled to relief if, based upon a preponderance of the evidence, the employee demonstrates that a lawful act described in paragraph (1) was a contributing factor in the action by the employer against the employee that is alleged in the complaint, unless the employer demonstrates by clear and convincing evidence that the employer would have taken the same action against the employee in the absence of such lawful act.

"(3) For purposes of this subsection, the term 'employer' means any employer in the private or public sector, including the United States Government.".

SEC. 6. APPLICABILITY.

(a) THIS ACT.—

(1) SECTION 2.—The amendments made by section 2 shall apply to cases filed on or after June 24, 1992.

(2) SECTION 3.—The amendments made by section 3 shall apply to cases pending on, or filed on or after, the date of the enactment of this Act.

(3) SECTIONS 4 AND 5.—The amendments made by sections 4 and 5 shall apply to cases filed on or after the date of enactment of this Act.

(b) PRIOR LAWS.—(1) The amendments made by the False Claims Amendments Act of 1986 (Public Law 99-562) shall apply to cases filed on or after the date of the enactment of that Act, and to cases pending on such date that are still pending on the date of the enactment of this Act.

(2) The amendments made by section 9 of the Major Fraud Act of 1988 (Public Law 100-700) shall apply to cases filed on or after the date of the enactment of that Act, and to cases pending on such date that are still pending on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill amending the procedure whereby someone can sue on behalf of the Federal Government against someone who has defrauded the Federal Government and share in the proceeds. The Federal Government gets most of the proceeds.

This procedure, known as qui tam, was reactivated by legislation enacted in 1986, supported by Senator GRASSLEY, the gentleman from Kansas [Mr. GLICKMAN], the gentleman from California [Mr. BERMAN], and others.

A question arose: What if a Federal employee sues under this procedure, claims that the Federal Government is being defrauded, may the Federal employee avail himself or herself of this practice? One circuit said no, one circuit said yes.

We resolve it in the following way: We recognize the primary obligation of the Federal employee is, as part of his or her job, to catch fraud. We put an obligation on that employee who finds fraud to report it, either to his or her superior, or, if the employee thinks the superior cannot be trusted, may be complicit in the fraud, then to the Attorney General or to the inspector general. If, after a reasonable period of time, that report has not been acted on, then the Federal employee can avail himself or herself of the right to sue and collect and share in the collection. What that says is that there is an exhaustion of remedies. If it works well, the Federal employee will have reported it to someone responsible, and there will be no qui tam suit. If it does not, then there will be.

We think this is the best solution to this.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Massachusetts has more than adequately explained the meaning of the legislation that we are about to adopt.

I simply want to reemphasize the theme of exhaustion of remedy. There are many concepts in the law, one of which, when a claimant proceeds in different forums, that they must exhaust the normal process of remedies before they can seek the big prize, as it were.

We are taking care to make sure a Federal employee who shall make a claim like that will exhaust, will make sure that all the remedies have been undertaken before proceeding to the final prize.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will simply note that the Congressional Budget Office reports that this is a bill that will increase the Government's revenue. Not only will it not cost any money, it will increase the Government's revenue.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 4563, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CLAIMS AUTHORITY FOR THE SECRETARY OF THE TREASURY

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2731) to amend section 2680(c) of title 28, United States Code, to allow Federal tort claims arising from certain acts of customs or other law enforcement officers, and to amend section 3724 of title 31, United States Code, to extend to the Secretary of the Treasury the authority to settle claims for damages resulting from law enforcement activities of the Customs Service, as amended.

The Clerk read as follows:

H.R. 2731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO SETTLE CLAIMS.

(a) EXPANDED COVERAGE TO CERTAIN OFFICERS OF THE TREASURY DEPARTMENT.—(1) Section 3724(a) of title 31, United States Code, is amended—

(A) by amending the first sentence to read as follows:

"With respect to a claim—

"(1) that is for personal injury, death, or damage to, or loss of, privately owned property, caused by an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice or by the United States Customs Service, the Bureau of Alcohol, Tobacco, and Firearms, or the United States Secret Service, and is acting within the scope of employment, and

"(2) that may not be settled under chapter 171 of title 28,

the Attorney General (in the case of investigative or law enforcement officers of the Department of Justice) and the Secretary of the Treasury (in the case of investigative or law enforcement officers of the United States Customs Service, the Bureau of Alcohol, Tobacco, and Firearms, or the United States Secret Service) may settle such claim for not more than $50,000 in any one case."; and

(B) in the last sentence by inserting "or the Secretary of the Treasury, as the case may be," after "Attorney General".

(2) Section 3724(b) of such title is amended—

(A) in the first sentence by inserting "and the Secretary of the Treasury" after "Attorney General"; and

(B) in the second sentence by striking "Attorney General" and inserting "report".

(b) CONFORMING AMENDMENTS.—

(1) The section heading for section 3724 of title 31, United States Code, is amended to read as follows:

"§ 3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice or the Department of the Treasury".

(2) The item relating to section 3724 in the table of sections at the beginning of chapter 37 of title 31, United States Code, is amended to read as follows:

"3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice or the Department of the Treasury".

SEC. 2. APPLICABILITY.

The amendments made by this Act shall apply to any claim arising on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this comes as a bipartisan measure.

The gentleman from Pennsylvania and I have amended some legislation as we present it to you here, and that is a substantial change.

We first learned about the situation after a private bill was filed by our senior colleague from Florida, the gentleman from Florida [Mr. BENNETT].

A man whose boat was suspected as having narcotics was, frankly, roughed up, not the man, the boat, by the Customs Service. Significant damage was done to the boat. There were no narcotics there.

The Customs Service clearly should not have acted as it did.

We voted a private bill, but we found in the course of that bill, and you will note that this bill is cosponsored by myself and a Republican member of the subcommittee, the gentleman from New Mexico [Mr. SCHIFF].

We were disappointed to find out that the Customs Service's statutory position was that even if negligence had resulted, negligence, gross negligence had resulted in the damage to property of an innocent citizen, not only were they not compelled to make restitution, they were legally barred from making any form of restitution.

Let me just restate that: We are talking about a situation where an innocent citizen, through a mistake, is stopped and then property of that citizen is negligently damaged. That does not happen a lot. We do not have law enforcement officers randomly banging up people's properties, but mistakes happen.

The question is: Is it appropriate for this Federal Government to say, "We are sovereign. Under no circumstances will we ever make you whole even where we have, through our agents, admittedly made a mistake."

Originally this bill would have compelled restitution. It would have required it. It would have given a right to sue. The administration objected.

I worked with the senior minority member of the subcommittee, and we decided that while some of us would have liked to go forward with that, the gentleman from Texas who has done extraordinary work in trying to make the Customs Service and others perform as they should, and we were ready to push it, but we wanted to get a bill. We did not want to get a veto.

What I thought made sense, and others thought made sense in cooperation with the gentleman from Pennsylvania, is that we amend this bill and we try it out as a permissive measure. So as it comes before you now, there is no compulsion on the Federal Government, but at least if it becomes law, the Federal Government will not be able to plead that it is unable to do anything. We will be willing to see how this is used, and if the Government will use the authority reasonably, then I would agree there would be no need to make it mandatory.

If they do not use it reasonably, in 2 or 3 years we may come back and say, "Well, we are going to sue you."

They also raised the question about why they should have to compensate for commercial goods which might be insured. Frankly, I found it a little ironic that an administration that has been complaining about the cost of private insurance would say, "Oh, by the way, if we negligently damage your goods, go collect from your commercial insurer." That is burden the commercial insurance system should not have to maintain.

On the other hand, this bill allows the administration to set some standards, and if they want to try, by setting one standard for damage to the vehicle itself, for instance, and a second somewhat higher standard that would trigger some damages in the case of goods that are commercially insured, again, I am willing to wait and see how that works out, but we certainly cannot maintain the situation where the Federal Government legally estops itself from trying to make someone whole.

This bill would remedy that situation.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Massachusetts has more than adequately explained the contents of the legislation. It needs only to be said that from this side of the aisle that, indeed, any notion that this might open the floodgate to claims made by commercial shippers who might encounter the same kind of collision or damage that a private owner might on the high seas, that has been disposed of by the language that we have embedded into this statute.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. PICKLE], who has been a leader in working on this issue.

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 2731. This bill represents a good compromise between the interests of the U.S. Customs Service and those who suffer unnecessary and useless damage of cargo or conveyances by customs officials. I applaud the efforts of the distinguished chairman of the Committee on the Judiciary Subcommittee on Administrative Law and Governmental Relations in achieving this compromise.

Customs officials have long been hard-working and dedicated in fighting the war against drugs and in enforcing our trade laws, and I applaud their efforts. But occasionally, in their zealous pursuit to prevent the influx of narcotics and other illegal cargo into our country, officials can become reckless, and, under current law, they do so with impunity.

The Committee on Ways and Means Subcommittee on Oversight has heard many cases of damage caused to cargo during customs examinations. In one case, a furniture manufacturer reported a loss of $20,000 when Customs inspectors drilled quarter-inch holes in all of its lumber, at 2- or 3-foot intervals, to look for hidden narcotics. In another case, a domestic manufacturer lost thousands of dollars in goods when customs examined several bales of filter rod material. The bales were packed under pressure and could not be used if allowed to expand, but during the cargo examination, customs inspectors cut the binding straps, allowing the bales to expand, and probed the bales, cutting the filter rod material. The subcommittee also inspected customs facilities and found that chainsaws were being used to examine, and thus destroy, cargo.

In none of these cases were the owners compensated for the damage to their cargo. That's because customs officials are exempted from the Federal Torts Claims Act and have no independent authority to settle claims for damage.

The Subcommittee on Oversight described these cases and made recommendations to Customs in a 1990 report. The Customs Commissioner has already made great efforts in implementing some of the subcommittee's recommendations to reduce such negligent behavior. However, the bottom line is that it is hard to maintain both vigilance and care when there is no liability for failure to do so. H.R. 2731 will provide authority to make right the wrongs that are bound to occur under those circumstances. I urge your support.

□ 1940

Mr. FRANK of Massachusetts. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BENNETT], who first brought this matter to our attention in his advocacy of the bill to a constituent of his who had encountered some difficulty.

Mr. BENNETT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 2731, a bill to allow the Secretary of the Treasury to settle modest claims for damages resulting from law enforcement activities of the Customs Service.

My strong support for this legislation is based on the experience of a constituent of mine, Craig Klein, which I will outline and which clearly illustrates the need for correcting the current law.

Mr. Klein, a man of modest means, always dreamt of owning a sailboat. After many years of scrimping and saving, and doing without, Mr. Klein, with the help of a bank loan, was finally able to acquire a used sailboat, which he named *Pegotty*. Before the boat was ever delivered to him, it was boarded by customs officials who literally destroyed the boat in a search that did not produce any trace of illegal drugs.

This incident happened in early 1989 shortly after Mr. Klein purchased his sailboat from a boat dealer in St. Petersburg, on the west coast of Florida. In April 1989, Mr. Klein hired a captain and first mate to pilot *Pegotty* from St. Petersburg on Florida's west coast, across the State to Jacksonville on the east coast.

From 7 p.m. on April 9 until 2 a.m. on April 10, *Pegotty* was detained by Customs officials due to a misunderstanding concerning the *Pegotty's* registration numbers. During the course of a search, customs inspectors tore the boat apart, pulled out cushions and tore them apart, and drilled multiple holes in the boat in a vain search for drugs. Customs' own records report that no drugs were found. As a result of customs actions, the *Pegotty* was rendered unseaworthy.

The customs officials caused several thousand dollars of damage to the boat in the futile search, then essentially said "Oops, nothing here," and walked away leaving Klein with a boat full of holes, and worthless for sailing. At this point he had not yet even had the pleasure of sailing it.

Klein went to several lawyers with his story, all of them sympathized with his problem but told him that because of the Federal Tort Claim Act he had no recourse. None. He made contact with six lawyers, all of whom told him that it would take at least $25,000 to prosecute the claim, while further advising him that because he was unlikely to prevail they would not handle the case on a contingency fee basis. Even more unfortunate is the fact that the Customs Service admitted that restitution should have been made at the time of the incident, but didn't make the restitution. After Klein had exhausted all other means of seeking redress in this matter, he brought this matter to my attention.

After hearing the merits of the case, I introduced a private relief bill to assist Mr. Klein. Chairman FRANK heard the testimony concerning the facts surrounding this incident and promptly introduced this bill, H.R. 2731, to make sure that this miscarriage of justice does not continue to be in our laws.

All of you know me, and know that I am regarded as a fiscal conservative. You also know that I am a strong supporter of the war on drugs. Yet, I believe when a wrong is committed that it must be righted, and I encourage you to support H.R. 2731 to right this wrong.

This modest legislation is designed to ensure that others do not experience the nightmare that Klein went through.

Mr. FRANK of Massachusetts. Let me just say, Mr. Speaker, at this point I do not want my subcommittee to be laggard, so before yielding back the balance of my time, I would like to thank anybody who could conceivably have had anything to do with this.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 2731, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend section 3724 of title 31, United States Code, to extend to the Secretary of the Treasury the authority to settle claims for damages resulting from law enforcement activities of the Customs Service, the Bureau of Alcohol, Tobacco, and Firearms, or the United States Secret Service.".

A motion to reconsider was laid on the table.

ASSASSINATION MATERIALS DISCLOSURE RESOLUTION OF 1992

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 454) to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy, as amended.

The Clerk read as follows:

H.J. RES. 454

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Assassination Materials Disclosure Resolution of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Legitimate confidentiality concerns based upon national security, personal privacy, law enforcement, and other recognized interests diminish over time.

(2) There is a compelling public interest that all government records be eventually made available to the public.

(3) There is a compelling public interest that all materials concerning the assassination of President John F. Kennedy be made available to the public at the earliest possible date.

(4) Executive Order 12356, National Security Information, as implemented by the executive branch, has precluded the timely release of materials relating to the assassination of President Kennedy.

(5) Section 552 of title 5, United States Code (popularly known as the "Freedom of Information Act"), as implemented by the executive branch, has failed to secure the timely release of materials relating to the assassination of President Kennedy.

(6) The President's Commission on the Assassination of President Kennedy and the President's Commission on CIA Activities in the United States were Federal agencies whose records are subject to Federal records laws.

(7) Only in the rarest cases is there any legitimate need for continued secrecy or classification of materials relating to the assassination of President Kennedy.

(8) The legitimacy of any government in a free society depends on the consent of the people.

(9) The ability of a government in a free society to obtain the consent of the people is undermined to the degree that the people do not trust their government.

(10) The disclosure of records in the possession of the Government relevant to the assassination of President John F. Kennedy will contribute to the trust of the people in their government.

(b) PURPOSE.—The purpose of this joint resolution is to make available to the public all materials relating to the assassination of President Kennedy at the earliest possible date.

SEC. 3. DEFINITIONS.

For the purposes of this joint resolution:

(1) The term "Archivist" means the Archivist of the United States.

(2) The term "assassination material"—

(A) means any record that is determined by the Review Board under section 6(b) to be an assassination material; and

(B) does not include any item donated by the family of President Kennedy to the National Archives pursuant to the deed of gift dated October 29, 1966.

(3) The term "Collection" means the President Kennedy Assassination Materials Collection established under section 4.

(4) The term "Court" means the division of the United States Court of Appeals for the District of Columbia Circuit established under section 49 of title 28, United States Code.

(5) The term "custodian of records" means—

(A) the Committee on House Administration of the House of Representatives, for records of the House Committee;

(B) the Select Committee on Intelligence of the Senate, for records of the Senate Committee;

(C) the Archivist of the United States, for records of the President's Commission on the Assassination of President Kennedy and records of the President's Commission on CIA Activities in the United States; and

(D) the executive branch official designated by the head of an executive agency, for each executive agency which has any record of an official investigation in its possession.

(6) The term "executive agency"—

(A) has the meaning given to the term "agency" by sections 551(1) and 552(f) of title 5, United States Code; and

(B) includes the Executive Office of the President, the Executive Office of the Vice President, and all components thereof.

(7) The term "Executive Director" means the Executive Director of the Review Board appointed under section 10(c).

(8) The term "House Committee" means the Select Committee on Assassinations of the House of Representatives.

(9) The term "National Archives" means the National Archives and Records Administration and all components thereof, including the Presidential Libraries.

(10) The term "originating body" means the executive agency, Presidential commission, or Presidential or Congressional committee that created a record or obtained a record from a source other than another entity of the Federal Government.

(11) The term "public interest" includes the compelling public interests found by the Congress in section 2(a)(2) and (3).

(12) The term "record" includes—

(A) a document, book, paper, map, or photograph;

(B) machine readable, computerized, digitized, or electronic information, regardless of the medium on which it is stored; and

(C) any other documentary material, regardless of its physical form or characteristics.

(13) The term "record of an official investigation"—

(A) means any record that was created, obtained, or generated by—

(i) a review of the assassination of President Kennedy conducted by any of—

(I) the President's Commission on the Assassination of President Kennedy (popularly known as the Warren Commission);

(II) the Federal Bureau of Investigation;

(III) the Secret Service;

(IV) the Central Intelligence Agency;

(V) the President's Commission on CIA Activities in the United States (popularly known as the Rockefeller Commission);

(VI) the Senate Committee; and

(VII) The House Committee;

(ii) any activity conducted by an executive agency in support of a review or activity described in subparagraph (A); and

(iii) any other activity determined by the Review Board to be relevant to the assassination of President Kennedy; and

(B) includes any record that the Review Board determines relates in any manner or degree to the assassination of President John F. Kennedy, that was created, obtained, or generated by an executive agency.

(14) The term "Review Board" means the Assassination Materials Review Board established by section 10(a).

(15) The term "Senate Committee" means the Select Committee to Study Governmental Operations With Respect to Intelligence Activities of the Senate.

SEC. 4. PRESIDENT KENNEDY ASSASSINATION MATERIALS COLLECTION.

(a) ESTABLISHMENT.—Not later than 60 days after the date of the enactment of this joint resolution, the Archivist shall establish in the National Archives a collection which shall be known as the "President Kennedy Assassination Materials Collection".

(b) CONTENTS.—The Collection shall consist of—

(1) all records transferred under section 5(a)(1);

(2) all assassination materials transferred under section 5(c);

(3) determinations and recommendations submitted under section 6(f);

(4) all statements submitted under section 7(c)(2);

(5) all summaries transmitted under section 7(d); and

(6) such other records relating to the assassination of President Kennedy as the Archivist considers appropriate.

(c) PUBLIC AVAILABILITY.—The Archivist shall make available for public inspection and copying all records in the Collection.

(d) PRINTING AND DISSEMINATION OF ASSASSINATION MATERIALS.—

(1) SELECTION.—The National Historical Publications and Records Commission shall promptly provide for the selection and preparation for publication of materials in the Collection that are of broad historical interest.

(2) PRINTING AND DISTRIBUTION.—The Public Printer shall—

(A) make such materials available for distribution and sale under chapter 17 of title 44, United States Code;

(B) make such materials available through the Depository Library Program, under chapter 19 of title 44, United States Code; and

(C) in carrying out subparagraphs (A) and (B), use appropriate and cost-effective technology, including, to the extent practicable, publication of such materials in a multimedia electronic format.

SEC. 5. TRANSFER OR AVAILABILITY OF RECORDS OF OFFICIAL INVESTIGATIONS.

(a) EXECUTIVE AGENCY RECORDS.—

(1) TRANSFER TO ARCHIVIST.—The head of each executive agency may transfer to the Archivist for inclusion in the Collection each record of an official investigation for which the agency is a custodian of records.

(2) AVAILABILITY TO REVIEW BOARD.—On the date which is 60 days after the date of the enactment of this joint resolution, the head of each executive agency shall make available to the Review Board each record of an official investigation for which the agency is a custodian of records and which has not been transferred from the agency to the Archivist under paragraph (1).

(b) CONGRESSIONAL RECORDS.—Not later than 60 days after the date of the enactment of this joint resolution, the Archivist shall make available to the Review Board each record of an official investigation for which the Committee on House Administration of the House of Representatives or the Select Committee on Intelligence of the Senate is a custodian of records.

(c) OTHER TRANSFER OF ASSASSINATION MATERIALS.—The custodian of records for a record of an official investigation shall, after the date which is 30 days after the date of the receipt of a recommendation of the Review Board under section 6(b) with respect to the record and by no later than 60 days after that date of receipt, transfer the record to the Archivist for inclusion in the Collection if—

(1) the Review Board determines under section 6(b) that the record is an assassination material;

(2) the Review Board recommends under section 6(b) that the record should be transferred to the Archivist for inclusion in the Collection; and

(3) that transfer and inclusion is not postponed in accordance with section 7(b).

SEC. 6. REVIEWS BY REVIEW BOARD.

(a) REVIEWS OF TRANSFERRED MATERIALS.—The Review Board shall review—

(1) each record of an official investigation made available under section 5(a)(2) or (b); and

(2) all other records available to the Review Board that it has reason to believe are relevant to the assassination of President Kennedy.

(b) DETERMINATIONS AND RECOMMENDATIONS.—

(1) IN GENERAL.—Upon completing a review under subsection (a) with respect to a record, the Review Board shall—

(A) determine whether the record is an assassination material; and

(B) in the case of an assassination material and based on the criteria set forth in section 7(a), submit to the custodian of records and, if different, the originating body for the material a recommendation that the record—

(i) should be transferred to the Archivist for inclusion in the Collection; or

(ii) qualifies for postponement under that section.

(2) CONTENTS.—Each determination and each recommendation of the Review Board shall—

(A) identify the record that is the subject of the determination or recommendation; and

(B) set forth the basis for the determination or recommendation.

(c) DETERMINATION OF ASSASSINATION MATERIAL.—The Review Board shall determine under subsection (b) that a record is an assassination material unless the Review Board determines by clear and convincing evidence that the record does not have any relevance to the assassination of President Kennedy.

(d) PRESUMPTION FOR TRANSFER.—The Review Board shall recommend under subsection (b)(1) that an assassination material should be transferred to the Archivist for inclusion in the Collection, unless there is clear and convincing evidence that the material qualifies for postponement under section 7(a).

(e) REVIEW OF PORTIONS THAT CAN BE SEGREGATED.—If the Review Board determines that an assassination material qualifies for postponement under section 7(a), the Review Board shall separately review and make final recommendations under this section with respect to any portion of the material that can be reasonably segregated.

(f) SUBMISSIONS TO ARCHIVIST.—The Review Board shall submit to the Archivist for inclusion in the Collection—

(1) each determination under subsection (b)(1)(A) that a record of an official investigation is not an assassination material; and

(2) each recommendation under subsection (b)(1)(B) that an assassination material qualifies for postponement.

SEC. 7. POSTPONEMENT OF TRANSFER OF ASSASSINATION MATERIAL.

(a) QUALIFICATION FOR POSTPONEMENT.—Assassination material qualifies for postponement under this subsection only if one or more of the following criteria are met:

(1) The threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public availability of the assassination material is of such gravity that it outweighs the public interest in disclosure of the assassination material, and such public availability would reveal—

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method which is currently utilized or reasonably expected to be utilized by the United States Government and which has not been officially disclosed, and the disclosure of which would interfere with the conduct of intelligence activities; or

(C) any other matter currently relating to the military defense, intelligence operations, or conduct of foreign relations of the United States, the public availability of which would demonstrably impair the national security of the United States.

(2) The public availability of the assassination material would disclose the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to such person.

(3) The public availability of the assassination material could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest in disclosure of the assassination material.

(4) The public availability of the assassination material would constitute an unjustified violation of an express, documented understanding of confidentiality between a Government agent and a cooperating individual or a foreign government.

(5) The public availability of the assassination material would disclose a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and that public availability would be so harmful that it outweighs the public interest in disclosure of the assassination material.

(b) POSTPONEMENT.—The transfer of assassination material to the Archivist for inclusion in the Collection shall be postponed for purposes of section 5(c)(3) notwithstanding any recommendation of the Review Board, if—

(1) in the case of assassination material for which the originating body is the Senate Committee, the Senate certifies that the material qualifies for postponement under subsection (a) by agreeing to a resolution to that effect—

(A) by a majority of members present and voting; and

(B) by not later than 30 days after the date on which the Review Board submits a recommendation under section 6(b) with respect to the material;

(2) in the case of assassination material for which the originating body is the House Committee, the House certifies that the material qualifies for postponement under subsection (a) by agreeing to a resolution to that effect—

(A) by a majority of members present and voting; and

(B) by not later than 30 days after the date on which the Review Board submits a recommendation under section 6(b) with respect to the material; and

(3) in the case of assassination material for which the originating body is an executive agency, the President certifies to the Review Board by not later than 30 days after the date on which the Review Board submits a recommendation under section 6(b) with respect to the material that the material qualifies for postponement under subsection (a).

(c) CERTIFICATION BY PRESIDENT.—

(1) AUTHORITY NONDELEGABLE.—The authority of the President to certify under subsection (b)(3) may not be delegated to any other person.

(2) STATEMENT.—If the President makes a certification under subsection (b)(3) for an assassination material, the President shall—

(A) submit to the Committee on House Administration of the House of Representatives, to the Select Committee on Intelligence of the Senate, and to the Archivist for inclusion in the Collection a written statement that—

(i) identifies the assassination material with specificity; and

(ii) sets forth the basis for the certification, including the criteria under subsection (a) under which the material qualifies for postponement; and

(B) publish the statement in the Federal Register by not later than 10 days after the date of that submission.

(d) SUMMARY OF POSTPONED ASSASSINATION MATERIALS.—The Review Board may, after consulting with the custodian of records and, if different, the originating body for an assassination material the transfer of which is postponed under this section, prepare and transmit a summary of the assassination material to the Archivist for inclusion in the Collection.

SEC. 8. MARKING AND REVIEW OF POSTPONED MATERIALS.

(a) MARKING.—The Review Board shall—

(1) mark any portion of assassination material that is not transferred to the Archivist for inclusion in the Collection pursuant to section 5(c), in accordance with a system of identification established by the Review Board; and

(2) append to that portion a statement of the Review Board designating a specified time at which, or a specified occurrence following which, the material shall be reconsidered for inclusion in the Collection pursuant to the criteria set forth in section 7(a).

(b) TRANSFER.—The Review Board shall transfer all assassination material marked under subsection (a), and all appendices thereto, to the Archivist.

(c) REVIEW.—The Archivist shall, by not later than the time or the occurrence specified under subsection (a)(2) for an assassination material—

(1) review the assassination material and any appendices thereto; and

(2) resubmit the assassination material to the Review Board, if it is still in existence, or to the originating body, if the Review Board has terminated.

SEC. 9. PUBLIC AVAILABILITY OF OTHER INFORMATION.

(a) MATERIALS UNDER SEAL OF COURT.—The Review Board may request the Department of Justice to petition, or through its own counsel may petition, any court in the United States or a foreign country to make publicly available any information relevant to the assassination of President Kennedy that is held under seal of the court.

(b) GRAND JURY MATERIALS.—

(1) PETITIONS.—The Review Board may request the Attorney General to petition, or through its own counsel may petition, any court in the United States to make publicly available any information relevant to the assassination of President Kennedy that is held under the injunction of secrecy of a grand jury.

(2) TREATMENT UNDER FEDERAL RULES.—A petition under this subsection is deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

(c) AUTOPSY MATERIALS.—The Review Board shall, pursuant to the terms of the deed of gift dated October 29, 1966, seek access to the autopsy photographs and x rays donated to the National Archives by the family of President Kennedy. The Review Board shall, as soon as practicable, submit to the Speaker of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the status of those records and on access to those records by individuals consistent with the deed of gift.

(d) COOPERATION OF EXECUTIVE BRANCH.—

(1) ATTORNEY GENERAL.—The Attorney General shall assist the Review Board in good faith to unseal any records that the Review Board determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury.

(2) SECRETARY OF STATE.—The Secretary of State shall, as soon as possible—

(A) contact the Government of the Republic of Russia and seek the public availability of all records of the Government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glavnoye Razvedyvatelnoye Upravleniye (GRU), that are relevant to the assassination of President Kennedy; and

(B) contact any other foreign government that may hold information relevant to the assassination of President Kennedy, and seek the public availability of such information.

(3) OTHER EXECUTIVE AGENCIES.—The head of each executive agency shall cooperate fully with the Review Board to seek the public availability of all information relevant to the assassination of President Kennedy.

SEC. 10. ASSASSINATION MATERIALS REVIEW BOARD.

(a) ESTABLISHMENT AND FUNCTIONS.—There is established as an independent agency a board which shall be known as the "Assassinations Materials Review Board". The Review Board shall perform such functions as are assigned to it by this joint resolution.

(b) APPOINTMENT.—

(1) IN GENERAL.—The Court shall, within 90 days after the date of enactment of this joint resolution, appoint, without regard to political affiliation, 5 distinguished and impartial private citizens to serve as members of the Review Board.

(2) VACANCIES.—A vacancy on the Review Board shall be filled in the same manner as the original appointment was made under paragraph (1).

(3) INFERIOR OFFICERS.—The members of the Review Board are deemed to be inferior officers of the United States within the meaning of section 2 of article II of the Constitution.

(4) CHAIRPERSON.—The members of the Review Board shall elect 1 of its members as chairperson at its initial meeting.

(c) EXECUTIVE DIRECTOR.—The Review Board shall appoint an individual of integrity and impartiality to serve as Executive Director of the Review Board.

(d) LIMITATION.—A person who is employed by the Government or who has been employed by any intelligence or law enforcement agency of the United States Government, or who has had any involvement with any review referred to in section 3(13)(A)(i) or (ii) may not serve as a member of the Review Board or as the Executive Director.

(e) RECOMMENDATIONS.—Prior to appointing any person to be a member of the Review Board, the Court may solicit and consider the recommendations of diverse representatives of general and scholarly interest in assassination materials, including the American Political Science Association, the American Society of Newspaper Editors, the Organization of American Historians, the National Security Archive, the Organization of American Historians, the Society of American Archivists, the Association of American Publishers, the Center for National Security Studies, the American Historical Society, and the American Newspaper Publishers Association.

(f) COMPENSATION.—

(1) PAY.—Members of the Review Board and the Executive Director shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) TRAVEL EXPENSES.—Members of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under chapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

(g) REMOVAL.—

(1) IN GENERAL.—No member of the Review Board or the Executive Director shall be removed from office, other than for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's or Executive Director's duties.

(2) REPORT.—Within 10 days after any date on which a member of the Review Board is removed from office, the Court shall submit to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal.

(h) OVERSIGHT.—The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board. The Review Board shall cooperate with the exercise of such oversight jurisdiction.

(i) SUPPORT SERVICES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide administrative and support services to the Review Board on a reimbursable basis, including office space and clerical and personnel support.

(2) DETAILS.—At the request of the Executive Director, the head of an executive agency shall detail employees of the agency to assist the Review Board in carrying out this joint resolution. Any employee detailed to the Review Board shall be detailed without reimbursement, and without interruption or loss of civil service status or privilege.

(3) SERVICES.—The Review Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(j) INTERPRETIVE GUIDELINES.—The Review Board may issue interpretive guidelines to assist in implementing the purposes of this joint resolution.

(k) TERMINATION.—

(1) IN GENERAL.—The Review Board shall terminate on the date which is 2 years after the date of the enactment of this joint resolution, except the Review Board may, by majority vote, extend its term for an additional 1-year period if it has not completed its work within such 2-year period.

(2) NOTICE OF TERMINATION.—At least 30 days before completing its work, the Review Board shall provide written notice to the President and the Congress of its intention to terminate its operations at a specified date.

(3) TRANSFER OF REVIEW BOARD RECORDS.—Upon its termination, the records of the Review Board shall be transferred to the Archivist in accordance with section 2107(2) of title 44, United States Code.

(l) ACCESS TO RECORDS.—

(1) ACCESS OF REVIEW BOARD AND EXECUTIVE DIRECTOR.—An executive agency shall upon request promptly provide to a Member of the Review Board, the Executive Director, or their designee, access to any record requested by the Review Board.

(2) MAINTENANCE OF CONFIDENTIALITY.—Any person who obtains access under this joint resolution to any record that is restricted by law for reason of national security or otherwise—

(A) shall maintain the same level of confidentiality for that record as is required of the head of the originating body for the record; and

(B) shall be subject to the statutory penalties for unauthorized disclosure or use that apply to officers and employees of the originating body for the record.

(m) POWERS.—The Review Board shall have authority to hold hearings, administer oaths, and subpoena witnesses and documents, and its subpoenas may be enforced in any appropriate Federal court by the Department of Justice acting pursuant to a lawful request of the Review Board.

SEC. 11. RULES OF CONSTRUCTION.

(a) PRECEDENCE OVER OTHER LAW.—Any provision of this joint resolution that requires public availability of a record—

(1) shall take precedence over any other law (except paragraph (2)) that would otherwise prohibit such public availability, including any judicial decision, common law doctrine, Executive order, or executive agency regulation; and

(2) shall not apply to any record that is subject to a deed of gift governing access to, transfer of, or release of the record.

(b) FREEDOM OF INFORMATION ACT.—Nothing in this joint resolution shall be construed to eliminate or limit—

(1) any right to file a request for an assassination material, with any executive agency other than the Review Board;

(2) any right to seek judicial review pursuant to section 552 of title 5, United States Code, of the decision of such an agency with respect to such a request; or

(3) any requirement that such an agency make available to the public in accordance with that section any assassination material.

(c) EXISTING AUTHORITY.—Nothing in this joint resolution revokes or limits any existing authority or obligation of the President, any executive agency, the Senate, the House of Representatives, or any other entity of the Federal Government, to make publicly available records in its possession, custody, or control.

SEC. 12. CONGRESSIONAL RULEMAKING AUTHORITY.

Sections 5(b) and 7(b)(1) and (2) are adopted—

(1) as an exercise of the rulemaking authority of the House of Representatives and the Senate; and

(2) recognizing the constitutional prerogative of each House of the Congress to modify its rules relating to the procedures of that House.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this joint resolution, to remain available until expended.

(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this joint resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from Connecticut [Mr. SHAYS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I begin my discussion by pointing out that the assassination of President John F. Kennedy is a tragedy that touched all of us and that continues to be felt to this day. We lost a unique leader who brought a singular humanity and a lasting vision to American policy both at home and abroad. Indeed, the loss of John Kennedy's inspired leadership haunts America today, as his vision of common sacrifice for the common good is now far too often displaced by a cynical politics of self-interest.

Today, we consider House Joint Resolution 454, legislation which would publicly release the investigative files and other documents relating to the assassination. I would like to commend the gentleman from Ohio [Mr. STOKES], the former chairman of the House Select Committee on Assassinations, for his work on this resolution. It is time for the American people to have access to all the records and come to their own conclusions about what happened in Dallas on November 22, 1963.

Unfortunately, many suspect that the truth is being concealed, and the only way to put these concerns to rest is to open the files, now.

The violent circumstances of the murder of President Kennedy and the death of the accused assassin, Lee Harvey Oswald, almost immediately after his apprehension, profoundly shocked the American people. Although the Warren Commission concluded that Oswald, acting alone, was solely responsible for the death of President Kennedy, many have questioned this conclusion from the day it was first made public.

After the Watergate break-in, CIA operatives were accused of having a hand in the death of President Kennedy. This allegation was probed and rejected in 1975 by the Rockefeller Commission, a body appointed by President Ford to investigate CIA activities in the United States.

Shortly thereafter, the Senate Intelligence Committee, chaired by Frank Church, disclosed that the CIA had engaged in efforts to assassinate Fidel Castro and other foreign leaders in the early 1960's. In 1976, the Church committee further reported that information relating to these plots had been concealed from the Warren Commission.

Later in 1976, the House of Representatives established a Select Committee on Assassinations to reopen the investigation of the assassinations of President Kennedy. Chaired by LOUIS STOKES, that committee concluded in its 1979 report that there was substantial evidence that Oswald had not acted alone.

Nearly 30 years after the President's death, there are hundreds of thousands of pages of documents relating to the assassination that are still secret. These include the files of executive branch agencies, such as the Warren Commission, the Rockefeller Commission, the FBI, and the CIA, as well as those created by congressional investigations, such as the Senate's Church committee and the House Assassinations Committee.

Only 5 percent of the CIA files have been released under the Freedom of Information Act. None of the files from the Rockefeller Commission, the Church committee or the House Select Committee on Assassinations has been released.

The time has come to end this unnecessary and destructive secrecy. Most of these records relate to events that transpired nearly 30 years ago. It is difficult to imagine any legitimate national security reason to keep them secret any longer. Yet, under current law, many of these materials will still be hidden from public view until the year 2029.

House Joint Resolution 454 would end a pattern of secrecy which fuels the public doubts about the assassination of President Kennedy. There is a simple principle that should guide us all in considering this legislation—if there is nothing to hide, open up the files In events of this magnitude, continued secrecy is the most damaging course.

House Joint Resolution 454 establishes a moderate and balanced mechanism for releasing these documents. This legislation accommodates any legitimate security needs and ensures an independent review of such claims, while mandating prompt release of all records.

Let me explain briefly how this will all work.

First, the resolution establishes a President Kennedy materials collection at the National Archives. This will be a central repository for all Kennedy assassination records so that historians, authors, and journalists will not have to chase all over town for these records. They will all be in one place.

Second, the resolution creates an independent review board of five members to review all records of both the Congress and the executive agencies that are related to the assassination, and to make these records available to the public as soon as possible. The review board, which will be appointed by the judicial branch, must operate under the assumption that all such records are to be made public, unless some very limited conditions exist.

These conditions are narrowly drawn and include, for example, the identification of a person whose life would be endangered and the disclosure of a secret intelligence source. In any case, the resolution provides that as much of these records as possible must be released, even if that means simply deleting the person's name.

This amendment refines the resolution as introduced and retains its purpose and thrust. The most significant change is to the standards the review board must rely on for postponing the release of records. The amendment makes them more specific than those in the original resolution.

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Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution to provide for the expeditious disclosure of records relating to the assassination of President John Kennedy. I rise in full support, with one reservation, and it is a reservation shared by the other Republicans on the committee and by the ranking member.

We believe there should be full and complete disclosure, as outlined in the resolution, but we take exception to the provision in the resolution that mandates that the courts appoint the members to the assassination review board instead of the President. We think it should be the President who makes these appointments.

The Committee on Government Operations agrees and reported the bill out assigning that task to the President, as has the Senate of the United States. The bill has been well outlined by the fine chairman of the committee, the gentleman from Michigan [Mr. CONYERS]. We support the bill. We hope that change will be made to allow that the President make those appointments.

Mr. Speaker, I yield such time as he may consume to the ranking member of the Committee on the Judiciary, the gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased that we have the opportunity today to consider House Joint Resolution 454, the Assassination Materials Disclosure Resolution of 1992.

The assassination of President John F. Kennedy traumatized our Nation and left those of us who lived through that time with feelings of shock, sadness, and anger. Although more than 28 years have passed since those terrible events, we struggle to this day to understand what happened in Dallas.

Major investigations have added volumes of documentation to the public record, but the fact that extensive materials remain publicly unavailable leads millions of Americans to ask whether important information is being concealed. Public cynicism toward government can only be tempered by disclosure. We need to facilitate a prompt disclosure of assassination related materials to resolve doubts about the integrity of our governmental institutions and shed new light—if possible—on the circumstances that led to the commission of a heinous crime.

Passage of House Joint Resolution 454 in this body will bring us an important step closer to enactment of disclosure legislation during the current Congress. Once the House acts favorably, we can focus our attention on resolving an important difference between House Joint Resolution 454 and its Senate-passed counterpart, S. 3006. The issue relates to the appointment process for members of the Assassination Materials Review Board. House Joint Resolution 454's provision for judicial appointment of Board members raises constitutional concerns—in contrast to S. 3006's provision for appointment by the President with the advice and consent of the Senate. Although the House Committee on Government Operations wisely provided for Presidential appointment with Senate confirmation, the substitute before us today takes the questionable court appointment approach. The prudent course, in my view, is to opt for the Senate version on appointments and avoid a serious potential legal challenge to this legislation.

The Department of Justice pointed out in testimony submitted to the Judiciary Committee's Subcommittee on Economic and Commercial Law: "It would not be unreasonable to conclude that there is indeed an incongruity between normal judicial functions and the appointment of the Board members because judicial panels and judges do not ordinarily determine who will decide to release confidential executive branch materials." Congress need not—and cannot—definitively resolve the constitutional question. The important point is that we want the process of releasing Kennedy assassination-related documents to go forward expeditiously.

We need not face the serious risk that the Assassination Materials Review Board will be unable to function because of the potential for successful litigation.

We rely all the time on individuals appointed by the President with the advice and consent of the Senate to adjudicate disputes between citizens and the Federal Government and to resolve issues involving our most precious rights and liberties. The safeguards inherent in the involvement of both the executive and legislative branches in the appointment process—which have served our country so well for 200 years—will work well in the context of this legislation. By continuing to rely on our system of checks and balances, we can be confident appointments will pass constitutional muster.

I urge my colleagues to support House Joint Resolution 454 as we anticipate further efforts to improve the final version of this legislation.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from Ohio [Mr. STOKES], former chair of the House Select Committee on Assassinations.

Mr. STOKES. Mr. Chairman, I thank the distinguished chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS], for yielding this time to me.

Mr. Speaker, I rise in strong support of House Joint Resolution 454, the Assassinations Disclosure Act of 1992, legislation I introduced in March of this year. I want to recognize several individuals for providing the leadership to bring this bill before the House today.

Let me first commend the distinguished chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS], for the extraordinary efforts his committee undertook in deliberating on this legislation. I also want to commend the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Committee on the Judiciary, for the work put forth to move this legislation through his committee. The gentleman from Massachusetts [Mr. MOAKLEY], the distinguished chairman of the Committee on Rules, and the gentleman from North Carolina [Mr. ROSE], the distinguished chairman of the Committee on House Administration, are also to be complimented for their strong efforts to assist in the enactment of this measure. I want to thank each of them for the many courtesies each of them extended to me.

Mr. Speaker, it gives me great pleasure to stand before this body in support of this resolution that my staff and I began to draft nearly 8 months ago. Little did I expect that this issue would draw so much interest, elicit so much controversy and demand such a tremendous amount of time from so many different committees, offices and Federal agencies. I am certain that these distinguished chairmen under whose jurisdiction this bill falls would also echo this sentiment. And while for them this measure culminates many months of intense debate, for me, it represents work that I began nearly 16 years ago when I chaired the House Select Committee on Assassinations.

I want to express my appreciation to Speaker FOLEY who from the very beginning supported my desire to prepare and introduce this joint resolution authorizing the release of all Kennedy assassination documents, with few exceptions. And I cannot go without expressing my deep gratitude to Prof. G. Robert Blakey of Notre Dame University Law School, the former counsel of the House Select Committee on Assassinations, who spent long hours and endless telephone calls working closely with all parties involved over this time period. He contributed his services pro bono.

In addition, a great deal of appreciation goes to all the staff of the House Committee on Government Operations, Committee on the Judiciary, Committee on Rules, and Committee on House Administration who along with my staff poured over documents and hammered out a compromise to bring this resolution to the floor.

Mr. Speaker, as you know, the House Select Committee on Assassinations was constituted on September 17, 1976, during the second session of the 94th Congress, 13 years after the death of President Kennedy. Its original chairman was Thomas N. Downing, who retired at the end of that Congress. The committee was re-created on February 2, 1977, during the 95th Congress, with Congressman HENRY GONZALEZ appointed as its new chairman. Shortly thereafter, he resigned the chairmanship and, on March 8, 1977, I was appointed to chair the Select Committee on Assassinations.

Under the House resolution that created the Select Committee on Assassinations, we were authorized and directed to conduct a full and complete investigation surrounding the assassination and death of President John F. Kennedy. When the committee completed its work, we released 12 volumes of information regarding our investigation, which were available to the American public. The committee in the course of its investigation had at one time or another in its possession, 848 boxes of files which included classified and unclassified materials on loan from Federal agencies, materials generated by committee staff, materials on loan from private citizens, transcripts of committee open session hearings and meetings, and from executive session hearings and meetings. These materials are well-organized with an extensive card index to individual documents in the National Archives.

The committee also conducted approximately 18 days of public hearings from August through September 1978, as well as 2 days of public policy hearings. During the public hearings, the committee received evidence on the issues we had identified to fulfill the legislative mandate. Our committee completed its investigation on March 29, 1979, and filed a final report with the House of Representatives. Prior to the committee running out of both time and money, we released everything we had the time and resources to release. All of our other records were placed in the National Archives under a House of Representatives rule (rule XXXVI) requiring such unpublished records routinely to be sealed for 30 to 50 years.

In addition to the records of the Select Committee, there are mounds of materials held by Federal agencies relating to the assassination. This includes 363 cubic feet of material from the Warren Commission, 5,000 papers from the Church Committee, nearly half a million pages of documents from the FBI, another 250,000 to 300,000 pages from the CIA, 11,000 pages of documents from the Secret Service, 65,000 pages from the Department of Justice, and 7,000 pages from the State Department.

Because many of the records pertaining to the death of President Kennedy are not available to the public, there have been allegations that these records contain evidence of a government coverup. I can assure my colleagues that nothing could be further from the truth. For this reason, I felt compelled to introduce this resolution to put to rest these unfounded allegations and release all records on the assassination. This way the American public can ascertain fact from fiction surrounding the circumstances of this tragic event.

Needless to say, dealing with such voluminous numbers of records from so many security-conscious Federal agencies, greatly complicated the various committees' markup efforts. We seemed to have encountered as many diverse opinions as there were records. But because my colleagues share the same commitment as I do about the importance of enacting this legislation, we have finally arrived at a measure that reflects the views of all parties concerned.

Mr. Speaker, House Joint Resolution 454 in my opinion balances the need for full disclosure with the interest of privacy and other concerns, while at the same time providing a structure that would dispel any notion of a government coverup of pertinent information regarding the assassination of this great President. So as to dispel any notion of impropriety in releasing these files, this legislation creates a review board which is to be appointed by the courts. This appointment process establishes a neutral body, unprejudiced by political persuasions, for these deliberations.

Moreover, House Joint Resolution 454 requires a strong presumption in favor of disclosure, whereby all records will be released unless there is clear and convincing evidence that postponing release is essential to a vital interest. There is a balancing process established for applying disclosure standards, weighed against the strong and compelling public interest in disclosure. Furthermore, Mr. Speaker, we recognized that the executive branch might have concerns relative to disclosure, and established specific standards pertinent to records in its possession.

I am also especially pleased that this bill would authorize the release of electronic surveillance tapes gathered by Federal agencies. Included in these tapes are recorded conversations of Mafia leaders relating to the possible assassination of the President. Since many still believe that the Mafia had the motive and means to participate in the assassination, persons interested in further investigating this issue will be able to access and analyze this wiretap-obtained information for themselves.

Mr. Speaker, this bill does not completely satisfy any and all concerns relative to the release of these documents, however, I am proud that we have developed a good piece of legislation, forged by a broad range of interested parties, and the bottom line is that documents and materials sealed and unavailable are now being released to all Americans.

I urge my colleagues to join with us today in support of House Joint Resolution 454. The American public has asked our leadership on this issue and we must act today to assure the public that their government had no complicity in the assassination of their President and that they have been given access to all of the information known to their government relative to the assassination.

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Mr. SPEAKER, I close in commending once again the distinguished chairman, the gentleman from Michigan [Mr. CONYERS], for the extraordinary work he has done on this legislation.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. GONZALEZ], the distinguished chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Speaker, I, in turn, wish to thank the gentleman from Michigan [Mr. CONYERS] for his generosity in view of the fact that I rise in opposition to this resolution in its present form and do so most reluctantly because of the very high esteem and affection that I have have had all the years that I have known him, this distinguished chairman. But I am impelled to do so by the flawed construction of this resolution. It is certainly far from my intention to obstruct in any way release of records. In fact, I have been adamantly insisting that we release them. I believe that the authority to review though and make that determination on the records of the House of Representatives should remain the prerogative of the membership of the House.

When I first learned last January that the records has been sealed on these proceedings, Mr. Speaker, I felt that this was an act that was abhorrent to the open processes of Congress. Thus I introduced a resolution calling for complete and immediate repeal of that act. My resolution is a simple resolution requiring approval by only a majority of the House. No other body is involved. This is as I believe it should be.

To my horror, when I secured a copy of House Joint Resolution 454 earlier today, I learned that the House documents would be lumped together with executive branch and other documents for review by an extra congressional body. This is wrong as it impinges on the separateness and independence of Congress. The House should never have sealed its assassination records, but it should not compound this problem now by allowing a body from outside of Congress to make determinations on its own records.

Mr. Speaker, the resolution being considered today calls for the creation of a commission of private citizens, appointed by the U.S. Court of Appeals for the District of Columbia—which itself is a body of Presidential appointees who have been confirmed by the Senate. Thus, there are no House Members involved in any way in the composition of this review commission or in the appointment of its members. As it has so many times this year, the House is once again relinquishing its coequality by allowing decisions over its records to be made by the President, the President's appointees, or others outside of Congress. This weakens the separation of powers that has kept our Nation strong for over 200 years, and of course I rise in strong dissent for that reason to this resolution, acting, as it does, contrary to the U.S. Constitution and to its constitutional mandates.

Mr. Speaker, I once again thank the gentleman from Michigan [Mr. CONYERS] for having yielded this time to me.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Speaker, I rise in support of the bill, House Joint Resolution 454, the Assassination Materials Disclosure Act of 1992. I joined Congressman STOKES as a cosponsor of this bill because I firmly believe that the time has come to bring the Government's documents concerning the Kennedy assassination into the sunshine. Under current law this material may not be released for many years, if at all. The gentleman from Michigan [Mr. CONYERS], chairman of the Committee on Government Operations, has done an outstanding job in bringing forth this resolution.

A large percentage of the Government's assassination-related documents are already available for public inspection. Unfortunately, some of those documents that should be in the public domain are still hidden away in the dark caverns of the Archives and other agencies. As a result, rumors, myths, fictionalized drama, and outright lies about the Government's involvement in the Kennedy assassination abound.

Enactment of House Joint Resolution 454 will not resolve all doubts regarding President Kennedy's assassination, but it will have the salutary goal of allaying the suspicion of Government coverup.

House Joint Resolution 454 provides for release of the Kennedy assassination material by an impartial review board, selected by a special division in the judicial branch. This process is very similar to the independent counsel selection procedure upheld by the Supreme Court as recently as 1988; and it is essential to avoid any appearance of conflict of interest that might arise if the appointment were made by either the President or the Congress.

Mr. Speaker, I urge all Members to join me in voting to make the Government's assassination materials available to the public.

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume just to reiterate that we support this bill. We hope that the Senate version and the Government Operations version of the appointment of the assassination board will be made by the President. We look forward to the House passing this resolution.

Mr. HAMILTON. Mr. Speaker, I rise to speak in support of this important bill which would declassify information pertaining to the assassination of President John F. Kennedy. I am pleased to join with Chairmen STOKES, CONYERS, BROOKS, ROSE, MOAKLEY, and others as an original cosponsor of the bill. I hope that both houses of Congress will act swiftly to pass this bill and send it to the President, and that he will promptly sign it. The time has come to open the files and make public all the information we can about this tragic event in our Nation's history.

The bill before us today does several things. It would make public not only material from the House Select Committee on Assassinations, but also material from other agencies of government, including the Warren Commission, CIA, FBI, Justice Department, and other executive branch departments and agencies, as well as material from the Senate Church committee investigation. These include over 300,000 pages in the CIA files, and over 800, boxes of material from the House select committee's investigation.

This bill mandates a comprehensive review of all federal Government records relating to the assassination of President Kennedy. It establishes an independent, impartial five-member review board to conduct this review. This bill appropriately provides an exemption for material which would infringe on an individual's privacy rights, or would compromise current intelligence sources or methods. Due care is taken to protect our national security interests, to adhere to our intelligence standards and to protect them. But the premise of the bill is in favor of the public's right to know, as it should be.

A number of recent polls have shown that approximately 75 percent of the American people believe that there was a conspiracy to assassinate President Kennedy. Of this number, about half believe that the CIA was involved in such a conspiracy. These are astonishing figures. We cannot remove all doubts about the institutions of our government with this—or any other—single bill, but we can take a step in the direction of openness.

I am not here to suggest that there was any conspiracy to assassinate President Kennedy. I simply do not know. My interest in this bill is to get as much information out into the public domain as we can, and let the debate go forward on the basis of as much factual information as possible—so that the debate about these events will not be encumbered with charges of a coverup. Sufficient time has now passed since 1963 that concerns which may have caused information to be withheld at that time should generally no longer be a consideration.

The worst thing we can do here in the Congress is to feed the cynicism that already exists by creating a perception that something is being concealed from the American people. We are in a climate of cynicism, and if information is withheld it only adds to that cynicism and lack of trust in government. This is one of many efforts that must be undertaken to restore public confidence in Congress and in our government.

The Kennedy assassination will be debated for centuries to come. It has been the subject of a remarkable film, "JFK," directed by Oliver Stone. While controversial, that film deserves much of the credit for the interest in this subject.

As with the assassination of President Lincoln, we may never know the full truth of these events. But the assassination of President Kennedy was an event of enormous importance in American history, and has been the focus of tremendous controversy. We need to make as much information public as we can, and then let the journalists, the scholars and the historians try to resolve the questions that remain, based on all the available information.

I would like to take this opportunity to commend our colleague, LOU STOKES, both for taking the lead in introducing this bill, and for his leadership in chairing the House Select Committee on Assassinations. Like many other assignments which he has taken on during his distinguished career, this was a difficult, controversial, and thankless task, and he performed it well.

I hope that the House will move to pass this bill promptly. I also hope that the House and Senate will quickly resolve their differences in conference, and send a final version to the President when we return in September. It is my hope that the President will sign this bill, and will not carry out his earlier threat of a veto. This bill is a step toward making our government more open and accountable, and will help the process of restoring the trust and confidence of the American people in the institutions of their government. I urge its adoption.

Mr. HORTON. Mr. Speaker, I rise in qualified support of this legislation. House Joint Resolution 454 provides for the release of archived materials relating to the assassination of former President John F. Kennedy.

Mr. Speaker, I was serving in Congress that fateful November day in 1963 when the world received the news about President Kennedy. It was a tragedy. It affected the course of history. It touched me personally, as it did every American citizen.

I served in Congress as the Warren Commission was established and as it conducted its review. I commend the Warren Commission for the work it did. Its members were dedicated public servants with a thankless task that required some very long and hard and difficult hours.

Questions have been raised about the findings of the Warren Commission by Hollywood and others, and these questions have fueled speculation about exactly what information is being archived and why. In some circles, the questions and speculation have turned to suspicion. The motives of members of the Warren Commission itself have been hypothesized. Certainly this is painful for many of us who lived through that difficult period, but I know it is especially painful for members of the Kennedy family. Before I made my decision to support opening the files I took the time to speak with members of the Kennedy family, and most especially with our own Joe Kennedy, the very able Congressman from Massachusetts and son of the very distinguished American Robert F. Kennedy, also, and sadly, the victim of an assassin's bullet.

The conclusion I have reached is that the matter needs to be put to rest, at least to the extent that it can be through the release of key files of the Warren Commission and other agencies. This conclusion, Mr. Speaker, is shared by the administration, by every witness that testified before our committee, indeed, by the American public.

On the release of those files, I want to commend my chairman, the gentleman from Michigan [Mr. CONYERS], for his efforts to review all of the parameters and problems associated with opening the archived files, and to fashion a bipartisan agreement that would facilitate this objective. He steered this legislation well.

However, once reported by voice vote from Government Operations, the careful compromise we reached with Republicans, Democrats, and the administration was changed. The Presidentially appointed Assassination Review Board which was carefully crafted after lengthy hearings, debate, and negotiation, has been changed to a review board that will be appointed by the U.S. Circuit Court of Appeals for the District of Columbia.

Mr. Speaker, I object to his last-minute change. I think it flies in the face of a careful agreement that Members of both sides of the aisle signed on to in development of this legislation. I think the agenda behind this change is larger than the issue at hand, and I will support in conference the Senate version of this legislation which provides for a Presidentially appointed board. This matter is a major concern. It needs to be addressed, but it is not my intention to delay this legislation now by trying to defeat it here today. It is time to move that which we have before us to conference where I hope this problem can be resolved so that, as was the case with the legislation reported from the Government Operations Committee, a bipartisan and administration supported solution is achieved.

Mr. SHAYS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 454, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of quorum is considered withdrawn.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M. ON FRIDAY, AUGUST 28, 1992, TO FILE INVESTIGATIVE REPORTS

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m. on Friday, August 28, 1992, to file three investigative reports. This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DRUG AND ALCOHOL OFFENDERS TREATMENT ACT OF 1992

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4776) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations of appropriations.

The Clerk read as follows:

H.R. 4776

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug and Alcohol Offenders Treatment Act of 1992".

SEC. 2. REAUTHORIZATION.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Treatment Act of 1978 is amended—

(1) by striking out "; and" and inserting a semicolon; and

(2) by striking the period at the end and inserting "; $50,000,000 for fiscal year 1993; $55,000,000 for fiscal year 1994; and $60,000,000 for fiscal year 1995.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Drug and Alcohol Dependent Offenders Treatment Act of 1992, would authorize appropriations for the Federal substance abuse treatment program, known as the Drug Aftercare Program, for the next 3 fiscal years. The bill amends the contract services for Drug Dependent Federal Offenders Act of 1978, through which the Administrative Office of the United States Courts contracts for drug and alcohol testing and treatment for Federal offenders on postconviction release. The program provides court-ordered testing, treatment and counseling for needy Federal offenders on probation, parole and supervised release. Nearly 24,000 of the 82,500 Federal probationers, for example, participate in the program.

The need for this program is clear. The link between crime and drug and alcohol abuse is well-established. We must continue to provide this testing and treatment for these Federal offenders. In fact, the crime bill conference report pending in the Senate provides for an expansion of this program. The crime bill also has provisions for mandatory testing and treatment in the prisons that should be enacted. The authorizations in this bill take into account the increases in numbers of offenders in the program as well as increased costs associated with the program over the years.

This bill enjoys bipartisan support and was reported by the subcommittee on crime and criminal justice and judiciary committee by voice votes. I urge members to support it.

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Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. SENSENBRENNER. Mr. Speaker, H.R. 4776 reauthorizes appropriations for the Contract Services for Drug Dependent Federal Offenders Act of 1978 (Public Law 95-537). That Act authorizes the Administrative Office of the United States Courts to provide drug and alcohol testing and treatment for Federal offenders on probation, parole or supervised release. H.R. 4776 amends section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 to authorize an appropriation not to exceed $50 million for fiscal year 1993, $55 million for fiscal year 1994, and $60 million for fiscal year 1995. In 1989, Congress increased the funding authorization limits for the program to $30 million for fiscal year 1990, $40 million for fiscal year 1991, and $45 million for fiscal year 1992. Actual allocations for the last 5 years are as follows: In 1988, $17,500,000; in 1989, $19,750,000; 1990, $23,500,000; 1991, $28,750,000; 1992, $31,200,000. The current bill provides for authorization amounts more than double that of recent years. Specifically, authorizations will have increased from $3.5 million for fiscal year 1980 to $60 million for fiscal year 1995.

Perhaps the size and cost of the program have increased dramatically as the result of an increase in the size of the problem: there have been visible increases in the number of prosecutions of drug-related offenses as well as in the identification of substance abusers. There are currently 82,500 offenders under the supervision of the United States probation system, of which 23,689 have a drug or alcohol treatment condition. This represents a 60-percent increase since 1987. 54 percent of those with treatment conditions are in contract programs, and the remainder receive treatment directly from probation officers or community programs which do not receive contractual funds. U.S. probation offices presently have 802 contracts for treatment with various programs throughout the country.

On a more general level, this bill is consistent with the administration's comprehensive approach to battle illegal drugs on two fronts: Supply interdiction and drug treatment. The President has consistently shown a commitment to real drug treatment. With the President's leadership, Federal funding for substance abuse treatment has increased from $877 million in fiscal year 1989 to over $2.1 billion in the President's budget request for fiscal year 1993. If the President's fiscal year 1993 request is enacted, Federal spending on drug treatment will have increased by 142 percent since fiscal year 1989. The President's fiscal year 1993 budget request, if enacted, would provide treatment services for 1.9 million individuals, an increase of 19 percent since fiscal year 1989. Unfortunately, over the past three years, Congressional cuts in the President's drug treatment budget will have denied drug treatment to about 80,000 persons.

Likewise, the Administration supports the following initiatives: First, help States develop effective treatment programs through statewide treatment plans. Congress adopted this recommendation in the ADAMHA Reorganization Act—Public Law 102-321. Second, increase the number of drug treatment slots in areas where there is a shortage of treatment capacity. The administration's Capacity Expansion Program [CEP] was also adopted in the ADAMHA Reorganization Act. Third, give States the maximum amount of flexibility to design programs tailored to meet their specific needs.

While I have reservations about the large sums of money authorized in this bill and the significant increases in these amounts as compared to prior years, others on both sides of the aisle have noted that this is money well spent. That money spent on drug testing and drug treatment for our inmates helps to reduce recidivism and related monetary and non-monetary, human costs related to crime. An increased number of individuals incarcerated under the Federal system and/or on Federal probation or supervised release, an increasing percentage of Federal offenders having substance abuse problems, the increased cost of testing and treatment, and the positive effect treatment/testing has on reducing recidivism may justify some of these increases.

On April 30, 1992, the Committee on the Judiciary, by voice vote, a quorum being present, ordered the bill H.R. 4776, reported favorably without amendment. The Judicial Conference of the United States endorses this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker I am pleased to rise in support of H.R. 4776, the Drug and Alcohol Offenders Treatment Act, and I would like to commend the gentleman from New York [Mr. SCHUMER] for introducing this measure.

H.R. 4776 would authorize $50 million for fiscal year 1993, $55 million for fiscal year 1994, and $60 million in fiscal year 1995 for very worthy and much needed Federal substance abuse treatment programs.

The drug scourge in this country has claimed many victims. Our young people are being caught in the drug dealers' crossfire, our addicts are dying of overdoses, and innocent babies born addicted to crack cocaine are dying only after a few short hours of life.

We talk about ending the drug war and triumphing over the drug kingpins in foreign countries, but we won't win unless we can stop our citizens from using drugs. This important program set forth in H.R. 4776 provides counseling, residential treatment, psychological and vocational services to alcohol and drug addicted inmates after their release from custody.

Accordingly, I wholeheartedly support this measure and urge my colleagues to vote in favor.

Mr. SCHUMER. I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Wisconsin [Mr. SENSENBRENNER] for his remarks, which I agree with, and the gentleman from New York [Mr. GILMAN] for his remarks, and urge passage of the bill.

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the Drug and Alcohol Offenders Treatment Act of 1992.

This important piece of legislation will allow the administrative Office of the U.S. Courts to continue drug and alcohol testing of Federal offenders on probation, parole or supervised release.

Studies show that released offenders who use drugs return to prison far more often than those who stay clean. Recidivist offenses must come to an end, and drug testing and treatment are the best ways to correct this problem.

Last year, during consideration of the crime bill by the Judiciary Committee, I offered an amendment that required drug testing as a condition of postconviction release for certain Federal offenders. With the support of the distinguished crime subcommittee chairman, Mr. SCHUMER, this amendment was included in the House crime bill.

Unfortunately, the crime bill is unlikely to see further action this year. That is why it is so vitally important that the House pass H.R. 4776, to ensure that the important practice of drug testing Federal offenders continue.

For these reasons, I support H.R. 4776, and encourage my colleagues to pass this legislation today.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the bill, H.R. 4776.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5487) "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes.".

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 2, 4, 7, 8, 15, 16, 18, 19, 24, 35, 47, 67, 69, 74, 80, 98, 99, 101, 106, 119, and 120, to the above-entitled bill.

EXTENDING SERVICE OF MEMBERS OF THE U.S. SENTENCING COMMISSION

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1963) to amend section 992 of title 28, United States Code, to provide a member of the U.S. Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress.

The Clerk read as follows:

S. 1963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENDED SERVICE OF MEMBERS OF THE SENTENCING COMMISSION.

Section 992(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraph (2)—

"(A) no voting member of the Commission may serve more than two full terms; and

"(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of such term.

"(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill passed the Senate earlier this year by unanimous consent and was reported by the Subcommittee on Crime and Criminal Justice and the Judiciary Committee by voice votes. It amends the statute establishing terms of voting members of the U.S. Sentencing Commission to permit a commissioner whose term has expired to continue to serve until a successor has been appointed, up to the end of the next session of Congress. Unlike other statutes governing terms of members of the FTC, ICC, and FCC, for example, the Sentencing Commission statute presently contains no authorization for a commissioner whose term has expired to continue in office until a successor is appointed.

This is not a hypothetical situation. The Commission has faced periods during which it had only four voting members and, since four votes are needed to take any action, much Commission work had to be deferred.

This bill alleviates that problem. It is noncontroversial and I ask for Members' support.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation corrects what appears to be an omission in the Sentencing Reform Act of 1984, the organic legislation that established the Sentencing Commission as an independent, permanent body in the judicial branch of Government. Unlike the organic statutes for other permanent commissions in the executive branch, such as the FTC, ICC, FCC, and Consumer Product Safety Commission, the Sentencing Commission statute does not address the situation where a term of a Commission member has expired before a successor has taken office.

This legislation amends the statute setting forth terms of the voting members of the U.S. Sentencing Commission to permit a Commissioner whose term has expired to continue to serve until his successor is appointed. As a safeguard against indefinite holdover appointments, however, the legislation provides that a Commissioner may not continue to serve beyond the end of the next session of Congress following the session in which the term expires.

This omission is compounded by the requirement that sentencing guidelines be promulgated or amended with the support of at least four of the seven authorized voting members of the Commission. When there is less than a full complement of sentencing commissioners, the work of the Commission may be impaired.

In 1989–90, the Commission was forced to operate approximately 7 months with only four voting members. During that period, a number of proposed guidelines and amendments had to be deferred, either because complete unanimity among the remaining four Commissioners could not be achieved or because active Commissioners felt that it would be inappropriate to act on major new proposals in the absence of a full complement of Commissioners. Similar difficulties occurred toward the end of last year.

The Commission should be able to act in a timely fashion regarding new case law interpreting the guidelines, new legislation in the sentencing area—a great deal of which is now pending—and new insights into guideline application gleaned through the Commission's case monitoring unit.

The work of the Commission is particularly important in our Nation's battle against crime. This bill passed the Senate by unanimous consent on January 31, 1992.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I have no further requests, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and pass the Senate bill, S. 1963.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

USE OF COPYRIGHTED UNPUBLISHED WORKS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4412) to amend title 17, United States Code, relating to fair use of copyrighted works, as amended.

The Clerk read as follows:

H.R. 4412

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
>
> That section 107 of title 17, United States Code, is amended by adding at the end the following: "The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.".

□ 2020

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4412 amends the fair use provisions of the copyright law with respect to unpublished works. At the urging of historians, biographers, and publishers that decisions from the U.S. Court of Appeals for the second circuit were hampering their use of unpublished letters, diaries, and other materials, bills were introduced in the 101st and 102d Congresses. Joint hearings were held with the Senate in 1990. The Subcommittee on Intellectual Property and Judicial Administration, which I chair, held two hearings in 1991.

The fair use doctrine is codified in section 107 of the Copyright Act. Fair use is a judicial doctrine, and is intended to be applied in a flexible manner, based on the particular facts before the court. Fair use is an exception to the general rule that one may not use substantial parts of a copyrighted work without the permission of the copyright owner. The exception exists so that biographers, historians, teachers, drama critics, news reporters, and others may utilize portions of the copyrighted work for purposes of criticism and comment.

The concerns which prompted this legislation grew out of two decisions in the second circuit which suggested that the circuit was reading into the doctrine a degree of rigidity never intended by the Congress. The purpose of the bill is restore the desired flexibility to fair use. H.R. 4412 is straightforward legislation addressed to a specific problem.

H.R. 4412 accomplishes its purpose by adding a single sentence at the end of section 107 of title 17:

> The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

This language will clarify the intent of Congress that there be no per se rule barring the affirmative defense of fair use of unpublished works. The courts are directed to evaluate the defense by considering all the facts in a case according to all four statutory fair use factors and any others found relevant.

It is not, however, the intention of the Congress to direct the courts how much weight to give to any one factor in any particular case, nor to overrule or diminish in any way the Supreme Court's decision in Harper & Row, Publishers versus Nation Enterprises. Each factor should be separately weighed and then evaluated as a whole in conjunction with all the other factors. This totality approach is at the heart of the equitable rule of reason that characterizes the fair use defense.

H.R. 4412 should allay the concerns of some authors and publishers that they are absolutely prohibited from using any unpublished, copyrighted material for biographical or historical purposes. I urge your support of this modest but important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 4412 relating to the fair use of unpublished works. The purpose of H.R. 4412 is to clarify the intent of Congress that there be no per se rule barring claims of fair use of unpublished works. This legislation represents the culmination of work begun last Congress by the Subcommittee on Intellectual Property and Judicial Administration on the fair use issue. To his credit the chairman of the subcommittee, the distinguished gentleman from New Jersey [Mr. HUGHES], took the time to schedule 2 days of very thorough hearings on this issue earlier this Congress and as a result I believe that we now have a better bill. I would like to commend the gentleman from New Jersey [Mr. HUGHES] for his diligent work on this issue as well as the members of the subcommittee for their excellent work on the issue.

During our hearings it was suggested that the second circuit in Salenger versus Random House, Inc., and the New Era Publications, International Aps versus Henry Holt & Co. had not absolutely barred the fair use defense in the unpublished works context. But in my opinion this misses the point, which is whether or not the courts language has had a chilling effect on the production and publication of the works of historians, biographers, and journalists.

Evidence was presented at our hearings that reasonable attorneys because of the specter of the second circuit decisions are routinely advising publishers from relying on a fair use defense when they are dealing with unpublished works. As a result, the public is being denied access to the raw materials that are the lifeblood of these authors. Therefore, I believe it is appropriate for Congress to intervene in this instance in an effort to restore the appropriate balance between the effected parties by clarifying that the fact a work is unpublished should continue to be only one of several considerations that courts must weigh in making fair use determinations.

The House Report on H.R. 4412 makes it clear that:

> The purpose of H.R. 4412 is to clarify the intent of Congress that there be no per se rule barring claims of fair use of unpublished works. Instead, consistent with Congress' codification of fair use of unpublished works on a case-by-case basis, after consideration of all the factors set forth in section 107, title 17, United States Code, as well as other factors a court may find relevant.

It is not the intent of H.R. 4412 to in any way broaden the scope of fair use of unpublished works nor to overrule or modify the Supreme Court's decision in Harper and Row versus The Nation wherein the court set out general principles regarding the fair use of unpublished works.

Mr. Speaker, numerous parties have played important roles in crafting H.R. 4412. They include representatives of author's groups, book and magazine publishers, and the computer industry. They are all to be commended for their work on H.R. 4412 for which I urge my colleagues' support.

Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 4412 relating to the fair use of unpublished works. The purpose of H.R. 4412 is to clarify the intent of Congress that there be no per se rule barring claims of fair use of unpublished works. This legislation represents the culmination of work begun last Congress by the Subcommittee on Intellectual Property and Judicial Administration on the fair-use issue. To his credit the chairman of the subcommittee, the distinguished gentleman from New Jersey [Mr. HUGHES], took the time to schedule 2 days of very thorough hearings on this issue earlier this Congress and as a result I believe that we now have a better bill. I would like to commend the gentleman from New Jersey [Mr. HUGHES] for his diligent work on this issue as well as the members of the subcommittee for their excellent work on this issue.

During our hearings, it was suggested that the second circuit in Salenger versus Random

House, Inc., and New Era Publications, International Aps versus Henry Holt and Co. had not absolutely barred the fair-use defense in the unpublished works context. But in my opinion this misses the point, which is whether or not the court's language has had a chilling effect on the production and publication of the works of historians, biographers, and journalists.

Evidence was presented at our hearings that reasonable attorneys, because of the specter of the second circuit decisions, are routinely advising publishers from relying on a fair-use defense when they are dealing with unpublished works. As a result, the public is being denied access to the raw materials that are the lifeblood of these authors. Therefore, I believe it is appropriate for Congress to intervene in this instance in an effort to restore the appropriate balance between the affected parties by clarifying that the fact a work is unpublished should continue to be only one of several considerations that courts must weigh in making fair-use determinations.

The House report on H.R. 4412 makes it clear that:

> The purpose of H.R. 4412 is to clarify the intent of Congress that there be no per se rule barring claims of fair use of unpublished works. Instead, consistent with Congress's codification of fair use in the 1976 Copyright Act, the courts are to determine claims of fair use of unpublished works on a case-by-case basis, after consideration of all the factors set forth in Section 107, title 17, United States Code, as well as other factors a court may find relevant.

It is not the intent of H.R. 4412 to in any way broaden the scope of fair use of unpublished works nor to overrule or modify the Supreme Court's decision in Harper and Row versus the Nation wherein the Court set out general principles regarding the fair use of unpublished works.

Mr. Speaker, numerous parties have played important roles in crafting H.R. 4412. They include representatives of authors' groups, book and magazine publishers, and the computer industry. They are all to be commended for their work on H.R. 4412 for which I urge my colleagues' support.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4412, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WILD BIRD CONSERVATION ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5013) a bill to promote the conservation of exotic wild birds, as amended.

The Clerk read as follows:

H.R. 5013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WILD EXOTIC BIRD CONSERVATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Wild Bird Conservation Act of 1992".

SEC. 102. FINDINGS.

The Congress finds the following:

(1) In addition to habitat loss and local use, the international pet trade in wild-caught exotic birds is contributing to the decline of species in the wild, and the mortality associated with the trade remains unacceptably high.

(2) The United States, as the world's largest importer of exotic birds and as a Party to the Convention, should play a substantial role in finding effective solutions to these problems, including assisting countries of origin in implementing programs of wild bird conservation, and ensuring that the market in the United States for exotic birds does not operate to the detriment of the survival of species in the wild.

(3) Sustainable utilization of exotic birds has the potential to create economic value in them and their habitats, which will contribute to their conservation and promote the maintenance of biological diversity generally.

(4) Utilization of exotic birds that is not sustainable should not be allowed.

(5) Broad international attention has focused on the serious conservation and welfare problems which currently exist in the trade in wild-caught animals, including exotic birds.

(6) Many countries have chosen not to export their wild birds for the pet trade. Their decisions should be respected and their efforts should be supported.

(7) Several countries that allow for the export of their wild birds often lack the means to develop or effectively implement scientifically based management plans, and these countries should be assisted in developing and implementing management plans to enable them to ensure that their wild bird trade is conducted humanely and at sustainable levels.

(8) The major exotic bird exporting countries are Parties to the Convention.

(9) The Convention recognizes that trade in species that are threatened with extinction, or that may become so, should be subject to strict regulation.

(10) The necessary population assessments, monitoring programs, and appropriate remedial measures for species listed in Appendix II of the Convention are not always being undertaken in order to maintain species at levels above which they might become eligible for inclusion in Appendix I of the Convention.

(11) Resolutions adopted pursuant to the Convention recommend that the Parties to the Convention take appropriate measures regarding trade in species of exotic birds that have significantly high mortality rates in transport, including suspension of trade for commercial purposes between Parties when appropriate.

(12) Article XIV provides that the Convention in no way affects the right of any Party to the Convention to adopt stricter domestic measures for the regulation of trade in all species, whether or not listed in an Appendix to the Convention.

(13) The United States prohibits the export of all birds native to the United States that are caught in the wild.

(14) This title provides a series of nondiscriminatory measures that are necessary for the conservation of exotic birds, and furthers the obligations of the United States under the Convention.

SEC. 103. STATEMENT OF PURPOSE.

The purpose of this title is to promote the conservation of exotic birds by—

(1) assisting wild bird conservation and management programs in the countries of origin of wild birds;

(2) ensuring that all trade in species of exotic birds involving the United States is biologically sustainable and is not detrimental to the species;

(3) limiting or prohibiting imports of exotic birds when necessary to ensure that—

(A) wild exotic bird populations are not harmed by removal of exotic birds from the wild for the trade; or

(B) exotic birds in trade are not subject to inhumane treatment; and

(4) encouraging and supporting effective implementation of the Convention.

SEC. 104. DEFINITIONS.

In this title—

(1) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as amended, signed in Washington on March 3, 1973, and the Appendices thereto.

(2) The term "exotic bird"—

(A) means any live or dead member of the class Aves that is not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof; and

(B) does not include—

(i) domestic poultry, dead sport-hunted birds, dead museum specimens, dead scientific specimens, or products manufactured from such birds; or

(ii) birds in the following families: Phasianidae, Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae, Rheidae, Dromaiinae, and Gruidae.

(3) Each of the terms "import" and "importation" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States.

(4) The term "person" means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

(5) The term "qualifying facility" means an exotic bird breeding facility that is included in a list published by the Secretary under section 107.

(6) The term "Secretary" means the Secretary of the Interior or a designee of the Secretary of the Interior.

(7) The term "species"—

(A) means any species, any subspecies, or any distinct population segment of a species or subspecies; and

(B) includes hybrids of any species or subspecies.

(8) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 105. MORATORIA ON IMPORTS OF EXOTIC BIRDS COVERED BY CONVENTION.

(a) IMMEDIATE MORATORIUM.—

(1) ESTABLISHMENT OF MORATORIUM.—The importation of any exotic bird of a species identified as a category B species in the report entitled "Report of the Animals Committee", adopted by the 8th meeting of the Conference of the Parties to the Convention, is prohibited.

(2) TERMINATION OF MORATORIUM.—A species of exotic birds shall be subject to the prohibition on importation established by paragraph (1) until the Secretary, after notice and an opportunity for public comment—

(A) determines that appropriate remedial measures have been taken in the countries of origin for that species, so as to eliminate the threat of trade to the conservation of the species; and

(B) makes the findings described in section 106(c) for the species and includes the species in the list published under section 106(a).

(b) EMERGENCY AUTHORITY TO SUSPEND IMPORTS OF LISTED SPECIES.—

(1) AUTHORITY TO SUSPEND IMPORTS.—The Secretary is authorized to suspend the importation of exotic birds of any species that is listed in any Appendix to the Convention, and if applicable remove the species from the list under section 106(a), if the Secretary determines that—

(A)(i) trade in that species is detrimental to the species,

(ii) there is not sufficient information available on which to base a judgment that the species is not detrimentally affected by trade in that species, or

(iii) remedial measures have been recommended by the Standing Committee of the Convention that have not been implemented; and

(B) the suspension might be necessary for the conservation of the species.

(2) TERMINATION OF SUSPENSION.—A species of exotic birds shall be subject to a suspension of importation under paragraph (1) until the Secretary, after notice and an opportunity for public comment, makes the findings described in section 106(c) and includes the species in the list published under section 106(a).

(c) MORATORIUM AFTER ONE YEAR FOR OTHER SPECIES LISTED IN APPENDICES.—Effective on the date that is one year after the date of the enactment of this Act, the importation of any exotic bird of a species that is listed in any Appendix to the Convention is prohibited unless the Secretary makes the findings described in section 106(c) and includes the species in the list published under section 106(a).

(d) LIMITATION ON NUMBER IMPORTED DURING FIRST YEAR.—Notwithstanding any other provision of this Act, the Secretary shall prohibit the importation, during the 1-year period beginning on the date of the enactment of this Act, of exotic birds of each species that is listed under any Appendix to the Convention in excess of the number of that species that were imported during the most recent year for which the Secretary has complete import data.

SEC. 106. LIST OF APPROVED SPECIES.

(a) LISTING.—

(1) IN GENERAL.—One year after the date of enactment of this Act and periodically thereafter, the Secretary shall, after notice and an opportunity for public comment, publish in the Federal Register a list of species of exotic birds that are listed in an Appendix to the Convention and that are not subject to a prohibition or suspension of importation otherwise applicable under section 105(a), (b), or (c).

(2) MANNER OF LISTING.—The Secretary shall list a species under paragraph (1) with respect to—

(A) the countries of origin from which the species may be imported; and

(B) if appropriate, the qualifying facilities in those countries from which the species may be imported.

(3) BASES FOR DETERMINATIONS.—In making a determination required under this subsection, the Secretary shall—

(A) use the best scientific information available; and

(B) consider the adequacy of regulatory and enforcement mechanisms in all countries of origin for the species, including such mechanisms for control of illegal trade.

(b) CAPTIVE BRED SPECIES.—The Secretary shall include a species of exotic birds in the list under subsection (a) if the Secretary determines that—

(1) the species is regularly bred in captivity and no wild-caught birds of the species are in trade; or

(2) the species is bred in a qualifying facility.

(c) NON-CAPTIVE BRED SPECIES.—The Secretary shall include in the list under subsection (a) a species of exotic birds that is listed in an Appendix to the Convention if the Secretary finds the Convention is being effectively implemented with respect to that species because of each of the following:

(1) Each country of origin for which the species is listed is effectively implementing the Convention, particularly with respect to—

(A) the establishment of a scientific authority or other equivalent authority;

(B) the requirements of Article IV of the Convention with respect to that species; and

(C) remedial measures recommended by the Parties to the Convention with respect to that species.

(2) A scientifically-based management plan for the species has been developed which—

(A) provides for the conservation of the species and its habitat and includes incentives for conservation;

(B) ensures that the use of the species is biologically sustainable and maintained throughout the range of the species in the country to which the plan applies at a level that is consistent with the role of the species in the ecosystem and is well above the level at which the species might become threatened with extinction; and

(C) addresses factors relevant to the conservation of the species, including illegal trade, domestic trade, subsistence use, disease, and habitat loss.

(3) The management plan is implemented and enforced.

(4) The methods of capture, transport, and maintenance of the species minimizes the risk of injury or damage to health, including inhumane treatment.

SEC. 107. QUALIFYING FACILITIES.

(a) DETERMINATION.—Upon submission of a petition under section 110 by any person, the Secretary shall determine whether an exotic bird breeding facility is a qualifying facility. Such determination shall be effective for a period specified by the Secretary, which may not exceed 3 years. The Secretary shall, from time to time, publish a list of qualifying facilities in the Federal Register.

(b) CRITERIA.—The Secretary shall determine under subsection (a) that a facility is a qualifying facility for a species of exotic birds if the Secretary finds each of the following:

(1) The facility has demonstrated the capability of producing captive bred birds of the species in the numbers to be imported into the United States from that facility.

(2) The facility is operated in a manner that is not detrimental to the survival of the species in the wild.

(3) The facility is operated in a humane manner.

(4) The appropriate governmental authority of the country in which the facility is located has certified in writing, and the Secretary is satisfied, that the facility has the capability of breeding the species in captivity.

(5) The country in which the facility is located is a Party to the Convention.

(6) All birds exported from the facility are bred at the facility.

SEC. 108. MORATORIA FOR SPECIES NOT COVERED BY CONVENTION.

(a) IN GENERAL.—The Secretary shall—

(1) review periodically the trade in species of exotic birds that are not listed in any Appendix to the Convention; and

(2) after notice and an opportunity for public comment, establish a moratorium or quota on—

(A) importation of any species of exotic birds from one or more countries of origin for the species, if the Secretary determines that—

(i) the findings described in section 106(c) (2), (3), and (4) cannot be made with respect to the species; and

(ii) the moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of this title; or

(B) the importation of all species of exotic birds from a particular country, if—

(i) the country has not developed and implemented a management program for exotic birds in trade generally, that ensures both the conservation and the humane treatment of exotic birds during capture, transport, and maintenance; and

(ii) the Secretary finds that the moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of this title.

(b) TERMINATION OF QUOTA OR MORATORIUM.—The Secretary shall terminate a quota or moratorium established under subsection (a) if the Secretary finds that the reasons for establishing the quota or moratorium no longer exist.

SEC. 109. CALL FOR INFORMATION.

Within one month after the date of the enactment of this Act, the Secretary shall issue a call for information on the wild bird conservation program of each country that exports exotic birds, by—

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested persons; and

(2) submitting a written request for such information through the Secretary of State to each country that exports exotic birds.

SEC. 110. PETITIONS.

(a) IN GENERAL.—Any person may at any time submit to the Secretary a petition in writing requesting that the Secretary exercise authority of the Secretary under this title to—

(1) establish, modify, or terminate any prohibition, suspension, or quota under this title on importation of any species of exotic bird;

(2) add a species of exotic bird to, or remove such a species from, a list under section 106; or

(3) determine under section 107 whether an exotic bird breeding facility is a qualifying facility.

(b) CONSIDERATION AND RULING.—For each petition submitted to the Secretary in accordance with subsection (a), the Secretary shall—

(1) within 90 days after receiving the petition, issue and publish in the Federal Register a preliminary ruling regarding whether the petition presents sufficient information indicating that the action requested in the petition might be warranted; and

(2) for each petition determined to present such sufficient information—

(A) provide an opportunity for the submission of public comment on the petition; and

(B) issue and publish in the Federal Register a final ruling on the petition, by not later than 90 days after the end of the period for public comment.

SEC. 111. PROHIBITED ACTS.

(a) PROHIBITIONS.—

(1) IN GENERAL.—Subject to paragraph (2), it is unlawful for any person to—

(A) import any exotic bird in violation of any prohibition, suspension, or quota on importation under section 105 or 108;

(B) import an exotic bird of a species that pursuant to section 106(a)(2)(B) is included in a list under section 106, if the bird was not captive bred at a qualifying facility; or

(C) violate any regulation promulgated by the Secretary pursuant to authority provided by this title.

(2) LIMITATION.—Paragraph (1)(A) and (B) does not apply to importations made incident to the transit of exotic birds through the United States to foreign countries if the applicable requirements of the Convention have been satisfied with respect to the trade in those exotic birds.

(b) BURDEN OF PROOF FOR EXEMPTIONS.—Any person claiming the benefit of any exemption or permit under this title shall have the burden of proving that the exemption or permit is applicable or has been granted, and was valid and in force at the time of the alleged violation.

SEC. 112. EXEMPTIONS.

Notwithstanding any prohibition, suspension, or quota under this title on the importation of a species of exotic bird, the Secretary may, through the issuance of import permits, authorize the importation of a bird of the species if the Secretary determines that such importation is not detrimental to the survival of the species and the bird is being imported exclusively for any of the following purposes:

(1) Scientific research.

(2) As a personally owned pet of an individual who is returning to the United States after being continuously out of the country for a minimum of one year, except that an individual may not import more than 2 exotic birds under this paragraph in any year.

(3) Zoological breeding or display programs.

(4) Cooperative breeding programs that are—

(A) designed to promote the conservation of the species and maintain the species in the wild by enhancing the propagation and survival of the species; and

(B) developed and administered by, or in conjunction with, an avicultural, conservation, or zoological organization that meets standards developed by the Secretary.

SEC. 113. PENALTIES AND REGULATIONS.

(a) PENALTIES.—

(1) CIVIL PENALTIES.—

(A) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 111(a)(1) or (2) or any permit issued under section 112 may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(B) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 111(a)(3) may be assessed a civil penalty by the Secretary of not more than $12,000 for each such violation.

(C) Any person who otherwise violates section 111(a) or any permit issued under section 112 may be assessed a civil penalty by the Secretary of not more than $500 for each such violation.

(D) A civil penalty under this section shall be assessed, and may be collected, in the manner in which a civil penalty under the Act of December 28, 1973 (Public Law 93-205), may be assessed and collected under section 111(a) of that Act.

(2) CRIMINAL PENALTIES.—

(A) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 111(a)(1) or (2) or any permit issued under section 112 shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(B) Any person who knowingly violates section 111(a)(3) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

(b) DISTRICT COURT JURISDICTION.—The several district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have jurisdiction over any action arising under this title. For the purposes of this title, American Samoa shall be included in the Judicial District of the District Court of the United States for the District of Hawaii, and the Trust Territory of Palau and the Northern Marianas shall be included in the Judicial District of the District Court of the United States for the District of Guam.

(c) OTHER ENFORCEMENT.—The importation of an exotic bird is deemed to be transportation of wildlife for purposes of section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)).

(d) REGULATIONS.—The Secretary shall prescribe regulations that are necessary and appropriate to carry out the purposes of this title.

(e) SAVINGS PROVISIONS.—The authority of the Secretary under this title is in addition to and shall not affect the authority of the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or diminish the authority of the Secretary under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.). Nothing in this title shall be construed as repealing, superseding, or modifying any provision of Federal law.

SEC. 114. EXOTIC BIRD CONSERVATION ASSISTANCE.

(a) ASSISTANCE.—The Secretary, subject to the availability of appropriations, shall use amounts in the Exotic Bird Conservation Fund established by subsection (b) to provide financial and technical assistance for projects to conserve exotic birds in their native countries. In selecting projects for assistance, the Secretary shall give particular attention to species that are subject to an import moratorium or quota under this title, in order to assist those countries in the development and implementation of conservation management programs, or law enforcement, or both.

(b) FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury a separate account, which shall be known as the "Exotic Bird Conservation Fund".

(2) CONTENTS.—The Fund shall consist of—

(A) all amounts received by the United States in the form of penalties, fines, or forfeiture of property collected under this title in excess of the cost of paying rewards under section 113(c);

(B) donations received by the Secretary for exotic bird conservation; and

(C) such amounts as are appropriated to the Secretary for conserving exotic birds.

(c) REVIEW AND REPORT ON OTHER CONSERVATION OPPORTUNITIES.—The Secretary, in consultation with appropriate representatives of industry, the conservation community, the Secretariat of the Convention, and other national and international bodies, shall—

(1) review opportunities for a voluntary program of labeling exotic birds, certification of exotic bird breeding facilities and retail outlets, and provision of privately organized or funded technical assistance to other nations; and

(2) report to the Congress the results of this review within 2 years after the date of enactment of this Act.

SEC. 115. MARKING AND RECORDKEEPING.

(a) IN GENERAL.—The Secretary is authorized to promulgate regulations to require marking or recordkeeping that the Secretary determines will contribute significantly to the ability of the Secretary to ensure compliance with the prohibitions of section 111, for—

(1) any exotic bird that is imported after the date of enactment of this Act; or

(2) any other exotic bird that is—

(A) hatched after the date of the enactment of this Act;

(B) offered for sale; and

(C) of a species—

(i) the export of which from any country of origin is prohibited; and

(ii) that is subject to a high level of illegal trade.

(b) AVOIDING DETERRENCE OF BREEDING.—The Secretary shall seek to ensure that regulations promulgated under this section will not have the effect of deterring captive breeding of exotic birds.

SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary $5,000,000 for each of the fiscal years 1993, 1994, and 1995 to carry out this title, to remain available until expended.

SEC. 117. RELATIONSHIP TO STATE LAW.

Nothing in this title may be construed as precluding the regulation under State law of the sale, transfer, or possession of exotic birds if such regulation—

(1) does not authorize any sale, transfer, or possession of exotic birds that is prohibited under this title; and

(2) is consistent with the international obligations of the United States.

TITLE II—GREAT LAKES FISH AND WILDLIFE TISSUE BANK

SEC. 201. SHORT TITLE.

This title may be cited as "The Great Lakes Fish and Wildlife Tissue Bank Act".

SEC. 202. TISSUE BANK.

(a) IN GENERAL.—The Secretary shall coordinate existing facilities for the storage, preparation, examination, and archiving of tissues from selected Great Lakes fish and wildlife, which shall be known as the "Great Lakes Fish and Wildlife Tissue Bank".

(b) GUIDANCE.—The Secretary shall, in consultation with appropriate Federal and State agencies and the Council of Great Lakes Research Managers, issue guidance, after an opportunity for public review and comment, for Great Lakes fish and wildlife tissue collection, preparation, archiving, quality control procedures, and access that will ensure—

(1) appropriate uniform methods and standards for those activities to provide confidence in Great Lakes fish and wildlife tissue samples used for research;

(2) documentation of procedures used for collecting, preparing, and archiving those samples; and

(3) appropriate scientific use of the tissues in the Great Lakes Fish and Wildlife Tissue Bank.

SEC. 203. DATA BASE.

(a) MAINTENANCE.—The Secretary shall maintain a central data base which provides an effective means for tracking and assessing relevant reference data on Great Lakes fish and wildlife, including data on tissues collected for and maintained in the Great Lakes Fish and Wildlife Tissue Bank.

(b) ACCESS.—The Secretary shall establish criteria, after an opportunity for public review and comment, for access to the data base which provides for appropriate use of the information by the public.

SEC. 204. DEFINITIONS.

In this title—

(1) "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(2) "Great Lakes fish and wildlife" means fauna, fish, and invertebrates dependent on Great Lakes resources, and located within the Great Lakes Basin.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary, $250,000 for each of fiscal years 1993 and 1994 to carry out this title.

TITLE III—MISCELLANEOUS

SEC. 301. REAUTHORIZATION OF FISH AND WILDLIFE CONSERVATION ACT OF 1980.

Section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended by striking "fiscal years" and all that follows through the end of the sentence and inserting "fiscal years 1992, 1993, 1994, 1995, 1996, and 1997'.".

SEC. 302. REAUTHORIZATION OF AFRICAN ELEPHANT CONSERVATION ACT.

Section 2306 of the African Elephant Conservation Act (16 U.S.C. 4245) is amended by striking "fiscal years" and all that follows through "1993" and inserting "fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998".

SEC. 303. TECHNICAL REVISIONS TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such technical revisions to the maps described in subsection (b) as are necessary to ensure that—

(1) on the maps referred to in subsection (b)(2) (A) and (B), depictions of areas as "otherwise protected areas" do not include any area that is not an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note); and

(2) on the map referred to in subsection (b)(2)(C), depictions of areas as "otherwise protected areas" identified as "VA–60P" do not include—

(A) any area that is located south of the north bank of the Salt Ponds Inlet in Hampton, Virginia; and

(B) the area that is located north of the line described in subsection (c), other than any part of that area which is an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note).

(b) MAPS DESCRIBED.—The maps referred to in subsection (a) are—

(1) included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) entitled, respectively—

(A) "Pine Island Bay Unit, NC–01P",

(B) "Roosevelt Natural Area Unit, NC–05P", and

(C) "Plum Island Unit VA–59P Long Creek Unit VA–60P".

(c) LINE DESCRIBED.—The line referred to in subsection (a)(2)(B) is a line described as follows:

Beginning at an iron pipe in the low water line of Chesapeake Bay; said iron pipe being located 265.00 feet in a southerly direction from the south eastern corner of Fox Hill Shores Subdivision (as shown in Plat Book 9, page 161 as recorded in the Circuit Court for the City of Hampton, Virginia) and from this TRUE POINT OF BEGINNING running thence North 66 degrees 47 minutes 46 seconds West 995.79 feet to a found iron pipe; thence South 15 degrees 47 minutes 20 seconds East 270.65 feet to a found iron pipe; thence South 73 degrees 59 minutes 57 seconds West 836.68 feet to a point marking the low water line of Long Creek; being known as the southerly property line of Riley's Way.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BATEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5013, the Wild Bird Conservation Act, which is designed to ensure that our imports of wild birds for use as pets is not leading to their extinction.

Although habitat loss is the single most significant factor in the decline of wild bird populations around the world, trade has contributed significantly to the decline. The extent of the damage that has been done to wild bird populations is not known precisely, because many exporting countries lack the resources needed to analyze the ecological impacts of the trade. What is clear is that some of the world's greatest breeding grounds for beautiful and unusual birds have been systematically plundered in order to supply house pets for people. This trade is literally wreaking havoc on some of the world's most beautiful creatures, and the United States is the largest importer.

The Convention on the International Trade in Endangered Species, otherwise known as CITES, is designed to ensure that species don't become endangered through overharvest. It simply is not working to adequately protect birds and that's precisely why this legislation is necessary.

This bill provides varying levels of protection for different classes of birds, depending on how threatened they are. It provides immediate protection for birds that have been identified internationally as being under the most serious threat.

For the other birds imported into our country, it provides two tiers of protection, depending on whether the trade in the species is regulated by CITES. For those species that are listed as threatened under CITES, it directs the Fish and Wildlife Service to identify and list those that are subject to effective conservation programs in the country of origin. If a CITES-listed species is not on this list, it cannot be imported into the United States beginning one year from the date of enactment of the bill.

The burden of proof is reversed for birds that are not listed pursuant to CITES. The Secretary of the Interior is authorized to ban the importation of these species if there is reason to believe that they are threatened.

Additionally, the Secretary is authorized to take emergency action to ban the importation of species of birds which may be in trouble.

H.R. 5013 was unanimously approved by the Committee on Merchant Marine and Fisheries and the Committee on Ways and Means. The bill before the House today incorporates four additional provisions.

First, it provides explicitly that it does not preempt State laws that protect exotic birds. As the prime author of the bill, I want to make it very clear that it is not our intention to affect State authorities in this area at all.

Second, it reauthorizes funding for the African Elephant Conservation Act for an additional 5 years—to aid African countries in conserving their elephant populations.

Third, it reauthorizes for an additional 5 years the Fish and Wildlife Conservation Act of 1980, which provides an impetus for wildlife conservation programs in the States.

Fourth, the bill incorporates the text of H.R. 5350, the Great Lakes Fish and Wildlife Tissue Bank Act which the House passed last week.

Finally, the bill makes several changes to the maps of the Coastal Barrier Resources Act of 1989, as requested by Chairman JONES and Representative DAVIS.

For their efforts and good work, I want to commend the leadership of the Ways and Means Committee and Trade Subcommittee, Mr. ROSTENKOWSKI and Mr. GIBBONS and their staffs. My thanks as well to Mr. JONES, the chairman of the Merchant Marine Committee, as well as Mr. YOUNG and Mr. DAVIS, the committee and subcommittee's ranking minority members.

In closing, I want to reiterate that this bill ensures that in the long term our bird imports will not contribute to the extinction of these spectacular creatures. It is a good bill. It is urgently needed, and I urge Members to support it.

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Mr. Speaker, I reserve the balance of my time.

Mr. BATEMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5013, the Wild Bird Conservation Act of 1992, and urge its adoption.

This bill goes a long way toward the conservation of exotic birds around the world. As reported, the bill places an immediate ban on the importation of those species of birds that are the most threatened by continued trade. One year after enactment of the bill, the U.S. Fish and Wildlife Service must develop a list of bird species that can be imported into the United States. The bill also provides exemptions for game birds, for birds imported for scientific purposes, for zoo displays, for bird breeding, and for birds that are personal pets of individuals.

The bill also reauthorizes the Fish and Wildlife Conservation Act of 1980 and the African Elephant Conservation Act. Both are reauthorized for 5 years at their current levels of $5 million per year.

The bill also establishes the Great Lakes Fish and Wildlife Tissue Bank. This program will aid in the conservation and maintenance of healthy fish and wildlife resources for the Great Lakes. This language was recently adopted by the House earlier this month and sent to the Senate.

And finally, the bill provides technical revisions to the Coastal Barrier Resources System.

Mr. Speaker, H.R. 5013 is a bill that has had considerable input by a number of interested parties. I would like to acknowledge the work of the administration in assisting in drafting the language on exotic bird conservation and would like to point out their support for the adoption of this bill. I would also like to commend both Chairman STUDDS and Chairman JONES of their assistance in moving this legislation.

Mr. Speaker, I support the adoption of the bill and urge its passage.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 5013, the Wild Bird Conservation Act of 1992.

Trade in wild birds has contributed significantly to the decline in the population of many species. Approximately 50 percent of the birds, some 500,000 birds, that make up the bird trade are imported by the United States. Half of these birds are listed as threatened under the convention on the International Trade in endangered species [CITES]. Alongside these 500,000 legally imported birds is an unknown, but significant number of wild birds smuggled into the United States each year.

Problems associated with the smuggling of wild-caught birds include the spread of avian diseases caused from smuggled birds that are not quarantined; the decline of bird populations in exporting countries, and the inhumane conditions and high mortality experienced by wild birds during transport.

Clearly, the United States, as the largest importer of wild-caught birds, must make some significant changes to its trade practices to ensure protection and conservation of these precious species so that they will be around for future generations to enjoy.

H.R. 5013 goes a long way to meeting this goal. This bill represents the culmination of many long hours spent in discussion with members of the committee, the environmental community, breeders, veterinarians, the Zoological society, pet store owners, the Trade Representatives, and a host of other interest groups.

While no one group may be entirely satisfied with this legislation, I believe the three-tier system for banning imports of wild-caught birds is a good compromise and will offer immediate protection for those birds that have been identified as being the most threatened. Moreover, it is imperative, if we are to do anything for the birds, that we do not delay further.

Mr. Speaker, this is a good, rational bill and I strongly urge my colleagues' support for its passage.

Mr. FIELDS. Mr. Speaker, I rise in support of H.R. 5013 and compliment our distinguished colleague from Massachusetts for crafting this measure to help save our endangered wild bird populations.

While the chairman has thoroughly described the key provisions of this bill, I would like to briefly highlight section 302 which reauthorized the African Elephant Conservation Act for an additional 5 years.

As a coauthor of that landmark law, I am extremely pleased that we are taking this action because it is appropriate that this Nation remain committed to the survival of the African elephant.

While it has only been 4 years since we enacted the African Elephant Conservation Act, a number of positive developments have occurred since that time.

Mr. Speaker, President George Bush used this law as a mechanism to ban the importation of all worked ivory into the United States, to encourage other nations to improve their conservation efforts, and to provide the African elephant with the highest level of international protection.

In 1988, the African elephant was being indiscriminately slaughtered by poachers throughout Africa. The price of ivory skyrocketed, and it was clear that unless immediate action was taken, this irreplaceable species would soon disappear from the continent.

While the African elephant remains a threatened species, today, there are encouraging signs that widespread poaching has subsided as the international price and demand for ivory has plummeted. Without the African Elephant Conservation Act and the leadership of President Bush, I am convinced that our largest and most beloved land mammal, the African elephant, would not have survived.

Mr. Speaker, by extending the African Elephant Conservation Act, this Nation will retain its world leadership role in protecting the African elephant and the United States Fish and Wildlife Service can continue to fund metieorious projects to assist African nations in their conservation efforts.

Although Congress has never appropriated the full $5 million authorized by Public Law 101–478, clearly there is a need to assist certain impoverished African countries who are struggling to protect their wildlife resources. By approving this legislation, we can provide certain countries with some small but critical funding to undertake elephant census counts, to improve their wildlife parks, to build tourist infrastructures, and to assist their antipoaching patrols. By so doing, we can help to ensure that elephants will survive in the future.

In fact, just a week ago, Secretary of the Interior, Manuel Lujan, announced that the United States was providing $200,000 in emergency relief for African elephants in drought-stricken southeastern Zimbabwe.

This money will be used to relocate some 400 elephants from Zimbabwe's Gonarezhou National Park, which is suffering from one of the worst droughts in its history.

Without these badly needed funds, these elephants will perish because the Gonarezhou Park is nearly devoid of vegetation and water.

This is an excellent example of the type of project that has been funded by the African Elephant Conservation Act. I compliment Secretary Lujan and Director John Turner for their commitment to help save the African elephant.

Mr. Speaker, again, I am grateful that we are reauthorizing the African Elephant Conservation Act, I thank my colleague from Massachusetts for incorporating this provision, and I urge my colleagues to vote "aye" on H.R. 5013.

Mr. HOCHBRUECKNER. Mr. Speaker, I rise to offer my strong support for the Wild Bird Conservation Act, H.R. 5013. I commend my friend from Massachusetts, Mr. STUDDS, for introducing this bill, which will go a long way to ensure that certain species of exotic birds do not become extinct through overharvesting by the pet industry.

In 1984, as a member of the New York State Assembly, I helped to pass our State's Wild Bird Conservation Act that bans the sale of wild-caught birds. I am pleased that H.R. 5013 will not preempt either the New York or New Jersey laws. Since 1984, the New York exotic pet bird industry has grown through increased captive breeding. The fact is that the species most popular in the pet trade can, and are, being bred successfully in captivity which is good for our domestic economy. It is also a fact that captive bred birds make healthier pets.

The Wild Bird Conservation Act will effectively prevent the extinction and ensure the humane treatment of these beautiful birds through immediate moratoria and quotas on heavily traded and threatened species. Because the United States is the largest importer of wild birds for pets, we should take the lead to be sure that our love for these exotic pets does not lead to their extinction.

I urge my colleagues to join me in support of this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of H.R. 5013, the Wild Bird Conservation Act of 1992, as amended. The purpose of H.R. 5013 is to promote the conservation of exotic birds by encouraging wild bird conservation and management programs in countries of origin; by ensuring that all trade in such species involving the United States is biologically sustainable; and by limiting or prohibiting imports of exotic birds when necessary to ensure that exotic wild bird populations are not harmed by removal for purposes of international trade.

The bill complements the International Convention on International Trade in endangered species in wild flora and fauna by regulating the importation of exotic birds into the United States.

Mr. Speaker, I am pleased to report that the provisions of this bill have been worked out in close consultation between the Committee on Merchant Marine and Fisheries and the Committee on Ways and Means. As such, the bill comes to the floor today with broad bipartisan support from both committees.

H.R. 5013, as amended, is an excellent example of how to produce legislation that meets the objectives of, and takes into account the concerns of, both the environmental community and the international trade community.

For these reasons, Mr. Speaker, I urge my colleagues to join me in supporting passage of this bill.

Mr. BATEMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNulty). The question is on the motion offered by the gentleman from Massachusetts [Mr. Studds] that the House suspend the rules and pass the bill, H.R. 5013, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

OLYMPIC PENINSULA EXPERIMENTAL STATE FOREST ACT

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4615) to contribute to the conservation of the northern spotted owl and the protection of old growth resources through support for an experimental management program on State-owned trust lands on the western Olympic Peninsula of the State of Washington, as amended.

The Clerk read as follows:

H.R. 4615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to assist the experimental management and research program being conducted by the State of Washington on State-owned trust lands on the western Olympic Peninsula in order to contribute to the conservation of the northern spotted owl, old growth ecosystems, and fishery resources and to provide for a sustainable supply of timber and trust income in a manner that is consistent with these conservation objectives.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "conservation" means the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided by the Endangered Species Act (16 U.S.C. 1531 *et seq.*) are no longer necessary. Such measures and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(2) The term "Secretary" means the Secretary of the Interior acting through the Director of the U.S. Fish and Wildlife Service.

SEC. 3. MANAGEMENT AND RESEARCH PLAN FOR THE OLYMPIC STATE EXPERIMENTAL FOREST.

(a) Plan Development.—The State of Washington may develop and submit to the Secretary of the Interior a management and research plan for the Olympic Experimental State Forest that—

(1) is based upon the recommendations of the Commission on Old Growth Alternatives for Washington's Forest Trust Lands contained in the June, 1989 final report of the Commission;

(2) is developed by the State land management agency in consultation with the State wildlife agency and the Olympic Natural Resources Center or a comparable research institution; Provided, however, that the research components of the plan shall be developed jointly by the State land management agency and the Olympic Natural Resources Center or a comparable research institution, in consultation with the State wildlife agency; and

(3) provides for the close integration of research and management in the plan.

(b) Plan Contents.—(1) The plan shall provide for the conservation of the northern spotted owl in the Olympic Experimental State Forest and reflect scientifically sound ecosystem management principles designated to contribute to the conservation of fisheries, other sensitive species, and the ecology of the Forest generally.

(2) The plan shall contain the following elements:

(A) a framework for coordinated decision-making for implementing the plan among the State land management agency, the State wildlife agency, and the Olympic Natural Resources Center or a comparable research institution;

(B) a detailed description of the individual elements of the management and research plan; the process for implementing and funding the plan and an allocation of responsibilities for plan implementation and enforcement; and

(C) findings of the State wildlife agency about the extent to which the plan will achieve the objectives in paragraph (1).

SEC. 4. PLAN REVIEW AND APPROVAL.

(a) Plan Review.—Upon submission of the management and research plan for the Olympic Experimental State Forest under subsection 3(a), the Secretary shall determine whether the plan—

(1) provides for the conservation of the northern spotted owl in the experimental forest; and

(2) is consistent with the final northern spotted owl recovery plan as it applies to the Olympic Peninsula or, in the absence of a final recovery plan, the draft northern spotted owl recovery plan dated April 1992 as it applies to the Olympic Peninsula.

(b) Review and Public Comment.—The Secretary shall after notice and public comment complete the review of the management and research plans within 90 days after the submission of the plan and supporting documentation by the State of Washington under subsection 3(a).

(c) Approval.—If the Secretary determines that the management and research plan for the Olympic Experimental State forest meets the standards of subsection 4(a), the Secretary shall approve the plan and so notify the State.

(d) Relationship to Other Law.—(1) If the State authorizes identified by the plan as responsible for implementing it comply with their obligations under the approved plan, and activity conducted pursuant to its in the Olympic Experimental State Forest shall not be considered a prohibited taking of the northern spotted owl under the Endangered Species Act of 1973 (16 U.S.C. 1531, *et seq.*).

(2) If after the initial approval the Secretary subsequently determines after notice and public comment that the management and research plan for the Olympic Experimental State Forest no longer satisfies the standards in subsection 4(a)(1) or (2), then paragraph (d)(1) shall not henceforth apply.

(e) Continuing Review.—The Secretary shall periodically review the implementation of the management and research plan by the state of Washington to ensure that it is meeting the requirements of this Act and other applicable law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. Studds] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. Bateman] will be recognized for 20 minutes.

The chair recognizes the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, I rise in support of H.R. 4615, the Olympic Experimental State Forest Act which was introduced by Mrs. Unsoeld.

The bill seeks to clear the way for a progressive forestry research and management program for the State forest on the Olympic Peninsula. Because of the need to protect the northern spotted owl in the area, the bill requires the Fish and Wildlife Service to review the forest management plan to determine if it adequately conserves the owl as required by the Endangered Species Act and is otherwise consistent with the recovery plan for the owl. I would point out that the definition of the term conservation in the bill is identical to the term as defined in the ESA, and it is my intention that they be interpreted as identical.

If the Director determines the plan is adequate, then the Director is authorized to approve the plan. If the plan is approved and fully implemented by the State, then activities conducted pursuant to it will not be subject to criminal prosecutions for illegal takings under the Endangered Species Act.

The bill, in short, seeks to integrate the management and research plan with the conservation obligations of the ESA on the Olympic Experimental State Forest. It in no way otherwise modifies or restricts the requirements of the ESA, including but not limited to the emergency authorities of the Secretary under section 4(b)(7).

Mr. Speaker, this bill is one small step in our efforts to reconcile the need to conserve the northern spotted owl and forest management in the Pacific Northwest. It is a constructive first step and a welcome alternative to the posturing that has characterized the administration's approach to the issue, resulting in a set of regionwide injunctions that now blanket the timber program. So much for jobs.

In bringing the bill before the House today, I want to thank Chairman DE LA GARZA and Chairman VOLKMER of the Agriculture Committee for their constructive assistance on the legislation, and to Chairman JONES and BOB DAVIS, the ranking minority member of the Merchant Marine Committee, for their support as well. Finally, I must confess that the bill would not be here today if it were not for the untiring efforts of Representative UNSOELD who has repeatedly refused to give up the good fight to bring order to a situation that has been for too long characterized by utter chaos.

Mr. Speaker, this is a good, bipartisan effort that is a small step in the right direction, and I urge its support.

Mr. Speaker, I reserve the balance of my time.

Mr. BATEMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4615, a bill addressing the conservation of the northern spotted owl and the old-growth timber resources of the Olympic Peninsula in Washington.

While the issue of conservation of the spotted owl and its relationship to old-growth timber resources is indeed a highly emotional issue, the bill before us offers a rather logical approach for allowing a substantial supply of timber to be harvested, while protecting owl habitat. I would like to remind my colleagues that the legislation is very specific to only the State lands located in the Olympic Peninsula of Washington.

While some may say that this legislation is unnecessary and duplicates existing avenues currently offered in the Endangered Species Act, this legislation will accelerate the time frame for relief to the communities and people of that area.

Mr. Speaker, I support the legislation and urge my colleagues to join me in its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Washington [Mrs. UNSOELD], the author of the bill.

Mrs. UNSOELD. Mr. Speaker, today the House debates legislation to chart the course the State of Washington must follow under the Endangered Species Act to establish a 260,000 acre experimental forest on State-owned lands on the Olympic Peninsula.

Before I explain the bill, I want to express my sincere appreciation to Chairmen JONES and DE LE GARZA of the Merchant Marine and Fisheries and Agriculture Committees, as well as Chairman STUDDS of the Wildlife Conservation Subcommittee and Chairman VOLKMER of the Forests Subcommittee. Without the supportive efforts of these Members, and the expertise and dedication of their respective staffs, we would not be here discussing this bill today. I also want to thank my Washington State colleagues—NORM DICKS, AL SWIFT, and SID MORRISON—as well as Public Lands Commissioner Brian Boyle and the Governor's timber team—for their active support of this legislation.

The Olympic Experimental State Forest is a concept first put forward by the Commission on Old Growth Alternatives for Washington State Trust Lands. This commission—comprised of environmentalists, timber representatives, and community leaders—reached consensus on a comprehensive set of recommendations for managing State-owned forests on the Olympic Peninsula. The experimental forest, along with logging deferrals on critical spotted owl habitat, was the centerpiece of the commission's proposal.

H.R. 4615 would allow the experimental forest to move forward. Under the bill, the State of Washington, together with scientists at the Olympic Natural Resources Center, will prepare and submit a management and research plan for the State-owned lands of the Olympic Peninsula to the Secretary of Interior. If, after public comment, the Secretary determines that the plan provides for the conservation of spotted owls, activities in accordance with the plan shall not be considered a taking under the Endangered Species Act.

This bill applies the standard of conservation, as defined in the Endangered Species Act as the basis for plan approval. As such, this bill does not change the existing authority of the Secretary.

Mr. Speaker, the future management of our forest in the Pacific Northwest is a very complex and emotional issue. Interest groups are polarized and Federal resource agencies paralyzed at the mere mention of spotted owls or old-growth trees. The result is massive mistrust and a growing frustration toward Government resource management agencies. This legislation will not solve this larger crisis. But it will provide us with a scientifically sound and aggressive research program for developing future forest management plans to provide both sustainable harvests and healthy forest ecosystems.

This bill is not for industry groups who tell us we can return to the good old days and restore lost jobs if only we ignore the hysterical shrieks of those radical preservations.

And this bill is not for the environmental groups who claim the industry has destroyed our forests forever and the only way to provide a shred of hope for the future is to draw circles on maps and legislatively lock up every Douglas fir, hemlock, and cedar tree forever.

Mr. Speaker, this bill is for sincere people who truly want to save jobs and save the owl; for those people who recognize past mistakes in our forests, and who seek help in developing new, scientifically based forest management practices.

I urge its adoption.

□ 2040

Mr. BATEMAN. Mr. Speaker, I am pleased to yield 2 minutes to the very capable and distinguished gentleman from Washington [Mr. MORRISON].

Mr. MORRISON. Mr. Speaker, I thank the gentleman from Virginia for yielding time to me, and thank all of those responsible for moving this bill to the floor this evening. The gentleman from Massachusetts [Mr. STUDDS] mentioned that this was a small step, and I suppose if we look at the quarter of a million acres out in the vast expanses of the West, it is a small area. But some of us would consider this a large step because of the complexity of the issue we are dealing with, and that is the Endangered Species Act and the northern spotted owl.

What I like about this is that it started with a group of excellent people representing all interests in the Northwest, put together by our now-retiring commissioner of public lands, Brian Boyle. The Commission on Old Growth Alternatives and the ideas they put forth in this proposed experimental forest come to us this evening.

The idea of coordinating within this area a master plan to meet the requirements of the Endangered Species Act, to bring together the protection for the owl, the old-growth ecosystem, fish habitat and still allow for experimental harvest is perhaps in the best interests of all people. Not just those in the State of Washington, but across the country as we utilize the yardstick of the Endangered Species Act to say as a society we are not doing all of the things we should be doing to protect many of these creatures that are very important to us. So I congratulate the gentlewoman from Washington [Mrs. UNSOELD]. I have enjoyed working with NORM DICKS and AL SWIFT as this has come together. Now let us send it on and let Washington State through this experimental force say that by working together we can make very good things happen.

Mr. STUDDS. Mr. Speaker, I yield 4 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I rise in strong support of the bill under suspension, H.R. 4615, a bill to assist the experimental management program being conducted by the State of Washington on State-owned trust lands on the Olympic Peninsula. I want to thank the chairman of the Merchant Marine and Fisheries Committee, Mr. JONES, and the ranking minority, Mr. DAVIS of Michigan, and the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. STUDDS, as well as that subcommittee's ranking minority, Mr. YOUNG. I especially want to thank my colleague from the State of Washington, Mrs. UNSOELD, who serves on the committee. She has been tireless in her efforts to see that this bill was brought to the floor for consideration.

The Olympic Peninsula experimental forest concept represents a creative attempt to address multiuse management concerns on the State land base on the Olympic Peninsula. The experimental forest is very promising for its potential to benefit timber-dependent communities such as Forks, WA, and communities on the Olympic Peninsula are very supportive of what the State is attempting to achieve with the forest.

The concept of an experimental forest was initially recommended by the State's commission on old-growth alternatives in 1989. The experimental forest concept represents an innovative approach to the ecological management of 260,000 acres of Washington State-owned trust land. The stated goal of the experimental forest concept is to "investigate, develop, and implement methods to produce a level of timber harvest comparable with contemporary forest practices and simultaneously provide for ecological values."

The proposed experimental forest lies on the western Olympic Peninsula, and contains most of the old-growth forest remaining on State lands. Some of the key aspects of experimental planning on the forest include: Reliance on a broad range of innovative silvicultural techniques; a detailed and comprehensive research and monitoring program; adaptive management strategies; use of forest structural diversity to ensure ecosystem diversity; and the unified management of broad landscape units of 4,000 to 15,000 acres each.

Some examples of actions that may occur on the experimental forest include: Landscape management techniques that would utilize selective harvest and thinning; the application of new forestry approaches such as leaving large green trees, snags, and downed logs in a harvested area; the implementation of plans for longer harvest rotations; providing for proportions of various types of stand structures across landscape units; and utilizing approaches which encourage natural regeneration processes.

Specifically, H.R. 4615 allows for the State of Washington to develop and submit to the Secretary of the Interior a management plan for the Olympic Experimental State Forest that is based on the recommendations of the Commission on Old Growth Alternatives, is developed by the State Land Management Agency in consultation with the State Wildlife Agency and Olympic Natural Resources Center, and provides for the close integration of research and management in the plan. The plan is to provide for the conservation of the northern spotted owl on the Olympic Experimental State Forest and reflect scientifically sound ecosystem management principles designed to contribute to the conservation of fish and other sensitive species.

Upon submission of the plan, the Secretary of Interior is to determine whether the plan for the experimental State forest provides for the conservation of the northern spotted owl and is consistent with the final northern spotted owl recovery plan. If the Secretary determines that the Olympic Experimental Forest plan meets these standards, then the Secretary is to approve the management plan and notify the State.

Mr. Speaker, this bill will get the State's experimental forest proposal out from under a situation of suspended animation, to move forward with a process for the implementation of creative, scientifically credible, and ecologically sound approaches to forest management. I urge its adoption.

Mr. SWIFT. Mr. Speaker, this evening the House is considering H.R. 4615, the Olympic Experimental State Forest Act. I strongly support this legislation.

The Olympic Peninsula in Washington State is undergoing a dramatic economic change due in part to the restrictions in logging because of the listing of the northern spotted owl as a threatened species. The physical core of the peninsula is the Olympic National Park. The Olympic National Forest surrounds the park except for the north boundary and a large section on the west side—which is primarily owned by the State of Washington. Approximately two-thirds of the land on the peninsula is in either Federal or State government control.

Over the past several years, the Olympic National Forest has seen its annual harvest reduced from an average of 235 million board feet to 22 million board feet. Most of this reduction is due to setting aside millions of acres of forests for preservation of the owl. On the peninsula, each pair of owls needs over 3,000 acres of forest to survive. Legislation which is going through the House could reduce the harvest rate to as low as 8 million board feet—a reduction of 96 percent from harvest levels of just 10 years ago.

Scientists and forestry experts have told us in hearings that during the last 20 years we have learned a great deal that simply wasn't known before about the diverse world that exists within the forests. What may have been appropriate management practices a couple of decades ago is no longer adequate to protect the health of the diverse forest ecology. Further, new ideas about how to maintain biological diversity and timber production at the same time have been presented to us. However, we cannot conduct experiments on the national forest lands due to restrictions within the Endangered Species Act.

If, in fact, we can work out, we can explore, we can define, we can establish in our own minds that the new science is solid, then the responsible people on both sides ought to be able to find in these kinds of new proposals a balance. One in which we can reach a pragmatic, practicable solution so our forests are properly managed to maintain the biological diversity that currently exists in our wilderness areas, and our forest industry will be able to continue to provide the 2 by 4's to build our homes and the pulp to make our paper, as well as other wood products.

That is where the Olympic Experimental Forest can help. This bill would allow the recommendations of a commission of community leaders, environmentalists and timber employees to go forward on Washington State lands. The commission agreed to set aside the most valuable old growth forests for 15 years, while trying some of these new ideas on other land. These experiments could lead to new knowledge on how to achieve the much need balance between biological diversity and resource development.

Who would benefit from an experimental forest on the Olympic Peninsula? Everyone. The local timber industry would be allowed a harvest, although greatly reduced. Forestry scientists would be able to try some of their ideas in the field. The environmental community stands to gain additional knowledge while protecting 15,000 acres of old growth. And finally, the local community which has been most severely impacted by the economic upheaval would benefit through renewed faith in the Federal Government; through the interchange of ideas with the scientists that would plan, observe, and comment on the different techniques being used; through preservation of their environment; and through the renewed economic activity.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 4615, the Olympic Experimental State Forest Act.

Concerned groups in Washington State have reached an important consensus on an experimental management and research program for 260,000 acres of forest trust lands on the Olympic Peninsula.

This program will contribute to the conservation of the northern spotted owl, old growth forest ecosystems, and the fishery resources of the area. In addition, it will provide for an adequate supply of timber and enough trust income to fund educational institutions in the State.

Currently, little timber harvest or research is taking place within the experimental forest because of the taxing provisions under the Endangered Species Act that protect the northern spotted owl.

To solve this problem, H.R. 4615 establishes a process within which an approved management and research plan will meet the requirements of the Endangered Species Act and the spotted owl. This will speed up the implementation of the agreed-upon plan.

H.R. 4615 has the support of the State of Washington, the timber industry, and the conservation community.

I urge my colleagues to support H.R. 4615.

Mr. BATEMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4615, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

UNITED STATES-HONG KONG POLICY ACT OF 1992

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1731) to establish the policy of the United States with respect to Hong Kong, and for other purposes, as amended.

The Clerk read as follows:

S. 1731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Hong Kong Policy Act of 1992".

SEC. 2. FINDINGS AND DECLARATIONS.

The Congress makes the following findings and declarations:

(1) The Congress recognizes that under the 1984 Sino-British Joint Declaration:

(A) The People's Republic of China and the United Kingdom of Great Britain and Northern Ireland have agreed that the People's Republic of China will resume the exercise of sovereignty over Hong Kong on July 1, 1997. Until that time, the United Kingdom will be responsible for the administration of Hong Kong.

(B) The Hong Kong Special Administrative Region of the People's Republic of China, beginning on July 1, 1997, will continue to enjoy a high degree of autonomy on all matters other than defense and foreign affairs.

(C) There is provision for implementation of a "one country, two systems" policy, under which Hong Kong will retain its current lifestyle and legal, social, and economic systems until at least the year 2047.

(D) The legislature of the Hong Kong Special Administrative Region will be constituted by elections, and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong, shall remain in force.

(E) Provision is made for the continuation in force of agreements implemented as of June 30, 1997, and for the ability of the Hong Kong Special Administrative Region to conclude new agreements either on its own or with the assistance of the Government of the People's Republic of China.

(2) The Congress declares its wish to see full implementation of the provisions of the Joint Declaration.

(3) The President has announced his support for the policies and decisions reflected in the Joint Declaration.

(4) Hong Kong plays an important role in today's regional and world economy. This role is reflected in strong economic, cultural, and other ties with the United States that give the United States a strong interest in the continued vitality, prosperity, and stability of Hong Kong.

(5) Support for democratization is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy toward Hong Kong. This will remain equally true after June 30, 1997.

(6) The human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong. A fully successful transition in the exercise of sovereignty over Hong Kong must safeguard human rights in and of themselves. Human rights also serve as a basis for Hong Kong's continued economic prosperity.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Hong Kong" means, prior to July 1, 1997, the British Dependent Territory of Hong Kong, and on and after July 1, 1997, the Hong Kong Special Administrative Region of the People's Republic of China;

(2) the term "Joint Declaration" means the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing on December 19, 1984; and

(3) the term "laws of the United States" means provisions of law enacted by the Congress.

TITLE I—POLICY

SEC. 101. BILATERAL TIES BETWEEN THE UNITED STATES AND HONG KONG.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to its bilateral relationship with Hong Kong:

(1) The United States should play an active role, before, on, and after July 1, 1997, in maintaining Hong Kong's confidence and prosperity, Hong Kong's role as an international financial center, and the mutually beneficial ties between the people of the United States and the people of Hong Kong.

(2) The United States should actively seek to establish and expand direct bilateral ties and agreements with Hong Kong in economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, sport, and other appropriate areas.

(3) The United States should seek to maintain, after June 30, 1997, the United States consulate-general in Hong Kong, together with other official and semi-official organizations, such as the United States Information Agency American Library.

(4) The United States should invite Hong Kong to maintain, after June 30, 1997, its official and semi-official missions in the United States, such as the Hong Kong Economic & Trade Office, the Office of the Hong Kong Trade Development Council, and the Hong Kong Tourist Association. The United States should invite Hong Kong to open and maintain other official or semi-official missions to represent Hong Kong in those areas in which Hong Kong is entitled to maintain relations on its own, including economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, and sport areas.

(5) The United States should recognize passports and travel documents issued after June 30, 1997, by the Hong Kong Special Administrative Region.

(6) The resumption by the People's Republic of China of the exercise of sovereignty over Hong Kong after June 30, 1997, should not affect treatment of Hong Kong residents who apply for visas to visit or reside permanently in the United States, so long as such treatment is consistent with the Immigration and Nationality Act.

SEC. 102. PARTICIPATION IN MULTILATERAL ORGANIZATIONS, RIGHTS UNDER INTERNATIONAL AGREEMENTS, AND TRADE STATUS.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to Hong Kong after June 30, 1997:

(1) The United States should support Hong Kong's participation in all appropriate multilateral conferences, agreements, and organizations in which Hong Kong is eligible to participate.

(2) The United States should continue to fulfill its obligations to Hong Kong under international agreements, so long as Hong Kong reciprocates, regardless of whether the People's Republic of China is a party to the particular international agreement, unless and until such obligations are modified or terminated in accordance with law.

(3) The United States should respect Hong Kong's status as a separate customs territory, and as a contracting party to the General Agreement on Tariffs and Trade, whether or not the People's Republic of China participates in the latter organization.

SEC. 103. COMMERCE BETWEEN THE UNITED STATES AND HONG KONG.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to commerce between the United States and Hong Kong:

(1) The United States should seek to maintain and expand economic and trade relations with Hong Kong and should continue to treat Hong Kong as a separate territory in economic and trade matters, such as import quotas and certificates of origin.

(2) The United States should continue to negotiate directly with Hong Kong to conclude bilateral economic agreements.

(3) The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after June 30, 1997, should treat Hong Kong as a territory

which is fully autonomous from the People's Republic of China with respect to economic and trade matters.

(4) The United States should continue to grant the products of Hong Kong nondiscriminatory trade treatment (commonly referred to as "most-favored-nation status") by virtue of Hong Kong's membership in the General Agreement on Tariffs and Trade.

(5) The United States should recognize certificates of origin for manufactured goods issued by the Hong Kong Special Administrative Region.

(6) The United States should continue to allow the United States dollar to be freely exchanged with the Hong Kong dollar.

(7) United States businesses should be encouraged to continue to operate in Hong Kong, in accordance with applicable United States and Hong Kong law.

(8) The United States should continue to support access by Hong Kong to sensitive technologies controlled under the agreement of the Coordinating Committee for Multilateral Export Controls (commonly referred to as "COCOM") for so long as the United States is satisfied that such technologies are protected from improper use or export.

(9) The United States should encourage Hong Kong to continue its efforts to develop a framework which provides adequate protection for intellectual property rights.

(10) The United States should negotiate a bilateral investment treaty directly with Hong Kong, in consultation with the Government of the People's Republic of China.

(11) The change in the exercise of sovereignty over Hong Kong should not affect ownership in any property, tangible or intangible, held in the United States by any Hong Kong person.

SEC. 104. TRANSPORTATION.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States after June 30, 1997, with respect to transportation from Hong Kong:

(1) Recognizing Hong Kong's position as an international transport center, the United States should continue to recognize ships and airplanes registered in Hong Kong and should negotiate air service agreements directly with Hong Kong.

(2) The United States should continue to recognize ships registered by Hong Kong.

(3) United States commercial ships, in accordance with applicable United States and Hong Kong law, should remain free to port in Hong Kong.

(4) The United States should continue to recognize airplanes registered by Hong Kong in accordance with applicable laws of the People's Republic of China.

(5) The United States should recognize licenses issued by the Hong Kong to Hong Kong airlines.

(6) The United States should recognize certificates issued by the Hong Kong to United States air carriers for air service involving travel to, from, or through Hong Kong which does not involve travel to, from, or through other parts of the People's Republic of China.

(7) The United States should negotiate at the appropriate time directly with the Hong Kong Special Administrative Region, acting under authorization from the Government of the People's Republic of China, to renew or amend all air service agreements existing on June 30, 1997, and to conclude new air service agreements affecting all flights to, from, or through the Hong Kong Special Administrative Region which do not involve travel to, from, or through other parts of the People's Republic of China.

(8) The United States should make every effort to ensure that the negotiations described in paragraph (7) lead to procompetitive air service agreements.

SEC. 105. CULTURAL AND EDUCATIONAL EXCHANGES.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to cultural and educational exchanges with Hong Kong:

(1) The United States should seek to maintain and expand United States-Hong Kong relations and exchanges in culture, education, science, and academic research. The United States should encourage American participation in bilateral exchanges with Hong Kong, both official and unofficial.

(2) The United States should actively seek to further United States-Hong Kong cultural relations and promote bilateral exchanges, including the negotiating and concluding of appropriate agreements in these matters.

(3) Hong Kong should be accorded separate status as a full partner under the Fulbright Academic Exchange Program (apart from the United Kingdom before July 1, 1997, and apart from the People's Republic of China thereafter), with the continuation or establishment of a Fulbright Commission or functionally equivalent mechanism.

(4) The United States should actively encourage Hong Kong residents to visit the United States on nonimmigrant visas for such purposes as business, tourism, education, and scientific and academic research, in accordance with applicable United States and Hong Kong laws.

(5) Upon the request of the Legislative Council of Hong Kong, the Librarian of Congress, acting through the Congressional Research Service, should seek to expand educational and informational ties with the Council.

TITLE II—THE STATUS OF HONG KONG IN UNITED STATES LAW

SEC. 201. CONTINUED APPLICATION OF UNITED STATES LAW.

(a) IN GENERAL.—Notwithstanding any change in the exercise of sovereignty over Hong Kong, the laws of the United States shall continue to apply with respect to Hong Kong, on and after July 1, 1997, in the same manner as the laws of the United States were applied with respect to Hong Kong before such date unless otherwise expressly provided by law or by Executive order under section 202.

(b) INTERNATIONAL AGREEMENTS.—For all purposes, including actions in any court in the United States, the Congress approves the continuation in force on and after July 1, 1997, of all treaties and other international agreements, including multilateral conventions, entered into before such date between the United States and Hong Kong, or entered into before such date between the United States and the United Kingdom and applied to Hong Kong, unless or until terminated in accordance with law. If in carrying out this title, the President determines that Hong Kong is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Hong Kong's obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, such determination shall be reported to the Congress in accordance with section 301.

SEC. 202. PRESIDENTIAL ORDER.

(a) PRESIDENTIAL DETERMINATION.—On or after July 1, 1997, whenever the President determines that Hong Kong is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People's Republic of China, the President may issue an Executive order suspending the application of section 201(a) to such law or provision of law.

(b) FACTOR FOR CONSIDERATION.—In making a determination under subsection (a) with respect to the application of a law of the United States, or any provision thereof, to Hong Kong, the President should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(c) PUBLICATION IN FEDERAL REGISTER.—Any Executive order issued under subsection (a) shall be published in the Federal Register and shall specify the law or provision of law affected by the order.

(d) TERMINATION OF SUSPENSION.—An Executive order issued under subsection (a) may be terminated by the President with respect to a particular law or provision of law whenever the President determines that Hong Kong has regained sufficient autonomy to justify different treatment under the law or provision of law in question. Notice of any such termination shall be published in the Federal Register.

SEC. 203. RULES AND REGULATIONS.

The President is authorized to prescribe such rules and regulations as the President may deem appropriate to carry out this Act.

SEC. 204. CONSULTATION WITH CONGRESS.

In carrying out this title, the President shall consult appropriately with the Congress.

TITLE III—REPORTING PROVISIONS

SEC. 301. REPORTING REQUIREMENT.

Not later than March 31, 1993, March 31, 1995, March 31, 1997, March 31, 1998, March 31, 1999, and March 31, 2000, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on conditions in Hong Kong of interest to the United States. This report shall cover (in the case of the initial report) the period since the date of enactment of this Act or (in the case of subsequent reports) the period since the most recent report pursuant to this section and shall describe—

(1) significant developments in United States relations with Hong Kong, including a description of agreements that have entered into force between the United States and Hong Kong;

(2) other matters, including developments related to the change in the exercise of sovereignty over Hong Kong, affecting United States interests in Hong Kong or United States relations with Hong Kong;

(3) the nature and extent of United States-Hong Kong cultural, education, scientific, and academic exchanges, both official and unofficial;

(4) the laws of the United States with respect to which the application of section 201(a) has been suspended pursuant to section 202(a) or with respect to which such a suspension has been terminated pursuant to section 202(d), and the reasons for the suspension or termination, as the case may be;

(5) treaties and other international agreements with respect to which the President has made a determination described in the last sentence of section 201(b), and the reasons for each such determination;

(6) significant problems in cooperation between Hong Kong and the United States in the area of export controls;

(7) the development of democratic institutions in Hong Kong; and

(8) the nature and extent of Hong Kong's participation in multilateral forums.

SEC. 302. SEPARATE PART OF COUNTRY REPORTS.

Whenever a report is transmitted to the Congress on a country-by-country basis there shall be included in such report, where applicable, a separate subreport on Hong Kong under the heading of the state that exercises sovereignty *over Hong Kong. The reports to which this section applies include the reports transmitted under—*

(1) sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (relating to human rights);

(2) section 181 of the Trade Act of 1974 (relating to trade barriers); and

(3) section 2202 of the Export Enhancement Act of 1988 (relating to economic policy and trade practices).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am honored to bring before the House today S. 1731, the United States-Hong Kong Policy Act of 1992. The chairman of the House Foreign Affairs Subcommittee on Asian and Pacific Affairs, the Honorable STEPHEN SOLARZ, who worked extensively on this measure, could not be present and requested that I manage the bill.

S. 1731 was introduced by the distinguished Senator from Kentucky, the Honorable MITCH MCCONNELL, and passed the Senate on May 21. It was approved with amendments by the House Foreign Affairs Committee on August 4.

In bringing this bill to the floor, I would like to recognize the contributions of the following individuals:

The gentleman from Illinois, Congressman JOHN PORTER, who introduced H.R. 3522, the House companion to S. 1731, and who has demonstrated a long-standing concern for the people of Hong Kong;

The chairman and ranking members of the subcommittee of the Foreign Affairs Committee to which the bill was referred, and to the chairman and ranking member of the full committee;

The chairman and ranking members of the Ways and Means Committee and the Public Works and Transportation Committee for facilitating expeditious action on this bill by the full House. In that regard, I will include in the RECORD letters from the chairmen of those two committees indicating that they have no objections to consideration of S. 1731 by the full House.

In enacting the United States-Hong Kong Policy Act, the Congress seeks to achieve several purposes:

First, the bill makes explicit what is implicit regarding United States relations with Hong Kong once sovereignty over the territory reverts to China in 1997.

It makes specific statements of policy in areas such as governmental representation, commerce, transportation, and cultural exchanges.

These are areas where China agreed that Hong Kong could act on its own, even after 1997, so there is no reason for us not to clarify our position.

Second, the bill constructs a bridge across the 1997 divide, so that, where appropriate, United States laws that are currently being applied to Hong Kong may continue to apply after reversion, and international agreements to which the United States and Hong Kong are parties may continue in force.

Because we are a nation of laws, such a transition mechanism is necessary and appropriate.

Third, and most importantly, the bill expresses a political commitment that the Government and people of the United States will remain concerned about the welfare and well-being of the people of Hong Kong.

Because of the admiration Americans have for the accomplishments of the people of Hong Kong, and because of the many ways in which the residents of Hong Kong have enriched our country, it is natural that we will remain concerned about their fate and future.

To be effective, a statement of political commitment by the United States should represent a broad-based consensus.

In that regard, I am pleased to report that this bill is strongly supported by Members on both sides of the aisle and at both ends of Pennsylvania Avenue.

The amendments that the House Foreign Affairs Committee adopted were coordinated with the administration and with relevant parties in the Senate.

Mr. Speaker, I am pleased to bring the United States-Hong Kong Policy Act of 1992—and the political commitment it embodies—before the House. I urge all Members to support it.

OVERVIEW ON UNITED STATES-HONG KONG POLICY ACT OF 1992

1. As the flagship financial capital of Southeast Asia, Hong Kong's market has attracted significant investment by the United States. Over the past decade, our Nation's economic interests in Hong Kong have grown tremendously.

Currently, the U.S. has more than $7 billion invested in assets in Hong Kong.

Over $99 billion U.S. dollars are deposited in Hong Kong financial institutions.

U.S. firms and businesses located in Hong Kong number well over 900.

More than 22,000 Americans live in Hong Kong to conduct business.

2. Hand in hand with America's investment in Hong Kong has been a dramatic increase in our trade relationship.

In 1991, just shy of $17.5 billion of trade was done between our Nation and Hong Kong, making Hong Kong our 14th largest trading partner in the world.

Over the past six years, U.S. exports to Hong Kong have nearly doubled, totalling well over $8 billion of U.S. goods bought last year by residents of Hong Kong.

Broken down, each resident of Hong Kong averaged over $1,300 in purchases of U.S. goods, which, on a per capita basis, is three times more than what the Japanese purchased from us last year.

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, July 30, 1992.

Hon. DANTE B. FASCELL,
Committee on Foreign Affairs, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR DANTE: I understand that the Committee on Foreign Affairs will be marking up S. 1731, "To Establish the Policy of the United States with Respect to Hong Kong," in the near future and that the Committee on Public Works and Transportation has been asked to review certain sections within its jurisdiction.

It is also my understanding that your Committee is interested in proceeding to the House Floor expeditiously and that you would like the Committee on Public Works and Transportation to waive its right to a sequential referral on the matters within its jurisdiction so that you may move forward quickly.

After reviewing the provisions and consulting with the aviation leadership of our Committee we are agreeable to doing so, assuming acceptance of one addition (attached) to the bill.

That suggestion, which has been supplied to your staff, is for an additional "Sense of the Congress" regarding a procompetitive bilateral aviation agreement between the U.S. and Hong Kong. It is our understanding that your Committee is amendable to this, and we appreciate your assistance in including it in your bill.

While we are waiving our right to a sequential referral, we want to state that this should in no way be construed that our Committee is relinquishing its jurisdiction on these aviation matters. We can certainly foresee circumstances in the future when we would certainly exercise our jurisdictional rights on similar matters. We are proceeding this way only in order that the legislation be brought to the House Floor expeditiously. We would also expect to have Members of our Committee named as Conferees, should there be a conference on this legislation.

We would like to receive a reply letter, which would be included in your Committee report, acknowledging our jurisdiction.

We very much appreciate the cooperative manner in which your Committee has worked with us on this bill. We look forward to continuing our Committees' close working relationships on matters of mutual interest.

With warmest personal regards.

Sincerely,

ROBERT A. ROE,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, August 4, 1992.

Hon. ROBERT A. ROE,
Chairman, Committee on Public Works and Transportation, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of July 30 concerning S. 1731, legislation establishing U.S. policy with respect to Hong Kong.

I am pleased to note that in the interest of legislative expediency, the Committee on Public Works and Transportation is prepared to waive its right to referral on S. 1731, without prejudice to the Committee's jurisdiction.

When the bill is marked up on August 5, Chairman Solarz of the Asia and Pacific Affairs Subcommittee is prepared to offer the additional language which you would like to see included in the bill. In addition, should there be a conference on this legislation, I would support your request to be represented on such a conference for those provisions over which you have jurisdiction.

Thank you for your cooperation in this matter.

With best wishes, I am
Sincerely yours,
DANTE B. FASCELL,
Chairman.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, August 3, 1992.
Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning S. 1731, the "United States-Hong Kong Policy Act of 1992," which passed the Senate and was referred to the Committee on Foreign Affairs on May 27. I understand that the Committee is likely to order this bill favorably reported this week and will request House consideration early next week under suspension of the rules.

Several provisions of this bill concerning U.S. trade policy toward Hong Kong fall within the jurisdiction of the Committee on Ways and Means. In addition to economic and trade relations generally, the bill contains several provisions that refer specifically to relations with Hong Kong under various U.S. trade laws. Section 102 would maintain Hong Kong's status as a separate customs territory and member of the General Agreement on Tariffs and Trade irrespective of China's membership status. Section 103 applies to commerce between the United States and Hong Kong, stating that the United States should continue to treat Hong Kong as a separate territory in economic and trade matters, such as import quotas and certificates of origin, negotiate directly with Hong Kong to conclude bilateral economic agreements, continue to grant Hong Kong nondiscriminatory, most-favored-nation trade treatment, and recognize Hong Kong certificates of origin for manufactured goods. Section 201 provides that U.S. laws and international agreements, including import and other trade laws and agreements, would continue to apply to Hong Kong. Finally, the annual report to the Congress prepared by the U.S. Trade Representative on foreign trade barriers required under section 181 of the Trade Act of 1974 would include a subreport on Hong Kong. Each of these provisions would continue existing U.S. commercial policy toward Hong Kong.

In view of your desire for early House passage of this bill and the noncontroversial nature of the trade-related provisions and the fact they do not change existing U.S. trade laws or policies, I am willing to waive Committee jurisdiction over these provisions, with the understanding that a waiver in this instance in no way establishes a precedent or prejudices the Committee on Ways and Means' jurisdiction over provisions of the type described above. I would appreciate your confirmation of this understanding and reference to this exchange of letters during House consideration of the bill.

I appreciate the cooperation extended to the Committee on Ways and Means by you and your staff.

Sincerely yours,
DAN ROSTENKOWSKI,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, August 5, 1992.
Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of August 3 concerning S. 1731, legislation establishing U.S. policy with respect to Hong Kong.

I am pleased to note that in the interest of legislative expediency, the Committee on Ways and Means is preparing to waive its right to referral on S. 1731, without prejudice to the Committee's jurisdiction.

Should there be a conference on this legislation, I would support your request to be represented on such a conference for those provisions over which you have jurisdiction.

Thank you for your cooperation in this matter.

With best wishes, I am
Sincerely yours,
DANTE B. FASCELL,
Chairman.

☐ 2050

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with its dynamic economy and free citizenry, Hong Kong plays an important role in the rapid economic growth and political development in Asia and the Pacific.

This British Crown Colony serves as the principal financial capital in Southeast Asia. Hong Kong is one of our key trading partners, a major target for United States investment, and the base for more than 900 American firms doing business in the region. It is also the gateway for United States business into the growing economy of southern China.

But while much of the world moves toward greater democracy and market economies, Hong Kong could be forced to move in the opposite direction in 1997.

This concern arises because on July 1, 1997, Hong Kong will go from colonial British rule to Chinese sovereignty.

Under the 1984 Sino-British Joint Declaration, Hong Kong is supposed to be administered as a special administrative region. Its economic structure and the fundamental rights of its people are guaranteed for 50 years.

This bill supports the continuation, within the context of the Joint Agreement, of the many ties—from commercial and transportation arrangements to cultural and educational exchanges—between the United States and Hong Kong.

The bill also restates the United States laws and international agreements that apply to Hong Kong, and establishes the conditions for maintaining them. These measures will help build confidence in Hong Kong and help its people maintain their political freedoms and human rights.

Mr. Speaker, I commend the chairman of the Foreign Affairs Committee, DANTE FASCELL, as well as Congressmen SOLARZ and LEACH for bringing this important legislation to the floor. The administration has also worked closely on this bill, and it is my understanding that they support it.

I urge my colleagues to vote for S. 1731. This bill will help promote continued political freedom and economic stability in Hong Kong and otherwise support United States interests in the region.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I applaud the Foreign Affairs Committee and its able chairman, Mr. FASCELL, its distinguished vice chairman, WILLIAM BROOMFIELD, as well as Mr. SOLARZ, chairman of the Asian and Pacific Affairs Subcommittee for bringing this important bill to the floor. I also commend the gentleman from American Samoa [Mr. FALEOMAVAEGA] for his able management of the bill on the floor.

In the past, questions regarding Hong Kong have usually been considered in the context of a broader policy toward China or Southeast Asia. Today, however, the impending transfer of Hong Kong's sovereignty to China in 1997 and the substantial and growing economic links between the United States and Hong Kong have led to a greater understanding of Hong Kong's importance to the United States in its own right.

Hong Kong is the United States' 14th largest trading partner. United States entities have in excess of $7 billion invested in Hong Kong and 900 United States companies have offices in Hong Kong. The number of United States expatriates living in Hong Kong has almost doubled in the last decade and now stands at 23,000. More than 600,000 American tourists pass through Hong Kong every year.

We also care deeply, Mr. Speaker, about the 7 million people of Hong Kong, that their basic rights as human beings continue to be respected, that they continue to enjoy the economic freedom that has made them the envy of the world, that their opportunities to choose democratically their own leaders be reinforced and enhanced.

In 1997, China will resume sovereignty over Hong Kong under the provisions of the Sino-British Joint Declaration of 1984. The Joint Declaration guarantees Hong Kong a high degree of autonomy in certain areas and lays the groundwork for a one country, two systems policy. China will conduct Hong Kong's defense and foreign relations and Hong Kong will conduct its own affairs in the areas of trade, economics, finance, monetary issues, shipping, communications, tourism, sport, and culture.

It has become apparent to me, however, that the guarantees of autonomy for Hong Kong are meaningless unless other nations step forward and amend their laws to allow for continued bilateral relations with Hong Kong after the Chinese resume sovereignty. Under current United States law, Hong Kong will be treated as a unified part of China after 1997 and the provisions of the Joint Declaration will be meaningless in the context of the United States-Hong Kong relationship.

For example, if Congress takes no action, Hong Kong would be treated as part of China for the purposes of export controls. In practical terms, this means that Hong Kong, one of Asia's largest and most advanced banking entities, would not have access to the state of the art American-made supercomputers they need to continue to serve business in Hong Kong, including American business because under our law these computers are not made available to China. Also, under current law Hong Kong would be treated as part of mainland China for purposes of trade quotas. This bill allows the United States Customs Service to give Hong Kong separate status and recognize Hong Kong certificates of origin after 1997.

The list goes on and on. Without a change in United States law it is unclear whether the United States could recognize Hong Kong passports or visas. Although Hong Kong holds membership in GATT, it is unclear whether the United States could give Hong Kong and China different MFN status after 1997 without this change in United States law.

Unless the United States takes specific action to tailor its laws to new realities, it will be supporting a one country, one system policy with regard to Hong Kong and China. This we must not do.

I introduced the United States-Hong Kong Policy Act in October 1991 to begin the process of formulating a coherent United States policy toward Hong Kong that will permit Hong Kong to exercise the autonomy granted to it in the Joint Declaration. The legislation we are considering today—which is very similar to a bill introduced by Senator MCCONNELL and passed by the Senate on May 21—is based on the tenets of the Joint Declaration and is designed to amend United States law to allow the United States to treat Hong Kong as a separate entity, where appropriate, after June 30, 1997.

I introduced this legislation because I believe that the United States has a very real, legitimate, and growing interest in the future of Hong Kong and must be pro-active in protecting its interests.

H.R. 3522 is based on the premise that Hong Kong will be allowed to exercise a high degree of autonomy after 1997. In order to exercise this autonomy in the context of a bilateral relationship with the United States, United States law must be altered to recognize Hong Kong's unique status.

Specifically, this bill recognizes that the People's Republic of China will resume sovereignty over Hong Kong after June 30, 1997, that the United Kingdom will be responsible for administration of Hong Kong before that date, and that Congress welcomes implementation of the one country, two systems policy under which Hong Kong will retain its current lifestyle, and legal, social, and economic systems until at least the year 2047.

The bill goes on to express the sense of the Congress that the United States should seek to establish bilateral ties with Hong Kong in economic, trade, financial, monetary, shipping, communications, touristic, cultural, sport, and other appropriate matters to the extent that Hong Kong is allowed to exercise autonomy in these fields under the Joint Declaration after 1997.

The bill would: encourage Hong Kong to maintain its Trade and Economic offices in the United States; support Hong Kong's participation in appropriate multilateral organizations, conferences and agreements, including GATT; encourage negotiation of bilateral trade agreements with Hong Kong; maintain separate import quotas for Hong Kong; support Hong Kong's access to dual use technology; recognize ships and airplanes registered in Hong Kong; encourage cultural and educational exchanges; and, guarantee the property rights of Hong Kong residents to their possessions in the United States.

These changes are absolutely essential if the United States wants to maintain a separate economic and cultural relationship with Hong Kong outside the shadow of China, and to protect United States interests in Hong Kong.

The Chinese are signatories to the Joint Declaration and have reiterated that they will vigorously adhere to its provisions. I applaud this commitment and encourage the Chinese to live up to their guarantees to Hong Kong. This legislation will help them do so.

This bill also contains provisions requiring that reports submitted to Congress on a country-by-country basis contain a separate subreport for Hong Kong under the heading of the state that exercises sovereignty over Hong Kong. In addition, the bill requires the Department of State to submit a series of reports detailing issues of interest to the United States regarding Hong Kong in matters relating to human rights, the transfer of sovereignty to China, United States-Hong Kong trade issues, democracy in Hong Kong, and Hong Kong's participation in multilateral forums.

I am very pleased that the administration and the Foreign Affairs Committee have worked together to produce a bill that is agreeable to everyone involved. Ties between the United States and Hong Kong are growing stronger every day and Congress needs to act now to ensure that the special relationship continues far into the future. A strong, confident, democratic Hong Kong is in the best interest of everyone involved and I urge Members to support S. 1731.

□ 2100

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly would like to highly commend the gentleman from Illinois for his most comprehensive and substantive presentation of the facts before us relevant to the bill now being considered by the House.

Also I would like to personally add my commendations to the presence of the distinguished ranking minority member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. SOLARZ. Mr. Speaker, for purposes for establishing legislative intent, I would like to clarify two points in S. 1731.

First of all, in section 103(11) of S. 1731, as amended, the bill expresses the sense of Congress that it should be the policy of the United States that the change in the exercise of sovereignty over Hong Kong should not affect ownership in any property, tangible or intangible, held in the United States by any Hong Kong person.

The term "Hong Kong person" is construed to mean: First of all, any natural person who has right of abode in Hong Kong, as that term is defined in the 1984 joint declaration concerning Hong Kong made by the United Kingdom and the People's Republic of China; and second, any corporation, company, association, partnership or other organization legally constituted under the laws and regulations of Hong Kong.

Second, in section 204 of S. 1731 as amended, the President is required to "Consult appropriately" with the Congress concerning the application of U.S. law to Hong Kong and the maintenance in force of certain international agreements. This requirement is construed to mean that the President or his representatives should consult with the chairman and ranking member of the House Foreign Affairs Committee and the Senate Foreign Relations Committee within 2 weeks of taking the actions contemplated in title II, or, if that is impossible—because, for example, Congress is out of session—to do so as soon as is feasible thereafter.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from Illinois, Mr. PORTER, the sponsor of H.R. 3522, the United States-Hong Kong Policy Act of 1992, for his dedication and commitment to the people of Hong Kong. In addition, his leadership in attempting to create a radio free China and his concern for the plight of occupied Tibet, is most welcome to those of us who join him in his crusade for human rights and democracy throughout Asia.

In addition, I want to thank the chairman of the full committee, Mr. FASCELL, and the ranking minority member, Mr. BROOMFIELD, for bringing this bill to the floor at this important time. I also want to commend Chairman HAMILTON, and the chairmen and ranking minority members of the Human Rights and International Organizations, Asia and the Pacific, and International Policy and Trade Subcommittees for their work on this important act.

The people of Hong Kong, their institutions and their spirit, will soon test the Communist Chinese leadership's tolerance for freedom of thought in a way that protests in Tienanmen Square and Lhasa never have.

The citizens of Hong Kong have lived and prospered under an economic system that has allowed for tremendous freedom of choice. After 1997, when the people of Hong Kong inevitably find themselves in a face-to-face confrontation with the soldiers of Communist China, the scenes on television and the accounts in the news media will vividly reflect the differences between a Communist system and one that allows for certain western expressions of freedom.

For decades the United States and China have been enriched as we benefited from Hong Kong's talents and achievements. We hope that the Communist authorities keep it that way. While the United States-Hong Kong Policy Act of 1992 seeks to cushion the blow of the Communist takeover, nothing guarantees that the authorities in Beijing will permit the people of Hong Kong to continue their productive and creative way of life.

The United States-Hong Kong Policy Act of 1992 is a bold attempt to lend support for the brave people of Hong Kong. Once it is passed and signed into law, I look forward to help assure that our Foreign Affairs Committee oversees its rigorous enforcement.

Accordingly, I urge my colleagues to support H.R. 3522.

Ms. PELOSI. Mr. Speaker, I rise in support of S. 1731 which outlines U.S. policy toward Hong Kong after 1997. I would like to commend the gentleman from New York [Mr. SOLARZ] for his efforts to move this bill through the House. We all are beneficiaries of his tremendous knowledge of Asian affairs.

Mr. Speaker, at this juncture in the history of Hong Kong, it is critical that the United States reaffirms its longstanding policy of support for the integrity of Hong Kong's economic and political life. Poised on the brink of a union with China that could threaten the very existence of their nascent democratic institutions, the people of Hong Kong need the protection of world attention. American pressure on the Chinese Government to adhere to the terms of the joint declaration signed with Britain in 1984 could play an important role in preserving Hong Kong's current legal, social, and political conditions.

This bill is important because it implicitly supports a strict interpretation of the one country, two systems principle contained in the joint declaration. By reaffirming our intention to maintain separate diplomatic and economic links with Hong Kong and China, we will encourage Hong Kong's autonomy and provide some protection to its people.

Given the deplorable record of the Chinese Government on human rights and considering the thousands of pro-democracy advocates who remain incarcerated in China today, it is imperative that this House maintain its support of those in Hong Kong who have been calling for the establishment of democratic institutions. In particular, Martin Lee and the United Democrats as well as members of the Hong Kong Alliance—these people understand the importance of developing viable democratic institutions before the Chinese take control as a means of safeguarding the basic freedoms of Hong Kong citizens. They are among those who stand to suffer should a Chinese Government crackdown on dissent occur after 1997.

Last year, I had the opportunity to lead a congressional human rights delegation to China and Hong Kong. We met with pro-democracy advocates, business men and women, government officials. We found in Hong Kong a center of economic vitality and cultural activity that has few rivals. However, the air is filled with uncertainty over what will transpire when the Chinese regime takes power. I believe that S. 1731 will help alleviate some of that uncertainty. I urge my colleagues to vote for passage.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and pass the Senate bill, S. 1731, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to set forth the policy of the United States with respect to Hong Kong, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 1731, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa?

There was no objection.

WELCOMING ISRAELI PRIME MINISTER YITZHAK RABIN TO THE UNITED STATES

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution House Concurrent Resolution concerning Israel's recent elections and the visit by Israeli Prime Minister Yitzhak Rabin to the United States.

The Clerk read as follows:

H. CON. RES. 355

Whereas the Israeli public recently went to the polls to participate in the only fully free and democratic elections in the Middle East;

Whereas Israel has faced serious outside threats to her existence since 1948 and has never compromised the democratic system upon which the nation was founded;

Whereas as a result of democratic elections, a peaceful and orderly transfer of power has taken place;

Whereas the elections and debate leading to them demonstrated to the world the openness and vibrancy of Israeli democracy;

Whereas Israel is actively committed to the absorption of close to 1,000,000 refugees over the next several years;

Whereas Israel remains committed and engaged in the Mid-east peace process and is seeking an acceleration of that process; and

Whereas Israeli Prime Minister Yitzhak Rabin is currently visiting the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) congratulates the citizens of Israel on concluding fair and open democratic elections;

(2) welcomes Prime Minister Rabin to the United States and applauds his statements and actions encouraging active participation in the search for peace; and

(3) calls upon all parties in the region to actively and seriously engage in the peace process.

The SPEAKER pro tempore. Pursuant to this rule, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Con. Res. 355 concerning Israel's recent elections and the visit by Israeli Prime Minister Yitzhak Rabin to the United States.

Philosophers for centuries have been debating whether it is the man or the circumstance that molds history. While I do not pretend to have an answer to that age-old question I do know that we may well be at one of those historical crossroads. The prospects for a path toward peace in the Middle East have not looked so hopeful since Camp David.

The recent elections in Israel have given Prime Minister Yitzhak Rabin a coalition within the Knesset that is looking for solutions and not confrontation. Prime Minister Rabin may well be the man with the right circumstances to take those first steps toward a lasting peace. I only hope that the Arab neighbors of Israel recognize this moment in history for the true opportunity it is.

We welcome Prime Minister Rabin to the United States and wish him all Godspeed in his efforts in the search of peace.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. FALEOMAVAEGA. I am glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I would like to thank the distinguished gentleman from American Samoa for yielding to me, and commend him and the distinguished chairman and the Committee on Foreign Affairs for their leadership and hard work in bringing this resolution to the floor in such a timely manner.

With President Bush's announcement this morning that the administration has reversed its position on loan guarantees for Israel, this resolution helps to demonstrate the desire of the American people to renew and strengthen our support for a strong ally in the Middle East.

As the gentleman from Florida well knows, the new government of Israel has taken several steps since coming to office which show its determination to move the Middle East peace process forward. In his first major policy speech to the Knesset, Israeli Prime Minister Yitzhak Rabin urged the Palestinians to take their destiny into their own hands, stating, "Don't miss this opportunity that may never return. Take our proposal seriously."

I concur with Mr. Rabin, and it is my hope that passage of this resolution will encourage all parties to the peace negotiations to continue to negotiate in good faith—to take each other's proposals seriously—in the interest of regional peace and prosperity in the Middle East.

For this reason, Mr. Chairman, I want to bring to your attention a resolution I have introduced today, which calls for all the parties to further advance their proposals which provide for democratic elections and self-rule in the West Bank and Gaza.

I believe the language of my resolution complements the language of the resolution now before us, and it recognizes the next logical step to be taken to help shape a lasting peace in the Middle East. I hope the gentleman's committee will be able to consider this resolution that I have introduced today.

Mr. FALEOMAVAEGA. Mr. Speaker, I commend the gentleman from Michigan for his leadership in focusing on later steps in the peace process. I agree that this is an important step on the ongoing peace talks, given that there seems to be a door open for successful negotiation of many issues. It will not be possible for the Foreign Affairs Committee to consider this matter before the district work period. However, when we return, the committee will give proper consideration to the gentleman's resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to be a sponsor of this resolution.

House Concurrent Resolution 355 congratulates Israel for its recent free election, and commends Prime Minister Rabin for his excellent work in the search for peace. It also calls upon the nations in the Middle East to seriously engage in the peace process.

For many years, Mr. Speaker, I have closely watched developments in the Middle East—a region long troubled by wars, terrorism and tensions.

Many peace initiatives have failed in the past. The current effort, however, gives me renewed hope that the longstanding disagreements between Israel and her Arab neighbors can be resolved, not through the barrel of a gun, but across the negotiating table. Everybody in the region, Israelis and Arabs, will benefit from peace.

I want to commend the fine work of President Bush and Secretary Baker in putting the Middle East dispute at the top of their foreign policy agenda. While they are committed to a strong Israel with secure borders, they also realize that the Israeli people and future generations deserve to have a harmonious relationship with their neighbors.

Prime Minister Rabin, who is now visiting the United States, merits our praise and admiration. He was bravely turned around the United States-Israeli relationship which has suffered in recent years. His meeting with President Bush is symbolic of the new dialog between Washington and Tel Aviv.

The Prime Minister has wisely modified the Israeli government's housing policy in the occupied territories and has canceled the building of over 6,000 housing units. While he has been criticized by some for this policy, he has firmly stood his ground in the interest of peace.

The Prime Minister has also recommitted his government to the next round of Middle East talks and will inject new momentum into the negotiations. I am confident that this series of meetings will be productive and will demonstrate the deep commitment of the Rabin government to find a solution to the problems in that turbulent region.

Israel is now struggling to settle over 400,000 refugees from the former Soviet Union who have chosen to return to their homeland. Facing this massive influx of people, Israel's economy needs all the help that it can get. As a complement to the policy changes of the new Rabin government, now is an appropriate time to extend the long-delayed housing loan guarantee package to Israel.

The President's successful meeting with the Prime Minister, followed by the administration's announcement today that it would submit a loan guarantee proposal, signifies a new relationship between America and our ally, Israel.

I welcome the Prime Minister to Washington and encourage him to continue to bravely walk down the road to peace in the Middle East. Our two nations can work together to strengthen our longstanding relationship.

I urge my colleagues to join me in supporting this important resolution.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for Senate Concurrent Resolution 133, and I commend the distinguished chairman of our Foreign Affairs Committee [Mr. FASCELL], as well as our distinguished ranking Republican member, the gentleman from Michigan [Mr. BROOMFIELD], for their expeditious consideration of this important resolution.

Since 1948, Israel has faced incredible challenges to its very existence. Throughout its neophyte history, Israel has never compromised the democratic principles upon which it was founded.

As we all know, and a result of democratic elections, a peaceful and orderly transfer of power has taken place. We in the United States, and in fact, most everyone in the international community watched as these elections, and the debate leading up to them, demonstrated to the world the vitality of Israeli democracy.

In less than 1 month in office, Israel's new prime minister has taken bold new initiatives to promote peace. Prime Minister Yitzhak Rabin has moved to accelerate the peace process, improve United States-Israeli relations, and redirect resources toward helping the absorption of Israel's new immigrants.

Mr. Speaker, this resolution congratulates the citizens of Israel on conducting a free and fair election; it welcomes Prime Minister Rabin to the United States and applauds his statements and actions; and calls upon all parties in the Middle East to actively and seriously engage in the peace process.

This is an appropriate and timely resolution. Accordingly, I urge our colleagues to give it their unanimous support.

Mr. MAZZOLI. Mr. Speaker, I rise in strong support of House Concurrent Resolution 355, a bill of which I am a proud cosponsor.

The Israeli elections in June and the smooth transition of power from the Likud government to the Labor Party is testimony to the democratic foundations upon which the State of Israel rests. And, I was very happy to see the warm reception that Prime Minister Rabin received from the President in Kennebunkport yesterday.

A few weeks ago, I along with 150 of our colleagues in the House wrote President Bush to urge the expeditious consideration of a package of loan guarantees for Israel. Israel is facing a severe economic and housing crisis as it struggles to absorb tens of thousands of immigrants from the former Soviet Union. And, today's announcement that the United States will guarantee loans is a very positive development.

The loan guarantee announcement from Mr. Rabin and President Bush are the most recent evidence that United States-Israeli relations are regaining warmth after the chill that had come over them during the last years of Likud's reign in Israel.

Mr. Speaker, the Israeli elections, the actions of the Labor government in curbing settlements in the occupied territories, the Rabin-Mubarak summit, the Bush-Rabin meetings, and the announcement that the Madrid peace talks will resume once again in a few weeks are all very, very encouraging signs for the future of United States-Israeli relations. These events serve to remind us that the United States has had and will continue to have a special relationship with the State of Israel.

So, it is with that special relationship in mind that I rise in strong support of House Concurrent Resolution 355, and in strong support of the only democratic State in the Middle East, the State of Israel.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 355).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 2110

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered and agreed to.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from American Samoa?

There was no objection.

CONCERNING THE SITUATION IN BOSNIA-HERCEGOVINA

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 554) concerning the situation in Bosnia-Hercegovina.

The Clerk read as follows:

H. RES. 554

Whereas attempts to bring about a permanent cessation of hostilities precipitated by Serbia and Serbian-backed forces in the independent state of Bosnia-Hercegovina through negotiations have repeatedly failed;

Whereas horrible atrocities are being committed against the civilian population of Bosnia-Hercegovina, including the "ethnic-cleansing" of regions inhabited by non-Serbs, the forced detention, ill treatment, and torture of persons in internment camps, and other gross violations of internationally recognized human rights;

Whereas officials of the International Committee of the Red Cross have been denied access to prisoner-of-war camps and internment camps throughout Bosnia-Hercegovina even though they are entitled to such access under Article 143 of the 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War;

Whereas United Nations and Red Cross relief convoys carrying much needed supplies of food and medicine are being repeatedly blocked and, in some cases, have been attacked by Serbian-backed forces;

Whereas the United Nations Security Council voted unanimously to dispatch forces to reopen Sarajevo's airport, and the delivery of supplies of humanitarian assistance to the city's beleaguered population has taken place under the protection of these forces with great difficulty;

Whereas the Security Council adopted Resolution 757 imposing economic sanctions on Serbia and Montenegro, and also endorsed the cease-fire plan negotiated by the envoy of the European Community which would place all heavy weapons in the possession of factions in Bosnia-Hercegovina under international supervision;

Whereas the President of the democratically elected Government of Bosnia-Hercegovina has issued urgent appeals for immediate assistance from the international community;

Whereas the situation in Sarajevo and elsewhere in Bosnia-Hercegovina has reached a critical point requiring immediate and decisive action by the international community; and

Whereas the absence of immediate and decisive action by the international community against aggression in Bosnia-Hercegovina could encourage the spread of violent conflict elsewhere in the former Yugoslavia and the Balkans generally, as well as in other regions plagued by ethnic tensions: Now, therefore, be it

Resolved,

SECTION 1. SUPPORT FOR DECISIVE ACTION.

The House of Representatives supports President Bush's statement of August 6, 1992, and commends him—

(1) for taking decisive steps to put pressure on Serbia to stop the conflict, including through—

(A) the diplomatic and political isolation of Serbia,

(B) the strict enforcement of sanctions provided for in United Nations Security Council Resolution 757,

(C) the implementation of the Security Council-endorsed plan to place heavy weapons belonging to all factions in Bosnia-Hercegovina under United Nations supervision, and

(D) the resumption of peace talks among all parties to the conflict; and

(2) for urging the United Nations Security Council to authorize measures, including the use of military force, necessary to ensure the provision of humanitarian relief to the people of Bosnia-Hercegovina.

SEC. 2. ADDITIONAL STEPS TO ADDRESS THE CRISIS.

The House of Representatives urges the United Nations Security Council to consider means by which—

(1) United Nations and International Committee of the Red Cross personnel shall be granted immediate, unimpeded, and continuous access to all refugee camps, prisoner-of-war camps, internment camps, and other places of detention in all of the republics of the former Socialist Federal Republic of Yugoslavia; and

(2) civilians in Bosnia-Hercegovina shall be protected from the use of force and violations of the laws of war.

SEC. 3. INTERNATIONAL WAR CRIMES TRIBUNAL.

It is the sense of the House of Representatives that an international tribunal should be convened—

(1) to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Socialist Federal Republic of Yugoslavia; and

(2) to accumulate evidence against, charge, and otherwise prepare the basis for trying, any individual whom the tribunal has probable cause to believe is responsible for or committed such crimes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before our colleagues House Resolution 554 concerning the situation in Bosnia-Hercegovina.

I'd like to commend the chairman of the Helsinki Commission and the chief sponsor of this measure, the distinguished gentleman from Maryland [Mr. HOYER] for his commitment and leadership on this issue. This resolution is the product of the joint efforts of the Commission on Security and Cooperation in Europe and the Committee on Foreign Affairs to allow the House the opportunity before the August recess to address the deplorable and deteriorating situation in Bosnia. It is not perfect. In an effort to garner the widest possible bipartisan support, the resolution necessarily reflects a compromise between those who think it goes too far and those who think it doesn't go far enough. However, despite its shortcomings, it is important for the House to condemn the widespread abuses of human rights and attacks against civilians that are taking place in Bosnia and to urge the international community to urgently address this crisis.

The need for swift consideration of this resolution is clear. The situation in Bosnia-Hercegovina is critical. There is overwhelming evidence that the Serbian authorities are pursuing a reprehensible policy of ethnic cleansing in Bosnia-Hercegovina and that the Serbian authorities have condoned the formation of a whole series of detention camps, some of which, evidence indicates, are in fact death camps. These crimes against humanity and violations of basic human rights and fundamental freedoms are in addition to the well-documented tactics of the Serbian forces in Bosnia-Hercegovina which, as a matter of military policy, have targeted and bombed civilian populations and continue to interfere in the delivery of humanitarian assistance. The Serbs are not alone in perpetrating these atrocities, but they must shoulder the burden of the blame.

This resolution, which has wide bipartisan support and is similar to language being considered in the other body, calls on the President to take a decisive, strong leadership role in mobilizing international pressure on Serbia to cease its continuing aggression and massive human rights violations in Bosnia-Hercegovina. The resolution supports President Bush's policy of pressing for a U.N. Security Council authorization of the use of multilateral military force to ensure delivery of humanitarian relief to Bosnia. The resolution also urges the U.N. Security Council to consider additional means by which U.N. and International Red Cross personnel can gain access to prisoner of war camps and civilians in Bosnia can be protected from the use of force and violations of the laws of war.

Finally, the resolution calls for the convening of a tribunal to investigate allegations of war crimes on the territory of the former Yugoslavia.

Mr. Speaker, the need for this resolution is compelling and urgent. We must ensure that our Government, together with the international community, takes swift, decisive action to end the suffering in Bosnia-Hercegovina and to secure a peaceful resolution to the tragic conflict in the former Yugoslavia.

I urge strong bipartisan support for this important expression of concern and call for decisive action.

Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER] and I ask unanimous consent that he be allowed to control the time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa [Mr. FALEOMAVAEGA]?

There was no objection.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as a I may consume.

Mr. Speaker, I want to commend the good work of Chairman FASCELL, and Congressmen HAMILTON and HOYER for crafting this important legislative initiative. I also want to salute my friend BEN GILMAN for his continuing leadership on Yugoslavia issues.

The resolution before us supports the President's recent statement on the tragedy of Bosnia, and urges the United Nations Security Council to authorize measures, including the use of military force, to ensure that humanitarian relief reaches Bosnian citizens. It also urges the Security Council to consider means for gaining access to all of the refugee camps in former Yugoslavia. Finally, it suggests the convening of an international tribunal to investigate war crimes allegations and try individuals who have committed such crimes.

The newspapers report daily of the continuing tragedy in what was once Yugoslavia. The Serbian President, Slobodan Milosevic, is primarily responsible for the horrible events unfolding there. A few years ago, he cleverly played the ethnic card by claiming that Serbians were being threatened in some part of the former Yugoslavia. Contrary to his actions on this policy, Milosevic still claims that he is not responsible for the present bloodletting in Bosnia. The facts show, however, that he is the architect of that human disaster.

The ongoing carnage in Bosnia is undoubtedly the worst conflict Europe has seen since the end of the Second World War. Since the fighting began in Croatia and Bosnia, 20,000 people have been displaced. Damage to the economies and the infrastructure there exceeds $100 billion.

In carrying out the Serbian leader's policy of building a "greater Serbia," entire non-Serbian areas of Bosnia are being ethnically cleansed. Several towns have been surrounded and destroyed. Sarajevo is just one example of this destruction. Equally pitiful is the intentional shelling of Bihac and Gorazde. In these towns, women and children are being killed by random fire from Serbian guns. All of this is happening in Bosnia, a republic once recognized as a model of ethnic harmony.

The world was shocked by recent stories of internment camps in Bosnia where people are being executed, tortured, and starved. These camps remind me of the Nazi death camps in Germany some 50 years ago that the world largely ignored. With history as our guide, we must not allow such a tragedy to occur again.

I have been watching the events in the former Yugoslavia and have urged the Foreign Affairs Committee and the House to speak out on this international crisis. The resolution before us is a step in the right direction. Today at the Security Council, a strongly worded resolution is also being drafted that includes many of the objectives we have outlined in this resolution.

Not included in these resolutions is a personal concern of mine involving arms sales. The internationally imposed arms embargo in Yugoslavia appears to be hurting some while helping others. The Serbian arms industry continues to produce weapons for federal and irregular Serbian forces. In addition, large volumes of weapons are being smuggled into Serbia. The arms embargo on former Yugoslavia actually hurts the Croatians and the Bosnian Moslems who cannot get weapons to fight against the well-armed Serbian federal army and Serbian irregulars. In a sense, we might be encouraging Serbian aggression by ensuring that the Croatians and Moslems are less capable of defending themselves.

Finally, I am pleased that the administration is taking the lead in addressing this human tragedy and urging our allies to become more involved. In building the New World order, we cannot afford to turn our back on the ongoing disorder in Bosnia.

I urge my colleagues to join me in supporting this resolution.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio, Mr. CHALMERS WYLIE.

Mr. WYLIE. I thank the gentleman from Michigan very much for yielding me this time.

I want to compliment the gentleman for his strong statement in support of this very important resolution.

Mr. Speaker, I want to commend the leadership for bringing this resolution up at this time and thank them for including me as a cosponsor.

The resolution addresses the horrible atrocities being committed by Serbia and Serbia-backed forces in the independent state of Bosnia-Hercegovina. It is unfortunate that the Serbian aggressors have defied the U.N. resolution demanding that they cease hostilities and withdraw from Bosnia. They also have ignored trade and travel sanctions imposed on them by the U.N. Security Council, and they have ruthlessly pursued a policy of ethnic purification reminiscent of Nazi Germany during World War II, as the gentleman from Michigan [Mr. BROOMFIELD] mentioned.

They have set up detention camps where there is evidence of torture and murder of the detainees. They fired on the U.N. peacekeeping force. They have blocked and attacked Red Cross relief convoys carrying desperately needed supplies to the people of Saravejo. They have callously fired on and killed innocent civilians, including children, trying to escape from harm's way.

Well, enough is enough, Mr. Speaker. The President has joined in calling for the use of military force, if necessary, to ensure that humanitarian relief gets through. I strongly support that action, which is in line with House Resolution 490, which I introduced back on June 17. My resolution is identical to the one passed by voice vote in the Senate on June 12. It calls upon the United Nations to develop a plan, should military intervention be needed to enforce the U.N. resolutions. To date, 103 of you have signed on as cosponsors.

Mr. Speaker, I might point out as a personal aside that my wife, Marjorie, our daughter, Jacquelyn Poston, and granddaughters Tammy and Pamela Poston, have visited this area before the fighting broke out. While there, they made friends with a priest named Father Phillip Pavich, who recently came to the United States to tell of the horrors and atrocities now occurring in his country.

After meeting with Father Pavich and hearing of the crimes against his people, I felt that we must send a signal to the Serbian aggressors that these despicable actions will no longer be tolerated and the United Nations should take action to enforce its resolutions.

That is when I introduced House Resolution 490. I mention this, Mr. Speaker, as a prelude to my support for this resolution tonight as an effort to restore order to this very troubled land.

□ 2120

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise on behalf of the resolution which, if adopted, will send a strong message to all sides of the tragic conflict in Bosnia-Hercegovina. To those who have been forced to witness the deaths of loved ones, the destruction of their homes, and the brutal annihilation of their country, this resolution says: we support you, and will do what we can to ease your suffering and stop the bloodshed. To their attackers, it says: you will be held fully responsible for your unprovoked aggression and unforgivable crimes against humanity.

This resolution has essentially three objectives: First, it supports the stated objectives and actions of President Bush on August 6, 1992, in responding to the tragic situation unfolding in Bosnia-Hercegovina; second, it urges the U.N. Security Council to consider effective means to inspect the detention camps, by whatever means, in which are alleged to be occurring atrocities reminiscent of Hitler's camps in the 1930's and 1940's, and to protect civilians from violence visited upon them by warring factions; and third, it calls for the convening of an international tribunal whose objective is to hold accountable war criminals.

I believe the overwhelming majority of Americans and Members of this body support all of those objectives. I realize, however, that there will be those who will say that this resolution does not go far enough. I am sympathetic to that criticism. Indeed, I could and would support a stronger resolution.

What is important, however, is that we speak to this issue in as forceful and united fashion as possible. And, that we do now. Many of us have been calling for some time for specific and forceful action relating to the violence erupting in the Balkans as Yugoslavia dissolves into constituent parts. In fact, Senator DECONCINI as I, as Co-chairman and Chairman of the Commission on Security and Cooperation in Europe, wrote to President Bush on July 23, 1992, urging decisive action in response to the deteriorating situation in Bosnia-Hercegovina.

At that time, we pointed out that the extreme gravity of this situation is indisputable. The situation, if anything, is worse today.

Mr. Speaker, I include that letter at this point and time in the RECORD.

The letter referred to is as follows:

COMMISSION ON SECURITY AND
COOPERATION IN EUROPE,
Washington, DC, July 23, 1992.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We write to urge you to take immediate and decisive action in regard to the rapidly deteriorating situation in Bosnia-Hercegovina. We commend the efforts you have already taken, through such multilateral bodies as the United Nations and the Conference on Security and Cooperation in Europe (CSCE), to bring about a resolution of the conflict, but, unfortunately, they have not had their desired effect.

The extreme gravity of this situation is indisputable. Negotiated ceasefires have repeatedly failed, and humanitarian relief arriving at Sarajevo airport is seriously threatened by continued shelling. The fighting has intensified, and, along with it, the suffering of the people of this republic grows. The number of dead and injured rises daily. The more than one million refugees is already above that for which neighboring countries can reasonably provide. The reported conditions in Sarajevo are appalling, and the unspeakable atrocities being committed against the civilian population are beyond comprehension. We know little of what is happening in towns and villages elsewhere in Bosnia-Hercegovina, but, based on the information that does make it through, we can assume the worst.

Our real fear is that, in light of the present situation, the international effort to restore peace may soon unravel, and all conflicting parties in Bosnia-Hercegovina will rapidly conclude that their only chances lie in devoting their full strength to waging war. If this happens, humanitarian relief will become impossible, and the number of additional dead, not to mention the displaced and refugees, will be staggering, especially as cold weather begins to set in. Fighting will likely spread with ease to the Sandjak region of Serbia, to Albanian-inhabited Kosovo, and perhaps to Macedonia, which, unfortunately, still has not been recognized. As the conflict does spread to these other regions, the chances for countries like Albania, Greece, Bulgaria and Turkey to be drawn into the fighting and perhaps confrontation with each other will certainly increase.

In short, we feel that the crisis has reached a defining moment in its development, confronting the international community with a critical choice between becoming more directly involved or allowing the combatants to destroy each other and the innocent people in their way, as they most certainly will.

Of course, the choice taken depends largely on the national interests of the chief international actors. For the United States, our view is that the national interest in stabilizing the Balkans is clear. A Balkan war can, as history has repeatedly shown, lead to a wider European war that draws in our friends and allies, and failure to stop the aggressors here will send an undesirable message to those seeking violent change elsewhere, such as in the former Soviet Union. Moreover, the suffering in Bosnia-Hercegovina is of such magnitude that our moral responsibility as a world power comes into increasing confluence with our national interest.

Unfortunately, there are other desperate situations in the world that also cry out for international help or necessitate forceful action, and the United Nations is heavily burdened in seeking to organize satisfactory responses to these situations. Yugoslavia, however, is in Europe, where there is sufficient regional military force available through NATO and the WEU. Moreover, there is the CSCE, a regional body that, with recently enhanced capabilities, only requires the political will of the participating States, using your words at the recent Helsinki summit, to develop a credible Euro-Atlantic peacemaking-peacekeeping capability.

The action which we feel is necessary, and therefore urge you to take, is to seek a multilateral effort to secure the provision of humanitarian relief to Sarajevo and throughout Bosnia-Hercegovina. To start, the United States should move quickly to obtain U.N. Security Council authorization to take action by military force as may be necessary to give effect to its decisions. The Charter of the United Nations, Chapter VII, Article 42, provides a basis for this authorization. The CSCE, and the NATO and WEU resources put at its disposal, could be given appropriate tasks in light of the decisions taken by the Security Council. Second, the current sanctions on Serbia/Montenegro should be maintained until they do prove effective, and greater efforts undertaken to ensure compliance with them in light of reports of violations.

As you correctly stated in Helsinki regarding the nightmare in Bosnia-Hercegovina: "First, we should see to it that relief supplies get through no matter what it takes. And second, we should see to it that the United Nations sanctions are respected no matter what it takes. And third, we should do all we can to prevent this conflict from spreading. And fourth, let us call with one voice for the guns to fall silent through a ceasefire on all fronts." We feel that now is the time for a clearly stated expression of our country's strong resolve to bring these goals to fruition, as well as for the greater exercise of U.S. leadership as it works with its partners in this important undertaking. We therefore ask that you give our requests your most immediate and serious consideration.

Sincerely,

DENNIS DECONCINI,
Co-Chairman,
STENY H. HOYER,
Chairman.

Mr. Speaker, the resolution we offer today enjoys broad, bipartisan support. In it we commend the President for his actions of August 6, 1992.

It would also be very appropriate to note that Gov. Bill Clinton some 10 days before the President's statement, called for specific and decisive United States action, in concert with the international community, to confront the Yugoslav conflagration.

Outweighing the risks of action are the clear risks of inaction.

First, there are the risks—indeed the virtual certainties—that tens of thousands more, innocent people, will die, if not by the sniper's bullet, then by cruel starvation and hideous torture in the interment camps set up by the Serbian forces as part of their reprehensive ethnic cleansing. Now that we know of these camps and of these atrocities, additional deaths will no longer be just the responsibility of the murderers but, in part, of ours as well.

We can also be sure that the aggressors in Bosnia-Hercegovina will look for our inaction as a sign that they can continue if not escalate their inhumane deeds with impunity.

Second, there is the risk to our own national interests. War in one part of the Balkans can lead to war throughout the entire peninsula. In the past it enveloped the European continent to the point that America was drawn into the conflict. We have many friends and allies in this region, beyond Bosnia-Hercegovina, increasingly threatened by this war.

If they are drawn into it, so inevitably will we. Then our options will be more limited. This is the danger our Nation faces if we do not act now. The situation calls for a leadership that only the United States can provide.

Mr. Speaker, the people of Bosnia-Hercegovina did not want this war, a war that would certainly destroy their country and themselves.

As Bosnian Foreign Minister Haris Silajdzic said during a Helsinki Commission hearing on this subject: "Bosnia-Hercegovina is now being punished for opting for peace and not preparing for war." The least we can now do for them and their country is to take a firm and principled stand by passing this resolution now.

Mr. Speaker, I would suggest to my colleagues it is in the interest of our Nation, it is in the interest of regional security in the Balkans, it is in the interest of international peace in years to come, and, in any event, it is a moral imperative.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield 10 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I want to express my appreciation to the distinguished gentleman from Michigan [Mr. BROOMFIELD] who has done a very outstanding job over the years as the ranking minority member on the Committee on Foreign Affairs.

Mr. Speaker, I rise in opposition to this resolution. I certainly support the movement of humanitarian aid to all peoples in this beleaguered nation. However, there is no way that I can consciously send American men and women into a situation which is, according to Stephen Hadley, Assistant Secretary for Defense for International Security Policy, "a blood feud whose roots go back centuries and that has resulted in some of the most brutal communal violence in the history of Europe."

Today, at a Senate hearing on this very subject, Canadian General Lewis Mackenzie, until a few days ago the head of the U.N. effort in Sarajevo stated that there is no military solution in Bosnia. The General said,

> There is no way that intervention will do anything but escalate the fighting and more people will be killed.

According to the General, even escorting humanitarian relief efforts is a step too far. He said, and I quote:

> If you drive down the road escorting a convoy with air cover. . . you have just taken the first step in getting mired in the Balkans.
>
> You'll have Americans killed, and you will want to do something about it, you can't isolate it, make it nice and sanitary.

And according to Secretary Hadley, today at the same hearing,

> The precedent [in Bosnia-Hercegovina] is Lebanon, not Kuwait, and on a much larger scale and with an enormous number of arms on all sides.

Mr. Speaker, General MacKenzie and others have estimated that the troop strength needed to secure Sarajevo airport alone would range from 60,000 to 120,000 men. And General MacKenzie, when asked about the size of a force needed to pacify Bosnia-Hercegovina stated,

> If there were resistance throughout Bosnia-Hercegovina and you had to occupy it, you could be talking up to 1 million troops.

And, knowing the combatants, any fighting force will take casualties. Bosnia-Hercegovina is where partisan fighting originated, and the remnants of former Yugoslavia's home defense still exist, a defense which was based on caches of war material warehoused throughout the federal republic, and the industry to support it.

And not that this is my only concern with this resolution, although it is a major one. This resolution is flawed from its inception if the concern of this body is to bring about peace on the Balkan peninsula. It assigns guilt and thereby proclaims innocent major participants in this tragedy. We should not make ourselves judge and jury of the various sides in a civil war being waged in a faraway land when responsible witnesses—on the ground—find the leadership on all sides to be at fault. The only innocent are the civilians . . . Muslim, Croat, and Serb.

In an interview in this week's Time magazine, General MacKenzie said,

> When people ask me whom do you blame, I say "Give me the day and the month and I will tell you." What the Serbs did three months ago was totally unacceptable: the city was bombarded, civilians were targeted. Today it is more complex. What we see now from the Bosnian presidency's side is that it's in their best interest to keep the thing going and get the Serbs to retaliate in order to convince the international community that intervention is a good idea. So I blame both sides.

And according to General MacKenzie at today's hearing, the Serb faction in Bosnia is ready to negotiate a settlement anytime, anywhere. He said that it was the Bosnian Presidency that was unwilling to negotiate. When he was asked what his course of action would be if he were a senator, he stated that he would make it clear that there would be no intervention—"Rip the rug of intervention out" I think is how he put it—in order to force the Bosnian Presidency to sit down at the negotiating table.

Mr. Speaker, these are my reasons. This resolution is not the only option. Getting aid in to these poor embattled people is tantamount, but some aid is already reaching the populus through the current efforts of the United Nations.

The only way out of this mess—and the only way to truly ensure the long-term health and well-being of the population—is to force the combatants to the table. As General MacKenzie stated, if you remove the carrot of military intervention, the parties will sit down and negotiate.

I am not a military expert. I have been on the ground only in one war—Vietnam—and there, as a reporter, not a soldier. Therefore, I must go along with the opinion of an apolitical military expert—General MacKenzie. I cannot support any military intervention in the Balkans.

Evidence abounds that the United States has been inundated with a professionally run public relations campaign on behalf of Croatia which makes the treatment and fairness of information out of the Balkans highly suspect. This is spelled out in this week's issue of New Statesman in an article entitled "Spin Doctors of War", "The Marketing of Balkan Atrocities." As an example, the Bishops of the Serbian Orthodox Church appealed to the world on May 27, 1992, to investigate conditions in 22 detention camps where Serbian civilians were being held illegally, under terrible conditions in Bosnia and Hercegovina. This appeal was at least months before the world press discovered the Serbian camps. We still await the visits of the press to the Croat/Muslim internment camps.

While the internment of any noncombatants is inexcusable and torture unforgivable, it is best, before a rush to judgment on anyone's part, to be aware of all of the camps, being maintained by all sides and to accept evidence only from the International Red Cross or some other impartial organization. Evidence presented, thus far, is only anecdotal gathered by reporters.

The lack of world attention to the plea of the Orthodox Church is akin to the silence which has greeted the acknowledgment by the United Nations of the presence of the Croatian troops in western Hercegovina. Long after the pull-out of the Yugoslav Army, troops of a foreign state are occupying a portion of that beleaguered state, yet one hears no calls for them to return to their own territory.

Mr. Speaker, again I want to point out I have no problem with the humanitarian aid movements and the punishment of those who have committed war crimes. I want no American life lost over there.

□ 2130

Mr. HOYER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. MOODY]. I might say the gentleman has traveled with the commission to Yugoslavia, has met with Mr. Milosevic and others there, and has been a valued member of a delegation traveling to Yugoslavia.

Mr. MOODY. Mr. Speaker, having visited Yugoslavia with Chairman HOYER as part of the Helsinki Commission 2 years ago. I returned to Yugoslavia in December of last year and met in Sarajevo with President Izetbegovic and with Serbian and Croatian leaders in Bosnia. I also met with Mr. Tudjman and Mr. Milosevic in their respective capitals of Zagreb and Belgrade, as well as military leaders on both the Serbian and Croatian side.

I also lived in the country for 2 years and speak the language and have tried to follow events there closely.

I think all of us must condemn the violence and the atrocities against civilians that have taken place in this troubled land. What we are witnessing, of course, is an age old conflict predominantly between Serbs and Croatians that springs from religious differences. Tragically, these differences have been exploited by various people to alienate two people, Croats and Serbs, both of whom are wonderful people with so many rich traditions, dividing really only along religious lines. In many ways the Moslem citizens of Bosnia have been the chief victims, although some of their leaders have not been victims, but have been perpetrators.

Some facts are important for us all to keep in mind about Bosnia. First is that this is not an invasion. It is not an international conflict—1.2 million Serbs live in Bosnia and have lived there for over 800 years. They are not coming into Bosnia. They live there. This is not an invading force. They are fighting for what they perceive to be their own survival. You may disagree, but it is important to understand where they are coming from.

Second, the question of arms importation. Bear in mind that Bosnia was the predominant arsenal of the Yugoslav army for the last 50 years. Most of the military equipment, the ammunition, and so forth, was manufactured in Bosnia for the huge and well-equipped Yugoslav army. Bosnia has been absolutely brimming with arms of all descriptions for the last 50 years. It is not as though they had to be brought into Bosnia, they were manufactured there. But it is also true the Yugoslav army left many of them behind and turned over ownership to Bosnian Serbs, and they have been used more by Serbian forces than any other.

Let me now speak briefly on the resolution before us, H.R. 554. My two problems with this resolution are: First, it is one sided in several aspects and second, it accepts as fact some assertions that independent observers have disputed.

There are no angels in this conflict, between the three sides—Serbs, Croats, and Moslems—and each side has plenty of victims, mostly noncombatants.

To put the situation in perspective, I submit for the CONGRESSIONAL RECORD an interview by Gen. Lewis MacKenzie, the outgoing head of the U.N. peacekeeping forces in Sarajevo, that appeared in the August 7, 1992, issue of Time magazine.

One of the salient point he makes is that the single most important thing to do to improve the situation in Bosnia is for the Moslem leader, President Izetbegovic, to agree to negotiate with the Serbs living in Bosnia.

This he has flatly refused to do. General MacKenzie says that this refusal will mean that a lot of people will be needlessly killed. He says:

> So my feeling is that pressure has to be brought to bear to get them (Izetbegovic's government) to the table. The Serbs will talk any time, any place, at any level * * *

A second salient point General MacKenzie makes is that much of the fighting is not under direction from Belgrade or Zagreb. He says:

> There's ample evidence of units operating on their own agenda—today. Maybe tomorrow they will operate on a common agenda.

A third salient point General MacKenzie makes is that each side accuses the other two of running detention camps. He appears to agree that all three sides have camps.

But the most important point General MacKenzie makes is in response to the question of blame. He states that Serbs were clearly to blame 3 months ago when they bombarded Sarajevo, but he also states the following:

> What we now see from the Bosnian presidency's side is that it's in their interest to keep the thing going and get the Serbs to retaliate in order to convince the international community that intervention is a good idea.

Mr. Speaker, the resolution before us says that the hostilities were "precipitated by Serbia and Serbian-backed forces." It can be disputed as to who precipitated which particular battle or action. All three sides have participated in many specific atrocities, battles and actions.

The resolution seems to imply that only Serbian forces have engaged in "ethnic cleansing." All three sides have done some of this, but not to equal extent. Serbs have probably done the most. But is also true that Croatian forces have carved out a section of Bosnia and forced Serbs to flee.

The resolution before us refers to "democratically elected Government" of Bosnia-Hercegovina. Only an extremely loose definition of "democracy" would apply to this statement, given the way the last election was conducted.

The resolution's reference to "aggression" on Bosnia ignores the essential fact that what is happening in Bosnia is in most aspects a civil war, not a cross-border aggression in the usual sense. The Serbs in Bosnia have lived there for more than 800 years.

But the most misinformed element of the resolution is the commendation to President Bush for "taking decisive steps to put pressure on Serbia to stop the conflict." Serbia is not a direct or governing party to the fighting. While certainly Serbia has supported the Serbs in Bosnia, these forces would fight on with or without Serbia's help.

There are several good features of the resolution before us. It rightfully characterizes the horrible atrocities being committed against the civilian population. It implies that all three sides have impeded access of the International Red Cross to prisoner of war camps.

The resolution also endorses the resumption of peace talks among all parties. Although the Bosnian President refuses to do this, as mentioned above, this should be the primary focus of the United States effort, not the placing of blame on any one party to the three-party conflict. The only real and lasting solution under the ethnic and geographic circumstances of Bosnia is a negotiated political one. We must all work for that result. Thank you.

For the RECORD I submit the interview with Gen. Lewis MacKenzie:

[From Time Magazine, Aug. 17, 1992]

HATRED TEN TIMES OVER

(By Daniel Benjamin)

Q. Sarajevo airport was shut down again this week. Has the U.N.'s authority in Sarajevo been exhausted?

A. I've always said the agreement to protect the airport from ground attack was hanging by a very fine thread. When you start taking mortar fire on the bunkers our people are living in and on the tarmac, that is a serious escalation. Before, we were able to justify putting our finger in the flame despite fighting going on close to the airport. The odd round dropping short can be rationalized, but not when the airport is being directly targeted.

Q. What do you think it would take to impose peace on Sarajevo itself?

A. Well, from the tactical point of view, having to control and occupy and dominate all the features around Sarajevo and the city itself. Cities are famous for gobbling up soldiers. I haven't done the detailed analysis, but a figure of 75,000 would probably be modest, if there is resistance. And the resistance has to be handled 24 hours a day by people on the ground. Air power can assist, but it can't stop people from reoccupying positions.

Q. That's assuming that the act of bringing in a large military force itself wouldn't have a powerful psychological impact.

A. Yes. It's also presupposing that the peacemaker can stay for a long time. Because what happens when they leave? Everything goes back to the way it was because so much hate has been generated. And then you have a force that is isolated. You don't have secure communications. You're sitting in the middle of a very, very hilly country.

Q. What would be the difference between an operation in Bosnia and the Gulf War?

A. The same characteristic that dominates every military operation: the ground. In Desert Storm there was a relatively sophisticated infrastructure on which to develop your force. There were tremendous areas of land on which to put it together and to train and sort out problems—and that took four months. Where are you going to do that in Bosnia?

Q. You would not be able to wage tank warfare, as in the Middle East?

A. No, you're talking infantry battles. You're talking about classic, classic guerrilla country.

Q. Do you think the Serbs, Croats and Bosnia Muslims would fight in the face of a huge force?

A. If I put myself in their shoes, there is no option. You are talking about backing the Serbs into a corner. And if you read history, it's not a very good idea. You're talking about an organization with a significant capacity to fight and with a significant amount of equipment. Serbia/Montenegro must be one of the most densely militarized areas of the world now.

Q. To "pacify" all of Bosnia-Herzegovina, what size military operation would be needed?

A. Well, the Germans gave it a try with 30 divisions, and they weren't successful. A lot of people were killed. If there were resistance throughout Bosnia-Herzegovina and you had to occupy it, you could be talking up to 1 million troops.

Q. Why not bomb artillery positions and send in helicopter gunships?

A. You wouldn't be able to find all the weapons systems that are doing the damage. Mortar are the favored weapon in Bosnia, and they're hidden very easily and carried around in everything from school buses to cars. What's much more important is that if you do that, then the U.N. peacekeeping force is, whether it likes it or not, affiliated with the side not being attacked. therefore you have sitting there 1,600 [U.N. soldier] hostages.

Q. Can't you remove those troops in advance of any action?

A. If you do, that's an indication something big is going to happen. So you've got yourself a very nice cul-de-sac, unless you're prepared to sacrifice 1,600 people. I wouldn't think that would be a particularly good idea.

Q. Is there anything that would rapidly improve the situation in Bosnia?

A. Yes—and the presidency [of Bosnia] will hate to hear me say this: negotiations with the Serbian side within Bosnia. The presidency will not talk to the other side because they say this is a war of aggression controlled by Belgrade. They feel that if they start to talk, the status quo will be frozen, and they don't have a lot of territory. If you don't want to talk, then there's only one solution: one side wins, one side loses and a lot of people get killed in between. So my feeling is that pressure has to be brought to bear to get them to the table. The Serbs will talk any time, any place, at any level because they probably have what they want. It seems to me talking could get the Bosnian Muslims territory.

Q. Is anyone in the different leaderships really calling the shots? Or is much of the fighting being driven at the grass roots by units that decide they just want to fire their mortars?

A. You're absolutely right, there are large numbers of individuals and units that are out of control. But they are out of control within a defined chain of command. There's ample evidence of units operating on their own agenda—today. Maybe tomorrow they'll operate on a common agenda. There are some individuals and small organizations in Sarajevo who are paid to kill. They get a bonus. Journalists are favorite targets in Sarajevo. There are no video games in Sarajevo, so the next best thing is to fire at a TV car going by.

Q. Is the word genocide appropriate for Yugoslavia?

A. I can't comment in detail on that because my mandate was limited to Sarajevo. However, let me assure you that I have a pound of paper for each hand of protests from one side accusing the other of running detention camps, concentration camps, prisoner-of-war camps.

Q. You don't entirely blame the Serbs?

A. When people ask me whom do you blame, I say, "Give me the day and the month, and I'll tell you." What the Serbs did three months ago was totally unacceptable: the city was bombarded, civilians were targeted. Today it is more complex. What we now see from the Bosnian presidency's side is that it's in their interest to keep the thing going and get the Serbs to retaliate in order to convince the international community that intervention is a good idea. So I blame both sides.

Q. You have had nine peacekeeping tours in places like Gaza, Nicaragua and Cyprus. How does this compare?

A. You can take the hate from all those previous tours and multiply by 10. I've never seen anything close to that. Even if only 10% of what each side accuses the other of doing is true, in the minds of the people it has grown to horrendous proportions. If the leadership said, "O.K., let's sit down and sort this thing out," I'm not sure whether people would accept that because there is so much hate for the other side. Really deep, gut-wrenching hate. Once you start calling them baby killers, pregnant-women killers, and talk about cooking babies, those are not good grounds for negotiations.

Q. What difference did that make for your work?

A. On any of those previous tours, when you brokered a deal, it was followed through. And if somebody along the line didn't follow through, they were put in their place. It's relatively easy to broker a deal in Bosnia. It's the execution that is impossible.

Q. After your experience in Sarajevo, do you think there is still a clear line between peacekeeping and peacemaking?

A. Yes, there is a clear line. It became cloudy in Sarajevo only because we went there with good intentions and then the war started, and that put us in an absolutely unique position.

Peace imposition is war fighting. It's going in, taking on somebody and beating them. In order to use a peacekeeping force, you have to have a cease-fire. But we got ourselves into this bind by having a war start around us.

Q. So you're a pessimist?

A. I used to use the term guarded optimism, but I've dropped even that from my vocabulary. I still have hope. But I won't be optimistic until they start to talk.

□ 2140

Mr. HOYER. Madam Speaker, I yield 4 minutes to the gentleman from New York [Mr. ENGEL].

Mr. BROOMFIELD. Madam Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Madam Speaker, I support the resolution, but I must say that while the resolution before us today is going in the right direction, it simply does not go far enough. The administration and the House have been shockingly slow in responding to the crisis in the former Yugoslavia. The administration does not seem to know what to do about Yugoslavia, so it has done nothing. We should have been passing resolutions a year ago condemning Serbian aggression. Instead we have stood by and watched Slobodan Milosevic, son of Saddam, butcher innocent civilians in Bosnia and Croatia and stifle the legitimate political aspirations of the Albanian majority in Kosova.

A year ago, I, and many of my colleagues, warned that if Milosevic was given a free hand in Slovenia and Croatia, there would not be an end to his aggression. We took to the House floor to drive this point home but were outvoted. Unfortunately, events have proven our point as Serbian aggression continues unabated. Milosevic is bit by bit attempting to gobble up his smaller, weaker neighbors. First he attacked Slovenia, next it was Croatia, today it is Bosnia, and tomorrow it will be Kosova and after that Macedonia. Even with the limited sanctions that have been adopted, Milosevic has not mitigated his behavior. International criticism has not dented his resolve to carve out a greater Serbia from the sovereign territory of surrounding nations.

It is time we in Congress followed the lead of Governor Clinton and voted for a resolution with teeth. Instead of praising the President for failing to act until last Thursday, we should encourage him to draw up contingency plans and offer Milosevic an ultimatum. If the carnage does not end very quickly we should be prepared to make Milosevic and his cronies understand that their brutal practices will not be tolerated by the international community.

Fifty years ago the world sat idly by while millions of Jews were exterminated by the Germans. The ethnic cleansing policies of the Serbian leadership seems chillingly similar to what we saw in the 1930's and 1940's. We cannot allow this to happen again.

I also believe this resolution should address the situation in Kosova, which it does not. The United States and the rest of the international community have consistently waited to change their policies toward the former Yugoslavia until events on the ground have turned violent. This is the pattern set in Slovenia, Croatia, and Bosnia-Hercegovina. The administration does not seem to be able to identify trouble spots before they happen. Iraq, Croatia, and Slovenia are prime examples.

The next massacre will occur in Kosova if we do not focus more international attention on that situation. The Serbs, who comprise less than 10 percent of the population, completely control the police and the army in

Kosova. Their repressive policies are well known to the international human rights community. The respected human rights organization, Helsinki Watch, labeled Serbian oppression in Kosova one of the worst human rights situations in Europe today.

In September 1991, the Kosovars held a referendum on independence. Eighty-seven percent of eligible voters participated and over 99 percent of those voting supported separation from Serbia. Ethnic Albanians, who comprise 90 percent, of the population of Kosova overwhelmingly supported independence. In May, Dr. Ibrahim Rugova was elected president of Kosova in internationally monitored balloting and he is currently working toward establishing a government located in Kosova in defiance of the occupying Serbs.

To date, the Albanian population has shown amazing restraint under a repressive Serbian Communist regime. If the provocations against ethnic Albanians, the firings, the closure of schools, and the banning of Albanian language media ever cause a backlash among the Kosovars, a horrible bloodbath will occur. The Kosovars are unarmed. They would find themselves in worse straits than the Bosnians are in now.

The stakes in Kosova are very high. If the Serbians do resort to open bloodshed in Kosova, Albania, Bulgaria, Macedonia, Turkey, and Greece are likely to be dragged into the conflict. This would result in more bloodshed, and a refugee crisis that would rival and possibly eclipse the current disaster in Bosnia and Croatia. None of Kosova's neighbors can afford a major influx of refugees, particularly Albania. Albania is poverty stricken and cannot feed its own people, much less large numbers of refugees from Kosova. Congress, and the President, must pay more attention to Kosova before it is too late. This resolution makes no mention of Kosova and I think that is a critical mistake. I do however, urge a "yes" vote for the resolution, as an important first step.

□ 2150

Mr. BROOMFIELD. Madam Speaker, I yield back the balance of my time.

Mr. HOYER. Madam Speaker, in closing, I rise in support of this resolution. We have spoken relatively briefly, and we have spoken to who is at fault, who has invaded. The fact of the matter is that the violence that exists in Yugoslavia's paternity is hundreds of years old, ethnic prejudices and hatreds, national enmities.

What we say in this resolution, what we said in the Helsinki final act, what we have said in the United Nations, document after document, is that the resolution of these differences shall not be by violence, that it shall not be by invasion, that it will not be by might making right; that the international community cannot survive, should not survive, must not survive by the use of violence.

Madam Speaker, the weapons of war are too dangerous for that today, and the consequences are not in the tens or the hundreds but in the thousands and hundreds of thousands and millions, not just of death but of persons displaced, children homeless.

Madam Speaker, this resolution says to all parties, "Stop the violence." This resolution says to whoever is at fault, "We will hold you accountable."

This resolution is Congress' way of standing up and saying, "We want international law to prevail, and the greatest power on the face of the Earth will not stand by while international norms are put under the tread of the tank, assassinated by the bombs of war or by the big guns of August that level Sarajevo and terrorize its people." That is what this resolution says.

Mrs. BENTLEY. Madam Speaker, will the gentleman yield?

Mr. HOYER. I am glad to yield to my friend, the gentlewoman from Maryland.

Mrs. BENTLEY. Madam Speaker, I want to thank the gentleman from Maryland. I want to say that regarding his closing remarks, I do agree 100 percent. The resolution itself pinpoints the beginning of the problem.

Mr. PANETTA. Mr. Speaker, I appreciate the chance to take up the question of our policy on the war and inhumanity raging in Bosnia-Hercegovina. It is highly regrettable that it took a published report in the press to bring the attention of the Bush administration and the United Nations to the mass human suffering in Bosnia. Having said that, I am encouraged that the administration has responded to congressional pressure, the calls and letters of thousands of Americans and the daily drumbeat of horrifying press reports by concluding, finally, that it is time for decisive action in Bosnia to put a stop to the senseless killing, torture, and starvation of civilians.

It is by now, commonplace to say that we are entering a new era. What is less clear is the shape this new era will take. We are groping our way through chaos toward an ill-defined, possibly illusory new world order. Let us leave aside for today any definition of the new order. Rather, I would like to focus on the constructive steps we can take toward the fashioning of that new order.

My good friend from Indiana, the distinguished chairman of the Subcommittee on Europe and Middle East, made an important and prescient point the other day when he made the case for intervention in conflicts on behalf of dislocated civilian populations denied the barest essentials of a humane existence.

I would like to associate myself with his characteristically thoughtful analysis. In this regard, I would like to believe that we in the United States learned a lesson during World War II. It remains a shadow across our national soul that the United States did not act earlier than it did to rescue the prisoners of the Nazi concentration camps. Yet, in time, we did act, and as a Nation I am convinced that we have absorbed that lesson.

As Primo Levi, Elie Wiesel and others have testified, that lesson must be kept uppermost in mind. The day we forget the Holocaust of World War II will be the day we begin to descend into another. Cambodia's Khmer Rouge never learned. Preliminary evidence seems to show that desperate armed bands of Serbs have learned the wrong lesson. Some have said that their execution of prisoners has not been systematic. That may be true, but it must not diminish our resolve to shut down Omarska and the other concentration camps as soon as we are able.

Another buzzword of this inchoate era is multilateralism. I share the view that the President ought to work with the United Nations Security Council, NATO, the European Community and the Conference on Security and Cooperation in Europe to effect a coalition of states taking the same coordinated action vis-a-vis Bosnia-Hercegovina.

Our objectives should include the following, and the use of force should be tailored to the achievement of these goals: First, allow international observers, chiefly the U.N. Human Rights Commission and the International Committee of the Red Cross, to inspect the detention camps; second, rescue the prisoners in the concentration camps; third, close the concentration camps; fourth, open and preserve the main transportation routes, allowing the transport of civilians and the wounded and the provision of medical relief, and ensuring the provision of humanitarian supplies to all civilian centers; fifth, halt the bombardment of civilians; and sixth, arrange and preserve a permanent cease-fire.

Toward those ends, the following options remain to be taken, and they should be implemented immediately by the U.N. Security Council: First, create a U.N. tribunal to investigate war crimes committed by all sides in the conflict. Second, tighten the embargo on Serbia to prevent all goods and arms from reaching its borders. Third, convene an emergency meeting of the members of the United Nations Security Council to discuss the use of force and to provide the auspices for a possible coalition action in Bosnia-Hercegovina. Any forces contemplated should be truly multinational and dominated, if not directed, by European forces.

I commend the leadership for its ushering of the resolution on Bosnia to the floor and, in particular, its backing of the use of force if necessary to ensure the provision of humanitarian relief to Bosnians. We ought to do more than that, however. We ought to set forth the steps we would advocate in the prosecution of our goals. I list the following escalations in force as my own contribution to the path I believe that the U.N. coalition should take.

It is important to remember that these steps remain possibilities, options. Should the Serbs accede to the United Nations demands at any stage, and I am confident that they will in the early stages, the greater uses of force will not be necessary. Nevertheless, it is important to consider them today, before we commit ourselves to a specific course. Military exerts have advised us that the use of force may not bring immediate results, and that the coalition may become bogged down in a prolonged war. That may be true, and no one can dispute the gravity and complexity of the conflict.

In response, however, the most trenchant point I can make remains the lesson of the Holocaust. The outcome of armed intervention is today unclear. What is not unclear is the fate of the inmates of Serb concentration camps. Given the brutal fact of the camps' existence and of the slow starvation of Sarajevo and other Bosnian cities, we have no choice but to act.

Of the remaining actions involving the use of force, I would recommend the following options, in order of their preference. Fourth, limited air strikes against Serb artillery positions around Sarajevo and Gorazde in Bosnia. The strikes would have to be limited, with small payloads and low collateral damage targeted on known and permanent Serb positions in Bosnia. Fifth, if the strikes were unsuccessful in forcing Serbs to withdraw, limited air strikes in Serbia would be called for, in order to force Serbia to reckon with the war's effects on its own territory. Sixth, if the fifth step were not sufficient in bringing a close to Serbia's sponsorship of the conflict, air strikes combined with a ground force would be required. Many military experts believe that the situation will not be truly resolved until outside ground forces take and control most of the strategic positions in Bosnia.

The President and his advisors, the U.N. Security Council, NATO, and other organizations must consider these options with all deliberation, but they must take action quickly to put a stop to the daily atrocities rogue paramilitary and military forces are committing in Bosnia.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Resolution 554, concerning the situation in Bosnia-Hercegovina, and I commend the distinguished chairman of the Helsinki Commission, Mr. HOYER, the distinguished chairman of our Foreign Affairs Committee, Mr. FASCELL, as well as our distinguished ranking Republican member, the gentleman from Michigan [Mr. BROOMFIELD], for their outstanding and expeditious work on this important resolution.

For months we have watched the European Community attempt to broker peace in the former Yugoslavia, but despite the efforts of Lord Carrington and our former Secretary of State, Cyrus Vance, the European Community and the international community have been unable to bring about a permanent cessation of hostilities in Bosnia-Hercegovina.

Media accounts of the atrocities being perpetrated against the civilian population of Bosnia-Hercegovina are heart wrenching. We have heard of the despicable act known as ethnic cleansing of regions inhabited by non-Serbs. We have seen human skeletons incarcerated in detention centers which are eerily reminiscent of World War II concentration camps.

Throughout this crisis, officials of the International Committee of the Red Cross have been denied access to these camps, as well as prisoner of war camps through out Bosnia-Hercegovina, despite article 143 of the 1949 Geneva Convention relative to the protection of civilian persons in time of war.

Mr. Speaker, humanitarian aid—food, medications, and other critically important goods, which are so badly needed to sustain life in Bosnia-Hercegovina are simply not getting through. It is time for decisive action to be taken by the international community.

This resolution supports the President for his statement of August 6, 1992 and commends him for taking decisive steps to put pressure on Serbia to end this crisis.

The measure also urges the United Nations Security Council to consider means by which United Nations and ICRC personnel shall be granted unimpeded access to all of the refugee, POW, and internment camps located throughout the former Yugoslavia.

Finally, this measure expresses the sense of the House of Representatives that an international tribunal should be convened to investigate the despicable crimes against humanity being perpetrated within the territory of the former Yugoslavia. We cannot sit back and watch this great tragedy unfold any longer. We must urge the United Nations to take multilateral, concerted action, and we must not wait 1 more day. Accordingly, I urge the unanimous adoption of this important measure.

Mr. SMITH, of New Jersey. Mr. Speaker, almost 1 year ago, my colleague, Congressman FRANK WOLF, and I were in the wartorn towns of Osijek and Vukovar, as well as Croatia's Zagreb and Serbia's Belgrade. In our meetings with government officials and religious leaders, Mr. Speaker, the explanations and potential resolutions to the dissolution of Yugoslavia and search for appropriate responses to the subsequent military aggression by the Yugoslav Army and militias on both sides were not easy nor were they hopeful. Certainly, as we spoke with ordinary families, moms and dads, doctors and nurses, and unfortunate civilians who had been caught in the gunfire or by shrapnel, the feelings of desperation were intense. And, that was last September.

Sadly, Mr. Speaker, the situation has not stabilized. It has only grown worse.

The Serbian-led Yugoslav forces, and the Serbian-supported militias have devastated regions of Croatia, and having accomplished their goals there, are now destroying and taking control of Bosnia-Hercegovina. Thousands and thousands have paid the ultimate price, leaving grieving family members and orphans. Millions have become refugees—homeless, leaving behind their personal properties, their livelihoods, and their rubbled cities and villages.

International efforts to provide humanitarian assistance to the large population centers have been thwarted and often prevented by Serbian forces. The confirmation of the detention centers has further proven the atrocities of the military. Denying the international Committee of the Red Cross access to these internment camps is but one more indication of the Serbian Government's tolerance of such dehumanizing violations of international law, and ruthless breaking of the human spirit. Sadly, the ethnic cleansing of Bosnia-Hercegovina is an eerie replay of history in Europe which we thought would remain past history.

Mr. Speaker, I fully support this legislative action of the House and I hope that this will serve to unify the voices coming from the legislative branch. Frankly, it is long overdue.

This resolution which I have cosponsored clearly states Congress' abhorrence of the atrocious ethnic cleansing which is underway in Bosnia-Hercegovina and condemns the military intervention by Serbian forces throughout Bosnia. Furthermore, the President is commended for taking decisive steps to turn up the heat on Serbia through the strict enforcement of sanctions, and the isolation of Serbia both diplomatically and politically. Mr. Speaker, it is imperative that the international community—particularly the United States—maintain its resolve. Furthermore, the resolution urges the United Nations Security Council to authorize means necessary to ensure that humanitarian assistance is delivered safely to the people of Bosnia.

Mr. Speaker, the people of Bosnia, as did those in Croatia, deserve our moral support; they need an advocate as they grope for peace within their borders; the humanitarian assistance which is being provided can survive and be distributed only with military protection. In the process, though, the Serbian Government must be convinced that these are not hollow words. I encourage my colleagues to vote unanimously in favor of this resolution.

The SPEAKER pro tempore (Ms. DELAURO). The question is on the motion offered by the gentleman from Maryland [Mr. HOYER] to suspend the rules and agree to the resolution (H. Res. 554).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOYER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IN APPRECIATION OF EFFORTS TO DEVELOP HOUSE RESOLUTION 554

Mr. HOYER. Madam Speaker, on behalf of the Committee on Foreign Affairs and on behalf of the Helsinki Commission, I would like to thank some folks who have spent many hours putting together that which was a difficult resolution, because there are many legitimate points of view: Meg Donovan and Marty Sletzinger of the Committee on Foreign Affairs; Bob Boyer and Beth Ford, also of the Committee on Foreign Affairs; and Enere Levi of the committee, as well as Bob Hand, Mary Sue Hafner, Jesse Jacobs, and others of the Helsinki Commission staff.

I also want to thank Spencer Oliver, who has convened a group of folks trying to work this resolution, and I am pleased that its result was unanimous, or overwhelmingly approved tonight. We hope it is a step in the right direction. We hope that it is a step to bring the parties to the negotiating table, which we all want, once the violence ceases and international borders are recognized.

HOW MANY TIMES DID CLINTON AND BUSH RAISE TAXES?

Mr. JONES of Georgia. Mr. Speaker, there's an interesting column in this morning's Post called "Anatomy of a Smear." Why, just yesterday a Member from the Republican side attacked Governor Clinton for raising taxes in Arkansas 128 times.

I imagine we'll be hearing that number a lot next week down in Houston. A whole lot. But, there's one big problem with that—it just ain't so.

A fair accounting shows 55 to 59 revenue increases in 11 years, 7 of which have expired, and 48, I repeat 48, tax cuts.

Now, by the Bush campaigns' means of reckoning, the President himself has raised taxes 133 times in just 4 years.

So, when you hear this misinformation coming from the G.O.P. convention, consider the source, and then just switch the channel to Murphy Brown.

[From the Washington Post]

ANATOMY OF A SMEAR

(By Michael Kinsley)

HOW MANY TIMES DID CLINTON—AND BUSH—RAISE TAXES?

Massachusetts Gov. William Weld repeatedly referred to the 43 tax increases Clinton signed during 11 years as governor.—USA Today

Bill Clinton as governor of Arkansas raised taxes something like 128 different times.—Dan Quayle

Well, take taxes. We're mad at George Bush because he raised taxes once. Bill Clinton has signed 121 tax increases. A hundred and twenty-one!—Rep. Newt Gingrich

Like Joe McCarthy counting communists in the State Department, Republicans have had a hard time deciding exactly how many tax increases to accuse Bill Clinton of. They have settled on the number 128, and the Bush-Quayle campaign has issued a list.

The exact number of tax increases in Arkansas while Clinton was governor is a meaningless question in any event, but the Republicans obviously think it's a telling point. As McCarthy understood, a number lends phony precision that gives weight to the general indictment—in this case, that Clinton is a "tax raiser." So the accuracy of the number is important, not for what it says about Clinton but for what it says about Bush. Bush has decided to campaign on the theme of "trust." Bear with me while we analyze the "128 tax increases," and see if you can trust George Bush.

The Bush-Quayle list is hilariously shoddy. My favorite items are three (numbers 31, 86 and 91), which aren't items at all. They are just places where the description of an alleged tax increase took more than one line. Similarly, number 78 is a verbatim repetition of number 74 (a 25-cent tax increase per gallon on "light wine"). "Tax increase" number 92 is a $1 per-conviction court costs fee imposed on criminals. One dollar, and the Bushies are complaining! These people are supposed to be tough on crime?

Item number 46 is a 1987 law lengthening the season for dog racing. This is apparently a "tax increase" on the theory that a longer season increases state gambling tax revenues. Other supposed tax increases either never actually took effect (number 71) or replaced another tax of equal size (number 117). A fuel tax increase is counted as two because it applies to both gasoline and diesel. A general booze tax increase weighs in at five if you count such categories as wine coolers separately—as they do.

Dick Alexander, an Arkansas law professor working for the Clinton campaign, figures a true count would be 55 or 59 increases in various taxes and fees while Clinton was governor, depending on how you figure. He even includes 10 the Republicans somehow overlooked.

But in the real world, as opposed to Republican propaganda fantasies, taxes go down, too. Alexander has produced a list of 48 tax cuts during Clinton's governorship. These include such George Bush favorites as tax breaks for enterprise zones and capital gains. They also include a general cut last year that reduced or eliminated income taxes on 374,000 low-income Arkansas citizens. Since seven of Clinton's 55 (or 59) tax increases have expired or been repealed, the actual number of tax "increases" and the number of tax "cuts' are about equal. If you care.

Arkansas is a very low-tax state. It ranks 49th in per capita state and local taxes and 50th in per capita expenditures. Even measuring taxes as a share of personal income, Arkansas ranks 47th.

A "Factsheet" put out by the Bush-Quayle committee augments the "128 tax increases" canard with the assertion that: "Taxes are $397.1 million higher on an annual basis than when Clinton took office." This figure reflects inflation and growth as well as real tax increases. By the same moronic calculus, federal taxes are $476.4 billion higher than when Ronald Reagan and George Bush took office.

In fact, the absurdity of this whole count-the-taxes exercise is illustrated by applying it to George Bush's tenure as president. Just one tax increase? Forget it. The notorious 1990 tax increase was 73 separate increases. And Bush signed tax bills in 1989 and 1991 as well, each one with multiple provisions. Who can forget his decision in 1989 to "limit nonrecognition treatment when securities are received in certain Section 351 transactions"? That one was a $1.4 billion tax increase over five years.

There have been dozens of federal excise tax increases during Bush's reign. For example, in 1990 he imposed a two-stage tax increase on both small and large cigars—distinct categories in the statute. By the Bush-Quayle rules, that counts as four separate tax increases.

Overall, by my count using his rules, Bush has raised taxes 133 times—more often in just four years than Clinton did in 11. And that doesn't even include increased fees for government services such as National Parks. Nor does it include criminal fines.

Every day the Bush-Quayle machine puts out stuff like this malarkey about "128 tax increases," and every day Republican sound-bite artists fan out to spread the word. The Clinton-Gore machine is no less efficient, but I believe it is less dishonest. If anyone has a counterexample, I would like to hear of it. Meanwhile, when Bush talks of "trust," I am reminded of Reagan's old mantra about negotiating arms control with the Soviets: "Trust, but verify."

QUAYLE THUMBS NOSE AT CONGRESS

Mr. SKAGGS. Mr. Speaker, the Quayle Council has done it again. The Council, in its imperial style, has thumbed its nose at Congress and said quite clearly, "We don't care, we don't have to—we're the Quayle Council."

For more than 3 months, I waited for a response to questions submitted to the Council at an appropriations hearing on its budget. Basic questions about who staffs the Council, how they operate, and what regulations they review. The response I got back last week was nothing more than artfully written bunk—in short, they said, "Congress, what we do is none of your business, and we won't cooperate."

Why does the Council insist on keeping its actions and operations secret? Because they know that if the American people knew how the Council gives special breaks to corporate contributors and political allies, the American people just would not stand for it. This is exactly the kind of thing that breeds distrust and disgust with Government.

The Senate will soon vote on whether to eliminate funds for the Council. Congress has no business spending taxpayer dollars to fund a secret agency that's totally unaccountable to the American public. We should put this rogue operation out of business.

At this time, I am inserting into the RECORD a copy of my letter to Vice President QUAYLE, the response, and a staff analysis of how far it falls short.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 8, 1992.

Hon. J. DANFORTH QUAYLE,
The White House, 1600 Pennsylvania Ave., Washington, DC.

DEAR MR. VICE PRESIDENT: After the hearing of the Subcommittee on Treasury, Postal Service, and General Government on March 17, 1992, the Subcommittee submitted several questions for the record on my behalf regarding the operations of the Council on Competitiveness, which you chair. Your office sent answers to these questions on April 29, 1992. Unfortunately, the answers submitted were in most respects not responsive or adequate.

LISTING OF REGULATIONS REVIEWED

I asked for a "complete list" of the specific regulatory proposals the Competitiveness Council has reviewed. The response failed to provide this list. Instead, the Subcommittee was given "fact sheets and press releases" that describe selective issues "among" the "wide range of regulatory and competitiveness issues" handled by the Council. However, the staff to the Competitiveness Council has told The Washington Post (Jan. 9, 1992) that they operate under a "no fingerprints" policy, under which they seek to prevent public disclosure of their intervention in important federal regulations. For instance, in one case involving regulation of airline noise discussed in the Post story, Council staff made a deliberate decision not to publicize the Council's decisive role because the issue was a "political loser." Indeed, in that story, you are said to "prefer that most of their interventions, like that on aircraft noise, leave no fingerprints," because, "in this town, especially, you don't want that to come out" (emphasis added). Given this, an attempt to limit congressional oversight to only the selected issues disclosed in press releases and fact sheets would give Congress only an unacceptably partial and misleading picture of the Council's activities. For that reason, I again ask for a complete list of the regulations in which the Council or its staff have had significant involvement, not those where the involvement has been merely peripheral. Your staff told the Post that "council staff limit the interventions to about 50 cases a year, tending to choose those with major economic impact." Identifying those cases should not be that difficult, and the Subcommittee has a right to this information.

COMMUNICATIONS WITH OUTSIDE PARTIES

I also asked for details of communications that the Council has received from outside parties on regulatory matters and for copies of all written communications received from these parties. The Council's reply stated that "Council staff frequently meet with interests outside the government on regulatory issues," but that "it is Administration policy that these types of communications are not disclosed."

My understanding, however, is that it is not Administration policy to treat communications from interested parties on regulatory matters as confidential. To the contrary, the procedures for regulatory review under Executive Order 12291 specifically provide that "written materials received from anyone not employed by the Federal Government are *made available* * * * *for review by the public.*" In the case of rules from the Environmental Protection Agency and any other Department or agency requesting similar treatment, the disclosure extends to "oral communications concerning * * * rules, e.g. meetings, telephone calls, * * * with persons who are not employees of the Federal Government" (Office of Management and Budget, "Additional Procedures Concerning OIRA Reviews" at 2, 3 (June 13, 1986) emphasis added).

There is no "pre-decisional" or "deliberative" process exception to disclosure requirements for communications with interested third parties when members of the public seek these documents. *NAACP Legal Defense Fund* v. *U.S. Dept. of Justice*, 612 F. Supp. 1143 (D.D.C. 1985); *Center for Auto Safety* v. *Dept. of Justice*, 576 F. Supp. 739 (D.D.C. 1983). There is no question that the Council is legally obliged to provide records of these communications to this subcommittee.

DESCRIPTION OF COUNCIL POSITIONS AND INFLUENCE

I asked for a description of the positions advocated by the Council or its staff during each regulatory review and the influence of these positions on the final regulations. In response, I was told that this would impose an "extraordinary burden," because it would require a description of each of the over 6,000 regulations reviewed by the Office of Management and Budget since the Council was established in March 1989. As noted above, your staff told The Washington Post that the Council examines in detail only about 50 regulations each year. It should not be an "extraordinary burden" to describe the Council's role in this limited number of regulations.

DISCLOSURE OF WRITTEN COMMUNICATIONS FROM THE COUNCIL

I asked for a copy of all written communications between the Council or its staff and rulemaking agencies on regulatory matters. The reply was that these documents cannot be disclosed because they are "pre-decisional and deliberative in nature."

No court has ever withheld executive branch documents from Congress on the basis of a deliberative process privilege. Indeed, the Freedom of Information Act expressly provides that the deliberative process privilege that applies when a private citizen seeks certain federal documents "is *not* authority to withhold from Congress." 5 U.S.C. sec. 522(d) (emphasis added). It is well-recognized that Congress has "a special right of access to privileged information not shared by others." *Murphy* v. *Dept. of the Army*, 612 F.2d 1151, 1155–56 (D.C. Cir. 1979.) This "special right" includes a constitutional right of access to documents sought in my request.

The Supreme Court addressed disclosure of "confidential communications between a President and his close advisors" in *United States* v. *Nixon*, 418 U.S. 683 (1974). The court held that when a presidential claim of privilege: depends solely on the broad, undifferentiated claim of public interest in the confidentiality of such conversations, a confrontation with other values arises. *Absent a claim of need to protect military, diplomatic, or sensitive national security secrets, we find it difficult to accept the argument that even the very important interest in confidentiality of Presidential communications is diminished by production of such materials. Id.* at 706 (emphasis added). Under this precedent, because the Council has made no claim that military, diplomatic, or national security secrets are at risk, disclosure of the documents is clearly required.

The confidentiality claim is also inconsistent with explicit statutory requirements and long-standing Administration practice. The Clean Air Act, which has been a major focus of Council intervention, expressly requires disclosure of "all ± written comments by other agencies" on clean air regulations. 42 U.S.C. sec. 7607(d)(4)(B)(ii). There is no question that the Council is an "agency" subject to the Act's disclosure requirements. *Meyer* v. *Bush*, Civ. No. 88–3112 (D.D.C. Sept. 30, 1991).

In addition, Administration procedures specifically provide that the Office of Information and Regulatory Affairs (OIRA), which has responsibility for White House review for the Office of Management and Budget, "will make available * * * all written correspondence concerning the draft submitted for * * * review under Executive Order No. 12291 that is *exchanged between OIRA and the agency head*" (Office of Management and Budget, *supra*, at 3 (emphasis added)).

EXCLUSION OF THE RULEMAKING AGENCY FROM MEETINGS WITH INTERESTED PARTIES

I asked whether the Council invites the rulemaking agency to meetings between Council staff and interested third parties, as is required during regulatory review under Executive Order 12291 (Office of Management and Budget, *supra*, at 3). The reply—that Council staff "*may or may not* invite representatives from various agencies" (emphasis added)—is not especially informative. It provides no explanation of the views of the Council on participation by the rulemaking agency.

At a hearing of the Health and the Environment Subcommittee of the Committee on energy and Commerce on November 14, 1991, EPA officials testified that no EPA air official had ever been invited to a meeting between Council staff and a regulated industry. Indeed, despite the Council's regular intervention in regulations implementing the Clean Air Act, EPA air officials testified that they had "no direct knowledge that such meetings have even happened" (transcript at 170). This seems to contradict the Council's response and suggests that the Council actually has a policy of excluding at least certain regulatory officials from its meetings with outside interests. I'd appreciate your clarification of this issue.

INCLUSION OF COUNCIL COMMUNICATIONS IN THE DOCKET

Finally, I asked whether factual communications received by the Council on pending regulations, and the policy comments of the Council on these regulations, are included in the rulemakings docket. The Council's answer indicates that it does not add these materials to the docket, because "the Council itself does not engage in rulemaking."

In an op-ed published in The Washington Post on December 8, 1991, you stated that, "the President and I . . . are elected by the people," while "the iron triangle—special interest groups, bureaucrats and Congressional staff—are elected by nobody." You pointed out that "Congress enacts laws, and the executive branch . . . implements them." You than concluded that "it is entirely proper that these executive branch functions *be controlled* by officials accountable to the voters and by nobody else" (emphasis added). This "control" of regulations by the Council necessarily engages the Council in the rulemaking process.

Your op-ed goes on to cite several instances of indisputable regulatory action by the Council. For instance, you concede that "the council has attempted to bring balance to our nation's 'wetlands' policy" by "putting the 'wet' back into 'wetlands'"—which is an overtly regulatory effort. You assert that "some interest groups that didn't win everything they wanted" in the 1990 Clean Air Act "are now pressuring the regulatory process to achieve what they they failed to get in Congress." You then reveal the Council's "determination" to intervene in this "regulatory process" in order to "protect the carefully considered compromise." These examples certainly demonstrate the Council's vigorous intervention in the rulemking process.

Ultimately, there is a basic logical inconsistency in the position that the Council need not comply with disclosure requirements because it is not engaged in rulemaking. The Council's role is to "serve as the coordinating body for regulatory review under Executive Order 12291." This regulatory review under Executive Order 12291 is inherently part of the rulemaking process. That is why officials at the Office of Management and Budget who are engaged in such review must follow detailed procedures for insuring that their communications become part of the public record (see Office of Management and Budget, supra). When the Council interjects itself into this process, it is necessarily interjecting itself into the regulatory process. Thus, like all others involved in the rulemaking process, the Council has an obligation to adhere to the rules for public disclosure that lie at the heart of our administrative system.

ALLEGATIONS OF ILLEGAL AND UNETHICAL CONDUCT

The failure to reply fully and candidly to the Subcommittee's questions is particularly troubling in light of the serious allegations of illegal and unethical conduct that have been raised regarding the activities of the Competitiveness Council.

At a hearing of the Health and the Environment Subcommittee on December 10, 1991, experts on legal ethics commented on several instances of unethical conduct by the Council and its staff. Professor Monroe Freedman of Hofstra University, a former chairman of the Committee on Professional Disciplinary Standards and Procedures of the Federal Bar Association, and Professor Robert Aronson of the University of Washington, who is the chair of the Professional Responsibility Section of the Association of American Law Schools, questioned the activities of Allan Hubbard, the former executive director of the Council, who participated in clean air rulemakings that directly affected an electric utility company in which he held stock and potentially affected a small chemical company which he owned. Hubbard's actions were said to be "clearly subject to criminal prosecution" (Hearings on Clean Air Act Implementation (Part 2), supra, at 349 (testimony of Professor Freedman)) and "an unethical conflict of interest" (id. at 290 (testimony of Professor Aronson)).

At the same hearing, other legal experts challenge the legality of the secret meetings held by Council staff and representatives of regulated industries. Professor Cass Sunstein of the University of Chicago, who drafted Executive Order 12291 for the Reagan Justice Department, testified that "if the Council is influencing rules on the basis of substantive presentations that are not disclosed to courts or the public, it is probably violating the Administrative Procedures Act, the Clean Air Act, and the executive branch's own public commitments" (id. at 300). Likewise, Professor Robert Percival of the University of Maryland, testified that "the activities of the Competitiveness Council represent an unprecedented intrusion into agency decisionmaking that threatens to undermine principles of separation of powers and the open model of regulatory decisionmaking embodied in the Administrative Procedures Act" (id. at 329).

Professor Freedman characterized your own role in the decision to kill an EPA proposal to recycle newspapers as "the common alley cat breed of conflict of interest," because of your personal holdings in newspaper companies and a virgin paper mill (id. at 332). Professor Aronson agreed (id.).

These allegations are serious and substantial. They demand full investigation by this Subcommittee as part of its responsibility to insure that duly appropriated funds are properly expended. Unfortunately, you have failed to respond in a manner that permits the Subcommittee to conduct this vital investigation.

PARTICULAR QUESTIONS ABOUT PARTICULAR REGULATIONS

While not answering my original questions, the Council did indicate a willingness to provide additional information in response to "particular questions about particular regulations." At this time I am able to identify a "particular" interest in the following four types of regulations: (1) the regulations reviewed by the Council under the Clean Air Act; (2) the regulations reviewed by the Council under the Clean Water Act; (3) the regulations reviewed by the Council under the Occupational Health and Safety Act; and (4) the draft policy reviewed by the Council involving the Secretary of Energy's proposed National Energy Policy.

In addition, I request again that you fully answer my inquiries regarding (1) contacts with outside parties, (2) descriptions of council positions and their regulatory influence, and (3) disclosure of written communications between the Council and rulemaking agencies for each of the regulations identified in the preceding paragraph. I would also like full answers to my questions regarding (1) listing of regulations reviewed by the Council and (2) exclusion of rulemaking agencies from Council meetings. I would also appreciate a response to the points I have raised regarding the rulemaking role of the Council.

The Supreme Court has recognized:

> The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws * * *. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency, or waste. *Watkins* v. *United States*, 354 U.S. 178, 187 (1957) (emphasis added).

The matters raised in this letter are of utmost importance to the integrity of the regulatory process. I would greatly appreciate more candid and thorough responses to the questions I have raised. Please respond no later than June 22, 1992.

Thank you in advance for your attention to this request.

Sincerely yours,

DAVID E. SKAGGS.

OFFICE OF THE VICE PRESIDENT,
Washington, DC, August 3, 1992.

Hon. DAVID E. SKAGGS,
Subcommittee on Treasury, Postal Service and General Government, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR CONGRESSMAN SKAGGS: This responds to your letters to the Vice President concerning the President's Council on Competitiveness and questions you have raised about information we provided to you in earlier inquiries. We have attempted to respond to your questions according to the categories of issues you have identified as needing additional explanation.

COMPLETE LIST OF REGULATORY PROPOSALS REVIEWED

In connection with your criticism that we did not furnish a "complete list" of all regulations in which the Council has been involved, you have cited an article in The Washington Post and rely upon the newspaper as authority for your proposition that Council staff has influenced the outcome of certain regulations without leaving "fingerprints" on the regulatory process. According to the newspaper, interventions by staff are limited to about 50 cases a year. Thus, the article also serves as the basis for your view that providing a complete list of regulations in which the Council or its staff had "significant involvement" should not be that difficult. The same argument is applied to disclosure of what positions were advocated by the Council or its staff during each regulatory review and how these positions influenced the final regulation.

Although the cited article did contain a conclusion containing the number of "interventions" you have referenced, the Vice President also declined to provide a specific number. Under the circumstances, it seems unproductive to engage in debates over propositions advanced by the media about the frequency and degree of Council involvement in agency regulation-formulation. Moreover, the full list of regulations that were reviewed pursuant to Executive Order 12291 and coordinated by the Council can be obtained from the Office of Management and Budget docket.

In any case, we hope our offer to provide additional information in response to your particular questions about particular regulations is a reasonable accommodation to your interest in Council activities.

In an additional attempt to be responsive to your request, we are enclosing a letter that was sent to Chairman Conyers of the Committee on Government Operations identifying some of the regulatory issues in which the Council participated. We are also furnishing you a letter from the Office of White House Counsel to Chairman Waxman of the House Committee on Energy and Commerce. That letter addresses certain conflict of interest allegations concerning Council activities of Allan B. Hubbard, former Executive Director.

COMMUNICATIONS WITH OUTSIDE PARTIES

You again request details of communications that the Council had with outside parties on regulatory matters and ask for copies of all written communications received from these parties. You maintain that it is not Administration policy to treat communications from interested parties as confidential; that this is so because Executive Order 12291 specifically provides that such written materials will be made available for review by the public. You point out, as well, that when EPA rules are involved, even oral communications concerning rules are available for review when made by persons who are not Federal employees. Finally, you have cited two Federal district court decisions from the District of Columbia for the proposition that there is no "pre-decisional" or "deliberative" process exception to disclosure requirements for communications with interested third parties when members of the public seek these documents.[1]

It is correct that communications from outside parties concerning rulemakings are made available to the public as part of the Office of Information and Regulatory Affairs (OIRA) review policy under Executive Order 12291. However, that policy applies to OIRA review and not the Office of the Vice President or the Council. In any event, the Council's activities in the regulatory arena are fully consistent with those provisions. As we emphasized in our earlier response, the Council itself does not engage in rulemaking as part of its participation in the regulatory process. Instead, it assists in the coordination of the Administration's review of regulations being promulgated by Executive Branch agencies and departments. As required by statute, agencies and departments remain responsible for making their decisions based upon the record that is developed. Whether the rules pertain to EPA or another agency, Council staff assist the agencies to ensure that the rules issued are based on information placed in the rulemaking docket and not based on information presented only to the Council staff or its members.

The process of Council participation in agency rulemaking was recently examined by the D.C. Circuit of the U.S. Court of Appeals in State of New York and State of Florida versus EPA, et al. (July 14, 1992). The plaintiffs had claimed that EPA acted improperly in relying on the opinion of the Council rather than exercising its own expertise. The court held, however, that the Council's role was appropriate and clearly rejected the plaintiffs' contentions that Council involvement somehow tainted the rulemaking process: "(t)he fact that EPA re-evaluated its conclusions in light of the Council's advice * * * does not mean that EPA failed to exercise its own expertise in promulgating the final rule."

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[1] *NAACP Legal Defense Fund* v. *U.S. Dep't of Justice*, 612 F. Supp. 1143 (D.D.C. 1985); *Center for Auto Safety* v. *Dep't of Justice*, 576 F. Supp. 739 (D.D.C. 1983).

You have stated that there is no "predecisional" or "deliberative" process exception to disclosure requirements concerning government communications with outside parties when members of the public seek these documents. However, the issue here in Congressional access to Executive Branch information, not access by the public to that information under the FOIA. Also, our initial response indicated Executive Branch confidentiality interests that are protected by separation of powers principles, not the FOIA. For these reasons, we believe the FOIA is irrelevant to this discussion.

Requiring disclosure of all communications received by the Council from outside the government during the regulatory review process would substantially impair the ability of the President and his principal advisors to receive confidential advice from private citizens. Again, this does not mean that we would not respond to any particular questions you have concerning the Council's role in coordinating specified regulations.

DISCLOSURE OF WRITTEN COMMUNICATIONS FROM THE COUNCIL

You have repeated your request for a copy of all written communications between the Council or its staff and rulemaking agencies on regulatory matters. You have again contended that these records cannot be withheld even if they are pre-decisional and deliberative in character. You note that the FOIA specifically provides that the deliberative process privilege applicable when a citizen seeks agency records is not authority to withhold information from Congress. However, no exemption under the FOIA is invoked as authority to deny records you have requested so a discussion of FOIA case law serves no useful purpose.

Citing provisions of the Clean Air Act does not strengthen the argument that Council records of communications must be placed in the public docket in the course of rulemaking. Although the Clean Air Act, as amended, provides by section 307(d)(4)(B)(ii) and EPA policy that agency comments be placed in the public docket, EPA does not consider various White House components and entities "agencies" for purposes of that section. As we have noted previously, whatever policy may be followed by OIRA does not necessarily extend to White House components or bind those components as Administration policy.

Requiring disclosure of all written communications by the Council or its staff would severely encroach upon the President's constitutional authority to protect the confidentiality of Executive Branch deliberations. A unanimous Supreme Court in *United States* v. *Nixon*, 418 U.S. 683, 708 (1974) found that the deliberative process privilege is "fundamental to the operation of Government and inextricably rooted in the separation of powers under the Constitution." The Court recognized that "[a] President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately." *Ibid.*

EXCLUSION OF THE RULEMAKING AGENCY FROM COUNCIL MEETINGS WITH INTERESTED PARTIES

You have noted that EPA officials have testified that "no EPA air official had ever been invited to a meeting between Council staff and a regulated industry." That observation is not true; moreover, it is irrelevant because there is no legal requirement that agencies or particular agency employees be invited to meetings between outside parties and the Council.

INCLUSION OF COUNCIL COMMUNICATIONS IN THE DOCKET

You have pointed to an "op-ed" piece in The Washington Post by the Vice President describing Council involvement in coordination of regulations. In your view, this points out a "basic logical inconsistency" in the Council's position that it need not comply with disclosure requirements under E.O. 12291. There is no logical inconsistency between Council participation in the process as coordinator of Administration policy and not applying Administrative Procedures Act requirements applicable to communications between "agencies" and outside parties to that participation. The Council is not an "agency" and, therefore, the APA and E.O. 12291 procedures are not applicable.

ALLEGATIONS OF ILLEGAL AND UNETHICAL CONDUCT

Your letter indicates particular concern about non-responsiveness in light of what you have characterized as "serious allegations of illegal and unethical conduct" that have been raised about Mr. Hubbard and staff of the Competitiveness Council. The foundation for these allegations is apparently testimony by certain persons before your subcommittee.

Those who testified before the subcommittee—not one of which could claim experience with Federal ethics statutes—were able to postulate violations of criminal law without having conducted any inquiry concerning the underlying facts giving rise to the alleged violations. Simply put, they were building theoretical cases based on hypothetical facts. Moreover, these witnesses had no authority to conclude that a criminal law may have been violated.

The U.S. Office of Government Ethics (OGE), the very agency with authority to provide guidance on Executive Branch ethics laws, concluded that the Office had not investigated Mr. Hubbard's activities nor asked anyone else to do so, either before or after the issuance of his waiver, because OGE "had no reason to question his activities before it was issued nor have we seen or heard sufficient information that would lead us to believe that he has engaged in any prohibited activities since its issuance." In reference to comments by one of the witnesses and the allegations concerning Mr. Hubbard, the Director of OGE noted:

Before an individual's reputation is sullied by accusations of criminal conduct, great care should be exercised to ascertain the pertinent facts and apply them to the applicable statute with an understanding of the letter and spirit of the law. Unfortunately, these time-honored principles have been violated in Mr. Hubbard's case.

We are enclosing a copy of OGE's letter containing the above commentary.

PARTICULAR QUESTIONS ABOUT PARTICULAR ALLEGATIONS

We hope this additional explanation of our position is responsive to your request for further information on Council activities. Although you have identified four general sets of regulations or regulatory policy in which you are interested, you have not indicated the questions you want answered concerning the items identified. As in the past, we are prepared to work with you concerning reasonable requests for information involving specific questions on the Administration's position on specific regulations that were coordinated by the Council as part of the rulemaking process.

STAFFING LEVEL OF THE COUNCIL

In a separate letter, you have requested clarification of the staffing level of the Council. Your questions for the record in connection with appropriations requests for the Executive Office of the President included an inquiry regarding how many of the Office of the Vice President's requested 26 FTEs were assigned to the Council and how much we were requesting to fund the FTEs. We responded:

There are no full-time staff dedicated to the Council. Two of the twenty-six FTEs requested by the Office of the Vice President would devote a substantial amount of their duty hours (approximately 70 to 80 percent) to support the Council. The funding is $86,000.

The Council has six members, the Secretary of the Treasury, the Attorney General, the Secretary of Commerce, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Chief of Staff to the President as an ex officio member. The Vice President is Chairman of the Council.

The Council is currently supported by a staff, headed by an Executive Director, David McIntosh. Mr. McIntosh and another full-time staff member paid from the Executive Office of the President, Office of the Vice President, appropriation devote approximately 70 to 80 percent of their duty hours to Council-related functions.

Four professional staff members who assist the Council by performing functions related to the mission of their agencies are currently assigned full-time from other agencies. Two of the staff members are from the Department of Health and Human Services and provide assistance with health care and biotechnology issues, and another from the Department of Education assists with issues relating to that agency; the fourth staff member is from the Department of Justice and assists with legal, environmental and regulatory matters. The Council also receives secretarial assistance and support services from employees assigned to the Office of the Vice President.

We hope this information is responsive to your questions about Council staff.

Sincerely,

JOHN L. HOWARD,
Counsel to the Vice President.

SUMMARY OF AND COMMENTS ON VICE PRESIDENT'S RESPONSE TO REPRESENTATIVE SKAGGS

On June 8, 1992, Rep. Skaggs wrote to the Vice President requesting more detailed responses to questions about the operation of the Council on Competitiveness than had previously been provided. Mr. Skaggs requested information with respect to eight areas of interest to his subcommittee. On August 3, 1992, the Vice President's Office, through the Counsel to the Vice President John L. Howard, responded by essentially rejecting the validity of each and every request. A summary of and brief commentary on the letter follows.

BLOWOFF 1: REQUEST FOR COMPLETE LIST OF REGULATORY PROPOSALS REVIEWED

Mr. Skaggs asked "for a complete list of regulations in which the Council or its staff have had significant involvement," noting that a Washington Post article had quoted Council staff as saying that "council staff limit the interventions to about 50 cases a year, tending to choose those with major economic impact."

VP Response: "[I]t seems unproductive to engage in debates over propositions advanced by the media about the frequency and degree of Council involvement in agency regulation formulation. Moreover, the full list of regulations that were reviewed pursuant to Executive Order 12291 and coordinated by the Council can be obtained from the Office of Management and Budget docket. In any case, we hope our offer to provide additional information in response to your particular questions about particular regulations is a reasonable accommodation to your interest in Council activities."

Comment: The request for a list of rulemakings in which the Council was "significantly involved" was ignored, apparently because Mr. Skaggs did not identify with particularity a rulemaking he was interested in. However, subsequent responses indicate that "particularity" will not in itself suffice to elicit information.

BLOWOFF 2: COMMUNICATIONS WITH OUTSIDE PARTIES

Mr. Skaggs asked for all written communications to the Council from parties outside the Government, noting that the 1986 Gramm memo imposed on OIRA the obligation to disclose such communications and that FOIA case law has established that the FOIA exemption for "predecisional" or "deliberative process" memos did not cover communications for interested non-governmental persons.

VP Response: The response was four-fold: (a) The disclosure requirements of the Gramm Memo do not apply to the Office of the Vice President or the Council. (b) When the Council is engaged in reviewing proposed agency regulations it is not engaging in rulemaking but is rather "assisting in the coordination of the Administration's review of regulations being promulgated by Executive Branch agencies and departments" and thus is not subject to any administrative or statutory requirements for disclosure that apply to agencies involved in "rulemaking." (c) The July 14, 1992 decision of the Court of Appeals for the District of Columbia Circuit in New York versus Reilly legally ratifies the Council's coordinating and advisory role in the regulatory review process. (d) Under the law, citizens have a greater legal access to nongovernmental communications to agencies under the FOIA than a congressional committee because the separation of powers doctrine imposes greater restrictions on Congressional access to executive branch communications ("[T]he issue here is Congressional access to Executive Branch information, not access by the public to that information under the FOIA. Also, our initial response indicated Executive Branch confidentiality interests are protected by separation of powers principles, not the FOIA.")

Comment: The utilization of New York versus Reilly evidences the true purpose of this letter: to announce that it now has legal authority to challenge any claim that Council interventions in agency decisionmaking are improper, absent any congressional restriction to the contrary. Also, by its other reasons, it is setting up the alternate defense to pending and future court challenges that it is neither an "agency" when it is performing its regulatory review functions nor is it engaged in the rulemaking process when it engages in review activities. This is directly contrary to the holding in Meyers versus Bush, which is now on appeal before the D.C. Circuit, which held that the direct predecessor to the Council, Bush's Commission on Regulatory Relief, was an "agency" subject to the FOIA.

BLOWOFF 3: WRITTEN COMMUNICATIONS FROM THE COUNCIL

Mr. Skaggs asked for copies of communications between the Council and its staff and agencies whose rules were under review, noting that existing case law makes it clear that FOIA-like exemptions are not applicable to Congressional requests for access to agency information because it has "a special right of access to privileged information not shared by others," quoting from Murphy versus Dept. of the Army in FOIA case, and that statutory provisions, such as that in the Clean Air Act, require disclosure of all written communications during a rulemaking proceeding.

VP Response: (a) Since the Council has not invoked any FOIA exemption "a discussion of FOIA case law serves no useful purpose." (b) The Clean Air Act disclosure requirements don't apply to the Council because it is not on "agency." (c) The OIRA disclosure policy under the Gramm Memo is not applicable to the Council; (d) The Supreme Court's decision in U.S. versus Nixon cloaks such communications as a matter of executive privilege.

Comment: (a), (b) and (c) are simply evasions of the issue raised and have been addressed previously. U.S. versus Nixon, of course, is not authority for such a withholding. The Court there specifically rejected any claim of presidential executive privilege that "depends solely on the broad, undifferentiated claim of public interest in the confidentiality of such conversations . . . Absent a claim of need to protect military, diplomatic or sensitive national security secrets, we find it difficult to accept the argument that even the very important interest in confidentiality of Presidential communications is diminished by production of such materials." U.S. versus Nixon, 418 U.S. 683, 706 (1974). Moreover, the court made it clear that only communications by the President himself to his closest advisors would be covered by the constitutional privilege.

BLOWOFF 4: EXCLUSION OF THE RULEMAKING AGENCY FROM COUNCIL MEETINGS WITH INTERESTED PARTIES

Mr. Skaggs asked whether the Council invites agencies to meetings with outside parties regarding rulemaking proceedings that are being conducted by the particular agency, as is required by the Gramm Memo.

VP Response: There is no legal requirement applicable to the Council to invite agencies to any of its meetings with outside interested parties.

Comment: Again, the Council divorces itself from even the minimal openness requirements that OIRA has imposed on itself.

BLOWOFF 5: INCLUSION OF COUNCIL COMMUNICATIONS IN THE DOCKET

Mr. Skaggs asked whether communications from outside parties to the Council that contain factual matter, and Council policy comments on regulations under Council review are placed in agency rulemaking dockets.

VP Response: The Council is not an "agency" and therefore does not have to comply with disclosure requirements of E.O. 12291 or the Administrative Procedure Act.

Comment: The "non-agency" status of the Council has obviously become a critical aspect of the Council's defensive posture which can only be trumped by legislation specifically defining it as an "agency" when it engages in regulatory review activities.

BLOWOFF 6: ALLEGATIONS OF ILLEGAL AND UNETHICAL CONDUCT

Mr. Skaggs asked for substantive comment on testimony by witnesses before an Appropriations Subcommittee alleging that actions by former Council Executive Director Allan Hubbard violated conflict of interests rules, and that secret meetings held by the Council staff and representatives of regulated industries violates "the Administrative Procedure Act, the Clean Air Act, and the Executive Branch's own commitments."

VP Response: The U.S. Office of Government Ethics, (OGE) cleared Mr. Hubbard of any wrongdoing.

Comment: OGE did not actually rule on the propriety of Mr. Hubbard's conduct; it said that it never investigated the issue because it never had been presented with "sufficient information" to engage in such an investigation. The response does not address the question of the legality of secret meetings at all.

BLOWOFF 7: PARTICULAR QUESTIONS ABOUT PARTICULAR ALLEGATIONS

Mr. Skaggs identified a "particular" interest in four types of regulations that the council had been specially involved with, i.e., Clean Air Act, Clean Water Act, and Occupational Safety and Health Act, and the draft policy reviewed by the Council involving the Secretary of Energy's National Energy Policy, and requested that the Vice President detail "(1) contacts with outside parties, (2) descriptions of Council positions and their regulatory influence, and (3) disclosure of written communications between the Council and rulemaking agencies for each of the regulations identified."

VP Response: The question posed was not particular enough: "Although you have identified four general sets of regulations or regulatory policy in which you are interested, you have not indicated the questions you want answered concerning the items identified."

Comment: There is apparently no degree of particularity or specificity that will meet the threshold for Council response.

BLOWOFF 8: STAFFING LEVEL OF THE COUNCIL

Mr. Skaggs asked for identification of full time staff on the Vice President's staff who are devoted to council regulatory review functions.

VP Response: Only the Executive Director, David McIntosh, and one other full-time staffer devote time to regulatory review activities, and then only 70–80% of their time is so devoted. Also, four other professional staff members were identified as having been "assigned" from other agencies.

Comment: The $86,000 in salaries for the time devoted to Council work was the subject of recent House defunding action. It may be noted that "assignees" from other agencies to the Vice President's Office are paid fully by the assigning agency, as opposed to detailees who are paid, through reimbursements, by the agency to whom the people are detailed. In the most recent year for which statistics are available, FY 1988, the Vice President's Office had 8 detailees and 37 assignees. The question may be raised how many detailees and assignees are currently on board, and whether in fact only 4 assignees do Council work.

NEEDED REFORM IN THE SPORT OF BOXING

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, during today's 1-minute speeches we have heard Members address several of the critical issues of our day. Among them:

hometowns, the deficit, our environment, and this year's elections.

Mr. Speaker, before the memories of the 1992 Summer Olympics fade entirely from our memories, I am going to invite the attention of my colleagues to one area of athletic competition that needs to be addressed and reformed, and that is boxing; not amateur boxing, but professional boxing, whose oversight and demeanor bear little resemblance to the competition we witnessed in Barcelona, Spain during last month.

Several Members of this body, among them the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from North Dakota [Mr. DORGAN], and the gentleman from Montana [Mr. WILLIAMS], previously have offered legislation to overhaul the way the fighting game is run. As I speak, in the other body today a hearing is taking place that could hopefully help bring some changes that are needed.

Later today, several of us in the House will be introducing legislation intended to restore a measure of pride and dignity to a sport that has retained interest and intrigued many of us since our childhood. We seek to establish a Federal Boxing Commission within the Department of Labor.

We would give this boxing commission the authority to establish standards in boxing dealing with compensation, working conditions, safety of boxing equipment and facilities, health care, training of officials, and the ranking of boxers by weight class.

In doing so, I hope we are also taking the first step to protect not just the interest of those who call ourselves fight fans but, more importantly, the interest of those who earn their living and who too often needlessly risk their lives and limbs in the ring today.

Mr. Speaker, during today's 1 minute speeches, we have heard Members address several of the critical issues of our day: the deficit, our environment, this year's elections, and others.

Before the memories of the 1992 summer games fade away, I want to invite the attention of my colleagues to one area of athletic competition that needs to be addressed and reformed: boxing. Not amateur boxing, but professional boxing, whose oversight and demeanor bears little resemblance to the competition we witnessed in the ring in Barcelona.

Several Members of this body—Representative BILL RICHARDSON, Representative BYRON DORGAN, and Representative PAT WILLIAMS among them—previously have authored legislation to overhaul the fight game.

As I speak, in the other body, a hearing is taking place to hear of changes that could and, perhaps, should be made in the sport of professional boxing. Today, several of the House Members, whose names I just mentioned, join me in introducing legislation intended to restore a measure of the pride and dignity to a sport which has interested, intrigued, and entertained many of us since our childhood.

We seek to establish a Federal Boxing Commission within the Department of Labor. We would give it the authority to establish uniform standards in boxing dealing with compensation, working conditions, safety of boxing equipment and facilities, health care, training of officials, and this pairing of boxers by weight class.

In doing so, I hope we also are taking the first steps to protect, not just the interests of those of us who call ourselves fight fans, but, more importantly, the interest of those who earn their livelihood and too often needlessly risk their lives and limbs in the ring today.

Mr. Speaker, today I am introducing the Federal Boxer Protection Act of 1992.

While I have been a boxing fan for much of my life, I first became interested in introducing legislation after the nationally televised International Boxing Federation middleweight title Tiberi-Toney fight on February 8, 1992, created a firestorm of protest among fight fans in Delaware and across the Nation.

I have come to believe that this legislation is necessary for a number of reasons.

As we saw in the Toney-Tiberi fight, the qualifications of the judges must be assured. This legislation provides the Commission with the authority to enact regulations on the training of judges and referees, as well as on the promotion and conduct of boxing matches.

Currently, State regulations vary from State to State, and the enforcement of those standards widely differ. If State regulations in one State become too stringent, boxing promoters may simply move the matches to another State. Even if boxing regulations are strict in one State, enforcement of those regulations is another matter. We saw in the Tiberi-Toney fight how two of the three judges involved were not in compliance with New Jersey State law, because they were not even licensed to judge fights in the State of New Jersey.

This legislation requires the Commission to establish one uniform set of regulations governing the sport, as well as to provide the Commission with the proper authority to enforce those regulations. Should a match not conform with the Commission's regulations, the Commission will have the authority to prohibit the match from taking place.

We also know that mismatches in professional boxing do occur. Why? In part because promoters, seeking to improve the rating of their boxers, set up some fights that their boxer can easily win. To make the mismatch appear less obvious, a hopelessly mismatched boxer's records are beefed up in order to overstate his abilities. Unfortunately, this practice may result in serious injuries to the less skilled fighter and in the case of Korean boxer, Deuk-Koo Kim, it led to death from a mismatch against the World Boxing Association's No. 1 ranked fighter, Ray Mancini, in 1983. Incidentally, records indicate that Kim was not even ranked among Korea's top 40 fighters at the time. This legislation will require all boxing matches and boxers to be registered with the Commission, and the Commission will maintain the records of boxers so that the incidence of mismatches will be reduced.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HYDE (at the request of Mr. MICHEL) for today and tomorrow, on account of attending platform committee meetings at the Republican National Convention.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mrs. BENTLEY to revise and extend their remarks and include extraneous material:)

Mr. MACHTLEY, for 5 minutes each day, on August 11 and 12.

Mr. GOSS, for 5 minutes, on August 12.

Mr. WOLF, for 5 minutes, on August 12.

(The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:)

Mr. TAUZIN, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. KOLBE.
Mr. OXLEY.
Mr. GOODLING.
Mr. ROTH.
Mr. MYERS of Indiana.
Mr. FRANKS of Connecticut.
Mr. GUNDERSON.
Mr. HENRY in two instances.
Mrs. MORELLA.
Mr. HOBSON.
Mr. GREEN of New York.
Ms. ROS-LEHTINEN.
Mr. GILMAN.

(The following Members (at the request of Mr. ENGEL) and to include extraneous matter:)

Mr. WAXMAN.
Mr. NOWAK.
Ms. SLAUGHTER in two instances.
Mr. LANTOS in two instances.
Ms. DELAURO.
Mr. SWETT in two instances.
Mr. SOLARZ.
Mr. DARDEN.
Mr. ECKART.
Mr. JACOBS.
Mr. PICKETT.
Mr. FOGLIETTA in three instances.
Mr. FORD of Michigan.
Mr. KANJORSKI.
Mr. YATRON.
Ms. OAKAR in two instances.
Mr. RICHARDSON.
Ms. KENNELLY.
Mr. ROEMER in two instances.
Mr. TOWNS.
Mr. MANTON.

Mr. MURTHA.
Mr. RAHALL.
Mr. DURBIN.
Mr. MCCLOSKEY.
Mr. JONTZ.
Mr. EDWARDS of California.
Mr. MINETA.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2926. An act to amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes;

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes; and

H.R. 3795. An act to amend title 28, United States Code, to establish three divisions in the Central Judicial District of California.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1770. An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes; and

S. 2079. An act to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes.

ADJOURNMENT

Mr. HOYER. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until Wednesday, August 12, 1992, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4086. A letter from the Secretary of Education, transmitting a list of colleges and universities that, although not satisfying the criterion contained in section 312(b)(1)(B), have been determined to be eligible institutions under part A and part C, and are institutions that enroll significant numbers of black American, Hispanic, native American, Asian-American, or native Hawaiian students, pursuant to section 352(b)(2) of the Higher Education Act of 1965; to the Committee on Education and Labor.

4087. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 92-36 relating to assistance to Burma and a justification for the determination, pursuant to 22 U.S.C. 2601(c)(1); to the Committee on Foreign Affairs.

4088. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1997 resulting from passage of S. 249, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

4089. A letter from the Administrator, Federal Aviation Administration, transmitting the administration's report resulting from the study on the security of mail and cargo; pursuant to Public Law 101-604, section 112(d) (104 Stat. 3081); to the Committee on Public Works and Transportation.

4090. A letter from the Secretary of Energy, transmitting a copy of a project entitled, "Commercial-Scale Demonstration of the Liquid Phase Methanol [LPMEOH] Process," proposed by Air Products and Chemicals, Inc.; jointly, to the Committees on Appropriations, Interior and Insular Affairs, and Science, Space, and Technology.

4091. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to implement the Protocol on Environmental Protection to the Antarctic Treaty, with annexes, done at Madrid, October 4, 1991, and an additional annex done at Bonn, October 17, 1991, enact a prohibition against Antarctic mineral resource activities, amend the Antarctic Conservation Act of 1978, and repeal the Antarctic Protection Act of 1990; jointly, to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, Interior and Insular Affairs, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. House Joint Resolution 454. Joint resolution to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; with an amendment (Rept. 102-625, Pt. 2). Ordered to be printed.

Mr. JONES of North Carolina: Committee on the Merchant Marine and Fisheries. H.R. 4615. A bill to contribute to the conservation of the northern spotted owl and the protection of old growth resources through support for an experimental management program on State-owned trust lands on the western Olympic Peninsula of the State of Washington; with an amendment (Rept. 102-834, Pt. 1). Ordered to be printed.

Mr. JONES of North Carolina: Committee on the Judiciary. H.R. 5257. A bill to amend the coastwise trade laws to clarify their application to certain passenger vessels; with an amendment (Rept. 102-835). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4412. A bill to amend title 17, United States Code, relating to fair use of copyrighted works; with an amendment (Rept. 102-836). Referred to the Committee of the House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4563. A bill to amend the False Claims Act to provide certain limitations on Federal employees filing qui tam actions, and for other purposes; with an amendment (Rept. 102-837). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 551. Resolution providing for the consideration of the bill (H.R. 4323) to improve education for all students by restructuring the education system in the States (Rept. 102-838). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3865. A bill to amend the Solid Waste Disposal Act to authorize appropriations for fiscal years 1993 through 1998, and for other purposes; with an amendment (Rept. 102-839). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DYMALLY:

H.R. 5811. A bill to create a Supreme Court for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. BROWN:

H.R. 5812. A bill to promote the use of State-coordinated health insurance buying programs and assist States in establishing health insurance purchasing cooperatives, through which small employers may purchase health insurance, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, and the Judiciary.

By Mr. CARPER (for himself, Mr. DORGAN of North Dakota, and Mr. RICHARDSON):

H.R. 5813. A bill to establish, in the Department of Labor, a Federal boxing commission, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. DELLUMS (for himself and Mr. STARK):

H.R. 5814. A bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia; to the Committee on the District of Columbia.

By Mr. DURBIN (for himself, Mr. HANSEN, and Mr. MAZZOLI):

H.R. 5815. A bill to protect children from exposure to environmental tobacco smoke in the provisions of children's services; to the Committee on Energy and Commerce.

By Mr. EDWARDS of Texas:

H.R. 5816. A bill to authorize the Secretary of Veterans Affairs to remove any restrictions and conditions on land conveyed by the Veterans Administration to Temple Junior College, Temple, TX; to the Committee on Veterans' Affairs.

By Mr. HOLLOWAY:

H.R. 5817. A bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of school bus drivers shall be allowable in computing adjusted gross income; to the Committee on Ways and Means.

By Mr. JONTZ:

H.R. 5818. A bill to amend the Federal Water Pollution Control Act to provide assistance to States for the purpose of restoring the water quality and biological integrity of small lakes, and for other purposes; to the Committee on Public Works and Transportation.

By Ms. KAPTUR:

H.R. 5819. A bill to limit the amount of donations that the Library of Congress may accept from a foreign government; to the Committee on House Administration.

By Mrs. KENNELLY:

H.R. 5820. A bill to increase the number of weeks for which emergency unemployment compensation is payable; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MCMILLEN of Maryland:

H.R. 5821. A bill to prohibit the transportation of oil and gas extracted from the Taylorsville Basin, MD, through the use of Federal transportation facilities; jointly, to the Committees on Public Works and Transportation, Energy and Commerce, and Merchant Marine and Fisheries.

By Mr. MOORHEAD (for himself and Mr. Roybal):

H.R. 5822. A bill to designate the U.S. Court of Appeals Building located at 125 South Grand Avenue in Pasadena, CA, as the "Richard H. Chambers United States Court of Appeals Building"; to the Committee on Public Works and Transportation.

By Mrs. MORELLA:

H.R. 5823. A bill to amend the provisions of chapter 83 and 84 of title 5, United States Code, which relate to the deposit required in the case of an election to provide a survivor annuity to a spouse by a postretirement marriage or a former spouse; to the Committee on Post Office and Civil Service.

By Mr. OWENS of New York:

H.R. 5824. A bill to amend title 44, United States Code, to promote improved public dissemination of Government information; to the Committee on Government Operations.

By Mr. RICHARDSON:

H.R. 5825. A bill to amend title XVIII of the Social Security Act to clarify coverage of certified nurse-midwife services performed outside the maternity cycle under the Medicare and Medicaid programs; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. RIGGS:

H.R. 5826. A bill to better protect and manage certain redwood forests by adding land to the Six Rivers National Forest and by designating the Headwaters Forest Wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SKAGGS:

H.R. 5827. A bill to amend the act of January 26, 1915, establishing Rocky Mountain National Park, to provide for the protection of certain lands in Rocky Mountain National Park and along North St. Vrain Creek and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. TAUZIN (for himself, Mr. Lent, Mr. Hall of Texas, and Mr. Ritter):

H.R. 5828. A bill to amend the Securities Exchange Act of 1934 in order to reform private enforcement of the Federal securities laws, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TAUZIN (for himself, Mr. Young of Alaska, Mr. Lent, Mrs. Bentley, Mr. Coble, Mr. Erdreich, Mr. Thomas of Georgia, Mr. Jones of North Carolina, Mr. Jenkins, Mr. Herger, Mr. Goss, Mr. Doolittle, Mr. Cunningham, Mr. Coughlin, Mr. DeLay, Mr. Saxton, Mr. Oxley, Mr. Alexander, Mr. Wheat, Mr. Lewis of Florida, Mr. Schulze, Mr. Lightfoot, Mr. Ritter, Mr. Ravenel, Mr. Hancock, Mr. Crane, Mr. Stump, Mr. Rowland, Mr. Condit, Mr. Shuster, Mr. Gekas, Mr. Montgomery, Mr. Darden, Mr. Hubbard, Mr. Callahan, Mr. Hefner, Mr. Huckaby, Mr. Weber, Mr. McCollum, Mr. Gibbons, Mr. Davis, and Ray):

H.R. 5829. A bill to establish the National Dividend Plan by reforming the budget process, and by amending the Internal Revenue Code of 1986 to eliminate the double tax on dividends, to allocate corporate income tax revenues for payments to qualified registered voters, and for other purposes; jointly, to the Committees on Ways and Means and Rules.

By Mr. MCDERMOTT (for himself and Mr. Houghton):

H.J. Res. 538. Joint resolution designating December 1, 1992, as "World AIDS Day"; to the Committee on Post Office and Civil Services.

By Mr. PETERSON of Minnesota:

H.J. Res. 539. Joint resolution proposing an amendment to the Constitution of the United States limiting the number of consecutive years a person may serve in or be employed by the Government of the United States or be employed to affect the policies and programs of the Government of the United States; to the Committee on the Judiciary.

By Mr. RAHALL:

H.J. Res. 540. Joint resolution designating November 22, 1992, through November 28, 1992, as "America's Christian Heritage Week"; to the Committee on Post Office and Civil Service.

By Mr. SOLARZ:

H. Con. Res. 356. Concurrent resolution concerning the establishment of a United States-China Human Rights Commission; to the Committee on Foreign Affairs.

By Mr. YATRON (for himself, Mr. Fascell, and Mr. Solarz):

H. Con. Res. 357. Concurrent resolution expressing the sense of the Congress with respect to violations of internationally recognized human rights by the Government of Iraq; to the Committee on Foreign Affairs.

By Mr. DINGELL:

H. Con. Res. 358. Concurrent resolution expressing the sense of the Congress that the parties to the Middle East peace process should continue to work vigorously in the pursuit of a regional peace plan; to the Committee on Foreign Affairs.

By Mr. HOYER:

H. Res. 549. Resolution electing Representative Mfume of Maryland to the Committee on Standards of Official Conduct; considered and agreed to.

H. Res. 550. Resolution adjusting the ranking of majority party members of the Committee on Foreign Affairs; considered and agreed to.

By Mr. OBERSTAR:

H. Res. 552. Resolution relating to authorization of multilateral action in Bosnia-Hercegovina under article 42 of the United Nations Charter; to the Committee on Foreign Affairs.

By Mr. PETERSON of Minnesota:

H. Res. 553. Resolution providing for reform of the House of Representatives; jointly, to the Committees on Rules and House Administration.

By Mr. HOYER (for himself, Mr. Gephardt, Mr. Fascell, Mr. Hamilton, Mr. Broomfield, Mr. Gilman, Mr. Ritter, Mr. Bereuter, Mr. Berman, Mrs. Boxer, Mr. Cardin, Mr. Eckart, Mr. Fazio, Mr. Feighan, Mr. Gallegly, Mr. Goodling, Mr. Goss, Mr. Johnston of Florida, Mr. Lagomarsino, Mr. Leach, Mr. Markey, Mrs. Meyers of Kansas, Mr. Nagle, Mr. McCloskey, Mr. Miller of Washington, Mr. Orton, Mr. Owens of Utah, Mr. Payne of New Jersey, Ms. Pelosi, Mr. Porter, Ms. Ros-Lehtinen, Mr. Sawyer, Mr. Smith of New Jersey, Mr. Studds, Mr. Weiss, Mr. Wolf, Mr. Wolpe, Mr. Wylie, and Mr. Yatron):

H. Res. 554. Resolution concerning the situation in Bosnia-Hercegovina; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII:

514. The SPEAKER presented a memorial of the General Assembly of the State of California, relative to the creation of a North American Development Bank and Adjustment Fund; to the Committee on Banking, Finance and Urban Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 75: Mr. Rinaldo.

H.R. 125: Mr. Volkmer.

H.R. 127: Mr. Clinger.

H.R. 258: Mr. Jefferson and Mr. Rinaldo.

H.R. 501: Ms. Kaptur.

H.R. 629: Mr. Franks of Connecticut.

H.R. 755: Mr. Lancaster and Mr. Hertel.

H.R. 875: Mr. Swett.

H.R. 895: Mr. Johnson of South Dakota.

H.R. 1495: Mr. Hutto.

H.R. 1633: Mr. Morrison.

H.R. 2070: Mr. Young of Florida.

H.R. 2071: Mr. Berman.

H.R. 2248: Mr. Gephardt.

H.R. 2641: Mr. Livingston.

H.R. 2750: Mr. Annunzio, Mr. Fazio, Mr. Brown, and Mr. Moran.

H.R. 2766: Mr. Clinger.

H.R. 2880: Mr. Rangel.

H.R. 3164: Mr. Holloway and Mr. Rinaldo.

H.R. 3195: Mr. Weldon, Mr. Hughes, Mr. Ravenel, and Mr. Hochbrueckner.

H.R. 3763: Mr. Mineta.

H.R. 3806: Mr. Petri, Mr. Thomas of Georgia, Mr. Walsh, Mr. Weber, Mr. Fish, and Mr. Ackerman.

H.R. 3843: Mr. Darden.

H.R. 3918: Mr. Rahall, Mr. Petri, and Mr. Bonior.

H.R. 3939: Mr. Matsui and Mr. Richardson.

H.R. 4045: Mr. Feighan, Mr. Dixon, Mr. Richardson, and Mr. Bruce.

H.R. 4144: Mr. Kopetski.

H.R. 4543: Mr. Frost and Mr. Stenholm.

H.R. 4551: Mr. Williams, Mr. Lehman of Florida, and Mr. Washington.

H.R. 4591: Mr. Hayes of Illinois.

H.R. 4750: Mr. Richardson.

H.R. 4899: Mr. Yates and Mr. Zimmer.

H.R. 5035: Mr. Kopetski, Mr. Dorgan of North Dakota, Mr. Bryant, Mr. Olin, Mr. Zeliff, Mr. Espy, Mr. Lancaster, Mr. Atkins, Mr. Skaggs, Ms. Kaptur, and Mr. Moran.

H.R. 5110: Mr. Ravenel.

H.R. 5123: Mr. Evans.

H.R. 5208: Mr. Dymally.

H.R. 5223: Mr. Mollohan.

H.R. 5240: Mr. Solarz and Mr. Campbell of California.

H.R. 5250: Mr. Wolf and Mr. Callahan.

H.R. 5276: Mr. Jacobs, Mrs. Patterson, Mr. Derrick, Mr. Hansen, Mr. Harris, Mr. Dickinson, Mrs. Vucanovich, Mr. Inhofe, Mrs. Meyers of Kansas, Mr. Burton of Indiana, Mr. Hutto, and Mr. Allard.

H.R. 5357: Mr. Ackerman and Mr. Lancaster.

H.R. 5398: Mr. Lehman of California.

H.R. 5434: Mr. Scheuer and Mr. Cardin.

H.R. 5443: Mr. Ballenger, Mr. Stenholm, and Mr. Boehner.

H.R. 5530: Mr. Hughes.

H.R. 5567: Mr. Duncan, Mr. Miller of Ohio, Mr. Tauzin, Mr. Lightfoot, Mr. Gingrich, Mr. Goss, Mr. Porter, Mr. Hyde, Mr. Cox of California, Mr. Clinger, and Mr. Lewis of Florida.

H.R. 5570: Mr. Geren of Texas, Mr. Lancaster, Mr. Upton, and Mr. Hughes.

H.R. 5676: Mr. Swift.

H.R. 5680: Mrs. Lowey of New York, Mr. Mazzoli, Mr. Shays, Mr. Rangel, Mr. Swift, and Mr. Yates.

H.R. 5681: Mr. Hughes, Mrs. Unsoeld, Mr. Weiss, and Mr. Evans.

H.R. 5720: Mr. Erdreich, Mr. Lent, Mr. Lipinski, Mr. Wilson, Mr. Montgomery, Mr. Dornan of California, and Mr. Ritter.

H.R. 5747: Mr. Weiss, Mrs. Collins of Illinois, Ms. Norton, Mr. Evans, and Mr. Payne of New Jersey.

H.R. 5760: Mr. McMillen of Maryland, Mrs. Collins of Illinois, Mr. Montgomery, Mr. Bevill, Mr. Lipinski, Mr. Synar, Mr. Lancaster, and Mr. Ballenger.

H.J. Res. 353: Mr. Blackwell, Ms. DeLauro, Mr. Flake, Mr. Foglietta, Mr. Green of New York, Mr. Hoagland, Mr. Laughlin, and Mr. Upton.

H.J. Res. 413: Mr. Bereuter, Mr. Boucher, Mr. Burton of Indiana, Mr. Bustamante, Mr. Cardin, Mr. Chapman, Mr. Clinger, Mr. Coble, Mr. Coleman, of Texas, Mr. Conyers, Mr. Coughlin, Mr. Cox of California, Mr. Crane, Mr. Dannemeyer, Mr. Dixon, Mr. Dreier of California, Mr. Gejdenson, Mr. Gibbons, Mr. Gonzalez, Mr. Goodling, Mr. Herger, Mr. Inhofe, Mr. Johnson of Texas, Mr. Kopetski, Mr. Lagomarsino, Mr. Lewis of Georgia, Mr. Lightfoot, Mr. McGrath, Mr. Myers of Indiana, Mr. Neal of North Carolina, Mr. Paxon, Ms. Pelosi, Mr. Porter, Mr. Ramstad, Mr. Riggs, Mr. Sawyer, Mr. Shaw, Ms. Slaughter, Mr. Stump, Mr. Thomas of California, Mr. Torres, Mr. Traficant, Ms. Waters, Mr. Waxman, Mr. Wylie, and Mr. Zeliff.

H.J. Res. 476: Mrs. Collins of Illinois, Mr. Andrews of Maine, Mr. Dorgan of North Dakota, Mr. Martin, and Mr. Young of Florida.

H.J. Res. 479: Mr. Vento, Mr. Lancaster, Mr. de la Garza, Mr. Rangel, Mr. Kolter, Mr. Skelton, Mr. Synar, Mr. Stearns, and Mr. McNulty.

H.J. Res. 489: Mr. Lancaster, Mr. Gejdenson, Mr. Richardson, Mr. Rangel, Mr. Valentine, Mr. Taylor of North Carolina, Mr. Sarpalius, Mr. Smith of Florida, Mr. Synar, Mr. Derrick, Mr. Hoyer, and Mr. Durbin.

H.J. Res. 495: Mr. Regula, Mr. Bonior, and Mr. Brown.

H.J. Res. 498: Mr. Lightfoot, Mr. Nagle, Mr. Engel, Mr. Kleczka, Mr. Gunderson, Mr. Sisisky, and Mrs. Collins of Michigan.

H.J. Res. 500: Mr. Bliley, Mrs. Boxer, Mr. Chandler, Ms. DeLauro, Mr. Gonzalez, Mr. Hall of Ohio, Mr. Lightfoot, Mr. Moody, Mr. Sarpalius, Mr. Saxton, Mr. Tauzin, Mr. Vander Jagt, and Mr. Young of Florida.

H.J. Res. 523: Mr. Ritter, Mr. McCloskey, and Mr. de la Garza.

H.J. Res. 532: Mr. Young of Florida, Mr. Henry, Ms. Pelosi, Mr. Reed, Mr. Blackwell, Mr. Traficant, Mr. Hochbrueckner, Mr. Kolter, Mr. Sisisky, Mr. Doolittle, Mr. Dellums, Mr. Dingell, Mr. Dornan of California, Mr. Feighan, Mr. Hammerschmidt, Mr. Matsui, Mr. Sabo, Mr. Spence, Mr. Traxler, Mr. Young of Alaska, and Mr. Donnelly.

H. Con. Res. 73: Mr. Crane.

H. Con. Res. 223: Mr. Berman, Mr. Dingell, and Mr. Lowery of California.

H. Con. Res. 301: Mr. Hughes, Mr. Dreier of California, Mr. Ballenger, and Mr. Hefley.

H. Con. Res. 340: Mr. Espy, Mr. Guarini, Mr. Horton, Mr. Kolter, Mr. Tallon, Mr. Walsh, Mrs. Johnson of Connecticut, Mr. LaFalce, Mr. Porter, Mr. Bilirakis, Mr. McMillen of Maryland, Mrs. Morella, and Mr. Lancaster.

H. Con. Res. 345: Mr. Swett, Mr. Kopetski, Mr. Klug, Mr. Leach, Mr. Goss, and Mr. Pastor.

H. Con. Res. 353: Mr. Machtley, Mr. Hochbrueckner, Mr. Kolter, Mr. Gilman, Mr. Mazzoli, Mr. Schumer, Mr. Ackerman, Mr. Frank of Massachusetts, Mr. Towns, Mr. Kleczka, Mr. Lehman of Florida, Mr. Sanders, Mr. Johnson of South Dakota, Mr. McDermott, Mr. Owens of Utah, Mr. Moran, Mr. Cox of Illinois, Mr. Blackwell, Mr. Markey, Mr. Bacchus, Mr. Swett, Mr. Hughes, Mr. Jefferson, Mrs. Schroeder, Mr. Payne of New Jersey, Mr. Dellums, and Mr. Evans.

H. Res. 490: Mr. Sawyer.

H. Res. 534: Mr. Carper, Mr. Horton, Mr. Wylie, Mr. Bustamante, Mr. Skelton, and Mr. Spence.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3515: Mr. Davis.

H.R. 4168: Mr. Richardson.

H.R. 4175: Mr. Lewis of Florida.

EXTENSIONS OF REMARKS

PROPOSAL FOR REFORM OF THE AMERICAN HEALTH CARE SYSTEM

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. ECKART. Mr. Speaker, Thomas C. Westropp, the chairman emeritus of Women's Federal Savings Bank and current chairman of the Health Systems Agency of North Central Ohio, recently presented a unique proposal for reform of the American health care system. His proposal would provide opportunities for cost savings, protect the physician-patient relationship, and ensure access to quality health care for all Americans. In light of the Congress' current concern with health care reform, I am happy to submit the following presentation by Mr. Westropp to the Congress.

HEALTH SYSTEMS AGENCY OF NORTH CENTRAL OHIO

(Presentation of Thomas Westropp)

As this will probably be my last presentation to HSANCO's Board, I want to use this opportunity to discuss some of the things that have impressed me and some of the thoughts I have had during my six-year tenure.

I would like to share my concerns about our health care system—a system comprising consumers, providers, and payors who should work together but instead function in ways that have resulted in increased costs, reduced access, and concerns about quality. The system has become so complex that it seems unable to move in any productive direction toward solving these problems.

I. First, I will discuss the crisis in health care that the nation is facing today; then consider some of the factors that brought us to this point over time; and finally propose what I believe needs to happen to change this situation for the benefit of the health care system—the consumers, the payors and the providers.

We are all painfully aware that the nation is grappling with a monumental crisis in health care and one for which the best and the brightest among us have been hard pressed to offer viable solutions. Many proposals have been proffered during this election year, but no workable consensus has emerged. We find ourselves caught in a quagmire of self-interest, political expediency, and refusal to face the prospect of inevitable difficult decisions.

A few facts can demonstrate the depth and scope of today's crisis:

1. COSTS CONTINUE TO INCREASE

From 1980 to 1991 the average health payments by families nationwide rose from nearly $2,000 to over $4,000, a 145 percent increase. The estimate for the year 2000 is $9,000, an increase of nearly 440 percent since 1980.

The expense of providing health care for workers jumped 10 percent in 1991 for Cleveland employers and 13 percent nationwide. The cost of indemnity medical plans—those in which patients choose their doctors and pay for each visit—cost $3,400 in 1991 per employee in Cleveland and nationwide $3,600.

2. ACCESS IS DECLINING

The roster of uninsured and undersured individuals grows longer day by day. In Greater Cleveland 13–15 percent are uninsured—including a disproportionate number of children. Many of these people live in poverty, have little knowledge of basic health care and often lack the know how to access whatever services may be available to them. Moreover, the poor are often forced to live in conditions which work against establishing a healthy longevity, but rather foster chronic and debilitating disease.

As if to add insult to injury, the State has imposed additional barriers to care for the poor by denying the small assistance available through the General Medical Assistance Program. In Cuyahoga County alone, this means that 36,000 people are denied basic health care services. The new Disability Assistance Program will be able to assist some of these people—at most 6,000. It is clear, however, that in spite of all the political rhetoric to the contrary, the government's ability and willingness to pay for health care has been diminished.

Some of the actions taken by businesses and insurance companies have included practices that selectively insure only healthy young people and screen out the sick.

Because of the costs, businesses have had to reduce health care coverage or increase co-pays. In some cases businesses are afraid to begin to provide a health benefit that they might have to rescind later because of costs.

And, finally, there is overwhelming anxiety among all income classes. An increasing number of people are afraid to change jobs or to take entrepreneurial risks because they fear losing health coverage for themselves or their families.

3. OUR QUALITY OF LIFE IS UNDER SIEGE

The field of medicine lacks the reserves to deal with the fact that it is a dynamic, rapidly changing discipline and one that is full of unpleasant surprises. Consider, for example, the emergence of two horrendous contemporary problems—AIDS and cocaine addicted babies. These problems alone are draining the resources of institutions across the country at the very time we're struggling to provide all people with simple basic health coverage.

The population is aging and the elderly need and use more health services than any other age group. Our current health care system is not yet geared up to provide the kinds of services needed by people who are living into their eighties and nineties, the so-called frail elderly. Medicine has made great gains with acute care and most infectious diseases but can claim little progress in dealing with the chronic debilitating problems resulting from longevity. Most of these problems can be managed best and at least cost outside of acute care settings.

II. At this point, I'd like to take a look at some of the factors that have brought us to this crisis point over time:

The payors—usually government or insurance companies—have provided few incentives for controlling costs in the high-technology, disease-oriented health care system which we have today.

The competitive model developed in the early 1980's in the expectation that it would control costs, has been a major disappointment to many of us. Instead of resulting in operating efficiencies or the development of market "niches" resulting in regionalized services, many hospitals continue to believe they have to be all things to all people in order to compete effectively for contracts—at times unnecessarily duplicating services. Mergers, while offering some hope in the future for reduced administrative costs, have not to this time reaped any measurable cost savings.

Reimbursement policies focus on treatment of diseases rather than prevention, a far less costly proposition. This in turn has encouraged doctors to pursue expensive specialties instead of primary care. As a result, many areas of the country have no access to primary care while other areas—witness northeast Ohio—have what appears to be an abundance of specialists.

Fearing malpractice litigation, doctors order many unnecessary or inappropriate tests and procedures adding significantly to health care costs.

And, finally the last contributors to the problems of cost, access and quality are we consumers.

Americans have greatly increased their awareness of health and many rank good health as their most important source of satisfaction in life. In addition, an increasing number of people have come to regard "free" health care as every bit as much a birthright as public education.

Everyone knows we're spending more and more on health care. Total national expenditures in 1970 were $75 billion; today we spend more than $500 billion. But while awareness and expectations have been heightened, many people fear exclusion from treatment because of its cost or loss of insurance coverage. Anger and disillusionment often are the result of this exclusion from care even though the fact remains that the need for expensive health care could be avoided by the American public simply choosing healthier life styles.

Meanwhile, vendors capitalizing on peoples heightened awareness of health are providing a variety of health products ranging from exercise machines to fitness spas, from "healthy" frozen entrees to vitamin pills, from diagnostic kits to diet plans. They convey the impression that anyone with the money can buy good health.

The paradox is that while people generally are more aware of what it takes to stay healthy, they continue to eat, drink, smoke, drive and use drugs recklessly. They end up going to doctors and hospitals for problems they might have avoided by changing their behavior, and this in turn adds to the overall cost of health care.

III. I've talked about the genesis of the current health care system and how costs have compounded over the years and about people's heightened awareness of health and the belief of many that health care is a basic and the belief of many that health care is a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

basic human right. At this point, at the risk of belaboring the obvious I'd like to suggest some ideas that can make the health care system work better.

The Certificate of Need review program which is implemented by us and the State Department of Health has certainly been and will continue to be helpful in giving guidance and direction regarding the need for facility or service expansion; however, it addresses only a small part of an enormous problem.

I believe that the health care industry is of such importance to our citizens and the national economy that we must address it on a comprehensive, national basis. I am therefore proposing that a national health care system be established having broad authority and political independence and designed to function in ways similar to those of the Federal Reserve System. As a model of a national policy generating institution, the Federal Reserve has much to tell us about an effective long-term approach to solving a national problem. The proposed system might be called the American Health Reserve.

Structurally, the twelve regions served by the Federal Reserve System could be the same twelve regions serviced by the American Health Reserve. Likewise, local monitoring and assistance with cost, access and quality strategies could be provided by existing health planning agencies such as HSANCO.

The American Health Reserve would comprise experts from various components of the health care system—consumers, insurers, doctors, nurses, hospitals, etc.

The purpose of the American Health Reserve would be to provide a national center for developing policies and implementing strategies to address health cost, access and quality issues. The American Health Reserve would have these specific responsibilities:

1. to control all reimbursement for health care including payment to traditional providers as well as pharmaceutical and equipment suppliers,

2. to guarantee a minimum level of health care for all, starting with newborns and covering the entire life span, and

3. to provide a basic benefits package tailored to the needs of specific age groups.

A few examples will serve to illustrate how the system might work:

The Federal Reserve acts as a clearing house for all checks—the American Health Reserve could function the same way. All health payment forms would be processed through the American Health Reserve, inasmuch as information needed to process claims is fairly standard. Clearly a common form/central processing approach should result in administrative cost savings. Auditing for coverage, fraud and abuse—a high cost of doing business by insurance companies—could also be centralized. A standard basic benefits package would minimize the need to check for coverage; fees and payment schedules would be set; and by cross checking using such sources of data as social security information, high users would be identified. Intervention in those instances could result in managed care or investigation for fraud.

The Federal Reserve has political independence and is given authority by the President to increase or decrease the money supply and interest rates in order to develop policies that help stabilize the economy. Recently it pushed interest rates down; savings and loans are now earning a 3% spread between costs of funds and the average yield on assets rather than the traditional 2% rate. This "invisible tax" has helped some savings and loans stay in business. By controlling the cost of funds the Federal Reserve has a positive impact on the banking industry—and by extension, the people who entrust their life savings to these institutions are protected.

By controlling the payments for health services—capping operating and capital costs on a regional basis, the American Health Reserve would provide the financial impetus to promote a more cost effective health system with appropriate mandated regionalized services and alternatives.

Further, by assuring consistent payment amounts, providers would be better able to project their budgets and could perhaps direct more of their creative energies toward serving the unique needs of all their patients rather than marketing their services to attract only the high-paying portion of the health care market. Thus, by stabilizing the health care industry, we would serve the interests of both the providers and the consumers who entrust their lives to the system.

Another instance of how we might benefit from the Federal Reserve's experience is financing strategy. The Federal Reserve is partially funded by banks for its check processing activities. Funding for the American Health Reserve could be generated in four ways:

by payments from private insurance companies for claims processing;

through Medicaid and Medicare taxes which would be forwarded to it for management rather than the current system that is constrained by a myriad of regulations and in the case of Medicaid, differences among states;

by channeling all taxes on alcohol, tobacco and environmental polluters—the source of some illnesses—to the American Health Reserve; and

additional taxes could also be considered from other sectors of the economy.

In regard to the American Health Reserve's function as a center for national debate on problems surrounding resource use, there are many examples, but two very controversial issues stand out. They are the elimination of malpractice insurance and the trauma and high cost associated with dying.

1. Malpractice insurance should be discontinued. This would not only eliminate direct insurance and legal costs, but also the much-discussed incentives to overtest. This could be accomplished in an American Health Reserve that is completely independent from political pressures. Providers would be evaluated annually against mutually agreed upon criteria. The penalty for non-compliance with these criteria would be loss of license—loss of the ability of an individual or facility to earn a living or to operate. (In reality, one payment to a patient who experienced neglectful treatment is not of much value to other patients who are treated similarly by the same incompetent provider.) Perhaps the estimated $2 billion paid in malpractice premiums could be put to better use.

2. Just as we help people come into life at birth, we must help people pass from life to death in a more humane way. It goes without saying we need to provide every comfort we can throughout the dying process. Having done so, we should not then go on to torment people with needless and often unwanted life prolonging (but not life saving) procedures. A national network of hospices should be developed.

In conclusion, I want to reiterate the urgency of building a better health care system. At present our system clearly does not work. Although we have the best health care in the world it is not necessarily applied to or available to patients better than anywhere in the world. We must correct these gross inequities of access. We must initiate workable ways to control costs through efficiencies of operation. We must continue to provide the very best health care we can. I believe it is up to those of us who care about health care delivery to direct our efforts toward developing a workable solution.

I would like to leave the Board by challenging it to take the lead in addressing these problems and working to establish a system such as the one I described tonight. A system with the clear potential to curb spiraling costs, to deal with the dynamics of changing demographics and new medical challenges, to confront the ethical dilemmas posed by new medical technologies and last but not least—to provide basic health care to one and all.

MONROE COUNTY BAR ASSOCIATION CELEBRATES CENTENNIAL

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Ms. SLAUGHTER. Mr. Speaker, it is our pleasure to take this opportunity to commemorate the 100th anniversary of the founding of the Monroe County, New York Bar Association. This group of our constituents has ably served our community and legal system and we are proud to salute its efforts.

In 1892, 25 attorneys gathered together to form this association, then known as the Rochester Bar Association. Today, over 2,000 members work for equal access to legal representation, for an impartial judiciary, for fair dispute resolution, and for the provision of law-related educational programs. In addition, the Foundation of the Monroe County Bar has generously contributed more than $1 million to local community organizations.

The goals of the Bar Association, as reflected in its mission statement, are to "improve the quality and accessibility of justice; promote respect for and understanding of the law; enhance professional growth, fulfillment, excellence, collegiality and diversity among its members; and serve as the voice of the profession." the Monroe County Bar Association has ably risen and met each of these challenges.

It is our pleasure to represent such capable and dedicated attorneys and to take this occasion to applaud their outstanding work. As a Member of the Bar Association since 1947, including a stint as secretary from 1953 to 1957, Mr. Horton can personally attest to its high level of professionalism. We are confident that the next century will bring continued success and expansion to the Monroe County Bar Association. This organization is truly a shining star in the Rochester community.

A CONGRESSIONAL SALUTE TO MRS. MARGARET BLAIR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. ANDERSON. Mr. Speaker, on Saturday, August 29, 1992, the Long Beach chapter of the Gray Panthers Coalition will honor Mrs. Margaret Blair. This occasion affords me the opportunity to express my sincere gratitude for the work and services she has provided to all citizens in the Long Beach community. It is a pleasure to introduce you to this remarkable gentlewoman, who is my friend.

Born in Spokane, WA in 1909, Margaret is descended from a long line of political leaders and reformers. Her grandfather was the Governor and Senator from Nebraska. Her uncle following in his father's footsteps also served as a Senator. Margaret's mother was a member of the Daughters of the American Revolution from Cape Cod, MA. With this impressive family history, it should come as no surprise that Margaret Blair, upon relocating to Long Beach, founded the Long Beach Gray Panthers. As cochair of this organization, Margaret has been indefatigable in organizing senior citizens to work toward the common goal of peace, equality, and brotherhood. She most clearly demonstrates that age should not be a barrier to a productive and active life.

Mrs. Blair is also an active opponent against nuclear weaponry. Troubled by the threat of a nuclear catastrophe, Margaret participated in a peaceful demonstration to prevent the storage of nuclear weapons at the Seal Beach Naval Weapons Station. More recently, Mrs. Blair learned that a shipment of nuclear fuel rods was to be unloaded at the port of Long Beach and shipped across the country. Again, she sounded the alert to local authorities and the Long Beach community of the dangers of such an undertaking.

Additionally, duly concerned about our Nation's declining health care, Margaret was instrumental in forming the Long Beach Area Health Coalition, an organization dedicated to creating a national health plan. Under the guidelines of the coalition's plan, quality medical care would be available to all people.

Mr. Speaker, since 1981, when Margaret Blair moved to Long Beach, she has been a force with which to reckon. Despite an infirmity that impairs her mobility, Margaret continues to fight for what she believes. On this her most special day, my wife, Lee, and the people of California join me in extending this congressional salute to Mrs. Margaret Blair. We wish her all the best in the years to come.

THE CHURCH OF GOD OF EAST FLATBUSH CELEBRATES ITS 22D ANNIVERSARY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. TOWNS. Mr. Speaker, today I rise to recognize the Church of God of East Flatbush which celebrates its 22d anniversary and its commitment to the Flatbush community.

Founded in 1970, the Church of God originated as a place of prayer and worship for Christian immigrants, predominantly Jamaicans. Thirteen Jamaicans joined together to erect a church at Bayridge Church of God and installed Reverends Guy Notice and Peter Gayle as pastor and assistant pastor respectively.

After 4 years of unexpected difficulties and a series of relocations, the church settled at its final and present location of 409–15 East 95th Street. The congregation grew tremendously and begin to expand beyond the Jamaican culture to include the present congregation of 600 members from other Caribbean Islands, Europe, South America, and the United States.

The Church of God of East Flatbush has made a commitment to its youth and hopes to retain the young people comprising the 18 Sunday School classes, children's church and baby nursery. A total of 14 new churches have stemmed from the congregation, of which the mother church gives full support.

I am pleased to announce that the Church of God of East Flatbush will be celebrating its 22d anninversary with special services on Sunday, August 23. The theme for the occasion reads "Awake! It's Harvest Time", taken from the scripture Jonah 9:1-10. I would like to commend the Church of God for sincere devotion to its community and I wish its congregation and staff continued success.

A TRIBUTE TO SAM SCHEINER

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to recognize the fine efforts of Sam Scheiner on the occasion of his retirement after 32 years of dedicated service to the city of Philadelphia as the director of the Mann Older Adult Center.

Sam's tenure at the Mann Center spans numerous milestones and expansions. Under his direction, the center instituted groundbreaking innovations such as dual language programming to meet the needs of its growing multiethnic population. One of Philadelphia's first senior centers, the Mann Center has often served as a model and leader for other centers.

Sam continues to be an outspoken leader in Philadelphia's aging network, widely recognized for his efforts to involve and empower the elderly. He is described by colleagues and senior center participants as a democratic manager, compassionate social worker, and strident activist. He is credited as one of the key advocates behind the fight to defeat means testing for senior center services.

Although retiring from his administrative post with the city of Philadelphia, Sam maintains that he will remain vocal and vigilant in his role as social activist, especially on the issue of national health care reform. This is his top priority issue and he is sure to be in the front lines as it gains in national prominence.

For all of his past and in anticipation of his future efforts on behalf of the citizens of Philadelphia, I join with his family and friends in honoring Sam Scheiner.

LIBRARIES NEED ADEQUATE FUNDING

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. ROEMER. Mr. Speaker, it troubles me to report that our Nation's educational institutions continue to be victimized by insufficient funding and general neglect. While this year's Higher Education Act amendments do much to increase investment in education, this Congress must still address the deteriorating condition of our Nation's libraries. Since the time of ancient Greece, libraries have offered wisdom and enlightenment to those who seek greater knowledge. History shows that accessible information is the hallmark of any democratic society, for if knowledge cannot be freely gained, freedom of thought and action is severely shackled.

Inadequate funding has prevented libraries across the Nation from providing needed services to our citizens. In my own State of Indiana, school libraries continually have had trouble providing new books for their pupils. Because nearly half of their nonfiction books are over 20 years old, Hoosier children are prevented from learning relevant facts about a rapidly changing world. For example, in the area of space exploration, over 50 percent of the books were written before the United States landed a man on the Moon. In the area of geography, most books show the world as it existed almost 40 years ago. Children cannot even get current information about career opportunities, since outdated materials fail to include women in many professions except formerly traditional ones, such as teaching and nursing.

Many school libraries in my State also suffer from gross understaffing. One Indianapolis high school has only a single librarian for a student body of 2,400, and another high school in Fremont, IN, is unable to employ any professionally certified personnel for its library. Because inadequate funding forces Indiana schools to cut back on professional librarian services, students lose out on a variety of educational opportunities.

Mr. Speaker, the same story is heard over and over again across the country. In New York City, three-quarters of the public library's 82 branches are closed 3 or more days per week. During the 1970's, the Chicago Public Library was large enough to employ over 2,300 employees. Since then, the public library staff has been reduced by almost 1,000 people. In Atlanta, library services have been denied to some 30,000 at-risk children—underprivileged youngsters who depend on an education to escape a cycle of poverty and disadvantage.

And while expenditures for libraries have been plummeting, the costs of library materials have been soaring. Since 1977, the cost of a hardcover book has increased 100-percent, and the average price of periodicals has nearly quadrupled. The widening gap between costs and expenditures is represented by school libraries' spending of $5.48 per pupil—an amount that is less than one-half the average cost of children's books.

I am also reminded of my frequent visits to our local library in South Bend and Mishawaka as a young child. Saturday mornings were a joyous time to pick up a few biographies or sports books, learn what books my mom and dad read at any age, and even attend special events designed for children. Libraries are tremendous resources for families, for learning, and for the future.

For some Americans, a decrease in library services may be seen only as a lost luxury. But for others, a closed library is more than an empty building. To the underprivileged, it represents another door that has slammed shut—a lost opportunity to improve one's status in society. For those who endeavor to enlighten their minds, it is like an unlit candle that sheds darkness on the world.

Mr. Speaker, if we can afford to spend billions on weapons systems, space stations, and foreign aid, surely we can find the resources to support these precious sources of learning. If we fail to invest in the education of our people, no amount of spending can address the challenges that confront our Nation.

A TRIBUTE TO ANNE GARNER, SUPER EDUCATOR

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, am pleased to call my colleagues' attention to Ms. Anne Garner, a gifted teacher at Sunset High School in West Kendall, whose students say was "born to teach." Ms. Garner, who was inspired by her educator parents, receives an extraordinary amount of praise from her high school students. Her unique method of teaching and enthusiastic attitude motivate the youths to excel.

I would like to introduce Ms. Marica Smith's article in the Miami herald, "Born to Teach."

For Anne Garner, teaching is a family affair—Garner, 26, teaches English and heads up the gifted program at Sunset High School in West Kendall. Her mother Elizabeth teaches a gifted program at South Dade High and dad Terrence is a former teacher who is now an assistant superintendent with the school system.

Inspired by her parents, Garner has spent the past five years finding her own "mission" in the classroom.

"My job is all about the students and nothing else," she said. "When I'm in school, they're what's important, and sometimes it can be easy to lose sight of that with all the problems facing schools today."

It can be easy to lose sight of Garner, too, because she's almost always in motion. School doesn't end when the kids go home at 2:30 p.m. Usually, Garner is at work until 5 p.m.

Why so late?

"Dedication," said Sunset principal Dennis Davis. "Her every action reflects her commitment to education. And her students know it, too. Every time I go into her classroom, the kids have enthusiasm for what she's teaching."

Enthusiasm is what Garner tries to cultivate. She teaches her subjects in terms her students understand and involves them in the teaching process.

"I like that she lets us decide how we want to learn," said 10th-grader Terri Phelan.

Garner lets the students pick some topics they want to work on or read about. They are allowed to speak whenever they want to, and Garner always listens.

"I learn a lot from the kids," she said. "When I decided to be a teacher, I knew I would be a student, too."

Last year, she coached Sunset's Odyssey of the Mind team in a competition where kids come up with creative solutions to modern problems. Two teams, Classics and Structure, placed first in the state and the group advanced to the world competition.

"I like coaching OM because I get to teach teamwork. It doesn't matter how talented a person is, the important thing is that he's able to work with others," said Garner, who also sponsors the Future Educators of America club at the school, 13125 SW 72nd St.

In the classroom, Garner uses lots of examples to spark interest.

That hooked science-minded Michael Abraham, 17, who said he never thought he would like English very much.

"I probably wouldn't be reading J.D. Salinger if it weren't for her lesson," the Sunset senior said. "I found myself really wanting to pay attention."

"She draws interests from students they didn't know they had," said Sunset English teacher Marianne Kjos. "She was born to teach."

The kids think so, too.

"She understands us," said 10th-grader Maite Urrechaga. "She keeps us in line, not because she's a teacher, but because she wants to be a friend. I'm glad I'll get to see her while I'm in high school."

Ms. Garner not only teaches at Sunset High School, but she also encourages her students to participate in other activities. She is the school's sponsor of the Future Educators of America club and has also coached the school's Odyssey of the Mind team to State-level victories. Now these students, under the direction of Ms. Garner, will compete in the national tournament.

Ms. Anne Garner's commitment to her students is only exceeded by her students' adoration of her. She is truly an asset to America's educational system.

THE SALINAS VISION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. KOLBE. Mr. Speaker, I recommend to my colleagues the following interview with Mexican President Carlos Salinas de Gotari that recently appeared in Forbes Magazine. President Salinas has been a progressive force in Mexico since taking office in 1988. His overarching mission has been to improve the standard of living for his people through dramatic economic, social, and political reform. Indeed, as the interview describes, his approach to the Mexican economy should not be lost on the leadership of this Nation. As Congress considers the North American Free Trade Agreement [NAFTA], I would urge my colleagues to consider the efforts of President Salinas, and the dramatic results he has achieved through his leadership of Mexico.

WE HAD TO REACT QUICKLY

(An interview with President Carlos Salinas)

GEORGE BUSH apparently had no idea how supermarket checkout counters worked. The media had a good time with that one and Bush lost a few more votes. Mexican President Carlos Salinas de Gotari would never pull a boner like that.

Though he's a dapper, polished man with a Harvard Ph.D. in political economy and government, Salinas has worked hard at keeping in touch with ordinary Mexicans. Since he was inaugurated in 1988, Salinas has spent Thursday and Friday of nearly every week on helicopter visits to towns and villages in the remotest corners of his sprawling country.

Until a few generations ago, Chalco was a sleepy, crumbling little town in the Valley of Mexico. In recent years, with Mexico's bumper crop of babies spilling into cities, Chalco was swallowed by Mexico City and became one of the worst squatter slums, with half a million people in shanties without running water, paved streets or electricity.

No surprise that Carlos Salinas was booed and jostled when he made a campaign visit to Chalco in July of 1988. Salinas managed to shout a promise over the microphone: Within six months of his inauguration Chalco would have electricity and running water. More boos and whistles. They'd heard that one before. Always around election time.

In early fall of 1989, fireworks greeted Salinas' cavalcade when it arrived in the newly paved center of Chalco. "It was in the evening," says an observer, "and the crowd lifted him to their shoulders like he was a famous bullfighter. As they carried him through the darkened streets, the lights would go on ahead of them. Jets were streaming from fountains attached to the new water system." Using funds from his government's successful privatization program, Salinas had ordered a crash public works program for Chalco, with the finances managed by citizens' committees rather than by corrupt and inept political bosses.

So far Salinas has made only a tiny dent in Mexico's ancient poverty but, with hundreds of small-scale Chalcos and lots of publicity about them, he has brought new hope to the masses. The promises he has made and quickly carried out on these visits are, each of them, concrete tokens of the benefits that will flow from his almost revolutionary program of economic liberalization. It is a program that, dramatics aside, has a lot to teach our own politicians.

FORBES Editor-in-Chief Malcolm S. Forbes Jr. and Editor James W. Michaels interviewed Carlos Salinas and Finance Minister Pedro Aspe.

FORBES. Mr. President, I can remember going to Mexico in the 1960s, and if I had pesos left over, they'd still be worth exactly 12.5 to the dollar if I went back a year later. You had 13 years of a rock-solid currency. Mexico was an economic miracle, year after year producing 6 percent economic growth. And then everything fell apart; you had hyperinflation, negative growth, massive unemployment, and the peso is nearly 3,000 to the dollar. What went wrong?

SALINAS. The main lesson is that you cannot spend beyond your means, that the strengthening of internal savings is essential to sustain the process of growth; that those who live on debt must pay its consequences sooner rather than later.

With the process of privatization [in Mexico], we've raised almost $33 billion. Instead of spending that money, we used it to reduce the [domestic] national debt. The national debt in the U.S. is 58% of GDP; in Japan, 63%; in Italy, 105%. But the national debt in Mexico is today only 13% of GDP. The savings from reduced debt service can now be channeled into social programs and still enable us to keep a tight fiscal policy.

In the years that Mexico was piling up debt, wasn't the aim of the spending to redistribute income?

If that was the aim, it didn't work, because income distribution didn't improve. We are convinced today that the best way to make a proper income distribution is, first, through creating the conditions for a sustained recovery. And second, improved education. We are [also] restructuring the educational system.

In addition to reducing domestic debt, you've also substantially reduced tax rates.

Oh, yes, we reduced tax rates and we increased the tax base. We know we have to be competitive [in tax rates] on an international level if we are to compete for capital, which in the Nineties will be the key question for economic success or failure. We've reduced tax rates and strengthened enforcement, and now are getting more revenue out of [lower] tax rates. Inflation had reached almost 200% three or four years ago; this year it's going toward 10%.

The main tool for reducing inflation is on the fiscal side. This year we're running a [budgetary] surplus for the first time in history.

One thing about your economic program that has surprised the world is its speed and momentum.

We had to react quickly to the end of the Cold War. The transformation and change throughout Eastern Europe and the new developments in the Asian-Pacific countries, the unification of Europe. At the same time a clear message was coming from Mexicans to reform the country.

What reassurances can you give that your liberalization process will continue this opening to foreign capital, privatalization and fiscal discipline?

We have the political will to maintain the process of reform. As important as the will is that the population demands this process of reform to be permanent; and that you can find in Mexico today. There is very broad support for the process of reform.

So it's not just a revolution from above.

The people know that this strategy benefits them.

Speaking of the ordinary Mexicans, what have you done at the local level, where traditionally a few politically well-connected men controlled everything—business opportunities, credit, politics?

We have the program we call Solidarity, which is a grass roots movement, working on the village level, at the slum level and at the community level, to transform the traditional way of leadership.

Today, with this program to which we are channeling more than $2.5 billion this year, we encourage popular participation is solving the monumental demands for decent water, sewage systems. Once the community organizes itself, new leaders will emerge by sheer force of that participation. This is changing Mexican leadership and organization at the grass roots level.

It has always been tough in Mexico to go into business without cutting in the old political bosses. Have you made it easier for people to start small businesses?

Oh, much, much easier. We have deregulated, and deregulation has opened the way for practically anyone who has the means, the desire, the resources to do so to open a business. We've established a program for small and medium-size enterprises. Last year we provided financial support for more than 100,000 new small and medium-size firms. Also training and technological packages and commercial education.

This small business program is separate from Solidarity. Solidarity works with the slums and the rural communities. The small and medium-size enterprises support is a program at the Nacional Financiera, the government development bank.

Something like the U.S. Small Business Administration?

Hopefully, better.

Touché! But Mr. President, to the extent that you spread opportunity at the local level, you undermine the old bosses who always delivered the vote for your party, the PRI.

Oh, certainly. The social bases of [political] support have already changed. I am opening opportunities for the new social leadership to participate and to be able to channel their energies and the capacities to transform the country. It is the responsibility of the party [the long-reigning PRI] to transform itself, to be able to capture for the party these new forms of social organization and participation.

In a private conversation last summer, Brazil's President Collor said that Chile could reform its economy because it had a military dictatorship. He said Mexico could do its reforms because it had a one-party democracy. But, he claimed, in an open democracy like Brazil it is much more difficult.

Question, Mr. President: Is democracy compatible with sweeping economic reform in a developing country?

It is compatible. In fact, democratic processes are essential to the process of economic change. That is, if opening the economy doesn't improve the quality of living of the population, then there's always the risk that there can be a reversal in the process of democratization. In Mexico, we are working simultaneously on economic reform and improvements in our democratic process.

Mr. President, in that respect your task is not unlike that of Boris Yeltsin in Russia, who has to build a new economy and a new political system at the same time.

Well, it's quite different, because in Mexico we've had freedom of the press for many, many years; freedom of speech; freedom of movement; freedom of commerce; freedom of labor. We have a strong business community. When in Mexico you talk about privatization, you mean privatizing in Mexican hands—and certainly welcoming foreigners who want to participate. In the former Soviet Union, privatization may mean merely inviting foreigners because there are no local businesses.

You mean that your job is easier than Yeltsin's?

I wouldn't compare anyone's job.

We don't mean to suggest that your job is a snap . . .

I will tell you something. In Mexico, take the case of educational reform. We had the teachers' union; we had to change it. One of the largest unions on the continent—more than 1 million members. It took us three years, three years of intense dialog, negotiation, concentration; and at the end we convinced them, and they accepted the process of educational reform.

For in Mexico the process of government requires intense dialog, using reason and emotion as well. We must build reform on the basis of a consensus.

Is the proposed North American Free Trade Agreement essential to your program?

Well, I believe that the free trade agreement is inevitable; inevitable in the sense that the trend of the world is to create trading regions—not trading blocs but trading regions. The economic relationship between Mexico and the U.S. is already so strong that the agreement would [simply] recognize that reality. With Europe getting together, with Japan and Asian-Pacific countries making their own region, the only way to compete with them is by getting together. It's a matter of [economic] viability in the medium and long run. It will happen sooner or later. If it's later, the better for our competitors.

We are already growing without a free trade agreement. We want the agreement in order to help us grow at half again [the current] rate. Because in a country with 85 million people and adding 2 million more every year, we have to grow at higher rates.

Speaking of free trade, your government has been stubborn about oil. Your constitution says that your oil belongs to Mexico and that you cannot share the ownership with foreigners. And yet, oil requires huge amount of capital, and you need every cent you can get for your social and infrastructural needs. How can you reconcile the monopoly position of Pemex [Petróleos Mexicanos, the state oil monopoly] with the need for foreign capital and foreign technology?

The oil will remain Mexican. But we introduced recently to Congress a law to restructure Pemex and to form independent companies within it. No private businessmen can participate in Pemex ownership, but they are welcome to participate in service contracts—not risk but service contracts.

In other words, anything to do with the ownership of the crude oil must remain in Pemex's hands.

Yes. That's what the constitution establishes, and that's how it will remain. Pemex can contract with private drillers, Mexicans or foreigners, but they are paid in cash, and the oil that is found remains in Pemex, as the constitution establishes.

So crude sharing . . .

No.

Joint ventures for finding crude oil?

No.

And you have no desire to change that.

That's what our constitution says and that's how it works.

Mr. President, when people in the U.S. think of Mexico, they think of immigration. It's an issue that almost dominates U.S.-Mexican relations. You have said that our Simpson-Mazzoli immigration law ignored economic reality.

I said that in the sense that the American economy demands this type of labor. Mexicans are migrating, attracted by the demand pull from the American economy. But at the same time, the Mexicans who go north take many risks; they are very energetic risk-takers. That's precisely the kind of people I want here. That's why I am so committed to generate employment opportunities in Mexico, so that Mexicans will not go north, competing with Americans for their own jobs in their own country. That's why we have to grow faster. That's why it's better to have a free trade agreement, and we would be able to export goods and not people. But migration will have to be talked about in the bilateral relations sooner or later.

Does the recent decision by the U.S. Supreme Court in the kidnapping case make your position more difficult in regard to negotiating with the U.S.? [The Supreme Court ruled in Alvarez Machain on June 15, 1992, that the U.S. is entitled to kidnap criminal suspects from foreign countries for prosecution in the U.S., regardless of protests from the foreign nations or the terms of existing extradition treaties.]

We consider that ruling unacceptable; invalid in Mexico. I have introduced a motion in Congress to consider traitors those Mexicans who help foreigners kidnap our own citizens and take them abroad. It was a monstrous decision.

A personal question. Your father is an economist and served in the cabinets of two earlier presidents who followed quite different policies. How do the economists and public servants of your father's generation react to changes you are making?

Well, they had their own reality: the Cold War; stable economic markets. It's a world that doesn't exist anymore. I work for the world in which I live and the one I try to anticipate for the future.

When we met with President George Bush in San Diego last month, he must have hoped that some of your popularity would rub off on him. He needs it.

[Salinas chuckles.]

A TRIBUTE TO CHARLES DELEON

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to recognize a very special young man—Charles DeLeon.

On Tuesday, June 29, at approximately 12 p.m., Charles saw another person in danger. Putting aside all cares for his own personal safety, Charles came to the aid of a woman who had been attacked and was in the process of being raped.

Charles, who is a senior at Edison High School and is a member of the Jobs For American Graduates Program, anticipates graduating in June 1993 and continuing his studies at a university.

In coming to the assistance of another in need, Charles demonstrated true selflessness and bravery. He has shown us the level of caring and involvement that is in all of us, ready to be called upon if and when needed.

Charles DeLeon is a very special young man who simply did what he felt was right. For this we join with his friends and family in offering him a sincere thank you.

MR. EDWARD ZINNER SUBMITS STATEMENT TO HEARING ON HEALTH INSURANCE BENEFITS

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. PICKETT. Mr. Speaker, a constituent of mine, Mr. Edward Zinner, of Virginia Beach, VA, submitted a statement to the Subcommittee on Labor-Management Relations during its June 16, 1992, hearing on the provision of health insurance benefits by multiple employer welfare arrangements [MEWA's]. I insert Mr. Zinner's statement in the Congressional Record so that my colleagues, who do not have the opportunity to review the committee transcript of his remarks, will have the benefit of his comments on this issue.

STATEMENT BY EDWARD ZINNER

Mr. Chairman, ladies and gentlemen of the Committee. My name is Edward Zinner and I currently live in Virginia Beach, Virginia with my wife and family.

I am the President of National Investment Consultants, Inc., a closely held corporation, which serves as the plan administrator for Atlantic Healthcare Benefit Trust, a Multiple Employer Welfare Arrangement (MEWA) sponsored by United Healthcare Associates. As a person whose business is devoted to the effective and efficient operation and management of a MEWA, I appear before you in support of legislation to set reasonable federal standards for MEWAs and preempt redundant and unreasonable state regulations.

ACCESS TO MEDICAL BENEFITS IS A PRESSING PROBLEM

I am sure that the Committee agrees with me that the inability of a large segment of our population to obtain health care benefits is one of the most pressing problems facing our nation today. The financial havoc inflicted by the unpredictable occurrence of catastrophic injury, illness or disease has destroyed the financial resources of families throughout our nation and can obliterate years of hard work and savings in a very short period of time.

Our medical care system is probably the best and most advanced in the world, but costs have gotten out of control. With medical costs rising rapidly, insurance costs are escalating just as rapidly, maybe even more so. Suffice it to say that the current health benefit system is just not providing adequate protection at affordable rates.

MEWAS PROVIDE ACCESS TO LOW-COST MEDICAL BENEFIT PLANS

I will begin my statement by pointing out what a well-run MEWA can do—a MEWA can provide access to low-cost, or at least reasonable cost, coverage of medical expenses. We can and do provide this program to small businesses. In fact, that is our primary market, small business with less than 50 employees.

To me, these facts mean that sound MEWAs are part of the solution, and maybe the only solution to small business coverage. This access is important and it's something that no one else is doing. We are substantially reducing the number of citizens who have no health insurance, and we are doing it willingly and profitably. In my opinion, none of the other existing participants will do this voluntarily or cost-effectively.

A decade of personal experience in health benefits

Approximately ten years ago, I became associated with the health benefits industry as a marketing representative with Mutual of Omaha. After considerable success at that level, I moved up the corporate ladder into management and was responsible for overseeing the sales activities of a large force of service representatives. In that position, I became intimately involved in the various aspects of providing health care benefits to policyholders. It became evident to me that bureaucracy, inefficiency and certain philosophical considerations had caused the cost of health care coverage to skyrocket and driven hordes of consumers from the marketplace.

I was later presented with an opportunity to associate with American Service Life, a large and successful insurance operation. As I studied and learned more about the provision of health benefits, I identified ways of avoiding some of the unduly costly requirements which had become part of the structure and philosophy of the benefits industry.

Formation of Atlantic Healthcare Benefit Trust

It became evident to me that a properly structured MEWA would allow provision of sound, necessary coverage to consumers at an affordable price. I knew that the cost of coverage could be sharply reduced, and that doing so would bring countless employers and their employees back under some form of medical benefit coverage.

During February of 1991, United Healthcare Associates and my company, National Investment Consultants (NIC), were incorporated and NIC began serving as the plan administrator for Atlantic Healthcare Benefits Trust (AHBT). AHBT is soundly financed, based on conservative actuarial analysis, and pays benefits regularly and rapidly. As I make this statement to the Committee, just eighteen (18) months into operation, Atlantic Healthcare currently provides benefits for thousands of families and over 10,000 individuals. We are now generating about $10,000,000 in annual premiums.

To date we have averaged only fifteen days to process a claim from the time it is delivered to our office until a benefit check is paid. We currently do not have a single claim that has been in our office for over 45 days. The only reason that claims are not paid within 15 days is the need for additional documentation. To date we have not had a single claim resulting in litigation for our refusal to honor such a claim. I am certain that all of our statistics are well below industry averages in the health insurance business and we constantly strive to keep our claims current.

I am quite certain that you can tell how proud I am of the service we provide. Additionally, this protection is provided at rates significantly below those with which you are accustomed.

We can and do provide a good basic medical benefit plan at less than half the cost of a comprehensive medical insurance policy sponsored by major insurers. Our contribution rates usually run from about 40 percent to 50 percent of a major insurance company policy.

Important features that make MEWAs work

Of course, good organization and sound management are always essential elements in the operation of a good business. However, there are certain generic features of the MEWA which make it an attractive alternative to the more familiar health insurance structure.

First, Atlantic Healthcare offers a basic medical benefit plan. We cannot solve all of society's healthcare problems. We do not try to cover every eventuality because we must protect the contributions of participating employees which are basically assets of the benefit plan. Therefore, in our plan we have a cap on maximum coverage amounting to $250,000 per calendar year. That will cover virtually every participant, but it will not offer full reimbursement in truly rare catastrophic cases. Medical costs exceeding our cap are extremely uncommon. A serious cancer case could normally be treated within this amount.

Our benefit plan does not cover all possible medical events. We have found that certain illnesses, certain diseases, cannot be responsibly incorporated in a small business healthcare plan.

The various states have overburdened traditional health insurance with a plethora of mandated coverages. Special interest groups have used their considerable influence to mandate treatment for a number of very high cost but relatively infrequent diseases and illnesses, the effectiveness of which is questionable in many cases. These mandates pose a substantial cost burden to benefit providers and have caused many consumers to leave the ranks of the insured, leaving them without coverage for heart disease, cancer, fractures and breathing disorders.

Members of the committee must decide whether to require the average citizen to bear these costs and potentially drive them from any coverage pool, or organize special funds, or to otherwise provide coverage for catastrophic illness. With only a little reflection, Members of Congress will realize how difficult it really is to deal with catastrophic medical events. However, as a MEWA we cannot do it and at the same time provide low-cost coverage to small groups. Therefore, I urge you to seek another way, another forum, to satisfy our mutual social conscience. If you also act to separate out major medical catastrophes, then you will thereby create a larger shared-risk pool where our more common medical problems can be dealt with in a financially sound manner.

Second, many state agencies require unrealistically high cash and capital reserves for insurance companies, intended to protect against poor management, actuarial analysis or risk selection. Of course, there is a significant cost to maintaining such reserves. Excessive and unnecessary requirements can and are causing the health coverage ship to sink. Reserves must be reasonable and reflect the risk and management of the company so that they do not overburden its financial structure.

MEWAs do not have the same operating characteristics and do not require the same reserves as regular insurers. MEWAs need to be responsibly run and they need to base their contribution rates on sound actuarial principles—this will allow claims to be paid regularly and promptly and that is the standard which the Committee should seek to impose.

Prompt claim payment does not require the large reserves contemplated by certain legislative proposals before this Committee for a number of reasons. MEWA benefits are carefully tailored and policy limits established, by the actions of the group's benefit committee, to fit actuarially within the contributions received by the Trust. MEWAs are a true association of employers and can assess the membership to make up for any shortfalls. The Trust balance must be carefully monitored so need for assessment is identified early and kept as small as possible.

A third important feature for MEWAs is comprised of the benefits which may be enjoyed by a MEWA versus the traditional insurance carrier with respect to taxation. All of our benefits are provided through a trust, and these trusts are tax-exempt. Therefore, we can put more funds to work providing benefits.

Because of these three advantages, the increase in the number of citizens who will be able to satisfy their financial obligation for health care is substantial. I urge you to strengthen these advantages so that MEWAs can provide access to medical benefits to an even larger portion of the small business community.

ASPECTS OF PROPOSED LEGISLATION WHICH SHOULD NOT BE ADOPTED

Role of the National Association of Insurance Commissioners (NAIC)

The NAIC role should be minimal. NAIC is opposed to the very concept of MEWAs, and considers illegal to very existence of member-funded MEWAs such as my own. Many of the problems commonly associated with MEWAs could be solved by state legislation, but NAIC has not developed model state legislation to assist the process. We are wary of administration by the states, as is likely to be suggested by several participants in your hearings. In addition to the poor track record of the insurance commissions, administration by the state is likely to degenerate into inconsistencies and practices biased toward large insurers. Each state is likely to be influenced by different special interest groups, posing numerous hurdles for low-cost MEWAs.

Mandates for eligibility and coverage

The Administration bill, as I understand it, proposes guaranteed eligibility for all employees. We cannot do this. You know that major medical crises exist, the AIDS epidemic for one, and cannot be paid for by reasonable-cost benefit plans offered to small businesses. This is a societal problem as well as a critical medical problem, but employee benefit plans cannot solve it—that is asking too much.

Other aspects of universal eligibility, such as requiring the provision of open enrollment, acceptance of assigned risks, and coverage of pre-existing conditions appear in some of the legislation under consideration. I submit to you that these requirements cannot be part of an actuarially-sound, low-cost benefit plan. I know this from years of hands-on experience.

Unreasonable reserve requirements

We could not operate under the current proposals for reserves as found in Rep. Hughes bill, H.R. 4919. We are not insurance companies. The function of reserve requirements is to assure an adequate asset base. Our asset base is potentially very large—through the member assessment vehicle, our base is that of our total membership. Forcing the membership to shift those assets to the trust in advance of an actual demonstrated need would be extremely unproductive.

Most of the proposals for reserve requirements reflect a confusion of our benefit plans with insurance. Well-run MEWAs want to be, and my operations are, actuarially sound, and conservatively so. As I stated earlier, sound actuarial practices, coupled with an ability to assess the participants, provides sufficient financial security.

STRENGTHEN THE GOOD POINTS OF MEWA BENEFIT PLANS

A small business participant in our benefit plan gets:

1. Access to affordable coverage.
2. Protection against serious economic loss related to most health conditions.

The improvements that are needed are provisions that strengthen the natural inclination of benefit providers to incorporate the following characteristics into MEWA operations:

Follow sound actuarial standards in matching contributions and benefits.

Adopt a sound investment policy for all plan assets.

Provide full disclosure of policy limits, exclusions, claims practices, and assessment provisions.

Standardize claims performance requirements and provide a smoothly functional appeals process.

ACCESS WILL NOT BE IMPROVED BY RELIANCE ON STATE INSURANCE COMMISSIONS

There is one key point that I want to leave with you in my statement—this Committee should not adopt legislation which relies on the state insurance commissions.

None of these negative experiences with MEWAs, such as unpaid claims and fraudulent practices, are of primary concern to the Insurance Commissioners in the states that seek to put MEWAs out of business. In fact, the States are engaging in unscrupulous practices which are blocking access to benefits and often causing unpaid claim situations to occur. That is, MEWAs can be perfectly sound but still will be run out of business by certain States.

This Committee and the Congress should not support legislation that will protect the market for the major insurance carriers. Under the watchful eyes of the State Insurance Commissioners, most MEWAs will be put out of business, and only a few large employers will still be able to access the protective provisions of ERISA and avoid the high-cost "insurance" trap.

There have been serious problems with the full fledged insurance companies, the kind of companies that these very same State Insurance Commissioners want us to emulate.

You must have heard of First Executive, IMC of Florida, Blue Cross of West Virginia, Maxicare, Total Health, and many other health benefit providers. None of these were MEWAs, all were under state supervision, and yet thousands of participants were left in the lurch. I ask you to consider whether protection offered by state commissions was adequate in those instances.

LEGISLATION IS NEEDED TO CLARIFY PRE-EMPTION AND PROTECT ACCESS TO BENEFIT PLANS

I urge you to develop legislation to cure those problems. To continue offering low-cost healthcare benefit plans for small business, we need clear Federal pre-emption for ERISA plans from burdensome State requirements. We are willing to consider reasonable provisions for registration and certification by the Department of Labor, and they would be helpful if, and only if, coupled with clarified preemption of State regulations.

I offer to help you develop the provisions that can cure the problems, and I will assist you to obtain the cooperation and support of other soundly run MEWAs to accomplish your very worthwhile objectives.

Ladies and gentlemen, as you can see, my experiences over the past few years have made me a believer in the viability of MEWAs. I hope that mature reflection and study will make the House Education and Labor Committee a convert also, and that your committee will develop legislation that will allow responsible MEWAs to continue to serve the small business community.

KEEP THE VIGIL: PELTIER IS A MURDERER

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. OXLEY. Mr. Speaker, a great deal of revisionist history has appeared in the media recently regarding the events that occurred in Oglala, SD, on June 26, 1975. I commend the following article, written by our former colleague Ed Bethune, to the attention of my colleagues.

KEEP THE VIGIL: PELTIER IS A MURDERER

(By Ed Bethune)

As the FBI changes with the retirement of older agents and the hiring of new agents, memories may fade concerning the incident at Oglala, South Dakota, on the Pine Ridge Indian Reservation, on a fateful summer day, June 26, 1975. It was then and there that two young FBI Agents, Ronald Williams and Jack Coler, in the prime of life, were the victims of a cold-blooded execution. Leonard Peltier was found guilty of participating in the murders of these two agents. He is serving two consecutive life sentences.

Peltier and others were not members of the Pine Ridge Reservation. They were outsiders who, as part of the American Indian Movement (AIM), had gathered on the reservation. The group had traveled to Pine Ridge from New Mexico, and Peltier, the leader of the group, was a fugitive wanted for attempted murder in Milwaukee, Wisconsin. This, however, was unknown to the agents and, on that day, they were seeking Jimmy Eagle, wanted for robbery on an Indian reservation.

The agents had reason to believe Eagle was utilizing a red vehicle. SA Williams spotted such a vehicle on the reservation shortly before noon, and he and Coler gave chase. Testimony proved that the vehicle was occupied by Peltier, Norman Charles, and Joseph Stuntz. (Stuntz was shot and killed later that same day, and was wearing an FBI jacket.)

The vehicle stopped near a tent city encampment and, from long range, the subject and others took the agents under fire with rifles. The gun battle lasted about ten minutes, with the agents totally outgunned. Over 125 bullet holes were found in the agents' two cars. Evidence indicated that there were only three pistol rounds discharged from the agents' revolvers, and possibly a round from a rifle and shotgun. The agents were soon hit and disabled.

SA Coler suffered a potentially fatal wound to the right arm, which nearly severed the arm. He lost blood rapidly and became unconscious. SA Williams was shot in the left shoulder, and the bullet lodged in his side. Although wounded, SA Williams removed his shirt and attempted to tourniquet SA Coler's bleeding arm. SA Williams also took a round in the right foot.

Courtroom evidence proved the brutality of the murder. The following is from U.S. v. Peltier (1978):

"These wounds (above) were not fatal. The agents were killed with a high-velocity, small-caliber weapon fired at point-blank range. Williams attempted to shield his face from the blast with his right hand, turning his head slightly to the right. The murderer placed the barrel of his gun against Williams' hand and fired. The bullet ripped through Williams' hand, into his face, and carried away the back of his head. He was killed instantly. The murderer shot Coler, who was unconscious, across the top of the head. The bullet carried away a part of his forehead at the hairline. The shot was not fatal, however. The murderer then lowered his rifle a few inches and shot Coler through the jaw. The shell exploded inside his head, killing him instantly."

Autopsies and testimony tied the fatal shots to an AR-15 (.223 round). Testimony showed Peltier was the only person at the scene with an AR-15. It is believed that Peltier, Dino Butler, and Bob Robideau were the three who approached the car while the agents were disabled, and, thereafter, both agents suffered the fatal shots.

Peltier, that same evening, fled the reservation.

On September 10, 1975, a car loaded with explosives and weapons exploded on the Kansas turnpike. Peltier's AR-15 was recovered from the vehicle. The weapon was damaged and could not be fired. The bolt, however, was removed and tested, and a .223 cartridge casing found at the murder scene was matched by extractor marks.

On November 14, 1975, Oregon State Police stopped two vehicles near Ontario, Oregon. Peltier was one of the occupants who fled, firing at the police as he ran. SA Coler's pistol was found in one of the vehicles in a paper bag bearing Peltier's thumbprint.

Peltier then fled to Hinton, Alberta, Canada, where he was arrested by Mounties on February 7, 1976. He said he would have resisted arrest by deadly force if he had known the officers were nearby.

With those facts, it is unbelievable that Leonard Peltier has become a "cause celebre." Some try to paint him as an American native activist who has been mistreated by the system. The former Soviet Union presented thousands of signatures claiming Peltier was a political prisoner (a solid indictment from the former experts in propaganda). CBS has provided support on the West 57th show, and more recently on 60 Minutes. CBS producer James Stolz and CBS Correspondent Steve Kroft's total disregard of the facts in this case make them candidates for employment with The National Inquirer, and Senator Daniel Inouye (D-HI)—who's standing for re-election this year—wants Peltier pardoned.

Of course, Hollywood would not want to be left out. Western singer Willie Nelson, accompanied by Kris Kristofferson, Peter Coyote, Joni Mitchell, Robin Williams, and others, have campaigned and done concerts under the heading of "Justice for Peltier." Kristofferson likes to wear a T-shirt calling for "Justice for Peltier." And, finally, actor Robert Redford has been involved in the recent production of a motion picture entitled, Incident at Oglala. We have not seen the picture yet, but we can guess how it come down. There is talk of other pictures also. William Kunstler, the attorney infamous for his involvement in radical left-wing causes, has also been involved in this case.

So what about Peggy Coler's question: How can this be?

The answer is not difficult. It involves politics, money, and movies. Leonard Peltier has become a pawn for a guilt-ridden entertainment industry. For years, producers, directors, and actors misportrayed Indians, making millions in the process. Now, in a misbegotten effort to make amends, Hollywood and others are willing to rewrite history. They convert Peltier The Murderer to Peltier The Hero, The Warrior. They trample the honor of fallen FBI men. If they, the lawyers, the political activists, and others can make a buck in the process, then so much the better.

They have a right to their opinion, even if it is misguided. The FBI is a protector of that right, but we who have carried the badge also have the right to disagree and call it as we see it. Peltier has been found guilty of murder by a jury; his case has been appealed and reviewed many times; and all have agreed that the conviction should stand. The U.S. Supreme Court has twice denied *certiorari*.

What Peltier has been unsuccessful in winning in a court of law, he and his allies are now trying to win in the court of public opinion. Their strategy is to change public sentiment so they can get a pardon or win at retrial, if they can finagle a high court reversal.

At Peltier's murder trial his lawyer said: "The only question is, did the defendant participate * * * we concede first-degree murder." Thus, the defense wanted the murder trial to focus on one dispositive issue: Did Peltier participate? If so, then he could be convicted as an aider and abettor. The jury found that he participated.

Now, however, Peltier's lawyers have concocted yet another gripe over the same issue. In a recent petition, they claim the government changed its "theory of the case," and that the change shows that Peltier was treated unfairly. The United States Magistrate Judge didn't buy it and neither did Senior District Court Judge Paul Benson who presided at Peltier's murder trial. On December 30, 1991, he accepted the Magistrate's report and dismissed Peltier's *habeas corpus* petition in its entirety with the following comment:

"The Magistrate Judge's conclusion corroborates this trial judge's impression and understanding throughout the trial that the United States was proceeding on a basic theory that defendant was a principal in the offense but if the jury did not find him to have been a principal that the evidence would clearly support a finding in the alternative that he was guilty as an aider and abettor. The jury was instructed on the basis of that theory."

After the jury found him guilty of murder, Peltier lambasted Judge Benson with a carefully worded statement which skirted the question of his participation. Peltier said this to the judge at his sentencing:

"I stand before you as a proud man; I feel no guilt! I have done nothing to feel guilty about! I have no regrets about being a Native American activist * * * I do feel pity for your people that they must live under such an ugly system."

Judge Benson responded: "You profess to be an activist for your people, but you are a disservice to Native Americans." His comment was supported when the Eighth Circuit Court of Appeals reviewed the case and found: "* * * the evidence of Peltier's guilt was strong."

Peltier's apologists have continually distorted and belittled the government's proof, even to the extent of suggesting Peltier might not have been present that day. Peter Matthiessen wrote a book about the incident titled, In the Spirit of Crazy Horse. (In it, he audaciously likened Peltier's fate to that of Sitting Bull in 1876.) Here's the spin he put on the question of Peltier's participation after he read the testimony of an agent who identified Peltier through a telescopic sight:

"* * * [T]he sighting did not tend to show that Leonard Peltier had participated in the killing or even in the shooting, but simply that he was among those on the property that day * * * Peltier himself has never denied this (despite the point made by his attorneys that no hard evidence of his presence on June 26 was ever produced)."

One wonders if Matthiessen and Peltier's lawyers will change their "theory of the case" now that Peltier himself has made a damaging admission about his participation. On September 22, 1991, Peltier responded to a question by Steve Kroft during the course of the 60 Minutes show:

Kroft: "Did you fire at those agents?"

Peltier: "Yes, I fired at them."

So much for the question of Leonard Peltier's participation! Is that aiding or abetting or what?

Assistant United States Attorney Lynn Crooks, who has been on this case from the beginning, said recently: "Peltier's admission that he fired at the agents underscores the truth. The government's evidence was very strong and credible. Peltier was rightly convicted."

Unlike the young agents who were murdered, Peltier lives on. His dupes keep clamoring for his release and the chant will continue, because it is driven hard by politics, money, and movies.

We must not let this tragedy fade from our memories. Special Agents Jack Coler and Ronald Williams were heroes then, and they are heroes today, and they will forever be remembered as such by the FBI.

TRIBUTE TO TOM EHRLICH

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. JACOBS. Mr. Speaker, W. Somerset Maugham wrote that education is of value only so far as it ennobles.

Tom Ehrlich, president of Indiana University, is certainly one of God's noblemen.

The following is an example of how wonderfully he seemlessly weaves humor and profundity into his thoughts and writing.

Our nation, indeed our world, is the richer because of his civility and his contributions to the civilizing process.

INDIANA UNIVERSITY,
PRESIDENT'S PARTNERS,
Bloomington, IN, August 1, 1992.

DEAR PARTNER: I recently read the results of a *Time/CNN* poll of adults who were asked what they would most like their children to be when they grow up. These were the results: president of a university, 38%; head of a large corporation, 28%; sports star, 11%; U.S. President, 7%; movie star, 4%.

My wife, Ellen, and I would have had troubles if these were the only options; we have always wanted our children to be whatever they wanted to be. One is an airline pilot flying 747s to the Far East, one is a social worker counseling young children and their parents, and one is a newly minted lawyer about to start private practice. We rejoice that each is happy. But I admit to some surprise that others put being a university president a good 10 points above leading a large corporation and well before being a movie star. Ellen and I just returned from a hiking trip in Switzerland, where en route we had the good fortune to visit Audrey Hepburn at her home outside Lausanne. Having seen her world, we wonder about those who put that life last on their list.

To be serious, however, as I conclude five wonderful years as president of Indiana University, I find myself asking what it is that makes the job, for me, so invigorating. I am reminded of advice that I learned from another university president and that I try to pass on to our students—a university education should equip one to entertain three things: a friend, an idea, and one's self. My IU education during these five years has equipped me better to entertain all three.

My most obvious ties are to friends. Time and again Ellen and I are struck by how many good friends we have made at Indiana University. I wrote about Dick Stoner and Herman Wells in my last letter to you. Both are good friends and extraordinary mentors. I could comment at length on faculty I have come to know—women and men who are close personal friends as well as colleagues. Their friendship relates to my joy in entertaining ideas, for they have taken the time and trouble to teach me about an extraordinary range of fields and to give me a dazzling array of insights.

There is a special dimension of excitement at IU because so much of what is occurring here involves the interaction of teachers and scholars in many disciplines, each bringing a special focus to common questions. These collaborative efforts across fields are the hallmark of our University, made possible by extraordinarily talented faculty working in the spirit of One University. The creative mind is not restricted by the boundaries of academia: bridges across disciplines create ideas and insights.

Finally, coming to IU has helped teach me to entertain not only friends and ideas, but also myself. I have come to appreciate, far more clearly than could have been possible before, what an extraordinary opportunity I have to help lead a great university, to help make it even greater. I have grown in countless ways and intend to keep on growing as long as I have the good fortune to be in this position.

Many times I have felt comfortable with my views on an issue only to find myself challenged—frequently by students. Time and again, I have said to myself, "They have a point and I can learn from that point." My greatest single pleasure is as a teacher, and when I leave the presidency of Indiana University I intend to return to my prior role as full-time teacher and scholar. In the interim, however, I continue to delight in how much I learn from students. This is true in the courses I teach regularly, but no less true in my contacts with students in arenas outside the classroom.

In all events, in the process of learning about how to be president of Indiana University, and trying to be the best president I am able to be, I have learned a good deal about myself—my limitations as well as my strengths. The most important single lesson is how carefully I must listen—to students, to faculty, to staff, and to alumni and friends of the University.

For this reason, among many others, I particularly urge you to give me the benefit of your counsel, your ideas, your suggestions, your criticisms, your concerns, and your thoughts about our University and how it can best meet the challenges we face. Whether you and I ultimately agree or disagree about any particular issue, I am confident that I will benefit from your counsel, as I have so often over the past five years.

I write with gratitude and appreciation for your support and with optimism for the years ahead.

Cordially,

THOMAS EHRLICH.

A TRIBUTE TO MILDRED W. JOHNSON

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Ms. SLAUGHTER. Mr. Speaker, the Rochester community mourns the death of Mildred W. Johnson, longtime community activist and humanitarian, whose life was devoted to helping those who were disenfranchised, alienated and needy. She died on August 2, 1992, after a long illness.

During her lifetime, Mildred Johnson founded the Virginia Wilson Interracial and Helping Hands Center, Inc., named in honor of her mother and dedicated to feeding, clothing, and sheltering the poor. Her quest for justice made her an outspoken advocate for an efficient court system that treats everyone fairly. She was also one of the founders of Rochester's local NAACP Chapter.

She has been the recipient of numerous awards and honors: Rochester Rotary Award, Greater Rochester Metro Chamber of Commerce Social Services Award, Loftus C. Carson Human Rights Award, Lena M. Gantt Award, and many others. In 1986, Mildred Johnson made national news when she was listed as one of Newsweek magazine's 100 Unsung Heroes. She took every opportunity to communicate her philosophy of living—helping others. As a regular columnist in the Frederick Douglass Voice she championed human rights and civil rights.

We honor Mildred Wilson Johnson today, and pay tribute to her for a lifetime of helping others. Perhaps the greatest tribute of all is to learn from her, to continue her good works, and to carry her message forward.

AID TO PRIVATE SCHOOLS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. FORD of Michigan. Mr. Speaker, on Wednesday, the House is scheduled to debate H.R. 4323, the Neighborhood Schools Improvement Act. A fundamental issue which we will consider at that time is whether we should provide vouchers or other aid to children or parents of children attending private schools.

In preparation for that debate, I have asked my committee staff to summarize the Supreme Court decisions in this area going back to 1947. I hope the Members will take the time to read about these cases because they make clear that the Court will not rule in favor of the constitutionality of any voucher or similar aid to private schools.

President Bush has told parents of parochial school children that his GI bill for children will help them to pay for tuition at their schools. Mr. Bush is perpetuating a fraud on these people. The Court will rule as unconstitutional any such scheme.

The spokesman for the White House was quoted several weeks ago as saying that they realized there was no chance of passage of any such proposal in the Congress this year. Marlin Fitzwater asserted that the voucher proposal was being laid out as a campaign document.

These remarks from the White House make clear that the President is using the parents of parochial school children for political reasons. He is campaigning for their votes in November with a proposal that cannot pass constitutional muster. Then Mr. Bush will forget these people and his proposal after November.

Therefore, as we approach this vote on Wednesday, I urge my colleagues to look carefully at what the Supreme Court has said about aid to private schools. Let me help by summarizing 45 years of Supreme Court decisions in three simple conclusions.

First, the Court has made very clear a distinction between aiding elementary and secondary education and providing assistance to postsecondary education. In case after case the Court has asserted that a looser standard will be applied to postsecondary education because of the age of the students while a stricter standard of constitutionality will be applied to more impressionable children in elementary and secondary schools. Therefore, Pell grants are constitutional for postsecondary students in private colleges, but vouchers are unconstitutional for elementary and secondary students in private schools.

Second, the court has approved a very limited list of direct aids for children in elementary and secondary private schools. These are:

(1) Transportation of such children to private schools;

(2) The loan of secular textbooks for their use in private schools;

(3) Payment for standardized tests and scoring; and

(4) Some diagnostic and therapeutic services. These are all very limited direct aids.

Third, the Court has made very clear the unconstitutionality of a long list of other aids for children in private schools. These are:

(1) No payment of salary supplements for teachers of secular subjects in private schools;

(2) No payment of regular teacher salaries or textbooks purchased by private schools;

(3) No maintenance or repair of private school facilities or equipment;

(4) No tuition reimbursements to parents of private school children;

(5) No tax relief for those not qualifying for tuition reimbursements;

(6) No payment for the costs of examinations prepared by teachers in private schools;

(7) No payments for auxiliary services in private schools, such as counseling and psychological services;

(8) No loans of instructional materials or equipments, such as periodicals, recordings, films, maps, or charts;

(9) No shared time programs where secular subjects are taught in classrooms in private schools or leased from private schools; and

(10) No use of Federal title I money—now called chapter 1—to pay for the salaries of public school teachers sent into private schools to assist children.

Anyone reading these cases can see that the Court believes that there is a very narrow range of possible aids for children in private schools. Most attempts to provide assistance have been flatly ruled unconstitutional.

Proponents of vouchers sometimes refer to the Muller case where the Court upheld the constitutionality of an income tax deduction for the actual expenses incurred for tuition, textbooks, and transportation of children in schools, including private schools, in Minnesota. This case is clearly distinguishable, however, because it deals with the exclusion of income to help finance a charitable institution; namely, the parochial school. The Walz case makes clear that such uses of the Tax Code to assist charitable institutions are permissible in certain situations.

I hope that the Members will review these cases as they prepare for their vote on this important issue. I include at this point a more detailed discussion of each of the relevant cases.

RECENT SUPREME COURT DECISIONS ON THE CONSTITUTIONALITY OF FINANCIAL AID TO PRIVATE SCHOOLS

The question most frequently raised as a result of legislation authorizing public aid to private schools is whether such action violates the Establishment Clause of the First Amendment. The First Amendment limits Congress from enacting a law "respecting an establishment of religion * * *." The same restrictions apply to the States as a result of the Fourteenth Amendment. The Supreme Court has invoked a three step test to determine the constitutionality of such legislation. This test was first fully articulated in 1971 in *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971). *Lemon* v. *Kurtzman* requires: "First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; and finally, the statute must not foster an 'excessive government entanglement with religion.'" Id. at 612–613. The second and third steps of this test were first articulated in *Abington School District* v. *Schempp*, 374 U.S. 203, 222 (1963) and *Walz* v. *Tax Commission of New York*, 397 U.S. 667, 674 (1970) respectively.

Relevant cases and their holdings are as follows:

(1) *Everson* v. *Board of Education*, 330 U.S. 1 (1947)—The Court held that a New Jersey program which allowed for the reimbursement of parents of school children for costs of transporting their children to school did not violate the establishment clause. This holding was based on the "child-benefit theory" because the bus transportation program was general welfare legislation and applied directly to the children and their parents as opposed to the school.

(2) *Board of Education* v. *Allen*, 392 U.S. 236 (1968)—A New York text book loan law which allowed for the loan of secular textbooks to parents or children attending nonpublic schools did not violate state or federal constitutions. The law applied regardless of the school the student attended and was constitutional even though state officials were required to determine whether or not particular books were secular. The Court followed the *Everson* rationale, that the legislation had a secular purpose and that its primary effect neither advanced nor inhibited religion. *Id.* at 243–244.

(3) *Walz* v. *Tax Commission of New York*, 397 U.S. 664 (1970)—Universal exemption for religious property and institutions from state taxation does not violate the Establishment Clause of either the state or federal constitutions. The court held that this tax provision was not aimed at establishing, or supporting religion and reasoned that exemption created less involvement between church and state than taxation would have. Therefore the legislation did not result in excess entanglement but on the contrary it helped reinforce separation. *Id.* at 675–676.

(4) *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971)—The Court found that both the Rhode Island Salary Supplement Act of 1969 and the Pennsylvania Nonpublic Elementary and Secondary Education Act of 1968 violated the Establishment Clause of the First Amendment. The Rhode Island law allowed for a direct 15% annual salary supplement to teachers in nonpublic schools. Schools were eligible if the average per-pupil expenditure on secular education was below the average cost in public schools. Additionally, teachers were required to "teach only subjects taught in public school, use only materials used in public schools and agree not to teach religious subjects." *Id.* at 607. A majority of qualifying teachers were employed by Roman Catholic schools which the Court found to be part of the "integral mission" of the advancement of religion by the Catholic Church. *Id.* at 616. The State would have the ability to examine school records to determine what expenditures were for secular as distinguished from religious courses, and to guarantee that teachers played a nonideological role. This continued excessive surveillance by the state to ensure that restrictions would be obeyed and the First Amendment would be respected led the Court to conclude that the statute would result in excessive entanglement between church and state. *Id.* at 618–619.

The Court similarly held the Pennsylvania statute to be violative of the First Amendment. The statute allowed public schools to purchase secular education services from nonpublic school and to make direct payments to such schools for teacher salaries, textbooks, and instructional materials. *Id.* at 621. Because accounting procedures establishing the cost of secular and religious education would have to be developed subject to state review, and such purchases would have to be approved by the Superintendent, the cumulative impact of relationships would result in excessive entanglement between government and religion. *Id.* at 622–623.

(5) *Tilton* v. *Richardson*, 403 U.S. 672 (1971)—The Higher Education Facilities Act of 1963 which provided federal construction grants for college and university facilities, except those used for "sectarian instruction or as a place for religious worship, or. . . primarily in connection with any part of the program of a school or department of divinity" did not violate the Establishment Clause. *Id.* at 676–677, 692. The court found that the religious aspect of the universities did not necessarily affect the secular education of the institutions since unlike *Lemon* v. *Kurtzman*, religious indoctrination was not a substantial purpose of these schools. *Id.* at 680–686. Because these facilities were neutral in character, less government surveillance would be necessary to ensure compliance with First Amendment restrictions, and therefore excess entanglement would not be a problem. *Id.* at 684–689. However, the court did hold that the 20-year federal interest in the facilities did violate the Establishment Clause because the allowance of unrestricted use after such time would result in a contribution to a religious body. *Id.* at 682–684.

(6) *Committee for Public Education and Religious Liberty* v. *Nyquist*, 413 U.S. 756 (1973)—The Court held that a New York statute providing direct public funds to qualifying nonpublic schools for maintenance and repair of facilities and equipment, and tuition reimbursements or tax relief for parents of children attending nonpublic elementary or secondary schools violated the Establishment Clause of the First Amendment. The Court found that the maintenance and repair provisions were invalid because they would effectively subsidize and advance the religious mission of sectarian schools since they lacked necessary statistical assurances that the funds would be limited to secular use. *Id.* at 779–780. Similarly, since aid was not limited to secular use, the tuition reimbursements would in effect provide financial support for nonpublic, sectarian institutions de-

spite the fact that it would be delivered to the parents rather than the schools. Because reimbursements were only available to parents with elementary and secondary children in nonpublic schools, a significant amount of the money was likely to flow to pervasively sectarian schools. *Id.* at 785–791. Finally, the provision providing tax relief to parents who failed to qualify for tuition reimbursement also violated the Establishment Clause because it did not have sufficient restrictions to assure that it would not result in the advancement of the sectarian activities of the relevant schools. *Id.* at 790–794.

(7) *Levitt* v. *Committee for Public Education and Religious Liberty*, 413 U.S. 472 (1973)—A New York program providing for the reimbursement of nonpublic schools for the cost of prepared exams was found to violate the Establishment Clause. The statute was unconstitutional because there was no provision to assure that these tests were free of religious instruction which could lead to the advancement of religion. *Id.* at 480–481. The Court found that such tests were an "integral part of the teaching process" and the courts cannot determine which part of the actual costs were actually for the reimbursement of secular services as distinguished from religious services. *Id.* at 482.

(8) *Hunt* v. *McNair*, 413 U.S. 734 (1973)—According to the guidelines set forth in *Lemon* v. *Kurtzman*, the South Carolina Educational Facilities Act did not violate the Establishment Clause. The Act authorized the issuance of revenue bonds for constructing and financing projects for buildings, facilities, and site preparation except for those used for sectarian instruction or religious worship. *Id.* at 736–737. The court found that the Act had a primarily secular purpose and that it was available to all higher education institutions regardless of the presence of religious affiliation. *Id.* at 741–742. The bonds were limited to construction of buildings to be used for a secular purpose. *Id.* at 744. Finally, religion did not so permeate the subject university to necessarily result in excess entanglement with religion nor did the statute promote enforcement that would lead to such entanglement. *Id.* at 745–749.

(9) *Sloan* v. *Lemon*, 413 U.S. 825 (1973)—The Court found that the Pennsylvania "Parent Reimbursement Act for nonpublic Education" was unconstitutional because it violated the Establishment Clause of the First Amendment. The Act provided for the reimbursement of fund to parents for a portion of tuition expenses from sending their children to nonpublic schools. *Id.* at 827. Since the money was only available to parents with children in nonpublic schools and was not limited to secular use, church-related schools once again received the primary benefit. The court did not see any significant difference between this tuition reimbursement plan and the New York plan held to be unconstitutional in *Committee for Public Education and Religious Liberty* v. *Nyquist*. *Id.* at 828–830.

(10) *Roemer* v. *Board of Public Works of Maryland*, 426 U.S. 736 (1976)—The Court upheld a Maryland statute that authorized the payment of state funds to any private institution of higher learning within the state that met certain criteria, and did not award "only seminarian or theological degrees." *Id.* at 739. In the application of the *Lemon* v. *Kurtzman* tripartite test to the facts of the case, the Court found that the statute did not violate the Establishment Clause. The program had the secular purpose of supporting private higher education as an alternative to an entirely public system. *Id.* at 754. Second, the statute did not have a primary effect of advancing religion by providing funding to an institution in which religion was so pervasive that it affected its entire mission or by funding specifically religious activity in a secular setting. *Id.* at 755–759, *Hunt* v. *McNair*, 413 U.S. 734, 743 (1973). Finally, determination of eligibility and enforcement of nonsectarian use restrictions by the Maryland Council for Higher Education, did not result in excessive entanglement. Secular and religious school functions could be easily identified, and occasional audits were not found to result in impermissible contacts. *Id.* at 761–765.

(11) *Meek* v. *Pittenger*, 421 U.S. 349 (1975)—The Court found that two Pennsylvania acts violated the Establishment Clause because they had the effect of establishing religion because of the predominantly religious character of the schools benefiting from the Acts. Act 194 allowed for the direct provision of "auxiliary services" to children enrolled in nonpublic elementary and secondary schools. These services included counseling, testing, psychological services, speech and hearing therapy, as well as a number of other nonideological services available to students in public schools. Act 195 provided loans of textbooks and instructional materials and equipment, such as periodicals, photographs, recordings, films, projectors, and recorders, all of which was useful to the education of public and nonpublic school children. *Id.* at 359–370. The Court held that all but the textbook loan provisions violated the Establishment Clause as applicable to the States by the Fourteenth Amendment. *Id.* at 388. Besides their benefit to predominantly religious schools, the enforcement of these Acts would also result in excess entanglement between church and state. The state would have to assure that these services and the staff would not advance the religious mission of the schools in which they served. *Id.* at 370–372. The textbook provision was upheld because it merely made these books available to the parents and the children of these schools rather than to the schools themselves. *Id.* at 361–362.

(12) *Wolman* v. *Walter*, 433 U.S. 229 (1977)—The Court upheld provisions of an Ohio statute that provided nonpublic school children with books, standardized testing and scoring, diagnostic services, and therapeutic and remedial services. *Id.* at 233. The Court found that such services would not create an unconstitutional risk of fostering ideological views nor would excess entanglement result from their enforcement. *Id*, at 236–242. However, the Court held that the provisions relating to instructional materials, maps, charts, and equipment and field trip services were unconstitutional. *Id.* at 248–254. The Court found that it would be impossible to separate the secular education function from the sectarian in instructional materials, therefore causing them to have the effect of advancing religion. *Id.* at 244–248. Furthermore the Court found that the schools rather than the children were the recipients of the field trip services. *Id.* at 252–253.

(13) *Muller* v. *Allen*, 463 U.S. 388 (1983)—The Court upheld a Minnesota statute which allowed parents to take a state income tax deduction for the actual expenses incurred from tuition, textbooks, and transportation of their children attending elementary and secondary school. The Court found that the statute had the secular purpose of ensuring a well educated citizenry, and that it did not have the primary effect of advancing the "sectarian aims of nonpublic schools" since it was one of many deductions and was available for *all* Minnesota parents. *Id.* at 395–397. This provision would aid sectarian or parochial schools only as a result of decisions by individual parents of school aged children. *Id.* at 399. Finally, it would not result in "excessive entanglement" merely because state officials would determine whether particular books qualify for the deduction nor because it disallowed a deduction for religious textbooks. *Id.* at 403.

(14) *School District of the City of Grand Rapids* v. *Ball*, 473 U.S. 373 (1985)—"Shared Time" and "Community Education" were programs designed to provide classes to nonpublic school children at public expense in classrooms located in and leased from the nonpublic schools. Shared Time was designed to supplement the "core curriculum" courses required by the State and offered classes during the regular school day. The Community Education program offered classes at the end of the day in voluntary courses, a number of which were not offered at public schools. A significant number of parochial schools participated in both programs and a number of the teachers had previously taught in nonpublic schools. *Id.* at 375–380. The Court held that both programs violated the Establishment Clause because they had the "principal or primary" effect of advancing religion. The Court found that the programs advanced religion because the state-paid teachers would be influenced by the sectarian nature of the religious schools in which they taught, the public instruction in religious school buildings would threaten to convey a message of state support for religion, and the programs would effectively subsidize the religious functions of the relevant schools by taking over the responsibility for teaching a number of secular subjects. *Id.* at 384–398.

(15) *Aguilar* v. *Felton*, 473 U.S. 402 (1985)—The Court held that a New York City program which used federal funds received under Title I of the Elementary and Secondary Education Act of 1965 to pay the salaries of public school teachers sent into sectarian schools violated the Establishment Clause. The method of ensuring that these teachers did not engage in activities to advance religious beliefs constituted excessive entanglement between government and the sectarian schools in which their remedial instruction was offered. *Id.* at 408–414.

(16) *Witters* v. *Washington Department of Services for the Blind*, 474 U.S. 481 (1985)—Aid by the Washington Commission for the Blind under the vocational rehabilitation assistance program to finance the applicant's pastoral studies at a Christian college would not advance religion in such a way as to violate the Establishment Clause. The money was paid directly to the student, who then chose to use it at a religious institution. *Id.* 487–488. Such a flow of money would not result in state sponsorship, endorsement, or advancement of religion because only a limited amount would be likely to go towards religious education. *Id.* at 488–489.

A CONGRESSIONAL SALUTE TO PEGGY C. IBARRA, LUIS MIGUEL CHAVEZ, GEORGE LLATA, AND THE NATIONAL ASSOCIATION OF LATINO ELECTED AND APPOINTED OFFICIALS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. ANDERSON. Mr. Speaker, it has been a sincere pleasure and a great honor to host for a summer internship three students from NALEO's National Youth Leadership Program. During this its 1992 pilot program, NALEO has selected 25 high school juniors and seniors from Los Angeles and Chicago to participate in this ambitious project. Following the overwhelming success of this year's program, future projects will include students from Miami, Houston, and New York. I can only hope that this internship has proven as rewarding to the students as it has to my Long Beach district office.

NALEO's National Youth Leadership Program is a four phase, 6 month program; involving voluntary community service, participation in the National Youth Leadership Conference, attendance at NALEO's 10th Annual Conference, and a summer internship with a local government office. NALEO's goals are to acquaint these students with the resources available to them. By providing this access and exposure, NALEO is ensuring that the interns develop an understanding of what it takes to be a leader, an appreciation for Hispanic role models, and firsthand knowledge of how government institutions address the concerns and problems their community faces. Most importantly, this program increases the student's sense of self-confidence and creates a greater awareness of the heritage shared by all Hispanics.

My Long Beach district office was fortunate in that we have had three of these very capable students serving as our interns, Peggy C. Ibarra, Luis Miguel Chavez, and George Llata. The students are unique and accomplished in their own right and they share a common trait, that of dedication to their heritage and community.

Peggy C. Ibarra maintains a 4.5 GPA at Warren High School. She is a recipient of the American Legion Award, the Scholastic Achievement Award, and a Golden State Scholar. Her impressive volunteer credentials include serving as a candystriper for the Downey Community Hospital and tutoring at the Imperial Elementary School. Very involved with extracurricular activities, Peggy is a member of the California Scholarship Federation, the Key Club, Future Business Leaders of America, and president of the French Club. She is also a member of Greenpeace.

Luis Miguel Chavez, listed in Who's Who Among American Students, attends Woodrow Wilson High School and has received numerous awards and honors. His accolades include the science club's outstanding member honor, chemistry's outstanding student honor, Spanish student of the month, Cinco De Mayo participation award, and the principal's honor roll. Luis is also an avid volleyball player, receiving the most improved sophomore volleyball award. His future plans are to attend Long Beach City College, followed by University of California, Santa Cruz or Humboldt State University to receive a B.S. degree in Marine Biology. His main objective, however, is to continue to make his family proud of his accomplishments.

George Llata is a top ranked Latino, maintaining a G.P.A. of 4.42, at Warren High School. Following his freshman year, George was one of 109 students selected to participate in a science enrichment program in Maryland. He is a member of the California Scholarship Federation, the Key Club, Mu Alpha Theta (math club), the science olympiad team, math field day, and the computer club. In addition, George is a member of Greenpeace. A skilled tennis player, George is on the Warren High Tennis Team and has led his team to the semifinals. Uncertain as to what path to follow, George is interested in either a medical or political career. His goal is to make a positive difference in the world and he credits his parents for inspiring him to set his sights so high.

These three outstanding individuals will leave their mark on my office and the greater Los Angeles community. I know that we will be hearing more about them in the near future. At a time when many people have given up on the younger generation, these fine young students prove that the youth of America are our greatest asset. I commend the National Association of Latino Elected and Appointed Officials for having the foresight to create and fund such an invaluable program.

Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Miss Peggy C. Ibarra, Mr. Luis Miguel Chavez, and Mr. George Llata. We wish them and their families all the best in the years to come.

A TRIBUTE TO ANTHONY PALMERO

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. ROEMER. Mr. Speaker, the Third District of Indiana has suffered the loss of one of its most outstanding citizens. Anthony "Tony" Palmero served the City of Elkhart and North Central Indiana with distinction and dedication. Tony was active in the Democratic Party for over 58 years, served as a precinct committeeperson, an advisor to political candidates, and was genuinely concerned with the plight of the less fortunate in our society.

Tony worked on the railroad for over 40 years and was a union activist. He worked hard for his fellow workers to promote fair wages and safe working conditions. He answered his Nation's call during World War II by serving in the U.S. Army; he was active in his church and in many civic and fraternal organizations. He was truly a living example of community. In 1990, he was honored with the highest award the Governor of Indiana can bestow upon a fellow Hoosier—Sagamore of the Wabash.

Just this past June, Tony realized a life-long dream of becoming a delegate to the Democratic National Convention. He was elected by his fellow delegates at the State convention in Indianapolis to serve as a nominating delegate to the national convention. This was a fitting tribute to a person who spent a lifetime helping others participate in and contribute to the political process.

Mr. Speaker, when I decided to run for Congress, and the odds of unseating an incumbent were only about 2 percent, Tony encouraged me to keep the faith. He worked hard and was a big help, not only to my campaign but in the election of many local officials. Tony was quick to share his sage advice gained from many years of experience and to offer an encouraging word. His counsel will be missed, along with his quiet leadership, warm smile, and good cheer for all who came his way.

For those of us who saw him in the last few months of his life, we saw a remarkable display of courage and fortitude. He never complained about his failing health nor about the pain he was suffering. He continued to be active right up to the end. Tony's strength will always stand as an example for his family, his friends, and his community. My prayers go out to his brother and my friend, George.

Tony Palmero represented what is now referred to as the politics of old—grassroots campaigning where politicians stumped neighborhoods and remembered people by name. Mr. Speaker, if this is indeed the politics of old, we need to bring it back again. The greatest tribute we could pay to Tony Palmero, and the many like him who have served their communities, is to recommit ourselves to "people oriented" representation and grassroots campaigns. The town meeting, the precinct level contract, and the one-on-one interaction should never be driven to extinction by media-dominated politics. Tony Palmero's life is sure proof that the politics of old is surely the politics of the future, a fact of which we must never lose sight.

PAKISTAN AND FOREIGN MILITARY SALES

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. KOLBE. Mr. Speaker, sitting on the Arizona desert at this very moment are $450 million worth of Lockheed P–3C Orion antisubmarine aircraft, bought and paid for by the American taxpayers under a foreign military sales purchase. Delivery has been held up as a result of the Pressler amendment, which requires certification by the President that the Pakistani Government does not have a nuclear device.

The Pakistanis believe the Pressler amendment is discriminatory, since it is aimed solely at their Government, and unrealistic in terms of their security needs. Pakistan has indicated that it will sign a nuclear nonproliferation treaty if India pledges to do so as well. In fact, I am told by Pakistani Ambassador Syeda Abida Hussain that her country favors a South Asia nuclear-free zone. It seems only fair and reasonable that Pakistan should receive evenhanded treatment in this matter.

The following July 1992 article from the Armed Forces Journal International provides further details on Pakistan's Orion aircraft basking in the Arizona sun, and I commend it to my colleagues.

PAKISTAN'S ORIONS BAKING IN ARIZONA

(By Robert F. Dorr)

About $450-million worth of factory-fresh, ready-to-fly warplanes are sitting in the Arizona desert, rather than patrolling over Pakistan, thanks to a little publicized piece of US legislation.

The Pressler Amendment, enacted in 1985 and named for Sen. Larry Pressler (R-SD), its sponsor, has halted US plans to deliver three Lockheed P-3C Update U.S. Orion anti-submarine aircraft to the Pakistani Navy under a "paid in full" Foreign Military Sales (FMS) purchase. Further, US Navy squadron VP-30 "Pro's Nest" at NAS Jacksonville, FL—the training squadron for the Orion aircraft type—halted training of Pakistani aircrews and ground personnel in January.

The Pressler legislation will also prevent delivery of 71 F-16 fighters and other military equipment to Pakistan.

The Amendment specifies that before assistance of any kind (including food and medicine) can be provided to Pakistan, the President of the US must certify that Pakistan "does not possess a nuclear explosive device." The law applies only to Pakistan.

Although Presidents Reagan and Bush made the statutory certification biannually through 1988, Bush was unable in March 1990 to issue the certification and the embargo kicked in at the start of 1992. The US State Department's Anna Borg told AFJI: "We are continuing our dialogue with the Pakistani government in the hope, that this issue can be resolved." Pakistani officials in Washington see only one solution—an American effort to get India to sign the nuclear nonproliferation treaty, after which, say the Pakistanis, they will sign too. Pakistan, says its officials, favors a South Asia nuclear-free zone and "we will sign in a moment" if India does.

The Pakistanis view the Pressler Amendment as discriminatory and out of touch with their country's security needs. "The U.S. doesn't have a nondiscriminatory law covering all countries," said the officer, "because such a law would have to include Israel."

P-3C Orion aircraft are particularly high-cost hardware to be left basking in the Arizona desert. And they were paid for by American taxpayers. Pakistan used FMS funds with "a credit grant"—governmental parlance for the US giving away the aircraft.

Pakistan is "not out one dollar" on the purchase, says one Pakistani official. But plans to modernize the country's antisubmarine fleet, currently equipped with four Dassault-Breguet Atlantic patrol aircraft, are currently on hold.

The Orions will remain at the Arizona base's "boneyard" until the impasse can be resolved. Since the US has no plan to nudge India on the nuclear issue (and India probably would not respond anyway), it appears that only a change in the law would permit delivery of the Orions to Pakistan.

Speaking on background, a US State Department official said: "The way relations are today, those airplanes will be in the Arizona desert until they rot."

It is not clear how soon the Pressler legislation will force storage, in lieu of delivery, of 11 General Dynamics P-16A/B Block 15 Fighting Falcons covered by a December 1988 FMS sale (and already completed) or 60 more F-16A/B Block 15s covered by a December 1989 Pakistani direct purchase. Pakistan already has 40 F-16A/Bs received in the early 1980s.

TRIBUTE TO AARON CUTHBERT

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. DARDEN. Mr. Speaker, Cobb County recently lost one of its most admired citizens to cancer. We will all miss Aaron Cuthbert.

Mr. Cuthbert will long be remembered for his leadership—often during turbulent times in Marietta, GA's history—and compassion. The degree of his integrity and dedication was great, and rarely matched in many men. The people of Cobb County mourn his passing, and our hearts go out to his family.

Bill Kinney, associate editor of the Marietta Daily Journal, has written an article remembering Mr. Cuthbert, including a wonderful story about his career in public service. I would like to share this piece with my colleagues today in honor of his memory.

[From the Marietta Daily Journal, Aug. 2, 1992]

CUTHBERT WAS ONE OF KIND

(By Bill Kinney)

Marietta lost quite a man when Aaron Cuthbert passed away this week.

Aaron was a quiet trailblazer, a bridge-builder, and may have had the biggest heart in town.

While his voice was loud by nature, and his demeanor sometimes blustery, his goals were always beyond reproach—to heal the rifts between the races, and most recently, to mend the break between the city council and the city police department.

Aaron died Monday of cancer at age 63. He'd been battling the disease the past couple years, though many of his friends didn't know he'd even been sick. He was quick to complain on behalf of others, but not for himself.

He was a long-time employee of the now-defunct Anderson Chevrolet dealership on Roswell Street, which later became the Nalley Northside Chevrolet-Geo dealership on Roswell Street in Marietta. He managed the shop that prepared new cars for delivery. At the time of his passing, he was director of security for the Nalley Acura, Nalley Lexus and the Acura body shop, all on Cobb Parkway.

Aaron became one of the first blacks to hold elective or appointed office in Cobb County when he was appointed in 1969 to Marietta's Civil Service Board.

He was proud of what he was and who he was, and thought other people should feel the same way about themselves. He sometimes made members of the black community mad, and sometimes angered whites too, but he said he could live with it. His goal was to create harmony between the two, and what he did went a long way.

He was on the three-man Civil Service Board, and spent the final 16 of those years as its chairman. The board is set up in such a way that the council picks one member, the police and fire departments another, and then those two members choose a chairman.

That third member, is, in effect, the swing vote—which can be a pretty uncomfortable spot. Aaron never shied from the responsibility, or the pressure. And believe me, there was plenty of it during the "Marietta 8" affair in 1987 and the years that followed.

That's when the city fired eight senior police officers after they accused then-Chief Claud Collins of incompetence and mismanagement. The eight were reinstated with back pay by the Civil Service Board in May 1987 after lengthy and contentious hearings. Aaron cast the deciding vote.

Aaron cast the deciding vote again the next year—after even more contentious hearings—to approve a rank reduction sought by then-Chief Chuck Simmons in a departmental reorganization.

The heat was really on Aaron when the rollback vote same up. The police officers figured he was in their pocket since he had voted for them in the Marietta 8 case, but Aaron was nobody's pawn.

He agonized over that vote like only a man of conscience can. The pressure from both sides was about to break him down physically. He told this Ol' Scribbler he finally turned to his pastor for guidance, not about which way to vote, but about how to decide what was right. The preacher bowed up Aaron's back and bucked up his faith, and then Aaron went out and voted the way he saw as right.

The board's action was upheld by a federal court, though the council later agreed to restore the lost ranks.

Even though he voted against the officers, few of them held a grudge against him afterward.

Marietta Deputy Chief Steve Wiggington, one of the Marietta 8 who lost rank in the 1988 rollback, summed up Aaron as well as anybody could.

"I didn't always agree with every decision he made, but I think in his own mind, he was trying to be as fair as possible."

The city council can look long and hard, but they'll never find another man like Aaron. Men who are that decent, that caring, and that fair don't come along often enough.

TRIBUTE TO MR. HERBERT C. EVANS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. TOWNS. Mr. Speaker, today I rise to pay special tribute to a distinguished man, Mr. Herbert C. Evans. I would also like to congratulate Mr. Evans on his recent election as chairman of the board of directors of the Columbia Hospital for Women Foundation.

Presently, Mr. Evans is president of Eastern Ridge Enterprises in Washington DC, where he provides small businesses and nonprofit organizations with financial management technical services. He has been responsible for the development of a number of businesses.

Mr. Evans has a longstanding history of success and leadership, thus serving a total of 15 years experience in financial management services. From 1983 to 1985 he served as president of Herbert Evans Associates. Previous to this position, he served as vice president and controller-treasurer at the Urban Institute where he managed administration of contracts and grants. Later he became financial manager at Federal City College.

In 1953 Evans received a B.S. in chemistry from the Hampton Institute. Soon after, he entered into the military service where he devoted 23 years of service in various offices of the Army such as budget analyst, where he contributed to the development of the Department of the Army budget and management of the use of operations and maintenance budget of near $7 billion; assistant secretary of the general staff, Office of Chief of Staff of the Army; comptroller, U.S. Army, Japan where he established program and budget requirements on a comptroller-accounting team of over 200.

It brings me great pleasure to call attention to the achievements of a devoted and diligent man who is a role model and inspiration for many today.

INTRODUCTION OF CHRISTIANITY TO AMERICAN INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 11, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now know as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues an anonymous anecdote as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also.

A GOOD INDIAN'S DILEMMA

(Even when an Indian was baptized as the missionaries insisted, racial bigotry kept him from gaining fuller acceptance by whites. The Fox, or Mesquakie, Indians of the southern Great Lakes region provide this ironic anecdote about a convert's can't-win plight.)

Once there was an Indian who became a Christian. He became a very good Christian; he went to church, and he didn't smoke or drink, and he was good to everyone. He was a very good man. Then he died. First he went to the Indian hereafter, but they wouldn't take him because he was a Christian. Then he went to Heaven, but they wouldn't let him in—because he was an Indian. Then he went to Hell, but they wouldn't admit him there either, because he was so good. So he came alive again, and he went to the Buffalo Dance and the other dances and taught his children to do the same thing.

ANONYMOUS,
Fox.

IN REMEMBRANCE OF C. VICTOR RAISER II

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. NOWAK. Mr. Speaker, it was with great sadness that family and friends both here in Washington and in Buffalo, NY, learned of the tragic death of C. Victor Raiser II and his son, Monty.

Vic was a good friend who was consistently active in civic and political affairs, the kind of activist our society needs. He was a man of enormous goodwill and enthusiasm who made both Buffalo and Washington a better place to live. Our most thoughtful prayers and condolences go out to his wife Molly and their daughter Mary van Schuyler.

The following articles which recently appeared in the Buffalo News more adequately discuss Vic's contributions to both the Democratic Party and society at large. He will be sorely missed.

[From the Buffalo News, Aug. 1, 1992]

C. VICTOR RAISER II DIES IN PLANE CRASH WITH SON; MAJOR FIGURE AMONG DEMOCRATS

(By Douglas Turner)

WASHINGTON.—C. Victor Raiser II, a Buffalo lawyer who became a major figure here in national Democratic politics, and his son died Thursday when a private plane crashed in a remote Alaskan woods.

Raiser and his son, Robert Montgomery, 22, who graduated from Princeton University in May, were among five people who died when a plane crashed in a narrow mountain pass near a fishing lodge at 11 a.m., Thursday, about 200 miles northwest of Kodiak Island.

Low clouds and poor visibility hampered search efforts. It was hours before the downed plane was spotted and an Alaska Air National Guard helicopter picked up two men who apparently were thrown from the wreckage.

Authorities have identified the men as C. Taylor Kew, 52, president of the F.N. Burt Co. in Cheektowaga, and John Downs, 41, of Maine, the pilot.

Both were taken to Providence Hospital in Anchorage where they were listed in serious condition Friday.

The bodies of the five victims—three men, a woman and a child—were not recovered until Thursday evening. Only the Raisers have been identified.

The lodge is one of several in the million-acre Wood-Tikchik State Park, which caters to sport-fishing enthusiasts.

The National Transportation Safety Board was investigating the crash.

Raiser, 52, modernized the Democratic National Committee's fund-raising machinery, building an unprecedented $9 million party war chest for the 1988 presidential campaign.

Less well known were Raiser's successful behind-the-scenes efforts to move the Democratic Party toward the political center—an effort to revive the New Deal accommodation between business and labor.

"Vic Raiser was active in repositioning the national party so that it could do the things it's now doing," said Sen. Charles Robb, D-Va., a close friend. "That culminated in the nomination of Bill Clinton and Al Gore."

"Vic's death is a terrible blow to our family," Robb added. "This hits as hard as it ever does."

"Vic was intent on moving the party back into the mainstream and away from some of its liberal extremes," said Frank J. McGuire, a Buffalo businessman who worked closely with Raiser on fund-raising.

Raiser was the party's national finance chairman from 1985 to 1989, under party Chairman Paul Kirk. Raiser headed Kirk's campaign for the chairmanship.

As the party's finance chairman, Raiser addressed the opening session of the 1988 Democratic National Convention in Atlanta, drawing praise from Kirk as the "quarterback of a team that's won records for Democratic Party fund raising."

"Vic was a brilliant, self-effacing leader who brought quality and integrity to his every task," Kirk said Friday. "His only political agenda was to effect public policy in order to improve people's lives.

"In political fund-raising, where cynicism abounds, Vic stood above the rest. He and Molly (his wife) chose carefully the causes and candidates they believed in, and Vic then became their most efficient, ethical and effective champion."

Sen. Daniel Patrick Moynihan, D-N.Y., called him "another of New York's gifts to politics."

Ronald H. Brown, the party's national chairman, said he will "miss the time, energy and talent he so generously gave to the party."

Buffalo has lost a powerful ally in the capitol, according to McGuire and other Western New Yorkers.

Rep. John J. LaFalce, D-Town of Tonawanda, said Raiser's death "is a tragedy for Western New York because he would have had an extremely influential role in the future Clinton administration."

He said it also is "a tragedy for the country because, as part of a Clinton administration, he would have had so much to offer the nation."

Rep. Henry J. Nowak, D-Buffalo, said Raiser "was the kind of activist our society needs."

"He was a man of enormous good will and enthusiasm who made both Buffalo and Washington better places to live," he said.

House Doorkeeper James T. Molloy of Buffalo called Raiser "a shining star who never lost his deep interest in his home town."

Molloy and Raiser were cofounders of the first "Buffalo Night in Washington Party" in 1980, the year after the Raisers moved from Buffalo to Washington. The party grew from a dozen guests that year to more than 1,300 in recent years.

Raiser, a partner in the former Buffalo law firm of Diebold and Millonzi, opened a Washington office in 1979.

Early investments in the cellular telephone industry proved fruitful, and Raiser became a millionaire after he sold one of his companies, Mobile Communications Corp. of America, to Bell South.

He later helped found M-Tel International, a firm involved in overseas telecommunications.

He recently joined the Washington office of a firm based in Cleveland—Jones, Day, Reavis and Pogue.

Among Raiser's first fund-raising work was soliciting corporate gifts for the Buffalo Philharmonic Orchestra. He later became the orchestra's chairman. He was a prime organizer of the Erie County Industrial Development Agency and became its chairman.

Raiser was born in Indianapolis in 1940 but grew up in Buffalo. He was a graduate of the Nichols School, Princeton University, where he was a varsity oarsman, and the University of Virginia Law School.

His son, "Monty," also was a member of the Princeton crew. He concentrated in Soviet studies at Princeton and planned to work in Russia.

Surviving are Raiser's wife of 28 years, the former Mary "Molly" Millonzi; a daughter, Mary van Schuyler; his parents, Mr. and Mrs. Sheldon Raiser, formerly of Buffalo, now living in Tryon, N.C.; a brother, Robert E., of Burlington, VT.

A memorial service will be held Tuesday in Christ (Episcopal) Church of Georgetown, Washington.

[From the Buffalo News, August 5, 1992]

CLINTONS, GORES, KEMPS AMONG RAISER MOURNERS

(By Douglas Turner)

WASHINGTON.—The two men heading the Democrats' national ticket, two major Republican officials and dozens of visitors from Buffalo, bid farewell Tuesday to party activist C. Victor Raiser II and his son, Robert Montgomery Raiser, in an Episcopal funeral service in Washington National Cathedral.

Raiser, the first chairman of the Erie County Industrial Development Agency and onetime chairman of the Buffalo Philharmonic Orchestra Society, and his 22-year-old son were killed Thursday when their private plane crashed en route to an Alaska fishing vacation.

The Raisers moved from Buffalo to Washington 12 years ago.

The service was attended by nearly two dozen members of the U.S. Senate, including Majority Leader George Mitchell, D-Maine, Daniel Patrick Moynihan, D-NY, and Ted Stevens, R-Alaska.

Sen. Max Baucus, D-Mont., and James J. Wadsworth, a commissioner of the Niagara Frontier Transportation Authority, were ushers.

Seated in the cathedral's front pew were Democratic presidential candidate Bill Clinton, vice presidential candidate Al Gore, Housing Secretary Jack F. Kemp and their wives.

Raiser, a senior adviser to Clinton's presidential campaign, served as a Clinton national finance co-chairman and was Middle Atlantic States finance chairman.

Raiser was expected to have been offered a high Cabinet post in a Clinton administration.

Also in attendance were House Speaker Tom Foley, D-Wash.; state Comptroller Edward V. Regan; Rep. Henry J. Nowak, D-Buffalo; House Doorkeeper James Molloy; former Rep. Jim Stanton, D-Ohio; former Rep. Geraldine Ferraro, D-Queens; Pamela Harriman, widow of former Gov. W. Averell Harriman; Judith Fisher, a member of the Buffalo Board of Education; and Frank McGuire, a Buffalo industrialist who worked with Raiser to raise funds for Democratic candidates.

Bishop C. Caleb Tennis, Episcopal bishop of Delaware, presided. Readings were given by Raiser's widow, the former Mary "Molly" Millonza, his daughter, Schuyler, and Wadsworth.

A memorial service for Raiser and his son will be held at 3 p.m. Thursday in Trinity Episcopal Church, 371 Delaware Ave., Buffalo.

[From the Buffalo News, August 7, 1992]

RAISER, SON EULOGIZED AT RITES HERE

(By Leah Rae)

James Wadsworth was speaking before rows of crowded pews Thursday afternoon about the deaths of a longtime friend. C. Victor Raiser II, and his son, Robert Montgomery Raiser.

"Vic loved to talk to his friends, "said Wadsworth. Since Raiser's death last week, he said, he has heard many say how they will miss Raiser's way of probing his friends' opinions and expressing his own.

Local political leaders, church leaders and lawyers were among the friends who gathered to talk once more in a memorial service in Trinity Episcopal Church on Delaware Avenue. A service Tuesday in Washington, DC., was attended by Democratic presidential candidate Bill Clinton and his running mate, Al Gore.

Raiser, a central figure in Clinton's campaign, was killed July 30 with his 22-year-old son when their private plane crashed in Alaska.

Clinton told friends in Washington that in the darkest moments of his campaign, Raiser was his most steadfast supporter.

Wadsworth, a Buffalo attorney and a commissioner of the Niagara Frontier Transportation Authority, praised Raiser for his work on community projects and political campaigns. He credited Raiser with helping Democrats move toward the center of the nation's political spectrum.

Raiser was persuasive, argued carefully and methodically, numbering each point for clarity. He said, Wadsworth also quoted from Raiser's favorite poem. "Ithaca," about life's long journey.

"Vic's journey was not long enough, but it was full of adventure and knowledge," Wadsworth said. "I will miss him very much."

Attending the service were County Executive Gorski, State Comptroller Edward V. Regan; Joseph F. Crangle, former Erie County Democratic Party chairman; State Assemblyman Robin L. Schimminger, D-Kenmore; County Clerk David J. Swarts and industrialist Frank McGuire.

Friends also noted the accomplishments of Raiser's son, known as Monty, who graduated from Princeton in May. David Kirkpatrick recalled his classmate's overseas adventures, teaching English in Prague and watching the attempted Soviet coup from a Moscow dormitory.

Kirkpatrick also quoted from the introduction to his final thesis: "My parents have matched my frequent doubts with their consistent support," he wrote. "(My father) always knew the right thing to do."

Raiser's wife, Mary, and daughter, Mary van Schuyler, quoted C.C. Cummings: "We carry your hearts in our hearts."

The Rev. Ward B. Ewing, rector of Trinity Church, spoke of the struggle to make sense of the two deaths, which occurred when both men were just within reach of their greatest goals. While the elder Raiser was working on his most important campaign, his son was looking upon a promising future.

Understanding Jesus helps mourners to accept the tragedy of unfulfilled potential, Father Ewing said. Jesus' message of reform had its massive impact only after his death, he stressed.

"His ministry was ended just as it was beginning," Father Ewing said.

"And he died young."

VLADAMIR MAIZOUS—STILL HELD CAPTIVE IN THE CIS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. SWETT. Mr. Speaker, I rise today to draw attention to the case of Vladamir Maizous, a Jewish person who has been denied permission to emigrate from the Commonwealth of Independent States. Vladamir first applied to emigrate in August of 1991 and was granted refugee status by the U.S. Embassy in Moscow. He was denied permission to leave because he supposedly still possesses state secrets and will not be able to leave the country before 1996. However, the Russian Government never specified what these secrets were.

Vladamir was employed by the Soviet Aerospace Industry/Central Design Bureau of Machinery Building between 1962 and 1989. During his tenure at the Design Bureau he never had high clearance, possessed classified information, or was involved with advanced technology in his position. His job was to write manuals on ballistic missiles, but he had not worked on new technology since 1983. Since Vladamir has applied to emigrate his mail is screened, and his telephone is monitored. He has been forced to quit his job at the Design Bureau.

Every day since Vladamir's son, Gregory, defected from the former Soviet Union he has been tirelessly working toward his father's freedom. Vladamir's wife has also recently emigrated and is living with her son in Brooklyn, NY. They only wish that Vladamir could live in the same land of freedom that they are so fortunate to enjoy. Mr. Speaker, I ask that my colleagues join me in urging the Commonwealth of Independent States to give Vladamir Maizous the freedom to emigrate and to allow free emigration for all those citizens they continue to hold captive.

A TRIBUTE TO DR. ROLANDO ESPINOSA, A TEACHER DEDICATED TO DEMOCRACY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to call my colleagues' attention to the outstanding dedication that Dr. Rolando Espinosa has for education and democracy. As an educator for 49 years, Dr. Espinosa has committed himself to better education in America. Dr. Espinosa has significantly contributed to the Miami community by founding the Cuban Teachers in Exile, teaching classes in Spanish at the St. Thomas University, and authoring several books and articles about Cuban history.

Ms. Ana Acle of the Miami Herald wrote an article, "Teacher Devoted to Education, Democracy," which follows:

Sitting in a wooden rocking chair in his modest Little Havana home, Rolando Espinosa talks about his favorite subjects: democracy in Cuba and education.

"I'm only proud of two things," said Espinosa, 68, a teacher at St. Thomas University. "First, that I am Cuban and second, that I am the son of simple country folks who never knew how to read or write."

Espinosa has become a familiar figure in the Cuban exile community, writing articles for Spanish newspapers, appearing on local radio stations. Author of several books on

Cuban history, his popular musings focus on the Cuban educational system.

Espinosa has been a teacher for 49 years. For 19 years he taught elementary to university students in Cuba on subjects that ranged from Spanish to the sociology of education.

In 1962, he came to Miami, and faced a different kind of classroom, teaching civic and democracy classes on Radio Swan, which transmitted to Cuba and other Latin American countries.

Knowing the difficulties refugees face in a foreign country, he taught U.S. history in Spanish and served as an adviser to students who were not familiar with American educational procedures from 1962 to 1972.

At one point, he taught Spanish classes at the Freedom Tower to American employers who wanted to learn to communicate with foreign-born employees. He also taught a class comparing the North American education system with that of the Cuban system at the University of Miami. And at what was then Biscayne College, now St. Thomas University, Espinosa taught anything and everything in Spanish.

Currently, he concentrates on teaching Spanish literature at St. Thomas University—and of course, presiding over Cuban Teachers in Exile. He works, he says, to remind Miami's Cuban exile community that democracy must return to their homeland and to enlist constructive ideas for rebuilding.

Dr. Espinosa not only teaches traditional subjects like literature and history, but he also instructs his students about the need to return to their homeland to remold society. He takes the lessons that Cubans have learned from history and translates them into his lectures.

Dr. Espinosa is indeed a man who has given of himself to advance the cause of the Miami Cuban exile community. He deserves recognition not only for his accomplishments, but also for his dedication to the betterment of the south Florida area.

A TRIBUTE TO THE NATIONAL CONGRESS FOR PUERTO RICAN RIGHTS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to recognize the National Congress for Puerto Rican Rights as they celebrate the 10th Puerto Rican Children Festival on August 30, 1992.

Since 1988 the National Congress for Puerto Rican Rights has continued its sponsorship after the original sponsor of the children festival, the Puerto Rican Alliance, disbanded. The main objective of the festival is to dedicate a day of fulfillment and fun in the lives of all children of the Puerto Rican/Latino community. On this day, recreational and exhibition games as well as cultural activities are made available for all members of the community's families.

In recognition of the fine community work of the National Congress for Puerto Rican Rights, I join with all of the members of the community that is served by this fine organization in celebrating the 10th Puerto Rican Children Festival.

TRIBUTE TO DAVE AND MARIANNE SCHUTTE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. CAMP. Mr. Speaker, it is with great pride that I rise today to honor Dave and Marianne Schutte, operators of a family farm in Lake City, MI, which was recently named a Take Pride in America Farm by the Missaukee Soil and Conservation District.

The Take Pride in America honor is awarded to those farmers who faithfully serve as caring stewards of the land, who balance human needs with environmental considerations. The Schutte family truly exemplifies the spirit of this outstanding award. Through careful planning, hard work, and commitment to a better way of life, they have implemented conservation practices vital to the preservation of productive soil and clean water supply.

The farming practices of Dave and Marianne Schutte are indeed commendable. They have significantly reduced the amount of fertilizers used on their farm through nutrient management. By carefully analyzing the soil content, fertilizer is only used on the no till farm where it is absolutely needed. Furthermore, a grassed waterway was installed as a means to prevent soil erosion. It is innovative procedures such as these which serve as an example to the farming community worldwide that it is possible for man and the environment to peacefully coexist.

Mr. Speaker, I know you will join me and the citizens of Missaukee County in congratulating Dave and Marianne Schutte on receiving this very special award. Their sincere appreciation and respect for humankind and the environment are an inspiration to all of us.

UKRAINE DESERVES OUR HELP TOO

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. BONIOR. Mr. Speaker, last week I voted for the Freedom of Support Act—a bill to provide U.S. assistance to the former Soviet Republics. But I would like to express my concerns regarding the distribution of this assistance. I'd like to make it clear that this bill is intended to help all of the emerging democratic countries of the former Soviet Union—not just Russia.

I have heard disturbing reports that the administration might consider giving the lion's share of the funding to Russia at the expense of the other nations. While Russia is the largest of the former Soviet Republics, it certainly isn't the only one. The economic and political transitions in Ukraine and the other Republics are no less important, and they deserve our attention as well. For years, Ukraine was the breadbasket of the Soviet Union, and today it remains a major source of wheat, coal, iron, manganese and other resources. It is imperative that we strengthen our ties with Ukraine which is now the second largest nation in Europe.

Our best interest will be served by helping all of the emerging democratic nations. I urge the administration to give support to all the new democracies on an equitable and fair basis. As long as these nations are pursing a course that respects human rights and self-determination, they deserve our help.

THE CHANGE CHANT

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. MYERS of Indiana. Mr. Speaker, a wise and highly respected journalist who once called himself a Democrat, but today finds himself deploring the "liberal despotism" of the national party, recently penned this insightful column about the clamor for change in this year's political season.

Benjamin R. Cole, who for more than 30 years was head of the Washington Bureau of the Indianapolis Star, brings to this discussion of change the wisdom that comes from decades of observing the process and a lifetime of good Hoosier common sense.

THE "CHANGE" CHANT AND DEMOCRATS' GAME

(By Benjamin R. Cole)

WASHINGTON—Change. That's what is being hawked to the voters this season. They can get it, too, simply by voting for a Republican Congress.

In the unfortunate possibility of a Clinton-Gore administration, change is not going to happen. The same weary socialist schemes will be foisted onto the people. The woeful erosion of individual freedom and family values will continue. Liberal despotism will grow ever heavier in every aspect of life.

Americans may have forgotten that Ronald Reagan truly brought change to their government, the first change from the very outset of the New Deal. The nation experienced the rebirth of a freedom almost forgotten.

Critics sought to lay blame for the mounting federal deficit at the feet of Ronald Reagan, but it simply isn't true. A resentful Democratic congress frustrated his every effort to curb Federal excesses.

Interestingly, the liberals gave the White House its best tool: they continued to boost government spending until the deficit ran off the chart. Unexpectedly, further proliferation of government giveaways was halted by the reality of the menacing Federal deficit and the awesome dimension of the public debt.

President Reagan in his charming Irish way was combative and determined. George Bush has attempted a more conciliatory approach to the Democratic congress which reciprocated by launching all-out political warfare.

If the Bush administration has been thwarted in its efforts to continue the advances of Ronald Reagan, the Democratic congress can take full credit.

"Change" has become a buzz word of the 1992 election year. The truth of the matter is that not one voter in 10,000 has the remotest concept of what kind of "change" he expects or who could bring it about. If ever an idea marched forth clad in the raiment of Hans Christian Andersen's foolish emperor, it is "change" as peddled by the demagogues of the current silly season.

The senseless cry for "change" brought H. Ross Perot into the arena. Unexpectedly, a large, wistful segment of the electorate saw a champion. Here was a hard nosed business man who promised to "buy the White House" for the people with his own fortune. Here was a man who promised the very ephemeral "change" for which they bleated.

Fortunately, Perot's business sense waved him out of the race before it even began. The presidency is no place for instant improvisation and the broken field tactics of commerce. Statecraft is an art and a science peculiar to itself.

The dramatic exit of Ross Perot stole the spotlight away from Bill Clinton's endless and mindless acceptance speech. The yearners for "change" lost this high priest. Who could blame the faithful for their angry cries of frustration?

Perot's deserted following need not feel abandoned. The way is open for a practical kind of change with meaning for America. The aimless quest for "change" as typified by the Perot adventure can, indeed, help save the nation from a deeper plunge into the morass of socialism and dictatorial government. Those who asked him for change can get it by voting for Republican congressional nominees.

Already the Clinton-Gore campaign is practicing the double-speak of the far-out liberals. The mock moderates have attempted to shanghai Vice President, Dan Quayle's plea for the restoration of family values and make it a captive of bureaucratic oppression. Not more concern, not more religious faith, not more responsibility and family love—more deficit dollars are the answer the liberals put forth as the way to revitalize family values.

A divided government is acknowledgedly, far less efficient than government with a president and Congress of the same party. In counties with parliamentary systems and multifarious political parties, a government cannot be formed without a coalition to give some kind of consensus to the administration. Divided authority guarantees inaction and stagnation—the very causes of citizen discontent and the plaintive cry for undefined "change."

When the Republican party won control of the post war Congress in 1946, the prospect of inaction alarmed Sen. J. William Fulbright, D-Ark., a proponent of parliamentary government. He earned the everlasting enmity of Harry S. Truman by proposing that the president resign and allow the Republicans to have the White House as well.

Americans need not sacrifice the blessings of their constitutional tripartite checks and balances for the sake of viable government. They have the choice before them.

Former Rep. John J. Rhodes, R-Ariz., in his book *The Futile System* stated it precisely: "All we need is 218 warm Republican bodies in the House and 51 in the Senate, and we will give America a Congress that gets things done. That would be a new experience for the people of the country, and experience that they have sorely missed, and badly need.

"It can happen. It will happen. I believe that it must happen."

There it is America—the recipe for *real* change.

NORTH ST. VRAIN PROTECTION ACT

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. SKAGGS. Mr. Speaker, I am today introducing a bill to protect the North St. Vrain Creek, the largest remaining unroaded canyon along Colorado's Front Range. This legislation will prevent construction of new dams on this creek as if flows through Rocky Mountain National Park and the Roosevelt National Forest, and will clear up land ownership in the canyon.

The North St. Vrain should be kept free of dams and impoundments for all time. This is some of the best territory we have in Colorado—and that's saying a lot.

The bill incorporates the recommendations of a citizens advisory committee, which I appointed in conjunction with the Boulder County commissioners. The committee has spent over 5 years developing a consensus proposal on how to protect the creek and canyon while protecting local property and water rights.

This bill represents an astonishing amount of work—especially the 50 Coloradans who took part in 103 advisory committee meetings and performed over 300 hours of independent research. Another 600 people attended 12 public hearings on the proposal.

With the work that's already been done by all these people to produce this consensus, I hope it will be possible to get this bill moved through Congress quickly.

The legislation would prohibit any Federal agency from approving a new dam or reservoir on the North St. Vrain Creek or its tributaries in Rocky Mountain National Park, or on the main stem of the creek below the part and above Ralph Price Reservoir in the Roosevelt National Forest.

The advisory committee originally recommended prohibiting dams on just the stretch of the creek below the park. However, at a special town meeting I held in Allenspark to take comments on the advisory committee's recommendation, I received suggestions that the prohibition on dams also apply with the national park. After getting informal agreement from advisory committee members, I agreed that that change is an improvement.

To some, I suppose that such protection would appear redundant to inclusion in a national park. However, dams are not currently prohibited in the national park, just as they are not in the national forest. Particularly with the rejection by the Environmental Protection Agency 2 years ago of the proposed Two Forks dam and reservoir to supply water for the Denver metropolitan area, it's possible that there will be new proposals for smaller water supply projects all along the Front Range to meet future urban water needs. As recently as 1979, the city of Longmont considered building a dam on the North St. Vrain Creek that would have inundated part of Rocky Mountain National Park.

The bill also would direct the National Park Service to negotiate with the city of Longmont to acquire the city lands that would have been used for the city's now-abandoned plan for a dam. The lands are located within the park boundaries but not owned by the Federal Government. Another provision of the bill would direct the Forest Service to complete a proposed land exchange involving other Longmont lands in Coulson Gulch, along a tributary of the creek in the national forest.

This legislation itself is the heart of a larger package of policies and agreements that will protect the distinctive natural features of this area while assuring the continued enjoyment of privacy and productivity by local landowners and water users. I will also seek to win committee approval of report language, recommended by the advisory committee, to clarify the statutory language.

The North St. Vrain Creek is located 40 miles northwest of Boulder. It is the primary stream flowing from the southeastern portion of Rocky Mountain National Park, arising in snowfields near Longs Peak, and flowing through the Wild basin area of the park. After leaving the park, the creek passes through a narrow, deep canyon until it reaches Ralph Price Reservoir. To watch and listen to the creek's falls, either in the park or downstream in the forest, is to stand silent in wonder—not just because it is difficult to be heard above the roar, but also because just watching and listening to the water is the best of conversations.

The watershed includes habitat for bighorn sheep, deer, elk, peregine falcons, flammulated owls, and mountain lions. It also provides popular hiking, fishing, and hunting terrain relatively near some of Colorado's larger cities.

I introduce this legislation not only with a belief in the importance of protecting the North St. Vrain, but also with a firm conviction that the hundreds of Coloradans who've worked on its protection have crafted a sound and effective consensus. This is a good bill, a clear and simple proposal, which has strong support among the people in the area.

WE NEED A CLEAN LAKES PROGRAM FOR SMALL LAKES

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. JONTZ. Mr. Speaker, one of the important programs authorized under the Clean Water Act is the Clean Lakes Program. Lakes present unique water pollution problems because unlike rivers they do not have a natural mechanism for flushing pollutants. Pollutants from both point and nonpoint sources collect in lakes. Over time the effect of this is water quality deterioration including excessive siltation and high levels of nutrient loading.

Excessive siltation results in lakes becoming more shallow, producing conditions that stimulate aquatic plant growth, and reducing habitat for coolwater fisheries. High nutrient loading can increase growth of algae and aquatic plants which impede the recreational value of the lake and also results in oxygen depletion. In a sense, pollution causes a lake to grow old before its time.

In 1986, Congress amended the Clean Lakes Program to establish a demonstration program to develop pollution control techniques for lakes, particularly for nonpoint sources, to demonstrate techniques for removing lake sediments and evaluating devices to prevent the deposit of sediment in lakes. Because the Clean Lakes Program has been funded well below the authorized level of $40 million, it financed only 113 projects in 1991. So, Mr. Speaker, there is much to be done. In a 1989 report, the Environmental Protection Agency identified 44 percent of the 22,000 lakes they surveyed as impaired as threatened.

In Indiana, help is needed to restore our lakes to good health. Hoosiers recognize the value of our lakes and are trying to do their part. Numerous lake associations across the State have accepted the task of cleaning up their lakes and restoring their natural and recreational values. Indiana has made good use of limited Federal funds, but we have also faced obstacles as we try to put Federal clean lakes money to work. Most lake associations or other local parties in our State are never going to be able to raise the 50-percent matching requirements under the present regulations and that keeps them from benefiting from the program.

To correct this, I propose that a portion of the funds appropriated for the Clean Lakes Program be earmarked for grants to small lakes. Additionally, a more reasonable matching requirement would make it possible for many lakes which cannot qualify at the present time to qualify for the Federal Clean Lakes Program.

To address this situation, I am introducing legislation, the Small Lake Restoration Act of 1992, to create a Small Lakes Program as part of the Clean Water Act. This new program would provide for small lakes the same benefits as the Clean Lakes Program; however, the match levels required for participation would be reduced to 15 percent. Presently the EPA requires a 30-percent match for a phase I grant and 50 percent for a phase II grant. Small lake associations and their communities simply do not have the economic base to allow for these high matching requirements.

My legislation would define a small lake as one with less than 1,500 acres of surface area. Lakes of this size suffer many of the same pollution problems as larger lakes. However, while the communities in which they are located often have the will and the volunteer commitment to clean up their lake, they do not have the economic resources necessary to achieve this goal. The Small Lakes Restoration Act will allow them to participate in the national Clean Lakes Program.

My bill also sets an annual authorization level of $10 million for the Small Lakes Program. This authorization is over and above the present Clean Lakes Program authorization of $40 million.

In addition, this legislation establishes a new seed program designed to help lake associations or other local interests determine if their lake can benefit from Clean Water Act programs. It is often the case that lake communities cannot easily assess the quality of their lake and need to develop basic information as a first step in deciding how to pursue cleanup. My bill would provide for funding of up to $10,000 for these communities to prepare an information base about their lake, including:

First, acquisition of new or updated physical, chemical, and biological information relating to a lake or surface water or ground water which may be tributary to a lake.

Second, definition of a lake's watershed boundaries and subboundaries.

Third, descriptions and mapping of existing and potential land conditions and uses within a lake watershed that may affect the water quality of the lake.

Fourth, identification and evaluation of existing methods of lake pollution control.

Fifth, acquisition of information on demographics and lake usage which is necessary for the development of a long-term improvement plan.

Sixth, analysis and dissemination of information pertaining to lake improvement.

Seventh, the development of alternative management strategies, plans, and specific project designs necessary to identify appropriate lake protection or improvement projects.

These grants, like other Clean Lakes Program grants, would be administered by the States.

Lake restoration, more often than other environmental projects, is undertaken by local volunteer and community organizations. They take on the task because they love their lake, but they often need help with the technical aspects of evaluating their lake's ecology and designing a remediation program. These grants will help lake associations make the first steps toward their goal of a clean and healthy lake.

Mr. Speaker, if steps are not taken to control pollution, reduce the flow of sediment into our lakes, restore natural fisheries, and otherwise sustain the ecological health of our lakes, the public will suffer from reduced recreational opportunities, lower property values, and lost economic opportunities. Overall the Clean Water Act does not give the attention it should to lakes, particularly small lakes. The Clean Water Act presumes that if we clean up our streams and rivers that lakes will be cleaned up, too, but that just isn't the case. Lake ecology is different from that of other waterways, so lake restoration will require dedicated lake programs.

We need to see that some of the funds we appropriate under the Clean Water Act get to our smaller lakes to help restore these valuable resources. I think the Small Lakes Restoration Act will help do that, and I want to ask my colleagues in the House to take a close look at this proposal as we consider the reauthorization of the Clean Water Act next year.

COMMEMORATION OF THE 20TH ANNIVERSARY OF THE CHINATOWN MANPOWER PROJECT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to commemorate the Chinatown Manpower project. The project will celebrate its 20th anniversary on September 28, 1992, at the Silver Palace Restaurant in Chinatown.

The Chinatown Manpower Project was established in 1972 as a nonprofit, community-based organization devoted to providing vocational training to Asian immigrants and refugees. In the past year, 88 percent of their 400 graduates found jobs in fields such as banking, microcomputer, and bookkeeping.

Asian-Americans are currently the fastest growing ethnic group in New York City, which means that they will continue to be a major component of the city's workforce. The Chinatown Manpower Project therefore is crucial to helping Asian-Americans find gainful employment and contributing to the economic growth of the city. At a time when our city is struggling through a recession, organizations such as the Chinatown Manpower Project prove to be an invaluable resource, providing skilled, dedicated workers to help put our economy back on track.

Today, I join my colleagues in commemorating the dedication and perseverance of the members of the Chinatown Manpower Project. I hope that their work will inspire others, and that our shared commitment to improving the quality of life in New York City will continue.

TRIBUTE TO HARRY REBELL: A LIFETIME OF ACHIEVEMENT AND ACTION

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute before my colleagues to a man with a distinguished history, an exciting contemporary life, and hopefully a rewarding future.

This accolade could have been given at any time in the recent past, but I do so now because Mr. Harry Rebell will be 80 years old on September 9, 1992. And for a man who still works full time at a firm he founded and who swims one-half mile a day, plays golf, and skis downhill during the season, it is not risky to speak of a rewarding future.

His early life presaged the future. He was the first of his family to go to college working his way through night school at the NYU School of Commerce.

But what is truly noteworthy about Harry Rebell is that he has given new meaning to the words service and leadership. He is on the board of directors of the United Jewish Appeal, Federation of Jewish Philanthropies of Greater New York. He is on the board of directors of the 92d St. Y in Manhattan and the Solomon Schecter School of Westchester. He is a patron of the Metropolitan Opera and is active in five synagogues—two in Brooklyn, one each in Manhattan, Westchester County and Lake Mahopoc, NY.

This type of service is not new to him. He was chairman of the board for 3 years of the Temple of Beth-el of Manhattan Beach in Brooklyn when I first got to know him.

He was also on the board of directors of the Shorefront Y in Brighton Beach and chairman of the Manhattan Beach campaigns for United Jewish Appeal, and the Jewish Theological Seminary.

It is only appropriate that he received the Human Rights Award from the Anti-Defamation League of B'nai B'rith and was voted Man of the Year from the United Jewish Appeal.

It is also only proper that this decent and selfless man, and the good deeds he has bestowed on his communities, be recognized. I proudly do today on the floor of the House of Representatives.

AMERICA'S CHRISTIAN HERITAGE WEEK

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. RAHALL. Mr. Speaker, I rise today to introduce a House joint resolution calling for the designation of Thanksgiving week as "America's Christian Heritage Week." This year, the proclamation would cover the week of November 22 through November 28. It proclaims that America does, indeed, have a Christian heritage.

Mr. Speaker, one of the first things we, our parents before us, and our children after us, learned in school was that the settlement of America came about because of the desire of oppressed peoples to have the freedom to worship as they please.

At this time in history we as Americans—free men and women—are being called upon to witness emerging democracies struggle with the same potentially politically divisive questions as our Founding Fathers struggled with more than 200 years ago. Questions such as: To what extent should public schools recognize and teach religion? How much should the State regulate a church's charitable activities? Should churches be exempted from general laws? To what extent should church and State be separated?

And while we watch and wait for those emerging democracies to turn from the long-held atheism of communism to true religious freedoms, we find ourselves, with heavy hearts, watching our own Government succumb to pressures to distant itself from God and religion. All because of a simple constitutional prohibition of a State-sponsored church, our own Government and higher court has allowed it to evolve into bans against the simple freedoms as:

First, representation of the Ten Commandments on government buildings;

Second, Christmas manger scenes on public property;

Third, prayer in schools; and

Fourth, prayer at public meetings—including high school graduation ceremonies.

We seem to be bowing to pressure to seek a blind standard of legislative amorality, with a total exclusion of the mention of God in the public square, instead of a national morality based on religious principle of which Washington spoke.

Such a standard of religious exclusion is absolutely and unequivocally counter to the intention of those who designed our Government. It was not, in my view, mere chance that placed the freedom to worship according to individual conscience among the first freedoms specified in the Bill of Rights—freedoms that must flourish together or perish separately.

The Founding Fathers understood this country's religious heritage. But as Samuel Adams said: "I thank God that I have lived to see my country independent and free. She may long enjoy her independence and freedom if she will. It depends upon her virtue."

In other words, it depends upon us.

When Abraham Lincoln set apart a day for national prayer and humiliation, he cried out: "We have grown in numbers, wealth and power as no other nation has ever grown. But we have forgotten God * * *".

At a time of increasing focus on family values by us as individuals, as political parties, as religious groups, as communities, let us set aside an occasion of celebration to help us make our families truly free by teaching them that God holds us all accountable.

It depends upon all of us whether America long enjoys her independence and freedom—and it depends upon our virtue.

As legislators let us each try never to support legislation that sponsors laws contrary to the laws of God.

The freedom we give thanks for daily, and the freedom we especially celebrate on Thanksgiving Day, is at stake when we can no longer hear a child's prayer in school, or a benediction at a high school students' graduation ceremony.

Let us all be wise and remember the source of our many blessings, and never be timid or apologetic in sharing this knowledge with others.

There is no better place than in this great land of America for people to embrace and declare that our trust is in God, and that we look to His commandments and teachings for values that fortify and give direction to our families.

The resolution I introduce today is like many others we have voted on in this body—in celebration of prayer, of Bible reading, of our trust in God.

We as Members of Congress begin each session in the House Chamber with a prayer, and we follow it by a pledge of allegiance which contains the words, "one nation, under God, indivisible * * *," a change brought about at President Eisenhower's bidding, approved by Congress on June 14, 1956. At the time, President Eisenhower said: "* * * in this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and in war."

As Members we are deeply familiar with George Washington's Thanksgiving Proclamation, acknowledging the providence of Almighty God.

In October 1982 President Ronald Reagan signed a joint resolution of Congress proclaiming the year 1983 as the "Year of the Bible."

More recently, in 1990, President George Bush proclaimed 1990 as "International Year of Bible Reading." President Bush issued another proclamation in 1991, calling for a National Day of Prayer on February 3, 1991, to keep our fighting men and women safe as they sought the liberation of Kuwait.

My colleagues, we are not strangers to resolutions recognizing, observing, proclaiming this Government's belief in and reliance upon the Almighty God, and the power of prayer, to strengthen us and guide us as a nation in all that we do here and throughout the world.

I invite each of you to cosponsor the joint resolution I have introduced today, proclaiming the week of November 22 through November 28, 1992 as "America's Christian Heritage Week." I pray that it will be given the support and cosponsorship it deserves and that it will become law in time for our prayerful observances, each in our own ways, at Thanksgiving time this year.

INACCURACIES OF H.R. 5100

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. HOBSON. Mr. Speaker, during the House floor debate on the Gephardt/Levin amendment to H.R. 5100, the Trade Expansion Act, some gross inaccuracies occurred regarding the two key requirements of the amendments: First, the 70-percent United States mandate imposed on vehicles made at United States auto plants with Japanese ownership; and second, the negotiation of a VRA on Japanese vehicle exports to the United States at a level of 1.65 million for a minimum of 7 years.

I primarily wish to address the 70-percent United States parts content requirement because it has been mischaracterized as having no effect on Japanese-owned auto plants in the United States. In an exchange on the House floor with Congressman LEACH of Iowa, Congressman LEVIN of Michigan stated "that the amendment does not distinguish in meeting the 70 percent * * * between American companies, Japanese transplant companies here, or combinations thereof, so there is no discrimination between Japanese companies and American of hybrids, none." The amendment itself says that it may not be "construed to have the effect of limiting the production of motor vehicles by transplant vehicle manufacturers."

On behalf of the 10,200 American employees at Honda's U.S. manufacturing facilities in Ohio, I would like to set the record straight. As adopted by the House, the amendment would discriminate against Japanese-owned United States parts suppliers and potentially limit production at Japanese-owned United States auto plants.

The language of the amendment provides "that transplant vehicle manufacturers will increase their use of motor vehicle parts produced by United States manufacturers so that the United States parts content of motor vehicles produced by transplant vehicle manufacturers will be at least 70 percent by the close of Japanese fiscal year 1994." Although the term "United States manufacturers" is not defined in the amendment itself, it is defined in section 111(a) of H.R. 5100 to mean "manufacturers, other than those that are Japanese owned or controlled, that are located in the United States, hereafter in this section referred to as 'United States manufacturers'."

Despite the sponsors stated intent, United States parts producers which have Japanese ownership or control clearly would not count toward the 70-percent United States parts mandate. Moreover, the engines, transmissions, suspensions, and other parts manufactured by Americans at Honda's Ohio auto plants would be counted as foreign, not domestic, making a 70-percent United States parts mandate unachievable. The amendment discriminates against one class of American workers based solely on the nationality of the investment capital which created the plant where they work. Furthermore, the value added by American labor and materials are completely disregarded by the amendment.

If the U.S. auto plants do not attain the mandated level of domestic content, an affirmative finding will automatically be made that an unfair foreign trade practice has been committed subject to retaliation under section 301 of the Trade Act. The retaliation in the form of punitive tariffs or quotas on autos or auto parts from Japan would raise vehicle prices and/or limit production at the Japanese-owned United States auto plants by cutting off the supply of unique components sourced from Japan.

With respect to the VRA provision, the sponsors described the amendment as requiring that the current voluntary export restraint on Japanese auto exports to the United States be counted for as long as the European Community-Japan VRA is in effect. In contrast, the language of the amendment expands the voluntary export restraint to include all "vehicles," not just autos as under the current export restraint. The result is an annual reduction of 425,000 vehicles from last year's recessionary export level for a minimum of 7 years, having a detrimental effect on American consumers and thousands of auto dealers and their employees.

Listening to the debate on the Gephardt-Levin amendment, it was clear that many Members did not understand the ramifications of the amendment. By adopting this amendment, the House has sent a message to the thousands of hard-working Americans who are employed by Japanese-owned auto and auto parts companies in the United States that the products they make are not domestic, they are foreign. Hopefully, the Senate will recognize that pitting one American job against another is an ill-advised, flawed approach that should not be included in their version of trade legislation.

NASHVILLE LIONS MARK 50 YEARS OF SERVICE

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. HENRY. Mr. Speaker, I rise today to salute the Nashville Lions Club for 50 years of service in west Michigan. The Lions observe this important anniversary on September 21, and I know my colleagues here in the House join me in this tribute.

The Nashville Lions Club was organized and chartered in September 1942, with the Battle Creek Host Lions Club as its sponsor. Twenty-one community-minded individuals joined on as charter members. The club has grown steadily over the years and today boasts over 40 members.

Mr. Speaker, the Nashville Lions Club is one of hundreds of Lions Clubs that provide invaluable community service throughout the world. Today there are more than 1.4 million Lions in 170 countries.

Lions Clubs International may be best known for service to the blind. It was Helen Keller who, in 1925, urged the Lions to become knights of the blind. In my own State of Michigan, the Lions and the Lions Service Foundation sponsor many vital programs for the blind, such as Leader Dogs for the Blind, in Rochester, the Eye Bank Transplantation Center in Ann Arbor, and Welcome Home for the Blind in Grand Rapids. Michigan Lions also support the renowned Michigan Lions All-State Band.

The Nashville Lions provide eye examinations and glasses for needy people, the Lions Sightmobile for public eye exams, and the Lion Doug Vogt Memorial Scholarship, which enables Maple Valley High School students to pursue higher education. The Nashville Lions also join the Vermontville Lions to sponsor the Skills for Adolescents Program in the Maple Valley Schools, and they help support the Barry County DARE Program and other youth work, including the Maple Valley Athletic Association.

Mr. Speaker, from time to time it is said that the American commitment to service is fading. I submit to you today, however, that community spirit is alive and well in this nation. One of the best reminders of this is in Nashville, MI, where the Nashville Lions are marking 50 years of dedication to their neighbors.

INTRODUCTION OF THE SECURITIES LITIGATION AND CIVIL JUSTICE PRESERVATION ACT OF 1992

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. TAUZIN. Mr. Speaker, today I am introducing a tax reduction bill. It is one of the few, and may be the only, tax bill that is completely exempt from the budget rules established at the recent budget summit. It is exempt because America's litigation tax isn't levied by the Government, it is imposed upon American businesses by a handful of speculators and attorneys abusing a well-intentioned antifraud rule promulgated by the Securities and Exchange Commission [SEC]. The Securities Litigation and Civil Justice Preservation Act of 1992 seeks to curb this abuse and reduce the litigation tax.

The SEC's rule 10b–5, which was written to ensure that investors are compensated for losses due to securities fraud, is now the tool used by speculators to recoup losses from risky investments. Unscrupulous securities attorneys aid these speculators by practicing, in the words of one CEO, "legal extortion"—filing frivolous class action suits against companies whose only crime is a drop—or gain—in the price of their stock. Faced with the prospect of enormous legal costs and a damaged reputation, companies often settle these suits despite their innocence. In fact, 95 percent or more of all 10b–5 class actions are settled, much more than the normal settlement rate for other civil cases. The judicial system, no longer able to distinguish between meritorious and meritless claims, is standing on its head, and the fraud really is being perpetrated by a small number of predatory attorneys and plaintiffs. The defendants are the victims, along with their employees, shareholders, and the U.S. economy.

Let's run through a quick, and rather frequent, example of the problem this bill will correct. A relative handful of law firms are on the lookout for companies whose stock prices rise or fall sharply. Emerging high technology firms are prime candidates. Once a volatile stock is found, the company is served with a lawsuit alleging fraud—no evidence other than the movement of the stock price is needed at this point. The company, as the defendant, will bear the bulk of the costs for the discovery process that follows. Knowing this, the plaintiff's lawyers offer a settlement amount that is smaller than the costs of the discovery process, and it is quickly accepted by the company. The lawyers get about 33 percent of this settlement, and the shareholders get about 5 to 10 cents on their investment dollar. Notice that this system did not establish if the shareholders were actually victims of fraud.

In 1990 and 1991, a record 614 securities class action suits were filed, more than in the previous 5 years combined. While there is no miracle drug for this growing epidemic, there is—in the shape of much needed reforms—strong medicine that will attack the conditions that have allowed abusive securities suits to spread.

Driving the Securities Litigation and Civil Justice Act of 1992 are a few simple principles. Plaintiffs and their lawyers must be given incentives to concentrate their efforts on meritorious claims. Defendants must be given incentives to fight unjustified claims and settle only meritorious ones. And the litigation system must be restructured to make possible early resolution of unwarranted claims. I feel that my bill accomplishes these goals, and it does so in a manner that will in no way limit the ability of legitimate securities fraud victims to seek and get full redress.

First, my bill restores the correlation between responsibility and blame by establishing a rule of proportionate liability. Plaintiffs now have a tremendous incentive to include outside directors, accountants, attorneys, and underwriters as defendants, even if there is no indication that they engaged in any wrongdoing, because those defendants have significant financial resources that would be available to pay the entire judgment. Under the rule established by my bill, the decision whether to sue a party would turn on the merits of the claim, not on the need for additional sources of financing.

Second, the bill gives plaintiffs' attorneys an incentive to file only those cases in which the claim appears to have merit by granting to a judge the option—the option—of requiring the losing plaintiff to pay the defendant's legal fees. Under the current system, the initiation of a class action lawsuit is essentially cost free to the plaintiff and their attorneys, since it is the defendant that bears most of the costs associated with the discovery process.

Third, the bill distinguishes between honest mistakes and fraud. The disclosure of information about a company—such as that found in a prospectus or annual report—is particularly vulnerable to second-guessing. Because a forecast proved to be less than perfect does not mean the defendant meant to mislead. My bill requires a higher standard of proof—clear and convincing evidence that the defendant intended to commit securities fraud.

Finally, the bill attacks what are clearly abuses of the litigation system. It bars payment of bounties to class action plaintiffs and payment of forwarding fees to stockbrokers for referring clients. Further, it prohibits attorneys from acting as counsel for cases in which they have a financial interest.

Mr. Speaker, this bill will not immediately cure all of our economic ills. It will, however, remove one stumbling block on the way back to economic prosperity.

PREVENTING OUR KIDS FROM INHALING DEADLY SMOKE

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. DURBIN. Mr. Speaker, the Environmental Protection Agency recently released a draft report identifying environmental tobacco smoke, known as secondhand smoke, as a Group A—known human—carcinogen, the same category used for toxic substances such as asbestos, benzene, and arsenic.

Equally disturbing, the EPA study found that secondhand smoke poses a severe respiratory health risk to children:

Secondhand smoke causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations.

Secondhand smoke causes additional episodes of asthma and increased severity of asthma in children who already have the disease. Exposure to secondhand smoke exacerbates symptoms in 1 out of every 5 asthmatic children and is a major aggravating factor in 1 out of every 10 asthmatic children.

Significant exposure to secondhand smoke may also be associated with 8,000 to 26,000 new cases of asthma annually in children who would otherwise not become asthmatic.

Because of this overwhelming and highly disconcerting evidence about environmental tobacco smoke, I am introducing legislation along with Mr. HANSEN of Utah and Mr. MAZZOLI of Kentucky, to protect children from environmental tobacco smoke while they are participating in federally funded children's programs such as Head Start, WIC, health care, and day care programs. I am pleased that Senator LAUTENBERG of New Jersey has agreed to introduce companion legislation in the Senate.

The PRO-KIDS bill—Preventing Our Kids from Inhaling Deadly Smoke—requires federally funded programs to establish a nonsmoking policy wherever they provide health services to children under age 5 or provide other direct services primarily to children under age 5.

The required nonsmoking policy limits indoor smoking in facilities associated with these federally funded programs to those areas which are not normally used to serve the children and which are ventilated separately from the children's areas. Evidence accumulated by the EPA and other entities indicates that separate ventilation is necessary to prevent secondhand smoke from recirculating through the ventilation system right into the rooms used by the children. In cases where unusual extenuating circumstances prevent total compliance, programs may apply for a partial waiver from this provision if they protect children from exposure to secondhand smoke to the extent possible.

The bill also requires that "no smoking" signs be posted where appropriate and directs the Department of Health and Human Services to provide technical assistance to Federal agencies and affected children's programs, including information about smoking cessation programs for employees and other information to assist them in complying with this act.

This legislation has been endorsed by the American Heart Association, the American Lung Association, and the American Cancer Society, which are united as the Coalition on Smoking or Health, and by the American Association for Respiratory Care, the Association of Maternal and Child Health Programs, the Asthma and Allergy Foundation of America, and the National Coalition for Cancer Research.

I would like to invite my colleagues to join in cosponsoring this legislation. Its passage will help protect children from unnecessary exposure to a well known and avoidable health hazard.

IN SUPPORT OF THE DES EDUCATION AND RESEARCH AMENDMENTS OF 1992

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Ms. DELAURO. Mr. Speaker, yesterday the House passed the DES Education and Research Amendments of 1992. This vital legislation addresses one of the most frightening health tragedies ever to affect American families. As an original cosponsor of this measure, I am pleased this legislation has gained the support of the House.

Between 1941 and 1971, the drug diethylstilbestrol [DES] was prescribed to nearly 5 million American women. This drug, they were told, would cure problems with miscarriages, or would help them to have bigger, healthier babies.

Nothing could have been further from the truth. As early as 1953, there were reports that DES was ineffective in preventing miscarriage. By 1971, exposure to DES was clearly linked to a rare form of vaginal cancer in the daughters of women who took DES. The drug was banned by the FDA for the treatment of miscarriage. Later, DES was linked to a number of other cancers and health problems, including infertility and prostate problems in DES sons.

Today, the tragic legacy of DES continues to haunt the 5 million women who took DES as well as the 4.8 million daughters and sons exposed to DES during pregnancy. We know that DES mothers face a 44-percent greater risk for breast cancer than nonexposed mothers. We know that DES daughters have a 1 in 1,000 risk for clear-cell cancer, and a 1 in 2 risk for reproductive problems ranging from infertility to ectopic pregnancy, miscarriage, and premature delivery.

The most deeply troubling questions, however, are those that we cannot answer. We do not know what the long-term effects of DES are. We do not have any hard facts on the effects of DES in men. There is concern among scientists about the long-term reproductive and immunologic effects of DES exposure as well as the risk of breast, ovarian, and prostate cancer. Perhaps most frightening, we do not know what the third-generation effects of DES are—will we have DES grandchildren?

In addition to a lack of sound scientific data on the long-term effects of DES, many DES-exposed individuals and even physicians remain unaware of DES-related health risks. In the past 10 years, the Federal Government has not provided any public information on DES-related health problems. As a result, many Americans are not receiving the regular, specialized health screening they need to identify and treat DES-related conditions.

The DES education and research amendments will address these problems by establishing a new research program for diagnosing and treating conditions associated with long-term exposure to DES. In addition, this measure will establish a program of public education and training for health care professionals that will help identify and treat individuals who have been exposed to the drug.

We cannot continue to neglect the victims of this terrible episode in our Nation's history. We must find the answers to the frightening questions about DES. By enacting the DES education and research amendments, we can help put an end to the nightmare that has haunted DES mothers, daughters, and sons for so long.

A NECESSARY REVOLUTION IN AMERICA

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. GUNDERSON. Mr. Speaker, Col. Charles D. Cooper, U.S. Air Force, retired, recently published an article in the Retired Officer Magazine about the need for revolutionary, sweeping changes in this country as outlined by our colleague, NEWT GINGRICH of Georgia.

His column makes several important points, paralleling Mr. GINGRICH's remarks, on behalf of changing public angst to positive action.

I commend his thoughtful words to my colleagues.

[From the Retired Officer Magazine, July 1992]

A NEW AMERICAN REVOLUTION

(By Col. Charles D. Cooper)

"This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it, or their revolutionary right to dismember or overthrow it."—Abraham Lincoln, First Inaugural Address

Little more than two centuries have passed since our forefathers found themselves embroiled in the great war for national independence. As a result of the colonists' victory in that conflict, remembered today as the Revolutionary War, our United States came into being. Some 4,435 patriots gave their lives in the eight-year war to gain independence from the mother country. That number seems infinitesimal when compared with the losses of America's more recent wars, yet the deeper significance of their sacrifice in the birthing of this nation cannot be measured in mere casualty figures alone. The bold revolution led to the creation of what is still recognized as the only remaining superpower on our globe today.

That status notwithstanding, our nation is currently undergoing a period of severe Angst. The effects of recession, though apparently waning, still linger persistently. Unemployment remains high. The streets of our nation's capital, and many other cities across the land, are lethal combat zones. The country's leadership is viewed to be foundering in a deep morass.

In a speech on the House floor, Newt Gingrich, Minority Whip, recently expounded, "America is at a crossroads . . . I think Americans know we are winning the Cold War and losing the competitive war . . . they know we are defeating the Soviet empire but that we are losing the domestic struggle against drugs, crime, ignorance and welfare. They know we are losing faith in our constitutional system, that they do not see it working. They do not see their votes mattering. They do not see their leaders being effective. They do not see the structures their Founding Fathers gave them producing results, and so they are almost in agony."

And at what door does Mr. Gingrich lay this malady? The Whip attributes it to a welfare state that is literally crippling our country.

Says Gingrich. "The core values of the welfare state, when put into practice, have the effect of protecting the criminal at the expense of the innocent. They encourage 12-year-old girls to have children. 15-year-old boys to promiscuously . . . father without becoming a father. These values have the effect of spending more and more resources on unproductive bureaucracies while taxing and regulating small businesses and job creators until they either leave for a better environment or simply close and kill the jobs they have created.

And the solution? Gingrich sees replacement of the welfare state as essential to the survival of America as a prosperous, free country.

"The national transformation must start with a peaceful, political revolution. No reforms within the welfare state can be effective. For more than a decade we have participated in partial reforms affecting welfare, crime, education, health and the effectiveness of government bureaucracies. By any measure, these reforms have failed. Revolution is necessary because the welfare state has failed both to achieve its goals and to reform itself."

And how would this revolution be carried out? Gingrich notes that the Founding Fathers created a powerful system for each generation to have its own necessary revolution: the vote.

"Every citizen who has complained about taxes, bureaucracy, inefficiency, indifference, and ineffectiveness of the welfare state now has an alternative.

"Most Americans are tired of violent crime, drugs, unadequate education, overly expensive health care, too many lawsuits, welfare that encourages decay and taxes, and bureaucracies that kill American jobs and weaken the American standard of living. If every person who is fed up with these failures will register and vote to replace the welfare state, the revolution will occur in 1992 and 1993."

The time appears to be ripe. Possibly not since the colonists turned Boston Harbor into a teapot and the "shot heard round the world" was fired at North Bridge has the electorate been so ready for change. Yet if that readiness is to be converted to positive action, we have to turn Angst and verbiage into deeds. If a successful peaceful revolution is to be mounted, then we have to know the issues, study the candidates, and reverse America's lackadaisical response to the ballot box. The system is in place. Are you ready to be a "minuteman" in the new American revolution?

INTRODUCTION OF UNEMPLOYMENT COMPENSATION LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation to provide an additional 6 weeks of unemployment compensation benefits for those individuals who have exhausted their extended benefits.

My district office has been besieged with calls from individuals who have exhausted their extended benefits. The latest unemployment compensation bill does not provide for a further extension of benefits for those who have exhausted their benefits.

While there are limited signs that may point to a recovery nationally, there are few such signs in New England. What makes this recession so different, is that in addition to layoffs in traditional manufacturing, entire industries previously thought to be recession-proof are crumbling and laying off thousands of white-collar workers. As a result, many of those who have been laid off find themselves in search of new careers as opposed to new jobs. And, of course, this is in addition to those in more traditional manufacturing who find themselves unemployed.

Therefore, I have introduced legislation that would provide for an additional 6 weeks of benefits for those who have exhausted their extended benefits. I would urge my colleagues support.

TRIBUTE TO SCHUYLKILL COUNTY VOLUNTEER FIREMEN'S CONVENTION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. YATRON. Mr. Speaker, it is with great pleasure to rise today before the House of Representatives and have my colleagues join me in recognizing the Schuylkill Hose Company No. 2, as it enters its second century of existence. Schuylkill Hose Company No. 2, grew out of a meeting between community leaders in the summer of 1891, who wanted to effect permanent organization for the fighting of fires and protection of property. The company's charter was signed by 25 supporters, and within 2 years the company moved into its own building and citizen-volunteers devoted themselves to the important task of safeguarding their growing community.

Throughout the past century, the company has grown, modernizing its equipment and growing into a new station as times and needs dictated. In 1957, the company's ladies auxiliary was established and, in addition to providing much-needed fundraising and other support over the past 35 years, members of the auxiliary also bring refreshments to the brave volunteers that fight the fires.

I am proud to tell my colleagues that Schuylkill Hose Company No. 2, will be hosting the 38th annual Schuylkill County Volunteer Firemen's Convention on September 19, 1992, in conjunction with the company's 100th anniversary celebration. There will be a parade and other festivities in recognition of the company's brave and fearless members, both past and present. I know my colleagues join me in congratulating the company on its past 100 years and wish the company only the best of good luck and good fortune in its next 100 years.

THE ACHIEVEMENTS OF OLYMPIAN DOMINIQUE DAWES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mrs. MORELLA. Mr. Speaker, I am proud to bring to the attention of the Congress the accomplishment of one of my constituents, Olympic Bronze Medal gymnast Dominique Dawes, of Silver Spring.

Standing at only 4 feet 8 inches and weighing only 80 pounds, Dominique electrified the crowd during the optional floor exercise and also managed to earn her highest score ever in compulsory competition. Fifteen year old Dominique managed these feats despite tendinitis in her right ankle and pain in her shoulders.

Miss Dawes will be returning to continue high school this fall and will undoubtedly continue her training as she eagerly expressed her desire to return to the gym upon arriving back in the United States. Dominique's strength and dedication are remarkable and an inspiration to us all. I am proud of her accomplishments and proud to serve as her congressional Representative.

H.R. 5753, THE INTERMODAL SURFACE TRANSPORTATION TECHNICAL CORRECTIONS BILL

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Ms. SNOWE. Mr. Speaker, yesterday the House passed under suspension of the rules H.R. 5753, the technical corrections bill for the transportation legislation passed last year. I wanted to take this time to express my serious concerns about the bill.

I am concerned because this bill is more than the name implies. H.R. 5753 sets new policies, creates new programs, and modifies existing ones. Such changes are best left to the regular authorization process, during which Members have a chance to debate and participate in the formulation of the legislation. As it now stands, this bill containing new policy changes may pass without the input of Members whose districts could be affected by it.

The timeframe for this bill is a key issue. In an impressive display of expediency, the committee completed subcommittee and full committee markups in 1 day, on Thursday the sixth. But on just the Monday after, the bill was listed on the suspension calendar. Members had only 1 full day to review the bill and discuss it with interested constituents before floor consideration. Given the fact that this bill does more than simply make technical corrections, the Members should have been given sufficient time to fully analyze its provisions.

But even if more time had been available, the bill's placement on the suspension calendar precluded Members from offering any amendments on changes that go beyond the intent of ISTEA and cause unanticipated problems for certain States.

H.R. 5753 provides waivers to certain States, but those Members who may question the wisdom of granting these waivers cannot fully explore the implications with the committee and other Members of the House. Likewise, some of the provisions in H.R. 5753 appear to create new mandates or give the Secretary of Transportation additional authorities. Based on my discussions with the Maine Department of Transportation, this bill sets new precedents which affect the Federal-State relationship on transportation programs—precedents which could pose difficulties for the States in the future. Clearly, a technical corrections bill is not the appropriate vehicle for this kind of legislating.

The process of writing, debating, and voting on ISTEA was long and arduous, and given the legislation's wide-ranging impacts, duly so. With a relative blink of an eye, however, that landmark legislation has been amended and new policies established without any input from most Members.

Mr. Chairman, the States spend many months working to assemble transportation plans that ensure the efficient movement of goods and people within their borders. Last minute changes in Federal policy upset these painstakingly crafted plans and impose additional burdens. Surely, we can do better and allow all concerns to be aired before enacting new legislation. More considered methods will help to keep the Federal-State partnership running smoothly, and help the United States maintain its position as a world leader in transportation systems.

IN HONOR OF THE 350TH ANNIVERSARY OF THROGGS NECK

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. MANTON. Mr. Speaker, I wish to bring to my colleagues' attention a historic event concerning the city of New York's and our Nation's earliest beginnings. It is my distinct pleasure to recognize that this year marks the 350th anniversary of the community of Throggs Neck, NY. Named in honor of John Throckmorton, who led an early group of European settlers to this region of Northeast America, Throggs Neck represents the strength of community spirit which as made our Nation so great.

The Throckmorton colony numbered approximately 35 families who settled in what is now Throggs Neck, in the year 1642. Having originally arrived in the New World to settle in Rhode Island, these individuals moved south into the New York region in search of greater religious freedom. The Throckmorton colony arrived shortly after a separate group led by Anne Hutchinson had settled in the area which is now the Bronx. The Hutchinson River is named for this early woman pioneer who also led her group to this region for religious regions.

Unfortunately, the Throckmorton colony was not fated to succeed. Shortly after the colony was established, it came under attack by the Siwanoy Indians who also lived in the area and claimed the colony's lands as their own. The attack left 18 of the original settlers dead and forced the remainder—including Throckmorton—to seek refuge on a passing ship. The vessel carried the surviving Throckmorton colonists to the safety of the fort at New Amsterdam, which was located at the southern tip of Manhattan Island.

After reclaiming their ancestral lands, the Siwanoy Indians signed a peace treaty with the Dutch, who controlled New Amsterdam, in 1645. In 1664, not quite 20 years later, the Dutch ceded New Amsterdam to the English and Throggs Neck, formerly, Throckmorton's Neck, became an official part of New York.

Since its beginnings, Throggs Neck has been the home to many immigrants to our great land, representing a multitude of different nationalities, including individuals of Irish, Italian, and German descent, among others. This diversity of national origin has assured a thriving community over the past 350 years. Throggs Neck has, however, undergone many changes since its founding. The large landholders and their mansions which predominated the community during the 19th century, have given way over the years to the one- and two-story private homes we see today in Throggs Neck.

Surrounded on three sides by water, Throggs Neck has the look and feel of a small town, even through it, like so many other such communities, is an integral part of the city known as the Big Apple. It is through the diversity and strength of communities such as Throggs Neck that New York City has grown and thrived over the years.

Mr. Speaker, I hope my colleagues will join with me in congratulating the community of Throggs Neck on it 350 years of success.

TRIBUTE TO SALLY BUSEMAN

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. ROTH. Mr. Speaker, I rise to honor Sally Buseman, a living legend in Gillett, WI. For over 50 years, Sally has given her time and heart to the youth of Gillett and Oconto County.

Since 1942, Sally has volunteered for the 4–H Club in Oconto County. Sally and her late husband, Herb, started their own "Maple Valley" 4–H Club in 1943 with 12 area youths. She has been the leader of this 4–H chapter ever since.

During her 50 years of service, countless boys and girls have learned from Sally's wisdom and love. They learned about farming and square dancing, about working together and becoming good citizens.

Sally has taught children drama, music, public speaking, roller skating, and arts and crafts. She has volunteered countless hours at the Oconto County Youth Fair. Working at the 4–H food stand, Sally earned enough money to raise scholarships and pay for educational trips.

Sally's dedication springs from her compassion and caring toward youth. "Somebody has to help the youths of today," Sally said. "It gives you a lot of satisfaction when you think you have helped somebody."

At the Oconto County Youth Fair on August 13, 1992, the citizens of Oconto County will honor Sally Buseman for her unselfish contributions to their community. I am honored to join them as we applaud Sally's efforts in grateful appreciation of her outstanding personal participation and achievement on behalf of the Eighth Congressional District of Wisconsin.

FUNDING OF THE MARKET PROMOTION PROGRAM INSTEAD OF THE WETLANDS RESERVE PROGRAM IN THE CONFERENCE REPORT ON AGRICULTURE APPROPRIATIONS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. KOSTMAYER. Mr. Speaker, today, the House accepted the conference report on agriculture appropriations. While the overall appropriation is sound and supports many good and worthwhile programs, I have serious concern about two provisions. In accepting this conference report, we are accepting a tradeoff between the Market Promotion Program, a big corporate give a way in my view, and the Wetlands Reserve Program. The House approved $75 million for the Market Promotion Program [MPP] and no money for the Wetlands Reserve Program; the conference report virtually doubles the House funding level for MPP, and still there is no money for the Wetlands Reserve Program. The money was obviously available for the WRP, and we are choosing not to fund this important and effective program. Instead, we are choosing to fund the MPP, without requiring any real reform that is desperately needed to make this program more useful to the U.S. economy.

The Wetlands Reserve Program [WRP], initiated with the 1990 farm bill, is a popular and effective program. In fact, it is more popular than even the USDA expected it would be. On July 7, USDA announced that 2,730 farmers in the 9 eligible States had offered 466,000 acres to be enrolled in the Wetlands Reserve Program. The goal set forth in the 1990 farm bill is enrollment of 1,000,000 acres by 1995. In other words, if we funded the program as we had intended in 1990, this program would be right on schedule. Many Government programs cannot make such a claim. The WRP represents good and intelligent government.

The Wetlands Reserve Program was hailed as the centerpiece of the environmental farm bill of 1990; even USDA is surprised by its success; George Bush requested $161 million for fiscal year 1993. This is a successful program. It should be expanded, not cut.

With the Federal budget deficit looming, we all talk about difficult choices. What we have made today is a bad choice, not a difficult choice. What kind of message are we sending to America's farmers? That Congress will help big companies—even big foreign companies—pay for international advertising, but we won't support a program, supported by farmers and environmentalists alike, that farmer's need and want.

The WRP includes only nine States now, and my home State, Pennsylvania, is not one of those. I support the program not because many farmers in Pennsylvania have been able to participate in this program; they have not. I support the WRP because it is an effective way to protect wetlands and it is good farm policy. This program should be expanded instead of zeroed out.

There is, however, money for the Market Promotion Program [MPP]. I asked the GAO to investigate this program and fund expenditures that the American public just won't stand for in these tight budget times. Last year, MPP funds went, in just one example, to over 100 Asian textile manufacturers to promote their products. U.S. textile firms then have to compete against foreign firms whose advertising budgets are subsidized by the American taxpayer. MPP spends about $3 million each year promoting whiskey exports, subsidizing ads for Jim Beam, Seagram, Hiram Walker, and others. MPP supports McDonald's, M&M Mars, Campbell's Soup and other corporate giants that need no money from taxpayers.

I am not against promoting U.S. commodities in a competitive international market, but the program must be run properly. I introduced legislation this year that would have made some important changes to the MPP program, and the committee report supports many of the major provisions of the bill. But I am nonetheless dismayed that this conference report supports MPP at the expense of the WRP, and I hope my colleagues will join me in reversing these priorities.

THE HEALTH INSURANCE PURCHASING COOPERATIVE ACT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. BROWN. Mr. Speaker, today, I am introducing a bill that will improve the availability and affordability of health care to small businesses. A similar bill has been introduced in the Senate by my colleague, Senator BINGAMAN.

Soaring health care costs pose a difficult dilemma for American businesses and lead to increasing fears among employees of losing health insurance coverage. The problem of spiraling health care costs is especially acute for small businesses. Employer profits or employee earnings are often low and the structure of the small group market impairs small employees' ability to obtain reasonable premium costs due to economies of scale. Large corporations can choose their health insurance plan based on cost and quality of care. A small business seldom has this luxury and frequently has great difficulties finding any insurer at all.

My bill will address these problems by establishing a network of cooperatives, health insurance purchasing cooperatives [HIPC's], which will purchase and manage large blocks of insurance for small businesses. Through this new Health and Human Services program, States will apply for grants to establish HIPC's for employers with less than 50 employees. HIPC's will act as a health benefits office for participating employers, accepting bids from carriers on standardized benefit plans. By pooling small employers together, as proposed in my bill, small groups would be given the purchasing power that large corporations now possess.

Plans offered by the HIPC's would be based on community ratings, assessing age, gender, and geography to determine premiums, and would limit exclusion of coverage for preexisting conditions to no more than 6 months. This would eliminate the all-too-common insurance practice of experience rating—basing premium rates on factors such as the health status of employees in the group, which often forces small employees to exclude unhealthy individuals from their policies.

Savings would be achieved through uniform medical billing forms and electronic billings through the HIPC network. All HIPC carriers will issue standardized magnetic cards to their beneficiaries. Using this card, providers will enter information into a patient's file on treatment, health outcomes, and billing, which will pass the information on to the Department of Health and Human Services, State and local governments, and communities.

Finally, my bill creates an incentive for small companies to offer health insurance to their employees by providing a 100-percent deduction for the health insurance costs of small businesses that join an HIPC. Today, small unincorporated businesses can only deduct 25 percent of their health care costs, while large corporations can deduct 100 percent. This unfair policy places yet another hurdle in the path of small companies' efforts to offer coverage to their employees.

Mr. Speaker, I believe we must take the steps contained in the Health Insurance Purchasing Cooperative Act to stem the rising tide of health care costs for small businesses, their employees, and their families. The problems in our health care system are not limited to the small group market. There is not question that we need comprehensive reform. But while our Nation is stymied in its decision on how to make substantial reforms, the number of uninsured continues to grow and health care costs for those who are fortunate enough to have coverage continue to skyrocket. This proposal will get us started where we need to go. Along the way it will make significant improvements in access in quality health care for many Americans who are most in need of help.

FORKS-ZION EVANGELICAL LUTHERAN CHURCH CELEBRATES ITS 175TH ANNIVERSARY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. MURTHA. Mr. Speaker, I'd like to take a moment to recognize the 175th anniversary of the Forks-Zion Evangelical Lutheran Church, located in Gilpin Township in Armstrong County, PA.

The story of the United States is the story of Western expansion, settlers exploring new territory, and the establishment of new cities and towns. It's the story of the crossing of difficult geographic barriers, and the first of these were the Allegheny Mountains. As the areas west of the Alleghenies began to be settled in the early 1800's, communities were established, and places of worship became the cornerstones of these communities.

It was in 1817 that the Forks-Zion Evangelical Lutheran Church was first organized as a congregation. Originally known as Forks Church, the congregation's first pastor was the Reverend John Adam Mohler who served from 1817–25 and preached in German. Throughout most of the 19th century, services were conducted in German, or dual services took place in English and German. The current pastor, the Reverend Edward Crotty, is the 28th pastor to serve the congregation.

The history of the Forks-Zion Evangelical Lutheran Church has not been uneventful. Twice the congregation has been forced to rebuild after their church building was destroyed by fire. The fire of 1869 destroyed all the church's records. But the base of the congregation is not the physical building they worship in, but the spiritual foundation they share. Today the congregation is stronger than ever, and they look forward to continuing their tradition of worship in Gilpin Township.

I'd like to extend my congratulations to Reverend Crotty and the congregation of the Forks-Zion Evangelical Lutheran Church on the occasion of their 175th anniversary, and the wish for many more years of service to the people of Gilpin Township.

A TRIBUTE TO RED McILVANE

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. BILBRAY. Mr. Speaker, I rise today to honor one of the most beloved and respected members of the Las Vegas community, and one of the most generous media personalities anywhere, Red McIlvane. For over 30 years, Red has entertained Las Vegas as a top rated radio, television, and newspaper personality and as an outstanding member of the Las Vegas community.

Since the age of 16, Red has been part of the broadcasting industry, working in those early years with the likes of Jack Barry, Ernie Kovacs, and the Horace Heidt Band. After stints in the Air Force and later work in the Phoenix and Los Angeles area, Red settled in 1961 on the lifestyle of southern Nevada and the Las Vegas area. As a radio personality on KORK radio, he is singlehandedly credited with bringing big league radio to the formerly sleepy market of Las Vegas. The love that he has for this community and the love the community has for him was best exemplified by his desire to return to Las Vegas after a brief return to the very lucrative Los Angeles market and his Las Vegas' audiences demands that the station do everything in its power to get him back.

The mix of an exceptional broadcast presence along with his outstanding sense of humor has entertained the Las Vegas community for years. He has taken advantage of this following by sponsoring and participating in a number of charities throughout our community including; the Children's Miracle Network, the March of Dimes, the Kidney Foundation, the Help Them Walk Again Foundation, the Sunshine Bus Committee, and B'nai B'rith.

Now, Red faces the fight of his life. For the past 9 months, Red has been bravely battling lung cancer and brain tumors. Under these circumstances the Las Vegas community will take the opportunity to give back to Red a little of what he has given to us. On August 21, Red's friends will be holding a star studded evening, "Rendezvous with Red: A Star Spangled Salute to Red McIlvane."

Not only has Red been a popular star in our community but has returned this affection tenfold through his desire to help and improve the lives of our citizens. As Las Vegas stands up to salute Red McIlvane I now ask all of my fellow Members to join me in saluting Red and the love, affection, and smiles that he has brought to all of us.

TRIBUTE TO GEORGE NICHOLAW

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in saluting Mr. George Nicholaw as he marks his 25th anniversary as vice president and general manager of Los Angeles AM radio station KNX. Under Mr. Nicholaw's leadership, KNX has become the Nation's most honored and emulated station devoted to an all-news program philosophy.

George Nicholaw's contributions extend far beyond the field of broadcasting. He serves on the Los Angeles Energy Commission, the board of directors of the Jonsson Cancer Center at UCLA, and the California Air Pollution Emergency Traffic Control Planning Committee.

In addition, George Nicholaw and his wife, Betty, are founders of the Music Center and supporters of the Greek Theater Association.

I congratulate Mr. Nicholaw on this great occasion and wish him good health and continued success in all of his professional and community endeavors.

TRIBUTE TO CAPT. WILLIAM SHELBY KINKEAD AND THE CREW OF TWA FLIGHT 843

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. RITTER, Mr. Speaker, I rise today to pay tribute to Capt. William Shelby Kinkead and the 12-member crew of TWA flight 843 for the outstanding professionalism they displayed 2 weeks ago while ensuring that all 280 passengers on board safely escaped the blazing inferno that engulfed the airliner.

On Thursday, July 30, while preparing to embark on a flight from New York's Kennedy International Airport to San Francisco, Captain Kinkead intuitively aborted the takeoff when a warning system indicated that the airliner's engines were stalling. After veering off the runway and abruptly stopping in an adjacent field, he, along with his crew, immediately began the task of evacuating all 280 passengers in what would take just 90 seconds.

While people were in a near panic and trying to avoid the flames, Captain Kinkead and his crew maintained their calm and poise while barking out instructions and guiding everyone to the nearest emergency exits. When it was believed that everyone was evacuated, Captain Kinkead proceeded to walk the length of the aircraft to make sure that no one was left behind before he disembarked.

Mr. Speaker, I know that I speak for the passengers, families, and all Americans when I praise Captain Kinkead and the crew of TWA flight 843 for their outstanding display of heroics and professionalism. My own daughter Kristina was on that flight. Captain Kinkead and his crew are a fine example of how well a quality flight team works together under pressure. I ask you and my colleagues to join me in congratulating them on a job well done.

INTRODUCTION OF LEGISLATION CLARIFYING THE CERTIFIED NURSE-MIDWIFE COVERAGE UNDER MEDICARE AND MEDICAID

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. RICHARDSON. Mr. Speaker, I rise to introduce a bill to amend title XVIII of the Social Security Act to clarify coverage of certified nurse-midwife services performed outside of the maternity cycle under the Medicare and Medicaid programs.

Certified nurse-midwives have a long history of serving the needs of women with special problems in accessing childbearing, gynecological, family planning, and other health services. Pregnant teens in inner cities, young mothers in underserved rural areas of the country, Hispanic women in border States, native Americans on reservations, and minorities seeking care in public clinics are all clients served by nurse-midwives in daily practices.

The Health Care Financing Administration has taken a narrow view of the services certified nurse-midwives are to be paid for, and have limited payment of services to the maternity cycle.

It is clear in the record that Congress intended for nurse-midwives to receive payment for all services "legally authorized under State law or regulations." Congress also required that the nurse-midwife "complete a formal educational program for preparing registered nurses to furnish gynecological and obstetrical care to women * * * and care to normal newborns."

Nurse-midwives can play a valuable role in delivery of cost-effective services outside the maternity cycle. Two such examples include breast screening and pap smears. Breast cancer occurs more frequently in women than any other cancer. Early detection is essential since one in every nine women will develop breast cancer at some point in her life. Cervical cancer is most common today among women of low socio-economic groups, but all women are at risk. An estimated 4,500 deaths in 1991 were from cervical cancer and 5,500 from uterine cancer. Overall, the rate for uterine cancer has decreased more than 70 percent over the past 40 years, due mainly to the pap tests for early detection of cervical cancer and regular checkups.

It is time that Congress support our original intention to pay for these services when delivered by certified nurse-midwives. This legislation will provide for better utilization of certified nurse-midwives among Medicaid and Medicare eligible women and newborns in enhancing both access to and quality of care for those citizens whose access to health care services is so severely limited.

TRIBUTE TO HAL RATLIFF OF SAN JOSE, CA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. MINETA. Mr. Speaker, it is with a mix of sadness and pride that I rise today to pay tribute to one of the finest individuals I have ever known, Hal Ratliff of San Jose, CA.

My sadness is due to Hal's sudden and unexpected death on Saturday, August 1. But my pride, Mr. Speaker, lives on in my memory of who Hal was, and how very much he contributed to our community as a police sergeant.

Throughout his more than 28 years with the San Jose Police Department, Hal embodied the best of what is now California's third largest city—so much so that the San Jose Mercury News called Hal "the best-known rank-and-file cop" of the 1970's. What an outstanding remembrance of a police officer's career. It was a recognition he earned as a police officer as well as his work as leader of the San Jose Police Officers Association, as head of the Police Officers Research Association of California, and for his other community service.

Hal was born in Long Beach, CA, grew up in the San Jose/Campbell area, graduated from Campbell High School, and later from Modesto Junior College. He joined the San Jose Police Department in 1964 after service in the Marine Corps, and the sheriff's departments in Stanislaus and Santa Clara Counties. In fact, Hal ran for sheriff of Santa Clara County in 1970, but his loss in that race did not dissuade Hal from his dedication to San Jose.

Hal served as president of the Police Officers' Association for four terms. He also made the time to serve in the U.S. Army Reserve. But if Hal had a true passion beyond his devotion to his family and our community, Hal's passion was breeding and training dogs. In fact, Hal was participating in a dog training competition in Modesto when he was fatally stricken on August 1. His dedication to dog training was not only a source of enjoyment for Hal, but was also an advancement in crime fighting techniques as his department developed one of the best K-9 corps in the area.

Mr. Speaker, the untold number of San Joseans who called Hal "friend" are saddened at his passing. Our hearts go out to his wife, Frances; to his daughters, Cheryl, Tracey, and Kelly; to his sisters, Carolyn, Glenda, Lovelee, and Lucia; to his stepmother, Mae Ratliff; to his stepfather, Wilbur DuBois; and to Hal's two grandchildren.

Mr. Speaker, throughout my service as a member of the San Jose City Council and as Mayor of San Jose from 1971 to 1974, I relied on civic-minded boosters such as Hal Ratliff to give birth to a new spirit in our city, a spirit and enthusiasm that combined with innovation to create Silicon Valley. Hal embodied our ideal of community pride. As a police officer and a labor leader, I relied on his knowledge of his profession and his political acumen.

It was a genuine privilege for me to have known Hal Ratliff, and I ask my colleagues to join with me in extending our condolences to his family and our community. We are richer for having known him, and poorer for his loss.

GOLD MEDAL PADDLERS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. GOODLING. Mr. Speaker, the 1992 Olympics have just concluded in which the United States won 108 medals overall, including: gold—37, silver—34, and bronze—37.

One of those gold medals was won by Scott Strausbaugh of Dover, PA, in the 19th Congressional District which I represent. Scott Strausbaugh and his teammate Joe Jacobi (Bethesda, MD) earned their gold medal in the double canoe slalom becoming the first Americans to win gold medals in either whitewater canoeing or kayaking.

For those of my colleagues interested in such events, you may wish to read an article by Alexander Wolff in the August 10, 1992, issue of Sports Illustrated, which takes us through the exciting whitewater rides which earned these two individuals the gold medal, and also the up and down ride the sport has had in Olympic competition. Wolff contends that the accomplishments of Strausbaugh, Jacobi, and Dana Chladek, women's bronze medal winner in the solo kayak, may have earned a spot for this sport in the 1996 Olympics and a chance for other Americans to paddle their way to future medals in these events.

Strausbaugh and Jacobi took the gold medal the old-fashioned way. In a very competitive field, Strausbaugh and Jacobi decided to attack the course and take a chance, an all-or-nothing approach. It was this decision and their confidence in themselves which made the difference in this competition. In a field of the very best, often giving that little extra or taking a risk proves to be the deciding factor. It is refreshing and encouraging to see these qualities are still very much alive and going strong in America and Americans today. The tremendous accomplishment of Scott Strausbaugh and Joe Jacobi should serve as a reminder to us all that we are only limited by our own doubts. They are an inspiration for us in whatever we do, to approach a challenge holding nothing back.

TRIBUTE TO LEVI GARRETT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. BAKER. Mr. Speaker, I rise today to recognize Mr. Levi Garrett from Anacoco, LA. Levi is a talented 13-year-old performer who, last year, was a four-star winner on the television show, "Star Search." This is all the more remarkable since as a young child, Levi was diagnosed with terminal cystic fibrosis. He has overcome enormous odds, and his courage is an inspiration to us all.

Mayor of Leesville, LA, Jim Shapkoff, will proclaim August 15, 1992, as Levi Garrett Day in Leesville and will present Levi with a key to the city.

Levi Garrett guest starred with Mel Tillis at the Mel Tillis Theater in Bronson, MO, during the 1992 season, and has also signed to perform in the 1993 season. Levi's mother, Connie Sims, has always managed his career.

I want to wish Levi continued success with both his professional and personal life.

HOUSE OF REPRESENTATIVES—*Wednesday, August 12, 1992*

The House met at 9 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We pray, O God, that our actions and our words will promote the way of honesty and respect, and not be means for selfish advantage or personal gain. May we receive Your gifts with gratitude for our moment in life and for our responsibility to be faithful for the blessing we have received. Bless us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. POSHARD] please come forward and lead the House in the Pledge of Allegiance?

Mr. POSHARD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 411. Joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week"; and

H.J. Res. 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

The message also announced that the Senate had passed a bill, a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3163. An act to amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, and for other purposes;

S.J. Res. 242. Joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week"; and

S. Con. Res. 135. Concurrent resolution providing for a conditional recess or adjournment of the Senate from Wednesday, August 12, 1992, until Tuesday, September 8, 1992, and a conditional adjournment of the House on the legislative day of Wednesday, August 12, 1992, until Wednesday, September 9, 1992.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that he will entertain 10 requests for 1-minute speeches from Members on each side.

THE UNITED STATES NEEDS JOBS BUT ONLY THE RIGHT KIND

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in 1988 President Bush said that he would create in his first term 15 million jobs. I believe the statistics show that he is now 14 million short of that goal. But based on the cover story in this current issue of Fortune magazine, even if the President had created 15 million jobs, he may not have done the country a favor because the jobs we are now creating here in the United States are low skill, low pay, low benefit jobs. The high skill, high wage, high benefit jobs are being sent abroad. It suggests, therefore, that despite the fact that our current national unemployment rate of 7.8 percent, which is unacceptable, at home in Kentucky, it is 6.7 percent, still too high, that the level of anxiety today is more than it was a few years ago when the unemployment rate was 10.8 percent. We know that something deeply different is afoot in our country. Something is changing the nature of our jobs.

So, Mr. Speaker, today the President will announce completion of the North American Free-Trade Agreement. That is wonderful news. But we certainly do not want that agreement to do anything more to add to the anxiety of the American people and to deepen their problem with low pay, low skill, low benefit jobs.

NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, the announcement this morning that negotiators from the United States, Mexico, and Canada have reached a basic agreement on the long sought free-trade pact between our countries is, indeed, good news.

It is good news for American consumers who will have more choices and lower prices. It is good news for American workers, because there will be more jobs created in this country, manufacturing goods and providing services for export to Mexico. It is good news for the environment, because it generates an unprecedented spirit of cooperation to solve our many problems along the border. And it is good news for all Americans who seek an improved relationship with our neighbor to the South.

There will be ample time for us in the months ahead to examine the specifics of this agreement. For now, we should acknowledge the perseverance of our negotiators and the leadership of Presidents Bush and Salinas and Prime Minister Mulroney. Without their determination and dedication, we would not be standing on the edge of a new era of expanded trade and cooperation between our three countries.

THE BLACK LUNG BENEFITS ACT

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, one of the great health problems in this country involves coal miners with black lung disease.

The House Education and Labor Committee is moving legislation to help these miners and their families—help Congress intended them to have when it first passed the Black Lung Benefits Act.

Sadly, far too many men and women have not only been forced to live and die with this disease, but they have done it without disability benefits they deserve.

The growth of this country was powered by the coal these miners brought up out of the belly of the Earth. Many of these people in Illinois and the other coal States of our country are suffering terribly from those many years in the dark and dusty mines.

I urge the House to take up their cause, follow the lead of the Education and Labor Committee, and make a difference in the lives of these American workers by passing this important legislation.

FREE-TRADE AGREEMENT CREATES JOBS—IN MEXICO

(Mr. TRAFICANT asked and was given permission to address the House

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, those are not roses near the White House. That must be marijuana because President Bush seems stoned. The President signed the Free-Trade Agreement with Mexico, and he said it is going to create jobs.

I agree, my colleagues. There will be a record number of jobs created—in Mexico. In America there will be unemployment lines from Chicago to New York, Los Angeles to Frisco.

Mr. Speaker, since this fast track started, Zenith moved to Mexico, Smith-Corona moved to Mexico. There is not a television made in America, not a typewriter made in America. There is not a VCR made in America, not a telephone made in America.

I say, "Folks, it's getting so bad that you won't even send your phone bill to Ma Bell. You'll start writing a check to Taco Bell."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would remind Members that under the House rules it is not permissible to characterize the President in any personally demeaning fashion, and I am sure the Members will follow that admonition.

THOSE "DAMN YANKEES!"

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, you may remember the play "Damn Yankees"—about the team that had it all. That phrase rings especially true for citizens of growth States these days—when we see our tax dollars funneled into places that are losing, not gaining, population. For years Florida and other growth States have lamented the unfairness of the process by which Federal resources are apportioned. And we take solace in every base we can steal—the other day the Governor of my State wrote to me about the good news that Florida is now 49th of the 50 States instead of dead last when it comes to return for our money. Not quite a home run. The census was supposed to provide a true reflection of population trends but it clearly fell short. I am delighted that the census folks are thinking about adjusting the 1990 head-count using statistical data. It is just common sense—why continue to channel Florida's tax dollars to fund more than 70 Government programs for "those Yankees" when so many of them have long since moved to Florida and are happily living there. I am one of them, so I know.

□ 0910

A NEW KIND OF BALANCED BUDGET

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, yesterday 41 Members of the House joined me in introducing a new plan to implement a balanced budget for America.

Now, you say, "What's new? There have been many plans to implement balanced budgets. None of them have ever happened."

This is a different one. This is one that addresses the central issue of why Americans would like or would enjoy a balanced budget, as opposed to liking the kind of spending that Congress customarily does for American citizens.

This plan accomplishes a balanced budget not by cutting spending but by freezing spending, and once a surplus is achieved, it deposits into a national dividend trust fund all the corporate taxes that are collected in this country, 20 percent per year, until a national trust fund is established. Once it is established and once the American Government is in surplus, that dividend trust fund is then redistributed to the voters of America as a reward for supporting balanced budgets.

Much as Alaska rewards its citizens with its royalty trust fund for supporting development in Alaska, the dividend trust fund would reward Americans for supporting candidates for Congress who support and vote for balanced budgets and surpluses in our American system.

Mr. Speaker, it is a plan that can work. It is one that should pass.

WHILE THE DEMOCRATS MOAN

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, while the Democrats fiddle and stall, and moan and groan, President Bush is working to bring peace to the world and more jobs to the United States.

Today the President announces the formation of the world's largest free-trade zone.

This agreement will create 175,000 net new American jobs by 1995.

The Democratic response will be to fiddle and stall.

Yesterday, the President approved $10 billion in loans for Israel—just one more step toward a Mideast peace.

The Democrats will moan and groan.

Mr. Speaker, George Bush accomplishes more in most days for peace and prosperity than Bill Clinton has in his lifetime.

The choice is clear: For peace and prosperity—President Bush.

AMERICAN WORKERS DESPERATE AS UNEMPLOYMENT FIGURES SOAR

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, it is almost 1 year since the President vetoed the first emergency unemployment benefits bill. That veto led to another, and another. Before it was over the President had made an impression on our people that a hundred campaign speeches today will not change.

With one veto, the administration signaled the limits of its compassion and concern for the millions of Americans who are still without work.

The sad fact is the situation is not improving. Last week, it was reported in Connecticut that our State had lost more than 20,000 jobs in the 3 months between April and June. Twenty-thousand people who feel the pain of no work, the fear of no health care. These are desperate people. Thousands of families who are looking to Washington—who are looking anywhere—for leadership. But they cannot find it.

This administration promised our Nation 30 million new jobs when it entered office. A promise that rings hollow in the unemployment lines in Connecticut and across the Nation.

Mr. Speaker, it is time for an administration that understands the everyday fears of working families. An administration with a real plan to put people to work. An administration that will keep its promises and begin to restore the faith of Americans in their Government.

JOB CREATION PROSPECTS BRIGHTEN WITH THE NORTH AMERICAN FREE-TRADE AGREEMENT SIGNING

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, in response to my friend, the gentlewoman from Connecticut, and others who have talked about the fact that we have seen this morning the President participate in the signing of one of the most historic agreements that the world has ever witnessed, we clearly have President Bush leading the way in job creation.

Contrary to what the naysayers say, the establishment of a North American Free-Trade Agreement will, according to nearly every single independent analysis, create hundreds of thousands of new jobs, not in Mexico but in the United States of America.

So, Mr. Speaker, I urge my colleagues to look closely at this agreement and realize that those who are trying to stick the heads of the United States of America into the sand are clearly being Neanderthal. Let us move ahead with a fair and balanced North American Free-Trade Agreement to create jobs for Americans.

CLOSE EXAMINATION OF FREE-TRADE AGREEMENT URGED

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, we have already heard the slogans—we just heard them—about the North American Free-Trade Agreement, but the real issue is reality, not rhetoric, but what will really happen.

The President said that this is a good day for North America. The real issue is whether it is a good day for the United States, for our workers and for businesses. We have to look at key sectors like agriculture and like truck production where the tariff would come down 25 percent. What would that mean for American workers and American businesses?

The administration says that it will take care of the situation through worker adjustment, but its record in that area is abysmal. It talks about adequate transition. But the key question is transition to what? With the administration's terrible record on trade, it has the burden of proof, and the proof will be in the details.

Mr. Speaker, as a member of the Committee on Ways and Means, I am certain this agreement will be scrubbed from head to toe. American business and American workers deserve that.

DESTRUCTION AND GENOCIDE IN SERBIA DEMAND ACTION BY THE UNITED STATES

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, all Americans and, yes, all people in the free world and all good and decent people everywhere have been shocked at the death camps and at the tanks and artillery that have been shelling civilian targets in Sarajevo and, yes, throughout the Balkans.

Let us remember who is at fault. What we are talking about is destruction and death that is being brought about by the last Communist regime that holds power on the continent of Europe, and that regime is in Serbia. It is in Belgrade. What we are witnessing is genocide and aggression committed by that regime.

Now, there is a false dichotomy being offered the American people when they are being told that we cannot do anything about it unless we put hundreds of thousands of troops on the ground. We can do something about it. We do not have to have a Vietnam or a Persian Gulf. We can strike at targets in Serbia that will not take Serbian lives. If Serbia keeps shelling Sarajevo, providing the ammunition for this genocide, and providing the guards for the death camps, we can put Serbia and Belgrade into the dark by knocking out their electric plants. We can knock out their fuel storage plants, and we can destroy their navy and their air force with very little loss of life.

Mr. Speaker, it is time for America to act, for America to lead, and for America to stand up for morality and against this genocide.

THE ADMINISTRATION'S BROKEN PROMISES ON DEALING WITH THE DEFICIT

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, clearly one of the single most troubling domestic problems we have is the deficit. The promise made by the Bush administration campaigning in New Hampshire in 1988 was that the President would balance the budget by 1993 without a tax increase or cuts in Social Security.

On another occasion he promised that he would cut the deficit by 40 percent in 1 year.

The problem is that every budget submitted by President Bush has included deficits. Let me give the figures. For fiscal year 1990 there was a $95 billion deficit in the budget submitted by the President; in 1991 it was $65 billion; in 1992 it was $281 billion; and in the budget submitted this January the deficit was $352 billion.

Now, this is a very serious broken promise. This administration has been feeding middle-class families promises for 12 years, promises of words and rhetoric, with no action and no leadership. Dealing with the deficit and with our stumbling economy takes courage and real leadership, not broken promises.

□ 0920

PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, in the last few years, Congress has picked up a lot of nasty little habits that cost taxpayers big bucks.

To pad their legislative accomplishments, some Members of Congress have taken to introducing one commemorative bill after another in hopes of stroking every special interest group that knocks on their door. In fact, 30 percent of all public laws are commemoratives. That is why we now have a "National Tap Dance Day," a "National Ice Cream Month," an "Elvis Presley Day," a "Karate Kids Just Say No to Drugs Month" and a "National Quilting Day."

Don't get me wrong. I have nothing against Elvis Presley or people who enjoy quilting, and I think it is great that we have positive role models against drugs. I also love to indulge my taste buds with ice cream from time to time, but to get these bills passed, we spend close to $350,000 a year to do it.

There are two bills working their way through Congress that would create a commission to advise the President on proposals for national commemorative events. It would cost half as much and accomplish the same thing. Plus, it would give Congress more time to deal with the more difficult and important issues of the day.

Commemoratives get my vote for "Porker of the Week" award.

JOE DOHERTY; A CASE OF INJUSTICE

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, on July 30, the British Secretary of State for Northern Ireland, Patrick Mayhew, announced that Joe Doherty would not be credited for the nearly 9 years he spent in prisons here in the United States. As a result, Mr. Mayhew indicated that Mr. Doherty would have to remain in British custody for 10 more years before a parole decision would be made.

Mr. Doherty was deported to British-controlled Ireland in February despite numerous court victories here in the United States. The Reagan and Bush administrations fought to have Mr. Doherty deported to the United Kingdom without the benefit of an asylum hearing which Mr. Doherty had requested.

Doherty's case has heaped injustice upon injustice. British refusal to count Doherty's 9 years in American jails is simply the latest. The British Government should know that I, at least, will not forget about Joe Doherty's plight. The struggle against injustice and prejudice in the north of Ireland will continue.

AMERICA NEEDS A PRESIDENT TO BRING AMERICAN JOBS TO AMERICANS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the President of the United States announced the North American Free-Trade Agreement this morning. But if past performance is an example, we are going to continue to see the migration of American business and jobs.

Why is that? Because the fact is we cannot compare what we pay our workers here to what they can pay in Mexico. They only pay $1.20, including benefits. They get practically no benefits, no pension, no health, no unemployment compensation, no workman's compensation. They have no OSHA regulations. They have nothing down there that we have here which we have to put on the cost of our products.

So how can we compete with them? We have 11 million Americans out of work right now because of the migration of businesses, and I see more of a loss.

Besides more businesses moving down to Mexico, we are going to continue to see them go to China and Japan because of the bad trade policy that we have in this country today.

In the first 5 months of this year, we saw 42,000 American businesses go down the tubes. That is an increase over last year. What this country needs is a President to bring back American jobs to Americans.

CONGRESS MISSING THE TRAIN

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, the train is leaving the station and Congress is not on it. All across the country, Americans are saying that they want a choice in where to send their children to school. Efforts have been underway in States and communities to allow parents to make the all so important decision of which school their children should attend.

However, Congress is not on this train. In fact, many in this body wish to derail it. This is unfortunate, because it is Congress and the Washington bureaucrats telling the people of this country what they can and cannot do.

Mr. Speaker, school choice is a movement that should be encouraged and endorsed by this body, because it is a movement of the people. It should be the decision of local communities and parents—not bureaucrats and certainly not the education establishment. If Americans want to implement school choice programs in their communities, who are we to stand in their way?

This afternoon, we will be considering the Neighborhood Schools Improvement Act. By the chairman's own admission, this bill is nothing more than cliches and show business. We need to improve it and make meaningful reforms, instead of the business as usual banalities in H.R. 4323.

Mr. Speaker, let us support the amendment of the gentleman from Texas [Mr. ARMEY] to give parents and communities real choice in where their children go to school.

THE FREEDOM OF CHOICE ACT

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I rise today to encourage this body to bring H.R. 25, the Freedom of Choice Act to the floor of the House of Representatives this week. The Freedom of Choice Act codifies Roe versus Wade, and prohibits States from placing undue restrictions on individual's exercise of the right of reproductive choice. In light of the disgraceful Supreme Court decision in Planned Parenthood versus Casey it is imperative that this body not delay action. The Casey ruling has shifted the deeply personal decision about abortion from American women and their families to politicians and the Government. What angers me most about so-called right-to-lifers, is their undeniable hypocrisy. These God-fearing individuals who supposedly speak for the life of the unborn child have done nothing to help support the millions of living, breathing children who exist in squalor and poverty in this country. No man has the right to tell a woman what she can or cannot do with her body. Men, not physically equipped to give birth, have no place in this argument. Congress has the power, the authority, and the obligation to move the Freedom of Choice Act, now, to protect the lives and health of American women. None of us can remain complacent as any State moves to deprive its citizens of freedom. The time for action is now. We must defend the right of America's women to make their own reproductive decisions.

AMERICA'S SENIORS DESERVE BETTER: NO MORE BROKEN PROMISES

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, Social Security is a sacred trust. Medicare is an absolute necessity.

But as the President's advisors head to Houston, they are huddling around a plan to break the President's 1988 promise to protect Social Security and to, once again, take a meat ax to the Medicare Program. Our senior citizens deserve better.

For over 50 years, Americans have been paying into the Social Security trust funds, with the understanding that they would have the benefits they have paid for during their retirement years. The Social Security system is an enduring compact between generations that should not be broken.

Today, health care costs are out of control. They are taking a toll on everyone's budget. But they cause the greatest fear of all for senior citizens who worry about broken bones that take longer to mend and about Alzheimer's disease and other long term illnesses that can not only take an immense emotional and physical toll, but which can destroy their financial security as well. For over 25 years, Medicare has been an important, though incomplete, source of help. We cannot let that be destroyed.

Our seniors deserve better. Their lifetime commitments to their families and their nation should not be repaid with broken promises.

PROVIDING FOR CONSIDERATION OF H.R. 4323, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 551 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 551

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1 (b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4323) to improve education for all students by restructuring the education system in the States. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 8 of rule XXI are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill, modified by the amendments printed in section 2 of this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. Points of order against the committee amendment in the nature of a substitute, as modified, for failure to comply with clause 7 of rule XVI are waived. No amendment to the committee amendment in the nature of a substitute, as modified, shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in this resolution. Amendments printed in the report may be offered only in the order printed and only by the named proponent or a designee, shall be considered as read when offered, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Any time specified in the report for debate on an amendment shall be equally divided and controlled by the proponent and an opponent. All points of order against amendments printed in the report are waived. It shall be in order at any time for the chairman of the Committee on Education and Labor or his designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules or germane modifications thereof. Such amendments en bloc shall be considered as read, except that modifications shall be reported; shall be debatable for forty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor or their respective designees; shall not be subject to amendment; and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments en bloc are waived. The original proponent of an amendment included in amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 4323, it shall be in order to take from the Speaker's table the bill S. 2 and to consider the Senate bill in the House. All points of order against the Senate bill and its consideration are waived. It shall then be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 4323 as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move to insist on the House amendment to S. 2 and to request a conference with the Senate thereon.

SEC. 2. The amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill is modified as follows:

Page 13, strike line 14 and all that follows through page 14, line 2;

Page 14, line 3, strike "(d)" and insert in lieu thereof "(c)";

Page 14, line 7, strike "(e)" and insert in lieu thereof "(d)";

Page 89, strike line 15 and all that follows through page 90, line 7;

Page 90, line 8, strike "Sec. 8216" and insert in lieu thereof "Sec. 8215"; and

Page 103, strike line 1 and all that follows through page 105, line 16.

□ 0930

The SPEAKER pro tempore (Mr. SWIFT). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 551 provides for consideration of H.R. 4323, the Neighborhood Schools Improvement Act. We have heard the Clerk read the details of the rule. It is essentially a fair rule that allows for a number of amendments that were presented to the Committee on Rules to be offered.

I should also add that it allows for two substitutes to be offered by Members of the other side as well as a motion to recommit with instructions.

It should also be noted that there will be a change. We expect to make a change after the passage of the rule that will allow additional time of 10 minutes each on the two substitutes, so there will be 40 minutes of debate time each on those substitutes instead of the 30 minutes as read.

House Resolution 551 allows for a completely free and flowing debate on a very vital and important subject, the Neighborhood Schools Improvement Act.

House Resolution 551 provides for the consideration of H.R. 4323, the Neighborhood Schools Improvement Act, allowing 1 hour of general debate to be equally divided between the chairman and ranking member of the Committee on Education and Labor.

The rule waives clause 8 of rule XXI—requiring a CBO cost estimate to be included in the bill—against the bill and clause 7 of rule XVI—prohibiting nongermane amendments—against the substitute as modified.

Furthermore, the rule makes in order the Education and Labor Committee amendment in the nature of a substitute, as modified by the amendment printed in section 2 of the rule, as an original bill for the purpose of amendment.

Only those amendments printed in the report accompanying the rule will be in order, to be debated as specified in the report, except that at any time the chairman of the Education and Labor Committee may offer en bloc amendments, debatable for 40 minutes, consisting of amendments in the report.

The amendments are not subject to amendment or to a division of the question and all points of order against the amendments and amendments en bloc are waived.

House Resolution 551 provides for one motion to recommit, with or without instructions. Finally, the rule makes in order a motion to take Senate bill 2 from the Speaker's table, strike all after the enacting clause and insert the text of H.R. 4323 as passed by the House, and a motion to insist on the House amendment to S. 2 and to request a conference with the Senate.

Mr. Speaker, as has often been noted, children are our most valuable heritage. Through them our tomorrows become reality. It is our responsibility to make the necessary investment in the education and support services that will enable our children to develop to their fullest potential and become the leaders tomorrow's world will require.

H.R. 4323 is designed to provide such an investment in our children and in the future. The measure focuses on academic achievement, flexible regulations encouraging innovation to increase students' learning, voluntary national standards for what children should know and systemic reform.

I am especially pleased that the parents as teachers program will be considered as an amendment today. Originating in Missouri and spreading to other States, this early childhood program has proven to be extraordinarily effective in assisting parents to become actively involved in their children's education, thereby increasing the children's learning and growth potential.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Missouri for yielding time to me.

Mr. Speaker, yesterday in the Committee on Rules the chairman of the Committee on Education and Labor, who I am happy to see is here on the House floor, the gentleman from Michigan [Mr. FORD] initially said that his preference would be for an open rule. But given the time constraints this week and the fact that Members on this side want to go to Houston and Members on the other side want to get back to campaigning or whatever, it was argued that some restrictions on amendments are necessary to ensure that we can complete consideration of this bill before we adjourn.

This, Mr. Speaker, is really, I believe, a bogus argument because if we look at this rule, it is the same kind of partisan and abusive gag rule that is traditionally imposed by the overwhelming 9 to 4 vote on the majority of the Committee on Rules.

The rule makes in order 11 Democrat amendments out of 15 that were submitted to our committee, but only 2 Republican amendments out of 14 that were submitted to the committee, are made in order.

If my colleagues on the other side of the aisle were so concerned about the out-of-control amendment process, there was a very simple solution. It would be to put a time limit on amendments. In a sense, as far as most of us are concerned on this side of the aisle, there is a time limit. And it is virtually zero.

The hardworking gentleman from Santa Rosa, the gentleman from California [Mr. RIGGS] will not be permitted to offer his parental responsibility amendment because it is considered controversial. There is concern on the other side that this amendment might actually stimulate a debate over our Nation's failed education policies, yet they make in order Democrat amendments which, according to the distinguished ranking member of the Committee on Education and Labor, the gentleman from Pennsylvania [Mr. GOODLING] are equally controversial.

The Committee on Rules also blocked consideration of amendments by my colleagues, the gentlemen from California, Messrs. DANNEMEYER, ROHRABACHER, DORNAN, and

CUNNINGHAM, the gentleman from Louisiana [Mr. HOLLOWAY], the gentleman from Minnesota [Mr. RAMSTAD] and the gentleman from Wyoming [Mr. THOMAS].

Frankly, Mr. Speaker, if I were in the Democrats shoes, I would not want a debate on this bill either, because it fails to offer any innovative reforms to improve educational achievement, promote accountability.

This bill should more appropriately be called the Pander to the National Education Association Act, because it will ensure continued bureaucratic inertia in our Nation's public school system.

Fortunately, Mr. Speaker, we can still make a difference by voting for the Amey substitute to fund school choice programs and direct Federal dollars to real reform activities. But there are many worthwhile amendments that, unfortunately, were not made in order and, therefore, Mr. Speaker, I am going to urge my colleagues to defeat this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

While I would not want to characterize the comments of my friends from both California and Missouri in any negative way, I would like to once again point out that while time is limited for debate on this bill, that it is very fair between both sides of the aisle. While there are several Democratic amendments, there are two Republican substitutes as well as the right to recommit with or without instructions.

And, of course, any of the amendments that the gentleman referred to may be included at the option of the other side in the motion to recommit with instructions and could have been included in any of the substitutes that were offered.

□ 0940

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. KILDEE] the chairman of the subcommittee, who has worked very hard on this bill and who has produced an excellent bill.

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule. The rule makes in order both the Goodling and Armey substitutes.

These substitutes not only provide the Members with clear policy choices, but the Goodling substitute also incorporates additional amendments proposed independently by other Republican Members.

The rule ensures that Members have an opportunity to debate the key issues relating to education reform, and does so in a manner that also takes into account the short amount of time remaining before the recess.

I urge the adoption of the rule.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Jacobus, Mr. GOODLING, the very distinguished ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Speaker, I rise to support some of what was said by our ranking member of the Committee on Rules. I have a difficult time understanding the necessity for some of the en bloc amendments which we will talk about later. All of those, I think, with the exception of two, probably should have come up after we have had hearings and we talk about reauthoration of the elementary and secondary education programs next year.

Mr. Speaker, I am pleased to be able to introduce, because of the rule, a substitute, which I will call the Kildee-Goodling substitute, since it was we who spent hundreds of hours over a long period of time, 466 days, I believe, trying to incorporate into a bill some of the requests of the President of the United States.

Our whole idea was to bring about systemic change, so the staffs of both of the Members sat down and decided that these are ways we could bring about systemic change.

Unfortunately, what we will be faced with today is a block grant to do anything under the Sun we want to do, which by and large will be the same as we have always done, which has not helped us in the area of education. In fact, that is why we are being bashed about our educational system at the present time. Our hope was to bring about systemic change. If the Members vote for my substitute, that just might happen.

I cannot guarantee it will happen, but there is a darn sight better chance that it will happen than if the Members vote for the bill that will come from the majority. Again, I hope that my colleagues will look carefully at the original Kildee-Goodling neighborhood schools bill and give me your support when that time comes.

As I indicated, as far as the rule is concerned, we have worked out an agreement, I think, where there would be sufficient time to present our different ideas. I, too, like the gentleman from California [Mr. DREIER], am sorry that the choice was made that 7 of the 29 proposed amendments would come before us today. I supposed if 7 were coming, all 29 probably should have.

Again, I would ask the Members to listen carefully and to consider the substitute that I will offer.

Mr. DREIER of California. Mr. Speaker, I urge a "no" vote on the rule. I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, while there may be some differences on the rule—and I do thank the gentleman from Pennsylvania [Mr. GOODLING] for acknowledging that there is sufficient time to debate our differences on this bill—while there are some differences on the rule, I think I can speak on behalf of all of us in acknowledging the efforts of the chairmen of the committee and the subcommittee, the gentleman from Michigan, Mr. FORD, and Mr. KILDEE, as well as the ranking member, the gentleman from Pennsylvania [Mr. GOODLING], for their work on behalf of the Nation's children. Their work has been exceptional over the years, and I believe this bill is exceptional as the first part of a two-part strategy to reform the Nation's education system.

We look forward to the second part of the committee's work during the next Congress. I urge my colleagues to vote "yes" on the House resolution and on the underlying bill.

Mr. OWENS of Utah. Mr. Speaker, I rise in opposition to the rule. Yesterday, I testified before the Rules Committee on behalf of my amendment to this bill. Mine was a win-win amendment—schoolchildren in many States stood to gain by my amendment, and none would be slighted, but the amendment, to my deep regret, was not made in order.

This is an issue of great concern to me and of great importance to my State and to many other States which receive less chapter 1 money per student than other States. Chapter 1 funds are distributed in a very discriminatory manner, without a defensible theory for its unfairness. This formula discriminates against poor students in poor States, giving more money to the poor in richer States, and that is not right.

Mr. Speaker, because of this decision, many States will lose valuable education dollars this year. California alone will lose close to $170 million; Texas will lose $180 million; and my own State of Utah will lose out on a 55-percent increase in education dollars—$11 million this year—in Utah a very significant amount of money to help those disadvantaged students.

Under my amendment, States could either continue to use the current chapter 1 funding formula or use a revised formula which would substitute the State-per-pupil expenditure with a national-per-pupil expenditure, whichever is more beneficial. The revised formula would also use the new 1990 census figures. Therefore, not one single State would get less money; other States stood to gain.

I understand that the committee did not want to take up any formula changes this year—however, my amendment was a fair and equitable for the interim, to repair a serious and detrimental flaw.

As you know, in calculating chapter 1 funds, the poverty population of those between 5 to 17 years of age are taken into account. These figures are based on the decennial census.

It is now 1992—1992 and we are still using census figures from over a decade ago. This is an indefensible outrage—to use data now 12 years out of date. It only makes sense because current formulae provide more resources to some States than others, and those receiving the higher amounts don't want the rules tampered with. My amendment would have allowed States that have had a population decrease to continue using 1980 census figures for 1992–93, while allowing States that have had a population increase to use the new 1990 census figures and the national per-pupil expenditure for calculating chapter 1 funding. This would be very fair to all.

Secretary Alexander has informed me that we are not using the 1990 census figures this year because the data from Puerto Rico had not been fully established in time. I ask you, should 23 States be deprived of an additional $550 million in education money because the Department of Education could not tabulate Puerto Rico's data in time? Should 23 States be deprived of money they truly need?

Mr. RAMSTAD. Mr. Speaker, I rise in opposition to the rule.

In light of the events in Los Angeles a few months ago, it is time for Congress to come up with bold and innovative solutions to the troubles facing our inner cities. Unfortunately, this rule denies us the opportunity to vote on an amendment to address this problem.

My amendment would have provided $50 million in educational opportunity zone grants for schools in our most economically and socially distressed communities to invest in comprehensive computer learning technology programs.

Learning technology emphasizes the teaching of fundamental skills through individualized instruction and develops self-directed learning skills, motivating students to learn by discovery. Moreover, learning technology enables teachers to monitor student progress in varied activities and helps them tailor instruction accordingly.

While computers will never, nor should ever, replace teachers in the classroom, they can and should be an exciting tool for teachers to use in the classroom. In fact, the opportunity to use this technology should attract more teachers to the schools that utilize it.

Children are fascinated by technology and the learning opportunities that accompany it. By making learning more enjoyable and less of a chore, we can help motivate even the most disinterested student. And studies show that when children are motivated to learn, they will learn.

Classroom attendance has improved dramatically when kids have access to this kind of learning technology. As one Washington, DC, principal has noted, the teachers in his school won't tell their kids which days they will go to the computer labs because only on those days is attendance 100 percent. Teachers have also been able to limit disciplinary problems by tying computer time to good behavior.

Mr. Speaker, it is vital that children in our lower income communities learn to work with computers, keeping pace with their peers in higher income school districts who have computers at school and at home. In today's age of technology, if all children are to have equal opportunities to learn and succeed, all children must be given the opportunity to work with computers.

My amendment would have earmarked $50 million of the funds authorized for the Neighborhood Schools Improvement State Grant Program toward developing education opportunity zones. But the Rules Committee has decided once again not to give us the opportunity to vote for an inner-city program that is desperately needed and will work.

I urge my colleagues to vote for education opportunity zones and against this restrictive rule.

Mr. RIGGS. Mr. Speaker, I rise in opposition to the rule for this bill, H.R. 4323, the Neighborhood Schools Improvement Act. I went before the Rules Committee yesterday with an amendment that would be instrumental in developing more parental responsibility with respect to their children's education. Needless to say, my amendment was not made in order.

Parents are failing to fulfill their critical role in developing their children's emotional and intellectual growth. If the education of this Nation's youth is to improve, parents' commitment to their children's educational needs must dramatically increase.

My amendment stated that in order for a local school district to receive education funds, the school district shall make available to parents a parental educational responsibility agreement between parents, teachers, and school. By signing this pledge, parents and schools vow to make every effort to do the best they can for the children. For example, children have to be well rested; they have to have a quiet place to study; and they have to develop studious behavior. Schools have responsibilities as well. They have to make every effort to welcome parents and offer suggestions to assist parents to adhere to their pledges. Many may take these goals for granted, but I know better—I know this is the exception rather than the rule.

Education does not just happen at school. From my past duties as president of my local school board, and as a father of three, I know precisely what my responsibilities are. The key determinant to the success of a child's education is the amount of parental involvement that takes place. The schoolday should not end when the last bell rings.

Mr. WHEAT. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SWIFT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 153, not voting 49, as follows:

[Roll No. 382]

YEAS—232

Abercrombie
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Foglietta
Ford (MI)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stallings
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

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Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Dannemeyer
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson

Holloway
Hopkins
Horton
Houghton
Hunter
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
Martin
McCandless
McCrery
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Paxon
Penny
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walsh
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—49

Ackerman
Alexander
Atkins
Bacchus
Barnard
Barton
Campbell (CO)
Chapman
Clay
Conyers
Cunningham
DeFazio
Dickinson
Dymally
Edwards (OK)
Flake
Ford (TN)
Gaydos
Gingrich
Hatcher
Hyde
Ireland
Jones (NC)
Kaptur
Kolter
Levine (CA)
Lowery (CA)
Markey
McCollum
McDade
Nagle
Neal (NC)
Perkins
Riggs
Schulze
Sharp
Smith (FL)
Solarz
Solomon
Staggers
Stark
Tallon
Towns
Traxler
Walker
Weber
Weiss
Wilson
Young (AK)

□ 1015

Mr. McCURDY changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER INCREASED TIME FOR DEBATE ON AMENDMENTS 7 AND 8 IN HOUSE REPORT 102-838 DURING CONSIDERATION OF H.R. 4323, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that, during consideration of the bill H.R. 4323 pursuant to House Resolution 551, the amendments numbered 7 and 8 in House Report 102-838 each may be debatable for 40 minutes, equally divided and controlled by the proponent and an opponent.

The SPEAKER pro tempore (Mr. SWIFT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

The SPEAKER pro tempore. Pursuant to House Resolution 551 and rule XXVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4323.

□ 1018

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4323) to improve education for all students by restructuring the education system in the States, with Mr. PRICE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4323 is the first piece of a two-part strategy for the Federal Government to help improve our Nation's schools.

It represents a major departure from the way that the Federal Government has assisted education in the past.

It is the first effort that seeks to use limited Federal funds as an incentive for public school districts to undertake systemic reform.

Historically, most education reforms have dealt with a single part of the system, such as improving testing, or have focused on special populations.

In contrast, the Neighborhood Schools Improvement Act emphasizes systemwide reform because sustained improvements will not occur without coordinated changes in all parts of the education system.

Federal assistance to encourage systemic reform is critical because school districts are often so financially pressed trying to operate their basic programs that there is no money for reform activities.

H.R. 4323 would fund reform activities in a minimum of one school district per congressional district.

Hopefully, many more districts can be funded depending on the level of appropriations.

However, all schools would benefit from systemic changes at the State level.

Systemic reform proposals would be developed at the State and local levels by panels made up of representatives of the many entities which have a stake in ensuring the availability of quality education programs.

These stakeholders include the Governor, State legislators, parents, and representatives of education, business, and other community leaders.

The stakeholder panels are charged with developing and implementing a reform package which includes identifying high goals for student achievement and ensuring that State and local curriculum, testing, and teacher training support the attainment of those goals.

Additionally, the State panel is to establish a process by which funds will be distributed to local school districts for their reform activities.

At the local level, the bill contains an illustrative list of the types of activities that can be included in a district's systemic reform package.

I wish to emphasize that this list is illustrative, not exclusive.

The activities include: the development and implementation of local education reform plans; new American schools; merit school systems where schools are rewarded for improved student performance; activities that supplement early childhood education programs and increase the readiness of young children to learn; site-based management; activities which maximize parental involvement; the coordination of health and social services with education; planning to improve the use of technology; and professional development for teachers and local administrators.

Another significant feature of this legislation and another departure from the past is the emphasis on achieving results with the expectation that rules and regulations will be relaxed as those results are achieved.

In another departure from the past, H.R. 4323 authorizes the development of voluntary national education standards.

These voluntary standards will set high goals toward which all students can strive.

The standards also can serve as a focal point for reform efforts throughout the Nation.

Additionally, consistent with the recommendations of the National Council on Education Standards and Testing, the bill formally establishes the national education goals panel to oversee the development of the voluntary national standards.

The bill approaches the issue of national standards and testing in a cautious way.

All the standards would be voluntary.

With regard to testing, the bill supports research in new forms of assessment and provides funds for the development of model assessments tied to the national standards for mathematics developed by the National Council of Teachers of Mathematics.

The development of model assessments is limited to mathematics because that is the only area where standards currently exist.

H.R. 4323 also authorizes a demonstration program which would authorize the waiver of certain Federal requirements at the preschool, elementary school, secondary school levels so that schools can experiment with new approaches to meeting the multiple education needs of disadvantaged children.

Waivers of regulations for certain national school lunch and child nutrition programs also would be authorized to simplify the administration of school lunch and child nutrition programs in elementary and secondary school.

The regulatory flexibility provisions do not change the money flowing to schools but allows flexibility within schools regarding its use without fear or auditors.

As I stated earlier, H.R. 4323 is the first piece of a two-part process for helping to improve our Nation's schools.

The second part of the strategy will take place in the next Congress when all the major Federal education programs come up for reauthorization.

Building on the H.R. 4323 framework, the committee will review and revise existing Federal education programs with an eye toward making them more effective as part of a coordinated Federal approach to improving the instruction and achievement of all students.

Mr. Chairman, I urge the passage of the bill.

□ 1020

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding.

Mr. Chairman, I, too, am from Michigan. I take it, however, that I view the crisis in education in this Nation somewhat differently than my distinguished colleague, the gentleman from Michigan [Mr. KILDEE].

The United States is in the midst of an educational crisis, and when we talk about global competitiveness, we had better address, with seriousness, the problem of educational competitiveness and educational achievement.

Mr. Chairman, K–12 spending in this country is higher as a percent of GNP than Japan and Germany. Expenditures per pupil in K–12 education in the United States are almost twice as much as in Japan, almost twice as much as in Germany, almost twice as much as in France. But in the key core competence areas and particularly in the area of mathematics and science, this Nation is woefully behind its global competitors.

Mr. Chairman, a recent international assessment of educational progress found that 13-year-old students fell behind Taiwan, South Korea, Hungary, the old U.S.S.R., Italy, Israel, Canada, France, Spain, and even in Yugoslavia, where they are in the throes of a civil war, American eighth graders fell behind Slovenia.

Mr. Chairman, the time has come for breaking the mold, for taking new and vigorous steps to restructure American schools. That is what the President of the United States has called for. That is what the Secretary of Education has called for. That is what the Governors of this country have called for on a bipartisan basis.

But here is what we got in this listless bill. I quote the chairman of the Committee on Education Labor:

> "It's all cliches and show business," said Chairman William D. Ford, D-Mich. "It's not going to revolutionize anything."

I quote also the Secretary of Education, Mr. Alexander, who said:

> This bill is worse than awful. The only ones who should be happy are those who want schools to stay forever just like they are.

Mr. Chairman, the question before us is not just a new entitlement or new general revenue sharing for K–12 schools in this country; the question before us is whether we are going to face the challenge of breaking the mold.

The question goes beyond the issue of choice. I happen to be one of those who supports choice in education. I support it because of the whole issue of parental accountability and the market dynamics. But that is not the fundamental issue.

Do not be distracted as we address that issue later into thinking that is the only thing we are talking about. We are talking about breaking-the-mold schools and the whole New American School Program, we are talking about waivers to potentially 83,000 school buildings in this country to get around the paperwork that overwhelms them. By Grand Rapids public schools have more reporting forms they have to fill out each year for State and Federal departments of education than it has days of structural activity each academic year. Can we get around this regulatory burden and begin to measure educational accomplishment based on output rather than input?

□ 1030

Mr. Chairman, the problem with this bill is that it focuses on inputs and not the revolutionary change in outputs this Nation so desperately needs.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the administration objected strongly to the higher education bill of the gentleman from Michigan [Mr. FORD], but in the dialog and process that took place they finally signed it with great ceremony because it was a good bill, and it is my hope that this bill, when it goes into conference and with dialog with the White House, we can work out any differences that might exist. I think that the substitute of the gentleman from Pennsylvania [Mr. GOODLING] is not that substantially different. It has problems with it, but we can work those out, and I look forward to working with Mr. GOODLING, with the Senate, with the Secretary of Education, and the President to try to bring any differences together.

Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise today in support of the legislation before us—the Neighborhood Schools Improvement Act.

I want to commend my chairman and friend DALE KILDEE for keeping the goal of systemic reform so clearly in focus and for resisting the temptation to build a proposal upon educational fadism.

You will hear comments today that this proposal is not sufficiently revolutionary and will not result in dramatic changes in American schools. This measure moves with care—not with drama.

The Neighborhood Schools Improvement Act offers something that President Bush's American 2000 proposal cannot hope to: it offers a series of straightforward mechanisms that can result in systemic reform in all school districts.

It is based on the principle that the quality of schools and the conditions under which children learn will improve only if entire communities are committed to shared goals.

It rejects the conceit that the education of our Nation's children should be based on market principles. I submit—that to accept the theory that forcing schools to compete—for students or for funds—will erode the fundamental American doctrine of universal public education for a large fraction of the next generation of American children.

Make no mistake, private school choice will not be the agent that helps lift the achievement levels of the largest numbers of individual American students—and that is what we want. It will serve only to insulate existing advantages.

I would like to focus on the one component of the neighborhood schools improvement bill that I think is crucially important. It does not rush headlong into yet another layer of tests in American classrooms.

The results of widescale, mandated, standardized testing in the States of Maryland and Pennsylvania were recently studied by two prominent educational researchers. I would like to read to you their final conclusion:

> So far, we know that high-stakes testing does change schools—but frequently for the worse. It surely doesn't provide a foundation for constructive reform. Unless it is brought under control, especially in and by local

communities, the prospects for genuine top-to-bottom school reform may be stalled—for some time to come.

Unless testing is used as a diagnostic tool and not a punitive or political weapon, it is a system that is designed to fail.

The Neighborhood Schools Improvement Act recognizes this and seeks to put in place an alternative that will build a national system of content standards—so that we have a body of knowledge and skills that everyone agrees on. Then, only then, begin to build a system of testing and assessment that will give school systems meaningful information that will tell them where improvements need to be made. Content standards are be to completed in 5 years. This is not a long time.

At the same time the bill provides for expanded research on authentic assessments and for models for assessing national standards for mathematics. Based on the work of National Council of Teachers of mathematics. Mathematics is the only subject area in which there is an existing consensus on curriculum building. When you are building a bridge, the first thing you do is decide where you want to go. After that, you take the steps necessary to ensure materials and engineering standards. And then you test it before you open it for public use. As a taxpayer, you assume that the roads and bridges you drive on are linked, reliably, with the map you use to navigate.

Similarly, it does not make sense to hire teachers, put them in a classroom on the first day and say "here's the final exam, you are on your own, and you better measure up."

To what? What teachers need is a clear, well-marked path on which to guide their students through a body of knowledge upon which they can build an understanding of concepts and acquire an arsenal of skills. The current educational holy grail of widescale testing will not, by itself, create learning environments that encourage higher order thinking skills.

In the end, it remains true that what you measure is what you get. We need to decide first—and with care—what we want our children to know. We need to decide how to teach them—curriculum, teaching and learning material, technique and equipment. And then we'll know what we want to evaluate and test and how best to measure our children's success in learning—and our own success or failure in teaching them.

Mr. Chairman, again I would like to extend my admiration to my subcommittee chairman and his staff. This is a good, solid proposal. It is a proposal that is devoid of gimmicks and empty promises. I believe it is a foundation upon which we can build future improvements, including the work we will undertake when we reauthorize elementary and secondary education programs in the next Congress.

I urge the committee to approve the work of the subcommittee and to reject both the substitutes.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. GOODLING] for this opportunity. I rise in support of the educational change, and specially the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING] and to express disappointment with the bill that we will have before us today.

H.R. 4323 as reported contains a flexibility demonstration program that would allow 300 schools, specifically 20 schools in 15 States, the ability to apply for a waiver of certain requirements of Federal laws and regulations. The bill language allows these waivers in only four areas, and sets up a complicated list of exceptions and requirements.

First, innovation must come from the local and State level. After all, this is where the action is. Roughly 94 percent of the funding for education comes from these levels of government, and I'd argue more than 94 percent of the ideas come from the local level as well. What works in the inner city of Washington won't necessarily work in the plains of Wyoming, and we ought to recognize that.

Second, the key to innovation is flexibility. You can't on one hand tell schools to come up with a bunch of new, original, effective, break-the-mold ideas and then in the next breath qualify that by saying, "but these are the ideas we want to have, and these are the hoops we want you to jump through." It doesn't make sense.

I don't think that's the approach we ought to take. BILL GOODLING will offer a substitute later that I think is a good bill. One section in particular grabbed my attention, and I offered it as a separate amendment. Unfortunately, it was not made in order. My amendment was simple and straightforward. It would have opened up this waiver process to any school, local educational agency, or State that can demonstrate that these waivers are part of a systemwide education reform plan.

We're asking schools to be innovative, to find ways of being more efficient, and I think that is fair. But I hope we can agree on two things.

Unfortunately, our current system doesn't encourage innovation, and H.R. 4323 offers help to less than one-half of 1 percent of the schools in the United States. I'm disappointed the House won't have the chance to address this issue on its own merits, but this is part of the Goodling substitute and I hope we'll support this approach to reform.

In closing, let me just say how disappointing it is to see this business-as-usual bill come to the floor. This bill is calling for things we've been doing in Wyoming for years.

We've already set up a statewide plan for reform and are well on the way to implementing it. I will be supporting the AuCoin amendment later today that recognizes that States who have already begun this process deserve to take part in the program. It is just to bad we will be talking about a bill that does not ask, or even allow, local districts and schools to explore innovative ideas.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Wyoming [Mr. THOMAS] and I are not that far apart on this. I agree that education is a local function. It is a State responsibility, and it is a Federal concern. We try to keep that balance in this bill, and I think both of us would agree that is the balance we want to keep.

We also add some flexibility on the State level.

Mr. Chairman, I yield 5 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of this bill.

I would like to express my appreciation to Chairman FORD and Chairman KILDEE for their hard work on this legislation and for bringing a bill to the floor that lays the foundation for fundamental change.

As we get closer and closer to the election, both parties are trying to outdo each other in demanding change. But while everyone is talking about change, this bill makes it more than a slogan; it seeks to transform the way we think about education in this Nation.

We all know that the traditional Federal role in education has been restricted to the area of special needs. But as the evidence of a national education crisis—with potentially disastrous consequences for our economic future—has mounted, the President, the Nation's Governors, and a chorus of others have articulated a new role for the Federal Government: That of a leader in education reform. H.R. 4323 is the first solid proposal to turn all the talk about comprehensive reform into action. For the first time in our Nation's history, it gives the Federal Government a leading role in formulating education policy in this Nation.

But this innovative proposal goes much further. Recognizing that the failure of school reform over the past 15 years can be attributed primarily to its piecemeal nature, this bill strongly supports comprehensive, systemic reform. It calls on States and local communities to join in sweeping plans to transform all schools for all students. It should be noted that no other plan—from the administration or Congress—

envisions reform on this ambitious scale. While funding for this effort is admittedly limited, the bill lays a solid foundation on which we can build in the future.

The bill permits local communities considerable flexibility to design education reform plans that are tailored to their specific needs. Of the many reform techniques that are eligible for Federal funds under H.R. 4323, I would like to draw your attention to one that is of crucial importance: Coordination of education with health and social services.

If you speak to educators in your own congressional district, you will find that an overwhelming reason for the failure of many students lies in problems outside of the classroom: Poverty, inadequate nutrition or health care, drug or alcohol abuse, and child abuse or neglect. Educators find that more of their time is spent coping with these problems and less in actual instruction. But they are fighting a losing battle. As long as the current system for responding to these health and social service needs is fragmented and uncoordinated, at-risk students will continue to fail, and the education of all students will suffer.

Last year, a major report by the Committee for Economic Development called for a comprehensive, coordinated strategy of human investment that will "redefine education as a process that * * * encompasses the physical, social, emotional, and cognitive development of children." In other words, we need to coordinate the traditional role of the schools with key health and social services that are vital to a child's development.

This idea was first expressed legislatively in my bill, H.R. 812, which has more than 140 cosponsors in the House. Now, it has been incorporated into the Neighborhood Schools Improvement Act.

H.R. 4323 encourages the use of Federal reform funds for coordination of education with health and social services. In addition, the bill creates a flexibility demonstration program to allow local school districts to reduce regulations in exchange for a commitment to meet certain educational goals. A preference for grants under the flexibility program will be afforded to local districts which coordinate education and social services. These are extremely important provisions that will make a dramatic difference for students across the Nation.

Much more could be said of the virtues of this bill, but suffice it to say that the bill combines the following important elements:

A vision of the future of education in this Nation that is based on the knowledge that we are capable of excellence;

A comprehensive strategy for achieving that vision by reaching all students in all communities; and

Support for innovative reform techniques, such as the coordination of education with health and social services, that will make a real difference in our children's lives.

This unsung bill has a world to offer our Nation's children and our Nation's economy, and I would urge all of my colleagues to join in support of it.

□ 1040

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, the American people are angry at their Government today. They are concerned about their future and the future of their children and their grandchildren. As a result, they are calling for change, change in our Government, less redtape, less bureaucracy, less Government waste, and getting rid of ineffective Government programs. They want a Government that works with the American people, not against them.

One major concern among my constituents and, I expect, among others, is education. They simply want schools that will guarantee that each child that grows up in this great country will receive an education to help them in their future.

Four hundred and sixty-six days ago President Bush announced America 2000, a revolutionary program to bring real change to America's schools. Since then, 45 States and thousands of communities around this country have adopted the goals of America 2000. It is a program that encourages parents and communities to involve themselves in America's schools. It encourages us all to look at schools in a new light, in a broader context, with the whole concept of lifelong learning.

Many Americans may think that today we are debating America 2000, but we are not. Many Americans may think that we are discussing real school reform. Well, we are not. This is just another charade on the American people. The bill before us is all about protecting the status quo, the education establishment. There is no real reform in this bill. Even the chairman of the full committee admitted that this bill isn't much. There is no choice, there is no flexibility, there is no accountability, and there is no money. The bill protects the education establishment and protects those who have a stranglehold on America's schools.

The Armey substitute, which we will be considering later this afternoon, is real reform. It has choice, it has flexibility, and it has accountability. Let us just say no to the bill we have before us today and let us have real change and real reform in America's schools by supporting the Armey amendment.

Mr. KILDEE. Mr. Chairman, may I inquire, how much time remains?

The CHAIRMAN. The gentleman from Michigan [Mr. KILDEE] has 11 minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 22 minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me time.

Mr. Chairman, developmental psychologists, if they study the history of this legislation over the past 466 days, are going to have a field day. This legislation, in the manner in which it comes to the floor, is going to be a perfect case study in what the psychologists call defiant compliance. That is what we call it when a parent requests or suggests that a child do something that is good for the child and good for the family and the child in defiant compliance does something that seems similar but is, in fact, markedly different that is harmful to himself and to the family.

This will also be a great case study in peer pressure and how peer pressure might encourage aberrance in behavior. It will be said, Mr. Chairman, that today we are bringing the President's bill out and giving him what he has asked for. That is bull.

The fact of the matter is the President introduced his bill on May 23, 1991. It was introduced by the gentleman from Illinois [Mr. MICHEL], the minority leader of the House, and 57 Republican cosponsors, and that is exactly what one would expect to be the sponsorship of the President's bill in the House.

□ 1050

The bill we are looking at today was introduced on February 26, 1992, by the gentleman from Michigan [Mr. KILDEE] for himself, the gentleman from Michigan [Mr. FORD], and a handful of other Democrats. Not one single Republican is a sponsor or cosponsor of this legislation.

This legislation in no way can be characterized as the President's bill. It is an anathema to the President's bill. It will do exactly opposite for the schoolchildren of America than was intended by the President.

This bill is brought up today because we are taking our August break. During that August break the President and the Republican Party will have their convention in Houston. The sponsors of this legislation, in the most militant partisanship, want today to pass what they think they can pass off as the President's bill, and then in defiant compliance, proclaim their dismay to the world that the President is not endorsing their work product.

Mr. Chairman, we will say more later about the bill of the Member from Michigan [Mr. FORD]. We will have a lively discussion. There will be no discussion today about the President's bill. That was left behind. That was spiked several months ago.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in response to a defiant compliance, I want to remind the body that the Congress is not a child in relationship to the President. It is President Bush, not Father Bush.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, I rise today in support of H.R. 4323, the Neighborhood Schools Improvement Act. And I want to congratulate and thank my chairmen, WILLIAM FORD and DALE KILDEE for all of their hard work on this bill.

H.R. 4323 is the first step in the direction of nationwide systemic school reform guided and supported by Federal Government resources. This bill provides critical assistance to State and local school districts to plan and undertake system-wide reform. Each school district, with broad public participation, would establish new education standards, innovative curricula, assessment systems, and teacher and administrator training programs.

But while the funds available to local districts must be spent on reforms and innovations to implement the purposes of the act, the bill does not prescribe or mandate the specifics of a local reform program.

The key to the success of this legislation is in the phrase broad public participation. The board of stakeholders created in this legislation goes beyond the teachers, school administrators, local school boards and State boards of education who are empowered in each election, to broadly include parents, students, church groups, professional groups, fraternal groups and the many local businesses and business organizations that have an important stake in the education of students who are their future employees.

This new board must bring in fresh ideas, broaden input and provide for continuous renewal of the mandate for change if we are to sustain effective school reform.

The Neighborhood Schools Improvement Act also establishes a National Education Goals Panel to determine standards for both student performance and school accountability, and provides for research on the impact and content of these standards. And very importantly it focuses on identifying workforce skills students need, and incorporating them into the performance standards.

I believe this bill marries Federal resources with local know-how, a key component of education reform and I urge my colleagues to support it.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, the education of our young people is one of the most important things we can do in our country. Sadly, in too many places, we have been failing in that duty. And the results have impact in our communities, our workplaces, and our economy.

Unfortunately, the bill before us today will not revitalize our schools. Instead, we have a bill that spends nearly $1 billion to maintain the status quo and fund those same things which have given us so many troubled schools across America.

The Neighborhood Schools Improvement Act, with few exceptions, is based on the premise that education is simply a matter of dollars and cents; it assumes that each increment of funding creates an increment of learning. This fixation is devoid of reality.

In the past three decades, spending on education has risen steadily to a level unsurpassed in U.S. history. We currently spend over $413 billion—$248 going to primary and secondary education—a higher percentage of our gross national product, 7.5 percent, than any other industrial country.—more than Japan, more than Germany, more than so many of our toughest competitors.

Meanwhile, academic researchers have conducted study after study, trying to find evidence for the spending equals learning theory. They have not found it. In fact, just the opposite has been the case.

The national verbal SAT score has fallen to an all time low—18 points below 1967 levels and functional illiteracy in this Nation currently runs between 20 and 30 percent, compared to a high of 5 percent in other industrialized nations.

The earlier version of this legislation, H.R. 3320, represented at least a bipartisan congressional effort to reform education. It did not do everything but it was a step in the right direction.

Unfortunately, H.R. 3320 was returned to committee where it was weakened and reintroduced as H.R. 4323.

The Goodling substitute includes many of the President's America 2000 reform strategies that could transform our education system.

So many of us have witnessed bipartisan America 2000 efforts in our own districts. H.R. 3320 gave these programs a real boost. Too bad it was so weakened.

America 2000 seeks to create thousands of break-the-mold new American schools; help States create a voluntary national examination system; give teachers and principals more flexibility in the spending of Federal money; and, allow public school officials to decide whether some form of school choice fits their education needs. These are ways to deregulate what has become a straitjacketed system.

The Neighborhood Schools Improvement Act reflects nothing more than the views of those who fear change. The legislation before us will guarantee that only the most modest experiments, those the bureaucracy finds least threatening will be tried.

What are we getting for $1 billion? More of the same.

According to Mr. William Moloney, a school superintendent in my district, our—

> weakened condition of public education today relates to the straitjacket of excessive and inane regulation which has horrendously driven up costs at the same time it has driven out accountability, flexibility, and imagination. We have paved our way to perdition through the good intentions of a generation of mandates and regulations, and today our children are paying the price for our folly.

Today we have the opportunity to reform education in our Nation's schools or continue funding the status quo.

The CHAIRMAN. The Chair announces that the gentleman from Pennsylvania [Mr. GOODLING] has 16½ minutes remaining, and the gentleman from Michigan [Mr. KILDEE] has 9 minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, 2 weeks from now 600 elementary students in Milwaukee will pack their backpacks, grab a lunch and head off to school. They represent the third year of Wisconsin's bold experiment in private school choice. A plan pushed by Wisconsin Gov. Tommy Thompson, a Republican, and Polly Williams, a Democrat who represents some of the poorer neighborhoods of the State.

Since it began the program has doubled in size.

Wisconsin's experimental choice plan has had an intriguing start.

In one recent survey 95 percent of parents in Milwaukee support the program, and its strongest support is in the low-income communities which it is designed to help.

Why? Because since it began truancy problems have dramatically diminished for the students who for the most part come from tough neighborhoods, and poor families.

Parental involvement has soared, and the families attitude towards school itself has shown marked improvement. These are the objective evaluations of a University of Wisconsin researcher hired to track the program.

Now I don't think choice has all the answers but I think it should be one of the options which States should be able to consider as we make $700 million available to remake American schools.

This is money designed for experimentation, for pilot programs which a local teacher or a local principal has always wanted to try, but could never find the cash to do it, from all black male schools in Detroit to the tech prep programs now in the design stage in a number of States.

The kind of proposals already spelled out by design teams from 700 local communities including a proposal drafted by the University of Wisconsin, and one drafted by a design team of my own local educators and business leaders.

We can't allow the President and Education Secretary's, Lamar Alexander, plan for school innovation to be turned into revenue sharing, so that it's business as usual in American schools. Support the Goodling substitute. We need creativity, we need flexibility, and we need a Congress willing to reward risk like the groundbreaking program in Wisconsin.

I include for the RECORD an article, "School Choice on Trial."

SCHOOL CHOICE ON TRIAL

Publicly funded Education vouchers—the murky catchword is "school choice"—have been a staple of the conservative agenda ever since economist Milton Friedman first proposed them in 1962. There was the Alum Rock, Calif., voucher experiment in the Nixon era, the debate over tuition tax credits in the Reagan years and, coming out of the Bush White House, there are variations on the voucher theme.

While Congress and the courts have been unsympathetic to any transfer of public funds to parents for use in private or parochial schools, the states and the general public have not let go of the idea. Ballot initiatives and state legislative battles attest to the interest in choice, and Gallup polls record strong backing for it, particularly among minorities and urban residents. This spring, in a judicial departure, the Wisconsin Supreme Court upheld Milwaukee's limited but much-watched voucher program.

That court victory led this month to two attention-getting lawsuits brought on behalf of low-income parents in Los Angeles and Chicago, challenging the quality of the inner-city schools and demanding voucher remedies. The cases' legal precepts—alleged violations of state laws that guarantee such things as "an efficient system of high-quality public educational institutions" and the encouragement of "intellectual improvement"—are less noteworthy than the new ideological coloration of this litigation strategy organized by a nonprofit group calling itself the Institute for Justice. Gone is the purely economic rationale for school choice—that competition and the principles of the free market will improve the public schools. The new rationale is embedded in the language of class struggle, and it's decidedly more militant: Only school choice can "liberate disadvantaged parents and their children from inferior public schools. The buzzword from the plaintiffs' and from such reformers as Polly Williams, the sponsor of the Milwaukee voucher plan, is "empowerment" (a word heard often in Chicago, where hundreds of local school councils were created during a landmark reform effort).

It's impossible to counter what these people observe—that the public schools in the inner cities are separate and unequal places. Test scores are abysmally low, dropout rates approach or exceed 50 percent, violence impedes learning, and administrative costs siphon resources from the classrooms. It's also hard to refute the argument that many attempted reforms have failed—reforms involving substantial infusions of money. The plaintiffs, like those organizing the increasing number of school-financing suits that aim to equalize resources by forcing a redistribution of state funds, are turning to the courts for an all-out remedy. (A finance suit wouldn't have worked here—the per-pupil cost in Chicago is already higher than the state average.)

But choice, even if it were to survive the inevitable constitutional challenge, is unlikely to help much. There aren't enough private or parochial schools in either Los Angeles or Chicago or anyplace else to help more than a relatively small number of carefully chosen kids. What of the rest? Who will "liberate" them?

Controlled school-choice experiments nevertheless bear watching. If nothing else, one good voucher demonstration (which Alum Rock was not and Milwaukee is unlikely to be) would answer the nagging, much-fought-over questions about the effect of choice on the public schools, the cost of vouchers and the nature, selectivity and public accountability of new schools that are supposed to emerge in a more competitive environment. But choice is not the answer to the gross inequities that prevail among America's schools.

□ 1100

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, if I can rephrase an old adage that seems all too appropriate here this morning, it would be that when adults play politics with education, unfortunately it is the children who get trampled.

Therefore, if we look at the bills and the substitutes before us today, I have to tell my Republican colleagues that H.R. 4323 is a heck of a lot better bill than some of us want to admit. And I have to tell my Democratic colleagues that the Goodling substitute is not the Goodling substitute at all. It is the bipartisan bill originally passed out of our committee. And we all ought to vote for that, and we ought to move on.

I intend today to vote for the Goodling substitute, and I intend, if that fails, to vote for the bill on final passage because I still want to believe that this Congress is willing in a bipartisan way to work with the Senate, and I still want to believe that the Secretary of Education will want to work with us to develop a bipartisan bill to improve the quality of education in this country.

The reality is that between 1985 and the year 2000, we are looking at something like 15 million new jobs in this country that are going to require a high level of education in writing skills. The reality is that under today's projections, only 22 percent of our graduates in our school system will meet those reading and writing skills so necessary for employment.

So in the midst of a recession, this may be the most important jobs bill that we have in front of this Congress, and I regret that it has taken us this long. Because if we would have passed the bill shortly after October 1989, when the Governors and the President came up with their bipartisan education goals, if we would have passed this bill by the April 1 deadline of this year, when the Committee on Appropriations set aside $100 million for education reform, we would have been a long ways into dealing with States and communities in reforming their education programs.

I think we ought to talk a little bit about the reality of what we are doing here. To suggest that this is business as usual is just plain wrong on both counts. The reality is that both the Goodling substitute and the bill in front of us mandate that there be State educational reform plans. Even under the Democratic bill, every one of those reform plans have to be approved by the Secretary of Education before that State can continue on with their reform initiatives.

The reality is, both bills in front of us require that every local community must develop a local education reform plan before they can apply for any of those monies that come from the Federal Government down to the States. Both bills in a different way deal with national standards and assessment with 21st century schools, with education flexibility and with choice. Even though they do not directly say it, they do not deny it.

I encourage my colleagues to take a good look at the Goodling substitute. It is the best bipartisan bill. But if that fails, help us try to move something to fruition for the children of this country before this Congress adjourns.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. OWENS], a member of the committee.

Mr. OWENS of New York. Mr. Chairman, I rise in strong support of the Neighborhood Schools Improvement Act of 1992. This is a first step in an overwhelming campaign to improve education in America, and that is the way we have to approach it.

We have to have an overwhelming campaign. Remember the word "overwhelming" was coined in terms of Desert Storm, overwhelming force, which means we take a comprehensive approach. We do not try to do it with the frogmen or just the Marine Corps or the helicopters. We have a comprehensive approach where we put everything we have available into the field to try to get results.

We need that. This is the first step. This is a comprehensive effort. It is a beginning of the end of the practice of trivializing education reform in America. We have been trivializing it. We do not treat it the way we should treat it. We do not treat it the way we treat agriculture or the fight against diseases. We must move with an overwhelming effort.

This is an antidote to extremism also. This bill does not try to put all of our efforts into one strategy like choice. The President's bill proposed over half a billion be spent on choice alone, an untested idea. That is extremism, a totalitarian attempt to shove down the throats of the American school districts a solution which has not been tested.

Finally, this bill provides for national school delivery standards. Any plan like America 2000 which does not have a statement clearly spelled out as to how we are going to improve our delivery standards in schools is a plan which is a world-class fraud.

We cannot talk about world-class standards, world-class tests, and not deal with delivery standards which are going to enable schools to meet those standards and enable our students to pass those tests.

The future of the Nation depends on a serious effort at reform. The only serious effort at reform has to be an overwhelming effort, an effort which tries to make room in the constellation for all of the various units or vehicles that we have out there already.

We can have an American solution to the problem of educational improvement, and this is the beginning, step one.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, John Greenleaf Whittier wrote:

> For of all sad words of tongue or pen The saddest are these: "It might have been."

This quotation expresses my feelings about the Ford education bill. I think all 435 of us will agree that our present educational system is failing and is in desperate need of repair. The American people know, and we should know by now, that throwing more money at the problem is not the solution.

The President's America 2000 Program provided a new approach which could have done the job. If his ideas had been included in this bill, each of our 435 districts would have had an opportunity to create new methods of teaching and learning. They would have had the mandate to break the failed mold of education past and to develop innovative education. All districts would have benefited from the resulting changes.

Instead of what might have been, the Democrat leadership in this house has retreated to dumping money into the failing education system. The Ford bill proposes a $700 million block grant to be administered by the very bureaucracy that stands in the way of true education reform, true change. The Democrats relish the rhetoric of change. But that's all it is, rhetoric. The Ford bill presents nothing new because that would have upset the NEA.

It is high time we stop pandering to the whims of the NEA and start working for the benefit of those education was created to serve—the children. Our schools exist for education and the students, not the stagnant politics of the teachers' union.

Let me say once again:

For of all sad words of tongue or pen
The Saddest are these:
"It might have been."

If we want to support that, support the Goodling and Armey amendments.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a sad day for me because it is the first time in 18 years that we have ever come to the floor of the House with an elementary, secondary education bill or, perhaps, any education bill that there was not bipartisan agreement, support, and a bipartisan effort to put it together.

□ 1110

I am surprised, but I am glad I found out that there is strong support for the bill that is on the floor today, because up until today I could not find anyone that wanted to support it. I could not find anyone who wanted to assume pride of authorship. I now have heard that there really is some support out there, and I am pleased to hear that.

Basically, Mr. Chairman, what we are faced with today with the committee bill is really a block grant. It is really a chapter 2 effort all over again, on top of the chapter 2 program we presently have. Contrary to what the Members heard, I would have to say there is nothing in the bill whatsoever that could bring about systemic change.

Four hundred and sixty-six days ago, through the leadership of the President, we got the public thinking about systemic change. After that the gentleman from Michigan [Mr. KILDEE] and his staff and my staff and myself listened to testimony over and over again, and then spent hours and hours drawing up a program that we though would bring about systemic change, would really help us meet the six national education goals. My hope is that in 20 years we can meet those goals. In fact, if we do not meet those six goals in 20 years, it seems to me America as the Members and I now know it will not be around.

We now have before us some choices. First of all, we do not have President Bush's bill before us, even though if we say "a horse is a cow" enough times, I suppose we get some people to believe that a horse is a cow. We do not have the President's bill before us. We have the committee bill, which as I said, I do not believe brings about systemic change. It does nothing to change the direction of education.

In fact, what the committee bill does is say that we will do business as usual. I received the worst letter I have ever seen written by a lobbyist, and that said "support the committee bill, because it does all sorts of wonderful things to help us bring about change." This came from someone who was in a position for years to do something about change but has not done anything about change. What he liked about it was that it sends him money, and he can do whatever he wants with that money.

Then he even goes on to say, "Do not make any changes in this bill unless Chairman FORD says those changes may be made." That is a pretty powerful statement. It is the most blatant kind of letter I have seen from a lobbyist.

Let me talk very briefly about the alternative that I will offer, which I take only some pride of authorship in. I give a great deal of that to the gentleman from Michigan [Mr. KILDEE], and I give a great deal of that to the staff on both sides, because we worked through this after testimony and came up with what we thought would bring systemic change. We would force those entities out there who have never done anything about change to finally say, "Hey, this is a new era we live in. We have to make some changes or this country is not going to be competitive."

Just briefly, some of the things that I do in this substitute, or I should say in our substitute, first of all, real involvement of a local community. If we are going to have a local community of people who spend a great deal of time climbing the ladder of success, get involved in trying to determine "what do we need to do differently in this community," we have some assurance that if they give hours, perhaps hundreds of hours, to their effort, that they cannot then be turned down and somebody else can substitute something.

In the bill that we have before us from the committee, they have the same committee. What is the big difference? That committee can work and work and work, but the local school board can not only, as in my bill, not seek a grant for it, they can rewrite it and send it.

I know they say "preference should be given to something that the committee agreed on." They do not have to do that. In other words, all the hard work of this committee goes down the tube because the board can rewrite it. In my bill, we say they can reject it. The board has, in my legislation, the first opportunity to say whether they want to seek a grant. They have the last statement on the issue, as to whether they are going to send a grant application at all to the State.

Second, in my bill all of the funds must go to educational reform programs. I do not broadly open this and say, 9,642 things you can do with the money, 9,500 of those you have already been doing; nothing new. I zero in on six or seven areas that really need consideration if we are going to bring about systemic change.

Let me make it very clear about where my bill stands on choice. My bill specifically says that that local board will make that decision. If that local board wants to do what boards all over the country are beginning to do, have choice within their school system, that is their business. We do not dictate that. It is entirely up to them.

Let us make it very, very clear that it is entirely up to that local board whether that becomes something they want to do. No one else, no one from Washington, no one any other place but that board will make that decision.

Flexibility. We have had testimony for at least 10 years saying that, "We could get beyond this access issue," because that is what we are stuck on. We have been stuck on access for 50 years. It was important to move in that direction. Now we have to ask, "Access to what?" If it is not access to quality, what good is the access?

What we say here is, "Yes, this is what we have to reach." These are the goals we have to reach, but we are not telling them from here that they must do it in this way, this way, this way, this way. We are saying, "If you meet those goals, and we will be hounding you to make sure you meet them, you can do that. You can do it your way as long as you make progress toward expected outcomes in Federal education programs.

We do that in my bill. We give them that flexibility. On the other hand, the bill currently before the Members allows 300 schools out of 83. There is not anyone who does not know that flexibility is a big problem. Every person I have ever spoken to, every person who has ever testified, says "If you will give us a little leeway, if you will give us a little flexibility, we can make a difference. We will reach the goals you want, but give us a little credit for having an idea of how we might do that."

My hope is that we will not only have access, but that these youngsters who have been denied quality education will have access to excellence, instead of just access.

Then provide for New American Schools—not very new any longer—because there are all sorts of those in operation at the present time—but if they are going to pursue that avenue, yes, they can make an application to continue doing that using some Federal funds. So that is just a brief resume of what I will offer later.

Again, I hope that we can bring about systemic change. If we do not, I repeat, we are going to find ourselves a noncompetitive nation and not going to live according to the standards to which we have become accustomed.

The CHAIRMAN. All time under the control of the gentleman from Pennsylvania [Mr. GOODLING] has expired.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS], for a colloquy.

Mr. OWENS of Utah. Mr. Chairman, my amendment on the chapter 1 funding formula was not made in order by the Committee on Rules yesterday, and therefore I would like to propound, if I might, a question to my colleague, the gentleman from Michigan [Mr. KILDEE], the chairman of the subcommittee, regarding this formula.

I would ask the gentleman, can I be assured that hearings will be held on the chapter 1 funding formula during the reauthorization of the Elementary and Secondary Education Act, and that my proposal will be considered at that time?

Mr. KILDEE. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, I would say to the gentleman, yes, that is correct. The chapter 1 formula will be a major consideration during the reauthorization next year. Hearings will be held and the gentleman's proposal certainly would be one of the options considered.

The gentleman from Utah [Mr. OWENS] has been an unrelenting and steadfast advocate for providing educational funding and equity in educational funding. It was his amendment, indeed, in the 1988 reauthorization of chapter 1 that required the Secretary of Education to conduct a study on equity of the chapter 1 formula. We will be looking at that.

Mr. OWENS of Utah. Mr. Chairman, I appreciate the gentleman's reassurance.

Mr. Chairman, yesterday I testified before the Rules Committee on behalf of my amendment to this bill. Mine was a win-win amendent—school children in many States stood to gain by my amendment, and none would be slighted, but the amendment, to my deep regret, was not made in order.

This is an issue of great concern to me and of great importance to my State and to many other States, which receive less chapter 1 money per student than other States. Chapter 1 funds are distributed in a very discriminatory manner, without a defensible theory for its unfairness. This formula distributes more funds to poor children in wealthy States than it gives to poor children in poor States and that is not right. For example, the formula distributes $1.50 to every poor child in Connecticut for every $1 provided to a poor child in Mississippi.

Mr. Chairman, I have been fighting long and hard to change the chapter 1 funding formula and bring more education dollars to Utah, as well as to many other States. Utah is currently dead last in 6 out of the 11 major education formulas designed to distribute Federal education dollars to the States.

Because of the decision made by the Rules Committee, many States will lose valuable education dollars this year—California alone will lose close to $170 million, Texas will lose $180 million and my own State of Utah will lose out a 55-percent increase in education dollars—$11 million this year—in Utah a very significant amount of money to help those disadvantaged students.

I understand that the committee did not want to take up any formula changes this year—however, my amendment was a fair and equitable solution for the interim, to repair a serious and detrimental flaw.

As you know, in calculating chapter 1 funds, the poverty population of those between 5–17 years of age are taken into account. These figures are based on the decennial census.

It is now 1992 and we are still using census figures from over a decade ago. This is an indefensible outrage—to use data now 12 years out of date. It only makes sense because current formula provides more resources to some States than others, and those receiving the higher amounts don't want the rules tampered with. My amendment would have allowed States that have had a population decrease to continue using 1980 census figures for 1992–93, while allowing States that have had a population increase to use the new 1990 census figures and the national-per-pupil expenditure for calculating chapter 1 funding. This would be fair to all.

Secretary Alexander has informed me that we are not using the 1990 census figures this year because data from Puerto Rico could not be fully established in time. I ask you, should 23 States be deprived of an additional $550 million in education money because the Department of Education could not tabulate Puerto Rico's data in time? Should 23 States be deprived of money they truly need?

Mr. Chairman, this delay is unconscionable. My amendment, on the other hand, was both sensible and equitable and could have turned this inauspicious situation around.

I look forward to working with the Education and Labor Committee on developing a more fair and equitable change to the current formula—which is long overdue.

□ 1120

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Chairman, I thank the gentleman for yielding me the time. I rise in support of H.R. 4323.

We have heard several times this morning that supporters of the administration have been calling for 466 days for action, or whatever the number of days is. Secretary Alexander has been calling for something to be done. President Bush has been calling for something to be done. They have been calling, all right, but they have been calling collect.

Unlike the bill that is before us, this administration is not committed to do what works. It works to put more guidance counselors in schools to help students. They are not committed to that. It works to help kids that need a counselor or a social worker or a nutritionist, and they are not committed to that. What they are committed to do is to politicize the debate.

What does work is when people in school buildings, and families and neighbors make decisions about how their schools ought to look.

This is not a perfect bill. There are things in it I wish it would do. There are things in it that it does that I am not entirely enthusiastic about. But the best thing that this bill does is to take the education discussion out of the Rose Garden where it has been for the last 3 years, and puts it back in the communities and the neighborhoods where it belongs.

The biggest crisis among many problems in American education is that people running for office have chosen to use education as a vehicle rather than to make education reform their true and honest commitment. Because Chairman FORD and Chairman KILDEE's bill does that, I support it, and I urge my colleagues to do the same.

Mr. KILDEE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA], a member of the committee.

Mrs. ROUKEMA. Mr. Chairman, I rise in reluctant opposition to H.R. 4323, the Neighborhood Schools Improvement Act.

As a member of the Committee on Education and Labor, I have seen this proposed legislation go through a number of interesting twists and turns. First, it began as a response to our President's America 2000 initiative to improve and reform our Nation's elementary and secondary schools. Last October, the committee agreed to report out the first Neighborhood Schools Improvement Act, H.R. 3320, the so-called Ford-Kildee-Goodling bill. It—like the President's approach—contained one major flaw: It would have—for the first time in our history—permitted Federal taxpayer dollars to be used to support private and parochial schools. Although today we are speaking of this proposed diversion of Federal funds to nonpublic schools as school choice, let us be clear—we are talking about school vouchers. In my view, such a move could be the beginning of the end of our Nation's public school system—a system that has, over the years, helped to make this Nation great.

The bill that is now before us, H.R. 4323—the latest iteration of the Neighborhood Schools Improvement Act—is no longer flawed by the inclusion of private and parochial school choice. But, it brings with it another potential policy Pandora's Box. Since last October, the committee has seen fit to venture into the creation of a national system of standards and assessment. Sparked by the recent report of the National Commission on Standards and Testing, and Senate action on a similar systemic education reform bill (S. 2), this legislation authorizes moneys for the development of voluntary national content and delivery standards.

This bill would also move us into the very murky waters of a voluntary national assessment system—although it stops far short of the more onerous national testing proposals that have been advanced by some. As a former public school teacher, and school board vice president, I can assure you that the idea of establishing national standards and testing is not a new one. It has become, however, one of the most discussed school reform tools in the current—and raging—debate concerning how to improve the educational achievement of our children. What is new is the reversal of philosophy among Republicans who are inviting a greater Federal role on education—a role which historically has been limited—a narrow limit which Republicans historically defined. Democrats know what they are doing here as noted in a Dear Colleague from one of our Members, and I quote, "For the first time in our Nation's history, it gives the Federal Government a leading role in education policy.

This will surely be the law of unintended consequences taking charge of future public education.

With respect to the $700 million per year authorization level for educational reform grants to local school districts, it must be stressed that these moneys will benefit only a small number, about 500 of our Nation's neighborhood schools. We have no real idea whether these reform efforts will lead to improved educational achievement. Yet, when the fiscal year 1993 appropriation for Pell grants will necessitate a $100 reduction in the maximum award, from $2,400 to $2,300 due to a $1.5 billion program shortfall—we are about to authorize significant new expenditures for a costly school reform experiment.

Mr. Chairman, I doubt that a majority of our colleagues will be persuaded to vote against an education bill this close to an election—despite the sound arguments against the particular approach that this bill takes. I believe, however, that we should not just legislate for the sake of legislating. Major new endeavors such as launching a national system of standards and testing can certainly wait until next year when the Education and Labor Committee will begin work on reauthorizing the Elementary and Secondary Education Act. In my view, the committee has not had adequate time to fully evaluate the issue of standards and assessment and, once established, what such a system would really mean for our children—and how it might ultimately be used to determine their individual futures.

Moreover, we must recognize that we have many proven education programs that are not fully funded that need our attention. Our Nation's schools are faced with countless challenges as they struggle to provide children with the knowledge, skills, and wisdom that it takes to succeed—and, for many, even to survive—in today's world. Now, Mr. Chairman, is not the time to establish yet another new and unproven program—that will benefit only a small number of local school districts and school children—to vie with existing programs that benefit handicapped and underprivileged children for our very limited financial resources.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I rise in support of H.R. 4323 offered by Representative KILDEE. The Neighborhood Schools Improvement Act is an important piece of education legislation for a number of reasons. First, it displays Congress' continuing commitment to America's students under today's difficult budgetary conditions. However, of equal importance, it relays the message that decisions regarding our schools are still best made at a local level.

Over the next 5 years, it is estimated that this bill will authorize over $3.5 billion in revenue to help schools begin the reform process. As the world changes, and our business systems change, so must our schools change; they must grow to meet the challenges of our changing society. We must not allow our students to be released from an educational system, only to find that the skills they have been given are outdated and no longer useful. H.R. 4323 helps schools to begin this process of adaptation.

Some of my colleagues on the other side of the aisle will argue that there is no way to ensure this money is used in truly innovative ways. However, the applications that they decry as traditionalist are often those that are most critical to fostering new skills in our students—the purchase of computers and the training of teachers in the latest concepts are just two examples. It is clear that there are revolutionary requirements in the battle to restructure our schools.

Some of the ideas, that our Republican colleagues would have us believe are wholly new, are, in fact, nothing more than ways to rob our public schools of the scarce funding they now receive. Senator HATCH, who counts himself among the supporters of private school choice, was quoted on this matter in the Washington Post last week. He says "power is often in our feet: we walk out of bad restaurants, bad movies or bad retail stores." However, how often have we driven through impoverished areas to find bad restaurants and a reliance on overpriced convenience stores. The ability to walk out of establishments as Senator HATCH proposes requires an individual to have access and understanding of better alternatives—many poor families do not have these prerequisites. Why will a choice of schools prove to be any different.

We can find one example right here in our own back yard. Just on the edge of Capitol Hill is H Street Northeast. H Street has never recovered from the riots of 1968. To ride through that area one might feel he has entered a Third World country. However, just a few years ago Mega Foods, a discount food chain, decided to work with the community and open a discount grocery store in the area. Everyone hoped that this would spur the beginning of a renovation process for that entire corridor. Did the choice option help in this situation—it certainly did not. I am told that if you shop in Mega Foods now the shelves are often bare—and the H Street corridor—it is as poor as ever. Choice continues to be a benefit of the wealthy.

H.R. 4323 will help our educators to renew their methods with the help and assistance of community and business leaders. This is what our school systems need, not false promises like private school choice. It is unfortunate that we cannot do more at this point, but the Neighborhood Schools Improvement Act is a good start. I urge my colleagues to support it.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman from Michigan for yielding me the time.

Let me say at the outset that there are a number of us that have read the legislation that was introduced by the gentleman from Illinois [Mr. MICHEL] and others on behalf of the President of the United States. A lot of what the President proposed would have been good legislation, and I think many of us in this Chamber would support it.

I also think that some of what he proposed is the wrong direction to go, and so a lot of us are not unhappy that we are not debating every proposal made by the administration, particularly those that suggest that we can take hundreds of millions of dollars, I suspect from the taxpayers, in order to reimburse persons who send their children or elect to send their children to private schools. I understand the issue of choice. I do not happen to believe that it is necessary for the Federal Government to be the one to dictate those kinds of issues. In fact, I appreciate the statements of both of the gentlemen from Wisconsin in highlighting the fact that they were able to achieve results that I think are being watched by the rest of the Nation in a very serious way at the local and State levels themselves.

I would say that I think it is important that this legislation ultimately address the issues that Governor Clinton addressed in recent testimony that he gave, and that was legislation that, by the way, I have introduced last year and this year, to deal with the inequities in schools and whether or not we will be able to find the kind of funding we need to assist States in providing the elimination of those inequities and providing equalization for our schools.

In addition to that, I think Secretary Alexander's position with respect to using 1980 census data is a travesty. My State of Texas will lose in excess of $100 million because of that decision, and in fact, many of the children that we are addressing providing funds for have already graduated from public schools using those statistics, and so I think we have to address that issue. I know the committee will continue to hold hearings and work on that issue, and I intend to seek out a commitment from the chairman and the subcommittee chairman on that issue.

Finally, I would say that I happen to think that this bill deserves our support. It is a good first step, as our colleague from New York put it. I think we can move forward, and I thank the gentleman for the time.

Mr. KILDEE. Mr. Chairman, I yield 30 seconds to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding me the time and appreciate his initiative and leadership that he has provided. My heart breaks when I see the conditions of some of our schools, and I want to do what I can to improve those conditions and to provide an opportunity for a better education for our children.

The good intentions of the debate here today caused me to recall what the President of the Russian Republic, Boris Yeltsin, said in his recent address to a joint meeting of Congress here in this room.

He told us that "even the most benevolent intentions will inevitably be abandoned and committed to oblivion if they are not translated into everyday efforts."

Here in Congress, we strive everyday to see that good intentions are translated into everyday efforts, to make things better for our country and its people.

Making our educational system better has been one of my major goals since coming to Washington in 1969. During my service in Congress, I have visited every school in the First Congressional District of Arkansas. In fact, I made a conscious decision on coming here that I would devote as much time as possible to issues affecting young people—because they are the future.

In visiting our schools, I have found that taxpayers get more than their money's worth from the teachers who instruct our children.

They work hard in the classroom.

They are committed to teaching.

In fact, teachers are often not only educators for our children, but the only real supervisional role models their students have.

My point is: We can make strive mightily here in Washington to translate benevolent intentions in everyday efforts by passing bills which benefit education—but we cannot address the root causes of the problem in education for many of our children.

You see, their problem is not in the classroom. Their problem beings at the doorsteps of their home. They attend school every day, but after the final bell, they often return to a home which is—for whatever reason—not a loving, nurturing place.

The superintendent at the high school in Earle, AR, once told me that many of the students in his school didn't really have a home to go to, or conditions were such in the home that they didn't want to spend time there. So many children went to the streets which led them to trouble, even crime.

When I was in elementary school in my hometown of Osceola, I would go home in the afternoon before beginning my paper route to a loving mother, cookies on the stove and milk in the refrigerator. My needs were attended.

A professor of Spanish, who came to America 5 years ago from Ecuador, told me that "the problem with American youth is that their mothers don't spend enough time with their children." I would observe that, in many cases, both mothers and fathers do not spend enough time with their children.

Yes, we can attempt to translate benevolent intentions into everyday efforts here in Washington. But, Mr. Chairman, there is simply no substitute for the attention, nourishment, and encouragement a child needs to receive at home from loving parents.

Certainly, we should not give up trying to make things better, but Congress cannot hope to produce a whole child by its efforts alone.

My mother-in-law recently gave me a wall hanging that contains an important lesson for Congress, for parents, for all of us:

CHILDREN LEARN WHAT THEY LIVE

If children live with criticism, they learn to condemn.

If children live with hostility, they learn to fight.

If children live with ridicule, they learn to be shy.

If children live with shame, they learn to feel guilty.

If children live with tolerance, they learn to be patient.

If children live with encouragement, they learn confidence.

If children live with praise, they learn to appreciate.

If children live with fairness, they learn justice.

If children live with approval, they learn to like themselves.

If children live with acceptance and friendship, they learn to find love in the world.

Mr. KILDEE. Mr. Chairman, I yield the balance of my time, 1 minute, to the gentleman from Michigan [Mr. FORD], chairman of the full committee.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield to me at the onset of his remarks?

Mr. FORD of Michigan. I have 1 minute, and I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I appreciate the gentleman yielding. I just want to point out that this is a step, this bill is a small step. It does not in my judgment provide the leadership that we fully need, but I think there is a reason for that.

The lesson from this bill is that this country needs a President and a Congress of the same party. This bill would be a bold bill if Chairman FORD and Chairman KILDEE knew that they could get a signature on it.

I think this bill points out that we need leadership in both the White House and the Congress, and I thank the gentleman for yielding.

Mr. FORD of Michigan. Mr. Chairman, I want to observe that Members are going to have a smorgasbord today, a lot to choose from.

According to what I have heard so far, one thing Members will not have a chance to get a choice for is Education 2000. I am kind of sorry about that, because the Secretary has been touring the country ever since he arrived in Washington originally chanting the mantra of Education 2000 like a rap singer. And I do not know what he is running for, but he sure is not talking about improving education. He has been playing politics for a year and a half, and the product today is the answer to that playing politics game.

The Neighborhood Schools Improvement Act is the first comprehensive school reform bill the Congress has considered. All prior bills have focused on individual groups of children or on particular problems. This bill, by contrast, calls for sweeping restructuring in the education of all children. Let me briefly describe the four chief characteristics of H.R. 4323 which make it so different from the programs we have considered in the past.

First, the bill calls for the development of voluntary national standards for education. Never in our two-century history as a nation have we had standards to describe what children should know. Educators tell us that we must have these standards now in order to have a focal point for national education reform.

Second, the bill creates a framework to improve the education of all children. Not since the Federal Government set-aside land to create public schools in the 18th and 19th centuries have we at the national level been concerned with the education of all children.

Third, the bill calls for systemwide reform in education. As I have already mentioned, current Federal programs now focus on one population of students or another or on one problem or another. None seek broad-based improvement of the entire system of public education.

Fourth, the bill emphasizes educational achievement instead of concentrating on the educational process. The bill also anticipates easing Federal and State rules and regulations in exchange for students achieving higher grades.

The Congress has never been concerned before about achieving such broad-based school reform and, therefore, we have had to think differently as we have crafted this legislation. The only disappointment I have is that the bill calls for spending only $800 million in the first year. I believe we should be spending billions of new dollars to meet the needs in education. But with the current tight budget resolution we had little hope that we could secure these dollars soon. Therefore, we have put off a great expansion of this program until next year and the following years.

Another important point is that the Neighborhood Schools Act is only the first step of a two-part process to improve education. H.R. 4323 will establish the general framework for school reform but then next year we will have an opportunity to refashion the array of Federal programs to fit within this framework. Ten billion dollars of current Federal aid expires next year and must be reauthorized. This will be our chance to update Federal programs and hone them to achieve broad reform.

Let me add a point about national testing since that area is so controversial. H.R. 4323 authorizes research and development on models for assessment in mathematics. The bill does not call for the immediate adoption of a national testing system.

Our committee decided not to take a major step in the direction of national testing because we do not know what would be tested. Every expert has told us that national standards must be developed before any national assessment system is fashioned to measure the progress toward achieving those standards. The only area in which national standards are near completion is mathematics and, therefore, we have authorized the development of models to assess math proficiency. No other subject area is anywhere near being ready for assessment. Therefore, we thought it was more prudent to wait until next year to decide what to do in these other areas.

The last topic I wish to discuss is the subject of aid to private schools. Several members are interested in offering voucher or choice amendments involving private school participation.

I am unalterably opposed to all these amendments. Such amendments are unconstitutional, distract us from the needs in education, and many lead to fraud and abuse.

Yesterday, I included in the CONGRESSIONAL RECORD a statement outlining 45 years of constitutional law in the area of aid to private schools. A close reading of these decisions by the Supreme Court will show that vouchers for elementary and secondary education are unconstitutional.

These voucher or choice proposals are also extremely unwise in that they distract us from addressing the real problems in education. We will be spending our time arguing the merits of these unconstitutional proposals when we should be addressing ways to improve the public schools.

Vouchers and choice proposals will also open the door to fraud and abuse. Most people think of vouchers or choice as aiding parochial schools but such amendments move us in the direction of aiding private, profit-making schools.

In the area of postsecondary student assistance, we have grappled with the problems of how to involve profit-making schools while avoiding any opportunities for abuse. In the higher education amendments which were signed into law 2 weeks ago, we enacted over 100 amendments clamping down on the bad apples among the postsecondary proprietary schools. These abuses have given the whole proprietary community a bad name and have weakened congressional support for loans and grants for postsecondary education.

I fear that the creation of vouchers and choice will encourage the unscrupulous to become involved in offering private elementary and secondary education. We will then be a long way from helping the local parochial school, and we will be enmeshed in regulating private education to avoid the potential for abuse.

I urge the House to vote down any voucher or choice proposal. Let us get about the business of improving education without these diversions.

The Neighborhood Schools Improvement Act will put us on the right path for improvement. School reform will be helped by this bill and I urge its adoption.

Mr. DEFAZIO. Mr. Chairman, I rise in strong support of the Neighborhood Schools Improvement Act. This legislation provides a sound framework for meaningful public school reform. I oppose any modifications to this bill that would in any way divert public funds to private schools or dilute the strong commitment to public education this bill fosters. A strong, equitable system of public education is the cornerstone of democracy.

This legislation complements State and local education reform initiatives already under way in Oregon. Increased flexibility with the use of Federal education funds will allow local school boards to improve public education on a school-by-school basis.

Oregon, and the country as a whole, will benefit greatly by passage of this important legislation.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 4323, the Neighborhood Schools Improvement Act, the bill which will serve as the foundation for the comprehensive educational reform that we so desperately need in this country today.

Earlier this year, the Educational Testing Service reported that, although top American schoolchildren can compete with the best students around the world, 90 percent of our students are learning below international averages in both math and science. Although this is never the kind of news we like to hear, it comes as no surprise to most of us. For years, our educators, parents, community leaders, and business people alike have all been mourning the state of America's educational system and the fact that our young adults lack the basic skills and training that they need to be productive workers in today's world.

Today, those of our young people who do not finish high school are qualified for about 40 percent of all available jobs. By the year 2000, it will drop to only 14 percent of what is out there in the job market. At the end of the decade, a high school graduate with no additional skills will not be able to compete. Educational reform in America is long overdue.

I have had numerous conversations with educators—not only from my district, but from throughout the State of California and the Nation—about what it is they need to do their jobs and do them well. During these talks, two themes in particular are repeated—resources and flexibility. They need the resources and the flexibility to get the results that we need and want—future generations of well-educated Americans. H.R. 4323 provides both, and more.

First, H.R. 4323 establishes a national education goals panel. The panel's job is to set voluntary national standards that describe what students should know and be able to do, and what resources schools should have in order to provide them with the education that they need. The panel is also charged with determining specific measures of success, as well as with issuing an annual report card to the Nation.

H.R. 4323 also authorizes a systemwide Neighborhood Schools Improvement Program, which will provide grants to States for education reform. This is the part of the bill that gives States both the resources and the flexibility to develop and execute their own educational plans. These plans must include goals to maximize the achievements of all children—not just a privileged few at selected schools—and must specify what children should know and be able to do in specific subjects. The plans must also provide for resource development—for the necessary tools to achieve the goals.

States are required to match proportionately greater amounts of their Federal funding for the 2d through the 10th year of the program. But, during the program's first year, there is no State matching requirement. Additionally, during the first year, States are not required to make any subgrants to local school districts. But, in all succeeding years, a State must pass on at least 75 per cent of its allotment, including its own State match, to school districts for support of their educational reform efforts.

School districts may then, in turn, support numerous programs, including, but not limited to, merit schools, early childhood, parental involvement, teacher and administrator training and development, and replicating and enhancing successful curricula and resources. One grant must be made to at least one school district in each congressional district, and the school district with the largest number of disadvantaged children in each State must receive a grant. H.R. 4323 also provides for the establishment of broadly representative local committees, comprised of heads of local governments, school superintendents, school board representatives, business representatives, teachers, parents, representatives of local colleges, and other citizens, to work in conjunction with the school boards on their educational plans.

There is also a 5-year demonstration project for the education of disadvantaged students. The project will permit some schools to temporarily suspend certain Federal and State laws in an effort to see if it makes it easier for these schools to educate these students without these added regulations.

H.R. 4323 provides a framework for change throughout the educational system. This framework is not supported by vague concepts and rhetoric, but by specific goals. It permits whole communities to become involved in the process and implementation. It gives States and school districts the direction and support that they need to do their jobs, and well as the room to operate freely. It produces results.

America's economic health depends on our ability to adequately educate all of our children. For this reason, Mr. Chairman, I especially want to applaud Chairman FORD and the committee for their action on this important legislation. In spite on the limited funds available, they have nonetheless brought us a results-oriented framework that we can build on as we work toward achieving this end. H.R. 4323 deserves our support.

Mr. EWING. Mr. Chairman, today we have the opportunity to take a step toward improving our educational system and improving the future of our children. In recent years, Congress and the President have authorized many task forces to study our educational system for ways to make improvements. As a result we have tried various new approaches, usually involving increased spending, which have resulted in few meaningful changes. However, many studies have shown that parental and community involvement in education must be increased before real improvements can be made.

The bill which is before us today, H.R. 4323, does not contain provisions which can encourage parental involvement and other basic changes to the current system. Rather, H.R. 4323 merely pumps increased Federal dollars into a failing system.

The Goodling substitute, which is the basis of an earlier compromise between Republicans and Democrats, would give States and local communities the ability to look for new and innovative ways to approach education and to strengthen cooperation between parents, teachers, and local communities. Any school, not just a select few, wishing to implement a reform program would be able to apply for exemption from current regulations which inhibit reform plans. We must allow our schools and teachers this flexibility, if we expect them to find new and better ways to educate their youngsters. In addition the substitute would create hundreds of break-the-mold new American schools, as well as world-class standards and a voluntary national examination system.

Already, 45 States have begun to adopt the President's America 2000 Program. It is time for Congress to follow the States' innovative lead and pass the Goodling substitute. We in Congress can no longer afford to be passive about the education of our young people. The United States is not a nation of mediocrity, but one of innovation and leadership. Instead of pouring more money into the same old system, let's try a new and innovative program.

Mr. EMERSON. Mr. Chairman, I am pleased to support the amendment offered by my fellow Missourian, Representative WHEAT, even though I have difficulty with the bill in its entirety. I am concerned with H.R. 4323, because I believe it is a continuation of business as usual in the field of education. We don't need business as usual; we need change. We need real reform, not cosmetic changes to the same old tired system that continues to fail. The Wheat amendment is a refreshing change of pace. This amendment will add the Parents as Teachers [PAT] Program to the education bill.

Initiated in Missouri, PAT has met with tremendous success in the 11 years that it has been operative. It is an innovation in education whose time has come. It is a program that teaches parents how to properly feed their children, and how to teach them to read, and in many cases teach the parents to read in the process. It promotes family togetherness and involves the parent more in the child's life. This is a program that recognizes that parental love is as natural as rain, but that parenting skills have to be learned. It is not expensive, and it works. PAT is a worthwhile investment in our children, and I thank my colleague, Mr. WHEAT, for offering this amendment.

I wish my enthusiasm for this bill was as strong as it is for PAT. Unfortunately, it is not. As my colleague from Alabama mentioned earlier in the debate, PAT is a rose among thorns. PAT is the type of change that is needed in our educational system.

Mr. MICHEL. Mr. Chairman, I rise in opposition to what the Democratic majority in this Congress is calling the Neighborhood Schools Improvement Act.

This bill does not contain any bold, new ideas to improve the education of our children. There is no plan to raise the academic standards in this Nation, or to provide real, systemic reform to ensure that the national education goals will be met by the year 2000.

Rather, this so-called improvement act provides more funding for the same old tired policies, administered by the same old bureaucracies that have left so many of our schools and our children in such dire straits.

For all Americans demanding change, I urge them to take a careful look at the President's America 2000 education reform proposal.

This proposal, which has been languishing before Congress for over 14 months, is predicated on four principles:

First, it seeks to create better and more accountable schools.

Second, it would establish New American Schools—a new generation of break-the-mold schools that truly meet the needs of today's students.

Third, it emphasizes universal adult literacy.

And, finally, it recognizes the need for more parental and community involvement in education reform.

After committee hearings on the President's America 2000 proposal, and an initial bipartisan bill reported by the Education and Labor Committee last October, the Democratic majority has once again decided to take the political route.

Completely disregarding the bipartisan agreement reached last year, the majority reported out a new bill in May that hardly has any resemblance to the President's original proposal.

Gone are the break-the-mold New American Schools to help spark innovation.

Gone are the world class standards and assessments to help meet and measure progress toward the national education goals.

Gone is the flexibility to use Federal funds and the relief from Federal education mandates on teachers and principals.

And gone is option for low- and mid-income children and their parents to select the school of their choice.

Congressman GOODLING will be offering an amendment which contains the elements of the bipartisan agreement we thought we had.

It contains the basic elements of the President's America 2000 proposals.

I will support the Goodling substitute.

It authorizes seed money for new American schools.

It allows schools in all 50 States to apply for waivers from the regulatory morass surrounding the $11 billion in Federal funding for elementary and secondary programs.

It recognizes the need to create a tough, but voluntary, system of standards and assessments.

And, it allows States and localities to decide for themselves whether to develop a choice program using Federal funds.

The Goodling substitute represents real change in the attitude toward education of our children. The majority's proposal is just a continuation of policies that have contributed to our crisis in education.

Mr. MAVROULES. Mr. Chairman, I would like to voice my support for H.R. 4323, the Neighborhood Schools Improvement Act. Recent reports from the Education Department clearly indicate the United States has been lagging behind other industrialized nations in terms of our commitment to education.

It is no coincidence that the economies of Japan and Germany have steadily grown since World War II and during that same time period they have made a serious commitment to education.

Although educating our children is undertaken by local authorities, the Federal Government also has a vital role to play in educating America's youth. In reporting H.R. 4323, the Education Committee noted that this legislation implements a reform strategy that encompasses the entire educational system. I agree with Chairman FORD that a coordinated reform effort at the national level and in every State is a much better approach than a fragmented endeavor.

The bill authorizes $800 million in fiscal year 1992, and such sums as may be necessary for each fiscal year through fiscal year 2001, for a program of grants to States to develop and implement plans to provide system-wide education reform. H.R. 4323 also establishes the National Education Goals Panel to oversee the development of voluntary national education standards, and a demonstration program to test whether granting waivers of certain Federal and State regulations will improve student achievement.

Mr. Chairman, I support this legislation because it will benefit America's most valuable resource—our children.

Mr. GREEN of New York. Mr. Chairman, our task today is to enact legislation that will implement education reform. The goal is to improve the elementary and secondary schools of this country and in doing so, increase the educational achievements of our youth. One of the main themes in the debate over educational reform has been the issue of school choice—that States, local communities and parents are the best judges of what programs are needed and how they should be designed to best meet the needs of the students.

I find it ironic then, that the two amendments that are being offered as substitutes to the Neighborhood Schools Improvement Act, one by the gentleman from Texas [Mr. ARMEY] and the amendment of the gentleman from Pennsylvania [Mr. GOODLING], while offering varying approaches on choice, single out one issue for which there is to be no choice and no input from the local community and parents: The provision of contraceptives and abortion counseling to students. Those amendments explicitly state that no funds are to be spent by schools for birth control or abortion counseling.

In light of the increase in the teen pregnancy rate and the incidence of sexually transmitted diseases among teenagers, these provisions are inappropriate and shortsighted and I must vote against the amendments that contain them.

There is no doubt that the question of contraceptives and abortion is controversial. And there is no doubt that most of us would wish to see parental involvement in such significant matters. But there is also no doubt that the United States is experiencing a very troubling increase in the number of teen pregnancies and the incidence of sexually transmitted diseases [STD]. From 1970 to 1988, the number of out-of-wedlock births to teens jumped by 61 percent. Two-thirds of the births to teens occurred outside of marriage in 1988. Every year 2.5 million adolescents contract an STD. Adolescents have higher rates of gonorrhea and chlamydia than any other age group. Providing contraceptive advice and devices will not encourage sexual activity—sexual activity among teens already exists. In 1988, more than 25 percent of 15-year-olds surveyed by the U.S. Centers for Disease Control reported being sexually active.

The numbers on teen pregnancy and sexually transmitted diseases exist largely because Federal efforts to provide the necessary funding for family planning programs have been stymied over the past 12 years by the so-called right to life movement. We cannot continue down that path, especially on legislation that purports to remove the long arm of the Federal Government from matters best left to local communities, and I urge my colleagues to oppose the Armey and the Goodling amendments.

Mr. AUCOIN. Mr. Chairman, I urge the House's approval of the Neighborhood Schools Improvement Act. This important bill will bring new educational opportunities to students all over the country, and especially to economically disadvantaged young people.

In addition, by approving my educational flexibility amendment, we've further bolstered ongoing State school reform activities currently underway in Oregon and around the United States. I want to thank Chairman FORD and Subcommittee Chairman KILDEE for their terrific help on this amendment and their wisdom in understanding how important it is to students, parents, teachers, and administrators in States like my own. I'd also like to thank Mrs. UNSOELD of Washington, a member of the Education and Labor Committee, for her invaluable assistance.

I'll close by noting that the House has acted most wisely in turning down several school choice amendments. Mr. Chairman, the people of Oregon have made their position on this issue very clear by decisively defeating a school choice ballot measure in 1990. At a time when our public schools are financially strapped, how can we even think about helping to fund nonpublic institutions? The answer is simple. We can't. I'm glad my colleagues realized this.

Mr. PASTOR. Mr. Chairman, I rise in support of H.R. 4323, the Neighborhood Schools Improvement Act.

This is a good bill which will help to restructure and reinvigorate America's public schools.

Many schools in my district can benefit from extra Federal funds which reward systemic improvements to delivering education. I represent a large Hispanic community, as well as schools on Indian reservations. Money from this legislation could help to improve the high dropout rate, gang activities, bilingual education, and the special needs of school districts with significant numbers of minority students.

While I welcome the challenge for change, I strongly oppose any amendments that would divert scarce Federal funds toward private school choice. I deplore the use of public funds for private, sectarian schools not only on constitutional grounds but also for equity reasons. Private school choice robs Peter's necessary classroom materials in order to pay the luxury of Paul's elite private schooling.

Wealthy and middle-class families can choose to send their children to private or public schools. Unfortunately, the children left behind in public schools do not have the luxury. It would be cruel and unlawful to deny them access to equal educational opportunities.

H.R. 4323 provides the means and the motivation to improve our neighborhood schools.

Our children are hungry for change. The future of our Nation depends on their getting a good education. Let's pass this bill and give America's neighborhood schools the incentives for meaningful, systemic reforms in education. It's a good investment and a good solution to our educational crisis today.

Mr. HUGHES. Mr. Chairman, I rise in strong support of H.R. 4323, the Neighborhood Schools Improvement Act, and urge my colleagues to support this important piece of legislation.

Over the last 2 weeks our country has watched with great pride as young American athletes set new standards for Olympic competition through their sheer determination and high performance achievements. The Olympics have once again proven that Americans, when competing on a level playing field with their international counterparts, can achieve the same level of greatness and set new standards of excellence for the rest of the world to emulate.

And yet, American students do so poorly in the field of academic competition. Every year we have witnessed American students' academic scores slipping further and further toward the bottom of the field of industrialized nations. We cannot afford to sit back any longer and watch our students lose pace with the rest of the world.

Isn't it time we sent our students into competition well-prepared, energized, and posed for victory instead of defeat?

Due to the end of the cold war, we now have a tremendous opportunity to do just that by readjusting budget priorities and reinvesting in our education system. H.R. 4323 represents a firm commitment to our public education system and American students.

The Neighborhood Schools Improvement Act, will promote change in our public school system and facilitate the achievement of our national education goals by providing long overdue funding to our local school districts for a variety of program improvements and the development of innovative educational strategies.

Those who know best how to enhance the educational process—schoolteachers, principals, superintendents, and parents—will be the architects of this new effort.

As new programs and strategies are developed at the local level with the passage of H.R. 4323, the Federal Government can then assume a more appropriate role as a clearinghouse for information. Innovative ideas that have been successfully implemented locally in certain areas can be shared with other school districts across the country.

H.R. 4323 presents our best chance to raise American students from a last place finish to their rightful place of prominence among their international counterparts. And with a highly skilled, well-trained work force, America will remain competitive and prosper in the global marketplace.

It is so important that we make this commitment to education—nothing less than the future of this great Nation will depend upon our actions today. I urge my colleagues to support this legislation.

Mr. MARKEY. Mr. Chairman, I rise in support of H.R. 4323, the Neighborhood Schools Improvement Act. I would like to commend subcommittee Chairman KILDEE for introducing this legislation that is so critical to the future of our country. I would also like to commend Chairman FORD for his continued hard work in improving the educational system.

This bill authorizes $800 million in fiscal 1992 for block grants to States for educational initiatives. In an overwhelming systemwide reform, all schools would benefit, not just select schools that already have the resources to educate effectively.

The core to reform of our educational system lies on the local and State level. H.R. 4323 requires a State panel to develop a comprehensive plan establishing goals to maximize achievement for all children. A similar panel may also be formed on the local level. This initiative is an effective way to increase parental and community involvement in improving the overall educational environment.

H.R. 4323 requires the Department of Education, through the National Academy of Sciences, to evaluate the school delivery standards and to assess and make recommendations in an interim report. Our students are falling behind students in almost every industrial country in the areas of science and mathematics. In order to allow our students to compete for the emerging technological jobs, we need to reform the current system.

It is important to note that this bill does not endorse the administration's proposal to allow parents to choose a private school using a public voucher. My view is that it would be a devastating blow to our public school system to direct public moneys for private education. This would simply allow private schools to siphon off the best and the brightest from the public system.

H.R. 4323 takes a significant step forward in reforming our educational system and I strongly support its passage.

Mr. LEWIS of Florida. Mr. Chairman, it is unfortunate that H.R. 4323, the Neighborhood Schools Improvement Act, is being promoted by the majority on the Education and Labor Committee as an education reform bill. It is not.

H.R. 4323 simply funnels more Federal money into the existing education system, without providing the necessary flexibility for real reform of our schools. The bill does not include school choice as an acceptable option for reform. It provides very little flexibility to schools and communities to try new approaches to education. It does not provide a separate authorization for the New American Schools Program, which would fund a new generation of schools using innovative approaches.

It makes no sense to pour millions more Federal dollars into a system that needs repair. Without fundamental reform, our schools cannot achieve the ambitious goals established by the Governors and President Bush. Therefore, I must oppose H.R. 4323.

Mr. BALLENGER. Mr. Chairman, President Bush has worked diligently to fulfill his role as the education President, but to no avail. This Congress has repeatedly blocked his efforts to reform and improve the failing education system. As a part of his America 2000 strategy, the President, along with the Nation's Governors, developed six national education goals that would serve as the proper object of genuine reform. In response to his efforts, the Democrats are offering the Ford bill (H.R. 4323) which flies in the face of the national education goals, as well as all attempts to effect true education reform.

The Democrats who support the Ford bill, claim it to be a vehicle of reform and change. On the contrary, it would perpetuate the status quo by calling for a $700 million Federal block grant program to be spent by the education bureaucracy, with virtually no sending guidelines, no reform requirements, and zero accountability to parents. In fact, Education and Labor Committee Chairman Ford said the bill is "all cliches and show business. It's not going to revolutionize anything."

The death grip had by the National Education Association over school boards and public schools has crowded out the voices of parents on how to educate their children. Because teachers' unions have no accountability to parents, children, and the very Congress that funds their machine, they have no incentive to change. Change is the word that keeps popping up in political discussions throughout our country. Change was the word on the lips of every Democrat during their recent convention.

Mr. Chairman, if the Democrats are truly in favor of change, they would vote against the Ford bill and vote for the Armey amendment. The Armey amendment is based on the principle that parents care, more than anyone, about their children's education. It incorporates the important element of community involvement. It acknowledges the long-range fact that massive Federal spending has very little to do with school quality.

I support the Armey amendment's attempt to return H.R. 4323 to the original objectives of the President. I embrace the inclusion of real school choice for private, parochial, and public schools. The Armey amendment earmarks 25 percent of program funds for school choice. I recognize the wisdom in elevating the role of the Governor in education. The Armey amendment would place the Governor at the helm of education by appointing him the statutory chairman of the statewide panel, with the authority to appoint seven of the statutory members. By giving the Secretary of Education the authority to deny grants based upon his determination that the funds are being used for other than promoting reform in education, the Armey amendment establishes an important structure of accountability for those receiving Federal funds. In keeping with the President's goals, the Armey amendment allows only activities that would create real school reform: school choice, site-based management emphasizing alternative certification, merit testing, New American Schools, and language from the Hatch amendment ensuring that parental rights are protected.

In addition to the Armey amendment, I support the Goodling substitute which incorporates the President's ideas to revolutionize education by helping to create thousands of break-the-mold schools, world-class standards and a voluntary national examination system, giving teachers and principals more flexibility in the spending of Federal money, and allowing States and localities to provide middle- and low-income families with more choices of all schools.

Mr. Chairman, time is running short. Our failing education system is producing a generation of children who will be unable to compete in this rapidly changing, global society. To simply pour more money into the coffers of the education bureaucracy is not the answer. To continue funding the status quo, which is observably failing, is unjustifiable. The American people are relying on this Congress to pass an education bill that will truly bring about the education reform so desperately needed. I urge my colleagues to vote "yes" on the Armey amendment, "yes" on the Goodling substitute, and "no" on the Ford bill.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill, modified by the amendments printed in section 2 of House Resolution 551, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 4323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMPREHENSIVE RESTRUCTURING

SECTION 101. COMPREHENSIVE RESTRUCTURING.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) by redesignating sections 8001 through 8005 as 10001 through 10005; and

(2) by inserting after title VII the following:

"TITLE VIII—RESTRUCTURING PROGRAM

"PART A—NATIONAL EDUCATION STANDARDS AND ASSESSMENT

"SECTION 8001. SHORT TITLE.

"This part may be cited as the 'National Education Standards and Assessment Act of 1992'.

"SEC. 8002. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the establishment of voluntary national standards is an important, complex, and sensitive task and any coordinating structure for this purpose must be bipartisan, engage government at all levels, and involve the many constituencies that have an established interest in improving education;

"(2) much work in the area of developing standards has already begun and the national effort should benefit from and not attempt to duplicate quality efforts proposed by existing Federal and non-Federal entities; and

"(3) a coordinating structure should maintain the tradition of State and local authority over education and become part of a cooperative national effort.

"(b) PURPOSES.—The purposes of this part are

"(1) to advance the establishment of national education content standards and to raise the academic performance of students and schools throughout the Nation; and

"(2) to provide funds for the development of school delivery standards and for further research and development on assessment to measure the progress of the Nation in meeting national education goals and standards.

"SEC. 8003. NATIONAL EDUCATION GOALS PANEL.

"(a) ESTABLISHMENT.—There is established a National Education Goals Panel (referred to in this part as the 'Panel').

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Panel shall be composed of 14 members (referred to in this part as 'members'), including—

"(A) two members appointed by the President;

"(B) eight members who are Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party of the President, appointed by the Chairperson and Vice Chairperson of the National Governors' Association, with each appointing representatives of his respective political party, in consultation with each other and in accordance with paragraph (2); and

"(C) four Members of Congress appointed as follows:

"(i) One member appointed by the majority leader of the Senate from among the Members of the Senate.

"(ii) One member appointed by the minority leader of the Senate from among the Members of the Senate.

“(iii) One member appointed by the majority leader of the House of Representatives from among the Members of the House of Representatives.

“(iv) One member appointed by the minority leader of the House of Representatives from among the Members of the House of Representatives.

“(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:

“(i) If the Chairperson of the National Governors' Association is from the same political party as the President, the Chairperson shall appoint 3 individuals pursuant to such paragraph and the Vice Chairperson shall appoint 5 individuals pursuant to such paragraph.

“(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, the Chairperson shall appoint 5 individuals pursuant to such paragraph and the Vice Chairperson shall appoint 3 individuals pursuant to such paragraph.

“(B) If the National Governors' Association has appointed a panel that meets the requirements of this subsection prior to the date of enactment of this title, then the members serving on such panel shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.

“(c) TERMS.—The terms of service of members shall be as follows:

“(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.

“(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a two-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of such terms of members concluding every two years.

“(3) MEMBERS OF CONGRESS.—Members appointed under paragraph (1)(C) shall serve a term of four years.

“(d) INITIATION.—The Panel may begin to carry out the duties of the Panel under this part when ten members of the Panel have been appointed.

“(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this title.

“(f) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

“(g) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

“(h) CHAIRPERSON SELECTION.—

“(1) INITIAL SELECTION.—The members appointed under subsection (b)(2) shall select a Chairperson from among such members, except that after the expiration of the term of the member selected under this paragraph to serve as Chairperson as of October 1, 1992, or upon the termination of the tenure of such Chairperson, whichever is earlier, a majority of the members of the Council shall select the Chairperson from among the members.

“(2) CONTINGENT SELECTION.—If no individual described in paragraph (1) assumes the position of Chairperson of the Council 60 days after the date of the enactment of this title, a majority of the members shall select a Chairperson from among the members.

“SEC. 8004. FUNCTIONS.

“(a) FUNCTIONS.—The Panel shall accomplish the following:

“(1) INTERACTIVE PROCESS.—Establish an interactive process for the development of national content standards and national school delivery standards which, to the greatest extent feasible, reflect the comments and recommendations of educators and other knowledgeable individuals across the Nation.

“(2) RECOMMENDATIONS.—Make recommendations to the Secretary regarding the selection of groups and organizations for grants to develop national content standards, national school delivery standards, and model assessments of the national content standards for mathematics.

“(3) CERTIFICATION.—Certify, after review by the technical review committee established under section 8005, the voluntary national standards submitted by the groups under sections 8011(c) and 8012(c).

“(4) EVALUATION.—Propose the indicators to be used to measure the national education goals and report progress in achieving such goals, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report card to the Nation under section 8006.

“(5) MEASUREMENT.—Select interim and final measures and appropriate measurement tools to be developed as necessary in each goal area.

“(6) DATA.—Assure, through requirements for State reports, that data on student achievement is reported in the context of other relevant information about student, school, and system performance.

“(7) REPORT CARD.—Issue an annual report card that—

“(A) reports on the Federal actions taken to fulfill responsibilities to education;

“(B) identifies gaps in existing educational data;

“(C) recommends improvements in the methods and procedures for assessments; and

“(D) proposes changes in national and international measurement systems.

“(b) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

“(c) DATA COLLECTION.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to appropriately assess progress toward meeting the national education goals.

“SEC. 8005. REVIEW COMMITTEE.

“(a) COMMITTEE ESTABLISHED.—

“(1) COMMITTEE MEMBERSHIP.—The Panel shall establish a technical review committee (referred to in this part as the ‘Committee') of not more than 16 members who shall advise and assist the Panel in carrying out its functions under section 8004(a).

“(2) PUBLIC NOMINATION.—In appointing individuals to serve on the committee, the Panel shall solicit and consider nominations made by the public.

“(3) COMMITTEE COMPOSITION.—The committee shall be composed of—

“(A) 8 educators, including individuals with expertise regarding standards and assessment; and

“(B) 8 members of the public, including individuals who represent parents, business, civil rights advocates, child advocates, and State and local public officials.

“(b) COMMITTEE REVIEW.—

“(1) REVIEW OF STANDARDS.—After the development of each set of national content standards under section 8011 and school delivery standards under section 8012, the committee shall review such standards to determine if such standards—

“(A) are developed consistently with the process established by the Panel under section 8004(a)(1);

“(B) are sufficiently general to be adopted by any State; and

“(C) are of high quality.

“(2) COMMITTEE RECOMMENDATION.—The committee shall report its determination to the Panel regarding whether such standards should be certified by the Panel.

“SEC. 8006. ANNUAL REPORT CARD.

“(a) IN GENERAL.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a national report card, that shall include the following:

“(1) ANALYSIS.—An analysis of the progress of the United States toward achieving the national education goals.

“(2) COMMENTS AND RECOMMENDATIONS.—Comments and recommendations of—

“(A) Federal and State policymakers;

“(B) experts on teaching and child development;

“(C) experts on measurements;

“(D) experts on curriculum;

“(E) experts on educational administration; and

“(F) representatives of business.

“(3) IDENTIFICATION AND IMPROVEMENT.—Based on the findings of the Panel and an analysis of the views and comments of all interested parties, the Panel may identify continuing gaps in existing educational data.

“(b) CONTINUATION.—The Panel shall continue to issue a national report card on an annual basis for the duration of the existence of the Panel.

“(c) FORMAT.—National report cards shall be presented in a form that is understandable to parents and the general public.

“(d) LIMITATION.—National report cards may not include data using the achievement goals established under section 406(i)(6)(A)(ii) of the General Education Provisions Act unless such goals have been reviewed and approved by the Commissioner of the National Center for Education Statistics.

“SEC. 8007. POWERS OF THE PANEL.

“(a) HEARINGS.—

“(1) IN GENERAL.—The Panel shall, for the purpose of carrying out this part, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

“(2) PUBLIC HEARINGS.—In carrying out this part, the Panel shall conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the functions of the Panel described in section 8004(a).

“(b) INFORMATION.—The Panel may secure directly from any department or agency of the United States, information necessary to enable the Panel to carry out this part. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

“(c) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

“(d) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary of Education shall provide to the Panel, on a reimbursable basis, administrative support services as the Panel may request.

“SEC. 8008. ADMINISTRATIVE PROVISIONS.

“(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

“(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

“(c) VOTING.—No individual may vote or exercise any of the powers of a member by proxy.

“(d) FEDERAL ADVISORY COMMITTEE ACT.—Sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.) are the only sections

of such Act that shall apply with respect to the Panel and the technical review committee.

"SEC. 8009. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

"(a) DIRECTOR.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

"(b) APPOINTMENT AND PAY OF STAFF.—

"(1) COMPETITIVE SERVICE.—The Chairperson of the Panel may appoint personnel as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service.

"(2) PAY RATES.—The staff of the Panel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the rate of basic pay payable for GS-15 of the General Schedule.

"(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services of experts and consultants under section 3019(b) of title 5, United States Code.

"(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this part.

"SEC. 8010. AUTHORITY FOR GRANT OR CONTRACT.

"The Secretary shall make grants to provide for the following:

"(1) OPERATION.—The operation and activities of the Panel.

"(2) CONTENT DEVELOPMENT.—The development of national content standards.

"(3) SCHOOL DELIVERY STANDARDS DEVELOPMENT.—The development of national school delivery standards.

"SEC. 8011. NATIONAL CONTENT STANDARDS.

"(a) DEVELOPMENT OF CONTENT STANDARDS.—The Panel shall establish the process by which content standards shall be developed. Such process shall provide for several consecutive drafts of standards which incorporate the comments and recommendations of educators and other knowledgeable individuals across the Nation.

"(b) GRANTS FOR CONTENT STANDARDS.—

"(1) GRANT RECOMMENDATIONS.—The Panel shall make recommendations to the Secretary regarding the selection of groups and organizations representing teachers and other practitioners in a broad range of academic subject areas, including mathematics, English, science, history, and geography, to receive grants to develop content standards in accordance with the process required under subsection (a).

"(2) TIME AND CONDITIONS.—In making recommendations to the Secretary, the Panel shall propose time periods and other conditions for such grants that will ensure that the process under subsection (a) can be followed.

"(3) GRANT DENIAL.—The Secretary may decline to make a grant only if such grant violates a provision of law or the general administrative regulations of the Department which govern the making of grants.

"(c) CONTENT STANDARDS RATIFICATION.—Following the development of a set of such standards, the developing organization shall organize a meeting of its members, review the standards, and by formal action ratify that such standards are of high quality and meet the following requirements:

"(1) BEST EVIDENCE.—Such standards reflect the best evidence available regarding the knowledge and skills that students should acquire in the academic subject area of such standards.

"(2) CHALLENGE.—Such standards are sufficiently challenging to ensure that American students receive instruction at world-class levels.

"(d) CONTENT STANDARDS CERTIFICATION.—

"(1) PROCESS CONFORMANCE.—After ratification of a set of standards under subsection (c), the Panel shall review the process by which such standards were developed and consult with the Committee established under section 8005 to determine and certify conformance with the process established under subsection (a).

"(2) CERTIFICATION REPORT.—The Panel shall submit to the Congress, the President, and the public a report regarding such certified content standards not later than December 31, 1994.

"SEC. 8012. SCHOOL DELIVERY STANDARDS.

"(a) DEVELOPMENT OF SCHOOL DELIVERY STANDARDS.—The Panel shall establish the process by which school delivery standards shall be developed. Such process shall provide for several consecutive drafts of standards which incorporate the comments and recommendations of educators and other knowledgeable individuals across the Nation.

"(b) GRANTS FOR SCHOOL DELIVERY STANDARDS.—

"(1) SELECTION.—The Panel shall make a recommendation to the Secretary regarding the selection of a consortium of individuals and organizations to receive a grant to develop school delivery standards. To the extent possible, such consortium shall include the participation of—

"(A) Governors (except Governors serving on the Panel);

"(B) chief State school officers;

"(C) teachers (especially teachers involved in the development of content standards);

"(D) principals;

"(E) superintendents;

"(F) State and local school board members;

"(G) parents;

"(H) State legislators;

"(I) representatives of businesses;

"(J) representatives of regional accrediting associations;

"(K) representatives of federally funded entities referred to in clauses (i) and (ii) of section 405(d)(4)(A) of the General Education Provisions Act; and

"(L) civil rights groups and organizations (including those associated with the rights of individuals with disabilities).

"(2) TIME AND CONDITIONS.—In making a recommendation to the Secretary, the Panel shall propose a time period and other conditions for such grant that shall ensure that the process established under subsection (a) may be followed.

"(3) GRANT DENIAL.—The Secretary may decline to make a grant only if such grant would violate a provision of law or the general administrative regulations of the Department which govern the making of grants.

"(c) SCHOOL DELIVERY STANDARDS RATIFICATION.—After developing such school delivery standards, the consortium shall convene a meeting to review and ratify that such standards meet the following requirements:

"(1) STATE ADOPTION.—The standards are sufficiently generic to be adopted for use in any State without unduly restricting State and local prerogatives regarding the instructional methods to be employed.

"(2) FAIR OPPORTUNITY.—The standards are likely, if properly implemented, to ensure that each student in a school has a fair opportunity to achieve the knowledge and skills set out in the national content standards and the work force readiness standards under title IX.

"(d) SCHOOL DELIVERY STANDARDS CERTIFICATION.—

"(1) PROCESS CONFORMANCE.—After ratification of a set of standards under subsection (c), the Panel shall review the process by which such standards were developed and consult with the Committee established under section 8005 to determine and certify that such standards are of high quality and that they conform with the process established under subsection (a).

"(2) CERTIFICATION REPORT.—The Panel shall submit to the Congress, the President, and the public a report containing such certified school delivery standards not later than December 31, 1994.

"SEC. 8013. GENERAL PROVISIONS RELATING TO STANDARDS.

"(a) CONTINUED REVIEW.—The Panel shall periodically (not more than once every 3 years) review national content standards to determine whether such standards continue to reflect the best evidence available regarding what children should know.

"(b) NO INFLUENCE.—Nothing in this part shall be construed to permit the Secretary to prescribe or influence the content of particular standards.

"SEC. 8014. ASSESSMENT.

"While taking into consideration the existing research on assessment that the Office of Educational Research and Improvement is addressing, the Panel shall make recommendations to the Secretary regarding such research on authentic assessment which such Office should undertake.

"SEC. 8015. EVALUATION AND REPORTS.

"(a) EVALUATION.—The Secretary shall, through the National Academy of Sciences, conduct an evaluation and issue reports that include the following:

"(1) EVALUATION REPORT.—An evaluation of the effectiveness of—

"(A) school delivery standards described in section 8012(c)(2);

"(B) research on authentic assessment conducted by the Office of Educational Research and Improvement; and

"(C) the model assessments for national content standards for mathematics.

"(2) RECOMMENDATIONS.—Recommendations regarding the need for additional criteria to determine the validity, reliability, and fairness of assessments;

"(3) CRITERIA.—Criteria for evaluating—

"(A) whether assessments are substantially aligned to the national content standards; and

"(B) the sufficiency of evidence regarding the technical quality of an assessment in relation to its intended use.

"(b) REPORTS.—

"(1) INTERIM REPORT.—The National Academy of Sciences shall submit to the Congress, Secretary of Education, and the public an interim report regarding the material described in subsection (a) not later than December 31, 1993.

"(2) FINAL REPORT.—The National Academy of Sciences shall submit to the Congress, Secretary of Education, and the public a final report regarding the material described in subsection (a) not later than December 31, 1994.

"SEC. 8016. DEFINITIONS.

"For purposes of this title—

"(1) the term 'content standards' means a description, in a particular subject area, of the knowledge and skills children should acquire at each grade level;

"(2) the term 'school delivery standards' means the standards necessary to ensure that each student in a school has a fair opportunity to achieve the knowledge and skills set out in the national content standards and work force readiness standards including evidence that—

"(A) the school has formally adopted curriculum reflecting the national content standards;

"(B) the curriculum is being taught in the classroom;

"(C) teachers understand the curriculum and are able to teach it;

"(D) teachers and students have access to curricular materials (textbooks, instructional materials) that are necessary for mastery of the standards;

"(E) the school has instructional methods and policies in place to promote mastery of the content standards by all students (including no tracking, policies to help children stay in school, fair and equitable discipline policies, and appropriate policies concerning crime, violence, and drug use);

"(F) school administrators are well prepared; and

"(G) the school facilities have the requisite libraries and laboratories necessary to provide an opportunity to learn.

"SEC. 8017. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION FOR PANEL.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992 through 1996 for grants to the National Education Goals Panel established under section 8003 to carry out its duties under this part.

"(b) AUTHORIZATION FOR EVALUATIONS AND REPORTS.—There are authorized to be appropriated $2,000,000 for fiscal years 1992 through 1996 for the National Academy of Sciences to carry out section 8015.

"(c) AUTHORIZATION FOR NATIONAL CONTENT STANDARDS.—There are authorized to be appropriated $10,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 1996 to carry out section 8011.

"(d) AUTHORIZATION FOR NATIONAL SCHOOL DELIVERY STANDARDS.—There are authorized to be appropriated a total of $5,000,000 for the fiscal years 1992 and 1993 to carry out section 8012.

"PART B—NEIGHBORHOOD SCHOOLS IMPROVEMENT

"SEC. 8101. SHORT TITLE.

"This part may be cited as the 'Neighborhood Schools Improvement Act'.

"SEC. 8102. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) all students can learn and must realize their potential if the United States is to prosper;

"(2) the reforms in education of the last 15 years have achieved good results, but these efforts often have been limited to a few schools or to a single part of the educational system;

"(3) additional pilot projects will have the same limited effect as previous reforms and isolated changes in policy will most likely have minimal impact;

"(4) strategies must be developed by States and communities to support the revitalization of all local schools by fundamentally changing the entire system of education through comprehensive, coherent, and coordinated improvement while recognizing the diverse cultural and language backgrounds and learning abilities of students;

"(5) parents, teachers and other local educators, and community leaders must be involved in developing system-wide reform strategies that reflect the needs of their individual communities;

"(6) States and local educational agencies, working together, must immediately set about developing and implementing such system-wide reform strategies if the Nation is to educate all children to meet their full potential and achieve national goals;

"(7) increasing funding for existing Federal education programs at levels that will enable them to fulfill their mission is a critical part of assisting States and local educational agencies in their school improvement efforts; and

"(8) additional Federal funds should be targeted to support State and local initiatives and to leverage State and local resources for designing and implementing system-wide reform plans.

"SEC. 8103. PURPOSE.

"It is the purpose of this part to raise the quality of education for all students by supporting a 10-year broad based public effort to promote coherent and coordinated changes in the system of education throughout the Nation at the State and local levels without jeopardizing funding for existing Federal education programs.

"SEC. 8104. PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the provisions of this part, to make grants to State educational agencies to enable States and local educational agencies to reform and improve the quality of education throughout the Nation. Such grants shall be used to—

"(1) develop innovative educational reform plans, which include State achievement goals, a means for developing or adopting high quality, challenging curricular frameworks and coordinated curricular materials, professional development strategies, and assessments; and

"(2) implement reforms and plans to improve the education system at the State and local levels.

"SEC. 8105. APPLICATION.

"(a) IN GENERAL.—If a State desires to receive assistance under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall cover a 5-year period.

"(b) CONSIDERATION OF APPLICATIONS.—Each such application shall—

"(1) contain satisfactory evidence that the State educational agency has or will have authority, by legislation if necessary, to implement the plan required under section 8106;

"(2) provide an assurance that the State has a strategy for ensuring broad participation in the planning process, including parents, students, teachers, principals, superintendents, local school board members, representatives of businesses with an interest in educational improvement, representatives of rehabilitation organizations, representatives of the employment and training network (including the vocational education system), the deans of colleges of education, representatives of community-based organizations, testing and curriculum experts, the director of the State office responsible for teacher certification, and the director of the State human services agency, to establish the goals and to refine them in the future, as well as participate in the development of all other components of the plan;

"(3) provide an assurance that the State will notify the public (including individuals with limited English proficiency), through print and electronic media (and other accessible formats) and notice to each local educational agency—

"(A) that the State has made application for funds under this part;

"(B) of the purposes for which the funds will be used; and

"(C) that the State is developing a plan under section 8106;

"(4) provide an assurance that all students will have equal access to the curricular frameworks, high quality curricular materials, and well-qualified teachers;

"(5) describe actions taken and resources identified or committed to meet the requirements of this title;

"(6) provide an assurance that the applicant will prepare and submit to the Secretary, annual evaluations of and reports concerning the State program; and

"(7) provide an assurance that the State will carry out the provisions of section 8106.

"(c) APPROVAL.—The Secretary shall approve an application and any amendment to the application if the application or the amendment to such application meets the requirements of this section and is of sufficient quality to meet the objectives of this part. The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REAPPLICATION.—(1) A State educational agency may apply for assistance for a second 5-year period and such application shall be approved by the Secretary if the State—

"(A) has met all of its reporting requirements; and

"(B) demonstrates that it has made reasonable progress in carrying out its plan.

"(2) The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"SEC. 8106. DEVELOPMENT AND APPROVAL OF STATE PLAN.

"(a) ESTABLISHMENT OF PANEL.—Each State program assisted under this title shall establish a panel to develop a statewide reform plan. Such panel shall consist of—

"(1) the chief executive of the State (or designee);

"(2) the presiding officers and the minority leaders of the State legislature (or designees);

"(3) the chief State school officer;

"(4) the head of the office that coordinates higher education programs in the State or, if there is no such office, the head of the office designated under section 2008 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2988) (or designee);

"(5) except in the case of a State with a single local educational agency, an individual nominated by representatives of local educational agencies that comprise between 5 to 10 percent of the local educational agencies in the State with the lowest average per pupil expenditures; and

"(6) individuals nominated by State organizations representing each of the following:

"(A) Teachers.

"(B) School administrators.

"(C) Local school boards.

"(D) Parents.

"(E) Businesses.

"(F) State board of education.

"(G) Students.

"(b) ADDITIONAL MEMBERS.—(1) The first meeting of such panel shall be convened by the chief State school officer. At such meeting, the panel members designated and nominated in subsection (a) shall select additional panel members, including—

"(A) the chairpersons of the State legislative committees with jurisdiction over education;

"(B) director of the parent training and information center (for children with disabilities);

"(C) individuals reflecting the ethnic and racial diversity of the general population of the State; and

"(D) (except in the case of a State with a single local educational agency) an individual nominated by representatives of the 5 local educational agencies with the highest number of students eligible for services under part A of chapter 1 of title I of this Act.

"(2) The membership of the panel shall—

"(A) be geographically representative of all areas of the State;

"(B) reflect the racial and ethnic diversity of the population of the State; and

"(C) not exceed 25 in number.

"(3) Following the selection of additional members, the chief State school officer shall convene a meeting of the full panel to establish procedures regarding the operation of subsequent meetings, including the designation of a panel chairperson, consistent with applicable State law.

"(c) DEVELOPMENT OF STATE PLAN.—(1) The panel shall develop a plan that—

"(A) establishes State goals to maximize achievement for all children in conjunction with national educational goals;

"(B) establishes curricular frameworks in specific subject matter areas that incorporate the goals established under subparagraph (A) consistent with requirements of Federal law;

"(C) provides for the adoption of school delivery standards;

"(D) provides for the development or adoption of instructional materials to assist the implementation of the curricular frameworks consistent with requirements of Federal law;

"(E) allocates resources to implement such a system-wide reform plan;

"(F) provides for the establishment or adoption of a valid, reliable, and fair assessment system based upon the curricular frameworks that is capable of accurately measuring the skills and knowledge required to meet State goals;

"(G) provides for professional development strategies necessary for achieving the State goals;

"(H) establishes a process for reviewing Federal, State, and local laws and regulations and for recommending changes in such laws and regulations to further state-wide reform;

"(I) provides a process for selecting local educational agencies for participation in local system-wide reform efforts;

"(J) provides for the development of objective criteria and measures against which the success of local plans can be evaluated;

"(K) provides for the ongoing evaluation of the effectiveness of the State plan in closing the gap between high and under-achieving students to be assessed using achievement and other measures such as attendance, grade retention, and dropout rates;

"(L) provides for the availability of curricular frameworks, curricular materials, and professional development in a manner ensuring equal access by all local educational agencies in the State;

"(M) provides for a thorough review of the State's school finance program, focusing on the adequacy of, and disparities in, the financial resources available to each local educational agency, and how such disparity affects the ability of the State educational agency and local educational agencies to develop and implement reform activities consistent with this part;

"(N) describes the steps the State educational agency shall take to ensure that successful programs and practices supported by subgrants awarded to local educational agencies under this part shall be disseminated to other local educational agencies in the State;

"(O) provides for the development of an adequate research, training, and evaluation capacity within the State to further the purposes of this part;

"(P) describes methods of coordinating health, rehabilitation, and social services with education through State interagency cooperation and agreements;

"(Q) provide for the dissemination of information on curricular frameworks and supportive services for students with disabilities to enable such students to participate;

"(R) describes the steps the State educational agency shall take to provide remedial assistance to students, schools, and local educational agencies that are identified through the assessment system under subparagraph (E) as having a need for such assistance; and

"(S) provides for the development of a strategy to coordinate the use and integration of technology in schools throughout the State for the purposes of instruction (including approaches such as live interactive distance learning), implementation of the plan, and training of parents, teachers, and administrators.

"(2) In developing the plan, the panel shall—

"(A) emphasize outcome measures rather than prescribe how the State and local educational agencies should achieve such outcomes;

"(B) review recent innovations by other States and by national professional organizations with expertise in educational goals, curricula, and assessment;

"(C) review existing Federal education programs and how they can contribute to the State plan; and

"(D) ensure broad-based participation through regular notice and dissemination of information to the public (including individuals with limited English proficiency) using print and electronic media and other accessible formats.

"(3) The panel in developing the plan, shall solicit and consider the views and recommendations of persons having knowledge of the needs of students with disabilities, including parents, students, and special education teachers and administrators.

"(4) Following the development of the plan, the panel shall seek public comment by—

"(A) publishing the plan with a comment period of at least 60 days, or

"(B) notifying the public (including individuals with limited English proficiency) through electronic and print media (and other accessible formats) and by conducting regional hearings.

After providing the public with an opportunity to comment on the plan, the panel shall consider the public comments and make appropriate changes.

"(5) The plan shall be submitted to the State for review and approval by the State educational agency, except that any changes to such plan shall be made with the concurrence of the panel. Prior to implementing the plan, the State educational agency shall submit such plan to the Secretary for approval. In the event that the State has previously accomplished any of the reform activities required under this part in a specific subject area or set of grade levels, the State is not required to include them in the plan but shall include a request for a waiver, including a description of such accomplishments.

"(6)(A) The Secretary shall approve a State's plan if such plan—

"(i) meets the requirements of this section; and

"(ii) provides evidence that the State has, or will have, the resources necessary to carry it out.

"(B) The Secretary shall not finally disapprove a plan or an amendment to such plan except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REVIEW OF STATE PLAN.—The panel and the State educational agency shall review on an ongoing basis, the implementation of the State plan for the period during which the State receives funding under this part. The results of such review shall be prepared in writing by the panel and included by the State in its annual report to the Secretary under section 8113(a).

"SEC. 8107. STATE USES OF FUNDS.

"(a) USES OF FUNDS.—Funds allotted by the Secretary under section 8111(a)(2) and State and private funds contributed to make up the total cost of a State program as provided in section 8111(b) shall be used by a State with an approved application for the—

"(1) development and implementation of the State plan, including the establishment of State goals, curricular frameworks, school delivery standards, and assessment systems;

"(2) activities of the panel (including the travel expenses of the members of such panel);

"(3) subgrants to local educational agencies;

"(4) technical assistance (including dissemination of information) to local educational agencies to assist in developing and carrying out their plans; and

"(5) evaluation, reporting, and data collection.

"(b) LOCAL EDUCATIONAL AGENCIES.—In the first year that a State receives an allotment under this part, the State educational agency may make subgrants for the purpose of developing local plans as provided in section 8108 consistent with section 8106(c)(1)(I). In the second year, and in each succeeding year, from not less than 75 percent of the total cost of a State's program, the State educational agency shall make subgrants to local educational agencies which shall include—

"(1) at least one subgrant to a local educational agency in each congressional district; and

"(2) a subgrant to the local educational agency with the greatest number of disadvantaged children in the State.

"(c) SPECIAL PROVISION.—Funds available under section 8111 shall be used to carry out the plan in a manner which ensures that all children, especially those identified through the assessment process (using achievement and other measures) as not achieving satisfactorily, are afforded ample opportunity to reach individual, local, State, and national goals.

"SEC. 8108. DEVELOPMENT AND APPROVAL OF LOCAL PLANS.

"(a) LOCAL COMMITTEE.—(1) A local educational agency which desires to receive a subgrant under this section shall establish a committee comprised of—

"(A) the chief elected officer of the unit of general purpose local government with boundaries which are most closely aligned with the geographic boundaries of the local educational agency;

"(B) the superintendent of the local educational agency;

"(C) a representative nominated by the local school board;

"(D) a representative nominated by a local teacher association;

"(E) the director of special education of the local educational agency;

"(F) a representative nominated by an influential business association with business members that have an interest in educational improvement and operate in a geographic area that is most closely aligned with the local educational agency;

"(G) a representative nominated by the parents of children served by part A of chapter 1 of title I of this Act; and

"(H) the elected head of a district-wide student organization, if one exists.

"(2)(A) The first meeting of such committee shall be convened by the superintendent to enable the committee members designated and selected in paragraph (1) to select additional members including—

"(i) parents of students in elementary, middle, and secondary schools;

"(ii) a representative nominated by parents of children served under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(iii) representatives of community-based organizations;

"(iv) members of the general public with a strong interest in education;

"(v) principals;

"(vi) teachers;

"(vii) school counselors, psychologists, and social workers;

"(viii) curriculum, testing, and evaluation supervisors; and

"(ix) a representative of a local higher education institution.

"(B) The total number of committee members may not exceed 30 and shall reflect the racial and ethnic diversity of the geographical area served by the local educational agency.

"(3) Following the selection of the additional members, the superintendent shall convene a *meeting of the full committee to establish procedures regarding the operation of subsequent meetings, including the designation of a committee chairperson, consistent with applicable State and local law.*

"(4) Each meeting of such committee shall be open to the public and accessible to individuals with disabilities.

"(5) The committee shall develop the local plan described in subsection (b).

"(6) A local educational agency which has established a district-wide reform committee pursuant to State law may add members and responsibilities to such committee to satisfy the requirements of this section.

"(b) Local Plan.—(1) As described in the State reform plan, and consistent with the recommendations of the panel established under section 8106, the State shall make subgrants to local educational agencies. Each subgrant shall be of a sufficient amount to develop or implement a locally developed plan which—

"(A) is formally approved by the local educational agency;

"(B) describes a process to ensure broad-based community participation in the development of the local plan, including parents, students, teachers, principals, representatives of rehabilitation organizations, representatives of the employment and training network, representatives of local business associations, and representatives of community-based organizations;

"(C) provides assurance that the local educational agency shall provide for an ongoing evaluation of the effectiveness of the plan in meeting State and local goals, and that such agency will annually review the local plan;

"(D) proposes district-wide reform which includes—

"(i) the setting of local goals;

"(ii) a process to ensure that—

"(I) curricular and instructional materials reflect State goals, State curricular frameworks and local goals; and

"(II) an assessment system is developed or adopted which is curriculum-based and includes achievement and other indicators that validly, fairly, and reliably measure progress of all students (including students with limited English proficiency and students with disabilities) toward meeting State and local goals;

"(iii) the provision of teacher and administrator training; and

"(iv) a review and restructuring, if necessary, of the administrative and staffing structure of the local educational agency and individual schools within such agency.

"(E) describes how parents and secondary school students are involved in the development, operation, and evaluation of programs and activities assisted under this part;

"(F) provides for the availability of curricular frameworks, curricular materials, and professional development in a nondiscriminatory manner;

"(G) provides for the ongoing evaluation of the effectiveness of the local plan in closing the gap between high and under-achieving students using achievement and other measures such as attendance, grade retention, and dropout rates;

"(H) reviews existing Federal education programs, including early childhood education programs, and how they contribute to the local plan;

"(I) based on the recommendations of students, teachers and principals, identifies and describes Federal, State, and local laws and regulations that may impede the implementation of the plan, if any;

"(J) describes the process that will be used to ensure that the funds received will be used to the maximum extent at the local school level;

"(K) describes the steps the local educational agency shall take to ensure that successful practices, supported by assistance provided to schools under this part shall be disseminated to other schools in the local educational agency; and

"(L) provides special attention to the needs of minority students, including instructional programs and activities that—

"(i) reflect cultural awareness and multi-cultural diversity;

"(ii) encourage alternative learning styles; and

"(iii) encourage such students in elementary and secondary schools to aspire to enter higher education programs.

"(2) In making subgrants to local educational agencies under this subsection, the State shall give priority consideration to local plans which are broadly supported within their communities as evidenced by—

"(A) the comments of the local committee required under subsection (e)(2);

"(B) the record of the hearings conducted by local educational agencies under subsection (d)(2); and

"(C) letters and resolutions submitted by local groups and organizations.

"(c) Assistance for Local Plan Development.—The State shall provide technical assistance in the development of a local plan where necessary which—

"(1)(A) is to be submitted by a local educational agency with a large number or percentage of educationally disadvantaged students, students who have dropped out of school, or students with disabilities; or

"(B) is to be submitted by a local educational agency which demonstrates need for such assistance;

"(2) promotes comprehensive, district-wide reform; and

"(3) has the support of parents, teachers, businesses, and community-based service organizations.

"(d) Submission of Local Plan.—(1) The committee shall submit the plan to the local educational agency for review.

"(2) Prior to consideration of the plan for approval, the local educational agency, with proper public notice (including notice in accessible formats), shall conduct public meetings to:

"(A) receive an explanation of all aspects of the plan by the local committee;

"(B) review and discuss the plan, including—

"(i) whether it meets the requirements of this section;

"(ii) the revenue, resource, and budget implications of the plan for the local educational agency; and

"(iii) the effect of the plan on staffing, organization, personnel policies, and collective bargaining agreements of the local educational agency;

"(C) discuss possible modifications to the plan; and

"(D) solicit the views of other interested individuals, including the superintendent, principals, teachers, other officials of the local educational agency, parents, and students.

"(e) Consideration of Local Plan.—

"(1) After the meetings required under subsection (d), the local educational agency, with proper notice, shall convene a public meeting to consider the local plan and shall—

"(A) approve the plan with or without modification;

"(B) disapprove the plan; or

"(C) return the plan to the committee for further development.

"(2) A local educational agency which approves a local plan shall include the written comments of the local committee prior to submitting such plan to the State for consideration for a subgrant.

"(3) Additional development, submission, and consideration of the local plan shall be consistent with the provisions of this section.

"(f) Additional Subgrant.—A local educational agency may not receive an additional subgrant in a succeeding year unless such local educational agency demonstrates reasonable progress in the implementation of its local plan and, after its third year of funding under this part, provides evidence of improved student achievement.

"(g) Review of Local Plan.—(1) The committee and the local educational agency shall review, on an ongoing basis, the progress of the local educational agency in implementing the local plan for the period during which such agency receives funding under this part.

"(2) The committee shall annually submit a written progress report to the local educational agency, the State panel established under section 8106, and the State educational agency. The local educational agency may submit a separate report, including comments on the report submitted by the committee.

"SEC. 8109. LOCAL USES OF FUNDS.

"(a) Development of Plan.—A local educational agency which receives a subgrant under this part shall use the funds for the purpose of district-wide reform, consistent with the State and local plans. Authorized activities may include—

"(1) development and implementation of the local plan;

"(2) New American Schools which reflect the best available knowledge regarding teaching and learning for all students in public schools, which use the highest quality instructional materials and technologies, and which are designed to meet national, State, and local educational goals as well as the particular needs of their students and communities;

"(3) systems such as merit schools which reward public schools with students who, taken as a whole, demonstrate improved performance on curriculum related outcome measures accepted by the States or developed in the State assessment process;

"(4) activities that supplement early childhood education programs and increase the readiness of young children to learn;

"(5) site-based management which places maximum decisionmaking authority at the individual school level and that, at a minimum, involves teachers and other professional staff;

"(6) activities which maximize parental involvement in improving the education of their children;

"(7) coordination of health, rehabilitation, and social services with education;

"(8) activities that provide incentives for higher levels of student performance and lead to improved student motivation and achievement;

"(9) planning to improve the use of technology (including instructional and assistive technology) in schools;

"(10) professional development activities of teachers and local administrators;

"(11) replication of successful education programs or components of such programs that will enable the local educational agency to attain the goals of the State and local plans;

"(12) provision of technical assistance to individual schools to enable such schools to attain the goals of the State and local plans;

"(13) development or adoption, with substantial involvement of principals, teachers, and other administrators, of curricula, instructional materials, and assessment instruments which are consistent with State frameworks and local goals;

"(14) support initiatives of teachers related to the State curricular frameworks, development and implementation of the local plan, and innovative approaches to improving student achievement; and

"(15) support of initiatives similar to those authorized under paragraph (14) by local school

cooperatives or consortia which are a part of an educational reform plans.

"(b) INVOLVEMENT OF PRINCIPALS AND TEACHERS.—A local educational agency shall involve teachers and school principals in the development, operation, and evaluation of activities assisted by funds provided under this part.

"SEC. 8110. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $800,000,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal years 1993 through 2001.

"SEC. 8111. ALLOTMENT OF FUNDS.

"(a) TO STATES.—(1) From funds appropriated under section 8110, the Secretary shall allot to the Secretary of the Interior for each fiscal year an amount equal to ½ of 1 percent of the funds appropriated, not to exceed $2,000,000 in any fiscal year, to benefit Indian students enrolled in schools funded by the Department of the Interior for Indian students. The provisions of subsection (b) of this section shall not apply to payments made under this paragraph.

"(2) From the remaining amount appropriated under section 8110, the Secretary shall make annual grants to States with approved applications based upon the formula established in part A of chapter 1 of title I of this Act.

"(3)(A) The Assistant Secretary of the Interior for Indian Affairs shall reserve, from the allotment to carry out this subsection, an amount not to exceed $500,000 to provide, through the National Academy of Sciences, for an analysis of the costs associated with meeting the academic standards of the Bureau of Indian Affairs by each school funded by such Bureau. The results of such analysis shall be reported, in aggregate and school specific form, to the chairpersons of the Committee on Education and Labor of the House and the Select Committee on Indian Affairs of the Senate and to the Assistant Secretary of the Interior for Indian Affairs not later than 6 months following the date of enactment of this title.

"(B) Such analysis shall evaluate the cost of providing a program in each school funded by the Bureau of Indian Affairs during the academic year July 1, 1992, through June 30, 1993, and shall be based on—

"(i) the standards—

"(I) published by such Bureau in the Federal Register and in effect for Bureau operated schools on July 1, 1992, or

"(II) incorporated within grant or contract agreements in effect on such date for tribally controlled schools funded by such Bureau through the Student Equalization program under section 1126 of Public Law 95-561, as amended:

"(ii) the best projections of student counts and demographics, as independently determined by such Academy; and

"(iii) the pay and benefit schedules and other personnel requirements for each such Bureau funded school, in effect on July 1, 1992.

"(b) MATCHING REQUIREMENT.—(1) The Federal share under this part may not exceed—

"(A) 100 percent of the total cost of a program for the first year for which a State receives funds under this part;

"(B) 85 percent of the total cost of a program for the second year for which a State receives funds under this part;

"(C) 60 percent of the total cost of a program for the third year for which a State receives funds under this part;

"(D) 45 percent of the total cost of a program for the fourth year for which a State receives funds under this part; and

"(E) 33 percent of the total cost of a program for the fifth and any succeeding year for which a State receives funds under this part.

"(2) The remaining cost of a program that receives assistance under this part shall be paid by the State from State funds and may include contributions from the private sector.

"(3) The share of payments from sources other than funds appropriated under this part may be in cash or in kind fairly evaluated.

"(4) The requirements of this subsection shall not apply to the Virgin Islands, the Commonwealth of Puerto Rico, or Pacific outlying areas.

"(c) MAINTENANCE OF EFFORT.—A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(d) ADMINISTRATIVE COSTS.—From its annual allotment, a State may reserve for administration (not to include the activities of the panel) an amount not to exceed 4 percent or $250,000, whichever is greater.

"(e) ASSURANCES AND TERMS.—(1) The funds allotted to the Secretary of the Interior under subsection (a)(1) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this part. The agreement shall contain an assurance that—

"(A) a panel, as set forth in paragraph (2) of this subsection, shall be established;

"(B) a plan as required in section 8106 shall be developed by such panel; and

"(C) the provisions and activities required under sections 8106 and 8107 shall be carried out in the same time frames stipulated for the States in those sections, provided that the term 'local educational agencies' shall be interpreted to mean 'schools funded by the Bureau of Indian Affairs'.

"(2) To carry out the provisions of this part, and to develop the plan required under the agreement with the Secretary required in paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs to develop a system-wide reform plan. Such panel shall consist of—

"(A) the Assistant Secretary of the Interior for Indian Affairs (or designee);

"(B) the chairpersons and ranking minority members of the Committee on Education and Labor of the House of Representatives and the Select Committee on Indian Affairs of the Senate (or their designees);

"(C) the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs and such heads of divisions in such office as the Director shall designate;

"(D) a representative nominated by each of the following—

"(i) the organization representing the majority of teachers and professional personnel in Bureau-operated schools;

"(ii) the organization representing the majority of nonteaching personnel in Bureau-operated schools, if not the same organization as in clause (i);

"(iii) school administrators of Bureau-operated schools;

"(iv) education line officers located in Bureau area or agency offices serving elementary or secondary programs;

"(v) the organization representing the majority of Bureau-funded contract or grants schools not serving students on the Navajo reservation;

"(vi) the organization representing the majority of Bureau-funded contract or grants schools serving students on the Navajo reservation;

"(vii) the organization representing the school boards required in Bureau-operated schools, not serving students on the Navajo reservation; and

"(viii) the organization representing the school boards required in Bureau-operated schools, serving students on the Navajo reservation.

In addition, the members of the panel stipulated above shall designate for full membership 3 tribal chairmen (or designees) or representatives of 3 national organizations which primarily represent national Indian education concerns, or a combination of these 2 classes, provided that the National Advisory Council on Indian Education, established under the Indian Education Act of 1972, (25 U.S.C. 2601 et seq.) shall not be included as an organization for consideration under this provision.

"SEC. 8112. AVAILABILITY OF INFORMATION AND TRAINING.

"(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

"(1) a State educational agency or local educational agency which uses funds under this part to develop goals, curricular frameworks, curricular materials, and assessments shall, upon request, make information related to such goals, frameworks, materials, and assessments available to private schools; and

"(2) a State educational agency or local educational agency which uses funds under this part for teacher and administrator training shall provide in its plan for the training of teachers and administrators of private schools located in the geographical area served by such agency.

"(b) WAIVER.—If, by reason of any provision of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this part, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and curricular frameworks for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of this Act.

"SEC. 8113. ANNUAL PROGRESS REPORTS: TECHNICAL ASSISTANCE.

"(a) ANNUAL REPORT.—A State which receives funds under this part shall annually report to the Secretary—

"(1) regarding such State's progress in meeting its goals and plan;

"(2) describing proposed activities for the succeeding year; and

"(3) describing Federal regulations which may impede reform activities under this part as described in local plans approved by the State.

"(b) ADDITIONAL REPORT; TECHNICAL ASSISTANCE.—(1) Each State which receives funds under this part shall submit to the Secretary a biennial report on revenues available to, and expenditures by, each local educational agency in the State during the second preceding year. This report shall be developed in accordance with data definitions developed and published by the National Center for Education Statistics, and shall include at least the following information for each local educational agency within the State—

"(A) sources of revenues, identified by level of Government and type in the case of taxes;

"(B) types of educational services offered;

"(C) pupil enrollment, average daily attendance, and average daily membership;

"(D) demographic information on student population;

“(E) type and responsibilities of each local educational agency, including a description of grade levels served; and

“(F) age and condition of facilities, including the percent of budget expended for maintenance and operation.

“(2) After submission of the first biennial report under paragraph (1), a State, using data and definitions developed by the National Center on Education Statistics, shall include in each subsequent biennial report for each local educational agency the following information:

“(A) Tax assessment rates, policies, and practices.

“(B) The ability of such local educational agency to raise additional revenues.

“(C) The costs of providing elementary and secondary education services.

“(3) The report required by this subsection shall also contain a detailed description of the State's school finance programs including each program's—

“(A) purpose;

“(B) eligibility criteria;

“(C) sources of revenue;

“(D) aggregate level of funding;

“(E) mechanism or formula for distributing funds among local educational agencies; and

“(F) restrictions on use of funds.

“(4) In developing data definitions under this subsection, the National Center for Education Statistics shall consult with individuals knowledgeable in the field of education finance.

“(5) Each State shall make its first report to the Secretary under this subsection not later than two years after the date that the Secretary initially allots funds under section 8111.

“(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, either directly by grant or by contract, to the States to assist them in complying with the requirements of this section.

“(d) DATA REVIEW.—The National Center for Education Statistics shall review the data from reports compiled under this section to determine adherence to the definitions required in subsection (b) before it is submitted for policy analysis by the National Academy of Sciences under subsection (c) of section 8114. The National Center for Education Statistics shall forward to the Secretary and the National Academy of Sciences any discrepancies it determines between the data and the definitions and any corrections necessary to achieve consistency in the data, particularly as it relates to differences in data of the various States.

“SEC. 8114. EVALUATION AND DISSEMINATION.

“(a) EVALUATION.—The Secretary shall evaluate a representative sample of such State and local reform efforts over the course of the 10-year authorization in order to assess the effectiveness of such plans and activities in improving the educational performance of all children. Such evaluations shall specifically examine the effects of such activities on disadvantaged students. The Secretary may reserve up to ¾ of one percent of the appropriations for this part to carry out this section provided that ½ of one percent of such appropriation shall be reserved for technical assistance under section 8113(c) and for subsection (c) of this section.

“(b) DISSEMINATION.—The Secretary shall, annually and upon request, disseminate to the States information on approaches and materials developed under this part or through related efforts.

“(c) CONTRACT FOR STATISTICAL, LEGAL, AND POLICY ANALYSIS.—(1) The Secretary shall provide, through a contract with the National Academy of Sciences, for the preparation of a statistical, legal, and policy analysis of school finance and related data reported by the States under section 8113(b). Such analysis shall—

“(A) address disparities in educational expenditures and the reasons for such disparities among local educational agencies in each State and among States across the Nation; and

“(B) describe the degree to which the data reported by States under section 8113 was useful in its preparation.

“(2) In conducting such analysis, the National Academy of Sciences shall use statistical methods generally accepted by school finance specialists, and shall develop model State school finance programs based on generally accepted concepts of equalized school finance programs. Such models shall take into consideration a variety of factors, including—

“(A) State and local variations in student demographics and needs, and the costs of meeting such needs;

“(B) adequacy of resources;

“(C) ability and willingness of States and local educational agencies to raise additional revenues; and

“(D) costs of providing educational services.

“(3) Not later than three years following the date that the Secretary makes the first allotment of funds to States under section 8111, the National Academy of Sciences shall provide a report containing the information required by this subsection to the Chairpersons of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary. The Secretary shall expeditiously make such report available to States and, upon request, to the public.

“(4) The Secretary, upon request, shall provide, either directly or by contract, technical assistance to States which endeavor to implement a model school finance program developed by the National Academy of Sciences under this subsection.

“SEC. 8115. REPORT TO CONGRESS.

“The Secretary shall submit annually to the chairpersons of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains—

“(1) a description of the progress that States receiving funds under this part have made in developing and implementing their plans;

“(2) information from State and local reports regarding requirements in Federal law or regulation which have been identified by States and local educational agencies as impeding the system-wide reform of schools under this part; and

“(3) a list by State of average per pupil expenditures reflecting the most recent data reported under section 8113(b) and reviewed under section 8113(d).

“SEC. 8116. GENERAL PROVISIONS.

“Nothing in this part shall—

“(1) supersede State law;

“(2) be construed to authorize any department, agency, officer, or employee of the Federal Government to—

“(A) exercise any control over the curriculum, program of instruction, administration or personnel of any educational institution or school system; or

“(B) prescribe the use of particular standards, assessments, or instructional materials;

“(3) be construed to limit the rights or responsibilities of any person under any Federal law; or

“(4) be construed to prohibit a local educational agency from receiving contributions from private organizations or individuals for the purpose of supporting the development or implementation of its local reform plan.

“SEC. 8117. DEFINITIONS.

“For purposes of this part:

“(1) The term ‘assessment system’ means a system for measuring the abilities and academic achievement of students that is based upon a set of curricular frameworks and expected outcomes.

“(2) The term ‘curricular framework’ means a description, in a particular subject area, of the knowledge and skills children should acquire at each grade level.

“(3) The term ‘Pacific outlying area’ means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until such time as the Compact of Free Association is ratified).

“PART C—FLEXIBILITY DEMONSTRATION PROGRAM

“SEC. 8201. SHORT TITLE.

“This part may be cited as the ‘Flexibility for Educational Effectiveness Act of 1992’.

“SEC. 8202. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress finds that—

“(1) schools face increasingly diverse populations of disadvantaged students due to the influx of many immigrant children, the growth in poverty among children, and changes in the family structure;

“(2) schools are asked not only to educate such increasingly diverse student populations, but to meet disadvantaged students' needs for social, health, and nutritional services;

“(3) Federal and State programs are available to assist in educating and otherwise helping such students, but were designed originally when it was easier to meet the needs separately; and

“(4) a demonstration program that waives specific Federal statutes and regulations is necessary to determine whether education and other services can be provided in a more coordinated manner so that teachers, principals, and other school personnel can develop more flexible approaches to improving the education, social, health, mental health, and nutrition levels of disadvantaged children.

“(b) PURPOSES.—It is the purpose of this part to demonstrate the effectiveness in several States and schools, of granting waivers of Federal and State laws and regulations so that services can be more effectively provided to disadvantaged children.

“SEC. 8203. ESTABLISHMENT OF FEDERAL COMMITTEE.

“(a) IN GENERAL.—There is established a Committee on Services to Children (referred to in this part as the ‘Committee’) composed of the Secretaries of Education, Agriculture, Labor, and Health and Human Services. Such Committee shall coordinate certain activities of the Departments of Education, Agriculture, Labor, and Health and Human Services to facilitate demonstration projects that waive certain requirements of Federal laws and regulations administered by such departments.

“(b) NOTIFICATION.—Not later than 60 days after the establishment of the Committee under this section, such Committee shall publish in the Federal Register a notice and description of programs providing health, mental health, social services, or substance abuse prevention and treatment for which waivers of requirements are available under other Federal laws for the purpose of encouraging the coordination of such programs with programs included in this part.

“(c) DUTIES.—The Committee shall review applications from States for demonstration projects and approve applications of not more than 15 States involving not more than 20 schools in each State.

“(d) LIMITATION.—The Committee shall not exercise authority over the development or specific provisions of an application submitted by a State.

“SEC. 8204. PROGRAM AUTHORIZED.

“(a) STATES.—The Committee is authorized to waive certain requirements in not more than 15 States involving not more than 20 schools in each State for demonstration purposes to find more flexible ways to provide education and

other services to disadvantaged students. The demonstration projects may include the simplification, coordination, and combination of some of the requirements in the following four categories—

"(1) related Federal and State preschool and early childhood programs for disadvantaged children;

"(2) related Federal and State programs for disadvantaged students in elementary and secondary schools;

"(3) Federal and State educational programs for disadvantaged children and social, health, and nutrition programs targeted at such children; and

"(4) the administration of Federal and State school lunch and school breakfast programs.

"(b) TERRITORIES.—(1) Notwithstanding the definition of State in section 1471, the Secretary is authorized to consider an application from each of the territories of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and to waive certain requirements in not more than four schools for each of such territories.

"(2) The requirements of subsection (a) regarding the number of States and schools that may be approved for waivers shall not include the territories listed in paragraph (1).

"SEC. 8205. ELIGIBILITY.

"(a) STATE ELIGIBILITY.—To be eligible to participate in a demonstration project under this part, a State educational agency shall have, or make a concerted attempt to develop, coordinated service agreements with other agencies of the State that administer social services, health, mental health, and substance abuse prevention and treatment programs. Such agreements shall include descriptions of the manner in which such services for disadvantaged students are coordinated at the State level.

"(b) LOCAL ELIGIBILITY.—To be eligible to participate in a demonstration project under this part, a local educational agency shall—

"(1) develop the application with the involvement of a local reform committee established under section 8108 of part B or under State law; and

"(2) have, or make a concerted attempt to develop, coordinated service agreements with other local agencies and organizations to better coordinate the provision of education, social services, health, mental health, and substance abuse prevention and treatment programs to disadvantaged students. Such services shall be available at a location convenient for such students and their families.

"SEC. 8206. APPLICATIONS.

"(a) GENERAL LOCAL REQUIREMENTS.—A local educational agency that desires to participate in a demonstration project that waives certain State and Federal requirements to improve the delivery of services to disadvantaged children shall submit an application that includes not more than 4 schools in the jurisdiction of such agency to the State educational agency.

"(1) LOCAL REQUEST FOR WAIVERS.—A local educational agency that desires to request waivers of statutory or regulatory requirements to better serve disadvantaged students shall submit an application that—

"(A) identifies each school that desires waivers of Federal and State requirements and describes how such requirements impede improved educational outcomes;

"(B) specifically identifies each Federal and State statutory requirement to be waived;

"(C) describes how program funds shall be combined with chapter 1 funds to provide more effective services in the regular classroom for disadvantaged students;

"(D) describes how the combining of funds shall—

"(i) allow the school to provide services to disadvantaged students in a more comprehensive, less fragmented approach;

"(ii) allow the school to better meet the educational needs of disadvantaged students; and

"(iii) allow the school to allocate resources more effectively;

"(E) describes the specific educational improvement goals for each school, including—

"(i) goals to substantially improve the performance of disadvantaged students on indicators of student progress that are tied to State and national education goals and which reflect public input;

"(ii) goals that reflect the broad purposes of each program for which the waiver is sought; and

"(iii) an explanation of how the local educational agency shall evaluate the progress of each school in meeting its educational improvement goals in order to measure—

"(I) physical, psychological, and educational readiness of disadvantaged children to learn;

"(II) skill levels of students eligible for chapter 1 funds in reading, mathematics, analytical reasoning, and higher order thinking;

"(III) the dropout, retention, and graduation rates;

"(IV) teacher and student absenteeism; or

"(V) other factors associated with student and school success;

"(F) describes the population of disadvantaged students at each school, the academic and other needs of such students, and how the needs of such students shall be addressed by the demonstration projects;

"(G) describes how school administrators, teachers, staff, and parents shall be involved in the planning, development, and implementation of the goals for each participating school; and

"(H) assures that the local educational agency shall report annually to the State educational agency on the progress of the school in meeting the goals described in the application.

"(2) LOCAL REQUEST FOR SOCIAL, HEALTH, AND NUTRITION PROGRAM WAIVERS.—A local educational agency that desires to receive waivers of statutory or regulatory requirements to improve the social, health, and nutritional services to disadvantaged students shall submit an application to the State educational agency that—

"(A) includes a description of the impediments to providing effective social, health, and nutritional services to disadvantaged children;

"(B) identifies the Federal and State statutory or regulatory requirements to be waived;

"(C) describes the service goals to be achieved;

"(D) assures that the local educational agency shall report annually to the State educational agency on the progress of the school in meeting the goals described in the application.

"(3) LOCAL REQUEST OF SCHOOL AND CHILD NUTRITION PROGRAM WAIVERS.—A local educational agency that desires to receive waivers of statutory or regulatory requirements relating to the operation of school lunch and school breakfast programs shall submit an application to the State educational agency that—

"(A) includes a description of the impediments to the efficient operation and administration of the school lunch or school breakfast program;

"(B) identifies the Federal statutory or regulatory requirements to be waived;

"(C) describes the management goals to be achieved, such as fewer hours spent on or fewer personnel dedicated to the administration of such programs; and

"(D) assures that the local educational agency shall report annually to the State educational agency on the progress of school in meeting the goals described in the application.

"(b) GENERAL STATE REQUIREMENTS.—A State educational agency that desires to request waivers of statutory requirements or regulations shall submit an application to the Committee that includes the following:

"(1) SCHOOL SELECTION.—The names of the not more than 20 schools in such State selected to participate in a demonstration project.

"(2) REQUIREMENT WAIVERS.—For each such school, the identification of the statutory or regulatory requirements that are requested to be waived and the goals that the school intends to achieve.

"(3) STATE ACTION.—A description of the action that the State has undertaken to remove State statutory or regulatory barriers identified in the applications of the local educational agencies.

"(4) PROGRAM COMBINATION.—A description of the extent to which the State has combined State programs for educating disadvantaged students and State social health, mental health, and substance abuse programs with similar Federal programs, including the administration of such programs.

"(5) MONITORING PROCESS.—An assurance that the State educational agency shall monitor quarterly the progress of the schools in meeting the goals outlined in the application and that such agency shall report annually on such progress to the Committee.

"(6) APPROPRIATE APPROVAL.—If a local educational agency has requested a waiver of a Federal or State statutory or regulatory requirement that is not within the jurisdiction of the State educational agency, the written approval of the appropriate State official responsible for such requirement.

"(c) PRIORITIES.—

"(1) LOCAL PRIORITY.—The State educational agency shall give priority consideration to the selection of schools with large numbers or percentages of students eligible to receive a free or reduced price meal and schools that are—

"(A) participating in school-wide projects under chapter 1;

"(B) recipients of multiple Federal educational programs serving disadvantaged students; and

"(C) combining Federal and State social, health, mental health, and substance abuse services with Federal and State education programs affected by this part;

"(2) STATE PRIORITY.—The Committee shall give priority consideration to an application of a State that—

"(A) demonstrates that actions have been taken to waive State statutory or regulatory requirements in programs similar to the Federal programs for which the waivers are sought; and

"(B) demonstrates (and provides evidence of authority) that the State has or intends to coordinate and combine the administration of similar Federal and State education programs affected by this part and also to coordinate such programs with social, health, mental health, and substance abuse programs.

"SEC. 8207. FEDERAL WAIVERS OF GENERAL REQUIREMENTS.

"A State educational agency may request waivers of Federal statutory or regulatory requirements relating to the uses of funds for programs serving disadvantaged students to allow funds to be combined to better serve disadvantaged students in the regular classroom.

"(1) PRESCHOOL PROGRAMS.—In the case of preschool programs serving disadvantaged students, such programs shall include chapter 1 and may include—

"(A) Head Start (only for requirements related to age, family income, length of day, and restrictions on reimbursement);

"(B) Even Start;

"(C) the Child Care Quality Improvement Act; and

"(D) the Comprehensive Child Development Centers Act of 1988.

"(2) ELEMENTARY SCHOOL.—In the case of programs serving disadvantaged students at the elementary school level, such programs shall include chapter 1 and may include—

"(A) chapter 2 of this Act;

"(B) the Jacob K. Javits Gifted and Talented Students Education Act of 1988;

"(C) the Drug Free Schools and Communities Act of 1986;

"(D) the Head Start Transition Project Act;

"(E) the Follow Through Act; and

"(F) the Emergency Immigrant Education Act of 1984.

"(3) SECONDARY SCHOOL.—In the case of programs serving disadvantaged students at the secondary school level, such programs shall include chapter 1 and may include—

"(A) the Carl D. Perkins Vocational and Applied Technology Act;

"(B) the Job Training Partnership Act;

"(C) chapter 2 of this Act;

"(D) the School Dropout Demonstration Assistance Act of 1988;

"(E) the Drug Free Schools and Communities Act of 1986; and

"(F) the Emergency Immigrant Education Act of 1984.

"SEC. 8208. FEDERAL WAIVERS OF REQUIREMENTS FOR SOCIAL, HEALTH, AND NUTRITION PROGRAMS.

"A State educational agency may request waivers of Federal statutory or regulatory requirements relating to the operation of programs designed to improve the social, health, and nutritional condition of disadvantaged children. Requests may include waivers for—

"(1) the Nutrition Education and Training Program under the Child Nutrition Act;

"(2) Programs for Improvement of Comprehensive School Health Education under the Secretary's Fund for Innovation in section 4605 of title IV of this Act;

"(3) Alcohol and Drug Abuse Education Act; and

"(4) the Drug Free Schools and Communities Act.

"SEC. 8209. FEDERAL WAIVERS OF REQUIREMENTS FOR NATIONAL SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS.

"The State educational agency may request waivers of Federal statutory or regulatory requirements relating to the operation of the school lunch and school breakfast programs authorized under the National School Lunch and Child Nutrition Acts in order to promote more efficient operation of such programs.

"SEC. 8210. RESTRICTIONS ON WAIVERS.

"(a) IN GENERAL.—A local educational agency may request waivers only for those programs in which such agency participates and nothing in this part may be construed:

"(1) CIVIL RIGHTS AND DISCRIMINATION.—To authorize any changes in, substitutions for, or lessening of, the mandates and protections of Federal laws and regulations regarding civil rights (under title VI of the Civil Rights Act of 1964), discrimination (under title IX of the Education Amendments of 1972, or section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975), and safety, and the procedural safeguards contained in such provisions.

"(2) USAGE OF FUNDS.—To affect regulations and prohibitions concerning the diversion of Federal funds for private use.

"(3) GENERAL REQUIREMENTS.—To absolve any State, local educational agency or school from—

"(A) maintenance of effort or comparability of services requirements under any program;

"(B) requirements that Federal funds supplement, not supplant non-Federal funds;

"(C) requirements to provide for the equitable participation of private school students;

"(D) requirements under sections 438 and 439 of the General Education Provisions Act; or

"(E) requirements relating to parental participation.

"(4) FUND DISTRIBUTION.—To alter the distribution of funds to schools within the local educational agency, or to change the way funds are utilized within schools for programs not included in the waiver.

"(5) CONSTRUCTION, RENOVATION, AND REPAIR.—To permit funds made available for services and activities to be used for the construction, renovation, or repair of facilities.

"(b) RESTRICTIONS OF SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS.—Nothing in this part shall be construed:

"(1) DISCLOSURE OF INFORMATION.—To lessen the mandates regarding the prohibition on the disclosure of information regarding students receiving free or reduced price meals.

"(2) PRICE LIMITATION.—To allow eligible schools to charge more than the statutory price limit for a reduced price meal.

"(3) MEAL COSTS.—To lessen the mandates regarding the requirements for serving free or reduced price meals to eligible students.

"(4) REIMBURSEMENT.—To allow schools to receive a reimbursement at an amount greater than the number or proportion of students eligible for free, reduced price, or paid meals.

"(5) PROHIBITION.—To lessen the requirements regarding the prohibition on operating a profit-producing program.

"(6) SALE.—To lessen the requirements regarding the sale of competitive foods.

"(7) NUTRITION.—To lessen the mandates regarding the nutritional content of the meals served.

"(c) SPECIAL RULE.—Any reporting requirements required by programs affected by sections 8207, 8208, and 8209 shall be waived and considered satisfied by the reporting requirements in this part.

"SEC. 8211. TERMINATION OF WAIVER AUTHORITY.

"(a) EARLY TERMINATION.—A waiver granted to a State or school shall be terminated when the following occurs:

"(1) PROGRESS.—The school has not demonstrated adequate progress toward meeting the goals outlined in the application of the local educational agency.

"(2) VIOLATION.—When a State or school has been found in violation of any restriction on the waiver authority.

"(b) FINAL TERMINATION.—The authority of the Committee to grant waivers shall expire on September 30, 1997.

"(c) DECLINE PARTICIPATION.—A school, at any time, may decline to participate in a project under this part.

SEC. 8212. REPORTING REQUIREMENTS.

"(a) STATE REQUIREMENT.—A State educational agency that is selected for a demonstration project under this part shall report annually to the Committee on the progress of each participating school in meeting the goals articulated in the application of the local educational agency and shall include the following:

"(1) INTERAGENCY AGREEMENTS.—Identification of the interagency mechanism established to coordinate the delivery of services at the State and local level.

"(2) ACHIEVEMENT LEVELS.—Evaluation of the impact of coordinated services on the achievement levels of students eligible for chapter 1 funds including—

"(A) reading and math skills;

"(B) analytical reasoning skills;

"(C) dropout rates;

"(D) retention rates;

"(E) graduation rates;

"(F) student absenteeism;

"(G) teacher absenteeism; and

"(H) other indicators considered by the local educational agency to be appropriate.

"(3) SERVICE REVIEW.—Identification of the specific steps taken—

"(A) to expand or restrict eligibility for services or programs;

"(B) to establish new services;

"(C) to expand existing services;

"(D) to increase hours of service;

"(E) to integrate services from other systems (such as mental health, nutrition, social services, and substance abuse prevention and treatment);

"(F) to involve new staff in the delivery of services; and

"(G) to enhance parental involvement.

"(b) COMMITTEE REQUIREMENT.—The Committee shall report annually to the Committee on Education and Labor in the House of Representatives and the Committee on Labor and Human Resources of the Senate, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the progress in each of the schools in meeting the goals in the application of the local educational agency.

"SEC. 8213. EVALUATION.

"(a) NATIONAL ACADEMY OF EDUCATION.—The Secretary of Education shall contract with the National Academy of Education to conduct an evaluation of the demonstration projects under this part to determine the following:

"(1) STATE REPORTING REQUIREMENTS.—The accuracy of the information required under section 8212.

"(2) ACHIEVEMENT AND EFFICIENCY.—The effectiveness of raising educational achievement levels of disadvantaged students and improving the general efficiency of program operations at each school.

"(3) COORDINATED SERVICE AGREEMENTS.—The effectiveness of the coordinated service agreements at the State and local levels in the delivery of comprehensive services to disadvantaged children.

"(b) SUBMISSION DEADLINE.—Such evaluation shall be submitted to the Committee on Education and Labor of the House of Representatives, the Committee on Labor and Human Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than January 1, 1999.

"SEC. 8214. DEFINITIONS.

"For purposes of this part:

"(1) The term 'chapter 1' means chapter 1 of title I of this Act.

"(2) The terms 'disadvantaged children' and 'disadvantaged students' mean children, ages 3 to 17 years, who are eligible for services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Head Start Act, the National School Lunch Act, the Follow Through Act, the Bilingual Education Act, the School Dropout Demonstration Act, or the Emergency Immigrant Education Act.

"(3) The term 'secondary school' means junior high schools, middle schools, and high schools.

"SEC. 8215. AUTHORIZATION OF APPROPRIATIONS.

"For the purposes of section 8213, there are authorized to be appropriated $1,000,000 for fiscal year 1997, which shall remain available until expended.

"TITLE IX—NATIONAL BOARD ON WORKFORCE SKILLS

"SEC. 9001. PURPOSE.

"The purpose of this title is—

"(1) to conduct research to identify and to determine the validity of generic workplace readiness skills which all students should have attained upon completion of high school in order to be effective participants in the workforce; and

"(2) to make recommendations regarding how the attainment of such generic workplace readiness skills can be incorporated into the development of national content standards and national school delivery standards.

"SEC. 9002. RESEARCH.

"(a) NATIONAL ACADEMY OF SCIENCES.—The Secretary of Education, through grant or con-

tract with the National Academy of Sciences (referred to in this title as the Academy), shall—

"(1) in consultation with employers, workers, representatives of labor, educators, and others as appropriate, identify generic workplace readiness skills that all students should have upon completion of high school;

"(2) conduct research on such skills, including evaluating existing research and practices to determine the relationship between possession of the skills and competent job performance;

"(3) make recommendations for integrating generic workforce readiness skills into school-based learning; and

"(4) propose methods to update generic workforce skills as the requirements of the economy change.

"(b) EXPERTS.—The Academy shall utilize the expertise of representatives from business and industry, organized labor (including organizations with national training programs), education, local government, and others with expertise regarding the identification and teaching of generic workplace readiness skills.

"SEC. 9003. RECOMMENDATIONS.

"The Academy shall work with the National Education Goals Panel and the groups and organizations authorized to develop national content standards and national schools delivery standards pursuant to sections 8011 and 8012, respectively, to include skills identified under this part and the National Education Goals Panel and such groups and organizations shall utilize the recommendations of the Academy.

"SEC. 9004. TIME AND CONDITIONS.

"The Secretary shall, not later than 90 days after the receipt of funds appropriated under section 9005, enter into an appropriate arrangement with the Academy to carry out the responsibilities outlined under this title.

"SEC. 9005. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $2,000,000 for fiscal year 1993 to carry out this title. Such appropriation shall be available until expended.".

SEC. 102. EISENHOWER NATIONAL PROGRAMS.

Section 2012 of the Elementary and Secondary Education Act is amended by adding at the end the following:

"(g) MODEL ASSESSMENTS FOR MATH STANDARDS.—The Secretary may develop, in consultation with the panel and committee established under title VIII of this Act, model assessments tied to the math standards.".

TITLE II—GENERAL EDUCATION PROVISIONS ACT AMENDMENTS

SEC. 201. NATIONAL ASSESSMENT PURPOSE.

(a) ASSESSMENT PURPOSE.—Section 406(i)(1) of the General Education Provisions Act is amended by striking the third sentence and inserting the following:

"The purpose of the National Assessment is to measure the Nation's progress in meeting the national education goals through the assessment of the performance of children and adults in the basic skills of reading, mathematics, science, writing, history, geography, and other areas selected by the Board.".

(b) NATIONAL ASSESSMENT.—Section 406(i)(6)(A) of the General Education Provisions Act is amended—

(1) by redesignating clauses "(ii)" through "(viii)" as "(iii)" through "(ix)", respectively; and

(2) by inserting after clause (i) the following:

"(ii) ensuring that the National Assessment is aligned with national content standards established under section 8011 of this Act.".

SEC. 202. FUNCTIONS OF NATIONAL ASSESSMENT.

(a) IN GENERAL.—Section 406 of the General Education Provisions Act (20 U.S.C. 1221e-1) is amended—

(1) in paragraph (1) of subsection (f), by striking "and 1993" and inserting "1993, and 1994";

(2) in subparagraph (C) of subsection (i)(2)—

(A) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively;

(B) by inserting after clause (ii) the following:

"(iii) The National Assessment shall—

"(I) conduct, in 1994, a trial mathematics assessment for the 4th and 8th grades and a trial reading assessment for the 4th grade, in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data;

"(II) develop a trial mathematics assessment for the 12th grade, a trial reading assessment for the 8th and 12th grades, and a trial science assessment for the 4th, 8th, and 12th grades, to be administered in 1994 in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data; and

"(III) include in each such sample assessment referred to in subclauses (I) and (II) students in public and private schools in a manner that ensures comparability with the national sample."; and

(C) in clause (vi) (as redesignated by subparagraph (A) of this paragraph)—

(i) in the first sentence, by striking "and the fairness and accuracy of the data they produce" and inserting ", the fairness and accuracy of the data they produce, and important issues affecting the quality and integrity of the National Assessment"; and

(ii) by striking "paragraph (C)(i) and (ii)" and inserting "clauses (i), (ii), and (iii)".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 405(f)(1) of the General Education Provisions Act (20 U.S.C. 1221e(f)(1)) is amended by striking "1993" and inserting "1994".

(c) ADDITIONAL REPORT.—

(1) IN GENERAL.—The Secretary shall provide for the organization that conducts the independent evaluation required by section 406(i)(2)(C)(vi) of the General Education Provisions Act to study and report to the Congress on—

(A) the process whereby achievement goals are set pursuant to section 406(i)(6) of such Act; and

(B) the ability of the National Assessment of Educational Progress to maintain valid data with respect to trends in student performance.

(2) TIME FOR SUBMISSION OF REPORT.—The report required by paragraph (1) shall be submitted as soon as practicable, but in any event not later than 120 days after the date of the enactment of this Act.

SEC. 203. RESPONSIBILITY OF STATES TO FURNISH INFORMATION CONCERNING USES OF FEDERAL FUNDS.

Section 406A of the General Education Provisions Act (20 U.S.C. 1232f) is amended to read as follows:

"RESPONSIBILITY OF STATES TO FURNISH INFORMATION

"SEC. 406A. (a) Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—

"(1) information with respect to the uses of Federal funds in such State in the 2 preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

"(2) information with respect to the uses of Federal funds in such State in the 2 preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

"(b) Each report submitted as required by subsection (a) shall—

"(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

"(2) analyze the information included in the report by local educational agency and by program;

"(3) include the total amount of funds available to the State under each such program for each fiscal year concerned and specify which appropriation Act or Acts made such funds available;

"(4) separately account for any funds carried over from a preceding fiscal year by any State or local educational agency; and

"(5) be made readily available by the State to local educational agencies and institutions within the State and to the public.

"(c) If the Secretary does not receive a report by the date required under subsection (a), or receives an incomplete report, the Secretary, not later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.

"(d) When the Secretary receives a report required under subsection (a), the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available to any individual who requests it and as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

"(e) On or before August 15th of each year in which reports are submitted under subsection (a), the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

"(1) an analysis of the content and data quality of such reports;

"(2) a compilation of statistical data derived from such reports; and

"(3) information obtained by the Secretary with respect to—

"(A) direct grants made to local educational agencies by the Federal Government; and

"(B) contracts entered into between such agencies and the Federal Government.".

TITLE III—ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENT

SEC. 301. SCHOOLWIDE PROJECTS.

(a) IN GENERAL.—Section 1015(b)(6) of the Elementary and Secondary Education Act of 1965 is amended—

(1) in subparagraph (A)—

(A) by striking "(A)"; and

(B) by striking the semicolon and "and" at the end and inserting a period; and

(2) by striking subparagraph (B).

(b) APPLICATION.—The amendment made by subsection (a) shall apply to grants made on or after October 1, 1992.

TITLE IV—VOCATIONAL EDUCATION ASSESSMENT

SEC. 401. ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES.

Section 421(h) of the Carl D. Perkins Vocational and Applied Technology Education Act is amended—

(1) by inserting after "(1)" and "(h)"; and

(2) by inserting at the end the following:

"(2)(A) Notwithstanding any provision of section 406 of the General Education Provisions Act, the Commissioner of Education Statistics may authorize a State educational agency or a consortium of such agencies to use items and data from the National Assessment of Educational Progress for the purpose of evaluating a course of study related to vocational education, if the Commissioner has determined, in writing, that such use will not—

"(i) result in the identification of characteristics or performance of individual students or schools;

"(ii) result in the ranking or comparing of schools or local educational agencies;

"(iii) be used to evaluate the performance of teachers, principals, or other local educators for the purpose of dispensing rewards or punishments; or

"(iv) corrupt or harm the use and value of data collected for the National Assessment of Educational Progress.

"(B) Not later than 60 days after making an authorization under subsection (a), the Commissioner shall submit to the chairperson of the Committee on Education and Labor of the House of Representatives and to the chairperson of the Committee on Labor and Human Resources of the Senate, a report which contains—

"(i) a copy of the request for such authorization;

"(ii) a copy of the written determination under subsection (a); and

"(iii) a description of the details and duration of such authorization.

"(C) The Commissioner may not grant more than one such authorization in any fiscal year and shall ensure that the authorized use of items or data from the National Assessment is evaluated for technical merit and for its affect on the National Assessment. The results of such evaluations shall be promptly reported to the committees specified in subparagraph (B).".

"SEC. 402. AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2422) is amended—

(1) in paragraph (2) of subsection (a), by inserting ", including postsecondary employment and training programs," after "training programs"; and

(2) in subsection (b)—

(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(B) in the matter preceding paragraph (1) (as redesignated in subparagraph (A)), by inserting "the State board or agency governing higher education" after "coordinating council,"; and

(C) in paragraph (1) (as redesignated in subparagraph (A))—

(i) by striking "Act and of" and inserting "Act, of"; and

(ii) by inserting "and of the State board or agency governing higher education" after "Job Training Partnership Act"; and

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) DATA COLLECTION SYSTEM.—In the development and design of a system to provide data on graduation or completion rates, job placement rates from occupationally specific programs, and licensing rates, each State board for higher education shall develop a data collection system whose results can be integrated into the occupational information system developed under this section.".

The CHAIRMAN. No amendment to the substitute, as modified, is in order except those amendments printed in House Report 102–838 and the amendments en bloc described in House Resolution 551. The amendments printed in House Report 102–838 shall be considered in the order and manner specified in the report, shall be considered as read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question. Debate on each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

It shall be in order for the chairman of the Committee on Education and Labor, or his designee, to offer amendments en bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in House Report 102–838. Said amendments en bloc shall be considered as read, except that modifications shall be reported; shall not be subject to amendment or to a demand for a division of the question, and are debatable for 40 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The original proponents of the amendments offered en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

AMENDMENTS EN BLOC OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, pursuant to the rule, and as the designee of the gentleman from Michigan [Mr. FORD], I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. KILDEE consisting of the amendments numbered 1 through 6 in House Report 102–838.

1. Kildee amendment:

Page 2, before line 1, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neighborhood Schools Improvement Act".

Page 3, line 9, insert "voluntary" before "national".

Page 3, line 14, insert "voluntary national" before "school delivery".

Page 8, line 2, insert "voluntary" before "national".

Page 8, beginning on line 24, strike "measurement tools to be developed as necessary" and insert "indicators".

Page 15, strike lines 9 through 21, and insert the following:

"(b) APPOINTMENT AND PAY OF EMPLOYEES.—

"(1) EMPLOYEE ALLOCATION.—(A) The Chairperson of the Panel may appoint not more than four employees to serve as staff to the Panel without regard to the provisions of the title 5, United States Code, governing appointments in the competitive service.

"(B) The employees appointed under paragraph (1) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

"(2) ADDITIONAL EMPLOYEES.—The Chairperson of the Panel may appoint additional employees to serve as staff to the Panel consistent with the provisions of title 5, United States Code.

Page 16, line 12, insert "voluntary" before "national".

Page 16, line 14, insert "voluntary" before "national".

Page 16, line 16, insert "VOLUNTARY" before "NATIONAL".

Page 18, line 17, insert "VOLUNTARY NATIONAL " before "SCHOOL".

Page 25, line 7, strike "1992" and insert "1993".

Page 25, line 12, strike "1992 through 1996" and insert "1993 through 1994".

Page 25, line 16, strike "1992" and insert "1993".

Page 25, line 17, strike "1993" and insert "1994".

Page 25, line 21, strike "1992 and 1993" and insert "1993 and 1994".

Page 32, line 8, strike "and".

Page 32, line 9, strike "(6)" and insert "(7)".

Page 32, after line 8, insert the following:

"(6) an individual representing the State board of education; and".

Page 32, line 16, strike "(F) State board of education.".

Page 32, line 17, strike "(G)" and insert "(F)".

Page 34, beginning on line 3, strike "consistent with requirements of Federal law".

Page 34, beginning on line 9, strike "consistent with requirements of Federal law".

Page 41, line 9, insert "(or a designee)" after "agency".

Page 52, line 12, strike "and".

Page 52, line 16, strike the period and insert a semicolon.

Page 52, after line 16, insert the following:

"(16) demonstrating and evaluating the effectiveness of improving teacher and student performance by reducing the numbers of students in classrooms; and

"(17) improving the academic performance and reducing the dropout rate of at-risk students through the use of mentors."

Page 68, beginning on line 7, strike "at each grade level".

Page 91, beginning on line 20, strike "(b) EXPERTS.—" and all that follows through "the expertise" and insert the following:

"(b) NATIONAL BOARD.—The Academy shall establish a National Board on Workforce Skills composed".

Page 92, line 23, strike "Secretary may develop," and insert "Secretary, with funds appropriated to carry out this section and"

Page 92, line 25, insert before "model" the following:

"is authorized to make grants to State educational agencies, local educational agencies, institutions of higher education, organizations with expertise in assessments, or a combination of such agencies or organizations, to support the development of".

Page 93, strike lines 3 through 20.

Page 93, line 21, strike "202" and insert "201".

Page 96, line 5, strike "203" and insert "202".

Page 99, strike lines 1 through 3 and insert the following:

"TITLE III—MISCELLANEOUS PROVISIONS".

Page 99, strike lines 5 through 14 and insert the following:

(a) IN GENERAL.—Section 1015(b)(6) of Public Law 89–10, as amended (20 U.S.C. 2725(b)(6)), is amended—

(1) in subparagraph (A) by striking at the end "and"; and

(2) in subparagraph (B) by striking such subparagraph and inserting the following:

"(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in the previous fiscal year in such schools, except that—

"(i) the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made; and

"(ii) if the average per pupil expenditure of the local educational agency is less than such expenditure in the previous fiscal year, the average per pupil expenditure of schools described in subsection (a) may be reduced by the local educational agency in the exact proportion to the average reduction of expenditures for all schools in such agency."

(b) EFFECTIVE DATE.—The amendment made by paragraph (2) shall be effective on or after July 1, 1992.

Page 99, after line 14, insert the following:

SEC. 302. REPORT AND AUTHORIZATION EXTENSIONS.

Section 102 of Public Law 102-62 is amended—

(1) in subsection (d) by striking "2" and inserting "3"; and

(2) in subsection (h)—

(A) by striking "1991" and all that follows through "and 1993"; and

(B) by inserting "1992 through 1995".

Page 3, line 24, strike "14" and insert "18".

Page 4, line 12, strike "and".

Page 5, line 4, strike the period and insert "; and".

Page 5, after line 4, insert the following:

"(D) four members of State legislatures appointed by the President of the National Conference of State Legislatures, of which not more than two of whom may be of the same political party as the President of the United States.

2. Traficant amendment:

Page 105, after line 16, add the following new title:

TITLE VI—BUY AMERICAN

SEC. 601. SENSE OF THE CONGRESS.

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) or any form of student assistance or other Federal assistance under this Act should, in expanding that assistance, purchase American-made equipment and products.

SEC. 602. NOTICE.

The Secretary of Education shall provide to each recipient of student assistance or other Federal assistance under the Act a notice describing the sense of the Congress stated under section 601.

3. AuCoin amendment:

Page 38, beginning on line 15, strike "In the event" and all that follows through "such accomplishments" on line 20 and insert the following:

"In the event that a State has, pursuant to a State law enacted not later than July 1, 1992, established a reform panel which substantially satisfies the requirements of this section or has previously accomplished any of the reform activities under this part, the State is not required to reconstitute such panel or include such activities in the plan, but may include a request for a waiver, including a description of such panel or accomplishments.".

(Page 43, strike lines 13 through 16, and insert the following:

"(6) In the event that a local educational agency has, pursuant to a State law enacted not later than July 1, 1992, established a reform committee which substantially satisfies the requirements of this section or has previously accomplished any of the reform activities under this part, the local educational agency is not required to reconstitute such committee or include such activities in the plan, but may include a request for a waiver, including a description of such committee or accomplishments.".

4. Wheat amendment:

Page 99, line 3, strike "AMENDMENT" and insert "AMENDMENTS".

Page 99, after line 14, insert the following section:

SEC. 302. PARENTS AS TEACHERS PROGRAMS.

Title IV of the Elementary and Secondary Education Act of 1965 is amended by inserting at the end the following new part:

"Part G—Parents as Teachers

"SEC. 4701. SHORT TITLE.

"This part may be cited as the "Parents as Teachers: the Family Involvement in Education Act of 1992".

"SEC. 4702. FINDINGS.

"The Congress finds—

"(1) increased parental involvement in the education of their children appears to be the key to long-term gains for youngsters;

"(2) providing seed money is an appropriate role for the Federal Government to play in education;

"(3) children participating in the parents as teachers program in Missouri are found to have increased cognitive or intellectual skills, language ability, social skills and other predictors of school success;

"(4) most early childhood programs begin at age 3 or 4 when remediation may already be necessary; and

"(5) many children receive no health screening between birth and the time they enter school, thus such children miss the opportunity of having developmental delays detected early.

"SEC. 4703. STATEMENT OF PURPOSE.

"It is the purpose of this part to encourage States to develop and expand parent and early childhood education programs in an effort to—

"(1) increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

"(2) strengthen partnerships between parents and schools; and

"(3) enhance the developmental progress of participating children.

"SEC. 4704. DEFINITIONS.

"For the purposes of this part—

"(1) the term "developmental screening" means the process of measuring the progress of children to determine if there are problems or potential problems or advanced abilities in the areas of understanding and use of language, perception through sight, perception through hearing, motor development and hand-eye coordination, health, and physical development;

"(2) the term "eligible family" means any parent with one or more children between birth and 3 years of age, or any parent expecting a child;

"(3) the term "lead agency" means the office or agency in a State designated by the Governor to administer the parents as teachers program authorized by this part;

"(4) the term "parent education" includes parent support activities, the provision of resource materials on child development and parent-child learning activities, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home;

"(5) the term "parent educator" means a person hired by the lead agency of a State or designated by local entities who administers group meetings, home visits and developmental screening for eligible families, and is trained by the Parents As Teachers National Center established under section 4708; and

"(6) the term "Secretary" means the Secretary of Education.

"SEC. 4705. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—

"(1) The Secretary is authorized to make grants to States to pay the Federal share of the cost of establishing, expanding, and operating parents as teachers programs.

"(2) In awarding grants under paragraph (1), the Secretary shall give special consideration to applicants whose programs primarily serve hard-to-serve populations, including—

"(A) teenaged parents,

"(B) illiterate parents,

"(C) economically disadvantaged parents,

"(D) offenders and their families,

"(E) unemployed parents,

"(F) learning disabled parents, and

"(G) non-English speaking parents.

"(3) In determining the amount of a grant under paragraph (1), the Secretary shall take into consideration the size of the population to be served, the size of the area to be served, and the financial resources of such population and area.

"(b) SPECIAL RULE.—Any State operating a parents as teachers program which is associated with the Parents As Teachers National Center located in St. Louis, Missouri, shall be eligible to receive a grant under this part.

"SEC. 4706. PROGRAM REQUIREMENTS.

"(a) IN GENERAL.—(1) Each State receiving a grant under section 4705(a) shall conduct a parents as teachers program which—

"(A) establishes and operates parent education programs including programs of developmental screening of children; and

"(B) designates a lead State agency which shall—

"(i) hire parent educators who have had supervised experience in the care and education of children;

"(ii) establish the number of group meetings and home visits required to be provided each year for each participating family, with a minimum of 4 group meetings and 8 home visits for each participating family;

"(iii) be responsible for administering the periodic screening of participating children's educational, hearing and visual development, using the Denver Developmental Test, Zimmerman Preschool Language Scale, or other approved screening instruments; and

"(iv) develop recruitment and retention programs for hard-to-reach populations.

"(2) Grants awarded section 4705(a) shall only be used for parents as teachers programs which serve families during the period of time beginning with the last 3 months of a mother's pregnancy and ending when a child attains the age of 3.

"SEC. 4707. PARENTS AS TEACHERS NATIONAL CENTER.

"The Secretary shall establish a Parents As Teachers National Center to disseminate information to, and provide technical and training assistance to, States establishing and operating parents as teachers programs.

"SEC. 4708. EVALUATIONS.

"The Secretary shall complete an evaluation of the State parents as teachers programs within 4 years from the date of enactment of this part.

"SEC. 4709. APPLICATION.

"Each State desiring a grant under section 4705(a) shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall describe the activities and services for which assistance is sought.

"SEC. 4710. PAYMENTS AND FEDERAL SHARE.

"(a) PAYMENTS.—The Secretary shall pay to each State having an application approved under section 4709 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—(1) The Federal share—

"(A) for the first year for which a State receives assistance under this part shall be 100 percent;

"(B) for the second such year shall be 100 percent;

"(C) for the third such year shall be 75 percent;

"(D) for the fourth such year shall be 50 percent; and

"(E) for the fifth such year 25 percent.

"(2) The non-Federal share of payments under this part may be in cash or in kind fairly evaluated, including planned equipment or services.

"SEC. 4711. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this Act.".

5. Kostmayer and Slaughter amendment:

Page 46, line 12, strike "and".

Page 46, line 22, strike the period and insert a semicolon.

Page 46, after line 22, insert the following:

"(M) provides special attention to the needs of females, including instructional programs and activities that—

"(i) encourage increased participation in math and sciences; and

"(ii) promote gender equity in classrooms and curricula; and

"(N) provides for the ongoing evaluation of the impact of the local plan on the separate educational achievements of girls and boys.".

6. Hall of Ohio amendment:

Page 105, after line 16, insert the following:

TITLE VI—CIVIC AND CHARACTER VALUES-IN-SCHOOLS

SEC. 601. SHORT TITLE.

This title may be cited as the "Civic and Character Values-In-Schools Act of 1992".

SEC. 602. PURPOSE.

The purposes of this title are—

(1) to establish a commission to examine the issues associated with the teaching of values in elementary and secondary schools and to stimulate research in ethics and values;

(2) to recommend to the President and to Congress how the Federal Government, through executive action and legislation, can promote the teaching of values in American schools, including encouraging the offering of independent courses on values, and the integration of values into existing courses;

(3) to explore, assess, and stimulate a variety of approaches to teaching values;

(4) to identify civic and character values that are supported by a consensus of the people of the United States as essential to a complete education and preparation for becoming productive members of society and that may be appropriately endorsed and promoted by the Federal Government; and

(5) to identify the ways in which judgments of values and of right and wrong are implicated in matters of public and private concern.

SEC. 603. FINDINGS.

The Congress finds that—

(1) many Americans of all economic and social levels, religious persuasions, and ages, no longer make determinations of right and wrong as to their own actions or the actions of others in matters of both public and private concern;

(2) educational institutions, which have traditionally played a role in assisting students to make such determinations, no longer receive explicit authority or proper assistance necessary to fulfill this responsibility;

(3) the Nation has witnessed a national moral recession in governmental and political activities, scientific research, and business and commerce, in which individuals have failed to consider the ethics governing their behavior;

(4) statistics show alarming increases in individual and gang violence, drug and substance abuse, and suicide among both young people and adults;

(5) polls show that Americans overwhelmingly prize values such as honesty, but believe that people are less honest today than in the past;

(6) leaders representing a broad spectrum of political, social, and religious beliefs believe that education in moral issues contributes to good citizenship and have called for strengthening the teaching of democratic values;

(7) training in ethics is an ongoing concern in business and industry and in public service; and

(8) while education remains the responsibility of local and State governments, the Congress and the Federal Government may appropriately provide assistance to educational agencies and institutions attempting to promote civic and character values.

SEC. 604. ESTABLISHMENT.

There is established the Commission on Values Education (in this title referred to as the "Commission").

SEC. 605. DUTIES; REPORT.

(a) DUTIES.—The Commission shall—

(1) consider the widest range of values for inclusion in the consensus of values that should be taught, including honesty, integrity, tolerance, self-discipline, self-respect, civility, importance of family, justice, equality, the rule of law, individual rights, the common good, love of country, love of knowledge, responsibility and accountability, protection of oneself and others from degradation and abuse;

(2) conduct interviews, meetings, hearings, and conferences in various regions and localities in the United States to gather the opinions of a wide variety of individuals, including educators and educational administrators, students, parents, philosophers and theologians, civic, religious, and professional leaders, business leaders, social service professionals, political leaders, persons prominent in the arts, entertainment, and sports, and concerned citizens;

(3) seek the cooperation, advice, and assistance of the Department of Education and such other Federal, State, and local agencies, and private and religious organizations, institutions, and associations, as may be helpful in carrying out its purposes and duties; and

(4) recognize individuals and institutions who have demonstrated outstanding success in teaching values; and

(5) identify the potential of values education for reducing the incidence of problems such as those described in section 603(4).

(b) REPORT.—The Commission shall report its findings and recommendations to the Congress and the President not later than 1 year after the enactment of this Act. Such reports shall include—

(1) its recommendations for specific legislation or executive actions and broad policy goals and objectives; and

(2) a recommendation as to the establishment within the Federal Government of a clearinghouse for programs and ideas relating to values education.

SEC. 606. MEMBERSHIP AND APPOINTMENT OF COMMISSION.

(a) MEMBERSHIP.—The Commission shall be composed of 17 members as follows:

(1) Seven members each appointed by the Speaker of the House of Representatives and the majority leader of the Senate, in consultation with the respective minority leaders, from among individuals who are broadly representative of, but not restricted to—

(A) professional educators, teachers, and educational administrators;

(B) parents of students at elementary and secondary levels;

(C) students at secondary levels;

(D) philosophers, theologians, and religious leaders;

(E) State and local elected and appointed government officials, including members of State and local boards of education;

(F) individuals prominent in sports, the arts, and entertainment;

(G) individuals active in business, the professions, or civic activities;

(H) social service professionals; and

(I) the general public.

(2) One member each of the House of Representatives and the Senate, designated by the Speaker of the House and the majority leader of the Senate, respectively.

(3) The Secretary of Education or a designee of the Secretary.

(b) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) TERMS.—Each member shall be appointed for the life of the Commission.

(d) CO-CHAIRS OF COMMISSION.—The Speaker of the House and the majority leader of the Senate shall each designate a co-chair of the Commission from members appointed under subsection (a)(1) or (a)(2).

SEC. 607. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 608. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which the last member is appointed to the Commission and thereafter upon the call of either co-chair or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon the request of cochair of the Commission, the head of such agency shall furnish such information to the Commission.

(d) DIRECTOR.—The Commission shall have a Director, who shall be appointed by the cochairs. The Director shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS-15 of the General Schedule.

(e) STAFF.—The Director shall appoint such staff members as may be necessary to perform the work of the Commission. In allocating authorized, appropriated, and contributed funds, priority shall be given to those activities, such as hearings and conferences, designed to elicit the broadest public participation in the Commission's deliberations, rather than to the payment of professional staff.

(f) USE OF SERVICES AND FACILITIES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(g) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties.

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $500,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal year 1993. Amounts appropriated pursuant to this section shall remain available until expended.

SEC. 610. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its final report to the Congress.

Page 52, line 12, strike "and".

Page 52, line 16, strike the period at the end and insert "; and".

Page 52, after line 16, insert the following:

"(16) development and implementation of programs that help stimulate understanding ethics, civic and character values, and the principles of democracy as a means of enhancing and improving elementary and secondary education.".

Page 105, after line 16, insert the following:

TITLE VI—DEMONSTRATION PROGRAM

SEC. 602. AMENDMENT TO SECRETARY'S FUND FOR INNOVATION IN EDUCATION.

(a) PROGRAM AUTHORIZED.—Paragraph (2) of section 4601(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151(a)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following:

"(E) help stimulate understanding of ethics, civic and character values, and the principles of democracy as a means of enhancing and improving elementary and secondary education in accordance with section 4609.".

(b) ETHICS AND VALUES DEMONSTRATION PROGRAM.—Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4608 the second place it appears as section 4610; and

(2) by inserting before section 4610 (as redesignated by paragraph (1) of this subsection) the following:

"SEC. 4609. ETHICS AND VALUES DEMONSTRATION PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to State educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions to conduct activities designed to help stimulate understanding of ethics, civic and character values, and the principles of democracy as a means of enhancing and improving elementary and secondary education.

"(b) USES OF FUNDS.—Grants made under this section may be used for—

"(1) the development of teaching materials;

"(2) teacher training and seminars;

"(3) the establishment of clearinghouses for values education programs;

"(4) proposals seeking to involve the whole school environment;

"(5) research and follow-up studies of existing programs of values and ethics education;

"(6) civic and character values education projects demonstrating a beneficial effect on individual ethical behavior and on the incidence of individual and gang violence, drug and substance abuse, and suicide;

"(7) projects that assist in identifying a consensus of values within a community that may be appropriately promoted in schools of the community;

"(8) projects that seek to develop model programs to promote values and ethics; and

"(9) projects examining values and responsible citizenship.

"(c) APPLICATION.—Each applicant desiring to receive a grant under this section shall submit an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) identify values and ethics that receive widespread support from a consensus of individuals in the United States;

"(2) describe the school population intended to benefit from the proposed activities;

"(3) demonstrate how the proposal fulfills the purpose described in subsection (a);

"(4) describe the methods to be used to evaluate the results of the proposed activities; and

"(5) provide assurances that the applicant will appoint an advisory board to assist the applicant in conducting the proposed activities, which board shall consist of individuals representative of—

"(A) parents;

"(B) educators;

"(C) community leaders;

"(D) social service professionals;

"(E) business leaders; and

"(F) the general public.".

Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

□ 1130

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the first part of these en bloc amendments is a package of amendments developed by the committee and proposed by myself for the purpose of further fine tuning the bill.

For example, they clarify that: National education standards are applicable to States on a voluntary basis; the national educational goals panel is to select measures and indicators relative to the national education goals; and the head of the unit of general purpose local government may be represented on a local reform committee by a designee.

Further, the amendment makes minor changes such as: Adding reduced class size and mentoring programs as authorized local uses of funds; and striking the provisions modifying the purpose of the national assessment of educational progress.

Included in my package is a provision developed by the Gentleman from Ohio [Mr. SAWYER] which expands the membership of the national education goals panel to include four representatives of State legislatures.

Other amendments in the package include:

And amendment by the gentleman from Ohio [Mr. TRAFICANT] which expresses the sense of the Congress that assistance provided under this act should be used to purchase American-made equipment and products.

An amendment by the gentleman from Oregon [Mr. AUCOIN] which waives certain reform requirements if a State or local educational agency has already accomplished them pursuant to a State law.

An amendment by the gentleman from Ohio [Mr. HALL] which authorizes a new commission, a demonstration program, and a local use of funds under H.R. 4323 related to values education.

An amendment by the gentleman from Missouri [Mr. WHEAT] which adds a parents-as-teachers provision to the bill to involve parents in the early education of their children, up to age 3.

An amendment by the gentleman from Pennsylvania [Mr. KOSTMAYER] which requires that equity in gender be used as criteria in the development and approval of local school district reform plans.

I urge the adoption of these amendments en bloc.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I appreciate having the opportunity to speak on behalf of the Parents as Teachers Program that is included in the en bloc amendments being offered by Chairman KILDEE.

I first learned of the Parents as Teachers from Martha Seaman of Mobile, AL, who has been instrumental in bringing this important program to our south Alabama community. Through Parents as Teachers, Ms. Seaman and many dedicated volunteers have reached out to new parents to teach them how to teach their children.

Now most of us probably think parenting is one of those skills that comes naturally. But it doesn't, and oftentimes, mistakes we make in the early years of parenting effect our children for life.

Parents as Teachers recognizes this—it recognizes the fact that parents are their children's first and most influential teachers. And that children, in their beginning years, learn more and at a much faster pace than at any other time in their lives.

I am pleased to be an original cosponsor of the Parents as Teachers Act, H.R. 520, which was introduced by my colleague from Missouri, Alan Wheat. This bill was inspired by programs like Missouri's and Mobile's highly successful Parents as Teachers Program, which has been proven effective in strengthening the foundations of later learning—language and intellectual development, curiosity, and social skills.

Through personalized home visits by trained parent educators, group meetings with other new parents, and formal screening to detect potential learning problems, Parents as Teachers gives children the best possible start in life.

Mr. Chairman, I come to the floor today to highlight this important program, and commend it to my colleagues' attention. It deserves our support. I am disappointed, however, that it appears to be the only rose in this bouquet of thorns that is being called the Neighborhood School Improvement Act, and I cannot support the bill.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the support of the gentleman from Alabama and his advocacy of this program. He has long been attached to it, and I appreciate his support.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in support of the en bloc amendment.

As my subcommittee chairman noted, one of the components of this en bloc amendment is a provision that would add four State legislators to the national goals panel.

Under the bill as it is currently drafted, the national goals panel will have 14 members—Governors, representatives appointed by the President, and Members of Congress.

Mr. Chairman, the addition of four State legislators will complete the circuit of responsibility for educational reform. More than 40 State constitutions have strong provisions outlining the responsibilities of State legislatures for providing education in their States.

In almost every State, education spending constitutes the largest functional category. Nationwide, 48 percent of the total spent on elementary and secondary education is spent by the States.

Their representation on the national goals panel will provide a crucial policy link. If we are to expect State legislatures to implement the funding and policy decisions to advance State-based educational reform, surely they should be involved in the development of those policies.

I thank my chairman for including my amendment and I urge the adoption of the en bloc amendment.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, I thank the gentleman, our distinguished ranking member on the Committee on Education and Labor, for yielding me this time.

First of all, I rise to make a disclaimer prior to my remarks, and that disclaimer is that my opponent has been endorsed by all the teachers' unions in my district, and I just simply want to say that the teachers' unions have again proven themselves, by their actions, to be more a labor union than an association of concerned educators.

I also rise as a former school board member and two-term school board president in my hometown community and the father of three children, one of whom, Matthew, joins me here on the House floor today.

My experience has given me true respect for the long tradition in this country of decentralized decisionmaking in public education, and I truly can say that I believe in site-based decisionmaking and in site-based management in our schools today. I also recognize, as I think most of my colleagues in this body do, that equality of opportunity in our society begins with access for all children, particularly those from poorer socioeconomic backgrounds, to a sound public education. That is where equality of opportunity really begins in our society.

I also must say, as someone who represents a growing community in California and a State, frankly, which is facing a very severe budget crisis, that there is a genuine need for more taxpayer funding for public education in this country today, particularly to help our schools meet their capital needs, as our plants must expand to accommodate the kids coming into our schools.

Having said all of that, I truly believe that increased Federal aid should be coupled with qualitative reforms such as those contained in the America 2000 proposal put forward by the Bush administration and advocated around the country, as the chairman of the committee was saying, by Secretary Alexander, who I think has done a very admirable job. I think those qualitative reforms ought to include incentives for schools to move toward smaller class sizes and longer school days.

Last, I would like to believe that those school reforms could have contained my amendment as I proposed before the Committee on Rules yesterday, the Parental Responsibility Act. But my amendment was deemed too controversial, so I want to take the remaining moments here to explain to my colleagues exactly what my amendment would have done, and you determine whether, in fact, it is too controversial to be accepted into the leadership en bloc amendment.

My amendment stated that, in order for a local school district to receive funding under the bill, the school district should make, or shall make, available to parents a parental educational responsibility agreement, a very simple contract between parents, teacher, and school. By signing this pledge, parents and schools vow to make every effort to do the best they can for the children. For example, parents and teacher and school contract to make sure the children coming to school are well rested, that they have a quiet place to study, and that they develop studious behavior. Parents take responsibility for attending parent-teacher conferences at schools, and schools have responsibilities as well. The schools would make every effort to welcome parents and offer suggestions to assist parents to adhere to their pledges.

Many may take those goals for granted. I know through my own firsthand experience better that this is unfortunately the exception rather than the rule.

Education does not just happen at school. As I mentioned from my past experiences, I can truly say that it is the rare child that comes into the public school system today with the self-determination and the self-motivation to succeed in that environment, and we need to do all we can to encourage parents to take a greater role in education of their children.

Parents, in fact, are the crucial determining factor as to whether or not children receive a good education in the public school environment today. Parents are failing to fulfill their critical role, and my amendment would address this very real problem in America today.

□ 1140

Mr. KILDEE. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Chairman, I am pleased to support H.R. 4323, the Neighborhood Schools Improvement Act. This bill is the first step in bringing comprehensive reform to our system of elementary and secondary education.

I am also pleased, Mr. Chairman, that my colleagues on the Education and Labor Committee have accepted my amendments on civic and character values as part of the committee's en bloc amendments. I would like to extend my appreciation to Chairmen BILL FORD and DALE KILDEE for their assistance in bringing these amendments to the floor.

Hardly a day goes by in which the subject of values is not debated by Presidential candidates, journalists, and the public. Members on both sides of the aisle speak about family values in connection with various bills we bring up here in the House. Now, for the first time, Members will have an opportunity to vote on amendments to promote commonly accepted values in our schools. These may be civic values such as justice, equality, love of country; or they may be character values like honesty, integrity, or self-discipline.

I introduced values legislation several years ago when an Ohio high school principal told me this story. He said his high school paper did a series of articles on cheating. Nowhere in the articles was it mentioned, according to this principal, that cheating was wrong. There was no discussion of the ethical dimension at all even though the students had a faculty adviser.

I point to this as a very simple example of why I think values can be promoted in the schools. Do we want to produce writers, who may compose well, research well, work fast, but cannot grapple with ethical questions? Later in life, a journalist is faced with countless questions of ethics. These include running or not running a story; revealing or not revealing a source; and being fair and balanced in the story.

Gandhi said:

> All your scholarship, all your study of Shakespeare and Wordsworth would be vain if at the same time you do not build your character and attain mastery over your thoughts and your actions.

Our civic and character values-in-schools amendments, included in the Kildee en bloc amendments, do three things: First, they establish a national bipartisan Commission on Values Education to examine the issues associated with the teaching of values in our schools. The Commission is charged with identifying civic and character values that are supported by a consensus of the people. It will hold hearings around the country and consider the widest range of values, including honesty, integrity, love of country, and self-discipline. It will not dictate values from Washington or usurp any local control.

Second, our amendments add a 16th point to the list of activities that may be funded through the bill for school reform. It adds programs to "stimulate an understanding of ethics, civic and character values and the principles of democracy as an authorized activity for grants to local educational agencies." Third, these amendments establish an Ethics and Values Demonstration Program under the Secretary's fund for innovation in education. Grants under the demonstration program would be available for a variety of services including teacher training, curricula development, clearinghouses, and followup studies on the effects of values and ethics education.

Mr. Chairman, I am not talking about teaching far leftwing or far rightwing values in this bill. I am talking about telling students that it is wrong to cheat; That it is better to be kind than hurtful; That voting is a responsibility as well as a privilege. Ask your constituents what they think. I guarantee you that most parents want these kinds of issues taught in their schools.

A teacher and constituent of mine, Bob Thum, who testified in support of values education in Ohio and served on the Governor's Commission on Holocaust Education said to me:

> The push to raise test scores must not come at the expense of creating a moral society, for in Nazi Germany leading Nazis were lawyers, physicians, professors, economists, and even theologians. Many graduated top of their class.

Mr. Thom went on to endorse my bill and called for teaching values.

In our efforts to improve education, we should not forget that our forefathers accepted a basic code of ethics that underlies society. The education for democracy project of the American Federation of Teachers [AFT] states:

> Devotion to human dignity and freedom, to equal rights, to social and economic justice, to the rule of law, to civility and truth, to tolerance and diversity, to mutual assistance, to personal and civic responsibility, to self-restraint and self-respect—all these must be taught and learned and practiced.

In 1991, the final report by the National Commission on Children, known as the Rockefeller Commission, cited as a "perverse result" that "a major social institution (schools) entrusted by most parents with preparing children for adulthood is too often silent on critical moral and ethical issues." Both the Association for Supervision and Curriculum Development and the National School Boards Association have spoken out in favor of teaching values.

The Neighborhood Schools Improvement Act includes many excellent provisions to reform education while allowing flexibility and the necessary State and local control. The Kildee en bloc amendments add an important values component which will send a message to the nation that we are serious about developing character and responsibility in our children.

I urge my colleagues to vote for the Kildee en bloc amendments.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, further evidence that this is a Democrat bill and not the President's bill is found in the fact that of the 29 requests that went before the Democrat-controlled Rules Committee, two Republican requests were offered, that of the gentleman from Pennsylvania [Mr. GOODLING] and myself. The rest of the Republican request, 12 in all, were rejected.

They took eight Democrat requests and wrapped them together in this en bloc amendment. They precluded the amendment of my good friend, the gentleman from California [Mr. RIGGS], who spoke earlier, because it was too controversial that parents should have a right to reach an agreement with teachers in a school about what would be the quality of their youngsters' education and what would be the relative responsibility of the parents and teachers in that education. That was too controversial for the Rules Committee.

They included three amendments by the gentleman from Ohio [Mr. HALL], a member of the Rules Committee, on values in education. The gentleman from Ohio [Mr. HALL] has an amendment that is not too controversial for the Rules Committee.

Well, it is controversial with me, Mr. Chairman. I happen to be a parent. I speak with parents all the time, and I can tell you, Mr. Chairman, the parents of America are not concerned that their children are flunking values. They are concerned that their children are not learning to read. They are not learning to write. They are not learning to spell. They are not learning penmanship. They are not learning their mathematics. They are not learning their geography.

And why are the children not learning these things we expect to be the necessary legitimate responsibility of the teachers to impart to these youngsters? Because the teachers find it easier to teach values.

I would submit, Mr. Chairman, that it is the right of the parents, it is the prerogative of the parents, it is the duty of the parents, which the parents accept and assert, to teach values to their own children in their own way without interference.

We, as parents, do want to accept the responsibility and exercise the responsibility to prepare our children for adulthood. We do not want the risk that some enlightened member of the National Education Association will instead prepare our children for adultery, because their values are so flexible and inclusive.

Now, a few points about the debate we have heard. I have been amused by the debate. There is something for everyone.

The Duke University English Department that has been so destructive in American education must have been thrilled when they heard the deconstructionism earlier from one Member of the majority party who gave us the incredible view that choice for parents is totalitarianism. I do not know how you reckon that one, Mr. Chairman, but letting parents be involved in their children's education and to have a choice which school their children will attend is according to the majority totalitarianism. They would rather have a situation where they or some of their agents in the educational establishment dictate to the parents and to the children which school they will attend.

Now, we had another slip, another misrepresentation earlier. It was said in the debate that there is no difference in the authority that is given to the Secretary of Education under the committee's bill and under my amendment and that offered by the gentleman from Pennsylvania [Mr. GOODLING].

The fact is that the committee bill gives the Secretary only a technical authority to reject plans, not a basis to reject them on the substance of the plan.

Mr. KILDEE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. BENNETT].

(Mr. BENNETT asked and was given permission to revise and extend his remarks.)

Mr. BENNETT. Mr. Chairman, I rise in support of this legislation, and particularly in support of the en bloc amendments including the amendment of the gentleman from Ohio [Mr. HALL].

Mr. Chairman, I am honored to be a cosponsor of the Hall amendment. It presents a practical course of action in a field of education in which I have long been interested—the teaching of values and standards of behavior. My legislation in this field provided grants to school systems in the field of good citizenship. Mr. HALL's proposal could be broader in scope; and I hope that, in fact, this will be the case.

H.R. 4323 will put the Federal Government more deeply in education than ever before; and my school superintendents have asked my support for it and opposition to the proposed substitutes. I believe this legislation (H.R. 4323) is supportive of our youth and for the future of our country.

Mr. KILDEE. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the bill and of the en bloc amendments.

The committee chairman is to be commended for doing the very best with limited funds and leadership from a White House that was more interested in setting policy by press release.

This legislation seeks to use limited Federal dollars as an incentive for public school districts to undertake coordinated reform throughout the educational system. Mr. Chairman, I urge my colleagues to support this amendment. The Neighborhood Schools Improvement Act is an essential new Federal initiative that seeks to promote systemwide change in public education. A key component in creating that change is through the establishment of panels at the State and local levels which will then develop plans for comprehensive reform.

An important provision in Mr. KILDEE's amendment will prevent an injustice for these States that have already passed and are now implementing education reform laws. It merely allows these States to apply for a waiver of the membership requirements for the State and district committees authorized in H.R. 4323 if a State is already fulfilling the legislation's goals with somewhat differently constituted State and local panels.

This provision in the amendment is not a loophole permitting business as usual. There are a few States, such as Oregon and Washington, that have already enacted sweeping changes in their educational systems. If these States can demonstrate that they are already meeting the goals of H.R. 4323, I'm sure my colleagues in the House will agree that to force them to dismantle already existing committees and form new ones would severely hinder the reform efforts in those States. Without this amendment these States face major disruptions and a loss of momentum in moving ahead with the very educational reforms sought by the bill.

Mr. Chairman, I want to thank Mr. KILDEE for addressing this concern and including it in his amendment. And, again, I urge my colleagues to support this amendment and this very important education reform bill.

□ 1150

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in strong support of the Hall amendment. Let me congratulate the gentleman from Ohio [Mr. HALL] for the amendment, and I say to the gentleman from Texas [Mr. ARMEY], who is still in the Chamber, I also rise in support of the Armey amendment. I believe in the Armey amendment. I am going to support it. But on this, Mr. HALL is exactly right.

I would say that Mr. HALL's amendment may be even more important than the bill that is being taken up. This proposed will help the Nation. It has been said that, "Values are the emotional rules by which the Nation governs itself." These rules such as honesty, tolerance, integrity, and respect organize our personal lives and bring meaning to our relationships with others.

What is wrong today in our Nation's schools? All five of my children attended public school. I do not want a teacher in a public school teaching my children about religion, but on fundamental values of honesty, integrity, "do not steal," and "love your family," "do not lie," "love your countings," "treat people with compassion," I think promoting the above values can be very effective in our public schools.

As the ranking Republican on the Select Committee on Children, Youth, and Families, I can assure my colleagues today that too many children are not learning the rules.

We need to identify a set of core, basic, essential shared values that we as a society are willing to promote—honesty, integrity, "do not steal," do not lie," "do not cheat," "love your parents," "love your country," "treat people with compassion." This is the task of the proposal Commission on Values Education to identify those values that we Americans agree are the most essential to ensuring a personally meaningful life.

I believe that this proposed commission and demonstration project is consistent with the recommendations made by the bipartisan National Commission on Children, that stated that children and adolescents need clear and consistent message about personal conduct and public responsibility.

I should also tell my colleagues on both sides that the National Commission was unanimous, absolutely everyone who was on the commission, everyone—Republicans, Democrats, conservative, liberal—signed this National Commission report.

Clearly it is time that we as a nation renew our commitment to the values of dignity and character. I must say there is no substitute for parents and the values they can teach their children. Noted psychologist Dr. James Dobson has said that, "Values aren't only taught, they are caught" by children. Clearly families have the primary right and responsibility to promote values. But this amendment recognizes that it is time to reinforce these values through our school system, the rules that we as a society expect them to live by—honesty, integrity, compassion, self-respect, responsibility.

This is an important amendment. I commend Mr. HALL. In fact, I hope—and I sense that this bill may be vetoed—I would hope that Mr. KILDEE and Mr. FORD and others could take this amendment out. It is so important that if this bill goes down, it is important to pass the HALL amendment on its own, to move on this issue of such importance to our Nation.

This amendment is something that would be helpful to teach kids, "do not steal, do not cheat, love your mom, love your dad, treat other people with respect, the Golden Rule, 'Do unto others as you would have them do unto you.'" Teach fundamental values.

The proposed Commission on Values Education would be bipartisan and would hold hearings across the Nation to identify what many Americans would agree are the care and basic values that ought to be passed on to our young people. This may not be the perfect solution, but I believe it's something we should give a chance to work.

Again, I want to commend the gentleman from Ohio. I think it is a good amendment. I urge the gentleman from

Texas [Mr. ARMEY] to look at this again.

I support the gentleman from Texas' amendment; the Armey amendment is good, but the Armey amendment with the Hall amendment could be an effective combination for our Nation.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. WHEAT].

Mr. WHEAT. Mr. Chairman, I would like to thank the chairman of the full committee, the gentleman from Michigan [Mr. FORD], the chairman of the subcommittee, the gentleman from Michigan [Mr. KILDEE], and the ranking member, the gentleman from Pennsylvania [Mr. GOODLING], for their work on H.R. 4323 and their constant efforts on behalf of America's children.

I also want to thank my cosponsor of the parents-as-teachers bill, Mr. CALLAHAN, the gentleman from Alabama, who worked with me on an early-childhood education program which began in Missouri over a decade ago. This program has helped parents in Missouri and in Alabama and in other States, has helped parents play a greater role in the development of their children.

The benefits of the Parents-as-Teachers Programs are well chronicled in various evaluations and studies. By focusing on the involvement of parents in the early development of their children, parents-as-teachers meets the first national education goal, it prepares all children in America to start school ready to learn.

This provision does not create a new program or bureaucracy or nationalize existing Parents-as-Teachers Programs. What it does is, very simply, provide Federal support through the Secretary of Education for a proven early childhood development program at the State level. The Parents-as-Teachers Program consists of home visits by parent educators who help design an individual program for each family. Parents receive a wide range of useful and understandable information about the development of their children from the third trimester of pregnancy up to 3 years of age. In addition, the program provides periodic health screenings for infants, toddlers, and preschoolers, and gives participating parents an opportunity to meet in groups and share their child-raising experiences.

Parents are the first and most important teachers a child will ever have. As a nation, we must give parents every possible means of assistance to help their children start their life with healthy and curious minds and sound bodies.

Again, I would like to thank the gentleman from Michigan [Mr. FORD], the gentleman from Michigan [Mr. KILDEE], and the gentleman from Pennsylvania [Mr. GOODLING] for their work on this bill, and I urge adoption of the en bloc amendments.

Mr. GUNDERSON. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding.

Mr. Chairman, I do not have any problems with the amendments. In fact, I am a cosponsor, with Mr. HALL, on the values amendment. I appreciate his ongoing interest in this for many, many years, and appreciate his sensitivity and commitment to the issue.

I certainly do not have any problem with the Traficant amendment, which, wherever possible, would buy American paper for kids rather than imported paper products and pencils. I am certainly in support of Mr. KOSTMAYER's efforts to address the issue of the equity of special outreach with the problem of getting women students comparable incentives and instruction in math and science. These are fine amendments. I do not find them controversial. But I do want to remind our Members, however, once again, that the rule, and the en bloc amendment, illustrates what has happened in an area in which we normally are able to come to a very strong bipartisan consensual agreement.

As the ranking member, the gentleman from Pennsylvania [Mr. GOODLING], pointed out, this is the first time in almost two decades—think of that, the first time in almost two decades—we have had a major piece of elementary and secondary education before this floor on which there has not been strong bipartisan leadership in agreement.

I very much regret that the original bill that was reported by this committee was drawn back. To this day I still do not know why that has happened. I do not know why we have before this body today a bill which the gentleman from Montana [Mr. WILLIAMS] said not more than 30 minutes ago, "This bill doesn't provide the leadership we need."

It is a bill which the chairman of the committee says it is not going to revolutionize anything; a bill which the Secretary of Education says the only ones who should be happy are those who want schools to stay forever just the way they are.

We have heard a lot of talk in the general debate about some of the program innovations here that are helpful: Professional development initiatives, health and social services integration; all these things are valid. They are all valuable.

The problem is they miss the point. They miss the point in that the argument over educational reform was to reform the process in such a way that we would begin to look at and hold the educational system accountable by way of its outputs and not just by way of its inputs.

□ 1200

It is as if the automobile industry said, "Continue to buy American even though our cars cost more and the J.D. Power quality index doesn't show them to match the competition."

Now, I can say that has changed, but that kind of logic has not changed when it comes to this bill. What the administration and what the Governors of both parties have called for were break-the-mold schools. There are already over 700 local design teams in place for new American schools. That whole program is slighted by this bill.

I do point out, in terms of the partisan way in which this was handled, there were 29 amendments brought to the Committee on Rules to be considered for incorporation en bloc. Twelve of them were Republican amendments. Instead only eight Democrat amendments were accepted.

The one major Democrat amendment which was rejected happened to be that from the gentleman from Oklahoma [Mr. MCCURDY], who hoped to have Governor Clinton's position on educational choice considered by this House, and the Committee on Rules rejected their own Democrat Governor's hope to put that question before this House as a freestanding "yes" or "no" vote.

So, once again, these amendments in some ways are helpful. I have no problem with them. Some I obviously support, but they do not get to the heart of the matter.

This bill is not a mouse that is roaring. This bill is not even a mouse.

Mr. GUNDERSON. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, it has become increasingly more evident that American children are coming up short in regards to primary and secondary education. According to the 1988 International Assessment of Education Progress, on the average, U.S. 13-year-olds scored in the lowest group in both mathematics and science proficiency; the International Association for Evaluation of Education Achievement reported that since the 1960s, scores from the United States have steadily declined as those of Europe have steadily risen in calculus, geometry, and advanced algebra. Within America, one can see evidence of this decline—the average SAT score has dropped from 980 in 1963, to 900 in 1990, with the verbal declining from 478 to 424, and the math, from 502 to 476.

Some would like us to believe that these declines are the result of a lack of spending—that the Government is short changing our children, and by throwing more money in the system these disturbing trends will turn around. Not only do I find this argument to be overly simplistic, but I believe it to be rooted in assumption, and based on no factual precedents.

Over the past years, we have seen an inverse relationship between scoring levels and funding. Total spending on primary and secondary education was $247 billion in the 1991-92 school year, as compared to $146.3 billion in the 1986-87 school year. Total national expenditures for all levels of education have increased 25 percent since 1989.

America averages $3,238 per student at the elementary and secondary level, ranking fifth in the world behind Switzerland—$3,844, Norway—$3,307, Sweden—$3,293, and Canada—$3,436. One must remember two things when using these comparisons—the differences between our distribution system of moneys for education and the distribution systems of other countries, and the fact that this number represents the current expenditures divided by enrollment in both public, and private schools. More American children go to private schools than any other country in the world, thus making this per capita number lower than the actual resources that reach a child in the public school system.

If quality reflected funding, how does one explain that in 1991, Utah had an average SAT score of 1031, spending only $2,629 per student, whereas the District of Columbia had an average SAT score of 880, spending $7,550 per student?

If quality reflected funding, we would be among the brightest and the best—certainly scoring higher than the Japanese, who only average $1,904 per student, and the Germans who only spend $1,941 per student. But the fact of the manner is that we are not; 13 percent of American students leave high school without minimal reading skills, as opposed to 4 percent of Germans and 1 percent of Japanese.

And here we are today, with an opportunity to address this grave problem—yet, the solution proposed by the Democrats merely reauthorizes this same school system. Even the chairman of the committee has admitted that H.R. 4323 can do nothing to revolutionize the system. Of course, there are some reforms, such as allowing the distribution of condoms at school—but these are not the reforms we need. By seriously considering this legislation, we are demonstrating a complete disregard for the needs and the futures of each and every child in America.

Lately, we've heard a lot about change from the Democrats. But here is a concrete example of maintaining the status quo—the age old solution of putting more money in the system to fix the problem. If the United States had a surplus of money, perhaps true reform and more money would be just the ticket. But this is not the case. We must work within our limits. In order to address the problems we face now, we must institute true reform.

Parental choice is the future in elementary and secondary education. Just like our post graduates are allowed to use Federal moneys at any school of their choice, so should our youths be able to use Federal moneys at the school of their choice.

Choice will give minorities and disadvantaged children opportunities—opportunities presently reserved for only the wealthy. It will not leave the poor behind, but empower them with responsibility, and give them the chance to get out of a school not giving them the quality education they deserve. Choice will involve parents, and allow families to send their children to schools which combine education with the types of values to which they want their children to be exposed.

Choice will spark innovation and force our schools to be responsive to the consumer. Subjecting elementary and post secondary schools to the forces of the free market can only result in higher quality schools, ones that are not guaranteed students, but must earn them. We have seen these forces work in our university system, lets see them work in our elementary system.

Some may argue that choice will leave some children behind. To this I would say, we are already leaving the poor and disadvantage behind in the present system, and choice will give many more of these people the opportunity to advance. Others may argue that such a provision will drain the public school system of money, thereby leaving it worse off then it is now. By making this argument, one is assuming that children will flee the public schools. Such an assumption admits the failure of the present system. To this I would say, have more confidence in our public educators—give them the benefit of the doubt that they will rise to the demands of the free market place.

Some 62 percent of Americans support choice in education. Vote with America and support these much needed reforms.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER], cosponsor of the Kostmayer-Slaughter amendment.

Ms. SLAUGHTER. Mr. Chairman, I rise in support of the Kostmayer-Slaughter amendment to ensure gender equity in education reform.

Earlier this year the American Association of University Women and the Wellesley College Center for Research on Women released a study entitled "How Schools Shortchange Girls." Statistics cited in the study are disturbing:

Boys receive more teacher attention and instructional time than girls;

There are no gender differences in math performance at age 9, but substantial differences by age 17.

Boys shout out answers eight times more than girls, but girls who do so are chastised for talking out of turn; and

Girls express strong feelings of insecurity and inability to perform in the classroom.

We must restore the voice and confidence of girls. Under this amendment, education improvement plans will be designed to increase girls' participation in the classroom, encourage their study of math and science, and promote gender equity in curricula.

Please join me today in supporting the Kostmayer-Slaughter amendment to ensure that all our children receive the training and skills they need for their own success, and the future competitiveness and productivity of our Nation.

Mr. KOSTMAYER. Mr. Chairman, today I read in the Washington Post that, despite administration promises, little has been accomplished to over come the glass ceiling which keeps women out of company board rooms and senior positions. It's no wonder the administration has been so unsuccessful, when earlier this year they were confronted by a report demonstrating how schools shortchange girls their response was to tell parents that if they "* * * believe that this is a serious problem, they should send their daughters to single-sex schools."

The report issued earlier this year the by American Association of University Women [AAUW] and Wellesley College found clear evidence that America's education system is not meeting girls' needs.

The report found that although girls and boys enter school roughly equal in measured ability, 12 years later, girls have fallen behind their male classmates in key areas such as higher level mathematics and measures of self-esteem.

It was noted that males in all grade levels receive more teacher attention that girls, and even when they are of equal ability, boys are more often encouraged to pursue continued education and careers in math and science while girls are discouraged.

There is a bias in our education system. This bias translates to a society where full-time women workers earn, on average, 68 cents for every dollar that a man earns, and that female college graduates can expect to earn less than male high school graduates.

When reading over H.R. 4323, a bill to promote reform and innovation in our Nation's schools, I was both surprised and dismayed to see that this issue of gender equity was not even addressed.

My amendment simply makes local education associations [LEA] consider the issue of gender equity when submitting their reform plan and analyzing the impact of their reforms.

Gender equity is an issue in our schools and in society, which must be addressed. In reforming our schools, we must overcome institutionalized sexism which leads to the notion that girls and boys are not equal.

The CHAIRMAN. The Chair announces that the gentleman from Pennsylvania [Mr. GOODLING] has 30 seconds remaining, and the gentleman from Michigan [Mr. KILDEE] has 5½ minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield myself the balance of my time, and I will consume that 30 seconds by saying there is no question the Kildee, Sawyer, AuCoin amendments are certainly amendments that should be considered when dealing with this legislation. My concern is that there were 29 amendments proposed and only 7 accepted, all of which were from the other side of the aisle, and that would be my objection. The others beyond those three, of course, could all be considered during reauthorization of the elementary and secondary education programs next year.

I would also like to say that, as far as the parents as teachers program is concerned, that is what Even Start is all about. It says that we need to operate in a manner in which parents and children are working together so both become more literate and parents learn what it is they have to do to help preschool children to become reading ready. So, that is part of Even Start.

Mr. KILDEE. Mr. Chairman, I have no further requests for time.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I would just like to make the point, and I discussed this with a lot of my friends on this side of the aisle: I will not be calling for a recorded vote on this amendment. It is a very complex matter with the eight Democrat amendments all rolled into one.

But I would like to make the point as I do that, Mr. Chairman, that the fact is there were so many good Republican amendments that should have been scheduled, could have been scheduled, and we should have made the time for a full discussion of all the good ideas, as well as the bad ideas, that we are discussing. Unfortunately the Democrats control the schedule, and they did not make that time available. They did not have time for those Republican amendments.

Nevertheless, Mr. Chairman, we know how this vote outcome would be, and it would be deleterious of me to call for a recorded vote, and I will not do so, but I hope the RECORD will show that I oppose the amendment.

Mr. WHEAT. Mr. Chairman, I would like to thank the chairman of the Committee on Education and Labor, Mr. FORD, the chairman of the Subcommittee on Elementary, Secondary, and Vocational Education, Mr. KILDEE, and the ranking member on the Committee on Education and Labor, Mr. GOODLING, for their work on H.R. 4323 and for their constant efforts on behalf of America's children.

I initially introduced the parents as teachers provision in the last Congress, and I am proud that it is being considered on the floor today. I have discussed this provision with Mr. FORD, Mr. KILDEE, and Mr. GOODLING, and their staffs over the last several months and I appreciate their advice and counsel. Committee members and their staff have had opportunities over the last few years to study this legislation, as well as parents as teachers programs nationwide, and to understand the benefits of the existing parents as teachers programs throughout the United States.

In our national debate about education, we often overlook the most valuable teachers our children could ever hope to find—their parents. Parents as teachers [PAT], an early childhood education program which began in Missouri over a decade ago, has helped parents play a greater role in the development of their children and, in the process, prepare our youngest citizens for the future.

To expand Missouri's pioneering effort—which has already served as a model for 37 States with parents as teachers programs—I would like to urge my colleagues to support the en bloc amendments to H.R. 4323. Parents as teachers programs are based on the principle that parents who take an early and active role in their child's education increase these youngsters chances for academic success and give them a life-long interest in learning. Through coordination with local school districts, this valuable program engages parents in a long-term partnership with their children's schools.

Many of the benefits of parents as teachers programs are well-chronicled in various evaluations and studies. For example:

Children participating in the parents as teachers program consistently outscored their peers who did not participate on measures of intellectual achievement, auditory comprehension, verbal ability, and language ability;

At the end of first grade, children from parents as teachers programs scored significantly higher than the comparison group on standardized reading and math tests;

According to teachers, more parents from PAT programs initiated requests for parent-teacher conferences after their children started school; and

Parents as teachers has also been lauded by the President and Mrs. Bush for its innovation and success.

By focusing on the involvement of parents in the early development of their children, parents as teachers meet the first national education goal—"all children in America will start school ready to learn." Parents as teachers also matches the objectives to meet this goal:

Every parent in America will be a child's first teacher and devote time each day to helping his or her preschool child learn;

Parents will have access to the training and support they need; and

Children will receive the nutrition and health care needed to arrive at school with healthy minds and bodies.

This provision does not create a new program or bureaucracy or nationalize existing parents as teachers programs—it simply provides Federal support through the Secretary of Education for a proven early childhood development program at the State level. By providing matching funds, the Federal Government will encourage States to create and expand parents as teaches programs throughout America. Parents will be able to volunteer for this program regardless of income level.

The parents as teachers program consists of home visits by parent educators who help design an individual program for each family. Parents receive a wide range of useful and understandable information about the development of their children from the third trimester of pregnancy up to 3 years of age. In addition, the program provides periodic health screenings for infants, toddlers, and preschoolers and gives participating parents an opportunity to meet in groups and share their childraising experiences.

The provisions would set up a $20 million competitive grant program for States who wish to create or expand their own parents as teachers program. Roughly 1,000 school districts nationwide could participate in the program with this Federal assistance. The provisions recognizes that States should eventually pick up the cost of the program, and phases out Federal funds for each State program through a declining match at 100 percent, 100 percent, 75 percent, 50 percent, 25 percent, for the 5-year authorization.

The provision would also establish a Parents as Teachers National Center to disseminate information to, and provide technical and training assistance to, States establishing and operating parents as teachers programs.

Parents are the first and most important teachers a child will ever have. As a nation, we must give parents every possible means of assistance to help their children start life with healthy and curious minds and sound bodies.

Again, I would like to thank Mr. FORD, Mr. KILDEE, and Mr. GOODLING for their work on my amendment and I urge adoption of the en bloc amendments.

Mr. KILDEE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. KILDEE].

The amendments en bloc were agreed to.

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The CHAIRMAN. It is now in order to consider amendment No. 7 printed in the House Report 102-838.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. ARMEY:

Strike all after the enacting clause and insert the following:

SECTION 1. NEIGHBORHOOD SCHOOLS IMPROVEMENT.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) by redesignating title X as title IX;

(2) by redesignating sections 8001 through 8005 as 9001 through 9005; and

(3) by inserting after title VII the following:

"TITLE VIII—NEIGHBORHOOD SCHOOLS IMPROVEMENT

"SEC. 8001. SHORT TITLE.

"This title may be cited as the 'Neighborhood Schools Improvement Act'.

"SEC. 8002. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) all students can learn and must realize their potential if the United States is to prosper;

"(2) the reforms in education of the last 15 years have achieved good results, but these efforts often have been limited to a few schools or to a single part of the educational system;

"(3) additional pilot projects will have the same limited effect as previous reforms and isolated changes in policy will most likely have minimal impact;

"(4) strategies must be developed by States and communities to support the revitalization of all local schools by fundamentally changing the entire system of education through comprehensive, coherent, and coordinated improvement;

"(5) parents, teachers and other local educators, and community leaders must be involved in developing system-wide reform strategies that reflect the needs of their individual communities;

"(6) States and local educational agencies, working together, must immediately set about developing and implementing such system-wide reform strategies if the Nation is to educate all children to meet their full potential and achieve national goals;

"(7) increasing funding for existing Federal education programs at levels that will enable them to fulfill their mission is a critical part of assisting States and local educational agencies in their school improvement efforts; and

"(8) additional Federal funds should be targeted to support State and local initiatives and to leverage State and local resources for designing and implementing system-wide reform plans.

"SEC. 8003. PURPOSE.

"It is the purpose of this title to raise the quality of education for all students by supporting a 10-year broad based public effort to promote coherent and coordinated changes in the system of education throughout the Nation at the State and local level without jeopardizing funding for existing Federal education programs.

"SEC. 8004. PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the provisions of this title, to make grants to State educational agencies to enable States and local educational agencies to reform and improve the quality of education throughout the Nation. Such grants shall be used to—

"(1) develop innovative educational reform plans, which include State achievement goals, a means for developing or adopting high quality, challenging curricular frameworks and coordinated curricular materials, professional development strategies, and assessment instruments; and

"(2) implement reforms and plans to improve the education system at the State and local levels.

"SEC. 8005. APPLICATION.

"(a) IN GENERAL.—If a State desires to receive assistance under this title, the State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall cover a 5-year period.

"(b) CONSIDERATION OF APPLICATIONS.—Each such application shall—

"(1) contain satisfactory evidence that the State educational agency has or will have authority, by legislation if necessary, to implement the plan required under section 8006;

"(2) provide an assurance that the State has a strategy for ensuring broad participation in the planning process, including parents, students, teachers, principals, superintendents, local school board members, representatives of the employment and training network, the deans of colleges of education, representatives of community-based organizations, testing and curriculum experts, the director of the State office responsible for teacher certification, and the director of the State human services agency, to establish the goals and to refine them in the future, as well as participate in the development of all other components of the plan;

"(3) provide an assurance that the State will notify the public (including individuals with limited English proficiency), through print and electronic media and the local educational agency through actual notice—

"(A) that the State has made application for funds under this title;

"(B) of the purposes for which the funds will be used; and

"(C) that the State is developing a plan under section 8006;

"(4) provide an assurance that all students will have equal access to the curricular frameworks, high quality curricular materials, and well-qualified teachers;

"(5) describe actions taken and resources identified or committed to meet the requirements of this title;

"(6) provide an assurance that the applicant will prepare and submit to the Secretary, annual evaluations of and reports concerning the State program; and

"(7) provide an assurance that the State will carry out the provisions of section 8006.

"(c) APPROVAL.—The Secretary shall approve an application and any amendment to the application if the application or the amendment to such application meets the requirements of this section and is of sufficient quality to effect substantial reform of elementary and secondary education in the State. The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REAPPLICATION.—(1) A State educational agency may apply for assistance for a second 5-year period and such application shall be approved by the Secretary if the State—

"(A) has met all of its reporting requirements; and

"(B) demonstrates that it has made reasonable progress in carrying out its plan.

"(2) The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"SEC. 8006. DEVELOPMENT AND APPROVAL OF STATE PLAN.

"(a) ESTABLISHMENT OF PANEL.—Each State program assisted under this title shall establish a panel to develop a statewide reform plan. Such panel shall consist of—

"(1) the chief executive of the State (or designee);

"(2) the presiding officers and the minority leaders of the State legislature (or designees);

"(3) the chief State school officer;

"(4) the head of the office that coordinates higher education programs in the State or, if there is no such office, the head of the office designated under section 2008 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2988) (or designee); and

"(5) individuals selected by the chief executive of the State, including representatives from the following groups and organizations:

"(A) Teachers.

"(B) School administrators.

"(C) Local school boards.

"(D) Parents.

"(E) Businesses.

"(F) State board of education.

"(G) Students.

"(b) ADDITIONAL MEMBERS.—(1) The first meeting of such panel shall be convened by the chief executive of the State. At such meeting, the panel members designated and nominated in subsection (a) may select additional panel members, including the chairpersons of the State legislative committees with jurisdiction over education, individuals reflecting the ethnic and racial diversity of the general population of the State, and (except in the case of a State with a single local educational agency) an individual nominated by representatives of the 5 local educational agencies with the highest number of students eligible for services under part A of chapter 1 of title I of this Act.

"(2) The membership of the panel shall be geographically representative of all areas of the State and shall not exceed 25 in number.

"(3) The chief executive of the State shall serve as the chairperson of the panel and determine a meeting schedule.

"(c) DEVELOPMENT OF STATE PLAN.—(1) The panel shall develop a plan that—

"(A) establishes State goals to maximize achievement for all children in conjunction with national educational goals;

"(B) establishes curricular frameworks in specific subject matter areas that incorporate the goals established under subparagraph (A);

"(C) provides for the development or adoption of instructional materials to assist the implementation of the curricular frameworks;

"(D) allocates resources to implement such a system-wide reform plan;

"(E) provides for the establishment or adoption of a valid, reliable, and fair assessment system based upon the curricular frameworks that is capable of accurately measuring the skills and knowledge required to meet State goals;

"(F) provides for professional development strategies necessary for achieving the State goals;

"(G) establishes a process for reviewing Federal, State, and local laws and regulations and for recommending changes in such laws and regulations to further state-wide reform;

"(H) provides a process for selecting local educational agencies for participation in local system-wide reform efforts;

"(I) provides for the development of objective criteria and measures against which the success of local plans can be evaluated;

"(J) provides for the ongoing evaluation of the effectiveness of the State plan in closing the gap between high and low achieving students to be assessed using achievement and other measures such as attendance, grade retention, and dropout rates;

"(K) provides for the availability of curricular frameworks, curricular materials, and professional development in a manner ensuring equal access by all local educational agencies in the State;

"(L) describes the steps the State educational agency shall take to ensure that successful programs and practices supported by subgrants awarded to local educational agencies under this title shall be disseminated to other local educational agencies in the State;

"(M) provides for the development of an adequate research, training, and evaluation capacity within the State to further the purposes of this title; and

"(N) describes methods of coordinating health and social services with education through State interagency cooperation and agreements.

"(2) In developing the plan, the panel shall—

"(A) emphasize outcome measures rather than prescribing how the State and local educational agencies should achieve such outcomes;

"(B) review recent innovations by other States and by national professional subject matter organizations in educational goals, curricula, and assessment nationally;

"(C) review existing Federal education programs and how they can contribute to the State plan; and

"(D) ensure broad-based participation through regular notice and dissemination of information to the public (including individuals with limited English proficiency) using print and electronic media.

"(3) Following the development of the plan, the panel shall seek public comment by—

"(A) publishing the plan with a comment period of at least 60 days, or

"(B) notifying the public through electronic and print media and conducting regional hearings.

After providing the public with an opportunity to comment on the plan, the panel shall consider the public comments and make appropriate changes.

"(4) The plan shall be submitted to the State for review and approval by the State educational agency, except that any changes to such plan shall be made with the concurrence of the panel. Prior to implementing the plan, the State educational agency shall submit such plan to the Secretary for approval. In the event that the State has previously accomplished any of the reform activities required under this title in a specific subject area or set of grade levels, the State is not required to include them in the plan but shall include a request for a waiver, including a description of such accomplishments.

"(5)(A) The Secretary shall approve a State's plan if such plan—

"(i) meets the requirements of this section; and

"(ii) provides evidence that the State has, or will have, the resources necessary to carry it out.

"(B) The Secretary shall not finally disapprove a plan or an amendment to such plan except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REVIEW OF STATE PLAN.—The panel and the State educational agency shall review on an ongoing basis, the implementation of the State plan for the period during which the State receives funding under this title. The results of such review shall be prepared in writing by the panel and included by the State in its annual report to the Secretary under section 8013(a).

"SEC. 8007. STATE USES OF FUNDS.

"(a) USES OF FUNDS.—Funds allotted by the Secretary under section 8011(a) and State and private funds contributed to make up the total cost of a State program as provided in section 8011(b) shall be used by a State with an approved application for the following purposes—

"(1) development and implementation of the State plan, including the establishment of State goals, curricular frameworks, and assessment systems;

"(2) activities of the panel (including the travel expenses of the members of such panel);

"(3) subgrants to local educational agencies;

"(4) technical assistance (including dissemination of information) to local educational agencies to assist in developing and carrying out their plans; and

"(5) evaluation, reporting, and data collection.

"(b) LOCAL EDUCATIONAL AGENCIES.—In the first year that a State receives an allotment under this title, the State educational agency may make subgrants for the purpose of developing local plans as provided in section 8008 consistent with section 8006(c)(1)(H). In the second year, and in each succeeding year, from not less than 75 percent of the total cost of a State's program, the State educational agency shall make subgrants to local educational agencies which shall include—

"(1) at least one local educational agency in each congressional district shall receive a subgrant; and

"(2) the local educational agency with the greatest number of disadvantaged children in the State shall receive a subgrant.

"SEC. 8008. DEVELOPMENT AND APPROVAL OF LOCAL PLANS.

"As described in the State reform plan, and based upon the recommendations of the panel established under section 8006, the State shall make subgrants to local educational agencies based upon a locally developed plan which—

"(1) describes the process used to ensure broad-based community participation in the development of the local plan;

"(2) provides assurance that the local educational agency shall provide for an ongoing evaluation of the effectiveness of the plan in meeting State and local goals, and that it will annually review its local plan and make changes where needed;

"(3) proposes district-wide reform which includes—

"(A) the development of a curriculum to implement the State's frameworks;

"(B) the setting of local goals;

"(C) the identification or development of instructional materials;

"(D) the provision of teacher and administrator training; and

"(E) the identification of assessment instruments to measure progress toward meeting State and local goals."

"SEC. 8009. LOCAL USES OF FUNDS.

"A local educational agency which receives a subgrant under this title shall use the funds for the purpose of district-wide reform, consistent with the State and local plans. Authorized activities may include—

"(1) New American Schools which reflect the best available knowledge regarding teaching and learning, which use the highest quality instructional materials and technologies, and which are designed to meet national, State, and local educational goals as well as the particular needs of their students and communities;

"(2) systems such as merit schools which reward schools with students who, as a group, demonstrate improved performance on curriculum related outcome measures that assess only basic cognitive skills accepted by States or developed in the State assessment process;

"(3) choice programs which permit parents to select the public, private, or parochial school that their children will attend; and

"(4) site-based management involving teachers, professional staff, and parents and emphasizing alternative certification to permit maximum decisionmaking at the individual school level;

"SEC. 8010. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this title, there are authorized to be appropriated $700,000,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal years 1993 through 2001.

"SEC. 8011. ALLOTMENT OF FUNDS.

"(a) TO STATES.—(1) From funds appropriated under section 8010, the Secretary shall allot to the Secretary of the Interior for each fiscal year an amount equal to ¼ of 1 percent of the funds appropriated, not to exceed $2,000,000 in any fiscal year, to benefit Indian students enrolled in schools funded by the Department of the Interior for Indian students. The provisions of subsection (b) of this section shall not apply to payments made under this paragraph.

"(2) From the remaining amount appropriated under section 8010, the Secretary shall make annual grants to States with approved applications based on a competitive formula established by the Department of Education.

"(b) MATCHING REQUIREMENT.—(1) The Federal share under this title may not exceed—

"(A) 100 percent of the total cost of a program for the first year for which a State receives funds under this title;

"(B) 85 percent of the total cost of a program for the second year for which a State receives funds under this title;

"(C) 60 percent of the total cost of a program for the third year for which a State receives funds under this title;

"(D) 45 percent of the total cost of a program for the fourth year for which a State receives funds under this title; and

"(E) 33 percent of the total cost of a program for the fifth and any succeeding year for which a State receives funds under this title.

"(2) The remaining cost of a program that receives assistance under this title shall be paid by the State from State funds and may include contributions from the private sector.

"(3) The share of payments from sources other than funds appropriated under this title may be in cash or in kind fairly evaluated.

"(4) The requirements of this subsection shall not apply to the Virgin Islands, the Commonwealth of Puerto Rico, or Pacific outlying areas.

"(c) MAINTENANCE OF EFFORT.—A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(d) ADMINISTRATIVE COSTS.—From its annual allotment, a State may reserve for administration (not to include the activities of the panel) an amount not to exceed 4 percent or $250,000, whichever is greater.

"(e) ASSURANCES AND TERMS.—(1) The funds allotted to the Secretary of the Interior under subsection (a)(1) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this title. The agreement shall contain an assurance that—

"(A) a panel, as set forth in paragraph (2) of this subsection, shall be established;

"(B) a plan as required in section 8006 shall be developed by such panel; and

"(C) the provisions and activities required under sections 8006 and 8007 shall be carried out in the same time frames stipulated for the States in those sections, provided that the term 'local educational agencies' shall be interpreted to mean 'schools funded by the Bureau of Indian Affairs'.

"(2) To carry out the provisions of this title, and to develop the plan required under the agreement with the Secretary required in paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs to develop a system-wide reform plan. Such panel shall consist of—

"(A) the Assistant Secretary of the Interior for Indian Affairs (or designee);

"(B) the chairpersons and ranking minority members of the Committee on Education and Labor of the House of Representatives and the Select Committee on Indian Affairs of the Senate (or their designees);

"(C) the Director of the Office of the Indian Education Programs of the bureau of Indian Affairs and such heads of divisions in such office as the Director shall designate;

"(D) a representative nominated by each of the following—

"(i) the organization representing the majority of teachers and professional personnel in Bureau-operated schools;

"(ii) the organization representing the majority of nonteaching personnel in Bureau-operated schools, if not the same organization as in clause (i);

"(iii) school administrators of Bureau-operated schools;

"(iv) education line officers located in Bureau area or agency offices serving elementary or secondary programs;

"(v) the organization representing the majority of Bureau-funded contract or grants schools not serving students on the Navajo reservation;

"(vi) the organization representing the majority of Bureau-funded contract grants schools serving students on the Navajo reservation;

"(vii) the organization representing the school boards required in Bureau-operated schools, not serving students on the Navajo reservation; and

"(viii) the organization representing the school boards required in Bureau-operated schools, serving students on the Navajo reservation.

In addition, the members of the panel stipulated above shall designate for full membership 3 tribal chairmen (or designees) or representatives of 3 national organizations which primarily represent national Indian education concerns, or a combination of these 2 classes, provided that the National Advisory council on Indian Education, established under the Indian Education Act of 1972, Public Law 92-318 (as amended), shall not be included as an organization for consideration under this provision.

"(f) SPECIAL PROVISION.—Not less than 25 percent of the amounts made available to local educational agencies under this title shall be used for choice programs.

"SEC. 8012. AVAILABILITY OF INFORMATION AND TRAINING.

"(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

"(1) a State educational agency or local educational agency which uses funds under this title to develop goals, curricular frameworks, curricular materials, and assessments shall, upon request, make information related to such goals, frameworks, materials,and assessments available to private schools; and

"(2) a State educational agency or local educational agency which uses funds under this title for teacher and administrator training shall provide in its plan for the training of teachers and administrators of private schools located in the geographical area served by such agency.

"(b) WAIVER.—If, by reason of any provisions of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this title, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and curricular frameworks for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of this Act.

"SEC. 8013. ANNUAL PROGRESS REPORTS: TECHNICAL ASSISTANCE.

"A State which receives funds under this title shall annually report to the Secretary—

"(1) regarding such State's progress in meeting its goals and plan;

"(2) describing proposed activities for the succeeding year; and

"(3) describing Federal regulations which may impede reform activities under this title as described in local plans approved by the State.

"SEC. 8014. REPORT TO CONGRESS.

"The Secretary shall submit annually to the chairperson of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains—

"(1) a description of the progress that States receiving funds under this title have made in developing and implementing their plans;

"(2) information from State and local reports regarding requirements in Federal law or regulation which have been identified by States and local educational agencies as impeding the system-wide reform schools under this title; and

"(3) a list by State of average per pupil expenditures reflecting the most recent data reported under section 8013(b) and reviewed under section 8013(d).

"SEC. 8015. GENERAL PROVISIONS.

"Nothing in this title shall—

"(1) supersede State law;

"(2) be construed to exempt a State or local educational agency that receives funds under this title from the requirements of subsections (a) or (b) of section 439 of the General Education Provisions Act (20 U.S.C. 1232h); or

"(3) be construed to authorize any department, agency, officer, or employee of the Federal Government to—

"(A) exercise any control over the curriculum, program of instruction, administration or personnel of any educational institution or school system; or

"(B) prescribe the use of a particular examination or standards.

"SEC. 8016. DEFINITIONS.

"For purposes of this title:

"(1) The term 'assessment system' means a system for measuring the abilities and academic achievement of students that is based upon a set of curricular frameworks and the expected outcomes embodied therein.

"(2) The term 'curricular framework' means a description, in a particular subject area, of the knowledge and skills children should acquire at each grade level.

"(3) The term 'Pacific outlying area' means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until such time as the compact of Free Association is ratified).".

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Texas [Mr. ARMEY] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes. Is the gentleman from Michigan [Mr. KILDEE] opposed to the amendment?

Mr. KILDEE. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. Twenty minutes will be allocated to the gentleman from Michigan [Mr. KILDEE].

The gentleman from Texas [Mr. ARMEY] is recognized for 20 minutes.

Mr. ARMEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I said earlier, this bill under consideration today is not the President's bill. It has only a vague similarity to the President's bill, and that similarity primarily is in the fact that it is spending, once again, the taxpayers' money.

I am trying to offer an amendment in the nature of a substitute that reintroduces the President's bill, America 2000, which was first introduced in Congress 466 days ago.

It is a shame that in considering this subject of education that the President's bill, the President's work, and the output of the Governors' conference was given such narrow and such limited consideration. In fact, I think the chairman of the committee confessed to killing the bill because he was irritated by something the administration was saying.

What I am doing in my amendment in the nature of a substitute is trying again to wed accountability and authority. The problem we have in education today is there is not enough of a wedding between accountability and authority. We as parents do not know who is responsible. We only know that the results are not satisfying to us.

So I would accept the proposition of a local panel that will determine innovative ways in which they might spend this money in order to improve education in their local community. My amendment focuses on four options by which that innovation might take place.

The controversial option and the one that so offends the National Education Association is the option for choice. Nobody is mandated by my amendment, as nobody was mandated in America 2000, to accept choice as one of those four options. But they have the right in this local panel to put together a choice option.

Those choice options will include first and foremost choice among alternative public schools. Public schools will be first and foremost the primary benefactors of choice, because competition among public schools will only make them better.

So choice does not threaten the quality of public schools. It offers us an opportunity to build in incentives to improve public schools, and they would enjoy the greatest improvement.

But also that local panel might include, if it chooses to do so, and it is not required to do so, private schools, and, yes, even parochial schools.

Then we have the other innovations that were in America 2000 such as new American schools and such as alternative certification for teachers. That is to say that an individual that happens to be a competent, able mathematician might be considered qualified to teach mathematics to children irrespective of formal education requirements in education courses mandated by the education establishment.

It also allows for the setting of national standards in testing.

It also says that once the local community panel has put together their plan for improving their schools, that they can make application for this fund through a Governor's commission that has the Governor in charge of the commission. This is substantially different from the bill we are looking at today where the Governor is merely a member of the committee with no more standing than the student representative.

Why do I insist the Governor should be in charge of the commission? Because the Governor will be held accountable by the people in his State for the success or failure of the schools, and therefore he should have the authority to sit and preside over this panel asserting the power of his office to the end of improving schools.

Subsequently, if the Governor's panel accountable to the people, accepts the plan from the local communities, they may then pass it up to the Secretary of Education. Again the person who will be held accountable is given the authority to accept or reject the plan.

The only requirement I have is that as we implement the plan, 25 percent of the funds should be made available for choice. Those school districts can decide among them who would like to participate with choice as their avenue for participation.

This substitute is supported by: Coalition for America, the Family Research Council, Concerned Women of America, Citizens for Education Freedom, and the Traditional Values Coalition.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Ms. SLAUGHTER). The gentleman from Michigan [Mr. KILDEE] is recognized for 20 minutes.

Mr. KILDEE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in opposition to the amendment.

This amendment is very similar in effect to the one that the committee rejected overwhelmingly during the consideration of H.R. 4323.

It would give the Secretary too much influence over the content of State plans by authorizing grants on a competitive basis.

Finally, it mandates that the Governor coordinate the establishment of the State reform panel, including the direct appointment of many of its members.

The purpose of the State panels is to bring new players into the development of the statewide reform plans to work with State and local educators—not to enhance the role of one of these authorities over the others.

In contrast, the committee bill allocates grants to the States according to a formula.

The Armey amendment would restrict local uses of funds to America 2000 activities.

This would greatly limit the discretion of local education authorities to decide how best to use funding provided under the bill, and would represent an inappropriate degree of Federal direction over the content of local educational reform.

I reserve the balance of my time.

Mr. ARMEY. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, one of the problems we have so often is we see the malfeasance of the Government and the institutions of our Government is that we have purposely designed its institutional structure in such a way as to separate authority from responsibility and accountability. That, of course, shows up in this incredible budget deficit that we experience.

Congress has the authority to spend all the money; the President is left with ceremonial trappings and accountability. Therefore we have the irresponsibility that gives us these deficits that go on forever.

We have the same problem in education. My amendment says if you are going to hold somebody accountable, and who better than an elected official or the Secretary of Education, then give them the authority to determine what will be the product by which they will be held accountable.

That bothers the Democrats because they cannot stand a wedding of authority and accountability, and they cannot stand the thought that a Republican, the Secretary of Education or a Governor, might have his hand on an educational lever.

□ 1220

Let me also point out, Madam Chairman, that this Nation spends over $330 billion on public education, most of it, thank God, spent at the local level and at the State level. But some $40 billion is spent at the Federal level. And this bill has jurisdiction over $700 million for specific projects.

I hardly say that if we give the Secretary of Education authority under this bill that he is, therefore, going to be concluded to have had control of the Nation's entire education system. That is pure rubbish.

Mr. KILDEE. Madam Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a great friend of education.

Mr. GUNDERSON. Madam Chairman, I would like to, I guess, address my comments at this time to my Republican colleagues to make sure they all understand that the amendment offered by the gentleman from Texas [Mr. ARMEY] is not the original America 2000 proposal advocated by the administration which made choice an option. It is certainly not the so-called Sununu agreement that allowed choice to be an option of the local education agency.

This is a mandate that 25 percent of all educational reform or America 2000 funds must go for school choice, private and religious school choice. I happen to think that is wrong.

The first reason I think that is wrong is because choice for the sake of choice with no regard to quality is a mistaken premise upon which we should not build any Nation's education reform proposal. Second, I think it is important to understand that when we have kind of focus on choice, we destroy the comprehensive integrity of the America 2000 educational reform initiative.

Third, choice ought to be an option, not a mandate or a goal in itself. Fourth, choice, as advocated by this particular provision, simply does not work in rural America. It may work in a few of our inner-city areas, but it does not work in rural America. Fifth, choice, which goes beyond public and private schools to include religious schools, I have to tell my colleagues, raises serious constitutional questions.

Finally, choice which is directed at all students, regardless of income, brings into serious question a priority of where our limited Federal funds ought to go.

That is what I really think we ought to look at here today. If we are for the concept of choice, I think we ought to understand that we today are looking at a chapter 1 program that is $6.7 billion short of full funding. We are looking at a chapter 2 program, a block grant program that is $240 million short, and we are looking at a Head Start Program that is $5.2 billion short, a $12 billion shortfall on those three basic bipartisan commitments to early intervention on behalf of children. And we are going to mandate that 25 percent of any new funds go to choice.

I think it is the wrong time and the wrong mandate.

Mr. KILDEE. Madam Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Madam Chairman, I thank the gentleman for yielding time to me.

What we really ought to know is what the amendment before us is and is not. I would like to talk just briefly about that.

As the gentleman from Wisconsin has just observed, it is not the President's original proposal. It is quite different, indeed.

What it does do that causes us trouble is require the funding of private school choice; not permit, but require that 25 percent of each local grant will be used in private schools as well as public schools.

It says that funds available for school reform would be reduced by $100 million, and the Secretary of Education would be given the board authority to decide whether to fund State or local reform plans and how much funding to allocate.

I would remind the Members of the House that when we have considered in past years elementary and secondary education legislation, one of the most frequent complaints from opponents of that legislation has been, "You people are advocating giving power to somebody in Washington to tell local and State officials that we select to run our schools what to do and how to do it."

We have tried to respond over the years to those critics by staying out of the hair of State and local officials.

I might point out to the gentleman from Texas [Mr. ARMEY] that he is proud of the fact that he gives all 50 of the Governors primary responsibility for education reform. Twenty-eight States, by their constitution, have taken that power away from the Governor and given it to an appointed State board of education to select the chief State school officer. Seven States have an official separate from the Governor but nevertheless appointed by the Governor. Eight States pick the primary education person by a partisan ballot, and five, by a nonpartisan ballot. One of those is California, where it is not infrequent to find the Secretary of Education or a Commissioner of Education and the Governor from different political parties.

Now, if we want to go out there and try to tell all of the 50 States that their constitutions are wrong and that we know better in Washington who ought to be running education in their States, we will vote for the gentleman from Texas [Mr. ARMEY], and we will be doing that. And we will see the States, I am sure, react very strongly to that.

The gentleman from Texas [Mr. ARMEY] makes no distinction between profit-making private schools and private nonprofit schools, which most of us in the Midwest are familiar with, which tend to be church-operated schools, Catholic, Baptist, Lutheran, Hebrew day schools, various church-related groups that have for many years operated an alternative form of education for the public school system but nevertheless meet all of their requirements for certification of teachers and other things that the public schools meet.

The gentleman from Texas [Mr. ARMEY] will open that up further for for-profit private schools. The traditional way of defining private schools for educational funding was private nonprofit schools. Maybe that is a part of the reason that I have this interesting letter, in March, from the U.S. Catholic Conference. The U.S. Catholic Conference does not support the Armey amendment or any amendment like it.

Back in March, when we were still actively debating this issue in the committee, I received, from Sister Lourdes Sheehan, secretary of education of the U.S. Catholic Conference, a letter which says, in part:

> We also recognize that this issue unfortunately has been pushed to the forefront of the domestic public policy agenda in the highly partisan context of a Presidential election year. Because of this context a balanced debate on the merits of the issue necessarily has been overshadowed by larger political considerations. Given these circumstances we do not believe that this is the most opportune time for us to continue to participate in any further congressional debate on the issue of school choice.

The U.S. Catholic Conference told us that this well was poisoned after the Senate considered the bill, and why?

The gentleman from Wisconsin mentioned the so-called Sununu compromise that I attempted to negotiate through the ranking Republican on my committee, and we thought we had an understanding that was very similar to the language in the gentleman's substitute that he offers today.

□ 1230

We interpreted that language to leave the question of whether they were going to share their scarce school dollars with private schools to local and State education authorities.

However, after the defeat of the choice amendment on the floor in the Senate, spokespersons for the administration characterized the bill in its form then in our committee as the Ford bill and said that, "The Ford bill did in fact permit or require public money to be spent in private church-related schools."

I have never supported the proposition of public money being used in private church-related schools that have as a primary function the teaching of any particular religion. If I had supported that, the Court has said over and over again during my adult lifetime that it is wrong because it violates the separation of powers, provisions of the first-amendment of the Constitution.

I think we have done very well by these private schools over the years by keeping them out of the courts. The interesting result we would get if we adopted the amendment, the substitute of the gentleman from Texas [Mr. ARMEY], is that the courts will not let the church-related schools get any of this money. If they do not get it, and 25 percent has to be spent on private schools, who will get it? I will give the Members a name. If they are not familiar with them, they are going to hear a lot more about them: The Edison project of Whittle Communications, a company riddled with former Reagan administration and Bush administration Department of Education officials who are going to operate a for-profit elementary and high school system in this country, and some of the material they are putting out to encourage investors suggests that they expect a profit of 15 percent on their investment.

Who will get the money that the gentleman from Texas is mandating be set aside if the courts, which have spoken very recently through the gentlewoman on the Court, and very emphatically, saying it cannot use a penny of this with a church-related school; if not them, who? It will be the private nonchurch-related schools. In the East there are several of those that are nonsectarian. They are private but they are nonprofit as well.

For the first time we see coming on the scene people who want to get into the business of teaching elementary and high school children, not because they want to give them religious guidance or values training, but because they want to make a profit, and they are promising prospective investors that there is a fat cow to be slaughtered out there, and they know how to do it.

The gentleman's amendment, I suggest, just coincidentally came on the scene at the same time that all these representatives were being made by Whittle and Associates for what they were going to do with their new profit-making school and venture. If the Members want that kind of competition to the public schools, I suggest that the Members are very badly misled on what the future of this country ought to be and what it in all likelihood will be.

Mr. Chairman, I include for the RECORD the letter from Sister Lourdes Sheehan, R.S.M., and other materials referred to:

U.S. CATHOLIC CONFERENCE,
DEPARTMENT OF EDUCATION,
Washington, DC, March 12, 1992.
Hon. WILLIAM D. FORD,
Chairman, House Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing you concerning legislation pending in the House of Representatives dealing with the reform and improvement of elementary and secondary education. It is our understanding that the bill which has been approved and reported out of the Education and Labor Committee is being reconsidered by your Committee before being taken up by the full House. We also understand that the new version of this legislation will not include any explicit provisions addressing the use of newly authorized federal funds for "school choice" programs.

We would like to share our views with you about certain aspects of this legislation. As you know, the Catholic school community has taken an active interest in the issue of educational choice for all parents particularly as it arose in the recent Senate debate on S. 2. Our community has a long history of advocating for the primacy of parental rights and choice in determining the most appropriate education for their children. As a major partner in American education, we also have a keen interest in current efforts to improve and reform all of education in our nation. We believe that Catholic and other nonpublic schools offer a demonstrated record of success in providing effective alternative methods of educating significant numbers of children throughout our nation's history. This statement is especially true with respect to the poor and disadvantaged in the urban and rural areas of our nation.

It is because of this tradition that we believe that enhanced parental choice is one major factor in increasing accountability and the improvement and reform of all schools. Consequently, we were pleased that you, as Chairman of the House Committee on Education and Labor agreed to authorize the use of funds for this purpose in your original bill, H.R. 3320. We know you accepted this approach because of your belief that these kinds of decisions should be left to state and local public education authorities.

We also recognize that this issue unfortunately has been pushed to the forefront of the domestic public policy agenda in the highly partisan context of a Presidential election year. Because of this context a balanced debate on the merits of the issue necessarily has been overshadowed by larger political considerations. Given these circumstances we do not believe that this is the most opportune time for us to continue to participate in any further congressional debate on the issue of school choice.

We thought you would appreciate knowing our views on this important matter at this point of the Congressional debate. We look forward to continuing our discussions with you and the members of your committee on further refining and improving the reform legislation as well as the larger task of the reauthorization of the Elementary and Secondary Act in the next Congress.

Wishing you the best in your continuing leadership role in education policy.

Sincerely,
SISTER LOURDES SHEEHAN, RSM,
Secretary of Education.

STATE EDUCATION GOVERNANCE—METHOD OF SELECTION OF CHIEF STATE SCHOOL OFFICER

Twenty-eight States (28) appointed by State board of education: Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, Ohio, Rhode Island, South Dakota, Utah, Vermont, Texas, West Virginia.

Seven (7) appointed by the Governor: Iowa, Maine, Minnesota, New Jersey, Pennsylvania, Tennessee, Virginia.

Nine (9) by partisan ballot: Arizona, Georgia, Indiana, Montana, North Carolina, Oklahoma, South Carolina, Wyoming, Florida.

Six (6) by non-partisan ballot: California, North Dakota, Oregon, Washington, Wisconsin, Idaho.

OPPOSE ARMEY SUBSTITUTE TO H.R. 4323

Private school choice must be funded with at least 25 percent of each local grant.

Funds available for school reform would be reduced by $100 million.

The Secretary of Education is given the broad authority to decide whether to fund State or local reform plans and how much funding to allocate.

Governors are put in charge of school reform at the State level (including the selection of many of the members of the reform panel) if the Secretary decides to fund a State.

Local school districts are limited to only four authorized uses of funds and are required to fund private schools.

There is no authority—even on a limited demonstration basis—to ease federal rules and regulations.

There is no authorization for the National Education Goals Panel or the development of voluntary national education standards.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I urge my colleagues to vote for real reform in education by supporting the amendment offered by my colleague, Mr. ARMEY.

We keep hearing about change, that it is time for change. I want to remind my colleagues that the Bush administration and many on this side of the aisle have been proposing exactly that sort of change for quite a while now. Today, we have the perfect opportunity. We have the vehicle before us to signal to the Nation that the Congress means business, that we won't tolerate doing more of what didn't work in the past. We can prove to the Nation that this body is not afraid of innovation, that we do not always fight change.

This is our chance to demonstrate that Congress is serious about reforming the schools of our Nation. Sure, we can tinker in small ways with our schools and hope it works out. But all the scholarly studies—and the American people—tell us we need to get serious about major reforms in our schools.

We are faced with two alternatives: A program for funding the status quo, H.R. 4323, or a substitute that would launch our schools in a new direction. When it comes to our education bureaucracy, it surely is time for a change. We can support serious education improvement by adopting the Armey amendment.

Lately, we have heard much talk of investment in education. That's good. But investors use thorough and precise techniques to evaluate an investment opportunity before committing even a single dime. That is what investment involves: An objective analysis of each alternative, a weighing of the benefits and costs.

H.R. 4323 as it stands right now simply doesn't make the cut. Pouring additional funding into educational approaches that have not worked before is not a wise investment.

But the Armey amendment would produce genuine reform by adopting some new approaches. It will focus reform on site-based management, alternative certification, merit testing, and New American Schools. The amendment will involve the State's Governor in his or her proper constitutional role in education matters. And it will enable the Secretary of Education to ensure that reform plans stay focused on meaningful activities.

The Armey amendment will put the power over a child's education where it belongs: with the family. Schooling is too important a decision to be left to the accidents of city zones or to the education bureaucracy. Mom and dad should decide what is best for their own children.

This amendment will produce serious change. It will provide freedom and opportunity for parents. We know what kind of things work in education. Now we can stimulate our schools to actually do them.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise in opposition to the Armey amendment. We begin this debate today with two very stark realities. First, we are operating in an environment of constrained resources, so we cannot make the old initiatives which perhaps the educational crisis in America cries out for.

Second, we have to understand that educational reform is and should be primarily a local initiative. I believe, though, that looking at the Armey bill, it does not present an agenda for reform. Rather, it is an amalgamation of slogans. The bill restricts possible choice of reform to four very narrow channels, New American Schools.

New American Schools have been debated for months now. To me they are the Potemkin village of educational reform. A very clever prime minister for Catherine the Great, to deceive her into thinking that all things were well, created sham villages and then would parade her by.

In some respects this is what New American Schools are, because they fail to grasp the fact that education in the United States is a system, and improving one school without paying attention to systematic effects will not result in true education reform.

There is discussion of site-based management and alternative certification. Unclear in terms of the concept at this moment, I wonder if it means that principals will no longer have to respond to local school committees. Is that what site-based management means?

Then, of course, there is school choice. School choice in the context of public education is not very novel. Most systems have magnet schools. Most systems offer opportunities for parents to choose to move their children.

What is novel in this approach is that it opens it up to private schools, in effect abandoning public education. We all recognize there is a crisis in public education, but emphasis on choice is essentially not attempting to fix the plane, but just to pass out parachutes, and probably pass out parachutes to those who least need them.

All of these things argue against this bill very strenuously. There are other things that are lacking in this bill. There is no flexibility in Federal regulations. Such a program or pilot program has been proposed in the Kildee bill.

Indeed, we have heard this afternoon discussion time and time again about accountability, "We must have accountability. We must have accountability." Yet the Armey amendment is terribly deficient in setting standards.

Just last week we had the headmaster of the Boston English School, a public school in Boston with low-income students. I asked this gentleman, "What is the one obstacle to successful educational reform that you see from your position in a school, daily coming in contact with students, teachers, and parents?" He said, "A lack of standards." This bill does not attempt to create those standards, so we cannot measure accountability, measure output, measure our success in the educational system.

I oppose this legislation, and urge all to vote against it.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Texas [Mr. DELAY], who knows very well that there is nothing in my amendment that requires anybody to do choice. It is something we allow to be done.

Mr. DELAY. Mr. Chairman, I just cannot believe that I am hearing on this floor, not only misleading statements, but total disregard for the facts. The gentleman on this side of the aisle, the gentleman from Wisconsin [Mr. GUNDERSON], said that the Armey amendment is not part of America 2000, that it is different. I hold in my hand here a statement that the administration supports the Armey amendment, and that it is critical part of the President's America 2000 strategy. Even if it was not, we are not water boys in this House for the President. We have our own ideas. In fact, I venture to say that the majority of our conference supports the Armey amendment.

□ 1240

Now what are we afraid of, Mr. Chairman, what are we afraid of? We already have educational choice in America. We already have people going and choosing those bad old religious schools, and those evil for-profit schools because they can afford it. But what we are talking about here is allowing education choice for everyone.

Education choice gives families the ability to select the schools their children attend. It allows families to exercise their right to select an education which best suits their needs and lifestyle.

Choice is essential to a democratic society and a free market economy, and conveys an inherent respect for quality and variety. School choice offers the same self-direction, flexibility and responsiveness that choice fosters in our market-driven democracy.

But, as would be true in any democracy or free market society, choice without options is an empty notion. Ideally, parental choice is augmented by a program which allows for variety at the school level, variety that includes private, parochial and public schools, as the Armey amendment would.

Support the Armey amendment.

Mr. Chairman, I rise to support Congressman ARMEY's school choice reform amendment to H.R. 4323, which would tremendously enhance this piece of legislation.

With the Armey amendment, private, parochial, and public schools would be explicitly included as an allowable activity and a minimum earmark of 25 percent of program funds for school choice would be established. Let me explain again what educational choice is and why it is so important to education reform.

Education choice gives families the ability to select the schools their children attend. It allows families to exercise their right to select an education which best suits their needs and lifestyle. Choice is essential to a democratic society and a free market economy, and conveys an inherent respect for quality and variety. School choice offers the same self-direction, flexibility, and responsiveness that choice fosters in our market-driven democracy. But, as would be true in any democracy or free market society, choice without options is an empty notion. Ideally, parental choice is augmented by a program which allows for variety at the school level—variety that includes private, parochial, and public schools, as the Armey amendment would.

The truth is that we have spent increasingly more dollars on education in this country in the last few decades, with very little in the way of student achievement or parental satisfaction to show for it. Educational choice is a catalyst for change. It promotes quality and innovation through competition. It also ensures accountability through increased parental involvement. Its effects are difficult to measure in dollar amounts, but the number of schools and students that attribute educational success to this program continue to grow in number.

Some predict that choice will resegregate schools. I predict just the opposite. Under the current system, schools are set up under a segregated, two-tier system. Affluent families can choose the schools they want by moving to the suburbs or buying a private school education for their children, but low-income families are stuck, often in unsafe schools with drug problems and chronic poor academic scores. The only choice poor children have, in most cases, is to drop out, and many of them do just that: in some schools, the dropout rate of minority children is 50 to 60 percent.

Choice levels the playing field. Choice gives all families, not just the rich, access to quality schools.

So let me summarize now why we need the Armey school choice amendment. No student should be condemned to an inferior education. If schools are not working, and do not appear to be improving, they should be closed. Federal, State, and local governments can no longer spend critical education dollars keeping a failing school afloat. Schools must provide taxpayers with a quality product, or be held accountable for the inferiority of their program. In this way schools will be forced to improve.

The focus of education must be on the child in the classroom. Vote for the Armey amendment, and vote for the future of America's children.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii [Mrs. MINK], a member of the committee.

Mrs. MINK. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong opposition to the Armey substitute to H.R. 4323, which mandates 25 percent of the funds in this bill to be used for private school choice programs, including private for-profit schools.

The idea of school choice as a mandatory education reform is a dangerous illusion that diverts public attention away from the real measures needed to improve quality and equity in our public education system, and to encourage transfers out to private schools.

This illusion is a no-cost, no-benefit so-called reform which sacrifices our children who truly need the benefits of substantive education reform in our public school system.

Choice pushes schools to accept only the very best students and boast high test scores and graduation rates, while students in the abandoned urban and rural schools are left to languish as the quality of education continues to deteriorate because of neglect, a decreasing student population, and the loss of Federal funding.

I fail to see how this approach will produce much needed education reform. Under a choice program the good schools will get the better students and the bad schools will get the worst, resulting in the widening of an already existing gap between the education have and have-nots.

Parents don't want to send their children across town to attend a quality school, they want schools in their own neighborhoods to achieve that same quality. School choice will only serve as another obstacle to achieving this goal.

The problem is not that parents do not have a choice, the problem is that inequities in our education system continue to exist—that the education a student receives in disadvantaged areas is not equivalent to the education available in our affluent suburbs. School choice does nothing to solve the glaring inequities that plague our Nations public schools; it will only exacerbate it.

It does nothing to improve curriculum and teacher training; to increase preschool programs and reduce class size. It does nothing to recruit teachers and expand youth services; to repair buildings and modernize equipment. It does nothing for the despair of children shackled to failing schools because their parents lack the means for transportation or the wherewithal to arrange for better schools for them. And it does not provide any long-term solutions to the problems in our education system.

School choice is nothing more than an attempt to undermine our public education system in the guise of education reform. It is an elitist approach to reform in step with the cynicism of trickle-down economics and other smokescreens to separate the haves from the have-nots.

I urge my colleagues to reject the failed notion of school choice and vote against the Armey substitute.

The CHAIRMAN pro tempore (Mr. HEFNER). The Chair would inform the Members that the gentleman from Texas [Mr. ARMEY] has 8 minutes remaining, and the gentleman from Michigan [Mr. KILDEE] has 1 minute remaining. The gentleman from Michigan has the right to close debate.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Colorado [Mr. HEFLEY], who knows that with the GI bill, Pell grants and so forth, Federal aid is spent commonly in religious schools, even theology schools.

Mr. HEFLEY. Mr. Chairman, let there be no mistake, the Democratic Party in this body does not believe in true educational reform. After the President compromised with the Democrats to include choice in the Neighborhood Schools Improvement Act, he was stiff-armed by the Democrats who, as always, are beholden to special interests. This time the culprit was school boards from across the country. These board members are so scared of parental involvement that they forced the Democrats on the Education and Labor Committee to remove that horribly offensive word from the bill—"choice." What are they afraid of? Do they think they can't compete? If so, we really are in trouble.

The Neighborhood Schools Improvement Act would authorize the use of Federal funds for everything but choice. Do we really believe that the public school bureaucrats are going to change such a self-preserving system. Education will not change unless we act as leaders and try something innovative and new. This is a concept that should be tried. The educrats won't change without our prodding. The reality of this bill is that the same old bureaucrats are going to pour the same tax dollars into the same old, failed programs.

Mr. Chairman, let's let the record show that the word conservative stands for change on this issue. The Democratic Party stands for the status quo, which is throw more money at a problem, close your eyes, and maybe it will go away.

Mr. Chairman, what is so wrong with allowing parents to make decisions about their childrens' education and not some board member or administrator who supposedly knows best. Usually parents know what is best for their children—let's let them make the decision. But I guess we are just to paternalistic to believe that poor, uneducated, underprivileged parents can make an informed decision about their own children. I urge my colleagues to support the Armey amendment and try school choice.

Isn't it strange that an 18-year-old can choose to go to Notre Dame on a variety of government grants but a 12-year-old can't choose to go to St. Mary's Prep with his parents' tax dollars.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. BOEHNER], a member of the committee.

Mr. BOEHNER. Mr. Chairman, I rise today in support of the Armey amendment, because I believe that H.R. 4323, as now drafted, does nothing more than provide additional money to continue already failing education programs, in order for this bill to drive real reform in education, it must be changed.

The Armey amendment is the vehicle that will drive real education reform. It is based on one simple concept—that the people of this country are smart enough to decide how best to educate their children. Congress must recognize that while the Federal Government can provide encouragement, guidance and support to parents and communities, successful innovations and reforms are not driven by Washington, or the State capitols. Rather, they are driven by individual communities, parents in the real world.

The Armey amendment does not ignore parents and communities. In fact, the Armey amendment ensures that they are the vehicles of change. And one of the most important parts of this change is embodied in school choice—the ability of parents to decide where their children can go to school.

School choice has been getting a bum rap from many in this body. Although it is fine for us to debate the merits of school choice, it is not for Congress to decide. It is up to the parents and local communities to decide on the merits of choice. They are the ones who benefit from school choice. They are also the ones who must deal with the consequences of languishing schools and education policies, which are failing their children and communities.

School choice will give parents control of education by forcing schools to compete and improve, or close their doors. Good schools don't have to worry; schools willing and able to improve don't have to worry; only schools that are failing to educate children need to worry. It is time that parents and communities be permitted to improve their schools and close those that aren't educating their children.

Finally, I must point out that the school choice movement is gaining support, in such diverse areas as California, Colorado, Georgia, Indianapolis, Milwaukee, East Harlem, Prince Georges County, and numerous other communities are enacting school choice reforms. So, I ask again: who are we in Congress to say no? Who are we in Congress to say that the States, local communities, and parents should not and cannot have school choice?

Mr. Chairman, the American people are clamoring for real change. They understand that school choice will lead to a real improvement in education. As the great Sam Rayburn once said, "You cannot be a leader, and ask other people to follow you, unless you know how to follow, too."

Mr. Chairman, it is time for Congress to follow the American people for they know which way they are going. This is why I urge my colleagues to vote for the Armey amendment, which represents the new and better direction for American education.

☐ 1250

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I rise in strong support of the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, over the past year, the Democrats have been hammering the Bush administration with claims that it has been negligent toward educating our youth. They complain that we do not spend nearly enough on education.

I ask my colleagues on the other side of the isle, "How much is enough?"

Let's assume that we have an infinite amount of money to spend here in Congress. What if President Bush came to this floor today and handed us a blank check made out to "Education in America" and said we could go ahead and fill it out for any amount. If money is what educates our children, then let's go ahead and fill out that check for whatever amount the Democrats think it will take to make our kids smarter. How much will it take, Mr. Chairman, $2 billion, $200 billion? How about $1 trillion.

Do the Democrats honestly believe that throwing more money into an obviously failed system is going to somehow get kids excited about going to school—about reading and learning and reaching their full potential? Do they honestly believe that this kind of money is somehow going to empower parents and get them involved in their child's education? Do they really believe that money is what will make public schools drug and violence free? And do they really believe that spending all this money is going to somehow make our children smarter?

Mr. Chairman, if there is one word I have heard over and over again during the past few months it is the word "change." Oddly enough, when it comes to education the Democrats are only interested in spending more of the taxpayers money on protecting the status quo. They are not interested in change—they are only interested in feeding an already obese bureaucracy. If they were interested in change they would be willing to give President Bush's America 2000 a fair chance. Instead, it is business as usual.

My colleagues and I still have a chance to prove to the American people that this Congress is serious about improving our Nation's education system. Today we have an opportunity to make a real difference in the way we educate our children by voting in favor of the Armey school choice reform amendment. While H.R. 4323, the Neighborhood Schools Improvement Act, may appear to be a good bill, it is not. It is a weak, watered down version of President Bush's America 2000 legislation. We need Congressman ARMEY's amendment because it strengthens H.R. 4323 by including key provisions of America 2000 such as school choice, high national standards, accountability, and the establishment of new American schools. Please join me in voting for the Armey amendment—it represents true reform and needed change in a system that has failed our children for far too long.

Mr. ARMEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HERGER], who would wish to rise in behalf of the families of America instead of the unions of America.

Mr. HERGER. Mr. Chairman, I rise in strong support of the Armey amendment, which proposes real reform and choice in education.

H.R. 4323, as currently written, does not allow local communities to consider public, private, and parochial school choice and it limits the role of State Governors and other local officials. Instead, the bill proposes hundreds of millions of dollars for more of the same policies which have contributed to our education crisis in the first place.

Parental choice in education works. That is why 71 percent of all Americans support it.

Across the country, in Milwaukee, Massachusetts, and New Jersey, choice has been successful in schools that had previously been failing miserably.

The Armey amendment takes power out of the hands of the education bureaucrats and puts it in the hands of parents where it belongs. Vote "yes" on the Armey amendment.

Mr. ARMEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I rise in support of the Armey amendment and urge Members not to confuse the message with the messenger.

Mr. ARMEY. Mr. Chairman, I believe I thank the gentleman from Michigan.

I would like to inquire from the other gentleman from Michigan if he has any additional speakers.

The CHAIRMAN pro tempore (Mr. HEFNER). The gentleman from Michigan has the right to close the debate, so the gentleman from Texas can either use his remaining minute or yield it back.

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ARMEY. If I might ask a parliamentary inquiry, I thought it was the rules of the House that I would have the right to close debate.

The CHAIRMAN pro tempore. The manager of the bill has the right to close the debate affecting the committee position on the amendment.

Mr. ARMEY. Not the manager of the amendment?

The CHAIRMAN. The gentleman is exactly right.

Mr. ARMEY. Mr. Chairman, I yield 1 minute, the remainder of my time, to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I rise in support of the Armey amendment. Our economic system thrives on the principle of competition, when the Government does not stand in the way. Those in business know that if you produce the best product, build the best mousetrap, the world will beat a pathway to your door.

This concept of competition is applicable to education. The best schools have a magnetism that attracts students. The mediocre schools, those that refuse to change, become stagnant and cease to be competitive. Not only will these schools perform a grave disservice to the youth of America, they will eventually cease to exist.

We all know that wealthy Americans can send their children to the best schools available. The poor do not have that opportunity. They are locked into the worst and weakest schools, in spite of the fact that parents long for the ability to choose which school their children will attend.

Choice for everyone is an idea whose time has come. I think all parents would like to have that option, but the educational power structure fights it—why? Because they are afraid of change and want to keep the status quo. Any new ideas might cause trouble to their stale efforts. Our present system is broken and we know it. Choice could create a whole new dimension in education. It has already worked in a few cases. Why not build on these few models and create the new system we need.

Mr. KILDEE. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Mr. Chairman, I urge the defeat of the Armey amendment.

Mr. Chairman, many provisions of the Armey amendment were already rejected in committee and, further, the Armey amendment does not contain some of the better provisions of both H.R. 4323 and the Goodling substitute.

There is no easing of Federal regulations in the Armey substitute. There is no authorization of the national education goals panel, and there is no development of voluntary standards. The substitute is deficient. I urge its defeat.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 80, noes 328, not voting 26, as follows:

[Roll No. 383]

AYES—80

Allard
Allen
Archer
Armey
Baker
Ballenger
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Campbell (CA)
Chandler
Clinger
Coble
Combest
Coughlin
Cox (CA)
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Franks (CT)
Gilchrest
Goss
Gradison
Grandy
Hammerschmidt
Hancock
Hansen
Hefley
Henry
Herger
Holloway
Inhofe
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
McCrery

McEwen
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Moorhead
Nussle
Oxley
Packard
Paxon

Quillen
Ravenel
Ritter
Rohrabacher
Ros-Lehtinen
Schulze
Shaw
Shuster
Smith (TX)
Spence

Stump
Sundquist
Taylor (NC)
Thomas (CA)
Vander Jagt
Vucanovich
Wolf
Zeliff
Zimmer

NOES—328

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Cardin
Carper
Carr
Chapman
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell

Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken

Machtley
Manton
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Roberts
Roe
Roemer

Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Sisisky

Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spratt
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton

Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—26

Ackerman
Barnard
Barton
Campbell (CO)
Clay
Cunningham
DeFazio
Dymally
Flake

Gingrich
Hatcher
Hopkins
Hunter
Hyde
Ireland
Markey
McCollum
Solomon

Staggers
Tanner
Towns
Traxler
Walker
Weber
Weiss
Wilson

☐ 1319

The Clerk announced the following pairs:

On this vote:

Mr. Barton for, with Mr. Flake against.

Mr. Cunningham for, with Mr. Towns against.

Messrs. CAMP, McCANDLESS, EDWARDS of Oklahoma, OLVER, GALLEGLY, and FIELDS changed their vote from "aye" to "no."

Mr. McEWEN changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

☐ 1320

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 102–838.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment in the nature of a substitute offered by Mr. GOODLING:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSES.

The purposes of this Act are—

(1) to reconfigure the National Education Goals Panel to provide for full congressional participation;

(2) to establish a process in support of voluntary national education standards and a national system of examinations;

(3) to authorize a grants program to States and localities to encourage dramatic, new approaches to education that are likely to provide students with an opportunity to achieve the national goals;

(4) to establish a system by which States, local educational agencies, and schools can utilize Federal, State, and local education program funds in a more flexible manner in order to improve delivery and effectiveness of programs;

(5) to authorize a program of grants to States and localities to establish New American Schools; and

(6) to authorize a program of student mentoring.

SEC. 2. AUTHORIZATION OF THE NATIONAL EDUCATIONAL GOALS PANEL.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) by redesignating sections 8001 through 8005 as 13001 through 13005; and

(2) by inserting after title VII the following:

"TITLE VIII—VOLUNTARY STANDARDS AND ASSESSMENT

"PART A—NATIONAL EDUCATION GOALS PANEL

"SECTION 8001. GOALS PANEL.

"(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Goals Panel (referred to in this part as the "Panel").

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Panel shall be composed of 14 members (referred to in this part as "members"), including—

"(A) two members appointed by the President;

"(B) eight Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party to the President, appointed by the Chairperson or Vice Chairperson of the National Governors' Association, with each appointing individuals of such respective political party, in consultation with each other and in accordance with paragraph (2); and

"(C) four Members of Congress appointed as follows:

"(i) The majority leader of the Senate shall appoint 1 individual from among the Members of the Senate.

"(ii) The minority leader of the Senate shall appoint 1 individual from among the Members of the Senate.

"(iii) The majority leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

"(iv) The minority leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

"(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:

"(i) If the Chairperson of the National Governors' Association is from the same political party as the President, the Chairperson shall appoint 3 individuals pursuant to such paragraph and the Vice Chairperson shall appoint 5 persons pursuant to such paragraph.

"(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, the Chairperson shall appoint 5 persons pursuant to such paragraph and the Vice Chairperson shall appoint 3 persons pursuant to such paragraph.

"(B) If the National Governors' Association has appointed a panel that meets the requirements of this subsection prior to the date of enactment of this Act, the members serving on such panel shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.

"(c) TERMS.—The terms of service of members shall be as follows:

"(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.

"(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a two-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of such member's terms concluding every two years.

"(3) MEMBERS OF CONGRESS.—Members appointed under paragraph (1)(C) shall serve a term of four years.

"(d) INITIATION.—The Panel may begin to carry out the duties of the Panel under this part when seven members of the Panel have been appointed.

"(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

"(f) RETENTION.—In order to retain an appointment to the Panel, a member must attend at least two-thirds of the scheduled meetings of the Panel in any given year.

"(g) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

"(h) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(i) CHAIRPERSON SELECTION.—

"(1) INITIAL SELECTION.—The members appointed under subsection (b)(2) shall select a Chairperson from among such members, except that after the expiration of the term or termination of the tenure of the member initially selected to serve as Chairperson, whichever is earlier, a majority of the members of the Council shall select a Chairperson from among the members.

"(2) CONTINGENT SELECTION.—If no individual described in paragraph (1) assumes the position of Chairperson of the Council 60 days after the date of the enactment of this Act, a majority of the members shall select a Chairperson from among the members.

"SEC. 8002. FUNCTIONS.

"(a) FUNCTIONS.—

"(1) IN GENERAL.—The Panel shall—

"(A) propose the indicators to be used to measure the National Education Goals and reporting progress in achieving such goals, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report to the Nation;

"(B) select interim and final measures and appropriate measurement tools to be developed as necessary in each goal area;

"(C) report on the Federal actions to fulfill responsibilities to education, including funding the Federal financial role, providing more flexibility and controlling mandates that limit the States' ability to fund education;

"(D) issue a report to the President, the Congress, the Governors, and the Nation annually on progress toward the National Education Goals;

"(E) assure, through requirements for State reports, that student performance is reported in the context of other relevant information about student, school and system performance;

"(F) identify gaps in existing educational data, make recommendations for improvements in the methods and procedures for assessments that would be appropriate to assessing progress toward the National Education Goals, propose changes in national and international measurement systems as appropriate and make recommendations to the President, the Congress, and the Governors for needed improvements;

"(G) appoint members to the National Education Standards and Assessments Council; and

"(H) in accordance with paragraph (2), issue certification of content and student performance standards and the criteria for world-class assessments after submission of such notification of approval by the National Education Standards and Assessments Council.

"(2) SPECIAL RULE.—In the event that the Panel denies certification to all or part of a certification of the National Education Standards and Assessments Council, all or part of a certification shall be returned to such Council with detailed written explanations for the denial.

"(b) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

"(c) DATA COLLECTION.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to appropriately assess progress toward the National Education Goals.

"SEC. 8003. ANNUAL REPORT CARD.

"(a) IN GENERAL.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a national report card, that—

"(1) sets forth an analysis of the progress of the United States toward achieving the National Education Goals; and

"(2) may, as determined necessary by the Panel based on the findings of the Panel and an analysis of the views and comments of all interested parties—

"(A) identify continuing gaps in existing educational data; and

"(B) make recommendations for improvement in the methods and procedures of assessing educational attainment and strengthening the national educational assessment and information system of the Department of Education or any other appropriate Federal Government entity.

"(b) CONTINUATION.—The Panel shall issue a national report card on an annual basis for the duration of the existence of the Panel.

"(c) FORMAT.—National Report Cards shall be presented in a form that is understandable to parents and the general public.

"SEC. 8004. POWERS OF THE PANEL.

"(a) HEARINGS.—

"(1) IN GENERAL.—The Panel shall, for the purpose of carrying out this part, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

"(2) PUBLIC HEARINGS.—In carrying out this part, the Panel shall conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the Panel's functions described in section 8002(a).

"(b) INFORMATION.—The Panel may secure directly from any department or agency of the United States, information necessary to enable the Panel to carry out this title. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

"(c) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

"(d) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary of Education shall provide to the Panel, on a reimbursable basis, administrative support services as the Panel may request.

"SEC. 8005. ADMINISTRATIVE PROVISIONS.

"(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

"(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

"(c) VOTING.—No individual may vote or exercise any of the powers of a member by proxy.

"SEC. 8006. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

"(a) DIRECTOR.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

"(b) APPOINTMENT AND PAY OF STAFF.—The Chairperson of the Panel may appoint personnel as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Panel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Panel shall not exceed the rate of basic pay payable for GS-15 of the General Schedule.

"(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

"(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this title.

"SEC. 8007. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 2001 to carry out this part.

PART B—VOLUNTARY NATIONAL EDUCATION STANDARDS AND ASSESSMENTS

"SEC. 8101. NATIONAL EDUCATION STANDARDS AND ASSESSMENTS COUNCIL.

"(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Standards and Assessments Council (referred to in this part as the "Council").

"(b) APPOINTMENT AND COMPOSITION.—

"(1) APPOINTMENT.—The Council shall be composed of 19 members (referred to in this part as "members") appointed by the National Education Goals Panel described in section 8001.

"(2) COMPOSITION.—The Council shall be composed of—

"(A) 9 educators who have demonstrated leadership in educational innovation, including at least 1 person with expertise in each of educational measurement, assessment, subject matter scholarship, and curriculum design;

"(B) 5 State and local public officials who possess strong education backgrounds and have displayed a commitment to improving education;

"(C) 5 members of the general public who have demonstrated a commitment to improving education and bring additional perspectives from the business, foundation, and advocacy communities within the private sector.

"(c) Qualifications.—

"(1) In general.—Members shall—

"(A) be appointed to the Council on the basis of widely recognized experience in, knowledge of, commitment to, and a demonstrated record of service to, education and to achieving education excellence at the Federal, State or local level; and

"(B) include curriculum design specialists, subject matter scholars, and testing or measurement experts (experts in educational evaluation, educational measurement, educational assessment, educational psychology, or psychometrics).

"(2) Nominations.—Members under this subsection shall be appointed from among qualified individuals nominated by the public and other groups representative of public officials, educators, and individuals described in subsection (c)(1).

"(d) Terms.—

"(1) In general.—The members shall be appointed for 3-year terms, with no member serving more than 2 consecutive terms.

"(2) Conflict of interest.—(A) No member of the Council may concurrently serve as a member of the Panel or on any other Department of Education advisory board or standing panel.

"(B)(i) No waiver shall be granted to members of the Council pursuant to section 208(b)(3) of title 18, United States Code, regarding conflict of interest.

"(ii) Any person who serves on the Council shall report any subsequent proposals for Federal, State, or local funding related to the standards and assessments described in subsection (e) to the National Goals Panel, the appropriate authorizing committees of Congress, and to the Department of Education.

"(3) Date of appointment.—The initial members shall be appointed by the Panel, not later than 120 days after the date of enactment of this Act.

"(4) Retention.—In order to retain an appointment to the Council, a member must attend at least two-thirds of the scheduled meetings of the Council in any given year.

"(5) Officer selection.—The members appointed under subsection (b)(2) shall select officers of the Council from among the members of the Council. The officers of the Council shall serve for 1-year terms.

"(6) Vacancies.—A vacancy on the Council shall not affect the powers of the Council, but shall be filled in the same manner as the original appointment.

"(7) Travel.—Each member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(e) Functions of the Council.—

"(1) Standards.—The Council shall, with regards to standards—

"(A) coordinate the effort to establish voluntary national education content and student performance standards;

"(B) develop criteria for what constitutes world-class content and student performance standards and establish guidelines for standard setting and development to ensure consensus building and broad participation in the process, including those most knowledgeable about the discipline; and

"(C) issue approval of content and student performance standards as world-class based on the criteria and guidelines described in subparagraph (B) and transmit such approved standards to the Panel for the Panel's certification.

"(2) Assessments.—The Council shall, with regards to assessments—

"(A) be a coordinating body to encourage a voluntary system of assessments for individual students consistent with the voluntary national standards;

"(B) establish guidelines for the development and use of assessments to ensure that assessments are valid, reliable, and fair;

"(C) develop criteria for assessments, and the use of such assessments, to ensure that the assessments measure the world class standards and meet the guidelines described in subparagraph (B);

"(D) establish procedures and criteria to determine whether assessments are comparable to each other without sacrificing the validity, reliability, and fairness of the assessments;

"(E) transmit such criteria to the Panel to review for certification.

"(3) Guidelines.—The Council shall establish guidelines for the use and design of standards and assessments, and of data derived from such assessments, so that—

"(A) all students are provided with a rigorous and challenging curriculum designed to meet or exceed the standards;

"(B) no student is placed in a curriculum track or is otherwise labeled on the basis of such student's performance on an assessment certified pursuant to this section; and

"(C) student performance is reported in the context of other relevant information about aggregate student, school, and system performance.

"(4) Reexamination.—The Council shall reexamine the criteria for certification at least once every 3 years and shall reexamine any certified national standards at least once every 3 years to ascertain whether such standards continue to meet the criteria described in paragraphs (1), (2), and (3).

"(f) Performance of Functions.—In carrying out its responsibilities, the Council shall work with Federal and non-Federal agencies and organizations which are conducting research, studies, or demonstration projects to determine world-class education standards and assessments based on such standards.

"(g) Procedures.—

"(1) Publication.—The Council shall publish in the Federal Register—

"(A) proposed criteria for determining what are world-class content and student performance standards;

"(B) proposed guidelines for standards setting;

"(C) proposed procedures and criteria for certifying content standards as world class; and

"(D) proposed procedures and criteria for assessments that measure such world-class standards.

"(2) Final regulations.—Final regulations, reflecting public comment, for the proposals developed in accordance with paragraph (1) shall be published in the Federal Register prior to the implementation of such regulations.

"(h) Data Collection.—The Council shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to carry out the Council's functions.

"SEC. 8102. ANNUAL REPORTS.

"(a) In General.—Not later than 1 year after the date that the Council concludes its first meeting of members and in each succeeding year, the Council shall prepare and submit to the President, the appropriate committees of Congress, the Secretary, and the Governor of each State a report regarding its findings. Such report shall—

"(1) analyze the progress and obstacles, if any, toward the development and certification of world-class content and student performance standards;

"(2) analyze the progress and obstacles, if any, toward the development and certification of any criteria for assessments that reflect the world-class standards; and

"(3) analyze the progress and obstacles, if any, to the adoption of certified content and student performance standards by State and local educational agencies.

"(b) Special Rule.—In carrying out paragraph (3) of subsection (a), the Council, through the National Center for Education Statistics, shall collect information on the implementation by State and local educational agencies of certified content standards, including—

"(1) adoption of curricula frameworks, including instructional materials, assessments and teacher training that incorporates or reflects world-class content standards;

"(2) availability of school resources, including instructional materials and technology, necessary to meet world-class standards;

"(3) staff capacity;

"(4) school governance systems; and

"(5) barriers to implementation of world-class standards.

"SEC. 8103. POWERS OF THE COUNCIL.

"(a) Regional Meetings.—(1) The Council shall convene regional meetings to obtain public involvement in the development of proposed regulations implementing this section. Such meetings shall include individuals and representatives of the groups involved in content and student performance standards setting and assessments, including educators, administrators, students, parents, curriculum and assessment experts, and organizations which have demonstrated experience in these areas.

"(2) The meetings described in paragraph (1) shall provide for a comprehensive discussion and exchange of information regarding the implementation of this section and the Council shall take into account the information received in such meetings in developing regulations.

"(3) The Council shall solicit public comment on any proposed guidelines and criteria and on standards submitted for approval and certification.

"(b) Information.—The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out this part. Upon request of the Chairperson of the Council, the head of a department or agency shall furnish such information to the Council to the extent permitted by law.

"(c) Gifts.—The Council may accept, use, and dispose of gifts or donations of services or property.

"(d) Postal Services.—The Council may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) Administrative and Supportive Services.—The Secretary shall provide to the Council, on a reimbursable basis, administrative support services as the Council may request.

"SEC. 8104. ADMINISTRATIVE PROVISIONS.

"(a) MEETINGS.—The Council shall meet on a regular basis, as necessary, at the call of the Chairperson of the Council or a majority of its members.

"(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

"(c) VOTING.—The Council shall take all action of the Council by a two-thirds majority vote of the total membership of the Council, assuring the right of the minority to issue written views. No individual may vote or exercise any of the powers of a member by proxy.

"SEC. 8105. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

"(a) DIRECTOR.—The Council shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director, who by virtue of education, training, and experience, is eminently qualified to assist the Council in administering the functions described in section 8101(e) of this part to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

"(b) APPOINTMENT AND PAY OF STAFF.—The Council may appoint personnel who by virtue of education, training, and experience are eminently qualified to assist the Council in administering the functions described in section 8101(e). Such appointments can be made without regard to the provisions of title 5, United States Code, governing appointments to the competitive service and the staff of the Council may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Council shall not exceed the rate of basic pay payable for GS–15 of the General Schedule.

"(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3019(b) of title 5, United States Code, if the individual performing such services, by virtue of education, training, and experience, is eminently qualified to assist the Council in administering the functions described in section 8101(e).

"(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Council, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist the Council in its duties under this part.

"(e) CONFLICT OF INTEREST.—No director, staff, expert, or consultant may serve the Council if such person directly or indirectly has any financial interest in the development of tests or assessments related to the standards described in section 8101(e). Any person who served the Council in such capacity shall submit any subsequent proposals for Federal, State, or local funding related to the standards or assessments described in section 8101(e) to the National Goals Panel, the Congress, and to the Department of Education.

"SEC. 8106. EVALUATION.

"The National Academy of Sciences shall conduct an evaluation of the work of the Council, including—

"(1) an analysis of the technical expertise of the panel and its use of outside technical assistance;

"(2) an analysis of the process of establishing guidelines and criteria for the development and certification of standards and such guidelines and criteria;

"(3) a review of standards that are certified;

"(4) an evaluation of the process for establishing criteria for assessments of world-class standards and such criteria; and

"(5) an evaluation of the research and development work being carried out by the Department of Education, in the areas of education standards, curriculum, and assessment.

"SEC. 8107. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Council $2,000,000 for each of the fiscal years 1993, and 1994 and such sums as may be necessary for fiscal years 1995 through 1997 to carry out this part.

"TITLE IX—NEIGHBORHOOD SCHOOLS IMPROVEMENT

"SEC. 9001. SHORT TITLE.

"This title may be cited as the "Neighborhood Schools Improvement Act".

"SEC. 9002. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) all students can learn and must realize their potential if the United States is to prosper;

"(2) the reforms in education of the last 15 years have achieved good results, but these efforts often have been limited to a few schools or to a single part of the educational system;

"(3) additional pilot projects will have the same limited effect as previous reforms and isolated changes in policy will most likely have minimal impact;

"(4) strategies must be developed by States and communities to support the revitalization of all local schools by fundamentally changing the entire system of education through comprehensive, coherent, and coordinated improvement;

"(5) parents, teachers and other local educators, and community leaders must be involved in developing system-wide reform strategies that reflect the needs of their individual communities;

"(6) States and local educational agencies, working together, must immediately set about developing and implementing such system-wide reform strategies if the Nation is to educate all children to meet their full potential and achieve national goals;

"(7) increasing funding for existing Federal education programs at levels that will enable them to fulfill their mission is a critical part of assisting States and local educational agencies in their school improvement efforts; and

"(8) additional Federal funds should be targeted to support State and local initiatives and to leverage State and local resources for designing and implementing system-wide reform plans.

"SEC. 9003. PURPOSE.

"The purpose of this title is to raise the quality of education for all students by supporting a 10-year broad based public effort to promote coherent and coordinated changes in the system of education throughout the Nation at the State and local level without jeopardizing funding for existing Federal education programs.

"SEC. 9004. PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the provisions of this title, to make grants to State educational agencies to enable States and local educational agencies to reform and improve the quality of education throughout the Nation. Such grants shall be used to—

"(1) develop innovative educational reform plans, which include State achievement goals, a means for developing or adopting high quality, challenging curricular frameworks and coordinated curricular materials, professional development strategies, and assessment instruments; and

"(2) implement reforms and plans to improve the education system at the State and local levels.

"SEC. 9005. APPLICATION.

"(a) IN GENERAL.—If a State desires to receive assistance under this title, the State educational agency shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall cover a 5-year period.

"(b) CONSIDERATION OF APPLICATIONS.—Each such application shall—

"(1) contain satisfactory evidence that the State educational agency has or will have authority, by legislation if necessary, to implement the plan required under section 9006;

"(2) provide an assurance that the State has a strategy for ensuring broad participation in the planning process, including parents, students, teachers, principals, superintendents, secondary and postsecondary vocational education teachers and administrators, local school board members, representatives of the employment and training network, the deans of colleges of education, representatives of community-based organizations, testing and curriculum experts, the director of the State office responsible for teacher certification, and the director of the State human services agency, to establish the goals and to refine them in the future, as well as participate in the development of all other components of the plan;

"(3) provide an assurance that the State will notify the public (including individuals with limited English proficiency), through print and electronic media and the local educational agency through actual notice—

"(A) that the State has made application for funds under this title;

"(B) of the purposes for which the funds will be used; and

"(C) that the State is developing a plan under section 9006;

"(4) provide an assurance that all students will have equal access to the curricular frameworks, high quality curricular materials, and well-qualified teachers;

"(5) describe actions taken and resources identified or committed to meet the requirements of this title;

"(6) provide an assurance that the applicant will prepare and submit to the Secretary, annual evaluations of and reports concerning the State program; and

"(7) provide an assurance that the State will carry out the provisions of section 9006.

"(c) APPROVAL.—The Secretary shall approve an application and any amendment to the application if the application or the amendment to such application meets the requirements of this section and is of sufficient quality to meet the objectives of this title. The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REAPPLICATION.—(1) A State educational agency may apply for assistance for a second 5-year period and such application shall be approved by the Secretary if the State—

"(A) has met all of its reporting requirements; and

"(B) demonstrates that it has made reasonable progress in carrying out its plan.

"(2) The Secretary shall not finally disapprove an application or an amendment to such application except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"SEC. 9006. DEVELOPMENT AND APPROVAL OF STATE PLAN.

"(a) ESTABLISHMENT OF PANEL.—Each State program assisted under this title shall establish a panel to develop a statewide reform plan. Such panel shall consist of—

"(1) the chief executive of the State (or designee);

"(2) the presiding officers and the minority leaders of the State legislature (or designees);

"(3) the chief State school officer;

"(4) the head of the office that coordinates higher education programs in the State or, if there is no such office, the head of the office designated under section 2008 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2988) (or designee);

"(5) an individual nominated by representatives of local educational agencies that comprise between 5 to 10 percent of the local educational agencies in the State with the lowest average per pupil expenditures, except in the case of a State with a single local educational agency; and

"(6) individuals nominated by State organizations representing each of the following:

"(A) Teachers.

"(B) School administrators.

"(C) Local school boards.

"(D) Parents.

"(E) Businesses.

"(F) State board of education.

"(G) Students.

"(b) ADDITIONAL MEMBERS.—(1) The first meeting of such panel shall be convened by the chief executive of the State and the chief State school officer, where permitted by law. At such meeting, the panel members designated and nominated in subsection (a) shall select additional panel members, including the chairpersons of the State legislative committees with jurisdiction over education, individuals reflecting the ethnic and racial diversity of the general population of the State, and (except in the case of a State with a single local educational agency) an individual nominated by representatives of the 5 local educational agencies with the highest number of students eligible for services under part A of chapter 1 of title I of this Act.

"(2) The membership of the panel shall be geographically representative of all areas of the State and shall not exceed 25 in number.

"(3) Following the selection of additional members, the chief executive of the State and the chief State school officer, where permitted by law, shall convene a meeting of the full panel to establish procedures regarding the operation of subsequent meetings, including the designation of a panel chairperson, consistent with applicable State law.

"(c) DEVELOPMENT OF STATE PLAN.—(1) The panel shall develop a plan that—

"(A) establishes State goals to maximize achievement for all children in conjunction with national educational goals;

"(B) establishes curricular frameworks in specific subject matter areas that incorporate the goals established under subparagraph (A);

"(C) provides for the development or adoption of instructional materials to assist the implementation of the curricular frameworks;

"(D) allocates resources to implement such a system-wide reform plan;

"(E) provides for the establishment or adoption of a valid, reliable, and fair assessment system based upon the curricular frameworks that is capable of accurately measuring the skills and knowledge required to meet State goals;

"(F) provides for professional development strategies necessary for achieving the State goals;

"(G) establishes a process for reviewing Federal, State, and local laws and regulations and for recommending changes in such laws and regulations to further state-wide reform;

"(H) provides a process for selecting local educational agencies for participation in local system-wide reform efforts;

"(I) provides for the development of objective criteria and measures against which the success of local plans can be evaluated;

"(J) provides for the ongoing evaluation of the effectiveness of the State plan in closing the gap between high and low achieving students to be assessed using achievement and other measures such as attendance, grade retention, and dropout rates;

"(K) provides for the availability of curricular frameworks, curricular materials, and professional development in a manner ensuring equal access by all local educational agencies in the State;

"(L) provides for a thorough review of the State's school finance program, focusing on the adequacy of, and disparities in, the financial resources available to each local educational agency, and how such disparity affects the ability of the State educational agency and local educational agencies to develop and implement reform activities consistent with this title;

"(M) describes the steps the State educational agency shall take to ensure that successful programs and practices supported by subgrants awarded to local educational agencies under this title shall be disseminated to other local educational agencies in the State;

"(N) provides for the development of an adequate research, training, and evaluation capacity within the State to further the purposes of this title; and

"(O) describes methods of coordinating health and social services with education through State interagency cooperation and agreements.

"(2) In developing the plan, the panel shall—

"(A) emphasize outcome measures rather than prescribing how the State and local educational agencies should achieve such outcomes;

"(B) review recent innovations by other States and by national professional subject matter organizations in educational goals, curricula, and assessment nationally;

"(C) review existing Federal education programs and how they can contribute to the State plan; and

"(D) ensure broad-based participation through regular notice and dissemination of information to the public (including individuals with limited English proficiency) using print and electronic media.

"(3) Following the development of the plan, the panel shall seek public comment by—

"(A) publishing the plan with a comment period of at least 60 days, or

"(B) notifying the public through electronic and print media and conducting regional hearings.

"After providing the public with an opportunity to comment on the plan, the panel shall consider the public comments and make appropriate changes.

"(4) The plan shall be submitted to the State for review and approval by the State educational agency, except that any changes to such plan shall be made with the concurrence of the panel. Prior to implementing the plan, the State educational agency shall submit such plan to the Secretary for approval. In the event that the State has previously accomplished any of the reform activities required under this title in a specific subject area or set of grade levels, the State is not required to include them in the plan but shall include a request for a waiver, including a description of such accomplishments.

"(5)(A) The Secretary shall approve a State's plan if such plan—

"(i) meets the requirements of this section;

"(ii) is of sufficient quality to meet the objectives of this title; and

"(iii) provides evidence that the State has, or will have, the resources necessary to carry it out.

"(B) The Secretary shall not finally disapprove a plan or an amendment to such plan except after giving reasonable notice, technical assistance, and an opportunity for a hearing.

"(d) REVIEW OF STATE PLAN.—The panel and the State educational agency shall review on an ongoing basis, the implementation of the State plan for the period during which the State receives funding under this title. The results of such review shall be prepared in writing by the panel and included by the State in its annual report to the Secretary under section 9013(a).

"SEC. 9007. STATE USES OF FUNDS.

"(a) USES OF FUNDS.—Funds allotted by the Secretary under section 9011(a) and State and private funds contributed to make up the total cost of a State program as provided in section 9011(b) shall be used by a State with an approved application for the following purposes—

"(1) development and implementation of the State plan, including the establishment of State goals, curricular frameworks, and assessment systems;

"(2) activities of the panel (including the travel expenses of the members of such panel);

"(3) subgrants to local educational agencies;

"(4) technical assistance (including dissemination of information) to local educational agencies to assist in developing and carrying out their plans; and

"(5) evaluation, reporting, and data collection.

"(b) LOCAL EDUCATIONAL AGENCIES.—In the first year that a State receives an allotment under this title, the State educational agency may make subgrants for the purpose of developing local plans as provided in section 9008 consistent with section 9006(c)(1)(H). In the second year, and in each succeeding year, from not less than 75 percent of the total cost of a State's program, the State educational agency shall make subgrants to local educational agencies which shall include—

"(1) at least one local educational agency in each congressional district shall receive a subgrant; and

"(2) the local educational agency with the greatest number of disadvantaged children in the State shall receive a subgrant.

"(c) SPECIAL PROVISION.—Funds available under section 9011 shall be used to carry out the plan in a manner which ensures that all children, especially those identified through the assessment process (using achievement and other measures) as not achieving satisfactorily, are afforded ample opportunity to reach local, State, and national goals.

"SEC. 9008. DEVELOPMENT AND APPROVAL OF LOCAL PLANS.

"(a) Local Committee.—(1) A local educational agency which desires to receive a subgrant under this section shall establish a committee comprised of—

"(A) the chief elected officer of the unit of general purpose local government with boundaries which are most closely aligned with the geographic boundaries of the local educational agency;

"(B) the superintendent of the local educational agency;

"(C) a representative nominated by the local school board;

"(D) a representative nominated by a local teacher association;

"(E) a representative nominated by the largest business association with business members having an interest in educational improvement that operate in a geographic area that is most closely aligned with the local educational agency;

"(F) a representative nominated by the parents of children served by part A of chapter 1 of title I of this Act; and

"(G) the elected head of a district-wide student organization, if one exists.

"(2)(A) The first meeting of such committee shall be convened by the superintendent to enable the committee members designated and selected in paragraph (1) to select additional members including—

"(i) parents of students in elementary, middle, and secondary schools;

"(ii) representatives of community-based organizations;

"(iii) members of the general public with a strong interest in education;

"(iv) principals;

"(v) teachers;

"(vi) school counselors, psychologists, and social workers;

"(vii) curriculum, testing, and evaluation supervisors; and

"(viii) a representative of a local higher education institution.

"(B) The total number of committee members may not exceed 25.

"(C) If a comparable local committee is in place which includes more than 25 members and includes or will include representatives required by this title, the membership limit in paragraph (B) will be waived.

"(3) Following the selection of the additional members, the superintendent shall convene a meeting of the full committee to establish procedures regarding the operation of subsequent meetings, including the designation of a committee chairperson, consistent with applicable State and local law.

"(4) Each meeting of such committee shall be open to the public.

"(5) The committee shall develop the local plan described in subsection (b).

"(b) Local Plan.—(1) As described in the State reform plan, and consistent with the recommendations of the panel established under section 9006, the State shall make subgrants to local educational agencies. Each subgrant shall be of a sufficient amount to develop or implement a locally developed plan which—

"(A) is formally approved by the local educational agency;

"(B) describes a process to ensure broad-based community participation in the development of the local plan;

"(C) provides assurance that the local educational agency shall provide for an ongoing evaluation of the effectiveness of the plan in meeting State and local goals, and that such agency will annually review the local plan;

"(D) proposes district-wide reform which includes—

"(i) the setting of local goals;

"(ii) the development of adoption of curricular and instructional materials which reflect State goals, State curricular frameworks and local goals;

"(iii) the development or adoption of an assessment system which is curriculum based and includes achievement and other indicators that validly, fairly, and reliably measure progress of all students (including students from non-English language backgrounds and students with disabilities) toward meeting State and local goals;

"(iv) the provision of teacher and administrator training; and

"(v) a review and restructuring, if necessary, of the administrative and staffing structure of the local educational agency and individual schools within such agency.

"(E) describes how parents are involved in the development, operation, and evaluation of programs and activities assisted under this title;

"(F) provides for the availability of curricular frameworks, curricular materials, and professional development in a nondiscriminatory manner;

"(G) provides for the ongoing evaluation of the effectiveness of the local plan in closing the gap between high and low achieving students using achievement and other measures such as attendance, grade retention, and dropout rates;

"(H) reviews existing Federal education programs, including early childhood education programs, and how they contribute to the local plan;

"(I) based on the recommendations of teachers and principals, identifies and describes Federal, State, and local laws and regulations that may impede the implementation of the plan, if any;

"(J) describes the process that will be used to ensure that the funds received will be used to the maximum extent at the local school level; and

"(K) describes the steps the local educational agency shall take to ensure that successful practices supported by assistance provided to schools under this title shall be disseminated to other schools in the local educational agency.

"(2) In making subgrants to local educational agencies under this subsection, the State shall give priority consideration to local plans which are broadly supported within their communities as evidenced by—

"(A) the comments of the local committee required under subsection (e)(2);

"(B) the record of the hearings conducted by local educational agencies under subsection (d)(2); and

"(C) letters and resolutions submitted by local groups and organizations.

"(c) Assistance for Local Plan Development.—The State shall, upon the request of the committee of a local educational agency, provide technical assistance in the development of a local plan which—

"(1)(A) is to be submitted by a local educational agency with a large number or percentage of educationally disadvantaged students or students who have dropped out of school; or

"(B) is to be submitted by a local educational agency which demonstrates need for such assistance;

"(2) promotes comprehensive, district-wide reform; and

"(3) has the support of parents, teachers, businesses, and community-based service organizations.

"(d) Submission of Local Plan.—(1) The committee shall submit the plan to the local educational agency for review.

"(2) Prior to consideration of the plan for approval, the local educational agency, with proper public notice, shall conduct public meetings to:

"(A) receive an explanation of the plan by the local committee;

"(B) review and discuss the plan, including—

"(i) whether it meets the requirements of this section;

"(ii) the revenue, resource, and budget implications of the plan for the local educational agency; and

"(iii) the effect of the plan on staffing, organization, personnel policies, and collective bargaining agreements of the local educational agency;

"(C) discuss possible modifications to the plan; and

"(D) solicit the views of other interested persons, including the superintendent, principals, teachers, other officials of the local educational agency, parents, and students.

"(e) Consideration of Local Plan.—

"(1) After the meetings required under subsection (d), the local educational agency, with proper notice, shall convene a public meeting to consider the local plan and shall—

"(A) approve the plan;

"(B) disapprove the plan; or

"(C) return the plan to the committee for further development.

"(2) A local educational agency which approves a local plan shall include the written comments of the local committee prior to submitting such plan to the State for consideration for a subgrant.

"(3) Additional development, submission, and consideration of the local plan shall be consistent with the provisions of this section.

"(f) Additional Subgrant.—A local educational agency may not receive an additional subgrant in a succeeding year unless such local educational agency demonstrates reasonable progress in the implementation of its local plan and, after its third year of funding under this title, provides evidence of improved student achievement.

"(g) Review of Local Plan.—(1) The committee and the local educational agency shall review, on an ongoing basis, the progress of the local educational agency in implementing the local plan for the period during which such agency receives funding under this title.

"(2) The committee shall annually submit a written progress report to the local educational agency, the State panel established under section 9006, and the State educational agency. The local educational agency may submit a separate report, including comments on the report submitted by the committee.

"SEC. 9009. LOCAL USES OF FUNDS.

"(a) Development of Plan.—A local educational agency which receives a subgrant under this title shall use the funds for the purpose of district-wide reform, consistent with the State and local plans. Activities authorized under this section are—

"(1) the development and implementation of the local plan;

"(2) New American Schools which reflect the best available knowledge regarding teaching and learning for all students in public schools, which use the highest quality instructional materials and technologies, and which are designed to meet national, State, and local educational goals as well as the particular needs of their students and communities;

"(3) choice programs consistent with State law and State constitutions which permit parents to select the school their children will attend;

"(4) systems such as merit schools which reward public schools with students who, as a group, demonstrate improved performance on curriculum related outcome measures accepted by the States or developed in the State assessment process;

"(5) activities that supplement early childhood education programs and increase the readiness of young children to learn;

"(6) site-based management which places maximum decisionmaking authority at the individual school level and that, at a minimum, involves teachers and other professional staff;

"(7) activities which maximize parental involvement in improving the education of their children;

"(8) coordination of health and social services with education;

"(9) planning to improve the use of technology in schools;

"(10) development or adoption, with substantial involvement of principals, teachers, and other administrators, of curricula, instructional materials, and assessment instruments which are consistent with State frameworks and local goals.

"(11) other school reform activities which will bring about comprehensive school improvement through systemic change in the local educational agency; and

"(b) INVOLVEMENT OF PRINCIPALS AND TEACHERS.—A local educational agency shall involve teachers and school principals in the development, operation, and evaluation of activities assisted by funds provided under this title.

"SEC. 9010. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this title, there are authorized to be appropriated $700,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 2001.

"SEC. 9011. ALLOTMENT OF FUNDS.

"(a) TO STATES.—(1) From funds appropriated under section 9010, the Secretary shall allot to the Secretary of the Interior for each fiscal year an amount equal to ½ of 1 percent of the funds appropriated, not to exceed $2,000,000 in any fiscal year, to benefit Indian students enrolled in schools funded by the Department of the Interior for Indian students. The provisions of subsection (b) of this section shall not apply to payments made under this paragraph.

"(2) From the remaining amount appropriated under section 9010, the Secretary shall make annual grants to States with approved applications based upon the formula established in part A of chapter 1 of title I of this Act.

"(b) MATCHING REQUIREMENT.—(1) The Federal share under this title may not exceed—

"(A) 100 percent of the total cost of a program for the first year for which a State receives funds under this title;

"(B) 85 percent of the total cost of a program for the second year for which a State receives funds under this title;

"(C) 60 percent of the total cost of a program for the third year for which a State receives funds under this title;

"(D) 45 percent of the total cost of a program for the fourth year for which a State receives funds under this title; and

"(E) 33 percent of the total cost of a program for the fifth and any succeeding year for which a State receives funds under this title.

"(2) The remaining cost of a program that receives assistance under this title shall be paid by the State from State funds and may include contributions from the private sector.

"(3) The share of payments from sources other than funds appropriated under this title may be in cash or in kind fairly evaluated.

"(4) The requirements of this subsection shall not apply to the Virgin Islands, the Commonwealth of Puerto Rico, or Pacific outlying areas.

"(c) MAINTENANCE OF EFFORT.—A State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(d) ADMINISTRATIVE COSTS.—From its annual allotment, a State may reserve for administration (not to include the activities of the panel) an amount not to exceed 4 percent or $250,000, whichever is greater.

"(e) ASSURANCES AND TERMS.—(1) The funds allotted to the Secretary of the Interior under subsection (a)(1) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this title. The agreement shall contain an assurance that—

"(A) a panel, as set forth in paragraph (2) of this subsection, shall be established;

"(B) a plan as required in section 9006 shall be developed by such panel; and

"(C) the provisions and activities required under sections 9006 and 9007 shall be carried out in the same time frames stipulated for the States in those sections, provided that the term 'local educational agencies' shall be interpreted to mean 'schools funded by the Bureau of Indian Affairs'.

"(2) To carry out the provisions of this title, and to develop the plan required under the agreement with the Secretary required in paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs to develop a system-wide reform plan. Such panel shall consist of—

"(A) the Assistant Secretary of the Interior for Indian Affairs (or designee);

"(B) the chairpersons and ranking minority members of the Committee on Education and Labor of the House of Representatives and the Select Committee on Indian Affairs of the Senate (or their designees);

"(C) the Director of the Office of the Indian Education Programs of the Bureau of Indian Affairs and such heads of divisions in such office as the Director shall designate;

"(D) a representative nominated by each of the following—

"(i) the organization representing the majority of teachers and professional personnel in Bureau-operated schools;

"(ii) the organization representing the majority of nonteaching personnel in Bureau-operated schools, if not the same organization as in clause (i);

"(iii) school administrators of Bureau-operated schools;

"(iv) education line officers located in Bureau area or agency offices serving elementary or secondary programs;

"(v) the organization representing the majority of Bureau-funded contract or grants schools not serving students on the Navajo reservation;

"(vi) the organization representing the majority of Bureau-funded contract grants schools serving students on the Navajo reservation;

"(vii) the organization representing the school boards required in Bureau-operated schools, not serving students on the Navajo reservation; and

"(viii) the organization representing the school boards required in Bureau-operated schools, serving students on the Navajo reservation.

"In addition, the members of the panel stipulated above shall designate for full membership 3 tribal chairmen (or designees) or representatives of 3 national organizations which primarily represent national Indian education concerns, or a combination of these 2 classes, provided that the National Advisory council on Indian Education, established under the Indian Education Act of 1972, Public Law 92-318 (as amended), shall not be included as an organization for consideration under this provision.

"SEC. 9012. AVAILABILITY OF INFORMATION AND TRAINING.

"(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

"(1) a State educational agency or local educational agency which uses funds under this title to develop goals, curricular frameworks, curricular materials, and assessments shall, upon request, make information related to such goals, frameworks, materials, and assessments available to private schools; and

"(2) a State educational agency or local educational agency which uses funds under this title for teacher and administrator training shall provide in its plan for the training of teachers and administrators of private schools located in the geographical area served by such agency.

"(b) WAIVER.—If, by reason of any provisions of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this title, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and curricular frameworks for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of this Act.

"SEC. 9013. ANNUAL PROGRESS REPORTS: TECHNICAL ASSISTANCE.

"(a) ANNUAL REPORT.—A State which receives funds under this title shall annually report to the Secretary—

"(1) regarding such State's progress in meeting its goals and plan;

"(2) describing proposed activities for the succeeding year; and

"(3) describing Federal regulations which may impede reform activities under this title as described in local plans approved by the State.

"(b) ADDITIONAL REPORT; TECHNICAL ASSISTANCE.—(1) Each State which receives funds under this title shall submit to the Secretary a biennial report on revenues available to, and expenditures by, each local educational agency in the State during the second preceding year. This report shall be developed in accordance with data definitions developed and published by the National Center for Education Statistics, and shall include at least the following information for each local educational agency within the State—

"(A) sources of revenues, identified by level of government and type in the case of taxes;

"(B) types of educational services offered;

"(C) pupil enrollment, average daily attendance, and average daily membership;

"(D) demographic information on student population;

"(E) type and responsibilities of each local educational agency, including a description of grade levels served; and

"(F) age and condition of facilities, including the percent of budget expended for maintenance and operation.

"(2) After submission of the first biennial report under paragraph (1), a State, using data and definitions developed by the National Center on Education Statistics, shall include in each subsequent biennial report for each local educational agency the following information:

"(A) tax assessment rates, policies, and practices;

"(B) the ability of such local educational agency to raise additional revenues; and

"(C) the costs of providing elementary and secondary education services.

"(3) The report required by this subsection shall also contain a detailed description of the State's school finance programs including each program's—

"(A) purpose;

"(B) eligibility criteria;

"(C) sources of revenue;

"(D) aggregate level of funding;

"(E) mechanism or formula for distributing funds among local educational agencies; and

"(F) restrictions on use of funds.

"(4) In developing data definitions under this subsection, the National Center for Education Statistics shall consult with individuals knowledgeable in the field of education finance.

"(5) Each State shall make its first report to the Secretary under this subsection not later than two years after the date that the Secretary initially allots funds under section 9011.

"(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance, either directly by grant or by contract, to the States to assist them in complying with the requirements of this section.

"(d) DATA REVIEW.—The National Center for Education Statistics shall review these data from reports compiled under this section to determine adherence to the definitions required in subsection (b) before it is submitted for policy analysis by the National Academy of Sciences under subsection (c) of section 9014. The National Center for Education Statistics shall forward to the Secretary and the National Academy of Sciences any discrepancies it determines between the data and the definitions and any corrections necessary to achieve consistency in the data, particularly as it relates to differences in data of the various States.

"SEC. 9014. EVALUATION AND DISSEMINATION.

"(a) EVALUATION.—The Secretary shall evaluate a representative sample of such State and local reform efforts over the course of the 10-year authorization in order to assess the effectiveness of such plans and activities in improving the education performance of all children. Such evaluations shall specifically examine the effects of such activities on disadvantaged students. The Secretary may reserve up to ¾ of one percent of the appropriations for this title to carry out this section provided that ½ of one percent of such appropriation shall be reserved for technical assistance under section 9013(c) and for subsection (c) of this section.

"(b) DISSEMINATION.—The Secretary shall, annually and upon request, disseminate to the States information on approaches and materials developed under this title or through related efforts.

"(c) CONTRACT FOR STATISTICAL AND POLICY ANALYSIS.—(1) The Secretary shall provide, through a contract with the National Academy of Sciences, for the preparation of a statistical and policy analysis of school finance and related data reported by the States under section 9013(b). Such analysis shall—

"(A) address disparities in educational expenditures and the reasons for such disparities among local educational agencies in each State and among States across the Nation; and

"(B) describe the degree to which the data reported by States under section 9013 was useful in its preparation.

"(2) In conducting such analysis, the National Academy of Sciences shall use statistical methods generally accepted by school finance specialists, and shall develop model State school finance programs based on generally accepted concepts of equalized school finance programs. Such models shall take into consideration a variety of factors, including—

"(A) State and local variations in student demographics and needs, and the costs of meeting such needs;

"(B) adequacy of resources;

"(C) ability and willingness of States and local educational agencies to raise additional revenues; and

"(D) costs of providing educational services.

"(3) Not later than three years following the date that the Secretary makes the first allotment of funds to States under section 9011, the National Academy of Sciences shall provide a report containing the information required by this subsection to the Chairpersons of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary. The Secretary shall expeditiously make such report available to States and, upon request, to the public.

"(4) The Secretary, upon request, shall provide, either directly or by contract, technical assistance to States which endeavor to implement a model school finance program developed by the National Academy of Sciences under this subsection.

"SEC. 9015. REPORT TO CONGRESS.

"The Secretary shall submit annually to the chairperson of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains—

"(1) a description of the progress that States receiving funds under this title have made in developing and implementing their plans;

"(2) information from State and local reports regarding requirements in Federal law or regulation which have been identified by States and local educational agencies as impeding the system-wide reform schools under this title; and

"(3) a list by State of average per pupil expenditures reflecting the most recent data reported under section 9013(b) and reviewed under section 9013(d).

"SEC. 9016. GENERAL PROVISIONS.

"Nothing in this title shall—

"(1) supersede State law; or

"(2) be construed to authorize any department, agency, officer, or employee of the Federal Government to—

"(A) exercise any control over the curriculum, program of instruction, administration or personnel of any educational institution or school system; or

"(B) prescribe the use of a particular examination or standards.

"SEC. 9017. DEFINITIONS.

"For purposes of this title:

"(1) The term "assessment system" means a system for measuring the abilities and academic achievement of students that is based upon a set of curricular frameworks and the expected outcomes embodied therein.

"(2) The term "curricular framework" means a description, in a particular subject area, of the knowledge and skills children should acquire at each grade level.

"(3) The term "Pacific outlying area" means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until such time as the compact of Free Association is ratified.

"TITLE X—FLEXIBILITY TO IMPROVE EDUCATIONAL ACHIEVEMENT

"SEC. 10001. PURPOSE.

"It is the purpose of this title to allow States, local educational agencies, and schools the flexibility to use and combine Federal, State, and local funds as part of systemic educational reform plans to improve the educational achievement of elementary and secondary school students by waiving certain statutory and regulatory requirements.

"SEC. 10002. PROGRAM AUTHORIZED.

"(a) EDUCATION PROGRAMS.—The Secretary of Education is authorized to waive certain statutory and regulatory requirements (except as provided in section 10004) for States that can demonstrate that such waivers are part of a systemwide education reform plan and where such States and local educational agencies have implemented similar waiver plans.

"(b) ADDITIONAL PROGRAMS.—Waivers may also be requested for requirements regarding the following programs:

"(1) The Head Start Act.

"(2) The Runaway and Homeless Youth Act.

"(3) The Juvenile Justice and Delinquency Prevention Act.

"(4) The National School Lunch Act.

"(5) The School Breakfast Program.

"(6) The Child and Adult Care Food Program.

"(7) The Special School Milk Program.

"(8) The Summer Food Service Program.

"(9) The Community Services Block Grant Program.

"If such waivers are requested, the Secretary shall consult with the heads of other appropriate Federal agencies, if any, in determining whether to approve a project. The Secretary shall obtain the approval of such agency head as part of final approval of such project.

"SEC. 10003. APPLICATIONS.

"(a) GENERAL REQUIREMENTS.—A school, local educational agency, or State that desires to receive a waiver under this part shall—

"(1) indicate which requirements are to be waived and how waiving such requirements is an integral part of the systemic reform plan and will improve educational achievement among students;

"(2) identify the Federal programs to be included in the project;

"(3) indicate which State and local requirements shall be waived;

"(4) describe specific, measurable educational improvement goals and expected outcomes;

"(5) describe methods to be used to measure progress toward meeting such goals;

"(6) describe the student population at proposed schools, including—

"(A) current data regarding the achievement levels of students, particularly disadvantaged students;

"(B) the number of students who—

"(i) are of limited English proficiency, as defined in section 7003(a)(1) of the Bilingual Education Act;

"(ii) are children with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Act;

"(iii) are currently or within the past 5 years were migratory;

"(iv) are educationally deprived for the purposes of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(v) are eligible for a free or reduced-price lunch.

"(b) Additional Requirements.—The Secretary of Education may include additional requirements as may reasonably be required.

"(c) Individual School Applications.—A local school that desires to receive a waiver under this title shall submit an application to the local education agency, which shall submit such application to the State education agency.

"(d) Local Applications.—(1) A local educational agency that desires to receive a waiver under this title shall submit an application to the State educational agency.

"(2) A State educational agency that approves an application submitted by a local education agency shall forward such application to the Secretary of Education for consideration, unless such application requires waivers for programs other than education programs.

"(3) An application that requests a waiver for a program other than an education program shall be submitted to the chief executive of the State and such executive shall forward such application to the Secretary.

"(e) State Applications.—(1) A State educational agency that desires to receive a waiver under this title shall submit an application to the Secretary for consideration, unless such application requires waivers for other than education programs.

"(2) Such application shall be submitted to the chief executive of the State for review before forwarding such application to the Secretary.

"SEC. 10004. WAIVER RESTRICTIONS.

"Requirements which shall not be waived include—

"(1) requirements governing fund allocations;

"(2) requirements governing privacy of pupil records;

"(3) requirements under title VI of the Civil Rights Act of 1964;

"(4) provisions of section 504 of the Rehabilitation Act of 1973;

"(5) provisions of title II of the Americans with Disabilities Education Act;

"(6) requirements of title IX of the Education Amendments of 1972;

"(7) requirements governing pupil rights under the Individuals with Disabilities Act; and

"(8) requirements governing—

"(A) maintenance of effort;

"(B) comparability; or

"(C) the equitable participation of students attending private schools.

"SEC. 10005. EVALUATIONS AND TECHNICAL ASSISTANCE.

"(a) Local Evaluation.—Three years after a waiver is given to a local educational agency, the Secretary of Education shall evaluate the effectiveness of such waiver in achieving education reform and raising student achievement.

"(b) Technical Assistance.—If the Secretary determines that progress in achieving educational reform is not satisfactory, the Secretary may provide technical assistance to a local educational agency.

"(c) Termination.—If the Secretary determines that the technical assistance does not improve educational reform efforts, the Secretary may terminate any waivers previously granted.

"(d) National Evaluation.—Five years after the flexibility program is implemented and at the end of every succeeding five-year period, the Secretary shall evaluate the effectiveness of the flexibility program nationwide. The findings of such evaluation shall be submitted to the Congress not later than 120 days after such evaluation is completed.

"SEC. 10006. REPORTS.

"(a) Local Reports.—A local educational agency or school that participates in a flexibility project under this title shall submit an annual report to the State educational agency that—

"(1) describes project activities;

"(2) evaluates the progress in achieving the goals stated in the application; and

"(3) evaluates the effectiveness of coordinating services for students and their families.

"(b) State Reports.—A State that participates in a flexibility project under this title shall submit an annual report to the Secretary of Education which evaluates the progress in achieving goals stated in the application.

"(c) Secretary Reports.—The Secretary of Education shall submit to the Congress a biennial report regarding the national progress of flexibility programs and the effect of such programs on educational reform.

"TITLE XI—NEW AMERICAN SCHOOLS

"SEC. 11001. STATEMENT OF FINDINGS.

"The Congress finds that—

"(1) many American elementary and secondary schools—

"(A) are structured according to models that are outmoded and ineffective;

"(B) rely on notions about pedagogy, management, technology, staffing, and other resources that may be outdated or insufficient for the challenges of the next century; and

"(C) are unsuccessful at equipping the majority of students with the knowledge and skills needed to succeed as citizens and in the workplace;

"(2) new approaches to elementary and secondary education are needed, and without major reforms in elementary and secondary schools, the United States will lose its ability to compete fully and successfully in the world economy;

"(3) although educational change must take place school by school, experience shows that the schools, on their own, will not alter themselves radically;

"(4) there is an appropriate Federal role in providing seed money for the establishment of new types of schools in communities across the country; and

"(5) the Nation is embarking on a major effort to support the invention of radically better forms of schooling, and to establish a network of American communities whose citizens are dedicated to the improvement of education.

"SEC. 11002. PURPOSE.

"(a) New Schools.—The purpose of this title is to support the creation of new schools across the country that reflect the best thinking about teaching and learning, employ the highest-quality instructional materials and technologies, and are designed to meet the national education goals, as well as the particular needs of their students and communities.

"(b) Systemic Reform.—In order to carry out this purpose, this title authorizes financial assistance for New American Schools in communities that have undertaken systemic education reform.

"SEC. 11003. ALLOCATION OF FUNDS.

"(a) Reservation for Evaluation.—From the amount of funds appropriated to carry out this title for fiscal years 1993, 1994, and 1995, the Secretary shall reserve a total of up to $3,000,000 for a national program evaluation.

"(b) Allocation.—The Secretary shall allocate the remaining funds among the several States in proportion to their respective numbers of members of Congress, including Senators, Representatives, and Delegates. For the purpose of this subsection, the Commonwealth of the Northern Mariana Islands and Palau (until the effective date of the Compact of Free Association with the Government of Palau) shall be treated as if they each had one member of Congress.

"SEC. 11004. STATE APPLICATIONS.

"In order for a State to qualify for its allocation under section 11003(b), the Governor and chief State school officer, where permitted by State law and constitution, shall submit an application at such time as the Secretary may determine, including—

"(1) a description of the process the Governor and chief State school officer have used, in accordance with section 11005, to nominate local educational agencies in consortia with businesses and other community organizations to create New American Schools;

"(2) a list of the local educational agencies nominated by the Governor and chief State school officer, to receive a New American School grant;

"(3) copies of the plans, prepared by each local educational agency nominated by the Governor and chief State school officer for funding under this title, for establishing and operating a New American School or Schools, including, as necessary, a description of the steps to be taken to obtain recognition or accreditation from the State;

"(4) an identification of non-Federal resources that will be available to establish and operate each New American School in the State; and

"(5) such other information as the Secretary may require.

"SEC. 11005. SELECTION OF LOCAL EDUCATIONAL AGENCIES TO CREATE NEW AMERICAN SCHOOLS.

"(a) Nomination.—The Governor of each State and the chief State school officer shall nominate for a New American School grant only local educational agencies within the State that have undertaken or are planning to undertake systemic education reform.

"(b) DELEGATION AND DISTRICT NOMINATIONS.—In carrying out subsection (a), each Governor and chief State school officer shall nominate—

"(1) at least as many grant recipients as there are members in the State's congressional delegation; and

"(2) at least one local educational agency in each congressional district in the State.

"(c) SELECTION CRITERIA.—Each Governor and chief State school officer shall nominate local educational agencies on the basis of criteria established by the Secretary, based on the advice of the panel of experts established under section 11007, including, at a minimum—

"(1) the level of commitment and activity displayed by the community to undertake systemic education reform and meet the national education goals;

"(2) the need for new and innovative educational programs in the schools of the community; and

"(3) the quality of the application submitted by the applicant to the Governor and chief State school officer.

"(d) MEETING REQUIREMENTS.—(1) The Secretary, in consultation with of the panel of experts established under section 11007, shall approve some or all of the local educational agencies nominated by each Governor and chief State school officer to receive New American School grants based on the Secretary's determination that such approval would be fully consistent with the purpose and requirements of this title.

"(2) The Secretary shall ensure that—

"(A) to the extent consistent with paragraph (1), a New American School or Schools is created in each congressional district and that the number of such schools created in each State is at least equal to the number of members in the State's congressional delegation; and

"(B) communities with high concentrations of children from low-income families in each State receive an equitable share of awards under this title.

"(e) ADDITIONAL RECIPIENTS.—The Governor and chief State school officer may nominate other local educational agencies or recipients if—

"(1) the Secretary does not approve one or more of the State's nominees after such nominees have been provided with a notice of disapproval and an opportunity to receive technical assistance and resubmit their proposal;

"(2) an approved local educational agency withdraws from the program; or

"(3) the Secretary determines that the community or recipient is unable successfully to carry out its project or is not making adequate progress in carrying out such project.

"SEC. 11006. AMOUNT OF AWARDS, OPERATION OF SCHOOLS, AND USES OF FUNDS.

"(a) GRANT AWARDS.—(1) The Secretary shall make grants for New American Schools to local educational agencies selected by the Secretary under section 11005(d).

"(2) The Secretary, after consultation with the Governor and chief State school officer, shall determine the total amount of each award under this title, except that—

"(A) no such award shall exceed $1,000,000; and

"(B) the Secretary shall consider the expected student enrollment in the New American School or Schools in setting such amount.

"(b) SCHOOL DESIGNS.—In establishing a New American School, the grantee is encouraged to adapt and implement one or more New American School designs developed by research and development teams funded by the New American Schools Development Corporation.

"(c) STARTUP COSTS.—(1) Funds made available under this title may be used only to meet the special startup costs associated with the creation and establishment of a New American School, including—

"(A) planning, curriculum development, and curriculum adaptation;

"(B) training of teachers, administrators, and other staff, as well as parents and members of the community who are involved with the school;

"(C) purchase of equipment and materials;

"(D) minor renovation and remodeling of facilities; and

"(E) obtaining the assistance of outside experts, including one or more of the teams described in subsection (b), to assist in adapting and implementing one or more of the designs developed by such teams to the needs of the individual community and school.

"(2) Such funds may not be used for—

"(A) construction;

"(B) the grantee's general administrative expenses; or

"(C) the establishment or support of a private school.

"(d) RECOGNITION OR ACCREDITATION.—Each New American School shall have obtained State recognition or accreditation, as necessary, and be fully operating by the start of the 1997-1998 school year.

"SEC. 11007. SECRETARY'S PANEL OF EXPERTS.

"Not later than 90 days after the date of the enactment of this Act, the Secretary shall convene an expert panel of educators, representatives of private business, and public representatives regarding the administration of the program authorized by this title, including—

"(1) the criteria to be used to nominate local education agencies for New American Schools; and

"(2) the approval of local educational agencies nominated by Governors and chief State school officers to establish, operate and receive grants for New American Schools.

"SEC. 11008. NATIONAL EVALUATION.

"(a) IMPACT.—The Secretary shall use the funds reserved under section 11003(a) to conduct a national evaluation of the impact of the New American Schools program on schools and communities, and on education generally.

"(b) REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report by September 30, 1999.

"SEC. 11009. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this title, there are authorized to be appropriated $100,000,000 for fiscal year 1993, $200,000,000 for fiscal year 1994, and $300,000,000 for fiscal year 1995. Such sums shall remain available for obligation by the Secretary for 2 fiscal years beyond the fiscal year for which they are appropriated.

"SEC. 11010. DEFINITIONS.

"For the purpose of this title—

"(1) the term "community" means—

"(A) a unit of general purpose local government, such as a city, township, or village;

"(B) a geographically distinct area, such as a school district, school attendance area, ward, precinct, or neighborhood; or

"(C) an identifiable group of individuals, such as the members of a service organization, who generally reside in a particular geographic area;

"(2) the term "Governor" means the chief executive of a State;

"(3) the term "New American School" means a school that—

"(A) provides elementary or secondary education, as determined under State law;

"(B) reflects the best thinking about teaching and learning;

"(C) employs the highest-quality instructional materials and technologies;

"(D) is designed to meet the national education goals, as well as the particular needs of the students and communities it serves;

"(E) provides regular reports to the community on the achievement of its students; and

"(F) meets all State and local health and safety requirements; and

"(4) the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the effective date of the Compact of Free Association with the Government of Palau).

"TITLE XII—MENTOR PROGRAM

"SEC. 12001. PURPOSE.

"The purpose of this title is to improve academic performance and reduce the dropout rate of students through the use of mentors for at-risk students.

"SEC. 12002. ELIGIBLE ENTITIES.

"(a) IN GENERAL.—To be eligible to receive a grant under this title, a local educational agency or elementary or secondary school must submit an application to the Secretary of Education in such form and containing such information that the Secretary may reasonably require.

"(b) REQUIREMENTS.—Each application under subsection (a) shall include—

"(1) an assurance that 60 percent or more of the students are eligible to receive funds under chapter 1 of the Elementary and Secondary Education Act of 1965;

"(2) systematic education reform efforts are being made.

"(3) a provision for a mechanism for matching youth with mentors based on the needs of the child;

"(4) an assurance that no mentor would be assigned to more than one child to insure a one-on-one relationship;

"(5) an assurance that projects operated in secondary schools shall provide students with a variety of experiences and support, including—

"(A) an opportunity to spend time in a work environment and, when possible, participate in the work environment;

"(B) an opportunity to witness the job skills which will be required to students to obtain employment upon graduation;

"(C) assistance with homework assignments; and

"(D) exposure to experiences students might not otherwise encounter.

"(6) an assurance that projects operated in elementary schools will provide students with—

"(A) academic assistance;

"(B) exposure to new experiences and activities students might not encounter on their own; and

"(C) emotional support;

"(7) an assurance that projects shall be monitored to ensure a student is benefiting from a mentor relationship with the provision for a new mentor assignment if such relationship is not beneficial to the child; and

"(8) allowance for the use of older youth as mentors to younger children, particularly if a child has limited English proficiency and can be matched with an older child who can assist the younger child in improving literacy skills and assist with classwork assignments.

"SEC. 12003. AWARD OF GRANTS.

"(a) SELECTION CRITERIA.—The Secretary shall consider the following factors in awarding grants to local educational agencies:

"(1) The number of students who are eligible for funds under chapter 1 of the Elementary and Secondary Education Act of 1965.

"(2) The efforts made to develop and initiate systemic education reform.

"(3) The geographic distribution (urban and rural) of applicants.

"(b) GRANT PERIOD.—Grants awards under this title shall be awarded for a three-year period.

"SEC. 12004. REPORTS.

"(a) REPORTS TO SECRETARY.—Local educational agencies and schools that receive grants under this title shall submit an annual report to the Secretary of Education regarding the progress of students served under a mentor demonstration project, including:

"(1) the number and percentage of ethnic and minority students served;

"(2) the number and ages of all students served;

"(3) academic progress of all students participating.

"(4) the number of ethnic and minority individuals participating as mentors in the project; and

"(5) Community support for the project.

"(b) REPORT TO CONGRESS.—Not later than 120 days after completion of the 3-year grant cycle, the Secretary shall submit to the Congress a report regarding the success and effectiveness of the demonstration program.

"SEC. 12005. DEFINITIONS.

"For purposes of this title—

"(1) the term "at-risk student" means a student at risk for educational failure or dropping out of school; and

"(2) the term "mentor" means an individual who works with an at-risk students on a one-to-one basis, establishing a supportive relationship with such students, and providing them with academic assistance and exposure to new experiences which enhance their ability to succeed academically and become good citizens.

"SEC. 12006. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 and 1995."

SEC. 3. LIMITATION.

None of the appropriations made pursuant to authorizations contained in the amendments made by this Act may be used to provide contraceptive devices or to provide abortion counseling.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes, and a Member opposed, the gentleman from Michigan [Mr. KILDEE], will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Nebraska [Mr. BARRETT], a member of the Committee on Education and Labor.

Mr. BARRETT. Mr. Chairman, because I really want educational change, I rise in support of the Goodling substitute to H.R. 4323, a bill euphemistically titled the "Neighborhood Schools Improvement Act". Let's make no mistake, H.R. 4323 is wrapped in a thin veil of education reform, but it wears the heavy cloak of business as usual, and is draped with special provisions and protections to keep special interests warm, while kicking our children out into the cold.

The House Education and Labor Committee's journey through education reform at the beginning of this session started and, I thought, ended as a bipartisan effort when we reported H.R. 3320, or what we are looking at today as the Goodling substitute. H.R. 3320 is the only major bipartisan education bill that the committee reported out during this session. And I had thought the committee had decided that it wanted a bill, rather than an election year issue.

In fact, I received a letter from the Nebraska Department of Education, in which they stated that H.R. 3320 "provided critical assistance to the Nebraska Department of Education and the local schools to plan together and undertake systemwide reform."

I was pretty enthused about this bipartisan bill and looked forward to passing a bill that the President would probably sign. It included things that I supported, and also included some things I have serious problems with.

But what is the overarching component of the Goodling amendment that I find the most attractive? Pure and simple, it is local control.

It allows local business, education, and civic leaders a limitless chance at looking at their schools and seeing where they are deficient, make meaningful recommendations that must be approved by the local school board, before they can be forwarded to the State.

H.R. 4323, on the other hand, cripples this local panel by making it yet another advisory committee to the school board. The panel's initiatives can be amended to death by the school board and then sent onto the State.

As a former school board member, I only wish that I had the flexibility and freedom to look at our local school and make meaningful changes—as envisioned in the Goodling amendment—rather than being constrained by Federal and State bureaucrats who knew little of the needs of my local community.

The Goodling amendment also includes the four-letter word for the education community, the word is "choice."

I do not swallow the idea that "choice" in education is the answer to education improvement that the proponents claim—it may very well be part of the answer, but it is not the complete answer.

If State law allows, it should be reserved as an option for the local panel and school board to consider. And, if we can't have the confidence and trust, that our local community leaders have the sense and judgment to make these kinds of decisions, then our education system is in sorry shape.

This Congress must have that confidence and trust in our local leaders if education reform is to get off the ground. After all, if there is to be fundamental education reform, the ones that will be taking the risks for the sake of our children's futures, will be the local leaders, not Congressmen and women, or Senators, or Presidents.

In conclusion, I hope that Members too will support the Goodling amendment. It provides our children with a real chance to succeed; not to remain in the dark shadow of special interests who clamor for change, but then clam up when it comes time for enacting those changes.

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I rise in opposition to the amendment.

I have obviously reviewed the gentleman's amendment and there are parts of it which he knows I like very much.

However, there remain significant differences between us, and I, for that reason, must oppose the amendment.

Rather than the cautious approach to education standards and testing proposed in H.R. 4323, the substitute takes a much more aggressive stance in that area.

The notion of a system of assessments with Federal Government involvement is unprecedented in American education even though the gentleman's proposal is more thoughtful than many that have been proposed, we do not have enough information to safely establish all phases of a system of national education assessments at this point.

H.R. 4323 proceeds more cautiously by authorizing the development and evaluation of model mathematics assessment over a 2-year period.

At the end of 2 years we will have better information on the model assessments as well as on national education standards being developed in other subject areas.

With that information then, we can then make more informed decisions on how or whether the Federal Government should proceed in the area of assessment.

At this time I also am concerned over the Regulatory Flexibility Provisions in the substitute offered by the gentleman from Pennsylvania [Mr. GOODLING], an area where both of us hope to make some progress, but I at this point have some concern.

As I said, I share the gentleman's concern over the need for more flexibility, and he and I discussed this over a number of years, and I hope to address this issue further during the reauthorization of the Elementary and Secondary Education Act in the next Congress.

However, instead of a demonstration program targeted at improving services to disadvantaged children, the regulatory flexibility provisions in the Goodling substitute would establish a permanent authority for the waiver of many statutory and regulatory requirements.

Twenty-seven national organizations representing the disability community oppose the substitute offered by the gentleman from Pennsylvania [Mr. GOODLING] because of the waivers it will permit under the Individuals with Disabilities Act, and, Mr. Chairman, I include for the RECORD a letter from the Consortium for Citizens with Disabilities opposing the Goodling substitute.

The letter referred to is as follows:

CONSORTIUM FOR CITIZENS WITH DISABILITIES,
August 12, 1992.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN FORD: The Education Task Force of the Consortium for Citizens with Disabilities writes to urge you and your colleagues to defeat the Goodling Amendment to H.R. 4323, the Neighborhood Schools Improvement Act. This amendment is scheduled to be considered on the floor of the House today.

The Consortium for Citizens with Disabilities is a working coalition of numerous national advocacy, consumer, professional and provider organizations who advocate on behalf of our nation's citizens with disabilities. CCD recognizes that Part B of the Individuals with Disabilities Education Act, commonly known as P.L. 94-142, is one of the most cherished and important federal laws serving children with disabilities. This law established the right to a free, appropriate public education (FAPE) for students with disabilities and contains several vital provisions, which, taken together, guarantee FAPE for all eligible students. Another key provision of IDEA is the Part H Early Intervention Program for Infants and Toddlers. Part H authorizes new comprehensive, statewide efforts to serve all children with disabilities from birth through 2 years of age. The CCD has fought off a number of legislative and regulatory attempts to weaken or eliminate key provisions of P.L. 94-142 since its enactment in 1975.

One aspect of the Goodling Amendment would again place Parts B and H of IDEA under serious jeopardy. Under the amendment's waiver provision (Section 10002), the Secretary of Education would be authorized to waive certain statutory and regulatory requirements of numerous federal programs, including IDEA. Another section within the amendment (Section 10004) would restrict waivers "governing pupil rights" under IDEA. Although we recognize that Congressman Goodling's intent is to improve special and other education programs, the proposed language to restrict allowable waivers under IDEA is insufficient to fully protect students with disabilities. The proposed language is subject to too much interpretation by school officials, the federal government and other interested parties.

While the undersigned organizations continue to seek out and participate in education reform leading to better outcomes for students with disabilities, we are simply unable to support this approach. Thus we urge all members of the House to oppose this amendment.

American Association of University Affiliated Programs.

American Association on Mental Retardation.

American Council of the Blind.

American Speech-Language-Hearing Association.

Association for Education & Rehabilitation of the Blind & Visually Impaired.

Autism National Committee.

Child Welfare League of America.

Children with Attention Deficit Disorders.

Conference of Educational Administrators Serving the Deaf.

Convention of America Instructors of the Deaf.

Council for Exceptional Children.

Council of Organizational Representatives Serving the Deaf.

Council of State Administrators of Vocational Rehabilitation.

Epilepsy Foundation of America.

Federation of Families for Children's Mental Health.

Learning Disabilities Association.

Mental Health Law Project.

National Association for Music Therapy.

National Association of Developmental Disabilities Councils.

National Association of Private Residential Facilities.

National Association of Protection and Advocacy Systems.

National Association of State Directors of Special Education.

National Center for Learning Disabilities.

National Council on Rehabilitation Education.

National Easter Seal Society.

National Mental Health Association.

The Arc, formerly the Association for Retarded Citizens.

The Association of Persons with Severe Handicaps.

United Cerebral Palsy Associations, Inc.

The substitute also provides for a separate authorization for the development of new American schools.

New American schools are already an allowable use of funds as part of a local systemic reform plan under H.R. 4323.

A duplicative authority for this purpose is unnecessary.

Finally, the substitute would eliminate the provision in H.R. 4323 which would make meeting school delivery standards an allowable use of funds, and I think since all these standards, all the assessments, are voluntary, we should at least have as an allowable activity school delivery standards rather than just standards for students. We need some school delivery standards to find out whether the student is failing or whether the school is failing.

☐ 1330

This provision removes from the bill an important means of ensuring that all children have a fair opportunity to learn.

For these reasons, although there are many good provisions in the bill and many that the gentleman from Pennsylvania [Mr. GOODLING] and I have worked on through the years, for these reasons I urge strongly the defeat of the Goodling substitute.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there were those who went out and tried to stir up the disability community and had them write a letter many Members received which had nothing to do with reality. I would like to include for the RECORD the information sent out.

One aspect of the Goodling Amendment would again place Parts B and H of IDEA under serious jeopardy. Under the amendment's waiver provision (Section 10002), the Secretary of Education would be authorized to waiver certain statutory and regulatory requirements of numerous federal programs, including IDEA. Another section within the amendment (Section 10004) would restrict waivers "governing pupil rights" under IDEA. Although we recognize that Congressman Goodling's intent is to improve special and other education programs, the proposed language to restrict allowable waivers under IDEA is insufficient to fully protect students with disabilities. The proposed language is subject to too much interpretation by school officials, the federal government and other interested parties.

Mr. Chairman, if in fact they would have encouraged them to read my legislation, these groups would have discovered their concerns had nothing to do with reality. What they are saying is just the opposite of what those people did at a convention, as a matter of fact, where they said they would like to break the wall between special education, chapter I, and so on.

Mr. Chairman, I have always been a strong supporter of Public Law 94-142, which guarantees a free, appropriate, public education to all children with disabilities and have opposed legislation which would weaken that law. However, this substitute does not weaken any rights for students with disabilities. In fact, section 10004 specifically safeguards all pupil's rights under IDEA. Those rights include:

First, the right to a free, appropriate public education.

Second, the right to an individualized education program.

Third, the right to transition services once the child turns 16.

Fourth, the right to procedural safeguards which include: the opportunity for parents to examine all relevant records with respect to identification, evaluation, and educational placement of their child; confidentiality requirements to protect the child; written notice to parents whenever a change is made regarding identification, evaluation, or educational placement of the child; informing the parent in their native language; and the opportunity for parents to present complaints about the identification, evaluation, or educational placement of their child.

Fifth, the right to an impartial due process hearing.

Sixth, the right to appeal the findings and decision rendered by an impartial hearing to the SEA which must conduct an impartial review of the hearing.

Seventh, the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to problems of children with disabilities.

Eighth, the right to bring a civil action with respect to the complaint in any State court or district court of the United States without regard to the amount in controversy.

Ninth, the right of the court to award attorney's fees as part of the costs to the parents of the child with a disability if they are the prevailing party.

As you can see, my substitute does no harm to these important provisions.

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Chairman, I rise in somewhat reluctant opposition to the substitute offered by the gentleman from Pennsylvania [Mr. GOODLING]. Before I do, I acknowledge with great appreciation the contributions the gentleman has made to assuring full and equal access for special needs students. I also acknowledge the fact that nothing in my opposition to the substitute of the gentleman from Pennsylvania [Mr. GOODLING] goes to his intent in drafting the substitute or supporting it.

Mr. Chairman, my concern is more a matter of practice should the substitute be adopted, and it goes to this point: one of the most difficult, expensive, and unpopular things to do in a local school district, as the offerer of the amendment, the gentleman from Pennsylvania [Mr. GOODLING] well knows, is to promote and support the education of special needs students.

Special needs students and their parents are not a particularly well organized or powerful constituency in many areas of the country. Their concerns are very often less popular and less politically sustainable or less politically appealing than those of other demands that people might make upon a school district or a State.

I am certain that it is for those reasons that the gentleman who offers the amendment has been a leader in assuring rights of those students.

My concern is that a broader waiver provision, whether it is vested in the Secretary of Education or some other official, broadens the temptation and broadens the possibility that the rights that have been vested in the law would not be fully upheld on behalf of the students.

My concern does not rest with the intent of the substitute, it rests with the risk of its operation and practice, and for that reason I would oppose it.

The second reason, to reiterate a point made by the gentleman from Michigan [Mr. KILDEE], is my concern about the degree of support that we are going to demonstrate for national standards or national levels of standards under this bill. I think there is great consensus that there ought to be standards that apply across our schools and across our States. There is certainly not consensus that those standards should be developed by any Federal body, and there is certainly not consensus as to how the standards ought to be tested, evaluated, or taken into account.

The version of this bill put forward by the subcommittee I believe strikes a more appropriate balance between the need for a clear articulation of national standards and the avoidance of the imposition of Federal requirements which may be arbitrary and ill thought out.

Mr. Chairman, for those two reasons I respectfully oppose the substitute, although I extend on my own behalf and I think many others who will oppose this substitute an offer of continued cooperation with the gentleman from Pennsylvania [Mr. GOODLING] so that we can expand upon our areas of common agreement.

The CHAIRMAN. The Chair would announce that the gentleman from Pennsylvania [Mr. GOODLING] has 15 minutes remaining, and the gentleman from Michigan [Mr. KILDEE] has 12 minutes remaining.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I want to take this opportunity to rise in strong support of the substitute offered by the ranking member of the Education Committee, Mr. GOODLING.

Unlike the committee bill, which will not revolutionize anything, and which has been characterized as "all cliches and show business," the Goodling substitute embodies the original, bipartisan Kildee-Goodling school reform initiatives in H.R. 3320. This language, which cleared the committee last November, was the result of months of bipartisan negotiations between the administration and the Education and Labor Committee. The Goodling substitute has the full support of the administration, and by offering it today, Mr. GOODLING offers this House the opportunity to vote for real, substantive education reform. This is the President's bill.

Specifically, the Goodling substitute includes many of the President's America 2000 reform oriented strategies. America 2000 is designed to challenge and transform our schools and our attitudes about education by going outside the current system, and promoting more community involvement.

The substitute provides a separate authorization for the New American Schools Program. These proven, break the mold, publicly accountable schools reflect the best and most innovative approaches to teaching, learning, and educational technologies. Under the Goodling language, one of these schools would be funded in every congressional district.

Unlike the committee bill, the language offered by my colleague contains a broad regulatory flexibility proposal to advance student achievement. Specifically, the amendment would allow States, local educational agencies, and schools to combine Federal, State, and local funds to fulfill educational reform plans. Most of the Department of Education's elementary and secondary programs would be covered, and waivers would be available in all schools in all 50 States.

More flexibility and power to engage in real reform would be provided to local education agencies under the substitute than is possible under the committee bill. There has been some discussion today of the issue of school choice: Under the Goodling substitute, choice would be available as a reform option. If the local community, the local school district, and the State agree it should be permitted. Each one of them has a veto over any choice element in the reform plan.

The substitute also recognizes the need to create a system of rigorous voluntary standards and assessments to provide parents with additional information to judge the quality of their childrens' education.

I also want to point out that the substitute calls for a demonstration program to incorporate school with real-life experience through the creation of a mentoring program and requirements for exposure to work environments and new activities. By providing role models, academic encouragement, and motivation for at risk students, the substitute goes far beyond the committee bill. In dealing with our students as whole individuals, not just as faces in the classroom, it assures the success of education reform.

Mr. Chairman, unlike the committee bill, the Goodling substitute provides the authority to truly begin the process of reforming and transforming our Nation's schools. It clearly recognizes the need for vision, for new approaches, for flexibility and accountability at the local, the State and the Federal level.

Its principles have already received the bipartisan support of the Education and Labor Committee, and it has the full support of the President and the Department of Education. I urge my colleagues to vote for the Goodling substitute.

□ 1340

Finally, Mr. Chairman, let me say, how are we to judge? How are we to judge the quality of our children's education unless the Goodling substitute is adopted for voluntary standards and assessments?

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Michigan for yielding time to me.

I want to rise in support of his bill and with more than a little reluctance to oppose the offering of the gentleman from Pennsylvania.

I want to thank my friend from Michigan [Mr. KILDEE], for his stalwart leadership in education over all the many years he has served in the House and the many years that we have been friends. The state of education in America is much the better for the gentleman's work and support.

But I also want to commend my friend, the gentleman from Pennsylvania [Mr. GOODLING], whose father I served with before he joined Congress. And I would say the same thing, your support on public education both as a professional and now as a Member of Congress has been unsullied and it has been stalwart through the years. I think you make a very sensible and a very attractive offering at this time.

But, because I believe there ought to be a certain amount of additional groundwork and experiment done on the whole question of school choice, whether public school choice or public-private school choice, I will oppose the gentleman's amendment.

I am happy, however, to note that his amendment does include what is in the chairman's bill, which is support for State and local school reform. The bill requires a committee structure which includes the users of education, the providers of education. And it also has support for States like Kentucky, my home State, which has taken national leadership in the whole question of school reform under the Kentucky Education Reform Act.

So I am happy to see that whatever happens in today's vote, that the bill that moves from this House will support States like mine, which at great cost to the States, both financially and politically, have made a move to reform their schools and to try to produce for the year 2000 the kind of students who can handle the jobs that will be required of them and also live the lives that will be required.

There is nothing more important that we in Congress can do than to support the efforts being made at the State and local school district level to reform and improve elementary and secondary education.

There is nothing more important than aiding schools to improve the achievement of all their students.

There is nothing more important than to help schools prepare students for the lives they will lead in the next century and the jobs they will hold in the 2000's.

I would like to single out a few of the many very significant provisions in the bill.

Local communities: The bill requires school districts to establish local committees to develop and implement educational reform plans.

This is a very positive feature, committees must include representatives from local government, school districts, businesses, and interested local citizens.

My home area's school system—Jefferson County public schools which include my hometown of Louisville, KY—already works in concert with the community at large.

H.R. 4323 will encourage these efforts and promote and encourage more of the same kind of cooperation to produce a better form of public education.

Local reform activities: I am pleased that the bill allows school districts to use funds to support reform activities.

The Commonwealth of Kentucky became a national leader in the reform movement with the enactment of the Kentucky Education Reform Act of 1990 [KERA].

Since that time, school districts across the Commonwealth, including the Jefferson County public schools, have gone about the task of implementing the reforms of the landmark KERA legislation.

These reforms represent the dawning of a new day. They represent a fundamental change in the way Kentucky will educate its children.

H.R. 4323 supports these reform activities such as these today being undertaken by school districts such as Jefferson County public schools.

So I want to thank the gentleman from Michigan [Mr. KILDEE] and I urge my colleagues to vote for H.R. 4323.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I am delighted to follow my good friend, the gentleman from Kentucky [Mr. MAZZOLI] here to the well, because I think he really articulated what this debate is all about. We have all agreed that if we are going to have school reform, it is going to happen at the local level. It has to happen at the community level.

I do not think there is any disagreement on either side about that. Both bills have the local plan, and even the State plan.

The real issue we have in this substitute is will there be national leadership or will there be national apathy? Do it, if we want; do not do it, if we do not want it.

That is really the issue in the Goodling substitute because unlike the bill that came out of committee, the Goodling substitute says very specifically, we will have the national standards and assessments. It says, we will not have studies. The Goodling bill says, we will have a separate authorization for 21st century schools.

If there is one part of this bill that I think everybody agrees is the real foundation for education reform, it is the 21st century schools, the opportunity for people to break the mold and to create that special school they want in their district.

I have a school in western Wisconsin that is into this project. They said:

> The one thing we don't have, we don't have a school of international education. We don't teach our kids foreign language at the elementary level. We don't teach them metric. We don't teach them world history, world culture. If we are going to have an international economy on the very day that NAFTA is signed, by gosh, we better give our kids an opportunity to have that kind of international education.

That is the 21st century school, my colleagues. That is what the Goodling substitute is all about.

In the area of educational flexibility, last session, Gus Hawkins came to this floor in support of a compromise on educational flexibility that gave communities and schools the chance to come back to us with a plan that, as long as it guaranteed outcomes, as long as it guaranteed no discrimination, that we would allow that school to take those Federal regulations and take those State regulations and put them on the shelf in the interest of a comprehensive, innovative, effective education plan to those local kids.

The Goodling substitute says, "Do it wherever you are. You don't have to be involved in the politics of being one of the 20 schools chosen by your State's chief school officer," as is the word under the Kildee proposal that is in front of us.

And then the issue of choice. The best way to describe choice is that the Goodling substitute represents the Sununu-Ford-Kildee-Goodling agreement on choice, because those were the members that agreed to this provision on the Committee on Education and Labor saying, not like the gentleman from Texas [Mr. ARMEY] said, we are going to mandate choice on everybody, it said, "Let choice be the choice of the local school."

Before I sit down, please, my colleagues, take a good look at the bipartisan Goodling substitute. It came out of committee on a bipartisan vote. This is the real bipartisan education reform bill.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, it is difficult to oppose the Goodling substitute because of my personal feeling toward him. We have done a lot of traveling together, as a member of the committee, in comparing other systems in other countries with our system here to try to see how we can improve our public educational system here to compare with other countries. And I realize that the bill which we are discussing today is not a cure for all that ails our public educational system.

But let me tell my colleagues that I, frankly, feel that the Goodling substitute certainly does not strengthen our educational system. I think it takes away from what is needed.

I am very concerned about the question of choice, regardless of what form it is proposed, whether it be mandated or optional. I think this is going to be the kind of approach that is going to weaken our public educational system and allow less access to education for our economically disadvantaged students, which are suffering now from a lack of education.

In the State of Illinois, which I come from, more money is spent to educate a kid that lives in the suburbs around Chicago than those that go to school in the inner city of Chicago, where many of our economically disadvantaged kids live.

I want a system which is decaying now, really helped and benefited from what we do here in this Congress. Please, let us not continue to talk about doing less. If we understand the importance of education and what it means to our future, the future of this great Nation, then we put education and its access to all on an equal plateau, where poor kids would have an access to education and be treated in math and science in the same way as the kid who has money.

When we talk about a voucher system, choice, parental choice for education, we are really going to spend money on those schools where the best students go, and those who are poor are given less opportunity for education.

This is why I am really opposed to any mention of any kind of a provision that contains a provision of choice, whether it be mandated or optional.

□ 1350

That is why I vote against it, and I suggest that we oppose the Goodling amendment and support the bill that is being proposed by our chairman on our committee.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I do not expect to use my entire 2 minutes, but I do want to make two very important points. At least they are important to the people in my district.

I have been in schools that can show me a way to deal with special ed kids that is better for the kids, better for the teacher, better for the whole situation, that is difficult to actually do because of the prospective nature of Federal law. These schools need flexibility. The teachers need to be able to respond to the kids in a way that the kids need.

There is not any other setting in our society that has not changed in the last decade. It has changed the way that people work together to accomplish their goals. Schools have changed, to some extent, in this regard, but they have not been allowed to change in the way they need to change because we cannot tell them how to change, we cannot write laws that guide that change. That change has to come from the bottom up. It is teachers, it is kids, it is administrators, and they need the flexibility that is in this law in order to do what the children need to learn.

The second point, our schools, our public schools, are excellent. There are many schools in this district that are positively outstanding. America is blessed with great and gifted, caring teachers and dedicated administrators.

However, we have kids coming into our system who are different than the kids who have ever come into our system. We have kids coming to school who had no breakfast, who heard fighting all night, who heard shots in the streets and people being killed. We have kids whose needs are different and whose experiences of life are different, who have never been read to but who have seen television.

The new schools initiative can provide us with an opportunity to learn how do we reach the kids that are not being reached, how do we set higher standards for the kids who are capable of reaching higher standards. Without the new schools allocation of resources that is in the Goodling substitute, we will not have that opportunity for barrier-breaking research.

This is reform. This Congress has to have the courage to reform.

Mr. KILDEE. Mr. Chairman, I reserve my right to close the debate.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I rise in strong support of the Goodling amendment for a whole host of reasons. I have been a schoolteacher for years and years and years, and I see how Government outside bureaucracy stifles initiative, incentive, and motivation in the public schools.

I want to give one quick example, and there are a lot of things that I could say positive about the Goodling amendment. I strongly endorse the people of this House from a schoolteacher perspective. If the Members want good quality education, support the Goodling amendment.

I was a civics teacher and taught freshman civics. In the State of Maryland a child has to pass a State test in order to get a high school diploma. We would always identify kids that could not pass this test.

What we did was, we took a woman who was paid for by the Federal Government who taught them career skills. She had three periods a day off. She volunteered. She said she would love to teach these kids civics skills beyond what we taught them in the classroom.

We arranged the whole schedule, had everything nailed down, and we were told the day before the program was going to be started that this woman could not do it because she was paid for by the Federal Government, and could only teach careers. She could not teach about civics.

We need some flexibility. Please vote for the Goodling amendment.

Mr. GOODLING. Mr. Chairman, I yield myself the balance of the time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] has 6 minutes remaining.

Mr. GOODLING. Mr. Chairman, I am going to have to speak rapidly to cover everything in 6 minutes. Let me say that the bipartisan bill which I present today, the Kildee-Goodling bill, will bring about systemic change if anything will. There is nothing else that has been offered today that will do that. This will. I would ask the Members to look at several issues.

First of all, we have real involvement of the local committee. We cannot ask local people to volunteer their time to make a change, to make a difference, to make recommendations, when they understand that, "Well, it does not matter what we say and what we do, the school board in the end can rewrite the whole thing."

I say the school board has the very first control by saying, "We will make an application." They have the last, because they say, "We will or will not forward that application to the State." However, they do not rewrite what all these people wrote and sent that on.

Second, all funds must go to local education reform programs. The program that I offer says that, "Here are 6, or 7, or 8 different ideas," not 15 or 20 or anything under the sun, because what the majority does in their bill is merely say that, "Here is the money. Go do more of the same. You have been so successful in the past." That is why everybody is jumping up and down screaming how wonderful our public school education is. "Here is more money, do more of the same." We do not do that. We say that it must be used for reform.

Again, let me reemphasize, everyone here knows where I stand on choice and where I stand in relationship to public school education. In my substitute, which is, I will say, and pardon me for saying this, the Ford-Sununu language, the local school district makes that determination. They can do anything they want. They do not have to do any choice. But let me tell the gentleman from Illinois [Mr. HAYES], from what I understand from visiting New York City, the finest education program they have is in Harlem, where as a matter of fact, it is choice that they use. They cut the dropouts from about 90 percent to 90 percent attendance.

That is the local school district that made that decision, and they have made all the difference in the world in the relationship to the education of those children and the future of those children and the future of this country.

Flexibility. Let me make it very clear when I talk flexibility, as I mentioned, all of those people that were called in to get all excited about it did not read the legislation. The legislation protects them every step of the way.

Let me tell the Members a little bit about flexibility. We have a bilingual education program. We have to write a handicapped education program, and we are dealing with the same children. We cannot write a program for both entities, because we must now keep all the separate bookwork, all the separate accounting and so on. We do not go in and look at whether the programs are good, bad or indifferent, we say, is the money going exactly as we say?

They need that kind of flexibility if we are going to improve their education. We do not need it for 300 schools, we need it for 83,000 schools.

New American schools is nothing new. New American schools is an operation all over this country. It is what the local community decides it is. Nothing is mandated by the Federal Government. It is what the local system says they must do in order to improve their school system.

I have one problem with their bill in relationship to standards and assessments. Mine is pretty much what the gentleman from Michigan [Mr. KILDEE] and I approved when it came out of the council. The one thing that I have a concern about is, it creates a Federal body that would set standards on how education should occur at the local level. I happen to think that is dangerous. I do not think we should be in that particular business.

Again, we have taken care of special needs students. No one can say that they fight any more for them than I do. On the Committee on the Budget the gentleman from Michigan [Mr. KILDEE] and I made sure that we got closer to that 40 percent that we promised a long time ago for special ed students. We sent them about 9 percent and we promised them 40 percent. We sent them all the mandates, yet we sent them very little money.

In the Committee on the Budget, when we served there, we insisted that over a 5-year time they get that 40 percent. If they did that, local school districts then could do many other things for the rest of their students they cannot do now because we mandated what they had to do and did not send them any money.

☐ 1400

So again I would ask Members please, please look at my legislation, look at our legislation. Look at the bipartisan effort that went into this. Look at the effort put forth by Dr. Hartman, by Lynn Selmser, by Jo Marie St. Martin, by Jack Jennings, by Susan Wilhelm, by Jeff McFarland and June Harris, and then the whip-crackers who made them work, Pat Rissler and Gay Eagan. All of those people were involved in getting us to this point, and I ask Members to please, please let us encourage local districts to make some changes so that we get better education for all children, not just some, but all.

Mr. Chairman, I yield back the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my deep admiration for the gentleman from Pennsylvania [Mr. GOODLING], which dates back from my arrival here in this body, make no less firm my opposition to certain elements to his substitute. Let me just briefly mention two of those areas.

One is in the area of flexibility. Mr. GOODLING and I have talked for a number of years on how to achieve greater flexibility because we do know that various programs serve the same child that walks in the front door of that school, and that rigidity has to be changed. But there are certain areas of his flexibility provision that I have some serious concerns about. I think they are a little too broad.

I think, first of all, if we are going to have flexibility it will require a bipartisan agreement so that we can both stand here on the floor and say this is good, and we can sell it to the various communities out there who have some concern about it, as the disability community does at this time.

I think the flexibility is too broad in the area of Head Start. They could waive, for example, health and safety requirements. If Members have any doubt about them waiving those requirements, just look at the child care bill. In the child care bill we felt sure we had health and safety protections, and they said for certain child care facilities health and safety protection were not even a consideration. Health and safety requirements could be waived in Head Start, and I am very concerned about that.

Parental involvement in chapter 1 could be waived. I am concerned about that.

Another area is the area of assessment. The Goodling substitute moves the Federal Government I believe just too rapidly down a road that has not been traveled before. I think we should travel that road very carefully and very cautiously. I think again that if we can come out here on assessment, in a bipartisan fashion, we can sell that to the various other people who are involved and watching this Congress.

Those two areas require a bipartisan agreement in committee, the area of flexibility and the area of assessment. We do not have that. For that reason, and because of some of the shortcomings in those two areas in this bill, I would oppose the substitute.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania [Mr. GOODLING].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 267, not voting 27, as follows:

[Roll No. 384]

AYES—140

Allard
Allen
Applegate
Archer
Baker
Ballenger
Barrett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Gillmor
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Hutto
Inhofe
Ireland
James
Johnson (CT)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Morrison
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (OR)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walsh
Weldon
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOES—267

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Armey
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)

Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ray
Reed
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—27

Ackerman
Barnard
Barton
Campbell (CO)
Clay
Cunningham
DeFazio
Dymally
Flake
Gaydos
Gingrich
Hatcher
Hoagland
Hyde
Markey
McCollum
Murtha
Myers
Richardson
Schroeder
Solomon
Staggers
Tanner
Towns
Traxler
Walker
Weber

□ 1424

The Clerk announced the following pairs:

On this vote:

Mr. McCollum for, with Mr. Hoagland against.

Mr. Barton for, with Mr. Lake against.

Messrs. PAYNE of Virginia, ARMEY, GALLO, and SHAYS changed their vote from "aye" to "no."

Mrs. MEYERS of Kansas changed her vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. McNulty] having assumed the chair, Mr. Price, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4323) to improve education for all students by restructuring the education system in the States, pursuant to House Resolution 551, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GOODLING. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Goodling moves to recommit the bill, H.R. 4323, to the Committee on Education and Labor.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—279, noes 124, not voting 31, as follows:

[Roll No. 385]

AYES—279

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Rinaldo
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Stallings
Stark
Stokes
Studds
Swett
Swift

Synar
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOES—124

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bereuter
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gillmor
Goodling
Goss
Gradison
Grandy
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Oxley
Packard
Paxon
Penny
Porter
Pursell
Quillen
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rohrabacher
Roth
Roukema
Santorum
Schaefer
Schulze
Sensenbrenner
Shays
Shuster
Skeen
Smith (OR)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—31

Ackerman
Barnard
Barton
Campbell (CO)
Clay
Coughlin
Cunningham
DeFazio
Dymally
Fascell
Flake
Gaydos
Gingrich
Hatcher
Hoagland
Hyde
Ireland
Kennedy
Markey
McCollum
Myers
Olin
Richardson
Solomon
Staggers
Tanner
Towns
Traxler
Walker
Weber
Wylie

☐ 1445

The Clerk announced the following pairs:

On this vote:

Mr. Hoagland for, with Mr. Barton against.

Mr. Towns for, with Mr. McCollum against.

Mrs. JOHNSON of Connecticut changed her vote from "aye" to "no."

Mr. GALLO changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. KILDEE. Mr. Speaker, pursuant to House Resolution 551, I call up from the Speaker's table the Senate bill (S. 2) to promote the achievement of national education goals, to measure progress toward such goals, to develop national education standards and voluntary assessments in accordance with such standards and to encourage the comprehensive improvement of America's neighborhood public schools to improve student achievement, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KILDEE moves to strike all after the enacting clause of the Senate bill, S. 2, and insert in lieu thereof the provisions of H.R. 4323, as passed, as follows:

[The bill H.R. 4323, will appear in a subsequent issue of the RECORD.]

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to improve education for all students by restructuring the education system in the States."

A motion to reconsider was laid on the table.

A similar bill (H.R. 4323) was laid on the table.

MOTION OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Speaker, pursuant to the rule, I offer a motion.

The Clerk read as follows:

Mr. KILDEE moves to insist on the House amendment to the Senate bill, S. 2, and request a conference thereon.

The SPEAKER pro tempore. (Mr. MCNULTY). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE].

The motion was agreed to.

The SPEAKER pro tempore. The conferees will be appointed on the return of the Speaker to the rostrum.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4323, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that in engrossment of the bill, H.R. 4323, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the Senate bill, S. 2.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 4323, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 2607. An act to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes.

The message also announced that pursuant to Public Law 102-325, the Chair, on behalf of the majority leader, appoints Mr. LAUTENBERG from the Committee on Appropriations and Mr. PELL from the Committee on Labor and Human Resources, as members of the National Commission on the Cost of Higher Education.

☐ 1450

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4706, CHILD SAFETY PROTECTION AND CONSUMER PRODUCT SAFETY COMMISSION IMPROVEMENT ACT

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 102-840) providing for the consideration of the bill (H.R. 4706) to amend the Consumer Product Safety Act to extend the authorization of appropriations under that act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Tuesday, August 11, 1992, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 2144, de novo, and House Joint Resolution 454, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

CALIFORNIA TRIBAL STATUS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2144, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 2144, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes."

A motion to reconsider was laid on the table.

ASSASSINATION MATERIALS DISCLOSURE RESOLUTION OF 1992

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the joint resolution, House Joint Resolution 454, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 454, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2, NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees on the Senate bill, S. 2, Neighborhood Schools Improvement Act: Messrs. FORD of Michigan, MILLER of California, KILDEE, WILLIAMS, MARTINEZ, OWENS of New York, HAYES of Illinois, PERKINS, and SAWYER, Mrs. LOWEY of New York, Mrs. UNSOELD, Mr. WASHINGTON, Mrs. MINK, Messrs. JEFFERSON, REED, ROEMER, OLVER, PASTOR, GOODLING, and PETRI, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. HENRY, Ms. MOLINARI, and Messrs. BOEHNER, KLUG, ARMEY, and CUNNINGHAM.

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

AIRLINE COMPETITION ENHANCEMENT ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 541 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5466.

□ 1454

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5466) to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes, with Mr. SKAGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, the Committee on Public Works and Transportation brings to the Committee of the Whole what I consider to be one of the most important actions this body could take with respect to the continuity of competition among airlines in today's aviation market and that of the future. H.R. 5466, legislation to enhance and encourage and stabilize the marketplace for competition among air carriers, has as its central driving force a prohibition on an air carrier who opens a computer reservation system from discriminating against other air carriers which participate in that system and among travel agents who subscribe to the CRS system.

Mr. Chairman, I will deal with the essence of this legislation in a moment. I just want to mention several other items that are included in this legislation which are of very great importance.

First, the bill also provides protection for small community airline passengers by dealing with the availability of slots for essential air service at O'Hare International Airport; random testing for prohibited drugs, a rulemaking issued by the Secretary of Transportation to consider whether there should be a reduction in the annualized rate of random testing for prohibited drugs; to clarify certain provisions relating to passenger facility charges and frequent flier tickets; and cancellations and on-time performance by commuter air carriers, all of which are items of very great importance to the traveling public, but none which approach the significance of the computer reservation system.

In 1978 when the Congress acted to deregulate the economics of aviation, the legislation dealt with market entry and fares, removing the Federal Government from determination of which carriers shall serve which domestic markets and which fares they should charge.

The Government did not deregulate safety, it did not deregulate antitrust enforcement, and it did not deregulate consumer protection.

Mr. Chairman, the purpose of deregulation was to encourage competition, to broaden the opportunities for the traveling public to choose among carriers, for communities to be served in ways in the future that they had not been in the past. In the first few years after deregulation that concept worked; 22 new carriers entered the airline competition.

But within the next 5 years after deregulation, those 22 carriers had disappeared, the victims of bankruptcy, leveraged buyouts, mergers, and acquisitions. Today we have eight carriers of national significance, four of which are of major national and international significance. The Congress and the public watched as competition was gobbled up in the airline industry and the choices reduced to only a few.

□ 1500

In the last 2 years, we have seen other problems beset the airline industry, including the recession, the gulf war, an increase in jet fuel for airlines, and problems in the international arena resulting largely from security fears arising out of the gulf war.

From the time of the Wright brothers until the end of 1989, all the airlines in America lost only $1,800,000,000. But in the next 2 years, domestic airlines lost over $6 billion, a serious economic problem facing the airline industry.

And at the beginning of this year, and, in fact, at the beginning of this Congress, questions were asked by the traveling public, whether there is going to be any competition left among airlines in the domestic United States.

At a hearing we held in the Committee on Public Works and Transportation and in the Subcommittee on Aviation, the Secretary of Transportation testified that, yes, indeed, that we may see the reduction of competition to three. And then he amended it to say, maybe four carriers, not a very encouraging prospect for the future of air travel and for the future of airline economics.

We heard those warnings. We looked at the causes. We held extensive hearings on the subject of airline economics and what will keep competition alive in this country. And it boils down to one issue, computer reservation systems, the driving force in determining who competes, who makes money and who survives in this industry.

We would be judged harshly if we failed to act, knowing what we know, seeing what we have seen, observing the concentration of economic power in the airline industry down to two major carriers that dwarf the rest of the industry and two computer reservation systems that dominate in a way that no other powerful economic force has done in the airline industry.

When we can see the warning signs and know what needs to be done and have the time to act, we would be judged harshly if we did not act. And so we bring to Members today legislation to provide for equality of treatment in a marketplace of reserving fares, making bookings on airlines and for air travel.

Of the four computer reservation systems, two, Apollo and Sabre, command 70 percent of the market. They are able, through their market force and economic power, to impose virtually whatever terms they want on competing airlines and on the various travel agents who place most of the air travel business.

Fees are charged to participating airlines, along with the contracts with high liquidated damage clauses imposed upon travel agents.

When all of us in the next 24 hours board flights to go back to our districts, to go off to the Republican Convention in Houston, to go serve our constituencies, our tickets will reflect those costs. We are paying for those distortions in the marketplace.

In a study recently completed for Public Citizen by MIT professor of economics, Franklin Fisher, the professor stated that the cost to the air traveling consuming public is between $2 million to $3 million each day, the cost of CRS bias. Dr. Fisher added:

> I suspect that many of us would think something was amiss if Macy's had to rely on Gimbel's not only to print and mail the Macy's Christmas catalogue, but also take orders for Macy's merchandise. But we're not far away from that when it comes to airline computer reservation systems.

We are paying for it every time we board airplanes.

The legislation before us will require those two powerful, big, dominant systems, Sabre and Apollo, to afford equal access and equal treatment on the screen to all airlines so that all travel agents will be able to place their bookings on an equal footing called equal functionality. It is a reasonable step to take. It is an action that we must take. It is action that this legislation provides in a reasonable fashion. It is an issue this subcommittee has been studying for 9 years under the leadership of my predecessor, the gentleman from California [Mr. MINETA].

We have heard one after another promise that the two dominant CRS systems would achieve equal functionality. We heard promises that the Department of Transportation would act. They have not acted.

We bring this legislation today only after nearly a decade of action or inquiry on our part and inaction by the airlines and the Department of Transportation.

Mr. Chairman, H.R. 5293 is supported by a broad-based coalition which includes airlines ranging in size from Alaska Airlines to Delta Airlines, the two major associations representing travel agents who use CRS, and major consumer groups.

This subcommittee has devoted the better part of the last 9 years to analysis of the CRS issue. In 1983, under the chairmanship of our colleague, NORM MINETA the subcommittee held landmark hearings and made recommendations which were instrumental in getting the Civil Aeronautics Board to adopt the first and, to date the only, regulations dealing with CRS issues. In 1987, we urged the Department of Transportation to conduct an in-depth study of whether CAB's regulations were sufficient to deal with CRS problems. The study, which was completed in 1988, clearly demonstrated that serious CRS problems had persisted and that further regulations were needed.

Following our hearings on the DOT study, the subcommittee began an effort, which has been continued over the past 4 years, to prod DOT to take the necessary regulatory action. The results have been extremely frustrating. Although the Department did issue a comprehensive notice of proposed rulemaking in 1991, a final rule is still not in place. Worse, the regulatory process has come to a complete standstill because of the administration's moratorium on new regulations. It is not clear when, if ever, final rules will be issued. As a consequence we have no alternative but to accomplish through legislation what DOT should have accomplished through rulemaking.

At the outset, it would be useful to address an issue which frequently comes up when we discuss CRS problems. People not familiar with CRS issues often ask me why I believe that CRS's should be subject to economic regulation, when I generally support airline deregulation, and its underlying premise that free competition will result in better service for the traveling public. Good question.

Two good answers. First, because of the structure and the nature of the CRS industry, competition simply doesn't work. This is not only my conclusion; it is the conclusion of the Civil Aeronautics Board, the Department of Transportation, the Department of Justice, and the General Accounting Office.

A prime example of why competition doesn't work: The case of the booking fees which CRS charge other airlines to participate in their CRS systems. The 1988 DOT study found that the booking fees which American and United charge other airlines to participate in their CRS are about double the average costs incurred by United and American to provide those services. DOT found that these booking fees produce returns on invested capital of 50 percent for United and 75 percent to 90 percent for American. The existence of these high fees, which the Department of Justice and the Department of Transportation have described as supra-competitive fees, is a sure sign that competition is not controlling booking fees.

Competition doesn't limit booking fees because there is no significant competition among CRS's to sign up airlines. Any airline which wants to compete successfully must be listed in every CRS. An airline which decided that it would not participate in one of the four CRS's would lose the opportunity to market its product through the substantial number of travel agents using that CRS. In these circumstances, airlines have no choice but to participate in every CRS and pay whatever booking fees each CRS charges. The result is high booking fees, which drain the financial resources of the airlines and produce substantial additional revenues for American and United to use in airline competition.

Another example: CRS bias, which encourages a travel agent to book on the airline owning the CRS system. Before the first CRS regulations in 1984, American and United listed their schedules first on their CRS screens, above the schedules of other airlines serving the same markets. This produced substantial additional bookings and revenues for American and United. Competition between different CRS systems did not prevent this so-called display bias. Although travel agents would prefer an unbiased display, they apparently did not have the bargaining power to force the CRS's to produce unbiased displays.

Since 1984 display bias has been outlawed. In its place, the CRS owners have turned to so-called architectural bias, that is, designing the CRS system to make it easier and more reliable for an agent to book on the airline owning the system. DOT has found that architectural bias produces additional airline revenues for American and United of $100 million to $200 million a year. Again, the competition between CRS systems for agents has not been successful in ending architectural bias.

A second reason to support CRS legislation: Apart from this bill's requirement of equal functionality, H.R. 5293 will encourage CRS competition and permit the free market to work. For example, CRS owners restrict competition by signing up travel agents for long-term contracts, with very high liquidated damages charged to any agent who tries to end a contract. These provisions have made it very difficult for other CRS systems to compete for the business of an agent who has already signed up for a particular CRS.

The CAB tried to overcome this problem by limiting CRS contracts to 5 years. American and United quickly responded by pushing agents to sign new 5 year contracts whenever they acquired new equipment. This meant that most agents' CRS contracts were never close to a termination date.

H.R. 5293 will overcome these problems by limiting CRS contracts to 3 years, prohibiting frequent renewals, and limiting liquidated damages. This type of regulation will be procompetitive and encourage greater competition between CRS owners to sign up agents. Many other provisions in H.R. 5293 will have similar effects.

In my judgment, circumscribing the monopoly in CRS is critical to ensuring adequate competition in the airline industry. If the present situation continues, the two largest airlines, United and American, will continue to use their monopolistic powers in the CRS industry to divert hundreds of millions of dollars a year from their airline competitors. The diversions will come from high booking fees which other airlines must pay to participate in American's and United's CRS systems, and from the added airline revenues which American and United will get because it will be easier to make bookings on their CRS for their services. With these hundreds of millions of dollars of added revenues, American and United will continue to be able to purchase aircraft, buy international routes and slots, and withstand fare wars. Their competitors will be unable to take these steps. Conclusion: legislation regulating CRS practices is necessary if the smaller airlines are to survive against American and United.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 5466 and would encourage Members to lend their support as well.

This bill, as the gentleman from Minnesota, Chairman OBERSTAR, has indicated, represents a compromise and a genuine compromise, I think, that is going to help materially aid smaller, weaker air carriers, help them to maintain a competitive balance by ensuring that computer reservation systems in no way distinguish the display of their flights, seat availability, fares, from those of any other carrier, large or small, including the computer reservations owned wholly or in part by an air carrier. And this is where the problem has arisen, in the fact that the two major computer reservation systems are owned by two of our major carriers and the perception, at least, if not the reality, that this is giving those air carriers an enormous advantage, competitive advantage in dealing with the smaller airlines in the country.

I particularly want to thank my chairman, the gentleman from Minnesota, Chairman OBERSTAR, for his willingness to work with us, to work with the minority, some of the minority, to try to strike a balance in this competition bill.

It is no secret that I and others did not support earlier versions of this bill, chiefly because of provisions that would have required dehosting; that is to say, that the airline would have been mandated to separate its internal reservation system from its own computer reservation system. And that was going to work a real hardship on those airlines; namely, American and United, who would be required to separate their own reservation setup from their own system.

That is no longer a requirement in this bill. We really have come a long way in eliminating that. And it is because of the willingness in the spirit of compromise to eliminate the dehosting provision in the earlier bill and also a provision calling for arbitration and for the chairman's willingness to include other provisions, noted in a moment, that I would enthusiastically support H.R. 5466 and would encourage all Members to support it as well.

This bill will prohibit any form of architectural bias, no matter how subtle. Complaint and remedy procedures are provided for, which will give the Secretary authority to ensure that equal functionality is achieved.

This is something that the airlines and the two major players, American and United, have indicated is achievable; they are both working to achieve this and it will not represent a tremendous financial burden to them to accomplish equal functionality.

So that we will have, for the first time, a really level playing field with regard to the computer reservation system.

The bill also addresses several contract provisions held between travel agents and computer reservation systems, provisions which are strongly advocated by travel agent associations, who brought their concerns to us as part of our deliberation on this bill.

It would also address a number of other industry concerns that we have been made aware of. It directs the Secretary, for example, to initiate a rulemaking to consider whether or not there should be a reduction in the annualized rate of random drug testing. And this is something that we think should be given attention by the Secretary.

At the present, there is a 50-percent requirement. Even the Department itself has reduced that for their own employees, and we think similar consideration should be given to whether or not the airlines should be allowed to reduce the amount of random testing that goes on.

Second, the bill ensures the availability of slots; that is, the ability to land and take off at airports that have very high density for communities eligible to receive essential air service in those airports.

At the moment this provision will apply only to O'Hare Airport in Chicago.

□ 1510

Third, it clarifies that the FAA Administrator has discretion in ordering criminal history checks for air carrier employees. Presently there would be a requirement mandating all employees, all future and past employees, would have to be checked for criminal activity.

Finally, it would stipulate that the passenger facility charge which we authorized 2 years ago cannot be assessed against frequent flier tickets. In other words, if a person is using a frequent flier ticket, they would not have to pay a passenger facility charge if they are using, in effect, a free ticket.

It would also direct commuter air carriers to make the same on-time and cancellation reports now required of major air carriers, and it would also add a new requirement to be used for the department for enroute proceedings.

At the moment, under present standards, the department tends to favor the rich who get richer while the poor get poorer. The smaller airlines have in our view not had an equal opportunity to some of the foreign international routes that have come along.

I have to note that the administration does oppose this bill, but frankly, I do not have a lot of sympathy for that position, because we have been after them and they have indicated that they have been working on a rulemaking in this area for a long, long time, about 9 years at last count, and the rule is still not out. Hopefully maybe there will be a rule sometime. We have frankly gotten to the point where we can no longer wait for that to happen.

This bill is supported by a number of airlines; not all, obviously. This is really a question of the big airlines versus the smaller airlines, but it is supported by many airlines, by travel agents, by consumer groups. Supporters include Alaska Airlines, America West Airlines, Continental, Delta, Northwest, Trans World; also, the American Society of Travel Agents, the Aviation Consumer Action project, and the Consumer Federation of America.

Mr. Chairman, this bill does represent a compromise. I think it is a good compromise. I think it is a fair compromise. It will not work a hardship on the major owners of the computer reservations systems, but it will certainly give those that are not so fortunate as to have a major system an equal opportunity at getting aircraft bookings .

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 7 minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I want to thank the committee chairman, and I want to thank the gentleman from Minnesota. I rise in opposition to this bill, H.R. 5466, the Airline Competition Enhancement Act of 1992. I do so very reluctantly because the chairman of the Aviation Subcommittee and I have a history of working together on many issues which have no doubt been of enormous benefit to the American people. On this issue, however, I cannot reach an agreement with the chairman because I do not believe that H.R. 5466 will be of benefit to even one member of the American traveling public. He may have the best intentions, but the distinguished gentleman and my friend from Minnesota is wrong about the CRS industry and wrong about this bill.

H.R. 5466 will not accomplish what its supporters claim. It will not increase competition in the airline industry. It will not provide assistance to airlines operating in bankruptcy or hovering on a precarious financial edge. H.R. 5466 will not cause the poor business decisions of the last 14 years to disappear. It will not help the former employees of Eastern, PanAm, or Midway Airlines find new jobs. It will not even help Continental or TWA or America West to keep flying. This bill will do nothing to enhance competition in the airline industry, not today, not tomorrow, not ever.

This bill will undermine the foundation of existing contract law by abrogating over 20,000 existing contracts without providing compensation to the CRS vendors who negotiated in good faith. Why are we proposing legislation to undermine contracts that have been challenged, litigated, and found legally sound by the Supreme Court. Do we really want to take away the right of one party to sue another party for a breach of contract as H.R. 5466 proposes? To do so will stifle the American free enterprise system and devastate one of the last remaining industries in which America is considered to be the undisputed world leader.

This bill will reward the two smallest CRS owners by taking away market share from the two largest. This bill will insure that the two largest CRS owners, American and Covia, suffer financial hardship for their past sins, sins that consist of taking financial risk, developing innovative technology and applying old-fashioned American ingenuity. It is no surprise that the airlines with the most successful systems have invested billions of dollars of their own money.

H.R. 5466 will send a clear message to the business community: Do not try to succeed. Do not try to offer the best product or the best service. Most importantly, do not compete with your competitors.

For if you do, you run the risk of your competitors crying to Congress, and Congress, in its infinite wisdom, passing legislation like H.R. 5466. Legislation that may put you out of business. Legislation that will have an enormous negative impact on the American free enterprise system and the competitive spirit of this Nation.

If we want to really do something about enhancing competition in the airline industry why do we continue to avoid the real issues? We have to ask ourselves, "Is the airline industry heading in the direction that we want it to?" I submit to you that it is not.

Will H.R. 5466 do anything to help the industry? No; contrary to what its proponents claim, H.R. 5466 does nothing to help airlines compete more effectively. It cannot make up for the years of poor judgment, mismanaged profits, or leveraged buyouts. It will not prevent our shrinking industry from becoming even more consolidated and it will not prevent foreign governments from continuing to discriminate against American airlines. The airline industry lost over $6 billion in 1991 and there is not one shred of evidence that can directly link such a loss with the alleged misuse of computer reservations systems.

Point of fact, American Airlines owns the largest CRS in the world and still lost over $240 million in 1991.

If H.R. 5466 passes, do not go home to your constituents and tell them that you supported legislation to increase competition in the airline industry. Your constituents may turn around and ask you why it was necessary to close down the local travel agency. They may ask you why airfares continue to rise. They may ask you why so many people are out of work and so many airlines have stopped flying. They may even ask you why you voted for legislation that claims to enhance competition but really just puts greater profits into the pockets of two corporations, both of which are owned by airlines.

I urge my colleagues to vote "no"—to defeat this legislation.

Mr. CLINGER. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the full committee.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to congratulate the chairman of the subcommittee, the gentleman from Minnesota [Mr. OBERSTAR], and the ranking member, the gentleman from Pennsylvania [Mr. CLINGER], for bringing the Airline Competition Enhancement Act to the floor, as well as the gentleman from New Jersey [Mr. ROE], the chairman of the full committee.

Mr. Chairman, during the last few years, several airlines have disappeared. Some have gone bankrupt. Others have merged with stronger carriers.

As a result, there is growing concern that the airline industry is becoming too concentrated. Although recent fare wars demonstrate that the industry is still highly competitive, there is reason to be concerned about the future. If recent trends continue and the number of airlines is further reduced, then fares will go up and customer service will go down.

Therefore, we need a bill like the Airline Competition Enhancement Act. This bill does not reregulate the industry or bailout particular airlines. What it will do is level the playing field among airlines, improve customer service, and reduce airline costs.

The main provision in this bill deals with computer reservation systems. Studies by the General Accounting Office, Justice Department, and Transportation Department have all found that there is a problem with these systems. They found that subtle bias in the systems tend to steer passengers to the largest airlines, thereby increasing concentration and reducing competition in the airline industry.

Unfortunately, DOT has been slow to deal with this problem. It promised to issue a rule 2 years ago but has still not done so.

Therefore, it is necessary for us to act. This bill would address the problem by requiring that computer systems treat all airlines equally.

It should be pointed out that, as this legislation moved through the committee, it was significantly scaled back in order to accommodate the objections of the airlines who opposed it.

For example, the controversial no-host provision was eliminated. The potentially burdensome arbitration provision was also eliminated. So, it should be apparent that we have gone more than halfway to resolve the objections that were raised by some airlines against this legislation.

In addition, several provisions have been added to the bill that will help all airlines by reducing their costs and improving their chances for survival. These include limitations—on criminal background checks; on the rate of random drug testing; and on passenger facility charges.

There is another provision in this bill that is particularly noteworthy. That is the provision on commuter airline reporting. The requirement that the delays of major airlines be reported and published has done much to improve the on-time performance of these carriers. This bill would extend the reporting and publication requirement to cover the delays and cancellations of commuter carriers as well. That should help to improve the service of this important segment of the aviation system.

Mr. Chairman, for all these reasons, I support this bill. Chairman ROE and Chairman OBERSTAR, as well as the ranking subcommittee member Mr. CLINGER, deserve a lot of credit for working through all the complicated technical issues in this legislation and for bringing such a good bill to the floor today. I would urge my colleagues to support it.

Mr. CLINGER. Mr. Chairman, I yield 6 minutes to the gentleman from Oklahoma [Mr. INHOFE], a distinguished member of the committee.

□ 1520

Mr. INHOFE. Mr. Chairman, I thank the gentleman for yielding me the time.

Like the gentleman from Illinois, I, too, am reluctant to stand up in opposition to a piece of legislation that is offered by the very honorable chairman of our subcommittee.

But today we are being asked to vote for a bill that proponents claim will enhance airline competition. The title of H.R. 5466, the Airline Competition Enhancement Act of 1992, like most legislation introduced around here, is misleading. This bill will not solve the problems of the airline industry, it will not enhance competition, and it will most assuredly not improve the computer reservation system business. What it will do is punish success, increase cost, and weaken U.S. competitiveness in the global market.

The problems of the U.S. airline industry have nothing to do with the successful development and marketing of two superior computer reservation systems; namely Sabre, owned by American Airlines, and Apollo, owned by COVIA partnership which is made up of United, USAir, British Airways, Swissair, Alitalia, KLM and Air Canada. Rather the airline industry problems are a direct result of a crumbling airway infrastructure, the propensity of airline executives in the 1980's to buy their competitors rather than compete with them, soaring costs of fuel and labor, health care expenses that are off the charts, increased barriers to doing business abroad, subsidized competition from abroad, and antiquated high density airport restrictions. Persons who argue that computer reservation systems are the villains of the industry are wrong.

Proponents will tell you that ownership of a computer reservation system by an air carrier gives the air carrier an unfair advantage. It does not. I wish every Member could have attended the demonstration forum of four competing computer reservation systems earlier this year. The Subcommittee on Aviation learned the real problem is that Sabre and Apollo are superior products and because new entrants are unable to provide as superior of service, Congress is being asked to penalize Sabre and COVIA so that competition can exist. Penalizing someone for being the best does not sound like competition to me, it sounds more like collusion.

Although we were able in committee to resolve several concerns, the bill is still objectionable. For one reason, it will void many existing contracts between travel agents and CRS vendors 6 months after enactment. It also removes a fundamental right of vendors to obtain liquidated damages in the event of a breach of contract. These two provisions are a radical departure from standard contracts and may be a first in terms of depriving business of basic property rights. I am not a lawyer, but I have been told that this could be unconstitutional because it denies due process.

To put it in simple terms:

A yes vote on H.R. 5466 tells American business, if you venture your capital by taking a calculated risk predicated on existing law and are successful, Government can come along and put you out of business.

A yes vote on H.R. 5466 will abrogate approximately 20,000 existing contacts freely entered into by individuals and businesses.

A yes vote on H.R. 5466 will tell investors that risk, hard work, and a superior product are not acceptable to the U.S. Congress because if you are too good you will be penalized.

When I was mayor of Tulsa, American Airlines made the decision to build and install the Sabre system in Tulsa. As a member of the airport authority, I sat in on a briefing American gave on the project. At that meeting we were told about a state-of-the-art computer reservation system that was clearly designed to be the best in the world. I must admit when I learned they expected to invest hundreds of millions of dollars for buildings, equipment, and personnel, I questioned the wisdom of the venture given the high risk involved. However, before leaving that meeting I was convinced that the Sabre system would be a success and complimented American for their courage and innovation.

In Oklahoma, innovation and creative investment are not unheard of. The term "stud horse notes" was originated in Oklahoma because when business and civic leaders wanted something for the community they would all put their names in a note. That is how the first bridge across the Arkansas River was built. At the time it was not only a tremendous investment but it was greeted by skeptics. Despite the naysayers it was built and it brought the oil fields closer to Tulsa which made us the oil capital of the world. Creative investment has also made Tulsa a world leader in aviation and aerospace.

And so the issue here today is fairness. If free enterprise in America is to survive, business must be able to count on the fact if they make a calculated risk, the rules will not change in the middle of the game. Today you are being asked to change the rules in the middle of the game for those businesses who were willing to take a risk in the late 1970's and invest to create a system that they believed would set the standard for travel services. They were right and now deserve the opportunity to reap the benefits of their calculated risk just as they would have had to accept the consequences if their high risk venture had not worked.

All I am asking of you today is to preserve the right of Americans to take risk and then benefit if they are successful by voting no on H.R. 5466.

Clearly, the issue is fairness.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in reluctant opposition to this legislation.

I would like to focus on just one aspect that I think for me has made it impossible to support this bill. I know that it is legally permissible in some circumstances, when public policy demands it, that legislation be able to abrogate existing contracts. But I think we see the application of that principle only in extremely rare circumstances.

By current rule, by regulation, computer reservation system contracts now cannot exceed 5 years in length, and there are certain other requirements that are in place that completely remove, by regulation, the bias among the competing computer reservation systems.

The legislation that the House is being asked to approve today will abrogate, that it make meaningless, almost 20,000 existing contracts. What public policy argument exists that we should tell business people in America that their ability to contract, to freely negotiate and enter into agreements involving hundreds of millions of dollars in going to be destroyed and abrogated by the U.S. Congress? I think we should do that only under extremely rare circumstances.

This bill will do that. For what reason? Because this bill, quite honestly, decides who the winners and losers in the CRS business are going to be. Those that have invested hundreds, in fact hundreds of millions, even billions of dollars, American Airlines and United to develop the leading edge technology in this business are going to be penalized.

I urge the Congress not to adopt this legislation. Do not destroy the ability to contract. Defeat this bill.

Mr. CLINGER. Mr. Chairman, may I inquire of the Chair how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 18 minutes remaining, and the gentleman from Minnesota [Mr. OBERSTAR] has 12½ minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes, and I do so to respond to the previous speaker with regard to the abrogation of contracts.

The bill would allow the abrogation of certain contracts between travel agents and the CRS owner, but only to the extent that the term of the contract is for more than 3 years. This means that contracts in their first or second year would remain in force until the end of their third year. Only those contracts that have gone beyond their third year would be abrogated.

In the second place, a legislative abrogation of a contract is not illegal or unconstitutional, as has perhaps been implied. Courts have repeatedly found laws which abrogated contracts to be proper and constitutional. In 1985, the Federal court in the District of Columbia found that the rules of the Civil Aeronautics Board that abrogated some computer reservation contracts were constitutional. So if legislation could not abrogate contracts, then people would get around the law by signing a contract before the law was enacted.

□ 1530

So the abrogation of some contracts, I would submit, is necessary in this case to ensure competition and give other computer system owners a chance to break into the field.

Currently, the big CRS owners use long-term contracts to lock up all the travel agencies. Under this bill the contract can be extended for the full 5 years, and I think importantly, if the parties agree and if they, as has been suggested in our hearings, many travel agents would prefer the longer term, they are going to be perfectly able to have that, because if they both agree, the contract can be extended for the full 5 years.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise in vigorous opposition to H.R. 5466, the Airline Reservation Competition Act. I oppose this legislation because it goes against one of the bulwarks of our free enterprise system, the liberty to contract. Every member of this distinguished body should be aware that this legislation impinges upon this right. H.R. 5466 would deny CRS vendors the full measure of their damages in cases of a breach and it would abrogate thousands of existing contracts.

To begin with this bill would forbid parties from agreeing in advance on the calculation of damages in the event of a breach of contract, even though courts have repeatedly approved such liquidated damage clauses in CRS contracts as fair and not anticompetitive. The Supreme Court, lower courts and legal scholars have all praised these clauses as a means for avoiding uncertainty, lengthy litigation, and costs to courts and parties. In the case of CRS contracts, such clauses assist travel agents by establishing beforehand exactly how much they would owe if they decide to breach their contracts. This allows an agent to make an intelligent. calculated decision when determining whether to break an existing agreement to enter into a more attractive agreement with another CRS vendor.

Second, the bill would void thousands of existing CRS contracts. H.R. 5466 prohibits contracts of more than 3 years, even though many travel agents prefer long-term contracts and CRS vendors offer agents a choice in term length. The so-called grandfather clause in H.R. 5466 would only apply to those instances where parties to a contract agree in writing that the contract will be enforceable. This would, in effect, abrogate virtually thousands of contracts.

Mr. Chairman, the American people are alarmed that 20 percent of the major airlines are now in chapter 11 bankruptcy. During 1990 and 1991, the local girl scouts chapter in Nashville made more money selling cookies than the major airlines made selling tickets. We should not be passing legislation at this time that will destroy the value of vested property rights and disrupt the little economic stability that still exists in the airline industry.

I urge my colleagues to oppose this ill-advised legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Chairman, there is a tremendous distinction between creating a level playing field and mandating a tie. Those are just the opposite.

We have airlines when in competition we decide to deregulate so the cream can rise to the top, and now we are looking at systems which are owned by those airlines that we want to mandate that they start all over again because apparently some of us did not like the score of the game. The point is that the competition resulted in two people excelling and others failing, and that is the point of having the competition.

It is more than just absurd to look at 10-year-old statistics at a time when perhaps computer systems contain some problems, not look at to date and look at both those who take reservations, those still in business, and we understand that, but we are sitting around for 2 hours this afternoon accomplishing absolutely nothing. And for what purpose? So that, once again, we can begin a playing field so that, once again, 10 years from now if two or three carriers or two or three entities come to the top, we are going to come back and remandate that we start over. I hope not.

The idea of perpetuating problems and a pointless bureaucracy and the addition of more and more burden to American business is why so many airlines have failed now.

Perhaps the management of too many of them resembled those who would want to pass this legislation. They are much more concerned with form than substance, in bottom line than initiative that profits in doing business.

So I oppose the legislation, and I hope that we can now get on with things that someone in America cares about and do things for companies that can, indeed, succeed if government can give them the impetus to do so and not worry about trying to level those who are neither competent nor ready in some superficial structure that will fail.

Mr. CLINGER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. MINETA], a very valued member of our committee.

Mr. MINETA. Mr. Chairman, I thank our very fine colleague, the gentleman from Pennsylvania, for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 5466, the Aviation Competition Enhancement Act of 1992.

I want to commend Aviation Subcommittee Chairman JIM OBERSTAR for his leadership on the important issue of aviation competition.

Mr. Chairman, I have long been concerned about unfair competition in the aviation industry regarding the use of computer reservation systems [CRS].

In 1983, I wrote the Civil Aeronautics Board [CAB] urging them to take immediate action to deal with the inequitable CRS practices in the industry. There was some limited response from the CAB on this problem. Unfortunately, the action by the CAB proved insufficient in addressing the CRS-related competition and fairness questions.

Over the last several years, there have been various studies, both Government and industry sponsored, as well as a Department of Transportation [DOT] notice of proposed rulemaking [NPRM], that have identified and outlined problems with the CRS issue.

I want to congratulate both the subcommittee chairman and the ranking Republican, for their leadership on H.R. 5466, the revised airline competition bill.

I am a cosponsor of this legislation which I believe makes considerable compromises; most notably, the deletion of the no-host and the arbitration provisions that were in the original legislation. These provisions raised the vociferous opposition that was expressed by specific members of the aviation CRS industry, and their deletion represents a formidable compromise.

Some of our House colleagues have raised concerns about the modification of CRS contracts. This argument is misguided. The courts have continually ruled that there is no impropriety in legislation or regulations limiting contracts, including existing contracts.

Mr. Chairman, in fact, the House has enacted legislation, as recently as last month, which affected existing contracts when we approved cable television regulatory legislation.

Mr. Chairman, the health of the Nation's commercial aviation industry is at stake. Competitiveness is the buzzword of the 1990's. However, buzzwords and catchy phrases are not going to promote adequate competition, safety, and capacity expansion in our Nation's civil aviation system.

H.R. 5466 will help us achieve these goals. They must be our priorities. I urge my colleagues to support this legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE].

(Mr. VALENTINE asked and was given permission to revise and extend his remarks.)

Mr. VALENTINE. Mr. Chairman, the American airline industry is hurting. I believe we can all agree on this fact. Opinions diverge, however, on the best approach for restoring economic viability to this essential industry.

In my view, H.R. 5466, the Airline Competition Enhancement Act of 1992, is not the answer to the problems being experienced by domestic air carriers. This legislation does not address any of the critical problems facing the airline industry today.

Computer reservation systems are both complex and constantly undergoing change. Technological enhancement is the lifeblood of the CRS industry and is the reason that the United States currently leads the world in this industry. The last thing that the Congress needs to do is pass legislation that will impair technological development in the CRS industry.

The Department of Transportation has agreed to address the CRS issue within the next few months. I believe the Congress should give DOT this opportunity.

During consideration of H.R. 5466 by the Aviation Subcommittee and the Public Works and Transportation Committee, a consensus was not reached on this legislation. Members of the committee expressed grave reservations about provisions in the bill that would void existing CRS contracts.

The Congress should not abrogate contractual rights absent the most compelling circumstances. The hearing record simply does not provide such a rationale.

Therefore, I oppose H.R. 5466.

□ 1540

Mr. RITTER. Mr. Chairman, I yield myself 1½ minutes to respond to the gentleman from Louisiana, who somehow suggested that the two major owners of the two major computer reservation systems were somehow being discriminated against and being deprived of the fact that they made this substantial investment and should be permitted to benefit from that investment; but there have been investigations by the Department of Justice, by the Department of Transportation and by the General Accounting Office. They have all concluded that far from being abused by the system, in fact the two major airlines that own these systems have been abusing the system themselves. They have concluded that all the computer reservation systems used by travel agents are controlled by the large airlines and that they have monopoly powers over those CRS's and are using those powers to undermine airline competitors. Unfair CRS practices have been a significant factor in the recent serious decline in airline competition.

So rather than being abused, I would suggest that they in fact have been anticompetitive in the way they have abused these systems in the past.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I thank the gentleman for yielding this time to me.

I also rise in reluctant opposition to this bill. Out of great respect for the chairman of this committee who has dealt for many years with this issue, I reluctantly oppose him, however.

I hope that as Members listen to this debate, they look beyond the very compelling short title of the bill, the Airline Competition Enhancement Act, and look at the facts. Everyone supports increased competition in the airline industry, and there is agreement on many facets of this bill; but there is serious disagreement on the provisions dealing with CRS, or computer reservation systems contracts. So before we pass this legislation today, we should think very carefully about what we are doing and the precedent that we are setting.

From its very founding, our Nation incorporated English common law into our judicial system. A fundamental tenet of that common law is the concept of the sanctity of contracts. As a general rule, if one person freely enters into a contract with another, both parties will be bound by the terms of that contract. If one party fails to fulfill its obligations, the other party may go to court to seek compliance or damages. However, it is this standard that we would abolish today for this one industry if this legislation passes.

Historically, CRS vendors have tended to market their systems on a 5-year basis. This reflects the high cost of the computer hardware involved which must be amortized over the course of the lease. At one time the lease payments from travel agents represented about half the revenue received by these CRS vendors. The other half came from the relatively modest fees charged to airlines, hotels and rental car companies each time a service was sold on the system, commonly referred to as booking fees.

More recently however, the monthly fees charged to travel agents have declined rapidly. In fact, some of the larger travel agents pay no monthly fees at all and a few are actually paid by the CRS vendor to take their system. In these circumstances, the CRS vendor counts on the revenues from the booking fees.

In recent years, some of the CRS vendors, in an effort to get more business, have offered travel agents substantial sums to break existing contracts with one CRS vendor and sign up with their system. The legislation we are considering today makes us part of those efforts. Often when doing this, the new vendor has agreed to indemnify the travel agent for any damages that may be charged for the breach of that contract.

As a result of the efforts by CRS vendors to force travel agents to breach their contracts, there have been numerous law suits filed concerning damages. Almost without exception, the courts have upheld the damages clauses in these contracts or awarded actual damages that provide full compensation for the CRS vendors harmed by the breach. This bill would overrule those court decisions and create new rules for this one industry that do not apply to the rest of the business community.

Courts have long favored the concept of liquidated damages. they reduce litigation expenses and provide both parties with a clear understanding of their remedies.

This legislation would knock out the provisions in these contracts.

The proponents of the bill make much of the fact that the largest travel agent association supports this bill. Of course they do. It allows them to break contracts without any consequences. I understand this, but I do not think we should condone it by an act of Congress.

In fact, as if the damage provisions were not bad enough, the bill actually abolishes thousands of existing contracts within 6 months of the date of enactment. It takes these 5-year contracts, cuts them down to 3 years, destroying two-fifths of the property value here.

In this legislation, Congress would destroy a very valuable property right without justification and without compensation. This is an unjustified taking with clear constitutional implications.

Let me address the two primary arguments for this bill. The first is the argument that many lobbying for this bill, namely that CRS systems that have lost out in the competition over the last 10 years, they say the systems are biased. They say there is architectural bias.

Because of the efforts of Chairman OBERSTAR and others on this committee, this issue has been decided. There is no argument on that any longer. The architectural bias is being worked out of every system in operation today. This is not an issue in the legislation in front of us.

If a lobbyist has told you or your staff that CRS systems give preference to their owners in displaying information, they are mistaken. This practice was disallowed in 1984 and there have been no cases brought forward at the DOT or anywhere else that makes this contention.

Mr. Chairman, I urge my colleagues to vote against this bill. It is bad business. It is bad for airline competition and it frustrates the efforts of those who have invested billions of dollars in making ours the most competitive industry in the world.

Mr. BUSTAMANTE. Mr. Chairman, I rise in opposition to H.R. 5466. The White House recently decided to lift the regulatory moratorium so the Department of Transportation can expeditiously issue a final rule governing computer reservation.

DOT has said it may issue a final rule as early as next month. This decision is a direct result of efforts by members of the Aviation Subcommittee, and I commend my colleagues on their good work.

Now that Congress has done its job by making certain the executive branch does its job, we should let the agency with the expertise in this matter do its job. Congress does not have the technical expertise to be legislating solutions to the complex issues associated with the computer reservation industry. DOT does and has been crafting policies and solutions to these issues through the rulemaking process.

It would be wasteful and imprudent to ignore all the work that has gone into the rulemaking now that the process nears its end. Congress has done good work in this matter, and we should leave well enough alone and let DOT get on with its job.

Mr. EWING. Mr. Chairman, I rise in reluctant support of H.R. 5466, the Airline Competition Enhancement Act of 1992. This bill corrects inequities which currently exist in the Essential Air Service Program by opening up 24 additional slots at O'Hare International Airport for small communities in Illinois, Indiana, and Iowa.

Danville, IL, is a town in my district which, like many other small communities, lost guaranteed air service to O'Hare Airport and was instead guaranteed service into Midway Airport. For a struggling town like Danville, flights into Midway Airport are much less desirable because of the lack of connecting flights. Access to O'Hare is essential to make Danville more attractive to business and industry and I am very glad to see that this legislation takes steps to correct this problem.

At the same time, however, what this legislation gives in one area, it takes away in another. I am referring to the provisions in this bill dealing with computer reservation systems. Under the guise of enhancing competition and leveling the playing field, H.R. 5466 would infringe on private property rights by voiding thousands of existing CRS contracts and would unnecessarily intrude in an intraindustry battle.

H.R. 5466 would limit the length of a contract between a CRS vendor and a travel agent to 3 years. Existing 5-year contracts would be grandfathered only if both parties agreed in writing that the contract should continue. This provision would destroy existing contract rights and goes against all notions of fairness. Furthermore, by allowing travel agents to breach a 5-year contract before its natural end, the bill would deny CRS vendors the ability to collect damages under the contract.

Congress has the ability to impair private contracts only when an important public interest is at stake. This bill, however, serves no important public interest and instead simply rewards certain airlines who failed to take the risks and develop computer reservation systems. Over a decade ago, two airlines spent the time, money, and resources to develop such systems and now that they are profitable, the rest of the industry is beginning to complain about the unfair advantages of owning a CRS system. This bill punishes these two airlines for showing initiative and rewards the rest of the industry for failing to succeed in the business themselves.

I voted both in the Aviation Subcommittee and full Public Works and Transportation Committee for provisions which would make the contract provisions of this bill more fair. Unfortunately, these efforts were defeated and now we are left voting for a bill which accomplishes both bad and good. I will vote for H.R. 5466, Mr. Chairman, but would urge that the CRS provisions of this bill be removed so that we can pass a bill which is truly concerned with enhancing competition.

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong opposition to H.R. 5466, the so-called Airline Competition Act.

As many of my colleagues have suggested, this bill should actually be called the Airline Re-Regulation, Punishment of Efficiency, and Unconstitutional Takings Act.

I am afraid some of my colleagues have a different view of competition than I do. I believe free market competition should reward good judgment—and punish bad.

Unfortunately, the sponsors of this bill think the opposite. They think those who benefit from wise choices should be punished, and those who make poor choices deserve a legislative remedy.

This legislation amounts to no more than an obvious money grab by those who did not share in the risk and cost of the development of computer reservation systems.

One need not look further than the fact that their competitors did not say a word during the years that the reservation systems were requiring huge capital investments and losing money. They only come to us now.

While claiming it to be a matter of principle, even the most ardent supporters of this bill do not pretend that this bill would be on the floor if these systems were still losing money.

Another interesting aspect of this bill is the warped logic in the committee report. Their entire rationale for this bill is built on the fact that regulation is needed because competition is lacking.

However, to buttress their arguments that regulation is needed to inspire competition, they cite a DOT finding that there has been no new entry into the CRS market since it was first regulated in 1984.

If you can follow it, their logic goes like this: We need regulation to foster competition, since competition has been lacking since we regulated.

In addition, arguments that this legislation is only a response to the lack of rulemaking on the part of DOT also ring hollow.

A reasonable amendment was offered in committee which would have allowed enactment of this bill only if DOT did not issue regulations by September 30. This amendment was narrowly defeated.

Clearly, if intent was to legislate only in the absence of rulemaking, they would have supported this amendment. That did not happen.

Finally, there is a real constitutional question here as to legislative takings of private property. By abrogating these contracts and prohibiting redress, we are taking property without just compensation.

Mr. Chairman, if this bill is truly intended to do what is claimed, it is unworkable and unconstitutional. If not, it should not be on the floor. In either case, it should be defeated.

Mr. CHANDLER. Mr. Chairman, I rise today to express my strong support for the Airline Competitiveness Enhancement Act, H.R. 5466. Leveling the playing field for all airline carriers is the intent of this critical piece of legislation.

Consumers have benefited as a result of airline deregulation. Lower ticket prices are one of the real benefits of a competitive airline market. Smaller domestic carriers such as Alaska Airlines have grown, creating more jobs and improving passenger service.

But today, the airline industry is volatile. Changing levels of passenger traffic and a sluggish economy have weakened the financial health of several U.S. airlines and resulted in the bankruptcy of others.

That is why enactment of the Airline Competitiveness Enhancement Act is critical before we begin to reregulate. It is our job in Congress to ensure that the system remain fair and competitive while protecting the public interest.

Mr. Chairman, I would urge my colleagues to recognize the rhetoric of the opponents of this bill for what it is—anticompetitive and protectionist. Competition is healthy and it benefits us all. A vote for this bill is a vote for competition, consumer choice, and a stronger U.S. economy. Vote yes on H.R. 5466, the Airline Competitiveness Enhancement Act.

Mr. BEREUTER. Mr. Chairman, this Member expresses his tentative support for H.R. 5466, the Airline Competitiveness Enhancement Act.

Although this legislation contains some very positive features and takes necessary steps toward improving airline competition which will benefit air travelers, it does so in a heavy-handed regulatory manner. Nevertheless, this Member believes that the measure should be advanced to allow for the refinement of the regulatory features which could result from action either in the other body or in conference. If such improvements are not made, this Member may well vote against the conference report.

This Member also expresses his desire that by advancing this bill, the House will send a strong signal to the Federal Aviation Administration that some further regulation of the computer reservation systems is necessary to protect the air-traveling public. Clearly, some changes must be made to promote competitiveness in the airline industry by changes in the reservation system or environment that now prevails.

Mr. CLINGER. Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airline Competition Enhancement Act of 1992".

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate section 2.

Mr. OBERSTAR. Mr. Chairman, I ask unanimous consent that the remainder of the Committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of the remainder of the Committee amendment in the nature of a substitute is as follows:

vendor, in the operation of its computer reservation system, may—

"(A)(i) make available to subscribers an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity; or

"(ii) supply information from its computer reservations system to any person creating or attempting to create such an integrated display if the vendor knows or has reason to know that such person intends to create or attempt to create such an integrated display; except that the prohibition contained in this clause shall not apply to the extent that the vendor is supplying the information to a subscriber creating, in accordance with the conditions of the exception contained in subsection (c)(1), an integrated display using information from the system;

"(B) make available, after September 30, 1994, to a subscriber any subscriber transaction capability which is more functional, timely, complete, accurate, reliable, secure, or efficient, is easier for the subscriber to use or access, or provides to the subscriber a different level of confirmation of transactions, with respect to one participant than with respect to any other participant; except to the extent that the vendor is offering the other participant the opportunity to participate in such capability at the same price and terms as other participants and the participant has not accepted such offer;

"(C) make available, after September 30, 1994, to a participant any participant transaction capability which is more functional, timely, complete, accurate, reliable, secure, or efficient with respect to one participant than with respect to any other participant; except to the extent that the vendor is offering the other participant the opportunity to participate in such capability at the same price and terms as other participants and the participant has not accepted such offer;

"(D) charge any separate participant fee for, or require compliance with any terms or conditions relating to, the provision of any computer reservation system feature, function, or service which the vendor offers as a separate option to the participant for the purpose of complying with the requirements of this subsection, unless such fee, terms, or conditions are reasonable; or

"(E) directly or indirectly prohibit a subscriber from obtaining or using any other computer reservation system.

"(3) PROHIBITION AGAINST INDUCING DISCRIMINATION.—No vendor or air carrier shall require, or provide any incentives to induce, any subscriber to use information from a computer reservation system to create an integrated display in which information is ordered or emphasized based upon factors relating to air carrier identity.

"(4) USE OF THIRD-PARTY HARDWARE, SOFTWARE, AND DATA BASES.—

"(A) IN GENERAL.—Except on grounds of demonstrated technological incompatibility, no vendor may prohibit or unreasonably restrict, directly or indirectly—

"(i) the interconnection to its computer reservation system equipment of computer hardware or software supplied by a person other than such vendor; or

"(ii) the use by a subscriber, to access directly any other computer reservation system or data base, of hardware and communications lines supplied by any other vendor.

"(B) SPECIFIED PROHIBITIONS.—The practices prohibited by subparagraph (A) include, but are not limited to, the following:

"(i) The imposition of fees in excess of reasonable levels to certify or interconnect third-party equipment or to use equipment supplied by any other vendor to access any other computer reservation system or data base.

"(ii) Undue delays or redundant or unnecessary testing before certifying or interconnecting such equipment or access.

"(iii) The imposition of requirements that subscribers use the vendor's computer reservation system for any minimum number or percentage of the subscriber's bookings.

"(iv) Refusals to provide any services, compensation, or other benefits normally provided subscribers on account of the subscriber's using third-party equipment or the subscriber's using the same equipment for access to both the vendor's computer reservations system and other computer reservation systems and data bases.

"(v) The termination of a subscriber contract because of the subscriber's use of third-party equipment or the use of the same equipment for access to the vendor's computer reservations system and any other computer reservation systems or data bases.

"(5) EXTENSION OF CONTRACT AS CONDITION TO PROVIDING ADDITIONAL SYSTEM COMPONENTS.—No vendor may require, as a condition for providing to a subscriber additional computer reservation system components (including software and enhancements), that the term of the subscriber contract for previously provided system components be extended.

"(6) USE OF SYSTEM IN SALE OF AIR TRANSPORTATION SERVICES.—No vendor may require use of its computer reservation system by the subscriber in any sale by the subscriber of air transportation services of the vendor.

"(7) USE OF SYSTEM AS CONDITION TO COMPENSATION FOR SALE OF SERVICES.—No vendor may require that a subscriber use or subscribe to its computer reservation system as a condition to the receipt of any compensation for the sale of air transportation services by the subscriber.

"(8) CONDITIONAL PRICES.—No vendor may charge prices to subscribers conditioned in whole or in part on the identity of air carriers whose air transportation services are sold by the subscriber.

"(b) SUBSCRIBER CONTRACT RESTRAINTS.—

"(1) TERM OF CONTRACT.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), no subscriber contract provision shall be enforceable in law or equity after the 180th day following the date of the enactment of this section to the extent that such provision provides for the term of the contract to be more than 3 years.

"(B) GRANDFATHER OF CERTAIN EXISTING CONTRACTS.—This paragraph shall not apply to a contract—

"(i) which is in effect on the date of the enactment of this section,

"(ii) which is for a term of not more than 5 years, and

"(iii) with respect to which all parties to the contract have agreed, in writing, after such date of enactment and before the 180th day following such date of enactment, that the contract will be enforceable, subject to other paragraphs of this subsection, until the last day of its term.

"(2) OTHER PROVISIONS.—No subscriber contract provision shall be enforceable in law or equity to the extent that such provision—

"(A) forms a basis for a claim of actual or liquidated damages by the vendor in the event of cancellation of the contract, except as follows:

"(i) damages related to the vendor's actual cost of removing its equipment from the subscriber's premises;

"(ii) the unamortized share of the vendor's actual cost of installing such equipment in the subscriber's premises exclusive of any element of capital investment in such equipment; and

"(iii) other amounts owed to the vendor by the subscriber during the unexpired term of the contract, but in no event including amounts which are in the nature of a penalty for cancellation or which otherwise become due upon cancellation;

"(B) extends, or provides for the extension of, the contract beyond its stated date of termination, whether because of the addition or deletion of equipment or because of some other event;

"(C) provides an expiration date later than the earliest expiration date of any other contract for computer reservations services or equipment between the same subscriber and vendor;

"(D) directly or indirectly requires that the subscriber use the vendor's computer reservations system for a minimum volume of transactions, whether measured as an absolute number, a percentage of total transactions of any kind, or otherwise (including making failure to comply with such a requirement a breach or violation of the contract or a ground for termination of the contract); and

"(E) directly or indirectly requires the subscriber to use a minimum number or ratio of system components based upon or related to the number of system components leased from another vendor (including making failure to comply with such a requirement a breach or violation of the contract or a ground for termination of the contract).

"(c) PROHIBITION OF SUBSCRIBER MODIFICATION OF INFORMATION.—No subscriber may use computer software or hardware to modify information in a computer reservation system or derived from a computer reservation system in such a way as to produce—

"(1) integrated displays of such information in which information is ordered or emphasized based on factors relating to air carrier identity, except that the subscriber may use the software or hardware to create such displays of air transportation services—

"(A) if, before such use, the displays have been requested by a customer of the subscriber in writing;

"(B) if the request is kept on file by the subscriber until there has been a period of at least 2 years in which the customer has not purchased any services from the subscriber; and

"(C) if the software or hardware is used only with respect to such customer; or

"(2) displays of such information which provide subscriber transaction capability which violates subsection (a)(2)(B) or participant transaction capability which violates subsection (a)(2)(C).

"(d) REPORTING.—

"(1) QUARTERLY REPORTS.—Not later than the last day of the 1st calendar quarter following the date of the enactment of this section and of each calendar quarter following such 1st calendar quarter and ending on or before December 31, 1994, each vendor shall submit to the Secretary a report describing the manner in which the vendor proposes to achieve and is achieving compliance with subsections (a)(2)(A), (a)(2)(B), (a)(2)(C), and (a)(2)(D).

"(2) REPORT OF SECRETARY.—On or before July 31, 1993, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, based on the reports filed by vendors pursuant to paragraph (1) of this subsection—

"(A) which describes the progress which each vendor has made in achieving compliance with subsections (a)(2)(A), (a)(2)(B), (a)(2)(C), and (a)(2)(D);

"(B) which compares and contrasts the participant transaction capabilities and subscriber transaction capabilities, including the protocols of each vendor with each participant; and

"(C) which includes a tentative finding by the Secretary as to whether each vendor is making satisfactory progress toward, and is likely to achieve, compliance with each of such subsections in accordance with any time limit contained in such subsection.

The Secretary shall provide each vendor a copy of the report transmitted under this paragraph within 30 days after the date of such transmittal.

"(3) SUPPLEMENTAL VENDOR REPORT.—If the report transmitted under paragraph (2) includes a finding of the Secretary that a vendor is not making satisfactory progress toward, or is not likely to achieve, compliance with subsection (a)(2)(A), (a)(2)(B), (a)(2)(C), or (a)(2)(D) in accordance with any time limit contained in such subsection, the Secretary shall require the vendor to submit to the Secretary a supplemental report describing the manner in which the vendor proposes to achieve compliance with such subsection.

"(4) MAINTENANCE OF RECORDS.—Not later than 90 days after the date of the enactment of this section, the Secretary shall issue regulations requiring each vendor to maintain such information concerning its computer reservation system as the Secretary determines is necessary to enable the Secretary to determine whether or not the vendor is making progress toward achieving compliance, or is in compliance, with this section. Such regulations shall establish the form and substance of the information to be maintained.

"(e) MONITORING OF PARTICIPANT FEES.—Not later than March 31, 1993, and each March 31 thereafter, the Secretary shall transmit, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report on the participant fees charged by vendors during the preceding calendar year, including whether such fees represent an increase or decrease over the fees charged previously and whether, in the opinion of the Secretary, such fees are reasonable.

"(f) SPECIAL RULES FOR CERTAIN VIOLATIONS.—

"(1) APPLICABILITY.—The procedures and time limits set forth in this subsection shall apply to any complaint filed with the Secretary alleging a violation of this section (including any regulation issued to carry out this section or otherwise relating to computer reservation systems).

"(2) DEADLINE FOR DECISION WITH RESPECT TO A COMPLAINT.—Not later than the 90th day following the date of the filing of a complaint to which this subsection applies, the Secretary shall issue—

"(A) on the basis of the information filed with respect to the complaint and any other information available to the Secretary, an order which determines that there is not a material issue of fact with respect to the complaint and—

"(i) which finds that the violation has not occurred and dismisses the complaint; or

"(ii) which finds, after compliance with the procedures of section 1002(c) of this Act, that the violation has occurred and sets out the remedies and penalties that the Secretary determines are appropriate for the violation and the information forming the basis for such finding;

"(B) a consent order which sets out the remedies and penalties which the Secretary determines are appropriate and to which the alleged violator has agreed; or

"(C) for a determination of whether or not the violation has occurred and appropriate remedies and penalties for the violation if the violation has occurred, an order instituting a proceeding which includes an oral hearing on the record before an administrative law judge in accordance with section 554 of title 5, United States Code.

"(3) PARTIES TO AN ALJ PROCEEDING.—If the Secretary issues an order instituting a proceeding before an administrative law judge under this subsection, both the Department of Transportation and the person filing the complaint shall be parties to the proceeding if they so elect, and the administrative law judge may designate additional parties to the proceeding.

"(4) POWER OF ALJ TO COMPEL PRODUCTION OF DOCUMENTS.—An administrative law judge to whom a complaint under this subsection is assigned may compel the production of documents and other information necessary to determine whether the violation has or has not occurred.

"(5) DEADLINE FOR ALJ DECISION.—Not later than the 270th day following the date on which the Secretary issues an order instituting a proceeding before an administrative law judge under this subsection, the judge shall issue an order—

"(A) which finds that no violation has occurred and dismisses the complaint; or

"(B) which finds that a violation has occurred and sets out the remedies and penalties that the administrative law judge determines are appropriate for such violation.

"(6) DEADLINE FOR FINAL ORDER.—Not later than the 90th day following the date of issuance an order by an administrative law judge under this subsection, the Secretary shall issue a final order with respect to the complaint. If the Secretary does not issue the final order by the last day of such 90-day period, the order of the administrative law judge shall be deemed to be a final order of the Secretary.

"(g) TREATMENT OF CERTAIN REDUCED CRS SERVICES.—If any computer reservation system service being provided to a participant in such system for a participant fee is reduced without a corresponding reduction in the participant fee, the participant fee shall be treated, for purposes of this section, as being increased by the vendor.

"(h) REGULATIONS.—

"(1) GENERAL AUTHORITY.—The Secretary may issue regulations to carry out the objectives of this section and such other regulations relating to computer reservation systems as the Secretary determines appropriate. Such regulations shall not be inconsistent with the provisions of this section.

"(2) ENFORCEABILITY.—The enforceability of this section shall not be affected by any delay or failure of the Secretary to issue regulations to carry out the objectives of this section.

"(i) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) COMPUTER RESERVATIONS SYSTEM.—The term 'computer reservations system' means—

"(A) a computer system which is offered to subscribers for use in the United States and contains information on the schedules, fares, rules, or seat availability of 2 or more separately identified air carriers and provides subscribers with the ability to make reservations and to issue tickets; and

"(B) a computer system which was subject to the provisions of part 255 of title 14 of the Code of Federal Regulations (relating to computer reservation systems) on June 1, 1991.

"(2) COMPUTER SYSTEM.—The term 'computer system' means a unit of one or more computers, and associated software, peripherals, terminals, and means of information transfer, capable of performing information processing and transfer functions.

"(3) INTERNAL RESERVATION SYSTEM.—The term 'internal reservation system' means a computer system which contains information on airline schedules, fares, rules, or seat availability and is used by an air carrier to respond to inquiries made directly to the carrier by members of the public concerning such information and to make reservations arising from such inquiries.

"(4) INTEGRATED DISPLAY.—The term 'integrated display' means a computerized display of information which relates to air carrier schedules, fares, rules, or availability and is designed to include information pertaining to more than 1 separately identified air carrier. Such term excludes the display of data from the internal reservations system of an individual air carrier when provided in response to a request by a ticket agent relating to a specific transaction.

"(5) PARTICIPANT.—The term 'participant', as used with respect to a computer reservations system, means an air carrier which has its flight schedules, fares, or seat availability displayed through such system.

"(6) PARTICIPANT FEE.—The term 'participant fee' means any fee, charge, penalty, or thing of value contractually required to be furnished to a vendor by a participant for display of the flight schedules, fares, or seat availability of the participant through the computer reservation system of the vendor or for other computer reservation system services provided to the participant.

"(7) PARTICIPANT TRANSACTION CAPABILITY.—The term 'participant transaction capability' means a service, product, function, or facility with respect to any computer reservation system which is provided by a vendor to any participant and which is capable of benefiting the air transportation business of such participant, including the quality, reliability, and security of communications provided by the vendor linking such vendor's computer reservation system to the computer system or data bases of any participant, the loading into the system of information on schedules, fares, rules, or seat availability, the booking or assignment of seats, the issuance of tickets or boarding passes, the retrieval of data from the system, or a means of determining the timeliness with which a participant will receive payment for air transportation sold through the system.

"(8) PROTOCOL.—The term 'protocol' means a set of rules or formats which govern the information transfer between and among computer reservation systems, participants, and subscribers.

"(9) SUBSCRIBER.—The term 'subscriber' means a ticket agent which uses a computer reservation system in the sale and issuance of tickets for air transportation.

"(10) SUBSCRIBER CONTRACT.—The term 'subscriber contract' means an agreement, and any amendment thereto, between a ticket agent and a vendor for the furnishing of computer reservations services to such subscriber.

"(11) SUBSCRIBER TRANSACTION CAPABILITY.—The term 'subscriber transaction capability' means any capability offered through a computer reservation system to a subscriber with respect to air transportation, including the capability of a ticket agent through a computer reservations system to view information on airline schedules, fares, rules, and seat availability or to book space, assign seats, or issue tickets or boarding passes for air transportation to be provided by air carriers.

"(12) VENDOR.—The term 'vendor' means any person who owns, controls, or operates a computer reservations system.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by adding at the end of the matter relating to title IV of such Act the following:

"Sec. 420. Computer reservations systems.

"(a) Prohibitions against vendor discrimination.

"(b) Subscriber contract restraints.

"(c) Prohibition of subscriber modification of information.

"(d) Reporting.

"(e) Monitoring of participant fees.

"(f) Special rules for certain nonfee violations.

"(g) Treatment of certain reduced CRS services.

"(h) Definitions.".

SEC. 3. PROTECTION OF SMALL COMMUNITY AIRLINE PASSENGERS.

(a) ACCESS TO HIGH DENSITY AIRPORTS.—Section 419(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(b)) is amended by adding at the end the following new paragraph:

"(10) ACCESS TO HIGH DENSITY AIRPORTS.—

"(A) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not give consideration to whether slots at a high density airport are available for providing such service.

"(B) MAKING SLOTS AVAILABLE.—If basic essential air service is to be provided to and from a high density airport, the Secretary shall ensure that a sufficient number of slots at such airport are available to the air carrier providing or selected to provide such service. If necessary to carry out the objectives of this subsection, the Secretary shall take such action as may be necessary to have such slots transferred or otherwise made available to the air carrier; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service to and from such airport is at least 132 slots.".

(b) TRANSFERS OF SLOTS AT HIGH DENSITY AIRPORTS.—Section 419(b)(7) of such Act (49 U.S.C. App. 1389(b)(7)) is amended—

(1) by striking "TRANSFER OF OPERATIONAL AUTHORITY AT CERTAIN" and inserting "TRANSFERS OF SLOTS AT";

(2) by striking "an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft" and inserting "a high density airport";

(3) by striking "operational authority" and inserting "slots";

(4) by striking "has to conduct a landing or takeoff" and inserting "have"; and

(5) by striking "such authority" the first place it appears and inserting "such slots";

(6) by striking "such authority is" and inserting "such slots are"; and

(7) by inserting "basic essential" after "used to provide".

(c) DEFINITIONS.—Section 419(k) of such Act (49 U.S.C. App. 1389(k)) is amended by adding at the end the following new paragraphs:

"(6) HIGH DENSITY AIRPORT.—The term 'high density airport' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

"(7) SLOT.—The term 'slot' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.".

SEC. 4. LIMITATION ON STATUTORY CONSTRUCTION WITH RESPECT TO EMPLOYMENT INVESTIGATIONS.

(a) IN GENERAL.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended—

(1) by redesignating the second subsection (g), relating to air carrier and airport security personnel, and subsections (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l), respectively; and

(2) in subsection (h)(1), as so redesignated, by adding at the end thereof the following new subparagraph:

"(D) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in the section shall require the Administrator to issue regulations requiring that employment investigations under this section include criminal history record checks if the Administrator determines that such record checks are not necessary to ensure air transportation security.".

(b) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of such Act under the side heading

"Sec. 316. Air transportation security.".

is amended—

(1) by redesignating items (g), (h), (i), (j), and (k) as items (h), (i), (j), (k), and (l), respectively; and

(2) by inserting after the item relating to subsection (f) the following:

"(g) Airport tenants security programs.".

SEC. 5. RULEMAKING ON RANDOM TESTING FOR PROHIBITED DRUGS.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to consider whether there should be a reduction in the annualized rate of random testing for prohibited drugs now required by the Secretary for personnel engaged in aviation activities. A final decision in such rulemaking proceeding shall be issued not later than 1 year after such date of enactment.

SEC. 6. CLARIFICATION OF PFC APPLICABILITY.

Section 1113(e)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513(e)(1)) is amended by adding at the end thereof the following new sentence: "This subsection does not authorize the Secretary to grant a public agency authority to impose a fee for a passenger enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment.".

SEC. 7. CANCELLATIONS AND ON-TIME PERFORMANCE BY COMMUTER AIR CARRIERS.

(a) AMENDMENT OF REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall amend part 234 of title 14 of the Code of Federal Regulations to require commuter air carriers to comply with the provisions governing on-time performance in such part.

(b) REPORTS.—Not later than the 30th day following the last day of each calendar month beginning after the 120th day following the date of the enactment of this Act, the Secretary of Transportation shall publish a report containing the percentage of flights of each commuter air carrier which were canceled during such calendar month.

(c) DEFINITION.—In this section, the term "commuter air carrier" means an air carrier (as defined by section 101 of the Federal Aviation Act of 1958) that provides air service in accordance with a published schedule and that primarily operates aircraft designed to have a maximum passenger seating capacity of 60 seats or less.

SEC. 8. DECLARATION OF POLICY.

(a) STRENGTHENING OF COMPETITION.—Section 102 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1302) is amended by adding at the end the following new subsection:

"(c) STRENGTHENING OF COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants to provide such transportation, the Secretary shall consider the strengthening of competition among air carriers operating in the United States in order to prevent undue concentration in the air carrier industry, in addition to considering the factors specified in subsections (a) and (b) of this section.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 102 is amended by adding at the end the following new item:

"(c) Strengthening of competition.".

□ 1550

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: At the end of the bill, add the following new section:

SEC. 9. LOVE FIELD, TEXAS.

Section 29 of the International Air Transportation Competition Act of 1979 (94 Stat. 48-49) is repealed.

Mr. OBERSTAR. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Minnesota [Mr. OBERSTAR] reserves a point of order on the amendment, and the gentleman from Kansas [Mr. GLICKMAN] may proceed up to 5 minutes.

Mr. GLICKMAN. Mr. Chairman, this is a perennial visit for me. It is my obsession while I am in Congress to try to repeal something called the Wright amendment. I see my colleague, the gentleman from California [Mr. MINETA] kind of smiling at me because he knows I have had an interest in this for some time.

I am aware that the gentleman from Minnesota has reserved a point of order and will probably offer one.

This is a bill that affects airline competition. This is a bill that deals with the computer reservation system. It also deals with systems involving slots of high-density airports, and I thought this would be an appropriate bill to offer my amendment to repeal something called the Wright amendment, which is named after our former Speaker, Jim Wright.

Let me just briefly give my colleagues a little bit of the history. In 1979, at the request of former Speaker Jim Wright, the law was changed to restrict operations at one airport in this country. That airport was called Dallas Love Field. The reason for that is that the Dallas-Fort Worth Airport had just been built. It cost a lot of money, and the folks in the area, particularly the Fort Worth, TX area, did not want Dallas Love Field, which was near downtown Dallas, to operate. After all, a lot of bonds had been issued to build Dallas-Fort Worth. So the law restricted Love Field. Actually I believe folks thought that Love Field would close, but it did not.

But here is what the law said: It said that to use Dallas Love Field you could only fly out of there to points within the State of Texas, intrastate, and the four contiguous States to Texas, Louisiana, Arkansas, Oklahoma, and New Mexico. It is the only airport in America that a person is restricted to, based upon his or her geographical location, from flying in and out of the airport.

This was done basically, hoping that the Dallas-Fort Worth Airport would survive and Dallas Love Field would fall apart. Little did they know that a little carrier out of Dallas called Southwest Airlines would come into existence. They serve a lot of places in this country. They are the only really genuine low-cost airline in America.

They do a splendid job. They headquartered at Love Field, and they began to fly intrastate. They also began to fly in the four contiguous States, and lo and behold, they are successful. Every place they flew, fares were brought down, not only by them but by their competitors like American and Delta. They would fly from the same places, usually from the other airport. American and Delta were flying from the Dallas-Fort Worth Airport. But wherever there were competing carriers flying competing service into the Dallas market with Southwest, fares were brought down.

Now, here is the problem. My community of Wichita, KS, is located 50 miles from the Oklahoma border. Under Federal law, Wichita cannot be served out of Dallas Love Field because we are not in a State contiguous to Texas. Imagine a law that would do that. I think the law is unconstitutional on its face, and it is in the process of being challenged right now.

So what happens is that if you live in a town like Albuquerque, which is in a contiguous State to Texas, which is about 600 miles from Dallas, your fares are about a third of what they are to Dallas from Wichita. They are about one-third as much, and the distance is about two times as great. The reason for that is because Dallas Love Field has Southwest Airlines, has service that is protect under Federal statute, and the folks in that part of the country, the folks in north Texas, just like it the way it is. They do not want to make any changes.

So my amendment would repeal this blatantly discriminatory amendment which strikes a dagger at the heart of genuine aviation competition in this country.

I have explained this many times. My full statement in the RECORD will explain it further. To repeal this would mean lower cost air service to Wichita, to Phoenix, to St. Louis, to Chicago. It would mean a bonanza in terms of consumers in this country.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to my colleagues, the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I thank the gentleman very much for yielding, and I certainly support him in his efforts to repeal this piece of Federal law which never should have gone into law to begin with. My reasons are parallel to the gentleman's, but there is one other reason. The gentleman mentioned the start of a little airline called Southwest. At about the same time there was the start of a little airline in Phoenix called America West, and America West and Southwest serve pretty much the same markets. But because America West cannot utilize the facilities of Love Field and because Southwest is protected by this piece of Federal legislation that the gentleman has referred to, and because basically Love Field is its little playground and nobody else is there, America West is unable to compete effectively in terms of price with Southwest on their parallel routes.

The name of this legislation is the Airline Competitiveness Enhancement Act, and certainly if we are talking about enhancing competitiveness in the airline industry, one of the very first things we ought to be doing is looking at situations such as the one the gentleman has described at Love Field, protected by Federal law, where one airline is given a clear competitive advantage over another one in markets that they jointly serve. There is certainly no doubt that the fact that America West, which finds itself working its way out of chapter 11 bankruptcy would be enhanced directly if it were able to compete directly with Southwest Airlines. Certainly there is no doubt they were put into this financial situation because of this anticompetitive provision.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 1 additional minute.)

Mr. GLICKMAN. Mr. Chairman, I will not talk much longer on this matter. I would just make this point; I am not going to belabor the issue. There may have been some reason for this amendment originally. I do not think there was, but I have a biased view of this. But after 12 years, imagine this: We are engaging in a game of protecting one airline and one or two carriers, and in the meantime the airfares of people all over this country are much higher than they need to be because of this blatantly discriminatory piece of legislation.

It may be that I will not get this amendment adopted because of a point of order being raised against it, but if I do not, I want to tell everybody that I am going to try it on every bill I can think of. We are going to be a lot more creative in the future in terms of the types of legislation we are going to offer this amendment to, and I say to the folks who are interested in it that they ought to know I am going to dog them on this issue until I get it resolved.

POINT OF ORDER

Mr. OBERSTAR. Mr. Chairman, I insist on my point of order.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. OBERSTAR. Mr. Chairman, I make the point of order that the amendment is not germane and violates clause 7 of rule XVI of the House.

The amendment deals with air carrier certificates to provide air transportation at Love Field, TX. The bill does not deal with air carrier certificates. The bill deals with economic regulation in the context of the Federal Aviation Act only. This proposed amendment deals with economic regulation in an entirely different context by amending the International Air Transportation Competition Act of 1979.

The CHAIRMAN pro tempore. Does the gentleman from Kansas [Mr. GLICKMAN] wish to be heard on the point of order?

Mr. GLICKMAN. Yes, Mr. Chairman, if possible, I would like to be heard on the point of order.

This is a bill called the Airline Competition Enhancement Act of 1992. This is a bill dealing with airline competition issues, dealing not only with the computer reservation system but amending several provisions of the Federal Aviation Act of 1958 involving slots at major airports, rulemaking on random testing for prohibited drugs, cancellation and on-time performance by commuter air carriers, and a new declaration of policy called strengthening of competition which provides that in selecting an air carrier to provide foreign air transportation from among competing applicants, the Secretary shall consider the strengthening of competition. And it goes on and talks about these particular areas.

If there is any bill that deals with the underlying issue of competition at airports and among airlines, this is the bill. The bill relates directly to competition under the basic statute, which is the Airline Competition Enhancement Act.

I realize I did not draft this as an amendment to the 1958 Federal Aviation Act, but the net effect is the same. This bill relates to the competition at a single airport in this country and to air fares generally in America.

So, Mr. Chairman, I would argue that the point of order should be overruled.

The CHAIRMAN pro tempore (Mr. HALL of Ohio). Does the gentleman from Arizona [Mr. RHODES] wish to be heard on the point of order?

Mr. RHODES. I do, Mr. Chairman.

Mr. Chairman, the provisions of this bill deal with access to a limited number of airports by a limited number of air carriers. The Glickman amendment deals with access to a specific airport by again a limited number of air carriers. There are specific provisions in the bill that deal with access to airports. The Glickman amendment deals with access to airports.

Mr. Chairman, the Glickman amendment should be ruled to be germane and in order.

☐ 1600

The CHAIRMAN pro tempore. Is there any other Member that desires to be heard on the point of order of the gentleman from Kansas [Mr. GLICKMAN]?

If not, the Chair is prepared to rule.

The gentleman from Minnesota [Mr. OBERSTAR] makes the point of order that the amendment offered by the gentleman from Kansas [Mr. GLICKMAN] is not germane to the bill.

The bill addresses competition in and economic regulation of aviation in the context of the Federal Aviation Act of 1958. In proposing changes to existing law the bill confines itself to amendments to that act.

The amendment offered by the gentleman from Kansas [Mr. GLICKMAN] proposes to repeal certain route restrictions in the International Air Transportation Competition Act of 1979, but not amended by the spending bill.

As such, the amendment is not germane. The point of order is sustained.

Are there any further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore. (Mr. MONTGOMERY) having assumed the chair, Mr. HALL of Ohio, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5466) to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes, pursuant to House Resolution 541, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 230, nays 160, not voting 44, as follows:

[Roll No. 386]

YEAS—230

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Applegate
Archer
Aspin
Atkins
Bacchus
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Brown
Bruce
Bunning
Camp
Cardin
Carper
Carr
Chandler
Clinger
Coleman (MO)
Collins (MI)
Conyers
Coughlin
Coyne
Cramer
Darden
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Early
Eckart
Edwards (CA)
Emerson
Engel
Espy
Evans
Ewing
Fazio
Feighan
Fields
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Goodling
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Henry
Hertel
Hobson
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lantos
Laughlin
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Martin
Martinez
Matsui
Mazzoli
McCloskey
McDade
McEwen
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Nagle
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Pastor
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pursell
Rahall
Ramstad
Rangel
Ray
Reed
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Roukema
Rowland
Russo
Sabo
Sanders
Santorum
Savage
Sawyer
Scheuer
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swift
Tallon
Taylor (NC)
Thomas (GA)
Traficant
Upton
Vander Jagt
Volkmer
Vucanovich
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Young (FL)

NAYS—160

Allard
Allen
Andrews (NJ)
Annunzio
Anthony
Armey
Baker
Ballenger
Barrett
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Browder
Bryant
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Clement
Coble
Coleman (TX)
Collins (IL)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Crane
Dannemeyer
Davis
Doolittle
Dornan (CA)
Dreier
Duncan
Durbin
Edwards (OK)
Edwards (TX)
English
Erdreich
Fascell
Fawell
Fish
Franks (CT)
Frost
Gallegly
Geren
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Hall (TX)
Hancock
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hochbrueckner
Holloway
Hopkins
Inhofe
James
Johnson (TX)
Johnston
Kennelly
Klug
Kolbe
Lagomarsino
Lancaster
LaRocco
Leach
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
Mavroules
McCandless
McCrery
McCurdy
McDermott
McMillan (NC)
McNulty
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morrison
Myers
Natcher
Neal (NC)
Oxley
Packard
Panetta
Parker
Patterson
Paxon
Payne (VA)
Pickle
Porter
Poshard
Price
Quillen
Ravenel
Regula
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Sisisky
Skeen
Smith (FL)
Smith (OR)
Spence
Stallings
Stearns
Stump
Sundquist
Swett
Synar
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Unsoeld
Valentine
Visclosky
Walsh
Washington
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOT VOTING—44

Ackerman
AuCoin
Barnard
Barton
Boxer
Campbell (CO)
Chapman
Clay
Cunningham
DeFazio
Dwyer
Dymally
Flake
Gallo
Gaydos
Gingrich
Hatcher
Hoagland
Houghton
Hyde
Ireland
Jenkins
Lehman (CA)
Markey
McCollum
Miller (CA)
Murtha
Olin
Richardson
Roybal
Smith (IA)
Solomon
Staggers
Stenholm
Tanner
Torricelli
Towns
Traxler
Vento
Walker
Weber
Wilson
Yates
Yatron

☐ 1625

The Clerk announced the following pairs:

On this vote:

Mr. Hoagland for, with Mr. Chapman against.

Mr. Gingrich for, with Mr. Barton of Texas against.

Messrs. BILBRAY, ROSTENKOWSKI, and ZELIFF changed their vote from "yea" to "nay."

Mr. HUNTER, Mr. CRAMER, Mrs. MEYERS of Kansas, and Mr. KOSTMAYER changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RUSSO. Mr. Speaker, on rollcall No. 386 I voted "aye." I intended to vote "no."

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered and passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

COMMENTS IN APPRECIATION OF MEMBERS AND STAFF FOR EFFORTS ON H.R. 5466

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute.)

Mr. OBERSTAR. Mr. Speaker, I take this minute to express my appreciation to my colleagues on both sides of the aisle and on both sides of this issue for the high quality of the debate that unfolded in the discussion of this legislation. It was straightforward; Members expressed very firmly held views, and it was a high-quality debate.

I especially want to thank the gentleman from Illinois [Mr. LIPINSKI], and the gentleman from Texas [Mr. GEREN] for the high policy level on which they kept this debate. I particularly want to express my appreciation to the gentleman from Pennsylvania [Mr. CLINGER] for his splendid support and hard work throughout the elaboration of this legislation which has unfolded over many, many months. We came to a very, very fine conclusion.

Finally, Mr. Speaker, while all of our staff worked diligently and most professionally on this legislation, I want to single out and express my very deep appreciation to David Heymsfeld, of the staff of the Subcommittee on Aviation of the Committee on Public Works and Transportation. No one contributed more than David to the formulation of this monumental and highly complex legislation; to him I am deeply grateful.

□ 1630

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time that I may inquire of the distinguished majority leader how he intends to proceed for the balance of this legislative day before we embark upon our summer recess, and I am happy to yield to him for that purpose.

Mr. GEPHARDT. I thank the gentleman for yielding. It is our intention that a motion be made in a moment to go to conference on the Comprehensive National Energy Policy Act with a motion to instruct conferees, so we will know very quickly whether or not there will be a vote on that. I doubt there will be, but there may be.

After that, there will be no other votes this evening. We do not expect votes. If Members need a concrete, iron-clad, no-holds-barred assurance that there would never be a vote, I cannot give that. But I do not expect to vote after the possibility of a vote on the motion to instruct and to go to conference on the energy authorization.

Mr. MICHEL. Might I inquire then of the distinguished majority leader when Members will be advised of a tentative schedule, if it is no more than that, for when we return after Labor Day?

Mr. GEPHARDT. We will be prepared to announce the schedule for the week that we come back after we have finished tonight's business, in another hour or so.

Mr. MICHEL. I thank the distinguished majority leader.

APPOINTMENT OF CONFEREES ON H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 776) to provide for an improved energy efficiency, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. LENT

Mr. LENT. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. LENT moves that the Managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate Amendment to the House bill, H.R. 776, be instructed to balance both energy conservation and energy efficiency with energy supply, achieve this goal in a manner consistent with environmental protection, and use market mechanisms and incentives rather than command-and-control regulations and government subsidies, within the scope of the conference.

The SPEAKER. The gentleman from New York [Mr. LENT] is recognized for 30 minutes.

Mr. LENT. Mr. Speaker, I understand that House conferees for H.R. 776, the Comprehensive National Energy Policy Act, will be appointed shortly. I am grateful that we are appointing House conferees today.

It has taken us a long time to get to this point in the process of enacting a comprehensive national energy policy. I, along with my fellow Republican Members of the energy and commerce committee, started us down this path shortly after Iraq invaded Kuwait in 1990.

We introduced our Comprehensive Energy Policy Act then. The President then took the lead by sending to Congress the National Energy Strategy Act which was introduced in March 1991. After much effort by the leadership of the energy committees in both bodies, we are today finally taking this important step to start the conference on the bill.

My motion to instruct should assist conferees in their efforts to fashion a bill that the House and the President will find acceptable. The motion instructs the conferees to: First, balance both conservation and energy efficiency with energy supply; second, achieve this goal in a manner consistent with environmental protection; and third, use market mechanisms and incentives rather than command-and-control regulations and government subsidies. The President has stated that he will only sign a bill that is balanced in this manner. The instructions in my motion will help ensure that result.

Accordingly, I strongly urge my colleagues to support my motion.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Indiana, chairman of the Subcommittee on Energy and Power.

Mr. SHARP. Mr. Speaker, we have no objection to the gentleman's motion. We have tried to work within these parameters as we built this legislation to begin with.

Mr. LENT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from New York [Mr. LENT].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees and reserves the right to appoint additional conferees or to make changes in the conference appointments:

From the Committee on Energy and Commerce, for consideration of the House bill (except title XIX), and the Senate amendment (except title XX), and modifications committed to conference: Messrs. DINGELL, SHARP, MARKEY, TAUZIN, TOWNS, SWIFT, SYNAR, LENT, MOORHEAD, AND DANNEMEYER; Provided, that Mr. BLILEY is appointed only for consideration of titles I, VII, XII, XVII, and XXXI of the House bill, and titles V, VI and XV of the Senate amendment;

Mr. FIELDS is appointed only for consideration of titles III, IV, V, XIV, XVIII, and XX of the House bill, and titles IV and XVI of the Senate amendment.

Mr. OXLEY is appointed only for consideration of titles II, VI, VIII, IX, X, XI, XIII, XV, XVI, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, and XXX of the House bill, and titles I, II, VIII, IX, X, XI, XII, XIII, XIV, XVII, XVIII, XIX, and XXI of the Senate amendment; and in lieu of Mr.

LENT for title VII of the House bill and title XV of the Senate Amendment.

From the Committee on Ways and Means, for consideration of title XIX of the House bill, and section 19108 and title XX of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, ARCHER, VANDER JAGT, AND CRANE.

As additional conferees from the Committee on Ways and Means, for that portion of section 1101 of the House bill which adds new section 1701 and 1702 to the Atomic Energy Act of 1974), and that portion of section 10103 of the Senate amendment which adds new sections 1701 and 1702 to the Atomic Energy Act of 1954, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, JACOBS, FORD of Tennessee, ARCHER, VANDER JAGT, CRANE, and SCHULZE.

As additional conferees from the Committee on Education and Labor, for consideration of section 20141, 20142, 20143 (except those portions which add new sections 9702(a)(4), 9704, 9705(a)(4), 9706, 9712(d)(5) to the Internal Revenue Code of 1986) of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, CLAY, MILLER, of California, KILDEE, and WILLIAMS, Mrs. ROUKEMA, Mr. FAWELL, and Mr. BALLENGER.

As additional conferees from the Committee on Education and Labor, for consideration of those portions of section 901 which add new sections 1305 and 1312 to the Atomic Energy Act of 1954, that portion of section 1101 which adds a new section 1704 to the Atomic Energy Act of 1954, and sections 4402, 6601–04, 10104, 13119, and 19113 of the Senate amendment, and modifications committed the conference: Messrs. FORD of Michigan, WILLIAMS, and GOODLING.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 1205, 1208, 1213–14, 1302–05, 1606, and 2481 of the House bill, and sections 5101–04, that portion of section 5201 which adds a new section 6 to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, 14108–09, and 14301–02, of the Senate amendment, and modifications committed to conference: Messrs. FASCELL, GEJDENSON, WOLPE, LEVINE of California, FEIGHAN, JOHNSTON of Florida, ENGEL, BROOMFIELD, ROTH, MILLER of Washington, and HOUGHTON.

As additional conferees from the Committee on Foreign Affairs, for consideration of section 903, 1205, 1208, 1211, 1213–14, 1302–05, 1607, 2481, and 2704, of the House bill, and sections 1201, 6701–02, 10223(b), 13102, 17101–02, 19101, and 19109 of the Senate amendment,and modifications committed to conference: Messrs. FASCELL, GEJDENSON, and BROOMFIELD.

As additional conferees from the Committees on Government Operations, for consideration of sections 121 (e) and (f), 122, 127 and 128 of the House bill, and sections 6207, 6216, 6218, and 6220–21 of the Senate amendment, and modifications committed to conference: Messrs. CONYERS, BUSTAMANTE, and CLINGER.

As additional conferees from the Committee on Government Operations, for consideration of sections 302 and 304–06 of the House bill, and sections 4102, 4105–06, 4112–13, 4116, and 4119 of the Senate amendment, and modifications committed to conference: Messrs. CONYERS, WISE, and MCCANDLESS.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of sections 133, 1314, 1403, 1607, 3002, 3004, 3009, 3101, 3102, and 3104 and titles VIII–XI and XXIV–XXIX of the House bill, and sections 5302–04, 5308, 6303, 6501, 6506, 13115, 13118, 13120–21, 14114, 19104, and 19110, 19112 and titles VIII, IX, X, XII, and XVIII of the Senate amendment, and modifications committed to conference: Messrs. MILLER of California, RAHALL, VENTO, KOSTMAYER, DE LUGO, GEJDENSON, DEFAZIO, YOUNG of Alaska, and MARLENEE, Mrs. VUCANOVICH, and Mr. RHODES; Provided, Mr. MURPHY is appointed in lieu of Mr. DEFAZIO for consideration of title XXV of the House bill and section 14114 of the Senate amendment only.

Mr. ABERCROMBIE is appointed in lieu of Mr. DEFAZIO for consideration of section 2481 of the House bill only.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of that portion of section 723(h) which adds a new section 212(h) to the Federal Power Act, 1312–13, 1403, 1607, 2012, 2113, 2307, and 3008 of the House bill, and sections 6501, 6506, 19104, 19110, and 20143(b) and titles VIII and XXI of the Senate amendment, and modifications committed to conference: Messrs. MILLER of California, RAHALL, and YOUNG of Alaska.

As additional conferees from the Committee on the Judiciary, for consideration of section 3010 of the House bill, and section 19102 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, GLICKMAN, FEIGHAN, STAGGERS, BERMAN, WASHINGTON, FISH, HYDE, CAMPBELL of California, and SMITH of Texas.

As additional conferees from the Committee on the Judiciary, for consideration of sections 11107 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, and FISH.

As additional conferees from the Committee on the Judiciary, for consideration of section 19106 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, FRANK of Massachusetts, and GEKAS.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of section 1607, and title XXIV of the House bill, and title XII of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUGHES, HUTTO, HERTEL, TALLON, LANCASTER, DAVIS, FIELDS, BATEMAN, and INHOFE.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 205, 1602, of the House bill, and sections 5204, 5302, 5304, and 11103 and title XXI of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, and DAVIS.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 121–28, 132, 411, 2453, 2461–64, 2705, 3102, and 3104 and title XVIII of the House bill, and sections 4120, 4401, 5303, 5308, 6101, 6201–24, 6304, and 10224 of the Senate amendment, and modifications committed to conference: Messrs. ROE, MINETA, NOWAK, APPLEGATE, DE LUGO, SAVAGE, BORSKI, HAMMERSCHMIDT, SHUSTER, PETRI, and INHOFE.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 164(h), that portion of section 723 which adds a new section 212(i) to the Federal Power Act, 410, and 1316 of the House bill, and sections 12103, 12204, and 14113 of the Senate amendment, and modifications committed to conference: Messrs. ROE, MINETA, and HAMMERSCHMIDT.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 901–02, 1203, 1207, 1301, 1306–09, 1318–19, 2471, 2502–03, 2513, 3005, 3007, 3009 and titles VI and XX–XXIII of the House bill, and sections 4201–18, 4305, 4401, 5201–02, 5204–06, 6104, 6501 and titles II, VIII, X, XIII and XIV of the Senate amendment, and modifications committed to conference: Mr. BROWN, Mrs. LLOYD, and Messrs. SCHEUER, WOLPE, STALLINGS, ROEMER, SWETT, WALKER, RITTER, MORRISON, and FAWELL.

EXPEDITING CONSTRUCTION OF HIGHWAY PROJECTS WHICH PROVIDE ADDITIONAL QUALITY JOBS

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 5830) to expedite construction of highway projects which provide additional quality jobs, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. MINETA], a distinguished member of the subcommittee, for an explanation of his request.

Mr. MINETA. Mr. Speaker, I thank the gentleman from Arkansas for yielding.

Mr. Speaker, on July 28, 1992, the House passed S. 2641, and on August 6, the President signed it into law as Public Law 102-334.

That law provides for the restoration of $369 million in obligation authority to the States.

This bill, which we are bringing up with a sense of urgency because of the state of the economy, would direct the Secretary of Transportation, the States and metropolitan planning organizations to expedite, to the maximum extent practicable, use of the $369 million for projects which will be under construction by October 30, 1992.

The underlying purposes of this bill are twofold: First, to increase the number of quality jobs for construction and improvement of transportation facilities and secondary to expedite construction of projects authorized by the Intermodal Surface Transportation Efficiency Act of 1991.

It is important to note, Mr. Speaker, that the use of the $369 million shall be in accordance with the requirements established by ISTEA.

Last month's unemployment figures, as we know, were absolutely devastating: a national unemployment rate of 7.8 percent, California 9.5 percent, New Jersey 9.2 percent, New York 9.2 percent, Massachusetts 8.8 percent, Michigan 8.8 percent, Illinois 8.6 percent, and Texas 8.2 percent, just to name a few of the States. We know that each dollar invested in the infrastructure pays back multiple returns to the economy.

This bill provides us with the opportunity to expedite creation of a substantial number of quality construction jobs.

If H.R. 5830 is the most we can do at this time, it is the least we must do to help put Americans back to work.

I urge adoption of the bill and I thank the gentleman for yielding.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I also rise in support of this legislation. Just 2 weeks ago, this Congress was successful in passing legislation which restored $369 million in obligation authority for the Federal-Aid Highway Program for fiscal year 1992. The Intermodal Surface Transportation Efficiency Act of 1991 included a provision which authorized funds for the Brooklyn courthouse. Because of the subsequent scoring of the courthouse as mandatory spending, the obligations for the highway program for fiscal year 1992 were reduced by almost $1 billion last December.

We were able to restore only part of that amount, so as not to cause a deficit on the pay-go scorecard. However, the $369 million in restored obligation authority will permit more needed transportation spending to occur across the country. Those additional funds were apportioned on Monday, August 10, to all the States.

The legislation before us concerns the use of that obligation authority. It directs the States to use their additional obligation authority, to the maximum extent practicable, for projects which will be under actual construction by October 30, 1992.

The intent of the provision is for the States to expend the funds on projects which will increase the number of real construction jobs. In the economic times in which we find ourselves, the creation of jobs is of immediate concern. This legislation will help to give an extra incentive for States to expend their funds on projects which are ready to go and therefore, ready to put people back to work.

The administration is in strong support of this legislation. All year, Secretary of Transportation Andrew Card has been urging States to obligate their ISTEA apportionments as quickly as possible.

It is a wonderful opportunity for us today to support his efforts, to see that valuable funds do not sit idle on the drawing board when they can be expended to create jobs, increase productivity, and improve our overall quality of life.

I urge my colleagues to support this bill to help jump start our country's economic engine forward again.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Enactment of the Intermodal Surface Transportation Efficiency Act of 1991 and Public Law 102-334 provide the opportunity to create substantial numbers of quality jobs for construction and improvement of transportation facilities and the expeditious construction of projects authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (including the amendments made by such Act) will enable those jobs to be available sooner.

(2) In particular, expeditious implementation of projects for resurfacing, restoration, rehabilitation, and preventative maintenance for pavements and bridges will also result in upgrading the quality of existing transportation facilities.

(3) Accelerating the approval process for resurfacing, restoration, rehabilitation, and preventative maintenance for pavements and bridges will not adversely impact the environment, as these types of projects are small in scope and improve existing transportation facilities.

SEC. 2. EXPEDITIOUS USE OF OBLIGATION AUTHORITY.

The Secretary of Transportation, States, and metropolitan planning organizations shall expedite, to the maximum extent practicable, use of obligation authority restored by Public Law 102-334 for projects which will be under actual construction by October 30, 1992, in order to increase the number of quality jobs for construction and improvement of transportation facilities. The use of such obligation authority shall be in accordance with the policies established by the Intermodal Surface Transportation Efficiency Act of 1991, including the amendments made by such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1640

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5830, the bill just passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1766, U.S. CAPITOL POLICE JURISDICTION REFORM ACT

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1766) relating to the jurisdiction of the U.S. Capitol Police, with a Senate amendment to the House amendments thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio? The Chair hears none and, without objection, appoints the following conferees: Mr. ROSE, Ms. OAKAR, and Messrs. PANETTA, THOMAS of California, and ROBERTS.

There was no objection.

PRESCRIPTION DRUG AMENDMENTS OF 1992

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3163) to amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I yield to my colleague, the gentleman from California [Mr. WAXMAN], to explain briefly what this bill would do.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this legislation will extend the deadline for States to comply with the Prescription Drug Marketing Act, and in the interim establish a substitute registration system at the Food and Drug Administration. It will also clarify the legal requirements concerning the level of knowledge required for a criminal prosecution.

The Prescription Drug Marketing Act set a September 14, 1992, deadline for States to license prescription drug wholesaler. As of this month, most States are in full compliance with this requirement, but it is clear that some States have not adopted the registration system. An extension of the original deadline is needed to guarantee continued access to the full range of prescription drugs for all Americans. Otherwise, prescription drug wholesalers in States that have not yet met the legislative requirements of the PDMA will be subject to civil and criminal penalties.

Congressman DINGELL and I have worked with industry groups and the administration in drafting this amendment. The bill includes a sunset provision, so that the PDMA deadline is extended by only 2 years. This gives States the time they need to legislate and implement their registration programs. In the interim, companies in States that have not yet established registration programs will be required to register at the Food and Drug Administration.

Following this statement, I have included a section-by-section analysis of the bill.

S. 3163 was adopted unanimously by other body. I urge my colleagues to support this legislation.

SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE

The short title of the bill is the Prescription Drug Amendments of 1992.

SEC. 2. DISTRIBUTOR REGISTRATION

Section 2 establishes a temporary (2 year) registration program with the Food and Drug Administration ("FDA") for wholesale distributors of prescription drugs in interstate commerce in states that do not license such persons in accordance with existing requirements of the Federal Food, Drug and Cosmetic Act ("FDC Act").

Section 503(e)(2)(A) of the current law is intended to ensure that any person engaging in the wholesale distribution of prescription drugs in interstate commerce shall be licensed in the state in which it does business and that state licensing requirements meet certain minimum requirements as contained in regulations promulgated by the Secretary of the Department of Health and Human Services ("HHS"). The effective date for subparagraph 503(e)(2)(A) is September 14, 1992.

While many states have taken steps to meet the licensing requirements and are expected to meet the deadline, current data indicate that some states may not enact prescription drug wholesaler licensing requirements by September 14, 1992. Therefore, the amendments to section 503(e) provide for a temporary registration program within HHS for persons engaging in the wholesale distribution of prescription drugs in states that have not yet adopted licensing programs. This temporary registration provision is not intended to create a federalized registration program and will expire without extension on September 14, 1994. Ultimate responsibility for licensing wholesale distributors shall remain with the states.

The bill's sponsors understand the FDA has the discretion to implement this provision in a manner that is consistent with its resources.

SEC. 3. PENALTY CLARIFICATION

Section 3 adds a "knowingly" standard to the felony provision of the Prescription Drug Marketing Act ("PDMA"). In its present form, the Act provides severe punishment for criminal violations without expressly requiring any scienter on the part of the offender.

Addition of the word "knowingly" in Section 303(b)(1) of the FDC Act is intended to clarify that the offenses described in that section require an element of knowledge. The amendment conforms with prosecutorial experience and practice.

Section 303(b)(1) is intended to clarify that the offenses described in that section require an element of knowledge. The provision conforms with prosecutorial experience and practice.

The offenses described in section 303(b)(1) are treated differently from other offenses in the FDC Act. In general, a violation of the FDC Act is punishable as a misdemeanor without proof of consciousness of wrongdoing (Section 303(a)(1); *United States v. Park*, 421 U.S. 658 (1975)), or as a three-year felony when the violation is second offense, or when it is committed with the intent to defraud or mislead. Section 303(b)(2). The precription drug marketing offenses described in section 303(b)(1) of the FDC Act are excepted from this scheme, carrying only a felony penalty.

As originally enacted, section 303(b)(1) stated no mental element for the offenses it described. This silence potentially could create confusion about what kind of conduct Congress was addressing. Indicia of Congress' intent are available in other parts of the statute and the legislative history. For example, Congress provided that a pharmaceutical company would not be criminally responsible for every drug diversion perpetrated by a company employee 303(c)(1); House Report 1000–76 at 12. This is strong evidence that 303(b)(1) was not intended to create a strict liability offense under the FDC Act. In the absence of specific language describing the intended mental element of the offense, however, the statute might be subject to conflicting or erroneous interpretation by the courts.

The present amendment makes clear that the offenses described in section 303(b)(1) are committed when an individual "knowingly" commits acts that are proscribed by the PDMA (for example selling a prescription drug sample, importing a prescription drug, or selling a drug that had been purchased by a health care entity). This knowledge extends only to the prohibited act; it would not be necessary in a prosecution for the government to prove that the defendant knew that the act was a violation of any law. Thus, for example, an offense under amended section 303(b)(1)(B) would be committed when an individual sold a prescription drug that had been purchased by a health care entity, if he or she were aware of these circumstances, whether or not he or she also knew that the sale of the drug was a violation of section 503(c)(3).

Section 3 also substitutes the words "institution of criminal proceeding" for "arrest" or "arrest of" in current law, because there are rarely arrests in connection with criminal proceedings under the PDMA.

Finally, section 3 revises section 303(c) and (d) to conform with section 303 (a) and (b) as amended by the PDMA, and corrects subsection (d).

SEC. 4 DRUG SAMPLES

Section 4 clarifies the prohibition against the distribution of drug samples by anyone other than the manufacturer or the manufacturer's authorized distributor. It also makes clear that providing a drug sample to a patient by (or in very limited circumstances at the discretion of) a licensed practitioner is not prohibited.

Section 4 also makes clear that any wholesale distribution of a prescription drug (any sale to anyone other than a consumer or patient, including any sale to an authorized distributor of record to a retail pharmacy) by anyone other than the manufacturer or authorized distributor of record must be preceded by a statement identifying each prior sale of the drug. The identifying statement must in all cases include the dates of each transaction involving the drug and the names and addresses of all parties to the transaction, and must contain such other information as the Secretary of HHS may require.

SEC. 5 TECHNICAL AMENDMENT

Section 5 makes a technical amendment to section 801(d)(1) of current law.

Mr. DANNEMEYER. Mr. Speaker, further reserving the right to object, if we do not adopt this bill very soon, there are certain sellers of prescription drugs that may be in violation inadvertently of State laws, and this is the reason that I think the legislation should be adopted.

Mr. DINGELL. Mr. Speaker, I rise in support of S. 3163, a bill that provides for the temporary licensing with the Food and Drug Administration of prescription drug wholesalers in States that have yet to establish a State licensing system as required by existing law.

The purpose of this technical amendment is to prevent needless disruption in the distribution of drugs by wholesalers in the United States.

The bill amends the Prescription Drug Marketing Act, which was signed into law in April 1988. This law requires States to license wholesale distributors of prescription drugs in conformance with minimum standards published by the FDA. The statute gave the States 2 years to accomplish this task. While many States have complied, a number of other States have not. On September 15, 1992, any wholesaler that sells prescription drugs in a State that has not complied with the licensing requirement will be committing a felony.

The National Wholesale Druggists Association has informed the Energy and Commerce Committee that, as of the end of July 22 States and the Commonwealth of Puerto Rico were not in compliance. While several of these States may come into compliance by September 15, it is clear that some will not. The NWDA has told the committee that their members in those States will be forced to cease sales in interstate commerce for fear of violating the law.

To prevent this disruptive and costly outcome, this legislation allows wholesalers in noncomplying States to register instead with the FDA. This temporary alternative registration system, which only applies to States without registration systems that meet the FDA standard, will sunset after 2 years.

The provisions of this bill have been worked out with all parties, including affected elements in the pharmaceutical industry, the administration and, of course, my Republican colleagues. I would especially like to thank my good friends in the Senate, Chairman KENNEDY and Senator HATCH, and their staffs, for their leadership and their hard work in passing this legislation. Thanks are also due for Chairman WAXMAN and the staff of his subcommittee for their helpful role in facilitating the passage of this bill.

Mr. Speaker, I urge my colleagues to vote in favor of this important piece of legislation.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug Amendments of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. DISTRIBUTION REGISTRATION.

(a) REQUIREMENT.—Section 503(e)(2)(A) (21 U.S.C. 353(e)(2)(A)) is amended by inserting before the period the following: "or has registered with the Secretary in accordance with paragraph (3)".

(b) REGISTRATION.—Section 503(e) (21 U.S.C. 353(e)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) Any person who engages in the wholesale distribution in interstate commerce of drugs that are subject to subsection (b) in a State that does not have a program that meets the guidelines established under paragraph (2)(B) shall register with the Secretary the following:

"(A) The person's name and place of business.

"(B) The name of each establishment the person owns or operates that is engaged in the wholesale distribution of drugs in a State that does not have a program to license persons engaged in such distribution.".

(c) TECHNICAL.—Section 503(f)(1)(B) (21 U.S.C. 353(f)(1)(B)) is amended by striking out "and order" and inserting in lieu thereof "an order".

(d) SUNSET.—Effective September 14, 1994, the amendments made by subsections (a) and (b) shall no longer be in effect.

SEC. 3. PENALTY CLARIFICATION.

(a) SCIENTER.—Paragraph (1) of section 303(b) (21 U.S.C. 333(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsection (a), any person who violates section 301(t) by—

"(A) knowingly importing a drug in violation of section 801(d)(1),

"(B) knowingly selling, purchasing, or trading a drug or drug sample or knowingly offering to sell, purchase, or trade a drug or drug sample, in violation of section 503(c)(1),

"(C) knowingly selling, purchasing, or trading a coupon, knowingly offering to sell, purchase, or trade such a coupon, or knowingly counterfeiting such a coupon, in violation of section 503(c)(2), or

"(D) knowingly distributing drugs in violation of section 503(e)(2)(A),

shall be imprisoned for not more than 10 years or fined not more than $250,000, or both.".

(b) CLARIFICATION.—Section 303 (21 U.S.C. 333) is amended—

(1) in subparagraphs (A) and (B)(i) of subsection (b)(4), by striking out "the arrest and conviction of" each time it occurs and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(2) in subparagraph (B)(i) of subsection (b)(4), by striking out "the arrest of" and inserting in lieu thereof "the institution of a criminal proceeding against";

(3) in subsection (b)(5), by striking out "the arrest and conviction of" and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(4) in subsections (c) and (d), by striking out "subsection (a) of this section" and inserting in lieu thereof "subsection (a)(1) of this section"; and

(5) in subsection (d), by striking out ", and no person" and all that follows through "mislead".

SEC. 4. DRUG SAMPLES.

Section 503 (21 U.S.C. 353) is amended—

(1) in subsection (d), by amending paragraph (1) to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), no person may distribute any drug sample. For purposes of this subsection, the term 'distribute' does not include the providing of a drug sample to a patient by a—

"(A) practitioner licensed to prescribe such drug,

"(B) health care professional acting at the direction and under the supervision of such a practitioner, or

"(C) pharmacy of a hospital or of another health care entity that is acting at the direction of such a practitioner and that received such sample pursuant to paragraph (2) or (3).".

(2) in paragraphs (2) and (3) of subsection (d), by striking out "distributor" each place it occurs and inserting in lieu thereof "authorized distributor of record" and in subsection (d)(3) by striking out "distributors" each place it occurs and inserting in lieu thereof "authorized distributors of records";

(3) in subsection (e), by amending paragraph (1) to read as follows:

"(e)(1)(A) Each person who is engaged in the wholesale distribution of a drug subject to subsection (b) and who is not the manufacturer or an authorized distributor of record of such drug shall, before each wholesale distribution of such drug (including each distribution to an authorized distributor of record or to a retail pharmacy), provide to the person who receives the drug a statement (in such form and containing such information as the Secretary may require) identifying each prior sale, purchase, or trade of such drug (including the date of the transaction and the names and addresses of all parties to the transaction).

"(B) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug."; and

(4) in subsection (e)(4) (as so redesignated by section 2(c)), by inserting before the dash the following: "and subsection (d)".

SEC. 5. TECHNICAL AMENDMENT.

Section 801(d)(1) (21 U.S.C. 381(d)(1)) is amended by striking out "person who manufactured" and inserting in lieu thereof "manufacturer of".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING VISIONARY ART AS NATIONAL TREASURE AND REGARDING AMERICAN VISIONARY ART MUSEUM

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 81) expressing the sense of the Congress regarding visionary art as a national treasure and regarding the American Visionary Art Museum as a national repository and educational center for visionary art, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

Mrs. ROUKEMA. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the chairman of the committee what the description is of this unanimous-consent request. I believe the title is "Museum for Visionary Art."

Mr. WILLIAMS. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. Further reserving the right to object, I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, Senate Concurrent Resolution 81 gives national recognition to the American Visionary Art Museum.

Visionary art is art produced in response to extraordinary circumstances. It is not art produced by practicing, professional artists, but rather art produced by the mentally ill, the disabled, and the elderly. It is art that assists these individuals, through the use of the creative process, to overcome the problems that confront them.

The American Visionary Art Museum, in the process of being built in Baltimore with State and private money is the only visionary art museum in the United States. The legislation before us will recognize visionary art as an important national treasure and proclaim the American Visionary Art Museum a national repository and educational center for visionary art. It asks for no authorization of Federal dollars, only Federal recognition.

I urge adoption of the resolution.

Mrs. ROUKEMA. Further reserving the right to object, I thank the subcommittee chairman.

It is a very meritorious project, and there are no objections on the minority side. It also has the full support of Representatives from that area on both sides of the aisle, and I am happy to support the proposal.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. Con. Res. 81

Whereas visionary art is the art produced by self-taught individuals who are driven by their own internal impulses to create;

Whereas the visionary artist's product is a striking personal statement possessing a powerful and often spiritual quality;

Whereas prominent among the creators of visionary art are the mentally ill, the disabled, and the elderly;

Whereas there are many museums of visionary art located throughout Europe such as the Art Brut Museum located in Lausanne, Switzerland;

Whereas the American Visionary Art Museum is the first museum in North America to be wholly dedicated to assembling a comprehensive national collection of American visionary art;

Whereas the collection at the American Visionary Art Museum includes film, literature, and research on all fields related to visionary art;

Whereas the American Visionary Art Museum's mission is to increase public awareness of uncommon art produced by individuals in response to extraordinary circumstances;

Whereas the American Visionary Art Museum seeks to remove the stigma associated with disability by illuminating the power of humans to triumph over adversity through creativity;

Whereas the national policy of deinstitutionalization has resulted in the closure of many facilities and the destruction of visionary artwork;

Whereas the American Visionary Art Museum has the support of certain offices of the National Institute of Mental Health and other government agencies in its goal to function as a national repository for works produced by formerly institutionalized individuals; and

Whereas it is the best interest of the national welfare and all American citizens to preserve visionary art and to celebrate this unique art form: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) visionary art should be designated as a rare and valuable national treasure to which we devote our attention, support, and resources to make certain that it is collected, preserved, and understood; and

(2) the American Visionary Art Museum is the proper national repository and educational center for visionary art.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1443

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 1443.

The Speaker pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

RAIL SAFETY ENFORCEMENT AND REVIEW ACT

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2607) to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes, with a Senate amendment to the House amendments to the Senate amendment, and concur in the Senate amendment to the House amendments to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments to the Senate amendment, as follows:

Senate amendment to House amendments to Senate amendment:

Page 27, after line 14, of the House amendment to the Senate amendment to the text of the bill, insert:

SEC. 19, AIRPORT LEASES.

(a) Findings.—Congress finds that—

(1) there are major airports served by an air carrier that has leased a substantial majority of the airport's gates;

(2) the commerce in the region served by such a major airport can be disrupted if the air carrier that leases most of its gates enters bankruptcy and either discontinues or materially reduces service; and

(3) it is important that such airports be empowered to continue service in the event of such a disruption.

(b) Bankruptcy Rules Regarding Unexpired Leases.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraphs:

"(5) Notwithstanding paragraphs (1) and (4) of this subsection, in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate before the occurrence of a termination event, then (unless the court orders the trustee to assume such unexpired leases within 5 days after the termination event), at the option of the airport operator, such lease is deemed rejected 5 days after the occurrence of a termination event and the trustee shall immediately surrender possession of the premises to the airport operator; except that the lease shall not be deemed to be rejected unless the airport operator first waives the right to damages related to the rejection. In the event that the lease is deemed to be rejected under this paragraph, the airport operator shall provide the affected air carrier adequate opportunity after the surrender of the premises to remove the fixtures and equipment installed by the affected air carrier.

"(6) For the purpose of paragraph (5) of this subsection and paragraph (f)(1) of this section, the occurrence of a termination event means, with respect to a debtor which is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate—

"(A) the entry under section 301 or 302 of this title of an order for relief under chapter 7 of this title;

"(B) the conversion of a case under any chapter of this title to a case under chapter 7 of this title; or

"(C) the granting of relief from the stay provided under section 362(a) of this title with respect to aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301), except for property of the debtor found by the court not to be necessary to an effective reorganization.

"(7) Any order entered by the court pursuant to paragraph (4) extending the period within which the trustee of an affected air carrier must assume or reject an unexpired lease of nonresidential real property shall be without prejudice to—

"(A) the right of the trustee to seek further extensions within such additional time period granted by the court pursuant to paragraph (4); and

"(B) the right of any lessor or any other party in interest to request, at any time, a shortening or termination of the period within which the trustee must assume or reject an unexpired lease of nonresidential real property.

"(8) The burden of proof for establishing cause for an extension by an affected air carrier under paragraph (4) or the maintenance of a previously granted extension under paragraph (7)(A) and (B) shall at all times remain with the trustee.

"(9) For purposes of determining cause under paragraph (7) with respect to an unexpired lease of nonresidential real property between the debtor that is an affected air carrier and an airport operator under which such debtor is the lessee of an airport terminal or an airport gate, the court shall consider, among other relevant factors, whether substantial harm will result to the airport operator or airline passengers as a result of the extension or the maintenance of a previously granted extension. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of actual use of the terminals or gates which are the subject of the lease, the public interest in actual use of such terminals or gates, the existence of competing demands for the use of such terminals or gates, the effect of the court's extension or termination of the period of time to assume or reject the lease on such debtor's ability to successfully reorganize under chapter 11 of this title, and whether the trustee of the affected air carrier is capable of continuing to comply with its obligations under section 365(d)(3) of this title.".

(c) Partial Assignments or Assumptions of Leases.—Section 365(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) such lease is of nonresidential real property under which the debtor is the lessee of an aircraft terminal or aircraft gate at an airport at which the debtor is the lessee under one or more additional nonresidential leases of an aircraft terminal or aircraft gate and the trustee, in connection with such assumption or assignment, does not assume all such leases or does not assume and assign all of such leases to the same person, except that the trustee may assume or assign less than all of such leases with the airport operator's written consent.".

(d) PROHIBITION OF LEASE ASSIGNMENTS AFTER TERMINATION EVENT.—Section 365(f)(1) of title 11, United States Code, is amended by striking the period at the end and inserting in lieu thereof the following: "; except that the trustee may not assign an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate if there has occurred a termination event.".

(e) AFFECTED AIR CARRIER DEFINED.—Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) In this section, 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds 65 percent or more in number of the aircraft gates at an airport—

"(1) which is a Large Air Traffic Hub as defined by the Federal Aviation Administration in Report FAA-AP 92-1, February 1992; and

"(2) all of whose remaining aircraft gates are leased or under contract on the date of enactment of this subsection.".

(f) APPLICABILITY.—The amendments made by this section shall be in effect for the 12-month period that begins on the date of enactment of this Act and shall apply in all proceedings involving an affected air carrier (as defined in section 365(p) of title 11, United States Code, as amended by this section) that are pending during such 12-month period. Not later than 9 months after the date of enactment, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation and Committee on the Judiciary of the Senate and the Committee on the Judiciary and Committee on Public Works and Transportation of the House of Representatives on whether this section shall apply to proceedings that are commenced after such 12-month period.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LENT. Mr. Speaker, reserving the right to object, I will not object, but I yield to the gentleman from Washington [Mr. SWIFT] for a brief explanation.

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Senate amendment clarifies bankruptcy procedures with respect to certain airlines and the distribution of their gates.

Mr. LENT. Mr. Speaker, further reserving the right to object, I thank the gentleman for that explanation.

Mr. GEPHARDT. Mr. Speaker, I rise in support of the rail safety legislation approved by the Senate earlier today. This legislation contains a provision allowing continued operations at Lambert Airport, a major hub, in the event of a suspension of operations at St. Louis by our primary air carrier.

Our first priority is for TWA to emerge from bankruptcy. The 26,000 dedicated employees are among the best in the world. In the midst of an enormous industry shakeout, we are all hoping—and working—to find a way to save this proud airline and the thousands of careers that are on the line.

In the event that we do not succeed, operations at St. Louis' Lambert Airport could be substantially reduced or suspended. The economies of several cities have suffered when airport gates have been held hostage at bankruptcy courts, and we cannot afford to allow that in St. Louis or other major hubs dominated by one carrier.

If operations halted and the gates were locked up in bankruptcy courts, the St. Louis traveling public, business people, tourists, and others, would be left with a 70-percent reduction in air service. Airline employees would be left with no possibility of new local employment.

This legislation does not affect use of the gates by TWA as long as it continues its operations. In its leases, TWA originally had agreed to return the gates to Lambert in the event of bankruptcy; this amendment simply allows the airport to regain the gates if operations cease. It is a safety net for our community.

This amendment is an important first step in ensuring that communities across the country have some control over their own destiny when major carriers suspend operations. I thank Chairmen BROOKS, ROE, and DINGELL for their support of this legislation.

Mr. LENT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

FOOD STAMP ACT OF 1977 AMENDMENT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 3001) to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. EMERSON. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Texas [Mr. DE LA GARZA] as the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I thank the distinguished gentleman for yielding to me.

Mr. Speaker, S. 3001 prevents a reduction on October 1 of this year in the adjusted cost of the thrifty food plan for food stamp recipients.

Current law provides that each October 1 adjustments must be made in allotments to reflect 103 percent of the cost, in the preceding June, of the most recent thrifty food plan as determined by the Secretary of Agriculture. This year is unusual in that for the first time food costs in the preceding June—June 1992—are such that allotments in October of this year would be below current levels.

The Director of the Office of Management and Budget has advised the chairman of the House Budget Committee, Congressman LEON PANETTA, that currently the pay-as-you-go balance is positive in fiscal year 1993 and that passage of S. 3001 at this time would not trigger a sequester under the Budget Enforcement Act. I am attaching a copy of Director Darman's letter to my statement.

Accordingly, I urge prompt passage of this necessary legislation.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 12, 1992.

Hon. LEON PANETTA,
Chairman, Budget Committee, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the House may act this week on S. 3001, Food Stamp Act Amendments, as passed by the Senate. This bill would prevent a decrease in food Stamp benefits for fiscal year 1993, as mandated by the current statutory formula.

OMB's preliminary review of S. 3001 indicates that the bill has a net pay-as-you-go cost in fiscal year 1993. Preliminarily, CBO agrees with this assessment. Based on legislation enacted to date, the current pay-as-you-go balance is positive in fiscal year 1993. This positive current balance is sufficient to offset the amount that OMB estimates to be the pay-as-you-go costs of S. 3001. If the House were to adopt the Senate-passed version of S. 3001 promptly, while the pay-as-you-go balance is positive, enactment of this legislation would not trigger a sequester under the Budget Enforcement Act.

With best regards,

RICHARD DARMAN,
Director.

Identical letter sent to Hon. Bill Gradison.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, I rise in support of S. 3001.

This is a bill to prevent a reduction in the adjusted cost of the thrifty food plan, and thus a reduction in benefits to food stamp recipients for fiscal year 1993.

The annual cost of living increases in the food stamp program are scheduled to take place every October 1 and are based on annual changes in the cost of food as of the previous June. This year the changes in the cost of food have gone down and therefore the thrifty food plan [TFP], the basis of the food stamp benefit, will go down. USDA is in the process of calculating the thrifty food plan since they have to notify States soon so that changes can be made by October 1.

According to the Congressional Budget Office, the cost of using the fiscal year 1992 thrifty food plan is $330 million. If this is measured against the February baseline there is a $265 million savings. However, CBO has decided not to use the February 1992 baseline for the fiscal year 1993 thrifty food plan.

The February 1992 baseline assumed a 1-percent cost of living allowance [COLA] at a cost of $265 million relative to no COLA. Actually there was a 1.3-percent decline in the thrifty food plan COLA for fiscal year 1993.

The Office of Management and Budget has forwarded a letter to the chairman of the House Budget Committee that indicates, as noted below, that passage of S. 3001 poses no problem for the pay-as-you-go balance and that its passage would not trigger a sequester.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 12, 1992.

Hon. LEON PANETTA,
Chairman, Budget Committee, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the House may act this week on S. 3001, Food Stamp Act Amendments, as passed by the Senate. This bill would prevent a decrease in Food Stamp benefits for fiscal year 1993, as mandated by the current statutory formula.

OMB's preliminary review of S. 3001 indicates that the bill has a net pay-as-you-go cost in fiscal year 1993. Preliminarily, CBO agrees with this assessment. Based on legislation enacted to date, the current pay-as-you-go balance is positive in fiscal year 1993. This positive current balance is sufficient to offset the amount that OMB estimates to be the pay-as-you-go costs of S. 3001. If the House were to adopt the Senate-passed version of S. 3001 promptly, while the pay-as-you-go balance is positive, enactment of this legislation would not trigger a sequester under the Budget Enforcement Act.

With best regards,

RICHARD DARMAN,
Director.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADJUSTED COST OF THRIFTY FOOD PLAN.

Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting before the period at the end the following: ", except that on October 1, 1992, the Secretary may not reduce the cost of such diet".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 3001, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. DREIER of California asked and was given permission to address the House for 1 minute.)

Mr. DREIER of California. Mr. Speaker, I ask for this time so that I might inquire of the extraordinarily distinguished majority leader about the schedule to be considered weeks and weeks and weeks in advance.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Obviously there are no more votes today. There will not be votes the rest of the week.

We will be going into an adjournment for the Republican National Convention and for district work period to come thereafter.

On Monday, September 7, the House will not be in session. It is part of the Labor Day district work period. Tuesday, September 8, again, the House will not be in session as part of the work period.

On Wednesday, September 9, and Thursday, September 10, the House will meet at noon on Wednesday and at 10 a.m. on Thursday.

□ 1650

We will have motions to go to conference expected on appropriation bills.

I would expect on Wednesday the first vote could be expected about 1 o'clock or 1:30 in the afternoon. There will be votes on motions to instruct conferees.

We will then be taking up H.R. 4394, the merchant mariners' documents, subject to a rule; H.R. 4484, Maritime Administration reauthorization for fiscal year 1993, subject to a rule; H.R. 4706, Child Safety Protection and Consumer Product Safety Commission Improvement Act, subject to a rule; H.R. 5754, Water Resources Development Act of 1992, subject to a rule, and H.R. 5231, National Competitiveness Act of 1992, subject to a rule; also, H.R. 2, the Family Medical Leave Conference Report is a possible matter for consideration during this two-day period.

On Friday, September 11, the House will not be in session.

Mr. DREIER of California. So Mr. Speaker, I would ask the distinguished majority leader then, Members should expect votes on Wednesday and Thursday, the 9th and 10th of September.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, that is correct, and possible votes into the evening on those two nights; no votes, obviously, on Monday, Tuesday, or Friday of that week.

Mr. DREIER of California. So it is safe for us to say that having cast the last vote for today, that we can all say to each other, "See you in September"?

Mr. GEPHARDT. Correct; to be precise, about 1 or 1:30 on Wednesday, September 9.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman very much, and I yield back the balance of my time.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 9, 1992, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 9, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 9, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONGRATULATIONS TO HOUSE PAGES

(Mr. EMERSON asked and was given permission to address the House for 1 minute.)

Mr. EMERSON. Mr. Speaker, I take this time to note that with the commencement of the August summer recess of the Congress, we will no longer see the current class of pages who are serving us here. When we return in September, there will be a new group for the school year.

I just wanted to commend those who have served during this early summer period for the work that they have done, for the fine service they have rendered to the House of Representatives, to wish on behalf of myself and I am sure all my colleagues our very best wishes to each and every one of them in their future endeavors.

Serving as a page in the House of Representatives is a wonderful opportunity. I know because I was one at one time. I found it to be the best single learning experience of my life.

I hope that the pages who are with us now have gleaned a lot from their service here in the seat of democracy and that it will serve them well all their years.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. I am glad to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, if you will look over my shoulder on both sides at the bright flashing eyes, I think you would agree with me that remarkable as it might sound, each class of pages, if this is humanly possible, becomes more brilliant and dedicated than the prior class. I have seen some outstanding classes of pages since I came here with MARY ROSE OAKAR in the great bicentennial class of 1976, but this is a particularly outstanding group, and I expect to see at least 50 percent of these young men and women back here, like this great ex-page, the gentleman from Missouri [Mr. EMERSON] back here serving with us, and I doubt many of us will be around then.

Mr. EMERSON Mr. Speaker, I ask unanimous consent to include at this point in the RECORD the roster of the pages who are currently serving in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PAGES—SUMMER, 1992

Allen, Marja Dominique; Bielawski, Nicole Marie; Bird, Rebecca Cristina; Borba, Andria Karla; Brewer, Jeremy Walker; Bushell, Brian Andrew; Callahan, Kathleen Marie; Coen, Thomas Francis; Czerwinksi, David Edward; Daugherty, Benjamin Brooks.

Donohue, Audra C.M.; Driscoll, Michael Edmund; Elliott, David Horrace, II; Feigenbaum, Daniel Marc; [1]Flack, Eric John; Fleischer, Michael Lowell; Goodale, Nicole Lynn; Grampa, Giovanna (Joanne); Hardeman, Thomas L., III.

Harrell Cheri Renee; Hennessey, Michael Evan; Hertel, Heather Katherine; Hooge, Joshua Steven; Jaszczak, Renee Theresa; Jones, Carrie Elizabeth; Kahn, Joseph Marion; Kamin, Maria Linda; Keeling, Alexandra Halik; Kelleher, Brendan Patrick.

King, Julie Lynn; Kinkor, Kevin; Knautz, Elizabeth Anne; Lanaux, Christopher Thomas; Leahy, John Francis, IV; Lieber, Stephanie Joy; Lipper, Julie; [1]Malon, Brett Christian; Mayo, Christine Robb; Mayo, Julie Lynne.

Midgley, Juliet Christine; Moretz, Michaele Grace; Nieh, Cornell Ho; Ochshorn, Sivan Annabelle; O'Neill, Susannah Julie; [1]Paul, Michelle Wetter; Powell, Doshey Lynwood; Rivas, Monica; Rubin, Samuel Adam.

Russo, Alexander Patrick; Sartini, Chad Christopher; Scott, Shelley Renee; Sexton, Todd Joseph; Smooke, Ellen Joy; Stabenow, Todd Dennis; Strauss, Catherine Louise; Sundy, Robert.

Thrun, Ryan William; Tommasi, Paul Joseph; Topodas, Dean Themistocles; Walling, Heather Lynne; Willis, Kara Michelle; Wilson, Tameka Renne; Zifkin, Hillary Rose; Zimmerman, Leah Rea.

[1] Served in 1st term also

REPUBLICAN PAGES

Marc G. Barenbert, Christian Early Brown, John Thomas Curlett, Nicole Andrea Doucette.

Elizabeth Buchanan Edison, David Kirkham Evans, Atticus James Gill, Chris George Goemans, Virginia Katherine Hawkins, Shannon E. Holbrook, Morgan Webb Jones.

Demetrios L. Kouzoukas, Claire Catherine Lauderdale, Katherine V. McMaster, C. Brook McShane, Frederick Andrew Messing, III, Carrie Allison Patton, Abraham Nathaniel Saiger, Clovis L. Thorn, Lisa Marie Wanaske.

GENERAL LEAVE

Mr. EMERSON. Mr. Speaker, I ask unanimous consent that all Members may have whatever time is necessary to revise and extend their remarks on the subject of my 1-minute speech on the pages today, because I know some Members who are not here may wish to have something to say.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore. (Mr. MONTGOMERY). The Chair lays before the House the following message from the Senate:

The Clerk read as follows:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Wednesday, August 12, 1992, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon, or until such time as may be specified by the Majority Leader, or his designee, in the motion to adjourn or recess, on Tuesday, September 8, 1992, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on the legislative day of Wednesday, August 12, 1992, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand adjourned until 12:00 noon on Wednesday, September 9, 1992, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and the House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

MANIPULATION OF REPORTS FROM YUGOSLAVIA

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks).

Mrs. BENTLEY. Mr. Speaker, time after time I have urged the Congress to be careful in its approach to the civil war in Yugoslavia. We have little reliable intelligence about what is occurring over there, and remembering how we were manipulated in Kuwait with the horror story about babies being taken out of incubators, left to die by Saddam Hussein's soldiers, a lie run past us by a Washington PR firm, we must question all reports.

A featured photo in Newsweek and on the front page of the New York Times of August 7, may be just another example of this type of waging war.

Note, I say only that it is possible, because yesterday I spoke with a Serbian woman living in Vienna, Austria, who claims that the emaciated man called a picture of brutality by the Times and described as a prisoner of Serbian forces in Bosnia is her Serbian brother.

It is a possibility that someone might resemble her brother, Slobodan Konjevic, but in the films shown on CNN in Europe, she identified another brother, Zoran, in another group.

It is difficult to believe that she, her mother and her sister, could be mistaken on both. If she is correct, then why are two Serbians being identified as prisoners of Serbian forces in an internment camp? She desperately wants to get in touch with her brothers and is begging reporters who were there to find them for her.

I believe we need to know just what is going on and which camp is which.

Mr. Speaker, I include the following article:

SPIN DOCTORS OF WAR

It would have been perhaps the worst atrocity so far in a war where horror follows on horror: Serbian irregular snipers paid the equivalent of 300 pounds for every child-kill they achieve. The story was related by Steve Watt, a volunteer aid worker.

"They target the children," he said, "because of the money and because they are easier to kill. With their small size, the bullets make a bigger mess."

Mr. Watt's words were transmitted—along with his claimed statistic for 11,000 child injuries from gunshot wounds and some 400 child-deaths—on Sunday, the BBC's morning radio news service, The World This Weekend and, perhaps most importantly, on News Hour, the World Service flagship news programme the following day. They were thus read into the record for a potential English language audience of 300 million listeners worldwide.

And the story is almost certainly not true. No one imputes any ulterior motive in Mr. Watt's relating what he had been told by Croats and Bosnians in his brave journey in a truck convoy on the road to Sarajevo; but one does have to question the BBC's editorial judgment in the manner of its transmission.

Like many others of its genre, this story had it origins in Bosnia-Hercegovina, but owes more than a little in its passage to Croat/Bosnian, and now international, folklore to the outpourings of a PR company's fax machine in Washington, DC.

While origins of atrocity stories are frequently difficult to discern in war, the history of this one, unusually, can be traced. It first gained its credence in the Croatian media and, like many others from both sides of the conflict, it has little or no first-hand substantiation.

It made an appearance in an article written by Irtse Zortic, a Bosnian Muslim journalist working for a Croatian newspaper, the contents of which were subsequently repeated in other Coatian newspapers and formed part of a news broadcast transmitted by Radio Croatia International.

The service, which peppers its broadcast with items of blatant propaganda passing as "news", is treated with disdain by the western media. But like all international broadcasts, it is monitored by the BBC at Caversham, whose operators hear its other favoured subjects—Serbian salt mines operated with Croat and Bosnian slave labour and Kurdish militia fighting, for huge sums of money, for the Serbian cause.

The Caversham monitors record important information from the airwaves in the Summary of World Broadcasts. One said recently: "Frankly, much of what we get from all sides in this conflict is unusable, useless. Unless it is a speech or something like that, it usually finds it way to the bin." Which is what happened to Zortic's story.

Zortic stands by his story, but admitted last week that he was given it by the Croatian Information Ministry, in a private interview, and that he made no further checks. "Who could I ask?" he says. "You can't expect us to ring them [the Serbs] and believe them when they say it isn't true." But the tale, which is so widely accepted as fact in Croatia as to be described as an "old chestnut" by a senior western journalist covering the Yugoslav conflict, owes much to an earlier communication from the fax machine in the offices of Ruder and Finn in Washington.

Last week, Rhoda Paget from the company admitted to assisting in disseminating the "Cash for a Corpse" story. "We were told it by a minister in the Croatian government. We merely informed them of its importance and have never checked its honesty. Neither do we have the resources to do so. Frankly, it's just not our job. It's the journalist's job to check them out . . . but it came to notice by a surprising route." Rudder and Finn's "job" is to handle the PR account for the governments of Croatia and Bosnia-Hercegovina at a cost of US$18,000 (£9,700) a month, while British lobbying company, Ian Greer Associates, act in a similar regard "on behalf of Serbian interests", their undisclosed fee paid by a "syndicate of Serbian businessmen".

According to John MacArthur, publisher of Harpers magazine, and author of a book, Second Front, on the subject of public relations and propaganda in the Gulf war, it is the American company that is currently doing the better. "The relative success of these companies in getting horror stories into print is critical to the setting of the international political agenda," he says. "They affect votes in both the Security Council and the Conference on Security and Cooperation in Europe by altering the mind-set of an electorate who would never dream of reading a UN resolution. They establish the conditions which make it possible to be involved in a war."

MacArthur points to the success of PR company Hill and Knowlton in promoting the "Dead Kuwaiti Babies" story, in which Iraqi troops were alleged to have taken Kuwaiti babies out of their incubators and left them to die on the hospital floor. The story relied on the testimony of an eye-witness who subsequently gave televised testimony to the Congressional Human Rights Caucus. The "eye-witness" was subsequently revealed to be the daughter of the Kuwaiti ambassador to Washington who had been "told" about the killings by witnesses who have never since been produced.

"If this had been known at the time," John Edward Potter, senior Republican on the caucus said, "she would have not been allowed to testify". But the story of the story was not published until January this year, nine months after the end of Desert Storm. "Nayirah's testimony was critical for establishing the conditions where the American public would accept the deaths—any death—of their own,' says MacArthur. "It is ironic and immoral that such changes should have brought about misinformation, perhaps even a downright fake."

According to Tom O'Sullivan, a journalist at PR Week, both Steve Watt's and Nayirah's testimony provide what is called in PR-speak, "a classic third-party endorsement", although Nayirah's was not revealed as such at the time. A story is told, someone else retells it and in the retelling it often gets embroidered. Watt says he was told the child-killings story on the road in Sarajevo and has no first-hand knowledge. That means the real, true story is that someone, preferably English or an English speaker and a non-combatant, believes in its authenticity. "But the listener doesn't take it in as hearsay—instead they hear it as recorded fact," says Sullivan. "You could argue, that is what the PR industry is all about."

According to an executive at Hill and Knowlton who, although not acting for any Balkan interests, refused to be named, the fact that Croatia is not subjected to any embargo, even for weaponry, while Serbia faces sanctions, may itself be due to better PR. A recent investigation of reported atrocities showed that the number of substantiated incidents was similar, four perpetrated by Serbs, two by Croats, one by Muslims, and two by Muslims and Croats together.

John Kennedy, a Conservative parliamentary candidate at the last election, now a PR consultant with Ian Greer Associate who has worked on the Serbian account, says that the Serbian government in its support for Serbian irregulars is "faced with losing battles on the second (propaganda) front precisely because they have been winning the war. The public relations defeats do not bother the fighters, of course, but they have an indirect effect on their ability to prosecute their war."

Mr. Kennedy, usually labelled by BBC radio—and without further qualification—as "an expert on Serbian affairs", feels Greer's way is more subtle than that favored by the American companies, "We use the press," he said "but it is behind the scenes lobbying, and the use of governmental opinion to sway international governmental opinion where we are the most effective. The Serbs will now have more opportunity for pressing their cause. Milan Panic, prime minister of the rump Yugoslavia, numbers Lawrence Eaglesburger, U.S. assistant secretary of state among his closest friends.

FIFTIETH ANNIVERSARY OF BATTLE OF SAVO ISLAND

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, before we all leave on this extended very hard work break, I want to take advantage of this moment to do something that I was unable to do Friday because the House was not in.

The longest heroic struggle in the history of the United States, a battle that raged for 6 months and 2 days, started last Friday, 50 years ago, on August 7, and concluded when the remaining several thousand Japanese troops escaped from Submarine Point on the Island of Guadalcanal, Cape Esperanz, in the first week of February 1943.

There are at least eight good books published on this battle of Guadalcanal, from "Guadalcanal Diary," published by a Marine correspondent, Richard Tragaskis, back during that period that was made into a popular cultural Hollywood movie at that time, right down to some definitive works published within the last 3 years.

Mr. Speaker, this struggle, hand-to-hand combat on Bloody Ridge, the worst naval defeat in history of 50 years ago on the 9th of August at Savo Bay, the comeback of our forces in this long struggle in that dark year of 1942 when we began the comeback.

I would recommend to the great historian, the gentleman from Massachusetts [Mr. DONNELLY], that during this break the gentleman from Massachusetts read one of the these Wake Island books or one of these Guadalcanal books and with the rest of my colleagues be motivated about some of the rough moments in this campaign year. It looks like we are never going to be able to work our way out of the red ink and massive debt in this Congress.

□ 1700

Believe me, 1942 is the year to inspire any American woman or man, any young person. We are Americans. We can accomplish anything.

Remember Guadalcanal. The 50th anniversary goes on for the next 6 months.

PERMISSION FOR SPEAKER TO EXTEND HIS REMARKS IN THE RECORD

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that the Speaker be permitted to extend his own remarks in the body of the RECORD, and to include therein extraneous material.

The SPEAKER pro tempore (Mr. ENGEL). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent to vacate the 5-

minute special order of the gentleman from Indiana [Mr. JONTZ] for today and that the gentleman be recognized for a 60-minute special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

WELCOME TO TAE KWON DO, MR. SPEAKER

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LIVINGSTON. Mr. Speaker, today I would like to commemorate a development sure to have a profound effect on the future of our great Nation, and especially to our deliberative process here in the people's House of Representatives.

My colleagues, our distinguished Speaker himself, the gentleman from Washington [Mr. FOLEY], has signed up for a greater ability to fight back when under assault from his political adversaries. If he is not getting enough kick out of his job today, he will soon, for our Speaker has recently joined the Tae Kwon Do class taught by the distinguished master, Jhoon Rhee.

As one who has studied under Master Rhee for the last 14 years, I can confirm that this development augers well for a more robust House leadership, one that will chop right through the unnecessary obstacles.

As chairman of Jhoon Rhee's Tae Kwon Do class, I welcome the Speaker to our ranks, and I am confident that our Members are all eager to demonstrate their punching and kicking skills on—for him.

[From the Washington Times, Aug. 12, 1992]

JHOON RHEE: STILL KICKING UP A STORM AT AGE SIXTY

(By Cesar G. Soriana)

When he was 6 years old in his hometown of Suwon, South Korea, little Jhoon Rhee was beaten up by a very precocious 5-year-old girl. His mother was so humiliated that she spanked him.

The incident, he says, was the turning point in his life. There was no martial arts school in Suwon, but he began lifting weights. At 13, he moved in with his uncle in Seoul and began training with Master Won Kooklee at the Do Kwan School next door.

Today at age 60, the man who introduced Tae Kwon Do to the United States says his life and dreams have only just begun.

Grandmaster Rhee—who holds a 10th degree black belt, the most elite level of martial arts expertise—has been a familiar name to Washington with his chain of Jhoon Rhee Tae Kwon Do centers. After a stint in the South Korean army during the Korean War, Mr. Rhee came to the United States with $46 in his pocket and opened his first studio on K Street NW in 1962.

His goal of teaching the ancient martial art to America began when he was 13 and sneaked into a theater to watch American movies. "Right then, I decided I was going to go to America, marry a beautiful American blonde and open two Tae Kwon Do studios."

His dreams grew beyond expectations. Since 1965, he has been married to Han Rhee from his native Korea. His Tae Kwon Do empire has grown to 60 studios in the United States, 12 of those in the Washington area, plus another 65 studios in the former Soviet Union that popped up in less than three years.

"Communism was perfectly prepared for my message," he says, noting that Russians have long lacked entertainment and that martial arts had been banned by the Communists.

Still, he is not satisfied. Dreams, like life, he says, grow. His goal now is to establish 1,000 studios in the United States and another 1,000 in the Commonwealth of Independent States—to match the digits in his studios' familiar USA-1000 telephone number.

By his own reckoning, Mr. Rhee will have plenty of time to complete his goals. He plans to live to be 136 years old after watching a Soviet woman on "60 Minutes" who was 135 years old. "If she can do it, I can do one more," he explains.

Mr. Rhee exercises 90 minutes every morning and 30 minutes before bed. He completes an amazing 1,000 push-ups a day and eats only fish, vegetables, fruits and an occasional injulmi, a Korean rice cake.

During an interview in the Smithsonian's administrative offices, Mr. Rhee interrupts to demonstrate his flexibility. Dressed in a full suit and without warming up, he sits on the foor and, doing the splits, leans forward and touches the carpet with his forehead. "I couldn't do this when I was 53," he says.

Mr. Rhee's message stresses personal and mental growth alongside physical strength in Tae Kwon Do, the Korean form of martial arts. Tae Kwon Do is similar to the Japanese discipline of karate, but with emphasis on the feet rather than the hands. "In martial arts, without a philosophy, it's just street fighting," he says.

Six years ago, Mr. Rhee integrated Tae Kwon Do into the academic programs at six elementary public schools in Southwest Washington. Twice a week, he volunteers his time to teach children self-defense and philosophy, stressing his two basic disciplines: standing at attention to develop listening skills and bowing to gain "a sense of respect for teachers, parents and self." He is also working to develop a student exchange program between his District students and Russia.

The White House acknowledged his program in March when he was awarded the 721st "Point of Light" by President Bush. Congress also appropriated $43,000 to continue his program in area schools.

"My ultimate goal is to change young people's discipline. . . . In order to be happy you must have a discipline," he says.

Mr. Rhee credits his knowledge of discipline and philosophy to his extensive religious training. During his life, he has joined and studied the Catholic, Methodist, Unification and Middle Eastern Bahaism religions.

"I came to the conclusion that God is within me, within every human heart," he says.

For the past 27 years, Mr. Rhee also has been teaching Tae Kwon Do three times a week on Capitol Hill, where he has had more than 100 lawmakers as students. His newest student is House Speaker Thomas Foley.

"He is in very good shape," Mr. Rhee says of the Washington Democrat. "If he keeps it up, he'll be black belt in no time."

At his two-hour seminar tomorrow night, sponsored by the Smithsonian Resident Associate Program, Mr. Rhee hopes attendees will go away with a sense of his philosophy, which he calls "happyism."

"How would you like to be 100 years of wisdom in an 18-year-old body?" he asks. "I decided I was going to live my life as an example of how everyone should live: with knowledge in the mind, honesty in the heart and strength in the body."

A SHOCKING STATISTIC FROM DADE COUNTY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, this week the Florida Office of Health and Rehabilitative Services presented a shocking statistic.

One out of every 40 residents of Dade County, FL, is already infected with the AIDS virus. As many of you know, Dade County is home to one of America's beautiful and thriving cities—the city of Miami.

According to researchers at the University of Miami, there are several distinct subepidemics of HIV infection moving independently among gays, intravenous drug users, the homeless, heterosexual immigrants, women, and different racial or ethnic groups in Dade County. These cases all show distinctly different patterns, making them difficult to treat.

Mr. Speaker, this proves just how rapidly the AIDS virus is spreading. Just 12 years ago we would have been hard pressed to find 1 Dade County resident in 40 who knew what the AIDS virus was. Now 1 in 40 has it.

This is a tragedy and displays the seriousness of this dreaded disease.

HRS: ONE IN FORTY DADE DWELLERS HIV INFECTED

(By Linda Roach Monroe)

One out of every 40 residents of Dade County is already infected with the AIDS virus, the Florida AIDS office estimates.

And what's behind that figure, says a University of Miami epidemiologist, are several distinct sub-epidemics of HIV infection moving independently through different groups in the county.

Because a different AIDS prevention strategy is needed for each sub-epidemic, it will be harder to cope with an overall epidemic that is one of the fastest-growing in the country, say state officials.

AIDS cases among gays, intravenous drug users, the homeless, heterosexual immigrants, women and different racial or ethnic groups all show distinctly different patterns, says James M. Shultz, director of medical-student teaching in the UM epidemiology department.

Taken together, the new AIDS cases could mean $3.4 billion in additional costs for treatment over the next decade or so. Health officials estimate that an AIDS patient's care costs about $85,000 from the time of diagnosis until death.

The 1-in-40 HIV infection estimate was made by Spencer Lieb, a state Health and Rehabilitative Services official, at the request of the Dade HRS, which is trying to develop a strategy for coordinating AIDS efforts in the county.

The figure is based on a 1990 HRS estimate of 120,000 adults infected with HIV, the AIDS virus, in Florida. About a third of all diagnosed AIDS cases in adults are in Dade County. Therefore, Lieb says it's reasonable to expect that a third of the HIV infections also are in Dade—or 40,000 infections in a county of 1.6 million.

DIFFERENT RISKS

Lieb agreed that there are dramatic differences in the risk of HIV infection in different groups of people, particularly in Dade County.

In his unrelated analysis of federal AIDS figures, UM epidemiologist Shultz found that among non-Hispanic whites there are 14 men with AIDS for every woman with the disease. Among Hispanics, the ratio is slightly lower, 18 men for every one woman. But among blacks the ratio is 2 to 1, primarily because of intravenous drug use and heterosexual activity with drug users, Shultz says.

"Unlike San Francisco where—you have most of your AIDS cases in one or two categories—those involving male-to-male sexual contact—Miami has multiple sub-epidemics that are raging sub-epidemics in different geographical areas," Shultz says.

"What you see is what appears to be steady possibly declining numbers of cases in the homosexual/bisexual category," he says. "But the two pieces of the heterosexual epidemic are behaving completely differently.

"There has been a steady increase in the heterosexual cases among American-born people, from 3 percent to 9 percent since about 1984," he says. "But the numbers of heterosexual cases among immigrants from high-incidence AIDS countries have, if anything, stabilized in terms of total numbers and declined in terms of percentages of the overall AIDS cases."

"That is especially troubling because we're dealing with different behavioral and geographic and cultural aspects," he says.

"It's complicated because different groups have different stereotypes about aids," says Anita Bock, deputy district administrator for HRS in Dade.

"When we put together an education/prevention program, we have to be sensitive to the needs of each community."

LITTLE COORDINATION

Publicly funded AIDS education and treatment in the county already totals about $17 million a year, says Richard Stevens, in charge of HIV/AIDS planning for the Health Council of South Florida.

Currently, there is very little coordination in spending that money, so the county isn't very well prepared for another 40,000 AIDS cases, Stevens says.

"We have a long ways to go before we get a unified group," he said. "It's been ignored. And so it's just been the blind leading the blind, in terms of meeting the service demands. It's in disaray."

A COURSE IN BUSHONOMICS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise this afternoon to draw attention to a new course being offered here in Washington, and it is called Bushonomics, and it is a course about how to create jobs everywhere else in the world but in the United States.

And there is a pattern to it.

Let us start with China, a very low-wage country, and let us talk about quilts. Yes, quilts. The National Quilting Bee exhibition is being held in Bowling Green, OH, this weekend, in my district, but the Bush administration has allowed the Smithsonian Institution to sign a licensing agreement with American Pacific Enterprises, Inc., to produce most of their quilts for us in China. Ironically the designs are for the American Heritage series of quilts.

Now we are talking about 3,000 to 4,000 quilts a month. This is not small business. How about that? United States reproduction quilts being sold and licensed out by our Smithsonian Institution in our Nation's Capital, contracted out to China.

The President did nothing about it.

Now let us turn to Mexico. Today the President made it official. The Bush administration has cast aside the interests of the citizens of the United States, of Mexico, and of Canada to get a quick deal on the North American so-called free-trade agreement that they have been negotiating. He announced that deal today, but just in time for the Republican Convention.

The Bush administration would like us to believe that this proposed agreement will create jobs in the United States, but that simply is not true. Although United States exports to Mexico have risen rapidly since 1986, it is also the case that United States imports from Mexico have been rising almost as fast. This occurs because the vast majority of United States exports to Mexico are capital goods and components, not consumer goods being bought by average citizens in that country. The goods we are sending over there are being used mainly to produce goods there that are then exported back to our country. They are not being sold to Mexican consumers.

Thus, U.S. jobs are really displaced, not created, and we know that real job growth is generated by increases in net exports; that is, the excess of things we send to another country versus what they send in here, not by exports that turn around and come back as manufactured goods a few months later.

In effect, Mr. Speaker, what we have going on right now is the incredible situation of unemployed workers in our country buying with their unemployment checks imported goods coming from China, coming from Mexico, made by workers who earn so little that they cannot even earn enough to buy what they make themselves. That is what Bushonomics gives us.

Mr. Bush would also like us to believe that a free trade agreement with Mexico will create more and better jobs in the United States. I would ask, "Haven't we heard that one?" But the record shows that the workers in our country displaced by trade are more likely to move down the job ladder to lower paying jobs or move off the ladder to permanent unemployment, not up the ladder to better jobs than they started with.

For example, in the apparel industry alone nearly half of the workers laid off during the 1980's have not found new jobs, and of those who were not reemployed, two-thirds were no longer even in our labor force. Is it any wonder we have homeless on the streets of cities like New York where over 500,000 workers in this country have been displaced out of our garment industry?

My State of Ohio has already lost 100,000 jobs to Mexico. I sometimes wonder if anybody here in Washington really cares. My district's unemployment rate is stuck now at double-digit levels, and every manufacturing plant in my home community of Toledo, OH, that has a plant in Mexico has either closed down entirely or moved large shares of its production to Mexico.

In order to understand what large scale job transfer to low wage Mexico means to average American workers who suddenly find themselves competing with one dollar wages, I want to tell my colleagues about a plant that has closed in my home community. Dura Mechanical Components has been the latest. It announced in May of last year, 1991, that it was shutting down its Toledo plant. Now the workers at this company produce window regulators and door hinges for the automotive industry. The remaining 140 hourly workers employed by this company lost their jobs. I mention this particular plant closing because Dura has a plant in Matamoros, Mexico, where workers earn under $1 an hour. Not surprisingly Dura transferred its production to Matamoros, Mexico.

So, I want to tell my colleagues the story of Mr. Gary Schondel, a former employee of Dura in my community.

□ 1710

He is 56 years old and was employed at Dura Corp. since 1952. He was laid off in March of this year permanently.

During his career at Dura he learned a number of skills and worked as a material handler, a die cast machine operator, a production worker, a cold header operator, a timekeeper, a foreman, and a shipping clerk. Mr. Schondel was versatile and flexible, and he was dependable. He came to work decade after decade.

But in 1987, Mr. Schondel noticed the company was starting to ship parts to Dura Mexico. The parts were assembled in Mexico and returned to Dura Toledo to be relabeled and shipped to various customers.

After a period of time, the parts that were assembled in Mexico were shipped directly from Mexico to other customers, and during this time Dura employees took a pay cut of approximately $1.50 an hour while receiving at the same time top quality ratings from Ford Motor Corporation and also the highest rating from Chrysler for excellence in production.

Dura employees were told that the Q-1 rating would help them bring in new jobs, but instead their jobs were shipped out to Dura's plant in Mexico.

Mr. Schondel earned $10.70 per hour when he was laid off from Dura. Now his job will be performed for $1 an hour in Mexico. He was paying $40 a month for health insurance. Now that he has been laid off, he is without health insurance unless he pays $510.15 a month for the same coverage. His wife was also laid off from Dura Toledo after working there for 13 years. Now both husband and wife collect unemployment checks when they want desperately to be working.

This compelling testimony is just another example of what will happen under this NAFTA agreement. I urge my colleagues and I urge the American people to think twice about the implications of a North American Free Trade Agreement negotiated by the Bushonomics team. So far their record on jobs in the USA is abysmal.

SEXUAL TRAUMA SERVICES IN THE MILITARY—ABOUT TIME!

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, this has been a summer of painful revelations about sexual violence in the military. From Tailhook to Tomcat, the military's best kept secret—is now out in the open. Five percent of all service women have suffered some form of sexual violence—from rape to assault. This could be as many as 60,000 incidents.

Today, with the support of many of my colleagues, I am introducing two bills to stop sexual violence in the military and provide victims of sexual violence with the best care possible. The first bill expresses the sense of Congress that sexual harassment is intolerable. It says that the military must reevaluate its educational programs in order to prevent sexual violence and create protections to help sexual assault victims come forward. Furthermore, the military must devise effective investigation and punitive procedures.

The second bill, which Senator ALAN CRANSTON first introduced in the Senate, the Women Veterans Health Programs Act of 1992, enables veterans, who are victims of sexual violence in the military, to receive priority care for sexual harassment as a service-related disability and sets up a toll-free number for confidential counseling. Furthermore, the bill mandates periodic reports on sexual trauma services at the VA and incident rates throughout the services.

All summer we have been hearing a lot about sexual violence in the military. Now it is time to do something about it.

Set forth below is the summary of the bill.

WOMEN VETERANS HEALTH PROGRAMS ACT OF 1992

TITLE I. SEXUAL TRAUMA SERVICES

Permits veterans who are survivors of sexual violence in the military to receive service-related disability priority treatment for Post-Traumatic Stress Disorder (PTSD) as a result of sexual trauma.

Allows VA Medical Centers to contract out for sexual trauma services.

Creates a 24 hour toll-free number, run by the VA, for confidential counseling and information on sexual violence.

Requires the VA to provide information about sexual trauma services to personnel separating from the military.

Mandates periodic reports on sexual trauma services available at the VA, the needs of sexual violence victims, and sexual violence sensitivity training for VA staff, as well as additional reports to assess the quality of sexual trauma services at the VA.

Makes sexual trauma services available for both female and male victims.

TITLE II. HEALTH CARE FOR WOMEN VETERANS

Mandates comprehensive women's health services at VA medical centers, including care for general reproductive health, menopause and Post-Traumatic Stress Disorder.

Allows VA medical centers to contract out for additional women's health care needs.

Expands research agendas on women's health as it relates to female veterans, including general reproductive health, gender specific cancers, mental health and aging.

Grants Women Veteran Coordinators and Regional Women Veterans Coordinators and the Advisory Committee on Women Veterans access to support services and resources to better meet the needs of women veterans.

Requires periodic and detailed reports of women's health services at the VA, status of the research on the health of women veterans, and quality assessment of such programs.

AUTHORIZATION

Authorizes $1.5 million for such programs in 1993, $2 million in 1994, and $2.5 million in 1995.

PUTTING FAMILIES IN FOCUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, last month at the Democratic convention, Governor Clinton said he wants an America where "family values live in our actions, not just in our speeches"; the Governor of Arkansas invited everyone to "come on down * * * come to Arkansas" to take a look at what they have done.[1]

THE CLINTON FAMILY RECORD: THE RHETORIC VERSUS THE REALITY

A close look shows that after almost 12 years as Governor with a Democrat-controlled State legislature, solidly in his court, the statistics on family well-being in Arkansas are among the worst in the Nation. Arkansas actually has one of the Nation's worst records for child death rates, teen violent death rates, percent of children in poverty, percent of minority children in poverty, and percent of children in single-parent families.[2]

According to a bipartisan study by the Anne Casey Foundation published in the "Kids Count Data Book," Arkansas ranks 45th in the Nation for the well-being of children.[3]

Since 1980, the percentage of children living in poverty rose 18 percent amounting to 27 percent of children in Arkansas living in poverty, over 7 percentage points higher than the national average.[4]

The percent of low birthweight babies was 9 percent worse in Arkansas in 1989 than in 1980. Overall, Arkansas ranks 49th out of the 50 States and the District of Columbia in this statistic on family well-being.[5]

The percentage of children living in single parent families was 35 percent worse in Arkansas by the end of the Clinton decade; ranking Arkansas 42d in this statistic.[6]

Arkansas also has a record number of teen violent deaths which is approximately 30-percent higher than the national rate and ranks 47th in the Nation in this statistic on family well-being. These figures have skyrocketed in recent years.[7]

In another national study, child abuse and neglect was shown to have increased in Arkansas by 22.7 percent between 1982 and 1987. This increase is almost 10-percent higher than the national average and of 35 States reporting child abuse and neglect data between 1982 and 1987, Arkansas had the fourth highest increase in reported abuse and neglect.[8]

Bill Clinton claims he knows how to make change happen and help families. But are these the kind of changes we want to see throughout the country? I don't think this is the kind of change that Americans want nor are these the areas in which most Americans want to be in a leading role. And when Governor Clinton was appointed as a member on the bipartisan National Commission on Children, chaired by Senator ROCKEFELLER, he never attended even one meeting in over 2 years and he was the only member who failed to vote on the final report. Is this the concern we want from a man who would lead the Nation in renewing family values?

Additionally, according to a survey of recent census data done by a group Bill Clinton is well acquainted with—the Children's Defense Fund—his wife, Hillary Clinton was a board member, of black children under 18 years of age, 52 percent live below poverty—this ranks Arkansas 47th in terms of keeping

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Footnotes at end of article.

black children out of poverty.[9] Just to give you a comparison, in Washington DC, 29.1 percent of black children live in poverty and in New York, the level is 34.1 percent and the national average is 39.8 percent of black children living in poverty.[10] Obviously all of these statistics are far too high, but Arkansas consistently comes in at the bottom of the barrel.

And all of this has occurred while the number of people on Government welfare has increased twice as much in Arkansas as in the country at large.[11] More than a fourth of all residents in about half of Arkansas' 75 counties, including Pulaski County that includes Little Rock, are eligible for welfare programs and Medicaid. Mr. Dodridge Daggett, a lawyer in Arkansas who heads Lee County's Child Support Enforcement Unit states, "We've developed a society that knows nothing other than 'I live on welfare.' "[12] In Mr. Daggett's area, more then 55 percent of the population receives food stamps and other welfare benefits.[13] With these kinds of returns of Bill Clinton's investments the only kind of change families can expect from Clinton is spare change.

Is this the kind of welfare system that Mr. Clinton thinks works? U.S. News & World Report in a story on Clinton's 1989 Project Success reports that since it began in 1989: welfare rolls in Arkansas have grown by 12 percent; only 4,092 of the 26,858 families required to enroll in a job program had done so; and even though Governor Clinton has said that "welfare reform works if you implement it vigorously and apply sanctions to enforce it," officials brought an average of just 203 cases to court a month during 1991, less than 1 percent of those on AFDC.[14] And U.S. News also points out that the one modestly successful program that Clinton has taken credit for, actually was started in 1982 during the Republican administration of Gov. Frank White.[15]

In the troubling area of the high number of teenager bearing children, Bill Clinton claims to have passed initiatives to reduce teen pregnancy. The programs he has been promoting are by his own admission, controversial.[16] But what are the results? In Arkansas, the births to young girls 15 to 17 has actually been steadily increasing since 1985.[17]

And while Clinton says he is the person to develop a world class education system, the results of Clinton's educational reform put Arkansas at the bottom of the class. The Clinton administration increased administrative costs by 15 percent, despite fewer students over the past decade and the ACT scores for high school students in Arkansas actually declined.[18] In 1979, the State ranked 20th of 28 States that primarily use the ACT college entrance test; 10 years later the State fell to 25th.[19] And three out of every four high school graduates must take remedial courses as college freshmen, twice the national average.[20] While Clinton blames Arkansas' persistent low standing nationally on decreases in Federal funding, Arkansas has ranked seventh in Federal expenditures as a percentage of school revenues and between 1983 and 1992, Federal spending for Arkansas education increased 34.5 percent.[21] Even the "Almanac of American Politics" notes of Governor Clinton's reforms, "By the beginning of the 1990's, these reforms had not shown their intended effects."[22]

Public protection and safety—an important issue for children and families—has also faired poorly in Arkansas. While crime increased 11.7 percent nationally between 1980 and 1990, it exploded in Arkansas at a rate of 55.1 percent,[23] Yet Arkansas spent the second lowest amount on police protection per capital in 1988–89 according to the Department of Justice Sourcebook of Criminal Justice Statistics.[24]

And in a State where 54 percent of the Government employees are women, what kind of work and family policies for State employees has Governor Clinton put in place compared to the Reagan and Bush administration?

Arkansas State employees (Clinton) versus Federal Employees (Bush)[25]

Telecommuting No policy. Agencies allowed to pay expenses for flexiplace telecommuting initiatives.

Job sharing: No policy. Money for OPM to help Federal workers to job share.

On-site child care: No policy. Ninety-one on-site centers for Federal workers at agencies throughout the country including an onsite center at the White House.

Leave sharing: No Policy. Almost every agency has established leave sharing so seriously ill employees can receive donated leave from coworkers.

Resource and referral for child care: No policy. Agencies participate in resource and referral.

Yes, Bill Clinton has had an opportunity for more than a decade to put his vision into action in the company of an overwhelmingly democrat controlled State legislature. Unlike President Bush who has had to battle with a Congress constantly philosophically opposed to his programs, Bill Clinton has been above to work continually with a legislative body controlled by his own party. He has had the privilege of putting his vision into action and these are the results.

THE REAGAN AND BUSH ADMINISTRATIONS: REAL CHANGES FOR REAL FAMILIES

On the other hand, even in dealing with a hostile Congress—the Reagan and Bush administrations have presided over many family friendly initiatives which Bill Clinton has not even registered on his policy screen. Under Reagan and Bush family friendly initiatives such as Government sponsored telecommuting projects that allow parents or disabled workers to work from home using computers and faxes, a Federal job sharing initiative that allows, for example, two mothers to share one full-time job; a leave sharing program that allows coworkers to contribute to a leave bank so an employee who is ill or has an ill family member can draw from this bank when their sick leave runs out; and onsite child care centers in 91 Federal office buildings throughout the country that allow working parents to be closer to their children during their working hours and spend time with them during the day. And today, the White House itself now has a child-care center because of legislation that was signed into law by the Reagan-Bush administration.

Republicans in the past decade also reversed the Democrats' 30-year erosion of the dependent tax exemption.[26] That exemption was doubled under Republican leadership and I have introduced legislation to increase the dependent deduction again—legislation which has gained the support of over 260 Members of this House but it remains bottled up in the Ways and Means Committee.[27] Allowing families to keep more of their own hard-earned money is one of the simplest and best ways to empower families and allow them to function on their own. Yet those who now say they want to reinvest in people seem to be blind to any help that removes the Government as middle man. If Bill Clinton really meant what he said in New York a few weeks ago he should challenge the Congress to pass this legislation now.

And while many in this body have partisanly attacked the tax cuts of the 1980's, the facts show that millions of low-income families were removed from the tax rolls and with the dramatically increased earned income tax credit signed into law by President Bush, low-income families today get tax refunds instead of tax bills. For example, in 1980, a poor family of four with earnings of $9,833 would have had a tax of $327; today that poor family receives a rebate of $1,235 under the vastly expanded earned income tax credit.[28] Middle-class families also had their Federal tax cut. For example, if the 1980 tax laws were still in effect, a family of four earning $35,353 would be paying $3,581 more in Federal income taxes this year.[29] In my State of Virginia, the tax burden on the average family of four would be $5,938 higher with the 1980 tax laws in place.[30] and let me remind you, the Clinton-Gore ticket has vehemently attacked these kind of changes that have truly helped families.

The facts of the Reagan and Bush years also show that despite partisan misrepresentation of the Republican record of the past decade, we have vastly increased the amounts of money we are spending on programs for families and children over the past decade and will continue to do so in the near future:

Over the next 5 years, the Federal Government will spend $82 billion on social programs that did not exist in 1980 or on expansions of old programs.[31]

During the Reagan administration, contrary to partisan misrepresentation, funding for social programs actually increased approximately 20 percent in real dollars and spending on safety net programs increased by nearly 45 percent between 1981 and 1989 while the number of people in poverty increased by less than 1 percent.[32]

Yet while we have increased spending on social welfare programs, the Congress over the past 4 years has adamantly rejected any growth measures to provide jobs—the best domestic program available for helping families and children. When we look at States where children and families are faring well, it is more likely to be in States with strong economic growth.[33] Consistently growth measures have been rejected by the leadership of this Congress and I ask them if you want to see what happens to a place that tries to tax and spend its way out of poverty while stifling growth—go back to Arkansas and you will be going back to our future. A recent newspaper headline captures the essence of the Clinton record: "Poverty, limited growth and budget emergencies."[34] This is change?

It is simply untenable that the Congress has continually rejected the President's efforts for real change that would provide real growth and real jobs for real families. Let's get real here—this Congress has rejected every major growth initiative put forward by President Bush and every major structural change to the status quo whether it be in education or in economic revitalization of our inner cities, health care reform or criminal justice reform—areas that would make a real difference in the lives of families.

Clinton boasts, "I have worked on family issues harder and longer than anyone else running for President." Given his results, this is nothing to brag about and when you consider that those who would now pose as agents of change for families have held the President's change agenda and the future of American families, hostage for the past 4 years. It is time to set the American people and American families free from this Congress. President Bush has an agenda to change the opportunities, the well-being and the future of our families. President Bush has led this country in changing the world for the better and now he is the man to change America.

FOOTNOTES

[1] Acceptance Speech of Governor Bill Clinton to the Democratic Convention, New York City, July 16, 1992.

[2] "Kids Count Data Book," The Annie E. Casey Foundation, Center for the Study of Social Policy, 1992, p. 29.

[3] Id.

[4] Id.

[5] Id.

[6] Id.

[7] Id.

[8] "The State of the State's Children," National Governor's Association, 1990, p. 50.

[9] Children's Defense Fund, "Child Poverty Up Nationally and in 33 States, July 1992.

[10] *Id.*

[11] "The Clinton Record," the Washington Times, 7/26/92, A6.

[12] *Id.*

[13] *Id.*

[14] U.S. News and World Report, April 1992

[15] Id.

[16] Speech by Governor Bill Clinton to Cleveland City Club, May 21, 1992, p.2.

[17] Arkansas Family Council, Little Rock, Arkansas, 1992.

[18] "Arkansas Rankings," Bush/Quayle 92 fact-sheet, August 1992.

[19] Id.

[20] Id.

[21] "Arkansas: Before and After Bill Clinton," Fact Sheet from Bush/Quale '92, July 1992.

[22] "The Almanac of American Politics 1992," Michael Barone and Grant Ujifusa, p. 57.

[23] "The Clinton Record: Poverty, limited growth and budget emergencies," the Washington Times, July 26, 1992, A1.

[24] "Arkansas after 11 years of Bill Clinton," Fact sheet from Bush/Quayle '92, July 1992.

[25] Information obtained from the Work and Family Institute, New York City.

[26] The 1986 tax bill doubled the personal exemption to $2,000. The exemption, adjusted for inflation is now $2,300 in 1992.

[27] H.R. 1227, the Tax Fairness for Families Act of 1991, has 262 cosponsors.

[28] "Do if Yourself Tax Fairness Test U.S. Individual Income Tax Return, 1980 vs. 1991," Office of Senator Phil Gramm, March 7, 1992.

[29] Id.

[30] Id.

[31] "Moving Ahead: Initiatives for Expanding Opportunity in America," House Wednesday Group, October 1991.

[32] Id.

[33] See "Kids Count Data Book."

[34] "The Clinton Record: Poverty, limited growth and budget emergencies," the Washington Times, July 26, 1992, A6.

☐ 1720

INTRODUCTION OF THE SHIPPING ACT OF 1992

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from Delaware [Mr. CARPER] is recognized for 5 minutes.

Mr. CARPER. Mr. Speaker, my friend, the gentleman from Virginia [Mr. WOLF], has just gone into a litany of sins or alleged sins of Governor Clinton in Arkansas. I would also add to that that one of the legacies of the Clinton administration in Arkansas has been not to leave a mountain of debt on the young people, the next generation of that State.

The Governor has presided over 12 years of balanced budgets in his State. I wish this administration and its predecessor could say as much.

Mr. Speaker, today I rise to introduce the shipping Act of 1992, a bill to amend the Shipping Act of 1984 by providing U.S. shippers—with the ability to contract directly with U.S. carriers, and to limit the price-fixing authority of the ocean-wise conferences. This bill should help U.S. shippers, who are increasingly finding it more difficult to remain competitive within the global marketplace, and U.S. carriers, by allowing them to form partnerships in world trade with the country's shippers.

Under the 1984 Shipping Act, shippers are often severely restricted or prohibited by the ocean liner conferences from entering into contracts, and when they do enter into contracts the essential terms of the contract must be publicly disclosed. To make matters worse, the statute tends to prevent contract modifications from being made, even when both contracting parties agree to the changes. My legislation would amend the statute to allow U.S. shippers and carriers to enter into long-term contracts, without conference or Federal Maritime Commission [FMC] interference. Such contracts will put U.S. shippers and carriers on a level playing field with foreign shippers and carriers who are currently able to enter into such contracts and to use them as an advantage in marketing exports.

The Shipping Act of 1992 also limits antitrust immunity to conferences whose aggregated market share of liner capacity does not exceed 60 percent in the involved trade or route. If a conference's market share does exceed 60 percent, the conference must obtain certification from the U.S. attorney general that it is not likely to reduce transportation services or increase transportation costs. My interest in limiting the antitrust immunity stems from the so-called talking agreements between conferences and independent carriers, as well as my concern over the development of superconferences, which would include all, or almost all, of the carriers participating in a particular trade. In some trades, conferences already control more than 80 percent of the cargo, which may or may not be a bad thing for shippers, but under my legislation, it would have to be evaluated by the attorney general for its effect on transportation costs and services.

By introducing this legislation, I hope to draw attention to the 1984 Shipping Act during the debate over the administration's maritime reform initiative, which was formally introduced by Merchant Marine and Fisheries Committee chairman WALTER B. JONES on July 21, 1992. The administration's initiative was the product of the working group on maritime policy, which included heads of 17 departments and agencies. According to Transportation Secretary Andrew H. Card, Jr., chairman of the working group, its purpose was "to advise the president on what is needed to meet the requirements of national sealift capacity while sustaining a viable commercial presence." Secretary Card should be commended for his work on this initiative, for if it were enacted, I believe it would help in revitalizing the U.S. merchant marine. Unfortunately, the initiative falls far short in addressing the concerns of U.S. shippers.

I expressed this concern to Secretary Card during his testimony before the Merchant Marine and Fisheries Committee on July 8, 1992, and he agreed with me, but was unwilling to advocate reforms for the Shipping Act of 1984 as part of, or along with, the administration's new maritime initiative. I have been informed, however, that the Secretary is willing to meet with me and both shipper and carrier representatives to discuss shipper concerns. after the introduction of this legislation, if I find there to be interest in such a meeting, I will try to set something up with the Secretary.

I know that this legislation will generate some concern among the U.S. carriers, but I hope that they will work with me in trying to address some of the concerns that have been raised by U.S. shippers before the committee considers maritime reform legislation. Clearly, the U.S. merchant marine is disadvantage because of government overregulation and unfair foreign government practices, and like chairman JONES said in his opening statement before the July 8 hearing, "why would any owner want a vessel under the U.S. flag?" I want to make it more attractive for shipping corporations to own U.S.-flagged vessels, and I want to improve the competitiveness of our shippers. I do not agree, however, with those that say the competitiveness of our carriers has to be sacrificed to make our shippers more competitive.

The 1992 Shipping Act was crafted with the assistance of the Alliance For Competitive Transportation [ACT], which represents a diverse membership of nearly 100,000 large, medium, and small shippers. I would like to urge all Members of the house to join me in cosponsoring this legislation, for I believe it will benefit not only U.S. shippers and carrier, but also consumers, for it will allow importers to negotiate for the best deal on the transportation of their materials and products.

□ 1730

COMMUNICATION FROM THE SPEAKER

The SPEAKER pro tempore laid before the House the following communication from the Speaker of the House of Representatives:

AUGUST 12, 1992.

I hereby designate the Honorable Steny H. Hoyer to sign enrolled bills and joint resolutions through September 9, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

TRIBUTE TO CMDR. DANIEL A. ELLISON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. MACHTLEY] is recognized for 5 minutes.

Mr. MACHTLEY. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to a dedicated U.S. Navy officer and gentleman as he concludes 22 years of distinguished service to his country.

Cmdr. Daniel A. Ellison deserves this honor. We owe him a debt of gratitude for his professional and heroic contributions to our Nation. I am also proud to say that Commander Ellison is a fellow classmate from the U.S. Naval Academy, class of 1970, and a friend.

Commander Ellison's personal and professional career accomplishments read like a prototype study of the military leader this Nation has depended on to serve in both peace and war. I would like to take a moment to reflect on Dan's career before he begins another chapter in civilian life.

After graduating from the U.S. Naval Academy in 1970, this Montana-grown officer served with distinction as a naval aviator for 15 years.

His deployments as a naval aviator include service in Southwest Asia (1973), the North Arabian Sea (1984), and 3 tours in Antarctica. In addition, he was twice selected as navy helicopter pilot of the year for humanitarian rescue operations in the Sierra Nevada mountains.

Dan has served as a special assistant to the commander in chief of U.S. space command and to the Vice Chairman of the Joint Chiefs of Staff, where he assisted in policy recommendations at the very highest levels for our national security interests.

His last tour of duty has been as the senior deputy legislative assistant to the Chairman of the Joint Chiefs of Staff. During Operations Desert Shield-Desert Storm, Dan escorted many House and Senate delegations to the Middle East. He has been General Powell's principal liaison with the House and Senate Foreign Affairs/Relations and Intelligence Committees during a rather momentous time in our Nation's history.

Commander Ellison has previously been awarded the Distinguished Flying Cross, Defense Meritorious Service Medal, the Air Medal with Bronze Star, the Joint Service Commendation Medal, the Joint Service Achievement Medal, the Navy Commendation Medal, and the Navy Achievement Medal.

Mr. Speaker, it is a great honor for me to present the credentials of Dan Ellison before the House today. It is clear through his stated and unstated accomplishments for his country that he is a person who has dedicated himself to the peace and freedom we enjoy as a nation today. All his actions reflect a true leader with a clear sense of purpose, conviction, and conscience.

I ask my colleagues to join with me in delivering a sincere salute from a grateful nation and our best wishes for a happy and rewarding retirement.

We wish Dan success in his future endeavors, fair winds and following seas. I know Dan will join me in exclaiming to his fellow officers as he departs the Joint Chiefs, "Beat Army."

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEARS 1992–96

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of revenues for fiscal years 1992 through 1996 and spending for fiscal year 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

This is the ninth report of the 102d Congress for fiscal year 1992. This report is based on the aggregate levels and committee allocations for fiscal years 1992 through 1996 as contained in House Report 102–69, the conference report to accompany House Concurrent Resolution 121.

The term "current level" refers to the estimated amount of budget authority, outlays, entitlement authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

COMMITTEE ON THE BUDGET,
Washington, DC, August 12, 1992.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate enforcement under sections 302 and 311 of the Congressional Budget Act, as amended, I am herewith transmitting the status report on the current level of revenues for fiscal years 1992 through 1996 and spending estimates for fiscal year 1992, under House Concurrent Resolution 121, the Concurrent Resolution on the Budget for Fiscal Year 1992. Spending levels for fiscal years 1993 through 1996 are not included because annual appropriations acts for those years have not been enacted.

The enclosed tables also compare enacted legislation to each committee's 602(a) allocation of discretionary new budget authority and new entitlement authority. The 602(a) allocations to House Committees made pursuant to House Concurrent Resolution 121 were printed in the statement of managers accompanying the conference report on the resolution (H. Report 102–69).

Sincerely,

LEON E. PANETTA,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1992 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 121—REFLECTING COMPLETED ACTION AS OF AUGUST 11, 1992

[On-budget amounts, in millions of dollars]

	Fiscal year 1992	Fiscal years 1992–96
Appropriate Level:		
Budget Authority	1,269,300	6,591,900
Outlays	1,201,600	6,134,100
Revenues	850,400	4,832,000
Current Level:		
Budget Authority	1,269,254	NA
Outlays	1,205,909	NA
Revenues	853,366	4,834,000
Current Level over(+)/ under(−) Appropriate Level:		
Budget Authority	−46	NA
Outlays	+4,309	NA
Revenues	+2,966	+2,000

NA=Not applicable because annual Appropriations acts for those years have not been enacted.

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority that is not included in the current level estimate, and exceeds $46 million in budget authority for fiscal year 1992, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 121 to be exceeded.

OUTLAYS

Any measure that 1) provides new budget or entitlement authority that is not included in the current level estimate for fiscal year 1992, and 2) increases outlays in fiscal year 1992, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 121 to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate and exceeds $2,966 million for fiscal year 1992, if adopted and enacted would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 121. Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal years 1992 through 1996, if adopted and enacted, would cause revenues to be less than the appropriate level for those years as set forth in H. Con. Res. 121.

DIRECT SPENDING LEGISLATION

[Fiscal year, in million of dollars]

	1992			1992–1996		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
House committee:						
Agriculture:						
Appropriate Level	0	0	0	3,720	3,540	4,716
Current Level	−2	−2	−1	−1	−1	(*)
Difference	−2	−2	−1	−3,719	−3,539	−4,716
Armed Services:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	−7	−7	0	−83	−83
Differemce	0	−7	−7	0	−83	−83
Banking, Finance and Urban Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	28	28	0	177	177	0
Difference	+28	+28	0	+177	+177	0
District of Columbia:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Appropriate Level	0	0	56	0	0	20,153
Current Level	−305	−270	−305	−329	−339	−350
Difference	−305	−270	−249	−329	−339	−20,503
Energy and Commerce:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Government Operations:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Interior and Insular Affairs:						
Appropriate Level	0	0	0	0	0	0
Current Level	−2	−2	0	5	5	0
Difference	−2	−2	0	+5	+5	0
Judiciary:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	16	16	16
Difference	0	0	0	+16	+16	+16
Merchant Marine and Fisheries:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	(*)	0	0	(*)

DIRECT SPENDING LEGISLATION—Continued

[Fiscal year, in million of dollars]

	1992			1992–1996		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
Difference	0	0	(*)	0	0	(*)
Post Office and Civil Service:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Public Works and Transportation:						
Appropriate Level	16,353	0	0	117,799	0	0
Current Level	18,087	−33	0	112,621	−88	0
Difference	+1,729	−33	0	−5,178	−88	0
Science, Space and Technology:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Appropriate Level	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Appropriate Level	0	0	484	0	0	6,811
Current Level	−3	2	378	−4	15	2,182
Difference	−3	+2	−106	−4	+15	−4,629
Ways and Means:						
Appropriate Level	0	0	0	0	0	620
Current Level	8,016	8,016	8,986	12,835	12,835	14,295
Difference	+8,016	+8,016	+8,986	+12,835	+12,835	+13,675
Permanent Select Committee on Intelligence:						
Appropriate Level	0	0	0	0	0	0
Current Level	(*)	(*)	(*)	(*)	(*)	(*)
Difference	(*)	(*)	(*)	(*)	(*)	+1

*Less than $500,000.

DISCRETIONARY APPROPRIATIONS, FISCAL YEAR 1992

[In millions of dollars]

	Revised 602(b) subdivisions		Latest current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Commerce-Justice-State-Judiciary	21,070	20,714	21,088	20,721	18	7
Defense	270,244	275,222	262,763	272,658	−7,481	−2,564
District of Columbia	700	690	700	690	0	0
Energy & Water Development	21,875	20,770	21,870	20,718	−5	−52
Foreign Operations	15,285	13,556	14,295	13,449	−990	−107
Interior	13,102	12,050	13,077	12,186	−25	136
Labor, Health & Human Services, & Education	59,087	57,797	59,074	57,832	−13	35
Legislative	2,344	2,317	2,303	2,270	−41	−47
Military Construction	8,564	8,482	8,427	8,413	−137	−69
Rural Development, Agriculture, & Related Agencies	12,299	11,226	12,285	11,220	−14	−6
Transportation	13,765	31,800	13,752	31,798	−13	−2
Treasury-Postal Service	10,825	11,120	10,824	11,119	−1	−1
VA-HUD-Independent Agencies	63,953	61,714	63,315	61,707	−638	−7
Grand total	513,113	527,458	503,773	524,781	−9,340	−2,677

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 12, 1992.
Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1992 in comparison with the appropriate levels for those items contained in the 1992 Concurrent Resolution on the Budget (H. Con. Res. 121). This report is tabulated as of close of business August 11, 1992, and is summarized as follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 121)	Current level +/− resolution
Budget Authority	1,269,254	1,269,300	−46
Outlays	1,205,909	1,201,600	+4,309
Revenues:			
1992	853,366	850,400	+2,966
1992 to 1996	4,834,000	4,832,000	+2,000

Since my last report, dated July 22, 1992, the President has signed the Higher Education Amendments bill (P.L. 102-325) and a bill providing for the transfer of certain naval vessels (P.L. 102-322). The Congress also cleared and the President signed a bill providing for partial restoration of highway obligational authority (P.L. 102-334). These actions changed the estimates of budget authority and outlays.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

PARLIAMENTARIAN STATUS REPORT—102ND CONGRESS, 2ND SESSION—HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS AUGUST 11, 1992

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVISION SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,617	727,237	
Appropriation legislation	686,331	703,643	
Mandatory adjustments [1]	(1,208)	950	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted [2]	1,260,198	1,199,288	853,364
ENACTED THIS SESSION			
Emergency Unemployment Compensation Extension (P.L. 102–244)	2,706	2,706	
American Technology Preeminence (P.L. 102–245)			(*)
Further Continuing Appropriations, 1992 (P.L. 102–266) [3]	14,178	5,724	
Extend Certain Expiring Veterans' Programs (P.L. 102–291)	(3)	(3)	
1992 Rescissions (P.L. 102–298)	(8,154)	(2,499)	
Disaster Assistance for Los Angeles and Chicago (P.L. 102–302) [4]	81	15	
Unemployment Compensation (P.L. 102–318)	980	980	
Transfer of Certain Naval Vessels (P.L. 102–322)			2
Higher Education Amendments (P.L. 102–325)	(305)	(270)	
Partial Restoration of Highway Obligational Authority (P.L. 102–334)	(427)	(33)	
Total enacted this session	9,056	6,621	2
MANDATORY ADJUSTMENTS [1]			
Technical Correction to the Food Stamp Act (P.L. 102–265)	(*)	(*)	
Total current level	1,269,254	1,205,909	853,366
Total budget resolution	1,269,300	1,201,600	850,400
Amount remaining:			
Over budget resolution		4,309	2,966
Under budget resolution	46		

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the Concurrent Resolution on the Budget (H.Con.Res. 121).

[2] Excludes the continuing resolution enacted last session (P.L. 102–145) that expired March 31, 1992.

[3] In accordance with Section 251(a)(2)(D)(i) of the Budget Enforcement Act the amount shown for P.L. 102–266 does not include $107 million in budget authority and $28 million in outlays in emergency funding for SBA disaster loans.

[4] In accordance with Section 251(a)(2)(D)(i) of the Budget Enforcement Act the amount shown for P.L. 102–302 does not include $995 million in budget authority and $537 million in outlays in emergency funding.

* Less than $500,000.

Note: Amounts in parenthesis are negative.

OUR RESOLVE TO OBTAIN FULL COMPLIANCE BY IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, as Congress departs for its 4-week summer recess, there is need to recall that the world still turns and that unfinished business remains, even as we leave. Yesterday we responded promptly to a clear need when we passed House Resolution 554, providing authorization for decisive action in the former Yugoslavia.

But we have been slower and less responsive on other matters. In the beginning of April, this gentleman and many cosponsors introduced a resolution—House Concurrent Resolution 301—to allow Congress to go on record in support of the U.N. efforts to enforce full Iraqi compliance with all cease-fire conditions, including U.N. Security Council Resolutions 687, 707, and 715.

In the 4½ months since this measure was introduced, Saddam Hussein has repeatedly breached these cease-fire conditions and flaunted his disrespect for international rule of law.

Saddam has waged a brutal campaign of extermination and repression against his own citizens. According to the State Department, military force—including the use of prohibited fixed-wing aircraft—has been used against Kurds in the north and Shiites in the south; entire Iraqi villages have been wiped out. The contingent of U.N. guards, who have the unenviable task of trying to prevent such attacks, has been rapidly depleted due to Saddam's refusal to grant visas for replacement guards. In addition, many of those who are in country are apparently confined to their camps, prevented from doing their jobs.

Thousands of people are dying—these are human rights abuses in their most extreme form. And that is not all; the United States, and the international coalition which defeated Saddam swiftly and soundly in war, is in danger of losing the peace. Although the media only covers Iraq's breach of U.N. resolutions when there is a flareup, such as the recent standoff at the Ministry of Agriculture, Saddam's noncompliance has been deliberate and extended and intentionally provocative.

Resolution 687 requires Baghdad to respect the inviolability of its border with Kuwait, as demarcated by the United Nations on the basis of the 1963 border agreement. While claiming to follow the resolution, Saddam refuses to accept the U.N. Border Commission's work. Indeed, Iraq continues to lay claim to Kuwait, and we are again hearing statements such as: "Iraq has been convinced, ever since its independence, that Kuwait is part of it," and that to "return it to the mother homeland" is the cause "of an entire nation." This claim was made by Iraq's Ambassador to the United Nations on July 5, 1992." deja vu all over again, as Mr. Berra used to say.

Resolution 687 further requires that Iraq declare, destroy, remove, or render harmless under U.N. supervision, and prohibits the development, construction, or acquisition of the following: Chemical, biological, and nuclear weapons, and long-range ballistic missiles.

Instead, Iraq has hindered all U.N. efforts to accurately inspect and account for these weapons. Some examples:

They have deliberately strewn hazardous materials and unexploded munitions at chemical weapons inspection sites.

They destroyed undamaged buildings at their primary biological weapons plant, spreading large quantities of dirt over the rubble to prevent accurate sampling.

The Iraqi Army continues to obstruct investigation into its surviving Scud missiles and the Iraqi missile project.

And after months and months of inquiry, Iraq's Clandestine Nuclear Program still remains a puzzle with many of the pieces missing.

Additional breaches of Resolution 687, with regard to return to stolen Kuwaiti property, Red Cross access to prisoners from the gulf war, and support of international terrorism have been documented by the State Department.

Yesterday the U.N. Security Council met to hear testimony about Saddam's human rights abuses, and it seems there is a persuasive case that some form of intervention may be needed to stop these atrocities.

Mr. Speaker, the President and the United Nations have been firm in their efforts to enforce the cease-fire agreements as embodied by the Security Council Resolutions. I am disappointed that we in the U.S. Congress have failed to act in concert with our President and the United Nations on this issue. We had the chance to go on record to reaffirm our support of timely and necessary action by the United Nations to prevent Iraq's rogue government from further abuses, and we have yet taken it.

It is my fervent hope that the situation will change; that Iraq will pay up its war debt; will pay damages for the savagery it visited on people and the environment by torching the oil wells; that no additional force will be needed before Iraq complies with its obligations. But history makes me doubt that Saddam will have a sudden change of heart.

I urge leadership to take up this matter as soon as we reconvene in September, so the voice of Congress will be heard and that voice will strengthen and resolve of the United Nations to obtain full compliance by Iraq to the resolutions. We've got enough trouble in the world—we don't need any more from Saddam.

TIME TO GET RESTITUTION FROM FINANCIAL INSTITUTION CROOKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this morning, the Financial Institutions Subcommittee favorably reported H.R. 5538, the Financial Institutions Restitution Collection Improvement Act of 1992. This bill will improve the collection of restitution from convicted financial institution crooks.

Also this morning, Public Citizen, the public interest group founded by Ralph Nader, sent me a strong letter in support of the bill. The letter points out that the bill closes a number of loopholes that crooks use to avoid paying court-ordered restitution. Public Citizen praises the bill, saying it "will improve the Government's recovery of money looted by S&L crooks at the taxpayer's expense."

The bill has been referred to the Judiciary Committee, as well as the Banking Committee. I understand that some members of that committee have expressed reservations that the bill is to aggressive in requiring that financial institution crooks must pay restitution without regard to their ability to repay at the time of sentencing. The taxpayers have been required to pay over $200 billion to clean up the bank and savings and loan messes. Nobody has asked the taxpayers whether they can afford to pay or not. Let's not ask the crooks who have squandered billions of dollars whether they can afford to pay. Let's order them to pay and then squeeze it out of them.

Concern has also been raised about the provisions of the bill which allow the Attorney General to attach the assets of persons before they are indicted. This provision is intended to prevent the crooks from hiding or transferring their assets prior to their conviction. This provision is absolutely necessary if we are to improve on the depressingly low recovery rate of, at best, five percent of the amount of restitution ordered.

The letter from Public Citizen sets forth a number of the other beneficial provisions of H.R. 5538. The act makes restitution due in full immediately. Restitution orders remain effective until completely paid. Liens are placed on all the property of convicted financial institution crooks. I ask that the entire text of the letter be printed in the RECORD.

I hope that the Judiciary Committee will take note of the unanimous vote of the Financial Institutions Subcommittee and the voice of Public Citizen. Both cry out for a strong restitution collection bill like H.R. 5538. I strongly urge my colleagues in the Judiciary Committee to move it to the floor as quickly as possible.

PUBLIC CITIZEN,
Washington, DC, August 12, 1992.

DEAR SUBCOMMITTEE MEMBER: We are writing today to urge you to support H.R. 5538, the Financial Institution Restitution Collection Improvement Act. Introduced by Reps. Frank Annuzio and Chalmers Wylie, this bipartisan proposal will improve the government's recovery of money looted by S&L crooks at the taxpayer's expense.

Currently, federal authorities are doing a poor job collecting court-ordered fines and restitution from convicted S&L felons. A study written by the staff of the Subcommittee on Financial Institution Supervision found that 19 S&L looters had paid on average one cent on the dollar of their restitution. Furthermore, under the present guidelines, judges can allow restitution to be recovered after jail sentences are served, allowing criminals to hide or transfer their assets out of the government's reach. Additionally, court-ordered fines are currently based on the defendant's ability to pay, unlike civil cases, which do not take that into account. These and other problems have hindered the administration's ability to make collections, making the thrift rescue effort more costly for taxpayers.

H.R. 5538 goes a long way towards alleviating these problems. By making restitution due in full at the time of sentencing and in perpetuity, the bill will give the administration greater ability to locate and collect restitution earlier and for an indefinite time. The measure bases restitution on the loss due to fraud, and not the defendant's ability to pay, whose income is often low during prison terms. It also puts liens on all property that was looted from the S&L coffers, so the criminals cannot move or hide these assets. Lastly, the bill authorizes private citizens to pursue S&L criminals on behalf of the federal government. This Qui Tam "bounty hunter" provision can help to collect more court-ordered fines than overburdened federal prosecutors could alone.

We strongly urge you to pass H.R. 5538 and oppose all weakening amendments so the federal government can maximize its efforts to punish S&L criminals and limit thrift bailout costs to taxpayers.

Sincerely,
PATRICK WOODALL,
Research Associate.
SUSANNAH GOODMAN,
Policy Analyst.

IN MEMORY OF WORLD WAR II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, I just want to elaborate on what I said in a 1-minute speech at the end of the session to help the young people in our country, and also a lot of adults across our 50 States and our territories, from the beautiful island of Guam which has been thinking about its plight 50 years ago, the first American territory occupied in World War II, and its liberation at great cost of American life 3 years later in 1945, early 1945; but from Guam to Puerto Rico, the Virgin Islands and all the American States, I want to emphasize again this memorial period of World War II.

As we move from event to event, the 50th anniversary of Pearl Harbor, which I was fortunate enough to be at last December with President George Bush on the memorial that straddles the deck of the sunken U.S.S. *Arizona*, and then through the commemorative that no Members, I believe, or Senators were able to attend in Australia to commemorate the great Battle of the Coral Sea; before that, the fall of Bataan on April 9, 1942; the anniversary of the fall of Corregidor on May 6; and then the great memorial ceremony at Hawaii, again for the battle fought off the island of Midway. Midway is an island in that Hawaiian chain, the furthest inhabited island in that chain, way off in the northeast.

□ 1740

The battle at sea at Midway which came to its American victorious climax on June 4, 50 years ago where we sank all four of the major Japanese carriers, four of the six that had bombed so treacherously Pearl Harbor just some few months before.

We now come down to the 50th anniversary of everything that took place in mid- and late-1942. In the European Theater, this coming November, just 5 days after the Presidential election, will be the 50th anniversary of Operation Torch, the landing of American troops in Algiers and Morocco, beginning our physical assistance with manpower instead of just defense goods of the British attempt to keep Rommel's Afrika Corps from taking all of North Afrika, up to and including his goal of taking Cairo, and then linking up with the German Forces with their dances through Iraq where they had Luftwaffe squadrons to encircle the whole Middle East, and eventually reach the Soviet oilfields at Baku on the Caspian. And I hope, with a little luck, that I will get to be there on the North Africa coast in Morocco and Algiers to celebate that 50th anniversary of the fight back in North Africa.

But I wanted to emphasize again the battle that began on August 7, 1942, 50 years ago last Friday, and that raged longer than any conflict in all American history, and that is the battle of Guadalcanal. Most people innocently mispronounce it and leave out that extra "l" in there. Guadalcanal. I had the opportunity with the gentleman from New York [Mr. SOLARZ], on the majority side to visit the battlefield 3 years ago. We walked Bloody Ridge, walked the now-deserted Henderson Field, looked at the old broken-down tower that was put up later in the war, looked at where the foundations were for the operations hut that was called a pagoda, that was bombed regularly, every day, sometimes two or three times a day for months.

But from August 7, 1942 to February 9 when the last Japanese troops were unfortunately spirited off the island at Cape Esperance, or Submarine Point, that 6-month battle saw more or as much hand-to-hand combat as any struggle during the entire Second World War for Americans.

In reading each night the diaries in six of the wonderful books published on this battle, reading about young marines, enlisted men, 17, 18, 19 years of age who thought in the end they might lose, reading about what they lovingly called the Cactus Air Force, which sometimes was down to 9, 10, or only 11 planes holding off the might of the Japanese naval air fleet forces coming out of their harbor that they had captured months before at Rabaul, the island of New Georgia where they flew in seaplanes and Betty Bombers from. We lost more American capital ships in a naval conflict 50 years ago on August 9 in the Battle of Savo Island, a small island off the northwest tip of Guadalcanal. That naval battle indicated to the marines on shore, 17,000 of them in a small area, that they probably were going to be overrun in the next few days.

Admiral Yamamoto was running this operation himself, and he kept calling his army forces on the island, deep inside the jungle that he was resupplying the several hundred troops every night, because they owned the seas at night with the destroyer transports, and the landing barges coming down from northern islands in that Solomon chain, coming down the slot made famous by the accident where President-to-be John F. Kennedy's PT boat 109 was cut in half by a Japanese destroyer later. These young marines thought that they probably were going to lose a larger battle than Bataan, and yet they held out, with meager rations at first, and fought, and fought month after month until the battle tide began to turn.

The Japanese experienced fighter pilots who had 6, 7 months combat, some more than that from the Chinese occupation and the invasion campaign of the imperial warloads that was already 5 or 6 years old, our young fighter pilots flying in inferior Grumman, Long Island, NY-built F-4F Wildcat fighters, slower and less maneuverable than the famous Japanese Zero fighter, these young Americans began to turn the tide.

One case sticks in my mind, a young American named Robert Hansen. He shot down 5 airplanes, then 10, then 15, then 20, and then 25. He became a quadruple ace in less than 30 days, and then lost his life in aerial combat. And his parents were informed that your son has given his life for his country, is a quadruple ace, and a posthumous holder of the Medal of Honor. All of this was told to them at once.

We had other great aces like a constituent of mine, Captain Walsh, Kenneth Walsh, Ed Marion, and a great young marine fighter pilot, and of course the later Governor of South Dakota, Medal of Honor winner, Joe Foss, who was the first ace that I began to track in that war when I was only 9 years of age.

There was a Hollywood movie made, and it fired up America. That and another film called Wake Island, and then "30 Seconds Over Tokyo" began to let us know that we could win that war.

In closing, Mr. Speaker, I just want to say that during this break I hope some of my colleagues read up on that great battle, 6-month battle of 50 years ago, Guadalcanal.

Mr. Speaker, I include for the RECORD from the Navy Times a short account of that hard-fought victory, as follows:

GUADALCANAL: A HARD-FOUGHT VICTORY

(By Mark D. Faram)

WASHINGTON.—On Aug. 7, 1942, the Marines hit the beach at Guadalcanal.

The invasion marked the first time American ground forces took the offensive against the Japanese in World War II. Six months and 7,100 American lives later, the U.S. was victorious. The cost to Japan was high: 30,343 troops died, mostly to disease and starvation—only 20 percent were killed in combat.

Second Lt. Herbert Christian Merillat, then a 27-year-old public affairs officer, was with the 1st Marine Division when they landed. His eyewitness report, which was released by the Navy beginning on Aug. 30, 1942, was one of the first accounts of the war read by Americans back home.

THE LANDING: AUG. 7-8

Though there was no enemy resistance, the Marines were on edge when they landed Aug. 7. The 2,200 Japanese on the island fled to the mountains that dominate the middle of Guadalcanal. On Aug. 8, Merillat wrote in his diary, "There was rifle firing all night as Marines shot at each other, shadows, cows and coconuts, but I haven't yet heard of any skirmish with Japs."

Maj. Gen. Alexander Vandegrift, the division commander, told Merillat "I'm beginning to doubt whether there's a Jap on the whole dammed island."

But 20 miles over the water on the islands of Tulagi and Gavutu, the situation was different.

Gavutu was a seaplane base for Japan and Tulagi was a support base. American air and sea attacks destroyed all their aircraft on Aug. 7. But Japanese troops were dug in on the islands—and most would commit suicide rather than suffer the disgrace of capture.

It took three days to secure Tulagi and Gavutu at a cost of 122 American lives. The Japanese lost 800 soldiers.

On Guadalcanal, the Japanese had been building an airfield. By nightfall on the Aug. 8 the Marines had taken control of the airfield and began construction to complete it.

SAVO ISLAND: AUG. 8-9

"I will never forget last night," Merillat wrote in his diary. He described watching from shore the naval battle of Savo Island. It wasn't until later that the full news was known: The Navy suffered its worst defeat in history. Six ships were lost and 1,077 sailors and Marines were killed.

The Japanese did not take advantage of the victory. Afraid of greater losses, the U.S. Navy withdrew all its ships the next day. The Marines on the island were all alone.

COUNTERATTACK: AUG. 21

It took weeks for Japan to launch its counterattack.

With temporary command of the seas, the Japanese landed 900 troops at Taivu under the command of Col. Kiyoano Ichiki.

It took three days to move into position and attack the Marines from the east at the Tenaru River. But the Japanese were quickly turned back and wiped out. Col. Ichiki committed hara-kiri.

Merillat visited the battlefield the next day. "Jap bodies—torn, crushed, burned—lay near the mouth of the Tenaru. They had been neatly enveloped and didn't have a chance to escape," he wrote.

As the Marines dug in, the first combat aircraft landed at Henderson Field—they now had air support.

Meanwhile, Japan was landing reinforcements at night at Taivu to the East. On Sept. 7, a Marine amphibious raid at Taivu destroyed much of Japan's supplies and equipment and gathered intelligence information of a pending attack.

BLOODY RIDGE

"There's something in the air tonight," Merillat wrote on Sept. 10. "Several thousand Japs were spotted by native scouts 6 or 8 miles east of here. They may attack tonight."

He was off by two days.

On Sept. 12, Gen. Kiyotaki Kawaguchi attacked the Marines from the South, trying to recapture Henderson Field.

The night attack came along the top of the ridge. Though they knew it was coming, the Marines struggled. For two nights, the Japanese mounted attack after attack on the ridge. One attack did break through the lines, but the success did not last long.

Kawaguchi's army lost 600 lives at Bloody Ridge. He had brought only enough food for a couple of days, hoping to live off captured American supplies. Exhausted and hungry, his troops withdrew.

By Sept. 27, Vandegrift had 23,000 troops on the island. The battle now became on of attrition. the army that could resupply the fastest would win.

FINAL VICTORY

The waiting between actions took its toll. On Oct. 13 and 15, the Japanese shelled Henderson Field. "It was one of the worst times on the island," Merillat later wrote. "We were lightly dug in and the bombardment really shook everyone up.

Japanese Gen. Harukichi Hyakutake moved his 17th Army to Guadalcanal and attacked American positions on Oct. 24 with tanks and infantry across the Matanikau River.

On Oct. 25, a full 24 hours of fighting pushed the Japanese back across the river A day later, the Japanese again attacked Henderson Field from the South over Bloody Ridge. Again, they were turned back.

Japan was planning an offensive for mid-January and throughout October attempted to reinforce their troops.

On Nov. 12 and 13, the Americans lost the first battle of Guadalcanal. The second battle the next two days saw the Japanese bombard the Marines again. "Compared to the performance of a month ago, it was a half-hearted effort," Merillat wrote in his diary.

American planes destroyed a large convoy of Japanese troops and supply ships bound for Guadalcanal on the morning of the 14th. This was the last major attempt by the Japanese to reinforce the island.

The Japanese on the island were starving. Merillat's diary entry from Nov. 15 tells it all. "We get daily evidence that the Jap forces are badly demoralized: Living in the jungle on short rations; decimated several times over during their assaults on us; subjected to day-long air attacks; they must be in pretty bad shape."

Captured enemy diaries told of uncertainty and despair. "Where are our friendly aircraft?" wrote a Japanese soldier. "Where is the might of the Imperial Navy? Have they forgotten us?"

Merillat noted that these were familiar words. Four months earlier, after the defeat of Savo Island, the U.S. Navy had sped off leaving the Marines with no air cover or supplies.

U.S. ARMY

Some Army units started arriving in October. In December, Vandegrift's tired and diseased 1st Marine Division was relieved by the U.S. XIV Corps. This consisted of the 2nd, 23rd and 25th Army divisions, commanded by Gen. Alexander Patch.

Patch's offensives led the Japanese to order an evacuation of the island. As the Americans closed in on Cape Esperance, the Japanese were loading their troops onto destroyers. In the end, the Japanese evacuated around 11,000 men.

COAST GUARD ASSIST

Of the 23 transports and destroyer transports in Task Force Tare, which landed the Marines at Guadalcanal, all but four had Coast Guardsmen aboard. The Coast Guard also helped evacuate Marines amid intense enemy attack. On Sept. 27, 1942, Signalman First Class Douglas A. Munro was awarded the Congressional Medal of Honor (posthumously) for his work while evacuating Marines. Munro was the only guardsman in World War II to win the medal.

AFTERMATH

Vandegrift went on to become the commandant of the Marine Corps. He retired in 1947 and died in 1972. Merillat went on to serve at Okinawa and has written two books on Guadalcanal. He lives in Washington, D.C.

Two ceremonies are being planned to commemorate the victory. The 1st Marine Division reunion had a wreath-laying ceremony at the Iwo Jima Memorial on Aug. 7 and a parade was to be held later that evening in Washington.

And on Guadalcanal, many veterans are gathering to dedicate a memorial.

WHAT CONGRESS AND THE PRESIDENT CAN DO TO ALLEVIATE POVERTY IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, before I begin my remarks I would like to wish all of my colleagues a very happy summer. We are ending our work at the end of today for the next few weeks to reassemble here after Labor Day to begin what will be a very hectic last windup for the 102d Congress. So I hope all my colleagues have a very restful period for the next few weeks.

Mr. Speaker, normally I take the well to extol the beauties and the benefits and the outstanding accomplishments of my hometown, the city of Louisville, KY.

And I remain as proud of that city as any person is proud of his or her hometown. But the data released today by the children's defense fund based on 1989 figures as well as the decade of the 1980's obviously illustrates a disturbing side of my hometown and all of the towns, not just the large cities of America, but the small ones as well, and not just urban areas like mine, but rural and suburban areas as well. But the data released by the CDF today indicates that poverty in the city of Louisville is the 24th highest among the 200 largest cities in America. In 1989 that particular figure was 35.4 percent.

Louisville is the 18th worst in the percentage of poverty among children under 6, hovering around 40 percent. And, the poverty figures cited by CDF translates into an income of $13,000 per year for a family of four.

Probably most startling and most dismaying is that roughly 56 percent of the black children in our community live in poverty. Overall national rates of poverty in the past 10 years in the 100 largest cities of America has gone from 24.8 percent to 28 percent.

□ 1750

Statistics can get a little bit numbing, but I think those few illustrate that the problem of poverty in all cities of America is growing, not lessening.

So what should we do? Bewail our fate, moan, and groan, wring our hands and do nothing?

Well, obviously, that is not an adequate response. We have to do something. So I would make some respectful suggestions to our body, the Congress of this country, as well as to the Chief Executive of this Nation, the President, of things that can be done, actions that can be taken that would help to alleviate this problem.

I hope that the President will sign the bill which this body passed this week, the Family Preservation and Childhood Hunger Act, the last part of it named after our former colleague, now deceased, Mickey Leland of Houston, TX. This would do two things mainly: Keep American families intact and change the food stamp and nutrition laws to make the delivery of nutrition more efficient to our young children. This would help to overcome the one of many problems of poverty.

The President could sign the Child Support Enforcement Act, which requires parents against whom a court order has been levied for child support, to make those payments and not to skip town.

The President vetoed recently, and has threatened to veto again, the Family and Medical Leave Act which gives a recognition to the reality of the American workplace: more women are working, and more women with children are working. This bill would give them a better opportunity to earn a living and then rise out of poverty and take with them their children.

We could fully fund the Head Start Program, which is one of the few programs that really always earns kudos for its accomplishments.

We could fully fund the WIC Program, Women, Infants, and Children Nutrition Program, and get the children off to a fast start nutritionally, and they have got a better chance to learn and, therefore, later a better chance to earn a living.

We began the process with the passage of the act for better children, the ABC bill, 2 years ago, to give us better opportunity for day care to once again free women and working couples to work and raise themselves up economically.

Mr. Speaker, certainly we have to create jobs. The Job Training Partnership Act, which has a youth training component, was adopted by this Congress. That should be fully funded.

There is a public works program under the bill that we passed last year for transportation programs, the so-called infrastructure. That should be fully funded and implemented.

Mr. Speaker, just today the President announced completion of the treaty, what we call the North American Free-Trade Agreement, the treaty with Canada and Mexico.

We certainly look forward to the idea of free trade in North America. But it is disconcerting to note the cover story in the current Fortune magazine which suggests that many of the jobs being created in America are the low-pay, low-skill, low-benefit jobs which really do not allow a person to work his or her way out of poverty. These low-wage jobs have contributed to a new trend in America, a group of citizens who can be described as the working poor.

So let me sum up, Mr. Speaker, by saying that while this information from the children's defense fund is dismaying, it is not an unalloyed torment. There are certain glimmerings of hope. Maybe this will focus our attention on legislative action that can be taken to help people help themselves, to help raise themselves out of poverty with governmental assistance to help get this whole process started.

Mr. Speaker, in the last analysis, we have few things we can do of more meaning to the young children of America who are most caught in this poverty trap than to give them and their parents a chance to have a better tomorrow. That is what this Congress and this country should devote its energies and will power and spiritual strength to for the next several years.

THE TRADE WORKER ADJUSTMENT ASSISTANCE ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio, [Mr. PEASE], is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, I would like to announce my introduction of the Trade Worker Adjustment Assistance Act of 1992. This bill would amend the Trade Adjustment Assistance [TAA] Program, which is mandated under section II of the Trade Act of 1974. By amending this existing program, my bill would engender a more comprehensive and effective plan for assisting workers who are dislocated from their jobs or threatened with dislocation because of trade or the movement of capital investment abroad.

What, one might ask, prompted my decision to design this revised program for adjusting dislocated workers? Well, where do I start.

First, the Bush administration has completed negotiations on a North American Free Trade Agreement [NAFTA] deal with the Mexican and Canadian Governments. Apropos of this agreement, recall that Mr. Bush, in his May 1, 1991 action plan letter to Chairmen ROSTENKOWSKI and BENTSEN, made a commitment to an adequate adjustment assistance program for workers dislocated by the NAFTA.

Furthermore, just this morning, in announcing completion of the NAFTA talks, the President stated, "In a changing world, we must give our workers the education and skills they need to compete, and assistance and training to find good jobs." The bill I am introducing today takes President Bush at his word. It provides a blueprint for worker adjustment assistance.

Second, the Ways and Means Trade Subcommittee held a hearing just about 1 year ago on the efficacy of existing, federally mandated worker adjustment assistance programs in the United States. These include TAA and the programs authorized in title III of the Job Training Partnership Act [JTPA].

At this hearing, members heard testimony from those who administer these programs at the State level. Witness after witness identified a number of inadequacies in both the TAA and JTPA programs. Witnesses also outlined the specific aspects of these programs that had proven effective in practice.

In digesting the testimony at this hearing, it became apparent to me that there was a need for a new animal in the world of trade adjustment assistance policy; that is, for some sort of a hybrid, which could combine the best elements of existing programs and omit those aspects of TAA and JTPA that has proven problematic or unworkable in practice.

In creating my program, I have done just this. I have used the soundest aspects of TAA as the basis for my program and incorporated the best elements of JTPA programs as well. Additionally, I have borrowed heavily from other countries' programs for adjusting unemployed workers. Specifically, I have utilized a great deal from the German model on worker adjustment assistance, since Germany has demonstrated an uncanny knack for maintaining a highly and engaged work force.

Third in my list of reasons for creating a new worker adjustment assistance program is my strong belief that the U.S. Government has never done enough in the way of adjustment assistance for American workers. I am speaking of the lack of adequate policy means for helping workers who are unemployed and who desperately need to develop the skills and qualifications that are key to occupational longevity, that is, the ability to keep a job or to get another, if one loses one's job. Experts note that the United States provides the lowest worker adjustment assistance benefits package for the shortest period among the major industrialized countries.

Public expenditures on unemployment insurance in the United States are approximately one-third of those in the United Kingdom and one-quarter of those in Canada, France, and Germany. In the United States, Federal Government expenditures for training amount to about one-third of 1 percent of gross domestic product and are significantly smaller than expenditures in Canada, France, Germany, and the United Kingdom. We allocate approximately $1,800 per participant on training for unemployed workers. This is one-fourth of what Germany spends.

In sum, let me say that the Trade Worker Adjustment Assistance Act of 1992, if signed into law, would respond to the tremendous need for policy reform in the area of trade worker adjustment assistance. The impetus for such reform at this time can be described as threefold. First, there is the timing of the NAFTA; second, the Ways and Means Trade Subcommittee's public and systematic analysis of current programs' weaknesses; and finally, the gnawing knowledge that the American work force has become increasingly ill-prepared for competition with labor in other countries, against which the United States competes for global market share.

Having described why I drafted the Trade Worker Adjustment Assistance Act, let me now outline the substance of the program this bill would create.

First, I will focus on eligibility. My program would offer benefits to workers who are separated from their employment or are threatened with separation as a result of competing imports; and the movement of plants abroad. Those familiar with the TAA eligibility requirements will note the addition of this second criterion. With agreements like the NAFTA, the majority of the negative employment effects will come from investment shifts. I therefore feel it necessary to cover not only workers who lose their jobs because of imports, as does the TAA Program, but also those who are dislocated as a result of plant movement abroad.

In addition to encompassing workers in primarily affected enterprises, my program would render eligible workers in supplier plants, that is, in cases in which the main plant and therefore the supplier plant are adversely affected by imports or capital investment movement out of the country. In other words, the so-called secondarily affected workers would be included in the pool of workers eligible for my program.

Second, I will focus on the benefits workers would receive. The Trade Worker Adjustment Assistance Act would provide generous levels of income support as well as training and job search assistance for a maximum duration of 156 weeks, or 3 years.

Income support levels would be based on the dislocated worker's previous pay. The maximum level would be 68 percent before the inclusion of part-time wages and 85 percent with the inclusion of part-time wages. Duration of income supports would depend on the worker's previous employment history up to the maximum of 3 years.

Training opportunities would include technical, vocational, undergraduate, graduate, professional, and post-graduate programs.

For the worker who loses his or her job and becomes reemployed in a lower-paying full-time position, my program would provide a wage supplement. This supplement would bring the beneficiary worker's income up to 85 percent of previous wage for a maximum, again, of 3 years.

Finally, my program would allow for job search and relocation allowances to offset out-of-pocket expenses incurred by workers engaged in the job search or relocation processes.

In closing, let me reiterate that now is the time for reform of our trade worker adjustment assistance regime. The world is becoming more competitive each day, and we cannot afford to squander what could be our most valuable resource in the fight for global commercial parity. This resource? Workers. The men and women of Ohio, Michigan, California, Florida, Washington, and Connecticut—of the Midwest, the West, the Southeast, the Pacific Northwest, and the Northeast. Men and women who today have little to do but await the arrival of an unemployment check. We need to give these good and productive people something more to look forward to each day. We need to give them a future. My bill holds the promise of this future.

Mr. Speaker, what follows is a detailed outline of my legislation:

FACTSHEET, TRADE WORKER ADJUSTMENT ASSISTANCE ACT OF 1992

ABSTRACT

This bill would amend the Trade Adjustment Assistance program, which is mandated under Title II of the Trade Act of 1974. If signed into law, the Trade Worker Adjustment Assistance Act would create a more comprehensive and effective program for assisting workers who are separated or threatened with separation from employment because of trade or because of the movement of capital investment abroad.

PROGRAM DESCRIPTION

Who is eligible?

Workers who have been separated or threatened with separation because of competing imports.

Workers who have been separated or threatened with separation because of relocation of production facilities abroad.

Workers in supplier plants who have been separated or threatened with separation because of competing imports or relocation of production facilities abroad, i.e., secondarily affected workers.

NOTE.—Workers who meet any one of the above three criteria must also have been employed for at least 52 weeks out of the 156 prior to separation from employment with at least ten weeks of this 52 falling within the 52 just prior to separation.

Income support

What sort of benefits does the eligible worker receive?

Provided to cover the workers' personal and household living expenses during the job search and/or training period.

Level based on percentage of previous wage and tied to whether and when the worker enters into training; if worker enters training during the first 26 weeks immediately following separation, level set at 68 percent of previous wage; if worker does not enter training during the first 26 weeks immediately following separation, level set at 68 percent for weeks 1–52, 58 percent of weeks 53–104, and 48 percent for weeks 105–156.

When worker is receiving unemployment (UI) benefits, Income Support payment equals the applicable percentage of previous wage minus UI.

When worker is no longer receiving unemployment (UI) benefits, Income Support payment equals the entire applicable percentage of previous wage.

The maximum previous wage against which applicable percentages could be applied is $30,000.

Part-time wages do not affect Income Support level unless such wages result in the worker's income exceeding 75 percent of previous wage if he or she is not in training or 85 percent if he or she is in training.

Benefit duration is minimum of 39 weeks and maximum of 156 weeks based on worker's employment history, but may be extended by 26 weeks if worker applies for training within the 26 weeks immediately following separation and needs extra benefits to complete training program.

Available to workers not employed and employed part time.

Not available to workers employed full time, workers receiving Wage Supplement, or workers engaged in on-the-job training.

Wage supplement

Provided to supplement the income of the worker who has been reemployed on a full-time basis in a job paying wages that are lower than his or her previous wage.

Wage Supplement payment equals 85 percent of worker's previous wage minus the worker's current full-time wage.

The maximum previous wage against which applicable percentages could be applied is $30,000.

Benefit duration is maximum of 156 weeks.

Not available to workers employed part time or workers receiving Income Support.

Training

Provided to assist the worker in becoming qualified for a position requiring technical or professional skills, which he or she does not have at the time of separation and which will enable him or her to procure suitable employment.

Allowed training programs include technical, vocational, undergraduate, graduate, professional, and post-graduate programs.

On-the-job and remedial training programs also permitted.

Benefit duration is maximum of 156 weeks, but may be extended 26 weeks if worker applies for training within the 26 weeks immediately following separation and needs extra benefits to complete training program.

Available to workers not employed, employed part time, and employed full time.

Available to workers receiving Income Support or Wage Supplement.

Employment services

Provided to help the worker secure full- or part-time suitable employment.

Include counseling, testing, placement, and support services.

Benefit duration is maximum of 156 weeks.

Available to workers not employed or underemployed.

Available to workers receiving Income Support.

Relocation allowances

Provided to reimburse the worker for expenses incurred during relocation for purposes of securing suitable employment.

Relocation Allowances equal 90 percent of reasonable and necessary relocation expenses and a lump-sum payment equal to two-weeks worth of previous pay.

Maximum of $4,000, including both the 90 percent of expenses and the lump-sum payment.

No particular benefit duration.

Job search allowances

Provided to reimburse the worker for expenses incurred during his or her job search.

Job Search Allowances equal 90 percent of necessary job search expenses.

Maximum of $800.

No particular benefit duration.

What is the cost of this program?

CBO cost estimate pending.

NOTE.—Program benefits are an entitlement for workers.

How is this program financed?

Not specified in bill, but Congressman Pease has in mind the following: Border adjustment fee on goods traded among the three signatories to the NAFTA.

NOTE.—Implementation of this fee will require negotiations among the U.S., Canadian, and Mexican governments.

SPOKANE: CITY OF STARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. FOLEY] is recognized for 60 minutes.

Mr. FOLEY. Mr. Speaker, three of America's most prominent athletes grew up and first honed their playing skills in my native city of Spokane, WA. All three were featured in an article by Steve Rushin in the recent July 27, 1992 Sports Illustrated which I commend to the attention of my colleagues.

Mark Rypien, quarterback of the world champion Washington Redskins, John Stockton, all-pro guard of the Utah Jazz, and Ryne Sandberg, nine-time all-star second baseman of the Chicago Cubs, lived 5 miles apart in my hometown and graduated from high school within 4 years of each other.

Mark Rypien received his diploma from Shadle Park High School in 1981, John Stockton graduated from Gonzaga Prep in 1980, and Ryne Sandberg earned his diploma from North Central High School in 1978.

Sports trivia buffs would be interested to know that Mark Rypien and John Stockton played basketball against each other in high school.

Indeed, 14 years before America's sportswriters selected Mark Rypien as the most valuable player in the Super Bowl game last January, he was both a football and baseball MVP at Shadle Park High. Moreover, he was a two-time basketball MVP at the Washington State high school basketball finals held in the Seattle Coliseum.

I am especially pleased that these three sports superstars have maintained close ties to the city that nurtured them. Even today, John Stockton makes his home next door to the house he grew up in where he used to practice basketball in the driveway. Mark Rypien loves Spokane and returns frequently, regardless of whether he spent the previous season with the Redskins on injured reserve or was the MVP of the Super Bowl. Ryne Sandberg has similarly maintained ties to the city of Spokane.

The July 27 issue of Sports Illustrated features an article entitled "City of Stars" which describes the athletic development of these superstars and their links with my hometown.

CITY OF STARS

(By Steve Rushin)

If America were an American flag, then all of its stars would belong here, in the upper lefthand corner of the country. The state of Washington would be a field of blue, and the city of Spokane might aptly be described as star-spangled. Star-spangled Spokane.

Three boys, separated by four years and five miles, were raised to greatness in this city of 177,000 residents near the Idaho border. Three boys put Spokane on the map, metaphorically, late in the 20th century, much as the Northern Pacific Railroad did, for real, late in the 19th. Three boys, their lives intersecting like tracks in a railroad switching yard before parting—one to the East, one to the West, one to the nation's heartland.

The three boys are now three famous athletes. The three famous athletes raced to prominence from a staggered start, so now they find themselves three different distances into their careers, wearing three different shades of fame.

Five miles, four years, three boys. They are three stars shaken loose from the upper lefthand corner of the country. Shaken loose from Spokane, but never really shaken free. . . .

In northwest Spokane, darkness falls on a backyard barbecue. Whether the fall of darkness is defined as the sudden absence of light or the sudden absence of light beer, either way it got dark in a hurry behind the Rypien house on North Moore Street.

So friends and relatives scatter from the lawn like pollen. But Mark Rypien, 29, remains in a lawn chair behind the house he grew up in, a maple tree no longer shading him from sunlight, but from starlight and porchlight instead. "The Big Fella," he says, finally, as the voices of family and friends fade into the house or into the night. "The Big Fella should have been here."

The Big Fella would have admired the new vinyl siding on the old house he bought in 1968, the house in which he and Terry raised their five children on the money he earned selling office equipment by day, the money she socked away working nights as a secretary at Holy Family Hospital. He seemed to fill that house all by himself, the Big Fella, even though he wasn't all that big, not nearly as big as Mark is now. But he was as strong as ammonia, and he wore a potbelly like a prizefighter wears a title belt.

"He could bring a house down," says Mark. "Life of the party. It's so much fun when the whole family gets together like this. But in some ways, it's the hardest time, too."

The Big Fella was broad, that's the word, with a chest that would have broadened further last Jan. 26. Why couldn't Bob Rypien have been one of the one billion? That's how many people watched as his oldest son, Mark, for two seasons the starting quarterback of the Washington Redskins, earned the Most Valuable Player award in Super Bowl XXVI. . . .

Five miles away, at 1226 North Hamilton Street, men have been setting them up and knocking them back since Prohibition was prohibited in 1933—ever since the Buffalo Market was swiftly converted into the Snappy Service Beer Parlor.

The Snappy became Joey's Tavern in 1947, and though Jack Stockton and Dan Crowley bought the place in '61 from the guy who had bought it from Joey, they waited 14 years before renaming the joint Jack & Dan's. Why mess with success? Business has always been good, what with Gonzaga University a block away.

Business has always been good, but in the last five years, well, Jack & Dan's has been served a double. So Jack, 64, is here at nine this morning, smack in the middle of his summer vacation, to check on construction of the beer garden being added out back. No problem, really, as Jack lives 150 yards from the bar's back door, in the white house with the redbrick accents and the basketball hoop in the driveway. There, on North Superior, he and Clementine provided for their four children, provided for them with the Budweiser-soaked dollars that crossed the bar.

"The beer garden is for the Olympics," says Jack, straining to be heard as a jackhammer solos outside. "It's going to be crazy here during the Olympics."

Setting them up and knocking them back? Why, it's the other way around. Jack's partners will be knocking them back in Spokane, while Jack's second son, John, is setting them up in Barcelona. On loans from the Utah Jazz, for whom he has started for the past five seasons, 30-year-old John Stockton is a point guard on his nation's Dream Team, one of the dozen or so best basketball players in the world. . . . Make a right out of Jack & Dan's, go seven blocks north on Hamilton and hang a left on West Augusta, and it is just down the road on your left: the old two-story house with the barn-style roof and expansive front porch, the house where Derwent and Elizabeth Sandberg lived with their four children. Derwent, that was his name, and now you know why everybody called him Sandy.

Sandy Sandberg was a mortician who left his work behind at the Hazen & Jaeger Funeral Home on North Monroe, making no effort to pass that most familial of occupations along to his sons. "He pretty much kept that to himself," says the youngest of his three boys.

When Elizabeth was nine months pregnant with that child in September 1959, she and Sandy could settle only on a name for a girl. But the couple was watching a New York Yankee game on television one night, and when they heard the announcer roll out the name of the right-handed relief pitcher walking in from the bullpen, well. . . .

"We looked at each other and knew that would be the name if the baby was a boy," says Elizabeth. And why not? The last time she had given birth, five years earlier in Philadelphia, the boy was named Del, for Phillie slugger Del Ennis. So now Del would have a baby brother, a baby brother named for Ryne Duren.

"My father loved baseball," explains Ryne Dee Sandberg, now 32. "He was a fan of all sports. We never had a lot of money, but he always had enough to buy me a glove and spikes. He has had a lot to do with this."

Funny, isn't it? Now they're free, the gloves and spikes: now, after he signed a contract for $7.1 million annually in this, his 10th year playing second base for the Chicago Cubs; now, when Ryne Sandberg finds himself somewhere between boyhood and a bronze bust in the Baseball Hall of Fame. . . .

They are the sons of their fathers and mothers, to be sure, but they are also the sons of Spokane (spo-CAN, please, so as not to rhyme with *cocaine*). If they are the city's claim to fame, then the city has staked a claim *on* their fame, as well. When you get right down to it, Spokane is a city of 177,000 Fred MacMurrays, each one boasting of My Three Sons.

"I think we have three of the classiest athletes around in you, John Stockton and Ryne Sandberg," says a middle-aged man at the Spokane Youth Sports Bingo Hall, where Rypien is signing autographs at a card show. "Could you sign that *To Brad, from Mark*?"

The city has 13 high schools, and Sandberg graduated from one of them (North Central, class of '78), Stockton from another (Gonzaga Prep., class of '80) and Rypien from a third (Shadle Park, class of '81). So practically everyone in town knows a famous athlete, or at least knows someone who knows one.

Take this guy, for instance, the guy at the head of the line of autograph seekers, this bald guy who is no taller than a tackling dummy. He is describing to Mark—who goes 6'4" and 235 pounds—the time when he sacked Rypien in a high school football game, just decked him over at Joe Albi Stadium on the northwest side. Must've been Mark's senior season at Shadle. Remember that? "Remember!" says Mark, wincing as he vividly recalls a sack that never happened. "My ribs are *still* hurting from that one. . . ."

Of the three boys, Rypien is the youngest and the newest to fame. He cannot yet say no to anyone asking for anything. Can I have an autograph? Would you swing by the hospital? Could you say a few words to the school kids? Remember that time I sacked your sorry butt? To everyone, he says, "You bet."

He signs 1,200 autographs in 10 hours over two days at the card show, lining his pockets with nothing but ink stains. He is, bless him, not getting paid for this. Rypien's brothers, Tim, 28, and David, 24, more or less volunteered Mark for the event, and now they fear for his future as a quarterback. "I hope he doesn't get carpal tunnel syndrome," says Tim, eyeing the long, slow-moving line. What is Mark *doing* up there? He's *chatting* with people? Posing for *Polaroids*? Asking Mrs. Riggs how her daughters are doing? He'll never get through this. . . .

"He loves Spokane," says Tim. "He loves coming back here, whether he had a bad year or he won the Super Bowl. There's more to life for Mark than making money and being a jerk to people."

Fame still has that new-care smell to him. Though Rypien was drafted by the Redskins out of Washington State University in 1986, he spent his first two seasons in D.C. on injured reserve, missed much of 1988 with a shoulder injury and sat out part of 1990 with a sprained left knee.

Before he was a Super Bowl MVP, Mark Rypien was a two-time football team MVP at Shadle, a baseball team MVP there, a two-time basketball team MVP and MVP of the state high school basketball finals in Seattle. Lord knows he can spell MVP by now, but whenever someone asks Rypien to affix the letters to his signature on his 8 x 10 Redskins glossy, he politely refuses. "I'll sign it *World Champions*," he says, invariably winning over his marker-wielding stalker. "How's that? There you go. Now let that dry, so it doesn't smear. . . ."

World Champions. It's really only in the last year or two that people have been following him down the cereal aisle at the Safeway near his home in Reston, VA.—where he lives with his wife and two daughters—to see whether Mark Rypien goes for the Cap'n Crunch or the Count Chocula. And it has only been since January, when he threw for 292 yards and two touchdowns in the Redskins' 37–24 dismantling of Buffalo in the Super Bowl, only since he informed the world of his plans to vacation in Orlando, only since he chatted up David Letterman in New York . . . only since then that he can no longer go anywhere unrecognized.

Mark was dancing with his wife, Annette, at a nightclub in Daytona Beach this spring when a man approached him on the dance floor and asked for his autograph. Rypien signed, simply relieved that the guy didn't want to cut in and cut the rug with him.

Earlier that evening Rypien had abandoned the sanctuary of his table for the uncertainty of the men's room. Bouncers became alarmed when they noticed countless patrons entering the john, but none exiting. What evil lurked inside there? It was Rypien, sitting on a sink signing autographs for everyone.

It's the same tune in Spokane, only in a lower key. "They see his face everywhere around here," says Tim. "So maybe people don't get as excited." Tim was an athlete at Shadle too, a catcher who made it to Triple A in the Toronto Blue Jay organization before becoming the baseball coach at North Central High a year ago. He happens to mention that his Indians play on Ryne Sandberg Field. . . .

Ryne Sandberg is the oldest of the three, the oldest and best-known and richest of the three boys, the three boys in four years. Think of it. In the time it takes a president to break his promises, Spokane was buttoning up these three little beauties and sending them out into the world.

"In our generation in Spokane," says Jerry Cain, 28, Rypien's best buddy since junior high. "Ryne Sandberg was the first real three-sport star in high school: All-Everything in baseball, basketball and football, signed a letter of intent to play quarterback at Washington State, then got drafted by the Phillies.

"I had no ambition to go to college and study," says Sandberg, standing outside the visitors' dugout at Shea Stadium in New York City and forthrightly explaining why he did not end up as a senior quarterback at WSU while a freshman named Mark Rypien waited his turn from the bench. "When the Phillies made an offer, it made my decision easier. I wanted to get into the minor leagues young, work at the game, learn how it worked, and *maybe*, someday, make an appearance in the majors."

Maybe? Someday? *C'mon.*

"No, I never dreamed of this," says Sandberg. "Never. Not at all. I'm a lucky guy."

He plays second base like Yo-Yo Ma plays cello. He is the only man ever to win nine Gold Gloves at that position. He has the highest fielding percentage in major league history. He once played in 123 consecutive games without an error. But he still carries a trace of the boy from Spokane, the North Central shortstop who made four errors against Western Valley the day scout Bill Harper told Sandberg that Philadelphia would draft him.

He has hit 40 home runs in a season, stolen 50 bases in another, and no one else in major league history can say that. He has hit .288 for his career. He has played in nine All-Star Games. He was the leading vote-getter in '91. He has won one National League MVP award. There is growing sentiment that he is the best second baseman ever to play the game. In March '92 he signed a contract, the richest in the game's history, that will pay him $7.1 million a year for the next four seasons. But he still carries just a hint of the boy who, when told that he might get a signing bonus of $50,000, turned to his high school coach with bug eyes and said, "Oh . . . really?"

To this day, that is about as long as a Sandberg sound bite gets. He was All-Everything in high school, All-Everything but All-Interview, and he still has nothing outrageous to say when he has anything to say at all. And when did that become a character flaw? "Most writers, for the first five or six years of his career, couldn't accept that Ryne is that way," says his mother, who now lives in Brewster, Wash., about 135 miles from Spokane. "I am proud that he has been a very good role model for the rest of the country. He lives an exemplary and moral life. People looked for skeletons in his closet, but they couldn't find any."

No skeletons, but still they've prospected for fragments of bone. Yes, he posed for a promotional poster with Rypien two years ago in the letter jackets of their respective high schools. But hasn't he declined repeated invitations to be honored at the annual Spokane Writers and Broadcasters dinners? Sure, he returns to Spokane at least once a year. But doesn't he make his off-season home, with his wife and two children, in Phoenix? What are the superstar's responsibilities to the city that nurtured him? What are they, and where do they end?

"A couple of sportswriters in town have insinuated that Ryne forgot where he came from," says Sandberg's high school baseball coach, Kenny Eilmes. "But you know, us common people can't realize the pressure he is under. We only see the gravy side of it. We don't see that Ryne Sandberg got where he is by beginning at baseball's lowest possible classification, in Helena, Montana."

All of the zeroes at the end of Sandberg's contract were bound to stick to him like concentric rings on a target. But Eilmes is right. The boy worked at baseball as surely as the father worked at the mortuary, as surely as the mother worked as a nurse, as surely as the parents worked for glove money for this boy they named after a ballplayer.

Sandy Sandberg died in 1987. But he lived to see his son become a star. He would sometimes sit right there, in fact, and watch Ryne on WGN. Sandy Sandberg would sometimes sit right there and watch his son on that first TV above the bar at Jack & Dan's Tavern. . . . John Stockton used to play in the driveway like the post office used to deliver the mail. "In rain and snow," says his father, Jack. "Day and night."

"I remember driving by his house in high school," says Rypien. "Ten, 11 o'clock at night, and he was out on the driveway, dribbling a basketball."

He would play all afternoon, then meet his dad at Jack & Dan's. At dinnertime Dad would pedal John home on the handlebars of his bike. Bob Cousy was Jack's favorite player—"and my wife's, too"—but on the driveway John was always Gus Williams of the SuperSonics, driving a concrete lane at the Seattle Coliseum. His hands and feet were huge, but so were the frail kid's illusions. One night, when Seattle played the Jazz in an exhibition at the Spokane Coliseum, John got to be a ballboy for the Sonics. That, obviously, was as close as the kid was ever going to get to the NBA.

Even now, when people talk about Spokane high school basketball, they usually talk about another point guard and his dream senior season; the year Rypien was named MVP of the state championship in the Seattle Coliseum, when he set a tournament record for assists. In the final Shadle beat a team from the affluent Seattle suburb of Mercer Island, beat them on a still-disputed, last-second shot with a fouled-out Rypien on the bench. Shadle needed a police escort to get out of the building when the home crowd nearly rioted. Mercer had a championship trophy made. Mercer's coach counted the game as one of his 1,000 wins. "They still cry about it every year," says Rypien. "They can cry all they want. It's etched in stone that we're the state champions that year."

"It's been proven," says Jack Stockton, who sounds vaguely convincing. "Shadle won it fair and square."

Anyway, the point is this: It wasn't John Stockton of the Gonzaga Prep Bullpups who was on his way to the NBA a dozen years ago. It wasn't John Stockton, even though Rypien, a former point guard himself, seems to recall that Stockton once went for 42 against him in a Shadle-Gonzaga Prep showdown. "The only person in the world who thought John would play in the NBA was John," says Jack. "And that's the god's honest truth."

Stockton still holds a grade school record in Spokane for running the mile, a record he set in eighth grade at St. Aloysius. St. Aloysius, Gonzaga Prep, then Gonzaga University—the boy attended the same three schools that his father did. Bing Crosby, who also grew up in this neighborhood and also attended Gonzaga, stands in bronze on the college's campus, with a golf bag at his feet and what appears to be a cigarette butt in his mouth. (It is actually the remnant of a pipe, which is snapped off and stolen from Der Bingle's mouth monthly.) But if they ever erect a statue of John Stockton on these grounds, it will be in brass. They can melt down the actual John Stockton for raw material, for brass is what got him from boyhood to Barcelona.

"He takes losing personally," says Jeff Condill, 28, John's close friend, college teammate and co-owner of Jack & Dan's ever since he brought out Dan Crowley a year ago. "Whatever he plays, Ping-Pong, golf, lawn darts. He holds the Jazz record on the treadmill, and he wants to defend that title every year."

Still, John Stockton would most likely rather lose in lawn darts than be interviewed. We would have asked him to confirm that, but he was too busy playing Sam-I-am to our green eggs and ham. Talk to us? He would not, could not, in the bar. He would not, could not, in his car. He would not, could not, at the gym. We would not, could not, speak to him. Jack, Jeff, his agents at ProServ, the publicity department of the Jazz and the Washington National Guard could not prevail upon him, either.

Stockton has an aversion to making public appearances, on behalf of the Jazz or on behalf of Nike. He was supposed to appear in that poster with Rypien and Sandberg back in 1990, for a three-on-three basketball tournament, but he backed out of it when he thought organizers had lied to him about something or other. He never used to have ballboys pull his car around to the back of the Delta Center, where the Jazz play, but he does now, no longer willing to brave the parking lot.

And so what? It isn't as if the guy has gone completely Garbo: When he isn't spending summer days with his wife and three children at their cabin, an hour from Spokane on Priest Lake, he might be conducting his annual basketball camp for kids. He is close to just about anyone who has ever coached him, tighter than the insides of a Titleist with his family. He still sees people, for god's sake—it's sports-writers he could live through the summer without.

He wouldn't hold the NBA single-season record for assists if he weren't selfless, would he? What is Stockton doing while he isn't talking to us? He is helping an old friend, the Gonzaga trainer, build a house.

"He really is a people person," says Condill. "His family is his first priority. He became more private when he started a family. I think seven or eight years from now, he'll probably come back around the other way."

Most of Spokane knows where to find him anyway. It's no secret that Stockton makes his home next door to the one he grew up in. Sure, he has a house in Utah, too, but the reason he so loves Salt Lake City, says his father, is that it reminds him of Spokane: easygoing laid-back.

Nevertheless, when you are a civic bauble, you are always on display in a jeweler's glass case: Not long ago, in Spokane, Stockton was asked for his autograph at a funeral he was attending.

Always on display in a jeweler's glasscase. How long before you would tire of looking at life through the fingerprints and the fogged glass? Ryne Sandberg was last in Spokane for the burial of his oldest brother. Lane Sandberg was 42. He lived in the house on West Augusta Avenue in which he and Ryne and the rest of the children were raised. He died in that house on the 10th of February.

Elizabeth Sandberg sits at home, in her house in Brewster, speaking above the low notes of a piano being tuned in the next room. "Lane had a hell of a tough life, to tell you the truth," she says. "He had epilepsy since the day he was born. When I saw him last Christmas, he was gray and stooped and tired. I thought then, There is death walking."

A month and a half later, Lane died on the floor next to his bed, during an epileptic seizure at eight o'clock in the morning. Sorry is not a word that comforts here, says his mother. But she certainly takes solace in her family. "I am proud of all of my children," she says. "I have a wonderful family."

Harry Caray doesn't shout their names, but her son Del teaches high school in Olympia, Wash., and her daughter, Maryl, works for a TV station in Seattle. And Elizabeth's son Ryne—she looks in on him nearly every day, watching almost every Cub game on the team's cable-TV superstation. The schedule is attached to the fridge.

She can see her reflection in the TV set. After all, it was Elizabeth who was the athlete in high school—Sandy played the tuba. She was from Vermont. He was from Minnesota. During World War II, Sandy had an Army buddy whose fiancée was a close friend of Elizabeth's. Staff Sergeant Derwent D. Sandberg wrote Elizabeth a letter. She wrote back; it was the patriotic thing to do. Two years later they were married. The Sandbergs settled in Spokane because a job was available there when Sandy finished mortuary school. They settled in the house that now stands a block and a half from a ball field that is named for their youngest son.

"I'm very pleased," says the boy's mother, "that the good Lord gave him talent."

Terry Rypien used to stand at the front door and watch her children enter Westview Elementary School directly across the street. From her living room she could see her children in their classrooms. From her couch she could watch them at recess. She went to work at the hospital each night when her husband came home, came home and filled the house with his presence.

Bob Rypien could fill the neighbors' houses, too, fill them with his headlights. Curfew was midnight for Mark and Tim on weekend nights during high school. When Mark was watching television on the wrong side of 12 at a girlfriend's house, Bob pulled his car in front of the girl's picture window and froze his son in the glare. Mark could only sit there on the couch, like road kill with a remote control in his hand.

"His word meant everything," says Mark. "You didn't blow it off."

To look at Mark and Tim and David now, it is impossible to imagine them sharing that one bedroom in the basement of this house. They shared everything, really, since there can be no secrets in such an arrangement. Tim was always in by 11:58 on weekends; Mark was the one who was late. "But you have to understand," says Mark, "Tim would come in with bloodstains all over him, having been in fights with his buddies all night. But he was in by curfew, so no problem. Me, I wouldn't be doing a darn thing but be out till 12:30, and my dad's about ready to kick my ass when I walk in the door. The seven worst words I ever heard were *I'll talk to you in the morning.* Now I'm supposed to sleep well?"

Terry and Bob were Canadians by birth. She grew up in British Columbia. He grew up in Alberta. When she was 16, Terry moved to Spokane with her mother. Bob's aunt and Terry's sister were friends. Terry and Bob met on a blind date. The family they raised together—Colleen, Mark, Tim, David and Shannon—remains as close as a twin-blade shave.

When they all gather in the backyard, as they have on this evening, Mark finds himself amid the fading laughter, lamenting that his father couldn't be here to turn the fun up a notch. Then, after a pause: "He is here," Mark says. "He's right there." Mark is leaning back, out from under the maple tree, fingering a star overhead. Star-spangled Spokane, indeed.

Long before the light had faded that evening, Mark had his picture taken in the backyard with a neighborhood boy who was wearing a Redskins jacket. Children call Terry on football Sundays. Is Mark there? She tells them Mark doesn't live here anymore, that he's in D.C. playing football today. On Monday the phone will ring again. *Is Mark there yet?*

The Rypiens stayed together in a convent in St. Paul during Super Bowl week. "I was just glad the Redskins made it to the Super Bowl," says Terry. "In my mind, I thought they probably weren't going to win. Buffalo had already been there. It was their turn." Well, as the press clippings that Terry keeps in an accordion folder will attest, the Redskins won, and won big. John Stockton left a congratulatory message for Mark at the Redskins' hotel in Minneapolis that night.

Mark spoke to Terry after the game. Four months before Mark played his first game for the Redskins, Bob Rypien died of a heart attack, in June 1988. "Don't worry, Mom," Mark now said. "I think Dad had the best seat in the house."

How could Mark know that? Terry Rypien was back home in Spokane by 10 o'clock Monday morning. The trees in her front yard were draped triumphantly in toilet paper. A banner was stretched across the front of the house: Home of Super Bowl XXVI MVP.

He is here. Dad had the best seat in the house.

How could Mark know that? It was three days before Terry first saw her son in the Disney commercial. You know the one. You know the song. *When you wish upon a star . . . makes no difference who you are . . . anything your heart desires . . . will come to you. . . .*

COMMUNICATION FROM CHAIRMAN OF SUBCOMMITTEE ON EMPLOYMENT AND HOUSING OF COMMITTEE ON GOVERNMENT OPERATIONS

The SPEAKER pro tempore (Mr. ENGEL) laid before the House the following communication from the Chairman of the Subcommittee on Employment and Housing of the Committee on Government Operations:

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, August 12, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House, the Capitol

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L(50) of the Rules of the House that the Subcommittee on Employment and Housing of the Committee on Government Operations has been served with a subpoena for documents relating to the Subcommittee's investigation of the U.S. Department of Housing and Urban Development, issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the Clerk, I will make the determinations required by the Rule.

Sincerely,

TOM LANTOS,
Chairman.

LEGISLATION TO FACILITATE AIDS VACCINE RESEARCH AND CLINICAL TRIALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 60 minutes

Mr. STARK. Mr. Speaker, today I am introducing the AIDS Vaccine Development and Compensation Act of 1992. This legislation seeks to advance research and development of a vaccine for one of, if not the single most explosive health concern today. This legislation facilitates efforts to develop a vaccine that will provide protection from the continued scourge of the acquired immunodeficiency syndrome [AIDS] in this land and overseas.

The AIDS Vaccine Development and Compensation Act of 1992 is designed to gain control of the liability concerns associated with the development and distribution of an AIDS vaccine. Enactment of this legislation will increase protection for the researchers, research institutions, and manufacturers of an AIDS vaccine. To the extent there are negative consequences as a result of receiving an AIDS vaccine, this legislation will provide relief to the recipients of an AIDS vaccine.

LIMIT ON LIABILITY PROTECTION

Before I proceed any further, let me state clearly that this legislation modifies the liability of manufacturers, research institutes or researchers only in cases where there is FDA, NIH, or other Government review and approval of a particular AIDS vaccine trial or the administration of a particular AIDS vaccine. Furthermore, in no instances does this legislation provide cover for gross negligence or reckless, willful or wanton misconduct, or provide protection in instances where the manufacturer, research institute or researcher intentionally provided false information to an agency of the Government or failed to comply with research or vaccine administration guidelines.

AN EPIDEMIC WITH NO BOUNDARIES

The AIDS epidemic may be characterized as one compounding, decade-long tragedy. In the United States alone there are well over 1 million persons infected with the AIDS-causing virus. We have watched in horror as the prevention and treatment efforts have fallen short of stopping the spread of this disease and have provided far too little relief from its effects.

While we have all shuddered at the sights and statistics of young men stricken with AIDS during their most productive years, we have learned that HIV does not discriminate. While AIDS is often depicted as a homosexual disease, it in fact knows no bounds of color, gender, age, religion, or sexual orientation. In fact, the percentage of women infected doubles every 5 years. Worldwide, one half of the persons infected since January 1 of this year have been women.

If this were not enough, we are now seeing counted in the statistics the faces of the newest and most fragile members of our families. And pediatric AIDS cases are increasing far more rapidly than had been anticipated. Today, the number of pediatric AIDS cases is 33 percent greater than the pessimistic prediction made in 1987 by Surgeon General Koop for 1991. Children account for nearly

4,000 of the diagnosed AIDS cases in the United States. Four thousand. According to the Public Health Service, it is estimated that 1,500 babies were born infected with the HIV virus in 1991 alone.

These numbers lead us to wonder, "How much worse can things get?" As we all should be well aware by now, much worse. In the British medical journal Lancet, it was estimated that 5.7 million people will be infected with HIV in the United States by 1995. According to the U.S. Agency for Health Care Policy and Research, this year in the United States $10 billion will be expended for treatment of people infected by HIV. By mid-decade, this number is anticipated to jump to $15 billion annually, a 50 percent increase.

The AIDS epidemic also knows no geographic bounds. AIDS is truly a pandemic disease. It is almost overwhelming to note that while the situation in the United States is horrendous, HIV has infected six times as many people on the continent of Africa. No village, no inner-city block, no school yard, no matter if in a poor or rich neighborhood, has likely escaped the menace of this virus. At the risk of numbing us all, I cite the conservative projection of the World Health Organization that 40 million people will be infected with HIV by the year 2000. Using a different model, the Harvard University-based Global AIDS Policy Coalition has generated a number nearing three times this amount.

To conclude my description of this continuing tragedy, I must remind my colleagues of the sum devastation of this disease. Across the globe, the human immunodeficiency virus has claimed the lives of 2.5 million individuals. As of March 31, we had lost 226,281 men, women and children here in our own country.

IT IS TIME TO REMOVE THE BARRIERS

The human immunodeficiency virus appears to pose a medical challenge as tenacious as any to date. The response must be equal to this challenge. To the extent that any of our responses show promise, we must accelerate these efforts and ensure that any impediments encountered are removed. The approach I am advocating today attempts to do just that.

The AIDS Vaccine Development and Compensation Act of 1992 cuts through the barrier of liability to free researchers and manufacturers to move forward with their efforts. It ensures that those who suffer negative consequences from the receipt of an AIDS vaccine are properly compensated.

Simply put, this legislation clears the way for government, academic and private sector researchers to get-on with their work.

While we in the legislative branch may argue over the degree to which we can afford to respond to the AIDS epidemic, this legislation ensures that we do at least the minimum. We must remove the barriers to the current prevention efforts. While we may consider new initiatives to pursue, it would be tragic if we failed to eliminate the barriers to the work currently underway.

A PROVEN APPROACH

The approach taken in this legislation is not an untested one. Modeled after the National Childhood Vaccine Compensation Act, this legislation will draw from an approach with half a decade of success. While there are differences to be recognized, it is the similarities and the experiences with these similarities that allow us to move ahead with this approach having a reasonable degree of confidence.

The most significant difference between the AIDS Vaccine Development and Compensation Act of 1992 and the earlier legislation of which I was a cosponsor is that this legislation applies to the development phase of the vaccine as well as during the distribution of a fully approved vaccine. Not only will inclusion of the development phase expedite progress on the AIDS vaccine, the data gathered during this period will enable us to more accurately determine the source and extent of claims for potential compensation during the distribution phase.

COMPENSATION IS SPECIFIED AND INTERNALLY FUNDED

To provide compensation to those who may experience injury, illness, disability or death, side effects that have been associated with other vaccines, a trust fund will be created. Funding for the trust fund will be generated from an assessment placed on each dose of the AIDS vaccine administered. The assessment will be levied against the manufacturers of the AIDS vaccine being tested or distributed. The amount of the assessment will be based upon the estimated cost of the compensation likely for each type or category of vaccine administered.

Compensation will be provided from the fund to those experiencing injury, illness, disability or death as a result of receiving an AIDS vaccine. Compensation to injured parties will be for specified expenses incurred as a result of the vaccine administration. A limit is placed on the amount of compensation awarded for pain and suffering. A set amount is provided in the case of death attributable to administration of an AIDS vaccine.

AN APPROACH WORTH THE RISK

Some may phrase the question as we move to consider this legislation, "Can we afford to assume the risk of an AIDS vaccine?" As is so often the case when dealing with issues of this magnitude and urgency, the question must be reversed. The true consideration is, "Can we afford to assume the liability of the disease and not the liability of prevention?"

From discussions with advocacy groups, industry, academia, and the Government research and regulatory agencies, there is unanimity on the point that AIDS vaccine research efforts have been inhibited by the issue of liability. What the genesis of these concerns are and how great they may be, it is not easy to determine. What I am attempting to do, and more specifically what this legislation does, is to the extent the liability concerns are impeding progress, minimize these concerns.

THE ALTERNATIVE OF NOT ACTING

I'd like to comment briefly on what the result of not implementing the AIDS Vaccine Development and Compensation Act of 1992 may be.

Right now, there are reports from the National Institute of Allergy and Infectious Diseases [NIAID] of one AIDS vaccine trial that will not be initiated and a second that is being stopped because of liability concerns. These two impeded clinical trials are likely to be representative of others that have been stopped at an earlier stage or not even initiated because of similar concerns. If these claims are accurate and research will be halted on even a small number of potential vaccines, the overall prevention effort will suffer. If clinical trials are halted on the most promising and advanced of vaccines, which may be the case at present, and even if these vaccines are not ultimately the chosen candidates, significant ramifications result.

The NIAID calculated the effect of delaying the administration of an AIDS vaccine. In their hypothetical example, if a vaccine with a 60-percent effectiveness was delayed for 5 years awaiting the development of an AIDS vaccine with a 90-percent effectiveness, at the end of a 15 year period 46 percent more cases of HIV infection would have resulted.

Put another way, if we can get a vaccine that has some level of effectiveness out to our communities and to those most at risk as soon as is feasible, the results will be immediate and long lasting. I cited above the tremendous number of lives currently affected by HIV. The costs are also staggering. Average lifetime costs of treatment for one AIDS patient is now $102,000. Simple multiplication can produce some astonishing figures as to what delaying a vaccine may cost.

Whether the delay in administering a vaccine occurs because of the inherent difficulties of science or because of liability concerns, the results are the same. In this instance where the scientific questions pose such a great challenge, it would be a tragedy if liability concerns were allowed to compound this difficulty.

REQUEST FOR COMMENT

Existing legislation provides a functioning model for the approach taken in this legislation. While this is so, the uncertainties associated with the AIDS virus require reexamination of all aspects of this compensation program. We need the ideas and comments of all interested parties on this bill, as soon as is possible. This bill is undoubtedly just a "first draft" of what is needed in this complex and difficult field. No less than was the case earlier, the participation and cooperation of all interested sectors is necessary in order to fashion a successful AIDS vaccine development and compensation program.

I look forward to receiving your comments regarding the AIDS Vaccine Development and Compensation Act of 1992 and for your ultimate support.

☐ 1800

THE GREAT CONSPIRACY OF THE TAX REVENUE ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 30 minutes.

Mr. OWENS of New York. Mr. Speaker, we are about to begin a recess until after Labor Day. As we begin this recess, I would like to take a few minutes to call upon the American people to take a hard look at what is happening to their Government here in Washington. We are in the throes of a Presidential election. This is a very important year. It is important that we all take a hard look at what is going on here in Washington, take a look at what has gone on this week, last week, and 2 weeks before.

As you look, look with the eyes of a mystery reader. Do not use the standards that were set in your high school civics classes. Those are all obsolete. Begin to look at the Government of the United States, or democracy, the greatest democracy that ever existed. Look at it with the eyes of a person trying to unravel a set of conspiracies. The conspiracies keep exploding. There are more and more of them.

In the year when the BCCI came to its climax and a prominent Washingtonian was indicted for his role in the BCCI scandal, the same year that Iran-Contra led to the indictment of a former Secretary of Defense, in the year that the savings and loan bailout was admitted costing us as much as $200 billion, the conspiracies keep going.

The cynicism is as rampant now as it ever was. In fact, we are witnessing in Washington now one of the most cynical efforts to develop legislation that I have ever witnessed. The Revenue Act of 1992 is one of the most cynical pieces of legislation ever contrived. The Revenue Act of 1992 is supposed to be a response to the disturbances that took place in Los Angeles following the announcement of the verdict in the Rodney King case. Not only were there disturbances in Los Angeles, but what has not been publicized so widely, many other cities have had disturbances.

There was generally a frightening rumbling that took place in our cities. Naturally, it takes place in the cities, because that is where most of the people are; but people in general began to express anger of a kind which would spread beyond the usual inner city neighborhoods and beyond any one ethnic group.

The anger is there, and in response to that anger we have had some feeble efforts here in Washington, among those efforts there was a proposal to establish enterprise zones in certain urban and rural communities.

At the heart of the Tax Revenue Act of 1992 is the effort, supposed to be the effort to help relieve the kind of situation that led to the uprising, the violence in Los Angeles.

It is supposed to be an urban aid package. Funny name for an urban aid package, the Tax Revenue Act of 1992, but it is supposed to be an urban aid package.

The excuse for the Tax Revenue Act of 1992 is the relief of inner-city problems. We are using the need to relieve the problems in the inner cities as the reason for the Tax Revenue Act of 1992.

The Tax Revenue Act of 1992, and I hope you will take a close look at what has happened here. You will have time to examine it before the Congress reconvenes in September, and understand that the riot that took place in Los Angeles was nothing compared to the riot that is taking place in Washington.

The riot here, the orgy of spending, everybody likes to accuse everybody else of being big spenders, so nobody will own up to the fact that the Tax Revenue Act of 1992 is an orgy of spending.

They call them tax expenditures, not regular expenditures, but tax expenditures. Every time a tax loophole is created, every time there are tax giveaways, we lose money. These are revenue loses.

Economists have come to equate revenue losses and tax expenditures with regular budget expenditures, and they are correct. So we are spending money like mad while both parties accuse each other of being big spenders; but spending is out of control.

There is an orgy going on. There was $17 billion worth of tax breaks included in the Tax Revenue Act of 1992 when it passed the House of Representatives. This act passed the House of Representatives by a margin of 356 to 55. Almost everybody, except 55 people, voted for this Revenue Act of 1992, which gave enormous tax breaks, at least $17 billion, the New York Times estimates as much as 20 billion dollars worth of tax expenditures, and nobody claims that any more than $2.5 billion of those tax expenditures relate to the urban areas. Nobody claims anything beyond that $2.5 billion related to enterprise zones has anything to do with urban areas.

So the people who rioted in Los Angeles are the excuse for making the 5 percent of Americans who are richest more rich.

Now, $17 billion in the House is bad enough, but now we hear that in the other body the number has reached $31 or $32 billion and is still climbing. Tax giveaways, tax expenditures, big spenders giving money to the wealthiest 5 percent of the population and they are doing this in the name of relieving the burden in the cities. They are doing this in response to the people who rioted in Los Angeles.

I beg all you inner-city dwellers out there who need health care, who need housing, who need jobs, everybody in the inner cities, please never ever again assume that violence will help your cause. Do not riot again, please do not. Do not have uprisings again, because we will give away the rest of the country to the 5 percent of the richest people if you do it again.

This sets a precedent. If they give away $30 or $35 billion now, they will be waiting for the next riot to finish the job.

It is a conspiracy. It is an open conspiracy. It is an open orgy. It is obscene, and yet most of the people here have gone along with it; 356 voted for it in the House, only 55 voted against it. I am proud of the fact that I am one of the 55 who voted against the Tax Revenue Act of 1992.

Its Big Brother who will be coming back to the House in the fall, in September, and it will be double the size of the smaller brother that left here.

The Tax Revenue Act of 1992 is one of those open conspiracies. In a democracy, we have access to information. We have access to our Government. We can hear and see what is going on. Right before our very eyes they do it.

It is not a covert action. This is not Iran-Contra. It is not a conspiracy like Iran-Contra where it was hatched in the basement of the White House and carried out in the basement of the White House, and we learned about it only later.

No, no, this is right before our eyes, enormous tax expenditures are being made in the name of relieving the burden in the cities.

It is a riot taking place right here in Washington and it is not covert. It is overt.

The BCCI was a covert operation. It extended its tentacles into all regions of this Government and all governments throughout the world. The CIA Director had regular meetings with the head of the BCCI at one time.

We have the indictment of a man who was an adviser to Presidents and once the Secretary of State in connection with the BCCI.

That kind of conspiracy is not unique. As Americans, we had better start looking for conspiracies, networks of conspiracies, circles of conspiracies intertwined with each other. The savings and loan is probably one of the most costly conspiracies. It took place right out in the open, most of it. It was not covert.

We passed rules and regulations and laws. Our Government was in charge. There was collusion between the regulated and the regulators. It all happened right before our very eyes, and we do not respond. We do not respond as citizens, as voters, and that is bad enough; but the worst thing is that here in Washington nobody still seems to understand the kind of conspiracies that are going on and the need for each individual Congressman to take it upon himself to begin to react to these conspiracies.

□ 1810

There is a story in the New York Times business section today which just shows how blatant and open, how obscene the conspiracy can get right before our eyes. The heading for the story that appears in the business section of the New York Times is that the United States "is accused of easing the pursuit of S&L cases," savings and loan cases, savings and loan associations.

You will recall we have not heard much about that in the last few months because neither party wants to discuss it as we approach an election, but it is still very much on the agenda.

Billions of dollars that the American taxpayers will have to pay back because the savings and loans' boards of directors, executives, dealers, wheeler-dealers, stole it. We are in the midst of trying to get the money back.

The hearing that was held before the Senate, I will read from it because I think it is important for everybody to know. People do not read the business section of the New York Times, but this is one for everybody to understand just how open, blatant, how much nerve and chutzpah the conspirators have:

> Government lawyers told a Senate panel that Federal attempts to sue and recover money from former officials of defunct savings-and-loan associations had been mismanaged and relaxed in recent months. They suggested that political influence played a role in weakened government efforts.

I am reading from an article that appeared in the New York Times today, Wednesday, August 12.

> A lawyer with the Resolution Trust Corporation, the agency responsible for cleaning up collapsed savings-and-loan institutions, said the agency's dropped plans to sue officials of an institution around the time one of them visited with President Bush.

I am reading from the New York Times:

> The lawyer, Jacqueline P. Taylor criticized the decision to resolve the matter out of court rather than to file a lawsuit as "an inappropriate settlement because of political reasons."
>
> The panel, the Senate Banking, Housing and Urban Affairs Committee, also heard Ms. Taylor, two other agency lawyers and a top official of the General Accounting Office, a congressional investigative body, tell about organizational disruptions in the Resolution Trust program to recover money from those who helped cause the collapse of hundreds of savings and loan associations.

There are organizational disruptions within the organization that was appointed to recover our money.

> Any reduction in recoveries by the government from savings-and-loan wrongdoers would increase the scandal's total cost to taxpayers, now estimated at more than $200 billion.

The most conservative estimate is that it has already cost the taxpayers $200 billion.

Continuing to read from the article which appeared in the New York Times today, August 12, the statement is made that:

> At the hearing, the committee made public a Resolution Trust personnel policy implemented earlier this year that, in effect, set up special hiring preferences for well-connected attorneys seeking jobs at the corporation.

Well-connected means some of the same attorneys who were attorneys for the banks that are now defunct, the banks from whom we have to recover our money.

Continuing in the same article:

> The lawyers, supported by the Senate committee's chairman, Donald W. Riegle, a Michigan Democrat, said the most experienced lawyers were being replaced or punished—

This is in the Resolution Trust Corporation—

> the most experienced lawyers were being replaced or punished, allowing potential defendants off the hook. Two other agency attorneys who today told the panel there had been mismanagement in the legal program, Bruce Pederson and Bradley Smolkin, were recently reassigned and demoted from their position as managers.

I am reading from a New York Times article about the Resolution Trust Corporation, which is supposed to recover the money lost from defunct savings and loan associations.

Continuing in the article:

> The three lawyers also criticized a draft memorandum prepared last month as part of a Bush Administration review of proposed government guidelines for suing officers and directors of banks and savings and loans. The guidelines, the lawyers said, would make it harder to sue directors who were not full-time employees of an institution.

We have an institutionalized effort to throttle and hamstring the efforts to recover billions of dollars that was stolen out of savings and loans, banks, funds guaranteed by the American taxpayers. It is your money, it is your Government, but your Government, or conspirators within the Government, are seeking to, prevent the recovery of the money. It is open, it is not secret. It is not hidden. This is not the Soviet Union. We do not have to worry about the Secret Service, the secret police bothering us. These people are openly testifying. They are using their constitutional rights. It is on the record. What are we going to do about it? Are these conspiracies forever going to be tolerated here? Are we going to sit and watch while the country is spent into oblivion?

The Soviet Union collapsed. It was a superpower. The bigger they are the harder they fall. So it is possible for a superpower to collapse, for very different reasons. Part of the reason the Soviet Union collapsed was because a handful of decisionmakers operating in closed circles made all of the decisions and were completely oblivious to what was going on in reality with the people. That is part of the reason they collapsed.

We are not in that position. We have an open society. Information flows abundantly. We know what is going on. We know that the savings and loans' boards of directors, executives, stole us blind. We know that. We know we have had to appropriate billions of dollars to make up for what they stole and guaranteed the depositors not sustain those losses. We know that. We know we created the Resolution Trust Corporation to go and recover the money. We know that. We know now that the resolution has been taken over by the very people it is supposed to recover the money from. They are in charge. This is an open, overt conspiracy.

The other overt conspiracy is going on right now in the legislature in the form of the tax giveaways with respect to the Revenue Act of 1992.

I pause at this point as I beg all of you to take time out to evaluate, to examine what has been going on here in Washington, stop listening to the speeches. They are all canned at this point; we know exactly what they are going to say. They are going to tell us we have no money for health care. The Democrats say we should have health care that every family can afford. But Democrats are not defining what "affords" means. Why not have health care for every family and guarantee that the health care is there? Well, we have no money. We are giving it away. We are giving away billions of dollars in tax breaks. We are spending $17 billion, $34 billion in tax breaks for the rich. We are making the richest people richer. Why not save some of that money and put it into health care? You are going to hear that there is no money, there is no money for the cities, there is no money for the cities. We use the cities' plight as an excuse to give away even more money to the rich.

Let me read to you from the 1992 Democratic platform. It is called A New Covenant with the American People. I want you to know that I am not alone in my spirit, in my sentiments, that there are people who feel that something is radically wrong, and they are in high positions. People who wrote the Democratic platform feel the same way I do, in general. Listen, listen to the preamble of the 1992 Democratic platform, "A New Covenant with the American People":

> Two hundreds summers ago this Democratic Party was founded by the man whose burning pen fired the spirit of the American Revolution—who once argued we should overthrow our Government every 20 years to renew our freedom and to keep pace with a changing world. In 1992, the party Thomas Jefferson founded invokes his spirit of revolution anew.

I am reading from the Democratic Party platform preamble:

> Our land reverberates with a battle cry of frustration that emanates from America's very soul, from the families in our bedrock neighborhoods, from the unsung workaday heroes of the world's greatest democracy and economy. America is on the wrong track. The American people are hurting. The American dream of expanding opportunity has faded. Middle-class families are working hard, playing by the rules, but still falling behind. Poverty has exploded. Our people are torn by divisions."

Further on it says:

> We hear the anguish and the anger of the American people. We know it is directed not just at the Republican Administrations that have had the power but at Government itself. Their anger is justified. We can no longer afford business as usual—neither the policies of the last 12 years of tax breaks for the rich, mismanagement, lack of leadership and cuts in services for the middle class and the poor, nor the adoption of new programs and new spending without new thinking. It is time to listen to the grassroots of America,

time to renew the spirit of citizen activism that has always been the touchstone of a free and democratic society.

□ 1820

I am reading, my colleagues, from the 1992 Democratic platform, A New Covenant with the American People, excerpts from the preamble, I think that they are very much in order here at this point. I think they are very much in order at this point as we reexamine what has happened here the past year, all of these ringing truths, and I agree with every word of the Democratic preamble. The spirit of it is definitely correct. But where are the actions?

The policies of the last 12 years of tax breaks for the rich have accelerated in the last few weeks. We are giving bigger tax breaks for the rich than ever before. The House bill, H.R. 11, passed by a vote of 356 to 55, and of the $17 billion, only 2.5 billion of the tax breaks have anything to do with the original purpose of the bill: to help our cities. The rest of it are giveaways to the richest people of America so they get richer.

And now the other body is about to double that amount from 17 to about $34 billion in giveaways to the rich right before our very eyes while the speeches are being made and the preambles are being written. Right before our eyes the open robbery continues, the riot continues, the orgy of tax spending goes on. The very same people who would spend the day debating an increase in the amount of money we give for cancer research or the amount of money we provide for immunizations for young children, school age children, and say we are broke, we cannot afford it; the very people who insist we cannot afford universal health care, we cannot cover it, we cannot be like Canada, we cannot be like Japan or Germany; they say, "We cannot afford it. It would cost too much." These are the very same people who are giving away billions of dollars. They are big spenders because tax expenditures are equal to other expenditures in an economy like ours.

Mr. Speaker, we must come to grips with the fact that these open conspiracies must be confronted. Somebody has to represent the grassroots in Washington. The grassroots themselves had better communicate to the law makers over this recess period that they are aware of what is going on and they do not like it. I would tell them, understand every time you're told there's no money for health care that it's a big lie. Understand that if the Democratic leadership prepares a plan for health care and the plan does not provide for the coverage of every American citizen, they're only saying the plan will cover half of the uncovered by 1998, but they make no attempt to cover everybody as they do in Canada, or Great Britain or Germany. If they tell us they can't ever cover all the people because it will cost too much, confront them with the fact that we're giving away billions, that there's always enough money to take care of the lobbyists who line up at the Ways and Means Committee. There's always enough money to take care of the lobbyists who line up at the Finance Committee. Somehow ways will be found to meet their needs.

We have to understand that these open conspiracies are the cause of our anger and our hurt. There is a direct relationship between what goes on here openly before our very eyes and what we feel out there in the communities.

Nobody is waging an intense effort to deal with the unemployment in our States. Alaska has unemployment of 9.2 percent; California, 8.7 percent. There was a time when we thought anything above 4 percent was a major crisis, but we are quietly accepting unemployment in the District of Columbia at 8.5 percent; Massachusetts, 8.1 percent; Michigan, 8.3 percent; New Jersey, 8.8 percent; New York, 8.1 percent. And when we have unemployment in a big region like the State of New York or the State of New Jersey, a large State, then we get into the inner city communities, and the unemployment rate is usually double that of the unemployment rate for the whole State. Rhode Island is 9.4 percent; West Virginia, 11.1 percent unemployment. There are no intense efforts being mounted in Washington to deal with this unemployment crisis except through the back door.

They tell us that the billions of dollars of tax giveaways, $17 billion in the House, and now $34 billion may be in the Senate, that they will somehow stimulate the economy and one day jobs will be created. We have heard that argument before. That is how we got where we are. That is why we are in the position we are today. The trickle-down theory is that, if we take care of the rich and keep on giving enough to them, we will have eventually some benefits created for the poor.

Mr. Speaker, even among the Republicans Jack Kemp has said that under the criteria that we are using in the Tax Revenue Act of 1992 Los Angeles might not even qualify for any of the aid. The head of the minority in the other body, Mr. DOLE, said following the committee action—he characterized the enterprise zone provisions as being very anemic. The provision that is supposed to provide aid for the cities, even the other side of the aisle admits are ridiculous.

The excuse: The uprising in Los Angeles, the violence in Los Angeles. That excuse is being used to make the rich richer. I can think of nothing more cynical, I can think of no plot more dastardly, I can think of nothing that I have seen in the time that I have been here that is more frightening, to use the suffering, and the anger and the outrage of the people on the bottom, the poorest people, as an excuse to make the rich richer. To even go that far is beyond the cynicism of what was previously taking place here.

All this takes place in an atmosphere where the savings and loan association goes completely unnoticed. Americans accuse those who are working for savings and loan associations, accuse the Resolution Trust Corporation, of conspiring to thwart the mission of the agency. All this take place in an atmosphere where BCCI, the head of the bank, one of the largest banks in Washington, is indicted in the BCCI scandal. All this takes place in an atmosphere where the Attorney General has refused to even appoint a special prosecutor to look at what took place in the case of the largest amounts of unauthorized expenditures for Iran which led to the building up of the war machinery in Iran.

Conspiracy on top of conspiracy, networks of conspiracies. I tell the Americans, "Take a hard look into Government. Throw away your civics books from high school and start examining what's going on. We are witnessing the destruction of our country before our very eyes. There's a riot here in Washington, and the looters are making off with your children's future."

THE CONCERNS OF FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 60 minutes.

Mr. JONTZ. Mr. Speaker, I want to take a moment to compliment the gentleman from New York [Mr. OWENS] on his eloquent statement this evening on the problems facing our country, particularly those problems facing the residents of our great cities, and I share his observation that we have the resources, we do have the means to address the problem that citizens in our cities face, and I want to speak for a moment now about some of the problems that face all the residents of our country, particularly those who make their living in agriculture. The Fifth District of Indiana that I represent has a very significant farm population. The concerns of the farmers in my district are very similar to the concerns of farmers all across the country.

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I would say the major concern, the major issue, that has our Nation's farmers upset at the present time is low farm prices. The prices that farmers receive for the commodities that they produce have been going down while the cost of production has been going up. There is very real economic pain on the farm today. Our Nation's agricultural policies have not worked. We have not ensured that the farmers who make a significant investment in time, labor, in management, expertise, and in the capital of their farming operation, has a fair opportunity to earn a profit. For that reason we need to change the agricultural policies of our country.

The second issue that I have heard more from agricultural producers in my district about over the past year than any other has been the issue of wetlands.

Mr. Speaker, farmers in my district and across the country feel that our Nation's wetlands policies are confusing, that they are unfair. Farmers feel that they are being asked to do more than their fair share in protecting our Nation's wetlands.

Farmers were upset this last year when they began to receive wetlands delineation notices from the Department of Agriculture. Farmers feel that common sense has not been used in the implementation of our wetlands laws.

I understand the concerns of agricultural producers in my district and I agree with them, that our wetlands policies have not been successful and need to be changed. However, I feel that some in the agricultural community have been pursuing the wrong solution to the wetlands issue by supporting legislation which would help the developers, would help the oil companies, would help industry, and would help others, but would do very little for the problems facing the farmer when it comes to wetlands.

The bill that I am speaking about is H.R. 1330, the Hayes-Ridge bill. This bill would amend section 404 of the Clean Water Act in several ways by providing for the classification of wetlands based on their value and also by providing for the purchase by the Federal Treasury of the highest quality wetlands at a cost estimated by the CBO of from $10 to $15 billion.

Mr. Speaker, there are two reasons why this approach will not help the agricultural producers of this country. First, the problems facing farmers relate primarily to the swampbuster provisions of the farm bill concerning wetlands, not to section 404 of the Clean Water Act.

Section 404 of the Clean Water Act does not discriminate against farmers. What section 404 requires is for anyone who wishes to fill a wetland to obtain a permit from the Army Corps of Engineers. In fact, general farming activities are exempt from section 404.

I am sure there are farmers who have problems with obtaining permits under section 404, but my experience in northern Indiana is that most farmers have a lot more to be concerned about with the swampbuster provisions of the farm bill rather than section 404 of the Clean Water Act.

The second fallacy of H.R. 1330 is that we cannot afford it. The Congress this year has not appropriated even one dime for the existing Wetlands Reserve Program, which is the current program to make payments to farmers for wetlands which they voluntarily protect.

I offered an amendment to the agricultural appropriations bill on the floor of the House just a few weeks ago to maintain the current level of $46 million for the wetlands reserve program. That amendment was defeated. the Senate in the Agriculture appropriations bill did include $55 million for the Wetlands Reserve Program, but the conference committee on that bill deleted those funds. Just yesterday when this House approved the conference committee on the Agriculture appropriations bill, we approved a bill which would include no funding for the Wetlands Reserve Program.

So the program which is supposed to enroll 1 million acres will at the end of its second year have 50,000 acres enrolled. Somehow, in spite of our experience with the Wetland Reserve Program, which is falling so short of its goals because of the reluctance of Congress to appropriate funds, in spite of this experience, somehow the Federal Treasury is suppose to bear the cost under the Hayes-Ridge bill of acquiring anywhere from 9- to 16-million acres of wetlands in this country at a cost of $10 to $15 billion. That just is not going to happen. I think that the agricultural producers of our country should recognize that.

Farmers do have many valid points in their criticism of existing wetlands policy. One is that the minimal effects provision of the swampbuster program, which was expanded as a part of the farmer friendly amendments to the swampbuster which we passed as a part of the 1990 farm bill, has not been properly implemented.

Another valid complaint that farmers have with the swampbuster program is that it arbitrarily halts further activities on the part of the producer to improve drainage, regardless of the value of the wetlands which are affected.

Now, to put this in context, it is important to point out that the swampbuster program only affects those agricultural producers who choose to participate in the farm program. If you do not want to live by the requirements of the swampbuster law, you can avoid them by getting out or by staying out of the farm program.

Now, one must recall when the Congress wrote the swampbuster requirement in the 1985 farm bill that our Nation was in a period of large agricultural surpluses. I was not in the Congress in 1985 and thus was not involved in crafting this swampbuster provision. But the arguments that were successful when this provision was written were that it did not make any sense in times of agricultural surplus to allow farmers who were participating in the farm program and putting land into the set-aside program and taking other steps to keep their production in control to turn right around and then drain wetlands that increased their production on other acres.

The argument was that this was a contradiction, to require farmers to take land out of production on the one hand and then turn around and allow them to plow up new land, called the sodbuster law, or to drain wetlands, which is called the swampbuster law.

The existing law, the 1990 farm bill, particularly absent the use of the minimal effect provision, simply draws the line at whatever drainage currently exists. After a scope and effects determination by the Soil Conservation Service, the producer may be allowed to restore drainage to what it once was, but the producer is not going to be allowed under the swampbuster provision to increase drainage regardless of what the value may be of the wetlands that would be affected.

I think this is the main problem that agricultural producers today have with out wetland laws. Grandfather drained part of the farm, dad drained part of the farm, and the agricultural producer of today wants to drain part of the farm, too, but the swampbuster does not allow him to do that.

Some critics of the law believe that if it does not look like a swamp, then it is not a wetland. That simply is not true. I believe that both section 404 and the swampbuster program should use a unified definition, a scientifically based functional definition of wetlands. This definition will definitely include some land which has standing water only a portion of the year. But permanent standing water is not really what determines scientifically whether an area is a wetland or functionally whether an area is a wetland.

I support efforts to fund work by the National Academy of Science to produce a scientifically workable definition and delineation manual, because anything less than that will only result in further problems. In fact, the independent agencies funding bill that this House passed a few days ago provides an appropriation of $500,000 to the EPA for such a study. I think it would be enormously helpful in seeing that we have scientifically based definitions of wetlands.

That being said, I do believe the agriculture interests have a valid argument that the standards that they have to meet under the swampbuster program is a different standard than everyone else has to meet under section 404 of the Clean Water Act. There is no question about it, thousands of acres of valuable wetlands are destroyed by nonagriculture interests because of the loopholes in section 404. One of those loopholes pertains only to filling wetlands. Other activities which may destroy wetland values are not covered under section 404.

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And section 404, to repeat, allows wetlands to be filled if the party receives a permit from the Corps of Engineers. So just because section 404 regulates the filling of wetlands does not mean it prevents the filling of wetlands. An individual can obtain a permit to fill a wetland; that happens every day. Most of the permits that are sought, in fact, are granted. And we are losing wetlands because of the weakness of section 404 of the Clean Water Act.

So my suggestion to our Nation's farm groups and the individuals they represent is this, take another look at the Hayes-Ridge bill. Is continuing your alliance with the other parties who want to loosen up section 404 really what is best for the agricultural producers of our Nation? Why not investigate whether environmental groups might agree to some additional flexibility in the swamp buster law in return for support in the agricultural community for making needed improvements in section 404?

The environmental community is very much aware that while the debate over swamp buster continues, they are losing much larger and in many cases more important wetlands as a result of the weaknesses of section 404.

I personally believe that there are many ways to make both the swamp buster and section 404 provisions, as they regulate wetlands, work better. I think we can achieve the President's objective of no net loss of wetlands and, at the same time, make it possible for agricultural producers to have more flexibility under the swamp buster requirements.

One of the points I often make to my nonrural colleagues in this House is that the farm program is not a welfare program. The farmer just does not go into the ASCS office and pick up a check. The farm program participation is a two-way street. It is a contract between the Government and the agricultural producers by which each gains benefits.

The farmer gains the benefits of farm payments, which help to supplement his income in these very difficult economic times. The farmer also gains the benefit of production-control strategies which help to improve prices. Even as low as prices are today, they would be lower if it were not for the provisions of the farm program.

What does the public gain? The public gains the benefit of agricultural production practices which conserve our Nation's resources and protect environmental values. We require the farmer to engage in conservation compliance. We require the farmer to engage in set-asides. We require the farmer to take these steps and others to ensure that the value of his farm for producing agricultural commodities is perpetuated and sustained for the benefit of future generations.

In addition, the consumers of our Nation, as a result of our farm program, also are guaranteed a dependable food supply. And I might add, a very affordable food supply compared to the cost of food in other nations around the world.

It is in the best interests of our country to make the farm program work, and that includes ironing out the problems with swamp buster. That is not going to be accomplished by H.R. 1330. It can be accomplished by discussions between agricultural and environmental interests who, by working together, can address the problems that farmers now have with swamp buster and in turn strengthen the provisions of section 404 of the Clean Water Act, which now allow other interests to get away with destroying wetlands which the farmer would never be allowed to do under the farm bill.

I do not want the leave the impression that swamp buster is not an important law in protecting our wetlands. I do not want to leave the impression that some of the smaller areas which initially might not to the farmer appear to be valuable as wetlands are without value. They may be very valuable in terms of maintaining the hydrologic balance, in terms of wildlife, in terms of preventing pollution. And if they do serve these functions, then they should be protected under the swamp buster program.

But I believe that we can put some additional flexibility in swamp buster to allow farmers to have greater flexibility in their farming operations and, at the same time, protect the wetlands values which the swamp buster law is designed to do.

Mr. Speaker, I have often assumed the sometimes lonely role on the House Committee on Agriculture of trying to work out the differences between agricultural and environmental interests. I believe that our Nation's farmers are correct when they express their commitment to conserving our environment. Most farmers in the Fifth District which I represent, and I believe this is true of agricultural producers nationwide, do feel strongly about conserving our resources. And they are committed to protecting our Nation's wetlands as well as our Nation's waters and soils.

I think that farmers in this country are willing to take reasonable, commonsense steps toward that end. At the same time, I believe that the environmental community in our country speaks for the interests of most Americans when they insist that we take seriously our responsibilities to future generations to be good stewards of the land.

I do not find the expressed interest of the environmental groups to be something that is dangerous to the agricultural community in our country. I think, in fact, that the environmental groups understand that we have to take common steps to deal with these problems because if the solutions we propose to the environmental issues that face agriculture do not work, then they do not accomplish the purposes for which they are intended.

It is disappointing to me that there are some in the agricultural community who persist in identifying environmentalists as an enemy. Rather than trying to work things out, there are some who see prolonging conflicts as best serving their interests. I do not believe that is true. I believe that agricultural-environmental interests can work together on the wetlands issue, on the clean water issue, on many other issues, because their mutual objectives are very much compatible.

Regrettably, there is not time remaining in the 102d Congress to resolve the differences over wetlands. We are not going to see the farm bill opened up. We are not going to see changes made in the swamp buster program. But the issue of wetlands should be a high priority for the Committee on Agriculture, for the Committee on Public Works and Transportation, and for the other committees of the 103d Congress that have jurisdiction over these issues.

I believe that by reformulating swampbuster and by strengthening section 404 of the Clean Water Act, we can devise the wetlands policy which better serves our agricultural producers, which allows them to continue to produce the food and fiber that our Nation depends on, hopefully, with better farm prices which will allow them to make a profit which they very much deserve, and protect wetlands, which are in the best interests of not just this generation but of future generations as well.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GINGRICH (at the request of Mr. MICHEL) for today on account of injuries from an automobile accident.

Mr. MARKEY (at the request of Mr. GEPHARDT) for today on account of family emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MACHTLEY) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 5 minutes today, in lieu of 60-minute special order previously approved.

Mrs. MORELLA, for 5 minutes, today.

Mr. HUNTER, for 30 minutes, today.

Mr. DORNAN of California, for 5 minutes today, in lieu of 60-minute special order previously approved.

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. DONNELLY) to revise and extend their remarks and include extraneous material:)

Mrs. SCHROEDER, for 5 minutes, today.

Mr. CARPER, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of Utah, for 30 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MAZZOLI, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PEASE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MACHTLEY) and to include extraneous matter:)

Mr. BURTON of Indiana.
Mr. ALLARD.
Mr. DICKINSON.
Mr. BLILEY.
Mr. BAKER.
Mrs. MORELLA.
Ms. SNOWE in two instances.
Mr. HORTON in three instances.
Mr. LAGOMARSINO.
Mr. HYDE in two instances.
Mr. HUNTER.
Mr. GEKAS in three instances.
Mr. CAMPBELL of California.
Mr. MICHEL.
Mr. GILMAN.
Mr. SOLOMON.
Mr. EMERSON in five instances.
Mr. YOUNG of Alaska.
Mr. CRANE.
Mr. THOMAS of California.
Ms. ROS-LEHTINEN in two instances.
Ms. MOLINARI.
Mrs. BENTLEY.

(The following Members (at the request of Mr. DONNELLY) and to include extraneous matter:)

Mr. VENTO.
Mr. VISCLOSKY.
Mr. FALEOMAVAEGA.
Mr. LEVINE of California.
Mr. BLACKWELL.
Mr. TRAFICANT.
Mr. LANTOS in seven instances.
Mr. CLAY.
Mr. GUARINI.
Mr. YATRON.
Mr. KANJORSKI in two instances.
Mr. DOWNEY.
Mr. SOLARZ.
Mr. JOHNSON of South Dakota.
Mr. MONTGOMERY.
Mr. OBEY.
Mr. ANNUNZIO.
Mr. EVANS.
Mr. SKELTON.
Mr. MARKEY in two instances.
Mr. ORTIZ.
Mr. HOCHBRUECKNER.
Mr. SKAGGS.
Mr. EARLY.
Mr. FOLEY.
Mr. STUDDS in two instances.
Mr. HOYER.
Mr. NOWAK.
Mr. EDWARDS of California.
Mr. ACKERMAN.
Mr. BONIOR in two isntances.
Mr. NEAL of Massachusetts.
Mr. BEILENSON.
Mr. ROYBAL.
Mr. FOGLIETTA in two instances.
Mr. FASCELL in two instances.
Mr. LAFALCE.
Ms. OAKAR.
Mr. SABO.
Mr. ROEMER.
Mr. SWETT in two instances.
Mr. TOWNS.
Mr. HAMILTON.
Mr. PALLONE.
Mr. SCHUMER.
Mr. HUBBARD.
Mr. MCNULTY.
Mr. LANTOS in five instances.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly an enrolled bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5487. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 544. An act to protect animal enterprises;

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years; and

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

ADJOURNMENT

Mr. JONTZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. ENGEL). Pursuant to the provisions of Senate Concurrent Resolution 135 of the 102d Congress, the House stands adjourned until 12 noon, Wednesday, September 9, 1992.

Thereupon (at 6 o'clock and 47 minutes p.m.), pursuant to Senate Concurrent Resolution 135, the House adjourned until Wednesday, September 9, 1992, at 12 noon.

ADDITIONAL APPOINTMENTS AS MEMBERS OF THE GLASS CEILING COMMISSION

Pursuant to the provisions of section 203(B)(1) of Public Law 102-166, and the order of the House of Wednesday, August 12, 1992, authorizing the Speaker and the minority leader to accept resignations and to make appointments authorized by law or by the House, the Speaker and Senate majority leader on August 12, 1992, did jointly appoint to the Glass Ceiling Commission the following individuals: Ms. Jean Ledwith King of Ann Arbor, MI; Ms. Beverly A. King of Culver City, CA; and Ms. Judith L. Lichtman of Washington, DC.

These appointments are in addition to those made to the Commission on July 22, 1992.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various committees of the United States House of Representatives concerning the foreign currencies used by them for official foreign travel during the first and second quarters of 1992 pursuant to Public Law 95-354 and the consolidated report of official foreign travel authorized by the Speaker of the U.S. House during the second quarter of 1992 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 21, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other Purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to Korea and Japan, Feb. 11–16, 1991:											
Delegation expenses	2/13	2/16	Japan				1,293.93		338.91		1,632.84
Committee total							1,293.93		338.91		1,632.84
Visit to Germany, Czechslovakia, Austria, France, and Spain, Feb. 7–18, 1992:											
Delegation expenses	2/11	2/13	Czechsolovakia				101.35		4.16		105.51
	2/16	2/17	Spain				221.03		780.99		1,002.02
Committee total							322.38		785.15		1,107.53

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, July 30, 1992.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
McCurdy delegation	1/10	1/13	Africa				1,311.68				1,311.68
Committee totals							1,311.68				1,311.68

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAVE McCURDY. Chairman, July 29,1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Tom Coleman	1/5	1/8	Russia		1,018.00		(3)				1,018.00
	1/8	1/12	Portugal		1,100.00		(3)				1,100.00
Hon. E de la Garza	2/1	2/2	Mexico		286.50		(3)				286.50
Marshall Livingston	2/1	2/2	Mexico		286.50		(3)				286.50
Committee total					2,691.00						2,691.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

E de la GARZA, Chairman, Apr. 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to Germany and Italy Apr. 13–17, 1992:											
Clark A. Murdock	4/13.	4/16.	Germany		225.00						225.00
	4/16.	4/17.	Italy		333.00						333.00
Commercial airfare							3,052.70				3,052.70
Vernon A. Guidry	4/13.	4/16.	Germany		225.00						225.00
	4/16.	4/17.	Italy		333.00						333.00
Commercial airfare							3,052.70				3,052.70
Visit to France, Apr. 11–14 and 18–19, 1992:											
Hon. Les Aspin	4/11.	4/14.	France		762.00						762.00
	4/18.	4/19.	France		254.00		15.68				269.68
Visit to Canada, Apr. 14–18, 1992:											
Hon. H. Martin Lancaster	4/14.	4/18.	Canada		972.00						972.00
Hon. Floyd Spence	4/14	4/18.	Canada		972.00						972.00
Hon. Dennis M. Hertel	4/14.	4/18.	Canada		972.00						972.00
Ronald J. Bartek	4/14.	4/18.	Canada		972.00						972.00
Mary C. Redfern	4/14.	4/18.	Canada		972.00						972.00
Committee total					6,992.00		6,121.08				13,113.08

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, July 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. William Lehman	4/13	4/16	Latvia, Estonia, Lithuania		765.00						765.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	4/16	4/19	Poland		576.00						576.00
Transportation provided by military aircraft							(3)				
Hon. John Murtha	5/3	5/3	Panama				1,490.00				1,490.00
Transportation provided by military aircraft							(3)				
Gregory Dahlberg	4/12	4/13	Russia		346.00						346.00
	4/13	4/15	Ukraine		488.00						488.00
	4/15	4/16	Germany		316.00						316.00
Commercial air transportation							4,660.00				4,660.00
Robert V. Davis	4/12	4/13	Russia		358.00						358.00
	4/13	4/15	Ukraine		488.00						488.00
	4/15	4/16	Uzbekistan		197.00						197.00
	4/16	4/22	Greece		957.00						957.00
Commercial air transportation							8,907.00				8,907.00
Richard N. Malow	4/10	4/15	Costa Rica		860.00						860.00
Commercial air transportation							569.00				569.00
Juliet Pacquing	4/12	4/16	Turkey		583.00						583.00
	4/16	4/21	Greece		754.00						754.00
	4/21	4/24	Spain		386.00						386.00
	4/24	4/25	Portugal		278.00						278.00
Commercial air transportation							4,558.70				4,558.70
Timothy Peterson	4/11	4/15	Denmark		616.00						616.00
	4/15	4/15	Norway		91.00						91.00
	4/15	4/16	Denmark		154.00						154.00
	4/16	4/21	Greece		754.00						754.00
	4/21	4/22	Spain		75.00						75.00
	4/22	4/24	Germany		460.00						460.00
Commercial air transportation							4,639.37				4,639.37
John Plashal	5/3	5/3	Panama				1,490.00				1,490.00
Military air transportation							(4)				
William Schuerch	4/13	4/16	Latvia, Estonia, Lithuania		765.00						765.00
	4/16	4/18	Poland		384.00						384.00
Commercial air transportation (Poland to D.C.).							1,152.70				1,152.70
Gregory Walters	5/3	5/3	Panama				1,490.00				1,490.00
Military air transportation							(4)				
Committee total					10,651.00		28,956.77				39,607.77
Appropriations, surveys and investigations staff:											
Henry Avalos	4/20	4/26	England		1,298.50		3,904.00		188.22		5,390.72
	4/26	5/2	Austria		967.00						967.00
G. Carter Baird	4/20	4/24	England		800.25		3,904.00		85.08		4,789.33
	5/24	5/29	Belgium		915.00		3,047.00		112.92		4,074.92
Thomas K. Baker	4/3	4/10	France		1,174.25		3,940.00		343.75		5,458.00
	4/10	4/15	Switzerland		887.25						887.25
	4/15	4/17	Spain		372.75						372.75
	4/17	4/25	England		1,872.75						1,872.75
	6/1	6/5	Japan		912.00		4,336.00		150.56		5,398.56
	6/5	6/9	Malaysia		565.25						565.25
	6/9	6/11	Bangladesh		260.75						260.75
	6/11	6/12	Thailand		175.50						175.50
Catherine A. Basl	6/6	6/12	Germany		852.75		3,445.32		24.20		4,322.27
Roger T. Castonguay	4/20	4/26	France		1,121.00		3,396.00		133.00		4,650.00
	4/26	5/2	Austria		1,008.50						1,008.50
	5/24	5/30	Belgium		1,152.50		3,406.40		127.83		4,686.73
	5/30	6/6	Italy		1,870.25						1,870.25
Gerald T. Coughlin	4/20	4/26	England		1,298.50		3,904.00		210.39		5,412.89
	4/26	4/30	Austria		635.00						635.00
Alfred L. Esposito	4/3	4/9	Israel		1,198.00		3,025.40		60.84		4,284.24
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
Anthony J Gabriel	4/20	4/26	France		1,121.00		3,396.00		172.72		4,689.72
	4/26	5/2	Austria		1,008.50						1,008.50
	5/24	5/30	Belgium		1,152.50		3,406.40		120.76		4,679.66
	5/30	6/6	Italy		1,870.25						1,870.25
Charles V. Gorsey	4/3	4/9	Israel		1,198.00		3,025.40		27.00		4,250.40
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
Dennis K. Lutz	6/6	6/12	Germany		852.75		3,445.32		46.20		4,344.27
Robert H. Pearre	5/8	5/12	Japan		952.00		3,189.00		113.99		4,254.99
	5/12	5/15	Thailand		489.00						489.00
Vincent J. Pistolessi	4/3	4/9	Israel		1,198.00		3,025.40		68.00		4,291.40
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
Thomas R. Reilly	5/8	5/12	Japan		952.00		3,189.00		105.21		4,246.21
	5/12	5/15	Thailand		489.00						489.00
Robert J. Reitwiesner	4/3	4/10	France		1,174.25		3,658.12		358.08		5,190.45
	4/10	4/15	Switzerland		887.25						887.25
	4/15	4/17	Spain		426.00						426.00
	4/17	4/22	Belgium		997.50						997.50
	4/22	4/24	Netherlands		325.25						325.25
	6/1	6/5	Japan		912.00		4,336.00		167.04		5,415.04
	6/5	6/9	Malaysia		565.25						565.25
	6/9	6/11	Bangladesh		260.75						260.75
	6/11	6/12	Thailand		175.50						175.50
Philip P. Rittman	4/3	4/8	France		917.00		3,961.30		609.13		5,487.43
	4/8	4/10	Switzerland		408.00						408.00
	4/10	4/14	Monaco		1,080.00						1,080.00
	4/14	4/17	Italy		774.00						774.00
	4/17	4/25	England		1,828.50						1,828.50
R.W. Vandergrift, Jr	4/11	4/14	Russia		524.00		4,195.40		133.59		4,853.49
	4/14	4/15	Ukraine		291.00						291.00
	4/15	4/16	Uzbekistan		112.00						112.00
	4/16	4/17	Germany		225.00						225.00
Thomas L. Van Derslice	4/20	4/25	France		929.50		3,218.73		44.30		4,192.53
Kenneth P. Walton	4/3	4/8	France		917.00		3,644.81		381.24		4,943.05
	4/8	4/10	Switzerland		408.00						408.00
	4/10	4/14	Monaco		1,080.00						1,080.00
	4/14	4/17	Italy		774.00						774.00
	4/17	4/22	Belgium		997.50						997.50

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	4/22	4/24	Netherlands		325.25						325.25
Ben A. Weaver	4/3	4/9	Israel		1,198.00		3,025.40		130.05		4,353.45
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
L. Michael Welsh	4/3	4/9	Israel		1,198.00		3,025.40		61.55		4,284.95
	4/9	4/11	Cyprus		226.00						226.00
	4/11	4/12	France		153.00						153.00
Committee total					52,226.75		88,049.80		3,975.65		144,252.20

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation provided by military aircraft.
[4] Military aircraft.

JAMIE L. WHITTEN, Chairman, July 20, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Joan Kois Woodward	4/10	4/15	Hungary		1,035.00		[3]3,199.40				4,234.40
Ron Boster	4/10	4/14	Hungary		828.00		[3]3,199.40				4,027.40
Committee total					1,863.00		6,398.80				8,261.80

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial.

LEON E. PANETTA, Chairman, July 29, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Rochelle Wilkie Martinez	3/31	4/3	Canada	499.54	424.61		385.93			499.54	810.54
Carl E. Anderson, Jr.	3/31	4/4	Canada	922.25	775.00		435.43			922.25	1,210.43
Committee total					1,199.61		821.36				2,020.97

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM L. CLAY, Chairman, July 9, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Calvin R. Humphrey, staff	4/27	5/1	Europe		834.00		2,957.00				3,791.00
W. Ross Newland, staff	4/27	5/1	Europe		834.00		2,957.00				3,791.00
Committee total				1,668.00		5,914.00				7,582.00	

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAVE McCURDY, Chairman, July 29, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Michael Amitay		5/21	United States				4,050.00				4,050.00
	5/22	5/23	Russia		340.00						340.00
	5/23	5/25	Turkmenistan		320.00						320.00
	5/25	5/27	Kazakhstan		320.00						320.00
	5/27	5/29	Kyrgyzstan		320.00						320.00
	5/29	5/30	United Kingdom		250.00						250.00
Patricia Carley		3/21	United States				3,418.85				3,418.85
	3/22	4/10	Finland		2,451.00				[3]878.37		3,329.37
		5/21	United States				2,979.00				2,979.00
	5/22	5/23	Russia		290.00						290.00
	5/23	5/25	Turkmenistan		270.00						270.00
	5/25	5/27	Kazakhstan		270.00						270.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	5/27	5/29	Kyrgyzstan		270.00						270.00
Orest Deychakiwsky		3/21	United States				3,190.00				3,190.00
	3/22	4/4	Finland		1,677.00				[3]600.99		2,277.99
David Evans		4/30	United States				3,112.00				3,112.00
	5/1	5/9	Finland		1,328.00		609.73		[3]369.84		2,307.57
	5/9	5/16	Russia		1,519.00						1,519.00
	5/16	5/27	Finland		1,826.00		690.86		[3]508.53 323.36		3,348.75
		6/24	United States				4,146.00				4,146.00
	6/25	6/26	Russia		358.00				59.90		417.90
	6/26	6/30	Georgia		708.00				66.50		774.50
	6/30	7/2	Moldova		224.00				5.00		229.00
	7/2	7/4	Byelarus		224.00				20.00		244.00
	7/4	7/11	Finland		1,512.00		60.63		[3]323.61		1,896.24
John Finerty		6/24	United States				3,973.00				3,973.00
	6/25	6/26	Russia		358.00						358.00
	6/26	6/30	Georgia		708.00				46.50		754.50
	6/30	7/2	Moldova		224.00						224.00
	7/2	7/4	Byelarus		224.00						224.00
Robert Hand		4/28	United States				1,056.00				1,056.00
	4/29	7/5	Finland		7,426.20				[3]3,097.41		10,523.61
Heather Hurlburt	3/21	4/18	Finland		4,522.00				[3]1,294.44		5,816.44
		5/3	United States				2,886.00				2,886.00
	5/4	7/12	Finland		11,700.00		253.63		[3]3,189.87		15,143.50
Ronald McNamara		3/21	United States				1,230.37				1,230.37
	3/22	4/16	Finland		3,652.00		224.92		[3]1,201.98		5,078.90
Michael Ochs		5/29	United States				2,699.30				2,699.30
	5/30	6/1	Turkey		191.00						191.00
	6/3	6/8	Azerbaijan		800.00						800.00
	6/8	6/9	Turkey		191.00						191.00
		6/24	United States				4,003.80				4,003.80
	6/25	6/26	Russia		358.00						358.00
	6/26	6/30	Georgia		708.00				46.50		754.50
	6/30	7/2	Moldova		224.00						224.00
	7/2	7/4	Byelarus		224.00						224.00
	7/4	7/5	Poland		43.00						43.00
R. Spencer Oliver		6/18	United States				2,838.80				2,838.80
	6/21	6/24	Finland		648.00						648.00
Erika Schlager		4/30	United States				2,987.60				2,987.00
	5/1	7/5	Finland		9,344.20				[3]3,004.95		12,349.15
Victoria Showalter		3/21	United States				1,718.90				1,718.90
	3/22	4/18	Finland		3,890.68		64.80		[3]1,248.21		5,203.69
Samuel Wise		3/23	United States				1,210.00				1,210.00
	3/24	4/10	Finland		2,947.00				[3]785.91		3,732.91
		5/21	United States				2,600.70				2,600.70
	5/22	5/23	Russia		190.00						190.00
	5/23	5/25	Turkmenistan		170.00						170.00
	5/25	5/27	Kazakhstan		170.00						170.00
	5/27	5/29	Kyrgyzstan		170.00						170.00
	5/29	6/13	Finland		2,562.00				[3]693.45		3,255.45
		6/20	United States				2,871.70				2,871.70
	6/21	7/2	Finland		2,068.00		250.54		[3]508.53		2,827.07
	7/2	7/5	Hungary		645.00						645.00
	7/5	7/11	Finland		1,296.00				[3]277.38		1,573.38
Committee total					70,131.08		53,127.13		18,551.23		141,809.44

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Portion of shared administrative costs for participation on United States delegation to the Helsinki follow-up meeting.

STENY H. HOYER, July 30, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LATVIA, ESTONIA, LITHUANIA, AND POLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 12 AND APR. 19, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Martin Frost	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Hon. William Lehman	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Hon. David Price	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Hon. John Paul Hammerschmidt	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Hon. Lucien Nedzi	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Kristi E. Walseth	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Cathy Brickman	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO LATVIA, ESTONIA, LITHUANIA, AND POLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 12 AND APR. 19, 1992—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
William Freeman	4/13	4/16	Latvia		765.00						765.00
	4/14	4/14	Estonia								
	4/16	4/16	Lithuania								
	4/16	4/19	Poland	7,718.400	[3]576.00						576.00
Committee total					10,728.00						10,728.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military transportation.

MARTIN FROST, May 12, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CZECHOSLOVAKIA, AUSTRIA AND GERMANY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 20 AND APR. 30 1992

Name of Member or employee	Date		Country	Per Diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Henry Collins	4/21	4/22	Czechoslovakia		75.00						75.00
	4/22	4/26	Austria	7,777.10	664.00						664.00
	4/26	4/28	Germany		[3]604.00						604.00
	4/28	4/30	Czechoslovakia		150.00						150.00
Commercial transportation							3,143.30				3,143.30
William Kinter	4/21	4/22	Czechoslovakia		75.00						75.00
	4/22	4/26	Austria	7,777.10	664.00						664.00
	4/26	4/28	Germany		[3]604.00						604.00
	4/28	4/30	Czechoslovakia		150.00						150.00
Commercial transportation							3,143.30				3,143.30
Susan Zeleniak	4/21	4/22	Czechoslovakia		75.00						75.00
	4/22	4/26	Austria	7,777.10	664.00						664.00
	4/26	4/28	Germany		[3]604.00						604.00
	4/28	4/30	Czechoslovakia		150.00						150.00
Commercial transportation							3,143.30				3,143.30
Committee total					4,479.00		9,429.90				13,908.90

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Includes subsistence payments for April 22 thru April 27, 1992.

KRISTI E. WALSETH, May 6, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BRAZIL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 5 AND JUNE 8, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Anthony Beilenson	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. Ben Blaz	6/5	6/9	Brazil	1,506			[3]+1.515				3,021
Hon. Cardiss Collins	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. Edward Feighan	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. Bill Green	6/5	6/7	Brazil	753			[3]+2,405				3,158
Hon. Dennis Hertel	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. Constance Morella	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. George Miller	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. John Miller	6/5	6/6	Brazil	753			[3]+635				1,388
Hon. Nancy Pelosi	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. John Porter	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. James Scheuer	6/5	6/8	Brazil	1,255			(3)				1,255
Hon. Gerry Sikorski	6/5	6/8	Brazil	753			[3]+1,571				2,324
Hon. Jolene Unsoeld	6/5	6/8	Brazil	1,255			(3)				1,255
Nancy Carman	6/5	6/8	Brazil	1,255			(3)				1,255
Carol Doherty	6/5	6/8	Brazil	1,255			(3)				1,255
Daniel Finn	6/5	6/8	Brazil	1,255			(3)				1,255
David Finnegan	6/5	6/8	Brazil	1,255			(3)				1,255
Jessica Laverty	6/5	6/8	Brazil	1,255			(3)				1,255
John Lawrence[4]	6/5	6/8	Brazil	1,138			(3)				1,138
Eileen Lee	6/5	6/8	Brazil	1,255			(3)				1,255
Julia Moffett[4]	6/5	6/8	Brazil	1,141			(3)				1,141
Joan Rose	6/5	6/8	Brazil	1,255			(3)				1,255
Daniel Weiss[4]	6/5	6/8	Brazil	986			(3)				986
Committee total					28,365		6,126				34,491
Hon.	6/5	6/8	Brazil				(3)				

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military transportation.

[4] Return of unused per diem as follows: Lawrence, $117; Moffett, $114; Weiss, $269.

GEORGE MILLER, June 23, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HUNGARY, AUSTRIA AND BULGARIA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 22 AND JULY 11, 1992

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Cathy Brickman	6/23	7/6	Hungary	184,328	2,365.00						2,365.00
	6/25	6/27	Austria		210.00						210.00
	7/6	7/11	Bulgaria		1,385.00						1,385.00
Commercial transportation							3,463.00				3,463.00
William Freeman	6/23	7/6	Hungary	184,328	2,365.00						
	6/25	6/27	Austria		210.00						2,365.00
	7/6	7/11	Bulgaria		1,385.00						1,385.00
Commercial transportation							3,463.00				3,463.00
Committee total					7,920.00		6,926.00				14,846.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. JAMES P. McGOVERN, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 10 AND APR. 14, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
James P. McGovern	4/10	4/14	El Salvador	3,455.36	421.89		1,185.00				1,687.56
Committee total					421.89		1,185.00				1,687.56

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES P. McGOVERN, May 6, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, REP. CHARLES B. RANGEL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 16 AND MAY 19, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Charles B. Rangel	5/16	5/18	Bahamas		383.00		(3)				383.00
	5/18	5/19	Haiti		75.00		483.00				558.00
Ground transportation							229.13				229.13
Committee total					458.00		712.13				1,170.13

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. current is used, enter amount expended.

[3] Military transportation.

CHARLES B. RANGEL, Aug. 4, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. ROGER R. SZEMRAJ, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 19 AND MAY 30, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Roger R. Szemraj	5/20	5/26	Poland	10,984,000	796.00						796.00
	5/26	5/29	Hungary	48,810	621.00						621.00
	5/19	5/30					[3] 3,188.70				3,188.70
Committee total					1,417.00		3,188.70				4,605.70

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] International travel, United States to Poland, Hungary to United States.

ROGER R. SZEMRAJ, June 17, 1992.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. MEREDITH COOPER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 14 AND APR. 26, 1992

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Meredith Cooper	4/14	4/16	Senegal		690.00						690.00
	4/16	4/21	Cote d'Ivorie		1,052.00						1,052.00
	4/21	4/26	Ghana		2,609.25						2,609.25
Total commercial airfare							4,136.00				4,136.00
Committee Total					4,351.35		4,136.000				8487.35

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MEREDITH COOPER, Aug. 11, 1992.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4092. A letter from the Secretary, Federal Trade Commission, transmitting an update to the 1991 annual report on the current practices and methods of cigarette advertising and promotion, pursuant to 15 U.S.C. 1331 et seq.; to the Committee on Energy and Commerce.

4093. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 92-32), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4094. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Harry J. Gilmore, of Virginia, to be Ambassador to the Republic of Armenia, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4095. A letter from the Acting Director, U.S. Arms Control and Disarmament Agency, transmitting the annual "Report to Congress on Arms Control and Disarmament Studies," pursuant to Public Law 100-213, section 4 (101 Stat. 1445); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIV, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. SLAUGHTER: Committee on Rules. House Resolution 555. Resolution providing for the consideration of the bill (H.R. 4706) to amend the Consumer Product Safety Act to extend the authorization of appropriations under that act, and for other purposes (Report No. 102-840). Referred to the House Calendar.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 5231. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes; with an amendment (Rept. 102-841). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5754. A bill to provide for the conservation and development of water and related resources, to authorize U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes; with an amendment (Rept. 102-842). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3842. A bill to extend the territorial sea and the contiguous zone of the United States, and for other purposes; with an amendment (Rept. 102-843, Pt. 1). Ordered to be printed.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 4300. A bill to amend the Stewart B. McKinney Homeless Assistant Act to extend programs providing urgently needed assistance for the homeless, and for other purposes; with an amendment (Rept. 102-844, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 4014. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information; with an amendment (Rept. 102-845). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5346. A bill relating to Native Hawaiian Health Care, and for other purposes; with an amendment (Rept. 102-846). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5096. A bill to supersede the Modification of Final Judgment entered August 24, 1982, in the antitrust action styled U.S. versus Western Electric, Civil Action No. 82-0192, U.S. District Court for the District of Columbia; and for other purposes; with an amendment (Rept. 102-850). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 4069. A bill for the relief of Rollins H. Mayer; with an amendment (Rept. 102-847). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 5265. A bill for the relief of Terrill W. Ramsey (Rept. 102-848). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. House Resolution 492. Resolution referring to the bill (H.R. 5426) for the relief of Bear Claw Tribe, Inc. to the chief judge of the U.S. Claims Court; with an amendment (Rept. 102-849). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3927. A bill to extend and revise rulemaking authority with respect to Government securities under the Federal securities laws, and for other purposes; with amendments; the amendments recommended by the Committee on Banking, Finance and Urban Affairs referred to the Committee on Ways and Means for a period ending not later than September 18, 1992, for consideration of such provisions of the amendments, as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X (Rept. 102-722, pt. 2). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 4542. A bill to prevent and deter auto theft; with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than September 19, 1992 for consideration of such provisions of the bill and amendment recommended by the Committee on the Judiciary as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X (Rept. 102-851. pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 3927. The amendments recommended by the Committee on Banking, Finance and Urban Affairs referred to the Committee on Ways and Means for a period ending not later than September 18, 1992, for consideration of such provisions of the amendments as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROE (for himself, Mr. MINETA, Mr. GEPHARDT, Mr. BONIOR, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. MICHEL, and Mr. GINGRICH):

H.R. 5830. A bill to expedite construction of highway projects which provide additional quality jobs; to the Committee on Public Works and Transportation.

By Mr. LAUGHLIN:

H.R. 5831. A bill to designate the Federal building located at 312 South Main Street in Victoria, TX, as the "Martin Luther King, Jr. Federal Building"; to the Committee on Public Works and Transportation.

By Mr. EVANS (for himself, Mr. MARTINEZ, Mr. COSTELLO, Ms. WATERS, Ms. LONG, and Mr. JONTZ):

H.R. 5832. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to establish a Persian Gulf War Health Registry; to the Committee on Veterans' Affairs.

By Mr. LAROCCO:

H.R. 5833. A bill to increase access to health care services for individuals in rural areas, and for other purposes; jointly, to the Committees on Energy and Commerce Ways and Means, and the Judiciary.

By Mr. EWING (for himself and Mr. JONTZ):

H.R. 5834. A bill to amend the Federal Crop Insurance Act to modify the provisions governing yield averages, to provide late planting and prevented planting coverage, and to authorize higher levels of coverage; to the Committee on Agriculture.

By Mr. ACKERMAN:

H.R. 5835. A bill to amend the Truth in Lending Act to limit unauthorized use of credit cards by discouraging theft of credit cards that are mailed; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ALLEN (for himself, Mr. BLILEY, Mr. BATEMAN, Mr. WOLF, and Mr. PICKETT):

H.R. 5836. A bill to transfer title to certain lands in Shenandoah National Park in the State of Virginia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ANDREWS of Maine:

H.R. 5837. A bill to provide universal access for all Americans to basic health care services and long-term care services; jointly, to the Committees on Energy and Commerce, Ways and Means, Education and Labor, Rules, Armed Services, Veterans' Affairs, and Post Office and Civil Service.

By Mr. BLACKWELL:

H.R. 5838. A bill to prevent certain employers from using genetic information to deny employment opportunities; jointly, to the Committees on Education and Labor, Post Office and Civil Service, House Administration, and the Judiciary.

H.R. 5839. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket approval of food derived from genetically modified plants; to the Committee on energy and Commerce.

By Mr. BROOKS (for himself and Mr. FRANK of Massachusetts):

H.R. 5840. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on the Judiciary.

By Mr. CARPER:

H.R. 5841. A bill to amend the Shipping Act of 1984 to make U.S. shippers more competitive in the global marketplace and to improve the financial well-being of U.S. ocean common carriers by allowing for direct negotiations between shippers and carriers, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CONYERS (for himself, Mr. KENNEDY, Mr. DELLUMS, Mr. HORTON, Mr. ABERCROMBIE, Mr. SPRATT, Mr. FORD of Tennessee, Ms. NORTON, Mr. SAVAGE, Mr. STOKES, Mr. ESPY, Mr. DYMALLY, Mr. OWENS of New York, Mr. RAVENEL, Mr. TALLON, Mr. RANGEL, Mr. PAYNE of New Jersey, Mr. TOWNS, Mr. BLACKWELL, Mr. PANETTA, Mr. SPENCE, Mr. WHEAT, Mr. DIXON, Mr. DE LUGO, Mr. TORRICELLI, Mrs. COLLINS of Michigan, Mr. VANDER JAGT, Mrs. PATTERSON, Mr. JACOBS, Mr. WASHINGTON, Mr. JEFFERSON, Mr. RITTER, and Mr. DERRICK):

H.R. 5842. A bill to award a congressional gold medal to John Birks "Dizzy" Gillespie; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CONYERS:

H.R. 5843. A bill to provide that elections for President, Senators, and Members of the Congress be held on Saturday; to the Committee on House Administration.

By Mr. DINGELL (for himself and Mr. TRAXLER):

H.R. 5844. A bill to amend the Agricultural Act of 1949 to compute farm program payment yields based on actual yields, and for other purposes; to the Committee on Agriculture.

By Mr. DORGAN of North Dakota:

H.R. 5845. A bill to establish goals for the award of Federal procurement contracts to rural business concerns, and for other purposes; to the Committee on Government Operations.

By Mr. DOWNEY (for himself, Mr. MILLER of California, Mr. WILLIAMS, and Mr. MATSUI):

H.R. 5846. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; jointly, to the Committee on Ways and Means, Education and Labor, and Energy and Commerce.

By Mr. DOWNEY:

H.R. 5847. A bill to amend the Internal Revenue Code of 1986 to clarify the exemption for student nurses from Social Security and unemployment taxes; to the Committee on Ways and Means.

By Mr. ENGEL:

H.R. 5848. A bill to prohibit a rental car company from charging a surcharge or fee in a rental agreement for a vehicle based on the residence of the renter; to the Committee on Energy and Commerce.

By Mr. GEKAS:

H.R. 5849. A bill to amend title 28, United States Code, to authorize the office of independent counsel, and for other purposes; to the Committee on the Judiciary.

By Mr. HALL of Texas (for himself, Mr. MCCURDY, and Mr. CUNNINGHAM):

H.R. 5850. A bill to amend the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of such act; to the Committee on Education and Labor.

By Mr. HORTON (for himself and Mr. CONYERS):

H.R. 5851. A bill to establish the Commission on Information Technology and Paperwork Reduction; to the Committee on Government Operations.

By Mr. HUCKABY (for himself and Mr. ROSE):

H.R. 5852. A bill to establish a 20-percent maximum broken kernel content limit for Public Law 480 rice shipments; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. HUGHES:

H.R. 5853. A bill to designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. HUNTER:

H.R. 5854. A bill to provide for uniformity of quality and a substantial reduction in the overall costs of health care in the United States through the development of diagnostic and treatment protocols and the implementation of the protocols in the program under title XVIII of the Social Security Act, the imposition of limitations on the amount of damages that may be paid in a health care liability action, and the mandatory establishment by States of alternative dispute resolution systems to resolve health care liability claims, and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and the Judiciary.

By Mr. JOHNSON of South Dakota (for himself and Mr. DORGAN of North Dakota):

H.R. 5855. A bill to amend the Federal Meat Inspection Act to require that imported meat and meat food products containing imported meat be labeled imported, and to require that certain eating establishments serving imported meat inform customers of that fact; to the Committee on Agriculture.

By Mr. JOHNSON of South Dakota (for himself and Mr. MILLER of California and Mr. OWENS of Utah):

H.R. 5856. A bill to authorize the establishment of the Chief Big Foot National memorial Park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOSTMAYER:

H.R. 5857. A bill to provide for standards for the cleanup of domestic nuclear energy industry facilities and other radiologically contaminated sites; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. LAFALCE:

H.R. 5858. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish the National Quality Commitment Award with the objective of encouraging American universities to teach total quality management, to emphasize the importance of process manufacturing, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. MACHTLEY:

H.R. 5859. A bill to amend the Fair Credit Reporting Act to prohibit the inclusion of certain information in files and credit reports relating to consumers; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5860. A bill to direct the Secretary of the Army to make a grant to the city of Pawtucket, RI, for replacement and repair of the city's water transmission system; to the Committee on Public Works and Transportation.

By Mr. MANTON:

H.R. 5861. A bill to amend the Truth in Lending Act to limit the unauthorized use of credit cards and the theft of credit cards and other mail from Postal Service facilities; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. MANTON (for himself and Ms. MOLINARI):

H.R. 5862. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure an equitable and timely distribution of benefits to public safety officers; to the Committee on the Judiciary.

By Mr. MANTON:

H.R. 5863. A bill to amend title I of the Marine Protection Research, and Sanctuaries Act of 1972 to ensure that land-based management alternatives for sewage sludge are protective of human health and the environment; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Energy and Commerce.

By Mr. MONTGOMERY (for himself, Mr. STUMP, Mr. APPLEGATE, Mr. HAMMERSCHMIDT, Mr. EDWARDS of California, Mr. WYLIE, Mr. PENNY, Mr. STAGGERS, Mr. SMITH of New Jersey, Mr. ROWLAND, Mr. BURTON of Indiana, Mr. SLATTERY, Mr. BILIRAKIS, Mr. HARRIS, Mr. RIDGE, Mrs. PATTERSON, Mr. JAMES, Mr. SANGMEISTER, Mr. STEARNS, Mr. JONES of Georgia, Mr. PAXON, Ms. LONG, Mr. SPENCE, Mr. EDWARDS of Texas, Mr. NICHOLS, Mr. BREWSTER, Mr. SANTORUM, Mr. GEREN of Texas, Mr. CLEMENT, Mr. PICKETT, Mr. BLAZ, and Mrs. MORELLA):

H.R. 5864. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish and maintain a Persian Gulf War Veterans Registry; to the Committee on Veterans' Affairs.

By Mr. MOODY (for himself and Mr. RIDGE):

H.R. 5865. A bill to prohibit the use of appropriated funds to adjust the 1990 decennial census or any intercensal estimates by the Bureau of the Census of the U.S. Department of Commerce; to the Committee on Post Office and Civil Service.

H.R. 5866. A bill to amend title 13, United States Code, to require the Secretary of Commerce to notify the Senate and House of Representatives about changes in the methodology for producing numbers used in any Federal funding formula; to the Committee on Post Office and Civil Service.

By Mr. MOODY:

H.R. 5867. A bill to amend title XVIII of the Social Security Act to require as a condition of participation in the Medicare Program that hospitals disclose the costs incurred by the hospital in providing services to patients; to the Committee on Ways and Means.

By Mr. MRAZEK (for himself, Mr. BERMAN, Mr. CONYERS, Mr. FEIGHAN, Mr.

FRANK of Massachusetts, Mr. BRYANT, Mr. BEILENSON, Mr. FROST, Mr. MILLER of California, Mrs. MINK, Mr. SERRANO, Mr. SHAYS, Mrs. LOWEY of New York, Mr. KOSTMAYER, Mr. HOCHBRUECKNER, Mr. ABERCROMBIE, Mr. KOPETSKI, Mr. DURBIN, and Mr. ATKINS):

H.R. 5868. A bill to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", enacted July 5, 1946 (commonly known as the Lanham Act), to require certain disclosures relating to materially altered films; to the Committee on the Judiciary.

By Mr. MURPHY:

H.R. 5869. A bill to authorize the Secretary of the Interior to acquire certain real property in Fayette County, PA, Monongalia County, WV, and Preston County, WV; to the Committee on Interior and Insular Affairs.

By Ms. NORTON:

H.R. 5870. A bill to require the Administrator of General Services, the Director of the National Park Service, the Architect of the Capitol, and the Secretary of the Smithsonian Institution to provide notice to the District of Columbia before carrying out any activity affecting property located in the District of Columbia, and for other purposes; jointly, to the Committee on Interior and Insular Affairs, Public Works and Transportation, House Administration, and the District of Columbia.

By Ms. OAKAR:

H.R. 5871. A bill to provide for more effective use of U.S. contributions to the International Monetary Fund, to provide for a U.S. contribution to the International Finance Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5872. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5873. A bill to provide for more effective use of U.S. contributions to the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ORTIZ:

H.R. 5874. A bill to establish a wetlands center at the Port of Brownsville, TX, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PALLONE (for himself, Mr. FROST, and Mr. HERTEL):

H.R. 5875. A bill to establish the National Environmental Sciences and Technology Agency, and for other purposes; to the Committee on Science, Space, and Technology.

By Ms. PELOSI:

H.R. 5876. A bill to assist the States in the enactment of legislation to address the criminal act of stalking; to the Committee on Judiciary.

By Ms. PELOSI (for herself, Mr. MINETA, Mr. BERMAN, Mrs. BOXER, Mr. CONYERS, Mr. EDWARDS of California, Mr. GILMAN, Mr. LANTOS, Mr. SOLARZ, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDERSON, Mr. ANDREWS of New Jersey, Mr. BORSKI, Mr. BUSTAMANTE, Mr. CUNNINGHAM, Mr. DE LUGO, Mr. EVANS, Mr. FOGLIETTA, Mr. HORTON, Mr. HUNTER, Mr. KOSTMAYER, Mr. LANCASTER, Mr. MATSUI, Mr. MILLER of California, Mrs. MINK, Ms. NORTON, Mr. PANETTA, Mr. RANGEL, Mr. ROYBAL, Mr. SHARP, Mr. SPENCE, Mr. STARK, Mr. TORRES, Mr. TOWNS, Mr. WAXMAN, and Mr. WELDON):

H.R. 5877. A bill to extend the deadline for applying for naturalization of certain Filipino veterans of World War II, and for other purposes; to the Committee on the Judiciary.

By Mr. PETRI:

H.R. 5878. A bill to amend the Higher Education Act of 1965 to encourage lifelong learning by permitting students attending a program of postsecondary education on a less than half-time basis to receive Federal family education loans, and authorizing the Student Loan Marketing Association to originate loans to enable students to borrow up to $25,000 under a lifelong learning line of credit for education and job training that shall be repaid based on the borrower's ability to pay, and for other purposes; to the Committee on Education and Labor.

By Mr. RAHALL:

H.R. 5879. A bill to amend title 38, United States Code, to authorize accelerated payments for short-term, high-cost courses taken by veterans pursuing postsecondary education, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RAMSTAD (for himself and Mr. BILBRAY):

H.R. 5880. A bill to amend the Small Business Act to authorize small business concerns owned and controlled by individuals with disabilities to participate in business development programs established by that act, and for other purposes; to the Committee on Small Business.

By Mr. RITTER:

H.R. 5881. A bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. ROBERTS:

H.R. 5882. A bill to amend the Agricultural Act of 1949 to authorize the transfer of crop acreage base between program crops on a farm and the establishment of a farm program payment yield for the program crop receiving such base on behalf of producers adversely affected by an irrigation water shortage; to the Committee on Agriculture.

By Mr. SABO:

H.R. 5883. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage; to the Committee on Education and Labor.

By Mr. SARPALIUS:

H.R. 5884. A bill to amend title 23, United States Code, and the Intermodal Surface Transportation Efficiency Act of 1991 to repeal provisions establishing a national maximum speed limit; to the Committee on Public Works and Transportation.

By Mrs. SCHROEDER: (for herself, Mr. EVANS, Mrs. LLOYD, Ms. LONG, Mr. EDWARDS of California, and Mr. CARPER):

H.R. 5885. A bill to amend title 38, United States Code, to improve the care and services furnished to veterans who have experienced sexual trauma while on active duty, to study the needs of such veterans, to expand and improve other Department of Veterans Affairs programs that provide care and services to women veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SIKORSKI

H.R. 5886. A bill to reauthorize the Office of Special Counsel through fiscal year 1994; to the Committee on Post Office and Civil Service.

By Mr. SKAGGS (for himself, Mr. MORRISON, Mr. SCHIFF, Mrs. SCHROEDER, Mr. RICHARDSON, Mr. STARK, Mr. BUSTAMANTE, Mr. EVANS, Mr. SANDERS, Mr. JONTZ, Mr. STALLINGS, and Mrs. LLOYD):

H.R. 5887. A bill to provide health insurance benefits to certain former employees at defense nuclear facilities of the Department of Energy for injuries caused by exposure to ionizing radiation; to the Committee on Energy and Commerce.

By Mr. SMITH of Oregon:

H.R. 5888. A bill to amend the Klamath River Basin Fishery Resources Restoration Act to increase the number of members of the Klamath River Basin Fisheries Task Force; to the Committee on Merchant Marine and Fisheries.

By Ms. SNOWE:

H.R. 5889. A bill to make the Age Discrimination in Employment Act of 1967 applicable to the House of Representatives and the instrumentalities of the Congress, to give certain employees of the House of Representatives and the instrumentalities of the Congress the right to petition for judicial review for violations of certain laws and rules concerning civil rights and employment practices, and for other purposes; jointly, to the Committees on House Administration, Education and Labor, and Rules.

By Mr. SOLARZ:

H.R. 5890. A bill to impose strict controls on the importation, transfer, transportation, manufacture, possession, and ownership of handguns; to the Committee on the Judiciary.

H.R. 5891. A bill to provide for community-based language training for U.S. foreign service officers, other U.S. Government officials, and State and local employees and voluntary workers providing important services to Spanish-speaking communities; jointly, to the Committees on Foreign Affairs and Education and Labor.

By Mr. STALLINGS (for himself and Mr. OWENS of Utah):

H.R. 5892. A bill to make applicable to the Congress certain laws relating to civil rights and employment practices; jointly, to the Committees on House Administration, Education and Labor, and Government Operations.

By Mr. STARK:

H.R. 5893. A bill to amend the Public Health Service Act to establish a National AIDS Vaccine Development and Compensation Program for the development of human immunodeficiency virus vaccines and a program to compensate the victims of human immunodeficiency virus vaccine-related injuries and deaths by establishing an AIDS Vaccine Injury Compensation Trust Fund, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. STUDDS (for himself and Mr. NEAL of Massachusetts):

H.R. 5894. A bill to amend the Immigration Act of 1990 and the Immigration and Nationality Act with respect to the transition and permanent diversity immigrant programs; to the Committee on the Judiciary.

By Mr. STUDDS:

H.R. 5895. A bill to provide for the establishment of the National Environmental Business Foundation to encourage and promote opportunities for the U.S. private sector to provide environmental technology (including marine biotechnology), education and training, and other assistance to developing countries; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. STUDDS (for himself and Mr. MOAKLEY):

H.R. 5896. A bill to reduce the harbor maintenance tax, amend its applicability and enhance its enforcement; jointly, to the Committees on Ways and Means and Public Works and Transportation.

By Mr. THOMAS of California:

H.R. 5897. A bill to amend title XVI of the Social Security Act to institute certain reforms relating to representative payees and to the provision of supplemental security income benefits to the disabled based on substance abuse, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. THOMAS of Georgia:

H.R. 5898. A bill to amend Public Law 874, 81st Congress, to provide for increased payments in lieu of taxes to certain school districts bisected by Federal installations; to the Committee on Education and Labor.

By Mr. THOMAS of Wyoming:

H.R. 5899. A bill to provide for a water purchase contract by Kirby Ditch Irrigation District and by Bluff Irrigation District in the State of Wyoming; to the Committee on Interior and Insular Affairs.

By Mr. PEASE (for himself, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. ECKART, Mr. FEIGHAN, Ms. KAPTUR, Mr. KILDEE, Ms. OAKAR, Mr. SAWYER, and Mr. STOKES):

H.R. 5900. A bill to provide a comprehensive program of adjustment assistance to workers adversely affected by import competition or the relocation of U.S. production facilities abroad; to the Committee on Ways and Means.

By Mr. THOMAS of Wyoming:

H.R. 5901. A bill to authorize the Secretary of the Interior to transfer to the Goshen Irrigation District, WY, certain lands and irrigation structures relating to the Fort Laramie Division of the North Platte Project; to the Committee on Interior and Insular Affairs.

By Mr. TORRICELLI:

H.R. 5902. A bill to establish Federal, State, and local programs for the investigation, reporting and prevention of bias crimes; to the Committee on the Judiciary.

By Mr. TOWNS:

H.R. 5903. A bill to provide grants to reduce the number of homicides and the incidents of violence by students, ages 13 to 21, and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

By Mrs. UNSOELD:

H.R. 5904. A bill to establish a National Shellfish Safety Program; jointly, to the Committees on Energy and Commerce and Merchant Marine and Fisheries.

By Mr. VENTO:

H.R. 5905. A bill to provide additional funding to the Resolution Trust Corporation, to make necessary improvements in the operation of such Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VENTO (for himself and Mr. LAGOMARSINO):

H.R. 5906. A bill to direct the Secretary of the Interior to exchange certain lands with the District of Columbia and to regulate advertising and related commercial activities in the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. WATERS:

H.R. 5907. A bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and polices with respect to traumatic brain injury, and for other purposes; jointly, to the Committees on Energy and Commerce and Post Office and Civil Service.

By Mr. WILLIAMS:

H.R. 5908. A bill to allow certain gaming activities to be conducted on Indian lands in the State of Montana for a 1-year period; to the Committee on Interior and Insular Affairs.

By Mr. WYDEN:

H.R. 5909. A bill to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit cost of infant formula for the special supplemental food program for women, infants, and children [WIC], and for other purposes; to the Committee on Education and Labor.

By Mr. ABERCROMBIE (for himself and Mrs. MINK):

H.J. Res. 541. Joint resolution to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and to offer an apology to native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii; to the Committee on Interior and Insular Affairs.

By Mr. BROWN (for himself, Mr. BATEMAN, Mr. HUBBARD, Mr. DE LUGO, Mr. TANNER, Mr. BACCHUS, Mr. ROEMER, Mr. MILLER of California, Mr. MORAN, Mr. HARRIS, Mr. PARKER, Mr. MAVROULES, Mr. QUILLEN, Mr. SMITH of New Jersey, Mr. HORTON, Mr. SAXTON, Mr. PETERSON of Florida, Mr. PACKARD, Mr. TORRES, Mr. MONTGOMERY, Mr. HUCKABY, Mr. BILIRAKIS, Mr. LAGOMARSINO, Mr. WILSON, Mrs. MINK, Mr. KOLTER, Mr. MCCANDLESS, Mr. ROYBAL, Mr. BUSTAMANTE, Mr. HEFNER, Mr. KOPETSKI, Mr. SANGMEISTER, Mr. MCMILLEN of Maryland, Ms. NORTON, Mr. HAMMERSCHMIDT, Mr. HAYES of Illinois, Mr. DOWNEY, Mr. SWETT, Ms. LONG, Mr. SPENCE, Mr. TOWNS, Mr. CLINGER, Mr. ERDREICH, Mr. MCGRATH, Mr. SOLARZ, Mr. PAYNE of New Jersey, Mr. HASTERT, Mr. SISISKY, Mr. WEISS, Mr. GUARINI, Mrs. LLOYD, Mr. PALLONE, Mr. WHITTEN, Mr. GONZALEZ, Mr. EVANS, Mr. LIPINSKI, Mr. FROST, Mr. ROE, Mr. COLEMAN of Texas, Mr. DE LA GARZA, Mr. LEHMAN of California, Mr. JENKINS, Mr. RHODES, Mr. LAFALCE, Mr. BONIOR, Mr. ANDREWS of Maine, Ms. HORN, and Mr. HATCHER):

H.J. Res. 542. Joint resolution designating the week beginning November 8, 1992, as "Hire a Veteran Week"; to the Committee on Post Office and Civil Service.

By Mr. FAZIO:

H.J. Res. 543. Joint resolution designating November 30, 1992, through December 6, 1992, as "National Education First Week"; to the Committee on Post Office and Civil Service.

By Mr. LEWIS of Georgia:

H.J. Res. 544. Joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week"; to the Committee on Post Office and Civil Service.

By Mr. MCCRERY:

H.J. Res. 545. Joint resolution proposing an amendment to the Constitution of the United States to provide for the limitation of service in the Congress; to the Committee on the Judiciary.

By Ms. MOLINARI (for herself, Ms. SNOWE, Mr. ESPY, Ms. LONG, Mr. KOPETSKI, Mr. MCMILLEN of Maryland, Mr. RITTER, Mr. GORDON, Mr. SANDERS, Mr. LENT, Mr. GONZALEZ, Mr. HEFNER, Ms. PELOSI, Mr. HORTON, Mr. NATCHER, Mr. STAGGERS, Mr. HUBBARD, Mr. MCNULTY, Mr. KASICH, Mrs. KENNELLY, Mr. ANDREWS of New Jersey, Mr. ACKERMAN, Mr. WALSH, Mr. OBERSTAR, Mr. ANDREWS of Maine, Mr. HANSEN, Mr. BLILEY, Mr. MONTGOMERY, Mr. STUDDS, Mr. JACOBS, Mr. GINGRICH, Mrs. UNSOELD, Mr. OXLEY, Mrs. MINK, Mr. SPRATT, Mr. TANNER, Mr. WOLF, Mr. HAYES of Illinois, Mr. ROE, Mrs. MORELLA, Mr. SMITH of Texas, Mr. PICKETT, Mr. MAZZOLI, Mr. SCHEUER, Mr. HUGHES, Mrs. VUCANOVICH, Mr. BATEMAN, Mr. BERMAN, Mr. BEVILL, Mr. BORSKI, Mr. BREWSTER, Mr. CLINGER, Mr. CLEMENT, Mr. STOKES, Mr. GUARINI, Mr. DICKS, Mr. CARDIN, Mr. DONNELLY, Mr. DWYER of New Jersey, Mr. ECKART, Mr. BUSTAMANTE, Mr. LAGOMARSINO, Mr. DELLUMS, Mr. ATKINS, Mr. FAZIO, Mr. FALEOMAVAEGA, Mr. FISH, Mr. FROST, Mr. GEJDENSON, Mr. GILCHREST, Mr. HAMILTON, Mr. SERRANO, Mr. HARRIS, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. HYDE, Mr. LEHMAN of Florida, Mr. GEKAS, Mr. LANTOS, Mr. EDWARDS of Texas, and Mr. HAMMERSCHMIDT):

H.J. Res. 546. Joint resolution designating February 4, 1993, and February 3, 1994, as "National Women and Girls in Sports Day"; to the Committee on Post Office and Civil Service.

By Mr. RITTER (for himself, Mr. ANDERSON, Mr. ANNUNZIO, Mr. BILIRAKIS, Mr. BLACKWELL, Mr. BORSKI, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CARPER, Mr. CLEMENT, Mr. CLINGER, Mr. COLORADO, Mr. CONYERS, Mr. COUGHLIN, Mr. DE LUGO, Mr. DIXON, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. DYMALLY, Mr. EMERSON, Mr. ENGEL, Mr. ESPY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FAWELL, Mr. FISH, Mr. FROST, Mr. GEKAS, Mr. GILCHREST, Mr. GINGRICH, Mr. GONZALEZ, Mr. GOODLING, Mr. GUARINI, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HERTEL, Mr. HOCHBRUECKNER, Ms. HORN, Mr. HORTON, Mr. HOYER, Mr. HUBBARD, Mr. HYDE, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. JONES of North Carolina, Mr. KASICH, Mr. KOLTER, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. LENT, Mr. LEWIS of Florida, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. MACHTLEY, Mr. MANTON, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MCHUGH, Mr. MCMILLEN of Maryland, Mr. MURPHY, Mr. MURTHA, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. PERKINS, Mr. PETRI, Mr. STALLINGS, Mr. TOWNS, Mr. WELDON, and Mr. WOLF):

H.J. Res. 547. Joint resolution designating May 2, 1993, through May 8, 1993, as "National Walking Week"; to the Committee on Post Office and Civil Service.

By Mrs. SCHROEDER (for herself, Mrs. LLOYD, Mr. DELLUMS, Mr. FOGLIETTA, Mr. HERTEL, Mr. HANSEN, Mr. SPRATT, Mr. MCCLOSKEY, Mrs. BOXER, Mr. EVANS, Mr. BUSTAMANTE, Mr. BLAZ, Mr. LANCASTER, Mr. BILBRAY, Mr. HOCHBRUECKNER, Mr. WELDON, Mr. KYL, Mr. RAVENEL, Mr. BROWDER, Mr. ABERCROMBIE, Mr. MACHTLEY, and Mr. ANDREWS of Maine):

H. Con. Res. 359. Concurrent resolution expressing the sense of the Congress regarding the elimination of sexual harassment and sexual assault in the Armed Forces; to the Committee on Armed Services.

By Mr. JONTZ:

H. Res. 556. Resolution exercising the right of the House of Representatives to change the rules of the House of Representatives with respect to the "fast track" procedures for trade implementation bills; to the Committee on Rules.

By Mr. SAWYER (for himself, Mr. Hamilton, Mr. Solarz, Mr. Berman, Mr. Feighan, Mr. Weiss, Mr. Owens of Utah, and Mr. Hoyer):

H. Res. 557. Resolution concerning the plight of refugees and displaced persons in the former Yugoslav republic; to the Committee on Foreign Affairs.

By Mr. THOMAS of Georgia (for himself, Mr. Schulze, Mr. Taylor of North Carolina, Mr. Paxon, Mr. Hefner, Mr. Spence, Mr. Young of Alaska, Mr. Solomon, Mr. Hancock, Mr. Gallo, Mr. Kolter, and Mr. Tanner):

H. Res. 558. Resolution congratulating Launi Meili and Bob Foth on their outstanding achievements in smallbore rifle 3-position competitions at the 1992 summer Olympic games; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. JAMES introduced a bill (H.R. 5910) to clear impediments to the issuance of documentation for the vessel *Cherokee*; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. Gejdenson, Mr. Moody, Mr. McMillen of Maryland, Mr. Spratt, Mr. Dickinson, Mr. Bryant, Mr. Colorado, Mr. Atkins, Mr. Duncan, Mr. Faleomavaega, Mr. Condit, Mr. Gillmor, Mr. Solarz, Mr. Hoyer, Mr. Bevill, and Mr. Chapman.

H.R. 53: Mr. Callahan.

H.R. 299: Mr. Lewis of Florida and Mr. Hastert.

H.R. 301: Mr. Geren of Texas.

H.R. 520: Mr. Gejdenson.

H.R. 576: Mr. Taylor of North Carolina.

H.R. 700: Mr. Machtley.

H.R. 780: Mr. Richardson.

H.R. 784: Mr. Sharp.

H.R. 911: Mr. Hobson and Mr. Torricelli.

H.R. 1065: Mr. Ackerman.

H.R. 1167: Mr. Bustamante, Mr. McCandless, Mr. Quillen, Mr. Towns, Mr. Schiff, and Mr. Lipinski.

H.R. 1200: Mr. Hastert.

H.R. 1900: Mr. Sikorski.

H.R. 2140: Mr. Blackwell.

H.R. 2164: Mr. Kopetski, Mr. Hughes, Mr. Peterson of Florida, Mr. Mazzoli, Mr. Neal of Massachusetts, Mr. Darden, and Mr. Edwards of Texas.

H.R. 2248: Mr. Sisisky, Mr. Mavroules, and Mr. Hobson.

H.R. 2362: Mr. Camp.

H.R. 2385: Mr. Gilchrest.

H.R. 2595: Mr. Hastert.

H.R. 2772: Mr. Slattery.

H.R. 2797: Mr. Quillen.

H.R. 2867: Mr. Mrazek.

H.R. 3130: Mr. Chandler.

H.R. 3253: Mr. Matsui and Mr. Towns.

H.R. 3373: Mr. Coleman of Texas.

H.R. 3441: Mr. Klug and Mr. Hastert.

H.R. 3450: Mr. Ford of Tennessee.

H.R. 3509: Mr. Andrews of Maine.

H.R. 3518: Mr. Levine of California and Mr. Sawyer.

H.R. 3545: Mr. Santorum.

H.R. 3561: Mr. Thomas of California.

H.R. 3568: Mr. Reed.

H.R. 3677: Mr. Visclosky.

H.R. 3838: Mr. Bryant and Mr. Packard.

H.R. 4045: Mr. Eckart and Mr. Johnston of Florida.

H.R. 4053: Mr. Flake, Mr. Frank of Massachusetts, Mr. McCollum, Mr. McCloskey, Mr. Evans, Mr. Bunning, Mr. de Lugo, and Mr. Bryant.

H.R. 4066: Mr. Sikorski.

H.R. 4097: Ms. Molinari.

H.R. 4159: Mr. Richardson.

H.R. 4174: Mr. Crane.

H.R. 4206: Mr. Kildee.

H.R. 4271: Mr. Mfume.

H.R. 4280: Mr. Shays.

H.R. 4288: Mr. Hastert.

H.R. 4333: Mr. Bustamante.

H.R. 4393: Mr. Downey, Mr. James, Mrs. Lloyd, Mr. McCollum, Mr. Spence, and Mr. Upton.

H.R. 4406: Mr. Burton of Indiana.

H.R. 4429: Mr. Kostmayer.

H.R. 4431: Mr. Horton, Mr. Towns, Mr. Lagomarsino, and Mr. McCandless.

H.R. 4457: Mr. Dixon and Mr. Clay.

H.R. 4501: Mr. Geren of Texas.

H.R. 4542: Mrs. Collins of Illinois, Mr. Studds, and Mr. Lehman of California.

H.R. 4585: Mr. Smith of Oregon.

H.R. 4620: Mr. Allen.

H.R. 4624: Mr. Allen.

H.R. 4645: Mr. Allen.

H.R. 4647: Mr. Allen.

H.R. 4649: Mr. Allen.

H.R. 4651: Mr. Allen.

H.R. 4655: Mr. Allen.

H.R. 4656: Mr. Allen.

H.R. 4657: Mr. Allen.

H.R. 4659: Mr. Allen.

H.R. 4660: Mr. Allen.

H.R. 4662: Mr. Allen.

H.R. 4663: Mr. Allen.

H.R. 4666: Mr. Allen.

H.R. 4667: Mr. Allen.

H.R. 4668: Mr. Allen.

H.R. 4669: Mr. Allen.

H.R. 4671: Mr. Allen.

H.R. 4673: Mr. Allen.

H.R. 4680: Mr. Allen.

H.R. 4683: Mr. Allen.

H.R. 4764: Mr. Schaefer and Ms. Slaughter.

H.R. 4821: Mr. Thomas of California.

H.R. 4836: Mr. Inhofe, Mr. Geren of Texas, and Mr. Packard.

H.R. 4846: Mrs. Boxer.

H.R. 4965: Mr. Traficant, Mr. Ackerman, Mr. Kopetski, and Mr. Rinaldo.

H.R. 4966: Mr. Traficant, Mr. Ackerman, Mr. Kopetski, and Mr. Rinaldo.

H.R. 4967: Mr. Traficant, Mr. Ackerman, Mr. Kopetski, and Mr. Rinaldo.

H.R. 4968: Mr. Traficant, Mr. Ackerman, Mr. Kopetski, and Mr. Rinaldo.

H.R. 4969: Mr. Traficant, Mr. Ackerman, Mr. Kopetski, and Mr. Rinaldo.

H.R. 4983: Mr. Grandy.

H.R. 5003: Mr. Allen.

H.R. 5016: Mr. Roe and Ms. Molinari.

H.R. 5037: Mr. Atkins and Mr. Roe.

H.R. 5070: Mr. Hertel and Mr. Andrews of Maine.

H.R. 5125: Mr. Mfume.

H.R. 5150: Mr. Orton and Mr. Zeliff.

H.R. 5156: Mrs. Lowey of New York and Mr. Studds.

H.R. 5168: Mr. Lipinski.

H.R. 5170: Mr. Shays.

H.R. 5176: Mr. Rangel.

H.R. 5198: Mr. Goodling.

H.R. 5216: Mr. Sanders, Mr. Dicks, and Mr. Solarz.

H.R. 5217: Mr. Foglietta.

H.R. 5250: Mr. Costello, Mr. Lewis of Florida, and Mr. Hubbard.

H.R. 5276: Mr. Bereuter.

H.R. 5297: Mrs. Morella, Mr. Gejdenson, Mr. Emerson, Mr. Dickinson, Mr. Gallo, Mr. Bilirakis, Mr. Wilson, Mr. Erdreich, Mr. Kolbe, Mrs. Byron, Ms. Molinari, Mr. Engel, Mr. Thomas of California, Mr. Johnston of Florida, Mr. Kyl, Mr. Schaefer, and Mr. Andrews of Maine.

H.R. 5304: Mr. Olver.

H.R. 5317: Ms. Pelosi.

H.R. 5321: Mr. Moran, Mr. Kolbe, and Mr. Gallo.

H.R. 5340: Mr. Livingston, Mr. Walsh, Mr. Stearns, Mr. Kyl, Mr. Lipinski, and Mr. Schiff.

H.R. 5367: Mr. Kopetski, Mr. Bonior, Mr. Lehman of California, and Mr. Hertel.

H.R. 5374: Mrs. Morella, Mr. Ravenel, and Mrs. Byron.

H.R. 5393: Mr. Hastert and Mr. Hoagland.

H.R. 5403: Mr. Johnson of South Dakota.

H.R. 5405: Ms. Molinari.

H.R. 5423: Mrs. Johnson of Connecticut and Mr. Franks of Connecticut.

H.R. 5424: Mr. Andrews of Maine.

H.R. 5451: Mr. Bereuter, Mr. Brewster, Mr. Chapman, Mr. Darden, Mr. Dorgan of North Dakota, Mr. Jacobs, Mr. Montgomery, Mr. Orton, Mr. Oxley, Mr. Parker, Mr. Peterson of Minnesota, Mr. Ray, Mr. Rinaldo, Mr. Rowland, Mr. Scheuer, Mr. Synar, and Mr. Thomas of Georgia.

H.R. 5478: Mr. Darden, Mrs. Schroeder, Mr. Gordon, and Mr. Tallon.

H.R. 5499: Mrs. Schroeder.

H.R. 5509: Mr. Stump, Mr. Lightfoot, Mr. McCandless, and Mr. Dornan of California.

H.R. 5512: Mr. Walsh, Mr. Hunter, Mr. Johnson of South Dakota, Mr. Oxley, Mr. Clinger, Mr. Atkins, Mr. Gilman, Mr. Geren of Texas, Mr. Levine of California, Ms. Norton, Mr. Mfume, Mr. Towns, and Mr. Lewis of Florida.

H.R. 5521: Mr. Bilirakis.

H.R. 5531: Mr. Johnson of South Dakota, Mr. Blackwell, and Mr. Fields.

H.R. 5538: Mr. Atkins, Mr. Bruce, and Ms. Kaptur.

H.R. 5542: Mr. Lowery of California.

H.R. 5550: Mr. Klug.

H.R. 5553: Mr. Geren of Texas.

H.R. 5555: Mr. McMillan of North Carolina.

H.R. 5559: Mr. McMillan of North Carolina, Mr. Armey, Mr. Dicks, Mr. Jacobs, Mr. Clay, Mr. Coleman of Texas, Mr. Stallings, Mr. Jefferson, Mr. Bustamante, Mr. Chandler, Mr. Anthony, Mr. Dooley, Mr. McGrath, Mr. Boehner, Mr. Towns, Mr. Bonior, Mr. Traxler, Mr. Hansen, and Ms. Horn.

H.R. 5572: Mr. Atkins, Mr. Frost, Mr. Weiss, Mr. Montgomery, Mr. Edwards of California, Mr. Bateman, Mr. Cramer, Mr. Traficant, Mr. Erdreich, Mr. Bliley, Mr. Engel, Mr. Lent, Mr. Houghton, Mr. Hayes of Louisiana, Mrs. Collins of Michigan, Mr. Conyers, Mr. Dellums, Mr. Bevill, Mr. Broomfield, Mr. Dickinson, Mr. Ford of Tennessee, Mr. Frank of Massachusetts, Mr. Hastert, Mr. LaFalce, Mr. Lehman of Florida, Mr. Lewis of California, Mrs. Lowey of New York, Mr. Manton, Mr. Martin, Mr.

McDade, Mr. McGrath, Ms. Oakar, Mr. Rinaldo, Mr. Shays, Ms. Slaughter, Mr. Solomon, Mr. Spence, Mr. Sundquist, Mr. Weldon, Mr. Wolpe, and Mr. Sawyer.

H.R. 5580: Mr. Wise, Mr. Payne of Virginia, and Mr. Foglietta.

H.R. 5596: Mr. Ewing and Mr. Skeen.

H.R. 5600: Mr. Torres, Mr. Engel, Mr. Mollohan, Mr. Reed, and Mr. Bennett.

H.R. 5610: Mr. Machtley and Mr. Fields.

H.R. 5613: Mr. Serrano and Mr. Gejdenson.

H.R. 5665: Mr. Machtley.

H.R. 5676: Mr. Dooley and Mr. Nagle.

H.R. 5682: Mr. Roe, Mr. Frost, Mr. Lantos, Mr. Shaw, and Mr. Bennett.

H.R. 5699: Mr. Kolter.

H.R. 5703: Mr. Fields, Mr. Lagomarsino, Mr. Lewis of Florida, and Mr. Thomas of California.

H.R. 5729: Mr. Zeliff and Mr. Santorum.

H.R. 5732: Mr. Roybal, Mr. Richardson, Mr. Ortiz, Mr. Conyers, Mr. Towns, Mr. Flake, Mr. Pastor, Mr. Mfume, Mr. Stokes, Mr. Torres, and Mr. Dellums.

H.R. 5743: Mr. Bereuter, Mr. Hughes, and Mr. Lipinski.

H.R. 5745: Mr. Hutto, Mr. Zeliff, Mr. Murphy, and Mr. Frost.

H.R. 5747: Mr. Frost.

H.R. 5758: Mr. Wolpe, Mr. Eckart, Mr. Slattery, Mr. Kolter, Mr. Frank of Massachusetts, Mr. Hastert, Mr. Nowak, Mr. Blackwell, Mr. Conyers, Mr. Jontz, Ms. Horn, Mr. Gekas, and Mr. Lipinski.

H.R. 5760: Mr. Espy.

H.R. 5768: Mr. Livingston, Mr. Allard, Mr. Solomon, Mr. Geren of Texas, and Mr. Zeliff.

H.R. 5776: Mr. Blaz, Mr. de la Garza, and Mr. Jacobs.

H.R. 5790: Mr. Chapman, Mr. Volkmer, Mr. Ray, and Mr. Sisisky.

H.R. 5800: Mr. Anthony, Mr. Jenkins, Mr. Rangel, Mr. Bunning, Mr. Shaw, Mr. Sundquist, Mr. Chandler, Mr. Grandy, Mr. Traficant, Mr. Jacobs, Mr. Ford of Tennessee, Mr. Russo, and Mr. Mazzoli.

H.R. 5820: Mr. Frank of Massachusetts, Ms. DeLauro, Mr. Solarz, and Mr. Bustamante.

H.J. Res. 19: Mr. Sarpalius.

H.J. Res. 200: Mr. Bilirakis.

H.J. Res. 239: Mr. Richardson.

H.J. Res. 325: Mr. Saxton, Mr. Rose, Mr. Moran, Mr. Hall of Ohio, and Mr. Walsh.

H.J. Res. 378: Mr. Rose, Mr. LaFalce, and Ms. Horn.

H.J. Res. 380: Mr. Hayes of Illinois, Mr. Lowery of California, Mr. Kanjorski, Mr. Machtley, MR. Leach, Mr. Frost, Mr. Markey, Mr. Coble, Mr. Cox of California, Mr. Moorhead, Mr. Baker, Mr. Kostmayer, Mr. Fazio, Mr. Dellums, Mr. Orton, and Mr. Shays.

H.J. Res. 393: Mr. Flake, Mr. Obey, Mr. Shays, Mr. Costello, Mr. Hyde, Mr. Michel, Mr. Dymally, Mr. Young of Alaska, Mr. Bevill, Mr. Rhodes, Mr. Cramer, Mr. Gallegly, Mr. Hutto, Mr. Peterson of Florida, Mr. Mineta, Mr. Lewis of Florida, Mr. Bennett, and Mr. Hammerschmidt.

H.J. Res. 399: Mr. Weldon, Mr. Gilchrest, Mr. Machtley, Mr. Cramer, Mr. Hastert, Mr. Thomas of Wyoming, Mr. Armey, Mr. Sundquist, and Mr. Holloway.

H.J. Res. 400: Ms. Kaptur, Mr. Waxman, Mr. Roybal, Ms. Horn, Mr. Ramstad, Mr. Moody, Mr. Traficant, Mr. Kildee, Mr. Coughlin, Mr. Kennedy, Mr. Borski, Mr. Bacchus, Mrs. Collins of Illinois, Mr. Mfume, Mr. Levine of California, Mr. Bryant, Mr. Pastor, Mr. Reed, Mr. Sisisky, Ms. Oakar, Mr. Russo, Mr. Martin, Mr. Mazzoli, Mr. Murphy, Mr. Neal of North Carolina, Mr. Payne of New Jersey, Mr. Ravenel, Mr. Savage, and Mr. Yatron.

H.J. Res. 409: Mr. Bacchus, Mr. Sabo, Mr. Russo, Mr. Clinger, Mr. Gunderson, Mr. Stenholm, Mr. Hall of Ohio, Mr. Livingston, Ms. Kaptur, Mr. Pickle, Mr. Kolter, Mr. Hall of Texas, Ms. Molinari, Mr. Rohrabacher, Mr. Andrews of Maine, Mr. Lightfoot, Mrs. Meyers of Kansas, Mr. Myers of Indiana, Mr. Andrews of Texas, Mr. Synar, Mr. Torricelli, Mr. Anderson, Mr. Richardson, Mr. Whitten, Mr. Green of New York, Mrs. Lloyd, Mr. Roth, Mr. Edwards of Oklahoma, Mr. Dixon, Mr. Kanjorski, Mr. Paxon, Mr. Scheuer, Mr. Bennett, Mr. DeLay, Mr. Lewis of Florida, Mr. McDermott, Mr. Rowland, Mr. Jacobs, Mr. Bevill, Mr. Rahall, Mr. Emerson, Mr. Hancock, Mrs. Morella, Mr. McEwen, Mr. Dornan of California, Mr. Herger, Mr. Miller of Ohio, Mr. Thomas of California, Mr. Borski, Mr. Wolf, Mr. Smith of New Jersey, Mr. Nowak, Mr. McDade, Mr. Markey, Mr. Saxton, Mr. Petri, Mr. McCandless, Mr. Aspin, Mr. Hertel, Mr. Payne of Virginia, Mr. Sisisky, Mr. Gonzalez, Mr. Pickett, Mr. Valentine, Mr. Kildee, Mr. Duncan, Mr. Yates, Mr. Inhofe, Mr. Payne of New Jersey, Mr. Smith of Florida, Mr. Miller of California, Mr. Carper, Mr. LaRocco, Mr. Dooley, Mr. Jones of Georgia, Mr. Fazio, Mrs. Johnson of Connecticut, Mr. Gejdenson, Mr. Volkmer, Mrs. Lowey of New York, Mr. Upton, Mr. Machtley, Mr. Bilirakis, Mr. Crane, Mr. Weldon, Mr. Reed, Mr. Vento, Mr. Houghton, Mr. Frank of Massachusetts, Mr. Moran, Mr. Washington, Mr. Allen, Mr. Swift, Mr. Panetta, Mr. Wylie, Mr. Dicks, Ms. Waters, Mr. Mineta, Mr. Hubbard, Mr. Smith of Oregon, Ms. Snowe, Mr. Schaefer, Mr. Armey, Mr. Wolpe, Mr. Pastor, Mr. Conyers, Mr. Coyne, Mr. Olver, Mr. Downey, Mr. Ravenel, Mr. Gillmor, Mr. Holloway, Mr. Donnelly, Mr. Rogers, Mr. Abercrombie, Mr. Engel, Mr. Espy, Mr. Brown, Mr. Wyden, Mr. Gaydos, Mr. Edwards of California, Mr. Gallegly, Mr. Moody, Mr. Boucher, Mr. Oberstar, Mr. Gibbons, Mr. Bilbray, Mr. Schumer, Mr. Mrazek, Mr. Oxley, Mr. Callahan, Mr. Taylor of Mississippi, Mr. Grandy, Mr. Hansen, Mr. Ford of Michigan, Mr. Smith of Iowa, Mr. McHugh, Mr. Smith of Texas, Mr. Andrews of New Jersey, Mr. Beilenson, Mr. Lewis of Georgia, Mr. Johnson of South Dakota, and Mr. Weiss.

H.J. Res. 431: Mr. Glickman, Mr. Johnson of South Dakota, Mr. Markey, Mr. Porter, Mr. Leach, Mr. Duncan, Mr. Roe, Mr. Chandler, Mr. Bilirakis, Mr. Walsh, Mr. Ford of Michigan, Mr. Owens of New York, and Mr. Russo.

H.J. Res. 440: Mr. Scheuer.

H.J. Res. 450: Mrs. Mink.

H.J. Res. 455: Mr. Traficant and Ms. Kaptur.

H.J. Res. 458: Mrs. Bentley, Mr. Borski, Mr. Carr, Mr. Cardin, Mr. Dwyer of New Jersey, Mr. Hochbrueckner, Mr. Hoyer, Mr. Jacobs, Mr. Jefferson, Mr. Lancaster, Mr. McHugh, Mr. Manton, Mr. Natcher, Mr. Johnson of South Dakota, Mr. Olin, Mr. Tanner, and Mr. Wheat.

H.J. Res. 463: Mr. Ballenger, Mr. Coyne, Mr. Engel, Mr. Green of New York, Ms. Horn, Mr. Hoyer, Mr. Miller of Washington, Mr. Ramstad, Mr. Rhodes, Mr. Scheuer, Ms. Snowe, Mr. Moorhead, and Mr. Lagomarsino.

H.J. Res. 467: Mr. Kleczka, Mr. Bilirakis, Ms. Waters, Ms. Slaughter, Mr. Lancaster, Mr. Dixon, Mr. Aspin, Mr. AuCoin, Mr. Lewis of Florida, Ms. Pelosi, Mr. Bateman, Mr. de la Garza, Mr. Dymally, Mr. Natcher, Mr. Moakley, Mr. Gillmor, Mrs. Bentley, Mr. Jefferson, Mr. Ballenger, Mr. Conyers, Mr. Bliley, Mr. Hochbrueckner, Mr. Dorgan of North Dakota, Mr. Saxton, Mr. Lehman of Florida, Mr. Spence, Mr. McGrath, Mr. Moody, Mr. Schaefer, Mr. Roe, Mr. Sarpalius, Mr. Volkmer, Mr. Lantos, Mr. Hammerschmidt, Mr. Olver, Mrs. Lowey of New York, Mr. McHugh, Mr. Oberstar, Mr. Sawyer, Mr. Geren of Texas, Mrs. Kennelly, Mr. Washington, Mr. Abercrombie, Mrs. Boxer, Mrs. Byron, Ms. DeLauro, Mr. Edwards of Texas, Mr. Frank of Massachusetts, Mrs. Unsoeld, Mr. Gephardt, Mr. Doolittle, Mr. Tanner, Mr. Archer, Mr. Cooper, Mr. Callahan, Mr. Synar, Mr. Campbell of Colorado, Mr. Wheat, Mr. Clay, Mr. Berman, Mr. Cardin, Mr. Carper, Mr. Obey, Mr. Clinger, Mr. Ritter, Mr. Bonior, Mr. Brown, Mr. Hall of Ohio, and Mr. Rangel.

H.J. Res. 469: Mr. Gephardt, Mr. Blackwell, Mr. Martinez, Mr. Young of Florida, Mr. Hayes of Louisiana, Ms. Waters, Mr. Bruce, Mr. Applegate, Mr. Staggers, Mrs. Bentley, Mr. Johnson of South Dakota, Mr. Hoyer, Mr. Bunning, Mr. Costello, Mr. Oberstar, Mr. Dicks, Mr. Wise, Mr. McHugh, Mr. Brown, Mr. Lowery of California, Mr. Flake, Mr. Green of New York, Mr. Kildee, Mr. Martin, Mr. Aspin, and Mr. Foglietta.

H.J. Res. 479: Mr. Pickett and Mr. Ray.

H.J. Res. 520: Mr. Erdreich and Mr. Johnson of South Dakota.

H.J. Res. 531: Mr. Mrazek, Mr. Dorgan of North Dakota, Mr. Horton, Mr. Rangel, Mr. Kopetski, Mr. Frost, Mr. Hall of Ohio, and Mr. Lehman of Florida.

H. Con. Res. 12: Mr. Packard.

H. Con. Res. 180: Mr. Johnston of Florida.

H. Con. Res. 223: Mr. Fascell and Mr. Johnston of Florida.

H. Con. Res. 298: Mr. AuCoin, Mr. Ramstad, Mr. Carr, Mr. Towns, Mr. Bacchus, and Mr. Ray.

H. Con. Res. 337: Mr. Petri and Mr. Sensenbrenner.

H. Con. Res. 344: Mr. Hayes of Illinois, Mr. McNulty, Mr. Lipinski, Mr. Frost, Mr. Gilchrest, Mr. Evans, Mr. Atkins, Mr. Conyers, Mr. Hamilton, Mr. Downey, Mr. Mavroules, Mr. Lancaster, and Mrs. Collins of Illinois.

H. Con. Res. 347: Mr. Porter and Mr. Cunningham.

H. Con. Res. 353: Mr. Wolpe, Mr. Atkins, Mr. Panetta, Mr. Frost, Mr. Tallon, Mr. Andrews of Maine, and Mr. Traxler.

H. Res. 272: Mr. Matsui.

H. Res. 448: Mr. Levine of California and Mr. Sawyer.

H. Res. 490: Mr. Gingrich, Mr. McHugh, and Mr. Moran.

H. Res. 515: Mr. Bacchus, Mr. Guarini, Mr. Hochbrueckner, and Mr. Carper.

H. Res. 538: Mr. Frost, Mr. McEwen, Mr. Owens of Utah, Mr. Lipinski, and Mr. Jones of Georgia.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1443: Ms. Pelosi.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4706

By Mr. COLLINS of Illinois:

—Page 3, strike out lines 11 through 15 and redesignate subsection (c) as subsection (b).

—Page 20, line 23, insert after the comma the following: "and within the authorization provided in section 101(a) of this Act,".

By Mr. McMILLAN of North Carolina:

—Page 3, strike out line 10 and insert in lieu thereof the following:

"(4) $43,278,800 for fiscal year 1994.".

SENATE—*Wednesday, August 12, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us remember several who are seriously ill: Walter Stevens, son of Senator STEVENS; Clare Domenici, daughter of Senator DOMENICI; Susan Kirkland of the staff of Senator HEFLIN; and Brett Hall, 11-year-old son of Congressman HALL.

God is our refuge and strength, a very present help in trouble.—Psalm 46:1.

Gracious Father in heaven, it is difficult for people in power to acknowledge weakness. Yet at times like this, their responsibility is very frustrating. The democratic system is slow and inefficient by its nature, requiring controversy, conflict, and compromise. And the work of those who legislate is never finished. Having done their best to address one problem, scores of others emerge, demanding instant attention. They are faced with the opposition endemic in democracy, relentless scrutiny by press and media, and constant criticism of the public, few of whom really understand how the Government works. In a sense, every constituent represents a self-interest, not to mention the pressure of lobbyists, corporations, associations, all demanding attention and favorable action. And the clock keeps ticking inexorably.

Gracious Father, help Your servants to realize Your love, Your understanding, Your availability, Your enabling, Your sufficiency whatever their situation. For Your glory and the welfare of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 12, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later in the day.

TAX ENTERPRISE ZONES ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 11, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Metzenbaum-Rudman amendment No. 2931, to limit individuals eligible to use IRA deductions and simplified IRA's.

(2) Dole (for Packwood) amendment No. 2934 (to amendment No. 2931), to establish a credit for the purchase of a principal residence by a first-time home buyer.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Wisconsin.

Mr. KOHL. Mr. President, I ask permission to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GUN CONTROL

Mr. KOHL. Mr. President, last Friday afternoon, a 15-year-old honor student named Alain Colaco was shot to death outside his Northwest Washington home during the middle of the afternoon. He was shot five times—once in the head, twice in the chest, once in the right arm and once in the buttocks. At the time of his death, he was mowing his lawn. He was not robbed; he was not assaulted; he had no previous relationship with the assailant, whose name was Sean Lee Qualls. It was a brutal, unprovoked act of violence. When homicide detectives asked Sean Lee Qualls why he shot Alain Colaco, he told them it was because he had an urge to do it.

Mr. President, this motive bears repeating: Sean Lee Qualls killed Alain Colaco simply because he had an urge to do it.

We all watched the family and friends of Alain Colaco on television. We all understood their grief, their loss, their feelings of helplessness. We all understood it because the sad truth is that similar tragedies occur across America on a regular basis.

And while we did not see or hear or read much about the family or friends of Sean Lee Qualls, we should feel saddened for them as well. Why? Because Sean Lee Qualls, a disturbed young man and drug abuser who should have never had a gun in the first place, is going to go to jail—as he should—for a very long time.

Mr. President, there is no panacea for the senseless violence: We all know that we need tougher laws; more police; more certainty of punishment. And, of course, nothing that we can do will every make Alain Colaco's family whole again. But there is a crucial step we can take now to reduce at least some of the carnage. We can enact the Brady bill.

Sadly, Brady is now caught in partisan wrangling over a more comprehensive anticrime proposal—legislation which each day seems less likely to ever become law. So I rise today for this single, fundamental reason: To pledge that when the Congress returns in September I will offer the Senate-passed version of the Brady bill as an amendment on the floor. I urge my colleagues to join me.

Mr. President, more than 15 months ago, the majority leader, AL GORE and I took the original Brady bill and combined it with the best elements of the so-called Staggers amendment. In brief, our compromise measure has three major components: A mandatory background check for all firearms purchases; a uniform 5-business-day waiting period for handgun buys that would remain in effect for at least 2½ years; and $100 million for States to upgrade their computerized criminal history records. The Mitchell-Kohl-Gore amendment enjoyed broad support: It was endorsed by both HOWARD METZENBAUM, who led the fight for Brady since its original introduction, as well as the minority leader. Our amendment passed the Senate by an overwhelming 67 to 32 margin more than a year ago.

Yet, Mr. President, during the same year—while Congress and the President remained at an impasse over the crime bill—firearms violence continued to rage in our cities and on our streets. In Killeen, TX, a troubled man named George Canard drove his truck into Luby's cafeteria, pulled out his semiautomatic, sprayed pistol fire at a lunchtime crowd, and killed 23 people.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

At the University of Iowa, a deranged student, distraught over his failure to win an academic award, killed six people with a .38 caliber revolver. And last spring Los Angeles erupted, leaving more than 50 dead.

Indeed, it may be more dangerous to live in a major American city than to serve our country in a foreign war. Fewer than 300 Americans died during the Persian Gulf conflict, but 489 people were murdered last year right here in Washington, DC.

Mr. President, I still hold out some hope that in the next few months we can pass a broader anticrime package. And I have told Chairman BIDEN that I will work hard for such an agreement. But we should not sit still while criminals and drug traffickers continue to purchase much of their firepower over the counter. Instead, we should pass the Brady bill now—which continues to have the support of more than 90 percent of the American people.

Mr. President, my colleagues may believe that offering Brady as an amendment will be a fruitless gesture. Some may argue that we will never get cloture, while others may claim that the President will veto the bill in any event. But we need to do something soon to staunch the bloodshed. Mr. President, open your newspaper or turn on your TV and you will recognize this simple truth: Never has the need for the Brady bill been so pressing and the consequence of its absence so regrettable.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, so ordered.

Mr. ROCKEFELLER. I ask unanimous consent to be allowed to speak as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE HEALTH INSURANCE INDUSTRY

Mr. ROCKEFELLER. Mr. President, today I rise to challenge a very key segment of our troubled health care system, the challenge to become part of the solution and stop being part of the horrendous problem. I am talking about the health insurance industry. In fact, I am hopeful that I am talking to the health insurance industry.

After reflecting on the status of our efforts to reform America's health care system, Mr. President, I think it is time to insist on some genuine help from an industry which can make an enormous difference in solving the health care crisis but up to this point has chosen to do the opposite.

I want to begin by describing some recent activities by the Health Insurance Association of America, the insurance industry trade association, that I find deeply disturbing.

Some of my colleagues may have seen their very slick ads on television and their newspaper ads.

The point of their ads seem to suggest that some force other than the health insurance industry is responsible for denying millions of Americans health insurance—when they change jobs, or because they are sick.

If you have not run into the ads already, you will. A lot of money, millions of dollars I guess, is being spent by the insurance industry to try to get your attention and influence your thinking.

Called "Is Anyone Listening to the Voters," this ad campaign does not tell viewers that it is funded by some of the very same companies that are denying insurance to people with preexisting conditions, or refusing to cover workers in a long list of industries which they deem risky.

While the insurance industry is trying to portray itself as responsive to voters, let me say very clearly and very emphatically that it is the health insurance industry which bears considerable responsibility for a wasteful and bloated health care system, a system that is leaving millions of our citizens without any coverage.

Mr. President, I listen to the voters every day, as is the Presiding Officer, and this is what they really have to say. They are tired of dealing with endless mounds of paperwork, tired of fine print and clever loopholes, and tired of endless battles with agents and insurance bureaucrats, just to get the most basic claims paid.

They are frustrated with a private health insurance industry that is making huge profits while capriciously denying coverage to millions of small business people in this country and individual families.

They are appalled that just when their family most needs their health insurance, their premiums are doubled, tripled, or their coverage canceled outright. They thought insurance was about managing risk, not avoiding it.

I am talking to voters constantly, as is the Presiding Officer, and they tell me they want a change in our health care system, and they want the Federal Government to do whatever it takes to guarantee that all Americans have affordable health care insurance. They want an end to cost shifting and a reduction in medical inflation rates that run three to four times higher than the ordinary inflation rate.

Mr. President, the American voters are crying out desperately for leadership on a national problem that is bankrupting families, small businesses, and government at all levels. That leadership needs to come from the President of the United States, and it needs to come from us in Congress, but it also should come from every single part of the health care system. The health insurance industry should take a totally different approach to this crisis. They should stop blaming everybody else and take their seat at the table where health care reform is being honestly discussed.

Look at what is happening in States across this country, Mr. President. In an attempt to preempt Federal legislation, health insurers have vigorously lobbied State legislatures for passage of so-called bare bones or no frills health insurance policies. A bare bones health insurance policy, Mr. President, provides extremely limited coverage. For example, just a few days in a hospital, a couple of physician visits a year, along with hefty deductibles and hefty premiums. These policies may be fine if you are young and are never sick. But they are absolutely worthless if you need major surgery, if you get cancer, or if you are hit by a car.

Bare bones policies, Mr. President, try to lower health insurance premiums by cutting back on workers' health benefits, rather than by cutting red tape, cutting back on agent commissions or, for heaven's sakes, even cutting into company profits. There is no evidence of any real interest in these bare bone policies. No one buys them. So I wonder what voters are the insurance association people listening to.

Two and a half years ago, Mr. President, the Pepper Commission, which I had the honor to chair, recommended small group insurance reform as a key component of a reform plan that relies on our current job basing system. In fact, it was one issue on which the Pepper Commission, which had a lot of controversy, agreed to unanimously. There was not a single dissenting vote on small group health insurance reform.

Since that time, the abusive insurance practices have worsened. Medical underwriting has become even more insidious. Insurance investigators are digging even more deeply into a person's past medical history in order to dig up anything, anything, that would allow them to deny health insurance coverage. Millions of American families have had the rug literally pulled out from under them in the midst of a medical crisis, Mr. President.

The insurance industry has come forward acknowledging problems. In fact, the insurance industry, full of self congratulations, has even offered their own proposals for reform. But close inspection of the insurance industry's proposal for reform reveals a health reform plan that fails to meet any reasonable standard for a stable and secure health care system.

Under their proposal, premiums would still be set based on a person's age, on a person's sex, adjusted as much as 108 percent for health status, and 15 percent for industry.

When I talk about a preexisting condition, Mr. President, I am talking about somebody who might have had cancer 10 years ago but who is in remission, who is perfectly healthy, whose cancer is entirely gone, but because they had a preexisting condition, no matter how much money they have, they cannot buy health insurance through the private insurance market.

According to the Congressional Research Service premiums could continue to vary under the HIAA's so-called reform plan by as much as 1,800 percent. While the insurance industry has proposed banning some of the most flagrantly abusive insurance practices, for the most part, it would still be strictly business as usual.

Mr. President, I have spent a great deal of time meeting with various parties interested in reforming our health care system. I have warned hospitals and doctors that if they want to be constructive participants in a solution to the health care debate, they need to be much more willing to help control costs.

And, interestingly, the American Medical Association and all kinds of physicians' groups and the Hospital Association are beginning to move in that direction. They understand what is being said; they understand we need reform; and they are beginning to talk to their members about cost containment. They are making progress.

I have met with consumers and emphasized the need for personal responsibility, and cost sharing, which has to be part of any reform proposal. I have met with representatives of businesses, of every size, and told them if they want cost containment that works, everyone must be in the system and, of course, has to have coverage. Everybody must give in order for meaningful health reform to occur.

And, for the most part, people and industries understand that. They are willing to work for something called "the common good." Except in the insurance industry. So far, I have seen no serious move from the industry that involves any kind of meaningful give from them at all.

The centerpiece of the insurance industry's proposed solution for controlling health care costs is managed care. That is why they love President Bush's proposals so much—he also leaves them alone, and sticks to managed care as the magic pill to cure skyrocketing costs.

Managed care essentially puts the insurer in the driver's seat, adding even more administrative costs to an already burdensome and expensive system.

I am for managed care too. It has to be a part of anything and everything that we do. But we should not be under any illusions about its ability to clamp down on costs. That jury is still out.

If insurance companies want to stay in business—and I say this to them directly—if they want to avoid a single-payer approach to health insurance, which would eliminate them entirely and have the Government do the entire thing—and very efficiently, I might add. I point out that Medicare is run with 3 percent overhead. It is very efficiently run by something called the Federal Government.

So if the insurance companies want to stay in business, if they want the private insurance sector to become a part of the solution, rather than to continue to be part of the problem, then they must be willing to come forward with much more significant proposals dealing with access and controlling costs. A slick and misleading Madison Avenue public relations effort will not substitute for meaningful health care reform.

Senator WOFFORD's come-from-behind victory last November sent a shock wave through Congress, the country, and through the Health Insurance Association of America. Evidently, their response was to place ads, on television and in the Washington Post, in Roll Call, and all over the place, trying to get our attention with incredibly naive, misleading statements.

Immediately, after Senator WOFFORD'S victory, HIAA commissioned a poll of Pennsylvania voters, after which they announced with great fanfare and a sigh of relief, that:

> It is a far stretch to assume that the tea leaves of the Pennsylvania election returns portend overwhelming support for national health insurance.

I wonder if they polled former Attorney General Dick Thornburgh on that question, and asked him whether or not he thought health care was a critical issue in that Senate race.

Mr. President, just as the private insurance market disintegrated for senior citizens in the 1960's leading to the enactment of an extremely popular, incredibly efficient Government-run program called Medicare, the disintegration of the private insurance market for small business and the spiralling costs of health care have led voters to demand a bold national solution. And they want it from us in Congress, and they say it so very clearly.

In one of their recent internal newsletters, the Health Insurance Association of America warned their members: "Congressmen GEPHARDT, STARK, DINGELL, and WAXMAN all threaten to challenge us"—meaning us, the insurance companies—"with a number of sweeping health care proposals."

They have it wrong. The real threat to the health insurance industry comes from the 7 million Americans denied health insurance coverage because of a prior medical condition.

The real threat, Mr. President, comes from 3 out of 10 Americans who are afraid to change jobs because they are afraid of losing their health care benefits. The real threat, Mr. President, comes from 1 out of 2 Americans who worry that their current health care benefits will be cut back substantially. The real threat, Mr. President, comes from the 61 percent of all Americans who are worried that their health insurance will become so expensive that they will not be able to afford it.

So I conclude with a challenge and a plea to the health insurance industry, and to all the individual companies who know this health care system inside and out. That system, I say to them, is badly broken, and they know it.

If you—and I am talking to the insurance industry—want to remain part of our system, if you want to honor your claims of public spirit, if you want to show that you really understand voters when you listen to them: You can stop signing checks for ad campaigns and sign onto a program that brings real reform to our health care system. You can join our fight for a health care system that provides good, affordable health care for every American.

It is the right thing, Mr. President, and it is the smart thing to do.

I thank the Chair, and I yield the floor.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH CARE CRISIS IN MICHIGAN

Mr. RIEGLE. Mr. President, I rise today to continue in an effort that I began last week to put human faces, individual faces, on the health care crisis facing our country. This relates, as well, to the important remarks made by my colleague and friend from West Virginia.

Like all colleagues, I am hearing every day from constituents about the health care problems that they are encountering with our health care system.

Today, I want to talk about the Dumsch family from Flushing, MI. The father had a massive stroke 5 years ago, and now needs constant care by his wife, Carol, who takes care of her husband and their 7-year-old daughter, Danica.

Dan has a master's degree in social work and was working in his profession until 1987, when he suffered a stroke. He is confined to a wheelchair and requires 24-hour help with daily living. Dan receives Social Security disability insurance benefits, and his medical care is covered through Medicare. But the only in-home services that Medicare pays for is skilled nursing care. Carol, his wife, provides all other care directly herself, because the family cannot afford to pay for home care services and other long-term care services, such as respite care.

The Dumsch family can only rely on neighbors to help them out, because affordable long-term health care insurance is not available to them.

Until a year and a half ago, Carol and Danica had private health insurance through a Health Plus family plan. But that coverage became too expensive for the family to afford. Because now the sole source of the family's income is their disability payments.

The cost of this private insurance plan was about $350 a month, and other plans available to them were just as expensive. Their insurance costs were about 24 percent of their monthly income. They obviously could not afford that, and Carol had to give up the coverage so that she would have enough money for groceries each week.

She has lost the protection that she needs, and also for their daughter. She has put off getting preventive care and physical checkups for herself and daughter, because they do not have the money to pay for these things. Like many American families, they fear that if either Carol or Danica becomes seriously ill, it would be even more of a catastrophe for them.

Carol and Danica, the mother and daughter, do not qualify for public assistance because of the income they get from Dan's disability payments. Yet, Carol is unable to work since she has to stay home to care for her disabled husband.

In a letter she wrote to me, she said:

> We need help, but somehow we don't qualify and have fallen between the cracks. It takes all my energy to cope with the devastation a severe brain injury places on a family. Our daughter Danica who is now 7 years old has had a lot to deal with because of the constraints and limits dad's illness places on us. Danica and I have no health insurance, our monthly income doesn't allow for it.

The Dumsch family's neighbors, Stephen and Jean Kozel, have also contacted me. They wrote:

> Carol has had to cancel her and Danica's health insurance so that they can buy groceries, as their only source of income has been Social Security. They are humble, wonderful people and would not ask for assistance. As Carol said, There are others out there that probably need it more than we.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

FLUSHING, MI, *March 30, 1992.*

To Whom It May Concern:

Please be advised that it was recently brought to our attention, a family that is really in need of assistance in the form(s) of food, clothing, health insurance and financial aid. The following is a brief overview of our knowledge of their situation. Five years ago, March 20th, Dan who earned his Masters Degree, went to his office at work and suffered a massive stroke. At that time, Dan and his wife Carol had a two-year old daughter, Danica. Carol has taken care of both husband and daughter 24 hours a day, unable to leave Dan's side at all. We have been instrumental in seeing them two days a week. On Thursdays we sit with Dan so that Carol can go grocery shopping. Carol has had to cancel her and Danica's health insurance so that they can buy groceries, as their only source of income has been social security. They are humble, wonderful people and would not ask for assistance, as Carol said, "There are others out there that probably need it more than we."

We do not know what agencies, organizations or whom to contact so that assistance can be rendered to them. Please advise us and we will do all in our power to pursue assistance for them.

Perhaps there are some wealthy good samaritans that would be willing to help if they only were made aware of their plight.

Maybe there is some way of bringing it to local and/or national news media attention.

I know that they would be extremely grateful for whatever assistance they could obtain. Please read the attached letter.

To quote ex-president Ronald Reagan, "People don't help themselves because they are ignorant (not stupid) of where and how to obtain it." Therefore, we are herewith pleading our ignorance and asking your help to provide such information so that we may provide them assistance.

Thank you.

Sincerely,

STEPHEN AND JEAN KOZEL.

FLUSHING, MI.

On March 20, 1987 Dan suffered a spontaneous intracerebral hemorrhage. When this happened he fell and literally beat himself on a cement floor. A severe closed-head injury resulted. Dan had also aspirated 8 of his front teeth into his lungs. The seizure that resulted from the blood and head injury was stopped by injecting Dan with Pavalon which paralyzes the body. Dan was in a coma, and suffered cardiac arrest. An ICP screw was inserted into Dan's skull to monitor pressure. On March 22 the bleeding in Dan's brain continued and was life threatening so a craniotomy was performed at Hurley Medical Center to remove as much of the hematoma as possible.

The doctors gave us very little hope that Dan would even survive the surgery. A tracheotomy was also performed as Dan was on a respirator. The doctors also surgically removed all but one tooth that were lodged in Dan's lungs. Dan was released from Hurley at the end of April 1987.

One month later Dan suffered his first series of grand mal seizures. He was taken again by ambulance to Hurley Medical Center.

This is the beginning of a life that was in constant crisis. Over the last five years Dan has had at least if not more than 86 grand mal seizures. He has been rushed by ambulance to the hospital at least 20 times. He has been an in-patient in hospitals for 149 days.

In May 1988 at Mayo Clinic a right frontal lobectomy was performed in the hopes that removal of that portion of the brain would eliminate the grand mal seizures. They weren't eliminated, but they aren't as frequent. However, each bout of seizures causes more permanent brain damage. Dan suffers profound short term memory loss. His cerebellum (the center of balance in the brain) has atrophied, so he is in a wheelchair. Transfers can be made with assistance. Dan requires 24 hour care.

What further complicates our situation is we live solely on Social Security disability. I am my husband's sole caregiver. We cannot afford help. We are lucky to have some wonderful people willing to give me a break to shop or just get out of the house. Dan's insurance doesn't provide for basic in-home care (sad to say it would cover placement in a nursing home.) Dan's age also excludes us from help. He was not injured before age 25 to qualify as being developmentally disabled, nor is he old enough to be a senior citizen. Dan's injury was not the result of an auto accident, nor was his employer liable because the injury was a result of a medical condition.

We need help, but somehow we don't qualify and have fallen between the cracks. It takes all my energy to cope with the devastation a severe brain injury places on a family. Our daughter, Danica, who is now 7 years old has had a lot to deal with because of the constraints and limits dad's illness places on us. Danica and I have no health insurance, our monthly income doesn't allow for it.

CAROL DUMSCH.

Mr. RIEGLE. Mr. President, we need comprehensive health care reform. We need it for this family, and we need it for every other family in the country.

We have drafted a bill in this area, S. 1227, written by Senator MITCHELL, Senator KENNEDY, Senator ROCKEFELLER, and myself, and cosponsored by other Senators. This provides cost controls and allows us to establish a system of universal health care coverage.

In addition to that, we have also developed a long-term health care bill, S. 2571, again sponsored by the same cosponsors along with other Senators, and this addresses these long-term needs of the kind described in this case. It is time we act on this issue. It is an urgent national requirement for people all across Michigan and all across the country.

FREE-TRADE AGREEMENT WITH MEXICO

Mr. RIEGLE. Mr. President, let me now, in the time that remains, move to a different topic, and that is the announcement today of the tentative working out of the free-trade agreement with Mexico. I want to say very flatly and plainly that I think this poses a grave danger to the economic future in this country.

This free-trade agreement with Mexico today is a jobs program for Mexico. We need a jobs program for this country.

Today in California the unemployment rate is 9.5 percent. The State is broke. They cannot pay their bills. People are desperate, out of work. People with advanced degrees in all fields cannot find work to do.

The same is true in Michigan. The unemployment rate today in Michigan is 9.4 percent.

We need a jobs program for this country, not a jobs program that is going to close plants here and move the jobs down to Mexico to take advantage of 50-cent an hour wages and an absence of environmental standards down there in that country.

Mexico is a Third World economy. When Turkey—also a Third World economy—wanted to come into the European Common Market, the Europeans said no. They said no because the differentials in wage rate standards and environmental standards were just too vast.

We have that problem here. I realize the administration thinks this may be good for the State of Texas because Texas borders Mexico, and I think they see additional economic activity.

I think it is going to be very damaging for our whole country. I think it is going to be particularly damaging to all the industrial base of our country. Already Ford, Chrysler, and GM have moved 70 plants south of the border to Mexico. That is without a free-trade agreement. But with a free-trade agreement in place, it is like a flashing green light that says, "Close your plants in America. Come to Mexico and take advantage of 50-cent an hour wage rates and absence of workplace protections and environmental standards and all the rest of it."

Just the other day Smith-Corona announced they are closing the last American typewriter plant in New York and moving it down to Mexico because they have been victims of trade cheating that has not been dealt with by the Bush administration.

So we need a jobs program for America. We do not need to be exporting millions more jobs down to Mexico in a situation where the workers there are badly exploited, as we know.

The notion that we are going to sell a whole lot of new things down in Mexico is absurd on its face. The income standard, the standard of living down there is so low that the citizens down there do not earn enough to be able to be significant buyers of American goods.

The main export we are going to have to Mexico is going to be American jobs, and it is going to affect every American. Every time we close a manufacturing plant in this country, it hurts the whole country.

People are desperate for jobs in the United States today. We need a jobs program here.

This is part and parcel of a situation where the Bush administration has an economic program for every country in the world except this one. They have an economic plan for Kuwait, an economic plan for Communist China, an economic plan for the old Soviet Union, and now an economic plan for Mexico. No economic plan for this country. And people need work here in America. Jobs are disappearing every single day.

So, we must open up this free-trade agreement. I have a resolution, Senate Resolution 109—we now have 32 cosponsors here in the Senate—to stretch out the arbitrary 20-hour time limit to give us at least 2 full weeks to work on this on the Senate floor, to be able to offer amendments in five different areas: workers rights, environmental protection, domestic content considerations, how the legal system will work in terms of the legal process down in Mexico, and, also, worker adjustment assistance. These are five key areas. And I know, from the secret details that have sort of filtered out through the shrouded discussions that have been going on with the Mexicans, these issues have not been dealt with sufficiently, and they are going to have to be dealt with here on the Senate floor. So, at the appropriate time, I intend to bring that resolution forward.

I have a commitment in writing from the majority leader to see to it that I will have an opportunity to do that. I hope, as the details of this now filter out, that my 32 cosponsors will grow in number. My goal is to achieve a majority in that area so that we are able to take this agreement apart right here on the Senate floor and deal with the problems and the defects that are bound to be in it based on the orientation of our negotiating force.

But this is absolutely critical because this is a jobs program for Mexico and that means taking jobs from the United States. We need jobs in this country, and that is what is going to have to be the centerpiece of the debate on this issue.

I yield the floor.

The PRESIDING OFFICER (Mr. DIXON). The distinguished Senator from Michigan yields the floor.

Mr. RIEGLE. If there is no one else seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. On the suggestion of the absence of a quorum by the distinguished Senator from Michigan, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished senior Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, first let me state what a delight it is for the Senator from Vermont to be here in the Senate Chamber to be presided over by such a notable and distinguished Presiding Officer, who also happens to be a close personal friend.

The PRESIDING OFFICER. The Senator is making a very excellent speech this morning. It is received with great pleasure by the Presiding Officer.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. We are on the tax bill, H.R. 11. The pending amendment is an amendment by the distinguished senior Senator from Kansas to the amendment of the distinguished Senator from Ohio.

Mr. LEAHY. Is there controlled time?

The PRESIDING OFFICER. There is no controlled time, I advise the distinguished senior Senator from Vermont.

STATE CARE BILL

Mr. LEAHY. Mr. President, I note for my colleagues, I am not going to be speaking specifically on the amendment but I am here to talk about legislation that I will introduce later today. I will speak further on the so-called State care bill, the Leahy-Pryor piece of legislation on health care. I will only speak for a minute or two now to notify colleagues that I will be introducing that.

We will have numerous, and do have numerous pieces of legislation before the Senate on medical care, on plans to provide health care for our people. There is no question that one of the greatest issues on the minds of all Americans, and justifiably so, is the lack of health care. We have tens of millions of Americans who have no health care. We have tens of thousands of people in my own State of Vermont who have no health care. We have a situation today where a parent will look at a child with an earache and wonder whether that is something that will go away or should it require medical care because if it requires medical care and they do not have medical insurance, they may be spending that month's rent or that week's food bill to get care for that child. But if they make a mistake and ignore it, that child may have a deafness for the rest of his or her life. What a terrible situation to put a parent in.

Every one of us in this body are blessed with the fact that we and our families can afford care, but for tens of millions of Americans, that is not the situation. We must do something so that people, parents, children, elderly, young married couples, whomever, do not face the constant worry that everything they worked for, everything they planned for, everything they do can be wiped out simply because of crushing medical costs. We are in a position where if we continue the way we are in this country, that one out of every three of our Federal dollars by the end of this decade will be spent just on medical care. No country can exist that way. But even having spent that, millions of Americans do not have basic health care.

My State care plan will allow those States willing and innovative enough to move forward today to do it in a way where every person in their State can be covered by a form of health care, one adequate to their needs. Many States want to do that today. My own State of Vermont, the State of Florida under Governor Chiles, the State of Colorado and others want to do that if they are given the tools to work with. Under the State care plan, the Leahy-Pryor plan, they would be able to.

If the Federal Government is unable to move forward on health care legislation because the Congress and the President cannot come together or for whatever reason, at least allow the States to do it. At least allow the States to say to their citizens: We will have cost containment. We will bring down the costs of health care. We will have some rationality in it, but we will also provide every man, woman, and child with basic health care.

If the States are willing to do that, we ought to give them the tools, because you know what will happen, Mr. President? If enough States do that, the Federal Government itself will be forced to act, and there is precedent for it.

Earlier in this century, 28 of the States had child labor laws, things that we take for granted today. Once the States had done that, the Federal Government was forced to act to do it for all States, and we are a better country because of it. In 1935, 24 of the States had a form of Social Security. Then under President Roosevelt's leadership, with a Congress responding to the pressure from the other half of the country, a form of Social Security as we know it today was put in. Again, the States proved the impetus. I am willing to bet that States across this country, if given the tools to work with, will again prove to be the engine to drive through what will eventually be health care for all Americans.

Let us consider this, Mr. President. If a plan like the Leahy-Pryor plan were to pass the Congress, we would see States like my own State of Vermont, but many other States, very progressive States provide cost containment in medical care and provide basic health care for every one of their citizens and, I am willing to bet, the rest of the country would then follow suit because the Congress and the President would unite to respond to what is now a cry from millions and millions of Americans: Give us basic health care. Take away this fear, take away this fear that we cannot protect our children if they have an illness, we cannot protect our parents, or our elderly, or our spouses, or our families, or ourselves because we cannot afford health care; we do not have it available to us; we can be devastated by an illness. Let us remove that one basic fear from all Americans. We can do so.

Mr. President, I thank the courtesy of my colleagues who are waiting on another issue.

Again, I applaud the leadership of the Presiding Officer and my good friend and colleague from Illinois, and I am delighted to be serving in the same body with him. I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I be permitted to speak out of order at this point.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Jersey is recognized.

AMERICA AND ISRAEL—STEADFAST FRIENDS

Mr. LAUTENBERG. Mr. President, these days represent a time in history that I think has to be noted. The visit of the new Prime Minister of Israel to the United States, so soon after he took office, underscores the importance of our ties, the relationship between ourselves and Israel, and the fundamental value of the strategic and the moral alliance that accompanies that leadership. Regardless of who heads the Israeli Government, regardless of the strains that sometimes rise between friends, the United States and Israel have remained steadfast friends and unshakable at the core of their relationship.

Americans have long had a warm place in their hearts for Israel. Most Americans grew up admiring the plucky Israeli settlers who built a nation from the ashes of the Holocaust. Their ability to triumph against enormous odds in three defensive wars won the admiration of many.

They set up a flourishing, if occasionally boisterous, democracy, and made the desert bloom, and won our respect.

Yet, our strong ties to Israel and our strong military alliance were never based on just sentiment. They could not have survived if that was the case. America and Israel are joined in a longstanding friendship because of our shared democratic values and because Israel and the United States are important strategic allies in a dangerous world.

Israel, the Middle East's only democracy, shares America's commitment to the democratic way of life. Despite changes in elected governments over the last four decades, Israel has remained a democracy, and a steadfast and dependable ally of the United States. Israelis share a natural affinity with America—an affinity of values, interests, and political systems. Unlike so many other countries, there is no anti-American political movement in Israel.

Israel also fills a key strategic role for the United States in a volatile, dangerous region of the world.

America has important strategic interests in the Middle East, interests which have survived the demise of the Soviet Union and the end of the cold war. We seek to halt the spread of nuclear, chemical, and biological weapons and prevent unfriendly nations from again blackmailing America through embargos on oil. We hope to stem the rise of radical anti-Western fundamentalism, eradicate terrorism, and promote democracy wherever possible. Israel has been a rock solid partner in advancing those interests, because they are Israel's interests as well.

Israel has been unstinting in her efforts to cooperate militarily with America. She has welcomed the prepositioning of American equipment, so important for America's readiness to respond to a sudden conflict. She has opened her military facilities and offered her soldiers for joint training exercises with our Armed Forces.

In this post-cold-war era, military cooperation with Israel is increasingly critical as our defense budget shrinks and out troops are withdrawn from Europe. Burdensharing will mean greater reliance on our allies' military capabilities. There could be no better ally on which to rely than Israel, which has consistently demonstrated its military effectiveness.

Israel's military ability, as well as her foresight, were dramatically evident, thank goodness, in 1981, when she destroyed Iraq's Osirak nuclear reactor. This action stuck a server blow to Saddam Hussein's quest for nuclear weapons, and arguably avoided the first post-Nagasaki use of atomic weapons.

Israel's superb intelligence gathering capabilities are an additional asset for the United States. During the gulf war, for example, Secretary Cheney and Israeli Defense Minister Arens were on the phone nearly every day sharing critical intelligence information.

In a region were radical anti-Western fundamentalism and terrorism against innocent civilians persist, the United States has good reason to maintain and strengthen its longstanding, close relationship with Israel. Iran and Algeria are attempting to acquire nuclear weapons. Syria is buying ballistic missile technology from China and super-Scuds from the North Koreans. Libya and others are trying to lure Soviet nuclear scientists to their shores.

The last American hostages in Lebanon have returned home. But the fundamentalists' rise in Algeria and Iran's attempts to lure the Moslem republics of the former Soviet Union into the fundamentalist camp remain. These developments should give pause to anyone who believes the flames of radical anti-Western fundamentalism, have died or that the days of terrorism or hostage-taking are finished.

We do not share that reliable friendship and dependability with any other nation in the region: In fact, the one sure thing about our relationships with other Middle Eastern countries has been change.

For years, the United States nurtured pro-Western governments in Iraq, Libya, and Iran, only to find those governments overthrown and replaced by leadership implacably hostile to our interests in the region. In the blink of an eye, we went from great friend to "Great Satan."

Even our alliances with Israel's so-called moderate neighbors have been short-lived. They have snapped under the yoke of radical anti-Western fundamentalism, wherever it has reared its ugly head. Despite our role in defending Saudi Arabia against Iraq, Saudi Arabia turned down our request to protect our mutual security interests by prepositioning American equipment on Saudi soil. And Jordan demonstrated what our longstanding friendship was worth when Jordan King Hussein backed Iraq during the gulf war.

In contrast, Israel has proven again and again to be a dependable supporter of the United States most recently in the gulf war. She not only shared critical intelligence information during the war, but she denied every human instinct and broke a sacred tenet of her foreign policy by refraining from retaliating for Scud attacks on her citizens.

What was the result? What did George Bush do to reward such a steadfast ally? He turned his back on Israel, suggesting arms sales to her enemies and delaying approval of loan guarantees for absorbing Soviet Jews—a goal the United States had long supported—by linking this request to Israel's adoption of policies unrelated to the emigration or the absorption of Soviet Jews.

President Bush singled out Israel. His policy was in stark contrast to the granting of over $12 billion in loan guarantees to Arab countries, including Iraq, without a single condition. As former Ambassador Jeanne Kirkpatrick pointed out:

> In the Middle East, President Bush and Secretary of State Baker embrace the kind of linkage between assistance and foreign policy that they oppose for China.

This policy emboldened the Arabs, making them less serious about negotiating peace with Israel. And by linking the loan guarantees to Israeli behavior on settlements, the President created an issue for the peace talks that the Arabs themselves had not raised.

For years the United States fought for the right of Soviet Jews to emigrate. We put our prestige and our trade benefits on the line for that policy. Jackson-Vanik was known by all. We said that if you do not let those people go, there is no way you are going to do business with us. For years, there was not a high level meeting between the United States and the Soviet Union that took place in which the issues of unfettered emigration was not raised. There was not a Soviet Government official who did not know that most-favored-nation [MFN] trading status was inextricably linked to free emigration of Soviet citizens.

Now, we have won the battle on free emigration. At the same time, we have limited the numbers of Soviet refugees who can come to the United States, leaving Israel as the only safe haven. The administration was wrong to link Soviet Jews and their resettlement to unrelated issues.

I am pleased that President Bush finally saw his way clear to providing loan guarantees for Israel. Although it was long overdue, it is welcome news. I hope we will move quickly to provide loan guarantees without any conditions when Congress reconvenes in September.

While our President has come around on this basic and important issue, friends of Israel cannot forget the long months when he opposed desperately needed humanitarian relief for Soviet refugees and our close, strategic ally Israel. We cannot forget the damage done to our alliance with Israel or the contemptuous manner in which the administration treated American citizens supporting the loan guarantees. The President was insensitive.

Mr. President, since Senators from the other side of the aisle have already raised the specter of Presidential politics, I want to make mention of the fact that I know someone who very well would not have made Israel wait. His name is Bill Clinton. Bill Clinton has consistently supported granting the loan guarantees to Israel without precondition.

He believes that after working tirelessly for the right of Soviet Jews to emigrate, America was morally obligated to provide the loan guarantees Israel needs without holding the refugees hostage in any political struggle over the peace process.

He believes that we should have granted the loan guarantees when Israel first asked because it is the least we can do for an ally that is that valuable. And it would not have cost the American citizens a dime.

But Bill Clinton's support for Israel goes to the core of the United States-Israeli relationship. Bill Clinton backs Israel where it counts, on the bedrock issues of Israel's fundamental security in the world. He knows that Israel is America's most dependable ally in the Middle East despite the end of the cold war, and he knows why. What is more, he understands that it is in America's strategic interests to keep her strong and secure. He is unequivocally committed to the strengthening and expansion of the strategic relationship in this post-cold-war era, and he has pledged to preserve Israel's qualitative military edge even after peace agreements have been reached.

Governor Clinton supports the ongoing peace negotiations, but he has objected to the administration pressure on Israel to make unilateral concessions during the peace process. He has criticized the administration's failure to press Arab states to end their crippling boycott while insisting Israel relent on the issue of settlements. He opposes a Palestinian state and believes Jerusalem should remain the undivided capital of the state of Israel.

Governor Clinton will also be meeting this day with Prime Minister Rabin, and I am sure that he is going to make his views clear to the Prime Minister and express his commitment to rebuilding that special relationship, that unique position that the relationship between Israel and the United States had because, despite the strong warnings of the United States-Israeli alliance, we have been through rough water in the last year and a half.

Prime Minister Rabin has taken far-reaching steps to achieve peace in the Middle East in the short time that he has been in office. He has gone to Egypt to meet with President Mubarak, the first meeting between an Israeli Prime Minister and an Egyptian leader since Anwar Sadat's historic visit to Jerusalem. He has already canceled contracts for 6,800 units of housing planned for settlements in the West Bank and made it more difficult for settlers to move to the territories by ending lucrative mortgage terms and tax benefits.

He has named a new chief negotiator for Israel's talk with Syria, demonstrating the new importance the Israeli Government has placed on negotiations with Syria. And he has demonstrated a new, more conciliatory approach toward conflicts between Israelis and Palestinians.

So hopefully we look forward to a new era of deeper, closer, stronger cooperation between Israel and the United States. But we must remember that regardless of who is at the helm of our respective countries that the ties that bind Israel and the United States together are unshakeable and enduring based on democratic values and the strategic interests of both countries.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The distinguished senior Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISRAELI LOAN GUARANTEES

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition for a number of purposes this morning, and one of the subjects that I had intended to address relates to the success between President Bush and Prime Minister Rabin in reaching agreement on the loan guarantees.

I will add to those comments the observation that I would have expected on the floor of the United States Senate today to hear praise for the parties who have resolved this very important issue as opposed to political speeches injecting Presidential politics on the floor of the United States Senate.

President Bush and Prime Minister Rabin I think are entitled to the compliments, commendations for the accord which they have reached on a very, very serious issue, and that is the extension of $10 billion in loan guarantees for the resettlement of Jewish emigrants from the former Soviet Union, from Ethiopia, and wherever those emigrants may come from.

Under the administration, President Bush, with the assistance of Secretary of State Baker, there has been unparalleled achievement on progress on the peace process in the Middle East. It was a matter of enormous importance last October 30 at the Madrid conference that representatives of the State of Israel sat down with representatives of the Arab nations, including Syria, where such talks, which had not been held, came to pass.

Frankly, I disagreed with the President in not moving ahead with the loan guarantees last September and said so on the floor of the U.S. Senate. The President had adopted his policy because of his view of longstanding U.S. policy on the settlements, again a matter on which I disagreed with the President. But he held those views and, as a result of what has happened, whether anyone may have disagreed with parts of it along the way or not, we are now at a position where there has been accord on the loan guarantees.

Perhaps of even greater importance is the fact that on August 24 peace talks were scheduled in Washington between Israel and the Arab countries, both multilateral and bilateral. These are not spasmodic talks but are continuing over a protracted period of time.

I have had the opportunity to hear, with other Senate representatives, House Representatives, a report from President Bush yesterday afternoon, and this morning I had an opportunity again with other Members of Congress, both Senate and House, to hear from prime Minister Rabin. The picture is very brightened.

So I think on a day when this success has been achieved that there would be at least one moment—it is hard to find even one moment on the floor of the United States Senate without partisanship—but at least one moment when the President and the administration would be congratulated, jointly with the new Government of Israel, as opposed to the kind of partisanship and the injection of the political candidacies, of the political praise for someone else as opposed to what is a governmental function which I think is our prime role here in the Senate.

LABOR, HHS, AND EDUCATION APPROPRIATIONS

Mr. SPECTER. Mr. President, for a moment I choose to address another subject, and that is the forthcoming work of the Subcommittee on Labor, Health and Human Services and Education Appropriations.

Yesterday afternoon I sat down with my distinguished colleague, Senator HARKIN, the chairman of the subcommittee, and we worked through a preliminary outline to stay within the allocation given to the Labor, Health and Human Services, and Education Subcommittee. As I have noted before, Mr. President, I believe that the subcommittee ought to have a larger share of the Federal budget than is currently being allocated. Senator HARKIN and I looked at some very, very important items. It is extremely difficult to make appropriate funding recommendations with the very limited resources which we have.

I am serving notice at this moment, Mr. President, of the intention of this Senator to offer amendments to break the so-called firewall between defense spending and spending for labor, health and human services and education when that appropriations bill comes to the floor.

We live in a different era with respect to the military challenge with the very fundamental changes in the Soviet Union. It is true that we still have problems around the world, evidenced by the gulf war, and evidenced by the continued failure of Saddam Hussein to follow the requirements of the United Nations to which he had agreed when the gulf war ended, and we have very severe problems in Yugoslavia, and we have a need for a military presence. But the allocation of resources I would suggest has to be reevaluated. I realize that it takes a 60-vote majority to break the firewall.

But as I review the pending funding levels in Labor, Health and Human Services, and Education, I think that is going to be a necessity.

One item that I will call to my colleagues' attention is the issue of low income home energy assistance for the poor. The funds available are totally insufficient to provide for that very important line of activity. There is going to have to be a reallocation of funds in order to do what is necessary for that important program.

On the question of medical research, again, there are insufficient funds for very important research for Alzheimer's disease, diabetes, mental health, breast cancer, prostate cancer, and other programs where prevention would be important in saving money in the longrun. Again, we are going to have to look to reallocation to have sufficient funding in these areas. Similarly, in the area of safety for labor, there are insufficient funds to take what action is necessary.

Perhaps, the most anomalous factor which the Congress has acted on relates to Pell grants. The Congress congratulated itself on passing the Higher Education Act, which provided for increased funding for Pell grants, and raised the maximum grant from $2,400 to $3,700 a year, and increase that amount $200 in each successive years through 1997.

But at the same time that was done, the House of Representatives acted to reduce the funding for Pell grants from $2,400 to $2,300. I say that not in any way in criticism of what the House has done in the sense of their funding recommendations because of the limitations. But I think that it is simply unacceptable for the Congress to legislate an authorization which increases Pell grants from $2,400 to $3,700, and at the same time, to reduce the maximum grant in the appropriations bill from $2,400 to $2,300.

I am sure that the American people do not understand the complexities of our authorization process versus appropriations. In a nutshell, we authorize first, and we appropriate second. We have separate committees which do authorizations and then we have the Appropriations Committee, and theoretically, we are not permitted to appropriate until there is an authorization.

Having said that—and that is an oversimplification—I am sure it is not understandable to the American people that we talk about a $3,700 maximum for Pell grants, and compliment ourselves for having done that, and simultaneously talk about a reduction of actual cash from $2,400 to $2,300. This is a big-ticket item, Mr. President, and I believe that the only way we are going to find those funds is to break the firewall.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 3176 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I thank the Chair for the time. I note that no other Senator has come to the floor seeking recognition, so I have taken perhaps a little more time.

But at this time, in the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized for up to 10 minutes as if in morning business.

EXTENDING THE MEDICARE DEPENDENT HOSPITAL PROGRAM

Mr. GRASSLEY. Mr. President, I am pleased to be the lead cosponsor of legislation that I believe has been introduced maybe 10 days ago by the Republican leader, Senator DOLE, to extend the Medicare Dependent Hospital Program.

Medicare dependent hospitals, by definition, are rural hospitals with less than 100 beds and a Medicare share of discharges or patient days of at least 60 percent. These hospitals are able to use the highest of three alternative methods of computing Medicare reimbursement.

There are 54 of these hospitals in my State of Iowa and 563 such hospitals around the country. Only two States—Texas and Kansas—have more hospitals in this category than does Iowa.

The Medicare dependent hospital provision of Medicare law is worth around $7.5 million a year to these hospitals in Iowa. At least one of these hospitals gets $1 million by virtue of its qualification for this status. Others get hundreds of thousands of dollars that they otherwise would not get were it not for this program.

Needless to say, this is money that it will be very difficult to replace should this program cease without some other positive development, such as the elimination of the rural-urban differential, scheduled for October 1, 1994.

A new report issued by the Iowa Hospital Association shows that 32 Iowa hospitals operated in the red at the end of 1991, a 33-percent increase over the previous year. Medicare is the major culprit, according to this report, in failing to cover the cost of the care that these hospitals provide.

Iowa cannot afford to lose these hospitals, Mr. President, any more than I suppose Texas or Kansas can afford to lose these hospitals. I am not speaking here just for my State.

If Iowa citizens living in rural communities are to have access to good health care, we have to have these hospitals. Because so many of them are dependent upon Medicare, then that is a major problem that this differential deals with as a transition to the doing away with the rural-urban wage differential.

Not all of these hospitals, it should be pointed out, take a rate different than the standard Medicare reimbursement rate for which they would be qualified. Approximately 30 of these hospitals in Iowa take advantage of special rates under this classification.

The reason a special designation was permitted these hospitals is clear from the designation itself—Medicare dependent. These are small hospitals which are extraordinarily dependent on Medicare reimbursement. There are few ways that these hospitals can make up for contractual adjustments—the difference between hospital charges and Medicare reimbursement.

This provision of Medicare law ends March 31, 1993, but hospitals lose eligibility at the end of their fiscal year. Thus, some hospitals dropped out—at least in my State—in April of this year. Another large group dropped out on June 30, 1992, including in Iowa a very large group, 48 of the 54 eligible. Others will drop out in September and in December because they have various fiscal years.

What our bill, the bill Senator DOLE and I put in, does is extend this provision, currently due to expire on March 31, 1993, until March 31, 1994, under the same terms as in current law, and then until September 30, 1994, under terms that would provide eligible hospitals with 50 percent of the difference between their standard reimbursement and the highest rate permitted under terms of the Medicare dependent hospitals provisions.

The bill would also be retroactive, permitting those hospitals which have already lost this status because of current law requirements to be reimbursed as though no interruption in that status had occurred.

Our bill carries the Medicare dependent hospitals provision forward until September 30, 1994, because the difference between urban and rural payment rates ends on that date and hospitals will be on a level playing field, at least as far as Medicare reimbursement is concerned.

Some had advocated a simple 1-year extension of the program on the grounds that the urban-rural differential would be being phased out, and that other changes would be occurring in the hospital part of the Medicare Program within the same general period of time.

However, a 1-year extension would have simply recreated next year the same problem we are now facing. Many hospitals would have been out of the Medicare Dependent Hospitals Program for a year or more before final phasing out of the urban-rural differential. Thus, we felt that a longer extension was called for, and that is basically how the Dole-Grassley bill differs from other bills offered to solve the problem.

Some had advocated a full 2-year extension of the program. But, a full 2-year extension would not only be considerably more expensive that the bill we propose today, but the Medicare Dependent Hospitals would be getting extra payment for some time after elimination of the urban-rural differential when there is no point in having this program.

We have not included an offset in the bill, but under our budget rules, of course, the extension of this provision will have to be paid for when we act on it. I understand the concern within the hospital community that the cost of the bill would be paid for from funds now going to urban hospitals, or from funds now going to other rural—not Medicare dependent—hospitals.

Speaking for myself, I would like to find a way to pay for this legislation that does not come from within the hospital payment component of Medicare.

Mr. President, rural hospitals in my State are not doing well under the Medicare Program. The administrators of many of these hospitals in my State have been in touch with me about the even tighter fiscal crunch they will face if they lose this status.

Therefore, I will be working hard to pass and send this legislation to the President before the Congress adjourns later this year.

Mr. President, I yield the remainder of my time. I see no other Senator on the floor seeking recognition, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, in the absence of any other Senator seeking recognition at this moment I think it would be appropriate to make some comments on the pending tax bill at this time.

Mr. President, I am glad to see the pending tax legislation includes the essential points on legislation introduced by the distinguished Senator from New Mexico [Mr. DOMENICI] and myself, on Senate bill 2612.

That legislation had been introduced several months ago when Senator DOMENICI and I noted that there were four points common between the proposal submitted by the President and the proposals passed by the Congress. It has been noted repeatedly on this floor and other places, Mr. President, that there has been a gridlock in Washington; that when the President submitted his proposals for an economic recovery, they were, in effect given short shrift by the Congress, controlled by the opposite party and, candidly, when the Congress submitted the economic recovery program, it was given short shrift when it was received by the executive branch.

Looking at that situation, Senator DOMENICI and I introduced Senate bill 2612 which took four points in common, and the essential ingredients of these four points have been retained in the current legislation.

One point was to give a tax break to first-time home buyers which would assist young people in their efforts to purchase a home. It would also stimulate the building business.

A second point related to the investment tax allowance which would stimulate economic growth and again provide jobs.

A third point related to bringing back in some fashion the passive loss on real estate where that would be recognized where there was a legitimate real estate transaction as opposed to simply a tax dodge.

And the fourth point, to modify the investments possible on retirement programs.

It is regrettable, Mr. President, that those four common points were not passed months ago to provide a basis for an economic recovery to put millions of Americans back to work. But they are incorporated in the pending legislation and it is better that we do it at this juncture—better late than never, in essence.

As those points relate to other proposals in this plan, I think we do have a basis to stimulate an economic recovery.

I further note, Mr. President, that we have in the pending legislation the stimulus which was again proposed by Senator DOMENICI and myself on utilizing the funds available from IRA's [individual retirement accounts], 401(k) plans, and Keogh proposals where we have very substantial funds available which could be used to stimulate the economy.

We took a look at the economic situation months ago, Mr. President, and noted the budget agreement which precluded the priming of the pump by Federal expenditures because no such Federal expenditures could be made without an offset. At the time, we noted the availability of some $800 billion in IRA's and 401(k) plans, in addition to the trillions of dollars which are available in other retirement funds. We proposed in legislation that middle-income Americans be permitted to withdraw up to $10,000 a year within 1992 without penalty and without payment for the purchase of big ticket items like cars, homes, medical expenses, and tuition, with that $10,000 to be repaid $2,500 a year in the course of the next 4 years, 1993, 1994, 1995, and 1996, and in each of those years the taxpayer is to pay the tax on that money.

The essential elements of that program have been achieved in this legislation except for the cars. This Senator has already filed notice of an amendment, and I hope to add that final ingredient. It is an arrangement where I think the essential ingredients of the earlier proposed legislation by Senator DOMENICI and myself will be included with the rollover provisions where the existing IRA's can be rolled over into the new super IRA's proposed in this bill, and the super IRA's would permit withdrawal for the three purposes: homes, medical expenses, and tuition.

There will be, as I say, proposed amendments to perfect the pending legislation to match what Senator DOMENICI and I had introduced in the past, but it is my hope that these items will be included in legislation to stimulate an economic recovery because if we make available those IRA funds, the estimates are between $40 billion and $120 billion which would be injected into the economy. There is a certain tradeoff in terms of utilization of those funds now, contrasted with having them available in savings. But the saving aspect would be promoted by providing for repayment of the $10,000, or whatever amount is withdrawn in four installments from the years 1993, 1994, 1995, and 1996.

I thank the Chair. Again, I note no other Senator present on the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask, what is the regular order?

The PRESIDING OFFICER. The regular order at this point is a second-degree amendment proposed by the Senator from Kansas, for the Senator from Oregon, to a first-degree amendment 2931 proposed by the Senator from Ohio, Senator METZENBAUM.

Mr. BAUCUS. I ask unanimous consent to be allowed to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. What objection, it is so ordered.

Mr. CONRAD. Mr. President, I inquire of the manager of the bill what the status is at this time, and whether this would be an appropriate time for a 5-minute statement on an unrelated item.

Mr. BENTSEN. I say to my distinguished friend from North Dakota, I am preparing now to move on an amendment. I am about to ask a unanimous-consent request to be able to do that.

Mr. CONRAD. Mr. President, I am glad, then, to wait until an appropriate time so as not to interfere with the bill that is before us.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending Metzenbaum amendment, No. 2931, and the Dole amendment, No. 2934, be temporarily laid aside; that Senator MACK be recognized to offer a capital gains amendment; that here be 1 hour for debate, equally divided in the usual form, prior to a point of order being raised against the Mack amendment by the chairman or his disignee; that no second-degree amendments be in order to the Mack amendment prior to the disposition of the point of order; that the Mack amendment will still be debatable and amendable should the point of order be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Who yields time?

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. MACK].

AMANDMENT NO. 2936

(Purpose: To amend the Internal Revenue Act of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing of certain capital assets, and for other purposes).

Mr. MACK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK] proposes an amendment numbered 2936.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Venture Capital Act of 1992".

SEC. 2. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.

(a) GENERAL RULE.—Subsection (h) of section 1 of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

"(h) Maximum Capital Gains Rate.—

"(1) In general.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the net capital gain, plus

"(B) a tax equal to the sum of—

"(i) 7.5 percent of so much of the net capital gain as does not exceed—

"(I) the maximum amount of taxable income to which the 15-percent rate applies under the table applicable to the taxpayer, reduced by

"(II) the taxable income to which subparagraph (A) applies, plus

"(ii) 15 percent of the net capital gain in excess of the net capital gain to which clause (i) applies.

"(2) Transitional rule.—In the case of a taxable year which includes August 11, 1992, the amount of the net capital gain for purposes of paragraph (1) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) Technical Amendments.—

(1) Paragraph (1) of section 170(e) of such Code is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "13/28 (19/34 in the case of a corporation) of the amount of gain".

(2)(A) The second sentence of section 7518(g)(6)(A) of such Code is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

SEC. 3. REDUCTION IN CORPORATE CAPITAL GAINS RATE.

(a) General Rule.—Section 1201 of the Internal Revenue Code of 1986 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c), and by striking subsection (a) and inserting the following:

"(a) General Rule.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by section 11, 511, or 831(a) (whichever applies), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain.

"(b) Transitional Rule.—In the case of a taxable year which includes August 11, 1992, the amount of the net capital gain for purposes of subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) Technical Amendments.—

(1) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking "66 percent" and inserting "85 percent".

(2) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "15 percent".

SEC. 4. REDUCTION OF MINIMUM TAX RATE ON CAPITAL GAINS.

Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to tentative minimum tax) is amended to read as follows:

"(A) the sum of—

"(i) 15 percent of the lesser of—

"(I) the net capital gain (determined with the adjustments provided in this part and (to the extent applicable) the limitations of sections 1(h)(2) and 1201(b)), or

"(II) so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, plus

"(ii) 20 percent (24 percent in the case of a taxpayer other than a corporation) of the amount (if any) by which the excess referred to in clause (i)(II) exceeds the net capital gain (as so determined), reduced by".

SEC. 5. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) In General.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) General Rule.—

"(1) Indexed basis substituted for adjusted basis.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) Exception for depreciation, etc.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) Indexed Asset.—

"(1) In general.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset of property used in the trade or business (as defined in section 1231(b)).

"(2) Certain property excluded.—For purposes of this section, the term 'indexed asset' does not include—

"(A) Creditor's interest.—Any interest in property which is in the nature of a creditor's interest.

"(B) Options.—Any option or other right to acquire an interest in property.

"(C) Net lease property.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) Certain preferred stock.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) Stock in certain corporations.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) Exception for stock in foreign corporation which is regularly traded on national or regional exchange.—Clause (iii) of paragraph' (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) Indexed Basis.—For purposes of this section—

"(1) Indexed basis.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) Applicable inflation ratio.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1991).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) Gross national product deflator.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) Secretary to publish tables.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) Special Rules.—For purposes of this section—

"(1) Treatment as separate asset.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) Assets which are not indexed assets throughout holding period.—

"(A) In general.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) Certain short sales.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) Treatment of certain distributions.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) Section cannot increase ordinary loss.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) Acquisition date where there has been prior application of subsection (a)(1) with respect to the taxpayer.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 of such Code is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of such Code (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

"For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1990, see section 1022(a)(1).".

SEC. 6. INDEXING OF LIMITATION ON CAPITAL LOSSES OF INDIVIDUALS.

Section 1211 of the Internal Revenue Code of 1986 (relating to limitation on capital losses) is amended by adding at the end thereof the following new subsection:

"(c) INDEXATION OF LIMITATION ON NONCORPORATE TAXPAYERS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1991, the $3,000 and $1,500 amounts under subsection (b)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the applicable inflation adjustment for the calendar year in which the taxable year begins."

"(2) APPLICABLE INFLATION ADJUSTMENT.—For purposes of paragraph (1), the applicable inflation adjustment for any calendar year is the percentage (if any) by which—

"(A) the gross national product deflator for the last calendar quarter of the preceding calendar year, exceeds

"(B) the gross national product deflator for the last calendar quarter of 1991.

For purposes of this paragraph, the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to sales or exchanges occurring after March 7, 1991, in taxable years ending after such date.

(b) INDEXING OF LOSS LIMITATION.—The amendments made by section 6 of this Act shall apply to taxable years beginning after December 31, 1991.

Mr. MACK. Mr. President, I wish to thank the chairman of the committee for working out the arrangements so that I could offer this amendment today. I offer the amendment to reduce the capital gains tax rate, which I will describe in a moment.

The reason for offering the amendment is that I am concerned about the future growth of the economy. I do not see the signs that indicate that we are going to have rapid economic growth ahead of us, and I honestly believe that we will not see fast, job-creating growth unless we do something significant with respect to the capital gains tax rate. This amendment is similar to a bill that I introduced earlier this session.

Again, I am offering the amendment because we are seeing that the leading economic indicators have fallen once again during last month. Several negative reports on housing starts have come out over the last several months. Banks are not lending. Credit has virtually dried up in a very, very important area. There has been no growth in net business formation in this country for several years. Unemployment rates continue to be too high, and in certain areas of my own State, we have unemployment that is over 10 percent. Real estate values continue to fall.

During several hearings during this past year and a half in the Banking Committee, I raised the question about capital gains of Alan Greenspan, Chairman of the Federal Reserve Board of Governors, and William Seidman, who, at the time, was Chairman of the FDIC, as to whether they believed lowering the capital gains rate would be beneficial to the value of real estate.

I raised this real estate issue because I think most of my colleagues are sensitive to the cost of the S&L bailout. I make the claim that a lower capital gains rate would increase the value of real estate, increase the value of real estate held by RTC and FDIC and, being able to sell that real estate at a higher value, certainly would reduce the cost of the S&L bailout.

I asked Alan Greenspan whether lower capital gains rates would help increase the value of real estate. His response was:

> Well, I've always, as you know, been supportive of either lowering the capital-gains tax or preferably eliminating it completely, because I don't think it is a type of tax which will promote growth in the economy. I think it's fairly evident that, to the extent that capital-gains tax is lowered, you will get potentially higher property values, because, to the extent that you have a speculative purchase of a property, to the extent that anticipation of capital gain is hit by a significant capital-gains tax, you will clearly get some notion of restraint, resistance or hesitation.

He goes on further to say:

> * * * there's no question in my mind that a capital-gains tax cut would be helpful with respect to the issue of property values and economic growth.

William Seidman made comments that supported what was said by Chairman Greenspan.

The amendment that I am offering this morning is an amendment that could cut the capital gains tax rate for those in the highest income tax brackets to 15 percent. It further states that for those in the lower bracket, capital gains would be taxed at a 7.5 percent rate. There is a 1-year holding period, and most assets are covered under this proposal. Indexing of the gains for inflation would take place prospectively, and it excludes capital gains from the minimum tax.

I know that there are going to be several arguments raised as to why it would be wrong to lower the capital gains tax rate. The first argument that is going to be raised is that this amendment does not comply with the Budget Act and so a point of order will be raised.

I want to make several arguments as to why I think my colleagues should ignore that point of order. The first is, if you look at the bill that is before us today, great concerns are raised about the rules that have been established to determine whether an amendment is in order or whether it is not.

Let me remind everyone of yesterday's debate about IRA's. I happen to be a supporter of IRA's.

According to budget rules, there is no cost to the Treasury for the IRA proposal that is in the bill—and an amendment to remove the proposal was defeated yesterday. One of the issues that was raised is that there is a cost, but it does not take place until the sixth year. And there is a difference of opinion as to what that cost might be, anywhere from $10 to $17 billion a year.

But we have been told there is no point of order that can be raised because cost offsets are only required during the first 5 years.

I think that approach says to all of us that this is a mockery of this system. If you design things correctly, you can find ways to offer amendments and bring legislation forward that avoid points of order while we all know that, in the future, there is going to be a cost.

So, the first point here is that the underlying legislation is an example of how the rules are written to distort positions with respect to both cost and projected revenues to the Federal Government.

Second, people will say again the reason that this point of order should stand is because this amendment will cost the Federal Government billions of dollars.

That same argument was made in 1978 by Secretary Blumenthal, Secretary of the Treasury at the time. In those days, the amount of capital gains taxes flowing into the Treasury were much smaller than they are today. And Secretary Blumenthal said that if we reduced the capital gains rate from roughly 48 or 49 percent, where it was at that time, to 28 percent, it would cost the Federal Treasury about $2 billion a year.

Two billion dollars was roughly 20 percent of total capital gains revenue.

Secretary Blumenthal was wrong. There was not a cut in the flow of capital gains tax revenues to the Federal Government as a result of a lower capital gains tax rate. There actually was an increase of $2 billion, not a decrease. What Secretary Blumenthal said is something that is said over and over again to the point that most everyone accepts it. If you cut tax rates it would seem logical, so the argument goes, that the revenue that would be coming in would be lower.

Stop and think for a moment. Capital gains is a voluntary tax. You do not end up paying the tax unless you voluntarily sell an asset. When you voluntarily sell that asset you pay the tax to the Federal Government, regardless of what the rate is. But the key is that the decision to sell the asset is voluntary.

If you believe that the tax rate on capital gains is too high relative to other taxes, you are going to decide not to sell that asset. And if you do not sell that asset, there is no revenue to the Federal Government regardless of what that tax rate is.

So my second point as to why Members of the Senate should ignore the point of order is because this amendment actually will raise revenue for the Federal Government.

A recent study done by Allen Sinai—a well-known economist—indicated that a reduction in the capital gains rate to 15 percent would, in fact, increase the flow of funds into the Federal Government to the tune of $30 billion over a 5-year period.

There is one additional point I would like to make with respect to the point of order that will be lodged a little later on. It has to do with the luxury tax. A couple of years ago the Congress of the United States collectively said, "Let's tax the wealthy," and impose a luxury tax. After all, the only people who are going to pay this luxury tax are the wealthy, and they can afford to pay it.

But Congress forgot that the wealthy have a choice. If they think the price of a particular product is too high, they decide not to buy it. If they decide not to buy that particular product, guess who ends up paying the tax—it is paid by people who lose their jobs because the product they make does not sell.

All throughout the State of Florida, and I would say throughout many parts of this country, people have lost their jobs because it was politically expedient to tax the wealthy. It was suggested that we would collect $5 million a year. Let me say that again—$5 million, not billion—$5 million a year by imposing the luxury tax on boats, planes, furs, and jewelry.

It was now suggested in this bill we are going to repeal the luxury taxes—and I am glad for that repeal—and as a result of repealing it we are going to give up something like a half a million dollars in revenue to the Federal Government. A recent study estimated that the Government has lost over $14 million from the luxury taxes because so many businesses have shut down.

This is yet another example of what I think are mistakes in the cost estimates used to establish the effect of tax and economic policy.

Again, I know the point of order is going to be raised. I suggest to my colleagues there are several reasons why it ought to be defeated.

Who gains from a proposal to reduce the capital gains tax rate? I would make the claim that everyone gains, including the elderly and middle-income to lower income people. States will gain because many base their taxes on the income reported on Federal tax returns. They clearly would benefit if the amount of realizations from capital gains increased.

The economy would expand because of the lower cost of capital. Because of the lower cost of capital we would stimulate the creation of new jobs and new businesses; we would increase the pool of venture capital.

And as a result of these kinds of activities, all people will gain. A lower capital gains rate makes America more competitive. We would see an increase of funds into investment in new technologies, and we would see investment in minority enterprises increase.

One of the issues I know will be raised again is that a capital gains tax cut is only for the benefit of the wealthy. And, there again, I think you have to look at how these numbers are calculated. Suppose you are a retiree with an income of $10,000 a year. Let us also suppose that during your life you saved or invested in the stock of the company you worked for and you accumulated some 80,000 dollars' worth of stock. In your retirement years the only other source of income that you would have available to you would be the sale of that stock. So you decide to sell it.

Under the arguments that will be made as to why only the wealthy gain from a capital gains tax cut, in the year you sell that asset you are no longer counted as being in the $10,000-a-year income group. You are now a $90,000-a-year income earner. You are considered wealthy for that year. But for the rest of your life you have no other earnings, you have no other capital gains or no more capital assets you can sell. So for that year and that year only, you are "wealthy." To suggest that the benefits from a capital gains rate cut will only go to the wealthy is misleading.

The Wall Street Journal, in an editorial based upon a study that was done by former Treasury Assistant Secretary Paul Craig Roberts, from

IRS data for 1985, states that 45 percent of the benefits of a capital gains rate cut go to people who have incomes of $50,000 a year or less. In this study it shows that individuals making $10,000 or less actually get 20 percent of the benefits from a lower capital gains.

So I would make the argument that lower capital gains rates in fact are a benefit to everyone.

In a separate study done by the National Center for Policy Analysis, John Goodman, the president of that organization said, "Many people think capital gains income is important only to the rich." He goes on further to say, "In fact it is vital to the elderly middle class."

The study found that about one in three taxpayers over the age of 65 has a capital gain each year, compared with only 9 percent for younger taxpayers; almost half of the elderly taxpayers with an annual income of between $25,000 and $40,000 have a capital gain each year.

So again I make the argument that the capital gains tax cut really helps everyone.

I also have an article I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE SMALL CAPITAL GAIN—ONE BIG TAX

(By George W. Walker III)

I had heard the arguments in favor of a reduction in the capital-gains tax. But why should people like me, who work in education; or people like my neighbor the plumber; or the electrician I know; or the guy who runs the local carpet store; or that nice young kid who works as a clerk at the home improvement center—why should any of us be in favor of a "trickle down" tax reform to benefit "the rich"?

I, for one, couldn't make up my mind. Then my wife and I bought a house, a weathered and abandoned old domicile in a nice neighborhood. We didn't want to live there; we just saw an opportunity to refurbish a run-down home and sell it for a modest profit. Theoretically, we took one of the greatest risks of all. We secured a home-equity loan on our family residence and used the money to purchase a "handyman's special."

I was convinced that it would be a great lesson for our four children. Even the 10-year-old worked right alongside us: washing, cleaning, scraping wallpaper, priming, sanding, painting, sawing wood, knocking out walls, climbing ladders, installing siding, tacking down carpets. And more.

We didn't do our own plumbing or electrical work. We hired that neighbor who's a plumber, and that fine man who had done some electrical work around our own home a couple of years ago. We were on a first-name basis with all the folks at the lumber store and the home improvement center. We were there two or three times a week for month after month, spending money to turn this neglected old structure into a gracious, inviting home.

We frequented the fabric store (my wife sewed all the curtains) and the building store (vinyl siding). We spent more money at the pizza shop (no time to cook), and they even began to recognize us at the drug store (bandages and liniment).

"But," I said confidently to my wife, "it will all be worth it after the house is sold, when we take the kids into one of those private rooms at the bank and I count out our profit for them to see in real cash, before we deposit it. 'This,' I will tell them, 'is what America's economic system is all about. If you're willing to take a reasonable risk and work hard, you may reap a financial reward that makes the whole adventure worthwhile!'"

A funny thing happened on the way to the bank. I stopped in to see our accountant. "Congratulations on your profit," he said. "But remember that today's capital gains tax is the same as your 28% personal income tax. And as a resident of New York state, you'll need to add on 7% in state taxes. So whatever your gross profit, be sure to set aside 35% for taxes."

We'd found a buyer willing to pay $60,000. We'd thought that would let us reach our goal of making about $6,000 on this venture. But deducting 35% of that would leave us with a net profit of $3,900. Our very conservative estimate is that the combined labor of all the family members who worked on this project totaled 1,200 hours. That means that after the capital-gains tax is paid, we netted about $3.25 per hour. We would have earned more standing at a cash register repeating the words "Paper or plastic?"

Will we try a venture like this again? I doubt it. And if the capital-gains tax bite discourages us from trying it again, that means we won't be hiring the plumber and the electrician; we won't be visiting the fabric and carpet stores; we won't be making home equity loan payments to our hungry local bank; we won't be writing checks that help pay the salary of that nice young man at the home improvement center.

I'm not rich. But what if I were? Then, instead of fixing up one old relic, maybe I'd be building an entire housing development. Maybe I'd be buying tens of thousands of yards of carpet. Maybe I'd be hiring scores of skilled laborers. Maybe I'd be pumping more money into more corners of my community and the economy than I can even imagine.

A tax break for the rich? So what? Scrooge McDuck, my children tell me, puts his money in a bin and swims in it. But there's evidence that most rich people don't do that. They spend their money. They invest it, risk it, try to get it to work for them so that it will grow. But that's hard to do without hiring people, buying materials and supplies, and spending in a multitude of other ways and places.

There's talk that a cut in the capital-gains tax just might make it through Congress before long. That'll be too late for us. We're tired and a little discouraged right now. But maybe something good will come out of it. Maybe a few people who aren't "rich" will read this article and then tell their legislators that we want that capital-gains tax cut.

It's not that we care about "the rich." We promise that we'll continue to envy them and resent them. Still, let that tax cut go through. We could use the jobs . . . and the prosperity.

Mr. MACK. I would like to take the time to read the entire article but I have a feeling there are others who would like to speak so I will try to pick out the important points in this article. It is written by George W. Walker III; he is the dean of students at Genesee Community College in New York.

I had heard the arguments in favor of a reduction in the capital-gains tax. But why should people like me, who work in education; or people like my neighbor the plumber; or the electrician I know; or the guy who runs the local carpet store; or that nice young kid who works as a clerk at the home improvement center—why should any of us be in favor of a "trickle down" tax reform to benefit "the rich"?

I, for one, couldn't make up my mind. Then my wife and I bought a house, a weathered and abandoned old domicile in a nice neighborhood. We didn't want to live there; we just saw an opportunity to refurbish a run-down home and sell it for a modest profit. Theoretically, we took one of the greatest risks of all. We secured a home-equity loan on our family residence and used the money to purchase a "handy-man's special."

I was convinced that it would be a great lesson for our four children. Even the 10-year-old worked right alongside us: washing, cleaning, scraping wallpaper, priming, sanding, painting, sawing wood, knocking out walls, climbing ladders, installing siding, tacking down carpets. And more.

We didn't do our own plumbing or electrical work. We hired that neighbor who's a plumber, and that fine man who had done some electrical work around our own home a couple of years ago. We were on a first-name basis with all the folks at the lumber store and the home improvement center.

"But," I said confidently to my wife, "it will all be worth it after the house is sold, when we take the kids into one of those private rooms at the bank and I count out our profit for them to see in real cash, before we deposit it. 'This,' I will tell them, 'is what America's economic system is all about. If you're willing to take a reasonable risk and work hard, you may reap a financial reward that makes the whole adventure worthwhile.'"

He then goes on to tell about how his accountant told him about what the tax rules were; and that he had 28 percent tax he was going to have to pay on the capital gains; that he had to pay an additional 7 percent State tax, so that his $6,000 profit became $3,900, and when they calculated the number of hours worked by the family at 1,200, they earned about $3.25 per hour per person.

Will we try a venture like this again? I doubt it. And if the capital gains tax bite discourages us from trying it again, that means we won't be hiring the plumber and the electrician; we won't be visiting the fabric and carpet stores; we won't be making home equity loan payments to our hungry local bank; we won't be writing checks that help pay the salary of that nice young man at the home improvement center.

He finishes up by saying.

It's not that we care about "the rich." We promise that we'll continue to envy them and resent them. Still, let that tax cut go through. We could use the jobs and the prosperity.

That brings me to my final point. Lowering the capital gains rate will increase the amount of venture capital that is available in the American market. If you go back to the period of time between 1969 and 1978 when we had very high capital gains tax rates in this country, there was an average of approximately $60 million a year available to the venture capital market. In 1978, we dropped that tax rate from 48 percent to 28 percent. The result was that 1 year later there was $600 million available in the venture capital market, 18 months later there was $900 million, and we hit a peak in 1987 at over $5 billion available in the venture capital market.

That money goes to new start-up businesses. It goes to risky enterprises. It goes to firms that are investing in new technologies—investing in America's future. It is the result of that kind of investment that jobs are created in America, that people feel that there is hope and opportunity for the future.

So, Mr. President, I ask my colleagues to support this amendment, this proposal that would reduce the capital gains rate from 28 percent to 15 percent. If we are truly serious about getting America moving again, I hope that we will adopt this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MACK. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise in support of the amendment of the Senator from Florida [Mr. MACK] and I hope that all of our colleagues are going to work with us to support this amendment. We are talking about jobs. We are talking about growth. We are talking about opportunity. We are talking about the future.

This amendment is the same as the Kasten-Mack amendment which we have cosponsored together. We now have 16 cosponsors, I believe. And I believe that overall we are seeing developing support for the idea of working toward jobs and growth.

We see whenever we talk about capital gains and the capital gains efforts for reform, a kind of familiar pattern that develops. I just want to talk about it for 3 or 4 minutes here.

Every time we start talking about a reduction in the capital gains tax in order to create jobs and to get the economy moving again, a kind of a group of opponents we could call the envy patrol arrives, with a bunch of statistics, distribution tables, and we get into this kind of class warfare rhetoric. I hope we can avoid that today.

They claim, for example, that only the very rich benefit from reduced capital gains rates. The Senator from Florida talked about this in his remarks, and I want to emphasize it even more for a moment.

If you look back to the fact in 1978, for example, 14 million taxpayers sold capital assets, in 1988 the number was 8 million. Are all of those 14 million or all of those 8 million rich? Of course they are not. Every year we have millions upon millions of Americans, farmers, small business owners, investors, savers, retired seniors. All across America people have an opportunity to sell assets an they go ahead and sell them. Nearly one-third of all tax returns with capital gains are filed by taxpayers with regular incomes of less than $20,000. Nearly one-half of all of the taxpayers who report capital gains have other income of less than $50,000 a year. The great majority of all those reporting capital gains make less than a Member of Congress.

So we are not talking about some special small group. The elderly would especially benefit from a capital gains tax reform because they no longer earn wages and they frequently must sell assets simply to live. They do not have that wage income coming in, so they have to start to sell their assets simply to live, and then they are taxed at these prohibitively high rates. The elderly, while they represent only 11 percent of tax returns, represent 26 percent, over a quarter, of all the tax returns reporting capital gains.

Opponents of this tax cut constantly refer to the Joint Tax Committee numbers showing only the super rich benefit. But the Joint Tax Committee ignores what economists refer to as bunching. While capital gains build up, bunch up, if you will, over a number of years, they are all realized in 1 year, just once. So you get this bunching up, this accumulation and then the 1-year capital gains transaction. The sole proprietor with an annual income of $25,000 who retires by selling that small business, works for decades for that small business. The 1 year that he sells that small business, he bumps himself up on that distribution table and some would call him rich.

The struggling farmer who sells the family farm or passes it on to the next generation to avoid indebtedness in the same way is called rich. He has built up that farm, owned it for 30, 40 years. Simply the inflated value of that farm has forced him into a huge tax liability. And if he is like most farmers in the State of Wisconsin, he basically has all of his financial eggs in that one basket—that one farm. He constantly put money back into the farm and the one transaction he is penalized tremendously when he sells that farm and is unable to have a lower capital gains tax rate.

The senior citizen who sells retirement investments, or the senior citizen who sells the family home that 1 year might bump into that category of so-called rich.

In fact, you could argue that anyone with a large capital gain in any 1 year, regardless of how many years it took to build up that gain, would be categorized as rich.

Although opponents of the capital gains tax claim to be champions of tax fairness, they completely ignore the most unfair feature of capital gains taxation, and that is that this tax is often assessed on purely inflationary gains. That is why the Mack amendment, that is why this amendment calls for indexing capital gains for inflation, as well as lowering the rate to 15 percent. In fact, on long-term investments that are generally held by the middle class, the present capital gains tax leads to circumstances where investors pay taxes near or even in excess of 100 percent of their gain. The greatest irony is the so-called tax fairness campaign comes at a tremendous cost, a tremendous cost to the middle class, the poor, and the unemployed, who are denied the opportunities of a dynamic growing economy.

A low cost of capital and the incentive to put capital back to work is the very engine that drives the capitalist society. I fear that many of my colleagues who oppose this economic growth package have forgotten what most Americans want from their Government. What most Americans want is an economy that is growing, an economy that is creating new jobs, an economy that is providing hope for the future and hope for their children's future. And with capital gains tax reform, we can help assure that this growing economy, which is future oriented, can in fact become a reality.

We must pass the Mack amendment on capital gains, reform the capital gains, reduce the rates, but even more importantly, index capital gains for inflation so that people do not have to pay tax on the inflated value of their assets. Simply, they would pay a tax on the real value of the gain.

BUDGET DEFICIT

Mr. President, there has been much debate about the revenue impact from reducing the capital gains tax.

Let me say at the outset, that if one accepts the contention that a capital gains tax cut is good for the economy—and I think the evidence overwhelmingly supports this contention—then one can only conclude that this tax cut will raise tax revenue.

The historical record—and a majority of scholarly studies—have found an inverse relationship between capital gains taxes and revenues. Lower capital gains taxes raise revenue.

Lower rates induce more realizations—the so-called unlocking effect.

Lower rates increase the value of capital assets—because it increases the after-tax rate of return.

And finally, lower rates mean more small business formations, more job creation and more economic growth.

The Joint Committee on Taxation's static revenue estimates have been consistently wrong on capital gains. In 1978, Joint Tax predicted that the Steiger tax cut would immediately lose $2 billion. What happened? Revenues from capital gains taxes shot up $3 billion.

In 1978 when the tax rate was 50 percent, revenues were $9.1 billion. In 1984, following the 1981 tax cuts to 20 percent, revenues were $24.5 billion. That is a 60-percent increase in capital gains revenues. This tax cut helped spur economic growth—and increase overall tax revenues during the 1980's.

But now, because of the 1986 capital gains tax increase, investors have pulled out of the venture capital market—and they are paying less capital gains taxes than they paid throughout most of the 1980's.

Today, there is a new consensus emerging among economists—that a tax cut to 15 percent will raise Federal revenue in both the short- and long-term. This list includes Martin Feldstein, former CEA chairman, Lawrence Lindsey, former Harvard professor, Gary Robbins, former Treasury chief economist Michael Boskin—and now Allen Sinai, a respected financial economist.

Mr. President, I think it is important to note that Mr. Sinai is a mainstream Keynesian economist. He has been a critic of supply-side economics. He has previously opposed a lower capital gains tax as a giveaway to the rich.

But Mr. Sinai has run the numbers through his new economic model, taking into account the impact of a capital gains tax cut on the cost of U.S. capital and economic growth.

His model showed that our bill would increase GNP by about 0.4 percent a year through 1995, create 2.5 million new jobs and generate an additional $30 to $40 billion in revenues.

Sinai's estimates are even higher than the estimates of most supply-side economists.

Even microscopic changes in GNP growth—0.5 one-hundredths of a percent—will add $5 billion to baseline revenues.

I ask unanimous consent that Mr. Sinai's report on the revenue effects of this amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[American Council for Capital Formation]

THE MACROECONOMIC AND REVENUE EFFECTS OF A CAPITAL GAINS TAX REDUCTION

New research by Dr. Allen Sinai of The Boston Company Economic Advisors, Inc., shows that when macroeconomic "feedback" effects as well as unlocking of unrealized capital gains are estimated, a substantial reduction in capital gains taxes results in stronger economic growth, increased capital formation, and federal tax revenues that are larger than under current law.

PRELIMINARY RESULTS

Dr. Sinai's economic research shows that a reduction in capital gains tax rates would have positive macroeconomic effects on the overall economy. Lower capital gains taxes raise real and nominal GNP, increase capital spending and capital formation, positively affect the stock market, increase household net worth (household wealth), lower the cost of capital for business and increase business profits, increase employment and lower the unemployment rate, shift the financing of business activity away from debt to equity, and induce portfolio allocations by households toward equity to take account of changes in expected after-tax returns on stocks and bonds.

According to Dr. Sinai's estimates, a reduction in capital gains tax rates to 15 percent for all taxpayers (individual and corporate) would, by 1995, increase real GNP by 2.8 percent, or about 0.4 percent per year compared to a Baseline (see Table 1). Lower capital gains rates would also raise business investment by 1.3 percent per year and reduce the after-tax cost of capital by more than 4 percent per year. A further plus is the creation of an additional 2.5 million jobs over the 1990–1995 period. (Dr. Sinai notes that the estimate of new jobs created may be biased upward by the experience of the 1980s and may not be repeated in the 1990s due to slower growth of the labor force.)

Because of higher personal disposable income, increased household net worth and business cash flow, "multiplier" effects operate through economic and financial markets to generate additional tax revenues which, along with the unlocking of unrealized capital gains, result in higher revenues than would have occurred in the absence of a capital gains tax cut. As a result of the feedback effects from a stronger economy, significant additional personal income tax and other receipts would be realized, offsetting a large portion of the ex-ante cost of the tax cut. State and local government tax receipts would also be greater, and revenues from social security taxes and excise taxes would go up.

A capital gains tax reduction has special power in this regard, operating to raise the stock market, increase net worth, lower the cost of capital, and enhance consumption and investment to bring in additional tax revenues. With unlocking, as estimated by the Joint Committee on Taxation (JCT) or the Treasury Department's Office of Tax Analysis (OTA), the net tax effect lies in the range of $30 billion to $40 billion when cumulated over the 1990–1995 period.

THE SINAI MODEL

Dr. Sinai's analysis is based on simulations using the 1989 version of the Sinai-Boston Econometric Model of the U.S. Economy, a 425-plus equation model that explicitly takes account of aggregate demand, financing through sectoral flows-of-funds, balance sheet effects, corporate and personal finance, and forward-looking expectations as they affect U.S. financial markets and, in turn, the economy. The model estimates the macroeconomic feedback effects of a capital gains tax reduction on the economy, inflation, financial markets, the cost of capital, employment and unemployment, tax receipts, and other variables.

The model provides a number of channels by which tax policy affects the economy and financial markets—through interest rates, capital and user costs, the equity market and the dollar—with more "multiplier" effects than in traditional macroeconomic models.

The simulation results from various capital gains tax reductions point up the necessity of taking account of *all* tax effects from any change in policy in estimating the total effect on federal tax revenues.

CONCLUSION

Dr. Sinai's simulations are very relevant to the debate over the revenue impact of a cut in the capital gains tax rate. Macroeconomic feedback effects are not considered in the static revenue estimates made by the JCT and the OTA. Dr. Sinai's macrosimulations, coupled with the short-run "unlocking" effects that both the JCT and the OTA would accept, indicate that a reduction in the capital gains tax rate to 15 percent for individuals and corporations would result in a net increase in federal revenues over the 1990–1995 period.

TABLE 1.—*Macroeconomic effects of a capital gains tax reduction for all taxpayers*[1]

	Fiscal year *Fiscal year 1990-95* *1990-95*
Real GNP (total change, percent)	2.8
Employment (total change-millions)	2.5
Business capital spending (percent):	
Total—(average annual change)	1.3
Equipment	1.3
Structures	1.4
Cost of Capital after-tax cost of debt & equity (average annual change percent)	−4.1
S&P 500 stock index (average annual change percent)	16.3
Total Federal tax revenues[2] (billions)	$30–$40

[1] Preliminary results of a simulation of a 28 percent to 15 percent reduction in individual capital gains tax and 34 percent to 15 percent for corporate capital gains tax effective April 1, 1990. Prepared by Dr. Allen Sinai using the Sinai-Boston Model of the U.S. Economy. No holding period requirements are assumed.

[2] Revenue impact varies according to whether the Joint Committee estimate or the Treasury Department estimate of unlocking of unrealized capital gains is used.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum and that it be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield 10 minutes to myself.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I heard the distinguished Senator from Florida talking about the IRA, about the question of what it might do after that 5-year budget window; how this was carefully constructed to be in accord during the 5 years but afterward not really being that concerned.

Well, we were concerned, and the Joint Tax Committee has advised us that when you get estimates beyond 5 years, you cannot have the kind of exactness that you have in the short term. But it is their best judgment that as we constructed this piece of legislation, beyond the 5 years, the cost of the IRA is neutralized by the revenue sources that we have provided in this legislation.

We have had some rather heated floor debates on the question of capital gains—contentious views. We did not include capital gains tax relief in this bill because we are trying to get a piece of legislation that is bipartisan, that does not reopen the old wounds, does not end up with seeing it compensated by a surtax on millionaires or some other form of tax increase on high-income individuals. We want to see that we get something signed.

In other words, a capital gains relief would be accompanied by a rate increase, and a definite veto, I assume, by the President. I am trying to work with my colleagues, the Democrats and Republicans, and the administration to see if we cannot get a bill that is signed into law.

I know the President has some problems with the bill, but I think we can work this out and work it out on a bipartisan basis. I have some of my colleagues who have some problems with the bill. You do not get total unanimity. But the adoption of this kind of amendment would set off a chain reaction that really would result in a partisan bill and a definite veto.

I think the problems of our cities are too severe, what we saw happen in Los Angeles, the 58 lives lost, over 1 billion dollars' worth of damage, that those things have to be addressed, and we ought to do it in a bipartisan effort.

I have long been a supporter of a capital gains rate differential, but the 1986 Tax Reform Act eliminated the differential. And I believe today there is not a substantial argument for the capital gains tax relief once you have had a substantial reduction in the personal income tax rate.

Frankly, I found the provision for capital gains and the justification and the locked in idea much more important when the capital gains rate was 90 percent, 70 percent, 50 percent. I can recall helping lead the fight on the Democratic side in the Finance Committee to cut the capital gains rate. Senator Cliff Hanson from Wyoming led that fight on the Republican side—talking about locked in assets, not the mobility in sales, and we won those points and we helped bring it down.

But in 1986, again you had the personal income tax rate at approximately 50 percent, and you brought it down to 28 percent. But part of the argument for being able to pay for that and backed by the Reagan administration was we are going to bring up the capital gains rate. That is where you are going to get some of the revenue to pay for bringing down the personal income tax rate. I went along with that.

Now we say let us not move the personal income tax rate but now let us cut, and that you are actually going to gain. That is not want the Joint Tax Committee says. The Joint Tax Committee says this will cost $47 billion—$47 billion—and no pay forward to take care of it. That is fun to vote for.

But that is the kind of thing that got us into the straitjacket we are in today. That is the sort of thing that gives us the enormous deficit we have in this budget today. That is why we have the kind of limitations on us trying to take care of some of these things we think have to be done for our country.

I believe at some point the partisan confrontation has to stop and cooperation begin. I think that time is now. That is what the American people want.

The point we were making in the tax bill that was passed in March is that you cannot be giving a tax cut to the highest income individuals at a time when middle-income folks are really struggling to make ends meet. If anything, we need to ensure that those at the top pay their fair share. Can this amendment be squared with that concern? No, it cannot.

Let us look at the evidence. Last year, at my request, the Joint Tax Committee did a distributional analysis of several proposals. Joint Tax did not have time to consider all the details of this one—for example, their analysis is based on a 45 percent exclusion rather than a 15-percent rate. But a 45-percent exclusion is very similar from an economic standpoint to a 15-percent rate. Thus, these numbers give you a pretty good idea about who would benefit from the proposal.

Their analysis shows that 67 percent of the benefit would go to the taxpayers making more than $200,000 a year. That is the top 1 percent. Of course, some people with lower incomes have some of the benefits. Of course, they do. But 67 percent goes to those making over $200,000, the top 1 percent.

I think we have to ask ourselves: Do those taxpayers need additional tax relief in a time of budget deficit? I think the answer is no. I do not think they can afford it. Let us look at what has happened over the last 10 years. CBO informs me that between 1980 and 1992 taxpayers at the top 1 percent of the income saw their real after-tax income more than double, rising to $478,000 in 1992 from $234,000 in 1980. That is in constant dollars, 1992 constant dollars. Their effective Federal tax rate fell nearly 10 percent to 28.8 from 31.7. Their average income tax burden, on the taxes they paid, fell by $16,400 compared to their burden under the 1980 tax regime.

Over the same time, income in the bottom 30 percent of the population went down while those in the middle stayed almost even.

In view of these facts, I do not believe that the top 1 percent deserve a major cut in taxes through capital gains while the cost will have to be borne by others.

I worked for many years to encourage investment entrepreneurship, long-term investment; healthy American businesses create jobs, and are the cornerstones of a strong economy. I was a businessman. I built a business in Houston, TX, before I came to this body. I understand their concerns. We should take seriously any tax proposal that may increase business development in entrepreneurial activity, but it ought to be paid for.

I think that is an important point. There is no revenue offset on this one. In actuality what we are being asked to do is float a bunch of hot checks to finance the Government's business. We have been running this Government on hot checks too long.

The way out of this mess is not to just do more of the same; it is to face the facts and to be responsible. And this amendment is not fiscally responsible. And it is not responsible government.

The Senator from Florida contends his proposal would increase GNP, create jobs, raise Federal revenues by billions of dollars. In essence, he believes it will pay for itself. I think he believes that. I think he is sincere in that. I have heard that argument before, and I am not convinced.

Some of the Members of this body feel that capital gains is the number one domestic priority. Let us remember we are talking about cutting taxes, and that budget deficit is a major hidden tax on every American. We simply cannot afford a $47 billion increase in the deficit.

This bill that we have is a good bill. It contains enterprise zones to address the problems of poverty in cities and rural areas, IRA's to address our national savings problem, extension of research and development, low-income housing, targeted jobs credit, pension supplementation, taxpayer bill of rights. All of those proposals are paid for in a responsible, defensible way. And the resurrection of the capital gains issue will put all of those items at risk.

For these reasons I oppose this amendment, and urge my colleagues to vote against it.

Mr. President, I reserve the remainder of my time.

Mr. President, I yield 10 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 10 minutes.

Mr. BRADLEY. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Florida.

I know of his commitment to the issue and that he would like to see capital gains cut, and I think that he is a tenacious fighter for his position. Let me say to you that if our rates were at 50 and 70 percent, I think you could make an argument for having a differential in the capital gains. But, as we discovered in 1986 when we held 35 committee hearings on the Tax Reform Act of 1986, groups would come in and ask us the same question. That is: How low should the rate go before you think the differential for capital gains would be unnecessary? They said, well, get the rate down to 27, 28, 29, and we could give up the differential for capital gains. That is what most people said when they came in.

There were some, a group that I just described, I who call pragmatists. They are the people who said if the rate goes down low enough, the overall rate, then we do not need a differential for capital gains.

Then there was another group that said essentially we do not care if the rate goes down to 3 percent, 5 percent, 8 percent, 10 percent. We believe that there should be a differential in the way we tax capital assets.

The committee and the Congress and President Reagan decided to side with the pragmatists. If the rate got low enough, we did not need a differential for capital gains. Those of us who made the argument also pointed out that once you have cut tax rates and eliminated loopholes, that to place other loopholes back into the Tax Code is not a free decision; it costs money; and that the inevitable result of the attempts to put back in the loopholes, as we began to see in 1990 with the 1990 Budget Act, were that rates were raised.

One of the reasons I voted against the Budget Act was because of that in 1990; that the inevitable result of putting back in a loophole will be to put pressure on rates. In a world where you have low rates, you either will increase the budget deficit by putting the loophole back in or you will put pressure on rates. Thee is no more free lunch when it comes to the loopholes.

I think that this issue is framed quite clearly on the issue of capital gains. To put back in an exclusion for capital gains immediately puts pressure on rates because you increase the deficit and you skew the distribution in favor of the wealthiest Americans. That is where we are.

Personally I think the best tax system is the tax system with the lowest possible tax rates for everybody. I believe that when we put a loophole in it puts pressure on tax rates, tax rates go back up, which means some people pay higher taxes, and a lot of people are able to pay lower taxes because they are able to take advantage of the various loopholes.

That brings us to the amendment of the distinguished Senator from Florida, an amendment which is a variation on the capital gains theme in that it provides a lower capital gains for lower income individuals but a 15-percent capital gains for everyone else. So it is a dramatic cut in capital gains.

I think there are just two points to make here in the time that I have. One point is who benefits from this even in its restructured form. And looking at the history of capital gains you find that in the recent era in which capital gains were reported there were about $130 billion to $140 billion in capital gains taken each year. The question is who took the capital gains.

Out of 114 million taxpayers, only about 15 percent of the taxpayers had any capital gains. So that means the overwhelming majority of taxpayers, 85 to 90 percent, had no capital gains at all. So, first of all, it goes to a very small number of taxpayers.

Then the question is, among those 15 percent of the taxpayers who take capital gains, how much capital gains do they take. You found that people earning under $20,000 a year got about 6 percent of the capital gains—6 percent now because the tax is a little lower in this amendment. It would be a little more than that, but not a lot. They took 6 percent of the capital gains, and the average capital gains tax savings was $60. So what the capital gains was worth to people earning under $20,000 was about $60.

People earning between $20,000 and $50,000 took 10 percent of the capital gains. People earning between $50,000 and $100,000 took 15 percent of the capital gains. And people earning over $100,000 took 68 percent of the capital gains, and their capital gains was about $35,000.

So to say, we opened this capital gains opportunity to everybody says to the people at $20,000, you get $60, and the people at $100,000 to $200,000, you get $35,000.

So on the issue of who wins, it is very clear who wins in the capital gains debate, if you are just doing an amendment similar to the Senator from Florida. The people who win are the people who have the most capital. Ninety percent of the assets, capital assets in America, are owned by the top 10 percent of the population. So there is no surprise that when you tax capital asset sales less, the people who benefit are the top 2 percent of the taxpayers in the country. And that is clearly posed by this amendment.

This is a well-known fact. That is reason enough to oppose the amendment. But the other reason is that it increases the deficit dramatically—$47 billion over 5 years; a $47 billion increase in the budget deficit, just like that.

I know there was a plan unveiled by a group of Republicans at the convention the other day. I am not sure whether the distinguished Senator from Florida was a member of that group. But I had a preliminary analysis done as to what would be the budget costs of that proposal, and over 5 years, the rough number, the preliminary number, came back to be about $840 billion over 5 years.

That, of course, is not the amendment offered by the Senator from Florida. He is more modest in his approach. It only deals with capital gains, and that cost is increasing the deficit $47 billion over the next 5 years. That is, unless you believe the magic elixir of capital gains will produce growth of 4, 5, 6, 7 percent annually; and that that differential of 8 percent, for those people who make $200,000 a year, is going to propel the engine of growth while we increase the deficit more and more, while we continue to have low productivity, while we continue to fail to make investment in the areas we need to make investment, and while our competitiveness is in danger worldwide. Capital gains is the answer to that, and therefore we get more growth? I do not think so.

So let me say to the distinguished Senator from Florida that I oppose his amendment, because I think those who will win with this amendment are the wealthiest Americans. I oppose his amendment, because it will dramatically increase the deficit that, sooner or later, we are going to have to face up to.

Do you want your taxpayer dollars going into the pockets of people who make more than $200,000, by providing this subsidy, or do you want them going to build roads, bridges, and the foundation for growth in the 21st century? It is a very fundamental choice that we have to make.

Finally, I would like to see a tax system with the lowest possible tax rate. And I guarantee the Senator from Florida that if this amendment ever passed in its present form, the very next set of amendments would be raising tax rates. And then you would be back like this, into a system where you have 70 percent tax rates on wages and 20 percent, 15 percent tax rates on capital.

I do not think that is the way we want to go. I think we need a low-rate tax system that is simple, with the fewest number of loopholes. And this loophole should not be among them.

I yield the floor.

Mr. BENTSEN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Texas has 8 minutes remaining; and the Senator from Florida has 1 minute.

Mr. BENTSEN. Mr. President, I yield to the distinguished majority leader.

Mr. MITCHELL. Mr. President, just 6 weeks ago, this Senate Chamber rang with rhethoric about the Federal budget deficit. Speeches, statements with arms waving, and charts, all told us of how the Federal budget deficit is the most serious problem confronting the country, and why we should do something about it.

We all agree that it is a serious problem. We all agree that we must do something about it. But it is ironic that now we have before us a proposal that will increase the Federal budget deficit by more than $47 billion. And that is a conservative estimate, because the estimate by the Joint Tax Committee was of a previous version of this legislation. And the version actually introduced by the Senator from Florida is more expensive than that analyzed by the Joint Tax Committee, because it has a lower rate for some of the affected States.

So now all of those Senators who said we have to act on the budget deficit are going to be called upon to vote on a proposal that will increase the deficit by $47 billion, and more. Now we will have a chance to match words and votes.

I hope that someone will make up a chart—and we have a lot of charts here—showing those Senators who voted for the balanced budget amendment, because they said it was so necessary, and then those who vote for this amendment; because then we will see the huge gap between words and deeds.

Let everyone understand that a vote for this amendment is a vote to increase the Federal budget deficit by more than $47 billion.

Mr. President, there is a great irony in this whole debate about capital gains. Six years ago, I stood on this Senate floor for a full day offering the major amendment to the then tax bill. I proposed to retain the capital gains differential because I think it makes sense, provided certain criteria are met.

The only Senators who then spoke against the capital gains tax differential were Republican Senators, who denounced my proposal as a gimmick, bad for the economy, and unfair. And President Reagan and Vice President Bush, then the administration, opposed my effort to retain the capital gains tax differential. And 49 out of 53 Republican Senators voted to abolish the differential. Now, it has become the solution to all of our problems.

The fact is, I believe that both the advantages and disadvantages of a capital gains differential have been wildly exaggerated by proponents and opponents alike. I believe that with certain criteria, properly targeted to encourage job creation—particularly in new and small-business ventures—as part of a fair, progressive tax system, and structured so as to not dramatically increase the deficit, it makes sense.

There is disagreement among our colleagues on that. But let us be realistic. This proposal, with no offset, which would increase the Federal budget deficit by $47 billion, simply cannot be acceptable to the Senate.

I urge my colleagues to defeat the amendment, and not to vote to waive the Budget Act for the purpose of this amendment.

Mr. BENTSEN. Mr. President, I yield 3 minutes to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I join the majority leader and the chairman of the Finance Committee in opposing this amendment. I am just amazed at what happens out here on the floor of the Senate. I think maybe I understand why the American people cannot understand why their Congress persons and their Senators are sort of out of touch.

The American people want us to balance the budget. The American people want us to help the American economy. The American people do not want to make the rich wealthier, as they have been doing for the last 11 or 12 years. But instead, they say to us: Do something about the economy; help us get back to work.

And the very Senators who come to this floor and fight for a constitutional amendment to balance the budget also bring us a proposal that will cost $47 billion over 5 years, and a continuing expense beyond that point.

I do not know where my colleague from Florida stands in his ratings with respect to the American Conservative Union, but my guess is that he has a high rating with that group. But this is not conservative.

Some may claim it is conservative to reduce the taxes on those who are best able to pay, but this Senator does not believe so. This Senator believes that the capital gains tax cut does not help the economy, will affect adversely our effort to balance the budget, and has no bearing, no propriety, no reason for being offered.

There is not a scintilla of evidence that a capital gains tax cut will help the economy. There is a lot of evidence that it will make the wealthy of this country a whole lot wealthier than they are at the present time.

This amendment is as wrong as it could possibly be. I hope that our colleague from Florida will recognize that this amendment should not be offered on this bill, because it will cost $47 billion—add to the deficit $47 billion—and the Nation is in no position to accept that kind of financial hit.

Mr. President, I think this amendment goes exactly in the wrong direction. I am sorry that it was offered. I sincerely hope it will be overwhelmingly defeated.

The PRESIDING OFFICER. There is 1 minute remaining on each side.

Who yields time?

Mr. BENTSEN. Mr. President, I yield that minute to myself.

Mr. President, I ask unanimous consent that a page from the CONGRESSIONAL RECORD be printed in the RECORD on the votes on the balanced budget amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Senate Voting Record No. 136]

FEDERAL HOUSING REGULATORY REFORM (CLOTURE)

(102d Congress, 2d Session, July 1, 1992 10:11 a.m.)

Bill No.: S. 2733.

Amendment No.: 2447.

Title: "Federal Housing Enterprises Regulatory Reform Act of 1992."

Subject: Dole, et al., second motion to close further debate on the Nickles, et al., amendment proposing a Constitutional amendment to balance the budget which requires that total outlays for any given fiscal year cannot exceed receipts unless three-fifths of the whole number of each House of Congress votes affirmatively for the specific excess outlays; requires a three-fifths vote of the whole number of each House to provide an increase in the public debt; requires the President to submit, prior to each fiscal year, a balanced budget; requires a mandatory vote of the whole number of each House to increase taxes; provides Congress with the authority to waive the provisions of this article in any fiscal year in which a declaration of war is in effect; and makes the article effective beginning with fiscal year 1988 or the second fiscal year after ratification, whichever is later.

NOTE: The cloture petition, presented on June 30 under the terms of a unanimous consent agreement entered into on June 26, was signed by Senators Dole, Thurmond, Seymour, Gramm, Symms, Nickles, Chafee, Domenici, Wallop, Murkowski, McCain, Lott, Craig, Coats, Simpson, Hatch, McConnell, and Stevens.

S. 2733: Vote Nos. 125–129, 132–137.

Result: Cloture motion rejected, 3/5ths not having voted in the affirmative.

YEAS (56)

Democrats (15 or 28%)

Boren, Breaux, Bryan, Daschle, DeConcini, Dixon, Glenn, Graham, Heflin, Hollings, Kohl, Reid, Robb, Shelby, Simon.

Republicans (41 or 100%)

Bond, Brown, Burns, Chafee, Coats, Cochran, Cohen, Craig, D'Amato, Danforth, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Hatfield, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Packwood, Pressler, Rudman, Seymour, Simpson, Smith, Specter, Stevens, Symms, Thurmond, Wallop, Warner.

NAYS (39)

Democrats (39 or 72%)

Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Bumpers, Burdick, Byrd, Conrad, Cranston, Dodd, Exon, Ford, Fowler, Gore, Harkin, Inouye, Johnston, Kennedy, Kerrey, Kerry, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pryor, Riegle, Rockefeller, Sarbanes, Sasser, Wellstone, Wirth, Wofford.

Republicans (0 or 0%)

NOT VOTING (4)

Democrats (2)

Bradley—2PN.
Sanford—2.

Republicans (2)

Helms—3AY.
Roth—3.

LIVE PAIRS (1)

Present and giving: Pell (PY).
Receiving: Bradley (PN).
Explanation of absence:
1—Official Business.

2—Necessarily Absent.
3—Illness.
4—Other.
Symbols:
AY—Announced Yea.
AN—Announced Nay.
PY—Paired Yea.
PN—Paired Nay.

ANALYSIS OF ISSUE

Party Cohesion

Democrats—72%.
Republicans—100%.

Measure of Party Support on this Vote

For (56)

Democrats—15 or 27%.
Republicans—41 or 73%.

Against (39)

Democrats—39 or 100%.
Republicans—0 or 0%.

Mr. BENTSEN. Mr. President, there is no question but what we are talking about a $47 billion deficit in this with no way to pay for it. I will be making a point of order as a violation of the budget agreement at the appropriate time.

Mr. President, I think it is incredible that we can be debating, as we have, a balanced budget amendment—and some of us supporting it, as I certainly did—and then turn around and vote for a piece of legislation that would add to the hot checks that have put us in the straitjacket that we are in in this country today.

I strongly urge my colleagues to vote against this amendment.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida has 1 minute.

Mr. MACK. Mr. President, I will confine my remarks to two points.

One is, I told you so. The argument that is being made is that it is going to cost the Federal Treasury, the same argument made back in 1978, which turned out to be totally wrong at that time.

Second, with respect to the comments made about pragmatists, I appreciate those, but I will say, let us pragmatically look at what happened since 1987. In the venture capital market, we finally got up over $5 billion being available to new investment. That number has gone down to where this year it will probably be below $1 billion for the first time since 1979–80. There is an effect on capital formation as a result of the lack of the tax rate differential.

I urge my colleagues to support my amendment.

I yield back whatever time I have remaining.

Mr. SHELBY. Mr. President, I rise in support of the amendment offered by the Senator from Florida.

I am a cosponsor of legislation with the Senator from Florida and the Senator from Wisconsin that would cut the capital gains rate and index capital gains for inflation.

Mr. President, it is easy for those who want to provoke class warfare to paint capital gains as a tax break for the rich. I dispute that characterization for two reasons. First, it is simply false to assume that only the wealthy have assets to sell. Second, it is foolish to disregard the benefit to persons of all income levels, including those with no assets to sell, from the acceleration of the economy, if this amendment is adopted. Even low-income persons would benefit from the expansion of the economy if capital gains rates were to fall.

Senator MACK offered this amendment with an excellent example of who is affected by a high capital gains rate. He spoke of the family, a middle-class family, that purchased a house as an investment. They risked their own home by taking out a home equity loan to purchase the house and to pay for improvements. They put in sweat equity, with the entire family chipping in to improve the value of their investment.

They bought materials from the local hardware store. They bought fabric and paint to improve the appearance of the house. These purchases stimulated the local economy and helped to pay the salaries of employees at these stores. They hired skilled labor to fix the plumbing and the wiring, which injected more money into that local economy. In improving this house, they increased its value. This increase in value was probably duly noted by the tax assessor, who was now able to charge more for the property.

Under this scenario, who benefits? The family that took the risk in buying the house and put in the labor and effort to improve the house would presumably benefit from their efforts. Certainly there is no one here that would dispute that they earned whatever profit they made. But who else benefited?

The local economy. The workers at the home improvement store. The workers in the fabric store. The local plumber and the town's electrician benefited. Ask these people what lowering the capital gains rate means to them.

Mr. President, consider another example. What about the farmer and his wife, whose sole asset is their farm. They work their land for 30 years, putting every bit of savings back into the purchase of more land, in order to expand their farm. Buying land is their means of saving for retirement. And at the end of 30 years, it is time to get their money out so that they can pay for their retirement and the medical expenses that develop later in life. Over 30 years, their land has appreciated in value. However, a significant portion of that appreciation comes from inflation. Do we account for that inflation factor now? No, we tax the gain as if it were the Government's due. This couple may have never earned more than $30,000 or $40,000 in a year. Are these rich people? Are these the evil wealthy that do not deserve any sort of tax break? Of course not, Mr. President.

Our Tax Code should encourage Americans to invest. We should encourage Americans to take the risk of investing in assets, hoping for capital appreciation. It is through these investments that jobs are created. It is not primarily the wealthy that benefit; the beneficiaries of a lower capital gains rate include all sectors of the economy. All Americans benefit from a more vital economy.

I strongly support the amendment offered by my colleague from Florida and I urge the Senate to adopt it.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

There are 14 seconds remaining under the discretion of the Senator from Texas.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BENTSEN. Mr. President, I raise the point of order that the pending amendment violates section 311(a) of the Congressional Budget Act of 1974.

Mr. MACK. Mr. President, I move to waive any provision of titles III or IV of the Budget Act that impinges upon my amendment.

Mr. BENTSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Oklahoma [Mr. NICKLES], and the Senator from New Hampshire [Mr. RUDMAN] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 37, nays 57, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—37

Bond
Brown
Burns
Coats
Cochran
Craig
D'Amato
Dole
Garn
Gorton
Gramm
Grassley

Hatch
Heflin
Hollings
Kassebaum
Kasten
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Pell
Pressler
Roth
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—57

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Graham
Harkin
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NOT VOTING—6

Burdick
Gore
Hatfield
Helms
Nickles
Rudman

The PRESIDING OFFICER. On this vote, the yeas are 37, the nays 57.

The amendment of the Senator from Florida, if adopted and enacted into law, would cause revenues to fall below the appropriate level of total revenues for fiscal years 1993–1997, set forth in the concurrent resolution on the budget, House Concurrent Resolution 287, by more than $45 billion, in violation of section 311(a) of the Congressional Budget Act of 1974. The point of order is sustained, and the amendment fails.

RAIL SAFETY ENFORCEMENT AND REVIEW ACT

Mr. BENTSEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2607.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2607) entitled "An Act to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes", with the following amendments:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Enforcement and Review Act".

SEC. 2. ISSUANCE OF REGULATIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) in subsection (i)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(2) in subsection (n)—

(A) by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(B) by striking ", including" and inserting in lieu thereof "on railroad bridges. At a minimum, the Secretary shall provide";

(C) by striking "such as" and inserting in lieu thereof "including"; and

(D) by striking "relating to instances when boats shall be used" and inserting in lieu thereof "for the use of boats when work is performed on bridges located over bodies of water";

(3) in subsection (o)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards"; and

(4) in subsection (q), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards".

SEC. 3. REMEDIAL ACTIONS.

(a) REGULATIONS.—The Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall issue regulations to require that any railroad notified by the Secretary that assessment of a civil penalty will be recommended for a failure to comply with a provision of the Federal railroad safety laws, as such term is defined in section 212(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(e)), or any rule, regulation, order, or standard issued under such provision, shall report to the Secretary, within 30 days after the end of the month in which such notification is received, actions taken to remedy that failure.

(b) EXPLANATION OF DELAY.—Regulations issued under subsection (a) shall provide that, if appropriate remedial actions cannot be taken by a railroad within such 30-day period, such railroad shall submit to the Secretary an explanation of the reasons for any delay.

(c) SCHEDULE FOR REGULATIONS.—The Secretary shall—

(1) within 9 months after the date of enactment of this Act, issue a notice of proposed rulemaking for regulations to implement this section; and

(2) within 2 years after the date of enactment of this Act, issue final regulations to implement this section.

SEC. 4. ENFORCEMENT.

(a) MINIMUM AND MAXIMUM PENALTIES.—(1) Section 209(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(b)), section 6 of the Act of March 2, 1893, and section 4 of the Act of April 14, 1910 (45 U.S.C. 6 and 13; commonly referred to as the "Safety Appliance Acts"), section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act"), section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act"), and section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") are each amended by striking "$250" and inserting in lieu thereof "$500".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by striking "penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable," and inserting in lieu thereof "civil penalty, as the Secretary of Transportation deems reasonable, in an amount not less than $500 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $20,000 may be assessed, and".

(3) Section 2 of the Act of May 6, 1910 (45 U.S.C. 39; commonly referred to as the "Accident Reports Act") is amended by striking "one hundred dollars" and inserting in lieu thereof "$500".

(4) Section 3711(c)(2) of title 31, United States Code, is amended by striking "$250" and inserting in lieu thereof "$500".

(b) REGIONAL ENFORCEMENT PILOT PROJECT.—(1) The Secretary shall establish a pilot project in more than one region of the Federal Railroad Administration to demonstrate the benefits that may accrue to the Federal railroad safety program from assigning an attorney, who is a Federal employee within the Department of Transportation, to regional offices of the Federal Railroad Administration to perform initial case review, assess penalties, settle cases, and provide legal advice to Federal Railroad Administration regional personnel on enforcement and other issues, as compared to performing such functions at the headquarters level.

(2) The pilot program shall be completed within 18 months after the date of enactment of this Act.

(3) Within 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Congress describing the results of the pilot program. Factors to be considered in the report shall include—

(A) the speed, volume, and effectiveness of civil penalty actions;

(B) the efficiency of the delivery of legal advice on safety issues;

(C) the financial and other costs of assigning attorneys in each region;

(D) the effects on uniformity of enforcement resulting from performing in the regions of the Federal Railroad Administration the functions described in paragraph (1); and

(E) the advisability of assigning attorneys to some or all of the regions of the Federal Railroad Administration.

(c) CONSIDERATIONS FOR COMPROMISE OF CIVIL PENALTIES.—(1) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by inserting "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require." after "referral to the Attorney General.".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(3) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(4) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13; commonly referred to as the "Safety Appliance Acts") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability

to continue to do business, and such other matters as justice may require.".

(5) Section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(6) Section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(7) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

SEC. 5. REVIEW OF AGENCY ACTION.

(a) IN GENERAL.—(1) Section 202(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(f)) is amended to read as follows:

"(f) Any final agency action taken by the Secretary under this title or under any of the other Federal railroad safety laws, as defined in section 212(e) of this title, is subject to judicial review as provided in chapter 7 of title 5, United States Code. Except as provided in section 203(e) of this title, any proceeding to review such final agency action shall be brought in the appropriate court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.".

(2) The amendment made by subsection (a) shall apply to final agency actions of the Secretary whenever taken, except that the amendment shall not apply in a case where a civil action has been brought before the date of enactment of this Act.

(b) FEDERAL RAILROAD SAFETY LAWS.—Section 212(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(e)) is amended by inserting "the Sanitary Food Transportation Act of 1990 (49 U.S.C. App. 2801 note)," before "and those laws transferred".

(c) TECHNICAL AMENDMENTS.—(1) Section 2341(3)(B) of title 28, United States Code, is amended by inserting "or the Secretary of Transportation" after "Secretary of Agriculture".

(2) Section 2342 of title 28, United States Code, is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(7) all final agency actions described in section 202(f) of the Federal Railroad Safety Act of 1970.".

SEC. 6. PROTECTION OF RAILROAD SAFETY ENFORCEMENT PERSONNEL.

Section 1114 of title 18, United States Code, is amended by inserting "any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions," after "any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,".

SEC. 7. POWER BRAKE SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(r) POWER BRAKE SAFETY.—(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to railroad power brakes, and, not later than December 31, 1993, shall revise such rules based on such safety data as may be presented during that review.

"(2) In carrying out paragraph (1), the Secretary shall, where applicable, prescribe standards regarding dynamic braking equipment.

"(3)(A) The Secretary shall require 2-way end of train devices (or devices able to perform the same function) on road trains other than locals, road switchers, or work trains to enable the initiation of emergency braking from the rear of a train. The Secretary shall promulgate rules as soon as possible, but not later than December 31, 1993, requiring such 2-way end of train devices. Such rules shall, at a minimum—

"(i) set standards for such devices based on performance;

"(ii) prohibit any railroad, on or after the date that is one year after promulgation of such rules, from acquiring any end of train device for use on trains which is not a 2-way device meeting the standards set under clause (i);

"(iii) require that such trains be equipped with 2-way end of train devices meeting such standards not later than 4 years after promulgation of such rules; and

"(iv) provide that any 2-way end of train device acquired for use on trains before such promulgation shall be deemed to meet such standards.

"(B) The Secretary may consider petitions to amend the rules promulgated under subparagraph (A) to allow the use of alternative technologies which meet the same basic performance requirements established by such rules.

"(C) In developing the rules required by subparagraph (A), the Secretary shall consider data presented under paragraph (1).

"(4) The Secretary may exclude from the rules required by paragraphs (1), (2), and (3) any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for granting any such exclusion. The Secretary shall at a minimum exclude from the requirements of paragraph (3)—

"(A) trains that have manned cabooses;

"(B) passenger trains with emergency brakes;

"(C) trains that operate exclusively on track that is not part of the general railroad system;

"(D) trains that do not exceed 30 miles per hour and do not operate on heavy grades, except for any categories of such trains specifically designated by the Secretary; and

"(E) trains that operate in a push mode.".

SEC. 8. TRACK SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(s) TRACK SAFETY.—(1) The Secretary shall, within 6 months after the date of enactment of this subsection, initiate a review of the Department of Transportation's standards relating to track safety. Within 2 years after the date of enactment of this subsection, the Secretary shall issue rules, regulations, orders, or standards to revise such track safety standards, considering such safety data as may be presented during that review and the General Accounting Office report submitted under paragraph (3).

"(2) The review required under paragraph (1) shall, at a minimum, include—

"(A) an evaluation of procedures associated with maintaining and installing continuous welded rail and its attendant structure;

"(B) an evaluation of the need for revisions to rules with respect to track subject to exception from track safety standards; and

"(C) an evaluation of employee safety.

"(3) The General Accounting Office shall conduct a study of the effectiveness of the Secretary's enforcement of track safety standards, with particular attention to recent relevant railroad accident experience and data. Within one year after the date of enactment of this subsection, the General Accounting Office shall submit to the Secretary and Congress a report on the results of such study, together with recommendations for improving such enforcement.".

SEC. 9. APPLICABILITY OF RULES, REGULATIONS, ORDERS, AND STANDARDS.

(a) AMENDMENT.—(1) Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(3) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(4) Section 3 of the Act of March 2, 1903 (45 U.S.C. 10; commonly referred to as the "Safety Appliance Acts") is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(5) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13; commonly referred to as the "Safety Appliance Acts") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, offi-

cial, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(6) Section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(7) Section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(8) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(b) Effect on Other Law.—Nothing in the amendment made by subsection (a) shall affect the authority or responsibilities of the Secretary of Labor under the Occupational Safety and Health Act of 1970.

SEC. 10. LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(t) Locomotive Crashworthiness and Working Conditions.—(1) The Secretary shall, within 30 months after the date of enactment of this subsection, complete a rulemaking proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. Such proceeding shall assess—

"(A) the adequacy of Locomotive Crashworthiness Requirements Standard S-580, or any successor standard thereto, adopted by the Association of American Railroads in 1989, in improving the safety of locomotive cabs; and

"(B) the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.

"(2) In support of the proceeding required under paragraph (1), the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider—

"(A) the costs and benefits associated with equipping locomotives with—

"(i) braced collision posts;

"(ii) rollover protection devices;

"(iii) deflection plates;

"(iv) shatterproof windows;

"(v) readily accessible crash refuges;

"(vi) uniform sill heights;

"(vii) anticlimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

"(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

"(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

"(x) functioning and regularly maintained sanitary facilities; and

"(B) the effects on train crews of the presence of asbestos in locomotive components.

"(3) If on the basis of the proceeding required under paragraph (1) the Secretary determines not to prescribe regulations, the Secretary shall report to Congress on the reasons for that determination.".

SEC. 11. RAILROAD RADIO COMMUNICATIONS.

(a) Safety Inquiry.—The Secretary shall, within 18 months after the date of enactment of this Act and in consultation with the National Railroad Passenger Corporation, freight and commuter railroads, rail equipment manufacturers, and railroad employees, conduct a safety inquiry regarding the Department of Transportation's railroad radio standards and procedures. At a minimum, such inquiry shall include assessment of—

(1) the advantages and disadvantages of requiring that every locomotive (and every caboose, where applicable) be equipped with a railroad voice communications system capable of permitting a person in the locomotive (or caboose) to engage in clear two-way communications with persons on following and leading trains and with train dispatchers located at railroad stations;

(2) a requirement that replacement radios be made available at intermediate terminals;

(3) the effectiveness of radios in ensuring timely emergency response;

(4) the effect of interference and other disruptions of radio communications on safe railroad operation;

(5) how advanced communications technologies such as digital radio can be implemented to best enhance the safety of railroad operations;

(6) the status of advanced train control systems that are being developed, and the implications of such systems for effective railroad communications; and

(7) the need for minimum Federal standards to ensure that such systems provide for positive train separation and are compatible nationwide.

(b) Report to Congress.—The Secretary shall submit to Congress within 4 months after the completion of such inquiry a report on the results of the inquiry along with an identification of appropriate regulatory action and specific plans for taking such action.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 214(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this Act not to exceed $54,352,000 for fiscal year 1992, $68,283,000 for fiscal year 1993, and $71,690,000 for fiscal year 1994. The Secretary is authorized to request, receive, and use payments from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, other than State rail safety inspectors participating in training pursuant to section 206 of this title.".

SEC. 13. TOTAL QUALITY MANAGEMENT IN SAFETY ASSESSMENTS.

In all comprehensive, multidiscipline safety assessments of railroads, the conduct of which is initiated by the Secretary between the date of enactment of this Act and the end of fiscal year 1993, the Secretary shall evaluate the use and effectiveness of total quality management techniques, if any, on the safety practices of the railroad being assessed. The Secretary shall include findings and conclusions based on such evaluation in each such safety assessment report.

SEC. 14. LOCAL RAIL FREIGHT ASSISTANCE PROGRAM.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by inserting "There are authorized to be appropriated to the Secretary for the purposes of this section not to exceed $16,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994." after "fiscal year 1991."; and

(2) by striking "any period after September 30, 1991" and inserting in lieu thereof "any period after September 30, 1994".

SEC. 15. PROCEDURE FOR DETERMINING ACCIDENT REPORTING THRESHOLD.

(a) General Rule.—In establishing or modifying a monetary damage threshold for the reporting of railroad accidents, the Secretary shall base damage cost calculations only on publicly available data—

(1) obtained from the Bureau of Labor Statistics; or

(2) otherwise obtained from an agency of the Federal Government which has been collected through objective, statistically sound survey methods or which has been previously subject to a public notice and comment process in a Federal agency proceeding.

(b) Exception.—If any data necessary for establishing or modifying a threshold described in subsection (a) is not available as provided in subsection (a) (1) or (2), the Secretary may use any other source to obtain such data, but the use of such data shall be subject to public notice and the opportunity for written comment.

(c) Effective Date.—This section shall apply only to the establishment or modification of a monetary damage threshold occurring after the date of enactment of this Act.

SEC. 16. REPORT ON THE SAFETY OF HAZARDOUS MATERIALS TRANSPORTATION BY RAIL.

Within one year after the date of enactment of this Act, the Secretary shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding issues presented by the transportation by rail of hazardous materials. The report shall include the following information:

(1) For the years 1989, 1990, 1991, and, to the extent available, 1992, relevant data concerning each unintentional release of hazardous materials resulting from rail transportation accidents, including the location of each such release, the probable cause or causes of each such release, and the effects of each such release.

(2) For the years 1989, 1990, 1991, and, to the extent available, 1992, a summary of relevant data concerning unintentional releases of hazardous materials resulting from rail transportation incidents.

(3) A description of current regulations governing hazardous materials rail car placement (including buffer cars), and an evaluation of their adequacy in light of experience and emerging traffic and commodity patterns.

(4) An assessment of regulations, rules, orders, or standards that address rail operations or procedures associated with carrying hazardous materials on rights-of-way having significant grades or high degrees of curvature.

(5) An assessment of the effectiveness and associated costs of requiring deployment of wayside bearing failure detectors for trains carrying hazardous materials.

(6) An assessment of rail tank car rules, regulations, orders, or standards affecting hazardous materials transportation.

(7) The status of all planned or pending regulatory activities of the Secretary (including the status of all regulations required by statute) that seek to address the safe transportation of hazardous materials by rail, and the status of rail hazardous materials enforcement activities.

(8) Such other information as the Secretary determines relevant to the safe transportation of hazardous materials by rail.

SEC. 17. REPORT ON TRAIN DISPATCHING OFFICES.

Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning any action that has been taken by the Secretary and the railroad industry to rectify any continuing problems associated with unsatisfactory workplace environments in certain train dispatching offices identified in the National Train Dispatcher Safety Assessment for 1987–1988, published by the Federal Railroad Administration in July 1990. The report shall include recommendations for legislative or regulatory action to ameliorate any such problems that affect safety in train operations.

SEC. 18. NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) MEETINGS.—Section 11(c) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended to read as follows:

"(c) The Northeast Corridor Safety Committee shall meet at least once every 2 years to consider matters involving safety on the main line of the Northeast Corridor.".

(b) REPORT.—Section 11(d) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended—

(1) by striking "Within one year after the date of enactment of this Act" and inserting in lieu thereof "At the beginning of the first session of the 103rd Congress, and biennially thereafter,"; and

(2) by adding at the end the following new sentence: "The report shall contain the safety recommendations of the Northeast Corridor Safety Committee and the comments of the Secretary on those recommendations.".

(c) TERMINATION DATE.—Section 11 of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended by adding at the end the following new subsection:

"(e) The Northeast Corridor Safety Committee shall cease to exist on January 1, 1999, or on such date as the Secretary determines to be appropriate. The Secretary shall notify the Congress in writing of any such determination.".

AMENDMENT NO. 2937

(Purpose: To make certain amendments relating to the impact of bankruptcy proceedings upon airport gate leases held by bankrupt airlines)

Mr. BENTSEN. Mr. President, I move that the Senate concur in the House amendments with a further amendment, which I now send to the desk on behalf of Senator DANFORTH.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. DANFORTH (for himself, Mr. BOND and Mr. SIMON), proposes an amendment numbered 2937.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 19. AIRPORT LEASES.

(a) FINDINGS.—Congress finds that—

(1) there are major airports served by an air carrier that has leased a substantial majority of the airport's gates;

(2) the commerce in the region served by such a major airport can be disrupted if the air carrier that leases most of its gates enters bankruptcy and either discontinues or materially reduces service; and

(3) it is important that such airports be empowered to continue service in the event of such a disruption.

(b) BANKRUPTCY RULES REGARDING UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraphs:

"(5) Notwithstanding paragraphs (1) and (4) of this subsection, in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate before the occurrence of a termination event, then (unless the court orders the trustee to assume such unexpired leases within 5 days after the termination event), at the option of the airport operator, such lease is deemed rejected 5 days after the occurrence of a termination event and the trustee shall immediately surrender possession of the premises to the airport operator; except that the lease shall not be deemed to be rejected unless the airport operator first waives the right to damages related to the rejection. In the event that the lease is deemed to be rejected under this paragraph, the airport operator shall provide the affected air carrier adequate opportunity after the surrender of the premises to remove the fixtures and equipment installed by the affected air carrier.

"(6) For the purpose of paragraph (5) of this subsection and paragraph (f)(1) of this section, the occurrence of a termination event means, with respect to a debtor which is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate—

"(A) the entry under section 301 or 302 of this title of an order for relief under chapter 7 of this title;

"(B) the conversion of a case under any chapter of this title to a case under chapter 7 of this title; or

"(C) the granting of relief from the stay provided under section 362(a) of this title with respect to aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301), except for property of the debtor found by the court not to be necessary to an effective reorganization.

"(7) Any order entered by the court pursuant to paragraph (4) extending the period within which the trustee of an affected air carrier must assume or reject an unexpired lease of nonresidential real property shall be without prejudice to—

"(A) the right of the trustee to seek further extensions within such additional time period granted by the court pursuant to paragraph (4); and

"(B) the right of any lessor or any other party in interest to request, at any time, a shortening or termination of the period within which the trustee must assume or reject an unexpired lease of nonresidential real property.

"(8) The burden of proof for establishing cause for an extension by an affected air carrier under paragraph (4) or the maintenance of a previously granted extension under paragraph (7) (A) and (B) shall at all times remain with the trustee.

"(9) for purposes of determining cause under paragraph (7) with respect to an unexpired lease of nonresidential real property between the debtor that is an affected air carrier and an airport operator under which such debtor is the lessee of an airport terminal or an airport gate, the court shall consider, among other relevant factors, whether substantial harm will result to the airport operator or airline passengers as a result of the extension or the maintenance of a previously granted extension. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of actual use of the terminals or gates which are the subject of the lease, the public interest in actual use of such terminals or gates, the existence of competing demands for the use of such terminals or gates the effect of the court's extension or termination of the period of time to assume or reject the lease on such debtor's ability to successfully reorganize under chapter 11 of this title, and whether the trustee of the affected air carrier is capable of continuing to comply with its obligations under section 365(d)(3) of this title.".

(c) PARTIAL ASSIGNMENTS OR ASSUMPTIONS OF LEASES.—Section 365(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) such lease is of nonresidential real property under which the debtor is the lessee of an aircraft terminal or aircraft gate at an airport at which the debtor is the lessee under one or more additional nonresidential leases of an aircraft terminal or aircraft gate and the trustee, in connection with such assumption or assignment, does not assume all such leases or does not assume and assign all of such leases to the same person, except that the trustee may assume or assign less than all of such leases with the airport operator's written consent.".

(d) PROHIBITION OF LEASE ASSIGNMENTS AFTER TERMINATION EVENT.—Section 365(f)(1) of title 11, United States Code, is amended by striking the period at the end and inserting in lieu thereof the following: "; except that the trustee may not assign an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate if there has occurred a termination event.".

(e) AFFECTED AIR CARRIER DEFINED.—Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) In this section, 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds 65 percent or more in number of the aircraft gates at an airport—

"(1) which is a Large Air Traffic Hub as defined by the Federal Aviation Administration in Report FAA–AP 92–1, February 1992; and

"(2) all of whose remaining aircraft gates are leased or under contract on the date of enactment of this subsection.".

(f) APPLICABILITY.—The amendments made by this section shall be in effect for the 12-month period that begins on the date of enactment of this Act and shall apply in all proceedings involving an affected air carrier (as defined in section 365(p) of title 11, United States Code, as amended by this section) that are pending during such 12-month period. Not later than 9 months after the date of enactment, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation and Committee on the Judiciary of the Senate and the Committee on the Judiciary and Committee on Public Works and Transportation of the House of Representatives on whether this section shall apply to proceedings that are commenced after such 12-month period.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation, I rise in strong support of H.R. 2607, the Rail Safety Enforcement and Review Act. This legislation will reauthorize the rail safety programs of the Federal Railroad Administration [FRA], within the Department of Transportation [DOT] for fiscal years 1992, 1993, and 1994, and I commend Senator EXON, chairman of the Surface Transportation Subcommittee, for his leadership in forging the bipartisan consensus legislation to improve rail safety before the Senate today.

Initiatives in this legislation combine important provisions of the Senate version of this bill, S. 1571, and H.R. 2607 as originally passed by the House and represent an agreement between the House and Senate, which the House approved on July 21, 1992. First, the legislation explicitly clarifies the responsibility of the Federal Railroad Administration to issue certain rules and regulations while setting forth specific legislative directives for agency action in other areas of concern. Under provisions of the Rail Safety Improvement Act of 1988 [RSIA], the Secretary of Transportation was directed to issue rules, regulations, orders, or standards in various areas of specific concern as may be necessary. The interpretation of this phrase by the Secretary that discretion was conferred as to whether issuance of any such rules was necessary led to the inclusion in this legislation of language to prevent similar problems in the future. The legislation deletes the phrase "as may be necessary" from specific RSIA rulemakings and requires the Secretary to commence reviews, safety inquiries, and rulemakings, and thereafter to issue regulations based on such actions. In limited circumstances, the legislation specifically provides that if the Secretary determines not to issue such regulations, the Secretary shall report to Congress on the reasons for that determination.

In this regard, the Secretary is directed to commence reviews, safety inquiries, and/or rulemaking procedures to evaluate the adequacy of existing regulations in the areas of power brake rules, radio communication requirements, locomotive crashworthiness, train dispatching facilities and practices, and track safety standards.

I am very pleased that the legislation before the Senate today includes a provision similar to one which I sought, and which was approved by the Senate, directing a review of track safety standards. I proposed this provision in the aftermath of an Amtrak accident in Lugoff, SC, last year, which claimed seven lives. The bill retains a requirement that DOT initiate a review of its track safety standards. Additionally, the General Accounting Office [GAO] is to conduct a study of the Secretary's enforcement of track safety standards, with particular attention to recent relevant railroad accident experience and data. With the benefit of GAO's evaluation and recommendations in hand, the Secretary is to issue, within 2 years of enactment of this legislation, rules, regulations, orders, or standards to revise DOT's track safety standards.

In the area of enforcement, the legislation increases the minimum civil penalties for all safety violations from $250 to $500, reflecting the fact that the original penalty amount had not been adjusted since its establishment in 1970. The legislation directs FRA to conduct a pilot program experimenting with enforcement activities at the regional office level. To the credit of FRA's Administrator, Gil Carmichael, this pilot already has been initiated. Other enforcement-related provisions seek to address the need for timely and effective rail safety enforcement activities as directed by FRA.

Finally, the legislation provides authorization levels for fiscal years 1992, 1993, and 1994, designed to enable DOT to carry out the new responsibilities mandated under this legislation as well as its current safety and research and development agenda. It also reauthorizes the Local Rail Freight Assistance Program which has helped a number of small- and medium-sized railroads to keep light-density freight lines in service as part of the Nation's rail network.

One provision in the Senate-passed version of the rail safety bill sought to address the concerns expressed to the Committee regarding possible regulatory gaps and confusion over jurisdiction between FRA and the Occupational Safety and Health Administration as it relates to the occupational safety and health of rail employees. Although the provision in the Senate bill ultimately was not included in the final agreement, further examination of this important issue is imperative. In this regard, I understand that the chairman of the House Subcommittee on Transportation and Hazardous Materials has scheduled a hearing on this issue for August 5, 1992.

Mr. President, I urge my colleagues to support final passage of H.R. 2607 as amended.

Mr. EXON. Mr. President, I rise in support of H.R. 2607, the Rail Safety Enforcement and Review Act. This legislation is based, in large part, on S. 1571, the Rail Safety Improvement Initiatives Act, which Senator HOLLINGS and I introduced last year. The amended bill results from a series of negotiations between the House and Senate and represents the conference equivalent of H.R. 2607 and S. 1571. This important legislation reauthorizes the rail safety enforcement programs of the Federal Railroad Administration, [FRA] within the Department of Transportation [DOT] for fiscal years 1992, 1993, and 1994. Additionally, H.R. 2607 further refocuses and strengthens FRA's safety enforcement mission on behalf of the Federal Government over the railroad industry, a transportation mode of vital and continuing importance to the Nation.

As chairman of the Surface Transportation Subcommittee, I commend the chairman of the full Committee on Commerce, Science, and Transportation, Senator HOLLINGS, as well as the ranking member of the committee, Senator DANFORTH, and the ranking member of the subcommittee, Senator KASTEN, for their efforts in crafting the legislation now before us. I also thank our colleagues and counterparts from the House Energy and Commerce Committee and the Subcommittee on Transportation and Hazardous Materials for their leadership in working with us to put forward the compromise measure we consider today. This legislation represents a bipartisan consensus and incorporates the most positive elements of recent rail safety legislation passed by the Senate and by the other body.

As so recently demonstrated during the very costly 2-day lockout and shut down of the Nation's railroads, our economy depends upon railroad shipment and freight delivery, and many intercity travelers count on the National Railroad Passenger Corporation [Amtrak] for their transportation needs. We expect our railroads to be reliable, and it is essential that they be safe. H.R. 2607 advances that safety objective and ensures that FRA will carry out its enforcement mission vigorously.

To enable FRA to meet these responsibilities, the Rail Safety Enforcement and Review Act initiates a new, 3-year authorization for FRA safety programs and sharpens the agency's existing safety oversight role. The funding levels included in this measure will broaden FRA's current safety programs, support additional initiatives, and provide for needed research and development efforts.

In addition to incorporating needed authorizations, the legislation includes a number of important and necessary provisions. The bill before us includes a 3-year authorization for the Local Rail Freight Assistance Program [LRFAP], a valuable program which has helped small- and medium-sized railroads in the Midwest and in other parts of the Nation keep LRFAP marginal lines, often in rural areas, in service as part of our national rail system. I am pleased to point out that there is a bipartisan consensus on the part of my colleagues in both the House and the Senate to continue this worthwhile program.

H.R. 2607 also reflects a strong congressional view that advances in engineering and technology must be considered and incorporated into railroad equipment and operating practices. For example, the legislation requires the Secretary to review and revise existing regulations pertaining to railroad power brakes and dynamic braking, and sets forth specific criteria to be applied consistent with the further requirement that the Secretary shall issue rules requiring two-way end-of-train devices capable of initiating emergency braking from the end of the train. While the plain meaning of this section of the legislation is clear, I would emphasize that exclusion from the two-way end-of-train device requirement of one of the five categories of trains listed is not mandatory, because with respect to trains "which do not exceed 30 miles per hour and do not operate on heavy grades," such categories of trains may be subject to the two-way end-of-train device regulations if specifically designated by the Secretary. Further, although the Secretary may, upon appropriate showing of safety and the public interest, exclude any category of trains or operations beyond the specific categories designated, this legislation does not direct the Secretary to consider any additional categories of trains or rail operations for such exclusion nor does it address in any respect the likelihood that the Secretary will exercise such discretionary authority.

Several other provisions of the legislation advance FRA's safety mission through focus on evolving technology and engineering. First, the Secretary is required to complete a rulemaking to consider prescribing regulations to improve the safety and working conditions of locomotive cabs, including an assessment of the costs and benefits of equipping locomotives with specifically designated equipment. Second, a provision addressing railroad radio communications incorporates elements from both the House and Senate bills, and specifically requires FRA to assess the status of advanced train control systems that are being developed, and the implications of such systems for effective railroad communications. Third, H.R. 2607 adopts a provision based on an amendment offered to the Senate bill by the chairman of the Commerce Committee, Senator HOLLINGS, requiring FRA to revise its track safety regulations after considering data presented by the General Accounting Office on the effectiveness of the Secretary's enforcement of track safety standards.

Another section of the legislation requiring specific FRA action includes a directive that, as part of ongoing safety assessments of railroads, FRA evaluate the effectiveness of total quality management techniques, if any, on the safety practices of the railroad being assessed. H.R. 2607 also mandates meetings of the Northeast Corridor Safety Committee and requires FRA to report on any continuing problems associated with unsatisfactory workplace environments of certain train dispatching offices together with recommendations for legislative action to ameliorate any such problems that affect safety in train operations.

With respect to FRA's enforcement activities, H.R. 2607 increases, for the first time since 1970, the minimum penalty for all safety violations to $500, from its present level of $250. This legislation also provides needed clarification to FRA to guide the compromise, as appropriate, of initial recommended penalty assessments. Further provisions intended to step up FRA's enforcement capabilities include additional protection for FRA inspectors, the establishment of a regional enforcement pilot project using staff attorneys in FRA regional offices, and a requirement that railroads file reports on remedial actions implemented after safety violations have been assessed. Taken together, these provisions reflect important congressional concerns and consequent directives regarding the administration of FRA's important enforcement role.

Other sections of H.R. 2607 clarify further the scope of FRA's regulatory function and responsibilities, and the applicability of certain rules and regulations. In addition to prescribing that review of any final FRA agency action be brought in the appropriate court of appeals, the legislation sets forth certain criteria to be considered in establishing or modifying a monetary threshold for the reporting of railroad accidents. With respect to the issuance of regulations generally, I have been concerned, along with my colleagues from the Energy and Commerce Committee in the House, that FRA has not implemented some of its responsibilities as required under the last rail safety measure enacted, the Rail Safety Improvements Act of 1988 [RSIA]. That legislation directed the Secretary of Transportation to issue rules, regulations, orders, or standards in various areas of specific concern as may be necessary. The subsequent interpretation of this phrase by the Secretary that discretion was conferred as to whether issuance of any such rules was necessary, led to inclusion of language in the measure before us today in order to prevent similar problems in the future. Further, H.R. 2607 instructs FRA to complete unresolved rulemaking activities mandated by RSIA. I am confident that the approach incorporated in this legislation underscores sufficiently congressional concerns that FRA issue rules as directed, both in the past and in the future, and by putting the matter to rest, ensures that such issues will not resurface.

Regarding FRA's overall regulatory jurisdiction, H.R. 2607 requires that rules, regulations, orders, and standards issued by the Secretary apply to a number of different persons, including "any independent contractor providing goods or services to a railroad" and "any employee of such * * * independent contractor." I wish to clarify that this provision simply makes explicit the Secretary's current authority and draws no distinction, contrary to the assertion of the ranking Republican of the Subcommittee on Transportation and Hazardous Materials in the House, between types of contractors, whether the contracting operation is continuous or ongoing, or any similar analysis. The plain language of this section clearly brings within FRA's jurisdiction any independent contractor or employee of such contractor providing goods or services to a railroad.

Another agency jurisdictional issue of great concern affects Federal oversight of the safety and health of rail workers. The Occupational Safety and Health Act of 1970 [OSHA] gave the Secretary of Labor broad general authority to regulate working conditions that affect the occupational safety and health of employees. When OSHA was passed, Congress also recognized the existence of similar authority in other Federal agencies. Specifically, section 4(b)(1) of OSHA provides that OSHA shall not apply to working conditions in cases where another Federal agency exercises statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

As its primary mission, the FRA ensures safe railroad operations for railroad employees, customers, and the public. Given this mission, FRA should be the agency chiefly responsible for ensuring the safe working conditions of railroad employees in the context of railroad operations. In 1978, FRA issued a Policy Statement on Railroad Occupational Safety and Health Standards. In this statement, FRA listed: First, those categories of working conditions and associated hazards that the agency then was regulating; second, those that it was not regulating, but which required close coordination with the Department of Labor; and third, those over which it had no plans to exercise jurisdiction. The statement articulated the dimensions of FRA's safety program and clarified the respective roles of FRA and the Department of Labor in assuring the occupational safety and health of railroad employees. In view of concerns expressed regarding possible regulatory gaps and confusion over jurisdiction and the fact that considerable time has passed since FRA issued the statement in 1978, FRA should review its prior analysis to determine whether any revisions are necessary.

Although the provision specifically addressing this issue in the Senate-passed rail safety bill ultimately was not included in the final legislation, further examination of this important issue is appropriate. Furthermore, as noted in a letter dated June 10, 1992, from Chairman Swift of the House Subcommittee on Transportation and Hazardous Materials to the chairman of the Railway Labor Executives' Association, that subcommittee has committed to hold a hearing to clarify further the jurisdictional relationship between FRA and the Occupational Safety and Health Administration as well as to address the issue of possible regulatory gaps between the safety jurisdiction of these two Federal agencies. This is a crucial public policy issue of signal importance to railway employees and one which appropriately merits further congressional review.

Finally, H.R. 2607 addresses the serious matter of transportation by rail of hazardous materials. The legislation requires FRA to undertake a comprehensive study of this subject, to be completed within 1 year of the date of enactment, of specific issues including the location and effects of rail accidents and hazardous materials releases in recent years, an evaluation of the effectiveness of current FRA hazardous materials transportation regulations, and an assessment of the status of all regulatory and enforcement activities undertaken by the Secretary related to this area. In light of the severity of recent hazardous materials incidents in the railroad industry, including the release of a large quantity of benzene into the environment following a derailment on the Duluth, MN/Superior, WI, border, I would like explicitly to clarify that the report on hazardous materials safety and enforcement required pursuant to this legislation should in no way impede or delay pending FRA rulemaking activities. I am aware that FRA has commenced rulemakings addressing specifications for tank cars and detection and repair of tank car defects, and I would expect these and other administrative proceedings to be prosecuted with diligence pending the completion of the required report to Congress. The junior Senator from Minnesota, Senator WELLSTONE, has been most vigorous in his efforts to bring the tragedy of the Duluth, MN, incident to the attention of the Senate and the Federal Government.

In conclusion, Mr. President, H.R. 2607 represents a major contribution to and advancement of the cause of safety in the railroad industry. The Rail Safety Enforcement and Review Act enjoys bipartisan support, and I urge my distinguished colleagues to join me in working for final passage of this important legislation.

Mr. President, I also would like to take this opportunity to recognize the excellent work of several staff members who worked very hard on this much needed legislation. Don Norden who, until recently, served on my personal staff and is now enjoying life in the private sector, Sheryl Washington and Don Itzkoff, both of the Senate Surface Transportation Subcommittee, put countless hours of work into this legislation. Their good efforts will help make America's railroads safe and efficient.

Thank you, Mr. President.

Mr. KASTEN. Mr. President, section 202 requires two-way, end-of-train devices to enable the initiation of emergency braking from the end of a train. This provision directs the Secretary to exclude from this requirement five categories of trains, including "trains that do not exceed 30 miles per hour and do not operate on heavy grades, except for any categories of such trains specifically designated by the Secretary."

Further, the Secretary may exclude from the two-way, end-of-train device requirement any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety.

A specific situation has been brought to my attention by a constituent from my State. In the case of a railroad which sometimes operates trains in excess of 30 miles per hour which do not operate on heavy grades, could that railroad apply for an exclusion from the two-way, end-of-train device requirement, upon showing that the public interest is served and that the exclusion would be consistent with railroad safety?

Mr. EXON. I thank the Senator from Wisconsin for seeking clarification of this important point. As I indicated in my statement, with respect to categories of trains which do not exceed 30 miles per hour and do not operate on heavy grades, I would note first, that such categories of trains may be subject to the regulations if specifically designated by the Secretary, and that therefore, the exclusion is not completely mandatory because the Secretary may designate categories of such trains that will be subject to, not excluded from, the requirements of the regulations.

Second, the Senator is correct that the Secretary may further exclude any category of trains or operations in addition to the five listed categories, provided that the Secretary finds such an exclusion in the public interest and consistent with railroad safety. The language of section 202 clearly requires the Secretary to apply both components of this statutory test—in the public interest and consistent with railroad safety—to any specific instance or case which may or may not be considered. I would further note, again as I indicated in my statement, that the legislation does not direct the Secretary to consider any particular category of trains or rail operations in carrying out this provision nor does it address the degree of likelihood that the provision will be exercised by the Secretary.

Mr. KASTEN. I thank the Senator from Nebraska.

Mr. WELLSTONE. Mr. President, I rise to pose a question to my distinguished colleague from Nebraska, Senator EXON. As the Senator knows, the recent spill of a large quantity of benzene and other chemicals required the evacuation of Duluth, MN, and Superior, WI. This incident has heightened my interest in rail safety. In particular, I am concerned about the failure of the FRA to complete rulemaking initiatives concerning tank car defects and specifications for older tank cars. Is my understanding correct that the Senator is similarly concerned with the FRA's lack of progress in implementing these rules in a timely fashion?

Mr. EXON. Yes; my colleague is correct. As I indicated in my remarks, I am extremely concerned about the implications of the release of hazardous materials in Duluth, MN and Superior, WI, to which the Senator refers, as well as other similar events which have occurred in other locations of the country. I understand that the FRA has initiated rulemakings regarding inspection of tank car defects and specifications of older tank cars, but that no final rules have been issued in these proceedings. This matter is of great concern to me and I will personally contact the FRA Administrator regarding the status of these rulemakings and ask that an expeditious schedule for their completion be established.

Mr. WELLSTONE. Am I also correct in my understanding that my colleague from Nebraska will convey to the FRA, as he indicated in his statement, that the undertaking of the assessment of FRA's hazardous materials regulations required by the bill should not in any way impede the progress and ultimate issuance of rules pursuant to the FRA's ongoing rulemakings for tank car specifications and the rulemaking for the detection and repair of cracks, pits, corrosion, lining flaws, thermal protection flaws, and other defects of tank cars?

Mr. EXON. Yes; my colleague is correct. I wish to assure my colleague from Minnesota that I will monitor the FRA's progress, and that I will convey to FRA both my colleague's and my concern, and the importance of swift action on these critical and long-delayed rulemakings. I will also make clear, as I indicated in my statement, that FRA's assessment of its hazardous materials regulations required by this bill is not to delay the ongoing rulemakings.

Mr. WELLSTONE. I thank my distinguished colleague for his efforts to ensure that rules are soon issued in these vital rulemaking proceedings. As the Senator from Nebraska knows, I was prepared to offer an amendment requiring the FRA to take final action on these rules by a date certain. However, knowing of my colleague from Nebraska's strong commitment to rail safety, and his assurance that he will communicate to FRA the need for swift action on these rules, I do not believe it is necessary for me to offer such an amendment at this time. My full statement more completely conveys my sense of concern for rail safety and the actions of the FRA.

Mr. KASTEN. Mr. President, on March 18, the Senate passed S. 1571, the Rail Safety Improvement Initiatives Act of 1992, to reauthorize Federal Railroad Administration's [FRA] programs and address several concerns that have emerged since the Rail Safety Improvement Act of 1988 [RSIA] was enacted. Since then, differences between S. 1571 and H.R. 2607, the rail safety reauthorization bill reported by the House Committee on Energy and Commerce, have been worked out with the excellent cooperation of the railroads, rail labor, and the administration. On July 21, the House approved the compromise legislation that we are considering today.

Specifically, the Rail Safety Enforcement and Review Act reauthorizes Federal rail safety programs at levels of $54,352,000, $68,283,000, and $71,690,000 for fiscal years 1992, 1993, and 1994, respectively. At the same time, it provides funding authority for the Local Rail Freight Assistance Program at levels of $16, $25, and $30 million. Also, it contains the following safety initiatives:

First, a review and revision of Federal track safety standards, taking into consideration the findings of a mandated Government Accounting Office study of the adequacy of FRA's enforcement of track safety standards.

Second, a review and revision of Federal power brake safety rules, including issuance of new rules requiring installation of two-way end-of-train braking devices on certain trains by December 31, 1997.

Third, in preparation for next year's reauthorization of Federal hazardous materials transportation programs, a report to Congress on a number of issues affecting the safe rail transportation of such materials.

In view of last month's major hazardous materials spill near Superior, WI, I will be particularly interested in the report's findings on the adequacy of FRA's current rail tank car rules.

Fourth, a regional enforcement pilot project to consider whether locating legal counsel in FRA regional offices would expedite enforcement or provide other benefits to the safety program.

Fifth, increased Federal law protection for railroad safety inspectors.

Sixth, a rulemaking to assess the adequacy of current locomotive cab safety and environmental standards.

Seventh, a safety inquiry on FRA's radio standards and procedures, and on the status of advanced train control systems and whether Federal standards are necessary to ensure that they provide for positive train separation and are compatible nationwide.

Eighth, continuation of the Northeast Corridor Safety Committee created by RSIA.

Ninth, a progress report on efforts to improve working conditions in train dispatching offices.

Tenth, establishment of new procedures to set monetary damage thresholds for the reporting of railroad accidents.

Eleventh, an assessment of the use and effectiveness of total quality management techniques on railroad safety practices.

Twelfth, a requirement that railroads report remedial actions taken after notification by FRA that a civil penalty will be recommended for a failure to comply with railroad safety laws.

Thirteenth, clarification of FRA's responsibility to issue certain rules and regulations under RSIA. First, the legislation removes any doubt about the Secretary's obligation to issue a number of specific RSIA rulemakings by deleting the phrase "as may be necessary" in each instance. Second, the legislation avoids use of the phrase in addressing new areas of concern but, instead, precisely directs the Secretary as to the action that is intended by each provision.

Fourteenth, clear confirmation of FRA's existing safety authority over nonrailroad entities, such as independent contractors and their employees.

I would note that a Senate provision to address concerns regarding possible regulatory gaps between FRA and the Occupational Safety and Health Administration, OSHA, is not included in this compromise legislation. In fact, this bill is not in any way intended to alter the existing boundaries between the jurisdiction of FRA and OSHA. However, the House Subcommittee on Transportation and Hazardous Materials has agreed to hold hearings to consider issues that have been raised concerning the safety responsibilities of these two agencies.

Under the stewardship of Administrator Gil Carmichael, FRA has made great strides in improving the performance of its regulatory and enforcement duties. One notable area of improvement has been the civil penalty process. Using added resources and computerized document preparation, FRA has eliminated an enormous backlog of unreviewed cases and is steadily improving its overall timelines, which should have a positive effect on the deterrence of safety violations. FRA's significant accomplishments in the safety area in recent years bode well for the smooth implementation of this bill. Mr. President, I urge my colleagues to support the Rail Safety Enforcement and Review Act of 1992.

Mr. BURNS. Mr. President, I rise today in support of final passage of this important legislation.

In Montana, we move a lot of our goods by rail and a lot of goods, and passengers, pass through our State by rail.

We have a lot of wide open space, and can also have some very cold weather. In many instances, the weather is a complicating factor when it comes to rail safety.

We have had two major accidents in the past 4 years. One which occurred in February 1989 near Helena, MT, during a time of subzero temperatures, resulted in a hazardous materials spill. The accident resulted in the evacuation of 3,500 residents during these severe weather conditions. I can assure you that it was no small hardship on a number of people in my State.

Recommendations were made by the National Transportation Safety Board to all of those involved in its report released to me on March 7, 1990. Provisions in this legislation generally require safety devices be on trains without cabooses.

As a result of that accident, Montana became the first State to enact a law requiring the use of two-way end of train devices whenever a train operates without a caboose in mountain grade territory.

These two-way end-of-train devices make it possible for the engineer of a cabooseless train to apply emergency braking action at the end of a train.

These provisions meet the requirements of the railroad engineers who are interested in making sure the trains they operate run in the safest manner possible. These two-way end-of-train devices make it possible for the engineer of a cabooseless train to apply emergency braking action at the end of a train.

This is an important safety issue, Mr. President, and I am glad to see the Senate addressing it at this time. The working men and women of the railroad industry will know that we are on their side. And people in places like Helena, MT, can be assured that Congress is acting to prevent another runaway train accident from causing them to be evacuated from their home during the subzero Montana winter.

Mr. President, H.R. 2607 is important to our country and is a good compromise for all individuals involved.

Thank you, Mr. President, I yield the floor.

Mr. SEYMOUR. Mr. President, I am extremely pleased the Senate is taking action today on H.R. 2607, legislation to reauthorize important rail safety programs.

I am especially pleased with the direction this legislation takes regarding the rail transport of hazardous materials. Unfortunately, there have been several rail accidents over the past year. In California, in particular, back-to-back rail accidents in July 1991 increased awareness of the issue and renewed the cry for greater oversight and enforcement in the area of the transportation of hazardous materials by rail.

In fact, a little more than a year ago, on July 14, 1991, a train derailment near Dunsmuir, CA, dumped 19,000 gallons of metam sodium, a powerful pesticide, into the upper Sacramento River. And 1 week later, on Highway 101 near Seacliff, a train derailment spilled a powerful corrosive, hydrazine, onto one of the busiest highways in California, causing the evacuation of 300 residents and trapping commuters in their cars for hours.

For these reasons, I offered an amendment during Senate consideration of the rail safety bill, requiring the Secretary of Transportation to report back to Congress on those rail routes in California that are inherently less safe than others for the rail transportation of hazardous materials. From the start, I sought a report that was national in scope because these are issues of critical importance to communities nationwide.

Since that time, however, statistics have borne out my original thought on this issue. There have been 15 rail accidents in 12 separate States over the past year, in addition to the Dunsmuir and Seacliff incidents, involving the release of hazardous materials. Mr. President, I ask unanimous consent that a list prepared by Federal Railroad Administration of accident investigations involving the release of hazardous materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FRA ACCIDENT INVESTIGATIONS INVOLVING RELEASE OF HAZARDOUS MATERIALS (JULY 15, 1991 THROUGH JULY 23, 1992)

Date and location

1. 07-14-1991: Dunsmuir, CA.
2. 07-17-1991: Butler, PA.
3. 07-28-1991: Seacliff, CA.
4. 07-30-1991: Dobbins, TX.
5. 07-31-1991: Evansville, IN.
6. 08-28-1991: Brookfield, MO.
7. 09-17-1991: Knox, IN.
8. 12-20-1991: Cottondale, FL.
9. 12-23-1991: Lakewood, WA.
10. 12-30-1991: Bates, MO.
11. 01-18-1992: Dragon, MS.
12. 03-01-1992: Evansville, IN.
13. 03-14-1992: Wenlock, VT.
14. 04-13-1992: Ferguson, MO.
15. 05-06-1992: Avondale, LA.
16. 06-01-1992: Rosenberg, TX.
17. 06-30-1992: Boylston, WI.

Mr. SEYMOUR. Mr. President, given these numbers, it is clear we must move forward to identify and correct inherent safety flaws on a nationwide basis. That is what this compromise package provides—a broader study that will have implications for hazardous materials transport policy nationwide.

Mr. President, section 16 of this compromise rail safety bill will accomplish this goal. It builds on my original amendment, and requires the Secretary of Transportation to conduct a nationwide report on the safety of hazardous materials transportation by rail. This information is critical to our understanding of these issues, and it will serve as a backdrop for the 103d Congress, when hazardous materials transportation legislation must be reauthorized.

Currently, in the event of an accident, regulations require investigators to evaluate such factors as driver conduct and mechanical failure. But there are so many other factors that must be considered. For instance, in the wake of the Dunsmuir accident, there was substantial discussion regarding the steep grades and significant curvature of the track. Moreover, there was concern with regard to tank car strength. In the Seacliff derailment, the question of wayside bearing failure detectors was raised.

Investigators are still examining the Dunsmuir spill to determine the exact cause of the accident. We need to know if the rail line itself, the grade, the turn or other factors contributed to the wreck. In such a case, no matter how carefully the driver handles the train, or how well-maintained the engine or the track, there could exist, literally, an inherent danger to the route. This is unacceptable, particularly if hazardous materials are being transported.

The results of this study will have applications nationwide, Mr. President. Using the Department of Transportation's guidance, we will be able to expand further on the rail safety provisions contained within this important bill.

These proposals and the underlying compromise legislation will advance us in the direction of greater rail safety. For this reason, I urge passage of this bill.

CONSTITUTIONALITY OF AIRPORT GATES AMENDMENT TO THE RAIL SAFETY ENFORCEMENT AND REVIEW ACT

Mr. HEFLIN. I would like to ask the senior Senator from Missouri a question about a matter before the Senate. The Rail Safety Enforcement and Review Act contains a provision related to bankrupt airlines and the disposition of their gates. What is the purpose of this provision?

Mr. DANFORTH. This provision is intended to deal with the situation in which a bankrupt airline that has leased the substantial majority of the gates at a major airport discontinues service. This can be disruptive to the commerce in the region served by the airport, especially if the airport has already leased all of its available gates. We have learned from a number of bankruptcies, such as the recent Braniff Airlines' case, that, when this occurs, many gates can sit idle for months during the court's disposition of the airline's assets and obligations, and the public airport does not have the authority necessary for the operation of the airport. My amendment would allow the airport to make the appropriate decisions about its unused gates in such situations.

Mr. HEFLIN. Given the Senator's interest in the airline industry and my role as chairman of the subcommittee that has jurisdiction over bankruptcy matters here in the Senate, is it the Senator's understanding that this amendment attempts to strike a balance between the well-being of the community that may be adversely affected by such a bankruptcy and the rights of the creditors who are also affected?

Mr. DANFORTH. That is my understanding.

Mr. HEFLIN. Does this amendment comport with the requirements of article 1, section 8 of the U.S. Constitution that empowers Congress to establish "uniform laws on the subject of bankruptcies throughout the United States"?

Mr. DANFORTH. The Supreme Court has stated in the case of *Railway Labor Executives Association* v. *Gibbons*, 456 U.S. 457 (1982), "The uniformity requirement is not a straitjacket that forbids Congress to distinguish among classes of debtors. * * *" The amendment does not name a particular airport or airline. Rather, it could apply to any of the top 30 airports in the United States. Moreover, it would apply to any situation where a bankrupt carrier had a dominant position at the airport (65 percent of the gates) and had no unleased gates. Thus, the legislation is designed to deal with situations in which an airport is likely to suffer severe disruption from the bankrupt airline's shutdown and is unable to attract another carrier with additional gates. This legislation would apply to any circumstance meeting these requirements on the date of enactment and for the following 12 months. The Administrator of the Federal Aviation Administration will report to Congress on whether this provision of the bankruptcy laws should be extended to situations arising after that date.

Mr. HEFLIN. Thus, the Senator's amendment is not written so that, in the words of the Supreme Court in the Gibbons case, "[I]t only applies to one debtor and can be enforced only by the one bankruptcy court having jurisdiction over the debtor."

Mr. DANFORTH. That is correct.

Mr. HEFLIN. In the event that this bill and amendment is enacted before S. 1985 is enacted, it is the understanding of all parties involved that section 210 of S. 1985 will be amended to apply only prospectively from the date of enactment, rather than prospectively from January 1, 1992.

Mr. DANFORTH. That is my understanding. In closing, I want to make it clear that even air carriers holding less than 65 percent of the gates at an airport can cause serious problems at those airports if they become bankrupt. The 65 percent figure is not an absolute barometer of the public interest. Therefore, I want to reaffirm the fact that passage of this amendment in no way undercuts the continued need for section 210 of S. 1985, which was passed by the Senate earlier this year.

Mr. HEFLIN. I thank the Senator for the explanation.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senator from Delaware be able to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DO NOT GO, SECRETARY BAKER

Mr. BIDEN. Mr. President, it is a cliche of commencement speeches to end with a proven bit of advice that can be reduced to two words. Today I have a two-word message for Secretary of State James Baker: "Don't go."

America stands at a critical juncture in world affairs, Mr. President; a new world is emerging. But the old order remains in place in many places and the outcome is unclear. In the Middle East, in southern Europe, in Eurasia, the expanse of the changes that are taking place in the Soviet Union, transforming changes that are taking place every day, the outcome of which is still uncertain—some good, some bad, some hopeful, and some very destructive. It is at this key moment that many of my colleagues on the other side of the aisle, including perhaps the President himself, want our Secretary of State to leave his post to take the reins of the White House reelection effort.

Mr. President, I think this would be a tragic mistake for President Bush, for Secretary Baker, and for the country.

It is bad enough that U.S. foreign policy, in my view, already lacks a vision. It would be worse still, in my view, if we were to lose the skill, management, and leadership Secretary Baker provides.

Mr. President, as a matter of principle, in my view, this move is unwise. Around the world, the U.S. Secretary of State is seen as the personal embodiment of U.S. foreign policy. To have our Secretary resign to run a political campaign would place a taint on the job unprecedented in recent times and, in my view, send a terrible signal to the world.

At the last juncture in our history, at the end of World War II, where as many significant changes were taking place, who would have thought of Secretary of State Marshall resigning to take over a campaign, a political campaign, when a new world was emerging, the outlines of which were still incredibly unclear and foggy, as they are today.

Frankly, given what is at stake in the world now, the lives at stake, the nations at stake, the U.S. interests at stake, even if George Bush believed that reclaiming James Baker from the State Department was vital to his campaign, I believe that most objective people in this country would say it is not the right thing to do, that the President would be doing the wrong thing. The right thing is to keep his foreign policy team in place.

Mr. President, I predict that history will judge much more kindly a President who places the objects of his foreign policy ahead of his political campaign needs. As a matter of timing, this is a tragic move. The Middle East peace talks are at a critical moment. The war and repression in Bosnia threaten to engulf larger sections of Europe in a second military conflict born in Sarajevo. The great experiment in convincing the world's largest Communist nation to move to a market economy is at a critical point. The leader of Russia, we are told, by the Secretary of State and by the President, is in a very tenuous position at the moment, and much of our interest rests, in our view, in the maintenance of his position. The vital task of dealing with radical change in the Soviet Union stands at a crossroads. For the next 4 to 6 months, we, the United States, we the free world, are going to be in a make or break mode.

So I say, Mr. President, I know that I may be in the minority of those in public life today, but I say to you that the outcome of the questions that relate to your foreign policy are the most important matters facing this country. I am told time and again that foreign policy is not a critical matter, but the question that makes it a critical matter is that we are at an urgent moment and timing is critical for so many decisions in the world.

Bluntly put, the quality of our children's lives will be shaped more by whether there is peace or war in the Middle East, more by whether or not there is a civilized coexistence or a pan-European conflict in Yugoslavia, more by whether or not there is democracy or fascism in the former Soviet Union than by any economic or health plan that may or may not be drawn up in the next 3 months.

We have time—we have time—over the next 6 months to determine what the health plan and the economy will be. In 6 months' time, the Middle East could be engulfed in war. In 6 months' time, Boris Yeltsin could be out and fascism could be in. In 6 months' time, the war in Bosnia could have spread to other parts of Europe.

Mr. President, this is the most important task any President has—the conduct of foreign policy. We have heard time and again from this President, President Bush, about the critical nature of the foreign policy decisions he is making.

Mr. President, these and many other vital choices may well be resolved for better or worse between now and election day. For Secretary Baker to walk away from these critical changes now, to essentially determine which negative television commercials, which pack of lies will be said about Bill Clinton, will they be produced or will they not be produced, for him to shift responsibilities to making the decisions on 30-second commercials from making decisions on whether or not there can be a peace agreement and settlement in the Middle East, whether or not Yeltsin can survive, whether or not we can save lives in Bosnia, would be a tragedy, in my view, and the height of irresponsibility.

In closing, Mr. President, I want to make it clear that my call for Secretary Baker to stay in his current post is no slight to Lawrence Eagleburger, who is one of the most talented men with whom I have served in Government, fully capable of being Secretary of State himself. I respect him tremendously, and I have no doubt that he has been a critical architect in the foreign policy of this administration thus far.

But, Mr. President, it would be wrong to dismantle a team and to send a message around the world that determining which ads go on in a political campaign is more important than whether or not there is a continuity and coherence to American foreign policy at a time when leaders in the world are making critical judgments about whether or not there will be war or peace, critical judgments about whether or not they will settle or not settle, critical judgments about what the nature of their political institutions will be for the next 10 years.

So, Mr. President, I call upon the President to keep James Baker in his current position. This is the only course of action, in my view, consistent with the tradition that the office, the needs of the time, and the hope for a safer world would dictate.

I thank my colleagues for this interruption, and I yield the floor.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. I ask unanimous consent to address the Senate for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TWO SEMINAL EVENTS IN COLORADO

Mr. WIRTH. Mr. President, last week two seminal events occurred in Colorado, one a retirement, the other a death. I would like to take just a few minutes to comment on each.

First, Bill Grant, a long-time leader in the Denver metropolitan area and in Colorado, recently passed away. His funeral was just yesterday. Bill Grant ran for mayor of Denver, founded its first television station, and comes from a very distinguished family deeply involved in civic affairs and law. Bill and his family have made an enormous contribution to Colorado for three generations. Bill Grant's death has certainly been noticed by tens of thousands of citizens of my State who mourn his passing.

Our condolences go to his family, particularly his daughters, who themselves have been so deeply engaged in civic activities in Denver and Colorado.

Second, I wanted to comment upon the retirement of Dick Kirk, who for many years has been a major force in Colorado economics and in Colorado banking circles while serving as president of the United Bank of Denver. But his contribution does not end there. Dick Kirk has displayed leadership on one activity after another, from the Denver Chamber of Commerce, of which he was president, to all kinds of education activities.

Most recently he was honored by his colleagues in the banking profession for his service as chairman of the American Banking Association, a responsibility that Dick carried out with admirable energy and intellect over the last 2 years. Dick announced his retirement last week, and I wanted to congratulate him on a distinguished career and offer my best wishes for a well deserved retirement. I am sure we have not heard the last from Dick Kirk.

Mr. President, I ask unanimous consent to include in the RECORD a wonderful piece by Bill Hornby on Bill Grant and two articles on Dick Kirk's retirement describing the full scope of the contribution these two very remarkable, energetic individuals have made to Denver and to Colorado.

Mr. President, I thank you.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Aug 11, 1992]

BILL GRANT KEPT HIS EYE ON IMPROVEMENT

Bill Grant, who died Friday, stood for the continuing interest in improving life in Colorado of the families whose founders climbed down the stagecoaches. Descended from clans whose names weave through the state's history, William West Grant Jr. had one great uncle, James B., who was the state's first Democratic governor; one grandfather, Charles F. Hendrie, who started Hendrie and Bulthoff, a mining machinery and supply business, in Central City in 1861; and another, Dr. Grant, who as a pioneer physician tended Denver's wounds.

In the next generation, Bill's father, W.W. "Will" Grant, was an aristocratic lawyer and civic leader who nevertheless took on the Ku Klux Klan in the 1920s and made an unsuccessful run for mayor against Ben Stapleton in 1935. As Post columnist Bill Barker put it, "Will Grant found nothing inconsistent in riding to the hounds with the Phippses' Arapahoe Hunt one day and acting as legal counsel for the underprivileged in court the day after."

Our Bill Grant was born in Estes Park in 1910 in a family enclave in the new Rocky Mountain National Park. He had a thorough Ivy League education at Dartmouth and Harvard, returned to the family law firm of Grant, Shafroth and Toll, and built himself an extremely successful law and business career in Denver, including continuing directorship and major interest in Colorado National Bank and the original organization of KOA Television, the first TV station licensed in Denver. He also was a longtime stockholder in KOAA-TV in Pueblo.

But the family tradition of public service was a constant with him, and he became one of the most affable, humorous, and energetic Denver Old Guards in politics, with sympathies far more progressive than normal in his generation of old-family scions. After World War II as a bronze-starred Navy lieutenant commander on the staff of Admiral Sherman in the Pacific, Bill as manager leapt into the 1947 Quigg Newton campaign for mayor against the decades-entrenched Stapleton machine. The Newton new wave swept into office, with Bill riding herd on a band of "Young Turks" that included many of Denver's now-venerable progressives. Bill Brant managed Newton's successful run for reelection in 1951, in between serving as president of the then-unsuccessful attempt to rewrite the Denver Charter. Many of the suggested reforms later were adopted.

Along the trail he was first president of the Denver Commission on Human Relations and served the National Conference of Christians and Jews, the Denver Public Schools, assorted metro transportation commissions, Regis College, Kent School, and the Kempe Center for Child Abuse. He was chancellor of the Episcopal Diocese of Colorado from 1957 to 1963, and active in the Democratic party at many levels.

Thus, in 1963, when various Denver political forces, including Palmer Hoyt of The Denver Post, were looking for an "independent" reform candidate for mayor, it was a natural they thought, for Bill Grant to attempt to replay Quigg Newton's reform role of some years before. Grant no doubt compared the casting to that of his father when he sought to takeover an entrenched and decaying City Hall.

But it was not to be. Reformer Grant did not have either party's precinct organizations, and despite endorsement by both Denver dailies, he was knocked out in the preliminaries by GOP Mayor Dick Batterton and Democratic City Auditor Tom Currigan, the latter proceeding to win the finals. With his gentlemanly lack of bitterness in public affairs, Grant soon went to work for Currigan as chairman of a successful bond issue campaign, and later was chairman of the state Democratic Central Committee from 1965 to 1969.

Bill Grant was one of the best of the many old-family business and professional men who helped build postwar Denver, unfailingly one of the good and kindly guys when it came to improving the lot of his native city and all its residents.

To our misfortune, this pioneer family leadership typified by Bill Grant is passing from the scene as more of Denver's major institutions pass to national ownership. His many friends will be thinking about this as well as the man when they memorialize him at St. Thomas Episcopal Church, 2201 Dexter St. at 10 a.m. tomorrow.

[From the Rocky Mountain News, July 30, 1992]

NORWEST DENVER CHIEF KIRK WILL STEP DOWN

(By John Rebchook)

Richard A. Kirk will retire as chairman of Norwest Bank Denver, the largest bank in Colorado, Aug. 31.

"After a great career in banking, surpassing all my expectations, I've decided to pursue other business and civic interests here in Denver, including serving on several corporate boards," Kirk, 61, said in a statement.

David E. Bailey, 49, president and chief executive officer of Norwest Bank Denver, will assume the additional title of chairman Sept. 1.

Larry Martin, senior partner of Strategic Solutions in Golden, said there was "wide speculation in banking circles" that Kirk would retire when he ended his term as immediate past president of the American Bankers Association Oct. 1.

"All of the other managers already had retired," Martin said, referring to United Bank managements leaving after Norwest's acquisition.

Kirk's banking career in Denver spanned 35 years, including 12 as chairman of the United Bank of Denver, now Norwest Bank Denver.

[From the Denver Post, July 30, 1992]

DICK KIRK STEPS DOWN FROM POST AT NORWEST

(By Steven Wilmsen)

Richard A. Kirk has become the third old-guard executive of United Banks of Colorado to resign in the wake of United's 1991 acquisition by Norwest Corp. of Minneapolis.

Kirk said yesterday he will end his 35-year career at the state's biggest bank holding company, stepping down as chairman of the Norwest Bank Denver, the chain's biggest bank, a post he held for 12 years. He will be replaced by Norwest Bank CEO David E. Bailey, 49, on Sept. 1.

Kirk, 61, was influential in national banking issues as president of the American

Bankers Association from October 1990 to October 1991. He was considered briefly as a candidate to head the Office of the Comptroller of the Currency this year.

He said he will remain on a variety of civic and business boards after his retirement, including Norwest's Community Board.

"After a career in banking surpassing all my expectations, I've decided it's time to pursue other business and civic interests," Kirk said in a statement yesterday.

Kirk is the third of four top executives to leave following Norwest's acquisition Jan. 1. Longtime United Chairman N. Berne Hart and Chief Operating Officer Chuck Hazelrigg resigned earlier this year. A fourth, former Chief Financial Officer Dennis Erickson, remains with Norwest.

The United Bank system was the result of a string of mergers beginning in the 1950s and ending with the merger of Intrawest Bank in the 1980s. Kirk went to work for Denver U.S. National Bank, one of United's predecessor banks, in 1958 after three years with Citicorp.

Mr. WIRTH. I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, are we on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. I ask unanimous consent that the Senate go into morning business so the Senator from Ohio may be recognized for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PROPOSED NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. METZENBAUM. Mr. President, I rise to address the President's announcement this morning that the administration has reached agreement with Mexico and Canada on a free-trade pact. I have major concerns about this agreement.

The administration is ready to sign this agreement to help American business but there is no concern for its effect on our own workers. Thousands of jobs will be lost. But I do not see any evidence that George Bush is worried about that. We have seen more and more American workers become unemployed and, as an answer, what does George Bush do? Works out a free-trade agreement with Mexico which means more jobs will be lost here in America.

I support in principle the administration's effort to negotiate a North American Free-Trade Agreement. But the proposed agreement will have staggering implications for working people, and the environment on both sides of the border.

I chaired two hearings in 1991 on this issue. The witnesses told us about widespread appalling squalor within a stone's throw of our border. The environmental degradation, the working standards, and the living conditions were absolutely unbelievable. We have pictures. It was just shocking to see the kinds of conditions that exist there—people living in cardboard boxes, water is totally polluted, and people drinking from those kinds of waters. There are working families living in cardboard shacks without running water or electricity, children drinking water from barrels that contained toxic chemicals, and people bathing and washing their clothes in streams poisoned with runoff from nearby plants.

The troubling lessons of the Maquiladora sector have direct relevance to the proposed free-trade agreement with Mexico. Workers in Mexico receive approximately 10 percent of what American workers receive. Workers in Mexico get 10 percent of what American workers receive. And the President is trying to kid us that more jobs will not be taken from this country, to Mexico? One-tenth—every employer will want to go down if he can bring their products back into this country without any restraint; produce the concept, conceptualize the product, let American workers develop the product, and then shoot the jobs into Mexico at 10 cents on the dollar for the workers to bring the products back into this country.

The Maquiladora plants, which rely upon American technology, Mexican productivity is now approaching our own level. A little common sense will tell you the obvious. Cheap Mexican labor will result in massive loss of American jobs in this country. There is no way to deny it. It is irrefutable. If an American employer can take the jobs that are being done in this country for $10, and $12, and $14 an hour and take them to Mexico, then bring the products back here, how do you think we are going to be able to buy those products? Where is the money going to come from? Where are the jobs going to be so people can earn the wages to buy the products?

The President claims there will be a net gain in U.S. jobs because of this trade agreement. That is the same President who said we were not going to have a recession. So if he could not predict that well, how can he possibly predict that there will be a net gain? Who does the President really think he is kidding?

I consider that kind of an assertion unadulterated baloney. There is no net gain that is going to result. In reality, this free-trade agreement could produce a loss of 550,000 high-wage American jobs in the next 10 years.

The Economic Strategy Institute, headed by a former Reagan administration official, predicts potential job losses exceeding 900,000. And this administration acts as if everything is going to be fine.

One thing is sure: Without adequate safeguards, this free-trade agreement will wreak havoc on the lives of hundreds of thousands of American working men and women.

We heard this morning that the White House reached agreement with Canada and Mexico. But where are the agreements? We have not seen them. We have yet to see an effective solution to the environmental problems or serious effort to protect jobs or help workers who lose their jobs.

I was one of the principal authors of the Dislocated Worker Adjustment Program which helps workers retrain for new jobs. I am frank to say that helping workers keep their present jobs is far preferable to worker retraining of those workers who have lost their jobs.

This proposed agreement has no other result than to cost thousands of American workers their jobs. Can anyone believe that the existing retraining programs are adequate to meet this increased demand? Where will the workers go? To which employers will they turn if all the jobs are going below the border? The administration may say that it is not going to cost jobs, but do not believe it. Any free-trade agreement must meet the needs of American workers and I and many others in this Senate will insist upon it.

When the Senate returns from its recess I intend to hold a hearing on these issues. I want to hear from the Department of Labor about how they propose to save jobs, retrain dislocated workers, and where the retrained workers are going to find jobs. I want to know that this administration realizes that there are problems. I want to hear their solutions.

It is critical that we make sure that any free-trade agreement be in the best interests of the American people, be in the best interests of keeping American workers on the job rather than providing retraining for them.

I believe it is time for this body to speak out effectively and forcefully and say to the President of the United States, "Unless you can give us absolute assurance that the free trade agreement will not hurt the American working force, then there is no reason for this body to confirm it."

Mr. President, I yield the floor.

I yield the remainder of my time.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I want to thank the Senator from Ohio for his statement. The administration this morning did announce the recent agreement with Mexico and Canada under the so-called North American Free-Trade Agreement.

I think we all agree that as the world is changing that it makes sense for the United States to be up to date, to take advantage of trading opportunities around the world, particularly with our neighbor to the north and our neighbor to the south. However, I believe quite strongly that the trade agreement with Mexico and Canada is one that is much different than other trade agreements that we have concluded in the past. That is the United States and Canada, although we have different populations, are really two countries that are very similar. We have similar wage rates, and we have similar environmental standards. We are in many respects quite similar. The same is not true with respect to the United States and Mexico.

The average wage rate in Mexico is one-tenth of that of the wage rate in the United States. In addition, the median age in Mexico is 19 years of age. In the United States, it is 33. There are 80 million people living in Mexico. So there are many, many workers that are potential workers in Mexico at much lower wage rates than exist in the United States, and obviously any American company trying to maximize its return to its shareholders, as well it should—that is the standard obligation these days—is going to seek opportunities around the world and certainly in the country of Mexico with plants and so forth, to maximize their position.

In addition, even though Mexico has environmental statutes which are surprisingly quite good—that is, environmental standards in Mexico, at least by statute, are very similar to those in the United States—nevertheless, Mexico is woefully inadequate in enforcing these environmental standards, which is to say that if Mexico does not enforce the environmental laws, and so far Mexico by and large is not enforcing the environmental laws, that any plant operating in Mexico will have a competitive advantage compared with a plant operating in the United States simply because that plant in Mexico will not have to meet the same environmental standards that a plant would have to meet for operating in the United States.

In addition to that, we all know the pollution along the Rio Grande, up along the border between the United States and Mexico, is astounding. I have visited the border a couple of times, looking at the problems there. And the colonias, I might say, in the other settlements, essentially drop raw sewage right into the river, which is drinking water for a lot of folks who live along the river, and it is a major problem.

This agreement announced by the administration is, in my judgment, quite inadequate in its provisions regarding the border pollution problems.

The administration should attempt to negotiate with Mexico some kind of a border fee arrangement to dedicate the funds necessary to clean up the pollution between the two countries, and to dedicate enough dollars to address Mexico's insufficient enforcement of the environmental statutes. And further, to dedicate dollars for retraining and worker readjustment programs, which are critically necessary in our own country if this agreement were to go through.

Current tariffs between the United States and Mexico, during the period within which they are rolled back on this agreement, generate enough revenue to pay both for worker readjustment programs in the United States, and also for the environmental cleanup that we all know is necessary for a lot of reasons.

Unfortunately, the Bush administration was not at all interested in pursuing any of those ideas. Not only did the administration reject any kind of a border adjustment trust fund, if you will. The administration also rejects, so far—as the Senator very clearly points out—it has not sent up any worker readjustment program in any meaningful way to provide meaningful retraining and jobs for the people who obviously will be displaced if this agreement goes through.

I must say, I am also disappointed that the administration did not follow up on a proposal by the Canadians. Canada proposed during the negotiations that there be some kind of snapback; that is, tariffs that are reduced would snap back to higher levels if a country did not live up to its environmental standards, or if they relaxed the standards.

That was a proposal which, on its face, has a lot of merit. It has certain problems inherent in it. But, nevertheless, it was a good beginning for a negotiation over enforceable environmental provisions that could well be and should be in this trade agreement.

The problem now is where do we go from here, and what do we do now? Obviously, there are major benefits that our people, our workers, the Americans, can achieve, if there is freer trade with the United States and Mexico, because, in many ways, it is now one-way trade with Mexico. We have very low tariffs on Mexican-produced products that come into the United States. Mexico has, by comparison, quite high tariffs on American products going there. So in a very real sense, it has been one-way free trade already, and if we had two-way free trade, American consumers could gain benefits.

There are many steps that we can take between now and when the Congress next year is faced with either ratifying or rejecting this agreement. Because under the law that we have set for ourselves, after the different periods of time are tolled, this agreement will not be before this Congress until next year.

Nevertheless, in the meantime, there are several opportunities during informal consultations with the administration to make our wishes better known, to make it very clear to the administration that if they sincerely want the agreement to be ratified by the next Congress, there have to be some changes.

It is my hope that the administration will listen to all of us in the Congress who have very grave problems with the proposal, as we know about it thus far, reminding the administration that the next Congress is going to be composed of—who knows—150 new Members who will have had nothing to do with this agreement.

If the Senator and I have our wishes fulfilled, we will have a new President next year, who will have had nothing to do with the negotiations, and who will be charged, essentially, under the law, to come up to the Congress and push an agreement, push the Congress, and encourage the Congress to ratify an agreement that he had nothing to do with.

So all I am saying is that there are many opportunities. And I urge all of us who have problems with this agreement to take advantage of these opportunities, so that we can very dramatically improve upon the agreement. And if there is no improvement, then each of us will be forced to take whatever action we feel is appropriate.

Mr. METZENBAUM. Mr. President, if the Senator will yield for a question, because the Senator is more expert on the subject than I. We adopted a fast-track agreement, and the process is very prompt.

Is the Congress in a position to undo that fast-track procedure?

Mr. BAUCUS. The Congress can, and actually the Senate can, Mr. President. It is essentially a Senate rule. We can undo the fast-track process.

I have always, frankly, supported the fast-track process, essentially because every other country has its fast track, because there are parliamentary forms of governments, and they are not constitutionally divided like ours.

Yes; it is within the authority of the Senate to change the procedure.

Mr. METZENBAUM. Mr. President, the Senator from Montana is very knowledgeable in this area, and has spent a good deal of time on it.

I would like to say that the Labor Subcommittee will be conducting a hearing on this subject in September, and if the Senator has the time and inclination to do so, we invite him to sit with us at that time.

Mr. BAUCUS. I appreciate that. I thank the Senator very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

Mr. HARKIN. Mr. President, I had hoped to offer an amendment today on this bill. As the time ticks away and as we try to reach an agreement on the underlying amendments that are on the bill, it looks as though it will be impossible for me to offer my amendment this afternoon. So it looks as though we will probably have to offer it when we come back in September. However, Mr. President, if, in fact, the underlying amendments are agreed to, I still hope I might be able to bring it up yet today. Although I must admit that it is looking like it will not be possible.

So I wanted to take this time to basically talk about the amendment and what it proposed to do so people might think about it at least over the break period while we are back in our States and doing other things; so that people might think about this amendment that I will be offering in September.

Mr. President, as we debate the bill and how to improve our tax policy and how to help address the range of problems confronting our urban areas, especially for the millions of young Americans who live there, I am going to be asking the Senate to take a very modest and long overdue step that will contribute significantly to achieving both of these goals.

The amendment, so far, Mr. President, has the cosponsorship of Senators BRADLEY, BINGAMAN, and LAUTENBERG. The amendment we are going to be offering is very simple and straightforward. It would place on tobacco advertising and promotion expenses the same modest limitation on tax deductibility that we imposed on business meals and entertainment in 1986. Our amendment would limit deductibility of these expenses to 80 percent. It would, in turn, authorize at the same level as the revenues generated by this change, funding to the States to support advertising designed to reduce the incidence of tobacco use, with a specific emphasis on reducing the incidence of use among children, pregnant women, and minorities.

In essence, what our amendment is about is smarter spending. It takes money that is now directed at increasing hazardous and costly activities and directs it to decreasing hazardous and costly activities and to improving the health of our country.

Our amendment would save lives, increase productivity and lower health care costs, without spending a nickel more of the taxpayers' money.

Mr. President, the amendment we are going to be offering enjoys broad support. It is supported by the Coalition on Smoking and Health, a group of over 60 national organizations concerned about the public health impact of smoking. This diverse coalition is headed by the American Cancer Society, the American Heart Association, the American Lung Association, and includes groups such as the National PTA, the Consumers Union, and the Committee for Children.

Mr. President, the case for our amendment just could not be clearer. The U.S. tobacco industry spent over $3.6 billion in 1989 promoting its products, an increase of nearly 50 percent in just 4 years. Think about that. The tobacco industry is spending almost twice as much a year advertising tobacco as we spend on the National Cancer Institute to do research on cancer.

This multibillion-dollar effort which American taxpayers help foot the bill for, and let me say that again, this multibillion-dollar promotional effort for tobacco which American taxpayers help foot the bill for, includes ads in magazines and newspapers, billboards, other outside advertising, advertising at supermarkets and convenience stores, use of noncigarette specialty gift items, and sponsorship of promotional activities.

All of this is designed to convince people that smoking is necessary for social acceptance; that it makes one attractive to the opposite sex; that it enhances self-image. It is designed to keep people smoking. But more important, Mr. President, it is designed to attract a new generation of smokers.

It is important to note in debating this urban aid bill that cigarette advertising heavily targets inner-city areas, especially poor inner-city areas. In fact, many of the very areas that this bill targets for enterprise zones in order to build opportunity and hope are lined with billboards and other advertisements promoting smoking, promoting lost productivity, promoting ill-health, and, yes, promoting death.

Does that make sense to anyone? No wonder the American people are saying Government is not working and they want a change.

Mr. President, I want to read from several examples of some of these ads that the American taxpayers are helping to foot the bill for so that everyone understands the kinds of things we are talking about.

I have taken the liberty of collecting some of these ads so people might take a look at them.

Some of these ads are: "Smooth moves, smooth character."

How about this: "Foolproof dating advice." All you have to do is smoke cigarettes. This is Camels in this case.

"How to impress someone on the beach. Smooth move number 334."

Here is "Foolproof dating advice, smooth move number 325." And of course there is Joe Camel.

Here is another ad, obviously a very beautiful young woman lying on a beach, very suntanned, very healthy looking, and here is a young man approaching her, and the ad says: "When only a smooth move will do."

What is the smooth move? It is a Camel cigarette. Of course, when you turn the ad over, here is the guy, and he has his Camel cigarettes there, and that is his smooth move on the beach, I guess.

All these ads are designed, again, to say that here is the crowd of young people. Here is a guy with sunglasses on. He looks real cool. And all he has to do is have a cigarette and, man, he is acceptable. See? Or if you are on the beach and you want to impress this beautiful young woman, all you have to do is have a Camel, a Camel cigarette, not the animal, but the Camel cigarette and then you can impress her. See?

Well, I could go on, but that is a brief idea of some of the ads that the cigarette industry puts out. We'll look at a few more in a minute.

Keep in mind, Mr. President, that every one of these ads is tax deductible. Taxpayers foot the bill for this, because they are totally tax deductible. And that is really the crux of our amendment. If you said in 1986 that legitimate businesses could not deduct more than 80 percent of the cost of business meals or entertainment to promote their activities in their business, should we not apply the same standard here? I am not trying to shut it all down: I am not trying to say they cannot advertise. What I am saying is taxpayers should not have to help foot the bill.

Despite what we know about the impact of tobacco use nearly 50 million Americans are smoking regularly. Last year alone, according to the National Cancer Institute, Americans consumed 527 billion cigarettes, or 2,828 cigarettes for every person age 18 and older in America, smokers and nonsmokers alike.

Mr. President, as you can tell from these ads, tobacco advertising increasingly seems to be targeting America's youth. Even though in 44 States it is illegal to sell tobacco products to children under the age of 18, our children are being confronted with characters like Old Joe Camel, and the Kool Penguin.

Here are some of more of these ads. Here we have Old Joe Camel, a smooth character. Of course, we see what Old Joe Camel does. He is winning trophies. He is running in hot-rod races. Old Joe Camel, he is pretty smooth. Of course, these ads are all over and, they are totally tax deductible.

Here are some more ads I thought, Mr. President, you might want to take a look at. Again, to give you an idea of how cigarette advertising is trying to tell you if you smoke, you will be more socially acceptable.

In this ad, here is Barkley in a tuxedo. Of course, if you are cool, you have to have a tuxedo, sort of class.

And here is a Virginia Slims ad. We are all familiar with Virginia Slims.

"You've come a long way, Baby." Right?

So now women can smoke just like men and they can get lung cancer just like men. I will have more to say about that in a minute.

Here is an ad for Players cigarettes. "Players go Places," and a nice crowd of young people. Notice, they are all young, really young people. And they are having a great time and, of course, they are smoking cigarettes.

Here is Salem Spirit ad. "Got what it takes." Of course, they are all on a skiing trip, all having a great time, and they are all very healthy. And this guy has a Salem in his mouth.

We are back here to a Camel ad and it shows you if you want to climb a mountain, you have to have a Camel cigarette. And, of course, it looks very healthy.

And here is a young woman who says "Light my Lucky." Again, a very provocative kind of an ad. And it is all tax deductible—healthy, athletic, young people touting the virtues of smoking.

Tobacco advertising is working. There is no doubt about how powerful the tobacco industry's media campaign is in shaping the attitudes and behavior of our children.

The 1990 report of the National Commission on Drug-Free Schools found that cigarettes and alcohol are by far the most widely used drug by young youths today. They further found that advertising made tobacco use seem glamorous and legitimate. Many students said that tobacco advertising made them feel that using this drug is not only OK but it is essential to being acceptable.

The results of this influence are staggering. For example, it is estimated that children and adolescents consume over 1 billion packs of cigarettes a year. One more time: Children and adolescents consume over 1 billion packs of cigarettes a year, adding $1.25 billion in revenues to the tobacco industry. No doubt why every person you see in these ads is always young. And every day about 3,000 more of our children begin smoking. Every day 3,000 more young people begin smoking.

How old are our kids when they get hooked, Mr. President? I have another chart that gives the answer.

Mr. President, I think this is really the most startling chart of all: 25 percent of all habitual smokers began smoking by age 12, by the 6th grade—25 percent; 25 percent more by age 14, or the 8th grade; and 40 percent more between the age of 15 to 20. That means fully 90 percent of all of the people who habitually smoke in America began smoking by the age of 20—90 percent. They began that deadly habit before their 21st birthday.

And, Mr. President, the age of initiation is getting younger and younger, especially among women. This should come as little surprise when we learn, as the Journal of American Medical Association recently reported, that over 91 percent of 6-year olds questioned recognized Old Joe Camel.

Where is Old Joe? Let us look at Old Joe again.

Here is Old Joe Camel.

In a survey taken, 91 percent of 6-year-olds recognized Old Joe Camel.

And guess what, Mr. President? That is as many as recognized Mickey Mouse. So this is what young people see. They see Old Joe Camel, he is smooth and he is cool, and he smokes cigarettes. So is it any wonder that more and more kids are starting to smoke by the age of 12 or 14, by the time they are in the 6th or 8th grade?

Mr. President, the scourge of smoking and its peddling among our children must be stopped. If we do not, according to Health and Human Services Secretary Dr. Louis Sullivan, at least 5 million of American children who are alive today will die of smoking-related diseases.

Mr. President, while smoking is particularly harmful to America's children and youth, it takes a tremendous toll on our Nation as a whole. This one single activity drains over $65 billion a year from our economy in health care costs and lost productivity—$65 billion a year.

Mr. President, the tax bill we are now considering is supposed to help us spur economic growth and productivity. And here is an activity that is draining $65 billion a year from our economy in lost productivity and higher health care costs. In increased Government health care costs alone, 1990 estimates were that smoking added $4.2 billion to Medicare and Medicaid, $210 million in medical costs to the Department of Defense, and $400 million in medical costs to the Veterans' Administration.

Costs today are undoubtedly much higher. Those were 1990 figures.

Smoking's human toll is even greater. It is the single largest preventable cause of death and disease in America. As former Surgeon General C. Everett Koop said, "Smoking is associated with more deaths and illness than drugs, alcohol, automobile accidents, and AIDS combined."

The latest figures from the U.S. Public Health Service tell us that 434,000 Americans will die from smoking-related illnesses this year. That is more than died in World War II.

Over 1,000 Americans will die today, this very day. As I stand here and speak, over 1,000 will die today from smoking. That is more than the equivalent of two fully loaded jumbo jets crashing with no survivors every day. Think how that would make us feel in this country—two jumbo jets loaded up with people crashing every day. That is how many people die every day in America from smoking.

Medical data on the health effects from smoking are well established. Since 1964, when the first Surgeon General's report on smoking and health was issued, some 50,000 scientific studies on the relationship between smoking and disease have been conducted. Smoking has been shown to be a major cause of heart disease, chronic bronchitis and emphysema, cancers of the lung, larynx, mouth, esophagus, pancreas, and bladder, and pneumonia and stomach ulcers.

As this chart indicates, Mr. President, smoking is responsible for 87 percent of all lung cancer deaths, responsible for 82 percent of all chronic lung disease deaths, 40 percent of deaths from heart disease under the age of 65, and 33 percent of all cancer deaths. I said 87 percent of lung cancer deaths are caused by cigarettes. Thirty-three percent of all cancer deaths. Smoking causes 21 percent of all heart disease deaths, including those over the age of 65. Ten percent of infant mortality is due to smoking, smoking during pregnancy.

At a time when we are working to improve our Nation's effort in the area of women's health, after a decade of serious neglect, it is appropriate to take a quick look at the impact of smoking and the taxpayers' subsidized promotion of it on women's health.

In 1986, lung cancer surpassed breast cancer as the leading cancer killer among women. This year over 50,000 women will die from lung cancer, 75 percent as a result of smoking. And the rates of lung cancer among women continue to grow.

A number of recent studies have made other disturbing findings. A recent article in the New England Journal of Medicine showed that women who smoke are more than three times more likely to have a heart attack than those who have never smoked. We also know that smoking promotes osteoporosis in older women.

Smoking by women also directly impacts children. More than 900,000 babies, nearly one in four, will be born this year to mothers who smoke and the results are dramatic.

Cigarette smoking during pregnancy accounts for 20 to 30 percent of low birth weight babies, 14 percent of preterm deliveries, and about 10 percent of all infant deaths.

And the EPA now estimates that children's exposure to environmental tobacco smoke—much of it from mothers and fathers who smoke—results in up to 300,000 lower respiratory infections a year, up to 15,000 hospitalizations for these infections a year, and up to 1 million attacks of asthma and 26,000 new cases of asthma a year because the parents smoke in the home.

Another group of Americans especially hard hit by tobacco use and its promotion are African-Americans and other minorities. Mr. President, smoking rates are much higher among African-Americans than whites, especially

African-American men. And, again, the results are dramatic. African-Americans are 20 percent more likely than whites to die of diseases attributable to smoking. Compared with white men, African-American men are 45 percent more likely to die of respiratory system cancers, 25 percent more likely to die of heart disease and 90 percent more likely to die of stroke.

Despite all this bad news, especially with regard to our children, women, and minorities, we are making very modest progress in prevention of smoking. Since the Surgeon General's first report on smoking in 1964 the overall prevalence of smoking among U.S. adults has declined an average of 0.5 percent annually.

In 1990, as part of the Year 2000 Health Objectives, the U.S. Public Health Service developed a number of important objectives for further limiting smoking by the year 2000. Targets have been set for a number of diseases and high risk groups. For instance a goal has been set to reduce cigarette smoking among adults to 15 percent from a level of 29 percent in 1987.

These are worthy goals, Mr. President, for the year 2000, but they will be very difficult to achieve with the currently modest prevention programs supported by Federal agencies, State health departments and voluntary agencies. A much more innovative and aggressive approach to the prevention of smoking and tobacco use is needed.

Mr. President, the State of California recently implemented a comprehensive program to combat smoking that we can learn a lot from. This program, established by a statewide referendum, attacks smoking through a number of programs delivered through community health departments, schools, the workplace, and, most importantly, through a hard-hitting counter advertising campaign administered by their health department.

The California Tobacco Control Program works. It saves lives and money. In 2 years, smoking went down 14.6 percent, 9 percent of which was attributed to the Tobacco Control Program. Dr. Dorothy Rice, a nationally respected researcher from the University of California, found that the program resulted in saving lives five times greater than its costs. She estimated cost savings of $744 million over a 2-year period. This is further evidence that an ounce of prevention truly is worth a pound of cure and must be the foundation upon which we reform our health care system.

Our amendment would provide support to every State to operate antismoking advertising programs similar to California's successful effort. The Secretary of the Treasury each year would estimate the increased revenues generated by reducing the deductibility of tobacco advertising from 100 to 80 percent deductibility. That amount would be authorized to be dispersed to the States based on population. The State public health agency would use those funds to support an antismoking advertising campaign. And the States are ready to go on this. Every State public health agency already operates a smoking control program and has written plans in place to expand their efforts. Unfortunately, their ability to fully implement these plans has been severely restricted because they do not have the money. This amendment will enable States to more fully implement and expand on the plans they already have in place. It will take, Mr. President, an effort like this in every State to make a serious dent in the damage that smoking inflicts on Americans. And it will take these kinds of efforts for us to reach the goals set for the year 2000.

Mr. President, the case is clear. The human, health care, and economic costs from the epidemic of smoking-related diseases are staggering. Overwhelming medical evidence now shows that these diseases are caused by smoking and other tobacco products. It is equally clear that this industry must spend enormous amounts of money to recruit new smokers to replace those who quit or die and that the tobacco industry increasingly appears to be targeting our children in tobacco marketing.

Let me say that again, Mr. President. It is clear that the tobacco industry must spend ever-increasing amounts of money to get their products advertised and out there, to replace those that have died or quit smoking, and to get new smokers, smokers who are mostly children and adolescents.

It is also clear that Federal policy in this area is hypocritical and counterproductive. We spend $114 million a year through the Public Health Service to combat smoking. At the same time, the Treasury loses up to 10 times that in revenues because of the tax deductibility of tobacco advertising. And smoking prevention spending—just like maternal and child health care, childhood immunizations and other cost-effective prevention programs—has to compete every year for the inadequate resources that my appropriations subcommittee receives, while the tax write off for tobacco promotion faces no such annual competition for funds.

They can advertise as much as they want, and it is fully tax deductible. It comes with no questions asked. The more they advertise, the bigger their tax write off. Their grasp on the taxpayer's wallet is written in law. It has been as good as gold.

A case could easily be made that we should totally ban cigarette advertising, and this has been advocated by many. But, Mr. President, we are not proposing to do that.

The case could also certainly be made for eliminating completely the tax deductibility for tobacco advertising and promotion. There really is not justification for a dollar of taxpayer's resources being dedicated to subsidize the promotion of the one and only legal product that, in the words of Secretary Sullivan "when used as intended, causes death." Think about that, it is the only legally sold product when used as intended kills people. That in and of itself is reason to treat it differently than any other expense. But we are not proposing to do that.

Instead, Mr. President, our amendment is very modest. It merely seeks to conform the tax treatment of tobacco advertising and promotion to that already applied to business meals and entertainment. And it does not take away a dime from the advertising industry.

I suppose we will probably hear a lot between now and the time we come back in September, perhaps from the newspapers, magazines, billboard companies, that somehow they are going to lose a lot of revenue because of this amendment. That is not true because we are simply taking money from advertising of tobacco and smoking, and giving it back to the States and their public health agencies for advertising that promotes improved health. They can buy ads, they can put billboards in inner cities, they can buy ads in newspapers and magazines to fight tobacco use, to inform young people why it is not cool to smoke and what it means to their health if they do take it up.

So it does not take away a dime from the advertising industry. It puts the money right back into advertising in the form of transfers to each State to fund a comprehensive advertising program aimed at reducing smoking, especially among children, minorities and pregnant women.

As I mentioned earlier, our amendment is supported by the Coalition on Smoking or Health, a coalition representing more than 60 national organizations headed by the American Cancer Society, the American Heart Association and the American Lung Association.

Mr. President, I will just close by repeating what I said when I began. The bottom line is that our amendment is about smarter spending. It takes scarce Federal resources, now directed at selling cigarettes through these kinds of ad campaigns, Joe Cool, and all these other ads that I have here. Right now, we are taking scarce Federal revenues in the forms of tax deductions and saying they can go ahead and advertise all they want to young people, and tell them how great smoking is. Our amendment takes these scarce resources and puts them into advertising that will cut down on hazardous activities and will improve health.

And it will save lives and increase productivity. That is what we are talking about in the tax bill—increasing productivity. This amendment will increase productivity. It will do it without spending a nickel more of the taxpayers' money.

Mr. President, oftentimes, when I am out with people in my State or other parts of the country, I have asked the question of people: Do you know that advertising for tobacco is totally tax deductible?

Mr. President, 9 out of 10 people I have questioned about that have no idea that advertising for tobacco is totally tax deductible. They do not know that is considered a normal and necessary business expense. Is it ordinary and necessary to advertise the only legal products which, when used as intended, kill people?

So I say it is time, Mr. President, that we have a modest attempt here to cut down on supporting this kind of advertising and to focus more of our scarce Federal revenues on young people to try to convince them to not smoke in the first place. To go after pregnant women and tell them what the hazards are to their babies if they continue to smoke; and especially to counter the tobacco industry's targetting of minorities—especially African-Americans in our inner cities—to let them know what it means if they take up smoking, also; and what it is going to mean in their health, and what it means in terms of lost productivity and their chances to succeed in life.

Mr. President, I take this time—and I understand we probably will not be able to offer the amendment today, because of the time constraints we have right now. I know we are about ready to recess until September. But I did want to take this opportunity—and I appreciate the managers of the bill for allowing me this time to speak as in morning business—to give our colleagues an idea of what the amendment we will offer in September will be.

I am sure that the American Cancer Society, the Lung Society, the PTA, the Consumers Union, and others, will be contacting people during the break to get them to support this amendment.

Mr. BRADLEY. Mr. President, if the Senator will yield, the Senator from Iowa knows I will be joining him in this amendment. For the last 3 to 4 years, I have had a bill in the Finance Committee to essentially eliminate the deduction for tobacco advertising.

The Senator's amendment would—as I understand it, as it will be crafted in September—only eliminate 20 percent of the value of that advertising deduction. I hope the Senator will keep an open mind as he thinks about how he might craft that amendment between now and then. Because, as the Senator knows, it costs American taxpayers almost a billion dollars every year that we give to tobacco companies to advertise with these kinds of advertisements, to attract young consumers to get hooked on tobacco, which ends up ending their life sooner and costing us all more money in health care costs.

Will the Senator keep an open mind as he thinks about his amendment over the next 3 to 4 weeks, in that it might even do more?

Mr. HARKIN. Mr. President, I appreciate the Senator supporting this amendment, as I have supported his in the past. Certainly, there has been nobody who has taken a stronger leadership role for more years than the Senator from New Jersey in trying to address this vexing problem that we have of cigarette advertising and promotion of tobacco in this country.

The Senator has been a leader on this. I certainly will keep an open mind. But, I must say, in thinking about this, I thought, if we are really serious about this, at least we ought not to say that if you are a legitimate business person, with a legitimate business, and you are taking someone out to a lunch to discuss business matters, that you can only deduct 80 percent of that—as we said in the 1986 tax bill—but if you are promoting illness and lost productivity and death by pushing cigarettes, to promote your business selling cigarettes, you can deduct 100 percent of that.

Mr. BRADLEY. There is a certain symmetry to the Senator's argument.

Mr. HARKIN. Mr. President, I am hoping people will see that. At least, if we are not ready to take the giant step that the Senator from New Jersey is proposing—which I will support, by the way; but I do not know that that support is here—if we are not ready to support that big step, let us at least put tobacco promotion on the same footing as business meals and entertainment.

Mr. BRADLEY. Does the Senator have the same experience I do from time to time, Mr. President, as I talk about this issue in my State of New Jersey; and that is that the public is totally unaware that their tax dollars are essentially subsidizing these advertisements? When you share with the public that almost a billion dollars of their tax dollars go essentially to these companies so they avoid paying tax—a billion dollars more—they have a little different reaction.

I think it is very important that the Senate have a vote on this issue, and then I think the public will have something to point to as to whether someone was for the continuance of a policy that shortens life, or whether someone wanted to save taxpayers a couple hundred million dollars.

Does the Senator not recall the look of surprise on the faces of people when they first learned that nearly a billion dollars of their tax dollars were going to that character?

Mr. HARKIN. Mr. President, this is Joe Cool, the Camel character.

The Senator is right. I have done this many times in town meetings, and with people all over America. When I talked about health care, I have asked them how many people know—I phrased it in a different way, but to get the substance of it, I asked: How many people really understand that this kind of advertising is totally tax deductible? And 9 out of 10 people do not understand or know that. I think the American people do not want that to happen. They want to see that this kind of tax deductibility for advertising ends.

I do not know if the Senator was here earlier. I stated that a recent survey of American kids showed that 91 percent of 6-year-olds in America recognize Joe Cool, the Camel character, the same number that recognize Mickey Mouse. There is a reason they are doing this.

Mr. BRADLEY. That is an outrage on many levels, let me assure the Senator.

Mr. HARKIN. That is true.

Obviously, Mr. President, they are going after the younger people. I pointed out that now we are finding that almost 25 percent of habitual smokers start smoking before the age of 12; 50 percent, by the age of about 15; and 90 percent, by the age of 20.

Again, all of the advertising is targeted toward young people and kids to let them know they can be like Joe Cool if they smoke.

I think it is an outrage.

Mr. BRADLEY. Mr. President, will the Senator also not agree that, so often, these subsidies that find their way into the Tax Code, or into expenditures, are there primarily because the Congress has never had a chance to vote up or down on whether we want them there?

Mr. HARKIN. That is right.

Mr. BRADLEY. They are there because of various maneuvers and pressures within an institution, Mr. President.

And all the Senator is seeking to do, I think—and correct me if I am wrong—is to say let us have an up-or-down vote as to whether 51 U.S. Senators want to continue this process of subsidizing the tobacco industry, the tobacco companies.

Mr. HARKIN. Mr. President, that is all this Senator is trying to do.

I think the Senator from New Jersey has given our colleagues a warning of what is about to come. We have our amendment. It is a straightforward amendment that deals with the Tax Code reducing this deduction to 80 percent.

I can tell the Senator from New Jersey, as I tell my constituents: Between now and when we come back in September, there is going to be some way, some maneuver, that will be tried, that will be brought out here in order to avoid having to have a clear vote on this amendment.

So I am taking my case to the American people, saying we ought to have an up-or-down vote on this, just as the Senator said, and I am hopeful that we do not have that kind of maneuver. I hope we have an up-or-down vote and let us see how the Senate wants to vote on this tax subsidy program.

I thank my esteemed colleague from New Jersey for his long support in this effort and welcome his support for this amendment and hope, when we get back in September, we can have further debate and discussion on it, Mr. President. I am certainly hopeful that the Senate will be willing to have an up-or-down vote on this and let the American people know just where we stand on this very important issue.

Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I regret that the Senate may not be able to take up the Harkin amendment on the tax subsidy for tobacco advertising. However, I look forward to working with the Senator from Iowa to pass this amendment in September when we return to the tax bill. In the meantime, I wanted to make a few comments about the amendment.

Mr. President, the tax bill that is pending before us is designed to provide a variety of incentives to individuals and business to invest in our cities and to revitalize our economy. The Finance Committee has approved such provisions because these types of investments will have a positive affect on our economy. There are many other incentives in the Tax Code designed to encourage certain economic and social behavior.

This amendment seeks to remove one incentive that, instead of encouraging positive behavior, encourages sickness and death. The Tax Code provides 100-percent deductibility for advertising of tobacco products which cause death for not only those who smoke but for those who breath secondhand tobacco smoke.

Mr. President, our Tax Code is promoting consumption of tobacco products at the same time that the Secretary of Health and Human Services and the Surgeon General are telling us that smoking is hazardous to our health. This is outrageously hypocritical.

Mr. President, this is not a small loophole in the tax law that is rarely utilized. The tobacco industry is taking great advantage of this full deduction. In 1989, the tobacco industry spent $3.6 billion on advertising and promotion. This is almost a 100-percent increase in these expenditures since 1980, and this is adjusted for inflation.

The tobacco industry spent almost $2 billion in 1989 on promotional activities, couponing, and retail value added. Promotional activities include amounts paid to retailers for shelf space, cooperative advertising, and trade promotions to wholesalers. Couponing and retail value added activities include cents-off coupons, multiple pack promotions, and noncigarette items such as lighters.

In addition to these expenditures the tobacco industry spent $380 million on magazine advertising in 1989 which is a 7-percent increase over the previous year. The industry also spent $358 million for outdoor advertising, which is up 12 percent from 1988.

Mr. President, why is the tobacco industry increasing its advertising and promotional activities? The answer is because advertising can help sway people to take up this life threatening habit. Because public awareness about the dangers of tobacco products is increasing, the industry has stepped up its efforts to encourage more and more people to begin smoking.

While I am extremely disturbed by increased tobacco advertising, I am outraged by the tobacco industry's subliminal effort to make smoking appear attractive to children. Nothing is more illustrative of this practice than the image of Joe Camel which is used to promote Camel cigarettes.

Mr. President, according to research published in the Journal of the American Medical Association [JAMA] last year, the image of Joe Camel is as recognizable to 6-year-old children as Mickey Mouse. Another study published in the same edition of JAMA concluded that while 94 percent of all high school students could identify Joe Camel, only 58 percent of those over the age of 21 knew the character.

While we can only speculate about the intentions of those who promote Camel cigarettes, it is clear what the effect is. The effect is that young people are responding to this cigarette advertising.

Even Secretary of Health and Human Service Sullivan condemned advertising which targets specific groups such as youth, women, and minorities. In October 1991, Secretary Sullivan stated that "Cartoon figures can't hide the truth: Smoking is the number one preventable cause of death in America."

Is the Joe Camel campaign working? The JAMA studies show that Camel cigarettes are now smoked by 33 percent of smokers under the age of 18, compared with less than 1 percent before the Joe Camel advertising campaign began in 1988. This study shows that advertising campaigns geared to children pay off for the tobacco industry.

While the tobacco industry may have the right to run these ads, should the policy of the U.S. Government to fully subsidize the costs of such campaigns through tax deductions? I believe that we should not.

This amendment does not take away the entire deduction for tobacco advertising. This amendment only reduces the deduction from 100 percent to 80 percent, the same level of deductibility for business meals and entertainment. Given the fact that tobacco kills 434,000 people each year, I think this amendment is a rather modest one.

Now opponents of this amendment will argue that this amendment violates freedom of speech issue or curtails interstate commerce. I disagree. Promotion and consumption of tobacco products is a public health issue. As I stated previously, the Secretary of Health and Human Services has stated that tobacco smoking is the No. 1 preventable cause of death in America.

The cost of tobacco smoking on our health care system and our economy is tremendous. The costs of treating tobacco-related illnesses is $65 billion a year or $260 for every American. We simply cannot afford to subsidize the promotion of tobacco products that end up costing all of us in increased health expenditures and lost productivity.

Mr. President, every day 3,000 children begin smoking and more than 50 percent of all smokers are addicted by the age of 14. We need to reverse this tragic trend. We need to slow down the advertising machine of the tobacco industry that is enticing our children to smoke. The Harkin amendment is a first step in this direction. I urge my colleagues to support this amendment and remove some of the taxpayer subsidy of this deadly advertising and promotion game.

Mr. SANFORD. Mr. President, my colleague from Iowa has indicated his intention to offer an amendment to H.R. 11 which seeks to partially disallow the tax deductibility of promotional costs associated with cigarettes. I hope my colleague will not offer this amendment when we come back in September, but today I want to make sure that his earlier comments do not pass by unanswered.

There are several problems with this amendment. First, it mistakenly assumes that the advertising and promotion expense deduction is a taxpayer subsidy. It is not. It is like any other deduction for ordinary business expenses.

Supporters of this amendment claim that this measure will be budget neutral. It will not be. This amendment will reduce the overall amount spent on advertising and promotion, resulting in less Federal tax revenue. This would offset any increase in revenue produced by this amendment. We went down this road earlier with the luxury tax and the only folks we hurt were those workers and their families struggling to keep their jobs. Let us not turn around and do the same thing to our tobacco farmers.

By forcing the tobacco companies to finance antitobacco messages by third parties, this amendment mistakenly assumes that the antitobacco message needs additional amplification. We have taken great steps to help America's consumers, and there is no evidence that there is any confusion or lack of knowledge among them about smoking and tobacco. Moreover, a series of court cases affirm that the Government may not tell private parties what to say or force private parties to use their own property to facilitate the speech of others.

More disturbing than the mistaken assumptions underlying this effort is the outright attack on the first amendment to the Constitution by this amendment. Let me be clear, cigarettes are not right for everyone, but the suppression of free speech is wrong for all of us.

This amendment violates the first amendment because it targets tobacco product advertising exclusively, based solely on governmental disapproval of its expressive content. Just last year, the Supreme Court ruled that "a statute is presumptively inconsistent with the first amendment if it imposes a financial burden on speakers because of the content of their speech." In that decision, the Court stressed that the "Government's power to impose content based financial disincentives on speech * * * does not vary with the identity of the speaker."

The Court has made clear that speech includes product promotion and has not hesitated to invalidate taxes because of their impact on speech.

I understand that the Senator from Iowa means well in his efforts. However, this is not the approach to take if he has concerns about the health of our citizens. Attacking the first amendment, no matter how well-intentioned, is never justified.

I recognize that this proposal is popular in many quarters; but that is all the more reason to scrutinize it carefully for constitutional defects. We will inevitably come to rue the day that we put the Constitution aside in the name of political expediency. If Congress can effectively ban tobacco advertising because some believe that using tobacco is a bad idea, then legally there is no reason why Congress can't ban the advertising of any other legal but socially controversial activity. What might be next?

There is abundant medical evidence that a diet high in saturated fats promotes heart disease. Shall we take away the deduction for the promotion of steak houses? Should we take away the deduction for the advertisement of dairy products?

Once we start down this road, where will it end? There are too many perfectly legal activities in which some people take great pleasure, but which others think are ill-advised. Senator Ervin, the great former Senator from North Carolina, used to love to remind folks around here that there is no such thing as a minor incursion on our constitutional rights. If the Congress suppresses tobacco advertising because a majority is persuaded that smoking is a bad idea, then the truthful advertising of every other private activity and every other product becomes susceptible to suppression at the hands of a majority.

I believe that this country was created, among other reasons, so that all ideas—even unpopular and questionable ideas—would have a safe harbor from tyranny and suppression. We should not sacrifice that great principle, no matter how seductive the opportunity. I am hopeful that this amendment will not be pursued. If it is, we must vote down this amendment and stand up for the protection of free and truthful speech.

Thank you and I yield the floor.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. SYMMS. Mr. President, might I ask what the parliamentary situation is?

The PRESIDING OFFICER. There are amendments pending in two degrees to the committee substitute to H.R. 11.

Mr. SYMMS. If there are no other Senators seeking recognition—and I see the managers of the bill are in consultation—I ask unanimous consent that I might be allowed to speak as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHY NOT HONOR THOMAS PAINE?

Mr. SYMMS. Mr. President, I rise today to add Senator GRAMM, of Texas, to the list of 73 other Senators who support Senate Concurrent Resolution 110. We have joined together to allow Thomas Paine to be honored, at no cost to the taxpayers, at the intersection of Pennsylvania and Constitution Avenues.

I ask unanimous consent that Senator GRAMM, of Texas, be added as a cosponsor to Senate Concurrent Resolution 110.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. More than 125 professors, department heads, university presidents and civic leaders have joined the members of the Thomas Paine National Historical Association of New Rochelle, NY, and the Thomas Paine Society of England in endorsing Senate Concurrent Resolution 110.

Mr. President, nearly 200 years ago, the man who made the first public call for the abolition of slavery died. In fact, it has been more than 100 since President Lincoln took that action.

Thomas Paine, who immigrated to Pennsylvania from England, deserves the long overdue honor described in Senate Concurrent Resolution 110.

Since I started this project in the 101st Congress, I have enjoyed hearing the personal observations about Paine from hundreds of people around our Nation and around the world.

John Adams was right when he said: "History is to ascribe the American Revolution to Thomas Paine."

Incidentally, Adams also noted: "without the pen of Paine the sword of Washington would have been wielded in vain."

Unfortunately, here in Washington, the capital of the Nation he helped create, we have ignored him except in our speeches and a couple of paintings.

Simply, Tom Paine played an essential role in establishing the United States. As a result, we have now become the beacon of hope, shining for people seeking freedom and protection of their individual rights by abusive governments.

Today I rise to share with my colleagues a letter and an editorial submitted to the Wall Street Journal and other papers by Adam Understein. He is a young man who is earning his master's degree at the American Graduate School of International Management in the great State of Arizona.

Incidentally, both of the Senators from Arizona are original cosponsors of this measure and I appreciate their support and assistance.

Mr. President, I know you have plenty of things to read. I do, too. But, this editorial by a member of the next generation is well worth your time and that of our colleagues.

This young man, a member of the generation who will inherit our $4 trillion debt, is also a member of the generation who will enjoy the post-Communist world.

He has a vigorous and optimistic outlook for the future, and ties it to an understanding and reverence for our past—I would like to share his essay.

UNITED WE STAND

As we concern ourselves with overcoming our national problems, it may be useful to take a lesson from our past, embedded in our heritage. The man who should explain it is long since gone, but his ideas live, and his story and his words can still come to our rescue. He saw that we can, we did, and we shall overcome all our difficulties if we stay united and dedicated to certain principles. This nation needs unity, and it needs to remember this man.

In February, 1776, a little known Englishman living in Philadelphia renounced his British heritage and declared that from that time forward he was an American. He spread the news to all who cared to understand why a British subject should seek to cut the ties to his heritage. This man was Thomas Paine, and he explained his beliefs in what has been called the most important pamphlet ever written in the English language: "Common Sense."

While colonial officials in America were still petitioning the King for a redress of their grievances, while colonial men had taken up arms to enforce their rights as subjects under the British Crown, and while honest men feared radical talk of Independence, "Common Sense" said: "Everything that is right or natural pleads for separation.* * * In free countries, the law ought to be King.* * * A government of our own is our natural right."

Paine did not simply make these statements, but he explained them, offered evidence, and refuted every reason put forward for the colonies to remain governed by the British Crown. His argument was not only rational, but compelling. Out of a population of 3,000,000 colonists, an estimated 300,000 copies of "Common Sense" were sold (which equates to 25 million copies today). Those who could not read, had it read to them. His words united the separate colonies more than the bloodshed has before and stirred the people into action. Thomas Paine became the most influential man of his time and set the philosophical foundation for the American Revolution. Five short months later, a newly united America produced the Declaration of Independence.

Paine wanted us to see ourselves not as Virginians, not as citizens of New York, or Delaware, or Massachusetts, but as Americans. United as Americans we could overcome any obstacle, even the most powerful nation in the world, but as individual states we would fall divided: "As United States we are equal to the importance of the title, but otherwise we are not."

Paine did not just philosophize. He was a pragmatic man of action, and he deplored hypocrisy. He insisted all proceeds from his publication be contributed to support soldiers in the field. He enlisted as a private in General Washington's army and fought alongside other men who now knew they were fighting as Americans.

On the evening of December 23, 1776, with American forces on the brink of defeat, when morale was at its lowest, and when brave men were beginning to waiver, Thomas Paine, by the light of a campfire, pulled a piece of parchment over a drumhead and began anew what he did best. It became known as "The Crisis", a series of writings during the long war, and General Washington ordered Paine's words read to all his soldiers. Paine began:

"These are the times that try men's souls: The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now, deserves the love and thanks of man and woman. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly: 'Tis dearness only that gives everything its value. Heaven knows how to put a proper price upon its goods; and it would be strange indeed, if so celestial an article as freedom should not be highly rated."

Paine's words cut through distress like a beacon of strength and impassioned our soldiers to turn the tide against tremendous obstacles. After the war was won, Paine's final writing in "The Crisis" included the following reflection:

"So far as my endeavors could go, they have all been directed to conciliate the affections, unite the interests and draw and keep the mind of the country together. * * * Independence always appeared to me practicable and probable; provided the sentiment of the country could be formed and held to the object: and there is no instance in the world, where a people so extended, and wedded to former habits of thinking, and under such a variety of circumstances, were so instantly and effectually pervaded, by a turn in politics, as in the case of independence, and who supported their opinion, undiminished, through such a succession of good and ill fortune, till they crowned it with success."

Paine not only guided separate colonies to unite in Independence, but he did all that was in his power to keep the union together through the scourge and devastation of war. Americans clung bravely to the principles he revealed to the end, and they prevailed.

As the forefathers of this nation understood (but perhaps many of us have forgotten), the American Revolution itself was not a war. The revolution was an idea, a set of principles spawned in the Enlightenment and embraced and spread by the people of America. Americans recognized individual freedom as the basis for society; they held that government's purpose, its reason for existence, was to protect that freedom (life, liberty, and property); they believed in self government and the right of revolution.

As these principles spread, so did Paine's influence and renown. After Britain was defeated and America's Independence was secure, Paine travelled to France, where he foresaw the principles of freedom would next take root. He was given honorary citizenship, and two separate districts of France wanted him to represent them in the National Assembly. Not only did this American sit as an elected representative with the French Revolutionaries in the National Assembly, but he drafted the Declaration of the Rights of Man and of the Citizen, which stated the principles of the French Revolution and to this day remains cherished by the citizens of France. When events in France turned against those principles, the man of reason, Paine, was quick to speak out. For his vigilance, he was sentenced to the guillotine (but barely escaped).

For all his selfless contributions to humanity, his eventual return to America and his death went essentially unnoticed. In fact, this man, who had such an influence on the birth of the United States and the spread of freedom, is hardly known today in the land he loved. It seems almost incredible, but 216 years after he wrote "Common Sense", there is no national recognition of his life's efforts. There is no monument or any place where citizens can go to pay tribute, nowhere to learn about Paine except in the library; no honor has been bestowed to recognize what he did for our nation. He may merit little more than a footnote in the history books of our children.

There is a chance that the current Congress, if spurred by interested citizens, may finally afford Paine recognition. Senator Symms has introduced a bill that would establish a Thomas Paine Memorial on the grounds of the United States Capitol, and similar legislation has been introduced in the House. No government funds would be used to pay for this project. Its cost would be borne by the donations of private citizens.

It is true that there is no lack of monuments in Washington, DC, and Paine, himself, would probably consider his anonymity inconsequential as long as the principles he held so dear were flourishing. However, we must recognize this man—not merely to express gratitude, honor, and respect, all of which he richly deserves—but for selfish reasons; for ourselves. We need to remember Thomas Paine. Our nation needs his inspiration. We need to remember his perseverance, thoughtfulness, and foresight. A monument to him would remind us that we can, we did, and we shall overcome all our difficulties if we stay united and dedicated to the principles that founded this nation.

There is no better, and no more appropriate, site for a Thomas Paine Memorial than on the grounds of the United States Capitol, which itself stands as a testament to his belief that men are free and self-governing. Our national Representatives and Senators would be able to look from the Capitol upon Paine's memorial and would be reminded daily that united we survive, succeed, and prosper—and divided we fall. At the memorial, children would be able to see an original American patriot and become inspired as they learn about the origins of our nation. It would cost taxpayers nothing, yet generations to come would benefit.

In 1776, Paine looked around the world and saw America as the only place where freedom still flickered. The flame was threatened, and he acted to preserve it with all his ability and life energy. He had the foresight to state with confidence: "The cause of America is in a great measure the cause of all mankind. * * * Posterity are virtually involved in the contest, and will be more or less affected, even to the end of time, by the proceedings now."

May this memorial be built with the support and gratitude of free Americans. May it inspire us and future generations with the leadership that one man had in 1776, a man with foresight who explained his vision and, from a collection of weak colonies, united a free nation. Remember Thomas Paine, America.—ADAM UNDERSTEIN.

Mr. President, I thank the indulgence of my colleagues for the time, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I ask unanimous consent that I might proceed as in morning business for a period not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TUBERCULOSIS

Mr. ADAMS. Mr. President, 2 years ago I had the opportunity to chair a hearing of the Labor and Human Resources Committee on the reauthorization of the Tuberculosis Control and Prevention Program of the Public Health Services Act. Expert testimony at that hearing made it clear that tuberculosis has developed in the past decade into a major threat to public health. We were told how the long-term decline in TB in the United States came to an end in the mid-1980's and cases had again begun to rise. We were told that in 1990, there were over 25,000 reported new cases of TB, the largest annual increase since national reporting began in 1953. We were told that the success of past prevention and control efforts led to the retreat of the disease into population subgroups; immigrants, persons who are HIV positive, and the homeless. And it was among these subgroups that cases of tuberculosis were now on the increase.

One of the main factors in this increase was that TB was no longer perceived as a health problem. Dr. George Comstock, who spoke at that hearing in 1990, warned in 1973 of the continued threat from tuberculosis. He said "A real danger exists that as tuberculosis becomes a less important problem, control efforts will be relaxed when they should be redirected." Secure in the belief that TB had been defeated, the support system of services was removed, the sanatoria were closed, and the resources for control and prevention, programs were whittled away by apathy.

At the hearing 2 years ago, one expert from Washington State described how in the space of 6 years, new cases of TB in the Seattle-King County area had increased by 33 percent from the record low of 1984. This mirrored similar increases elsewhere in the United States. More alarming were the growing number of TB cases where the disease was resistant to one or more treatment drugs. The development of drug-resistant tuberculosis is a symptom of an underlying malaise in the health care structure. It was patently clear that we were not dealing with a temporary blip in the incidence of the disease, but with a sustained increase that threatened to undo decades of prevention and control success. We had a clear picture of the potential consequences of inaction. It was a hearing which impressed on all those present the urgent need for decisive intervention to tackle and reverse this increase in tuberculosis before it developed into a greater threat to public health.

I was in the uncomfortable position of both chairing that hearing and sitting on the Appropriations Committee that was to determine the funds available to the Tuberculosis Prevention and Control Program. When the appropriations process moved forward that year, faced with all the demands for Federal funds, the urgency of the tuberculosis issue was lost, and the necessary resources were not made available. As a result of our failure to heed the warning, 2 years later, the problem of tuberculosis has escalated dramatically, and the human cost of an underfunded control and prevention program is staring us in the face. Reported cases are still rising; if anything, recent evidence points to them rising faster than before.

In my own State, reported cases of TB in the Seattle-King County area have increased by 17 percent in the first 6 months of this year alone, hitting disadvantaged groups the hardest. Sixty percent of these cases are among individuals born abroad. It is among the medically underserved that we are witnessing the development of a tuberculosis epidemic. The Seattle-King County Department of Public Health estimates the risk of contracting TB among nonwhite individuals is 15 times that for whites, while the homeless are 40 times more likely to contract the disease.

This is a situation prevalent in other major urban centers of the United States, as the U.S. Conference of Mayors recently recognized. But the most threatening development in the epidemic in the last few years has been the rise in drug resistant TB. We are now facing a mutant strain of tuberculosis which does not respond to the traditional drug treatments available. This multidrug resistant tuberculosis stems from the underlying problems and deficiencies of the health care infrastructure. The difficulties of providing health care and ensuring access for the disadvantaged groups with a high incidence of TB are complicated by the need to provide sustained and comprehensive treatment. It is not sufficient merely to prescribe TB control drugs when there is a noncompletion rate of over 20 percent. Through misusing or not completing a course of drugs, a patient can develop resistance to that treatment, and multidrug resistant TB is now facing us as the consequence of an underfunded Federal TB Control Program.

If health authorities had the resources to establish outreach programs which would simply oversee the taking of medication by the patient, the success rate of treatment and the incidence of drug-resistance would be substantially lower. One such program of directly observed therapy in Mississippi has demonstrated the value of this approach and the need to extend it to other areas of the country.

Especially at risk from the disease are those with HIV infection, who are prone to tuberculosis as one of the early symptoms of the full AIDS condition. HIV associated tuberculosis was identified at the recent International AIDS Conference in Amsterdam as an increasingly significant factor in the HIV epidemic. In Seattle for instance, the percentage of TB cases that are HIV positive has this year risen to 20 percent.

With the continued rise in the number of TB cases, with the increase in multidrug resistant TB, and with new outbreaks of the disease in institutions such as hospitals, prisons, and homeless shelters, the Department of Health and Human Services goal of TB elimination in the United States by the end of the next decade becomes more and more difficult. Yet, it was made clear at that hearing 2 years ago that we are not faced with a stranger to medical science. The World Bank describes tuberculosis as the most cost effective infectious disease to prevent and treat. The Center for Disease Control estimates that for every dollar of TB prevention and control funds, $3 to $4 are saved by the Nation in health care costs, while the cost of treating multidrug resistant tuberculosis ranges from $100,000 to $250,000 per patient.

Two years ago, we failed to act on the warning that the tuberculosis epidemic was growing into a major threat to public health. As a result, the problem has worsened and the cost of tackling it has risen. The Center for Disease Control places the cost of full implementation for the necessary TB Control and Prevention Programs at $550 million for fiscal year 1993. As the developments of the last 2 years demonstrate all too clearly, we save nothing by underfunding the Federal TB program; we simply allow the problem to escalate and increase the cost of treatment in the long term. It is unacceptable for a disease we can control to be ignored, and allowed to develop further as a public health problem. Mr. President, it is time we gave an unequivocal commitment to the goal of eliminating tuberculosis.

Mr. President, I would like, in closing, to express my appreciation for the excellent staff work I have been provided on this issue by an intern in my office, Mr. Matthew Stone of London, England. Matt is entering his final year reading history at Christ Church, Oxford University, and was assigned to my Senate office through a program of the English Speaking Union in conjunction with the Catholic University of America. For nearly 2 months, Matt has accompanied me to a wide range of committee hearings, executive sessions, and constituent meetings. I am hopeful that this internship has provided Matt with an inside view of our legislative process. My entire staff has appreciated Matt Stone's enthusiasm and desire to learn about the American legislative process. I wish him well in his future endeavors, and thank him for his work on this serious public health issue.

Mr. President, once again let me say, this is a great tragedy. This is a disease, like others, that we had already eradicated. And not having properly funded the program, we now see it beginning to rise again. It is very contagious, it is very dangerous to the entire population if a significant amount of the population, particularly those who handle food and those who are in certain climates and those who are exposed to others at close proximity who have the disease. I hope we will properly fund this program. I thank the President and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas is recognized.

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. BENTSEN. Mr. President, I ask unanimous consent that the pending Metzenbaum and Dole amendments be temporarily laid aside; that Senator BRADLEY be recognized to offer his amendment on urban initiatives; that there be 1 hour for debate, equally divided in the usual form prior to either a motion to table or a point of order to be made by the chairman, or his designee; that if the point of order is waived or the amendment not tabled, then the amendment remain debatable and amendable; that no second-degree amendments be in order until either the motion to table or the point of order is disposed of, nor any amendments to the language proposed to be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes, under the previous order, the Senator from New Jersey [Mr. BRADLEY].

AMENDMENT NO. 2938

(Purpose: To delete certain provisions of the bill and authorize spending for four urban initiatives)

Mr. BRADLEY. I send an amendment to the desk on behalf of myself and Senator WELLSTONE.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself and Mr. WELLSTONE, proposes an amendment numbered 2938.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BRADLEY. This bill started as a response to a crisis in our inner cities. What we have before us is a $30 billion urban aid bill that spends only about $8 billion on urban aid. Instead of squarely facing the cycle of despair we have created in our inner cities, this bill has become the engine for extenders, passive losses, and minimum tax relief.

I think this is an incomplete urban aid bill and a questionable tax bill. In trying to do too much, we have accomplished too little.

The amendment I offer today with Senator WELLSTONE aims at restoring some balance to the bill. It is based on a simple principle: Rather than creating new work for tax lawyers and accountants, we should be creating jobs for those hit hardest by the latest recession, whether they live in Los Angeles or in Newark. Rather than creating new tax breaks for the wealthy, we should be doing more to help the least fortunate among us. This amendment cuts tax expenditures in the bill which go to large corporations and to the wealthy in order to put more money into urban programs.

Much of the urban portion of the bill before us is commendable. But we should also explore new policy options. The best of the conservative agenda should be combined with the best of the liberal agenda, and it should become an American agenda for urban America.

So I am pleased that we are going to give enterprise zones a try.

The chairman of the Finance Committee is to be commended for his efforts on this front. I am pleased that he included some other provisions that will help bolster families, put people to work, and save children in the cities and in other poor neighborhoods.

But these programs will not lure business back to our cities. To restore the urban economy, enterprise zones cannot be the only thing we try. Alone, they cannot restore urban America, an urban America that is sicker, poorer, less well educated and more violent than at any time in my lifetime.

To say that all we need is urban enterprise zones obscures the depth of our problems. The message it sends to cities is that we do not know what to do; we are not going to think about what to do, and, if forced to do something, we will toss in a modest tax break and hope that it might work all by itself.

Mr. President, I am more optimistic about our cities' economical potential. I believe we can generate an economic renaissance but not by just wishing it. We need to do more than just try to lure business back with a tax break, because businesses do not make decisions about location, one of the most critical and irreversible decisions a company can make, solely because of a tax break. We need to guarantee them a capable work force, the kind of modern infrastructure that businesses need to compete, a safe neighborhood in which to do business, and we need to do something for the cities that will not be designated among the 125 urban enterprise zones this year, next year, or ever.

There are four programs in this amendment that would receive the money we get by eliminating three loopholes.

One program is very familiar, Job Corps. Every year Job Corps, like Head Start, gets a few million dollars more but still it serves only 2 percent of the Nation's poor youth. A real commitment to Job Corps will provide the kind of work force that enterprise zone businesses and all businesses need to compete. Job Corps works. It has a 70-percent placement rate. People are working after the training.

This amendment provides $1.25 billion over 5 years to permit the Job Corps to build 40 new centers, repair existing centers, and enroll up to 30,000 more young people in the program.

The second program in this amendment is an idea that has been transforming the practice of public safety around the country. It is called community policing. When we fought in Desert Storm, it was not simply because we had firepower and planes and tanks that we prevailed. It was because we had intelligence and knowledge of where to deploy our firepower that we succeeded so gloriously.

Community policing provides the same kind of intelligence and information for an urban police force. Bringing police out of their cars and into the community makes them real partners with families and businesses desperately seeking a safe environment, but it requires an investment because police officers will be spending time preventing crime rather than reacting to crime. The amendment provides $750 million over 5 years for community policing grants such as those in the crime bill.

Third, many businesses interested in relocating to distressed areas will find the crumbling infrastructure of those cities to be a disincentive—crumbling schools, parks, public buildings. At the same time, there are millions of young people without much training who are ready and able to undertake the repairs that would bring their communities into the 1990's.

The Neighborhood Reconstruction Corps will bring them together as partners. Private companies that met their obligation to a community by repairing public buildings, schools and housing projects could receive a Federal match for their investment if they employed a Neighborhood Reconstruction Corps of young high school graduates from the community sponsored by a Community Development Corporation. In turn, the infrastructure improvements would help the company prosper and hire more local residents, while the on-the-job training of the Reconstruction Corps would help the participants compete for their next jobs.

The Conference of Mayors says that there are over 7,000 projects in urban America ready to go. This amendment puts $500 million over 5 years into this new idea that would generate many times that money in jobs and productivity.

Fourth, we need to address Secretary Kemp's very legitimate concern that we are providing capitalism without capital to the urban enterprise zones. To help people become independent, self-sufficient participants in an urban, economic renaissance, we need also to help people become entrepreneurs and self-employed contractors. The fact is that an African-American is five times more likely to own a business in the wealthy suburbs of Bergen County, NJ, than across the river in the Bronx in New York.

Opportunities exist in our cities but urban residents need the know-how and access to capital that people in the suburbs take for granted. The entrepreneurship and self-employment training grants established by this amendment provide $500 million for community colleges to provide basic business training and for the Small Business Administration to offer low-interest startup loans.

Just as small entrepreneurial business has always fueled our economic growth, these independent entrepreneurial capitalists will generate wave after wave of energy and enthusiasm in the urban economy.

Some of these proposals are old ones that just need more funds. Others are newer.

I know I will hear criticism that we have not had hearings on all of these proposals, that we should have done it on a smaller scale, there should have been demos for newer ideas, but is that not just the point? Instead of confronting the urban economic crisis and pursuing new ideas, this body has spent the last 4 months since the Los Angeles riots trying to figure out how many special interest tax breaks we can shove under the umbrella of an urban response. We could have been exploring all of these ideas, but instead we hauled out an old but untested one, watered it down, and loaded it down with new tax breaks for the wealthiest in our society.

This amendment is a chance to remedy that course. The amendment not only puts real money behind substantial programs but it concentrates them where the need is the greatest, in all of the large and small cities where that need is obvious. It is neither diluted to win support from communities that do not really need help, nor as limited as the enterprise zone provisions. 296 cities would be eligible to take advantage of these initiatives. That is not only more than the urban enterprise zone provision offers, it is even more than the 150 in Secretary Kemp's proposal.

These are the neediest 296 cities, based on a formula that finds cities with the greatest need, which is determined for purposes of the CDBG block grant, and also the least ability to help their own people, as measured by per capita income. The needs adjusted per capita income index is the best measure of urban distress as developed in the House by Representative CHRISTOPHER SHAYS, from Connecticut, and who deserves recognition for this formula.

Mr. President, our budget provides a measure of our Nation's values. I cannot help but wonder what this bill says about our priorities. We would spend nearly as much providing tax breaks to wealthy developers in the bill as we do to enterprise zones.

If the $400 billion budget deficit should do anything, it should show us that we have precious few resources to waste. Every spending program, every tax expenditure must be weighed against alternative investments. The simple fact is that if we choose to spend our resources to provide tax loopholes for narrow interests and specific industries, then we do not have those resources for urban policy.

The amendment that I offer is simple. It cuts $2.7 billion in tax breaks for corporations and the wealthy in order to spend that $2.7 billion on urban economic recovery.

The bill gets the money for this by looking at the $2.1 billion in tax relief provided to real estate developers. The last thing we need to do at this point is to provide more incentives to provide for transparent office buildings.

The problem with the industry is not the Tax Code but the 20-percent vacancy rate and a 20-year supply of excess office space. Because of the tax breaks we threw at the industry in 1981, we built more commercial real estate in the 1980's than was standing in America in 1979, rebuilt more conversion office space in the 1980's in America than existed in the United States in 1979.

What this amendment does with the real estate section is to trim back on the passive loss provision. It would limit the passive loss provision to only those who have made investments prior to 1986 when tax reform was implemented.

The bill also asks that we spend $1.3 billion to provide alternative minimum tax relief to large corporations. This amendment would modify that provision.

I think it is important to remember why the AMT was instituted. It was to get everybody to pay their fair share of tax. But here we have a proposed $1.3 billion leak in the tax base of the alternative minimum tax.

Still, we have all heard about how complicated the alternative minimum tax is. What the amendment would do is to simplify the alternative minimum tax but, by relying on a 120-percent declining balance method rather than a 150-percent declining balance method, would achieve all of the bill's simplification but without the $1.3 billion price tag. We also ensure that the AMT more closely tracks economic income.

The last provision that we deal with is the $343 million to provide section 108 relief to individuals and partnerships holding real property. In other words, yet another tax break for the real estate industry. This little-known provision asks us to step in and bail out taxpayers who make bad bets on real estate deals.

My primary problem with the proposal is that it targets only a narrow class of taxpayers. If I hold a piece of real estate that I use in my trade or business and put that piece of property up as collateral for a loan, I am exposing myself to the risk that the property will go down in value and I will have to put up more collateral.

If I am lucky enough to convince the banks to write down the value of my loan, for example from $2 million to $1 million, then under the current law I recognize that the $1 million is income. That is only fair. I have been freed from the obligation of paying the $1 million. But not under this provision. Under this provision, I can defer that income for up to 40 years. Under this provision, if I happen to have the good fortune to hold valuable property and can get a bank to write down the loan, I am not taxed on that income but can simply reduce the basis of my property. The bottom line is that my income is deferred until I sell the property or until I exhaust the remaining basis.

So, Mr. President, the amendment that I have offered modifies these three provisions, saving $2.7 billion, and invests the $2.7 billion in Job Corps; community policing; entrepreneurial activity in all urban areas, especially enterprise zones; and local infrastructure repair that creates jobs and economic opportunity.

I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment of the Senator from New Jersey.

He makes some good points about the problems of the urban areas. I share them. Obviously so, because we modified our piece of legislation by adding another $3 billion to try to address some of the more serious problems in the urban areas: To do what we could to see that they work, that they are effective, that we create jobs, that we lower the cost of business in those areas, and so on.

We have crafted what I think is a bipartisan piece of legislation. We have worked very hard at that. The reason is that I want to see it enacted. We passed a bill in March that was vetoed. If we are going to accomplish anything, we have to see that this bill is signed.

So let us get to this question of passive losses. There is no question but what you had before 1986 was people building buildings for tax reasons—not for economic reasons. We saw it across the country. I saw it in my own State, the State of Texas, where there was a prime example of that: see-through buildings developing in Houston and Dallas and some of the smaller cities.

Then we began to see it creeping across the rest of the country—buildings standing vacant. It had to be changed. What you had was lawyers, doctors, bankers—everyone—having tax shelters. You had limited partnerships that were not really involved in the real estate business, with equity interests farmed out to investors so that they could take advantage of the accelerated depreciation.

So the Finance Committee changed that. However, as often happens in that type of corrective legislation, there was an overreaction. It went beyond the degree necessary. What was done to real estate people—people that are really in the business—was to not allow them to take their losses and their winnings and put them together to get their net income. They were not allowed to do some of the things that other business people can do with respect to their businesses.

So that is what this piece of legislation is about. We did not bring back the tax shelters for all of those outside investors that are not truly in the real estate business. This is a carefully crafted piece of legislation to give some justice to the real estate business—to put it on the same basis as other businesses. Hopefully, too, it will be a help in real estate values: that we will get more interest back in real estate and that we can cut down some of the losses in the savings and loans and the enormous bailout that is punishing the taxpayers.

So we have taken care of that in the underlying legislation. What my friend from New Jersey would do would go beyond that.

Another carefully crafted portion of the bill that is subject to the Senator's amendment is the provision that eliminates the ACE adjustment for depreciation in the alternative minimum taxes. This is another proposal that was included in the President's budget; and it was also included in our March tax bill. That provision does two things. First, it reduces the dampening effect that the ACE depreciation adjustment can have on capital investment, particularly investment by capital-intensive industries experiencing depressed earnings. Second, it provides significant simplification to those taxpayers who now have to maintain two sets of complicated books in the minimum tax.

The other provision at issue in the bill allows certain owners of business real estate to reduce the basis of qualifying assets rather than recognizing cancellation of indebtedness income currently—thereby allowing them to avoid insolvency, or even bankruptcy.

That provision is fully paid for by other real estate changes. What we are trying to do is stop forcing people into bankruptcy when workouts can be achieved.

So, Mr. President, I want to see this legislation enacted. I am working at the present time on other parts of the bill with people from both sides of the aisle. Again, I must point out that these provisions have been supported by Senators on both sides of the aisle.

I am hopeful that if we can keep from damaging the consensus we have achieved, we will have legislation that becomes law.

I yield the floor.

Mr. WELLSTONE. Mr. President, let me, first of all, say to the distinguished chairman of the Finance Committee that I appreciate much of the work that he has done on what is now called the Revenue Act of 1992. This is a vast piece of legislation, in part because it deals with really important changes in the Tax Code.

But, Mr. President, the reason that I support this amendment—and I am proud to introduce this amendment with Senator BRADLEY—is that it has to do with priorities and what, once upon a time, we used to call the urban aid bill, because it was a piece of legislation which was born in response to the desperation in our cities—as exhibited, powerfully exhibited, by what happened in Los Angeles—really has changed and evolved into a very different kind of legislation.

Mr. President, when I read the editorial in the Washington Post—and it is not really my intention to be so critical as the talk about what is so positive about this amendment that we have introduced—it was disappointing to see the headline: "Tax Legislation Gains New Life; Senate Takes Up $31 Billion Bill Full of Provisions for Interest Groups."

It is good that we have come up with $31 billion. I know there are good provisions in here on foster care and welfare reform, and I know that the chairman of the Finance Committee has worked very hard.

But, Mr. President, all of us who have talked to other Senators on appropriations committees know how hard it is to find the funding for key programs that have everything in the world to do with helping people. If we want to build our cities, then we have to be about helping people in our cities. So when we go to chairs of Appropriations Committees and subcommittees, and talk about more funding for education, or talk about more funding for housing, or more funding for emergency shelter assistance, we find that the resources are not there.

Mr. President, part of this bill has an emphasis on enterprise zones. I do not think today that I have the time to raise some of the questions that I would raise about those zones. Only to say that, as a matter of fact, when you think about the magnitude of the problem in our cities, really, 150 entire cities would qualify for assistance. And, of course, we are just barely down the road of beginning to provide that assistance.

Mr. President, my main point is a little different. I think that the Bradley-Wellstone amendment really gets down to the issue of some priorities. I want to talk about some of these programs, such as the Job Corps Program, that Senator BRADLEY spoke about. We have a program in Minnesota called the Hubert H. Humphrey Job Corps Program. It is an intensive, individualized employment and training program.

I met with men and women involved in the HHH Program. They came out here to Washington, DC. As a matter of fact, on the Minnesota Academics Olympics team, HHH Center men and women were nationally prominent. It was wonderful to see how this program worked. It gave men and women real opportunities. This is a program that has been very successful.

If we want to focus on job opportunities, I do not think it is asking too much to shift just a little bit of resources away from tax breaks for larger corporations and wealthy people to the Job Corps Program. That is what we should be about.

This is a small amount of money we are shifting. But if we really want this to be an urban aid bill as well, I think we ought to put resources into programs that have a proven record. This is one of those programs.

I talked to Mayor Frasier of Minneapolis, who was a distinguished Member of the House of Representatives. He talked about the community policing program called Safe in Minneapolis. It is successful in building trust between the police and people in the community, and in making sure police do not travel in sealed units, hermetically sealed units, as opposed to being out in the community with people and reaching out and working with members of gangs. It has been extremely successful.

The problem is there are not enough resources. Again, what we are talking about, Mr. President, is transferring some resources, some tax breaks, away from people who are well off—doing fine, really—to our cities, with a special focus on a program that has worked.

Senator BRADLEY talked about the Neighborhood Reconstruction Corps Program. If we want to talk about infrastructure, I have to say, as a former teacher, we should understand—I look at the pages, who are probably all in school—that there are students who are going to schools that you would not want to spend more than an hour in, the physical structure is in such disrepair.

I do not think it is asking too much, if we want this to be an urban aid piece of legislation, to transfer some resources to this kind of public infrastructure. Moreover, I am so pleased that we are utilizing community development corporations.

I met, Mr. President, not too long ago—I know you have a very strong interest in small business—with the Minneapolis Consortium of Nonprofit Developers. Included were a number of different community development corporations.

You talk about empowerment and entrepreneurship; you talk about the Microloan Program; and you talk about encouraging African-Americans and other people that live in our innercity communities to develop their own businesses, to have that kind of hope, to contribute to their communities and businesses that are locally owned in those communities. Those community development corporations have a track record that is so impressive.

So, Mr. President, if you look at some of the different programs that Senator BRADLEY and I are talking about, if you look at this shift of resources, I believe that this is an amendment that strengthens this piece of legislation.

I am not going to go into a complete statement. But I want to make it very clear that I really believe this amendment really improves this bill. I think this amendment does not take a large amount of resources; but it takes $2.7 billion. It transfers those resources from some tax breaks that go to wealthy individuals and larger corporations, and instead focuses those resources into our neighborhoods, into our cities, into programs that have a track record of tremendous success.

Mr. President, I really believe that a vote on this amendment is a vote on priorities. We said we were concerned about what happened in Los Angeles. We say on the floor of the Senate that we care fiercely about what is happening in our cities. We say on the floor of the Senate that we want to build hope in people. And we say that we want this bill to be part of providing aid to our cities.

If so, I think we can shift some of the priorities in this legislation. And I believe this amendment that Senator BRADLEY and I have introduced does so in a very credible way, and in a very reasonable way.

I hope our colleagues will support us.

Mr. BENTSEN. Mr. President, I have only recently seen this amendment. And after having a chance to study it in further detail, I would point out that the Senator's increase in spending in his amendment violates the budget agreement. It tries to exempt any appropriations that later result from the authorizations in this bill from the domestic appropriations cap.

Of course, it is a 60-vote point of order regarding this violation of the budget agreement. In view of that violation, I will raise that 60-vote point of order shortly.

In the meantime, I yield 6 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 6 minutes.

Mr. SEYMOUR. I thank the Chair, and I thank the distinguished senior Senator from Texas.

Mr. President, I think we need to refocus. We have lost our focus here. We need to concentrate on the original goal. This bill is about reintroducing jobs and opportunity in our urban areas.

My colleague from New Jersey and also my colleague from Minnesota have mentioned the city of Los Angeles and the horrible tragedy and riots that occurred there and their answer to it. What is proposed in this amendment—and I think it is wrong—but what is proposed in this amendment is the classic argument of who is best equipped to provide jobs and opportunities, a chance to enjoy the American dream, a piece of the action.

What Senator BRADLEY and Senator WELLSTONE would do—and the programs they are talking about are good programs: the Job Corps Program, community-based policing programs, infrastructure repairs, whether it be schools or housing in those neighborhoods—all good programs. If those programs were being brought up in a different bill, I would be the first to stand here and support them.

But that is not what is happening, and that is why we need to refocus. What we are talking about here is jobs that are going to ring cash registers, jobs where spending will occur, where consumer optimism will return, where opportunities to move from unemployment to full employment can best exist.

Somehow, the Senator from New Jersey and the Senator from Minnesota equate passive losses as a tax break for the rich. Let me tell you, Mr. President, they are not tax breaks for the rich.

In fact, I found most interesting the argument that these passive tax losses, as they are called, resulted in an oversupply, and an overbuilding of office buildings. I find that ironic, because if these tax breaks for the rich do not work, how do they line the pockets of the rich.

Well, if that is true, Mr. President, then how did we, in fact, double, as Senator BRADLEY pointed out—and he is absolutely right—how did we double the square footage of commercial buildings in this country in the last decade? And is that all bad? It is bad that we have such a large percentage of them vacant.

I can trace that problem back to the 1986 Tax Reform Act. The 1986 Tax Reform Act changed the rules, unfortunately, Mr. President, changed the rules in the middle of the game. The game had already been started. Buildings were being built, carpenters were hauling lumber, concrete contractors were pouring concrete. Buildings were being filled with people in the full-employment process of gaining jobs and opportunities. Carpet people were able to sell their carpets, lighting fixture people were able to sell their fixtures, and plumbers were fully employed, as well. Those are the people helped by this growth initiative, not the rich people.

But in 1986 the game changed in the 1986 Tax Reform Act—which I described back in 1988 as a tax shift and a tax shaft. We know how investments are made in this country, and anybody that spends some time in business knows that investment decisions are made based upon yield considerations and return on capital. And many investors made that kind of decision prior to 1986. And since 1986, they have done the same.

The argument that these are just tax breaks for the rich is wrong. The argument that enterprise zones is not enough is wrong. Enterprise zones, in fact, will provide the tax incentives to create a yield that will spur investment.

I have heard it said what we need to do is paint cities like Los Angeles green—green with capital and money, green with opportunities for those that live there, and create business opportunities to employ the unemployed.

So this argument is about philosophy. And it is a classic argument. Can you do it better by having the Federal Government create a Federal program to create jobs, or can the private sector better stimulate the economy by their knowledge of knowing what niche in the market needs to be filled?

I think it would be a serious mistake to pass this amendment, well-meaning as it might be. I do not think it brings balance to the bill. I think it further waters down 800 pages of the bill until there is little or nothing left. And then we will come back in 1993 to debate why that program did not work and we will try another.

So I ask my colleagues to closely review this amendment and understand not only what this amendment does, but also how important it is, Mr. President, that we provide every tool to the private sector possible to invite them into urban areas like south central Los Angeles; so they can invest their capital to hire people who live in that area and watch the free enterprise system work and bring us back to economic vitality.

I yield back the remainder of my time.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. PRYOR. Mr. President, I thank the Chair and I thank the distinguished chairman for yielding 5 minutes to me. I will try to be very brief.

LEGISLATION TO REFORM THE TAX TREATMENT OF DISCHARGE OF INDEBTEDNESS AND TO INCREASE COMPLIANCE FOR DISCHARGE OF INDEBTEDNESS TRANSACTIONS

Mr. President, many regions of this country are experiencing a decline in real estate values unprecedented since the Great Depression. This drop in real property values has meant ruin for many individual investors, and has endangered financial institutions around the country. As a result of this crisis, real estate financing and liquidity are virtually nonexistent.

More and more owners of rental real estate are struggling to come to grips with the inability of their properties to support the debt tied to those properties. These individuals are faced with the choice of foreclosure, deeding the property back to the lender, or, if they are more fortunate, restructuring the debt on the property to more accurately reflect the properties' ability to service the debt.

Unfortunately, for solvent property owners restructuring real property debt produces taxable income, but not the cash to cover the taxes. Because there is no cash on hand to pay the taxes, property owners often must sell other properties at distressed prices in order to cover their tax bill for the restructured property. These distressed sales only exacerbate the crisis in real estate values, and increase the pressure on financial institutions by making loan workouts more difficult to achieve.

Before the Tax Reform Act of 1986, the Tax Code better reflected the economic realties of restructuring arrangements. Since discharge of real property indebtedness produces only phantom income for solvent owners, pre-1986 law allowed owners to lower the basis in real property to the extent of the discharge of indebtedness. This allowed owners to defer the payment of tax until there was cash to pay the taxes from the sale of the property. The Tax Reform Act of 1986 repealed this treatment for all taxpayers except for bankrupt or insolvent taxpayers and farm property.

Committee report language indicates that Congress exempted farm property because of the existence of a serious credit and liquidity crisis for farm owners. A similar crisis now exists in our national real estate market. I, therefore, believe that it is time that we reinstate the election to reduce the basis of depreciable property in lieu of immediate tax liability in cases involving the discharge of real property. My bill would reinstate this treatment for individual taxpayers.

For example, an individual taxpayer owns an office building and an apartment building. The office building has a tax basis of $30,000 and the apartment building has a mortgage of $100,000. The apartment building, through no fault of the owner, has declined in value and the rental income from the property now services a debt of only $75,000. The lender, facing a foreclosing situation, reduces the mortgage to $75,000. Instead of forcing the taxpayer to find the necessary cash to satisfy tax on $25,000, usually through the distress sale of other property, my legislation would allow the taxpayer to defer the tax liability by reducing the office building's basis to $5,000.

I urge my colleagues to join with me in sponsoring this important legislation. Mr. President, I ask unanimous consent that a copy of the bill appear in the appropriate place in the RECORD.

Mr. President, approximately 2½ weeks ago I introduced in the Senate a measure that became S. 3080. The chairman of the Senate Finance Committee, Senator BENTSEN, in his wisdom, included S. 3080 in the chairman's markup, in the bill that we now have before us, H.R. 11.

Mr. President, what the Senator from New Jersey is doing, as I understand his amendment, is striking all or at least most all of the real estate provisions and real estate treatment provisions under the Tax Code from H.R. 11. That is my understanding of the amendment. I hope I am stating that correctly. That would include striking the provisions of S. 3080, which is now a part of H.R. 11.

Mr. President, the concept of S. 3080 was to prevent having a taxpayer who owned property where it had deflated, for no reason of his making whatsoever, and where the taxpayer was being charged with phantom income on overinflated property. I think this is an egregious part of the post 1986-tax law dealing with phantom income. My provision will strengthen the individual taxpayer's position as he or she faces tax consequences as a result of income that he or she is actually not receiving.

For example, an individual taxpayer owning an office building or an apartment building, the office building which has a tax basis, let us say, of $30,000. The apartment building has a mortgage of $100,000. The apartment building, through no fault of the owner, has declined in value. The rental income from the property now services a debt of only $75,000. The lender, facing a foreclosure situation, reduces the mortgage to $75,000. And instead of forcing the taxpayer to find the necessary cash to satisfy a tax on $25,000—usually this takes place during a distress sale of other property—this legislation, S. 3080, that is going to be stricken should the Bradley amendment pass, would allow the taxpayer to defer the tax liability by reducing the office building's tax basis to $5,000.

We think it is a sound concept. We think it is good tax policy. Once again, it was introduced to protect the property owner from phantom income taxes and we think it is very fair. We feel very strongly if the Bradley amendment strikes this provision—which it would if it is agreed to—it would have a very, very detrimental effect on a lot of individuals owning property—especially small property owners, I might add.

I strongly oppose the amendment of the Senator, and I hope my colleagues will also join me in opposing the amendment offered by the Senator from New Jersey.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, let us keep in mind that this is a bill that is supposed to address the problems of urban America. It is a bill that raises taxes by nearly $30 billion. Somebody had their taxes increased $30 billion. And the question is, what do you want to do with the $30 billion in this bill from the increases in taxes?

Do you want to take that $30 billion and give it to very large corporations, allowing them to write off certain equipment faster? Do you want $30 billion given to large real estate developers so they will build more office space?

Or do you want part of that $30 billion to go directly to those people who are in the eye of the storm in urban America? Do you want part of that $30 billion to go to increasing the Job Corps, to assuring that we have money for community policing that will secure our streets, to encouraging entrepreneurship and self-employment in urban areas in America by providing training and loan guarantees for start-up loans in small businesses, or do you want that money to go to Neighborhood Reconstruction Corps, to improve public works in the area?

How do the American people want that $30 billion to be spent? Do they want it, really, to be spent by channeling it into the pockets of the large corporations so they can buy more and different equipment? Do they want it to be channeled into the pockets of real estate developers so they will build more office space? Or do they want, in an urban aid bill, to have that money channeled directly to where the need is and in the areas the need exists?

Some opponents of this bill have said if this came up in a different circumstance they would be for these provisions. At the same time, they have asserted the only way to deal with the problems of urban America is through the private sector.

Those two positions are contradictory. I believe the best answer is to take the best of the conservative agenda and the best of the liberal agenda and make it an American agenda. And there is only a certain amount of money around to do that, and this amendment says if we are raising $30 billion in taxes on so many groups in America, let us take at least a third of that and put it back into urban America.

I reserve the remainder of my time.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has just under 5 minutes.

The Senator from Minnesota.

Mr. WELLSTONE. If I could just add to the words of the Senator from New Jersey, I really feel like the vote on this amendment, whether it be for it—maybe it will just end up being a vote on procedure—is a test case on representation. What I really worry about with this bill is that we used to talk about an urban aid bill. We said, rhetorically, we were going to respond to the cities. But if you do an analysis of the benefits and where the benefits go, what you find is corporate America and wealthy people do fine, but we really have not invested very much in our cities.

What we have tried to do with this amendment is effect a small transfer of resources. And the reason I think this is a test case of representation is there is no doubt in my mind that the vast majority of people in our country would say put it into a Job Corps Program, put it into a community police program, put it into a neighborhood reconstruct corps program, put it into a community development corporation—as opposed to putting it into wealthy America.

There is no doubt in my mind whatsoever—and that is why I want to talk for just 20 more seconds about political representation—that the men and women that live in our cities, many of whom have tremendous indignation that they are not represented by Government and not represented in Washington, DC, are going to draw entirely, I fear, very bitter lessons about this. Which is, once again—those of us who live in these communities in the cities, do not have all the economic resources. We do not have all those special-interest lobbyists. We do not have all that clout. And, once again we are severely underrepresented. There has not been a response to the concerns and circumstances of our lives.

This amendment, this small transfer of resources, is a very positive message and I think we should send it to the people in our cities.

Mr. BENTSEN. Mr. President, I yield 5 minutes to the distinguished Senator from Arkansas.

Mr. PRYOR. Mr. President, once again I thank the distinguished chairman for giving me an opportunity to answer and perhaps even engage in a moment of colloquy with my colleague from Minnesota, and perhaps even my colleague from New Jersey, the author of this amendment, which strikes a very, very critical provision from H.R. 11.

They are talking about corporate real estate companies—I am quoting my friend from Minnesota—I believe I am quoting him correctly—"Corporate America and wealthy people are doing fine."

I would say to my colleague and friend from Minnesota, and to my friend from New Jersey who talks about corporations doing real well under H.R. 11, what they are trying to strike here is something that is going to help protect the individual property owner. S. 3080 does not apply to corporations. It only applies, only enables the individual real estate owner, now desperately cash short and seriously weakened financially, to defer the tax liability until that real property is sold.

What we have today in our country, and I feel relatively certain it is happening in Minnesota and in New Jersey—I know it is happening in the State of Arkansas—we are finding these individual owners of, say a small apartment building, and they are having to pay on money they are not receiving because of phantom income. It is not fair. Therefore, they are now dumping additional properties on an already weakened real estate market to pay taxes on debt restructuring transactions. It is unduly burdening the banking and financial system.

I think Chairman BENTSEN and the distinguished members of the Finance Committee are very correct in trying to protect this particular provision, which protects the individual real estate owner—not the big corporate companies—but the individual real estate owner from having to pay taxes on income never received.

Mr. President, I do not believe I——

Mr. BRADLEY. Will the Senator yield so I may respond?

Mr. PRYOR. Yes, I will be glad to.

Mr. BRADLEY. Mr. President, let me say in response to the Senator's question, this bill does provide, through section 108, I believe, some tax relief the Senator has described, to some small limited partners who own small real estate holdings. There is no question about that.

The question is why should that industry now receive that kind of benefit, when any other industry does not get it—first point—other than farming? And the second point is, this bill also burdens that small real estate operator by increasing the depreciable life from 30 years to 40 years.

So on the one hand this bill gives something. The law already provides the same 108 benefit to investors who are insolvent. This now gives it to those who are solvent. So it does give something, a little benefit. All of the taxpayers in America get 300 million dollars' worth of benefit, which if you look at what else is in this bill, out of $30 billion, $300 million in benefits is not a whole lot. But this bill also takes from those very taxpayers by increasing the depreciable life of assets by 10 years—by one-third.

So that the mom and pop who invested in the small two, three, four, five apartment building, whatever, and thought they would have the 30 years to write off now has 40 years, which means they cannot write off as much, which means they pay more taxes.

So the Senator is correct, in one part of this bill, what is it, 1 percent of the total value, part of that 1 percent will go to some smaller operators, but with the other hand, you take much more away from them by decreasing the appreciable life of the asset.

Mr. PRYOR. Mr. President, I will simply respond by saying in most sections of our country today, the greatest difficulty we have in securing credit and financial liquidity is in financing real estate or refinancing real estate. We are having a very difficult time in this market right now, and we are not here to ask that taxes be foregone, we are not here asking that taxes not be paid or not owed, but we are saying that taxes should not be paid until the income is derived from the property. That is the spirit of S. 3080. I think it is a reasonable and fair approach, and I hope my colleagues will think it is a reasonable approach. In all due respect, I do not have a better friend than the Senator from New Jersey. I do, however, hope his amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Texas has 7 minutes. The Senator from New Jersey has 2 minutes and 10 seconds.

Do Senators yield back their time?

Mr. BRADLEY. Mr. President, I will be prepared to yield back the remainder of my time, with 1 concluding minute.

Mr. BENTSEN. Mr. President, I am awaiting the arrival of another Senator who would like to speak on it. So I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield my time. Am I the only one having any time left?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENTSEN. I yield half that time, a full minute and a half, to my friend from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute and 20 seconds.

Mr. BRADLEY. Mr. President, often around here we say we do not have enough money to do this, but here we raised $30 billion. We have $30 billion. What do we want to do with it? I am suggesting we take $2.7 billion of that $30 billion that we have now, not next year, it is now, $2.7 billion of that to use it for four very important programs in urban America that will increase the life chances of thousands and thousands of Americans now living with diminishing life chances.

That is what this amendment is all about—increased funding for Job Corps, Community Policing, entrepreneurship and self-improvement, Neighborhood Reconstruction Corps, and get the money from, $2.7 billion in increased taxes that this bill already raises on American families and individuals.

Mr. BENTSEN. Mr. President, I yield the remainder of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 minute 30 seconds.

Mr. BOREN. Mr. President, I thank the distinguished chairman for yielding me the time that is remaining. I will try to speak very briefly.

It would be a serious mistake for us to pass this amendment. We all want to help the urban areas. All of us have been working on programs that would be of help. But the way to help them is not put Americans out of work, to make us less competitive in the world.

The AMT has been working in the way it was not intended because of the recession, particularly because of the way the depreciation adjustments under the AMT have operated during the recession. We are therefore already at a competitive disadvantage: The cost of capital is much higher in the United States.

Recent statistics indicate that because of the AMT, our companies that invest in new plant and equipment, new means of production, are recovering less than half the average of our competitors in the first 5 years that investment is made.

Twenty-five percent of the companies paying tax under AMT reported both a book loss and a taxable income loss this last year. Because of the ACE depreciation provision, as incomes go down in the recession, companies are more and more penalized under the Tax Code for making the very investments that are necessary to make them competitive. They are being penalized and forced to pay the alternative minimum tax because of the fact that they are keeping up a high level of investment during a downturn. This means that while there are actually some companies losing money, they are having to pay alternative minimum tax because they are doing what we have told them to do—invest in job creation in this country, invest in technology to make us competitive, to keep our people at work.

Yes, let us try to do something about the urban crisis. We are all trying to do something about it. Let us do not do it in a way that is going to put more Americans out of work, seal the doors of more American companies, put us out of business in the international marketplace. Let us not do it in a way that will take away the tax provision which Senator PRYOR and I sponsored to allow some businesses to get reorganized so they can stay in business instead of being forced into bankruptcy, with more and more assets out on the market causing more and more failures of financial institutions.

Mr. President, if this amendment passes, it will have very serious economic repercussions in this country. It will make matters worse. It should be resisted by the Senate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURENBERGER. Mr. President, this is the second amendment that has been discussed on the Senate floor today that suggests a new and dangerous trend is evolving in the U.S. Senate.

When this fiscal year ends on September 30, the 1992 budget deficit is going to come in at about $400 billion. And before this year is over, we will certainly be more than $4 trillion in debt—$4 trillion.

And what are we doing here today? We have proposals to shift revenues from changing the Tax Code in the future and assigning revenue value based on uncertain and unpredictable revenue estimates of future behavior developed by the Joint Committee on Taxation. Once the joint committee runs its econometric model, it predicts a revenue loss or a revenue gain. But that is only a prediction based on an econometric model.

What the authors of this amendment do with this estimated revenue is to shift it into a direct spending program—a program that would ordinarily be subject to a direct appropriation.

Mr. President, no wonder the public appears so angry. We use budget gimmicks and accounting tricks to create phantom money. We are already living off of debt; now some Members of this body want to use phantom money to pay for real programs.

What happens if the revenue estimators were wrong? What happens if striking the real estate provisions in this bill does not raise $1 billion. Will we just add more debt to make up the shortfall?

Mr. President, there are worthy programs that we should spend money on. But let's cut real spending and let's cut the deficit before we decide we have to spend more and more on Federal programs.

The bankrupting of America must cease.

Mr. BENTSEN. Mr. President, I raise a point of order that the pending amendment violates Section 306 of the Congressional Budget Act of 1974.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I move to waive any points of order that would block consideration of this amendment, any points of order made under the Budget Act.

I ask for the yeas and nays.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], and the Senator from Michigan [Mr. LEVIN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Oklahoma [Mr. NICKLES] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] and the Senator from North Carolina [Mr. HELMS] would vote "nay."

The yeas and nays resulted—yeas 14, nays 80, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—14

Biden
Bradley
Chafee
Cranston
Harkin
Kennedy
Lautenberg
Metzenbaum
Robb
Sarbanes
Simon
Specter
Wellstone
Wirth

NAYS—80

Adams
Akaka
Baucus
Bentsen
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kerrey
Kerry
Kohl
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sasser
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NOT VOTING—6

Burdick
Gore
Hatfield
Helms
Levin
Nickles

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The amendment contains subject matter that is within the jurisdiction of the Budget Committee. Since the amendment has been offered to a bill that was not reported by the Budget Committee, the point of order is sustained and the amendment falls.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 2934, AS MODIFIED

Mr. DOLE. I send to the desk a modification of the pending second-degree amendment I offered on behalf of Senator PACKWOOD. I send this modification on behalf of Senator PACKWOOD.

The PRESIDING OFFICER. The Senator has a right to modify the amendment.

The amendment is so modified.

The amendment (No. 2934), as modified, is as follows:

At the end of the amendment, add the following:

At the appropriate place insert:

SUBPART D—FIRST-TIME HOMEBUYER CREDIT

SEC. 2141. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(A) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) LIMITATIONS.—

"(1) MAXIMUM OVERALL CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) MAXIMUM FIRST YEAR CREDIT.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time home-buyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) SPECIAL RULE FOR CERTAIN CONTRACTS OF DEED.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such action.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in party by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 an 22,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time home-buyer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

Notwithstanding any other provision in this Act, there shall be no requirement for State and local governments to report refunds or payments of real property taxes of State and local governments.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let me start by explaining what the second degree amendment does.

It puts back into the bill the $2,500 first-time home buyer tax credit that was dropped when the bill was modified yesterday by Senators MITCHELL and BENTSEN.

To offset the revenue cost of the first-time home buyer credit, the amendment includes a proposal that has been approved by the Senate a couple of times—the disallowance of a deduction for club dues.

I think it is very important that this bill include the first-time home buyer tax credit. Many young families today are finding it more and more difficult to come up with a downpayment for a home. A $2,500 tax credit will go a long way toward the downpayment on the average starter home.

In my home State of Oregon, the average starter home cost $50,500 in 1991. A $2,500 tax credit would be almost one-half of the required downpayment on that home. And the first-time home buyer tax credit will have a beneficial impact on our economy.

According to the National Association of Home Builders, this credit could: Create up to 240,000 jobs; produce up to 125,000 new housing starts; generate up to 400,000 existing home sales; and it would have an economic ripple effect of as much as $20 billion.

If we do not put it back into the bill before us, the credit will die because the House version of this bill does not contain it.

And I modified the amendment to delete the club dues because there is enough money in the first-degree amendment, as proposed by Senator METZENBAUM, to take care of the issue.

I thank the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). Is there further debate?

Mr. BENTSEN. Mr. President, I have examined the amendment as it has been changed. I think it is a good compromise.

Certainly, as chairman of the committee, I have long supported credits for first-time home buying. What we were trying to do, of course, was raise the additional money for the enterprise zones, and the additional number of enterprise zones, and finding a way to pay for it.

We have worked out a compromise with the distinguished Senator from Ohio, which I think is a good one, putting a cap on the IRA's.

Overall, I wish to thank the ranking minority member, Senator PACKWOOD, from the State of Oregon, Senator METZENBAUM, and the minority leader and the majority leader for what we have been able to accomplish here.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I thank the chairman.

I ask unanimous consent to add Senators DODD, KASTEN, and SEYMOUR as cosponsors of the second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment?

Mr. SEYMOUR addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. SEYMOUR. Mr. President, I rise in strong support of this amendment that will achieve the American dream for many first-time home buyers.

I was shocked and appalled yesterday when this most important provision was eliminated from this bill. And I am very pleased, and I give due credit to Senator PACKWOOD, Senator METZENBAUM, and Senator BENTSEN for having reached a compromise to restore this most important provision.

Mr. President, the first-time home buyers tax credit represents not only sound policy in helping young people get a piece of the American dream, but it is also an economic growth stimulator. It will provide immediate economic stimulus, and it will help middle-class American families buy homes.

It has been a proven fact, Mr. President, that housing is a key to any economic recovery. I know that firsthand, Mr. President, having spent 17 years in the housing business.

I well recall, in the year 1980, the last time we had a first-time home buyers tax credit. It was a $2,000 tax credit at that time. I can tell you firsthand, Mr. President, that it works. It not only works in the way of providing the added incentive and the added opportunity for a first-time home buyer to get a piece of the American dream, as we call it—and that is home ownership—but it also acts as a job creator. It rings cash registers in communities. Because out of every sale of a first-time home, new jobs are created.

To give you some idea, Mr. President, of the new jobs that are created in my State of California, for every $1 spent in the new housing market, $2.56 in economic activity is generated. Or, translated a different way, for every $1 million spent in a new home market, 29.6 jobs will be created. In addition, that same $1 million will result in first-time home buyers purchasing their first home from existing stock that will create 22 new jobs.

As a result of the recession in residential real estate and home buying, California's economy lost an estimated $12.1 billion in total direct and indirect economic output in 1991, compared to 1990. The decline in home sales activities has reduced California's gross State product by almost 1 percent. One percent does not sound like much, but when you are California, the seventh largest economy in the world, that represents $7 billion of economic activity.

To put it in yet another way, to describe the economic stimulus that takes place in the housing market, Mr. President, for every four homes that are sold in the State of California, we create approximately 20 new jobs. So this is not only good policy relative to perpetuating the right of private property ownership and home ownership, but it makes good sense from an economic stimulus standpoint.

So, Mr. President, I applaud the efforts of my colleagues, who have worked hard to restore this provision to the bill, and I stand in strong support of it. I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if I can ask the floor managers about this amendment. As I understand it, this places a limitation on what IRA's are deductible. The existing law is $25,000 for an individual and $40,000 for a family. This moves it up to what?

Mr. PACKWOOD. $80,000 and $120,000.

Mr. CHAFEE. I am not for that, but we spent a lot of time on that yesterday. But this cap, of course, has now gone with the backholding or the second part of the IRA section that we discussed yesterday, namely, the ability to put in the nondeductible $2,000 and then have all, not only the buildup during the buildup free, but the takeout is tax free. This does not affect that.

Mr. BENTSEN. Oh, it applies to all of it, back loaded and front loaded.

Mr. CHAFEE. Oh, it does? So therefore an individual whose income was in excess of whatever these limits are, 120 did you say, per family?

Mr. BENTSEN. Would have the same kind of limitation.

Mr. CHAFEE. That individual could not put in the—after-tax $2,000?

Mr. BENTSEN. That is correct.

Mr. CHAFEE. But he would still retain the ability, as exists in current law, to put in the after-tax $2,000 and have the buildup tax free, but he could not take it out tax free? That is current law?

Mr. BENTSEN. That is correct. That is current law.

Mr. CHAFEE. We do not change that?

Mr. BENTSEN. I do not see any change on that.

Mr. CHAFEE. But we do say—whatever the family limit—$125,000 did my colleague say?

Mr. METZENBAUM. One hundred twenty.

Mr. BENTSEN. No, 120.

Mr. CHAFEE. That is 120. That anybody over the $120,000 could put in the $2,000 after taxes, can get the tax-free buildup while it is being built up—no income attributed to the individual——

Mr. BENTSEN. That is the present law.

Mr. CHAFEE. But he cannot take it out.

Mr. BENTSEN. Without paying the tax.

Mr. CHAFEE. Without paying the tax.

Mr. BENTSEN. That is correct.

Mr. CHAFEE. I must say that is a vast improvement. That must pick up a lot of revenue.

Mr. BENTSEN. That is the way we pay for the first-time home buyer.

Mr. PACKWOOD. About $2.5 billion.

Mr. CHAFEE. That would have saved us about 4 hours yesterday if somebody had come up with this. Not that it is perfect. I do not want anybody to think it is perfect.

Mr. BENTSEN. I did not expect you to say that, Senator.

Mr. CHAFEE. My leader says it is not even good. Put it this way, it is a fair improvement—fair meaning marginal.

Mr. PACKWOOD. On scale of 1 to 10, where would you put it?

Mr. CHAFEE. Well, on a scale of 1 to 10 I would give it every break in the world and give it a 4.

Mr. PACKWOOD. I will accept that.

Mr. President, could I add further cosponsors, Senators BENTSEN, GRAHAM, LIEBERMAN, HOLLINGS, and WOFFORD.

The PRESIDING OFFICER. Without objection, it is so ordered. They will be added as cosponsors.

Mr. PACKWOOD. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2934), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2931, AS MODIFIED

Mr. METZENBAUM. Mr. President, I send a modified amendment to the desk with respect to the underlying amendment on behalf of myself and Senator RUDMAN and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the modification of the amendment? If not, the amendment is so modified.

The amendment (No. 2931), as amended, as modified, is as follows:

On page 875, beginning with line 13, strike through page 885, line 16, and insert:

Subpart A—IRA Deduction

SEC. 2001. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$120,000", and

(2) by striking "$25,000" in clause (ii) and inserting "$80,000".

(b) INFLATION ADJUSTMENT.—Section 219(g)(3) is amended by adding at the end the following new subparagraph:

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1993, each dollar amount referred to in subparagraph (B) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) of subsection (1)(f)(3) shall be applied by substituting '1992' for '1989'."

(c) IRA ALLOWED FOR SPOUSES WHO ARE NOT ACTIVE PLAN PARTICIPANTS.—Section 219(g)(1) is amended by striking "or the individual's spouse".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2002. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Nondeductible Tax-Free IRAs

SEC. 2011. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) QUALIFIED TRANSFER.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the applicable dollar amount.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 2021(c), is amended by adding at the end thereof the following new paragraph:

"(8) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1993.

(2) QUALIFIED TRANSFERS IN 1993.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1993.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, this amendment is very simple and straightforward. It is safe to say we have modified this amendment in cooperation with the manager of the bill and comanager.

It limits the individual retirement account, or IRA as it is commonly known, provisions in this bill to individuals earning under $80,000 and couples earning under $120,000 a year.

I want to be frank. I do not believe we ought to be doing what we are doing with these IRA's in this bill at all. But I believe it is absolutely certain, and incontrovertible, that IRA's should not be reopened for the wealthiest taxpayers in this country.

I supported Senator CHAFEE's amendment. I thought he was right. I thought we should have taken out the entire provision. I thought it was a very costly undertaking. That amendment lost; the Senate decided in its wisdom not to accept that amendment.

This amendment now provides that the IRA's will be applicable only to those individuals earning under $80,000, or married couples earning under $120,000.

According to the Joint Committee on Taxation, limiting IRA's to middle-income taxpayers will reduce the cost of the IRA provisions by $1.5 billion in 1992–97 and is likely to save billions after 1997.

I know the chairman of the Finance Committee feels strongly about IRA's and the need to encourage Americans to save.

I share Senator BENTSEN's desire to encourage savings, and I am glad that we have been able to limit these provisions to the middle class. For many families IRA's are an important savings incentive that should continue to be supported.

But I am not sure we can afford it and, therefore, I have reservations about the underlying bill. But I believe that, with this modification it becomes acceptable.

I am concerned about the need to finance the IRA provisions, especially after the expiration of the 5-year budget period in 1997.

I strongly believe that to the extent that the Congress decides to create or expand a tax break for a group of taxpayers, it must be fully and progressively financed somewhere else.

The IRA provisions in this bill are estimated to lose almost $8 billion over 1992–97. Most of the revenue raisers in this bill are simply changes in the timing of tax payments and do not provide offsetting long term or progressive revenue sources.

I am especially troubled by the budget effects of these provisions after 1997.

I had asked the Joint Committee on Taxation for an estimate of the bill's long-term costs. They refused.

They were unwilling to provide an answer. And I am not challenging their decision, because they feel that is within the limits of their jurisdiction.

All that the chief of staff to the Joint Tax Committee, who is doing his job, and I do not challenge his position—all he would say is "we do anticipate that the provision will continue to lose revenue outside of the window."

Although the Joint Tax Committee refuses to estimate the long-term effects of the IRA provisions, other groups have. According to the Congressional Research Service and several other organizations, the IRA provisions will lose $11 billion a year after 1997 and $60 billion overall.

I strongly believe that because of the considerable long-term cost of these provisions, we have an obligation to pay for them with offsetting revenues.

All year long we hear about the deficit. We talk about it, we make speeches about it, we go on TV programs, we go on radio programs, we do newspaper interviews and we talk about doing something about the deficit. We run to the floor to pass a constitutional amendment to limit the whole question of balancing the budget.

But we also talk about how we cannot spend money on social programs, on programs having to do with people being fed and clothed, housed and educated. We do not have the money for that. But when it comes to dealing with it head on, on the floor of the U.S. Senate, we are not prepared to do so.

Every day we tell people that we cannot provide immunizations for all children because of the deficit;

That we cannot provide prenatal care to all pregnant women because of the deficit;

That we cannot provide textbooks for every child because of the deficit;

That we cannot provide job training to every unemployed or unskilled individual because of the deficit.

I could go on and on.

I have said privately, and I say it publicly to my friend who is the manager of this bill and the chairman of the Finance Committee, it is my understanding that by taking this out—after putting in the housing credit provision—there still will be $200 million available for other purposes. I urge my colleague that it is his choice, but let us use it for one of these needy programs. Let us use it for child care or something in the field of education, or for job training, his choice. I do not even come here and say what it should be, necessarily. But I believe if you let $200 million sit out there, with this kind of a Senate, somebody is going to come in with some special gimmick to take it. Let us use it for some worthwhile public purpose that all Americans would agree on.

But, somehow, out of thin air, when we want to provide an $8 billion tax break, 95 percent of which will go to the top 20 percent of taxpayers, the deficit is no longer an obstacle.

I can not justify restoring IRA's to all taxpayers when day after day we turn our backs on our neediest citizens.

For this reason, I do not think that the IRA provisions should be in this bill at all.

Especially not in a bill that supposedly is intended to provide urban aid to the cities.

I supported the amendment that the Senator from Rhode Island offered to strike these provisions.

Since the Senate failed to adopt that amendment, at the very least we should not be providing IRA's to the wealthiest taxpayers.

There is no reason that the top 4 percent of taxpayers should receive a special tax break.

As I stated earlier, our amendment is straightforward and simple.

It would limit IRA's to taxpayers earning under $120,000. It cuts the cost of this bill by $1.5 billion during the budget period and several billion thereafter.

It is a step in the right direction. I believe it should go forward and I am pleased to have been able to work out this amendment with the Senator from Texas.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio retain the floor?

Mr. METZENBAUM. Yes, for a moment. I ask unanimous consent that the Dole amendment 2934, as modified, be incorporated into the pending Metzenbaum-Rudman amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I do not want my friend from Ohio to talk me out of a compromise. We went through this debate at some length, and I assured him that the Joint Tax Committee stated that not only did we pay for this in that piece of legislation through the 5-year period, or the 6-year period, but that as far as they can estimate—and all of these estimating groups say that when you get that far up against budget—but it was their best judgment that we still had it paid for in the years thereafter and we did it by provisions in this piece of legislation that we had put it in permanently. That part of that was, in turn, a higher tax on those making over $100,000 a year. So that was in there.

But I congratulate the Senator in working together with us and arriving at that compromise. I am pleased to support it and accept it.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to add two more cosponsors to my second-degree amendment, Senators DOMENICI and DOLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, as the floor manager, the chairman of the committee, pointed out we debated this rather thoroughly yesterday and we had a vote on which those on my side did not do terribly well.

I would like to say this, Mr. President, just for the RECORD, and I suppose there is not going to be a vote on this, and I shall not ask for a vote, but I would like to be recorded against it because I think the limitations go way too high. It is up to $80,000 for a single individual, $120,000 per family.

But I would also like to say that the costs of this in the outyears are very, very steep. The best estimates that we could obtain yesterday were between $11 and $17 billion. This is solely for the back-loaded IRA, so-called. The chairman has pointed out that the best information he has obtained is that—those figures, by the way, were for the unlimited amount of the so-called back-loaded IRA; in other words, with no limitations. Now we have limitations. My question is, does the chairman have any idea what the cost—forget the offsets—what the costs of just this program alone; that is the new back-loaded IRA provisions would cost in the outyears?

Mr. BENTSEN. Mr. President, I am assured that in the outyears that the revenue provisions that we have in the legislation now will still give us a reasonable balance in the outyears. They cannot give you anything that is exact in the way of adjustment and none of these organizations can because you get too many variables that far out.

Mr. CHAFEE. Mr. President, I would just like to say this. Obviously, if it is going to be paid for, that is fine, but I think we all have to remember that it is being paid for because taxes are coming from somewhere to pay for it and that this is a tremendous break for upper-income people, call it upper-middle class, if you will. It is a group that I believe does not need anymore breaks in our society. So, Mr. President, I ask if it is a voice vote that I be recorded as opposed to, voting no, on this.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I will take 1 minute. There is going to be another amendment, not today, but I guess when we come back, because in the bill before us, the so-called Pep and Pease provisions is made permanent, a permanent tax increase to help pay for some of the IRA's.

My view is it is not necessary, it ought to be temporary. We had the budget agreement. We did not tell the American people being affected by the so-called Pep and Pease provisions that it was going to be permanent. It was only a temporary tax. Like anything else, once taxes start around here, they become permanent.

I would certainly recommend to President Bush that if we are not able to return the Pep and Pease provisions, one that phases out exemptions and others that deal with deductions, which affects a lot of people with large families, affects States and localities—you do not have to be rich; we are talking about middle-income Americans—then I would certainly recommend to the President, I do not see how he can sign a bill that makes these taxes permanent.

President Bush is being criticized now for the budget agreement for a temporary tax increase. Now we are being asked in effect to rub his nose in it by making that tax permanent. That amendment will be offered. The chairman does not want it discussed today or voted on today, but as soon as we return, we will be addressing some of the questions raised by the Senator from Rhode Island at that time, too.

Mr. ROTH. Mr. President, while I must say that given carte blanche I would have seen the Bentsen-Roth Super IRA pass in its original form, providing universal opportunities for families to save, I must say that I am pleased by the major improvements to the current IRA that will be made available with this compromise.

This agreement represents a threefold increase over previous limitations placed on individual retirement accounts. In other words, where once only families earning under $40,000 could benefit from IRA's, this change will allow families earning up to $120,000 to participate in the program. And this ceiling will be indexed for inflation. These are both positive developments.

While given my preferences I would have rather seen Bentsen-Roth IRA's made available to all Americans, I am encouraged that this compromise will increase the number of eligible taxpayers from its current 50 percent to what I believe to be around 90 percent. And I believe the flexibility that will still be allowed is very important for our families as they work toward self-reliance now and security in retirement. Even with this compromise the important conditions that are a part of Bentsen-Roth still stand. Penalty-free withdrawals from IRA accounts can be made to purchase first-time homes, to pay for medical bills, to finance education, and to cover lengthy periods of unemployment.

Each of these is important toward helping American families help themselves. They are important toward creating opportunities and allowing people to plan for the various economic needs they may face. Likewise, the fact that we are expanding the program's eligibility to cover about 90 percent of Americans is a major step toward our objective of increasing the amount of savings for capital investment—investment that our Nation seriously needs to realize its own bright economic future, to remain first among equals in the emerging global community.

There are setbacks to this compromise. Of course there are. I am concerned that placing a cap on who can and who cannot save will create inconsistency for families in their financial planning. Frankly, I am concerned about the lack of fairness that results from excluding those families that will not be able to participate. I'm concerned about the farmer who has a good year, who might earn $120,000 and then has one or two bad years. In his good year he will not be allowed to save; in his bad years he may not have enough to save. This same example could hold for men and women in many other professions—acting, real estate, athletics, small business, writing, and many, many more—professions where annual income is unstable and often unpredictable.

Likewise, I believe a plan that has caps will be more difficult for those who market IRA's. As well, such caps, and the inconsistency created by those caps, will always make any IRA appear less certain than it otherwise would be. And it is my opinion that America needs a stable, long-lasting program with strong congressional support—a program Americans can count on.

While this version if Bentsen-Roth is a step in the right direction, it leaves more to be done. I hope that when the moment is appropriate, we will complete our full objective.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as modified, as amended.

The amendment (No. 2931), as modified, as amended, was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. RUDMAN. Mr. President, I just wanted to express my appreciation to the chairman, Senator Bentsen, and the ranking member, Senator Packwood, and my colleague Senator Metzenbaum for delaying this action until this afternoon.

As many of my colleagues know, I traveled to New Hampshire early this morning to attend the funeral of Senator Thomas McIntyre, who served in this body with great distinction from 1962 to 1978. He was the first Democrat to be elected from New Hampshire. In many ways, he was the man responsible for building the Democratic Party in my State of New Hampshire. He was a personal friend.

I will offer a more substantial tribute to Senator McIntyre in September when we return. There is a great deal to say about the remarkable life of this friend of mine and a colleague of some of my colleagues now in this Chamber. I want to thank my colleagues for allowing me the time to get up there and back before taking up this amendment. I yield the floor.

Mr. BENTSEN. Mr. President, if I might comment, I congratulate the Senator on his comments concerning our former colleague, Tom McIntyre. He was a gentleman; he was a man of integrity. He made a major contribution to this body, and we all regret his passing.

Mr. RUDMAN. I thank the chairman for his remarks.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, earlier I discussed with the chairman and with the distinguished Senator from West Virginia [Mr. Rockefeller] about offering an amendment, so-called section 29 extender, at this time under a time agreement; we would have an hour's debate today and then the remainder would go over until September. As I understand, there is no objection to that.

Mr. BENTSEN. I say to the distinguished Republican leader that is agreed to by the manager of the bill on this side.

Mr. DOLE. And we have the consent agreement. As I understand, it has been agreed to by Senator Bradley and Senator Rockefeller.

AMENDMENT NO. 2939

(Purpose: To extend the section 29 credit for 8 months while reducing the period other provisions are extended to 15 months)

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. Dole], for himself, Mr. Rockefeller, Mr. Hatch, Mr. Baucus, Mr. Burns, Mr. Riegle, Mr. Garn, Mr. Conrad, Mr. Specter, Mr. Shelby, Mr. Wofford, Mr. Ford, Mr. Domenici, and Mr. Bingaman, proposes an amendment numbered 2939.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's Record under "Amendments Submitted.")

Mr. DOLE. Mr. President, this amendment, which is offered by myself and the Senator from West Virginia [Mr. Rockefeller] extends the existing section 29 tax credit for the production of nonconventional fuels. In the past, this extender has always been included with the extenders contained in the bill reported by the committee—so this is not some new, untested provision of law being proposed.

Congress has repeatedly approved section 29 tax credits because it was good economic policy, good energy policy, and good environmental policy. Those policy considerations are as valid today as they were each and every time section 29 was extended.

On June 30—just a few short weeks ago—on a vote of 93 to 3, the Senate gave overwhelming approval to H.R. 776, the Comprehensive Energy Policy Act of 1992. The underpinning of that legislation was to address the problem that we are far too reliant on imported energy. As I reminded my colleagues at that time, two-thirds of our trade deficit is due entirely to imported oil. Let me restate that, two-thirds of our trade deficit is not due to Hyundai automobiles, not due to Sony televisions, not due to some structural advantage the Europeans enjoy, it's because we import too much oil. We even went to war because the Congress has avoided this issue for far too long.

And, when we considered the energy bill, several of us discussed offering this amendment at that time. But, it was our judgment that this extender should be considered—as it always has in the past—with the other extender provisions. That is why the amendment is offered today and why it should be overwhelmingly approved when we return in September.

Section 29 provides a production credit for nonconventional fuels produced from three sources: First, oil produced from shale and tar sands; second, gas produced from geopressured brime, Devonian shale, tight formations, coal seams, or biomass; and third, liquid, gaseous, or solid synthetic fuels, including such fuels when used as feedstock. The bottom line is that these fuels are domestically produced, they back out foreign oil and they would not be produced but for section 29. If the energy bill made any sense at all—and it seemed to with a 93-to-3 vote—then this amendment should be approved as continuing one of the only positive programs we have had on the books to promote domestic energy production.

Again, during the debate on the energy bill, I spoke about the rig count, the EKG test on the health of the domestic energy industry. We set six all-time-record low levels since the beginning of this year. The patient is in intensive care and the vital signs are weak. On any given day between 20 and 25 percent of the few rigs operating in the oil patch are searching for section 29 fuel. Pulling the plug on section 29 would be like pulling the ventilator on a patient in intensive care.

Mr. President, the pending amendment does change existing law in two regards—both changes place caps on the amount of credit any producer can receive from any source. For all but tight formations and synthetic fuels, the credit is capped at 42 million cubic feet per year. For synthetic fuels and gas from tight formations, the full existing credit applies to the first 42,000 cubic feet per day. For any gas up to 550 million cubic feet, the credit is reduced by 25 percent. No credit is available for production in excess of those levels. This means we have proposed aiding only those projects which, without the credit, would be abandoned. The proposal, then, is similar to past proposals to assist stripper oil wells.

In summary, let me just say once again that this provision is good policy—it is about the only bright light in the oil patch, it is reducing our dependence on foreign oil. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the Presiding Officer. I particularly thank the Republican leader for his superb work on this. The agreement does not make it possible for us to vote on this day, Mr. President, but it does set a construct so we could do it in September when we return.

I am very grateful to Senator DOLE, to Sheila Burke, to the whip, to all the staff who have been so helpful in making this work; to the Finance Committee staff; and to Senator BYRD, who I am very proud to say is a cosponsor; and Senator HATCH, who was here just a moment ago; and to various others. It is a very good amendment. It does belong in the tax bill pending before the body.

I want to make it very, very clear, as the Republican leader has: Unless we extend the section 29 tax credit arrangement American jobs are in fact in peril. If the credit expires, tens of thousands of American workers will lose their jobs. There is no debate about that. It can be mathematically proven, and has been. It will inflict more pain upon more families and more communities.

We often speak about how the coal country, the steel country, and automobile country would be devastated by the loss of jobs. The devastation is just as great in America and proportionally in the oil and gas industry, although people do not often think of it that way.

A vital part of our Nation's oil and gas industry is linked in fact precisely and directly to this credit. With this amendment we are proposing to include the section 29 tax credit, and the larger package of so-called tax extenders in the legislation before us. In fact, RTS, the extension section 29 is still running, still in effect, so to speak.

Our goal is to preserve jobs and our goal is to create jobs and, in the meantime, to strengthen our energy and environmental national policy.

Section 29 provides a very key incentive to produce unconventional fuels, which provide a much-needed addition to the ordinary domestic energy supplies as we know them.

As we speak American troops are involved in maneuvers once again in the Persian Gulf. There is no better argument than this fact for redoubling our efforts to expand and to strengthen domestic energy exploration. Natural gas is one of the most important of our national energy resources and drilling of a portion of that gas depends wholly on section 29 credits.

I have spoken here many times about our country's need for achieving energy independence. Usually I speak with respect to coal. In this case it is on behalf of natural gas. Unfortunately, we have a long way to go toward a national energy policy, and independence.

This particular section 29 credit is one of the tools that we can and should deploy to fulfill this incredibly important objective.

Nationally, drilling has dropped by more than 75 percent in the last 10 years—75 percent—and without this incentive to produce unconventional fuels, it will drop another 25 percent from where it is today. That is dangerous in terms of jobs, and our economy, and obviously it is not good for our energy security.

Section 29 helps small independent producers extract fuel from places, Mr. President, where it would otherwise be very difficult and uneconomical for them to do so. I speak with such conviction about this due to the circumstances in my own State in West Virginia, alone; 80 to 90 percent of the drilling that we do would stop and would stop entirely and immediately if section 29 is not extended. It has been extended regularly over the years, and now all of a sudden it has been cut out, and the threat is that it might not be extended.

Appalachian producers are not, however, alone in this predicament. If section 2 is not extended, another 100,000 oil and gas jobs throughout this country would be lost. I believe, Mr. President, that would be about a third of the remaining jobs in the business.

The environmental benefit of section 29 is another reason to extend section 29. They make the case for investing in this credit, these environmental benefits. Without the credit, methane, which is emitted from coal mines and landfills, can escape into the atmosphere. The methane simply trickles up and disappears. And it is an ozone depleter. With the credit, that methane can be trapped and in fact it can be used for fuel.

The amendment also extends the in-service date for clean coal technology and facilities creating useful energy from such sources as biomass. That includes gas produced from landfill wastes. That ought to be a subject of great interest to the Senate.

We had a very lengthy debate over the municipal waste management bill. We all know that there are enormous landfills of waste across this country, which are now spilling over. Everyone knows we have that problem. What they do not know is that we can create fuel from those land wastes. This section 29 credit helps to channel this ever-growing source of pollution from coal mines and land waste sites to constructive purposes. Without the credit, Mr. President, more landfill-generated carbon dioxide and methane will cause pollution, will deplete ozone, and will foul the air that we all breathe.

In the past, concerns have been expressed by some about low prices for natural gas. That is an argument which has been used against section 29, that it will lower the price of natural gas.

Today, however, most people understand that section 29 gas accounts for less than 10 percent of domestic gas production, and that the real reason prices for gas have come down is because of improvements in the pipeline system, Canadian imports, warmer winters, and, quite simply, the recession.

Nevertheless, this amendment goes the extra mile to address the concerns that have been raised by people who worry about these things. We have modified the credit and we have done so in the following ways. We capped the credit, and we limited the benefit received by the largest wells, while targeting the incentive for the smaller producers whose very survival depends on section 29 as a credit.

Moreover, as we are already seeing in the marketplace, natural forces of supply and demand will assure reasonable prices. Uses, Mr. President, for natural gas are everywhere, not just in our present day, but in our future. With the requirements of the Clean Air Act, and recent provisions in the energy bill, in the years to come, there will be an even greater demand for natural gas to heat our homes, to cook our food, to dry our clothes, and happily to power our automobiles. Section 29 dependent drilling and facilities are very key elements in assuring that these needs are met.

This proposal, as the Republican leader has suggested, has bipartisan support. It recommends a compromise version of the section 29 credit. It is substantially cheaper than the credit which is now on the books. As opposed to previous years, the credit would be limited by instituting a cap that restricts the amount of gas produced than is actually eligible for the credit.

This proposal, therefore, costs less than a straight extension of the existing credit while addressing important national energy security needs and at the same time helping address important environmental concerns.

I have to stress, Mr. President, there is no question that this is not a question of giving a tax break to an unproductive American industry, nor an enormous industry. The credits are only earned for successful drilling effort.

I urge my colleagues to support and vote for this amendment, continuing section 29. It will create jobs, and strengthen our energy and environmental policy. We have offered a logical constructive way to finance the extension, and we are more than confident that the investment we are proposing will be paid back in the form of jobs and economic security, and international energy security.

SECTION 29 AMENDMENT

Mr. HATCH. Mr. President, I rise today to support the extension of the section 29 tax credit. This credit is extremely important to the domestic oil and gas industry of this country. Mr. President, during the recent debate on the energy bill, we discussed U.S. dependence on foreign oil imports and the harmful effects many fuels have on the environment. Mr. President, this credit addresses both of these issues. At a time when we are seeing domestic oil reserves and production decline, this credit encourages the domestic production of nonconventional fuels, increasing supply. This is critical if the United States is to kick its imported fuel habit.

This credit is critical for the beleaguered oil and gas industry in America which has seen the loss of over 350,000 domestic jobs since 1981. This is more than the domestic auto industry. In addition, the rig count for U.S. oil and gas production is at an all-time low with only 650 rigs currently active. Mr. President, 25 percent of these rigs are working because of the section 29 tax credit and nearly 60 percent of new domestic wells rely on the credit. If we allow this credit to expire, this new drilling will not occur and the rig count will continue to drop.

Mr. President, we cannot afford to let this credit lapse. Failure to extend this credit could result in the loss of an estimated 100,000 direct oil and gas jobs as well as the loss of $6 billion annual investment in nonconventional wells. As a result, State and Federal tax receipts would substantially go down. The domestic supply of oil and gas would decline and U.S. reliance on foreign oil increase. As the regulations contained in the Clean Air Act go into effect, demand for nonconventional fuels which burn cleaner than conventional ones, will go up and the U.S. industry will not have the infrastructure necessary to quickly respond and meet this demand.

This credit is a success story; it only applies to production coming from new domestic wells. The credit is only used if new wells are producing gas, increasing the domestic supply of gas and oil. The credit is available to anyone becoming involved in nonconventional fuel production. In addition, energy-consuming States benefit greatly from increased domestic supply.

Mr. President, the section 29 tax credit has proven to be effective and efficient. It has stimulated new drilling activity, preserved domestic jobs, and lessened the flow of oil and gas capital overseas. The credit stimulates the development of new technology. It encourages continued production of environmentally benign fuel. Mr. President, we need to extend this credit. It is important to U.S. producers, and most importantly, consumers. I urge my colleagues to support this amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROCKEFELLER. Mr. President, I would like to offer a unanimous-consent agreement, and I shall do so now.

SECTION 29 AGREEMENT

I ask unanimous consent that Senator DOLE be recognized to offer an amendment to section 29, and there be 1 hour on the amendment today, for debate only, equally divided between Senators DOLE and BRADLEY, and that no second-degree amendments be in order thereto today.

I further ask unanimous consent that only relevant amendments be in order to the amendment in September, and that when the Senate resumes H.R. 11 in September the amendment remain in order to H.R. 11 but the amendment not become the pending question unless agreed to by the managers of the bill, that there be 2 hours of debate remaining, equally divided between Senators DOLE and BRADLEY, of that time 10 minutes be under the control of Senator NICKLES, and immediately following the conclusion, or yielding back of time, or the disposition of amendments thereto, the Senate proceed to vote on or in relation to the amendment, and that no points of order be waived.

I further ask unanimous consent that there be 1 hour on any relevant second-degree amendments, equally divided in the usual form and that third reading of H.R. 11 not be in order prior to the disposition of the Dole-Rockefeller amendment, as amended, if amended.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Reserving my right to object, Mr. President, and I will not object.

I thank the distinguished Senator from West Virginia for going the extra mile to work out this agreement. I have consulted with Senator NICKLES, and he is in agreement with what the Senator has proposed. Since he and I will be the primary people on the other side of this argument, I find this to be fair.

I appreciate the Senator's courtesy.

Mr. ROCKEFELLER. I thank the Senator from New Jersey for his kind words.

I ask unanimous consent for the request just made.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, is it in order now that I might, as in morning business, introduce some legislation that is unassociated with the legislation before us?

The PRESIDING OFFICER. Without objection, the Senator may proceed as in morning business.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who yields time?

PRIVATE HEALTH INSURANCE

Mr. CHAFEE. Mr. President, I notice that the Senator from West Virginia is on the floor. Earlier today, the Senator from West Virginia addressed the problems associated with private health insurance. He expressed concern about the abusive practices in the insurance industry, and he suggested the insurance companies are a part of the problem.

I would like to say I agree with my colleague from West Virginia.

I believe that the Senator from West Virginia made a perfect case for moving forward this year—this year, 1992—with small-group-market insurance reform.

I might say, Mr. President, if the Democrats in the Senate, including my colleague from West Virginia, would work with the Republicans to enact such legislation this year, workers would not have to worry about losing their health insurance when changing jobs. They would not have to worry about having their insurance canceled when most needed, which is when they get sick. They would not have to worry about the large increases in health insurance premiums from one year to the next. We can stop these practices this year if the Democrat Senators will join with us and do something this year.

Mr. President, we could enact this and other health care legislation if the Democrats would cease making statements, and work to bring a bill to the floor.

Mr. President, I might say that, as I have noted before, there are some 11 points of commonality to the health care legislation that has been introduced in this body. I would just like to tick those off. I will say this, Mr. President: The 11 points are not exactly the same. But it is possible to work out compromises this year, and enact some health care reform this year in the U.S. Senate.

These points of commonality are as follows: Reform insurance market; improve small-employer purchasing power; expand community-based and rural heath services—those are the so-called community health centers. Encourage coordinated care—that is so-called managed care. Eliminate costly State-mandated benefits; provide fair tax treatment of health insurance premiums—in other words, the individual self-insured ought to be able to deduct his premiums. Allow State experimentation; reform medical liability; reduce administrative costs and redtape; encourage primary and preventive care; expand research to promote effective health care.

Mr. President, I see that the managers of the bill are on the floor, so I will let them proceed with the basic underlying legislation. I did think it was important to note that the concerns of the Senator from West Virginia are valid, and that the Republicans stand ready to enact legislation this year in dealing with health care reform.

I thank the Chair.

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

TARGETED JOBS TAX CREDIT

Mr. HARKIN. Mr. President, I would like to ask the distinguished chairman of the Committee on Finance whether he is in agreement with me regarding Congress' intent with respect to extension of the targeted jobs tax credit [TJTC].

As the chairman is aware, the TJTC Program is made up of two elements, a tax credit, and an appropriation of Federal funds which are expended by the U.S. Department of Labor [DOL] to assist the State jobs services to administer the program. The tax credit expired after June 30, 1992, but would be renewed effective on the date of its expiration under the provisions of the tax bill both as adopted by the House of Representatives, and as we are likely to agree to in the Senate. Congress last year approved appropriations to administer the program through to September 30, 1992.

My question relates to the intent of Congress and the Committee on Finance with regard to extension of the TJTC. I am concerned about the proper expenditure of those appropriated TJTC moneys, an issue which is of special concern given the likelihood that the House and Senate will not meet in conference over the tax bill until sometime in September.

It is my understanding as the chairman of the Appropriations Subcommittee which approves funding for the DOL that TJTC funds which have been appropriated through to the end of the current fiscal year should continue to be used for the purpose of processing TJTC applications and requests for certification, and that the State jobs services should remain open for that purpose, regardless of whether Congress takes final action on the tax bill this month or sometime in September. Is my characterization of the intent of the committee regarding extending the TJTC correct?

Mr. BENTSEN. The Senator from Iowa is correct. As the Senator stated, the House has included in its version of H.R. 11 a provision extending the targeted jobs tax credit, as has the Committee on Finance. Furthermore, it is my intention that the final version of this legislation will extend the TJTC retroactively to June 30, 1992.

Mr. HARKIN. With that assurance, I believe that the fact that the TJTC has expired, and that final action on its renewal may not take place until sometime in September should not affect the State jobs services' obligation to use appropriated TJTC funds exclusively to process applications and requests for certification and for other TJTC administrative purposes. In this respect, I call upon the Secretary of Labor to instruct the State jobs services accordingly, and to take all necessary measures to ensure that they remain open for those purposes.

FIRST-TIME HOME BUYER TAX CREDIT

Mr. HOLLINGS. Mr. President, I am pleased to be a cosponsor of Senator PACKWOOD'S amendment to reinclude the first-time home buyer tax credit. On the whole, our economy has showed virtually no signs of improvement and an economic stimulus of this type is long overdue.

The housing segment of the economy has long been viewed as one of the leading indicators of economic strength. Recently, however, this lagging sector has played a major role in the prolonged recession. This credit will provide the stimulus needed to inspire consumer confidence, create jobs, and get the economy moving again. Mr. President, the proposed $2,500 tax credit would stimulate the creation of 240,000 jobs, the production of 125,000 additional new housing starts, and 400,000 more existing home sales. This tax credit will make the American dream of home ownership possible for an additional 340,000 first-time home buyers.

Mr. President, we are not any better off economically than we were a year and a half ago. The housing industry is suffering a sustained recession, despite inconsistent signs of recovery. Not only would a first-time home buyer tax credit give a boost to the housing industry, it would create a ripple effect that will inject $20 billion throughout the economy. We need to encourage investment in order to stimulate this economy and get our people back to work. This tax credit, Mr. President, does just that.

SALE OF ASSETS

Mr. DOLE. Mr. President, I would like to commend the chairman of the Finance Committee for his amendment relating to the sale of assets by farmer cooperatives. Farmer cooperatives in my home State of Kansas and throughout the United States are faced with needless complexity and confusion regarding the determination of what is patronage sourced income. This legislation seeks clarification.

Farmer cooperatives are a critical and integral part of the Kansas agricultural economy. There are over 200 farmer cooperatives operating in virtually every one of the State's 105 counties. A substantial number of the 70,000 Kansas farmers are owner-members of these local cooperative associations. But this is a national issue—the National Council of Farmer Cooperatives has made action in this area its top tax legislative priority.

Farmer cooperatives are governed by special tax rules under subchapter T of the Internal Revenue Code. Those rules require a determination as to whether income or loss items derive from patronage as opposed to non-patronage sources. The distinction is crucial, since patronage sourced items are not subject to tax at the cooperatives' level if distributed to the cooperatives' member-patrons. Nonpatronage income generally is taxed to the cooperative(s) whether or not distributed to patrons.

Unfortunately, the cooperatives face mixed signals as they address the issue of what is patronage sourced and what isn't. This has been a particular problem with respect to sales of assets held by cooperatives for use in connection with day-to-day patronage operations.

Treasury regulations and key IRS rulings have created confusion and uncertainty with regard to the proper treatment for the gain from the sale of property used to facilitate business done with or for patrons.

The courts have repeatedly endorsed the so-called facilitative test as the controlling legal standard for determining whether an income or loss item is patronage sourced.

The proposed amendment codifies the facilitative test and clarifies that such test applies regardless of the particular type or character of the asset involved. The amendment recognizes that patronage-sourced income includes the gains and losses from assets used to facilitate the conduct of business done by cooperatives with or for patrons. The provision clarifies that gain or loss from the disposition by a farmer cooperative of any asset may be treated as patronage sourced if the farmer cooperative is able to demonstrate, as a matter of fact, that the asset was used to facilitate business with or for its members.

Mr. President, this legislation brings a needed degree of certainty to an area of the tax law where uncertainty exists now. Farmer cooperatives are not asking for a new tax break—rather they want clarification where confusion now exists. Further, no inference should be drawn from this legislation that the Internal Revenue Service's interpretation of present law on this issue is correct.

Mr. DASCHLE. Mr. President, the bill before us today represents an honest attempt to begin to address our sagging economy, create jobs, and restore a sense of hope to residents of economically depressed areas who feel excluded from mainstream America.

I commend the chairman of the Finance Committee for his leadership in bringing this legislation to the floor. He kept the committee focused on the task of crafting a national bill while dealing with individual members' disparate interests and concerns. H.R. 11 is a testament to the chairman's vision and legislative skill.

A highlight of this bill is the enterprise zone provision. This innovative attempt to revitalize economically depressed areas of the country has been the focus of considerable public debate.

Part of the challenge of evaluating the enterprise zone idea has been to separate rhetoric from reality. As a long-time supporter of the concept, I have always believed that Federal enterprise zones merit a trial, but have remained aware that they are not cost-free. H.R. 11 establishes a Federal enterprise zone program that will give the concept a fair and timely test.

This is true of both the bill as it was reported out of the Finance Committee and as it would be amended by the committee substitute. The latter represents a reasonable compromise with those who have called for a more expanded enterprise zone proposal. My only concern about the substitute was that it would have been paid for by the elimination of the first-time home buyer tax credit, which I support. It now appears that the issue has been resolved in a manner consistent with budget guidelines and that the credit will remain in the bill.

Several points about the enterprise zone program in this legislation merit brief mention.

First, the bill narrowly defines the benefits offered in enterprise zones to avoid the kinds of abuses we have seen in the past in some State programs. It contains limitations and monitoring measures to prevent enterprise zone benefits from being used improperly or by undeserving individuals or companies.

Second, the bill does not ignore rural America or Indian reservations. The level of poverty and the depressed state of the economy on many Indian reservations and in many rural areas rivals that of the Nation's worst urban poverty zones.

In my State, for example, unemployment on the Pine Ridge and Rosebud Reservations hovers around 87 percent, and Shannon and Todd Counties, where the majority of reservation residents live, are two of the poorest counties in the United States. While Indian lands and rural sections of the country may not be as populated as urban areas, population alone would be an unfair basis for excluding them from enterprise zone legislation. This bill assigns eight zones to rural areas and two zones to Indian reservations.

Third, the bill avoids the seductive trap of looking at enterprise zones as a panacea for our economic woes. Unlike the administration, we have acknowledged the mixed results from enterprise zone programs that have been undertaken in the past on the State level. In light of this history, it would be imprudent to use $5.5 billion of taxpayers' money for an enterprise zone program that could not be adequately monitored and tested at a Federal level. The committee bill reflects realistic and well-defined expectations for what we hope to accomplish from enterprise zones, including a way to measure our progress.

As a final note about the enterprise zone provisions, I am pleased that the chairman has worked with me and my colleague from Iowa, Senator GRASSLEY, in addressing our concerns about the impact of the enterprise zone incentives on family farms. As originally drafted, H.R. 11 would have made available additional tax incentives to corporate farms at the direct expense of family farmers. This clearly would have been a subversion of the spirit of the enterprise zone principle, and my understanding is that the committee substitute would prevent corporate farms from taking advantage of enterprise zone tax incentives, except those with total assets of less than $500,000. This approach is supported by the major farm groups, and I thank the chairman for working with us on this issue.

As I mentioned earlier, the bill before us goes far beyond the enterprise zones provision, a fact that could get lost in the emotional debate over the structure and number of the zones. It also includes additional tax incentives designed to stimulate the economy.

The scope of H.R. 11 bears emphasis. The bill includes most of the President's economic growth proposals.

It extends an array of tax provisions that expired at the end of June, most of which are widely supported in Congress. Among those provisions are the exclusion for employer-provided education assistance, the mortgage revenue bond program for first-time home buyers, the low-income housing tax credit, and the targeted jobs tax credit.

It provides aggressive incentives to boost personal savings making it easier to save for the purchase of a first home, higher education, extraordinary medical expenses, and, of course, retirement.

It repeals most of the luxury excise taxes, which have had a detrimental impact on employment in businesses that manufacture those products.

It builds upon previously passed legislation to protect taxpayers in their dealings with the Internal Revenue Service.

Finally, the bill acknowledges that in far too many cases our current welfare system is failing the people it is intended to help and establishes a Community Works Progress Demonstration Program that will provide the means for moving those in need of public assistance back into the national work force. This program will help address the needs of our communities by providing a source of talent, skill and labor to work on meaningful community projects, and will give people an opportunity to work themselves out of situations that have caused them to depend on public assistance.

H.R. 11 is not perfect. No bill is. But it is a responsible approach to a number of our deepest economic concerns, and it builds a sound foundation for future action.

Mr. President, I support this legislation, and I urge my colleagues to support it. The American people are looking to their elected officials for a ray of hope that at last something will be done to address this country's economic despair. I hope we will not disappoint them.

TAXATION OF STUDENT LOAN DEBT DISCHARGE

Mr. BUMPERS. Mr. President, I want to compliment the Finance Committee and my friend Senator DANFORTH for inserting a provision in this bill to correct an inequity in the taxation of students whose education loans are cancelled.

The provision updates section 108(f) of the Internal Revenue Code to take into account new programs for the cancellation of student loan debts which programs did not exist when this section was enacted.

The House Ways and Means Committee adopted this provision as section 110 of H.R. 2735. This action came on the initiative of Congressman BEN CARDIN, a member of the House Ways and Means Committee. He and his able staff person, Sean Cavanaugh, are to be commended for this action.

In the Senate Senator DANFORTH and his able staff person, Mark Weinberger, get the credit for inclusion of this provision in the Finance Committee.

The provision adopted is based on bills that Senator DANFORTH, Congressman CARDIN and I introduced on April 17, 1991. The Senate bill is S. 837 and the House bill is H.R. 1956. In the Senate we have several distinguished cosponsors, Senator BOREN and Senator GRASSLEY with the Finance Committee, and Senator KERRY.

I explained the purpose of the provision in my statement on April 17, 1991, so I will not repeat it here, but everything that I said then applies now.

Let me just say that I am interested in this issue because I have been the principal advocate in the Congress for amending the Federal student aid programs to provide for loan cancellation for students who perform full-time, low-paid community service upon graduation. Because my proposals concern cancellation of a Federal Government loan by the Federal Government itself, it falls within the current language of section 108(f). I am delighted to say that the Higher Education Act Amendments of 1992 include a whole new loan cancellation provision for Stafford loans, which I proposed. But, my point here is this work on my other bill brought this issue covered in this bill to my attention.

The provisions here covers one type of loan cancellation programs.

It extends the current discharge of indebtedness provision to include discharge of loan debt by institutions of higher education or by other tax-exempt organizations. This provision covers programs where it is the university or college's own loans that are being cancelled. These loans might be extended to help the student attend college or they might be extended simply to help the student to repay another loan. It makes no difference if the loan is for tuition or for loan cancellation per se. The university can use this loan cancellation incentive directly or indirectly.

As with our original bill this provision provides that the loan cancellation cannot be funded by the employer of the student. We need this limitation to avoid any possibility of an employer substituting loan cancellation, which this bill ensures does not generate taxable income, for wages and salary, which is fully taxable.

The employment of the student must be in an occupation with unmet needs or in areas with unmet needs. This would, for example, cover public interest or poverty law, legal services, community service, the Peace Corps or VISTA, comparable full-time service with a tax-exempt community service organization and other similar service.

The determination of whether the loan cancellation qualifies under this standard would be that of the university itself. It certainly will not spend its limited funds to cancel loans for occupations which have no difficulty attracting applicants and employees. Unless there are some extraordinary circumstances involved, I cannot imagine the Service challenging a loan cancellation program on these grounds.

The provision is prospective in application. It applies only to loan cancellations that occur after the date of enactment of the legislation. It confers no retroactive windfall on any student for a loan cancellation in the past. But, it does apply to students who have received loans from the university in the past as long as the cancellation does not take place until after the effective date of the bill.

I thank Senator DANFORTH and Congressman CARDIN and their staff and the members of the Finance Committee for their help on this worthwhile provision.

CHILD SUPPORT TAX EQUITY

Mr. BUMPERS. Mr. President, I am delighted that the Senate Finance Committee has accepted the Child Support Tax Equity Act as an amendment to H.R. 11. This proposal is one that Senator DURENBERGER and I have made and it was Senator DURENBERGER who offered the provision as an amendment during the markup of the bill.

This provision is called the Child Support Tax Equity Act because it gives like-situated taxpayers and citizens the same rights and the same access to government tax benefits.

OUTLINE OF LEGISLATION

The legislation permits taxpayers, principally mothers, to take a nonbusiness bad debt deduction for the amount of child support that is due to them but which they are unable to collect. This amendment is consistent with the tax policy for nonbusiness bad debt deductions.

In terms of the bad debt deduction for unpaid child support payments, this legislation simply puts mothers who are unable to collect child support on a par with businesses and other taxpayers who can't collect their debts. Mothers and businessmen both have debts that they cannot collect. They both suffer an economic loss. And they both deserve a bad debt deduction. This is a matter of simple equity.

The legislation then includes the amount of child support that is not paid as taxable income to the taxpayers, principally fathers, who fail to pay the child support that they owe. This amendment is also consistent with the tax policy for discharge of indebtedness.

When a taxpayer is discharged from a debt that taxpayer is deemed to have received income in the amount of the debt that was discharged. If we did not have this provision in the Tax Code, everyone would be giving gifts to everyone else and it would all be tax exempt. The discharge of indebtedness provision ensures that taxpayers who receive an economic gain in the form of a discharged debt are treated the same as taxpayers who receive an economic gain in the form of a salary or wage.

In terms of the discharge of indebtedness provision, the legislation simply puts the fathers who aren't paying child support on a par with businesses and other taxpayers who don't repay their debts. Fathers and other debtors both have obligations that they do not honor. They both reap an economic windfall when they do not repay their debts. And they both deserve to recognize taxable income on the amount of the debt that they do not pay. This is also a matter of simple equity.

This pairing of the bad debt deduction with the discharge of indebtedness provision is perfectly appropriate. When the mother takes the bad debt deduction for a debt she cannot collect, it follows that the father has been discharged from his child support indebtedness for the debt he is not paying.

The bad debt deduction for the mother and the discharge of indebtedness for the father are logical corollaries, book ends of the same transaction, and perfectly just. When a debt is written off, that debt is, in effect, discharged. If one taxpayer realizes a loss, she can't collect the debt that is due to her and her children, and is permitted a deduction for that loss, the other taxpayer realizes a gain, he no longer has to pay the debt, and he is taxed on the value of that gain.

This is symmetrical and it is equitable in terms of tax policy and it is clearly just in terms of social policy. We have every reason to assist mothers who cannot collect child support and we have every reason to penalize fathers who refuse to pay the support they owe to their children.

REVENUE IMPLICATIONS

In the current budget climate the key issue for any new proposal is its cost. On this issue this legislation stands on very strong grounds.

The nonbusiness bad debt deduction for unpaid child support will lose revenue and this revenue loss must be financed under the pay-as-you-go requirements of last year's deficit agreement. Fortunately, according to the Joint Committee on Taxation the discharge of indebtedness provisions will raise more than enough revenue to pay for the new bad debt deduction.

In fact, the joint Committee finds that the discharge of indebtedness provision raises $30 million more in revenue over the first 6 years than the bad debt deduction provision loses. This finding is based on the fact that the fathers who fail to pay child support tend to be in a higher tax bracket than the mothers who are not paid child support. So, when the fathers pay tax on the discharge of their child support debts it raises more revenue than when the mother takes a bad debt deduction for the amount of the child support payments that they cannot collect.

This revenue estimate also takes into account the likelihood that the IRS will not be able to collect taxes for the discharge of indebtedness in each case where a taxpayer has claimed a bad debt deduction. The fact that the fathers are in higher tax brackets more than offsets this factor.

INCENTIVES FOR MOTHERS AND FATHERS

All tax laws provide incentives to taxpayers. In drafting this bill I have been very concerned about any possible incentives for mothers not to attempt to collect the child support payments to which they are entitled or for fathers not to pay the amounts of child support that they owe.

I am convinced that neither of these incentives is created by this legislation and other incentives are created that will increase the collection efforts and payments that are made. In short, this bill will help the situation.

A mother only qualifies for the deduction if she has first obtained a divorce or separation instrument that obligates the father to make child support payments. As I have said a divorce or separation instrument is a decree of divorce or separate maintenance or a written instrument incident to such a decree or a written separation agreement. This requirement for the deduction gives mothers an incentive to formalize the child support payment obligation. Mothers who obtain these legal documents are much more likely to be able to collect child support payments than those who don't. So, in creating an incentive for mothers to formalize the child support payment obligation this legislation will help them to collect the payments to which they are due.

Mothers who take the deduction in most cases will be in the 15 percent tax bracket. The deduction is worth only 15 percent of the face value of the child support that is owed. She can only collect the other 85 percent of the claim by continuing her efforts to enforce the payment obligation. The legislation permits her to do this and, if she is later successful in securing payment, she will simply declare that payment as income in the year in which it is received.

When a father has been given notice by the mother or the IRS, he is likely to be shocked. He will be facing a situation where he must either pay the mother or pay the IRS. He would only have to pay the IRS the amount of tax that is due and this amount will vary with the tax bracket in which he finds himself. But, paying 15 percent, 28 percent or more of the amount that is due may well encourage him to make the payments to the mother. Given a choice of paying the IRS or paying the child support for his children, many fathers would prefer the latter.

When the father is found by the IRS, the IRS will not be giving the mother information on his location. This would violate his confidentiality as a taxpayer. But, he will have been found and that may have a major psychological impact on his inclination to pay. He will no longer be immune to the mother's attempts to collect the child support. He will be paying a penalty for his failure to make the payments that are due.

CONCLUSION

I look forward to working with the chairman and members of the Finance Committee on this bill. I am delighted to have the support of a broad-base of respected children and child support enforcement organizations.

I ask unanimous consent that an outline of the bill be printed at the conclusion of my statement. A detailed technical description of the terms of the provision is available from my office upon request.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTLINE: CHILD SUPPORT TAX INCENTIVES

Bill uses tax law regarding bad debt deductions and discharge of indebtedness to help parents who cannot collect child support and to prevent windfall for parents who do not pay child support.

BAD DEBT DEDUCTION

Clarifies that taxpayers, principally mothers, who are not paid child support owed to them to take a bad debt deduction for the amount of the child support that is not paid.

Deduction is allowed for taxpayers who do not itemize their deductions. Above the line deduction.

Bad debt deduction is allowable up to $5,000 in unpaid child support per child per year. Threshold is indexed for inflation.

Deduction is allowable only if taxpayer's adjusted gross income does not exceed $50,000 per year. Threshold is indexed.

Deduction is allowable for any periodic payment of a fixed amount that is required to be paid.

Requirement for payment to be made must be found in a legally enforceable agreement, decree or order. Encourages taxpayer to obtain enforceable child support right.

No deduction is allowed for first year in which payments are not made. Encourages taxpayers who owe or are owed child support to work out initial problems with payments.

In subsequent years, the deduction is allowable only if at least $500 in child support payments have not been paid. Once threshold is exceeded, full amount of non-payment is deductible.

The taxpayer claiming the deduction must identify the children with respect to whom child support payments are required to be made and, to the extent possible, the taxpayer who is required to make these payments. Same standard as in welfare reform law.

The deduction is allowed for child support payments to any child for whom an exemption for a dependent is allowable.

If the child support payments for which a deduction has been taken subsequently are paid the mother must include payments as taxable income in the year in which they are paid.

Mother is not barred from seeking to collect the child support that is owed by father. Value of deduction is only 15 percent or 28 percent of value of payments, so mother has incentive to seek collection of full amount rather than simply taking deduction.

DISCHARGE OF INDEBTEDNESS

Requires taxpayers, principally fathers, to pay tax on the amount of any child support payments they do not make as a discharge of such indebtedness. Prevents windfall for fathers who fail to pay child support.

When mother claims bad debt deduction, father is notified by the mother or the I.R.S. of the amount of the unpaid child support payments and that he must include this amount in his gross income on his next tax return.

If the father subsequently pays the child support that is due, he may claim a deduction for such payments in the year in which they are paid.

Minimal I.R.S. burden involved. Taxpayer claiming deduction must have legally enforceable order and record of non-payment. Taxpayer who allegedly has failed to make payments may dispute obligation to pay or provide records of payments. A simple and objective process. Current penalties for fraudulent tax claims prevents abuse.

BUDGET IMPACT OF LEGISLATION

Joint Tax Committee finds that tax provisions of the bill raise $30 million in revenue over a five year period. This is true because fathers, who pay tax, are in higher tax brackets than mothers, who claim deduction.

POLICY ISSUES WITH LEGISLATION

A mother who cannot collect a child support debt should be treated the same for tax purposes as a businessman who cannot collect a debt. This is simple equity.

A father who refuses to pay child support payment debt should be treated the same for tax purposes as a borrower who is discharged from a debt by the lender. This is simple equity.

Legislation gives mothers incentive to obtain legal order requiring payments to be made and gives fathers incentive to make payment to mother rather than to I.R.S.

Legislation helps children of families where no child support payments are made. It penalizes fathers who fail to make required child support payments.

Discharge of indebtedness for fathers pays for bad debt deduction for mothers.

Mr. BYRD. As I am certain the chairman of the Finance Committee is aware, the House-passed measure, H.R. 11, contains fiscal year 1993 appropriations totaling $500 million in additional assistance for enterprise zones. I am pleased to see that the Finance Committee amendment to H.R. 11 recommends deletion of these appropriations. Am I correct?

Mr. BENTSEN. The chairman of the Appropriations Committee is correct. The Finance Committee voted to strike the appropriations from H.R. 11, as well as the authorizations for these appropriations, which were also included in H.R. 11.

Mr. BYRD. As the chairman knows, the Appropriations Committee stands ready to consider additional fiscal year 1993 appropriations for enterprise zones subsequent to enactment of the authorizations for them. But, I cannot and will not support appropriations for enterprise zones in a tax bill. As I have said, I appreciate the action of the Finance Committee in striking these appropriations from the House-passed measure. May I have the assurances of the chairman of the Finance Committee that he will not bring back a conference agreement on H.R. 11 which contains any appropriations for enterprise zones in it?

Mr. BENTSEN. The Senator has such assurances.

THE SUTER CASE

Mr. RIEGLE. Mr. President, during the Finance Committee markup on the bill, I asked the chairman to hold a hearing on the issue of the recent Supreme Court decision in the case of Suter versus Artist M. because I am deeply concerned that millions of people may be denied benefits in the future under Social Security Act Programs thanks to the Supreme Court ruling.

Mr. BENTSEN. I am familiar with this decision and appreciate the Senator from Michigan's concerns about it. As the Senator knows, I have asked Senator MOYNIHAN to hold a hearing on the Suter matter in the Social Security Subcommittee, and he has graciously agreed to do so.

Mr. RIEGLE. I thank the chairman. Because the bill we are considering today is very important for our cities, I know the chairman will want to go to conference with the House shortly after we get back from the August recess. My hope is that the hearing on the Suter decision will be scheduled as soon as possible, so that this issue can be addressed prior to the conference.

Mr. BENTSEN. Let me assure my friend from Michigan that I fully intend to have a hearing on the Suter matter prior to the conference on this bill.

Mr. WELLSTONE. Mr. President, the bill we are now considering is, to say the least, a vast piece of legislation. We are calling it the Revenue Act of 1992 because most of it deals with changes in the Tax Code. But part of it makes changes in laws having to do with welfare reform and foster care. Other parts are meant to provide our response to the crisis in American cities. In fact, it is this last part that has been the focus of much of the discussion of this bill, so that until a day or so ago we all wanted to call this the urban aid bill. Our goal with this bill—our promise to the American people—was to address some of the fundamental reasons behind the riots in Los Angeles. This was to be our response to the desperation born of no opportunities, poor housing, bad schools and, in brief, no hope for many, many Americans.

So imagine my surprise, Mr. President, when I read the headline on the front page of the Washington Post of July 5. It reads as follows: "Tax Legislation Gains New Life, Senate Takes Up $31 Billion Bill Full of Provisions for Interest Groups." Does this mean that the bill we have before us provides $31 billion for American cities? I should point out that I would welcome such an initiative. That would be close to the $35 billion the mayors have estimated they need to address the emergency in our cities. That would mean additional money for infrastructure, housing, public works, education, and social services. I am very happy to see, Mr. President, that the Finance Committee has been able to find $31 billion that we can use. I am happy to see that we are able to come up with these sorts of sums when we realize that we are facing a national emergency—a recession that has now dragged on for 2 years and has accentuated the already dire conditions born of a decade of neglect of our cities.

But Mr. President, I was absolutely shocked to discover that we have not found this money for the purposes I have mentioned. We have not found the will to actually spend money on our cities, on those programs that we know work and that we know can address the dire problems that face us. Instead we have before us a bill full of special provisions for well-off Americans and corporations.

This is somewhat of a curiosity. I am sure I do not have to remind my colleagues that we are in the middle of considering appropriations bills for fiscal year 1993. All of us have spent a great deal of time over the past few weeks trying to persuade our colleagues on the Appropriations Committee to maintain some of the spending that responds to the needs of our constituents and of the country. Our colleagues certainly do their best to meet our requests, but they keep telling us that there is no money. We cannot spend more on education because there is no money. We all agree that more should be spent on housing, but there is no money. We would all like to see more spent on transportation. We promised America that we would create jobs with the highway bill, but there is no money. We would all like to stimulate the economy and alleviate the suffering of millions of Americans, but there is no money.

There is no money, Mr. President, except for $31 billion in special breaks for big corporations and rich folks. To be sure, there are a few token provisions in the bill that masquerade as urban aid. The bill provides $5.5 billion in tax credits for the creation of enterprise zones in 125 places around the country. That sounds like a lot, especially when compared to the original proposal of only 25 zones. However, its not really very much when you take into account that this proposal means tax incentives worth about $8.8 million per enterprise zone. The distinguished chair of the Finance Committee has expressed some doubts about the effectiveness of enterprise zones. He has argued that spending more money per zone will enable us to better measure the effectiveness of this experiment in using Federal tax incentives in enterprise zones. Now, suddenly, the committee has expanded the number of zones enormously, while shrinking the incentives in each zone by more than half. Apparently the chairman's doubts about the zones have been eased. I continue to doubt, however, and I wonder why we are making this our only urban aid initiative when we know so little about how these will work. We know what sorts of programs will work to stimulate urban economies. Why, if we are faced with an urgent need to address problems in our cities, should we waste the taxpayers' money on experiments of dubious merit when we have answers at hand?

I am not at all sure I understand why the Finance Committee has decided to pursue this strategy. Secretary Kemp, who proposed the zones idea originally, wants to provide the same amount of dollars for 300 zones. President Bush, whose lack of sympathy for the problems of urban America is well known, claims he is interested in addressing more areas than this bill. The House version of the bill provides that areas where census tracts have an unemployment rate 1.5 times the national average and a poverty rate of 20 percent in 90 percent of the census tracts would qualify to be enterprise zones. I am sure we all agree that any area that meets these criteria is in dire straights. With a national average unemployment rate of 7.8 percent right now, areas that would qualify as enterprise zones would have an unemployment rate of 11.7 percent. It has been a very long time since we have seen numbers like that. Some analysts argue that under these criteria, 150 American cities would qualify as enterprise zones. Let me be very clear here. That's 150 entire cities. The situation is clearly far more desperate than can be addressed by experimenting with 125 very small enterprise zones.

So this is what has been billed as the big answer to our urban problems. Certainly, there are a few other provisions tossed into this bill that might help relieve some social problems. Foster care reform is good, changing the way savings are counted in eligibility for AFDC is good, providing additional money for the JOBS Program is to be commended. Mr. President, I have, in other circumstances, supported and even cosponsored legislation that would further each of these goals. I would like to support them again. I am very disappointed that we cannot have separate votes on these issues, separate debates during which we can discuss their merits. But these measures are little afterthoughts on this bill. They are not its focus. Indeed, helping America out of its economic crisis is not its focus. These, along with a few other programs for what the authors call income security, amount to about $2.9 billion in spending. Along with the enterprise zone section of the bill, that gives us close to $8.4 billion in tax credits and spending for working and poorer Americans. Still not terribly close to the $35 billion the mayors have asked for.

And that leaves almost $23 billion for corporations and wealthier Americans.

Mr. President, I know that arguments can be made for each and every one of the tax provisions in this bill. Maybe if this country was in better shape, I might be willing to believe that these provisions deserve the time of the Senate and the money of American taxpayers. But given the current circumstances of this society, of this economy, I cannot understand why we should even be discussing them. The main thrust of this bill is based on a dubious idea, at best. Provision after provision writes off our ability to manage the economy, by giving away billions in tax breaks. This sort of policy limits our future ability to formulate effective policy. But it is also very difficult for us to predict how much this might cost. It is well known how difficult it is to estimate the real cost of tax expenditures. They could easily be double or triple the estimates that have been provided. How can we take this risk when we are faced with a huge deficit? How can we take this risk when we are faced with a dire urban crisis?

Mr. President, this bill is not an urban aid bill. This bill will do very little to help rebuild our cities. It will not revive the economy. It will not help us control the deficit; in fact, it will probably contribute to it in the long run. The headline writers at the Washington Post were right: This bill is a huge gift to special interests. Mr. President, I cannot support this bill. I cannot understand how any of my colleagues can, in good conscience, support this bill at this time. This is precisely the kind of legislation that has frustrated many Americans, that has given this Congress the reputation of being a do-nothing Congress. I see from this bill that we can raise the revenues we need to begin to respond to this crisis in this country. When will we begin to use those revenues to do just that?

COAL EXPORT CREDIT

Mr. MCCONNELL. Mr. President, I intended today to offer an amendment which will help our country preserve jobs in the coal fields and the transportation sector. A credit is necessary to help coal exporters offset some of the costs of the coal industry retiree health benefits provision which will be addressed by House and Senate conferees on the Comprehensive National Energy Act (H.R. 776).

Considerable efforts over the last few months has resulted in an agreement which, in many ways, balances the interests and needs of the Bituminous Coal Operators Association [BCOA] companies, nonunion coal companies, and the United Mine Workers [UMWA]. However, the agreement has one serious drawback—it will put some U.S. export coal producers out of business. While energy coal producers can pass the cost of government-mandated costs onto utilities and, ultimately, consumers, exporters of metallurgical coal must absorb the cost or lose market share. At some point, the increased cost of funding the Government-mandated fund will make many of these mines unprofitable. This serious problem can be partially cured by the enactment of a coal export credit. Enactment of the credit will in no way upset the delicate compromise reached in the energy bill.

Under current law (24 U.S.C. 46 and 48), corporations are allowed a general business credit against the income tax. Existing business credits are designed to encourage a variety of worthwhile activities including research and development, rehabilitation of buildings, construction of low-income housing, hiring the disadvantaged, and providing access to the disabled, among other purposes.

The proposal would amend IRC section 48, for purposes of IRC section 46, to create a new component of the general business credit, that is, a coal export credit. The credit will allow U.S. coal producers to recoup a portion of the taxes paid to the United Mine Workers of America Combined Benefit Fund created by the passage of the Coal Industry Retiree Health Benefit Act contained in the energy bill, H.R. 776.

Let me review the importance of the export coal market to the U.S. economy. At present, U.S. coal producers export over 4.7 billion dollars worth of coal, over 112 million tons, a year, greatly benefiting our overall balance of trade. Presently, the major markets for United States coal are the EC and other European countries, 57 percent; Japan, 11 percent; Canada, 10 percent; Brazil, 9 percent, Taiwan, 4 percent, Chile, 3 percent; Korea, 3 percent; and Turkey, 2 percent. Coal exports create highly paid, unionized jobs in coal fields and the transportation complex, including rail lines and port operations. In fact, over 20,000 workers are directly employed in the export coal business and many times that amount are employed in ancillary industries.

These salaries, and purchases of supplies and equipment, have a multiplier effect which is felt throughout the affected local economies.

The overseas markets for export coal are highly price-competitive; most contracts are written solely on the basis of price. There is no possible way to pass on the cost of paying into the new retired miners fund created by the Coal Industry Retiree Health Benefit Act. In contrast, contracts for energy coal used by domestic utilities usually contain provisions which allow the pass-through of costs mandated by Federal legislation. To make matters worse, U.S. producers work from a distinct geographic disadvantage in many markets, especially in the Far East. Many of our major competitors—Australia, Indonesia, and Poland—have lower transportation costs.

Mr. President, let me illustrate by using the example of Island Creek Coal, which is headquartered in Lexington, KY. Island Creek has been in the coal industry since 1904, and has been primarily a union operator. During that time, they have endeavored to take care of their employees and retirees and comply with contractual commitments to the union. With the reach back provisions contained in the coal benefit package, Island Creek Coal is likely to be assigned a substantial additional number of retirees and it is probable that, on a per ton basis, they will be paying nearly twice as much for health care as they currently pay. This additional burden will likely add up to between a $1.50 and $2 per ton to Island Creek's production.

More than 40 percent of Island Creek Coal's annual sales go into the export market, to countries like Brazil, Italy, Belgium, Spain, and countries in the Far East. Nearly one-half of Island Creek Coal's 3,000 employees are dedicated to mining coal that goes to the export market. These employees are all UMWA represented and they are primarily located in Virginia and West Virgina. The additional cost will put many of these jobs in jeopardy.

Mr. President, over the last 18 months, exports have largely kept the economic slowdown in this country from turning into a full-fledged recession. Companies like Island Creek have been out on the frontlines, fighting for export contracts and contributing to this country's export efforts. It would be foolish now to add an additional new burden on these companies and force them out of the international markets.

In closing, let me emphasize that the alternative to this amendment is the virtual shutdown of the export coal business in the United States. Ironically, one of the reasons why the overseas metallurgical coal production in the United States serves an essentially overseas market is the demise of the domestic steel industry. Metallurgical coal operators must export in order to remain in the business. As a result, they are now one of our preeminent export industries.

If they are forced to bear the substantial cost of funding the Coal Industry Retiree Health Benefit Act, they will not remain competitive, and will follow the steel industry into decline and eventual extinction. I ask that the Energy bill (H.R. 776) conferees, especially Finance Chairman BENTSEN work to correct the inequitable treatment of coal exporters.

Mr. WARNER. Mr. President, I rise in strong support of my esteemed colleague, and also seek assurances that the conferees on H.R. 776 will consider a measure of partial relief from the extraordinary costs to be imposed upon present and former members of the Bituminous Coal Operators Association [BCOA].

Under the leadership of Senators ROCKEFELLER, FORD, and WALLOP, the Senate approved a landmark financing package in H.R. 776 for the troubled retiree health insurance program of the United Mine Workers of America [UMWA]. This is good news for nearly 10,000 Virginia retirees and their families.

I am now seeking to strengthen the UMWA retiree health package by assuring that those coal companies, which will bear the cost, will remain viable, productive employers. I wish to emphasize that my efforts are meant only to provide greater support for the health benefit package.

Let me explain the importance of the export coal market to the Commonwealth of Virginia. For the year 1991, Virginia coal miners produced 42 millions tons. Just over half of Virginia's coal is sold as coking coal for steelmaking; the overwhelming majority of which is sold overseas.

The international market for coking, or metallurgical, coal is extremely price sensitive. While Virginia export coal is considered to be the highest quality coking coal available in the world, our producers face stiff competition from Australian and Canadian producers in key markets, notably Japan, South Korea, and Taiwan. Simply put, the costs of funding the new UMWA retiree health plan cannot be passed on and may well result in reduced business opportunities abroad, fewer domestic jobs, and closed mining operations. One company with extensive operations in my State, exports over 70 percent of its production, and directly supports over 2,000 coalfield jobs.

Present and former members of the BCOA in other States face the same or similar problems. It is essential that we consider whether a measure of Federal relief is appropriate in complying with a new Federal mandate.

I sincerely hope that in the coming weeks, those of us representing coal States can work together in a common effort. We need to examine all available information on the impact of projected costs. We might then be able to take an informed look at a specific tax credit for coal exports, a broader measure for all BCOA metallurgical coal production, or perhaps what might be most beneficial, an industrywide tax credit for all present and former BCOA members. I look forward to working with all of my colleagues on this most important question for the American coal industry.

SECTION 29—NONCONVENTIONAL FUELS TAX CREDIT EXTENSION

Mr. BAUCUS. Mr. President, I rise today in support of my colleague's amendment to restructure and extend the section 29 tax credit. The credit in its new format will preserve existing jobs and create new ones. And it will strengthen our Nation's energy and environmental policy.

The section 29 credit was designed to spur development of additional energy supplies from unconventional sources—to give us additional energy security by expanding the potential sources of oil and natural gas. And it has worked.

Just considering natural gas, estimates are that about one-third of all new gas wells are drilled as a direct result of section 29. And that figure could well move to almost one-half by the year 2005, if the credit is extended. These wells, and their production, are now a national energy asset.

But allowing this credit to expire would slash energy exploration and drilling to even lower levels than currently exist. And they are already pretty low. In fact, the count of active drilling rigs in this country is now at the lowest level since records have been kept. In my State of Montana, for instance, there were 1,149 wells drilled in 1981. Last year there were 205. Without the section 29 credit, exploration activity would be even lower.

And expiration of the credit would add to the job losses in the oil and gas industry, which have totalled 350,000 to 400,000 nationally during the 1980's, over 3,800 in Montana alone.

The credit we are proposing today is more tightly crafted than the current credit. As a consequence, it costs only about half as much.

It accomplishes this by imposing an annual production cap on each well. Any gas produced in excess of the cap would not be eligible for the credit.

Like the existing section 29 credit, the proposed amendment would apply both to wells that produce oil and gas from nonconventional geological formations, and to facilities that produce fuel from nonconventional sources.

Currently there is very limited production of synthetic oil and gas from coal. With the oil bust of the early and mid-1980's, there has been little reason for anyone to develop these synthetic fuels. But the Clean Air Act changes that.

Coal fired utilities must reduce emissions to meet strict new pollution standards. By encouraging development of synthetic oil and gas, the proposed credit offers the utilities greater flexibility in meeting such standards.

The credit also provides an environmental benefit by supporting facilities which create usable fuel from landfills. The methane gas produced from the decomposition organic matter represents an energy source that usually goes to waste. The proposed section 29 credit will provide the impetus to further develop this energy source.

Finally, there is no question that section 29 has successfully stimulated domestic drilling activity and increased our gas reserves. By continuing it in a modified form, the credit will further add to these domestic gas reserves and decreases our use of imported Venezuelan, Algerian, and Canadian natural gas. This also will help achieve reasonable price stability in a market which has exhibited considerable price volatility.

Mr. President, our amendment is a modest effort to address the environmental and energy concerns of our country. I urge my colleagues to support this effort.

AN ACHIEVABLE DREAM

Mr. WARNER. Mr. President, as we debate the Urban Aid bill, I rise today to salute an innovative program in my State that is reaching out to inner city youths by teaching them the skills necessary to succeed in life. This summer camp pilot program, an Achievable Dream, is a unique public, private sector initiative by various community and business leaders in Newport News who are determined to make a difference in the lives of those children most at risk. I had the privilege of visiting the camp several weeks ago and joining the children in their daily routine. I was extremely impressed and convinced that the Achievable Dream Program will work and should serve as a national demonstration project for how to reach our inner-city youth.

An Achievable Dream is designed to enhance learning for 100 9- and 10-year-old rising fourth graders from the Newport News public school system by giving them the confidence and self-esteem that is so vital to their intellectual and physical development. By participating, these children will discover that there are no limits to what they can achieve. This program combines academic and athletic instruction and provides children with an opportunity to improve themselves while enjoying their summer in a safe and exciting environment.

Plans are being developed to expand the Achievable Dream Program to many more youth through the senior year of high school. This summer's program is a start, and, I must say, a remarkable one.

What is perhaps most unique in this endeavor is the sport in which these children are receiving lessons. In an attempt to break down the traditional barriers that exist in society, these campers are learning the great game of tennis. To illustrate that tennis is not just a game for those who have a membership at the country club, these children are learning that they have the ability to face any challenges that life presents, regardless of their race, color, or creed. The lessons that these students learn on the tennis courts also apply in the arena of life. With determination, hard work and the right mental attitude, anything that these children wish to accomplish in life is truly an achievable dream.

It was a tremendous experience for this Senator to witness firsthand the progress being made on behalf of our most precious resource, our children. As I spoke with these children, I could see in their young faces the willingness to compete and the desire to succeed. They were disciplined and attentive, and seemed to genuinely appreciate the fact that someone was giving them a chance. Removed from the dangers posed by drugs, crime, and violence, these children were focused instead on reading and writing, athletics and developing computer skills.

I salute the efforts of those who have dedicated their time, energy and talents to making this project a reality. Role models are critically important to children, and these instructors have been a source of inspiration to these individuals and given them a sense of hope for the future. I am confident that this program will have a strong impact on those who are seeking to fulfill their achievable dream. Our future success is dependent upon an educated and well-trained citizenry, and it is my belief that programs such as this will help lead America into the 21st century.

Mr. President, as I met with these children in Newport News, I tried to impress upon them the need to believe in themselves and to take control of their own lives. It is my belief that this program will help them do just that. Each and every child in the Achievable Dream Program has what it takes to succeed. They need only a chance to realize their true potential and prove themselves.

I will always remember one bright young man by the name of Donte Bailey, who captured the true spirit of the achievable dream project in a poem that he read to me and the entire camp. It read as follows:

To achieve a dream you have to try,
Reach for the stars and reach for the sky.
Get an education, build self-esteem,
Be a good sport and go for your dreams.
Always remember and always believe,
If you are strong enough to dream,
You are strong enough to achieve.

What was perhaps most important about this reading was the sense of excitement that was felt in this child's voice. They were not just words on a piece of paper, but a testament to the mission of an achievable dream.

It is my hope that other localities across America will see the merits of this program and undertake similar measures to ensure that all children have an opportunity to achieve their dreams. I commend all of the teachers, coaches, counselors, organizers, and unselfish volunteers who are making dreams come true. But, most importantly, I wish to commend the children who are working so hard to build their minds and bodies to become the best they can be. Each and every child in this program is a winner and they are learning that, whatever it is in life that they wish to attain is, indeed, "an achievable dream."

Mr. President, this pilot program is but one element of a much greater cooperative effort which is envisioned between the community of Newport News and the military installations on the Virginia peninsula.

The Armed Services Committee, in our report on the Defense authorization bill, indicated that we should begin to experiment using military personnel, facilities and other resources to help alleviate some of the problems that plague our young people. It is clear that local educational authorities and community leaders must remain in charge, but the military services, with their resources and experience, must assist.

Within the Civil-Military Cooperative Action Program included in the Defense authorization bill, the Secretary of Defense is authorized to use DOD resources to support such efforts. I will work with the Secretary of Defense to urge him to provide the necessary support and assistance to facilitate a cooperative, cost-sharing pilot program between the community of Newport News and the military installations on the Virginia peninsula. Likewise, I will seek other sources of Federal funds to join with those of the private sector and local and State governments to make this program work for at risk youth. We will make the Achievable Dream Program a model for the Nation.

Mr. MOYNIHAN. Mr. President, I rise to invite the attention of Senators to sections 4525 and 8001–8004 of the Revenue Act of 1992 which incorporate the Charitable Contributions Tax Act of 1992, a bill that I introduced earlier this year along with Senators DANFORTH and BOREN. The bill provides for permanent repeal of restrictions on the deductibility of gifts of appreciated property. These include works of art, securities, collectibles, and such. It also removes the cap on the amount of tax-exempt bonds that can be issued by private colleges and universities, and restores to them their status as exempt persons under the Tax Code.

These provisions are of the greatest importance. They will not be understood as such; which is precisely why they are. The United States is the only country on Earth in which by and large the most important institutions of the civic culture are private. Which is to say, they are not government institutions. This comes so naturally to us that we hardly notice it.

But consider. Sixty percent of all first professional degrees in fields such as medicine, engineering, business, and law are granted by private colleges and universities. We take this for granted; it would be unimaginable in, say, Europe, where education is overwhelmingly the domain of government. Similarly, our great research hospitals, our treasure-filled museums, our symphony orchestras, opera companies, zoological and botanical institutes, are almost all of them—outside of the Nation's Capital—institutions founded by private citizens and to this day run by boards made up of private citizens. They are heavily dependent on private endowments and private gifts.

We also take for granted, or somehow assume, that these private institutions are wealthy. Well, they aren't. We look up and find them, especially the research universities, in trouble all over the land. This trouble could develop to the point where the finest institutions of learning on Earth, the most productive sector of American society, begin an irreversible decline. It wouldn't take long. The great Viennese economist, Joseph Schumpeter, predicted that the decline of liberal society would come about through the conquest of the private sector by the public sector. We are betting that it needn't. It is a big bet.

New York State is home to more of these private institutions than any other State in the Nation, more than any other nation on Earth. Consider just some of our research universities: Columbia, NYU, Rockefeller, Rochester, Cornell. These are institutions of world status. And they go far back in our history, and in the history of modern science. Columbia, as King's College, received its charter from George II in 1754. Just so, our medical centers, New York Hospital, which received its charter from George III in 1771; Columbia-Presbyterian, Mount Sinai, the list goes on. Our New York Philharmonic was founded in 1842, before, that is, nine-tenths of the nations in the world today even existed. Our Metropolitan Opera, was founded in 1883. Come to think, Lorenzo da Ponte, who wrote the libretto of Don Giovanni, ended his career as a professor of Italian at Columbia. As for the Metropolitan Museum, the Museum of Modern Art, the Guggenheim, the Jewish Museum, the Brooklyn Museum, the New York Botanical Gardens, the Brooklyn Academy of Music, the incomparable New York Library, the Morgan Library, the New York Historical Association—I could go on and on—they have few peers anywhere. In the nice phrase used by New York University, they are private institutions in the public service.

Upstate we are blessed with a string of worldclass institutions, including the Buffalo Philharmonic and that City's Albright Knox Art Gallery; Rochester's Philharmonic and Memorial Art Gallery; the Syracuse Symphony Orchestra and Utica's Munson-William-Proctor Institute. Again, I could go on.

The tax legislation of the 1980's resulted in a serious cutback in the amount of private giving to such institutions. In the case of Columbia, NYU, Rochester, Cornell, and Rockefeller University, it stopped tax-exempt borrowing for capital improvements such as laboratories, libraries, infrastructure. The Revenue Act of 1992 repeals the restrictions on bonds and on gifts of appreciated property.

It does more. It restores to these universities their status in law as exempt persons. That is to say, the law recognizes their public purpose, and gives them equal status with state-run institutions. As also with State governments and other government bodies. For research institutions of any kind, this status is indispensable. To have stripped the private institutions of this status, as we did, in 1986, was indefensible. But it was done, and there was little, if any, notice. That fact should put us on notice. The private sector is in jeopardy, if not better understood. It is estimated that the provision on bonds will cost $91 million and the provision on gifts of appreciated property some $328 million over the next 5 years. There could hardly be a more productive tax expenditure.

MACK AMENDMENT ON CAPITAL GAINS

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Florida, Senator MACK.

There are many reasons for the decline of our manufacturing competitiveness. But I would note that the decline did not occur overnight. One of the reasons for that decline is the relatively high cost of capital we have had vis-a-vis our international competitors.

But the real reason for this decline is that many of our companies do not take the long-term view and invest for the future. That is why I support the idea of restoring a tax incentive for long-term investment, in particular a capital gains differential for long-term investment.

I would preliminarily note that nearly all of our major trading partners, including West Germany, Japan, Canada, Taiwan, South Korea, and most of the EC countries, either exempt long-term gains from taxation, or impose a tax far lower than the United States tax. Although it would not be fair to attribute our short-term trade problems to how we tax long-term gains, I believe the issue is very important to the overall long-term health of our economy.

Several years ago, I introduced legislation that would have provided a sliding scale long-term capital gains differential with a minimum 4-year holding period. I introduced that bill because I believed, and still believe, that a real long-term capital gains differential will help to encourage a shift in investment strategy away from the short term and toward the long term.

I believe the capital gains amendment under consideration will not achieve that goal. The holding period is a year. That will not encourage long-term thinking and long-term investment.

Mr. President, I think it is important to point out that the current Tax Code makes almost no distinction between the entrepreneur who risks his capital on an unproven new frontier technology and the arbitrage speculator who gets in the middle of the latest corporate takeover. In fact, our current system penalizes the long-term investor and entrepreneur because it does not factor in the impact of inflation on assets held for a substantial period of time.

By allowing a sliding scale exclusion for truly long-term gains, and providing an indexing option, this proposal diminishes the impact of inflation on asset values, and reduces the possibility that investors will be taxed on phantom gains.

Furthermore, establishing a differential for long-term gains will help to alleviate the current bias in the Tax Code which favors debt instead of equity, and encourages companies to saddle themselves with far more debt than I think is prudent.

Although a capital gains differential will not completely eliminate this bias, it will reduce the cost of capital for American companies, while increasing the after-tax rate of return on equity. That, in itself, should lessen the pressure on corporate managers to focus on the short term at the expense of long-term planning.

But a capital gains differential must be focused on long-term investments. Four years at a minimum. This amendment fails to meet that standard and, therefore, I will vote against this amendment.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President and Members of the Senate, I have consulted with the managers of the bill, the Senators from Texas and Oregon, as well as with the distinguished Republican leader, and I am advised that substantial progress has been made on the pending bill but that there is no likelihood of proceeding further this evening. And, therefore, there will be no further rollcall votes this evening.

The Senate will, later this evening, adjourn until September 8 and a number of Senators have inquired as to the schedule upon our return. I will, today, send to every Senator a letter with respect to the schedule at that time. But I take this opportunity to announce to Senators what the schedule will be on the first few days, and what is likely to occur in that final legislative work period.

The Senate will return to session on Tuesday, September 8. There will be legislative action during that day and votes will occur on Tuesday, September 8, but not prior to 5 p.m. However, there will be votes on that day, even if it is necessary for me to invoke a rare procedural vote to ensure the presence of Senators.

It is my hope that we will shortly be able to obtain an agreement for handling of the VA-HUD appropriations bill, and it is my intention in any event to proceed to consideration of that bill in the late afternoon of Tuesday, September 8.

Thereafter, as many Senators are aware, we have a long list of important legislation to consider, including the pending bill, including the Department of Defense authorization bill, 6 remaining appropriations bills, and of course the 12 appropriations conference reports—all of which will have to be completed prior to October 1.

In addition, under a previous agreement I will, on September 8, move to proceed to the product liability bill. There will, undoubtedly, on that date be a cloture motion filed on the motion to proceed, setting up a vote on cloture on that measure on the morning of Thursday, September 10.

The target date for adjournment, for me, is Saturday, October 3. Many Senators have come to me privately to urge that we meet that day. It will be very difficult to do; and will, in any event, require two things: One, a great deal of cooperation from all Senators; and two, lengthy sessions including Saturday sessions and the possibility of rollcall votes on any day and at any time during which the Senate is in session.

Last week in a colloquy I had with the distinguished Republican leader, he rightly objected to consideration of this or any other measure last Saturday because, he said, there had not been sufficient notice provided to Senators. And that was a fair and legitimate concern. However, I am now providing such notice to Senators a month in advance, that there could be sessions on any Saturday in September. Every Senator is hereby placed on notice of that fact. And any commitments made on any day during September now must be made with the full knowledge that there may be sessions on those days and everyone having had fair notice that possibility exists.

The only exception to the announced schedule will be on Monday, September 28. There will be no rollcall votes on that day due to the observance of a religious holiday. Other than that, votes could occur at any time. We have a lot of work to do.

If we do not get both cooperation from Senators and some fairly lengthy sessions, then it will be very difficult, if not impossible, to meet the target date and the session could extend on into October—much longer than I personally prefer, and I believe much longer than other Senators prefer.

Accordingly, Mr. President, I want to thank the managers for their diligence in making the substantial progress that has been made so far on the pending bill, and the distinguished Republican leader.

I would like, now, to attempt to get the unanimous-consent agreement with respect to the VA-HUD bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers Calendar No. 588, H.R. 5679, the VA-HUD appropriations bill, there be 30 minutes for debate on the bill, equally divided and controlled between Senators MIKULSKI and GARN; that the following amendments be the only amendments in order, other than the committee-reported amendments, which shall be adopted as original text for the purpose of further amendment upon the reporting of the bill, and relevant second-degree amendments to the listed amendments; with time for debate on the listed amendments limited where indicated, with second-degree amendments limited to the same amount of time as listed for the amendment to which they are offered; and with all time equally divided in the usual form, unless otherwise stated:

Bumpers: Cutting the space station—90 minutes under the control of Senator BUMPERS; 1 hour under the control of the managers; and 1 hour under the control of Senator GLENN;

Domenici: Safe drinking water;

Domenici: Related to EPA;

Grassley: Ethanol—20 minutes;

Jeffords: To prohibit the funding of EPA research centers after fiscal year 1993 unless there has been a competitive review—30 minutes;

Moynihan: Relevant to the National Acid Precipitation Abatement Program (NAPAP)—10 minutes;

Bingaman: Relevant to drinking water—20 minutes;

Bingaman: Relevant to drinking water—20 minutes;

Graham: Related to administrative expenses—20 minutes;

Graham: Four additional instances—related to administrative expenses—10 minutes each;

Graham: Related to housing—20 minutes;

Mikulski: Technical amendment—10 minutes;

DeConcini: EPA and arid water quality standards—30 minutes;

DeConcini: Southwest environmental research center—20 minutes;

Chafee: Hazardous waste—30 minutes;

Dole: Fertilizer—10 minutes;

Durenberger: Ethanol—40 minutes;

Symms: Related to FHA mortgage limits—40 minutes;

Wirth: Extension of the statute of limitations on RTC civil liability suits—30 minutes;

Wirth: EPA "Green Lights" Program—30 minutes;

Reid: EPA "Green Lights" Program—30 minutes;

Gramm: Relating to environmental protection;

Sasser: Homeless funding—30 minutes; and

Dixon: Relating to the financial adjustment factor for low-income housing.

A further proviso that Senator LAUTENBERG and Senator CHAFEE, if they are present, be first recognized to offer a second-degree amendment to any listed amendment dealing with safe drinking water, and a point of order by Senator MCCAIN relative to unauthorized projects, on which there will be 90 minutes equally divided on any proposition submitted to the President or appeal a ruling of the Chair and amendments on which the two managers have agreed.

I further ask unanimous consent that upon the disposition or yielding back of time on the bill and the disposition of the listed amendments or the failure of any of the Senators with listed amendments to offer their amendments, the bill be read for the third time and the Senate proceed without any intervening action or debate to vote on passage of the bill; that following passage of the bill, the Senate be deemed to have insisted on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. DURENBERGER. Mr. President, reserving the right to object. Mr. President, I believe part of that agreement included an ethanol amendment by the senior Senator from Minnesota; is that correct?

Mr. MITCHELL. That is correct.

Mr. DURENBERGER. Did the agreement also include a second-degree amendment to the Domenici amendment on the Safe Drinking Water Act by Senator CHAFEE and Senator LAUTENBERG?

Mr. MITCHELL. Pursuant to the order, relevant second-degree amendments are in order and may be offered by anyone. There is an additional proviso that Senator LAUTENBERG or Senator CHAFEE, if they are present, be first recognized to offer a second-degree amendment to any listed amendment dealing with safe drinking water.

Mr. DURENBERGER. If the leader would not object to adding the name of the Senator from Minnesota to that list, the Chafee, Lautenberg, or Durenberger on preferential amendments to safe drinking water, I will withdraw any objection.

Mr. MITCHELL. I have no objection to that. I was not involved in negotiating this agreement. I do not know how it was that Senator LAUTENBERG and Senator CHAFEE's names were added on there. I assume I have to check with them to make certain they have no objection. I personally have no objection.

Mr. DOLE. I think you have all the same interests.

Mr. DURENBERGER. I am sure it is all the same interests but I cannot clarify that now. I am sure, I say to the leader, I am sure that the interest—I know the interest Senator CHAFEE and I have is similar and it is in opposition to Senators DOMENICI and BROWN, but I cannot speak for Senator LAUTENBERG. It is a matter of assuring myself.

Mr. MITCHELL. Mr. President, I am going to momentarily suggest the absence of a quorum so that members of the staff can call those Senators and make certain it is all right. But I personally have no objection. I yield to the distinguished Republican leader.

Mr. DOLE. I am advised by Senator NICKLES he would like one amendment added, EPA/water projects, 30 minutes.

Mr. MITCHELL. A Nickles amendment regarding EPA water projects.

Mr. DOLE. EPA/water projects.

Mr. MITCHELL. Mr. President, I modify my request to add that to the list. I am advised that calls are coming in as we speak for more amendments. I will have to wait just a moment while we are waiting on one other call.

So I do now suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I am now advised the Senators involved have no objection to adding the name of the Senator from Minnesota to the list, and the other call did not materialize into an amendment.

Mr. President, I now ask that my request be modified to add the name of Senator DURENBERGER to that of Senator LAUTENBERG and Senator CHAFEE where it appears in the agreement. I further modify the request to add a McCain amendment regarding border environment.

The PRESIDING OFFICER. Is there objection to the modified request? Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate considers cal. #588, H.R. 5679, the V.A.-H.U.D. appropriation bill, there be 30 minutes for debate on the bill, equally divided and controlled between Senators Mikulski and Garn; that the following amendments be the only amendments in order, other than the committee-reported amendments, which shall be adopted as original text for the purpose of further amendment upon the reporting of the bill, and relevant 2nd degree amendments to the listed amendments; with time for debate on the listed amendments limited where indicated, with 2nd degree amendments limited to the same amount of time as listed for the amendment to which they are offered; and with all time equally divided in the usual form, unless otherwise stated:

Bumpers: Cutting the space station—90 mins. under the control of Sen. Bumpers; 1 hour under the control of the managers; and 1 hour under the control of Sen. Glenn;

Domenici: Safe drinking water;

Domenici: Related to E.P.A.;

Grassley: Ethanol—20 mins.;

Jeffords: To prohibit the funding of E.P.A. research centers after FY'93 unless there has been a competitive review—30 mins.;

Moynihan: Relevant to the National Acid Precipitation Abatement Program (NAPAP)—10 mins.;

Bingaman: Relevant to drinking water—20 mins.;

Graham: Related to administrative expenses—20 mins.;

4 additional Graham: Related to administrative expenses—10 mins. each;

Graham: Related to housing—20 mins.;

Mikulski: Technical amendment—10 mins.;

Deconcini: E.P.A. and arid water quality standards—30 mins.;

Deconcini: Southwest Environmental Research Ctr.—20 mins.;

Chafee: Hazardous waste—30 mins.;

Dole: Fertilizer—10 mins.;

Durenberger: Ethanol—40 mins.;

Symms: Related to F.H.A. mortgage limits—30 mins.;

Wirth: Extension of the statute of limitations on RTC civil liability suits—30 mins.;

Wirth: E.P.A. "Green Lights" program—30 mins.;

Reid: E.P.A. "Green Lights" program—30 mins.;

Gramm: Relating to environmental protection;

Sasser: Homeless funding—30 mins.;

Dixon: Relating to the financial adjustment factor for low-income housing;

Nickles/Boren: E.P.A. water project; and

McCain: Related to border environment.

With a further proviso that Sen. Lautenberg or Sen. Chafee or Sen. Durenberger, if they are present, be first recognized to offer a second degree amendment to any listed amendment dealing with safe drinking water.

McCain: Point of order relative to unauthorized projects—on which there be 90 minutes equally divided on any proposition submitted to the Senate or appeal of the ruling of the Chair.

Amendments on which the 2 managers have agreed.

Ordered further, That upon the disposition or yielding back of time on the bill, and the disposition of the listed amendments or the failure of any of the Senators with listed amendments to offer their amendments, the bill be read for the third time, and the Senate proceed, without any intervening action or debate, to vote on passage of the bill; that following passage of the bill the Senate be deemed to have insisted on its amendments, requested a conference with the house on the disagreeing votes of the two houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation. I now suggest the absence of a quorum.

Mr. President, I withhold that request, and I thank the Senator from Nebraska for his courtesy.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent I be allowed to speak as in morning business for a period of 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. KERREY. I thank the Chair.

(The remarks of Mr. KERREY and Mr. DURENBERGER pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURENBERGER. I yield the floor.

The PRESIDING OFFICER. The minority leader is recognized.

RETIREMENT OF LT. COL. ROBERT P. DEMERS

Mr. DOLE. Mr. President, I want to take this opportunity to commend a good friend of the Senate who is retiring after more than 20 years of dedicated service in the U.S. Army—and more than 2 years of service in the Army's Senate Liaison Office.

Lt. Col. Robert P. Demers has brought to the Senate a depth of experience and insight that has been invaluable. His personal assistance to this body, and to our Nation, will be missed.

Bob entered the Army in 1969 and was commissioned as a second lieutenant. He has had many key assignments during his distinguished military career. These include service in Vietnam, Germany, and Alaska where he commanded various aviation units.

Lieutenant Colonel Demers served in the Army's Military Personnel Center as a personnel assignments officer and distribution officer, as well as the executive officer of the distribution division. His service in the Army's Senate Liaison Office brought him in close contact with many Members of this body. Those who have had the opportunity to travel with Bob, and rely on him like I have, will agree that Lieutenant Colonel Demers has served the Senate, the Army, and the Nation in a superb manner.

Dedicated and hardworking, Bob is not one to allow the spotlight to shine on him. However, I know that he has been highly decorated during his impressive career. He earned the Bronze Star Medal, the Army Commendation Medal, eight awards of the Air Medal, three awards of the Meritorious Service Medal, and recently was approved to receive the Legion of Merit—a final tribute to this fine soldier.

As Bob begins a new career in the civilian community, I would like to express my appreciation for his outstanding service and support. Service and dedication to duty have been hallmarks of Colonel Demers' career. I am sure that my colleagues will join me in thanking Bob and wishing him the very best in his future endeavors.

The U.S. Senate expresses its deepest appreciation—and a grateful Nation extends a heartfelt thank you to Lt. Col. Robert P. Demers, U.S. Army.

Mr. MITCHELL. Mr. President, I join the distinguished Republican leader in expressing the gratitude of all Senators to Colonel Demers for his service to the Senate, to the Army, and to the Nation. Demers is a prominent and well-known name in New England. There are many families in Maine named Demers who I am certain are related to Colonel Demers.

It has been a pleasure for all of us to know him, to have worked with him, to have benefited from his dedication and hard work and his effort to provide good liaison between the Members of the Senate and the U.S. Army. I speak individually but I know for all Senators when I wish Colonel Demers the very best and express our gratitude to him for his service.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JOSEPH P. RILEY, SR.

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding South Carolinian, Mr. Joseph P. Riley, Sr., who passed away on August 8, 1992. Mr. Riley was a man of character, compassion, and courage, and he will be mourned by a large circle of friends and admirers.

Joseph Riley was a man who devoted his life to serving our State. Although he was never an elected official, he served ably and with dedication in a number of appointed positions, and he was very active in community affairs. He also instilled his love for public service in his children—especially his son, Joseph, Jr., who is the able mayor of Charleston.

In addition to his various public service projects, Mr. Riley was a very successful businessman. He founded the Joseph P. Riley Real Estate and Insurance Co. in 1937, and built it into a prosperous and stable firm. His keen business sense earned him a seat on the South Carolina State Development Board, where he served as a director for 10 years. He was also a strong supporter of the Port of Charleston, serving on the State Port Authority for 8 years.

Mr. Riley was always glad to help anyone he could, and he was renowned for his generosity and devotion to the community. Although he never sought recognition for his efforts, he received many awards and honors, including the Order of the Palmetto, South Carolina's highest citation for public service. He was very active in his church, the Cathedral Parish of St. John the Baptist; and was most recently honored with a medal from the Pope in recognition of his outstanding service to the Catholic Church.

Among his many other activities, he was a past president of the State

Chamber of Commerce. He was one of the founding members of the Patriot's Point Foundation, and served as its vice president. He was a member of the board of the U.S. Chamber of Commerce, and a past president of the South Carolina Navy league and the Hibernian Society. He was also on the board of Spoleto U.S.A. In addition, Mr. Riley devoted a great deal of time and energy to various philanthropic organizations, working with the United Fund and the Boy Scouts, among others.

Mr. President, Joseph P. Riley, Sr., was a man of integrity, ability, and dedication. He gave a great deal to our State, and to the people of Charleston, and he will be sorely missed.

I would like to extend my deepest condolences to his lovely wife, Helen Schachte Riley; his son, Joseph P. Riley, Jr.; his three daughters: Jane R. Stelling, Mary R. Chambers, and Susanne R. Emge, as well as the rest of his family.

I ask unanimous consent that an editorial which appeared in the Charleston Post and Courier be included in the RECORD following my remarks.

JOSEPH P. RILEY, SR. LIFE OF SERVICE

For most of the past half century, Joseph P. Riley Sr. had been one of the movers and shakers of this community. As his old friend, U.S. Sen. Ernest F. Hollings recalls, Joe Riley just seemed to know how to get things done.

He also has a family tradition of community involvement. His father, Andrew J. Riley, who died when he was 12, was a city alderman for more than 20 years. His maternal grandfather, Henry Oliver, was a well-known building contractor. When Mr. Oliver died in 1910, the Charleston newspaper noted that although he had never held public office, "he was always willing to contribute his services in a modest way to the promotion of the public good."

In one account of his life, Joe Riley credited his mother, Mary Oliver Riley, with his early interest in civic affairs. Although she was a widow with nine children to rear, he noted that she spent part of nearly every day on community work, including serving as treasurer of the local Red Cross for 30 years.

Joe Riley did his family proud.

While he never held elected office, he was appointed to a number of key public offices by a series of governors, beginning with fellow-Charlestonian Fritz Hollings who named him to the State Development Board in 1959. Sen. Hollings recalls that in those days the Development Board had no tourism division. He made Mr. Riley the chairman of the board's first tourism committee, the forerunner of the state Parks, Recreation and Tourism Commission. That commission, the senator said, now oversees a $4 billion industry in this state.

Ten years later, Gov. Robert E. McNair choose Mr. Riley for an opening on the state Ports Authority. He is credited with, among other things, the construction of the SPA's cruise line passenger terminal. The Legislature named him Member Emeritus of the authority in 1977.

His emergence as a civic leader dates back almost to the days when he began his real estate and insurance business in 1937. By 1949, he was president of the Charleston Chamber of Commerce and heavily involved, he recalled in an interview several years ago, in trying to keep the Charleston Naval Shipyard open. At one point he and a group of businessman took the train to Washington to see President Truman. But Mr. Riley also was to see his good friend, the late 1st District Rep. L. Mendel Rivers become a power on the House Armed Services Committee, and after that, he noted, "We didn't need a president anymore." While Mr. Riley had friends in both political camps, including Republican Sen. Strom Thurmond, over the years he came to be considered one of the late congressman's closest confidants.

Sen. Hollings believes it was through Mr. Riley's association with Rep. Rivers that he began doing what amounted to constituent service. Few people knew, the Senator recalled that "Joe would stay on that phone" for hours helping those in need of jobs and other favors.

His more visible community services including the leadership of dozens of worthy causes, including the Cancer Crusade, the United Fund and the St. Francis Hospital Building Fund. He also was a director of the College of Charleston Foundation and past director of the Coastal Council of Boy Scouts.

His leadership in the local chamber of commerce led to the presidency of the state Chamber of Commerce and the board of the U.S. Chamber of Commerce. He was a national director of the U.S. Navy league, past president of the Hibernian Society and a member of a long list of civic clubs and societies. He also was among the early organizers of the Patriot's Point Naval Museum. He received the state's highest award for public service, the Order of the Palmetto, in 1976.

No recounting of Mr. Riley's life would be complete without noting his devotion to his church and his family. He talked proudly to interviewers of being the first Catholic to be president of the state chamber and worked diligently for the church as an organizer and past president of the Catholic Charities of South Carolina. He recently received a papal medal in recognition of his service to the church and the pope.

He also was quick to give credit for his success to his wife, Helen, and to talk proudly of his four children and 12 grandchildren. When his full life ended Saturday at age 80, he had lived to enjoy the appreciation of his community and his state for his good works and to see his son, Joseph P. Riley Jr., elected to a record fifth term as mayor of the city he loved so well.

NOAA AUTHORIZATION

Mr. PRESSLER. Mr. President, for many years I have had serious concerns about proposals to modernize the National Weather Service [NWS]. For this reason, last year I introduced S. 98, legislation that would require changes in NWS operations not affect the overall performance and quality of the forecasting and warning capability of the NWS. This legislation received wide bipartisan support. In fact, Senators SHELBY, MURKOWSKI, MIKULSKI, BURNS, COCHRAN, SIMON, MCCONNELL, BURDICK, KERREY, RIEGLE, PRYOR, BUMPERS, WOFFORD, SPECTER, CONRAD, KOHL, CRAIG, LOTT, and DASCHLE cosponsored this legislation.

My concern stems from the situation in my home State of South Dakota, as well as similar situations in other States. Currently, the NWS is implementing a plan in South Dakota to replace its existing radar system with a new radar system called Nexrad—for "next generation radar". Under the current modernization plan, the NWS plans to close a vital weather service station located at Huron, SD.

Many States face similar weather station losses. Closing the Huron Weather Service Station raises serious questions concerning the ability of the NWS to provide adequate coverage for an area in central South Dakota near our State Capital of Pierre. Any inadequacy or gap in coverage clearly would produce a degradation in services.

Last year, the Commerce, Science, and Transportation Committee adopted S. 98 as part of the text of the NOAA authorization bill. Inclusion of my bill was to ensure that any decision by the NWS to require the closing, consolidation, automation or relocation of any existing Weather Service Office would receive fair and impartial review by the National Academy of Sciences [NAS] before any actions were taken. Using the information and recommendations provided by the NAS, Congress would then have had a period of 1 year in which to review the recommendations and to enact necessary legislation.

Unfortunately, the inclusion of my bill within the NOAA authorization legislation prompted the administration to threaten a veto of the entire bill. For this reason, we were forced to include much weaker provisions. I am not pleased with this, and will continue my fight for a safe and modern National Weather Service. Specifically, S. 98 would guarantee safe modernization programs by examining the effects of new technologies and the deletion of manpower through automation. I will continue to work for the passage of S. 98. While I am not entirely satisfied with the provisions contained in the NOAA reauthorization bill, I will not oppose its passage. The bill contains many other important provisions. However, NWS operations could be improved and I intend to do all I can to see that happen.

Mr. President, I would like to take this opportunity to thank two people who have assisted the Senate greatly in this effort, David T. Powell, Jr., national president of the National Weather Service Employees Organization [NWSEO] and Lee Pfeiffer, from Huron, SD. Dave Powell has provided immeasurable expertise and assistance in developing this legislation. And for many years, Lee Pfeiffer has provided me with considerable insight and knowledge about the entire NWS modernization process. Mr. President, I ask unanimous consent to place a letter I recently received from Mr. Powell in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL WEATHER SERVICE EMPLOYEES ORGANIZATION, AFFILIATED WITH MEBA AFL-CIO,
Washington, DC, June 2, 1992.

Hon. LARRY PRESSLER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: On behalf of the National Weather Service Employees Organization, I want to thank you and your staff, especially Mr. Dan Nelson, for your support and leadership in developing the NOAA Authorization Bill. Your activity on behalf of the American people has made S. 98 a truly bipartisan National Weather Service Authorization provision that will insure public, aviation, and marine safety nationwide.

Senator Pressler, NWSEO applauds you in leading the way in achieving this bi-partisan approach to AWS Authorization language this session of Congress. Working with your staff and majority staffers has been rewarding to NWSEO and reflects well on you as a leader in the U.S. Senate.

NWSEO thanks you again for all your help. We believe that the bi-partisan approach will save many lives. We look forward to working with you in the 103rd Congress.

Sincerely yours,
DAVID T. POWELL Jr.,
National President.

CLIMATE CHANGE

Mr. PELL. Mr. President, I wanted to take just a moment of my colleagues' time to discuss with the majority leader the Convention on Climate Change and the prospects for its consideration in the Senate this fall. The convention was opened for signature at the U.N. Conference on Environment and Development—or UNCED as it is more commonly known—which I had the privilege to attend as a member of the Senate Observer Group. The administration has announced its intention to transmit the convention to the Senate quickly; however, it has not yet arrived and, barring some unforeseen circumstance, it will not arrive until after the August recess.

I know there is a great deal of interest in the convention among many of my colleagues, and it is certainly my hope that the Senate will be able to act on the convention this fall.

However, I think we also need to recognize that both the Senate's and the Committee on Foreign Relations' schedule will be very busy in the 5 to 6 weeks that we will be in session prior to sine die adjournment. The Committee is likely to have a number of pressing issues on its agenda, including: the Open Skies Treaty, possibly the deMIRVing Treaty, and several bilateral investment treaties with the newly independent states. In addition, the committee will be considering legislation to reauthorize the Overseas Private Investment Corporation. Further, the Senate should act on two items previously reported by the committee: the START treaty and the conference report on the aid package for the newly independent states. I am certain that between now and the time the Senate reconvenes in September, other items will be added to this list. I expect that the Senate's schedule will be under even tighter constraints.

If the Senate is to have any chance at all to act on the convention this year, I think it will be necessary for the President to transmit the convention as soon as possible. Absent this, I am concerned about the Senate's ability to act on the convention prior to sine die adjournment.

I would be interested in learning the majority leader's views on this issue.

Mr. MITCHELL. I appreciate the information of the distinguished chairman of the Foreign Relations Committee. The U.N. Conference on Environment and Development, held in early June, was an historic meeting of international leaders on environmental issues. As the chairman points out, the convention was opened for signature at that time.

I would like an opportunity to fully consider the Convention on Climate Change, but I am concerned that the delay in transmitting the convention to the Senate for ratification may preclude us from being able to consider the matter before we adjourn sine die this fall.

LOAN GUARANTEES TO ISRAEL

Mr. DODD. Mr. President, yesterday President Bush announced that he is prepared to move ahead with loan guarantee assistance for refugees in Israel. I want to commend the President for this statement of support for Israel's mission of humanity, though in my view it is long overdue. I also want to urge my colleagues to move ahead quickly with legislation to implement this critical program.

Mr. President, it was only a year and a half ago that the Israeli population found itself under attack by Iraqi Scud missiles. Since that time, there have been dramatic changes in the political climate of the Middle East. The Iraqi military machine has been weakened. The Soviet Union has collapsed. And Jews have been permitted to emigrate from Syria, proving that not even the harshest regimes are impervious to change.

But some of the most significant changes in recent times, Mr. President, have come from within Israel itself. Since his overwhelming mandate in the June elections, Prime Minister Yitzhak Rabin has rededicated his nation to the mission of peace. In the space of just over a month he has curtailed political settlements in the occupied territories, eased restrictions on contacts with Palestinian leaders, and revitalized the 13-year-old relationship with Egypt.

Yesterday's announcement from Kennebunkport means that Israel will be able to finish the absorption of a million settlers from all over the world. But in my view, Mr. President, this announcement goes farther than that. It puts a definitive end to the tension and distrust that lately has characterized the United States-Israeli relationship. For this reason alone, Mr. President, yesterday's announcement would truly be cause to celebrate.

Mr. President, let me take a moment to explain exactly the way these loan guarantees will operate. This is not a cash grant to Israel, nor is it a loan. Under the loan guarantee program, the United States will simply offer to underwrite loans provided to Israel from private, commercial banks. Should these loans be repaid—and Israel has never defaulted on a loan in its 44-year history—the total cost to the United States taxpayer will be only a very small proportion of the overall program.

Mr. President, we should not believe that the challenges to Israel will be complete once Congress has approved these loan guarantees. Israel still faces many obstacles to stability in the Middle East, from the continuing aggression of its Arab neighbors to the relentless demands on its domestic economy.

But the swift approval of this loan guarantee assistance will help Israel meet these challenges from a position of strength, and not from weakness. And that is the underlying purpose of this essential form of assistance. Mr. President, I hope these guarantees will be approved by this body without delay.

THE SENATE SHOULD STILL ACT ON DEFENSE CONVERSION

Mr. PELL. Mr. President, I call attention of the Senate to an excellent and timely article in today's New York Times entitled "Cutback in Military Spending No Help for Ailing Economy."

The article describes how a 5-percent annual decline in military budget authority since 1990 has translated into an annual decline in procurement of manufactured goods of more than 12 percent over the same 2-year period.

And this drop in economic activity, the article states, may be a major reason why the national economy is stuck in the doldrums of recession.

On the basis of experience in my own State, I can certainly attest to the validity of the Times account.

Unemployment in Rhode Island, which has hovered above 8 percent for all but one of the last 12 months, peaked in the month of June at 9.7 percent, compared with the national average of 7.8 percent.

And during the past year, our problems have been sorely exacerbated by major declines in defense spending. Electric Boat Division of General Dynamics has laid off 2,000 workers in Rhode Island and southeastern Connecticut, in the wake of the *Seawolf* cancellation. Raytheon's Submarine Signal Division has laid off a third of its work force of 3,000.

The Times article makes the case, it seems to me, for the sort of comprehensive government response which was endorsed by the Senate's 91-to-2 vote in support of the defense conversion provisions of the fiscal year 1993 Defense authorization bill just last Friday.

As I stated on the floor at that time, the bill contains creative and innovative provisions for transferring military technology and research to the commercial sector, with the intention of compensating for the diminished stimulus of defense spending.

Many of these provisions reflected the thoughtful consideration of task forces on both sides of the aisle who have been laboring hard in recent weeks to devise constructive steps that would help avert the economic consequences reported in the Times article.

It would be a sad loss to the Nation's well being if those efforts are wasted because a parliamentary deadlock prevents further action on the bill in the Senate. I hope that the coming recess will offer an occasion for reflection and reconsideration and that we will have opportunity to act further on this matter when we return.

Mr. President, I ask unanimous consent that an article from the New York Times of August 12, 1992 entitled "Cutback in Military Spending No Help for Ailing Economy" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CUTBACK IN MILITARY SPENDING: NO HELP FOR AILING ECONOMY

(By Louis Uchitelle)

Not since the 1950's has the United States recovered from recession while military spending was falling sharply. But now that the cold war is over, America is struggling to do just that, and finding it difficult.

The precipitous drop in military spending in the last 18 months has eroded an important pillar of the economy, and many economists say that is a big reason that the United States is now having such trouble pulling out of recession.

While critics of military spending have long argued that the money and manpower could be better employed in the civilian sector, virtually no one questions that military spending has served as a powerful source of economic demand.

"There has not been a time when a rise in defense spending would mean more for the economy than now," said Alicia Munnell, a senior economist at the Federal Reserve Bank of Boston. "We are growing so slowly that defense spending can make the difference between a rising unemployment rate and a falling one."

The military budget authorization—$286.7 billion in the current fiscal year, adjusted for inflation—has been falling at more than 5 percent a year since 1990, notwithstanding the fighting in Kuwait. That is twice as steep as the rate of decline in the late 1980's.

But among all categories of military spending, the greatest damage to the economy has come from the cutback in procurement spending: orders placed with factories. It has been falling by more than 12 percent a year since 1990. And under President Bush's budget proposal now before Congress, the sum will drop another 13 percent in fiscal 1993. Procurement has a multiplier effect, creating jobs not only at military contractors but also at the companies that make the consumer goods the well-paid military workers buy.

DRI/McGraw-Hill, an economic consulting service, estimates that this lower level of military spending "probably cuts one-quarter of a percentage point off economic growth," said David Wyss, DRI's chief economist. "That is a considerable drag in a nearly stagnant economy growing at less than 1.5 percent a year."

Nor has the drain ended. Continued cutbacks by military contractors sliced 17,000 jobs in July, the biggest single-month decline in military contractor employment since the recession began in July 1990. Certain areas, like Southern California, are being hit especially hard. And industry executives suggest considerable shrinkage is still to come.

For four decades, military spending has accounted for an average of more than 7 percent of the nation's annual output of goods and services, seldom falling below 5 percent even during earlier cutbacks. Today that level has shrunk to just about 5.5 percent of the gross domestic product, and most projections see it sinking below 4 percent by 1997.

"The impact is bigger than you can see by just looking at the numbers," said Herbert Stein, a senior economist at the American Enterprise Institute.

Two other big cutbacks in military spending have occurred since the cold war began in 1950, after the Korean War and Vietnam. But neither hit the economy with as much force as the current reduction in military spending.

Soaring consumer demand, very much absent today, helped to offset the military cutback in the early 1950's. "It was only after the Korean War that Americans finally decided that we would not go back to the Great Depression, and they let go and spent," said Robert Gordon, a Northwestern University economist.

The continuing Government outlays for Lyndon Johnson's Great Society programs—economic stimulus also absent today—helped to counteract the Vietnam military cutback, which began in 1968. Even so, both cutbacks contributed to brief recessions, in 1957-1958 and in 1970.

This time, military spending actually peaked as far back as the fiscal year 1985, and has been falling ever since. But much of the damage to the economy—and particularly to jobs—did not hit until more recently. As long as the cold war held out the promise of renewed weapons making, military contractors waited out the lean years—as they did in the 1950's and 1960's—keeping their operations largely intact. But with the abrupt dissolution of the Soviet Union, that promise is gone.

Now leading military companies like General Dynamics, Hughes Aircraft, Raytheon and General Electric are shrinking their operations in anticipation of permanently lower sales, and their actions will ripple through the economy as workers lose jobs.

"We don't see the traditional rebound that has characterized downturns in defense spending in the past, and we are preparing ourselves on that basis," said James Cunnane, a senior vice president at General Dynamics, which makes warplanes, armored vehicles and submarines.

In just 19 months, General Dynamics has eliminated 17,000 jobs, shrinking its work force by nearly 20 percent. And there have been similar rapid layoffs across the industry, as military contractors increasingly find themselves behaving as any other company forced to compete for shrinking business would.

"There used to be more contracts and the revenue base was bigger so you could support more costs, but those days are gone," said Sheldon Rutstein, chief financial officer at Raytheon, maker of the Patriot Missile and other military hardware. Raytheon, which held employment in its military operations above 75,000 through 1990, has now reduced its work force to 68,200.

"We are well aware that our competitors are taking similar steps," Mr. Rutstein said, "so we have to be one step better to be in a position to pull in the next contract."

EMPLOYMENT—TIMING OF LAYOFFS COULDN'T BE WORSE

Nowhere is the effect of the more vigorous cutbacks in the military supply industry more evident than in the Labor Department's monthly employment statistics.

Until the summer of 1990, employment at military contractors—the hundreds of companies that receive 50 percent or more of their revenues from sales to the military—hardly fell. The job rolls at these companies, which reached a high of 1.44 million in 1987, declined by only 33,000 in the following three years.

"For a long time, people in the industry thought they would get well, that orders would rise, but the orders clearly were not coming," said Gordon Adams, director of the Defense Budget Project at the Center on Budget and Policy Priorities, a Washington research group.

When the Berlin wall fell and the Soviet Union collapsed, the reductions began in earnest. Beginning in the middle of 1990, employment at military contractors plunged by more than 100,000 a year, falling to 1.19 million last month. That decline—of some 225,000 people—represents 15 percent of the 1.47 million jobs that have disappeared during the current recession, which began in July 1990.

"The timing for such steps could not have been worse," said John E. Bregger, an economist at the Labor Department's Bureau of Labor Statistics. "Just when we need a boost from defense, we get a negative."

Many jobs are being lost in California and the Northeast, but hundreds of communities elsewhere are also affected as the contractors slice orders to their suppliers. General Electric's aerospace division, for example, is shrinking its network of about 2,000 suppliers by 50 percent—using the best supplier of, say, wire harnesses to sell to all of G.E.'s 13 aerospace plants, instead of having each plant buy from a different company.

Compounding the problem, military workers earn among the highest hourly wages in the nation, usually well above the national average of $10.58 an hour. When their jobs disappear, consumer spending, on which a recovery depends, suffers more than if a lower-paid retail store clerk or office worker is laid off.

What's more, the armed forces have shed 160,000 people since 1990, and now stand at just over two million men and women. That is only 1.6 percent of the total labor force—

the lowest percentage since World War II. The cutback has been particularly painful for high school graduates, especially minorities, for whom the armed services have been an important source of jobs. Blacks account for 20.6 percent of the men and women in the military.

TRIBUTE TO MR. SYLVESTER BROOME, JR.

Mr. RIEGLE. Mr. President, there are many individuals who decide during their lifetimes that one of their main goals is to give of themselves to the society of which they are so integrally a part of. One of the clearest examples of such a person was Genesee County Commissioner Sylvester Broome.

Mr. Broome, who passed away on Friday, August 7, was a resident of Flint, MI for over 40 years. Born in Memphis, TN, Mr. Broome came to Flint as a youngster, attended Flint public schools and Mott Community College. He served in the U.S. military and, upon returning to Flint, became an employee of General Motors where he retired as a general foreman in 1991. He served as a Genesee County Commissioner in District 2 for 12 years. During his tenure with the board he served as vice chairman and chairman and currently held the position of chairman of the board's finance committee.

Mr. Broome found time for involvement at all levels and phases of local and county development. He built and shaped groups of people seeking unity and security for the residents of Genesee County and the State of Michigan. He accomplished this by giving countless hours to such organizations as the 911 Task Force, the Valley Area Agency on Aging, Job Central, the federally funded job training agency, the Urban Community Youth Outreach and the Urban Coalition of Greater Flint which he chaired for some time. Numerous organizations, supporting young people, the disadvantaged, minorities, education, political activism, employment, mental health, and the aged, benefited from his leadership. This was not only in an administrative sense but also the sense of a special spirit. In appreciation for his efforts, he received many awards of excellence which were not only county based but often State and nationwide.

Mr. Broome was also a devoted family man. He was married to his loyal and devoted wife, Mancine, for 31 years. They had two children, Vicki Renee and Mance.

Mr. Broome, lovingly and ardently involved in the causes of his fellow African-Americans in addition to all his other public services, was inspired by a past which gave him outstanding hopes for the future. He shared the dreams of many visionary political and religious figures, and saw society as developing and working together rather than as dividing into separate parts. His passing leaves a void in many personal lives and in many lives of those he has been an inspiration.

As Senator from the State of Michigan, I personally experienced the assistance and friendship of Mr. Broome and although this is a great loss I truly believe there is no loss of spirit. Mr. Broome's visions will continue to inspire and instruct those who follow in his steps. The legacy of his guiding ways and his concerns will endure for many generations.

A VISIT TO KAZAKHSTAN, UZBEKISTAN, KYRGYZSTAN, TURKMENISTAN, GEORGIA, MOLDOVA, UKRAINE, BELARUS, RUSSIA, AND LATVIA, TO EXAMINE UNITED STATES ASSISTANCE POLICY IN THE FORMER SOVIET UNION

Mr. PRESSLER. Mr. President, during the July 1992 Senate recess, I led a delegation to 11 countries, Russia, Kazakhstan, Uzbekistan, Kyrgyzstan, Turkmenistan, Georgia, Moldova, Ukraine, Belarus, Latvia, and the United Kingdom. I undertook this challenging schedule to learn more about the effect of United States assistance programs in former Soviet Republics and the Baltic States. In September, the Senate is likely to consider the conference report to accompany the Freedom Support Act, which provides generous United States assistance to states of the former Soviet Union and a considerable downpayment on new United States' commitments to the International Monetary Fund. As a member of the Foreign Relations Committee, I have been designated a conferee on the Freedom Support Act. The conferees will meet in early September. This trip was important in preparing me for work as a conferee.

The Senate passed its version of this legislation on July 2. I voted against reporting the bill from the Foreign Relations Committee, but joined the 76–20 majority to pass the legislation early in July. However, I supported the legislation with mixed feelings.

In this report, I outline a few of my own observations and conclusions. Without reasonable, minimal conditions, I fear any assistance will further line the pockets of the former Communist Party hacks who all too often remain in control and are in a position to prevent funds from going to essential political and economic reforms in the former Soviet empire.

COUNTRY-BY-COUNTRY OBSERVATIONS

KAZAKHSTAN

My visit to the former Soviet Union began in Kazakhstan after a visit to Moscow. I was delighted to be met at the airport by my old friend Bill Courtney, a top-notch Foreign Service officer and Ambassador-designate. I came to know Bill Courtney when we worked together in the early 1970s at the State Department, where I served as an attorney/adviser in the Legal/Economic Bureau. Mr. Courtney, a distinguished officer, is precisely the kind of envoy the United States should be sending to every former Soviet republic—he is knowledgeable, committed, and astute.

Kazakhstan, like the other Central Asian Republics, could become rich if properly developed. Unfortunately, democratic institutions are lagging behind economic opportunity. Last June, about 5,000 protesters took to the streets of Alma-Ata to demand the resignation of the hold-over Communist leadership.

In Alma Ata, I visited the chairman of the Supreme Soviet in Kazakhstan, Mr. Serikvolsyn Abdildin, in his office. This was my first experience with the problem of the one-party 1990 elections. Above Mr. Abdildin's large desk in his spacious office hangs a portrait of Lenin. Mr. Abdildin noted that the current government was elected in a one-party election.

That evening, during a working dinner, I was joined by Mr. Nickolay Akuyev, who chairs the Commission on Law and Order in the Kazakh Supreme Soviet. Mr. Akuyev was very cautious about the prospect for putting CSCE principles and a rule of law into place any time soon. Following the dinner, the delegation met at our hotel with two local leaders of a free trade union, Valentina Sivrukova and Leonid Solomin. Each asked for more direct U.S. assistance to help them organize their union. In addition, they stated that the government is attempting to close down their access to the media and would like to shut down their movement completely. Both complained that the overwhelming influence of former Communist Party officials and Communist bureaucrats—referred to negatively as "chinovniki"—was stifling the new, free labor movement in Kazakhstan. I urge greater attention to the human rights situation in Kazakhstan, specifically in the area of free press and political pluralism.

UZBEKISTAN

The Government of Uzbekistan typifies the problems America and the West face in dealing with the new states of the former Soviet Union. Like so many of the other newly independent states, Uzbekistan claims to support principles of the Commission on Security and Cooperation in Europe, but performance lags behind rhetoric.

The United States should not invite notorious charlatans like President Islam Karimov of Uzbekistan to visit the United States to meet and greet President Bush and high government officials unless and until his regime alters its behavior toward the "Birlik" and "Erk" political movements. I commend the Bush Administration for withdrawing for an indefinite period the invitation for Mr. Karimov to visit this country.

Thugs masquerading as democrats also should not qualify for aid. Deeds must replace words as a standard for U.S. foreign aid. I deeply regret that questionable trials and imprisonments remain the norm for supporters of Uzbek opposition movements.

Visit To Beaten, Hospitalized Dissenter In Uzbekistan

Upon arriving in Tashkent, Uzbekistan, I set about trying to visit two leaders of the "Birlik" political movement who had been brutally beaten and were in the hospital. I was first told they probably would not be able to converse because of severe head wounds and also that it is almost certain that security people would prevent me from visiting if I tried a straightforward embassy request. On July 7, 1991, John Parker, a Foreign Service officer in Tashkent, and fluent in Russian, and I made a sudden unannounced visit to the local hospital where we believed that Abdurahim Pulatov, the chairman of the popular movement Birlik had received surgery and was being treated. We talked our way past security guards in the filthy hallways of the hospital. When we finally arrived at the room, a commotion ensured to keep us out. Then the head doctor came and said we could go in for a minute, but no pictures.

John Parker had not announced I was a visiting Senator. He had made it seem that we had some message for the beaten victim's family or something such. I do not know who the security guards thought we were, but I am sure they would not have admitted us if they knew our intentions.

Upon entering the hospital room, which was absolutely dirty, we saw two men with black eyes and bandaged wounds on their heads. Both had surgery and had been in the hospital a week to 10 days. They looked much better than they probably had earlier.

I asked Mr. Abdurahim Pulatov, co-chairman of the Birlik, who he thought had beaten him, and he said, unhesitatingly, it was done under the direct orders of President Karimov. He also explained how President Karimov's office carries out such things through a certain part of the Ministry of Justice or Interior, which reports directly to the President's office.

Mr. Pulatov said he had applied for some outdoor public meeting permits and made a speech or two. That was his crime. He was summoned to come into what is the equivalent of our Attorney General's office and was questioned. After leaving the government office, he and his lawyer had been approached by thugs and were beaten up with lead pipes in full view of security people who stood and watched. He was sure the beating was officially ordered by President Karimov, and he was sure it came as a result of his political activity.

We talked to him through our translator, John Parker, for about 10 minutes. Then the doctors came in and said I would have to leave. They asked us to leave a couple of times, as they were nervous about our presence. They did not know exactly who we were and why we were there. At that point, we took John's camera out of his bag and took a picture. The doctors objected, but we took a couple more. I took the camera and put it in my bag in case the security people tried to take the camera away from us, because I might have a better chance of holding on to it. We got out of the hospital without encountering any search or opposition.

Mr. Pulatov was very appreciative of our visit and resolved to continue his political activities if he recovered. His lawyer, Mr. Alimov, was less talkative and seemed to be very sick. I understand that Mr. Pulatov will need more surgery on his head to have a plate put in. His eyes were swollen completely shut at first. They are now open, except he may have some damage in his right eye. But he clearly showed the evidence of a very severe beating which was about 8 days old.

Later, I confronted Deputy Minister of Foreign Affairs, Fatih G. Teshabayev, about the matter and he told me this was an internal issue about which a visiting Senator should not be concerned. He would not deny that such a beating had occurred, and he would not discuss whether orders for it came from the President's office, just that it was an internal matter. I told him that I very much wanted to talk to the President about this. The President was away—ironically, attending a CSCE meeting in Helsinki. So I told Mr. Teshabayev that until this matter was fully settled I would oppose the double taxation treaty with Uzbekistan unless there was some explanation of this beating, and would oppose President Karimov's visit to the United States.

Mr. Karimov has requested an unofficial visit and a meeting with President Bush. Immediately on our return to Washington, I wrote President Bush, saying in part, "I see no evidence that Uzbekistan is making progress and I believe non-humanitarian assistance should be curtailed until this matter is resolved to the satisfaction of the two parties (U.S. and Uzbekistan)." I also have asked for a CSCE investigation of the beating to determine what connection, if any, the Government had with it.

Help Uzbekistan's Travel Industry When Human Rights Situation Clarifies

Instead of sending more U.S. taxpayer funds in aid programs, we can make a difference in Uzbekistan by showing those people how to build tourist potential in Samarkand. Once the human rights situation is clarified, and we are sure that Uzbekistan is abiding by the CSCE principles, private U.S. firms and retired travel executives can help develop Samarkand's great tourist assets. Registan Square is comparable to the Taj Mahal in its grandeur and historic attraction, but Samarkand has been receiving fewer than 20,000 foreign visitors annually. The lower numbers of tourist visits is explained by poor hotel facilities, costly travel, costly services which must be paid for in hard currency and a lack of tourism knowhow.

The city is located on the ancient silk road to China. It was used by Alexander the Great in the 4th Century B.C. and Tamerlane in the 14th century. In addition to Registan Square, Samarkand contains a number of stunningly beautiful medreses (Muslim religious schools), a marvelous market area that is ancient and yet reflects the emergence of a freer market, and an excellent museum in honor of the 14th century astronomer Ulugbek.

KYRGYZSTAN

After Uzbekistan, the delegation journeyed to Kyrgyzstan. During two days of meetings there, we heard even more reformist economic rhetoric than in the first two Central Asian countries. In addition to meeting with Kyrgyz government leaders in Bishkek, we discussed the country's potential with an American businessman, Mr. William R. Wilson of Grynberg Resources. Mr. Wilson is seeking to develop the Kyrgyz mining industry.

We visited a collective farm which was short of spare parts, seeds, and other necessities and a brewery where portraits of Lenin and Marx hung in the office of its director. We visited a collective farm in Kyrgyzstan unannounced during grain harvest and talked with some of the collective's farm leaders. They said it was impossible to convert to free enterprise, and that very little conversion had occurred.

It is possible that bilateral agricultural trade can be developed between our two countries, possibly in the wool industry and possibly with inputs such as improved seed, breeding stock, and agricultural equipment. Of course, any such trade would depend on dramatic moves away from a socialized command economy. Despite economically sensible rhetoric on privatization, even Kyrgyzstan has a long way to go to match minimal conditions for United States assistance.

During my stay in Kyrgyzstan, as in a number of other former Soviet republics, I sought out poets and writers and held a luncheon in their honor. These people are often found among the democratic vanguard in the transition away from Communism. For example, the chairman of the "Erk" political movement in Uzbekistan is a poet. Writers and poets in Kyrgyzstan expressed considerable concern about the future of their country. At each stop, I asked their opinion of one of my friends, Joseph Brodsky, the former Poet Laureate at the Library of Congress. Everyone looked up to him and could not understand why he was not better appreciated during his tenure in that position. I frequently have learned useful information during my morning jogs with local citizens. It is also an excellent way to understand a city's personality. In Bishkek, I ran with a young Kyrgyz of Russian descent. Although he spoke the Kyrgyz language, he expressed concern that some people of Russian background might not be able to adapt easily to post-independence laws, but that they would also feel out of place in Russia itself.

Rights Of Jews In Central Asia

During my visit, I met with several Jewish leaders in the Central Asian republics. One illuminating discussion was held late at night with the head of the Jewish community in Bishkek, Kyrgyzstan, Mr. Alexander Katsev, chairman of the Department of Philology of Bishkek University.

Mr. Katsev gave me permission to use his name. He was fearless. Some of the other Jewish leaders we met with in other countries admitted they did not raise the issue of the treatment of Jews with Mrs. James A. Baker during her recent visit for fear there would be reprisals in their communities. Mr. Katsev allowed no such fear to stop him.

He told me there are 9,400 Jews in Kyrgyzstan, of whom 4,700 hold passports identifying them as Jewish. In the Soviet Union, citizens had passports by nationality, and this practice continues. He said the Jewish community is very frightened. "When you do not have enough to eat, you blame someone—usually Jews," he said. He said rumors were being spread that "Americans and Zionists are buying Kyrgyzstan."

Mr. Katsev continued that because 2,000 Jews have left since 1989, people mistrusted Jews and hesitated to do business with them. Around 6,000 individuals identified themselves as having Jewish passports in 1989. Today that number is only 4,700.

The Jews in Kyrgyzstan are Bukhara Jews as opposed to Ashkenazi Jews. That is, they migrated to what is now Bukhara, Uzbekistan in the 10th Century. They are not descendants of an Old Testament "lost tribe." They speak and worship in Farsi rather than Hebrew. Mr. Katsev said there has been a law on the books since 1929 stating that learning Hebrew is illegal.

The Jewish community is fearful of the new Kyrgyzstan Constitution, because it makes Kyrgyz the official language. "Most Jewish people do not speak Kyrgyz and thus will be barred from many jobs," he said. Mr. Katsev asked me, "Can we count on your help?"

I said I would publish any human rights violations in CONGRESSIONAL RECORD. I asked Mr. Katsev to send me periodic reports, and I said I would publish them here in the CONGRESSIONAL RECORD. Mr. Katsev suggested that the American Jewish community establish an "Adopt-a-Country" program wherein Jewish or non-Jewish people from the United States would systematically visit the Central Asian countries to monitor and report to the outside world what is really going on. "We are afraid," he concluded.

I said that I would fight in Congress to place human rights conditions on any U.S. aid. I would try to hold up aid if there were more human rights violations. I would write a memorandum to President Bush. I would write a memorandum to the American Jewish community leaders on the Adopt-a-Country proposal. Kyrgyzstan Jews continue to flee to Israel and the United States because they are mistreated.

TURKMENISTAN

The least politically reformed of any of the Central Asian republics is Turkmenistan. A Stalinesque cult of personality seems to surround the President, Saparmurda Niyazov, whose portrait is in all government offices and who is reverentially referred to as "the President," or "our leader." He was "voted" president with a 99.5 percent participation rate in a one candidate election. To paraphrase the Chairman of the Mejlis (Parliament), the "people do not want a party other than the Democratic Party of Mr. Niyazov."

The government of Turkmenistan has taken the popular course by coming out against environmental degradation. Much of the harm to Turkmenistan's environment has come through cotton production and the disastrous routing of the Amu Darya River to make the Kara Kum Canal.

Much of the water from the mountains of Turkmenistan is now diverted to Uzbekistan and the Aral Sea. The Turkmen government would like to re-route the water to the benefit of Turkmenistan. Obviously, this could lead to trouble with Uzbekistan. On a personal note, I would add that during my first race for Congress in 1974, I opposed construction of the Oahe Project near the Missouri River in South Dakota and compared its potential for environmental degradation with what has occurred as a result of reckless irrigation project construction in Central Asia.

Turkmenistan is close to the Iranian border. As in other Central Asian republics, there is a lively competition between Turkey and Iran for economic and political influence. The selection of a route for a new oil pipeline will be the deciding factor in determining who will have the most influence on Turkmenistan. There are two alternative routes to get Turkmen oil to port: (1) directly through Iran into Turkey; or (2) across the Caspian Sea, through Georgia, Armenia, and Azebaijan.

The former option is preferred by the Iranians and, in the short term, would probably be less expensive to build. The latter option is preferred by the Turks, since it would economically help their allies the Azeris, even though it would be more costly. Given the current Armenian-Azeri conflict, running a pipeline through both these states would open the possibility of an economic blockade. The decision likely will be based on where Turkmenistan gets its financing for the canal—either for Iran, Turkey, Pakistan, or Saudi Arabia.

One of Turkmenistan's most abundant exports is natural gas. However, since Turkmenistan and Russia require payment in hard currency, many buyers cannot pay. The United States should monitor the situation to assure the gas is not used as a weapon to reward or punish other states of the former Soviet Union. The Turkmen Government works quite closely with the Russian government. In fact, Russian military forces in Turkmenistan will be under both Russian and Turkmen control—an unusual arrangement.

Turkmen government officials claim that visiting American, Turkish, Italian, and German companies are pleased with Turkmenistan's pledge to protect investments. Turkmenistan plans to introduce its own currency and expects it will have enough hard currency reserves to make its currency convertible. Turkmenistan might adopt a Chinese model economic system in which investment is encouraged, but the government will retain, at least for the short term, the ability to monitor investments and exports.

GEORGIA

I am left with a sense of great unease after my visit to Georgia. Eduoard Shevardnadze, the former head of the Communist Party and KGB in Georgia and former Foreign Minister of the now defunct Soviet Union, is considered the best hope by those living in the conflict ridden nation of Georgia. Yet he seemed very reluctant to oppose the continuing presence of Russian troops in his country. This was especially surprising since, on the day before I met with Mr. Shevardnadze, the Governor of the Gori Region had told me a frightening tale of being shot at by Russian troops in the streets of his city.

There are really three conflicts in Georgia—within Georgian politics, within Ossetia, and within Abkhazia. Each contributed to the rise to power of Mr. Shevardnadze after a coup in March of this year. There currently is so much instability that a midnight curfew is in effect. This kind of control might easily slide into some form of a police state, imposed by a strong Georgian military force. The U.S. should make every effort to ensure the Georgian military does not get out of control.

Both President Shevardnadze and Prime minister Sigua told me they believed a coup was the only way to achieve change in Georgia. they cited the paranoia of the elected President, Zviad Gamsakhurdia, as an obstacle to political pluralism in Georgia. Unfortunately, the coup meant that democracy in Georgia died while still in infancy. Despite justified criticism of Gamsakhurdia, he was an elected official who should have been deposed by political means. In the aftermath of the coup, a military council was formed which led to Shevardnadze's return—this time as a democrat.

Elections with international observers are now scheduled for October 11, 1992, according to Shevardnadze. However, the persistence of Russia's military, the breakdown of law and order, the stifling of fundamental human rights, and the possibility of a police state frightens opposition forces who wish to participate in such elections.

During my time in Georgia, I was surprised at being unable to find anyone opposed to Mr. Shevardnadze. With his great international connections, most considered him irreplaceable. Most agreed they really had no choice but to hope that Shevardnadze would remain faithful to the ideals he now espouses. However, questions continue to surface about the current Georgian government's commitment to human rights and democratic institutions—such as free press and free association.

Possibilities for bilateral agricultural trade exist in Georgia, assuming a restoration of democratic elections. Georgia is critically short of wheat and other staples, such as butter. During the Soviet era, thousands of acres were devoted to a few crops as part of a centralized control system. Now Georgia must convert to private agriculture if it is to produce sufficient basic foodstuffs to feed its people. Whenever possible the U.S. should look for opportunities to assist in this regard.

MOLDOVA

In Moldova, I was told by President Mircea Snegur that Russian President Yeltsin agreed to negotiate withdrawal of Russian forces from the Transdniestria region, one day after the Senate adopted my amendment calling for immediate withdrawal of the Russian 14th Army from the conflict in Moldova.

Congress can make a difference. If we take a strong stand, U.S. goals can be met. The United States must take a strong stand on Moldova. This should include support for international supervision of the ceasefire in Moldova by neutral, Western observers.

Unfortunately, following my departure, President Snegur agreed with Russia on July 22 that Russian, Moldovan, and self-proclaimed "Dniester" officials would monitor the ceasefire. This is incredible. The very forces involved in the fighting will be given equal status to monitor a ceasefire—a formula for failure and continued conflict.

This precarious solution has two costs for Moldovan self-determination. First, Russian separatist elements in the Dniester region will be given a special status within Moldova, permitting the Dniester region the right to leave Moldova if Moldova undergoes a change in sovereignty—that is, reverses the consequences of the Nazi-Soviet Pact by rejoining Romania. Unfortunately, the "peace" document says nothing about a peaceful change in leadership in Transdniestria—including real elections without the specter of Russian Army threats and surveillance. The key to the solution in Moldova is for people to have an opportunity to work out issues themselves without manipulation by the governments involved.

The second cause for concern arising from the agreement is that it seems to have given President Snegur a green light both to push for the Commonwealth of Independent States treaty before his Parliament and to intensify his criticism of opposition leaders and protesters in Moldova.

The root cause of the current conflict in Moldova is not ethnic; rather, it has arisen from the presence and involvement of the Russian Army. While I believe that President Yeltsin would like to remove his armies from foreign lands, thereby reducing needless defense spending, his encouraging rhetoric does not match the bellicose statements of his generals. Addressing a Supreme Soviet session of the rebel "Dniester republic" on July 28th, Major General Aleksandr Lebed, the new commander of Russia's 14th Army in Moldova, stated that his Army cannot withdraw from Moldova for at least another 15 years. I do not understand why a representative of the Russian Army would address a group that encouraged war and insurrection only a week after a so-called cease fire and peace settlement was reached.

The history of Moldova is complex. Moldova did not exist as an independent state until last year. However, as a nation, the territory of Moldova has existed for centuries. In order to learn more about Romanian and Moldovan history, I met with the Chairman of the Moldovan Parliament, Dr. Alexandru Mosanu. During our meeting, he outlined the incongruity of Moldova becoming too aligned with Russia when its natural, historical inclinations and experience are Western. As the head of Parliament, he has opposed parliamentary consideration of a treaty to join the Commonwealth of Independent States. His comments were echoed by Mr. Valeriu Matei, the Chairman of the Mass Media Committee of the Parliament, who as an historian can document the difficulties imposed on Moldova by outside invaders, including the Ottoman Turks, the Czarists and then Soviet Russians.

I also met with Iurie Rosca, the President of the Executive Committee of the opposition Christian Democratic Popular Front. The participation of the Popular Front of Moldova in the development of human rights and political freedom is vital. Mr. Rosca called for the removal of Russian forces, and release of all prisoners, many from his political party, who remain in captivity on the left bank of the Dniester River. The regime in Tiraspol has waged a no-holds-barred campaign to imprison, harass, or murder Moldovan policemen on the left bank, as well as anyone else considered an enemy of the Transdniester regime.

As an advocate of political pluralism in the states of the former Soviet Union, I believe it is important for the future of democracy in Moldova for groups such as the Christian Democratic Popular Front to continue their good work without harassment. The Popular Front has played a critical role in defining Moldova's freedom from the Soviet Union over the last couple of years. Many of the Front's positions recently have been adopted by new converts to democracy in the Moldovan government. I hope the Popular Front and other democratic forces will be able to function in an open society.

I also urge full respect by the Moldovan government for freedom of speech. This included prohibiting censorship of political opinions and permitting time on television for opposition groups.

I also am very concerned by the refugee situation in Moldova. At the time of our trip, 43,370 refugees had fled the left bank and Bendery and now seek shelter in Moldova. As of July 22nd, the number had grown to 50,377. Ms. Ludmilla Scalnyi, the President of the women's association, "Dacia," sponsored a roundtable discussion with representatives of Ukrainian, Russian, and Moldovan populations in Transdniestria. The panelists spoke of the devastation in their lands and described how the rebel regime of that region is not working to protect minorities. They said it exploits them in a cynical grab for power, as if it yearned to revive the old Soviet Union. These women of Dacia believe that the true story of devastation at the hands of this regime is not being heard in the West.

I urge international human right groups to meet with these women to hear their stories of devastation and to investigate the questionable human rights record of the Transdniester regime.

UKRAINE

Our delegation to Kiev arrived the day after President Kravchuk's dismissal of Volodymyr Lonovoy, the Minister in charge of economic reforms. Sadly, Mr. Lonovoy was dismissed for criticizing President Kravchuk's snail's-pace view of economic change and for moving too quickly on economic reform recommendations made by the IMF and others. Mr. Lonovoy was replaced by Valentine Simonenko, a former Communist and the former economic reform chief for the ex-Soviet Union. Upon assuming office Mr. Simonenko stated, "I am categorically against any help from the West."

Quite frankly, such disdain for economic policy reform assistance is more than a little disappointing. What is Mr. Simonenko complaining about? Does he really not want U.S. help? Or would he prefer the IMF pull out and make American business leaders pack their bags and go home?

The old adage, "what goes around, comes around" appears appropriate to describe the current situation. Last December, the people of Ukraine had a choice among several non-Communist candidates. Instead, Mr. Kravchuk was chosen for his ability to mediate between Russia, Ukraine, and the West. Unfortunately, old habits die hard and current leaders in many former Soviet republics are capable of going only so far. Perhaps we should not be disappointed in their performance. However, this Senator is.

Whatever the United State does, we should not be in the business of building these leaders up in the estimation of their people. We should call a spade a spade.

BELARUS

The people of Belarus long have been misunderstood. During the Soviet period, they were the most assimilated of all—their Slavic dialect has all but disappeared. Belarus officials always were considered the most orthodox of communists, and for this loyalty, Belarus was given a seat at the United Nations. Belarus sovereignty during the Soviet period was more apparent than real.

Following Lithuania's declaration of independence on March 11, 1990, Soviet President Gorbachev stated that Lithuania could not be independent unless it ceded its southern territory to Belarus. Last year, further territorial claims on Lithuania were made by the Belarus foreign minister. Such claims were later withdrawn and Lithuanian-Belarus relations progressed in a more positive direction under non-Communist President Shushkevitch. Nevertheless, there is a great search for national identity within Belarus after years of Russian, Lithuanian, and Polish domination.

Following the Chernobyl disaster of 1986 anti-nuclear organizations flourished. However, as in their Baltic counterparts, these movements had as their real goal national self-determination and the end of bondage to the Soviet Union. The largest of these groups is the Belarus Popular Front.

Shortly before my arrival, the Popular Front of Belarus organized a petition drive which collected almost half a million signatures to force a referendum on new elections. As a visiting U.S. Senator, I endorsed this call while in Belarus because of the urgent need for new elections throughout the former Soviet Union and because I question whether the true will of the people is reflected in the current Belarus government.

During my visit to Belarus, I felt it was especially important to visit one of the few industries in the former Soviet Union that exports to the United States—the Belarus Tractor Factory. This huge, dilapidated factory—using assembly line methods that seen not to differ much from Henry Ford's day—produces a tough, simple tractor that successfully competes in the American market. I have no doubt the factory could be sold to private investors, or even be reorganized as a joint venture

Meeting with the company's top management, I was struck by the presence of a large bust of Lenin in the hallway and a Lenin photo in the General Manager's office. When I asked about privatization plans, the manager suggested that some of the stock would go to some of the employees, but he implied that state control was the developmental path he still preferred. Given the crying shortage of reliable farm equipment and parts, it occurred to me that this plant—one of the few successful non-military manufacturing efforts in the former Soviet Union—still seems to be mired in the socialist mindset.

LATVIA

Despite a Russian pledge to the Latvian government on February 1, 1992, to agree on troop removal and state the number and composition of Russian controlled forces in Latvia, Russian troop levels in that country are not decreasing. At the same time, rhetoric from members of the Russian government, including Defense Minister Pavel Grachev, to the effect that Russia does not rule out the use of force to protect the Russian minority, ominously escalates. Relevant documents and articles on this communique were submitted with my remarks to the Senate on July 22, 1992.

During my visit to Latvia, I met with numerous government officials and representatives of the Russian military. I heard again the questionable Russian argument regarding alleged Latvian mistreatment of minorities. The world is now being told that the Russians are the peacemakers, the peacekeepers and the persecuted. At the same time, it is possible that Latvian magnanimity toward non-military Russian residents of Latvia might begin to heal old wounds. Indeed, throughout Europe there is a desperate need for rivalries to be brought to a peaceful end.

I was the first Westerner allowed to visit the Russian Phased Array Radar facility in Skrunda, Latvia. Although the Commanders of the base were courteous and provided a lunch to our party, they claimed they could not get permission from their superiors to allow me to walk through the facility.

I was struck during my visit by statements from the Russians that it might take 10 to 15 years for them to leave Skrunda. This parallels the statements of General Lebed in occupied Transdniestria. It is my impression these timetables reflect the view of the military high command of Russia. Only Russian political leadership, encouraged by foreign actions, will shorten the time Russian forces are stationed on foreign soil.

Skrunda, according to its Russian commanders, is a defensive facility to protect against incoming missile attacks. But the end of the Cold War surely means, at a minimum, that threat no longer exists—if it ever did, Certainly, Sweden, Norway, and Finland pose no threat to the Russians. Unquestionably, they are no threat to an independent Latvia.

I called on President Bush and Secretary of State Baker to defend the rights of the newly independent states. The bottom line in all of these states is that Russian military forces must be removed expeditiously, consistent with the language of amendments I offered and the Senate adopted during consideration of S. 2532, the "Freedom Support Act."

During my discussions with Janis Jurkans, Latvia's Foreign Minister, and Andrejs Krastins, Deputy Chairman of Latvia's Supreme Council both stated that territorial disputes and claims of ethnic animosity are coordinated disinformation efforts of the Russian KGB. Mr. Jurkans, for example, stated that there are 76 people in the Baltic department of the Russian KGB working to sow seeds of instability there. I believe that most Latvians, and citizens of the other Baltic states, will readily accept citizens of Russian background who invest their loyalty where they live.

However, I am concerned that some Russians in the former Soviet Union and the

Baltic states wish to remain Russians, with the special rights they had under Communism. Russian efforts to justify a military presence and protect some Russian imperialist agenda must be opposed. Still, in the current circumstances, I cannot but wonder what effect might result from greater magnanimity by independent governments towards resident Russians who are not associated with Russian efforts to control or subvert the Baltic states. I found much good will in the Baltic states. My personal hope is that the collapse of an evil empire will inspire the people of independent nations to negotiate a peaceful accommodation with the ordinary civilians who were sent by the imperialists to colonize their territories. It is tough to turn the other cheek, but economic circumstances in the former Soviet Union and the Baltic States may be improved by altruistic behavior. Just as Russians should not exclude Jews, non-Russians should not exclude Russian civilians who want to play a positive role in their nations' future.

While meeting with Foreign Minister Jurkans, I expressed my personal hope that—when Latvia writes its laws—it will demonstrate magnanimity, tolerance and love towards even Soviet-born residents who are loyal Latvians. This will be easier after all Russian troops are gone. Mr. Jurkans said he personally believes in a liberal citizenship law—the zero option—similar to that of Lithuania. He has expressed himself publicly on citizenship. My hope is that no loyal Latvian of Russian origin will be excluded from voting or owning property.

RUSSIA

Under provisions of the "Freedom Support Act," Russia is likely to receive the lion's share of American cash and credits. I believe that relatively more of our foreign aid and credits should go to some of the other countries of the former Soviet Union.

At the beginning of my visit to the region, I was privileged to share a working dinner with a delegation from the Tax Foundation in Washington. Our hosts, Dan Witt, executive director of the foundation, and David C. Jory, vice president of Citicorp/Citibank, joined other United States business leaders in a seminar with Russians to discuss a fair tax policy emphasizing the following principles: stability, reliability, simplicity, clarity, economic neutrality, the need for open discussions of policy, free and fair taxation of international transactions, moderate tax rates, and uniformity of tax policy at all levels of government. Were Russia to follow the recommendations of the Tax Foundation, it would progress greatly.

Hard working, realistic Americans from the private sector can do more with technical assistance and solid advice than armies of consultants from the State Department or the Agency for International Development. I highly commend the Tax Foundation for its leadership in these efforts. I hope many other principled American business leaders can become active throughout the former Soviet Union in demonstrating how United States know-how and experience with free institutions are the best investment this country could make in overcoming socialism.

UNITED KINGDOM

At the end of my trip to the former Soviet Union, I felt it important to discuss what I had learned with officials of the British government in London, including three Foreign Office officials: Kevin Tebitt, Head of the Economic Relations Department; David Logan, Assistant Undersecretary; and Rod Lyne, Head of the Eastern Department. They were most interested in analyzing my trip. Great Britain has yet to establish diplomatic posts in most of the former Soviet Union.

There are fruitful areas for cooperation between our two countries as we jointly address the needs of the new states of the former Soviet Union. For example, the United Kingdom supplies 10–15 percent of European Community assistance to the 12 former Soviet republics. The special Baltic initiative, monitoring of human rights violations through CSCE, and the development of democratic institutions in states without a history of such institutions are examples of some of the ways in which the U.S. and Great Britain could work in concert.

The major conclusions of my trip are:

CONCLUSION I: EX-COMMUNISTS STILL HOLD POWER—THE MORE THINGS CHANGE, THE MORE THEY STAY THE SAME

With the exception of the Baltic States, democratic hopes are far from being fulfilled in most of the former Soviet Union. In country after country, I found that the 1990 one-party elections had done little more than shuffle titles of institutions and shift around a few people who had been Communist Party apparatchiks. In most of the non-Baltic countries I visited, some political opposition exists, but it is treated with disdain and contempt by leaders elected in 1990, or it is aggressively opposed by local governments.

All of the countries of the former Soviet Union have signed the Helsinki Principles of the Commission on Security and Cooperation in Europe (CSCE). But few of the nine former republics I visited are paying more than lip-service to the CSCE's cornerstone concepts of free press, free association, tolerance of political opponents, and basic rules of fair play.

CONCLUSION II: RUSSIA SHOULD KEEP ITS WORD BY QUICKLY REMOVING ITS MILITARY FORCES AND FACILITIES FROM FOREIGN TERRITORY

For years I have been calling the Senate's attention to the vexing problem created by the continuing presence of Russian forces and facilities in the Baltic states, Moldova, Georgia and other portions of the former Soviet empire. Russian President Boris Yeltsin made some encouraging comments when he attended the G–7 Summit in Munich in July. However, Russian military commanders and even officials of the Russian Foreign Ministry have failed to embrace his pledges. Russian troops are neither peacemakers nor peacekeepers. Their presence is an intolerable imperialist leftover.

CONCLUSION III: THE BALTIC STATES DESERVE SPECIAL INCENTIVES

Arriving in Latvia after visiting nine states of the former Soviet Union was literally a breath of fresh air. Only in Lithuania, Estonia, and Latvia, in my opinion, is there currently a realistic chance that US. assistance at this time might succeed. Congress should put special emphasis on expanding effective aid to the Baltic states.

CONCLUSION IV: FOREIGN INVESTORS CAN PROFIT FROM PARTNERSHIP WITH FORMER COMMUNISTS IN THE FORMER SOVIET UNION

Americans want to see free enterprise and private property ownership flourish in the former Soviet Union. However, former Communist party functionaries—by virtue of the one-party 1990 elections—have traded privilege based on party loyalty for profiteering based on the national assets of the new republics. Everywhere, raw materials and national assets have somehow come under the control of the former Communist leaders. These leaders use their current positions to generate profit for themselves and their associates. These countries have no conflict of interest laws.

This unusual form of privatization has little to do with the kind of free enterprise most Americans favor and that the former Soviet Union badly needs to promote economic growth and development.

At present, U.S. and other foreign investors must respond to a rapidly changing legal framework. This framework will become institutionalized only if the United States and other donor nations insist that a rule of law be established before taxpayer assistance is granted. Without such rules, numerous decrepit state enterprises are likely to remain in business, replete with photos of Marx and Lenin in the offices of company leadership. Many unprofitable enterprises must be allowed to die. One of the first tasks facing any investor is to find ways to bring into play Western business practices in the former Soviet Union.

CONCLUSION V: ARMED CONFLICTS REQUIRE NEUTRAL INTERNATIONAL OBSERVERS

Throughout the former Soviet Union a number of armed conflicts exist as Russian troops or surrogate forces attempt to seize and hold territory against the will of newly independent states. As I have already noted, the mere presence of Russian forces is a provocation. In Georgia, Moldova, and the Baltic states, actual or potential conflicts should be resolved by internationally supervised talks.

It is not enough for the Russian-controlled Commonwealth of Independent States (CIS) to supervise talks. It is wishful thinking to believe that CIS observers can impartially monitor withdrawal of foreign troops, ceasefires or negotiated agreements. Only CSCE, UN or other international bodies are impartial enough to be entrusted with these responsibilities.

CONCLUSION VI: NEW ELECTIONS ARE NEEDED THROUGHOUT THE FORMER SOVIET UNION

I previously referred to the one-party elections of 1990 that brought sham democracy to most of the former Soviet republics. The U.S. State Department knows that the governments installed by the 1990 elections are essentially illegitimate and undemocratic. Notable abuse of human rights in Uzbekistan and elsewhere, combined with the need for new blood in the leadership of all states, require that new elections be held as rapidly as possible. Ideally, new elections should occur with international observers present.

Unfortunately, however, new elections alone may not make a great difference. After decades of active suppression, political opposition has not made headway at the grassroots level. Many people remain afraid of going against the current leadership who were once brutal Communist party leaders. People are intimidated by the current media and leadership arguments that some "good old boy" network is the best way to improve their way of life. Additionally, news does not travel very quickly, especially in agrarian communities. Full and accurate reporting is hard to find and is often stifled by the new governments.

Until a climate conducive to free elections is created, I do not have confidence that U.S. assistance can be spent wisely or that boatloads of IMF credits will be able to make a positive difference.

CONCLUSION VII: CSCE SIGNATORIES MUST ABIDE BY CSCE PRINCIPLES

Much United States policy towards Russia and the rest of the former Soviet Union seems to depend on smoke and mirrors. Russian troops are one example. Another is the willingness of our country to accept rhetoric about freedom and CSCE principles as a replacement for demonstrable action. Freedom and democracy are recognized by practices, not words. Mere lip-service to the principles of free speech, free association, free press, and other key concepts are meaningless if not combined with concrete actions. During consideration of the Freedom Support Act in the Senate, I offered several amendments and participated in a number of debates. These efforts were directed at determining whether U.S. assistance could make a difference and what minimal conditions Congress should add to protect the American taxpayer's investment. Adoption of such conditions in the Senate bill justified my support for the legislation.

CONCLUSION VIII: AMERICAN EMBASSY STAFFS SHOULD FORCEFULLY ADVOCATE HUMAN RIGHTS AND FREE ENTERPRISE PRIORITIES

During my visit, I found a wide range of Foreign Service Officers assigned as Ambassadors-designate and staff members. Some highly effective officers, such as William Courtney, James Kenney, Jackson McDonald, Tom Niblock and John Parker, impressed me as the kind of people who are able to forcefully articulate American positions on human rights, democratic development, and free enterprise. I regret to report that I found several career officers who seemed resentful of their assignments, others who showed symptoms of "clientitis," and additional officers who seemed to have less than an ideal understanding of the pioneering and important role they could play in these new states.

American embassies and United States Information Service posts must provide the vital link between people suppressed for decades by Communist tyranny and the country many of those citizens admire most—the United States. However, I found some officers who were even concerned when I asked to meet with political opponents of the government in power.

Consistent, aggressive representation of American interests is the key to building fruitful relations with the people of the former Soviet Union. In my opinion, the people of these new states are infinitely more important than their governments.

CONCLUSION IX: U.S. SHOULD ENCOURAGE REALISTIC COMMERCIAL RELATIONS WITH NEW STATES

After meeting with U.S. businessmen during my trip, my desire to see stronger U.S. business involvement in the new states has been strengthened. This should lead to increased opportunities for agricultural trade, possibly on a barter basis.

For years, Czarist Russia and then the Soviet Union teased foreign investors with prospects of entering their large market. Unfortunately, unless an investor was willing to play by their rules of the game (including crushing taxes, restrictions on profit repatriation, and cozying up to the socialist elite, among others) business as usual meant no business.

Russia will have to make great changes unless it wants to be characterized once again as the big tease of the East—offering the prospect of new markets with vast raw materials and an educated labor force without living up to these promises. I believe in the ability of U.S. business entrepreneurship (especially small and medium-sized businesses) to help transform authoritarian societies into pluralistic societies. Thus, I am convinced the United States should move forward with negotiations on bilateral trade treaties, bilateral investment treaties, and double taxation treaties with the new states. However, perhaps with a few exceptions, ratification of such agreements should be contingent upon significant progress on political, economic, and human rights criteria.

The United States has concentrated most of its efforts in the commercial field on Russia. The United States will have Foreign Commercial Centers in Moscow, St. Petersburg, and Kiev, and will handle commercial inquiries from other states from these posts. It may prove to be difficult to gather and use information from the other states from offices in Russia.

Last year, the United States and the Soviet Union signed a trade agreement granting reciprocal most-favored-nation (MFN) trading status contingent on the enactment of emigration laws by the Supreme Soviet of the Soviet Union. Russia fulfilled the criteria the Soviet Union refused to adopt and has been granted MFN. All other former Soviet republics are eligible for MFN once they adopt similar emigration legislation.

MFN has been granted to Armenia, Moldova, and Ukraine. The Stevenson and Byrd statutory prohibitions on OPIC and Export-Import Bank (Eximbank) assistance have been lifted. OPIC benefits have been extended to U.S. businesses operating in Armenia, Belarus, Georgia, Tajikistan, and Turkmenistan. Eximbank credits for the purchase of U.S. goods and services have been extended in Armenia, Belarus, Kazakhstan, Russia, and Uzbekistan.

The Baltic states enjoy MFN, GSP, OPIC, and Eximbank benefits. I urge ratification of bilateral investment and tax treaties with these three nations. In addition, the United States Trade Representative is negotiating investment agreements with 12 nations of the former Soviet Union. The Senate Foreign Relations Committee marked up the U.S.-Russia treaty on August 6, 1992, and soon will consider a U.S.-Kazakhstan treaty.

I must express reservations about these treaties. As I have already stated, rhetoric in the political arena in Russia does not always match reality. The same goes for rhetoric versus reality in economic matters. The investment treaty with Russia permits continuation of its state-planned economic system, with a phased transition to a market economy. The United States should guard against the institutionalization of Russian bad habits.

Several days after my departure from Moscow, the Russian Parliament adopted new tax legislation. Unfortunately, these new tax laws do not go into effect until January 1, 1993. Additionally, U.S. investors continue to face a myriad of complicated, often conflicting, tax laws. Businesses and individuals have to deal with a variety of taxes, including those on individuals, corporations, profits, and exports. The combined tax burden might prove too much to sustain viable foreign investment.

The new Russian tax laws represent some progress. Yet, I continue to feel uneasy over the fact that the leading proponent of reform, Yegor Gaidar, was the first to lobby against a decrease in the Russian VAT tax based on his belief that high taxes help reduce inflation. This questionable assumption seems to be shared by the IMF.

New tax laws in Russia and the other new states might well consider the following suggestions:

(1) Elimination of mass government subsidies to albatross companies and state enterprises. Continued Russian subsidies are a temporary panacea, but are a detriment to long-term economic health. The June 21st increase in government subsidies, despite a 2.5 trillion ruble debt load, is a case in point.

(2) Enactment of real privatization measures, including privatization of companies that will hold real interest for foreign investors. Privatization must also include steps beyond selling shares to workers. This practice does not inject enough new capital into the system, although it gives workers a sense of ownership and a stake in the future. Measures should also include private ownership of real property.

(3) Establishment of a modern banking system, including laws permitting repatriation of profits, competition, choice of banks for foreign investors, and a convertible ruble with one market exchange rate.

(4) Enactment of conflict of interest laws which separate government officials from their often overwhelming desire to make changes which profit themselves but damage overall economic progress.

(5) Creation of realistic valuation procedures for all types of property that will not be prejudiced against foreign investors.

This list is by no means comprehensive. Above all, tax laws will not matter if there is not enough profit to tax.

Many difficult choices face the Russian government and the Russian people. Governments must balance the need to keep people at work with the need to reconfigure the moribund economic structure and eliminate the parastatal business dinosaurs. People must balance the desire to rely on the old mechanisms which made decisions for them with the often frightening prospect of self-reliance. Failure to take these steps will enhance the deterioration of the current system and may create a 1992/1993 winter of discontent worse than last year's.

CONCLUSION X: INTERNATIONAL LAW CONCERNING HUMAN RIGHTS MUST BE OBSERVED

I agree with Jeane Kirkpatrick's observation in the Washington Post of August 3, 1992 that, "Building collective security requires abandoning preferred myths and facing the fact that it is not poverty, not ethnicity, not the break-up of empires that cause war. It is violent men and lawless governments."

The United States should help establish the rule of law in the new states of the former Soviet Union. For example, for several years, I have advocated an early withdrawal of all Russian armed forces from the new states of the former Soviet Union. The continued presence of these troops represents a provocation and, in my view, a violation of international law. They are poised for action in any trumped up situation.

My observations in some of the former Soviet republics also lead me to believe that Jews and other persecuted groups should work together closely to insist that a rule of law is established. Inevitably, their best allies should be committed personnel at the embassies of the United States. During my trip, I made contact with Jewish leaders and leaders of other identifiable groups. Our embassies should do no less. In fact, groups that can establish that internationally-recognized rights are being violated ought to work together. Embassy staff and the U.S. State Department should investigate and document such cases in the annual Human Rights Report and push hard for those who are otherwise powerless. We must not accept the argument that military force is needed to protect "ethnic rights." Under a truly democratic system, groups peacefully oppose each other within the political structure. They do not resort to violence.

Recently, the Russian government has begun to complain about Baltic mistreatment of the Russian minority. It has tied the resolution of this Russian minority question to the removal of Russian troops. Russia has made threatening statements that the Russian Army will be used to protect the rights of ethnic Russians and that sanctions may be employed.

The Baltic governments, on the other hand, believe that the majority of the Russian population in the Baltic States are there as a result of an illegal occupation. Therefore, as colonizers, they want the Russians to fulfill citizenship criteria.

The three states have taken different positions. The Lithuanians granted blanket citizenships to all Russians who applied from 1989 to 1991. The Estonians have a short residency requirement and also require demonstration of some language ability. The Latvians have not yet passed a citizenship of law.

This matter must be resolved soon. Based on my discussions with both sides, I do not believe that the Russian government should link the issue of troop removal to citizenship for Russian-speaking residents. That only inflames the situation. However, I personally hope the Baltic governments will display magnanimity toward those Russian civilians who clearly desire citizenship in the Baltic states. It may seem idealistic to expect such magnanimity after decades of Russian oppression of the Baltic states. Yet the goal of avoiding future disagreements should inspire good faith efforts to achieve an accommodation of historical and contemporary rivalries. These questions must be resolved by negotiations, not threats or violence.

During my visit to London, I attended what is probably one of the leading popular plays in London at this time, entitled "Death and the Maiden," by Ariel Dorfman. Ironically and incidentally, the theme of this play could have been a description of the human rights practices throughout the countries I had just visited. The play discusses how one group when it comes to power, punishes or tortures or mistreats the last group who had been in power, who had previously mistreated them. And the cycle continues on and on, generation after generation. At one point, one of the leading characters in the play said:

"So we go on and on with violence, always more violence. Yesterday they did terrible things to you and now you do terrible things to me and tomorrow the same cycle will begin all over again. Isn't it time we stopped?"

CRAZY HORSE MALT LIQUOR

Mr. PRESSLER. Mr. President, in this National Year of Reconciliation between American Indians and non-Indians, we should do all we can to uphold our commitment to "lay aside our fears and mistrust of one another * * * and to strive towards mutual respect and understanding." These words are from the law designating 1992 as the "Year of Reconciliation." However, the spirit of this year has been spoiled in part by the Hornell Brewing Co. of Brooklyn, NY, and its new malt liquor product. They call it Crazy Horse. I call it outrageous. This is an insult to Indians and it should be taken off the market.

Crazy Horse is deservedly revered and respected. He is a symbol for his people and their entire way of life. His place as an American Indian spiritual leader and war hero is firmly fixed in the history of our Nation. But now, the name of this great man is firmly fixed to the label of a malt liquor bottle.

The Crazy Horse Malt Liquor marketing campaign, purported to be a celebration of the Oglala Sioux hero, is seen by many as an insensitive and outrageous offense. It adds to a problem that endangers the health of many American Indians. Native Americans have been working hard to combat alcohol abuse. This new malt liquor threatens to undermine their efforts to halt the plague of alcoholism.

The statistics are sobering. The rate of alcoholism among American Indians is six times greater than that for the rest of the population. Native American babies are 20 times more likely than other infants to be born with fetal alcohol syndrome. American Indian youths are subject to twice the death rate of teens from other U.S. ethnic groups, and three times the rate of death from unintentional injuries, including traffic accidents. By the 12th grade, one native American male in four is a problem drinker.

When I first learned of Crazy Horse Malt Liquor, I protested to its brewer. On April 20, I asked company officials to stop manufacturing the malt liquor and invited them to come to South Dakota to visit our Indian reservations. I also challenged them to donate the profits from their beverage to alcohol abuse prevention programs on these reservations. They did not respond. In May, I testified before the House Select Committee on Children, Youth, and Families in opposition to the sale of Crazy Horse Malt Liquor. Following this, I requested the Department of the Interior to ban the sale of the malt liquor at national park concession stands. I am pleased that 669 concessionaires subsequently were asked to forgo the sale of this malt liquor.

To date, Crazy Horse Malt Liquor is being sold in more than 14 States and the District of Columbia. Legislation attempting to halt further sales has been under consideration. Fortunately, company officials have agreed to meet with tribal officials to discuss the banning of this product. I am pleased that Hornell officials finally have agreed to come to the bargaining table.

To claim you are honoring a man by placing his name on a product which is decimating his people is an outrage. On the back of the bottle, the label reads:

> The Black Hills of Dakota, steeped in the history of the American West, home of Proud Indian Nations. A land where imagination conjures up images of blue clad Pony Soldiers and magnificent Native American Warriors. A land still rutted with wagon tracks of intrepid pioneers. A land where wailful winds whisper of Sitting Bull, Crazy Horse and Custer. A land of character, of bravery, of tradition. A land that truly speaks of the spirit that is America.

If the Hornell Brewing Co. really believed in what the label says about the history and spirit of America, we would not be faced with this distasteful situation. There is a definite difference between a good marketing strategy and exploitation. That line was crossed by Hornell Brewing Co. when it began production and promotion of Crazy Horse Malt Liquor.

REGARDING SECTION 1934 OF THE HOUSE-PASSED TAX PROVISIONS OF H.R. 776

Mr. FOWLER. Mr. President, I had intended to ask the chairman of the Finance Committee, Senator BENTSEN, a question during the recent debate on the energy bill concerning a provision contained in the House-passed tax title of H.R. 776. As I was unable to engage Mr. BENTSEN at that time, I hope the chairman will permit me to interrupt our current business to ask for a clarification of a provision in the House-passed energy bill.

During the Ways and Means Committee's consideration of H.R. 776, the ranking minority member of that committee added an amendment that used savings from a veterans' program to provide relief from the alternative minimum tax to the independent oil and gas industry.

This provision of the bill would extend for 5 years the authorization of the Secretary of Veterans Affairs to use income information obtained from the Internal Revenue Service and the Social Security Administration to verify the eligibility of veterans and their survivors for VA needs-based benefits—primarily VA pensions—and terminate benefits that the VA is paying to ineligible recipients. The provision saves $339 million in outlays over 5 years. As you know, this authority is due to expire September 30, 1992.

Mr. President, it is my understanding that the House sponsor of this amendment has now committed to withdrawing this provision in conference. I would ask the distinguished gentleman from Texas to clarify the intention of the Senate Finance Committee in dealing with this issue in the context of H.R. 776.

Mr. BENTSEN. As you know, the Finance Committee amendment to the energy bill does not include the provision that allows the Secretary of Veterans Affairs to have access to tax information for purposes of verifying the eligibility for needs-based benefits for veterans. I do not believe that the energy bill is an appropriate legislative vehicle for this provision. As chairman of the Finance Committee, I will urge that the House recede to the Senate position on this provision of the bill so that it is not included in the final conference agreement. I understand that this is the recommendation of the Senate and House Veterans' Affairs Committees.

Mr. FOWLER. I appreciate the chairman's response.

USDA REFORM AND SENATOR PATRICK LEAHY

Mr. DASCHLE. Mr. President, it is time to reform the structure of the U.S. Department of Agriculture and to eliminate outdated and inefficient offices. We can no longer afford to delay the necessary downsizing of USDA. Thousands of USDA field offices stretch across this country, many of which have few customers and cost more to run than the aid they dispense.

Streamlining USDA is not a new topic of discussion. It has been the subject of eight General Accounting Office and internal USDA reports. Unfortunately, most of the cost-saving recommendations in these reports have been ignored. While everyone agrees that change is needed, too few people have been ready and willing to face the political challenge of getting the job done.

Yet, despite the uphill battle, Chairman PATRICK LEAHY has led the charge for years on USDA reform. His tireless pursuit of wasteful Government bureaucracy has brought us to this debate today.

I want to share with my colleagues some of the history of Chairman LEAHY'S involvement in USDA reform—specifically regarding agricultural research facilities.

For years, Chairman LEAHY'S has argued that we should close and consolidate many existing agricultural research facilities. I recall his research efforts in this area back in 1988. His concerns prompted him to write a letter to then Secretary Clayton Yeutter on February 24, 1989. That letter demanded various data from the Department on research offices and a priority ranking of such offices to aid the committee's review. It is a letter I gladly cosigned. It is ironic to note that among the other cosigners was former congressman, and now Agriculture Secretary, Edward Madigan, who is now dragging his heels on USDA reform.

On June 14, 1989, Chairman LEAHY gave a keynote speech before the Experiment Station Committee on Organization and Policy and the Cooperative State Research Service. It was a controversial speech and stunned many of the agriculture researchers in the audience. He called for an overhaul of the existing system. He called for consolidation and closure of existing facilities.

In this June 1989 speech, Chairman LEAHY'S message was loud and clear. He said:

> * * * in today's climate of limited resources and tight budgets, we have to make certain that every agricultural research dollar is well spent. Unfortunately, that's not happening. Some of our labs are white elephants—some are not fully staffed. We are wasting precious resources to carry labs that should have long ago been closed.

What Chairman LEAHY found was astounding. As chairman of the Subcommittee on Agricultural Research and General Legislation, I was most interested in his analysis which became a topic of our committee discussions. Let me share with you some of the findings Chairman LEAHY has provided my subcommittee.

Facilities need to be closed. Several facilities are less than 30 percent occupied. Many of these facilities are understaffed because of shifting research priorities. Yet facilities remain open, consuming millions of operating dollars, to house fewer than 10 scientists.

Facilities need to be modernized. Scientists are struggling to conduct critical research in makeshift trailers, 50-year-old dilapidated buildings, and old army barracks.

Facilities need to be consolidated. Within the same State, separate facilities conduct nearly identical research. Consolidation would reduce escalating facilities costs. Within the last 5 years, the operating costs of the Agricultural Research Service facilities rose 34 percent while personnel remained constant.

Future facilities need to be evaluated. Facilities are constructed year after year with little systematic planning. The Cooperative State Research Service alone will spend close to $400,000,000 to complete construction of planned and partially constructed facilities on State university campuses. New projects are undertaken before old projects are completed. Buildings are constructed before programmatic funds are secured to operate them.

With facts in hand, Chairman LEAHY lead the debate during the 1990 farm bill on this issue. He challenged his colleagues to make tough political choices and find a means to reform the system.

Chairman LEAHY'S efforts culminated in passage of section 1674 of the FACT Act of 1990 which authorizes a Facilities Commission to review all agricultural research facilities and make recommendations for closures, consolidations, and possible reinvestment. This Commission, modeled after the Military Base Closing Commission, was adopted by the Congress as an effort to improve efficiency and curtail earmarking.

Unfortunately, the Facilities Commission has not been implemented by the Department. During Secretary Madigan's confirmation hearing in March 1991, Chairman LEAHY asked: "Will you join me in a call for a rationale policy for agricultural research facilities by implementing the Facilities Commission authorized in the farm bill? If you do not support the Commission, please explain the reasons why and how you will alternatively deal with the waste in the current system."

Again and again Chairman LEAHY has queried the Department on this issue. He is committed to resolving these problems and has been disappointed by the administration's lack of cooperation.

But his efforts on USDA reform have not diminished. When many would have turned away in discouragement, Chairman LEAHY responded by turning up the heat. His efforts on USDA reform have mushroomed to include a systemwide analysis of the agricultural bureaucracy. Many have followed in his footsteps, contributing their views and analysis on various aspects of USDA's structure. Now, the committee has expanded its review to include field service agencies and computer technology among other areas. His call for reform has been embraced by Democrats and Republicans alike.

On May 20, 1992, Chairman LEAHY introduced S. 2752. I am an original cosponsor of this legislation to establish a bipartisan base closing commission to review the field structure of the U.S. Department of Agriculture and to recommend overall structural changes in the Department. Clearly, Chairman LEAHY'S 1990 legislation on agricultural research facilities was the precursor of S. 2752, and it has set the stage for debate on this expanded effort.

Mr. President, there is so much at stake. We can no longer delay reform of USDA. The time for action is now. I applaud Chairman LEAHY'S longstanding efforts and urge my colleagues to join the committee in its pursuit of a leaner and more efficient USDA.

CONFIRMATION OF DONALD B. ENSENAT AS AMBASSADOR TO BRUNEI

Mr. JOHNSTON. Mr. President, I am extremely pleased that the Senate confirmed Donald Burnham Ensenat as Ambassador to the Sultanate of Brunei on Friday, August 7.

I have known Mr. Ensenat well and favorably for many years. He has an exemplary reputation in the New Orleans and Louisiana legal communities and has also been involved for many years in a number of local community organizations.

But most important is having a representative in Brunei who is familiar with energy issues and trade. Brunei is one of the key oil and gas producers, and many United States companies including a number from my home State of Louisiana are involved in that Nation's energy sector. Mr. Ensenat has a strong background in trade, and is particularly well suited to represent our interests in this key post. Since 1974, he has been an active member of New Orleans' World Trade Center, an organization which has served a key role in promoting exports from Louisiana and which has taken a lead role in outreach efforts to businesses throughout Louisiana and the general area to help them identify new economic opportunities abroad to retain and create new jobs here at home. In addition, since 1990, Mr. Ensenat has served as a director of the Overseas Private Investment Corporation [OPIC], a position in which he has gained impressive hands-on experience in trade promotion activities.

I am confident that Donald Ensenat will serve the interests of the United States well and ably in this important position and I wish him and his family well in this challenging assignment.

TRIBUTE TO GEN. HANSFORD T. JOHNSON, USAF

Mr. THURMOND. Mr. President, I rise to recognize Gen. Hansford T. Johnson who is retiring from the U.S. Air Force after 33 years of distinguished service to this Nation.

Mr. President, General Johnson is well known to the members of the Senate Armed Services Committee before which he appeared on numerous occasions. He is known to the Nation as the commander of the airlift that provided the beans and bullets for Operation Desert Storm. His effort in this regard is considered the greatest airlift in our Nation's history, and an important factor in the great victory by the forces of freedom, over the tyrant Saddam Hussein.

Mr. President, to us in South Carolina, General Johnson is a native son. He was born and raised in Aiken, SC, my present hometown, and attended Clemson University before his appointment to the U.S. Air Force Academy, from which he graduated in 1959.

Mr. President, General Johnson's distinguished career which began as a C-130 pilot in Europe, took him to all corners of the globe. He flew 424 combat missions, 71 of which were over North Vietnam, as a forward air controller. For his heroic actions, he received the Silver Star and was awarded the Distinguished Flying Cross twice. Later in his career, General Johnson commanded the 22d Bombardment Wing and served as the Deputy Chief of Staff for Operations, Strategic Air Command, a significant achievement for an airlift pilot in the fighter pilot dominated world of the Air Force. Before assuming his current position as Commander and Chief of the U.S. Transportation Command and Air Mobility Command, General Johnson served as the Director of the Joint Staff, Joint Chiefs of Staffs.

Mr. President, on behalf of the people of South Carolina and the Nation, I want to express my appreciation to General Johnson for his 33 years of sacrifice and loyal service to a grateful Nation. I wish him and his wife, Linda Ann, the best in their well deserved retirement and success in their future endeavors.

HATCH PRAISES GARN—1992 RECIPIENT OF WRIGHT BROTHERS AWARD

Mr. HATCH. Mr. President, I rise to pay tribute to a colleague and friend, who, in the next few months, will retire from this body after serving his State and country for 18 years. He did this not only on land, but in space. I am speaking, of course, of Senator JAKE GARN.

It goes without saying that JAKE has won our respect here in the Senate and has won numerous awards for his endeavors in this country's space program. And yet, another—possibly the highest award for JAKE—has just been announced. He is this year's recipient of the Wright Brothers Memorial Trophy, awarded by the National Aeronautic Association. Over 400 people were nominated; and from the 23 individuals making the final cut, it was Senator GARN who was awarded for his significant public service to aviation in the United States.

This is truly a great honor for JAKE. Past recipients include Charles Lindbergh and Lt. Gen. James Doolittle.

The trophy has been awarded annually since 1948 and will be presented to JAKE at the annual Wright Brothers memorial dinner to be held this December 11, in Washington, DC.

The expected thousand people to attend the event will hear the citation on the Trophy read as follows:

> In recognition of a lifetime of public service in government and active participation in all segments of U.S. aviation—as a military and civilian pilot, astronaut, and as one of the U.S. Senate's most effective aerospace spokesmen and legislators.

JAKE practices what he preaches. A pilot with more than 10,000 military and civilian flying hours, JAKE's personal conviction about the importance of a strong space program deepened with his flight in 1985, as a payload specialist, aboard the space shuttle *Discovery*.

Anyone who has watched JAKE GARN knows of his sincere desire to promote aviation and space flight issues. He is a leading advocate for this Nation's future in space. He truly believes that aviation and space flight are at the apex of mankind's dreams. My friend and colleague has been a constant and courageous voice in the Halls of Congress for the progress of aviation and space flight, and is certainly a worthy recipient of the Wright Brothers Memorial Trophy.

WELCOME, THOMAS JAMES SHAY

Mr. DECONCINI. Mr. President, I would like to call the attention of Congress to the recent birth of Thomas James Shay which occurred on April 22, 1992. Thomas is the newest addition to the family of John T. Shay, a staffer in my office, and Mary A. Shay. Although Master Thomas was delayed in his arrival by as much as 3 weeks, his eventual appearance was a truly blessed event. Thomas has used the last 3½ months very prudently, he has gone on to both impress and woo all who have had the opportunity to come in contact with him. It is clear to this Senator that Thomas James Shay will aspire to greatness. Thomas carries with him a sound American-Irish heritage, a good family, a proud mother and father, and a solid appetite. These attributes are the keys which I am sure he will use to achieve success in the future. I wish him well on his journey through the challenges and rewards that life has to offer.

TRIBUTE TO RED McILVAINE

Mr. REID. Mr. President, it is with great pleasure that I recognize a good personal friend, and a friend to all residents of southern Nevada, Red McIlvaine.

On August 21, 1992, Red McIlvaine will be recognized in a special charity event at the Stardust Hotel in Las Vegas entitled "Rendezvous with Red: A Star Spangled Salute to Red McIlvaine." There is nobody more deserving of this special tribute.

For more than 25 years, Las Vegas residents have had the remarkable good fortune to be entertained by one of the warmest, wittiest, and most generous media personalities to be found anywhere. Red McIlvaine's devotion to the community has always been evident in his successful radio and television programs, in his column in the Las Vegas Sun, and in the many charities he has served as either master of ceremonies, telethon host, or press advocate.

As an entertainer, Red is the best. My favorite program was his 6 a.m. to 10 a.m. Kork Show with Darrell Dreyer. It was hilarious.

Red has worked with numerous organizations, including the Children's Miracle Network, the March of Dimes, the Kidney Foundation, Help Them Walk Again Foundation, the Sunshine Bus Committee, B'nai B'rith, Sons of Erin, local chambers of commerce, and many more. Red McIlvaine has faced these challenges with humor, energy, and enthusiasm.

In addition, with his beautiful wife, Carrie, Red has raised two daughters, Haley and Amanda, and one son, Ryan. I have always enjoyed reading in Red's columns how his family runs his life.

During the past year, however, Red has faced another, more difficult challenge—a personal battle against lung cancer and brain tumors. He is facing this battle in the same way that he has faced all conflicts: With laughter and with a zest for life.

My wife, Landra, and I are proud to join with all Nevadans in saying "thank you" to Red for all he has done for our State and our community.

TRIBUTE TO MAX M. SHAPIRO

Mr. DODD. Mr. President, I rise today to pay a tribute to the late Max M. Shapiro, a dear friend and former colleague who passed away this past April. I want to take this opportunity to extend my deepest sympathies to his children, Andrew and Suellen.

Max was an exceptional lawyer, a rare scholar of the law. As the former president of the Connecticut Trial Lawyers Association, he wielded enormous influence on judicial thinking across the State of Connecticut. But his greatest contribution, I am certain, was the kindness and wisdom he shared with all who were lucky enough to have known him.

I know of this special influence firsthand, Mr. President. For several years, I had the pleasure of working in Max Shapiro's law firm. Max taught me more in those years than any law school curriculum ever could have.

Max was a true American original. He was always at the ready with a funny joke, a piece of advice, or a pithy commentary on the state of world affairs. He was also a wonderful friend of my father's—indeed, he was especially close to the entire family.

Mr. President, I want to include in the Record at this time an article that appeared in the August 2, 1992, edition of the New London Day. The article was written by Dale P. Faulkner, one of Max's former partners. I think Mr. Faulkner accurately portrays the special legacy of Max Shapiro when he writes the following:

> Other professions erect buildings that fall down, bridges that wash out, planes and ships that rust into obsolescence. Max left more enduring stuff—ideas and inspiration.

I ask unanimous consent that the full text of the article be placed in the Record at this time.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From New London Day, Aug. 2, 1992]

To a Lawyer Who Thought Big

(By Dale P. Faulkner)

I first met Max Shapiro on the last Friday of November 1963. I spoke with him for the final time on Dec. 23, 1991. During the intervening 28 years, we enjoyed a lively, multidimensional relationship.

So when Max died in late April, why was it so difficult to organize my thoughts to pen an appropriate farewell?

The problem lay in the reality that Max's life was so full and so fully lived and that his impact on my professional life was so profound that mere words fail. If spirit could be transferred to substance, we might be able to make a start.

He was, says one local lawyer, "A little bit harebrained and crazy." In the words of another, "Had he not been a lawyer he might have made a fancy living dealing cards."

His style was swift and sure. He knew how to play the system and how to get around it. He courted the press and those of rank with style, and he enjoyed a good cigar. He thought big and he never looked back.

Sure, everyone knows that Max, a former Connecticut Trial Lawyers Association president, was an outstanding trial lawyer. He had read and re-read Wellman's definitive work on cross-examination and was masterful in that art.

Max was underrated as a student of the law. A small green tin box, containing 5-by-8 cards, detailing the rules of law and the cases supporting the rules, was always on the shelf behind his office chair. He made the additions to it himself.

He drew clients as if he were a magnet. He was at home with those of importance as well as those of lesser stature. His own modest childhood enabled him to relate well to those of similar circumstance. Yet, his mental agility and charm served him well while he represented admirals, their spouses, sports figures, judges, lawyers, doctors and entertainers.

He made fast friends to whom he was ferociously loyal. No ill wind or change of circumstance could bend or break that relationship. Max, kindly and generously, would remember those whom he embraced with notes or gifts or calls of good, sound advice.

He loved new business. It was sport for him to sign up a new client. Toward that end, he left his card wherever he went. And, he often boasted, in truth, that if six lawyers were in a restaurant he would be the one to leave with a client. Usually, it was the waitress.

Max's personality was that of excitement and fun. Most of the latter was self-deprecating.

Years ago, he arrived early at the Circuit Court and was told that the judge would be getting there late. Wanting a morning coffee, he asked a young lawyer, in the event court opened before his return, to advise the judge he had left the building and would return shortly. Court did open before Max's return. The young lawyer, afraid that Max's trip for coffee could be construed as disrespectful, advised the judge that, "Mr. Shapiro had to go to the law library and will be right back."

On returning to the building, Max was informed what had been said to the judge. Boldly, with only the deference he could pay to judges, Max announced that he had been the subject of a great disservice and that he had not, nor had he ever, gone to the law library.

A FAVORITE STORY

One of Max's favorite stories occurred during the salad days of the long gone Bridgeport Herald, a precursor of today's scandal sheets. Max and George Curtis Morgan, then an aged member of the bar, represented two prominent professors of Connecticut College in their divorce case. Once the lawyers had agreed to the terms of dissolution, Morgan told Max to approach the bench and whisper to the judge that the case was settled and in that way avoid the paper's likely notoriety.

Judge Carl Foster, whose long gray locks flowed onto his shoulder, would have no part of it and commanded Max to step back. Three paces back were not enough, six, nine, 12, 15 were not enough. And, as far back as Max retreated, Foster continued to bellow, "Get back, young man!" By the time the judge was satisfied, Max was nearly out the door, requiring him to shout out the identity of the parties and the terms.

During an evening card game in the cellar of a local lawyer's home, the host's wife interrupted the gambling to inform Max that he had a telephone call. Reluctantly, he picked up the phone and found that the caller was a divorce client whose matter had been agonizingly long. In excited tones, the client said that her husband had just died and she wanted advice as to what to do next. An exasperated Max responded, "Bury the son of a bitch. You've been trying to get rid of him for five years!"

Another of his clients was entertaining a married gentleman whose heart gave out during the afternoon's activities. Stunned and confused, she waited for dark at which time she hauled the body to her car and stuffed it into the trunk. She then dumped it in a vacant lot near Willimantic. Later, Max defended her in a civil suit brought by the widow claiming desecration of the body. While the trial was in progress the judge kept inquiring of counsel as to the value of what he referred to as "deceased meat." Max settled the case before verdict and took great delight in keeping from the judge, thereafter, what the per pound figure was.

The Supreme Court's decision in Gaul vs. Noiva 155 Conn. 218 (1967) led to a second trial which again pitted Max against Allyn Brown. The first trial before Judge Joseph Longo had been hotly contested. During the voir dire of the second case, Max and Allyn started up again in the manner of two street fighters.

QUESTIONING JURORS

Both were yelling while questioning each potential juror. When Allyn objected to Max's loud tones, Judge Joseph Dannehy remarked that he had heard Brown yelling just as well. Brown agreed that he, too, was guilty. In overruling the objection, Judge Dannehy indicated that as long as counsel wanted to yell at the jurors, it was fine with him.

Max's love of his children—Andrew and Suellen—was limitless. His happiest moments were the occasions when he exercised his profound generosity to them. When they became lawyers, he was full of pride since their entry into the law mirrored his own deep love of the profession.

And that's what can most be said of him. He treasured what he did. All other endeavors shrunk in his eyes when compared to the practice of law.

Max's love of the law was communicable. It was infectious. And, his driving personality caused that love to spill out to others willing to listen and follow.

He was the ultimate mentor. He was to me what RisCassi was to Davis; what Koskoff was to Bieder; what Muir was to Foley.

He was loud. He was demanding. He insisted on perfection. He coaxed and cajoled. But all the while, he was a teacher.

What did he teach? He taught us how to be lawyers.

What did Max, the lawyer, leave behind?

Other professions erect buildings that fall down, bridges that wash out, planes and ships that rust into obsolescence.

Max left more enduring stuff—ideas and inspiration.

Farewell, sweet friend.

SOUTH DAKOTA OLYMPIANS

Mr. PRESSLER. Mr. President, on the 28th of July, Dennis Koslowski, a native of Doland, SD, captured a silver medal in the summer Olympic games in Barcelona, Spain. With this splendid accomplishment, I am proud to say, Dennis became the only American to earn two Olympic medals in Greco-Roman wrestling.

Dennis first established himself as an accomplished athlete during his days at Doland High School. His success there and in college opened the door to a silver medal in the 1987 world championships in the 220-pound division, and a bronze medal at the 1988 Seoul summer Olympic games in the same division and event. On the road to the final match in Barcelona, Dennis faced stiff competition, yet did not give up a single point to any of his opposition. The final match required an overtime period before he was awarded the second-place honor. In Doland, the church bells were rung and sirens blared in celebration of Dennis' success.

Two other Olympians from my State also took honors at this year's competition. Chad McConnell, originally from Sioux Falls, shined on the baseball diamond. With his outstanding work defensively and at the plate, this outfielder propelled the U.S. baseball team to a fine fourth-place finish. Chad, a first-team All-American this year at Creighton University, demonstrated his clutch playing abilities as he accumulated a batting average of over .300, eight RBI's, and one home run.

South Dakota's third Olympian, Cindy Greiner, is originally from Wilmot, SD. Cindy provided leadership as captain of the women's track and field team. This heptathlete achieved a fourth-place finish in the long jump, fifth in the 800-meter dash, and 10th in the javelin. This, in combination with the four other events, earned her the ninth-place spot overall in her third Olympic appearance.

Mr. President, I, along with the entire State of South Dakota, salute these athletes. We are extremely proud of their achievements. These individuals personify the spirit and fortitude that makes our Nation and its Olympic competitors stand out from the rest of the world.

LIONEL BORDEAUX RECOGNITION

Mr. PRESSLER. Mr. President, I take this opportunity to recognize an outstanding South Dakotan and humanitarian, Lionel Bordeaux.

Dr. Bordeaux, a member of the Rosebud Sioux Indian Tribe, recently was presented the prestigious Leo Reano Memorial Award at the 130th annual meeting of the National Education Association. This award recognizes individuals who provide leadership in finding solutions to social problems experienced by American Indians and Alaskan Natives.

Mr. Reano, whom the memorial is named after, is remembered for his dedication to expanding educational opportunities for American Indian students. I can state unequivocally that Lionel Bordeaux has done more than most to help advance the interests of American Indians. Dr. Bordeaux's efforts have been tireless, and this commendation is well-deserved.

Dr. Bordeaux is cofounder and current president of Sinte Gleska University in Mission, SD. He has provided effective leadership for the Nation's first fully accredited reservation-based institution of higher education at the bachelor's degree level. He also is the former president of the American Indian Education Association and the American Indian Higher Education Consortium.

Dr. Bordeaux was cochair of the 1992 White House Conference on Indian Education, which brought together nearly 1,000 participants and over 230 delegates to consider ways to improve educational programs for American Indians and Alaskan Natives. The conference provided recommendations to make educational services more effective in Indian country. These recommendations will help to guide all who are involved with American Indian-Alaskan Native student. The conference also explored the feasibility of establishing an independent Board of Indian Education.

I always have valued the advice and counsel of this knowledgeable educational leader. From the times I have worked with Dr. Bordeaux in the past, I know he is sincere in wanting to overcome the hurdles facing Native American people in their efforts to become more self-sufficient.

On May 9, 1992, Congress passed a joint resolution designating 1992 as the "Year of Reconciliation Between American Indians and non-Indians," which I cosponsored and enthusiastically supported. It calls upon all people to "lay aside fears and mistrust of one another, to build friendships, to join together and take part in shared cultural activities, and to strive toward mutual respect and understanding." In this year of reconciliation, we can all be inspired by the example of Lionel Bordeaux.

Mr. President, I ask unanimous consent that a Lakota Times article from July 8, 1992, about Lionel Bordeaux be printed in the RECORD immediately following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BORDEAUX GETS HIGH HONOR FROM NEA

WASHINGTON, DC.—The National Education Association honored Lionel Bordeaux, president of Sinte Gleska University, with the Leo Reano Memorial award last week.

Mr. Bordeaux, a member of the Rosebud Sioux Tribe, was recognized for his leadership in resolving social problems of American Indians and Alaskan Natives.

He received the award at the Annual Human and Civil Rights Awards banquet in Washington, D.C. last week.

SGU is considered to be the leader in the current tribal college movement and has survived in one of the poorest areas in the country.

The banquet was held in conjunction with NEA's annual meeting, attended by more than 10,000 delegates and other participants from throughout the United States.

Since 1973, when he became president of Sinte Gleska College, now Sinte Gleska University, Mr. Bordeaux has worked to expand the course offerings of the college so that it currently offers degrees from associate to master's levels.

He initiated culture-based courses and a curriculum in elementary education where students address traditional values and current issues in Native American communities. Mr. Bordeaux initiated courses in economic development, as well as programs that address societal problems on the reservation.

"With his unwavering dedication to the process of self-healing and growth, Lionel Bordeaux has demonstrated his leadership in the Native community for years," said National Education Association president Keith Geigar, who presided over the ceremonies.

Mr. Bordeaux served as co-chair of the 1992 White House Conference on Indian Education. He is former president of he American Indian Education Association and the American Indian Higher Education Consortium.

The Leo Reano Memorial Award was initiated in 1972. Mr. Reano was a citizen of the Santo Domingo Pueblo, a member of the All Indian Pueblo Council, and a member of the National Education Association Council on Human Relations. He dedicated his life's work to securing educational opportunities for American Indian students.

INCIDENT AT OGLALA

Mr. PRESSLER. Mr. President, over the July recess, an article that appeared in a South Dakota newspaper did an excellent job of telling "the rest of the story," as Paul Harvey might say. In it, Mr. Nicholas V. O'Hara, special agent in charge of the regional FBI office in Minneapolis, and a native-born South Dakotan, presented readers with fact, circumstance, and law that were selectively excluded in the recent documentary film, "Incident at Oglala."

I recently saw this film. As I watched it, I kept waiting to see a presentation of all the facts surrounding the tragedy that took the lives of two young FBI agents, Jack Coler and Ron Williams—my wait was in vain. Thankfully, Mr. O'Hara has presented an accurate account of what really happened near Oglala, SD, that day. In doing so, he has served the public immensely.

"Incident at Oglala" takes a few isolated facts and constructs a theory of what could have occurred. If viewed in the context of all the evidence, as Mr. O'Hara demonstrates, the film bears little resemblance to reality." Incident at Oglala" presents an inaccurate version of history. Considerable footage is devoted to establishing the premise that Government actions created a "climate of fear" on the reservation. This atmosphere, according to the film, presumably explains or conceivably justifies why the two agents were killed. This logic fails me.

Any action the Government may have taken against radical, violence-prone groups in the late 1960's and early 1970's, or that one faction of Indians may have taken against another on the reservation, had no bearing on determining the guilt of the innocence of Peltier. If the film makers included this bit of irrelevancy in the documentary, why not also include certain incidents in Peltier's life that might give the viewer a more accurate, more factual picture of this convicted killer?

This film is anti-Government. If seems that "Incident at Oglala" is more interested in establishing a case against he Government than in depicting Peltier's propensity for violence and his cavalier and reckless attitude toward the lives of others.

For instance, according to court records, on November 22, 1972, Peltier was charged with the attempted murder of an off-duty Milwaukee policeman. He was arrested, pleaded not guilty, and was released on bond. On July 29, 1974, he failed to appear for trial, having begun a flight to avoid prosecution which eventually brought him to the scene of the agents' deaths and of the warrant for his arrest. On November 14, 1975, an Oregon State Police trooper stopped two vehicles near Ontario, OR: a motor home and a Plymouth station wagon. Peltier was an occupant of the motor home.

Upon searching both vehicles, Oregon authorities recovered from the motor home Special Agent Coler's revolver in a paper bag bearing Peltier's thumbprint and from the station wagon several shell casings that had been fired from Coler's revolver. An April 19, 1977, Washington Post article reported that a Canadian Mounted Police officer, serving an arrest warrant on Peltier for the murder of the two agents, testified that Peltier told a camp elder he would have blown "us out of our shoes" had he seen the Mounties arrive to arrests him. On yet another occasion, Peltier endangered law personnel when he escaped from prison in Lompoc, CA. That incident resulted in the death of one of his accomplices in the escape. Peltier has repeatedly risked and taken the lives of others to save his own. These are hardly a saint's actions.

"Incident at Oglala" asks the public to find Peltier "not guilty" without hearing all the facts or the Government's entire case against him. The film ignores the judgment of the 12 jurors who, after 5 weeks of reviewing all of the evidence and hearing both sides of the case, found him guilty beyond a reasonable doubt.

I ask viewers of this film to reserve judgment. Viewers need to hear both sides of the case and all of the facts. The Government is forbidden by ethics and regulation to comment extensively in public on the case, as it still is subject to appeal. People deserve to know more about the Peltier case. If they desire to learn more about Peltier, they should read the court opinions issued on his various appeals. Relying on the views of a movie that does not present all the facts merely perpetuates ignorance as to what really happened.

We are a Nation based on justice. We determine the guilt or the innocence of accused individuals in courts—not on television or in the movies—with juries that hear all the evidence and both sides of the case.

The U.S. Supreme Court has twice determined that Peltier's appeals warrant no further consideration.

Peltier's conviction has stood for 15 years. None of the media's nor Peltier's allegations have sufficiently met the legal standards required to grant Peltier a new trial.

Mr. O'Hara has made a significant contribution to the public's ability to learn what really happened on that hot, summer day 17 years ago. Perhaps someday we may hear more. I thank God for individuals like these two fine young men who gave their lives fulfilling a congressional mandate to enforce the law and bring lawbreakers to justice.

METRO ORANGE COALITION

Mr. PRESSLER. Mr. President, the District of Columbia—the Capital of the United States—is no longer a safe place to live. The situation has not yet deteriorated to the point where everyone obsessively fears for his or her life, but it has reached a level far beyond what decent citizens should have to tolerate.

The threat of violence has loomed over District residents far too long. For instance, last year our Capital had the infamous honor of being the Nation's murder capital with 482 homicides—the fourth year in a row D.C. has received this unwelcome distinction. The number of robberies in the District also rose in 1991, compared to the previous year. Even our colleagues and their staff members have not escaped being victimized by criminal violence.

Despite this bleak picture, many Washington residents have not given up hope. Indeed, many have taken an active role in trying to fight drugs and crime. There is an impressive movement on the community level to reclaim city streets from ever-present lawbreakers and drug dealers. One outstanding example is the Metro Orange Coalition, an umbrella organization for neighborhood patrol groups in Washington.

These "orange hat patrols," named for their distinctive orange attire, have been an effective crime deterrent. The patrols regularly monitor community streets at night, record suspicious activity, and catalog license plate numbers of questionable vehicles. Simply by being noticeable, these volunteers have managed to reduce instances of crime and drug activity in their neighborhoods. Beyond mere crime statistics, these groups have managed to accomplish something else possibly even more important—they have brought back community cohesiveness and neighborhood spirit.

According to Mr. James Foreman, the coordinator of the Metro Orange Coalition, 216 patrols currently are active, with new patrols forming all the time. Initially funded by private contributions, I believe these groups have reached the point where they need additional support to become more effective. Mr. Foreman has informed me they could use more equipment, such as radios and video recorders, to make patrols safer and more effective. To date, they have not sought funding from any level of government.

Though certainly not the only means of fighting drugs and crime, I believe this program is an essential component of a sound comprehensive crime policy. I urge all levels of government to join in supporting "orange hat patrols" and make them an even more instrumental part in efforts to eradicate illegal drug activity in our Nation.

Giving our support to this program would do a great deal to strengthen the sense of community and responsibility among urban neighborhood residents. I commend the Metro Orange Coalition for its efforts to keep District of Columbia neighborhoods safer. I certainly hope this organization receives the very modest level of government support it deserves.

AMERICAN-ISRAELI RELATIONS

Mr. DOLE. Mr. President, a number of us had the pleasure this morning of having breakfast with Israeli Prime Minister Rabin. If any confirmation were needed, Prime Minister Rabin's remarks this morning made clear that United States-Israeli relations are fully back on track.

In my view, as I indicated here on the floor yesterday, the Rabin visit to the United States also underscored the wisdom of the approach that President Bush has been taking toward relations with Israel and, more generally, toward the Middle East.

Coincidentally, I have recently received a copy of an op-ed done by our former colleague here in the Senate, Rudy Boschwitz, concerning United States-Israeli relations. Written before the Rabin visit, the op-ed concisely and cogently makes the case that, in terms of concrete results rather than just atmospherics, President Bush has probably done more than any other United States President to help Israel advance its legitimate security and political agenda.

I ask unanimous consent to include the full text of the Boschwitz op-ed in the RECORD, and I urge all Senators to take a few minutes to read it.

BUSH/BAKER: A DEFENSE OR: NOT JUST A COUPLE OF HAIMISHE GUYS

(By Rudy Boschwitz)

MINNEAPOLIS.—The Israeli elections create the opportunity to renew the spirit of American-Israeli relations.

Many say they are at a low point. The spirit may be, but substantively, I believe the relationship is, and has been, as strong as ever.

Leslie Geib, the former assistant secretary of state under Jimmy Carter and now an editor of the New York Times, summed up American-Israeli relations and the Bush/Baker impact on it by writing, in effect: the lyrics are great, but the music is terrible.

My summary is the same but stated a little differently. The achievements of the Bush/Baker team exceed, by far, the accomplishments of any other American administration since the birth of the state of Israel.

But are President Bush and Secretary of State James Baker a couple of haimishe guys who know how to stroke Jewish angst and sensibilities (a full-time job under even good circumstances)? There the answer is clearly "no."

Let's look at the lyrics first, because many of my friends just can't get by the music and recognize, much less appreciate, some very remarkable achievements.

First, of course, is the peace process. For 44 years Israelis have wanted to sit across the table and negotiate with their neighbors. It wasn't achieved before, but it has been now.

And all of Israel's preconditions were met. I sat for an hour with Jim Baker in his office in mid-May. "It was like pulling teeth to get the Arabs there," he said. "Everyone of them wanted a freeze on settlements, insisted that Jerusalemites be represented on the Palestinian delegation and that Israel commit to territory for peace, and I said 'No,'" Baker told me.

As we spoke, Israelis were negotiating with 12 Arab countries in other parts of the State Department building on arms control. One of the negotiators was Bradley Gordon, now assistant director of the Arms Control and Disarmament Agency and for five years director of my Mideast senate staff.

The peace process is an extraordinary achievement and the most hopeful sign in the Middle East since Camp David—for which President Carter (another guy not too good with the strokes) deserves much credit, though he was aided by two remarkable statesmen: Menachem Begin and Anwar Sadat.

Bush and Baker have had no such assists.

Second, there are multilateral talks as well as bilateral negotiations occurring. The Bush/Baker team made it clear that anyone that wanted to play had to establish full diplomatic relations with the state of Israel. Israel, which had often been left out in the cold, suddenly became recognized by Russia, China, India and others and is now truly among the family of the world's nations.

Israel had sought diplomatic acceptance, but historically found diplomatic isolation. It is Bush/Baker that finally provided the muscle to accomplish this fundamental objective that Israel has had since her birth.

By the way, the broad, worldwide recognition—not isolation or rejection—is also reflected in a third great accomplishment: overturning the insidious 1975 U.N. resolution that Zionism is racism. This is something that everyone talked about, but no one else could achieve.

To quote Jim Baker: "That took a lot of arm twisting." Having served as a congressional member of our U.N. delegation, I can attest to the difficulties that were involved.

A fourth achievement, and a wonderful one, was Operation Solomon, the dramatic airlift of Ethiopian Jews to Israel in which I was so deeply involved as the President's emissary.

What few remember is that this was the second great airlift of Ethiopian Jews. The first was personally arranged by then-Vice President George Bush in 1985 when he made a trip to the Horn of Africa similar to mine of last spring to Ethiopia. Operation Solomon got done last spring only because George Bush was involved every step of the way and the Ethiopians knew it.

As I sat and negotiated with President Haile Mariam Mengistu, the brutal Ethiopian dictator, I thought what a difference 50 years makes. There we were—a former U.S. senator, high-level personnel from the White House and State Department fully supported by the President—negotiating for the poorest of the poor, the black Ethiopian Jews.

Fifty years ago nobody spoke out for our people in Europe. What a difference 50 years makes, the state of Israel makes, a strong well-organized American Jewish community makes.

But it would not have happened if there were not a president who understood and was willing to take the risks and push it. And when, as I understand it, some at the State Department wanted to abort the mission, Jim Baker wouldn't let them.

Yet some call, or intimate, that the president and Secretary of State are anti-Semites. What chutzpah.

A fifth achievement is the recent negotiations concerning the Syrian Jews who are now permitted to sell their property and travel with their families out of Syria. This is pretty current and sensitive stuff. But few thought it was any more possible than getting the Arab states to sit down with Israel.

Finally, of course, there is the Persian Gulf War and the removal of Israel's most potent opponent, the defense of Israel in its hour of need, and hopefully a decade's delay at least in the introduction of the most sophisticated weaponry to Israel's foes.

Consider also that George Bush is the first president not to look at the Arabs as a monolithic landscape. He built a coalition of Arabs to fight other Arabs, thereby weakening Arab nationalism and the unified threat it can pose to Israel.

I even believe that George Bush is the first president since Kennedy not to have used or threatened to use the availability of U.S. defensive weaponry as a tool to affect Israeli policy, as the Reagan administration did by suspending the sale of F-16's following Israel's 1981 strike on Iraq's nuclear reactor site.

When I spoke to my grandmother about politics, she would always ask me "Ist das gut fur die Juden?," a question essential in the old country of her youth. I believe Bush/Baker deserve a resounding "yes."

But are these a couple of haimishe guys who address Jewish sensitivities well? Regretfully not.

LT. COL. ROBERT P. DEMERS

Mr. DOLE. Mr. President, I want to take this opportunity to commend a good friend of the Senate who is retiring after over 20 years of dedicated service in the U.S. Army—and over 2 years of service in the Army's Senate Liaison Office.

Lt. Col. Robert P. Demers has brought to the Senate a depth of experience and insight that has been invaluable. His personal assistance to this body, and to our Nation, will be missed.

Bob entered the Army in 1969 and was commissioned as a second lieutenant. He has had many key assignments during his distinguished military career. These include service in Vietnam, Germany, and Alaska where he commanded various aviation units. Lieutenant Colonel Demers served in the Army's military personnel center as a personnel assignments officer and distribution officer, as well as the executive officer of the distributor division. His service in the Army's Senate Liaison Office brought him in close contact with many Members of this body. Those who have had the opportunity to travel with Bob, and rely on him like I have, will agree that Lieutenant Colonel Demers has served the Senate, the Army, and the Nation in a superb manner.

Dedicated and hardworking, Bob is not one to allow the spotlight to shine on him. However, I know that he has been highly decorated during his impressive career. He earned the Bronze Star Medal, the Army Commendation Medal, eight awards of the Air Medal, three awards of the Meritorious Service Medal, and recently was approved to receive the Legion of Merit—a final tribute to this fine soldier.

As Bob begins a new career in the civilian community, I would like to express my appreciation for his outstanding service and support. Service and dedication to duty have been hallmarks of Colonel Demers' career. I am sure that my colleagues will join me in thanking Bob and wishing him the very best in his future endeavors.

The U.S. Senate expresses its deepest appreciation—and a grateful Nation extends a heartfelt thank you to Lt. Col. Robert P. Demers, U.S. Army.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,997,280,824,245.29, as of the close of business on Monday, August 10, 1992.

On a per capita basis, every man, woman, and child owes $15,562.16—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

EXPEDITED PRODUCT LIABILITY SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES OF S. 640, THE PRODUCT LIABILITY FAIRNESS ACT

Mr. ROCKEFELLER. Mr. President, when the Senate returns from recess on September 8, the first order of business will be consideration of S. 640, the Product Liability Fairness Act. While reasonable people may disagree about the merits of the legislation, I hope that we will be able to debate the actual provisions of the bill, rather than myths or outright misstatements about its contents.

To that end, today I would like to take a few minutes to discuss the expedited settlement and alternative dispute resolution procedures of S. 640—provisions which I believe will provide strong incentives for manufacturers to settle cases on fair terms without the expense of a trial.

While many supporters of this bill have focused on the present system's unfair treatment of manufacturers, I have always been deeply concerned by the glaring deficiencies of the liability system for people injured by defective products.

The deficiencies of the present system can be broken into four areas—the inability of innocent victims to secure any recovery; the disparity between a victim's loss and his or her recovery; the length of time it takes for victims who do prevail to be compensated; and the gross inefficiency of the liability and insurance system, which pays more to lawyers and insurance companies than to victims.

Every study of people injured by products shows that a high percentage of victims go without any compensation whatsoever. The largest of such studies, a closed claims survey of 24,452 claims by the Insurance Services Office [ISO] in 1977, showed that one-third of all claims were closed with no payment.

More recently, a 1989 GAO review of 305 product liability cases resolved through trials between 1983 and 1985 in five States—Arizona, Massachusetts, Missouri, North Dakota, and South Carolina—found that plaintiffs were awarded compensatory damages in only 45 percent of the cases studied.

While these studies do not address the culpability of the injured parties, the liability system itself denies compensation to the following categories of innocent injured persons: those who cannot identify the maker of the product; those injured by a product where the manufacturer is not negligent, in states that do not apply a strict liability standard or those that employ a risk-utility test; people injured by unavoidably unsafe products; and people whose negligence makes a minimal contribution to the injury, in States that maintain the defense of contributory negligence.

Second, every study of the liability system shows that it grossly overpays people with the smallest losses and sadly underpays those with the most serious losses. The ISO study found that claimants with economic losses of between $1 and $1,000 recovered, on the average and net of attorneys' fees, 482 percent of those losses. In contrast, people with economic losses in excess of $1 million recovered, on the average and net of attorney's fees, only 6 percent of those losses. A 1986 Alliance of American Insurers and American Insurance Association Study of large product liability claims found a net recovery of only 39 percent where economic losses exceeded $1 million.

While the GAO study found that "the size of compensatory awards * * * is strongly associated with injury severity and the amount of the underlying economic loss," this merely means that victims recover more for more serious injuries. In short, a disabling back injury generally will result in greater compensation than a broken leg.

This statement is not the same as saying that seriously injured people recover a higher percentage of their losses. As the next sentence in the GAO report clearly states, "Previous studies have also shown that the total amount awarded is frequently insufficient to cover just the economic losses when these losses are large."

Third, even successful claimants must wait an unconscionably long time to recover. The ISO study found that it takes 5 years to pay the claim with the average dollar amount of loss and that "larger claims tend to take much longer to close than smaller ones." Similarly, the GAO study found that it took 2½ years to move from filing to trial court verdicts.

Of course, in product liability cases, there are no interim payments. Victims are at the mercy of the adequacy—or inadequacy—of their own insurance to cover losses. Not only do the lengthy delays encourage seriously injured victims to accept insufficient settlements, but studies have found that delayed rehabilitation produces a lesser degree of recovery.

Fourth, the liability system is remarkably inefficient. The ISO study found that attorneys for both sides receive only slightly less than the victims, before considering insurance overhead costs. Further, a 1986 Rand Institute for Civil Justice study showed that the annual overall transaction costs of the U.S. tort system exceed compensation to plaintiffs; with net compensation between $14 and $15 billion, while transaction costs—including attorneys' fees for both parties—were between $15 and $19 billion.

Given the gross and obvious inadequacies of the liability system in compensating victims, one would expect to see the consumer groups clamoring for civil justice reform. In fact, a briefing book on S. 640 put together by Consumers Union, Consumer Federation of American, Public Citizen and U.S. Public Interest Research Group includes a list of 10 recommendations to "address the tremendous hurdles faced by consumers who are injured by defective products and seek compensation through the civil justice system."

The proposals include some things I support strongly—such as the establishment of a national health insurance system and increasing the effectiveness of Federal regulatory agencies. However, they include no direct reforms of the civil justice system.

Instead, the consumer groups have chosen to attack nearly every provision of the bill as anticonsumer. While reasonable people may disagree on the effect of some of the provisions, I believe we all have an obligation to conduct this public debate on a factual basis. In the area of expedited settlement and alternative dispute resolution procedures, I find the consumer arguments do not meet this test. I want to set the record straight.

Title II of S. 640 seeks to encourage settlements in product liability cases before the full force—and cost—of the liability system are brought to bear.

It contains two provisions designed to short circuit the legal system. First it establishes an expedited product liability settlement system. Under this system, either a claimant or a defendant may make an offer of settlement for a specific dollar amount.

If the claimant makes an offer and the defendant turns it down, a subsequent jury award of an amount greater than the claimant's offer would subject the defendant to a penalty of paying—in addition to the amount of the verdict—an additional amount equal to the claimant's reasonable attorney's fees. In short, this provides a strong incentive for the manufacturer of a defective product to settle a legitimate case. He will avoid not only the attorney's fees penalty; he will avoid having to pay most of his own attorney's fees because the case will be settled early.

What happens when the defendant makes an offer but the plaintiff turns it down? The result is similar, but with one dramatic difference. In such a situation, if the plaintiff subsequently recovers less than the amount offered by the defendant, the plaintiff is liable for defendant's reasonable attorney's fees. However, the penalty may not exceed "that portion of the verdict which is allocable to noneconomic loss and economic loss for which the claimant has received or will receive collateral benefits."

In English, that means that the plaintiff's penalty is capped at the amount of benefits available for the same losses from the plaintiff's own insurance. For example, if the defendant offers $10,000, the plaintiff turns down the offer and then the plaintiff recovers only $8,000. If the plaintiff's private health insurer pays $3,000 and the manufacturer's reasonable attorney's fees are $15,000, the plaintiff does not have to pay the manufacturer $15,000. Instead, he has to pay only $3,000. If a plaintiff had no private insurance, then the plaintiff would face no penalty if the court awarded less than the defendant offered.

In sum, the plaintiff's downside does not occur unless he turns down an offer for more than the verdict and, even then, the penalty is simply to eliminate double recovery for his losses. This result is quite different than the result when the manufacturer turns down the plaintiff's offer. There, the manufacturer may be liable for the plaintiff's attorney's fees, with no cap whatsoever other than a limit of a reasonable fee.

Under the circumstances, I would think the consumer groups would be delighted that we have devised a system that so strongly favors the victim and that would significantly reduce legal costs.

Instead, here's the consumer groups' characterization of this provision in their July 31, 1992, testimony before the House Subcommittee on Technology and Competitiveness: "the plaintiff would be forced to pay the defendant's attorney's fees and costs. In essence, this provision blackmails consumers into accepting a company's right to a trial by jury under the seventh amendment." In addition, they stated that "An injured consumer, often without resources, can hardly risk the possibility that he or she may end up having to pay the legal fees of a corporate defendant in order to have his or her case heard by a jury."

This is simply not true. This statement misrepresents what section 201 of S. 640 does. As I said, this section would not require a plaintiff to pay the defendant's attorney's fees, except to the extent that the plaintiff has other funds available from private insurers to pay for the same economic or noneconomic losses. Moreover, an injured consumer without resources—the hypothetical posed in the consumer testimony—would have no downside. If the consumer has no collateral sources, then there is no penalty for losing a case.

On the other hand, if the injured consumer makes an offer, then the manufacturer would be in a quandary—pay the victim in a timely fashion, not the 5 years that the liability system normally takes, or risk paying the plaintiffs attorney's fees if he loses the case.

Now, let's examine section 202, the alternative dispute resolution procedures. These provisions are designed to encourage the use of existing State procedures to avoid lawsuits.

Under section 202, either party may offer to proceed under any voluntary alternative dispute resolution procedure established under the law of the State where the case is brought. However, if the other party refuses to proceed under these ADR procedures "and the court determines such refusal was unreasonable and not in good faith, the court shall assess reasonable attorney's fees and costs against the offeree." If a verdict is rendered in favor of the offeror, then a rebuttable presumption is created that the refusal by the offeree to proceed through the ADR mechanisms was unreasonable.

Now let's hear from the consumer groups' testimony again. It says "the real effect of the provision would be to discourage parties from exercising their constitutional right to a trial by jury and encourage defendants to offer inadequate amounts."

Once again, that statement is simply not true. The provision in no way impinges on a plaintiff's right to a jury trial. If a defendant offers to use a State's ADR mechanism, and the plaintiff agrees, the plaintiff would face no penalty whatsoever if he or she chose to ignore the result of the ADR system. As long as the plaintiff agrees to go through ADR, he or she may refuse to accept any recommendations in that process and seek a jury trial. Win or lose thereafter, the plaintiff would not be liable for the defendant's attorney's fees and costs.

Mr. President, in closing, let me state clearly that I believe this legislation, which in one form or another has been before the Senate for 13 years, has evolved into a balanced bill—not one that is pro-business or pro-consumer, but one that will produce a fairer and more certain system for rules for people by defective products. I opposed earlier versions of the bill because I did not think they met this test. After 13 years, isn't it time that we entered into a serious and honest debate over the provisions of this bill? Surely the liability system is not so perfect, from either a manufacturer's or victim's standpoint that it cannot stand improvement. If there are honest disagreements over its provisions, then let us try to work out reasonable compromises so that we can improve the system for all its participants.

TRIBUTE TO BILL SIMPSON, SR., AND BILL SIMPSON, JR.

Mr. SASSER. Mr. President, I rise today to pay tribute to a good friend and his son: Bill Simpson, Sr., and Bill Simpson, Jr., I have known the senior Bill Simpson for many years. As a former administrative assistant to Senator James Eastland of Mississippi and aide to President Carter, he is a friend and counsel to many current and former Members of Congress. I have always found Bill to be a wise and commonsense observer of the sometimes nonsensical politics of Washington.

Bill Simpson, Jr., has followed in his father's footsteps in public service, working as a field representative for Representative MIKE ESPY. Both chose to serve their Nation and their beloved home State of Mississippi. Their journey and the journey of the people of Mississippi along the course to racial harmony is recounted in a recent Wall Street Journal article. I offer that article to the Senate today as a testament to the Simpson family and a reminder of how far we have come on that difficult road.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 27, 1992]

A FATHER-SON JOURNEY, FROM EASTLAND TO ESPY, MIRRORS THE COURSE OF MISSISSIPPI RACE RELATIONS

(By Jackie Calmes)

WASHINGTON.—When Bill Simpson, Jr. was growing up here, he was proud to know two of the most important men from his home state of Mississippi: his father and his father's boss, the powerful Sen. James Eastland.

In a sense, Mr. Simpson has followed in his father's footsteps: He, too, is an aide to a Mississippi lawmaker. But there is an important difference. Sen. Eastland was the Democrat who once stood as the virtual symbol of the most virulent Southern segregationists. Mr. Simpson's boss, Democratic Rep. Mike Espy, is the state's first black congressman since Reconstruction.

In the Simpsons' personal journey over a generation, from Eastland to Espy, is written the state's own passage on race relations. That, he and his father could have worked for such vastly different men, the 32-year-old Mr. Simpson says, "shows that Mississippi has progressed a lot more than other parts of the country."

Says Bill Simpson, Sr., 68, who still works as a lobbyist and adviser on issues important to his home state: "I don't mean to imply that things are ideal, but I think it's a snapshot of advancement."

The younger Mr. Simpson, a field representative in Rep. Espy's poor, rural Delta district, recalls his painful realization over the years about the racist record of his father's boss—the senator he once watched in awe from the rear of the Eastland Capitol office—and its bitter legacy in the memories of some of the black voters he now knows. At the same time, he has come to share his father's warts-and-all esteem for the overall accomplishments of the Senator, who died in 1986.

CIVIL-RIGHTS BILLS

Mr. Eastland represented Mississippi in the Senate for 36 years. For 22 of those years, from 1956 until his retirement in 1978, he was chairman of the Senate Judiciary Committee, where all civil rights bills in the Senate had to begin—and where, thanks to Sen. Eastland, many of them died.

"I had special pockets put in my pants," the senator once bragged, "and . . . I carried those bills around in my pockets everywhere I went, and every one of them was defeated." It was a much-repeated boast, part of the unflattering lore that Bill Simpson Jr. would discover about the senator.

Like other race-baiters, he would rail against "the mongrelization of the races" that civil rights laws would bring, and accuse their advocates of being Communist agitators. Yet only Sen. Eastland, as Judiciary chairman, had the power to block for a year President Kennedy's nomination of Thurgood Marshall, later the first black Supreme Court justice, to a federal appeals court; he finally relented on "the nigger," as he reportedly put it to Attorney General Robert Kennedy, only after the president named a segregationist chum to a Mississippi judgeship.

The senator couldn't kill the 1965 Voting Rights Act, but federal voting registrars did stay out of his state's Sunflower County—home of the Eastland plantation, and of Fannie Lou Hamer, a civil rights hero who was repeatedly beaten for trying to vote. Today, traveling the same ground for Rep. Espy, Bill Jr. sees the white-owned farms that reaped the subsidies Sen. Eastland helped procure while opposing any aid for the poor blacks who lived nearby.

But even when Bill Sr. was a top aide to the senator, the Eastland attitudes on race were never the Simpson attitudes. "My father always taught me different," Bill Jr. says. In the process of reconciling those lessons with the bigotry of the senator for whom his father worked, there were numerous family talks. Says Bill Sr.: "I was not trying to excuse anything, but rather to make as clear as I could to my only son a cumulative, overall picture of Sen. Eastland's service to the state and to the nation."

STATE JOBS

The elder Mr. Simpson joined the senator's staff in 1968 after several influential state jobs in Mississippi. For much of the next 10 years, he was as close to a voice in the senator's office as the state's blacks had. Mr. Simpson and another aide, Frank Barber, "ran the interference we needed," says Aaron Henry, then as now the head of the state chapter of the National Association for the Advancement of Colored People.

Finally, 15 months before he retired, Sen. Eastland hired his first and only black aide—Ed Cole, now the state Democratic Party chairman. Even now, Mr. Cole says, the question, "How do you work for someone like that?"—the query that once troubled Bill Simpson Jr.—is a familiar one for him as well. Yet he calls the stint with Sen. Eastland "the best job I ever had." He adds, echoing the elder Mr. Simpson: "I understand his record in context."

Bill Simpson Sr. suggests that context during a recent dinner-table conversation at the family's suburban Washington home, his visiting son nodding in agreement. "Sen. Eastland, like anybody I ever met in my whole life, was a product of where he came from," he says. "If you didn't take the positions that Sen. Eastland did during that period, you were out of the Senate, out of the House of Representatives, out of consideration for any public post."

"The point I would like to make," says the man who delivered the senator's eulogy, "is that James Eastland was not a hater."

His wife, Evelyn, Bill Jr.'s mother, acknowledges that she also has problems with Sen. Eastland's civil rights record. "I just kept quiet about it," she says. "I knew my husband wasn't a prejudiced person."

FUNERAL BUSINESS

Rep. Espy never met Sen. Eastland, but he well knows "Eastland country" from his drives as a young man collecting debts for the family funeral business. He agrees that, race aside, Sen. Eastland "did a lot for Mississippi."

Rep. Espy, who has been criticized by a few in the black community for hiring whites since his 1986 election, had no hesitation about hiring the younger Simpson, whether on grounds of race or of the Eastland connection. But Bill Jr. at first sensed a chill from others. He recalls a job interview with Oleta Garrett, director of the district office: "She read my resume, and she knew my father had worked for Sen. Eastland. She didn't know my father well then; she does now. She was wondering, what is this young man going to be like?"

But Ms. Garrett, like the staff, wondered more about a young white man from Washington making the move to the Delta than about the family's Eastland link. "I had long since made peace with that faction," she says. "I actually like those old guys."

After several years, Bill Jr. says he has "built a bond" with the initially standoffish black farmers of the Delta while serving as a bridge to the district's whites. "Even the old white farmers who would have a lot of resentment of any black," he says, grudgingly appreciates Mr. Espy's efforts on their behalf—even if they can't bring themselves to acknowledge his status as their representative. "They might not refer to him as 'congressman,'" Mr. Simpson says, but "they'll say 'Mike's working for us.'"

As for Sen. Eastland, the Simpsons' lingering regret is his enduring reputation as a segregationist and his failure to adapt to changed times as did some others of his generation. "I know that hurts my father," says the son, "and it hurts me too."

TRIBUTE TO JUDGE SEYBOURN HARRIS LYNNE

Mr. HEFLIN. Mr. President, it is with great pride that I rise today to pay tribute to the most senior judge in the Federal court system, district and appellate. He is Judge Seybourn Harris Lynne, appointed to the Federal bench by President Harry S. Truman in 1946. He has dedicated over 53 years of distinguished service to the judicial system, with 46 of those years spent on the U.S. District Court for the Northern District of Alabama.

Judge Lynne is a native of Decatur, AL, and attended Auburn University—at that time known as the Alabama Polytechnic Institute—where he graduated with highest distinction. He earned his law degree at the University of Alabama in 1930. While in law school, he served as track coach and assistant football coach at the university. Upon graduation from law school, the future judge practiced law in a partnership formed with his father, Mr. Seybourn Arthur Lynne.

In 1934, Seybourn Lynne was elected judge of Morgan County Court. He remained in that position until January 1941, when he took over the duties of judge of the Eighth Judicial Circuit of Alabama. In December 1942, he resigned from the bench to voluntarily enter the military. After earning the rank of lieutenant colonel, he was relieved of active duty in November 1945 and awarded the Bronze Star Medal for gallant service against the enemy.

When an opening occurred on the Federal bench, Alabama Senators Lister Hill and John Bankhead were called upon to recommend an appropriate individual to be considered by the White House for judgeship. In January 1946, President Truman appointed Judge Lynne to the U.S. District Court for the Northern District of Alabama. In 1953, he became the chief judge, and in 1973, the senior judge.

As chief judge for the Northern District of Alabama, Judge Lynne has been known as an outstanding leader. His knowledge and management skills ensured a solid, working relationship between the Federal bench and the bar. The northern district has not been burdened with a stale and overripe docket, and the court's caseload is kept timely and current, thanks to Judge Lynne's leadership.

In addition to his administrative responsibilities, Judge Lynne has worked hard and carried a full caseload. In fact, even in senior status, he continues to work long hours and keeps a complete docket of cases. Over the years, Judge Lynne has been recognized as an outstanding mediator who often was able to reconcile competing interests in order to forge a thoughtful compromise. A number of businesses and individuals in Alabama are growing and thriving today due to his abilities as an arbiter who was able to settle complex and difficult disputes.

The judge has also been a notable community leader, serving in church, civic, school, and professional organizations. He is a lifetime deacon, Bible class teacher, and a trustee of Southside Baptist Church. He has served both the crippled children's clinic of Birmingham and the Eye Foundation Hospital of Birmingham as a trustee. In 1967, he served a term as president of the University of Alabama's Alumni Association.

Mr. President, it is indeed an honor to congratulate and commend Judge Seybourn Lynne for his many years of tireless work on behalf of the State and Federal benches, and of his community. He shines as a living example of the late President Truman's rich legacy.

THE NORTH AMERICAN FREE TRADE AGREEMENT

Mr. SIMPSON. Mr. President. I rise today to commend the President and the U.S. Trade Representative Carla Hills for the successful negotiation of the historic North American Free Trade Agreement. This agreement exemplifies the President's superb leadership in building trade bridges between the United States and the rest of the hemisphere.

The President negotiated this agreement carefully and deliberately—all the while consulting with Congress, and fully recognizing that Congress could accept or reject the agreement as a package. This historic agreement is an opportunity for our great country to solidify its position in the vast global economic marketplace.

Many of the agreements worst critics—mostly of the political variety do not believe the administration has gone far enough in addressing environmental standards, border pollution, and safeguards to protect American workers.

The administration has established a solid foundation to deal with problems which may arise in those areas in the future. The NAFTA will increase our leverage and enhance environmental protection, especially in Mexico. Without an agreement, there is no starting point or any leverage for improving current Mexican environmental standards.

As the leaders in responsibly preserving the global environment, we have before us a great opportunity. When the President committed himself to negotiating the agreement, he immediately set up intergovernmental working groups to address environmental concerns—principally in the areas of air and water pollution, hazardous waste management, and emergency response actions.

President Bush committed $241 million and Mexico pledged $460 million over 3 years to implement an integrated border plan. Congress did not take the commitment seriously and cut his request by almost $100 million. Responsible development of an integrated border plan and adequate environmental protection will only be sustained by the ratification of this comprehensive free trade agreement.

The President seriously addressed worker adjustment programs in the NAFTA. Import-sensitive industries will have time to adjust to full competition. Tariffs will be gradually phased out over many years. Workers adversely affected by the NAFTA will receive assistance from a well-funded worker adjustment program. The President doubled funding for the Economic Dislocation Worker Adjustment Assistant Act to over $500 million. He is strongly committed to a smooth transition to a North American economy.

This trade agreement is like no other. It is the first step toward building a stronger America for the future. The world has become a global village. This agreement is about opening new doors—doors to future economic growth. We must think about what we want the American economy to look like in the future. We must broaden our economic horizons in order to create new opportunities and revitalize our economy.

A great economist, Robert Samuelson, once said, "The anticipation of change is often more upsetting than change itself, and a bit more candor would make the future a little less frightening * * *. With the NAFTA, President Bush and Carla Hills have given the American people an opportunity to solidify our national economic strategy and to afford all Americans—not just a select few—prosperity as a result of free trade.

REMOVAL OF INJUNCTION OF SECRECY

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty on Open Skies (Treaty Document No. 102-37), transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Treaty on Open Skies. I believe that the Treaty on Open Skies is in the best interest of the United States. By engaging all participating States actively in cooperative observation, the Treaty on Open Skies will strengthen international stability. The Treaty also provides an important means of increasing mutual understanding of military forces and activities, thus easing tensions and strengthening confidence and security, not only in the area covered by the Treaty, but in other areas as well.

The Treaty includes twelve Annexes, which are integral parts thereof. The Treaty, together with the Annexes, was signed at Helsinki on March 24, 1992. I transmit also, for the information of the Senate, the Report of the Department of State on the Treaty.

In addition, I transmit herewith, for the information of the Senate, five documents associated with, but not part of, the Treaty that are relevant to the Senate's consideration of the Treaty: Decision Number One on the Distribution of Costs Arising Under the Treaty on Open Skies in accordance with Annex L, Section I, paragraph 9, dated June 29, 1992; Decision Number Two on Additional Non-Destructive-Testing Equipment To Be Used by the Observed Party in accordance with Annex F, Section I, paragraph 7, dated June 29, 1992; Decision Number Three on Methodology For Calculating the Minimum Height Above Ground Level at Which Each Optical Camera Installed on an Observation Aircraft May Be Operated During an Observation Flight in accordance with Annex D, Appendix 1, Section III, paragraph 2, dated June 29, 1992; Decision Number Four on Minimum Camera Specification For an Observation Aircraft of an Observed Party Exercising its Right To Provide an Observation Aircraft For an Observation Flight, dated June 29, 1992; and Decision Number Five on Responsibility For the Processing of Film Used During an Observation Flight in accordance with Article IX, Section II, paragraph 2, dated June 29, 1992. Except for Decision Number One on the Distribution of Costs, these Decisions are legally binding.

The Decision on the Distribution of Costs Arising Under the Open Skies Treaty in accordance with Annex L, Section I, paragraph 9 has not been adopted by the Open Skies Consultative Commission (the implementing body of the Treaty made up of representatives from each State Party and the body which adopted the above-mentioned Decisions). The Open Skies Consultative Commission will adopt this Decision during its next session, scheduled for September 1992, and it will have the same legally binding status as the other Decisions. The Open Skies Consultative Commission has endorsed the current draft text of the Decision; however, agreement could not be reached on the issue of navigation fees which a great majority of the States Parties—including the United States—believe should be waived. Pending resolution of this issue, some States Parties—including the United States—have reserved their position on other cost issues.

The Open Skies Treaty establishes a regime of unarmed aerial observation flights over the entire territory of its 25 signatories (North Atlantic Treaty Organization Allies, Eastern European members of the former Warsaw Pact, and Russia, Ukraine, Belarus, and Georgia). The Treaty is designed to enhance mutual understanding and confidence by giving all participants, regardless of size, a direct role in observing military or other activities of concern to them. Covering territory from Vancouver to Vladivostok, Open Skies is the widest-ranging international effort to date to promote openness and transparency of military forces and activities. The Treaty allows for consensus decisions to improve sensors, to adjust quotas, and to admit new participants in order to enhance its effectiveness. The Open Skies principles may be applicable to States in other regions of the world as well.

The Treaty's operative provisions focus on four subjects:

—*Territory:* The entire territory of all participants will be accessible to aerial observation. Whereas the former Soviet Union had insisted on closing areas for national security reasons, the Treaty provides that only flight safety considerations may restrict the conduct of observation flights.

—*Aircraft:* Unarmed fixed-wing aircraft provided by either the observing or observed Party can be used.

All Open Skies aircraft and sensors must pass specified certification and inspection procedures to ensure that they meet the standards of the Treaty.

—*Sensors:* Open Skies aircraft may have video, panoramic and framing cameras for daylight photography, infra-red line scanners for a day/night capability, and synthetic aperture radar for a day/night all-weather capability. Photographic image quality will permit recognition of major military equipment, e.g., distinguishing a tank from a truck—allowing significant transparency of military forces and activities. Sensor categories and capabilities can be improved by agreement among the States parties. All equipment used in Open Skies must be commercially available to all participants. Data collected from the flights will be immediately shared by the observing and observed Parties, and may also be obtained by other States Parties.

—*Quotas:* Loosely scaled to size, each State Party has agreed to an annual quota of observation flights it is willing to receive (42 for the United States and Russia/Belarus to 2-4 for the smallest States Parties). States Parties may conduct as many observation flights as they are willing to receive.

The Treaty establishes an Open Skies Consultative Commission, composed of representatives designated by each State Party, to meet in Vienna, to promote the objectives and to facilitate the implementation of the provisions of the Treaty.

Therefore, I urge the Senate to give early and favorable consideration to the Treaty and its related Annexes, and to give advice and consent to its ratification.

GEORGE BUSH.

THE WHITE HOUSE, *August 12, 1992.*

AMTRAK AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 548, S. 2608, the Amtrak Authorization Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk read as follows:

A bill (S. 2608) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Amtrak Authorization Act of 1992".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended to read as follows:

"SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL CAPITAL EXPENDITURES.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under this Act $300,000,000 for each of the fiscal years 1993, 1994, and 1995.

"(b) OPERATING EXPENSES.—

"(1) CORE SYSTEM.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses $331,000,000 for each of the fiscal years 1993, 1994, and 1995. Of the amounts appropriated under this paragraph, not more than 5 percent of each fiscal year shall be used for the payment of operating expenses under section 403(b) of this Act for service in operation as of September 30, 1992.

"(2) NEW STATE-SUPPORTED SERVICE.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses under section 403(b) of this Act and for other additional services commencing after September 30, 1992—

"(A) $5,000,000 for fiscal year 1993;

"(B) $7,000,000 for fiscal year 1994; and

"(C) $10,000,000 for fiscal year 1995.

The expenditure by the Corporation of funds appropriated for operating expenses under section 403(b) of this Act for service commencing after September 30, 1992, shall not be considered to be an operating expense for purposes of calculating the revenue-to-operating expense ratio of the Corporation.

"(c) MANDATORY PAYMENTS.—There are authorized to be appropriated to the Secretary $146,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995, for the payment of—

"(1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in such fiscal years in excess of amounts needed to fund benefits for individuals who retire from the Corporation and for their beneficiaries;

"(2) obligations of the Corporation under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in such fiscal years in excess of its obligations calculated on an experience-rated basis; and

"(3) obligations of the Corporation due under section 3321 of the Internal Revenue Code of 1986.

Funds appropriated under this subsection shall not be considered a Federal subsidy of the Corporation.

"(d) ADMINISTRATION OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisition and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditures by it in accordance with the Secretary's budget request as approved or modified by Congress at the time of appropriation. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.".

BOARD OF DIRECTORS

SEC. 3. Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended by adding at the end the following: "one of such members shall be specially qualified to represent the interests of rail passengers and shall be selected from a list of three qualified individuals recommended by the National Association of Railroad Passengers.".

CHIEF EXECUTIVE OFFICER

SEC. 4. Section 303 of the Rail Passenger Service Act (45 U.S.C. 543) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking "President" and inserting in lieu thereof "chief executive officer"; and

(B) in paragraph (4), by striking "President" and inserting in lieu thereof "chief executive officer"; and

(2) in subsection (d), by striking "president" each place it appears and inserting in lieu thereof "chief executive officer".

AUTHORIZATION OF PREFERRED STOCK

SEC. 5. Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end the following new paragraph:

"(4) No amendment to the articles of incorporation of the Corporation shall be required for the issuance of the preferred stock required to be issued pursuant to this subsection.".

PROPERTY FINANCING

SEC. 6. Section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546(n)) is amended to read as follows:

"(n) Neither the Corporation, nor any railroad subsidiary of the Corporation, nor any lessee or lessor of the Corporation or of any such railroad subsidiary shall be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or rights-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, 'additional taxes' means taxes or fees (1) on the acquisition, improvement, ownership, or operation of personal property by the Corporation, any railroad subsidiary of the Corporation, or any lessee or lessor of the Corporation or of any such railroad subsidiary; and (2) on real property other than taxes or fees on the acquisition of real property, or an the value of real property which is not attributable to improvements made, or the operation of such improvements, by the Corporation, any railroad subsidiary of the Corporation, or any lessor or lessee of the Corporation or of any such railroad subsidiary.".

DISCONTINUANCE, MODIFICATION, OR ALTERATION OF CERTAIN RAIL PASSENGER SERVICE

SEC. 7. Section 403(d) of the Rail Passenger Service Act (**[45]** *45* U.S.C. 563(d)) is amended by striking the second sentence and inserting in lieu thereof the following new sentences: "On any date on or after October 1, 1993, if such service during the previous 6-month period has a *short-term avoidable* loss that exceeds the average loss per passenger mile for service over short-distance routes operated by the Corporation, the Corporation may elect to consider discontinuance, modification, or adjustment of such service. If such election is made, the Corporation shall solicit public comment on alternatives to discontinuance, modification, or adjustment of such service. The public comment period shall be at least 30 days. Within 60 days after the expiration of that comment period, the Corporation may discontinue, modify, or adjust such service so that the applicable criterion is [met.".] *met. For purposes of this subsection, the calculation of short-term avoidable loss shall not include the cost of providing passenger equipment required to operate such service.".*

HIGH-SPEED RAIL TECHNOLOGY DEMONSTRATION PROGRAM

Sec. 8. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end the following new section:

"SEC. 811. HIGH-SPEED RAIL TECHNOLOGY DEMONSTRATION PROGRAM.

"(a) Plan.—The Corporation shall develop a plan for the demonstration of new technologies in rail passenger equipment. Such plan shall provide that—

"(1) any new equipment procured by the Corporation that may significantly increase train speeds over existing rail facilities shall be demonstrated, to the extent practicable, throughout the national intercity rail passenger system; and

"(2) the Corporation shall, in order to facilitate the Corporation's efforts to increase train speeds, take steps to establish cooperative arrangements with eligible applicants that intend to propose technology demonstrations for financial assistance under section 309(b)(2) of title 49, United States Code.

"(b) Report To Congress.—The Corporation shall, not later than September 30, 1993, transmit to the Congress a report summarizing the plan developed under subsection (a) of this section, including its goals, locations for technology demonstration, and a schedule for implementation of the plan.".

HIGH-SPEED RAIL CORRIDOR DEVELOPMENT

Sec. 9. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding to the end the following new section:

"SEC. 812. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

"(a) Encouragement and Assistance.—The corporation shall actively encourage efforts by State and regional partnerships, study groups, private sector representatives, and other entities whose objective is to advance high-speed rail service through equipment upgrades and incremental infrastructure improvements on existing railroad facilities utilized by the Corporation outside the Northeast Corridor. To the maximum extent feasible through appropriate allocation of [exiting] *existing* resources, the Corporation shall offer planning assistance, marketing analysis and support, engineering expertise, and other assistance to [such] *Federal or State* entities in pursuit of this objective.

"(b) Report To Congress.—The Corporation shall report to Congress, in connection with the report required under section 811 of this Act, detailing the Corporation's efforts under this section and proposing further activities in support of high-speed rail service outside the Northeast corridor.".

SAFETY IMPROVEMENTS

Sec. 10. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 813. RAIL AT-GRADE CROSSINGS.

"(a) Recommendations.—The Corporation shall, by June 30, 1993, and periodically thereafter, make recommendations to the Secretary for the elimination of hazards of highway at-grade crossings under section 104(d) of title 23, United States Code.

"(b) Elimination.—

"(1) In general.—The Secretary, in consultation with the States along the main line of the Northeast Corridor, shall develop a plan by September 30, 1993, for the elimination of all highway at-grade crossings of such main line by December 31, 1997.

"(2) Exceptions.—The plan developed under paragraph (1) of this subsection may provide that the elimination of a highway at-grade crossing not be required if eliminating such crossing is impracticable or unnecessary and the use of the crossing will be consistent with such conditions as the Secretary considers appropriate to ensure safety.

"(3) Funding.—The Corporation shall pay 20 percent of the cost of the elimination of each highway at-grade crossing pursuant to the plan developed under paragraph (1) of this subsection.".

EMERGENCY TRAINING AND RESPONSE

Sec. 11. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 814. EMERGENCY TRAINING AND RESPONSE.

"(a) Task Force.—The Corporation, together with representatives from each of the on-board service and operating employee crafts and unions, shall form a task force to consider recommendations for improving emergency training and performance of on-board service and operating crew members.

"(b) Matters To Be Considered.—The task force formed under subsection (a) of this section shall consider, at a minimum—

"(1) whether the Corporation's emergency training and drill program as presently constituted is adequate, and if not, in what ways it can be augmented or improved;

"(2) whether medical first-aid training, including cardiopulmonary resuscitation, should be required for all on-board crew members;

"(3) whether the Corporation's requirements with respect to employee responsibilities for passenger evacuation, emergency communications, crew coordination, and disaster response should be revised; and

"(4) whether Federal certification of the Corporation's emergency training program and evacuation procedures, and certification of the emergency performance of on-board crew members, are warranted.

In considering the issue described in paragraphs (1) through (4), the task force shall address relevant prior recommendations and findings by the National Transportation Safety Board.

"(c) Report.—Not later than June 1, 1993, the task force shall report to Congress on its findings in subsection (b) of this section, together with a summary of actions implemented to date and recommendations for future action.".

PAYMENT BY AMTRAK OF COSTS OF CERTAIN NEW SERVICES

Sec. 12. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (B)(iii) of this paragraph, in the case of the first rail passenger service under this subsection that commences after October 1, 1995, and serves a State not served by the Corporation as of the date of enactment of the Amtrak Authorization Act of 1992, the Corporation shall pay 75 percent of the long-term avoidable loss associated with the operation of the service in the first year and 50 percent of such loss in the second year of operation. Any losses associated with operation of the service in the third year and thereafter shall be allocated under the Corporation's then-applicable policy for this subsection.".

COLUMBUS AND GREENVILLE RAILWAY

Sec. 13. (a) In General.—Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"COLUMBUS AND GREENVILLE RAILWAY

Sec. 518. (a) Limitation of United States Interest.—Notwithstanding any other provision of this title, the Secretary shall limit the interest of the United States in any debt of the Columbus and Greenville Railway under sections 505 and 511 of this title to an interest which attaches to such debt in the event of (1) bankruptcy, or (2) substantial sale or liquidation of the assets of the railroad, the proceeds of which are not reinvested in the operations of the railroad. The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary deems appropriate and which conform to the terms set forth in this section.

"(b) Higher Priority for New Debt.—If the interest of the United States is limited under subsection (a) of this section, any new debt issued by such railroad subsequent to the issuance of the debt described in such subsection may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such subsection as the Secretary and the railroad may agree.".

(b) Conforming Amendment.—The table of contents in the first section of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting immediately after the item relating to section 517 the following new item:

"Sec. 518. Columbus and Greenville Railway.".

Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I rise in support of S. 2608, the Amtrak Authorization Act of 1992. I am pleased to note that the chairman of the full Committee on Commerce, Science, and Transportation, Senator HOLLINGS, cosponsors this legislation with me. Other cosponsors include Senators KASTEN, BURNS, LOTT, ADAMS, SIMON, BRADLEY, CONRAD, GRASSLEY, and LAUTENBERG.

Consideration of this legislation in the 102d Congress comes at a time when the National Railroad Passenger Corporation, better known as Amtrak, has enjoyed increasing recognition as an integral component of the Nation's intercity transportation system. This recognition parallels Amtrak's steadily improving operating cost/revenue ratio—79 percent in fiscal year 1991, which reflects a change in accounting for mandatory retirement and mandatory unemployment payments—and the growing awareness of the potential benefits of, and possible future contribution of Amtrak to, the application of new high-speed rail technologies in intercity corridors across the Nation.

In many areas of the country, Amtrak offers a needed passenger transportation alternative to the highway and aviation modes. In my home State of Nebraska, for example, Amtrak stops in Omaha, Lincoln, Hastings, Holdrege, and McCook. I firmly believe that as Amtrak moves closer toward its proclaimed goal of self-sufficiency, we should view continuing Federal support for Amtrak as an investment in our national mobility.

S. 2608, the measure now before the Senate, would authorize appropriations for Amtrak for the fiscal years 1993, 1994, and 1995. This legislation charts the way for continued improvements in Amtrak service and safety, stimulates the introduction of new service and passenger rail technologies, and addresses a number of pending managerial and financial issues.

Before commenting further on a number of important provisions in this bill, I would like to address several amendments submitted for consideration with S. 2608. The first amendment, by Senators KERRY and KENNEDY, would provide for an authorization for fiscal year 1993 to support continued work on the Northeast Corridor Improvement Project [NECIP]. When complete, NECIP is expected to reduce the travel time between Boston and New York to under 3 hours through electrification and upgrade of the rail line to permit speeds of up to 150 miles per hour, elimination of various congestion bottlenecks, and purchase of new high-speed passenger equipment. I support the amendment, not only because new high-speed rail service in the Northeast could help alleviate congestion in that densely populated portion of the country, but also because improved train service could free scarce airline gates and slots in the region's crowded airports, thus opening up the potential of more direct flights from other sections of the country, such as Omaha, NE.

An amendment offered by Senator MOYNIHAN would require Amtrak to complete a study, by March 1993, of the feasibility of developing the James A. Farley Post Office Building, across the street from the existing Penn Station in Manhattan, as Amtrak's primary facility for handling intercity passengers traveling to and from New York City. I understand that the post office soon intends to vacate a large part of this impressive Roman Revival building, constructed in 1913 and designed by the same architects who developed the plans for the original Pennsylvania Station. The study called for in the amendment holds the promise of converting an existing landmark into a new gateway to the largest city in the Northeast corridor, and analysis of this possibility is entirely in keeping with the eventual arrival of true high-speed rail service both north and south of New York through NECIP.

The third amendment, by Senator KASSEBAUM, would require that FRA prescribe rules within 6 months of enactment mandating that alerting lights be affixed to the front of locomotives on the leading end of intercity passenger, commuter, and freight trains. The amendment would require new locomotives to be equipped with such lights within 90 days after issuance of these rules, and all other trains to be similarly equipped within 24 months of that date. Scenic, excursion, and historic trains, and locomotives used exclusively for switching, may be excluded from these requirements if the Secretary of Transportation determines that the exclusion is in the public interest and consistent with railroad safety.

Just 2 weeks ago, the Surface Transportation Subcommittee, which I chair, held a hearing on highway/railroad grade-crossing safety and on the substance of Senator KASSEBAUM's proposal. The testimony at the hearing clearly indicated the need for continued attention to the problem of grade-crossing safety, and I believe that making locomotives more visible through alerting lights represents a significant step in the right direction. Clearly, upgrading grade-crossing protection with flashing lights or gates or closing unneeded crossings entirely in appropriate locations would further enhance safety, but making locomotives easier to see, particularly at night, is a needed measure and one which I support.

I would note that as reported by the Commerce Committee, S. 2608 specifically addresses grade-crossing safety in the context of Amtrak passenger trains by requiring Amtrak to make recommendations by September 30, 1993, and periodically thereafter, to the Secretary of Transportation in connection with the at-grade crossing elimination program adopted pursuant to the 1991 surface transportation reauthorization legislation. In addition, the bill would require the Secretary, in consultation with the States along the main line of the Northeast corridor, to develop a plan for the elimination of all highway at-grade crossings along the Northeast corridor main line by December 31, 1997, except where such elimination would be impracticable or unnecessary. Amtrak would be required to pay 20 percent of the cost of all at-grade crossings eliminated under this section.

Turning to the reauthorization provisions of the legislation, S. 2608 authorizes operating expenses for the Amtrak core system of $331 million for each of fiscal years 1993, 1994, and 1995. New State-supported services benefit from a separate authorization, $5 million for fiscal year 1993, $7 million for fiscal year 1994, and $10 million for fiscal year 1995. The bill also authorizes Amtrak capital expenditures of $300 million for each of fiscal years 1993, 1994, and 1995. Mandatory payments for Amtrak's contribution for railroad retirement benefits and railroad unemployment insurance obligations required by law above the cost attributable to Amtrak employees are authorized at $146 million for fiscal year 1993 and such sums as may be necessary in fiscal year 1994 and fiscal year 1995.

Regarding the amounts authorized specifically for introduction of new Amtrak service, it is my understanding that these sums should be sufficient to encompass, over the 3 years of the bill, most anticipated State requests for new service of which Amtrak is aware, provided that the necessary State financial, equipment, and facility contributions are forthcoming. Further, assuming funding is available under this section and State commitments are fulfilled, Amtrak advises me that the potential for new State-supported service exists in the following as well as other possible areas: First, in fiscal year 1993, a second North Carolina train, a fourth San Joaquin train, a second Pennsylvania train, and New Orleans-Mobile service; second, in fiscal year 1994, Maine service, Vancouver-Seattle-Portland service, a tenth San Diego train, and a third and fourth Santa Barbara train, and third, in fiscal year 1995, Omaha-Chicago service through Iowa, and Oklahoma service.

In addition, another section of the bill would provide greater flexibility to the three States currently without Amtrak service—Maine, Oklahoma and South Dakota—to enable them to comply with the otherwise applicable cost-sharing requirements. To encourage new service to these States under this provision, Amtrak would pay 75 percent of the long-term avoidable loss associated with the operation of the service in the first year and 50 percent of such loss in the second year of operation. Any losses associated with operation of the service in the third and following years are to be allocated in accordance with existing requirements applicable to all States.

S. 2608 also includes a number of provisions intended to address certain managerial and financial issues, sharpen Amtrak's overall mandate, and improve rail passenger service and safety. For example, the bill would require that one member of the Amtrak board of directors—of the two appointed by the preferred stockholders—be qualified to represent the interest of rail passengers. The bill also would amend the Rail Passenger Service Act to create a new position of chief executive officer, who would represent the corporation on the board of directors.

Several provisions in the bill would further facilitate managerial and financial improvements in Amtrak's operation. One section would eliminate Amtrak's need annually to amend the corporate bylaws to authorize issuance of preferred stock to the Federal Government. Such stock is issued each year in an amount equal to newly appropriate Federal support. A second section in the bill would revise current statutory restrictions to permit Amtrak to participate in conventional sale/leaseback equipment transactions, lowering financing, and transaction costs to Amtrak. A third section of the bill would permit Amtrak greater flexibility in structuring its operations and operate effectively in a fiscally responsive manner by allowing Amtrak to discontinue, modify, or adjust certain rail commuter services operated pursuant to section 403(d) of the Rail Passenger Service Act.

The legislation further calls for the formation of a task force comprised of representatives from Amtrak and each of the on-board service employee and operating crafts to consider recommendations for improving emergency training and performance of onboard crew members. S. 2608 also would require Amtrak to channel resources into planning for the future introduction of high-speed rail passenger service in intercity corridors across the United States by developing an overall strategic plan for new technology demonstration, and by encouraging regional high-speed implementation efforts. Finally, the legislation provides for the subordination of Federal loans to the Columbus and Greenville Railway in order to improve this railroad's capital and ensure continued rail service in the Mississippi region.

In conclusion, Mr. President, I believe that the Amtrak Authorization Act of 1992 strikes a fair balance between Federal resources constrained by the budget deficit, and our Nation's need to ensure a vital and viable rail passenger transportation alternative to our highway and aviation modes. S. 2608 provides a firm foundation for Amtrak's continued progress, and I look forward to working with the bill's cosponsors and my distinguished colleagues to ensure the swift passage of this meritorious legislation.

Mr. HOLLINGS. Mr. President, I rise in strong support of the legislation before us, the Amtrak Authorization Act of 1992, which will help to assure the long-term viability of our national rail passenger system.

During a hearing in February of this year, the Surface Transportation Subcommittee reviewed carefully Amtrak's record to determine whether changes in Amtrak's mission were appropriate. In this regard, concern was raised that insufficient capital funding in the past may have prevented Amtrak from investing in equipment and facility improvements necessary for its future profitability. As a result of this examination, the Commerce Committee concluded that the operating and capital needs of Amtrak must be met to ensure the viability of our present rail passenger system. The bill before us today addressed these objectives.

I am pleased to join Senator EXON, chairman of the Surface Transportation Subcommittee, and other Senators in urging swift passage of this legislation. It provides Amtrak with an authorization of funds for operating expenses and for capital expenditures sufficient to maintain the current network of service. In order to provide Amtrak with greater flexibility to promote expansion in areas where ridership potential can be documented, the legislation includes a separate authorization for new State-supported and other services. It also includes provisions directing Amtrak to report to Congress regarding high-speed rail technology and corridor development.

Also included in the legislation is a provision which calls for the formation of a task force comprised of representatives from Amtrak and each of the onboard service employee and operating crafts to consider recommendations for improving emergency training and performance of onboard crew members. My concern as to whether Amtrak is providing sufficient emergency training for these employees stems, in part, from questions raised about inadequate response to those injured in the Amtrak accident that occurred in Lugoff, SC, last summer. I believe that this task force will provide the needed examination in this area.

This legislation is important for the future of rail passenger service, and I urge my colleagues to support its passage.

Mr. LAUTENBERG. Mr. President, I want to express support for this legislation, which would reauthorize Amtrak and important related rail programs. I am pleased to join in cosponsoring this bill, and commend Senator EXON for working to bring it to the Senate floor.

The bill we are considering today would authorize capital, operating, and mandatory retirement benefits funding for Amtrak for 3 years, and makes a series of changes to structure and functioning of the Amtrak board that should make the organization more efficient. Additionally, the bill reported by the Commerce Committee would promote the development of a strategy for high-speed rail throughout the country, and improve safety through the implementation of the grade crossing elimination program authorized in the Intermodal Surface Transportation Efficiency Act of 1991. I note that several amendments to be offered during floor consideration will make this bill a better one. I will discuss those amendments shortly.

America needs a strong passenger rail network, and I take a back seat to no one in my support of passenger rail service in this country. As chairman of the Senate Transportation Appropriations Subcommittee, I have worked to provide funding to keep Amtrak going. Year after year, the Reagan and Bush administrations have submitted budget requests that would have meant the end of passenger rail service in this country. Each time, I have worked to ensure that Amtrak has the resources it needs to continue serving the 22 million intercity passengers and 18 million commuters who depend on trains for travel each year.

I am pleased to say that, while preserving Amtrak's existing services, we've also been able to begin work on an important project to expand and improve Amtrak. Today, 11 million passengers—half of Amtrak's total intercity ridership—are in the Northeast corridor, from Washington to Boston.

It is projected that those numbers could increase considerably if the electrification of the Northeast corridor were completed on the north of the corridor, between New Haven, CT, and Boston. For the last 2 years, in spite of no budget requests from the administration and no funding in the House-passed bills, I have been able to earmark $281.5 million for the north end electrification project. I would note that the fiscal year 1993 transportation appropriations bill, passed last week by the Senate, includes an additional $168 million for electrification and other improvements to the north end. All in all, $204 million is provided in the Senate-passed appropriations bill for the Northeast corridor improvement project [NECIP].

The goal of the electrification project is to reduce travel time between New York and Boston to under 3 hours, as it is on the south end, between New York and Washington. This could take pressure off of the crowded air routes in the region, and help eliminate the need for another airport in the Boston area. Frankly, it's a project that should have happened years ago. But, the administration refused to get on board, and it wasn't until 2 years ago, when I was able to earmark the start-up funds, that it finally got on track.

The amendment to be offered by Senator KERRY, which will provide a 1-year, $220 million authorization for NECIP, is an important step in keeping this project moving forward. Although much of the public focus has been on the north end electrification, that is not the entirety of the NECIP program. Important safety and efficiency improvements continue to be made on the south end, including in my State, New Jersey. For example, communications and electric upgrades are being made in the south end, and in 1993, with NECIP funds provided through the appropriations process, Amtrak will test the Swedish X-2000 tilt train, to see if it can be used to improve speed throughout the corridor.

Mr. President, it is absurd that the United States has sat by and watched other countries develop high-speed rail systems while the last two administrations fought to kill off our own. As other developed countries have found, high-speed rail is an efficient, environmentally-friendly, and affordable means of moving people. I have often said that, as part of a national transportation policy, we should promote balance among modes. We should look at city-pairs within distances of 200–300 miles, and promote the most efficient and reliable means of linking them. Even leaving aside major environmental questions, does it make sense to talk about spending billions of dollars for another Boston-area airport, when we could spend $900 million and have in place by 1997 a high-speed rail system that could better serve the region? This Senator says no.

I would also like to express my support for an amendment that my good friend from New York, Senator MOYNIHAN, will offer to this authorization. This amendment directs Amtrak to conduct a detailed assessment of the potential shift of its operations from Penn Station in New York to the old Post Office, located just across 8th Avenue. This move could help improve the efficiency of Amtrak's operations in New York, as well as those of New Jersey Transit and other commuter railroads. I look forward to Amtrak's report, and commend my friend from New York for pushing the consideration of this change.

Mr. President, Amtrak has proven itself to be a vital and efficient provider of rail service for millions of Americans. Over the last decade, Amtrak President Graham Claytor and his staff have worked to improve efficiency in the face of shrinking budgets. With some troubling labor disputes now approaching resolution, Amtrak's future should be a bright one. This authorization package can keep it moving in the right direction. I urge my colleagues to support this bill.

Mr. SIMON. Mr. President, I am proud to join my distinguished colleagues, Senator EXON of Nebraska and Senator HOLLINGS of South Carolina in cosponsoring the Amtrak Authorization Act of 1992. Amtrak has in the past and will continue to be the bedrock of a modern passenger rail system for the Nation. When Amtrak, in cooperation with the States and the private sector, achieves the necessary financing to develop that system; intercity and commuter passenger rail could become one of the key economic engines of the 1990's.

Those of us who are promoting a first class high speed rail system have recognized that there is plenty of underused rail capacity in this Nation and that the cost of upgrading this system is far less for the American taxpayer than building only highways and airports. All of that cost will be returned through new jobs in research and engineering, high speed railcar and locomotive manufacturing, and local construction jobs.

Countless other benefits outweigh the costs of rail system development. Rail anchors urban economic development and jobs, provides access to those jobs, lowers the costs of transportation deaths and injuries, cuts air pollution, reduces the trade deficit and economic shocks when oil prices rise, and frees up commuters from endless traffic jams.

Rebuilding hundreds of our rail oriented cities and towns cannot be accomplished without good transportation. We can't land a Boeing 747 on Main Street or accommodate more automobiles in severely congested urban areas. Now, thanks to the new intermodal surface transportation program, we are free to build the kind of transportation that makes the most sense for each region in the Nation.

Union Station in the District of Columbia is the flagship of Amtrak's intermodal transportation development on the Northeast Corridor where a good rail system has exceeded our expectations for reducing airport and highway congestion while recapturing its operating costs. I am working to see Chicago, IL; and the other midwestern States with the most extensive rail network in the world, follow this example. Illinois is now cooperating with Amtrak and investing funds to plan for a high speed rail system between Detroit, Chicago, and St. Louis; and between Chicago, Minneapolis, and St. Paul.

We also need to upgrade service between Chicago and Carbondale and restore service to the two second largest cities in Illinois, Peoria, and Rockford. The Illinois-Iowa Quad Cities of Rock Island, Moline, Bettendorf and Davenport are equally strong candidates for Amtrak service which would also serve other northern Illinois cities such as Dixon and DeKalb, the only Illinois university town without Amtrak service.

This bill is a compromise between the constraints of our budget deficit and the overwhelming need to plan for a safer, environmentally sound, city friendly passenger rail system now. I urge my colleagues to vote for this important bill so that all States can continue to make progress and look forward to the next generation of passenger rail in this Nation.

Mr. DOLE. Mr. President, I am pleased that my colleague from Kansas, Senator KASSEBAUM, has come to the floor today to address the critical issue of train lighting. Recently, the Surface Transportation Subcommittee heard testimony from Lynda McCue of Hutchinson, KS regarding the tragic train accident last February that took the lives of her daughter Stephanie, and her two friends Lisa Steinert and Marlee Bretz.

I was with the Steinert and McCue families last week and appeared before the subcommittee myself. I know that whatever action we take here today will not bring back these three special girls. However, I am hopeful we can take this tragic experience and turn it into a positive action that will protect lives in the future.

In addition, I am pleased that a compromise package appears to have been worked out by staff and members of the committee. I would commend Senator KASSEBAUM for her work on this issue.

Mr. President, I would ask unanimous consent that a copy of my statement to the subcommittee be submitted for the RECORD.

STATEMENT OF SENATOR BOB DOLE BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. Chairman, thank you for the opportunity to comment on S. 2644, the so-called "ditch lighting" bill introduced by Senator Kassebaum. As you know, I am a co-sponsor of this legislation. I particularly appreciate your willingness to hold this hearing and allowing testimony from Lynda McCue on behalf of the Steinert, McCue and Bretz families who tragically lost their daughters Stephanie McCue, Lisa Steinert and Marlee Bretz last February when the car they were traveling in collided with a freight train in Hutchinson, KS. Mr. Chairman, nothing we say here today will bring these young women back to their families. However, I firmly believe we can turn tragedy into a positive force if it results in greater rail safety and fewer accidents.

In Kansas we have had a number of fatal railroad crossing accidents this year that underscore the point that we need to continue to find ways to reduce fatal accidents at railroad crossings.

Senator Kassebaum has offered this legislation as one solution. Requiring the railroads to install ditch lights on locomotives clearly will provide an added degree of warning and visibility that may mean the difference between life and death.

Mr. Chairman, I have been in direct contact with the major railroads and the Federal Railroad Administration on this issue. At Senator Kassebaum's and my request, FRA and other Federal and State officials went back out to the site of this accident to take another look at the crossing and reassess the safety of the site and the railroad's actions leading up to the accident.

One thing that is clear to me, and I would hope the committee and the Federal Railroad Administration would concur, is that safety is a total effort. The lighting of trains—including current industry efforts to install strobe and ditch lights on new locomotives; the reflectorized tape study now being conducted by FRA to illuminate the sides of trains; the upgrading of crossing signals at intersections; and increased educational efforts such as "Operation Lifesaver", all play a role toward our common goal: Eliminating Accidents at Railroad crossings.

Mr. Chairman, the Steinert, Bretz and McCue families have suffered the kind of loss no family should have to endure. I believe the families have done a great service here to day as the catalysts for this hearing. I know they will want to describe for you their feelings on this issue themselves. I am also certain you will be hearing from the

FRA and railroad industry representatives as to their views here today.

Mr. Chairman, while I recognize there are differing opinions as to the appropriate course to take on this issue, I know we all share the common belief that safety is the number one priority for all of us. We should continue to push for ways to improve safety in a comprehensive manner. As you listen to the testimony here today, I urge the committee to take a close look at this legislation before you.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to.

AMENDMENT NOS. 2940, 2941, AND 2942

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to send to the desk en bloc three amendments, one (No. 2940) on behalf of Mr. KERRY, one (No. 2941) on behalf of Mr. MOYNIHAN, and one (No. 2942) on behalf of Mrs. KASSEBAUM; that the amendments be considered agreed to en bloc, and the motion to reconsider laid upon the table; that any statements relating to these amendments and the bill be placed in the RECORD at the appropriate point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 2940

On page 3, between lines 9 and 10, insert the following:

"(c) NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.) $220,000,000 for fiscal year 1993.

On page 3, line 10, strike "(c)" and insert "(d)".

On page 4, line 5, strike "(d)" and insert "(e)".

NORTHEAST CORRIDOR IMPROVEMENT PROJECT

Mr. KERRY. Mr. President, today I am offering what I believe is a very important amendment to the Amtrak Authorization Act of 1992 that would authorize continued funding for the Northeast corridor improvement project. That project, initiated in 1976, is responsible for preserving and upgrading the Nation's most heavily traveled rail line. Last year, some 11 million intercity rail passengers and 65 million commuter rail passengers traveled on the Northeast Corridor between Washington and Boston. In Massachusetts, where the State owns the track between Boston South Station and the Rhode Island border, millions of commuter and intercity rail passengers travel every year on the Northeast corridor and, indeed, the economy of my State is substantially dependent on that rail line.

In addition, freight rail carriers moved over 25 million tons of freight to shippers along the Northeast corridor, some of which have no other readily available source of transportation. In the absence of the rail line, it would cost this Nation billions upon billions of dollars to provide alternative transportation to those who depend on Amtrak and commuter trains operating in the corridor—more highways and airports in a region of the country that can handle neither. Efficient, fast, rail passenger service offers and environmentally superior mode of transportation to a region choking on congestion and poor air quality.

My amendment would authorize $220 million in Federal investment in the Northeast corridor to continue the program of improvements both north and south of New York that are essential to maintain the high-speed rail line. In addition, and particularly important for my State, it would provide funds for Amtrak's ambitious project to reduce travel time between Boston and New York to under 3 hours. The project consists of electrifying the railroad between New Haven and Boston—the only portion of the Northeast corridor on which diesel locomotives must operate—and upgrading the rail line to permit speeds of up to 150 mph. In addition, various congested bottlenecks will be eliminated in areas where intercity and commuter passenger trains operate. Finally, Amtrak will acquire state-of-the-art, high-speed passenger equipment capable of providing true high-speed service.

This is a pilot program for incrementally improving an existing, conventional rail line to permit high-speed service. The signal, traffic control, and rail infrastructure technologies developed for this project, as well as the development of high-speed passenger locomotive and car technology, will be directly applicable to other rail corridors across the country, including those in California, the Pacific Northwest, the Midwest, and elsewhere. Thus, this project holds potential benefit for all regions of the Nation.

Amtrak estimates that the cost of the incremental improvements required to reduce travel time to under 3 hours is approximately $900 million, some $280 million of which already has been appropriated. High-speed rail equipment, which would operate along the entire Northeast corridor from Washington to Boston, is expected to cost an additional $450 million.

In an era of $15 billion airports and highway expansion projects costing multiple billions of dollars—which do little for the quality of the air we breathe but add considerably to congestion—a modest $1.3 billion program to immensely improve service on a major rail artery makes good transportation and economic sense. Passenger trains provide the most energy-efficient and environmentally benign form of transportation—a factor with enormous relevance in a region of the country dependent on foreign sources for fuel and facing tough new air quality standards. Hourly express trains and hourly nonexpress trains will provide service on par with that south of New York, where Amtrak carries more passengers than either of the air shuttles. Indeed, Amtrak and the Coalition of Northeastern Governors estimate that as many as 3 million additional passengers will divert from airplanes or automobiles to ride the train. This, in turn, will ease congestion at Logan and the New York airports—for those traveling longer distances—and on the parking lot we fondly know as I-95, as well as provide a substantial improvement in air quality in the region.

In the process, a substantial flow of construction money will flow to the very hard-pressed Northeast to improve rail facilities and bridges and to install the electrification system. This means jobs for local residents and contracts for the area's businesses. Clearly, this is a win-win development for nearly everyone in the region.

I want to thank Chairman HOLLINGS and Chairman EXON for their support for my amendment. Their efforts over the years to improve rail passenger service in this country have played a critical role in Amtrak's success and in providing this Nation with an alternative to congestion. I also would be remiss if I did not acknowledge the vital role that my distinguished colleague from New Jersey, FRANK LAUTENBERG, has played in both the funding of the Northeast corridor improvement project and the specific program to upgrade service between New York and Boston. Without his vision for a future transportation system that fully utilizes the benefits of rail passenger service, and his leadership on this issue in the Appropriations Subcommittee on Transportation and related agencies, which he chairs, the New York-Boston project would still be on the drawing board. On behalf of all of us from the Northeast, I want to express sincere thanks to Senator LAUTENBERG, and to Chairmen HOLLINGS and EXON, for their efforts to this end. I also want to thank ranking members DANFORTH and KASTEN for their cooperation and for their willingness to accept this amendment. Further, Commerce Committee professional staff member Don Itzkoff and other members of the Commerce staff have been very helpful and are due our appreciation.

Mr. President, I urge my colleagues to accept my amendment as a means of bringing important transportation, economic, and environmental benefits to a region that badly needs all three. In the process, we will be demonstrating to the rest of the Nation the local and regional benefits of a vibrant, environmentally superior mode of public transportation.

NORTHEAST CORRIDOR IMPROVEMENT PROJECT

Mr. KENNEDY. Mr. President, it is a privilege to be a sponsor of this measure authorizing continued funding for Amtrak's high speed rail development project along the Northeast corridor. I commend my colleague from Massachusetts, Senator JOHN KERRY, for introducing this legislation that will bring important benefits to our region.

Under the Northeast corridor improvement project, Amtrak is upgrading the most heavily traveled passenger railline the country, which serves Washington, DC, New York City, Boston, and the many communities along that route. The project represents the first main effort to demonstrate the viability of high-speed rail service in the United States. The large number of businesses and individuals who rely on this route will reap substantial benefits if this project is successful.

For Massachusetts, the goal of reducing rail traveltime between New York and Boston to less than 3 hours is particularly important. High-speed rail service will provide an excellent alternative to highway and air travel. It will significantly reduce congestion and pollution, and enhance economic activity as travel becomes more efficient and convenient. Other countries have been successful in developing high-speed rail travel, and the United States can enjoy similar success.

I also commend the chairman of the Transportation Appropriations Subcommittee, Senator FRANK LAUTENBERG, for his vision and strong leadership in providing funds to keep the Northeast corridor improvement project moving forward in a timely way. I join my colleagues from the New England delegation in thanking him for his tireless efforts on behalf of this project.

AMENDMENT NO. 2941

At the appropriate place, insert the following new section:

NEW YORK CITY STATION FACILITIES

SEC. . Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 815. NEW YORK CITY STATION FACILITIES.

"The Corporation shall develop a plan for new or redeveloped station facilities in New York City, New York, to accommodate the intercity rail passenger service requirements of the Corporation, along with the needs of commuter rail services currently using New York Penn Station. In developing the plan, the Corporation shall consider use of the James A. Farley Post Office building as the primary facility for handling intercity passengers, shall evaluate and attempt to reach agreements concerning sources of State, local, and private funding, and shall determine the future allocation of space and costs in the existing Penn Station and new facilities among all transportation services using the facilities. The plan shall also address potential changes in existing laws that would aid development of new or redeveloped station facilities in New York City. The Corporation shall report to the Congress on the plan no later than March 1, 1993.".

AMTRAK—FARLEY POST OFFICE CONVERSION PLAN AMENDMENT

Mr. MOYNIHAN. Mr. President, 30 years ago, we witnessed what the New York Times critic Paul Goldberger recently called "the greatest single act of architectural vandalism New York has ever seen—the unconscionable destruction of one of the noblest buildings in American history." That building, of course, was Pennsylvania Station, designed by McKim, Mead & White. It was replaced by the gleaming if entirely undistinguished darkened glass of Madison Square Garden and the Penn Towers. The rail station was relegated to a dark, dank basement.

The amendment I am offering today represents a chance to reclaim part of New York City's lost architectural legacy. Just behind the current Penn Station, on Eighth Avenue, is the James A. Farley Post Office, known generally in New York as the GPO. This grand building was designed by the very same McKim, Mead & White to complement their Pennsylvania Station.

It happens that just as Amtrak must begin planning for much needed improvements to the current Penn Station, the Post Office is largely abandoning the Farley Building. And so we have begun to think about the possibility of somehow converting the Farley Building to a new, flagship intercity rail station, along the lines of Union Station here in Washington.

Financing such a project will be difficult, especially in light of Amtrak's pressing capital needs. This project cannot go forward without a substantial commitment from State, local, and private funding sources. I, for one, would like to see New York State commit its ISTEA money that must be spent on transportation enhancement activities to the project. Quite simply, my amendment directs Amtrak to develop a real plan for this project and how to pay for it, considering not only Amtrak's intercity service needs, but also those of the commuter railroads that serve Penn Station.

Mr. President, David Reisman used to say that America is the land of the second chance. With this project, New York City may yet prove the point. I appreciate the support of the managers of the bill, and urge adoption of the amendment. I also ask unanimous consent that an article by Paul Goldberger of the New York Times appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 24, 1992]

SOME WELCOME FIDDLING WITH LANDMARKS

(By Paul Goldberger)

Two proposals to change the face of New York saw the light of day in the last couple of weeks, and they may or may not have something to do with each other. No, strike that. Actually, they have quite a bit to do with each other. Each plan is about giving the public what it wants, and about the realization by people in authority that what the public wants in architecture is not always what it has been given. And each in its own way holds out no small degree of hope for this beleaguered city.

The more striking of the two proposals—and the one that seems almost too good to be true—is the suggestion floated by Amtrak officials that the railroad abandon the present Penn Station, that wretched thing undeserving of the noble name it bears, and build a new train station within the shell of the old Post Office across Eighth Avenue, due to be largely vacated in 1993. Amtrak's spokesman even talked of the "marketability of architecture" as an aid to train travel.

Could this really happen? Did we ever think that the day would come when a railroad would admit that the quality of a train station might have some connection with the public's willingness to travel on trains? And that Amtrak might take it upon itself to liberate us from that ghastly place that combines the elegance of a subway station with the charm of an airport?

Pinch me, please; I'm obviously having an architectural dream. Such things don't happen, certainly not in New York. The demolition of Penn Station in the early 1960's was the greatest single act of architectural vandalism New York has ever seen—the unconscionable destruction of one of the noblest buildings in American history. Designed by McKim, Mead & White, the old Pennsylvania Station was at once a stirring gateway to the city and an utterly brilliant work of engineering and urban planning. The same architects designed the post office across the street as a companion piece to the classical station, so there is poetic justice to this plan to place a new station behind the great colonnade of the post office: history's cruel slight to McKim, Mead & White reversed.

A lot could go wrong, of course. Amtrak could be unable to come up with the $100 million needed to turn the post office into a work able station (the tracks are already under it, making access easy; the problem is reworking the interior spaces). The design could turn out to be awful. But in a period of such miracles as Donald Trump's abandonment of his Trump City scheme and the United States Supreme Court's decision to let stand the prohibition against erecting a skyscraper beside St. Bartholomew's Church on Park Avenue, I would prefer to think in terms of the glory of the possible.

If the Penn Station proposal would fiddle with one landmark to evoke another, the Sony Corporation's plan for the A.T.&T. building on Madison Avenue fiddles with a landmark to bring it closer to its ideal self. At least that's the goal of this scheme, which would dramatically change the way the public perceives this tower, which fills the block front between 55th and 56th Street.

A quick bit of history. The Pediment-topped A.T.&T. Building—celebrated or notorious, depending on your point of view, as the "Chippendale skyscraper"—was designed by Philip Johnson and John Burgee in 1978. Surely New York's most widely known example of post-modern architecture, it has been far more effective as a piece of architectural proselytizing than as headquarters for the American Telephone and Telegraph Company, which was broken up by Government decree before the building was finished in 1984.

Company executives made no secret of the fact that they found the structure's haughty classicism at odds with the new, high-tech image they sought for the post-breakup A.T.&T. But they held on to the building until last year, when they leased it to Sony USA, a corporation not without a high-tech image of its own—but with an even more determined eagerness to house itself in a structure with a high architectural profile.

For all its significance as the first important post-modern corporate skyscraper, the A.T.&T. Building has always been more successful as a symbol than as an actual building. The problem is less the building's bizarre top, which is dowdy at worst, than its heavy-handed bottom, which aspires to monumental civic grandeur but doesn't really work. When the design was announced, the public space around the base—set within open, 60-foot-high, vaulted arcades with columns of pink granite—seemed just the thing for a city crying out for a nobler public realm. But once built, these spaces turned out to be noisy, windy and dark. Their elegance was too self-conscious to offset the cold formality pervading the building; the grandiose architecture rolls over the space and quashes it.

No wonder usage of this public space has been sparse, and most people in this neighborhood with a few moments to spare have ended up in the glass-enclosed atrium of the I.B.M. Building next door instead. Sony, determined both to put its own mark on the building and to fix what was broken, hired the architects Charles Gwathmey and Robert Siegel to renovate the structure. They in turn enlisted Philip Johnson as a consultant, to give the project the proper pedigree. The three architects produced a scheme whereby the open arcades would be enclosed in glass and turned into elegant Madison Avenue shops. To make up for some of the loss of public space, the secondary public space in the building, the block-long glass-roofed arcade behind the tower, would be upgraded and expanded.

From a purely esthetic point of view, the design—which will require the approval of the City Planning Commission—is unquestionably an improvement. The tall openings in the Madison Avenue facade would not be changed but would be filled in with windows of a design consistent with those used elsewhere in the building. Functionally, the plan makes sense, too: a solid facade with storefronts is better on Madison Avenue than the present open facade broken up by columns. And public space belongs off the avenue, in the glass-roofed arcade, which even now is a far more successful space than the one in front.

But although the proposal would serve the public better in actuality, as a symbol it is more than a bit disquieting. If we measure by square footage, the public is forfeiting open space to private retail uses. But are we really losing overall? Somewhere there are people who like the A.T.&T. space as it is, but I doubt there are many. I would trade 18,947 feet of fair-to-middling space, which is what the building now has, for 10,220 feet of inviting and usable space any day. And if this important work of architecture ends up with an improved look in the bargain, so much the better.

AMENDMENT NO. 2942

On page 14, after the item following line 15, add the following:

SEC. . (a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding a new subsection (s) to read as follows:

"(s)(1) The Secretary shall, within 6 months following the date of enactment of this subsection, issue such rules, regulations, orders and standards as may be necessary to require each intercity passenger, commuter, and freight train, other than a switch locomotive, to be equipped with alerting lights affixed to the locomotive on the leading end of the locomotive in the normal direction of movement. Such regulations shall specify the conditions under which such alerting lights shall be operated to alert highway users at highway-rail grade crossings.

"(2) For purposes of this subsection, 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary determines will enhance the conspicuity of the locomotive, such as ditch lights, strobe lights, or other significant front end illumination.

"(3) The rules, regulations, orders or standards issued by the Secretary pursuant to this subsection shall require that new locomotives available for use as lead units that are placed in service after the expiration of 90 days from issuance of such rules, regulations, orders or standards, be equipped with alerting lights, and shall require all trains to be so equipped within not more than 24 months following such date of issuance.

"(4) The Secretary, on application from an operator of an affected railroad, may exempt from the requirement of this subsection, any scenic, excursion, or historic train operation, if the Secretary determines that the exemption is in the public interest and consistent with railroad safety, including the safety of highway users affected by such operations.

"(5) Each intercity passenger, commuter, and freight train equipped with ditch lights or strobe lights affixed and maintained in the manner provided for alerting lights under paragraph (1) of this subsection, on the date immediately prior to the effective date of such rules, regulations, orders, or standards relating to all trains under paragraph (3), shall be considered to be in compliance with the provisions of this subsection requiring the installation of alerting lights.

"(6) DEFINITIONS.—For purposes of this section:

"(A) The terms 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary of Transportation determines will enhance the conspicuousness of the locomotive, such as ditch lights, strobe lights, or other significant front-end illumination.

"(B) The term 'ditch lights' means 2 headlights, in addition to the standard headlight on a locomotive; each of which is, at a minimum, 200 watts, 30 volts PAR 56.

"(C) The term 'strobe light' means an electronic tube emitting rapid, brief, and brilliant flashes of light with a minimum of 200,000 candle power.

"(D) The term 'scenic, excursion, or historic train' means any railroad whose primary purpose is to provide passengers a recreational or educational experience rather than for the purpose of transportation.

"(E) The term 'switch locomotive' means a locomotive used exclusively for switching, making up trains or storing rail cars within designated yard limits.".

DITCH LIGHTS

Mrs. KASSEBAUM. Over the past decade, the Federal Government has invested over $2 billion in improving grade crossing safety. As a result, approximately 35 percent of all public grade crossings in the United States are equipped with active warning devices. The railroad companies themselves invest $200 million annually to improve and maintain their signal systems. In addition, Operation Lifesaver is now active in all 50 States, educating and alerting motorists to the dangers involved in crossing railroad tracks.

But despite these efforts, accidents continue to occur. Last year, there were over 5,300 grade crossing accidents in the United States, resulting in 602 fatalities. While we all realize grade crossings are inherently dangerous and that some accidents are inevitable, I believe the number of accidents is unnecessarily high. Keeping in mind that every fatality is a human tragedy, it is clear that we must do more to promote safety. One of the many ways I believe we can make grade crossing safer is by increasing the visibility of railroad locomotives.

For decades, locomotives have been required to have a single headlight illuminated when in route. Over the years, changes have been made in the specifications for the headlight, but little else has been done to improve locomotive visibility. It has been my personal experience that a single headlight, mounted high on the locomotive, gives insufficient warning of an approaching train. Like many motorists, there have been times when I have failed even to notice the light. On other occasions, I have confused the train's headlight with one of the many other lights so common in our environment—such as motorcycle lights or street lights.

This spring, after three Kansas teenagers were killed at a rural grade crossing, I realized that action must be taken to improve the way train locomotives are lighted. The amendment I offer will require all locomotives to be equipped with ditch lights or some other form of front-end illumination determined to improve locomotive visibility.

For persons unfamiliar with ditch lights, they are headlights which are mounted low, on each side of the train's engine, and they illuminate the areas contiguous to the train tracks. Ditch lights can be made to flash or pulsate, and when used in conjunction with the train's headlight, they produce a unique triangular lighting effect. This lighting pattern attracts attention and helps motorists recognize an oncoming train.

The price of buying and installing ditch lights is relatively low. Cost estimates range anywhere from $500 to $2,000 per locomotive. Compared to the cost of a new locomotive—around $2 million—ditch lights are obviously a minor expense.

More importantly, ditch lights are effective. Tests conducted this spring by the Institute of Vehicular Safety showed ditch lights to be between 3 and 6 times brighter than the standard locomotive headlight, and they give motorists an additional 7 to 12 seconds to react to a 65 mile-per-hour train. Dr. Bernard Abrams, a visibility consultant on the tests, found ditch lights to offer significant advantages over the standard headlight both in terms of light projection and warning to motorists. Consequently, Dr. Abrams suggests that ditch lights be incorporated on all locomotive engines.

It is encouraging that a number of U.S. railroads have realized the need to improve locomotive visibility and have begun purchasing new locomotives that are equipped with additional front-end illumination such as ditch lights. Unfortunately, however, most companies have been slow to retrofit their older locomotives. The purpose of this amendment is to speed up the retrofitting process and ensure that all locomotives in the United States will be more visible to motorists.

The amendment has bipartisan support, and it is endorsed by the Brotherhood of Locomotive Engineers and the United Transportation Union. In addition, it is supported by the chairman of the Subcommittee on Surface Transportation and others on the Commerce Committee.

I realize that increasing locomotive visibility is not a panacea, that in and of itself this measure will not prevent all grade crossing accidents. Nevertheless, I believe it is a significant, reasonable, and cost-effective step in the right direction.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. GRASSLEY. Mr. President, I would like to express my support for S. 2608, the Amtrak reauthorization bill. I am proud to be a cosponsor of this legislation.

Over the years, I have been a strong supporter of Amtrak. I have expressed this support through my words and my votes.

Rail passenger service has a long and colorful history in the United States and it is important that we continue to insure that it remain a viable option of transportation. Amtrak operates about 250 intercity trains a day over 24,000 miles of rail line serving over 500 communities. Each year, Amtrak carries over 40 million passengers.

In these tight budgetary times, self-sufficiency must happen for Amtrak sooner than later. I applaud the efforts of Amtrak to move in this direction.

There is a section of this legislation with which I am particularly pleased. This concerns the 403(b) service section. The Amtrak authorization bill, authorizes $5 million for fiscal year 1993, $7 million for fiscal year 1994, and $10 million for fiscal year 1995 for new State-supported services. The State of Iowa will become eligible for this 403b service once money is provided for the State share by the Iowa State Legislature.

The committee report that accompanies the legislation lists the Omaha-Chicago/Central Iowa route as one of the States to receive 403b service during the span of the Amtrak reauthorization bill. In addition, I have received assurances from Amtrak that they will interpret the reauthorization bill to provide for the central route in Iowa, again if the Iowa State Legislature provides matching funds.

As I have just stated, the bill authorizes $5 million for fiscal year 1993, $7 million for fiscal year 1994, and $10 million for fiscal year 1995 for new State-supported services. How does this compare to previous years? According to Amtrak, the dollars authorized under this bill are more than has ever been spent on new State-supported service in the past. Over the past 3 years, Amtrak has averaged less than $1.8 million per year in State-supported service. The average over the 3 years of this bill is $7.3 million per year. This is over four times what has been spent in previous years.

Amtrak has also suggested that if the authorization bill does not specify an amount for 403(b) service, it is unlikely Amtrak would devote any money to new start-ups. These authorization levels for new State-supported service will be more than adequate to meet the need across the United States including Iowa's new central route.

As I have mentioned, the Iowa State Legislature needs to provide money for the match in order for Iowa to move forward with the central Amtrak route. Earlier this year the Iowa State Legislature refused to vote for State funding for the central Iowa Amtrak route. If in the future the Iowa State Legislature is able to come up with the State match for the project, because of this legislation, the State of Iowa will be in a position on the Federal level to move immediately to get this project rolling.

Mr. President, for the edification of my colleagues, I ask unanimous consent to have printed in the RECORD at this point a report prepared by the Iowa Department of Transportation which goes into more detail about the central Iowa Amtrak route.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT ON AMTRAK 403(b) SERVICE THROUGH CENTRAL IOWA

I. INTRODUCTION

The purpose of this report is to review the feasibility of establishing 403(b) rail passenger service in Iowa between Chicago and Council Bluffs/Omaha. The report summarizes the results of Amtrak's route study; information gathered from the communities involved, railroad and equipment suppliers; and discusses options on how to implement service. Although Amtrak did provide estimates for Chicago to the Quad Cities service, this report only focuses on the Chicago to Omaha route. Benefits of such service would do much to spur economic development and tourism, improve energy conservation, and reduce environmental pollution.

II. BACKGROUND

In February 1991, the states of Illinois, Nebraska, and Iowa requested the national Rail Passenger Corporation (Amtrak) to conduct a study of rail passenger service under the provisions of Section 403(b) of the Rail Passenger Service Act. The proposed routes would serve central Iowa and Illinois from Chicago, Illinois, to Omaha, Nebraska, via the Chicago and North Western Railroad (CNW). Additionally, Iowa asked Amtrak to study extending service to the Quad Cities and Dubuque with an additional route or as an extension of the Chicago-Omaha route.

The 403(b) request was submitted following the release of Amtrak's report to Congress on the feasibility and cost of separating the existing Chicago to West Coast service into two routes which would serve both southern Iowa on the Burlington Northern and central Iowa on the CNW. Amtrak concluded this new northern route service was worth considering because the current operation in the south was at capacity and had operational problems. However, the study indicated that Amtrak could not afford to pay for the new service which would require $137 to $160 million for equipment and operate at an annual operating loss of over $14.2 million. Instead, Amtrak recommended the states consider applying for service under the 403(b) program on a shorter route at a lower cost which could become a more expedient alternative.

As a result of the states' request and the local support of mayors and other rail passengers interest over a number of years, Amtrak agreed to review potential service from Chicago to Omaha and also to the Quad Cities. Amtrak declined to study the Dubuque service because it was dropped due to lack of ridership. The results of Amtrak's study were presented in October 1991. Since then, the Iowa Department of Transportation and other states have been reviewing the study and gathering additional information to complete the evaluation of possible rail passenger service. Several meetings and discussions with the mayors and chamber of commerce representatives of the cities to be served in Iowa along the route have been held to discuss the report and develop plans on how to proceed. Also, the Iowa Department of Transportation has met with Illinois and Nebraska to discuss their interest and participation in the proposed 403(b) service.

Based on the review of Amtrak's report and the input obtained from equipment manufacturers and rebuilders, and owners of used equipment, the mayors, chambers of commerce, CNW, Illinois, and Nebraska, the following information and proposals are presented for review.

III. WHAT IS 403(b) SERVICE

Section 403(b) of the Rail Passenger Service Act allows Amtrak to run additional trains to supplement their basic system and involves a cost-sharing partnership between Amtrak and someone else. A state, a regional or local agency, or even a person can request additional train service if the applicant agrees to provide a share of the cost for that service. Currently, the applicant must pay 70 percent of the long-term avoidable operating losses and 100 percent of all capital expenses for equipment, stations, and platforms and station maintenance. There is no guarantee of the subsidy level that might be needed. On February 20, 1992, Amtrak proposed to the House Subcommittee on Transportation and Hazardous Materials that it would no longer be required to pay 30 percent of state passenger service operating costs. Under this scenario, state would pay 100 percent of these costs. The actual amount of the applicant's share is based on the total actual cost of operations.

Iowa's neighbors, Illinois, Wisconsin, and Missouri, already participate in the program. Illinois is one of the most active.

IV. RESULTS OF AMTRAK'S STUDY

The details of Amtrak's report are contained in Attachment One. The results are summarized as follows:

A. Chicago to Omaha

Amtrak's analysis was based on daily round-trip service operated between Chicago and Omaha over the CNW. The study looked at stops located in Illinois at Geneva, DeKalb, and Sterling and in Iowa at Clinton, Cedar Rapids, Marshalltown, Ames, and Carroll. The trip from Chicago to Omaha would take nine and a half hours while the reverse would be only nine hours.

The study called for the expenditure of an estimated $10.8 million to acquire two train sets that would be required to operate one train per day each day each way between Chicago and Omaha. Each train set consist of one 3,000 horse power locomotive, two ordinary handicap-accessible coaches, and one combination seating and food service car together capable of seating about 210 patrons. Because new equipment is not readily available, it would take one to two years to get new locomotives and one year for coaches.

Amtrak estimated this service would yield a long-term avoidable loss of $2,684,000 based on revenues of $3,977,000 and operating cost of $6,661,000. The three state's 70 percent share of the $2,684,000 first year deficit would amount to $1,878,800. Deficit costs would then decrease by $176,000 which represents nonrecurring start up costs. Year two and subsequent subsidy costs are projected to be $1,677,900 annually if westbound transit time could be reduced to nine hours or under. This would reduce the deficit by $111,000 per year. These estimates are not guaranteed.

B. Chicago to Quad Cities

The Chicago to Quad Cities analysis was based on a daily round-trip between Chicago and Rock Island, Illinois. The service would operate over the Burlington Northern between Chicago and Wyanet, Illinois, and from Wyanet to Rock Island over the Iowa Interstate Railroad (IAIS). Stops for this service were proposed in Illinois only and located at La Grange Road, Naperville, Plano, Mendota, Princeton, Geneseo, Moline, and Rock Island. Service would not cross the Mississippi River into Iowa. This trip would take about three and one-half hours each way.

This service would require the purchase of only one train set at an estimated cost of $5.4 million. This set would consist of the same equipment described in the Chicago to Omaha service.

The 70 percent subsidy for this service was estimated to cost $918,000. Service would generate a long-term loss of $1,312,000 based on $1,528,000 in revenues and costs of $2,840,000.

C. Items Not Addressed

In addition to the estimates presented above, Amtrak's study indicated additional capital outlays could be required, the costs of which were unknown and would not receive Amtrak funding. Chicago-Omaha service would require expenditures for installation of CNW locomotive cab signalling and station and platform works. Additionally, the railroad may need to install reverse signalling on some westbound trackage to provide for increased operational safety. Capital outlays for the Chicago-Quad Cities route would be needed for a $2.0 million connection between the BN and IAIS at Wyanet, layover facilities at Rock Island, and station and platform expenses.

V. ADDITIONAL INFORMATION

Since the release of Amtrak's report, the Iowa Department of Transportation has been reviewing the results and gathering additional information to determine the most cost-effective option of providing rail passenger service. The Iowa focus has been on the proposed Chicago-Omaha route. Very little review was made of the Chicago-Quad Cities route because of the proposed routing via Wyanet and the expensive connection that would have to be made. All service and track would be in Illinois. In addition, the Quad Cities could be served by diverging from the Omaha route at Clinton, or by providing connecting bus service.

The following summarizes the results of the information gathered from the communities along the route, equipment suppliers, and the railroad. The details are presented in Attachment Two.

A. Equipment

Both new and used equipment costs were obtained from vendors, manufacturers, railroads, and one other state currently providing 403(b) service to develop several alternatives for providing locomotives and passenger cars. Remanufactured equipment could be obtained sooner (six to nine months) at considerable savings with the same life. However, this used equipment must meet Amtrak's specifications. In addition, outright purchase and rental arrangements from Amtrak were considered. The advantages of a purchase or lease would be the elimination of the large up-front cost and the burden of disposal if service was discontinued.

Type of purchase—Estimated cost.

New purchase—$10.8 million.

Remanufactured—$5.5 to $7.0 million.

Lease—$1.0 to 2.0 million per year.

B. Station Costs

Station and platform requirements were forwarded to the committees identified as stops to develop station and platform costs. The costs will vary from city to city. Most cities plan to renovate existing stations and platforms while some will build new facilities. All have indicated willingness and financial commitment to provide a station and platform at local expense and to maintain them.

Community:	*Estimated cost*
	Estimated cost
Clinton	$150,000
Cedar Rapids	183,000
Marshalltown	50,000
Ames	78,515
Carroll	67,500
Iowa total[1]	529,015

[1] Estimates provided by the cities.

C. Track Signals

As an operational safety consideration, the CNW would want to install centralized traffic control track signals on the 316 miles between Nelson, Illinois, and Denison, Iowa, including 16 track crossovers to control westbound trains if Amtrak would want to operate at high speeds. Installation of signals would cost approximately $25–30 million. The railroad would need these facilities to avoid interference with its 40 to 50 freight trains that use the line daily at 40 to 60 miles per hour and the proposed passenger train. However, Amtrak does not believe this would be cost efficient or needed given the nature or the level of service anticipated and the proposed schedules. Therefore, passenger service would face the likelihood of some freight train interference which has been already taken into consideration and is reflected in the nine hours and fifty minutes westbound and nine hours eastbound schedules.

D. Locomotive Cab Signals

A few Amtrak locomotives, designated as substitutes in case of emergency or for scheduled maintenance of regularly assigned state trains, would have to be equipped with special signals inside the cabs in order to be used in lieu of locomotives regularly assigned to the state train. CNW estimates that it would cost $35,000 for each locomotive.

E. Operating Costs

Amtrak has estimated the first year's operating loss would be $2,684,000 for the Chicago-Omaha route based on an annual ridership of approximately 90,000 passengers per year. The states' share would be $1,879,000. Nonrecurring start-up costs would decrease the total deficit by an estimated $176,000. Another $111,000 would be saved if transit time is reduced. If these savings materialize, the subsidy in year two and subsequent years would be $1,677,900 assuming projections are accurate. Deficits would be less if revenues improve and service may become self supporting depending on ridership. The states would be required to pay 70 percent of the actual long-term avoidable loss (operating costs) incurred by Amtrak each year. The actual cost to operate could vary from the estimates.

IV. OTHER ISSUES

In addition to the information developed above, there are other issues to evaluate for the proposed Chicago to Omaha service. These issues include who shares in the costs, alternate service options, marketing needs, and future expansion.

A. Who Pays

Amtrak requires others to pay for 100 percent of the equipment and 70 percent of operating losses could be split between Illinois, Nebraska, and Iowa. It will be necessary for the participating states or others to have an agreement between themselves before they can be a party to an agreement with Amtrak.

There has been no discussion as yet between the states as to how equipment and subsidy costs could be apportioned. However, several alternatives do exist that could be used to apportion the costs among each participant. Costs could be allocated based on mileage, passengers, passenger miles, or some other formula.

An agreement between Amtrak and each state would need to be developed prior to providing service. In addition, local subsidy payment might be a way to get the train into operation. Another option would be for the local communities being served to jointly share with the states the subsidy costs.

B. Alternative Service Operations

While Amtrak studied the entire route from Chicago to Omaha, other possible service options exist which includes terminating trains at Ames, with an extension to Des Moines, Cedar Rapids, or Clinton. Terminating service at one of these locations would still provide service to the major population centers that would generate ridership. A portion of the revenue would probably be maintained while lowering the operating cost and capital expenditures. However, these options would not have a connection at both ends to the transcontinental service. Ridership would be lost as a result.

The alternative options have not been analyzed in detail to estimate the amount of ridership, revenues, and costs. These options could be used to develop the initial phase to get service started. Service could be extended in the future if warranted.

These options are available to Illinois and Iowa if service to Omaha is not necessary. Should Illinois decide not to participate, Iowa could fund the entire amount or look at providing service from an alternative location on Amtrak's current service.

C. Marketing Needs

Marketing efforts above those proposed by Amtrak may be an important key to the success. Illinois has achived great success on their established routes due to increased marketing. Fare box contribution has gone from 30 percent to nearly 80 percent.

While the states may provide some marketing assistance, local community promotion and participation will be necessary. Communities have been urged to investigate and develop similar programs, like efforts in Marshalltown and Spencer to attract local air service. The more riders the train carries, the less it cost them citizens and the states in the form of an operating subsidy.

D. Future Expansions

Amtrak's study included connecting bus service between Ames and Des Moines at an estimated cost of $102,000 per year. The alternative exists to connect other population centers such as the Quad Cities, Dubuque, Iowa City, and Waterloo/Cedar Falls to the train via bus connections. The cost to develop other bus service to the train is unknown but could be expected to be similar to the Des Moines bus service. Additionally, no ridership estimates were made regarding Des Moines' participation.

Bus service could be a viable alternative to connect the Quad Cities with rail service at Clinton rather than the direct rail service as proposed by Amtrak. Should substantial ridership materialize, rail service from Clinton to the Quad Cities via the DRI line could be considered.

VII. PROPOSALS

Based on the information gathered to date, several options exist to develop rail passenger service through central Iowa on the CNW. The following table summarizes the yearly costs for equipment and subsidy that would be necessary to implement the service. Assuming Illinois and Nebraska participate, Iowa's share of the equipment and subsidy cost could be in the range of 60 to 80 percent.

ESTIMATED COST FOR CHICAGO TO OMAHA

	Equipment	Subsidy	Total	Iowa cost @ 75 percent share
Year 1:				
Purchase:				
New	$10.8	$1.9	$12.7	$9.5
Rebuilt	7.0	1.9	8.9	6.7
Lease[1]:				
New	2.2	1.9	4.1	3.1
Rebuilt	1.4	1.9	3.3	2.5
Year 2, 3, Etc.:				
Purchase:				
New	0.0	1.7	1.7	1.3
Rebuilt	0.0	1.7	1.7	1.3
Lease[1]:				
New	1.1	1.7	1.7	2.1
Rebuilt	0.7	1.7	2.4	1.8

[1] Lease based on the assumption of 10 percent down payment, 20 year life at 10 percent.

To implement service as envisioned by the Amtrak study, Iowa would need an estimated $9.6 million for the initial year and $1.3 million per year thereafter. If rebuilt equipment is substituted for new, Iowa's share for year one could be reduced by almost $3.0 million with quicker delivery from five to twenty months.

An alternative to outright purchase would be to buy into Amtrak's pool and pay rent to them. While no discussions have taken place with Amtrak on this subject, the lease was estimated based on the purchase price with ten percent down and 20-year life at the percent interest. Based on a lease approach, it is estimated Iowa would need $2.5 to $3.0 million for year one with a continuing funding of $1.8 to $2.1 million per year thereafter depending on new versus rebuilt equipment, plus support for a continuing marketing program.

Rail passenger service may be feasible from Chicago to Omaha. However, implementation of service cannot be done quickly. The earliest Iowa could have service is possibly in two years. This is optimistic because of the equipment orders, agreements, funding, and operational efforts that would have to be undertaken. Additionally, Amtrak will need to work this service into their budget process as well as the states' budget for their share of the cost. It should be noted, the agreement with Amtrak would require subsidy payments based on actual operation which may vary from the estimates previously discussed.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to H.R. 4250, the House companion, now at the desk; that all after the enacting clause be stricken and the text of S. 2608, as amended, be inserted in lieu thereof, that the bill be advanced to third reading, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Resolved, That the bill from the House of Representatives (H.R. 4250) entitled "An Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION. 1. This Act may be cited as the "Amtrak Authorization Act of 1992".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended to read as follows:

"SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL CAPITAL EXPENDITURES.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under this Act $300,000,000 for each of the fiscal years 1993, 1994, and 1995.

"(b) OPERATING EXPENSES.—

"(1) CORE SYSTEM.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses $331,000,000 for each of the fiscal years 1993, 1994, and 1995. Of the amounts appropriated under this paragraph, not more than 5 percent of each fiscal year shall be used for the payment of operating expenses under section 403(b) of this Act for service in operation as of September 30, 1992.

"(2) NEW STATE-SUPPORTED SERVICE.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses under section 403(b) of this Act and for other additional services commencing after September 30, 1992—

"(A) $5,000,000 for fiscal year 1993;

"(B) $7,000,000 for fiscal year 1994; and

"(C) $10,000,000 for fiscal year 1995.

The expenditure by the Corporation of funds appropriated for operating expenses under section 403(b) of this Act for service commencing after September 30, 1992, shall not be considered to be an operating expense for purposes of calculating the revenue-to-operating expense ratio of the Corporation.

"(c) NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.) $220,000,000 for fiscal year 1993.

"(d) MANDATORY PAYMENTS.—There are authorized to be appropriated to the Secretary $146,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal year 1994 and 1995, for the payment of—

"(1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in such fiscal years in excess of amounts needed to fund benefits for individuals who retire from the Corporation and for their beneficiaries;

"(2) obligations of the Corporation under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in such fiscal years in excess of its obligations calculated on an experience-rated basis; and

"(3) obligations of the Corporation due under section 3321 of the Internal Revenue Code of 1986.

Funds appropriated under this subsection shall not be considered a Federal subsidy of the Corporation.

"(e) ADMINISTRATION OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisition and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditures by it in accordance with the Secretary's budget request as approved or modified by Congress at the time of appropriation. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.".

BOARD OF DIRECTORS

SEC. 3. Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended by adding at the end the following: "one of such members shall be specially qualified to represent the interests of rail passengers and shall be selected from a list of three qualified individuals recommended by the National Association of Railroad Passengers.".

CHIEF EXECUTIVE OFFICER

SEC. 4. Section 303 of the Rail Passenger Service Act (45 U.S.C. 543) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking "President" and inserting in lieu thereof "chief executive officer"; and

(B) in paragraph (4), by striking "President" and inserting in lieu thereof "chief executive officer"; and

(2) in subsection (d), by striking "president" each place it appears and inserting in lieu thereof "chief executive officer".

AUTHORIZATION OF PREFERRED STOCK

SEC. 5. Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end the following new paragraph:

"(4) No amendment to the articles of incorporation of the Corporation shall be required for the issuance of the preferred stock required to be issued pursuant to this subsection.".

PROPERTY FINANCING

SEC. 6. Section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546(n)) is amended to read as follows:

"(n) Neither the Corporation, nor any railroad subsidiary of the Corporation, nor any lessee or lessor of the Corporation or of any such railroad subsidiary shall be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or rights-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, 'additional taxes' means taxes or fees (1) on the acquisition, improvement, ownership, or operation of personal property by the Corporation, any railroad subsidiary of the Corporation, or any lessee or lessor of the Corporation or of any such railroad subsidiary; and (2) on real property other than taxes or fees on the acquisition of real property, or the value of real property which is not attributable to improvements made, or the operation of such improvements, by the Corporation, any railroad subsidiary of the Corporation, or any lessor or lessee of the Corporation or of any such railroad subsidiary.".

DISCONTINUANCE, MODIFICATION, OR ALTERATION OF CERTAIN RAIL PASSENGER SERVICE

SEC. 7. Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended by striking the second sentence and inserting in lieu thereof the following new sentences: "On any date on or after October 1, 1993, if such service during the previous 6-month period has a short-term avoidable loss that exceeds the average loss per passenger mile for service over short-distance routes operated by the Corporation, the Corporation may elect to consider discontinuance, modification, or adjustment of such service. If such election is made, the Corporation shall solicit public comment on alternatives to discontinuance, modification, or adjustment of such service. The public comment period shall be at least 30 days. Within 60 days after the expiration of that comment period, the Corporation may discontinue, modify, or adjust such service so that the applicable criterion is met. For purposes of this subsection, the calculation of short-term avoidable loss shall not include the cost of providing passenger equipment required to operate such service.".

HIGH-SPEED RAIL TECHNOLOGY DEMONSTRATION PROGRAM

SEC. 8. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end the following new section:

"SEC. 811. HIGH-SPEED RAIL TECHNOLOGY DEMONSTRATION PROGRAM.

"(a) PLAN.—The Corporation shall develop a plan for the demonstration of new technologies in rail passenger equipment. Such plan shall provide that—

"(1) any new equipment procured by the Corporation that may significantly increase train speeds over existing rail facilities shall be demonstrated, to the extent practicable, throughout the national intercity rail passenger system; and

"(2) the Corporation shall, in order to facilitate the Corporation's efforts to increase train speeds, take steps to establish cooperative arrangements with eligible applicants that intend to propose technology demonstrations for financial assistance under section 309(b)(2) of title 49, United States Code.

"(b) Report to Congress.—The Corporation shall, not later than September 30, 1993, transmit to the Congress a report summarizing the plan developed under subsection (a) of this section, including its goals, locations for technology demonstration, and a schedule for implementation of the plan.".

HIGH-SPEED RAIL CORRIDOR DEVELOPMENT

SEC. 9. Title VIII of the Rail Passnger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding to the end the following new section:

"SEC. 812. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

"(a) Encouragement and Assistance.—The corporation shall actively encourage efforts by State and regional partnerships, study groups, private sector representatives, and other entities whose objective is to advance high-speed rail service through equipment upgrades and incremental infrastructure improvements on existing railroad facilities utilized by the Corporation outside the Northeast Corridor. To the maximum extent feasible through appropriate allocation of existing resources, the Corporation shall offer planning assistance, marketing analysis and support, engineering expertise, and other assistance to Federal or State entities in pursuit of this objective.

"(b) Report To Congress.—The Corporation shall report to Congress, in connection with the report required under section 811 of this Act, detailing the Corporation's efforts under this section and proposing further activities in support of high-speed rail service outside the Northeast corridor.".

SAFETY IMPROVEMENTS

SEC. 10. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 813. RAIL AT-GRADE CROSSINGS.

"(a) Recommendations.—The Corporation shall, by June 30, 1993, and periodically thereafter, make recommendations to the Secretary for the elimination of hazards of highway at-grade crossings under section 104(d) of title 23, United States Code.

"(b) Elimination.—

"(1) In general.—The Secretary, in consultation with the States along the main line of the Northeast Corridor, shall develop a plan by September 30, 1993, for the elimination of all highway at-grade crossings of such main line by December 31, 1997.

"(2) Exceptions.—The plan developed under paragraph (1) of this subsection may provide that the elimination of a highway at-grade crossing not be required if eliminating such crossing is impracticable or unnecessary and the use of the crossing will be consistent with such conditions as the Secretary considers appropriate to ensure safety.

"(3) Funding.—The Corporation shall pay 20 percent of the cost of the elimination of each highway at-grade crossing pursuant to the plan developed under paragraph (1) of this subsection.".

EMERGENCY TRAINING AND RESPONSE

SEC. 11. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 814. EMERGENCY TRAINING AND RESPONSE.

"(a) Task Force.—The Corporation, together with representatives from each of the on-board service and operating employee crafts and unions, shall form a task force to consider recommendations for improving emergency training and performance of on-board service and operating crew members.

"(b) Matters To Be Considered.—The task force formed under subsection (a) of this section shall consider, at a minimum—

"(1) whether the Corporation's emergency training and drill program as presently constituted is adequate, and if not, in what ways it can be augmented or improved;

"(2) whether medical first-aid training, including cardiopulmonary resuscitation, should be required for all on-board crew members;

"(3) whether the Corporation's requirements with respect to employee responsibilities for passenger evacuation, emergency communications, crew coordination, and disaster response should be revised; and

"(4) whether Federal certification of the Corporation's emergency training program and evacuation procedures, and certification of the emergency performance of on-board crew members, are warranted.

In considering the issue described in paragraphs (1) through (4), the task force shall address relevant prior recommendations and findings by the National Transportation Safety Board.

"(c) Report.—Not later than June 1, 1993, the task force shall report to Congress on its findings in subsection (b) of this section, together with a summary of actions implemented to date and recommendations for future action.".

PAYMENT BY AMTRAK OF COSTS OF CERTAIN NEW SERVICES

SEC. 12. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (B)(iii) of this paragraph, in the case of the first rail passenger service under this subsection that commences after October 1, 1995, and serves a State not served by the Corporation as of the date of enactment of the Amtrak Authorization Act of 1992, the Corporation shall pay 75 percent of the long-term avoidable loss associated with the operation of the service in the first year and 50 percent of such loss in the second year of operation. Any losses associated with operation of the service in the third year and thereafter shall be allocated under the Corporation's then-applicable policy for this subsection.".

COLUMBUS AND GREENVILLE RAILWAY

SEC. 13. (a) In General.—Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"COLUMBUS AND GREENVILLE RAILWAY

SEC. 518. (a) Limitation of United States Interest.—Notwithstanding any other provision of this title, the Secretary shall limit the interest of the United States in any debt of the Columbus and Greenville Railway under sections 505 and 511 of this title to an interest which attaches to such debt in the event of (1) bankruptcy, or (2) substantial sale or liquidation of the assets of the railroad, the proceeds of which are not reinvested in the operations of the railroad. The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary deems appropriate and which conform to the terms set forth in this section.

"(b) Higher Priority for New Debt.—If the interest of the United States is limited under subsection (a) of this section, any new debt issued by such railroad subsequent to the issuance of the debt described in such subsection may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such subsection as the Secretary and the railroad may agree.".

(b) Conforming Amendment.—The table of contents in the first section of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting immediately after the item relating to section 517 the following new item:

"Sec. 518. Columbus and Greenville Railway.".

NEW YORK CITY STATION FACILITIES

SEC. 14. Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 815. NEW YORK CITY STATION FACILITIES.

"The Corporation shall develop a plan for new or redeveloped station facilities in New York City, New York, to accommodate the intercity rail passenger service requirements of the Corporation, along with the needs of commuter rail services currently using New York Penn Station. In developing the plan, the Corporation shall consider use of the James A. Farley Post Office building as the primary facility for handling intercity passengers, shall evaluate and attempt to reach agreements concerning sources of State, local, and private funding, and shall determine the future allocation of space and costs in the existing Penn Station and new facilities among all transportation services using the facilities. The plan shall also address potential changes in existing laws that would aid development of new or redeveloped station facilities in New York City. The Corporation shall report to the Congress on the plan no later than March 1, 1993.".

SEC. 15. (a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding a new subsection (s) to read as follows:

"(s)(1) The Secretary shall, within 6 months following the date of enactment of this subsection, issue such rules, regulations, orders and standards as may be necessary to require each intercity passenger, commuter, and freight train, other than a switch locomotive, to be equipped with alerting lights affixed to the locomotive on the leading end of the locomotive in the normal direction of movement. Such regulations shall specify the conditions under which such alerting lights shall be operated to alert highway users at highway-rail grade crossings.

"(2) For purposes of this subsection, 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary determines will enhance the conspicuity of the locomotive, such as ditch lights, strobe lights, or other significant front end illumination.

"(3) The rules, regulations, orders or standards issued by the Secretary pursuant to this subsection shall require that new locomotives available for use as lead units that are placed in service after the expiration of 90 days from issuance of such rules, regulations, orders or standards, be equipped with alerting lights, and shall require all trains to be so equipped within not more than 24 months following such date of issuance.

"(4) The Secretary, on application from an operator of an affected railroad, may exempt from the requirement of this subsection any scenic, excursion, or historic train operation, if the Secretary determines that the exemption is in the public interest and consistent with railroad safety, including the safety of highway users affected by such operations.

"(5) Each intercity passenger, commuter, and freight train equipped with ditch lights or strobe lights affixed and maintained in the manner provided for alerting lights under paragraph (1) of this subsection, on the date immediately prior to the effective date of such rules, regulations, orders, or standards relating to all trains under paragraph (3), shall be considered to be in compliance with the provisions of this subsection requiring the installation of alerting lights.

"(6) DEFINITIONS.—For purposes of this section:

"(A) The term 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary of Transportation determines will enhance the conspicuousness of the locomotive, such as ditch lights, strobe lights, or other significant front-end illumination.

"(B) The term 'ditch lights' means 2 headlights, in addition to the standard headlight on a locomotive, each of which is, at a minimum, 200 watts, 30 volts PAR 56.

"(C) The term 'strobe light' means an electronic tube emitting rapid, brief, and brilliant flashes of light with a minimum of 200,000 candle power.

"(D) The term 'scenic, excursion, or historic train' means any railroad whose primary purpose is to provide passengers a recreational or educational experience rather than for the purpose of transportation.

"(E) The term 'switch locomotive' means a locomotive used exclusively for switching, making up trains or storing rail cars within designated yard limits.".

Mr. MITCHELL. Mr. President, I now ask unanimous consent that S. 2068 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

TO REVISE AND EXTEND THE PROGRAMS OF THE REHABILITATION ACT OF 1973, AND FOR OTHER PURPOSES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5482, a bill to revise and extend the Rehabilitation Act of 1973, just received from the House; that all after the enacting clause be stricken and the text of S. 3065 as passed the Senate on August 11, 1992, be inserted in lieu thereof; that the bill be advanced to third reading and passed; that the motion to reconsider be laid upon the table; that the Senate insist upon its amendment; request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER appointed Mr. KENNEDY, Mr. HARKIN, Mr. METZENBAUM, Mr. SIMON, Mr. ADAMS, Mr. HATCH, Mr. DURENBERGER, and Mr. JEFFORDS conferees on the part of the Senate.

NATIONAL AND COMMUNITY SERVICE TECHNICAL AMENDMENT ACT OF 1992 AND TECHNICAL CORRECTIONS TO THE INTERNATIONAL BANKING ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendar Nos. 623 and 624, that the bills be deemed read three times, passed; and the motion to reconsider the passage of these measures be laid upon the table, en bloc; further that the consideration of these items appear individually in the RECORD; and any statements appear at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3174) to make technical corrections to the International Banking Act of 1978, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DOMESTIC RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.

Section 6(c) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

Mr. RIEGLE. Mr. President, I rise on behalf of myself and Senators GARN, GRAHAM, and MACK to offer S. 3174, a bill that makes a technical correction to section 214(a)(3) of last year's banking bill. That provision added a new subsection 6(c) to the International Banking Act of 1978, which requires foreign banks to take insured deposits in subsidiary banks incorporated in this country rather than in direct branches of the foreign bank.

Concerns have been expressed by the Federal Reserve Board, other regulators, and some State officials that section 214(a)(3) could be interpreted to prevent branches and agencies of foreign banks from accepting certain types of nonretail, uninsured deposits of less than $100,000 in their wholesale branches. It was not my intention in sponsoring section 214(a) to void regulations promulgated by the FDIC and OCC that permit them to do so. See 12 CFR 28.8 and 12 CFR 346.6. This technical amendment will clarify that matter. It will not, however, remove the discretion of the responsible agencies to revise their regulations governing nonretail deposit accounts under $100,000 if such revision is deemed appropriate.

This is the same technical correction to section 214(a)(3) of last year's banking bill that the Senate passed on March 26 in S. 2482, a bill that provided funding for the Resolution Trust Corporation [RTC]. Final passage of that bill has been delayed in the House. This same technical correction also passed the Senate on July 1 as part of S. 2733, a bill to improve the regulation of governmental sponsored enterprises.

I ask my colleagues to pass this legislation making the technical correction to section 6(c) recommended by the Board of Governors of the Federal Reserve System.

Mr. GRAHAM. Mr. President, during the closing hours of last year's session, the Congress passed the Federal Deposit Insurance Corporation Improvement Act of 1991. Title II of that act dealt with the regulation of foreign banks. A technical mistake was made to section 214 whereby it was unclear whether foreign banks would be required to use a subsidiary rather than a branch structure to take uninsured deposits under $100,000 for wholesale business. The bill today would clarify that section 214(a)(3) would not apply to wholesale deposits but to retail deposits. This is the same language that Senator MACK and I put into the RTC refunding bill and the GSE bill, both of which passed the Senate earlier this year in the managers' technical amendments.

It is important to clear up this ambiguity so that the foreign banks, the international business community, and the Federal banking regulators will know what Congress intended and will be able to carry out their business activities.

In my home State, there are approximately 45 State-chartered foreign bank agencies. The primary business of many of these agencies is to use dollar deposits from their own citizens to finance the trade of their countries. A great deal of this trade is with the United States. This is particularly true of banks from Latin American and Caribbean Basin Initiative [CBI] countries which provide a high percentage of the trade financing for these countries. For example, the Banco International de Costa Rica provides approximately 70 percent of the trade finance available to Costa Rica. Moreover, two-thirds of Florida's $14.7 billion in exports went to Latin America and the Caribbean region in 1990. During that year, Latin American and Caribbean banks provided over $2.4 billion in trade financing through their Florida agencies. This accounted for over one-fourth of Florida's total exports of goods to the region. This trade has a direct impact on the economic development in the Latin American and Caribbean Basin region as well as on Florida's economy.

Mr. President, I ask unanimous consent that a copy of an article from the October 23, 1991, American Banker, "Trade Finance Drawing Latin Banks to Florida," which highlights many of these same points be printed in the RECORD.

Mr. President, I would like to express my thanks to Chairman RIEGLE and Senator GARN and their staffs for their help in getting S. 3174 passed. It is my hope that the House will be able to take up and pass this technical amendment before the Congress adjourns in October.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRADE FINANCE DRAWING LATIN BANKS TO FLORIDA

(By James R. Kraus)

A growing number of Latin American and Caribbean banks are moving to Florida to provide the trade finance U.S. banks have spurned.

Since the start of the year, the state banking division has approved licenses for one Mexican and two Jamaican bank and received applications from eight more Latin or Caribbean banks.

Last year, 13 foreign banks, the majority of them from Latin America or the Caribbean, applied for licenses in Florida and 10 were approved.

"Foreign banks, especially Latin American banks, see this as market opportunity," said Wilbert Bascom, chief of the Bureau of International Banking at the Florida Banking Department in Tallahassee, "U.S. banks are not really interested in trade finance."

The Latin and Caribbean banks that have arrived join a long roster of better-known European banks and hardly rank as giants on the international banking scene.

But state banking officials say they play a critical role in recycling flight capital from Latin America by taking nonresident deposits and using them to finance trade with their home countries.

COMMODITY EXPORTS

More than half of some $9 billion in commodity exports from Florida to Latin America were financed by Latin American banks in Florida, officials estimate. In some instances, Latin American banks are the only ones willing to step forward and provide trade financing, they say.

Banco Internacional de Costa Rica S.A., a consortium bank based in Panama; for example, finances about 90% of the trade with Costa Rica.

Banco del Pichincha C.A., based in Quito, Ecuador, finances much of the trade with that country, while Banco Mercantil finances a large portion of trade with Venezuela.

Banks from Brazil play an equally important role, officials say.

The three banks approved so far this year are Jamaica Citizens Bank Ltd., Eagle Merchant Bank of Jamaica Ltd., and Banco Nacional de Mexico.

MIAMI BLOSSOMS

The influx of small to medium-sized foreign banks, bankers say, is turning Miami into a financial center for Latin America and the Caribbean.

"Miami is the banking capital of the Caribbean, Central and South America," says Paul Chen-Young, chairman and chief executive of the $87 million asset-Eagle Merchant Bank of Jamaica, which opened its representative office in Miami in August.

"Opening an office in Miami positions us to establish bridgeheads in New York, Toronto, and London," he added.

"Miami is becoming to Latin America that Hong Kong is to Southeast Asia and what Beirut used to be for the Middle East," says Robert Paul, a partner in the Miami-based law firm Paul, Landy, Beiley, and Harper, which assists foreign banks to obtain Florida licenses.

Experts add that trade finance may only be a stepping stone for foreign banks toward a broader range of banking operations.

The bill (S. 3175) to improve the administration provisions and make technical corrections on the National and Community Service Act of 1990, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National and Community Service Technical Amendment Act of 1992".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

SEC. 3. DEFINITIONS.

Section 101 (42 U.S.C. 12511) is amended—

(1) by striking paragraph (29) and inserting the following new paragraph:

"(29) The term 'summer program' means a full-time or part-time youth corps program authorized under this title that is limited to a period beginning after April 30 and ending before October 1."; and

(2) by striking "stipends" in paragraph (30) and inserting "living allowances".

SEC. 4. AUTHORITY OF COMMISSION.

Paragraphs (1) and (2) of section 112(b), and sections 113(10), 115(c)(2), 116(b), 164(2), 179(d), and 190(c)(8) (42 U.S.C. 12522(b) (1) and (2), 12523(10), 12525(c)(2), 12526(b), 12615(2), 12639(d), and 12651(c)(8)) are amended by striking "Secretary" each place it appears and inserting "Commission".

SEC. 5. GENERAL AUTHORITY.

Section 121 (42 U.S.C. 12541) is amended to read as follows:

"SEC. 121. GENERAL AUTHORITY.

"The Commission may make grants under section 102 to States or local applicants and may transfer funds to the Secretary of Agriculture, to the Secretary of the Interior, or to the Director of ACTION for the creation or expansion of full-time, part-time, year-round, or summer, youth corps programs".

SEC. 6. AGE.

Section 130(a)(1) (42 U.S.C. 12550(a)(1)) is amended by striking "15" and inserting "14".

SEC. 7. PEACE CORPS.

(a) ELIGIBILITY AND SELECTION PROCEDURES.—Section 161(a)(2) (42 U.S.C. 12612(a)(2)) is amended by striking "at least 3 years".

(b) EDUCATIONAL BENEFITS.—Section 163(c)(2) (42 U.S.C. 12614(c)(2)) is amended by striking "serve 3 years" and inserting "satisfactorily complete the service of the individual".

SEC. 8. ASSISTANCE FOR HEAD START.

Section 166 (42 U.S.C. 12622) is amended by inserting ", and to projects of the type described in section 211(a) of the Domestic Volunteer Service Act operating under memoranda of agreement with the ACTION Agency," after "Domestic Volunteer Service Act)".

SEC. 9. EVALUATION.

Section 179 (42 U.S.C. 12639) is amended—

(1) in subsection (a)(2) by striking "subsection (h)" and inserting "subsection (j)";

(2) in subsection (f) by inserting "or post-service benefit" after "voucher"; and

(3) in subsection (h)—

(A) in paragraph (1) by striking "subsection (g)" and inserting "this section"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) CONFIDENTIALITY.—

"(A) IN GENERAL.—The Commission shall maintain the confidentiality of information acquired under this subsection regarding individual participants.

"(B) DISCLOSURE.—

"(i) CONSENT.—The content of any information described in subparagraph (A) may be disclosed with the prior written consent of the individual participant with respect to whom the information is maintained.

"(ii) AGGREGATE INFORMATION.—The Commission may disclose information about the aggregate characteristics of such participants.

SEC. 10. COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

Section 190 (42 U.S.C. 12651) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), by inserting "Director of the Office of National Drug Control Policy," after "Agriculture,"; and

(B) by redesignating paragraphs (5) through (8) as paragraphs (3) through (6), respectively;

(2) in subsection (d) by adding at the end the following new paragraph:

"(3) The Board may—

"(A) appoint the Director without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service; and

"(B) fix the compensation of the Director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of compensation shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.";

(3) in subsection (e)—

(A) by striking "TECHNICAL EMPLOYEES.—The Director" and inserting "EMPLOYEES.—

"(1) IN GENERAL.—The Director";

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph)—

(i) by striking "10 technical" and inserting "eight";

(ii) by striking "Committee" and inserting "Commission"; and

(iii) by inserting before the period the following: ", except that the rate of compensation for two of the eight employees shall not exceed the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, and the rate of compensation for the remaining six of the eight employees shall not exceed the maximum annual rate of basic pay payable for GS-15s under the General Schedule under section 5332 of title 5, United States Code"; and

(C) by adding at the end the following new paragraphs:

"(2) ADDITIONAL STAFF.—The Director may, at the discretion of the Board, appoint and compensate such staff as the Director determines to be necessary to carry out the duties of the Commission.

"(3) CONSULTANTS.—Subject to the rules prescribed by the Commission, the Director may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code.

"(4) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Director and the head of the Federal agency, any of the personnel of that department or agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(5) DONATIONS.—

"(A) SERVICES.—

"(i) VOLUNTEERS.—Notwithstanding any other provision of Federal law, the Commission may accept the voluntary services of individuals, and provide to such individuals the travel expenses described in subsection (b)(6).

"(ii) LIMITATION.—Such a volunteer shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except as follows:

"(I) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a volunteer under this subtitle shall be considered to be a Federal employee.

"(II) CIVIL EMPLOYEE.—For the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subtitle shall be considered to be employees, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply.

"(B) PROPERTY.—The Commission may accept, use, and dispose of, in furtherance of the purposes of this Act, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

"(C) RULES.—The Commission shall establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money or property, real, personal, or mixed, tangible or intangible, received by gift, device, bequest, or otherwise (pursuant to subparagraph (B)) would reflect unfavorably upon the ability of the Commission or any employee of the Commission to carry out the responsibilities or official duties of the Commission in a fair and objective manner, or would compromise the integrity of the programs of the Commission or any official involved in such programs.

"(D) DISPOSITION.—Upon completion of the use by the Commission of any affected property, such completion shall be reported to the General Services Administration and such property shall be disposed in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(6) CONTRACTS.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to carry out the duties of the Commission under this Act."; and

(4) by adding at the end the following new subsections:

"(i) USE OF MAILS.—The Commission may use the United States' mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(j) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from an officer, department, agency, establishment, or instrumentality of the Federal Government such information and statistics as the Commission may require to carry out the duties of the Commission under this Act. On the request of the Director of the Commission, each such officer, department, agency, establishment, or instrumentality may furnish, to the extent permitted by law, such information and statistics directly to the Commission.

"(k) SOURCES OF SUPPLIES AND SERVICES.—The Commission may use General Services Administration sources of supplies and services.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 501(a)(1) (42 U.S.C. 12681(a)(1)) is amended to read as follows:

"(1) TITLE I.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out subtitles B, C, D, E, and F of title I, $102,000,000 for fiscal year 1993.

"(B) SUBTITLE G.—There are authorized to be appropriated to carry out subtitle G of title I, $3,000,000 for fiscal year 1993.".

(b) EARMARKS.—Section 501(a)(2) (42 U.S.C. 12681(a)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "paragraph (1)" and inserting "paragraph (1)(A)";

(2) by striking subparagraph (A);

(3) by striking "and" at the end of subparagraph (C);

(4) by striking the period at the end of subparagraph (D) and inserting a semicolon;

(5) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(6) by adding at the end the following new subparagraph:

"(D) any remaining funds may be expended for any activity authorized in title I.".

LOAN ASSISTANCE TO SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4111.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 4111) to amend the Small Business Act to provide additional loan assistance to small businesses, and for other purposes.

(The amendment of the House is printed in the RECORD of August 11, 1992, beginning at page 23039.)

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendment of the House to the Senate amendment.

The PRESIDING OFFICER. The motion is agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION REFERRED TO COMMITTEE

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that Executive Calendar 775, the nomination of Col. Douglas M. Padgett be referred to the Committee on Armed Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED NATIONS INTERNATIONAL DRIFTNET FISHERY CONSERVATION PROGRAM

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2152.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2152) entitled "An Act to enhance the effectiveness of the United Nations international driftnet fishery conservation program", with the following amendments:

Strike title V of the matter proposed to be inserted by the amendment to the text of the bill, and insert:

SEC. 605. TREATMENT OF VESSELS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 is amended by adding after section 771B the following new section:

"SEC. 771C. SPECIAL RULES IN APPLYING TITLE TO FOREIGN-MADE VESSELS.

"(a) DEFINITION.—The term 'vessel' means any vessel of a kind described in heading 8901 or 8902.00.00 of the Harmonized Tariff Schedule of the United States of not less than 100 gross tons, as measured under the International Convention on Tonnage Measurement of Ships, 1969.

"(b) VESSELS CONSIDERED AS MERCHANDISE.—Vessels are merchandise for purposes of this title.

"(c) APPLICATION OF SUBTITLES A AND B.—

"(1) IN GENERAL.—In applying subtitles A and B with respect to vessels constructed, reconstructed, or repaired in foreign countries—

"(A) a vessel shall be treated as sold for importation into the United States when a United States person enters into a contract for—

"(i) the construction or reconstruction of the vessel by, or the purchase (or leasing, if the equivalent of a purchase) of the vessel after construction or reconstruction from, the builder; or

"(ii) the repair of the vessel; and

"(B) a vessel sold for importation into the United States shall be treated as being offered for entry for consumption under the tariff laws at the time of its first arrival at a port or place in the United States after construction, reconstruction, or repair, regardless of where the vessel is registered or documented.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'United States person' means—

"(A) any individual or entity described in subsection (a) of section 12102 of title 46, United States Code;

"(B) any agent or other person acting on behalf of any individual or entity referred to in subparagraph (A); or

"(C) any person directly or indirectly owned or controlled by any individual or entity referred to in subparagraph (A).".

(b) PROSPECTIVE APPLICATION TO CONTRACTS.—The amendments made by subsection (a) of this section apply to a vessel built or repaired under a contract entered into after the date of enactment of this Act.

SEC. 606. UNITED STATES CONSTRUCTION SUBSIDY PROGRAMS.

(a) GOVERNMENT-IMPELLED CARGO.—Section 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)) is amended—

(1) in paragraph (1), by striking "For purposes of this section, the term 'privately owned United States-flag commercial vessels'" and all that follows through the end of the paragraph and inserting a period; and

(2) by adding at the end the following new paragraph:

"(3) In this section, 'privately owned United States-flag commercial vessels' does not include a vessel (until the vessel has been documented under chapter 121 of title 46, United States Code, for a period of 3 years) that—

"(A)(i) was built and, if rebuilt, rebuilt outside the United States; or

"(ii) for a vessel operated by an ocean common carrier (as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)), is built under a contract entered into after October 16, 1991 and has not been issued a construction subsidy certification under section 435B of the Tariff Act of 1930; or

"(B) was registered under the laws of a foreign country.".

(b) CONSTRUCTION RESERVE FUND.—Section 511(a)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1161(a)) is amended to read as follows: "(2) constructed in the United States after December 31, 1939," and all that follows through "insured under title XI of this Act as amended;" and inserting "(2)(A) constructed in the United States, or (B) the construction of which has been aided by a mortgage insured under title XI of this Act, or (C) if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930; and".

(c) OPERATING-DIFFERENTIAL SUBSIDY.—Section 601(a)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171(a)(1)) is amended by striking "and that such vessel or vessels were built in the United States," and all that follows through "prior to such date;" and inserting "and that the vessel was built in the United States or, if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930;".

(d) CONSTRUCTION LOAN GUARANTEES.—Section 1103(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273(b)) is amended—

(1) after "(b)" by inserting "(1)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not guarantee an obligation under this title unless the vessel—

"(A) was built in the United States; or

"(B) if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930.".

(e) PRIORITY LOAN GUARANTEES FOR VESSELS IN COASTWISE TRADE.—Section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) is amended by adding at the end the following new subsection:

"(g) When making guarantees, or commitments to guarantee, under this title, the Secretary of Transportation shall give priority for guarantees or commitments for vessels that will be engaged in the coastwise trade over guarantees or commitments for vessels that will be engaged in the foreign commerce.".

(f) TRADE-IN OF OBSOLETE VESSELS.—Section 510(a)(2)(B) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(a)(2)(B)) is amended to read as follows: "(B) is built in the United States or, if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930, and documented under chapter 121 of title 46, United States Code.".

TITLE VII—TECHNICAL REVISIONS TO MAPS RELATING TO COASTAL BARRIER RESOURCES SYSTEM

SEC. 701. TECHNICAL REVISIONS TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such technical revisions to the maps described in subsection (b) as are necessary to ensure that—

(1) on the maps referred to in subsection (b)(2)(A) and (B), depictions of areas as "otherwise protected areas" do not include any area that is not an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note); and

(2) on the map referred to in subsection (b)(2)(C), depictions of areas as "otherwise protected areas" identified as "VA-60P" do not include—

(A) any area that is located south of the north bank of the Salt Ponds Inlet in Hampton, Virginia; and

(B) the area that is located north of the line described in subsection (c), other than any part of that area which is an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note).

(b) MAPS DESCRIBED.—The maps referred to in subsection (a) are—

(1) included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) entitled, respectively—

(A) "Pine Island Bay Unit, NC–01P",

(B) "Roosevelt Natural Area Unit, NC–05P", and

(C) "Plum Island Unit VA–59P Long Creek Unit VA–60P".

(c) LINE DESCRIBED.—The line referred to in subsection (a)(2)(B) is a line described as follows:

Beginning at an iron pipe in the low water line of Chesapeake Bay; said iron pipe being located 265.00 feet in a southerly direction from the south eastern corner of Fox Hill Shores Subdivision (as shown in Plat Book 9, page 161 as recorded in the Circuit Court for the City of Hampton, Virginia) and from this TRUE POINT OF BEGINNING running thence North 66 degrees 47 minutes 46 seconds West 995.79 feet to a found iron pipe; thence South 15 degrees 47 minutes 20 seconds East 270.65 feet to a found iron pipe; thence South 73 degrees 59 minutes 57 seconds West 836.68 feet to a point marking the low water line of Long Creek; being known as the southerly property line of Riley's Way.

TITLE VIII—CLEAN VESSEL ACT OF 1992

SEC. 801. SHORT TITLE.

This title may be cited as the "Clean Vessel Act of 1992".

SEC. 802. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

(3) There is currently an inadequate number of pumpout stations for marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to the degradation of water quality in the United States.

(b) PURPOSE.—The purpose of this Act is to provide funds to coastal States for the construc-

tion, renovation, operation, and maintenance of pumpout stations and waste reception facilities.

SEC. 803. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

(a) SURVEY.—Within 3 months after the notification under section 805(b), each coastal State shall conduct a survey to determine—

(1) the number and location of all operational pumpout stations and waste reception facilities in the State, at public and private marinas, mooring areas, docks, and other boating access facilities; and

(2) the number of recreational vessels in the coastal waters of the State with type III marine sanitation devices or portable toilets, and the areas of those coastal waters where those vessels congregate.

(b) PLAN.—Within 6 months after the notification under section 805(b), and based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Administrator of the Environmental Protection Agency a plan for any construction or renovation of pumpout stations and waste reception facilities in the State that is necessary to ensure that, based on the guidance issued under section 805(a), there are pumpout stations and waste reception facilities in the State that are adequate and reasonably available to meet recreational vessel needs in the State; and

(2) submit to the Administrator with that plan a list of all such stations and facilities in the State which are operational on the date of submittal.

(c) PLAN APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after a plan is submitted by a State under subsection (b), the Administrator of the Environmental Protection Agency shall approve or disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan, based on the guidance issued under section 805(a), to meet the construction and renovation needs identified in the survey.

(2) NOTIFICATION OF STATE; MODIFICATION.—The Administrator shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Administrator shall recommend necessary modifications and return the plan to the affected Governor.

(3) RESUBMITTAL.—Not later than 60 days after receiving a plan returned by the Administrator, the Governor shall make the appropriate changes and resubmit the plan.

(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations and waste reception facilities.

(2) NOTIFICATION OF NOAA.—

(A) LISTS OF STATIONS AND FACILITIES.—The Administrator of the Environmental Protection Agency shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under subsection (b)(2), by not later than 30 days after the date of receipt of that list.

(B) COMPLETION OF PROJECT.—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this Act, by not later than 30 days after the date of the completion of the project.

SEC. 804. FUNDING.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), is amended—

(1) by striking "So much, not to exceed 6 per centum," and all that follows through "shall apportion the remainder of the appropriation for each fiscal year among the several States", and inserting the following:

"(a) The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 3 as provided in the Coastal Wetlands Planning, Protection, and Restoration Act. Notwithstanding the provisions of section 3, such sums shall remain available to carry out such Act through fiscal year 1999.

"(b) Of the balance of each such annual appropriation remaining after making the distribution under subsection (a), an amount equal to $10,000,000 for fiscal year 1993, $15,000,000 for each of fiscal years 1994 and 1995, and $20,000,000 for each of fiscal years 1996 and 1997 shall be used as follows:

"(1) ½ shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

"(2) ½ shall be used by the Secretary of the Interior to make grants under section 804(c) of the Clean Vessel Act of 1992.

"(c) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between 2 or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year.

"(d) The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c), respectively, shall apportion the remainder of each such annual appropriation among the several States"; and

(2) by inserting "(e)" before "So much of any sum" and redesignating the last 2 sentences of that section as subsection (e).

(b) ACCESS INCREASE.—Section 8(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777g(b)(1)), is amended—

(1) by striking "10 per centum" and inserting "12½ per centum"; and

(2) by adding at the end the following: "Of amounts allocated by a coastal State (as that term is defined in the Clean Vessel Act of 1992) under this subsection in each of fiscal years 1993 through 1997, 2½ per centum may be used to develop and implement the plan required under section 803(b) of that Act.".

(c) GRANTS.—The Secretary of the Interior shall, with amounts made available under section 4(b) of the Act August 9, 1950, make grants to coastal States to pay not more than 75 percent of the cost to a coastal State of—

(1) conducting a survey under section 803(a);

(2) developing and submitting a plan and accompanying list under section 803(b);

(3) constructing and renovating pumpout stations and waste reception facilities in accordance with that survey and plan; and

(4) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste recreation facilities.

SEC. 805. GUIDANCE AND NOTIFICATION.

(a) ISSUANCE OF GUIDANCE.—Not later than 3 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall, after notice and opportunity for public comment, issue—

(1) guidance regarding the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with amounts available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this Act, and appropriate location of the stations and facilities within a marina or boatyard;

(2) guidance defining what constitutes adequate and reasonably available pumpout stations and waste reception facilities in boating areas;

(3) guidance on appropriate methods for disposal of vessel sewage from pumpout stations and waste reception facilities;

(4) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(5) guidance on the coastal waters most likely to be affected by the discharge of sewage from vessels; and

(6) other information that the Administrator of the Environmental Protection Agency considers necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect coastal waters.

(b) NOTIFICATION.—Not later than 1 month after the guidance issued under subsection (a) is finalized, the Director of the United States Fish and Wildlife Service shall provide notification in writing to the fish and game, water pollution control, and coastal zone management authorities of each coastal State, of—

(1) the availability of amounts under the Act of August 9, 1950 (16 U.S.C. et seq.); and

(2) the guidance developed under subsection (a).

SEC. 806. DEFINITIONS.

For the purposes of this Act:

(1) The term "coastal State"—

(A) means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

(B) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(C) does not include a State for which the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one.

(3) The term "coastal waters" means—

(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

(B) in other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge human body wastes, and any process to treat such wastes.

(5) The term "pumpout station" means a facility that pumps human body wastes out of marine sanitation devices installed on board vessels.

(6) The term "recreational vessel" means a vessel—

(A) manufactured for operation, or operated, primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure.

(7) The term "waste reception facility" means a facility to receive wastes from portable toilets carried on vessels.

TITLE IX—NATIONAL UNDERSEA RESEARCH PROGRAM

Subtitle A—Establishment of National Undersea Research Program

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "National Undersea Research Program Act of 1992".

SEC. 902. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The world's oceans occupy 317,000,000 cubic miles, and constitute 71 percent of the surface of the earth.

(2) The Great Lakes comprise 20 percent of the world's freshwater and are a valuable, international, commercial, and recreational resource.

(3) The oceans and Great Lakes are inextricably linked to many important global processes, such as global temperature, weather patterns, and nutrient cycling.

(4) The oceans and Great Lakes hold many undiscovered or unexploited mineral and biological resources.

(5) A majority of invertebrate phyla and over half the vertebrate species inhabit the oceans.

(6) The genetic diversity of marine organisms makes the oceans a potentially important source of undiscovered medical agents.

(7) Understanding of the physical, chemical, geological, and biological processes which govern dynamics in the oceans and Great Lakes, particularly the deep ocean, is limited.

(8) Oceanic and limnological researchers require increasingly more advanced technologies and methodologies to accomplish complex research goals.

(9) Advanced underwater technology, including diving, underwater laboratories, research submersibles, and remotely operated vehicles, must be an integral part of the Nation's efforts to study, understand, utilize, conserve, and wisely manage the aquatic environment.

(b) PURPOSE.—The purpose of this subtitle is to establish a program of research to better understand ocean and large lakes ecosystems and their role in global systems.

SEC. 903. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administration" means the National Oceanic and Atmospheric Administration;

(2) "Center" means any National Undersea Research Center in existence prior to the date of enactment of this Act or established pursuant to section 906;

(3) "Center Director" means the Director of any National Undersea Research Center;

(4) "Committee" means the National Undersea Research Steering Committee established pursuant to section 905;

(5) "Office" means the Office of Undersea Research established under section 904(c)(1);

(6) "priority research area" means any of the priority research areas under section 904(f), as those areas may be revised by the Under Secretary under section 904(f)(2).

(7) "Program" means the National Undersea Research Program established under section 904;

(8) "Program Director" means the Director of the National Undersea Research Program appointed pursuant to section 904(c)(2);

(9) "undersea region" means each of—

(A) the North Atlantic region, comprised of the coastal and oceanic waters north of Montauk, New York, and off Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut;

(B) the Mid-Atlantic region, comprised of the coastal and oceanic waters south of Montauk, New York, and off New York, New Jersey, Delaware, Maryland, and Virginia;

(C) the South Atlantic region, comprised of the coastal and oceanic waters off North Carolina, South Carolina, Georgia, and the Atlantic coast of Florida (including the Florida Keys);

(D) the Gulf of Mexico region, comprised of the coastal and oceanic waters of the Gulf of Mexico off Florida, Alabama, Mississippi, Louisiana, and Texas;

(E) the Great Lakes region, comprised of the waters of the Great Lakes;

(F) the Southern Pacific region, comprised of the coastal and oceanic waters off California;

(G) the Northern Pacific region, comprised of the coastal and oceanic waters off Oregon and Washington;

(H) the Western Pacific region, comprised of the coastal and oceanic waters off Hawaii, Guam, American Samoa, and the Northern Mariana Islands;

(I) the Alaskan region, comprised of the coastal and oceanic waters off Alaska;

(J) the Caribbean region, comprised of the coastal and oceanic waters off Puerto Rico and the United States Virgin Islands; and

(K) any other undersea region resulting from an establishment, modification, or merger under section 906(f)(2);

(10) "undersea research" means scientific research carried out in the oceans or large lakes of the world, using underwater vehicles or techniques; and

(11) "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 904. ESTABLISHMENT AND ADMINISTRATION OF NATIONAL UNDERSEA RESEARCH PROGRAM.

(a) PROGRAM ESTABLISHMENT AND MAINTENANCE.—The Under Secretary shall establish and maintain within the Administration a program to be known as the "National Undersea Research Program".

(b) PROGRAM PURPOSE.—The Program shall, for the purpose of enhancing scientific understanding of processes in the oceans and large lakes of the world—

(1) develop, maintain, and conduct scientific and engineering undersea research programs; and

(2) investigate, develop, and apply technology for undersea research.

(c) OFFICE OF UNDERSEA RESEARCH.—

(1) ESTABLISHMENT.—There is established in the Administration the Office of Undersea Research, which shall conduct the Program.

(2) PROGRAM DIRECTOR.—The head of the Office shall be the Director of the National Undersea Research Program, who shall be appointed by the Under Secretary from among individuals with extensive knowledge and expertise in undersea research, and having appropriate administrative experience.

(d) DUTIES OF PROGRAM DIRECTOR.—The Program Director shall administer the Program subject to the supervision of the Under Secretary. In addition to any other duty prescribed by law or assigned by the Under Secretary, the Program Director shall—

(1) establish and maintain a list for each priority research area of scientists who are actively conducting research in that area, for the purpose of—

(A) providing peer reviews of individual research proposals under the Program; and

(B) participating in site visits pursuant to section 907(c)(2); and

(2) develop guidelines for the submission and review of proposals from Centers and individual researchers for research under the Program.

(e) SCIENCE ADVISOR.—

(1) APPOINTMENT.—The Under Secretary shall, pursuant to the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and by not later than 6 months after the date of the enactment of this Act, appoint to serve as a science advisor to the Director on the scientific needs of the Program, an individual who—

(A) is a scientist active in one or more priority research areas;

(B) is not employed by the Federal Government; and

(C) during the period of such service, is on leave of absence from an institution of higher education or oceanographic research.

(2) TERMS.—

(A) IN GENERAL.—The term of an individual as a science advisor under this subsection shall be one year.

(B) LIMITATION.—An individual may serve not more than 2 terms as a science advisor under this subsection.

(f) PRIORITY RESEARCH AREAS.—

(1) IN GENERAL.—The Under Secretary may use amounts appropriated for the Program to fund research, including long-term studies, within the following priority research areas:

(A) Oceanic, coastal, estuarine, and limnological processes.

(B) Pathways and fates of materials in the oceans and large lakes.

(C) Diversity, distribution, productivity, and recruitment of organisms with respect to habitat characteristics in the oceans and large lakes.

(D) Global change processes.

(E) Ocean lithosphere processes and mineral resources.

(F) Undersea research platform and instrument technology.

(G) Diving safety, physiology, and technology.

(2) REVISION OF PRIORITY AREAS.—Upon the recommendation of the Committee, the Under Secretary may, after public comment, revise the priority research areas under paragraph (1).

SEC. 905. STEERING COMMITTEE.

(a) ESTABLISHMENT OF COMMITTEE.—The Under Secretary shall establish an independent steering committee to be known as the "National Undersea Research Steering Committee".

(b) COMPOSITION.—

(1) IN GENERAL.—The Committee shall consist of 9 members appointed by the Under Secretary from individuals who are professional scientists or engineers and active in at least one priority research area, of whom 2 members shall be appointed from individuals nominated by Center Directors. The Under Secretary shall complete appointments under this paragraph by not later than 6 months after the date of the enactment of this Act.

(2) BALANCE.—In appointing members of the Committee, the Under Secretary shall seek to ensure balanced representation of priority research areas, disciplines related to those research areas, and geographic regions of the United States.

(3) PROHIBITION ON APPOINTMENT OF FEDERAL EMPLOYEES.—No member of the Committee may be an employee of the Federal Government, except the Chief Scientist of the Administration.

(4) EX OFFICIO MEMBER.—The Chief Scientist of the Administration shall be a nonvoting ex officio member of the Committee.

(c) DUTIES.—The Committee shall advise the Under Secretary and the Program Director concerning—

(1) the quality of research performed with grants awarded under section 908, including the applicability of such research to the priority research areas;

(2) the designation, establishment, merger, and operation of Centers;

(3) the modification and merger of undersea regions;

(4) the need to revise the priority research areas;

(5) the process of responding to research proposal reviews, including making determinations and recommendations under section 907(a)(3)(B).

(6) any other matters the Under Secretary refers to the Committee for review and advice or the Committee considers appropriate.

(d) TERM OF MEMBERSHIP.—

(1) IN GENERAL.—Subject to paragraph (2), the term of membership on the Committee shall be 3 years.

(2) INITIAL APPOINTMENTS.—Of the members first appointed to the Committee—

(A) 3 members shall serve a term of one year;

(B) 3 members shall serve a term of 2 years; and

(C) 3 members shall serve a term of 3 years;

as specified by the Under Secretary at the time of appointment.

(3) TERM LIMITATION.—No Committee member may serve consecutive terms as a member of the Committee.

(e) COMPENSATION.—Members of the Committee, while performing official duties as members of the Committee, are entitled to receive compensation for travel and transportation expenses under section 5703 of title 5, United States Code.

(f) CHAIRPERSON.—The members of the Committee shall select annually from among themselves an individual who shall serve as Chairperson of the Committee. No member of the Committee may serve more than 2 annual terms as a chairperson.

(g) CONDUCT OF BUSINESS.—The Committee shall conduct its business according to the majority vote of those members present at a meeting of the Committee.

(h) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

SEC. 906. ESTABLISHMENT OF NATIONAL UNDERSEA RESEARCH CENTERS.

(a) ASSIGNMENT AND ESTABLISHMENT OF CENTERS.—

(1) ASSIGNMENT OF REGIONS TO EXISTING CENTERS.—The Under Secretary shall, in consultation with the Committee, assign one or more undersea regions to each Center in existence on the date of the enactment of this Act, by not later than 6 months after that date.

(2) ESTABLISHMENT OF NEW CENTERS.—The Under Secretary may establish a new Center to implement the Program for any undersea region at an institution of higher education or oceanographic research located in a State bordering the region—

(A) if there are adequate funds available for the establishment of the Center;

(B) after reviewing each proposal submitted under subsection (b) with respect to that region; and

(C) if the Committee concurs in the selection of that institution.

(3) LIMITATION.—The Under Secretary may not establish a new Center for an undersea region if—

(A) the expenditure of amounts for that Center would result in any reduction of amounts available for expenditure for any existing Center; and

(B) there is a Center in existence for that region.

(b) SOLICITATION OF PROPOSALS FOR NEW CENTERS.—

(1) IN GENERAL.—The Under Secretary may solicit proposals for the establishment of a new Center under subsection (a)(2) from institutions of higher education or oceanographic research.

(2) PROPOSAL REQUIREMENTS.—A proposal under this subsection shall consist of—

(A) a proposed science program;

(B) a program management plan;

(C) a description of the facilities of the institution submitting the proposal;

(D) a description of relevant institutional capabilities;

(E) an operational safety plan;

(F) mechanisms for information transfer;

(G) a budget for the Center; and

(H) any other information the Under Secretary considers necessary.

(c) REVIEW OF PROPOSALS.—The Under Secretary and the Committee shall review each proposal submitted under subsection (b) on the basis of—

(1) relevance of the proposal to priority research areas; and

(2) the capability of the applicant institution to administer and direct research in those areas.

(d) CENTER DIRECTOR.—Each institution at which a Center is established under this section may select an individual who shall be the Director for that Center.

(e) 5-YEAR REVIEW OF CENTERS.—

(1) IN GENERAL.—The Under Secretary and the Committee shall jointly review the operation of each Center every 5 years. The first review of a Center shall be completed—

(A) in the case of a Center in existence on the day before the date of the enactment of this Act, by not later than the date which is 5 years after that date of enactment; and

(B) in the case of a Center established on or after that date of enactment, by the date which is 5 years after the date of the establishment of the Center.

(2) CONTENT OF REVIEW.—A review under this subsection shall consist of—

(A) an evaluation of the quality of the research conducted at the Center under the Program and the applicability of the research to the priority research areas, including consideration of the annual reviews and site visits conducted under section 907(c);

(B) recommendations for changes in the scientific research program and operations of the Center, that are considered beneficial by the Committee and the Under Secretary; and

(C) a determination of whether the continued operation of the Center will increase knowledge in the priority research areas.

(3) ESTABLISHMENT OF NEW CENTER AT DIFFERENT INSTITUTION.—If the Under Secretary and the Committee determine as a result of a review under this subsection that continued operation of a Center is not warranted, the Under Secretary shall—

(A) provide notification of that determination to the Center, including a description of any changes in the operations of the Center the Under Secretary considers necessary for continued operation of the Center;

(B) after 18 months after providing that notice, and not later than 2 years after providing that notice, review the implementation of those changes by the Center; and

(C) establish, at a different institution of higher education or oceanographic research, a new Center for the same undersea region in accordance with this section, if the Under Secretary determines as a result of that review that those changes are not implemented.

(f) 5-YEAR REVIEW OF UNDERSEA REGIONS.—

(1) REVIEW BY COMMITTEE.—The Committee shall—

(A) review the configurations of undersea regions every 5 years following the date of the enactment of this Act to determine whether those regions meet scientific needs for research in priority research areas; and

(B) provide to the Under Secretary appropriate recommendations for meeting those needs, regarding—

(i) any modification or merger of existing undersea regions, or establishment of new undersea regions, and

(ii) the establishment of new Centers or merger of existing Centers for any undersea regions recommended to be established or merged.

(2) MODIFICATION, MERGER, OR ESTABLISHMENT OF REGIONS.—The Under Secretary may establish a new undersea region or modify or merge any existing undersea region or regions if, based on a recommendation by the Committee under paragraph (1)(B), the Under Secretary determines there is a scientific need for that establishment, modification, or merger.

(3) ESTABLISHMENT OR MERGER OF CENTERS.—If the Under Secretary establishes or merges any undersea region under paragraph (2), the Under Secretary may, in accordance with section 906 and any recommendations provided by the Committee under paragraph (1)(B), establish a new Center or merge existing Centers for the resulting undersea region.

(g) PROHIBITION.—Except as provided in subsections (a) and (f)(3), the Under Secretary may not establish or merge any Centers.

SEC. 907. NATIONAL UNDERSEA RESEARCH CENTER RESEARCH PROGRAMS.

(a) INDIVIDUAL RESEARCH PROPOSALS.—

(1) SOLICITATION.—Each Center Director shall annually solicit individual proposals from the scientific community for research to advance the priority research areas of the Program. Research under each proposal shall be primarily conducted within the undersea region of the Center, but may be conducted in another undersea region in cooperation with the Center for that region, or other geographic areas with the approval of the Program Director. Individual proposals shall adhere to guidelines established by the Program Director pursuant to section 904(d)(2). Proposals under this paragraph may be for multi-year research.

(2) INDIVIDUAL PROPOSAL REVIEW PROCESS.—Each individual proposal shall be reviewed by the Center Director or his or her designees and not less than 3 anonymous mail reviewers from the list of reviewers maintained by the Program Director pursuant to section 904(d)(1). Each review shall consider—

(A) the scientific merit of the proposal;

(B) the applicability of the proposal to the priority research areas; and

(C) the capability of the principal investigator to carry out the proposed research.

(3) ALLOWANCE FOR RESPONSE.—

(A) IN GENERAL.—Subject to any regulation that is issued by the Program Director under subparagraph (C), a Center Director shall provide to each person who submits a proposal under this section to the Center copies of all written reviews of the proposal conducted by the Center Director, his or her designees, and anonymous reviewers, and shall give the person not less than 14 days to respond to those reviews before rendering any final decision regarding funding for the proposal.

(B) REVIEW OF PROCESS BY COMMITTEE.—Not later than 3 years after the date of the enactment of this Act, the Committee shall—

(i) determine whether all Centers are implementing subparagraph (A);

(ii) determine whether the opportunity of persons who submit proposals to respond to reviews pursuant to subparagraph (A) has been utilized by those persons;

(iii) determine whether those responses have been effective in ensuring full and fair consideration of those proposals; and

(iv) recommend to the Program Director that the procedures established by subparagraph (A) be continued, terminated, or modified (including the specific modifications which should be made).

(C) ISSUANCE OF REGULATION.—Notwithstanding subparagraph (A), the Program Director may issue a regulation implementing any recommendation made by the Committee under subparagraph (B)(iv).

(b) PROPOSED CENTER PROGRAM.—Not later than October 31 of each year, each Center Director shall submit to the Program Director—

(1) a proposed program for the Center for that fiscal year, which shall adhere to guidelines established by the Program Director pursuant to section 904(d)(2) and shall include—

(A) a description of the activities performed and research funded by the Center in the previous fiscal year;

(B) those individual research proposals submitted under subsection (a) that the Center Director determines to be meritorious based on reviews conducted under that subsection;

(C) a proposed budget for operation of the Center for the current fiscal year; and

(D) any other materials requested by the Program Director to clarify the proposed program; and

(2) reviews (including responses under subsection (a)(3) to the reviews) of all individual research proposals submitted to the Center Director for the current fiscal year, including those research proposals not selected for inclusion in the proposed program of the Center.

(c) Review of Proposed Center Program.—

(1) In general.—The Program Director, in consultation with the Committee, shall review the proposed program for the current fiscal year submitted by each Center Director under subsection (b).

(2) Site visits.—At least once every 2 years, the review of a proposed program of a Center under this subsection shall include a formal inspection of the Center by a site visit team. The site visit team shall—

(A) be composed of not less than 4 individuals appointed by the Program Director with experience in undersea research, at least one of whom shall be a member of the Committee and 2 of whom are selected from the list maintained under section 904(d)(1);

(B) assess the quality of the individual research proposals included in the proposed program; and

(C) assess the ability of the Center to oversee the research included in the proposed program.

(d) Requiring Additional Proposed Programs Prohibited.—Except as provided in this section, a center shall not be required to submit to the Program Director or the Under Secretary any program proposal.

(e) Gifts, Devises, and Bequests.—Each Center may accept, solicit, and use the services of volunteers, and may accept, receive, hold, administer, and use gifts, devises, and bequests, to carry out the research program of the Center.

SEC. 908. REGIONAL UNDERSEA RESEARCH CENTER PROGRAM GRANTS.

(a) Authorization.—The Under Secretary may use amounts appropriated to carry out the Program to make grants and enter into contracts under this subsection to fund any Center program if the Under Secretary finds that the program will advance knowledge in the priority research areas.

(b) Allocation of Funding.—

(1) In general.—Not later than April 1 of each year and based on the reviews under section 907(c) of proposed programs, the Under Secretary shall—

(A) allocate among the Centers, in such manner as will best advance knowledge in the priority research areas, all amounts available for the current fiscal year for research to be conducted by, and administration of, the Centers; and

(B) notify each Center Director of the amount allocated to that Center under subparagraph (A) for the current fiscal year.

(2) Limitation on allocation per center.—The total amount which may be allocated for any fiscal year for activities conducted by any one Center shall not exceed 20 percent of the total amounts available for the Program for that fiscal year, except that the Under Secretary may allocate a greater amount for a Center for the purpose of making major capital expenditures for the Center.

(c) Terms and Conditions.—

(1) In general.—Any grant made, or contract entered into, under this section shall be subject to paragraphs (2) and (3), and to any other terms, conditions, and requirements the Under Secretary considers necessary.

(2) Limitations on uses.—

(A) Land and buildings.—No payment under any grant or contract under this section may be applied to—

(i) the purchase of any land; or

(ii) the purchase or construction of any building.

(B) Administration.—At least 60 percent of the amount of a grant or contract under this section shall be used to fund individual research proposals carried out with the grant or contract.

(3) Maintenance of records.—Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep any records the Under Secretary prescribes as necessary to facilitate effective audit and evaluation, including reports which fully disclose the amount and disposition of funds received under this subtitle, the total cost of activities for which those funds were used, and the amount, if any, of costs which were provided through other sources. The records shall be maintained for 3 years after the completion of the activity. The Under Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipts which, in the opinion of the Under Secretary or of the Comptroller General, may be related or pertinent to the grants and contracts.

SEC. 909. FINANCIAL ASSISTANCE REVIEW BOARD.

After the date of the enactment of this Act, grants and contracts under the Program shall not be subject to review by the board in the Department of Commerce known as the Financial Assistance Review Board.

SEC. 910. AUTHORIZATION OF APPROPRIATIONS.

(a) Center Program Funding.—There is authorized to be appropriated to the Under Secretary for use for grants and contracts under section 908, to remain available until expended—

(1) $20,000,000 for fiscal year 1993;

(2) $22,000,000 for fiscal year 1994;

(3) $24,000,000 for fiscal year 1995;

(4) $26,000,000 for fiscal year 1996; and

(5) $28,000,000 for fiscal year 1997.

(b) Management, Administration, and Studies.—There is authorized to be appropriated to the Under Secretary for management and administration of the Program (including administration of grants and contracts under section 908, the development of undersea research technology, and the conduct of studies of underwater diving techniques and equipment under section 21(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1347(c))), to remain available until expended—

(1) $3,000,000 for fiscal year 1993;

(2) $3,100,000 for fiscal year 1994;

(3) $3,200,000 for fiscal year 1995;

(4) $3,300,000 for fiscal year 1996; and

(5) $3,400,000 for fiscal year 1997.

(c) Limitation on Use.—Amounts appropriated under the authority of subsection (a) shall not be available for administration of this subtitle by the Office, or for program or administrative expenses of the Administration.

(d) Reversion of Unobligated Amounts.—The amount of any grant, contract, or portion of a grant or contract, made under section 908 that is not obligated before the end of the third fiscal year in which it is authorized to be obligated shall revert to the Under Secretary. The Under Secretary shall add that reverted amount to the funds available for grants under section 908.

Subtitle B—Miscellaneous

SEC. 921. GREAT LAKES UNDERSEA RESEARCH CENTER.

(a) In General.—Subject to the limitations in subsections (a)(2)(A) and (a)(3) of section 906, and not later than December 31, 1993, the Under Secretary of Commerce for Oceans and Atmosphere shall establish a National Undersea Research Center for the Great Lakes region in accordance with section 906 to implement the National Undersea Research Program established under section 904 for that region, at a qualified institution.

(b) Definitions.—For purposes of this section—

(1) "qualified institution" means an institution of higher education—

(A) located directly on the shoreline of one of the Great Lakes;

(B) with strong undergraduate and graduate programs in engineering, science, and technology as they may apply to undersea research;

(C) with facilities for maintaining research vessels appropriate for deployment of equipment necessary to conduct undersea research;

(D) with faculty and other personnel with expertise in undersea research;

(E) which has received funding from the National Undersea Research Program in the past; and

(F) which maintains cooperative institutional relationships with Federal agencies responsible for research work on the Great Lakes; and

(2) "undersea research" has the meaning that term has in section 903(10).

SEC. 922. PROCEDURES FOR JOINT REVIEW OF RESEARCH PROPOSALS.

The Under Secretary, in consultation with the Program Director, and jointly with the Director of the National Science Foundation and the Secretary of the Navy, shall—

(1) develop procedures for the submittal and joint review of proposals for research in priority research areas to be carried out with assistance from 2 or more agencies within the Department of Commerce, the National Science Foundation, or the Department of Defense; and

(2) issue final rules establishing those procedures by not later than 1 year after the date of the enactment of this Act.

SEC. 923. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this title may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 924. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) Purchase of American-Made Equipment and Products.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this title, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) Notice to Recipients of Assistance.—In providing financial assistance under this title, the Under Secretary of Commerce for Oceans and Atmosphere shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Amend the title so as to read: "An Act to enhance the effectiveness of the United Nations international driftnet fishery conservation program, repeal the Coast Guard recreational boat user fee, ensure fair trade in the commercial shipbuilding and repair industry, provide funds to coastal States to protect the marine environment through the use of pumpout stations for recreational vessels, establish a program of research to better understand ocean and large lakes ecosystems, and for other purposes.".

AMENDMENT NO. 2943

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments with the further amendment which I now send to the desk on behalf of Senators PACKWOOD, HOLLINGS, STEVENS, KERRY, and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. PACKWOOD (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. GORTON, Mr. ADAMS, Mr. LOTT, Mr. BREAUX, Mr. MURKOWSKI, and Mr. RIEGLE) proposes an amendment numbered 2943.

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Large—scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) the United Nations, via General Assembly Resolutions numbered 44-225, 45-197 and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas."

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly resolution numbered 46-215 approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive ecomomic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulation fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2) is amended—

(1) in subparagraph (E)(1) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use of the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (3)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) Regulations.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) Requirement for Submission of Documents.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) Appeals; Duration of Prohibitions.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the remvoal of any prohibition imposed on a vesel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days aftr such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) Central bering sea.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) Fishing vessel.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) Owns or controls.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) Permitted fishing vessel.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) Person.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) Processing facility.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) Intermediary Nation Defined.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) Embargo on Imports From Intermediary Nations.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION OF TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V—FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(a) In General.—

(1) Scope of fee.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) Amount of fee.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) Effective Date.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) Definitions.—In this section, the following definitions apply:

(1) Commission.—The term "Commission" means the Federal Maritime Commission.

(2) Common carrier.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) Conference.—The term "conference" has the meaning given that term under sec-

tion 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for Certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

Mr. PACKWOOD. Mr. President, the Packwood substitute amendment to H.R. 2152, puts an end to these curtains of death on the high seas by placing mandatory sanctions on countries that do not stop driftnet fishing by the end of this year.

I truly hope that the third time is a charm for this amendment, Mr. President, because this will be the third time I have moved a driftnets bill out of the Senate and over to the House in this Congress. I certainly hope they will get this to the President for his signature at the earliest possible date. I thank the chair.

Mr. LEAHY. Mr. President, I support the repeal of the Coast Guard user fees that are now being assessed on recreational boaters.

However, I am concerned about the provision in this bill which would impose a fee on the use of tariff data obtained from a planned electronic database at the Federal Maritime Commission. The fee would be imposed upon the first person accessing the data and upon any subsequent user of that data. Moreover, the new system will not make tariff data available in paper format. Thus, anyone seeking this data from the FMC will have to pay the fee, directly or indirectly. In effect, the FMC would collect a royalty from all uses of data originating in its ATFI data base.

I chair the Technology and the Law Subcommittee which has jurisdiction over the Freedom of Information Act. I am concerned about the implications of this royalty fee on Government information. A reasonable fee to recover costs of disseminating information is one thing, but taxpayers should not be charged twice for information created by Federal agencies at taxpayer expense.

These types of fees place a heavy burden on the public's right to know. While I strongly support the repeal of the recreational boat user fee, I also agree with a recent editorial which concludes that "balancing the budget by selling information to the people who by right already own it would be a travesty."

Congress should not raise revenue at the expense of the public's right of access to Government information.

This tariff data use fee originated in the House last year and has been considered only in the context of financing the repeal of the boat user fee. While its original scope was quite broad, the proposal has been modified to ensure that it would sunset after fiscal year 1995 when the boat user fee is scheduled to end. Once the data use fees no longer serve the purpose of offsetting the repeal, the FMC would not be permitted to charge fees in excess of the direct costs incurred in operating and administrating the ATFI system. Furthermore, recovery of these costs could not be derived from fees on secondary uses of the tariff information.

The fee policies that would be in place after fiscal year 1995 are nearly identical to those Congress has approved for other agency data bases. For example, in legislation authorizing the Securities and Exchange Commission's data base of securities information known as EDGAR, Congress prohibited imposition of additional fees or royalties on the use, resale, or redissemination of information obtained from the EDGAR data base.

I view the proposal contained in this legislation as a one-time exception to the clear policy Congress has established in the past. Today's proposal is unique and should not be considered a precedent for raising revenue in the future.

I ask unanimous consent that the editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 4, 1992]

BOATS, BUDGETS, AND A BAD IDEA

Two years ago, in a scramble to address the budget deficit, Congress enacted a tax on recreational boats on the theory that boat owners receive a lot of service from the Coast Guard and should pay for part of it. The tax was so unpopular many members of Congress decided to repeal it. The problem is that if they eliminate the tax they must replace the revenue from some other source. The proposed solution is a tax on access to certain public information stored in government computers. Specifically, anyone wanting information on the freight rates charged by shipping companies would have to pay 46 cents a minute to retrieve the information. Reuse of the material by the initial retriever or by someone who gets it from him would be subject to the same charge. Both houses of Congress have passed legislation to impose this access fee, but a conference will be necessary to resolve differences between the two versions. It would be far better to sink the idea instead.

The proposal is both a budget fraud and a threat to public access to government information. The boat tax is expected to bring in $718 million over five years. The Congressional Budget Office estimated an alternative tax on information would generate $750 million over the same time. Yet private companies that now provide this data electronically to 90 percent of those who seek it in that form say this is a $6 million-a-year market: The revenue assumptions are way off the mark.

More important is the terrible precedent such a tax would set. The government now imposes fees for documents it collects or creates, but only to cover the costs of duplication and distribution. Even material published by the Government Printing Office is sold at cost plus 50 percent. Under this proposal, however, the fee for obtaining Federal Maritime Administration data would be 10 times the cost of producing it. This is not a charge for documents in the normal sense, it is a pure and simple revenue raiser.

Twenty-nine organizations—including some of which The Washington Post Co. is a member—concerned about the free flow of information and access to government documents strongly oppose this measure. So does the Bush administration. This bill would affect only one industry and one kind of material that is not in great demand outside that industry. But if it is enacted and brings in anywhere near as much money as its supporters suggest, what would then stop the government from rationing access to information by price? If the cost of obtaining Census data, budget information or the Congressional Record were to increase tenfold, how many citizens would be able to pay? Material produced by the government belongs to the public. Nominal fees to cover costs are perfectly all right. But balancing the budget by selling information to the people who by right already own it would be a travesty.

[From the Washington Post, June 25, 1992]

GOVERNMENT INFORMATION AS REVENUE SOURCE

(By Brent Mitchell)

Access to government documents is an issue that draws a specialized crowd on Capitol Hill. For a decade, opposing camps of librarians, academics and information companies have debated philosophy while trying to influence the distribution of thousands of computer files and databases the federal government creates every year.

But this year their narrow world was swept up into the bigger issue of taxes and the deficit. As part of Congress's never-ending search for revenue, the House Merchant Marine and Fisheries Committee earlier this month unanimously approved a new $21-an-hour charge for use of a new maritime computer database of information currently available, only on paper, for free.

The fees for using the Automated Tariff Filing and Information System (ATFI), a collection of shipping rates and data essential to U.S. commercial shippers, are designed to replace an estimated $718 million the government expects would be collected over the next five years from taxes on pleasure boats. That tax would be repealed.

The pleasure boat fee, enacted last year at a rate of $25 to $100 per boat, was widely unpopular. And under the rules of last year's budget agreement, no revenue source can be canceled without another created in its place.

Thus the proposed new charge—or "user fee," in the current anti-tax vernacular—for information. In response, industry and public interest groups have set aside some of their traditional differences to fight what they say is a new government royalty that will restrict access to public information.

The American Library Association sees free access to government-produced information as a basic democratic right—the data citizens need to participate in their nation's decisions. The Information Industry Association sees it as the raw material for the for-profit information industry.

But both are afraid the committee proposal will create a precedent in using provision of public information as a source of government revenue.

"If congressional committees are searching for funds to supplant or replace pet peeves that they have, then information is going to be a really easy target," said Ronald L. Plesser, who represents the Information Industry Association. "If this is successful, it will fundamentally change the nature of government information."

User fees—charges that theoretically cover government expenses—are commonly attached to documents or databases. But Plesser and others object to the 35 cents per minute of computer time the committee proposes to charge, because charges would not be limited to the primary user of the information.

Shippers currently receive such information by buying it from the information industry, which takes the on-paper data provided free by the government, processes it and distributes it in database form. The information companies also collect tariff information from the shippers and file it with the government for a fee.

Under the proposed system, anyone could have access to the computerized material by paying the fee. But any secondary user of that information—someone who gets access to the data through a private company or library—would also have to pay the government 35 cents per minute, and critics say that amounts to copyrighting the information.

"The long-term ramification is that you could have to pay for a wide variety of government information," said Patricia Glass Schuman, president-elect of the American Library Association. "It means that unless people can afford to pay, they don't have the right to know. . . . We believe that is the basic democratic principle."

George Pence, minority staff director for the Merchant Marine Committee, said that committee had no special interest in taxing the tariff database, but felt it was the best way to replace the money that would be lost from pleasure boaters.

The committee sees the ATFI charges as similar to fees charged for access to information like the census. The bill, proposed by Rep. Robert W. Davis (R-Mich.), opens access to any computer owner, and Pence said the database will still be available free, on paper, in the Federal Maritime Commission office.

"You usually think of copyrighted information as [what] a person gets paid for . . . but the copyright also gives you control over who can print it and who they can sell it to," Pence said. "None of that transfers with this [bill]. This specifically says that anyone can get this without limitation," as long as the government collects its fee.

Michael G. Sciulla, vice president of BOAT/US, an Alexandria-based organization of boaters, said the tariff database charge is justifiable because people who pay will receive a service in return. He said he told his 390,000 members to write Congress because the boat tax, officially a Coast Guard user fee when it was created by the House-Senate conference committee on the budget last year, was levied on 4.1 million boaters when only 49,000 annually need assistance.

The Davis bill will be considered next by the full House unless another committee asks to examine it. Plesser, of the Information Industry Association, said the Davis proposal may violate the Copyright Act and said that even with higher rates, the private companies that now distribute tariff information would not raise the $750 million in five years that the Congressional Budget Office projects.

Budget Committee Chairman Leon E. Panetta (D-Calif.), who had opposed the bill because its revenue would not fully replace the boat tax for two years, has accepted a subsequent committee proposal to delay repeal of the boat fees until 1993, according to his spokesman.

The American Library Association has led a coalition trying to give citizens greater access to all government computer documents, and Schuman said she supports the portion of the Davis bill that allows open access to the database.

Taxpayer Assets Project Director James P. Love testified in April against the constraints on ATFI. "What we are talking about is essentially the product that is at the bottom of the food chain." Love said last week. "These are just the facts and documents that everyone needs to analyze government policies and practices."

DELETION OF PROVISIONS AFFECTING THE COASTAL BARRIERS RESOURCES ACT

Mr. CHAFEE. Mr. President, I would like to seek a point of clarification regarding H.R. 2152 from Senator PACK-

WOOD. My understanding is that title VII of H.R. 2152, a bill to enhance the effectiveness of the United Nations international driftnet fishery conservation program, as passed by the House, amended the Coastal Barriers Resources Act [CBRA] which is within the exclusive jurisdiction of the Committee on Environment and Public Works. I also understand that the Committee on Commerce has deleted title VII and that H.R. 2152 as amended by the Commerce Committee and under consideration by the Senate contains no amendments to CBRA. Is this correct?

Mr. PACKWOOD. That is correct, and I would agree to oppose any amendments to CBRA on H.R. 2152, unless they are agreed to by the Environment and Public Works Committee.

Mr. CHAFEE. I thank the Senator and have no further questions.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 284, S. 1405, the NOAA authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1405) to authorize appropriations for certain programs of the National Oceanic and Atmospheric Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1991".

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH

SEC. 101. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $313,034,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

PUBLIC WARNING AND FORECAST SYSTEMS

SEC. 102. (a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under the law, $209,787,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) CONTINGENT LIABILITY.—In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriations Acts.

CLIMATE AND AIR QUALITY RESEARCH

SEC. 103. (a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $111,801,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a), $78,000,000 for fiscal year 1992 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

ATMOSPHERIC RESEARCH

SEC. 104. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $47,399,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SATELLITE OBSERVING SYSTEMS

SEC. 105. (a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $373,907,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(2) Of the sum authorized under paragraph (1), $2,300,000 in fiscal year 1992 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(b) EMERGENCY CONTINGENCY FUND.—There are authorized to be appropriated to the Secretary of Commerce, $110,000,000 for fiscal year 1992, to be deposited in an Emergency Weather Satellite Contingency Fund. Such Fund shall be available subject to the restrictions of appropriations Acts, without fiscal year limitation, only to the Secretary for the purpose of enabling the National Oceanic and Atmospheric Administration to maintain geostationary environmental satellite coverage for monitoring and prediction of hurricanes and severe storms, including but not limited to the procurement of gap filler satellites, launch vehicles, and payments to foreign governments.

(c) STRATEGIC PLAN.—(1) The Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration shall jointly develop and, not less than 120 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, and Space, and Technology of the House of Representatives a strategic plan for development, procurement, and operation of the environmental satellite program of the Department of Commerce.

(2) The objectives of the strategic plan shall be—

(A) to ensure continuous and adequate satellite coverage; and

(B) to require direct Federal fiscal and administrative accountability in all aspects of such environmental satellite program.

(3) The strategic plan shall—

(A) delineate the management duties and functions of each Federal department or agency involved in such satellite program;

(B) establish funding responsibilities for each Federal department or agency in a manner which reflects their respective management duties and functions;

(C) set forth procedures to be followed in the development, procurement, and operations of environmental satellites in such program;

(D) minimize the potential for developmental and procurement problems, and for cost overruns;

(E) provide for effective interagency coordination; and

(F) specify recommendations for legislative and administrative actions necessary to accomplish the objectives described in paragraph (2).

DATA AND INFORMATION SYSTEMS

SEC. 106. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $35,317,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data series, and environmental assessment and information services.

HURRICANE RECONNAISSANCE PROGRAM

SEC. 107. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

(b) RESPONSIBILITIES.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under this section and to transfer the data to the Secretary of Commerce, unless a joint agreement is reached, with the approval of both the Secretary of Defense and the Secretary of Commerce, for the transfer of such responsibility (including full funding) to an appropriate Federal agency or department which may include the Coast Guard.

(2) The Secretary of Commerce shall have the responsibility to provide funding for data gathering and research by remote sensing, ground sensing, research aircraft, and other technologies necessary to accomplish the program established under this section.

(c) MANAGEMENT PLANS.—(1) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under this section, which shall include organizational structure, goals, major tasks, and funding profiles for the 5-year duration of the program.

(2) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(3) The management plans and programs required by this section shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability (in terms of quantity and quality of aircraft, flying hours, crews, and support personnel), or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

UNITED STATES WEATHER RESEARCH PROGRAM

SEC. 108. (a) ESTABLISHMENT.—The Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall establish a United States Weather Research Program to—

(1) increase benefits to the Nation from the substantial investment in modernizing the public weather warning and forecast system in the United States;

(2) improve local and regional weather forecasts and warnings;

(3) address critical weather-related scientific issues; and

(4) coordinate governmental, university, and private-sector efforts.

(b) IMPLEMENTATION PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan for implementation of the United States Weather Research Program which shall—

(1) establish, for the 10-year period beginning in the year the plan is submitted, the goals and priorities for Federal weather research which most effectively advance the scientific understanding of weather processes and provide information to improve weather warning and forecast systems in the United States;

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, demonstration of potential operational forecast applications, and education and training required to achieve such goals and priorities; and

(3) set forth the role of each Federal agency and department to be involved in the United States Weather Research Program, identifying and addressing, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to such Program.

WEATHER SERVICE OFFICE IN RENO, NEVADA

SEC. 109. (a) FACILITY ACQUISITION.—The Administrator of the National Oceanic and Atmospheric Administration is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease of up to 30 years,

a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada area.

(b) REIMBURSEMENT AUTHORITY.—The Administrator is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

TRANSFER OF DATA ARCHIVING RESPONSIBILITY

SEC. 110. (a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C. 4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) PROVISION OF UNENHANCED DATA.—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4242(b)(4)) is amended by inserting "of the Interior" immediately after "Secretary".

(c) ARCHIVING OF DATA.—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting "of the Interior" immediately after "Secretary" each place it appears; and

(2) by adding at the end the following new subsection:

"(h) In carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.".

CLOSURE, CONSOLIDATION, AUTOMATION, OR RELOCATION OF FIELD OFFICES

SEC. 111. (a) PROHIBITION.—The Secretary of Commerce shall not close, consolidate, automate, or relocate, before January 1, 1996, any National Weather Service Office or National Weather Service Forecast Office, pursuant to weather service modernization.

(a) CERTIFICATION REQUIREMENT.—Section 408(b) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note), is amended to read as follows:

"(b)(1) The Secretary may not close, consolidate, automate, or relocate any such Office unless—

"(A) the Secretary has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives that such action will not result in any degradation of weather services provided to the affected area; and

"(B) at least one year has elapsed following the date of such certification.

"(2) The certification referred to in paragraph (1) shall be based upon an independent review by the National Academy of Sciences which shall include—

"(A) a detailed comparison of the services provided to the affected area and the services to be provided after such action;

"(B) any recent or expected modernization of National Weather Service operations which will enhance services in the affected area;

"(C) an identification of any areas within any State which would be adversely affected by the loss of manned weather stations;

"(D) an identification of any area within any State which would not receive complete and total coverage (at 10,000 feet) by the NEXRAD doppler network; and

"(E) a statement of all evidence, based upon operational demonstration of modernized National Weather Service operations, which was considered in reaching the conclusion that no degradation in services will result from such action.".

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

NATIONAL OCEAN SERVICE

SEC. 201. (a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $51,087,000 for fiscal year 1992.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $57,273,000 for fiscal year 1992;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), $4,500,000 for fiscal year 1992; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992.

(c) COASTAL OCEAN PROGRAM.—Of the sums authorized under subsection (b)(1), $17,352,000 for fiscal year 1992 are authorized to be appropriated for the purposes of conducting a Coastal Ocean Program. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include efforts to improve predictions of fish stocks to better conserve and manage living marine resources, to improve predictions of coastal ocean pollution to help correct and prevent degradation, and to improve predictions of coastal hazards to protect human life and personal property.

(d) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992.

OCEAN AND GREAT LAKES RESEARCH

SEC. 202. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992.

TITLE III—NOAA MARINE FISHERY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "$26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$52,843,000 for fiscal year 1992";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,869,000 for fiscal year 1992"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$15,585,000 for fiscal year 1992".

DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING

SEC. 302. Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

"(d) Of the sums authorized under subsection (a) of this section, $1,000,000 for fiscal year 1992 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

"(1) cooperative research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

FISHERIES RESEARCH

SEC. 303. Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after "FISHERIES RESEARCH.—" the following: "(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

FISHERY FACILITIES

SEC. 304. Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) for aquaculture, including operations on land or elsewhere—

"(A) any structure or appurtenance thereto designed for aquaculture;

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagraph (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

STUDY OF JOINT ENFORCEMENT OF FISHERIES REGULATIONS

SEC. 305. Not later than 4 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts in the western Pacific Ocean under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for the western Pacific Ocean, particularly in the exclusive economic zone adjacent to the Hawaiian Islands, the Northern Mariana Islands, and the territories and possessions of the United States;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of fisheries regulations, including but not limited to the chartering of light aircraft for fisheries surveillance and enforcement; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE

SEC. 306. (a) ESTABLISHMENT.—(1) The Administrator of the National Oceanic and Atmospheric Administration shall establish, within the Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter referred to as the "Office").

(2) The Office shall be headed by a Director who shall be appointed by the Administrator, in consultation with the Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Administrator in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Administrator with respect to the activi-

ties of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

(c) BUDGET LINE ITEM.—The Secretary of Commerce shall submit, for inclusion in the President's annual budget to the Congress, as a separate budget line item, a funding request from the Administrator for the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409), as amended by section 302 of this Act, is further amended by adding at the end the following new subsection:

"(e) Of the sums authorized under subsection (a) of this section, no more than $2,500,000 are authorized to be appropriated for fiscal year 1992 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 306 of the National Oceanic and Atmospheric Administration Authorization Act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.".

TITLE IV—MISCELLANEOUS PROVISIONS

PROGRAM SUPPORT

SEC. 401. (a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857–1 et seq.), and any other law involving those activities, $72,105,000 for fiscal year 1992.

(b) ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES.—(1) There are authorized to be appropriated to the Secretary of Commerce, for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $12,753,000 for fiscal year 1992.

(2) The Secretary of Commerce shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the Secretary's consent, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

(c) MARINE SERVICES.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,573,000 for fiscal year 1992.

(2) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1992.

(3)(A) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $800,000 for fiscal year 1992 for the reactivation and operation of the research vessel Albatross IV.

(B) If on the date of enactment of this Act the research vessel Albatross IV is not in active service, the Secretary of Commerce, subject to the availability of appropriations under this paragraph, shall reactivate that vessel.

(4) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate any research vessel of the National Oceanic and Atmospheric Administration, including the Albatross IV (if active), until an equivalent replacement vessel is operational.

(5)(A)(i) Except as provided in clause (ii), no vessel to be constructed for the National Oceanic and Atmospheric Administration, and no major component of the hull or superstructure of such a vessel, may be constructed in a foreign shipyard.

(ii) The President may authorize exceptions to the prohibition in clause (i) if the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to the Congress of that determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date such notice is received by the Congress.

(B)(i) A vessel of the National Oceanic and Atmospheric Administration, the homeport of which is in the United States, may not be overhauled, repaired, or maintained in a shipyard outside the United States.

(ii) Clause (i) does not apply in the case of voyage repairs.

(6) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken to ensure that vessels of the National Oceanic and Atmospheric Administration are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(d) NOAA FLEET MODERNIZATION.—(1) In addition to amounts authorized by subsection (c), there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992 modernization of the National Oceanic and Atmospheric Administration fleet $50,000,000 for maintenance, replacement, construction, and instrument upgrades of oceanographic research vessels.

(2) Not later than October 1, 1991, the Secretary of Commerce shall submit to the Congress a detailed fleet replacement and modernization plan, including a schedule of anticipated modernizations, acquisitions of vessels, acquisitions of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the plan.

(3)(A) Subject to subparagraphs (B), (C), and (D), and notwithstanding section 1341 of title 31, United States Code, and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary of Commerce may acquire vessels of the National Oceanic and Atmospheric Administration fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(B) The Secretary of Commerce may not enter into any contract pursuant to this subsection before the date of the submission to the Congress of a plan pursuant to paragraph (2).

(C) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the Secretary finds with respect to that contract that—

(i) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from the Congress funding for the contract at the level required to avoid contract termination; and

(ii) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(D) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision which specifies the term of effectiveness of the contract;

(iii) appropriate provisions under which in case of any termination of the contract before the end of the term specified pursuant to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount specified in the contract for such a termination; or

(II) amounts which were appropriated, before the date of the termination, for the performance of the contract or for procurement of the type of acquisition covered by the contract and which are unobligated on the date of the termination.

(e) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $8,900,000 for fiscal year 1992.

NOTICE OF REPROGRAMMING

SEC. 402. The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representatives, not less than 30 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lessor of—

(1) $500,000;

(2) 10 percent of the total funding of any program, project, or activity to which the funds are reprogrammed; or

(3) 5 percent of the total funding of any program, project, or activity from which the funds are reprogrammed.

TITLE V—COASTAL MONITORING

SHORT TITLE

SEC. 501. This title may be cited as the "Marine and Coastal Monitoring Act of 1991".

PURPOSE

SEC. 502. The purpose of this title is to establish under the Administrator a comprehensive national program for the monitoring of marine and coastal waters of the United States, which will provide the data and information on the status and trends of contamination levels and biological effects in such waters necessary for governmental entities to make well-informed management decisions concerning the utilization and protection of the resources of such waters.

DEFINITIONS

SEC. 503. As used in this title, the term—

(1) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce; and

(2) "marine and coastal" refers to the marine and coastal waters off the States along the coasts of the Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the Pacific Ocean, the marine and coastal waters off the coast of the State of Alaska, and the waters of the Great Lakes.

COMPREHENSIVE PROGRAM

SEC. 504. The comprehensive national monitoring program referred to in section 502 shall consist of—

(1) a nationwide monitoring network as described in section 505;

(2) intensive regional monitoring programs as described in section 506; and

(3) a national monitoring center as described in section 507.

NATIONWIDE MONITORING NETWORK

SEC. 505. (a) ESTABLISHMENT.—There is established within the National Oceanic and Atmospheric Administration of the Department of Commerce a unified nationwide monitoring network, which shall, on the date of enactment of this Act, include the activities and functions of the National Status and Trends Program of the National Oceanic and Atmospheric Administration as in existence immediately before such date of enactment. The network shall be the single Federal activity for the national-scale monitoring of the marine and coastal waters of the United States and shall evaluate the status and trends of the following aspects of such waters:

(1) Toxic substances, both organic and inorganic, and their biological effects.

(2) Nutrient over-enrichment and low oxygen conditions.

(3) Toxic and nuisance algal blooms.

(4) Overall ecological condition or health.

(b) INTERAGENCY COMMITTEE.—The Administrator shall carry out monitoring activities under this section in accordance with the guidance and priorities established by an interagency committee which shall be chaired by the Administrator and shall include representation from the Environmental Protection Agency, the United States Fish and Wildlife Service, the United States Geological Survey, and the Army Corps of Engineers.

REGIONAL MONITORING PROGRAMS

SEC. 506. (a) DESIGNATION OF REGIONS.—The Administrator shall designate specific estuarine and coastal regions of major concern in which the waters shall be intensively monitored. Such regions shall include—

(1) each of the estuarine areas listed in section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) as areas requiring priority consideration; and

(2) such additional areas as the Administrator may designate from among areas nominated for designation by the Governors of States that border those areas.

(b) MONITORING COORDINATION GROUPS.—(1) The Administrator shall establish monitoring coordination groups for each designated region to develop and direct a monitoring program tailored to the needs of the region and based on the existing monitoring conducted in the region. Each such group shall consist of representatives of the Federal, State, and other agencies with marine or coastal monitoring programs or responsibilities in the region and such academic and other experts as the Administrator may appoint. Each such group shall develop a longterm monitoring plan for the region and, within two years after the establishment of the group, shall submit the plan to the Administrator.

(2) The members of any such monitoring group shall receive neither compensation nor expenses, except that any nongovernmental experts appointed to the group may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the member's usual place of residence, in accordance with section 5703 of title 5, United States Code, when engaged in the actual performance of duties as a member of the group.

(c) REGIONAL MONITORING ACTIVITIES.—The Administrator shall ensure that the regional monitoring activities fully incorporate activities of the nationwide monitoring network established under section 505. The Administrator shall include only such additional sampling sites, times, and measurements as are required to assemble the data and information needed by regional resource managers to identify and address estuarine and coastal problems within the region.

(d) ANNUAL OPERATING PLAN.—After approval by the Administrator of its longterm monitoring plan, each regional monitoring group shall develop annually an operating plan for the monitoring activities to be conducted in its region. Each such plan shall identify—

(1) monitoring activities proposed to be conducted;

(2) the agency responsible for each such activity;

(3) the estimated cost for each such activity; and

(4) the source of funding available for each such activity.

The Administrator, upon recommendation by the regional monitoring group, may award supplemental funding for a specific monitoring activity, not to exceed 50 percent of the total cost of the activity.

(e) REGULATIONS.—The Administrator shall issue regulations necessary to implement the provisions of this section, including procedures for the approval of longterm monitoring plans and for the awarding of supplemental funding for regional monitoring activities.

NATIONAL COASTAL MONITORING CENTER

SEC. 507. (a) ESTABLISHMENT OF CENTER.—Within 90 days after the date of enactment of this Act, the Administrator shall establish the National Oceanic and Atmospheric Administration a National Coastal Monitoring Center. The Center shall develop scientific methods and procedures for carrying out the monitoring activities under this title in an effective, efficient, and economical manner and shall issue reports and other data products to disseminate in a timely manner the results of such activities.

(b) FUNCTIONS.—The Center shall, among other things—

(1) develop a coordinated national data and information management system to assure compatibility of all data and information developed under this title and facilitate the exchange of such data and information;

(2) develop a coordinated national quality assurance and quality control program to assure accuracy and compatibility of all data and information obtained in the nationwide network and regional programs established under this title;

(3) support research studies to develop improved procedures and methods for monitoring marine environmental quality indicators and conditions;

(4) implement studies to develop recommendations for standardized sampling protocols, analytical measurement methods, and statistical data analysis procedures to be used in the nationwide network and regional programs established under this title;

(5) organize national and regional workshops and meetings, develop reports, and otherwise take actions to coordinate the Federal, State, regional, and other monitoring programs carried out in association with the nationwide network and regional programs established under this title; and

(6) develop periodically reports assessing various aspects of the status and trends of the environmental quality of marine and coastal waters of the United States, including the development every two years of a report synthesizing all the results from the activities under this title to provide an overall evaluation of the current conditions indicating environmental health of these areas and an identification of significant trends that are occurring in these conditions.

BOSTON HARBOR MONITORING

SEC. 508. (a) IN GENERAL.—As part of the program established under this title, the Administrator shall, in connection with the cleanup of the Boston Harbor, develop sophisticated and credible techniques and methodologies for collecting and analyzing baseline data on environmental phenomena in the Harbor, such as bacteria, quantity and quality of indigenous species, and swimmability. The Administrator shall work with the Massachusetts Water Resources Agency in preparing a multiyear plan for such development of techniques and methodologies.

(b) CAPE COD BAY MONITORING.—The Administrator is authorized to conduct monitoring of the ecological impacts on Cape Cod Bay resulting from the cleanup of Boston Harbor, including the effects of the effluent from the proposed outfall. Such monitoring shall be conducted in coordination with and through other appropriate public and private entities.

AUTHORIZATION OF APPROPRIATIONS

SEC. 509. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the program established by this title, $3,000,000 for fiscal year 1992, $7,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, and $15,000,000 for fiscal year 1995.

TITLE VI—NOAA FOUNDATION

SHORT TITLE

SEC. 601. This title may be cited as the "NOAA Foundation Establishment Act".

ESTABLISHMENT AND FUNCTIONS

SEC. 602. (a) ESTABLISHMENT.—There is established a charitable and nonprofit corporation to be known as the NOAA Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is not an agency or establishment of the United States.

(b) FUNCTIONS.—The functions of the Foundation are—

(1) to encourage, accept, and administer private gifts for the benefit of, or in connection with, the programs and activities of the National Oceanic and Atmospheric Administration, and for the benefit of, or in connection with, the activities of the Foundation;

(2) to undertake activities to enhance, support, or complement the research, analysis, measurement, assessment, conservation, management, regulatory, and service programs and activities of the National Oceanic and Atmospheric Administration;

(3) to participate with and otherwise assist international organizations, foreign governments, entities, and individuals in undertaking and conducting activities of a type conducted by the National Oceanic and Atmospheric Administration or which complement its programs and activities; and

(4) to conduct education, demonstration, outreach and training (including the convening of symposia and the presentation of public exhibitions and displays) to foster understanding of the mission of the National Oceanic and Atmospheric Administration and its programs and activities, and to stimulate and encourage appropriate cooperation and participation in its activities by regional, State and local agencies, and private organizations and individuals.

BOARD OF DIRECTORS

SEC. 603. (a) MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereafter referred to in this title as the "Board"). The Board shall consist of 13 voting members, of whom—

(1) at least 11 shall be United States citizens;

(2) nine shall be knowledgeable with respect to one or more of the research, analysis, measurement, assessment, conservation, management, regulatory, or service programs and activities of the National Oceanic and Atmospheric Administration; and

(3) four shall be educated and experienced in a scientific, technical, or professional field relating to one or more of the programs or activities of the National Oceanic and Atmospheric Administration.

The membership of the Board shall, in aggregate, possess a broad understanding of the range of programs and activities of the National Oceanic and Atmospheric Administration, and to the extent practicable, shall represent diverse points of view relating to those programs and activities. The Administrator of the National Oceanic and Atmospheric Administration shall be an ex-officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—By October 1, 1991, the Secretary of the Commerce shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years; except that the Secretary, in making the initial appointments to the Board, shall appoint four members to a term of 2 years, four members to a term of 4 years, and five members to a term of 6 years. A vacancy on the Board shall be filled, within 60 days after such vacancy, in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a member.

(c) CHAIRMAN.—From among its voting members the Board shall elect a chairman, who shall have a 2-year term.

(d) QUORUM.—A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business at that time.

(e) MEETINGS.—The Board shall meet at the call of the chairman at least once a year. If an individual serving as a voting member misses three consecutive regularly scheduled meetings, the Secretary of Commerce may remove that individual from the Board as a voting member and fill the vacancy in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the functions of the Foundation and the provisions of this title; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this title.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer and (ii) shall be knowledgeable and experienced in matters relating to the functions and programs of the National Oceanic and Atmospheric Administration.

RIGHTS, OBLIGATIONS, AND POWERS OF THE FOUNDATION

SEC. 604. (a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its functions under section 602, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, device, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that neither the members of the Board nor the officers or employees of the Foundation shall be personally liable, other than for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make and receive such payments as may be necessary to carry out functions of the Foundation;

(6) to engage in joint projects with the National Oceanic and Atmospheric Administration under any law authorizing the Secretary of Commerce or the Administrator of the National Oceanic and Atmospheric Administration to engage in joint projects with private, non-profit organizations; and

(7) to do any and all acts necessary and proper to carry out the functions of the Foundation. For purposes of this title, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

ADMINISTRATIVE SERVICES AND SUPPORT

SEC. 605. (a) PROVISION OF SERVICES.—The Secretary of Commerce may provide personnel, facilities, and other administrative services and assistance to the Foundation, including reimbursement of expenses under section 603(f) not to exceed current Federal Government per diem rates, for a period of up to 5 years after the date of enactment of this Act.

(b) REIMBURSEMENT.—The Foundation may reimburse the Secretary of Commerce for any administrative service provided under subsection (a). The Secretary shall deposit any reimbursement received under this subsection into the Treasury to the credit of the appropriation then current and chargeable for the cost of providing such services.

VOLUNTEER STATUS

SEC. 606. The Secretary of Commerce may accept, without regard to the civil service classification laws, rules, or regulations, the service of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Commerce, as volunteers in the performance of the functions authorized under this title, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

AUDITS, REPORT REQUIREMENT, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF

SEC. 607. (a) AUDITS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following new paragraph:

"(75) NOAA Foundation.".

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its functions set forth in section 602(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

RELEASE FROM LIABILITY

SEC. 608. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 609. There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to provide administrative services to the Foundation under section 605, $200,000 for fiscal year 1992.

AMENDMENT NO. 2944

(Purpose: To make an amendment in the nature of a substitute)

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senator KERRY of Massachusetts and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], on behalf of Mr. KERRY, for himself, Mr. STEVENS, and Mr. HOLLINGS, proposes an amendment numbered 2944.

Mr. MITCHELL. I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KERRY. Mr. President, I rise to offer my strong support for S. 1405, the National Oceanic and Atmospheric Administration Authorization Act of 1991. The National Oceanic and Atmospheric Administration [NOAA] is the Nation's lead civilian oceanic and atmospheric agency. As such, NOAA is responsible for a number of diverse and important Federal activities—from monitoring the Antarctic ozone hole to regulating fishing off the Massachusetts coastline.

Consideration of this important legislation, which I introduced on June 29, 1991, is long overdue. The legislation before the Senate today is a Committee substitute for the original text of S. 1405. In the substitute amendment, the Committee has worked to create a comprehensive NOAA authorization bill that covers the full range of agency responsibilities and addresses a number of key policy issues. The bill contains important provisions that will further national efforts to improve public weather warning and forecast systems, conserve marine resources, manage and protect the coastal environment, and monitor and assess global threats like greenhouse warning and ozone depletion.

I am particularly pleased that this legislation will finally begin the effort to modernize the NOAA fleet. At present, 23 NOAA vessels comprise about one-third of the total Federal oceanographic research capability. This fleet is essential for collecting scientific data to study ocean circulation and global climate change, charting the U.S. exclusive economic zone, monitoring our coastal water quality and assessing the state of American fisheries. Yet despite these important missions, NOAA vessels have been allowed to slip into a state of disrepair, and most are nearing the end of their 25-year service life. In addition, the ships need upgraded scientific equipment to address today's complex jobs such as mapping the ocean floor. Money authorized in this legislation will begin the process of revitalizing the fleet. The bill also requires detailed planning and realistic schedules for acquiring new ships and equipment and for replacing aging vessels.

S. 1405 also contains provisions to deal with another important NOAA activity—providing the public with weather forecasts and storm warnings. This past year, my State was hit by Hurricane Bob in August and a Halloween northeaster 2 months later. These storms caused severe damage to many coastal communities throughout New England. A number of counties in Massachusetts were declared disaster areas. As bad as the damage was, I am told that the loss of human life and property would have been far worse without the early warnings provided by the National Weather Service.

Over the past 7 years, the National Weather Service has embarked on a multimillion-dollar effort to replace outdated weather radars and observing systems, and to restructure existing field office operations to take best advantage of these new technologies. The weather service modernization effort has received broad congressional support and strong public interest. However, at the same time, many local communities have asked for assurances that they will not find themselves faced with a reduction in weather coverage as a result. In recent months, I have worked with my colleagues in the House and Senate, with the administration, and with local user groups to develop a compromise for maintaining current weather services throughout the modernization and restructuring period.

One point on which I have found complete agreement is that our public weather warning and forecast system is essential for safeguarding the lives and property of Americans across the Nation. We have also recognized the importance of keeping local weather stations open until new weather radars and observing systems are fully operational and until communities have had adequate time to assess the effects of modernization on the weather services they receive. Under existing law, before the Secretary of Commerce can close or automate a weather station, she must certify that there will be no degradation in weather services to the affected area. However, concerns have been voiced about the need for an independent review of that certification. In addition, questions have been raised about the need to ensure that communities are kept informed about changes in their local services.

In crafting this compromise, my goal has been to develop an alternative certification process that would be cost effective, ensure public safety, and allow the National Weather Service to continue implementation of the modernization program. I particularly wish to acknowledge the interest of our committee chairman, Senator HOLLINGS, in this issue. In addition, I have appreciated the leadership of Senator PRESSLER who was the principal sponsor of S. 98, the National Weather Service Modernization Act, as well as that of Senator DASCHLE who introduced S. 916, Modernization Program of the National Weather Service. Provisions of both the Pressler and Daschle bills have been incorporated into the compromise before us today.

Under this compromise, closure of any field office would be prohibited before January 1, 1996. S. 1405 calls for the National Academy of Sciences to review decision criteria for closing stations. In addition, the compromise would: First, mandate annual submission to Congress of a National Implementation Plan laying out prospective modernization activities for the subsequent two-year period; second, establish a Modernization Transition Committee to review closure decisions; and third, provide for a public comment period before such a decision could be implemented. When commissioning new radar systems, thorough documentation would be required to show that the new system met performance standards before the old system would be decommissioned. Finally, at least one liaison officer would be required to remain in an area for at least 2 years after closure of a weather service office in the area. Through these steps, the legislation would ensure that community preparedness and public access to weather services will not be disrupted during the modernization process.

Turning to the wet provisions of S. 1405, environmental quality issues have become a growing concern for coastal and marine waters. In 1990, the National Academy of Sciences issued a report on the marine monitoring needs of the Nation, including recommendations for establishing a comprehensive monitoring program. These Academy recommendations form the basis for bill provisions to authorize a NOAA-EPA monitoring program for ocean and coastal waters. The monitoring program recognizes that some regions and local areas have special problems, requiring focused attention. For this reason, the program would target certain areas for more intense monitoring activities, including a proposed effort in my own region of the country. In Massachusetts, a $6 billion effort is underway to improve water quality in Boston Harbor through improved wastewater treatment. This is one of the largest cleanups undertaken in the Nation, and provides a unique opportunity for scientists and managers to evaluate its effectiveness.

Why do we need this monitoring effort? Using a local example, I am optimistic that it will show the rate-payers of Massachusetts that the large cost of the cleanup will indeed bring Boston Harbor into compliance with the Clean Water Act and provide fishable and swimmable waters. Careful monitoring also can be used to ensure that the Harbor cleanup does not degrade adjacent waters. In particular, the new offshore outfall must not pollute Cape Cod Bay or waters of Massachusetts Bay, especially the future marine sanctuary site at Stellwagen Bank. NOAA's monitoring program in this region should not duplicate the work of the Massachusetts Water Resources Authority and the U.S. Geological Survey. Close coordination with these agencies, as well as with the Massachusetts Coastal Zone Management office, will be essential to determine the most effective use of NOAA resources.

Looking at marine fishery issues, S. 1405 calls for NOAA to undertake needed research for developing alternative tuna fishing techniques that do not involve targeting dolphins. The American public has made it clear that it will no longer tolerate the senseless killing of dolphins by the world's tuna fleets. Strong efforts by the United States have reduced dolphin mortality but have not eliminated it. Efforts to strengthen international dolphin protection programs must continue. However, it is also time to develop alternatives that will allow valuable tuna resources to be harvested without harming dolphins. Other nations, as well as the tuna industry, are willing to contribute funds to this effort.

There are several additional provisions in this bill that are particularly important to my State. This year, NOAA is reactivating the Albatross, the NOAA vessel located in Woods Hole. This research vessel conducts stock assessments for fisheries throughout New England. At a time when many of the North Atlantic stocks are in decline, it is absolutely essential that we have accurate, up-to-date information on the state of the stocks so that informed management decisions can be made. S. 1405 specifically authorizes the funds that are needed to keep the Albatross running throughout the year.

The bill will also help the aquaculture industry by making guaranteed loans from the Fisheries Obligation Guarantee Program [FOG] available for this growing sector of the fishing business. The FOG program initially provided money for fishing vessels, but was later expanded to include fishery facilities. The purpose of the program was to provide needed capital to enhance development of the seafood industry. However, when a Massachusetts aquaculture company applied for a FOG loan, it was told that it was not eligible. As fish farming expands, and with overcapitalized conditions in many other fisheries, allowing use of the fund for aquaculture is only good sense.

Mr. President, the oceans and atmosphere are critical components of the Earth's ecosystem. These complex systems moderate global temperatures, protect us from the sun's ultraviolet radiation, and provide us with precious natural resources. The programs of the National Oceanic and Atmospheric Administration are essential for study, conservation and management of these systems. I am pleased that we are passing this important legislation today and would like to thank my colleagues who have worked with me to complete it.

Mr. HOLLINGS. Mr. President, I rise today in support of legislation to authorize appropriations for the National Oceanic and Atmospheric Administration [NOAA] for fiscal years 1992 and 1993. NOAA is the Nation's primary civilian agency collecting information about our oceans, atmosphere, and climate. Events of recent years, such as discovery of the Antarctic ozone hole and the *Exxon Valdez* oilspill, remind us of just how important such information is for ensuring the sound use of our natural resources and the protection of our global environment. Through its observation and assessment programs, NOAA monitors the environmental pulse of the planet, and over the years the agency has done its job well.

S. 1405, the National Oceanic and Atmospheric Administration Authorization Act of 1992, reauthorizes many important NOAA atmospheric and satellite, ocean and coastal, and fisheries programs. The legislation we are considering today is a substitute amendment that authorizes appropriations of $1.52 billion in fiscal year 1992 and $1.66 billion in fiscal year 1993 for NOAA administrative support and programs. The authorizations provided in the amendment are for NOAA activities in addition to those programs reauthorized under separate statute.

The substitute also contains provisions to deal with a number of important marine and atmospheric issues. Among the issues addressed are: First, modernization of the NOAA oceanographic research fleet; second, development of a comprehensive national program to monitor marine and coastal waters; third, requirements for future NOAA satellite procurements and authorization of an emergency fund to ensure weather satellite coverage; fourth, restrictions on weather station closures; and fifth, development of a joint 5-year hurricane reconnaissance program by NOAA and the Department of Defense [DOD]. I am particularly pleased that the amendment includes a compromise on the contentious weather station closing issue, and I thank Senator KERRY, PRESSLER, and DASCHLE for their efforts in that matter.

With respect to ocean issues, protection of the coastal environment has become a focus of activity at all levels of government. Each year, the various governmental agencies spend billions of dollars on corrective measures to improve our coastal environmental quality. In 1990, Federal, State, and local agencies, public utilities, and private corporations spent more than $133 million to monitor the condition of the marine environment. Given this substantial investment, it is time to establish the national comprehensive coastal monitoring program proposed in this legislation before us today. This comprehensive program would promote coordination, prevent duplication of agency efforts, and ensure a more efficient assessment of the problem and response to situations of environmental concern. The program would build on established NOAA environmental monitoring programs such as the National Status and Trends Program.

The substitute also authorizes funds to operate and build replacement vessels for the aging NOAA oceanographic fleet. NOAA performs a broad spectrum of scientific research and monitoring tasks that require it to operate a fleet of research and survey vessels in coastal and deep ocean environments. Although NOAA's duties have increased significantly in recent years, the capabilities and condition of its fleet have deteriorated to the point that the fleet is unable to carry out NOAA's current research and monitoring missions. Most NOAA vessels have reached the end of their 20- to 25-year life expectancy and are facing retirement. Further, only six of NOAA's 23 vessels have undergone partial midlife rehabilitation. Responding to concerns about the condition of the fleet, a 1991 NOAA study examined fleet and vessel requirements and proposed upgrading existing ships, replacing others, and obtaining additional ship support from other sources. The substitute amendment recognizes both the urgent need to begin modernizing and rebuilding the NOAA fleet and the importance of detailed and comprehensive planning to ensure that this effort is implemented effectively.

Regarding atmospheric and weather issues, the Nation is faced with the challenge of weather service modernization. The need for weather service modernization is clear—the existing warning and forecast system is outdated, and we are threatened by reduced services as a result of more frequent equipment failures. The current equipment, a reflection of 1950's technology, will be replaced by 1990's technology that should improve dramatically the accuracy and timeliness of weather predictions. On the other hand, the costs associated with this modernization will be substantial. In recent years, the Federal Government has spent over $1.5 billion to replace and update weather satellites, radars, surface-observing technologies, and computer capabilities. Department of Commerce [DOC] officials estimate that, over the next decade, an additional $2.5 billion will be needed to complete the job. They assure us that the enormous costs of the new system will be repaid by public savings in energy, property, lives, and suffering.

While I am willing to accept DOC's assurances about the value of the modernization program, I cannot ignore two growing concerns. First, we must ensure that essential weather warnings and forecasts are maintained as modernization is implemented. Second, we must do a better job of controlling the costs of new weather satellites, radars, and other technology. The substitute contains provisions to address both these concerns.

On an issue of primary importance in guaranteeing current service levels, the substitute would prohibit closure of local weather offices before January 1, 1996. Administration officials already have testified that we will have plenty of opportunity to see how the new radars, the new processing systems, and the new communications systems work before they make changes in community weather station operations. Little more than 2 years ago, former Secretary of Commerce Robert Mosbacher issued a press release directing that "all of the nation's operating weather stations remain in service at current operating levels while a comprehensive program to modernize and restructure the National Weather Service is completed." Through the prohibition on station closings, we are holding the administration at it word on this issue. At the same time, we are giving communities necessary reassurances that they can continue to depend on their local offices until the new technology has proven to live up to Weather Service expectations.

I know that many of my colleagues have received letters from community leaders similar to the one I received recently from Mayor Larry Abernathy of Clemson, SC. Concerned about the proposed closing of the nearby Greer weather office, Mayor Abernathy in his July 21, 1992, letter, writes:

> My community has a population of 11,100 persons, and their need of adequate weather forecasts and warnings of severe weather is no less and no greater than that of citizens of other communities in our state.
>
> There can be no doubt that communities within forty to sixty miles of a new doppler weather radar unit, particularly if it is staffed adequately by National Weather Service meteorologists, will enjoy more accurate weather forecasts, and severe weather warnings than ever before.
>
> But there is no doubt either that all radar signals travel line-of-sight; and that if the center of the radar beam does not strike the lower 10,000 feet of atmosphere above my community, there may quite likely be times when it will not be warned if very severe weather is about to strike, or it will be told to expect tornado-like storms which fail to materialize in or near the community.
>
> The fact is that with limited experience to guide it, the National Weather Service is reducing its total number of adequately manned stations by more than one-half, and eliminating all of the older weather radar units in its entire system.
>
> Yet once the meteorology staffs of the more than one hundred NWS offices are pulled and placed at the NEXRADS, and the older weather radars are put in mothballs, it will be too late to decide that the National Weather Service moved too fast.

The substitute before the Senate today will ensure that important decisions to protect public safety are not made too late. In addition to the station closing prohibition, the legislation would strengthen current requirements for proposed closures after 1996 and for automating or relocating field offices. Under existing law, the Secretary of Commerce must certify that such actions would result in no degradation of service to the public. S. 1405 also calls for public input on changes in weather service field operations, and establishes a Modernization Transition Committee to provide independent oversight. The goal of the legislation is to provide the National Weather Service with the flexibility needed to implement modernization effectively, while assuring the public that it will continue to receive the high-quality weather services on which it depends.

In order to ensure continuity of weather satellite coverage, the substitute authorizes $110 million to be appropriated for deposit in an emergency weather satellite contingency fund. This fund could be used in an emergency, such as a failure of the existing geostationary weather satellite, GOES–7, to obtain alternative satellite coverage. In addition, the substitute directs NOAA and the National Aeronautics and Space Administration to come to Congress within 120 days with a new strategic plan for the development, procurement, and operation of the DOC's environmental satellites. The joint plan would have two objectives: to ensure continuous and adequate satellite coverage and to require direct Federal fiscal and administrative accountability in all aspects of the program.

Finally, the amendment includes an important provision dealing with hurricane reconnaissance. Given the destructive legacy of Hurricane Hugo, this provision is of particular interest to the Southeast. As South Carolina learned in 1989, the Nation's national severe weather warning system is of incalculable value in reducing casualties and preparing for the onslaught of a hurricane. For almost 30 years now, that national system has relied in large part on Air Force WC–130 flights to collect vital information for accurate advance warnings of hurricanes and severe coastal weather. The substitute would establish a 5-year, joint program between NOAA and DOD to ensure that hurricane reconnaissance flights continue. The provision also would prohibit transfer of the planes from the Air Force without the agreement of the other agencies involved.

Mr. President, NOAA's programs address many critical issues facing the Nation, including the need for accurate weather warnings and forecasts, effective conservation and management of living marine resources, and increased understanding of global atmospheric and oceanic processes. The legislation before us today would authorize NOAA to continue with its many programs focusing on these important problems, and I urge my colleagues to support its passage.

Mr. BREAUX. Mr. President, I rise in support of the amendment that is being offered today to repeal the user fee imposed upon the recreational boaters of this country. This fee is grossly unfair and burdensome and should be repealed without further delay.

The recreational boat user fee was included as part of the Budget Reconciliation Act of 1990. Its purpose was not to fund increased services that the Coast Guard would offer to the boating public or to increase safety measures that would benefit boaters. Rather, its sole purpose was to help pay off the Government debt. Boaters receive absolutely no additional benefits by paying the fee. In fact, the term "user fee" is a misnomer. This "fee" is a tax inside and out—no matter what you call it.

The user fee repeal is phased out over a period of 2 years. The phaseout begins in fiscal year 1993 and ends at the end of fiscal year 1994.

The budget offset, which is necessary in order for us to repeal the recreational boat fee, will be provided by funds derived from a fee imposed on users of the new automated tariff filing and information [ATFI] system that is being implemented by the Federal Maritime Commission [FMC]. This system will permit both ocean carriers and shippers to access tariffs, or transportation rates for the carriage of goods, by remote computer access, as well as by computer access at the FMC. There will be no charge for access to the system at the FMC. Charges will only be imposed for remote, or off-site, access.

The ATFI system is a new service provided to carriers and shippers which is not now available to them. Because of enhancements to the data provided by the FMC these parties will be able to compare rates among carriers more effectively and efficiently. It is, therefore, appropriate to change for this service which is, in fact, a new benefit to which carriers and shippers may avail themselves. Also, the ATFI access fee is not permanent. It expires at the end of fiscal year 1995.

Repeal of the user fee has garnered far reaching support. We have heard testimony from the public and statements by many Members fully supporting the fee repeal. The House has overwhelmingly passed a bill repealing the user fee. I encourage my colleagues in the Senate to follow suit and to act quickly to repeal this unfair tax on American boaters.

Mr. President, I request that the text of my statement be printed in the CONGRESSIONAL RECORD.

Mr. LAUTENBERG. Mr. President, I rise in support of title V of the committee substitute to S. 1405, the NOAA Authorization Act of 1991. Title V establishes a comprehensive monitoring program for our oceans and coastal waters.

Mr. President, we have made a great deal of progress in restoring the health of our marine waters. We no longer discharge raw sewage and dump sewage sludge and industrial waste into our coastal waters and ocean. We have begun to address nonpoint pollution—runoff—which threatens our waters. And fish are returning to our Nation's estuaries.

But more remains to be done. According to EPA's latest national water quality inventory, in 1988, 30 percent of those estuaries which have been assessed either are failing to achieve water quality standards or threaten to fail to achieve those standards. And 224 beach closures were reported in 18 States. These are remarkable figures nearly two decades after passage of the Clean Water Act.

I have joined Senator MITCHELL in introducing S. 1070, the Coastal Protection Act, to provide the program we need to address the remaining coastal problems. This act is based on hearings held jointly in 1989 by the Subcommittee on Superfund, Ocean and Water Protection which I chair and the Subcommittee on Environmental Protection. We'll address most of the provisions of the Coastal Protection Act during the Senate's consideration of the Clean Water Act.

One essential element to restoring the health of our waters and one component of the Coastal Protection Act is to establish a comprehensive marine monitoring program. Title V establishes such a program based on the monitoring program included in the Coastal Protection Act. It would establish a program to monitor garbage and other floatables along our shorelines, develop protocals for marine pollution monitoring and disseminate information about marine pollution. These provisions were first included in the Comprehensive Ocean Assessment and Strategy Act which I introduced in 1989.

Title V will be an important part of our efforts to protect our coastal waters. I am pleased that it is contained in this legislation.

Mr. BREAUX. Mr. President, I rise today for the purposes of a colloquy on the National Shellfish Indicator Program contained in the National Oceanic and Atmospheric Administration Authorization Act of 1992, S. 1405. My esteemed colleague, the Senator from Massachusetts [Mr. KERRY] will take part in this discussion.

Mr. KERRY. I understand that the Senator from Louisiana [Mr. BREAUX] has been substantially involved with the National Shellfish Indicator Program contained in the National Oceanic and Atmospheric Administration Authorization Act of 1992. Is it your understanding, Senator BREAUX, that the National Shellfish Indicator Program is intended to be a competent, scientifically based research program, to be conducted through a designated university consortium?

Mr. BREAUX. Yes, the Senator is correct. Presently, States are using federally mandated shellfish standards and shellfish growing water standards developed before major scientific advancements were made this decade in toxicological, epidemiological and microbiological analysis. With these latest scientific advancements, the shellfish standards should be reviewed and possibly revised to reflect changes in the scientific basis for the shellfish growing waters standards. The National Shellfish Indicator Program is intended to be a competent, scientifically based and focused research program to improve the existing classification system for shellfish growing waters. The Program will be conducted by a designated university consortium.

Mr. KERRY. Is it further the Senator's understanding that the National Shellfish Indicator Program will make recommendations for revising Federal shellfish standards and for improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption?

Mr. BREAUX. That is correct. The National Shellfish Indicator Program will make recommendations to the National Oceanic and Atmospheric Administration and the Food and Drug Administration for revising Federal shellfish standards and for improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption. The program also has the intent and purpose of improving existing national classification systems for shellfish growing waters using the latest technological advancements in microbiology and epidemiological methods. The program is expected to recommend improvements to existing shellfish programs and will not duplicate existing Federal, State, or local shellfish programs.

Mr. KERRY. Is it also your understanding that the National Shellfish Indicator Program funding is to be used as a source of funding for analysis and review of Federal shellfish standards, not as a method to provide Federal funding for, or replace, ongoing and existing Federal, State or local shellfish programs which are presently funded by Federal, State and local agencies?

Mr. BREAUX. Again, the Senator is correct. Funding for this program is to be used as a source of funding for analysis and review of Federal shellfish standards that will be used to improve the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption, not as a method to provide Federal funding for, or replace, existing Federal, State or local shellfish management programs which are presently funded by Federal, State and local agencies.

Mr. KERRY. I thank the Senator for clarifying the intent of the National Shellfish Indicator Program. I agree this is an important program and will be of great value in making recommendations for revising Federal shellfish standards and for improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption.

Mr. BREAUX. I thank the Senator from Massachusetts for helping to clarify the intent of this critical and important section of the National Oceanic and Atmospheric Administration Authorization Act of 1992.

• Mr. BURDICK. I want to commend the authors of the bill for developing constructive and farsighted legislation.

The Environment and Public Works Committee worked with the Commerce, Science, and Transportation Committee in developing new authority contained in the bill for monitoring of marine waters. We have provided for a monitoring program to be jointly managed by the Environmental Protection Agency [EPA] and the National Oceanic and Atmospheric Administration [NOAA]. We also have agreed that this new authority, structured as an amendment to the Marine Protection, Research, and Sanctuaries Act, will be the joint jurisdiction of both committees.

Mr. HOLLINGS. I thank the Senator from North Dakota and want to indicate that I share his view that this is important new monitoring authority and that the program will be under the joint jurisdiction of the Commerce and Environment and Public Works Committees.

Mr. LAUTENBERG. The portions of the Marine Protection, Research, and Sanctuaries Act within the jurisdiction of the Environment and Public Works Committee are handled by my Subcommittee on Superfund, Ocean, and Water Protection. The subcommittee developed a comprehensive marine monitoring program which was included in S. 1070, which I joined Senator MITCHELL in introducing. Title V of the NOAA Authorization Act includes language similar to the provisions of S. 1070.

The addition of the marine monitoring authority is an important step toward understanding the condition of our marine waters. I am pleased with the cooperative effort to address this issue in the Senate, and I hope that the agencies involved will address this problem in the same cooperative spirit.

Mr. KERRY. The marine monitoring provision before us today is based on a provision I developed in the Commerce Committee. The amended provision adds new authority for the EPA to work jointly with NOAA on these efforts and reflects provisions included in S. 1070, introduced by Senators MITCHELL and LAUTENBERG. It also includes important new authority for intensive monitoring of specific areas, including Cape Cod Bay.•

Mr. CHAFEE. Mr. President, I want to commend the authors of S. 1405, a bill authorizing appropriations for the National Oceanic and Atmospheric Administration. I am particularly pleased with title V of this bill, which establishes a comprehensive program for consistent monitoring of the Nation's marine ecosystems.

As Senators BURDICK, HOLLINGS, LAUTENBERG, and KERRY have noted in a colloquy, this title was jointly developed by the Committee on Commerce, Science and Transportation, and the Committee on Environment and Public Works. It will be jointly administered by the Environmental Protection Agency and the National Oceanic and Atmospheric Administration. Title V amends the Marine Protection, Research and Sanctuaries Act, and will be the joint jurisdiction of both committees.

The need for a National Marine Monitoring Program, as provided for in this act, is becoming increasingly more apparent. In hearings before the Environment and Public Works Committee, I and other Senators have been frustrated by the lack of definitive answers to seemingly basic questions. Is the shell disease seen in many New England lobsters caused by the ocean disposal of sludge? No one seems to know for sure. Why have oyster harvests in Chesapeake Bay declined by almost two-thirds? What is causing the disorder that results in the beaching of hundreds of dolphins? What is the relationship between the introduction of pollutants to the marine environment and the contamination of marine organisms? What is the impact of extensive new sewage treatment plant capacity on the water quality of Narragansett Bay?

In 1988, Robert Duce, then dean of the University of Rhode Island's Graduate School of Oceanography, lamented in congressional testimony that in many coastal areas we simply do not know with any scientific accuracy whether there has been improvement or degradation. He also noted that the necessary measurements and long-term monitoring programs that can give us a standard against which we can gauge water quality, and by which we can measure water quality changes, simply have not been available for most coastal regions.

Before Government can act intelligently, it is essential that we develop a thorough scientific understanding of our marine resource and identify threats to its quality. This knowledge is vital if we are to protect the marine environment and act to prevent problems before they become unmanageable. A report by the congressional Office of Technology Assessment concluded that—monitoring, research, and enforcement are currently inadequate. Information gaps still constrain analyses of marine wastes disposal, partly because of lack of information gathering in some areas of the country, lack of systematic analyses of gathered data, and ineffective dissemination of results.

Title V of the bill we are approving today is in direct response to this critical lack of information. It is a major step toward collecting the information we need to accurately determine the health of our Nation's marine ecosystems.

I am also pleased, Mr. President, that the monitoring program activities conducted by the Environmental Protection Agency will be conducted at the EPA Environmental Research Laboratory in Narragansett, RI. This laboratory is already conducting the near-coastal activities under EPA's Environmental Monitoring and Assessment Program, and is working closely with NOAA in implementing its status and trends program. Also the Narragansett lab is directly involved with the Marine Ecosystem Research Laboratory at the University of Rhode Island, a facility that is uniquely capable of simulating pollution impacts on the marine environment. The EPA Environmental Research Laboratory at Narragansett is ideally suited to conducting the monitoring activities authorized in this legislation.

I would urge all my colleagues to support this legislation.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2944) was agreed to.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the measure as passed the Senate today will be printed in a future edition of the RECORD.)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 364, H.R. 2130, the House companion measure, and that all after the enacting clause be stricken, the text of the Senate passed amendment be inserted in lieu thereof, that H.R. 2130 be deemed read the third time, passed, the motion to reconsider be laid upon the table; and further that the amendment to the title be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2130), as amended was deemed read a third time, and passed.

The title was amended so as to read: "An Act to authorize appropriations for the National Oceanic and Atmospheric Administration, and for other purposes.".

MEASURE RETURNED TO CALENDAR—S. 1405

Mr. MITCHELL. Mr. President I ask unanimous consent that passage of S. 1405 be vitiated, and that the bill be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAIVING PERIOD OF CONGRESSIONAL REVIEW FOR CERTAIN DISTRICT OF COLUMBIA ACTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 5623, a bill to waive the period of congressional review for certain District of Columbia Acts, and that the Senate then proceed to its immediate consideration, that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5623) was deemed read the third time, and passed.

CHILDHOOD CANCER MONTH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Judiciary Committee be discharged from further consideration of House Joint Resolution 492. a joint resolution designating September 1992 as Childhood Cancer Month; that the Senate proceed to its consideration; that it be deemed read a third time, and passed.; that the motion to reconsider be laid upon the table, and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the Joint Resolution (H.J. Res. 492) was deemed read the third time, and passed.

INDIAN BUSINESS OPPORTUNITIES ENHANCEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 618, S. 3118, the Indian Business Opportunities Enhancement Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3118) to increase employment and business opportunities for Indians, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Business Opportunities Enhancement Act".

SEC. 2. FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress, after careful review of the economic conditions on Indian reservations, and the historical and special legal relationship of the Federal Government with Indian people, finds that—

(1) economic self-sufficiency is an essential element in achieving self-determination by Indian tribes and Indian people;

(2) increased Indian employment and business opportunity are key elements to achieving economic self-sufficiency for Indian tribes;

(3) the funds spent by the United States on reservations or otherwise spent for the benefit of Indians need to be utilized, not only to purchase goods and services but, to the maximum extent feasible, to promote Indian employment and business opportunities on or near Indian reservations;

(4) the awarding of a preference in training, employment, contracting, and subcontracting opportunities has proven to be an exceptionally effective means of ensuring that Indians receive the maximum benefit from Federal funds appropriated on their behalf; and

(5) companies and individuals that seek to take improper advantage of Indian preference opportunities hinder Indian economic development and damage the credibility of Indian preference programs.

(b) DECLARATIONS.—The Congress declares that—

(1) a major national goal of the United States is to ensure that the procurement of goods and services on Indian reservations or otherwise for the benefit of Indians shall be carried out in a manner that achieves the maximum benefit for Indian employment and business development on or near Indian reservations; and

(2) a secondary, but essential goal, is to prevent and prohibit companies from misusing Indian preference programs.

SEC. 3. BUY INDIAN ACT AMENDMENT.

(a) PREFERENCE.—(1) The Secretary of the Interior, where funds are appropriated for the benefit of Indians, shall—

(A) in the award of the contract, including (but not limited to) housing, roads and facilities, construction, office supplies or printing, provide a preference to Indian preference enterprises that provide the greatest economic impact on Indian reservations; and

(B) require that the recipient of the contract—

(i) provide preferences to Indians for training and employment in connection with such contract and require any recipient of a subcontract to provide such preferences, and

(ii) provide a preference to Indian preference enterprises in the awarding of subcontracts under the contract.

(2) When establishing criteria for evaluating proposals for a contract subject to the provisions of this Act, the Secretary shall provide that no less than 2 percent of the evaluation points shall be awarded for each of the criteria set out in paragraph (3) of this subsection that an enterprise, whether Indian- or non-Indian-owned, satisfies or swears, in an affidavit, that it will satisfy in carrying out the contract.

(3) Solely for the purpose of determining which bid is the lowest after the opening of sealed bids on any contract subject to this Act, a bidder, whether Indian or non-Indian, shall be credited with a deduction equal to 2 percent of its bid amount for each of the following factors that the bidder, by means of an affidavit accompanying the bid, swears that he satisfies or will satisfy in carrying out the contract:

(A) the bidder's main office is located on an Indian reservation and at least 50 percent of the dollar value of the contracts of the bidder for each of the previous 2 years has taken place within 300 miles of its main office;

(B) no less than 70 percent of the subcontract dollars the bidder will award under the contract will be awarded to reservation-based, Indian-owned subcontractor as evidenced by a subcontract plan which specifically cites the Indian subcontractor and the subcontract price; and

(C) no fewer than 70 percent of the person hours that will be expended in carrying out the contract will be worked by Indians.

(4) An enterprise which, upon completion of the contract, failed to satisfy any of the factors which it swore it satisfied or would satisfy in its affidavit pursuant to the provisions of this subsection, shall pay a penalty equal to 10 percent of the contract amount. However, the contracting officer may decrease the penalty if the contractor demonstrates, by substantial evidence, that it failed to satisfy the factor or factors because of events that were beyond its control. If the contracting officer has reason to believe that the enterprise's failure to satisfy any of its representations under this subsection resulted from deliberate misrepresentation, the officer shall refer the matter to the appropriate United States Attorney who shall determine whether prosecution under section 1001 of title 18, United States Code, is appropriate.

(5) The contracting officer shall not make an award on any contract subject to this Act until the prospective awardee has submitted an acceptable Indian preference compliance plan. The Plan shall, at a minimum, describe how the awardee intends to maximize the use of qualified Indian workers, subcontractors, and suppliers. The contracting officer shall provide the tribe on whose reservation the contract is to take place, with not less than 2 calendar days during which the tribe may review and comment on the plan prior to acting on it. However, all final determinations regarding the acceptability of a compliance plan shall vest in the contracting officer.

(6)(A) The Secretary of the Interior shall have the authority to provide a preference to Indian preference enterprises in the award of a contract that does not involve funds appropriated for the benefit of Indians by any agency within the Department of the Interior if the Secretary believes the preference will help fulfill the special responsibilities of the Secretary toward Indians.

(B) The Secretary may, in his discretion, establish annual objectives for each Bureau and office within the Department of the Interior for the total amount obligated for contracts and subcontracts entered into with Indian preference enterprises, including mass media, owned and controlled by Indians or Indian tribes, the majority of the earnings of which directly benefit such individuals or tribes.

(7) The preferences provided by reason of this subsection shall have priority over all other Federal procurement preferences.

(8)(A) For the purposes of this section, funds awarded or distributed under a contract are appropriated for the benefit of Indians if—

(i) Indians are the primary beneficiaries of the contract;

(ii) the majority of the activity to be undertaken under the contract takes place within the exterior boundaries of an Indian reservation; or

(iii) the contract is entered into under the Act of April 16, 1934 (25 U.S.C. 452 et seq.), or under title II of the United States Housing Act of 1937 (42 U.S.C. 1437aa et seq.).

(B) The provisions of this section shall not apply to the awarding of contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) by the Department of the Interior, but shall apply to the awarding of subcontracts of such contracts, and to employment and training opportunities under such contracts and subcontracts.

(C) The provisions of this section shall not apply with respect to contracts for the procurement of expert advice and testimony in litigation conducted by the United States as trustee for Indian or Indian tribes.

(D) This section shall apply to all Indian preference enterprises of all Indian tribes.

(E) Nothing in this section shall preclude the Indian Health Service, the Office of Indian Programs in the Department of Housing and Urban Development, the Indian Health Service or the Administration for Native Americans from utilizing, at their discretion, the preferences provided under this section where funds are appropriated for the benefit of Indians.

(9)(A) The Department of the Interior shall implement the preference provided under paragraph (1)(A) by limiting the competition for the awarding of a contract to Indian preference enterprises if—

(i) there is reasonable expectation that offers will be obtained from at least—

(I) 3 responsible offerors in the case of a contract for architectural engineering services, or

(II) 2 responsible offerors in the case of a contract for the procurement of any other services or for the procurement of any product; and

(ii) the contract can be awarded at a fair and reasonable price.

(B) If only one offer is received under a competition restricted to Indian preference enterprises, the Department of the Interior may negotiate an award of the contract at a fair and reasonable price to such offering Indian preference enterprise.

(10)(A) If it is not feasible for the Department of the Interior to limit the competition for the award of a contract under the authority of paragraph (9), and the Department elects to award the contract after full and open competition, the contract shall be awarded to any responsible Indian preference enterprise submitting the lowest bid submitted by a responsible Indian preference enterprise, if that bid does not exceed the bid submitted by any other responsible bidder by more than the percentage prescribed by the Department of the Interior in regulations. If a factor other than price is determinative in the award of a contract, the Department shall utilize a comparable method to provide a preference to Indian preference enterprises in the selection process.

(B) The percentage prescribed in subparagraph (A) that establishes a maximum limitation on the difference between the bids shall not be more than 10 percent.

(11) The preference requirements of this section may be waived only if the responsible officer determines that there are extraordinary circumstances. The determination to make such a waiver may only be made by the Assistant Secretary of the Interior for Indian Affairs.

(12) The Department of the Interior, to the greatest extent feasible, shall advertise the contracts to which this section applies at a date sufficiently in advance of the date of performance must begin under the contract to permit a subsequent open market advertisement of the contract if the contract cannot be awarded under the limited competition provision of this subsection.

(13)(A) Except as provided in subparagraph (B), the preferences required to be provided to enterprises under this section may only be provided to Indian preference enterprises.

(B) The requirements of the Small Business Competitiveness Demonstration Program Act of 1988 (Public Law 100-656) shall not apply to contracts awarded pursuant to this section. The Secretary shall set aside the following contracts

for Indian preference enterprises that are either tribally owned or small, as the term "small" is defined by section 3 of the Small Business Act (15 U.S.C. 632):

(i) all construction contracts estimated to cost less than $1,000,000,

(ii) all design contracts estimated to cost less than $100,000, and

(iii) all other contracts as appropriate to ensure Indian-owned businesses have an ample opportunity to develop.

(C)(i) An Indian preference enterprise may benefit from a preference provided under this section only if the enterprise submits to the Department of the Interior or person that is to provide the preference an affidavit certifying that the enterprise continues to meet the requirements necessary for certification by the Secretary as an Indian preference enterprise. The affidavit shall be executed and submitted at the time the contract or subcontract offer is submitted and again at the time the contract or subcontract is awarded.

(ii) The Department of the Interior or any person that receives an affidavit submitted by an enterprise under clause (i) shall submit a copy of the affidavit to any Indian tribe that would be affected by the contract or subcontract for which the enterprise seeks a preference under this section.

(iii) Prior to actual award of a contract the Secretary will verify the accuracy of the successful bidder's preference affidavit by conducting an on-site visit to the enterprise and other due diligence related to the affidavit.

(iv) The Secretary may waive the on-site visit requirement set forth in clause (iii) of this subparagraph if such waiver is in the best interest of the Federal Government.

(D)(i) Any Indian preference enterprise that—

(I) is engaged in construction activities, and

(II) has successfully completed, independently, at least one contract, may enter into joint ventures with other enterprises that are not Indian preference enterprises, provided that such joint venture is certified by the Director of Indian Business Utilization.

(ii) Any Indian preference enterprise that enters into a joint venture under clause (i) shall remain eligible, and the joint venture shall be eligible, for preferences under this section so long as the Indian preference enterprise—

(I) owns and controls at least 51 percent of the joint venture and receives at least 51 percent of the profits of the joint venture,

(II) has successfully completed, independently, at least one contract for each contract awarded to the joint venture for which a preference is provided under this section,

(III) serves as the general partner for managing the joint ventures, and

(IV) until such joint venture has completed four construction contracts.

(b) For purposes of this section—

(1) The term "Indian preference enterprise" means an Indian enterprise that is certified under subsection (c) of this section as eligible for the preferences provided under this section, and which satisfies one of the following criteria:

(A) an enterprise which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act),

(ii) is entirely owned by one or more Indian tribes, which receive 100 percent of the profits of the enterprise, or

(iii) is entirely owned by one or more Indians, one of whom—

(I) acts as the chief executive officer of the enterprise, and

(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise,

(B) an enterprise—

(i) which is engaged in any business other than construction,

(ii) at least 51 percent of which is owned by one or more Indian tribes that receive not less than 51 percent of the profits of the enterprise, or

(C) an enterprise—

(i) which is engaged in any business other than construction,

(ii) at least 51 percent of which is owned by one or more Indians who receive not less than 51 percent of the profits of the enterprise, and

(iii) which has an Indian owner who—

(I) acts as chief executive officer of the enterprise, and

(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise.

(2) The terms "Indian" and "Indian tribe" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.450b).

(3) The term "Secretary" means the Secretary of the Interior.

(4) Except for purposes of paragraph (8)(B) of subsection (a) the term "contract" includes subcontracts.

(5) The term "Indian reservation" has the same meaning given to the term "Reservation" by section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(c)(1) An enterprise seeking to utilize the preference provided for under this Act shall self-certify that it is an Indian preference eligible enterprise. An enterprise shall, when submitting a contract or subcontract bid or proposal for a preference provided by this Act, submit an affidavit swearing that it meets the certification requirements set out by the agency awarding the contract or subcontract. Nothing in this provision shall prohibit the Department of the Interior, when conducting a preaward review, from investigating an enterprise's eligibility for the preferences provided for in this Act or from determining at that stage that an apparent awardee is in fact not eligible for such preferences.

(2) The regulations of the Department of the Interior implementing the provisions of this Act providing for protests to challenge an enterprise's self-certification shall provide that eligible protesters include:

(A) The tribe on whose reservation the contract is to be carried out.

(B) Offerors.

(d)(1) There is established within the Department of the Interior an Office of Indian Business Utilization (hereinafter referred to as the "Office"), which shall be under the supervision and direction of a Director of Indian Business Utilization (hereinafter referred to as the "Director").

(2) The Director shall have such responsibilities as the Secretary deems appropriate and necessary to carry out the duties of the Director under this Act.

(3) The Office of Indian Business Utilization shall—

(A) after consulting with the Secretary, develop and publish a set of criteria to be utilized by Indian enterprises in certifying themselves as eligible for the preferences provided under this section, as well as regulations necessary to implement the provisions of this section, within 180 days after enactment of this section;

(B) be the principal Federal office responsible for overseeing the administration of the provisions of this section;

(C) conduct periodic random investigations of Indian preference enterprises to ensure that those enterprises satisfy the criteria under subsection (c)(1), and are eligible for preferences;

(D) upon request, assist the Department of the Interior agencies to investigate complaints alleging one or more violations of this section or the regulations prescribed under this section, including (but not limited to) allegations that—

(i) an enterprise that does not qualify as an Indian preference enterprise was awarded a contract with the assistance of a preference provided under this section,

(ii) an enterprise misrepresented its status to the Office or a contracting officer, or

(iii) an enterprise is no longer an Indian enterprise or in compliance with the criteria established under this section;

(E) investigate complaints alleging that an Indian tribe is improperly administering preferences required under this section in a manner that exhibits a documented pattern of abuse and seriously jeopardizes the rights of Indians or Indian enterprises;

(F) monitor the implementation of the preference provided by this section and report to Congress as appropriate when the Office has determined that there is a need to amend the provisions of this section;

(G) certify joint ventures pursuant to paragraph (13)(D)(i) of subsection (a); and

(H) have whatever additional responsibilities the Secretary may prescribe.

(4) If, as the result of an investigation, the Department of the Interior determines that any of the conditions described in paragraph (3) of this subsection exists with respect to any enterprise, the Secretary shall—

(A) revoke the certification of such enterprise as an Indian enterprise eligible for the preferences provided under this section;

(B) transmit all information available regarding such conditions to the Inspector General of the Department of the Interior; and

(C) transmit all information to the Director of the Office of Indian Business Utilization.

(5)(A) Any determination by the Department of the Interior to deny any enterprise certification as an Indian enterprise eligible for the preferences provided under this section, or to revoke such certification—

(i) shall constitute a rebuttable presumption that such enterprise is ineligible for such preferences, and

(ii) may be appealed pursuant to the Contract Disputes Act of 1978.

(B) The decision of the contract appeals board under subparagraph (A) shall—

(i) be considered final agency action by that department on petition, and

(ii) be subject to judicial review under chapter 7 of title 5, United States Code.

(6) In addition to the requirements of subsection (c)(1), an Indian tribe may require that firms seeking an award of a contract or subcontract subject to this section that is to take place on the tribe's reservation on which preference provided under this section is to be provided, be precertified by the tribe as being eligible for such preference. Failure to submit a certification application shall disqualify an enterprise from competing. Denial of the certification by the tribe shall not disqualify an enterprise from competing for such contract. After an apparent awardee is selected, if a protest is filed against an enterprise that was certified as eligible by the tribe, or if the apparent awardee was denied certification by the tribe, the Department of the Interior shall make a determination of eligibility within 15 days, giving substantial weight to the tribe's determination certifying or denying certification to the enterprise that is the subject of the protest. The decision of the Department of the Interior shall be final and no appeal shall be permitted.

(e)(1) If—

(A) a contract to which the preferences provided under this section apply is to be performed on a reservation of an Indian tribe; and

(B) the governing body of the Indian tribe has—

(i) established preferences generally comparable to those provided under this section,

(ii) established a tribal office to enforce those preferences, and

(iii) submitted to the Secretary a written request by tribal resolution that this paragraph apply, the Federal agency awarding the contract on that tribe's reservation shall delegate to the tribe responsibility for monitoring the contractor's compliance with that agency's Indian preference requirements.

(2) Enforcement authority under this section shall remain with the Department of the Interior.

(3) The Department of the Interior shall provide an Indian tribe with notification of any contract, the performance of which will occur on such tribe's reservation, no less than 30 days prior to the advertising of the contract, unless waived by the tribe, and shall otherwise work cooperatively with the tribe on enforcement of Indian preferences provided under this section.

(4) Nothing in this section shall be interpreted to preempt tribal authority to independently impose or enforce Indian preference requirements which are not inconsistent or in conflict with this section or other applicable law.

(f) In addition to any other penalties provided under Federal or tribal law, whoever misrepresents the status of an individual as an Indian, or of an enterprise as an Indian enterprise or an Indian preference enterprise, in order to obtain a preference under this section for such person or any other person—

(1) shall be subject to a civil action brought in a tribal court of an Indian tribe affected by the misrepresentation and a civil penalty of not more than $1,000 may be imposed;

(2) shall be liable to the United States for the amount paid under any contract, that was obtained by reason of the preference;

(3) shall be subject to suspension and debarment as specified in subpart 9.4 of part 9 of title 48 of the Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government; and

(4) shall be ineligible for any preference provided under this section.

(g)(1) The Director may request the Inspector General of the Department of the Interior to conduct an investigation of any contract or subcontract with respect to which preferences are required to be provided under this section.

(2) By no later than the date that is 60 days after the date on which a request is submitted to the Inspector General of the Department of the Interior under paragraph (1), the Inspector General shall submit to the Director a written response to the request detailing the actions, if any, the Inspector General will take with respect to the request.

(h)(1)(A) The Secretary, through the Director, shall establish an Indian Enterprise Bonding Demonstration Program to assist Indian enterprises in obtaining bonds from traditional surety companies.

(B) The bonding program established by this subsection may include assistance to Indian preference enterprises or traditional surety companies, involving, but not limited to—

(i) issues of tribal sovereignty,

(ii) trust status of Indian property on Indian reservations,

(iii) procedures to expedite dispute resolution regarding change orders and unforeseen delays in project completion,

(iv) collateral requirements, and

(v) management and credit experience.

(C) The Secretary may, in connection with the Indian Enterprise Bonding Demonstration Program—

(i) provide advance payments to Indian contractors in amounts to cover the bonding, mobilization, labor, subcontractors, materials, fuel, and special leased equipment for an individual project,

(ii) provide government-furnished materials for use by the Indian contractor, and

(iii) provide other appropriate assistance to the Indian contractor.

(2) The Secretary may, at his discretion, waive the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.), with respect to a contract awarded to an Indian preference enterprise by a Federal agency if—

(A) the award price of the contract is anticipated to be $500,000 or less;

(B) the Indian preference enterprise has been determined to be a responsible contractor capable of performing the contract;

(C) the Federal agency determines that the Indian preference enterprise has been unable to obtain the requisite bonds either through the Indian Enterprise Bonding Demonstration Program or after making good faith application to at least 2 surety firms determined by the Secretary of the Treasury to issue acceptable bonds pursuant to chapter 93 of title 31, United States Code, even with a guarantee provided pursuant to title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.); and

(D) the Indian preference enterprise has provided for the protection of persons furnishing materials and labor, in lieu of a payment bond, through a program of direct disbursement from the Federal Government of payments due to such persons from such Indian preference enterprise through an escrow account established and maintained by the Indian preference enterprise at any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(3) A waiver granted under paragraph (2) of this subsection shall be granted as a last resort, and is entirely subject to the discretion of the Secretary.

(i)(1) Each agency of the Department of the Interior that issues a contract or subcontract pursuant to this section, the Indian Self-Determination and Education Assistance Act (Public Law 93–638), the Act of April 16, 1934 (40 Stat. 596), or any other Federal law authorizing Federal contracts with Indian organizations or for the benefit of Indians, shall comply with the requirements of the Prompt Payment Act (31 U.S.C. 3901–3906).

(2) The Secretary shall, consistent with the purposes of the Administrative Dispute Resolution Act (104 Stat. 2736 et seq.) provide an alternative dispute resolution procedure that offers a prompt, expert, and inexpensive means of resolving disputes that arise under contracts subject to this Act as an alternative to litigation in Federal courts. Such mechanism shall—

(A) be available on request to any enterprise, and

(B) produce a recommendation for settlement within a reasonable time period from the date the contracting officer receives the enterprise's request.

(3) Any enterprise involved in a dispute pursuant to paragraph (2) of this subsection may request that arbitration be used to resolve a dispute arising under this Act. Such arbitration shall produce a final, binding decision within 45 days from the date the contracting officer receives the enterprise's request.

(j) Section 23 of the Act of June 25, 1910 (25 U.S.C. 47), is repealed.

SEC. 4. CONFORMING AMENDMENTS.

The first paragraph under the subheading "Secretary" that is under the superior heading "I. General Provisions" of the Act of April 30, 1908 (25 U.S.C. 47) is amended by striking out the last proviso.

SEC. 5. CRIMINAL PENALTIES.

Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 1171. INDIAN PREFERENCES.

"Any person who, in any document, with the intent to defraud the Government knowingly conceals or fails to disclose any fact, the disclosure of which—

"(1) is required under section 3 of the Indian Business Opportunities Enhancement Act, or any regulations prescribed under such section, or

"(2) is necessary to verify or clarify whether an enterprise or individual is eligible for any preference provided under such section, shall be fined not more than $50,000, or imprisoned not more than 5 years or both.".

SEC. 6. MANPOWER AND JOB TRAINING.

The Secretary of the Interior is authorized to negotiate and enter into cooperative agreements with Indian tribes to engage in cooperative manpower and job training and development programs including the performance of work on lands owned and controlled by the Department of the Interior. Such cooperative agreements may be entered into with any agency or office within the Department of the Interior. In such cooperative agreements, the Secretary of the Interior is authorized to advance or reimburse funds to tribes from any appropriations available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 3324 of title 31, United States Code.

SEC. 7. FEDERAL FACILITIES FOR THE BENEFIT OF INDIANS.

(a) LOCATION OF FACILITIES.—The Bureau of Indian Affairs and the Indian Health Service shall, in all matters connected with establishing or developing facilities to provide services or assistance to Indians, locate such facilities on tribal lands, unless patently not feasible to do so.

(b) EMPLOYMENT PERFORMANCE.—Any employment opportunities at the facilities described in subsection (a) shall be subject to the employment preferences provided by this Act.

SEC. 8. DATABASE.

(a) ESTABLISHMENT.—The Secretary shall enter into contracts with an eligible entity to establish and operate an Indian Enterprise Data Center.

(b) DATA COLLECTION.—The responsibility of the Data Center shall include—

(1) listing Indian enterprises eligible for various Federal minority preference programs,

(2) listing the businesses in which such enterprises are engaged,

(3) listing the experience of such enterprises in fulfilling contract obligations,

(4) listing the capabilities of such enterprises,

(5) verifying preference information and documentation submitted to the Data Center and reporting any discrepancies to the Office of Indian Business Utilization,

(6) listing advance procurement information for the purposes of bid matching contract opportunities to contractor capabilities,

(7) listing known front organizations or fraudulent operators, and

(8) providing whatever additional information the Secretary deems relevant.

(c) INFORMATION DISSEMINATION.—The Data Center annually shall provide a list of Indian enterprises eligible for various minority preferences to the Federal agencies that administer such preferences, and to private entities requesting such list.

(d) ELIGIBLE ENTITIES.—Entities eligible to enter into a contract under subsection (a) shall be tribal, private, public, or educational institutions with experience in Indian business development.

Mr. CONRAD. Mr. President, I rise in strong support of S.3118, the Indian Business Opportunities Enhancement Act. This legislation is the product of discussions that have spanned more than 3 years, beginning with the effort to amend the Buy Indian Act that took place during the 101st Congress.

In 1990, the President pocket vetoed S.321, which would have made significant changes in the 80-year-old Buy Indian Act. Since that time, negotiations have taken place with an eye toward fashioning a compromise that would address the very real deficiencies in the current law, as well as address the administration's objections to the original proposal.

The bill before us is a bipartisan effort to do just that. It is cosponsored by Senators INOUYE, MCCAIN, SIMON, MURKOWSKI, AKAKA, BURDICK, DOMENICI and myself, and I am pleased that the Senate is prepared to consider it today.

The need to significantly amend the Buy Indian Act became apparent in 1989, during hearings held by the Special Committee on Investigations. The special committee, which was established by the Select Committee on Indian Affairs, conducted an investigation of fraud, corruption, and mismanagement in American Indian affairs. The investigation revealed that unscrupulous front companies were taking improper advantage of vulnerable Indian entrepreneurs and abusing Federal contracting preferences.

Beyond the front issue, it has become increasingly clear that the Buy Indian Act is not sufficiently geared to providing meaningful economic development opportunities on Indian reservations.

The Indian Business Opportunities Enhancement Act comprehensively addresses each of these shortcomings.

The bill better focuses the Buy Indian Act on reservation economic development. It establishes set-asides to ensure that small local businesses have ample opportunity to develop. It creates mechanisms to expedite dispute resolution and contract payments. It helps Indian businesses obtain surety bonds. And it provides numerous safeguards against front operations.

I chaired the Select Committee's hearing on this measure on July 2, 1992. At that time, although the bill had been formulated in cooperation with the Bureau of Indian Affairs, the administration refused to allow the BIA or the Indian Health Service to answer substantive questions about the bill, or even state the agency's position on the bill.

I was very unhappy with the BIA, to put it mildly, when they testified before me at the hearing. I thought they should have been prepared to offer substantive comments, but they were not.

But Mr. President, since that time the BIA has made a valiant effort to convince the administration that it should support this legislation. And if not for the BIA's advocacy during the last few weeks, it is safe to say that this bill would not be before the Senate today. I commend and thank the BIA for its efforts since the hearing, and hope those efforts will continue.

But I don't have the same words for the remainder of the administration, including the Indian Health Service. In fact, I find the actions of much of the administration in this matter disgraceful. The fact that the BIA had to fight so vehemently to support this bill within the administration makes me question the administration's sensitivity to those who reside throughout Indian country.

At the same time, Mr. President, the fact that the BIA has been moderately successful gives me hope that the administration will ultimately join our effort to enact this much-needed legislation into law.

Mr. President, this proposal has undergone substantial modifications as part of the committee's good faith attempt to compromise with the administration. Indeed, I believe the committee has met the administration more than half way. It is time for the administration to become a constructive partner in this debate, rather than hide behind the misinformed reluctance of a few government bureaucrats. I urge the administration to join in the effort to enact this important legislation this year.

Thank you, Mr. President. I yield the floor.

AMENDMENT NO. 2945

(Purpose: To reduce a civil penalty)

Mr. MITCHELL. On behalf of Senator INOUYE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. INOUYE, proposes an amendment numbered 2945.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 3(f)(1) of the committee substitute, strike out "$50,000" and insert in lieu thereof "$1,000".

Mr. MITCHELL. The question is on agreeing to the amendment.

The amendment (No. 2945) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Business Opportunities Enhancement Act".

SEC. 2. FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress, after careful review of the economic conditions on Indian reservations, and the historical and special legal relationship of the Federal Government with Indian people, finds that—

(1) economic self-sufficiency is an essential element in achieving self-determination by Indian tribes and Indian people;

(2) increased Indian employment and business opportunity are key elements to achieving economic self-sufficiency for Indian tribes;

(3) the funds spent by the United States on reservations or otherwise spent for the benefit of Indians need to be utilized, not only to purchase goods and services but, to the maximum extent feasible, to promote Indian employment and business opportunities on or near Indian reservations;

(4) the awarding of a preference in training, employment, contracting, and subcontracting opportunities has proven to be an exceptionally effective means of ensuring that Indians receive the maximum benefit from Federal funds appropriated on their behalf; and

(5) companies and individuals that seek to take improper advantage of Indian preference opportunities hinder Indian economic development and damage the credibility of Indian preference programs.

(b) DECLARATIONS.—The Congress declares that—

(1) a major national goal of the United States is to ensure that the procurement of goods and services on Indian reservations or otherwise for the benefit of Indians shall be carried out in a manner that achieves the maximum benefit for Indian employment and business development on or near Indian reservations; and

(2) a secondary, but essential goal, is to prevent and prohibit companies from misusing Indian preference programs.

SEC. 3. BUY INDIAN ACT AMENDMENT.

(a) PREFERENCE.—(1) The Secretary of the Interior, where funds are appropriated for the benefit of Indians, shall—

(A) in the award of the contract, including (but not limited to) housing, roads and facilities, construction, office supplies or printing, provide a preference to Indian preference enterprises that provide the greatest economic impact on Indian reservations; and

(B) require that the recipient of the contract—

(i) provide preferences to Indians for training and employment in connection with such contract and require any recipient of a subcontract to provide such preferences, and

(ii) provide a preference to Indian preference enterprises in the awarding of subcontracts under the contract.

(2) When establishing criteria for evaluating proposals for a contract subject to the provisions of this Act, the Secretary shall provide that no less than 2 percent of the evaluation points shall be awarded for each of the criteria set out in paragraph (3) of this subsection that an enterprise, whether Indian- or non-Indian-owned, satisfies or swears, in an affidavit, that it will satisfy in carrying out the contract.

(3) Solely for the purpose of determining which bid is the lowest after the opening of sealed bids on any contract subject to this Act, a bidder, whether Indian or non-Indian, shall be credited with a deduction equal to 2 percent of its bid amount for each of the following factors that the bidder, by means of an affidavit accompanying the bid, swears that he satisfies or will satisfy in carrying out the contract:

(A) the bidder's main office is located on an Indian reservation and at least 50 percent of the dollar value of the contracts of the bidder for each of the previous 2 years has taken place within 300 miles of its main office;

(B) no less than 70 percent of the subcontract dollars the bidder will award under the contract will be awarded to reservation-based, Indian-owned subcontractor as evidenced by a subcontract plan which specifically cites the Indian subcontractor and the subcontract price; and

(C) no fewer than 70 percent of the person hours that will be expended in carrying out the contract will be worked by Indians.

(4) An enterprise which, upon completion of the contract, failed to satisfy any of the factors which it swore it satisfied or would satisfy in its affidavit pursuant to the provisions of this subsection, shall pay a penalty equal to 10 percent of the contract amount. However, the contracting officer may decrease the penalty if the contractor demonstrates, by substantial evidence, that it failed to satisfy the factor or factors because of events that were beyond its control. If the contracting officer has reason to believe that the enterprise's failure to satisfy any of its representations under this subsection resulted from deliberate misrepresentation, the officer shall refer the matter to the appropriate United States Attorney who shall determine whether prosecution under section 1001 of title 18, United States Code, is appropriate.

(5) The contracting officer shall not make an award on any contract subject to this Act until the prospective awardee has submitted an acceptable Indian preference compliance plan. The Plan shall, at a minimum, describe how the awardee intends to maximize the use of qualified Indian workers, subcontractors, and suppliers. The contracting officer shall provide the tribe on whose reservation the contract is to take place, with not less than 2 calendar days during which the tribe may review and comment on the plan prior to acting on it. However, all final determinations regarding the acceptability of a compliance plan shall vest in the contracting officer.

(6)(A) The Secretary of the Interior shall have the authority to provide a preference to Indian preference enterprises in the award of a contract that does not involve funds appropriated for the benefit of Indians by any agency within the Department of the Interior if the Secretary believes the preference will help fulfill the special responsibilities of the Secretary toward Indians.

(B) The Secretary may, in his discretion, establish annual objectives for each Bureau and office within the Department of the Interior for the total amount obligated for contracts and subcontracts entered into with Indian preference enterprises, including mass media, owned and controlled by Indians or Indian tribes, the majority of the earnings of which directly benefit such individuals or tribes.

(7) The preferences provided by reason of this subsection shall have priority over all other Federal procurement preferences.

(8)(A) For the purposes of this section, funds awarded or distributed under a contract are appropriated for the benefit of Indians if—

(i) Indians are the primary beneficiaries of the contract;

(ii) the majority of the activity to be undertaken under the contract takes place within the exterior boundaries of an Indian reservation; or

(iii) the contract is entered into under the Act of April 16, 1934 (25 U.S.C. 452 et seq.), or under title II of the United States Housing Act of 1937 (42 U.S.C. 1437aa et seq.).

(B) The provisions of this section shall not apply to the awarding of contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) by the Department of the Interior, but shall apply to the awarding of subcontracts of such contracts, and to employment and training opportunities under such contracts and subcontracts.

(C) The provisions of this section shall not apply with respect to contracts for the procurement of expert advice and testimony in litigation conducted by the United States as trustee for Indian or Indian tribes.

(D) This section shall apply to all Indian preference enterprises of all Indian tribes.

(E) Nothing in this section shall preclude the Indian Health Service, the Office of Indian Programs in the Department of Housing and Urban Development, the Indian Health Service or the Administration for Native Americans from utilizing, at their discretion, the preferences provided under this section where funds are appropriated for the benefit of Indians.

(9)(A) The Department of the Interior shall implement the preference provided under paragraph (1)(A) by limiting the competition for the awarding of a contract to Indian preference enterprises if—

(i) there is reasonable expectation that offers will be obtained from at least—

(I) 3 responsible offerors in the case of a contract for architectural engineering services, or

(II) 2 responsible offerors in the case of a contract for the procurement of any other services or for the procurement of any product; and

(ii) the contract can be awarded at a fair and reasonable price.

(B) If only one offer is received under a competition restricted to Indian preference enterprises, the Department of the Interior may negotiate an award of the contract at a fair and reasonable price to such offering Indian preference enterprise.

(10)(A) If it is not feasible for the Department of the Interior to limit the competition for the award of a contract under the authority of paragraph (9), and the Department elects to award the contract after full and open competition, the contract shall be awarded to any responsible Indian preference enterprise submitting the lowest bid submitted by a responsible Indian preference enterprise, if that bid does not exceed the bid submitted by any other responsible bidder by more than the percentage prescribed by the Department of the Interior in regulations. If a factor other than price is determinative in the award of a contract, the Department shall utilize a comparable method to provide a preference to Indian preference enterprises in the selection process.

(B) The percentage prescribed in subparagraph (A) that establishes a maximum limitation on the difference between the bids shall not be more than 10 percent.

(11) The preference requirements of this section may be waived only if the responsible officer determines that there are extraordinary circumstances. The determination to make such a waiver may only be made by the Assistant Secretary of the Interior for Indian Affairs.

(12) The Department of the Interior, to the greatest extent feasible, shall advertise the contracts to which this section applies at a date sufficiently in advance of the date of performance must begin under the contract to permit a subsequent open market advertisement of the contract if the contract cannot be awarded under the limited competition provision of this subsection.

(13)(A) Except as provided in subparagraph (B), the preferences required to be provided to enterprises under this section may only be provided to Indian preference enterprises.

(B) The requirements of the Small Business Competitiveness Demonstration Program Act of 1988 (Public Law 100-656) shall not apply to contracts awarded pursuant to this section. The Secretary shall set aside the following contracts for Indian preference enterprises that are either tribally owned or small, as the term "small" is defined by section 3 of the Small Business Act (15 U.S.C. 632):

(i) all construction contracts estimated to cost less than $1,000,000,

(ii) all design contracts estimated to cost less than $100,000, and

(iii) all other contracts as appropriate to ensure Indian-owned businesses have an ample opportunity to develop.

(C)(i) An Indian preference enterprise may benefit from a preference provided under this section only if the enterprise submits to the Department of the Interior or person that is to provide the preference an affidavit certifying that the enterprise continues to meet the requirements necessary for certification by the Secretary as an Indian preference enterprise. The affidavit shall be executed and submitted at the time the contract or subcontract offer is submitted and again at the time the contract or subcontract is awarded.

(ii) The Department of the Interior or any person that receives an affidavit submitted by an enterprise under clause (i) shall submit a copy of the affidavit to any Indian tribe that would be affected by the contract or subcontract for which the enterprise seeks a preference under this section.

(iii) Prior to actual award of a contract the Secretary will verify the accuracy of the successful bidder's preference affidavit by conducting an on-site visit to the enterprise and other due diligence related to the affidavit.

(iv) The Secretary may waive the on-site visit requirement set forth in clause (iii) of this subparagraph if such waiver is in the best interest of the Federal Government.

(D)(i) Any Indian preference enterprise that—

(I) is engaged in construction activities, and

(II) has successfully completed, independently, at least one contract, may enter into joint ventures with other enterprises that are not Indian preference enterprises, provided that such joint venture is certified by the Director of Indian Business Utilization.

(ii) Any Indian preference enterprise that enters into a joint venture under clause (i) shall remain eligible, and the joint venture shall be eligible, for preferences under this section so long as the Indian preference enterprise—

(I) owns and controls at least 51 percent of the joint venture and receives at least 51 percent of the profits of the joint venture,

(II) has successfully completed, independently, at least one contract for each contract awarded to the joint venture for which a preference is provided under this section,

(III) serves as the general partner for managing the joint ventures, and

(IV) until such joint venture has completed four construction contracts.

(b) For purposes of this section—

(1) The term "Indian preference enterprise" means an Indian enterprise that is certified under subsection (c) of this section as eligible for the preferences provided under this section, and which satisfies one of the following criteria:

(A) an enterprise which—

(i) is engaged in construction (within the meaning of the Indian Self-Determination and Education Assistance Act),

(ii) is entirely owned by one or more Indian tribes, which receive 100 percent of the profits of the enterprise, or

(iii) is entirely owned by one or more Indians, one of whom—

(I) acts as the chief executive officer of the enterprise, and

(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise,

(B) an enterprise—

(i) which is engaged in any business other than construction,

(ii) at least 51 percent of which is owned by one or more Indian tribes that receive not less than 51 percent of the profits of the enterprise, or

(C) an enterprise—

(i) which is engaged in any business other than construction,

(ii) at least 51 percent of which is owned by one or more Indians who receive not less than 51 percent of the profits of the enterprise, and

(iii) which has an Indian owner who—

(I) acts as chief executive officer of the enterprise, and

(II) has the experience and training to manage, and does in fact manage, the day-to-day activities of the enterprise.

(2) The terms "Indian" and "Indian tribe" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.450b).

(3) The term "Secretary" means the Secretary of the Interior.

(4) Except for purposes of paragraph (8)(B) of subsection (a) the term "contract" includes subcontracts.

(5) The term "Indian reservation" has the same meaning given to the term "Reservation" by section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)).

(c)(1) An enterprise seeking to utilize the preference provided for under this Act shall self-certify that it is an Indian preference eligible enterprise. An enterprise shall, when submitting a contract or subcontract bid or proposal for a preference provided by this Act, submit an affidavit swearing that it meets the certification requirements set out by the agency awarding the contract or subcontract. Nothing in this provision shall prohibit the Department of the Interior, when conducting a preaward review, from investigating an enterprise's eligibility for the preferences provided for in this Act or from determining at that stage that an apparent awardee is in fact not eligible for such preferences.

(2) The regulations of the Department of the Interior implementing the provisions of this Act providing for protests to challenge an enterprise's self-certification shall provide that eligible protesters include:

(A) The tribe on whose reservation the contract is to be carried out.

(B) Offerors.

(d)(1) There is established within the Department of the Interior an Office of Indian Business Utilization (hereinafter referred to as the "Office"), which shall be under the supervision and direction of a Director of Indian Business Utilization (hereinafter referred to as the "Director").

(2) The Director shall have such responsibilities as the Secretary deems appropriate and necessary to carry out the duties of the Director under this Act.

(3) The Office of Indian Business Utilization shall—

(A) after consulting with the Secretary, develop and publish a set of criteria to be utilized by Indian enterprises in certifying themselves as eligible for the preferences provided under this section, as well as regulations necessary to implement the provisions of this section, within 180 days after enactment of this section;

(B) be the principal Federal office responsible for overseeing the administration of the provisions of this section;

(C) conduct periodic random investigations of Indian preference enterprises to ensure that those enterprises satisfy the criteria under subsection (c)(1), and are eligible for preferences;

(D) upon request, assist the Department of the Interior agencies to investigate complaints alleging one or more violations of this section or the regulations prescribed under this section, including (but not limited to) allegations that—

(i) an enterprise that does not qualify as an Indian preference enterprise was awarded a contract with the assistance of a preference provided under this section,

(ii) an enterprise misrepresented its status to the Office or a contracting officer, or

(iii) an enterprise is no longer an Indian enterprise or in compliance with the criteria established under this section;

(E) investigate complaints alleging that an Indian tribe is improperly administering preferences required under this section in a manner that exhibits a documented pattern of abuse and seriously jeopardizes the rights of Indians or Indian enterprises;

(F) monitor the implementation of the preference provided by this section and report to Congress as appropriate when the Office has determined that there is a need to amend the provisions of this section;

(G) certify joint ventures pursuant to paragraph (13)(D)(i) of subsection (a); and

(H) have whatever additional responsibilities the Secretary may prescribe.

(4) If, as the result of an investigation, the Department of the Interior determines that any of the conditions described in paragraph (3) of this subsection exists with respect to any enterprise, the Secretary shall—

(A) revoke the certification of such enterprise as an Indian enterprise eligible for the preferences provided under this section;

(B) transmit all information available regarding such conditions to the Inspector General of the Department of the Interior; and

(C) transmit all information to the Director of the Office of Indian Business Utilization.

(5)(A) Any determination by the Department of the Interior to deny any enterprise certification as an Indian enterprise eligible for the preferences provided under this section, or to revoke such certification—

(i) shall constitute a rebuttable presumption that such enterprise is ineligible for such preferences, and

(ii) may be appealed pursuant to the Contract Disputes Act of 1978.

(B) The decision of the contract appeals board under subparagraph (A) shall—

(i) be considered final agency action by that department on petition, and

(ii) be subject to judicial review under chapter 7 of title 5, United States Code.

(6) In addition to the requirements of subsection (c)(1), an Indian tribe may require that firms seeking an award of a contract or subcontract subject to this section that is to take place on the tribe's reservation on which preference provided under this section is to be provided, be precertified by the tribe as being eligible for such preference. Failure to submit a certification application shall disqualify an enterprise from competing. Denial of the certification by the tribe shall not disqualify an enterprise from competing for such contract. After an apparent awardee is selected, if a protest is filed against an enterprise that was certified as eligible by the tribe, or if the apparent awardee was denied certification by the tribe, the Department of the Interior shall make a determination of eligibility within 15 days, giving substantial weight to the tribe's determination certifying or denying certification to the enterprise that is the subject of the protest. The decision of the Department of the Interior shall be final and no appeal shall be permitted.

(e)(1) If—

(A) a contract to which the preferences provided under this section apply is to be performed on a reservation of an Indian tribe; and

(B) the governing body of the Indian tribe has—

(i) established preferences generally comparable to those provided under this section,

(ii) established a tribal office to enforce those preferences, and

(iii) submitted to the Secretary a written request by tribal resolution that this paragraph apply, the Federal agency awarding the contract on that tribe's reservation shall delegate to the tribe responsibility for monitoring the contractor's compliance with that agency's Indian preference requirements.

(2) Enforcement authority under this section shall remain with the Department of the Interior.

(3) The Department of the Interior shall provide an Indian tribe with notification of any contract, the performance of which will occur on such tribe's reservation, no less than 30 days prior to the advertising of the contract, unless waived by the tribe, and shall otherwise work cooperatively with the tribe on enforcement of Indian preferences provided under this section.

(4) Nothing in this section shall be interpreted to preempt tribal authority to independently impose or enforce Indian preference requirements which are not inconsistent or in conflict with this section or other applicable law.

(f) In addition to any other penalties provided under Federal or tribal law, whoever misrepresents the status of an individual as an Indian, or of an enterprise as an Indian enterprise or an Indian preference enterprise, in order to obtain a preference under this section for such person or any other person—

(1) shall be subject to a civil action brought in a tribal court of an Indian tribe affected by the misrepresentation and a civil penalty of not more than $1,000 may be imposed;

(2) shall be liable to the United States for the amount paid under any contract, that was obtained by reason of the preference;

(3) shall be subject to suspension and debarment as specified in subpart 9.4 of part 9

of title 48 of the Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government; and

(4) shall be ineligible for any preference provided under this section.

(g)(1) The Director may request the Inspector General of the Department of the Interior to conduct an investigation of any contract or subcontract with respect to which preferences are required to be provided under this section.

(2) By no later than the date that is 60 days after the date on which a request is submitted to the Inspector General of the Department of the Interior under paragraph (1), the Inspector General shall submit to the Director a written response to the request detailing the actions, if any, the Inspector General will take with respect to the request.

(h)(1)(A) The Secretary, through the Director, shall establish an Indian Enterprise Bonding Demonstration Program to assist Indian enterprises in obtaining bonds from traditional surety companies.

(B) The bonding program established by this subsection may include assistance to Indian preference enterprises or traditional surety companies, involving, but not limited to—

(i) issues of tribal sovereignty,

(ii) trust status of Indian property on Indian reservations,

(iii) procedures to expedite dispute resolution regarding change orders and unforeseen delays in project completion,

(iv) collateral requirements, and

(v) management and credit experience.

(C) The Secretary may, in connection with the Indian Enterprise Bonding Demonstration Program—

(i) provide advance payments to Indian contractors in amounts to cover the bonding, mobilization, labor, subcontractors, materials, fuel, and special leased equipment for an individual project,

(ii) provide government-furnished materials for use by the Indian contractor, and

(iii) provide other appropriate assistance to the Indian contractor.

(2) The Secretary may, at his discretion, waive the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.), with respect to a contract awarded to an Indian preference enterprise by a Federal agency if—

(A) the award price of the contract is anticipated to be $500,000 or less;

(B) the Indian preference enterprise has been determined to be a responsible contractor capable of performing the contract;

(C) the Federal agency determines that the Indian preference enterprise has been unable to obtain the requisite bonds either through the Indian Enterprise Bonding Demonstration Program or after making good faith application to at least 2 surety firms determined by the Secretary of the Treasury to issue acceptable bonds pursuant to chapter 93 of title 31, United States Code, even with a guarantee provided pursuant to title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.); and

(D) the Indian preference enterprise has provided for the protection of persons furnishing materials and labor, in lieu of a payment bond, through a program of direct disbursement from the Federal Government of payments due to such persons from such Indian preference enterprise through an escrow account established and maintained by the Indian preference enterprise at any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(3) A waiver granted under paragraph (2) of this subsection shall be granted as a last resort, and is entirely subject to the discretion of the Secretary.

(i)(1) Each agency of the Department of the Interior that issues a contract or subcontract pursuant to this section, the Indian Self-Determination and Education Assistance Act (Public Law 93-638), the Act of April 16, 1934 (40 Stat. 596), or any other Federal law authorizing Federal contracts with Indian organizations or for the benefit of Indians, shall comply with the requirements of the Prompt Payment Act (31 U.S.C. 3901–3906).

(2) The Secretary shall, consistent with the purposes of the Administrative Dispute Resolution Act (104 Stat. 2736 et seq.) provide an alternative dispute resolution procedure that offers a prompt, expert, and inexpensive means of resolving disputes that arise under contracts subject to this Act as an alternative to litigation in Federal courts. Such mechanism shall—

(A) be available on request to any enterprise, and

(B) produce a recommendation for settlement within a reasonable time period from the date the contracting officer receives the enterprise's request.

(3) Any enterprise involved in a dispute pursuant to paragraph (2) of this subsection may request that arbitration be used to resolve a dispute arising under this Act. Such arbitration shall produce a final, binding decision within 45 days from the date the contracting officer receives the enterprise's request.

(j) Section 23 of the Act of June 25, 1910 (25 U.S.C. 47), is repealed.

SEC. 4. CONFORMING AMENDMENTS.

The first paragraph under the subheading "Secretary" that is under the superior heading "I. General Provisions" of the Act of April 30, 1908 (25 U.S.C. 47) is amended by striking out the last proviso.

SEC. 5. CRIMINAL PENALTIES.

Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 1171. INDIAN PREFERENCES.

"Any person who, in any document, with the intent to defraud the Government knowingly conceals or fails to disclose any fact, the disclosure of which—

"(1) is required under section 3 of the Indian Business Opportunities Enhancement Act, or any regulations prescribed under such section, or

"(2) is necessary to verify or clarify whether an enterprise or individual is eligible for any preference provided under such section, shall be fined not more than $50,000, or imprisoned not more than 5 years or both.".

SEC. 6. MANPOWER AND JOB TRAINING.

The Secretary of the Interior is authorized to negotiate and enter into cooperative agreements with Indian tribes to engage in cooperative manpower and job training and development programs including the performance of work on lands owned and controlled by the Department of the Interior. Such cooperative agreements may be entered into with any agency or office within the Department of the Interior. In such cooperative agreements, the Secretary of the Interior is authorized to advance or reimburse funds to tribes from any appropriations available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 3324 of title 31, United States Code.

SEC. 7. FEDERAL FACILITIES FOR THE BENEFIT OF INDIANS.

(a) Location of Facilities.—The Bureau of Indian Affairs and the Indian Health Service shall, in all matters connected with establishing or developing facilities to provide services or assistance to Indians, locate such facilities on tribal lands, unless patently not feasible to do so.

(b) Employment Performance.—Any employment opportunities at the facilities described in subsection (a) shall be subject to the employment preferences provided by this Act.

SEC. 8. DATABASE.

(a) Establishment.—The Secretary shall enter into contracts with an eligible entity to establish and operate an Indian Enterprise Data Center.

(b) Data Collection.—The responsibility of the Data Center shall include—

(1) listing Indian enterprises eligible for various Federal minority preference programs,

(2) listing the businesses in which such enterprises are engaged,

(3) listing the experience of such enterprises in fulfilling contract obligations,

(4) listing the capabilities of such enterprises,

(5) verifying preference information and documentation submitted to the Data Center and reporting any discrepancies to the Office of Indian Business Utilization,

(6) listing advance procurement information for the purposes of bid matching contract opportunities to contractor capabilities,

(7) listing known front organizations or fraudulent operators, and

(8) providing whatever additional information the Secretary deems relevant.

(c) Information Dissemination.—The Data Center annually shall provide a list of Indian enterprises eligible for various minority preferences to the Federal agencies that administer such preferences, and to private entities requesting such list.

(d) Eligible Entities.—Entities eligible to enter into a contract under subsection (a) shall be tribal, private, public, or educational institutions with experience in Indian business development.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INVESTMENT ADVISER OVERSIGHT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 534, S. 2266, the Investment Adviser Oversight Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2266) to provide for recovery of costs and supervision and regulation of investment advisers and their activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Adviser Oversight Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

SEC. 3. REGISTERED INVESTMENT ADVISER FEES.

(a) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.

"(a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall include the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) TIME FOR PAYMENT.—

"(1) APPLICANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected and specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) INVESTMENT ADVISERS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	*Fee due:*
Less than $10,000,000	*$300*
$10,000,000 or more, but less than $25,000,000.	*$500*
$25,000,000 or more, but less than $50,000,000.	*$1,000*
$50,000,000 or more, but less than $100,000,000.	*$2,500*
$100,000,000 or more, but less than $250,000,000.	*$4,000*
$250,000,000 or more, but less than $500,000,000.	*$5,000*
$500,000,000 or more	*$7,000.*

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "SEC. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

SEC. 5. BOND REQUIREMENT.

(a) IN GENERAL.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements; and

"(D) any alternative means to protect client assets.".

SEC. 6. CERTAIN PROHIBITED TRANSACTIONS.

Section 11(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)(1)) is amended—

(1) in subparagraph (E), by striking "(other than an investment company)";

(2) by striking "and" at the end of subparagraph (G);

(3) by redesignating subparagraph (H) as subparagraph (I); and

(4) by inserting after subparagraph (G) the following new subparagraph:

"(H) any transaction for an account with respect to which such member or an associated person thereof exercises investment discretion if such member—

"(i) has obtained, from the person or persons authorized to transact business for the account, express authorization for such member or associated person to effect such transactions prior to engaging in the practice of effecting such transactions;

"(ii) furnishes the person or persons authorized to transact business for the account with a statement at least annually disclosing the aggregate compensation received by the exchange member in effecting such transactions; and

"(iii) complies with any rules the Commission has prescribed with respect to the requirements of clauses (i) and (ii); and".

AMENDMENT NO. 2946

(Purpose: To require the Securities and Exchange Commission to study the impact on investment advisers of large and small size, and the competitive impact on investment advisers located in non-urban areas, of fidelity bonding requirements)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Mr. GRAMM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. GRAMM proposes an amendment numbered 2946.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, strike "and" and, on page 13, strike line 2 and insert in lieu thereof the following:

"sets; and

""(E) the results, findings, and conclusions of the study required by paragraph (3).

""(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

""(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

""(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.".".

Page 9, line 18, strike the word "include" and insert the word "be".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2946) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The bill is as follows:

S. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Adviser Oversight Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for such activities.

SEC. 3. REGISTERED INVESTMENT ADVISER FEES.

(a) In General.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.

"(a) In General.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall be the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) Time for Payment.—

"(1) Applicants.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected and specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) Investment advisers.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) Schedule of Fees.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000.	$500
$25,000,000 or more, but less than $50,000,000.	$1,000
Less than $10,000,000	$300
$50,000,000 or more, but less than $100,000,000.	$2,500
$100,000,000 or more, but less than $250,000,000.	$4,000
$250,000,000 or more, but less than $500,000,000.	$5,000
$500,000,000 or more	$7,000.

"(d) Suspension for Failure To Pay.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) Rulemaking.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

(b) Effective Date.—This section shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "Sec. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

SEC. 5. BOND REQUIREMENT.

(a) In General.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements;

"(D) any alternative means to protect client assets; and

"(E) the results, findings, and conclusions of the study required by paragraph (3).

"(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.".

SEC. 6. CERTAIN PROHIBITED TRANSACTIONS.

Section 11(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)(1)) is amended—

(1) in subparagraph (E), by striking "(other than an investment company)";

(2) by striking "and" at the end of subparagraph (G);

(3) by redesignating subparagraph (H) as subparagraph (I); and

(4) by inserting after subparagraph (G) the following new subparagraph:

"(H) any transaction for an account with respect to which such member or an associated person thereof exercises investment discretion if such member—

"(i) has obtained, from the person or persons authorized to transact business for the account, express authorization for such member or associated person to effect such transactions prior to engaging in the practice of effecting such transactions;

"(ii) furnishes the person or persons authorized to transact business for the account with a statement at least annually disclosing the aggregate compensation received by the exchange member in effecting such transactions; and

"(iii) complies with any rules the Commission has prescribed with respect to the requirements of clauses (i) and (ii); and".

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. I am pleased that the Senate has today passed an important piece of securities legislation, the Investment Adviser Oversight Act of 1992. The Banking Committee passed this bill on May 21, 1992, by a vote of 18 to 2.

Money managers occupy an increasing share of the financial services market. Between 1981 and 1991, the number of investment advisers registered with the Securities and Exchange Commission increased from 4,580 to 17,500. Assets under management increased from $440 billion to $5.3 trillion—an increase of more than 1,200 percent. This trend can be expected to continue, given the relatively low interest rates currently being paid on FDIC-insured deposits.

During this same period, the SEC's investment adviser examination staff grew by just 10 examiners, from 36 to 46. While the SEC inspects the 500 largest investment advisers once every 3 years, inspections overall average once every 30 years.

SEC Chairman Breeden testified that the SEC's current investment adviser inspection program is inadequate and recommended that the current $150 one-time registration fee be changed to an annual fee, based upon assets under management.

The Investment Advisers Oversight Act strengthens oversight of registered investment advisers. The SEC proposed it, and it is supported by investment industry groups. The bill increases fees on investment advisers to pay for enhanced oversight. Registration fees will be increased from the current $150 to at least $300. Fees will be determined on a sliding scale based on assets under management, to a maximum of $7,000 for advisers with $500 million or more under management. Registered investment advisers will also pay an annual fee, determined on the same sliding scale based on assets under management, from $300 to $7,000. With the money raised, the SEC will be able to inspect advisers on average once every 5 years.

The bill further protects investors by providing the SEC with authority to require investment advisers that exercise investment discretion, have access to client securities or funds, or advise investment companies, to post fidelity bonds. The bond would protect clients defrauded through larceny or embezzlement.

As the Investment Company Institute stated in a letter to me dated May 19, 1992, "It is essential for the protection of investors, as well as for the health and the growth of the investment advisory industry, that Congress act to facilitate the increased regulation of investment advisers.

In the end, the investing public loses when regulation is inadequate or sporadic."

The bill also includes a provision originally introduced by Senator KERRY, amending section 11(a) of the Securities Exchange Act. Section 11(a) requires a Stock Exchange member to use an independent floor broker to execute trades for accounts managed by an affiliate. The SEC has concluded section 11(a) increases costs needlessly, as other provisions protect customers.

I commend the chairman of the Securities Subcommittee, Senator DODD, for his hard work on this bill. I hope the House of Representatives will pass its version of this legislation promptly upon our return in September, so it can quickly be enacted into law.

Mr. DODD. Mr. President, S. 2266, the Investment Adviser Oversight Act of 1992, addresses the very serious inadequacies in the SEC's current inspection program for investment advisers. It establishes a fee structure for registered investment advisers and provides that those fees will be used as offsetting collections to fund an increase in the SEC's investment adviser inspection staff. In other words, this legislation will put more cops on the beat to protect investors, at no additional cost to taxpayers. The industry has agreed to foot the bill.

This legislation also authorizes the SEC to write rules to require investment advisers, under certain circumstances, to obtain fidelity bonds, in order to protect customer assets. The amendment to the bill offered by the ranking Republican member of the Securities Subcommittee, Senator GRAMM, will ensure that the SEC studies the cost and availability of bonds for investment advisers of all sizes, before imposing this requirement.

The bill has two other provisions that we believe will result in costs savings for the investment advisory and investment company industries and which, we also believe, will result in cost savings for investors. One of these provisions would authorize the SEC to develop with the States one-stop filing for advisers. The other provision would permit members of a registered securities exchange to execute transactions on the exchange for managed accounts—instead of having to use another broker and pay additional fees. Based upon studies conducted by the Securities Industry Association and by the New York Stock Exchange, passage of this provision could result in savings of hundreds of millions of dollars for investors.

Mr. President, I believe this legislation is essential to protect the millions of Americans who rely upon investment advisers for help in making some of their most important financial decisions. We simply must get more cops on the beat, in order to ensure that this growing industry treats customers honestly and fairly.

In the past decade, the industry has grown dramatically; SEC staff resources have not. From 1981 to 1991, the number of advisers registered with the SEC increased from 4,500 over 17,500, and the assets under their management soared from $440 billion to $5.3 trillion—an increase of more than 1,100 percent, representing more than twice the amount of funds deposited in U.S. commercial banks.

But, during the past decade, the SEC examination staff increased from 36 to just 46 examiners. As a consequence, the SEC inspects investment advisers, on average, once every 25 to 30 years. This level of oversight is wholly inadequate to protect investors.

The House and Senate, the SEC and the industry have studied this problem for more than 5 years. The Investment Adviser Oversight Act reflects the belief by virtually everyone who has looked at this problem that we simply have got to provide more resources for the SEC to oversee this industry.

Last month, the Senate passed, as part of the Senate, Commerce, Justice appropriations bill, an amendment I offered which would implement the funding portion of S. 2266, subject to passage of this authorization. Passage of this bill is necessary in order to fully implement the provisions.

If we pass this measure, we finally will have more cops on the beat. The SEC will be able to inspect investment advisers at least once every 3 to 5 years, instead of the current 29 to 30-year inspection cycle. Fidelity bonding to protect customer assets will be provided, where appropriate. And investors who rely upon investment advisers for some of the most important financial decisions they make can be assured that, at a minimum, someone is watching them and making every effort to protect the investors with whom they deal.

Mr. President, I want to thank a number of my colleagues for their support in developing this legislation and for their efforts in achieving Senate passage of the bill. In particular, I want to thank Chairman RIEGLE for his support, and thank Senator GARN and Senator GRAMM for their willingness to work with me in addressing concerns they had in the original bill in order to ensure its passage today.

ADDITIONAL BANKRUPTCY JUDGES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5688, a bill to authorize the appointment of additional bankruptcy judges, just received from the House; that the bill be deemed read a third time, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5688) was deemed read a third time, and passed.

Mr. THURMOND. Mr. President, I am pleased that the Senate is considering today H.R. 5688, a bill to authorize the creation of 35 new bankruptcy judgeships. Senator DECONCINI and I introduced a similar bill, which passed the Senate last year, because these judgeships are vitally necessary to reduce the heavy caseload currently existing in many States today.

The rising number of bankruptcy filings across the country has created a heavy burden on existing bankruptcy judges. The current economic problems of our country have forced bankruptcy filings to soar to record numbers and have consequently caused bankruptcy courts to become increasingly overloaded. Each district included in H.R. 5688 has clearly demonstrated its need for the creation of new judgeships.

The bill we are considering today will also establish a review provision to ensure that all authorized bankruptcy judgeships are necessary. This provision provides that every 2 years, the Judicial Conference will conduct a comprehensive review of all judicial districts to assess the need for the judgeships. The Conference will then report to Congress its findings and recommendations regarding the elimination of any judgeship positions. I firmly believe that this provision is essential as it will ensure that all authorized bankruptcy judgeships are absolutely necessary and that judicial resources are utilized in the most efficient manner.

Out of the 35 new judgeships created under this bill, 10 have been designated as "temporary judgeships." The temporary provision provides that the first vacancy in each of these districts resulting from death, retirement, resignation, and removal of a bankruptcy judge, occurring 5 years or more after date of enactment of this bill, shall not be filled. If the vacancy results from the expiration of a bankruptcy judge's term, that judge shall be eligible for reappointment.

Mr. President, I believe that the creation of new judgeships will greatly assist the efficiency of the bankruptcy system and will ensure a more balanced caseload for bankruptcy judges. I was disappointed that this bill designated a temporary judgeship for my home State of South Carolina, rather than a permanent judgeship as recommended by the Judicial Conference of the United States. However, because I recognize the urgent need for putting new bankruptcy judges to work to relieve the current burdens on the bankruptcy system, I will not deter passage of this bill today. Therefore, I urge my colleagues to support this important legislation.

Mr. SPECTER. Mr. President, I am very pleased to see us act to adopt H.R. 5688, legislation creating 35 new permanent and temporary bankruptcy judgeships, including 2 in the eastern district of Pennsylvania. Over a year ago, the Senate passed S. 646 to create an additional 32 bankruptcy judges throughout the country. Reflecting legislation I had introduced, S. 1375, two of these new positions in the Senate bill were for the eastern district of Pennsylvania.

These additional positions in the eastern district of Pennsylvania are desperately needed, as the Judicial Conference has acknowledged by recommending the creation of both new positions for the eastern district. There are currently three bankruptcy judges in the eastern district. There have been three judges in the district since 1961. While the number of judges has remained the same, new bankruptcy filings have increased roughly 2,200 percent in the past 30 years, going from 510 new bankruptcies in 1961 to 11,716 in 1991. Two new judges will greatly ease the burdens on the present judges and permit better service to the bar and public through the speedier resolution of claims. In light of the need for the two additional judges in the eastern district, I have consistently expressed my desire that legislation be enacted expeditiously to create the new judgeships.

Earlier this year, I wrote to the distinguished chairman of the House Judiciary Committee to urge that his committee act promptly to report out legislation creating new bankruptcy judgeships, including specifically the two new positions in the eastern district of Pennsylvania, and that the House then proceed to pass such legislation expeditiously. I am very pleased that the House has now acted and that its bill that we adopt today also contains the two new permanent bankruptcy judgeships for the eastern district of Pennsylvania that I have been seeking.

While there are some unresolved issues between the Senate-passed bill and the House-passed bill we are adopting today with respect to their approaches to reviewing and addressing the needs of the judiciary for bankruptcy judges in the future, I am very pleased that we have put these differences behind us and are acting expeditiously to adopt this legislation and send it to the President for his signature. This bill will make a real difference to thousands of people in the eastern district of Pennsylvania and to millions across the country who rely on the bankruptcy courts to help them resolve their problems.

REGARDING ISRAELI ELECTIONS

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 355, a concurrent resolution regarding Israeli elections, just received from the House.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 355) concerning Israel's recent elections and the visit by Israeli Prime Minister Yitzhak Rabin to the United States.

The PRESIDING OFFICER. Are there amendments to the concurrent resolution?

The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 355) was agreed to.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF DOCUMENTARY PRODUCTION

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution on authorization of documentary production and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 335) to authorize documentary production in United States of America v. Caspar W. Weinberger.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, counsel for the defendant in the case of United States of America versus Caspar W. Weinberger has requested the Select Committee on Intelligence to provide copies of records within its custody collected by the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition during its investigation in 1987 for use in connection with the preparation of the defense of the charges in that case.

In keeping with the Senate's usual practice in cases of this kind, this resolution authorizes the chairman and vice chairman of the Select Committee on Intelligence, acting jointly, to produce records requested by Mr. Weinberger's counsel dealing with the Iran/Contra matter.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are agreed to.

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 335), with its preamble, reads as follows:

S. RES. 335

Whereas, in the case of United States of America v. Caspar W. Weinberger, Crim. No. 92-0235-TFH, pending in the United States District Court for the District of Columbia, counsel for the defendant has requested the production of documents from the Select Committee on Intelligence;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the chairman and vice chairman of the Select Committee on Intelligence, acting jointly, are authorized to produce documents in the case of United States of America v. Caspar W. Weinberger, except concerning matters for which a privilege should be asserted.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPORT ENHANCEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 544, S. 2864, the Export-Import Bank authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2864) to reauthorize the Export-Import Bank Act of 1945, to encourage export promotion, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Export Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

Sec. 101. Extension of Export-Import Bank authorization.
Sec. 102. Tied aid credit fund extension.
Sec. 103. Use of loan guarantees.
Sec. 104. Expanded use of bank guarantees.
Sec. 105. Environmental policy.
Sec. 106. Appointment and compensation of Bank personnel.
Sec. 107. Insurance-related business stemming from Bank activities.
Sec. 108. Export-Import Bank debt reduction.
Sec. 109. Amendments relating to outdated and obsolete provisions.

TITLE II—EXPORT PROMOTION

Sec. 201. Trade promotion coordinating committee.
Sec. 202. One-stop shop.
Sec. 203. US&FCS-Eximbank cooperation.
Sec. 204. United States and foreign commercial service.
Sec. 205. Report on export policy.
Sec. 206. Export promotion authorization.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. International Emergency Economic Powers Act.
Sec. 302. John Heinz competetive excellence award.

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

SEC. 101. EXTENSION OF EXPORT-IMPORT BANK AUTHORIZATION.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "September 30, 1992," and inserting "September 30, 1997,".

SEC. 102. TIED AID CREDIT FUND EXTENSION.

(a) IN GENERAL.—Section 15(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(c)(2)) is amended by striking "fiscal year 1992" and inserting "September 30, 1995".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 15(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)) is amended to read as follows:

"(e) AUTHORIZATION.—There are authorized to be appropriated to the Fund $500,000,000 for each of fiscal years 1993, 1994, and 1995. Such sums shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3) is amended—

(1) by striking "predacious" each place such term appears and inserting "predatory";

(2) in subsection (a)(5)—

(A) by striking "temporary"; and

(B) by striking "existing arrangement" and inserting "existing Arrangement";

(3) in subsection (b)(1)—

(A) by striking "To carry out the purposes of subsection (a)(5), the" and inserting "The";

(B) in subparagraph (A), by inserting before the semicolon the following: "and with special attention to matching tied aid and partially untied aid credits extended by other governments—

"(i) in violation of the Arrangement; or

"(ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the Arrangement, including grandfathered cases"; and

(C) in subparagraph (B), by striking "partially untied aid credits; and" and all that follows through the end of clause (ii), and inserting the following: "partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or

"(ii) engages in predatory financing practices that seek to circumvent international agreements on tied aid; or";

(4) in subsection (b)(2)(B), by inserting "United States exporters and" after "cooperation with";

(5) in subsection (b)(4), by adding at the end the following: "The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B).";

(6) by amending paragraphs (1) and (2) of subsection (g) to read as follows:

"(1) IN GENERAL.—On or before October 25, 1992, and every 6 months thereafter, the Bank, in consultation with the Secretary, shall submit a report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(2) CONTENTS OF REPORTS.—Each report required under paragraph (1) shall contain a description of—

"(A) the implementation of the Arrangement restricting tied aid and partially untied aid credits for commercial purposes, including the operation of notification and consultation procedures;

"(B) all principal offers of tied aid credit financing by foreign countries during the previous 6-month period, including all offers notified by countries participating in the Arrangement, and in particular—

"(i) offers grandfathered under the Arrangement; and

"(ii) notifications of exceptions under the Arrangement;

"(C) any use by the Bank of the Tied Aid Credit Fund to match specific offers, including those that are grandfathered or exceptions under the Arrangement; and

"(D) other actions by the United States Government to combat predatory financing practices by foreign governments, including additional negotiations among participating governments in the Arrangement."; and

(7) in subsection (h)—

(A) by striking "For the purposes of this section—" and inserting "For purposes of this section, the following definitions shall apply:";

(B) in paragraph (3), by inserting before the period "and all addenda and amendments thereto"; and

(C) by adding at the end the following new paragraph:

"(6) The term 'grandfathered' refers to projects under the Arrangement for which—

"(A) financing offers were made on or before February 15, 1992; or

"(B) financing offers extended for subloans under grandfathered lines of credit were made on or before August 15, 1992, or, in the case of Mexico, on or before December 31, 1992.".

SEC. 103. USE OF LOAN GUARANTEES.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the fifth sentence by inserting after the first semicolon the following: "that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;".

SEC. 104. EXPANDED USE OF BANK GUARANTEES.

Section 2(c)(3) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(c)(3)) is amended—

(1) by striking "With" and inserting the following: "TRANSFERABILITY OF GUARANTEES AND INSURANCE; GUARANTEE COVERAGE.—

"(A) TRANSFERABILITY.—With"; and

(2) by adding at the end the following new subparagraph:

"(B) GUARANTEE COVERAGE.—For the guarantee program covered by this subsection, the Bank shall provide up to 100 percent coverage of the interest and principal if the Board determines such coverage to be necessary to ensure acceptance of Bank guarantees by United States financial institutions for any transaction in any export market in which the Bank is open for business.".

SEC. 105. ENVIRONMENTAL POLICY.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 17. ENVIRONMENTAL POLICY AND PROCEDURES.

"(a) ENVIRONMENTAL EFFECTS CONSIDERATION.—

"(1) IN GENERAL.—Consistent with the objectives of section 2(b)(1)(A), the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services which it may be asked to support under its direct lending and guarantee programs. Such procedures shall apply to any transaction involving a project—

"(A) for which long-term support of $10,000,000 or more is requested from the Bank;

"(B) for which the Bank's support would be critical to its implementation; and

"(C) which may have significant environmental effects upon the global commons or third countries not participating in the project or may produce a principal product, emission, or effluent that is prohibited or strictly regulated by Federal law.

"(2) AUTHORITY TO WITHHOLD FINANCING.—The procedures established under paragraph (1) shall permit the Board of Directors, in its judgment, to withhold financing for environmental reasons or to approve financing after considering the potential environmental effects of a project.

"(b) USE OF BANK PROGRAMS TO ENCOURAGE CERTAIN EXPORTS.—The Bank shall encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects. The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank's programs can be used to support the export of such goods and services. The officer shall also act as liaison between the Bank and other Government agencies with respect to overall United States Government policy on the environment.

"(c) INCLUSION IN REPORT TO CONGRESS.—The Bank shall provide in its annual report to the Congress a summary of its activities under subsections (a) and (b).

"(d) INTERPRETATION.—Nothing in this section shall be construed to create any cause of action.".

SEC. 106. APPOINTMENT AND COMPENSATION OF BANK PERSONNEL.

Section 3(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)) is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively; and

(3) by adding at the end the following new paragraph:

"(8) PERSONNEL.—

"(A) APPOINTMENT AND COMPENSATION.—The Board of Directors shall fix the compensation of, and appoint and direct, employees of the Bank other than the directors. The Board may set and adjust rates of basic pay for such employees without regard to the provisions of chapter 51, or subchapter III of chapter 53, of title 5, United States Code. The Board of Directors may provide additional compensation and benefits to employees of the Bank if the same type of compensation or benefits are then being provided by any Federal bank regulatory agency.

"(B) COMPARABILITY.—In setting and adjusting the total amount of compensation and benefits for employees of the Bank, the Board of Directors shall, in consultation with the Federal bank regulatory agencies, seek to maintain comparability with the total amount of compensation and benefits provided by such agencies to employees of such agencies, except that the Board shall not apply this subparagraph to reduce the total amount of compensation and benefits provided to any employee as of the date of enactment of this paragraph.

"(C) FUNDING.—The salaries, expenses, and benefits of the officers and employees of the Bank shall be paid from earnings of the Bank and repayments of loans and from borrowings.

"(D) DEFINITION.—For purposes of this paragraph, the term 'Federal bank regulatory agencies' means—

"(i) the Office of the Comptroller of the Currency;

"(ii) the Federal Deposit Insurance Corporation;

"(iii) the Board of Governors of the Federal Reserve System;

"(iv) the Office of Thrift Supervision; and

"(v) the National Credit Union Administration.".

SEC. 107. INSURANCE-RELATED BUSINESS STEMMING FROM BANK ACTIVITIES.

Section 2(d) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(d)) is amended—

(1) by striking paragraphs (2) and (3) and inserting after paragraph (1) the following:

"(2) In the case of any long-term loan or guarantee of not less than $10,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

"(3) In any case in which the Bank becomes aware that a fair and open competitive opportunity is not available to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

"(A) may approve or deny the loan or guarantee after considering whether such action would be likely to achieve competitive access for United States insurance companies; and

"(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

"(4) In any case in which the Bank approves a loan or guarantee notwithstanding information regarding denial of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such approval in the report on competition in officially-supported export credit required under subsection (b)(1)(A).

"(5) For purposes of this section—

"(A) the term 'United States insurance company'—

"(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

"(B) the term 'fair and open competitive opportunity' means, with respect to the provision of insurance by a United States insurance company, that the company—

"(i) has received notice of the opportunity to provide such insurance; and

"(ii) has been evaluated for such opportunity on a nondiscriminatory basis.".

SEC. 108. EXPORT-IMPORT BANK DEBT REDUCTION.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended—

*(1) by inserting after the first section the following: "**TITLE I—GENERAL PROVISIONS**"; and*

(2) by adding at the end the following:

"TITLE II—ENTERPRISE FOR THE AMERICAS INITIATIVE

"SEC. 51. PURPOSE.

"The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, community based conservation and sustainable use of the environment. The Facility will support these objectives through administration of debt reduction operations under this title for those countries with democratically elected governments that meet investment reforms and other policy conditions.

"SEC. 52. DEFINITIONS.

"For purposes of this title, the following definitions shall apply:

"(1) ELIGIBLE COUNTRY.—The term 'eligible country' means a country designated by the President in accordance with section 53.

"(2) ELIGIBLE PURCHASER.—The term 'eligible purchaser' means a purchaser to whom a loan may be sold pursuant to this title upon the presentation of plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(3) FACILITY.—The term 'Facility' means the entity established in the Department of the Treasury by section 601 of the Agricultural Trade Development and Assistance Act of 1954.

"(4) IMF.—The term 'IMF' means the International Monetary Fund.

"SEC. 53. ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

"(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country must—

"(1) be a Latin American or Caribbean country;

"(2) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

"(A) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF monitored program or its equivalent; and

"(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

"(3) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

"(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

"(b) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

"SEC. 54. LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.

"(a) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this title—

"(1) sell to any eligible purchaser any loan or portion thereof made to any eligible country or any agency thereof, before January 1, 1991, pursuant to this Act; and

"(2) on receipt of payment from the eligible purchaser, reduce or cancel such loan or portion thereof,

only for the purpose of facilitating debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

"(b) TERMS AND CONDITIONS.—Notwithstanding any other provision of law other than those contained in this title, the President shall establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this title.

"(c) TREATMENT UNDER SECURITIES LAWS.—Any sale made pursuant to this title by the Bank of a loan (including any interest therein) to an eligible purchaser, as defined in section 52, shall be a transaction not required to be registered pursuant to section 5 of the Securities Act of 1933. For purposes of the Securities Act of 1933, the Bank shall not be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan (include any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

"(d) ADMINISTRATION.—The Facility shall notify the Bank of purchasers the President has determined to be eligible, as defined in section 52, and shall direct the Bank to carry out the sale, reduction, or cancellation of a loan pursuant to this title. The Bank shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(e) LIMITATIONS.—The authorities of this section may be exercised beginning in fiscal year 1993 and only to such extent as provided for in advance in appropriations Acts for fiscal year 1993 or thereafter, as necessary to implement section 13201 of the Budget Enforcement Act of 1990.

"(f) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this title shall be deposited in the United States Government account or accounts established for the repayment of such loan.

"SEC. 55. DEBTOR CONSULTATION.

"Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this title of any loan made to an eligible country, the President shall consult with the country concerning, among other things, the amount of loans to be sold, reduced, or canceled and their

uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"SEC. 56. AUTHORIZATION OF APPROPRIATIONS.

"For the sale, reduction, and cancellation pursuant to section 54 of loans or portions thereof made pursuant to this Act, there are authorized to be appropriated to the President such sums as may be necessary, which shall remain available until expended.".

SEC. 109. AMENDMENTS RELATING TO OUTDATED AND OBSOLETE PROVISIONS.

(a) AMENDMENTS TO SECTION 2.—Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended—

(1) in subsection (a)(3)—

(A) by striking "(A) IN GENERAL.—"; and

(B) by striking subparagraph (B);

(2) in subsection (b)(1)(A), by striking "The Bank shall also" and all that follows through the final period;

(3) in subsection (b)(1)(E)(v), by striking "not less than—" and all that follows through the end of clause (v) and inserting "not less than 10 percent of such authority for each fiscal year.";

(4) in subsection (b)(2)(B)—

(A) by striking clause (ii);

(B) in clause (i), by striking "(i) IN GENERAL.—" and by redesignating subclauses (I) and (II) as clauses (i) and (ii);

(C) in clause (i), as redesignated, by striking "Marxist-Leninism" and inserting "Marxism-Leninism"; and

(D) in clause (ii), as redesignated, by striking "the Union of Soviet Socialist Republics or on any other Marxist-Leninist country" and inserting "any other country that maintains a centrally planned economy based on the principles of Marxism-Leninism";

(5) by striking subparagraph (C) of subsection (b)(2) and redesignating subparagraph (D) as subparagraph (C);

(6) in subsection (b)(2)(C), as redesignated by paragraph (5)—

(A) by striking clauses (ii) and (iv); and

(B) by redesignating clause (iii) as clause (ii);

(7) in subsection (b)(6)(B)—

(A) in clause (iv), by inserting "and" at the end;

(B) in clause (v), by striking "; and" and inserting a period;

(C) in clause (v), by striking "guarantee and insurance authority" and inserting "loan, guarantee, and insurance authority"; and

(D) by striking clause (vi);

(8) by amending paragraph (1) of subsection (c) to read as follows:

"(1) FEES AND PREMIUMS.—Fees and premiums shall be charged commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss."; and

(9) by striking subsection (f).

(b) AMENDMENT TO SECTION 3.—Section 3(d)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(1)(A)) is amended by striking "twelve" and inserting "15".

(c) AMENDMENTS TO SECTION 4.—Section 4 of the Export-Import Bank Act of 1945 (12 U.S.C. 635b) is amended—

(1) by striking the second sentence and all that follows through "transactions of the United States."; and

(2) in the last sentence—

(A) by striking ", to the extent of the common and preferred stock surrendered and other" and inserting "to the extent of"; and

(B) by striking "under this section".

(d) AMENDMENTS TO SECTION 7.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) is amended—

(1) by striking subsection (a)(3);

(2) in subsection (a)(1)—

(A) by striking "(a)(1)" and inserting "(a) LIMITATION ON OUTSTANDING AMOUNTS.—"; and

(B) by striking "$40,000,000,000" and inserting "$75,000,000,000";

(3) in paragraph (2)—

(A) by striking "(2)(A)(i)" and inserting the following:

"(b) PRESIDENTIAL DETERMINATION.—

"(1) IN GENERAL.—";

(B) by striking "(I)" and inserting "(A)";

(C) by striking "(II)" and inserting "(B)";

(D) by striking "(III)" and inserting "(C)";

(E) by striking "(ii) Not later than" and inserting "(2) REPORT.—Not later than";

(F) by striking "(B)(i)" and inserting the following:

"(3) REQUEST FOR LEGISLATION.—

"(A) IN GENERAL.—"; and

(G) by striking "(ii) The Bank" and inserting "(B) CONTINUED AVAILABILITY OF AUTHORITY.—The Bank".

(e) REPEAL OF OUTDATED SECTIONS.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended—

(1) by striking sections 5, 10, 12, 13, 14, and 16;

(2) by redesignating sections 6 through 9 as sections 5 through 8, respectively;

(3) by redesignating section 11 as section 9;

(4) by redesignating section 15 as section 10; and

(5) by redesignating section 17, as added by section 105 of this Act, as section 11.

TITLE II—EXPORT PROMOTION

SEC. 201. TRADE PROMOTION COORDINATING COMMITTEE.

(a) ESTABLISHMENT AND PURPOSE.—The President shall establish the Trade Promotion Coordinating Committee (hereafter referred to as the "TPCC") which shall be chaired by the Secretary of Commerce. The purpose of the TPCC shall be—

(1) to coordinate the export promotion and financing activities of the United States Government; and

(2) to develop a governmentwide strategic plan for carrying out Federal export promotion and financing programs.

(b) DUTIES.—The TPCC shall—

(1) coordinate the development of the trade promotion policies and programs of the United States Government;

(2) provide a unifying framework for carrying out the United States Government's trade promotion programs more effectively;

(3) provide a central source of information for the business community on Federal exporter assistance programs;

(4) coordinate official trade promotion efforts to ensure better delivery of services to American businesses, including information and counseling on United States export promotion and financing programs and opportunities in foreign markets, representation of United States business interests abroad, and assistance with foreign business contacts and projects;

(5) avoid unnecessary duplication in Federal export promotion and financing activities;

(6) assess the appropriate levels and allocation of resources among agencies in support of export promotion and financing and provide recommendations to the President based on its assessment; and

(7) carry out such other duties as are deemed to be appropriate, consistent with the purpose of the TPCC.

(c) STRATEGIC PLAN.—In order to carry out subsection (b), the TPCC shall develop and implement a governmentwide strategic plan for Federal trade promotion efforts. Such plan shall—

(1) identify products, markets, kinds of companies, and industries that would most benefit from Federal trade promotion activities;

(2) establish a set of priorities for Federal activities in support of United States exports and explain the rationale for the priorities;

(3) review current Federal programs designed to promote the sale of United States exports in light of the priorities established under paragraph (2) and develop a plan to bring such activities into line with the priorities and to improve coordination of such activities;

(4) identify areas of overlap and duplication among Federal export promotion activities and propose means of eliminating them; and

(5) review State efforts to promote United States exports and propose means of developing cooperation between State and Federal efforts, including co-location, cost-sharing between Federal and State export promotion programs, and sharing of market research data.

(d) MEMBERSHIP.—Members of the TPCC shall include representatives from—

(1) the Department of Commerce;

(2) the Department of State;

(3) the Department of the Treasury;

(4) the Department of Agriculture;

(5) the Department of Energy;

(6) the Department of Transportation;

(7) the Office of the United States Trade Representative;

(8) the Small Business Administration;

(9) the Agency for International Development;

(10) the Trade and Development Program;

(11) the Overseas Private Investment Corporation;

(12) the Export-Import Bank of the United States; and

(13) at the discretion of the President, such other departments or agencies as may be necessary.

(e) REPORT TO CONGRESS.—The chairperson of the TPCC shall prepare and submit to the Congress, not later than September 30, 1993, and annually thereafter, a report describing the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan, and any revisions thereto.

SEC. 202. ONE-STOP SHOPS.

Section 2301(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(8) utilizing district and foreign offices as one-stop shops for United States exporters by providing exporters with information on all export promotion activities of the Federal Government, assisting exporters in identifying which Federal programs may be of greatest assistance, and assisting exporters in making contact with the Federal programs identified; and".

SEC. 203. US&FCS-EXIMBANK COOPERATION.

(a) TRADE ACT AMENDMENT.—Section 2301(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)) is amended by adding at the end the following new paragraph:

"(9) providing United States exporters with information on all financing and insurance programs of the Export-Import Bank, including providing assistance in completing applications for Bank programs, and working with exporters to address any deficiencies in such applications.".

(b) EXPORT-IMPORT BANK ACT AMENDMENT.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 12. US&FCS-EXIMBANK COOPERATION.

"The Bank shall—

"(1) provide full and current information on all of its programs and financing practices to the United States and Foreign Commercial Service; and

"(2) undertake a training program for officers of the United States and Foreign Commercial

Service, as designated by the Director General of the United States and Foreign Commercial Service, in Bank programs and practices.".

SEC. 204. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "12".

SEC. 205. REPORT ON EXPORT POLICY.

(a) IN GENERAL.—Not later than May 31 of each year, the Secretary of Commerce shall submit to the Congress a report on the international economic position of the United States and, not later than June 30 of each year, shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives to testify on issues addressed in such report.

(b) CONTENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall address—

(A) the state of United States international economic competitiveness, focusing, in particular, on the efforts of the Department of Commerce—

(i) to encourage research and development of technologies and products deemed critical for industrial leadership;

(ii) to promote investment in and improved manufacturing processes for such technologies and products; and

(iii) to increase United States industrial exports of products using the technologies described in clause (i) to those markets where the United States Government has sought to reduce barriers to exports;

(B) the implementation of the strategic plan developed by the Trade Promotion Coordinating Committee pursuant to section 201(c);

(C) other specific recommendations of the Department of Commerce to improve the United States balance of trade;

(D) the effects on the international economic competitiveness of the United States of—

(i) formal and informal trade barriers; and

(ii) subsidies by foreign countries to their domestic industries;

(E) the efforts of the Department of Commerce to reduce trade barriers; and

(F) the adequacy of Government export financing programs and recommendations for improving such programs.

(2) POLICY BASIS FOR REPORTS.—Portions of each report under this section may incorporate or be based upon relevant reports and testimony produced by the Department of Commerce or other agencies, but the policy views shall be those of the Secretary of Commerce.

SEC. 206. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Commerce—

"(1) to carry out export promotion programs—

"(A) $182,000,000 for fiscal year 1993; and

"(B) $190,000,000 for fiscal year 1994; and

"(2) to carry out section 2303 of the Omnibus Trade and Competitiveness Act of 1988, $6,000,000 for each of fiscal years 1993 and 1994.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

Section 207 of the International Emergency Economic Powers Act (50 U.S.C. 1706) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXPIRED LEGISLATIVE AUTHORITY.—

"(1) IN GENERAL.—The President may use the authority of this Act to extend or reinstate an expired provision of law for only one period of not more than 180 days after the date of such expiration, unless the President submits a declaration of emergency to the Congress and the Congress approves such use of authority, as provided in paragraph (3).

"(2) INTRODUCTION OF AUTHORIZING LEGISLATION.—

"(A) IN GENERAL.—In any case in which the President has invoked the authority of this Act to extend or reinstate an expired provision of law, a bill providing a simple extension of the expired legislative authority for a period of not less than 180 days shall be introduced in each House of Congress as follows:

"(i) HOUSE OF REPRESENTATIVES.—In the House of Representatives, the bill shall be introduced by the chairman of the appropriate committee of jurisdiction, for the chairman and the ranking minority member of the committee, or by the Members of the House designated by the chairman and ranking minority member.

"(ii) SENATE.—In the Senate, the bill shall be introduced by the Majority Leader of the Senate, for the Majority Leader and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and the Minority Leader of the Senate.

"(iii) TIMING.—The bills shall be introduced not later than 10 calendar days after the President's action or, if either House is not in session at the end of such period, on the first day thereafter on which that House is in session.

"(B) PROCEDURES FOR INTRODUCTION AND COMMITTEE CONSIDERATION.—

"(i) BILL PROVIDING A SIMPLE EXTENSION OF AUTHORITY DEFINED.—For purposes of this subsection, the term 'a bill providing a simple extension of expired legislative authority' means only a bill that provides exclusively for the termination of statutory authority, not less than 180 days following the date of enactment of such legislation.

"(ii) REFERRAL TO COMMITTEE.—Any bill described in this subparagraph that is introduced in the House of Representatives or the Senate shall be referred to the appropriate committees of jurisdiction in that House.

"(iii) DISCHARGE FROM COMMITTEE.—If the committee of either House to which a bill described in this paragraph has been referred has not reported such bill, or any other bill on the same matter, at the end of 60 days after the bill's referral, the committee shall be discharged from further consideration of the original bill.

"(3) PROCEDURE FOR EXTENDING EMERGENCY AUTHORITY.—

"(A) PROPOSAL REQUIRED.—If the President determines that extension of an expiring provision of law beyond the 180 days provided in paragraph (1) is necessary to the national security, foreign policy, or economy of the United States, the President shall, not later than 120 days after the authority of this section has been invoked or, if on that date the Congress has recessed, adjourned to a date certain, or adjourned sine die, then not later than 5 days after the Congress comes back into session, submit to the Congress—

"(i) a declaration of emergency explaining any unusual and extraordinary threat, which has its source in whole or substantial part outside of the United States, to the national security, foreign policy, or economy of the United States that justifies extension of any expiring statutory authority; and

"(ii) a proposal to extend the expiring authority for not more than 1 year.

"(B) REQUIREMENT FOR CONGRESSIONAL APPROVAL.—The proposed extension of authority shall not take effect unless the Congress, not later than 60 calendar days after receiving the report, enacts a joint resolution approving the extension.

"(C) PROCEDURES FOR INTRODUCTION AND COMMITTEE CONSIDERATION.—

"(i) JOINT RESOLUTION DEFINED.—For purposes of this paragraph, the term 'joint resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That the President is authorized to continue to exercise the authority of the ____________, for a period of _____ days, as proposed in the submission of the President of ____________.', with the blank spaces being filled with the appropriate citations of lapsed legislative authority, time period, and date of the submission of the proposal.

"(ii) INTRODUCTION.—On the day on which a proposal is submitted to the House of Representatives and the Senate under subparagraph (A), a joint resolution with respect to the proposed extension shall be introduced—

"(I) in the House of Representatives (by request) by the chairman of the appropriate committee of jurisdiction, for the chairman and the ranking minority member of the committee, or by the Members of the House designated by the chairman and ranking minority member;

"(II) in the Senate (by request) by the Majority Leader of the Senate, for the Majority Leader and the Minority Leader of the Senate, or Members of the Senate designated by the Majority Leader and the Minority Leader of the Senate.

"(iii) SUBMISSIONS WHILE NOT IN SESSION.—If other House is not in session on the day on which the proposal is submitted, the joint resolution shall be introduced on the first day thereafter on which that House is in session.

"(iv) REFERRAL TO COMMITTEE.—Any joint resolutions introduced under this paragraph in the House of Representatives and the Senate shall be referred to the appropriate committees of jurisdiction.

"(v) DISCHARGE FROM COMMITTEE.—If the committee of either House to which a joint resolution has been referred under this paragraph has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution and of any other joint resolution introduced with respect to the same matter.

"(4) FLOOR CONSIDERATION OF BILLS AND JOINT RESOLUTIONS.—

"(A) PROCEDURES.—Any bill or joint resolution described in subparagraph (B) shall be considered in the Senate in accordance with section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and enactment of such bill or joint resolution under this subsection, a motion to proceed to the consideration of any such bill or joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(B) AFFECTED BILLS AND JOINT RESOLUTIONS.—The procedures in subparagraph (A) shall apply to—

"(i) any bill in the form described in paragraph (2)(B)(i) and discharged from committee as provided in paragraph (2)(B)(iii); and

"(ii) any joint resolution described in paragraph (3)(C)(i) or any other joint resolution with respect to the same matter discharged from committee as provided in paragraph (3)(C)(v).

Any bill on the same matter as a bill described in paragraph (2)(B)(i) that is reported from committee in a form other than as described in that paragraph shall be considered in the House of Representatives and the Senate under normal legislative procedures.

"(C) BILL OR JOINT RESOLUTION RECEIVED FROM OTHER HOUSE.—In the case of a bill in the *form described in paragraph (2)(B)(i) or a joint resolution described in paragraph (3)(C)(i), if, before the passage by 1 House of such a bill or joint resolution of that House, that House receives such a bill or joint resolution with respect to the same matter from the other House, then—*

"(i) the procedure in that House shall be the same as if no bill or joint resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the bill or joint resolution of the other House.

"(D) COMPUTING TIME PERIOD.—In computing the time periods referred to in paragraphs (2)(B)(iii), (3)(B), and (3)(C)(iv), there shall be excluded the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

"(E) CONGRESSIONAL ACTION NOT REQUIRED.—If the legislative authority extended or reinstated under the authority of this section is extended or reinstated by law for a period longer than that proposed by the President under paragraph (3)(A) prior to the expiration of the 60-day period described in paragraph (3)(B), then no further action on any joint resolution described in paragraph (3) is required, and the procedures of paragraph (3)(C) are waived.".

SEC. 302. JOHN HEINZ COMPETITIVE EXCELLENCE AWARD.

(a) ESTABLISHMENT.—There is hereby established the John Heinz Competitive Excellence Award, which shall be evidenced by a national medal bearing the inscription "John Heinz Competitive Excellence Award". The medal, to be coined by the United States Mint and provided to the United States Senate, shall be of such design and materials and bear such additional inscriptions as the Majority and Minority Leaders of the Senate may prescribe.

(b) AWARD CATEGORIES.—

(1) IN GENERAL.—Two separate awards may be given under this section in each year. One such award may be given to a qualifying individual (including employees of any State or local government, or the Federal Government), and 1 such award may be given to a qualifying organization, institution, or business.

(2) LIMITATION.—No award shall be made under this section to an entity in either category described in paragraph (1) in any year if there is no qualified individual, organization, institution, or business recommended under subsection (c) for an award in such category in that year.

(c) QUALIFICATION CRITERIA FOR AWARD.—

(1) SELECTION PANEL.—A selection panel shall be established, comprised of 3 persons appointed by the Majority Leader of the Senate and 3 persons appointed by the Minority Leader of the Senate.

(2) QUALIFICATION.—An individual, organization, institution or business may qualify for an award under this section only if such individual, organization, institution, or business—

(A) is nominated to the Majority and Minority Leaders of the Senate by a current or former United States Senator;

(B) permits a rigorous evaluation by the Office of Technology Assessment of the way in which such individual, organization, institution, or business has demonstrated excellence in promoting United States industrial competitiveness; and

(C) meets such other requirements as the selection panel determines to be appropriate to achieve the objectives of this section.

(3) EVALUATION.—An evaluation of each nominee shall be conducted by the Office of Technology Assessment. The Office of Technology Assessment shall work with the selection panel to establish appropriate procedures for evaluating nominees.

(4) PANEL REVIEW.—The selection panel shall review the Office of Technology Assessment's evaluation of each nominee and may, based on those evaluations, recommend 1 award winner for each year for each category described in subsection (b)(1) to the Majority and Minority Leaders of the Senate.

(d) PRESENTATION OF AWARD.—

(1) IN GENERAL.—The Majority and Minority Leaders of the Senate shall make the award to an individual and an organization, institution or business that has demonstrated excellence in promoting United States industrial competitiveness in the international marketplace through technological innovation, productivity improvement, or improved competitive strategies.

(2) CEREMONIES.—The presentation of an award under this section shall be made by the Majority and Minority Leaders of the Senate with such ceremonies as they may deem proper.

(3) PUBLICITY.—An individual, organization, institution, or business to which an award is made under this section may publicize its receipt of such award and use the award in its advertising, but it shall be ineligible to receive another award in the same category for a period of 5 years.

(e) PUBLICATION OF EVALUATIONS.—

(1) SUMMARY OF EVALUATIONS.—The Office of Technology Assessment shall ensure that all nominees receive a detailed summary of any evaluation conducted of such nominee under subsection (c).

(2) SUMMARY OF COMPETITIVENESS STRATEGY.—The Office of Technology Assessment shall also make available to all nominees and the public a summary of each award winner's competitiveness strategy. Proprietary information shall not be included in any such summary without the consent of the award winner.

(f) REIMBURSEMENT OF COSTS.—The Majority and Minority Leaders of the Senate are authorized to seek and accept gifts from public and private sources to defray the cost of implementing this section.

AMENDMENT NO. 2947

(Purpose: To make technical corrections to the bill, and for other purposes)

Mr. MITCHELL. Mr. President, on behalf of Senators SARBANES, RIEGLE, GARN, and MACK, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], on behalf of Mr. SARBANES, for himself, Mr. RIEGLE, Mr. GARN, and Mr. MACK, proposes an amendment numbered 2947.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 9, insert ", including the agencies whose representatives are members of the Environmental Trade Working Group of the Trade Promotion Coordinating Committee," after "agencies".

On page 35, strike lines 1 through 4.

On page 35, line 5, strike "(D)" and insert "(C)".

On page 50, line 9, strike "and".

On page 50, between lines 9 and 10, insert the following:

(5) in conjunction with the Director of the Office of Management and Budget, propose to the President annually a unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (3) and eliminates funding for the areas of overlap and duplication identified under paragraph (4); and

On page 50, line 10, strike "(5)" and insert "(6)".

On page 51, between lines 9 and 10, insert the following:

(e) MEMBER QUALIFICATIONS.—Members of the TPCC shall be appointed by the heads of their respective departments or agencies. Such members, as well as alternates designated by any members unable to attend a meeting of the TPCC, shall be individuals who exercise significant decisionmaking authority in their respective departments or agencies.

On page 51, line 10, strike "(e)" and insert "(f)".

On page 52, line 13, insert "and export finance institutions" after "exporters".

On page 52, line 17, insert "and export finance institutions" after "exporters".

On page 53, between lines 8 and 9, insert the following:

SEC. 204. ENVIRONMENTAL TRADE PROMOTION.

(a) ENVIRONMENTAL TRADE WORKING GROUP OF THE TRADE PROMOTION COORDINATION COMMITTEE.—

(1) ESTABLISHMENT AND PURPOSE.—The President shall establish the Environmental Trade Promotion Working Group (hereafter referred to as the "Working Group") as a subcommittee of the Trade Promotion Coordination Committee. The purpose of the Working Group shall be to address all issues with respect to the export promotion and export financing of United States environmental technologies, goods, and services.

(2) MEMBERSHIP.—The members of the Working Group shall be—

(A) representatives of the agencies that are represented on the Trade Promotion Coordination Committee; and

(B) a representative of the Environmental Protection Agency.

(3) CHAIRPERSON.—The Secretary of Commerce shall designate the chairperson of the Working Group from among senior employees of the Department of Commerce. The chairperson shall—

(A) assess the effectiveness of United States Government programs for the promotion of exports of environmental technologies, goods, and services;

(B) recommend improvements to such programs, including regulatory changes or additional authority that may be necessary to improve the promotion of exports of environmental technologies, goods, and services;

(C) ensure that the members of the Working Group coordinate their environmental trade promotion programs, including feasibility studies, technical assistance, business information services, and export financing; and

(D) assess, jointly with the Working Group representative of the Environmental Protection Agency, the extent to which the environmental trade promotion programs of the Working Group advance the environmental goals established in "Agenda 21" by the United Nations Conference on Environment and Development at Rio de Janeiro, and in other international environmental agreements.

(4) REPORTS TO CONGRESS.—The chairperson of the Trade Promotion Coordination Committee shall include a report on the activities of the Environmental Trade Working Group as a part of the annual report submitted to the Congress by the Trade Promotion Coordination Committee.

(b) ENVIRONMENTAL TRADE PROMOTION BY THE DEPARTMENT OF COMMERCE.—The Export

Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2312. ENVIRONMENTAL TRADE PROMOTION.

"(a) STATEMENT OF POLICY.—It is the policy of the United States to foster the export of United States environmental technologies, goods, and services. In exercising its powers and functions, the Department shall encourage and support sales of such technologies, goods, and services.

"(b) TRADE PROMOTION COORDINATION COMMITTEE.—The chairperson of the Environmental Trade Working Group of the Trade Promotion Coordinating Committee, established under section 204(a) of the Export Enhancement Act of 1992, shall—

"(1) advise the Secretary and other employees of the Department on ways to promote the export of United States environmental technologies, goods, and services; and

"(2) serve as a liaison between the Department and other agencies that are members of the Environmental Trade Working Group.

"(c) TRADE INFORMATION.—In support of the work of the Environmental Trade Working Group, the Department shall, as part of its regular market survey and information services activities, make available to United States providers of environmental technologies, goods, and services—

"(1) survey information on existing and emerging market trends for environmental technologies, goods, and services; and

"(2) a description of the export promotion programs for environmental technologies, goods, and services of the agencies that are represented on the Environmental Trade Working Group.

"(d) OVERSEAS SERVICES FOR EXPORTERS.—

"(1) AUTHORIZATION.—The Secretary is authorized to designate a Foreign Commercial Service officer to serve as the Environmental Export Assistance Officer in any country—

"(A) whose companies are important competitors for United States exports of environmental technologies, goods, and services; or

"(B) that offers promising markets for such exports.

"(2) DUTIES.—The officer designated under paragraph (1) shall provide export promotion assistance to United States companies, including—

"(A) assessment of government assistance provided to producers of environmental technologies, goods, and services in such countries, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(B) assistance in identifying potential customers and market opportunities in such countries;

"(C) assistance in obtaining necessary business services in such countries;

"(D) information on environmental standards and regulations in such countries; and

"(E) information on all United States Government programs that could assist the promotion, financing, and sale of exports of United States environmental technologies, goods, and services in such countries.".

On page 53, line 9, strike "204" and insert "205".

On page 53, line 14, strike "205" and insert "206".

On page 55, line 14, strike "206" and insert "207".

On page 49, delete lines 20 through 22 and conform paragraph numbers accordingly.

Mr. SARBANES. Mr. President, I rise in support of S. 2864, the Export Enhancement Act of 1992. This legislation, which was reported out of the Banking Committee on June 18, was introduced by myself, Senator RIEGLE, Senator GARN, and Senator MACK. It would reauthorize the Export-Import Bank of the United States, whose charter expires on September 30, as well as the export promotion programs of the Commerce Department.

I am pleased that this legislation is being cosponsored by the chairman of the Senate Banking Committee, Senator RIEGLE, who has taken an active and long-run interest in U.S. export promotion and finance policy. In fact, Senator RIEGLE participated actively in the two subcommittee hearings which I chaired and which helped us to develop many of the proposals in this bill. Senator GARN, the ranking Republican member of the Banking Committee, and Senator MACK, the ranking Republican member of the Banking Committee's Subcommittee on International Finance and Monetary Policy, which I chair, were also closely involved in its development. Senator ROCKEFELLER has also taken a strong interest in this bill.

Title I of the legislation reauthorizes the charter for the Export-Import Bank of the United States. The Subcommittee on International Finance and Monetary Policy held an oversight hearing on the Export-Import Bank on May 14. Testimony presented at the hearing by John Macomber, the president and chairman of the Export-Import Bank, as well as leading representatives of U.S. exporters and commercial banks engaged in trade finance, made clear that foreign governments continue aggressive use of official financing to support their countries' exports. As a result, there continues to be a need for the United States to have a strong and active Export-Import Bank to support sales of U.S. exports abroad.

It was only a few short years ago that the Reagan administration proposed the elimination of the Export-Import Bank on the ground that there was no need for such an institution. Fortunately that view seems to have been reversed, and the Eximbank appears to have made significant improvement under the leadership of President Macomber.

The legislation introduced would reauthorize the charter for the Export-Import for 5 years, through September 30, 1997. In addition, it would reauthorize the Tied Aid Credit War Chest of the Eximbank for 3 years, at its current authorization level of $500 million a year.

The three key issues that emerged in the hearing on May 14, and that are addressed in the legislation, are the implementation of the recent agreement reached within the OECD [Organization for Economic Cooperation and Development] to restrict the use of tied aid credits; the impact of credit reform on the loan guarantee programs of the Eximbank; and the problems encountered by the Eximbank in retaining experienced professional staff.

The tied aid credit agreement concluded within the OECD in February prohibits the use of tied aid credits in higher income countries and middle income developing countries for projects that are financially viable. A project is considered financially viable if it has the capacity, with appropriate pricing determined on market principles, to generate cash flow sufficient to cover the project's operating costs and to service the capital employed. The rationale is that if a project is not financially viable then it is truly a development project and may be eligible for concessional assistance.

Pursuant to the conclusion of the OECD agreement, the Eximbank announced a policy of using its Tied Aid Credit War Chest simply to enforce compliance with the agreement. In other words, if foreign governments are making extensive use of tied aid credit, but within the terms of the OECD agreement, then the Eximbank will not utilize its war chest.

This raises a couple of concerns. First, the Eximbank adopted a similar policy in 1988 and 1989 of using the war chest simply to enforce the then existing OECD agreement. The result was that the war chest was virtually unused in both of those years while foreign governments continued to make extensive use to tied aid credits in support of exports from their countries.

Second, and particularly troubling, are the consequences of this policy for dealing with the lines of credit grandfathered under the new OECD agreement. Under the OECD agreement, credit lines notified prior to February 15, 1992, are grandfathered. Offers under these credit lines, subject to the old rules, may be extended through August 15, 1992, with a shelf life of 12 months. Thus deals could continue under the old rules for 18 months after the new rules go into effect.

The U.S. business community has raised concerns over this grandfather provision because it places U.S. companies in the position of having to compete for projects under the old OECD rules for up to 1½ years after the new rules are supposed to go into effect. This is particularly problematic because of the Eximbank's announced intention of using the war chest in the future only to enforce compliance with the agreement. Since the grandfathered lines of credit are permitted under the agreement, U.S. companies will have to compete for projects against foreign companies benefitting from tied aid credits with no possibility of receiving any tied aid credit support from the U.S. Eximbank.

As a result of these concerns, the Export Enhancement Act of 1992 amends the provision of the Export-Import

Bank Act authorizing the Bank to match tied aid credits offered by another country by adding:

> With special attention to match tied aid and partially untied aid credits extended by other governments: (i) in violation of the OECD arrangement; or (ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the arrangement, including grandfathered cases.

The intent of this new provision is to make clear that the Eximbank has authority to match tied aid credits offered by other governments in compliance with the OECD agreement if the Bank determines it is in the U.S. economic interest to do so, with particular attention to cases of credits grandfathered under the OECD agreement.

A second issue of concern is the potential impact of credit reform on the loan guarantee program of the Eximbank. The budget agreement reached in 1990 contained a new method of accounting for federal credit programs that has resulted in a higher subsidy cost for an Eximbank loan guarantee than for an Eximbank direct loan. As a result, exporters and commercial banks have expressed concerns that the lower subsidy costs of direct loans might lead the Eximbank to reduce or eliminate its loan guarantee program.

This would be an unfortunate result because the loan guarantee program of Eximbank has had an important influence on keeping private commercial banks in the business of trade finance. Commercial bank participation in trade finance expands the pool of available credit, and commercial banks provide an ease of access, a range of services, and financing for the 15 percent of a transaction not covered by Eximbank credits that the Eximbank itself cannot provide.

Thus far the Eximbank has indicated a clear intent to continue its loan guarantee program and to provide borrowers both a direct loan and loan guarantee option. Nevertheless, to provide statutory direction to the Eximbank on this issue, the legislation contains a provision requiring:

> That the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990.

The third key issue relates to the compensation of Eximbank personnel. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] authorized the Federal financial regulatory agencies—the Federal Reserve Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, National Credit Union Administration, Federal Housing Finance Board, and the Office of Thrift Supervision—to set compensation and benefits for their officers and employees independently of the Federal civil service guidelines. As a result, these agencies have been able to compensate their professional and management employees at rates significantly above those available to Eximbank employees.

This has created a problem for the Eximbank which recruits from the same professional talent pool as the financial regulatory agencies. The Eximbank reports that it has experienced difficulty in competing for new staff with the regulatory agencies. Perhaps of greater concern, the Eximbank reports that it has lost some key experienced Eximbank professional staff to the financial regulatory agencies.

As a result, the legislation contains a provision which would authorize the Eximbank, within its existing budgetary resources, to provide additional compensation and benefits to Bank employees if similar compensation and benefits are being provided by Federal bank regulatory agencies.

Title I of the legislation also contains a provision sponsored by Senate WIRTH which would provide a statutory basis for review of the environmental impact of projects financed by the Eximbank. It would require the Eximbank to establish procedures to take into account the beneficial and adverse environmental effects of goods and services which it may be asked to support under its direct lending and guarantee programs. This provision would also direct the Bank to encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects.

Title I would also require the Eximbank to seek to ensure that U.S. insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any long-term loan or guarantee of at least $10 million provided by the Bank. The provision requires the Bank to make a judgment as to whether a given loan or guarantee would be likely to achieve access where competitive access is denied, and to forward information to the Secretary of Commerce and the U.S. Trade Representative in any case in which it becomes aware of denial of competitive opportunities for U.S. insurance companies. Senator ROTH was the sponsor of this provision.

Finally, title I authorizes the President to sell, reduce or cancel Eximbank loans as part of the Enterprise for the Americans Initiative. This provision was included in the legislation at the urging of Senator GRAHAM.

Title II of the legislation reauthorizes the export promotion programs of the Commerce Department and addresses the broader issue of U.S. export promotion policy. The Banking Committee's Subcommittee on International Finance held a hearing on May 20 to review the range of export promotion programs sponsored by the Federal Government. Invited to testify at the hearing were representatives of the Commerce Department, Eximbank, Small Business Administration, Agriculture Department, Agency for International Development, and the trade and Development Program.

The number of agencies represented at the hearing is an indication of a key problem confronting U.S. export promotion policy: the lack of coordination and an overall national strategy. This lack of coordination and overall strategy was commented upon by representatives of the General Accounting Office, the National Association of Manufacturers, and the National Governors Association, who also testified at the hearing.

In response to this problem, the legislation would provide a statutory base for the interagency Trade Promotion Coordinating Committee [TPCC], which until now has operated pursuant to Executive order. While the TPCC has, according to a GAO report, achieved some success, it lacks permanent status and its long-term effectiveness is yet to be demonstrated.

The TPCC would be chaired by the Secretary of Commerce. Its purpose would be to coordinate the export promotion and financing activities of the U.S. Government and develop a governmentwide strategic plan for carrying out Federal export promotion and financing programs. Members of the TPCC would include representatives of the Departments of Commerce, State, Treasury, Agriculture, Energy, and Transportation, as well as the U.S. Trade Representative, Small Business Administration, Agency for International Development, Trade and Development Program, Overseas Private Investment Corporation, and the Eximbank. The TPCC would be required to submit an annual report to Congress describing its strategic plan, the implementation of the plan, and any revisions made to the plan.

In order to improve the accessibility of U.S. export promotion programs to small and medium-sized exporters around the country who are not able to come to Washington, the legislation directs the U.S. Foreign and Commercial Service to utilize its 69 domestic offices and its 130 foreign posts as one stop shops for U.S. exporters. The offices would be required to provide exporters with information on all export promotion activities of the Federal Government, and assist exporters in identifying which Federal programs may be of greatest assistance and making contact with the Federal programs identified.

In addition, the legislation would specifically require the US&FCS to provide U.S. exporters with information on all financing and insurance programs of the Eximbank, including providing assistance in completing applications for Bank programs, and working with exporters to address any deficiencies in such applications. The Eximbank, in turn, would be required to provide full and current information on all of its programs and financing practices to the US&FCS and undertake a training program for US&FCS officers in bank programs and practices. Senator ROCKEFELLER has been a leading proponent of increasing cooperation between the US&FCS and the Eximbank and utilizing the US&FCS district office network as an outreach arm of the Eximbank.

The legislation would also require the Secretary of Commerce to submit to Congress an annual report on the international economic position of the United States, and appear before the Senate Banking and Housing Foreign Affairs Committees annually to testify on the report. Senator RIEGLE has been the leading proponent of institutionalizing such an annual reporting requirement by the Commerce Secretary on the competitive position of the United States in the international marketplace. This report and annual hearings on it will enable Congress to strengthen oversight of this increasingly important issue.

Finally, title II of the legislation would increase the number of foreign commercial service officers with the rank of Minister-Counselor from 8 to 12, and provide a 2-year authorization for the export promotion programs of the Commerce Department—$182 million for fiscal year 1993, and $190 million for fiscal year 1994.

Title III of the legislation includes two provisions sponsored by Senator GARN. The first provision would place a limitation on the use of the International Emergency Economic Powers Act [IEEPA] in situations in which an international emergency is declared in order to extend or reinstate provisions of law that have lapsed due to inaction by the Congress or a veto by the President. This provision is a response to the current situation with respect to the Export Administration Act.

The second provision includes the text of a bill, S. 2503, to establish the John Heinz Competitive Excellence Award. This provision is intended to honor the memory of Senator John Heinz for his efforts to promote the industrial competitiveness of the United States during his 14 years of service on the Senate Banking Committee. The provision would authorize two awards each year for excellence in promoting U.S. industrial competitiveness, to be awarded by the majority and minority leaders on behalf of the Senate.

A managers amendment to S. 2864, offered by the four original sponsors of the legislation, incorporates proposals put forward by Senator WIRTH, Senator ROCKEFELLER, and Senator BIDEN. The managers amendment would provide a statutory basis for the environmental trade working group of the Trade Promotion Coordinating Committee and direct it to assess the effectiveness of U.S. Government programs to promote environmental exports, recommend improvements in such programs, and ensure coordination of programs among members of the working group. This provision was sponsored by Senator WIRTH.

The managers amendment would also require that the members of the Trade Promotion Coordinating Committee be appointed by the heads of their respective departments or agencies and be individuals who exercise significant decisionmaking authority in their respective departments. It would direct the TPCC to propose to the President annually a unified Federal trade promotion budget and require the US&FCS to provide exporters and export finance institutions with information on all financing and insurance programs of the Export Import Bank. These provisions were included at the urging of Senator ROCKEFELLER.

The managers amendment also contains a provision, sponsored by Senator BIDEN, which would authorize the Secretary of Commerce to designate a Foreign Commercial Service Officer to serve as the Environmental Export Assistance Officer in any country whose companies are important competitors for U.S. exports of environmental goods and services or that offers promising markets for such exports.

Mr. RIEGLE. Mr. President, I rise today to urge the passage of S. 2864, the Export Enhancement Act of 1992. S. 2864 will renew and amend the charter of the Export-Import Bank of the United States and strengthen our country's overall export financing and promotion programs. It is designed to enhance U.S. export competitiveness. Senator SARBANES and I, along with Senators GARN and MACK, introduced S. 2864 on June 17. On June 18, the bill was marked up and ordered to be reported by the Banking Committee after the adoption of a managers amendment incorporating improvements recommended by various members of the committee. The bill before the Senate today has been further amended to incorporate certain additional improvements suggested by Senators BIDEN, ROCKEFELLER and WIRTH.

Export financing plays a critical role in export competitiveness. Through the reauthorization of the Eximbank and the amendments it makes to that Bank's charter, this bill strengthens the export financing programs of the United States. The bill also reauthorizes the export promotion programs of the Commerce Department. Without such programs important export growth markets and strategic export sectors may be lost to our competitors.

The bill, however, goes beyond simply reauthorizing existing export promotion and financing programs. In contrast to our principal competitors, the United States does not have a comprehensive, integrated export enhancement strategy. There are 10 executive agencies involved in either export promotion or financing activities. Yet, we have no strategic plan for coordinating these activities and ensuring the efficiency of these many federal programs. A January 1992 report issued by the GAO found that "export promotion programs do not receive funding based on a governmentwide strategy or set of priorities. Without an overall rationale, it is unclear whether export promotion resources are being channeled into areas with the greatest potential return."

In order to improve the coherence of our export promotion programs, this bill establishes permanently in statute the recently established Presidential interagency committee known as the Trade Promotion Coordinating Committee [TPCC]. This committee is chaired by the Secretary of Commerce and composed of representatives from the various agencies engaged in trade policy and export promotion and financing activities. This bill not only establishes the TPCC in law but also charges it to develop a governmentwide strategic plan for promoting and financing exports. Proper development and implementation of such a plan will ensure our export promotion and financing activities are being coordinated and that priorities are being set that will enable our Nation to get the maximum return for the money we spend on such activities.

The bill also directs the U.S. Foreign and Commercial Service to utilize its 67 domestic offices and 129 foreign offices as one-stop shops for U.S. exporters. Our intention is to ensure that small- and medium-sized companies, not familiar with exporting, can get all the help they need in identifying relevant Federal programs in one, easily accessible office. We have to get more American firms involved in exporting and this provision is designed to help that happen.

The Department of Commerce has a key responsibility for strengthening our international trade and investment position. This bill raises the visibility of that important function by requiring the Secretary of Commerce to submit to the Congress an annual report on the international economic position of the United States and to appear annually before the Senate Banking Committee and the House Foreign Affairs Committee to testify on the report. Among other things, this provision will require the Commerce Secretary to report on the Department's efforts to promote the development of technologies and products critical to our industrial leadership and to increase exports of products using such technologies. The Secretary is also required to include in this annual report a summary of the work being done by the TPCC to implement a governmentwide strategic plan for coordinating all export promotion and financing activities of our Government. The annual report and hearing requirements are designed to focus attention on these important activities and ensure better congressional oversight of them.

Mr. President, this bill contains a provision establishing the John Heinz Competitive Excellence Award. This provision authorizes two awards each year for excellence in promoting U.S. industrial competitiveness. It is indeed most fitting that this bill, whose primary objective is the strengthening of U.S. export competitiveness, should establish an award in memory of Senator Heinz. During his many years on the Banking Committee, Senator Heinz demonstrated a strong commitment to strengthening America's industrial base and export competitiveness. I am pleased to support this provision honoring those efforts.

Mr. President, I want to express my appreciation to Senator SARBANES for his leadership and for working closely with me to ensure that many of the provisions to which I attach great importance are included in this bill. I would also like to thank Senators GARN and MACK for their support and contributions to this bill. As I previously mentioned, Senators ROCKEFELLER, WIRTH, and BIDEN have also made valuable contributions.

Finally, Mr. President, I note that this legislation contains elements of the U.S. economic leadership strategy, announced by the majority leader earlier this month. It is one piece of a larger Democratic initiative designed to strengthen our country's international economic position. This legislation is vital to our ability to compete in the global economic arena. We cannot fail to provide American firms with the essential competitive tools which this legislation affords. I urge its prompt passage.

Mr. ROCKEFELLER. Mr. President, the Export Enhancement Act of 1992 gives us an important opportunity to begin to bring order to the chaos that Government export promotion programs suffer from currently. I must compliment Senator SARBANES, Senator RIEGLE, Senator GARN, and Senator MACK for their tremendous contributions to this effort. It was my pleasure to have the opportunity to work with them and the members of the Banking Committee to make sure that American exporters are provided with the most efficient and effective assistance in the world. This bill takes a number of important steps in that direction that we should adopt now as part of our effort to strengthen the Eximbank and to better coordinate our export promotion efforts. I would also note, Mr. President, that this bill is also part of the national economic leadership strategy that the majority leader announced on July 1. That strategy explicitly recognized the importance of an effective export promotion policy to any long term growth program and endorsed the provisions of S. 2864.

Enhancing exports is a popular topic in the Congress, which is no surprise, given the huge trade deficits of the past decade. Despite some improvement in the past few years, the trend in our trade deficit since February has been bad—each month worse than the one before. If that continues, and there is no reason to think it won't the 1992 deficit will be worse than last year. More ominous still, the data show declining exports. As world growth slows, we will have to work much harder simply to maintain our exports, much less expand them.

Every year in Congress there are numerous proposals to expand exports, but they are normally not given any serious, coherent review. We add programs at whim when we have the money, and we add mandates when we don't have the money, in both cases often without regard to what is already there.

The result is overlap and lack of coordination that confuses large American businesses and intimidates small ones. American companies must wade through a 16 agency bureaucratic swamp of conflicting advice, limited resources, complicated rules, and bureaucratic struggles before emerging—barely competitive—in the international arena. A recent GAO report highlights the ad hoc nature of our Government's export promotion activities and concludes that they lack organizational and funding cohesiveness.

Meanwhile, our competitors in Europe and Asia engage in vigorous and coordinated policies of export promotion and finance. The administration's response has been to seek international agreements to limit subsidized Government interference in the marketplace. That is a worthy objective, Mr. President, but it is unlikely to be achieved any time soon. While we should continue to pursue it, we should at the same time not hesitate to develop our own programs that permit our exporters to compete effectively in the international marketplace.

Mr. President, I believe we need to develop an aggressive and coordinated policy for the United States. To that end, my Subcommittee on Foreign Commerce and Tourism held extensive hearings in 1990 and 1991 on our export promotion programs. We consulted widely with Government officials and representatives of exporting businesses as well as those who are not as active exporters as they would like to be.

As a result of those hearing, last year I introduced legislation, S. 1721, that would combine the two important export functions of marketing and finance and would take several other steps to end the patchwork of export promotion agencies that creates so much confusion. That bill would have created a Bureau of Trade Development and Trade Finance within the Department of Commerce in order to join the marketing functions of the United States and Foreign Commercial Service with the Commerce Department's Office of Trade Development and the export finance functions of the Eximbank.

Such an organization would enable USFCS offices in the United States to act effectively as Eximbank branch offices, spreading the word about marketing and finance to new exporters, assisting in the preparation of applications for Bank programs, and keeping in touch with the customers while the application is processed in Washington. The effect would be a powerful agency that would provide exporters with efficient one stop shopping for U.S. Government export promotion and finance services.

In my experience in West Virginia, such outreach is critical for those either not aware of the Bank's activities or not involved in exporting at all. My friend Roger Fortner runs the Charleston office of the United States and Foreign Commercial Service. He does a remarkable job putting exporters in touch with the various Government agencies that can help them, and maintaining a network of contacts that enables West Virginians to expand their markets and increase their sales.

Roger Fortner and his counterparts could do a lot more as part of a strong and dynamic agency that can assist with financing, as well as marketing. The USFCS officers should be helping small- and medium-sized exporters find the Eximbank and fill out its paperwork. Their mission should include teaching potential American exporters about the programs the Bank offers, from export insurance to loan guarantees to lines of credit to direct loans. With this unified U.S. Government export promotion and finance service, American exporters would not be at a competitive disadvantage in their fight to capture foreign markets.

Mr. President, I am convinced that the Federal Government must establish a unified trade promotion and finance organization if we are to provide American exporters with a sophisticated and coordinated program of export enhancement program. I am disappointed that we are not taking that important step today, but it is said that politics is the art of the possible. I am therefore pleased that it was possible for several of the provisions I proposed in S. 1721 to be included in the Banking Committee's bill. They are:

Reauthorization of Eximbank "war chest" for 3 years.

Providing for 100 percent cover on Bank export credit guarantees.

Making the Trade Promotion Coordinating Committee [TPCC] a permanent, statutory body.

Giving the TPCC specific responsibilities for coordinating the development of trade promotion policies of the U.S. Government and eliminating duplication among them.

Introducing the one-stop shop concept in the Commerce Department, whereby the USFCS field offices will provide exporters with information on all export promotions programs of the U.S. Government.

Requiring the USFCS to do outreach for the Eximbank and, in turn, requiring the Bank to make the necessary information and training available to accomplish that.

In addition, the committee included a suggestion I had made, along with the U.S. Chamber of Commerce, which was not included in S. 1721—that the TPCC, in addition to its coordinating duties, would assess budget allocations for the various export promotion programs in the Government and make recommendations based on this assessment.

On another subject, I am also pleased to note that the Banking Committee approved as part this bill the text of S. 2102, which I cosponsored with Senator GARN. This provision would amend the International Emergency Economic Powers Act [IEEPA] to prohibit the President from considering failure of Congress to pass a bill, or his veto of a bill, a national emergency under IEEPA. This is an obscure but important good-government step that will make it more difficult for the President to dispense with the legislative branch of the Government when he finds it inconvenient, as he has done with our export control laws.

The Export Administration Act [EAA] expired in October, 1990. Shortly afterward, Congress sent the President an extension, which he vetoed after Congress adjourned. At the time the act initially expired, the President declared a national emergency pursuant to the IEPPA and reimposed the provisions of the EAA by Executive order. While that may be appropriate and tolerable for a short time pending congressional action, it is now nearly 2 years later, and the President has been operating essentially by fiat the entire time, and, in my judgment, Mr. President, at the same time discouraging Congress from acting to renew the EAA. That legislation is now in conference—the Senate passed its version in February 1991—and I hope for a conclusion before adjournment. Using IEPPA to cover for the absence of a law, however, distorts the purpose of IEPPA, which gives the President the broad powers he needs in cases of a genuine emergency, and it encourages the administration to refrain from working with the Congress to develop mutually acceptable legislation.

Let me also, Mr. President, commend the Banking Committee for including in its bill the John Heinz Competitiveness Award legislation that so many senators, including myself, cosponsored when the Senator from Alaska [Mr. STEVENS] introduced it last April. Senator Heinz cared tremendously about our country's competitiveness and its manufacturing base. He viewed it as a bipartisan issue and worked hard with many of us on both sides of the aisle to move the country forward, often over the objections of the current administration. This award is a fitting memorial to him, and I am delighted the committee has decided to include it in the bill.

The export promotion provisions I referred to, are an important step forward, but there are other refinements of the committee bill that should be made. Accordingly, I have proposed three amendments. The first two relate to the functioning of the Trade Policy Coordinating Committee, for which the bill provides a statutory basis. One amendment would require that the members of the TPCC be at sufficiently high policy levels in their agencies to ensure that TPCC decisions and recommendations will be fully implemented within the agencies. The second elaborates on the duties given the TPCC in the bill by requiring it, in conjunction with the Director of the Office of Management and Budget, to propose an annual unified export promotion budget to the President. This budget will give the TPCC a real opportunity to address both the redundancy and priority problems that have plagued our export promotion programs.

The final amendment elaborates on the provision in the bill which I had suggested that gives USFCS officers the obligation to provide exporters with information on the Eximbank and export finance. The amendment would expand that obligation to require that the information also be made available to export finance institutions, since many inquiries and applications come from local banks as well as directly from exporters.

These amendments will further enhance our efforts to develop a comprehensive, coordinated export promotion policy. The Banking Committee deserves our praise for its commitment to that goal and for its willingness to work with those of us who do not serve on the committee who are also interested in export promotion. With the adoption of this bill, we are taking an important step in the implementation of the national economic leadership strategy and in the creation of a world class export policy that will once again make America an effective competitor in the global marketplace.

Mr. WIRTH. Mr. President, I rise today to draw my colleagues' attention to several important provisions to promote American exports of environmental goods, services, and technology which have been included in the manager's amendment to the Export-Import Bank reauthorization.

During the current Presidential campaign, we have been subjected to a steady stream of political rhetoric about the choice that supposedly must be made between jobs and the environment. Yet it has become abundantly clear that this is a false choice. Environment and economics are inextricably linked. Today, environmental awareness is spreading across the globe as economies mature, populations grow and threats to the ecosystem become more apparent. This translates into growing environmental opportunities for American industry to export the goods and services of the 1990's and beyond.

We in America have built a tremendous record of leadership and achievement on environmental issues. We celebrated Earth Day more than 20 years ago, and in the ensuing two decades have established the first and highest environmental standards of any nation on Earth. We now need to expand our field of vision and action to the entire globe.

Other nations—Japan and Germany foremost among them—have recognized the tremendous opportunities presented by the rapid development of international environmental awareness. Japanese industries, in fact, have been working together to create a 100-year industrial plan for environmental technology. In spite of our early leadership, Japan already dominates the environmental markets in Southeast Asia.

The United States today is in danger of losing the comparative advantage we established as the early leader in the environmental movement. We have already made enormous investments in clean technology for our air, water, and soil. It is now time to cash in on these investments. Having led the world in the development of technology for environmental protection, we must now work aggressively to expand this technology and export it globally. If we do not capture this opportunity, our competitors will.

The global environmental market is now more than $250 billion—and is expected to grow dramatically throughout the 1990's, reaching more than $400 billion by 1996. Tens of thousands of U.S. companies today employ 1 million Americans in the provision of environmental technologies, goods, and services. Environmental policies can work to make America more competitive and generate more jobs—if we have the necessary vision and leadership. By hanging back, this administration jeopardizes more than our current 40-percent share of the market for environmental goods and services. We also put at risk our broader claim to scientific and diplomatic leadership on a global scale.

Senators GORE, BIDEN, ROCKEFELLER, LIEBERMAN, BINGAMAN, and myself have been developing comprehensive legislation which we will be introducing in the near future to put the full force of the U.S. Government behind a number of initiatives to promote, nurture and sustain U.S. exports of environmental goods, services and technology.

As with much of the legislation considered in Congress, the provisions in our bill fall into the jurisdictions of different committees. Several key provisions of the legislation are within the jurisdiction of the Committee on Banking, Housing and Urban Affairs. With the help of Chairman RIEGLE and Senator SARBANES, chairman of the Subcommittee on International Finance and Monetary Policy, these provisions have been included in the manager's amendment to the Eximbank reauthorization.

Included in the bill is a provision to establish an environmental trade working group as a statutory subcommittee of the Trade Promotion Coordination Committee, and require the chairperson of the Board to assess the effectiveness of Federal environmental export promotion programs, to recommend improvements, to ensure that the environmental export promotion programs of Federal agencies are coordinated, and to assess the extent to which these programs advance the goals established by international environmental agreements.

Another provision requires the Department of Commerce to prepare surveys of markets for environmental exports and to make the surveys, as well as information on Federal export promotion programs, available to U.S. producers of environmental goods and services. Moreover, it would authorize the designation of a foreign commercial service officer to serve as the environmental export assistance officer in countries that offer a promising market or are serious competitors for environmental exports. The officer would work to identify market opportunities and analyze government assistance programs to our competitors in order to determine how we can improve our own programs.

These important provisions build upon section 105 of the Eximbank reauthorization, which I included in the bill in committee. This section provides for Eximbank procedures to consider the environmental effects of certain projects, and directs the Bank to encourage exports of environmental goods and services. Again, I want to extend my appreciation to Senators RIEGLE and SARBANES for their help in including these provisions in the bill.

These provisions are not extreme or radical. They are a modest first step in a larger effort to offer leadership and direction in environmental trade and to develop our global competitiveness in an area of natural American strength. By better use of existing resources and programs, we can dramatically expand our share of this growing market—doing good for the environment and creating American jobs.

I hope that we can move forward to a conference with the House as soon as possible. I look forward to working with Senators RIEGLE and SARBANES to ensure that these provisions are retained in conference.

Mr. GARN. Mr. President, I rise in support of S. 2864, the Export Enhancement Act of 1992. The basic purpose of this legislation is to extend the charter of the Export-Import Bank which expires on September 30. It is vital that we avoid any disruption of the Bank's lending authority at a time when United States exporters are looking to the Bank to support expanding sales to Latin American and the newly emerging markets in the former Soviet Union.

The Bank has had a solid record of achievement under Chairman John Macomber. Exports assisted in 1991 were at their highest level in 10 years, up nearly 30 percent over 1990. The Bank is making innovative use of its guarantee authority, creating new mechanisms for financing smaller deals that are attracting commercial banks and small exporters to the Bank. In addition, a new and tougher international agreement restricting the use of tied aid credits has been negotiated that should limit this form of trade distorting subsidy.

In addition to reinforcing these efforts, the legislation would clear away a lot of outdated material from the charter, especially the limitations on lending to the Soviet Union that are remnants of the cold war. It would provide the Bank limited authority to match compensation offered by the bank regulatory agencies in order to ensure that qualified staff are not recruited away from our exporting effort. The bill would also strengthen U.S. export promotion efforts by putting the Trade Promotion Coordinating Committee in statute and providing for an annual strategy for all export promotion programs.

I would like particularly to discuss two provisions that I added to the legislation in committee. The first is an amendment to the International Emergency Economic Powers Act which would limit to 180 days the period of time during which IEEPA could be used for the routine business of extending or reinstating provisions of law that have lapsed due to inaction by the Congress or a veto by the President.

This provision is a response to the current situation with the Export Administration Act. The law has been out of force since September 30, 1990, first due to a Presidential veto and then due to inaction by the Congress for a year and a half. I opposed the veto and I have pursued legislation to get the EAA back on the books for 2 years. Nonetheless, the law remains out of force.

Our export control policy is sustained by a questionable state of emergency that is fraying with the passage of time and under the pressure of court challenges. It is a sad commentary that legislation like this is needed but there is no penalty for congressional inaction. And the legislative process has been so devalued that automatic procedures are necessary to force action.

This bill makes no dramatic changes in IEEPA. It simply says that use of emergency authority for routine extensions of law must be ratified by the Congress within 180 days or the authority expires. It ensures that Congress must act within that time by requiring authorizing legislation and a resolution of approval to be introduced into both Houses and considered under expedited procedures. If Congress does its job within 180 days and extends the law, this bill has no effect. If Congress fails to pass legislation, it must ratify or strike down the resolution approving the state of emergency.

The administration may argue that this is an unacceptable limitation of the President's authority in emergencies. I disagree. The emergency here is legislative; the solution must be legislative action. This bill will do two things: it will force the Congress to do its job and it will end the unlimited use of emergency authorities by the President to overcome disputes between the White House and Congress.

A second provision would establish a Competitive Excellence Award in honor of John Heinz. This is the text of S. 2530, a bill introduced by Senator STEVENS that has 60 cosponsors. The amendment would authorize two annual awards for excellence in promoting U.S. industrial competitiveness: one for an individual and one for an organization, institution, or business that have best demonstrated competitive excellence.

These would be Senate awards, presented by the majority and minority leaders. Their decision would be based on the advice of a panel established by them and assisted in its deliberations by the Office of Technology Assessment. Acceptance of gifts from public and private sources would be authorized to defray the cost of implementing this act. I believe this legislation is a fitting tribute to a man who labored for many years in public life to promote the industrial competitiveness of our country.

I believe this legislation deserves the strong support of the Senate. Most important is keeping the Export-Import Bank in continuous operation in order to support sustained growth of U.S. exports. I urge the bill's adoption.

Mr. BIDEN. I rise to highlight several environmental provisions included in the manager's amendments to the Exim reauthorization bill. These are provisions that I strongly support, and I would like to commend the efforts of Senator WIRTH in working to include them in this legislation.

The amendments represent first steps toward helping American businesses in one of the fastest growing global markets—the environmental goods and services market. The amendments Senator WIRTH, myself, and several other Senators have worked to include in this bill will help improve the coordination of assistance to American companies that are looking to sell environmental goods and services abroad.

The changes we have proposed will also focus responsibility for the development of environmental export assistance programs, both across the Federal Government and within individual agencies.

The amendment will establish an environmental trade working group within the Trade Promotion Coordination Committee. Although this working group may never become a high-profile organization in the public's mind, it will bring together representatives of Federal agencies that have the tools in hand to help the export of environmental goods and services. It may never be well-known, but if used effectively, the working group could bring about a huge jump in these exports.

The amendment calls for the designation of an environmental export assistance officer in our Embassies in nations that are either key markets for environmental exports, or are important competitors of ours in the global market. This change will not only help keep American companies abreast of opportunities around the world, but will also help policymakers react quickly when American businesses are being victimized by unfair trading practices.

The changes in this amendment are a start. I will be introducing legislation shortly that will build on these initial steps, bringing further tools to bear in support of this growing market. The provisions in this amendment, and in the legislation I will introduce in September, build on the vast experience of American companies in developing technologies to respond to environmental threats and to control pollutants. Contrary to the assertions of many, environmental protection and jobs can go hand in hand.

In fact, a recent study by the Organization for Economic Cooperation and Development found that roughly 800,000 Americans were employed in companies that produce environmental goods or provide environmental services. The report also found that the export of environmental goods and services added $4 billion to our Nation's trade balance.

As I have stated, the provisions in this bill are a start. I believe there is much more we can do to take full advantage of the opportunities our Nation has to become the world leader in environmental goods and services trade. And I look forward to working with Senator WIRTH and other Members interested in this issue in making the possibility a reality.

The PRESIDING OFFICER. Without objection, the amendment is agreed to, and the committee substitute, as amended, is agreed to.

The question is on the third reading of the bill.

The bill was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the House companion bill, H.R. 5739; that all after the enacting clause be stricken and the text of S. 2864, as amended, be substituted in lieu thereof; that the bill be read a third time and passed; that the Senate insist on its amendment and request a conference with the House on disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5739) as amended, was passed.

Mr. MITCHELL. I ask unanimous consent that S. 2864 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO REPRINT H.R. 5679 AND SENATE REPORT 102-356

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 5679, as reported by the Committee on Appropriations, and the report accompanying this bill, Senate Report 102-356, be reprinted due to technical and printing errors in the initial printing of the bill and report.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 12.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 12) entitled "An Act to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Markey, Mr. Tauzin, Mr. Eckart, Mr. Manton, Mr. Hall of Texas, Mr. Harris, Mr. Lent, Mr. Rinaldo, Mr. Bilirakis, and Mr. Fields be the managers of the conference on the part of the House: *Provided*, That Mr. Ritter is appointed in place of Mr. Fields for consideration of so much of section 16 of the Senate bill as would add a new section 614(g) to the Communications Act of 1934 and so much of section 5 of the House amendment as would add a new section 614(f) to the Communications Act of 1934.

Mr. MITCHELL. Mr. President, pursuant to the previous order of August 6, I now move that the Senate disagree to the House amendments, agree to the request for a conference, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER appointed Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. DANFORTH, and Mr. PACKWOOD conferees on the part of the Senate.

TRAVEL AND TOURISM IN THE UNITED STATES

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 680.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 680) entitled "An Act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the International Travel Act of 1961 (22 U.S.C. 2121 and following).

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States,

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product,

(3) travel and tourism expenditures last year were approximately $327 billion;

(4) in 1990, the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly,

(5) 39 million international visitors spent approximately $52.8 million in the United States last year,

(6) travel and tourism services ranked as the largest United States export in 1989,

(7) many local communities with significant tourism potential are unable to realize the economic and employment opportunities that tourism provides because they lack the necessary local resources and expertise needed to induce tourism trade,

(8) increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors,

(9) foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border,

(10) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States,

(11) exporting those goods and services which United States industry can produce at a comparative cost-advantage, such as travel and tourism services, will be in the Nation's long-term strategic interest, and

(12) the emergence of democratic governments in the formerly Communist nations of Eastern Europe provides new opportunities for United States firms engaged in both the inbound and outbound tourism markets.

SEC. 3. POLICY CLARIFICATIONS.

(a) NATIONAL TOURISM POLICY.—

(1) Section 101(b)(1) (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;".

(2) Section 101(b) (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraphs (2) through (12) as paragraphs (6) through (16), respectively, and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which—

"(A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and

"(B) have the potential necessary to support and sustain an economy based on tourism;

"(5) promote increased and more effective investment in international tourism by the States, local governments, and cooperative tourism marketing programs;".

(b) DUTIES OF SECRETARY OF COMMERCE.—

(1) Section 201 (22 U.S.C. 2122) is amended—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively,

(B) in paragraph (3), as so redesignated, by striking out "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;",

(C) by inserting immediately after paragraph (1) the following:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;", and

(D) by striking out "and" at the end of paragraph (6) (as so redesignated), by striking out the period at the end of paragraph (7) (as so redesignated) and inserting "; and", and by adding after such paragraph (7) the following:

"(8) advise and provide information and technical assistance to United States firms seeking to facilitate travel to and from the emerging democracies of Eastern Europe and compile statistics regarding such travel.".

(2) Section 202(a)(9) (22 U.S.C. 2123(a)(9)) is amended by striking out "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 (22 U.S.C. 2123) is amended by adding at the end the following:

"(e) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEAL.—Section 203 (22 U.S.C. 2123a) is repealed.

(e) TOURISM POLICY COUNCIL.—

(1) Section 302(b)(1) (22 U.S.C. 2124a(b)(1)) is amended—

(A) by redesignating subparagraphs (H) and (I) as subparagraphs (O) and (P), and

(B) by inserting immediately after subparagraph (G) the following:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;

"(L) the Commissioner of the Immigration and Naturalization Service;

"(M) the President of the National Railroad Passenger Corporation;

"(N) the Commissioner of Customs;".

(2) Section 302(d) (22 U.S.C. 2124a(d)) is amended by adding at the end the following:

"(4)(A) Every year, upon designation by the Secretary in accordance with subparagraph (B), up to 3 Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

SEC. 4. TOURISM TRADE DEVELOPMENT.

(a) ANNUAL PLAN.—

(1) Section 202(a)(15) (22 U.S.C. 2123(a)(15)) is amended by striking out "marketing" and inserting in lieu thereof "tourism trade development".

(2) Section 202 (22 U.S.C. 2123), as amended by section 3(c), is amended by adding at the end the following:

"(f)(1) The Secretary's tourism trade development efforts shall focus on markets which have the greatest potential for increasing travel and tourism export revenues.

"(2)(A) The Secretary shall carry out a generic promotion program which shall be the only direct marketing activity in which the Secretary shall be engaged under this Act. In addition to generic promotion, the Secretary shall carry out tourism trade development efforts pursuant to subparagraphs (B) through (E).

"(B) By March 31 of each year, the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 6 months after the notice is published.

"(C) Within 3 months after the notice is published under subparagraph (B), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in subparagraph (B). The selection shall be announced by publication in the Federal Register.

"(D)(i) At the same time the Secretary announces the selection of markets under subparagraph (C), the Secretary shall issue a request for proposals from States and political subdivisions of States, cooperative tourism marketing programs, and appropriate nonprofit organizations and associations to develop and implement tourism trade development programs applicable to the markets so selected. The Secretary shall award grants to carry out proposals submitted under this subparagraph. Such grants shall be awarded no later than 6 months after the notice is published under subparagraph (B).

"(ii) The total amount of grants awarded under clause (i) by the Secretary shall—

"(I) in fiscal year 1993, be not less than 35 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year, and

"(II) in subsequent fiscal years, be not less than 40 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.

"(E)(i) During the 12-month period described in subparagraph (B), the Secretary shall carry out generic advertising and other tourism trade development efforts directed at the markets selected under subparagraph (C).

"(ii) To reinforce the efforts carried out under clause (i), the Secretary shall establish tourism trade development offices in foreign locations appropriate for the markets selected under subparagraph (C).

"(3) The Secretary shall evaluate the effectiveness of the efforts carried out under paragraph (2)(E) and, not later than one year after the end of the 12-month period described in subparagraph (B), shall report to Congress on the results of the evaluation.".

(b) ADVISORY BOARD.—

(1) Section 303(a)(3) (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (A), by striking out "and",

(B) in subparagraph (B), by striking out "one shall be a representative of the States who is" and inserting in lieu thereof "two shall be representatives of the States who are" and by striking out the period at the end and inserting in lieu thereof "; and", and

(C) by adding at the end the following:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) (22 U.S.C. 2124b(b)) is amended by striking out

"two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years in the aggregate".

(3) The first sentence of section 303(f) (22 U.S.C. 2124b(f)) is amended—

(A) by striking out "and" and inserting in lieu thereof a comma, and

(B) by inserting immediately before the period at the end the following: ", and when the plan is submitted to the Congress, shall send to the Congress by separate communication the comments of the Board on the plan".

(c) CONFORMING AMENDMENTS.—

(1) Section 204 (22 U.S.C. 2123b) is amended by striking out "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 303(f) (22 U.S.C. 2124b(f)) is amended—

(A) by striking out "Marketing" and inserting in lieu thereof "Trade Development", and

(B) by striking out "marketing" and inserting in lieu thereof "tourism trade development".

SEC. 5. TOURISM TRADE BARRIERS.

Title II is amended by adding at the end the following:

"SEC. 205. (a) For calendar year 1991 and each succeeding calendar year, the Secretary shall—

"(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports,

"(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1), and

"(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

"(b) On or before March 31, 1992, and March 31 of each succeeding calendar year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).".

SEC. 6. ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS.

Title II, as amended by section 5, is amended by adding at the end the following:

"SEC. 206. (a) The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States.

"(b) The Secretary shall, within one year of the date of the enactment of this section, report to the Congress on efforts undertaken under subsection (a) to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.".

SEC. 7. GRANTS FOR LOCAL, STATE, AND REGIONAL TOURISM.

Title II, as amended by section 6, is amended by adding at the end the following:

"SEC. 207. (a)(1) The Secretary may make grants to cooperative tourism marketing programs under the authority of section 202(f) and this subsection.

"(2) To be eligible for a grant under paragraph (1) a cooperative tourism marketing program shall, at a minimum—

"(A) involve the participation of—

"(i) two or more States, or

"(ii) one or more States and one or more local governments,

"(B) be established for the purpose of increasing the number of foreign visitors to the region in which such States or local governments are located, and

"(C) have a written regional tourism marketing plan which includes advertising, publication of promotional materials, or other promotional or market research activities designed to increase the number of foreign visitors to such region.

"(b) A grant made under subsection (a) may be used for the purpose of—

"(1) promoting or marketing to foreign visitors or potential foreign visitors the tourism and recreational opportunities in the region for which such grant is sought,

"(2) targeting foreign visitors to develop or enhance their interest in tourism and recreational opportunities in such region, or

"(3) encouraging the development by such cooperative tourism marketing program of regional strategies for international tourism promotion and marketing.

"(c) A grant may be made under subsection (a) if the applicant for the grant demonstrates to the satisfaction of the Secretary that the grant will be used for a purpose described in subsection (b) and that—

"(1) such cooperative tourism marketing program for which the grant will be made will increase the travel of foreign visitors to the region for which the grant is sought,

"(2) such program will contribute to the economic well-being of such region,

"(3) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions in such region, and

"(4) such program will focus its efforts on those countries identified by the Secretary under section 202(f) as having the greatest potential for increasing travel and tourism export revenues in the applicable fiscal year.

"(d) In connection with a grant under subsection (a), a cooperative tourism marketing program may enter into agreements with individuals and private profit and nonprofit businesses and organizations who will assist in carrying out the purposes for which such grant is made. Such an agreement shall be disclosed in any application for a grant under subsection (a) and such an application may be approved by the Secretary only if the Secretary finds that such agreement meets all applicable legal requirements and is consistent with the purposes of this Act.

"(e) The Secretary may issue such rules and guidelines as may be necessary to carry out subsections (a) through (d).

"(f)(1) In fiscal years 1993 and 1994, the Secretary shall undertake on an annual basis at least 5 demonstration projects in geographically distinct regions of the United States with underutilized tourism potential to help develop tourism marketing programs in such region.

"(2) Demonstration projects under paragraph (1) shall use such resources as the Secretary shall make available to help identify and develop potential tourism attractions that the Secretary determines may be of interest to foreign tourists. In connection with such a project, the Secretary shall work with local units of government and other public and private entities to develop specific plans of action to—

"(A) identify local opportunities for inducing foreign tourism,

"(B) identify those foreign countries where there may be a significant interest in potential tourism attractions, and

"(C) develop and promote specific tourism marketing programs directed at likely foreign tourist groups using such resources both in this country and abroad as the Secretary may have available.

"(3) The expenditures for demonstration projects under paragraph (1) year shall in fiscal years 1993 and 1994 be not less than 3 percent of the amount appropriated in such fiscal year to the Secretary to carry out this Act.".

SEC. 8. PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

Title II, as amended by section 7, is amended by adding at the end the following:

"SEC. 208. (a) Beginning with the tourism trade development plan for fiscal year 1992 which is submitted to Congress under section 202(a)(15) and annually thereafter, the Secretary shall set forth in such plan the goals of the United States Travel and Tourism Administration, established under section 301, for the applicable forthcoming fiscal year, including quantifiable measures on which such Administration's performance can be evaluated. At a minimum, such goals shall include—

"(1) the number of written inquiries regarding the possibility of foreign travel to the United States expected to be generated by the efforts of the Secretary and of other persons receiving grants under this title,

"(2) the number of tour packages for foreign visitors to the United States expected to be sold in connection with the efforts of the Secretary and of other persons receiving grants under this title, and

"(3) the number of tourists from countries identified under section 202(f) expected to visit the United States destinations being promoted in such countries (including the number of international arrivals expected at gateway airports) in connection with the efforts of the Secretary and of other persons receiving grants under this title.

"(b) Beginning with the tourism trade development plan for fiscal year 1993 which is submitted to Congress under section 202(a)(15) and annually thereafter, the Secretary shall report in such plan the degree to which the goals set forth in the plan for the prior fiscal year have been attained. At a minimum such report shall include—

"(1) the number of written inquiries regarding the possibility of foreign travel to the United States actually received by the Secretary and by other persons receiving grants under this title,

"(2) the number of tour packages for foreign visitors to the United States actually sold in connection with the efforts of the Secretary and of other persons receiving grants under this title, and

"(3) the number of tourists from countries identified under section 202(f) that actually visited the United States destinations being promoted in such countries (including the number of international arrivals expected at gateway airports) in connection with the efforts of the Secretary and of other persons receiving grants under this title.

"(c) The Secretary shall collect from persons receiving grants under this title such information as may be necessary to enable the Secretary to comply with subsections (a) and (b). The Secretary may condition the making of any such grant on the agreement of the recipient to provide such information to the Secretary at such times and in such manner and form as the Secretary deems appropriate.

"(d) The Secretary shall, from time to time, conduct—

"(1) surveys of foreign tourists visiting the United States from countries identified under section 202(f), and

"(2) advertising effectiveness studies in such countries,

to evaluate the effectiveness of the program described in section 201(1).".

SEC. 9. COORDINATION.

Section 301 (22 U.S.C. 2124) is amended by adding at the end the following:

"(c) The Under Secretary of Commerce for Travel and Tourism shall continue to seek the assistance of the United States and Foreign Commercial Service as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

SEC. 10. ADMINISTRATION.

(a) DEPUTY UNDER SECRETARY.—Section 301(a) (22 U.S.C. 2124(a)) is amended—

(1) by striking out the third and fourth sentences,

(2) by inserting "(1)" and "(a)", and

(3) by adding at the end the following:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development,

"(B) directing and managing field operations,

"(C) directing program evaluation research and industry statistical research,

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in development of strategies for expansion of tourism trade,

"(E) developing a new program to provide financial assistance in support of non-Federal tourism trade development activities that complement efforts by the Secretary under section 202(f), and

"(F) perform such other functions as the Under Secretary may assign.".

(b) REGIONAL OFFICES.—Section 301(b) (22 U.S.C. 2124(b)) is amended to read as follows:

"(b)(1) There shall be 3 regional offices of the United States Travel and Tourism Administration which shall be based in, and responsible for, the following respective geographical areas:

"(A) Europe and Africa.

"(B) Asia and the Pacific Region.

"(C) North America, South America, and the Caribbean region.

"(2) Each such regional office shall monitor and direct the activities of—

"(A) the tourism trade development offices within the region as established under section 202(f), and

"(B) the country offices within the region that are responsible for mature markets.

For purposes of this paragraph, the term 'mature market' means a market in which the United States receives either more of the long-haul, outbound tourism traffic than any other country or as much of such traffic as reasonably can be expected under the circumstances.".

(c) LIMITATION ON CERTAIN EXPENDITURES.—Section 301 (22 U.S.C. 2124), as amended by section 9, is amended by adding at the end the following:

"(d) The expenditures for administrative expenses, including salaries and other overhead expenses, and for demonstration programs authorized under section 207, shall not exceed—

"(1) in fiscal year 1993, 45 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year, and

"(2) in subsequent fiscal years, 40 percent of the amount appropriated to the Secretary to carry out the duties authorized under this Act for that fiscal year.".

SEC. 11. TOURISM DEVELOPMENT STUDY.

(a) REQUIREMENT TO ASSEMBLE INFORMATION.—The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.

(b) STUDY.—The Secretary of Commerce shall conduct a study regarding—

(1) economic effects associated with the public identification and promotion of scenic travel as a tourist attraction,

(2) techniques for incorporating scenic travel into tourism development programs,

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall transmit to the Congress a report on the information assembled under subsection (a) and the results of the study conducted under subsection (b), including any recommendations based on that study.

SEC. 12. MONTHLY STATISTICAL REPORT.

Not later than January 1, 1992, the Secretary of Commerce shall publish on a monthly basis the statistical report on United States international travel receipts and payments published in the document known as "The Survey of Current Business", prepared by the Bureau of Economic Analysis within the Department of Commerce.

SEC. 13. TRAVEL BY DISABLED PERSONS.

The Secretary of Commerce shall, within 18 months of the date of the enactment of this Act, report to the Congress on activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons.

SEC. 14. RURAL TOURISM DEVELOPMENT FOUNDATION.

(a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—

(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors,

(2) development of educational resources to assist in private and public rural tourism development, and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—

(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first 2 years shall consist of 9 voting members, and

(ii) thereafter shall consist of those 9 members plus up to 6 additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within 6 months after the date of enactment of this Act, appoint the initial 9 voting members of the Board and thereafter shall appoint the successors of each of 3 such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least 1 shall have experience in resource conservation, at least 1 shall have experience and expertise in financial administration in a fiduciary capacity, at least 1 shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least 1 shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least 1 shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of 6 years, except that—

(i) initial terms shall be staggered to assure continuity of administration,

(ii) if a person is appointed to fill a vacancy occurring before the expiration of the term of the person's predecessor, that person shall serve only for the remainder of the predecessor's term, and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditures other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(h) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(i) ADMINISTRATION.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(j) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(k) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(l) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(m) DEFINITIONS.—As used in this section—

(1) the term "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)),

(2) the term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)),

(3) the term "local government" has the meaning given that term in section 3371(2) of title 5, United States Code, and

(4) the term "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(n) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) (22 U.S.C. 2123(a)) is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

SEC. 15. STATISTICAL REPORTS.

(a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of the enactment of this Act, report to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the Secretary's efforts under section 201(8) of the International Travel Act of 1961, including statistics regarding the inbound and outbound tourism trade between the United States and emerging democracies of Eastern Europe. Such statistics shall include the number of inbound and outbound tourists, receipts from, and expenditures by, such tourists and number of tourists traveling into and out of Eastern Europe on American carriers.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

Section 304 (22 U.S.C. 2126) is amended—

(1) in the first sentence, by inserting immediately before the period the following: ", not to exceed $18,000,000 for fiscal year 1993, not to exceed $19,000,000 for fiscal year 1994, and not to exceed $20,000,000 for fiscal year 1995", and

(2) by striking out the last two sentences.

Amend the title so as to read: "An Act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes.".

Mr. ROCKEFELLER. Mr. President, today, I will be offering an amendment in the nature of a substitute to S. 680, the Tourism Policy and Export Promotion act of 1992. The original bill was cosponsored by every member of the Commerce Committee. This legislation is truly the result of a bipartisan effort. House and Senate versions of S. 680 have been on the Senate Calendar since last fall. House and Senate Commerce Committee staff, both majority and minority have been meeting over the last 9 months to come up with a compromise. The substitute amendment represents just that—a compromise between the House and Senate. As many of my colleagues know, we have not had an authorization for the U.S. Travel and Tourism Administration [USITA] in 12 long years. When I assumed the chair of the Foreign Commerce and Tourism Subcommittee in 1987, I asked the tourism community what needed to be done—they were unanimous in telling me USTTA needed to be authorized. There had been significant problems with the House Appropriations Committee because of the lack of an authorization. I introduced a USTTA authorization bill in 1989, and that bill, similar in some respects to the one we are considering today, passed the Senate without a dissenting vote in the 101st Congress. I then went to Chairman DINGELL of the House Energy and Commerce Committee to ask for his assistance and cooperation, which he provided. Unfortunately, we were not able to reach an agreement before adjournment sine die.

In the course of the negotiations with Chairman DINGELL in 1990, I realized that the chairman had very serious concerns about the way the agency had been run. So, in 1991, I began to examine Chairman DINGELL's concerns and address them through suggested changes to the tourism bill. The industry had made similar recommendations in July of 1991. Some of these recommendations were incorporated in S. 680, which passed the Senate by unanimous consent in October. At the same time Congressman SWIFT, the new chairman of the Transportation and Hazardous Materials Subcommittee, in conjunction with Chairman DINGELL, was moving a tourism bill through the House for the first time since 1980.

I want to thank Chairman DINGELL for his cooperation on this bill, I really appreciate it. I also want to thank Congressman SWIFT for his diligence and cooperation. Without these efforts, we would not be considering this compromise today. They have both worked long and hard and because of that, the USTTA authorization will be a much better piece of legislation. I fully understand Chairman DINGELL's criticisms of the agency's past conduct, but I also believe this bill is a start toward reforming the Agency to better serve all the component parts of the tourism industry, particularly the States and cities, and the interests of this country as a whole.

We have a great untold story here. Tourism is our largest export—it generated a $16.8 billion surplus in 1991. We had 42 million international visitors last year and they spent almost $60 billion in this country. The industry employs almost 6 million Americans and generated expenditures in 1991 of $352 billion.

What we need to do is bring our tourism policy into the 1990's and build on this growing trade surplus. I know first hand the benefits of tourism. When I was Governor of West Virginia, I hired a tourism director and beefed up our tourism budget. Now, tourists spend $1.2 billion in West Virginia, revenues we sorely need. That is why I am so pleased to see Senate consideration of S. 680, the tourism bill. It is my hope that the bill will help to give tourism the high priority it deserves.

I want to outline for my colleagues the provisions of this amendment in the nature of a substitute. Section 1 is the title of the bill. Section 2 contains the findings. Section 3 requires USTTA to improve its survey of international air travelers by expanding it and improving the methodology for conducting on-board surveys and by seeking to increase the reporting frequency of data provided Mexico and Canada. Section 4 establishes a Rural Tourism Foundation to assist in the development and promotion of rural tourism. This Foundation has long been advocated by Senator BURNS, ranking member of the Foreign Commerce and Tourism Subcommittee and Chairman SWIFT. Section 5 and 6 contain technical and clarifying amendments. These sections are basically the same as in the bill that passed the Senate unanimously in October. Sections 7 and 8, which set up a financial assistance section replacing the USTTA's old grant program authority, are the product of long negotiations. The House, the industry, and the agency all had strong feelings about what this new program should look like. I think we have come up with a good compromise.

USTTA is given 6 months after the date of enactment to do notice and comment and published final rules on the financial assistance program. On October 1, 1993, USTTA will publish a notice soliciting comments on which markets have the greatest potential for increasing travel and tourism revenues. On January 1, 1994, USTTA will select the appropriate markets and request proposals from cooperative tourism marketing programs to implement trade promotion programs in the selected market or markets. USTTA would then have 9 months to select recipients and provide financial assistance. On October 1, 1994, the recipients could then begin their trade promotion efforts in the selected markets.

One half of the financial assistance to each recipient will be pooled among all recipients for that market. That money will be used for a generic marketing campaign encouraging people to visit the United States. That generic campaign is to be coordinated by USTTA. The other half of the financial assistance is to be used by the recipient to promote his or her specific destination in the selected market.

Cooperative tourism marketing programs are defined in section 8 of the amendment as well as the criteria for selection of recipients. The financial assistance program is authorized at 25 percent of USTTA's appropriation for fiscal years 1994, 1995, and 1996. Each recipient of financial assistance must provide actual dollar expenditures on the promotion effort equaling 25 percent of the total amount of financial assistance they receive. In-kind expenditures cannot be counted toward the 25-percent requirement. Recipients must spend the 25-percent match on promotional efforts in that selected market.

Section 9 requires USTTA to annually identify barriers to U.S. travel and tourism exports. Section 10 requires the Secretary of Commerce to ensure that foreign tourists are not unnecessarily delayed when entering the United States and to ensure that the 45-minute processing standard for the Federal inspection services at points of entry set by the International Civil Aviation Organization is met. Section 11 requires two annual reports—one beginning October 1, 1994, on USTTA's goals for the year and one beginning on December 31, 1995, on how those goals have been achieved as well as an evaluation of the effectiveness of the financial assistance program. Section 12 establishes a new, career position at the agency, Deputy Under Secretary for Tourism Trade Development. We did this to provide the agency with continuity—a head of operations that would not change with changes in the administration.

Section 13 requires USTTA to continue to seek the assistance of the United States and Foreign Commercial Service. Section 14 limits the agencies expenditures on four budgetary items to 50 percent of its appropriation after a 2-year phase-in. These items will total about $6 million in fiscal year 1993. Section 15 expands the membership of the Tourism Policy Council, adding the Secretary of Agriculture, the chair of the TVA, the commanding general of the Army Corps of Engineers, the Small Business Administrator, the CEO of Amtrak, and the INS and customs commissioners, to the council.

Section 16 makes some membership changes in USTTA's advisory board. It also limits all advisory board members to terms of service of 6 consecutive years or 9 years in total. Section 17 authorizes $21,000,000 in fiscal year 1993, $22,500,000 in fiscal year 1994, $24,000,000 in fiscal year 1995 and $26,000,000 in fiscal year 1996.

Section 18 requires a report by USTTA within 18 months of the date of enactment on:

First, moving to monthly statistics;

Second, statistics concerning inbound and outbound travel trade between the United States and the former Communist bloc countries;

Third, the activities of the Federal Government to increase travel by disabled persons; and

Fourth, efforts undertaken to improve visitor facilitation.

In lieu of reorganizing USTTA's foreign offices, the amendment requires

USTTA to do a comprehensive report on the foreign offices within a year and submit that report to the Senate and House Commerce Committees. USTTA is not allowed to hire additional foreign personnel or execute new leases until the committees have had 6 months to review the report. However, during this period, USTTA may replace only departing employees, preferably with contract personnel, and may renew expiring leases for up to 2 years. This review will enable the agency and the Congress to take a careful look at the structure and the role of USTTA's foreign offices.

As I have said, I think this is a good, solid compromise. It reforms USTTA, it enhances USTTA, it responds to concerns of USTTA's critics and I urge its adoption.

In closing, I want to thank the staff who were instrumental in making this happen. I am especially grateful to Loretta Dunn, of the Commerce Committee, who led the effort to reach a compromise with the House. I am also very appreciative of the efforts by Ivan Schlager and Gerri Hall of the Senate Commerce Committee, Pat Joyce of Senator BURNS' staff and, of course, the efforts of Kiena Smith of my staff. In addition to the Senate staff, I also want to thank staff from the House of Representatives, David Titsworth, Jim Cumberland, and Glenn Scammel.

Mr. HOLLINGS. Mr. President, I urge the Senate to adopt this amendment in the nature of a substitute to S. 680, the Tourism Policy and Export Promotion Act of 1992. I have been privileged to serve as chairman of USTTA's authorizing committee, the Appropriations Subcommittee for USTTA, and Chair of the Senate Tourism Caucus. We have tried for the last 12 years to authorize this agency. The lack of an authorization has been a problem for the Appropriations Subcommittee in dealing with the House. In fact, for a number of years, the House Appropriations Subcommittee refused to appropriate money for USTTA because it was unauthorized. This problem will be resolved by passing this bill today and sending it to the House.

I thank Chairman DINGELL for his cooperation. Even though he had serious criticisms about this agency, he agreed to work with the Senate on a bill to reform USTTA. The substitute amendment we are considering today is largely the result of his efforts and the efforts of Senator ROCKEFELLER, who has tirelessly pushed for a tourism bill. I also note the work of Congressman SWIFT, and Senators BURNS and DANFORTH. I thank them all for their efforts.

The substitute amendment has three major provisions:

First, a new financial assistance program. This program is modeled after the Disaster Relief Program I put in place in the last 2 fiscal years.

We have made some modifications to reflect our experience with that program. For example, matching funds will be required to be in actual dollar expenditures on the marketing program, not in staff salaries or rent or equipment. This is a modest grant program of 25 percent over 2 fiscal years. The generic advertising component of this program, 50 percent of the financial assistance, will be coordinated by USTTA. We know this will work because USTTA employed this approach for its generic campaign in Japan.

Second, reorganization of the foreign offices. The House had been very interested in a reorganization of the foreign offices. USTTA pointed out the difficulties involved with an immediate reorganization, and we have agreed to allow the agency to do a detailed review of its foreign offices and make recommendations to the commerce committees on reorganization.

Third, overhead limit. We have agreed to define overhead as four discrete items in the agency's budget. These four items are limited to 50 percent of the agency's appropriations. In fiscal year 1993, these four items total about $6 million—less than 40 percent of the amount appropriated for USTTA in the Senate's appropriations bill for fiscal year 1993.

There are a number of other good provisions in the bill that I will not go into here today. I urge my colleagues to move our tourism policy into the 1990's by passing this substitute amendment.

Mr. BURNS. Mr. President, it is with great pleasure that I can say that we are looking forward to unanimously passing S. 680, the Tourism Policy and Export Promotion Act of 1992.

I would like to thank my colleague, Mr. ROCKEFELLER, for putting forth the energy and cooperation to create this long-awaited and much needed policy legislation.

It has been my pleasure to be a part of this effort. As part of the rural tourism awareness movement I have watched groups in the private business sector as well as those of us inside the beltway become more and more aware of not only the strength of tourism in this economy, but of the value and importance of making real America available to our friends and neighbors both at home and abroad.

Many are finding a need to diversify their incomes in rural areas today. And tourism is one business opportunity that communities are looking into developing. Not every community has the natural resources to develop, but those that do are finding that the future looks bright.

This is an opportunity that requires community, State and regional cooperation. One lone business out there cannot attract visitors on a profitable basis. But a region can pool its technical, financial and marketing resources to create an image that will attract travelers and tourists. That translates into profitable commerce, but only with well thought out, well defined planning.

This bill contains a valuable provision that would establish a Foundation for the Development of Rural Tourism promotion and cooperative education about the lesser known sites and attractions in this country.

This Foundation would provide private money to tourism regions, States, and private businesses that have coordinated viable cooperative marketing plans with any of our Federal land managing agencies. The purpose of these proposals will be to reach new visitors and maintain existing foreign markets as well as to expand existing tourism marketing programs in rural areas of the United States. It is also for the purpose of developing economic opportunities in rural, less developed areas.

One of our National Park Service's most urgent problems is that of overcrowding in a few of our crown jewels. It appears that this is an opportunity in the guise of a serious problem. Use of lesser utilized attractions and services in surrounding areas would not only lessen the burden of these overcrowded sites, but would increase economic impact in some of the surrounding communities.

Focused marketing programs with attention to diverting visitors to more sites for a shorter length of time would lessen the use and impact in the Yellowstones and Yosemite's of this country, and would increase revenue in smaller rural communities, creating more jobs and a demand for goods and services.

Currently, the Federal land agencies of the Interior Department are moving ahead with cooperative planning and integration of infrastructure development with State and county governments for the purpose of improving visitor facilities and the access to such facilities.

These agencies and the rural areas they are working with need the support of marketing and public relations that this Foundation will provide.

It has been a pleasure to work on this piece of legislation with my colleagues, Senators HOLLINGS, DANFORTH, and ROCKEFELLER. I would also like to commend our staffs for all of their tireless work.

AMENDMENT NO. 2948

(Purpose: To make an amendment in the nature of a substitute)

Mr. MITCHELL. I move that the Senate concur in the amendments of the House with a further amendment which I now send to the desk on behalf of Senators ROCKEFELLER, HOLLINGS, BURNS, and DANFORTH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] on behalf of Mr. ROCKEFELLER, for himself, Mr. HOLLINGS, Mr. BURNS, and Mr. DANFORTH, proposes an amendment numbered 2948.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "amendments submitted.")

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSENT TO INTERSTATE COMPACT RELATIVE TO THE DELAWARE RIVER PORT AUTHORITY

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. 2964, a bill granting the consent of Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority, that the bill be read for the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2964) was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to a supplemental compact or agreement between The Commonwealth of Pennsylvania and the State of New Jersey amending articles I, II, III, IV, XII, and XIII of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties". The supplemental compact or agreement is substantially as follows:

(1) Article I of the "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties", as amended and supplemented, is amended to read as follows:

"The body corporate and politic, heretofore created and known as the Delaware River Joint Commission hereby is continued under the name of the Delaware River Port Authority (hereinafter in this agreement called the 'commission'), which shall constitute the public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for the following public purposes, and which shall be deemed to be exercising an essential governmental function in effectuating such purposes, to wit:

"(a) The operation and maintenance of the bridge, owned jointly by the 2 States, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, including its approaches, and the making of additions and improvements thereto.

"(b) The effectuation, establishment, construction, acquisition, operation, and maintenance of railroad or other facilities for the transportation of passengers across any bridge or tunnel owned or controlled by the commission, including extensions of such railroad or other facilities necessary for efficient operation in the Port District.

"(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance, or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto, either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation or in any other manner.

"(d) Co-operation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware River and the Port District.

"(e) The procurement from the Government of the United States of any consents which may be requisite to enable any project within its powers to be carried forward.

"(f) The construction, acquisition, operation and maintenance of other bridges and tunnels across or under the Delaware River, between the city of Philadelphia or the county of Delaware in the Commonwealth of Pennsylvania and the State of New Jersey, including approaches and the making of additions and improvements thereto.

"(g) The promotion as a highway of commerce of the Delaware River, and the promotion of increased passenger and freight commerce on the Delaware River and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

"(h) To study and make recommendations to the proper authorities for the improvement of terminal, lighterage, wharfage, warehouse and other facilities necessary for the promotion of commerce on the Delaware River.

"(i) Institution through its counsel, or such other counsel as it shall designate, or intervention in, any litigation involving rates, preferences, rebates, or other matters vital to the interest of the Port District; provided, that notice of any such institution of or intervention in litigation shall be given promptly to the Attorney General of the Commonwealth of Pennsylvania and to the Attorney General of the State of New Jersey, and provision for such notices shall be made in a resolution authorizing any such intervention or litigation and shall be incorporated in the minutes of the commission.

"(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express mail, and baggage, or any of them, between points in New Jersey within the Port District and points in Pennsylvania within the Port District, and intermediate points. Such system may be established either by utilizing existing rapid transit systems, railroad facilities, highways, and bridges within the territory involved or by the construction or provision of new rail facilities where deemed necessary, and may be established either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

"(k) The performance of such other functions which may be of mutual benefit to the Commonwealth of Pennsylvania and the State of New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels.

"(l) The performance or effectuation of such additional bridge, tunnel, railroad, rapid transit, transportation, transportation facility, terminal, terminal facility, and port improvement and development purposes within the Port District as may hereafter be delegated to or imposed upon it by the action of either State concurred in by legislation of the other.

"(m) The unification of the ports of the Delaware River through (i) the acquisition or taking control of any terminal, terminal facility, transportation facility or marine terminal or port facility or associated property within the Port District through purchase, lease, or otherwise, or by the acquisition, merger, becoming the successor to or entering into contracts, agreements, or partnerships with any other port corporation, port authority, or port related entity which is located within the Port District, all in accordance with the applicable laws of the State in which the facility, corporation, or authority is located; (ii) the exercise of the other powers granted by this compact; or (iii) the establishment (whether solely or jointly with any other entity or entities) of such subsidiary corporation or corporations or maritime or port advisory committees as may be necessary or desirable to effectuate this purpose.

"(n) The planning, financing, development, acquisition, construction, purchase, lease, maintenance, marketing, improvement and operation of any project, including but not limited to any terminal, terminal facility, transportation facility, or any other facility of commerce or economic development activity; from funds available after appropriate allocation for maintenance of bridge and other capital facilities.".

(2) Article II of the agreement is amended to read as follows:

"The commission shall consist of sixteen commissioners, eight resident voters of the Commonwealth of Pennsylvania and eight resident voters of the State of New Jersey, who shall serve without compensation.

"The commissioners for the State of New Jersey shall be appointed by the Governor of New Jersey with the advice and consent of the Senate of New Jersey, for terms of five years, and in case of a vacancy occurring in the office of commissioner during a recess of the Legislature, it may be filled by the Governor by an ad interim appointment which shall expire at the end of the next regular session of the Senate unless a successor shall be sooner appointed and qualify and, after the end of the session, no ad interim appointment to the same vacancy shall be made unless the Governor shall have submitted to the Senate a nomination to the office during the session and the Senate shall have adjourned without confirming or rejecting it, and no person nominated for any such vacancy shall be eligible for an ad interim appointment to such office if the nomination shall have failed of confirmation by the Senate.

"Six of the eight commissioners for the Commonwealth of Pennsylvania shall be appointed by the Governor of Pennsylvania for terms of five years. The Auditor General and the State Treasurer of said Commonwealth shall be ex officio commissioners for said Commonwealth, each having the privilege of appointing a representative to serve in his place at a meeting of the commission which he does not attend personally. Any commissioner who is an elected public official shall have the privilege of appointing a representative to serve and act in his place at any meeting of the commission which he does not attend personally.

"All commissioners shall continue to hold office after the expiration of the terms for which they are appointed or elected until their respective successors are appointed and qualify, but a period during which any commissioner shall hold over shall be deemed to be an extension of his term of office for the purpose of computing the date on which his successor's term expires.".

(3) Article III of the agreement is amended to read as follows:

"The commissioners shall have charge of the commission's property and affairs and shall for the purpose of doing business constitute a board, but no action of the commissioners shall be binding unless a majority of the members of the commission from Pennsylvania and a majority of the members of the commission from New Jersey shall vote in favor thereof.

"Notwithstanding the above, each State reserves the right to provide by law for the exercise of a veto power by the Governor of that State over any action of any commissioner from that State at any time within 10 days (Saturdays, Sundays, and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.".

(4) Article IV of the agreement is amended to read as follows:

"For the effectuation of its authorized purposes the commission is hereby granted the following powers:

"(a) To have perpetual succession.

"(b) To sue and be sued.

"(c) To adopt and use an official seal.

"(d) To elect a chairman, vice-chairman, secretary, and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

"(e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties, and compensation.

"(f) To enter into contracts.

"(g) To acquire, own, hire, use, operate, and dispose of personal property.

"(h) To acquire, own, use, lease, operate, mortgage, and dispose of real property and interests in real property, and to make improvements thereon.

"(i) To grant by franchise, lease, or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

"(j) To borrow money upon its bonds or other obligations, either with or without security, and to make, enter into, and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates, or other charges to be established, levied, made, and collected for any use of any such property or facility, or the application, use, and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds of any such tolls, rents, rates, or other charges or any other revenues or moneys of the commission.

"(k) To exercise the right of eminent domain within the Port District.

"(l) To determine the exact location, system, and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate, or control.

"(m) In addition to the foregoing, to exercise the powers, duties, authority, and jurisdiction heretofore conferred and imposed upon the aforesaid the Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said 2 States.

"(n) To exercise all other powers not inconsistent with the constitutions of the 2 States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

"(o) To acquire, purchase, construct, lease, operate, maintain, and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

"(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

"(q) To establish 1 or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

"The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

"It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.".

(5) Article XII of the agreement is amended to read as follows:

"The Commission shall, within 90 days after the end of each fiscal year, submit to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey a complete and detailed report of the following:

"(1) its operations and accomplishments during the completed fiscal year;

"(2) its receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes;

"(3) its assets and liabilities at the end of the fiscal year, including the status of reserve, depreciation, special or other funds including debits and credits of these funds;

"(4) a schedule of bonds and notes outstanding at the end of the fiscal year;

"(5) a list of all contracts exceeding $100,000 entered into during the fiscal year;

"(6) a business or strategic plan for the commission and for each of its operating divisions; and

"(7) a five year capital plan.

"Not less than once every five years, the commission shall cause a management audit of its operational effectiveness and efficiency to be conducted by an independent consulting firm selected by the commission. The first management audit to be conducted shall commence within 3 years of the date of coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act. This audit is in addition to any other audit which the commission determines to conduct from time to time.

"The commission shall, not later than 2 years after the date of the coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act, prepare a comprehensive master plan for the development of the Port District. The plan shall include, but not be limited to, plans for the construction, financing, development, reconstruction, purchase, lease, improvement, and operation of any terminal, terminal facility, transportation facility or any other facility of commerce or economic development activity. The master plan shall include the general location of such projects and facilities as may be included in the master plan and shall to the maximum extent practicable include, but not be limited to, a general description of each such project and facility, the land use requirements necessary therefor, and estimates of project costs and of a schedule for commencement of each such project. Prior to adopting such master plan, the commission shall give written notice to, afford a reasonable opportunity for comment, consult with and consider any recommendations from States, county and municipal government, as well as commissions, public corporations and authorities, and the private sector. The commission may modify or change any part of the plan in the same form and manner as provided for the adoption of the original plan. At the time the commission authorizes any project or facility, the commission shall promptly provide to the Governor and Legislature of each State a detailed report on the project including its status within the master plan. The commission shall include within the authorization a status of the project or facility in the master plan and any amendment thereof, and no project shall be authorized if not included in the master plan or amendment thereof. Any project which has been commenced and approved by the commission prior to the adoption of the master plan shall be included, for informational purposes only, in the master plan. The commission shall provide notice of such on-going projects to those States, county and municipal governments, as well as entities in the private sector who would be entitled to such notice had the project not been commenced in anticipation of adopting the master plan, but there shall be no requirement that the project be delayed or deferred due to these provisions.

"In addition to other powers conferred upon it, and not in limitation thereof, the commission may acquire all right, title and interest in and to the Tacony-Palmyra bridge, across the Delaware River at Palmyra, New Jersey, together with any approaches and interests in real property necessary thereto. The acquisition of such bridge, approaches and interests by the commission shall be by purchase or by condemnation in accordance with the provisions of the Federal law consenting to or authorizing the construction of such bridge or approaches, or the acquisition of such bridge, approaches or interests by the commission shall be pursuant to and in accordance with the provisions of section 48:5-22 and 48:5-23 of the Revised Statutes of New Jersey, and for all the purposes of said provisions and sections the commission is hereby appointed as the agency of the State of New Jersey and the Commonwealth of Pennsylvania exercising the rights and powers granted or reserved by said Federal law or sections to the State of New Jersey and Commonwealth of Pennsylvania jointly or to the State of New Jersey acting in conjunction with the Commonwealth of Pennsylvania. The commission shall have authority to so acquire such bridge, approaches and interests, whether the same be owned, held, operated or maintained by any private person, firm, partnership, company, association or corporation or by any instrumentality, public body, commission, public agency or political subdivision (including any county or municipality) of, or created by or in, the State of New Jersey or the Commonwealth of Pennsylvania, or by any instrumentality, public body, commission, or public agency of, or created by or in, a political subdivision (including any county or municipality) of the State of New Jersey or the Commonwealth of Pennsylvania. None of the provisions of the preceding paragraph shall be applicable with respect to the acquisition by the commission, pursuant to this paragraph, of said Tacony-Palmyra bridge, approaches and interests. The power and authority herein granted to the commission to acquire said Tacony-Palmyra bridge, approaches and interests shall not be exercised unless and until the Governor of the State of New Jersey and the Governor of the Commonwealth of Pennsylvania have filed with the commission their written consents to such acquisition.

"Notwithstanding any provision of this agreement, nothing herein contained shall be construed to limit or impair any right or power granted or to be granted to the Pennsylvania Turnpike Commission or the New Jersey Turnpike Authority, to finance, construct, operate, and maintain the Pennsylvania Turnpike System or any turnpike project of the New Jersey Turnpike Authority, respectively, throughout the Port District, including the right and power, acting alone or in conjunction with each other, to provide for the financing, construction, operation, and maintenance of one bridge across the Delaware River south of the city of Trenton in the State of New Jersey; provided that such bridge shall not be constructed within a distance of 10 miles, measured along the boundary line between the Commonwealth of Pennsylvania and the State of New Jersey, from the existing bridge, operated and maintained by the commission, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, so long as there are any outstanding bonds or other securities or obligations of the commission for which the tolls, rents, rates, or other revenues, or any part thereof, of said existing bridge shall have been pledged. Nothing contained in this agreement shall be construed to authorize the commission to condemn any such bridge.

"Anything herein contained to the contrary notwithstanding, no bridge or tunnel shall be constructed, acquired, operated, or maintained by the commission across or under the Delaware River north of the boundary line between Bucks County and Philadelphia county in the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said river, and any new bridge or tunnel authorized by or pursuant to this compact or agreement to be constructed or erected by the commission may be constructed or erected at any location south of said boundary line notwithstanding the terms and provisions of any other agreement between the Commonwealth of Pennsylvania and the State of New Jersey. Except as may hereafter be otherwise provided in conformity with Article IX hereof with respect to specific properties designated by action of the Legislatures of both of the signatory States, no property or facility owned or controlled by the commission shall be acquired from it by any exercise of powers of condemnation or eminent domain.".

(6) Article XIII of the agreement is amended to read as follows:

"As used herein, unless a different meaning clearly appears from the context:

"'Port District' shall mean all the territory within the counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia in Pennsylvania, and all the territory within the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem in New Jersey.

"'Commission' shall mean the Delaware River Port Authority and, when required by the context, the board constituting the governing body thereof in charge of its property and affairs.

"'Commissioner' shall mean a member of the governing body of the Delaware River Port Authority.

"'Economic development activity' or 'economic development' means any structure or facility or any development within the Port District in connection with manufacturing, port-oriented development, foreign trade zone site development or research, commercial, industrial, or recreational purposes, or for purposes of warehousing or consumer and supporting services directly relating to any of the foregoing or to any authority project or facility which are required for the sound economic development of the Port District.

"'Terminal' shall include any marine, motor truck, motorbus, railroad, and air terminal or garage, also any coal, grain, and lumber terminal and any union freight and other terminals used or to be used in connection with the transportation of passengers and freight, and equipment, materials, and supplies therefor.

"'Transportation facility' and 'facilities for transportation of passengers' shall include railroads operated by steam, electricity, or other power, rapid transit lines, motor trucks, motorbuses, tunnels, bridges, airports, boats, ferries, carfloats, lighters, tugs, floating elevators, barges, scows, or harbor craft of any kind, and aircraft, and equipment, materials, and supplies therefor.

"'Terminal facility' shall include wharves, piers, slips, berths, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, floatbridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil, and fresh water stations, markets, and every kind of terminal, storage, or supply facility now in use, or hereafter designed for use to facilitate passenger transportation and for the handling, storage, loading, or unloading of freight at terminals, and equipment, materials, and supplies therefor.

"'Transportation of passengers' and 'passenger transportation' shall mean the transportation of passengers by railroad or other facilities.

"'Rapid transit system' shall mean a transit system for the transportation of passengers, express mail, and baggage by railroad or other facilities, and equipment, materials, and supplies therefor.

"'Project' shall mean any improvement, betterment, facility or structure authorized by or pursuant to this compact or agreement to be constructed, erected, acquired, owned, or controlled or otherwise undertaken by the commission. 'Project' shall not include undertakings for purposes described in Article I, subdivisions (d), (e), (g), (h), and (i).

"'Railroad' shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, powerhouses, substations, lines for the transmission of power, carbarns, shops, yards, sidings, turnouts, switches, stations, and approaches thereto, cars, and motive equipment.

"'Bridge' and 'tunnel' shall include such approach highways and interests in real property necessary therefor in the Commonwealth of Pennsylvania or the State of New Jersey as may be determined by the commission to be necessary to facilitate the flow of traffic in the vicinity of a bridge or tunnel or to connect a bridge or tunnel with the highway system or other traffic facilities in said Commonwealth or said State; provided, however, that the power and authority herein granted to the commission to construct new or additional approach highways shall not be exercised unless and until the Department of Transportation of the Commonwealth of Pennsylvania shall have filed with the commission its written approval as to approach highways to be located in said Commonwealth and the State Highway Department of the State of New Jersey shall have filed with the commission its written approval as to approach highways to be located in said State.

"'Facility' shall include all works, buildings, structures, property, appliances, and equipment, together with appurtenances necessary and convenient for the proper construction, equipment, maintenance, and operation of a facility or facilities or any 1 or more of them.

"'Personal property' shall include choses in action and all other property now commonly, or legally, defined as personal property, or which may hereafter be so defined.

"'Lease" shall include rent or hire.

"'Municipality' shall include a county, city, borough, village, township, town, public agency, public authority, or political subdivision.

"Words importing the singular number include the plural number and vice versa.

"Wherever legislation or action by the Legislature of either signatory State is herein referred to it shall mean an act of the Legislature duly adopted in accordance with the provisions of the Constitution of such State.”.

Mr. SPECTER. Mr. President, I urge my colleagues' support of this legislation to grant consent to a compact between Pennsylvania and New Jersey for the enhancement of the Delaware River Port Authority, in accordance with legislation passed by the Commonwealth of Pennsylvania and the State of New Jersey. The bill which I introduced earlier this year along with Senator BRADLEY, Senator WOFFORD, and Senator LAUTENBERG proposes changes in the Delaware River Authority compact that will enhance the role of the Delaware River Port Authority. This compact is an important step toward further development of the port as a vital resource to the Delaware River Valley.

Primarily, the compact extends and unifies the Delaware River Port Authority's operation in the Delaware River Valley by giving it new authority to run port operations in a unified manner between Pennsylvania and New Jersey. This cooperation created through the compact will enable the two States to join forces and resources to enhance one of the greatest economic development assets in the region. This unified promotion of shipping operations on both sides of the river will potentially stimulate the local economies and create new jobs.

Further, the bill clarifies and expands the port authority's powers. These new powers include the right to acquire, purchase, or lease port-related property within the port district, to acquire, merge with or become successor to other port entities, to engage in economic development activities, and to plan, finance, and own commerce facilities located within the port district. These powers are all subject to the supervision of the Commission through substantial reporting, planning, and public consulting obligations placed on the port authority.

These actions to enlarge the port's geographical area and the expansion of the port authority's powers will surely lead to greater economic development for the port, the Commonwealth of Pennsylvania, and the State of New Jersey.

Mr. President, the Philadelphia Port is a major economic resource in the Delaware River Valley. The port is located in the center of the eastern industrial corridor of the United States, one of the largest and most productive markets in the world. According to a review by the Philadelphia Regional Port System, more than 13 percent of the total buying income of the country is within 100 miles of the port complex, which is served by a highly efficient rail and highway network that brings some of America's greatest centers of commerce within easy reach.

As testament to the value and importance of this compact to the Delaware Valley, the Commonwealth of Pennsylvania and the State of New Jersey have passed equivalent legislation regarding the Delaware River Port Authority compact. The New Jersey State Legislature has approved the compact, with Governor Florio signing it on January 19, 1992. The Pennsylvania State Legislature also has approved the compact with overwhelming support and Governor Casey signed the compact on April 3, 1992.

Finally, Mr. President, it needs to be noted that this legislation does not call for an increase in the tolls paid on the bridges operated by the Delaware River Port Authority between Pennsylvania and New Jersey. The bill retains the existing just and reasonable requirement in toll operations.

Mr. President, I would like to reaffirm that this measure enjoys broad support as it will greatly enhance the activities of the port authority and the ongoing economic recovery of the region. This measure of unification and development of the port is clearly a regional priority to the region. Congressman BILL HUGHES has introduced a companion bill to this legislation in the House of Representatives. I understand that it has received favorable consideration by the House Judiciary Committee.

I appreciate the prompt consideration the Senate Judiciary Committee has given this bill and urge its adoption by the Senate.

APPOINTMENT OF CONFEREES—H.R. 5739

Mr. MITCHELL. Mr. President, I inquire whether it is now in order to appoint the conferees on the export-import bank legislation.

The PRESIDING OFFICER. To the Chair's knowledge, that request would be in order.

Mr. MITCHELL. I so move.

The motion was agreed to; and the Presiding Officer appointed Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. GARN, and Mr. MACK conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 764. Jose Antonio Villamil, to be Under Secretary of Commerce for Economic Affairs;

Calendar 765. Mary Jo Jacobi, to be an Assistant Secretary of Commerce;

Calendar 766. Maj. Gen. Robert A. Tiebout, to be lieutenant general;

Calendar 767. Gen. John R. Dailey, to be general;

Calendar 768. Lt. Gen. Walter E. Boomer, to be general;

Calendar 769. Maj. Gen. Charles C. Krulak, to be lieutenant general;

Calendar 770. Joseph J. DiNunno, to be a member of the Defense Nuclear Facilities Safety Board;

Calendar 771. Col. Eugene A. Lupia, to be brigadier general;

Calendar 772. Col. Thomas J. Lennon, to be brigadier general;

Calendar 773. Officers for appointment in the Reserve of the Air Force to the grade indicated;

Calendar 774. Officers for appointment in the Reserve of the Air Force to the grade indicated;

Calendar 776. Lt. Gen. Paul G. Cerjan, to be lieutenant general;

Calendar 777. Maj. Gen. Daniel R. Schroeder, to be lieutenant general;

Calendar 778. Maj. Gen. Alcide M. LaNoue, to be Surgeon General and lieutenant general;

Calendar 779. Maj. Gen. Authur E. Williams, to be Chief of Engineers and lieutenant general;

Calendar 780. Maj. Gen. William H. Forster, to be lieutenant general;

Calendar 781. Lt. Gen. Peter A. Kind to be lieutenant general; and

Calendar 782. Maj. Gen. Leo J. Pigaty, to be lieutenant general.

All nominations reported today by the Armed Services Committee in the Navy, Army, and Air Force, and

All nominations placed on the Secretary's Desk in the Navy, Marine Corps, and Army Air Force.

The following nominations reported today by the Foreign Relations Committee:

Mack F. Mattingly, to be Ambassador to the Republic of Seychelles;

Ruth A. Davis, to be Ambassador to the Republic of Benin;

Harriet W. Isom, to be Ambassador to the Republic of Cameroon;

Alan Greenspan, to be alternate governor of the International Monetary Fund;

Patricia Diaz Dennis, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs;

Anthony Cecil Eden Quainton, to be Assistant Secretary of State for Diplomatic Security;

All nominations reported today by the Judiciary Committee:

John F. Daffron, Jr., to be a member of the Board of Directors of the State Justice Institute;

Terrence B. Adamson, to be a member of the Board of Directors of the State Justice Institute;

Edward F. Reilly, to be a Commissioner of the U.S. Parole Commission;

Joseph A. DiClerico, Jr., to be U.S. district judge;

Michael J. Melloy, to be U.S. district judge;

Alvin A. Schall, to be U.S. circuit judge;

Linda H. McLaughlin, to be U.S. district judge;

Carol E. Jackson, to be U.S. district judge;

John G. Heyburn II, to be U.S. district judge;

Alfred V. Covello, to be U.S. district judge;

Ilana D. Rovner, to be U.S. circuit judge;

Carolyn P. Chiechi, of Maryland, to be a judge of the U.S. Tax Court, and

David Laro, of Michigan, to be a judge of the U.S. Tax Court.

All nominations reported out today by the Committee on Labor and Human Resources:

Glen L. Bower, to be a member of the U.S. Railroad Retirement Board;

Virgil M. Speakman, to be a member of the U.S. Railroad Retirement Board; and

Jerome F. Kever, to be a member of the U.S. Railroad Retirement Board.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, and that the President be immediately notified of the Senate's action.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Carolyn P. Chiechi, of Maryland, to be a Judge of the U.S. Tax Court for a term expiring 15 years after she takes office.

David Laro, of Michigan, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

DEPARTMENT OF COMMERCE

Jose Antonio Villamil, of Florida, to be Under Secretary of Commerce for Economic Affairs.

Mary Jo Jacobi, of Mississippi, to be an Assistant Secretary of Commerce.

IN THE MARINE CORPS

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Robert A. Tiebout xxx-xx-xxxx USMC.

The following-named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen John R. Dailey, xxx-xx-xxxx USMC.

The following-named officer for appointment as Assistant Commandant of the Marine Corps under title 10, United States Code, section 5044.

To be general

Lt. Gen. Walter E. Boomer, xxx-xx-xxxx USMC.

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Charles C. Krulak xxx-xx-xxxx USMC.

DEFENSE NUCLEAR FACTILITES SAFETY BOARD

Joseph J. DiNunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for the remainder of the term expiring October 18, 1995

IN THE AIR FORCE

The following officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of section 624, title 10 of the United States Code:

To be brigadier general

Col. Eugene A. Lupia, xxx-xx-xxxx Regular Air Force.

The following named officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

To be brigadier general

Col. Thomas J. Lennon, xxx-xx-xxxx Regular Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, and 8373, title 10, United States Code:

To be major general

Brig. Gen. Gary L. Eichhorn xxx-xx-xxxx Air Force Reserve.

Brig. Gen. Jacques P. Klein xxx-xx-xxxx Air Force Reserve.

Brig. Gen. Thomas L. Neubert xxx-xx-xxxx Air Force Reserve.

Brig. Gen. James E. Sherrard, III, 426-88-6641, Air Force Reserve.

Brig. Gen. David R. Smith, xxx-xx-xxxx Air Force Reserve.

Brig. Gen. Jerry E. White, xxx-xx-xxxx Air Force Reserve.

To be brigadier general

Col. John A. Bradley, xxx-xx-xxxx Air Force Reserve.

Col. Donald W. Bryan, xxx-xx-xxxx Air Force Reserve.

Col. William A. Cohen, xxx-xx-xxxx Air Force Reserve.

Col. James J. Kennedy, III, xxx-xx-xxxx Air Force Reserve.

Col. Michael R. Lee, xxx-xx-xxxx Air Force Reserve.

Col. Robert A. Nester, xxx-xx-xxxx Air Force Reserve.

Col. Reese R. Neilsen, xxx-xx-xxxx Air Force Reserve.

Col. Ralph H. Oates, xxx-xx-xxxx Air Force Reserve.

Col. Herbert P. Riessen, xxx-xx-xxxx Air Force Reserve.

Col. James E. Sehorn, xxx-xx-xxxx Air Force Reserve.

Col. Virgil J. Toney, Jr. xxx-xx-xxxx Air Force Reserve.

Col. Donald K. Woodman, xxx-xx-xxxx Air Force Reserve.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Maj. Gen. Hugh L. Cox III, USAF (Ret), xxx-xx-xxxx Air National Guard of the United States.

Brig. Gen. Charles M. Bulter xxx-xx-xxxx Air National Guard of the United States.

Brig. Gen. Nelson E. Durgin xxx-xx-xxxx Air National Guard of the United States.

To be brigadier general

Col. Allen W. Boone, xxx-xx-xxxx Air National Guard of the United States.

Col. Bruce G. Bramlette, xxx-xx-xxxx Air National Guard of the United States.

Col. Rendell F. Clark, Jr. xxx-xx-xxxx Air National Guard of the United States.

Col. James R. Hendrickson, xxx-xx-xxxx Air National Guard of the United States.

Col. Jack D. Koch, xxx-xx-xxxx Air National Guard of the United States.

Col. Allen M. Mizumoto, xxx-xx-xxxx Air National Guard of the United States.

Col. Gary P. Morgan, xxx-xx-xxxx Air National Guard of the United States.

Col. C.D. Payne, xxx-xx-xxxx Air National Guard of the United States.

Col. Robert L. Privett, xxx-xx-xxxx Air National Guard of the United States.

Col. Xel Sant'anna, xxx-xx-xxxx Air National Guard of the United States.

Col. Loran C. Schnaidt, xxx-xx-xxxx Air National Guard of the United States.

Col. Fred R. Sloan, xxx-xx-xxxx Air National Guard of the United States.

Col. John H. Smith, xxx-xx-xxxx Air National Guard of the United States.

Col. Albert H. Wilkening, xxx-xx-xxxx Air National Guard of the United States.

Col. Richard B. Yules, xxx-xx-xxxx Air National Guard of the United States.

IN THE ARMY

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Paul G. Cerjan, xxx-xx-xxxx United States Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Daniel R. Schroeder, xxx-xx-xxxx United States Army.

The following-named officer for appointment as the Surgeon General, United States Army, in the grade indicated, under the provisions of title 10, United States Code, section 3036:

To be surgeon general

To be lieutenant general

Maj. Gen. Alcide M. LaNoue, xxx-xx-xxxx United States Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a), and for appointment as Chief of Engineers under title 10, section 3036:

To be chief of engineers

To be lieutenant general

Maj. Gen. Arthur E. Williams xxx-xx-xxxx United States Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. William H. Forster xxx-xx-xxxx United States Army.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Peter A. Kind, xxx-xx-xxxx United States Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Leo J. Pigaty, [redacted] United States Army.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY

Air Force nomination of Lt. Col. Frances A. Gaffney, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Air Force nomination of Lt. Col. Charles L. Veach, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Air Force nominations beginning Craig R Baker, and ending Gregory P Sarakatsannis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Air force nominations beginning Major James D. English, [redacted] and ending Major Barbara J. Nelson, [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Air Force nominations beginning Andrea D Begel, and ending Steven D Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Army nominations beginning Frank J Abbott, and ending 204, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 18, 1992.

Army nominations beginning Anders B Aadland, and ending 155x, which nominations ere received by the Senate and appeared in the CONGRESSIONAL RECORD of June 17, 1992.

Army nominations beginning Earl P. Ewing, and ending Roger D. Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 1, 1992.

Army nominations beginning Richard L Agee, and ending Lydia R Zager, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 20, 1992.

Army nominations beginning Samuel J Angulo, and ending John S Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 2, 1992.

Army nominations beginning Larr * Adamsthompson, and ending Timothy * Willoughby, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 2, 1992.

Army nominations beginning Phillip L Aday, and ending Joshua M Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1992.

Army nominations beginning Joel D. Miller, and ending * Thomas P. Winkler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Army nominations beginning Landry K. Appleby, and ending Duane R. Opp, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Army nominations beginning Alfred F. Livaudais, and ending * Sherri L. Mitchell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 7, 1992.

Mack F. Mattingly, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Ruth A. Davis, of Georgia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Benin.

Harriet Winsar Isom, of Oregon, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon.

By Mr. BIDEN, from the Committee on the Judiciary:

Alvin A. Schall, of Maryland, to be U.S. circuit judge for the Federal Circuit;

Ilana Diamond Rovner, of Illinois, to be U.S. circuit judge for the Seventh Circuit;

John G. Heyburn, II, of Kentucky, to be U.S. district judge for the Western District of Kentucky;

Linda L. McLaughlin, of California, to be U.S. district judge for the Central District of California;

Alfred V. Covello, of Connecticut, to be U.S. district judge for the District of Connecticut;

Carol E. Jackson, of Missouri, to be U.S. district judge for the Eastern District of Missouri;

Joseph A. DiClerico, Jr., of New Hampshire, to be U.S. district judge for the District of New Hampshire; and

Michael J. Melloy, of Iowa, to be U.S. district judge for the Northern District of Iowa.

By Mr. BIDEN, from the Committee on the Judiciary:

John F. Daffron, Jr., of Virginia, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994;

Terrence B. Adamson, of Georgia, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994; and

The following-named person to be Commissioner of the U.S. Parole Commission for the terms indicated:

Edward F. Reilly, of Kansas, for the remainder of the term expiring November 1, 1997.

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Glen L. Bower, of Illinois, to be a member of the Railroad Retirement Board for a term of 5 years from August 29, 1992;

Jerome F. Kever, of Illinois, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1993; and

Virgil M. Speakman, Jr., of Ohio, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1994.

By Mr. PELL, from the Committee on Foreign Relations:

Patricia Diaz Dennis, of Virginia, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs;

Alan Greenspan, of New York, to be U.S. Alternative Governor of the International Monetary Fund for a period of 5 years; and

Anthony Cecil Eden Quainton, of the District of Columbia, a career member of the Senior Foreign Service, class of Career Minister, to be Assistant Secretary of State for Diplomatic Security.

STATEMENT ON THE NOMINATION OF JACK D. KOCH

Mr. BYRD. Mr. President, I am delighted that the President has nominated Col. Jack D. Koch for the rank of brigadier general. He is a standout West Virginian and has been tireless in his contributions and dedication to the Air National Guard in West Virginia. Colonel Koch's leadership, experience, and patriotism will be valuable assets in his new position as assistant adjutant general for West Virginia.

Colonel Koch was born in Charleston, WV, and now lives in Martinsburg. He is a graduate of West Virginia University. Colonel Koch has held a number of responsible positions in the West Virginia Air National Guard since he completed training in April 1958, including air commander of the 167th Tactical Airlift Group for 9 years. Prior to that, he held other responsible civilian and military positions in the West Virginia Air National Guard, including chief, command and control; chief, standardization/evaluation; and C-130 liaison officer for exercise Volant Oak, Panama.

Colonel Koch has received many honors, including the Air Force outstanding unit award, combat readiness medal with three devices, the West Virginia service ribbon for over 25 years service, Air Force meritorious service and commendation medals, and the West Virginia distinguished unit award. Colonel Koch has acquired over 11,000 hours of accident-free flying time in 18 different types of aircraft.

Mr. President, it has been my experience that all members of the reserve components of the armed services, and especially those reaching the high rank of brigadier general, must spend considerable time away from their families in the pursuit of their military duties. This requires no small sacrifice on the part of those family members. In this regard, Colonel Koch's wife, Tina, his oldest son Andrew, who is a pilot presently assigned to Andrews Air Force Base, his son Jason, and his daughters, Felicia and Jacklyn, are to be commended.

Mr. President, I am pleased to cast my vote for the confirmation of Col. Jack D. Koch as brigadier general, and I urge my colleagues to support this nomination.

STATEMENT ON THE NOMINATION OF TIM COVELLO

Mr. DODD. Mr. President, I rise in support of the nomination of Alfred V. (Tim) Covello to serve as a judge on the U.S. District Court for the District of Connecticut.

Mr. Covello is a native son of Connecticut. He grew up in the west end of Hartford, attended the Loomis School and then matriculated from Harvard University. Thereafter, he returned to Connecticut and received his law degree from the University of Connecticut Law School.

Mr. Covello has spent his entire career in the State. For the past 18 years, he has worked his way up through the Connecticut judicial system, starting as a judge on the circuit court, and then progressing to judgeships on the Court of Common Pleas, the Superior Court, and the Appellate Session of the Superior Court. Finally, in 1987, Tim

Covello was elevated to the highest court in the State when he was appointed to be a justice of the Connecticut Supreme Court.

He is an outstanding jurist. In 1987 he was cited as the best trial judge in Connecticut. Further, the American Bar Association's standing committee on the Federal judiciary unanimously found him well qualified to serve on the Federal bench. This is the committee's highest rating.

Tim Covello's love for the law has been passed down to his family. Not only did his wife Suzanne become an attorney, he has passed his interest in the law down to his children. His son Timothy is an attorney who married yet another attorney, his wife Diane. While his daughter Nancy has chosen another path, that of a CPA, she has been wise enough to marry still another attorney, Hugh Murray.

Finally, Mr. President, I want to point out the critical need of this nomination. Connecticut's District Court is an extremely busy one. With recent retirements, the court is down to five active judges in a district that requires nine to approach the national average caseload per active sitting judge.

Given the needs of the court—and the high qualifications of the nominee—I am delighted that the full Senate is acting expeditiously on this matter of critical importance to the residents of Connecticut.

I am proud to support the nomination of this highly talented jurist. He will make an excellent addition to the district court.

NOMINATION OF ROBERT E. MARTINEZ

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the nomination of Robert E. Martinez, the Associate Deputy Director of Transportation; that the Senate proceed to the immediate consideration of the nominee; that the nominee be confirmed; that any statements appear in the RECORD, as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

Robert E. Martinez, to be Associate Deputy Secretary.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committee.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:06 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 544. An act to protect animal enterprises;

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years; and

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 12:03 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1963. an act to amend section 992 of title 28, United States Code, to provide a member of the United States Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2152) to enhance the effectiveness of the United Nations International Driftnet Fishery Conservation Program; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5482. An act to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes.

At 12:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4250. An act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

At 3:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 240. An act for the relief of Rodgito Keller;

H.R. 455. An act for the relief of Melissa Johnson;

H.R. 712. An act for the relief of Patricia A. McNamara;

H.R. 1759. An act for the relief of James B. Stanley;

H.R. 2563. An act for the relief of Richard W. Schaffert;

H.R. 2731. An act to amend section 3724 of title 31, United States Code, to extend to the Secretary of the Treasury the authority to settle claims for damages resulting from law enforcement activities of the Customs Service, the Bureau of Alcohol, Tobacco, and Firearms, or the United States Secret Service;

H.R. 3590. An act for the relief of Lloyd B. Gamble;

H.R. 3664. An act for the relief of the estate of Irwin Rutman;

H.R. 4400. An act to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes;

H.R. 4412. An act to amend title 17, United States Code, relating to fair use of copyrighted works;

H.R. 4563. An act to amend the False Claims Act to provide certain limitations on Federal employees filing qui tam actions, and for other purposes;

H.R. 4615. An act to contribute to the conservation of the northern spotted owl and the protection of old growth resources through support for an experimental management program on State-owned trust lands on the western Olympic Peninsula of the State of Washington;

H.R. 4776. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations of appropriations;

H.R. 5013. An act to promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes;

H.R. 5021. An act to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river; and

H.R. 5753. An act to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 355. A concurrent resolution concerning Israel's recent elections and the visit by Israel Prime Minister Yitzhak Rabin to the United States.

ENROLLED BILL SIGNED

At 4:54 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5487. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent:

H.R. 240. An act for the relief of Rodgito Keller; to the Committee on the Judiciary.

H.R. 455. An act for the relief of Melissa Johnson; to the Committee on the Judiciary.

H.R. 712. An act for the relief of Patricia A. McNamara; to the Committee on the Judiciary.

H.R. 1759. An act for the relief of James B. Stanley; to the Committee on the Judiciary.

H.R. 2563. An act for the relief of Richard W. Schaffert; to the Committee on the Judiciary.

H.R. 2731. An act to amend section 3724 of title 31, United States Code, to extend to the Secretary of the Treasury the authority to settle claims for damages resulting from law enforcement activities of the Customs Service, the Bureau of Alcohol, Tobacco, and Firearms, or the United States Secret Service; to the Committee on the Judiciary.

H.R. 3590. An act for the relief of Lloyd B. Gamble; to the Committee on the Judiciary.

H.R. 3664. An act for the relief of the estate of Irwin Rutman; to the Committee on the Judiciary.

H.R. 4400. An act to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes; to the Committee on Small Business.

H.R. 4412. An act to amend title 17, United States Code, relating to fair use of copyrighted works;

H.R. 4563. An act to amend the False Claims Act to provide certain limitations on Federal employees filing qui tam actions, and for other purposes; to the Committee on the Judiciary.

H.R. 4615. An act to contribute to the conservation of the northern spotted owl and the protection of old growth resources through support for an experimental management program on Stateowned trust lands on the western Olympic Peninsula of the State of Washington; to the Committee on Energy and Natural Resources.

H.R. 4776. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations of appropriations; to the Committee on the Judiciary.

H.R. 5013. An act to promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5021. An act to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river; to the Committee on Energy and Natural Resources.

H.R. 5753. An act to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes: to the Committee on Environment and Public Works.

H.R. 5830. An act to expedite construction of highway projects which provide additional quality jobs; to the Committee on Environment and Public Works.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5741. An act entitled the "Perishable Agricultural Commodities Act Technical Amendments of 1992"; to the Committee on Agriculture, Nutrition, and Forestry.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following bill; which was placed on the calendar:

S. 640. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, August 12, 1992, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1687. A bill to increase the capacity of Indian tribal governments for waste management on Indian lands, and for other purposes (Rept. No. 102–370).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2572. A bill to authorize an exchange of lands in the States of Arkansas and Idaho (Rept. No. 102–371).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1521. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material (Rept. No. 102–372).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2833. A bill to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe and the United States and various other issues pertaining to the Crow Indian Reservation (Rept. No. 102–373).

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. 3095. A bill to restore and clarify the Federal relationship with the Jena Band of Choctaws of Louisiana (Rept. No. 102–374).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2141. A bill to amend the Public Health Service Act to improve the quality of long-term care insurance through the establishment of Federal standards, and for other purposes (Rept. No. 102–375).

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 2323. A bill to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service-disabled veterans' insurance for totally disabled veterans, and for other purposes. (Rept. No. 102–376).

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2515. A bill to authorize the establishment of job training programs for unemployed veterans and persons who have been recently separated from the Armed Forces, to pay certain assistance and benefits to employers of such veterans and persons, such veterans, and such persons to defray certain costs relating to the provision of such training, and for other purposes (Rept. No. 102–377).

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 2528. A bill to amend chapter 37 of title 38, United States Code, to establish a pilot program for furnishing housing loans to Native American veterans, and for other purposes (Rept. No. 102–378).

S. 2647. A bill to amend title 38, United States Code, and title 10, United States Code, to revise and improve educational assistance programs for veterans and members of the Armed Forces, to improve certain vocational assistance programs for veterans, and for other purposes (Rept. No. 102–379).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 600. A bill to amend the Fair Labor Standards Act of 1938 to improve enforcement of the child labor provisions of such act, and for other purposes (Rept. No. 102–380).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2496. A bill to authorize a certificate of documentation for the vessel *Delphinus II* (Rept. No. 102–381).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2497. A bill to authorize a certificate of documentation for the vessel *Touch of Class* (Rept. No. 102–382).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2498. A bill to authorize a certificate of documentation for the vessel *Liquid Gold* (Rept. No. 102–383).

S. 2700. A bill to authorize appropriations for fiscal year 1993 for the Federal Maritime Commission (Rept. No. 102–384).

S. 2767. A bill to authorize a certificate of documentation for the research vessel *Brown Bear* (Rept. No. 102–385).

S. 2768. A bill to authorize a certificate of documentation for the fish processing vessel *Yupik Star* (Rept. No. 102–386).

S. 2816. A bill to authorize a certificate of documentation for the vessel *Bay Lady* (Rept. No. 102–387).

S. 2844. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States (Rept. No. 102–388).

H.R. 4485. A bill to authorize reimbursement of expenses for overseas inspections and examination of foreign vessels (Rept. No. 102–389).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 454. A bill for the relief of Bruce C. Veit.

H.R. 478. A bill for the relief of Norman R. Ricks.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 331. Resolution to commemorate Hungarian National Holiday.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1181. A bill for the relief of Christy Carl Hallien, of Arlington, TX.

S. 1859. A bill for the relief of Patricia A. McNamara.

S. 1947. A bill for the relief of Craig A. Klein.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2606. A bill to further clarify authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2964. A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 134. Concurrent resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following-named officer for appointment to the grade of general on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Hansford T. Johnson, [redacted], United States Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Howell M. Estes, III, [redacted], United States Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Donald M. Lionetti, [redacted], United States Army.

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 22, March 10, March 18, March 24, April 28, June 2, and June 11, 1992, at the end of the Senate proceedings.)

*In the Navy there are 6 promotions to the grade of rear admiral (lower half) (list begins with David Sidney Frost) (Reference No. 828).

*In the Naval Reserve there are 10 promotions to the grade of rear admiral (lower half) list begins with Kenneth Leroy Fisher) (Reference No. 829).

**In the Marine Corps there are 29 appointments to the grade of colonel (list begins with Gary W. Anderson) (Reference No. 851–2).

Vice Admiral Michael C. Colley, USN for reappointment to the grade of vice admiral (Reference No. 920).

*In the Naval Reserve there are two promotions to the grade of rear admiral (list begins with Donald Eugene Roy) (Reference No. 942).

**In the Naval Reserve there are 523 promotions to the grade of captain (list begins with Lloyd Vermillion Abel) (Reference No. 944).

*In the Navy there are 4 promotions to the grade of rear admiral (list begins with Harold Martin Koenig) (Reference No. 953).

*In the Navy there are 13 promotions to the grade of rear admiral (list begins with Brent Martin Bennitt) (Reference No. 964).

**In the Navy there are 132 promotions to the grade of captain (list begins with George Boardman Allison) (Reference No. 969–2).

*Vice Admiral Michael P. Kalleres, USN for reappointment to the grade of vice admiral (Reference No. 996).

**In the Marine Corps there are 62 appointments to the grade of lieutenant colonel (list begins with David W. Anderson) (Reference No. 997–2).

**In the Marine Corps there are 105 appointments to the grade of major (list begins with Donald J. Anderson) (Reference No. 1109–2).

**In the Navy there are 80 promotions to the grade of captain (list begins with Mark D. Browning) (Reference No. 1110–2).

**In the Navy there are 848 promotions to the grade of commander (list begins with Ronald Lee Aasland) (Reference No. 1111).

* Vice Admiral John A. Baldwin, Jr., USN to be placed on the retired list in the grade of vice admiral (Reference No. 1145).

* Vice Admiral Francis R. Donovan, USN to be placed on the retired list in the grade of vice admiral (Reference No. 1146).

** In the Naval Reserve there are 705 promotions to the grade of commander (list begins with Bruce Allen Abbott) (Reference No. 1196).

* In the Naval Reserve there are 2 promotions to the grade of rear admiral (list begins with Ronald Rhys Morgan) (Reference No. 1210).

** In the Marine Corps Reserve there are 23 appointments to the grade of colonel (list begins with Paul D. Allen, Jr.) (Reference No. 1226–2).

* Lieutenant General Ronald R. Fogleman, USAF to be general (Reference No. 1309).

* Major General Howell M. Estes, III, USAF to be lieutenant general (Reference No. 1310).

* General Hansford T. Johnson, USAF to be placed on the retired list in the grade of general (Reference No. 1326).

* Vice Admiral K. U. Kihune, USN, for reappointment to the grade of vice admiral (Reference No. 1327).

Grand Total: 2,552.

By Mr. PELL, from the Committee on Foreign Relations:

Patricia Diaz Dennis, of Virginia, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs;

Alan Greenspan, of New York, to be United States Alternative Governor of the International Monetary Fund for a period of five years;

Anthony Cecil Eden Quainton, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Assistant Secretary of State for Diplomatic Security;

Parker W. Borg, of Minnesota, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Union of Burma (Myanmar) (Exec. Rept. No. 102–52).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Parker W. Borg.

Post: Burma (Myanmar).

Contributions, amount, date, donee.

1. Self, none.
2. Spouse, none.
3. Children and Spouses. Names all under 10 yrs of age.
4. Parents names. Betty W. Borg, Lloyd E. Borg (deceased 5/82).
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names. Merrily Borg Babcock, Leslie Anne Borg (both divorced more than 10 years), none.

Harriet Winsar Isom, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Harriet Winsar Isom.

Post: Cameroon.

Contributions, amount, date, donee.

1. Self, none.
2. Spouse, no spouse.
3. Children and spouses, names, no children.
4. Parents, names, Blaine Isom, deceased, Evelyn Isom, deceased.
5. Grandparents, names, deceased.
6. Brothers and spouses, names, N/A.
7. Sisters and spouses, names, N/A.

Mack F. Mattingly, of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Mack F. Mattingly.

Post: Ambassador to the Republic of Seychelles.

Contributions, amount, date, donee.

1. Self, (in-Kind contributions only) Computer contributor list value, $1,000, 1990, John Linder, Auto signing machine (used) value $1,000, 1990, Newt Gingrich.

2. Spouse, Mrs. Carolyn L. Mattingly, none.

3. Children and spouses names, Mr. & Mrs. Mark Williams and Mr. & Mrs. Lee Anderson, none.

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, Mrs. Rosemary Mattingly, none.

7. Sisters and spouses names, none.

Ruth A. Davis, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Benin.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Ruth A. Davis

Post: Republic of Benin

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, no spouse.

3. Children and spouses names, no children.

4. Parents names, Anderson Davis, Edith Davis, none.

5. Grandparents names, deceased.

6. Brothers and spouses names, no brother.

7. Sisters and spouses names, Eugenia Davis Clements, Jeffrey Clements, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Alvin A. Schall, of Maryland, to be United States Circuit Judge for the Federal Circuit;

Ilana Diamond Rovner, of Illinois, to be United States Circuit Judge for the Seventh Circuit;

John G. Heyburn, II, of Kentucky, to be United States District Judge for the Western District of Kentucky;

Linda L. McLaughlin, of California, to be United States District Judge for the Central District of California;

Alfred V. Covello, of Connecticut, to be United States District Judge for the District of Connecticut;

Carol E. Jackson, of Missouri, to be United States District Judge for the Eastern District of Missouri;

Joseph A. DiClerico, Jr., of New Hampshire, to be United States District Judge for the District of New Hampshire; and

Michael J. Melloy, of Iowa, to be United States District Judge for the Northern district of Iowa.

By Mr. Biden, from the Committee on the Judiciary:

John F. Daffron, Jr., of Virginia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994;

Terrence B. Adamson, of Georgia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1994; and

The following-named persons to be Commissioners of the United States Parole Commission for the terms indicated:

Edward F. Reilly, of Kansas, for the remainder of the term expiring November 1, 1997, vice Benjamin F. Baer.

For the remainder of the term expiring November 1, 1997, vice Cameron M. Batjer, resigned.

(The above nominations were reported with the recommendation that it be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Glen L. Bower, of Illinois, to be a Member of the Railroad Retirement Board for a term of five years from August 29, 1992;

Jerome F. Kever, of Illinois, to be a Member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1993; and

Virgil M. Speakman, Jr., of Ohio, to be a Member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1994.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 3176. A bill to enhance informed individual choice regarding health care services by providing certain information to health care recipients, to lower the cost of health care through use of the most appropriate provider, to improve the quality of health care, and for other purposes; to the Committee on Finance.

By Mr. KOHL (for himself, Mr. Specter, Mr. Lieberman, Mr. Wofford, Mr. Conrad, Mr. Kasten, Mr. Jeffords, Mr. Grassley, Mr. Coats, Mr. Lugar, Mr. Cohen, Mr. Harkin, Mr. Wellstone, and Mr. Leahy):

S. 3177. A bill to amend title 13, United States Code, to require the Secretary of Commerce to notify the Senate and House of Representatives about changes in the methodology for producing numbers used in any Federal funding formula; to the Committee on Governmental Affairs.

By Mr. SPECTER (for himself, Mr. Kohl, Mr. Kasten, Mr. Jeffords, Mr. Grassley, Mr. Coats, Mr. Lugar, Mr. Cohen, Mr. Lieberman, Mr. Wofford, Mr. Conrad, Mr. Harkin, Mr. Wellstone, Mr. Leahy, and Mr. Glenn):

S. 3178. A bill to prohibit the use of appropriated funds to adjust the 1990 decennial census or any intercensal estimates by the Bureau of the Census; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. Hatch, Mr. Durenberger, Mr. Wellstone, and Mr. Mitchell):

S. 3179. A bill to amend title IX of the Public Health Service Act to revise and extend programs under such title, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. Pryor, Mr. Mitchell, Mr. Rockefeller, Mr. Riegle, Mr. Chafee, Mr. Danforth, Mr. Kerrey, Mr. Wellstone, Mr. Adams, Mr. Akaka, Mr. Bingaman, Mr. Graham, Mr. Inouye, and Mr. Jeffords):

S. 3180. A bill to amend the Social Security Act to provide grants for the establishment of State demonstration projects for comprehensive health care reform, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. Sanford):

S. 3181. A bill to establish a filing deadline and to provide certain safeguards to curb frivolous and other cases not substantially justified which are brought under the Securities and Exchange Act's implied private action provisions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURENBERGER (for himself, Mr. Wofford, Mr. Rockefeller, Mr. Daschle, Mr. Kasten, and Mr. Kohl):

S. 3182. A bill to amend the Trade Act of 1974 with respect to articles not eligible for duty-free treatment under the Generalized System of Preferences; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. Bingaman):

S. 3183. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ADAMS (for himself and Mr. Metzenbaum):

S. 3184. A bill to amend the Employee Retirement Income Security Act of 1974 to expand pension coverage, to improve pension portability, and to increase retirement savings, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHAFEE:

S. 3185. A bill to amend title XVIII of the Social Security Act to expand and improve access to medicare select policies, and to make technical corrections to provisions relating to medicare supplemental insurance policies; to the Committee on Finance.

By Mr. ADAMS (for himself, Mr. Bingaman, and Mr. Metzenbaum):

S. 3186. A bill to amend the Public Health Service Act to prohibit physicians from referring patients to health entities in which they have a financial relationship and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRAHAM (for himself and Mr. Pryor):

S. 3187. A bill to amend title XIX of the Social Security Act to improve programs related to home and community based care and community supported living arrangements, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM:

S. 3188. A bill to establish the representative and administrative entities necessary to carry out section 8 of the Florida Keys National Marine Sanctuary and Protection Act; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 3189. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, and for other purposes; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself and Ms. MIKULSKI):

S. 3190. A bill to amend section 182 of the Trade Act of 1974 to permit the United States to respond to the actions of countries that do not provide adequate and effective patent protection to the United States nationals; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3191. A bill to amend title XIX of the Social Security Act to increase State flexibility to use coordinated care programs and to allow States to contain costs and improve access to and quality of, coordinated care services under the medicaid program; to the Committee on Finance.

By Mr. BREAUX:

S. 3192. A bill to reform and revitalize the shipbuilding industry of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN:

S. 3193. A bill to consolidate within the executive branch of Government authorities in law to control the transfer to foreign countries of military equipment and technology and dual-use goods and technology; to the Committee on Foreign Relations.

By Mr. KASTEN:

S. 3194. A bill to amend provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991 pertaining to small business loans; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GLENN (for himself and Mr. THURMOND):

S. 3195. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY:

S. 3196. A bill to amend section 26 of the Act of March 3, 1901, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND:

S. 3197. A bill to improve the administration of bankruptcy estates, and for other purposes; to the Committee on the Judiciary.

S. 3198. A bill for the relief of Horace Martin; to the Committee on the Judiciary.

By Mr. KASTEN:

S. 3199. A bill to require Federal funding for any Federal requirement applicable to a State or local government; to the Committee on Governmental Affairs.

By Mr. DASCHLE:

S. 3200. A bill to amend the Civil Rights Act of 1991 to apply the National Labor Relations Act, the Fair Labor Standards Act of 1938, and the Occupational Safety Act of 1970 to Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. REID (for himself and Mr. BRYAN):

S. 3201. A bill to require the Secretary of Agriculture to convey certain lands in Austin, Nevada, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERREY (for himself, Mr. DURENBERGER, Mr. PRYOR, Mr. EXON, Mr. DASCHLE, Mr. BURDICK, Mr. HARKIN, Mr. CONRAD, Mr. WELLSTONE, and Mr. GRASSLEY):

S. 3202. A bill to amend the Agricultural Act of 1949 to improve the farmer owned reserve program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 3203. A bill to prohibit senior Presidential campaign staff members from engaging in political activities as agents of foreign principals; to the Committee on Governmental Affairs.

By Mr. MACK (for himself, Mr. SEYMOUR, and Mr. GRAHAM):

S. 3204. A bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MACK (for himself, Mr. SEYMOUR, Mr. GRAHAM, and Mr. CRANSTON):

S. 3205. A bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census; to the Committee on Governmental Affairs.

By Mr. MACK (for himself, Mr. SEYMOUR, and Mr. GRAHAM):

S. 3206. A bill to provide for the utilization of the latest available census data in certain laws related to airport improvements; to the Committee on Commerce, Science, and Transportation.

S. 3207. A bill to provide for the utilization of the most current census data in certain laws related to the environment and public works; to the Committee on Environment and Public Works.

S. 3208. A bill to provide for the utilization of the latest available census data in certain laws related to Energy and Natural Resources; to the Committee on Energy and Natural Resources.

S. 3209. A bill to provide interim current census data on below poverty, urban, rural, and farm populations; to the Committee on Governmental Affairs.

S. 3210. A bill to utilize the most current Federal census data in the distribution of Federal funds for agriculture, nutrition, and forestry; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3211. A bill to provide for the utilization of the latest available census data in certain laws related to urban mass transportation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CHAFEE (for himself and Mr. BRADLEY):

S. 3212. A bill to amend the Social Security Act to improve access to medicaid benefits and to reduce State administrative burdens under the medicaid program; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. KERREY, Mr. BURNS, and Mr. PELL):

S. 3213. A bill to authorize the establishment of the Chief Big Foot National Memorial park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMPSON (for himself, Mr. D'AMATO, Mr. SHELBY, and Mr. SEYMOUR):

S. 3214. A bill to amend the Immigration and Nationality Act to improve the admissions process at airports and other ports of entry; to the Committee on the Judiciary.

By Mr. KASTEN (for himself, Mr. LIEBERMAN, and Mr. MACK):

S. 3215. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged business enterprises; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3216. A bill to direct the Secretary of the Army to conduct an investigation of the Long Island Sound that includes the development and construction of a model, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S.J. Res. 333. A joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. AKAKA, Mr. BENTSEN, Mr. BAUCUS, Mr. BINGAMAN, Mr. BRADLEY, Mr. BREAUX, Mr. BRYAN, Mr. BURDICK, Mr. CRANSTON, Mr. CONRAD, Mr. DODD, Mr. FOWLER, Mr. GLENN, Mr. GRAHAM, Mr. HEFLIN, Mr. HOLLINGS, Mr. JOHNSTON, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. NUNN, Mr. PELL, Mr. ROCKEFELLER, Mr. REID, Mr. RIEGLE, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. MOYNIHAN, Mr. DOLE, Mr. D'AMATO, Mr. CHAFEE, Mr. DOMENICI, Mr. DURENBERGER, Mr. KASTEN, Mrs. KASSEBAUM, Mr. MACK, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. RUDMAN, Mr. SEYMOUR, Mr. SYMMS, Mr. WARNER, Mr. STEVENS, Mr. COHEN, Mr. BOND, Mr. COCHRAN, Mr. WALLOP, and Mr. GARN):

S.J. Res. 334. A joint resolution designating September 1992 as "Childhood Cancer Month"; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. SIMON):

S.J. Res. 335. A joint resolution to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 335. A resolution to authorize documentary production in United States of America v. Caspar W. Weinberger; considered and agreed to.

By Mr. THURMOND:

S. Res. 336. A resolution to refer S. 3198 entitled "A bill for the relief of Horace Martin," to the Chief judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3176. A bill to enhance informed individual choice regarding health care services by providing certain information to health care recipients, to lower the cost of health care through use of the most appropriate provider, to improve the quality of health care, and for other purposes; to the Committee on Finance.

HEALTH CARE AFFORDABILITY AND QUALITY IMPROVEMENT ACT OF 1992

Mr. SPECTER. Mr. President, I have sought recognition to discuss this morning the introduction of legislation on the health care, titled the Health Care Affordability and Quality Improvement Act of 1992, which supplements legislation that this Senator has introduced in the past, as specified in the text of the fairly extensive floor statement, which I will not take time to deliver this morning.

In my view, Mr. President, it is indispensable that there be comprehensive, affordable health care for all Americans. I am opposed to rationing for myself, my family, or for America. I believe the essential question is whether we have sufficient resources—and that is medical personnel, doctors and nurses; support personnel; and hospital and pharmaceutical facilities—to provide health care for all Americans. I think we do.

The next questions is: How do we structure the financing so that it can be provided? And it is my hope, Mr. President, that this subject will be addressed by the Senate and the House yet this year.

On July 29, I offered an amendment to the energy bill which would have provided a substantial step forward toward comprehensive, affordable health care for all Americans. At that time, the amendment was defeated on technical and procedural grounds.

And I expressed the sentiment at that time—which I shall not go into in detail here because it is in the RECORD—that health care be scheduled this year with a date certain. We have a date certain for product liability, a very important subject; but no more important—in fact, less important—than health care.

In 1990, the Congress passed the Clean Air Act that many said was not doable. But the issue was brought to the floor, and task forces were formed which took up the complex questions of sulfuric acid in the air. We removed 10 million tons in a year. We made significant changes in industrial pollution and in tailpipe emissions. We had a balanced bill which protected the environment, and also had the appropriate balance with retention of jobs.

Just as we took on that tough line, Mr. President, I submit that if Congress tackles the issue of comprehensive, affordable health care for all Americans, we can do the job on that bill, as well.

The estimates are that we spend approximately $738 billion a year on health care. As I analyze our health care system, Mr. President, it is my thought that within that range of expenditure, with cost containment, we can extend comprehensive, affordable health care to all Americans.

I illustrate the human benefits and the savings on preventing the number of low birth weight births. I first saw 1-pound babies, Mr. President, in 1984, when I was astounded to learn that Pittsburgh, PA, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.

It is tough enough coming into this world if you weigh 8 pounds 10 ounces, as I was reported to have weighed when I was born. If you weigh 16 or 20 ounces, it is a human tragedy, and the consequences last long into life, even if a child has the medical treatment to come through it and to be released from the hospital.

Beyond the human tragedy of the 1-pound babies, there is the financial disaster. It costs up to $150,000, I am told, for each individual child before being released from the hospital. Furthermore, there is a tremendous problem of medical incidents and costs beyond the release from the hospital.

This is a multibillion-dollar savings which is available, Mr. President, if we provide prenatal and postnatal care. Doctor C. Everett Koop, former Surgeon General of the United States, made a suggestion, which is incorporated in my proposed legislation, that there be a bonus payment to teenage women who are pregnant of $500 who agree to five prenatal visits and one postnatal visit.

And while it would be preferable, obviously, in an ideal world not to provide such incentives, it has the ring of being very cost effective and an enormous savings to have that kind of prenatal care in advance. I am not wedded to that specific sum, but I think the idea is worth exploring by the Congress of the United States, in order to induce teenagers to have the kind of prenatal care which is so important for the health of their expected child and for their own health.

And the requirement further suggested by Dr. Koop that these pregnant teens be required, in order to get the bonus payment, to enroll in two courses at school, one on parenting and one on prenatal care. But these ideas for preventive health care are very important for adequate medical treatment to Americans, and also as a means of cutting down the costs.

My legislation contains further suggestions on cost containment through managed health care, which poses a possibility of reductions as high as 20 percent, or perhaps beyond. I also support enactment of legislation to reduce the cost of administration; and methods of reducing the burden of fraud in the United States. We have tremendous latitude within the range of the current expenses of $738 billion to provide medical care to all Americans.

And if this figure should prove insufficient—and only time well tell, as we work through the practical application of these ideas—we may have to expand Medicaid and Medicare to provide more support by the Federal Government for the poor or those who cannot be reached.

But there are many things we can do, Mr. President, with the legislation which is already pending, the legislation introduced by the task force chaired by Senator CHAFEE, with 24 Senate cosponsors, which includes having insurance premiums fully deductible for self-employed individuals. The anomaly in our law at the present time permits an employer to deduct fully insurance premiums paid for employees, but denies that same benefit for the self-employed, who are now permitted to deduct only 25 percent. That was part of the amendment which this Senator introduced on July 29, and it is part of S. 1936.

Previously, I also had introduced S. 1995, which provides for preventive health care, and also S. 1122 on long-term health care. This has been a matter of concern to this Senator for many, many years.

Among other legislative proposals which I have introduced was one in 1985, S. 1873, which was designed to provide for the development of community-based health services and community-based organizations to deal with the problems of low birth-weight babies.

Beyond the legislative proposals which I have enumerated, Mr. President, there are proposals pending which have been introduced by other Senators in this Chamber and by Members of the House of Representatives. So there is a wealth of ideas present and pending if we will just take up the subject and move to enact legislation which will provide comprehensive, affordable health care for all Americans.

Mr. President, affordable health care for all Americans should be to the top of our Nation's legislative agenda. Americans are fearful they will not be able to obtain health care when they need it. When people across the country were asked the question, "which needs the greatest attention from the Federal Government," health care availability ranked at the top along side improving the economy.

There are three fundamental factors contributing to the groundswell for national health care reform: the lack of access to care; the escalating cost of care, and the burdensome administrative requirements of care. Nearly 2 years ago Senator CHAFEE'S task force on health care was established. The task force was formed to develop a consensus on meaningful health care reform which would offer hope to the millions of Americans who are uninsured and or underinsured and implement reforms to reduce the escalating cost of care.

With the leadership of Senator CHAFEE, consensus was developed among 19 members and on November 7 of last year, we introduced S. 1936, the Health Equity and Access Improvement Act of 1991. As an original sponsor of this legislation, I am pleased to report that it puts in place comprehensive reforms to improve access to health care for all individuals in this Nation.

Building upon the provisions of the task force bill, on November 20, 1991 I introduced S. 1995, the Health Care Access Affordability Act. This bill would invest $1.4 billion in additional resources in fiscal year 1993 in federally supported primary and preventive health programs. Increasing the provision of preventive health services, improving access to primary care and increasing the investment in research on understanding and treating disease, offer great promise for improving the health of our citizenry and reducing the need for costly acute care.

These bills supplemented legislation I had introduced on May 22, 1991, S. 1122, covering long-term health care.

Today, I am introducing legislation, the Health Care Affordability and Quality Improvement Act of 1992. This bill will implement reforms which will enhance a consumer's ability to choose appropriate health care by the most appropriate provider. I believe this will both improve the quality of health care delivery and will cut the escalating cost of health care in this country. I believe this bill can result in cost savings of billions of dollars, dollars which in turn can be used to insure the millions of uninsured and underinsured Americans.

The bill focuses on managing health care costs in several areas: First, enhancing consumer decisionmaking about their health care; second, reducing inefficient and unnecessary care; third, preventing costly neonatal care resulting from babies born of low birth weight; fourth, improving efficiency by permitting access to the most appropriate providers; fifth, encouraging the development of medical practice guidelines; and sixth, studying the feasibility of implementing health care expenditure targets.

Other areas of reform related to cost savings which must be addressed include eliminating health care fraud and streamlining the cumbersome and costly administrative structure within the health care system. A recent Government Accounting Office study estimated at $70 billion per year the cost of health care fraud in this country. Estimates for administrative costs are approximately 20 cents per dollar spent on health care, or nearly $150 billion annually. I believe that by effectuating savings on items like fraud and administrative costs plus the savings and coverage projected in this bill, S. 1122, S. 1936, and S. 1995, we can provide affordable health care for all Americans within the $738 billion now expended on medical care.

TITLE I—DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS

In the last two decades, the role of the patient in American medicine has evolved considerably beyond that of a passive subject who is administered care by physicians and other practitioners. The 1970's saw the ideas of patient rights popularized and informed consent procedures adopted by most hospitals. At the same time, increased cost sharing for patients and a rising consumer movement began to make patients aware that they could have a greater voice in selecting the course of their treatment or the health care setting where care would be provided.

While the Nation's attention is focused on access to health care and how that care is to be financed, these two issues cannot be resolved satisfactorily without accommodating the consumer and focusing on patient-centered care. This should include, at a minimum, a payment system that gives patients choice among health care plans, physicians and nonphysician providers, and hospitals; that gives them ready access to the kind of patient information and education that allows informed choice, and that rewards the practitioners and facilities that provide the type of care consumers choose. Consumers should have available to them information to compare hospitals and health care providers on price and performance, much as people compare mileage rating, service records, and sticker prices when they shop for automobiles.

Mr. President, I believe that this new era of consumerism on the part of patients could bring profound benefits over time. Patient-centered care would put the health-care system more squarely in the business of serving the needs of patients with chronic and serious illness. This could change the nature of medical inquiry, leading to improvements in patient functioning, the reduction of pain, and the relief of anxieties that accompany illness.

It might lead to a different role for the family practitioner, one in which the patient's reports are crucial diagnostic information and the physician's counsel is a crucial therapeutic tool. An expanded concept of the purpose and value of the practitioner/patient interaction could in turn force the medical payment system to revalue the time practitioners spend with patients.

It could produce a generation of patient-interactive technologies, including educational material on treatment options and on self-management of chronic disease, as well as survey information on patients' assessments of competing medical groups, hospitals, and medical care plans. It could change how medical care is valued by ushering in a system in which patients' values regarding risks and benefits are central to determining the appropriate course of treatment.

Our Nation's health care system needs to accommodate the needs and experiences of patients. As the health care system moves toward this end, it will improve the health of the American people, expand the business of clinical care, alter the training and pursuits of health care providers, change the nature of patient education, change the care process of hospitals, and revise the way patient care is measured and rewarded.

To address patient-centered care and increase consumer participation, title I of the bill, entitled "Disclosure of Information To Beneficiaries Under The Medicare and Medicaid Programs," requires that institutional health care providers receiving payment for services provided under the Medicare and Medicaid programs make an annual report available to the beneficiaries. The annual report would include: first, mortality rates relating to services provided to individuals, including incidence and outcomes of surgical and other invasive procedures; second, hospital-originated infection rates; third, a list of routine preoperative tests and other frequently performed medical tests and the cost of such tests; and fourth, the number and types of malpractice against the institution decided or settled.

Each noninstitutional provider receiving Medicare and Medicaid payments is also required to make an annual report available to the beneficiaries. The annual report would include: First, provider's education, experience, qualifications, board certification, and license to provide health care services; second, disciplinary actions taken against the provider by any health care facility, State medical agency, or medical organization; third, malpractice actions against the provider decided or settled, and fourth, a disclosure of any provider health care ownership.

Finally, all health care providers receiving payment under Medicare and Medicaid are also required to make available certain information to the patient prior to the performance of a procedure. The following information is required: First, the nature of the procedure or treatment; second, a description of the procedure or treatment; third, the risk and benefits associated with the procedure, fourth, the success rate for the procedure or treatment generally to the extent ascertainable, and for the provider; fifth, the provider's cost range for the procedure; sixth, any alternative treatment which may be available; seventh, any known side effects of any medications required in connection with the procedure; and eighth, the interactive effect of the complete regimen of medications associated with the procedure.

TITLE II—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

Mr. President, I believe that it has become increasingly apparent that, despite the enactment of landmark legislation by the Congress in November 1990, added safeguards need to be enacted in order to assure that patients are not needlessly and unlawfully treated contrary to their wishes.

In 1990, the Congress enacted the Patient Self-Determination Act as part of the Omnibus Budget Reconciliation Act of 1990. This landmark legislation states, in summary, that health care providers must adopt written policies concerning adult patients' rights, under State law, to consent to, or to refuse, treatment. The statute states, further. that providers must adopt written policies concerning adult patients' rights under State law to formulate so-called advance directives—written instruments by which incapacitated patients may "speak," despite incapacity, concerning their treatment wishes. Finally and most importantly, the Patient Self-Determination Act requires that health care providers inform patients of these rights in writing. Thus, the Patient Self-Determination Act enlists the assistance of health care providers in educating patients concerning their rights under State law.

The Patient Self-Determination Act's reliance entirely on State law in defining the scope and extent of patients' rights appears to have given rise to at least two problems. First, in many States the full scope of patients' rights has not yet been clearly articulated by the legislatures or by the courts. A recent white paper issued by the Annenberg Washington Program of Northwestern University entitled "The Patient Self-Determination Act—Implementation Issues and Opportunities" supports this conclusion, stating:

> The Act relies on state law governing withdrawal and withholding of life-support, yet the status of such law in most states is confused and conflicting * * *. By pragmatically avoiding an effort to declare a uniform, national law regarding end-of-life decisions, the Act relies instead on vague and widely varying interpretations of the law in 51 separate jurisdictions.

As a result, health care providers are placed in a tenuous and uncertain position with respect to their duty to notify patients, in writing, of their rights under the Patient Self-Determination Act. In short, in too many States health care providers face great difficulty in informing patients of their rights since the precise scope of those rights has not yet been defined by State law.

A second problem which continues to surface is a product of the degree to which our society is mobile. In many States, the law on patient self-determination is relatively clear. For example, many States have adopted model living will and/or durable power of attorney for health care forms which are recognized by health care providers throughout the State. Forms adopted on a State by State basis, however, vary from State to State; there is no model and universal national form.

As a result, there is in the words of the Annenberg white paper, a portability problem. That is, patients continue to present in local hospitals out-of-State forms to document their treatment wishes. In cases where the patient is competent, such an out-of-State form may not present an insurmountable obstacle since such patients may always sign the in-State form provided to them when they are admitted to the health care facility. In many cases, however, patients who have signed out-of-State forms have lost the capacity to sign new forms. A patient, for example, may be delivered to an emergency room in a coma.

In such cases, the health care provider is again placed in a highly tenuous position. Should the unfamiliar form be honored even though it differs from the form sanctioned by local law? Or should the patient's written wishes be disregarded due to legal technicality? If the patient's wishes are to be disregarded, who, then, is to make critical decisions concerning care? Such problems—which are not uncommon—could be avoided entirely by the creation of nationally recognized advance directive and durable power of attorney for health care forms.

Title II of this bill is a step towards resolving these and other problems which persist despite the enactment of the Patient Self Determination Act. It directs that an advisory committee be appointed by the Secretary of Health and Human Services to make recommendations on how to establish a uniform Federal law regarding end-of-life decisions and the development of model nationally recognized forms for advanced directives and durable powers of attorney for health care. This bill revises the concept of an advisory committee from prior legislation to make these determinations. While there is reluctance to establish such a committee, the advisory committee had functioned well in the past and is well suited to accomplish this purpose.

Uniformity and portability, however, are not the only issues left unresolved with the enactment of the Patient Self Determination Act. For example, the Annenberg white paper notes that despite the Patient Self Determination Act, patients still are reluctant to exercise their rights, and health care providers still are hesitant to honor those rights. Reinforcing the point, a special report in the New England Journal of Medicine, authored by a panel of 16 distinguished physicians, nurses, ethicists, attorneys, and educators, concluded that despite "widespread agreement that [written] directives can have many benefits * * * few Americans have executed advance directives."

Accordingly, the advisory committee also is required to examine a number of other issues related to the Act, such as, discrepancies in interpretation, education and training of health care professionals and patients, ethical considerations, and the timing for initiating discussions with patients regarding their rights to determine their course of treatment. Title II requires that the advisory committee's recommendations be submitted to the Secretary and to the Congress within 90 days from enactment.

In 1984, an article was published, based on data from the Health Care Financing Administration, which stated that in 1978, expenses incurred by Medicare beneficiaries in their last year of life accounted for 28 percent, or $16.3 billion, of total Medicare program expenses for that year. A follow-up study on data from 1985 was generally consistent with the 1978 data, concluding that 26.7 percent of Medicare expenditures were made during the beneficiary's last year of life. These figures have been widely quoted and I recognize they have been the subject of much debate on the inferences which can be drawn from the data, but I cite them to provide some indication on the range of costs involved.

No one should decide for any other person what should be done on life support systems. That is obviously a highly personal decision. However, it is sensible and in keeping with that individual determination to structure a system of living wills so that individuals can make an informed choice for themselves.

It is important that reliable data be developed to show the magnitude of expense being incurred unnecessarily for treatment which is not wanted. The Advisory Committee appointed under title II will be able to develop such precise data.

TITLE III—MATERNAL AND INFANT CARE COORDINATION

Mr. President, of the 4,100,000 American babies projected to be born in 1992, it is estimated that 7 percent, or 287,000, will be of low birth weight, multiplying their risk of death and disability. Although the infant mortality rate in the United States fell to an all-time low in 1989, an increasing percentage of babies are born of low birth weight. Rae Grad, Executive Director of the National Commission to Prevent Infant Mortality, put it this way, "* * * More babies are being born at risk and all we are doing is saving them with expensive technology."

These low birth weight children, weighing less than 5.5 pounds, account for 16 percent of all costs for initial hospitalization, rehospitalization, and special services up to age 35. The short and long-term costs of saving and caring for infants of low birth weight is staggering. A study issued by the Office of Technology Assessment in 1988, concluded that in excess of $8 billion was expended in 1987 for the care of

262,000 low birth weight infants than would have been spent on an equivalent number of babies born of normal weight. The long-term costs from birth to age 35 is more than twice as high. Costs for low birth weight is estimated at $50,558 compared to $20,033 for normal births.

The Department of Health and Human Services has estimated that by reducing the number of children born of low birth weight by just 2 percentage points, or 82,000 births, we could save between $1.1 billion and $2.5 billion per year.

The problem of low birth weight children is obviously more pronounced for the 1-pound babies which are about the size of a person's hand. It is a human tragedy for a child to be born weighing 16 ounces or 18 ounces or 20 ounces with the attendant problems which last a lifetime. In addition, it is a financial disaster. The costs of hospital care for a 1-pound baby can run as high as $150,000 before they may leave the hospital.

We know that in most instances prenatal care is effective in preventing low birth weight babies. Numerous studies have demonstrated that low birth weight is associated with inadequate prenatal care or lack of prenatal care. To improve pregnancy outcomes for women at risk of low birth weight, title III of the bill, entitled, the Maternal and Infant Care Coordination Act, authorizes the establishment of two innovative Federal grant programs.

The first program targets Federal resources to States to assist them in the development and implementation of coordinated comprehensive primary health care, social services, and health and nutrition education for women and children at high risk for low birth weight pregnancies. Participating States would be required to offer comprehensive services including: family planning counseling; pregnancy testing; prenatal care; delivery, intrapartum and postpartum care; pediatric care for infants, including in-home services for low birth weight babies; and social services, including outreach, home visits, child care, transportation, risk assessment, nutrition counseling, dental care, mental health services, substance abuse services, services relating to HIV infection, and prevention counseling.

States would coordinate to the maximum extent possible existing Federal and State resources, such as Medicaid, WIC and other maternal and child health programs. They also would be required to demonstrate that the major service providers, and community-based organizations involved in maternal and child health are involved in the program. Finally, the grantees would need to demonstrate that health promotion and outreach activities under the State program are targeted to women of childbearing age, particularly those at risk for having low birth weight babies.

Title III also authorizes the Secretary of Health and Human Services, in conjunction with the Secretaries of Education and Agriculture, to award grants to develop model health and nutrition education curricula for elementary and secondary schoolchildren. Grants would support public or nonprofit entities in the development of nutrition education materials designed to improve the health of school age children, promote healthy lifestyles and reduce the likelihood of teenage pregnancies.

It is important to emphasize efforts to provide better compensation for primary health care providers. In an age of specialization, the position of primary health care provider has become less attractive with the expected result that fewer physicians are interested in providing that service. To promote the societal benefits from such primary health care, we need to insure that the reform undertaken in implementing the new fee schedule for Medicare effectively addresses higher compensation for primary health care providers.

At the suggestion of Dr. C. Everett Koop, former Surgeon General of the United States, this bill provides for incentives for teenagers, young women 19 years of age and under, who become pregnant, who will receive $500.00 for enrolling in prenatal care consisting of five prenatal and one post-natal visit. Dr. Koop notes the French once paid pregnant women to have such prenatal and post-natal visits, resulting in materially improving the health of French babies. This legislation, again at the suggestions of Dr. Koop, will require teenagers to enroll in high school classes in parenting and prenatal care as a precondition for receiving the $500 incentive payment. While in an ideal world such an incentive payment should not be necessary, it would be effective in both humanitarian terms and cost effectiveness.

The issue of low birth weight babies has been of concern to me for many years leading to my introduction of S. 1873 in 1985.

TITLE IV—CONSUMER ACCESS TO NURSE PRACTITIONERS AND PHYSICAN ASSISTANT SERVICES

Mr. President, I have consulted with several nursing organizations to discuss our Nation's health care crisis and I have asked them to describe nursing's agenda for health care reform and their efforts for alleviating access and reducing health care costs. They have stated that a national health plan that provides the public with access to nurses would be extremely important in advancing the Nation's health, in increasing consumers' satisfaction with their care, and as a tool to reduce health-care costs. Nurses have solutions to some of health care's most pressing problems. Indeed, current health care trends, such as an aging population, increasing prevalence of chronic diseases, the AIDS epidemic, increased reliance on medical technologies and the resultant problems from substance abuse, are increasing the strain on our national health resources which demand new solutions.

I believe that effective utilization of nurse practitioners [MP's] and physician assistants [PA's] has the potential to increase access to health care, to increase efficiency in health care, and to provide cost-savings. In a 1983 review of the literature on the impact of nurse practitioners, the American Nurses' Association [ANA] found consistently good conclusions about their cost-effectiveness. Other studies from the decade support ANA's report.

For example, in a report comparing direct-care providers, the Federal Government's Office of Technology Assessment [OTA] recommends extending reimbursement to NP's, PA's and certified-nurse midwives [CNM's] and believes that in some settings this could benefit the health status of segments of the population currently not receiving appropriate care and that the long term effects could be a decrease in total costs. Although OTA did not stipulate the exact savings for the United States, they reported on the potential health care savings for Canada. OTA cites findings in 1980 by Canadian researchers' that the utilization of NP's and PA's could result in 10–15 percent savings for all medical costs—or from $300 million to $450 million—or between 16–24 percent of the total costs for ambulatory care. While no comparative studies are available in the United States, it is clear that the savings from utilization of these providers could amount to billions of dollars.

A more specific example of cost-effective quality nursing care is a study conducted by a group of University of Pennsylvania, School of Nursing researchers—Brooten, et al., 1986—dealing with early discharge of very low birth weight infants, with home follow-up by nurse specialists. In this study, very low birth weight infants were discharged from the hospital early and received home follow-up services from a master's-prepared perinatal nurse specialist. The group of infants was discharged a mean of 11 days earlier, 200 grams less in weight, and 2 weeks younger than the control group. There was a mean saving of $18,560 per infant over conventional care.

In an era in which cost, quality and access present increasingly difficult problems, NP's, PA's and CNM's are an extremely valuable and untapped resource. In their 1992 report to Congress, the Physician Payment Review Commission stresses the importance of NP's, PA's and CNM's in meeting the primary health care needs of underserved communities. Primary health care is a way of delivering health care.

It includes identification, management, and referral of health problems, as well as promotion of health-maintaining behavior and prevention of illness.

These professions evolved in response to shortages of primary health care in certain parts of the country. To encourage retention of these health care providers and potentially attract more of them to shortage areas, the Commission recommended in their 1991 report to Congress that the Medicare bonus payment be applied to the services of these providers in both urban and rural health care settings. This recommendation has been incorporated into my legislation. As high quality, cost-effective health care providers these professionals are prepared to make a vital contribution to addressing our Nation's access and cost problems. Accordingly, title IV of the bill provides consumers access to services by nurse practitioners, clinical nurse specialists, certified nurse midwives and physician assistants. These non-physician providers would receive direct reimbursement through the Medicare and Medicaid programs.

TITLE V—MEDICARE PREFERRED PROVIDER DEMONSTRATION PROJECTS

In October of 1990, I visited a Pennsylvania health care company. After touring the facility, I discussed with company officials their methods of containing costs. They reported that their experience had taught them that the key to improving quality and controlling health care costs is the management of specialty care. Such services are expensive, are associated with significant complications, show considerable small area variation, and frequently fail to meet appropriateness of care criteria.

Successful management of these costs have yielded savings of an estimated 20 percent. Furthermore, they reported their cost savings strategy could be replicated and applied to federally supported programs, such as Medicare and Medicaid. A suggestion was made to initiate a Medicare demonstration program to test the efficacy of a coordinated care network for Medicare beneficiaries which manages the use of specialty care.

I subsequently have met with other providers from Pennsylvania who have adopted and found success in managed care approaches to containing health care costs and improving the quality of care. On several occasions, I have raised this matter with Secretary Sullivan with the view that the Department undertake a pilot program to test this approach with Medicare beneficiaries. On October 31, 1990, I sent a letter to the Secretary suggesting this approach be tested as a pilot program. Again, on April 8, 1991, I wrote the Secretary raising the matter of undertaking a model Medicare coordinated care demonstration program.

The pilot program also was raised by me with the Secretary during a January 23, 1992 meeting regarding health care reform and during the Secretary's appearance before the Labor, HHS and Education Appropriations Subcommittee on May 12th of this year. While the Secretary has expressed support for the concept, it has been over 18 months, and no demonstration has been undertaken by the Department.

In the meantime, Medicare expenditures are increasing at an alarming rate. Despite the introduction of the hospital prospective payment system, Medicare spending will have grown from $34 billion in 1980 to an estimated $131 billion by 1993. Without reform, Medicare will grow at an average rate of 12 percent per year. It is estimated that Medicare will exceed 27 percent of the Federal budget by the year 2025.

Coordinated care plans have shown promise for providing the management necessary to control the volume and intensity of specialty services. A number of studies have reported cost savings with the use of managed care. Savings have ranged up to 30 percent contrasted with fee-for-service plans. Assuming cost reductions of just 10 percent, would yield a decrease in the projected expenditures for the Medicare program in 1993 of $13 billion. A 20 percent reduction would yield savings of twice the amount, or $26 billion.

The Medicare program, however, has not seen the rapid expansion of managed care found in the private sector. Only 7 percent, or 2.1 million, of Medicare beneficiaries participate in Medicare HMOs. This contrasts with 27 percent in the private sector.

The reasons for the low participation rate are not clear. What is needed is a series of projects to demonstrate a Medicare managed care program which effectively recruits participants and provides cost effective quality care. These demonstration projects would combine the new Medicare part B fee schedule with a specialty provider network with three managed care components; the monitoring of physician and non-physician provider performance; the provision of individual incentives for quality improvement and the coordination patient care; and health promotion activities.

Accordingly, title V of the bill directs the Secretary of Health and Human Services to institute up to ten pilot projects to test the efficacy of establishing these coordinated networks of primary and specialty care providers. The network of providers would be selected and monitored based on quality and appropriateness of care measures.

This approach has successfully been implemented in the private sector. I am convinced these management principles can be applied to medicare beneficiaries and can both control Medicare costs and improve the quality of care delivered to Medicare patients.

TITLE VI—COST CONTAINMENT

FEDERAL INITIATIVE ON DRUG DEVELOPMENT

In fiscal year 1990, the National Institutes of Health had approved, but was not able to fund over $110 million in major new clinical trials. This underfunding of clinical trials occurred in spite of the social and economic costs of the leading diseases. For example, Alzheimer's disease has societal costs of $88 billion compared to $230 million in federally funded research; heart disease has societal costs of $94 billion compared to $704 million in federally funded research; cancer has societal costs of $72 billion compared to $1.7 billion in federally funded research; AIDS has societal costs of $66 billion compared to $1.1 billion in federally funded research.

Title VI specifically authorizes a program at the National Institutes of Health to expand support for clinical trials on promising new drugs and disease treatments. Priority will be given to the most costly diseases and those impacting the most number of people.

MEDICAL EFFECTIVENESS RESEARCH AND MEDICAL PRACTICE GUIDELINES

Rapid development and diffusion of technologies is a component of our high-tech health care system. Our ability to produce more health care devices and procedures is going beyond our knowledge of when and how they should be used. There is also extensive variation in our physician's practice pattern as well as the resultant health care outcomes. The problem of increasing technology and proliferation of high-tech services within our health care system contributes to the high and rapidly rising health care costs. There exists a potential that medical practice research may address these concerns and reduce health care costs and improve quality.

Earlier this year, Dr. Koop authored an article which appeared in the Washington Post regarding the need for fundamental reform of the health care system. In this article, he stated:

> The scientific basis of medicine is much weaker than most patients or even physicians realize, and this leads to treatment based on uncertainty. . . . We need to undertake a systematic well-funded program of 'outcomes research' to enable patients and physicians to know the outcomes of all medical treatments. If we allocated about one-fourth of a cent of each insurance dollar to fund outcomes research, we would achieve lower costs and higher quality health care for everyone.

Accordingly, title VI of the bill establishes a fund for medical effectiveness research. The fund will be financed by implementing a .001 percent—one-tenth of one cent—surcharge on all health insurance premiums. This would dramatically increase the level of effort in this country to develop a better understanding of effective medical treatment, including establishing medical practice guidelines on the conditions for which there is found to be a wide variation in current medical practice. These systematically developed guidelines will assist the practitioner and the patient in decisions about appropriate health care.

REPORT ON HEALTH CARE COST CONTROL TARGETS

On November 19 of last year, I participated in a joint hearing of the Special Committee on Aging and the Government Affairs Committee regarding strategies for cutting the cost of health care. Witnesses at the hearing testified concerning the fact that health care expenditures in the United States continues to grow at an alarming rate. The percent of our country's gross national product devoted to health care grew from 7.3 percent in 1970 to 12.3 percent in 1990. Projections for the year 2000 show that share rising to over 16 percent.

In contrast, other industrialized nations have had some success at limiting the growth in health care expenditures. Some have done so by establishing caps and targets for health care spending and for the payment of services. A General Accounting Office report, released on November 15, 1991, found that France, Germany, and Japan have implemented health care spending targets and caps and have successfully lowered the increase in health care costs. In Germany, for example, the report found that spending caps had reduced expenditures by as much as 17 percent below what would have been spent on physician care without the caps.

To explore the feasibility of implementing a similar strategy in this country, title VI directs the Secretary of Health and Human Services to issue a report to the Congress regarding establishing national spending targets for health care and health care services as a means of controlling health care costs. The report is to be prepared after the Secretary's consideration of the recommendations of the Health Care Cost Control Advisory Committee established in the bill. The advisory committee is to be comprised of representatives from the provider communities, organized labor, business, academia and private insurers.

CONCLUSION

This bill, in conjunction with S. 1936 which I co-sponsored as part of the Chafee Task Force and S. 1122 and S. 1995 which I introduced, contains the framework for legislation to provide affordable health care for all Americans. I am opposed to rationing of health care. I do not want it for myself, for my family, or for America. The essential question is whether we have essential resources—health care project illness, hospitals, pharmaceutical products, et cetera—to provide medical care for all Americans. I am confident that we do.

I welcome comments and suggestions on the provisions of this bill. I am fully prepared to consider modifications warranted by the facts, and I look forward to hearings and debate on the concepts and proposals herein which will lead to final legislation.

In my judgment, we should not scrap, but build on our current health delivery system. I believe that we can provide care for the 37 million Americans who are now not covered and reduce the cost of health care for those who are now covered within the $738 billion a year which is now being expended for health coverage.

The provisions of S.1936 would provide tax incentives and insurance reform to increase significantly the number of Americans covered by health insurance. The provisions of S.1122, S.1995 and this bill will improve the access to the quality of medical care while establishing a structure for significant cost containment.

While it is not realistic to quantify with precision the savings which can be obtained, a conservative estimate would be 30 percent of present medical costs or approximately $220 billion could be saved through managed health care, administrative cost reduction, expansion of services by nurse practioners and physician assistants, preventive neo-natal care for lowbirthweight babies, reduction in terminal care costs, and a reduction in loss due to fraud. Significant savings are possible from the 25 percent now allocated to administer costs. While there is some overlap with managed health care on administrative savings, further savings from the managed care approach should be possible where experience has projected savings in excess of 20 percent through such management. In addition to the weightier humane considerations, savings are available from programs for low weight babies and terminal health costs, with the precise figures determinable only through experience.

With the savings projected in this bill, I believe we can provide comprehensive affordable health care to all Americans. If experience shows that cannot be done, I am prepared to extend Medicare and Medicaid to those who cannot be covered within these projected savings.

It is obvious that the total answer to the health care issue will not be achieved immediately or easily but the time has come—if not already passed—for concerted action on this subject. In an effort to move the legislative process ahead on the health care issue, I introduced an amendment to the Energy Bill on July 29, 1992, combining S. 1995 with some parts of S. 1936. When the distinguished majority leader argued that the amendment should not be added to the Energy bill, I agreed to withdraw the amendment if the majority leader would make a commitment to bring up health care on a date certain this year. When the majority leader declined, stating that complexities of schedule prevented such a commitment, I noted that he had established a fixed date to take up product liability legislation on September 8, 1992. I then noted that the health care issue was at least as important as product liability legislation.

There are many legislative proposals on health care pending in the U.S. Senate. It is my hope that the distinguished majority leader would announce a date this year, preferably not later than early September, when the Senate would take up the issue of health care.

I understand and acknowledge that there are many controversial issues presented in this bill and I am open to suggestions on possible modifications. There is a wealth of thought in the many legislative proposals which are now pending in the House and Senate. I think back to 1990 when the Congress enacted the Clean Air Act when many stated that it could not be done. When that legislation was pending on the floor, there were many off-the-floor negotiations resulting in a comprehensive bill to take 10 million tons of sulfur dioxide out of the air and provide important reforms for industrial and automotive pollution.

The problems on health care pose a high national priority and I urge the majority leader to bring this subject to the floor promptly so that the Senate may consider this bill along with S. 1122, S. 1936, S. 1995 and other pending legislative proposals in order to move ahead to provide comprehensive, affordable health care for all Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD. Thank you, Mr. President.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Affordability and Quality Improvement Act of 1992".

TITLE I—DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS.

SEC. 101. REGULATIONS REQUIRING DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS

"SEC. 1144. (a) ANNUAL REPORTS.—

"(1) INSTITUTIONAL HEALTH CARE PROVIDERS.—

"(A) IN GENERAL.—The Secretary shall issue regulations requiring that each institutional health care provider receiving payment for services provided under title XVIII or XIX shall make an annual report available to the recipients of services under such title.

"(B) CONTENTS OF REPORT.—The annual report referred to in subparagraph (A) shall include—

"(i) mortality rates relating to services provided to individuals, including incidence and outcomes of surgical and other invasive procedures;

"(ii) nosocomial infection rates;

"(iii) a list of routine preoperative tests and other frequently performed medical tests, including blood tests, chest x-rays, magnetic resonance imaging, computerized axial tomography, urinalysis, and heart catherizations, and the cost of such tests;

"(iv) the number and types of malpractice claims against the provider decided or settled for the year;

"(v) a list of the names and addresses of the members of the provider's board of trustees, the name and address of the provider's chief administrator, chief medical officer, and chief nursing administrator; and

"(vi) such other information as the Secretary shall require.

"(2) NONINSTITUTIONAL HEALTH CARE PROVIDERS.—

"(A) IN GENERAL.—The Secretary shall issue regulations requiring that each noninstitutional provider receiving payment for services provided under title XVIII or XIX shall make an annual report available to the recipients of services under such title.

"(B) CONTENTS OF REPORT.—The report referred to in subparagraph (A) shall include—

"(i) information regarding the provider's education, experience, qualifications, board certification, and license to provide health care services, including a list of the States in which such provider is licensed and any limitations on such provider's license;

"(ii) any disciplinary actions taken against the provider by any health care facility, State medical agency, or medical organization;

"(iii) any malpractice action against the provider decided or settled;

"(iv) a disclosure of any ownership interest the provider may have in any health care facility, laboratory, or health care supply company; and

"(v) such other information as the Secretary shall require.

"(b) DISCLOSURE OF INFORMATION REGARDING HEALTH CARE PROCEDURES AND FORMS.—

"(1) INFORMATION REGARDING HEALTH CARE PROCEDURES AND FORMS.—The Secretary shall issue regulations requiring that each institutional and noninstitutional health care provider receiving payment for services under title XVIII or XIX shall make available any forms required in connection with the receipt of services under such title which consist of any diagnostic, surgical, or other invasive procedure, prior to the performance of such procedure.

"(2) INFORMATION PROVIDED BEFORE PERFORMANCE OF PROCEDURE.—The Secretary shall issue regulations requiring each institutional and noninstitutional health care provider receiving payment for services provided under title XVIII or XIX to disclose to any individual receiving any surgical, palliative, or other health care procedure or any drug therapy or other treatment, the following information prior to the performance of such procedure or treatment:

"(A) The nature of the procedure or treatment.

"(B) A description of the procedure or treatment.

"(C) The risk and benefits associated with the procedure or treatment.

"(D) The success rate for the procedure or treatment generally, and for the provider.

"(E) The provider's cost range for the procedure or treatment.

"(F) Any alternative treatment which may be available to such individual.

"(G) Any known side effects of any medications required in connection with the procedure or treatment.

"(H) The interactive effect of the complete regimen of medications associated with the procedure.

"(I) The availability of the information under this subsection and under subsections (a) and (c).

"(J) Such other information as the Secretary shall require.

"(3) EMERGENCIES.—The Secretary shall issue regulations with respect to the waiver of any requirement established under paragraphs (1) and (2) in a case where emergency health care is needed.

"(c) PATIENT'S RIGHT TO REFUSE INFORMATION AND TREATMENT.—The Secretary shall issue regulations requiring each institutional and noninstitutional health care provider receiving payment for services provided under title XVIII or XIX to inform any individual receiving services under such title of such individual's right—

"(1) to refuse any information which is available to such individual under the regulations described in subsections (a) and (b);

"(2) to refuse any procedure or treatment;

"(3) to refuse attendance by any such provider; or

"(4) to leave the premises of any such provider.

"(d) DEFINITIONS.—As used in this section—

"(1) INSTITUTIONAL HEALTH CARE PROVIDER.—The term 'institutional health care provider' means any hospital, clinic, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, or other facility receiving payment for services provided under title XVIII or XIX, as determined by the Secretary.

"(2) NONINSTITUTIONAL HEALTH CARE PROVIDER.—The term 'noninstitutional health care provider' means any physician, physician assistant, nurse practitioner, certified nurse midwife, certified registered nurse anesthetist, or other individual receiving payment for services provided under title XVIII or XIX, as determined by the Secretary.

"(e) COMPLIANCE.—

"(1) PENALTIES FOR FAILURE TO COMPLY.—The Secretary shall issue regulations establishing appropriate penalties for any failure to comply with the regulations issued under this section.

"(2) WAIVER OF COMPLIANCE.—The Secretary may waive any of the requirements under the regulations issued under this section if a health care provider demonstrates that such requirements will result in an undue burden on such provider.".

SEC. 102. OUTREACH ACTIVITIES.

(a) MEDICARE PROGRAM.—

(1) GRANTS TO NONPROFIT PRIVATE ENTITIES FOR OUTREACH ACTIVITIES.—

(A) AUTHORITY.—The Secretary of Health and Human Services (hereafter in this paragraph referred to as the "Secretary"), is authorized to award grants, on a competitive basis, to nonprofit private entities to enable such entities to develop outreach activities to inform beneficiaries under title XVIII of the Social Security Act of the information available to such beneficiaries pursuant to regulations issued by the Secretary under section 1144 of the Social Security Act.

(B) APPLICATION.—To be eligible to receive a grant under subparagraph (A), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, and $5,000,000 for fiscal year 1995.

(2) OUTREACH THROUGH NOTICE OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended—

(A) in paragraph (2), by striking ", and" and inserting a comma,

(B) in paragraph (3), by striking the period and inserting ", and",

(C) by inserting after paragraph (3), the following new paragraph:

"(4) a description of the information available to beneficiaries under this title pursuant to regulations issued by the Secretary under section 1144.".

(b) MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking the period at the end of paragraph (58) (as added by section 4751(a)(1)(C) of the Omnibus Budget Reconciliation Act of 1990) and inserting a semicolon,

(B) by redesignating the second paragraph (58) (as added by section 4752(c)(1)(C) of the Omnibus Budget Reconciliation Act of 1990) as paragraph (59) and by striking the period at the end and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(60) provide for an outreach program informing individuals who receive medical assistance under this title of the information available to such individuals pursuant to regulations issued by the Secretary under section 1144.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Paragraph (1) shall apply to calendar quarters beginning on January 1, 1993.

(B) GENERAL RULE.—In the case of a State which the Secretary determines requires State legislation (other than legislation authorizing or appropriating funds) in order to comply with paragraph (1), the State shall not be regarded as failing to comply with such paragraph solely on the basis of its failure to meet the requirements of such paragraph before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—ADVISORY COMMITTEE ON PATIENT SELF-DETERMINATION.

SEC. 201. ADVISORY COMMITTEE ON PATIENT SELF-DETERMINATION.

(a) IN GENERAL.—The Secretary shall establish an advisory committee or committees (hereafter referred to in this section as the "Committee") for the purpose of issuing recommendations concerning medical, legal, ethical, social, and educational issues related to the enactment and implementation of section 1866(f) of the Social Security Act and section 1902(w) of such Act.

(b) COMPOSITION.—The Committee shall be composed of individuals appointed by the Secretary representing—

(1) consumers;

(2) aging advocacy groups;

(3) hospitals;

(4) physicians;

(5) nonphysician providers;

(6) organizations delivering community-based health care;

(7) academics with expertise in legal, ethical, social, and religious concerns related to final care;

(8) nursing facilities; and

(9) executive branch officials from agencies with expertise related to this title.

(c) ISSUES TO BE ADDRESSED.—Issues to be addressed by the Committee shall include—

(1) issues relating to the establishment of a uniform Federal law governing patients' rights to consent to, or decline, medical treatment;

(2) issues relating to the development of model nationally-recognized advance directive and durable power of attorney forms for health care;

(3) issues pertaining to the education and training of health care professionals concerning patients' self-determination rights;

(4) issues pertaining to health care professionals' duties with respect to patients' rights, and health care professionals' roles in identifying, assessing, and presenting for patient consideration medically indicated treatment options;

(5) issues relating to the development of data concerning the magnitude of expense being incurred for medical treatment which is not wanted by the patients who receive such treatment; and

(6) such other issues as the Secretary may identify.

(d) REPORT.—Within 90 days of the date of the enactment of this section, the Committee shall submit a report to the Secretary and the Congress containing the Committee's findings and conclusions with respect to the matters described in subsection (c).

(e) COMPENSATION.—

(1) IN GENERAL.—Members of the Committee shall serve without compensation.

(2) EXPENSES REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(3) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

(4) APPLICATION OF THE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

TITLE III—MATERNAL AND INFANT CARE COORDINATION

SEC. 301. PURPOSE.

It is the purpose of this title to assist States in the development and implementation of coordinated, multidisciplinary, and comprehensive primary health care and social services, and health and nutrition education programs, designed to improve maternal and child health.

SEC. 302. GRANTS FOR IMPLEMENTATION OF PROGRAMS.

(a) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this title as the "Secretary") is authorized to award grants to States to enable such States to plan and implement coordinated, multidisciplinary, and comprehensive primary health care and social service programs targeted to pregnant women and infants.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall—

(1) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

(2) provide assurances that under the program established with amounts received under a grant, individuals will have access (without any barriers) to comprehensive family planning counseling, pregnancy testing, prenatal care, delivery, intrapartum and postpartum care, pediatric care for infants, and social services as appropriate, including outreach activities, home visits, child care, transportation, risk assessment, nutrition counseling, dental care, mental health services, substance abuse services, services relating to HIV infection, and prevention counseling;

(3) provide assurances that under the program individuals will have access, without any barriers, to the full range of pediatric services provided by pediatric nurse practitioners and clinical nurse specialists, including in-home services for low birth weight babies;

(4) as part of the State application, submit a plan for providing incentive payments of up to $500 to pregnant women who—

(A) have not attained age 20;

(B) are at risk of having low birth weight babies;

(C) agree to attend not less than 5 prenatal visits and 1 post natal visit; and

(D) agree to attend a requisite number of prenatal care and parenting classes, as determined by the State;

(5) as part of the State application, submit a plan for the coordination and maximization of existing and proposed Federal and State resources, including amounts provided under the medicaid program under title XIX of the Social Security Act, the special supplemental food program under section 17 of the Child Nutrition Act of 1966, family planning programs, substance abuse programs, State maternal and child health programs funded under title V of the Social Security Act, community and migrant health center programs under the Public Health Service Act, and other publicly, or where practicable, privately supported programs;

(6) demonstrate that the major service providers to be involved, including private nonprofit entities committed to improving maternal and infant health, are committed to and involved in the program to be funded with amounts received under the grant;

(7) with respect to States with high infant mortality rates among minority populations, demonstrate the involvement of major health, multiservice, professional, or civic group representatives of such minority groups in the planning and implementation of the State program; and

(8) demonstrate that health promotion and outreach activities under the State program are targeted to women of childbearing age, particularly those at risk for having low birth weight babies.

(c) TERM OF GRANT.—A grant awarded under this section shall be for a period of 5 years.

(d) USE OF AMOUNTS.—Amounts received by a State under a grant awarded under this section shall be used to establish a State program to provide coordinated, multidisciplinary, and comprehensive primary health care and social services, and health and nutrition education program services, that are designed to improve maternal and child health.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $100,000,000 for fiscal year 1993, $300,000,000 for fiscal year 1994, and $500,000,000 for each of the fiscal years 1995 through 1997.

SEC. 303. MODEL HEALTH AND NUTRITION EDUCATION CURRICULA.

(a) AUTHORITY.—The Secretary, in conjunction with the Secretary of Education and the Secretary of Agriculture, is authorized to award grants, on a competitive basis, to public or nonprofit private entities to enable such entities to develop model health and nutrition education curricula for children in grades kindergarten through twelfth.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) CURRICULA.—Curricula developed under subsection (a) should be consistent with the goals of *Healthy People 2000: National Health Promotion and Disease Prevention Objectives*, published by the Department of Health and Human Services in September 1990, and shall address the cultural and lifestyle realities of racial and ethnic minority populations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1993.

TITLE IV—IMPROVED ACCESS TO NURSING AND PHYSICIAN ASSISTANT SERVICES

SEC. 401. INCREASING PAYMENTS TO CERTAIN PROVIDERS UNDER THE MEDICARE PROGRAM.

(a) INCREASE IN PAYMENTS TO NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, CERTIFIED NURSE MIDWIVES, AND PHYSICIAN ASSISTANTS.—

(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(i) in subparagraph (K), by striking "80 percent" and all that follows through "physician)" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician";

(ii) by redesignating subparagraph (M) the second place it appears and subparagraph (N), as subparagraphs (N) and (O), respectively; and

(iii) by amending subparagraph (N), as redesignated, to read as follows: "(N) with respect to services described in section 1861(s)(2)(K) (relating to services provided by a nurse practitioner, clinical nurse specialist, or physician assistant) the amounts paid shall be 97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician,"

(2) NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS.—Section 1842(b)(12) of such Act (42 U.S.C. 1395u(b)(12)) is amended to read as follows:

"(12) With respect to services described in clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) the prevailing charges determined under paragraph (3) shall not exceed—

"(i) in the case of services performed as an assistant at surgery, 97 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery, or

"(ii) in other cases, 97 percent of the fee schedule amount specified in section 1848 for such services performed by physicians who are not specialists.".

(3) DIRECT PAYMENT FOR ALL NURSE PRACTITIONERS OR CLINICAL NURSE SPECIALISTS.—Section 1832(a)(2)(B)(iv) of such Act (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))".

(4) REMOVAL OF RESTRICTIONS ON SETTINGS.—Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(A) in clause (i), by striking "(I) in a hospital" and all that follows through "professional shortage area,";

(B) in clause (ii), by striking "in a skilled" and all that follows through "1919(a)"; and

(C) in clause (iii), by striking "in a rural" and all that follows through "(d)(2)(D))".

(b) BONUS PAYMENT FOR SERVICES PROVIDED IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 1833(m) of such Act (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of services of a nurse practitioner, clinical nurse specialist, physician assistant, or certified nurse midwife furnished to an individual described in paragraph (1) in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in clause (C) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for such services under this part.".

SEC. 402. REQUIRING COVERAGE OF CERTAIN PROVIDERS UNDER THE MEDICAID PROGRAM.

Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (21), by striking "; and" and inserting a semicolon;

(2) in paragraph (24), by striking the period at the end and inserting a semicolon;

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively;

(4) by inserting after paragraph (23) the following new paragraph:

"(24) services furnished by a physician assistant, nurse practitioner, and clinical nurse specialist (as defined in section 1861(aa)(5)); and";

(5) by striking the semicolon at the end of paragraph (25), as redesignated, and inserting a period; and

(6) by transferring and inserting paragraph (25), as redesignated, after paragraph (24).

TITLE V—MEDICARE PREFERRED PROVIDER DEMONSTRATION PROJECTS

SEC. 501. ESTABLISHMENT OF MEDICARE PRIMARY AND SPECIALTY PREFERRED PROVIDER ORGANIZATION DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for up to 10 demonstration projects to test the effectiveness of providing payment under the medicare program under title XVIII of the Social Security Act for primary and specialty procedures and services (as determined appropriate by the Secretary) furnished by preferred provider organizations. The demonstration projects provided for under this section by the Secretary shall—

(1) test the cost-effectiveness of preferred provider organizations furnishing primary and specialty services in controlling the volume of such services performed or ordered by physicians, and nonphysician providers such as nurse practitioners, clinical nurse specialists, certified nurse midwives and physician assistants, for which payment is made under title XVIII of the Social Security Act;

(2) gather information on factors which may encourage medicare beneficiaries to participate in a preferred provider organizational network;

(3) examine the efficacy of permanently establishing managed care networks of primary and specialty service providers; and

(4) examine the factors necessary to increase the quality and efficiency of primary and specialty services furnished by preferred provider networks in order to realize increased savings under the medicare program and to increase medicare beneficiary participation in such networks.

(b) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary may waive such requirements of title XVIII of the Social Security Act as the Secretary determines necessary in conducting demonstration programs under this section, including—

(1) coinsurance requirements;

(2) provider payment arrangements;

(3) beneficiary deductibles; and

(4) reimbursement for nonphysician providers.

(c) DURATION OF PROJECTS.—The demonstration projects provided for under this section shall be conducted for a period not to exceed 3 years from the date of enactment of this Act.

(d) REPORT.—Not later than 180 days after the date of expiration of the demonstration projects conducted under this section the Secretary shall report to the Congress on the results of the demonstration projects including recommendations for modifications in the medicare program to increase the utilization of preferred provider organizations in providing primary and specialty services under such program.

TITLE VI—COST CONTAINMENT

SEC. 601. NEW DRUG CLINICAL TRIALS PROGRAM.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 409. NEW DRUG CLINICAL TRIALS PROGRAM.

"(a) IN GENERAL.—The Director of the National Institutes of Health is authorized to establish and implement a program for the conduct of clinical trials with respect to new drugs and disease treatments determined to be promising by the Director. In determining the drugs and disease treatments that are to be the subject of such clinical trials, the Director shall give priority to those drugs and disease treatments targeted towards the diseases determined—

"(1) to be the most costly to treat;

"(2) to have the highest mortality; or

"(3) to affect the greatest number of individuals.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $120,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 through 1997.".

SEC. 602. MEDICAL TREATMENT EFFECTIVENESS.

(a) RESEARCH ON COST-EFFECTIVE METHODS OF HEALTH CARE.—Section 926 of the Public Health Service Act (42 U.S.C. 299c-5) is amended—

(1) in subsection (a), by striking out "and $70,000,000 for fiscal year 1992" and inserting in lieu thereof "$70,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996"; and

(2) by adding at the end thereof the following new subsection:

"(c) USE OF ADDITIONAL APPROPRIATIONS.—Within amounts appropriated under subsection (a) for each of the fiscal years 1993 through 1996 that are in excess of the amounts appropriated under such subsection for fiscal year 1992, the Secretary shall give priority to expanding research conducted to determine the most cost-effective methods of health care and for developing and disseminating new practice guidelines related to such methods. In utilizing such amounts, the Secretary shall give priority to diseases and disorders that the Secretary determines are the most costly to the United States and evidence a wide variation in current medical practice.".

(b) RESEARCH ON MEDICAL TREATMENT OUTCOMES.—

(1) IMPOSITION OF TAX ON HEALTH INSURANCE POLICIES.—

(A) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter G—Tax on Health Insurance Policies

"Sec. 4501. Imposition of tax.

"Sec. 4502. Liability for tax.

"SEC. 4501. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax equal to .001 cent on each dollar, or fractional part thereof, of the premium paid on a policy of health insurance.

"(b) DEFINITION.—For purposes of subsection (a), the term 'policy of health insurance' means any policy or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed with respect to the health of an individual or group of individuals.

"SEC. 4502. LIABILITY FOR TAX.

The tax imposed by this subchapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax".

(B) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"SUBCHAPTER G. TAX ON HEALTH INSURANCE POLICIES.".

(2) ESTABLISHMENT OF TRUST FUND.—

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9512. TRUST FUND FOR MEDICAL TREATMENT OUTCOMES RESEARCH.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund For Medical Treatment Outcomes Research' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the taxes received in the Treasury under section 4501 (relating to tax on health insurance policies).

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—On an annual basis the Secretary shall distribute the amounts in the Trust Fund to the Secretary of Health and Human Services. Such amounts shall be available to the Secretary of Health and Human Services to pay for research activities related to medical treatment outcomes.".

(B) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9512. Trust Fund for Medical Treatment Outcomes Research.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to policies issued after December 31, 1992.

SEC. 603. HEALTH CARE COST CONTROL—EXPENDITURE TARGETS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), after considering the recommendations of the Health Care Cost Control Advisory Committee established under subsection (b), shall prepare and submit to the appropriate committees of the Congress a report concerning the establishment of national spending targets for health care and health care services. Such report shall contain the recommendations of the Secretary concerning the feasibility—

(1) for controlling the cost of health care, reducing cost shifting and maintaining the quality of care;

(2) of establishing national targets for health expenditures;

(3) of establishing national reimbursement targets for hospital services;

(4) of establishing national reimbursement targets for physicians' services; and

(5) of establishing national reimbursement targets for prescription drug services.

(b) HEALTH CARE COST CONTROL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There shall be established a Health Care Cost Control Advisory Committee (hereafter referred to in this subsection as the "Committee").

(2) MEMBERSHIP.—The Committee shall be composed of 8 individuals appointed by the Secretary, representing—

(A) physicians;

(B) hospitals;

(C) pharmacies;

(D) private insurers;

(E) State and local governments;

(F) employers;

(G) organized labor; and

(H) academia with expertise as a health economist,

(3) COMPENSATION.—

(A) IN GENERAL.—Members of the Committee shall serve without compensation.

(B) EXPENSES REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(C) APPLICATION OF THE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

By Mr. KOHL (for himself, Mr. SPECTER, Mr. LIEBERMAN, Mr. WOFFORD, Mr. CONRAD, Mr. KASTEN, Mr. JEFFORDS, Mr. GRASSLEY, Mr. COATS, Mr. LUGAR, Mr. COHEN, Mr. HARKIN, Mr. WELLSTONE, and Mr. GLENN):

S. 3177. A bill to amend title 13, United States Code, to require the Secretary of Commerce to notify the Senate and House of Representatives about changes in the methodology for producing numbers used in any Federal funding formula; to the Committee on Governmental Affairs.

NOTIFICATION ON CERTAIN FEDERAL FUNDING FORMULAS

• Mr. KOHL. Mr. President, today I and my colleague, the Senator from Pennsylvania, are introducing two bills. One is designed to keep the Census Bureau from changing population estimates in a way that will affect the distribution of billions of dollars. The other bill makes sure that the Bureau won't make a decision of this magnitude ever again without ample opportunity for public discussion and congressional review.

This legislation is necessary because the Census Bureau has recently—and unexpectedly—again raised the issue of adjusting the census. This time, they are considering adjusting what is known as the intercensal estimates, the estimates made by the Census Bureau each year updating the decennial population count. According to the General Accounting Office, the intercensal estimates are used in 66 funding formulas to distribute $80 billion in Federal dollars. The Census Bureau arrives at these estimates by taking the State population figures for 1990 and then reestimating them considering information such as births, deaths, and people moving from State to State.

It is important to note that this is how the intercensal estimates are created—not how they are adjusted. Adjusting these estimates means adjusting the 1990 census to correct for the undercount identified that year. Though we all agree that the undercount must be addressed, there is no consensus that statistically adjusting the 1990 census is the way to do that. In fact, last year, the Secretary of Commerce decided not to use adjusted census numbers for reapportionment because it couldn't be shown that they were more accurate at the block level. Even at the State level, the Secretary found that adjusted numbers were less accurate for many State population counts.

So last summer, according to the Secretary of Commerce, there were still a number of unresolved problems with adjusting the census numbers. And last winter, at a hearing I held on adjustment, the Census Bureau testified that there were still a number of unresolved problems with adjusting census numbers. And last spring, at a statistical meeting in Tokyo, the Census Bureau reported that there were still a number of unresolved problems with adjusting census numbers.

Given this consistent, if not entirely encouraging, record, imagine my surprise when, in July, I started hearing rumors that the Census Bureau was about to adjust census numbers.

Without warning, without hearings, without public input, and without consultation with statisticians, the Census Bureau was about to do what it had previously insisted there was not enough evidence to do. I, and several other Senators and Governors who follow this issue closely, contacted the Bureau and the Commerce Department. Our complaints must have been heard, because on Monday of the week the decision was to be announced, we learned that the Census Bureau was going to allow 3 weeks for public comment. That announcement—formal announcement of that appeared last Friday.

The first bill Senator SPECTER and I are introducing today is an immediate response to this whole bizarre chain of events. Last minute whispers of an impending decision, no public record defending adjustment, and an election year in which the States that win under adjustment—California, Texas, Florida—are very important; all combine to make the Bureau's decision-making process look bankrupt at best. People believe that the Bureau has made its mind up to adjust, and people believe that its motives are not all based on sound statistics. The period for public comment looks like a simple charade to pacify Congress.

Our bill will stop this process before it is allowed to determine the reallocation of $80 billion in Federal funds. We believe it is best for reasoned debate on the issue of adjustment, and for the future reputation of the Census Bureau, to put off any decision to adjust for 3 years. It will take that long for the Bureau to overcome the allegation of election-year politics, of institutional bias, and of secrecy that have poisoned the current process.

And even if the process had not failed so miserably, I would not argue for using adjusted numbers. The experts were divided on this issue last year and remain divided. There is no consensus among professionals that adjusted numbers are better. Many say they are worse. The Census Bureau believes that adjusted State numbers are more accurate. Most State demographers, who have to generate population estimates for their States, disagree.

And even if there were agreement among the experts, I would not argue for using the adjusted numbers. Most of those who argue in favor of adjustment argue that adjusted numbers are more accurate at the State level and unadjusted numbers more accurate at the sub-State level. If the Census Bureau were to agree to adjust one data base and not another, it would render the intercensal estimate useless for policy purposes.

The best numbers are not defined in a vacuum; they are defined by the use of those numbers. Some of the program formulas that use intercensal estimates require both State and sub-State numbers—Community service block grants are a major one. A system that provides adjusted State estimates and unadjusted sub-State numbers is a program administrator's worst nightmare. You will have a situation where the administrator will add one plus one plus one for a State total of five.

The second bill my colleague from Pennsylvania and I introduce today tries to convert the lessons from this fiasco into good public policy. We are requiring the Census Bureau to notify Congress of any change in methodology that will cause States to gain or lose $5 million or more.

There are two reasons for this. First, it recognizes that the Census Bureau must consider in the decision process how the numbers it generates are used. Second, by forcing the Census Bureau to defend its decisions in a public forum, it forces them to look beyond the confines of Suitland and develop support for their positions. Statisticians are deeply divided over adjustment. Until the experts agree, we should be very skeptical.

Mr. President, clearly I am disturbed by the Bureau's steamroll toward adjustment because Wisconsin loses $15 million in the process. But it is not just that we are being robbed in this case, it is the way we are being robbed: In the dead of night, without any warning or chance to protect ourselves, and without any police or court system to protect us once the deed is done. I will engage in policy debate with anyone in this body, I will fight for Wisconsin dollars all day and all night long, and I will win some and I will lose some. But I will not stand by as Wisconsin dollars are spirited away in a process that has no scrutiny, by a judgment that has no consensus, or by an outcome that contains so little common sense.

Technical decisions are not made in the dead of night. Technical decision can stand up to public scrutiny. Technical decisions do not hurt real people by taking away Federal subsidies for health care or community development. The decision to adjust is not a technical decision. It is a policy of decision that should be made in the light of day, with plenty of public debate. It is a decision that should not be made by a Census Bureau tainted by accusations of political game playing.

I urge my colleagues to support these two bills. Let's put this policy decision—this decision that has human costs—back in the public domain where it belongs.•

By Mr. SPECTER (for himself, Mr. KOHL, Mr. KASTEN, Mr. JEFFORDS, Mr. GRASSLEY, Mr. COATS, Mr. LUGAR, Mr. COHEN, Mr. LIEBERMAN, Mr. WOFFORD, Mr. CONRAD, Mr. HARKIN, Mr. WELLSTONE, Mr. LEAHY, and Mr. GLENN):

S. 3178. A bill to prohibit the use of appropriated funds to adjust the 1990 decennial census or any intercensal estimates by the Bureau of the Census; to the Committee on Governmental Affairs.

PROHIBITING FUNDS FOR ADJUSTMENT OF 1990 CENSUS

• Mr. SPECTER. Mr. President, today I am introducing legislation to prohibit the Bureau of the Census from making statistical adjustments to the 1990 decennial census. Presently, the Bureau is considering the use of statistically adjusted numbers as the basis for its intercensal estimates which would have a substantial impact on the geographic distribution of Federal funds. It is my belief that the use of a statistical adjustment is unwarranted because there simply is not sufficient statistical precision in the adjustment counts to displace the traditional and more reliable original headcount.

Mr. President, an accurate census is vital to the ongoing functions of the government. A census provides valuable information of Federal, State, and local governments for the development of policy and the distribution of funding through government-sponsored programs. The U.S. Department of Commerce and the U.S. Census Bureau have monitored the success of the most recent 1990 census. Despite attempts to conduct the most successful census data collection in history, data from the Census Bureau indicates that the 1990 census missed millions of persons and contained millions of errors. The Department and the Bureau have recognized the inaccuracy of the 1990 count, and according to a recent GAO report, the Department is considering a complete reassessment of the process of taking a nationwide census.

Data from the Post-Enumeration Survey [PES] indicates that the net undercount to be an estimated 2.1 percent of the population or approximately 5.3 million persons. With this data, the Department of Commerce and the Census Bureau are considering making a statistical adjustment to the Census Bureau's annual population survey, which is known as the Intercensal Estimates. However, there simply is insufficient statistical reliability in adopting the adjusted numbers to warrant the use of this data. Mr. L. Nye Stevens of the General Accounting Office testified before the Senate Governmental Affairs Committee that an adjustment of the census numbers must only be used when an adjustment brings the distributed counts closer to the truth than the census head count. He stated very clearly the Post-Enumeration Survey does provide important data, but in the final analysis the overall quality of the PES is not absolutely certain. Further, Mr. David Freedman of the University of California at Berkely has testified that the current adjustment technology is not well adapted to correcting the census and may make things worse rather than better.

Last year, the Secretary of Commerce considered this issue in the context of adjusting the 1990 census. On July 15, 1991, the Secretary announced that there would be no adjustment of the census, indicating that much more study would be necessary before the adjusted estimate could be used for any official purpose. In hearings before the Senate Governmental Affairs Committee, the Secretary questioned the technological soundness of the adjustment and further suggested that when an analysis of the proportional distribution of funds under Federal programs is conducted, it is difficult to argue that the adjusted numbers are more accurate than the unadjusted numbers.

Mr. President, the intercensal estimate is the Bureau's annual effort to update the decennial census based on information from birth and death records and information on immigration and emigration. I suggest, Mr. President, that the same problems which the Secretary faced in his decision not to adjust the decennial census last July remain unresolved, making an adjustment of the intercensal estimates unwarranted. Many of these concerns of the accuracy of a statistical adjustment to the lowest level of geography have been under review by the Census Bureau since last year. However, Congress and the public have had no indication that an adjustment using a statistical model is more accurate down to the community level.

The adjustments being considered would have an unfortunate negative impact on many States and local governments in the Nation. This seemingly innocent technical adjustment of the intercensal figures will redistribute approximately $80 billion through some 66 Federal programs. This action would be unfair to States which have already prepared their budgets for the next fiscal year. One primary program which would be impacted by the adjustment is the Medicaid Program which delivers vital health care to our Nation's poor. The Medicaid Program relies on the census for key information of a State's indigent population in determining the Federal contribution. A reduction in these funds would either result in a State having to increase its already strained funding capacity for the program or result in reduced services to the public.

Mr. President, we have a reliable, consistent, and, generally, a most accurate method of determining the total population and demographic information of our Nation's States and municipalities. We can easily adjust the decennial census and the intercensal estimate using statistical models or samples. I strongly believe, however, that until we are certain that the adjusted numbers are more accurate than the headcount approach we should not apply this data. Therefore, Mr. President, I am introducing this bill to prohibit a statistical adjustment of the census. I am also joining Senator KOHL today in introducing legislation to reform the process through which the Census Bureau may adjust the census to ensure that the public and Congress have an opportunity to fully evaluate such proposed adjustments of the census. These two bills will ensure that the most accurate method of taking the census is used today and in the future.

Mr. President, I wish to thank Senator KOHL, his staff on the Governmental Affairs Committee, and the Northeast Midwest Senate Coalition for their insightful work in this regard. I urge my colleagues' consideration and approval of this important legislation.•

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. DURENBERGER, Mr. WELLSTONE, and Mr. MITCHELL):

S. 3179. A bill to amend title IX of the Public Health Service Act to revise and extend programs under such title, and for other purposes; to the Committee on Labor and Human Resources.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH AUTHORIZATION ACT

• Mr. KENNEDY. Mr. President, with my colleague from Utah, Senator HATCH, I am introducing legislation to extend the authorization for the Agency for Health Care Policy and Research

The two major goals of comprehensive health care reform are universal access to quality health care and cost containment. Much of the work of the Agency for Health Care Policy and Research seeks to achieve these goals by encouraging access to health care and promoting improvements in clinical practice, and the delivery of health care services.

Better information about the effectiveness and appropriateness of health care services and medical technology is vital for our efforts to provide universal access to high quality, affordable health care. We need to use health care resources wisely, and find better ways to contain costs while maintaining high quality.

Since its creation in 1989, the Agency for Health Care Policy and Research has made impressive progress in activities intended to enhance the quality, effectiveness and efficiency of health care services. The reauthorization of the agency will continue this important work, especially in the critical areas such as practice guidelines, technology assessment, outcomes research and health services research.

In this reauthorization, we seek to increase public accountability for the technology assessment activities performed by the agency. We direct it to develop and publicize the process used to select assessment topics, and to publish a description of the methods used to conduct its assessments. In addition, we direct the agency to expand its activities in conducting assessments of significant importance to the general public.

Federal efforts in health care technology assessment have aroused significant controversy in recent years, and serious questions have been raised about the appropriate role for the Federal Government. To its credit, the agency has provided a public forum to discuss the risks and benefits of more centralized assessment of medical technology. While no consensus has emerged, several useful suggestions did result from these meetings and are represented in this legislation.

Other important issues addressed in the bill are the lack of coordination of technology assessment activities among the many institutions which perform this work, and the difficulty of accessing these assessments. Many experts have suggested that a central clearinghouse be established to ensure that assessments from all sources are readily available through one access point. The bill encourages the agency to participate in the development and use of a technology assessment clearinghouse, to assure that information is available and that duplication of efforts is minimized.

The bill we are introducing today would also establish a task force in the Department of Health and Human Services to support interagency collaboration and to develop methods of studying new technologies. This provision is prompted by a number of problems which have arisen with regard to new medical practices. In many cases, the early use of a new technology is not accompanied by formal study. Without adequate data, experts are not able to determine whether a new technique or device is experimental or proven effective. In some cases, decisions about proper patient care are being decided through the judicial process because there is disagreement over whether a given procedure is effective.

With more organized approaches to evaluating newly emerging technologies, the new technologies can be proven more quickly, and ineffective techniques will be identified before harm is done. The task force is directed to identify workable approaches to new technologies and to report to Congress with such recommendations.

In almost all proposals to reform our health care system, practice guidelines and outcomes research are identified as playing a critical role in helping to determine which medical services are most effective. By reducing the volume of unnecessary services, we can contribute to containing health care costs and maintaining the high quality of medical care the Nation expects.

This year the agency has released its first three clinical practice guidelines. More than a dozen other guidelines are under development. This reauthorization will maintain the emphasis on guideline development. It also directs the agency to develop methods to allow providers and patients to compare the risks, benefits and costs of alternative medical strategies.

I commend my colleagues, especially Senator HATCH, Senator MITCHELL, and Senator DURENBERGER for their support for the agency and for their contributions to this bipartisan reauthorization. I also commend Senator GRAHAM for his suggestions on health promotion and disease prevention.

I look forward to early enactment of this legislation, and I ask unanimous consent that the text of the bill may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Agency for Health Care Policy and Research Reauthorization Act of 1992".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2. ESTABLISHMENT AND GENERAL AUTHORITIES.

(a) ESTABLISHMENT.—Section 901(b) (42 U.S.C. 299(b)) is amended by inserting after "improvements in clinical practice" the following: ", including the prevention of diseases and other health conditions,".

(b) GENERAL AUTHORITIES.—Section 902 (42 U.S.C. 299a) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b), the following new subsection:

"(c) HEALTH SERVICES TRAINING GRANTS.—The Administrator may provide financial support for training grants in the field of health services research, to include pre- and post-doctoral fellowships and training programs, Young Investigator Awards, career faculty support, and other programs and activities as appropriate.".

SEC. 3. DISSEMINATION.

Section 903 (42 U.S.C. 299a–1) is amended by adding at the end thereof the following new subsection:

"(e) HEALTH CARE TECHNOLOGY ASSESSMENTS.—

"(1) IN GENERAL.—The Administrator shall provide for the gathering, organizing, summarizing, and conveyance of technology assessment information, either directly or through contract, to provide a single public source for all assessment information available with respect to health care technologies.

"(2) PUBLICITY.—The Administrator shall publish an annual notice in the Federal Register to announce the availability of the compendium of assessments that have been added to the technology assessment database for that year.

"(3) RECOMMENDATIONS OF RESEARCH PRIORITIES.—The Administrator shall provide by contract for an annual report on technology assessments. The report shall contain information on—

"(A) the volume of requests for reports concerning specific technologies;

"(B) the identified limitations or inconsistent findings in both existing assessments and on-going assessments being conducted by either public or private entities;

"(C) recently published studies that raise questions concerning previously assessed technologies; and

"(D) identified gaps in assessment information.

The Administrator shall consider information from such annual reports in setting research priorities under section 904(c)(3).

"(4) INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of this subsection.".

SEC. 4. HEALTH CARE TECHNOLOGY ASSESSMENT.

Section 904 (42 U.S.C. 299a–2) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) by conducting appropriate assessments and reassessments of existing and new health care technologies, to be achieved, in part, through an evaluation of health services provided to individuals through publicly and privately funded sources.";

(2) in subsection (b)(2), by striking out "and effectiveness, and, as appropriate, the cost-effectiveness" and inserting in lieu thereof "effectiveness, cost-effectiveness, and, as appropriate";

(3) in subsection (c) to read as follows:

"(c) PRIORITIES.—

"(1) ESTABLISHMENT OF PRIORITIES.—In accordance with paragraph (2), the Administrator, in consultation with the Advisory Council established under section 921, shall establish and publish a formal and explicit methodology for setting priorities with respect to technology assessment. Such methodology shall allow for a broad spectrum of public inputs into the process for priority setting, including inputs from providers, private payors, government payors, Federal agencies, medical product manufacturers, consumers, businesses, and labor organizations. Such methodology shall also address the impact of technology on publicly funded programs.

"(2) CONSIDERATIONS.—In establishing the methodology for priorities under paragraph (1), the Administrator shall consider—

"(A) the prevalence of the health condition for which the technology aims to prevent, diagnose and treat;

"(B) variations in current practice;

"(C) the economic burden posed by the prevention, diagnosis, and treatment of the health condition, including the impact on publicly-funded programs;

"(D) aggregate cost of the use of technology;

"(E) the morbidity and mortality associated with the health condition;

"(F) the potential of an assessment to improve health outcomes or affect costs associated with the prevention, diagnosis, or treatment of the condition; and

"(G) special ethical, legal or social issues associated with the condition or technology involved.

"(3) IMPLEMENTATION.—The Administrator, in consultation with the Advisory Council, shall implement the priority setting methodology developed under paragraph (1) to produce, at least annually, a ranked list of the procedures, devices, and drugs for which technology assessments are to be conducted or supported. Such list shall be published annually in the Federal Register.

"(4) CONDUCT OF ASSESSMENTS.—The Office of Health Technology Assessment shall annually conduct not less than five of the technology assessments determined under the methodology established under paragraph (1) to be of high priority, in addition to those assessments performed at the request of the Health Care Financing Administration.";

(4) in subsection (d), by adding at the end thereof the following new paragraph:

"(4) DESCRIPTION OF PROCESS.—Not later than January 1, 1994, the Office of Health Technology Assessment shall develop and publish, through a notice and comment procedure, a description of the process used to conduct its technology assessments. The description shall include the methods of data gathering, selection and synthesis, as well as the procedure used for obtaining and incorporating input from sources other than the published literature."; and

(5) by adding at the end thereof the following new subsections:

"(e) PUBLIC-PRIVATE PARTNERSHIPS.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program of awarding grants, contracts, or cooperative agreements to eligible entities for the establishment of public-private partnerships for the purpose of conducting health care technology assessments on emergency, existing, or potentially outmoded and related activities in the private sector.

"(2) ELIGIBLE ENTITIES.—Entities eligible to receive a grant, contract, or cooperative agreement under paragraph (1), shall include academic medical centers, research institutions, or a consortia of appropriate entities established for the purpose of conducting technology assessments, or other entities as determined appropriate by the Administrator.

"(3) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under paragraph (1), an entity shall prepare and submit to the Administrator an application, at such time, in such form, and containing such information as the Administrator may require.

"(4) PRIORITIES.—The Administrator shall ensure that assessments undertaken under this subsection concern topics of high priority as determined under the priority setting methodology established in subsection (c).

"(f) TASK FORCE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a task force (hereafter referred to in this subsection as the 'task force') to support interagency collaboration on health technology assessment.

"(2) REPRESENTATIVES.—The task force shall include representatives from the office of the Secretary, the Assistant Secretary for Health, the Assistant Secretary for Planning and Evaluation, the Health Care Financing Administration, the National Institutes of Health, the Food and Drug Administration, the Centers for Disease Control, the Department of Veterans Affairs, and the Department of Defense.

"(3) PURPOSE.—The purpose of the task force shall be to establish a permanent body to encourage interagency collaboration and support for technology assessment and information dissemination, including development of new and emerging technologies, conduct of clinical trials, and consensus development. The task force shall identify needs for information on new and existing technologies and opportunities to support joint efforts in technology assessment.

"(4) REPORT.—Not later than June 1, 1994, the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the progress of the task force.".

SEC. 5. PRACTICE GUIDELINES.

Section 912 (42 U.S.C. 299b–1) is amended—

(1) in subsection (b)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) include information on the risks, benefits, and costs of all alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition, where cost information is available and reliable.";

(2) in subsection (d) to read as follows:

"(d) CERTAIN GUIDELINES AND STANDARDS.—Not later than January 1, 1994, the Administrator shall ensure that a set of guidelines, standards, performance measures, and review criteria are developed as described in subsection (a)(1) that shall include not less than three clinical treatments or conditions that—

"(1) account for a significant portion of national health expenditures;

"(2) have a significant variation in the frequency or the kind of treatment provided; or

"(3) are identified by the Advisory Council established under section 921 as likely to represent treatments or conditions for which significant inappropriate utilization of health care resources occurs."; and

(3) by adding at the end thereof the following new subsection:

"(f) PRACTICE GUIDELINES RESOURCE CENTER.—

"(1) ESTABLISHMENT.—There shall be established as part of the Information Center established under section 903(e), a Resource Center for Clinical Practice Guidelines.

"(2) IDENTIFICATION SYSTEM.—The National Library of Medicine shall establish a system to identify practice guidelines with respect to the collection of information and to provide, electronically and in a convenient format, information concerning the source of such guideline, date of publication of the guideline, a summary of the content of the guideline, and a description of the methodology by which a guideline was developed.

"(3) INTERAGENCY AGREEMENT.—The Administrator shall enter into an agreement with the Director of the National Library of Medicine to implement this subsection.

SEC. 6. FORUM FOR QUALITY AND EFFECTIVENESS IN HEALTH CARE.

(a) ADMINISTRATION OF OFFICE.—Section 911 (42 U.S.C. 299b) is amended by adding at the end the following sentence: "The Administrator shall carry out this part acting through the Director.".

(b) CONFORMING AMENDMENTS.—Part B of title IX (42 U.S.C. 299b et seq.) is amended—

(1) in section 912(a)—

(A) by striking out "The" and all that follows through "shall" in the first sentence and inserting "The Administrator shall"; and

(B) by striking out "and effectiveness" and inserting in lieu thereof "effectiveness, and cost-effectiveness"; and

(C) by striking out "Director" in the second sentence and inserting "Administrator";

(2) in section 912(c), by striking "Director" and inserting "Administrator";

(3) in section 913—

(A) by striking out "Director" in subsection (a), in the matter preceding paragraph (1), and inserting "Administrator";

(B) by striking out "Director" in subsection (b), in the matter preceding paragraph (1), and inserting "Administrator";

(C) by striking out "Director" each place that such terms appears in subsection (c), and inserting "Administrator"; and

(D) by adding at the end of subsection (c) the following new sentences: "The Panel Chairperson and panel members shall be selected in consultation with the Advisory Council. There shall be a balance between providers drawn from academic settings and providers without full-time academic appointments. At least one of the panel members shall have expertise in epidemiology, health services research or health economics, as well as familiarity with the clinical condition or treatment in question. At least two other panel members shall be persons who do not derive their primary source of revenue directly from the performance of procedures discussed in the guideline.".

(4) in section 914—

(A) in subsection (b), by striking out "Director" each place that such term appears in paragraph (1) and (2), in the matter preceding subparagraph (A) of paragraph (3), and paragraph (4), and inserting "Administrator"; and

(B) in subsection (c), in the first sentence, by striking out "Director" and inserting "Administrator";

(C) in subsection (d), in the first sentence, by striking out "Director" and inserting "Administrator"; and

(D) in subsection (e), by striking out "Director" and inserting "Administrator".

(c) PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.—

(1) ESTABLISHMENT OF PEER REVIEW GROUPS.—Section 922(c)(2) (42 U.S.C. 299c-1(c)(2)) is amended—

(A) by striking out "from among individuals" and all that follows through "virtue" and inserting "from among individuals who by virtue"; and

(B) by adding at the end the following sentences: "Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for duties carried out as such officers and employees.".

(2) CATEGORIES OF REVIEW.—Section 922(d)(1) (42 U.S.C. 299c-1(d)(1)) is amended to read as follows:

"(1) IN GENERAL.—With respect to technical and scientific peer review under this section, there shall be two categories of peer review groups as follows:

"(A) One category of such groups shall, subject to subparagraph (B), review applications with respect to research, demonstration projects, or evaluations.

"(B) The other category of such groups shall review applications with respect to dissemination research and activities, demonstration projects, evaluations, or the development of research agendas (including conferences, workshops, and meetings).".

(d) CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.—Section 923 (42 U.S.C. 299c-2) is amended by adding at the end the following subsection:

"(c) AUTHORITY REGARDING CERTAIN REQUESTS.—Upon the request of a public or nonprofit private entity, the Administrator may tabulate and analyze statistics, and prepare studies, under arrangements under which such entity will pay the cost of the service provided. Amounts appropriated to the Administrator from payments made under such arrangements shall be available to the Administrator for obligation until expended.".

SEC. 7. PREVENTION.

(a) PROGRAM AGENDA.—Section 914 (42 U.S.C. 299b-3) is amended—

(1) in subsection (a)(2)(A)—

(A) by striking out clause (i);

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(C) by inserting before clause (iii) (as so redesignated) the following new clauses:

"(i) to improve methods for disease prevention;

"(ii) to improve methods of diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;"; and

(2) in subsection (a), by adding at the end thereof the following new paragraph:

"(3) CERTAIN PRIORITIES FOR RESEARCH.—In carrying out section 902(a)(2), the Administrator may conduct and support assessments of disease prevention and health promotion services.".

(b) DUTIES.—Section 912 (42 U.S.C. 299b-1) as amended by section 5(3), is further amended by adding at the end thereof the following new subsection:

"(g) DEVELOPMENT OF CERTAIN GUIDELINES AND STANDARDS.—Not later than January 1, 1995, the Administrator shall ensure that a set of guidelines, standards, performance measures, and review criteria, are developed under subsection (a)(1) that shall include the prevention of not fewer that three conditions that account for significant national health expenditures. In carrying out this subsection the Administrator shall consult with the United States Preventive Services Task Force.".

SEC. 8. ADDITIONAL REQUIREMENTS.

Section 914 (42 U.S.C. 299b-3) is amended—

(1) by adding at the end of subsection (a)(2), the following new subparagraph:

"(C) The Administrator shall produce in consultation with the Subcouncil on Outcomes and Guidelines of the Advisory Panel an annual list of priority guideline topics. Such list shall become the preferred priority of guideline topics to be initiated by the Agency or through the granting of contracts as described under section 913(a).";

(2) in subsection (d) to read as follows:

"(d) PILOT TESTING.—The Administrator shall conduct or support pilot testing of the guidelines, standards, performance measures, and review criteria, developed under section 912(a). Any such pilot testing shall be conducted prior to and concurrently with the dissemination of such guidelines, standards, performance measures, and review criteria under subsection (c).";

(3) in subsection (e)—

(A) by inserting "(1) EFFECTIVENESS OF GUIDELINES.—" before "The";

(B) by adding at the end of paragraph (1) the following new sentences: "The Administrator shall ensure that evaluations also review the safety, validity, and usefulness of guidelines and the scope of their dissemination. Evaluations shall be planned and initiated prior to the completion and release of the guideline, so that baseline data concerning practice patterns and health care costs may be obtained as part of the evaluation."; and

(C) by moving paragraph (1) flush to the left margin and indenting such paragraph 2 ems; and

(3) by adding at the end thereof the following new subsection:

"(g) STUDIES.—

"(1) COST ESTIMATES.—To assist in carrying out the requirements of section 912(b)(4), the Administrator shall commission such studies as are necessary to determine appropriate methods of generating reasonable cost estimates with respect to alternative treatments to be included in guideline documents.

"(2) REPORT.—Not later than January 1, 1994, the Administrator shall prepare and submit to the appropriate committees of Congress a report concerning the study conducted under paragraph (1).

"(3) EVALUATION.—The Administrator shall conduct or support an evaluation of the process described in section 913, by which guidelines and standards are developed, and the process described in subsection 914(c), by which such guidelines and standards are disseminated. Such evaluation shall consider other existing methods of developing and disseminating practice guidelines.".

SEC. 9. ADVISORY COUNCIL.

Section 921 (42 U.S.C. 299c) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(3) ADDITIONAL DUTIES.—The Advisory Council shall advise the Administrator concerning the selection of Guideline Panels and the Chairpersons of such Panels, and shall participate in production of the annual list of priority guideline topics as described under section 914(a)(2)(C).";

(2) by striking out subsection (d);

(3) by redesignating subsections (e) through (k) as subsections (d) through (j), respectively; and

(4) in subsection (e) (as so redesignated), by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 926 (42 U.S.C. 299c-5) is amended—

"(1) in subsection (a) to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $115,000,000 for fiscal year 1993, and $145,000,000 in fiscal year 1994."; and

(2) by adding at the end thereof the following new subsections:

"(c) HEALTH CARE TECHNOLOGY ASSESSMENT.—For the purpose of carrying out dissemination activities under section 903(e) there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(d) AUTHORIZATION OF APPROPRIATION.—For purposes of establishing the public-private partnership grant program under section 904(e) there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary in fiscal year 1994.".

SEC. 11. EMERGENCY MEDICAL SERVICE FOR CHILDREN.

Section 1910 (42 U.S.C. 300w-9) is amended—

(1) in subsection (a), by striking out "not more than four grants in any fiscal year" and inserting in lieu thereof "grants"; and

(2) in subsection (d)—

(A) by striking out "and $5,000,000" and inserting in lieu thereof "$5,000,000"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1997".●

Mr. MITCHELL. Mr. President, I rise in support of the Agency for Health Care Policy and Research Reauthorization of 1992. The provisions of this bill will build upon the important work of the Agency and expand efforts to evaluate existing and emerging technology.

In 1988, as chairman of the Health Subcommittee of the Senate Finance Committee, I introduced legislation to increase funding for research assessing the effectiveness and outcomes of health care practices. Impetus for this legislation was provided by results of the Maine Medical Assessment Foundation, which demonstrated that physicians provided with credible information could improve the quality of their patients' care while avoiding millions of dollars in unnecessary health care costs. The bill became law that year, providing funding for four major assessment studies approved by the National Center for Health Services Research, the predecessor of the AHCPR.

In April 1989 I introduced a second generation bill which increased and improved the Patient Outcomes Assessment Research Program. Senator KENNEDY, Congressman WAXMAN, and Congressman GRADISON introduced similar legislation that year. The major goal of all the bills was to improve the quality, effectiveness, and appropriateness of health care. In addition, the cost containment implications of the new research program became apparent and eminent.

The legislation that resulted from these bills established the new Agency for Health Care Policy and Research to subsume and expand upon the work of the NCHCR. The AHCPR's mandate encompasses two related domains, first, promoting health services research generally, with special emphasis on effectiveness, outcomes, and appropriateness studies and database innovation, and second, the development of clinical practice guidelines.

Under the auspices of AHCPR, comprehensive health services research should lead to real-world demonstrations of health care measures and practice modifications. Results and policies arising from successful demonstrations should be properly disseminated. Finally, health systems' responses to the policies should be monitored to revise the agenda for future research.

Within the last year a number of important studies and guidelines have been released by the Agency including a guideline on Acute Pain Management. These guidelines have been widely disseminated and have been enthusiastically received.

This information, and other similar guidelines can be used by physicians and other health care providers to improve the practice of medicine and to reduce the number of unnecessary and ineffective medical procedures.

As we continue our efforts to reform the Nation's health care system we must continue to support the Agency's general health services research. Health services research addresses some of the most important issues facing our health care system: How can we more equitably finance health care for the poor and the elderly? Which alternative health care delivery systems might better serve our needs? How can we assess the quality of care?

The reauthorization bill we are introducing today will expand the Agency's role in the evaluation of new and existing technology—clearly one of the factors driving up the cost of health care in our Nation.

The legislation establishes a task force to explore the development of collaborative methods for obtaining valid and reliable data on the risks, benefits, and costs of technologies following their development.

The use of practice guidelines in clinical practice are further emphasized in this bill with language encouraging the development of guidelines that will allow providers and patients to compare benefits as well as costs of alternative medical strategies.

The work of this agency is vital to this Nation's efforts to control health care costs and provide access to health care services to every man, woman, and child. I enthusiastically support the work of the Agency for Health Care Policy Research and believe this bill will allow the Agency to continue to provide essential information for the provision of quality health care services to all Americans. I commend Senators KENNEDY and HATCH for their dedication to the Agency.

Mr. HATCH. Mr. President, I would like to join Senators KENNEDY and DURENBURGER in introducing the reauthorization bill of the Agency for Health Care Policy and Research. I enjoin all of my colleagues to see that this relatively small but vital agency of the Public Health Service is receiving a proper level of congressional attention.

The Agency for Health Care Policy and Research [AHCPR] serves as a focal point for health services research and seeks to achieve its primary mission of enhancing the quality of patient care in several ways:

Promoting improvements in clinical practice and patient outcomes through more appropriate and effective services;

Promoting improvements in the financing, organization, and delivery of health care services; and,

Increasing access to quality care.

Mr. President, I would hope that all of our colleagues would agree that AHCPR can and should play a key role in the general health care reform debate by providing critical information and policy analysis. The work of this small agency serves as the basis for provisions in nearly every health care reform proposal discussed to date. Those on every side of the health care reform debate rely on the information produced by this agency to improve the health care efficiency in the future.

It has been noted by many that the problem with the American health care system is not that we are spending too little, it is that we need to be smarter about how we use our $800 billion health care dollars.

Mr. President, we all understand that the legislative year is growing short. We all realize that when we return after Labor Day the time will be extremely short.

I pledge to continue to work with you over the August recess to iron out the rough spots of the AHCPR bill. As you are aware, I am not yet fully satisfied with all of the provisions contained in the current language:

For example, while I think is useful to assure that AHCPR quickly and efficiently disseminates health care technology assessments, I think that the current measures regarding the clearing house can be improved.

Also, while I agree that we must have a clearly defined process for requesting, prioritizing, and paying for technology assessments, we need to flesh out these provisions.

Similarly, while there may be merit in encouraging public/private partnerships and demonstration projects on emerging technologies, both of these sections will need buttressing if we are to convince our colleagues in the House to adopt them.

Nevertheless, I think we are making significant progress in perfecting this legislation. Because I believe that AHCPR can be a linchpin in the health care reform debate, I think it important that we move this bill today and continue these efforts during the remainder of this session of Congress. I also believe that a solid bipartisan bill will substantially improve the bill's chances for passage and I again commend Senator KENNEDY for his willingness to work toward that end.

Mr. DURENBERGER. Mr. President, I rise today to support the reauthorization of the Agency for Health Care Policy and Research. I join my distinguished colleagues on the Labor and Human Resources Committee, Mr. KENNEDY and Mr. HATCH, in introducing this bill.

Mr. President, Senator MITCHELL and I introduced legislation back in April 1989, to increase and improve patient outcomes assessment. During the reconciliation process that year, we worked closely with our colleagues to establish a new agency in HHS to accomplish the goals of outcomes research.

The agency is authorized under both the Public Health Service Act and the Social Security Act. Today, we are reauthorizing only the Public Health Service portion of AHCPR which expires at the end of fiscal 1992. The authority of the agency under the Social Security Act will be reauthorized in 1994.

Consideration of this reauthorization gives us an opportunity to evaluate what the Agency has accomplished in its few short years of existence. We also have an opportunity to help the agency do better.

AHCPR has begun to produce studies in support of its mandate. Its Office of the Forum for Quality and Effectiveness in Health Care has begun to issue clinical guidelines to assist practitioners. Its Office of Medical Effectiveness Research Program is the center pioneering in outcomes and effectiveness research.

Regardless of one's views about how to finance health care access, every reform proposal requires good information on the quality, appropriateness and effectiveness of medical interventions. We may disagree on how to finance health care reform, but we do agree on the fact that we need good information so we know what we are paying for.

I have been generally satisfied with AHCPR's progress, particularly in light of its comparatively small budget.

What is emerging from AHCPR is top-flight, widely disseminated information. In one area, however, AHCPR needs to be more attentive. The agency has favored guidelines and outcomes studies at the expense of technology assessment, particularly technologies that are emerging and not well understood.

This reauthorization bill promotes public-private partnerships for collaboration on innovative approaches to technology assessment. We need to do a better job evaluating new technologies as they emerge from the laboratory and move to the bedside. We must understand which technologies give us true value added, and which ones do not—before they are widely disseminated adding unnecessary costs to our health care system.

In addition, a new feature of this bill encourages Government productivity, rather than waste and duplication. We need coordination and cooperation among all agencies within HHS. This bill creates a task force to promote interagency cooperation to identify needs for information on new and existing technologies and opportunities to support joint efforts in technology assessment.

If everyone practiced medicine the way the best do, we'd reduce medical costs 35 percent. The key to cost containment is to take all our medical business to those who produce the best value. We get value when we reward providers who do it right the first time, by diagnosing accurately and using only appropriate technology.

Mr. President, if we are really serious about value, we must have adequate information about our health care services. AHCPR has been given the monumental task to gather the information necessary to accomplish that goal.

Mr. WELLSTONE. Mr. President, I am very pleased to support the reauthorization of the Agency for Health Care Policy and Research as an original cosponsor. Congress has charged this Agency to carry out some of the most critical work on health care reform before us today. The task of identifying effective treatments for a range of health care conditions, and developing standards the health care professions can rely on, is key to the efforts we will make to provide quality health care at a reasonable cost.

The Agency's Medical Treatment Effectiveness Program [MEDTEP], using Patient Outcome Research Teams [PORT's] and the current literature, has the potential to expand our knowledge of what quality care really is.

The Agency has a related mission: To demonstrate and evaluate new ways to organize, finance, and direct health care services to improve the delivery, access to, and outcome of such services.

I believe the Agency can make a significant contribution by focusing on primary care, both in terms of treatment and in terms of organization of services. I recognize that current funding levels limit what the Agency can accomplish. But it would be helpful if the report of the Committee on Labor and Human Resources were to urge the Agency to make progress in this area during the coming year.

Primary care is the linchpin to improving care and controlling costs in the United States. Studies show better health care outcomes and higher levels of patient satisfaction in countries where a generalist model of health care predominates, and that generalists are by far the most cost effective. In most countries at least 50 percent of physicians are generalists—family physicians, general internists, and general pediatricians. But the United States has 70 percent subspecialists and only 13 percent general family physicians/general practitioners.

Nurses, nurse practitioners, dentists, and physician assistants are other important primary care practitioners.

Certainly we can concentrate on increased funds to train primary care practitioners. In addition, primary care research can encourage and support primary care practitioners by studying and disseminating information on effective treatments and organization of care.

There are two areas that a primary care research agenda must address: First, studies on the problems that people present with in primary care; and second, studies on the effective organization and delivery of primary care services.

STUDIES ON THE PROBLEMS THAT PEOPLE PRESENT WITH IN PRIMARY CARE

We need better information about the course of problems at all stages of development.

The growth of knowledge about fully developed diseases and the molecular basis of disease has not been balanced by a similar commitment to an understanding of health, the concerns that bring people to doctors, and the processes whereby people with symptoms become patients with diagnoses. The general problems people present to their doctors are met too often with knowledge based on experience with hospitalized patients and studies from controlled experiments. This may not be at all relevant to the entry level of medical service and treatments. As a result we have health care skewed toward highly technological care for catastrophic illnesses.

Patients come to doctors with clusters of ill-defined symptoms, labelled diseases. They may differ by age, gender, and ethnicity from the narrowly defined groups usually studied in controlled experiments.

Primary care research could provide new tools to primary care practitioners, including improved diagnostic accuracy. Such research can assist in streamlining the diagnostic process and increasing accuracy, while reducing the use of expensive and potentially dangerous medical tests.

It can better inform primary care practices in which a variety of interventions are available, including drugs, education, reassurance, diet, exercise, and watchful waiting.

Research that helps primary care practitioners set rational priorities among competing prevention strategies would greatly improve the effectiveness of clinical prevention in actual practices

Medical research now provides little information about the natural history of many of the more common ailments that afflict people, and is largely silent on the best ways to tailor existing treatments to the needs of the individual. With information of this sort on hand, practitioners can collaborate with patients to design effective treatment plans that reconcile the idiosyncracies of patients and their environments with the realities of the disease process.

STUDIES ON THE EFFECTIVE ORGANIZATION AND DELIVERY OF PRIMARY CARE SERVICES

Our research investment has led to remarkable advances, such as immunizations for the prevention of infectious diseases, cures for several cancers, and successful treatment of hypertension to prevent heart attacks and strokes. But we need more: We need to know how to organize and provide primary care so that children get immunized, curable cancers are detected early, and care is delivered to vulnerable populations.

The organization and settings in which health care is provided exert substantial influence on the outcomes of that care. We need to know more about the organization and settings of health care that promote or retard the effect of interventions. For example, what do primary care practitioners do when they function as gatekeepers to other services? How might they be used in more fundamental ways to coordinate care and use health care resources more judiciously?

We need to understand why certain individuals do or don't seek care, and the role they think they might play in their own recovery.

The Agency can contribute to progress by considering how to develop a research agenda in each of these areas. In addition, systems needed to train and support primary care researchers could be identified and proposed.

It is my hope that the Agency will address the need for primary care research more methodically in the coming year, and that the Congress will be in a position to offer a higher level of financial support for these expanded responsibilities by the time of our next reauthorization.

By Mr. LEAHY (for himself, Mr. PRYOR, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. RIEGLE, Mr. CHAFEE, Mr. DANFORTH, Mr. KERREY, Mr. WELLSTONE, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. GRAHAM, Mr. INOUYE, and Mr. JEFFORDS):

S. 3180. A bill to amend the Social Security Act to provide grants for the establishment of State demonstration projects for comprehensive health care reform, and for other purposes; to the Committee on Finance.

STATE CARE ACT OF 1992

Mr. LEAHY. Mr. President, today my good friend from Arkansas, Senator DAVID PRYOR, and I are introducing legislation that gives States the tools they need to try out bold new approaches to providing affordable health care to their citizens.

We are pleased to be joined in this effort by the majority leaders, Senators ROCKEFELLER, RIEGLE, CHAFEE, DANFORTH, KERREY, WELLSTONE, ADAMS, AKAKA, BINGAMAN, GRAHAM, INOUYE, and JEFFORDS.

The State Care Act of 1992 builds on legislation I introduced last year, S. 1972. It is the product of months of negotiations with other Senators and Representatives of States, consumers, businesses, and a broad range of other interested parties. The State Care Act incorporates many of their changes that significantly improve the bill. The bill has been endorsed by the National Governors' Association.

Mr. President, our current health care system needs fundamental change. Skyrocketing costs are hurting families, ruining businesses, and leaving millions of Americans without adequate care.

Generations of proud Vermonters—those who traditionally care for their own families—are now finding that a single illness can wipe out years of hard work and savings.

Universal health care is our goal, and we cannot rest until we have achieved it. I strongly support the majority leader's effort to build consensus on a comprehensive health care reform bill we can move this year.

But in the absence of a national plan, States are moving ahead with their own comprehensive programs to provide affordable health care to their citizens. We cannot afford to discourage them.

It is significant that almost all proposals that offer a comprehensive national solution to our health care crisis recognize the important role States play in successful reform. The majority leader's bill offers States considerable flexibility, as do the bills introduced by our cosponsors, Senators WELLSTONE, KERREY, and CHAFEE.

Earlier this year, I worked with Senator MITCHELL and Senator KENNEDY to include in the HealthAmerica bill the opportunity for States to develop their own innovative approaches to providing affordable health care to their citizens. I strongly believe that State flexibility and innovation will be necessary to ensure the success of any comprehensive national health care plan.

Traditionally, States have played a vital role in shaping this Nation's health and welfare policies. Social Security and child labor standards are just two examples of the many beneficial Federal laws that emanated from the States.

Twenty-four States had parts of the Social Security law on the books before the national act passed in 1935.

Twenty-eight States had child labor laws on the books before Congress passed legislation in 1912.

That tradition continues today as many States tackle the difficult task of reforming their individual health care systems. In this year alone, Vermont, Florida, and Minnesota broke the health care deadlocks in their States and built consensus around programs to provide affordable care to their citizens. Many other States are undertaking similar efforts.

Earlier this year in a Finance Committee subcommittee hearing on State experimentation, the Governor of Hawaii, John Waihee, gave powerful testimony on his State's highly successful health care program. I know that his testimony, and that of my good friend from Florida, Governor Lawton Chiles, contributed significantly to the growing support in Congress for giving States more flexibility in the area of health care reform. Governor Chiles has been a strong ally and I appreciate all that he has done to bolster support for the State Care legislation.

I am particularly proud of Vermont's effort. Under the strong leadership of Governor Howard Dean—the only physician Governor in the country, and the new chair of the National Governors' Association's health care task force—Vermont enacted one of the most sweeping universal access plans yet. The law passed with overwhelming support from both houses of the Vermont Legislature. Many statewide organizations, including the Vermont State Medical Society, backed the plan.

Most importantly, the people of Vermont support the plan, and there is great determination in our small State to push ahead to see that every Vermonter has affordable care by the end of 1994.

But to reach this goal, Vermont and the growing number of other States courageous enough to pioneer universal health care, need support from Washington. Unfortunately, the General Accounting Office and the Employee Benefit Research Institute concluded, in recent reports, that State health care reform initiatives are constrained by Federal statutory and regulatory roadblocks.

That is where our legislation comes in. The purpose of State Care is to remove those roadblocks for States that are committed to overhauling their health care delivery systems.

Through a new Federal commission, our bill sets up a streamlined, "one-stop-shop" waiver approval process that provides narrowly-crafted, but important, waivers from Medicare, Medicaid, and the Employee Retirement Income Security Act [ERISA]. To be eligible for the waivers, States must submit a plan to the Federal commission that is comprehensive, and meets strong access and cost-containment goals. Our bill authorizes up to 10 State demonstrations.

Waiver authority under Medicare will strengthen States' negotiating hand with health care providers. For example, States could develop an all-payor reimbursement system, similar to one used in Maryland, to help contain health care costs. This authority would be extended only to States that continue to provide Medicare services to Medicare beneficiaries.

Our legislation streamlines the existing Medicaid waiver process and expands waiver authority so that States can cover additional low-income, unemployed, or part-time workers. New waiver authority also will allow States to implement innovative reimbursement, cost containment and other reforms. States must continue to provide federally mandated Medicaid services to Medicaid recipients.

With regard to both the Medicare and Medicaid Programs, strong quality assurance provisions are required.

By far, the most important provision in this legislation is the narrowly crafted wavier authority under ERISA that removes one of the greatest roadblocks to reform. Specifically, this legislation enables States to develop a basic benefit package for all without running afoul of ERISA. In addition it provides States the ability, if necessary, to raise funds to support access initiatives by allowing for the establishment of a broad-based revenue raising mechanism.

Mr. President, this bill is not flawless and it is not set in stone. It is our best effort to date to strike a fair balance among interested parties. Senator PRYOR and I will continue to seek the comments of all interested groups in an effort to address outstanding concerns about the bill.

Mr. President, there are many people to thank for their work on the State Care Act. I am grateful to the majority leader for his support and advice in shaping this legislation. He has long been sensitive to the States' concerns in the health care reform debate and his HealthAmerica legislation reflects that sensitivity.

I am pleased that the chairman of the Finance Committee, Senator BENTSEN, intends to hold a hearing in September to further explore State health care reform initiatives and consider the State Care bill. Senator BENTSEN and his staff have contributed significantly to this legislation. I appreciate the technical advice they have given us and their many improvements to the bill. I look forward to continuing our work together on this initiative.

I am delighted that Senator ROCKEFELLER, who has done so much to move the health care reform debate forward, has joined us in this effort. His advice has been and will continue to be invaluable as we refine this legislation.

Senator KERREY and Senator GRAHAM offered their support for this legislation very early in the process and for that I am very grateful. I also want to thank Senator WELLSTONE and his staff for their many helpful suggestions on this legislation. Senator WELLSTONE has provided an important link for us with Minnesotans who are concerned about the success of HealthRight and the MinnesotaCare program.

My friend from Vermont, Senator JEFFORDS, recognizes the importance of the work being done on health care in the States, especially Vermont. I am glad he is a cosponsor of this bill.

Mr. President, I also want to thank the National Governors' Association [NGA] for their tireless efforts on behalf of this legislation. The NGA has forged a strong working relationship with Congress on health care reform issues and I appreciate their many contributions to the bill.

Many other organizations, in particular, Families USA, have lent their expertise and to improving this legislation. We look forward to continuing this working relationship to ensure the strongest bill possible.

Mr. President, finally, I want to thank Senator PRYOR and his staff for their work on this legislation. I could not have asked for a more knowledgeable and skillful partner in this effort. Senator PRYOR is committed to solving the problems that are putting health care out of the reach of America's families, and I commend him for his leadership. It is a privilege to work with him on this initiative.

And Theresa Alberghini of my staff has worked days and nights to help craft this legislation. She cares deeply about the health care crisis and the people of her home State of Vermont. She is a true professional, and deserves much credit for this State Care initiative.

Mr. President, Senator PRYOR and I believe the State Care Act of 1992 works equally well as part of a nationwide comprehensive reform plan or as a way to achieve statewide, comprehensive reforms.

But whatever we do this year, we can no longer stand in the way of States that are committed to providing affordable health care to their citizens.

Mr. President, I ask unanimous consent that the bill, a detailed summary of the legislation, and a letter of support from the National Governors' Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Care Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) up to 37,000,000 Americans are without health insurance;

(2) health care costs the average American family more than $4,300 a year;

(3) a single serious illness can financially devastate all but the wealthiest families;

(4) preventive medical care is a cost-effective way to reduce medical costs; and

(5) as with Social Security and child labor protections, States can lead the way in testing ideas for national application.

(b) PURPOSE.—It is the purpose of this Act—

(1) to test ways to provide a more equitable, rational, and cost-effective system of health care; and

(2) to remove Federal statutory and administrative barriers that currently block efforts by States to provide health care coverage to individuals residing in such States.

SEC. 3. AMENDMENTS TO SOCIAL SECURITY ACT.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new title:

"TITLE XXI—STATE COMPREHENSIVE HEALTH COVERAGE AND COST CONTAINMENT DEMONSTRATION PROJECTS

"TABLE OF CONTENTS OF TITLE

"Sec. 2101. Establishment of State Care demonstration projects.
"Sec. 2102. Establishment of State-Based Comprehensive Health Care Commission.
"Sec. 2103. State health care authority.
"Sec. 2104. Approval of State Care demonstration project grants.
"Sec. 2105. Application for State Care demonstration project grants.
"Sec. 2106. Development and implementation grants.
"Sec. 2107. Payment of expenditures.
"Sec. 2108. Application of certain Federal laws.
"Sec. 2109. Evaluations, monitoring and compliance.
"Sec. 2110. Definitions.

"ESTABLISHMENT OF STATE CARE DEMONSTRATION PROJECTS

"SEC. 2101. There is hereby established a program under which the State-Based Comprehensive Health Care Commission shall select States to participate in demonstration projects designed to provide health care coverage to eligible State residents and to contain health care costs in such States.

"ESTABLISHMENT OF STATE-BASED COMPREHENSIVE HEALTH CARE COMMISSION

"SEC. 2102. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established a State-Based Comprehensive Health Care Commission which shall be composed of—

"(A) the Secretary,

"(B) the Secretary of Labor, and

"(C) 11 members to be appointed by the President, within 90 days of the enactment of this title, by and with the advice and consent of the Senate.

"(2) MEMBERSHIP.—The members of the Commission appointed under paragraph (1)(C) shall include individuals with national recognition for expertise in health insurance, health economics, health care provider reimbursement, and related fields. In appointing individuals, the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, rural areas, and health care insurers.

"(b) TERMS.—The members of the Commission appointed under subsection (a)(1)(C) shall be appointed to serve for terms of 3 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any one year. Any individual appointed to fill a vacancy created in the Commission shall be appointed for the remainder of the term of such individual's predecessor.

"(c) DUTIES.—

"(1) GRANTS.—The Commission shall—

"(A) provide guidance to State health care authorities regarding applications for grants under this title and exchange information with, and otherwise assist, such authorities upon the request of the authorities;

"(B) develop a model benefit package that may be used by State health care authorities in applying for a State care demonstration project grant under this title;

"(C) develop guidelines to assist State health care authorities in providing data base infrastructure as described in section 2105(b)(16);

"(D) set application procedures;

"(E) review and approve applications for State Care demonstration project grants under section 2104;

"(F) review and approve applications for development and implementation grants under section 2106;

"(G) provide appropriate levels of funding for such approved applications;

"(H) conduct such evaluation, monitoring, compliance, and other review functions as may be appropriate, including such as are required under section 2109; and

"(I) implement any other requirements or activities necessary and appropriate under this title.

"(2) ANNUAL REPORT.—The Commission shall report annually to the President and the Congress. Such report shall be submitted not later than March 30 of each year and shall include information concerning States that receive grants under this title and the effectiveness of any health care programs assisted by such grants.

"(d) MISCELLANEOUS.—

"(1) AUTHORITY.—The Commission may—

"(A) employ and fix the compensation of an Executive Director and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

"(D) make advance, progress, and other payments which relate to the work of the Commission.

"(2) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission appointed under subsection (a)(1)(C) shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from the member's home and regular place of business, any member appointed under subsection (a)(1) may be allowed travel expenses, as authorized by the Chairperson of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as such subsection applies to the Tennessee Valley Authority.

"(3) ACCESS TO INFORMATION, ETC.—The Commission shall have access to such relevant information and data as may be available from the Physician Payment Review Commission, the Prospective Payment Assessment Commission, and other appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of such Commissions and Federal agencies. The Commission shall be subject to periodic audit by the General Accounting Office.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

"STATE HEALTH CARE AUTHORITY

"SEC. 2103. (a) ESTABLISHMENT.—A State that desires to receive a grant under section 2104, shall establish a State Health Care Authority as provided in subsection (b) which shall prepare and submit to the Chief Executive Officer and the State legislature of that State a comprehensive recommendation for the State plan described in section 2104(b). The preceding sentence shall not apply to any State which has enacted a State plan described in section 2104(b) within 12 months of the date of the enactment of this title.

"(b) COMPOSITION.—The Authority shall be composed of individuals appointed by the Chief Executive Officer of the State equally from among representatives of—

"(1) health care providers;

"(2) consumers and labor;

"(3) the State health department;

"(4) the State legislative leadership;

"(5) insurance providers operating in the State;

"(6) low-income advocacy organizations;

"(7) senior citizen organizations;

"(8) business, including small business entities and self-employed individuals; and

"(9) other organizations determined appropriate by the Chief Executive Officer.

"(c) REPORT OF STATE HEALTH CARE AUTHORITY.—The Authority shall prepare and submit to the Chief Executive Officer of the State and the legislature of the State, a report containing a copy of the proposed State plan.

"(d) APPROVAL.—The legislature of each State referred to in subsection (c) shall approve the State plan contained in such report or modify such plan as the legislature considers appropriate.

"(e) NOTIFICATION OF THE COMMISSION.—The Chief Executive Officer of a State shall notify the Commission upon the final approval of the report submitted under subsection (c). Each Authority shall coordinate, and exchange information, with the Commission.

"APPROVAL OF STATE CARE DEMONSTRATION PROJECT GRANTS

"Sec. 2104. (a) IN GENERAL.—The Commission shall award State Care demonstration project grants to not more than 10 States which submit applications under section 2105 to enable such States to design and implement demonstration projects to provide health coverage to eligible State residents.

"(b) PERIOD OF APPROVED PROJECT GRANTS.—The period for each State Care demonstration project grant shall be for 5 years from the date of the final approval of the State's application to participate in the demonstration project.

"(c) BASIS OF APPROVAL.—

"(1) IN GENERAL.—The Commission shall approve applications submitted by States under section 2105 that meet the requirements established under this title.

"(2) WAIVERS OF MEDICAID PROVISIONS.—In approving any application, the Commission shall waive, to the extent necessary to conduct each State Care demonstration project, any of the requirements of section 1902 or 1903. Such waivers shall not be granted unless the State plan identifies the necessary waivers as required under section 2105(b)(17) and provides assurances of necessary safeguards and financial accountability as required under section 2105(b)(18).

"(3) CONDITIONAL APPROVALS.—The Commission may approve applications on a conditional basis to provide such time as appropriate to permit the enactment of necessary State legislation.

"(d) COORDINATION AND DEADLINES.—

"(1) INITIAL REVIEW.—The Commission shall complete an initial review of each State Care demonstration project application within 40 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Commission shall issue a preliminary opinion concerning the likelihood that the application will be approved within such 40-day period and shall advise the State within such period of the need to submit additional information.

"(2) FINAL DECISION.—The Commission shall, within 60 days of the later of—

"(A) the receipt of a State Care demonstration project application, or

"(B) the date on which the Commission receives additional information requested from a State under paragraph (1),

issue a final decision concerning such application.

"(3) COOPERATION.—The Commission shall cooperate and exchange information, to the extent appropriate, with applicant States during the pendency of each State's application.

"(4) ADVICE TO APPLICANTS.—The Commission shall advise applicants as to the basis for any decision of the Commission to reject or approve an application.

"(5) RECONSIDERATION OR APPEAL OF DENIAL.—The provisions of paragraphs (2), (3), (4), and (5) of section 1116(a) shall apply with respect to the decision of the Commission to reject an application.

"(e) DIVERSITY.—To maximize the variety of State Care demonstration projects, the Commission shall give a preference to applicant States that present a wide variety of characteristics, including States—

"(1) from a variety of geographic areas of the United States;

"(2) with a high percentage of the total population living in rural areas;

"(3) with a high percentage of the total population living in urban areas;

"(4) with a large ethnic diversity;

"(5) with very low total population;

"(6) with very large total population; and

"(7) which demonstrate some particular need for such assistance, an especially useful or novel approach to health care, or which present an opportunity to gain valuable information regarding the provision of health care.

"APPLICATION FOR STATE CARE DEMONSTRATION PROJECT GRANTS.

"SEC. 2105. IN GENERAL.—To be eligible to receive a State Care demonstration project grant under this title, a State shall prepare and submit to the Commission an application and State plan meeting the requirements of subsection (b) at such time, in such manner, and containing such general information as the Commission may require.

"(b) STATE PLAN.—A State that desires to receive a State Care demonstration project grant under this title shall prepare and submit, as part of the application, a State plan that shall—

"(1) be in effect in all political subdivisions of the State;

"(2) provide for the availability of benefits and services that are at least equal to the benefits and services of a standard benefit package described in subsection (c)(1) or a basic benefit package described in subsection (c)(2), except that with respect to—

"(A) individuals entitled to benefits under title XVIII, such individuals shall continue to receive such benefits, and

"(B) individuals entitled to medical assistance under a State plan under title XIX as of the date of the enactment of this title, such individuals shall continue to receive benefits and services at least equivalent to the benefits and services required to be included in such State plan under such title;

"(3)(A) estimate the number and percentage of uninsured eligible State residents (as compared to total eligible State residents) on the date of application and describe how the State Care demonstration project will—

"(i) serve at least 95 percent of eligible State residents, or

"(ii) increase by 10 percent the number of eligible State residents served,

by the date on which such demonstration project is scheduled for termination; and

"(B) provide how the remaining uninsured eligible State residents shall be served after such termination;

"(4) provide for the development and implementation of appropriate cost-control mechanisms, such that the annual increase in State-wide health care costs does not exceed the average annual percentage increase in the gross domestic product (in current dollars, as published by the Secretary of Commerce) for the 5-year period ending in the second preceding year, plus—

"(A) for 1994, 3.7 percentage points,

"(B) for 1995, 2.7 percentage points,

"(C) for 1996, 1.7 percentage points,

"(D) for 1997, 0.7 percentage points, and

"(E) for each year thereafter, 0 percentage points;

"(5) provide for budgetary procedures to ensure that a statewide health care budget is established with respect to the benefits and services provided under the State plan;

"(6) describe the public and private sector financing to be provided for the State Care demonstration project;

"(7) estimate the amount of Federal, State and local expenditures as well as costs to business and individuals under the State Care demonstration project;

"(8) describe how the State plan will ensure the financial solvency of the State Care demonstration project;

"(9) provide assurances satisfactory to the Commission that Federal expenditures under the State Care demonstration project shall not exceed—

"(A) with respect to individuals otherwise entitled to benefits under title XVIII, Federal expenditures which would otherwise be made under such title (as in effect on date of the enactment of this title, unless amendments to such title have the effect of increasing Federal expenditures) for each year of such demonstration project (determined without regard to such project), and

"(B) with respect to all other individuals, Federal expenditures which would otherwise be made under title XIX (as in effect on the date of the enactment of this title, unless amendments to such title have the effect of increasing Federal expenditures) during the period of such project (determined without regard to such project);

"(10) include quality control procedures which shall include—

"(A) procedures to ensure that health care providers in the State provide services consistent with practice guidelines developed by the Agency for Health Care Policy and Research; and

"(B) the development and implementation of a program to make information available to educate the general public concerning the availability of comprehensive health insurance in the State;

"(11) require providers of services and insurance policies to meet licensure, certification, and other appropriate standards as established by the State;

"(12) identify all Federal, State, or local programs that currently provide health care services in the State and describe how such programs would be incorporated in the health coverage system implemented by the State under the State plan, to the extent practicable, providing for the consolidation of all Federal, State, and local programs that provide health care services in the State;

"(13) provide for the development and implementation of a State health care delivery system that provides access to care to eligible State residents in areas of the State where there is an inadequate supply of health care providers;

"(14) recommend the manner by which the State will meet the long-term care service needs of chronically ill eligible State residents of all ages;

"(15) provide for a data base infrastructure, under guidelines developed by the Commission under section 2102(c)(1)(C), to gather data on cost, coverage, health care needs, and medical outcomes;

"(16) recommend the manner by which the State will address medical liability issues;

"(17) identify all waivers of the requirements of sections 1902 and 1903 necessary to achieve access and cost containment goals of the State Care demonstration project, with the rationale for the need of each waiver;

"(18) provide assurances satisfactory to the Commission that necessary safeguards (including quality assurance procedures sufficient to ensure a high quality of care) have been taken to protect the health and welfare of eligible State residents provided services under the waivers identified under paragraph (17) and that financial accountability for funds expended with respect to such services shall be maintained; and

"(19) provide for any necessary phase-in or transition procedures, except that the State plan shall be fully implemented not later than 5 years after the date of the approval of the State's application to participate in the demonstration project.

"(c) STANDARD AND BASIC BENEFIT PACKAGES.—

"(1) STANDARD BENEFIT PACKAGE.—

"(A) IN GENERAL.—A State plan providing for a standard benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, except that treatment for a mental disorder is subject to the special limitations described in clause (v)(I);

"(ii) inpatient and outpatient physicians' services, except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in clause (v)(II);

"(iii) diagnostic tests;

"(iv) outpatient prescription drugs;

"(v) preventive services limited to—

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colorectal screening services; and

"(vi)(I) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care; and

"(II) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who is a physician, or is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(B) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—

"(i) IN GENERAL.—Except as provided in clause (ii) and in subparagraph (C), a State plan providing for a standard benefit package shall place no limits on the amount, scope, or duration of benefits described in clauses (i) through (iii) of subparagraph (A).

"(ii) PREVENTIVE SERVICES.—A State plan providing for a standard benefit package may limit the amount, scope, and duration of preventive services described in clause (iv) of subparagraph (A) if the amount, scope, and duration of such services are reasonably consistent with recommendations and periodicity schedules developed by appropriate medical experts.

"(C) EXCEPTIONS.—Subparagraph (A) shall not be construed as requiring a State plan to include payment for—

"(i) items and services that are not medically necessary or not medically accepted;

"(ii) routine physical examinations or preventive care (other than care and services described in clause (iv) of subparagraph (A)); or

"(iii) experimental services and procedures.

"(D) LIMITATION ON PREMIUMS.—A State plan providing for a standard benefit package shall not require an individual to pay a monthly premium which exceeds 20 percent of the total monthly premium.

"(E) LIMITATION ON DEDUCTIBLES.—

"(i) IN GENERAL.—Except as permitted under clause (ii), a State plan providing for a standard benefit package shall not provide a deductible amount for benefits provided in any plan year that exceeds—

"(I) with respect to benefits payable for items and services furnished to any individual with no family member enrolled under the plan, for a plan year beginning in the first year of the State Care demonstration project, $400, or for a subsequent calendar year, the limitation specified in this subclause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(II) with respect to benefits payable for items and services furnished to any individual with a family member enrolled under the standard benefit package, for a plan year beginning in the first year of the State Care demonstration project, $400 per family member and $700 per family, or for a subsequent calendar year, the limitation specified in this subclause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation computed under such subsequent calendar year under subclause (I) or (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(ii) WAGE-RELATED DEDUCTIBLE.—A State plan may provide for any other deductible amount instead of the limitations under—

"(i) clause (i)(I), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the individual in the plan year; or

"(ii) clause (i)(II), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the individual in the plan year.

"(F) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(i) IN GENERAL.—Subject to clauses (ii) through (iv), a State plan providing for a standard health benefit package may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this subsection—

"(I) in an amount that exceeds 20 percent of the amount payable for the item or service under the plan; or

"(II) after an individual and family covered under the plan have incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in clause (v)(II)) for a plan year.

"(ii) EXCEPTION FOR MANAGED CARE PLANS.—A State plan that is a managed care plan may require payments in excess of the amount permitted under clause (i) in the case of items and services furnished by nonparticipating providers.

"(iii) EXCEPTION FOR IMPROPER UTILIZATION.—A State plan may provide for copayment or coinsurance in excess of the amount permitted under clause (i) for any item or service that an individual obtains without complying with procedures established by a managed care plan or under a utilization program to ensure the efficient and appropriate utilization of covered services.

"(iv) EXCEPTIONS FOR MENTAL HEALTH CARE.—In the case of care described in subparagraph (A)(v)(II), a State plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this title in an amount that exceeds 50 percent of the amount payable for the item or service.

"(G) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(i) OUT-OF-POCKET EXPENSES DEFINED.—As used in this subsection, the term 'out-of-pocket expenses' means, with respect to an individual in a plan year, amounts payable under the State plan as deductibles and coinsurance with respect to items and services provided under such plan and furnished in the plan year on behalf of the individual and family covered under such plan.

"(ii) OUT-OF-POCKET LIMIT DEFINED.—As used in this subsection and except as provided in clause (iii), the term 'out-of-pocket limit' means for a plan year beginning in—

"(I) the first year of the State Care demonstration project, $3,000, or

"(II) for a subsequent calendar year, the limit specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year. If the limit computed under subclause (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(iii) ALTERNATIVE OUT-OF-POCKET LIMIT.—A State plan may provide for an out-of-pocket limit other than that defined in clause (ii) if, for a plan year with respect to an individual and the family of the individual, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the individual in the plan year.

"(H) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those specified in this paragraph shall apply with respect to a State plan providing a standard benefits package. A State law or regulation requiring the coverage of newborns, adopted children, or other specified categories of dependents shall continue to apply to such State plan.

"(I) DEFINITIONS.—For purposes of this paragraph—

"(i) MENTAL DISORDER.—The term 'mental disorder' has the meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(ii) PHYSICIAN SERVICES.—The term 'physician services' means professional medical services lawfully provided by a physician under State medical practice laws, and includes professional services provided by a dentist, licensed advanced-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician.

"(iii) OUTPATIENT PRESCRIPTION DRUGS.—

"(I) IN GENERAL.—The term 'outpatient prescription drug' means any drug or biological that has been approved for marketing by the Food and Drug Administration or the medically accepted indications of such drug or biological, which has been ordered by prescription pursuant to State law by a physician (or other practitioner authorized pursuant to State law to issue prescriptions).

"(II) EXCEPTION.—The term 'outpatient prescription drug' does not include any drug or biological provided incident to or part of another medical service for which reimbursement for such drug or biological is made as part of the total payment for such service.

"(III) MEDICALLY ACCEPTED INDICATIONS.—The term 'medically accepted indications' means the use of a drug or biological that has been approved for marketing by the Food and Drug Administration which is accepted in either the American Hospital Formulary Service, the United States Pharmacopoeia—Drug Information, or the American Medical Association—Drug Evaluations.

"(2) BASIC BENEFITS PACKAGE.—

"(A) IN GENERAL.—A State plan providing for a basic benefit package shall be limited to payment for—

"(i) inpatient and outpatient hospital care, including emergency services;

"(ii) inpatient and outpatient physicians' services;

"(iii) diagnostic tests;

"(iv) preventive services, which may include one or more of the following:

"(I) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(II) well-child care;

"(III) Pap smears;

"(IV) mammograms; and

"(V) colorectal screening services.

"(B) COST-SHARING.—A State plan providing for the basic benefit package may impose premiums, deductibles, copayments, or other cost-sharing on enrollees of such plan.

"(C) OUT-OF-POCKET LIMIT.—A State plan providing for a basic benefit package shall provide for a limit on out-of-pocket expenses.

"(D) LIMITED PREEMPTION OF STATE MANDATED BENEFITS.—No State law or regulation in effect in a State that requires health insurance plans offered to small employers in the State to include specified items and services other than those described in this paragraph shall apply with respect to a State plan providing for a basic benefit package. A State law or regulation requiring the coverage of newborns, adopted children, or other specified categories of dependents shall continue to apply to such State plan.

"DEVELOPMENT AND IMPLEMENTATION GRANTS

"SEC. 2106. (a) IN GENERAL.—The Commission shall establish procedures permitting the Chief Executive Officer of any State applying for a State Care demonstration project grant under this title to include in the application a request for a grant to enable the State—

"(1) to establish a date base infrastructure necessary to measure and evaluate the success of the State plan described in section 2105(b) in achieving cost containment and access goals; and

"(2) to consolidate health care budgeting, regulating, financing, and delivery responsibilities of the State.

"(b) APPROVAL OF DEVELOPMENT AND IMPLEMENTATION GRANTS.—In determining the amount of each development and implementation grant, the Commission shall consider the need of the State receiving approval of a State Care demonstration project grant under section 2104 for startup funds to accomplish the goals under subsection (a).

"(c) AMOUNT OF GRANTS.—The amount of any development and implementation grant awarded under this section shall not exceed $2,000,000 per State.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1996.

"PAYMENT OF EXPENDITURES

"Sec. 2107. (a) NO PAYMENTS MADE UNDER MEDICARE AND MEDICAID.—Notwithstanding any other provision of law, no payment may be made during a year under title XIX for services provided to or on behalf of residents of a State receiving approval of a State Care demonstration project grant under this title for each year of such project if payment for such services may be made to or on behalf of such individuals during the year under a State plan.

"(b) PAYMENTS TO PARTICIPATING STATES.—The Secretary shall pay each State receiving approval of a State Care demonstration project grant under this title for each year of such project (on such a periodic basis as approximates the periods for which payments are made under title XIX) an amount equal to the amount of any payments that, as a result of subsection (a), were not made under title XIX during the year because payment was made to or on behalf of residents of the State during the year under the State plan.

"APPLICATION OF CERTAIN FEDERAL LAWS

"Sec. 2108. With respect to any State Care demonstration project approved by the Commission, the following Federal laws shall be applied in the following manner:

"(1) MEDICARE.—In section 1886(c)—

"(A) strike 'Secretary' each place it appears and insert 'Commission';

"(B) in paragraph (1)(C), strike '36-month' and insert '60-month';

"(C) strike the matter in paragraph (1) following subparagraph (E);

"(D) strike paragraph (2) and insert the following:

'(2)(A) The Commission shall, not later than 90 days after the end of each 12-month period of a State waiver under this subsection, on the basis of the best information available at that time (and may, at later times, as it finds appropriate in light of additional data)—

'(i) estimate the difference for such period, if any, between—

'(I) actual payments under this title to hospitals in the State, and

'(II) projected payments under the State's hospital reimbursement control system at the time the waiver was approved, and

'(ii) project, on the basis of such estimate, the excess, if any, for the entire period of the waiver of the amount described in clause (i)(I) over the amount described in clause (i)(II).

'(B) The Commission shall notify the State of the results of the calculations under subparagraph (A). Where those calculations indicate that substantial overpayments would be made to hospitals in a State by the conclusion of the waiver period, the Commission, in order to prevent such result, may—

'(i) permit the State to make modifications in the system subject to the waiver, consistent with the provisions of this subsection, or

'(ii) adjust payments to hospitals in the State as the Commission deems necessary, where the State fails to make modifications in its system, or where the Commission concludes that the State's modifications are insufficient.';

"(E) in paragraph (3), insert before the period ', and cannot be met by modification of the State system or adjustment of payments pursuant to paragraph (2)';

"(F) strike paragraph (4), and redesignate paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

"(G) strike paragraph (5), as so redesignated, and insert the following:

'(5)(A) If the Commission determines, after the conclusion of the 60-month waiver period, that the assurances described in paragraph (1)(C) have not been met, the Commission shall notify the State of the amount by which the payment under this title under such system for such period exceeded the amount of payments which would otherwise have been made under this title.

'(B) Not later than 90 days after receiving the notification required under subparagraph (A), the State shall furnish to the Commission a plan for reduction of payments to hospitals in the State which shall—

'(i) be consistent with the provisions of paragraph (5) and of subparagraphs (A), (B), (D), and (E) of paragraph (1);

'(ii) provide a formula for reductions totaling an amount equal to the total overpayments determined pursuant to subparagraph (A); and

'(iii) meet such other criteria as the Commission may establish.

'(C) The Commission shall reduce payments under this title to hospitals in the State—

'(i) in accordance with the plan furnished by the State meeting the requirements of subparagraph (B), or

'(ii) if no such plan is furnished, in amounts equaling, for each hospital in the State, the total amount of the overpayment to such hospital determined pursuant to subparagraph (A).'.

"(2) ERISA.—

"(A) In order to allow financing authority used to—

"(i) collect assessments for purposes of equalizing contributions across health care plans, and

"(ii) provide subsidies to individuals without insurance or who are difficult to insure,

section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) includes the following paragraph:

"(9) Nothing in this section shall be construed to preempt any State law which causes equitable fees, taxes, charges, or other payments to be paid by employers, providers, or other entities, even if the incidence of such payments may eventually be imposed on employee benefit plans, as long as such incidence is not solely on such plans or on goods or services purchased exclusively by such plans."

"(B) Any provision of such Act relating only to health care benefits shall not be construed to prohibit—

"(i) State requirements that set forth the manner and contents of a standard benefit package offered or provided by an employer, except that such requirements shall not apply to any employee benefit plan that is not fully insured or is a plan for which State laws would otherwise be preempted under section 514 of such Act, if such plan has a benefit package for which the employer's per-employee contribution is determined by the Commission to be equivalent within such State to a national average value of at least $1,250 for an individual and $2,500 for a family (indexed to such State's wage growth);

"(ii) the development and implementation of a common administrative procedure, an electronic claims processing procedure, a hospital and other health care provider data collection mechanism, and a utilization review, quality assurance, and medical outcomes mechanism; and

"(iii) a negotiated health care provider reimbursement rate system.

"EVALUATIONS, MONITORING AND COMPLIANCE

"Sec. 2109. (a) EVALUATIONS.—

"(1) PERIODIC REPORTS.—The Commission shall prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives periodic reports that shall contain—

"(A) a description of the effects of the reforms undertaken in States participating in State Care demonstration projects under this title;

"(B) an evaluation of the effectiveness of such reforms in—

"(i) providing universal health care coverage for eligible State residents;

"(ii) providing health care to eligible State residents with special needs;

"(iii) reducing or containing health care costs in the States; and

"(iv) improving the quality of health care provided in the States;

"(B) recommendations regarding the advisability of increasing Federal financial assistance for State comprehensive health care reform initiatives, including the amount and source of such assistance; and

"(C) recommendations regarding the appropriation of additional funds for applications for State Care demonstration project grants which do not meet the requirements of section 2105(b)(8), but which are meritorious and deserving of approval.

"(2) REPORT ON CONTINUED FINANCING.—Not later than the date which is 4 years after the approval of the first application for a State Care demonstration project grant under this title, the Commission shall prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report containing recommendations (including appropriate legislative proposals) for the continuation of Federal financing of State plans approved under this title, including any request for additional authorization to extend the demonstration projects considered by the Commission to be successfully accomplishing the goals of this title.

"(3) REPORT ON NATIONAL PLAN.—Not later than the date which is 5 years after the approval of the first application for a State Care demonstration project grant under this title, if no national, comprehensive health care system has been established, the Commission shall prepare and submit to the President, the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives a report containing recommendations (including appropriate legislative proposals) on establishing a national health plan which utilizes the experiences of the State Care demonstration projects.

"(b) MONITORING AND COMPLIANCE.—

"(1) ANNUAL REPORTS.—Each State with respect to which an application under section 2105 has been approved under section 2104 shall submit to the Commission an annual report detailing compliance with the requirements of this title.

"(2) CORRECTIVE ACTION PLAN.—If a State is not in compliance, the Commission shall develop, in conjunction with all the approved States, a corrective action plan.

"(3) TERMINATION.—For good cause, the Commission may revoke any waiver of Federal law granted under section 2104, and if necessary, may terminate any State Care demonstration project. Such decisions shall be subject to a petition for reconsideration and appeal pursuant to the provisions of paragraphs (2), (3), (4), and (5) of section 1116(a).

"DEFINITIONS

"Sec. 2110. As used in this title:

"(1) COMMISSION.—The term 'Commission' means the State-Based Comprehensive Health Care Commission established under section 2102.

"(2) ELIGIBLE STATE RESIDENT.—The term 'eligible State resident' means any citizen of the United States, or any lawful resident alien, who resides in any particular State.

"(3) LAWFUL RESIDENT ALIEN.—The term 'lawful resident alien' means an alien lawfully admitted for permanent residence and any other alien lawfully residing permanently in the United States under color of law, including an alien granted asylum or with lawful temporary resident status under section 210, 210A, or 245A of the Immigration and Nationality Act.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(5) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(6) AUTHORITY.—The term 'Authority' means, with respect to a State, the State Health Care Authority established in accordance with section 2103.

"(7) STATE PLAN.—The term 'State plan' means a comprehensive health care plan of a State participating in a State Care demonstration project under this title that meets the requirements of section 2105(b).".

SUMMARY OF MAJOR PROVISIONS, THE STATE ROLE IN COMPREHENSIVE HEALTH CARE REFORM, THE STATE CARE ACT

PURPOSE

To encourage and assist state-based comprehensive health care reform efforts by developing a streamlined and expanded "one-stop-shop" waiver approval process that removes overly burdensome administrative, regulatory and statutory Medicare, Medicaid and ERISA (Employment Retirement Income Security Act) requirements.

1. STATUTORY AUTHORITY

Adds new Title to the Social Security Act establishing demonstration projects.

2. WAIVER AUTHORITY

Establishes a Federal Commission to review, approve and oversee State Care demonstration projects. The President will appoint, and the Senate shall confirm, members of the Commission. The Commission will be made up of representatives of: consumers of health services, small and large employers, state and local governments, labor organizations, health care providers, health care insurers, experts on the development of medical technology, as well as the Secretaries of Labor and Health and Human Services.

3. STATE CARE DEMONSTRATION GRANT APPLICATIONS

Establishes standards for approval of up to ten state demonstrations. Each application must have:

Statewide applicability.

Universal access for state residents, as defined by the state having to increase, by the end of the five-year period, the percentage of the insured to at least 95 percent of the population or increase the population of insured by 10 percentage points. (For example, from 82 percent to 92 percent; the 10 percentage point increase clause is designed to be fairer to states with higher numbers of uninsured.) States applying would also submit a plan outlining how any remaining uninsured would be covered following the conclusion of the 5 year demonstration.

Effective cost containment mechanisms that assure that health care inflation within the state does not exceed the average annual percentage increase in the gross domestic product plus 3.7% for 1994, 2.7% for 1995, 1.7% for 1996, .7 for 1997, and for each year therafter, 0 percentage points.

Federal budget neutrality over the five year demonstration period, although need not be budget neutral in individual years as it relates to Medicaid. In no year, however, can Medicare spending exceed projected expenditures under current law. (Constant and Possibly Improved Federal Funding Stream: States that have approved comprehensive health reform plans will be assured of at least the same Federal Medicaid match as would have otherwise been made over the five year period. As a result, any future Federal savings from Medicaid cuts/policy changes/reforms for that state would accrue to that state's benefit.)

Inclusion of a common benefit package which is at least equal to one of the two benefit packages (standard—with Rx drugs and basic) included in S. 1872 and which requires the inclusion of certain preventive services. Preventive and primary care services should be emphasized.

No alteration of Medicare benefits and mandated Medicaid services to required populations.

Strong quality assurance provisions for both the Medicare and the Medicaid programs.

Provider licensing, quality control/assurance procedures, and transition procedures.

Specific recommendations as to how state will meet long-term care service needs of chronically ill citizens of all ages.

Specific recommendations as to how state will address its medical liability issue.

Working in conjunction with the Commission, a health care data base/infrastructure to gather data on cost, coverage, resources (i.e., availability and distribution of health care personnel and technology), health care needs, and medical outcomes.

A list of all Federal waivers necessary to achieve access and cost containment goals identified, with rationale for needing such waivers.

4. STATE REFORM PLAN DEVELOPMENT AND APPROVAL PROCESS

Requires states developing State Care demonstration projects to do so through a State Health Care Authority, or some equivalent body, composed of representatives of affected interests, including small and large business, consumers and labor, health care providers, insurers, state legislative leadership and other organizations determined appropriate by the governor.

States that have enacted comprehensive health care laws within 12 months of enactment of this legislation are exempted from this provision.

Requires state legislative approval of its comprehensive reform plan.

5. DEVELOPMENT AND IMPLEMENTATION GRANTS

The Commission is authorized to provide up to $2 million per approved state for one or more of the following purposes:

1. Establishment of infrastructure necessary to measure and evaluate success in achieving cost containment and access goals; and/or

2. Consolidation of health care budgeting, regulating, financing, and delivery responsibilities of state.

6. APPROVAL OF DEMONSTRATION PROJECTS

The Commission will give preference to state applicants that present a wide variety of characteristics, including states:

from a variety of geographic areas

with a high percentage of the total population living in rural areas

with a high percentage of the total population living in urban areas

with large and diverse ethnic populations

with large and small populations of people

which demonstrate an especially useful or novel approach to health care financing and delivery.

The Commission will provide for timely approval of demonstration projects. Specifically, the initial review by the Commission must be completed within 40 days of the original receipt of application. At that time, the Commission will notify the state about likely final approval status of application and request any additional information necessary to improve likelihood for approval. Final decision by Commission will be made within 60 days of receipt of additional state information following initial review.

7. MEDICARE, MEDICAID AND ERISA WAIVERS

For states with approved applications, the Commission has the authority to waive certain requirements and/or other provisions of Medicare, Medicaid and the Employment Retirement Income and Security Act (ERISA) for the entire period of the demonstration (five years). More specifically, with regard to this streamlined and expanded waiver process:

1. Medicare: Affirms and assures states' ability to utilize Medicare waivers to strengthen the negotiating hand of the states with its health care providers. (E.G., an all payors mechanism, similar to the Maryland model, could be used and expanded for containing provider costs). Again, no alteration of benefits would be permitted.

2. Medicaid: Eliminate complex applications and renewal processes within the Medicaid program for existing waivers. In addition, expand Medicaid waiver authority to allow states to implement innovative reimbursement, service delivery, cost containment, and other reforms.

3. ERISA: In order to provide necessary financing and regulatory flexibility to states committed to comprehensively addressing cost containment and access problem, a narrowly crafted ERISA waiver authority would be granted by the Commission to qualifying states. Specifically, eligible states would not have the following reform provisions of a state law preempted by current ERISA law:

A. Financing authority used to:

1. Collect assessments for purposes of equalizing contributions across health care plans.

2. Provide subsidies to persons without insurance and/or who are difficult to insure.

Current language: "Section 524(b) of ERISA is amended by adding: "(9) Nothing in this section shall be construed to preempt state laws which cause equitable fees, taxes, charges, or other payments to be paid by employers, providers, or other entities; even though the incidence of such payments may eventually be on employee benefit plans; so long as the incidence of such payments is not solely on employee benefit plans, or solely on goods or services purchased exclusively by employee benefit plans."

B. Requirements that set forth the manner and contents that a standard benefit package is offered or provided by employers. A self-insured benefit plan (both multi-state and in-state) would be exempted from fulfilling requirement of this standard benefit if it meets a minimum per-employee dollar value standard. Specifically:

A state standard benefit package would not apply to an employee benefit plan "that is not fully insured (self-insured) and that is a plan for which state laws would otherwise be preempted under Section 514, provided that such employee benefit plan has a benefit package for which the employer's per-employee contribution is determined by the Commission to be equivalent within that state of a national average value of at least $1,250 for an individual and $2,500 for a family (indexed to the State's wage growth)."

C. The development and implementation of a common administrative procedure (i.e., uniform claims forms and billing systems), an electronic claims processing procedure, hospital and other health care provider data collection mechanism, and a utilization review, quality assurance, and medical outcomes mechanism.

D. Negotiated health care provider reimbursement rate/system.

E. This waiver authority could only apply to health benefits and no other ERISA preemptions, such as pension and non-health welfare benefits, could be waived.

8. EVALUATIONS, MONITORING AND COMPLIANCE

Approved states shall submit an annual report on their progress in meeting the cost containment and access requirements detailed in their plan. For states who are not meeting plan requirements, the Commission shall develop, in conjunction with the states, a corrective action plan. For good cause, the Commission has the authority to revoke waivers and terminate demonstrations. Should the Commission choose to take this course of action, states may ask for reconsideration within 30 days of announcement of proposed termination. The Commission then has 30 days to make final decision.

9. COST

As previously mentioned, the State Care plan is subjected to strict annual Federal budget neutrality as it applies to Medicare, and Medicaid expenditures will be no more than the current projected amount over the period of demonstration. (States may use savings derived from the changes in the Medicaid program for use in expanding coverage, to the extent that the overall Medicaid expenditures for the duration of the demonstration are no greater than what they would have been without the demonstration.)

Commission is directed to make recommendations about advisability of increasing Federal financial assistance for state comprehensive health care reform initiatives, and to make recommendations with regard to the amount and source of financing.

For states who have submitted a State Care application which does not meet the Federal budget neutrality provisions described previously, and for whom the Commission views the application as meritorious and deserving of approval, the Commission is directed to make a specific recommendation to the Congress for the appropriation of additional funds for this project. (Nothing in this section precludes a state from directly petitioning Congress for financial support for their program.)

10. OTHER RESPONSIBILITIES OF FEDERAL COMMISSION

The Commission is required to develop a model benefit package that could be used by states applying for this demonstration.

The Commission is required to develop guidelines for a health care data base/infrastructure to gather information on cost, coverage, resources (i.e., availability and distribution of health care personnel and technology), health care needs, and medical outcomes.

If, at the conclusion of the 5-year demonstration, no national, comprehensive health care system has been established, the Commission is required to make specific recommendations to the President and the Congress on establishing a national health plan, which utilizes the experiences of the state demonstrations.

Note.—This proposal builds on S. 1972, the State-Based Comprehensive Health Care Act, which was introduced by Senator Leahy in 1991. Senators Leahy and Pryor will introduce new legislation based on this proposal, and which incorporates the comments and suggestions of representatives of states, consumers, businesses, and a broad range of other interested parties, in the near future.

NATIONAL GOVERNORS' ASSOCIATION,
Washington, DC, August 12, 1992.

Hon. PATRICK J. LEAHY,
U.S. Senate,
433 Senate Russell Office Building,
Washington, DC.

DEAR SENATOR LEAHY: On behalf of the National Governors' Association, we support the legislation introduced by you and Senator Pryor that would assist states in developing and implementing state-based comprehensive health care reform initiatives.

As you are well aware, Oregon, Hawaii, Florida, Minnesota, and your home state of Vermont have taken important steps toward changing their health care systems by enacting and implementing state-based health reform strategies. In the next year we expect several more states to develop such comprehensive approaches. States are poised to move. However, most are prevented from making significant progress because of various federal statutes and regulations that limit state action. States cannot make the sweeping changes necessary without the help of Congress.

At a meeting with you and other members of Congress last June, Governors talked about the need for a state and federal partnership. We are pleased to see that your legislation recognizes that important relationship. Moreover, you have captured an essential component of the partnership—state flexibility and accountability within a vision of comprehensive health care. You and Senator Pryor are to be congratulated.

Waiver authority is key to affecting the needed changes. The legislation establishes streamlined waiver authority in Medicaid and Medicare and gives states the authority to test strategies that are currently precluded under the Employee Retirement Insurance Security Act (ERISA). Without such authority states cannot be expected to meet the goal of a comprehensive plan.

The legislation also removes a significant roadblock to state reform by establishing a commission that will facilitate the waiver approval process as well as give states a single place to secure waivers and receive technical assistance in the development of their demonstration applications. We believe that this is significant.

The National Governors' Association supports the legislation; however, several Governors have expressed concern about certain provisions. For example, ten demonstrations might be too few and federal cost neutrality over the five-year waiver period may be too limiting. We look forward to working with you in the next few weeks to address these concerns. Finally, you have crafted a careful balance between state flexibility and accountability. If this legislation is to have its intended effect, that flexibility must not be eroded.

The nation's Governors are committed to making quality health care affordable and available to all. We believe that through this legislation you have reaffirmed your commitment to that goal as well. We thank you for all of your efforts and look forward to working with you and other members of Congress to assure that this legislation becomes law.

Sincerely,

GOV. ROY ROMER,
Chairman, National Governors' Association.
GOV. HOWARD DEAN,
Cochairman, Task Force on Health Care.
GOV. George S. Mickelson,
Cochairman, Task Force on Health Care.

Mr. PRYOR. Mr. President, today I am pleased to join my friend and esteemed colleague from Vermont, Senator LEAHY, in introducing legislation to provide needed flexibility to States which are committed to comprehensively reforming their health care systems. We are honored to be joined in this effort by the majority leader, Senator ROCKEFELLER, Senator RIEGLE, Senator CHAFEE, Senator DANFORTH, Senator KERREY, Senator WELLSTONE, Senator ADAMS, Senator AKAKA, Senator BINGAMAN, Senator GRAHAM, Senator INOUYE, and Senator JEFFORDS.

Mr. President, everyone of us in this body is struggling to find a workable solution to the overwhelming health care challenges that confront our Nation. No one is satisfied with, or accepting of, the status quo.

There is no question that we must find a way to achieve nation-wide, comprehensive reform of our health care system. Following Senator MITCHELL's lead, I remain committed to developing and passing a workable and comprehensive national health care reform initiative at the earliest possible moment.

Unfortunately, to date, we have not been able to achieve consensus on a comprehensive health care reform package that the President will sign into law. It is fascinating to note, however, that there is a common thread that runs throughout virtually every significant health care reform proposal before us. Despite the differing and numerous alternative approaches, every proposal provides for a significant amount of State flexibility and responsibility. This is the case with the Mitchell/Kennedy/Rockefeller/Riegle bill; it is the case with Senator KERREY's bill; it is the case with Senator WELLSTONE's bill; and it is the case with the Republican Health Care Task Force bill, whose primary author is the chairman of the task force, Senator CHAFEE. I am pleased to say that every one of the primary sponsors of these bills is joining with Senator LEAHY and me in introducing our legislation today.

Why is it that the major health care initiatives emerging from both sides of the aisle all assure a significant State role? I believe the answer is twofold. First, all of us want to ensure that our health care system is more accountable and responsive to local desires and needs. Second, and probably at least as important, it is because the States and their Governors have been the ones who have succeeded in progressing from talking about the problem to actually acting to solve it. In fact, more than 15 States are working on massive system-wide restructuring. At least four States have actually passed legislation that begins to implement massive overhauls of their health care systems.

Unlike the Federal Government, these States have sought and, to the extent possible, achieved consensus within their own borders. These achievements were not accomplished without controversy. They were also not achieved without political risk, leadership, and courage. Most importantly, though, they were achieved.

Unfortunately, according to a June 1992 General Accounting Office report, many if not all of the State health care reform initiatives cannot be successfully implemented without the removal of certain Federal statutory barriers. In effect, therefore, our Federal inaction is not the only barrier to providing affordable health care to our citizens; current Federal law actually provides a significant roadblock as well.

The purpose of the legislation we are introducing today is to remove those roadblocks for States that are committed to overhauling their health care delivery systems. Through a new Federal commission, our bill sets up a streamlined, "one-stop-shop" waiver approval process that provides narrowly crafted, but important, waivers from Medicare, Medicaid, and the Employee Retirement Income Security Act [ERISA]. These waivers are absolutely necessary to the success of state-based comprehensive health care reform efforts.

To be eligible to receive the waivers, States must submit a plan to the Commission that is comprehensive, and meets strong access, cost-containment, and quality assurance criteria. States also must continue to provide Medicare services to the Medicare population and federally-mandated Medicaid services to Medicaid recipients.

Mr. President, we have worked for months with representatives of consumers, States, small and large businesses, and many others in developing this legislation. While our bill is not flawless, we believe it moves a long way toward striking a fair and reasonable balance between interested parties. Having said this, as we have been in the months prior to today's introduction, we remain open to constructive suggestions. In fact, we sincerely hope that our introduction of this bill will be taken as an open invitation for comments and suggested improvements.

To further the debate on this issue, I am particularly pleased that the chairman of the Finance Committee, Senator BENTSEN, is planning on holding a hearing on State-based health care reform initiatives in September. I would like to take this opportunity to thank Senator BENTSEN and his staff for the encouragement and technical support they have given me and my staff throughout the development of this bill.

Mr. President, there is no question that there will be those who will oppose this effort. They will cite a number of reasons, but I fear the real reason is that their second choice for health care reform is to do nothing. I do not believe we can accept or condone this position.

The first choice for restructuring our health care system, including the first choice of almost every Governor, is that the Federal Government meet the need for national comprehensive reform. However, if a divided Government ensures that we cannot gain consensus on the national reforms we so desperately need, we simply cannot continue to hold the States hostage to our gridlock.

Mr. President, it is essential to remember, though, that this bill can, in some respects, work out as being the first choice of practically everyone. First, it can work to fill in some of the details of the previously introduced nationally, comprehensive initiatives. Second, waivers are not granted in any case unless the State-based effort is comprehensive in nature. Finally, while holding the States accountable for comprehensive, affordable, quality, accessible health care, it does not direct the States as to how they must achieve these criteria. In other words, advocates of single-payer approaches, advocates of employer-based approaches, and advocates of everything around and between might well see their approach embodied in one of the States' comprehensive efforts.

Mr. President, regardless of the approach, I cannot and I will not continue to look into the eyes of the Governors committed to comprehensive health care reforms and say, "Sorry, because we don't have a national solution, there can be no solution." If an individual State can come up with a program that assures access to quality, affordable health care to its citizens, who are we to stand in the way?

I have long felt that we, as representatives of the Federal Government, are all-too-frequently negative and overly paternalistic to State-born reform initiatives on almost any issue. Sometimes it seems that if the idea isn't ours, we always find a way to show that it somehow isn't good enough. Well, when it comes to health care reform, at least to date, we have not come up with anything better than what many of the States are offering. To the contrary, we have as yet to produce anything approximating comprehensive reform.

There is broad-based and bipartisan support for this important initiative. I am particularly pleased to report that, despite the fact that the Governor—like everyone else—were forced to compromise on many issues of importance to them, the National Governors' Association [NGA] has indicated its support of this bill. I would like to thank the NGA, as well as the Democratic Governors' Association, for their thoughtful and constructive suggestions.

Many other organizations, in particular, Families USA, have also been extremely helpful. I look forward to working with all interested parties to assure we have the strongest package possible.

I am also extremely pleased to note that Congressman WYDEN has already indicated his desire for introducing the companion legislation on the House side. Although not cosponsoring this legislation today, I would also like to thank Senator DURENBERGER for his interest and support of many of the concepts outlined in this legislation. Senator LEAHY and I are very encouraged by these developments. I urge all of our colleague to join Senator LEAHY, Congressman WYDEN, and me in our efforts to help the State help their, and our, constituents.

Finally, Mr. President, I would like to take one moment to say what an honor and a privilege it has been to work with Senator LEAHY and his fine staff on this bill. Senator LEAHY has been trying to breathe life into his proposal for over a year now. I know there are many times when he felt like it was a hopeless cause. Today's introduction of our bill represents a vindication for his efforts and his commitment to change and restructure our health care system. It is my hope that we all will take need of his call for action. My constituents and I have concluded that the time for talk has long passed.

Mr. MITCHELL. Mr President, I rise today in support of the State Care Act, legislation developed by Senators LEAHY and PRYOR in an effort to encourage and assist State-based comprehensive health care reform efforts.

I support this effort because it is consistent with HealthAmerica, comprehensive health care reform legislation I introduced last year to reform the Nation's health care system to assure that every American has access to quality, affordable health care.

Access to affordable health care is a fundamental right in a Democratic society. Yet it is a right that cannot be exercised by more than 35 million Americans. And it is a right that is being lost to 1 million additional citizens each year.

But the Nation's health care crisis is not limited to those who have no health insurance. It threatens every American. It threatens those who may become unemployed because of the lingering recession. It threatens those who may develop a serious illness and have their insurance premiums increased to an amount they cannot pay. It threatens those who cannot purchase insurance at any price because they suffer from a pre-existing condition.

The health insurance system in this country has broken down. It no longer affords peace of mind for parents who want to provide the best care available for their children or their parents or themselves.

There is little disagreement about the existence of the crisis. But there continues to be disagreement about how to resolve it. I believe that meaningful health care reform must include serious cost containment strategies and must assure that every American has access to health care.

While I believe that we should build upon our public-private health care system, I also believe that the system needs fundamental reform. We can no longer afford "business as usual" and allow millions of Americans to be denied health care. Fundamental reform of the health care system will be difficult.

And yet, we commit ourselves to that goal.

While we, at the Federal level struggle with how best to reform the Nation's health system, we must, and should, look to the States for ideas. Many of the States are struggling with the same dilemmas that we face in

Washington. And yet, some States are at the forefront of implementing important reforms which will contain the escalating costs of health care while expanding access to those without coverage.

We can look to Hawaii as an example of a State that has been successful at providing access to health care for most of its citizens for more than 17 years. While the Hawaiian health care system is not perfect, it comes closest to what we hope to achieve for every American.

In 1974, Hawaii adopted a law that required businesses to offer health insurance to virtually every employee. Those exempted, such as seasonal and part-time workers, as well as students, would be covered by special State subsidies. Within a very short time, and with minimal economic disruption to business, the State's medically uninsured population fell to less than 5 percent.

Moreover, in a State with one of the nation's highest costs of living, health insurance premiums are remarkably low. The average Hawaiian family of four today pays half the rate of Californians and those in many other States.

And perhaps most important, Hawaiians' health status has improved. The infant mortality rate is down 50 percent from its 1974 rate. Life expectancy is now 78 years, the highest in the Nation.

I am committed to enacting comprehensive health care reform which will assure that every American has access to affordable health care while controlling the costs of care for the Nation as a whole, for States and for families.

The Leahy/Pryor State Care Act is consistent with that commitment. This legislation will allow a limited number of States that have enacted comprehensive reforms, which are consistent with the fundamental requirements contained in my own legislation for access and cost containment, to take advantage of a streamlined and expanded waiver approval process for Medicare, Medicaid, and ERISA waivers.

The bill is consistent with a provision included in HealthAmerica, as reported out by the Senate Labor and Human Resources Committee which allows States to opt out of employer-based health care reform as long as certain cost containment and access criteria are met.

The legislation is not a perfect solution to the problems faced by States attempting to implement comprehensive health care reforms. But it is a sincere effort to encourage and assist States as they attempt to control costs and provide access to care for all of their citizens. We will continue to revise and refine this legislation to assure that quality care is protected for Medicare and Medicaid beneficiaries and that legitimate business and labor interests are addressed.

I comment Senators LEAHY and PRYOR for their efforts in the development of this legislation. I look forward to working with them to further refine the bill as we work together to assist States to implement comprehensive reforms that are consistent with Federal health care reform legislation.

Mr. RIEGLE. Mr. President, today I am joining my distinguished colleagues, Senators LEAHY and PRYOR and others, in cosponsoring S. 3180. This legislation, called StateCare, will provide States with the tools to move ahead with strong health care reform proposals that require waivers under Medicare, Medicaid, and the Employee Retirement Income Security Act [ERISA].

I believe that State experience is vital in helping us develop a comprehensive reform plan that can work. I recently had a hearing in the Finance Subcommittee on Health for Families and the Uninsured on innovative programs States are developing to control health care costs and expand coverage to their uninsured citizens. State experience is an important part of the national debate on health care reform. At the same time, the States cannot alone solve the health care crisis in our Nation. This country desperately needs a national health care reform program for all its citizens.

The purpose of introducing the bill today, before the August recess, is to solicit the views of individuals and organizations on the legislation in preparation for a September hearing.

This country spends more than $800 billion on health care annually, or about $2.2 billion a day more than any other nation. A decade ago, a family's out-of-pocket costs were $1,700 in 1980 and rose to $4,300 in 1991. At the same time, more than 35 million Americans have no health care coverage. Skyrocketing health care costs and the growing number of Americans with no health insurance are signs that our health care system must be reformed.

State officials see the crisis firsthand and have direct experience in this area. States are major purchasers of health care, primarily through the Medicaid Program, but they also regulate insurance, license health care professionals and institutions, allocate capital resources, and deliver services.

Recent developments in many of our States illustrate that reform is possible. So far this year, Florida, Minnesota, and Vermont have passed programs and more States are considering reform proposals. Hawaii has had a comprehensive program in place since 1974 that builds on the current employer-based system and makes sure health care is available for everyone. At the hearing I held, the Governor of Hawaii stated that they found that universal access itself has helped to hold down health care costs in Hawaii.

State and Federal Governments clearly need to work together on reforming our Nation's health care system, both now and in the future, as Congress moves forward on reaching a consensus on national reform. More immediately, States face Federal statutory and regulatory barriers to implementing innovative plans and I want to continue to work with States on this. But I think we all agree that these State initiatives are not a substitute for national reform. In fact, this bill extends waiver authority for only 10 State programs. Ultimately, the Federal Government must be involved to set uniform standards in place to control skyrocketing costs and to guarantee coverage for every American.

The intent of S. 3180 is to remove the current barriers for reforms for those States that have comprehensive proposals. A new Federal commission would be established to streamline the waiver process and set up a one-stop-shop for the approval process. The commission would monitor the programs to ensure that the criteria relating to cost controls and access are met.

Mr. President, while I agree in principle with helping States with programs that are truly comprehensive—with universal access and strong cost controls—I remain concerned about a number of issues which I would like to continue working on with the sponsors of the bill.

It is critical that State proposals ensure universal access to health care both for social good and to eliminate the current shifting of costs onto those who now have health insurance, including businesses and workers. While the bill would require States to recommend plans for covering all uninsured, we must ensure that the plans are actually implemented.

As chairman of the Finance Subcommittee on Health for Families and the Uninsured, I also believe that strong protections must be in place to make sure that Medicaid beneficiaries continue to receive high quality care and do not incur additional cost-sharing or other requirements that may adversely affect them. I know that Senators LEAHY and PRYOR are also concerned about this and I stand ready to work with them and other groups such as Children's Defense Fund and Families U.S.A. who are also concerned about the specific details related to Medicaid waivers.

In addition, I am concerned that without a national plan and national standards, changes to ERISA which give States more authority to impose requirements on self-insured plans may unfairly treat businesses that are currently offering health care and their workers, especially if they would not benefit from the reforms. I want to continue working with labor union organizations on this area in particular.

I want to emphasize that a State-by-State approach would not now be needed if we had the leadership from the

White House to move comprehensive reform. Clearly, a statewide approach by itself would create problems particularly for businesses that operate in many States. But I know my colleagues would agree that this proposal is not a substitute for national reforms. In fact, many of us, including Senators LEAHY, PRYOR, MITCHELL, ROCKEFELLER, WELLSTONE, and KERREY and myself, are now working on developing a new consensus proposal that would systematically reform our health care system.

Mr. President, now more than ever, this country needs a national health care program. I am committed to accomplishing this goal. I know Senators LEAHY and PRYOR are equally committed to this and I commend them for their leadership and look forward to working with them on this bill and on national health care reforms.

Mr. GRAHAM. Mr. President, I am pleased to be a cosponsor of the State health care reform bill introduced today. I commend Senators LEAHY and PRYOR for their commitment to this issue.

The bill would provide important Medicare, Medicaid, and ERISA waiver authority for States to move forward with health care reform plans. Under the measure, up to ten states could implement health reform programs through a State Health Care Authority composed of providers, insurance industry, and labor representatives.

I am pleased that Congress will consider State health reform legislation, as well as other incremental health measures this year. Our Nation's uninsured will ultimately benefit from a comprehensive health reform plan. In the interim, we should pursue realistic, short-term reforms such as permitting the States to manage the health care crisis in a reasonable and responsible fashion.

Florida is a leader in this area. The State legislature has passed into law a comprehensive State health plan proposed by Governor Lawton Chiles. The health proposal was created to resolve the unique health and economic concerns of a large, growth State such as Florida. Florida has the Nation's third highest percentage of nonelderly uninsured residents—22.9 percent or 2.5 million uninsured persons.

Florida's plan created a new agency for Health Care Administration, with responsibility for cost control, medical licensure, and implementation of a State health reform plan. Until 1995, the State will pursue voluntary cost containment measures and health insurance coverage expansion, including a Medicaid buy-in. Should voluntary cost containment and coverage goals not be met by December 31, 1994, the agency must submit a proposal to the Governor which mandates health coverage for all Floridians.

The Leahy-Pryor State health reform bill would enable Florida to implement the above health reforms. I am concerned, however, that the legislation does not contain a specific financing mechanism for State health reform efforts, such as Florida's Medicaid buy-in. It is my hope that this issue will be settled before the legislation is enacted.

A provision of the State health reform legislation would allow States to use Medicaid savings resulting from health reform efforts for future State health reform improvements or expansions. I fully support this language and hope that the mechanism is expanded to include a guaranteed funding stream for State programs.

Mr. President, the State health reform bill will allow States to provide access to some of the 37 million uninsured. It is a vital first step in the process of creating a national, comprehensive health plan for the Nation's most needy persons.

By Mr. DOMENICI (for himself and Mr. SANFORD):

S. 3181. A bill to establish a filing deadline and to provide certain safeguards to curb frivolous and other cases not substantially justified which are brought under the Securities and Exchange Act's implied private action provisions; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES PRIVATE ENFORCEMENT ACT

Mr. DOMENICI. Mr. President, Senator SANFORD and I are introducing a bill today that will help return some rational, merit-based criteria to securities litigation. There is something wrong when cases settle regardless of the merits. There is something wrong when experienced and respected members of the corporate community refuse to serve on the boards of high technology companies because of potential liability from unwarranted securities litigation. There is something wrong when accounting firms are withdrawing from the auditing business and are shunning emerging, high technology companies as clients because high technology is a high-risk target for 10(b)(5) securities litigation. There is something wrong when real victims of fraud receive as little as 5 cents for every dollar of their loss and the lawyers receive the lion's share of any settlement. There is something wrong when the attorney's fees for the defense are twice the settlement. There is something wrong when accountants are paying more in legal fees than any other expense except salaries.

What's wrong is that we are suffering from hyperlexia, a serious disease caused by an excessive reliance on law and lawyers. It is pervasive throughout our society but has reached epidemic dimensions in the court-created private actions brought under section 10(b) of the Securities and Exchange Act of 1934. This litigiousness is killing entrepreneurship, and with it, significant growth potential for our economy.

These lawsuits are making it harder for American companies to raise capital, and to attract experienced board members. These lawsuits chill creativity, discourage new ventures and dampen job creating potential. At the same time these lawsuits distract entrepreneurs and make it more difficult of them to focus on the business of being competitive.

We have professional plaintiffs who benefit from secret fee splitting arrangements. As one scholarly commentator has noted, plaintiffs' attorneys in this field have made "the ambulance-chaser by comparison a paragon of propriety." Often a lawsuit is filed within 1 day to 1 week after a stock's price drops. The Wall Street Journal has called it "a class action shakedown racket."

Senator SANFORD has been a director of several corporations. His commitment to this issue grows out of concern for others, like himself who serve on corporate boards. But since many of my other colleagues have not served as an officer, director or other professional involved in securities public offerings and disclosure, I will briefly explain how a bad stock market investment decision can be transformed into a nifty legal settlement.

As one Virginia law firm advertised: "Losses in the financial or stock markets? You may have a legal remedy."

There is no mention of the need to prove whether false or misleading statements were made or whether there were material omissions of fact. The ad doesn't mention the requirement that the plaintiff must prove he justifiably relied on the factual misrepresentations. The ad leaves out the need to prove that the defendant intended to defraud the investor and potential client. The ad makes it sound simple: If you lost money, you sue. A 10(b)(5) lawsuit is a way for speculators to hedge their investment.

If a stock goes up, the officers, directors, and anyone else incidentally involved are sued by people who sold too soon. If the stock goes down, speculators who bought and held stock sue. If the stock doesn't move other lawsuits are filed.

And plenty of lawsuits are filed. In the last 3 years, 1 out of every 12 stocks traded on the New York Stock Exchange have been sued.

In reviewing the settlements of recent lawsuits, studies confirm that there is little difference in the settlement of meritorious and meritless lawsuits. In 10–b hyperlexia, the plaintiff with a meritless placebo suit typically recovers as much as the plaintiff with a meritorious claim. I think this threatens the integrity of our judicial system.

Supporting the contention that these lawsuits have become predatory, is the existence of a when to sue formula. Class action firms do not find it profitable to sue companies if the potential recovery is less than $20 million, regardless of the merits of the claims against such companies. Merits don't matter. A strong case is worth no more than a weak one.

According to a recent Stanford Law Review article, we now have, in essence, a no-merits-based legal system triggered by formula. It effectively transfers wealth from plaintiffs with strong cases to those with weak cases.

Securities and Exchange Commissioner Richard Breeden has summed up the situation with the statement, "heads I win, tails I sue."

The 10–b cases are opportunities for speculators and a few predatory law firms to coerce large settlements from American businesses, especially new and emerging companies whose stock is particularly susceptible to stock price swings.

Computers are programmed to alert lawyers to volatile stock price swings; they find their professional plaintiff; they print out their pro forma pleadings on their word processors and race to the courthouse.

The National Law Journal has reported that, of 46 cases it studied, 12 were filed within 1 day after a company's disclosure of less than anticipated earnings or other disappointing news. Another 30 law suits were filed within 1 week. Lawyers filing cases within days or weeks of a little bad news have not done any serious examination of the facts, and circumstances surrounding the situation. The cookie cutter complaints are filed and reused against company after company. One firm is distinguished for its multiple pro forma complaints—all identical right down to the same misspelled words.

From the board room to the stock room people know that these lawsuits are hurting the American economy. The burden of frivolous litigation does more than impose additional costs on new companies. It erects tremendous obstacles to developing and marketing successful future products by making the experienced investment bankers and accounting firms, whose assistance is important for accessing capital markets, less willing to work with new ventures because of the higher risk of litigation associated with them.

A March 3, 1992 Wall Street Journal article reported that 56 percent of accounting firms polled were limiting industries that they will take as clients; 79 percent are limiting services offered.

Two prominent investment firms were defendants in 60 and 73 lawsuits respectively as a result of public offerings they had underwritten.

Making prestigious individuals reluctant to serve on the boards of such companies for the same reason. This reduces the company's credibility to investors and lenders.

Diverting management's attention from expanding the business to managing the litigation.

The Supreme Court in 1975 recognized that "litigation under Rule 10b–5 presents a danger of vexatiousness different in degree and kind from that which accompanies litigation in general." *Blue Chip Stamps* v. *Manor Drug Store*, 421 U.S. 723, 739 (1975).

Unfortunately, the Supreme Court prophesied too well the potential for abuse.

> [In] the field of federal securities laws governing disclosure of information even a compliant which by objective standards may have very little success at trial has a settlement value to the plaintiff out of any proportion to its prospect of success at trial so long as he may prevent the suit from being resolved against him by dismissal or summary judgment. The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

The types of potential abuses described by the Supreme Court 15 years ago have become a real life litigation nightmare. The situation promoted the American Business Conference to pass a resolution on September 30, 1991 stating:

> Whereas a substantial portion of the cost of this litigation explosion, in time and money, burdens American corporations as they try to compete in a difficult economic environment, and whereas those costs are reflected in higher prices, fewer new jobs, and most important, a compromised civil justice system that invites cynicism rather than respect * * * resolved * * * the purpose of such suits is to coerce large settlements from firms under threat of lengthy and expensive pretrial discovery proceedings. Such legal piracy harms the economy's competitiveness and does nothing to improve the civil justice system or the rights of citizens under that system.

The impact on emerging companies like those who are members of the American Business Conference is very serious because these companies are companies creating the new products and the new jobs. But their companies' stock also frequently has large, unanticipated swings in earnings that plaintiffs and their lawyers seize upon as the basis for a lawsuit. For example every computer-related company in northern California that made an initial public offering between 1983 and the 1987 market collapse was named in a securities action.

Seagate Technology, a California disk drive manufacturer has been subjected to 13 securities class actions. Twelve were triggered when their stock price dropped.

The 13th was triggered by an increase in earnings. The claim in that lawsuit was that the company failed to disclose that it expected to do better than it had in the previous quarter.

Seagate spent millions defending these cases. This does not include time that the company's executives have had to spend on litigation. This is time and attention that could be more productively spent on their business.

An officer of Seagate Technology stated, "When I spend mind share on these suits, it cheats my company. These suits are not just nonproductive. They are counterproductive."

Apple Computer was found liable for $100 million. The judge later threw out the case on the ground that there was "no substantial evidence" of a violation.

Paul Wythes, a Palo Alto venture capitalist said, "These high-technology companies are trying to compete in a world market. They ought to be out trying to do a better job designing products. You don't see these suits happening in Japan."

Securities laws are supposed to help investors by ensuring a flow of accurate information about public companies. The present system actually reduces the amount of available information.

Oracle Systems Corp. which was the target of 19 class actions in 1990 had adopted a no comment policy. It refuses to provide market analysts with information about its expected revenues and earnings.

These 10b–5 cases are hurting the accounting firms. One accounting firm—the seventh largest in the country—filed for bankruptcy in 1990 due, in large part, to the burden of securities fraud claims.

Independent outside directors are important to good corporate governance. They perform the critical role of watching over corporate managers. In light of the substantial danger of manufactured claims of fraud, there are fewer and fewer experienced people willing to serve as outside directors. These independent directors are always sued when their company is sued.

A recent study done by the National Association of Corporate Directors and Arthur Young reports that 17 percent of the CEO's of the Fortune 1000 companies no longer serve as independent directors on boards of companies other than their own.

One company executive is quoted in Business Week, "We can't attract good directors. Why should they put their whole net worth on the line?"

Some companies try to attract outside directors by providing officers and directors insurance. But like other liability insurance, the cost of coverage has skyrocketed in recent years so that even that option may not be available.

Armada Corp., a Detroit-based manufacturer of alloys and exhaust systems, was faced 7 years ago with a premium increase from $47,000 to $720,000 for $10 million coverage; the deductible also increased from $125,000 to $750,000. In response, Armada eliminated its insurance coverage and 8 of its 10 directors resigned.

The company's president stated that it had:

> Decided we could only afford to have low-net-worth individuals to replace the directors who left. So we found well-qualified individuals who are a little younger, whose net

worth is low enough so we don't have a problem.

Is this how companies should be forced to select directors?

The fact that many qualified individuals decline to serve as outside directors hurts start-up and emerging companies. These companies need the advice of experienced managers.

If inexperienced individuals are the only ones willing to take the risk, the quality of decision making and the company's ability to obtain financing will necessarily suffer. This hurts America's competitiveness.

The result is that fewer companies will be formed and few products will be brought to market. Everyone says they care about competitiveness. yet if we don't stop this destructive trend, the only manufacturing preeminence the United States may enjoy in the future is its world renowned ability to manufacture lawsuits.

We should enact a fee shifting provision, consider changing joint and several liability, limiting finders fees that attorneys pay to plaintiffs to participate as representatives in lawsuits.

I ask unanimous consent that the text of the bill, a description of the bill, and a letter from Securities and Exchange Commissioner Richard Breeden be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 3181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Securities Private Enforcement Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) excessive securities litigation is a serious drag on the national economy, and is impairing the efficient allocation of the Nation's capital;

(2) meritless lawsuits filed under Federal securities laws are making it harder for American companies to raise capital and attract experienced members to serve on their boards;

(3) excessive litigation distracts entrepreneurs and makes it more difficult for them to focus on being competitive;

(4) in the past 3 years, issuers of 1 out of every 12 stocks traded on the New York Stock Exchange have been sued for securities fraud;

(5) in the securities fraud area, the civil justice system is being transformed into a nonmerit-based, unjust system, in which professional plaintiffs extract settlements from entrepreneurs, regardless of the merits of the cases filed;

(6) such securities lawsuits impose additional costs on publicly traded companies, often force them into bankruptcy, and cost the economy jobs;

(7) such securities fraud lawsuits also erect tremendous obstacles to developing and marketing successful future products by making investment bankers and accounting firms whose assistance is essential for accessing capital markets less willing to work with new venture firms because of the higher risk of litigation associated with them; and

(8) reform in the securities fraud laws are needed to ensure that the courts can properly hear and adjudicate securities fraud cases.

(b) Purposes.—The purposes of this Act are—

(1) to ensure that fewer frivolous securities fraud suits are filed in Federal courts for the primary purpose of coercing nuisance settlements from innocent defendants;

(2) to enact adequate incentives for evaluating the merits of a case prior to filing and to create disincentives for filing meritless securities fraud lawsuits;

(3) to provide standards of proportionate liability in these implied private actions in which defendants did not knowingly make false misrepresentations;

(4) to curb abusive practices involving conflicts of interest, bounties, bonuses, and referral fees; and

(5) to prohibit the payment of attorneys' fees from the Securities and Exchange Commission's disgorgement funds.

SEC. 3. TIME LIMITATION ON PRIVATE RIGHTS OF ACTION UNDER THE SECURITIES EXCHANGE ACT OF 1934.

(a) Filing Deadline for Private Rights of Action.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 36. LIMITATION ON PRIVATE RIGHTS OF ACTION.

"(a) In General.—Except as otherwise provided in this title, any private right of action arising from a violation of this title shall be brought not later than the earlier of—

"(1) 5 years after the date on which such violation occurred; or

"(2) 2 years after the date on which the violation was discovered or should have been discovered through the exercise of reasonable diligence.

"(b) Award of Fees.—

"(1) In general.—In any implied private action arising under this title, if the court enters a final judgment against a party litigant on the basis of a motion to dismiss, motion for summary judgment, or trial on the merits, the court shall, upon motion by the prevailing party, award the prevailing party reasonable fees and other expenses incurred by that party, to the extent permitted by this section.

"(2) Substantial justification standard.—If the court determines that the position of the losing party in an action described in paragraph (1) was substantially justified, it shall not award fees and other expenses to the prevailing party under this subsection. The determination of whether the losing party's position was substantially justified shall be made on the basis of the record made in the civil action for which fees and other expenses are sought.

"(c) Preliminary Ruling Required.—

"(1) In general.—The court may award fees and expenses to the prevailing party under subsection (b)(1) only if the court previously rendered a preliminary ruling that an award to the prevailing party of fees and other expenses might be appropriate in the action.

"(2) Motion for preliminary ruling.—At the time prescribed by the Federal Rules of Civil Procedure for the filing of a motion to dismiss the complaint or at the time that a party files a motion for summary judgment, in addition to such motion, any party may file a separate motion seeking a preliminary ruling that such party is entitled to recover fees and expenses in the event that such party ultimately prevails in the action, alleging that the position in the underlying litigation of the opposing party or parties is not substantially justified. Such motion may be accompanied by affidavits.

"(3) Grounds for granting motion.—The court shall grant a preliminary motion for fees and expenses if it appears, on the basis of the motion, the response thereto, and any accompanying affidavits, that the position of the party opposing the motion might not be substantially justified. In making this determination, the court need not take the allegations of the complaint as true, and may make a preliminary judgment respecting disputed facts material to the underlying cause of action.

"(4) Recovery of fees.—If the court grants a party's motion for a preliminary ruling under paragraph (3), that party is eligible to recover reasonable fees and expenses incurred by that party following the date on which the motion is granted. Such fees and expenses may be recovered, subject to all other requirements of this section.

"(d) Application for Fees and Expenses.—A party seeking an award of fees and other expenses shall, not later than 30 days after a final judgment in a private right of action arising from a violation of this title, submit an application to the court for fees and other expenses that—

"(1) verifies that the party is entitled to such an award under subsections (b) and (c);

"(2) specifies the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party;

"(3) states the actual time expended by such attorneys and witnesses; and

"(4) specifies the rate at which fees and other expenses were computed.

"(e) Discretionary Actions.—The court, in its discretion, may—

"(1) determine whether fees and expenses awarded pursuant to this section shall be awarded against the unsuccessful party, its attorney, or both; and

"(2) reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy.

"(f) Motions for Certain Orders.—In adjudicating any motion for an order compelling discovery or any motion for a protective order made in any implied private action arising under this title, the court shall award the prevailing party reasonable fees and other expenses incurred by the party in bringing or defending against the motion, unless the court finds that special circumstances make such an award unjust.

"(g) Definitions.—For purposes of this section—

"(1) the term 'fees and other expenses' includes—

"(A) the reasonable expenses for expert witnesses;

"(B) the reasonable costs of any study, analysis, report, test, or project which is found by the court to be necessary for the preparation of the party's case; and

"(C) reasonable attorneys' fees and expenses,

based upon the prevailing market rates for the kind and quality of services furnished; and

"(2) whether a position is 'substantially justified' shall be determined in the same manner as in section 2412(d)(1)(B) of title 28, United States Code.".

SEC. 4. PROPORTION OF LIABILITY.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new sections:

"SEC. 37. REQUIREMENT OF PROPORTIONATE LIABILITY FOR PRIVATE CAUSES OF ACTION IMPLIED UNDER THIS TITLE.

"(a) APPLICABILITY.—This section applies only to the allocation of damages among defendants. Nothing in this section shall affect the standards for liability associated with any implied private action arising under this title.

"(b) LIABILITY BASED ON KNOWING SECURITIES FRAUD.—A defendant found liable for damages in an implied private action arising under this title may be liable jointly and severally only if the trier of fact specifically determines that the defendant engaged in knowing securities fraud, as defined in subsection (d).

"(c) OTHER BASES FOR LIABILITY.—If the trier of fact finds, pursuant to subsection (b), that the defendant did not engage in knowing securities fraud, the defendant's liability shall be determined as follows:

"(1) ALLOCATION OF LIABILITY.—The trier of fact shall determine the percentage of responsibility of the plaintiff, of each of the defendants, and of each of the other persons or entities alleged by the parties to have caused or contributed to the harm alleged by the plaintiff. In determining the percentages of responsibility, the trier of fact shall consider—

"(A) the nature of the conduct of each person; and

"(B) the nature and extent of the causal relationship between that conduct and the damage claimed by the plaintiff.

"(2) FORMULA.—For each defendant, the trier of fact shall multiply that defendant's percentage of responsibility (determined under paragraph (1)) by the total amount of damage suffered by the plaintiff that was caused in whole or in part by that defendant, and shall enter a verdict or judgment against the defendant in that amount. No defendant whose liability is determined under this subsection shall be jointly liable on any judgment entered against any party to the action.

"(3) LIMITATION ON OFFSET RECOVERY.—Except where a contractual relationship permits, no defendant whose liability is determined under this subsection shall have a right to recover from another defendant any portion of the judgment entered against that defendant.

"(d) DEFINITION.—

"(1) IN GENERAL.—For purposes of this section, a defendant engages in 'knowing securities fraud' only if such defendant—

"(A) makes a material representation with actual knowledge that the representation is false or omits to make a statement with actual knowledge that, as a result of the omission, one of the defendant's material representations is false; and

"(B) knows that other persons are likely to rely on that misrepresentation or omission.

"(2) EXCLUSION OF RECKLESS CONDUCT.—Reckless conduct by the defendant shall not be construed to constitute 'knowing securities fraud'. The liability in damages, if any, of a defendant who acts in a reckless manner shall be determined in accordance with subsection (c).".

SEC. 5. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 21, by adding at the end the following new subsections:

"(i) RECOVERY BY NAMED PLAINTIFFS IN CLASS ACTIONS.—In any implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the share of damages under any final judgment or any settlement that is awarded to any party serving as a representative plaintiff shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the plaintiff class. The preceding sentence may not be construed to limit the award to a representative plaintiff of reasonable compensation, costs, and expenses relating to the representation of the class.

"(j) PROHIBITION OF CONFLICTS OF INTEREST.—In any implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, if a party is represented by any attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.";

(2) in section 15(c), by adding at the end the following new paragraph:

"(7) RECEIPT FOR REFERRAL FEES.—In any implied private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, no broker or dealer may solicit or accept remuneration for assisting an attorney in obtaining the representation of any member of the class."; and

(3) in section 21(d), by adding at the end the following new paragraph:

"(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM DISGORGEMENT FUNDS.—Except as otherwise ordered by the court, funds disgorged as a result of any action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking a share of the disgorged funds.".

SEC. 6. ISSUANCE OF SUBPOENAS IN JUDICIAL ACTIONS.

(a) SECURITIES ACT OF 1933.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 78v(a)) is amended by inserting after the second sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

(b) SECURITIES EXCHANGE ACT.—Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended by inserting after the third sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

(c) INVESTMENT COMPANY ACT.—Section 44 of the Investment Company Act of 1940 (15 U.S.C. 80a-43) is amended by inserting after the fourth sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

(d) INVESTMENT ADVISERS ACT.—Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended by inserting after the third sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

(e) PUBLIC UTILITY HOLDING COMPANY ACT.—Section 25 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79y) is amended by inserting after the third sentence the following: "In any action or proceeding instituted by the Commission or the United States under this section, subpoenas for witnesses who are required to attend a court of the United States in any district may run into any other district.".

SEC. 7. EFFECTIVE DATE.

The provisions of this Act (and the amendments made by this Act) shall apply to all actions commenced on or after the date of enactment of this Act.

SUMMARY OF PROVISIONS IN THE SECURITIES PRIVATE ENFORCEMENT ACT OF 1992

This bill applies to implied private actions brought under provisions of the Securities Exchange Act of 1934, principally actions under Section 10(b) of that Act and Securities and Exchange Commission Rule 10b-5.

STATUTE OF LIMITATIONS

The Supreme Court's decision in the *Lampf* case recognized a statute of limitations for 10b-5 claims of one year from discovery, but no later than three years from the date of the violation. The bill would substitute a rule of two years from discovery but not later than five years from the date of the violation. The two year period would begin to run when the violation was discovered or would have been discovered with the exercise of reasonable diligence.

FEE SHIFTING

This provision of the bill provides that the losing party or his attorney in a securities fraud action may be required to pay the attorneys' fees incurred by the winning party. The bill does not mandate automatic fee shifting. The loser must pay the winner's fees only if two conditions are satisfied.

First, if the losing party establishes that its position was "substantially justified," it is not required to pay the winner's fees. The substantially justified standard is drawn from the Equal Access to Justice Act, 28 U.S.C. section 2412(d), and means that the loser's position be substantial than simply not frivolous in order to preclude fee shifting.

Second, fees may be awarded only to the extent the losing party was put on notice that he or she might have to pay attorneys' fees if they lost and the judge rules that the case was not substantially justified. At two different stages in the litigation—the filing of a motion to dismiss and the filing of a motion for summary judgment—any party may file a separate motion seeking a preliminary ruling that fees may be awarded if they subsequently prevail on the merits.

If the court grants the fee shifting motion, the prevailing party is eligible to recover any fees incurred in the litigation from that point forward.

PROPORTIONATE LIABILITY

Under current law, joint and several liability a plaintiff can recover all damages awarded from one deep pocket defendant even if that defendant were only incidentally involved in the case.

It is an incentive to name as codefendants people who were only incidentally involved especially if they have significant net worth, directors and officers insurance or other financial resources.

The bill creates a two-tier liability system for 10b-5 securities cases. The bill recognizes that not all defendants should be treated equal.

The bill would impose joint and several liability for 10b-5 violations on defendants who engage in "knowing securities fraud," which is defined as the making of a false statement with actual knowledge of its falsity. Reckless conduct is not sufficient to establish a "knowing" violation.

Defendants who do not engage in "knowing securities fraud" will be liable for the portion of the damages for which a jury finds them responsible. These lesser defendants would not be required to compensate the plaintiff for damages attributable to the actions of other parties.

The provision relates only to the allocation of damages; it will not affect the standard for determining liability for 10b-5 violations.

ELIMINATION OF ABUSIVE LITIGATION PRACTICES

The bill prohibits four abusive practices associated with securities litigation.

First, "professional plaintiffs: will no longer be permitted to obtain a recovery greater than that of the other plaintiffs in a class action unless the additional sum is justified as compensation for costs actually incurred.

Second, an attorney may not represent a class when he is the beneficial owner of the securities that are the subject of the litigation.

Third, securities brokers and dealers may not receive "steering" fees for referring customers to attorneys.

Fourth, funds disgorged as the result of an SEC enforcement proceeding must be paid to victims of fraud; they may not be distributed to private attorneys.

NATIONWIDE SUBPOENA POWER

Permits nationwide subpoena power SEC initiated federal securities cases. This additional power would result in a substantial savings in terms of travel-cost and staff-time by eliminating unnecessary depositions. It would provide the live witnesses before the trial court. This provision is included at the request of the Securities and Exchange Commission.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, August 12, 1992.

Hon. PETE V. DOMENICI,
Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you for sending me a copy of the legislation which you and Senator Sanford plan to introduce shortly, the "Securities Private Enforcement Act of 1992." I commend you and Senator Sanford for your efforts in crafting this proposal, and appreciate the opportunity to comment on it.

Private rights of action are an essential enforcement tool to protect investors against fraud. Private suits under Section 10(b) of the Securities Exchange Act and Rule 10b-5 thereunder, for example, are instrumental in recompensing investors who are cheated through the issuance of false and misleading information or by other means. When corporate officers, accountants, lawyers or others involved in the operation of a public company deceive investors for their own benefit, they should be held accountable for their actions. If this were not the case, investors would be far less willing to participate in our securities markets. This would limit the most important source, and raise the costs, of new capital for all American businesses.

In addition to this general principle, securities fraud actions against accounting firms that participate in or assist fraudulent activity by not properly performing their auditing functions are important to the maintenance of high standards of quality and integrity among public accounting firms. Investors rely heavily on the accuracy of audited financial statements of public companies, as do creditors, investment analysts and others. When auditors fail to adhere to generally accepted accounting principles or generally accepted auditing standards, many innocent parties may suffer. Indeed, inaccuracies in audited financial statements of banks and savings and loans have contributed to billions of dollars in investor losses over the past ten years. Public policy should seek to maintain high expectations of integrity and accuracy in the performance by auditors and accountants of their tasks.

While private fraud actions can be a very important supplement to antifraud actions by the Commission itself, in recent years the number and cost of private lawsuits have grown significantly. Some law firms appear to have made a virtual industry out of bringing suits under the securities laws against companies, their directors, auditors and others. These suits often appear to be prompted solely by movements in the market price of a stock. Allegations of securities law violations are made in general or conclusory terms within hours of a significant stock price change.

As a practical matter, the cost of litigating a "strike suit" may be so high—and the potential liability so great—that many defendants choose to settle even meritless actions rather than run the full gauntlet of modern litigation. In cases where there is no real underlying merit, the shareholders of the defendant company will ultimately see their equity paid out to the plaintiff lawyers as a "litigation tax." These payments can be particularly damaging to small companies whose finances are more precarious and whose stocks are by nature more volatile in price. Ultimately it is the shareholders of the companies who pay the cost of abusive and frivolous suits. This process drives up the "litigation-adjudted" cost of capital for companies throughout our economy. It also makes the U.S. securities market less attractive than its foreign competitors as a place for domestic and foreign firms to raise capital.

As you know from my previous correspondence and testimony on this subject, I strongly support efforts to reduce the amount and cost of abusive and frivolous securities litigation, while maintaining the rights of investors to seek redress for truly fraudulent conduct. Any such effort must deal with the problem of the "strike suit" that is intended to force companies or other market participants to settle vague or far-fetched claims in order to avoid the cost of litigation and the exposure to enormous liability. Of course, reducing the number of such suits without also weakening the rights of investors to protection against fraud requires very careful statutory drafting.

While we have not had a chance to complete a thorough review of all of the provisions in the draft legislation, it is evident that this bill would help to reduce the cost of frivolous suits while seeking to preserve—and in some areas to improve—the protection of investors against fraudulent conduct. From my perspective there are still a few sections of the bill whose language should be modified somewhat from the current text, and I look forward to working with you toward this end in the legislative process. However, overall I believe that this legislation could make a significant contribution to reducing the burden of meritless securities litigation.

More specifically, I support some type of "English rule" that would shift the cost of attorneys' fees to the losing party in appropriate cases, thereby curbing abusive litigation. Your proposal to shift fees unless the losing party's position is found by the court to be "substantially justified" provides a reasonable fee-shifting standard. In addition, the Commission has previously supported Congressional action to deal with conflicts of interest between class members and class counsel; to limit recovery by the named plaintiff in securities class actions; to prohibit attorney referral fees; and to prohibit the payment of attorney's fees from Commission disgorgement funds. All of these matters are appropriately addressed in your bill. Though it is not included in your bill, I personally would also support the repeal of securities fraud as a predicate offense for civil actions under the Racketeer Influenced and Corrupt Organizations Act. Civil RICO is an unnecessary duplication of existing securities law remedies.

In addition, as I stated in my June 12 letter to you and Senator SANFORD, I support efforts to modify, in certain circumstances, joint and several liability in securities fraud actions. In my view, a defendant who plays an integral role in wrongdoing should be jointly and severally liable for the losses of an innocent investor. At the same time, there is justification for limiting such liability for a defendant who does not knowingly engage in fraud and whose role in the wrongdoing is peripheral. Your draft bill—which distinguishes between persons who engage in "knowing" securities fraud, and those who merely "recklessly" participate in a fraud—is a major improvement over previous drafts, such as the version which I discussed in my June letter. On the other hand, there may be cases where a defendant such as an auditor, while perhaps lacking "knowledge" of the fraud, plays such an integral role in the perpetration of the fraud that he, rather than the innocent fraud victim, should bear the financial burden caused by the wrongdoing. We look forward to working with the Committee to further balance the interests of investors against the interests of accounting firms and other participants in the capital formation process.

I also appreciate your willingness to include in the bill provisions that would allow the Commission to request the issuance of trial subpoenas outside of the court district in which the trial is located. These amendments would reduce the cost of, and enhance the conduct of, Commission enforcement litigation.

Finally, the Commission and the Administration have supported efforts to provide a longer statute of limitations for implied private actions under the Securities Exchange Act of 1934, thereby modifying the result in *Lampf, Pleva, Lipkind, Prupis & Petigrow* v. *Gilbertson*, 111 S. Ct. 2773 (1991). It is important to stress that an unduly short statute of limitations precludes the bringing of meritorious cases as well as frivolous lawsuits. Thus, a statute of limitations should ensure that fraud victims have a reasonable opportunity to have their cases heard in court. Your legislative proposal would help restore the legal rights of defrauded investors.

There is one significant aspect of your statute of limitations proposal with which I disagree. Your draft would impose a limitation period of five years from the date of the violation or two years from the date that violation was discovered "or should have been discovered through the exercise of reasonable diligence." As the Commission testified last year, the Commission supports a statute of limitations tied to the actual discovery of fraud rather than to the time when a plaintiff "should have" discovered the fraud.[1] A "reasonable diligence" standard is unfair to fraud victims because almost every defendant can allege that a plaintiff "should have" discovered a fraud earlier. Thus, this requirement would prompt a considerable amount of needless litigation to resolve subtle shadings of what an investor could or might have done. It would be ironic and unfortunate if a bill that is intended to reduce litigation included a provision that would significantly increase the cost of litigation in an unnecessary manner. While this provision may be sought by accountants and other groups, it is not justifiable, and its inclusion in any legislation would jeopardize the Commission's continuing support.

As noted, the Commission's testimony has previously endorsed proposals to lengthen the statute of limitations for implied actions under the securities laws and to prevent the kind of abusive litigation practices addressed in Section 5 of your bill. With these exceptions, the views I have expressed in this letter are my own, although my fellow Commissioners have reviewed this letter. Of course, I would be pleased to work with you to further improve the legislation. Please do not hesitate to have your staff contact Kathryn Fulton, Director of Legislative Affairs, at 272-2500.

Sincerely,

RICHARD C. BREEDEN,
Chairman.

Mr. SANFORD. Mr. President, I am pleased to join my colleague, the senior Senator from New Mexico, in introducing legislation entitled the "Securities Private Enforcement Act of 1992."

In 1990 and 1991, 614 class action securities cases—a record number—were filed in Federal courts against American companies. This number exceeded the total number of similar suits filed in the previous 5 years. Yet there is no evidence that this increase corresponds to a similar increase in the incidence of securities fraud.

These cases have touched many of America's largest and most well-known companies: Pace Membership Warehouse which is owned by Kmart, Apple Computer, Compaq, Seagate Technology, Oracle Systems, Wells Fargo Bank, and Citicorp to name a few. There is evidence, as noted by judges, that complaints filed in unrelated cases contained boilerplate allegations and were identical except for the names of the parties. In others, the complaints were filed in a matter of hours or days after the release of regularly scheduled earnings reports. Studies show that 95 percent or more of 10b-5 securities fraud cases are settled, compared to a much lower rate for other civil litigation. These studies show that plaintiffs recover very little—just a few pennies for each dollar claimed—while plaintiffs' lawyers average $1 million in fees for each case. The business press and academic research have noted that defendants have little choice but to settle these types of cases, even when they believe the claims to be completely warrantless because the cost of defense and the exposure to joint and several liability are so huge.

SEC Chairman Richard Breeden has noted that the "problem of meritless securities litigation * * * is a serious one" and that "such litigation imposes significant costs on the defendant, which * * * are ultimately borne by the issuer's shareholders." He further states that legislative reforms to deter meritless claims "would be highly beneficial." Chairman Breeden has commented that the current system fails to distinguish strong claims from weak or meritless claims.

Most importantly, as my distinguished colleague from New Mexico has pointed out, the present system is having a very harmful impact on the American economy. The evidence is mounting from many different sources.

High growth companies, high-technology companies, and startups typically experience volatile stock prices. Unfortunately, that fact alone has led to numerous suits against these companies. A number of computer technology companies have been sued a dozen times or more because of stock prices fluctuations reacting to earnings reports. One Federal judge commented, after suit was filed 2 days following an earnings announcement, that the plaintiff was on a "fishing expedition at the defendants' expense." I've talked to a dozen or more North Carolina companies who have faced or fear facing similar circumstances. The fear of being sued for complying with disclosure regulations or simply communicating accurate information which the market wants and deserves can only have a chilling effect on the free flow of important information.

Moreover, good companies are having difficulty attracting qualified individuals willing to serve on their boards of directors. Some companies are limited to selecting directors from a pool of less experienced individuals who are willing to serve but who are selected largely because of their low net worths. Often, more experienced, successful business managers are unwilling to put their life savings and reputations at risk. For those companies trying to retain and ensure the best directors they can find, their situations have been exacerbated by skyrocketing insurance costs which merely reflect the risk insurance companies face in guarding directors from suit. In the long run, this will hurt American businesses who are finding it more and more difficult to attract the most qualified people to serve on their boards. I served on corporate boards before coming to the Senate. I sometimes wonder if I would take that risk in today's environment.

In addition, the threat of litigation is making it more difficult and more expensive for companies to raise capital. Professionals who provide necessary services to public securities markets—underwriters, accountants, and lawyers—are being forced to charge higher and higher fees to cover their exposure to litigation risk. Furthermore, foreign companies are discouraged from raising capital in American markets. Foreign companies don't face this problem or bear these costs in their countries. This not only gives foreign companies a competitive advantage in raising capital, but it also gives them a competitive advantage by lowering their overall costs of both capital and production. While American executives in high growth companies must allocate too much of their time to defending these law suits, foreign executives can devote their full effort to running their businesses.

The impact on the accounting profession and those in need of audit services is growing particularly acute. The operation and health of securities and commercial lending markets are dependent upon the availability of independent audits. Yet it is becoming more difficult for some companies to buy an audit at any price because accountants are refusing to audit companies in high risk industries or with any apparent difficulties. In the face of this risk, many middle-sized and small accounting firms no longer provide audit services at all because of the associated risks. This places increased costs on smaller companies who must go with higher priced, larger firms, thereby making it more difficult for them to compete.

In other countries, accounting firms independently examine, analyze, and provide opinions on the future projections prepared by the management of public companies. This is an extremely valuable service to the market, but accountants in the United States will not provide that service because they know they will be sued if the projections turn out to be wrong. In the long run, this will make it more difficult for American companies to attract capital as capital markets become more global.

The mounting evidence simply does not support the notion that most of this litigation is meritorious. The six largest accounting firms have provided me with data on the final outcome of all 10(b) cases filed against them that concluded in 1991. The combined total for all of these 10(b)(5) cases concluded in 1991 shows that the total amount of settlements and judgments paid by the accounting firms was only 3 percent of the claimed damages, and for every dollar they paid in damages, they paid legal costs of almost $1.30. The average case claimed $83 million in damages, yet was resolved by settlement or judgment for only $2.7 million at a legal cost of $3.5 million.

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[1] "Securities Investor Legal Rights," Hearing on H.R. 3185 before the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce, 102nd Cong., 1st Sess. 27-29 (1992) (prepared testimony of Richard C. Breeden, Chairman, SEC); "Securities Investor Protection Act of 1991," Hearing on S. 1533 before the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs, 102d Cong., 1st Sess. 22-25 (1992) (prepared testimony of Richard C. Breeden, Chairman, SEC).

Even those averages overstate the case because all of those recoveries occurred in just a handful of cases. In 83 percent of the cases—or 5 out of every 6 cases—judgments and settlements paid by the accounting firms were less than 10 percent of the alleged claims. In fact, the total amount of judgments and settlements in this 83 percent of the cases was only one-third of 1 percent—that's right, well below 1 percent—of the total damages claimed. What the accounting firms could not defend themselves from in this group of cases was their legal fees. For every $1 ultimately paid to the plaintiffs in this overwhelming majority of the cases—83 percent of them—the accounting firms had to pay their own lawyers $8 in legal fees and other defense costs.

And most revealing, in almost 35 percent of the cases concluded in 1991, there was no recovery from the accounting firms at all, yet the cost of defending those claims was almost $25 million. By the end of 1991, the Big Six accounting firms were dedicating almost 10 percent of their gross accounting and auditing revenues to the cost of dealing with these claims, and the landscape looks even worse for 1992.

The evidence is clear on several counts. First, the securities laws are not functioning as an effective remedy for securities fraud. Second, the true victims of fraud when it does occur are receiving little, if any, recovery. Studies show that even in cases with merit, plaintiffs typically receive only between 5 and 15 cents for each dollar sought in the complaint. Third, a small group of professional plaintiffs and law firms specializing in class actions are holding innocent defendants hostage for millions of dollars in unjustified settlements.

Last year, the Supreme Court held in the Lampfe versus Gilbertson case that all private actions under section 10(b)(5) of the 1933 act would be governed by a statute of limitations of 1 year from the date the plaintiff knew of the fraud or in any event, no longer than 3 years from the date fraud was committed. The court also held that that these timeframes must be applied retroactively to all pending 10(b)(5) cases thereby voiding a number of recent judgments.

Senator BRYAN sponsored legislation last year establishing a longer limitation period of 2 years from the date the fraud was discovered or in any event, no longer than 5 years from the date the fraud was committed. It was Senator BRYAN's belief that providing a longer time period for plaintiffs to initiate securities fraud actions was necessary to ensure that plaintiffs had sufficient time to bring these actions. Others argued that extending the statute of limitations would open the door to meritless cases.

After holding a hearing, Senator BRYAN's bill was added to the Federal Deposit Insurance Corporation Improvement Act of 1991 with the support of the SEC. The expansion of the limitation periods was ultimately deleted, but the Congress did prohibit the retroactive application of the new shorter timeframes established by the Supreme Court. The concern then was that comprehensive reforms should address the entire issue of legitimate and frivolous securities fraud litigation rather than simply the statute of limitations for filing cases. This bill adopts the extended statute of limitations period of 2 years from the date fraud is discovered or with reasonable diligence should have been discovered or in any event, within 5 years from the date the fraud was committed.

As such, I believe this bill takes a balanced and reasonable approach in dealing with these problems. It is not intended to chill meritorious claims. In fact, with the safeguards incorporated in this bill, no plaintiff or class of plaintiffs should be reluctant to pursue their legitimate claims and attorneys should not fear representing them. The bill balances the interests of investors with the interests of the needs of the securities markets.

First, for the benefit of investors, the bill expands the statute of limitations from 3 years to 5 years from the date of violation, and it expands the statute of limitation from 1 year to 2 years from the date on which the violation was discovered or should have been discovered with reasonable diligence. This will give plaintiffs more time to prepare and file cases than they presently have.

Second, as a matter of fundamental fairness, it only requires defendants at fault to pay for the damage they caused. It does not require them to pay for the fault committed by others unless they knew about it. If defendants knew of the fraud, whether they committed it or not, they can be held liable for full joint and several liability and be required to pay any damages that other defendants cannot afford to pay. But if the defendants were unaware of the fraud, they should not pay for it. Like the plaintiffs, if the defendants were unaware of the fraud, they sit at the table as innocent victims.

Third, this bill discourages meritless litigation by permitting the court to put a party on notice that it may be held responsible for the other party's attorney fees if its case is not "substantially justified." It does not automatically shift fees and it is nothing near the so-called English rule where the loser pays the winner's legal fees. It permits the court to take a close look at the case upon the request of a party and to issue a ruling putting any party on notice that its case does not appear to meet the test of substantial justification. Thereafter, if that party fails to show substantial justification for its claim, the court has the discretion to require that party to pay the other party's attorney fees, but only from the time when the court puts the offending party on notice of the possibility.

This bill does not permit retroactive application of any fee shifting. It only permits the court to shift fees prospectively from the time the court becomes concerned and notifies a party that its claim appears to be frivolous. To a large extent, this rule is already in effect under rule 11 of the Federal Rules of Civil Procedure which permits the court to impose sanctions, including attorney's fees, if a party or its attorney failed to make a reasonable inquiry that its claim is well grounded in fact and is not interposed for any improper purpose. Rule 11, in fact, is a harsher remedy than our bill since it can be applied retroactively and since it does not require the court to provide advance notice of its concern about the substance of a party's claim before imposing sanctions.

Fourth, this bill eliminates several abusive tactics which Richard Breeden, Chairman of the SEC, says is, and I quote, "frequently found in securities class action litigation." It contains provisions which would:

First, prohibit attorneys from paying referral fees when seeking clients for class actions;

Second, prohibit conflicts of interest between class members and class counsel;

Third, limit recovery for representative plaintiffs to the same pro rata recovery for all members of the class, and

Fourth, prohibit the payment of attorney fees from SEC disgorgement funds.

Finally, at the request of the SEC, this bill contains a provisions that expands the reach of the SEC's subpoena power to equal that which many other Federal agencies have. This will permit the SEC to eliminate much of the duplication of its efforts in prosecuting its cases. Because of the lack of this power, the SEC is often unable to get a witness to trial and is limited to using transcript evidence. Therefore, this provision will strengthen the Government's hand in prosecuting securities fraud and will reduce the taxpayer's costs.

Certainly, the language of this bill is not perfect. Its intent is to balance the interests of the defrauded investors with the need for securities markets to be able to issue and trade securities with fair financial information supported by meaningful audit opinions. It is an effort to discourage the use of the legal process as a witch hunt if market prices move either up or down. And it is designed to encourage the free flow of more—not less—relevant information to the securities markets.

Today, high growth and high-technology companies know that if their earnings fall, they could be sued. There is even a growing class of cases where suits are filed when stock prices go up. This is not how free markets are supposed to operate. Markets operate best with a free flow of information. The art of running a business is in managing the risks it faces. In the normal course of any business, some risks will prove successful, others will not. In theory, the price of a security reflects the market's judgment of how well the business managed those risks, but the stock market is not purely scientific. Prices fluctuate for any number of reasons, but the mere experience of a price fluctuation should not be grounds for fraud suit.

Chairman Breeden of the Securities and Exchange Commission has been every active in promoting reform of securities fraud litigation. He has independently advocated the extension of the statute of limitations, has testified on several times that there is a serious problem with frivolous litigation, and has encouraged numerous reforms. Among those recommendations made by Chairman Breeden are those included in our bill. In addition, the staff of SEC has provided extensive technical assistance in its preparation. We look forward to hearing formally from the Commission of its views on this legislation.

In his letter to Senator DOMENICI and me commenting on the bill, he wrote:

> Any litigation imposes significant costs on the defendant, which costs are ultimately borne by the shareholders. A mere change in market price should not be sufficient to impose these legal costs, unless coupled with some reasonable basis for believing that wrongdoing occurred.

We all agree that in those cases where the defendant erred causing harm to plaintiffs, the plaintiffs should be able to recover their losses. Nothing in this legislation should either discourage harmed plaintiffs from pursuing their claims or hinder plaintiffs from receiving their rightful recovery.

We believe this legislation makes sense and reflects what the law should be doing anyway. The law should protect investors from fraud and make those who commit it pay for it. But it should not penalize those who cause no harm and it should not impose unnecessary costs on companies who rely upon securities markets for raising capital.

By Mr. DURENBERGER (for himself, Mr. WOFFORD, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. KASTEN, and Mr. KOHL):

S. 3182. A bill to amend the Trade Act of 1974 with respect to articles not eligible for duty-free treatment under the Generalized System of Preferences; to the Committee on Finance.

DUTY-FREE TREATMENT FOR CERTAIN ARTICLES

• Mr. DURENBERGER. Mr. President, I rise today to introduce S. 3182, a bill to reform the generalized system of preferences [GSP] trade program to require a 3-year waiting period before denied petitions can be refiled.

Mr. President, in 1991 the State Department attempted, in my view, to use the GSP Program to fulfill foreign policy objectives. This was done at the expense of the American dairy, mushroom, wine, glassware, chemical, and pharmaceutical industries—just to list a few. Congressional and industry pressure was victorious in denying a petition for Goya cheese from Hungary and some wine petitions, however other industries like pork wound up losing out. My fear is that if Congress permits the executive branch to use the GSP Program as a foreign policy tool, it will set a precedent that could be damaging to domestic industries in the future.

On July 12, 1991, the White House announced that, as part of a Trade Enhancement Initiative for Central and Eastern Europe, previously rejected GSP petitions from these countries would be reconsidered. This announcement was made despite a Federal regulation that prohibits rejected GSP petitions from being refiled within 3 years. Furthermore, in the case of Goya cheese, mushrooms, and grape wine, petitions from Hungary had been rejected by the President on May 3, 1991. On August 8, 1991, just 3 months later, the Trade Policy Staff Committee announced that it would reconsider these items.

Small industries like the dairy industry need to be protected from the costly and time-consuming burdens of having to constantly defend themselves from GSP petitions. Small industries simply do not have the funds to defend themselves more than once every 3 years. Under the current system, these industries will either be devastated by the cost of lawyers fees or the influx of heavily subsidized, duty- and quota-free, foreign products. By requiring a 3-year waiting period, my bill injects a needed dose of fairness into the GSP trade program.

Mr. President, S. 3182 is not very complicated and it is very needed. I urge my colleagues to join me in support of this important legislation.•

Mr. WOFFORD. Mr. President, I rise in support of S. 3182, a bill to amend the Trade Act of 1974 with respect to articles not eligible for duty-free treatment under the Generalized System of Preferences.

Authority for this program will terminate on July 4, 1993, and the Congress, no doubt, will conduct a complete review of the operation and provisions of the program in the context of anticipated proposals for reauthorization. Already the GAO, at the request of the Senate, is conducting an extensive investigation of this program.

The findings of this investigation are eagerly anticipated by the Congress, and domestic import sensitive interests who have borne the burden of defending themselves on numerous occasions from repetitive GSP petitions. Also, my colleagues and I are concerned about the administrative authority to waive regulations regarding the GSP process.

In 1991, the administration initiated a review of petitions that had been denied eligibility only months before in order to add products to the GSP Program for Central and Eastern European countries. As a result, petitions on Goya cheese and wine from Hungary, and other products, such as glassware and mushrooms, on which GSP status had been denied were again reviewed.

This was done contrary to an agreement between the executive and legislative branches reached during the reauthorization of the GSP Program in 1986; that is, the U.S. Trade Representative guaranteed the Congress that products would not be reconsidered for a 3-year waiting period following a previous denial of eligibility.

Therefore, a statutory requirement at this time is necessary so that domestic industries do not have to bear the burden and expenses of repetitive presentations of their cases in defending themselves. It is our intention to make the codification of the 3-year rule a reality prior to the expiration of this Congress in order to demonstrate to our import-sensitive domestic industries that the U.S. Senate is not insensitive to their vulnerability.

Likewise, I believe that this will send an important signal to these same industries that a full review of the GSP Program operations will be forthcoming during the 103d Congress, at which time their extensive suggested changes to the GSP Program will be entertained by the Congress.

My colleagues and I would welcome others to join in this small but important gesture toward our import-sensitive constituencies.

By Mr. DASCHLE (for himself and Mr. BINGAMAN):

S. 3183. A bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE FETAL ALCOHOL SYNDROME PREVENTION ACT

Mr. DASCHLE. Mr. President, today I am introducing legislation to address the human tragedy of Fetal Alcohol Syndrome and Fetal Alcohol Effect.

My distinguished colleague, Senator Bingaman, joins me as an original cosponsor of this legislation.

Mr. President, FAS and FAE, as they are known, are the leading known cause of mental retardation. FAS is a cause of mental retardation which is completely—100 percent—preventable. My own awareness of the enormous human cost that substance abuse during pregnancy has on the children of the United States was brought into sharp focus during hearings I chaired in South Dakota. During those hearings, there was vivid testimony about the devastating consequences wrought by the alcohol and substance abuse in pregnant women.

Research performed over the past 20 years has clearly shown that drinking alcohol during pregnancy increases the risk of stillbirth and miscarriage and may result in serious birth defects. When a pregnant woman ingests alcohol, the alcohol passes swiftly to the unborn fetus. The fetus' organs, since they are immature, metabolize alcohol much more slowly than it is metabolized in an adult. As a result, the alcohol level in the fetus' blood can be higher than in the mother's blood and can remain elevated for a much longer period of time, causing the baby to suffer lifelong damage before it is ever born. The most heartbreaking facet of this damage is that it is completely preventable.

Each year in the United States, one out of every 750 newborn babies is born with FAS. As many as 40 percent of babies whose mothers drink heavily during pregnancy may have the syndrome. The syndrome itself consist of babies who are abnormally small at birth and rarely catch up as they grow. They typically have small eyes, a short upturned nose and small flat cheeks. Their organs may not form properly and most have small heads and brains. They are almost always mentally retarded, with IQs of 60 to 75 being common. Most are poorly coordinated and hyperactive, they have short attention spans, and they exhibit behavioral and learning problems.

Even "moderate" amounts of alcohol during pregnancy also may damage the fetus. Many children are born with fetal alcohol effect [FAE], which is characterized by some—though not all—of the birth defects associated with FAS. It is estimated that almost 50,000 babies are born each year with evidence of FAE. They may also be small at birth and unlikely to catch up in growth; they may be restless as newborns, and display abnormal behavior and have lower IQs. Unfortunately, this constellation of findings is not well-defined, so that the incidence of both FAS and FAE is likely to be severely under-reported.

The statistics I have just given my colleagues are those for the population as a whole. Nowhere are the ravages of alcohol on children more evidence than among American Indians and Alaska Natives. Among these proud people, as many as one in four newborns may be affected by FAS or FAE. In some Indian communities, where alcohol dependency rates reach 50 percent and more, the chances of a newborn suffering FAS or FAE are 30 times greater than the national averages.

Mr. President, this legislation, The Comprehensive Fetal Alcohol Syndrome Prevention Act, will address this national tragedy. This bill will establish a comprehensive program within the Department of Health and Human Services to help prevent FAS and FAE. It will create a new program with the Centers for Disease Control and Prevention which will coordinate and support applied epidemiologic research targeted at FAS and FAE. This program will coordinate and support national public awareness, prevention, and education programs on FAS and FAE. It will also assist in establishing and conducting nationwide FAS and FAE surveillance and monitoring of prevention programs. It will convene a panel of national experts to develop clear and definitive diagnostic criteria for FAE. Among our most pressing needs, it will focus efforts on particular at-risk populations, most notably American Indians and Alaska Natives.

There are some existing programs with both Federal and State governments that deal with some aspects of alcohol and substance abuse, but, in an all-too-familiar pattern, these programs are frequently unaware of the activities of other programs. Therefore, our legislation would create an Inter-Agency Task Force on FAS/FAE. This task force, chaired by the Associate Administrator for Alcohol Prevention and Treatment of the Substance Abuse and Mental Health Services Administration, will include representatives from all of the relevant agencies. It will foster coordination among all Federal agencies that conduct or support FAS/FAE research, programs, and surveillance efforts.

Mr. President. I believe that it is time to put an end to this tragedy. We can only do so if we have adequate knowledge about its extent, its cost, and the most effective strategies to combat it. I urge my colleagues to support this measure to ensure that we have that knowledge.

I ask unanimous consent that the full text of the Comprehensive Fetal Alcohol Syndrome Prevention Act and a brief fact sheet on the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Fetal Alcohol Syndrome Prevention Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) Fetal Alcohol Syndrome is the leading known cause of mental retardation, and it is 100 percent preventable;

(2) each year, more than 5,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) 50,000 more infants are born each year with lesser, though still serious, alcohol-related birth defects, known as Fetal Alcohol Effects;

(4) of women who drink heavily during pregnancy, two out of five will give birth to a Fetal Alcohol Syndrome baby, and as many as one in six women of childbearing age may drink enough to threaten a healthy pregnancy;

(5) Fetal Alcohol Syndrome is a national problem, it can impact any child, family, or community, but its threat to American Indian and Alaska Natives is especially alarming;

(6) among American Indian and Alaska Natives, as many as one in four newborns may be affected by Fetal Alcohol Syndrome or Fetal Alcohol Effects;

(7) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effects are 30 times greater than national averages;

(8) researchers have determined that the certainty of giving birth to a Fetal Alcohol Syndrome or Fetal Alcohol Effects baby increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the risks and the emotional, physical, and mental consequences of alcohol exposure to the baby;

(9) in addition to the immeasurable toll on Fetal Alcohol Syndrome and Fetal Alcohol Effects children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effects pose extraordinary costs to the Nation, in terms of health care, education, foster care, job training, and general support services;

(10) as a reliable comparison, delivery and care costs are four times greater for infants who were exposed to illicit substances than for infants with no indication of substance exposure, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated at $1,400,000; and

(11) we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects nationwide. Such program shall—

(1) coordinate and support applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(2) coordinate and support national and targeted public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects;

(3) assist in establishing and conducting nation-wide Fetal Alcohol Syndrome and

Fetal Alcohol Effects surveillance and monitoring of prevention programs; and

(4) foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

SEC. 4. ESTABLISHMENT OF PROGRAM.

Part D of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Provisions Relating to Fetal Alcohol Syndrome and Fetal Alcohol Effects

"SEC. 551. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Centers for Disease Control and other relevant offices, shall establish a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effects and coordinate Federal efforts in Fetal Alcohol Syndrome and Fetal Alcohol Effects.

"(b) ELEMENTS OF PROGRAM.—Under the program established under subsection (a), the Secretary shall—

"(1) direct the Director of the Centers for Disease Control to establish a program that shall—

"(A) coordinate and support applied epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) coordinate and support national and targeted public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(C) assist in establishing and conducting nationwide Fetal Alcohol Syndrome and Fetal Alcohol Effects surveillance and monitoring of prevention programs; and

"(D) convene a panel of national experts to develop diagnostic criteria for Fetal Alcohol Effects; and

"(2) establish an Inter-Agency Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effects, which shall be chaired by the Associate Administrator for Alcohol Prevention and Treatment of the Substance Abuse and Mental Health Services Administration, and which shall include representatives from all relevant agencies and offices within the Department of Health and Human Services, Department of Agriculture, Department of Education, Department of Defense, Department of Interior, Department of Justice, Bureau of Alcohol, Tobacco and Firearms, Federal Trade Commission, and any other relevant Federal Agency.

"SEC. 552. APPLIED EPIDEMIOLOGIC RESEARCH AND PREVENTION PROGRAM.

"The Director of the Centers for Disease Control, shall—

"(1) conduct and support research on the causes, mechanisms, diagnostic methods, and treatment and prevention of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(2) provide technical and consultative assistance and training to States, Indian tribal governments, local governments, other public entities, scientific and academic institutions, and non-profit organizations engaged in the conduct of—

"(A) Fetal Alcohol Syndrome prevention and early intervention programs; and

"(B) research relating to the causes, mechanisms, diagnosis methods, treatment and prevention, of Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(3) award grants to, and enter into cooperative agreements and contracts with States, Indian tribal governments, local governments, other public entities, scientific and academic institutions, and non-profit organizations to—

"(A) assist such entities in conducting innovative demonstration and evaluation projects designed to determine effective strategies, including community-based prevention programs and multi-cultural education campaigns, for preventing and intervening in fetal exposure to alcohol;

"(B) improve and coordinate the surveillance and ongoing assessment methods implemented by such entities and the Federal Government, with respect to Fetal Alcohol Syndrome and Fetal Alcohol Effects for the purpose of—

"(i) tracking progress toward achieving relevant Year 2000 Prevention Objectives, set forth by the Public Health Service in the Healthy People 2000: National Health Promotion and Disease Prevention Objectives;

"(ii) identifying successful, culturally sensitive prevention efforts; and

"(iii) identifying children who have symptoms of Fetal Alcohol Syndrome and Fetal Alcohol Effects and may and need special health, education, and support services;

"(C) develop and evaluate effective age-appropriate and culturally-sensitive prevention programs for infants, children, adolescents, and adults identified as being at-risk of becoming chemically dependent on alcohol and associated with or developing Fetal Alcohol Syndrome and Fetal Alcohol Effects; and

"(D) facilitate coordination and collaboration among Federal, State, Tribal, and local Fetal Alcohol Syndrome prevention programs.

"SEC. 553. FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECTS SURVEILLANCE AND PREVENTION PROGRAM ASSESSMENT.

"The Secretary, acting through the Director of the Centers for Disease Control, shall—

"(1) develop, conduct, and evaluate Fetal Alcohol Syndrome and Fetal Alcohol Effects surveillance and prevention programs;

"(2) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and non-profit organizations concerning the surveillance and assessment of the incidence of Fetal Alcohol Syndrome and Fetal Alcohol Effects and the assessment and evaluation of prevention, education, and public awareness programs with respect to such syndrome and effects; and

"(3) award grants to and enter into cooperative agreements and contracts with States and Indian tribal governments to—

"(A) assist such States and Tribal governments in initiating and improving methods and mechanisms needed to conduct effective Fetal Alcohol Syndrome and Fetal Alcohol Effects surveillance; and

"(B) enable such States and Tribal governments in evaluating the effectiveness of community-based Fetal Alcohol Syndrome prevention, education, and public awareness projects.

"SEC. 554. EDUCATION AND PUBLIC AWARENESS.

"The Secretary, acting through the Director of the Centers for Disease Control, shall—

"(1) conduct and evaluate the effectiveness of—

"(A) training programs for health care providers, educators, social workers, child welfare workers and family members concerning the prevention, diagnosis, and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(B) prevention and education programs, including health education, for all school-age children with respect to such syndrome and effects; and

"(C) public and community awareness programs concerning such syndrome and effects;

"(2) provide technical and consultative assistance to States, Indian tribal governments, local governments, scientific and academic institutions, and non-profit organizations concerning the programs referred to in paragraph (1); and

"(3) award grants to and enter into cooperative agreements and contracts with States, Indian tribal governments, local governments, scientific and academic institutions, and non-profit organizations for the purpose of—

"(A) enabling such entities to evaluate the effectiveness, with particular emphasis on the cultural sensitivity and age-appropriateness, of the education and public awareness programs referred to in paragraph (1);

"(B) enabling such entities to provide training to health care providers, educators, family members, social workers, child welfare workers, and others in the prevention, diagnosis and treatment of Fetal Alcohol Syndrome and Fetal Alcohol Effects;

"(C) educating children and youth concerning such syndrome and effects through sequential school health education programs, with priority given to those programs that are part of a sequential, comprehensive school health education program; and

"(D) increasing public and community awareness concerning Fetal Alcohol Syndrome and Fetal Alcohol Effects through culturally sensitive projects, programs, and campaigns, and improving the understanding of the general public and targeted groups concerning the most effective methods for intervening with friends and family to prevent fetal exposure to alcohol.

"SEC. 555. DIAGNOSTIC CRITERIA FOR FETAL ALCOHOL EFFECTS.

"Not later than 90 days after the date of enactment of this subpart, the Secretary, acting through the Director of the Centers for Disease Control, shall—

"(1) convene a panel of nationally-recognized experts to develop a set of diagnostic criteria for Fetal Alcohol Effects; and

"(2) direct such panel to develop a plan for widely-disseminating the criteria to health care providers, educators, social workers, child welfare workers, and other individuals within 16 months of such date of enactment.

"SEC. 556. INTER-AGENCY TASK FORCE ON FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECTS.

"(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this subpart, the Secretary shall establish an Inter-Agency Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effects to foster coordination among all Federal agencies that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effects research, programs, and surveillance and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effects.

"(b) MEMBERSHIP.—The Task Force established under subsection (a) shall—

"(1) be chaired by the Associate Administrator for Alcohol Prevention and Treatment of the Substance Abuse and Mental Health Services Administration and staffed by the Administration; and

"(2) include representatives from all relevant agencies and offices within the Department of Health and Human Services, Department of Agriculture, Department of Education, Department of Defense, Department of Interior, Department of Justice, Bureau of

Alcohol, Tobacco and Firearms, Federal Trade Commission, and any other relevant Federal agency.

"(c) FUNCTIONS.—The Task Force established under subsection (a) shall—

"(1) coordinate all Federal programs and research concerning Fetal Alcohol Syndrome, Fetal Alcohol Effects, and other forms of maternal substance abuse, including those programs—

"(A) targeting individuals, families, and populations identified as being at risk of acquiring Fetal Alcohol Syndrome, Fetal Alcohol Effects, or other maternal substance abuse; and

"(B) providing health, education, treatment, and social services to infants, children, and adults with Fetal Alcohol Syndrome, Fetal Alcohol Effects, and other drug exposures and their families; and

"(2) report on an annual basis to the Secretary and relevant Committees of Congress on the current and planned activities of the participating agencies.

"SEC. 557. ADMINISTRATIVE PROVISIONS WITH RESPECT TO GRANTS, COOPERATIVE AGREEMENTS AND CONTRACTS.

"(a) ELIGIBILITY.—To be eligible to receive a grant, cooperative agreement or contract under this subpart, an entity shall—

"(1) be a State, Indian tribal government, local government, scientific or academic institution or non-profit organization;

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under a grant, cooperative agreement, or contract; and

"(3) provide assurances that amounts received under such grants, cooperative agreements or contracts will be used in accordance with this subpart.

"(b) MAINTENANCE OF EFFORT.—No grant, cooperative agreement, or contract may be awarded to an entity under this subpart unless the entity agrees to maintain the expenditures of the entity for activities of the type for which the amounts to be received under a grant, cooperative agreement, or contract are to be used, at a level equal to not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity is applying to receive the grant, cooperative agreement or contract.

"(c) AMOUNTS OF LIEU OF CASH.—At the request of a recipient of a grant, cooperative agreement, or contract under this subpart, the Secretary may reduce the amount provided under such grant, agreement, or contract by—

"(1) an amount equal to the fair market value of any supplies or equipment furnished the recipient; and

"(2) an amount equal to the amount of the pay, allowances, and travel expenses of any officer or employee of the Federal Government which was detailed to the recipient and the amount of any other cost incurred in connection with the detail of such officer or employee.

"SEC. 556. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart, $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

By Mr. ADAMS (for himself and Mr. METZENBAUM):

S. 3184. A bill to amend the Employee Retirement Income Security Act of 1974 to expand pension coverage, to improve pension portability, and to increase retirement savings, and for other purposes; to the Committee on Labor and Human Resources.

PRIVATE PENSION REFORM ACT

Mr. ADAMS. Mr. President, I am pleased to rise today to introduce legislation that would provide retirement security to America's workers. This legislation, the Private Pension Reform Act—Retirement 2000, would expand pension coverage to virtually every full-time worker, provide for pension portability, and increase retirement savings.

I am pleased that Senator METZENBAUM, a leader on pension issues, is joining me, today, in introducing this legislation. It is fitting that we do this together, as chairmen of the Subcommittee on Aging and the Subcommittee on Labor, thus bringing together the two key elements of this issue.

By the year 2020, more than 50 million Americans will be age 65 or older. Yet, less than half of today's full-time workers are covered by an employer-sponsored pension plan. Many of these people, who otherwise have enjoyed an adequate living standard throughout their working years, will be reduced to poverty, or near poverty, during retirement. For others, retirement will never be an option. This is a sad commentary on the way America treats its hard-working citizens in their golden years.

More and more, the responsibility of planning and saving for retirement is falling on workers. However, data show that many workers cannot provide for their own retirement. Only 24 percent of eligible workers participate in IRA's or other deferred savings plans. Workers who participate in such plans are more likely also to be covered by a pension plan at work than non-participants. And the average income of participants is nearly twice that of nonparticipants. Clearly, those who do not have pension coverage through an employer are the very individuals who can least afford to save for their own retirement.

Mr. President, workers who cannot afford a do-it-yourself retirement must often rely on Social Security benefits as their sole source of retirement income. While Social Security benefits play a vital role in providing a basic income floor, they form but one leg of a sound retirement formula. Social Security benefits generally will replace only about one-fourth of an employee's pre-retirement income.

At age 62, for example, an employee with a final salary of $25,000 after 40 years of covered service could expect Social Security to replace 31 percent of pre-retirement income, or $7,825 per year. For the same worker with a final salary of $35,000, the Social Security replacement rate is 24 percent, or $8,500 per year; and for the worker whose final salary is $45,000, it is less than 20 percent, or $8,775 per year.

Research shows, however, that a replacement ratio as high as 82 percent is needed in order for retirees to maintain their pre-retirement standard of living.

An employer-sponsored pension plan would provide the critical missing link for over one-half of all American workers. It could make the difference between an adequate retirement or a retirement which reduces one to near poverty.

The costs and implications of the failure to secure the futures of hard-working American workers, both in our economy and on our society are enormous. This legislation would go a long way toward: First, expanding coverage to those who, heretofore, have not had coverage and second, providing continuity in the coverage. It would extend pension coverage and portability to virtually all full-time workers and to most part-time workers, as well.

This bill would require that all employers establish and maintain minimum benefit pension plans, and that employers contribute to such plans, thus shifting part of the burden of planning and saving for retirement away from employees.

A large portion of small businesses do not offer pension plans. Over 80 percent, or 28 million full-time employees, of companies with fewer than 100 workers now lack pension coverage. Many of these workers have incomes substantially below those of covered workers. It should not be surprising, then, that many of these individuals are unable to save for retirement. Expanding coverage to these employees is essential.

We have attempted to meet the concerns of small business by requiring a very modest contribution of only 3 percent on the part of employers. Of course, a larger contribution would mean a higher benefit; but this legislation would go a long way in establishing universal coverage and ensuring some level of retirement income security for all American workers.

This bill would also require that all qualified plans maintain companion portable pension accounts. This provision addresses the need to close the gaps in coverage for those workers who for one reason or another will change jobs several times during their working years. The average worker changes jobs about eight times during his or her career. In fact, current ongoing job tenure is less than 5 years.

While many employers offer pension coverage to their employees, vesting—the granting of pension rights that cannot be forfeited—may not occur until about 3, or ever 5, years of service. Thus, although an employee technically may be covered by a pension plan, he or she may not actually ever be eligible to participate in the plan as a result of changing jobs. This legislation requires vesting after 1 year of service. And it provides for the transfer of an employee's accrued benefits to a portable pension account.

Mr. President, this bill is an important first step toward ensuring the economic security of America's future retirees. Recently, the Citizens Commission on Pension Policy held a press briefing to address the current state of retirement systems in America. At that press briefing, the Commission focused on this legislation as a model for the Nation to look at in addressing the need to establish pension coverage and portability for all workers.

It is noteworthy that two groups as distinct from one another as the Institute of Electrical and Electronics Engineers and the Older Women's League have endorsed this legislation. In endorsing this legislation, the IEEE has stated that "at the same time that it contributes to greater retirement security for millions of American workers, it will also substantially increase the pool of savings needed for productive investment in the Nation's economy." The Older Women's League has cited pension portability and earlier vesting as two features that will greatly improve women's chances of pension income in late life.

I believe this legislation is a good starting point for a national dialog on pension reform. Although I won't be here next year to move this issue forward, Senator METZENBAUM is committed to promoting pension reform in the next Congress. I am confident, that under his leadership and with the help of all our colleagues in the Congress, we can make retirement income security a reality for all American workers.

I ask my colleagues to join me in cosponsoring this important piece of legislation and I ask unanimous consent that a copy of the bill be printed in the RECORD, along with a summary of the provisions, endorsement letters from the IEEE and the Older Women's League, and a copy of a press release by the Citizens Commission on Pension Rights.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Pension Reform Act—Retirement 2000".

TITLE I—PORTABLE PENSION ACCOUNTS

SEC. 101. REQUIREMENT OF PORTABLE PENSION ACCOUNTS.

(a) IN GENERAL.—Part 2 of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 205 the following new section:

"SEC. 205A. PORTABILITY REQUIREMENTS FOR QUALIFIED PLANS.

"(a) GENERAL RULES.—

"(1) QUALIFIED PLANS.—Each qualified plan shall—

"(A) maintain a portable pension account for receipt of direct trustee-to-trustee transfers from other qualified plans or other portable pension accounts, and

"(B) at the election of an employee upon separation from service, make a direct trustee-to-trustee transfer of the portion of the employee's eligible amount specified in the election to a portable pension account specified in the election.

"(2) INDIVIDUALS.—An individual may—

"(A) establish a portable pension account on the individual's own behalf to which transfers described in paragraph (1)(B), or transfers from other portable pension accounts, may be made, and

"(B) transfer, in a direct trustee-to-trustee transfer, amounts in a portable pension account established on the individual's behalf to a portable pension account maintained by a qualified plan in which the individual is a participant or to another portable pension account established by the individual on the individual's own behalf.

"(b) PORTABLE PENSION ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'portable pension account' means—

"(A) in the case of an employer, an individual account plan, an individual account within a qualified plan, or simplified employee pension under section 408(k) of the Internal Revenue Code of 1986 meeting the requirements of the following paragraphs of this subsection, and

"(B) in the case of an individual, an individual retirement plan meeting such requirements.

"(2) DISTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if distributions from the account—

"(i) may only be made in a permitted retirement income form, and

"(ii) may only be made with the consent of the participant.

"(B) PERMITTED RETIREMENT INCOME FORM.—For purposes of subparagraph (A), a permitted retirement income form is as follows:

"(i) A qualified joint and survivor annuity (within the meaning of section 205(d)).

"(ii) Any other joint life annuity (including a cash refund annuity).

"(iii) A single life annuity (including a cash refund annuity).

"(iv) Any series of substantially equal periodic payments described in section 72(t)(2)(A)(iv) of the Internal Revenue Code of 1986 which are not part of an annuity described in the preceding clauses.

"(C) SPOUSAL CONSENT.—The requirements of this paragraph shall not be met unless the account provides that any election as to form of benefit must meet spousal consent requirements which are identical to the requirements of section 205(c)(2).

"(3) ASSET CONTROL.—The requirements of this paragraph are met if the account provides that participants may elect to exercise control over the assets in their accounts and such control is the same as that described in section 404(c) (as determined under regulations prescribed by the Secretary).

"(4) NOTICE.—The requirements of this paragraph are met if the account provides that, immediately before any distribution, notice is provided to the recipient with respect to—

"(A) the provisions under which the distribution may or may not be subject to tax or penalty under the Internal Revenue Code of 1986, and

"(B) the terms and conditions of each permitted retirement income form under paragraph (2) (including the terms and conditions of any spousal consent requirements under paragraph (2)(C)).

"(c) ELIGIBLE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible amount' means, with respect to any participant—

"(A) in the case of a defined benefit plan, the present value of the participant's nonforfeitable accrued benefits under the plan, and

"(B) in the case of a defined contribution plan, the balance to the credit of the participant as of the time of the distribution, without regard to any reductions on account of back-end loads, market value adjustments, early withdrawal charges, or any other charges or penalties.

"(2) EMPLOYEE CONTRIBUTIONS.—The eligible amount shall include employee contributions.

"(3) PRESENT VALUE.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The present value of accrued benefits of a participant—

"(i) shall be determined by using a discount rate of not more than 3 percent, and

"(ii) shall not be reduced by the use of mortality or other actuarial factors.

"(B) PHASE-IN.—For plan years beginning in 1993, 1994, or 1995, the following percentages shall be substituted for 3 percent in subparagraph (A)(i):

"For plan years beginning in	**The percentage is:**
1993	6
1994	5
1995	4.

"(d) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) QUALIFIED PLAN.—The term 'qualified plan' means—

"(A) a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust which is exempt from tax under section 501(a) of such Code,

"(B) an annuity plan described in section 403(a) of such Code, and

"(C) an annuity contract described in section 403(b) of such Code.

"(2) INDIVIDUAL RETIREMENT PLAN.—The term 'individual retirement plan' means—

"(A) an individual retirement account described in section 408(a) of such Code, and

"(B) an individual retirement annuity described in section 408(b) of such Code.

"(3) BENEFICIARIES OR ALTERNATE PAYEES.—In the case of an individual who is a beneficiary of the participant or an alternate payee (within the meaning of section 206(d)(3)(K)) under a plan, such individual shall be treated in the same manner as if a participant in the plan."

(b) CONFORMING AMENDMENTS.—

(1) Section 204(g)(2) of such Act (29 U.S.C. 1054(g)(2)) is amended by adding at the end the following new sentence: "Except as otherwise provided in regulations of the Secretary of Labor and the Secretary of the Treasury, the requirements of subparagraph (B) shall not be treated as violated in the case of a direct trustee-to-trustee transfer described in section 205A."

(2) Section 204(d) of such Act (29 U.S.C. 1054(d)) is amended—

(A) in paragraph (1), by striking "or",

(B) in paragraph (2), by striking the period and inserting ", or", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) a direct trustee-to-trustee transfer described in section 205A."

(3) The table of contents for part 2 of subtitle B of title I of such Act is amended by

inserting after the item relating to section 205 the following new item:

"Sec. 205A. Portability requirements for qualified plans."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1992.

SEC. 102. PROTOTYPE PORTABLE PENSION ACCOUNTS.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall prescribe by regulations one or more prototype portable pension accounts which would, upon adoption by any plan sponsor, constitute a portable pension account meeting the requirements of section 205A of the Employee Retirement Income Security Act of 1974. Regulations for the first of such plans shall be issued within 12 months after the date of the enactment of this Act.

(b) ACCOUNT SPONSOR.—A plan sponsor of a portable pension account means any person who has the power to manage, acquire, or dispose of any asset of a portable pension account and is at least one of the following:

(1) an employer adopting a portable pension account;

(2) an association or organization of employees sponsoring a portable pension account on behalf of its members;

(3) a registered investment advisor under the Investment Advisors Act of 1940;

(4) a bank, as defined in that Act;

(5) an insurance company qualified to perform services with respect to a portable pension account but only if participants are fully covered under a State guaranty fund; or

(6) a savings and loan association regulated by the Office of Thrift Management and empowered by law to perform services with respect to a portable pension account.

TITLE II—MINIMUM BENEFIT PENSION SYSTEM

SEC. 201. MINIMUM BENEFIT PENSION SYSTEM.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

"PART 7—MINIMUM BENEFIT PENSION SYSTEM

"SEC. 701. COVERAGE.

"(a) IN GENERAL.—Each employer engaged in commerce, or in any industry or activity affecting commerce, shall establish and maintain a minimum benefit pension plan which covers all employees of the employer who have completed 1 year of service with the employer.

"(b) YEAR OF SERVICE.—For purposes of subsection (a), the term 'year of service' has the meaning given such term by section 203(b)(2), except that such paragraph shall be applied by substituting '500' for '1,000' each place it appears.

"SEC. 702. MINIMUM BENEFIT PENSION PLAN.

"(a) IN GENERAL.—For purposes of this part, the term 'minimum benefit pension plan' means a plan which—

"(1) is—

"(A) described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust which is exempt from tax under section 501(a) of such Code,

"(B) described in section 403(a), or

"(C) consists of annuity contracts described in section 403(b), and

"(2) meets the requirements of this section and other applicable provisions of this Act.

"(b) CONTRIBUTION AND BENEFIT REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if—

"(A) in the case of a defined contribution plan, the employer contributes on behalf of each participant for each plan year an amount not less than the applicable percentage of the participant's compensation paid by the employer for the plan year, and

"(B) in the case of a defined benefit plan, the participant's accrued benefit as of the close of any plan year attributable to years of service for plan years to which this part applies is equal to the greater of—

"(i) the present value of such accrued benefit, or

"(ii) the amount of the participant's accrued benefit which would have been derived if the employer had made contributions on behalf of each participant for such plan years in the amount determined under paragraph (1).

"(2) SPECIAL RULE FOR PART-TIME EMPLOYEES.—In the case of a participant with more than 500 hours of service but less than 1,000 hours of service for any plan year, the contribution and benefit requirements under paragraph (1) shall be equal to the amount which bears the same ratio to such requirements (without regard to this paragraph) as the hours of service of the participant bears to 1,000.

"(3) MAXIMUM AMOUNT.—Nothing in this subsection shall be construed as increasing any limit under this Act or the Internal Revenue Code of 1986 on the maximum amount of any contribution or benefit the plan may provide to a participant for any plan year.

"(c) VESTING.—The requirements of this subsection are met only if each participant has a nonforfeitable right to the accrued benefits required under subsection (b).

"(d) NO INTEGRATION OF MINIMUM BENEFIT.—The requirements of this subsection are met only if the minimum benefit described in subsection (b) is not reduced (or offset) by any other benefits under pension plans maintained by the employer or by benefits under title II of the Social Security Act.

"(e) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph the term 'applicable percentage' means 3 percent.

"(2) NATIONAL RETIREMENT BOARD.—

"(A) IN GENERAL.—The Secretary of Labor shall appoint a National Retirement Board, consisting of 1 representative of employers, 1 representative of employees, and 1 expert in the field of pension benefits.

"(B) INCREASE IN APPLICABLE PERCENTAGE.—The National Retirement Board may make recommendations to increase the applicable percentage if the Board determines such increase is necessary to provide an adequate retirement income to plan participants. Any recommendation, once made, shall take effect, shall be effective for plan years beginning after the later of the date of the recommendation or the date specified in the recommendation, and shall continue until a subsequent recommendation takes effect.

"(3) PHASE-IN.—In the case of the first 2 plan years to which subsection (b) applies to an employer, the applicable percentage shall be one-third and two-thirds, respectively, of the applicable percentage determined without regard to this paragraph.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All pension plans maintained by an employer with respect to any employee shall be treated as one plan.

"(2) TRANSITION RULES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (b) and (c) shall not apply during the 3-plan year period beginning with the first plan year an employer is required to maintain a minimum benefit pension plan under this chapter.

"(B) EXCEPTION FOR LARGE EMPLOYERS.—If, during the first plan year described in subparagraph (A)—

"(i) an employer normally employed more than 500 employees, subsections (b) and (c) shall apply to all plan years beginning after such first plan year, or

"(ii) an employer normally employed more than 100 but not more than 500 employees, subsections (b) and (c) shall apply to all plan years beginning after the plan year following such first plan year.

"(3) MAINTENANCE OF EFFORT.—Notwithstanding subsection (e)(3) or paragraph (2), the contributions and benefits under any plan for plan years to which such provisions apply shall not be less than the levels for the last plan year before the first plan year an employer is required to maintain a minimum benefit pension plan under this chapter.

"SEC. 703. CIVIL PENALTY.

"(a) IMPOSITION OF PENALTY.—There is hereby imposed on the failure of an employer to maintain a minimum benefit pension plan under part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 with respect to any employee for any plan year a civil penalty equal to $10,000.

"(b) PENALTY NOT TO APPLY IF FAILURE CORRECTED.—No penalty shall be imposed by subsection (a) on any failure if—

"(1) such failure was due to reasonable cause and not to willful neglect, and

"(2) such failure is corrected during the 30-day period beginning on the 1st date the employer knew, or exercising reasonable diligence would have known, of such failure."

(b) CONFORMING AMENDMENT.—The table of contents for subtitle B of title I of such Act is amended by adding at the end the following new items:

"PART 7—MINIMUM BENEFIT PENSION SYSTEM

"Sec. 701. Coverage.

"Sec. 702. Minimum benefit pension plan.

"Sec. 703. Civil penalty."

SEC. 202. EFFECTIVE DATE; REGULATIONS.

(a) EFFECTIVE DATE.—The amendments made by this title shall apply to plan years beginning after the date which occurs 2 years after the date of the enactment of this Act.

(b) REGULATIONS.—The Secretary of Labor and the Secretary of the Treasury shall, not later than 12 months after the date of the enactment of this Act, issue such regulations as are necessary to carry out the amendments made by this title.

SECTION-BY-SECTION DESCRIPTION OF THE PRIVATE PENSION REFORM ACT—RETIREMENT 2000

General Purposes: To expand private pension coverage, given plan participants more control over their pension savings, improve pension benefit portability for mobile workers, protect the purchasing power of earned pension benefits, and increase individual savings for retirement and productive investment in the nation's economy.

Title I establishes portability requirements for qualified plans and gives plan participants the right to transfer their earned benefits to portable accounts when they change jobs. Title II expands pension coverage and establishes minimum benefit accrual standards for private pension plans.

TITLE I—PORTABLE PENSION ACCOUNTS

Title I includes three sections: Section 101 establishes a requirement that qualified plans maintain a portable pension account that can accept transfers from other qualified plans, establishes minimum standards for portable pension accounts, and gives participants the right to transfer earned benefits to another portable account upon separation from service. Section 102 provides for the establishment of prototype portable pension accounts to simplify plan qualification and administration.

Section 101. Requirements for Portable Pension Accounts

101(a) Amendments to ERISA

Section 101(a) stipulates that all qualified plans must maintain portable pension accounts for receipt of direct trustee-to-trustee, transfers. At the election of a terminating employee, earned pension benefits may be transferred directly to another portable pension account. In addition, individuals may establish their own portable accounts for the receipt of such transfers.

Portable accounts must provide for payments to retirees and/or their beneficiaries in life annuity or other standard stream of payments forms. In addition, they must protect spousal rights with respect to the distribution of benefits. Portable accounts must also provide sufficient choice among investment options and control over accumulated assets to meet the exercise of control requirements of Section 404(c) of ERISA.

Section 101 also establishes a standardized discount rate for calculating the value of the earned benefits to be transferred from defined benefit plans. When fully phased in, this discount rate (not more than 3%) will help to protect the purchasing power of such benefits from the adverse effects of inflation. This section applies to distributions after December 31, 1992.

Section 102. Prototype Portable Pension Accounts

Section 102(a) requires that the Secretary of Labor issue regulations for prototype accounts within 12 months of enactment.

Section 102(b) stipulates that account sponsors may include qualified financial institutions and associations or organizations of employees as well as employers and Taft Hartley Trusts.

TITLE II—MINIMUM BENEFIT PENSION SYSTEM

Title II requires that all employers establish and maintain a pension plan that meets certain minimum coverage and contribution or benefit accrual requirements.

Section 201. Minimum Benefit Pension System

Section 201 would amend Subtitle B of title I or ERISA of 1974 by adding the following new part:

Part 7—Minimum Benefit Pension System

Section 701. Coverage

Section 701(a) provides that such plans cover all employees who have at least one year of service with their employer.

Section 701(b) defines the term 'year of service' to mean more than 500 hours' work within any plan year.

Section 702. Minimum Benefit Pension Plan

Section 702(a) establishes standards for minimum benefit pension plans.

Section 702(b) would require employers who offer defined contribution plans to contribute not less than the applicable percentage (3%) of compensation on each employee's behalf. Sponsors of defined benefit plans would be required to contribute an amount needed to yield an equivalent benefit.

Section 702(c) provides that plan participants earn a non-forfeitable (vested) right to their earned benefits after one year of service.

Section 702(d) prohibits the integration of such minimum benefits with any other benefits under pension plans maintained by the employer or with the participant's Social Security benefits.

Section 702(e) defines 'applicable percentage' as 3 percent, and would call for the establishment of a National Retirement Board which may make recommendations to increase the applicable percentage.

Section 702(f) includes special aggregation and transition rules designed to smooth the transition from the existing benefit system. It also includes rules with regard to maintenance of effort on the part of existing pension plans.

Under the aggregation rules, all pension plans maintained by an employer with respect to any employee will be treated as a single plan.

Under the transition rules, the minimum benefit pension system will be phased in as follows over a six-year period beginning two years from the date of enactment:

PHASE-IN OF BENEFIT ACCRUAL/EMPLOYER CONTRIBUTION STANDARDS

Firm size	Year					
	3	4	5	6	7	8
More than 500 employees	⅓[1]	⅔[1]	(1)			
101 to 500 employees		⅓[1]	⅔[1]	(1)		
100 or fewer employees				⅓[1]	⅔[1]	(1)

[1] Applicable percentage.

Under the maintenance of effort rules, the contributions and benefits under any plan shall not be less than the levels of the last plan year before the first plan year an employer is required to maintain a minimum benefit pension plan.

Section 703. Civil Penalty

Section 703(a) imposes a civil penalty equal to $10,000 on employers that fail to establish and maintain a minimum benefit pension plan.

Section 703(b) states that the penalty shall not apply if the failure was due to reasonable cause and is corrected within 30 days from the date the employer knew, or should have known, of the failure.

Seciton 202. Effective Date and Regulations

Section 203(a) stipulates that Title II shall take effect two years from the date that this legislation is enacted.

Section 203(b) states that the Secretary of Labor and the Secretary of the Treasury must promulgate the administrative regulations needed to implement Title II within 12 months from enactment.

THE INSTITUTE OF ELECTRICAL
AND ELECTRONIC ENGINEERS, INC.
Washington, DC, July 28, 1992.

Hon. BROCK ADAMS,
Chairman, Aging Subcommittee, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

Hon. HOWARD M. METZENBAUM,
Chairman, Labor Subcommittee, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS ADAMS AND METZENBAUM: The Institute of Electrical and Electronics Engineers—United States Activities (IEEE-USA) has long been concerned about the many serious problems that limit the effectiveness of the nation's voluntary private pension system as a reliable source of retirement income for our increasingly mobile workforce.

These problems include declining pension coverage, particularly for the employees of small businesses; 5 to 10 year vesting requirements that penalize mobile workers; lack of pension portability from traditional defined benefit plans; an absence of incentives for participants to save instead of spend pre-retirement lump sum distributions; and the need for minimum contribution and benefit accrual standards to help ensure that all workers receive an adequate benefit when they retire.

We are especially pleased, therefore, that you are sponsoring legislation that offers pragmatic solutions to these important problems. Introduction of the Private Pension Reform Act—Retirement 2000 will help to focus public attention on the need for a comprehensive reform of the nation's private pension patchwork. Enactment of this legislation will substantially increase the level and security of retirement savings that will be available to all working Americans by the turn of the century.

Title I of the Private Pension Reform Act—Retirement 2000 proposal will immediately improve pension portability for millions of Americans by permitting them to transfer their earned benefits to roll-over IRAS or to other portable plans upon separation from service. This kind of portability is urgently needed, not only to reduce the substantial benefit losses that presently occur when workers change or lose their jobs, but to make it easier for them to move from job to job and even change careers in response to changing economic conditions and employment opportunities.

Title II of the Retirement 2000 proposal provides for an incremental transition to a comprehensive minimum benefit pension system. Such a system will substantially increase coverage to include workers who are currently unable to participate in employer sponsored plans, reduce vesting requirements, prohibit the integration of private pension benefits with Social Security, and establish uniform benefit accrual and contribution standards. When fully phased in at the turn of the century, these standards will help to ensure that all plan participants will receive an adequate pension benefit when they retire.

In summary, the Private Pension Reform Act—Retirement 2000 is designed to make much needed improvements in the nation's private pension system. And at the same time that it contributes to greater retirement income security for millions of American workers, it will also substantially increase the pool of savings needed for productive investment in the nation's economy.

We commend you for introducing this important legislation and look forward to working with you to promote its prompt enactment by the Congress of the United States.

The Institute of Electrical and Electronics Engineers, Inc. (IEEE) is a transnational professional/technical society whose membership includes more than 320,000 electrical and electronics engineers and computer scientists worldwide.

IEEE-USA is responsible for promoting the professional careers and technology policy interests of the 250,000 IEEE members who live and work in the United States.

Sincerely,
ARVID G. LARSON, PH.D.,
Vice President and Chairman,
U.S. Activities Board.

OLDER WOMEN'S LEAGUE,
Washington, DC, August 10, 1992.
Hon. BROCK ADAMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR ADAMS: On behalf of the Older Women's League, I want to thank you and Senator Metzenbaum for introducing the Private Pension Reform Act—Retirement 2000. Your bill will require all employers to establish and maintain a pension plan, provides for vesting rights after one year of employment, and improves pension portability. All of these provisions will expand accessibility to pension plans for millions of American women as well as men.

Currently women enter retirement with only 60 percent of the income of retired men. Economists like to speak of the three legged stool of retirement income—Social Security, investments, and pensions. However, for most women the legs on their stool are short or missing.

Yet women need strong pension income even more than men, because they:

Have to pay for one-third more retirement years than men;

Start retirement with a lower financial base; and

Are six times more likely than men to end their lives single.

It is of great importance to women that pensions be portable. Because women tend to change jobs more often than men due to care-giving responsibilities, following transferred husbands, and leaving dead-end jobs, often they are not on a job long enough to vest and become eligible for benefits. Pensions are a part of employee benefits and should go with an employee when the employee changes jobs.

The Private Pension Reform Act will ensure portability and earlier vesting, stipulations that will greatly improve women's chances of pension income in late life.

Sincerely,

JOAN A. KURIANSKY,
Executive Director.

CITIZENS GROUP CALLS FOR A NATIONAL PENSION DIALOG

Millions of American workers are heading for retirement at or near the poverty level because of the deplorable failure of the $2 trillion U.S. private pension system, according to a citizens watching group—and the situation is about to get a lot worse.

The Citizens Commission on Pension Policy is calling on presidential and congressional candidates to address the "urgent need for a simple, effective universal pension system that works for all Americans" at a 10:00 a.m. briefing on Wednesday, July 22, 1992. The briefing will be at the Pension Rights Center, 918 16th Street, N.W., Suite 704, Washington, DC, which is sponsoring the event.

Citizens Commission Vice-Chair, Paul R. Edwards, will present a pictorial analysis of the current "costly shotgun approach of numerous and ineffective layers of pension programs that leave most workers out in the cold." He will point out that "all American workers are footing the bill for a system that the majority cannot access or derive any benefit from. As the nation's principal taxpayers, workers are subsidizing the private pension system to the tune of $52 billion a year—the largest of all corporate tax breaks. Incredible," Edwards says.

Legislation about to be passed by Congress that will make "a disastrous situation a lot worse," will also be discussed at the briefing. This so-called "pension simplification" legislation will allow the well-off to put more money into tax sheltered do-it-yourself savings plans that provide no benefits to rank and file workers who can't afford to take advantage of them. This will accelerate the already very troubling retreat from traditional pension plans and will mean that even more people will face retirement with only social security payments, now averaging $1,500 a year less than the minimum wage. This legislation has passed the House of Representatives as part of the "Revenue Act of 1992" (H.R. 11) and is slated to be approved by the Senate within the week.

Edwards, a grassroots activist and former factory worker from Springfield, Massachusetts, will point to the "Pension Coverage and Portability Improvement Act of 1992" as a starting point for a national dialogue. This legislation, which would assure that virtually all U.S. workers would be covered by portable pension plans, is scheduled to be introduced into the Senate this week by Senators Brock Adams and Howard Metzenbaum.

Campaign and congressional staff members, representatives of retiree, employee and women's organizations and individuals with first-hand experience of the problems of the private pension system will attend.

The Citizens Commission on Pension Policy was formed in 1978 to monitor the President's Commission on Pension Policy and work for realistic long-range, comprehensive reforms in the nation's pension programs.

By Mr. CHAFEE:

S. 3185. A bill to amend title XVIII of the Social Security Act to expand and improve access to Medicare select policies, and to make technical corrections to provisions relating to Medicare supplemental insurance policies; to the Committee on Finance.

ACCESS TO MEDICARE SELECT POLICIES

• Mr. CHAFEE. Mr. President, I am pleased to introduce legislation that would improve access in all States to Medicare supplemental insurance policies that provide benefits to Medicare beneficiaries through health maintenance organizations and preferred provider organizations.

Also known as Medigap insurance, these policies pay a Medicare beneficiary's share of health care costs such as deductibles and coinsurance payments, for Medicare covered services. About 40 percent of elderly Medicare beneficiaries have some form of privately purchased Medigap insurance. But like all health insurance, the costs are rising quickly and not every beneficiary can afford to buy a policy.

Millions of Americans receive health care services through managed care networks. These plans are often more affordable and more comprehensive than traditional health insurance. Employers also use managed care systems to provide an additional option, along with traditional fee-for-service medicine to their employees and retirees.

In 1990, I sponsored legislation which created a new option under Medicare called Medicare Select. Medicare Select is a Medigap insurance policy linked to a managed care network like an HMO. We hoped that because of this linkage, Medicare Select policies would cost less than traditional Medigap policies with the same coverage, and would offer Medicare beneficiaries greater choice and improve quality of care.

Before enactment of this legislation, Medicare beneficiaries who chose managed care had only one choice. They had to enroll in an HMO. Although this option is attractive to many beneficiaries, others did not want to enroll in a managed care plan because they did not want to receive their Medicare benefits through the HMO. Medicare Select gave them greater flexibility by allowing them to choose from a list of providers through a preferred provider organization or PPO.

Although the Senate passed the proposal without any limitations, during conference with the other body, the program was limited to 15 States and will be allowed to continue for only 3 years. In addition other changes in Medigap insurance regulation enacted at the same time created barriers to the success of managed care in the Medicare Program.

For example, most HMO's require a small copayment for each outpatient visit. Under the 1990 Medigap insurance reform law, Medigap policies cannot require Medicare patients to make copayments. This requirement does not fit into the traditional structure used by HMO's in offering benefits to their enrollees, thus creating a disincentive for HMO's to offer coverage to Medicare beneficiaries.

This bill will correct these and other problems, and will create a standardized plan that HMO's and PPO's can use to ensure the success of managed care for Medicare patients. My bill also will eliminate the current arbitrary and unnecessary 15 State, 3-year limitation on the Medicare Select program. Under this bill, Medicare beneficiaries in every State will be able to choose this managed care option which will make the Medigap insurance more affordable. I encourage my colleagues to join with me in improving the managed care options offered to Medicare patients.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO OBRA-1990; REFERENCES TO SOCIAL SECURITY ACT.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this Act, the term "OBRA-1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) REFERENCES TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2. ACCESS TO MEDICARE SELECT POLICIES.

(a) AMENDMENTS TO PROVISIONS RELATING TO MEDICARE SELECT POLICIES.—

(1) PERMITTING MEDICARE SELECT POLICIES IN ALL STATES.—Section 4358(c) of OBRA–1990 is amended to read as follows:

"(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 1, 1992.".

(2) RESTRICTIONS ON CERTAIN MEDICARE SELECT POLICIES.—Section 1882(t)(1) (42 U.S.C. 1395ss(t)(1)) is amended to read as follows:

"(1)(A) If a medicare supplemental policy meets the 1991 NAIC Model Regulation or 1991 Federal Regulation and otherwise complies with the requirements of this section except that—

"(i) the benefits under such policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), or

"(ii) in the case of a policy described in subparagraph (C)(i), the benefits under such policy are not included in one of the groups or packages of benefits described in subsection (p)(2)(A), but such benefits include—

"(I) benefits for inpatient hospital services which have an actuarial value at least equal to the actuarial value of such benefits provided in the core group of basic benefits described in subsection (p)(2)(B), and

"(II) benefits for services covered under part B of this title which have an actuarial value at least equal to the actuarial value of such benefits provided in the core group of basic benefits described in section (p)(2)(B),

the policy shall nevertheless be treated as meeting those standards if the policy meets the requirements of subparagraph (B).

"(B) A policy meets the requirements of this subparagraph if—

"(i) full benefits are provided for items and services furnished through a network of entities which have entered into contracts or agreements with the issuer of the policy,

"(ii) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury, or condition and it is not reasonable given the circumstances to obtain the services through the network,

"(iii) the network offers sufficient access,

"(iv) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network,

"(v)(I) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of—

"(aa) the restrictions on payment under the policy for services furnished other than by or through the network,

"(bb) out of area coverage under the policy,

"(cc) the policy's coverage of emergency services and urgently needed care, and

"(dd) the availability of a policy through the entity that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation without regard to this subsection and the premium charged for such policy; and

"(II) each enrollee prior to enrollment acknowledges receipt of the explanation provided under subclause (I), and

"(vi) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the 1991 Model NAIC Regulation or 1991 Federal Regulation and other requirements of this section without regard to this subsection.

"(C)(i) A policy described in this subparagraph—

"(I) is offered by an eligible organization (as defined in section 1876(b)),

"(II) is not described in clauses (ii) and (iii) of subsection (g)(1)(A), and

"(III) provides benefits which, when combined with benefits which are available under this title, are substantially similar to benefits under policies offered to individuals who are not entitled to benefits under this title.

"(ii) In making a determination under subclause (III) of clause (i) as to whether certain benefits are substantially similar, there shall not be taken into account benefits provided under policies offered to individuals who are not entitled to benefits under this title which are in addition to the benefits covered by this title and which are benefits an entity must provide in order to meet the definition of an eligible organization under section 1876(b)(1).".

(b) RENEWABILITY OF MEDICARE SELECT POLICIES.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended by adding at the end the following new paragraph:

"(6) Paragraph (1) shall not apply to a plan or policy which meets the requirements of subsection (t) with respect to an individual covered by such plan or policy who leaves the service area of such plan or policy.".

"(c) CONFORMING AMENDMENT.—Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended—

(1) by striking "(g)(1)" and inserting "(g)(1)(A)";

(2) by striking "but does not include" and all that follows and inserting: "but does not include—

"(i) any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof), or for members or former members (or combination thereof) of the labor organizations;

"(ii) any such policy or plan of an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986; and

"(iii) during the 1-year period beginning on the date specified in subsection (p)(1)(C), any such policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)."; and

(3) by adding at the end the following new subparagraph:

"(B) For purposes of this section, the term 'policy' includes a certificate issued under such policy.".

SEC. 3. CIVIL PENALTY FOR ANY MISREPRESENTATION OR FALSE INFORMATION IN CONNECTION WITH A MEDICARE SELECT POLICY.

Section 1882(t)(2) (42 U.S.C. 1395ss(t)(2)) is amended—

(2) by striking "(2)" and inserting "(2)(A);

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively;

(3) in clause (iv), as redesignated—

(A) by striking "paragraph (1)(E)(i)" and inserting "paragraph (1)(B)(v)(I)"; and

(B) by striking "paragraph (1)(E)(ii)" and inserting "paragraph (1)(B)(v)(II)";

(4) by striking "the previous sentence" and inserting "this subparagraph"; and

(5) by inserting at the end the following new subparagraph:

"(B) If the Secretary determines that an issuer of a policy approved under paragraph (1) has made a misrepresentation to the Secretary or has provided the Secretary with false information regarding such policy, the issuer is subject to a civil money penalty in an amount not to exceed $100,000 for each such determination. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

SEC. 4. CORRECTIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES (SECTION 4351 or OBRA–1990).—

(1) Section 4351 of OBRA–1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)), as added by section 4351 of OBRA–1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes in revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'),", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "application standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)" and by adding at the end the following: "The Secretary shall publish in the Federal Register such list by not later than 90 days after the date the Association promulgates the 1991 NAIC Model Regulation or the Secretary promulgates the 1991 Federal Regulation.".

(b) GUARANTEED RENEWABILITY (SECTION 4352 OF OBRA-1990).—Section 1882(q) (42 U.S.C. 1359ss(q)), as added by section 4352 of OBRA-1990, is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS (SECTION 4353 OF OBRA-1990).—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)), as added by section 4353(a)(2)(B) of OBRA-1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) added by section 4353(c)(4) of OBRA-1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 4353(d)(2) of OBRA-1990 is amended by striking "July 1, 1991" and inserting "the date specified in section 1882(p)(1)(C) of the Social Security Act".

(4) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(d) PREVENTING DUPLICATION (SECTION 4354 OF OBRA-1990).—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)), as amended as section 4354(a)(1) of OBRA-1990, is amended—

(A) by inserting, in the next to last sentence, "with respect to the sale of a medicare supplemental policy" after "violate the previous sentence", and

(B) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)), as amended by section 4354(a)(2) of OBRA-1990, is amended—

(A) in clause (i)(I), by striking "subclause (II)" and inserting "clause (ii)",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amendeing subclause (III) of clause (III) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), is a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the individual's full liability for medicare cost-sharing (as defined in section 1905(p)(3))."

(3) Subparagraphs (A) and (B) of section 1882(q)(5) (42 U.S.C. 1395ss(q)(5)), as added by section 4354(b) of OBRA-1990, are each amended by striking "of the Social Security Act".

(4) The second subsection (b) of section 4354 of OBRA-1990 (relating to effective date) is amended—

(A) by redesignating such subsection as subsection (c),

(B) by striking "DATE" and inserting "DATES",

(C) by striking "by this section" and inserting "by subparagraphs (A) through (E) of subsection (a)(1)", and

(D) by inserting before the period at the end the following: "and the amendments made by the other provisions of this section shall take effect on the effective date specified in section 1882(p)(1)(C) of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS (SECTION 4355 OF OBRA-1990).—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)), as added by section 4355(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1), by striking "or solid" and inserting "or renewed",

(B) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)",

(C) in the first sentence of paragraph (2)(A), by striking "(1)(B)" and inserting "(1)",

(D) in paragraph (4), by striking "disallowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "disallowance", "loss ratios", and "loss ratio", respectively, and

(E) in paragraph (6)(A), by inserting "or renews" after "issues".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by transferring and inserting the subparagraph (G) added by section 4355(c)(3) of OBRA-1990 immediately after the subparagraph (F) added by section 4353(c)(3) of that Act.

(3) Section 4355(d) of OBRA-1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(f) PRE-EXISTING CONDITION LIMITATIONS (SECTION 4357 OF OBRA-1990).—

(1) Section 1882(s) (42 U.S.C. 1395ss(s)), as added by section 4357(a)(2) of OBRA-1990, is amended—

(A) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual if an application was submitted", and

(B) in paragraph (2)(B), by striking "before it" and insetting "before the policy".

(2) Section 4357(b) of OBRA-1990 is amended by striking "1 year after the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act, except that section 1882(s)(1) of such Act shall take effect on December 13, 1990".

(g) MEDICARE SELECT POLICIES (SECTION 4358 OF OBRA-1990).—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)), as added by section 4358(a) of OBRA-1990, is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation",

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty",

(F) in paragraph (2), by striking "such violation" and inserting "such determination", and

(G) in paragraph (3), by striking "certified" and inserting "approved".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)), as amended by section 4358(b)(3) of OBRA-1990, is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(h) HEALTH INSURANCE COUNSELING (SECTION 4360 OF OBRA-1990).—Section 4360 of OBRA-1990 is amended—

(1) in subsection (b)(20(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide",

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(i) TELEPHONE INFORMATION SYSTEM (SECTION 4361 OF OBRA-1990).—

(1) Section 1804 (42 U.S.C. 1395b-2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 (42 U.S.C. 1395zz), as inserted by section 4361(a) of OBRA-1990, is repealed.

SEC. 5. EFFECTIVE DATES.

(a) The amendments made by section 2 (other than subsection (a)(1) thereof) and section 3 shall be effective on the date of the enactment of this Act.

(b) The amendments made by sections 2(a)(1) and 4 shall take effect as if included in the enactment of OBRA-1990.•

By Mr. ADAMS (for himself, Mr. BINGAMAN, and Mr. METZENBAUM):

S. 3186. A bill to amend the Public Health Service Act to prohibit physicians from referring patients to health entities in which they have a financial relationship, and for other purposes; to the Committee on Labor and Human Resources.

ETHICS IN REFERRALS AND BILLING ACT

Mr. ADAMS. Mr. President, I rise today to introduce the Ethics in Referral and Billing Act of 1992. This legislation is intended to eliminate two practices that are contributing to the Nation's skyrocketing—and staggering—health care costs: Referrals by physicians to health services in which they have a financial interest; and physicians inflating the prices charged to patients for tests done by outside facilities.

I am very pleased to be joined in introducing this legislation by my distinguished friends and colleagues from the Labor and Human Resources Committee, Senators BINGAMAN and METZENBAUM. I want to express my deep appreciation to them for their hard work in helping me to draft this bill.

We will not be able to reform our health care system and ensure that all Americans have the health care they need until we rein in skyrocketing costs. To do that, we will need to find every dollar spent on unnecessary or inappropriate care and use them to pay for the care that is so badly needed by millions of Americans.

This bill addresses a significant part of that problem. Physician-ownership of health care facilities and services is clearly contributing to driving the cost of medical care sky high. The bottom line is that we cannot reform the health care system and contain costs without tackling this issue.

The American people are losing their faith in our health care system. Traditionally, patients have had a great deal of respect and trust in their physicians. As the practice of medicine has become more and more perceived as the practice of business, the traditional patient-doctor relationship has deteriorated. We must put trust back in our health care system. Patients need to trust that when their doctor orders medical tests those tests are necessary, of the highest quality and the lowest possible cost.

We can help do that by abolishing the practices of self-referral and indirect billing. We have prohibited self-referrals involving clinical laboratories receiving Medicare dollars, now we must do that for all medical facilities and services where there is a potential conflict of interest. And, that is what Senators BINGAMAN, METZENBAUM, and I propose to do with this legislation.

Mr. President, studies conducted by the HHS Office of the Inspector General, the General Accounting Office, and most recently, the Florida Health Care Cost Containment Board, as well as others reported in the New England Journal of Medicine, have confirmed what most of us have suspected. Doctors who own laboratories or other facilities order more tests for their patients and charge more for the tests performed there. Even more egregious is the fact that many of the tests ordered by these doctor-owners/investors may be medically unnecessary.

Let me share just a few of the findings from the Florida study:

Over 40 percent of the doctors practicing in the State have invested in joint ventures to which they can refer patients;

Ninety-three percent of diagnostic imaging centers are either wholly or in-part owned by physicians;

Doctor-owned laboratories, which account for more than 60 percent of all laboratories, performed almost twice as many tests for each patient as other laboratories; and

The average cost per patient in doctor-owned laboratories was more than double that of non-physician owned laboratories.

In a separate report on Florida, the Center for Health Policy Studies in Columbia, MD, found that self-referral in Florida was costing payors at least $500 million.

Many others are speaking out forcefully on this issue. Dr. Arnold Relman, retired editor-in-chief of the prestigious New England Journal of Medicine, describes self-referral as an abuse on such a massive scale that there can be no possible social or medical rationale.

Earlier this year, C. Everett Kopp, the highly esteemed Surgeon General during the Reagan administration, issued a statement during deliberations in the Florida legislature on a state bill dealing with physician self-referrals. I would like to quote from General Koop's statement. He said in part:

> America is calling for health care reform. A return to physician professionalism. An end to greed. And a return to the practice of medicine in the realm of trust between patient and physician. Self-referral accomplishes none of these.

Unfortunately, we cannot expect that the organized medical community will police itself. On June 23 the American Medical Association [AMA] voted to significantly dilute its policy against self-referral. Just last December, the AMA's Council on Ethical and Judicial Affairs, to its credit, issued an opinion stating that it was unethical for physicians to refer patients to facilities in which physicians have a financial interest.

Regretably, the AMA's House of Delegates reversed that position in June, by recommending that the AMA adopt a policy that referrals by physicians to facilities they own or have invested in are ethical if the patient is fully informed of the ownership interest and the existence of any available alternative facilities. While full disclosure should always be made, health care is not like buying a car or other consumer good or service—disclosure's good but it's not good enough.

Mr. President, let me briefly describe what our legislation does. With certain specified exceptions, this bill prohibits physicians from referring patients to health and health-related entities in which they have a financial interest. The prohibition would apply to health care services regardless of who is responsible for the payment of these services.

This bill recognizes that there are times when banning such referrals would be inappropriate or counter-productive. Therefore, we have crafted a number of significant exemptions. For example, there is a broad exemption for rural areas. Physicians may refer to health care entities in which they have an interest in rural areas because that may be the only way to make such services available. Subject to certain criteria, the bill also permits referrals to hospitals, group practices, in-office ancillary service's and prepaid plans.

Current indirect billing practices are also adding millions in unnecessary costs to the health care system. Physicians should not serve as financial middle-men between patients and health care facilities. Many physicians, while sending tests to outside facilities, mark-up the cost of the test and then bill the patient. The physician then pays the lab and pockets the often sizeable difference between what the lab has charged the doctor and the patient has paid.

That practice needs to stop. Our bill will do just that. Payment for these medical services must be accomplished directly. With certain specified exceptions, this bill would make it unlawful for a facility to bill the physician or for the physician to mark-up the procedures ordered.

We recognize that we may not have anticipated all the possible appropriate exemptions. The burden, however, will be on the provider to demonstrate to Congress why his or her form of ownership or investment in a health enterprise is necessary and should be exempted from the law.

Clearly, we do not expect the organized physician community to support this legislation. I do think, however, that many thoughtful physicians on an individual basis will agree with us—C. Everett Koop isn't alone.

Frankly, opposition to this bill is a futile exercise in swimming against the tide. Right now, that tide is gaining strength. In time, it will be irresistible. The cost of health care is out of control. This legislation is reasonable and responsible. Physicians may see this as a form of invasive treatment but, if we don't do this, more radical surgery to constrain costs will be necessary.

A broad prohibition on physician self-referrals is going to occur. It's not a question of if, it's a question of when. Even the President's health care reform pronouncements include an expansion of the current Medicare ban, and the House Republican leadership's health care reform proposal also addresses this issue.

And the States are not idly standing by waiting for Congress to act. They hope for our leadership but are not holding their breath. Florida, New Jersey, Illinois, and New York have already acted on physician self-dealing. My home State has passed legislation on this. Mr. President, the Congress has already said these arrangements are wrong with regard to clinical laboratories under Medicare. Congressman STARK is vigorously leading the effort to expand his earlier efforts throughout Medicare. This issue is only going to gain momentum.

A number of organizations have already expressed their support for this bill. For example, these include the American Association for Clinical Chemistry, the American Clinical Laboratory Association, the American Society for Medical Technology, the American Society of Clinical Pathologists, the National Council of Senior Citizens, the consumer organization, Public Citizen Health Research Group, and the American Association of Bioanalysts.

Mr. President, it's time to get serious about this matter, and this legislation is an opportunity to make a serious statement about it. I urge our colleagues to join Senators METZENBAUM, BINGAMAN and me in cosponsoring this legislation and working to see that it is enacted into law as promptly as possible.

I ask, Mr. President, I ask unanimous consent that the text of the bill that we are introducing along with a summary of the bill's provisions, letters of support from these organizations, the statement of former Surgeon General Koop, and a recent three-part series of articles on physician self-referrals that appeared in the Seattle Times, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Referrals and Billing Act of 1992".

SEC. 2. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—PHYSICIAN REFERRAL AND BILLING

"Subtitle A—Prohibition on Referrals

"SEC. 2701. PROHIBITION.

"(a) IN GENERAL.—Except as provided in section 2702, if a physician (or immediate family member of such physician) has a financial relationship with an entity—

"(1) the physician may not make a referral to the entity for the furnishing of health or health-related items or services; and

"(2) neither the entity nor the physician may present, or cause to be presented, to any person (including an individual, entity or third-party payor) a claim, bill or other demand for payment for health or health-related items or services furnished pursuant to a referral prohibited by this section.

"(b) FINANCIAL RELATIONSHIP.—For purposes of subsection (a), the term 'financial relationship' means—

"(1) except as provided in subsections (a), (b) and (c) of section 2702, an ownership or investment interest (whether through debt, equity or otherwise) in the entity; or

"(2) except as provided in subsections (a) and (d) of section 2702, a compensation arrangement (as defined in section 2709(1)) between the physician (or immediate family member of the physician) and the entity.

"SEC. 2702. EXCEPTIONS TO FINANCIAL RELATIONSHIP PROVISIONS.

"(a) OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS.—Section 2701(a) shall not apply in the following cases:

"(1) PHYSICIANS' SERVICES.—In the case of physicians' services (as defined in section 2709(8)) provided or supervised personally by the referring physician or provided or supervised personally by another physician in the same group practice (as defined in paragraph 2709(4)) as the referring physician.

"(2) IN-OFFICE ANCILLARY SERVICES.—In the case of health or health-related items or services—

"(A) that are furnished—

"(i) personally by the referring physician;

"(ii) personally by a physician who is a member of the same group practice as the referring physician; or

"(iii) personally by individuals who are employed by such physician or group practice and who are personally supervised by the physician or by another physician in the group practice; and

"(B) that are billed—

"(i) by the physician performing or supervising the services;

"(ii) by a group practice of which such physician is a member; or

"(iii) by an entity that is wholly owned by such physician or such group practice, if the ownership or investment interest in such services meets such other requirements as the Secretary may by regulation impose as needed to protect against patient and payor abuse.

"(3) PREPAID PLANS.—In the case of services furnished by a public or private entity (which may be a health maintenance organization or a competitive medical plan organized under the laws of any State) that—

"(A) is a health maintenance organization (as defined in section 1301); or

"(B) complies with such other requirements as the Secretary may by regulation impose.

"(4) OTHER RELATIONSHIPS.—In the case of any other financial relationship that the Secretary determines, and specifies in regulations, does not pose a risk of payor or patient abuse.

"(b) OWNERSHIP OR INVESTMENT PROHIBITION FOR OWNERSHIP OF PUBLICLY TRADED SECURITIES.—

"(1) IN GENERAL.—Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) that were purchased on terms equally available to the public and that are in a corporation that—

"(A)(i) is listed for trading on—

"(I) the New York Stock Exchange;

"(II) the American Stock Exchange; or

"(III) another exchange approved by the Secretary; or

"(ii) is a national market system security traded under an automated interdealer quotation system operated by the National Association of Securities Dealers; and

"(B) had, at the end of the corporation's most recent fiscal year, total assets exceeding $100,000,000, and stockholder equity in excess of $50,000,000;

shall not be considered to be an ownership or investment interest described in section 2701(b)(1), except that any ownership or investment in an entity providing any health or health-related item or service in which investments, solicitations, or other inducements to invest are made exclusively or primarily to physicians either prior to or in the course of a public offering would be considered to be a financial relationship for purposes of this section.

"(2) ADDITIONAL REQUIREMENTS.—Paragraph (1) shall only apply in the case of a corporation that has not loaned funds to, or guaranteed a loan for, an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the corporation if the investor used any part of such loan to obtain the investment interest.

"(c) ADDITIONAL EXCEPTIONS RELATED TO OWNERSHIP OR INVESTMENT PROHIBITION.—For purposes of section 2701(b)(1), a physician shall not be considered as having an ownership or investment interest in an entity in the following cases:

"(1) HOSPITAL OWNERSHIP.—In the case of health or health-related items or services provided by a hospital, if—

"(A) the referring physician performs services at the hospital;

"(B) the ownership or investment interest is in the hospital itself (and not merely in a subdivision thereof) subject to the requirements of subsection (b); and

"(C) at least 60 percent of the hospital is owned by physicians performing services at the hospital.

"(2) RURAL PROVIDERS.—In the case of an entity that is furnishing health or health-related items or services, if—

"(A) the entity is located in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act);

"(B) the referring physician maintains a practice in the same area; and

"(C) the patient receiving the services is a resident of the same area;

except that, an entity described in subparagraph (A) may provide the requested services in cases where the referring physician certifies that an actual emergency exists.

"(3) AMBULATORY SURGERY CENTERS.—In the case of health or health-related items or services that are provided by an ambulatory surgical center, if such items or services are provided in connection with a surgical procedure performed by the referring physician or a member of the referring physician's group practice.

"(d) EXCEPTIONS RELATING TO OTHER COMPENSATION ARRANGEMENTS.—

"(1) IN GENERAL.—For purposes of section 2701(b)(2), the following shall not be considered to be compensation arrangements.

"(A) RENTAL OF OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease agreement is in writing and signed by the parties;

"(ii) the lease specifies the premises covered by the lease;

"(iii) in cases where the lease is intended to provide the lessee with access to the premises for periodic intervals of time, rather than on a full-time basis for the term of the lease, and the lease specifies exactly the schedule of such intervals, their precise length, and the exact rent for such intervals; and

"(iv) the aggregate rental charge is set in advance, is consistent with fair market value in arms-length transactions and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties.

"(B) RENTAL OF EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease agreement is in writing and signed by the parties;

"(ii) the lease specifies the equipment covered by the lease;

"(iii) in cases where the lease is intended to provide the lessee with use of the equipment for periodic intervals of time, rather than on a full-time basis for the term of the lease, the lease specifies exactly the schedule of such intervals, their precise length, and the exact rent for such interval; and

"(iv) the aggregate rental charge set in advance and is consistent with fair market value in arms-length transactions.

"(C) PAYMENTS FOR OTHER ITEMS OR SERVICES.—Payments made by an entity to a physician who is not employed by the entity as compensation for—

"(i) specified consultative services if—

"(I) abnormal test results have been obtained that require additional interpretation or consultation; or

"(II) such services are specifically requested by the referring physician on a specified patient, such services are furnished by a physician other than the referring physician (or by another physician who is a member of the same group practice) and where the consulting physician furnishes a written report for that patient;

"(ii) the interpretation of tissue pathology or Pap smear slides or the provision of other cytology services;

"(iii) employment-related health care services, including a payment by a self-insured employer for services rendered to employees or their families under the terms of a health insurance plan; and

"(iv) any services required by local, State or Federal licensure, accreditation or other health and safety provisions:

except that the services described in this clause shall only be exempt for purposes of section 2701(b)(2) if, (aa) the services are provided pursuant to an agreement that is set out in writing; (bb) the agreement specifies the services to be provided by the parties; (cc) in cases where the agreement is intended to provide for the services on a periodic, sporadic or part-time basis, rather than on a full-time basis for the term of the agreement, the agreement specifies exactly the schedule of such intervals, their precise length, and the exact charge for such intervals; (dd) the aggregate compensation paid over the term of the agreement is consistent with fair market value in arms-length transactions; and (ee) the services performed under the agreement do not involve the counseling or promotion of a business arrangement or other activity that violates any State or Federal law.

"(D) EMPLOYMENT AND SERVICE ARRANGEMENTS WITH HOSPITALS.—An arrangement between a hospital or nursing facility and a physician (or immediate family member) for the employment of the physician (or family member) or for the provision of administrative services by the physician, if—

"(i) the arrangement is for identifiable services;

"(ii) the amount of the remuneration under the arrangement—

"(I) is consistent with the fair market value of the services provided; and

"(II) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician;

"(iii) the remuneration is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the hospital; and

"(iv) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(E) EMPLOYEES.—Payments to an employee, who is an immediate family member of a physician, if the payments—

"(i) are for bona fide employment services;

"(ii) are generally consistent with the compensation paid to other employees for the same or similar services; and

"(iii) do not constitute, directly or indirectly, payments or remuneration for referrals from the immediate family member.

"(F) PHYSICIAN RECRUITMENT.—Payments provided by a hospital to a physician to induce the physician to relocate to the geographic area served by the hospital in order to be a member of the medical staff of the hospital, if—

"(i) the physician is not required to refer patients to the hospital;

"(ii) the amount of the remuneration under the arrangement is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician; and

"(iii) the remuneration does not continue for more than 2 years.

"(G) ISOLATED TRANSACTIONS.—An isolated financial transaction (such as a one-time sale of property) if—

"(i) the amount of the payment under the transaction—

"(I) is consistent with the fair market value of the items or property sold; and

"(II) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician; and

"(ii) the remuneration is provided pursuant to an agreement that would be commercially reasonable even if no referrals were involved.

"(H) SALARIED PHYSICIANS IN A GROUP PRACTICE.—Payment by a group practice of the salary of a physician member of the group practice.

"(I) PROVISION OF CERTAIN ITEMS, DEVICES, AND SUPPLIES.—The provision of information, items, devices, or supplies by a laboratory to a physician that are incident to, or necessary for—

"(i) the collection, transportation, or testing of specimens by the laboratory providing such information, items, devices or supplies; or

"(ii) the communication of results by the laboratory providing such information, items, devices, or supplies.

"(2) OTHER REQUIREMENTS.—The Secretary may by regulation impose such other requirements as are needed to protect against patient and payor abuse.

"SEC. 2703. CLARIFICATION REGARDING CERTAIN REFERRALS.

"(a) WHAT CONSTITUTES A REFERRAL.—In the case of—

"(1) a health or health-related item or service, the request by a physician for the health or health related item or service, including the request by a physician for a consultation with another physician, and any test or procedure ordered by, or to be performed by or under the supervision of that other physician shall constitute a referral by a referring physician;

"(2) a request or establishment of a plan of care by a physician which includes the provision of the health or health related items or services, such request or establishment shall constitute a referral by a referring physician; and

"(3) the prescription of the drug by a physician constitutes a referral by a referring physician, but only if the physician directs the patient to the specific pharmacy, home intravenous drug therapy provider or other entity dispensing the drug.

"(b) NONREFERRALS.—The following shall not constitute a referral by a referring physician:

"(1) FURNISHING OF PROFESSIONAL SERVICES.—A request by a physician for physician's services consisting solely of professional services to be furnished personally by that physician or under that physician's personal supervision.

"(2) CLINICAL DIAGNOSTIC TESTS.—A request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, if such services are furnished by (or under the supervision of) such pathologist pursuant to a consultation requested by another physician.

"(3) DIAGNOSTIC X-RAYS.—Except as provided in subsection (a)(1), a request by a radiologist for diagnostic x-ray or imaging services, if such services are furnished by (or under the direct or personal supervision of) such radiologist pursuant to a consultation requested by another physician.

"(4) RADIATION THERAPY.—Except as provided in subsection (a)(1), a request by a physician specializing in the provision of radiation therapy services for such services, if such services are furnished by (or under the direct or personal supervision of) such physician specializing in the provision of radiation therapy services pursuant to a consultation requested by another physician.

"(5) SPECIALIZED CANCER PHARMACY.—A referral by a physician to a specialized cancer treatment pharmacy, if the pharmacy is engaged in the specific practice of preparing and distributing intravenous drugs and solutions used in the diagnosis and treatment of cancer and the complications thereof and is not engaged in distributing general pharmaceuticals to the public.

"(6) RENAL DIALYSIS PROVIDER.—A referral by a physician to a renal dialysis provider in conjunction with a renal dialysis procedure performed under the supervision of the physician.

"SEC. 2704. DISCLOSURE OF INFORMATION.

"Each claim, bill or other demand for health or health related items or services shall identify the referring physician by name and appropriate physician identification number, as determined by the Secretary pursuant to section 2705.

"SEC. 2705. REPORTING REQUIREMENTS.

"(a) OWNERSHIP ARRANGEMENT INFORMATION.—Each entity providing health or health-related items or services shall make available to the Secretary, and to any payor (including a patient or third party payor), if requested by such payor, information concerning the entity's ownership arrangements, including—

"(1) the covered items and services provided by the entity; and

"(2) the names and Unique Physician Identification Numbers, or other appropriate identification number, of all physicians with an ownership or investment interest (as described in subsection 2701(b)(1)) in the entity, or whose immediate relatives have such an ownership or investment.

"(b) FORM AND MANNER.—The information required under subsection (a) shall be made available in such form, manner, and at such times as the Secretary shall require.

"(c) CONSULTATIONS.—The Secretary shall consult with all interested parties to determine how best to make the information required under subsection (a) available and establish appropriate procedures to carry out such determination.

"(d) REPORT BY SECRETARY.—Not later than the end of the first calendar quarter after the first full year during which this title is in effect, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing—

"(1) summaries of the information submitted to the Secretary by entities under this title for the period for which the report is being submitted;

"(2) the actions taken by the Secretary and other entities to remain in compliance with this title; and

"(3) recommendations for legislation to improve this title if appropriate.

"SEC. 2706. REGULATIONS.

"The Secretary shall promulgate such regulations as may be necessary to carry out the purposes of this title. If the Secretary determines that additional exceptions to the requirements of section 2701 are in the public interest, and will not result in patient or program abuse, the Secretary may by regulation prescribe additional exceptions.

"SEC. 2707. SANCTIONS.

"(a) PAYMENT.—No person (including an individual, entity or third party payor) shall be required to pay any claim, bill, or other demand for payment for health or health-related items or services furnished pursuant to a referral prohibited under section 2701.

"(b) LIABILITY ON COLLECTION.—If a person collects on any amounts that were billed in violation of section 2701, such person shall be liable to the payor for any amounts so collected.

"(c) INSURANCE PROVISION WITH RESPECT TO NONPAYMENT.—A policy of accident or health insurance issued by any third-party payor, including every subscriber contract issued by a hospital service corporation, health service corporation, medical expense indemnity corporation or mutual insurance company that provides coverage for health or health-related items or services shall include a provision prohibiting the payment of any claim, bill or other demand for payment for the provision of a health or health related item or service furnished pursuant to a referral prohibited under section 2701.

"(d) PATTERNS OF CLAIMS.—A third-party payor that is subject to subsection (c) shall report to the Secretary any pattern that may exist in the submission of claims, bills or other demands for payment that are submitted in violation of section 2701, not later than 60 days after that date on which such third-party payor has knowledge of such pattern.

"(e) NO REQUIREMENT OF AUDIT.—Notwithstanding the requirements of subsections (b), (c) and (d), a third-party payor providing reimbursements for health or health-related items or services shall not be required to audit or investigate any claim, bill or other demand for payment for such items or services that are furnished pursuant to a referral.

"(f) KNOWLEDGE OF VIOLATION.—Any person or entity that presents or causes to be presented, on a repeated basis, a bill or claim that such person or entity knows, or should have known, is for a service for which payment may not be made under subsection (a), and any physician that makes referrals, on a repeated basis, that are prohibited under section 2701, shall be subject to a civil money penalty of not more than $15,000 for each such service or referral. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to any civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(g) CONCERTED ACTION IN VIOLATION OF SUBTITLE.—

"(1) IN GENERAL.—Any person or entity that enters into an arrangement or scheme (such as a cross-referral arrangement) that the person or entity knows, or should have known, has a principal purpose of assuring referrals by a physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A.

"(2) OTHER CONCERTED ACTIONS.—The Secretary may through regulations define such other arrangements whose purpose is to circumvent the purposes of this subtitle. A violation of such regulations shall be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(h) SUSPENSION OF LABORATORY CERTIFICATION.—If the Secretary finds, after reasonable notice and opportunity for a hearing, that a laboratory which holds a certificate pursuant to section 353 has violated section 2701, the Secretary may suspend, revoke or limit such certification in accordance with the procedures established in section 353(k).

"(i) EXCLUSION FROM OTHER PROGRAMS.—The Secretary may exclude from participation in any program under title XVIII of the Social Security Act, any individual or entity that the Secretary determines has violated section 2701 and may direct that such individual and entity be excluded from participation in any State health care program receiving Federal funds.

"(j) FAILURE TO REPORT INFORMATION.—Any person who knowingly fails to comply with a reporting requirement imposed under this title shall be subject to a civil money penalty of not more than $10,000 for each day for which such required reporting is not complied with. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"SEC. 2708. RIGHT OF PERSON INJURED.

"Any person who pays any claim, bill or other demand for payment for health or health-related items or services, where the person furnishing the items or services knew or should have known that they were furnished pursuant to a referral prohibited under section 2701, may sue therefore in any district court in the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover the amount of his payment, the cost of suit, including a reasonable attorney's fee.

"SEC. 2709. DEFINITIONS.

"As used in this subtitle:

"(1) COMPENSATION ARRANGEMENT.—The term 'compensation arrangement' means any payment (whether directly or indirectly, overtly or covertly, in cash or in kind) made by an entity to a physician (or immediate family member).

"(2) EMPLOYEE.—The term 'employee' means an individual who would be considered to be employed by an entity under the usual common law rules applicable in determining the employer-employee relationship (as applied for purposes of section 3121(d)(2) of the Internal Revenue Code of 1986).

"(3) FAIR MARKET VALUE.—The term 'fair market value' means the value of items or services in arms length transactions, consistent with the general market value of such items or services, and, with respect to rentals or leases, the value of rental property for general commercial purposes (not taking into account its intended use) and, in the case of a lease of space or equipment, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to sources of referrals or business.

"(4) GROUP PRACTICE.—The term 'group practice' means a group of two or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(A) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides (including medical care, consultation, diagnosis, or treatment) through the joint use of shared office space, facilities, equipment, and personnel;

"(B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(C) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group; and

"(D) which meets such other standards as the Secretary may impose by regulation.

In the case of a faculty practice plan associated with a hospital with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group (as well as perform other tasks such as research), subparagraph (D) shall be applied only with respect to the services provided within the faculty practice plan.

"(5) HEALTH AND HEALTH-RELATED ITEMS AND SERVICES.—The term 'health and health-related items and services' shall be construed to have the broadest meaning practicable, and shall include, at a minimum, the medical and other health services specified in section 1861(s) of the Social Security Act.

"(6) IMMEDIATE FAMILY MEMBER.—The term 'immediate family member' shall include spouses, natural and adoptive parents, natural and adoptive children, natural and adopted siblings, stepparents, stepchildren and stepsiblings, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, sons-in-law and daughters-in-law, grandparents and grandchildren, and such additional family members as may be specified in regulations adopted by the Secretary.

"(7) PHYSICIAN.—The term 'physician' means—

"(A) a doctor of medicine or osteopathy legally authorized to practice medicine and perform surgery by the State in which such individual performs such function or action;

"(B) a doctor of dental surgery or of dental medicine who is legally authorized to practice dentistry in the State in which such individual performs such functions;

"(C) a doctor of podiatric medicine;

"(D) a doctor of optometry; or

"(E) a chiropractor.

"(8) PHYSICIAN SERVICES.—The term 'physician services' means professional services performed by physicians, including surgery, consultation, and home, office and institutional calls.

"(9) REMUNERATION.—The term 'remuneration' means the provision of something of value that is not incident to the entity's performance of, or the physician's payment for, the services that are the subject of the referral.

"(10) THIRD PARTY PAYOR.—The term 'third party payor' means any health care insurer, including any hospital services corporation, health services corporation, medical expense indemnity corporation, mutual insurance company, or self-insured corporation, that provides coverage for health or health-related items or service.

"SEC. 2710. NO EXEMPTION FROM ANTITRUST LAWS.

"Nothing in this title shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any matter the applicability of any Federal or State antitrust law.

"Subtitle B—Restrictions on Billing

"SEC. 2721. PROHIBITION.

"(a) BILLING OF OTHERS FOR ANCILLARY SERVICES.—Except as provided in section 2722, it shall be unlawful for any person (including any individual or entity) who furnishes ancillary health services (as defined in section 2724(e)) to present or cause to be presented, a claim, bill or demand for payment to any person other than the patient receiving such services.

"(b) BILLING OF RECIPIENT OF SERVICES.—It shall be unlawful for any physician, or the agent of any physician, to present, or cause to be presented, a claim, bill or demand for payment for ancillary services to any recipient of such services unless the services covered by the claim, bill or demand were furnished—

"(1) personally by or under the supervision of the referring physician;

"(2) personally by or under the supervision of a physician who is a member of the same group practice as the referring physician; or

"(3) personally by individuals who are employed by such physician or group practice and who are personally supervised by the physician or by another physician in the group practice.

"SEC. 2722. EXCEPTIONS.

"Notwithstanding the provisions of section 2721, a person who furnishes ancillary health services to an individual may present, or cause to be presented, a claim, bill or demand for payment for actual services rendered to—

"(1) an immediate family member of the recipient of the services or any other person legally responsible for the debts or care of the recipient of the services;

"(2) a third-party payor designated by the recipient of the services;

"(3) a health maintenance organization in which the recipient of the services is enrolled;

"(4) a hospital or skilled nursing facility where the recipient of the services was an inpatient or outpatient at the time the services were provided;

"(5) an employer where the recipient of the services is an employee of such employer and the employer is responsible for payment for the services;

"(6) a governmental agency or specified agent, on behalf of the recipient of the services;

"(7) a substance abuse program where the clients of such a program were the recipient of the services;

"(8) a clinic or other health care provider that has been designated (or that is operated by an organization that has been designated) as tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, whose purpose is the promotion of public health, where the services rendered relate to testing for sexually transmitted disease, acquired immune deficiency syndrome, pregnancy, pregnancy termination or other conditions where the Secretary has determined that compliance with section 2721 could seriously compromise the recipient's need for confidentiality;

"(9) a person engaged in bona fide research studies;

"(10) the party requesting the ancillary health services where Federal, State or local law requires that the identity of the recipient be kept confidential;

"(11) another person furnishing the same ancillary health services for which payment is sought (hereafter referred to in this paragraph as the 'requesting party') where the person presenting, or causing to be presented, the claim, bill or demand for payment furnished the services at the request of the requesting party, except that the requesting party may not be a facility owned or operated by the physician requesting the ancillary health service; and

"(12) an entity approved to receive such claims, bills or demands by the Secretary in regulations.

The persons described in paragraphs (1) through (12) may present, or cause to be presented, a claim, bill or demand for payment for such ancillary services to the responsible party.

"SEC. 2723. SANCTIONS.

"(a) PAYMENT.—No payment may be made for a service that is provided in violation of section 2721.

"(b) COLLECTION OF AMOUNTS.—

"(1) LIABILITY ON COLLECTION.—If a person collects any amounts that were billed in violation of section 2721(a), such person shall be liable for, and shall refund on a timely basis to the individual from whom such amounts were collected, any amounts so collected.

"(2) COLLECTION BY PHYSICIAN.—If a physician collects any amounts from a recipient of services, or from another person on behalf of the recipient of services (including a third-party payor), that were billed in violation of section 2721(b), such physician shall be liable for, and shall refund on a timely basis to the recipient or person, any amounts so collected.

"(c) REPEATED CLAIMS.—Any person that presents, or causes to be presented, on a repeated basis a bill or a claim that such person knows, or should have known, is for a service for which payment may not be made under subsection (a), or for which a refund has not been made under subsection (b), shall be subject to a civil money penalty of not more than $5,000 for each such bill or claim. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and subsection (b)) shall apply to a civil money penalty assessed under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under such section 1128A(a).

"(d) SUSPENSION OF LABORATORY CERTIFICATION.—If the Secretary finds, after reasonable notice and opportunity for a hearing, that a laboratory which holds a certificate pursuant to section 353 has violated section 2721, the Secretary may suspend, revoke or limit such certification in accordance with the procedures established in section 353(k).

"(e) EXCLUSION FROM OTHER PROGRAMS.—

"(1) AUTHORITY.—The Secretary may exclude from participation in any program under title XVIII of the Social Security Act, any individual or entity that the Secretary determines has violated section 2721 and may direct that such individual and entity be excluded from participation in any State health care program receiving Federal funds.

"(2) APPLICATION OF OTHER LAW.—The provisions of section 1128(e) of the Social Security Act shall apply to any exclusion under paragraph (1) in the same manner as such provisions apply to a proceeding under such section 1128.

"SEC. 2724. REGULATIONS.

"The Secretary shall by regulation impose such other requirements as may be necessary to implement the purposes of this subtitle.

"SEC. 2725. DEFINITIONS.

"As used in this subtitle:

"(1) ANCILLARY HEALTH SERVICES.—The term 'ancillary health services' means—

"(A) diagnostic laboratory tests;

"(B) diagnostic x-ray tests and other diagnostic imaging services including CT and magnetic resonance imaging services;

"(C) other diagnostic tests;

"(D) durable medical equipment; and

"(E) physical therapy services.

"(2) GROUP PRACTICE.—The term 'group practice' means a group of two or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(A) in which each physician who is a member of the group provides substantially the full range of services that the physician routinely provides (including medical care, consultation, diagnosis, or treatment) through the joint use of shared office space, facilities, equipment, and personnel;

"(B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(C) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group; and

"(D) which meets such other standards as the Secretary may impose by regulation.

In the case of a faculty practice plan associated with a hospital with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group (as well as perform other tasks such as research), the definition of such term shall be limited with respect to the services provided outside of the faculty practice plan.

"(3) IMMEDIATE FAMILY MEMBER.—The term 'immediate family member' shall include spouses, natural and adoptive parents, natural and adoptive children, natural and adopted siblings, stepparents, stepchildren and stepsiblings, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, sons-in-law and daughters-in-law, grandparents and grandchildren, and such additional family members as may be specified in regulations adopted by the Secretary.

"(4) PHYSICIAN.—The term 'physician' has the same meaning given such term in section 2709(7).

"(5) THIRD PARTY PAYOR.—The term 'third party payor' has the same meaning given such term in section 2709(10).".

(b) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc-15) are redesignated as sections 2801 through 2814, respectively.

(2)(A) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289) are amended by striking out "2701" each place that such appears and inserting in lieu thereof "2801".

(B) Section 305(i) of such Act (42 U.S.C. 242c(i)) is amended by striking out "2711" each place that such appears and inserting in lieu thereof "2811".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in this section, this Act shall become effective January 1, 1994.

(b) EXCEPTIONS.—Notwithstanding subsection (a)—

(1) section 2707(c) of the Public Health Service Act (as added by section 2(a)) shall become effective on January 1, 1994, and shall apply to all policies, contracts and certificates delivered or issued for delivery on or after such date and, as to those policies, contracts and certificates delivered or issued for delivery prior to such date, on the date such policies, contracts or certificates are renewed, modified, altered or amended, except that the Secretary may adopt such regulations and take such steps as may be appropriate prior to such effective date; and

(2) subtitle B of title XXVII of the Public Health Service Act (as added by section 2(a)) shall become effective on January 1, 1994.

(c) REGULATIONS.—Not later than January 1, 1994, the Secretary of Health and Human Services shall promulgate such regulations as may be appropriate to carry out this Act.

ANALYSIS OF THE ETHICS IN REFERRALS AND BILLING ACT OF 1992

The Ethics in Referrals and Billing Act of 1992 will limit the practice of physician "self-referral" and other practices that lead to increased utilization of health care services. Self-referral occurs when physicians refer their patients to a health care entity in which they have an investment interest. Numerous studies have shown that this practice increases the utilization of health care services and inflates health care costs. With certain specified exceptions, this bill would, if enacted, make it unlawful for a physician to refer a patient to an entity for health care services if he or she had an investment or financial relationship with that entity. This prohibition would apply to all health or health-related items or services, regardless of who was responsible for the payment of these services.

In addition, Title II of this Act would, if enacted, require that certain health care services be billed directly by the health care entity that provided those services. The purpose of this title is to prohibit the practice whereby physicians order certain types of diagnostic tests for their patients, which are then billed directly to the physician. The physician marks up those tests, often by a substantial amount, and then bills the patient or third party payor for those tests, even though the physician plays virtually no role in the testing process. Like self-referral, because physicians can profit on each procedure ordered, this practice of physician mark-up leads to increased utilization of health care services. Under this title, with certain exceptions, the laboratory or other entity providing the service would be required to bill the patient or third-party payor directly. It would be unlawful for such an entity to bill the physician or for the physician to mark-up the tests ordered.

SECTION-BY-SECTION SUMMARY

SUBTITLE A—PROHIBITION ON REFERRALS

Section 2701. This section prohibits a physician or his immediate family member from referring patients to an entity with which he has a financial relationship and prohibits the entity from billing for such services. A financial relationship would include either an ownership or an investment interest or a compensation arrangement between the physician and the entity.

Section 2702. This section establishes the exceptions to the prohibition referred to above. There are four different types of exceptions: (a) exceptions to the ownership and compensation arrangement prohibitions; (b) exceptions to the ownership prohibitions applicable to publicly-traded entities; (c) other exceptions to the ownership prohibitions; and (d) exceptions to the compensation arrangement prohibitions. Many of these exceptions are currently included in Section 1877 of the Social Security Act (the Stark self-referral provision applicable to clinical laboratory testing) or are comparable to the requirements of the HHS Office of Inspector General "safe harbor" provisions.

(a) General Exceptions to Ownership and Compensation Arrangement Prohibitions

This section exempts the following types of arrangements from the self-referral prohibition:

1. Physician services which are provided by or supervised by the referring physician or a member of the same group practice.

2. In-office ancillary services furnished by a physician, a member of the same group practice or by employees who are personally supervised by such physicians where the services are billed by the physician or the group practice.

3. Prepaid Plans, such as Health Maintenance Organizations or Competitive Medical Plans.

4. Other relationships determined by the Secretary not to pose a risk of payor or patient abuse.

(b) General Exceptions Related to Ownership or Investment Prohibition for Publicly-Traded Securities

This section exempts ownership or investment in publicly traded securities if the securities are purchased on terms equally available to the public; if they are listed for trading on a major stock exchange, such as the New York or American Stock Exchange; and if the corporation had total assets exceeding $100,000,000 and had stockholder equity in excess of $50,000,000, unless solicitations or other inducements to invest are made exclusively or primarily to physicians. In addition, a corporation may not loan funds to an investor who uses them to purchase an investment interest in the entity. However, if solicitations were made exclusively or primarily to physicians the offering would not qualify for the exemption.

(c) Additional Exceptions Relating to Ownership or Investment Prohibition

This section sets out the following additional exceptions to the ownership or investment prohibition.

1. A physician may refer to a hospital in which he has an interest so long as that interest is in the hospital itself and not merely in a subdivision of the hospital, so long as the referring physician performs services at the hospital, and so long as the physician owns at least 60 percent of the entity that owns the hospital.

2. Entities that are located in rural areas are exempt from the prohibitions if the referring physician actually maintains a practice in that area and if the patient receiving the services is actually a resident of that area.

3. Ambulatory surgery centers are exempt if the referring physician or a member of his or her group practice provides the surgical service.

(d) Exceptions Relating to Other Compensation Arrangements

This section establishes certain additional exemptions for some compensation arrangements. Under this section the following are not considered compensation arrangements under the Act:

(A) The rental of office space is not considered a compensation arrangement if there is a lease setting out the provisions in writing that is signed by the parties; the premises are specified in the lease; the period covered by the lease is established in the lease; and the rental charge is set in advance and is consistent with the fair market value of the property.

(B) The rental of office equipment is not considered a compensation arrangement if particular requirements are met. These requirements are comparable to those established for a rental of office space.

(C) Certain payments for other services or items are also exempt. Payments to a physician by an entity would be exempt from the compensation arrangement prohibition in the following instances:

Consultative services, where tests results were obtained that were outside established parameters or where a particular physician had requested certain consultative services by a physician so long as those services were not furnished by the referring physician or a member of his group practice, and so long as a written report was furnished with regard to that patient. This provision would allow entities to have contracts with physicians who read certain types of diagnostic tests, such as x-rays, CAT scans or EKGs, as such a service is usually requested by the referring physician.

Interpretation of tissue pathology, Pap smear slides or other cytology services by a pathologist.

When an entity paid a physician for services that were rendered to that entity's own employees.

Services that were required by local, state or federal licensure or accreditation laws.

These services would be exempt under this subsection only if there was an agreement in writing for the provision of the services; the agreement specified what services were to be provided; the compensation was set in advance and consistent with fair market value; and the services did not violate other federal law.

(D) Employment and service arrangements between hospitals or nursing facilities and physicians are exempt from compensation arrangements so long as the arrangement is for identifiable services and the remuneration is consistent with fair market value and does not take into account the volume or value of referrals;

(E) Payment to employees who are related to a physician would not constitute a compensation arrangement so long as the conditions set out in the section are met.

(F) Hospitals would be permitted to make payments to physicians to induce them to relocate into the geographic areas served by the hospital, so long as the physician was not required to refer patients to the hospital; the amount of the remuneration did not take into account the volume or value of referrals; and so long as the remuneration did not continue for more than two years.

(G) An isolated financial transaction, such as a one-time sale of property, is permitted so long as payments are consistent with the fair market value of the property sold, and the price does not take into account the volume or value of referrals.

(H) Payments to a salaried physician in group practice would also not constitute an illegal compensation arrangement.

(I) The provision of certain items, devices, and supplies by a laboratory to a physician that are incident to, or necessary for, the collection, transportation or testing of specimens, or the communication of results by the laboratory providing such information, items, devices, or supplies would not constitute an illegal compensation agreement.

In addition under this section the Secretary would have the right to impose other regulations as necessary.

Section 2703. This section clarifies that the request for the following types of services are considered referrals under this section.

(a) Among those requests for health related services that are covered by this title are the following

(1) a request for any health or health-related item or service, including a request for consultation which results in further tests or procedures;

(2) the establishment of a plan of care by a physician which includes the provisions of certain health or health related items or services;

(3) the provision of an outpatient drug, if the practitioner directs a patient to a specific pharmacy, home IV drug therapy provider or other entity dispensing the drug;

(b) In addition, under this section, the following are not considered referrals

(1) a request by a physician for physician services furnished by that physician or under his supervision;

(2) a request by a pathologist for a clinical diagnostic tests, which he performs or are performed under his supervision;

(3) a request by a radiologist for x-rays or other imaging services;

(4) a request by a physician specializing in radiation therapy for such services, if they are furnished by him of under his supervision;

(5) a request by a physician to a specialized cancer treatment pharmacy which is not in the business of distributing such pharmaceuticals to the general public;

(6) a referral by a physician to a rental dialysis provider where the services are provided under the supervision of the physician.

Section 2704. This section requires that each claim for health or health related items or services identify a referring physician by name and appropriate physician I.D. number.

Section 2705. This section requires entities to give the Secretary and other payers, as requested, information relating to their ownership. This section also provides for the Secretary to consult with third-party payers to determine how best to make such information available.

This section also requires the Secretary to report annually to the Congress, to provide the appropriate Committees of the Congress with: (1) summaries of the information submitted to the Secretary by entities pursuant to this act, (2) compliance with this act, and (3) recommendations for amendments to this act, as appropriate.

Section 2706. This gives the Secretary the power to adopt other regulations as he deems necessary including additional exceptions if necessary.

Section 2707. This section establishes the sanctions for a violation of this section.

(a) No one is required to pay any claim for services that are furnished pursuant to a prohibited referral;

(b) The person collecting any such amounts is liable to the payor for the amounts so collected;

(c) Every insurance policy must indicate that payments for prohibited referrals are excluded;

(d) Every third-party payor is required to report on a pattern of claims in violation of the Act;

(e) This section clarifies that no insurer is required to audit or investigate claims to determine whether or not they are furnished pursuant to a prohibited referral;

(f) Those entities that present claims for prohibited referrals on a repeated basis, and those physicians that make referrals on a repeated basis that are prohibited by this Act, will be subject to civil money penalties of $15,000 per service;

(g) Any entity that enters into a cross-referral arrangement will be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The Secretary may also define other types of arrangements whose purpose is to circumvent the purposes of the title. Violation of such regulations shall be subject to a civil money penalty of $100,000;

(h) If a laboratory violates the terms of Section 2701, then its CLIA certificate may be suspended, revoked or limited;

(k) If the Secretary determines a violation of Section 2701 has occurred, he may exclude the entity from the Medicare program and from any state program receiving federal funds;

(l) Any one knowingly failing to meet a reporting requirement is subject to a civil money penalty of no more than $10,000.

Section 2708. This section permits any person, including any patient or third party payor, who pays for services that the person furnishing the services knew or should have known were furnished pursuant to a prohibited referral, to sue the person to whom the payment is made for the payment and the cost of the suit including reasonable attorneys' fees.

Section 2709. This section establishes the appropriate definitions applicable to this Bill.

Section 2710. This section states that nothing in this law creates any immunity to any civil or criminal action under any antitrust law, or affects the applicability of the antitrust laws.

SUBTITLE B—RESTRICTIONS ON BILLING

Section 2721. This section prohibits any person from presenting a bill from certain specified types of health care services to any person other than the patient receiving those services. The services covered by this provision are diagnostic laboratory testing, diagnostic imaging services, other diagnostic testing, durable medical equipment and physical therapy services. In addition, it makes it unlawful for any physician to bill for services unless he personally provided them or they were provided under his supervision or by a member of the same group practice.

Section 2722. This section establishes the following exceptions to the billing prohibition noted above. Under this section, a person providing the services could bill the following, rather than the recipient of the services. In addition, where appropriate, this person receiving the bill could bill the responsible party. The persons who qualify under this section are:

(1) An immediate family member of the recipient or other person legally responsible for the debts or care of the recipient.

(2) A third party payor designated by the recipient of the services;

(3) An HMO in which the recipient of the services is enrolled;

(4) A hospital or nursing facility when the recipient of the services is an inpatient or outpatient of the hospital or facility at the time the services were provided;

(5) An employer, when the services are provided to an employee, and when the employer is responsible for the payment for these services for an employee.

(6) Government agencies, or their agents, acting on behalf of the recipient of the services.

(7) Substance abuse program whose clients are the recipient of the services.

(8) A nonprofit clinic or other health care provider that provides testing for sexually transmitted diseases, AIDS, pregnancy or pregnancy termination or other conditions where the Secretary has determined that it might compromise the recipient's need for confidentiality if the services billed directly.

In these situations, it is often necessary for the patient to pay the doctor directly so that he or she does not receive a bill at his or her home;

(9) A person engaged in bona fide research studies;

(10) Where the law requires that the identity of the recipient be kept confidential;

(11) Another individual or entity furnishing the same types of services so long as the

individual or entity is not operated by the physician ordering the services. This section is necessary because some entities, such as independent laboratories, often find it necessary to refer testing to other independent laboratories. In such instances, the laboratory performing the services may bill the requesting entity. This provision would not permit a physician's office laboratory, however, to refer to another laboratory, which the physician then billed for;

(12) Another entity approved by the Secretary.

Section 2723. This section states that no person may bill in violation of this section and is liable to refund any amounts collected. In addition, under section (b)(2) a physician must refund any amounts that he collects in violation of this section. Persons who repeatedly violate the section can be subject to civil money penalties and a laboratory can have its CLIA certificate revoked under this section. An entity violating the provision can also be excluded from the Medicare program and other programs receiving federal funds.

Section 2724. This section permits the Secretary to impose regulations implementing this title.

Section 2725. This section establishes the definitions under the statute.

The final section of the bill establishes an effective date of January 1,, 1994 and requires that regulations be adopted by January 1, 1994.

Statement of Public Citizen Health Research Group in Support of the Ethics in Referrals and Billing Act of 1992

In recent months there has been a flurry of attention to the issue known as "self referral"—doctors referring patients to labs and services in which they have a financial interest. Public Citizen Health Research Group views all such referrals as an inherent conflict of interest and has called for their prohibition at both state and national levels.

The bill introduced today by Senators Adams, Bingaman and Metzenbaum is the first to address this problem in the United States Senate, along with a related issue concerning unethical billing procedures. On self-referral, the bill goes beyond current law and other proposals in several important ways. First, it prohibits self-referrals for all health care items and services, rather than limiting the ban to specified categories. The latter approach (taken by current law and legislation pending in the House) inevitably allows some abusive referrals to continue and encourages physician-owners to shift their investments from a prohibited service to others not targeted by the law. Second, it applies to both government and private payors, not just to services covered by Medicare. This expansion of current law acknowledges that a self-referral ban limited to only one source of payment is an incomplete solution. Third, it adds enforcement clout by including a private right of action whereby persons who have paid for services provided pursuant to a prohibited referral may sue to recover their losses. Finally, it adds accountability by mandating annual reports to Congress summarizing data received by the Secretary of Health and Human Services on self-referral practices and the extent of compliance with the law.

The referral and billing issues addressed by this bill are critical to any health care cost containment effort—in turn an integral part of any larger plan for health care system reform. Indeed, both issues point to the urgent need for a single-payor system in which billing is streamlined and lines of accountability are clear. However, whether part of a larger plan or standing on its own, the Ethics in Referrals and Billing Act takes a major step toward curbing unethical physician self-referrals and billing practices. We applaud Senators Adams, Bingaman and Metzenbaum for their leadership on these issues, and urge the Senate's prompt consideration of this bill.

Sidney M. Wolfe, MD,
Director,
Joan Stieber,
Staff Attorney.

August 3, 1992.

Senator Brock Adams,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Senator Howard Metzenbaum,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Senator Jeff Bingaman,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senators: The undersigned organizations, which represent a broad spectrum of laboratory providers, are writing to express their support for the Ethics in Referrals and Billing Act of 1992. The undersigned organizations are especially pleased that the bill would impose a direct billing requirement for certain ancillary services, including laboratory services.

Like all those involved in the health care field, the undersigned are extremely concerned about the rapidly rising costs of health care. We believe an important way to curb the escalation in health care costs is by removing the incentives that providers have to order unnecessary health care services. This bill would serve that goal.

In many areas, practitioners are permitted to mark-up laboratory tests that they do not perform, which can provide an incentive for them to increase their utilization of laboratory testing. The federal government, long ago, protected itself from this practice by requiring direct billing for all Medicare outpatient laboratory services. This bill would extend that same protection to other health care payors.

We applaud your action. We took forward to working with you on this bill.

Sincerely yours,

American Association for Clinical Chemistry.
American Clinical Laboratory Association.
American Society of Cytotechnology.
American Society of Clinical Pathologists.
American Society of Cytology.
Nicols Institute.

American Society for Medical Technology,
Washington, DC, July 23, 1992.

Hon. Brock Adams,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator Adams: The American Society for Medical Technology (ASMT) representing more than 20,000 non-physician clinical laboratory personnel, is writing in support of the Ethics in Referrals and Billing Act of 1992. This important piece for legislation would eliminate providers economic incentives to overutilize health care services which has added to spiraling health care costs.

ASMT is particularly pleased that this bill includes a direct billing component. Under the current billing system, physicians demand and obtain large volume discounts from laboratories performing non-Medicare tests. Physicians then mark-up these discounted prices by a significant amount when they bill patients and third party payors. The direct billing provision, which is currently required under Medicare, would remove physicians as the middle-man, and thus ensure that laboratories bill patients and third party payors actual costs for laboratory tests. Removing this financial incentive from physicians will reduce over-utilization and lower overall healthcare costs.

We also strongly support the prohibition on physician self-referral contained in this legislation. The AMA's recent reversal on its position on self-referral to physician-owned facilities clearly demonstrates the need for comprehensive federal legislation. Several states have already enacted bans on self-referrals and several more are in the process. It is high time that the federal government recognize that referrals to ancillary health care facilities in which physicians have an ownership interest constitute a prima facie conflict of interest and should not be tolerated.

We commend your efforts, and that of your staff, and look forward to working with you on obtaining additional support for this important piece of legislation.

Sincerely yours,

Joeline Dillard Davidson,
MBA, CLS (NCA).

Health Images, Inc.
Atlanta, GA, August 3, 1992.

Senator Brock Adams,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Senator Howard Metzenbaum,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Senator Jeff Bingaman,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senators: Thank you for sharing a draft of the Ethics in Referrals and Billing Act of 1992. On behalf of Health Images, Inc., I am pleased to express our support for this very important piece of legislation, which would, in most instances, prohibit the practice of self-referral, by which physicians refer their patients to entities with which they have a financial relationship.

Health Images specializes in the establishment and operation of free standing magnetic resonance imaging centers. The Company currently operates 34 centers in 11 states and 2 in the United Kingdom. Health Images previously had physician investors in its centers; however, it found that such investment interfered with the Company's ability to provide quality MRI services. As a result, since 1988, virtually all Health Images centers have been wholly-owned by the Company.

There can be little question that self-referral is a threat to the entire health care system. Recent studies performed by the Department of Health and Human Services Office of Inspector General, the Florida Health Care Cost Containment Board, and a California consulting firm studying workman's compensation have all confirmed that self-referral increases utilization of health care services and escalates health care costs. Health Images' own experience confirms these conclusions.

We believe that this bill is an important step in eliminating this costly and wasteful practice. We look forward to working with you on this bill.

Sincerely yours,

ROBERT D. CARL III,
President.

STATEMENT OF C. EVERETT KOOP, M.D.

I am C. Everett Koop. Why am I concerned about legislation in Florida? Why do I want to assure the passage of House Bill 955 and Senate Bill 2264? Because I am desperately concerned about the future of medicine in this country and the future of the medical profession.

I know some of my friends in the Florida Medical Association will be displeased at what I have to say, while I hope that other of my friends among the doctors of Florida will follow their instincts about what they know is right and be willing to stand up and be counted. Self-referral and joint ventures raise two issues. One is moral-ethical and the other has to do with cost and utilization. Doctors referring their patients to facilities in which they have an economic interest is incompatible with all that professionalism in medicine stands for. It is reminiscent of kickbacks and split fees which were the hallmarks of unethical medicine when I began to practice 50 years ago. We got rid of those things. Some doctors squawked, but we got rid of them. And medicine became better, safer and cheaper. The AMA, long unjustly criticized by the unknowing as being more interested in doctors than in patients, agrees with me, and has taken a firm stand against joint ventures. In the very words of the AMA, "Physicians are engaged in the special calling of healing, and, in that calling, they are the fiduciaries of their patients. They have different and higher duties than even the most ethical businessperson."

The cost of self-referral to the state of Florida has been estimated to be about a half billion dollars per year. The system of self-referral encourages monopolies and over-utilization. The system does not cater to the poor. This has been affirmed by the Health Care Cost Containment Board study. And arguments for free enterprise hold no water if the cost is so high in ethics and dollars.

I suspect I have my finger on the pulse of America as much as anyone to whom I am speaking. I spend my life at this task. America is calling for health care reform. A return to physician professionalism. An end to greed. And a return to the practice of medicine in the realm of trust between patient and physician. Self-referral accomplishes none of these.

To legislators, I say, the country is watching, and you will influence American medicine for good or for ill. To physicians, I say, if we do not reform health care now, and self-referral and joint ventures are a part of that, you will either get nationalized medicine—exorbitantly expensive and insensitive to patient needs—or you will have private medicine run amok. And there are those who will say that you are partly responsible.

[From the Seattle (WA) Times, July 26, 1992]

PHYSICIANS' LUCRATIVE REFERRAL PRACTICES ARE UNDER SCRUTINY

(By Duff Wilson)

Everyone knows astronomical health-care costs are a major concern in the United States. Everyone knows the reasons are complex and myriad. But one reason, experts say, is simple: Greed.

Many doctors in recent years have become entrepreneurs, investing in centers offering high-tech diagnostic equipment, therapy and other services—and referring their patients for questionable tests at these centers, draining tens of millions of health-care dollars into their own pockets.

In England, such investments are considered absolutely unethical conflicts of interest. In the United States, they weren't much of an issue until the boom in technology in the 1970s and '80s.

To pay for the equipment, doctors raised fees. In response, medical insurers set stricter limits on how much they would pay; doctors felt the squeeze, and started looking for new ways to make money.

And what better way than a high-tech investment where you control some of the patients and their payments? What became increasingly clear was the potential for huge profits in these arrangements. Dr. Terry Rogers, medical director of Blue Shield of King County, calls it "squeezing the golden egg."

The American Medical Association says about 1 in 10 doctors nationwide has a financial interest in specialty clinics, "imaging" centers, laboratories, physical therapy, nursing homes, ambulance companies or other health-care business. A federal government survey set the number at 15 percent, and Florida regulators said it was more like 40 percent in their state.

In Washington, doctors and regulators say the numbers here are about the same as the national average, so perhaps 900 of the 9,000 practicing doctors in this state own businesses to which they can refer patients. Many local doctors don't believe these "self-referrals" are as great a problem here as they are elsewhere. But no one really knows, and no one here is looking.

That is troubling because as the number of such arrangements has increased, so have the questions about what they're doing to the cost and quality of medical care. Federal regulators, lawmakers, even doctors are raising many of the questions, and have already found some disturbing answers.

"There's no other aspect of our lives where we're dealing with so little accountability for either the consumer or the provider," said Dr. Art Sprenkle, an allergist and state legislator from Snohomish.

Sprenkle says the system has created "a perverse incentive to do more than is necessary."

It's not just his opinion:

In a recent study by the Center for Health Policy Studies in Columbia, Md., doctor-owned magnetic resonance imaging (MRI) clinics in Florida charged 92 percent more than the national average and ordered twice as many tests.

MRIs, which take state-of-the-art pictures of the brain, spine and other body parts, are a focal point for abuse because the equipment costs more than $2 million and tests can cost $1,000 or more.

Dozens of Washington doctors own shares of MRIs in Seattle, Tacoma, Bremerton and other places.

In Michigan, 41 percent more laboratory tests were ordered for Medicaid patients referred to doctor-owned labs, according to a 1981 study. A 1983 study by Michigan Blue Cross and Blue Shield found doctor-owned laboratories billing the average patient twice as much as other labs.

Taxpayers spend $28 million on additional and possibly unnecessary testing at laboratories that were owned by referring doctors in 1987, according to the inspector general of the federal Department of Health and Human Services.

Certainly not all doctors are setting up these businesses just for the money. The services are often needed, and many of the doctors argue that investment money to provide them is difficult to come by, especially in rural areas. Doctor-owners also say they can provide better quality control.

But while doctors may believe they're practicing defensive medicine and helping patients, some admit financial incentives can't help but skew their decisions some of the time.

"Whether you make a profit or not has a definite effect," says Dr. Robert Crittenden, a South Seattle physician and Gov. Booth Gardner's health-care adviser.

"It kind of gets to the very nature of how medicine is run in this country—as a capitalist venture," says a Snohomish County doctor who recently sold his investment in a heart-monitoring machine because of ethical concerns about how it might affect his decision-making.

Most experts think the influence of money causes doctors to overtreat the rich and undertreat the poor. But the effect can also be felt in quality of care.

After her eye turned pink, one elderly heart-surgery patient in Western Washington needed a blood test to determine if her dose of blood-thinning medicine was too high.

Her surgeon ordered the test, and sent the sample to a lab 30 miles away—a lab that was renting space at a premium in a building the doctor partly owned.

That meant the woman had to wait a day and a half to find out she needed a small dosage adjustment.

But if the doctor had sent the sample to another lab nine blocks away, the woman's worry would have been reduced to two hours.

"Now, for me, it wasn't bad, but it could be very dangerous in some cases," said the patient. Many people would be unaware of the hidden influences, too; this patient's husband happened to be a retired doctor.

Today, federal investigators have a blunt new name for many of the financial arrangements that a few years ago were accepted with a wink.

Now they're called kickbacks, and they make up nearly one in five health-fraud cases investigated by the Health and Human Services inspector general, said Elliott Kramer, chief of West Coast investigations.

Congress cut off Medicare payments to some doctor-owned laboratories in January, and President Bush recently asked for even broader action.

Even the American Medical Association, long a bastion of defense for doctors delving for dollars, passed a resolution last December, declaring self-referral unethical.

However, another resolution passed by the AMA's 434-member governing body last month softened its ethics stance, saying self-referrals to doctor-owned laboratories are OK as long as the doctors inform their patients.

The federal government is not softening. Several agencies are scrutinizing doctor ownership of laboratories.

The Federal Trade Commission says the practice raises prices and reduces the quality of health care.

Washington is taking no action. What laws there are in this state aren't enforced, and state medical-association leaders say ownership isn't really a problem.

"Self-referral" is a broad term, and it's not always bad. It can be as common and benign as the family doctor who asks you back for second visit, or the surgeon who recommends surgery.

It can start to raise questions when—as studies show—doctors who have X-ray machines in their offices start ordering more tests than those who don't.

But that isn't what needs fixing, said Dr. Arnold Relman, editor emeritus of the New England Journal of Medicine and a leading critic of conflicts of interest in medicine.

Relman drew the line where doctors refer patients to a business they own but don't work in. In that situation, they have no direct professional responsibility for the work—but a huge opportunity for making money.

"Doctors get paid only 20 cents on the health-care dollar, but their decisions and their referrals guide the majority of the rest," Relman said in a talk to a physician group in Seattle earlier this year.

He warned that abuses are leading to a loss of trust in doctors.

"It's time for us to face the fact that our professionalism is on the line," he said.

"We're fouling our own nests, and we've got to stop."

Doctors' Ethics: Kickbacks Banned, But the Issues Are Muddy

(By Duff Wilson)

Dr. Frank Thomas, an Anacortes pathologist, says you don't want to know how sausage is made, and you don't want to know how doctors make their money. It's a long story, and some of the doctors don't come out too well.

American Medical Association ethics prohibit doctors from taking direct kickbacks for funneling patients to labs and other health-care businesses, but the rules fail to define the many indirect ways to pay for such referrals.

These take various forms—profit-sharing and joint ventures, rebates, expenses-paid trips, payola such as expensive Christmas gifts, or rent adjustments when the independent business operates in a hospital or large clinic.

Whatever the form, the dollars have come in large part from ordinary people—through federal taxes and private insurance payments. Federal law until recently did not deal with most of these arrangements. The law provided criminal penalties, but it was too hard to show criminal intent. A change in 1987 allowed civil penalties as well, and a 1989 federal fraud alert put medical businesses on notice about what was and was not legal.

The most common deals involve laboratories, "imaging" centers that take X-rays and other pictures, and physical-therapy outlets. Among some of the newer ventures that have appeared:

Drug-infusion therapy. An Atlanta company is turning to oncologists and infectious-disease specialists to finance drug-infusion services for people with cancer, pain and infectious diseases such as AIDS. T2 Medical has signed up 1,261 physician-investors, or more than 10 percent of the country's referrers for home infusion therapy, according to a recent report. The company says this "effective, low-risk model" is spawning four new clinics a month, including one in the Seattle area. The physicians would refer patients and share profits.

"The basic premise is that we can do it cheaper and provide better quality," said Dr. Peter Hashisaki, an infectious-disease specialist in Bellevue, who helped organize a local investment group. That group included doctors who would not refer patients.

Hashisaki, who said it was not certain if the federal government would allow the arrangement because of concerns about conflicts of interest, set up the infusion clinic earlier this year but then sold it out to T2 Medical.

So while the Seattle business no longer has local physician-owners, T2 is still looking for physicians to invest in drug-infusion therapy.

Kidney dialysis. Last year, three kidney specialists asked the state to approve their plan to set up a new dialysis center with offices in Seattle and Kirkland. The plan was turned down in March.

The new center would have been a profit-making venture in competition with the Northwest Kidney Center, a nonprofit which holds a state-certified monopoly in the county. Officials with Northwest argued that the competition would duplicate services.

Most of all, it would have hurt them in the balance sheet: the three doctors who wanted to defect and start their own dialysis business had been providing more than one in seven of the total referrals received by the Northwest Kidney Center.

"You might say it's protecting turf, but we think it's been pretty good turf," said Dr. Christopher Blagg, Northwest's executive director.

Dr. Millie Tung, a Bellevue kidney specialist and co-sponsor of the plan, said the investors got a legal opinion that their plan was ethical as well as legal before they started. She said more competition would be good for patients.

Tung said the group was unfairly accused of planning to "cost shift" by referring uninsured patients to Northwest, while keeping insured patients themselves.

"We just had to say how we haven't even done anything yet?" Tung said, "When you get into it, you learn about the politics of medicine, which is kind of upsetting. To me, it was a patient care issue, making it more convenient for people."

Remote heart-monitoring. A family doctor in Snohomish County, who spoke on condition of anonymity, said a group of cardiologists asked him to invest in a remote heart-monitoring facility.

Underlying the offer was the notion that the family doctor would refer patients to the heart monitor—and the more he did, the more money he and the cardiologists would make.

This doctor bought into the investment. But he felt queasy about the backscratching nature of it all, realizing he could be influenced at least subconsciously on marginal calls.

Later, warned by Medicare that the federal government frowned on such a joint venture, the doctor sold out.

Sometimes, when hospitals and clinics see the money to be made, the independent doctors themselves become victims of abuse.

Two types of doctors are especially vulnerable: radiologists, who read MRIs, computed tomography or CT scans and X-ray images, and pathologists, who analyze tissues and body fluids.

Because patients who need such services rarely just walk in the door, these doctors depend on referrals.

Sometimes, the referring doctors ask for a cut of those profits. Other times, it's the employing clinic or hospital looking for a piece of the action.

Profit-sharing: Some doctors, including a national pathologists' group, complain bitterly that some hospitals and clinics are essentially extorting money from them in exchange for supplying patients.

Says Dr. Donald Hesch, a North Seattle radiologist: "There's been more than one radiologist in the past few years who's been tossed out because they don't go along with the reprehensible financial practices of the hospital."

Larry Farnes, co-owner of Physical Therapy Specialists in Tacoma, said his business suffered when he refused to pay extra costs requested by a group of doctors who'd been sending him patients.

It was the principle of the thing, Farnes said—a principle that ended up costing him hundreds of thousands of dollars.

Ten years ago, Farnes' practice was thriving in a perfect location at a large Tacoma medical clinic. But Farnes said the doctors who owned the clinic tried to get him to agree that in exchange for their continued patient referrals, he would not ask them to pay him for $100,000 in improvements he'd made in the clinic building.

Farnes refused. He was told to leave. The referrals stopped coming.

Later he turned down an offer to move into another building with another guaranteed source or referrals. The quid pro quo had been a rent estimated at $2,000 to $5,000 a month above the market price. He considered it a kickback.

"We didn't want to do referral-for-profit," Farnes said. "We ended up paying the price. We lost from half to three-quarters of the practice, and it was devastating."

Rebates. Dr. Robert Gibb, a retired pathologist in Whatcom County, said he quit a hospital staff in the 1970s because the hospital expected him to give it a third of his gross receipts from the work they sent him.

He also said he turned down a deal from a Seattle-based laboratory that would do a test at a low rate and let him bill the insurance company at a higher rate. The practice, once common, is now considered illegal.

Others took the deal. Gibb remembers one doctor bragging he made $25,000 a year off laboratory referrals.

"I never had to rebate anybody or make deals. I probably didn't make the income I see from surveys that pathologists make, but at the same time we did our own thing," Gibb said. "And I could look in the mirror every morning."

Thomas, the Anacortes pathologist, also said times have changed since the days when referring physicians were given computers and other expensive forms of "payola" as inducement.

But times haven't changed that much, either, Thomas said. Referring doctors still own medical businesses outside of their specialties, and the reason in some cases is to affect their decision-making on where they send patients.

"It should be based on quality," Thomas said. "It shouldn't be based on a profit motive for people who control the referral."

Prescription for Profits: Surgeons Order Tests at Firm They Own

(By Duff Wilson)

Bremerton—Bonnie Mertz wondered why an orthopedic surgeon wanted her to get a high-tech picture of her right knee, when it was her thigh that was killing her.

"But I thought, well, he's a doctor, he must know what he's talking about."

Her pain, which had started two days after surgery for bunions, turned out to be nerve damage from a tourniquet that had been wrapped around her thigh during the operation.

So it was not surprising the magnetic-resonance image showed Mertz's knee was in fine condition.

The bill to find this out was $500.

Months later, Mertz learned a disturbing fact about the orthopedic surgeon who had sent her for the test: he owned part of the business that profited from it.

Mertz, a 46-year-old bookkeeper, believes she was taken. Mertz says other doctors she has consulted since then, because of continuing pain from the nerve damage, told her the test was obviously unnecessary.

"I'm not stupid," she says. "The more I thought about it, the more I thought it was wrong."

Mertz's orthopedic surgeon, Dr. Paul McCullough, is a co-owner of Northwest Diagnostic Imaging Inc., a company under federal investigation—and considered the leading example in this state of a practice known as physician self-referral.

Eleven of the company's 15 owners are, like McCullough, doctors in a position to refer patients for imaging tests. The business has proved extremely lucrative.

People to whom some of the owners have talked say the doctors invested about $10,000 a piece nine years ago. They and other sources say the doctors took profits in each of the past two years of more than $100,000 apiece.

The owners won't confirm or deny those figures, but company president Gary Durday, a nonphysician, denied any improprieties. McCullough did not return repeated phone calls.

The only physician-owner who would comment is a radiation oncologist, Dr. Don Hebard, who now practices in Tacoma. Hebard said the investors were thinking of their patients, not their pocket-books, when they set up Northwest as the state-of-the-art imaging center in Kitsap County.

"We brought a service that would otherwise not be possible," Hebard said. "The physicians who knew their right from their left side wanted the best care they could get for patients, so they put this together."

Magnetic-resonance imaging has proved of great value to medicine. Picture it as a superadvanced X-ray that relies on magnets and computers to scan the body. MRI equipment can cost $2 million or more. Tests generally cost $500 to $1,000 or more.

Critics, though, including a number of other local doctors, say the finaneial risk was minimal and the profits excessive.

Northwest Diagnostic shows the pressures that business can place on medical interests. Congress and federal agencies are cracking down on self-referrals, saying they raise medical costs.

The criminal division of the U.S. Department of Health and Human Services Inspector General is investigating Northwest Diagnostic. Though investigators refused comment to The Seattle Times, a company attorney confirmed Northwest is under investigation. People who have been interviewed by agents say the probe, including subpoenaed records, focuses on whether Northwest's ownership violates a Medicaid/Medicare anti-kickback law.

The law is intended to prevent federal money from being used to pay kickbacks to doctors for their referrals. Excessive profits, under the law, can be considered a form of indirect kickback.

It's not just insurance companies that pay. A lot of taxpayer money is involved. Medicare paid Northwest Diagnostic nearly $2.5 million over the past five years, including $583,000 last year, according to Medicare records.

And the conflict-of-interest concerns are held not only by federal agents and patients like Mertz, but by some doctors in the Bremerton area. But because the investors are among Bremerton's medical elite, many of the other doctors are afraid to comment on them.

"I have to live here," said one.

"Kitsap is probably a microcosm of a lot that's going on in medicine today," said Dr. Thomas Case, an ophthalmologist. "You have factions. You have the big guys against the little guys. It's a very interesting set of dynamics, and you'll find in any of these that money is the bottom line."

One surgeon, a newcomer to the area, did speak out against the practices of the "big guys" who own Northwest.

Dr. Reed Burch, a knee specialist and one of a handful of orthopedic surgeons in Kitsap County, said he believed there has been "flagrant abuse" of the MRI for unneeded tests on knees.

"It doesn't take too many of those tests to help the machine pay for itself and begin pumping up profits for the group that invested in the facility," Burch said.

Burch has communicated with many other area doctors and has seen patients who were previously referred to Northwest.

"I think patients are being overcharged in that type of situation, and it's being overused. I think a lot of time the MRI is being used as a substitute for a good physical exam."

Burch said he's spoken with some of the investors about this and they get "as angry as can be, just red in the face."

Dr. Charles Muller, a longtime member of the Kitsap County Medical Society ethics committee, recently confronted one co-owner of Northwest Diagnostic. He told the doctor to withdraw the bill for a test that turned out to be unneeded. Muller said the doctor had not even seen the patient before ordering the test.

"We just laid it on him that he ought to refund the fee," he said.

"I think it's unethical for physicians to hold a piece of the cake because it's subject to abuse," Muller added. "There's a temptation to overuse and overcharge."

In another case, a woman who went into Northwest to be checked for lower back pain ended up with magnetic images of her upper back and neck. The referring doctor hadn't even seen her. She filed a complaint with the Kitsap County Medical Society and got $1,200 back on an $1,800 bill.

The ethics of doctor ownership were not clearly defined when Northwest Diagnostic opened in 1983. Then, doctor ownership was seen as a way to raise capital and provide patients with equipment that the hospital itself didn't want to buy—an ownership pattern that was not questioned by the American Medical Association until last December.

Durday knew just whom to solicit when he set up the business. By all accounts an astute businessman, Durday was working at the time as the imaging technologist at the computed tomography (CT) scanner at Harrison Hospital in Bremerton.

For investors in the competing business, Durday turned to the top referring doctors in the area. They were the orthopedists, neurologists, oncologists and vascular surgeons, who, year after year, referred the most patients to the hospital scanner. Durday, Hebard and two radiologists, who read the MRI results, are also investors but are not in a position to refer patients. Durday said the hospital CT scan was overflowing with work at the time. Northwest started with its own CT scan, later adding other services, including the first full-time magnetic resonance imaging machine in the county.

Durday, now vice president of the American Imaging Association, a trade group, said he had no purpose other than to bring better service and technology to town.

He said federal law changed since 1983 to make Northwest's physician ownership possibly illegal, and now, he and other owners are trying to sell part of the business to bring it in line with the new rules. Durday said Northwest is being targeted unfairly.

The 11 investors in Northwest who are referring physicians make up less than 5 percent of the county's medical community. Last year, they referred 25 percent of the clients seen by Northwest.

Durday pointed out this means 75 percent of the referrals were from non-owning doctors—more than 600 of them. But many of those referrals came from a large clinic where three of Northwest's owners have been partners.

The key to profits has always been a steady rate of patient referrals.

Jim Kadlec, a radiologist who worked at Northwest for a few months after the business started, said he observed that some of the physician-investors referred more patients than they used to send to the hospital scanner.

"The rate went up substantially the first few months," Kadlec said.

Dr. Michael Gass Sr., a radiologist who still works in Kitsap County, thought so, too. "I've had the strong impression that there's been a rather remarkable overutilization of the facility because of the self-serving referrals," said Gass, who has talked to other doctors and patients about the practice.

Dr. Mike Schroeter, a radiologist, said he turned down offers to buy into Northwest Diagnostic because he was concerned that referring doctors who were profit-motivated should not own an imaging business. He said the business should be owned by radiologists who work there.

Schroeter said he tried to talk one of the original investors out of the deal on the basis of ethics, Schroeter said this doctor, whom he refused to name, was motivated partly by profits.

"He mentioned something about the fact that it was difficult just doing exams to make a good living," Schroeter said.

Schroeter recently joined with five other radiologists to install a competing MRI in the hospital. "There's a lot of hostility about this," he said.

One of the difficulties in determining whether Northwest Diagnostic overuses its MRI is because doctors have so much discretion in deciding whether a test is needed. One person's overuse is another's preventive medicine. The best of doctors disagree about how soon and how often to scan knees, spines or heads.

One measure might be profits. But Harvey Yampolsky, a Washington, D.C., attorney hired by Northwest, denied the doctor-owners knew, when they set up the firm, their profits would be so high.

"It was a surprise to everybody at the beginning and the returns grew over time," Yampolsky said.

Yampolsky, as chief counsel for the Health and Human Services Inspector General between 1978 and 1990, wrote many of the rules that are now leading to federal probes of alleged kickbacks in medical businesses, including Northwest.

Yampolsky said enforcement, once too lax, is now extreme.

"I think the kickback law should be used for the most corrupt situations, and not be used arbitrarily by the government or by competitors to target the lucky few who have been the most successful," he said.

Yampoisky also helped write a 1989 federal bulletin that identified "red flags" for fraud cases. The bulletin was sent to Northwest and thousands of other companies. The "red flags" include the kinds of features under investigation at Northwest Diagnostic: signing up investors because they were in a position to make referrals, giving those people greater investment opportunities, encouraging them to refer business, allowing them to "borrow" some of their investment from the entity, and paying extraordinary returns.

Durday refused to talk about profits, saying they weren't excessive for the risk involved. He said each of the original investors put down some cash and signed a $750,000 bank note with individual liability.

Dr. John Bartow, former chief radiologist at Harrison Hospital in Bremerton, said he admired the quality of work at Northwest Imaging, but questioned the need for physician ownership. Such ownership is opposed by the AMA and American College of Radiology, he said. Ending such ownership "will eliminate any suggestion of abuse for financial gain."

While you might think the people paying for services at Northwest Diagnostic would be the most concerned about its profits, it's difficult to find financial watchdogs such as the inspector general in Kitsap County.

Kitsap Physicians Service insures almost 40 percent of the eligible people in the area. Rob Schneidler, president of the service, said there have been no problems with overuse of Northwest's MRI. But Schneidler refused to release information about use reviews or reimbursement rates, or even the names of his board of directors.

Two of the service's nine directors—Dr. Ronald Reimer, the chairman, and McCullough—are also part-owners of Northwest Diagnostic. Neither returned phone calls.

When an attorney suggested a strict conflict-of-interest policy for the directors of Kitsap Physicians Service five years ago, Reimer responded with a letter saying many board members and staff could be accused of such conflicts. This included one director who sold substantial advertising to the service, one whose firm sold a large amount of health insurance and one officer who owned part of the building leased by the service.

Reimer's letter said, in part:

"I would not like us to adopt a policy that would exclude these individuals from participating in the organization any more than I would like to adopt a policy that would exclude interested and informed physicians from the community."

[From the Seattle Times, July 28, 1992]

TOUGH LAW ON DOCTORS' REFERRALS ISN'T ENFORCED

(By Duff Wilson)

Washington might have one of the toughest laws in the country against doctors making money from referring patients to an outside medical business.

Doctors could even lose their medical licenses.

But here's the twist: The law is never enforced. No one agrees on how to interpret one part of it. And patients don't seem to know about another part—one that allows them to complain to the medical disciplinary board.

The law seems clear enough. It's unprofessional for doctors to accept any "profit . . . or other valuable consideration . . . for referring patients" to any business where they don't actually perform the medical service.

The law even says the referral could be a crime, unless the doctor tells patients about the financial interests.

But it turns out it's not so clear. Take the classic case: A doctor owns a share of a diagnostic-imaging or physical-therapy business. He or she refers patients there and takes a profit at the end of the year based on the share of ownership.

Legal? Probably. Ethical? Probably not.

Assistant attorney general Joyce Roper says the state Medical Disciplinary Board could take action in a case like that. She should know, since she is the state official responsible for providing legal advice to the board.

But the Washington State Medical Association has a different view. John Arveson, the association official who advises doctors on ethics, said it's both legal and ethical to profit from referrals as long as doctors tell patients about their ownership.

Roper disagrees. And their dis-agreement probably won't be re-solved until a case comes to the disciplinary board.

Nobody has ever complained to the board about such a referral, though. That's a mystery in itself. It's not as if the referrals aren't being made. They are: an estimated one in 10 doctors in this state makes money by referring patients to outside services they own.

"We just haven't had a complaint filed," Roper says. "I suspect people may not be aware" of the law.

The ambiguity of state law is mirrored in some ways by the evolution in thinking on this subject by both doctor and policy-makers.

In other words, the rules are changing. Physician self-referral is being seen as more unethical or more illegal than it was just a few years ago.

Here's a summary of what government agencies and physician groups are doing—and what they're failing to do:

THE FEDERAL GOVERNMENT: A NEW ANTI-KICKBACK LAW

On Jan. 1, a new law took effect prohibiting Medicare payments for tests at laboratories owned by referring doctors or their families. There are exemptions for small office labs and rural doctors.

The Health Care Financing Administration, which runs Medicare and Medicaid, is also collecting information in 10 states to see how ownership affects the use, cost and quality of magnetic resonance imaging, computed tomography or CT scans, X-rays, physical therapy, ambulance companies and private hospitals.

The U.S. Department of Health and Human Services' Office of Inspector General is adding staff to try to crack down through the Medicare anti-kickback law. One hundred FBI counterintelligence agents were recently shifted to a health-fraud task force.

Last year, the inspector general released "safe harbor" rules telling doctors the types of facilities they could still legally own. No more than 40 percent of a business is supposed to be held by investors in a position to influence referrals.

Yet enforcement has still been difficult. The inspector general is short-handed because of a hiring freeze and other priorities.

Elliott Kramer, special agent in charge of West Coast investigations, said he has received complaints and is pursuing cases in Washington, but none of the cases has been wrapped up.

The rules might need to be different for rural areas that find it difficult to attract doctors, says Dr. Hal Clure of Anacortes, former president of the state medical association. "If you have an income stream from labs and X-rays, that makes it more attractive to work in this community."

THE STATES: SOME TAKE TOUGH STAND, SOME DON'T

Some states are cracking down; others, including Washington, aren't.

In New Jersey, one law flatly prohibits investments by doctors after July 1991, and another all such investments, even those made earlier, unethical.

Florida recently passed a tough law allowing $15,000 fines against doctors who refer patients to their own businesses, but it doesn't take effect until 1995.

In California, the Assembly this year passed a measure to ban a variety of self-referrals, but the measure died in the Senate.

WASHINGTON: NO MOVE TOWARD NEW LAW, STUDIES

In this state, the existing law hasn't been enforced, and no new, clearer legislation has come close to passing. No studies are planned to detail the problem, either, according to officials with various state agencies.

Neither the Department of Health nor the Department of Labor and Industries, which pays millions to doctor-owned facilities, nor the Health Care Authority, which insures state employees, is studying the issue.

A proposal to prohibit some doctor ownership was submitted to the Legislature earlier this year by Sen. Jim West, R-Spokane, but it died in committee.

Marvin Young, a dermatologist and immediate past president of the state medical association, took credit for the demise of the bill. Young presented to the committee his own experience in self-referral—one in which he said he acted so ethically, he barely broke even. "It was the perception of the ethical behavior on my part which was the reason the bill died," Young said.

Young and six other dermatologists had financed the Psoriasis Treatment Center in Seattle in 1980, and since then, he said, he has made an average of only $4,600 a year profit on his $50,000 share of the investment.

"In other words, I'm darned near losing money," Young said, complaining that the center is being made into a nonprofit corporation solely in response to the "overkill" of federal law.

Dr. Arnold Relman, editor emeritus of the New England Journal of Medicine, said Young's investment was within ethical boundaries because Young had a direct role in running the practice.

A legislative proposal to set up a health-care commission with power to control costs would also have attacked joint ventures, but it, too, died on intense lobbying.

"We would have given them the power to develop policies not only against the diagnostic conflict of interest but also any abuse of referral," said state Rep. Dennis Braddock, D-Bellingham, Health Care Committee chair.

Braddock, who is retiring as a lawmaker, is promoting an initiative on health-care reform. The measure would give the governor broad powers to ban doctor conflicts of interest.

Initiative 141 needs 150,001 signatures by Dec. 31; the Legislature could either adopt it as written or refer it to the voters in November 1993.

What rules there are in this state are often ignored.

A state law on the books since 1949 says doctors are obligated to tell patients in writing if they have a financial interest in a medical business to which they refer the patient. Some tell; some don't.

Whether the law makes such referrals illegal or unethical is a matter of debate. A Washington Law Review staff article said the law should be amended to make it more clear.

That was 22 years ago.

INSURANCE AGENCIES TAKE DIFFERING ROLES

Some insurance agencies are active, others aren't.

Blue Shield of King County medical director Dr. Terry Rogers wants to get tough. He says the practice is costing insurance payers a lot of money.

"It's a mess," he said, "a mess."

Rogers said so many magnetic-resonance machines have sprung up in King County, partly from doctor-entrepreneurs trying to make a buck, that Blue Shield is considering insisting on lower prices or second opinions before it will pay for their tests.

Even more controversial: Rogers said Blue Cross might find out who owns the equipment and only deal with "the ethical ones."

But he predicted there would be an outcry and lawsuits.

Blue Cross of Washington and Alaska takes a different approach: It won't talk about it.

In a prepared statement, spokeswoman Kelly Ford said only: "While Blue Cross is concerned about this matter, we are declining an interview in order to allow physician groups the opportunity to address the issue themselves."

DOCTORS DIVIDED ON ETHICS OF INVESTING

The medical community has been divided and slow to act.

In 1986, the American Medical Association adopted a policy to ask doctors to disclose their investments and offer choices to patients who were being referred. The AMA also said doctor profits shouldn't be tied to the number of referrals.

But until recently the AMA continued to take the position that physician investment was ethical.

In December, the establishment line finally changed: The AMA adopted a policy that "in general, physicians should not refer patients" to businesses they own. Such referrals should be allowed only if the doctor can show there is no alternative or if the doctor personally works there.

The American Academy of Neurology responded that the AMA was unfair in penalizing small medical practices that band together to own a scanner or MRI. That would be considered unethical, while doctors in a large clinic, large enough to have a scanner installed in their office building, would be considered ethical.

The AMA's 434-member House of Delegates last month passed a resolution beginning to back away from the new AMA policy. The group said doctors should be able to own laboratories as long as they disclose the ownership to patients.

The new AMA policy against physician ownership, if it stands, leaves the Washington State Medical Association (WSMA) out of step. The WSMA says it is ethical for doctors to own many types of health-care facilities to profit from their referrals as long as they tell patients about the ownership before they refer them.

"We haven't received, to the best of my knowledge, any formal complaints in this area," Arveson said.

Still, responding to the AMA, Arveson said the WSMA Judicial Council, 10 doctors appointed by the president of the state medical association to study ethics issues, will review the issue Nov. 2. The group, chaired by Dr. Maurice Skeith of Seattle, is considering a new ethics opinion on physical ownership. Its discussions will be in private.

If that group believes doctors should be restricted from investing in medical businesses, the opinion would be voted on sometime next year by a group representing all the state's doctors.

Judging from the views of its leaders, though, you wouldn't expect the WSMA position to change. Dr. Jim Kilduff, president of the state medical association, and Tom Curry, its executive director, say physical ownership isn't really a problem.

Kilduff said the managed-care concept, not ownership, is the key to controlling medical costs. He said doctors should be paid a certain amount for a certain diagnosis.

Curry agreed: "That's better than saying you can't own or you can't refer."

Mr. METZENBAUM. Mr. President, I rise today to join my distinguished colleagues, Senator ADAMS and Senator BINGAMAN, in introducing a bill to prohibit doctors from referring their patients to a medical facility simply because they have a financial interest in it. At best, such self-referrals are a blatant conflict of interest—at worst, they are tantamount to a kickback. Most important, doctor self-referral is costing American consumers billions of dollars a year because it encourages high prices for and overuse of health care.

The Congress has already taken the first step to address the problem by limiting doctors' ability to refer their medicare and medicaid patients to clinics in which they have a financial interest. Our bill goes even farther to eliminate these costly and abusive practices by making it unlawful for doctors to refer any patient to a health care facility in which they have a financial interest, unless there is a good reason to do so. The ban would apply regardless of whether the doctor's financial interest was in the form of a limited partnership, joint venture, general partnership, or stock ownership interest, and whether government, private insurers or patients paid the bill.

It is clear to me that self-referral allows doctors to profiteer at the expense of their patients. For example, Florida researchers found that physician-owned laboratories in their State performed twice as many tests per patient as independent laboratories. Likewise, the inspector general's office at the Department of Health and Human Services found that the patients of referring doctors who invested in clinical labs received 45 percent more services than medicare patients in general.

Doctor self-referral has also created problems for our Federal antitrust agencies because it fosters unfair competition and high prices for medical care. Currently, the Federal Trade Commission [FTC] has about a dozen investigations underway into physician joint ventures that it suspects may be unfairly eliminating competition and charging high prices.

The FTC's concern is that when a group of specialists get together and agree to send all their patients to a medical facility that they own jointly, independently-owned facilities can be driven out of business because they cannot compete with the doctors. Too often the result of this unfair competition is that the specialists end up with high-priced monopoly that has little or no incentive to offer patients high quality health care at reasonable rates.

Let me give you an example of what can happen. A young mother of two was misdiagnosed as having a breast tumor by a slipshod diagnostic imaging clinic in which her gynecologist had a financial stake. This young women did not know that her doctor had an investment in that clinic. Furthermore, Newsweek reported that she "believes that she was sent to an inferior clinic and put through a terrifying ordeal just to line her physician's pockets."

The profits to be made from doctor self-referral have also spawned a disturbing partnership between physicians and the business community that is turning doctors into deal-makers at the expense of the patients' best interests. A perfect example of this trend is a company called T2—often referred to as "T-squared", which has made millions of dollars by establishing joint ventures with referring doctors. To date, more than 1,700 doctors have invested in over 100 T2 "infusion-therapy" centers, which provide intravenous medication and nutrition to patients in their homes.

T2 operates successfully by using its stock as a sales tool to sign up doctors who have patients to refer to its centers. The result is that for a modest initial investment, selected doctors acquire a permanent equity interest in T2's center, and so they continue to refer their patients there.

These doctor-investors also profit handsomely from their referrals because these captive clinics tend to charge patients much higher prices for their services. For example, at T2's infusion therapy center in Atlanta a 2-week treatment with the AIDS drug cytovene cost $4,000, while the cost of the same treatment across town at an independent clinic was only $1,100.

An offshoot of T2, Radiation Care is using this same strategy to corner the market on outpatient radiation centers to treat cancer patients. This company also selects doctor-investors based solely on their ability to refer patients to its clinics. Not surprisingly, almost all the company's revenues come from referrals by physicians who own stock.

Both Radiation Care and Wall Street bank on the fact that locking in a network of doctors will make these centers profitable. And they are right, at least as far as the doctor-investors are concerned. The doctors who were offered Radiation care stock at $1 to $2 a share, saw the value of that stock climb to over $16 a share when the company went public earlier this year. It appears to me that Radiation Care's doctor-investors are making a windfall at their patients' expense.

Our bill would stop doctors from getting the kind of sweetheart stock deal in exchange for patient referrals that T2 and Radiation Care are cashing in on. Under our bill, self-referrals would be banned if doctor-investors bought stock on terms that were not also available to Americans in other walks of life.

I believe that the Congress must act now to protect vulnerable and unsuspecting patients from inappropriate physician self-referrals before the problem gets worse. Last year, a study by the Florida Health Care Cost Containment Board found that two out of five doctors in that State have investments in a medical business to which they can refer their patients. For selected services the number was even higher: Florida doctors own 93 percent of all the diagnostic imaging centers in that State.

Even the Bush administration has acknowledged that doctor self-referrals are getting out of hand. They proposed a limited ban on Medicare payments for doctor self-referrals for a handful of medical services, in their so-called comprehensive health reform package. Our bill would go farther than their limited proposal by banning inappropriate self-referrals for all types of facilities and services.

The Congress cannot look to the administration or the private sector to protect vulnerable patients from inappropriate physician self-referrals. The American Medical Association [AMA], which should be taking the ethical high ground on this issue, has all but turned its back on the problem. This past June, the AMA's house of delegates voted to reverse the ban of physician self-referral that it had adopted just 6 months earlier. In doing so, the AMA has made it clear that it won't provide any leadership to deal with a problem that is costing the country billions of dollars every year due to overcharges and overuse and putting patients health and lives at risk.

I expect critics to argue that our bill is unfair because we are treating doctors differently than other professional entrepreneurs. The fact is that medicine is not like the services delivered by other professionals, and therefore should be treated differently. In medicine, the doctors make virtually all the decisions that dictate how much demand there will be for a particular kind of health care service, and, ultimately, its cost. Therefore, by allowing the same professionals who create the demand for a service to profit from its delivery, we invite overuse and abuse. By banning self-referral, our bill assures that a patient's health and well-being will be a doctor's only consideration in prescribing a course of treatment.

The bill also contains provisions requiring that a patient be billed directly by a health care facility for the services delivered there. This proposal will also save precious health care dollars. Senator ADAMS has discussed that provision in the summary of the bill which he has placed in the RECORD.

In closing, I want to encourage all Senators to carefully review this important bill. The high cost of health care will continue to get higher and patient care will suffer if the Congress doesn't step in to ban inappropriate doctor self-referrals. I urge you all to join us in sponsoring this bill.

Mr. BINGAMAN. Mr. President, one of the most important tasks facing the Congress and the Nation is gaining control of health care costs. If we are ever to achieve comprehensive health care reform, cost containment needs to be our highest priority. I am therefore pleased to join SENATOR ADAMS today in introducing the "Ethics in Referrals and Billing Act of 1992." This important initiative will help slow rapidly-escalating health care costs in the United States by putting manageable, common-sense controls on a significant source of health cost inflation: physician self-referral.

The trends in U.S. health care spending are well known: since 1980, we have increased spending an average of 10 to 12 percent every year. If that rate continues, we will double our spending every 7 years. This year, we will spend an estimated $800 billion—a figure that exceeds the entire budgets of most of the world's economies. Little imagination is needed to envision the day when only the richest among us will be able to afford health care.

Gaining control of health care spending is not easy. A number of complex, interrelated factors are involved. Inflation in the general economy is amplified in the health sector. A growing population, and an aging population, increase overall costs. The Health Care Financing Administration estimates that nearly one-third of the increases in cost in recent years are attributable to the intensity and volume of health services due to population growth and demand for upgraded, higher intensity services. This includes clinical tests and procedures that do not increase the specificity or sensitivity of diagnosis or the efficacy of treatment.

A particularly onerous example of increased intensity and volume occurs when a physician enters into a health services joint venture arrangement, thereby gaining a financial interest in an independent health care facility. Joint venture arrangements come in a variety of forms, the most common occurring when a physician makes an investment in a facility that provides physical therapy or rehabilitation programs, diagnostic imaging, radiation therapy, or another type of service to which he or she may refer patients. The benefit to the physician, in terms of income and tax advantages, ranges from small sums to thousands of dollars per year. But one thing remains constant: the success or failure of the joint venture depends on the physician's ability to make patient referrals.

A number of studies have documented the relationship between physician joint ventures and increased health facility use rates. Most recently, the Journal of the American Medical Association reported on a 1991 survey commissioned by the Florida Health Care Cost Containment Board. The Florida study found that 40 percent of Florida physicians involved in direct patient care had an investment interest in some type of health care business to which they referred patients. More than 90 percent of the physician-owners were concentrated in specialties likely to require special services, such as internal medicine, surgery, or general practice. Based on their findings, the researchers concluded that the percentage of physicians participating in joint ventures is much higher than the "12 percent of physicians billing Medicare" estimated by the Inspector General of Health and Human Services in 1989.

In his 1989 study, the Inspector General reported that patients of physicians who own or invest in clinical laboratories receive 45 percent more clinical laboratory services than all Medicare patients, regardless of place of service. The Florida Health Care Cost Containment Board found that physician ownership led to 27 percent more home health visits per patient and between 35 and 43 percent more physical therapy visits per patient, depending on the extent of the facility's services.

The Florida study evaluated the use of magnetic resonance imaging and computed tomographic scanning services by contrasting three metropolitan statistical areas in Florida (Jacksonville, Miami, and Orlando) with Baltimore, Maryland. Residents of the Florida cities received 14, 65, and 35 percent more scans, respectively, than residents of Baltimore. Using this methodology, the Forida Board determined that residents of that State used computed tomographic scans 5.4, 27.9, and 14.3 percent more, respectively, than residents in Baltimore.

These findings lead to an obvious conclusion: when a physician has a financial interest in a referral service, the physician is more likely to refer to that service. This fundamental principle has been recognized by many physicians, including members of the American Medical Association. In March, the AMA's Council on Ethical and Judicial Affairs issued a statement concluding:

". . . in general physicians should not refer patients to a health care facility outside their office practice at which they do not directly provide care or services when they have an investment interest in the facility. Physicians may invest in and refer to an outside facility if there is a demonstrated need in the community for the facility and alternative financing is not available."

Unfortunately, the advice of the Council on Ethical and Judicial Affairs apparently has been rejected by the general membership of the American Medical Association. In June, delegates to the AMA's annual meeting voted to significantly weaken a previously-approved ethical behavior standard for self referral. In the absence of a commitment to voluntary action, the need for this legislation is clear.

Fundamentally, this is consumer protection measure. In my view, visits to the doctor should not required detailed questioning of his or her financial interests. Our health care system should reward innovation, hard work, and diligence. Care should be delivered because it serves the needs of the patient, not because it provides additional income to the physician. To achieve these goals, it is imperative that physicians cease to invest in joint ventures created solely to increase health care use. The legislation we are introducing today, the "Ethics in Referrals and Billing Act," protects consumers and serves as a reminder to health providers that they have a scared trust to serve their patients above and beyond personal financial interests.

Self-referral is a complex issue. In some situations, and in rural areas particularly, self-referral may benefit communities and patients. Our bill permits self-referral that benefit consumers, but it prohibits monopolistic acts of self-referral that inhibit competition.

Mr. President, we need to control health care costs. We need to make health care affordable for all Americans. We need to balance the ability of markets to create competitive prices with effective regulation. We need to stop health care profiteering. Through legislation such as the "Ethics in Referrals and Billing Act," we can achieve these critical objectives.

By Mr. GRAHAM (for himself and Mr. PRYOR):

S. 3187. A bill to amend title XIX of the Social Security Act to improve programs related to home- and community-based care and community-supported living arrangements, and for other purposes; to the Committee on Finance.

LONG-TERM CARE LEGISLATION

• Mr. GRAHAM. Mr. President, in February of this year, I convened an Aging Committee hearing in Lauderhill, FL, on the subject of long-term care; specifically, how the Federal Government can best encourage utilization of home- and community-based services.

At that hearing, I heard from consumers, Government officials, and providers that long-term care is an integral component of the growing health crisis which will touch the lives, directly or indirectly, of almost all Americans. Families are increasingly vulnerable to financial ruin and emotional strain from the devastating cost and burden of long-term care for their loved ones.

Part of the problem is the desire by caregivers and persons with chronic health needs alike to stay at home. Approximately 86 percent of Floridians prefer long-term care services at home. Despite this, during 1990–91, Florida spent $838 million on nursing home care, compared to $66 million for community long-term care programs. Nationally, total spending for persons with chronic illnesses or functional limitations totaled an estimated $57.8 billion in 1988. Unfortunately, only 23 percent of this amount was targetted to home- and community-based care.

For this reason, many witnesses testified that we must adjust the fiscal relationship between community and institutional programs. This does not have to occur at the expense of nursing home programs. Instead, it should be achieved by reducing the need for institutional care through the diversion of long-term care clients to a greatly expanded—both at the service level and funding source—network of home- and community-based programs. It can be accomplished by developing a continuum of care—services that are available in both urban and rural areas which fit the needs of the mildly to moderately to severely chronically ill or disabled person.

To meet this challenge, we must build the infrastructure for the continuum of care now. Florida, a bellwether State, experienced the startling growth in the elderly population which the rest of the Nation will undergo. In Florida, by the year 2000, about 370,000 persons will be over 85, versus 208,000 today, representing a 78-percent increase. The 85-year-plus category is the group at highest risk of institutionalization.

The young-old in Florida, or those over 60 years represent 3.1 million out of the 13 million State residents. While some of these persons may need minor custodial assistance, many of them will take care of their ailing parents in the home.

In order to provide a continuum of care to this diverse and increasing population, we must pursue a multitiered strategy. In the long term, we should build our Federal and State system so that in the year 2000 we are not overwhelmed financially or in terms of service delivery capability. We must make sure that both public and private providers, case managers, and outreach workers are accessible, knowledgeable, and available. Public and private resources should be developed so that persons in need of care know whether to stay at home and utilize home- and community-based resources or to enter an institution for a short- or long-term period.

One example of a model for the Nation is Florida's successful home- and community-based program, Community Care for the Elderly [CCE]. CCE was established in 1980 to provide a continuum of care for functionally impaired older persons within every Florida county. The CCE Program assists persons in living dignified and reasonably independent lives in their own homes or those of their caregivers through the development and expansion of home- and community-based health and social services.

In the short term, the Federal Government should improve and expand existing Federal and State home- and community-based long-term care programs. Through special Medicaid and Medicare programs and waivers, States can offer these services to the elderly and disabled. I have identified three Medicaid and Medicare programs which, when combined, provide $735 million in home- and community-based programs over 5 years. I am introducing legislation to improve, expand, and extend these programs so States, consumers, and providers can access them.

The legislation I am introducing today would accomplish the above long- and short-term goals.

First, the bill requires the Secretary of the Department of Health and Human Services to provide Congress with a comprehensive report on the Federal Government's role in long-term care policy a year after the bill's enactment. The study will consider specifically home- and community-based services. It is my hope that the Federal Government will then take the necessary steps to provide humanely for the medical and social service needs of the Nation's growing elderly population.

Second, the bill improves the Medicaid frail elderly home- and community-based care program created under OBRA 90. This program provides a capped entitlement option, $580 million over 5 years, within the Medicaid Program permitting States to provide home- and community-based care to disabled individuals age 65 or over otherwise eligible for Medicaid without a waiver.

Because of certain requirements on both States and providers, such as required State participation regardless of availability of Federal funds, only two States have applied for the $70 million in available program dollars for fiscal year 1992. My bill would require States to give notice of their participation and then guarantee them a certain funding level. I would, however, consider other approaches to an allocation process which guarantee States a funding level. The legislation would also allow States to broaden the eligibility standards. Last, it would require a yearly evaluation of the program, specifically, of its cost effectiveness.

Third, my bill would make mostly technical changes to the community supported living arrangements [CSLA] program also created under OBRA 90. The program allows up to eight States to provide personal assistance, support services, and rehabilitation to individuals with developmental disabilities without a Medicaid waiver. Federal costs are capped at $100 million over 5 years.

My bill would clarify that only three recipients can reside in any living arrangement receiving CSLA funding. Additionally, it would provide that persons living without family or guardians are eligible to participate in CSLA.

Finally, the bill reauthorizes $15 million for the Medicare Alzheimers Program created by OBRA 1986, increasing the current authorization level from $55 to $70 million.

Providers in eight States receive funding under the MAP Program. Demonstration services include: case management services; home- and community-based services; and mental health services. The MAP Program remains one of the only promising models of Medicare home- and community-based care available for a population in need of specialized services. The evaluation of the demonstration projects will provide Federal policymakers and the States with valuable information about this population.

Mr. President, as the experience in my State indicates, long-term care is an important and dynamic issue. As the baby boomer population comes of age, our Nation must make some difficult decisions on how to provide for their health and social service needs. A thoughtful, coordinated strategy, which considers both quality of life and fiscal priorities, will serve our Nation well. I ask unanimous consent that the full text of my bill and a summary be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2. HOME AND COMMUNITY CARE FOR THE FRAIL ELDERLY.

(a) DEFINITION OF FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL.—Section 1929(b)(1)(C) (42 U.S.C. 1396t(b)(1)(C)) is amended to read as follows:

"(C) subject to section 1902(f) (as applied consistent with section 1902(r)(2))—

"(i) is receiving supplemental security income benefits under title XVI (or under a State plan approved under title XVI), or

"(ii) at the option of the State—

"(I) is described in section 1902(a)(10)(C), or

"(II) has income (as determined under section 1612 for purposes of the supplementary security income program) that does not exceed three times the maximum amount of income that an individual may have and obtain benefits under such program.".

(b) DETERMINATIONS OF FUNCTIONAL DISABILITY.—Section 1929(c)(1) (42 U.S.C. 1396t(c)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "3" and inserting "5", and

(B) by striking "toileting, transferring, and eating; or" and inserting "bathing, dressing, toileting, transferring, and eating;",

(2) in subparagraph (B)—

(A) by striking "of the following 5 activities of daily living: bathing, dressing, toileting, transferring, and eating" and inserting "of the 5 activities of daily living described in subparagraph (A)", and

(B) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following new subparagraphs:

"(C) needs substantial supervision due to cognitive or other mental impairment and needs substantial assistance or supervision from another individual with at least 1 of the 5 activities of daily living described in subparagraph (A) or in complying with a daily drug regimen; or

"(D) needs substantial supervision from another individual because such individual engages in inappropriate behaviors that pose serious health or safety hazards to such individual or others.".

(c) SURVEY AND CERTIFICATION FOR CERTAIN COMMUNITY CARE SETTINGS.—

(1) IN GENERAL.—Section 1929(i) (42 U.S.C.1395t(i)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR CERTAIN SMALL COMMUNITY CARE SETTINGS.—For purposes of this paragraph, the terms 'community care setting' and 'setting' shall not include a community care setting that is not a provider of home and community care.", and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(F) SPECIAL RULE FOR CERTAIN SMALL COMMUNITY CARE SETTINGS.—For purposes of this paragraph, the terms 'community care setting' and 'setting' shall not include a small community care setting that is not a provider of home and community care.".

(2) ADDITIONAL RESPONSIBILITIES FOR CASE MANAGERS.—Section 1929(d)(2) (42 U.S.C. 1396t(d)(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) has experience or has been trained—

"(i) in establishing, and in periodically reviewing and revising, individual community care plans;

"(ii) in the provision of case management services to the elderly; and

"(iii) with respect to case managers for individuals residing in small community care settings that are not providers of home and community care, in reviewing the compliance of such settings with the requirements set forth in subsection (g)(2);", and

(B) in subparagraph (B)—

(i) by striking "and (iii)" and inserting "(iii)", and

(ii) by striking "occur;" and inserting "occur; and (iv) reviewing the compliance of small community care settings that are not providers of home and community care with the requirements set forth in subsection (g)(2), in coordination with Ombudsmen selected under the State Long-Term Care Ombudsman Program (described in section 307(a)(12) of the Older Americans Act of 1965), and reporting any noncompliance of such settings with such subsection to the State;".

(d) LIMITATION ON AMOUNT OF EXPENDITURES AS MEDICAL ASSISTANCE.—Section 1929(m) (42 U.S.C. 1396t(m)) is amended—

(1) in paragraph (1), by striking "The amount of funds" and inserting "Except as provided in paragraph (5), the amount of funds",

(2) in paragraph (2)—

(A) by striking "Individual Community Care Plan" and inserting "individual community care plan", and

(B) by striking "an election period is the period of 4 or more calendar quarters" and inserting "an election period is a Federal fiscal year (or in the case of States described in paragraph (4)(C)(ii), the period beginning on April 1, 1993, and ending on September 30, 1993)",

(3) by amending paragraph (4) to read as follows:

"(4) ALLOCATION OF MEDICAL ASSISTANCE.—

"(A) IN GENERAL.—All of the funds available to be expended under paragraph (1) during a fiscal year shall be available as Federal medical assistance to the States electing to provide services under this section during such fiscal year.

"(B) GENERAL ALLOCATION FORMULA.—For each fiscal year, beginning with fiscal year 1994, a State which has provided a notice to the Secretary under paragraph (6)(A) shall be allocated an amount of the funds that may be expended under paragraph (1) for such fiscal year equal to the product of—

"(i) the total amount of funds that may be expended under paragraph (1) for such fiscal year; and

"(ii) the amount determined by dividing—

"(I) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(II) the total number of individuals age 65 or older residing in all States which have submitted notices to the Secretary under such paragraph during such fiscal year.

"(C) SPECIAL ALLOCATION FORMULA FOR FISCAL YEAR 1993.—

"(i) FIRST 6-MONTH PERIOD.—For the period beginning on October 1, 1992, and ending on March 31, 1993, each State for which a State plan amendment to provide home and community care under this section has been approved by the Secretary as of the date of enactment of this Act shall be allocated an amount of the funds available under paragraph (1) for fiscal year 1993 equal to the product of—

"(I) $65,000,000; and

"(II) the amount determined by dividing—

"(aa) the number of individuals age 65 or older residing in such State during such fiscal year, by

"(bb) the total number of individuals age 65 or older residing in all States which are providing home and community care under this section on the date of enactment of this Act.

"(ii) SECOND 6-MONTH PERIOD.—For the period beginning on April 1, 1993, and ending on September 30, 1993, a State which has provided a notice to the Secretary under paragraph (6)(B) shall be allocated an amount of the funds available under paragraph (1) for fiscal year 1993 equal to the amount such State would receive under the formula set forth in subparagraph (B) by substituting—

"(I) '(6)(B)' for '(6)(A)', and

"(II) '$65,000,000' for 'the total amount of funds that may be expended under paragraph (1) for such fiscal year'.

"(D) REALLOCATION OF FUNDS.—

"(i) FORMULA FOR REALLOCATION.—

"(I) GENERAL RULE.—Except as provided in subclause (II), within 60 days after the end of each fiscal year, beginning with fiscal year 1993, the Secretary shall pay to each State which provided services under this section during such fiscal year an amount equal to the product of—

"(aa) the total amount of funds that may be expended under paragraph (1) for such fiscal year which remain available at the end of such fiscal year; and

"(bb) the amount determined by dividing the unavailable Federal amount (as defined in clause (ii)) for such State by the total unavailable Federal amount for all the States which provided services under this section during such fiscal year.

"(II) SPECIAL RULE.—The amount determined for payment to a State under subclause (I) shall not exceed the unavailable Federal amount for such State.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'unavailable Federal amount' means the excess of—

"(I) the amount a State would have received in Federal medical assistance based on such State's expenditures for services provided under this section but for the allocation under subparagraph (B), over

"(II) the amount of Federal medical assistance allocated to such State under subparagraph (B).", and

(4) by adding at the end the following new paragraphs:

"(5) CARRYOVER OF FUNDS TO NEXT FISCAL YEAR.—Beginning with fiscal year 1993, any funds available under paragraph (1) for a fiscal year which remain available after the application of subparagraphs (B), (C), and (D) of paragraph (4) shall be available under paragraph (1) to be expended in the following fiscal year.

"(6) NOTICE TO STATES OF AMOUNTS AVAILABLE FOR ASSISTANCE.—

"(A) IN GENERAL.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for any fiscal year (beginning with fiscal year 1994), a State shall submit not later than 3 months before the beginning of such fiscal year a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later than 2 months before the beginning of each fiscal year (beginning with fiscal year 1994), the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the fiscal year of the amount of Federal medical assistance that will be available to the State for such fiscal year (as established under paragraph (4)(B)).

"(B) SPECIAL RULE FOR FISCAL YEAR 1993.—

"(i) NOTICE TO SECRETARY.—In order to receive Federal medical assistance for expenditures for home and community care under this section for the period beginning on April 1, 1993, and ending on September 30, 1993, a State shall submit not later than March 1, 1993, a notice to the Secretary of its intention to provide such care.

"(ii) NOTICE TO STATES.—Not later April 1, 1993, the Secretary shall notify each State that has submitted a notice to the Secretary under clause (i) for the period beginning on April 1, 1993, and ending on September 30, 1993, of the amount of Federal medical assistance that will be available to the State for such period (as established under paragraph (4)(C)(ii)).".

(e) EVALUATIONS AND REPORTS.—Section 1929 (42 U.S.C. 1396t) is amended by adding at the end the following new subsection:

"(n) EVALUATIONS AND REPORTS.—The Secretary shall evaluate the provision of home and community care by States under this section and shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the effectiveness of such care, including the cost effectiveness of providing such care, and any recommendations for appropriate legislative action.".

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 3. AMENDMENTS RELATED TO COMMUNITY SUPPORTED LIVING ARRANGEMENT SERVICES.

(a) DEVELOPMENTALLY DISABLED INDIVIDUAL DEFINED.—Section 1930(b) (42 U.S.C. 1396u(b)), is amended—

(1) by striking "guardian" and inserting "guardian or", and

(2) by striking "3 other" and inserting "3".

(b) CARRYOVER OF AVAILABLE FUNDS.—Section 1930(j) (42 U.S.C. 1396u(j)) is amended by adding at the end the following new sentence: "Beginning with fiscal year 1992, any funds available under the limitations set forth in this subsection for a fiscal year which remain available at the end of such fiscal year shall be available to be expended in the following fiscal year.".

(c) EVALUATIONS AND REPORTS.—Section 1930 (42 U.S.C. 1396u) is amended by adding at the end the following new subsection:

"(k) EVALUATIONS AND REPORTS.—The Secretary shall evaluate the provision of community supported living arrangements services by States under this section and shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the effectiveness of such services, including the cost effectiveness of providing such services, and any recommendations for appropriate legislative action.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act.

(2) SPECIAL RULE.—In the case of any State which, on the date of enactment of this Act, provides services under section 1930 of the Social Security Act to 4 individuals residing together for purposes of subsection (b) of such section, the amendment made by subsection (a)(2) shall be effective on October 1, 1994.

SEC. 4. ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 9342 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "6 years",

(2) in subsection (d)(1), by striking "fourth year" and inserting "sixth year", and

(3) in subsection (f)—

(A) by striking "$55,000,000" and inserting "$70,000,000"; and

(B) by striking "$3,000,000" and inserting "$4,000,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 5. REPORT ON LONG-TERM CARE POLICY.

The Secretary of Health and Human Services shall submit a report to the Congress no later than 1 year after the date of enactment of this Act which shall include—

(1) recommendations regarding a plan under which the Federal Government would provide, and finance the provision of, long-term care;

(2) recommendations regarding the appropriate role of the States in a plan for the provision and financing of long-term care;

(3) recommendations regarding a plan under which the Federal Government would provide, and finance the provision of, home and community based care; and

(4) recommendations regarding the appropriate role of the States in a plan for the provision and financing of home and community based care.

SUMMARY OF S. 3187

CURRENT LAW

OBRA '90 created the Medicaid home and community based care for functionally disabled elderly individuals or frail elderly program. This program provides a Medicaid capped entitlement option ($580 million over five years) from FY 90–95 permitting States to provide home and community based care to disabled individuals age 65 or over otherwise eligible for Medicaid without a waiver.

LEGISLATION

Broaden the law's requirement that persons with two of three impaired activities of daily living (ADL) can participate in the frail elderly program to persons with only two of five ADLS.

Allow all persons with dementias, not just persons with Alzheimers, to participate.

At a state's option, allow persons up to three times the SSI level to participate.

Exempt small community care settings which are not providers form survey and certification requirements. Require case managers who have been properly trained to review these small settings.

Require states to inform HHS if they plan to participate in the program before the beginning of a fiscal year.

Guarantee states with a certain amount of funding over one year's election period.

Allow states to use unobligated amounts of spending authority in future years.

Require yearly assessments of the program by HHS.

CURRENT LAW

OBRA '90 created the community supported living arrangements program. The program allows up to eight States to provide personal assistance, support services, and rehabilitation to individuals with developmental disabilities without a Medicaid waiver. Federal costs are capped at $100 million over five years.

LEGISLATION

Allow states to use unobligated amounts of CSLA spending authority in future years.

Clarify that only 3 persons in a setting may receive CSLA funding.

Clarify that persons living with a family or guardian are eligible for the program.

Require yearly assessments of the program by HHS.

CURRENT LAW

OBRA '86 created the Medicare Alzheimers demonstration. In, 1986, it was authorized at $40 million for up to 10 demonstration projects. OBRA '90 extended the authorization at $55 million for two years. The demonstration provides home and community based services for persons with Alzheimers.

LEGISLATION

Provide $70 million for FY 93–95 for the Medicare Alzheimers Program.

LEGISLATION

Require HHS to provide Congress one year following enactment with a report on a federal government plan for a comprehensive longterm care policy and home and community based care.

Require HHS to provide/Congress one year following enactment with a report on a state/federal government comprehensive plan for a long term care and home and community based care.•

By Mr. GRAHAM:

S. 3188. A bill to establish the representative and administrative entities necessary to carry out section 8 of the Florida Keys National Marine Sanctuary and Protection Act; to the Committee on Environment and Public Works.

FLORIDA KEYS WATER QUALITY PROTECTION ACT

• Mr. GRAHAM. Mr. President, I rise today to introduce legislation which will expand and improve the Florida Keys Water Quality Protection Program which was established in Public Law 101-665, the Florida Keys National Marine Sanctuary Act of 1990.

When Congress originally considered legislation to designate the Florida Keys marine sanctuary, individuals testified before the House and Senate that one of the greatest threats to this unique and magnificent coral reef marine ecosystem was poor water quality. It was a common theme with both proponents and opponents of the marine sanctuary designation.

The focus of the original legislation was the development of a management plan by the National Ocean and Atmospheric Administration [NOAA] to balance the commercial, recreational and conservation interests in the Florida Keys. This is a difficult balance to strike. I commend the staff of NOAA and the many involved parties for the efforts they are making to develop a responsible management plan, and I urge NOAA to continue working closely with the citizens of Monroe County on the specifics of the plan.

But unless we go further and do something about water quality, there won't be much of a marine resource to manage. Mr. President, I ask unanimous consent to include at the conclusion of my remarks an August 11, 1992, article from the Miami Herald and an August 10, 1992, article from the St. Peterberg Times about the water quality issues in south Florida which threaten the coral reef and marine habitat of the Florida Keys National Marine Sanctuary.

The legislation I am introducing today establishes a working group, headed by the Director of the Environmental Protection Agency [EPA] and the Governor of Florida, to spearhead development of the Water Quality Protection Program.

Working closely with the Florida Department of Environmental Regulation, the EPA has already begun to identify threats to the water quality of the Keys. But more cooperative action is needed among the various local, State, and Federal agencies.

I am pleased that the Regional Administrator for EPA region IV, which includes Florida, has already taken steps to bring these agencies together. This bill will provide more structure for what is currently an ad hoc task force.

Second, my legislation directs EPA to establish an office in Florida to provide technical and administrative support in the development of the water quality protection plan.

Finally, the bill authorizes appropriations to implement the requirements of the legislation. Mr. President, I ask unanimous consent that the text of the bill also be included in the RECORD, immediately following my remarks and before the inclusion of the newspaper articles.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Florida Keys Water Quality Protection Act".

WATER QUALITY PROTECTION PROGRAM

SEC. 2. (a) IMPLEMENTATION OF PROGRAM.—The Administrator of the Environmental Protection Agency is directed to continue the Water Quality Protection Program (hereinafter referred to as the "Program") established in section 8 of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note). The Administrator shall implement the Program in cooperation with the State of Florida and the National Oceanic and Atmospheric Administration.

(b) STEERING COMMITTEE.—The Administrator of the Environmental Protection Agency shall with the Governor of Florida establish a Steering Committee to set guidance and policy for the implementation of the Program. Membership shall include the Administrator of the Environmental Protection Agency, the Governor of Florida, the Chairperson of the South Florida Water Management District, the Director of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration, the Director of the National Park Service, the head of the Florida Keys Aqueduct Authority, representatives of local governments in the Florida Keys, and citizens knowledgeable about the Program. The officials referred to in the preceding sentence may designate representatives to serve in their place on the Steering Committee.

FLORIDA KEYS LIAISON OFFICE

SEC. 3. The Administrator of the Environmental Protection Agency shall establish a Florida Keys Liaison Office (hereinafter referred to as the "Liaison Office") in Florida. The Liaison Office location shall be coordinated with the State of Florida and the National Oceanic and Atmospheric Administration. The Liaison Office shall be headed by a Director, and shall have the authority and staff to carry out the duties of the Liaison Office.

DUTIES OF THE LIAISON OFFICE

SEC. 4. The Liaison Office shall—

(1) assist and support the implementation of the Program, including administrative and technical support for the Steering Committee;

(2) assist and support local, State, and Federal agencies in developing and implementing specific action plans designed to carry out the Program;

(3) coordinate the actions of the Environmental Protection Agency with other Federal agencies, including the National Oceanic and Atmospheric Administration and the National Park Service, and State and local authorities, in developing strategies to maintain, protect, and improve water quality in the Florida Keys;

(4) collect and make available to the public publications, and other forms of information that the Program and Steering Committee determine to be appropriate, related to the water quality in the vicinity of the Florida Keys;

(5) on a biennial basis, issue a report to the Congress which—

(A) summarizes the progress of the Program;

(B) summarizes any modifications to the Program and its recommended actions and plans; and

(C) incorporates specific recommendations concerning the implementation of the Program; and

(6) provide for public review and comment on the Program and implementing actions.

GRANTS

SEC. 5. The Administrator of the Environmental Protection Agency is authorized to make grants for projects or studies which will help implement the Program. State agencies, local governments, and non-profit private organizations shall be eligible for such grants.

TECHNICAL ADVISORY COMMITTEES

SEC. 6. The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration shall cooperate with the Secretary of Florida's Department of Environmental Regulation to establish a Technical Advisory Committee to assist in the design and prioritization of grants and programs for scientific research and monitoring. The Technical Advisory Committee shall be composed of scientists from Federal agencies, State agencies, academic institutions, private non-profit organizations, and knowledgeable citizens. The Technical Advisory Committee also shall assist in ensuring that grants and programs in scientific research and monitoring are coordinated with other institutions, agencies, and ongoing programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) ENVIRONMENTAL PROTECTION AGENCY.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $5,000,000 for fiscal year 1993, $6,000,000 for fiscal year 1994, and $7,000,000 for fiscal year 1995, for the purpose of carrying out this Act.

(b) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—There are authorized to be appropriated to the Secretary of Commerce $300,000 for fiscal year 1993, $400,000 for fiscal year 1994, and $500,000 for fiscal year 1995, for the purpose of enabling the National Oceanic and Atmospheric Administration to carry out this Act.

(c) PERIOD OF AVAILABILITY.—Amounts appropriated under this section shall remain available until expended.

(d) LIMIT ON ADMINISTRATIVE EXPENDITURES.—No more than 15 percent of the amount appropriated under subsection (a) or (b) for any fiscal year may be expended in that fiscal year on administration and management.

[From the Miami Herald, Aug. 11, 1992]

Decline of Rich Fishery a Mystery—Some Activists, Politicians Begin to Pay Attention

(By Heather Dewar)

Western Florida Bay.—Keys fishermen call this "the dead zone"—a vast area perhaps 450 miles square and growing, where once-sparkling waters teeming with sea creatures have turned to pea-green gruel.

From horizon to horizon, the water's opaque surface is slashed by wind-driven rows of slime—the rotting roots and stems of dead sea grass. The young shrimp that once sheltered in the grass, fattening up to fill Keys fishermen's nets, no longer seem to grow here. Wading birds no longer feed here Boatmen who sought out these waters for their abundant harvest of lobster and stone crabs, tarpon and snook now chart courses elsewhere.

Just 50 miles from downtown Miami, one of Florida's richest and loveliest marine habitats is spiraling toward apparent collapse, seen only by a few scientists and fishermen. And there is evidence that hot, super-salty Florida Bay water has reached the Keys' offshore reefs, where it poses a potential threat to the corals' survival—and the island economy that depends on them.

"Florida Bay is falling apart like a rotting piece of cloth," said marine scientist Jay Zieman of the University of Virginia, who has been studying the bay since 1965. "This is a disaster on the same scale as the Yellowstone fires. But it's underwater, so no one's paying any attention to it."

Alarmed at the bay's dramatic decay and the danger it poses to the United States' only living coral reef, some activists and politicians are beginning to pay attention. Gov. Lawton Chiles plans to tour Florida Bay by helicopter Friday. State and federal environmental protectors are planning a powwow on the bay's problems in Marathon Aug. 27. And Orlando businessman George Barley, who heads a citizen's advisory committee for the Florida Keys. National Marine Sanctuary, has taken experts to Washington to meet with congressmen and White House staffers. Barley's goals: a multi-agency state and federal program to save the bay and more money for research.

"The main threat to the sanctuary is Florida Bay," Barley said. "We're trying to come up with a management plan for the sanctuary. If we don't do something about the bay, it will all be for nothing."

The trouble in Florida Bay has been stewing for at least six years, while experts scratched their heads, scrambled for scant funds to study the problem and prophesied it would soon stop.

But it isn't stopping. In the last six months, the die-off of sea grass has accelerated so much that scientists can't keep track of it. And late summer, the most lethal season of all, is yet to come.

"Florida Bay is undergoing what some people would call catastrophic changes," said Mike Robblee, head of Everglades National Park's marine science section. "We've had massive sea grass die-offs since 1987. That's unprecedented in tropical waters. We've got continuing mangrove die-offs. We've got sponge die-offs. We've got a shrimp harvest that is less than half what it was 10 years ago.

"Florida Bay is telling us something. It's telling us that it's very sick—or at least, changing drastically. And it's telling us that we need to sit up and take notice."

POSSIBLE CULPRIT: HUMANKIND

No one knows exactly what has killed as much as 55 square miles of sea grass—an area the size of Miami and Coral Gables combined. No one is certain what has fueled an explosive and ever-shifting algae bloom that is as large as 30 miles by 15, or killed mangroves in the eastern bay and sponges in the southern bay. Early evidence points the finger at humankind.

Most experts say development has drastically reduced the flow of fresh water across the Glades' sawgrass prairie and into the bay, changing it from an estuary, a place where fresh and salt water mix, into a shallow arm of the sea. Water temperatures and salt levels kept climbing past the point that bay creatures could endure. Now the sea grasses that once sustained bay life are feeding a cycle of destruction, the scientists suspect.

Others say the die-offs may be part of a natural process, worsened by the severe droughts of the last 1980s. A few, like researcher Brian LaPointe of the Harbor Branch Marine Institute, suspect pollutants from cities and farms are to blame.

No one theory can fully explain what's happening now—a die-off so severe that "all bets are off," Robblee said.

The scientists are scrambling for answers because for 15 years, bay research has been neglected in favor of studies on shore. "Basic research that should have been done in the 1970s has not been done," said new Everglades National Park superintendent Richard Ring.

Now there's no money to do the work. The $1.6 million budget for the park's research center has not grown since 1978, and nearly half of its 72 jobs are vacant. The research center was supposed to get an extra $1.6 million next year, but Congress has axed the money.

Top administrators at the Environmental Protection Agency and the National Oceanographic and Atmospheric Administration are talking about the bay's problems. But so far, they haven't spent any money on solving them.

This much is known:

The bay's survival depends on fresh water from the Everglades. For thousands of years a wide, shallow sheet of rainwater flowed across the sawgrass prairies. Traveling slowly through mangrove-lined creeks, the flow lasted long after the rainy season ended. Bay waters were less salty than the sea for all but a month or two, park hydrologist Bob Johnson believes.

One of North America's largest sea grass meadows thrived in the clear, shallow waters. The grasses sheltered young shrimp, scallops, lobsters and small fish. Wading birds feasted on the all-you-can-eat seafood buffet. So did uncountable numbers of tarpon, redfish, snook and bonefish, making the bay a worldwide magnet for sportfishermen.

REDUCED WATER FLOW

But South Florida's massive drainage projects have reduced Glades water flow to perhaps one-tenth of nature's design. Most of the water now comes down the C-111 canal and empties into the far eastern end of the bay.

In the early 1980s, after flooding in West Dade, water managers made more cuts in the bay's water supply. More than 3 million acre-feet of fresh water a year, enough to flood the park's lands three feet deep, are now diverted into the Atlantic.

As the flow ebbed, the bay began to fill with silt, creating isolated pools of hot, salty water. A typical jug of sea water is 35 parts per thousand salt. But bay water samples run as high as 70 parts per thousand salt. At Taylor River, the ancient heart of the bay's fresh water flow where salinity should be zero, Robblee has found 45 parts per thousand.

Meanwhile, researcher Zieman has found bay water temperatures are averaging six-tenths of a degree higher than 30 years ago and sometimes up to three degrees higher than normal.

"You get into that stuff and it's like swimming in urine," he said. "If you get any water in your eyes, you have to stop and rise the salt out immediately. What lives there? Jellyfish and not much else."

High temperatures are most marked in September and October, when cooler water and fading light should make sea grasses breathe more slowly and produce less food. Warm water keeps the plants breathing fast, but they can't get enough light for nourishment, Zieman believes.

Like a marathon runner who doesn't stop to eat, "The grasses are literally starving to death," said Zieman.

Right now the die-off is worst in Sandy Key Basin—"one of the most famous sight-fishing spots for tarpon in the world," according to fishing guide Ben Taylor, a former Colorado banker.

One morning last week, Taylor, poled his 16-foot skiff across acre after acre of bare bay bottom, skeleton-white with silt. "You're looking at a marine desert."

Beyond Sandy Key is an almost-unbroken band of murky water, stretching from Cape Sable at the park's southwestern tip to Islamorada in the Middle Keys. Last summer these waters were Caribbean blue and clear enough to pick out a snail on a grass blade six feet under. Now they are the color of ripe olives. Visibility is about six inches, and there's not much to see except floating strands of dead sea grass.

Most of the floating murk is an algae bloom. Zieman thinks the blooms are caused by rotting grasses, which release nutrients that feed the algae. The cycle of destruction speeds up when the algae block sunlight, causing more grasses to die. Algae is also growing on some Keys reefs, where it can smother corals.

Meanwhile, the population of young shrimp plummets in die-off areas. Researcher Robblee usually finds a dozen hatchlings in a sample of healthy sea grass less than a yard square. Where grasses have died, he typically finds one shrimp.

In 1984, Florida pink shrimp harvests were about 10 million pounds a year. But since the die-offs began in 1987, the catch has fallen to about 4 million pounds.

A startling new finding has alarmed defenders of the reef, which lies just on the other side of the Keys. Researchers from the Florida Institute of Oceanography have discovered hot water lying along the sea floor at Tennessee Reef off Long Key. The hot water should rise to the surface—but it is saltier than the surrounding sea, making it denser and causing it to sink.

The sensitive reef is already under stress, infested with black band disease and occasional bouts of lethal coral bleaching. Scientists know the bleaching is linked to water temperatures of 89 to 90 degrees Fahrenheit and up. The water on Tennessee Reef is now 88 degrees, said researcher David Forcucci.

This summer the institute's scientists are trying to trace the hot, salty, water, which they think is coming from the bay.

FLORIDA'S "BAMBI"

Zieman calls the reef "the Bambi of the South Florida environment," and hopes the threat of harm to its delicate corals and jewel-colored fish may focus attention on the bay's plight.

"People don't realize it's all one ecosystem," he said. "If part of it goes, the whole thing goes. It has to be studied and managed and protected as a whole."

The experts agree the bay cannot be saved without more fresh water. The Army Corps of Engineers plans to install a new water pump to increase the flow a little. The corps is working with water managers on a new water plan for the region, but that will take at least five years.

"Nobody's going to be able to turn on a tap and save Florida Bay," said John Ogden of the Florida Institute of Oceanography. "We have some research to do and some management coordination to do . . . in the richest country in the world, that shouldn't be so impossible.

"What's at stake is the economy of the Florida Keys. The Keys can't survive without tourism. And tourists are not going to pay good money to sit on beaches covered with rotting sea grass."

GOVERNOR TO VISIT BAY BESIEGED BY HUGE ALGAE BLOOM

Everglades National Park—Gov. Lawton Chiles and other state officials will fly over Florida Bay next week to look at an algae bloom that has alarmed South Florida water managers.

"Florida Bay just seems to be getting worse and worse," said Allan Milledge, chairman of the South Florida Water Management District's governing board. Water temperatures, salinity readings and nutrient levels in the bay are "way higher than normal."

Milledge said he asked Chiles to visit the bay next week because "it is important that we all understand what is happening." The bloom covers about 20 square miles, officials say.

Florida Bay is an estuary that serves as the home for large numbers of juvenile pink shrimp, lobsters, stone crabs, gray snappers and red fish.

The bloom of algae on the south end of the bay began forming earlier this summer, Everglades National Park research ecologist Mike Robblee said. Algae, which thrives on sunlight and warm temperatures, commonly blooms in the summer and can deprive other marine life of oxygen.

In addition to an unprecedented algae bloom, sea grass beds throughout the bay have perished with increasing frequency the past five years Robblee said. Areas of the bay that once had clear water are murky, and sponges and stands of black mangroves are dying.

Experts say the bay is suffering from a lack of fresh water. The 1,400 miles of flood-control canals built in South Florida more than 40 years ago have diverted much of the water that used to reach the bay.

In an effort to ease this problem, water management district officials plan to install a pumping station near Taylor Slough within a few days that will increase the amount of water going into the ailing bay.

The pump will move about 100 cubic feet of water a second, said Tom MacVicar, the district's deputy director. An existing pump at the same site sends 160 cubic feet of water a second to the bay.

But using an additional water pump represents on a "drop in the bucket" in solving the bay's problems, said George Barley, chairman of the Florida Keys National Marine Sanctuary Advisory Council.

Poor quality water flowing out of Florida Bay represents a "terrible threat" to delicate coral reefs in the adjacent Keys sanctuary, Barley said.

Milledge said a single visit by Chiles won't cure Florida Bay, but he believes the governor can increase attention to the problem and get government officials moving.●

By Mr. KERRY:

S. 3189. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, and for other purposes; to the Committee on Environment and Public Works.

ANTARCTIC ENVIRONMENTAL PROTECTION PROTOCOL ACT

● Mr. KERRY. Mr. President, I am today introducing the Antarctic Environmental Protection Protocol Act of 1992.

The purpose of the legislation is to enable the United States to enforce the Protocol on Environmental Protection to the Antarctic Treaty—protocol—which was negotiated by the parties to the Antarctic Treaty System in October of last year.

The adoption of the protocol was a major milestone in the international effort to protect the environment of Antarctica from the potential ravages of mineral exploration and to establish needed guidelines to minimize harm caused by other activities. As one of the founders of the Antarctic Treaty System, the United States has an obligation to enact strong implementing legislation and to guarantee that its citizens adhere to and—where appropriate—go beyond the minimum standards established by the protocol.

Antarctica is the largest remaining wilderness on our Planet. It provides habitat for vast quantities of wildlife including penguins, seals, whales, krill, fish and seabirds. For obvious, climatological reasons, the ecology of the region is extremely fragile—slow to change but also slow to recover from damage. Antarctica is also home to extraordinarily important scientific research efforts conducted by more than a dozen countries and has become a growing magnet for tourist-related activities.

The Environmental Protocol of 1991 resulted from international concern about evidence of environmental damage caused to Antarctica by human activity. The problems included abandoned fuel drums, appliances and machinery, the use of open-air incinerators, dumping of raw sewage, oil spills, detonation of hazardous chemicals, and a lack of environmental planning. Responsibility for these problems must be shared by many of the parties to the Antarctic Treaty System, including the United States.

The protocol establishes a series of environmental principles governing activities in Antarctica, establishes an advisory committee on environmental protection and provides for a dispute settlement procedure. Annexes to the protocol contain specific guidelines for environmental assessment, the conservation of native plants and animals, the disposal of waste, marine pollution and specially protected areas. Perhaps the most controversial provision is that which essentially bans mineral activity for at least the next 50 years, after which a review process is authorized. A more conclusive or permanent ban on mineral activity was strongly opposed during negotiations by the United States. The legislation I am introducing today, however, is intended to encourage a permanent ban on such activity by any person subject to U.S. jurisdiction.

The Antarctic Environmental Protection Protocol Act I am introducing today is similar to legislation (H.R. 5459) sponsored in the House of Representatives by Representative WALTER JONES of North Carolina. The bill is identical to the version of H.R. 5459 that was approved by the House Committee on Merchant Marine and Fisheries on August 6th, except for minor technical changes and the inclusion of bans on the dumping of raw sewage and the operation of an incinerator after December 31, 1994.

I ask unanimous consent to submit at this point in the RECORD a copy of the Antarctic Environmental Protection Protocol Act of 1992 and a section-by-section summary of that legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Environmental Protection Protocol Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Protocol on Environmental Protection to the Antarctic Treaty establishes international mechanisms and creates legal obligations necessary for the establishment of Antarctica as a natural reserve, devoted to peace and science.

(2) The Protocol serves important United States environmental and resource management interests, while at the same time preserving the freedom of scientific investigation in Antarctica.

(3) The Protocol represents an important contribution to United States long-term legal and political objectives of maintenance of Antarctica as an area of peaceful international cooperation.

(4) The United States needs to establish new legal arrangements to fulfill its obligations under the Protocol, and to provide comprehensive environmental protection for Antarctica that will maintain Antarctica as a platform for the conduct of research essential to understanding the global environment.

(b) PURPOSE.—The purpose of this Act is to provide the legislative authority necessary to implement, with respect to the United

States, the Protocol on Environmental Protection to the Antarctic Treaty.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "Antarctica"—

(A) means the area south of 60 degrees south latitude, except that with respect to mineral resource activity and living marine resources, the term means the area south of the Antarctic Convergence as defined in section 303(1) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432(1)); and

(B) includes all ice shelves in that area.

(3) "Antarctic mineral resource activity"—

(A) means prospecting, exploration, or development in Antarctica; and

(B) does not include scientific research within the meaning of article III of the Antarctic Treaty.

(4) "Antarctic Treaty" means the Antarctic Treaty signed in Washington, D.C., on December 1, 1959.

(5) "Development"—

(A) means any activity, including logistic support, which takes place following exploration, the purpose of which is exploitation of specific Antarctic mineral resource deposits; and

(B) includes processing, storage, and transport activities.

(6) "Director" means the Director of the National Science Foundation.

(7) "Exploration"—

(A) means any activity, including logistic support, the purpose of which is the identification or evaluation of specific Antarctic mineral resource deposits; and

(B) includes exploratory drilling, dredging, and other surface or subsurface excavations undertaken to determine the nature and size of mineral resource deposits and the feasibility of their development.

(8) "Harm" means to engage or attempt to engage in any of the following:

(A) Flying or landing helicopters or other aircraft in a manner that disturbs concentrations of native mammals or native birds.

(B) Using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of native mammals or native birds.

(C) Using explosives or firearms in a manner that disturbs concentrations of native mammals or native birds.

(D) Willfully disturbing breeding or molting native birds or concentrations of native mammals and native birds by persons on foot.

(E) Significantly damaging concentrations of native plants, by—

(i) landing aircraft, driving vehicles, or walking on native plants, or

(ii) similar means.

(F) Any activity in Antarctica that results in the significant adverse modification of the habitat of any species or population of native mammal, native bird, native plant, or native invertebrate.

(G) Similar practices designated by the Secretary as such by regulation under section 9.

(9) "Mineral resource"—

(A) means any nonliving natural nonrenewable resource (or part or product thereof) found in or recovered from Antarctica;

(B) includes fossil fuels and minerals, whether metallic or nonmetallic; and

(C) does not include ice, water, or snow.

(10) "Native bird" means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is indigenous to Antarctica or that occurs there seasonally through natural migration, including any part of any such member.

(11) "Native invertebrate" means any terrestrial, freshwater, or marine invertebrate, at any stage of its life cycle, that is indigenous to Antarctica.

(12) "Native mammal" means any member, at any stage of its life cycle, of any species of the class Mammalia, that is indigenous to Antarctica or that occurs there seasonally through natural migration, including any part of any such member.

(13) "Native plant" means any terrestrial, freshwater, or marine vegetation (including bryophytes, lichens, fungi, and algae) at any stage of its life cycle (including seeds and other propagules) that is indigenous to Antarctica.

(14) "Person" means—

(A) any individual, corporation, partnership, trust, association, or other entity existing or organized under the laws of the United States;

(B) any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof; and

(C) any foreign individual, corporation, legal entity, or department of any foreign nation, that is subject to the jurisdiction of the United States.

(15) "Prohibited product" means—

(A) any polychlorinated biphenyl;

(B) nonsterile soil;

(C) any polystyrene bead, chip, or similar form of packaging;

(D) any pesticide (other than a pesticide required for scientific, medical, or hygiene purposes); and

(E) any product designated as such by the Secretary by regulation under section 9.

(16) "Prospecting" means any activity, including logistic support, the purpose of which is the identification of mineral resource potential for possible exploration and development.

(17) "Protocol" means the Protocol on Environmental Protection to the Antarctic Treaty, done at Madrid on October 4, 1991, and all annexes thereto.

(18) "Secretary" means the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere.

(19) "Specially managed area" means any area within Antarctica, including any marine area, that is designated in accordance with the Antarctic Treaty as an area within which activities are planned and coordinated so as to avoid use conflicts, improve co-operation, or minimize environmental impacts.

(20) "Specially protected area" means any area within Antarctica, including any marine area, that is designated in accordance with the Antarctic Treaty as an area for the protection of its outstanding environmental, scientific, historic, aesthetic, or wilderness values, any combination of these values, or ongoing or planned scientific research.

(21) "Specially protected species" means—

(A) all species of the genus Arctocephalus (fur seal) and all species of the genus Ommatophoca rossii (ross seal); and

(B) all other species of native mammal, native bird, or native plant designated as a specially protected species by the Secretary pursuant to regulation under section 9.

(22) "Take" and "taking" means—

(A) to harass, harm, molest, pursue, hunt, shoot, wound, kill, trap, capture, or collect a native mammal or native bird;

(B) to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected; or

(C) to attempt to engage in any such conduct.

(23) "Vessel of the United States" has the meaning provided in section 2101(46) of title 46, United States Code.

(24) "Vessel subject to the jurisdiction of the United States" means a foreign vessel—

(A) that is used to provide logistic support to United States facilities in Antarctica, or

(B) that transports passengers to, from, or in Antarctica, if—

(i) there is an agreement between the United States and the flag state of the foreign vessel;

(ii) the flag state of the foreign vessel is a party to the Protocol and has referred the matter to the United States; or

(iii) the United States may exercise jurisdiction over the vessel in accordance with generally recognized principles of international law.

SEC. 4. REPRESENTATIVE, ARBITRATORS, AND INSPECTORS.

(a) Representative to Committee for Environmental Protection.—

(1) The Secretary of State, in consultation with the Secretary and the Administrator, shall appoint an officer or employee of the United States as the United States representative to the Committee for Environmental Protection under the Protocol.

(2) The officer or employee shall have the technical qualifications required to serve in this capacity.

(b) Arbitrators.—

(1) The Secretary of State shall designate up to 3 arbitrators to serve on the Arbitral Tribunal to be established under the Protocol.

(2) Each arbitrator shall be experienced in Antarctic affairs, have thorough knowledge of international law, and have the highest reputation for fairness, competence, and integrity.

(c) Inspectors.—The Secretary of State shall designate persons to serve as inspectors under Article 14 of the Protocol.

(d) Compensation.—The United States representative to the Committee for Environmental Protection shall receive no additional compensation by reason of that person's service as such representative.

SEC. 5. UNLAWFUL ACTIVITIES.

(a) In General.—It is unlawful for any person—

(1) to conduct an activity within Antarctica, including scientific research, expeditions, and logistical support to United States facilities and bases, in a manner inconsistent with the Protocol;

(2) to engage in, finance, or otherwise knowingly provide assistance (including logistic support) to an Antarctic mineral resource activity;

(3) to introduce into Antarctica a prohibited product;

(4) within Antarctica, to conduct open burning, to operate a landfill at a United States coastal facility or to operate an incinerator after December 31, 1994;

(5) to bring a dog into Antarctica;

(6) to use leaded fuel within Antarctica at a United States facility or in an aircraft or vessel of the United States or an aircraft or vessel subject to the jurisdiction of the United States;

(7) to transport passengers to, from, or within Antarctica by a vessel of the United States or a vessel subject to the jurisdiction of the United States, unless the person has an agreement with the vessel owner or oper-

ator under which the owner or operator is required to comply with the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), as amended by this Act;

(8) to discharge untreated sewage into the waters or onto the ice shelves of Antarctica;

(9) except as authorized by a permit issued under section 6—

(A) to take within Antarctica a native mammal or native bird, or a native plant in such quantities that their local distribution or abundance would be significantly affected;

(B) to take within Antarctica a specially protected species;

(C) to introduce into Antarctica an animal or plant that is not indigenous to Antarctica;

(D) to enter a specially protected area; or

(E) to operate an incinerator on or before December 31, 1994;

(10) to violate a provision of this Act, a regulation promulgated under this Act, or the terms of a permit issued under this Act;

(11) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, a native bird, native mammal, native plant, native invertebrate, or mineral resource which the person knows, or reasonably should have known, was taken in violation of this Act;

(12) to refuse to permit an authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for the purpose of conducting any search or inspection in connection with the enforcement of this Act;

(13) to assault forcibly, resist, oppose, impede, intimidate, or interfere with an authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (12);

(14) to resist a lawful arrest or detention for any act prohibited by this section;

(15) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section; or

(16) to attempt to commit an act prohibited by this section.

(b) EXCEPTION FOR EMERGENCIES.—An activity described in subsection (a)(9) shall not be unlawful if it is committed under extreme emergency circumstances specified by the Secretary under section (9)(b)(9), to prevent the loss of human life or involving the safety of a ship or aircraft.

SEC. 6. PERMITS.

(a) ACTIVITIES REQUIRING PERMITS.—The following activities shall not be conducted by any person in Antarctica, except in accordance with a permit issued by the Secretary in accordance with this section:

(1) The conduct or support by a person of an expedition by vessel of more than 10 passengers to, from, or within Antarctica.

(2) The operation of United States facilities within Antarctica, including the construction or decommissioning of a United States base, building, or airfield.

(3) An activity specified under section 5(a)(9) as requiring a permit.

(b) CRITERIA FOR PERMITS.—The Secretary may issue a permit which authorizes the conduct within Antarctica of an activity specified in subsection (a), only if the activity is consistent with this Act and the Protocol, including the principles in Article 3 of the Protocol.

(c) GENERAL PERMITS.—The Secretary may, by regulation issued under section 9, issue general permits for a category of activity referred to in subsection (a) in Antarctica if the Secretary determines that the activities in the category are similar in nature and will cause no more than a minor or transitory impact on the environment of Antarctica when performed cumulatively. A general permit issued under this subsection shall meet the criteria for the issuance of permits under subsection (b) and any applicable terms and conditions under subsection (g).

(d) APPLICATIONS.—

(1) Applications for permits under this section shall be made in such manner and form, and shall contain such information, as the Secretary shall prescribe by regulation.

(2) The Secretary shall publish notice in the Federal Register of each application which is made for a permit under this section. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Secretary as a part of an application shall be available to the public as a matter of public record.

(e) ACTION ON CERTAIN PERMIT APPLICATIONS.—

(1)(A) The Secretary shall refer to the appropriate official an application received by the Secretary for a permit under this section requesting authority to undertake an action with respect to—

(i) a native mammal which is a marine mammal within the meaning of section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362);

(ii) a native animal, native bird, native plant, or native invertebrate which is an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(iii) a native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.); or

(iv) the discharge of treated sewage into the waters or onto the ice shelves of Antarctica.

(B) For purposes of this subsection, the term "appropriate official" means—

(i) the Administrator, in the case of an application for a permit to undertake an action with respect to the discharge of untreated sewage, and

(ii) in any other case the Secretary of the Interior or the head of the appropriate office in the Department of Commerce, as determined by the Secretary of Commerce based on statutory responsibilities with respect to the action to be undertaken under a permit.

(2) After receiving a copy of an application from the Secretary under paragraph (1), the appropriate official shall promptly determine and notify the Secretary whether or not an action proposed in the application would be prohibited by a law administered by the appropriate official or otherwise requires a permit or other authorization under a law administered by the appropriate official.

(3) If the appropriate official notifies the Secretary that an action proposed in the application would be prohibited by a law administered by the appropriate official, the Secretary may not issue a permit under this section with respect to the proposed action.

(4) If the appropriate official notifies the Secretary that an action proposed in the application requires a permit or other authorization under a law administered by the appropriate official, the Secretary may not issue a permit under this section with respect to the proposed action unless the other required permit or authorization is issued by the appropriate official and a copy thereof is submitted to the Secretary.

(5) The issuance of a permit or other authorization by the appropriate official for the carrying out of an action with respect to an activity listed in paragraph (1) shall not be considered to entitle the applicant concerned to the issuance by the Secretary of a permit under this section.

(f) ISSUANCE OF PERMITS.—As soon as practicable after receiving an application for a permit under this section, or, in the case of an application to which subsection (e) applies, as soon as practicable after the applicable requirements of that subsection are complied with, the Secretary shall issue, or deny the issuance of, the permit. Within 10 days after the date of the issuance or denial, the Secretary shall publish notice of the issuance or denial in the Federal Register, including a description of any permit terms and conditions.

(g) TERMS AND CONDITIONS OF PERMITS—

(1) A permit may not be issued under this section for an activity unless—

(A) the application for the permit contains sufficient information to allow the Secretary to make a prior assessment of, and informed judgment about, the possible impacts of the proposed activity on Antarctica, including cumulative impacts, and on the value of Antarctica for the conduct of scientific research; and

(B) if required by section 7, an environmental impact statement has been prepared and circulated by the Secretary of State to the parties to the Antarctic Treaty and to the Committee for Environmental Protection in accordance with the Protocol.

(2) Each permit issued under this section shall specify—

(A) if applicable—

(i) the number and species of native mammals, native birds, native plants, or native invertebrates to which the permit applies;

(ii) the amount of sewage which may be discharged in Antarctica under the permit and the conditions for that discharge;

(iii) if a native mammal or native bird is authorized to be taken, transported, carried, or shipped under the permit, the manner (which manner must be determined by the Secretary to be humane) in which such action shall be accomplished, and the area in which any such taking shall occur;

(iv) if a plant is authorized to be taken under the permit, the location and manner in which it shall be taken; and

(v) if a United States facility, building, or airfield is to be constructed or decommissioned within Antarctica under the permit, the conditions for minimizing the impact of the construction or decommissioning on the environment of Antarctica;

(B) the period during which the permit is valid; and

(C) other terms and conditions as the Secretary or appropriate official considers necessary and appropriate to ensure that an action authorized under the permit is carried out in a manner consistent with the Protocol, this Act, and the regulations issued under this Act.

(3) A permit which authorizes a taking (other than of a specially protected species)—

(A) may be issued only for the purpose of providing—

(i) specimens for scientific study or scientific information;

(ii) specimens for museums, zoological or botanical gardens, or other educational or cultural institutions; or

(iii) for the unavoidable consequences of scientific research activities; and

(B) shall ensure that—

(i) no more native mammals, native birds, and native plants are taken than are strictly necessary to carry out the activities authorized under subparagraph (A);

(ii) only small numbers (as determined by the Secretary) of native mammals, native birds, and native plants are taken, and in no case more native mammals or native birds than can, in combination with other permitted takings, normally be replaced by natural reproduction in the following season;

(iii) the variety of species and the balance of the natural ecological systems within Antarctica are maintained; and

(iv) the taking is determined, after peer review, to further a bona fide scientific purpose.

(4) A permit which authorizes the taking of a specially protected species may be issued only if—

(A) there is a compelling scientific purpose for the taking as determined by peer review of the proposed permit;

(B) the actions authorized under the permit will not jeopardize an existing natural ecological system or the survival or recovery of that species; and

(C) nonlethal techniques are used, if appropriate.

(5) A permit which authorizes the introduction of a nonindigenous animal or plant into Antarctica—

(A) may only be issued for animals and plants to be used in a laboratory; and

(B) shall require that, prior to the expiration of the permit, the animal or plant shall be removed from Antarctica, unless the Secretary determines that it poses no risk to native mammals, native birds, or native plants.

(6) A permit which authorizes the entry into a specially protected area may be issued only if—

(A) there is a compelling scientific purpose for the entry as determined by peer review;

(B) the actions allowed under the permit will not jeopardize the natural ecological system existing in the area; and

(C) the actions allowed under the permit are in accordance with any management plan applicable to that area.

(7) A permit which authorizes the operation of United States facilities within Antarctica, including the construction or decommissioning of a United States base, building, or airfield within Antarctica, may be issued for a 5-year period, beginning with the austral season following the enactment of this Act, if the Secretary determines that such operation will take place in a manner consistent with the Protocol and the provisions of this Act. The Secretary shall conduct annual inspections of the operation of United States facilities in Antarctica under the permit. The Secretary may renew the permit for additional 5-year periods, if the Secretary makes the determination required by the first sentence of this paragraph.

(8) A permit which authorizes the construction or operation of an incinerator within Antarctica—

(A) shall contain terms and conditions recommended by the Administrator to ensure that emissions from the incinerator are reduced to the maximum extent practicable;

(B) shall restrict the material which may be incinerated under the permit to food and food-contaminated waste; and

(C) shall not allow an incinerator to be operated in Antarctica after December 31, 1994, unless the Secretary, in consultation with the Director and Administrator, finds and reports to the Congress 6 months prior to this date that there is no feasible and practicable alternative for the disposal of food and food-contaminated waste.

(9) A permit which authorizes the disposal of sewage within Antarctica, other than from a vessel, shall contain terms and conditions recommended by the Administrator to minimize the impact of the disposal on the Antarctic environment.

(10) A permit which authorizes a person to conduct one or more expeditions of 10 or more passengers by vessel to, from, or within Antarctica—

(A) may be effective for a period of not more than 3 years; and

(B) may be issued only if—

(i) the Secretary determines that the expeditions under the permit will be conducted consistent with the Protocol and the provisions of this Act, and

(ii) the permit authorizes the Secretary to place observers on vessels to monitor compliance with the permit.

(h) JUDICIAL REVIEW.—(1) Any applicant for a permit may obtain judicial review pursuant to chapter 7 of title 5, United States Code, of—

(A) the terms and conditions of a permit issued by the Secretary under this section; or

(B) refusal of the Secretary to issue a permit.

(2) Review under this subsection may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides or that is the principal place of business of the applicant, or in the United States District Court for the District of Columbia, within 60 days after the date on which the permit is issued or denied.

(i) MODIFICATION, SUSPENSION, AND REVOCATION.—

(1) The Secretary may modify, suspend, or revoke, in whole or in part, a permit issued under this section—

(A) if there is a change in conditions which makes the permit inconsistent with this Act or the provisions of the Protocol, including Article 3;

(B) in order to make the permit consistent with a change made after the date of issuance of the permit to a regulation prescribed under section 9; or

(C) in a case in which there has been a violation of a term or condition of the permit, or of a regulation prescribed under this Act or a provision of this Act relating to that permit.

(2) If the Secretary proposes a modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Secretary with respect to the proposed modification, suspension, or revocation. If a hearing is requested, the action proposed by the Secretary shall not take effect before a decision is issued after the hearing, unless the proposed action is taken by the Secretary to protect the Antarctic environment, and its dependent and associated ecosystems, or to prevent the loss of human life.

(3) The Secretary shall publish notice of the modification, suspension, or revocation of a permit in the Federal Register within 10 days after the date of the Secretary's decision, including the reasons for the action.

(j) PERMIT FEES.—The Secretary shall establish and charge fees for processing applications for permits under this section. The amount of the fees shall be commensurate with the administrative costs incurred by the Secretary in processing the application, but shall not include the costs to the Secretary of preparing an environmental impact statement that is required under section 7.

SEC. 7. ENVIRONMENTAL ASSESSMENT OF ACTIVITIES WITHIN ANTARCTICA.

(a) FEDERAL ACTIVITIES.—

(1) Each Federal agency which plans to conduct an activity in Antarctica, including the conduct of scientific research and the provision of logistical support to United States facilities, shall review the activity to determine whether it will have a minor or transitory impact on the environment of Antarctica. If a Federal agency determines, through the preparation of an environmental assessment or otherwise, that the proposed activity will have no more than a minor or transitory impact on the environment of Antarctica, the activity may proceed if the agency monitors the activity to assess and verify the minor or transitory impact of the activity.

(2) If a Federal agency determines, through the preparation of an environmental assessment or otherwise, that a proposed activity will have more than a minor or transitory impact on the environment of Antarctica, the agency shall prepare an environmental impact statement on the proposed activity.

(3) The Council on Environmental Quality shall issue regulations necessary to implement subsection (a).

(b) NONGOVERNMENTAL ACTIVITIES.—The Secretary, in consultation with the Chairman of the Council on Environmental Quality, shall issue regulations establishing procedures for the environmental assessment of nongovernmental activities conducted by any person within Antarctica, consistent with the National Environmental Policy Act of 1969 and the Protocol.

(c) REVIEW BY PARTIES TO THE ANTARCTIC TREATY.—No decision shall be taken to proceed with or permit an activity for which an environmental impact statement is prepared under this section until—

(1) the draft statement has been made publicly available for at least 90 days and circulated by the Secretary of State to all parties to the Antarctic Treaty and the Committee for Environmental Protection at least 120 days before the next meeting of the Antarctic Treaty Consultative Parties;

(2) there has been an opportunity for consideration of the draft statement at a meeting of the Antarctic Treaty Consultative Parties, except that no decision to proceed with a proposed activity shall be delayed through the operation of this paragraph for more than 15 months from the circulation of the draft statement;

(3) a final statement has been made publicly available at least 60 days before the commencement of the proposed activity; and

(4) monitoring procedures have been established to assess and verify the impacts of the activity.

(d) EXCEPTION.—This section shall not apply in cases of extreme emergency relating to the prevention of the loss of human life or involving the safety of a ship or aircraft.

SEC. 8. MONITORING, INSPECTIONS, PLANS, REPORTS.

(a) MONITORING.—

(1) The Secretary, in consultation with the Director and the Administrator, shall develop and implement a plan for the monitoring of activities within Antarctica, including the operation of United States facilities, scientific research, and expeditions, that have more than a minor or transitory impact on the environment of Antarctica.

(2) The Secretary may conduct a program for monitoring the health of the waters of Antarctica and the Southern Ocean as part of a global ocean observing system.

(b) INSPECTIONS.—The Secretary of State may agree on behalf of the United States to a system of observation and inspection and to interim arrangements pending the establishment of such a system pursuant to Article 14 of the Protocol.

(c) LAND-BASED CONTINGENCY PLANS.—The Secretary, in consultation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall develop requirements for contingency plans for response to incidents caused by persons within Antarctica with potential adverse effects on the environment of Antarctica in accordance with Article 15 of the Protocol.

(d) REPORTS.—The Secretary of State shall—

(1) circulate to all parties to the Antarctic Treaty, after notice and public comment, all inspection and compliance reports and all actions taken to ensure compliance with the Protocol, including notice of activities undertaken in cases of emergency; and

(2) bring promptly to the attention of other parties to the Antarctic Treaty all known incidents of noncompliance with the Protocol by the nationals of those parties.

SEC. 9. REGULATIONS.

(a) IN GENERAL.—The Secretary and the Secretary of the department in which the Coast Guard is operating, after consultation with appropriate officials, shall promulgate such regulations as are necessary and appropriate to implement this Act, taking into account the Antarctic Treaty, any measures adopted thereunder, the Protocol, and any awards issued thereunder by a competent tribunal.

(b) SPECIFIC REGULATIONS.—The Secretary shall issue regulations which—

(1) designate, as native species—

(A) each species of the class Aves,

(B) each species of the class Mammalia, and

(C) each species of plant,

which is indigenous to Antarctica or occurs in Antarctica through natural dispersal or migration;

(2) specify those actions which shall, and those actions which shall not, be taken within Antarctica to protect, in accordance with the applicable provisions of the Protocol, members of each native species designated under paragraph (1);

(3) identify each area designated by the parties to the Antarctic Treaty as a specially protected area or specially managed area, and implement the provisions of the management plan applicable to such area;

(4) designate, as a specially protected species, any species of native mammal, native bird, native plant, or native invertebrate which is approved by the United States for special protection in addition to those listed in Annex II to the Protocol;

(5) designate, in consultation with the Administrator, as a prohibited product for purposes of section 3(15)(E) any substance which the Secretary finds liable, if the substance is introduced into Antarctica, to create hazards to human health, to harm living resources or marine life, to damage amenities, or to interfere with other legitimate uses of Antarctica;

(6) specify, in consultation with the Director, the Administrator, and the Secretary of the department in which the Coast Guard is operating, those actions which shall, and those actions which shall not, be taken to prevent or control the discharge or other disposal of prohibited products from any source within Antarctica;

(7) designate, in consultation with the Director, those animals and plants that are not indigenous to Antarctica, which either may, or may not, be introduced into Antarctica, and specify those control measures which shall be observed with respect to any such animals or plants which are allowed to be introduced;

(8) specify, in consultation with the Director and the Administrator, those actions which shall be taken for the cleanup of United States facilities in Antarctica in accordance with Annex III to the Protocol;

(9) specify, in consultation with the Chairman of the Council on Environmental Quality, the emergency circumstances with respect to which section 5(b) and section 7(d) apply;

(10) issue general permits in accordance with section 6(c);

(11) set forth the form, content, and manner of filing, if applicable, of all notices, reports, declarations, or other documentation which may be required with respect to the carrying out of any act for which a permit is required under section 6;

(12) establish, in consultation with interested persons, including scientific researchers, guidelines that distinguish Antarctic mineral resource activities from scientific research within the meaning of Article III of the Antarctic Treaty; and

(13) specify those actions which shall, and those actions which shall not, be taken to ensure compliance by persons whose activities are permitted under section 6 with the principles of Article 3 of the Protocol.

(c) SCHEDULE FOR REGULATIONS.—The regulations required by this section shall be issued within 2 years after the date of enactment of this Act.

SEC. 10. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 5 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of any civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent that the information is reasonably available to the Secretary.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this section.

(b) HEARINGS.—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate district court of the United States by filing a complaint in the court within 30 days after the date of the order and by simultaneously sending a copy of the complaint by certified mail to the Secretary, the Attorney General, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed, as provided in section 2112 of title 28, United States Code. The court shall set aside the findings and order of the Secretary if the findings and order are found to be unsupported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(d) RECOVERY OF CIVIL PENALTIES.—The Attorney General may seek to recover in any appropriate district court of the United States (1) any civil penalty imposed under this section that has become a final and unappealable order and has been referred to the Attorney General by the Secretary, or (2) any final judgment rendered under this section in favor of the United States by an appropriate court. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(e) PENALTIES UNDER OTHER LAWS.—The assessment of a civil penalty under subsection (a) for any act shall not be considered to preclude the assessment of a civil penalty for the act under any other law.

SEC. 11. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if that person knowingly commits an act prohibited by section 5.

(b) PUNISHMENT.—An offense under subsection (a) is punishable by imprisonment for not more than one year, or a fine under title 18, United States Code, or both.

(c) OFFENSES UNDER OTHER LAWS.—A conviction under subsection (a) for any act shall not be considered to preclude a conviction for the act under any other law.

SEC. 12. ENFORCEMENT.

(a) RESPONSIBILITY.—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. The Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities (including aircraft and vessels) of any other department or agency of the United States in the performance of such duties.

(b) POWERS OF AUTHORIZED OFFICERS AND EMPLOYEES.—An officer or employee of the United States who is authorized by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of a department or agency of the United States which has entered into an agreement with either Secretary under subsection (a), to enforce the provisions of this Act, a regulation promulgated under this Act, or a permit issued under this Act may, in enforcing such provision—

(1) secure, execute, and serve an order, warrant, subpoena, or other process, which is issued under the authority of the United States or by a court of competent jurisdiction;

(2) search without warrant a person, place, vehicle, or aircraft subject to the jurisdic-

tion of the United States if there are reasonable grounds to believe that a person has committed an act prohibited by section 5;

(3) with or without a warrant board and search or inspect a vessel of the United States or vessel subject to the jurisdiction of the United States;

(4) seize without warrant—

(A) an evidentiary item if there are reasonable grounds to believe that a person has committed an act prohibited by section 5,

(B) a native mammal, native bird, native plant, native invertebrate, or mineral resource (or part of product thereof) with respect to which such an act is committed,

(C) a vessel of the United States (including its gear, furniture, appurtenances, stores, and cargo), a vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stores, and cargo), a vehicle, aircraft, or other means of transportation that is subject to the jurisdiction of the United States used in connection with such an act, and

(D) a gun, trap, net, or equipment used in connection with such an act;

(5) offer and pay rewards for information which may lead to the apprehension of persons violating such provisions;

(6) make inquiries, and administer to or take from, any person an oath, affirmation, or affidavit, concerning a matter which is related to the enforcement of such provisions;

(7) in coordination with the Secretary of the Treasury, detain for inspection and inspect a package, crate, or other container, including its contents and all accompanying documents, upon importation into or exportation from the United States;

(8) make an arrest with or without a warrant with respect to any act prohibited by section 5, if such officer or employee has reasonable grounds to believe that the person to be arrested is committing such act in his or her presence or view or has committed such act;

(9) exercise enforcement powers conferred on the officer or employee under a system of observation and inspection, or interim arrangements pending the establishment of such a system, which the President has agreed to on behalf of the United States; and

(10) exercise any other authority which the officer or employee is permitted by law to exercise.

(c) SEIZURE.—A property or item seized pursuant to subsection (b) shall be held by any officer or employee of the United States who is authorized by the Secretary or the Secretary of the department in which the Coast Guard is operating, pending the disposition of civil or criminal proceedings concerning the violation relating to the property or item or the institution of an action in rem for the forfeiture of such property or item. Such authorized officer or employee may, upon the order of a court of competent jurisdiction, either release the seized property or item to the wild or destroy the property or item if the cost of maintenance of the property or item pending the disposition of the case is greater than the legitimate market value of the property or item. The authorized officer or employee and all officers or employees acting by or under his or her direction shall be indemnified from any penalties or actions for damages for so releasing or destroying the property or item, unless the actions of the officer or employee are grossly negligent or constitute willful misconduct. The authorized officer or employee may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) FORFEITURE.—

(1) A native mammal, native bird, native plant, native invertebrate, or mineral resource with respect to which an act prohibited by section 5 is committed, a vessel of the United States (including its gear, furniture, appurtenances, stoves, and cargo), a vessel, vehicle, or aircraft or other means of transportation subject to the jurisdiction of the United States which is used in connection with an act prohibited by section 5, and a gun, trap, net, and other equipment used in connection with such act, shall be subject to forfeiture to the United States.

(2) Upon the forfeiture to the United States of an item described in paragraph (1), or upon the abandonment or waiver of any claim to any such item, it shall be disposed of by the Secretary, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of this Act, as may be prescribed by regulation.

(e) APPLICATION OF LAWS.—All provisions of law relating to the seizure, forfeiture, and condemnation of property (including vessels) for violation of the customs laws, the disposition of the property or the proceeds from the sale thereof, and the remission or mitigation of the forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, and the compromise of claims, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws may, for the purposes of this Act, also be exercised or performed by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or by such officers or employees of the United States as the Secretary or the Secretary of the department in which the Coast Guard is operating may designate.

(f) EMERGENCY POWERS.—Notwithstanding any other provision of this Act, the Secretary or the Secretary of the department in which the Coast Guard is operating, upon receipt of evidence that an activity by a person is presenting, or is threatening to present, an imminent and substantial endangerment to the environment of Antarctica or to the health and safety of persons residing therein, may bring suit on behalf of the United States in the appropriate district court of the United States to immediately restrain that person causing the activity to stop the activity or to take such other action as may be necessary.

(g) INSPECTION FEES.—The Secretary and the Secretary of the department in which the Coast Guard is operating may charge reasonable fees for the expenses of the United States incurred in carrying out inspections and in transferring, boarding, handling, or storing native mammals, native birds, native plants, native invertebrates, animals and plants not indigenous to Antarctica, mineral resources, and other evidentiary items seized or forfeited under this Act.

SEC. 13. IN REM LIABILITY; JURISDICTION OF COURTS.

(a) IN REM LIABILITY.—A vessel of the United States, or a vessel subject to the jurisdiction of the United States, that is operated in violation of the Protocol, this Act, or the regulations issued under this Act is liable in rem for any civil penalty assessed under section 10 or any fine imposed under section 11, and may be proceeded against in any district court of the United States having jurisdiction. The penalty or fine shall constitute a lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction.

(b) JURISDICTION OF COURTS.—The district courts of the United States shall have jurisdiction over any case or controversy arising under the provisions of this Act or of any regulation or permit issued under this Act.

SEC. 14. MARINE POLLUTION.

(a) REFERENCES.—Whenever in this section an amendment or repeal is expressed in terms of an amendment to or repeal of a section, subsection, or other provision, the reference shall be considered to be made to a section, subsection, or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

(b) DEFINITIONS.—Section 2(a) (33 U.S.C. 1901(a)) is amended—

(1) in paragraph (8) by striking "and" after the semicolon;

(2) in paragraph (9) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(10) 'Antarctica' means the area south of 60 degrees south latitude, including all ice shelves; and

"(11) 'Antarctic Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, done at Madrid on October 4, 1991, and all annexes thereto.".

(c) APPLICATION OF ANNEX IV.—Section 2 (33 U.S.C. 1901) is further amended by adding at the end the following:

"(c) The requirements of Annex IV to the Antarctic Protocol shall apply in Antarctica—

"(1) to all ships described in section 3(a)(1); and

"(2) to all other ships over which the United States has jurisdiction, including all ships engaged in or supporting United States Antarctic operations.".

(d) APPLICATION IN ANTARCTICA OF ACT TO PREVENT POLLUTION FROM SHIPS.—Section 3 (33 U.S.C. 1902) is amended—

(1) in subsection (a) by striking "and" after the semicolon at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting "; and", and by adding at the end the following:

"(5) with respect to Annex IV to the Antarctic Protocol, to all ships described in paragraph (1) and to all other ships over which the United States has jurisdiction, including all ships engaged in or supporting United States Antarctic operations."; and

(2) in subsection (b)(2)—

(A) in subparagraph (A) by striking "subparagraph (B)" and inserting "subparagraph (C)";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) Notwithstanding any provision of the Antarctic Protocol and subject to subparagraph (C), the requirements of Annex IV to that Protocol shall apply to a ship referred to in paragraph (1)(A) operating in Antarctica.".

(e) ADMINISTRATION.—Section 4(a) (33 U.S.C. 1903(a)) is amended in the first sentence by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol".

(f) REGULATIONS.—Section 4 (33 U.S.C. 1903) is amended—

(1) in subsection (b)(1) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol"; and

(2) by adding at the end of subsection (b) the following:

"(3) The Secretary shall prescribe, within 2 years after the effective date of the Antarctic Environmental Protection Protocol

Act of 1992, regulations to implement Annex IV to the Antarctic Protocol, including regulations to ensure that all ships described in section 3(a)(1) and all other ships over which the United States has jurisdiction have contingency plans for marine pollution incidents in Antarctica.".

(g) RETENTION OF POLLUTION IN ANTARCTICA.—Section 6 (33 U.S.C. 1905) is amended by adding at the end the following:

"(g) The Secretary shall ensure that all ships described in section 3(a)(1) and all other ships over which the United States has jurisdiction, before entering Antarctica—

"(1) have sufficient capacity in accordance with Annex IV to the Antarctic Protocol to retain on board, all oil, noxious liquid substances, and garbage; and

"(2) have concluded arrangements to discharge oil, noxious liquid substances, and garbage at reception facilities outside of Antarctica.".

(h) VIOLATIONS AND ENFORCEMENT.—Section 8 (33 U.S.C. 1907) is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,"; and

(B) by inserting after the second sentence the following: "The Secretary shall cooperate with other parties to the Antarctic Protocol in the detection of violations of Annex IV to that Protocol and in its enforcement.";

(2) in subsection (b)—

(A) in the fourth sentence by inserting "or Annex IV to the Antarctic Protocol as applicable," after "MARPOL Protocol"; and

(B) in the fifth sentence by inserting "or a party to the Antarctic Protocol" after "MARPOL Protocol"; and

(3) in subsection (e)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

"(2) The Secretary may inspect at any time a ship described in section 3(a)(1) or any other ship over which the United States has jurisdiction, to verify whether that ship has discharged oil, a noxious liquid substance, garbage, or sewage in violation of Annex IV to the Antarctic Protocol or in violation of any provision of this Act that implements that Protocol.".

(i) PENALTIES.—Section 9 (33 U.S.C. 1908) is amended—

(1) in subsection (a) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(2) in subsection (b) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol," each place it appears;

(3) in subsection (d) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(4) in subsection (e) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol"; and

(5) in subsection (f) by inserting "or to the Antarctic Protocol" after "MARPOL Protocol" each place it appears.

SEC. 15. RELATION TO EXISTING TREATIES, STATUTES, REGULATIONS, AND PERMITS.

(a) IN GENERAL.—Except as provided in subsection (b) and section 14, nothing in this Act shall be construed as contravening or superseding—

(1) any international treaty, convention, or agreement, if such treaty, convention, or agreement is in force with respect to the United States on the date of enactment of this Act; or

(2) any statute which implements any such treaty, convention, or agreement.

(b) REPEAL OF STATUTES.—The Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) and the Antarctic Protection Act of 1990 (16 U.S.C. 2461 et seq.) are repealed.

(c) SAVINGS PROVISIONS.—

(1) Nothing in this Act shall affect the authority of the Director—

(A) to support basic research investigations of the Antarctic environment to understand globally important processes; and

(B) to operate, in accordance with this Act, United States facilities, bases, and stations in Antarctica.

(2) All regulations issued under the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) shall remain in effect until the Secretary or the Secretary of the department in which the Coast Guard is operating, as the case may be, promulgates new regulations under section 9 or section 14 of this Act, except that if the regulations issued under that Act are inconsistent with the Protocol or have been superseded by the provisions of this Act, the Protocol and this Act shall control.

(3) All permits issued under the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) shall remain in effect until they expire in accordance with the terms of those permits.

SEC. 16. AMENDMENTS.

(a) ACCEPTANCE OF CERTAIN AMENDMENTS.—A proposed amendment to the Protocol may be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b).

(b) ACTION ON CERTAIN AMENDMENTS BY PRESIDENT.—A proposed amendment to Annex I, II, III, IV, or V of the Protocol may be the subject of appropriate action on behalf of the United States by the Secretary of State following notification to the Congress.

SEC. 17. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the prohibition on Antarctic mineral resource activities in Article 7 of the Protocol should remain in effect permanently or indefinitely;

(2) the Secretary of State should promptly enter into negotiations with other parties to the Antarctic Treaty to conclude an agreement on rules and procedures relating to liability for damage arising from activities in Antarctica and covered by the Protocol; and

(3) the Secretary should ensure that the results of all scientific investigations relating to geological processes and structures are made openly available to the public and scientific community.

SECTION-BY-SECTION ANALYSIS OF THE ANTARCTIC ENVIRONMENTAL PROTECTION PROTOCOL ACT OF 1992

SECTION 1—SHORT TITLE

The short title of the bill is the "Antarctic Environmental Protection Protocol Act of 1992".

SECTION 2—FINDINGS AND PURPOSE

This section contains Congress' findings and purpose for the legislation, to enable the United States to enforce the Protocol on Environmental Protection to the Antarctic Treaty (Protocol) in the United States. With this additional authority, the U.S. can ratify the Protocol.

SECTION 3—DEFINITIONS

This section contains the definitions for terms used in the Act, including "Administrator", "Antarctica", "Director", and "Secretary". "Secretary" means the Secretary of Commerce acting through the Administrator of the National Oceanic and Atmospheric Administration (NOAA). "Administrator" means the Administrator of the Environmental Protection Agency (EPA). "Director" means the Director of the National Science Foundation (NSF).

SECTION 4—REPRESENTATIVE, ARBITRATORS, AND INSPECTORS

Section 4 authorizes the Secretary of State to appoint U.S. representatives to the new institutions established by the Protocol, including the Committee for Environmental Protection, the Arbitral Tribunal, and the system of inspectors.

SECTION 5—UNLAWFUL ACTIVITIES

Section 5 establishes what activities are prohibited altogether in Antarctica and what activities are prohibited without a permit. Section 5 makes it unlawful to conduct any activity in Antarctica in a manner inconsistent with the Protocol. This will include the environmental principles in Article 3 of the Protocol. Section 5 also continues the ban, first adopted for the U.S. in P.L. 101-594, on U.S. Citizens conducting any mineral resource activity in Antarctica.

Section 5 expands upon the Protocol's requirements on waste disposal by prohibiting the use of leaded fuel at U.S. facilities and in U.S. vessels and aircraft. It is current NSF practice not to use leaded fuel in Antarctica. Section 5 prohibits any person from transporting passengers by vessel to Antarctica unless the person has an agreement with the owner or operator of the vessel to comply with the marine pollution provisions of Annex IV to the Protocol and the Act to Prevent Pollution from Ships (APPS, 33 U.S.C. 1901 et seq.). This is the best way to ensure that foreign vessels transporting U.S. passengers to Antarctica and under charter to U.S. companies comply with our marine pollution obligations under the Protocol and the International Convention for the Prevention of Pollution from Ships, 1973/1978, or MARPOL.

Section 5(a)(8) provides that certain activities, otherwise prohibited, may be allowed provided a permit is obtained from the Secretary of Commerce. These activities include taking of specially protected species, native mammals, birds, and plants and entering into specially protected areas. If a permit is granted, the activity may proceed. H.R. 5459 separates the permitting function from the function of operating the U.S. Antarctic Program to avoid any conflicts and to ensure full compliance with the Protocol.

Section 5(b) allows an activity under section 5(a)(8) to take place without a permit in extreme emergency circumstances to prevent the loss of human life or involving the safety of a ship or aircraft.

SECTION 6—PERMITS

Section 6 specifies the types of U.S. activities in Antarctica for which a permit is required from the Secretary. These activities include the conduct or support by any person of an expedition by vessel of more than 10 passengers; the annual operation of the U.S. Antarctic Program, including the operation, construction, and decommissioning of facilities; and any activity otherwise requiring a permit under section 5(a)(8).

Section 6 establishes the criteria and procedures for obtaining permits, including the terms and conditions that pertain to specific types of permits. Section 6 also authorizes the Secretary to issue general permits for similar types of activities in Antarctica that will produce only minor or transitory impacts on the Antarcitic environment. This provision can be used for most scientific research activities. No permit, including a general permit, may be issued if the Secretary determines the activity would be inconsistent with the Protocol, including the principles in Article 3.

The permit terms and conditions are consistent with the requirements in the Protocol and its five Annexes with one exception. Taking of native mammals, birds, or plants is not allowed for the purpose of constructing or operating U.S. facilities in Antarctica. This exception was proposed and rejected by the Congress during the passage of the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 et seq.) and is similarly rejected by this bill.

Section 6 authorizes the Secretary to modify, suspend, or revoke a permit if the Secretary determines that changed circumstances make the permitted activity inconsistent with the Protocol, including the principles in Article 3. This provision enables the U.S. to live up to its obligations under Article 3(4) of the Protocol.

SECTION 7—ENVIRONMENTAL ASSESSMENT OF ACTIVITIES WITHIN ANTARCTICA

Section 7 implements Article 8 of the Antractic Protocol and Annex I to the Protocol. These provisions obligate parties to the Protocol to conduct prior environmental inpact assessments of proposed activities in Antarctica, including scientific research programs, tourism, and all other governmental and nongovernmental activities in Antarctica for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities. The assessment procedures also require parties to categorize their Antarctic activities, according to whether these activities have (1) less than a minor or transitory impact on the Antarctic environment; (2) a minor or transitory impact; or (3) more than a minor or transitory impact.

The United States proposed these EIA procedures based on its experience with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321-4347). The types of assessments to be conducted are comparable to the types of assessments required under NEPA. (See State Department transmittal of the Protocol to the President, Senate Treaty Doc. 102-22 at 9.) The Protocol uses the terms "initial environmental evaluation" and "comprehensive environmental evaluation". These terms are analogous to environmental assessments and environmental impact statements prepared under section 102(2)(C) of NEPA. For this reason, the bill uses the phrases from NEPA, which are well-understood terms in NEPA jurisprudence. It should also be noted that NEPA already applies to major federal actions that significantly affect the human environment, including the environment of Antarctica.

Therefore, it is not necessary to add a specific reference to NEPA in section 7. Federal agencies remain obligated to comply with NEPA. To the extent that the Protocol requires procedures that are more specific or more stringent than those in NEPA, the bill authorizes the Council on Environmental Quality (CEQ) to issue regulations to implement those procedures for federal activities in Antarctica. For example, the Protocol requires the preparation of a comprehensive environmental evaluation for any activity having "more than a minor or transitory impact" on the Antarctic environment. The Protocol thus provides the standard for when an environmental impact statement must be prepared for a federal activity in Antarctica.

The Secretary of Commerce, in consultation with the Chairman of CEQ, is to issue regulations establishing procedures for the environmental assessment of nongovernmental activities in Antarctica, in accordance with Annex I to the Protocol. Normally, NEPA only applies to federal activities. But, the Protocol obligates the United States to conduct environmental impact assessments for private activities in Antarctica. Therefore, new regulations are required to implement these obligations for private parties. The Secretary can implement these obligations through the permitting process for activities, including tourist expeditions, that require permits. As with NEPA and current CEQ regulations, private parties may be authorized to prepare their own environmental assessments and, under appropriate federal supervision, may contract with third parties to prepare environmental impact statements.

No decision for which an environmental impact statement is required may proceed until the time periods called for in Annex I to the Protocol and section 7(c) have expired. These procedures put in place public comment and consultative requirements comparable to those already required by NEPA and CEQ regulations. To the extent that these time periods differ from those specified in existing CEQ regulations, additional regulations may be required for U.S. activities in Antarctica.

SECTION 8—MONITORING, INSPECTIONS, PLANS, REPORTS

Section 8 implements additional requirements of the Protocol, including monitoring of ongoing activities (Article 3), inspections (Article 14), contingency plans (Article 15) and reporting incidents of noncompliance (Article 13). The amendment leaves the responsibility for land-based contingency plans with the Secretary and places the responsibility for contingency plans for pollution incidents from vessels with the Coast Guard.

SECTION 9—REGULATIONS

Section 9 authorizes the Secretary, and the Secretary of the department in which the Coast Guard is operating, to promulgate regulations necessary to implement the Act, the Protocol, measures adopted under the Protocol, and any awards issued under the Protocol by the Arbitral Tribunal. The Coast Guard has primary responsibility for Annex IV to the Protocol, marine pollution.

Section 9 identifies specific subjects on which the Secretary must issue regulations to implement the Act and Protocol. These include the designation of protected species; identification of specially protected areas and management plans for those areas; prohibited products (if any, in addition to those specified in the definition section); measures to clean up U.S. bases and facilities; guidelines to distinguish between prohibited mineral resource activities and scientific research; general permits; and actions needed by permittees to comply with the principles in Article 3 of the Protocol.

SECTION 10—CIVIL PENALTIES

Section 10 authorizes the Secretary to assess civil penalties for violations of the Act. The amount of the penalty is not to exceed $25,000 for each violation. The amount is consistent with existing penalty authority in APPS.

SECTION 11—CRIMINAL OFFENSES

Section 11 establishes that knowing violations of the Act are criminal offenses, punishable in accordance with section 3571 of title 18, U.S.C.

SECTION 12—ENFORCEMENT

Section 12 provides authority to the Secretary and the Secretary of the department in which the Coast Guard is operating to enforce the provisions of the Act. The Secretaries may use the personnel, services, and facilities of other departments in enforcing the Act. The enforcement provisions are derived from the Antarctic Conservation Act and the Magnuson Act.

SECTION 13—LIABILITY IN REM; JURISDICTION OF COURTS

Section 13 makes vessels of the U.S. and vessels subject to the jurisdiction of the U.S. liable in rem for violations of the Act and the Protocol. District courts of the U.S. are given exclusive jurisdiction to enforce the Act in the U.S.

SECTION 14—MARINE POLLUTION

New section 14 contains several amendments to APPS. These amendments allow the Coast Guard to enforce the marine pollution provisions in Annex IV of the Antarctic Protocol consistent with marine pollution provisions in MARPOL. Both the Protocol and MARPOL designate Antarctica as a Special Area. No oil, noxious liquid substance, sewage, or garbage may be discharged from a vessel within a Special Area. Food waste may be discharged provided it is 12 nautical miles from the nearest land or ice shelf.

SECTION 15—RELATION TO EXISTING TREATIES, STATUTES, REGULATIONS, AND PERMITS

Section 15 disclaims any intent to supersede any treaty, convention, or international agreement in force for the United States and any implementing legislation for such agreement, except as provided by subsection (b) and section 14. Section 15 repeals the Antarctic Conservation Act of 1978 (16 U.S.C. 2401-2410), and the Antarctic Protection Act of 1990 (16 U.S.C. 2461-2466), which are both replaced by this Act. Section 15 also explicitly preserves the current role of NSF to support basic scientific research in Antarctica and to operate U.S. bases and facilities that support this research.

SECTION 16—AMENDMENTS

Section 16 authorizes the President to accept an amendment to the Protocol only if the Senate has provided advice and consent to its acceptance. However, amendments to an annex to the Protocol may be accepted by the Secretary of State subject to notification to the Congress. Nothing in this provision modifies the constitutional role of the Senate to give advice and consent to treaties.

SECTION 17—SENSE OF CONGRESS

Section 17 contains the Sense of the Congress that: (1) the prohibition on Antarctic mineral resource activities be maintained in place permanently or indefinitely; (2) the Secretary of State should promptly enter into negotiations to conclude a liability agreement, as called for in Article 16 of the Protocol; and (3) the Secretary should ensure that all scientific information on geologic processes and structures be made openly available to the public.

SECTION 18—AUTHORIZATION OF APPROPRIATIONS

Section 18 authorizes $25 million for each of fiscal years 1993, 1994, and 1995 to the Secretary, $5 million for each of these fiscal years to the Coast Guard, and $500,000 for the Secretary of State to implement their respective obligations under the Act.●

By Mr. ROCKEFELLER (for himself and Ms. MIKULSKI):

S. 3190. A bill to amend section 182 of the Trade Act of 1974 to permit the United States to respond to the actions of countries that do not provide adequate and effective patent protection to U.S. nationals; to the Committee on Finance.

PROTECTION OF INTELLECTUAL PROPERTY RIGHTS ACT

• Mr. ROCKEFELLER. Mr. President, I am introducing a bill today that deals with one of the most important trade issues facing U.S. businesses around the world at the present time—the protection of U.S. intellectual property. The United States has long held to the principle that an inventor has the right to meaningful protection for her invention and that others should not be allowed to steal if from her. Machines, processes, music scores, trademarks, movies, and computer software must all be protected against illegal copying.

The improper use of a company's creativity, its name, and its reputation is theft that can cost the company the many millions of dollars it spent developing a patentable invention or an innovative computer program. If a company cannot sell its product and recoup its research and development costs, the next product will not be researched and developed. The degree to which we protect patents and other intellectual property—and the degree to which we ensure commensurate protection in other countries—goes to the heart of a successful industrial society.

Along with many Senators, I have been concerned for some time about the treatment American companies, especially those in the high-technology area, receive when they apply for patents overseas, especially in Japan. Four years ago, I chaired a hearing in my Foreign Commerce and Tourism Subcommittee in which we looked at the effects of Japan's patent system on American business.

Nine months later, I chaired a second hearing on this issue, and I was disappointed to learn that, in the interim, there had been little progress in resolving the problems examined at our first hearing. American and other foreign companies, especially high-technology industries, still faced daunting problems with the Japanese patent system. This was particularly discouraging because there was significant cooperation between the United States and Japan on intellectual property issues in international fora such as the Uruguay round, the World Intellectual Property Organization, and trilateral discussions with the European Patent Office.

At both hearings, specific difficulties were outlined in detail by witnesses representing the U.S. Government, a cross-section of American industry, and academia. The list of problems was long. Let me give several examples.

It took an average of more than 72 months to obtain a patent in Japan, versus 19 months in the United States. The delay in Japan's patent system was an open invitation to copying and abuse. There were many measures Japan could have taken to reduce this delay in its issuance of patents, including greatly increasing the number of patent examiners, altering the system that allows an applicant to deter examination of his patent for up to 7 years, and working with Japanese industry to eliminate the filing of unnecessary applications and applications of limited value which were clogging the patent system.

Patent claims in Japan were interpreted very narrowly, thereby allowing others to make minor changes in the patented invention and avoid liability for infringing the original patent. As a result, patent flooding by Japanese companies continued. This is a practice whereby Japanese companies file large numbers of applications for improvements on an original invention, making it necessary for the owner of the original to cross-license his technology if he wants to be able to offer his product in the improved manner.

The Japanese Patent Office permitted the use of foreign language terms in patent applications only in extreme situations. In contrast, the United States Patent Office, as well as the European Patent Office, accepts foreign language applications and allows applicants 2 months to submit translations.

This is just a sample of all the problems that concerned us 3 years ago. There was a plethora of other areas where improvements were needed to assure that foreign firms were not disadvantaged by the practices permitted by the Japanese patent system. Many of these were listed in an amendment I introduced in July, 1988, which was passed unanimously by this body. That amendment called on the administration to give this issue higher visibility and to use all possible avenues to persuade the Japanese to correct their patent system.

American industry 3 years ago was very concerned about these problems. At that time, the United States-Japan Business Council formed a joint patent task force. The chairman of the United States side of the task force testified before my subcommittee that when he attempted to establish with his Japanese counterparts certain basic, mutually-agreed principles, his proposal was the subject of public criticism. I quote from his testimony:

> "These related to the principle that there should not be interference in patent examination and adjudicative processes by political organs of government and the idea that patent applications should be filed only on inventions made by the applicants and not on inventions copied from others.

It was inconceivable to me that the Japanese members of this task force were unwilling to subscribe to these basic principles of intellectual property protection—that politics should be kept out of the patent office and that patents which are merely copies of other inventions are unacceptable.

The United States-Japan Working Group on Intellectual Property was part of our government-to-government trade dialogue, part of the administration effort called for by the Senate amendment. Given the significant trade implications of the issues at hand, I had hoped that the Japanese representatives would be prepared to negotiate seriously. However, little progress on patent issues was made in 1988 and 1989, and I was very disappointed by this lack of results. Japanese Government officials failed to recognize the critically important trade ramifications of these patent problems.

As a result, several of us in the Senate concluded that this situation could not continue, and we decided that the time had come to take a more aggressive stance toward Japan. In August, 1989, we therefore introduced the Intellectual Property Protection Act of 1989, which proposed to amend section 337 of the Tariff Act of 1930 to respond to the actions of countries like Japan that did not provide adequate and effective patent protection to United States nationals. Section 337 helps American businesses get relief from imports that infringe American patents, copyrights, trademarks, etc. Our bill would have made it more likely that these businesses would obtain protection against the illegal products coming in from countries with the most damaging patent practices.

Although most of us recognized there was a small chance of enacting new trade legislation only a year after the 1988 omnibus bill, we felt in 1989 that it was important to put Japan on notice that the problems American firms faced with the Japanese patent system needed to be addressed.

Well, Mr. President, since my colleagues and I introduced that legislation, the patent process in Japan really hasn't changed much. The Japan Patent Office hires a few more patent examiners each year—they now have about 900 examiners—but with hundreds of thousands of applications per year, the backlog is actually growing. For example, in 1988, the JPO received 339,399 applications (308,908 Japanese applicants) but registered only 55,300 patents; in 1989 it received 351,207 applications (317,566 from Japanese applicants) but registered only 63,301 patents; and in 1990, the last full year for which I have data, the JPO received 367,590 applications (333,230 from Japanese applicants) but issued only 59,401 patents.

The JPO's delay in granting patents, or even examining the applications after they are filed, is almost as bad as it was in 1989. It still takes about 3 years before an application even gets picked up for examination. Then, once an examiner picks up an application, the average time to the granting of a patent, according to statistics from the Japanese Government, is another 32 months; that is, if there is no opposition. However, as the Japan Patent Office continues to make applications subject to pre-grant opposition, the process is in many cases even slower. Overall, this is only a 4 month reduction from the 72 month average pendency that existed 3 years ago. Some U.S. firms have experienced delays for up to 10 years, or even longer, from the filing date to the grant of the patent.

Furthermore, the term of a patent granted in Japan still runs from the filing date, a practice which, because of the long delays in examination and processing, limits the value of a patent. For example, without an issued patent, a company will have a difficult—or impossible—time negotiating licensing fees, something especially important for manufacturers of pharmaceuticals and microelectronics. For the electronics industry, the situation is especially bad: the delay in examination and processing is longer than the average life of its products. The majority of sales by many U.S. high-technology companies is based on products that didn't exist 6 years, or even 3 years earlier. By the time the JPO begins its examination, or by the time a patent is granted in Japan, the product may no longer have a commercial value.

Great uncertainty for these companies also exists when a competitor has filed a patent application for a similar product or process. The U.S. company may get hit with an infringement lawsuit years later, after it no longer sells the product. Or, vice versa, the U.S. company may not be able to file an infringement suit until the product involved is no longer being sold, and the damage has already been done. Neither company will know for certain whether it is in the right or the wrong. With this type of uncertainty, further technological development is stymied.

One of the major causes of the Japan Patent Office's huge backlog is the unnecessarily narrow interpretations of patent claims it allows. Because of this, Japanese companies still have hundreds of patent engineers cranking out patents that clog the system. Under this system, if United States companies don't have patent engineers and lawyers in Japan, a luxury small United States companies cannot afford, they find it extremely difficult to compete.

Mr. President, I believe it is time to renew legislative efforts in this area. The bill I introduce today is not another "shot across the bow." The time for warnings and patience has passed. With the support of this body and the House of Representatives, which has already passed a similar measure, we can take action now. My bill incorporates a provision offered by Representative DICK SCHULZE that became section 105 of the House-passed trade bill, H.R. 5100.

With standards for adequate and effective foreign patent protection for U.S.companies similar to those in my 1989 bill, the legislation I am introducing today proposes to use the special 301 provisions of the trade law to require USTR to determine which countries do not provide adequate intellectual property protection and to negotiate a satisfactory solution. With special 301's specific mandates and strict timetables, this can be, I believe, a stronger measure than my 1989 bill. I hope all of my colleagues will support this effort.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection of Intellectual Property Rights Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(A) FINDINGS.—The Congress finds that—

(1) A few countries, including Japan, maintain patent systems that effectively deny adequate and effective patent protection to United States nationals because of—

(A) unreasonable delays in granting or enforcing patents,

(B) pre-grant opposition to patent applications,

(C) unnecessarily narrow interpretations of patent claims by the authorities which determine patent validity and infringement, and

(D) other policies and practices.

(2) The lack of adequate and effective patent protection in these countries denies fair and equitable market access to United States nationals that rely upon intellectual property rights protection.

(b) PURPOSE.—The purpose of this Act is to amend the Trade Act of 1974 to respond to the actions of countries that do not provide adequate and effective patent protection to United States nationals.

SEC. 3. IDENTIFICATION OF FOREIGN COUNTRIES.

Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended—

(1) in subsection (a)(1)—

(A) by striking "or" at the end of subparagraph (A),

(B) by striking "and" at the end of subparagraph (B) and inserting "or", and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) deny adequate substantive standards, and";

(2) in subsection (b)(1)(A)—

(A) by striking "or" at the end of clause (i),

(B) by inserting "or" at the end of clause (ii), and

(C) by inserting after clause (ii) the following new clause:

"(iii) deny adequate substantive standards,";

(3) by adding at the end of subsection (d), the following new paragraph:

"(4) A foreign country denies adquate substantive standards if the country enforces or permits procedures under its patent approval system that result in, among other practices—

"(A) patent applications being subject to pre-grant opposition,

"(B) extended deferral (beyond 3 years) of patent examination,

"(C) an inordinately long period of time for patent application approval,

"(D) a patent term of less than 17 years from the date of the grant or less than 20 years from the date of filing,

"(E) an inordinate delay in obtaining judicial review or unavailability of judicial review for patent applications that are denied, or

"(F) unnecessarily narrow interpretations of patent claims by the authorities which determine patent validity and infringement."; and

(4) by adding at the end of subsection (e) the following new sentence: "Such publication shall include information with respect to any act, policy, or practice identified under subsection (a) and information with respect to any action taken (or the reasons for not taking action) to eliminate such act, policy, or practice.".●

By Mr. MOYNIHAN (for himself and Mr. DURENBERGER):

S. 3191. A bill to amend title XIX of the Social Security Act to increase State flexibility to use coordinated care programs and to allow States to contain costs and improve access to, and quality of, coordinated care services under the medicaid program; to the committee on Finance.

MEDICAID COORDINATED CARE IMPROVEMENT ACT OF 1992

● Mr. MOYNIHAN. Mr. President, along with Senator DURENBERGER, I am today introducing the Medicaid Coordinated Care Improvement Act of 1992. This is an amended version of S. 2077 which was introduced on November 26, 1991, and which has undergone substantial modification as a result of meetings and discussions with interested parties over the last 8 months.

Our goal now, as then, is to make it easier for States to enroll their welfare recipients in managed care plans—health maintenance organizations, preferred provider organizations and primary care case management programs. The most important provisions from S. 2077 remain in the new bill—elimination of the so-called 75-25 rule which requires that at least 25 percent of the enrollees in a Medicaid-contracting HMO must be private pay clients, and the provision allowing States to require that Medicaid recipients enroll in a managed care plan to receive services as long as there are at least two plans available in the area from which recipients can choose.

The major changes in the bill reflect the concerns of the public health community. In recent months, my staff has engaged in lengthy discussions with representatives of the community health centers and other public health providers in an effort to work out our differences. The result is a set of changes that guarantees community health centers an important role in the future development of managed care while at the same time allowing managed care plans to control their reimbursements to these centers.

Let's assume, for instance, that a State decides that all Medicaid recipients in an area must join a managed care plan. If none of these plans subcontracts with a community health center, these centers would in effect be cut out of the Medicaid program. To avoid this circumstance, our bill says that in a mandatory enrollment setting, the State must give community health centers an opportunity to participate, either as subcontractors to one of the existing plans, or, failing that, as a direct contractor. However, the State retains the right to decide how to reimburse the center—on a reasonable cost basis, as at present, or on a prospective basis—with stop-loss protection. So the community health centers are guaranteed a place at the table, but States retain some control over their Medicaid costs.

Our bill contains numerous new provisions designed to strengthen quality assurance and protect recipients. Thus, the Secretary of Health and Human Services is required to promulgate regulations covering the marketing practices and solvency of managed care plans. Further, the contract between the State and the plan must specify how the plan will address certain public health services—immunizations, lead screening, screening and treatment of TB, screening and treatment of sexually transmitted diseases, EPSDT, and others. And if the plan fails to deliver these critical services in a timely manner, the State must arrange for their provision on an out-of-plan basis. In addition, the quality assurance plan must provide for continuous monitoring, using indicators and standards set forth by various professional medical societies or government agencies.

Our bill requires that there be at least two managed care plans in an area before enrollment in managed care can be required—S. 2077 allowed mandatory enrollment in a single plan if that plan included at least two-thirds of the area's physicians. In addition, a provision has been added allowing special needs children—defined as SSI-eligibles, or those eligible for what used to be known as the crippled children's programs—to opt out of managed care in locations where such enrollment is mandatory.

Our most difficult discussions were with the hospitals. Hospital representatives wanted us to set a Federal floor under what managed care plans could reimburse them. Apart from the fact that such a provision would kill the bill—both the States and the managed care industry strongly oppose it—it seemed preferable to allow these payment rates to be worked out in negotiations between the parties, rather than by Government fiat. However, the bill does require that an annual report be made to the Finance Committee and the House Committee on Energy and Commerce assessing the adequacy of these payments, and comparing them to the payments made by the States in the regular fee-for-service system.

Our new bill addresses many of the criticisms levied at S. 2077, while maintaining the thrust of the earlier proposal. In particular, it goes a long way toward integrating community health centers and Medicaid managed care. Obviously, there are still some areas of contention, and not everyone will agree with every change. But I am hopeful that in this new form, the bill will have broad support, and we can take it up and pass it in September.

Mr. President, I ask unanimous consent that the text of the Medicaid Coordinated Care Improvement Act of 1992 be printed in the RECORD at the conclusion of my remarks.

There being no objection, this bill was ordered to be printed in the RECORD, as follows:

S. 3191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This Act may be cited as the "Medicaid Coordinated Care Improvement Act of 1992".

(b) REFERENCES TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2. MODIFICATION OF FEDERAL REQUIREMENTS TO ALLOW STATES MORE FLEXIBILITY IN CONTRACTING FOR COORDINATED CARE SERVICES UNDER MEDICAID.

(a) IN GENERAL.—

(1) PAYMENT PROVISIONS.—Section 1903(m) (42 U.S.C. 1396b(m)) is amended to read as follows:

"(m)(1) No payment shall be made under this title to a State with respect to expenditures incurred by such State for payment to an entity which is at risk (as defined in section 1931(a)(4)) for services provided by such entity to individuals eligible for medical assistance under the State plan under this title, unless the entity is a risk contracting entity (as defined in section 1931(a)(3)) and the State and such entity comply with the applicable provisions of section 1931.

"(2) No payment shall be made under this title to a State with respect to expenditures incurred by such State for payment for services provided to an individual eligible for medical assistance under the State plan under this title if such payment by the State is contingent upon the individual receiving such services from a specified health care provider or subject to the approval of a specified health care provider, unless the entity receiving payment is a primary care case management entity (as defined in section 1931(a)(2)) and the State and such entity comply with the applicable provisions of section 1931.".

(2) REQUIREMENTS FOR COORDINATED CARE SERVICES.—Title XIX (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new section:

"REQUIREMENTS FOR COORDINATED CARE SERVICES

"SEC. 1931. (a) DEFINITIONS.—For purposes of this title—

"(1) PRIMARY CARE CASE MANAGEMENT PROGRAM.—The term 'primary care case management program' means a program operated by a State agency under which such State agency enters into contracts with primary care case management entities for the provision of health care items and services which are specified in such contracts and the provision of case management services to individuals who are—

"(A) eligible for medical assistance under the State plan,

"(B) enrolled with such primary care case management entities, and

"(C) entitled to receive such specified health care items and services and case management services only as approved and arranged for, or provided, by such entities.

"(2) PRIMARY CARE CASE MANAGEMENT ENTITY.—The term 'primary care case management entity' means a health care provider which—

"(A) must be a physician, group of physicians, a Federally qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians operating under a contract with a State to provide services under a primary care case management program,

"(B) receives payment on a fee for service basis (or, in the case of a Federally qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals,

"(C) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals, and

"(D) is not an entity that is at risk (as defined in paragraph (4)) for such case management services.

"(3) RISK CONTRACTING ENTITY.—The term 'risk contracting entity' means an entity which has a contract with the State agency (or a health insuring organization described in subsection (n)(2)) under which the entity—

"(A) provides or arranges for the provision of health care items or services which are specified in such contract to individuals eligible for medical assistance under the State plan, and

"(B) is at risk (as defined in paragraph (4)) for part or all of the cost of such items or services furnished to individuals eligible for medical assistance under such plan.

"(4) AT RISK.—The term 'at risk' means an entity which—

"(A) has a contract with the State agency under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual, and

"(B) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

"(5) FEDERALLY QUALIFIED HEALTH CENTER.—The term 'Federally qualified health center' means a Federally qualified health center as defined in section 1905(l)(2)(B).

"(6) RURAL HEALTH CLINIC.—The term 'rural health clinic' means a rural health clinic as defined in section 1905(l)(1).

"(b) GENERAL REQUIREMENTS FOR RISK CONTRACTING ENTITIES.—

"(1) ORGANIZATION.—A risk contracting entity meets the requirements of this section only if such entity—

"(A)(i) is a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act, as determined by the Secretary pursuant to section 1312 of such Act; or

"(ii) is described in subparagraph (C), (D), (E), (F), or (G) of subsection (e)(4);

"(B) is a Federally qualified health center or a rural health clinic which has made adequate provision against the risk of insolvency (pursuant to the guidelines and regulations issued by the Secretary under this section), and ensures that individuals eligible for medical assistance under the State plan are not held liable for such entity's debts in case of such entity's insolvency; or

"(C) is an entity which meets all applicable State licensing requirements and has made adequate provision against the risk of insolvency (pursuant to the guidelines and regulations issued by the Secretary under this section), and ensures that individuals eligible for medical assistance under the State plan are not held liable for such entity's debts in case of such entity's insolvency.

"(2) GUARANTEES OF ENROLLEE ACCESS.—A risk contracting entity meets the requirements of this section only if—

"(A) the geographic locations, hours of operation, patient to staff ratios, and other relevant characteristics of such entity are sufficient to afford individuals eligible for medical assistance under the State plan access to such entities that is at least equivalent to the access to health care providers that would be available to such individuals if such individuals were not enrolled with such entity;

"(B) such entity has reasonable and adequate hours of operation, including 24-hour availability of—

"(i)(I) treatment for an unforeseen illness, injury, or condition of an individual eligible for medical assistance under the State plan and enrolled with such entity; or

"(II) referral to other health care providers for such treatment; and

"(ii) other information, as determined by the Secretary or the State; and

"(C) such entity complies with such other requirements relating to access to care as the Secretary or the State may impose.

"(3) CONTRACT WITH STATE AGENCY.—A risk contracting entity meets the requirements of this section only if such entity has a written contract with the State agency which provides—

"(A) that the entity will comply with all applicable provisions of this section, that the State has the right to penalize the entity for failure to comply with such requirements and to terminate the contract in accordance with subsection (j), and that the entity will be subject to penalties imposed by the Secretary under subsection (i) for failure to comply with such requirements;

"(B) for a payment methodology based on experience rating or another actuarially sound methodology approved by the Secretary, which guarantees (as demonstrated by such models or formulas as the Secretary may approve) that—

"(i) payments to the entity under the contract shall not exceed an amount equal to 100 percent of the costs (which shall include administrative costs and which may include costs for inpatient hospital services that would have been incurred in the absence of such contract) that would have been incurred by the State agency in the absence of the contract; and

"(ii) the financial risk for inpatient hospital services is limited to an extent established by the State;

"(C) that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the entity (and of any subcontractor) that pertain—

"(i) to the ability of the entity (or a subcontractor) to bear the risk of potential financial losses; or

"(ii) to services performed or determinations of amounts payable under the contract;

"(D) that in the entity's enrollment, reenrollment, or disenrollment of individuals eligible for medical assistance under the State plan and eligible to enroll, reenroll, or disenroll with the entity pursuant to the contract, the entity will not discriminate among such individuals on the basis of such individuals' health status or requirements for health care services;

"(E)(i) individuals eligible for medical assistance under the State plan who have enrolled with the entity are permitted to terminate such enrollment without cause as of the beginning of the first calendar month (or in the case of an entity described in subsection (e)(4), as of the beginning of the first enrollment period) following a full calendar month after a request is made for such termination;

"(ii) that when an individual has relocated outside the entity's service area, and the entity has been notified of the relocation, services (within reasonable limits) furnished by a health care provider outside the service area will be reimbursed either by the entity or by the State agency; and

"(iii) for written notification of each such individual's right to terminate enrollment, which shall be provided at the time of such individual's enrollment, and, in the case of a child with special health care needs as defined subsection (e)(1)(B)(ii), at the time the entity identifies such a child;

"(F) in the case of services immediately required to treat an unforeseen illness, injury, or condition, of an individual eligible for medical assistance under the State plan and enrolled with the entity—

"(i) that such services shall not be subject to a preapproval requirement; and

"(ii) where such services are furnished by a health care provider other than the entity, for reimbursement of such provider either by the entity or by the State agency;

"(G) for disclosure of information in accordance with subsection (h) and section 1124;

"(H) that any physician incentive plan operated by the entity meets the requirements of section 1876(i)(8);

"(I) for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients;

"(J) that the entity will comply with the requirement of section 1902(w) with respect to each enrollee;

"(K) that the entity will implement a grievance system, inform enrollees in writing about how to use such grievance system, ensure that grievances are addressed in a timely manner, and report grievances to the State at intervals to be determined by the State;

"(L) that contracts between the entity and each subcontractor of such entity will require each subcontractor—

"(i) to cooperate with the entity in the implementation of its internal quality assurance program under paragraph (4) and adhere to the standards set forth in the quality assurance program, including standards with respect to access to care, facilities in which patients receive care, and availability, maintenance, and review of medical records;

"(ii) to cooperate with the Secretary, the State agency and any contractor to the State in monitoring and evaluating the quality and appropriateness of care provided to enrollees as required by Federal or State laws and regulations; and

"(iii) where applicable, to adhere to regulations and program guidance with respect to reporting requirements under section 1905(r);

"(M) that, where the State deems it necessary to ensure the timely provision to enrollees of the services listed in subsection (f)(2)(C)(ii), the State may arrange for the provision of such services by health care providers other than the entity and may adjust its payments to the entity accordingly;

"(N) that the entity and the State will comply with guidelines and regulations issued by the Secretary with respect to procedures for marketing and information that must be provided to individuals eligible for medical assistance under the State plan;

"(O) that the entity must provide payments to hospitals for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital, in accordance with paragraphs (2) and (3) of section 1902(s);

"(P) that the entity shall report to the State, at such time and in such manner as the State shall require, on the rates paid for hospital services (by type of hospital and type of service) furnished to individuals enrolled with the entity;

"(Q) detailed information regarding the relative responsibilities of the entity and the State, for providing (or arranging for the provision of), and making payment for, the following items and services:

"(i) immunizations;

"(ii) the purchase of vaccines;

"(iii) lead screening and treatment services;

"(iv) screening and treatment for tuberculosis;

"(v) screening and treatment for, and preventive services related to, sexually transmitted diseases, including HIV infection;

"(vi) screening, diagnostic, and treatment services required under section 1905(r);

"(vii) family planning services;

"(viii) services prescribed under—

"(I) an Individual Education Plan or Individualized Family Service Plan under part B or part H of the Individuals with Disabilities Education Act; and

"(II) any other individual plan of care or treatment developed under this title or title V;

"(ix) transportation needed to obtain services to which the enrollee is entitled under the State plan or pursuant to an individual plan of care or treatment described in subclauses (I) and (II) of clause (viii); and

"(x) such other services as the Secretary may specify;

"(R) detailed information regarding the procedures for coordinating the relative responsibilities of the entity and the State to ensure prompt delivery of, compliance with any applicable reporting requirements related to, and appropriate recordkeeping with respect to, the items and services described in subparagraph (Q); and

"(S) such other provisions as the Secretary may require.

"(4) INTERNAL QUALITY ASSURANCE.—A risk contracting entity meets the requirements of this section only if such entity has in effect a written internal quality assurance program which includes a systematic process to achieve specified and measurable goals and objectives for access to, and quality of, care, which—

"(A) identifies the organizational units responsible for performing specific quality assurance functions, and ensures that such units are accountable to the governing body of the entity and that such units have adequate supervision, staff, and other necessary resources to perform these functions effectively,

"(B) if any quality assurance functions are delegated to other entities, ensures that the risk contracting entity remains accountable for all quality assurance functions and has mechanisms to ensure that all quality assurance activities are carried out,

"(C) includes methods to ensure that physicians and other health care professionals under contract with the entity are licensed or certified as required by State law, or are otherwise qualified to perform the services such physicians and other professionals provide, and that these qualifications are ensured through appropriate credentialing and recredentialing procedures,

"(D) provides for continuous monitoring of the delivery of health care, through—

"(i) identification of clinical areas to be monitored, including immunizations, prenatal care, services required under section 1905(r), and other appropriate clinical areas, to reflect care provided to enrollees eligible for medical assistance under the State plan,

"(ii) use of quality indicators and standards for assessing the quality and appropriateness of care delivered, and the availability and accessibility of all services for which the entity is responsible under such entity's contract with the State,

"(iii) use of epidemiological data or chart review, as appropriate, and patterns of care overall,

"(iv) patient surveys, spot checks, or other appropriate methods to determine whether—

"(I) enrollees are able to obtain timely appointments with primary care providers and specialists, and

"(II) enrollees are otherwise guaranteed access and care as provided under paragraph (2),

"(v) provision of written information to health care providers and other personnel on the outcomes, quality, availability, accessibility, and appropriateness of care, and

"(vi) implementation of corrective actions,

"(E) includes standards for timely enrollee access to information and care which at a minimum shall incorporate standards used by the State or professional or accreditation bodies for facilities furnishing perinatal and neonatology care and other forms of specialized medical and surgical care,

"(F) includes standards for the facilities in which patients receive care,

"(G) includes standards for managing and treating medical conditions prevalent among such entity's enrollees eligible for medical assistance under the State plan,

"(H) includes mechanisms to ensure that enrollees eligible for medical assistance under the State plan receive services for which the entity is responsible under the contract which are consistent with standards established by the applicable professional societies or government agencies,

"(I) includes standards for the availability, maintenance, and review of medical records consistent with generally accepted medical practice,

"(J) provides for dissemination of quality assurance procedures to health care providers under contract with the entity, and

"(K) meets any other requirements prescribed by the Secretary or the State.

"(c) GENERAL REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROGRAMS.—A primary care case management program implemented by a State under this section shall—

"(1) provide that each primary care case management entity participating in such program has a written contract with the State agency,

"(2) include methods for selection and monitoring of participating primary care case management entities to ensure—

"(A) that the geographic locations, hours of operation, patient to staff ratio, and other relevant characteristics of such entities are sufficient to afford individuals eligible for medical assistance under the State plan access to such entities that is at least equivalent to the access to health care providers that would be available to such individuals if such individuals were not enrolled with such entity,

"(B) that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance, and

"(C) that such entities—

"(i) provide timely and appropriate primary care to such enrollees consistent with standards established by applicable professional societies or governmental agencies, or such other standards prescribed by the Secretary or the State, and

"(ii) where other items and services are determined to be medically necessary, give timely approval of such items and services and referral to appropriate health care providers,

"(3) provide that no preapproval shall be required for emergency health care items or services, and

"(4) permit individuals eligible for medical assistance under the State plan who have enrolled with a primary care case management entity to terminate such enrollment without cause not later than the beginning of the first calendar month following a full calendar month after the request is made for such termination.

"(d) EXEMPTIONS FROM STATE PLAN REQUIREMENTS.—A State plan may permit or require an individual eligible for medical assistance under such plan to enroll with a risk contracting entity or a primary care case management entity without regard to the requirements of set forth in the following paragraphs of section 1902(a):

"(1) Paragraph (1) (concerning statewideness).

"(2) Paragraph (10)(B) (concerning comparability of benefits), to the extent benefits not included in the State plan are provided.

"(3) Paragraph (23) (concerning freedom of choice of provider), except with respect to services described in section 1905(a)(4)(C) and except as required under subsection (e).

"(e) STATE OPTIONS WITH RESPECT TO ENROLLMENT AND DISENROLLMENT.—

"(1) MANDATORY ENROLLMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State plan may require an individual eligible for medical assistance under such plan to enroll with a risk contracting entity or a primary care case management entity only if the individual is permitted a choice within a reasonable service area (as defined by the State)—

"(i) between or among 2 or more risk contracting entities,

"(ii) among a risk contracting entity and a primary care case management program, or

"(iii) among primary care case management entities.

"(B) SPECIAL NEEDS CHILDREN.—

"(i) IN GENERAL.—A State may not require a child with special health care needs (as defined in clause (ii)) to enroll with a risk contracting entity or a primary care case management entity.

"(ii) DEFINITION.—For purposes of this subparagraph, the term 'child with special health care needs' refers to an individual eligible for supplemental security income under title XVI, a child described under section 501(a)(1)(D), or a child described in section 1902(e)(3).

"(2) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—In the case of an individual who—

"(A) in a month is eligible for medical assistance under the State plan and enrolled with a risk contracting entity with a contract under this section,

"(B) in the next month (or next 2 months) is not eligible for such medical assistance, but

"(C) in the succeeding month is again eligible for such benefits,

the State agency (subject to subsection (b)(3)(E)) may enroll the individual for that succeeding month with such entity, if the entity continues to have a contract with the State agency under this subsection.

"(3) DISENROLLMENT.—

"(A) RESTRICTIONS ON DISENROLLMENT WITHOUT CAUSE.—Except as provided in subparagraph (C), a State plan may restrict the period in which individuals enrolled with risk contracting entities described in paragraph (4) may terminate such enrollment without cause to the first month of each period of enrollment (as defined in subparagraph (B)), but only if the State provides notification, at least once during each such enrollment period, to individuals enrolled with such entity of the right to terminate such enrollment and the restriction on the exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.

"(B) PERIOD OF ENROLLMENT.—For purposes of this paragraph, the term 'period of enrollment' means—

"(i) a period not to exceed 6 months in duration, or

"(ii) a period not to exceed 1 year in duration, in the case of a State that, on the effective date of this paragraph, had in effect a waiver under section 1115 of requirements under this title under which the State could establish a 1-year minimum period of enrollment with risk contracting entities.

"(C) SPECIAL NEEDS CHILDREN.—A State may not restrict disenrollment of a child with special health care needs (as defined in paragraph (1)(B)(ii)).

"(4) ENTITIES ELIGIBLE FOR DISENROLLMENT RESTRICTIONS.—A risk contracting entity described in this paragraph is—

"(A) a qualified health maintenance organization as defined in section 1310(d) of the Public Health Service Act,

"(B) an eligible organization with a contract under section 1876, "(C) an entity that is receiving (and has received during the previous 2 years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act,

"(D) an entity that—

"(i) received a grant of at least $100,000 under section 329(d)(1)(A) or section 330(d)(1) of the Public Health Service Act in the fiscal year ending June 30, 1976, and has been a grantee under either such section for all periods after that date, and

"(ii) provides to its enrollees, on a prepaid capitation or other risk basis, all of the services described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905(a) (and the services described in section 1905(a)(7), to the extent required by section 1902(a)(10)(D)),

"(E) an entity that is receiving (and has received during the previous 2 years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965,

"(F) a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

"(i) which received in the fiscal year ending June 30, 1976, at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

"(ii) which, for all periods after such date, either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services on a prepaid capitation or other risk basis under a contract with the State agency initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract,

"(G) an entity that had contracted with the State agency prior to 1970 for the provision, on a prepaid risk basis, of services (which did not include inpatient hospital services) to individuals eligible for medical assistance under the State plan,

"(H) a program pursuant to an undertaking described in subsection (n)(3) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who—

"(i) are not insured for benefits under part B of title XVIII or eligible for medical assistance under the State plan, and

"(ii) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,

"(I) an entity that, on the date of enactment of this provision, had a contract with the State agency under a waiver under section 1115 or 1915(b) and was not subject to a requirement under this title to permit disenrollment without cause, or

"(J) an entity that has a contract with the State agency under a waiver under section 1915(b)(5).

"(f) STATE MONITORING AND EXTERNAL REVIEW.—

"(1) STATE GRIEVANCE PROCEDURE.—A State contracting with a risk contracting entity or a primary care case management entity under this section shall provide for a grievance procedure for enrollees of such entity with at least the following elements:

"(A) a toll-free telephone number for enrollee questions and grievances,

"(B) periodic notification of enrollees of their rights with respect to such entity or program,

"(C) periodic sample reviews of grievances registered with such entity or program or with the State, and

"(D) periodic survey and analysis of enrollee satisfaction with such entity or program, including interviews with individuals who disenroll from the entity or program.

"(2) STATE MONITORING OF QUALITY AND ACCESS.—

"(A) RISK CONTRACTING ENTITIES.—A State contracting with a risk contracting entity under this section shall provide for ongoing monitoring of such entity's compliance with the requirements of subsection (b), including compliance with the requirements of such entity's contract under subsection (b)(3), and shall undertake appropriate followup activities to ensure that any problems identified are rectified and that compliance with the requirements of subsection (b) and the requirements of the contract under subsection (b)(3) is maintained.

"(B) PRIMARY CARE CASE MANAGEMENT ENTITIES.—A State electing to implement a primary care case management program shall provide for ongoing monitoring of the program's compliance with the requirements of subsection (c) and shall undertake appropriate followup activities to ensure that any problems identified are rectified and that compliance with subsection (c) is maintained.

"(C) SERVICES.—

"(i) IN GENERAL.—The State shall establish procedures (in addition to those required under subparagraphs (A) and (B)) to ensure that the services listed in clause (ii) are available in a timely manner to an individual enrolled with a risk contracting entity or a primary care case management entity. Where necessary to ensure the timely provision of such services, the State shall arrange for the provision of such services by health care providers other than the risk contracting entity or the primary care case management entity in which an individual is enrolled.

"(ii) SERVICES LISTED.—The services listed in this clause are:

"(I) prenatal care;

"(II) immunizations;

"(III) lead screening and treatment;

"(IV) prevention, diagnosis and treatment of tuberculosis, sexually transmitted diseases (including HIV infection), and other communicable diseases; and

"(V) such other services as the Secretary may specify.

"(iii) REPORT.—The procedures referred to in clause (i) shall be described in an annual report to the Secretary provided by the State.

"(3) EXTERNAL INDEPENDENT REVIEW.—

"(A) IN GENERAL.—Except as provided in paragraph (4), a State contracting with a risk contracting entity under this section shall provide for an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such entity's contract with the State agency. Such review shall be conducted by a utilization control and peer review organization with a contract under section 1153 or another organization unaffiliated with the State government or with any risk contracting entity and approved by the Secretary.

"(B) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

"(i) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

"(ii) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

"(iii) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

"(iv) other activities as prescribed by the Secretary or the State.

"(C) AVAILABILITY.—The results of each external independent review conducted under this paragraph shall be available to the public consistent with the requirements for disclosure of information contained in section 1160.

"(4) DEEMED COMPLIANCE WITH EXTERNAL INDEPENDENT QUALITY OF CARE REVIEW REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may deem the State to have fulfilled the requirement for independent external review of quality of care with respect to an entity which has been accredited by an organization described in subparagraph (B) and approved by the Secretary.

"(B) ACCREDITING ORGANIZATION.—An accrediting organization described in this subparagraph must—

"(i) exist for the primary purpose of accrediting coordinated care organizations;

"(ii) be governed by a group of individuals representing health care providers, purchasers, regulators, and consumers (a minority of which shall be representatives of health care providers);

"(iii) have substantial experience in accrediting coordinated care organizations, including an organization's internal quality assurance program;

"(iv) be independent of health care providers or associations of health care providers;

"(v) be a nonprofit organization; and

"(vi) have an accreditation process which meets requirements specified by the Secretary.

"(5) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

"(g) PARTICIPATION OF FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—

"(1) DEFINITION.—For purposes of this subsection, the term 'center' means a Federally qualified health center (except such centers that would not meet the definition of a Federally qualified health center but for a waiver granted by the Secretary) or a rural health clinic.

"(2) IN GENERAL.—The State agency shall enter into a contract for the provision of health care services in accordance with this section with any center offering to enter into such a contract if such center—

"(A) is located in a service area in which individuals who are eligible for medical assistance under the State plan are required to enroll with a risk contracting entity or a primary care case management entity,

"(B) has failed, after making a good faith effort to do so, to enter into a contract with a risk contracting entity to provide health care services to enrollees of such entity, and

"(C) meets all applicable requirements of this section and other State and Federal laws and regulations under the payment option elected by the State agency pursuant to paragraph (3).

"(3) PROVIDER ARRANGEMENT; PAYMENT METHOD.—

"(A) STATE OPTION TO SELECT PROVIDER ARRANGEMENT.—The State agency may choose whether to contract with a center described in paragraph (2) as a primary care case management entity or as a risk contracting entity.

"(B) PAYMENT AS PRIMARY CARE CASE MANAGEMENT ENTITY.—The State agency shall pay a center described in paragraph (2) providing or arranging for the provision of services to enrollees as a primary care case management entity—

"(i) a fixed fee per enrollee for a specified period under a contract to provide case management services (which shall be paid as a separate fee or included by the State as a cost when determining amounts payable under section 1902(a)(13)(E)), and

"(ii) amounts determined pursuant to section 1902(a)(13)(E) with respect to services provided under its primary care contract.

"(C) PAYMENT AS RISK CONTRACTING ENTITY.—Subject to subparagraph (D), the State agency shall pay a center described in paragraph (2) providing services to enrollees as a risk contracting entity—

"(i) an amount per enrollee per month, determined annually on a prospective basis, estimated to be sufficient to provide in the aggregate the same amount that would have been paid to the center pursuant to section 1902(a)(13)(E),

"(ii) once during each fiscal year, if requested by the center and determined necessary by the State, an amount necessary to adjust the prospective payment levels determined under clause (i) to take into account changes in patient mix or patient care intensity, and

"(iii) after the end of each fiscal year, an additional amount, with respect to services provided under the risk contract, equal to the amount, if any, by which the aggregate amount that would (but for the risk contract) have been payable for such services under such section 1902(a)(13)(E) exceeds 110 percent of the aggregate payments to the center under such contract.

"(D) ITEMS COVERED BY RISK CONTRACT.—The payment rate or amount determined pursuant to subparagraph (C) shall cover all services which are covered by the State plan customarily provided by centers (as appropriate in the individual case), except that—

"(i) inpatient hospital services shall not be included except by agreement of the State agency and the center, and

"(ii) services described in paragraphs (1) and (3) of section 1861(aa) or that are ambulatory services under the State plan or under section 1905(r), may be included at State option unless the center satisfies the State agency that it is unable to provide such services.

"(h) TRANSACTIONS WITH PARTIES IN INTEREST.—

"(1) IN GENERAL.—Each risk contracting entity which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) must report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States a description of transactions between the entity and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

"(A) Any sale or exchange, or leasing of any property between the entity and such a party.

"(B) Any furnishing for consideration of goods, services (including management services), or facilities between the entity and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

"(C) Any lending of money or other extension of credit between the entity and such a party.

The State or the Secretary may require that information reported with respect to a risk contracting entity which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the risk contracting entity and such entity.

"(2) AVAILABILITY OF INFORMATION.—Each risk contracting entity shall make the information reported pursuant to paragraph (1) available to its enrollees upon reasonable request.

"(i) REMEDIES FOR FAILURE TO COMPLY.—

"(1) IN GENERAL.—If the Secretary determines that a risk contracting entity or a primary care case management entity—

"(A) fails substantially to provide services required under section 1905(r), when such an entity is required to do so, or provide medically necessary items and services that are required to be provided to an individual enrolled with such an entity, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled with such an entity in excess of the premiums permitted under this title;

"(C) acts to discriminate among individuals in violation of the provision of subsection (b)(3)(D), including expulsion or refusal to reenroll an individual or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the entity whose medical condition or history indicates a need for substantial future medical services;

"(D) misrepresents or falsifies information that is furnished—

"(i) to the Secretary or the State under this section; or

"(ii) to an individual or to any other entity under this section; or

"(E) fails to comply with the requirements of section 1876(i)(8),

the Secretary may provide, in addition to any other remedies available under law, for any of the remedies described in paragraph (2).

"(2) ADDITIONAL REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1), or, with respect to a determination under subparagraph (C) or (D)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(C), $15,000 for each individual not enrolled as a result of a practice described in such paragraph, or

"(B) denial of payment to the State for medical assistance furnished by a risk contracting entity or a primary care case management entity under this section for individuals enrolled after the date the Secretary notifies the entity of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(j) TERMINATION OF CONTRACT BY STATE.—Any State which has a contract with a risk contracting entity or a primary care case management entity may terminate such contract if such entity fails to comply with the terms of such contract or any applicable provision of this section.

"(k) FAIR HEARING.—Nothing in this section shall affect the rights of an individual eligible to receive medical assistance under the State plan to obtain a fair hearing under section 1902(a)(3) or under applicable State law.

"(l) DISPROPORTIONATE SHARE HOSPITALS.—Nothing in this section shall affect any requirement on a State to comply with section 1923.

"(m) REFERRAL PAYMENTS.—For 1 year following the date on which individuals eligible for medical assistance under the State plan in a service area are required to enroll with a risk contracting entity or a primary care case management entity, Federally qualified health centers and rural health centers located in such service area or providing care to such enrollees, shall receive a fee for educating such enrollees about the availability of services from the risk contracting entity or primary care case management entity with which such enrollees are enrolled.

"(n) SPECIAL RULES.—

"(1) NONAPPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN RISK CONTRACTING ENTITIES.—In the case of any risk contracting entity which—

"(A)(i) is an individual physician or a physician group practice of less than 50 physicians, and

"(ii) is not described in paragraphs (A) and (B) of subsection (b)(1), and

"(B) is at risk only for the health care items and services directly provided by such entity,

paragraphs (3)(K), (3)(L), (3)(O), (3)(P), and (4) of subsection (b), and paragraph (3) of subsection (f), shall not apply to such entity.

"(2) EXCEPTION FROM DEFINITION OF RISK CONTRACTING ENTITY.—For purposes of this section, the term 'risk contracting entity' shall not include a health insuring organization which was used by a State before April 1, 1986, to administer a portion of the State plan of such State on a statewide basis.

"(3) NEW JERSEY.—The rules under section 1903(m)(6) as in effect on the day before the effective date of this section shall apply in the case of an undertaking by the State of New Jersey (as described in such section 1903(m)(6)).

"(o) CONTINUATION OF CERTAIN COORDINATED CARE PROGRAMS.—The Secretary may provide for the continuation of any coordinated care program operating under section 1115 or 1915 without requiring compliance with any provision of this section which conflicts with the continuation of such program and without requiring any additional waivers under such sections 1115 and 1915 if the program has been successful in assuring quality and containing costs (as determined by the Secretary) and is likely to continue to be successful in the future.

"(p) GUIDELINES, REGULATIONS, AND MODEL CONTRACT.—

"(1) GUIDELINES AND REGULATIONS ON SOLVENCY.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

"(2) GUIDELINES AND REGULATIONS ON MARKETING.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning—

"(A) marketing undertaken by any risk contracting entity or any primary care case management program to individuals eligible for medical assistance under the State plan, and

"(B) information that must be provided by States or any such entity to individuals eligible for medical assistance under the State plan with respect to—

"(i) the options and rights of such individuals to enroll with, and disenroll from, any such entity, as provided in this section, and

"(ii) the availability of services from any such entity (including a list of services for which such entity is responsible or must approve and information on how to obtain services for which such entity is not responsible).

In developing the guidelines and regulations under this paragraph, the Secretary shall address the special circumstances of children with special health care needs (as defined in subsection (e)(1)(B)(ii)) and other individuals with special health care needs.

"(3) MODEL CONTRACT.—The Secretary shall develop a model contract to reflect the requirements of subsection (b)(3) and such other requirements as the Secretary determines appropriate."

(b) WAIVERS FROM REQUIREMENTS ON COORDINATED CARE PROGRAMS.—Section 1915(b) (42 U.S.C. 1396n) is amended—

(1) in the matter preceding paragraph (1), by striking "as may be necessary" and inserting ", and section 1931 as may be necessary";

(2) in paragraph (1), by striking "a primary care case management system or";

(3) by striking "and" at the end of paragraph (3);

(4) by striking the period at the end of paragraph (4) and inserting ", and"; and

(5) by inserting after paragraph (4) the following new paragraph:

"(5) to permit a risk contracting entity (as defined in section 1931(a)(3)) to restrict the period in which individuals enrolled with such entity may terminate such enrollment without cause in accordance with section 1931(e)(3)(A).".

(c) STATE OPTION TO GUARANTEE MEDICAID ELIGIBILITY.—Section 1902(e)(2) (42 U.S.C. 1396a(e)(2)) is amended—

(1) in subparagraph (A), by striking all that precedes "(but for this paragraph)" and inserting "In the case of an individual who is enrolled—

"(i) with a qualified health maintenance organization (as defined in title XIII of the Public Health Service Act) or with a risk contracting entity (as defined in section 1931(a)(3)), or

"(ii) with any risk contracting entity (as defined in section 1931(a)(3)) in a State that, on the effective date of this provision, had in effect a waiver under section 1115 of requirements under this title under which the State could extend eligibility for medical assistance for enrollees of such entity, or

"(iii) with an eligible organization with a contract under section 1876, and who would",

(2) in subparagraph (B), by striking "organization or" each place it appears, and

(3) by adding at the end the following new subparagraph:

"(C) The State plan may provide, notwithstanding any other provision of this title, that an individual shall be deemed to continue to be eligible for benefits under this title until the end of the month following the month in which such individual would (but for this paragraph) lose such eligibility because of excess income and resources, if the individual is enrolled with a risk contracting entity or primary care case management entity (as those terms are defined in section 1931(a)).".

(d) ENHANCED MATCH RELATED TO QUALITY REVIEW.—Section 1903(a)(3)(C) (42 U.S.C. 1396b(a)(3)(C)) is amended—

(1) by striking "organization or by" and inserting "organization, by"; and

(2) by striking "section 1152, as determined by the Secretary," and inserting "section 1152, as determined by the Secretary, or by another organization approved by the Secretary which is unaffiliated with the State government or with any risk contracting entity (as defined in section 1931(a)(3)),".

(e) ACCUMULATION OF RESERVES BY CERTAIN ENTITIES—Any organization referred to in section 329, 330, or 340, of the Public Health Service Act which has contracted with a State agency as a risk contracting entity under section 1931(g)(3)(A) of the Social Security Act may accumulate reserves with respect to payments made to such organization under section 1931(g)(3)(C) of such Act.

(f) CONFORMING AMENDMENTS.—

(1) Section 1128(b)(6)(C)(i) (42 U.S.C. 1320a-7(b)(6)(C)(i)) is amended by striking "health maintenance organization" and inserting "risk contracting entity".

(2) Section 1902(a)(23) (42 U.S.C. 1396a(a)(23)) is amended by striking "primary care-case management system (described in section 1915(b)(1)), a health maintenance organization," and inserting "primary care case management program (as defined in section 1931(a)(1)), a risk contracting entity (as defined in section 1931(a)(3)),".

(3) Section 1902(a)(30)(C) (42 U.S.C. 1396a(a)(30)(C)) is amended by striking "use a utilization" and all that follows through "with the results" and inserting "provide for independent review and quality assurance of entities with contracts under section 1931, in accordance with subsection (f) of such section 1931, with the results".

(4) Section 1902(a)(57) (42 U.S.C. 1396a(a)(57)) is amended by striking "or health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "risk contracting entity, or primary care case management entity (as defined in section 1931(a))".

(5) Section 1902(a) (42 U.S.C. 1396a) is amended—

(A) by striking the period at the end of paragraph (58) the first place it appears and inserting a semicolon,

(B) by redesignating paragraph (58) the second place it appears as paragraph (59),

(C) in such paragraph (59), as so redesignated—

(i) by striking "subsection (v)" and inserting "subsection (x)", and

(ii) by striking the period at the end and inserting a semicolon, and

(D) by adding at the end the following new paragraphs:

"(60) at State option, provide for a primary care case management program in accordance with section 1931; and

"(61) at State option, provide for a program under which the State contracts with risk contracting entities in accordance with section 1931.".

(6) Section 1902(p)(2) (42 U.S.C. 1396a(p)(2)) is amended by striking "health maintenance organization (as defined in section 1903(m))" and inserting "risk contracting entity (as defined in section 1931(a)(3))".

(7) Section 1902(w) (42 U.S.C. 1396a(w)) is amended—

(A) in paragraph (1), by striking "section 1903(m)(1)(A)" and inserting "section 1931(a)(3)", and

(B) in paragraph (2)(E)—

(i) by striking "health maintenance organization" and inserting "risk contracting entity", and

(ii) by striking "organization" and inserting "entity".

(8) Section 1903(k) (42 U.S.C. 1396b(k)) is amended by striking "health maintenance organization which meets the requirements of subsection (m) of this section" and inserting "risk contracting entity which meets the requirements of section 1931".

(9) Section 1903(w)(7)(A)(viii) (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended by striking "health maintenance organizations (and other organizations with contracts under section 1903(m))" and inserting "risk contracting entities with contracts under section 1931".

(10) Section 1905(a) (42 U.S.C. 1396d(a)) is amended, in the matter preceding clause (i), by inserting "(which may be on a prepaid capitation or other risk basis)" after "payment".

(11) Section 1916(b)(2)(D) (42 U.S.C. 1396o(b)(2)(D)) is amended by striking "health maintenance organization (as defined in section 1903(m))" and inserting "risk contracting entity (as defined in section 1931(a)(3))".

(12) Section 1925(b)(4)(D)(iv) (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended—

(A) in the heading, by striking "**HMO**" and inserting "**RISK CONTRACTING ENTITY**",

(B) by striking "health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "risk contracting entity (as defined in section 1931(a)(3)", and

(C) by striking "health maintenance organization in accordance with section 1903(m)" and inserting "risk contracting entity in accordance with section 1931".

(13) Paragraphs (1) and (2) of section 1926(a) (42 U.S.C. 1396r-7(a)) are each amended by striking "health maintenance organizations under section 1903(m)" and inserting "risk contracting entities under section 1931".

(13) Section 1927(j)(1) is amended by striking "* * * Health Maintenance Organizations, including those organizations that contract under section 1903(m)" and inserting "risk contracting entities (as defined in section 1931(a)(3))".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to calendar quarters beginning on or after January 1, 1993.

SEC. 3. CERTAIN IMPROVEMENTS IN MEDICAID CASE MANAGEMENT SERVICES AND HOME AND COMMUNITY-BASED WAIVERS.

(a) IN GENERAL.—Section 1902(a) (42 U.S.C. 1396a) is amended—

(1) in paragraph (23), by inserting "(including case management services under subsections (c), (d), and (g) of such section)" after "in section 1915"; and

(2) in paragraph (32)—

(A) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(B) by adding at the end the following new subparagraph:

"(D) in the case of services arranged through the case management agency under subsections (c), (d), or (g) of section 1915, payments made by the case management agency to providers of services shall be permitted provided that—

"(i) the case management entity is a nonprofit entity;

"(ii) the case management entity maintains a clear system of records demonstrating conformity between payments made and services required under the individual's plan of care; and

"(iii) the entity makes assurances satisfactory to the State that providers paid by the entity, for covered services to individuals eligible under this title, are eligible for payments under the provisions of this title;".

(b) Effective Date.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 4. LIABILITY OF THIRD PARTIES UNDER MEDICAID FOR CERTAIN SERVICES.

(a) In General.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking "and" at the end of subparagraph (F),

(2) by striking the semicolon at the end of subparagraph (G) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(H) that in the case of services prescribed under an Individual Education Plan or Individualized Family Service Plan under part B or part H of the Individuals with Disabilities Education Act for children who are eligible for medical assistance under such plan, the State or local agency administering such plan is not required to take measures to ascertain the legal liability of third parties or to recover against any such third parties under this paragraph with respect to such services;".

(b) Effective Date.—The amendments made by this section shall apply to payments for medical assistance for calendar quarters beginning on or after January 1, 1993.

SEC. 5. REPORT ON CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) In General.—Not later than January 1, 1994, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives, on how risk contracting entities (as defined in section 1931(a)(3) of the Social Security Act) and primary care case management programs (as defined in section 1931(a)(1) of such Act) or other types of coordinated care arrangements, can be utilized to serve children with special health care needs (as defined in section 1931(e)(1)(B)(ii) of such Act) to ensure that such children receive adequate care from appropriate health care providers.

(b) Contents of Report.—The report referred to in subsection (a) shall include—

(1) recommendations on appropriate methodologies, if any, to establish capitation rates paid to risk contracting entities, and fees paid to primary care case management entities, with respect to children with special health care needs;

(2) an evaluation of the appropriateness of the definition of children with special health care needs in section 1931(e)(1)(B)(ii) of the Social Security Act and, if applicable, recommendations to amend such definition;

(3) an evaluation of the care children with special health care needs are receiving under existing coordinated care arrangements under title XIX of such Act and, if applicable, recommendations about how to modify current requirements under such title related to such children;

(4) recommendations about how to enhance coordination of the medicaid program under title XIX of such Act and the Maternal and Child Health Block Grant program, under title V of such Act, respectively, at the Federal and State levels to improve the delivery of services to children with special health care needs who are eligible for medical assistance under title XIX of such Act and are enrolled with risk contracting entities or primary care case management entities; and

(5) a comparison of the care provided to children with special health care needs under a fee for service system and the care provided to such children under a coordinated care system.

SEC. 6. REPORT ON PUBLIC HEALTH SERVICES.

(a) In General.—Not later than January 1, 1994, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on the effect of risk contracting entities (as defined in section 1931(a)(3) of the Social Security Act) and primary care case management entities (as defined in section 1931(a)(1) of such Act) on the delivery of and payment for the services listed in subsection (f)(2)(C)(ii) of section 1931 of such Act.

(b) Contents of Report.—The report referred to in subsection (a) shall include—

(1) information on the extent to which enrollees with risk contracting entities and primary care case management programs seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(2) information on the extent to which the facilities described in paragraph (1) provide services to enrollees with risk contracting entities and primary care case management programs without receiving payment;

(3) information on the effectiveness of systems implemented by facilities described in paragraph (1) for educating such enrollees on services that are available through the risk contracting entities or primary care case management programs with which such enrollees are enrolled;

(4) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(5) recommendations about how to ensure the timely delivery of the services listed in subsection (f)(2)(C)(ii) of section 1931 of the Social Security Act to enrollees of risk contracting entities and primary care case management entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

SEC. 7. REPORT ON PAYMENTS TO HOSPITALS.

(a) In General.—Not later than October 1 of each year, beginning with October 1, 1993, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") and the Comptroller General of the United States shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on rates paid for hospital services under coordinated care programs described in section 1931 of the Social Security Act.

(b) Contents of Report.—The information in the report described in subsection (a) shall—

(1) be organized by State, type of hospital, type of service, and

(2) include a comparison of rates paid for hospital services under coordinated care programs with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled in such coordinated care programs.

(c) Reports by States.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1931(b)(3)(P).

SEC. 8. REPORT ON PAYMENTS TO RISK CONTRACTING ENTITIES.

(a) In General.—Not later than October 1 of each year, beginning with October 1, 1993, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") and the Comptroller General of the United States shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives on rates paid by States to risk contracting entities (as defined in section 1931(a)(3) of the Social Security Act) participating in coordinated care programs under section 1931 of such Act.

(b) Contents of Report.—The information in the report described in subsection (a) shall compare rates paid by States to risk contracting entities to rates paid by private insurers to entities which are similar to risk contracting entities.

(c) Reports by States.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, information on rates paid by such State to risk contracting entities.

SEC. 9. CONVENING OF SECRETARIAL GROUPS ON SENTINEL HEALTH EVENTS AND ENCOUNTER DATA FORMATS.

(a) Sentinel Health Events.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall no later than 1 year after the date of enactment of this Act convene a group composed of State medicaid staff, physicians, and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on criteria to be used by States and the coordinated care programs described in section 1931 of the Social Security Act to determine underutilization in certain distinct health areas.

(b) Encounter Data Formats.—The Secretary shall no later than 1 year from the date of enactment of this Act convene a group composed of State medicaid staff and representatives from public or private health maintenance organizations and submit to Congress no later than 18 months after the date of enactment of this Act recommendations on—

(1) the feasibility of utilizing encounter data concerning services provided by coordinated care programs described in section 1931 of the Social Security Act to individuals receiving services under such programs under the medicaid program, and

(2) data elements and formats to be used in submission and State review of such data.•

• Mr. DURENBERGER. Mr. President, it is a pleasure for me to join my colleague, Senator MOYNIHAN, in introducing the Medicaid Coordinated Care Improvement Act of 1992.

This bill replaces and builds on S. 2077, the Medicaid Managed Care Improvement Act, which we introduced on November 26, 1991. These two bills share a common purpose: to remove the Federal barriers discouraging States from giving Medicaid clients the benefits of coordinated care.

We have chosen to introduce a new bill to reflect the many improvements, large and small, that have come out of discussions we have had with States, health maintenance organizations, consumer groups, hospitals, federally qualified health centers and other interested parties.

The essence of the bill is that States would no longer have to undergo the uncertain and frustrating process of seeking Federal Government waivers every time one of them wished to establish a coordinated care program for Medicaid enrollees. Millions of Americans already receive their care from health maintenance organizations and other forms of coordinated care. This is hardly a novel method of delivering health care and it shouldn't be a Federal case if a State wishes to offer it.

At the same time, we have written into this bill consumer safeguards that are unmatched in any health program under current law—and that far exceed the very few requirements faced by the traditional, uncoordinated, fee-for-service providers serving Medicaid clients.

For example:

A State may only require a Medicaid client to enroll in coordinated care if the client has a choice of at least two HMOs, or of one HMO and one primary care case management plan;

An HMO serving these clients must accept all who choose it, regardless of health status. Clients, however, may disenroll for any reason with little more than a month's notice;

An HMO must advise each client of his or her rights in writing, must have doctors available 24 hours a day, and must have a grievance system and written quality assurance program;

The State must operate a toll-free telephone line to receive complaints, must do periodic surveys of enrollee satisfaction, and must arrange annual independent reviews of each coordinated care plan; and

Children with special needs may choose to opt out of the coordinated care program, though I expect the program to offer just the kind of care they want and need.

I can't think of a single change we have made that makes this bill a worse deal for consumers. We have given Medicaid clients more choice, tightened the quality assurance requirements, and specified that coordinated care organizations must work together with community health centers and other caregivers serving this population.

Mr. President, I expect this bill to improve access, quality, and cost-effectiveness of health care for Medicaid enrollees across the Nation.

Access will be better because these providers will come forward—as they have in New York, Minneapolis, and Philadelphia—to serve a population often ignored by fee-for-service physicians. Quality will be enhanced because of greater emphasis on preventing illness and on continuity of care. And cost-effectiveness will be improved for exactly the same reasons. It's cheaper to do it right the first time—to get that expectant mother into the doctor's office now instead of paying the big hospital bills later.

This is something that Republicans, Democrats, the States, the administration, caregivers, and consumers can all agree on. I know that because we have already agreed on it—and I urge my colleagues in the Finance Committee and on the floor to give this bill speedy passage.●

By Mr. BREAUX:

S. 3192. A bill to reform and revitalize the shipbuilding industry of the United States; to the Committee on Commerce, Science and Transportation.

SHIPBUILDING TRADE REFORM ACT OF 1992

Mr. BREAUX. Mr. President, I am introducing a bill today that amends section 19 of the Merchant Marine Act of 1920, to establish specific retaliatory procedures concerning subsidies and other anticompetitive practices of foreign governments and foreign shipyards, tracking to the greatest extent possible the existing mechanisms of section 19 with respect to foreign shipping practices, and providing new language concerning shipyard-related practices when necessary. The bill also incorporates certain key concepts and specific language from H.R. 2056, also known as the Gibbons bill.

The bill creates a new provision in section 19 authorizing the Federal Maritime Commission [FMC] to mitigate "conditions unfavorable" to the ability of U.S. shipbuilders to build vessels for international commerce, as opposed to domestic Jones Act commerce. If such conditions are found to be caused by foreign government subsidies, other foreign government competitive practices, or anticompetitive practices of foreign shipbuilders, the FMC would take action through a formal rulemaking procedure which very closely tracks the existing and highly successful procedure currently used by the FMC with regard to "conditions unfavorable" to shipping.

The bill broadly defines "subsidies" in the same manner as does the Gibbons bill. This definition essentially represents a summary of the findings of the Organization for Economic Cooperation and Development [OECD] working group No. 6 concerning shipyard subsidy practices.

It also broadly defines the term "conditions unfavorable" to the ability of U.S. shipyards to construct vessels for international commerce as those conditions which, provide a disincentive to invest in U.S. shipyard facilities, equipment, and technology; contribute to a reduction in the competitiveness of U.S. shipyards; or otherwise distort the international market for ship construction—unless such conditions which exist for foreign shipyards also exist in the United States. This last clause ensures that FMC actions will not be taken against foreign countries if their actions are on par with U.S. policies or programs involving the coastwise trades, cargo preference, title XI, and shipyard research and development. This is necessary in order to prevent substantiated retaliation or successful judicial review of FMC actions by foreign countries.

This bill also tracks the existing section 19 rulemaking procedure by enabling shipbuilders and shipyard associations to petition the FMC to initiate a rulemaking procedure. Upon making a preliminary finding of "conditions unfavorable" concerning shipbuilding, the FMC would publish a proposed rule in the Federal Register setting forth the allegations and supporting facts concerning the offending country.

A firm time limit of a maximum of 210 days is established in this bill for foreign countries named in an FMC proposed rule to negotiate an adequate settlement to the allegations raised in the proposed rule. If during this comment period an agreement is reached to eliminate the subsidies or other anticompetitive practices of the foreign country, the FMC withdraws the proposed rule. Failure to reach an agreement at the end of the 210-day comment period compels the FMC to publish a final rule that makes a final finding that "conditions unfavorable" exist, and invoking specific penalties.

The rather harsh existing section 19 penalties against common carriers, nonvessel common carriers, and vessels with connections to the foreign country named in the FMC final rule are adopted in this bill. Penalties include denial of access to U.S. ports, suspension of conference tariffs, revocation of existing preferential treatment agreements, imposition of fines up to $1 million per voyage, and any other action the FMC deems necessary and appropriate.

Under this bill, the U.S. Customs Service is given new authority to protect U.S. ports by preventing carriers or vessels of a country named in the FMC final rule from diverting cargo through Canadian or other foreign ports and thereby avoiding FMC penalties and subverting the intent of this bill.

This bill specifically excludes U.S.-flag vessels from section 19 actions and penalties. However, the bill does not exclude foreign-flag vessels that are owned and operated by U.S. carriers.

The intent is to strengthen the U.S.-flag fleet, not to encourage further investment in foreign-flag vessels.

The Gibbons bill investigation and blacklist concepts are adopted in this bill by requiring the FMC to conduct on a continuing basis an investigation into the subsidy and anticompetitive practices of foreign countries, particularly those OECD nations which failed to enter into an agreement with the United States earlier this year. It will also require the FMC to maintain a blacklist of foreign shipyards receiving subsidies or engaging in anticompetitive practices.

Finally, the bill adopts and strengthens the Gibbons bill congressional findings concerning foreign shipyard subsidies and other anticompetitive practices including a finding that the OECD countries which failed to reach an agreement with this year to eliminate their subsidy practices are engaging in unfair and unreasonable trade practices which burden U.S. commerce, which injure U.S. shipyards, and which create conditions unfavorable to the ability of U.S. shipyards to construct vessels for international commerce.

Mr. President, I request that the text of the bill and my statement be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 3192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Shipbuilding Trade Reform Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) in 1981, the United States Government terminated funding for the construction-differential subsidy program, thereby ending direct subsidization of commercial ship construction in the United States;

(2) since 1981, the international market for ship construction has been distorted by a wide array of subsidies and other anticompetitive practices by foreign countries, including but not limited to the member countries of Working Party #6 of the Organization for Economic Cooperation and Development;

(3) such subsidies and anticompetitive practices include but are not limited to direct grants, preferential financing, equity infusions, research and development assistance, restructuring aid, special tax concessions, debt forgiveness, and other forms of direct and indirect assistance;

(4) foreign countries that directly or indirectly provide subsidies or other forms of anticompetitive assistance for the construction of vessels are engaging in unfair and unreasonable trade practices which burden United States commerce, which injure the United States ship construction industry, and which create general or special conditions unfavorable to the ability of United States shipbuilders to engage in the construction of vessels for international commerce;

(5) strong, effective multilateral agreement among shipbuilding nations to eliminate trade-distorting practices in the ship construction industry is the best means of providing for fair international competition; absent such an agreement, however, greater protection through United States law against unfair and unreasonable trade practices in the international ship construction industry is necessary; and

(6) a viable United States ship construction industry is necessary to achieve the national defense and economic security interests of the United States.

(b) The purpose of this Act is to provide effective remedies against subsidies and other anti-competitive assistance provided by foreign countries to their shipbuilding industries for ship construction.

SEC. 3. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.

(a) Section 19(1) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(1)), is amended—

(1) by striking "and" at the end of subdivision (b);

(2) by redesignating subdivision (c) as subdivision (d); and

(3) by inserting the following new subdivision:

"(c) To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce which arise out of or result from shipbuilding subsidies or other anticompetitive practices, laws, rules, or regulations of a foreign country or from competitive methods or practices, including anticompetitive practices involving business entities, employed by any shipbuilder in a foreign country; and".

(b) Section 19(3) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(3)), is amended by striking "subdivision (c)" and inserting in lieu thereof "subdivision (d)".

(c) Section 19(5) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(5)), is amended—

(1) by striking "paragraph (1)(b)" each place it occurs and inserting in lieu thereof "paragraphs (1)(b) or (1)(c)"; and

(2) by inserting "shipbuilder," immediately after "terminal operator,".

(d) Section 19(6) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(6)), is amended—

(1) by striking "paragraph (1)(b)" and inserting in lieu thereof "paragraphs (1)(b) and (1)(c)"; and

(2) by inserting "shipbuilder," immediately after "terminal operator,".

(e) Section 19(7) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(7)), is amended—

(1) by striking "paragraph (1)(b)" and inserting in lieu thereof "paragraphs (1)(b) or (1)(c)"; and

(2) striking "paragraph (1)(b)(7) of this section" in subdivision (d) and inserting in lieu thereof "this paragraph".

(f) Section 19(9) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(9)), is amended—

(1) by inserting "or if the Commission finds that conditions that are unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce under paragraph (1)(c) of this section exist," immediately after "section exist,"; and

(2) in subdivision (e), by inserting "or to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce" immediately after "United States".

(g) Section 19(10) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876(10)), is amended—

(1) by striking "paragraph (1)(b)" each place it occurs and inserting in lieu thereof "paragraphs (1)(b) or (1)(c)";

(2) by redesignating subdivision (b) as subdivision (c); and

(3) by inserting immediately after subdivision (a) the following new subdivision:

"(b) the collector of customs at the port or place of destination in the United States shall refuse the entry to the United States of cargo carried on a vessel or by a carrier that is named in a rule or regulation issued by the Commission under paragraphs (1)(b) or (1)(c) of this section and transported to a point in the United States through a foreign port in a contiguous country; and ".

(h) Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876), is amended by adding at the end of the following new paragraphs:

"(13) With respect to the proceedings under paragraph (1)(c) of this section—

"(a) the Commission may not take any action with respect to a foreign country which is a party to and is in substantial compliance with a trade agreement to which the United States is also a party that provides for the elimination of subsidies for the construction of vessels;

"(b) The Commission shall not take any action against vessels documented under the laws of the United States;

"(c) The Commission shall investigate, on a continuing basis and in cooperation with other agencies of the Government, subsidies and other anticompetitive practices, laws, rules, or regulations of foreign countries including but not limited to the member countries of Working Party #6 of the Organization for Economic Cooperation and Development, and shall establish and maintain a list of any foreign shipbuilder that receives the benefit from, directly or indirectly, such subsidies or other anticompetitive practices, laws, rules, or regulations of a foreign country, or which otherwise employs competitive methods or practices, including anticompetitive practices involving business entities, which cause general or special conditions unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce; and

"(d) the Commission shall make its finding as to the existence of conditions unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce within 120 days of initiating a rule or regulation, except that the Commission may extend such 120-day period for one additional period of 90 days if the Commission is unable to obtain sufficient information to make such finding.

(14) For purposes of this section—

"(a) the term 'conditions unfavorable to the ability of any United States shipbuilder to engage in the construction of vessels for international commerce' includes but is not limited to conditions which—

"(i) provide a disincentive to investment in United States ship construction facilities, equipment, and technology;

"(ii) contribute to a reduction in the competitiveness of any United States shipbuilder to engage in the construction of vessels for international commerce; or

"(iii) otherwise contribute to a distortion of the international market for ship construction, and which do not exist for any foreign shipbuilder of that country in the United States.

"(b) the term 'subsidies' includes but is not limited to any of the following:

"(A) Officially supported export credits and development assistance.

"(B) Direct official operating support to the commercial ship construction industry, or to a related entity that favors the operation of ship construction, including—

"(i) grants;

"(ii) loans and loan guarantees other than those available on the commercial market;

"(iii) forgiveness of debt;

"(iv) equity infusions on terms inconsistent with commercially reasonable investment practices;

"(v) preferential provision of goods and services;

"(vi) public sector ownership of commercial ship construction facility on terms inconsistent with commercially reasonable investment practices.

"(C) Direct official support for investment in the commercial ship construction industry, or to a related entity that favors the operation of ship construction, including the kinds of support listed in clauses (i) through (v) of subparagraph (B), and pay restructuring support, except public support for social purposes directly and effectively linked to ship construction facility closures.

"(D) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to ship construction for purposes of research and development that is not equally open to domestic and foreign enterprises.

"(E) Tax policies and practices that favor the ship construction industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if the benefits are not generally available to persons or firms not engaged in ship construction.

"(F) Any official regulation or practice that authorizes or encourages persons or firms engaged in ship construction to enter into anti-competitive arrangements.

"(G) Any indirect support directly related, in law or in fact, to ship construction at national yards, including any public assistance favoring shipowners with an indirect effect on ship construction activities, and any assistance provided to suppliers of significant inputs to ship construction, which results in benefits to any domestic shipbuilder.

(H) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations;

"(c) the term 'shipbuilder' means any person, including but not limited to any individual, partnership, corporation, association or any other business entity or combination of business entities, that is engaged in or promoting the development of ship construction; and

"(d) the term 'construction' means, construction, reconstruction, reconditioning or repair.".

By Mr. BIDEN:

S. 3193. A bill to consolidate within the executive branch of Government authorities in law to control the transfer to foreign countries of military equipment and technology and dual-use goods and technology; to the Committee on Foreign Relations.

WEAPONS PROLIFERATION CONTAINMENT ACT OF 1992

Mr. BIDEN. Mr. President, today I am introducing legislation to address a critical issue facing the United States in the new world order: The proliferation of dangerous weapons and technologies.

With the collapse of the Soviet empire, a new strategy of containment is needed for the United States and its allies—containment not of the Communist monolith, but of the advanced weapons, technologies, and equipment capable of mass destruction.

According to unclassified testimony presented to Congress by the Director of Central Intelligence, over 20 States have or are acquiring weapons of mass destruction. Several countries have missiles that could carry nuclear warheads. Most major Middle Eastern countries have chemical weapons development programs.

As Saddam Hussein's Iraq so clearly demonstrated prior to the Gulf war, any nation with the resources and the determination to acquire mass destruction technologies can assemble an arsenal capable of terrorizing its neighbors, and ultimately, the world. Indeed, Saddam's manifest quest for biological, chemical, and nuclear weapons provides a case study in stockpiling such armaments.

While bound by the restrictions of the Nuclear Nonproliferation Treaty, Saddam began accumulating the means to produce a nuclear weapon. In violation of the Geneva Convention on chemical weapons, Saddam Hussein gassed thousands of Kurds, yet subsequently proceeded to enlarge his chemical stockpile with the assistance of western companies. Despite efforts by industrialized nations to restrain the trade in missile technology, Saddam began to acquire advanced missiles.

And in a bizarre twist, Saddam fraudulently manipulated a United States agricultural credit program to finance the purchase of military equipment.

In short, the United States and the West were accomplices in Saddam's build-up, turning a blind eye while he assembled a massive war machine that invaded Kuwait and threatened the security of the Arabian Peninsula.

The full story of this Nation's prewar Iraq policy has yet to be fully revealed. Numerous congressional committees are examining the policy decisions that resulted in the coddling of Saddam, who President Bush later called "worse than Hitler."

What is known thus far is that the policy that sought to moderate Saddam's behavior was—even by the Bush administration's own admission—a failure. A critical element of this failure was the breakdown of our export control system, a system designed to prevent dangerous technologies from falling into the hands of dangerous dictators like Saddam Hussein.

The examples of this breakdown are legion. In early 1990, for instance, Deputy Secretary of State Lawrence Eagleburger instructed a number of United States embassies to warn our allies not to sell glass-fiber related technology to Iraq. Within 4 months, our Commerce Department did just that, granting a license to a U.S. firm to export glass-fiber equipment and technology.

Around the same time, the Bush administration approved for export to Iraq a "skull" furnace, which can be used in the production process for nuclear bomb cores as well as ballistic missile components. Despite the fact that the exporter, a New Jersey company known as CONSARC, informed the Commerce Department that the principal end use of the equipment could involve nuclear weapons, the Commerce Department approved the sale. Only last minute intervention by the Pentagon, the result of a tip by a journalist, prevented the furnace from being shipped.

In November 1986, the Defense Department informed the Commerce Department that intelligence information linked the SA'AD 16 research center in Iraq with ballistic missile development—a warning that should have set off alarm bells throughout our export licensing bureaucracy. Yet the Department of Commerce continued to approve dual-use exports—goods with both military and commercial applications—for SA'AD 16, including equipment that could be used in ballistic missile development.

These are not isolated incidents. Between 1985 and August, 1990, the Commerce Department approved for sale to Iraq 771 export licenses for dual-use items. While some of these items were assuredly for legitimate commercial use, many exports undoubtedly contributed to enhancing the military capability of Saddam's war machine. In fact, some 80 export licenses were granted for products destined for the Iraqi Armed Forces.

Mr. President, the breakdown in our export control machinery in the case of Iraq demonstrates a system badly in need of repair. Constructed to restrain the flow of military-related technology to the Soviet Empire, our export control system has become overburdened by a welter of confusing regulations and agencies with conflicting missions.

Last year, the National Academy of Sciences issued a report that examined the export control system. The report details the inherent confusion in the system:

> Export controls are issued under a multiplicity of statutes with differing objectives and criteria. Over a dozen agencies, plus the military services, [administer] controls and apply distinct regulatory provisions that often overlay and conflict. The lead agencies in constructing export control policy hold strongly diverse positions corresponding to their separate interests.

According to the report, the Congressional Research Service was unable to find an analogous area with a comparable number of differing bureaucrats and regulatory categories. The report continues: "A disproportionate amount of bureaucratic resources are thus expended in resolving disputes, rather than administering and enforcing the export control system."

On conventional arms, the Bush Administration is no less conflicted. Despite a rhetorical commitment to restrain sales, the United States is now far and away the leading arms merchant in the developing world. According to a recent report by the Congressional Research Service [CRS], in 1991 the United States was the leading purveyor of weapons in the Third World—selling 57 percent of the arms sold to developing nations.

Consider this, the next time President Bush proclaims his commitment to conventional arms control: In 1985, the United States sold just 9 percent of the weapons transferred to the developing world. In 1990, the United States controlled 44 percent of the market; last year, U.S. Market share rose to 57 percent.

Thus far, negotiations pursued among the five permanent members of the U.N. Security Council—initiated at the behest of President Bush in 1991—have proceeded at a glacial pace, yielding only a trivial pledge to share information about sales already made, an ex post facto data exchange that, if implemented, will serve only to underscore the failure of the administration to achieve prior restraint.

The administration's failure to stem the proliferation of both conventional and unconventional weapons is perhaps best explained by the fact that during the cold war, nonproliferation was deemed a second-order priority. But now, with the containment of proliferation as our top national security priority, we must raise the profile of these efforts.

That is why today I am introducing the Weapons Proliferation Containment Act, a bill to consolidate central authority in a newly-created nonproliferation agency. The new agency will have responsibility for the control of all security exports, including conventional weapons sales, nuclear technology, and dual-use items.

The agency will be a new entity within the executive branch, but it need not require an increase in Government employment or expenditure. The bill provides for the transfer of authority and personnel from existing agencies—such as the Departments of Commerce, State and Defense—to the new agency.

The director of the new agency will amount to a nonproliferation czar, with primary responsibility for, and final authority over, the export of all weapons and weapons technologies. Under the supervision of the President, the director will also be responsible for international agreements to stem the flow of weapons and weapons technologies.

Mr. President, the central purpose of this legislation is to enhance the ability of the United States to achieve its nonproliferation goals: Keeping dangerous weapons out of the hands of dangerous nations. But it need not—nor do I intend it to do so—interfere with legitimate commerce. In fact, I believe that this legislation will ease the burden on American exporters, by providing one-stop shopping for companies. With clear responsibility granted to one Federal agency, U.S. firms will no longer have to guess which department holds the key to an export license.

Finally, having established central coordination and authority within the U.S. Government, this legislation gives teeth to our nonproliferation policy by mandating that the American representative to each major multilateral financial institution vote to deny assistance to any nation that has violated specified standards or prohibitions in the supply or acquisition of weapons of mass destruction, ballistic missiles, and advanced conventional arms.

Our goal must be to imbue American policy—and to instill in the international community—a pervasive principle: That proliferation-supporting behavior by companies or nations is anathema, and subject to rigorous measures of detection and punishment.

Just as we reorganized the national security bureaucracy after World War II to deal with the emerging world order—establishing the Central Intelligence Agency and reorganizing the Department of Defense—we must again revamp our institutions so that we are prepared to address the problems of the new world order. The creation of the nonproliferation agency is one step in that direction.

Mr. President, I want to state that I have no pride of authorship, and do not consider this bill to be a final product. Indeed, I plan to continue to revise this proposal in the months ahead, and I welcome suggestions from my colleagues, as well as outside experts.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Weapons Proliferation Containment Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) halting the global proliferation of nuclear, chemical, biological and conventional weaponry constitutes a matter of the highest priority for the national security of the United States;

(2) the United States Government currently is poorly organized to formulate and implement a comprehensive, coherent nonproliferation policy because responsibility for that policy is divided among a large number of competing Federal agencies with differing agenda and overlapping jurisdictions; and

(3) it is necessary to reorganize the Federal Government's administration of non-proliferation policy in order to establish clear lines of responsibility and to limit the final responsibility for policy formulation and implementation to one recognizable public agency.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Director" means the Director of the Non-Proliferation Agency;

(2) the term "dual-use goods" means goods that have both commercial and military applications;

(3) the term "dual-use technology" means technology that has both commercial and military applications;

(4) the term "end-use" means the intended application or use of an item as represented by the importer to the export license applicant and the term "end-user" means the person located abroad who is the true party in interest in actually receiving the export for the designated end-use;

(5) the term "export" means—

(A) an actual shipment, transfer, or transmission of goods or technology out of the United States;

(B) a transfer of goods or technology in the United States to an embassy or affiliate of a controlled country; or

(C) a transfer to any person of goods or technology either within the United States or outside of the United States with the knowledge or intent that the goods or technology will be shipped, transferred, or transmitted to an unauthorized recipient;

(6) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(7) the term " good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment and excluding technical data;

(8) the term "missile" means a category I system, as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

(9) the term "Missile Technology Control Regime" or "MTCR" means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

(10) the term "MTCR Annex" means the Equipment and Technology Annex of the MTCR, and any amendment thereto;

(11) the term "security export" means any export the control of which is important to the national security interests of the United States;

(12) the term "technology" means the information and know how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data, but not the goods themselves;

(13) the term "United States" means the States of the United States, the District of Columbia, and any commonwealth, territory,

dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(14) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

TITLE I—ESTABLISHMENT OF THE NON-PROLIFERATION AGENCY AND THE SPECIAL TASK FORCE ON NON-PROLIFERATION

SEC. 101. NON-PROLIFERATION AGENCY.

(a) ESTABLISHMENT.—There is established within the executive branch of Government the Non-Proliferation Agency (hereafter in this Act referred to as the "Agency").

(b) APPOINTMENT OF DIRECTOR.—(1) The Agency shall be headed by the Director of the Non-Proliferation Agency, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director shall serve at the pleasure of the President and shall report directly to the President.

(3) No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Director.

(4) Section 5313 of title 5, United States Code, is amended by adding at the end the following: "Director of the Non-Proliferation Agency".

(c) RESPONSIBILITIES OF DIRECTOR.—(1) The Director shall have primary responsibility within the Government for controlling the transfer to foreign countries of military equipment and technology and dual-use goods and technology.

(2) The Director, under the supervision of the President, may enter into international agreements for the control of items of the type controlled under this Act or under section 38 of the Arms Export Control Act.

SEC. 102. CONTROL OF ITEMS ON UNITED STATES MUNITIONS LIST.

Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) The authority contained in this section shall be exercised by the Director of the Non-Proliferation Agency (hereafter in this section referred to as the "Director"). In making a decision on issuing an export license under this section, the Director shall take into account whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreaks or escalation of conflict, prejudice the development of bilateral or multilateral arms control arrangements.";

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking "United States Government agency charged with the administration of this section," and inserting "Non-Proliferation Agency";

(B) in paragraph (1)(B), by striking "President" and inserting "Director"; and

(C) in paragraph (3), by striking in the first sentence "Department of State" and inserting "Non-Proliferation Agency";

(3) in subsection (e), by striking "President" and inserting "Director";

(4) in subsection (g)—

(A) in paragraph (1), by striking "President" and inserting "Director";

(B) in paragraph (2), by striking "President" and inserting "Director";

(C) in paragraph (3), by striking "President" each of the 3 places it appears and inserting "Director";

(D) in paragraph (4), by striking "President" each of the 2 places it appears and inserting "Director";

(E) in paragraph (6), by striking "President" and inserting "Director"; and

(F) in paragraph (7), by striking "President" and inserting "Director"; and

(5) in subsection (h), by striking "(or by an official" and all that follows through "delegated)" and inserting "or by the Director".

SEC. 103. AUTHORITY TO CONTROL DUAL-USE TRANSFERS.

(A) ESTABLISHMENT OF LIST.—(1) The Director, in consultation with the Task Force, shall establish and maintain a consolidated Dual-Use Security Transfers List (hereafter in this Act referred to as the "control list") which shall identify all dual-use goods and technology described in subsection (c) which shall be subject to controls under this Act.

(2) The Director shall cause the control list to be published in the Federal Register.

(3) The Secretary of Commerce, upon request, shall furnish the Director will all information held by the Department of Commerce which identifies dual-use goods and technology.

(b) AUTHORITY TO CONTROL EXPORTS OF DUAL-USE ITEMS.—(1) The Director is authorized to prohibit or curtail the export of any goods or technology enumerated in the control list which is subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.

(2) The Director shall require a validated license for any expert of goods or technology on the control list.

(3) With respect to any item enumerated on the control list, the Director shall be subject to the same terms, limitations, and restrictions applicable before the date of enactment of this Act to export controls on the same item under sections 5 and 6 of the Export Administration Act of 1979.

(c) DESIGNATION OF CONTROLLED ITEMS.—The Director shall include as items on the control list—

(1) goods and technology that would directly and substantially assist a foreign government or group in acquiring the capability to develop, produce, stockpile, or deliver chemical or biological weapons, the licensing of which would be effective in restricting such capability;

(2) dual-use goods and technology that would assist a foreign government or group in acquiring the capability to develop, produce, or stockpile nuclear weapons;

(3) dual-use goods and technology on the MTCR Annex; and

(4) goods and technology that are not included in the MTCR Annex but that would provide a direct and immediate impact on the development of missile delivery systems.

(d) REVISION OF LIST.—(1) The Director shall review all goods and technology on the control list at least annually in order to carry out the purposes of this Act. This paragraph shall apply to the removal of items from the control list or changes in specifications in items on such list. The Director shall use the data developed from such reviews in formulating United States proposals for revision of multilateral controls in COCOM and other multilateral export control arrangements.

(2) In conducting the annual review, the Director shall consult with the Task Force and shall consider recommendations of the Task Force with respect to proposed changes in the lists.

(3)(A) The annual review required under paragraph (1) may not extend beyond 90 days after such review is begun.

(B) Before beginning each annual review period, the Director shall cause to be published in the Federal Register a notice of that review and shall provide a 30-day period for comment and submission of data, with or without oral presentation, by interested Government agencies and other interested parties.

(c) After consultation with the Task Force, the Director shall make a determination of any revisions in the control list not later than 30 days after the end of the review period. The concurrence or approval of any other department of agency is not required before any such revision is made. The Director shall cause to be published in the Federal Register any revision in the control list, with an explanation of the reasons for the revisions.

(D) In the case of controls implemented in cooperation with COCOM or other multilateral arrangement, proposals to revise the lists of controlled goods or technology may be made at any time but no item may be removed from a list without the agreement of the participating governments of any such multilateral arrangement and any revisions shall be made effective no later than the effective date agreed to by such participating governments.

SEC. 104. SPECIAL TASK FORCE ON NON-PROLIFERATION.

(a) ESTABLISHMENT.—There is established an interagency task force to be known as the Special Task Force on Non-Proliferation (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—(1) The Task Force shall be composed of 13 members, who shall be designees of the following:

(A) The Director of the Non-Proliferation Agency.

(B) The Secretary of Commerce.

(C) The Secretary of Defense.

(D) The Secretary of Energy.

(E) The Secretary of State.

(F) The Secretary of the Treasury.

(G) The Director of Central Intelligence.

(H) The Director of the Federal Bureau of Investigation.

(I) The Attorney General.

(J) The Director of the United States Arms Control and Disarmament Agency.

(K) The Chairman of the Nuclear Regulatory Commission.

(L) The Commissioner of Customs.

(M) The Assistant to the President for National Security Affairs.

(2) Each member of the Task Force shall hold a position in respective Federal agency equivalent to the level of assistant secretary or above.

(3) The Director of the Non-Proliferation Agency shall serve as Chairman.

(c) DUTIES.—The Task Force shall—

(1) advise the Director regarding—

(A) the development of United States policies for the control of security exports;

(B) the compilation and streamlining of United States and international lists for the control of security exports; and

(C) specific licensing decisions in the context of overall United States interests;

(2) develop guidelines regarding enforcement and compliance procedures for the control of security exports; and

(3) make recommendations to the Congress concerning legislative action needed to carry out the purposes of this Act.

(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

(e) MEETINGS.—The Task Force shall meet at the call of the Chairman, but not less often than once a month.

(f) OFFICERS.—The Chairman of the Task Force may appoint any officers to carry out duties of the Task Force under subsection (c).

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairman of the Task Force, the head of any of the Federal agencies under subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this Act.

(h) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(i) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(j) REPORTS.—(1) Not later than January 31 of each year, the Task Force shall submit a report to Congress describing the development and implementation of United States policies on security exports during the preceding calendar year.

(2) The Task Force shall submit reports to the heads of any of the Federal agencies under subsection (b)(1).

SEC. 105. INTERNATIONAL FINANCIAL INSTITUTIONS

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, and the Asian Development Bank to vote against any loan or other utilization of the funds of their respective institution to any nation that—

(1) is not a party to—

(A) the Treaty on the Non-Proliferation of Nuclear Weapons;

(B) the Biological and Toxin Weapons Convention;

(C) the Geneva Protocol on the Use of Chemical Weapons; or

(D) any other international agreement relating to conventional weapons and weapons of mass destruction as the President may determine; or

(2) is a party, but has committed a material breach or violation of the—

(A) the Treaty on the Non-Proliferation of Nuclear Weapons;

(B) the Biological and Toxin Weapons Convention;

(C) the Geneva Protocol on the Use of Chemical Weapons;

(D) the Missile Technology Control Regime; or

(E) any other international agreement relating to conventional weapons and weapons of mass destruction as the President may determine.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "Biological and Toxin Weapons Convention" means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done on April 10, 1972; and

(2) the term "Geneva Protocol on the Use of Chemical Weapons" means the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva on June 17, 1925.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 201. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(3) the term "transferee agency" means the Office of Controlled Trade with respect to the functions transferred by the respective transferor agency;

(4) the term transferor agency means—

(A) in the case of the functions transferred under section 202(a), the Nuclear Regulatory Commission;

(B) in the case of the functions transferred under section 202(b), the Department of Commerce;

(C) in the case of the functions transferred under section 202(c) the Department of Commerce; and

(D) in the case of the functions transferred under section 202(d), the Department of State.

SEC. 202. TRANSFER OF FUNCTIONS.

(a) There are transferred to the Director the functions which were exercised before the date of enactment of this title by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954 to approve a licenses for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under that Act.

(b)(1) There are transferred to the Director the functions which were exercised before the date of enactment of this title by the Department of Commerce under the procedures described in section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)).

(2) Notwithstanding any other provision of law, the Director shall, before exercising the authorities transferred under paragraph (1), consult, as required, the Department of Commerce, the Department of State, the Nuclear Regulatory Commission, the Department of Energy, and the Department of Defense.

(c) There are transferred to the Director the functions which were exercised before the date of enactment of this title by the Department of Commerce under sections 5 and 6 of the Export Administration Act of 1979 with respect to the approval of licenses for export of dual-use items.

(d) There are transferred to the Director the functions which were exercised before the date of enactment of this title by the Department of State under section 38 of the Arms Export Control Act with respect to the approval of licenses for the export of defense articles or defense services.

SEC. 203. DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.

If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under section 202.

SEC. 204. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The head of the transferee agency may appoint and fix the compensation of such officers and employees as may be necessary to carry out the respective functions transferred under this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—With respect to functions transferred under this title, the head of the transferee agency may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including travel time) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The head of the transferee agency may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 205. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the head of the transferee agency may delegate any of the functions transferred to the head of the transferee agency by this title and any function transferred or granted to such head of the transferee agency after the effective date of this title to such officers and employees of the transferee agency as the head of the transferee agency may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the head of the transferee agency under this section or under any other provision of this title shall relieve such head of the transferee agency of responsibility for the administration of such functions.

SEC. 206. REORGANIZATION.

The head of the transferee agency is authorized to allocate or reallocate any function transferred under section 202 among the officers of the transferee agency, and to establish, consolidate, alter, or discontinue such organizational entities in the transferee agency as may be necessary or appropriate.

SEC. 207. RULES.

The head of the transferee agency is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the head of the transferee agency determines necessary or appropriate to administer and manage the functions of the transferee agency.

SEC. 208. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the transferee agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 209. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 210. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(b) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this title, any person who, on the day preceding the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the transferee agency to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

SEC. 211. SAVINGS PROVISIONS.

(a) CONTINUNG EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registration, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the head of the transferee agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the transferor agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTION.—No suit, action, or other proceeding commenced by or against the transferor agency, or by or against any individual in the official capacity of such individual as an officer of the transferor agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the transferor agency relating to a function transferred under this title may be continued by the transferee agency with the same effect as if this title had not been enacted.

SEC. 212. TRANSITION.

The head of the transferee agency is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the transferor agency with respect to functions transferred to the transferee agency by this title; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

SEC. 213. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the head of the transferor agency with regard to functions transferred under section 202, shall be deemed to refer to the head of the transferee agency; or

(2) the transferor agency with regard to functions transferred under section 202, shall be deemed to refer to the transferee agency.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect 180 days after its date of enactment.

By Mr. KASTEN:

S. 3194. A bill to amend provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991 pertaining to small business loans; to the Committee on Banking, Housing, and Urban Affairs.

SMALL BUSINESS LOANS ACT

Mr. KASTEN. Mr. President, I rise today to introduce a bill that will help cut back excessive banking regulation, and reduce the costs that are passed on to small business.

Every time bankers turn around, they are faced with new and complicated rules which force them to spend time and money in order to comply. This cost doesn't disappear; it is passed on to small businesses and individuals who receive loans from the bank.

I want to make it clear that there is a need for some Government regulation, but too often the Government stacks up endless rules and regulations on the shoulders of banks and small businesses without weighing the possible negative effects.

Congress included a provision in the Federal Deposit Insurance Corporation Improvement Act of 1991 [FDICIA] that directed financial institutions to provide bank regulators with information on their small business and small farm lending practices. These reporting provisions will hurt small businesses and farms more than help them.

Most banks would have to reorganize their methods for collecting data on their loan portfolios. Collecting the required annual sales information on small business loans would place a significant burden on small businesses, particularly small family operations. Small farms would also be hurt because of the complexities of establishing annual sales figures for their type of business.

Once banks collect the information, it will have to be processed and calculated at considerable cost. The Government is forcing banks to calculate estimated interest and fee income, as well as estimated charge-offs and net recoveries for different types of loan portfolios. This requires extensive calculations and costs both in time and money. Small business ends up paying for this, and that ultimately means fewer jobs are created by those businesses.

Mr. President, after all of this cost, what are we really getting? The FDICIA disclosure requirements will only provide a partial picture of what is really happening in the small business lending market. Commercial bank lending to small businesses only covers 35 to 40 percent of the total small business lending market. Other lending institutions like finance companies, insurance companies, and venture capital firms are not covered by the disclosure provision. What we're doing in the name of helping small business is directing banks to perform costly functions which will be paid by small business, and Congress will still lack an accurate picture of the small business lending atmosphere. We will be hurting the very small businesses that we are supposed to be helping.

My amendment calls for a report to assess the value of these regulations, and delay the effective date of the disclosure requirements so that the involved agencies can take necessary time to review the results of the report. This review should also include the potential costs to banks of compiling the data, and the availability of lower cost alternatives to obtaining information on credit availability.

Congress has to take more care to consider the side effects of excessive regulations and paperwork on banks and small businesses. Overregulation costs jobs, but job creation is something we should be trying to encourage. My amendment will help find a better way to get capital to small businesses without hurting banks in the process.

By Mr. GLENN (for himself and Mr. THURMOND):

S. 3195. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II; to the Committee on Banking, Housing and Urban Affairs.

WORLD WAR II 50TH ANNIVERSARY COMMEMORATIVE COINS ACT

• Mr. GLENN. Mr. President, it is my privilege to introduce today the World War II 50th Anniversary Commemorative Coin Act. The measure will require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II. Proceeds from the sale of these coins will be used to build a World War II veterans memorial in Washington as well as D-Day Memorial in Normandy, France. Legislation to authorize a World War II memorial in the Nation's capital, sponsored by my Ohio colleague Representative MARCY KAPTUR, passed the House on June 22. The bill is currently pending in committee in the Senate where a hearing was held on August 6. The senior Senator from South Carolina, Senator THURMOND, has long championed the World War II memorial in the Senate and I am very pleased to have him as an original cosponsor on this commemorative coin bill.

The House passed a companion commemorative coin bill on June 30. My colleagues will readily understand the urgency of enacting this bill prior to adjournment of the 102d Congress. We have already entered the period designated to commemorate the 50th anniversary of World War II. The Normandy Memorial, which will receive a portion of the proceeds of the sale of these coins, is scheduled to be completed in time for the June 1994 commemoration of D-Day.

I hope that my colleagues, particularly those who have cosponsored the World War II memorial legislation, to join me in providing a funding mechanism for that memorial.•

By Mr. LEAHY:

S. 3196. A bill to amend section 26 of the Act of March 3, 1901, and for other purposes; to the Committee of Commerce, Science and Transportation.

SMALL MANUFACTURERS MODERNIZATION ACT OF 1992

• Mr. LEAHY. Mr. President, the troubles of U.S. manufacturing are by now well rehearsed. Between 1979 and 1990, the United States lost nearly 2 million manufacturing jobs. And we have run a major trade deficit in manufactured goods every year since 1983. In one homegrown industry after another—from TV's, radios and VCR's, to memory chips, silicon wafers and liquid crystal displays, the United States has done the research, created the products and then watched the payoff disappear as our competitors out-produced us. Far too often, we have exported jobs and profits instead of products.

It is well and good to have a strong service sector in this country, but the old-fashioned truth remains that manufacturing is the critical engine of economic growth.

Part of the problem in this country is that too many of our manufacturers have lagged behind their Asian and European competitors in upgrading and modernizing their plant and equipment. Nowhere is this problem more acute than among our small manufacturers—companies with less than 500 employees.

Does small manufacturing really matter to America's competitive strength? Absolutely. There are over 350,000 small manufacturers in the United States representing 98 percent of all U.S. manufacturing companies, employing 35 percent of U.S. manufacturing workers and accounting for over half the value-added in U.S. manufacturing. These companies in my own State of Vermont and throughout the country form the backbone, the infrastructure of our manufacturing base, yet a large majority of them have failed to bring their operations into the modern age. Many of these companies—struggling to keep up with the press of daily business—lack the time and resources necessary to make themselves more efficient and productive.

That is why today I am introducing a bill—the Small Manufacturing Modernization Act of 1992—to help bring small manufacturing up to speed. This bill is designed to complement S. 1330, the broad-based Manufacturing Strategy Act of 1991.

S. 1330, offered by Senators HOLLINGS, GORE, BINGAMAN, NUNN, ROCKEFELLER and many others, is the latest congressional effort to boost U.S. productivity and competitiveness. Despite an administration that for 12 years has resisted anything that carried a thing of industrial policy, Congress, under the leadership of these Senators and others, has made some progress.

In 1986, Congress passed the Federal labs bill to allow Government labs to enter into cooperative research and development agreements with companies, universities and others. That legislation included the substance of my own 1985 technology transfer bill to promote the transfer of technology among universities, businesses, State and local government, regional organizations and non-profits.

As a result of provisions included in the 1988 trade bill, five new manufacturing technology centers have been created as well as a fledgling program to boost State efforts that help small manufacturers modernize. And the Senate this year also passed the Leahy-Thurmond National Cooperative Research Act Extension of 1991 to pave the way for companies to enter joint production ventures.

All of these are important steps. But more needs to be done for U.S. manufacturing and small manufacturers in particular. Look at our competitors. Japan has a nationwide system of 169 consulting and research centers designed to provide research, testing and training for small and mid-sized firms. In fiscal year 1988, the Japanese budget for these centers ["kohsetsushi"] was nearly $500 million. And many European countries are well ahead of us in their support for small manufacturing as well.

Recognizing the needs that still exist, Senators HOLLINGS, GORE and many others have fashioned legislation in this Congress—S. 1330—to boost Federal support for manufacturing both through the development of new, advanced manufacturing technology and through the dissemination of existing manufacturing expertise to smaller firms.

The bill I introduce today is intended to expand upon and provide additional support to one program covered by S. 1330—the State technology extension program run by the National Institute of Standards and Technology.

The principal Federal effort aimed at helping small manufacturers modernize is the manufacturing technology centers program. This is a worthwhile project and it should be expanded. But that program can only do so much. There are five centers now with two more in the works. But there is simply no way that MTC's are going to be able to cover the vast terrain of the American economy.

The STEP program, on the other hand, is designed to bolster State efforts to help local manufacturing. A far-flung system of State manufacturing extension efforts could make a real difference in bringing small manufacturers along.

Some States—like Pennsylvania and Maryland—already have good extension programs up and running. But, in far too many States, technical assistance efforts are fragmented and inadequate, if they exist at all.

The Federal STEP program, meanwhile, has been woefully under funded. It received only $1.3 million in fiscal year 1990 and the same in 1991. Last year, 37 States applied for planning grants, but only 8 could be awarded.

My bill would do the following: It would authorize $10 million in fiscal year 1994 and $12 million in fiscal year 1995 for the STEP program. And it would expand STEP's focus to support State efforts in three specific areas. First, it would call on STEP to support State efforts to disseminate proven, off-the-shelf technologies to small manufacturers. One of the lessons of the MTC program to date has been that small companies often cannot absorb the latest, most advanced manufacturing technology. What they need to take advantage of are proven technologies such as the use of personal computers for product design. Second, my bill calls on STEP to support State assistance to rural manufacturers in States like my own that are likely to have even fewer sources of technical expertise available to them. Third, my bill calls on STEP to support efforts of small defense manufacturers to convert their production to non-defense purposes.

The effort to renew and revive U.S. manufacturing is first and foremost the job of U.S. manufacturers. Government cannot be the laboring oar. But we can provide some strategic assistance—the kind our competitors have been providing for years—and we are going to have to do that if we intend to rebuild a world-class economy for a new era.●

By Mr. THURMOND:

S. 3197. A bill to improve the administration of bankruptcy estates, and for other purposes; to the Committee on the Judiciary.

FIDUCIARY STANDARDS IN THE ADMINISTRATION OF BANKRUPTCY ESTATES ACT OF 1992

Mr. THURMOND. Mr. President, today I rise to introduce a bill, by request of the Department of Justice, that will enhance the ability of U.S. trustees to properly supervise the increasing number of bankruptcy cases and will strengthen the ability of the Federal Government to combat bankruptcy fraud.

The private trustee has a fiduciary responsibility to administer bankruptcies under chapters 7, 12, and 13. This trustee has broad duties under the bankruptcy code and has a significant obligation to act as a fiduciary by holding funds owed to third parties. The U.S. Trustee Program, within the Department of Justice, supervises and monitors these private trustees to ensure that their actions with regard to the bankrupt estate are proper.

Under current law, this supervision over private trustees is limited. The bill I am introducing today will clarify the authority of the U.S. trustees by requiring private trustees to maintain records and make them available to the U.S. trustees. Further, the bill will also grant the Attorney General the authority to establish the standards for proper administration of bankruptcy cases and would also permit the Attorney General to remove those private trustees who fail to comply with these new standards.

This bill also addresses the increase in schemes that involve fraudulent bankruptcy claims. This bill would create a new bankruptcy fraud offense, similar to the current mail and wire fraud statutes. These changes would strengthen the ability of the Government to prosecute bankruptcy fraud. Currently, unscrupulous parties use the bankruptcy system as a means to obtain merchandise without paying for it, as a delaying technique in improper real estate and other schemes, and to generally avoid creditors. This legislation will enhance the ability of the Government to combat these schemes.

Mr. President, I ask that the full text of this legislation be printed in the RECORD, and I encourage my colleagues to support this bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fiduciary Standards in the Administration of Bankruptcy Estates Act of 1992".

SEC. 2. REPORTS TO UNITED STATES TRUSTEES.

(a) CHAPTER 7 TRUSTEE.—Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a) DUTIES.—" before "The trustee";

(2) by striking "and" at the end of paragraph (8);

(3) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(4) by adding at the end the following new paragraph and subsection:

"(10) file with United States Trustee, in the manner and form and at intervals determined by the United States Trustee, such reports concerning the administration of cases as it is the responsibility of the trustee to prepare and copies of such accounts, books, records, and other documents as the United States Trustee may request.

"(b) FAILURE TO PERFORM DUTY.—Upon the trustee's failure to perform the duty described in subsection (a)(10), the United States Trustee may seek an order from the court directing the trustee to perform that duty and imposing a civil penalty of not less than $2,000 and not more than $5,000 for each such failure.".

(b) CHAPTER 11 TRUSTEE.—Section 1106(a)(1) of title 11, United States Code, is amended by striking "704(2), 704(5), 704(7), 704(8), and 704(9)" and inserting "704(2), (5), (7), (8), (9), and (10)".

(c) CHAPTER 12 TRUSTEE.—Section 1202(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" before "The trustee";

(2) by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), respectively;

(3) in paragraph (1), as redesignated by paragraph (1), in subparagraph (A), as redesignated by paragraph (2), by striking "704(2), 704(3), 704(5), 704(6), 704(7), and 704(9)" and inserting "704(2), (3), (5), (6), (7), (9), and (10)";

(4) in paragraph (1), as redesignated by paragraph (1), in subparagraph (C), as redesignated by paragraph (2), by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(5) by adding at the end the following new paragraph:

"(2) Upon the trustee's failure to perform the duty described in section 704(a)(10), the United States Trustee may seek an order from the court directing the trustee to perform that duty and imposing a civil penalty of not less than $2,000 and not more than $5,000 for each such failure.".

(d) CHAPTER 13 TRUSTEE.—Section 1302(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" before "The trustee";

(2) by redesignating paragraphs (1), (2), (3), (4), and (5) as subparagraphs (A), (B), (C), (D), and (E), respectively;

(3) in paragraph (1), as redesignated by paragraph (1), in subparagraph (A), as redesignated by paragraph (2), by striking "704(2), 704(3), 704(4), 704(5), 704(6), 704(7), and 704(9)" and inserting 704 (2), (3), (4), (5), (6), (7), (9), and (10)";

(4) in paragraph (1), as redesignated by paragraph (1), in subparagraph (C), as redesignated by paragraph (2), by striking "and" at the end; and

(5) by adding at the end the following new paragraph:

"(2) Upon the trustee's failure to perform the duty described in section 704(a)(10), the United States Trustee may seek an order from the court directing the trustee to perform that duty and imposing a civil penalty of not less than $2,000 and not more than $5,000 for each such failure.".

SEC. 3. SUPERVISION OF UNITED STATES TRUSTEES.

Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" before "The Attorney General";

(2) by adding at the end the following new paragraphs:

"(2) The Attorney General shall prescribe by rule the standards for proper administration of cases by trustees under chapters 7, 12, and 13 and by standing trustees under chapters 12 and 13.

"(3)(A) In addition to any power that a court may have to remove a trustee in a case under this title, the Attorney General shall have power to remove a trustee if the Attorney General determines that—

"(i) the trustee failed to comply with a regulation prescribed by the Attorney General within a reasonable time after the United States Trustee has served a written demand for compliance upon the trustee; or

"(ii) the assets of an estate being administered by the trustee in the case have been dissipated or are at risk of being dissipated due to the unsafe, unsound, unauthorized, or unlawful practices of the trustee.

"(B) The Attorney General may prescribe regulations to implement subparagraph (A).

"(C)(i) Not later than the date that is 30 days after the date on which a trustee receives written notice from the Attorney General of the trustee's removal under subparagraph (A), the trustee may bring an action for reinstatement in the United States district court for the district in which the case is pending or in the United States District Court for the District of Columbia.

"(ii) Notwithstanding any other law, no court shall have power—

"(I) to enjoin or otherwise affect the removal of a trustee under subparagraph (A) except in an action for reinstatement brought under clause (i); or

"(II) to impair the authority or functions of a successor trustee.".

SEC. 4. DUTIES OF UNITED STATES TRUSTEES.

(a) QUALIFICATIONS OF TRUSTEES.—Section 322(a) of title 11, United States Code, is amended by striking "court" and inserting "United States Trustees".

(b) MONEY OF ESTATES.—Section 345(b) of title 11, United States Code, is amended by inserting "approved by the United States Trustees" after "entity".

SEC. 5. CRIMINAL PROVISIONS.

(a) GENERAL BANKRUPTCY PROVISIONS.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or from creditors or the United States Trustee in any case under title 11, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent , employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of states in the person's charge,

fund shall be fined not more than $5000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new section:

"§ 156. Bankruptcy fraud

"A person who, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of a false or fraudulent claim, pretenses, promise, or representation, for the purpose of executing or concealing the scheme or artifice or attempting to do so, makes a false or fraudulent claim, pretense, promise, or representation concerning or in relation to a bankruptcy case pending or falsely asserted to be pending under title 11—

"(1) shall be find under this title, imprisoned not more than 5 years, or both; or

"(2) if the offense effects a depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)), shall be fined under this title, imprisoned not more than 30 years, or both.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows

"Sec. 156. Embezzlement against estate."

and

(B) by adding at the end the following new item

"Sec. 156. Bankruptcy fraud.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by striking "Section 201" and inserting "section 156 (relating to bankruptcy fraud), section 201".

(c) INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 156 (relating to bankruptcy fraud)", before "section 201".

By Mr. THURMOND:

S. 3198. A bill for the relief of Horace Martin; to the Committee on the Judiciary.

RELIEF OF HORACE MARTIN

Mr. THURMOND. Mr. President, I rise today to introduce a bill for the relief of Horace Martin, a resident of South Carolina. In addition, I am also introducing a resolution so that this claim may be considered by the U.S. Claims Court.

Mr. President, the facts of this case are simple. Mr. Martin purchased property at a tax sale conducted by the Internal Revenue Service. Before deciding to make this purchase, Mr. Martin claims he relied upon the statements of an IRS agent and IRS forms which declared that there were no liens on the property that were senior to the IRS liens. Mr. Martin was the successful bidder, and he purchased the property for $56,000. He was later informed that the property he had purchased was subject to other liens, and that foreclosure was eminent. The effect of these prior liens was that Mr. Martin paid $56,000 and received no interest in the property. Mr. Martin has requested that the IRS return his money, but the request has been challenged by the United States on the grounds that the IRS documents stated that a purchaser should not rely on the statements of the IRS personnel.

Because Mr. Martin is bringing a contract claim against the United States, the proper forum for his claim is the United States Claims Court, not the district court. Accordingly, Mr. Martin has filed a claim against the United States in the claims court, and this claim has currently been stayed. Mr. Martin has been informed by the court that in order for the claims court to hear his claim in equity, a Congressional Reference is necessary.

Mr. President, our laws permit any bill to be referred by either House of Congress to the claims court for a report on the merits of this claim. Therefore, I am introducing this private relief bill and corresponding reference so that Mr. Martin's claim may be considered. I would note that by introducing this bill and resolution, I am not asserting the validity of his claim. That issue is for the court to determine. I am merely introducing this bill and resolution so that the claims court will have the opportunity to hear Mr. Martin's claim in equity.

I would encourage my colleagues to support this resolution.

By Mr. KASTEN:

S. 3199. A bill to require Federal funding for any Federal requirement applicable to a State or local government; to the Committee on Governmental Affairs.

FINANCIAL ASSISTANCE FOR COMPLIANCE ACT

Mr. KASTEN. Mr. President, I rise today to introduce legislation that would address the unfairness that we in the U.S. Congress inflict upon our constituents and the local and State governments that we represent.

This unfairness consists of Federal mandates—requirements placed upon our cities, counties, and States, but lacking any Federal funding to go along with our supposedly good ideas.

When I met with the Wisconsin Counties Association, their primary complaint was that the Federal Government is causing havoc at the local level with the imposition of unfunded mandates. The counties contend that their ability to meet local needs and problems is hampered when local plans are supplanted by required Federal programs.

In an excellent article on this situation in the New York Times, Michael deCourcy Hinds pointed out that in 1990 alone, the Federal Government passed 20 bills requiring various programs that the National Conference of State Legislatures estimates will cost America's State and local governments billions of dollars.

I ask that a copy of that article from March 24, 1992, be printed in the RECORD immediately following my remarks.

I am not saying these programs aren't well-intentioned. The problem is that they simply don't realize one basic fact: The fiscal crunch that we are experiencing at the Federal level is just as severe—and in some cases worse—at the other levels of government.

Passing the buck is no way to solve a problem.

As in the budget debate, there is enough blame to go all around. In the New York Times article, Gov. John Engler of Michigan is quoted as blaming Congress for "wrecking" State budgets, while others blame the President. Well, we all share the blame, and it is time that we do something about it.

President Bush said in his State of the Union Address that if Congress passes a mandate, then we should be forced to pay for it and balance the cost with savings elsewhere.

This echoes what I hear from Wisconsin's cities and counties, and our State government in Madison. We need to start being fair to the hard-working local governments who are trying to solve problems close to the people.

That's what this legislation is all about. It would require that public entities comply with Federal mandates only to the extent that Federal funds are supplied to cover the cost of the mandates.

Mr. President, pay-as-you-go is a solid principle of government. This amendment will require some tough choices, but that is what we are here for.

I ask that a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Assistance for Compliance Act".

SEC. 2. COMPLIANCE ASSISTANCE.

Notwithstanding any other provision of Federal or State law, a public entity, as defined in section 201(1) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131(1)), shall be excused from compliance with a requirement of Federal law in a fiscal year for which the entity—

(1) fails to receive Federal financial assistance to carry out the requirement; or

(2) receives such assistance, to the extent that the assistance is insufficient to permit the entity to comply with the requirement.

[From the New York Times, March 24, 1992]

U.S. ADDS PROGRAMS WITH LITTLE REVIEW OF LOCAL BURDENS

(By Michael deCourcy Hinds)

Against the background of a stubborn recession and mounting fiscal distress in the country, the Federal Government continues to create or expand domestic spending programs with little or no review of the financial burdens they will place on state and local governments, public policy analysts say.

In 1990 alone, the year the recession began, President Bush signed 20 bills into law, ordering programs that the National Conference of State Legislatures says will cost state and local governments billions of extra dollars, primarily for health care, the environment and Social Security payments for public employees.

Some mandates, like the Americans With Disabilities Act, were enacted without any reliable estimates of the cost to state and local governments. The legislation, which requires businesses and state and local governments to provide the disabled with equal assess to services, employment, buildings and transportation systems, is now expected to cost them millions of dollars annually to comply.

HEALTH AND ENVIRONMENT

The most expensive regulations for any state involve Medicaid, the Federally-subsidized health-care program for low-income people that will cost $38.3 billion for the states to finance this year. The next most expensive mandates involve environmental laws, primarily water purification, which will cost state and local governments $32 billion a year by 1995.

And three new studies show that despite the publicized efforts of President Ronald Reagan and President Bush to decentralize government, both contributed to a proliferation of regulations that meant enormous costs to states and cities in the 1980's.

No one can reliably estimate the cost of complying with many such programs, and Congress is required to make only preliminary estimates on some of the bills it considers. But analysts say no Federal law provides for complete reimbursement of any mandated program, and some legislative analysts estimate the burden to local governments of such spending at scores of billions of dollars a year.

'ROCK AND A HARD PLACE'

"We are between a rock and a hard place," said Gov. Robert P. Casey of Pennsylvania, a Democrat.

As part of a plan to pay for newly mandated Federal health benefits for children, pregnant women and the elderly, Governor Casey has proposed eliminating some medical benefits for disabled men who currently receive state welfare grants. The state raised taxes by a record $3.3 billion this fiscal year and still must reduce spending by $800 million to balance a $14.2 billion budget.

Pessimism is widespread. Three-quarters of the states and more than a third of the nation's cities report worsening fiscal problems this year, and many governors and mayors are saying the problems will linger or worsen over several years even if the economy recovers quickly.

"I think we're headed for a showdown," Gov. John Engler of Michigan, a Republican, said in a recent interview in which he blamed Congress for "wrecking" state budgets. But analysts and other governors blame Mr. Bush. Last month, when the President met with the National Governors Association, their meeting turned into an arguing match.

At that meeting, on Feb. 3 in Washington, two Democratic governors, Roy Romer of Colorado and George Sinner of North Dakota, attacked the President, asserting that too much money was going to the military and too little to the states. "What bases do you want to close?" Mr. Bush asked testily.

Only a month earlier, Mr. Bush seemed to be more sympathetic to the plight of the state and local governments. In January, in Mr. Bush's State of the Union Message, he sought to lay responsibility for mandates on Congress and advocated curbs on spending.

BUSH ON MANDATES

"We must put an end to unfinanced Federal Government mandates," Mr. Bush said. "These are the requirements Congress puts on our cities, counties and states without supplying the money. And if Congress passes a mandate, it should be forced to pay for it and balance the cost with savings elsewhere."

In an earlier effort to give the states more flexibility in administering Federal mandatory programs, Mr. Bush last year proposed to consolidate $15 billion in financing for block grants and to leave the decision on how to spend the money up to the states. But many cities opposed the legislation and it died in Congress. Mr. Bush said last week that he planned to revive the proposal.

Nevertheless, analysts say the President has done little to curb the flow of Federal mandates. Nor, they assert, has he acted to provide more financing for those bills he has signed into law.

'ZERO LEADERSHIP'

"President Bush has provided zero leadership in this area of nation-state relationship," said Joseph F. Zimmerman, professor of political science at the State University of New York in Albany and the author of two new studies on the relationship between the states and the Federal Government.

"You can't point to a single bill where he took leadership to give states more freedom of action, or for that matter, where he sought to impose mandates on states," he said. "In a sense, it is as though President Bush has just been oblivious" to this whole area until he mentioned it in the State of the Union Message."

Last January Mr. Bush ordered a 90-day moratorium on new regulations by Federal agencies and a review of existing rules to identify those that appear to do more economic harm than good. That proposal, modeled after a strategy that he carried out as Vice President in the Reagan Administration, was aimed mainly at lightening the burden for businesses.

But a new study says that whatever the impact on businesses, the deregulatory effort was "largely ineffective." It said the Government ultimately passed on more significant regulatory burdens to state and local Governments during the 1980's than in almost any other decade, adding to their financial responsibilities.

The study, "Federal Regulation of State and Local Governments," is being prepared for publication later this year by the United States Advisory Commission on Intergovernmental Relations, a Federally chartered research organization in Washington.

NO CHANGE IN SIGHT

"Congress was the more active regulator than either the Reagan or Bush Administration, but none of the laws with mandates were enacted over Presidential veto," said Timothy J. Conlan, a professor of government and politics at George Mason University. Prof. Conlan and two colleagues, David R. Beam and Cynthia Colella, wrote the study.

Prof. Conlan and his colleagues said they foresee no lightening of this burden for state and local governments.

The candidates in the contests for the Republican and Democratic Presidential nominations have made Federally mandated programs an issue in their campaigns.

President Bush's challenger for the Republican nomination, Patrick J. Buchanan, has advocated a two-year moratorium on new mandates and a reappraisal of existing ones.

The Democratic front-runner, Gov. Bill Clinton of Arkansas, says the Government is creating too many inflexible and costly programs that reduce the states' ability to cope with social and financial problems they consider more pressing.

Of the 125 mandate-laden bills that have been introduced in Congress this session, more than half deal with health care and criminal justice, which are the two fastest growing segments of state budgets, said Martha A. Fabricius, a policy analyst with the National Association of State Budget Officers who has been monitoring this legislation. She said that more than 20 of the most expensive bills had been introduced by the Democratic leadership.

If enacted, the bills would force most states to raise taxes or reduce existing services, analysts said.

Under some of the bills, the states would be directed to pay all or some of the cost of new programs like insuring savings and loan associations, planting trees on state-owned land, operating mobile units to assist the mentally ill among the homeless and increasing prison terms for several categories of violent crimes.

The states would also be ordered to eliminate at least one revenue-producing program, a tax on certain retirement income, forcing them to find other ways to finance government.

While the Government has expanded Federally mandated programs and whittled away at state and local tax revenues, it simultaneously has reduced aid to the states.

In the 1980's, for example, overall Federal aid declined 10 percent, when adjusted for inflation, and grants that were not related to health care declined 23.6 percent, according to Government figures. There are no estimates on the loss in tax revenue to the states.

HISTORICAL SHIFT

The expansion of Federal authority over state affairs represents an historic shift in American Government since the 1960's, according to Prof. Zimmerman:

"Congress, with the acquiesence of the Supreme Court, is slowly usurping the sovereign powers of states and turning them into administrators of national policy," he said, summarizing a central conclusion in two studies he wrote for the Advisory Commission on Intergovernmental Relations. The studies, scheduled for publication this year, are entitled "Federal Pre-emption of State and Local Authority" and "Federally Induced State and Local Governmental Costs."

In all, there are estimated to be tens of thousands of Federal mandates and they touch nearly every aspect of government. There are mandates that instruct states or local governments on landfills, welfare benefits, speed limits, other traffic regulations and prison construction, among other things.

NEW YORK STORIES

Federally required health-care programs consumed 14 percent of all state budgets in 1990 and, with the cost of expansions in mandated programs and inflation in medical expenses, The Federal programs will devour 28 percent of the states' budgets by 1995, the National Governors Association estimates.

Examples of the costs that can result from these mandates are best seen in populous states like New York. Ever stricter standards for drinking water may cost the city billions; a $600 million water filtration plant is already under construction in the Bronx. School districts in New York and surrounding counties have spent tens of millions of dollars removing asbestos from school buildings. Congress, in passing the measure in 1986, never considered its cost to state and local governments; it is now projected at $3.1 billion over 30 years.

Members of Congress who develop mandatory programs readily acknowledge that the programs can be a crushing financial burden for state and local governments. The legislators say there will be no alternative to this piecemeal approach until the President and Congress can agree on national solutions to national problems including taxes, health care, welfare and environmental issues.

FEDERAL FINANCING

"It's incumbent on us to realize that the states can't continue to pay for Medicaid, which is a complicated, second-class health-care system for less than half of the poor people in the country," said Representative Henry A. Waxman, a California Democrat who is chairman of the House Subcommittee on Health and the Environment and the author of a number of Medicaid mandates.

"We need to have major reform in either Medicaid or in the whole system, but we simply can't let pregnant women, infants and children go without health care," said Mr. Waxman, who has said the Federal Government should be responsible for financing Medicaid.

Mario M. Cuomo of New York was the nation's only governor who supported the Medicaid mandates for new programs for poor children and pregnant women in the last two years.

Brad C. Johnson, Governor Cuomo's counsel in Washington, said that providing the additional medical care to women and children cost New York $3.8 million last year, while the state had to spend $828 million to put 100,000 newly eligible people into nursing homes.

'GOOD INVESTMENT'

"He didn't go along with the other 49 governors because he said the mandates for women and children were a good investment," Mr. Johnson said.

Good investment or not, the state is now trying to decide how to cut $1 billion out of its Medicaid and welfare programs because of budget problems.

By Mr. KERREY (for himself, Mr. DURENBERGER, Mr. PRYOR, Mr. EXON, Mr. DASCHLE, Mr. BURDICK, Mr. HARKIN, and Mr. GRASSLEY):

S. 3202. A bill to amend the Agricultural Act of 1949 to improve the farmer owned reserve program, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

FARMER OWNED RESERVE IMPROVEMENTS ACT

Mr. KERREY. Mr. President, today I am joined by Senators DURENBERGER, PRYOR, EXON, DASCHLE, BURDICK, HARKIN, CONRAD, WELLSTONE and GRASSLEY in introducing the Farmer-Owned Reserve Improvement Act of 1992.

This legislation would improve the operation of the Farmer-Owned Reserve, [FOR] by once again allowing direct entry of grain into the Reserve and by providing the Secretary of Agriculture additional authority to open the Reserve to wheat or feed grains during periods of low prices.

The intent of this legislation is to reverse the damage to the Farmer-Owned Reserve [FOR] that was inflicted by the Food, Agriculture, Conservation, and Trade Act of 1990—the 1990 Farm Bill. Those changes were advocated by those whose hostility toward the FOR at that time was no secret and whose desire to undermine the FOR as a fundamental farm policy tool has marked USDA policy for much of the past 12 years.

I do not suggest that all of the FOR modifications made by the 1990 Farm Bill were wrong. To the contrary, I believe some of the changes improved the operation of the FOR by giving farmers greater freedom to market grain from the Reserve, by generally making the Reserve more responsive to market conditions, and by preventing the Reserve from swelling to the excessive levels that characterized periodic mismanagement of the Reserve during the 1980's.

One FOR revision that I supported and in fact sponsored in 1990 was a provision that for the first time gave farmers the unilateral ability to market their grain from the FOR at will—even before grain prices reached established levels at which farmers were induced to sell grain. Prior to this change, farmers were prohibited from pulling grain from the Reserve until specified "release" prices were reached. This proved unreasonably restrictive in cases where, for example, farmers suffered a natural disaster that destroyed crops in the field but were denied access to Reserve grain in order to meet critical local needs for livestock feed.

Other changes that I supported in 1990 were moves to establish reasonable minimum and maximum levels governing the size of the Reserve, limits on how long individual farmers could leave grain in the Reserve, and provisions intended to encourage the gradual, orderly marketing of grain as prices strengthened.

But clearly some of the FOR changes made by the 1990 Farm Bill rendered the Reserve ineffective. One change forced farmers to keep grain under original, 9-month price support loans before that grain could be placed in the FOR under an extended loan. Another change forced the Secretary to decide early in the marketing year—by December 15 in the case of wheat and by March 15 in the case of feed grains—whether the previous harvest would be eligible for the Reserve. As we have witnessed during this summer's steady slide in corn prices, this provision, and the Secretary's decision earlier in the year not to allow 1991-crop corn into the FOR, has foreclosed the option of reassessing that decision as warranted by changing market conditions. These deadlines have proven too rigid, too arbitrary, and too restrictive of the Secretary's authority. This bill would eliminate these artificial dates and give the Secretary greater authority to allow Reserve entry according to market developments.

Mr. President, across the Midwest and the Great Plains, corn prices are falling below $2 per bushel and wheat prices are slipping under $3. Farmers' hopes are sagging with them. Producers see little prospect that exports will prove their salvation, and recent decisions by USDA to reaffirm the lifting of planting restrictions for next year's crop of wheat and to propose minimal restrictions for the 1993 crop of feed grains offer little prospect that restraints on production will bolster prices. That leaves farmers with only two possibilities for a brighter future: natural disasters visited upon someone else, or more thoughtful management of existing stocks. The FOR revisions we are offering today propose the latter

I should make clear, Mr. President, that in my view nothing in this legislation entails additional costs to the taxpayer. Indeed, it is my hope that enactment of this bill and the immediate entry of grain into the Reserve will strengthen the grain market and thereby reduce government costs as direct income support payments to farmers decrease.

Finally, I wish to emphasize, Mr. President, that all the changes made by this bill are permissive. Nothing in this proposal forces the Secretary's hand. The bipartisan nature of this proposal attests to the fact that it is fair, reasonable, and necessary. In that spirit, I am hopeful that Secretary Madigan will examine this measure with an open mind, agree that it empowers him to offer a life line to farmers awash in grain, and conclude that it deserves the administration's support.

There being no objection, the bill was ordered to be printed RECORD, as follows:

S. 3202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farmer Owned Reserve Improvements Act of 1992".

SEC. 2. FARMER OWNED RESERVE PROGRAM.

(a) ORIGINAL LOANS.—Paragraph (1) of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445E(b)(1) is amended to read as follows:

"(1) PRICE SUPPORT LOANS.—In carrying out this program, the Secretary may provide original or extended price support loans for wheat and feed grains. Subject to paragraphs (2) and (3) of subsection (g), producers may enter wheat or feed grains into the program when an original loan is granted or before the expiration of the original loan.".

(b) TIME OF ANNOUNCEMENT.—Paragraph (1) of section 110(g) of such Act is amended to read as follows;

"(1) TIME OF ANNOUNCEMENT.—The Secretary may announce the terms and conditions, and any subsequent revisions, of the producer storage program for a crop of wheat and feed grains at any time.".

(c) DISCRETIONARY ENTRY.—Section 1109(g)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking ", respectively, for the 90-day period prior to the dates specified in paragraph (1)"; and

(B) by striking "or" at the end; (2) in subparagraph (B)—

(A) by striking "as of the appropriate date specified in paragraph (1),"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end of the following new subparagraph:

"(C) the Secretary determines that unforeseen market a conditions warrant the entry of wheat or feed grains into the program established under this section.".

(d) DISCRETIONARY EXIT.—Section 110(h) of such Act is amended by striking "a loan extended" and inserting "an original or extended loan".

(e) REGULATIONS.—Section 110(n) of such Act is amended by inserting before the period at the end the following: "and each amendment to this section not later than 60 days after the date of enactment of the Act making the amendment".

(f) CROPS.—Section 110(p) of such Act is amended by inserting before the period at the end the following: "and each amendment to this section shall become effective on the date of enactment of the Act making the amendment".

Mr. DURENBERGER. Mr. President, I rise in support of this bill. It is an important piece of legislation that will bring stability to corn and wheat prices and to the rural communities that rely on them.

Since the beginning of this year, prices paid to farmers for corn have plummeted. The result has been devastation for farmers and rural communities. In Minnesota, our corn prices have fallen nearly 30 percent in the past 6 months, from $2.50 per bushel in February to $1.85 per bushel in August. Similar drops in corn prices have occurred throughout the country—and wheat prices are not much better. In the face of these tragic drops, farmers only have the harsh reality of a record harvest to look forward to. A bumper crop of 9 million bushels has been predicted for the 1992 corn crop. This will cause corn prices to drop even further and force farmers off the farm.

Mr. President, the 1990 Farm Bill made some good strides forward in America's agricultural policy, however, it is not perfect and revisions need to be made. Much of the Senate has already gone on record in favor of reforming the Dairy Program. Similarly, modifications need to be made to the Farmer Owned Reserve in order for it to work better both for farmers and for the country. The Kerrey/Durenberger bill to reform the Farmer Owned Reserve makes those modifications.

The Kerrey/Durenberger bill would permit the Secretary of Agriculture to make revisions to the structure of the Farmer Owned Reserve at any time during the year in order to better deal with surplus stocks of wheat and corn. Currently the Secretary must decide whether or not to open up the Farmer Owned Reserve for wheat on December 15 and corn on March 15. Once that decision is made, it cannot be changed—regardless of what the best policy is for farmers and the country. In my view, the Secretary has the administrative authority to make these changes himself. I wrote him on August 6, 1992, and requested that he make this administrative decision. However, this bill makes it clear to the Secretary, and to everyone else, that the Farmer Owned Reserve must be reflective of the situation on farms in rural America and the Secretary must administer it in that manner. Under the Kerrey/Durenberger bill, the Secretary would not be locked into a bad decision on the Farmer Owned Reserve.

Action must be taken now to protect farmers from bankruptcy and rural communities from further economic hardship. It seems that everything that is needed to run a farm—gasoline, machinery, health insurance, fertilizers—keeps going up; and the only things that keep going down are the prices farmers get for their crops, and farmer's quality of life.

The Kerrey/Durenberger reform bill empowers the Secretary in a very direct way to make the decisions on the Farmer Owned Reserve that need to be made. It is a good bill and good public policy. I urge my colleagues to join me in support of it.

I ask unanimous consent that a letter dated August 6, 1992, to Secretary Madigan be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 6, 1992.

Hon. EDWARD MADIGAN,
Secretary, U.S. Department of Agriculture, Washington, DC.

DEAR ED: I am writing to urge you to reserve your decision of March 15, 1992 and open up the Farmer Owned Reserve (FOR) for the 1991 corn crop.

Prices paid to farmers for corn have plummeted since the beginning of 1992. The result has been devastation for farmers and rural communities. In Minnesota, crop prices have fallen from $2.50 per bushel in February to $1.85 per bushel in August. Similar drops in corn prices have occurred throughout the country. A record harvest of nine billion bushels has been predicted for the 1992 crop. This would cause corn prices to drop even further, and would force producers off the farm.

Action must be taken now to protect farmers from bankruptcy and rural communities from further economic hardship. As Secretary of Agriculture, you have the administrative authority to reverse your March decision regarding the Farmer Owned Reserve program.

American corn farmers need your immediate attention to this matter. Your interest and concern is greatly appreciated. I look forward to hearing from you soon.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

By Mr. BAUCUS:

S. 3203. A bill to prohibit senior Presidential campaign staff members from engaging in political activities as agents of foreign principals; to the Committee on Governmental Affairs.

POLITICAL ACTIVITIES BY SENIOR CAMPAIGN OFFICIALS ON BEHALF OF FOREIGN PRINCIPALS

Mr. BAUCUS. Mr. President, I rise today to introduce legislation to prohibit senior Presidential campaign officials from lobbying for foreign interests.

On two recent occasions, I have taken to the floor to discuss foreign influence in the U.S. political process. I believe this issue represents one of Washington's biggest scandals. It cuts to the heart of both the competitiveness of our economy and integrity of our political system.

THE PROBLEM OF FOREIGN INFLUENCE

The problem of foreign influence is apparent in numerous areas of our Government. In one of this town's most common career paths, high-ranking public officials routinely log a couple of years in so-called "public service," then cash-in their connections to the highest bidder.

Often, the highest bidder is a foreign government or business. In case after case, the U.S. Government has become a farm team for foreign influence. We've seen this problem at all levels of government—State and national congressional and executive.

U.S. laws governing lobbying for foreign interests need fundamental reform. Statutes such as the Foreign Agents Registration Act have milewide loopholes that rend them impotent.

We also need to slam the revolving door. I have advocated a 15-year ban on lobbying by former senior Government officials, including Senators, Congressmen, Governors, and Executive positions such as USTR.

Several bills introduced by colleagues in both the House and the Senate suggest potential steps in the right direction.

THE SPECIAL CASE OF PRESIDENTIAL CAMPAIGNS

But there is another area that is also in need of immediate attention—the Presidential campaigns. Campaigns occupy a murky position in the law. Although they receive public funds, they are not Government entities.

Senior campaign officials also occupy a murky station. Although they may not be Government officials, they have easy access to senior Government policy makers. And although they may devote most of their time to a campaign, they may also be on the payroll of foreign interests.

There is one recent case that I believe is a disturbing example of the abuse the current system makes possible.

On January 9, 1992, James Lake assumed the position of senior communications adviser to the Bush campaign. Mr. Lake is a longtime Republican campaign official and once served in an earlier administration.

Mr. Lake also wears a second hat. He is a name partner in the public relations firm of Robinson, Lake, Lerer and Montgomery, one of the most influential lobbying firms in Washington.

At the time, Mr. Lake accepted his position with the Bush campaign, he could have suspended his lobbying activities on behalf of his Robinson Lake clients. Indeed, given the potential for conflict of interest, it's hard to imagine any other course of action.

But that's not the course selected by Mr. Lake. Instead, on February 4, 1992, a month after assuming a post with the Bush campaign, Mr. Lake added a new client to his stable. He accepted a $400 an hour hitch as a registered foreign agent for the Canadian Forest Industries Council. The Council is involved in a trade dispute with the U.S. forest products industry, and desperately needed some Washington insiders to turn things around.

I ask unanimous consent that Mr. Lake's registration papers with the Department of Justice be added to the RECORD.

On March 6, 1992, the U.S. Commerce Department made a preliminary decision to impose a 14.5 percent duty on Canadian lumber to compensate for unfair subsidies in that country. Mr. Lake's client was in deep trouble.

Ignoring the obvious conflict of interest, Mr. Lake—by his own admission—used his influence as a top campaign official to set up meetings for the Canadians with senior administration officials.

On May 15, 1992, the Commerce Department reduced the punitive duty on Canadian lumber from its preliminary level of 14.5 to 6.5 percent.

We will never know the degree to which Mr. Lake's activities influenced the reduction in the tariff. But I will tell you one thing. The Canadian Forest Industries Council believes Mr. Lake is worth $400 an hour. They think they are getting their money's worth. At the very least the appearance of impropriety is overwhelming.

I ask unanimous consent that a number of documents describing Mr. Lake's activities be made part of the RECORD at the conclusion of my remarks.

Unfortunately, the Canadian Forest Industries Council is not Mr. Lake's only foreign client. During and before holding his post in the Bush campaign, Mr. Lake has represented a number of foreign clients, including a major Japanese auto company and Canadian brewers.

As a number of documents I ask be included in the RECORD demonstrate, Mr. Lake has been involved in similar influence peddling with a number of foreign interests.

On June 25, I called upon the Bush campaign to fire James Lake. Unfortunately, it appears that Mr. Lake's job is secure.

LEGISLATIVE SOLUTION

Today I am introducing legislation to make sure that individuals like Mr. Lake cannot line their pockets at the expense of the integrity of the U.S. political process.

My legislation has two key components. First, it prohibits senior campaign officials of any presidential candidate from lobbying for foreign interests during their tenure as campaign officials.

Second, for senior campaign officials of a successful candidate, my legislation prohibits lobbying for foreign interests for a period of 15 years. Such a cooling off period will help shut the revolving door. Senior campaign officials will no longer be able to tap their insider connections for the benefit of deep-pocket foreign interests.

A violation of these limits would result in criminal sanctions.

CONCLUSION

It is no secret that Americans are frustrated and disillusioned with Washington. No wonder. Actions such as those by James Lake confirm the public's worst suspicions about influence peddling in Washington.

Nor is this a partisan matter. With or without my legislation, I call upon both campaigns to ensure that their senior officials do not use their public positions to promote the agendas of their private sector clients.

This is a small part of a big problem. In the end, legislated loyalty is a poor substitute for honest conviction in support of public service.

But until such conviction occurs as a matter of course, a legislated solution may be our only alternative.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, June 24, 1992]

BUSH CAMPAIGN AIDE DENIES IMPROPRIETY

(By John Maggs)

WASHINGTON.—James Lake, one of President Bush's top campaign aides, said he has become the focus of a "well orchestrated" witch hunt in recent weeks, one driven by the campaign of Ross Perot and intent on showing that he peddled influence in the government on behalf of foreign companies.

Mr. Lake, deputy manager for the re-election campaign, defended his role as a lobbyist in two major trade disputes—on lumber and minivans—and said reporters have been calling friends and colleagues over the last five weeks to "dig up dirt" on him.

Mr. Lake insisted that neither he nor his high profile public relations company—Robinson Lake, Lehrer and Montgomery—had lobbied the White House on behalf of Canadian lumber producers. He admitted that he had made one telephone call to Bush domestic policy adviser Clayton Yeutter to set up a telephone call to plead the Canadian case.

That call will be reported to federal authorities in a disclosure statement that Mr. Lake said he would file shortly.

In the lumber dispute, the International Trade Commission is expected to rule Thursday on whether Canada has unfairly subsidized its exports to the United States. Sen. Max Baucus, D-Mont., among others, has claimed that the Canadian industry has spent $20 million in the United States lobbying the case. The lawmaker said it is part of a disturbing rise in improper foreign influence through lobbyists with White House ties and former U.S. officials.

Mr. Lake was also criticized Tuesday by former Customs Commissioner William Von Raab as playing a central role in a 1989 Treasury Department decision that maintained low tariffs on Japanese minivan imports. Mr. Von Raab called that decision "the most unfair and politicized" example he knew of "foreign influence at high levels" of the Bush administration. He said Mr. Lake and his associates were responsible.

Mr. Lake said that reporters for the Chicago Tribune were planning an article on foreign lobbying in the Bush administration, and he said he believed that the Perot campaign was behind the story. While Mr. Lake said he had no proof of this assertion, he noted that Perot's campaign spokesman is James Squires, former editor of the newspaper. Calls to Mr. Squires were not returned Tuesday.

Tribune reporter Chris Drew denied that Mr. Squires was in any way involved in the story.

Mr. Lake, whose lobbying has been the subject of news reports in the past, said that the criticism is an attempt to stifle legitimate debate. "There is a body of opinion that believes we should hear only one side of the story. When we as a country start to limit what people have to say in that way, the next step is to limit what is liberal, what is conservative, what is pro-choice. That's not democracy."

The Bush campaign official said there was "nothing at all improper" about his using his contacts at the White House on behalf of clients, noting that as a campaign official he was not covered by laws limiting such activities by present and former administration officials.

In the 1989 minivan case, Mr. Von Raab said that Customs officials had decided that minivans and sport utility vehicles should be considered trucks, thus raising the tariff from 2.5% to 25%. After Customs announced the decision at a press conference, he said lobbying by Mr. Lake and his associates persuaded Treasury Secretary Nicholas Brady to suspend that decision.

Mr. Von Raab said the decision to overturn the Customs ruling was "entirely without merit" and he described Treasury Department subordinates as wringing their hands afterward and scrambling to fabricate an explanation for the action. "It took them a month to come up with the tortured explanation they came up with," the former Customs commissioner said.

WASHINGTON'S REVOLVING DOOR

(By Pat Choate)

The revolving door is only one of several ways that Japanese and other foreign interests acquire personal ties to the Office of the U.S. Trade Representative. They also maintain important connections through political insiders. For instance, Stanton Anderson was a senior White House and State Department official in the 1970s. Subsequently, he became one of Japan's top lobbyists. After the 1980 election, he directed the economics portion of the transition team that staffed the Reagan Administration.

In July 1985, after Clayton Yeutter was named USTR, lobbyists with foreign ties were responsible for organizing and staffing the USTR's Office. The three-person transition team consisted of Julius Katz, James Lake, and William Walker. At the time, Katz was an international business consultant. Lake, a prominent Republican lobbyist, had been press adviser to Reagan's 1984 campaign (as he had been in 1976 and 1980, and would be for George Bush in 1988). Walker, another well-known lobbyist, was President Ford's Deputy USTR. Less than a month after the Republicans regained the White House in 1981, Walker had registered as a foreign agent. Among the clients he subsequently represented were Toshiba, the Electronics Industries Association of Japan, the Hong Kong Trade Department, the Korea Iron and Steel Association, the China National Textiles Import & Export Association, and the Japan Aluminum Federation.

In mid-1985, the Katz-Lake-Walker team took up their task, identifying the people Yeutter would appoint to senior policy posts. They interviewed those individuals who already held high negotiating and staff positions. They proposed a reorganization of the Office that would have eliminated virtually all these people, many of whom were hard-liners on Japan, but the White House vetoed this controversial move. In the meantime, the team got an intimate look at the innermost thinking, strategy making, and vulnerabilities (e.g., personnel conflicts) of America's top trade agency.

One former employee at USTR recalls: "The way the transition was handled was very uncomfortable for all of us. We knew that their decisions would affect our careers. Because of their friendship with Clayton, we also knew that we would be forced to see these lobbyists again many times after the transition was over." How right he was.

Walker minimized the benefits of having served on the Yeutter transition team. He told the Baltimore *Sun* that it "was 'irrelevant' to any dealings I might have with the Trade Office. I've had access to Clayton for five years. Sure it's an advantage. . . . As with anything in Washington, if you know people it's easier to do business with them."

By contrast, Lake spoke with the Washington *Post's* Stuart Auerbach in 1986 about the advantages of his access to Yeutter: "The Japanese sought me out. Did I think it was odd? No. They knew I was a friend of Clayton Yeutter. The Japanese work very hard to figure out who has access and who can communicate their views." The views he chose to communicate were those of Mitsubishi, Suzuki, the Japan Auto Parts Industries Association, and the Japan Tobacco Institute.

Lake understated his access to Yeutter. The two had worked together for many years. More important, Lake is one of Clayton Yeutter's closest friends and advisers. Interviews and Lake's telephone logs reveal that the two men spoke on the phone most days at 7:15 a.m. One former USTR official said that "the staff constantly had to fight against Lake. Clayton was always saying, 'But Jim says this' or 'Jim says that.'" This official adds that Lake was so involved in the USTR's work that he "was like an unpaid staffer."

The problem, of course, was that Lake *was* paid—but by the Japanese.

THE POLITICIANS' POLITICIAN

James Lake presents another prominent example of someone who advises the President on politics while lobbying on behalf of the Japanese. Lake was George Bush's press adviser in the 1988 presidential campaign. During Lake's tenure on the campaign, he was also a lobbyist on the payrolls of Mitsubishi Electric, the Japan Auto Parts Industries Association, and Suzuki.

Lake was an integral cog in the Republican campaign machine in 1980, 1984, and 1988. More important to his success as a lobbyist, however, is his intimate friendship with Clayton Yeutter, U.S. Trade Representative from 1985 to 1989 and now Secretary of Agriculture.

In 1988, a veteran investigative journalist from Japan noted that it was common wisdom in Tokyo business and government circles that one of the surest ways to gain access to and influence with Yeutter was to hire James Lake. And in case after case, that's just what the Japanese did.

In 1987, during a critical moment in the market-oriented, sector-selective (MOSS) auto parts negotiations, for instance, Lake was hired to represent the interests of the Japan Auto Parts Industries Association. Lake and his staff worked closely with the Senate and the Commerce Department to ensure Japan's success in persuading the American government to adopt its weak MOSS proposals.

When the U.S. government found that Mitsubishi Electric and other Japanese companies were dumping semiconductors on the U.S. market, Lake gave the uncontested access it needed to persuade the USTR and the rest of the Reagan Administration to lift the sanctions that had been placed upon Japanese electronics companies.

The clout that Lake offers his clients is illustrated by the entrée he sold to Mitsubishi—the world's largest electronics conglomerate—when he signed on as their lobbyist in a battle against Fusion Systems, a tiny high-tech firm in Rockville, Maryland. Then Lake showed America how effective a true politician's politician can be.

In the 1970's, Fusion Systems invented and produced a unique kind of commercial ultraviolet curing equipment. Mitsubishi soon began a major effort to wrench this proprietary technology away from Fusion Systems. Fusion sought help from the American government. Lake was hired by Mitsubishi to see that Fusion did not get it.

The story begins with Don Spero, a prototypical American entrepreneur. Spero—a tall, slim former athlete—is the last American to win a world championship in single sculling. Spero first traveled to Japan in 1964, when he competed in the Tokyo Olympics. He holds a Ph.D. in plasma physics from Columbia University.

Fusion's production facility, located in a suburban Washington office park, looks more like the most advanced high-technology Japanese plant than it does a typical American factory. It's employees resemble graduate students more than factory workers.

Fusion's principal product is a high-power microwave lamp system used in industrial production. The core of that system is an ultraviolet (UV) lamp. When bombarded with microwaves, the lamps emit UV rays that instantly dry special inks, adhesives, and other materials. Once twenty to thirty hours were needed to dry the inks on plastics. Fusion's UV system can do the same job in a matter of seconds.

Spero and his colleagues developed their system for a wide variety of commercial uses and carved out a niche in a highly specialized market. Today, Fusion lamps are used in the production of semiconductor chips, optical fibers, graphic arts films, and printed circuit boards.

Unlike most small U.S. companies, Fusion markets its products extensively in foreign countries. Almost one-third of its sales are exports; half of these are to Japan. Fusion's conflict with Mitsubishi began with one of these Japanese sales.

In 1977, Mitsubishi Electric bought a Fusion lamp. Over the next decade, Mitsubishi flooded Japan's Patent Office with some 257 applications surrounding the technology in the Fusion lamp. If successful in obtaining these patents, Mitsubishi could actually prevent Fusion from selling its own products in Japan.

Mitsubishi was using a common Japanese tactical maneuver called "patent flooding." Japanese companies file enormous numbers of patent claims on such generic technologies as screws, clamps, or other features that surround or support an invention. At a Senate hearing in June 1988, Maureen Smith, Deputy U.S. Assistant Secretary of Commerce for Japan, explained how this tactic is used against foreign inventors:

"It is common practice for a Japanese company to learn of an invention that it would like to have, and to surround the patent applications for that invention with its own applications. These applications may cover what are, taken individually, relatively insignificant aspects of the new invention. However, if enough of these 'nuisance' patents are filed, the inventor of the original product may discover that he is unable to produce his [own] product if these [nuisance] patents are granted."

Once a Japanese company files these nuisance patents, Smith added, it will "offer not to apply them against the original inventor of the product, but at a price. The price is generally a licensing or cross-licensing arrangement that gives the Japanese company rights to the technology in question."

Time after time, Japanese companies have used this tactic to force foreign firms to share their best technology—often leaving them with nothing more than token royalty payments. Frequently, when this occurs, the Japanese firm adds a secrecy clause to the contract, thereby prohibiting the U.S. firm from revealing either the deal or the practice of patent flooding. This has enabled the Japanese to use this scheme—largely unnoticed—for years. Regis McKenna, an adviser to Apple Computers, estimates that between 1950 and 1978, Japan paid $9 billion for 32,000 technology licenses that were actually worth $1 trillion. (In other words, they paid less than one cent on the dollar.) Most of these licenses were acquired from small, innovative American firms.

Only a handful of American companies have the financial resources to fight a large Japanese company in Japan's parochial legal system. To contest each initial application in a patent-flooding case cost $3,000 to $5,000. To appeal applications can cost as much as $100,000 and take five to ten years. For Fusion, the cost of litigating the case from start to finish could easily have come to $25 million—or as much as the firm's revenues for one year.

Mitsubishi's patent siege on UV microwave lamp technology placed an impossible financial drain on Fusion's limited resources. In 1985, Spero approached Mitsubishi with an offer: "Why don't we just agree that, in Japan, you will not assert your patents against us? In exchange, we will agree not to challenge your applications, and together we'll just compete for the market." Mitsubishi agreed. Its price: a royalty-free, worldwide cross license to Fusion's core technology.

It was a counteroffer Spero had to refuse. He explains: "If we gave Mitsubishi the unlimited right to use our proprietary technology, Fusion would be out of business in five years."

So Spero began a long-term struggle to defeat the most important patent applications Mitsubishi had filed to "surround" the UV lamp. Spero claims he knew the early cases would be legal "slam dunks" for his company. After all, the technology under dispute was virtually identical to that in the lamp Mitsubishi Electric bought from Fusion in 1977. And sure enough, when the first two applications were reviewed two years later, the Japanese patent examiner found in Fusion's favor and denied the issuance of Mitsubishi's patents. Still, the matter was far from settled.

Mitsubishi demanded a review by a three-person tribunal from the Japanese Patent Office. Conveniently for Mitsubishi, MITI—which is charged with helping Japanese firms acquire advanced foreign technologies—is also responsible for Japan's patent system and its tribunal reviews. In January 1987, the MITL/Patent Office tribunal overturned the rulings favoring Fusion. It ordered the challenged patents to be issued to Mitsubishi. At the same time, Fusion learned, Mitsubishi officials had contacted some of Fusion's largest customers, saying that they were considering a patent infringement suit against Fusion. Spero knew he could not win without the help of the U.S. government.

Like many American entrepreneurs, Spero was reluctant to ask for help. But unlike most American businessmen, he was located just outside Washington and knew something about politics. By chance, he had a friend who worked in the Geneva office of the USTR.

When they were ten years old, Spero met Michael Samuels at summer camp. They had stayed in touch over the years. In 1985, Samuels was appointed Deputy U.S. Trade Representative. At Samuels' swearing-in party, Spero met Clayton Yeutter. In what Spero describes as two-minute cocktail conversation, Yeutter learned that Fusion did business in Japan and suggested that Spero meet Joseph Massey, the Assistant U.S. Trade Representative for Japan and China. Later that year, Spero met with Massey and discussed how Fusion could expand its distribution system in Japan.

Two years later, when Fusion's patent rulings were overturned by the Japanese Patent Office, Spero went to Massey again. Fusion's difficulties with Japan's patent system were similar to those experienced by dozens of other U.S. companies. But because many feared that criticisms of the Japanese system would jeopardize their business ties with Japan, few American CEOs would ask for help. Massey thought Fusion's case should be used to highlight intellectual property rights as a trade issue between the United States and Japan.

At about this time, Spero learned that Mitsubishi was bringing in a heavyweight lobbyist to plead its case before the U.S. government James Lake. Once he heard about the Lake-Yeutter friendship, Spero knew that his biggest battle would be getting his own government to take Fusion's side.

Fusion and Mitsubishi opened new negotiations in September 1987. The Japanese company made an oral offer to settle if Fusion would stop its opposition to Mitsubishi's patent applications in Japan. One month later, Mitsubishi reneged on this agreement and refused further negotiations.

Fusion stepped up its efforts with Congress. In December 1987, it persuaded Lloyd Bentsen, chairman of the Senate Finance Committee, to write on Fusion's behalf to the Japanese Ambassador in Washington. Bentsen's letter stressed that if Japan would not take action to help Fusion, then Congress would. As an added measure, Fusion hired Paula Stern, former chairwoman of the International Trade Commission, to help make its case to Yeutter.

Lake and Mitsubishi pursued a very different tack. They portrayed the issue as a simple commercial dispute. It was, they said, an issue for technicians—not politicians. The argument worked. In January 1988, a Mitsubishi executive told Inside U.S. Trade that Yeutter had agreed that their conflict with Fusion was simply a private commercial affair. Mitsubishi "as assured the Administration would not get involved and 'put their arm' on a Japanese company for commercial reasons."

Spero increased pressure on the USTR and Mitsubishi. He gave an interview to Frontline, the national news show. Then he saw to it that Fusion's story made the Wall Street Journal, the National Journal, and the Washington Post.

Though Yeutter had, in effect, assured the Japanese that the U.S. government would stay out of the matter, Deputy U.S. Trade Representative Michael Smith, a career civil servant and trade negotiator, decided to get involved. Like Massey, Smith had become an advocate for using the Fusion-Mitsubishi conflict to highlight trade difficulties between the two countries over matters of intellectual property. In April 1988, Smith raised the issue with the Japanese in biannual trade talks. He also met with Mitsubishi officials in Tokyo, and demanded that they settle the case, lest it cause a political flap. Mitsubishi clearly took him seriously enough to resume negotiations with Spero.

The Japanese government also took Smith seriously. Japanese officials were furious that he had involved himself in the matter, and voiced their complaints to the State Department and the USTR.

Though the efforts of Smith, Massey, and others held promise, time was working against Fusion. In addition to the costs of lawyers, lobbyists, and patent experts, Spero was devoting much of his own time, and that of his senior staff, to the fight with Mitsubishi.

In a May 1988 article in the National Journal, James Lake offered an update on the Fusion-Mitsubishi case. Lake said, "Spero has done everything he can to solve this politically or through the press. I have tremendous respect for his efforts to try to make this more than a commercial issue. Every time we think we have this tamped down, it pops up somewhere else."

Keeping the issue tamped down, of course, was the Lake-Mitsubishi strategy. One way that the Japanese company did so was to open negotiations with Fusion whenever there was political pressure, only to end them whenever the pressure was removed. Needless to say, these talks never produced an agreement.

In June 1988, Mitsubishi quickly reopened negotiations after the Senate announced hearings to examine U.S. problems with the Japanese patent system. After three days of intensive negotiations, Spero thought an agreement was in sight. A key sticking point was an insistence by Mitsubishi's Washington legal counsel—the firm of Baker and McKenzie—that neither Spero nor anyone else at Fusion Systems could ever reveal the settlement, discuss the Japanese patent system, or publicize Fusion's experiences. The final straw was a demand that Spero refuse to testify before a June Senate Commerce Committee hearing on U.S.-Japan patent conflicts. Spero was outraged. He rejected the offer and testified.

In June 1988, Lake became the media adviser to the Bush presidential campaign. Meanwhile, he continued to represent Mitsubishi.

In late 1988, several members of Congress showed a renewed interest in the Fusion case, prompting Mitsubishi to reopen its negotiations yet again. In January 1989, following still another negotiating session, Spero asked Takeshi Sakurai, Mitsubishi Electric's top representative in Washington, why Mitsubishi had raised the settlement stakes so high during their talks the summer before—high enough to kill the talks. Sakurai told Spero that he personally had upped the settlement demands when it became clear that "your government will not help you."

Fusion's case against Mitsubishi remains "tamped down"—both in Japan and in the United States. USTR Carla Hills raised the issue with the Japanese in October 1989. Spero has testified again before Congress. Mitsubishi continues to file patents in Japan. For now, Fusion remains the market leader even in Japan but operates under the growing threat of Mitsubishi's mounting pile of patent filings. Spero has nothing but praise for the career USTR negotiators who have supported his company's efforts. But he never heard from James Lake's good friend Clayton Yeutter, despite all the congressional letters and public attention.

Spero's wisdom, in retrospect: "Japan's political power in Washington is awesome. Mitsubishi and its lobbyists are just sitting there laughing at us. If they can continue to pick off the little guys like me, you can just wave goodbye to America's creative power.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC.

SUPPLEMENTAL STATEMENT—PURSUANT TO SECTION 2 OF THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

For Six Month Period Ending June 1, 1992.

Registration No.: 3911.

Name of Registrant: Robinson, Lake, Lerer & Montgomery.

Business Address of Registrant: 1667 K Street, N.W., #900, Washington, D.C. 20005.

I—REGISTRANT

1. Has there been a change in the information previously furnished in connection with the following:

(a) If an individual:
(1) Residence address.
(2) Citizenship.
(3) Occupation.
(b) If an organization:
(1) Name—No.
(2) Ownership or control—No.
(3) Branch offices—No.

2. Explain fully all changes, if any, indicated in item 1.: None.

If the registrant is an individual, omit response to Items 3, 4, and 5.

3. Have any persons ceased acting as partners, officers, directors or similar officials of the registrant during this 6 month reporting period? No.

If yes, furnish the following information: Name; Position; Date Connection Ended.

4. Have any persons become partners, officers, directors or similar officials during this 6 month reporting period? No.

If yes, furnish the following information: Name; Residence Address; Citizenship; Position; Date Assumed.

5. Has any person named in Item 4 rendered services directly in furtherance of the interests of any foreign principal? No.

If yes, identify each such person and describe his services.

6. Have any employees or individuals other than officials, who have filed a short form registration statement, terminated their employment or connection with the registrant during this 6 month reporting period? Yes.

If yes, furnish the following information: Name: Christopher Rieck. Position or connection: Associate. Date terminated: 3/31/92.

7. During this 6 month reporting period, have any persons been hired as employees or in any other capacity by the registrant who rendered services to the registrant directly in furtherance of the interests of any foreign principal in other than a clerical or secretarial, or in a related or similar capacity? Yes.

If yes, furnish the following information: Name; Residence Address; Position or connection; Date connection began.

Clare Lynam, 1233 N. Scott Street, 401, Arlington, VA 22209, Associate.*

Douglas Lowenstein, 3902 Rosemary Street, Chevy Chase, MD 20815, Vice President.**

Edith Wooten, 2250 Clarendon Blvd., Arlington, VA 22201, Associate.**

Clare Lynam, Douglas Lowenstein, and Edith Wooten have all been previously employed by Robinson, Lake, Lerer & Montgomery but did not begin work on a foreign principal until * 2/3/92 and ** 3/6/92, at which time Robinson, Lake, Lerer & Montgomery submitted their short form registrations in compliance with your rules and regulations.

II—FOREIGN PRINCIPAL

8. Has your connection with any foreign principal ended during this 6 month reporting period? Yes.

If yes, furnish the following information: Name of foreign principal: Embassy of Papua New Guinea, Date of Termination: 1/92.

9. Have you acquired any new foreign principal[1] during this 6 month reporting period? Yes.

If yes, furnish following information: Name and address of foreign principal; Date acquired:

Canadian Forest Industries Council, 1200–555 Burrard Street, Vancouver, British Columbia V7X1S7, 2/3/92.

Brewers Association of Canada, 1200, 155 Queen Street, Ottawa, Ontario K1P6L1, 3/6/92.

Ukraine, Kiev, Ukraine, 4/22/92.

10. In addition to those named in Items 8 and 9, if any, list the foreign principals whom you continued to represent during the 6 month reporting period.

Mitsubishi Electric Corp., Japan Auto Parts Industry Association, Minolta Camera, Abu Dhabi Investment Authority

III—ACTIVITIES

11. During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 8, 9, and 10 of this statement? Yes.

If yes, identify such foreign principal and describe in full detail your activities and services: See Attached.

12. During this 6 month reporting period, have you on behalf of any foreign principal engaged in political activity as defined below? Yes.

If yes, identify each such foreign principal and describe in full detail all such political activity, indicating, among other things, the relations, interests and policies sought to be influenced and the means employed to achieve this purpose. If the registrant arranged, sponsored or delivered speeches, lectures or radio and TV broadcasts, give details as to dates, places of delivery, names of speakers and subject matter.

See Attached.

13. In addition to the above described activities, if any, have you engaged in activity on your own behalf which benefits any or all of your foreign principals? No.

If yes, describe fully.

IV—FINANCIAL INFORMATION

14. (a) Receipts—Monies:

During this 6 month reporting period, have you received from any foreign principal named in Items 8, 9 and 10 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise? Yes.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies: *Date; From Whom; Purpose; Amount.* See Attached.

(b) Receipts—Things of value:

During this 6 month reporting period, have you received anything of value other than money from any foreign principal named in Items 8, 9 and 10 of this statement, or from any other source, for or in the interests of any such foreign principal? No.

If yes, furnish the following information: *Name of foreign principal; Date received; Description of thing of value; Purpose.*

15. (a) Disbursements—Monies:

During this 6 month reporting period, have you—

(1) disbursed or expended monies in connection with activity on behalf of any foreign principal named in Items 8, 9 and 10 of this statement? Yes.

(2) transmitted monies to any such foreign principal?

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal: *Date; To Whom; Purpose; Amount.* See Attached.

15. (b) Disbursements—Things of value:

During this 6 month reporting period, have you disposed of anything of value other than money in furtherance of or in connection with activities on behalf of any foreign principal named in Items 8, 9 and 10 of this statement? No.

If yes, furnish the following information: *Date disposed; Name of person to whom given; On behalf of what foreign principal; Description of thing of value; Purpose.*

(c) Disbursements—Political contributions:

During this 6 month reporting period, have you from your own funds and on your own behalf either directly or through any other person, made any contributions of money or other things of value in connection with an election to any political office, or in connection with any primary election, convention, or caucus held to select candidates for political office? No.

If yes, furnish the following information: *Date; Amount or thing of value; Name of political organization; Name of candidate.*

V—POLITICAL PROPAGANDA

(Section 1(j) of the Act defines "political propaganda" as including any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence.)

16. During this 6 month reporting period, did you prepare, disseminate or cause to be disseminated any political propaganda as defined above? Yes.

If yes, respond to the remaining items in this section V.

17. Identify each such foreign principal. Canadian Forest Industries Council, Brewers Association of Canada.

18. During this 6 month reporting period, has any foreign principal established a budget or allocated a specified sum of money to finance your activities in preparing or disseminating political propaganda? No.

If yes, identify each such foreign principal, specify amount, and indicate for what period of time.

19. During this 6 month reporting period, did your activities in preparing, disseminating or causing the dissemination of political propaganda include the use of any of the following: Radio or TV broadcasts; Advertising campaigns; Magazine or newspaper articles; Press releases; Motion picture films; Pamphlets or other publications; Letters or telegrams; Lectures or speeches; Other (specify): copies of ITC testimony.

20. During this 6 month reporting period, did you disseminate or cause to be disseminated political propaganda among any of the following groups: Public Officials; Legislators; Government agencies; Newspapers; Editors; Civic groups or associations; Libraries; Educational institutions; Nationality groups; Other (specify).

21. What language was used in this political propaganda: English; Other (specify): French.

22. Did you file with the Registration Section, U.S. Department of Justice, two copies of each item of political propaganda material disseminated or caused to be disseminated during this 6 month reporting period? Yes.

23. Did you label each item of such political propaganda material with the statement required by Section 4(b) of the Act? Yes.

24. Did you file with the Registration Section, U.S. Department of Justice, a Dissemination Report for each item of such political propaganda material as required by Rule 401 under the Act? Yes.

VI—EXHIBITS AND ATTACHMENTS

25. Exhibits A and B

(a) Have you filed for each of the newly acquired foreign principals in Item 9 the following:

Exhibit A: Yes.

Exhibit B: Yes.

If no, please attach the required exhibit.

(b) Have there been any changes in the Exhibits A and B previously filed for any foreign principal whom you represented during this six month period? No.

If yes, have you filed an amendment to these exhibits?

If no, please attach the required amendment.

26. Exhibit C: If you have previously filed an Exhibit C, state whether any changes therein have occurred during this 6 month reporting period. No.

If yes, have you filed an amendment to the Exhibit C?

27. Short form registration statement: Have short form registration statements been filed by all of the persons named in Items 5 and 7 of the supplemental statement? Yes.

The undersigned swear(s) or affirm(s) that he has (they have) read the information set forth in this registration statement and the attached exhibits and that he is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his (their) knowledge and belief, except that the undersigned make(s) no representation as to the truth or accuracy of the information contained in attached Short Form Registration Statement, if any, insofar as such information is not within his (their) personal knowledge.

MARK C. HELMKE,
President.

Subscribed and sworn to before me at, Washington, D.C. this 16th day of June, 1992, Nancy Ann Kisbanuk.

Commission Expires 10/31/96.

[From the U.S. Department of Justice, Registration Unit, Criminal Division, Washington, DC]

NOTICE

Please answer the following questions and return this sheet in triplicate with your supplemental statement:

1. Is your answer to Item 16 of Section V (Political Propaganda—page 7 of Form OBD-64—Supplemental Statement): Yes.

(If your answer to question 2 is "yes" please forward for our review copies of all such material including: films, film catalogs, posters, brochures, press releases, etc. which you have disseminated during the past six months.)

Date: 6-16-92.

MARK C. HELMKE,
President.

ITEMS 11 AND 12

Foreign Principal: Canadian Forest Industries Council.

Interests: Track legislation and administrative agency activity affecting international trade, prepare memoranda, and advise principal on taking action, if appropriate, with regard to either legislative or administrative activities and to assist the Council in its communications efforts.

Key: JHL—James H. Lake; LM—Lance Morgan; JL—Janet Lane; and CL—Clare Lynam.

Date, Person, Nature of Contact, and Individual Contacted

Jan. 24, LM, Tel. call, Cort Kirkwood, Washington Times, requesting meeting with client to discuss background of the US-Canada lumber dispute.

Jan. 30, CL, Tel. call, Joan Motyka, New York Times, regarding possibility of the New York Times doing an op-ed on the US-Canada lumber dispute.

Jan. 31, LM, Tel. call, Gordon Crovitz, Wall Street Journal, requesting meeting with client to discuss background of the US-Canada lumber dispute.

Jan. 31, CL, Tel. call, Leo Abruzzese, Journal of Commerce, requesting meeting to discuss the US-Canada lumber dispute.

Jan. 31, JL, Tel. call, James Bovard, freelance journalist, to request meeting with client.

Feb. 3, LM, Tel. call, Cort Kirkwood, Washington Times, to firm up plans for session with Washington Times editorial writers and Council members.

Feb. 3, LM, Tel. call, Karen Tumulty, Los Angeles Times, requesting interview with client to discuss US-Canada lumber dispute.

Feb. 3, CL, Tel. call, Leo Abruzzese, Journal of Commerce, requesting editorial board meeting with client to discuss the US-Canada lumber dispute.

Feb. 4, LM, Letter, Gordon Crovitz, Wall Street Journal with background information on the US-Canada lumber dispute.

Feb. 4, CL, Tel. call, Leo Abruzzese, Journal of Commerce, regarding meeting of editoral board with client to discuss US-Canada lumber dispute.

Feb. 5, LM, Letter, John Anderson, Washington Post and Peter Passell, New York Times, with background information on Canadian timber issue.

Feb. 5, CL, Tel. call, To attached list inviting them to attend press breakfast on 2/11/92 with client to discuss US-Canada lumber dispute. (#9)

Feb. 6, 7, 10, JL, CL, Tel. call, To above attached list following up on invitation to press breakfast on 2/11/92. (#9)

Feb. 6, CL, Tel. call, Mike Omeluf, Broadcasting Limited, Cal Woodward, Canadian Press Wire, regarding invitation to press breakfast on 2/11/92.

Feb. 6, CL, Tel. call, Bob Davis, Wall Street Journal, to arrange meeting with client to discuss US-Canada lumber dispute.

Feb. 6, CL, Fax, James O'Connell, CTV Television regarding press briefing breakfast on 2/11/92.

Feb. 7, LM, Tel. call, Gordon Crovitz, Wall Street Journal and John Anderson, Washington Post, regarding possible meeting with client to discuss US-Canada lumber dispute.

Feb. 7, CL, Tel. call, Bruce Stokes, National Journal, and David MacDonald, Winnepeg Free Press, regarding breakfast on 2/11/92.

Feb. 7, CL, Tel. call, Leo Abruzzese, Journal of Commerce, to confirm editorial board meeting on 2/13/92.

Feb. 10, CL, Tel. call, Bob Davis, Wall Street Journal, to confirm meeting with client on 2/11/92 and faxed some biographical information on clients.

Feb. 11, JL, CL, Meeting, Press breakfast with John Maggs, Journal of Commerce, Nancy Waitz, Reuters, Barb Sweet, Thomson Newspapers, M. Omelus, Canadian Press, Broadcast News, John Saunders, Toronto Globe and Mail, Hilary MacKenzie, Maclean's Magazine, David Schaefer, Seattle Times, Rod McQueen, Financial Post, Jim Berger, Washington Trade Daily, Mary Foley, UPI, Scott Sonner, AP, George Hoff, CBC, Alkman Granitsas, Inside US Trade, and Council members John Kerr, Gordon Ritchie, and Tom Buell.

Feb. 11–13, LM, JL, CL, Mail, Messenger and Hand Out Press packet to list attached. (#10)

Feb. 11, JL, CL, Meeting, Keith Bradsher, New York Times, and James Bovard, freelance journalist, and Council members (John Kerr, Gordon Ritchie and Tom Buell) regarding US-Canada lumber dispute.

Feb. 11, CL, Meeting, Bob Davis, Wall Street Journal, and Council members (John Kerr, Gordon Ritchie and Tom Buell) regarding U.S.-Canada lumber dispute.

Feb. 11, JL, Tel. call, Ken Smith, Washington Times, regarding confirmation of meeting with client to discuss US-Canada lumber dispute.

Feb. 12, LM, Meeting, Ken Smith, Washington Times, and Council members (John Kerr and Tom Buell) to discuss US-Canada lumber dispute.

Feb. 13, LM, Meeting, Gordon Crovitz, Wall Street Journal, and Council members (John Kerr and Gordon Ritchie) to discuss US-Canada lumber dispute.

Feb. 13, LM, Meeting, Scott Bosley, Leo Abruzzese, Aviva Freudmann, Howard Simon and Loli Wu, Journal of Commerce, and Council members (John Kerr and Gordon Ritchie) to discuss US-Canada lumber dispute.

Feb. 13, CL, Tel. call, Phil Cogswell, Oregonian, regarding possible editorial board meeting with Council members to discuss US-Canada lumber dispute.

Feb. 18, CL, Tel. call, Jim Vesely, Seattle Times, regarding possible editorial board meeting with Council members to discuss US-Canada lumber dispute.

Feb. 19, LM, Tel. calls, Richard Thomas and Bob Samuelson of Newsweek to discuss US-Canada lumber dispute.

Feb. 21, CL, Tel. call, Charles Dunshire, Seattle Post-Intelligencer, regarding possible editorial board meeting with Council members to discuss US-Canada lumber dispute.

Feb. 24, LM, Letter, Ken Smith, Washington Times with some background clippings on US-Canada lumber situation.

Feb. 24, LM, Tel. call, Gordon Crovitz, Wall Street Journal, regarding op-ed written by Gordon Ritchie.

Feb. 26, CL, Meeting, Press packet, Phil Cogswell, Oregonian, and Jim Vesely and Don Hannula, Seattle Times, and Council members to discuss US-Canada lumber dispute. Press packet was given to each.

Feb. 26, LM, Tel. call and letter, Peter Passell, New York Times, with press kit containing background on US-Canada lumber dispute.

Feb. 27, JL, Letters, Jim Hoagland, Washington Post, and Robert Samuelson, Newsweek, with press kit containing background on US-Canada lumber dispute.

Feb. 27, LM,JL, Letters, To attached list with additional background information on US-Canada lumber dispute. (#11)

Feb. 28, JL, Letter, John Memmott, US-Today, with press kit containing background on US-Canada lumber dispute.

Mar. 2, LM, Letter, Hobart Rowen, Washington Post, with press kit containing background on US-Canada lumber dispute.

Mar. 2, CL, Fax, Ken Smith, Washington Times, with some background information on US-Canada lumber dispute.

Mar. 2, CL, Tel. call, From George Hoff, CBC, requesting information on possible announcement from Department of Commerce.

Mar. 3, CL, Tel. calls, Bob Davis, Wall Street Journal and Keith Bradsher, New York Times, regarding potential announcement from Department of Commerce.

Mar. 3, LM, Tel. calls, Ken Smith, Washington Times, with background information on US-Canada lumber dispute.

Mar. 4, 5, JL, CL, Fax, Invitation to attached list to attend press conference on March 6, 1992, at the Canadian Embassy regarding the Department of Commerce's preliminary determination. (#12)

Mar. 4, 5, LM, Tel. calls, David Frum, Wall Street Journal, regarding publication of Gordon Ritchie's op-ed. Conversations were regarding background information on the piece.

Mar. 4, CL, Tel. call, Jim Vesely, Seattle Times, regarding possibility of doing editorial on the lumber dispute.

Mar. 4, CL, Tel. call, Mike Omeluf, Canadian Press, regarding possible press conference to be held at Canadian Embassy.

Mar. 5, CL, Tel. call, Leo Abruzzese, Journal of Commerce, regarding possibility of doing editorial on the lumber dispute.

Mar. 5, LM, Tel. call, George Hoff, Canadian Broadcasting, regarding possible press conference.

Mar. 6, LM, JL, CL, Hand-Out, Informational packets handed out during press conference held by the Canadian Embassy. See attached sign-in sheet. (#13)

Mar. 6, CL, Tel. call, Fax, Jim Vesely, Seattle Times, to discuss the preliminary determination made by the Department of Commerce and faxed background information.

Mar. 10, CL, Tel. call, Terry Brown, Chicago Tribune, regarding possible editorial board meeting with Council members.

Mar. 13, 16, JL, CL, Mail, Messenger, To attached press list, background information and press clippings on US-Canada timber dispute. (#14)

Mar. 13, CL, Tel. call, Terry Brown, Chicago Tribune, to discuss particulars of editorial board meeting on March 26, 1992.

Mar. 17, CL, Mail, Tel. call, Charles Dunsire, Seattle Post-Intelligencer, and Ted Douglas, Detroit News, to request editorial board meeting and sent background information and press clippings on US-Canada timber dispute.

Mar. 17, CL, Tel. calls, Chicago Sun Times, requesting editorial board meeting.

Mar. 17, CL, Fax, Tom Plate, Los Angeles Times, requesting editorial board meeting to discuss US-Canada timber dispute.

Mar. 19, CL, Tel. call, Duane Freese, USA Today, and Pat Miller, Philadelphia Inquirer, requesting editorial board meeting to discuss US-Canada timber dispute and sent background information and press clippings.

Mar. 19, CL, Fax, David Boldt, Philadelphia Inquirer, requesting editorial board meeting.

Mar. 20, CL, Tel. call, Linda McCraith, Detroit Free Press, and Terry Brown, Chicago Tribune, requesting editorial board meeting to discuss US-Canada timber dispute.

Mar. 25, LM, Letter, Morris Thompson, Detroit Free Press, Eduardo Lachica, Wall Street Journal and Irv Chapman, CNN, with background information and press clippings on US-Canada timber dispute.

Mar. 26, LM, Meeting, Terry Brown, Chicago Tribune, and Ted Boswell of CFIC, to discuss US-Canada timber dispute. Gave Terry Brown a copy of our informational packet.

Mar. 27, LM, Letter, Terry Brown, Chicago Tribune, with additional background materials requested as previous day's meeting.

Mar. 31, CL, Mail, Barbara Ireland, Buffalo News, Robert Farmer, Watertown Daily News, George Neavoll, Portland Press Herald, Dick Foster, Milwaukee Journal, Chuck Whiting, Minnesota Star Tribune, and Michele Cole, Idaho Statesman, information packet with background materials on US-Canada timber dispute.

Mar. 31, Tel. call, Duane Freese, USA Today, regarding possibility of editorial board meeting.

Apr. 1, CL, Mail, Ron Clark, St. Paul Pioneer Press, and Mark Woodward, Bangor Daily News, information packet with background information on US-Canada timber dispute.

Apr. 2, CL, Tel. call, Ron Clark, St. Paul Pioneer Press, and Mark Woodward, Bangor Daily News, regarding possibility of editorial board meeting.

Apr. 2, LM, Meeting, Morris Thompson, Detroit Free Press, and Ted Boswell of CFIC, to discuss US-Canada timber dispute. Gave Morris Thompson a copy of our informational packet.

Apr. 2, CL, Mail, Tom Plate, LA Times, and Dick Wesnick, Billings Gazette, information packet with background information on US-Canada timber dispute.

Apr. 2, CL, Tel. call, Jim Strang, Cleveland Plain Dealer, regarding possible op-ed.

Apr. 3, LM, Letter, Morris Thompson, Detroit Free Press, with additional background materials requested at previous day's meeting.

Apr. 6, CL, Tel. call, Chuck Whiting, Minneapolis Star Tribune, regarding editorial board meeting.

Apr. 6, CL, Tel. call, Ted Douglas, Detroit News, requesting copy of editorial he wrote for paper.

Apr. 8, LM, CL, Press release, Informational press release sent to the attached list. (#15)

Apr. 9, CL, Mail, Bob Witas, Milwaukee Sentinel, informational packet with background information of US-Canadian timber dispute.

Apr. 10, CL, Mail, Informational packet and press clippings on US-Canadian lumber dispute to all Members of the U.S. Senate. List is attached. (#16)

Apr. 13–May 31, Hand-out, Informational packet and press clippings on US-Canadian lumber dispute to staffs of Senators Exon, Rudman, Simon, Kerrey, Seymour, Pryor, Glenn, Mitchell, Cohen and Metzenbaum and staffs of Congressmen Sharp, Jacobs, Hyde, LaRocca, Hall, Visclosky, Long, Purcell, Roemer, Upton, Picket, Bateman and Leach.

Apr. 14, CL, Tel. call, Mark Woodward, Bangor Daily News, and George Neavoll, Portland Press, regarding editorial board meeting to discuss the US-Canada lumber dispute.

Apr. 15, LM, Tel. call, Joe Geshweiler, Marilyn Geewax, Atlanta Constitution, regarding possible editorial board meeting for members of CFIC to discuss the US-Canada timber dispute.

Apr. 15, CL, Meeting, Mark Woodword, Bangor Daily News, and George Neavoll, Portland Press Herald, to discuss US-Canada timber dispute. Gave informational packets to both newspapers.

Apr. 20, CL, Tel. call, Bob Witas, Milwaukee Sentinel to cancel editorial board meeting request.

Apr. 21, LM, Tel. call, Marilyn Geewax, Atlanta Constitution, regarding editorial board meeting.

Apr. 28, CL, Tel. call, Richard Matthews of Atlanta Journal to request editorial board meeting.

Apr. 29, CL, Press release, Eddie LaChica, Wall Street Journal, Jim Berger, Washington Trade Daily, (#17) and attached list of PR Newswire contacts. (#18)

Apr. 29, JHL, Tel. call, Clayton Yeutter, Counsellor to the President for Domestic Policy, seeking background knowledge regarding CVD case.

Apr. 30, LM, CL, Press packet, To attached list with information background, Nordhaus press release and copy of executive summary distributed by Commerce Department. (#19)

May 4, JL, Tel. call, James Bovard, freelance writer regarding Nordhaus press release and executive summary distributed by Commerce Department and sent copy of same.

May 5, CL, Tel. call, Ron Clark, St. Paul Pioneer Press, to discuss psosible editorial board meeting.

May 8, LM, Tel. call, Mail, Marilyn Geewax, Atlanta Constitution and Richard Matthews, Atlanta Journal to firm up details of meetings to be held. Sent press packets with background information on US-Canada timber dispute.

May 10, JHL, Tel. call, Clayton Yeutter, Counsellor to the President for Domestic Policy, requesting he accept phone call from an advisor to CFIC.

May 11, LM, Tel. call, Les Blumenthal, McClatchy Newspapers, regarding US-Canada timber dispute.

May 12, LM, Meeting, Marilyn Geewax, Atlanta Constitution and Richard Matthews, Atlanta Journal, to discuss US-Canada timber dispute.

May 13, LM, Tel. call, Mail, Karen Tumulty, Los Angeles Times, to discuss US-Canada timber dispute and sent along packet of background information.

May 14, LM, Tel. call, Karen Tumulty, Los Angeles Times, to discuss US-Canada timber dispute.

May 15, LM, Tel. call, John Maggs, Journal of Commerce, regarding Commerce Department's Final Determination.

May 15, JHL, Tel. call, Les Blumenthal, McClatchy Newspapers regarding US-Canada lumber dispute.

May 15, LM, CL, Press release, Attached release to attached list. (#20) and to PR Newswire List. (#18)

May 18, LM, Letter, To attached list with attached enclosures. (#21)

May 27, CL, Tel. call, Stuart Auerbach, Washington Post, Eddie Lachica, Wall Street Journal and John Maggs, Journal of Commerce to inform them of ITC hearing on May 28, 1992.

May 28, LM, Press release, See attached release (#22) to Scott Sonner, AP, Stuart Auerbach, Washington Post, Eddie Lachica, Wall Street Journal, Steve Greenhouse, New York Times, John Maggs, Journal of Commerce, Chuck Abbott, Reuters, Greg Wright, Knight-Ridder, Laura Eggerston, CP, Barbara Sweet, Thompson Newspapers, Mike Omelus, Broadcast News Ltd., Rod McQueen, Financial Post, John Saunders, Globe & Mail and Carl Hanlon, Group W News Service. Also sent to PR Newswire List. (#18)

Lodging, while in Abu Dhabi for staffing of press liaison office:

C. Walker, 3/21–4/3/92, 2,362.27;

J. Lockhart 3/7–3/21/92, 2,240.39; 4/6–4/19/92, 2,362.27.

Airfare, C. Walker, to Abu Dhabi and return for staffing of press liaison office, 3/20–4/3/92, 4,886.00.

Airfare, J. Lockhart from London to Abu Dhabi and return to staff press liaison office, 4/5–4/19/92, 2,160.00.

Total: Abu Dhabi Press: Liaison Office, $85,166.66; Washington Office, 58,997.29.

Grand Total: $144,163.95.

CANADIAN FOREST INDUSTRIES COUNCIL

Date to whom, purpose, and amount:

2/92 Agency, Reimburse Expenses—

Information Services, 25.00;

Local Transportation, 264.30;

Photocopying, 123.80;

3/92 Agency, Reimburse Expenses—

Staff Meals, 856.10;

Courier, 95.50;

Federal Express, 212.17;

Supplies for Kits, 16.32;

Information Services, 25.00;

Newswire Services, 423.93;

Photocopying, 1,184.000;

Postage, 8.86;

Video Tapes, 95.00;

Publications, 25.02;

Telephone/Telecopy 140.84;

Local Transportation, 110.00;

Limousine Service, 393.95.

Airfare to Montreal, Canada, to meet with client to discuss strategy and developments:

J. Lake—2/27–2/28/92, 514.26;

L. Morgan—2/27–2/28/92, 514.26.

Train fare to New York City, to meet with editorial boards:

L. Morgan—2/13/92, 129.00;

J. Kerr—2/13/92, 129.00.

Airfare for L. Morgan for return from New York City after editorial board meetings, 2/13/92, 142.00.

Loding while in Montreal, Canada, for meeting with client:

J. Lake—1/27/92, 230.05;

L. Morgan—1/27/92, 230.05.

4/92 Agency, Reimburse Expenses—

Staff Meals, 164.26;

Couriers, 154.10;

Federal Express, 956.33;

Supplies for Kits, 17.02;

Information Services, 25.00;

Newswire Services, 603.08;

Photocopying, 3,137.40;

Printing, 795.00;

Postage, 14.29;

Video Tapes, 105.40;

Publications, 142.81;

Telephone/Telecopy, 219.30;

Room Rental for Press Conference, 681.01;

Local Transportation, 373.75;

Car Service, 245.40.

Airfare, L. Morgan to Montreal, Canada, to meet with client to discuss strategy and developments, 3/12–3/13/92, 524.75.

Airfare, J. Lake to Vancouver, Canada, to meet with client to discuss strategy and developments, 3/23–3/24/92, 2,271.45.

Airfare, C. Lynam to Vancouver, Canada, to meet with client to discuss strategy and developments, 2/24–2/29/92, 712.40.

Lodging for L. Morgan while in Montreal, Canada, for meeting with client, 3/13/92, 214.65.

Lodging for C. Lynam while in Vancouver, Canada, for meeting with client, 2/26–2/29/92, 327.74.

5/92 Agency, Reimburse Expenses—

Staff Meals, 322.22;

Courier, 400.50;

Federal Express, 843.76;

Supplies for Kits, 715.50;

Information Services, 25.00;

Newswire Services, 206.47;

Photocopying, 3,011.60;

Postage, 102.54;

Video Tapes, 273.80;

Press Clippings, 2,154.29;

Telephone/Telecopy, 360.15;

Local Transportation, 292.00.

Airfare, L. Morgan to Chicago, Illinois, (one-way) to meet with editorial board, 3/26/92, 427.00.

Airfare L. Morgan to Detroit, Michigan, to meet with editorial board, 4/2/92, 632.00.

Airfare, L. Morgan to Vancouver, Canada, to meet with client to discuss strategy and developments, 4/22–4/25/92, 1,281.47.

Airfare, C. Lynam to Bangor, Maine, to meet with editorial boards, 4/15/92, 467.00.

Lodging for L. Morgan while in Vancouver, Canada, for meeting with client, 4/22–4/25/92, 386.18.

Total—$29,852.53.

BREWERS ASSOCIATION OF CANADA

Date to whom, purpose, and amount:

4/92 Agency, Reimburse Expenses—

Staff Meals, 41.51;

Courier, 388.00;

Federal Express, 1,311.27;

Supplies for Kits, 431.72;

Information Services, 200.00;

Photocopying, 491.00;

Postage, 94.64;

Video Tapes, 57.00;

Telephone/Telecopy, 357.56;

Supplies, 35.95;

Printing, 1,459.15;

Mailing List, 400.00;

Local Transportation, 249.60;

Air Transportation:

Airfare to Ottawa, Canada, to meet with client to discuss strategy and developments:

M. Helmke—2/27–2/28/92, 447.79;

D. Lowenstein—2/27–2/28/92, 458.79;

E. Wooten—2/27–2/28/92, 447.79;

Lodging: While in Ottawa to meet with client:

M. Helmke—2/27–2/28/92, 151.20;

D. Lowenstein—2/27–2/28/92, 155.64;

E. Wooten—2/27–2/28/92, 151.20.

5/92 Agency, Reimburse Expenses—

Staff Meals, 61.04;

Courier, 230.50;

Federal Express, 118.96;

Supplies for Kits, 14.10;

Information Services, 100.00;

Photocopying, 159.00;

Postage, .52;

Telephone/Telecopy, 470.70;

Local Transportation, 23.00;

Computer, 1,100.00;

Publications, 31.90;

Newswire Services, 68.56.

Total—$9,708.09.

Grand Total—$226,218.67.

[From the U.S. Department of Justice, Washington, DC]

EXHIBIT A—TO REGISTRATION STATEMENT "UNDER THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED"

Privacy Act Statement. Every registration statement, short form registration statement, supplemental statement, exhibit, amendment, dissemination report, copy of political propaganda or other document or information filed with the Attorney General under this act is a public record open to public examination, inspection and copying during the posted business hours of the Registration Unit in Washington, DC. One copy is automatically provided to the Secretary of State pursuant to Section 6(b) of the Act, and copies of such documents are routinely made available to other agencies, departments and Congress pursuant to Section 6(c) of the Act. Finally, the Attorney General transmits an annual report to the Congress on the Administration of the Act which lists the names of all agents and the nature, sources and content of the political propaganda disseminated or distributed by them. This report is available to the public.

Public Reporting Burden. Public reporting burden for this collection of information is estimated to average .49 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Registration Unit, Criminal Division, U.S. Department of Justice, Washington, DC 20530; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

(Furnish this exhibit for each foreign principal listed in an initial statement and for each additional foreign principal acquired subsequently)

1. Name and address of registrant: Robinson, Lake, Lerer & Montgomery, 1667 K Street, NW., #900, Washington, DC.

2. Registration No.: 3911.

3. Name of foreign principal: Canadian Forest Industries Council.

4. Principal address of foreign principal: 1200–555 Burrard Street, Vancouver, British Columbia, Canada V7X1S7.

5. Indicate whether your foreign principal is one of the following type: Foreign.

Other (specify): Council.

6. If the foreign principal is a foreign government, state: N/A.

7. If the foreign principal is a foreign political party, state: N/A.

8. If the foreign principal is not a foreign government or a foreign political party:

(a) State the nature of the business or activity of this foreign principal:

The foreign principal provides a vehicle through which the forest industries of Canada may actively support and promote common national or regional goals. In the United States, the foreign principal is concerned with U.S. trade laws and provisions of the U.S.-Canada Free Trade Agreement which would affect imports of Canadian softwood lumber and other related products.

(b) Is this foreign principal:

Owned by a foreign government, foreign political party, or other foreign principal—Yes.

Directed by a foreign government, foreign political party, or other foreign principal—Yes.

Controlled by a foreign government, foreign political party, or other foreign principal—Yes.

Financed by a foreign government, foreign political party, or other foreign principal—Yes.

Subsidized in whole by a foreign government, foreign political party, or other foreign principal—Yes.

Subsidized in part by a foreign government, foreign political party, or other foreign principal—Yes.

9. Explain fully all items answered "Yes" in Item 8(b).

Alberta Forest Products Association.
Canadian Lumbermen's Association.
Canadian Pulp and Paper Association.
Canadian Wood Council.
Cariboo Lumber Manufacturer's Association.
Central Forest Products Association, Inc.
Council of Forest Industries of British Columbia.
COFI-Northern Interior Lumber Sector.
Interior Lumber Manufacturer's Association.
Maritime Lumber Bureau.
New Brunswick Forest Products Association.
Nova Scotia Forest Products Association.
Ontario Forest Industries Association.
Ontario Lumber Manufacturers Association.
Quebec Forest Industries Association.
Quebec Lumber Manufacturers Association.
The Western Plywood Manufacturers Association.

10. If the foreign principal is an organization and is not owned or controlled by a foreign government, foreign political party or other foreign principal, state who owns and controls it. N/A.

Date of Exhibit A: 2/3/92.

Name and Title: Mark Helmke, Executive Vice President and General Manager.

[From the U.S. Department of Justice, Washington, DC.]

EXHIBIT B—TO REGISTRATION STATEMENT "UNDER THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED"

Instructions: A registrant must furnish as an Exhibit B copies of each written agreement and the terms and conditions of each oral agreement with his foreign principal, including all modifications of such agreements; or, where no contract exists, a full statement of all the circumstances by reason of which the registrant is acting as an agent of a foreign principal. This form shall be filed in triplicate for each foreign principal named in the registration statement and must be signed by or on behalf of the registrant.

Privacy Act Statement. Every registration statement, short form registration statement, supplemental statement, exhibit, amendment, dissemination report, copy of political propaganda or other document or information filed with the Attorney General under this act is a public record open to public examination, inspection and copying during the posted business hours of the Registration Unit in Washington, D.C. One copy is automatically provided to the Secretary of State pursuant to Section 6(b) of the Act, and copies of such documents are routinely made available to other agencies, departments and Congress pursuant to Section 6(c) of the Act. Finally, the Attorney General transmits an annual report to the Congress on the Administration of the Act which lists the names of all agents and the nature, sources and content of the political propaganda disseminated or distributed by them. This report is available to the public.

Public Reporting Burden. Public reporting burden for this collection of information is estimated to average .33 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden to Chief, Registration Unit, Criminal Division, U.S. Department of Justice, Washington, D.C. 20530, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

Name of Registrant: Robinson, Lake, Lerer & Montgomery.

Name of Foreign Principal: Canadian Forest Industries Council.

3. The agreement or understanding between the registrant and the foreign principal is the result of neither a formal written contract nor an exchange of correspondence between the parties. If this box is checked, give a complete description below of the terms and conditions of the oral agreement or understanding, its duration, the fees and the expenses, if any, to be received:

Duration of representation is indeterminate at this time. Fees will be billed on an hourly basis. Robinson, Lake, Lerer & Montgomery's rates range from $80.00 per hour to $400.00 per hour, dependent on level of participation.

4. Describe fully the nature and method of performance of the above indicated agreement or understanding:

1. Monitor the news media.

2. Explain to the news media and government officials, if necessary, through written and oral communications, the nature of the principal's interests.

5. Describe fully the activities the registrant engages in or proposes to engage in on behalf of the above foreign principal:

1. Monitor the news media.

2. Explain to the news media and government officials, if necessary, through written and oral communications, the nature of the principal's interests.

6. Will the activities on behalf of the above foreign principal include political activities as defined in Section 1(o) of the Act?—Yes.

If yes, describe all such political activities indicating, among other things, the relations, interests or policies to be influenced together with the means to be employed to achieve this purpose.

Various federal agencies could possibly take action on matters related to the Canadian Forest Industries Council's interests. Consequently, our activities would explain the Council's attitude toward any such activities and further explain the possible impact any such government decisions might have on the Council.

Date of Exhibit B 2/3/92.

Name and Title: Mark Helmke, Executive Vice President and General Manager.

By Mr. MACK (for himself, Mr. SEYMOUR, and Mr. GRAHAM):

S. 3204. A bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes; to the Committee on Governmental Affairs.

S. 3205. A bill to require that, in the administration of any benefits program established by or under Federal law which requires the use of data obtained in the most recent decennial census, the 1990 adjusted census data be considered the official data for such census; to the Committee on Governmental Affairs.

S. 3206. A bill to provide for the utilization of the latest available census data in certain laws related to airport improvements; to the Committee on Commerce, Science, and Transportation.

S. 3207. A bill to provide for the utilization of the most current census data in certain laws related to the environment and public works; to the Committee on Environment and Public Works.

S. 3208. A bill to provide for the utilization of the latest available census data in certain laws related to Energy and Natural Resources; to the Committee on Energy and Natural Resources.

S. 3209. A bill to provide interim current census data on below poverty, urban, rural, and farm populations; to the Committee on Governmental Affairs.

S. 3210. A bill to utilize the most current Federal census data in the distribution of Federal funds for agriculture, nutrition, and forestry; to the

Committee on Agriculture, Nutrition, and Forestry.

S. 3211. A bill to provide for the utilization of the latest available census data in certain laws related to urban mass transportation; to the Committee on Banking, Housing, and Urban Affairs.

CENSUS LEGISLATION

Mr. MACK. A total of 100 Federal programs providing around $116 billion in grants at the State and local levels use population count or characteristic data—such as age or income—in formulas that allocate all or a portion of program grant money. Some of these programs are either required by law to use decennial census data when more recent estimates are available, or the data necessary for the formula is only updated every 10 years.

I am concerned that this violates the intent of Congress in creating these programs. Congress mandates that population should be used in distributing Federal funds for the purpose of dividing those funds among States fairly, that is, in proportion to the relative number of people living in those States. Using old population data subverts congressional intent.

This is particularly unfair to States that have grown faster than the national average. For example, Florida has grown three times as fast as the rest of the Nation, adding an average of 892 people every day since the 1980 census. That is the equivalent of all of the people in Wyoming, South Dakota, Montana, and Maine packing up their belongings and moving to the Sunshine State. Florida is now the fourth largest State and will be getting four new seats in the 103d Congress.

The funds distributed by these formulas are critically needed as the population in fast growing States explodes. Unfortunately, Florida and other fast growing States will be using the additional funds distributed by the new decennial census figures just to catch up. This tends to hurt Florida and contributes to the fact that Florida receives the Nation's smallest per capita grants allocation. According to Florida Tax Watch, not only is Florida 50th out of 50 States in per capita Federal aid, it is 56th out of 56 when the District of Columbia and the territories of American Samoa, Guam, Northern Marinas, Puerto Rico, and the Virgin Islands are included. When comparing a State's share of total Federal taxes paid to its proportional share of grants received, Florida taxpayers sent $1.45 to Washington for each $1.00 returned to the State in the form of grants in aid.

In order to help correct this problem, I will be introducing eight separate bills. First, there are 10 programs that require the authorizing legislation to be amended to delete all references to the decennial census data. The first five bills divide these programs up among their respective committees of jurisdiction, amends them to delete references to the decennial census, and requires them to use the latest census estimates prepared by the Department of Commerce.

Second, there are 26 programs that use data that is only calculated once every 10 years. These programs use data concerning urban, rural, farms and below poverty populations. One bill requires the Department of Commerce to publish annual data for each State, urban area, and rural area, on below poverty, urban, rural, and farm populations.

Another bill requires programs to use the most current data available. This bill will ensure that all programs that use population data will use the most current data available and will not change back to decennial census data for political or other reasons.

The final bill requires the Census Bureau to use the post-enumeration survey data for calculation of the future estimates. This data is more accurate than the initial survey, and States that had high undercounts in the census will be cheated out of funds if the inaccurate data is used. The bottom line is this: Adjusted data are accurate, the original census figures are not. Florida stands to lose millions if the original, inaccurate figures are used. That's nonsense.

The problem of using outdated data as underscored when the Department of Education announced that it was going to use census data gathered over a decade ago to make its 1992 allocations under part A of chapter 1 of title I of the Elementary and Secondary Education Act. Florida stands to lose millions of dollars because of this error. This clearly subverts congressional intent of dividing these funds fairly based upon the number of people meeting a certain criteria in a State. It's an outrage that Florida and other fast-growth States are being short-changed by a Federal government that refuses to allow funding to follow population growth.

This legislation is only the first step in the right direction for these formula grants programs. There are other elements in these formulas that need closer scrutiny. These elements may also discriminate against fast growing States. For example, certain HUD programs such as HOME and CDBG are formula driven. A variety of factors, such as housing supply and poverty data are used in the formulas. In determining how much housing is in need of rehabilitation, HUD looks at the amount of housing built before 1950. While the housing stock of older and larger urban cities have considerable pre-1950 housing stock, newer growth States, such as Florida, do not. As a result of the weight put on pre-1950 housing stock, Florida's share of housing funds are decreased.

While these formula programs need closer scrutiny to eliminate all of the bias against fast growing States, the legislation that I have introduced today will help ease some of the problem. I urge my colleagues to correct this injustice and support these important bills.

Mr. President, I rise this morning as an original cosponsor of the legislation which my friend and distinguished colleague from Florida, Senator MACK, is introducing to allow more equity in census-based Federal formula programs. The timeliness of adjusting such programs to reflect population trends is of great importance as this country grows and changes.

Too many States and communities have been short-changed in Federal aid by the current system, which, in many programs, uses outdated figures from the decennial census. Our country was founded on the idea that all of us count, but apparently that does not mean we will all be counted on time.

As the population of individual States alters in size and composition, Mr. President, critical aid dollars must shift accordingly, not 10 years after the fact. My home State of California is a prime example. During the 1980's, our population grew by over 600,000 persons per year, the largest expansion in our Nation and a growth rate equal to the size of entire States like Wyoming, North Dakota, and Vermont. This trend has continued unabated in this decade as California added 620,000 people in 1991.

And yet, rather than using more precise annual estimates that are readily available from the Census Bureau, many Federal formula grant programs critical to California and other high-growth States, from rural hospital funds to highway improvement aid, rely on data that is at times as much as 7 or 8 years old.

These Federal funds play a decisive role in the education, transportation, and criminal justice development and maintenance programs of numerous cities and States. It makes little sense to keep Federal dollars away from these areas where they rightly belong, and it runs counter to the purpose of entire programs: Instead of providing needed help, this outdated funding system inflicts pain.

Our eight bills would help these communities by simply requiring that the most current population data available from the Census Bureau be used in the calculation of all Federal funding programs which employ census data. There is no ambiguous language, nor hidden meanings.

Five pieces of the legislation simply strike, in each relevant statute, the words "most recent decennial census" and replace this with the new phrase "latest available estimates prepared by the Department of Commerce." Another bill directs the Secretary of Commerce to prepare intercensal estimates for each State on below poverty, urban, rural, and farm populations. Our final bill would require that intercensal population estimates be based upon the statistically adjusted 1990 census figures.

On paper, these changes may seem insignificant, but, in people's everyday life, their significance cannot be overstated. From more responsive rape counseling to better local air pollution control to improved airport facilities, Federal aid affects each one of us in countless positive ways. Thus, the most accurate geographical distribution of such aid should be just as important as the aid itself.

In sum, Congress must empower State and local officials to effectively carry out their manifold responsibilities by mandating the use of the most current population data in the calculation of Federal aid programs. We in this body owe that, not only to our own constituents, but to the Nation as a whole.

I urge all my colleagues to join Senator MACK and myself in supporting the swift passage of this legislation.

By Mr. CHAFEE (for himself and Mr. BRADLEY):

S. 3212. A bill to amend the Social Security Act to improve access to Medicaid Program; to the Committee on Finance.

MEDICAID ELIGIBILITY SIMPLIFICATION ACT

Mr. CHAFEE. Mr. President, today I am introducing legislation with my colleague from New Jersey, Mr. BRADLEY, which improves the Medicaid Program and removes bureaucratic obstacles that reduce efficiency and confuse the public. These changes will insure that patients who are already eligible for services will receive better and more cost-effective care.

Current Medicaid law and regulations make it difficult for Medicaid-eligible individuals to get enrolled in the program and make it difficult for States to administer the program. The modest provisions that we propose will help simplify the procedures for existing eligibility groups and reduce States administrative burden. These changes will improve client access to the program and permit the States to be more efficient in the administration of the Medicaid Program.

This legislation permits States to extend Medicaid coverage of prenatal care services to undocumented alien pregnant women. Current law limits coverage to delivery or other emergency services for these women without regard to the welfare of the unborn child. This legislation permits the States to offer cost-effective prenatal care so that the infants—many of whom will be Medicaid eligible—have a better chance of being born healthy. A change such as ultimately this will reduce the cost to both States and the Federal Government by reducing the number of children born prematurely or with serious illnesses.

Our bill simplifies the Medicaid application process for legal aliens, permitting one adult household representative to attest to the citizenship status of all household members rather than having each family member go to the eligibility office. This provision would standardize the application process for this information with the Food Stamp Program and permit case workers to use a less burdensome process to get this information.

The bill protects the Medicaid coverage of SSI eligible children and adults in those months when Medicaid coverage is halted because of an extra paycheck. Although the overall annual income of the recipient will not have changed, patients lose Medicaid eligibility for the month in which they receive the extra paycheck because their employer pays on a weekly or biweekly basis. This bureaucratic, paper generating procedure only adds to the administrative nightmare of the Medicaid Program. More importantly, however, is the adverse effect on patient care of the on-again, off-again Medicaid coverage.

Further, our bill improves eligibility for the Medicaid welfare-to-work transitional coverage for eligible families when a family member gets a job. States report that clients often lose Medicaid coverage because of the burdensome and arbitrary client reporting requirements that were enacted with the Family Support Act of 1988. No other group of Medicaid clients has similar eligibility conditions placed on them, and under prior law this transitional coverage was not so onerous. I believe that we should change this requirement in the interest of fairness and uniformity.

Mr. President, it is critical that we make these changes in the Medicaid Program in order to improve the delivery of services and to reduce the administrative burden to make the Medicaid Program more efficient. I urge that we take advantage of an opportunity to simplify eligibility for the people covered by the program and to provide administrative relief for the States that must administer this program. I urge my colleagues to join with Senator Bradley and me in supporting this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This Act may be cited as the "Medicaid Eligibility Simplification Act."

(b) REFERENCE TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2. COVERAGE OF PREGNANCY RELATED SERVICES FOR ALIEN WOMEN DURING PREGNANCY.

(a) IN GENERAL.—Section 1903(v) (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2) by striking "only";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) Payment shall be made under this section for care and services that are furnished, at the option of the State, to an alien woman described in paragraph (1) during pregnancy if—

"(A) such care and services would be available to a woman described in section 1902(l)(1)(A), and

"(B) such alien woman otherwise meets the eligibility requirements for medical assistance under the State plan approved under this title (other than the requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1992.

SEC. 3. SIMPLIFICATION OF APPLICATION PROCESS FOR ALIENS.

(a) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(z) Notwithstanding any other provision of law, in order to meet the requirements of subsection (a)(46) and section 1137 of this Act a State may provide that the signature of an adult representative of each household that is applying for medical assistance under this title is sufficient to comply with any provisions of Federal law requiring household members to sign the application or statements in connection with the application process for such medical assistance, but only if such representative certifies in writing, under penalty of perjury, that the information contained in the application for medical assistance is true and that all members of the household applying for such medical assistance are either citizens or nationals of the United States or are eligible to receive such assistance under this title.".

(b) CONFORMING AMENDMENT.—Section 1902(a)(46) (42 U.S.C. 1936a(a)(46)) is amended by inserting "except as provided in subsection (z)," after "(46)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for medical assistance under title XIX of the Social Security Act beginning on or after October 1, 1992.

SEC. 4 ELIGIBILITY DETERMINATIONS FOR CERTAIN MONTHS IN THE CASE OF INDIVIDUALS WITH WEEKLY OR BIWEEKLY INCOME.

(a) IN GENERAL.—Section 1611(c) (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by inserting "(subject to paragraph (8))" after "An individual's eligibility for a benefit under this title for a month"; and

(2) by adding at the end the following new paragraph:

"(8)(A) If an individual is paid or otherwise receives income in any month on a regular weekly or biweekly basis (or is deemed under section 1614(f) to have income so paid or received), the determination under paragraph (1) of an individual's eligibility for benefits under this title for such month shall be made by treating such amounts as having been paid or received on a monthly basis at the same annual rate if such treatment would result in the individual becoming eligible for such benefits. "(B) For purposes of subparagraph (A)—

"(i) the annual rate of income being paid to or received by an individual on a weekly basis in any month is 52 times the amount of the weekly income during such month (or of the average weekly income, if there is a change in the actual weekly rate during such month), and the annual rate of income being paid to or received by an individual on a biweekly basis in any month is 26 times the amount of the biweekly income during such month (or of the average biweekly income, if there is a change in the actual biweekly rate during such month); and

"(ii) the amount of such income to be considered as being paid to or received by an individual on a regular monthly basis at the "same annual rate' (in such month) is 1/12 of the annual rate determined under clause (i) with respect to the weekly or biweekly income involved.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to determinations of eligibility beginning on or after October 1, 1992.

SEC. 5. OPTIONAL REPORTING REQUIREMENTS UNDER MEDICAID TRANSITIONAL MEDICAL ASSISTANCE.

(a) IN GENERAL.—Section 1925(b)(2)(B) (42 U.S.C. 1396r-6(b)(2)(B)) is amended—

(1) in clause (i), by striking "Each State shall" and inserting "A State may"; and

(2) in clause (ii), by striking "Each State shall" and inserting "A State may".

(b) CONFORMING AMENDMENTS.—Section 1925 (42 U.S.C. 139r-6) is amended—

(1) in subsection (a)(2)(A), by inserting", if any," after "subsection (b)(2)(B)(i)";

(2) in subsection (b)(1), by inserting", if any," after "paragraph (2)(B) (i)";

(3) in subsection (b)(2)(A)(i), by inserting "if any," after "subparagraph (B)(i)," and "subparagraph (B)(ii),";

(4) in subsection (b)(2)(A)(ii), by inserting", if any," after "subparagraph (B)(ii)";

(5) in subsection (b)(3)(A)(iii), by inserting "the State does not require the reporting of such information, or" "unless"; and

(6) the last sentence of subsection (b)(3)(A), is amended to read as follows: "If a State requires a family to report information under paragraph (2)(B)(ii), the State shall make determinations under clause (iii)(III) for a family each time such a report is received.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to eligibility determinations for calendar quarters beginning on or after October 1, 1992.

SEC. 6. PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN.

(a) QUALIFIED PROVIDER.—Section 1920 (42 U.S.C. 1396r-1) is amended in subsection (b)(2) by inserting "any individual who is employed by the State and who is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A) or" after "the term 'qualified provider' means".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1992.

SEC. 7. MEDICARE PREMIUMS AND COST-SHARING FOR MEDICALLY NEEDY INDIVIDUALS.

(a) IN GENERAL.—Section 1905(p)(1)(B) (42 U.S.C. 1396d(p)(1)(B)) is amended by inserting "or, at the option of the State, who is eligible under section 1902(a)(10)(C)" after "paragraph (2)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1992.

SEC. 8. CLARIFICATION OF INCOME METHODOLOGY USED IN DETERMINING ELIGIBILITY OF CERTAIN MEDICALLY NEEDY INDIVIDUALS FOR MEDICAID BENEFITS.

(a) IN GENERAL.—Section 1903(f) (42 U.S.C. 1396b(f) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) With respect to the methodology to be used in determining income and resource eligibility for individuals under section 1902(a)(10)(C)(i)(III), the applicable income limitation described in paragraph (1)(B) shall be compared to the adjusted income of such individuals after the State income methodology has been applied, including methodology allowed under section 1902(r)(2).".

(b) CONFORMING AMENDMENT.—Section 1903(f)(1)(A) (42 U.S.C. 1396b(f)(1)(A)) is amended by striking "(4)" and inserting "(5)".

Mr. BRADLEY. Mr. President, I rise as an original cosponsor of legislation by Senator CHAFEE that will help eliminate some of the bureaucratic barriers that prevent persons living in poverty from being able to receive basic health care services under Medicaid. Many of these barriers prevent pregnant women, who are living in extreme poverty, from receiving prenatal care and well baby care—services we know will help reduce health care costs and that ensure a healthy start for our young children.

I would like to cite one example of the type of problem that persons who are eligible for Medicaid may face in simply trying to cope with the administrative hassles of gaining and maintaining their eligibility. We know that in many professions, workers are paid at irregular intervals, rather than exactly the same paycheck every single month. Yet because of the way Medicaid counts income, persons who receive too much money during a brief period, but which does not exceed any annual limits, may be thrown off of Medicaid. A month or two later, they must again suffer through the lengthy, demoralizing, and sometimes demeaning process to regain their eligibility, because their paycheck may vary seasonally.

This process simply prevents them from receiving basic health care services, during which time they may be forced to receive care in an emergency room as the only available alternative. This results not only in greater hassles for the patient, and greater costs for our society, but also more of both for the State agency who must process several eligibility determinations for the same individual. This bill would correct this absurdity by calculating income in a manner that is consistent with the limits under Medicaid, but does not create rigid and inappropriate barriers that make no sense.

Each of the several provisions in this bill addresses an effort to try to make sure that persons eligible for Medicaid, in particular those essential services to pregnant women, are able to get the services they need. It sounds so simple, but in reality, it is not. We know how Medicaid rates are so low that many doctors refuse to accept those patients. We know how many persons living in poverty may not seek access to primary care services that encourage and maintain good health. We also know that our Federal programs designed to address many of these problems are so fragmented that even those who can benefit from them can't make it through the bureaucratic minefield to do so.

This bill begins a much needed process to identify those barriers and to make those changes in Medicaid that can simplify the excessive bureaucracy and get services to those persons in need. I thank the Senator from Rhode Island for his leadership on this issue and his introduction of this important piece of legislation.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. KERREY, Mr. BURNS, and Mr. PELL):

S. 3213 A bill to authorize the establishment of the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

CHIEF BIG FOOT NATIONAL MEMORIAL PARK AND WOUNDED KNEE NATIONAL MEMORIAL ESTABLISHMENT ACT

Mr. DASCHLE. Mr. President, today I am joining with my colleague from South Dakota, Senator PRESSLER, and Senators KERREY, BURNS, and PELL, to introduce legislation that would establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in South Dakota. The purpose of this effort is to acknowledge the historical significance of the armed struggle between the Plains Indians and the U.S. Army that culminated in the massacre of over 300 Lakota Sioux men, women and children at Wounded Knee, SD, on December 29, 1890.

The historical importance of Wounded Knee is clear. This watershed event came at a time of great turbulence and upheaval for the Indians of the Plains, and it signaled an end to a tragic chapter of American history that is often referred to in history texts as the "Indian Wars." What is perhaps more significant is that it marked the turning point in national policy that forced tribes onto smaller and smaller reservations and toward greater and greater dependency on the Federal Government.

On December 15, 1890, Indian agents in the employ of the government, concerned about the potential ramifications of a spiritual movement among the Sioux known as the Ghost Dance revival, attempted to arrest Chief Sitting Bull. When one of his followers shot at the Indian police, they returned fire, mortally wounding Sitting Bull.

Chief Big Foot, Sitting Bull's half brother, took in Sitting Bull's followers. The band fled from the Bad Lands toward the Pine Ridge Reservation. The U.S. Army intercepted the party and accepted an unconditional surrender from Chief Big Foot, and the entire band was escorted to Wounded Knee Creek.

A subsequent skirmish between several of Chief Big Foot's followers and soldiers was initiated by a single gunshot, the origin of which remains undocumented. This exchange quickly escalated into a largely one-sided volley of bullets, leaving approximately 350 to 370 Sioux men, women, and children dead or wounded. The U.S. Army suffered 60 casualties, many of whom were reportedly hit by bullets fired by their comrades.

Those are the facts of the Wounded Knee Massacre. One hundred years later, the 101st Congress passed Senate Congressional Resolution 153, which acknowledged the carnage at Wounded Knee and expressed "congressional support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee.

The bill we are introducing today gives substance to that sentiment.

Mr. President, considerable thought has been given to the Wounded Knee Memorial project. It has truly been a joint effort among representatives of the descendants of the victims and survivors of the Wounded Knee massacre, the Oglala Sioux and Cheyenne River Sioux Tribal governments, Members of Congress, the State of South Dakota, and the Department of the Interior.

This effort has traveled a long road. Since 1950, Wounded Knee has been studied six times by the National Park Service and has been identified as a prime candidate for addition to the National Park System. Since 1987, the Lakota tribes and the State of South Dakota have been cooperating to plan for the preservation and interpretation of Wounded Knee.

In Congress, the Senate Select Committee on Indian Affairs held hearings on proposals to establish a Wounded Knee Memorial and Historic Site on September 25, 1990 in Washington, and on April 30, 1991, at the Pine Ridge Indian Reservation.

In May 1991, at the request of the Lakota Sioux and with the support of the Secretary of the Interior, the National Park Service began a study to explore management alternatives for the Wounded Knee site. This process has included strong public participation from the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, and the Wounded Knee Survivors Associations.

In my mind, there is no doubt our common goal—the establishment of the Chief Big Foot National Park and a Wounded Knee Memorial. However, I do not view the introduction of this legislation today as the culmination of this cooperative effort or the end of public comment.

There are a number of issues addressed in this bill that will require further discussion and refinement, and all interested parties will be encouraged to participate in this process. I anticipate that Park service studies and congressional committees will devote additional time and energy to such issues as land acquisition for Chief Big Foot National Park, design of the Wounded Knee Memorial, and management of the national park and memorial. Additional input from the Oglala Sioux and Cheyenne River Sioux Tribal officials, the Wounded Knee Survivors Associations, individual tribal members, the State of South Dakota, the Department of the Interior, and the Congress undoubtedly will further improve this project. I welcome debate on this proposal and look forward to participating in the deliberation process.

Mr. PRESSLER. Mr. President, today I join my colleague, Senator DASCHLE, in introducing legislation to establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in our home State of South Dakota. These memorials will appropriately acknowledge the historical significance of the sites relating to the Wounded Knee Massacre of 1890, acknowledgement which is long overdue.

During the 101st Congress, the Senate adopted Senate Concurrent Resolution 153, recognizing the 100th anniversary of the Wounded Knee Massacre. This resolution, which I cosponsored, also expressed support for the establishment of a suitable and appropriate memorial to those who were so tragically slain in the 1890 massacre. The legislation we are introducing today is designed to give reality to those words of support.

In December 1890, Chief Big Foot and his band of Minneconjou Sioux journeyed from the Cheyenne River Indian Reservation to the Pine Ridge Indian Reservation to make peace between the Indians and non-Indians. Along the way, a tragic event occurred along Wounded Knee Creek, which runs through the Pine Ridge Reservation, in which over 300 Indian men, women, and children were slain by U.S. Cavalry. The massacre marked the last military encounter of this country's Indian Wars period.

While many Americans have at some time heard of the Wounded Knee Massacre, most do not have a clear understanding of the historical events leading up to the 1890 incident nor of the battle itself. Indians and non-Indians alike must know the truth about this tragic chapter in our history.

The chain of events immediately preceding the massacre began December 15. On that day, several Indian police were ordered by the U.S. Army to arrest Sitting Bull, a revered Sioux leader. In the skirmish that followed, Sitting Bull was killed at his cabin on the Standing Rock Reservation. Refugees from Sitting Bull's camp joined Chief Big Foot's band of Minneconjou Sioux at the Cheyenne River Reservation. Tension and mistrust grew between the U.S. Army and the Indians.

When ordered by the Army to move his people to a nearby fort, Chief Big Foot fled to Chief Red Cloud at the Pine Ridge Reservation for safety, despite the harsh winter conditions. Hemorrhaging and overcome by pneumonia, Chief Big Foot surrendered on December 28, to a detachment of the 7th Cavalry—the same regiment that was wiped out at Little Big Horn under Lieutenant General Custer's command.

The tired and hungry band of Indians was escorted by the cavalry to the battalion bivouac at Wounded Knee Creek, where they made camp for the night. The next morning, Col. James W. Forsyth decided to disarm the Indians to prevent any violence. When only a few weapons were found, a thorough search was ordered. The situation became extremely hostile. The oral history passed on by Indian survivors and the official written reports by Army officers provide conflicting accounts of what happened next.

Apparently, a Sioux Indian named Black Coyote, said to be deaf, refused to give up his rifle. He shouted that he had purchased the weapon for a great deal of money and refused to part with it. In the ensuing scuffle, Black Coyote's gun discharged. An already nervous cavalry began shooting, and a melee broke out. In the senseless violence that followed, over 300 Indians died, including woman and children. Of the approximately 30 soldiers killed, almost all were hit by their own crossfire. A blizzard kept burial parties away until 3 days later, when the bodies were hastily buried in a mass grave. This terrible event marked the end of the American Indian Wars, as well as the end of a spiritual revival movement among the Sioux.

Enactment of this legislation will facilitate a greater understanding of the events associated with the Wounded Knee Massacre and enhance our appreciation of Indian culture, heritage, and history. Proper acknowledgement of the 1890 Wounded Knee Massacre has long been in the making. The massacre site was first marked on May 28, 1903 by a 6-foot granite monument erected by a group of Sioux survivors. Since 1950, Wounded Knee has been studied six times by the National Park Service, which consistently has reaffirmed it as a nationally significant area, and a prime candidate for addition to the National Park System.

In 1965, Wounded Knee was declared a national historic landmark, which offered the site limited protection. Since 1986, the Sioux Indians have remembered the massacre by annually retracing Chief Big Foot's 250-mile route from the Cheyenne River Indian Reservation to the Wounded Knee site at the Pine Ridge Indian Reservation. These efforts properly illustrate the need to enact this legislation, ensuring that sites related to the massacre are preserved and protected.

It should be noted that this legislation may need some fine tuning before it passes the Senate. I look forward to working with Senator DASCHLE, members of the Cheyenne River and Oglala Sioux Tribes, the Governor of South Dakota, the National Park Service, and other organizations to ensure this legislation is implemented with proper consultation with the Indian communities. It is imperative that Indian perspective be included in developing the memorials' interpretive sites.

It is my hope that enhancing national awareness of the Wounded Knee tragedy will promote a greater understanding between Indian and non-Indian cultures and people. This renewed focus on Wounded Knee has awakened a new sense of pride among the Sioux people. This is a tremendous opportunity to educate everyone on Sioux heritage. I urge my colleagues to support this legislation and further the process of reconciliation between Indian and non-Indians.

By Mr. SIMPSON (for himself, Mr. D'AMATO, Mr. SHELBY, and Mr. SEYMOUR):

S. 3214. A bill to amend the immigration and Nationality Act to improve the admissions process at airports and other ports of entry; to the Committee on the Judiciary.

PORT OF ENTRY INSPECTIONS IMPROVEMENT ACT OF 1992

Mr. SIMPSON. Mr. President, I rise today to introduce legislation to address a serious immigration problem at our Nation's international ports of entry. Because of loopholes that exist in our immigration laws, large numbers of illegal aliens are entering the United States at our major ports of entry and are then disappearing into the interior of our country.

The problem is particularly acute at international airports. During the past fiscal year, approximately 37,500 aliens attempted to enter illegally at U.S. ports of entry with either fraudulent documents, or no documents. These aliens have discovered that because we have limited detention space, they will likely be paroled into the community at large if they simply indicate a desire to apply for asylum in the United States. Although these aliens are directed by the Immigration Service to return on a particular date to pursue an asylum application, the majority fail to do so.

At New York's John F. Kennedy Airport, for example during the last 6 months of 1991, 1,855 out of 3,100 aliens who were paroled into the country, failed to appear for a hearing on their claim for asylum. A New York Times article describes this problem in significant detail.

The bill I introduce today will address this problem, while at the same time, preserving and protecting the ability of aliens to present legitimate, good-faith applications for asylum. The bill provides that any alien who uses a fraudulent document to enter the United States, or who uses a document to board an airplane overseas but fails to present that document upon arrival in the United States, would be subject to an immediate order of exclusion by an immigration officer. By enabling the Immigration Service to immediately remove these illegal aliens, we will deter those persons abroad who seek a "free pass" into the United States from inundating our airports; and we will spare our communities the burden and potential risks of absorbing additional illegal aliens.

However, this bill will still protect those aliens who have legitimate claims to asylum, but who attempt to enter the country without proper documents. The legislation would prevent the Immigration Service from immediately removing any alien who has a credible fear of prosecution in the country to which he would be returned. If an alien has such a fear, he would be paroled into the United States, and a hearing on the merits of his asylum claim would be scheduled.

Mr. President, similar legislation was passed by the Senate in 1982 and 1984, and was also passed by the House in 1984, as part of the Immigration Reform and Control Act. Unfortunately, this provision was not included in the final version of that legislation, which was enacted in 1986. Nevertheless, previous support for this important enforcement tool is noteworthy. This is not some extreme, harsh, or radical proposal; but rather, it is one with broad public and bipartisan support. The legislation I introduce today is more specific than the 1984 version, but the intent and the effect are similar. Quite simply put: Legitimate seekers of political asylum should not be turned away at our international airports, but those who seek to abuse our generous immigration and refugee laws to enter the country illegally should be swiftly and surely removed.

I should note that this legislation was transmitted by the administration to the Congress on April 30, 1992. I ask unanimous consent to include in the RECORD the transmittal letter, a copy of the bill, and a section-by-section analysis of the bill prepared by the administration.

I support the administration's proposal, and I encourage its adoption. However, I am not wedded to this version and no other, and I would be most pleased to consider carefully any suggestions that any of my colleagues might have to improve the legislation. This legislation is urgently needed, and I would encourage all my colleagues to give it their earnest support.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC.

Hon. DAN QUAYLE,
President of the Senate,
U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I am submitting for your immediate consideration and appropriate reference a legislative proposal that addresses a problem of growing concern in the immigration area: the fraudulent use of documents by illegal aliens to gain entry into the United States at U.S. ports-of-entry.

The problem is particularly acute at airports, where nationwide in fiscal year 1991 approximately 37,500 aliens sought illegal entry into the United States with either fraudulent or no documentation. These aliens have discovered that, given the U.S. government's limited detention space, they will likely be "paroled" into the community at large if they simply indicate a desire to apply to asylum in the United States. Although they are directed by the Immigration & Naturalization Service to return at a specified date to file an asylum application, the majority fail to do so. At New York's John F. Kennedy Airport for example, during the last six months of 1991, 1,855 out of 3,100 aliens who were paroled into the community failed to appear for their appointments.

This proposed bill is drafted to address this problematic situation and, at the same time, to preserve and protect those aliens who present legitimate asylum claims. The bill provides that any alien who uses or attempts to use a fraudulent document for entry into the United States, or to board a common carrier for the purpose of coming to the United States, would be subject to an order of exclusion issued by an immigration officer. Such an order would not be subject to direct judicial review, although limited review by writ of habeas corpus would continue to be available. The bill provides a caveat for an alien who used such legitimate claim to asylum.

A provision is also included to provide for exclusion for aliens who use a document to board a common carrier but who then fail to provide the document to the inspector. This provision is designed to deal with the increasingly common practice of presenting fraudulent documents to common carriers and then destroying or discarding them prior to immigration inspection.

Finally, the bill contains a provision which would increase from five years to ten years the maximum term of imprisonment to be imposed for alien smuggling as provided by section 274 of the Immigration & Nationality Act. This section would further provide for the imposition of a term of imprisonment of no more than twenty years in cases of alien smuggling in which the offender causes serious bodily injury to, or places in jeopardy the life of, any alien involved in the offense.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this legislative proposal from the standpoint of the Administration's program. I am forwarding an identical letter to the Speaker of the House. I urge prompt and favorable consideration of this legislative proposal by the Congress.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

SECTION-BY-SECTION ANALYSIS—PORT OF ENTRY INSPECTIONS IMPROVEMENT ACT OF 1992

The amendments proposed in this bill address the problem of undocumented and falsely documented aliens who seek to apply for asylum and other immigration benefits upon their arrival in our international airports. The relative ease by which aliens may fly into the United States with fraudulent documents and simply file asylum applications, whether meritorious or not, has induced a floodtide of migrants that seriously threatens the fair and proper administration of our immigration laws. These amendments to the Immigration and Nationality Act (The INA) strengthen our border enforcement programs by providing for the special port of entry exclusion of undocumented and falsely documented aliens, while ensuring that aliens with meritorious asylum claims receive a full and fair hearing.

SECTION 2: RESTRICTIONS ON ADMISSIONS FRAUD

Section 2(a) adds to the categories of aliens excluded from admission to the United States under section 212(a) of the INA, 8 U.S.C. 1182(a), persons who seek to enter with fraudulent, forged, or stolen documents, or persons who fail to present to the immigration officer any document produced when they boarded a common carrier for travel to the United States.

Section 2(b) amends section 208 of the INA, 8 U.S.C. 1158, to provide that any alien who commits admissions fraud, or whose travel document "disappears" en route, may not apply for asylum, unless he or she shows that the fraudulent, forged, or stolen document, or "disappeared" document, was used exclusively to depart from or to avoid return to a country in which he or she has a credible fear or persecution.

An alien who indicates a desire to apply for asylum will be interviewed by specially trained officers who will determine whether he or she has a credible fear of persecution. Credible fear of persecution is defined as the judgment that the alien's statements are probably true and there is a significant possibility the alien could establish that he is a refugee within the meaning of section 101(a)(42)(A) of the INA, 8 U.S.C. 1101(a)(42). Aliens found to have such fear will be permitted to apply for asylum. All other undocumented or falsely documented aliens will be specially excluded from the United States.

Section 2(b) also amends section 212(c) of the INA, 8 U.S.C. 1182(c), to provide that aliens who commit admissions fraud may not obtain a waiver of their exclusion.

SECTION 3: SPECIAL PORT OF ENTRY EXCLUSION

Section 3 amends section 235 of the INA, 8 U.S.C. 1255, to provide that an alien who is excludable for admissions fraud may be ordered specially excluded and removed from the United States without further inquiry or appeal. While the possibility of habeas corpus is preserved (*see* section 4), orders of special exclusion are not subject to judicial review under section 106 of the INA, 8 U.S.C. 1105a, or any other provision of law.

SECTION 4: RESTRICTIONS ON JUDICIAL REVIEW

Section 4 deprives the courts of jurisdiction to review any claims arising out of special exclusion except in the context of the alien's habeas corpus petition. New subsection (f) of 8 U.S.C. section 1225 (INA section 235) bars judicial review of special exclusion for admissions fraud except for habeas corpus inquiry limited to examination of whether the petitioner is an alien and has been ordered specially excluded. New subsection (g) of 8 U.S.C. section 1225 bars judicial review or intervention with respect to the procedures established by the Attorney General for implementing the special exclusion provisions and provides that, except by the specified habeas corpus inquiry, no suit or claim may be heard attacking or seeking to delay the special exclusion of aliens. New subsection (h) of 8 U.S.C. section 1225 provides that judgments of exclusion, special exclusion, or deportation may not be collaterally reviewed in any action for the assessment of penalties for improper entry or reentry of aliens under sections 275 and 276 of the INA, 8 U.S.C. 1325 and 1326.

SECTION 5: ENHANCED PENALTIES FOR CERTAIN ALIEN SMUGGLING

Section 5 amends section 274 of the INA, 8 U.S.C. 1324, to provide increased penalties for alien smuggling in certain situations. Currently, section 274(a)(1) provides for punishment of up to five years' imprisonment for each alien involved in one of the listed offenses. The first amendment raises the authorized punishment to ten years' imprisonment for each such alien.

The second amendment provides for punishment of up to twenty years' imprisonment for each alien involved in cases in which the defendant causes serious bodily injury to or places in jeopardy the life of an alien in the course of the offense. The phrase "puts in jeopardy the life of an alien" is modeled on the bank robbery statute, 18 U.S.C. 2113(d), which provides for greater punishment if the defendant puts in jeopardy the life of someone by the use of a dangerous weapon. However, it is not necessary that a dangerous weapon be used to justify the enhanced punishment under section 274(a)(1). The term "serious bodily injury" is taken from 18 U.S.C. 1365.

S. 3214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Port of Entry Inspections Improvement Act of 1992".

SEC. 2. ADMISSIONS FRAUD.

(a) EXCLUSION FOR FRAUDULENT DOCUMENTS OR FAILURE TO PRESENT DOCUMENTS.—Section 212(a)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking "(C) MISREPRESENTATION" and inserting in lieu thereof the following:

"(C) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS";

(2) by adding at the end the following new clause:

"(iii) FRAUDULENT DOCUMENTS AND FAILURE TO PRESENT DOCUMENTS.—

"(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer to whom the document is presented, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the alien presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

"(II) Any alien who, in boarding a common carrier for the purpose of coming to the United States, presents a document which relates or purports to relate to the alien's eligibility to enter the United States, and fails to present such document to an immigration officer upon arrival at a port of entry into the United States, is excludable.".

(b) PROVISION FOR ASYLUM AND OTHER DISCRETIONARY RELIEF.—

(1) Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsections:

"(e)(1) Notwithstanding subsection (a), any alien who, in seeking entry to the United States or boarding a common carrier pursuant to direct departure to the United States, presents any document which, in the determination of the immigration officer to whom the document is presented, is fraudulent, forged, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, may not apply for or be granted asylum, unless presentation of the document was pursuant to direct departure from—

"(A) a country in which the alien has a credible fear of persecution; or

"(B) a country in which there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(2) Notwithstanding subsection (a), an alien who, in boarding a common carrier pursuant to direct departure to the United States, presents any document which relates or purports to relate to the alien's eligibility to enter the United States, and who fails to present such document to an immigration official upon arrival at a port of entry into the United States, may not apply for or be granted asylum, unless presentation of such document was pursuant to direct departure from—

"(A) a country in which the alien has a credible fear of persecution; or

"(B) a country in which there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(3)(A) Whenever an immigration officer determines that an alien seeks entry to the United States as described in paragraph (1) or (2) and that the alien has indicated a desire to apply for asylum, the immigration officer shall refer the matter to an immigration officer specially trained to conduct interviews and to make determinations bearing on eligibility for asylum, who shall interview the alien to determine whether presentation of the document was pursuant to departure from—

"(i) a country in which the alien has a credible fear of persecution; or

"(ii) which there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(B) If the immigration officer determines that the alien does not have a credible fear of persecution in the country from which the alien was last present before attempting entry into the United States, and that there is no significant danger that the alien would be returned from such country to a country in which the alien would have a credible fear of persecution, the alien may be specially excluded and deported in accordance with section 235(e). The alien may not appeal such determination.

"(4) As used in this subsection, the term 'credible fear of persecution' means—

"(A) it is more probable than not that the statements made by the alien in support of his or her claim are true; and

"(B) there is a significant possibility, in light of such statements and of such other facts as are known to the officer about country conditions, that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).".

(2) Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended in the third sentence by inserting before the period "or to any alien who is excludable pursuant to section 212(a)(6)(C)(iii)".

(3) Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), any alien, who has not been admitted to the United States and who is excludable under section 212(a)(6)(C)(iii), is ineligible for withholding of deportation pursuant to section 243(h), and may not apply for withholding of deportation or for any other relief under this Act, except as provided in section 208(e) with respect to asylum.

"(2) An alien under paragraph (1) who has been found ineligible to apply for asylum under section 208(e) may be returned only—

"(A) to a country in which, in the judgment of an immigration officer specially trained to conduct interviews and to make determinations bearing on eligibility for asylum, the alien has no credible fear of persecution upon return; and

"(B) to a country from which, in the judgment of such officer, there is no significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.".

(4) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended—

(A) in the second sentence of paragraph (1) by striking out "Deportation" and inserting in lieu thereof "Subject to section 235(d)(2), deportation"; and

(B) in the first sentence of paragraph (2) by striking out "If" and inserting in lieu thereof "Subject to section 235(d)(2), if".

SEC. 3. SPECIAL PORT OF ENTRY EXCLUSION FOR ADMISSIONS FRAUD.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) (as amended by section 2(b)(3) of this Act) is amended by adding after subsection (d) the following new subsection:

"(e)(1) Subject to paragraph (2), any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under section 212(a)(6)(C)(iii) may be ordered specially excluded and deported by the Attorney General, either by a special inquiry officer or otherwise.

"(2)(A) An alien who has been found ineligible to apply for asylum under section 208(e) may be returned only—

"(i) to a country in which, in the judgment of an immigration officer specially trained to conduct interviews and to make determinations bearing on eligibility for asylum, the alien has no credible fear of persecution upon return; and

"(ii) to a country from which, in the judgment of such officer, there is no significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(B) Such special exclusion order is not subject to administrative appeal and shall have the same effect as if the alien has been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall not be available under section 106 or, except by habeas corpus as herein provided, under any other provision of law.

"(C) Nothing in this subsection may be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.".

SEC. 4. RESTRICTIONS ON JUDICIAL REVIEW.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) (as amended by section 3 of this Act) is amended by adding after subsection (e) the following new subsections:

"(f) ALIENS EXCLUDABLE FOR ADMISSIONS FRAUD.—Notwithstanding any other provision of law, no court shall have jurisdiction to review, except by petition for habeas corpus, any determination made with respect to an alien found excludable for admissions fraud pursuant to section 212(a)(6)(C)(iii). In any such case, review by habeas corpus shall be limited to examination of whether the petitioner (1) is an alien, and (2) was ordered specially excluded from the United States pursuant to sections 212(a)(6)(C)(iii) and 235(e).

"(g) INTERVIEWS AND SPECIAL EXCLUSION.—(1) Notwithstanding any other provision of law, no court shall have jurisdiction—

"(A) to review the procedures established by the Attorney General for the determination of admissions fraud pursuant to section 212(a)(6)(C)(iii); or

"(B) to enter declaratory or injunctive relief with respect to the implementation of subsection (d) or (e).

"(2) Notwithstanding the nature of the suit or claim, no court shall have jurisdiction (except by habeas corpus petition as provided in subsection (f)) to consider the validity of any adjudication or determination of special exclusion or to provide declaratory or injunctive relief with respect to the special exclusion of any alien.

"(h) COLLATERAL ENFORCEMENT PROCEEDINGS.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under sections 275 and 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under sections 235, 236, and 242.".

SEC. 5. ENHANCED PENALTIES FOR CERTAIN ALIEN SMUGGLING.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended—

(1) by striking "five years" and inserting "ten years"; and

(2) by inserting before the period at the end of paragraph (1) ", except that in any case in which a person causes serious bodily injury to, or places in jeopardy the life of, any alien involved in the offense, such person shall be fined in accordance with the provisions of title 18, United States Code, or imprisoned not more than 20 years for each alien with respect to whom any violation of this paragraph occurs, or both.".

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall apply to aliens who arrive in or seek admission to the United States on or after the date of enactment of this Act.

Mr. D'AMATO. Mr. President, I rise today to cosponsor the Port of Entry Inspections Improvement Act of 1992, which Senator SIMPSON is introducing. This legislation seeks to address the problem of undocumented and falsely documented aliens who apply for asylum and other immigration benefits upon their arrival in U.S. international airports. Under the provisions of this bill, any alien who uses a fraudulent document for entry, or to board a plane or other common carrier for the purpose of coming to the United States, would be subject to an order of exclusion by an immigration officer.

Such an order would not be subject to direct judicial review, although limited review by writ of habeas corpus would continue to be available. The bill provides an exception for an alien who used such a document for attempted entry or boarding and who had a legitimate claim to asylum. An alien who states a desire to apply for asylum will be interviewed by specially trained officers who will determine whether the alien has a credible fear of persecution.

Approximately 1.1 million immigrants enter the United States legally each year; 140,000 of these immigrants receive refugee status. Officials estimate that about 1 million more enter the country illegally.

This legislation attempts to address primarily the problem of undocumented illegal aliens arriving in airports. During 1991 in airports nationwide, over 37,000 aliens who had either fraudulent or no proper documentation sought illegal entry into the United States. Unfortunately, INS has limited detention space and these aliens know that they will probably be paroled onto the streets if they state their desire to apply for asylum. For example, during a single 1-month period, December 1991, 1,230 inadmissible aliens arrived at JFK Airport. Only two dozen were detailed; the other 1,200 were paroled into the United States.

At JFK International Airport, during the last 6 months of 1991, 1,855 out of 3,100 aliens scheduled for an asylum hearing did not appear at the scheduled time.

The bill also increases the term of imprisonment for alien smuggling. This is similar to an amendment I introduced last year to the Senate omnibus crime bill and which was passed unanimously.

These provisions to the Immigration and Nationality Act strengthen our port of entry enforcement programs by providing for the special port of entry exclusion of undocumented and falsely documented aliens, while ensuring that aliens with legitimate asylum claims receive a full and fair hearing as I have explained above.

Mr. President, I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that a copy of a January 27, 1992, Washington Post article entitled "Immigration's Unofficial Open Door" and a copy of a April 20, 1992, Crain's New York Business article entitled "Handling of the Illegals at JFK is Just Plain Dumb" be printed in their entirety following the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

IMMIGRATION'S UNOFFICIAL OPEN DOOR—ILLEGAL ENTRANTS SWAMP KENNEDY AIRPORT'S DETENTION FACILITIES

(By Al Kamen)

NEW YORK—It used to be difficult to gain illegal entry into the United States.

Gaining illegal entry used to evoke images of families driving through Mexico in vans, then sneaking by the Border Patrol in the dead of night.

Many still enter the United States by crossing the Rio Grande at night, but there's no need for such hassle. Anyone who wants to come to the United States need only buy a plane ticket and arrive at New York's John F. Kennedy International Airport. The border here is open, according to Immigration and Naturalization Service officials.

A flood of illegal arrivals at Kennedy, expected to exceed 10,000 this year, has swamped INS detention facilities there.

As a result, virtually everyone is allowed in. Those without proper entry documents, such as a tourist visa, are detained briefly at the airport and told to appear at a hearing before an immigration judge—14 months later. Most never show up.

"The numbers are so great now that the word is clearly out that there is a lack of a deterrent at Kennedy airport," said INS district director William S. Slattery. "As such, anybody in the world who wants to come can come."

Last month, a record 1,250 illegal entrants, mostly East Asians and Chinese, landed at JFK. Two years ago, no more than about 500 illegal entrants arrived at the airport in any month. "We anticipate we'll be up to 1,500 by March," Slattery said. "It's just growing and growing" as smugglers and others discover "we just don't have the resources to prevent them from coming in."

The numbers of these new airport arrivals are relatively small by comparison with the hundreds of thousands of illegal entrants who cross the Mexican border. But the number of people without proper documents who were caught at airports more than doubled between fiscal years 1987 and 1990, to 43,580, according to INS figures.

INS officials say most of the illegal entrants board a plane, often with fraudulent documents that they destroy en route. If they are assisted by a smuggler, the smuggler gathers the documents on the plane so they can be used again. Many illegal entrants come without any identification papers.

The INS accepts "whatever name they give us, whatever nationality they want to claim." Slattery said "So the fellow who purports to be a freedom fighter from Afghanistan could be a taxicab driver from Cairo," he said "Here's the irony. We then give them a U.S. government document . . . with a number and picture and fingerprint on it . . . to prove they are who they verbally represented to us."

The New York INS office has space for only about 190 prisoners—90 at a jail in Manhattan and 100 at a privately run jail in Queens.

By law, the INS cannot summarily return anyone who wants to enter the United States. "We require an immigration judge to make a determination on admissibility and most of these people claim asylum before the judge to slow the process down," Slattery said. "The turnover [in detention] is so slow that I can only introduce 20 new inmates a month. That's less than a day's work. In this district, if you are not in detention. I cannot get you before an immigration judge until 1993."

Los Angeles International Airport had a similar problem, according to the INS district director there, Robert M. Moschorak. As many as 1,000 illegal passengers arrived at Los Angeles in November 1990 and again the next month. When a new detention center opened in early 1991, allowing the INS to detain as many as 800 people, the number of new illegal entrants dropped to about 250 a month.

"There is no question in my mind that word got back quickly to the sending countries" that new arrivals would face long detention, Moschorak said.

But as illegal entrants plummeted in Los Angeles, the numbers rose in New York in what appears to be a global cat-and-mouse game. "I think I've got some of Moschorak's traffic," New York's Slattery said of his Los Angeles colleague, "because Moschorak has a deterrent [expanded detention facilities] that I do not enjoy.

Adding to the number of detention spaces in New York is not the best solution, INS officials said. First, each bed costs about $100 a day. To pay for the new beds, INS would likely have to cut back on airport inspectors. Fewer inspectors would result in long lines and waits for the 10 million passengers—5 million citizens and 5 million foreigners—who arrive at Kennedy each year.

Furthermore, INS officials said, increasing detention capacity at one airport could simply divert many illegal arrivals to another one.

INS officials have felt for years that the only long-term solution to problems at the airports is to change the law—allowing what is called "summary exclusion" of illegal entrants. That would mean anyone applying for admission would have a prompt screening of their request at the airport. A determination would be made then as to whether the applicant should stay while his or her claim is reviewed. The goal would be to sort out the frivolous claims from the legitimate ones.

Refugee advocates denounced the proposal. "Such a move would violate constitutional due process and would be incompatible with the Refugee Act of 1980," said Arthur Helton of the Lawyers Committee on Human Rights. "It's on an INS wish list, but it's forbidden by law and it's unlikely the law will change," he said. The applicants "have a right to a hearing on their claim for protection."

Meanwhile, people keep arriving at the airport.

On a recent Monday—generally a slow day for immigration inspectors—thousands of passengers from overseas arrived during the peak afternoon hours. Only a few were detained in INS holding areas. Most were quickly released.

In one holding room, three men who refused to talk to officials, saying they spoke only Punjabi, sat for hours waiting for an interpreter. They had arrived the night before. In another holding room a man from Liberia, two from China and two from India sat awaiting interpreters and interrogation.

The Liberian, George Oweh, said he was a 28-year-old student from Monrovia fleeing his country's brutal civil war. Troops, "looking for food or whatever," came to his home and killed his parents and three brothers, he said, and he left two months ago. He said he went to Guinea and then Ghana, where he sold his mother's gold ornaments to a smuggler who took everything in order to get him to Togo, then Brussels and eventually here.

Oweh, who said he knew no one in this country, had $222 in his pocket and said that, if he were released, he would wander about New York "hoping to meet a Liberian person who would help me" find a job and shelter.

Asked what would happen to Oweh once he was interrogated, the INS area port director, Roseanne C. Sonchik, said, "He'll be released, there's no space. He'll be here a few hours." One of the Indian men, who initially refused to be photographed or fingerprinted, might be detained longer, she said. "Eventually, he'll be on the street, so he figures it's worth it."

Many of those detained recently will not allow themselves to be photographed or fingerprinted. Slattery said, "And they won't engage in any conversation with you at all. . . . They are calling our bluff. They're saying, I'm not even going to tell you my name, you're not going to get my fingerprints and I know there's very little you can do with me."

There are nearly 400 inspectors at Kennedy, more than ever, Slattery said, who use computerized lookout lists to check everyone who arrives.

"Why does the United States government think we need 400 . . . inspectors out at Kennedy airport?" Slattery asked. "Why do we pay the benefits for 400 people? If it's to prevent individuals from entering the United States, that's not happening . . . at least today it's not."

Those who do not cooperate, at least to the extent that they are fingerprinted and photographed, are the most likely to be detained—if there is a bed available—"so I can say we do send someone back," Slattery said.

Refugee advocates say the INS detention procedures often lead to people with bona fide asylum claims being among those confined, often for several months.

A proposal under study within the INS would have trained asylum officers at airports to screen asylum seekers as they arrive. That "would introduce rationality to the process," Helton said, "so those with strong asylum claims would be released and those who pose a danger to the community would be confined" pending resolution of their claims.

HANDLING OF THE ILLEGALS AT JFK IS JUST PLAIN DUMB

Do you sometimes have the uneasy feeling that at every level of government you can find "dumb?"

Take this business of illegal aliens arriving at Kennedy. It's been in all the papers. A passenger jet lands at JFK carrying a couple of hundred people from one foreign country or another and like cattle they're herded into the vast reception halls of the international arrival building down various dank corridors.

First come the immigration formalities; later, the customs. On the plane every passenger's been given a form to fill out. Now, inside the arrivals building, passengers are chivvied this way or that, depending on citizenship. Yanks go one way, foreigners another.

Nothing unfair or denigrating about this. The Brits do it the same way at Heathrow, the French at Charles de Gaulle. Give a break to the home folks. But at JFK, when the long queues of arriving foreign passengers shuffle toward the immigration gates, the trouble starts.

Some of the recently arrived foreigners lack passports or visas or both. How this happens, I cannot explain. But what happens from here on out is pretty stupid.

The rules say that no one can enter the United States without a valid passport and, in most instances, a visa. But these folks are already here. So what do the authorities do with them? Why, at JFK, after delay and wrangling and debate and I'm sure an element of frustration on both sides, the illegal aliens, for that's what they are, are released through immigration and customs and given an appearance ticket to report back into the immigration service at some future date.

I don't need to tell you few of these people ever report back anywhere. Instead, they disappear into the Carey buses and the subways and the taxicabs and into the maw of the great city itself. The reason? Because JFK lacks a detention center sufficiently large to hold all the illegals who pass through there every day.

Now we are told such a detention center is going to be built. It will cost a little taxpayer money but what the hell, when did the government ever worry about a little taxpayer money?

But until they get this airport jail built, and considering how long it takes the government to repair a door knob, illegal aliens arriving on our shores will continue to be interrogated and harassed a bit and then let loose into the Land of the Free and the Home of the Brave.

This is not a knock on immigration officers out at Kennedy. They do a splendid job. It is a rap on a system that's just plain dumb.

I don't know about you but I've never once gotten on an international flight anywhere in the world without being required at the check-in desk to produce a valid passport and, where it was obtained, a visa. You just don't stroll through waving your ticket. You have to show the passport. So how do all these illegals arrive here without the right papers? They're being permitted to board airplanes at their airports of origin without being checked out.

So I have an idea. The next time Air Pakistan or Air Asia or Air Shangri-La arrives with even a single illegal alien at JFK, the authorities don't detain the guy or give him a free ride into Manhattan. They put him right back on that same plane, refusing him entry. The plane is then going to have to carry a non-paying passenger back to where he came from. And if it's a crowded plane, they may have to dump a paying passenger to do so.

Send a few illegals back home at the expense of the airline that brought them here and you will solve this problem rather swiftly. At the other end the ticket clerks are going to start doing what they ought to be doing, asking to see the passport and the visa before anyone boards a plane for JFK.

It's so simple you wonder why it hasn't occurred to those people who are now planning to build this great detention center.

By Mr. KASTEN (for himself, Mr. LIEBERMAN, and Mr. MACK):

S. 3215. A bill to amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged business enterprises; to the Committee on Finance.

MINORITY ENTERPRISE DEVELOPMENT ACT

Mr. KASTEN. Mr. President, I rise today with Senators LIEBERMAN and MACK to introduce a bill which could significantly expand the number of minority-owned small business owners across the country by increasing the flow of venture capital to minority entrepreneurs.

This legislation, the Minority Enterprise Development Act of 1992 is close companion to H.R. 4221 introduced in the House of Representatives in February by House Small Business Committee Chairman JOHN LAFALCE. It was introduced with bipartisan original cosponsors, including the ranking member on the House Small Business Committee, Representative ANDY IRELAND.

Both bills would provide tax deductions and targeted capital gains tax relief for individuals and corporations that invest in minority-owned businesses. My bill also offers the option of a tax credit in place of the tax deduction in order to provide more choices for investors. This tax relief would be provided for those who invest directly or through a special investment fund designated to provide capital for minority-owned businesses.

The increased need for capital for minority entrepreneurs was brought to my attention by Bill Beckett, president and CEO of Future Value Ventures Inc., a specialized small business investment company (SSBIC) based in Milwaukee, WI. Future Value Ventures is an SSBIC licensed and accredited by the Small Business Administration to make investments in minority-owned small businesses.

The story of Future Value Ventures is impressive. Started in 1984, they are the only SSBIC in Wisconsin. In the past 8 years Future Value Ventures has placed over $1.5 million in eight companies, six of which are continuing to grow and thrive today.

Their problem of raising investment capital is not unlike the other 135 SSBIC's across the country. Investors are often more hesitant to take a risk on a minority-owned company. This problem was underscored by the U.S. Commission on Minority Business Development, who released a report last year stating that lack of capital was "one of the most formidable stumbling blocks to the formation and development of minority business."

The truth is that SSBIC's have had a very successful record in locating promising entrepreneurs and helping to create jobs. Approximately 20,000 firms have received financing in the last 20 years of the SSBIC Program—15,000 in the last 10 years. Over $1 billion has gone into minority-owned firms in the last decade, and nearly half of this amount went to new companies. Between 1987–89, SSBIC's helped provide capital to create over 50,000 jobs. SSBIC's clearly have developed the necessary skills to direct capital to profitable ventures.

Mr. President, I want to stress that this tax relief is targeted to focus the benefits on the minority business sector—urban and rural. Small business is clearly the engine of job creation. Two-thirds of all new jobs created in the last decade can be credited to small business.

The concept behind this legislation is being discussed both in the Senate and the House, and by Republicans and Democrats alike. Congress has the ability to give a real boost to minority entrepreneurship. This is exactly the type of legislation that can bring opportunity to those who have few chances for upward mobility. Investment capital for minority entrepreneurs can provide the best opportunity to climb the economic ladder and create more jobs for people across the country.

By Mr. MOYNIHAN:

S. 3216. A bill to direct the Secretary of the Army to conduct an investigation of the long Island Sound that includes the development and construction of a model, and for other purposes; to the Committee on Environment and Public Works.

LONG ISLAND SOUND COMPREHENSIVE IMPROVEMENT ACT

• Mr. MOYNIHAN. Mr. President, I rise today to introduce the Long Island Sound Improvement Act of 1992.

This bill authorizes the Army Corps of Engineers, in consultation with the Environmental Protection Agency , to develop a comprehensive plan of improvement for the Long Island Sound. Various bills in the past have addressed the many problems confronting the sound and its many surrounding communities. And there are many complex problems. Water quality, high nutrient levels, navigation, hurricane and storm protection and, of course, continual beach erosion.

Various programs are ongoing, are well intended and have my support. The Management Conference on Long Island Sound, for example, is addressing the problems of pollution in the sound. The Congress has also approved other studies by the Corps of Engineers and the Environmental Protection Agency. This bill would give these efforts a new unified focus. The corps would identify all ongoing studies, assess the problems and recommend effective solutions.

In addition, this bill would provide for the development of two models. One, an analytical model to chart water circulation and therein pollutants; and, a second large-scale physical model of the sound to be housed in a public education center. Here we take advantage of the corps' unique expertise in solving complex water problems.

Mr. President, we also have an opportunity here to develop and test new and innovative technology to the benefit of the Nation. We do too little of that. Let's take this small step in that direction.

This historic body of water is a national asset. It has served the East Coast's largest port for over 200 years. It deserves our attention.•

By Mr. DECONCINI:

S.J. Res. 333. Joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week"; to the Committee on the Judiciary.

LINCOLN LEGACY WEEK

• Mr. DECONCINI. Mr. President, it is with great pleasure and pride that I rise to introduce a joint resolution designating the week beginning February 7, 1993, as Lincoln Legacy Week.

In the spring of 1989, students Carol Bien-Wilner, Lizz Cohen, Jaime Lewis, Carol Mack, Ilene Mass, and Heidi Sherman from Saguaro High School in Scottsdale, AZ, together with their history teacher John Calvin, stood at the steps of the Lincoln Memorial. As they recalled the historic events that occurred there and reflected upon America's continuing commitment to democracy and liberty for all people, an idea was born. This moment was a catalyst for an inspired undertaking—the desire to create a museum at the Lincoln Memorial to commemorate the living legacy of Lincoln. These students pledged to work together to accomplish their goal.

The students began with a simple plan to place a plaque at the Lincoln Memorial commemorating Dr. Martin Luther King, Jr.'s "I Have A Dream" speech. They collected 2,000 signatures in 4 days to support their proposal. They lobbied former Gov. Rose Mofford for a proclamation in support of the project and she complied. During the fall of 1990, with the assistance of the American Federation of Teachers, they returned to Washington, DC, and presented their ideas to Members of Congress and received bipartisan support. When the students met with National Park Service officials, they received a positive response. The Park Service had already been considering a similar project * * *. After many meetings with more congressional and other officials and many successes, they received bad news. The Commemorative Works Act prohibits placing plaques at National Memorials. They were nevertheless undaunted by the news and forged ahead. Instead of a simple plaque, these students decided on a museum to commemorate all the accomplishments of Lincoln.

After a year of hard work and perseverance, the group from Arizona mobilized 17 students from 16 States who gathered together in Washington, DC, in November 1990, under the auspices of the American Federation of Teachers and the Close Up Foundation, for an intensive study of Lincoln's legacy and a series of meetings with Park Service managers and exhibit specialists. The students played an active role in the meetings and even prepared designs for the museum. They were successful in maintaining the integrity of the project, and solicited ideas from students across the Nation whose contributions will be reflected in the exhibits at what will be the Lincoln Memorial Museum.

In February 1992, a core group of students from across the Nation began a nationwide penny drive, appropriately named "Pennies Make a Monumental Difference," to raise the $300,000 necessary for the new Lincoln Memorial Museum. Their campaign, organized with very little private sector support, has been a success. The Lincoln Memorial Museum is scheduled to open in August 1993, the anniversary of King's historic "I Have A Dream" speech in Washington, DC. It will be a museum belonging not only to the thousands of young people who donated their pennies but to all peoples of the world. It is a shining example of what a grassroots effort is all about.

Mr. President, these young people were inspired by Lincoln to pursue a dream. They not only accomplished their original goal, but have achieved much more. I urge my colleagues to join me in expressing our deep pride in the students across this Nation who through hard work and deep conviction have realized a dream by cosponsoring this resolution. I ask unanimous consent that the joint resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 333

Whereas Abraham Lincoln exemplified honesty and fairness to all people, generosity of spirit, and unswerving dedication to upholding democracy, human dignity, and the integrity of the United States of America;

Whereas February 12, 1993, marks the anniversary of the birth of Abraham Lincoln;

Whereas Abraham Lincoln is revered throughout the world for his vision of freedom and equality;

Whereas Abraham Lincoln's contributions have touched the lives of the people of the United States;

Whereas Abraham Lincoln's legacy of freedom and equality for all people continues to capture the imagination of humanity;

Whereas the life and ideals of Abraham Lincoln are commemorated by the Lincoln Memorial;

Whereas the Lincoln Memorial has served as a platform for individuals to exercise their democratic freedoms in support of civil rights, equal rights, and constitutional rights;

Whereas the legacy of Abraham Lincoln has inspired individuals in the United States, such as Dr. Martin Luther King, Jr., to gather at the Lincoln Memorial to share their dreams and lift their voices for a better United States;

Whereas the youth of the United States will display the ideals of freedom and civil rights by joining in the national "Pennies Make a Monumental Difference" campaign, which emphasizes the importance of the involvement of individuals;

Whereas during the week beginning February 7, 1993, students across the Nation will study the legacy of Abraham Lincoln and participate in the "Pennies Make a Monumental Difference" campaign to support new exhibits at the Lincoln Memorial; and

Whereas during the week beginning February 7, 1993, activities will occur that are designed to encourage people to promote the legacy of Abraham Lincoln and further the ideals of freedom and equality for all: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning February 7, 1993, is designated as "Lincoln Legacy Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.•

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. SIMON):

S.J. Res. 335. Joint resolution to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and to offer an apology to native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii; to the Committee on the Judiciary.

KINGDOM OF HAWAII APOLOGY ACT

Mr. AKAKA. Mr. President, January 17 of next year will mark the 100th anniversary of an event in American history which has had a profound impact on the destiny of the native Hawaiian people. I am speaking of the overthrow of the Kingdom of Hawaii on January 17, 1893.

Not until our Nation understands the significance of the events surrounding the overthrow of the Kingdom of Hawaii will the American people appreciate the meaning of the native Hawaiian rights movement which grows stronger every day.

I have often been asked, "Why is there so much turmoil within the Hawaiian community? Aren't native Hawaiians happy to be Americans?" The fact is, Mr. President, that many Hawaiians, like myself, love America. We love what America stands for. Native Hawaiians have fought alongside their American brothers and sisters to defend the cherished principles of freedom and democracy in wars that took us far from home. Nevertheless, like all great countries, the United States has made mistakes. A nation can only grow stronger by acknowledging and learning from the errors of the past. It is an understatement to say that many native Hawaiians proud as they may be to be Americans, are deeply hurt about our country's failure to recognize its complicity in the 1893 overthrow of the Hawaiian monarchy.

The resolution I am introducing today will recognize a chapter in America's history that must never be forgotten. My resolution calls upon Congress to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and offer an apology to native Hawaiians on behalf of the United States for its complicity in this event. My resolution also urges the Federal Government to use the 100th anniversary as a foundation for further actions to achieve reconciliation between the United States and the native Hawaiian people.

The need for reconciliation is long overdue. In recent years, the Bush administration has made every attempt to ensure that native Hawaiians are not given the same political rights enjoyed by other native Americans. These efforts include constitutional challenges to legislation extending benefits to native Hawaiians on the basis that such legislation creates suspect classification. The Federal Government has also sought to absolve itself of responsibilities under federally created legislation like the Hawaiian Homes Commission Act of 1920.

When it comes to native Hawaiians, the Bush administration has a total blind spot. In their view, one of the largest indigenous populations in the United States, native Hawaiians, simply does not exist. The most recent example of its negligent Federal policy towards native Hawaiians occurred during the Earth Summit in Rio de Janeiro, Brazil, in June. Chapter 3 of the U.S. National Report for the United Nations Conference on Environment and Development [UNCED], entitled "Indigenous Peoples," makes no mention of the unique historical and political relationship which exists between the United States and the native Hawaiian people. Yet the chapter thoroughly covers the political relationships between the Federal Government and native American Indians, Alaska Natives, and the people of the U.S. insular areas—America Samoa, Guam, the Commonwealth of the Northern Marianas, Puerto Rico, and the U.S. Virgin Islands.

How can the United States hope to educate the world community about its indigenous peoples, if we continue to ignore the existence of native Hawaiians in national reports and Federal policy?

Few Americans know that the Kingdom of Hawaii was a highly organized, civilized, and sovereign nation from the unification of the Hawaiian Islands under King Kamehameha I in 1810 until the overthrow of its last monarch, Queen Liliuokalani, in 1893.

Few Americans appreciate that for close to 70 years, between 1826 and 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full and complete diplomatic recognition to the Hawaiian Government and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation.

Americans do not understand that without the active support and intervention by U.S. diplomatic and military representatives, the overthrow of Queen Liliuokalani on January 17, 1893, would have failed for lack of popular support and insufficient arms.

Finally, few Americans know that in a message to Congress on December 18, 1893, President Grover Cleveland described the overthrow of Queen Liliuokalani as an "act of war, committed with the participation of a diplomatic representative of the United States without the authority of Congress", and acknowledged that by such acts the government of a peaceful and friendly people was overthrown.

Americans must pause to consider these facts as the 100th anniversary of the overthrow of the Kingdom of Hawaii nears. They should begin by reading the complete text of President Cleveland's message which I ask unanimous consent to be printed in the RECORD.

I urge my Senate colleagues to join me in supporting my resolution to offer an apology to native Hawaiians on behalf of the United States for the overthrown of the Kingdom of Hawaii. Only then, Mr. President, will Americans truly understand the moral justice behind the native Hawaiian rights movement. And only then, Mr. President, can native Hawaiians begin to heal their pain and feel like full-fledged and respected Americans.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL MESSAGE

To the Senate and House of Representatives:

In my recent annual message to the Congress I briefly referred to our relations with Hawaii and expressed the intention of transmitting further information on the subject when additional advices permitted.

Though I am not able now to report a definite change in the actual situation, I am convinced that the difficulties lately created both here and in Hawaii and now standing in the way of a solution through Executive action of the problem presented, render it proper, and expedient, that the matter should be referred to the broader authority and discretion of Congress, with a full explanation of the endeavor thus far made to deal with the emergency and a statement of the considerations which have governed my action.

I suppose that right and justice should determine the path to be followed in treating this subject. If national honesty is to be disregarded and a desire for territorial extension, or dissatisfaction with a form of government not our own, ought to regulate our conduct, I have entirely misapprehended the mission and character of our Government and the behavior which the conscience of our people demands of their public servants.

When the present Administration entered upon its duties the Senate had under consideration a treaty providing for the annexation of the Hawaiian Islands to the territory of the United States. Surely under our Constitution and laws the enlargement of our limits is a manifestation of the highest attribute of sovereignty, and if entered upon as an Executive act, all things relating to the transaction should be clear and free from suspicion. Additional importance attached to this particular treaty of annexation, because it contemplated a departure from unbroken American tradition in providing for the addition to our territory of islands of the sea more than two thousand miles removed from our nearest coast.

These considerations might not of themselves call for interference with the completion of a treaty entered upon by a previous Administration. But it appeared from the documents accompanying the treaty when submitted to the Senate, that the ownership of Hawaii was tendered to us by a provisional government set up to succeed the constitutional ruler of the islands, who had been dethroned, and it did not appear that such provisional government had the sanction of either popular revolution or suffrage. Two other remarkable features of the transaction naturally attracted attention. One was the extraordinary haste—not to say precipitancy—characterizing all the transactions connected with the treaty. If appeared that a so-called Committee of Safety, ostensibly the source of the revolt against the constitutional Government of Hawaii, was organized on Saturday, the 14th day of January; that on Monday, the 16th, the United States forces were landed at Honolulu from a naval vessel lying in its harbor; that on the 17th the scheme of a provisional government was perfected, and a proclamation naming its officers was on the same day prepared and read at the Government building; that immediately thereupon the United States Minister recognized the provisional government thus created; that two days afterwards, on the 19th day of January, commissioners representing such government sailed for this country in a steamer especially chartered for the occasion, arriving in San Francisco on the 28th day of January, and in Washington on the 3d day of February; that on the next day they had their first interview with the Secretary of State, and another on the 11th, when the treaty of annexation was practically agreed upon, and that on the 14th it was formally concluded and on the 15th transmitted to the Senate. Thus between the initiation of the scheme for a provisional government in Hawaii on the 14th day of January and the submission to the Senate of the treaty of annexation concluded with such government, the entire interval was thirty-two days, fifteen of which were spent by the Hawaiian Commissioners in their journey to Washington.

In the next place, upon the face of the papers submitted with the treaty, it clearly appeared that there was open and undetermined an issue of fact of the most vital importance. The message of the President accompanying the treaty declared that "the overthrow of the monarchy was not in any way promoted by this Government," and in a letter to the President from the Secretary of State, also submitted to the Senate with the treaty, the following passage occurs: "At the time the provisional government took possession of the Government buildings no troops or officers of the United States were present or took any part whatever in the proceedings. No public recognition was accorded to the provisional government by the Untied States Minister until after the Queen's abdication and when they were in effective possession of the Government buildings, the archives, the treasury, the barracks, the police station, and all the potential machinery of the Government." But a protest also accompanied said treaty, signed by the Queen and her ministers at the time she made way for the provisional government, which explicitly stated that she yielded to the superior force of the United States, whose Minister had caused United States troops to be landed at Honolulu and declared that he would support such provisional government.

The truth or falsity of this protest was surely of the first importance. If true, nothing but the concealment of its truth could induce our Government to negotiate with the semblance of a government thus created, nor could a treaty resulting from the acts stated in the protest have been knowingly deemed worthy of consideration by the Senate. Yet the truth or falsity of the protest had not been investigated.

I conceived it to be my duty therefore to withdraw the treaty from the Senate for examination, and meanwhile to cause an accurate, full, and impartial investigation to be made of the facts attending the subversion of the constitutional Government of Hawaii, and the installment in its place of the provisional government. I selected for the work of investigation the Hon. James H. Blount, of Georgia, whose service of eighteen years as a member of the House of Representatives, and whose experience as chairman of the Committee of Foreign Affairs in that body, and his consequent familiarity with international topics, joined with his high character and honorable reputation, seemed to render him peculiarly fitted for the duties entrusted to him. His report detailing his action under the instructions given to him and the conclusion derived from his investigation accompany this message.

These conclusions do not rest for their acceptance entirely upon Mr. Blount's honesty and ability as a man; nor upon his acumen and impartiality as an investigator. They are accompanied by the evidence upon which they are based, which evidence is also herewith transmitted, and from which it seems to me no other deductions could possibly be reached than those arrived at by the Commissioner.

The report with its accompanying proofs, and such other evidence as is now before the Congress or is herewith submitted, justifies in my opinion the statement that when the President was led to submit the treaty to the Senate with the declaration that "the overthrow of the monarchy was not in any way promoted by this Government", and when the Senate was induced to receive and discuss it on that basis, both President and Senate were misled.

The attempt will not be made in this communication to touch upon all the facts which throw light upon the progress and consummation of this scheme of annexation. A very brief and imperfect reference to the facts and evidence at hand will exhibit it character and the incidents in which it had its birth.

It is unnecessary to set forth the reasons which in January, 1893, led a considerable proportion of American and other foreign merchants and traders residing at Honolulu to favor the annexation of Hawaii to the United States. It is sufficient to note the fact and to observe that the project was one which was zealously promoted by the Minister representing the United States in that country. He evidently had an ardent desire that it should become a fact accomplished by his agency and during his ministry, and was not inconveniently scrupulous as to the means employed to that end. On the 19th day of November, 1892, nearly two months before the first overt act tending towards the subversion of the Hawaiian Government and the attempted transfer of Hawaiian territory to the United States, he addressed a long letter to the Secretary of State in which the case for annexation was elaborately argued, on moral, political, and economical grounds. He refers to the loss to the Hawaiian sugar interests from the operation of the McKinley bill, and the tendency to still further depreciation of sugar property unless some positive measure of relief is granted. He strongly inveighs against the existing Hawaiian Government and emphatically declares for annexation. He says: "In truth the monarchy here is an absurd anachronism. It has nothing on which it logically or legitimately stands. The federal basis on which it once stood no longer existing, the monarchy now is only an impediment to good government—an obstruction to the prosperity and progress of the islands."

He further says: "As a crown colony of Great Britain or a Territory of the United States the government modifications could be made readily and good administration of the law secured. Destiny and the vast future interests of the United States in the Pacific clearly indicate who at no distant day must be responsible for the government of these islands. Under a territorial government they could be as easily governed as any of the existing Territories of the United States." * * * "Hawaii has reached the parting of the ways. She must now take the road which leads to Asia, or the other which outlets her in America, gives her an American civilization, and binds her to the care of American destiny." He also declares: "One of two courses seems to me absolutely necessary to be followed, either bold and vigorous measures for annexation or a 'customs union,' an ocean cable from the Californian coast to Honolulu, Pearl Harbor perpetually ceded to the United States, with an implied but not expressly stipulated American protectorate over the islands. I believe the former to be the better, that which will prove much the more advantageous to the islands, and the cheapest and least embarrassing in the end to the United States. If it was wise for the United States through Secretary Marcy thirty-eight years ago to offer the expend $100,000 to secure a treaty of annexation, it certainly can not be chimerical or unwise to expend $100,000 to secure annexation in the near future. To-day the United States has five times the wealth she possessed in 1854, and the reasons now existing for annexation are much stronger than they were then. I can not refrain from expressing the opinion with emphasis that the golden hour is near at hand."

These declarations certainly show a disposition and condition of mind, which may be usefully recalled when interpreting the significance of the Minister's conceded acts or when considering the probabilities of such conduct on his part as may not be admitted.

In this view it seems proper to also quote from a letter written by the Minister to the Secretary of State on the 8th day of March, 1892, nearly a year prior to the first step taken toward annexation. After stating the possibility that the existing Government of Hawaii might be overturned by an orderly and peaceful revolution, Minister Stevens writes as follows: "Ordinarily in like circumstances, the rule seems to be to limit the landing and movement of United States forces in foreign waters and dominion exclusively to the protection of the United States legation and of the lives and property of American citizens. But as the relations of the United States to Hawaii are exceptional, and in former years the United States officials here took somewhat exceptional action in circumstances of disorder, I desire to know how far the present Minister and naval commander may deviate from established international rules and precedents in the contingencies indicated in the first part of this dispatch."

To a minister of this temper full of zeal for annexation there seemed to arise in January, 1893, the precise opportunity for which he was watchfully waiting—an opportunity which by timely "deviation from established international rules and precedents" might be improved to successfully accomplish the great object in view; and we are quite prepared for the exultant enthusiasm with which in a letter to the State Department dated February 1, 1893, he declares: "The Hawaiian pear is now fully ripe and this is the golden hour for the United States to pluck it."

As a further illustration of the activity of this diplomatic representative, attention is called to the fact that on the day the above letter was written, apparently unable longer to restrain his ardor, he issued a proclamation whereby "in the name of the United States" he assumed the protection of the Hawaiian Islands and declared that said action was "taken pending and subject to negotiations at Washington." Of course this assumption of a protectorate was promptly disavowed by our Government, but the American flag remained over the Government building at Honolulu and the forces remained on guard until April, and after Mr. Blount's arrival on the scene, when both were removed.

A brief statement of the occurrences that led to the subversion of the constitutional Government of Hawaii in the interests of annexation to the United States will exhibit the true complexion of that transaction.

On Saturday, January 14, 1893, the Queen of Hawaii, who had been contemplating the proclamation of a new constitution, had, in deference to the wishes and remonstrances of her cabinet, renounced the project for the present at least. Taking this relinquished purpose as a basis of action, citizens of Honolulu numbering from fifty to one hundred, mostly resident aliens, met in a private office and selected a so-called Committee of Safety, composed of thirteen persons, seven of whom were foreign subjects, and consisted of five Americans, one Englishman, and one German. This committee, though its designs were not revealed, had in view nothing less than annexation to the United States, and between Saturday, the 14th, and the following Monday, the 16th of January—though exactly what action was taken may not be clearly disclosed—they were certainly in communication with the United States Minister. On Monday morning the Queen and her cabinet made public proclamation, with a notice which was specially served upon the representatives of all foreign governments, that any changes in the constitution would be sought only in the methods provided by that instrument. Nevertheless, at the call and under the auspices of the Committee of Safety, a mass meeting of citizens was held on that day to protest against the Queen's alleged illegal and unlawful proceedings and purposes. Even at this meeting the Committee of Safety continued to disguise their real purpose and contented themselves with procuring the passage of a resolution denouncing the Queen and empowering the committee to devise ways and means "to secure the permanent maintenance of law and order and the protection of life, liberty, and property in Hawaii." This meeting adjourned between three and four o'clock in the afternoon. On the same day, and immediately after such adjournment, the committee, unwilling to take further steps without the cooperation of the United States Minister, addressed him a note representing that the public safety was menaced and that lives and property were in danger, and concluded as follows:

"We are unable to protect ourselves without aid, and therefore pray for the protection of the United States forces." Whatever may be thought of the other contents of this note, the absolute truth of this latter statement is incontestable. When the note was written and delivered, the committee, so far as it appears, had neither a man nor a gun at their command, and after its delivery they became so panic-stricken at their position that they sent some of their number to interview the Minister and request him not to land the United States forces till the next morning. But he replied that the troops had been ordered, and whether the committee were ready or not the landing should take place. And so it happened that on the 16th day of January, 1893, between four and five o'clock in the afternoon, a detachment of marines from the United States steamer *Boston*, with two pieces of artillery, landed at Honolulu. The men, upwards of 160 in all, were supplied with double cartridge belts filled with ammunition and with haversacks and canteens, and were accompanied by a hospital corps with stretchers and medical supplies. This military demonstration upon the soil of Honolulu was of itself an act of war, unless made either with the consent of the Government of Hawaii or for the *bona fide* purpose of protecting the imperilled lives and property of citizens of the United States. But there is no pretense of any such consent on the part of the Government of the Queen, which at that time was undisputed and was both the *de facto* and the *de jure* government. In point of fact the existing government instead of requesting the presence of an armed force protested against it. There is as little basis for the pretense that such forces were landed for the security of American life and property. If so, they would have been stationed in the vicinity of such property and so as to protect it, instead of at a distance and so as to command the Hawaiian Government building and palace. Admiral Skerrett, the officer in command of our naval force on the Pacific station, has frankly stated that in his opinion the location of the troops was inadvisable if they were landed for the protection of American citizens whose residences and places of business, as well as the legation and consulate, were in a distant part of the city, but the location selected was a wise one if the forces were landed for the purpose of supporting the provisional government. If any peril to life and property calling for any such martial array had existed, Great Britain and other foreign powers interested would not have been behind the United States in activity to protect their citizens. But they made no sign in that direction. When these armed men were landed, the city of Honolulu was in its customary orderly and peaceful condition. There was no symptom of riot or disturbance in any quarter. Men, women, and children were about the streets as usual, and nothing varied the ordinary routine or disturbed the ordinary tranquillity, except the landing of the *Boston's* marines and their march through the town to the quarters assigned them. Indeed, the fact that after having called for the landing of the United States forces on the plea of danger to life and property the Committee of Safety themselves requested the Minister to postpone action, exposed the untruthfulness of their representations of present peril to life and property. The peril they saw was an anticipation growing out of guilty intentions on their part and something which, though not then existing, they knew would certainly follow their attempt to overthrow the Government of the Queen without the aid of the United States forces.

Thus it appears that Hawaii was taken possession of by the United States forces without the consent or wish of the government of the islands, or of anybody else so far as shown, except the United States Minister.

Therefore the military occupation of Honolulu by the United States on the day mentioned was wholly without justification, either as an occupation by consent or as an occupation necessitated by dangers threatening American life and property. It must be accounted for in some other way and on some other ground, and its real motive and purpose are neither obscure nor far to seek.

The United States forces being now on the scene and favorably stationed, the committee proceeded to carry out their original scheme. They met the next morning, Tuesday, the 17th, perfected the plan of temporary government, and fixed upon its principal officers, ten of whom were drawn from the thirteen members of the Committee of Safety. Between one and two o'clock, by squads and by different routes to avoid notice, and having first taken the precaution of ascertaining whether there was any one there to oppose them, they proceeded to the Government building to proclaim the new government. No sign of opposition was manifest, and thereupon an American citizen began to read the proclamation from the steps of the Government building almost entirely without auditors. It is said that before the reading was finished quite a concourse of persons, variously estimated at from 50 to 100, some armed and some unarmed, gathered about the committee to give them aid and confidence. This statement is not important, since the one controlling factor in the whole affair was unquestionably the United States marines, who, drawn up under arms and with artillery in readiness only seventy-six yards distant, dominated the situation.

The provisional government thus proclaimed was by the terms of the proclamation "to exist until terms of union with the United States been negotiated and agreed upon". The United States Minister, pursuant to prior agreement, recognized this government within an hour after the reading of the proclamation, and before five o'clock, in answer to an inquiry on behalf of the Queen and her cabinet, announced that he had done so.

When our Minister recognized the provisional government the only basis upon which it rested was the fact that the Committee of Safety had in the manner above stated declared it to exist. It was neither a government *de facto* nor *de jure*. That it was not in such possession of the Government property and agencies as entitled it to recognition is conclusively proved by a note found in the files of the Legation at Honolulu, addressed by the declared head of the provisional government of Minister Stevens, dated January 17, 1893, in which he acknowledges with expressions of appreciation the Minister's recognition of the provisional government, and states that it is not yet in the possession of the station house (the place where a large number of the Queen's troops were quartered), though the same has been demanded of the Queen's officer in charge. Nevertheless, this wrongful recognition by our Minister placed the Government of the Queen in a position of most perilous perplexity. On the one hand she had possession of the palace, of the barracks, and of the police station, and had at her command at least five hundred fully armed men and several pieces of artillery. Indeed, the whole military force of her kingdom was on her side and at her disposal, while the Committee of Safety, by actual search, had discovered that there were but very few arms in Honolulu that were not in the service of the Government. In this state of things if the Queen could have dealt with the insurgents alone her course would have been plain and the result unmistakable. But the United States had allied itself with her enemies, had recognized them as the true Government of Hawaii, and had put her and her adherents in the position of opposition against lawful authority. She knew that she could not withstand the power of the United States, but she believed that she might safely trust to its justice. Accordingly, some hours after the recognition of the provisional government by the United States Minister, the palace, the barracks, and the police station, with all the military resources of the country, were delivered up by the Queen upon the representation made to her that her cause would thereafter be reviewed at Washington, and while protesting that she surrendered to the superior force of the United States, whose Minister had caused United States troops to be landed at Honolulu and declared that he would support the provisional government, and that she yielded her authority to prevent collision of armed forces and loss of life and only until such time as the United States, upon the facts being presented to it, should undo the action of its representative and reinstate her in the authority she claimed as the constitutional sovereign of the Hawaiian Islands.

This protest was delivered to the chief of the provisional government, who endorsed thereon his acknowledgement of its receipt. The terms of the protest were read without dissent by those assuming to constitute the provisional government, who were certainly charged with the knowledge that the Queen instead of finally abandoning her power had appealed to the justice of the United States for reinstatement in her authority; and yet the provisional government with this unanswered protest in its hand hastened to negotiate with the United States for the permanent banishment of the Queen from power and for a sale of her kingdom.

Our country was in danger of occupying the position of having actually set up a temporary government on foreign soil for the purpose of acquiring through that agency territory which we had wrongfully put in its possession. The control of both sides of a bargain acquired in such a manner is called by a familiar and unpleasant name when found in private transactions. We are not without a precedent showing how scrupulously we avoided such accusations in former days. After the people of Texas had declared their independence of Mexico they resolved that on the acknowledgement of their independence by the United States they would seek admission into the Union. Several months after the battle of San Jacinto, by which Texan independence was practically assured and established, President Jackson declined to recognize it, alleging as one of his reasons that in the circumstances it became us "to beware of a too early movement, as it might subject us, however unjustly, to the imputation of seeking to establish the claim of our neighbors to a territory with a view to its subsequent acquisition by ourselves". This is in marked contrast with the hasty recognition of a government openly and concededly set up for the purpose of tendering to us territorial annexation.

I believe that a candid and thorough examination of the facts will force the conviction that the provisional government owes its existence to an armed invasion by the United States. Fair-minded people with the evidence before them will hardly claim that the Hawaiian Government was overthrown by the people of the islands or that the provisional government had ever existed with their consent. I do not understand that any member of this government claims that the people would uphold it by their suffrages if they were allowed to vote on the question.

While naturally sympathizing with every effort to establish a republican form of government, it has been the settled policy of the United States to concede to people of foreign countries the same freedom and independence in the management of their domestic affairs that we have always claimed for ourselves; and it has been our practice to recognize revolutionary governments as soon as it became apparent that they were supported by the people. For illustration of this rule I need only to refer to the revolution in Brazil in 1889, when our Minister was instructed to recognize the Republic "so soon as a majority of the people of Brazil should have signified their assent to its establishment and maintenance"; to the revolution in Chile in 1891, when our Minister was directed to recognize the new government "if it was accepted by the people"; and to the revolution in Venezuela in 1892, when our recognition was accorded on condition that the new government was "fully established, in possession of the power of the nation, and accepted by the people."

As I apprehend the situation, we are brought face to face with the following conditions:

The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

But for the notorious predilections of the United States Minister for annexation, the Committee of Safety, which should be called the Committee of Annexation, would never have existed.

But for the landing of the United States forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the Queen's Government.

But for the presence of the United States forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the provisional government from the steps of the Government building.

And finally, but for the lawless occupation of Honolulu under false pretexts by the United States forces, and but for Minister Steven's recognition of the provisional government when the United States forces were its sole support and constituted its only military strength, the Queen and her Government would never have yielded to the provisional government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States.

Believing, therefore, that the United States could not, under the circumstances disclosed, annex the islands without justly incurring the imputation of acquiring them by unjustifiable methods, I shall not again submit the treaty of annexation to the Senate for its consideration, and in the instructions to Minister Willis, a copy of which accompanies this message, I have directed him to so inform the provisional government.

But in the present instance our duty does not, in my opinion, end with refusing to consummate this questionable transaction. It has been the boast of our Government that it seeks to do justice in all things without regard to the strength or weakness of those with whom it deals. I mistake the American people if they favor the odious doctrine that there is no such thing as international morality, that there is one law for a strong nation and another for a weak one, and that even by indirection a strong power may with impunity despoil a weak one of its territory.

By an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair. The provisional government has not assumed a republican or other constitutional form, but has remained a mere executive council or oligarchy, set up without the assent of the people. It has not sought to find a permanent basis of popular support and has given no evidence of an intention to do so. Indeed, the representatives of that government assert that the people of Hawaii are unfit for popular government and frankly avow that they can be best ruled by arbitrary or despotic power.

The law of nations is founded upon reason and justice, and the rules of conduct governing individual relations between citizens or subjects of civilized state are equally applicable as between enlighted nations. The considerations that international law is without a court for its enforcement, and that obedience to its commands practically depends upon good faith, instead of upon the mandate of a superior tribunal, only give additional sanction to the law itself and brand any deliberate infraction of its not merely as a wrong but as a disgrace. A man of true honor protects the unwritten word which binds his conscience more scrupulously, if possible, than he does the bond a breach of which subjects him to legal liabilities; and the United States in aiming to maintain itself as one of the most enlightened of nations would do its citizens gross injustice if it applied to its international relations any other than a high standard of honor and morality. On that ground the United States can not properly be put in the position of countenancing a wrong after its commission any more than in that of consenting to it in advance. On that ground it can not allow itself to refuse to redress an injury inflicted through an abuse of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States can not fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation.

These principles apply to the present case with irresistible force when the special conditions of the Queen's surrender of her sovereignty are recalled. She surrendered not to the provisional government, but to the United States. She surrendered not absolutely and permanently, but temporarily and conditionally until such time as the facts could be considered by the United States. Furthermore, the provisional government acquiesced in her surrender in that manner and on those terms, not only by tacit consent, but through the positive acts of some members of that government who urged her peaceable submission, not merely to avoid bloodshed, but because she could place implicit reliance upon the justice of the United States, and that the whole subject would be finally considered at Washington.

I have not, however, overlooked an incident of this unfortunate affair which remains to be mentioned. The members of the provisional government and their supporters, though not entitled to extreme sympathy, have been led to their present predicament of revolt against the Government of the Queen by the indefensible encouragement and assistance of our diplomatic representative. This fact may entitle them to claim that in our effort to rectify the wrong committed some regard should be had for their safety. This sentiment is strongly seconded by my anxiety to do nothing which would invite either harsh retaliation on the part of the Queen or violence, and bloodshed in any quarter. In the belief that the Queen, as well as her enemies, would be willing to adopt such a course as would meet these conditions, and in view of the fact that both the Queen and the provisional government had at one time apparently acquiesced in a reference of the entire case to the United States Government, and considering the further fact that in any event the provisional government by its own declared limitation was only "to exist until terms of union with the United States of America have been negotiated and agreed upon," I hope that after the assurance to the members of that government that such union could not be consummated I might compass a peaceful adjustment of the difficulty.

Actuated by these desires and purposes, and not unmindful of the inherent perplexities of the situation nor of the limitations upon my power, I instructed Minister Willis to advise the Queen and her supporters of my desire to aid in the restoration of the status existing before the lawless landing of the United States forces at Honolulu on the 16th of January last, if such restoration could be effected upon terms providing for clemency as well as justice to all parties concerned. The conditions suggested, as the instructions show, contemplate a general amnesty to those concerned in setting up the provisional government and a recognition of all its *bona fide* acts and obligations. In short, they require that the past should be buried, and that the restored Government should reassume its authority as if its continuity had not been interrupted. These conditions have not proved acceptable to the Queen, and though she has been informed that they will be insisted upon, and that, unless acceded to, the efforts of the President to aid in the restoration of her Government will cease, I have not thus far learned that she is willing to yield them her acquiescence. The check which my plans have thus encountered has prevented their presentation to the members of the provisional government, while unfortunate public misrepresentations of the situation and exaggerated statements of the sentiments of our people have obviously injured the prospects of successful Executive mediation.

I therefore submit this communication with its accompanying exhibits, embracing Mr. Blount's report, the evidence and statements taken by him at Honolulu, the instructions given to both Mr. Blount and Minister Willis, and correspondence connected with the affair in hand.

In commending this subject to the extended powers and wide discretion of the Congress, I desire to add the assurance that I shall be much gratified to cooperate in any legislative plan which may be devised for the solution of the problem before us which is consistent with American honor, integrity, and morality.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, December 18, 1893.

ADDITIONAL COSPONSORS

S. 514

At the request of Ms. MIKULSKI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 514, a bill to amend the Public Health Service Act, the Social Security Act, and other Acts to promote greater equity in the delivery of health care services to women through expanded research on women's issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 810

At the request of Mr. HARKIN, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 810, a bill to improve counseling services for elementary schoolchildren.

S. 1318

At the request of Mr. HATFIELD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1318, a bill to amend the Solid Waste Disposal Act so as to protect the environment from discarded beverage containers; to reduce solid waste and the cost in connection with the disposal of such waste through recycling; and for other purposes.

S. 1622

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1966

At the request of Mr. BIDEN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1966, a bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the medicare program, and for other purposes.

S. 2296

At the request of Mr. AKAKA, the names of the Senator from California [Mr. CRANSTON] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 2296, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 2387

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Head Start programs, to expand the Job Corps Program, and for other purposes.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2608

At the request of Mr. EXON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2608, a bill to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

S. 2792

At the request of Mr. KOHL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2792, a bill to amend and authorize appropriations for the continued implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

S. 2810

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2837

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2837, a bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

S. 2895

At the request of Mr. ADAMS, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. PELL], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2895, a bill to provide a program for rural development for communities and businesses in the Pacific Northwest and northern California, to provide retraining assistance for workers in the Pacific Northwest and northern California who have been dislocated from the timber harvesting, log hauling and transportation, saw mill, and wood products industries, to provide cost share and forest management assistance to private landowners in the Pacific Northwest and northern California in order to ensure the long-term supply of Pacific yew for medicinal purposes, to preserve Federal watersheds and late-successional and old-growth forests in the Pacific Northwest and northern California, to provide oversight of national forest ecosystem management throughout the United States, to provide for research on national forest ecosystem management, and for other purposes.

S. 2900

At the request of Mr. DOMENICI, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 2900, a bill to establish a moratorium on the promulgation and implementation of certain drinking water regulations promulgated under title XIV of the Public Health Service Act—commonly known as the Safe Drinking Water Act—until certain studies and the reauthorization of the Act are carried out, and for other purposes.

S. 2914

At the request of Mr. DURENBERGER, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2918

At the request of Mr. GRAHAM, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2918, a bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

S. 2922

At the request of Mr. COHEN, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Kansas [Mr. DOLE], the Senator from Arkansas [Mr. PRYOR], the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. HARKIN], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2922, a bill to assist the States in the enactment of legislation to address the criminal act of stalking other persons.

S. 2941

At the request of Mr. RUDMAN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 2945

At the request of Mr. FORD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2945, a bill to amend the Federal Aviation Act of 1958 to establish and operate a system in the United States to supplement the compensation payable to claimants under the Convention for the Unification of Certain Rules Relating to International Carriage by Air in respect of death or personal injury of passengers.

S. 2970

At the request of Mr. KASTEN, his name was added as a cosponsor of S. 2970, a bill to amend the Cash Management Improvement Act of 1990, and for other purposes.

S. 2982

At the request of Mr. BUMPERS, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2982, a bill to amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971 for other purposes.

S. 3008

At the request of Mr. ADAMS, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 3008, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

S. 3098

At the request of Mr. LEAHY, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Washington [Mr. ADAMS], the Senator from Iowa [Mr. HARKIN], the Senator from New York [Mr. MOYNIHAN], the Senator from Connecticut [Mr. DODD], the Senator from California [Mr. CRANSTON], the Senator from Wisconsin [Mr. KOHL], the Senator from Nevada [Mr. BRYAN], the Senator from Michigan [Mr. RIEGLE], the Senator from North Carolina [Mr. SANFORD], the Senator from Kentucky [Mr. FORD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. AKAKA], the Senator from Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from New York [Mr. D'AMATO], the Senator from Nevada [Mr. REID], the Senator from Maine [Mr. MITCHELL], the Senator from Illinois [Mr. SIMON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Maryland [Mr. SARBANES], the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from North Dakota [Mr. CONRAD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Virginia [Mr. ROBB], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 3098, a bill to impose a one-year moratorium on the sale, transfer or export of anti-personnel landmines abroad, and for other purposes.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. SEYMOUR, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week", and for other purposes.

SENATE JOINT RESOLUTION 313

At the request of Mr. HEFLIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 313, a joint resolution to designate the period beginning February 1, 1993, and ending February 5, 1993, as "National Shoplifting Prevention Week."

SENATE JOINT RESOLUTION 330

At the request of Mr. KENNEDY, the names of the Senator from Indiana [Mr. COATS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 330, a joint resolution to designate March 1993 as "Irish-American Heritage Month."

SENATE JOINT RESOLUTION 332

At the request of Mr. SASSER, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 332, a joint resolution to establish the month of October, 1992 as "Country Music Month."

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. AKAKA, the names of the Senator from Maine [Mr. COHEN] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Concurrent Resolution 133, a concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States.

SENATE RESOLUTION 301

At the request of Mr. SIMON, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Wisconsin [Mr. KOHL], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Senate Resolution 301, a resolution relating to ongoing violence connected with apartheid in South Africa.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

AMENDMENT NO. 2934

At the request of Mr. PACKWOOD the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Texas

[Mr. BENTSEN], the Senator from Florida [Mr. GRAHAM], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from California [Mr. SEYMOUR], the Senator from Connecticut [Mr. DODD], the Senator from Wisconsin [Mr. KASTEN], the Senator from New Mexico [Mr. DOMENICI] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Amendment No. 2934 proposed to H.R. 11, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

SENATE RESOLUTION 335—RELATING TO AUTHORIZATION OR DOCUMENTARY PRODUCTION

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. CON. RES. 335

Whereas, in the case of *United States of America* v. *Caspar W. Weinberger*, Crim. No. 92-0235-TFH, pending in the United States District Court for the District of Columbia, counsel for the defendant has requested the production of documents from the Select Committee on Intelligence;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the chairman and vice chairman of the Select Committee on Intelligence, acting jointly, are authorized to produce documents in the case of *United States of America* v. *Caspar W. Weinberger*, except concerning matters for which a privilege should be asserted.

SENATE RESOLUTION 336—RELATING TO THE RELIEF OF HORACE MARTIN

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 336

Resolved, That the bill (S. 3198) entitled "A bill for the relief of Horace Martin," now pending in the Senate, together with all accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such finding of fact and conclusions that are sufficient to inform Congress of the amount, if any, legally or equitably due from the United States to the claimant

AMENDMENTS SUBMITTED

TAX ENTERPRISE ZONES ACT

MACK AMENDMENT NO. 2936

Mr. MACK proposed an amendment to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; as follows:

At the appropriate place add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Venture Capital Act of 1992".

SEC. 2. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.

(a) GENERAL RULE.—Subsection (h) of section 1 of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the net capital gain, plus

"(B) a tax equal to the sum of—

"(i) 7.5 percent of so much of the net capital gain as does not exceed—

"(I) the maximum amount of taxable income to which the 15-percent rate applies under the table applicable to the taxpayer, reduced by

"(II) the taxable income to which subparagraph (A) applies, plus

"(ii) 15 percent of the net capital gain in excess of the net capital gain to which clause (i) applies.

"(2) TRANSITIONAL RULE.—In the case of a taxable year which includes August 11, 1992, the amount of the net capital gain for purposes of paragraph (1) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 170(e) of such Code is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "13/28 (19/34 in the case of a corporation) of the amount of gain".

(2)(A) The second sentence of section 7518(g)(6)(A) of such Code is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

SEC. 3. REDUCTION IN CORPORATE CAPITAL GAINS RATE.

(a) GENERAL RULE.—Section 1201 of the Internal Revenue Code of 1986 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c), and by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by section 11, 511, or 831(a) (whichever applies), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—In the case of a taxable year which includes August 11, 1992, the amount of the net capital gain for purposes of subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking "66 percent" and inserting "85 percent".

(2) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "15 percent".

SEC. 4. REDUCTION OF MINIMUM TAX RATE ON CAPITAL GAINS.

Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to tentative minimum tax) is amended to read as follows:

"(A) the sum of—

"(i) 15 percent of the lesser of—

"(I) the net capital gain (determined with the adjustments provided in this part and (to the extent applicable) the limitations of sections 1(h)(2) and 1201(b)), or

"(II) so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, plus

"(ii) 20 percent (24 percent in the case of a taxpayer other than a corporation) of the amount (if any) by which the excess referred to in clause (i)(II) exceeds the net capital gain (as so determined), reduced by".

SEC. 5. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset of property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1991).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 of such Code is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of such Code (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

"For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1990, see section 1022(a)(1).".

SEC. 6. INDEXING OF LIMITATION ON CAPITAL LOSSES OF INDIVIDUALS.

Section 1211 of the Internal Revenue Code of 1986 (relating to limitation on capital losses) is amended by adding at the end thereof the following new subsection:

"(c) INDEXATION OF LIMITATION ON NONCORPORATE TAXPAYERS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1991, the $3,000 and $1,500 amounts under subsection (b)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the applicable inflation adjustment for the calendar year in which the taxable year begins."

"(2) APPLICABLE INFLATION ADJUSTMENT.—For purposes of paragraph (1), the applicable inflation adjustment for any calendar year is the percentage (if any) by which—

"(A) the gross national product deflator for the last calendar quarter of the preceding calendar year, exceeds

"(B) the gross national product deflator for the last calendar quarter of 1991.

For purposes of this paragraph, the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3)."

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to sales or exchanges occurring after March 7, 1991, in taxable years ending after such date.

(b) INDEXING OF LOSS LIMITATION.—The amendments made by section 6 of this Act shall apply to taxable years beginning after December 31, 1991.

RAIL SAFETY ENFORCEMENT AND REVIEW ACT

DANFORTH (AND OTHERS) AMENDMENT NO. 2937

Mr. BENTSEN (for Mr. DANFORTH, for himself, Mr. BOND, and Mr. SIMON) proposed an amendment to the amendments of the House to the amendment of the Senate to the bill (H.R. 2607) to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes; as follows:

At the end of the bill, add the following new section:

SEC. 19. AIRPORT LEASES.

(a) FINDINGS.—Congress finds that—

(1) there are major airports served by an air carrier that has leased a substantial majority of the airport's gates;

(2) the commerce in the region served by such a major airport can be disrupted if the air carrier that leases most of its gates enters bankruptcy and either discontinues or materially reduces service; and

(3) it is important that such airports be empowered to continue service in the event of such a disruption.

(b) BANKRUPTCY RULES REGARDING UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraphs:

"(5) Notwithstanding paragraphs (1) and (4) of this subsection, in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate before the occurrence of a termination event, then (unless the court orders the trustee to assume such unexpired leases within 5 days after the termination event), at the option of the airport operator, such lease is deemed rejected 5 days after the occurrence of a termination event and the trustee shall immediately surrender possession of the premises to the airport operator; except that the lease shall not be deemed to be rejected unless the airport operator first waives the right to damages related to the rejection. In the event that the lease is deemed to be rejected under this paragraph, the airport operator shall provide the affected air carrier adequate opportunity after the surrender of the premises to remove the fixtures and equipment installed by the affected air carrier.

"(6) For the purpose of paragraph (5) of this subsection and paragraph (f)(1) of this section, the occurrence of a termination event means, with respect to a debtor which is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate—

"(A) the entry under section 301 or 302 of this title of an order for relief under chapter 7 of this title;

"(B) the conversion of a case under any chapter of this title to a case under chapter 7 of this title; or

"(C) the granting of relief from the stay provided under section 362(a) of this title with respect to aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301), except for property of the debtor found by the court not to be necessary to an effective reorganization.

"(7) Any order entered by the court pursuant to paragraph (4) extending the period within which the trustee of an affected air carrier must assume or reject an unexpired lease of nonresidential real property shall be without prejudice to—

"(A) the right of the trustee to seek further extensions within such additional time period granted by the court pursuant to paragraph (4); and

"(B) the right of any lessor or any other party in interest to request, at any time, a shortening or termination of the period within which the trustee must assume or reject an unexpired lease of nonresidential real property.

"(8) The burden of proof for establishing cause for an extension by an affected air carrier under paragraph (4) or the maintenance of a previously granted extension under paragraph (7) (A) and (B) shall at all times remain with the trustee.

"(9) for purposes of determining cause under paragraph (7) with respect to an unexpired lease of nonresidential real property between the debtor that is an affected air carrier and an airport operator under which such debtor is the lessee of an airport terminal or an airport gate, the court shall consider, among other relevant factors, whether substantial harm will result to the airport operator or airline passengers as a result of the extension or the maintenance of a previously granted extension. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of actual use of the terminals or gates which are the subject of the lease, the public interest in actual use of such terminals or gates, the existence of competing demands for the use of such terminals or gates the effect of the court's extension or termination of the period of time to assume or reject the lease on such debtor's ability to successfully reorganize under chapter 11 of this title, and whether the trustee of the affected air carrier is capable of continuing to comply with its obligations under section 365(d)(3) of this title.".

(c) PARTIAL ASSIGNMENTS OR ASSUMPTIONS OF LEASES.—Section 365(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) such lease is of nonresidential real property under which the debtor is the lessee of an aircraft terminal or aircraft gate at an airport at which the debtor is the lessee under one or more additional nonresidential leases of an aircraft terminal or aircraft gate and the trustee, in connection with such assumption or assignment, does not assume all such leases or does not assume and assign all of such leases to the same person, except that the trustee may assume or assign less than all of such leases with the airport operator's written consent.".

(d) PROHIBITION OF LEASE ASSIGNMENTS AFTER TERMINATION EVENT.—Section 365(f)(1) of title 11, United States Code, is amended by striking the period at the end and inserting in lieu thereof the following: "; except that the trustee may not assign an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate if there has occurred a termination event.".

(e) AFFECTED AIR CARRIER DEFINED.—Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) In this section, 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds 65 percent or more in number of the aircraft gates at an airport—

"(1) which is a Large Air Traffic Hub as defined by the Federal Aviation Administration in Report FAA-AP 92-1, February 1992; and

"(2) all of whose remaining aircraft gates are leased or under contract on the date of enactment of this subsection.".

(f) APPLICABILITY.—The amendments made by this section shall be in effect for the 12-month period that begins on the date of enactment of this Act and shall apply in all proceedings involving an affected air carrier (as defined in section 365(p) of title 11, United States Code, as amended by this section) that are pending during such 12-month period. Not later than 9 months after the date of enactment, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation and Committee on the Judiciary of the Senate and the Committee on the Judiciary and Committee on Public Works and Transportation of the House of Representatives on whether this section shall apply to proceedings that are commenced after such 12-month period.

TAX ENTERPRISE ZONES ACT

BRADLEY (AND WELLSTONE) AMENDMENT NO. 2938

Mr. BRADLEY (for himself and Mr. WELLSTONE) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 897, line 21, strike "1991." and insert "1991, with respect to property placed in service in taxable years beginning before 1987."

Beginning on page 918, line 15, strike all through page 924, line 3.

On page 947, strike line 16 and insert the following:

(b) MODIFICATION OF AMT DEPRECIATION METHOD.—Clause (ii) of section 56(a)(1)(A) (relating to depreciation) is amended—

(1) by striking "150 percent" and inserting "120 percent", and

(2) by striking "150-PERCENT" in the heading and inserting "120-PERCENT".

(c) EFFECTIVE DATES.—

On page 1811, after line 9, insert the following new title:

TITLE _____—NEW URBAN INITIATIVES

Subtitle A—Job Corps

SEC. _____01. REAUTHORIZATION OF JOB CORPS.

Section 3(d) of the Job Training Partnership Act (29 U.S.C. 1502(d)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1993 through 1997, to be made available under part B if title IV for the construction of 40 new Job Corps centers, the making of repairs to existing centers, and the enrollment of up to 30,000 additional disadvantaged youth under such part in each fiscal year.

"(B) Any new centers constructed under this paragraph shall serve applicants residing in Economically Distressed Central Cities (as defined in section _____41 of the Revenue Act of 1992).

"(C) Amounts appropriated under this paragraph for fiscal year 1993 shall not be counted for purposes of any budget total or limitation for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 or the Congressional Budget Act of 1974.

Subtitle B—Community Policing; Cop on the Beat

SEC. _____11. SHORT TITLE.

This subtitle may be cited as the "Community Policing; Cop on the Beat Act of 1992".

SEC. _____12. COMMUNITY POLICING; COP ON THE BEAT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—COMMUNITY POLICING; COP ON THE BEAT

"SEC. 1601. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups in Economically Distressed Central Cities (as defined in section _____41 of the Revenue Act of 1992) to establish or expand cooperative efforts between police and community for purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on the local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities which have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in such community.

"SEC. 1602. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In such application, one office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1601;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurance that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan which contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1603. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1602(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1604. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1602(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"SEC. 1605. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1602(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year that shall contain a detailed statement regarding grant awards, activities of grant recipients, and an evaluation of projects established under this part.

"SEC. 1606. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—COMMUNITY POLICING; COP ON THE BEAT GRANTS

"Sec. 1601. Grant authorization.
"Sec. 1602. Application.
"Sec. 1603. Allocation of funds; limitation on grants.
"Sec. 1604. Award of grants.
"Sec. 1605. Reports.
"Sec. 1606. Definitions.

"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

SEC. _____13. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) by redesignating the last 3 paragraphs as paragraphs (7), (8), and (9); and

(2) by adding after paragraph (9) the following:

"(10)(A) There are authorized to be appropriated $150,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the projects under part P.

"(B) Amounts appropriated under this paragraph for fiscal year 1993 shall not be counted for purposes of any budget total or limitation for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 or the Congressional Budget Act of 1974.".

Subtitle C—Entrepreneurship and Self-Employment Training

SEC. ____21. SPECIALIZED TRAINING CURRICULUM GRANTS.

(a) IN GENERAL.—The Secretary of Labor (hereafter referred to in this section as the "Secretary") shall award competitive grants to five community colleges that serve Economically Distressed Central Cities to enable such colleges to develop specialized training curricula for entrepreneurship and self-employment for disadvantaged, inner-city individuals.

(b) APPLICATION.—To be eligible to receive a grant under this section a community college shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the applicant serves an Economically Distressed Central City.

(c) CURRICULUM.—In developing a curriculum with amounts received under a grant awarded under subsection (a), a community college shall ensure that the curriculum includes training components with respect to cash accounting, credit, business communications, inventory management, and other basic business skills determined appropriate by the Secretary.

(d) TERM OF GRANTS.—A grant awarded under this section shall be for a term of 1 year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1993.

SEC. ____22. TRAINING GRANTS.

(a) IN GENERAL.—The Secretary of Labor (hereafter referred to in this section as the "Secretary") shall award competitive grants to community colleges and community development corporations to enable such colleges and corporations to provide training under the curricula developed under section ____21.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity of the type described in subsection (a) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) TRAINING.—Amounts provided under a grant awarded under this section shall be used to enable the grantee to provide training, through 6 to 12 week training programs offered in coordination with the curricula developed under section ____21, to residents of Economically Distressed Central Cities that—

(1) have been unemployed in excess of 20 consecutive weeks;

(2) have recently been discharged from the armed forces;

(3) receive assistance under title IV of the Social Security Act; or

(4) are otherwise determined appropriate by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $85,000,000 for each of the fiscal years 1994 through 1997.

SEC. ____23. LOAN GUARANTEE PROGRAM.

(a) IN GENERAL.—The Administrator of the Small Business Administration (hereafter referred to in this section as the "Administrator") shall establish a loan guarantee program under which the Administrator shall guarantee loans made by community development corporations or community development credit unions to eligible individuals.

(b) ELIGIBILITY FOR GUARANTEES.—With respect to a loan made by a community development corporation or community development credit union, to be eligible to receive a loan guarantee covering such loan under the program established under subsection (a), the community development corporation or community development credit union shall—

(1) prepare and submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require;

(2) certify in such application that such loan was made to an eligible individual as described in subsection (c); and

(3) meet such other requirements as the Administrator may require.

(c) ELIGIBILITY FOR LOANS.—To be eligible to receive a loan for which a guarantee may be provided under subsection (a), an individual shall—

(1) prepare and submit to the appropriate community development corporation or community development credit union an application at such time, in such manner, and containing such information as the corporation may require;

(2) have completed a training program of the type described in section ____22;

(3) ensure that amounts received under the loan will be used to start up a business that is located in an Economically Distressed Central City and provide a detailed description of the business that the individual intends to establish; and

(4) meet such other requirements as the Administrator of corporation may require.

(d) PROCESS FOR IMPLEMENTATION OF PROGRAM.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop and publish procedures under which the Administrator shall provide loan guarantees under the program established under subsection (a). Such procedures shall include—

(1) application procedures;

(2) criteria which community development corporations or community development credit unions should apply when considering applications for loans to which guarantees may be provided under this section;

(3) criteria that the Administrator will utilize in considering applications submitted for guarantees under this section;

(4) any other information determined appropriate by the Administrator.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $150,000,000 for fiscal years 1994 through 1997.

SEC. ____24. LIMITATION.

To be eligible to receive a grant or participate in the loan guarantee program under this title, a community development corporation, community development credit union, or community college shall provide assurances in the application submitted by such college, corporation, or credit union under this title that the area served by such college, corporation, or credit union has an unemployment rate, with respect to the 12-month period preceding the date on which the application is submitted, in excess of 9 percent.

SEC. ____25. MISCELLANEOUS PROVISIONS.

(a) PREFERENCES.—In awarding grants or loan guarantees under this title, preference shall be given to applicants demonstrating an intention to serve or supply a business receiving enterprise zone tax credits.

(b) DEFINITIONS.—As used in this title:

(1) COMMUNITY COLLEGE.—The term "community college" has the same meaning given the term "junior or community college" in section 312(e) of the Higher Education Act of 1965.

(2) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(3) COMMUNITY DEVELOPMENT CREDIT UNION.—The term "community development credit union" means a credit union accredited by the National Credit Union Association that serves predominantly low-income members.

SEC. ____26. BUDGETARY CONSIDERATIONS.

Amounts appropriated under this subtitle for fiscal year 1993 shall not be counted for purposes of any budget total or limitation for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 or the Congressional Budget Act of 1974.

Subtitle D—Neighborhood Reconstruction Corps

SEC. ____31. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce (hereafter referred to in this section as the "Secretary"), acting through the Economic Development Administration, shall establish a program, to be known as the Neighborhood Reconstruction Corps Program, under which the Secretary shall award competitive matching grants to eligible entities to enable such entities to employ individuals to perform infrastructure repair services in Economically Distressed Central Cities.

(b) ELIGIBILITY AND APPLICATION.—To be eligible to receive a matching grant under the program established under subsection (a), an entity shall—

(1) be a nonprofit community development corporation, a local government or local government equivalent, or a private business entity;

(2) be located in an area of high unemployment and poverty within an Economically Distressed Central City;

(3) prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including—

(A) a description of the activities to be carried out with amounts received under the grant;

(B) a certification from the State or local governmental entity with respect to such activities;

(C) assurances, satisfactory to the Secretary, that non-Federal funds will be provided by the applicant to carry out activities under the grant; and

(D) any other information determined appropriate by the Secretary;

(3) meet any other requirements determined appropriate by the Secretary.

(c) Use of Amounts.—

(1) In general.—An entity that receives a matching grant under this section shall use amounts received under such grant to employ economically disadvantaged individuals in projects to perform light, labor-intensive infrastructure repair.

(2) Requirements.—Projects funded under paragraph (1) shall—

(A) be for the repair of—

(i) public facilities, including schools, governmental buildings, and public housing facilities; or

(ii) publicly owned property not otherwise covered under clause (i), including roadways, bridges and sewers;

(B) involve work identified by the interested local government as backlogged maintenance;

(C) not cost in excess $500,000;

(D) with respect to projects carried out by private entities, not be utilized as a condition for any kind of waiver or exemption for such entities from local zoning or property tax laws;

(E) employ individuals residing in the community to be served by the project;

(F) provide such individuals with the necessary training in a construction trade to enable such individuals to carry out their duties under the project;

(G) provide the training required under subparagraph (F) through a partnership with a local contractor or a construction trade union; and

(H) meet such other requirements as the Secretary determines appropriate.

(d) Amount of Grant.—The amount of a grant awarded under this section shall not exceed the amount contributed to the project by the applicant entity. Such contributed amounts shall be non-Federal in nature and be made available directly or through donations from public or private entities.

(e) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated to carry out this section, $100,000,000 for each of the fiscal years 1993 through 1997.

(2) Use.—Of the amounts appropriated for each fiscal years under paragraph (1)—

(A) not to exceed 5 percent of such amount shall be used for administrative costs; and

(B) the remainder of such amounts shall be used to award matching grants.

(3) Budgetary Implications.—Amounts appropriated under this subsection for fiscal year 1993 shall not be counted for purposes of any budget total or limitation for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 or the Congressional Budget Act of 1974.

(f) Definition.—As used in this section the term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

Subtitle E—Economically Distressed Central Cities

SEC. ____41. ECONOMICALLY DISTRESSED CENTRAL CITIES.

(a) List of Cities.—Not later than 90 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall promulgate a list of cities that are designated as "Economically Distressed Central Cities". The Secretary shall make such list of cities available to the Secretary of Labor, the Secretary of Commerce, and the Director of the Small Business Administration.

(b) Requirements.—To be an Economically Distressed Central City under subsection (a), a city shall—

(1) be a metropolitan city (as defined in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4));

(2) be eligible to receive an allocation of funds under section 106(a)(3) of the Housing and Community Development Act of 1974 for the most recent fiscal year ending prior to the date of enactment of this title;

(3) have a population of at least 30,000; and

(4) have a need adjusted per capita income less than 1.25 (as determined under subsection (c)) on the basis of the most recent data available.

(c) Need Adjusted Per Capita Income.—The Secretary of Housing and Urban Development shall determine the Need Adjusted Per Capita Income for each city that meets the requirements of paragraphs (1) and (2) of subsection (b) under the following formula:

(1) Determination of need index.—

(A) For purposes of this section, the term "need index" means the number equal to the quotient of—

(i) the term "N", as determined under subparagraph (B); divided by

(ii) the term "P", as determined under subparagraph (C).

(B) For purposes of subparagraph (A)(i), the term 'N' means the percentage constituted by the ratio of—

(i) the amount of funds allotted to the city in the fiscal year in which the calendar year begins under section 106(a)(3) of the Housing and Community Development Act of 1974; to

(ii) the sum of the amount of funds received by all eligible cities in such fiscal year under section 106(a)(3) of the Housing and Community Development Act of 1974.

(C) For purposes of subparagraph (A)(ii), the term "P" means the percentage constituted by the ratio of—

(i) the amount equal to the total population of the city, as determined by the Secretary using the most recent data that is available from the Secretary of Commerce pursuant to the decennial census and pursuant to reasonable estimates by such Secretary of changes occurring in the data in the ensuing period, to

(ii) the amount equal to the total population of all eligible cities in the current fiscal year.

(D) For purposes of this paragraph, the term "eligible cities" means those cities which meet the requirements of paragraph (1) and (2) of subsection (b).

(2) Determination of need adjusted per capita income factor.—

(A) For purposes of this section (and subject to subparagraph (D)), the term "need adjusted per capita income factor" means the amount equal to the percentage determined for the city in accordance with the following formula:

(B) For purposes of subparagraph (A), the term "I" means the per capita income of the city for the most recent year for which data is available, as determined by the Secretary of Commerce.

(C) For purposes of subparagraph (A), the term "Q" means the product of—

(i) the need index of such city, as determined under paragraph (1); and

(ii) the amount equal to the per capita income of the United States for the most recent year for which data is available, as determined by the Secretary of Commerce.

(D) In the case of a city for which the quotient of the term "I" (as determined under subparagraph (B)) divided by the term "Q" (as determined under subparagraph (C)) is less than 0.2, then such quotient shall be deemed to be equal to 0.2 for such city for purposes of the formula under subparagraph (A).

DOLE (AND OTHERS) AMENDMENT NO. 2939

Mr. DOLE (for himself, Mr. Rockefeller, Mr. Hatch, Mr. Baucus, Mr. Burns, Mr. Riegle, Mr. Garn, Mr. Conrad, Mr. Specter, Mr. Shelby, Mr. Wofford, Mr. Ford, Mr. Domenici, and Mr. Bingaman) proposed an amendment to the bill H.R. 11, supra; as follows:

Strike part II of subtitle B of title II and insert the following:

PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 2141. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) In General.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Conforming Amendment.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is amended by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) Effective Date.—The amendments made this section shall apply to taxable years ending after June 30, 1992.

SEC. 2142. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) In General.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Conforming Amendment.—Paragraph (2) of section 104(a) of the Tax Extension Act of 1991 is amended by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2143. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Conforming Amendment.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is amended by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2144. QUALIFIED MORTGAGE BONDS.

(a) In General.—Subparagraph (B) of section 143(a)()1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Mortgage Credit Certificates.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(c) Financing Allowed for Contract of Deed Agreements.—

(1) In General.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by inserting "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (i)(1)(C) and any residence to be constructed thereon,".

(2) EXCEPTION TO NEW MORTGAGE REQUIREMENT.—Paragraph (1) of section 143(i) (relating to mortgages must be new mortgages) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN CONTRACT OF DEED AGREEMENTS.—

"(i) IN GENERAL.—In the case of land possessed under a contract of deed by a mortgagor with family income (as defined in subsection (f)(2)) of less than $15,000 in the year in which owner-financing is provided, the contract of deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) CONTRACT OF DEED DEFINED.—For purposes of this section, the term 'contract of deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

"(iii) ADJUSTMENT TO INCOME LEVEL.—In the case of any calendar year after 1992, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) there-of."

(3) ACQUISITION COST INCLUDES COST OF LAND.—Clause (iii) of section 143(k)(3)(B) (relating to exceptions to acquisition cost) is amended by inserting "(other than land described in subsection (i)(1)(C)(k))" after "cost of land".

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) CONTRACT OF DEED AGREEMENTS.—The amendments made by subsection (c) shall apply to loans originated after the date of the enactment of this Act.

SEC. 2145. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

SEC. 2146. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" each place it appears and inserting "September 30, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 2147. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended by striking "June 30, 1992" each place it appears and inserting "September 30, 1993".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 42(o) is amended—

(A) by striking "July 1, 1992" each place it appears and inserting "October 1, 1993",

(B) by striking "June 30, 1992" in subparagraph (B) and inserting "September 30, 1993",

(C) by striking "June 30, 1994" in subparagraph (B) and inserting "September 30, 1995", and

(D) by striking "July 1, 1994" in subparagraph (C) and inserting "October 1, 1995".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42(m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAVIER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) such facilities are designed to serve qualifying tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) CARRYFORWARD RULES.—The amendments made by paragraph (1) shall apply to calendar years beginning after December 31, 1991.

(C) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and shall be subject to the taxpayer entering into a compliance monitoring agreement pursuant to section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986 with the housing credit agency for the jurisdiction within which such building is located. Once made, the election shall be irrevocable.

SEC. 2148. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) INCREASE IN AGE REQUIREMENTS OF ECONOMICALLY DISADVANTAGED YOUTH.—Subparagraph (B) of section 51(d)(3) (defining economically disadvantaged youth) is amended by striking "age 23" and inserting "age 25".

(c) Allowance of Credit for Hiring Long-Term Unemployed.—

(1) In general.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) a long-term unemployed individual."

(2) Long-term unemployed.—Section 51(d) is amended by adding at the end thereof the following new paragraph:

"(17) Long-term unemployed.—

"(A) In general.—The term 'long-term unemployed individual' means an individual—

"(i) who has been receiving unemployment compensation at all times during the 6-month period ending with the last day of the month preceding the hiring date, or

"(ii) who—

"(I) was receiving unemployment compensation but exhausted all rights to such compensation, and

"(II) has remained unemployed during the period beginning on the date such rights were exhausted and ending on the day before the hiring date.

"(B) Effective period.—Notwithstanding subsection (c)(4), in the case of a long-term unemployed individual, the term 'wages' shall include amounts paid or received for individuals who begin work for the employer during the 6-month period beginning on the date of the enactment of this paragraph, or during any subsequent 6-month period, if, for any month during the preceding 6-month period, the national average rate of total unemployment as determined by the Secretary of Labor exceeds 7 percent.

"(C) Unemployment compensation.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(D) Special rule for determining amount of credit.—For purposes of applying this subpart to wages paid or incurred to any long-term unemployed individual subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'."

(3) Certain individuals eligible.—Section 51(i) (relating to certain individuals ineligible) is amended by adding at the end the following new paragraph:

"(4) Special rules for long-term unemployed.—No wages shall be taken into account under subsection (a) with respect to any long-term unemployed individual (as defined in subsection (d)(17)) unless—

"(A) notwithstanding paragraph (3), the individual is employed by the employer at least 120 days, and

"(B) the employer certifies on the return of tax for the taxable year for which credit is claimed that the individual was hired after the employer took reasonable actions to specifically recruit long-term unemployed individuals."

(d) Minimum Employment Period.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) Individuals not meeting minimum employment period.—No wages shall be taken into account under subsection (a) with respect to any individual unless—

"(A) such individual is employed by the employer at least 90 days, or

"(B) in the case of an individual described in subsection (d)(12) either—

"(i) is employed by the employer at least 14 days, or

"(ii) has completed at least 20 hours of services performed for the employer."

(e) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

(2) Long-term unemployed and minimum period.—The amendments made by subsections (c) and (d) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 2149. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) In General.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "September 30, 1993".

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2150. EXCISE TAX ON CERTAIN VACCINES.

(a) Tax.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) Trust Fund.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) Study.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Funds,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2151. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefit received before October 1, 1992".

SEC. 2152. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) In General.—Subsection (f) of section 29 is amended to read as follows:

"(f) Application of Section.—

"(1) In general.—This section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before September 1, 1993, or

"(ii) produced in a facility placed in service after December 31, 1979, and before September 1, 1993, and

"(B) which are sold before January 1, 2003.

"(2) Special rule for certain gas-producing facilities.—For purposes of paragraph (1), in the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

"(A) such facility shall, for purposes of (1)(A)(ii), be treated as being placed in service before September 1, 1993, if such facility is placed in service before January 1, 1998, pursuant to a binding written contract in effect before January 1, 1996 and at all times thereafter before such facility is placed in service, and

"(B) paragraph (1)(B) shall be applied with respect to such facility by substituting '2008' for '2003'."

(b) Limitation of Credit.—Subsection (b) of section 29 is amended by adding at the end the following new paragraph:

"(7) Limitation on gas eligible for credit.—

"(A) In general.—Except as provided in subparagraph (B), no credit shall be allowed under subsection (a) with respect to gas produced from any well during the taxable year to the extent that the amount of the gas produced from the well exceeds 42 million cubic feet (mmcf).

"(B) Exception for gas from tight sands.—In the case of gas produced from a tight formation—

"(i) subparagraph (A) shall be applied by substituting '505' for '42', and

"(ii) in determining the amount of the credit under subsection (a) with respect to the production from the well producing such gas in excess of 42 million cubic feet (mmcf), $2.25 shall be substituted for

NATIONAL RAILROAD PASSENGER CORPORATION AUTHORIZATION ACT

KERRY (AND KENNEDY) AMENDMENT NO. 2940

Mr. MITCHELL (for Mr. Kerry for himself and Mr. Kennedy) proposed an amendment to the bill (H.R. 4250) to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, as follows:

On page 3, between lines 9 and 10, insert the following:

"(c) Northeast Corridor.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.) $220,000,000 for fiscal year 1993.

On page 3, line 10, strike "(c)" and insert "(d)".

On page 4, line 5, strike "(d)" and insert "(e)".

MOYNIHAN AMENDMENT NO. 2941

Mr. MITCHELL (for Mr. Moynihan) proposed an amendment to the bill H.R. 4260, supra, as follows:

At the appropriate place, insert the following new section:

NEW YORK CITY STATION FACILITIES

Sec. . Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 815. NEW YORK CITY STATION FACILITIES.

"The Corporation shall develop a plan for new or redeveloped station facilities in New York City, New York, to accommodate the intercity rail passenger service requirements of the Corporation, along with the needs of commuter rail services currently using New York Penn Station. In developing the plan, the Corporation shall consider use of the James A. Farley Post Office building as the primary facility for handling intercity passengers, shall evaluate and attempt to reach agreements concerning sources of State, local, and private funding, and shall determine the future allocation of space and costs in the existing Penn Station and new facilities among all transportation services using the facilities. The plan shall also address potential changes in existing laws that would aid development of new or redeveloped station facilities in New York City. The Corporation shall report to the Congress on the plan no later than March 1, 1993.".

NATIONAL RAILROAD PASSENGER CORPORATION AUTHORIZATION ACT

KASSEBAUM AMENDMENT NO. 2942

Mr. MITCHELL (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 2608) to authorize appropriatons for the National Railroad Passenger Corporation, and for other purposes; as follows:

On page 14, after the item following line 15, add the following:

SEC.   . (a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding a new subsection(s) to read as follows:

"(s)(1) The Secretary shall, within 6 months following the date of enactment of this subsection, issue such rules, regulations, orders and standards as may be necessary to require each intercity passenger, commuter, and freight train, other than a switch locomotive, to be equipped with alerting lights affixed to the locomotive on the leading end of the locomotive in the normal direction of movement. Such regulations shall specify the conditions under which such alerting lights shall be operated to alert highway users at highway-rail grade crossings.

"(2) For purposes of this subsection, 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary determines will enhance the conspicuity of the locomotive, such as ditch lights, strobe lights, or other significant front end illumination.

"(3) The rules, regulations, orders or standards issued by the Secretary pursuant to this subsection shall require that new locomotives available for use as lead units that are placed in service after the expiration of 90 days from issuance of such rules, regulations, orders or standards, be equipped with alerting lights, and shall require all trains to be so equipped within not more than 24 months following such date of issuance.

"(4) The Secretary, on application from an operator of an affected railroad, may exempt from the requirement of this subsection any scenic, excursion, or historic train operation, if the Secretary determines that the exemption is in the public interest and consistent with railroad safety, including the safety of highway users affected by such operations.

"(5) Each intercity passenger, commuter, and freight train equipped with ditch lights or strobe lights affixed and maintained in the manner provided for alerting lights under paragraph (1) of this subsection, on the date immediately prior to the effective date of such rules, regulations, orders, or standards relating to all trains under paragraph (3), shall be considered to be in compliance with the provisions of this subsection requiring the installation of alerting lights.

"(6) DEFINITIONS.—For purposes of this section:

"(A) The term 'alerting lights' means front end lights in addition to the locomotive's standard headlight that the Secretary of Transportation determines will enhance the conspicuousness of the locomotive, such as ditch lights, strobe lights, or other significant front-end illumination.

"(B) The term 'ditch lights' means 2 headlights, in addition to the standard headlight on a locomotive, each of which is, at a minimum, 200 watts, 30 volts PAR 56.

"(C) The term 'strobe light' means an electronic tube emitting rapid, brief, and brilliant flashes of light with a minimum of 200,000 candle power.

"(D) The term 'scenic, excursion, or historic train' means any railroad whose primary purpose is to provide passengers a recreational or educational experience rather than for the purpose of transportation.

"(E) The term 'switch locomotive' means a locomotive used exclusively for switching, making up trains or storing rail cars within designated yard limits.".

UNITED NATIONS INTERNATIONAL DRIFTNET FISHERY CONSERVATION PROGRAM

PACKWOOD (AND OTHERS) AMENDMENT NO. 2943

Mr. MITCHELL (for Mr. PACKWOOD, for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. GORTON, Mr. ADAMS, Mr. LOTT, Mr. BREAUX, Mr. MURKOWSKI, and Mr. RIEGLE) proposed an amendment to the amendments of the House to the amendment of the Senate to the bill (H.R. 2152) to enhance the effectiveness of the United Nations international driftnet fishery conservation program; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Large—scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197 and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas."

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive ecomomic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulation fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2) is amended—

(1) in subparagraph (E)(1) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use of the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (3)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION ON NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the remvoal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days aftr such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMGARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION OF TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V—FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for Certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) Use of Retained Amounts.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) Deposit in Treasury.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) Restriction.—No fee may be collected under this section after fiscal year 1995.

(i) Conforming Amendment.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

KERRY (AND OTHERS) AMENDMENT NO. 2944

Mr. MITCHELL (for Mr. Kerry, for himself, Mr. Stevens, and Mr. Hollings) proposed an amendment to the bill (S. 1405) to authorize appropriations for certain programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes; as follows:

Stirke all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1992".

DEFINITIONS

Sec. 2. For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH

Sec. 101. (a) In General.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $311,532,000 for fiscal year 1992 and $382,236,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

(b) Pacific Weather Buoys.—Of the sums authorized under subsection (a), $840,000 for fiscal year 1992 and $1,135,000 for fiscal year 1993 are authorized to be appropriated for the purpose of operating and maintaining weather buoys off the coast of California, Oregon, Washington, and Hawaii.

PUBLIC WARNING AND FORECAST SYSTEMS

Sec. 102. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, $132,034,000 for fiscal year 1992 and $135,342,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

CLIMATE AND AIR QUALITY RESEARCH

Sec. 103. (a) In General.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $111,718,000 for fiscal year 1992 and $115,128,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) Climate and Global Change.—Of the sums authorized under subsection (a), $78,000,000 for fiscal year 1992 and $78,251,000 for fiscal year 1993 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

ATMOSPHERIC RESEARCH

Sec. 104. There are authorized to be appropriated to be Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $43,935,000 for fiscal year 1992 and $44,781,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SATELLITE OBSERVING SYSTEMS

Sec. 105. (a) In General.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $305,744,000 for fiscal year 1992 and $398,692,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station modifications for polar orbiting and geostationary environmental satellite systems, as well as the operation of such satellites and land remote-sensing satellites.

(2) Of the sum authorized under paragraph (1), $2,300,000 in fiscal year 1993 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(b) Emergency Contingency Fund.—There are authorized to be appropriated to the Secretary of Commerce, $110,000,000 for fiscal year 1992, to be deposited in an Emergency Weather Satellite Contingency Fund. Such Fund shall be available subject to the restrictions of appropriations Acts, without fiscal year limitation, to the Secretary only for the purpose of enabling the National Oceanic and Atmospheric Administration to maintain geostationary environmental satellite coverage for monitoring and prediction of hurricanes and severe storms, including but not limited to the procurement of gap filler satellites, launch vehicles, and payments to foreign governments.

(c) Strategic Plan.—(1) The Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration shall jointly develop and, not more than 120 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a strategic plan for development, procurement, and operation of the environmental satellite program of the Department of Commerce.

(2) The objectives of the strategic plan shall be—

(A) to ensure continuous and adequate operational environmental satellite coverage; and

(B) to require direct Federal fiscal and administrative accountability in all aspects of such environmental satellite program.

(3) The strategic plan shall—

(A) delineate the management duties and functions of each Federal department or agency involved in such satellite program;

(B) establish funding responsibilities for each Federal department or agency in a manner which reflects their respective management duties and functions;

(C) set forth procedures to be followed in the development, procurement, and operations of environmental satellites in such program;

(D) minimize the potential for developmental and procurement problems, and for cost overruns;

(E) provide for effective interagency and international coordination;

(F) provide for research and development activities to ensure that the procurement of operational environmental satellites relies on proven technologies, and to investigate potential improvements in data applications and operations for such satellites in order to improve the national weather warning and forecast system; and

(G) specify legislative and administrative actions necessary to implement the plan and to accomplish the objectives described in paragraph (2).

DATA AND INFORMATION SYSTEMS

SEC. 106. (a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $32,628,000 for fiscal year 1992 and $44,028,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

(b) MODERIZATION INITIATIVE.—Of the sums authorized under subsection (a), $10,000,000 in fiscal year 1992 and $20,000,000 in fiscal year 1993 are authorized to be appropriated for the purpose of modernizing the data and information systems of the National Oceanic and Atmospheric Administration to meet increasing requirements for managing, archiving, and distributing environmental data and information.

(c) NEEDS ASSESSMENT FOR DATA MANAGEMENT, ARCHIVAL, AND DISTRIBUTION.—(1) Not later than 12 months after the date of enactment of this Act and at least biennially thereafter, the Secretary of Commerce shall complete an assessment of the adequacy of the environmental data and information systems of the National Oceanic and Atmospheric Administration. In conducting such an assessment, the Secretary shall take into consideration the need to—

(A) provide adequate capacity to manage, archive, and disseminate environmental data and information collected and processed, or expected to be collected and processed, by the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(B) establish, develop, and maintain information bases, including necessary management systems, which will promote consistent, efficient, and compatible transfer and use of data;

(C) develop effective interfaces among the environmental data and information systems of the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(D) develop and use nationally accepted formats and standards for data collected by various national and international sources; and

(E) integrate and interpret data from different sources to produce information that can be used by decisionmakers in developing policies that effectively respond to national and global environmental concerns.

(2) Not later than 12 months after the date of enactment of this Act and biennially thereafter, the Secretary of Commerce shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive plan, based on the assessment under paragraph (1), to modernize and improve the environmental data and information systems of the National Oceanic and Atmospheric Administration. The report shall—

(A) set forth modernization and improvement objectives for the 10-year period beginning with the year in which the plan is submitted, including facility requirements and critical new technological components that would be necessary to meet the objectives set forth;

(B) propose specific agency programs and activities for implementing the plan;

(C) identify the data and information management, archival, and distribution responsibilities of the National Oceanic and Atmospheric Administration with respect to other Federal departments and agencies and international organizations, including the role of the National Oceanic and Atmospheric Administration with respect to large data systems like the Earth Observing System Data and Information System; and

(D) provide an implementation schedule and estimate funding levels resources necessary to achieve modernization and improvement objectives.

HURRICANE RECONNAISSANCE PROGRAM

SEC. 107. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

(b) RESPONSIBILITIES.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under this section and to transfer the data to the Secretary of Commerce, unless a joint agreement is reached, with the approval of both the Secretary of Defense and the Secretary of Commerce, for the transfer of such responsibility (including full funding) to an appropriate Federal agency or department which may include the Coast Guard.

(2) The Secretary of Commerce shall have the responsibility to provide funding for data gathering and research by remote sensing, ground sensing, research aircraft, and other technologies necessary to accomplish the program established under this section.

(c) MANAGEMENT PLANS.—(1) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under this section, which shall include organizational structure, goals, major tasks, and funding profiles for the 5-year duration of the program.

(2) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(3) The management plans and programs required by this section shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability (in terms of quantity and quality of aircraft, flying hours, crews, and support personnel), or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

UNITED STATES WEATHER RESEARCH PROGRAM

SEC. 108. (a) ESTABLISHMENT.—The Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall establish a United States Weather Research Program to—

(1) increase benefits to the Nation from the substantial investment in modernizing the public weather warning and forecast system in the United States;

(2) improve local and regional weather forecasts and warnings;

(3) address critical weather-related scientific issues; and

(4) coordinate governmental, university, and private-sector efforts.

(b) IMPLEMENTATION PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan for implementation of the United States Weather Research Program which shall—

(1) establish, for the 10-year period beginning in the year the plan is submitted, the goals and priorities for Federal weather research which most effectively advance the scientific understanding of weather processes and provide information to improve weather warning and forecast systems in the United States;

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, demonstration of potential operational forecast applications, and education and training required to achieve such goals and priorities; and

(3) set forth the role of each Federal agency and department to be involved in the United States Weather Research Program, identifying and addressing, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to such Program.

WEATHER SERVICE OFFICE IN RENO, NEVADA

SEC. 109. (a) FACILITY ACQUISITION.—The Administrator of the National Oceanic and Atmospheric Administration is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years,

a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada area.

(b) REIMBURSEMENT AUTHORITY.—The Administrator is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

WEATHER SERVICE FACILITIES IN SOUTH FLORIDA

SEC. 110. (a) CONSTRUCTION OF FACILITY.—The Administrator of the National Oceanic and Atmospheric Administration is authorized to construct, on land to be leased from Florida International University at the University's Tamiami campus, a facility for the National Hurricane Center, a Weather Forecast Office, an upper air facility, and associated site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the South Florida area.

(B) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

WEATHER FORECAST OFFICE, HONOLULU

SEC. 111. (a) FACILITY ACQUISITION.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the State of Hawaii, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

INSTITUTE FOR AVIATION WEATHER PREDICTION

SEC. 112. The Administrator of the National Oceanic and Atmospheric Administration shall establish an Institute for Aviation Weather Prediction. The Institute shall provide forecasts, weather warnings, and other weather services to the United States aviation community. The Institute shall expand upon the activities of the aviation unit currently at the National Severe Storms Center in Kansas City, Missouri, and shall be established and remain in the Kansas City, Missouri area. The Administrator shall provide a full and fair opportunity for employees at the National Severe Storms Center to assume comparable duties and responsibilities within the Institute.

WEATHER SERVICE OFFICE IN OKLAHOMA

SEC. 113.(a) FACILITY ACQUISITION.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space to be constructed by the University of Oklahoma, Norman, for the operation of the National Severe Storms Laboratory, Weather Forecast Office, NEXRAD Operational Support Facility, and National Institute for Storm Prediction as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program, for a term of up to 20 years.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operations listed in subsection (a)(1).

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

TRANSFER OF DATA ARCHIVING RESPONSIBILITY

SEC. 114.(a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C. 4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) PROVISION OF UNENHANCED DATA.—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4242(b)(4)) is amended by inserting "of the Interior" immediately after "Secretary".

(c) ARCHIVING OF DATA.—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting "of the Interior" immediately after "Secretary" each place it appears; and

(2) by adding at the end the following new subsection:

"(h) In carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.".

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

NATIONAL OCEAN SERVICE

SEC. 201. (a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $50,917,000 for fiscal year 1992 and $51,087,000 for fiscal year 1993.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $57,273,000 for fiscal year 1992 and $57,273,000 for fiscal year 1993;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), $4,500,000 for fiscal year 1992 and $4,500,000 for fiscal year 1993; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992 and $11,000,000 for fiscal year 1993.

(c) COASTAL OCEAN PROGRAM.—Of the sums authorized under subsection (b)(1), $17,352,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purposes of conducting a Coastal Ocean Program. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include efforts to improve predictions of fish stocks to better conserve and manage living marine resources, to improve predictions of coastal ocean pollution to help correct and prevent degradation, to promote development of ocean technology to support the effort of science to understand and characterize the role oceans play in global climate and environmental analysis, and to improve predictions of coastal hazards to protect human life and personal property.

(d) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992 and $1,823,000 for fiscal year 1993.

OCEAN AND GREAT LAKES RESEARCH

SEC. 202. There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992 and $39,800,000 for fiscal year 1993.

TITLE III—NOAA MARINE FISHERY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended——

(1) in section 2(a) by striking "26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$47,933,000 for fiscal year 1992 and $59,162,000 for fiscal year 1993";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,290,000 for fiscal year 1992 and $35,594,000 for fiscal year 1993"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$12,182,000 for fiscal year 1992 and $18,838,000 for fiscal year 1993".

DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING

SEC. 302. Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

"(d) Of the sums authorized under subsection (a) of this section, $1,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

"(1) cooperative research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

FISHERIES RESEARCH

SEC. 303. Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after "FISHERIES RESEARCH.——" the following: "(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

FISHERY FACILITIES

SEC. 304. Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) for agriculture, including operations on land or elsewhere—

"(A) Any structure or appurtenance thereto designed for aquaculture;

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagraph (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

STUDY OF JOINT ENFORCEMENT OF FISHERIES REGULATIONS

SEC. 305. Not later than 4 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts in the western Pacific Ocean under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for the western Pacific Ocean, particularly in the exclusive economic zone adjacent to the Hawaiian Islands, the northern Mariana Islands, and the territories and possessions of the United States;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of fisheries regulations, including but not limited to the chartering of light aircraft for fisheries surveillance and enforcement; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE

SEC. 306. (a) ESTABLISHMENT—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter referred to as the "Office").

(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

(c) BUDGET LINE ITEM.—The Secretary of Commerce shall identify, in the President's annual budget to the Congress, the funding request for the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409), as amended by section 302 of this Act, is further amended by adding at the end the following new subsection:

"(e) Of the sums authorized under subsection (a) of this section, no more than $2,500,000 are authorized to be appropriated for each of the fiscal years 1992 and 1993 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 306 of the National Oceanic and Atmospheric Administration Authorization act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.".

NATIONAL SHELLFISH INDICATOR PROGRAM

SEC. 307. (a) ESTABLISHMENT OF A RESEARCH PROGRAM.—The Secretary of Commerce, in cooperation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall establish and administer a 5-year national shellfish research program (hereafter in this section referred to as the "Program") for the purpose of improving existing classification systems for shellfish growing waters using the latest technological advancements in microbiology and epidemiological methods. Within 12 months after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the advisory committee established under subsection (b) and the Consortium, shall develop a comprehensive 5-year plan for the Program which shall at a minimum provide for—

(1) an environmental assessment of commercial shellfish growing areas in the United States, including an evaluation of the relationships between indicators of fecal contamination and human enteric pathogens;

(2) the evaluation of such relationships with respect to potential health hazards associated with human consumption of shellfish;

(3) a comparison of the current microbiological methods used for evaluating indicator bacteria and human enteric pathogens in shellfish and shellfish growing waters with new technological methods designed for this purpose;

(4) the evaluation of current and projected systems for human sewage treatment in eliminating viruses and other human enteric pathogens which accumulate in shellfish;

(5) the design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption; and

(6) recommendations for revising Federal shellfish standards and improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption.

(b) ADVISORY COMMITTEE.—(1) For the purpose of providing oversight of the Program on a continuing basis, an advisory committee (hereafter in this section referred to as the "Committee") shall be established under a memorandum of understanding between the Interstate Shellfish Sanitation Conference and the National Marine Fisheries Service.

(2) The Committee shall—

(A) identify priorities for achieving the purpose of the Program;

(B) review and recommend approval or disapproval of Program work plans and plans of operation;

(C) review and comment on all subcontracts and grants to be awarded under the Program;

(D) receive and review progress reports from the Consortium and Program subcontractors and grantees; and

(E) provide such other advice on the Program as is appropriate.

(3) The Committee shall consist of at least ten members and shall include—

(A) three members representing agencies having authority under State law to regulate the shellfish industry, of whom one shall represent each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions;

(B) three members representing persons engaged in the shellfish industry in the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions (who shall be appointed from among at least six recommendations by the industry members of the Interstate Shellfish Sanitation Conference Executive Board), of whom one shall represent the shellfish industry in each region;

(C) three members, of whom one shall represent each of the following Federal agencies: the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Food and Drug Administration; and

(D) one member representing the Shellfish Institute of North America.

(4) The Chairman of the Committee shall be selected from among the Committee members described in paragraph (3)(A).

(5) The Committee shall establish and maintain a subcommittee of scientific experts to provide advice, assistance, and information relevant to research funded under the Program, except that no individual who is awarded, or whose application is being considered for, a grant or subcontract under the Program may serve on such subcommittee. The membership of the subcommittee shall, to the extent practicable, be regionally balanced with experts who have scientific knowledge concerning each of the Atlantic, Pacific, and Gulf of Mexico growing regions. Scientists from the National Academy of Sciences and appropriate Federal agencies (including the National Oceanic and Atmospheric Administration, Food and Drug Administration, Centers for Disease Control, National Institutes of Health, Environmental Protection Agency, and National Science Foundation) shall be considered for membership on the subcommittee.

(6) Members of the Committee and its scientific subcommittee established under this subsection shall not be paid for serving on the Committee or subcommittee, but shall receive travel expenses as authorized by section 5703 of title 5, United States Code.

(c) CONTRACT WITH CONSORTIUM.—Within 30 days after the date of enactment of this Act, the Secretary of Commerce shall seek to enter into a cooperative agreement or contract with the Consortium under which the Consortium will—

(1) be the academic administrative organization and fiscal agent for the Program;

(2) award and administer such grants and subcontracts as are approved by the Committee under subsection (b);

(3) develop and implement a scientific peer review process for evaluating grant and subcontractor applications prior to review by the Committee;

(4) in cooperation with the Secretary of Commerce and the Committee, procure the services of a scientific project director;

(5) develop and submit budgets, progress reports, work plans, and plans of operation for the Program to the Secretary of Commerce and the Committee; and

(6) make available to the Committee such staff, information, and assistance as the Committee may reasonably require to carry out its activities.

(d) REPORTING REQUIREMENTS.—Within 3 months after the date of enactment of this Act and within each of the next three consecutive 3-month intervals, the Secretary of Commerce shall provide Congress with written assessments of Federal efforts to implement this section. In addition, the Secretary of Commerce shall submit an annual report to Congress on the Program, including a description of the research funded under the Program and the results of such research.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) Of the sums authorized under section 4(a) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409), there are authorized to be appropriated to the Secretary of Commerce $5,200,000 for each of the fiscal years 1993 through 1997 for carrying out the Program. Of the amount appropriated pursuant to this authorization, not more than 5 percent of such appropriation may be used for administrative purposes by the National Oceanic and Atmospheric Administration. The remaining 95 percent of such appropriation shall be used to meet the administrative and scientific objectives of the Program.

(2) The Interstate Shellfish Sanitation Conference shall not administer appropriations authorized under this section, but may be reimbursed from such appropriations for its expenses in arranging for travel, meetings, workshops, or conferences necessary to carry out the Program.

(f) DEFINITIONS.—As used in this section, the term—

(1) "Consortium" means the Louisiana Universities Marine Consortium; and

(2) "shellfish" means any species of oyster, clam, or mussel that is harvested for human consumption.

SPACE FOR COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY

SEC. 308. The Secretary of commerce shall acquire on a long-term basis from the Administrator of General Services space on Pivers Island in Beaufort, North Carolina, that is needed to implement the memorandum of understanding of March 2, 1989, between the National Oceanic and Atmospheric Administration, Duke University, and the University of North Carolina establishing the Cooperative Institute of Fisheries Oceanography. This section shall not apply if the annual cost of leasing the required space exceeds $2,000,000.

TITLE IV—ADMINISTRATION AND OTHER ACCOUNTS

PROGRAM SUPPORT

SEC. 401. (a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857–1 et seq.), and any other law involving those activities, $68,460,000 for fiscal year 1992 and $79,547,000 for fiscal year 1993.

(b) MARINE SERVICES.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,407,000 for fiscal year 1992 and $68,518,000 for fiscal year 1993.

(2) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1993.

(3) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $1,040,000 for fiscal year 1993 for the reactivation and operation of the research vessel ALBATROSS IV.

(4)(A) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

(B) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives 60 days prior to the proposed deactivation of any other research vessel of the National Oceanic and Atmospheric Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.

(5) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate cost effective and practical measures to allow vessels of the National Oceanic and Atmospheric Administration to be interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(c) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $8,865,000 for fiscal year 1992 and $12,372,000 for fiscal year 1993.

NOAA FLEET MODERNIZATION

SEC. 402. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for modernization of the National Oceanic and Atmospheric Administration fleet $50,000,000 for fiscal year 1992 and $10,000,000 for fiscal year 1993 for maintenance, replacement, construction, and instrument upgrades of oceanographic research vessels.

(b) FLEET REPLACEMENT AND MODERNIZATION PLAN.—Not later than January 1, 1993, the Secretary of Commerce shall submit to the Congress a detailed fleet replacement and modernization plan, including a schedule of anticipated modernizations, acquisitions of vessels, acquisition of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the plan.

(c) ACQUISITION OF VESSELS UNDER MULTIYEAR CONTRACTS.—(1) Subject to paragraphs (2), (3), and (4), the Secretary of Commerce may acquire vessels of the National Oceanic and Atmospheric Administration fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(2) The Secretary of Commerce may not enter into any contract pursuant to this subsection before the date of the submission to the Congress of a plan pursuant to subsection (b).

(3) The Secretary of Commerce may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

(A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from the Congress funding for the contract at the level required to avoid contract termination; and

(B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(4) The Secretary of Commerce may not enter into a contract pursuant to this subsection unless the contract includes—

(A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision which specifies the term of effectiveness of the contract;

(C) appropriate provisions under which in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall be liable for the total of—

(i) the annual cost of the contract; and

(ii) an amount specified in the contract for such a termination.

RESTRICTION WITH RESPECT TO CERTAIN SHIPYARD SUBSIDIES

SEC. 403. (a) IN GENERAL.—The Secretary of Commerce may not award a contract for the construction, repair (except emergency repairs), or alteration of any vessel of the National Oceanic and Atmospheric Administration in a shipyard, if that vessel benefits or would benefit from significant subsidies for the construction, repair, or alteration of vessels in that shipyard.

(b) DEFINITION.—In this section, the term "significant subsidy" includes, but is not limited to, any of the following:

(1) Officially supported export credits.

(2) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to—

(A) grants;

(B) loans and loan guarantees other than those available on the commercial market;

(C) forgiveness of debt;

(D) equity infusions on terms inconsistent with commercially reasonable investment practices; and

(E) preferential provision of goods and services.

(3) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to the kinds of support listed in paragraph (2)(A) through (E), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

(4) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

(5) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions, and preferences, including accelerated depreciation, if such benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(6) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair into anticompetitve arrangements.

(7) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

(8) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

CONSTRUCTION

SEC. 404. (a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $34,917,000 for fiscal year 1992 and $90,797,000 for fiscal year 1993.

(b) ACQUISITION OF NOAA AIRCRAFT.—Of the sums authorized under subsection (a) for fiscal year 1993, no more than $30,000,000 are authorized to be appropriated for acquisition of an aircraft to enhance the ability of the National Oceanic and Atmospheric Administration to conduct tropospheric research.

(c) ACQUISITION OF SPACE IN NEWPORT NEWS-NORFOLK AREA.—The Secretary of Commerce shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the Secretary's consent, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

NOTICE OF REPROGRAMMING

SEC. 405. The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representatives, not less than 30 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lesser of $500,000 or 10 percent of the total funding of such program, project, or activity if the reprogramming—

(1) augments an existing program, project, or activity;

(2) reduces by 10 percent (A) the funding for an existing program, project, or activity or (B) the numbers of personnel therefor as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in an existing program, project, or activity.

FINANCIAL ASSISTANCE

SEC. 406. (a) PROCESSING OF APPLICATIONS.—Within 12 months after the date of enactment of this Act, the Secretary of Commerce shall develop and, after notice and opportunity for public comment, promulgate regulations or guidelines to ensure that a completed application for a grant, contract, or other financial assistance under a nondiscretionary assistance program shall be processed and approved or disapproved within 75 days after submission of the application to the responsible program office of the National Oceanic and Atmospheric Administration.

(b) NOTIFICATION OF APPLICANT.—Not later than 14 days after the date on which the Secretary of Commerce receives an application for a contract, grant, or other financial assistance provided under a nondiscretionary assistance program administered by the National Oceanic and Atmospheric Administration, the Secretary shall indicate in writing to the applicant whether or not the application is complete and, if not complete, shall specify the additional material that the applicant must provide to complete the application.

(c) EXEMPTION.—In the case of a program for which the recipient of a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, a State or an interstate fishery commission, such financial assistance may be provided by the Secretary to that recipient on a sole-source basis, notwithstanding any other provision of law.

(d) DEFINITION.—In this section, the term "nondiscretionary assistance program" means any program for providing financial assistance—

(1) under which the amount of funding for, and the intended recipient of, the financial assistance is specified by Congress; or

(2) the recipients of which have customarily been a State or an interstate fishery commission.

TITLE V—NATIONAL MARINE MONITORING PROGRAM

AMENDMENT TO MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT

SEC. 501. The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended by adding at the end the following new title:

"TITLE V—NATIONAL MARINE MONITORING PROGRAM

"SEC. 501. PURPOSES.

"The purposes of this title are to—

"(1) establish a comprehensive national program for consistent monitoring of the Nation's marine ecosystems;

"(2) establish a system for reviewing and evaluating the scientific, analytical, and technological means that are available for monitoring the environmental quality of marine ecosystems;

"(3) establish methods for identifying uniform indicators of marine ecosystem quality;

"(4) provide for periodic, comprehensive reports to Congress concerning the quality of the Nation's marine ecosystems;

"(5) establish a marine environment information program to distribute marine monitoring information, and to develop active programs of marine education and outreach;

"(6) provide State programs authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) with information necessary to design land use plans and coastal zone regulations that will contribute to the protection of marine ecosystems; and

"(7) provide water pollution control programs authorized under the Clean Water Act (33 U.S.C. 1251 et seq.) with information necessary to design and implement effective water pollution controls.

"SEC. 502. DEFINITIONS.

"As used in this title, the term—

"(1) 'monitoring' means any activity which produces, through continuous or repetitious scientific sampling and observation, measurements of changes in environmental conditions or qualities;

"(2) 'marine waters' means estuaries, waters of the estuarine zone (including wetlands), any other waters seaward of the historic height of tidal influence, the territorial seas, the contiguous zone, and the ocean; and

"(3) 'marine ecosystem' means a system of interacting biological, chemical, and physical components throughout the water column, sea surface, and benthic environment of marine waters.

"SEC. 503. COMPREHENSIVE MARINE MONITORING PROGRAM.

"(a) AUTHORITY.—

"(1) JOINT IMPLEMENTATION.—The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration shall jointly complement a program for the collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's marine ecosystems pursuant to this section. The program, which shall be known as the Comprehensive Marine Monitoring Program, shall build upon existing monitoring and related programs within the National Oceanic and Atmospheric Administration and the Environmental Protection Agency, including the National Status and Trends Program.

"(2) LOCATION OF EPA ACTIVITIES.—Monitoring Program activities conducted by the Environmental Protection Agency pursuant to this section shall be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

"(3) COORDINATION WITH STATES.—The Comprehensive Marine Monitoring Program shall be developed and implemented in consultation and cooperation with coastal States.

"(b) PROGRAM ELEMENTS.—The Comprehensive Marine Monitoring Program shall include, but is not limited to—

"(1) identification and analysis of the status of environmental quality in the Nation's marine ecosystems, including but not limited to assessment of—

"(A) ambient water quality, including contaminant levels in relation to standards adopted pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.);

"(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to standards adopted pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.); and

"(C) health and quality of living resources;

"(2) identification of sources of environmental degradation affecting marine ecosystems;

"(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the degradation of marine ecosystems;

"(4) assessment of the accumulation of floatables along marine shorelines; and

"(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's marine ecosystems.

"(c) UNIFORM INDICATORS OF ECOSYSTEM QUALITY.—The Comprehensive Marine Monitoring Program established pursuant to this section shall provide for the identification of indicators of marine ecosystem quality. The Program shall include the identification of appropriate physical, chemical, and biological indicators of marine ecosystem health or stress, including but not limited to—

"(1) indicators of biological responses to contaminants within marine ecosystems; and

"(2) indicators of the effects of pollutants on populations of living marine resources.

"(d) MONITORING METHODS REVIEW SYSTEM.—

"(1) INCLUSION OF SYSTEM IN COMPREHENSIVE PROGRAM.—The Comprehensive Marine Monitoring Program established pursuant to this section shall include a system for designing, reviewing, and evaluating methods for monitoring marine ecosystems.

"(2) ELEMENTS OF SYSTEM.—The system shall include, but is not limited to—

"(A) establishment and review of protocols for data collection and observation within the monitoring process, including protocols for assessment of the accumulation of floatables;

"(B) review and guidance regarding proper methods for statistical analysis of monitoring data;

"(C) evaluation of technological methods and materials used in the monitoring process; and

"(D) establishment of a quality control system to ensure that monitoring methods are used correctly and uniformly, and to protect the validity and comparability of monitoring data.

"(3) PROMULGATION OF PROTOCOLS.—Protocols established and reviewed pursuant to paragraph (2)(A) shall be promulgated within 2 years after the date of enactment of this title. Within 6 months after the promulgation of such protocols, monitoring pursuant to this Act and the Federal Water Pollution Control Act shall be consistent with the protocols.

"(e) INTENSIVE MONITORING PROGRAMS.—

"(1) DESIGNATION OF INTENSIVE MONITORING AREAS.—The Comprehensive Marine Monitoring Program established pursuant to this section shall provide for the designation, in consultation with coastal States, of specific estuarine and coastal areas in which the marine ecosystems shall be intensively monitored.

"(2) INTENSIVE MONITORING WITHIN DESIGNATED AREAS.—Within 2 years after an area is designated under paragraph (1), the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall develop and begin implementing a multiyear program of intensive monitoring of the quality of the marine ecosystems within such area, ensuring that—

"(A) the intensive monitoring program is consistent with provisions of the marine research plan developed under title IV which is applicable to the designated area;

"(B) monitoring activities are conducted in coordination with activities conducted pursuant to title IV;

"(C) the monitoring program is tailored to the specific monitoring needs of the area;

"(D) the monitoring program is coordinated with State monitoring activities;

"(E) monitoring methods are consistent with the provisions of subsection (d); and

"(F) a draft plan of the monitoring program is made available to the public for review and comment within 12 months after the area is designated under paragraph (1).

"(3) MONITORING OF MASSACHUSETTS BAY AND CAPE COD BAY.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall, in connection with the clean-up of Boston Harbor, jointly conduct monitoring in Massachusetts Bay and Cape Code Bay to establish baseline data on environmental phenomena (such as bacteria, quantity and quality of indigenous species, and swimmability) and determine the ecological impacts resulting from the discharge to those Bays, including the effects of the effluent from the proposed Boston Harbor outfall. Such monitoring shall be conducted in coordination with appropriate public and private entities, especially the Massachusetts Water Resources Agency.

"(4) MONITORING OF CHESAPEAKE BAY.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall establish a program of intensive monitoring of the marine ecosystem within the Chesapeake Bay.

"(f) COMPREHENSIVE IMPLEMENTATION STRATEGY.—

"(1) IN GENERAL.—Within 1 year after the date of enactment of this title, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Marine Monitoring Program pursuant to this section.

"(2) CONSULTATION.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall consult with the Director of the Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the Secretary of Agriculture, the administrators of any other relevant Federal or regional agencies, and coastal States in developing such Strategy.

"(3) PUBLIC COMMENT.—Not less than 3 months before submitting such Strategy to Congress, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly publish a draft version of such Strategy in the Federal Register, and shall solicit public comments regarding such Strategy.

"(4) MEMORANDA OF UNDERSTANDING.—Within 1 year after submission of such Strategy under paragraph (1), the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall enter into Memoranda of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal marine monitoring programs. The Memoranda of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities where possible.

"SEC. 504. REPORT TO CONGRESS.

On September 30 of each year beginning in 1994, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly submit to Congress a report describing the condition of the Nation's marine ecosystems, including the following components:

"(1) an assessment of the status and health of the Nation's marine ecosystems;

"(2) an evaluation of environmental trends in marine ecosystems;

"(3) identification of sources of environmental degradation affecting marine ecosystems;

"(4) an assessment of the extent to which floatables degrade marine ecosystems, including trends in the accumulation of floatables and the threat posed by floatables to marine life;

"(5) an assessment of the impact of government programs designed to abate the degradation of marine ecosystems;

"(6) an evaluation of the adequacy of monitoring programs and identification of any additional program elements which may be needed.

"SEC. 505. MARINE ENVIRONMENT INFORMATION PROGRAM.

"The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly establish a Marine Environment Information Program to compile, analyze, and disseminate information on assessing marine degradation, on practices and techniques effective in restoring and protecting marine ecosystems, and on other issues related to the marine environment. The program required pursuant to this section shall—

"(1) distribute marine degradation analyses, assessments, and information regarding techniques and practices;

"(2) include programs for education and active outreach to State, regional, and local agencies and other appropriate organizations to improve progress in addressing marine environmental degradation;

"(3) make available to the public such information on marine environmental degradation as may be available;

"(4) organize national and regional workshops and meetings for review of monitoring reports, practices, and information; and

"(5) include an electronic information system for communication of monitoring information through national computer networks.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"(a) NOAA AUTHORIZATION.—For the implementation of the programs under this title, there are authorized to be appropriated to the National Oceanic and Atmospheric Administration amounts not to exceed $1,500,000 for fiscal year 1992; $3,500,000 for fiscal year 1993, $6,000,000 for fiscal year 1994; $7,500,000 for fiscal year 1995; and $7,500,000 for fiscal year 1996.

"(b) EPA AUTHORIZATION.—For the implementation of the programs under this title, there are authorized to be appropriated to the Environmental Protection Agency amounts not to exceed $1,500,000 for fiscal year 1992; $3,500,000 for fiscal year 1993; $6,000,000 for fiscal year 1994; $7,500,000 for fiscal year 1995; and $7,500,000 for fiscal year 1996.".

TITLE VI—NOAA FOUNDATION

SHORT TITLE

SEC. 601. This title may be cited as the "NOAA Foundation Establishment Act".

ESTABLISHMENT AND FUNCTIONS

SEC. 602. (a) ESTABLISHMENT.—There is established a charitable and nonprofit corporation to be known as the NOAA Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is not an agency or establishment of the United States.

(b) FUNCTIONS.—The functions of the Foundation are—

(1) to encourage, accept, and administer private gifts for the benefit of, or in connection with, the programs and activities of the National Oceanic and Atmospheric Administration, and for the benefit of, or in connection with, the activities of the Foundation;

(2) to undertake activities to enhance, support, or complement the research, analysis, measurement, assessment, conservation, management, regulatory, and service programs and activities of the National Oceanic and Atmospheric Administration;

(3) to participate with and otherwise assist international organizations, foreign governments, entities, and individuals in undertaking and conducting activities of a type conducted by the National Oceanic and Atmospheric Administration or which complement its programs and activities; and

(4) to conduct education, demonstration, outreach and training (including the convening of symposia and the presentation of public exhibitions and displays) to foster understanding of the mission of the National Oceanic and Atmospheric Administration and its programs and activities, and to stimulate and encourage appropriate cooperation and participation in its activities by regional, State and local agencies, and private organizations and individuals.

BOARD OF DIRECTORS

SEC. 603. (a) MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereafter referred to in this title as the "Board"). The Board shall consist of 13 voting members, of whom—

(1) at least 11 shall be United States citizens;

(2) nine shall be knowledgeable with respect to one or more of the research, analysis, measurement, assessment, conservation, management, regulatory, or service programs and activities of the National Oceanic and Atmospheric Administration; and

(3) four shall be educated and experienced in a scientific, technical, or professional field relating to one or more of the programs or activities of the National Oceanic and Atmospheric Administration.

The membership of the Board shall, in aggregate, possess a broad understanding of the range of programs and activities of the National Oceanic and Atmospheric Administration, and to the extent practicable, shall represent diverse points of view relating to those programs and activities. The Administrator of the National Oceanic and Atmospheric Administration shall be an ex-officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—By October 1, 1991, the Secretary of the Commerce shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years; except that the Secretary, in making the initial appointments to the Board, shall appoint four members to a term of 2 years, four members to a term of 4 years, and five members to a term of 6 years. A vacancy on the Board shall be filled, within 60 days after such vacancy, in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a member.

(c) CHAIRMAN.—From among its voting members the Board shall elect a chairman, who shall have a 2-year term.

(d) QUORUM.—A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business at that time.

(e) MEETINGS.—The Board shall meet at the call of the chairman at least once a year. If an individual serving as a voting member misses three consecutive regularly scheduled meetings, the Secretary of Commerce may remove that individual from the Board as a voting member and fill the vacancy in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the functions of the Foundation and the provisions of this title; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this title.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer and (ii) shall be knowledgeable and experienced in matters relating to the functions and programs of the National Oceanic and Atmospheric Administration.

RIGHTS, OBLIGATIONS, AND POWERS OF THE FOUNDATION

SEC. 604. (a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(3) shall have its principal offices in the District of Columbia; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its functions under section 602, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, device, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that neither the members of

the Board nor the officers or employees of the Foundation shall be personally liable, other than for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make and receive such payments as may be necessary to carry out functions of the Foundation;

(6) to engage in joint projects with the National Oceanic and Atmospheric Administration under any law authorizing the Secretary of Commerce or the Administrator of the National Oceanic and Atmospheric Administration to engage in joint projects with private, non-profit organizations; and

(7) to do any and all acts necessary and proper to carry out the functions of the Foundation.

For purposes of this title, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, device, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

ADMINISTRATIVE SERVICES AND SUPPORT

SEC. 605. (a) PROVISION OF SERVICES.—The Secretary of Commerce may provide personnel, facilities, and other administrative services and assistance to the Foundation, including reimbursement of expenses under section 603(f) not to exceed current Federal Government per diem rates, for a period of up to 5 years after the date of enactment of this Act.

(b) REIMBURSEMENT.—The Foundation may reimburse the Secretary of Commerce for any administrative service provided under subsection (a). The Secretary shall deposit any reimbursement received under this subsection into the Treasury to the credit of the appropriation then current and chargeable for the cost of providing such services.

VOLUNTEER STATUS

SEC. 606. The Secretary of Commerce may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Commerce, as volunteers in the performance of the functions authorized under this title, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

AUDITS, REPORT REQUIREMENT, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF

SEC. 607. (a) AUDITS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following new paragraph:

"(75) NOAA Foundation.".

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its functions set forth in section 602(b); or

(2) refuses, fails, or neglects to discharge its obligations under this tile, or threatens to do so, the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

RELEASE FROM LIABILITY

SEC. 608. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 609. There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to provide administrative services to the Foundation under section 605, $200,000 for fiscal year 1993.

TITLE VII—WEATHER SERVICE MODERNIZATION

SHORT TITLE

SEC. 701. This title may be cited as the "Weather Service Modernization Act".

DEFINITIONS

SEC. 702. For the purposes of this title, the term—

(1) "automate" means to replace employees with automated weather service equipment;

(2) "change operations at a field office" means transfer service responsibility, commission weather observation systems, decommission a National Weather Service radar, change staffing levels significantly, or move a field office to a new location inside the local commuting and service area;

(3) "Committee" means the Modernization Transition Committee established by section 707;

(4) "degradation of service" means any decrease in or failure to maintain the quality and type of weather services provided by the National Weather Service to the public in a service area, including but not limited to a reduction in existing weather radar coverage at an elevation of 10,000 feet;

(5) "field office" means any National Weather Service Office or National Weather Service Forecast Office;

(6) "Plan" means the National Implementation Plan required under section 703;

(7) "relocate" means to transfer from one location to another location that is outside the local commuting and service area;

(8) "Secretary" means the Secretary of Commerce;

(9) "service area" means the geographical area for which a field office provides services or conducts observations, including but not limited to local forecasts, severe weather warnings, aviation support, radar coverage, and ground weather observations; and

(10) "Strategic Plan" means the 10-year strategic plan for the comprehensive modernization of the National Weather Service, required under section 407 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note).

NATIONAL IMPLEMENTATION PLAN

SEC. 703. (a) NATIONAL IMPLEMENTATION PLAN.—As part of the budget justification documents submitted to Congress in support of the annual budget request for the Department of Commerce, the Secretary shall include a National Implementation Plan for modernization of the National Weather Service for each fiscal year following fiscal year 1993 until such modernization is complete. The Plan shall set forth the actions, during the 2-year period beginning with the fiscal year for which the budget request is made, that will be necessary to accomplish the objectives described in the Strategic Plan, and shall include—

(1) detailed requirements for new technologies, facilities, staffing levels and positions, and funding, in accordance with the overall schedule for modernization;

(2) notification of any proposed action to change operations at a field office and the intended date of such operational change;

(3) identification of any field office that the Secretary intends to certify under section 706, including the intended date of such certification;

(4) special measures to test, evaluate, and demonstrate key elements of the modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of the modernization in an integrated manner for a sustained period;

(5) detailed plans and funding requirements for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize the new technologies being implemented in the modernization; and

(6) training and education programs to ensure that employees gain the necessary expertise to utilize the new technologies and to minimize employee displacement as a consequence of modernization.

(b) TRANSMITTAL TO COMMITTEE. The Secretary shall transmit a copy of each annual Plan to the Committee.

(c) CONSULTATION.—In developing the Plan, the Secretary shall consult, as appropriate, with the Committee and public entities responsible for providing or utilizing weather services.

MODERNIZATION CRITERIA

SEC. 704. (a) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall contract with the National Research Council for a review of the scientific and technical modernization criteria by which the Secretary proposes to certify action to close, consolidate, automate, or relocate a field office under section 706. In conducting such review, the National Research Council shall prepare and submit to the Secretary, no later than 9 months after the date of enactment of this Act, a report which —

(1) assesses requirements and procedures for commissioning new weather observation systems, decomissioning and outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area;

(2) assesses the statistical and analytical measures that should be made for a service area to form an adequate basis for determining that there will be no degradation of service; and

(3) includes such other recommendations as the National Research Council determines are appropriate to ensure public safety.

(b) CRITERIA.—No later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the National Research Council and the Committee and after notice and opportunity for public comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures), based on the report required under this section, for—

(1) commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area; and

(2) certifying action to close, consolidate, automate, or relocate a field office under section 706.

CHANGES IN FIELD OFFICE OPERATIONS

SEC. 705. (a) NOTIFICATION.—The Secretary shall not change operations at a field office pursuant to implementation of the Strategic Plan unless the Secretary has provided the notification required by section 703.

(b) WEATHER RADAR DECOMMISSIONING.—The Secretary shall not remove or permanently decommission any National Weather Service radar until the Secretary has prepared radar commissioning and decommissioning reports documenting that such action would be consistent with the modernization criteria established under section 704(b)(1). The commissioning report shall document that the radar system performs reliably, satisfactory maintenance support is in place, sufficient staff with adequate training are present to operate the system, technical coordination with weather service users has been completed, and the radar being commissioned satisfactorily supports field office operations. The decommissioning report shall document that the replacement radar has been commissioned, technical coordination with service users has been completed, and the radar being decommissioned is no longer needed to support field office operations.

RESTRUCTURING FIELD OFFICES

SEC. 706. (a) PROHIBITION.—The Secretary shall not close, before January 1, 1996, any field office pursuant to implementation of the Strategic Plan.

(b) CERTIFICATION.—The Secretary shall not close, consolidate, automate, or relocate any field office, unless the Secretary has certified that such action will not result in any degradation of service. Such certification shall include—

(1) a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(2) a detailed comparison of the service provided within the service area and the services to be provided after such action;

(3) a description of any recent or expected modernization of National Weather Service operations which will enhance services in the service area;

(4) an identification of any area within any State which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(5) evidence, based upon operational demonstration of modernized National Weather Service operations, which was considered in reaching the conclusion that no degradation in service will result from such action; and

(6) any report of the Committee submitted under section 707(c) that evaluates the proposed certification.

(c) PUBLIC REVIEW.—Each certification decision shall be preceded by—

(1) publication in the Federal Register of a proposed certification; and

(2) a 60-day period after such publication during which the public may provide comments to the Secretary on the proposed certification.

(d) FINAL DECISION.—If after consideration of the public comment received under subsection (c) the Secretary, in consultation with the Committee, decides to close, consolidate, automate, or relocate any such field office, the Secretary shall publish a final certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(e) SPECIAL CIRCUMSTANCES.—The Secretary may not close or relocate any field office—

(1) which is located at an airport, unless the Secretary, in consultation with the Secretary of Transportation and the Committee, first conducts an air safety appraisal, determines that such action will not result in degradation of service that affects aircraft safety, and includes such determination in the certification required under subsection (b); or

(2) which is the only office in a State, unless the Secretary first evaluates the effect on weather services provided to in-State users, such as State agencies, civil defense officials, and local public safety offices, and includes in the certification required under subsection (b) the Secretary's determination that a comparable level of weather services provided to such in-State users will remain.

(f) LIAISON OFFICER.—The Secretary may not close, consolidate, automate, or relocate a field office until arrangements have been made to maintain for a period of at least 2 years at least one person in the service area to act as a liaison officer who—

(1) provides timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring; and

(2) works with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts.

MODERNIZATION TRANSITION COMMITTEE

SEC. 707. (a) ESTABLISHMENT.—There is established a committee of 12 members to be known as the Modernization Transition Committee.

(b) MEMBERSHIP AND TERMS.—(1) The Committee shall consist of—

(A) five members representing agencies and departments of the United States which are responsible for providing or using weather services, including but not limited to the National Weather Service, the Department of Defense, the Federal Aviation Administration, and the Federal Emergency Management Agency; and

(B) seven members to be appointed by the Secretary from civil defense and public safety organizations, news media, any labor organization certified by the Federal Labor Relations Authority as an exclusive representative of weather service employees, meteorological experts, and private sector users of weather information such as pilots and farmers.

(2) The term of office of a member of the Committee shall be 3 years; except that, of the original membership, four shall serve a 5-year term, four shall serve a 4-year term, and four shall serve a 3-year term. No individual may serve for more than one additional 3-year term.

(3) The Secretary shall designate a chairman of the Committee from among its members.

(c) DUTIES.—(1) The Committee may review any proposed certification under section 706 for which the Secretary has provided a notice of intent to certify in the Plan, and should review such a proposed certification if there is a significant possibility of degradation of service within the affected service area. Upon the request of the Committee, the Secretary shall make available to the Committee the supporting documents developed by the Secretary in connection with the proposed certification. The Committee may prepare and submit to the Secretary, prior to publication of the proposed certification, a report which evaluates the proposed certification on the basis of the modernization criteria and with respect to the requirement that there be no degradation of service.

(2) The Committee shall advise the Congress and the Secretary on—

(A) the implementation of the Strategic Plan, annual development of the Plan, and establishment and implementation of modernization criteria; and

(B) matters of public safety and the provision of weather services which relate to the comprehensive modernization of the National Weather Service.

(d) PAY AND TRAVEL EXPENSES.—Members of the Committee who are not employees of the United States shall each be paid at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time, during which the member is engaged in the actual performance of duties vested in the Committee. Members shall receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(e) STAFF.—The Secretary shall make available to the Committee such staff, information, and assistance as it may reasonably require to carry out its activities.

(f) TERMINATION.—The Committee shall terminate on December 31, 1999.

WEATHER SERVICE REPORT

SEC. 708. (a) REPORT.—The Secretary shall prepare a report on the proposed modernization of the National Weather Service and transmit the report, not later than 6 months after the date of enactment of this Act, to the committee on Commerce, Science, Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(b) CONTENTS.—(1) The report required by subsection (a) shall identify the size of the geographic area of responsibility of each proposed Weather Forecast Office and shall include an explanation of the number and type of personnel required at each Weather Forecast Office. For each proposed Weather Forecast Office covering a geographic area greater than two times the average geographic area of responsibility of Weather Forecast Offices nationwide, the report shall detail the reasons for assigning those Weather Forecast Offices a geographic area which differs significantly from the national average.

(2) The report shall list the number of next generation weather radars that will be associated with each Weather Forecast Office nationwide under the proposed modernization plan. If some Weather Forecast Offices will be associated with more than one such radar, the report shall explain the deviation from the National Weather Service's stated policy of associating one such radar with one Weather Forecast Office, and shall analyze and compare any differences in the expected efficiency of those Weather Forecast Offices with Weather Forecast Offices that will be associated with only one such radar.

(C) CONSULTATION.—In preparing portions of the report that address Weather Forecast Offices located in areas of the Nation that are uniquely dependent on general aviation as a means of transportation, the Secretary shall consult with local aviation groups. In the case of Alaska, such local groups shall include the Alaska Aviation Safety Foundation, the Alaska Airmen's Association, and the regional representatives of the Aircraft Owners and Pilots Association.

REPEALS

SEC. 709. The National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note), is amended by repealing—

(1) subsections (b), (c) and (d) of section 407; and

(2) section 408.

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

SHORT TITLE

SEC. 801. This title may be cited as "the North Pacific Anadromous Stocks Act of 1992".

PURPOSE

SEC. 802. It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

DEFINITIONS

SEC. 803. As used in this title, the term:

(1) "Anadromous stocks" means stock of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 809(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond two hundred nautical miles from the baselines from which the breath of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous species.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A); or

(C) any vessel in normal support of any vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of Commerce.

(17) "United States Section" means the United States Commissioners of the Commission.

UNITED STATES COMMISSIONERS

SEC. 804. (a) The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed four years, but is eligible for reappointment. Of the Commissioners who shall receive no compensation for their services as Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) The Secretary, in consultation with the Secretary of State, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) The United States Section, in consultation with the Advisory Panel established in section 805 shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries.

ADVISORY PANEL

SEC. 805. (a) An advisory Panel to the United States Section shall be composed of:

(1)(A) The Commissioner of the Alaska Department of Fish and Game.

(B) The Director of the Washington Department of Fisheries.

(C) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(2) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of State, from among a slate of twelve persons nominated by the Governor of Alaska and a slate of ten persons nominated by the Governor of Washington.

(b) Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(2), the Governors of Alaksa and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) Any person appointed to the Advisory Panel pursuant to subsection (a)(2) shall serve for a term not to exceed four years, and may not serve more than two consecutive terms.

(d) The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

COMMISSION RECOMMENDATIONS

SEC. 806. The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

ADMINISTRATION AND ENFORCEMENT OF CONVENTION

SEC. 807. (a) The Secretary shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary of State, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, shall be responsible for coordinating the participation of the United States in the Commission.

(b) In carrying out such functions, the Secretary—

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating and the United States Section, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and

(2) may, with the concurrence of the Secretary of State, cooperate with the authorized officials of the government of any party to the Convention.

COOPERATION WITH OTHER AGENCIES

SEC. 808. (a) Any agency of the Federal Government is authorized, upon request, of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) In carrying out the provision of the Convention and this title, the Secretary may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

ENFORCEMENT PROVISIONS

SEC. 809. (a) This title shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations adopted under this title: *Provided*, That any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) Authorized officers may, within the exclusive economic zone—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed a act prohibited by section 810 of this Act;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this title, or any regulation adopted under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d)(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing anadromous species, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation adopted under this title; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

UNLAWFUL ACTIVITIES

SEC. 810. It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) top fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title or any regulation adopted under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation adopted under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any mans, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation adopted under this title.

PENALTIES

SEC. 811. (a)(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within thirty days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States Attorney. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture appurtenances, stores, and cargo) used in the commission of an act prohibited by section 810 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b)(1) A person is guilty of an offense if he commits any act prohibited by section 810(e), (f), (g), or (h).

(2) Any offense described in paragraph (1) is punishable by a fine or not more than $100,000, or imprisonment for not more than six months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $200,000, or imprisonment for not more than ten years, or both.

(c)(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 810 were taken or retained in violation of the Convention and this title.

FUNDING REQUIREMENTS

SEC. 812. (a) There is hereby authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States' share of the joint expenses of the Commission.

(b) Such funds as shall be made available to the Secretary for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

DISPOSITION OF PROPERTY

SEC. 813. The Secretary of State shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954

SEC. 814. The Act of August 12, 1954 (16 U.S.C. 1021–1035) is repealed.

EMPLOYMENT AND BUSINESS OPPORTUNITIES FOR INDIANS

INOUYE AMENDMENT NO. 2945

Mr. MITCHELL (for Mr. INOUYE) proposed an amendment to the bill (S. 3118) to increase employment and business opportunities for Indians, and for other purposes, as follows:

In section 3(f)(1) of the committee substitute, strike out "$50,000" and insert in lieu thereof "$1,000".

REGULATION OF INVESTMENT ADVISORS

GRAMM AMENDMENT NO. 2946

Mr. DOLE (for Mr. GRAMM) proposed an amendment to the bill (S. 2266) to provide for recovery of costs of supervision and regulation of investment advisors and their activities, and for other purposes, as follows:

On page 12, strike "and" and, on page 13, strike line 2 and insert in lieu thereof the following:

"sets; and

""(E) the results, findings, and conlusions of the study required by paragraph (3).

""(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

""(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

""(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.".".

Page 9, line 18, strike out the word "include" and insert the word "be".

EXPORT PROMOTION ACT

SARBANES (AND OTHERS) AMENDMENT NO. 2947

Mr. MITCHELL (for Mr. SARBANES, for himself, Mr. RIEGLE, Mr. GRAN, and Mr. MACK) proposed an amendment to the bill (S. 2864) to reauthorize the Export-Import Bank Act of 1945, to encourage export promotion, and for other purposes; as follows:

On page 33, line 9, insert ", including the agencies whose representatives are members of the Environmental Trade Working Group of the Trade Promotion Coordinating Committee," after "agencies".

On page 35, strike lines 1 through 4.

On page 35, line 5, strike "(D)" and insert "(C)".

On page 50, line 9, strike "and".

On page 50, between lines 9 and 10, insert the following:

(5) in conjunction with the Director of the Office of Management and Budget, propose to the President annually a unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (3) and eliminates funding for the areas of overlap and duplication identified under paragraph (4); and

On page 50, line 10, strike "(5)" and insert "(6)".

On page 51, between lines 9 and 10, insert the following:

(e) MEMBER QUALIFICATIONS.—Members of the TPCC shall be appointed by the heads of their respective departments or agencies. Such members, as well as alternates designated by any members unable to attend a meeting of the TPCC, shall be individuals who exercise significant decisionmaking authority in their respective departments or agencies.

On page 51, line 10, strike "(e)" and insert "(f)".

On page 52, line 13, insert "and export finance institutions" after "exporters".

On page 52, line 17, insert "and export finance institutions" after "exporters".

On page 53, between lines 8 and 9, insert the following:

SEC. 204. ENVIRONMENTAL TRADE PROMOTION.

(a) ENVIRONMENTAL TRADE WORKING GROUP OF THE TRADE PROMOTION COORDINATION COMMITTEE.—

(1) ESTABLISHMENT AND PURPOSE.—The President shall establish the Environmental Trade Promotion Working Group (hereafter referred to as the "Working Group") as a subcommittee of the Trade Promotion Coordination Committee. The purpose of the Working Group shall be to address all issues with respect to the export promotion and export financing of United States environmental technologies, goods, and services.

(2) MEMBERSHIP.—The members of the Working Group shall be—

(A) representatives of the agencies that are represented on the Trade Promotion Coordination Committee; and

(B) a representative of the Environmental Protection Agency.

(3) CHAIRPERSON.—The Secretary of Commerce shall designate the chairperson of the Working Group from among senior employees of the Department of Commerce. The chairperson shall—

(A) assess the effectiveness of United States Government programs for the promotion of exports of environmental technologies, goods, and services;

(B) recommend improvements to such programs, including regulatory changes or additional authority that may be necessary to improve the promotion of exports of environmental technologies, goods, and services;

(C) ensure that the members of the Working Group coordinate their environmental trade promotion programs, including feasibility studies, technical assistance, business information services, and export financing; and

(D) assess, jointly with the Working Group representative of the Environmental Protection Agency, the extent to which the environmental trade promotion programs of the Working Group advance the environmental goals established in "Agenda 21" by the United Nations Conference on Environment and Development at Rio de Janeiro, and in other international environmental agreements.

(4) REPORT TO CONGRESS.—The chairperson of the Trade Promotion Coordination Committee shall include a report on the activities of the Environmental Trade Working Group as a part of the annual report submitted to the Congress by the Trade Promotion Coordination Committee.

(b) ENVIRONMENTAL TRADE PROMOTION BY THE DEPARTMENT OF COMMERCE.—The Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2312. ENVIRONMENTAL TRADE PROMOTION.

"(a) STATEMENT OF POLICY.—It is the policy of the United States to foster the export of United States environmental technologies, goods, and services. In exercising its powers and functions, the Department shall encourage and support sales of such technologies, goods, and services.

"(b) TRADE PROMOTION COORDINATION COMMITTEE.—The chairperson of the Environmental Trade Working Group of the Trade Promotion Coordinating Committee, established under section 204(a) of the Export Enhancement Act of 1992, shall—

"(1) advise the Secretary and other employees of the Department on ways to promote the export of United States environmental technologies, goods, and services; and

"(2) serve as a liaison between the Department and other agencies that are members of the Environmental Trade Working Group.

"(c) TRADE INFORMATION.—In support of the work of the Environmental Trade Working Group, the Department shall, as part of its regular market survey and information services activities, make available to United States providers of environmental technologies, goods, and services—

"(1) survey information on existing and emerging market trends for environmental technologies, goods, and services; and

"(2) a description of the export promotion programs for environmental technologies, goods, and services of the agencies that are represented on the Environmental Trade Working Group.

"(d) OVERSEAS SERVICES FOR EXPORTERS.—

"(1) AUTHORIZATION.—The Secretary is authorized to designate a Foreign Commercial Service officer to serve as the Environmental Export Assistance Officer in any country—

"(A) whose companies are important competitors for United States exports of environmental technologies, goods, and services; or

"(B) that offers promising markets for such exports.

"(2) DUTIES.—The officer designated under paragraph (1) shall provide export promotion assistance to United States companies, including—

"(A) assessment of government assistance provided to producers of environmental technologies, goods, and services in such countries, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(B) assistance in identifying potential customers and market opportunities in such countries;

"(C) assistance in obtaining necessary business services in such countries;

"(D) information on environmental standards and regulations in such countries; and

"(E) information on all United States Government programs that could assist the promotion, financing, and sale of exports of United States environmental technologies, goods, and services in such countries.".

On page 53, line 9, strike "204" and insert "205".

On page 53, line 14, strike "205" and insert "206".

On page 55, line 14, strike "206" and insert "207".

On page 49, delete lines 20 through 22 and conform paragraph numbers accordingly.

GROWTH OF TRAVEL AND TOURISM IN THE UNITED STATES

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 2948

Mr. MITCHELL (for Mr. ROCKEFELLER, for himself, Mr. HOLLINGS, Mr. BURNS, and Mr. DANFORTH) proposed an amendment to the amendments of the House to the bill (S. 680) to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes, as follows:

In lieu of the matter proposed to be inserted by the House amendment to the bill, insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Tourism Policy and Export Promotion Act of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.).

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) in 1991, the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(4) travel and tourism expenditures in 1991 were approximately $352 billion;

(5) 42 million international visitors spent approximately $64.7 billion in the United States in 1991;

(6) travel and tourism services ranked as the largest United States business services export in 1991, providing a United States travel trade balance of $16.8 billion;

(7) many local communities with significant tourism potential are unable to realize the economic and employment opportunities that tourism provides because they lack the necessary local resources and expertise needed to induce tourism trade;

(8) increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors;

(9) foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border;

(10) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States;

(11) exporting those goods and services which United States industry can produce at a comparative cost advantage, such as travel and tourism services, will be in the Nation's long-term strategic interest; and

(12) the emergence of democratic governments in the formerly Communist nations of Eastern Europe and in the former Soviet Union provide new opportunities for United States firms engaged in both the inbound and outbound tourism markets.

SEC. 3. SURVEY OF INTERNATIONAL AIR TRAVELERS.

The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

SEC. 4. RURAL TOURISM DEVELOPMENT FOUNDATION.

(a) ESTABLISHMENT OF FOUNDATION.—In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—

(1) COMPOSITION.—(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first 2 years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within 6 months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of 6 years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of the person's predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) EX-OFFICIO MEMBERS.—The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) CHAIR.—The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of 2 years.

(4) MEETINGS.—The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—

(1) IN GENERAL.—The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) INDIANS.—A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any properly accepted by the Foundation.

(g) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(h) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(i) ADMINISTRATION.—

(1) IN GENERAL.—In carrying out the provisions of this section,the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) SERVICES.—The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) CONSTRUCTION—Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(j) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(k) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(l) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(m) DEFINITIONS.—As used in this section—

(1) the term "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) the term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) the term "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(4) the term "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(n) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended by striking paragraph (15) and inserting in lieu thereof the following new paragraph:

"(15) may assist the Rural Tourism Development Foundation, established under section 4 of the Tourism Policy and Export Promotion Act of 1992, in the development and promotion of rural tourism.".

SEC. 5. POLICY CLARIFICATIONS.

Section 101(b) (22 U.S.C. 2121(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and the balance of payments;";

(2) by redesignating paragraphs (2) through (12) as paragraphs (6) through (16), respectively; and

(3) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) Increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which—

"(A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and

"(B) have the potential necessary to support and sustain an economy based on tourism;

"(5) promote increased and more effective investment in international tourism by the

States, local governments, and cooperative tourism marketing programs;".

SEC. 6. DUTIES OF THE SECRETARY OF COMMERCE.

(a) DUTIES OF SECRETARY.—Section 201 (22 U.S.C. 2122) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) in paragraph (3) (as so redesignated) by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;"

(3) by inserting immediately after paragraph (1) the following:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;"; and

(4) by striking the period at the end of paragraph (7) (as so redesignated) and inserting in lieu thereof the following: "and the use of other United States providers of travel products and services; and"; and

(5) by inserting immediately after such paragraph (7) the following new paragraph:

"(8) advise and provide information and technical assistance to United States firms seeking to facilitate travel to and from the emerging democracies of Eastern Europe and the former Soviet Union and compile statistics, as available, regarding such travel.".

(b) PERFORMANCE OF DUTIES.—Section 202(a) (22 U.S.C. 2123(a)) is amended—

(1) by amending paragraph (5) to read as follows:

"(5) shall provide financial assistance under section 203 to cooperative tourism marketing programs;";

(2) in paragraph (9), by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest"; and

(3) in paragraph (12), by inserting immediately before the semicolon at the end the following: "and the use of other United States providers of travel products and services".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 202 (22 U.S.C. 2123) is amended—

(1) in the first sentence of subsection (c), by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "section 203";

(2) in the second sentence of subsection (c), by striking "paragraph" and inserting in lieu thereof "subsection";

(3) in the third sentence of subsection (c), by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "section 203"; and

(4) in subsection (d), by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "section 203".

SEC. 7. TOURISM TRADE DEVELOPMENT.

Section 202 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary's tourism trade development efforts shall focus on the markets which have the greatest potential for increasing travel and tourism revenues.

"(2) By October 1 of each year (commencing October 1, 1993), the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the 12-month period that begins 12 months after the notice is published.

"(3) Not later than 3 months after the notice is published under paragraph (2), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the 12-month period described in paragraph (2). The selection shall be announced by publication in the Federal Register.

"(4) At the same time the Secretary announces the selection of markets under paragraph (3), the Secretary shall issue a request for proposals from cooperative tourism marketing programs to develop and implement tourism trade development programs applicable to the markets so selected. The Secretary shall provide financial assistance in accordance with section 203 to carry out proposals submitted under this subparagraph. Such financial assistance shall be provided on or before September 30 of the year in which the markets are selected under paragraph (3).

"(5) During each 12-month period described in paragraph (2), tourism trade development efforts shall be directed at the markets selected under paragraph (3).".

SEC. 8. TOURISM MARKETING PROGRAMS.

(a) FINANCIAL ASSISTANCE.—Sections 203 and 204 (22 U.S.C. 2123a and 2123b) are repealed and the following new section is inserted immediately after section 202:

"SEC. 203. (a) The Secretary shall provide financial assistance to cooperative tourism marketing programs in accordance with this section.

"(b)(1) To be eligible for financial assistance under subsection (a), a cooperative tourism marketing program shall, at a minimum—

"(A) involve the participation of—

"(i) two or more States;

"(ii) one or more States and one or more political subdivisions of States; or

"(iii) one or more States and one or more nonprofit organizations;

"(B) be established for the purpose of increasing the number of foreign visitors to the region in which such States or local governments are located; and

"(C) have a written regional tourism marketing plan which includes advertising, publication of promotional materials, or other promotional or market research activities designed to increase the number of foreign visitors to such region.

"(2) Financial assistance may be provided under subsection (a) if the applicant for the assistance demonstrates to the satisfaction of the Secretary that the assistance will be used for a purpose described in subsection (c) and that—

"(A) such cooperative tourism marketing program for which the financial assistance will be provided will increase the travel of foreign visitors to the region for which the assistance is sought;

"(B) such program will contribute to the economic well-being of such region;

"(C) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions in such region; and

"(D) such program will focus its efforts on the countries in the markets selected by the Secretary under section 202(e)(3).

"(c) Financial assistance provided under subsection (a) may be used for the purpose of—

"(1) promoting on marketing to foreign visitors or potential foreign visitors the tourism and recreational opportunities in the region for which such financial assistance is sought

"(2) targeting foreign visitors to develop or enhance their interest in tourism and recreational opportunities in such region;

"(3) encouraging the development by such cooperative tourism marketing program of regional strategies for international tourism promotion and marketing; or

"(4) developing and implementing tourism trade development programs applicable to markets selected under section 202(e)(3).

"(d) In connection with financial assistance provided under subsection (a), a cooperative tourism marketing program may enter into agreements with individuals and private profit and nonprofit businesses and organizations who will assist in carrying out the purposes for which such financial assistance is provided. Such an agreement shall be disclosed in any application for financial assistance under subsection (a) and such an application may be approved by the Secretary only if the Secretary finds that such agreement meets all applicable legal requirements and is consistent with the purposes of this Act.

"(e) After notice and opportunity for public comment and within 180 days after the date of enactment of the Tourism Policy and Export Promotion Act of 1992, the Secretary shall issue rules and guidelines to carry out this section. Proposed rules and guidelines shall be issued within 90 days after such date of enactment.

"(f)(1) The total amount of financial assistance that may be provided under subsection (a) shall, in each of the fiscal years 1994, 1995, and 1996, be not less than 25 percent of the amount appropriated to the Secretary for such fiscal year under section 304.

(2) Not more than 50 percent of the financial assistance provided under subsection (a) for any fiscal year may be used for tourism trade development designed to promote travel and tourism in the United States generally without promotion of a particular area of the United States. Cooperative tourism marketing programs receiving financial assistance under subsection (a) shall pool 50 percent of their financial assistance for such general tourism trade development in each market selected by the Secretary under section 202(e)(3). The Secretary shall provide technical assistance to recipients of such financial assistance and coordinate such efforts.".

(b) Federal Share of Project Costs.—The first sentence of section 202(c) (22 U.S.C. 2123(c)) is amended by striking all after "sources" and inserting in lieu thereof a period and the following new sentence: "Any recipient of financial assistance under section 203 shall provide matching funds (consisting of actual dollar expenditures on the program for which such financial assistance is provided) equal to at least 25 percent of such financial assistance.".

SEC. 9. TOURISM TRADE BARRIERS.

Title II (22 U.S.C. 2122 et seq.), as amended by section 8 of this Act, is further amended by adding at the end the following new section:

"Sec. 204. For each calendar year beginning with calendar year 1994, the Secretary shall—

"(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

"(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

"(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.".

SEC. 10. ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS.

Title II (22 U.S.C. 2122 et seq.), as amended by section 9, is further amended by adding at the end the following new section:

"Sec. 205. The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States and to ensure that the international processing standard of the International Civil Aviation Organization is met.".

SEC. 11. PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

Title II (22 U.S.C. 2122 et seq.), as amended by section 10 of this Act, is further amended by adding at the end the following:

"Sec. 206.(a) Beginning October 1, 1994, and annually thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the goals of the United States Travel and Tourism Administration for the applicable forthcoming fiscal year, including quantifiable measures on which such Administration's performance can be evaluated. Such goals shall include—

"(1) the number of written and telephone inquiries regarding the possibility of foreign travel to the United States expected to be generated by the financial assistance provided to cooperative tourism marketing programs under section 203;

"(2) the number of tour packages for foreign visitors to the United States expected to be sold in connection with such financial assistance;

"(3) the number of tourists from countries in markets selected under section 202(e)(3) expected to visit the United States destinations being promoted in such countries in connection with such financial assistance; and

"(4) the actions recommended to eliminate acts, policies, and practices of foreign countries identified under section 204 that constitute significant barriers to or distortions of United States travel and tourism exports.

"(b) By December 31, 1995, and annually thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report outlining the degree to which the goals set forth for the prior fiscal year have been attained. Such report shall include—

"(1) the number of written and telephone inquiries regarding the possibility of foreign travel to the United States actually received by the Secretary and by persons receiving financial assistance under section 203;

"(2) the number of tour packages for foreign visitors to the United States actually sold in connection with such financial assistance;

"(3) the number of tourists from countries in markets selected under section 202(e)(3) that actually visited the United States destinations being promoted in such countries in connection with such financial assistance;

"(4) an evaluation of the effectiveness of such financial assistance; and

"(5) an evaluation of the effectiveness of any actions recommended under subsection (a)(4) which were taken to eliminate acts, policies, and practices that constitute significant barriers to, or distortions of, United States travel and tourism exports.

"(c) The Secretary shall collect from persons receiving financial assistance under section 203 such information as may be necessary to enable the Secretary to comply with subsections (a) and (b). The Secretary may condition the receipt of such financial assistance on the agreement of the recipient to provide such information to the Secretary at such times and in such manner and form as the Secretary deems appropriate".

SEC. 12. ADMINISTRATION.

Section 301(a) (22 U.S.C. 2124(a)) is amended—

(1) by striking the third and fourth sentences;

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development;

"(B) directing and managing field operations;

"(C) directing program evaluation research and industry statistical search;

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in development of strategies for expansion of tourism trade;

"(E) implementing the program to provide financial assistance under section 203 in support of non-Federal tourism trade development activities; and

"(F) performing such other functions as the Under Secretary may assign.".

SEC. 13. COORDINATION.

Section 301 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Under Secretary of Commerce for Travel and Tourism shall continue to seek the assistance of the United States and Foreign Commercial Service and shall continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

SEC. 14. LIMITATION ON CERTAIN EXPENDITURES.

Section 301 (22 U.S.C. 2124), as amended by section 13, is further amended by adding at the end the following new subsection:

"(d) The expenditures for personnel compensation, rental payments, communications, utilities, miscellaneous charges, and equipment shall not exceed—

"(1) in fiscal year 1993, 55 percent of the amount appropriated to the Secretary under section 304;

"(2) in fiscal year 1994, 52 and ½ percent of the amount appropriated to the Secretary under section 304; and

"(3) in fiscal year 1995 and in subsequent fiscal years, 50 percent of the amount appropriated to the Secretary under section 304.".

SEC. 15. TOURISM POLICY COUNCIL.

(a) MEMBERSHIP.—Section 302(b)(1) (22 U.S.C. 2124a(b)(1)) is amended—

(1) by redesignating subparagraphs (H) and (I) as subparagraphs (O) and (P); and

(2) by inserting immediately after subparagraph (g) the following new subparagraphs:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;

"(L) the Commissioner of the Immigration and Naturalization Service;

"(M) the Chief Executive Officer of the National Railroad Passenger Corporation;

"(N) the Commissioner of Customs;".

(b) DETAILS.—Section 302(d) (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Every year, upon designation by the Secretary in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

SEC. 16. ADVISORY BOARD.

(a) MEMBERSHIP.—Section 303(a)(3) (22 U.S.C. 2124b(a)(3)) is amended—

(1) In subparagraph (A), by striking "and";

(2) in subparagraph (B), by striking "one shall be a representative of the States who is" and inserting in lieu thereof "two shall be representatives of the States who are" and by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(b) TERMS.—The last sentence of section 303(b) (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years of nine years in the aggregate".

(c) ADVICE.—The first sentence of section 303(f) (22 U.S.C. 2124b(f)) is amended by striking "and shall advise" and all that follows through "202(a)(15)".

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

Section 304 (22 U.S.C. 2126) is amended—

(1) in the first sentence, by inserting immediately before the period the following: ", not to exceed $21,000,000 for fiscal year 1993, not to exceed $22,500,000 for fiscal year 1994, not to exceed $24,000,000 for fiscal year 1995, and not to exceed $26,000,000 for fiscal year 1996"; and

(2) by striking the last two sentences and inserting in lieu thereof the following: "Funds appropriated under this section may be expended by the Secretary without regard to sections 501 and 3702 of title 44, United States Code. Funds appropriated under this section for the printing of travel promotional materials shall remain available for 2 fiscal years.".

SEC. 18. REPORT ON TOURISM AND TRAVEL ACTIVITIES.

The Secretary of Commerce shall, within 18 months after the date of the enactment of this Act, report to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on—

(1) the status of the actions required by section 3 and the desirability and feasibility of publishing international travel receipts and payments on a monthly basis;

(2) the Secretary's actions under section 201(8) of the International Travel Act of 1961 (as amended by section 6 of this Act), regarding the inbound and outbound tourism trade between the United States and emerging democracies of Eastern Europe and the former Soviet Union (including statistics, as available, on the number of inbound and outbound tourists, receipts from and expenditures by such tourists, receipts from and expenditures by such tourists, the number of tourists traveling into and out of Eastern Europe and the former Soviet Union on American carriers, and other relevant matters);

(3) the activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons; and

(4) efforts undertaken under section 205 of the International Travel Act of 1961 (as amended by section 13 of this Act) to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.

SEC. 19. REPORT ON FOREIGN OFFICES.

(a) REPORT BY SECRETARY.—The Secretary of Commerce shall, within 1 year after the date of enactment of this Act, transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the offices of the United States Travel and Tourism Administration located in foreign countries.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) DESCRIPTION OF OFFICES.—A description of each foreign office of the United States Travel and Tourism Administration, including the number of United States national employees, foreign national employees, and contract personnel who perform duties for the foreign office and a statement as to how many of each category of employees or personnel are part-time and fulltime.

(2) INFORMATION ON LOCAL LAWS.—Information on the laws of the country in which each foreign office is located. The information shall state the country's legal requirements concerning the termination or reassignment of employees or contract personnel, any actions altering the terms or conditions of employment that will result in a requirement to pay additional compensation to the affected employee, and the legally mandated duties to affected employees and contract personnel where an entire foreign office is closed after appropriate notice.

(3) EXISTING LEASES.—Information on all existing leases of office space (or space sharing arrangements with the United States embassy) applicable to each foreign office, including an analysis of the Secretary's ability to terminate such leases or other arrangements and the costs associated with such termination.

(4) COST REDUCTIONS AND MARKETING EFFICIENCIES.—Analysis of and recommendations for possible cost reductions and marketing efficiencies with respect to the activities of foreign offices, including the advantages and disadvantages of consolidating foreign office functions by establishing three regional offices of the United States Travel and Tourism Administration based in and responsible for the following respective geographic areas:

(A) Europe and Africa.

(B) Asia and the Pacific region.

(C) North America, South America, and the Caribbean region.

(5) ORGANIZATIONAL FLEXIBILITY.—Analysis and recommendations concerning methods for increasing organizational flexibility (particularly with respect to the establishment, operations, closing, and relocation of foreign offices) in response to changing market conditions, fiscal constraints, and policy conditions.

(c) DELAY IN CERTAIN ADMINISTRATIVE ACTIONS.—At offices of the United States Travel and Tourism Administration located in foreign countries—

(1) no new foreign national employees nor contract personnel may be hired, except for employees or contract personnel that directly replace foreign national employees or contract personnel; and

(2) no new leases of office space, nor renewals of existing leases for longer than 2 years, may be executed,

until 6 months after the report required by subsection (a) is received.

PRODUCT LIABILITY ACT

EXON AMENDMENT NO. 2949

(Ordered to lie on the table.)

Mr. EXON submitted an amendment intended to be proposed by him to the bill (S. 640) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes, as follows:

Delete Sec. 305 and insert in lieu thereof the following:

WORKERS' COMPENSATION SUBROGATION STANDARDS

SEC. 305. (a)(1) An employer or workers' compensation insurer of an employer shall have a right of subrogation against a manufacturer or product seller to recover the sum of the amount paid as workers' compensation benefits and the present value of all workers' compensation benefits to which the employee is or would be entitled as determined by the appropriate workers' compensation authority for harm caused to an employee by a product if the harm is one for which a civil action has been brought pursuant to this Act. To assert a right of subrogation an employer or workers' compensation insurer of an employer shall provide written notice that it is asserting a right of subrogation to the court in which the claimant has filed a complaint. The employer or workers' compensation insurer of the employer shall not be required to be a necessary and proper party to the proceeding instituted by the employee.

(2) In any proceeding against or settlement with the manufacturer or product seller, the employer or the workers' compensation insurer of the employer shall have an opportunity to participate and to assert a right of subrogation upon any payment made by the manufacturer or product seller by reason of such harm, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise. The employee shall not make any settlement with or accept any payment from the manufacturer or product seller without the written consent of the employer and no release to or agreement with the manufacturer or product seller shall be valid or enforceable for any purpose without such consent. However, the preceding sentence shall not apply if the employer or workers' compensation insurer of the employer is made whole for all benefits paid in workers' compensation benefits.

(3) If the manufacturer or product seller attempts to persuade the trier of fact that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the issue whether the claimant's harm was caused by the claimant's employer or coemployees shall be submitted to the trier of fact. If the manufacturer or product seller so attempts to persuade the trier of fact it shall provide written notice to the employer. The employer shall have the right to appear, to be represented, to introduce evidence, to cross-examine adverse witnesses, and to argue to the trier of fact as to this issue as fully as though the employer were a party although not named or joined as a party to the proceeding. Such issue shall be the last issue submitted to the trier of fact. If the trier of fact finds by clear and convincing evidence that the claimant's harm was caused by the fault of the claimant's employer or coemployees, then the court shall reduce the damages awarded by the trier of fact against the manufacturer or product seller by the sum of the amount paid as workers' compensation benefits and the present value of all workers' compensation benefits to which the employee is or would be entitled for such harm as determined by the appropriate workers' compensation authority and the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer. However, the employer shall not lose its right of subrogation because of an intentional tort committed against the claimant by the claimant's coemployees or for acts committed by coemployees outside the scope of normal work practices.

(4) If the verdict shall be that the claimant's harm was not caused by the fault of the claimant's employer or coemployees, then the manufacturer or product seller shall reimburse the employer or workers' compensation insurer of the employer for reasonable attorneys' fees and court costs incurred in the resolution of the subrogation claim, as determined by the court.

(b)(1) In any civil action subject to this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured.

(3) Any action other than as provided in paragraph (2) shall be prohibited, except that nothing in this Act shall be construed to affect any State or Federal workers' com-

pensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

(c) In any civil action subject to this title in which damages are sought for harm for which the person injured is entitled to receive compensation under any State or Federal workers' compensation law, the action shall, on application of the claimant made at the claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law. The verdict as determined by the trier of fact pursuant to this title shall have no binding effect on and shall not be used as evidence in any other proceeding.

(d) A claimant in a civil action subject to this title who is or may be eligible to receive compensation under any State or Federal workers' compensation law must provide written notice of the filing of the civil action to the claimant's employer within 30 days of the filing. The written notice shall include information regarding the date and court in which the civil action was filed, the names and addresses of all plaintiffs and defendants appearing on the complaint, the court docket number if available, and a copy of the complaint which was filed in the civil action.

Mr. EXON. Mr. President, I am pleased to file an amendment to S. 640, the Products Liability Reform Act which clarifies the subrogation rights of companies who have workers injured on the job. I file the amendment today so that it may be considered timely in a post-cloture situation.

NATIONAL DEFENSE AUTHORIZATION ACT

LAUTENBERG (AND CONRAD) AMENDMENT NO. 2950

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as follows:

On page 141, below line 19, insert the following:

SEC. 364. DEFENSE BURDENSHARING.

(a) DEFENSE BURDENSHARING AGREEMENTS.—The President should enter into an agreement on defense burdensharing described in subsection (b) with each foreign country referred to in subsection (c).

(b) CONTENT OF AGREEMENT.—An agreement entered into with a foreign country under subsection (a) shall require such country, on or before September 30, 1994—

(1) to assume an increased share of the costs of United States military installations in that country, including the costs of—

(A) labor, utilities, and services;

(B) military construction projects and real property maintenance;

(C) leasing requirements associated with United States military presence; and

(D) actions taken to meet local environmental standards;

(2) to relieve the Armed Forces of the United States of all tax liability that, with respect to forces located in such country, is incurred by the Armed Forces under the law of that country and the laws of the communities where those forces are located; and

(3) to ensure that goods and services furnished in that country to the Armed Forces of the United States are provided at minimum cost and without imposition of user fees.

(c) COVERED COUNTRIES.—(1) Except as provided in paragraph (2), subsection (a) applies with respect to—

(A) each member state of the North Atlantic Treaty Organization (other than the United States); and

(B) each other foreign country with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in that country or the placement of combat equipment of the United States in that country.

(2) Subsection (a) does not apply to a foreign country that—

(A) receives assistance under—

(i) section 23 of the Arms Export Control Act (22 U.S.C. 2673), relating to the foreign military financing program; or

(ii) the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.); or

(B) has agreed to assume, not later than September 30, 1996, at least 75 percent of the non-personnel costs of United States military installations in that country.

(d) FUNDING LIMITATIONS.—(1) The amount obligated by the United States to conduct overseas basing activities for fiscal year 1994 in a foreign country with respect to which subsection (a) applies may not exceed the amount equal to 95 percent of the amount of United States funds that is necessary to fund overseas basing activities in that foreign country in such fiscal year. An agreement entered into with that foreign country in accordance with such subsection should provide for the foreign country to assume the responsibilities under subsection (b)(1), including the remainder of that necessary amount.

(2) The Secretary of Defense may waive the application of paragraph (1) to a particular country if he determines that such action is essential to the national security of the United States.

Mr. LAUTENBERG. Mr. President, when the Senate returns to the fiscal year 1993 Department of Defense authorization bill in September, I intend to offer a burdensharing amendment. I am pleased that Senator CONRAD is an original cosponsor of this amendment.

The amendment calls on the administration to negotiate new agreements with our wealthier NATO allies and South Korea to require them to pay more for the overseas basing costs of maintaining our troops.

Mr. President, this amendment is straightforward. It calls for the President to negotiate new burdensharing agreements with South Korea and NATO countries including Germany, Italy, and Great Britain. It requires those host nations with U.S. military installations to pay for a greater portion of our overseas basing costs. The new agreements with those countries would be based on the relatively new agreement the U.S. has negotiated with Japan, which seeks payment by the Japanese of all overseas basing costs. As my colleagues are no doubt aware, that agreement resulted from strong Congressional pressure over many years.

The amendment would give the administration 1 year to negotiate these new agreements. In fiscal year 1994, it would result in a 5 percent reduction in the amount of funds the U.S. would pay for overseas basing activities in these host nations. These cuts will provide the incentive the administration needs to get tough and negotiate a better deal for the American taxpayers. And the savings would be used for deficit reduction.

Mr. President, while far from perfect, the new Japanese agreement is a good model for host nation agreements because it offers a much better deal for the American taxpayer. Unlike our other agreements, the Japanese agreement leaves the American taxpayer footing less of the defense burden overseas. According to DOD, for example, Japan, will pay 70 percent of the U.S. overseas basing costs and the U.S. will pay for 30 percent of those costs in fiscal year 1992.

In fiscal year 1993, Japan is expected to pay for 72 percent of the overseas basing costs. Under the agreement, by 1996, Japan is supposed to pay all of those costs.

On the other hand, the administration lets the Germans take the American taxpayers to the cleaners under our existing agreement. For example, in fiscal year 1992 the Germans will pay for only 23 percent of our overseas basing costs, while the American people are forced to pay the remaining 77 percent.

The American people shouldn't have to pay for so much of Germany's defense. We can't afford it.

Mr. President, the German Government recently announced that it would spend $8 billion over 5 years toward the cost of housing Russian troops in the former East Germany. Ironically, this is about how much Germany paid the United States over the last 5 years to protect their security. If the Germans can afford to spend $8 billion to house Russian troops, this Senator believes they can afford to pay the United States more than 29 percent of what it currently costs to station thousands of United States troops in Germany to protect their security.

We're getting the short end of the stick when it comes to paying salaries as well. Unbelievably, our Government pays for salaries of foreign nationals who work on United States bases in Germany and in all host nations. The Germans pay for only 18 percent of those salaries. At the same time, the Japanese are currently paying 66 percent of those salaries and will pay for 100 percent of those salaries by the end of the Japanese 1995 fiscal year. This

Senator believes the Germans should pay 100 percent of the salaries of foreign nationals at those bases. Certainly the Germans can afford to pay for more.

Even worse, is that under our agreement with Germany, the American people will be required to pay severance to German workers who will lose their jobs as a result of the military drawdown! According to the GAO, this could potentially cost the United States taxpayers an additional $207 million. It's hard for this Senator to believe that our administration, which fought so hard against extending unemployment benefits for hardworking U.S. citizens, would agree to pay severance to German citizens while our own citizens are out of work. This must change.

The South Koreans can afford to pay more as well for the 14 major military facilities in South Korea. Korea only pays for 29 percent of the salaries of its foreign nationals who work on United States bases and the United States picks up the rest of the tab. The Koreans can afford to pay more. And the administration needs to be more forceful in requiring them to do that.

Mr. President, in line with the Japanese agreement, this amendment would require host countries to assume an increased share of the costs to the United States of maintaining military installations overseas.

It would encourage the President to enter agreements which require host nations pay all labor, utilities and services at our facilities. The agreement we have with the Japanese calls for the host nation to assume 100 percent of labor—including foreign national salaries and severance pay—and utilities costs by April 1996.

It would encourage the President to enter agreements in which the most nation would pay for all military construction projects and real property maintenance. The Japanese currently pay for a portion of these costs, and will pay more.

It would encourage the President to seek agreements in which host nations would pay for all leasing requirements associated with United States military presence. The Japanese agreement requires the Japanese Government to pay for all appropriate yen based costs.

It would encourage the President to enter agreements which require host nations to pay for all actions taken to meet local environmental standards. The Japanese agreement calls for the host nation to assume environmental restoration costs.

It would encourage the President to enter agreements which require host nations to relieve the U.S. military of all tax liability incurred on a U.S. military installation. The Japanese agreement does this—including exemptions from all tolls and customs fees.

And it would encourage the President to enter agreements to ensure that goods and services furnished to the United States military forces are provided at minimum cost and without imposition of user fees. The Japanese agreement exempts U.S. military goods and services from all tolls and customs fees.

Mr. President, this amendment is a modified version of one that was adopted by a vote of 396-9 in the House of Representatives during consideration of the fiscal year 1993 Department of Defense Authorization bill. That amendment was offered by Representative KASICH, ranking minority member of the Readiness Subcommittee of the House Armed Services Committee, and Representative PANETTA, chairman of the House Budget Committee. The amendment was supported by the chairman of the House Armed Services Committee.

This amendment is long overdue. While our economy continues to stagnate, and unemployment claims continue to raise, our NATO allies and the Koreans are getting a free ride at the expense of the American people. While we pour money into the defense of their nation, they pour money into their already strong and thriving economies.

Yet, we continue to finance a disproportionate share of the defense burden. In 1991, the United States spent approximately $1,180 per capita for the defense of the world, while Germany only spent approximately $446 per capita. And we continue to spend the highest portion of our GDP on defense. According to the most recent available statistics, the U.S. spent a staggering 5.9 percent of its GDP on defense, while Germany spent only 2.8 percent, and Korea spent 4.3 percent.

The U.S. simply cannot afford to pay any longer. Our Nation has nearly a $400 billion deficit, and a $4 trillion national debt. Yet, in fiscal year 1992, according to the Defense Department, we spent about $12.5 billion on overseas basing costs. Almost half of that was spent in Germany. We can't continue bankrolling the defense of our allies.

Without stronger Congressional action, the administration will not be likely to press our allies to pick up a greater share of the defense burden. The Japanese model was negotiated only after years of pressure from the Congress. Still, the U.S. pays the lions share of the overseas basing costs in all other countries where we have military facilities.

Clearly, more needs to be done to force the administration to get our allies to pick up more of the defense tab. For many years, Congress has urged the administration to get our wealthier NATO allies to contribute more, and very little has happened.

Even with these new host nation agreements, the United States will continue to pay enormous amounts of money to defend collective security interests overseas. We will still pay for the cost of our personnel, our equipment, our operational costs, transportation costs and ammunition. We will still spend billions defending Europe, the Pacific, and the Middle East.

Mr. President, this amendment will move the administration in the right direction, and will at long last relieve the American people of part of the defense burden which they've carried for far too long. I have been working with the managers of the bill on this amendment, and I hope it will be acceptable to them. I urge my colleagues to support this amendment.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1993

DOMENICI AMENDMENT NO. 2951

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (H.R. 5679) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, as follows:

On page 81, line 21, after the word "State;" add "$2,000,000 shall be for a grant to the State of New Mexico for the purpose of improving wastewater treatment in the South Valley, Bernalillo County, New Mexico;"

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., on Thursday, September 10, 1992, in SR-301, to hold a markup. The Committee will consider pending legislative and administrative business.

For further information regarding this markup, please contact Carole Blessington of the Rules Committee staff on 224-0278.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, September 15, 1992, beginning at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills currently pending before the subcommittee:

H.R. 3638, making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge;

S. 2353, to provide for a land exchange with the city of Tacoma, Washington; and

S. 2653 and H.R. 3457, to amend the Wild and Scenic Rivers Act by designating certain segments and tributaries of the Delaware River in Pennsylvania and New Jersey for study for potential addition to the National Wild and Scenic Rivers System and by authorizing the Secretary of the Interior to designate as components of the National Wild and Scenic Rivers System those segments and tributaries that the Secretary determines are eligible for designation, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-9863.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation will hold a hearing on the implementation of the research and education provisions of the Food, Agriculture, Conservation, and Trade Act of 1990. The hearing will focus on the U.S. Department of Agriculture's efforts to ensure that research activities supported by the Agricultural Research Service, the National Research Initiative, and the Sustainable Agriculture, Research and Education program foster the development of sustainable agriculture systems. The hearing will be held on Thursday, September 17, 1992, at 9:30 a.m. in SR-332. Senator TOM DASCHLE will preside.

For further information please contact Laura Lengnick at 224-2321.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, August 12, 1992, at 2:15 p.m., in executive session, to receive testimony from a former prison camp inmate in Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environmental and Public Works, be authorized to meet during the session of the Senate on Wednesday, August 12, beginning at 9 a.m., to conduct a hearing to consider S. 2762, the Northern Spotted Owl Preservation and Northwest Economic Stabilization Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on foreign, Relations be authorized to meet during the session of the Senate on Wednesday, August 12, at 8:15 a.m. to hold a hearing on ambassadorial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on August 12, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 2975, the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1992; S. 3095, Jena Band of Choctaws Louisiana Restoration Act; and for other purposes, to be followed immediately by an oversight hearing on Indian trust fund management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent tht the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 12, 1992, at 10 a.m. on the nomination of Robert E. Martinez of New Jersey to be Associate Deputy Secretary of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investagions of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, August 12, 1992, to hod a hearing on corruption in professional boxing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee of Indian Affairs be authorized to meet on August 12, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 3095, Jena Band of Choctaws Louisiana Restoration Act; and for other purposes, to be followed immediately by an oversight hearing on Indian trust fund Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Wednesday, August 12, 1992, at 9:30 a.m. in room 325 of the Russell Senate Office Building for hearings to examine U.S. Government and other efforts on behalf of the POW/MIAs in Southeast Asia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 12, 1992, at 9:15 a.m. on the nomination of Marion Clifton Blakey of Mississippi to be Administrator of the National Highway Traffic Safety Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate, Wednesday, August 12, 1992, at 10 a.m. to conduct a hearing on the state of the U.S. economy and competitiveness.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. Mitchell. Mr. President, I ask unanimous consent that the the Governmental Affairs Committee be authorized to meet on Wednesday, August 12, at 12 noon for a hearing on the subject: adjustment again? The accuracy of the Census Bureau's population estimates and impact on State funding allocations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, August 12, 1992, at 2 p.m.

AGENDA

I. NOMINATIONS

UNITED STATES CIRCUIT COURT

Alvin A. Schall, to be United States Circuit Judge for the Federal Circuit.

Ilana Rovner, to be United States Circuit Judge for the Seventh Circuit.

UNITED STATES DISTRICT COURT

Linda H. McLaughlin, to be United States District Judge for the Central District of California.

Carol E. Jackson, to be United States District Judge for the Eastern District of Missouri.

Joseph A. DiClerico, to be United States District Judge for the District of New Hampshire.

Michael J. Melloy, to be United States District Judge for the Northern District of Iowa.

John G. Heyburn, II, to be United States District Judge for the Western District of Kentucky.

Alfred V. Covello, to be United States District Judge for the District of Connecticut.

UNITED STATES DEPARTMENT OF JUSTICE

Edward F. Reilly, to be Commissioner of the United States Parole Commission.

STATE JUSTICE INSTITUTE

Terrance B. Adamson, to be a Member of the Board of the Directors of the State Justice Institute.

John F. Daffron, Jr., to be a member of the Board of the Directors of the State Justice Institute.

II. BILLS

S. 1096—A bill to ensure the protection of motion picture copyrights, and for other purposes—Kohl.

S. 1697—A bill to amend title IX of the Civil Rights Act of 1968 to increase the penalties for violating the fair housing provisions of the Act, and for other purposes—Specter.

S. 790—A bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market—DeConcini.

S. 526—A bill to extend for 10 years the patent for the drug Ethiofos (WR2721) and its oral analogue—Thurmond.

S. 1165—A bill to extend the patent term for certain products—Levin.

S. 1506—A bill to extend the terms of the olestra patents, and for other purposes—Glenn.

S. 2484—A bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes—Kasten.

S. 287—A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father—Akaka.

S. 1181—A bill for the relief of Christy Carl Hallien of Arlington, Texas—Bentsen.

S. 1859—A bill for the relief of Patricia A. McNamara—Mack.

S. 1947—A bill for the relief of Craig A. Klein—Graham.

H.R. 238—A bill for the relief of Craig A. Klein—Bennett.

H.R. 454—A bill for the relief of Bruce C. Veits—Coleman of Texas.

H.R. 478—A bill for the relief of Norman R. Ricks—Stallings.

S. 2043—A bill to prohibit certain motor fuel marketing practices—Simon.

S. 2964—A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority—Specter.

S. 2508—A bill to amend the Unfair Competition Act to provide for private enforcement of the Unfair Competition Act in the event of unfair foreign competition and to amend title 28, United States Code, to provide for private enforcement of the customs fraud provisions) Specter.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 12, at approximately 11:30 a.m. to hold a brief business meeting. (Agenda attached.)

BUSINESS MEETING

The Committee will consider and vote on the following business items:

LEGISLATION

(1) S. Con. Res. 134, Cranston-Lugar resolution commending the People of the Philippines on their general elections.

(2) S. Res. 331, Dole resolution commemorating the Hungarian National Holiday.

NOMINATIONS

(1) Mr. Anthony C.E. Quainton, of the District of Columbia, to be Assistant Secretary of State for Diplomatic Security.

(2) Ms. Patricia Diaz Dennis, of Virginia, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs.

(3) Mr. Alan Greenspan, of New York, to be U.S. Alternate Governor of the International Monetary Fund for a term of five years. (Reappointment)

(4) Ms. Harriet W. Isom, of Oregon, to be Ambassador to the Republic of Cameroon.

(5) Ms. Ruth A. Davis, of Georgia, to be Ambassador to the Republic of Benin.

(6) Mr. Mack F. Mattingly, of Georgia, to be Ambassador to the Republic of Seychelles.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECYCLED PAPER

• Mr. FORD. Mr. President, the trend lines in governmentwide use of recycled writing and publishing papers continue to be quite positive. Some 860,000 more pounds of recycled paper was used in the second quarter of this year than last year, and the price advantage of large quantity recycled paper purchases continues to hold. The Government paid nearly $1 million less and got 6 percent more recycled products this quarter than it did in the second quarter of last year. In this third quarterly report, I am pleased to see the Government using less paper overall than it did last quarter.

The figures are prepared for me by the Government Printing Office under this signature of the Public Printer. I ask that the report be printed in the RECORD.

The report follows:

FEDERAL USE OF RECYCLED PAPER

Total amount paper and envelopes used by the federal government in this quarter (Apr., May, and June 1992):

Paper (pounds)[1,2,3]	21,581,249
Envelopes (each)[1]	26,125,850
Cartons (each)[1]	500,063
Cost	$8,984,115

Amount of recycled paper and envelopes used by the federal government in this quarter (Apr., May, and June 1992):

Paper (pounds)[1,2,3]	15,282,403
Envelopes (each)[1]	25,432,075
Cartons (each)[1]	500,063
Cost	$6,868,601

FEDERAL USE OF RECYCLED PAPER 1 YEAR AGO

Total amount of paper and envelopes used by the federal government in this quarter (Apr., May, and June 1991):

Paper (pounds)[1,2,3]	21,388,710
Envelopes (each)[1]	28,621,300
Cartons (each)[1]	273,057
Cost	$10,335,420

Amount of recycled paper and envelopes used by the federal government in this quarter (Apr., May, and June 1991):

Paper (pounds)[1,3]	14,419,535
Envelopes (each)[1]	27,762,661
Cartons (each)[1]	273,057
Cost	$7,733,688

QUARTERLY PAPER INVENTORY (APR., MAY, AND JUNE 1992)

Amount of paper GPO currently has on hand:

Paper (pounds)	19,343,676
Envelopes (each)	24,435,700
Cartons (each)	276,835
Cost	$8,752,251

Amount of recycled paper on hand:

Paper (pounds)[3]	18,208,447
Envelopes (each)	23,702,629
Cartons (each)	276,835
Cost	$8,273,108

[1] Includes direct shipments.

[2] Includes xerographic paper.

[3] Includes recycled xerographic.

Note.—The amount of recycled usage does not include virgin xerographic paper or virgin newsprint. The above data does not include figures for Printing Procurement.•

IN RECOGNITION OF WESCON WEEK

• Mr. SEYMOUR. Mr. President, I rise today in recognition of the 40th WESCON Electronics Convention to be held in Anaheim, CA, November 17–19, 1992.

WESCON is the largest electronics convention of its type in the United States. It draws approximately 2,200 exhibitors from around the world and brings in a crowd of over 45,000 spectators.

In recent years, events throughout the world have changed the opportunities for international business. As boundaries between nations have fallen, WESCON has been dedicated to bringing together engineers and manufacturers from all significant technological centers around the globe.

This year's show will focus on several emerging technologies. Of particular note will be several sessions, and exhibits exploring the latest developments in the electric vehicle industry and its impact on the environment.

This year, WESCON will participate in two international activities of special note. WESCON '92 is one of only 22 trade shows designated by the U.S. Department of Commerce [DOC] as part of the Foreign Buyer Program. Shows must meet strict DOC criteria to be selected, and only those shows which are believed to offer the best opportunities for overseas trade are chosen. Representatives from the DOC are working with U.S. Embassies and consulates to promote international attendance, and will help bring together foreign buyers with exhibiting U.S. companies at the show.

WESCON's focal point for the promotion of global business development will be the International Business Center [IBC], which will be in operation during the show. The activities of the IBC will enhance the promotional activities of the Foreign Buyer Program with local and western regional promotions to foreign trade delegations and trade associations. Among the activities scheduled are an international business forum addressing current electronics trade opportunities and challenges. Multilateral consultations between show exhibitors, DOC officials, foreign trade representatives, and show attendees are also planned.

Mr. President, I ask that my colleagues join me today in commending WESCON on their efforts to increase international business between the United States and the world.•

TRIBUTE TO CAPT. DOUGLASS C. JEFFORDS

• Mr. SASSER. Mr. President, I rise today to applaud the exemplary military career of Capt. Douglass C. Jeffords, an officer in the U.S. Naval Reserve.

Captain Jeffords, reservist, has led the U.S. Navy Reserve in revolutionary areas of logistical and readiness detail, most recently in the aftermath of Desert Storm.

Captain Jeffords is retiring as Assistant Deputy for Readiness, Command, Region 9 in Memphis. He has been responsible for the training and readiness of over 5,000 naval reservists in a five-State area.

In recognition of his outstanding career, Captain Jeffords has been awarded both the Navy Commendation Medal and the Armed Services Expeditionary Medal.

Captain Jeffords entered Vanderbilt University in 1958 as an NROTC scholarship student, graduating with a bachelors degree in civil engineering in June 1962. He received a master of science in structural engineering from Vanderbilt in 1968. He also attended the Naval War College in Newport RI. In 1966, after his release from active duty, he became affiliated with Naval Reserve Surface Division, 8-89, in Nashville.

In 1982, he was assigned as commanding officer, Commander in Chief, Atlantic Command Detachment 309. As commander, Captain Jeffords resided over the documentation of message text formatting system, the Navy's JINTACCS documentation.

In October 1988, he was assigned as commanding officer, Naval Activities United Kingdom Headquarters Detachment 108, and as chief of staff, Commander Naval Activities Eastern Atlantic. As commanding officer, he was responsible for planning for the mobilization, training, organization, and activation of over 800 naval reservists. Under his tenure, plans for a more effective utilization of reserve forces were developed for the logistics support for operating forces. These plans were tested during live and command post exercises in the North Atlantic.

Following Desert Storm, Captain Jeffords proposed a new Reserve organization to perform logistic augment. This concept has been adopted for use throughout the entire Navy.

Captain Jeffords, who lives in Nashville with his wife, Jane, and his three sons, is a registered structural engineer. He is a member of the Naval Reserve Association, American Society of Civil Engineers, the National Society of Civil Engineers, and the Construction Specifications Institute.•

TRIBUTE TO J. EMMANUEL WILLETT, PH.D.

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a gentleman whose career has had a positive impact on countless Kentuckians. J. Emmanuel Willett will be retiring at the end of this month after a 25-year career of serving the northern Kentucky community in the field of mental health.

During the past quarter of a century as president and chief executive officer of the Comprehensive Care Centers and Children's Psychiatric Hospital of Northern Kentucky, Mr. Willett has built a wealth of services for those suffering from mental health disabilities.

Mr. Willett's path to the office of executive director of Northern Kentucky Mental Health/Mental Retardation Regional Board and the Comprehensive Care Centers it operates has been no simple walk in the park. His trek began as a University of Kentucky graduate student. At that time Mr. Willett was supported by a State stipend program which included working summers at the Albert B. Chandler Medical Center. After finishing his internship, he worked full time at Thomas Moore College.

To repay his stipend, Mr. Willett became involved in organizing the regional board and construction plans for the new Northern Kentucky Comprehensive Care Center. After his task was completed he was offered the position of executive director of the center. Mr. Willett was not only the first, but has been the only executive director employed by the center.

During the past 25 years, Mr. Willett has worked dutifully to ensure that the center remains a model of quality mental health care. During Mr. Willett's tenure, the regional board has developed a number of innovative services to help the community.

Mr. President, please join me in honoring this doctor, educator and visionary who has realized his dream of being able to help others. J. Emmanuel Willett, Ph.D., is a point of light to the many citizens of Kentucky who have received the special care they needed at the Comprehensive Care Centers and Children's Psychiatric Hospital of Northern Kentucky.

I wish Mr. Willett a wonderful retirement and the best of luck in his future endeavors.

Mr. President, I would like the following article from the Kentucky Psychological Association Newsletter to be submitted into the CONGRESSIONAL RECORD.

The article follows:

PROFILE OF CENTERS' PRESIDENT

The journey of life is full of turning points, both personally and professionally. For J. Emmanuel Willett, Ph.D., President, two such moments occurred in 1954. It was that year he married his wife, Dorothy, whom he grew up with in his hometown of Fancy Farm, Kentucky. He also visited his sister in Cincinnati who thought he needed to get out of his present construction job and go back to teaching. She lined up interviews for him with a number of local colleges, but it wasn't until six months later that he was offered a position teaching education at Mount St. Joseph College. A few years previously, he had attended St. Mary's College in Lebanon, Kentucky with his eye on the ministry. He realized the ministry wasn't where he belonged, but continued to have a desire to help others. He considered a career in teaching and enrolled in the MA program in Guidance and Counseling at Catholic University.

He taught at Mt. St. Joseph for seven years and at the same time took courses at the University of Cincinnati. It was there Dr. Willett met George Kisker and took an Introduction to Clinical Psychology. He realized then that this could be a means of helping others. Dr. Willett took a sabbatical and finished graduate school at the University of Kentucky, concentrating on clinical psychology. Graduate school included two years of course work and one year as a clinical psychology intern at the Albert B. Chandler Medical Center. After finishing his internship, he worked at a mental health center on a full-time basis and taught part time at Thomas More College. During his graduate school career, he commuted via Greyhound bus from Cincinnati to Lexington, staying at a boarding house throughout the week.

Dr. Willett's involvement with the development of the Center began when he was working for the Department of Mental Health in 1964 to repay the state for financial assistance which helped him to complete his doctoral work at UK. To serve out the remaining twelve month indenture, Commissioner Dale Farabee charged him with the task of organizing the newly incorporated Northern Kentucky Mental Health-Mental Retardation Regional Board. This was accomplished in May 1965. His state commitment would be satisfied by December, so he began planning to search for employment elsewhere—only to have the Board offer him the position of Executive Director of Northern Kentucky Community Mental Health Centers. He assumed his new position on October 1, 1966. He was not only the first, but has been the only Executive Director employed by the Center. Never forgetting his commitment to teaching. Dr. Willett taught part time at Thomas More College until 1983, donating his salary back to the institution.

Dr. Willett is a native of Fancy Farm, a small, rural community in Western Kentucky. He was raised on a farm settled in 1821 by his great-grandfather, Samuel Willett. As a high school student at Fancy

Farm, he took four years of Latin, English, and Math, along with Chemistry and French classes. In 1942, at age 16, he received his high school diploma. He was too young for the military and decided to stay with his sister in Cincinnati to work as an apprentice glass-blower in a war plant. He later apprenticed as an electrician and then enlisted in the Air Force in 1944. He was a clerical worker until his discharge.

For twenty-five years Dr. Willett has worked faithfully, offering his time and expertise to ensure that the Center remains the best provider of quality services that it can be. Under his leadership, the Center has experienced positive changes and growing pains. With the support of the Regional Board, he and the Center staff have been able to maintain quality, professional mental health and mental retardation services in the Northern Kentucky Region. Dr. Willett's dedicated leadership has provided stability to the Center's history of struggles and successes.•

COMMUNITY ENTERPRISES OF ISSAQUAH RECIPIENTS OF THE 1992 CONSUMER CHAMPION AWARD

• Mr. GORTON. Mr. President, this coming Friday I have the honor of presenting my 1992 Consumer Champion Award to Community Enterprises of Issaquah [CEI].

For many years, CEI has provided a much needed recycling drop off center at which Issaquah residents can recycle everything from paper and phone books to plastics and scrap metal. But CEI does more than provide a way for people to recycle and reduce the amount of trash that clogs our landfills; CEI also provides an outstanding service to the community by offering employment to people with disabilities—people who often must fight harder for the opportunities many of us take for granted.

CEI's approach succeeds on many levels. The community gains a needed service. CEI's employees gain valuable skills necessary to perform a needed job, the sense of accomplishment from mastering a new skill, and the self-confidence which can prepare them for other opportunities.

The message CEI gives is one of hope. Let me end my remarks by quoting the author Thomas Wolfe: "So, then, to every man his chance—to every man the right to live, to work, to be himself, and to become whatever thing his manhood and vision can combine to make him—this * * * is the promise of America."

It is my great privilege to award CEI with the 1992 Consumer Champion Award because of the invaluable service it provides recycling conscious consumers while affording many opportunities to people with disabilities.•

TIM WIRTH: UNDERSTANDING HIS DECISION TO LEAVE

• Mr. DASCHLE. Mr. President, on Wednesday, April 8, we heard the disturbing news that Senator TIM WIRTH of Colorado has announced his decision not to run for a second term. We were shocked and saddened. Shocked because TIM was expected to win his reelection effort, and saddened because he is a friend and one of the brightest lights in the Senate.

In "Diary of a Dropout," published in the August 9, 1992 edition of the New York Times Magazine, TIM WIRTH diagrams his decision, and the week that preceded it: "Looking back at the climactic week of my political life, I can put my decision and its causes into the kind of order that immediacy obscures but hindsight permits."

His story is fascinating and well written. It is an honest appraisal of the frustrations of working within a very flawed system. It is a generous invitation to understand a decision that is both incredibly public and utterly private. But its importance lies in its lessons—for TIM WIRTH'S colleagues in the Senate, for all elected officials, for the media, and for the voting public.

We need to understand why a Senator as caring and able as TIM WIRTH would voluntarily give up his seat. TIM WIRTH is exactly the kind of Senator—the kind of person—this country needs to help us address the challenges of the next century. His absence from this body will be America's loss.

TIM WIRTH will continue to offer his country his talents and to champion important causes. As he put it, "there's more than one venue for fighting the fight that counts." But his retirement from the Senate and his explanation of that decision pose important questions that we must ask ourselves: How can we change our system so that the best and the brightest are attracted to national service? How do we ensure that Congress, the President, and the public will be willing to attack the difficult issues? How do we remain true to our principles, both on a personal and a national level?

TIM WIRTH has already used another venue to serve his country. His story in the New York Times Magazine compels us to search for answers to these important questions, and I hope we in the Senate and we as a society will begin that search.

Mr. President, reading "Diary of a Dropout" is a good first step in that process, and I ask that this story by Senator TIM WIRTH be printed in the RECORD following these remarks.

The article follows:

[From the New York Times Magazine, Aug. 9, 1992]

DIARY OF A DROPOUT

(By Senator Tim Wirth)

When I decided this spring not to run for a second term in the United States Senate, I surprised not only my colleagues, friends, family and staff, but also myself. I had come to Congress from Colorado in 1974 as one of the 75 post-Watergate Democrats elected to the House of Representatives. After 12 years in the House and five nail-biting re-election campaigns, I narrowly won the Senate seat Gary Hart had vacated. This year I was favored to win a tough race, and despite occasional twinges of private doubt, I was basically drifting into my re-election campaign on automatic pilot. I hoped that my second Senate term would bring more satisfaction than the first.

But in one week those illusions came apart. After 18 years on Capitol Hill, the prospect of another term in office had lost its bright glow.

I am leaving the Senate now because I have become frustrated with the posturing and paralysis of Congress. I even fear that the political process has made me a person I don't like.

Looking back at the climactic week of my political life, I can put my decision and its causes into the kind of order that immediacy obscures but hindsight permits.

Monday, March 30, was a banner day for the Wirth fundraising machine. In the morning, my wife, Wren, and I flew from Colorado to Houston, where we secured more than $70,000 in campaign contributions from executives of the natural-gas industry—apparently close to a single-event record for a non-Texan politician.

It was done in style, at a crowded reception in the grand River Oaks house of Oscar and Lynn Wyatt, a marble-floored approximation of a French chateau. The mansion, called Allington, is a big drawing card in Houston, and few upwardly mobile Houstonians would pass up a chance to see and be seen on the premises. Oscar Wyatt, a self-made tycoon with a stiletto tongue, had spent nearly six months returning one call for every four that I made to him. Once we actually talked, though, he quickly agreed to be my host, along with Mike Walsh, the new head of Tenneco and an old friend of mine from the days when we were both admissions officers, he at Stanford and I at Harvard.

Through my legislative work on energy issues, I had come in contact with Oscar, whose Coastal Corporation owns about 5 percent of all American gas and liquid pipelines, and Mike, who left the presidency of the Union Pacific Railroad to take over Tenneco, a huge conglomerate with major difficulties. In the Senate last February, I had helped pass a major energy bill that promoted natural gas and encouraged the gas industry to end its dependence on oil. The big reception in Houston was a way for the energy industry to say thank you by helping me raise part of the $4 million war chest I thought I'd need for the fall campaign.

I knew that raising so much money at a single event from a single industry would expose me to more of the attacks that the Colorado press has been making for years. The fact that natural gas is a major Colorado industry, that I have long used it to fuel my Jeep and that for years I have been pushing it as an environmentally sound domestic-energy source would not take the sting out of the inevitable headline: "Gas Magnates Bankroll Wirth Campaign."

The story would fail to note, of course, that I have received almost no support, financial or otherwise, from Detroit auto makers, whom I have angered by pressing for safety and fuel-efficiency improvements, or from the oil industry, whose legislative efforts to open the Arctic National Wildlife Refuge to prospecting I helped defeat this year. But when I take money from friends, people who are not only constituents but whose interests I see as coincident with national interests, I can count on an ugly story about being in the pocket of big contributors.

It was probably just as well that no reporters were in the room in Houston, where earlier in the day I gave a talk to a group of Coastal employees. Journalists would certainly have loved the way Oscar Wyatt had got the group to start asking me questions. Recalling the time his father had taken him to a carnival where one of the sideshows was a kissing pig, Oscar said, "C'mon, you only get one chance to kiss the pig, so you better get with it."

Tuesday, March 31, I spent a good part of the morning on the telephone, working on three big fund-raising events scheduled for May in Philadelphia, New York and Los Angeles. Back in 1974, as I faced the problems of financing my first race, a wise friend in Denver told me, "If you don't have enough confidence in yourself to ask for money, you don't belong in politics." I learned that lesson early and lived by its corollary: "If you don't ask, people have an absolute chance of not saying yes."

I had become very good at asking, but all the time it took to raise funds was time not spent talking with constituents, not tending to legislative business and not actually campaigning. That style of grass-roots, county-courthouse politics was, for me, more myth than memory.

Unhappily, the first loyalty of any candidate is too often to self and re-election, rather than to any broad political organization or community of like-minded activists. The problem is not merely the power that big givers—interest groups as well as individuals—may gain over the elected officials they help; it is the fragmenting of what the parties used to provide: financial, organizational and even ideological support.

The Republicans, with the patronage power of the White House in their hands, can still deliver some of those rewards and exact some discipline in return. Democrats, revolting against Tammany-style corruption or Chicago-style big-city machines, have by and large become independent operators. As a result, the Democratic Congressional leadership has few weapons it can deploy to exert control. On every important vote, the Senate Majority Leader, George Mitchell of Maine, has to go out on the range and try to round up 57 straying heifers—the Democrats whose numbers give them theoretical control of the body.

The weekly Democratic caucus luncheon today epitomized our inability to work as a team. Held on the second floor of the Capitol, these sessions are scheduled to start at 12:30, but seldom get going before 1:15. And, for the most part, little of substance can be discussed because any controversial positions will be leaked to the press before we've finished digesting lunch.

The March 31 caucus was supposed to discuss two pending bills, one on health research and the other on financing international programs. But the talk was all about Senate perks, the fees we should pay to exercise in our seedy gym, the rationale for maintaining the Capitol physician's office and pharmacy and the hours the Senate restaurant should stay open when we're in night session. These petty matters had come to have immense political importance because of the incredible uproar over the misnamed, misrepresented "bank" in the House of Representatives.

The House bank scandal, devastating in its effect on the other side of the Hill, threw the Senate into a panic too. It did not seem to matter that no taxpayer or depositor lost a penny. What got fixed in the public mind was that Congress had grown arrogant and out of touch. Yes, many Representatives did overdraw their accounts, a few repeatedly and for large amounts, and yet no check bounced, no overdraft fees were assessed. The House bank, really more an old-fashioned, though poorly administered, cooperative, became a symbol of the special privileges all politicians supposedly get in Washington.

It was a great story for the news media, one that glibly portrayed public servants as rip-off artists. Droves of reporters went after the details with a slavering intensity rarely shown for more complicated, more important stories like the budget deficit, the $400 billion in hot checks that the Government is writing this year. The gap between what comes into the Treasury and what goes out constitutes the biggest overdraft in world history and has paralyzed the Government. But that scandal has received little attention compared with the furor generated by the House bank.

It was already "Topic A" some weeks earlier when Wren and I went to a ghastly mob-scene dinner in the ballroom of the Washington Hilton, where once a year the radio and television correspondents gather in evening clothes to celebrate themselves and the unspoken (but true) assumption that they are at the top of the power brokers' ladder in Washington.

On the way into the dinner, we had run into Representative Thomas J. Downey of New York, a close friend and a man clearly in agony. Tom is one of the most effective, decent, conscientious legislators I know, brilliant and incredibly hard-working. But he is a representative who overdrew his account. "I just came down here to help people," he told us. "That's all I ever wanted to do." It was painful to see a man of such talent so plaintive.

At the Democratic caucus luncheon in the Senate, the House bank pre-empted everything else. The talk turned immediately to how to handle our own perceived vulnerabilities (the gym, the doctor's office, the Senate restaurant), and degenerated into a round of suggestions for ways the "perks" issue could be turned against the Republicans in the Executive Branch. It would be easy, we could see, to tar the other guys with the brush they were using on us.

Unhappily, politics was consuming us all. A basic reason our institution was in trouble, I said, was that we were too often engaged in trivia and not performing the work for which we were elected. I said we needed to focus on national policy matters, on passing an energy bill through both Houses of Congress, on campaign-finance reform.

Another gathering that night brought the political realities of 1992 into even more depressing focus. Wren and I drove across the Potomac to McLean, Va., for a supper-and-strategy session at the home of Chuck Robb, the Virginia Senator who is chairman of the Democratic Senatorial Campaign Committee. Chuck and his wife, Lynda Bird, Lyndon Johnson's daughter, had invited each of the 16 Democrats from the Senate class of 1986 who would be running for re-election in November, and 12 had come with spouses and a smattering of senior staff to talk about the coming campaign.

At any time during the year, it is difficult to get three, let alone a dozen, senators in the same room at the same time. This night could have given us a rare opportunity to exchange serious ideas and to learn from each other. We should have been able to let our hair down and talk frankly about what we stood for and where we thought the country was going.

Instead, we were told by two prominent figures in Washington political circles—to no one's surprise—that Americans are angry at the Government and those who work in it. Everyone was tired, and so was the talk. I don't recall any mention of the global environmental crisis or America's wasteful energy appetites, and only glancing reference to health costs, education and defense-industry conversion. Questions and comments were few and dispirited, most concerned with ways of using careful polling, target groups and narrow issues—in other words, ways to get re-elected.

I thought of Hickory Hill, a mile or so down the road, the home in which Robert F. Kennedy held regular seminars in the 60's to examine national and international problems. Bobby Kennedy, with his passion and intellect, had been my model for what public service should be. His assassination had a profound effect on Wren and me. We had stood in Union Station in Baltimore as his funeral train came through, weeping with the crowd. We came away profoundly saddened and changed.

More than anything, Kennedy's death had propelled us into elective politics. Looking around the gathering of my colleagues, I wondered what had happened to our zeal. How could we be wasting our time like this when there was so much to do, in the old Kennedy phrase, to get our country moving again? Angry and frustrated, we drove home.

Wednesday, April 1, was an ordinary Senate day, chopped up into the usual rushed 15-minute encounters with Colorado constituents and special-interest groups from outside the state. It was also yet another futile day of pushing for some movement in my long battle to designate more than 650,000 acres in Colorado as wilderness. The project had been stymied for years by the flat-out opposition of Senator William L. Armstrong, my Republican counterpart until he retired in 1990.

Hank Brown, the Republican who replaced him, did not have the same set-in-concrete, sagebrush Rebellion convictions against protecting public land. After intense negotiations last year, Hank and I had worked out what we thought was a decent compromise. Instead, we discovered we had ignited significant controversy.

At issue was the legal status of water rights, which are fundamental to controlling this scarce resource in the region. Water rights have been the cause of violent feuds and political finagling for generations. In 1985, the Sierra Club brought an old and bitter controversy to the surface by suing the Forest Service in Federal court to try to reserve water rights for all designated wilderness areas—thus pitting developers against conservationists. Since the court did not fully resolve the issue, my Colorado wilderness areas bill became the vehicle both sides wanted to use to write their interpretation into binding law.

Hank Brown and I worked out a way to finesse the issue. In addition to adding 75,000 acres to the original request for wilderness status, our bill would have prohibited dams and other diversion structures in the new preserves, in effect protecting the water as it flowed through.

To many environmentalists in Colorado, who had been among my strongest supporters, that concession was an act of betrayal. They would not accept my argument that the wilderness we would save was worth far more than the shaky precedent our compromise might set.

That was the stalemated situation on April 1. During the day, I tried to talk the issue through once again with Representative George Miller of California, an old friend and Morris K. Udall's successor as Chairman of the House Interior Committee. I also spent much of the afternoon as chairman of a routine hearing on one of Hank Brown's special projects—to make the Cache la Poudre River in his backyard a National Water Heritage Area, extending a courtesy to him that grew naturally out of our collaboration on the wilderness bill.

All of this effort amounted to just more wheel-spinning on a project that should have been wrapped up 10 years ago. I was trying to work the bill through the House—and getting nowhere. I was losing heart. If, in our strong and affluent democracy, we had so much trouble preserving this small portion of God's creation, how in the world could we expect Brazilians or Malaysians to protect their millions of acres of rain forest?

The day left me drained—not an unusual feeling—and acutely aware of how hard it had become to get past Square 1 on the Capitol Hill battlefield. The environmentalists have a clear and defensible position, but at the end of the day, where is the progress? On this issue, in which Wren and I and my staff had invested so much time, we were not only getting nowhere, but were being eaten up by our own political supporters.

Thursday, April 2, was the day the roof began to fall in. That afternoon, I learned that Senator Kent Conrad of North Dakota, who had been elected with me in 1986 and had been at the Robbs' dinner the night before, had gone to the Senate floor to announce that he would not be running for re-election. His decision was a shocker. Here was a talented young senator, stunning everyone by cutting off what looked like an extremely promising political career. When I heard the news, I felt compelled to go over to his office and talk to him. Why? I wanted to know. "I just didn't like to go to work in the morning," he told me. "It is so frustrating. The budget is out of control, and I think I'm wasting my time and my life."

At home that night, I told Wren about my conversation with Kent. Wren replied that I'd been saying the exact same thing. "For weeks," she said, "you've been saying that we shouldn't have done this again."

She was right. On automatic pilot that afternoon, I had reviewed the draft of the statement I was planning to use 10 days later to announce my intention to run again—words I would deliver at a series of stops on a well-orchestrated campaign swing around Colorado.

Now my own manual control came back on. Thoughts flooded in, especially of scary false medical alarms Wren and I had each been through in the previous six months. Our reactions in both cases had shocked us. Before our diagnoses turned out to be wrong, we had each said to the other: "Well, if the news is bad, there's one bright side. We won't have to run again."

The truth was that I dreaded the campaign that lay ahead and, almost as much, the likelihood of winning it, of having to spend another six years like Kent Conrad, hating to go to work every morning. Discussing the race with my staff, I had told them that since the Republicans were going to do everything they could to beat me—their Colorado party chairman had publicly described his job as "attacking his [my] character"—I would have to reply in kind.

It was going to be a vicious fight. The substance of five years in the Senate, of 17 years in the Congress, of real achievements rung up for Colorado, would be ignored, irrelevant.

I felt an intense disdain for the man I would probably have to face, State Senator Terry Considine. His reborn-right-wing policies and right-to-life stridency were contrary to my deepest beliefs. Recently, reviving an old Communist-baiting cliché, he told a good friend of mine that we environmentalists were like watermelons; green on the outside, pink on the inside. I was certain I would defeat Considine, but I was equally sure it would be a long and ugly fight. With the news media all too ready to treat rumor as news and unattributed accusations as truth, I knew I would be subjected to unending Republican attacks. I would have to counterattack. Indeed, I was already armed with a great deal of unflattering material about my likely opponent.

Negative campaigns work. That is why there are so many of them and so few politicians running on their records or on the issues. I believed I could win that kind of campaign, but in tearing down my opponent, wouldn't I inevitably end up diminishing myself?

Another worry was the impact of such a campaign on our children. Our son, Christopher, 24, and our daughter Kelsey, 22, recent graduates of Stanford and Harvard, respectively, had grown up in politics, but this was the first campaign they would work full-time. How would the intense personal attacks affect them?

I tried to sort out what was really important to me. As we talked that night, Wren reminded me what a psychologist friend had said to her about the effects of waging the kind of campaign I was heading into. "If you have a mature, integrated personality, you can't just split off a piece of it and go out and do something that you intrinsically feel is wrong." Wren repeated the psychologist's words. "That is a betrayal of self. When you destroy someone, you destroy a part of yourself, too. And if you keep on doing it, you become a deadened, hollow man."

Friday, April 3, brought all the doubts to a head. The day started with an 8 A.M. memorial service for John Heinz, the Republican Senator from Pennsylvania who had died in a helicopter crash exactly a year earlier. We had been high-school friends and basketball teammates. Married but neither of us yet in politics, we became much closer, a foursome with our wives.

When Jack was already a congressman and I was running for the first time, the Heinzes incurred the wrath of their Republican brethren by sending me a substantial campaign contribution. When Jack ran for the Senate in 1976, I returned the favor; the pro-Heinz interview I gave The Philadelphia Inquirer drew complaining phone calls from top Pennsylvania Democrats. Ten years later, it was Jack's turn again when I ran for the Senate. He was chairman of the Republican Senate Campaign Committee, whose mission was to defeat Democrats wherever possible. When Jack came to Colorado, the stop he made in an obscure corner of the state managed to fulfill his party obligation without doing damage to me.

Jack radiated good spirits, boundless energy and an innocent conviction that he could make the world a better place. He and his wife, Teresa, shared Wren's and my passion about the environment. We worked and vacationed together; our children became close friends. We competed on the tennis court and collaborated in committee rooms, especially on Project 88, a major initiative we had written to address environmental problems through economic incentives. Our friendship had made possible my most productive activity in the Senate, and Jack's death took much of the joy out of my life there. Speaking at his funeral the year before may have been the most difficult thing I have ever had to do.

What was most important, in retrospect, was that our work on the environment had been completely nonpartisan—something I have rarely found in the Senate. Partisanship can be healthy, but during the Reagan and Bush years, it had risen in intensity to become an overwhelmingly polarizing force.

In the Senate, more and more issues are provoking divisions along strict ideological lines. The Republican contingent has grown increasingly conservative, led by a cadre of vocal rightwingers, like Phil Gramm of Texas and John McCain of Arizona. In reaction, the Democrats in the Senate have drifted left of center, courting a whole range of special interests in a frantic effort to hold voting blocs and financing sources.

As a result, bipartisanship has been replaced on the Senate floor by endless bickering and an increasing number of meaningless votes, usually on symbolic amendments offered to embarrass the opposition. How many times should we have to count the yeas and nays on Robert Mapplethorpe and the National Endowment for the Arts, or on flag burning, or on such mischievous and misconceived ideas as the Constitutional amendment to balance the budget? Meanwhile, the real issues get lost. The deficit looms larger. Campaign-contribution abuses grow. The Government in Washington, paralyzed by division, falls further into disrepute.

In personal terms, Jack Heinz's death left me with no allies in the Republican camp, no one with whom to explore ways through the logjam. On my own side of the aisle, my Democratic colleagues were all, like me, free agents who did occasionally band together, only to be demoralized by repeated Presidential vetos.

All that I had lost and missed so much came back to me in St. Alban's Parish that morning. Wren and I sat in pews behind the Heinz family, surrounded by many of our closest friends. The setting was familiar. Our children had been confirmed here. Next door was the Washington Cathedral and the Bethlehem Chapel, where Wren and I had been married. It should have been a consoling place, but I felt my sadness turning only to anger, especially as I watched my Republican colleagues take their places across the aisle in the pews reserved for senators. As I watched, I realized how few of them I connected to, personally or politically. I even resented them for intruding on my grief over Jack's death.

The chief celebrant at the service was Jack Danforth, the Republican Senator from Missouri and an ordained Episcopal minister. Danforth had given a moving homily at the funeral services a year ago in Pittsburgh and Washington. He had since emerged as the chief sponsor of Clarence Thomas' nomination to the Supreme Court and had doggedly managed Thomas' eventual confirmation.

For me, as for many Americans, the Thomas confirmation hearings had been a degrading spectacle, demeaning to the nominee, his accuser and the Senate. Early on, well before the Anita Hill charges came to light, Danforth had brought Thomas by my office, and, after nearly two hours of discussion and considerable research, I had been one of the first senators to announce against Thomas. After watching the conduct of the members of the

Senate Judiciary Committee—their attacks and apparent lack of preparation—I felt embarrassed to be a member of the Senate. Yet here I was taking communion from Jack Danforth. By the end of the service, I was furious—furious at the stupid accident that took Jack Heinz away from us, furious at the life I was leading.

Later that day, I was scheduled to speak briefly at a luncheon seminar given by the Environmental Defense Fund, and to introduce William Reilly, the head of the Environmental Protection Agency. I had written out a scathing attack on the Bush Administration's policies, from its hypocrisy on wetlands to its weasely response to the emerging crisis of global climate change.

But as food was served, I toned down my remarks and, in the end, found myself giving Reily a nice introduction. What I did not say but actually felt was that he is a decent man who has let himself become compromised—by losing so many policy battles inside the Administration and yet staying in office. The feeling, I realized, was not far from the view I was beginning to hold of myself.

Before lunch, I had called Carter Eskew, a partner in the prominent political consulting firm of Squier, Eskew & Knapp. Over the months, I had shared much of my discontent with Carter, who, besides being my campaign's chief media adviser, is also a friend. He was probably the only person who had a window onto Wren's and my misgiving about what we were doing. I told Carter to expect Wren and me to drop in on him that afternoon. We arrived about 2:30. I talked nonstop; Carter and Wren just listened.

I surprised myself with the clarity of my analysis. I saw myself about to go through seven months of horror—a negative campaign that would be hurtful to all concerned. And for what? To spend another six years in an institution that didn't work? To continue an insane life that required me to spend the vast percentage of my time doing things I did not want to do?

Carter did not try to argue with my decision. If he was shocked, he did not show it. Maybe he assumed that I just needed to let off a little steam. Later, he did say that he never thought I would really quit. But the more I thought about running, and the more I spelled out my reasons against it in Carter's office, the easier the decision became.

After about two hours, Wren and I left; I had to catch a plane for a number of meetings on another insane weekend schedule in Colorado, and she was going to Pittsburgh for the weekend to visit Teresa Heinz. We agreed to make lists—reasons to stay in the lefthand column, reasons to leave in the right. We talked in between meetings all weekend, and the analysis all leaned one way: It was over.

From then on, it simply became a matter of telling our children, our family and our close friends, as well as getting the announcement made as quickly as possible. Within 72 hours—by Tuesday evening, April 7—the story had leaked to the press. Tom Brokaw got Teresa Heinz out of the tub to find out if the reports were true. On Wednesday morning in front of my office in Denver, I made it official. We were free.

Had I not already made up my mind by Friday night, a question that my son, Chris, put to me over the telephone would have clinched the internal debate. "Who really wants you to run?" he asked. "Who out there is just desperate to have you stay in the Senate?"

The question stopped me cold. Here I was, running around from constituency to constituency like the proverbial beheaded chicken, beseeched for beneficences and castigated for a catalogue of calamities.

All of a sudden, it occurred to me that I didn't have to put up with this any more. I could say, like another politician who should realize that his time has come to retire from elective office, "Shut up and sit down." I could leave the field to younger, more enthusiastic knights, as I was 18 years ago.

One reason the Senate had become such a dispiriting place to work was that most of its members felt the same impotence I did in the face of the staggering deficits that had turned the United States Government into a holding operation, rather than an arena for innovation.

A few days after my formal announcement, Wren and I came back to Washington and met for a kind of therapy session with my Senate staff, people I admired enormously and knew I had disappointed. One of them was candid about her reaction to my retirement. "This is incredibly out of character," she said. "You are competitive. You are fighters, and for a lot of us, it's hard to see people we hold up as fighters decide not to fight anymore."

I tried again to explain—the institution, the growing frustration, the money chase, the imminent bitter and destructive campaign, Jack's death, becoming someone I didn't like—and admitted that I, too, was astonished. The place I had thought represented all that was good about this country—the United States Senate—was no longer the place for me.

As usual, though, it was Wren who put our future in proper perspective. "The next fight," she told the staff, "is the one that's really going to count. It's the fight for the future, for our kids, for their kids. What we have to do is take some time off, flush the knots out of our heads and then come back. And it won't be politics as usual, because the environment isn't a political issue; it's the most fundamental issue."

And remember, I thought to myself, there's more than one venue for fighting the fight that counts.•

ISAAC WHITE: ELDER STATESMAN OF THE DEMOCRATIC CONVENTION

• Mr. HOLLINGS. Mr. President, the Democratic National Convention last month was chock-full of sparkling personalities and historic figures. But I took a very special pride in the presence in Madison Square Garden of Isaac White of Laurens, SC.

Isaac White, 88 years old and the son of a slave, was elder statesman of our South Carolina delegation and the most senior male delegate at the convention.

Mr. President, Isaac White is a man of extraordinary experience, a man who has witnessed so much. He grew up in Laurens, scrapped to obtain an undergraduate degree at South Carolina State College, worked 18 years in Harlem, returned to South Carolina to earn a masters degree and teach, and retired as principal of Sanders Elementary School.

Mr. White has been active in politics across virtually the entire span of the 20th century. His father, a contractor in Laurens, was an alternate delegate to the Republican National Convention in 1912, and young Isaac was a precinct worker in New York City for Franklin Roosevelt and, later, Adam Clayton Powell. Currently he served as vice chairman of his Laurens Democratic Party, and as eminence grise of our State Democratic Party.

It is small wonder that reporters flocked to interview Mr. White and gain his perspective—reporters from CNN, the New York Times, the Washington Post, the Chicago Tribune, and other major papers.

I, too, was delighted to share Isaac White's company at the convention. He is a distinguished son of South Carolina, a dedicated Democrat, and a wonderful friend.•

LANDMINE MORATORIUM ACT

• Mr. LEAHY. Mr. President, 2 weeks ago I introduced legislation to impose a 1-year moratorium on the sale, transfer, or export abroad of antipersonnel landmines by the United States.

In addition to the 1-year moratorium on U.S. exports of antipersonnel landmines, it calls on the President actively to seek to negotiate an international agreement to stop the world traffic in these deadly weapons.

I intend to offer my bill, S. 3098, as an amendment to the Defense authorization bill when the Senate resumes action on it.

Mr. President, the response to my bill has been overwhelmingly positive. It now has 33 cosponsors, and the list is growing daily.

I am gratified, but not surprised, by this response. Those who know of the incalculable suffering these weapons have caused to innocent people throughout the world agree with me that we cannot continue to be party to this.

Antipersonnel landmines are used indiscriminately, primarily in insurgencies in poor countries. In the vast majority of instances the victim is a noncombatant civilian, and often an unsuspecting child.

Hundreds of thousands of innocent men, women, and children step on these explosives, which remain undetected for years after the conflict ends. They are either killed or horribly maimed for life.

According to the administration, U.S. sales and transfers of antipersonnel landmines are minuscule—less than $1.9 million in the past 10 years. So my amendment will not have any impact on U.S. jobs, or U.S. security.

Nor does my amendment apply to U.S. production or stockpiles of landmines of all types for U.S. military forces, or to the sale, export or transfer of antitank landmines. It applies only to transfers of antipersonnel landmines abroad, the types that have caused so many senseless civilian casualties.

My amendment is strongly supported by the Vietnam Veterans of America Foundation, and many American private voluntary organizations that work in war-torn countries where landmines have left a legacy of misery.

I ask that the names of the Cosponsors of S. 3098 be printed in the RECORD.

The cosponsors follow:

S. 3098 COSPONSORS

Sponsor: Leahy.

Cosponsors: Kerry, Kerrey, Kennedy, Mikulski, DeConcini, Hatfield, Jeffords, Wofford, Adams, Harkin, Moynihan, Dodd, Cranston, Kohl, Bryan, Riegle, Sanford, Ford, Rockefeller, Akaka, Inouye, Specter, D'Amato, Reid, Mitchell, Simon, Daschle, Sarbanes, Metzenbaum, Pell, Conrad, Lautenberg, Robb.•

RURAL LETTER CARRIERS SAFETY AWARENESS

• Mr. DASCHLE. Mr. President, today I want to pay tribute to the efforts of rural letter carriers in my State of South Dakota, who have taken it upon themselves to improve the quality of their work and the safety of their working conditions. I would like to honor these individuals, not only for the worthwhile cause they are ambitiously promoting throughout my State, but also for the example they have set for all Americans.

Rural letter carriers are dedicated to promoting safety in their profession. In South Dakota, rural letter carriers travel nearly 45,000 miles daily, delivering the mail to over 72,000 rural postal patrons. As rural carriers, these individuals drive the highways and backroads that lead to all corners of my State. The rural letter carriers of my State are truly public servants who have dedicated themselves to providing a vital service to postal patrons who live and work in the countryside.

The work of rural mail carriers is not easy or without risk. Their routes cover my entire State, where many people still live miles from the nearest town. As we all know, mail is delivered all year long, summer and winter, spring and fall, and rural carriers perform their duties regardless of the conditions. Often, the weather in my State creates driving conditions that are not pleasant or safe, yet rural letter carriers counter these risks with careful driving and other precautionary measures. They deliver mail when the wind sweeps across the prairie in the summer, and drive over icy, snow covered roads in winter. They are acutely aware of the challenges they face in their jobs, and they work hard to prevent accidents and promote a safe traveling environment for themselves and the people they encounter on their routes.

South Dakota rural letter carriers have demonstrated their support for safer driving conditions by promoting a designated safety awareness week in both 1991 and 1992. Their efforts have been self-initiated and set a good example for other rural letter carriers, and all Americans, that individuals can make a difference to improve our society. As a result of their efforts, the South Dakota State Legislature has passed resolutions in the past 2 years declaring a specified week as Rural Letter Carriers Safety Awareness Week. This designated week each year has given rural mail carriers a special opportunity to promote safety within their profession and to increase the general public's awareness of rural letter carriers on the roads throughout South Dakota. I admire their efforts and encourage them to continue to promote safety in their work.

As with any initiative, there are certain individuals who have dedicated extraordinary time and effort to the cause of rural letter carrier safety awareness in South Dakota. I would like to take this opportunity to recognize their work. The past president of the South Dakota Rural Letter Carriers Association, Wayne Lubinus, has been a strong supporter of rural letter carrier safety over the years. A Quality of Work Life Workteam, composed of rural carriers and postmasters, has also played a significant role in promoting the cause of greater safety for rural letter carriers in my State. Members of this team include Wallace McGregor, Philip Konechne, Mark Soulek, Don Burmeister, Joan Currier, Gene Hagerty, Elmer Sorenson and Darla Wilson. I admire and appreciate their efforts in their promotion of safety for rural carriers and citizens of South Dakota.

I would also note that a national convention of rural letter carriers is taking place this week. It is my hope that this issue of rural carrier safety awareness will be addressed at this meeting and given the attention it deserves to help minimize the traffic risks that accompany this profession, reduce the number of accidents suffered by rural mail carriers, and raise the public's awareness of mail carriers on the roadways of rural America.

Finally, Mr. President, I would ask that a copy of the South Dakota State Legislature resolution declaring the week of April 27 through May 2, 1992, and the executive proclamation of the Governor of the State of South Dakota be printed in the RECORD following these remarks.

The material follows:

SENATE CONCURRENT RESOLUTION NO. 7

Whereas, the delivery of mail is vital to the businesses and citizens of this state; and

Whereas, the delivery of mail in the rural areas of this state entails driving great distances under extreme weather and road conditions; and

Whereas, the first rural route was started in 1896 and the National Rural Letter Carriers Association was formed in 1903; and

Whereas, there are 306 rural routes, 72,754 rural patrons and 44,899 miles driven daily by rural letter carriers in South Dakota; and

Whereas, a rural letter carrier was killed while on duty near Bridgewater in 1989 and a rural letter carrier was injured near Florence while on duty in 1990; and

Whereas, public awareness of the dangers associated with delivering rural mail is vital for the safety of the carriers and the public: Now, therefore, be it

Resolved, by the Senate of the Sixty-seventh Legislature of the State of South Dakota, the House of Representatives concurring therein, That the week of April 27 through May 2, 1992, be declared Rural Letter Carrier Safety Awareness Week and that the citizens of South Dakota take extra care during this week, and throughout the remainder of the year, to remain alert for rural letter carriers conducting an activity which is vital to the interests of this state.

EXECUTIVE PROCLAMATION—STATE OF SOUTH DAKOTA

Whereas, the delivery of mail is vital to the businesses and citizens of this state; and

Whereas, the delivery of mail in the rural areas of this state entails driving great distances under extreme weather and road conditions; and

Whereas, the first rural route was started in 1896 and the National Rural Letter Carriers Association was formed in 1903; and

Whereas, there are 306 rural routes, 72,754 rural patrons and 44,899 miles driven daily by rural letter carriers in South Dakota; and

Whereas, a rural letter carrier was killed while on duty near Bridgewater in 1989 and a rural letter carrier was injured near Florence while on duty in 1990; and

Whereas, public awareness of the dangers associated with delivering rural mail is vital for the safety of the carriers and the public: Now, therefore, I, George S. Mickelson, Governor of the state of South Dakota, do hereby proclaim April 27 through May 2, 1992, as Rural Letter Carrier Safety Awareness Week in South Dakota, and that the citizens of this state take extra care during this week, and throughout the remainder of the year, to remain alert for rural letter carriers conducting an activity which is vital to the interests of this state.•

NELSON, MULLINS, RILEY & SCARBOROUGH: WINNER OF ABA'S 1992 PRO BONO PUBLICO AWARD

• Mr. HOLLINGS. Mr. President, those of us who are proud members of the South Carolina Bar take enormous pride in the fact that Nelson, Mullins, Riley & Scarborough, our State's largest law firm, has earned the American Bar Association's prestigious 1992 Pro Bono Publico Award for outstanding commitment to volunteer legal services for the poor.

Mr. President, this is richly deserved recognition for Nelson, Mullins, whose commitment to pro bono service has been nothing short of extraordinary; 100 percent of the attorneys at Nelson, Mullins—from the most senior partner to the newest associate—are enrolled and active in the firm's pro bono program, a program that is recognized as an innovative model for such programs nationally.

It is company policy at Nelson, Mullins that pro bono work is as important as billable work. The firm makes every phase of its practice available to assist in pro bono work—work that encompasses not just standard case work such as evictions, bankruptcies, family court appointments, and criminal cases, but also nonlitigation initiatives that serve the greater good of the community.

Mr. President, the Nelson, Mullins pro bono program is the pride of South Carolina and a model for the entire country. The men and women of Nelson, Mullins exemplify the maxim that Americans needn't be on the public payroll in order to be a dedicated and outstanding public servants. My hat is off to them.•

RETIREMENT OF U.S. MAGISTRATE JUDGE JACOB HAGOPIAN

• Mr. PELL. Mr. President, today I wish to recognize a respected, colorful, and esteemed individual of Rhode Island's legal community, the recently retired U.S. Magistrate Judge Jacob Hagopian. May I add that I personally admire and respect him.

Jacob Hagopian was appointed to the position of U.S. Commissioner in 1971, a job that evolved to become the current U.S. magistrate judge post. Prior to being appointed, Judge Hagopian had already made his mark in the world, serving 26 years in the Army, beginning as a paratrooper in 1944 and rising to hold various legal posts. Among these, Judge Hagopian served as the principal legal advisor to the intelligence community during the Berlin crisis in 1961 and subsequently ascended to the position of appellate judge on the U.S. Court of Military Review, our Nation's highest military court. For his distinguished legal and judicial work to government, Judge Hagopian was awarded the Legion of Merit.

On the Federal bench, Judge Hagopian quickly established and maintained a reputation of competence, accessibility, amiability, and, above all, fairness. He has handled many high profile cases ranging from those involving figures connected to organized crime to the settlement of copyright claims against a national television network. But Jacob Hagopian's legacy as a judge will be his unerring sense of fairness and responsibility to the interests of all parties involved in the matters that came before him. If that meant revisiting the constitutional claims of those in prison years after their conviction, Judge Hagopian did it. If it meant being roused out of bed in the dead of the night to listen to an urgent plea from law enforcement officials seeking search or arrest warrants, Judge Hagopian did it. In this respect, Judge Hagopian has been a public servant of the first order; the interests and good of the community he serves has been at the forefront of both his priorities in life and his conduct of office.

In addition, Judge Hagopian has contributed much to the community outside of his official duties as magistrate. He has taught and lectured at numerous institutions of higher learning including Roger Williams College, Providence College, and Suffolk University Law School. He has published numerous articles in legal journals and served on various professional boards and advisory committees. Judge Hagopian's varied interests and achievements points to his commitment to civic involvement and his pride in community. It is from the dedication of such individuals as Judge Hagopian that our system of government and our way of life here in America works.

All in all, it is with great pleasure that I recognize the achievements of Judge Hagopian throughout his career, from his days in the Army to his tenure on the Federal bench. He has served his country with distinction and integrity and his presence will be missed in the Federal district court. I commend him for his excellent work and wish him all the best in his retirement.•

NATIONAL COMMISSION ON SCHOOL FINANCE TO MEET THE NATIONAL EDUCATION GOALS ACT—S. 3129

• Mr. BINGAMAN. Mr. President, I ask that the school finance bill introduced on August 4 be printed in its entirety in the RECORD.

The text of S. 3129 follows:

S. 3129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Commission on School Finance to Meet the National Education Goals Act".

SEC. 2. FINDINGS.

The Congress finds—

(1) State governments have for a long time played the principal role in financing America's education system and historically such role has involved heavy reliance upon locally administered property taxes in conjunction with State prescribed per pupil spending minima, while the Federal Government has been a junior partner in such role, contributing approximately 7 or 8 percent of the amount spent on kindergarten through twelfth grade schooling;

(2) the State and local role described in paragraph (1) has traditionally been decentralized;

(3) the rapid evolution of an unusually competitive international economy is altering national education needs and the new strategic resource for nations has become the trained intellect of its citizens;

(4) the United States is attempting to respond to the challenge described in paragraph (3) by debating and implementing education reform alternatives and setting national education goals;

(5) education reforms may have little chance of sustained success and universal achievement of the national education goals may be jeopardized when such reforms are part of a disparate means by which our Nation finances its schools;

(6) the means by which United States schools are financed result in—

(A) spending inequality from school-to-school, district-to-district and State-to-State;

(B) neglected effectiveness such as finance systems paying little heed to outcomes, accountability, or performance, and seldom is an education attainment target posed regarding desired outcomes or performance incentives;

(C) organizational rigidity in which school finance systems are rooted in operational units such as small rural schools, as exemplified by school districts having consolidated in mammoth agencies with cumbersome bureaucratic structures sometimes distant geographically and organizationally from the schools such districts purport to direct; and

(D) confusion caused by school finance system accretion and as a consequence intolerable complexity;

(7) the entire context in which United States education now operates has been altered in the last 2 decades and expectations for education are higher, and on crucial dimensions, the capacity of schools to respond is lower; and

(8) in the absence of alternative school finance mechanisms with adequate and adequately structured resources, the hope of national education goals, national assessments, and a host of other reform alternatives are in jeopardy of foundering on good intentions and rhetoric.

SEC. 3. COMMISSION ESTABLISHED.

(a) ESTABLISHMENT OF THE COMMISSION.—There is established as an independent agency in the executive branch a commission to be known as the National Commission on School Finance To Meet the National Education Goals (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members, of which—

(A) 2 shall be appointed by the President;

(B) 3 shall be appointed by the Speaker of the House of Representatives;

(C) 2 shall be appointed by the Minority Leader of the House of Representatives;

(D) 3 shall be appointed by the Majority Leader of the Senate; and

(E) 2 shall be appointed by the Minority Leader of the Senate.

(2) SPECIAL RULE.—The membership of the Commission shall provide the Commission with expertise and experience in the provision and financing of elementary and secondary education, including expertise in elementary and secondary school administration, teaching, State legislation, education, economics research, and development of standards and assessments.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall study what has been learned from the research on innovations in practice that will help further understanding of what will be necessary and what the cost implications are for achieving the National Education Goals and shall investigate the extent to which—

(1) Federal laws demonstrate a consistent and coherent Federal policy regarding educational equity with respect to resources;

(2) Federal education laws and regulations promote the stated Federal education policy;

(3) there are alternatives to current school finance mechanisms; and

(4) schools and States have the capacity to respond financially to the reform demands

implied in the national education goals and the consequent objectives.

(b) SPECIFIC REQUIREMENTS.—In carrying out its responsibilities under this section, the Commission shall synthesize and evaluate existing information in the following areas:

(1) NEED ANALYSIS:

(A) The cost-effectiveness of different ways of providing educational services.

(B) The role of educational technologies in improving cost effectiveness, program quality and equity.

(C) The efficiency with which schools are managed and the relationship of school management efficiency to increased student learning, especially the effects of variations in the proportion of staff who are directly involved in instruction versus administrative, specialist, or support staff.

(D) International comparisons of expenditure levels, and intergovernmental financial responsibilities for public elementary and secondary education.

(E) Different teaching compensation policies.

(F) Measures of the quality of elementary and secondary education services, and the relationships of such services to costs and outcomes.

(G) The impact of educational spending on student achievement, including the impact of background factors that are known to affect student achievement such as parental income and parental educational level.

(H) The willingness of localities and States to tax themselves to raise education revenues, including the effects of school finance equalization on taxpayer motivation.

(2) FINANCE:

(A) The primary barriers to equalization of school expenditures and the rationale for such barriers.

(B) Trends in State school finance legislation and judicial actions, and the effects of such trends, including the implications of the apparent inability of some States to permanently resolve school finance disputes.

(C) The effect of Federal education assistance programs and Federal, State, or local tax expenditures on equalization of school finance resources.

(D) The effect of school finance equalization on tax burdens.

(E) The effect of school finance equalization on the quality of education, especially education offered by local school districts with much higher than average and much lower than average expenditures per pupil before the equalization measures were implemented.

(F) The effect of population sparsity, density, and migration, on educational needs and costs.

(G) The effect of educational costs of Federal or State mandates that are not fully funded by the level of government that establishes the mandate.

(H) The effectiveness of financial incentive grants such as merit school programs or financial sanctions on schools and local educational agencies.

(3) DATA GATHERING:

(A) A detailed examination of the State programs supporting elementary and secondary education, whether public or private, including each program's purpose, eligibility criteria, restrictions on use by local educational agencies, funding mechanisms or formulas, type of tax or other revenue source, aggregate funding level, and distribution of grants among local educational agencies.

(B) An analysis of all revenue available to each local educational agency in the United States, including—

(i) the source of such revenue, such as a property tax, sales tax, personal income tax or lottery; and

(ii) which level of government (Federal, State, intermediate or local) provides each such local educational agency with such revenue.

(C) An analysis of all revenue expended in the United States on elementary and secondary education including Federal, State, local and private sources.

(D) Any available information on differences in the costs of providing elementary and secondary education by State, and by local educational agencies within States;

(E) Differences in tax rates and, to the extent possible, property assessment policies and practices, among local educational agencies within each State.

(F) Information about—

(i) the nature and responsibilities of each local educational agency in the United States, including identification of grade levels served, and whether each such local educational agency actually operates schools; and

(ii) intermediate or special service local educational agencies, such as those agencies providing vocational education or education for the disabled in States.

(G) The extent to which educational technology introduced into the classroom may be cost-effective and what may be the Federal role in bringing technology into the classroom.

(c) REPORTS AND RECOMMENDATIONS.—The Commission shall prepare and submit to the Congress an interim report within 18 months of the date of enactment of this Act and a final report within 2 years of such date. Such reports shall—

(1) summarize the appropriate findings of the Commission;

(2) provide to the Congress a comprehensive analysis on the extent to which a consensus exists regarding the appropriate roles of Federal, State and local government in supporting school and State finance reform;

(3) provide an analysis of the resources that will be needed at the school, district and State level to achieve the national education goals; and

(4) provide an analysis of the capacity of State school finance systems to provide the resources necessary to meet the national education goals.

SEC. 5. ADMINISTRATION OF THE COMMISSION.

(a) RATE OF PAY.—Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the rate specified at the time of such service for level IV of the Executive Schedule as authorized by section 5315 of title 5, United States Code, for each day, or any part of a day, they are engaged in actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently.

(b) TEMPORARY EXEMPTION.—Subject to such rules as may be adopted by the Commission, the Chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

(1) appoint a Director or Executive Director who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule; and

(2) appoint and fix the compensation of such other personnel as the Chairperson considers necessary at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(c) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission is authorized to enter into contracts or interagency agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.

(d) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll, and personnel) shall be provided to the Commission by the General Services Administration (or other appropriate organization) for which payment shall be made in advance or by reimbursement from funds of the Commission, in such amounts as may be agreed by the Chairperson of the Commission and the Administrator of General Services.

(e) AUTHORITY TO HIRE EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule. Experts and consultants may be employed without compensation if they agree to do so in advance.

(f) AUTHORITY FOR DETAIL OF EMPLOYEES.—Upon request of the Commission, the head of any Federal department or agency is authorized to detail on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist the Commission in carrying out its duties under this section.

SEC. 6. TERMINATION.

The Commission shall terminate 3 years after the first meeting of its members.

SEC. 7. DEFINITIONS.

For the purpose of this Act—

(1) the term "elementary school" has the same meaning given to such term by section 1471(8) of the Elementary and Secondary Education Act of 1965;

(2) the term "local educational agency" has the same meaning given to such term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

(3) the term "national education goals" means the national education goals established pursuant to the education summit held in Charlottesville, Virginia in 1989;

(4) the term "secondary school" has the same meaning given to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965; and

(5) the term "State" has the same meaning given to such term by section 1471(22) of the Elementary and Secondary Education Act of 1965.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995 to carry out this Act.•

HISPANIC FESTIVAL

• Mr. SARBANES. Mr. President, I rise today to pay tribute to the Hispanic community of Maryland and the tremendous contributions made by Hispanic citizens to our Nation at the local, State, and national levels.

Mr. President, I recently attended the annual Hispanic Festival of Baltimore and was deeply moved by the eloquent statement of Dr. Jose Maria Albornoz-Ruiz, speaker of the Federation of Hispanic Organizations of the Baltimore metropolitan area. As Dr. Albornoz points out in his statement, the Latino community in the United States represents one of the fastest growing segments of our population. According to the 1990 census, the Hispanic-American community is an increasingly significant group in Maryland, located primarily in the southeast Baltimore area and the District of Columbia's Maryland suburbs. In fact, there has been a 144-percent increase in the Hispanic population of Montgomery County. Along with these demographic increases, however, serious problems such as high unemployment and the lack of adequate housing continue to affect Hispanic families struggling to make ends meet during the current economic recession. It is heartening to find that the community has rallied together during these difficult times, notwithstanding the severe cutbacks in Federal assistance to vital State and local programs.

The Hispanic Festival of Baltimore offers a unique opportunity to Hispanics to educate the general public about the diversity and richness of tradition and culture within the Latin community in Maryland. Indeed, the festival allows the public to experience firsthand a multitude of customs on display. We in the State of Maryland are particularly fortunate to have the benefit of sampling this hard-working community's proud and distinct heritage. The festival reveals the remarkable variety of a culturally flourishing community represented by various nations in the Americas including El Salvador, Mexico, Puerto Rico, Colombia, Guatemala, Peru, Ecuador, and others.

Next month, the National Hispanic Heritage Month will be observed officially from September 15 to October 15, ending with the quincentenary anniversary of Columbus' voyage. In view of this upcoming celebration, it gives me great pleasure to bring to the attention of my colleagues a very thoughtful statement by Dr. Albornoz. I ask that it be entered into the RECORD.

The statement follows:

The Hispanic Festival is our once-a-year opportunity to display our culture and our community's heritage. It is the visible expression of the dedicated efforts of many members of our community and the culmination of the labor of honest and hardworking groups of women and men, seeking our rightful participation in the life of the city, the State, and the country. Some of you may be surprised to know that there are about forty-five Hispanic organizations in the Baltimore area, which goes to show that an advanced degree of community organization has already been achieved. Hopefully, this will soon find expression in the open political arena, bringing Hispanics to where the power and the resources are.

It is a circumstance of this year's festival that it coincides with the celebration of the quincentenary of the discovery of America—October 12, 1492–October 12, 1992. 500 years of history! A lapse of time that cannot be encompassed by a single human existence. There can be no surviving eyewitnesses and passing generations must accept tradition, oral and written, to illuminate the knowledge of things past. We hear some argument as to what Columbus' discovery really means, as in the current debate over the political correctness of the standard historical version as opposed to multicultural ethnic interpretations. Notwithstanding, people continue to weave contemporary meaning into the ritual celebration of anniversaries, when we as a human family try to answer again and again the questions: Who are we, why are we here, and where are we going. Whether as a result of an extraordinary discovery or a collision of the races, we are the survivors. We are the product and consequence of events we can no longer control, but we accept our destiny with pride and hope.

We Latins have a commitment and unmistakable devotion to freedom and democracy, and therefore view our experience in America as a privileged opportunity to lend a helping hand to their survival.

We are here to celebrate that we have survived the potentially disastrous pitfalls of a transcultural journey; that we have brought with us to America a long tradition of courage and resourcefulness; and that the values inherited from our parents continue to nurture a new generation of Americans.

Side by side with this momentous occasion, we also celebrate the 19th Hispanic Festival in Baltimore. Yet, despite this festive atmosphere that surrounds us, we share with the rest of the country the apprehension and concern about human needs that have not been met and that threaten the stability of our institutions. We know that there are people suffering and waiting for their opportunity to share in the American dream. We watch warily as our leaders search for reasonable answers to seemingly insurmountable problems. It becomes obvious that our country needs us; that each and every one of us must be ready to do his best to ensure the common good and to participate with restraint and wisdom as is only proper when vital issues are at hand. We know the strength in our values as a community have allowed us to achieve a constructive integration with the fabric of our multiethnic city. We recognize that our future—the future of American society—has to be predicated in respect for the diversity of the human being and with total dedication to the survival of democracy as the best and only viable source of human freedom and dignity.

We should say that we are here to show our gratitude to this country, whose generosity opened the door for us, and has allowed us to integrate, to belong, to grow and prosper, to be part of the most advanced society in the world.

Carlos Cifuentes, a distinguished Mexican writer, has announced that we are in the process of the Latinization of America. I don't quite understand the statement. Perhaps it is a reference to our demographic status; but I would like to believe he means that we have finally acquired the consciousness of what it is to be a part of this society; that we must give as well as take; that we have recognized that culture and fanaticism are mutually exclusive; that the beauty, the warmth, the deep appreciation of life that all Latins carry in their veins will merge with all other ethnic sources to make this truly one powerful and secure country where the highest ideal of mankind may live forever.•

TOGO

• Mr. SIMON. Mr. President, this Chamber has born witness to an anguished discussion, in recent days, on the tragic situation in former Yugoslavia. That has focused our attention, inevitably, at the expense of other situations of horrific human suffering as in Somalia.

But I take the floor today to call attention to a situation that has been largely ignored. It has not yet developed into the kind of tragedy that would force us into an arduous debate as to how the United States and the international community should respond. But there is one lesson from the other conflicts that now burden us. It is that we have consistently acted too late, when much could have done to prevent them from degenerating into the scenes of suffering that fill our nightly newscasts.

I speak of the deteriorating situation developing in the small West African nation of Togo. That country is one of the many African nations taking the courageous step from an authoritarian regime to a multiparty, democratic system of government.

But these efforts have been halting and painful. Since a national sovereign conference in August 1991 charted a path to free elections and the establishment of a multiparty democracy, there have been numerous setbacks: coup attempts in October 1991, the storming of the Prime Minister's office in December, and escalating violence against political leaders in recent months. The period of transition to democracy has been characterized by mistrust and insecurity.

In spite of these challenges, a referendum has been scheduled for August 23 on a new, democratic constitution.

It is clear that there are powerful interests within Togo who do not wish to see that referendum take place. The latest incident occurred this past weekend when armed men smashed electoral computers and voter registers.

Togo's President of 25 years, General Eyadema, has not yet agreed to authorize the referendum. And the former state-party which he founded said that the referendum was illegal.

It is essential that the referendum scheduled for August 23 take place. Five days later, on August 28, marks the end of the 1-year transition period set out in earlier provisional constitution. If the referendum on the new constitution is not held, there is a danger that a power vacuum could arise, and with it too much scope for arbitrary and self-determined action beyong the reach of normal constitutional authority.

We must not allow such a development to force us to respond. Parliamentarians for Global Action, a network of national legislators of which I am a member and which focuses on African democracy, has already mounted two delegations of the Togolese capital, Lomé. But we cannot act alone. We must make clear that the August referendum is to proceed.

I appeal directly to President Eyadema, and all parties, to ensure that the referendum proceeds, and that it proceeds within conditions of full freedom, fairness, and security. I appeal to him to show the courage to lead Togo to democracy through free and fair elections.

And I call upon my colleagues in this Chamber and indeed in the world's parliaments, as well as the Bush administration, and the international community as a whole, to continue to be vigilant, and to be united in stating that democracy must prevail in Togo. We shall be watching.•

THE MANUFACTURING CAMPAIGN

• Mr. JOHNSTON. Mr. Chairman, some interesting information came to my attention in the National Journal Convention Daily during the recent Democratic Convention. I learned more in a subsequent meeting with Jerry Jasinowski, the President of the National Association of Manufacturers. I want to share some of this information with my colleagues because I feel that it is relevant to a wide variety of policy deliberations of this body.

What stood out is that the U.S. manufacturing sector has recently developed very positive trends relative to other U.S. business sectors. These trends show that in general manufacturing contributes more to the Nations economic growth than is generally appreciated.

I learned that while overall U.S. productivity has been stagnant over the last decade, U.S. manufacturing productivity has been growing at a healthy clip, comparable to its successful foreign competitors. American manufacturers in many sectors have regained their international competitiveness thanks to this productivity growth, quality improvements and realigned exchange rates.

Most of the economic growth in this country over the last several years has resulted from the rapid growth in exports of manufactured products. This last recession would have been far worse and of much longer duration were it not for the recent boom in exports of U.S. products and resulting decline in our trade deficit.

The export growth has occurred not as a result of, but largely in spite of Federal policy. While manufacturers have some kind words for the role of some States in developing export promotion programs, they believe that the Federal support is inadequate.

Another thing that stands out is the difference that continues to exist between the kinds of jobs that exist in manufacturing versus other business sectors. For one thing manufacturing workers' pay is about 15 percent higher than the average in other business sectors. Perhaps more importantly 98 percent of manufacturing employees and their immediate families receive employer paid workplace health benefits. A much smaller proportion of other business sectors offer health benefits packages. In this era of skyrocketing health care and other benefits costs, its important that at least one sector of the business community is apparently a major contributor to the availability of health care benefits in the Nation. Indeed many workers in the service and retail sectors have health insurance only because a spouse works for a manufacturer who offer such benefits.

The implication is that support and stimulation of our manufacturing sector might itself be a potential solution to economic and other policy challenges faced by this body. To the extent that we can create more and better jobs in this sector, we will simultaneously help improve the standard of living in this country, help reduce our trade imbalance, and help reduce the number of Americans without health care coverage and other important health.

I bring these thoughts to you as a challenge to begin your thinking in that regard. I enter the document Facts About Modern Manufacturing into the RECORD to provide further information for your consideration.

The document follows:

FACTS ABOUT MODERN MANUFACTURING

". . . the very essence of business is manufacturing."—Akio Morita, CEO, Sony.

"Manufacturing is the engine of economic growth."—Paul Tsongas.

If people as different as Akio Morita and Paul Tsongas can get the picture about manufacturing why can't Washington? Too many policymakers and their staffs see manufacturing as obsolete. That's a dangerously mistaken notion. Outdated views lead to bad policies, and bad policies have plagued manufacturing for too long.

There is a growing debate around the country about the true contributions of modern manufacturing to economic growth and our country's future. People listen as candidates are beginning to talk about a successful manufacturing sector, jobs, innovation, economic growth and export expansion. Political debate opens a window of opportunity.

THE GOAL: A NEW VIEW OF MANUFACTURING

With all eyes focused on the economy, American manufacturers have a chance to alter dramatically the way Washington—and the Congress—views industry. The Manufacturing Campaign is designed to replace outdated myths with a modern view about innovative manufacturing. By hammering home the message that "Manufacturing Helps America Grow," we can:

Emphasize manufacturing's many contributions to the American economy and our way of life

End Washington's cycle of abuse and neglect of manufacturing

Promote pro-manufacturing, pro-growth public policies.

MANUFACTURING MYTHS

Manufacturing helps America grow. For two centuries, America's manufacturing sector has led our nation to levels of prosperity and a standard of living that remain the envy of the world.

But what do policy makers know and think about manufacturing? Ground-breaking research by Peter Hart Associates has unmasked a dangerous "perception gap" on Capitol Hill.

Members of Congress and their staffs see American industry as having arrogant managers running dirty, unsafe, obsolete factories. People who should know better buy the myth of a post-industrial society. They think American productivity is falling and fear that U.S. products can't compete globally. No wonder Congress passes laws which retard growth and destroy American jobs!

MYTH-BUSTERS

The Manufacturing Campaign is replacing manufacturing myths with manufacturing facts:

During the entire post-war period manufacturing's direct contribution to economic growth has remained relatively stable at more than one-fifth of GNP. Add what manufacturers spend for services, and manufacturing accounts for nearly half of America's economic activity. Tales of a post-industrial U.S. society are fiction.

American products are winning in international competition. U.S. exports doubled between 1986 and 1991. The extraordinary growth of manufacturing exports slashed the trade deficit from $156 billion in 1987 to $66 billion today. A trade balance is on the horizon.

Innovative U.S. manufacturing spurs growing productivity—an average annual increase of roughly three per cent over the last decade. That's three times the national average for the economy overall. American industry is more productive than most overseas manufacturers including Germany and close to Japan. Declining productivity in manufacturing is a myth.

THE MANUFACTURING CAMPAIGN

The Manufacturing Campaign is a targeted, long-term joint project of the National Association of Manufacturers to change the terms of debate about manufacturing in this country. It has become a top priority in the executive offices of a growing number of this country's most farsighted companies.

The Manufacturing Campaign is neither a national advertising campaign nor a lobbying effort geared to specific legislation. Rather, it is a tightly-focused plan to educate policy makers and their staffs directly about the importance of modern manufacturing to economic growth and the economic future of the United States.

The Campaign is already underway: Leaders of industry are promoting a pro-growth, pro-manufacturing American agenda at both Republican and Democratic platform committees. Legislators are seeing modern manufacturing facilities firsthand on plant tours. Manufacturers are briefing legislators one-on-one on manufacturing's contributions to a strong economy. Non-incumbent Senate and House candidates are getting the word. Major media events are taking place. Governors and senior officials in key states have pledged support for export conferences.

A primer focusing on the Facts About Modern Manufacturing is in print. New, innovative manufacturing products are being showcased. Work has begun on The Power of Modern Manufacturing, a hardcover book of American success stories. Television programs, videos, bulletins, pamphlets, factbooks, how-to guides, speeches, op-eds, articles, and issue papers are ready for a multi-year roll-out through 1995.

But this multi-dimensional Manufacturing Campaign will not stop there.

As the debate spreads to the White House, Congress, the administration and in the media, the Campaign's messages will resonate into state houses, legislatures, homes and classrooms across America building momentum for a policy agenda that strengthens manufacturing.

A PRO-MANUFACTURING, PRO-GROWTH PUBLIC POLICY

Closing the "perception gap" and bringing an end to Congress's abuse and neglect of manufacturing is not enough.

As myths are debunked, the focus shifts toward creating a pro-manufacturing, pro-growth policy agenda.

Reduction of the federal budget deficit, tax incentives for investment, emerging technology and innovation, maintenance of low interest rates, opening foreign markets, promoting exports, reduction of the regulatory and legal burdens on manufacturers, improved education and training, and health care reform are vital to manufacturers.

A Congress that knows that manufacturing helps America grow will enact policies that help manufacturing thrive. That means more economic growth, more markets for U.S. products, more good jobs, fairer taxes and less unnecessary regulation.

The Manufacturing Campaign will build a new coalition for a promanufacturing pro-growth agenda by changing the terms of national economic policy debate.

HELP WANTED—MESSENGERS

No one can tell Manufacturing's story better than manufacturers and their workers. No one will be hurt more than manufacturers and their workers if this story is not told.

Manufacturing leaders—top executives of companies large and small and their employees—can tell our story best. Unions and their members, state manufacturing associations and vertical trade groups have an important role to play as do civic associations at the community level. Sympathetic politicians should be encouraged to educate their colleagues.

How can you help? First, use Campaign materials to get the latest word on the facts about modern manufacturing. Then, open your plant to legislators and aides, deliver a speech, hold a news briefing, talk to your representative or senator, and tell your success stories.

FUELING THE CAMPAIGN

More than $2 million in contributions from manufacturers and associations has gotten this vital, educational campaign started.

Now is the time to shift into high gear. Your financial contributions and commitments of time are needed for the Manufacturing Campaign to reach its goals. Your help is needed now to end public policy abuse and neglect of manufacturing and to build a new coalition supporting a pro-growth, pro-manufacturing public policy agenda,

Join these original supporters in putting muscle into The Manufacturing Campaign: Air Products & Chemicals, Inc.; Armstrong World Industries, Inc.; The Boeing Company; Cooper Industries, Inc.; Emerson Electric Co.; Goodyear Tire & Rubber Company; Harley-Davidson, Inc.; Harris Corporation; Maytag Corporation; North American Philips Corporation; NYNEX Corporation; Occidental Petroleum Corporation; Phelps Dodge Corporation; The Procter & Gamble Manufacturing Company; Rubbermaid Incorporated; Texaco, USA; 3M; Westvaco Corporation; Whirlpool Corporation—and more are joining every day.

Work with associations such as these to get manufacturing's message across. The Air Conditioning and Refrigeration Institute; American Hardware Manufacturers Association; American Paper Institute; Association for Manufacturing Technology; the Aluminum Association, Edison Electric Institute; Pharmaceutical Manufacturers Association.

Maufacturing is important to America. The Manufacturing Campaign is vital to manufacturers. Its goals are sound. So is the plan for reaching them. Work with me, The National Association of Manufacturers and The Manufacturing Institute to make this campaign a success.

JERRY J. JASINOWSKI,
President,
The National Association of Manufacturers.

TO PROVIDE FUNDING FOR DES RESEARCH AND EDUCATION

• Mr. D'AMATO. Mr. President, I rise today to join my distinguished colleagues, Senators HARKIN and CRANSTON, as a cosponsor of S. 2837. This bill would amend the Public Health Service Act to provide a program to carry out research on the long-term health effects of exposure to the drug, diethylstilbestrol, better known as DES, and to provide for public education programs regarding the various health problems that have been linked to this drug.

DES was widely prescribed for 30 years, from 1941–70, until it was banned by the Food and Drug Administration in 1971. During this period an estimated 5 million women took the drug to prevent miscarriage. It was commonly used in the 1950's and 1960's and was, in fact, advertised as a means of promoting complication-free pregnancies and "bigger and stronger babies." We know now that use of the drug had exactly the opposite effect.

There are an estimated 10 million DES-exposed daughters and sons. One of two DES daughters will have reproductive problems, with one out of a thousand having a very rare clear cell cancer, fatal in 20 percent of the cases. DES sons may have infertility problems. Mothers who took the drug run an increased risk of breast cancer. There have been birth defects, such as cerebral palsy, occurring in the children born of the DES daughters. This is a drug that is producing three generations of heartache.

DES and related injuries received attention and publicity in the 1970's and early 1980's. Unfortunately, in recent years, this problem has not received nearly the attention it deserves. There have been no comprehensive attempt to reach the potentially exposed young women to encourage them to seek regular medical exams. Nor have we tried to reach young women and men to help them understand and cope with infertility problems associated with DES. Since 1984, there has been no funding for the Herbst Registry of clear cell cancer patients, the authoritative study cited in medical literature and legal cases.

This bill will provide $2 million in funding over fiscal years 1993–95 for public and health professional education and for longitudinal research studies of exposed individuals. We still face important questions that need to be answered. We don't know the effect on the next generation, the children of DES daughters. We don't know the full impact on the DES sons. In fact, we still don't know how many mothers took DES or how many daughters and sons were exposed to DES. These are basic questions for which it is our responsibility to help find the answers. This research has broader scientific value also. It can help teach scientists about the role of estrogen hormone drugs on female health to be applied more broadly to populations not exposed to DES by contributing to our understanding of the development of breast cancer and cancer risks associated with oral contraceptives.

I urge my colleagues to join me in supporting this important legislation. By establishing and funding this DES program, we can provide information and help to three generations facing the medical problems and grief of DES exposure.•

TRIBUTE TO MS. CHRISTINE COMBS

• Mr BRYAN. Mr. President, I rise today to recognize one of Nevada's outstanding citizens, who, through her service to the State and its veterans, has shown how much can be gained for others through compassion and understanding. Ms. Christine Combs has been a public servant of my State of Nevada for over 10 years.

Prior to serving with the Las Vegas Police Department for the last 10 years, Ms. Combs worked with the Parole and Probation Department of Corrections in the State of Arizona. She recently was the chaperon for the Boulder City Electric Jam Dance Youth Program in 1990–91 and served as youth coordinator for District 12.

Along with raising two children, one of Ms. Combs' greatest accomplishments is the founding of "Operation Godspeed" in February of 1991. Operation Godspeed was established by Ms. Combs to support families of troops during the Persian Gulf war. In addition to selling and giving out over 1,000 American flags during the war for display by Boulder City residents and businesses, the organization has continued to grow and thrive after the war. Operation Godspeed arranged for Persian Gulf veteran Sergeant Houser to visit his pen pals at Andrew Mitchell Elementary School, acquired a riding lawn mower and backhoe for the Southern Nevada Veterans Memorial Cemetery, and organized Boulder City's first annual God Bless All Veterans Memorial Day parade which was held on May 27, 1991. Operation Godspeed also established Veteran's Memorial Park, a park dedicated to the veterans of all wars and arranged for the moving wall, a replica of the Vietnam Veterans Memorial, to be exhibited in Boulder City.

Ms. Combs has been honored by several organizations for her great achievements. Beta Sigma Phi showed its appreciation to her by naming her Lady of the Year 1991. She has also been recognized by the city of Boulder City, and many community leaders. I join these individuals in paying tribute to a remarkable woman and her positive endeavors in the Nevada community. She serves as an example to Nevadans as well as citizens across the United States.•

HONORING DACIA BURKE ON HER PROMOTION

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to a woman who has proven that leadership can take many forms, Mrs. Dacia Burke. Just recently, Ms. Burke was given a promotion from claim representative to outside claims manager at the Aetna Insurance Co. For nearly 3 years, she has served with much distinction as a claims representative at Aetna, working in the increasingly complex field of insurance litigation. A mother of two boys, Ms. Burke has worked for years to provide leadership to her family, her colleagues, and all those who have had the pleasure of knowing her.

The insurance industry today is undergoing rapid change. Changes in the law, increased regulation, and financial hard times have made jobs in the insurance industry more difficult for anyone in the field. All the while, Ms. Burke has accepted the challenge of her job and achieved a record of success rarely matched in her office. She has labored over accidents, cases, legal briefs, policy handbooks, and untangled it all into a comprehensive understanding of the insurance industry.

We all well know how intense working in the field of insurance can be. Dacia Burke has shown that through sheer dedication and relentless effort one can succeed in any industry. I commend Ms. Burke and all the fine men and women who work in the insurance industry for their dedication, and recommend that my colleagues do the same.•

"LENNON REPORT"

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• Mr. D'AMATO. Mr. President, The "Navy Report on the New Attack Submarine," or "Lennon Report", outlined a concept study for *Centurion* that explored the relationship between size and military capability in three displacement ranges: First, 5,000–6,000 tons; second, 6,000–8,500 tons, and third 8,500 tons. No designs above 8,500 tons were seriously considered, because, in that range, it made more sense to simply continue building the *Seawolf*. Designs in the 5,000–6,000 range, one of 5,007 tons and the other of 5,800 tons, were rejected at the low end for shock, firefighting, equipment redundancy, and bulkhead design to collapse depth inadequacies and at the high end for speed and missile launch rate shortcomings. The report concluded that designs in the 6,000–8,500 range offered the ideal combination of capabilities.

I was perplexed by one aspect of the Navy's findings: The speed of the 5,800 ton design. A mere 200 tons separates a design that falls well short of the Chief of Naval Operations; minimum speed requirement for the *Centurion* from a design that comfortably meets the CNO's requirement. My question is, What happened to the hull form, reactor, and main propulsion unit of a 6,000 ton design to drive performance down to the levels projected for a 5,800 ton submarine? What combination of weight, diameter, power, speed, and efficiency in a 5,800 ton design could cause such a precipitous decline in capability as compared to a 6,000 ton design? These questions need to be answered, and I intend to put them to the Navy.

By now, some may be asking: What difference does it make whether *Centurion* is 5,800, or 6,000, or 7,000 tons? The difference is cost and performance, but the key is cost. The success or failure of the *Centurion* Program boils down to one crucial element: Affordability.

The "Lennon Report" argues that "the primary method of reducing the acquisition cost—of submarines—is to carefully match military capabilities to operational and mission needs." This differs substantially from earlier Navy testimony that major savings in submarine costs can only be achieved by significantly limiting size and displacement. According to the Navy, construction cost, which represents two-thirds of the acquisition cost of a submarine, "is directly relatable and proportional to displacement". For that reason, I would argue that, because affordability is the one nonnegotiable characteristic of the *Centurion*, holding displacement to the lowest possible level is critical.

I am very concerned that the Navy has given short shrift to designs in the 5,000–6,000 ton range. If submarines in this range cannot meet the minimum standards necessary to survive the threat of the 21st century, then the Navy needs to explain carefully, thoroughly, and openly just what the deficiencies of low end subs are? If a larger boat is in order, the Navy needs to be equally forthcoming in explaining its advantages. The "Lennon Report" is an important first step, but it is only the first step. I look forward to a lengthy and detailed exchange between Congress and the Navy over the next several years on this and other matters related to *Centurion*.•

JUDGE SUSAN H. BLACK

• Mr. MACK. Mr. President, yesterday, the Honorable Susan H. Black, nominee for the Eleventh Circuit Court of Appeals, was confirmed by the Senate. I would like to take a few moments to acquaint my colleagues with Judge Black's fine credentials.

Judge Black currently serves as chief judge of the Middle District of Florida and has been recognized for her accomplishments both as an attorney and as a judge.

Judge Black's legal achievements were first noticed when, as a student at the University of Florida College of Law, she received the "Book Award" for earning the highest grade in constitutional law. Since then, she has earned many other honors and awards, including the University of Florida Distinguished Alumnus Award and the Florida Publishing Company "Eve Award." She is also a member of Florida Blue Key and the University of Florida President's Council.

As well as being an outstanding example for all lawyers, Judge Black is a special role model for women in the legal profession, frequently paving the way for others. She was Jacksonville's first female prosecutor, assistant city general counsel, and county judge. In 1979, she became Florida's first female Federal judge.

Judge Black has given generously to the legal community. Literally dozens of committees have benefited from her experience and insight, including both the Florida Civil and Criminal Procedure Rules Committees, the Committee on Court Administration and Case Management, and the Committee on Judicial Improvements. She has been a strong presence in the area of continuing legal education, and is a member of the Judicial Administration Division of the American Bar Association, and the Eleventh Circuit and Florida State-Federal Judicial Councils.

Judge Black has also contributed to her own community. She was recently involved in a parish outreach program to aid disadvantaged children and the elderly, in addition to being involved in other projects that help the indigent. Much of her remaining free time goes toward implementing programs to rehabilitate juvenile and adult offenders, and offer them alternatives to a life of crime.

I believe Judge Black's 20 years of service to the State and Federal judiciary, the respect and admiration she has earned from her colleagues and community, and her commitment to judicial restraint indicate that she is well-qualified to fill this vacancy on the Eleventh Circuit. I am confident she will continue to be an asset to the Federal judiciary.•

CAPTIVE NATIONS WEEK

• Mr. SYMMS. Mr. President, on July 15, President Bush proclaimed July 12, 1992, as the Captive Nations Week. President Bush called on all Americans to celebrate the growth of liberty and democracy around the world and to remain vigilant and resolute in the defense of human rights.

In his remarks, President Bush recalled the recent events in the Communist world. Millions of people who suffered under Soviet domination and Communist rule are now free. The Iron Curtain and its most despised symbol, the Berlin Wall, have fallen. As a result, today we celebrate the existence of a unified Germany, as well as the independence of the Baltic States, Central European countries, and the new republics of the former Soviet Union.

These events benefit every American. The free world's triumph in the cold war gives us a chance to establish a lasting peace for us and for future generations.

But our work is not finished. In Asia, Latin America, and other regions, some nations are still struggling to be free. The United States should continue to speak out against those countries that continue to deny their people basic human rights in stark violation of both the letter and the spirit of international human rights agreements.

President Bush's announcement reaffirms our commitment to liberty and self-government and to express our solidarity with all those peoples seeking freedom, independence, and security.

Mr. President, I ask that President Bush's Captive Nations Week proclamation be printed in the RECORD.

The proclamation follows:

CAPTIVE NATIONS WEEK, 1992—A PROCLAMATION

When Americans first observed Captive Nations Week in 1959, repressive communist regimes had overtaken nations from Central and Eastern Europe to mainland China and overshadowed many others with the very real threat or expansionism. Three years earlier, forces of the Soviet Union had brutally suppressed a popular movement for freedom in Hungary; some 16 years before that, the Soviets had invaded Poland and achieved the forcible annexation of Lithuania, Latvia and Estonia. In 1959, the United Nations had only recently ended its efforts to thwart communist expansionism below the 38th parallel in Korea, and a communist-led insurgency had already begun to threaten South Vietnam. At a time when millions of people were enslaved by Soviet domination or subjugated by proxy, at a time when countless others were terrorized by the threat of communist aggression and subversion, Americans paused during Captive Nations Week to reaffirm our commitment to liberty and self-government and to express our solidarity with all those peoples seeking freedom, independence, and security.

Today, 33 years after our first observance of Captive Nations Week, millions of people who suffered under Soviet domination and communist rule are free. The Iron Curtain and its most despised symbol, the Berlin Wall, have fallen—toppled by courageous individuals who would no longer stand the denial of their fundamental human rights. Today we celebrate the existence of a free and unified Germany, as well as the independence of the Baltic States Central European countries, and 12 new states that replaced the U.S.S.R. In Afghanistan and Angola, where bloody civil war against Soviet-supported, Marxist-Leninist regimes left thousands dead and millions of others homeless, chances of achieving lasting peace have reached their highest level in years.

As we celebrate the hope of peace and freedom in these and other once-captive nations, we also remember the many courageous, freedom-loving men and women who resisted tyranny and oppression—often at great personal cost. These include the thousands of dissenters who risked imprisonment, exile, and death in order to demand rights that we Americans enjoy: freedom of religion, speech, and assembly, as well as the right to a fair trial and to protection against unreasonable searches and seizures. They include prisoners of the gulag who remained devoted to liberty despite suffering hunger, torture, and long periods of solitary confinement; and they include selfless religious leaders such as Father Jerzy Popieluszko of Poland, Cardinal Josef Mindszenty of Hungary, and Cardinal Josyf Slipyj of Ukraine, who inspired countless others by their unshakeable belief in the God-given rights and dignity of the human person. From broadcasters at the Voice of America and Radio Free Europe/Radio Liberty, who pierced the Iron Curtain with words of hope and truth, to freedom-fighters in Nicaragua and other Latin American countries who led popular resistance to local despots and to political and military interference from Cuba and the Soviet Union—the men and women whom we remember this week never lost their faith in freedom and in the inevitable triumph of liberty and justice.]

As we recall all those who labored and sacrificed to hasten the demise of imperial communism and to liberate the world's captive nations, we must also remember those peoples who remain subject to regimes that continue to deny basic human rights in stark violation of both the letter and the spirit of international human rights agreements, as well as fundamental standards of morality. The United States will continue to speak out against egregious human rights violations in Cuba and elsewhere, and we shall continue to warn the world's newly emerging democracies against another kind of subjugation: the tyranny of ethnic hatred and nationalist rivalries. History has shown how these evils can produce their own form of captivity: a vicious cycle of violence, political repression, and economic stagnation and loss. As this observance of Captive Nations Week reminds us, freedom and peace are precious blessings that require the faith, the will, and the wherewithal to preserve and strengthen them.

The Congress, by Joint Resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week in July of each year as "Captive Nations Week."

Now, therefore, I George Bush, President of the United States of America, do hereby proclaim the week beginning July 12, as Captive Nations Week. I call on all Americans to observe this week with appropriate ceremonies and activities in celebration of the growth of liberty and democracy around the world and in recognition of the need for continued vigilance and resolve in the defense of human rights.

In Witness Whereof, I have hereunto set my hand this fifteenth day of July, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

NOTICE OF FILING

• Mr. SANFORD. Mr. President, notice is hereby given that the Senate Select Committee on Ethics has filed with the Secretary of the Senate as a public record, a resolution of the committee containing a summary of the committee's conclusions and the remedy in the matter of Senator Mark O. Hatfield.•

TRIBUTE TO OLYMPIAN, LYNN JENNINGS

• Mr. SMITH. Mr. President, I rise today to congratulate Lynn Jennings, a resident of Newmarket, New Hampshire, for her bronze medal performance at the 1992 Summer Olympics in Barcelona. This is a tremendous accomplishment for Lynn and everyone in the Granite State is very proud of her.

Lynn, who placed third in the 10,000-meter track and field event, trained long and hard for Barcelona. She is one of 122 athletes to represent the United States this summer alongside the world's most elite athletes. The people of New Hampshire have been watching her and all of the other American athletes with great enthusiasm.

Lynn is a graduate of Princeton University and is a freelance writer in addition to her world class competition in distance running. She has consistently ranked near the top in 10,000, 5,000, and 3,000 meter races since 1986. In 1990, Lynn had five first-place finishes including the World Indoor Record for 5,000 meters and the American Record in the Red Lobster 10K. Last year, she placed first in the World Cross Country Championships in Antwerp, Belgium. We admire her skill and dedication to her sport that has made her such a champion.

As you know, the Olympics represent the pinnacle of success in an athlete's career. New Hampshire is very proud of Lynn's bronze medal in the 10,000 meter race. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.•

TRIBUTE TO AMY LIN GOSSELIN AND ADAN KUN

Mr. KERRY. Mr. President, today I would like to call attention to the achievements of two residents from my home State of Massachusetts, Amy Lin Gosselin and Adan Kun, both of whom recently were chosen by the public employees roundtable to receive public service scholarships.

Only 10 recipients were chosen nationwide to receive scholarships from among more than 400 applicants. The winners were chosen based on their academic excellence and their plans to pursue a career in public service.

Ms. Gosselin is currently an undergraduate majoring in sociology and french at Mount Holyoke College in South Hadley, MA. Mr. Kun is pursuing a graduate degree in public policy-policy analysis at the John F. Kennedy School of Government at Harvard University.

As we try to encourage the best and most promising students to choose careers in public service, I believe we can be encouraged by the winning essays submitted by Ms. Gosselin and Mr. Kun. I therefore ask that those two essays be inserted in the RECORD at this point.

The essays follow:

CAREER GOAL: WORKING FOR THE OFFICE OF SUBSTANCE ABUSE PREVENTION

(By Amy Lin Gosselin)

Last summer I was employed as an intern at the United Way of the Capital Area in Hartford, CT. My main project involved working with human service agencies to help them design campaign literature so that they could receive funds from the United Way. I had no idea how difficult this project would be, however, until I drove to a women's shelter in the North end of Hartford and felt the fear an 18-year-old white woman from a rural town feels when she is driving alone in a city where even the junior high school students carry guns. Business executives joke about Hartford, the nation's fourth poorest city, as being a doughnut: all of the "dough" is on the outside, and there is nothing but a big hole in the middle. I was able to see the needs of our urban community first-hand last summer, and I have no intention of turning my back on the problems that our society faces today.

Throughout high school and college, I have been interested in the issue of substance abuse. As a high school sophomore I began working with my town's Drug and Alcohol Council, designed primarily to promote substance abuse prevention education in the high school. I served on the United Way of the Capital Area's Youth Leadership Committee, and our task was to allocate funds to high school substance abuse prevention programs. As a junior in high school, I developed a Big Brother/Big Sister program called "Friends" where high school students volunteered to be big brothers and big sisters to incoming seventh-graders. From this program, I coordinated the formation of another service program in Canton High School called "Esteem," a substance abuse education performance troupe that performed skits, dances, and songs for grade school children in Connecticut. Presently, I am involved with S.A.U.C.E. (Substance Abuse/Use Campus Educators) at Mount Holyoke College and am also the Student Assistant at the Mount Holyoke Alcohol and Drug Awareness Project. My career goal is to work with the Office for Substance Abuse Prevention.

The reason I have chosen a public service career is that I know I simply will not be happy unless I am in a position where I will be able to help other people. I have exposed myself to the problems of our urban communities. I have dedicated time and energy to alleviating substance abuse problems among youth. My concentration in my first major, Sociology, is urban social problems (my second major is French). I know the history of social problems such as substance abuse in urban environments, and I am aware of the possible solutions that the government could begin to implement in our communities. Therefore, because of my own personal experience, my experience with substance abuse prevention programs, and my education background, I know that I very much want to continue with my intention to work for the government in the future in order to alleviate the urban substance abuse problems in the United States. I realize that I am young and probably a little idealistic, but I have hope for the future of the United States in terms of solving some of our more difficult social problems. I would like to be an employee at the Office for Substance Abuse Prevention and work toward improving our nation's urban areas by alleviating the substance abuse use problem among young people.

CAREER GOAL: POLICY ANALYST/CITY MANAGER

(By Aden W. Kun)

During the 1960s Cultural Revolution in China, my father and mother immigrated to California in their twenties. Their acculturation process in America was marked by many sacrifices: leaving family and friends, foregoing job opportunities at home, and combating racism in a foreign country they were now going to call home. As I mature and take on more responsibility, I realize the sacrifices my parents have made for me, so that I can live a better life by having a solid up-bringing and a quality education. Acknowledging the foundation my parents have set for me, I realize that there are many more people who are not as fortunate, people without the opportunities to pursue higher education, quality jobs, and adequate living facilities. And these are the people I want to reach and help through my efforts in the public sector.

Through 20 years have passed since my parents came to this great country, some of the problems they faced still persist. With a population growing more diverse we must create greater understanding, respect, and cultural awareness through education to help clarify the misinformation perpetuated by stereotypes. In Los Angeles, 54 percent of the population is composed of African-Americans, Latinos, Chicanos, and Asian-Americans. The changing face of America requires a continued commitment toward a broader understanding of our different cultures.

My background and work experience linked me up with these concerns and helped focus my efforts toward creating a greater awareness among other ethnic and racial groups through my coordination of Montebello's first Asian-Pacific voter registration drive which was funded by the Southwest Voter Registration Projects based in San Antonio. As acting field coordinator, I worked closely with community leaders and high school students in a joint effort to increase voter participation and education. The voter registration project was one of the first steps to reach out to diverse communities to help address common problems by forming common concerns through political participation.

Unaffected by the growing pressures to pursue a career to make money, I feel that the public sector provides me with the perfect avenue for a life of service to the community and a commitment to people. The public sector represents an opportunity to legitimately and effectively affect decisions to make positive change and responsiveness. These underlying convictions have been a theme and personal conviction throughout my involvement within the public sector. My experience in the public sector at the local, state, and federal level has given me the working knowledge of the channels for change. I do not look at politics simply as just a programmatic process of allocating scarce resources. I view the public sector and politics as an avenue for changing people's lives and forming a society which emphasizes self-determination and cooperation. The bottom line in the public sector is to positively affect and change people's lives.

As a 1991 Woodrow Wilson fellow I have started to build the skills required for a more critical analysis and understanding of policy issues through the development of empirical modeling and analytical skills. The Berkeley summer institute in public policy provided me the skills and confidence to analyze and sort out different policy choices in a coherent, conscientious, and diligent fashion to look at theoretical problems and case studies. The development of these policy skills at graduate school will help me complement my practical political experiences within the public sector.

My parents made many sacrifices to let me have a better life. As I progress through college and receive my degree, I start to carry the responsibility to help others and to make sacrifieces of my own to help those who are not as fortunate as me. My participation and matriculation at graduate school will help me take the first critical steps toward that goal. As a member of the Asian-American community, the Berkeley campus community, and an active participant in the public sector, I am willing to make the sacrifices to serve the segments of society whom our government has easily chosen to forget.•

TRIBUTE TO OLYMPIAN, CHRISTINA BROWN

• Mr. SMITH. Mr. President, today I rise to congratulate Christina Brown, a resident of Hancock, New Hampshire, for her outstanding performance at the 1992 Summer Olympics in Barcelona. This is a tremendous accomplishment for Christina and everyone in the Granite State is very proud of her.

Christina, whose women's eight boat placed sixth, trained long and hard for

Barcelona. She is one of 122 athletes to represent the United States this summer alongside the world's most elite athletes. The people of New Hampshire have been watching her and all of the other athletes with great enthusiasm.

Christina began rowing while attending George Washington University in Washington, DC in 1986. She has since competed in many national and international rowing events including the United States National Championships and the Royal Canadian Henley in England. Recently, Christina placed sixth in the women's pair without coxswain at the World Championships and third in the women's eight at the 1992 Lucerne International Regatta. We admire Christina's skill and dedication to her sport that has made her such a champion.

As you know, the Olympics represent the pinnacle of success in an athlete's career. New Hampshire is very proud of Christina's sixth place finish in rowing at Barcelona. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.•

CONGRESSIONAL STAFF TRIP REPORT ON TIBETANS IN EXILE

• Mr. SIMON. Mr. President, earlier this year a member of my staff and eight other House and Senate staff members visited Tibetan refugee centers in India and Nepal. Their findings and recommendations for United States policy toward Tibetans in exile and occupied Tibet have been set forth in a trip report, which I commend to my colleagues.

The sufferings of the Tibetan people in their homeland and abroad are well known. The staff report details the U.S. Government response to these problems—mostly at congressional direction—but also points up the need to do more. In this area, as in other areas of foreign policy, we have not shown adequate leadership.

A few weeks ago, in the Senate Foreign Relations Committee, we held a hearing on United States and Chinese policies toward occupied Tibet. We heard testimony from the Administration that could have been written by Beijing. The reality is that Tibet is still suffering, that the Chinese are warring against Tibet's Buddhist faith and that the Bush administration, unlike the Eisenhower administration, refuses to support Tibet's right to self-determination. I hope that this policy will soon be changed.

Mr. President, I ask that the attached trip report be printed in the RECORD in full.

The report follows:

TRIP REPORT: TIBETAN REFUGEE SETTLEMENTS IN INDIA AND NEPAL, JANUARY 1-14, 1992

Submitted by Congressional Staff members: Alexandra Arriaga, Mark Gage, Judy Grayson, Bob Henshaw, Rachel Lostumbo, Keith Pitts, Steve Rickard, Deborah Spielberg and Jonathan Stein.

SECTION I: OPENING

Introduction

When the first congressional staff delegation visited the Tibetan refugee community in India and Nepal in late 1988, recent demonstrations in Lhasa, Tibet, and the Chinese government's brutal suppression of Tibetan protests for independence, had again focused widespread international concern on the Chinese policies in Tibet. The Chinese occupation of Tibet had not been a major international issue since the Tibetan Uprising and the subsequent flight of the Dalai Lama to India in 1959. Suddenly, a generation later, the crackdown in Lhasa presented an international crisis and was a grim harbinger of the Chinese government's "solution" to calls for democratic reforms that were to occur only months later in Beijing and other cities in the People's Republic of China. The US and international community's modest and cautiously measured response to Chinese occupation and oppression in Tibet have done little to improve the current situation in Tibet.

Today, Tibet's geopolitical importance has significantly increased. In recognition of his nonviolent efforts to regain Tibetan independence, the Dalai Lama received the 1989 Nobel Peace Prize. Also, many heads of state, including President George Bush, British Prime Minister John Major and former Czechoslovakian President Vaclav Havel, have held, for the first time ever, meetings with the Dalai Lama. Similarly, the United States Congress has taken a very strong stance on Tibet. What had earlier been an obscure issue in the US Congress is now a cause that enjoys unanimous and bipartisan support in the House of Representatives and the Senate. In recent years Congress has responded to the Tibetan crisis with the following:

Provisions in the 1991 State Department and Foreign Relations Authorization Act declaring Tibet an occupied country whose true representatives are the Dalai Lama and the Tibetan Government-in exile;

An April 1991 ceremony honoring the Dalai Lama in the Capitol Rotunda at which the joint, bipartisan leadership of the House and Senate spoke in support of the Tibetan independence;

The establishment of a Tibetan language program at the Voice of America and of a Fulbright scholarship program for Tibetan refugees to study at US colleges and universities;

1,000 immigrant visas for Tibetan refugees to settle in the United States;

Government assistance in the form of humanitarian aid ($500,000 in FY1991 and $1.5 million in FY1992) for Tibetan refugees currently settled or being settled in India and Nepal.

As a consequence, Tibet is no longer a marginal issue in the United States. The Tibetan issue has evolved into a serious concern in U.S.-China relations, and is likely to have the sustained and active support of the US Congress.

The Trip Report issued by the International Campaign for Tibet-led 1988 congressional staff delegation helped to establish many of the previously mentioned US sponsored programs to assist Tibetan refugees in India and Nepal. Key findings of the 1988 Trip Report is included in Appendix I. The 1992 delegation was able to monitor many of these programs. The current status of these programs, our interpretation of their efficacy and some new suggestions are discussed in this report. Continued monitoring of the situation for Tibetan refugees and existing US aided programs in Nepal and India is beneficial to the Tibetan community.

Unfortunately, many problems that were identified by the 1988 Delegation have yet to be addressed or rectified, and it is our hope that future US Government assistance (political, technical and monetary) will be forthcoming to relieve the suffering of Tibetans in Tibet and to help the Tibetans in exile save their ancient culture and redress blatant violations of international law.

Background

From January 1 through January 14, 1992, a congressional staff delegation traveled to India and Nepal to assess the situation of Tibetan refugees and to collect information concerning conditions inside of Tibet. The delegation was sponsored by the International Campaign for Tibet (ICT). ICT is a tax-exempt, non-profit membership organization and is a nonpartisan, public interest group dedicated to promoting human rights and democratic freedoms for the people of Tibet. The International Campaign for Tibet has played an instrumental role in educating the United States Congress and the Administration, and providing current, up-to-date, information to government officials, the press and non-government organizations.

The delegation consisted of eight congressional staff and one staff member of the ICT: Alexandra Arriaga of the Office of Congressman Tom Lantos (D-CA) and the Congressional Human Rights Caucus; Mark Gage of the Office of Congressman Gerald B. Solomon (R-NY) and the House Committee on Rules; Judy Grayson of the Office of Senator Harris Wofford (D-PA); Bob Henshaw of the Office of Congressman Charlie Rose (D-NC); Rachel Lostumbo of the Office of John Edward Porter (R-IL) and the Congressional Human Rights Caucus; Keith Pitts of the Office of Congressman Charlie Rose and the House Committee on Agriculture; Steve Rickard of the Office of Senator Daniel Patrick Moynihan (D-NY); Deborah Spielberg of the Office of Congressman John Lewis (D-GA); Jonathan Stein of the Office of Senator Paul Simon (D-IL); and Monica Garry of the International Campaign for Tibet.

The delegation first traveled to Dharamsala, Himachal Pradesh, India, to visit the seat of the Tibetan Government-in-exile and the Central Tibetan Administration (hereafter referred to as the CTA) In Dharamsala, the delegation met with several Tibetan government, religious and cultural leaders. The visit to Dharamsala also provided opportunities to mingle with members of the surrounding refugee community and to meet newly arrived refugees that had only days before escaped Tibet, been processed and provided transportation to India by the United Nations High Commission on Refugees (UNHCR) Office in Kathmandu, Nepal. The delegation then had a brief stop over in New Delhi, where we attended a reception with members of the Bureau of His Holiness the Dalai Lama and the CTA, a representative of the U.S. Embassy, members of the Indian press, human rights activists and other Tibetan experts living in India. From New Delhi, the delegation traveled south to Karnataka State to visit a large, agriculturally based Tibetan settlement in Kollegal and to meet with the Dalai Lama.

Two scheduled attempts to meet with officials of the Indian Government were thwarted by flight delays. Monica Garry, Bob Henshaw and Keith Pitts were able to visit the Mundgod, Bylakuppe and Hunsur settlements in South India, where the largest Tibetan settlements are based. Bob, Keith and Rachel Lostumbo were also able to visit Kathmandu to meet with CTA, Nepalese Government, US Embassy and UNHCR Officials in Nepal. While in Nepal and South India, they conducted extensive interviews with settlement officials, community leaders and newly arrived refugees.

The Tibetan Government-in-Exile

The Tibetan Government-in-exile currently consists of the Central Tibetan Administration, an executive branch that is administered by the Kashag, or Tibetan Cabinet, and a democratically elected Assembly of People's Deputies. Prior to 1991, the Dalai Lama appointed the seven-member Kashag, as provided by the Tibetan Constitution promulgated by the exile community in 1962.

Currently, the Dalai Lama remains the temporal and spiritual leader of the Tibetan nation. However, in 1991, the Dalai Lama called for the promulgation of new constitutions, one for the government-in-exile and one for the government of a free Tibet. The charter governing the exile community has been ratified by the Assembly and the constitution for a free Tibet is currently being drafted in consultation with Tibetans in Tibet, Tibetans in exile and constitutional scholars in India and abroad. The Dalai Lama has proposed a charter which substantially limits the authority of the Dalai Lama. The Kashag also is no longer appointed, but is elected by the Assembly of People's Deputies. The Kashag is not required to be elected from the membership of the Assembly of People's Deputies, and the present Kashag has five members.

As part of the reforms, the Assembly of People's Deputies has taken a much larger role in the governance of the exile community, including the careful review of the government budget and oversight of the CTA. Most importantly, the Assembly elects the Cabinet, and, for the first time, the Kashag is fully accountable to the Assembly. As with members of the Kashag, members of the Assembly of People's Deputies whom we met expressed some confusion over the democratic process and demonstrated some reluctance to set policy and exercise power. For centuries, Tibetans have come to rely on the institution of the Dalai Lama. Although many Tibetans expressed eager support for democratic reforms, strong emotional ties to the spiritual and temporal leadership exist among all Tibetans. A general fear exists among many Tibetans that the Dalai Lama is laying the groundwork for the eventual and complete phase-out of the traditional, temporal role of the Dalai Lama.

Finally, the democratic reforms will result in the establishment of a functioning, independent judiciary within the exile community. Earlier this year, the first Chief Justice was nominated by the Dalai Lama and confirmed by the Assembly of People's Deputies. The Chief Justice is mandated, by the draft constitution and the acting government-in-exile charter, to establish an independent judiciary. As a judiciary-in-exile in India, its scope of power is currently limited.

The delegation also had the opportunity to meet with several grassroots political and cultural organizations, such as the Tibetan Youth Congress, the Tibetan Women's Association and the Tibetan Freedom Movement. These organizations are well-established in every Tibetan refugee community. They often support policies and positions different than those of the CTA and the Dalai Lama, and, for this reason, they play an important role in sustaining an active and true democracy-in-exile.

Programming supported by the National Endowment for Democracy could prove useful in assisting the refugee communities continuing transition to a democratic system with independent legislative, executive and judicial branches.

An Audience with the Dalai Lama

During our audience with the Dalai Lama in Kollegal, he stated his intent to gradually phase out the role of the Dalai Lama in government affairs and to replace the traditional role of the institution with a participatory democracy. His personal preference is to focus his attention on studies and religious practice. However, like all Tibetans, the Dalai Lama's most pressing concern is to improve the current situation of Tibetans in Tibet and to give control of the land back to the Tibetan people.

He continues to eschew violence as a means of protest or change, and believes it is necessary for the time being to retain much of his leadership over the temporal affairs of the Tibetan people in order to ensure a nonviolent resolution of the current situation in Tibet. The overall tightening of Chinese control, the increasing repression in Tibet and the unwillingness of the Chinese Government to enter into meaningful dialogue on Tibet seem to justify his concern that the situation in Tibet could explode into violence at any time.

The Dalai Lama and the Tibetan community are very much heartened by the increasing worldwide support for the Tibetan cause. Sincere gratitude for the interest and action of the U.S. Congress on the Tibetan issue was expressed by the Dalai Lama and many members of the refugee communities.

The Dalai Lama expressed disappointment in the fact that the Chinese Government had not answered affirmatively to his requests to visit Tibet and to meet with Chinese Premier Li Peng during the Premier's high-profile visit to New Delhi in December 1991. On an optimistic note, the Dalai Lama stated that he believed democratic changes worldwide and brewing discontent within the People's Republic of China would result in positive changes in Tibet and China during the next five to ten years.

SECTION II: NEPAL

Tibetan Refugees in Nepal

Approximately 16,000 Tibetan refugees live in Nepal. A few established Tibetan refugee camps do exist in Nepal, but are generally not open to new Tibetan refugees. None are on the large scale found in India, nor do these communities receive any direct Nepalese government support as they do in India. Few are agriculturally self-sufficient, and most generate income through the production of Tibetan handicrafts. Many refugee camps are remote and inaccessible for extended periods of time, and living conditions in these camps are reported to be quite grim.

Several camps, particularly'' in the Pokhara region, are home (and originally staging areas and, then later, internment camps) to US-trained Tibetan guerrillas that were forcibly disarmed by the Nepalese government, with Chinese pressure, in the early to mid1970's. Most camps in Nepal were established in the early 1960's and continue to receive assistance from their founding private voluntary organizations and/or the Central Tibetan Administration. A great deal of financial support for the refugee community also comes from the private donations of a relatively wealthy Tibetan business community that manufactures and exports popular Tibetan folk crafts, such as carpets and thangka paintings, and manages hotels and restaurants which target tourists.

In the Kathmandu Valley, the refugee community has been highly successful in producing and marketing Tibetan carpets. These carpets are sold to tourists in Nepal, but are primarily exported to Europe. Last year, Tibetan carpets grossed $100 million in export sales and surpassed tourism as the largest source of hard currency for Nepal. Some 400,000 people in the Kathmandu area are believed to be employed by small cottage industries that manufacture these hand-woven carpets for export.

By the estimation of the United Nations High Commission on Refugees (UNHCR) office in Kathmandu, at least 2,000 Tibetan refugees were processed by the UNHCR office in Nepal in 1991. This number has steadily increased each year since 1987 and is expected to continue to do so. Of the new arrivals, almost all immediately transit Nepal to India with UNHCR assistance.

Relationship between Refugees and Nepalese Government

Until recently, political activities by Tibetans were strictly prohibited by Nepal's absolute monarch. On many occasions, leaders of the Tibetan community in Nepal were illegally imprisoned and detained even at the suspicion of demonstrations against China's actions in Tibet. Also, the forced repatriation of newly-arrived (post October 1987) Tibetan refugees to Chinese authorities was a well-documented breach of human rights by the Nepalese monarchy.

The relationship between the new, democratically-elected government of Nepal and the Tibetan refugee community is somewhat improved. The improvements seem less related to the new government's interest in the plight of the refugee community and more a result of the improved human rights situation in Nepal. Political protests by the Tibetans have been tolerated by the new government, but Nepalese government efforts to improve relations with the PRC could jeopardize any recent gains in freedom of expression and assembly for the refugee community. Similarly, a currently unstable domestic situation and the recent bloody, police crackdown on Nepalese protesters in Kathmandu raise concerns of the government's commitment to honor human rights.

A serious problem that continues to exist in Nepal is forced refoulement of Tibetan refugees attempting to flee Tibet and to transit Nepal to join the CTA and the refugee communities, schools and monasteries in India. Local Tibetan officials have estimated that well over 200 Tibetan refugees were forcibly repatriated by Nepalese border guards in 1991. Every newly-arrived Tibetan refugee in Kathmandu interviewed by members of the delegation had suffered some form of harassment from Nepalese border guards. Several had been turned back at the border at least once, and of those repatriated many have been imprisoned and/or tortured by Chinese authorities. Moreover, during the course of the staff delegation trip, one Tibetan refugee was shot to death at the Tibetan border by Nepalese border guards at Namche Bazaar. New refugees generally agreed that successful border crossings happened less than half the time. Repeated attempts, often with the assistance of a paid Nepalese guide, seemed to be the usual formula for success.

Officials at the United Nations High Commission on Refugees (UNHCR) and the US Embassy in Kathmandu monitor this situation and protest documented cases of harassment or refoulement. They have found the

Tibetan reports of repatriation to be credible and accurate. The UNHCR regularly visits known crossing points in an attempt to monitor the situation and to discourage acts of refoulement. The government of Nepal denies any policy of repatriating Tibetan refugees and have continually cast the blame on the greed and corruption of Nepalese border guards, who consistently attempt to coerce bribes or to steal money and belongings of Tibetan refugees. Several officials associated with the diplomatic corps and the human rights community in Kathmandu were quick to point out that the Nepalese government has taken no noteworthy action to warn, punish or train offending guards. Some within the diplomatic community suggested political and economic complicity against the Tibetan escapees between Chinese and Nepalese border police.

United Nations High Commission on Refugees Office in Nepal

The UNHCR Office in Kathmandu was slated for closure in 1991, but an infusion of US $100,000 from the US Government to support a Tibetan refugee protection and processing program was critical to keeping this Office open. US funds were primarily used to administer a refugee reception center in Kathmandu, with some assistance also coming from the CTA Office in Nepal, and to provide health care, food and transportation money for newly arrived Tibetan refugees. The 1992–1993 UNHCR budget estimate for continued administration of the Tibetan refugee program is US $130,000.

The Office has been diligent and effective in meeting its mandate to provide protection to Tibetan refugees. However, the recent and burgeoning influx of Bhutanese refugees into Nepal (9,000 refugees in 1991) and the fact that the Office has only one automobile have prevented the UNHCR from regularly conducting first-hand investigations and monitoring of the forced repatriation problems at the Tibet-Nepal border. A second automobile, preferably a four-wheel drive vehicle, would greatly enhance a badly-needed UNHCR presence at the Tibet-Nepal border.

The work of the Office received very high marks from newly arrived Tibetan refugees, the CTA and the US Embassy in Nepal. All interviewed new arrivals were previously unaware of the protections they are now eligible to receive through the UNHCR and were genuinely surprised and grateful of the attention and services provided by the Office in Kathmandu. Similarly, the UNHCR representatives in Kathmandu praised the cooperative spirit of the new arrivals and the CTA authorities in Nepal. Unlike other past refugee populations in Nepal, the Tibetans had no interest in collecting a regular stipend from the UNHCR Office. Usually, even Tibetans in the most dire conditions of health were eager to leave Nepal immediately and to travel to Dharamsala, India, "to see His Holiness the Dalai Lama."

After the issue of refugee refoulement and the need to better monitor Nepalese border guards, an immediate need is to build a large and permanent building to serve as a reception center and health clinic for newly arrived refugees. The current center is rented and inadequate to meet current and projected demands. The center has also changed sites several times because of Nepalese landlords' fears that the Nepal Government disapproves of the refugee facility and that the large numbers of refugees regularly overcrowd and badly damage housing property. The CTA has purchased a five-acre site outside of Kathmandu and has drawn up plans, in consultation with the UNHCR Office, to construct a permanent reception center. The cost is estimated to be US$264,898. The summary of the design proposal is included in Appendix II.

SECTION III: INDIA

Tibetan Refugees in India

More than 110,000 Tibetans have sought, and found, refuge on Indian soil since 1959. Refugees are settled in thirty-four communities that are scattered throughout India; by far, the majority of Tibetan refugees live in agriculture-based settlements in South India. The largest of these settlements can accommodate 10,000 Tibetans. According to a recent CTA census, 11,045 refugees remain unsettled, some of which have lived in exile without adequate shelter and services since 1959.

Recent demonstrations in Tibet and the ongoing Chinese suppression have resulted in an increasing flux of refugees from Tibet. In 1991, 3,395 new refugees successfully made their way to Dharamsala. Of this group, 1,841 refugees were resettled in eighteen settlements, 670 returned to Tibet (usually after leaving children under the guardianship of the CTA), and 884 refugees remain unsettled because adequate shelter cannot be found for them. The makeup of the new arrivals varies. Immediately following the 1987–88 demonstrations, most refugees escaped from the volatile Lhasa Valley of Central Tibet. In recent years, most refugees have been young Tibetan monks from Kham and Amdo in Eastern and Northeastern Tibet. Some staff were told that recent demographic shifts could be indicative of the tight security measures in Lhasa that prohibit Tibetan movement from the city and the stricter controls of religion and education by the Chinese authorities in Eastern Tibet that have forced many young Tibetans to flee in order to obtain a Tibetan education in exile.

Our observations in Nepal and India indicate that the number of Tibetans fleeing their homeland will continue to increase. Without additional outside assistance, many of these "new arrivals" will not be properly settled. Many existing refugee communities are now over stressed and overcrowded and are unable to provide housing and agricultural commodities at adequate levels for the established communities. After overpopulation, the immediate problems concerning existing settlements are, in general, adequate water resources and little crop diversification and rotation.

Without additional land and startup funds, proper settlement of existing unsettled refugees and new arrivals will not be possible. The ability of the Indian government and the CTA to solely carry the full financial burden of the additionally needed resettlement efforts is improbable. The estimated cost for establishing new refugee camps and expanding existing camps to accommodate unsettled refugees and the anticipated stream of new arrivals is US$6.5 million. Of this amount, the Indian Government has pledged US$1.3 million and the CTA has US$25,000 available for establishing new settlements; setting the current funding shortfall at US$5.1 million.

Relationship between Refugees and Indian Government

India has been quite generous to the Tibetan people. Since 1959, the Indian federal government and several individual state governments have generously contributed land, funding, teachers and/or other resources to the Tibetan refugees and the CTA.

Tibetan refugees enjoy many of the rights and privileges protected by the Indian constitution and its democratic government. Although Tibetans are, for all practical purposes, still accorded refugee status in India, subtle pressure has been (unsuccessfully) applied by the Indian government on Tibetans to give up hopes for an independent Tibet and to accept full Indian citizenship.

Traditionally, the Indian government has officially prohibited political activities by the Tibetan refugee community while effectively ignoring Chinese government protestations of frequently organized Tibetan demonstrations against China. However, recent efforts by India to patch a strained and historically acrimonious relationship with the People's Republic of China have resulted in a less tolerant approach by the Indian government. In fact, just prior to the staff delegation visit to India, the Indian police staged summary arrests and detainments of several hundred Tibetans (and in a few instances Tibetan-looking individuals such as Korean and Japanese tourists) to discourage demonstrations during the December 1991 visit by Chinese Premier Li Peng to New Delhi. Reportedly, many Tibetans who failed to be intimidated and chose to demonstrate anyway were subjected to beatings and police brutality. During our visit, the Indian newspapers were still carrying accounts and photographs of victims of the police brutality.

The Indian public and press, as well as the international press, were highly critical of this unexpected government-sanctioned breach of human rights, and sympathetic individuals within the Indian legislature and courts moved quickly to successfully secure the release of the illegally-detained demonstrators.

In recent bilateral talks with the Chinese government, the Indian government has made very strong statements officially recognizing Chinese claims of sovereignty over Tibet. Further efforts of rapprochement between India and China could possibly establish a previously nonexistent rift between the Indian government and the Tibetan refugee community. If an improvement of dialogue between the Indian government and the Tibetan community is not established and maintained, a situation could easily develop that would be disastrous to the welfare and morale of the Tibetan refugee community in India. With the growing popularity of the Tibetan cause in India and abroad, it is in China's interest, more than ever, to work to create divisions between India and the Tibetans.

New Arrival Refugee Reception Center and Training Center

Since the escalation of conflict between Tibetans and Chinese occupation forces in Tibet that began in 1986, 10,416 refugees have escaped Tibet and made their way to India. A total of 8,359 new arrivals have chosen to remain in India and 2,057 have returned to Tibet. As previously mentioned, 3,395 refugees came to the Dharamsala Center in 1991; 884 of this group remain unsettled. To accommodate the immediate needs of new arrivals, the CTA, in 1990, established the Office of the Reception Center in Dharamsala, India. The Dharamsala center is the primary hub for all refugees that have recently escaped from Tibet. Like the Kathmandu center jointly supported by the UNHCR and the CTA, the Dharamsala center provides temporary shelter, food, medical care and transportation funds to new arrivals. The intended visitation period at the reception center for new arrivals is fifteen days.

When possible, the CTA will place new arrivals in existing refugee settlements. However, existing settlements are overcrowded.

The resulting placement backlog has caused conditions at the current reception center to be cramped and unhealthy. Many refugees have suffered severe human rights abuse by Chinese authorities and have survived extreme physical and emotional trauma in their flight from Tibet. As a result, many new arrivals are demoralized and depressed. Conflicts between new arrivals and "old" refugees do occur. New arrivals oftentimes are poorly educated, and lack vocational skills. Refugees who are lay-persons and are above twenty-five years of age are particularly difficult to place and are often deficient in education and vocational skills. Efforts to properly assimilate new arrivals into the established refugee community are frustrated by the current lack of space and staff.

The CTA has a proposal to build a new and larger reception/training facility near Dharamsala and an aforementioned long-term plan to expand existing refugee communities and to establish one or more new refugee camps. The proposed reception/training center would be a three story building that would provide temporary housing and training facilities for 240 refugees. After an intensive educational program and vocational training, the new arrivals could be more easily, effectively and judiciously assimilated into the larger refugee community. Startup costs for the facility are projected to be US$328,828, and annual administrative costs are estimated to be US$178,988. The summary of the Office of the Reception Center proposal is included in Appendix II.

Health Care In Exile

The general health care infrastructure for Tibetans in exile is relatively good compared to other refugee communities but often shocking by Western standards. Health care is administered by the CTA. Most major settlements have a hospital or clinic, and both Western medicine and traditional Tibetan medicine are administered to the refugee community. Many patients rely on both medical traditions. Maintaining a reliable stock of basic Western medical supplies and pharmaceuticals and serving remote and unsettled refugee populations are major problems confronting health care delivery. Currently, there is also a shortage of health care workers. Technical and financial assistance from the US Government should be considered to help improve health care delivery, particularly in remote settlements and among unsettled refugees.

Tuberculosis remains the most urgent health care crisis in the refugee community. Cramped living conditions, the influx of new arrivals who are in generally poor health, and gaps in TB treatments caused by refugees leaving camps to sell sweaters during the winter months aggravate the problem. Repeat cases of TB and strains of drug-resistant TB are becoming more commonplace in the community. Polio, Measles, Diphtheria, Typhoid and Tetanus are also common diseases that afflict the refugee population. Previous US refugee assistance funds have helped to fund TB control and immunization programs administered by the CTA. Such funding should continue.

Technical and financial assistance should also be directed towards community health programs to improve sanitation, hygiene and water quality at the refugee settlements.

Education In Exile

Education was an early priority for the Tibetan government-in exile. Upon leaving Tibet in 1959, the Dalai Lama immediately initiated an aggressive program to provide educational opportunities to all refugee children. Today, eighty-two schools in India, Nepal and Bhutan serve the Tibetan community. The system is extensive and is an amalgamation with some schools administered by the CTA, others run by the Indian Government, and still others, a system for primarily orphaned Tibetan children known as the Tibetan Children's Village, administered by a private organization based in Dharamsala.

Special education programs have also been established. Many of these programs focus on vocational education and the arts, such as thangka painting, woodworking and carpet weaving and provide income for the refugees. Some adult education programs, particularly literacy programs, are being conducted.

The CTA has also made aggressive efforts to provide special education to new arrivals. Many of these refugees, because of discriminatory Chinese government policies, lack even the most basic educational skills and are unable to assimilate into ongoing school programs. In fact, many new arrivals are unable to read Tibetan and, in some instances, are unable to even speak Tibetan. A "new arrival school" has been established at Bir, India. The school provides a highly intensive "crash" course in Tibetan and English language skills and basic math and sciences. The increasing number of net arrivals has generated a need to establish more such schools.

In general, school curricula introduce students to the Tibetan, English and most common host country (Hindi or Nepalese) languages, mathematics, the arts, social studies and Tibetan history. Through the curricula the CTA makes an effort to preserve Tibetan language, culture, religion, arts and history. Currently, all nonlanguage courses are taught in English, and all textbooks are in English. To further cultural preservation, the CTA is initiating an ambitious project to print all textbooks in Tibetan and to use Tibetan as the primary teaching language in the school system.

Tibetan Buddhist monasteries, nunneries and colleges also play instrumental roles in the educational system-in-exile. Their adherence to traditional studies, arts and disciplines also serve to preserve Tibetan culture. These institutions operate autonomously and must solicit donations within the refugee community and abroad, and engage in cottage industries and farming in order to survive. Newly arrived monks and nuns receive a small monthly stipend for food from the CTA and private foundations. The monasteries are dotted throughout several refugee camps and also suffer from severe overcrowding.

The Tibetan Medical Institute in Dharamsala teaches doctors to administer traditional Tibetan medicine, which is a holistic discipline that combines herbal and mineral medicines with Buddhist doctrine. The Institute has several Tibetan, Indian and Western students. Dharamsala is also home to the Tibetan Library, which houses the most extensive collection of Tibetan literature in the world. Finally, the Tibetan Institute for the Performing Arts is a CTA-sponsored school that trains Tibetan performance artists in traditional Tibetan theater, dance, song and opera. The troupe regularly travels abroad to perform. These institutions permit Tibetan culture and religion to be a vibrant component of exile community.

Obstacles Faced by Tibetan Refugees

The issues mentioned in the preceding paragraphs: refoulement, overcrowding, water resources and crop diversification, are the most apparent and immediate concerns facing the refugee community. Political pressure is essential to ending the forced repatriation of Tibetan refugees. Certainly, continued and increased US refugee assistance is essential to assist the CTA and the Indian Government in their efforts to adequately matriculate and settle unsettled refugees and new arrivals. Problems concerning water resources (e.g. potable water and irrigation) and crop diversification and management require technical assistance. Settlements in South India have particularly acute problems with water resources and crop management.

In 1991, the Tibet Fund, a non-profit humanitarian organization based in New York City, with the help of the International Campaign for Tibet, received $500,000 from the US Government for Tibetan refugee assistance. This year, the Tibet Fund, working in conjunction with ICT, has submitted a US $1,277,500 request to the US Bureau for Refugee Programs to fund refugee programs in India and Nepal (see Appendix III). For FY92, the US Congress has appropriated $1.5 million for Tibetan refugee assistance. The full funding of this request will greatly assist the CTA in meeting many of its refugee resettlement goals. Needed technical assistance could be a coordinated effort between US agencies, such as AID, PVOs and the CTA. Such a cooperative effort should be explored and facilitated by the US Government.

During the 1988 congressional staff delegation visit, settlement directors and representatives of the CTA stressed the need for more economic diversification at the refugee settlements. At that time, settlements almost wholly depended on agricultural production and handicraft centers for jobs, economic support and capital development. A few small-scale cooperatives, such as handicraft centers, dairy cooperatives, feed mill operations and automotive repair shops, operate at most refugee settlements. These cooperatives received start-up funds directly from the CTA. No noticeable private enterprises, even of the smallest size, existed at the settlements.

Limited job opportunities, particularly for younger, well educated Tibetans, have resulted in an annual flux of Tibetans away from the settlements. Every year, thousands of Tibetans leave settlements for four to six months, usually between growing seasons, to engage in small-scale market sales throughout India. This is commonly referred to as the "sweater business" in the Tibetan community. During this period, some settlements take on the appearance of a ghost town. Many well-educated Tibetans who cannot secure limited positions available in the CTA have made the difficult decision to leave their communities and seek employment in major Indian cities. Education and health care (especially for tuberculosis) services are difficult to provide under such circumstances and are oftentimes neglected. CTA efforts to preserve Tibetan culture, which continues to be endangered and pressed into extinction by Chinese policies in Tibet, are frustrated by the temporary and, occasionally, permanent flux of refugees from the settlements.

During the 1988 delegation, the CTA was in the process of drawing up an aggressive five-year plan to assist in economic diversification and to improve job opportunities at the refugee settlements. Also, a private foundation based in the United States provided US $1 million to establish a revolving loan fund to assist the development of private enterprises by Tibetan refugees.

In 1992, the "sweater business" continues and very little development of micro-enterprises and small scale business has occurred. Some of the existing, CTA-sponsored cooperatives have grown, but, to date, few concrete advancements beyond existing government-supported enterprises have occurred. The revolving loan fund is severely hampered by Indian banking regulations that practically make loans from the fund unaffordable to the refugee community. On a positive note, the CTA has established a semiautonomous Planning Council that will more aggressively pursue economic diversification and development in the refugee community. Technical assistance for establishing small businesses would be very useful and should be facilitated 'and provided by the appropriate US Government agencies.

SECTION IV: REFUGEE REPORTS OF CONDITIONS IN TIBET

During the delegation tour, we had several opportunities to meet with members of the exiled community. Many meetings, particularly those with new arrivals, were planned, but many more were spontaneous and heartrending encounters with refugees. On occasion, we found some new arrivals to be initially reluctant to share their stories with us. The sense of fear and great suffering the new arrivals carried with them was overwhelming, but once refugees grew comfortable speaking to a non-Tibetan and started their accounts, interviewers were often deluged with vivid, emotional and horrifying tales of torture and a life dominated by fear. All refugees expressed gratification for the support demonstrated by the US Congress and, usually, pressed for greater political support for the Tibetan cause.

The Tibetans we met in exile regularly pointed out that they felt fortunate to have escaped from Tibet, and their gravest concern was directed towards the conditions under which Tibetans in Tibet continue to suffer. Many refugees told of incidents of torture and imprisonment. The lack of political and religious freedoms in Tibet, the transfer of millions of Chinese settlers into Tibet, the Chinese policies which discriminate against Tibetans, and environmental destruction, particularly deforestation and toxic waste dumping, in Tibet were issues often raised by the interviewed refugees. These were issues also discussed with the Dalai Lama during our meeting with him. Most Tibetans stated their belief that the Chinese Government was consciously pursuing a policy of cultural genocide against the Tibetans. While we could not confirm these reports, the tales we heard were consistent with accounts published by Asia Watch, Amnesty International and the International Campaign for Tibet. (See Appendix IV.)

SECTION V: REVIEW OF EXISTING U.S. PROGRAMS

Continued Refugee Assistance

Tibetan refugee assistance for Fiscal Year 1993 should be set at US$2 million to assist with basic humanitarian needs and refugee protection and resettlement. US Government agencies in India and Nepal should provide additional financial and technical assistance to assist with economic development, agricultural development, health care delivery, and sanitation and water resource improvements at the refugee camps.

Voice of America

New arrivals and members of refugee communities in India and Nepal expressed strong support and praise for the Tibetan language programming initiated by Voice of America (VOA). With the assistance of the ICT, this programming was begun in 1991, as mandated by Congress. All new arrivals stated that VOA was one of the few avenues for accurate and timely news information. All Tibetans expressed a desire for expanded broadcast time. Tibetans living in southern India complained of poor reception.

Newly arrived refugees stated that the program was immensely popular in Tibet even though fears of Chinese retribution against listeners did exist. But according to new arrivals, broadcasts occur at times that are inopportune for many Tibetans, especially the morning broadcast which is done at an hour when many people must report for work. Tibetans also come from three distinct regions that have different dialects. Tibetans from Kham and Amdo often complained that the exclusive use of the U-Tsang dialect of the more centrally-located Lhasa Valley and western Tibet is difficult to understand.

The delegation believes this program to be a huge success. We recommend that broadcast time be expanded, the signal be strengthened, Kham and Amdo dialects be incorporated into some portion of the programming and the time of broadcast into Tibet be reevaluated. As Congress presently has pending legislation for the establishment of a Radio Free China, we also suggest that a Radio Free Tibet be a component of this proposed project.

U.S. Information Agency Scholarships

The USIA Scholarship program was established in 1988 and was developed to give Tibetan refugees the opportunity to receive higher education in the United States. Scholarships are competitive, and the students are chosen under a rigorous selection process. A board consisting of members of the CTA, Indian Government education officials, university scholars and members of the business community (including Americans) makes the final selection. Most scholarship recipients study in the United States for two years.

The delegation had the opportunity to interview some students that have returned from their studies. All students believed the training had been a positive and useful experience. Early students complained of inadequate preparation and follow-up by the program administrators, -the Tibet Fund in New York, but all students attributed initial problems to inexperience and believed the preparation and follow-up had improved. Many initially experienced severe culture shock in the United States and believed a brief orientation program before visiting the United States would be useful. According to the Tibet Fund, such a program is now being implemented. Finally, the students suggested allowing greater flexibility in the length study in the United States because some refugee community needs could be addressed through brief technical training, while other necessary disciplines, like medical, business, public health degrees, could require more than two years of study.

An improved system to assist in school selection and placement was recommended. Initial school-student matches did not seem appropriate to many students. The students all 'felt they had inadequate exposure to computers prior to going to the United States and believed some preparatory computer training in India would be very valuable. To address many of these concerns and to assist in planning for future students, the USIA scholars have founded an alumni association that advises the program administrators and serves as a support group for new and old students.

The delegation believes that the selection board and the CTA should target and encourage students with talents and interests most useful to the refugee community to apply for the program. Technical needs of the refugee community mentioned earlier in the report should most certainly be targeted. The delegation also recommends that, in order to broaden the representation and experience in the program, women be more openly encouraged to apply for the scholarship program. We also believe that the Tibet Fund, with the help of ICT, should establish a board of university presidents, prominent educators and Members of Congress to coordinate, improve and ensure placement opportunities at colleges and universities in the United States. Overall funding should be expanded, and efforts should be made to identify schools that are willing to ensure annual Tibetan "slots" and matching funds for students to encourage continuity and stability in the program. The delegation also recommends that Tibetan refugees continue to participate in the USIA International Visitors program.

The Refugee Resettlement Project

In 1990, Congress allocated 1,000 immigrant visas for Tibetan refugees. This program was a prominent issue during the delegation's visit to India. The application period had just closed, and the selection lottery for some categories of refugees (e.g. new arrivals, the extremely poor, government servants) had been initiated. Most Tibetans were ardent supporters of this initiative and believed the program was highly beneficial to the selected individuals and the refugee population as a whole. However, many Tibetans stressed concerns about a "brain-drain" that could occur in the exile community if too many well-trained Tibetans won a slot. Other Tibetan refugees expressed concern that the US resettlement program worked in conflict with the CTA's goals to protect and preserve the Tibetan culture by maintaining a cohesive refugee community.

Regardless, we found the program was well-liked and appreciated. Many Tibetan critics of the program were also quick to point out that they too had applied for the lottery. The program should provide many refugees with positive opportunities not available in Tibet, India or Nepal and could ultimately provide leaders for a free and democratic Tibet. Certainly, the new refugee communities and those involved with the resettlement project must work to sustain and preserve the Tibetan culture and identity for these communities.

SECTION VI: CONCLUSION

Additional Recommendations for the U.S. Congress

Technical and Financial Assistance Programs

Congress should continue, and increase as necessary, financial assistance to provide basic human needs to unsettled refugees and to improve general health and sanitation conditions in existing refugee settlements. Technical and financial assistance to improve drinking water supplies, farm productivity, vocational training, literacy and micro-enterprise development at the refugee settlements should be initiated.

Programming supported by the National Endowment for Democracy could prove useful in assisting the refugee communities continuing transition to a democratic system with independent legislative, executive and judicial branches.

Refugee Situation in Nepal

After the issue of refugee refoulement and the need to better monitor Nepalese border guards, an immediate need is to build a large and permanent building to serve as a reception center and health clinic for newly arrived refugees. The US Government should work to ensure the safety of Tibetan refugees transiting Nepal and should provide financial assistance to complete the construction of an adequate reception centers for new arrivals in Nepal and India.

U.S. Relations with the CTA

Our interactions with newly arrived refugees lead us to believe that conditions inside Tibet are acutely oppressive. Without a more aggressive and coordinated US and international human rights policy on Chinese policies in Tibet, there is little hope in improved conditions for the Tibetan people or for constructive dialogue between the CTA and the government of the People's Republic of China.

We believe that Tibet should be a central issue in any new US foreign policy initiatives towards the People's Republic of China (PRC), particularly efforts to deny Most Favored Nation trading status (MFN) to the PRC or to enforce sanctions against the current regime in Beijing. MFN should be conditioned on the halting of Chinese government initiatives to attract Chinese settlers to Tibet.

The U.S. Government should also establish more formal government ties with the CTA. Similarly the US Government should provide greater leadership in supporting the CTA and the Tibetan cause in international fora, such as supporting CTA observer status in the United Nations, sponsoring Tibet resolutions at the United Nations Commission on Human Rights, and consulting the CTA when PRC proposals affecting Tibet are before the Asian Development Bank, the World Bank and other multilateral organizations.

In general, we recommend that the US Government undertake a stronger advocacy role for Tibetan human rights, including the right to self-determination in its representations to the Chinese government and in international fora.•

FEDERAL PARENT LOCATOR SERVICE: KIDS IN NEED

• Mr. D'AMATO. Mr. President, I rise today as a proud cosponsor of S. 2887. This bill, Kids in Need, will amend title IV of the Social Security Act enabling the Secretary of Health and Human Services and the Attorney General of the United States to work together to locate missing children across the United States.

Many police departments simply do not have the resources needed to solve the numerous missing children cases which plague our society. Currently over 70 percent of child abductions in the United States involve parental kidnapping; this accounts for approximately 354,000 children abducted each year. Of America's 17,000 police departments, 70 percent have 10 or fewer officers, hardly enough to make a dent in what is truly an enormous and tragic problem.

This program, Kids in Need, will provide an effective new resource to help combat this most prevalent form of abduction. It will combine the efforts of the Department of Health and Human Services with the Department of Justice to help locate missing children. The program will allow the Office of Juvenile Justice and Delinquency Prevention, a division of the Department of Justice, to access information collected by the Internal Revenue Service and Department of Labor through the Federal Parent Locator Service. The Federal Parent Locator Service is currently used by the Family Support Administration to locate parents who are delinquent in child support payments by utilizing information provided by the Internal Revenue Service and the Department of Labor. This bill would enable the Office of Juvenile Justice to use the information to locate parents who have illegally taken a child from a custodial parent.

The program created by this bill will be a significant step toward alleviating the suffering of thousands of parents and children affected by the problem of parental abductions. Humanitarian grounds dictate that this matter be given a high priority.•

TRIBUTE TO OLYMPIAN SHELAGH DONOHOE

• Mr. KERRY. Mr. President, I rise to note the great pride we in Massachusetts feel with the accomplishment of Shelagh Donohoe of Lowell at the Barcelona Olympics just concluded.

Shelagh won a silver medal as a member of the American women's four without coxswain rowing team. The medal is the crowning achievement of a rowing career which began at her alma mater, the University of Massachusetts at Lowell, where she rowed competitively for 4 years and established a record as one of the university's greatest athletes.

Shelagh has been a member of victorious rowing teams both in the American rowing championships and at the Canadian national rowing championships, and continues as an international rowing competitor for our country.

Lowell takes great pride in Shelagh Donohoe, and I take great pride in calling the attention of the U.S. Senate to her silver medal performance.•

TRIBUTE TO OLYMPIAN, SALLY ZACK

• Mr. SMITH. Mr. President, I rise today to congratulate Sally Zack, a resident of North Conway, NH, for her outstanding performance at the 1992 summer Olympics in Barcelona. This is a tremendous accomplishment for Sally and everyone in the Granite State is very proud of her.

Sally, who placed 10th in the cycling road race, trained long and hard for Barcelona. She is 1 of 122 athletes to represent the United States this summer alongside the world's most elite athletes. The people of New Hampshire have been watching her and all of the other athletes with great enthusiasm.

Sally graduated from the University of Southern Illinois Carbondale in 1985 where she was a member of the cross country and track teams. She began cycling in order to rehabilitate from running injuries and has been competing as a cyclist ever since. Sally placed 16th in the road race in the 1988 Seoul Olympics and has placed in the top 5 in several national races since then. She placed third in the Olympic selection road race and had the third highest team time trial. We admire Sally's skill and dedication to her sport that has made her such a champion.

As you know, the Olympics represent the pinnacle of success in an athletics career. New Hampshire is very proud of Sally's 10th place finish in the cycling road race. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.•

THE REALITIES OF BOSNIA-HERZEGOVINA

• Mr. DECONCINI. Mr. President, yesterday both Houses of the Congress passed separate resolutions calling for urgent and decisive action in response to the atrocities taking place in Bosnia-Herzegovina. While both passed with considerable support, hopefully sending a most necessary signal to those responsible for the conflict, opponents to the resolution used several arguments, on which I would like to comment now for the RECORD.

One argument maintained that it was not international intervention but a negotiated settlement that was needed, and that it was the Moslem, not the Serbian, side that refused to sit at the negotiating table. This point came to mind in reading the revealing comment of Bosnia-Serb leader Radovan Karadzic in today's Financial Times. He said:

> One day we should all sit down and make peace in the Balkans, even give up some territory * * *. We control 70 percent. But we only claim 64 percent as ours. All we need now is a negotiated settlement.

While representatives of the Bosnian Government were earlier sitting at the negotiating table with Mr. Karadzic under European Community auspices, his forces took full advantage of this smokescreen to cleanse whole regions of Bosnia-Herzegovina of non-Serbs, loading those they did not kill or incarcerate onto deportation trains. They made a mockery of international efforts to settle differences by negotiation. And now that Bosnia-Herzegovina, recognized internationally as an independent State, has been divided, the government of this struggling Republic is faulted for turning from the negotiating table, where the only basis for agreement would be acquiescence to the gains of an aggressor responsible for massive crimes against humanity.

Given the situation in Bosnia-Herzegovina today, what can the Bosnian Government possibly hope to achieve at the negotiating table without real, effective, international pressure on the other side? A settlement in line with Helsinki principles guiding relations between European States? A settlement that says might does not make right in post-cold-war Europe? Surely, we must not lose sight of international justice as our goal, not the most convenient settlement once the side who started the conflict is replete. Otherwise, we will not be dealing with a tragedy in Bosnia-Herzegovina alone; we will be watching aggressors in the former Soviet Union and elsewhere seeking the same gains.

It is unfortunate that negotiations could not have settled the differences between the peoples of Yugoslavia peacefully and fairly. That is what I, as Cochairman of the Helsinki Commission, called for during the last 2 years. It is also what Bosnian President Izetbegovic strove so hard to achieve before fighting erupted. But the situation now is vastly different from what it was then, as the new reports tell us. That is why the resolution we passed yesterday was so important.

Mr. President, a second argument given in opposition to the resolutions, with which I also disagree, is that internationally authorized intervention in Bosnia-Herzegovina is clearly a Vietnam or a Lebanon waiting to happen. Indeed, the dangers are there, but I would hope our knowledge of past mistakes will help to avoid our repeating them in this instance. The dangers are not, in and of themselves, arguments for inaction. There is a strong moral question here, as well as a national interest in stopping the war before it explodes to include other friends and allies in the Balkans and requires a much larger United States engagement. And we cannot put our principles and interests aside in the face of this aggression. As Margaret Thatcher recently commented, noting her many years of government experience:

> I've known much advise come to me. If you ask people what you should do, they'll give you 101 reasons why you shouldn't do anything. If you say the situation is urgent, people are being murdered, they're being invaded, now how can we help deal with it, they'll give you a lot of options which are pretty effective. You really must not be as faint-hearted as to say what if, what if? It's a moral case, and we must help.

The decision to act is a political, not a military decision, and faced with that decision the military should be capable of making the necessary tactical judgments to prevent us from sinking in a quagmire. The challenges we face in Bosnia-Herzegovina today are, like it or not, likely to be typical of the security problems of the post-cold-war era. It is for this reason that we are keeping institutions like NATO, and strengthening institutions like the CSCE. Without the political will to do what is right, however, these institutions will become increasingly meaningless.

The passage of the resolution in the House and Senate yesterday demonstrated that the U.S. Congress does not want that to happen.•

PROPOSED NORTH AMERICAN FREE-TRADE AGREEMENT

• Ms. MIKULSKI. Mr. President, this morning President Bush announced that negotiations have been completed on the North American Free-Trade Agreement. I want to express my very serious concern that this agreement could mean more good American jobs leaving this country.

I do want to make it clear that I have not seen this proposed agreement—the President has not yet provided it to the Senate. However, based on the track record of the current administration, I am very worried that this agreement will help big corporate investors, but it will also take more manufacturing jobs away from hard-working Americans.

As I make my decision on whether to support any trade agreement, I look at what is in the best interest of American workers. Mexico has much lower wages than the United States, and its worker safety protections and environmental controls are much weaker than we have. America can't let this proposed free-trade agreement cost American jobs simply because we protect our workers and our environment. Any free-trade deal with Mexico has to have tough environmental enforcement and solid worker protection standards, and it has to help Americans who might be put out of work.

I represent the people of Maryland. And I have to make sure that this proposed agreement doesn't turn out to be simply a jobs program for Mexico at the expense of my State. I will be looking for how this agreement protects current American workers, and whether it will help America create the manufacturing and high technology jobs that will carry this country into the 21st century.

If the North American Free-Trade Agreement isn't good for workers in Baltimore, Hagerstown, and the rest of Maryland, then I will do everything in my power to oppose it.•

MANDATORY USE OF FTS2000

• Mr. LUGAR. Mr. President, I would like to commend a letter to your attention that was sent to me by the Communication Workers of America [CWA]. The letter voices the CWA's support for the renewal of the Federal policy on mandatory use of FTS2000. The letter is succinct and well written and happens to reflect my views on this matter.

I ask that the letter be printed in the RECORD.

The letter follows:

COMMUNICATIONS WORKERS OF AMERICA,
Washington, DC, July 9, 1992.

Hon. DENNIS DECONCINI,
Chairman, Subcommittee on Treasury, Postal Service and General Government, Committee on Appropriations, Washington, DC.
Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR CHAIRMEN DECONCINI AND GLENN: As you know, the matter of the continuation of the federal policy of "mandatory use" of FTS2000 by government agencies is once again before Congress. The Communications Workers of America wants to voice its support for the renewal of this important federal statute and to strongly urge your active support in the United States Senate.

FTS2000 is a program developed, procured and awarded in an environment of intense, full and open competition. FTS2000 may have had more active Congressional oversight, even well before the competition was conducted, then any other government programs. It is a multi-vendor program, by structure and design. It not only includes two major long distance carriers, but literally hundreds of small, minority and disadvantaged businesses. What may not have been properly stressed, however, is that FTS2000's Network A is staffed by members of the Communications Workers of America.

The policy of "mandatory use" is a basic principle of the FTS2000 program and underlies both the original competitive procurement and the contracts. According to the Congressional Record of July 1, 1992:

"* * * the 'mandatory use' provision was conceived in the midst of this (FTS2000) competition when one of the competing contractor teams complained that the costs of preparing a bid and the risks inherent in the FTS2000 contracts (in which prices could only go down, not up) were too high, without some assurance . . . Accordingly, for that and other reasons, Congress enacted the 'mandatory use' statute. This statute represented Congress' commitment to the competing vendors that Federal agencies would make full use of the contracts through the life of the program. The 'best and final offers' of the vendors were formed on the basis of this commitment.

"Ironically, the vendor which had proposed the 'mandatory use' provision has become its chief opponent in the years since its enactment. The central argument raised by those opposing 'mandatory use' has been that 'choice in the competitive marketplace' should be the Government's strategy for meeting its telecommunications requirements . . . But the FTS2000 contracts were awarded after just such a competition. Without a doubt, there will be a spirited competition a few years down the road for the contracts that replace FTS2000 . . . Additionally, we note approximately 83% ($3.1 billion) of the Government's telecommunications requirements is not covered by FTS2000 and is subject to competition from all responsible vendors."

In sum, we believe that the fair outcome of the full and open competition which created FTS2000 should be upheld, lest the federal procurement process itself be damaged by the insistent demands of losing competitors who are disappointed in the outcome. There are fundamental public policy issues at stake when an accountable public process conducted under law, is replaced with an auction to satisfy the disgruntled.

The suggestion that the Government does not need, or should not get, sophisticated communications capabilities to meet its specialized needs is remarkable in itself. Were the Government to simply rely on the commercial public networks, or a balkanized patchwork of disparate contract services, there would be a legitimate question about due diligence in meeting the Government's unique societal role. In times of communications crisis—whether a matter of national security, emergency preparedness or simple gridlock created by a public run on Springsteen tickets—the Government must not find itself unable to communicate with itself or our citizens. That is why the dedicated FTS system was originally created in the 1960s and why federal networks such as those provided under FTS2000 are legitimately in the public interest today. Government could not readily explain to the American people why it did away with ubiquitous federal communications systems either in the interest of getting what may purport to be the cheapest conceivable services or to satisfy losing bidders.

And yet, the economics of FTS2000 are in extraordinary success story. In just three years of operation, the Government (and taxpayer) has saved more than a half-billion dollars through FTS2000 (more than five times the original Government estimates). Indeed, these savings are attributable to the discounting across agencies and across FTS2000 services which are made possible by "mandatory use FTS2000." The policy has been described as "the economic engine" that drives and which, in combination with the periodic price recompetitions, will continue harvesting savings for the taxpayer. The first of those price recompetitions is already under way.

In sum, we believe the FTS2000 program and the "mandatory use" statute deserve your continued full support, as they have ours. We are keenly aware that your support over the last several years in the United States Senate has made this competitive success story possible. It has provided stable opportunity for American workers. Accordingly, we urge that this statute be renewed for FY93 and extended, as well, to provide assurance and stability for the remaining years of the program.

We hope you can count on your continued support.

Sincerely,

MORTON BAHR,
President.●

VOCATIONAL REHABILITATION ACT

Mr. ADAMS: Mr. President, I am pleased that the reauthorization of the Vocational Rehabilitation Act, S.3065 passed the Senate last night by unanimous consent. This bill is truly a consensus effort, reflecting months of negotiations with representatives of the disability community. I commend Senator HARKIN and my fellow members of his subcommittee for their dedicated work on this important legislation.

Forty-three million Americans have one or more physical or mental disabilities. In my home State of Washington, there are over 450,000 individuals over the age of 16 with a mental or physical disability.

Individuals with disabilities want to and have proven to be productive contributors to society. This bill will help them reach that goal through supported employment, independent living, and other programs.

In large part, the Americans With Disabilities Act has changed stereotypes about the capabilities of persons with disabilities. I was a proud cosponsor of the act. On July 26, we marked the second anniversary of the signing of that landmark legislation. While this law prohibits discrimination against disabled individuals in employment, it does not outline practical training and other services for disabled workers. This is where the Vocational Rehabilitation Act plays such a vital role.

The Vocational Rehabilitation Act bridges that crucial link between civil rights and actual employment, especially for severely disabled individuals. The Act also helps to facilitate independent living which allows all Americans to fulfill their potential through independence, productivity and community involvement.

The programs are also cost-effective. In Washington State, over 23,000 individuals in the past year participated in vocational rehabilitation programs and services. Employment due to vocational training increased significantly, resulting in a decrease in combined State and Federal income maintenance payments by $7 million.

As chairman of the Subcommittee on Aging, I want to stress the need to link programs and policies serving older persons with severe disabilities with younger disabled persons. In the past, there has been very little interplay between the aging and disability communities on the Vocational Rehabilitation Act. Frankly, I believe older disabled individuals can benefit from the experience and knowledge of the disability community, including independent living centers.

I am very pleased that the chairman has included in title II language that clearly states that research, demonstration projects, training, and related activities under this act will be extended to individuals with disabilities of all ages. This promotes rehabilitation research within a life-long perspective. These simple words are an important addition to the language because they allow rehabilitation research and activities to address disability issues affecting individuals with chronic disabilities who are no longer of working age.

This bill ensures the recognition of the needs of the rapidly growing numbers of Americans with disabilities who are now becoming older Americans. I strongly support the passage of this vital legislation.●

S. 12 AND BLACK OUT PROVISIONS

● Mr. FOWLER. Mr. President, I rise today to comment briefly on an issue directly related to America's greatest pastime—baseball. I know the season is far from over, but I cannot help pointing out that the Atlanta Braves are currently in first place in the West and seem on track to repeat least year's heroics.

Mr. President, my real concern is one shared by baseball fans all over the Nation. A proposal has been made by Major League Baseball that language be included in S. 12, the Cable Television Consumer Protection Act of 1991, which would have the effect of blacking out major league baseball games on superstations. This proposal has the potential of preventing Atlanta Braves fans, and baseball fans in general, from watching their teams in action.

S. 12 has been described by its sponsors and proponents as a proconsumer measure, a measure designed to offer relief to cable television subscribers from problems such as unfair rates and poor customer service.

After much consideration, deliberation, and debate, both the House and Senate have succeeded in passing cable reregulation legislation, and now we are about to go to conference. Neither bill addresses the issues of blackouts of major league baseball games on superstations in any fashion. Yet, it is being proposed that the conferees on S. 12 include language to this effect in the conference report.

Georgians are passionate Braves fans, a sentiment shared by many Americans across the country. In the last few days, my office has been inundated with calls and mail from Georgians asking that their access to Braves games not be limited by Congress. Mr. President, I want to assure Braves fans, and the fans of any other baseball team, that I do not favor the inclusion of these provisions in S. 12 and that I will strongly oppose their incorporation into the bill. I urge my colleagues in the Senate to do likewise.●

TRIBUTE TO SAVAGE & SON, INC.

● Mr. BRYAN. Mr. President, I rise today to pay tribute to a family-owned operation celebrating a century of doing business in my State of Nevada. Northern Nevada's oldest established contractor, Savage & Son, Inc., opened in 1893. Considering that Nevada has only been a State since 1864, this is quite a remarkable achievement. Even more impressive is the fact that a family member has been at the shop every day since its opening.

The Savage family has played a vital role in the development of the State of Nevada. Great-great grandfather of the current president, Leonard J. Savage, discovered the famous Savage mine in Virginia City in 1859. His grandfather, Frank Charles Savage, was a founding partner in a Virginia City company which sold goods ranging from industrial plumbing supplies for draining mine shafts to stoves and cooking utensils to the miners and families in and around the town. In 1893, Frank Charles Savage left Virginia City to open a plumbing and heating business in Reno.

Since its beginnings in 1893, Savage & Son, Inc., has gone from being a one-man operation to a full-service contractor with 60 employees and a fleet of 40 service vehicles. The President of the company attributes that success to very dedicated, skilled employees.

It is my pleasure to congratulate Savage & Son, Inc., on 100 years in business and wish them the best of luck for another successful 100 years.•

LOAN GUARANTEES FOR ISRAEL

• Mr. DURENBERGER. Mr. President, I rise to comment on President Bush's recent announcement that he will now support Israel's request for loan guarantees to assist with that country's immigrant absorption efforts. First, I am pleased that the United States and Israel have finally been able to come to terms on this matter. I have supported providing the loan guarantees in the past, with appropriate conditions, and I look forward to working together with my colleagues to ensure their approval in the near future.

My recent trip to Israel expanded my understanding of the myriad issues involved in providing these guarantees and, in particular, the implications for Israel's economy.

The most important issue for me, Mr. President, is how Israel intends to use these funds, which they will secure through our guarantees. It is my understanding that there are several main purposes for these funds. High on the list is providing immediate assistance for the new and recent immigrant arrivals. Obviously, they need a fair amount of help with basic human services, such as language training, housing, food, et cetera.

Further, these funds will be used to expand employment opportunities in Israel, not through Government make-work projects, but through market-oriented investments. Based on my recent experiences in Israel, it would appear that employment is the most pressing problem facing Israel's new immigrants. There is a vast pool of new talent, which currently is underutilized. Israel will also use funds for vocational training.

Israel will also use a considerable amount of these and other resources on infrastructure investment. Current projects include investments in roads, railways, civil aviation and shipping, electricity, telecommunications, waterworks and sewage, and schools and hospitals.

It is my understanding that a portion of the resources secured through these guarantees will also be used to reduce Israel's debt service burden, which has been a considerable drag on the economy.

Mr. President, it is also important to recognize that Israel will not be borrowing money directly from the United States Government. Israel will secure the loans from private United States banks, and the United States acts as the guarantor for the loans. Because the United States Government is standing behind the loans, Israel is able to borrow at considerably more favorable interest rates. Because these are privately secured loans, however, the U.S. Government does not establish the interest rates.

Although the accounting rules for fiscal year 1992 have changed to require that a certain percentage of the loan guarantee be set aside in case of default, Israel has offered to cover these so-called scoring costs, which are similar to points on a home mortgage.

Mr. President, it is also very important to me to get a solid understanding of Israel's new directions economically and fiscally. The new Rabin government has stated that it will reorient the country's priorities away from settlements in the territories and more toward needs inside pre-1967 Israel. This is a welcome change, and I look forward to learning more about Israel's plans and intentions.

Mr. President, when we return from the recess, I will have more to say about these and related issues. I wish now only to offer a few brief comments on a matter that will come before the Senate later in the fall.

Mr. President, I yield the floor.•

STATEMENT OF YUGOSLAVIA

• Mr. DURENBERGER. Mr. President, yesterday, the Senate voted to urge the President to seek U.N. authorization to use force to ensure the delivery of humanitarian supplies to Bosnia and Hercegovina. I voted against the resolution, and I want to share with my colleagues and constituents my thoughts on the matters.

Each one of us is outraged and sickened by the horrors of the war in the former Yugoslavia. The brutality and atrocity of it all wrenches the soul. The human suffering is difficult to comprehend.

It is sobering to see the kind of cruelty mankind is capable of in the name of ethnic identity. I have read the letters from Minnesotans and it is clear that the destruction of what is the ethnic homeland for many of them is partial death for each one.

And in characteristically Minnesota fashion, citizens of our State are reaching out to offer whatever they can to ease the human suffering. My office in Minneapolis has been flooded with calls about adopting orphaned children or providing foster care for them. Minnesotans are asking where they can send food and medicine, clothes and blankets.

And many Minnesotans, like some of our colleagues in the Senate, are urging our Government to do something to end the fighting, to relieve the suffering.

The resolution before the Senate yesterday invites the United Nations to take up the challenge. But the question is not only, what do we do, but are we prepared as a nation to do it?

Policymakers and the American public have to ask the same questions we asked about the gulf conflict. What's the objective? What are the means? How much will it cost, in treasure and in blood? Is it worth that cost to the American people?

In the gulf, we had good answers to all these questions. In Yugoslavia, at this point at least, we do not have good answers to any of them.

National will requires a national commitment. That will and commitment is no less necessary now than it was during the gulf war.

Mr. President, a young man in Minnesota has done a fine job expressing the essence of why I voted against this resolution. D.J. Tice, a columnist at the St. Paul Pioneer Press, on Sunday morning cited what he called an old rule about the use of military force. I don't know how old it is or if it is a rule, but it makes a lot of sense to me in the light of this country's recent military ventures.

"The rule holds," writes Mr. Tice "that before a nation resorts to military action, it must possess both of the following: (1) a clear military objective, and (2) the will to apply all the force necessary to achieve the objective."

As Mr. Tice points out, our success in Desert Storm resulted from adherence to this rule. Our failures in Lebanon and Vietnam resulted from ignoring it.

In order for a policy calling for the use of military force to succeed, we much be united in our goals and our understanding of what is necessary to achieve those goals. We must understand the potential risks and costs. And most importantly, we must have the national political will to see the policy through. Only then will we have a successful military policy.

The contrast with out experience in the gulf is again worth noting. With that crises, all of the above factors were present. At this point with Yugoslavia, we don't know whether any of them are.

What are our goals in Bosnia going to be? It would be foolish for us to set as a goal the peaceful resolution of the deep-seated historic differences among Serbs, Croats, and Moslems. That is well beyond our military power to do in Yugoslavia, just like it is in Azerbaijan, Somalia, Sri Lanka, and elsewhere.

What are the means to the goal? This is not the open desert of Iraq which lends itself to a victory by superior air power and tanks. This is not a war where soldiers are wearing uniforms and carrying flags. This is a war in urban areas and densely forested mountainous terrain. the combatants all look the same and all claim the region as home. It lends itself to a slogging war with ground troops wearing each other down with a heavy loss of life.

Do the American people understand the sacrifice that they would be asked to make? Do they think the objective, given the long history of ethnic strife in this region, is worth the cost?

A fundamental question I have to ask myself is this: Could I call the mother of a dead Minnesota service person and tell her that her child died in the defense of his country's basic interests?

Mr. President, because we have not answered some very tough but necessary questions, I voted against this resolution.

The other day, I listened to my colleague from Nebraska, Senator BOB KERREY, suggest the same. The gist of his argument was good. People around the world are looking to the United Nations and especially the United states for guidance and leadership.

The issue before many of them is the same as the issue before the Serbs. How does a nation deal with an ethnic minority? The United States has learned how to build a nation from ethnic diversity and we are constantly challenged to build a better nation from greater diversity.

So when we speak we are listened to. And, more particularly, when we threaten to act, we must be willing to act. And that threat must force others to reconsider their own actions.

The point my colleague from Nebraska was trying to make was that only when we speak with one voice can we be effective. "Undivided" is what Senator KERREY called it. He said that this resolution itself does not necessarily divide us, but the political process in which it lives and the way in which it is being interpreted here and abroad does. This resolution is not the means to unify our response, and it should therefore be defeated.

Having said this, however, let me now say we should not be having this exercise if the President had come to the Senate with a plan for our role in the United Nations, our role in Yugoslavia. In contrast to our experiences prior to and during the gulf war, we have had precious little consultation with the executive branch.

In my view, Mr. President, we cannot deal with the issue of military means nor put the lives of our sons and daughters on the line unless we've dealt thoroughly with the military objective. And we cannot deal with the objective absent a clear policy goal.

The executive branch has been most confusing regarding Yugoslavia, almost from the beginning opposing any form of ethnic or national independence. It has been slow to develop a sense of direction on how we will deal with nationalism, militant ethnicity, ethnic cleansing, or nation building in the Balkans, in the Black Sea area, or in the former Soviet Union.

If I've learned anything over 14 years in the Senate and 8 years on the Intelligence Committee it is that the only way this shared responsibility for policy making will work is if the President comes to the Congress seeking the endorsement of the national will with regard to a defined policy goal that is accompanied by an acceptable means to achieve it.

So, Mr. President, when we need an operational document before us—policy goals, objectives, and means—we have instead a political document. What we are doing is relieving the President of his obligation to define policy and to articulate its objectives.

I believe the President is pleased that the Senate passed this resolution and that he's glad to get this particular part of the process behind him. Historically, the Executive prefers a blank check. U.S. Navy Adm. Ernie King is famed for having said in the Second World War: "Don't tell them anything until it's all over and then tell them whether we won or lost." That says it all.

None of this is an argument against doing something about Bosnia. To use Mr. Tice's words again, it is an argument "against asking American troops to risk their lives to scratch a moral itch. We must give them a purposeful mission, and the means to complete it, or hold our fire."

We need to do something. We need, in conjunction with the United Nations, to find a way to provide humanitarian relief. We heed to find a way to get the Red Cross into the camps. We need to do everything we can to bring the bloodshed to an end.

But I for one want the best military and political minds to focus on the goals, the means, and the national will that make and effective policy. Until we do that, we will not be successful in Bosnia.

Mr. President. I yield the floor.•

THE NEED FOR ACTION ON HEALTH CARE REFORM

• Mr. McCAIN. Mr. President, I rise today to again express my deep concern about the fact that the Senate still has not acted to solve the pressing problems which plague our Nation's health care delivery system, but has left millions of Americans without access to affordable health insurance. The time has come for us to end the politically inspired delay, and allow the Senate to work its will on this issue of critical importance to our Nation.

It's time we stop promising the public action on this critical issue, only to resort to rhetoric. To be sure, America offers the highest quality health care in the world. But costs continue to rise to astronomical rates, and millions of Americans are disenfranchised from the system.

Last week I came to the Senate floor to respond to accusations that Republicans do not have an interest in health care, or in taking meaningful action to remedy the shortcomings of our health care delivery system. Mr. President, nothing could be further from the truth.

The fact of the matter is, the distinguished Senator from Rhode Island [Mr. CHAFEE] has led a group of Republican Senators in meetings on health care for more than 2 years, in an effort to identify the chief barriers to health insurance coverage for the uninsured, and the major forces that are driving the skyrocketing rates of increase in health care costs. These meetings, as a supplement to my own personal efforts to learn about health care and how to solve the crisis that we face, have been extremely provocative and enlightening. If I have not sufficiently thanked and commended my colleague from Rhode Island for his leadership and hard work, then I do so now.

But, Mr. President, despite our efforts to honestly and thoroughly approach the issue of health care reform, action in the Senate has been delayed. I don't understand this, and I find it unacceptable.

Mr. President, we have a plan that we believe merits the attention of this body. I do not pretend that the legislation I have introduced and cosponsored will solve every problem of our health care crisis. But I do know this. We can take action—today—to take a major step forward in controlling health care costs and providing access to health care coverage for millions of Americans who work for small businesses or are the dependents of those who work for small businesses.

As I have mentioned before, the Senate passed legislation that the chairman of the Finance Committee introduced, and of which I am a cosponsor, that would go a long way in addressing the problems we face. I cannot understand why we cannot bring that bill up again, pass it again, perhaps amend it to make it even more effective, and present it to the President. Why delay action on this vital issue?

Mr. President, all I ask is that the Senate take this issue seriously and allow the necessary debate to occur. Let the Senate work its will. Let the Congress take action on a matter that is on the minds of all Americans. Bring health care reform legislation to the floor, and let us do what we can now to help so many Americans who so desperately need it.•

TRIBUTE TO OLYMPIAN, JENNY THOMPSON

• Mr. SMITH. Mr. President, today I rise to congratulate Jenny Thompson, a resident of Dover, NH, for her outstanding performance at the 1992 summer Olympics in Barcelona. This is a tremendous accomplishment for Jenny and everyone in the Granite State is very proud of her.

Jenny, a sophomore at Stanford University, has trained long and hard for Barcelona. The people of New Hampshire have been watching her and all of the other American athletes with great enthusiasm. Jenny is one of 40 swimmers to compete on the U.S. Olympic swim team. We admire here dedication and skill to her sport that has made her such a champion.

Jenny arrived as a world record holder in the 100 meter freestyle event as well as having high world rankings in the 50- and 200-meter freestyle event. She earned a gold medal in the 400-meter freestyle relay, but, was edged out for the gold in the 100-meter freestyle by Shuang Yong, the 1988 silver medalist from China. Jenny held tight to the second spot in a fiercely competitive final, earning a silver medal. She also placed fifth in the 50-meter freestyle event.

As you know, the Olympics represents the pinnacle of success in an athlete's career. New Hampshire is very proud of Jenny Thompson and her gold medal performance in Barcelona. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.•

TRIBUTE TO BERNICE MURRAY

• Mr. JEFFORDS. Mr. President, it is with sadness that I inform the Senate that on June 17, one of my dear friends, and one of this country's fine public servants, Bernice Murray, died in Montpelier, VT. She died after a brave struggle against cancer. She was at work in her home up until the day before she died, working at her job as director of the Farmer's Home Administration for Vermont, New Hampshire, and the Virgin Islands.

Let me first state some facts about Bernice Murray. In so doing I would first note that she was 53 when she died and because she ran at a higher speed and required less sleep than anyone I've known, she packed about 100 years of living into those too-few-years.

Bernice Murray came to Vermont in 1968, 10 years after her marriage to Paul Murray. They both became Vermonters by choice. She got involved in politics about the day she arrived in my State and worked on my campaigns for Vermont Governor—unsuccesful—and Congress—successful. Then she went to work for me and managed my congressional office in Montpelier until her appointment as State director of Farmer's Home. And let me note that was an easy appointment to arrange for she had earned, years ago, the respect and friendship of President Bush.

She served on many committees and organizations and was a member of the Federal Executive Association, of which she was a past president, and was a moving force behind the Vermont Disability Awareness Day and Jobs for Vermont Graduates programs. She also participated in the Vermont Business and Industry Exposition, the Governor's Prevention Conference, the Farm Program Task Force, Building Our American Communities, was chair of the Congregate Housing Supportive Programs Task Force, and was a member and very staunch supporter of the Washington, VT, County Republican Committee. So we have some of the facts, and to look at those facts is to get a strong hint that Bernice cared deeply about people.

I met her one hot summer day the first year that 18-year-olds could vote. She was out on a Montpelier sidewalk registering young people. We immediately became friends and before very long she was my most important political adviser.

Then she went to work for me and I am still in amazement. Bernice functioned on about 4 hours sleep a night. She never took a lunch hour. She had a machinegun typing style. She learned Federal and State regulations backwards and forwards. And she used all of that—to help people.

After she joined the Farmers Home Administration, Hurricane Hugo hit the Virgin Islands and a ham radio operator called her from Massachusetts with a message from her staff: Help. First she went shopping in Montpelier for things her staff people would need like canned food, batteries, and soap. Then she reached into her vast arsenal of phone numbers to get a high-ranking general at the Pentagon to commandeer a plane. "How did you get my number?" was his first response.

It happens in the Farmers Home Administration that twice a year in certain program areas there comes a pooling of funds, when States who have spent all their moneys in certain areas can apply for unspent funds. Last year the time set for application was midnight on a certain date. Of course, most offices around the country filed their requests at 8 a.m. the next morning. Not so Bernice. At midnight when the deadline came she was on her fax machine filing Vermont's requests. After all, peoples' homes were at stake.

The week before she died, I was consulting with her on plans for streamlining Department of Agriculture operations in the State of Vermont. The day before she died, a member of her office staff was on the phone with her at some length discussing important FHA business. She never stopped.

Two days before she died, she was on the phone with the son of Alexandr Solzhenitsyn. It is a little-known fact that on Solzhenitsyn's arrival in Vermont, Bernice and I wrote him to offer help, for she quickly realized he'd need assistance in coping with a strange land's new ways of doing things. The Solzhenitsyns and Bernice struck up a close friendship and, in many ways, she became their link to America. And just before Bernice died she did them one last kindness by arranging for Alexandr Solzhenitsyn to speak directly by phone with Boris Yeltsin while he visited here in Washington.

She was an untiring worker at any job, despite the fact she never drove a car, and she was an untiring and deeply-loving wife and mother. She was an avid collector, loved to find a bargain and was an inveterate giver of gifts, especially to the children of her friends and her workmates. And with Bernice, there was no line of distinction drawn there. While she asked much of people, she never asked more of others than she gave of herself.

And always, always, there was time for her beloved husband Paul and her children Christine, Paul, Timothy, and Thomas. There was time for their hockey, football, and homework and for another of her immense home-cooked Italian meals. Somehow she found time for everyone.

Mid-June is a hard time to leave Vermont. In fact, like words from that song from Camelot, "If ever I would leave you, it would not be in summer," anytime is a hard time to leave Vermont. But with high summer just coming on and well deserved warmth and greenery on the land after the long winter and reluctant spring, it simply is just too soon to leave. And it was too soon for Bernice to leave us.

Hundreds of her friends gathered at the Catholic church in Montpelier to say farewell. Morning clouds were down on the old city when we entered the church. But as the service, brief at her firm orders proceeded, we could see the day brightening through the windows as we remembered her wonderous life.

We took her to her place of rest on a sunny hillside above the Winooski River, a quiet place of birdsong and much greenery. And then we all went to her beloved home to talk and think of her some more. And after much reflection, some things come crystal clear and others will be a longer time settling, but I do know this:

Bernice Murray showed us all that this thing we call "the system," this often perplexing creation of mankind, this governmental and elective thing we deal with every day, can indeed work. She reminded us that there is still a logic and a positive intent to most of the offices and forms and regulations. If somebody cares enough to understand this thing, and to use it well and to fight it when necessary, it can be made to work for the benefit of a great many good and decent human beings.

Nobody ever, ever, made the system work better than Bernice. Whether it was to benefit hurricane victims in the Caribbean, or an elderly couple in rural Vermont in need of a place to live, or a Soviet emigré seeking a refuge where he could speak to the world of the wonders of freedom and the dangers of oppression, Bernice Murray made the system work to help people.

That was a wonderous contribution, yet only part of a rich and full life. My State, my Nation, are the poorer for her having left us too early, but the better for her having been among us being Bernice, helping and loving people. For that we are thankful. I miss her a great deal.•

SPRINGWATER AT 175

• Mr. D'AMATO. Mr. President, I rise today to speak in celebration of the town of Springwater's 175 years of incorporation. The area was incorporated in 1817 from a part of Ontario County. A town noted for its scenery with its hills and water, along with an eagle soaring overhead, Springwater has managed to thrive over the past 175 years. I take pride in raising my voice in celebration of the anniversary of this great town.

Although Springwater is small by way of population, 2,407 people, it is the largest township in Livingston County with 54 square miles of land and 80 miles of town highway plus nearly 40 miles of State and county roadway. Springwater boasts the highest elevation point of Livingston county at 2,250 feet.

Oliver Jennings was the first town supervisor in 1817. The town has had a total of 44 town supervisors during its 175 years. Howard Kramer is the present supervisor.

Like other rural townships in the country, there has been a great change over the years. Farming and small industries have decreased. The town has become more residential and recreational in focus. People tend to commute to other areas for work.

I am proud to represent Springwater and towns like it. It is people like the good people of Springwater who make up the fabric of American life. I ask my colleagues, and all Americans to recognize the value of the small town and celebrate the ability of this town to bloom and prosper over 175 years of change. I salute the residents, and congratulate the town of Springwater on its anniversary.•

• Mr. RIEGLE. Mr. President, this morning we held a hearing in the Banking Committee, continuing our series on the state of the economy and our international competitiveness. Today's hearing focused on implications for labor of changes in the U.S. economy, including increased globalization. Testifying were Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees; Lynn Williams, president of the United Steelworkers of America; and Jack Seinkman, president of the Amalgamated Clothing and Textile Workers Union.

Over the past 3 years the Banking Committee has held a number of hearings focusing on the condition of the U.S. industrial and financial base. One of the most consistent concerns raised during those hearings has been the erosion of our high value-added manufacturing industries, the loss of high wage jobs, and the lowering of the standard of living of our citizens.

Two years ago, the Commission on the Skills of the American Workforce, cochaired by two former Secretaries of Labor, William Brock and Ray Marshall, issued a report entitled "America's Choice: High Skills or Low Wages!". The commission unanimously came to the conclusion that the American work force must move to a high-skill/high-wage strategy if we are to maintain our standard of living.

I strongly agree that the creation of high skill, high wage jobs is vital to our economic future. As Henry Ford proved almost a century ago, rising wages and incomes is the key to an increasing standard of living and to economic growth. Rising incomes through high skill, high wage jobs means an increasing standard of living and increased investment, which in turn generate economic growth and more jobs. I believe we need a new economic strategy to restart this cycle of investment and job creation—a team America strategy with the focus on investing in America to create quality jobs.

The comments of the witnesses today illustrated both our problems and the fact that we have alternatives. For example, Gerald McEntee stated that "today, America wins few gold, silver, or even bronze medals in international competitiveness races. Where America once led the world, it is increasingly taking 7th, 12th, 14th, 19th, 28th, or even last place."

Lynn Williams made the point that "our chief competitive challenge is to develop a world class work force which can attract and support high wage industries located in the United States." Jack Sheinkman remarked that our competitor nations who follow the high wage strategy "understand that you can provide more secure and satisfying jobs and, at the same time, produce more competitive products."

I believe that the testimony of these three labor leaders was a very powerful and illuminating description of economic problems and an insightful analysis of what we need to do to regain our economic future. I would urge my colleagues to review these statements and ask that they be included in the RECORD.

The material follows:

TESTIMONY OF JACK SHEINKMAN

ACTWU members, like millions of other industrial and other workers in America, are suffering in an economy that has lost its way. They struggle with increasing difficulty to sustain their families' living standards and live in constant fear of losing their jobs, their healthcare, and even their homes. They "work hard and play by the rules," as Governor Clinton says, but, nevertheless, steadily lose ground.

They know the acute pain of recession but are aware that our nation's economic problems run much deeper than the current downturn. They look to their elected representatives for help but too often find indifference, and worse. They know firsthand the abject failure of the Reagan/Bush economic policies and are prepared to support candidates for office who offer meaningful alternatives.

America, once the world's greatest nation, is now the world's largest debtor. Our trade deficit balloons as our manufacturing base shrivels. Our cities—and too many people who live in them—are dying. Our banking system is a basket case. Poverty and inequality grow as living standards erode. Real wages are 8 to 9 percent below what they were in 1979.

Young workers are especially hard hit. Economists tell me that the real income of the average male high school graduates, who's been working for up to five years is more than 20 percent below where that same type of person's income was in 1979. Most of us who lived through the 1945 to 1975 period did pretty well. If you're 45 years old or older in America today, statistically you're doing significantly better than your parents did. If you're between 30 and 45, you're doing just about as well. If you're below 30 you're doing a lot worse.

Families struggle by working harder and going into debt. Workers put in longer hours and take extra jobs. They also send more family members to work. Like business and government, households went heavily in the red in the 1980's. Families had to borrow in order to keep their living standards up.

But government and business didn't have that excuse. Reagan and Bush borrowed to give tax breaks to the rich and increase military spending. Corporations borrowed so much for leveraged buy-outs, and paper speculation that over half of all pre-tax profits are now going for debt service. Add deregulation to this borrowing and stir in the general Reagan/Bush encouragement of the economics of greed, and you have a recipe for economic disaster.

Simply stated, the economic policies of the Reagan/Bush Administrations failed to deal with the nation's fundamental problems; twenty years of economic stagnation and a steady erosion of the nation's competitiveness. Instead they produced the largest redistribution of income in our nation's history—from the poor and middle-class to the rich. The resulting imbalances have landed us in what is already the longest recession since World War II.

The brutal reality is: the United States no longer dominates the world economy the way it did after World War II. Other countries recovered from the devastation of the war. They adopted industrial policies targeting our markets first in apparel and textiles, then in steel, automobiles, and electronics. We kept pouring our best scientists and engineers into military research and development while other nations put their best scientists and engineers to work making products subsidized by governments that would undercut us in world marketplaces. The result was that industry after industry in the United States has dramatically lost market share over the last 15 years. We are now forced to compete in a global economy, in which capital and technology can be shipped around the world in search of low wages.

In the America of twenty years ago, high wages were considered good for the country. There was little import competition. America was a closed economy. Automobile companies, for example, sold their cars. Their workers made good wages and bought the cars. The companies made profits and more cars, and the cycle started again. By and large this arrangement worked, and high wages contributed to economic health.

But in the new global economy, wages are now seen as a problem. Corporations now say that high wages are a burden on the economy because we have to keep costs low to compete.

This is not forcing us to answer a simple but fundamental question: How do we compete in a world of over five billion people, most of them willing to work for a lot less than we are, without cutting our wages and living standards? The answer to this question will dictate the living standards of our children and grandchildren; it will dictate how well we do after we get a pension. The answer to this question will determine the kinds of jobs that will be available in the 1990's and beyond whether or not we can take care of our sick, and provide education opportunities for our children.

Income has been redistributed upward in the 1980's. The problem will not be solved by simply saying there ought to be more tax fairness. Economists estimate that fully 80 percent of the redistribution of income from the lower 70 percent to the upper 10 percent occurred *before* taxes. That tells us that the real problem is in the jobs. There's not enough gross pay in the paychecks. This, in turn, reflects the fact that we are not creating the high-wage jobs which reflects the stagnation of the American economy and our faltering competitiveness.

There are two ways to compete. One is the low-wage path: cut your prices, cut your wages and benefits, and try to compete in the world by lowering labor costs.

What does the low-wage path look like? To go down the low-wage path, you cut social programs like housing, education, health, unemployment compensation, you turn the unemployed into the homeless so that people will be desperate to take a job at any wage. You encourage employers to break trade unions. You let them fire strikers. You embrace unregulated trade to keep import pressure on workers, so that the employer can lower his wage offer.

You make a trade agreement with Mexico that gives the multinationals an option to produce in Mexico and shift production there where wages are one tenth of ours and there is no enforcement of health, safety, or environmental standards. The motivation for the NAFTA is not to give American corporations access to Mexican consumers. The average Mexican is so poor and has so little money that there's no consumer market down there except for a few rich people. The purpose of this deal is to give American corporations access to cheap labor.

Another thing you do in the low-wage path is to ignore the decline in manufacturing in America. You arrange the economic system so that the person who makes money in this country is not the guy who invests in a product that keeps somebody working for 15 or 20 years, but it's the guy who speculates in commodity options or the like.

This is the economic policy we have been pursuing for the past 15 years. It is a low-wage strategy for competing in the world. And it should be no surprise that it has resulted in low wages. The drop in wages will not end until we leave the low-wage path.

Whether or not the current recession is coming to an end, our problems are not. Almost all the forecasters expect the high unemployment rate to continue for at least the next three years. Economists estimate that, on our current path, by the year 2000, young workers will be losing another 20 percent in income if he or she has a job at all. And it's not just the high school graduates, who are most of the American labor force, Many recent college graduates can't find a job. They're home living with their parents. So we see that the low-wage path is widening; there are more of us on it. We're competing in the world by getting poorer.

Instead, we ought to be talking about pursuing a high-wage strategy. The high-wage path is where you invest in people, change the way you work to raise the quality of your product, and market aggressively so that you can sell at a high enough price to support high wages.

First, we need to invest in our people, in their education and training, in their health and safety. Every American young person ought to be guaranteed an opportunity for post-secondary education or vocational training. We need a single payer national health insurance program covering all Americans, bringing America up to the bare minimum level of civilized nations in this world.

Second, we need public investment to rebuild our infrastructure—bridges, roads, sewer and water systems. We need to build the basis for new industries in this country. The Europeans and Japanese experiment with automated highways, new environmental technologies, electric cars, and fiber optics. If we don't start doing the same, the result will be that the markets of the late 1990's and 21st century will be theirs and not ours.

Third, we need to encourage private investment in the United States by taxing and discouraging speculation, using the money to subsidize research and development for industries that want to produce in America. We have to stop all tax breaks and subsidies for industries that want to use our market but do not want to produce here.

Fourth, we need sensible industrial and trade policies. It's common sense to recognize that industry needs the leadership and support of government to meet increasingly fierce international competition. And trade will only support rising American living standards if it is fair.

Fifth, we've got to restore tax fairness. The rich in America are the most under taxed upper class in the industrial world. So it's about time we got some of that back by raising the top rate on the income tax.

Finally, we have to support a more participatory workplace. A high-wage strategy means a highly unionized workforce. It's not just a question of fairness or the fundamental rights of workers in a democracy. There are also economic reasons why we need a unionized labor force. Productivity is higher in unionized plants than in nonunionized plants. When people work together as a team, you get better quality products and more productivity.

Higher wages are also an incentive to higher efficiency. This is something that people have forgotten in the last 10 years. If you're paying someone $15.00 an hour, you're going to make sure you use that person effectively. If you're paying them $5.00 an hour, productivity is not so important.

It might be asked: "Is it really possible to have a high-wage strategy in the world that we live in today? Almost everybody would say the high-wage countries can't compete in low-wage industries like textiles. But the Germans, with the world's highest wage rates, are selling textiles all over the globe. They're selling textiles to China. The Germans have high wages, a high rate of unionization, high spending on domestic social programs, and they have the lowest number of hours worked in a year. This is not something particular with the Germans. Other European countries are competing, and the Japanese are certainly competing. These countries are organized to go down the high-wage path.

These nations understand that if you treat people like human beings you get higher quality products, more efficiently produced. They understand that you can provide more secure and satisfying jobs and, at the same time, produce more competitive products. Apparently we have yet to learn this crucial lesson.

All this adds up to an appealing, common sense program that addresses our fundamental economic problems and renews the hope of America's workers that their efforts will once again yield a more secure, more just, and more prosperous future for all Americans.

But many in Washington respond by saying: "Well, these are really good ideas, but we have no money." They say that because of the budget deal last Fall with George Bush, the country doesn't have any money to invest in people, infrastructure, and new technologies. I say that if the budget deal is stopping us from taking care of America's future, then we should tear up the budget deal.

Why is it that money can be found for so many other purposes. There is $500 billion for the savings and loan bailout. Another $130 billion of American taxpayers money is going to Western Europe to defend them against a foe that no longer exists.

Tax breaks over the 1980's allowed U.S. corporations to borrow over $1 trillion, not for plant and equipment, but for mergers, leveraged buy-outs, and other useless activities.

Another excuse some give us is that nobody wants a more active government anymore, that we've got to get government out of the economy. But it's not the size of government that counts, it's what government does. George Bush's government is too big because it's doing nothing. John Kennedy's wasn't too big because it was solving real problems.

Finally, some say you can't have an economic system that runs on the basis of human values, or tries to serve the national interest. It doesn't work, only the bottom line of corporate profits count. I say it is the *only* kind of economy capable of succeeding in today's international competition. And it is the only kind of economy consistent with the values of the American people.

America needs a textile and apparel industry. After a quarter century of import competition, these industries still employ 1.7 million Americans, disproportionately immigrant and minority. The majority are women, often single mothers. To sacrifice the jobs these industries provide is to saw off the bottom rungs of the ladder of economic opportunity.

America also needs a steel industry. And an automobile industry. And an aircraft industry. And a computer industry. America needs industries that provide jobs that pay enough to support American families in dignity. There is no higher purpose for an economic system.

The living standards of millions of American families are hanging in the balance. Unless we change course and embrace a high wage strategy to restart growth and restore our nation's competitiveness, we will witness the first generation of Americans with living standards lower than that of their parents. We can and must do better, for our children if not for ourselves.

TESTIMONY OF GERALD W. MCENTEE

Mr. Chairman and members of the Committee, I am Gerald W. McEntee, International President of the 1.3 million-member American Federation of State, County and Municipal Employees, representing state and local government workers, university and health care workers throughout the country. I commend this Committee for holding this hearing on the state of the economy and the impact of what a loss of competitiveness means for the standard of living of Americans.

Mr. Chairman, I want to start by sharing with you my vision for America in the 21st century. It is a very different vision from the America of today where cities—and too many people who live in them—are dying and where our state and local governments are mired in budget traumas that force devastating cuts in vital services.

I want to see an America with cities where garbage is picked up seven days a week; where mail is delivered three times a day; where every street is swept by hand each day; where subway trains come every 80 seconds at rush hour and where many Metro stops are decorated with mosaics and murals. I want to see American families of all income levels, including the affluent, living in our center cities and sending their children to public schools.

I want to see an America where productivity and living standards climb while the average number of hours worked decline, and where full-time workers are guaranteed five weeks of paid vacation.

I want to see an America where everyone has health insurance and where families have paid parental leave. I want to see an America where high quality child care is universally available. I want to see an America where laid off workers are guaranteed long-term unemployment benefits and retraining for real jobs that pay as well as their lost jobs.

I want to see an America with an infrastructure system which includes high speed trains connecting our major cities in half a day's time and a world-class telecommunications network.

My list goes on, but, by now you have probably concluded that I am either a hopeless utopian dreamer or I have read too many science fiction books.

Mr. Chairman, I am here to tell you that everything that I have just described is already a reality for millions of workers. It is just that none of those workers are American.

Parisians live in the city with the impressive array of public services, all performed by unionized employees, which I just described to you. Workers in 12 European countries receive five weeks of paid vacation, mandated by law, and work fewer hours than American workers. Austria, Canada, France, Germany, Sweden and the United Kingdom all provide universal health insurance and paid parental leave. French parents are able to place their preschoolers in day care centers staffed with workers who are required to have a year of college level training in early childhood development. Japan and France have trains which travel at 230 miles per hour. Unemployed Dutch workers collect 70 percent of their last pay for 36 months while Danes who lose their jobs collect 90 percent of their former wage for 30 months.

U.S. ECONOMIC PROBLEMS

The unfortunate legacy of 12 years of Reagan-Bush is an America struggling with both short- and long-term economic problems and unable to do for the majority of its citizens what our industrial competitors do for theirs. During the last two Administrations, the U.S. became the world's largest debtor. We now owe our foreign creditors over $600 billion. Our manufacturing base has shriveled. We have accumulated a massive trade deficit. Our banking system lies in shambles. Economic growth has been sluggish—an average of less than 2.6 percent since 1980 and just .6 percent since President Bush took office. The national rates of investment and savings have declined while the rates of personal, private and public debt have soared. And, unemployment has skyrocketed.

Working families are paying the price of those 12 years of economic decline. During that time the richest one percent have seen their after-tax incomes rise by 75 percent while over 70 percent of all Americans have seen their real wages and standard of living decline. Today, real wages—wages minus the increases in living costs—are eight to nine percent below where they were in 1979. It has been especially hard on the young. The real income of a male high school graduate with five years work experience is more than 20 percent below where that same type of person's income was in 1979. This is not the drop-out or the kid that takes drugs. This is the kid that did what he was supposed to do—get a diploma and a job—and yet, the payback for all his hard work has been a 20 percent decline in real income.

And, the pain is spreading. It is not just the high school graduate who is getting kicked in the teeth. For the past five years, living standards for college graduates have also been on the decline. Wages of college graduates have fallen by 3.1 percent since 1987, two years before the current recession began.

In the 1980s, families struggling to keep their standard of living afloat did so in two ways: by sending more members of the family into the workplace and by borrowing. Only in America does it take two to support one family. Fifty-eight percent of American families need two incomes to keep their standard of living from dropping further. In France and Japan only 33 percent of all families have double incomes; in Italy, 20 percent, and in Germany, a mere 18 percent. Without those second incomes, the American standard of living would be the lowest among the G-7 nations—the United States, Germany, Japan, the United Kingdom, France, Italy and Canada.

STATE AND LOCAL FISCAL CRISIS

While the family was being buffeted by the economic ill winds, state and local governments were receiving the worst fiscal battering since the Great Depression. Throughout the 1980s, the Administration and Congress squeezed the budgets of state and local governments in an ever-tightening fiscal vise by reducing federal support while mandating additional public services. Federal aid dropped from 26 percent of state and local budgets in 1980 to 19 percent by 1990.

In the last fiscal year, 1991-1992, state and local governments, faced with a combined deficit of over $50 billion, eliminated programs, froze payrolls or laid off workers and raised taxes, fees, and tuition at public educational institutions. The effect of this belt-tightening was to place a severe drag on the economy by taking money out of the pockets of consumers during a recession through tax increases and layoffs and to increase the unemployment rate by one-half to one percent.

Contrary to the widely perceived impression that state and local spending has grown wildly since 1975, relative to the rest of the economy, it actually fell. Three-quarters of the increase in state and local spending during the 1980s was due to inflation alone. Beyond that, population growth of nine percent and economic growth of 30 percent after inflation both put added burdens on state and local budgets. In the final analysis, state and local spending in 1990 consumed a smaller portion of the nation's Gross Domestic Product (GDP) than it did in 1975.

DECLINING INTERNATIONAL COMPETITIVENESS

Mr. Chairman, we must ask ourselves "how did America falter while our industrial competitors were surging ahead?" And, "what must we do *now* to insure that America will be a leading competitor in the economic Olympics of the next century?" Presidents Reagan and Bush promised the American people that by reducing government's role in the economy, the free market system would bring prosperity and economic growth. But, today, America wins few Gold, Silver or even Bronze medals in international competitiveness races. Where America once led the world, it is increasingly taking 7th, 12th, 14th, 17th, 19th, 28th, or even last place. For example:

U.S. productivity growth from 1973-1985 lagged six of our chief economic rivals. Japan got the Gold medal; West Germany, the Silver; France, the Bronze; with Italy, the United Kingdom, and Canada also outpacing us.

Among the G-7 nations, America has had the lowest ratio of public investment during the same period. Once again Japan takes the Gold.

America's investment in itself, in scientific and industrial research and development, in roads and communications, in new factories and equipment, is the smallest among all modern nations save only for Ireland—17.1 percent of U.S. GDP is invested in assets that produce wealth, versus, at the top of the scale, the 30.6 percent of GDP that Japan puts back into productive investments.

The United States ranked 17th in 1986—the latest data—out of 18 industrial countries in gross capital infrastructure investment by the Organization of Economic Cooperative Development (OECD). Here again, we trailed all of our major competitors including West Germany, Japan, France, the United Kingdom, Italy and Canada.

The United States ranked 19th in 1986 in the number of school-age children per teacher—23 to one—behind the western industrial countries, but, also behind Cuba, Libya, and Lebanon. Our 8th grade students ranked 12th in mathematical achievement. And, U.S. spending on elementary and secondary education, as a percent of Gross National Product (GNP), earned in 14th place, once again behind Japan, West Germany, France, the United Kingdom, Italy, Norway, Denmark and Canada.

The United States ranked 19th in 1989 in mortality rates for infants and children under five years of age; 17th in the percentage of children immunized against polio; and 28th in the percentage of low birth weight babies.

Among the G–7, Germany gets Gold medals for the highest salaries, fewest hours worked, lowest levels of poverty and personal and national debt. This is despite the costs of absorbing an economically invigorating 20 percent of its populations in the east.

The U.S. domestic public sector is all in comparison to those in other advanced industrial countries. Using 1988 data compiled by the International Monetary Fund and OECD, government expenditures as a percent of GDP were the lowest, 36.4 percent, in the U.S. By comparison, the countries with the best growth rates and improvements in quality of life have larger civilian governments. In West Germany (prior to unification; with unification, its public sector has grown), for example, government expenditures were 47.77 percent of GDP; in France, 48.78 percent; in the United Kingdom, 40.45 percent; and in Canada, 44.47 percent.

In addition to having a small civilian public work force in comparison with our international trading partners, the state and local governments in the United States perform many of the functions performed by the central government in those other countries. Besides fulfilling traditionally local functions in the areas of public safety, sanitation, recreation, public education and local transportation, state and local governments in the United States have major responsibility for industrial policy, economic development, infrastructure, health care, the environment and eliminating poverty and inequality.

The United States also has among the lowest rates of growth of public spending. Indeed, as a percent of all civilian employment in the economy, the U.S. civilian public sector has been contracting for 15 years, from 18 percent in 1975 to 15.5 percent in 1989. Following suit, total state and local employment peaked at 14 percent in 1975 and had fallen to 12.5 percent by 1989.

ECONOMIC RECOVERY PLAN

The basic cause of America's decline is not shrouded in mystery. It is the direct result of more than a decade of disinvestment in domestic programs including education, job training, housing, civilian technology and infrastructure. Our competitors are overtaking us in large part because they invest in their people, infrastructure, and civilian research and technology while we do not.

In 1989, the Economic Policy Institute sponsored a public statement signed by 327 economists, including six Nobel Prize winners. It described a growing Public Investment Deficit and issued a clarion call to the Congress and the President that "the deficiency of public investment in our people and our economic infrastructure will have a crippling effect on America's future competitiveness." This warning was not heeded and three years later, gripped by the longest recession since 1932, the situation has gotten appreciably worse.

As the economy continues to dip in and out of recession levels and the unemployment rolls swell with more white collar and professional workers than in previous recessions, discussions of what the federal government should do have escalated, but, any real action has been meager.

Mr. Chairman, I am here today, to once again urge this Congress to enact a bold economic recovery plan which would simultaneously stimulate the economy and begin to reverse the decline in investment which is at the root of this nation's economic and competitiveness problems. The federal governments should immediately begin a multiyear expansion of public investment in human capital, infrastructure and civilian technology.

JOBS

In order to maintain a high standard of living, the United States should be pursing a strategy to create high wage jobs. The key to that strategy is an increase in public and private investment. The first thing which the federal government should do is invest in our people, in their education and training and in their health and safety. Returns to the nation from human capital investment are high. Job performance rises with education and training. In the first two years after a worker is trained, his or her productivity rises four or five times faster than compensation. One dollar invested in Head Start saves $4 to $6 in special education, public assistance and crime costs. One dollar invested in prenatal care saves $4.38 in care for low-birth weight babies.

HEALTH CARE REFORM

In the area of health care, we need a single payer national health care program covering all Americans. This would bring America up to the level of every other industrialized nation. Additionally, a national health care system would be the single greatest assistance to state and local governments in getting their deficits under control. In setting their 1991 budgets, 37 states failed to anticipate the full cost of health care even though they budgeted for a 10 percent increase. And in 1992, the gap between spending needs and available resources was estimated at $50 billion. In 1986, state and local governments spent $71.4 billion on health care, or 15 percent of their revenues. This climbed to $120 billion by 1991, or 19 percent of revenues. By the year 2000, health care will drain state and local governments of $307 billion annually—28 percent of revenue.

INFRASTRUCTURE INVESTMENT

Next, the federal government needs to increase public investment in rebuilding our infrastructure systems. The direct association between productivity and infrastructure investment have also been proven. Recent research suggests that each additional dollar of public infrastructure investment raises private investment by 45 cents. If, since 1970, the United States had maintained in 1950's and 1960's share of GNP for core infrastructure, productivity growth would have been 50 percent higher; the average profit rate would have been 22 percent higher; and the rate of private investment would have increased by 19 percent.

PUBLIC INVESTMENT: STRATEGY FOR GROWTH

Mr. Chairman, I recommend that the Congress spend a minimum of $60 billion a year more for public investment than it is doing now for the next five years. We cannot restore America to world-class competitive levels without spending money. A survey by the Economic Policy Institute of sector-by-sector needs last fall concluded that "it would take a minimum of $60 billion in additional spending this year just to keep basic human and physcial infrastructure from deteriorating further. This is also approximately the average fiscal stimulus (one percent of GNP) provided by the federal government in the last six recessions. A serious program to begin to repair the damage from a decade of neglect and to make significant additions to the nation's public capital would cost $125 billion—roughly double our current spending level." Economist Robert Heilbroner estimates that we would need to quadruple our public investment in order to be even with Germany's and Japan's. Unless we increase public investment, it is unlikely that private investment will increase significantly, no matter what happens to the deficit.

CONCLUSION

The stark reality is that there is no way to regain our economic competitive position without increased government spending. Failing to invest leads to a further widening of the already gaping public investment gap which inevitably means a continued and deepening erosion of our living standards and competitiveness. Reducing military spending more rapidly with an emphasis on economic conversion will help achieve needed spending savings and overhauling our health care system will prevent those expenditures from further draining the public treasuries. In the short-term, however, the only way back to economic health is to borrow and ultimately, when the economy improves, to tax for investment.

If we had borrowed for investment in the 1980s instead of borrowing to pay for tax cuts to upper income taxpayers and for fancy military hardware, we would not have the fiscal or investment deficits that we have today. And, if the U.S. tax share were equal to the average of the OECD nations, we would be raising more than $400 billion in additional federal, state and local government revenues with about 60 percent going to the federal government under current proportions. Of the 25 OECD nations, only Turkey ranks below the U.S. in total taxes as a percentage of GDP.

Tomorrow, AFSCME will release the first comprehensive state-by-state, program-by-program, year-by-year analysis of the domestic spending cuts of the last 10 years. Many of the services cut were shifted into the states when the Federal government abrogated its responsibility. This study will provide he quantitative analysis behind the stories we all know so well—the riots in L.A., the mounting problem of the homeless, the deterioration of our education system, the abandonment of job training and more. In all, our report shows more than $200 billion in cuts over a decade—including a $30 billion-plus cut in spending on infrastructure and more than a $70 billion cut in job training programs. This report, called *The Republican Record*, further documents the disinvestment in America.

Mr. Chairman, we cannot wait any longer. Let us learn from the lessons of the past 12 years. Let us look to the successful economies of our competitors. In order to brake the precipitous economic tailspin that the United States is caught up in, I urge the Congress to initiate a bold public investment program now.

I want to express my appreciation for this opportunity to testify before this Committee and would be pleased to answer any questions you may have.

TESTIMONY OF LYNN R. WILLIAMS

There are many profiles of the current state of the economy. However, the one which has an immèdiate social impact reflects the ability or capacity of the economy to sustain the nation's work force in gainful employment. On that one measurement alone the present macroeconomic policy of the Bush Administration has failed and has been operating at a failure level for quite some time. The rate of unemployment is at an all time high 7.8 percent. If we count those workers who are no longer seeking employment—because of the futility of the search—the rate is closer to 10 percent.

In the steel sector, employment in April 1992 at 179,000 steelworkers is 3.8 percent lower than last year (year-to-date basis). At the bargaining table these pressures are translated into demands for wage and health care concessions. Such responses are not meaningful when we are confronted with basic defaults in the nation's economic policy.

The 12 years of the Reagan-Bush administrations have demonstrated one thing very clearly: supply-side economics does not work. In 1981, Ronald Reagan and George Bush took office promising that their policies of tax cuts aimed at the wealthy and reducing the government's involvement in the economy would lead to greater economic growth and prosperity for everyone. After 12 years of this experiment we've seen that their policies have meant great prosperity for a select few, the richest 1 percent who have had their after-tax incomes rise by 75 percent, but have led to declining living standards and uncertainty about the future for the bulk of the population. Unfortunately, many still have not learned the lesson that bribing the wealthy with tax cuts is not the way to prosperity, as even now the President and many members of Congress continue to support capital gains tax cuts and other benefit programs for the wealthy.

Such policies, which were supposed to spawn vast amounts of new growth and investment, instead led to stagnation and debt. Economic growth averaged less than 2.6 percent over the last twelve years, and just .6 percent over the last three, a reduction even from the oil-shock afflicted decade of the 70's. The savings rate, instead of rising, as the supply-siders forecast, fell to its lowest rate ever. Investment as a share of national income took a similar downturn. At the same time debt of all types built up at unprecedented rates. The federal debt went from under $1 trillion to over $4 trillion. Private debt rose at an even more rapid rate, so that interest payments now absorb approximately 40 percent of corporate earnings. Household debt rose to the point where it is almost equal to disposable income. For the first time since the depression we have seen widespread failures in the banking system, leaving a bill of hundreds of billions of dollars for the taxpayers. In the span of a decade the U.S. went from being the world's largest creditor to the world's largest debtor, with a foreign debt that now exceeds $600 billion.

These statistics reflect real hardships for tens of millions of Americans. More than 70 percent saw their real wages fall during the last 12 years. Families have only been able to hold their own by increasing the amount of time they work. Even with the additional hours put in, most families ended up worse off once increased child care, transportation and other job related expenses are factored in. For the first time since the depression poverty rates have been steadily increasing rather than decreasing. Nearly one fourth of the nation's children are now living in poverty. The cost of having one quarter of this generation of young people growing up without adequate health care, housing, and economic opportunities can be seen as yet one more negative legacy of the Reagan-Bush era.

While the Bush Administration resisted any substantive changes with its economic strategy, it was even unwilling to respond to some of the negative consequences of the policy. I refer to the Administration's initial opposition and veto of an extension of unemployment compensation and its pending threat to veto a family and medical leave bill. Because of the economic stress put on the family unit, both spouses, in many circumstances, have been forced into the workplace but jeopardize their earnings if either one must attend to temporary medical problems at home.

The Reagan-Bush policies have left us with both a short-term and long-term problem. In the short-term, we are confronted by the fact that Bush's recession is now entering its third year, as the economy remains virtually stagnant and unemployment stood at 7.8 percent in June. There is little basis for any substantial improvement in the foreseeable future, as even the optimistic forecasts predict very weak growth. In the long-term there is the problem of restoring a sound basis for sustained growth after 12 years in which the federal government has neglected its responsibilities.

INFRASTRUCTURE

It will not be easy to overcome this legacy, but it is possible. The federal government should immediately take steps that will simultaneously stimulate the economy and begin to reverse the decline in investment. The best way to do this is to initiate an ambitious program of public investment. Such a program would address the vast, unmet needs in infrastructure repairs and improvements that have been allowed to build up over the last 12 years as yet another legacy of the Reagan-Bush administration. During this period, spending on infrastructure has fallen from 5 percent of federal spending to less than 2.5 percent. As a result, roads and bridges have deteriorated, highways and airports have become overcrowded, and our telecommunications network has fallen behind those of our competitors. The economic costs of inadequate transportation, communication, and sanitation networks are clear. Commuters are forced to spend enormous time tied up in traffic. Deliveries of parts and materials to factories are similarly delayed. The environment is degraded as a result to inadequate waste treatment facilities. The introduction of new technologies is obstructed by an outmoded communications network.

In a recent study conducted for the Economic Policy Institute, the economist David Aschauer examined the effect of infrastructure spending on economic growth. He concluded that productivity growth would have averaged 2.1 percent per year, instead of 1.4 percent, if infrastructure spending had been kept at the same percentage of GNP that it was in the 1960s. The United States currently ranks last among the major industrialized nations in the share of its output devoted to infrastructure investment. If this is allowed to continue, it will only lead to further relative decline and stagnation. Reducing this deficit in infrastructure investment also makes sense in the short-run because it is a way to immediately put money into the economy and people back to work. Former Secretary of Transportation, Samuel Skinner, estimated that $1 billion dollars of infrastructure spending creates between 30,000 and 50,000 new jobs. Estimates from the Federal Highway Authority, Congressional Budget Office, the Environmental Protection Agency and other sources, point to over $100 billion in additional annual expenditures that will be needed to maintain and improve the nation's highways, bridges, airports, mass transit, and waste treatment facilities. If even half of this spending is forthcoming it will lead to over 1 million jobs in the short-run, in addition to the higher growth produced in the long-run. As a further short-term benefit from such spending, employment gains are likely to be concentrated in construction and related industries, which have been particularly hard hit by the recession and the over-building of the 80s.

Recovering from the neglect of the Reagan-Bush years will require more than an infusion of new infrastructure investment. The federal government has allowed its support for the development and diffusion of new technologies to lag to the point where many of our most vital industries are now falling technologically behind those of our competitors. A relatively small investment in developing industrial extension programs, modelled on the highly successful agricultural extension programs established in the 19th century, is likely to have a tremendous payback in the diffusion of new technologies among small and medium sized firms. The U.S. achieved its preeminence in technology in large part because the federal government was willing to assist the private sector in developing new technologies, a point well demonstrated by the examples of the aerospace and computer industries, it cannot maintain its preeminence if the government neglects this role.

EDUCATION

More broadly, the federal government must look to rebuilding its education system so that it is on a par with those of other industrialized nations. This will mean reform and improvements at every level, from full funding of Head Start to increase support for K–12 education, particularly for disadvantage children, to increased availability of loans for college students. Some of this spending, such as an expanded student loan program, will be paid back quickly. In other cases the payback will be more long-term in the form of a better educated more productive work force, which will be more likely to pay taxes and less likely to need welfare. Either way, the payback is likely to exceed the additional expenditures required.

The government must also look beyond traditional education and promote more training at the workplace in order to support a lifelong process of learning and skill acquisition. Relatively small tax incentives should be effective in achieving this end, since firms are likely to experience significant gains in productivity as a payback from having a more highly skilled workforce. Similarly, the government should promote a more flexible work environment, where the rigid hierarchy between management and labor has been broken down, and workers genuinely participate in every facet of corporate decision-making. As several recent studies have clearly demonstrated, effective union-management cooperation involving real power sharing, is essential for a high productivity economy.

FINANCE AND PUBLIC INVESTMENT

We have an historic opportunity to reverse our course and begin to invest in the resources which will pay back dividends for generations. Our nation's competitiveness—indeed, our future—rests on the building blocks of capital and human resources. We cannot continue to live off the past; we must move aggressively toward the future.

As a member of the Competitiveness Policy Council, and Chair of its Training Subcouncil, I have become even more convinced of this investment imperative. As Bob Reich and others have articulated so well, nations will increasingly compete on the strength of their workforces. Our chief competitive challenge is to develop a world class workforce which can attract and support high wage industries located in the United States. However, the reverse trend may already be in place. The Congressional Competitiveness Caucus reports: "During the 1980s the United States lost nearly 7 percent (or 1.4 million) of its manufacturing jobs.

This public investment strategy in infrastructure, education, and training will necessitate increased spending. Some of this can come from the military budget which is still much larger than necessary in a post-cold war world. Tax increases on the wealthy can also finance some of the needed spending. It's worth noting that the increases being discussed by the Clinton campaign, to a top marginal rate of 35 percent, would still leave tax rates at half their pre-Reagan-Bush level. This hardly seems like an excessive burden. Richard Musgrave, the nation's preeminent public finance economist, recently argued for a top marginal income tax rate of 40 percent, claiming that this rate would have a minimal adverse effect on incentives.

DEFICIT REDUCTION OPTION

Even with the savings from the military and increased taxes on the wealthy, it will probably be necessary in the short-run to increase borrowing to finance additional public investment. Although in general it would be desirable to have a lower deficit, in current economic circumstances, we should be prepared to undertake the additional borrowing needed to finance this agenda. The economy is currently in a recession, and is forecasted to have high unemployment for several years to come. Hence the utilization of these resources, which would be committed to this public investment strategy, will not be to the detriment of other private investment activities. Most likely these resources would be sitting idle. If the government decides to make lowering the deficit its first priority it will be unable to meet the country's infrastructure and education needs. The effect would mostly be to deepen the recession with minimal, if any, positive effect on investment.

Private investment is far more likely to be stimulated by the additional demand created by an ambitious public investment program, coupled with the increased investment opportunities created by an expanding infrastructure. Several recent studies have indicated that public investment complements private investment, and in this way is likely to be a far more effective stimulus than any cut in interest rates that may result from a strategy to cut the deficit at all costs. It was exactly this line of argument that led 100 prominent economists, including 6 Nobel Prize winners, to sign a letter urging an approach of expanded public investment even at the cost of raising the deficit temporarily. As the economists stated in their recent letter: "Since the economy has idle resources of labor and capital available to meet additional spending with additional production and since the threat of inflation is minimal, it is appropriate to let these expenditures add to the deficit financed by borrowing, because it would cancel most or all of the needed stimulus if the expenditures were financed otherwise."

I might add a footnote to this debate on deficit reduction. One factor, which will have a profound impact on both public and private expenditures, will be the effort to bring health care costs under control. According to the National Leadership Coalition on Health Care Reform, savings could amount to $600 billion over the next 8 years, thereby freeing up resources for other needed expenditures. Yet we have received no positive comments from the Administration relative to this deficit reduction measure.

Another major issue of public policy that is worth addressing here is the proposed North American Free Trade Agreement. It is important that NAFTA be addressed with extreme caution. While in general the expansion of trade is desirable, neither Mexico nor the United States will benefit from a pact that gives corporations a green light to treat Mexico as an environmental waste dump, or haven for cheap labor. Any agreement that doesn't have tight restrictions on the environmental practices of the companies that move their operations to Mexico will not only lead to increased pollution there, but will also make the enforcement of environmental regulations in the U.S. far more difficult. Such a pact would give polluters the ability to blackmail communities in the U.S. rather than clean up their operations. Similarly, if there are not restrictions on the ability of corporations to seek out Mexican labor that costs less than ⅒ as much as workers in the U.S. receive, millions of American workers will be given a choice between huge cuts in pay and benefits, or losing their jobs. The decline in living standards experienced by large segments of the population in the 1980s will continue unabated into the 1990s.

It will be a difficult task to turn the economy around after 12 years of the neglect and abuse practiced by the Reagan-Bush administrations. Instead of a change from the old course, the Bush plan entails more tax breaks for business or for the wealthy. However, reducing or eliminating the enormous deficits in the nation's infrastructure investment will be an important step in the right direction, as will restoring the quality of the nation's education system. These investments coupled with a fair trade policy can lay the basis for increased competitiveness and a new round of economic growth that will benefit the whole nation, not just a wealthy few.

A recent publication by the AFL–CIO entitled "It Takes Jobs to End Recessions" says it all. At our recent Executive Council meeting last week, labor decried the minimal economic stimulative actions being taken by the government. Instead we need more aggressive fiscal measures to deal with the near-term problems of industrial economic growth for long-term job stability. Without a change in direction, we will continue to witness further stress in cur domestic market and experience additional slippage in the global market. On both fronts we are confronting job losses.●

NEW JERSEY'S 1992 SUMMER OLYMPIANS

● Mr. LAUTENBERG. Mr. President, I rise today to salute New Jersey's representatives at the 1992 summer Olympics in Barcelona. Twenty exceptional athletes from New Jersey were selected as members of the U.S. Olympic team. Each one of these individuals has dedicated years of disciplined training and hard work toward reaching this goal, allowed only to the most elite American athletes. All New Jerseyites are proud of these athletes' determination and perseverance through both triumph and defeat. For the last 2 weeks, they have been a source of inspiration for New Jerseyites and for people around the world.

One of New Jersey's two Olympic representatives to win a gold medal is Nelson Diebel of Hightstown who captured a gold medal swimming the 100-meter breaststroke. His time of 1 minute 1.50 seconds won the United States its first gold of the 1992 summer Olympics and set an Olympic record. Although Nelson was not considered a threat to win the gold, he exceeded those expectations as he has in the past. Nelson has admitted to being a rebellious teenager who used drugs and dropped out of school. Through the help of his friends, however, he was able to redirect his energy into competitive swimming. Nelson took charge of his future and turned it from certain failure to tremendous success. This fall, Nelson will be returning to Princeton University as a sophomore.

Herb Perez of Palisade Park also brought home a gold medal for his winning effort in the taekwondo middleweight competition. In the final of the demonstration sport, Herb beat his opponent 3–2. Herb had, at long last, reached this emotional moment of time after just missing his chance to compete at the 1988 Olympics in Seoul. Herb was the captain of this year's eight-member U.S. taekwondo team and was the only individual on the team to win a medal. Herb is beginning law school at Rutgers, a goal he has delayed in order to compete in the Olympics. We are extremely proud of Herb.

Other New Jerseyites distinguished themselves. James Carney from Annandale was on the 20-member U.S. cycling team. He competed in the 50-kilometer points race-team pursuit. Joetta Clark and Jack Pierce were selected by the U.S. athletics team. Jack captured a bronze medal in the 100-meter hurdles. Joetta ran the 800-meter track event. Selected on the 16-member U.S. fencing team to compete on the individual saber-team were Robert Cottingham of East Orange and Steve Mormando of Jersey City.

Both Jeffrey Hammonds of Plainfield and Ron Villone of Bergenfield were selected for the U.S. baseball team. Jeffrey played outfield and Ron pitched. Lily High was on the five-member U.S. table tennis team in both the singles and doubles competition. David Johnson of Mt. Holly participated in the three-position rifle and air rifle event.

The U.S. rowing team had three New Jerseyites. They are Jeff Klepacki of Kearny, Stephanie Maxwell-Pierson of Somerville, and John Pescatore of Ocean City. Stephanie won a bronze medal in her rowing event. Ann Kursinski of Flemington was a member of the nine-member U.S. equestrian team competing in the showjumping and cannonball events. Jon MacCausland of Medford was selected to the U.S. yachting team.

Claudio Reyna, a midfielder from Springfield, was one of the 20 members of the U.S. soccer team. Cindy Stinger of Lawrenceville played wing on the U.S. handball team. Of the 40 members of the U.S. swimming team, 3 of them were New Jerseyites. In addition to gold medalist Nelson Diebel, whom I mentioned earlier, Sean Killion of Cherry Hill swam the 400 freestyle and the 1,500 freestyle. And Ron Karnaugh of Maplewood captured the hearts and sympathy of people across the Nation and around the world.

Ron was a favorite to win the gold medal in his event, the 200-meter medley. Understandably, Ron had other things on his mind when he dived into the water for his race. You see, Ron's father, Peter Karnaugh passed away just 6 days before Ron was to swim for the gold. Mr. Karnaugh died of a heart attack while in Barcelona, watching his son participate in the opening ceremonies of the 25th summer Olympiad. Ron's family was able to travel to Barcelona with the help of their hometown of Maplewood which raised $27,000 to send his family to the Olympic site.

Despite his great loss, Ron courageously decided to compete in his race, placing sixth. Ron's unyielding determination has been an inspiration to all who know him and to all who have watched his career. Although Ron did not win a medal, he is still an Olympic champion.

Ron will be entering medical school this fall at the University of Medicine and Dentistry of New Jersey in Newark. Cards and letters from people across the Nation arrive daily expressing their condolences and generous gestures are offered. I join them in extending my deepest sympathies to Peter Karnaugh's family and friends.

The Olympic spirit is alive and is inside each member of the 1992 U.S. Olympic team. I commend all of the athletes from New Jersey for their champion efforts and wish them the best of luck in their future endeavors. The State of New Jersey is tremendously proud of them.•

COMMEMORATING OUR OLYMPIC ATHLETES

• Mr. SEYMOUR. Mr. President, I rise today to recognize the tremendous accomplishments of U.S. athletes in the XXV Olympiad in Barcelona. These Olympic games represent one of the finest showings ever for the United States of America and foreshadow what awaits us as America's athletes prepare to compete on their home turf during the XXVI Olympiad in Atlanta in 1996, the centennial year of the modern Olympics.

Again, Californians have played a substantial role on the U.S. team. Over 140 Californians participated in these games ranging from Magic Johnson and Chris Mullin of the Dream Team to Nick Becker of the men's volleyball team and Rusty Hill of the shooting team. These athletes have dedicated their lives to the perfection of their sport and participating in the Olympic games was the culmination of a lifetime of tireless dedication.

The U.S. team came home with 108 medals, and Californians contributed significantly to that total. The Olympic games were filled with upsets, remarkable comebacks, and demonstrations of team spirit.

All of California's Olympians made us proud during the 16 days of Barcelona, including several that deserve specific mention:

Pablo Morales of Santa Clara, CA, who left swimming to pursue law school after a silver medal finish in the 1984 games and then failing to make the team in 1988, came back in 1992 to fulfill his dreams of gold. After qualifying for the U.S. team, Morales went to the Olympics as the old man of U.S. swimming, and he came home with the gold in the 100-meter butterfly, beating his younger competitors. As President Bush has said, "youth and inexperience are no match for maturity and determination."

The United States men's volleyball team, made up entirely of Californians, lost a first round match to the Japanese team on a questionable appeal. Donning striking new hairstyles, or lack thereof, in a sign of solidarity, the U.S. team came back to take a bronze medal.

In track and field, UCLA alumna Jackie Joyner-Kersee from Canoga Park, CA, again proved herself to be the world's greatest female athlete by winning the heptathlon. Her fellow Bruin Gail Devers, who just 2 years ago was bedridden and suffering from severe complications from Graves disease, astonishingly won the gold medal in the 100 meters. She also held a significant lead in the 100-meter hurdles until the last hurdle when she tripped and fell, courageously crawling across the finish line to place fifth. Devers was just days away from having her feet amputated and miraculously, she came back to take the gold in a truly Olympian effort.

Quincy Watts, from Los Angeles, shattered the Olympic record on two occasions on his way to an Olympic gold medal in the 400 meters. He was joined on the award stand by fellow Californian and defending Olympic 400-meter champion Steve Lewis, who won the silver.

Californians fared equally as well in Olympic waters. Summer Sanders, who entered the Olympics as the hope of the U.S. women's swimming team, won a bronze in the 400-meter individual medley (IM), a silver in the 200-meter IM, and a gold in the 200-meter butterfly. After her amazing performance at the 1988 Seoul Olympics, Janet Evans continued her golden efforts by winning the 8000-meter freestyle.

The Olympics are much more than an athletic spectacle. Today as the world watches civil war tear apart Bosnia-Hercegovina, as horrible drought plagues East Africa, as the former Soviet Union struggles to cast the shackles of communism, the games stand out as an example of the indomitable human spirit. Athletes come together, put aside their differences, and participate in a pure form of competition.

I congratulate all the members of the U.S. Olympic team, and I look forward to the 100th anniversary of the modern Olympiad in Atlanta in 1996 and to the continued success of America's Olympic athletes.•

HONORING CHRIS BYRD

• Mr. RIEGLE. Mr. President, I rise today to pay tribute to a truly outstanding young man from my hometown of Flint; Chris Byrd. This young man made Michigan and America proud when he won the silver medal in middleweight boxing at the Olympic games in Barcelona, Spain.

Chris' Olympic win is a step in his goal to be a professional world boxing champion. Under the guidance of his father, boxing coach Joe Byrd, and with the love and guidance of his mother, Rose, and his seven brothers and sisters, Chris worked and trained hard for this very special moment.

Watching his older brothers bring home boxing trophies, Chris decided at age 5 that he wanted to bring some home, too. And he did, from the 1981 National PAL Tourney Champion all the way to an Olympic silver medal. The courage, determination and good sportsmanship of this outstanding young man holds promise for more awards in the future.

Chris is an example of what is best about young men his age. He has chosen a path of hard work, dedication to his family, and the desire to be the best. Despite a tough training schedule, Chris did not neglect his education at Mott Community College. He is a model and inspiration to young people to aim high and work hard and a source of pride to us all.

Again, let me commend Chris on his remarkable achievement in the Olympic games, and wish him continued success in his career.•

TRIBUTE TO BILL PALECK

• Mr. DECONCINI. This Friday evening in Tucson, AZ, William F. Paleck will be honored by his friends and colleagues for his outstanding service as Superintendent of Saguaro National Monument. Bill recently accepted a new assignment as Superintendent of North Cascades National Park near Sedro Woolley, WA. With the indulgence of my colleagues, I would like to take a moment to recognize the achievements of this outstanding public servant.

Bill began working for the National Park Service in 1967 as a seasonal trail laborer at Saguaro in his native Tucson. After graduating with honors from the University of Arizona in 1970 in international relations and English literature, Bill began working at Sequoia and Kings Canyon National Parks in the Sierra Nevada. It was during this assignment that Bill displayed his considerable talents as a ranger, tree sawyer, firefighter, and road patrolman and forestry technician.

Over the years, Bill has served in various positions in New York, northern Arizona, and Alaska. In 1986, after building a very respected park operation in the Alaska wilderness, Bill was moved back to his native Arizona as operations coordinator for 11 National Park Service units in the Southern Arizona Group Office in Phoenix. Obviously glad to be back home, Bill was rewarded for his efforts in 1967 when he became superintendent at Saguaro in Tucson, where I have gained tremendous respect for his abilities.

I have worked on several projects with Bill including the construction of the Red Hills Visitor Center at the west unit of Saguaro. I was impressed with the fact that Bill went to the area residents and sought their support before seeking funding for this most worthy project.

While I have tremendous admiration for Bill's abilities as a park ranger, I am most impressed by his skills as an innovator and consensus builder. Community leaders often seek his expertise regarding an array of issues and it is not uncommon to see Bill on television or quoted in the newspaper for his very credible knowledge.

Mr. President, this Senator has a great deal of personal respect for Bill Paleck. He has received many awards for his achievements including a Secretarial Commendation, Superior Performance Awards, commendations from the Pima County Planning and Zoning Commission and the mayor of Tucson. Bill finds time to be a member of the Tucson Rotary Club, and has served on the board of directors for the Federal Executive Association, Boy Scouts of America, American Youth Soccer Organization, the Rincon Institute, and Saguaro Forest Associates. He also serves on the Western Region Cooperative Education Council, the Western Region Science Program Management Advisory Board, and the National Resource Inventory and Monitoring Task Force.

Mr. President, I ask for this body to join me in conveying this country's gratitude for Bill's over 20 years of devotion and exemplary service to the United States of America and wish Bill, his wife Marcie, and sons Brian and Tyler, the very best in their new home in Washington. We, in Arizona hate losing him.

Mr. President, I ask that an article that appeared in the Arizona Daily Star on July 25, be reprinted in the RECORD.

I yield the floor.

The article follows:

[From the Arizona Daily Star, July 25, 1992]

GLACIERS BECKON SAGUARO MONUMENT'S PALECK

(By Teena Chadwell)

Next month, Bill Paleck will trade in chollas and saguaros for glaciers and snow-capped mountain peaks.

Paleck, 43, superintendent of Saguaro National Monument, is the new head of North Cascades National Park and Ross Lake and Lake Chelan national recreation areas in northeast Washington state.

Although his current office has a stunning view of wildlife and desert flora at the base of the Rincon Mountains, in late August, Paleck will take over the 700,000-acre park in Washington that includes the largest number of glaciers in the lower 48 states.

Last week, disc jockeys at a Washington radio station called him, questioning his ability to run a glacier-filled park because he is transferring to the Pacific Northwest from the desert Southwest.

"I told them that I thought about 7½ years in Alaska and doubt six years at Sequoia and Kings Canyon in California would help," he said, referring to two national parks where he has worked as a ranger.

Although his initial ambition to be an international lawyer left him with an unusual college degree for a park ranger—he majored in international relations and English literature at the University of Arizona—he knew his future would be with the national parks after he spent the summers of 1967 and 1968 working at Saguaro for $1.98 an hour.

"I enjoyed the people I was working with, and I enjoyed being out-of-doors, the 1967 Rincon High School graduate said.

In 1970, Paleck skipped college commencement to work as a back-country ranger for Sequoia and Kings Canyon national parks in northern California.

"That's kind of an idyllic lifestyle," he said.

A broken leg from a biking accident led Paleck to realize that he would probably live a little longer by managing national parks, and he spent nearly two years as a park ranger at Vanderbilt Mansion in Hyde Park, N.Y.

After hearing horror stories about New York, "I was scared for almost the whole two years," he said.

Next came a move to Wupatki and Sunset Crater national monuments in northern Arizona, then 7½ years in Alaska's 13.6 million-acre Wrangell-St. Elias Park.

Since 1988, Paleck has been in Arizona, where he spent about a year as chief of operations at the Southern Arizona group office in Phoenix. In April 1987, Paleck was appointed superintendent of Saguaro.

Although the decisions Paleck makes regarding development near the monument generate controversy in the community, friends and foes alike express dismay at losing him to another park.

Ed Moore, a Republican member of the Pima County Board of Supervisors, said that he has disagreed with Paleck several times but, "I have tremendous respect for the man."

In 1987, the Park Service proposed closing Picture Rocks Road through the Tucson Mountains unit of Saguaro National Monument. Although the road was a popular commuter route and an angry public outcry arose, Paleck "stayed right on course" and never wavered in his opinions, Moore said.

Greg Lunn, another Republican member of the Board of Supervisors, also praised Paleck.

"Unlike a lot of people in his position, he's been willing to stick his nose in community issues which are very controversial, such as the Rocking K rezoning and federal expansion of the east monument," Lunn said.

Robert Ferreira, vice president of the Tucson Mountains Association, said that even through he and Paleck "didn't always see eye to eye," he still found him to be personable, articulate and fair."

"It's a real tough juggling act and he often inadvertently gets put between the development community and the environment or neighborhood community," Ferreira said. "It's impossible for someone in his position to appease both sides."

No one has been appointed yet as the new superintendent, Paleck said.

With his new assignment about 1,600 miles from the desert monument, there are some things that have no substitute.

"I'll miss the smell of greasewood right after the rain. . .and I'll miss waking to the coo of the mourning doves," Paleck said.

Bursting with information about the monument, Paleck is obviously a park ranger at heart.

During a 30-foot walk to a picnic table at Saguaro, Paleck managed to point out two tidbits of knowledge.

"Here's the trivia question of the day," he said. "What are these ramada roofs made out of?"

The answer: surplus bomb-bay doors of U.S. B-25 bombers from World War II.

Also, Paleck plucked a few jojoba beans and checked to make sure that everyone was familiar with the desert plant.

Leaving the park in the hands of a new superintendent will be an easy transition, because a solid foundation is in place to guide the monument into the next century, Paleck said.•

TRIBUTE TO OLYMPIAN, CATHY O'BRIEN

• Mr. SMITH. Mr. President, I rise today to congratulate Cathy O'Brien, a resident of Durham, NH, for her outstanding performance at the 1992 summer Olympics in Barcelona. This is a tremendous accomplishment for Cathy and everyone in the Granite State is very proud of her.

Cathy, who placed 10th in the marathon, trained long and hard for Barcelona. She is 1 of 122 athletes to represent the United States this summer alongside the world's most elite athletes. The people of New Hampshire have been watching her and all of the other American athletes with great enthusiasm.

Cathy began her running career by establishing the national high school 10K record of 33:26:53 in 1983. She is five-time New Hampshire State high school cross country champion and at age 16 was the youngest competitor in the 1984 Olympic marathon trials, finishing ninth. Cathy placed first in the 1991 Los Angeles marathon, setting a course record, and placed second in the 1992 U.S. Olympic marathon trials. We admire her skill and dedication to her sport that has made her such a champion.

As you know, the Olympics represent the pinnacle of success in an athlete's career. New Hampshire is very proud of Cathy O'Brien and her 10th place finish in the marathon. She is a great ambassador from New Hampshire and we proudly look forward to her return to the Granite State.•

FIRST ANNIVERSARY OF REESTABLISHMENT OF UKRAINIAN INDEPENDENCE

• Mr. RIEGLE. Mr. President, I rise to recognize the first anniversary of the reestablishment of an independent and unified Ukraine. Since its initial creation of January 22, 1919, this has been a dream of the Ukrainian people. From the millions living on Ukrainian soil to the millions scattered in diaspora throughout the world, the hope for a free and sovereign Ukraine has lived on in the souls of Ukrainians around the globe. Although wars, divisions, and political oppression destroyed the reality of an independent Ukraine, the dream was never extinguished.

In the wake of the dissolution of the Soviet Union, Ukraine emerged again as a free Nation. The country's long history of Communist domination has now been transformed into a unified voice for freedom. In the midst of geographic transformations around the world, Ukraine has begun to reaffirm its cultural, linguistic, and political traditions.

As in the short-lived Ukrainian republic which existed earlier this century, the strong commitment of the Ukrainian people to democracy manifested itself when free elections were held throughout the country. And even before that historic vote, it is difficult to forget the momentous day in January 1990, when hundreds of thousands of Ukrainian citizens joined hands in a human chain linking Kiev with Lviv. Spanning nearly 300 miles, the bond spoke decisively to the world of the aspirations of the newly reborn Nation.

The long-awaited official moment of independence came on August 24, 1991. On that date, the anniversary of which we celebrate this month, the Parliament in Kiev announced that Ukraine would join the family of nations as a free and sovereign republic. The historic proclamation of the Fourth Universal of 1918 had finally become reality:

> Nation of Ukraine! By virtue of your might, will, and word, there arose on Ukrainian land the free Ukrainian National Republic. The time-honored dream of your fathers, fighters for freedom, and empowerment has been fulfilled. * * * From today the Ukrainian National Republic becomes an independent, separate, free, sovereign State of the Ukrainian Nation * * *.

As Ukrainian-Americans from Kiev to Detroit gather in celebration of the first anniversary of the reestablishment of independence, they are to be saluted for their role in this victory. Hope, determination, and prayer—even from thousands of miles away—acted as an inspiration for the millions who remained in the homeland. The bond between Kiev and Lviv that was visibly portrayed in 1990 was only a small link compared to that joining of the hearts of Ukrainians across the Atlantic Ocean.

I am proud to have worked with Ukrainian-Americans from Michigan in support of a free and independent Ukraine. The State of Michigan shares their profound happiness on this first anniversary. As Ukraine enters its second year of independce, it is my hope that Ukraine will prosper as a free and democratic Nation and that its people and their proud traditions will endure.•

AVRAHAM HARMAN

• Mr. LAUTENBERG. Mr. President, I rise today to honor a great leader, visionary, and friend, Ambassador Avraham Harman. Ambassador Harman's career reflects his enormous dedication to Israel, to helping Soviet Jews, and to the pursuit of knowledge. Although he died on February 23, 1992, his rich legacy of contributions lives on for future generations.

Even though some time has passed, I want to place in the RECORD for posterity a review of his extraordinary life. He was a dear and valued friend who welcomed me to Israel in the early seventies in such a positive manner that I helped establish the Lautenberg Center for Tumor Immunology at the medical school of the Hebrew University during his presidency at that distinguished institution. A friendship developed that endured from our earliest meeting until his death.

Born in London in 1914, Ambassador Harman learned Hebrew from his father, a Hebrew language instructor. Following graduation from Oxford's Wadham College in 1935, where he received a law degree, Ambassador Harman served on the staff of the Zionist Federation in London, an organization which supported the State of Israel. In 1938, he emigrated to Jerusalem and served as an emissary to the Zionist Federation in South Africa in 1939. In 1950, he saw his dream of an independent Israel come true.

With the founding of the State of Israel, Ambassador Harman was named deputy director of the Press and Information Division of the Ministry of Foreign Affairs in 1948. In 1949, Ambassador Harman was appointed Israel's first consul general in Montreal. He joined the Israel delegation to the United Nations in New York as counselor in 1950, and headed Israel's Office of Information in the United States, a post he held for 3 years. Ambassador Harman then served as consul general in New York from 1953 to 1955.

Ambassador Harman returned to Jerusalem to become assistant director general of the Ministry of Foreign Affairs. A year later, he was elected to the Jewish Agency Executive.

From 1959 to 1968, he served as Israel's Ambassador to Washington. In this capacity, Avraham Harman successfully argued for United States military support for Israel to offset Soviet military support for neighboring Arab counties. He was closely involved in diplomatic contacts with the Johnson Administration prior to the 1967 Arab-Israeli war. After the war, he helped lay the foundation for a renewed alliance between the United States and Israel.

After leaving Washington, Ambassador Harman was elected president of Hebrew University in Jerusalem, a position he held from 1968 to 1983. During that time, he led the university through a time of significant change. He led the effort to rebuild the original campus on Mount Scopus, which had served as an Israeli garrison after the 1948 war. Avraham Harman spearheaded and passionately promoted the origination of the Rothberg School for Overseas Students, which has facilitated many academic exchange agreements with institutions around the world. Despite his extensive responsibilities as president, he was always available for faculty, staff, and students and was respected as a good listener and fair mediator.

Mr. President, Ambassador Harman's tenure as president had such an impact that Hebrew University appointed him chancellor, a position held until his recent death. In addition, in 1984, the university senate awarded Ambassador Harman an honorary doctorate "in recognition of a lifetime of devotion to Zionism and the State of Israel and in profound appreciation of his matchless contribution to the Hebrew University." The Avraham Harman Science Library on the Givat Ram campus stands today as a tribute to his years at the university.

Ambassador Harman served as president of the Israel Council for Soviet Jewry and served twice as chairman of the Council of Heads of Israeli Universities. He was awarded honorary degrees at many universities and colleges including Yeshiva University, Brandeis University, New York University, Hebrew Union College, Pepperdine University, the University of Pennsylvania, and is an honorary fellow of his college at Oxford.

Mr. President, Ambassador Harman's death is certainly a loss to the Israeli people. It is also a tremendous personal loss to his wife, Zena, his children, Naomi Chazan, Dr. Ilana Boehm, David, and his eight grandchildren.

Admired, loved, and respected by family, friends, colleagues, and students, Avraham Harman was a special man who left a lasting mark on Israel's future and on the many people he touched through his years as a diplomat and as president of Hebrew University. I miss him.•

50TH ANNIVERSARY—FIRST SPECIAL SERVICE FORCE

• Mr. BAUCUS. Mr. President, I rise today to pay tribute to the First Special Service Force on the occasion of its 50th anniversary, and to honor these men who have served their country.

The First Special Service Force, a unique United States-Canadian unit, was under the command of West Point graduate Lt. Col. Robert T. Frederick. The elite assault unit was formed in Helena, MT, on July 20, 1942, and trained at Fort Harrison.

Volunteers for what could be a no-return mission came from all over the United States and Canada. They were formed into three 600-man regiments, a service battalion, and a small air detachment. The men, trained in all phases of demolition, weapons utilization, mountaineering, skiing, and survival skills, were intermixed without regard for national origin.

Among the Allied high command, who closely followed the progress of the training of this unique assault unit, were Harry Hopkins, adviser to President Roosevelt; Gen. George Marshall; Prime Minister Churchill; Lord Louis Montbatten, Chief of Britain's Combined Forces; and General Eisenhower, Chief of the War Department's Operations and Plans Division.

Throughout history many stories have been written about unforgettable military units. However, there has never been an outfit like the First Special Service Force.

The men came from all over the United States and Canada, but the citizens of Helena regard them as our own hometown boys and these men will receive a warm welcome.

I would like for my colleagues to join me in recognizing the First Special Service Force, World War II's famous Devil's Brigade, on this momentous occasion of their 50th anniversary.•

AIDS UPDATE

• Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of June 30, 1992, 230,179 Americans have been diagnosed with AIDS; 150,114 Americans have died from AIDS; and 80,065 Americans are currently living with AIDS.

AIDS IN THE WORLD

Mr. President, the Harvard-based Global AIDS Policy Coalition has issued the first comprehensive report on global AIDS to be issued since the start of the pandemic. The report, called "AIDS in the World 1992," is fact-filled and it is alarming.

More than a decade after AIDS was discovered, the disease is spreading while national and international efforts against AIDS are faltering. The authors of the report call the HIV/AIDS pandemic "dynamic, volatile, and unstable." They call for governments, nongovernmental organizations, international and national institutions, and others involved in the fight against AIDS to seek a new sense of "vision, creativity and commitment" to curb the spread of this global disease.

"AIDS in the World" reaches several sobering conclusions.

First, the report points out that the magnitude of the pandemic has increased over a hundredfold since AIDS was discovered in 1981 and the spread of HIV has not been stopped in any community or country. In 1981, an estimated 100,000 persons were infected with HIV worldwide. By early 1992 at least 12.9 million people around the world were infected, about 2.6 million had developed full-blown AIDS, and 2.5 million of those have died. In the United States, at least 40,000 to 80,000 new HIV infections will have developed during 1992.

Second, the pandemic becomes more complex as it matures. Every large metropolitan area affected by the pandemic—Miami, New York, Bangkok, London, Amsterdam, Sydney, Rio—now contains several sub-epidemics of HIV going on at the same time. Women are the fastest growing group of newly infected in the industrialized world. Each week, 15,000 women contract the HIV. In 1990, the proportion of HIV infected adults who are women was 25 percent; in 1992, it is 40 percent. The epidemic continues to evolve into differing populations; in Brazil, for example, the proportion of HIV infections linked with injected drugs has increased 100 percent since the early 1980's, and in the Caribbean, heterosexual transmission has now replaced homosexual transmission as the major mode of HIV spread.

Third, the pandemic's major impacts are yet to come. Between now and 1995, the number of people developing AIDS—3.8 million—will exceed the total number who developed the disease during the entire history of the pandemic until now. The number of children orphaned by AIDS will more than double in the next 3 years, from approximately 1.8 million today to 3.7 million by 1995.

By the turn of the century 24 million adults and several million children are likely to have developed AIDS—about 10 times as many as today.•

VISIT OF ISRAELI PRIME MINISTER YITZHAK RABIN

• Mr. CRANSTON. Mr. President, I rise to welcome the Prime Minister of Israel, Mr. Yitzhak Rabin, to the United States, and to Capitol Hill today. With his visit this week, the Prime Minister has embarked upon an improved relationship with the United States. I, like many of my colleagues, am genuinely pleased that our relations have gotten back on track.

Mr. Rabin's achievements since his election on June 23, have been truly exceptional. In fact, he has instigated a sweeping reversal of policies in Israel which now hold great promise for peace in the region.

Indeed, the mere election of the former chief of staff of the Israeli Defense Forces reflects the people of Israel themselves: a strong tradition of humanity and passion, balanced by a necessary and serious caution about their security. Rabin's election has been a boost for the Israeli people.

In this election, the Israelis voted for the peace process; they voted for improved relations between our two countries; they voted for a more constructive and positive absorption process for the immigrants for whom they have so long been waiting.

Never have the prospects for an Israeli-Palestinian peace looked better. In a genuine move toward peace, the new Prime Minister, in his inauguration speech, invited leaders of other Arab countries—such as King Hussien of Jordan, President Hafez el-Assad of Syria—to meet him in Jerusalem. One week later, he took the bold step of flying to Cairo to meet with President Hosni Mubarak of Egypt. The next week, he announced not just a major scaling-down in the grand design of settlements, but also a partial settlement freeze in the disputed territories in the West Bank.

Mr. Rabin does not talk about the peace process; he has taken the more active role in calling it the making of peace.

Mr. President, this is the Israel I have always admired and supported. This is the government that the vibrant Israeli people elected to respond to the increasingly disparaging circumstances that were supporting them.

I have never supported the Republican administration's unconscionable linkage of loan guarantees for immigrant absorption to progress on the peace process. I have continuously advocated for immediate approval of $10 billion in loan guarantees to let the Israelis move forward in their challenging humanitarian task of absorbing hundreds of thousands of refugees.

Jewish immigration from Ethiopia and the U.S.S.R. to Israel had been a cornerstone of our foreign policy for over 20 years. I have always believed that as the prime advocates for freedom of emigration the United States has an obligation to help resolve the almost insurmountable problems that Israel, a tiny country of 4 million people, necessarily faces in trying to absorb one million immigrants. If any country can meet this challenge, Israel has demonstrated that it could.

Indeed, Mr. President, it has always been my position that the United States of America should rejoice in this great victory for freedom. The United States has a moral obligation, and even an economic interest in granting those guarantees.

Now, the administration has finally realized that the loan guarantees should be extended to Israel. I am delighted that President Bush has come around. And I am optimistic that with United States backing, Israel will now be able to promote more trade with other Western countries.

These guarantees will do a great deal to advance the absorption process. They will help ignite Israel's over-burdened economy. They will go a long way to improve United States—Israel relationship. And they will help support the democratic forces in Israel which are the basis of this young nation.

There is nothing more that we, as American supporters of the State of Israel, can do to encourage the peace process. I commend Prime Minister Rabin for the courage and imagination he has exhibited thus far. I look to the future of Israel with encouragement and excitement, and am delighted that the United States will once again be a full partner in its development.●

REPORT ON PRICE INVERSIONS

● Mr. SIMON. Mr. President, on July 24 I made a statement to the Senate on a hearing the House Energy and Power Subcommittee conducted on H.R. 2966, the Petroleum Marketing Competition Enhancement Act. Evidence presented at this hearing illustrated that major oil companies are participating in predatory pricing practices. The marketer witnesses cited numerous examples of price inversions which have had devastating impacts on them and their companies.

One particular marketer described in my report was David Perry, from Beaverdam, OH, who attributed a loss of at least $100,000 in 1991 directly to the price inversions his business had to face.

Since then, I have received more than 30 reports of price inversions that have occurred throughout Ohio from late May to the present time.

In Hillsboro, OH on May 26, 1992, Marathon's retail price at refiner direct operated outlets was $1.009. The wholesale price, including taxes and freight, was $1.03.

Again in Hillsboro, OH, on July 15, 1992, Marathon was selling at refiner operated direct outlets at $0.959. The wholesale price, including taxes and freight, was $0.9735.

In Palatka, FL, on June 3, 1992, Coastal was selling at a retail price at its refiner direct operated outlets at $1.0690. The wholesale price Coastal was selling at was $1.0954.

Today the Senate Judiciary Committee is scheduled to consider legislation introduced by my friend from Arizona, Senator DECONCINI. This legislation addresses, among other things, the price inversion problem that is so prevalent all over the country.

I continue to encourage all groups who have an interest in petroleum marketing legislation to work at reaching a compromise agreeable to everyone. I believe this issue is very important. We must not lose a good chance to correct the problems that are occurring in the retail gasoline market, and that are driving independent service station dealers and petroleum marketers out of business.●

THOMAS PAINE

● Mr. SYMMS. Mr. President, our colleagues have heard me speak about the groundswell of support for Thomas Paine from educators and others nationwide.

Today, as when I introduced this legislation with 71 original cosponsors last April, I wish to share the resounding affirmations of support to honor Thomas Paine on the ground of the Capitol of the Nation he inspired.

As these letters show, Paine's message of freedom and protection of civil, religious, and property rights has friends from all parts of the political and ideological spectrum.

Congress itself represents Americans, with all of our diverse viewpoints, and as these letters attest—the perfect place to honor Paine is here at the intersection of Pennsylvania and Constitution on land the people of this Nation own.

It is time that America pay appropriate honor to our patriot already honored in France and England.

I ask unanimous consent that these letters be printed in the RECORD.

AFL–CIO,
Washington, DC, April 14, 1992.

DEAR SENATOR: The AFL–CIO strongly support S. Con. Res. 110 introduced in the Senate recently that would authorize construction of a monument to Thomas Paine in the District of Columbia. In the House H.R. 1628, introduced by Representative Nita Lowey (D–NY), also was strongly supported by the AFL–CIO.

Along with Washington, Jefferson and Lincoln, Thomas Paine left his imprint on the values that are America. He was the first to call for an end to slavery and the establishment of human rights around the world that continues to be the standard today. This legislation will provide Thomas Paine with a fitting tribute that will remind all Americans of his vast contribution to the creation of our Nation.

It is important to note that funding for the memorial will be raised from private donations without any expense to taxpayers. Also the proposed site is most appropriate, the corner of Pennsylvania and Constitution Avenues. It was, after all, in Pennsylvania that Paine was centered during his most glorious American period. And as early as 1776, in "Common Sense" he called for a written democratic constitution, despite his misgivings about some of the framers' handiwork.

Sincerely,
ROBERT M. MCGLOTTEN,
Director,
Department of Legislation.

AMERICAN ANTIQUARIAN SOCIETY,
Worcester, MA, July 8, 1992.

DEAR SENATOR KENNEDY: I write to thank you for your co-sponsorship of S. Con. Res. 110. This legislation will allow the private sector to construct a memorial to Thomas Paine on publicly owned land at the intersection of Pennsylvania and Constitution Avenues in Washington.

It is time that a memorial to this patriot be erected in the capital. Among his other contributions, Paine's political career demonstrated the extraordinary power of the printed word in shaping historical events. As you know, the American Antiquarian Society is dedicated to preserving and making accessible the printed record of the nation's past.

With thanks and best wishes,
Sincerely yours,
MARCUS A. MCCORISON,
President.

AMERICAN ANTIQUARIAN SOCIETY,
Worcester, MA, July 8, 1992.

DEAR MR. EARLY: I write to urge you to vote to support S. Con. Res. 110 when it comes before the House of Representatives. This legislation will allow the private sector to construct a memorial to Thomas Paine on publicly owned land at the intersection of Pennsylvania and Constitution Avenues in Washington.

It is time that a memorial to this patriot be erected in the capital. Among his other contributions, Paine's political career demonstrated the extraordinary power of the printed word in shaping historical events. As you know, the American Antiquarian Society is dedicated to preserving and making accessible the printed record of the nation's past.

With thanks and best wishes,
Sincerely yours,
MARCUS A. MCCORISON,
President.

THE UNIVERSITY OF ARIZONA,
Tucson, AZ, March 31, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: This letter is to register my support of proposed legislation to allow the Thomas Paine Memorial Foundation to place a memorial statue of Paine on the U.S. Capitol grounds near the intersection of Pennsylvania and Constitution avenues. That is a beautiful part of the Capitol grounds and a modest memorial to Paine there seems fitting given his role in the achievement of American independence.

Paine should have been recognized long before this. His *Common Sense* was of major significance in rousing American support for independence. While he denounced monarchy and urged the colonists to action, others debated the shape of our government to come. His ideas and stirring rhetoric helped persuade many citizens to support the revolutionary movement. His other writings, *The American Crisis* and The Rights of Man, developed his earlier ideas and added to the debate over independence and the sort of government the new nation should develop. Of all the significant figures of the revolutionary era, he is probably the least well-remembered, and he certainly deserves some recognition.

Sincerely yours,

ROGER L. NICHOLS,
Acting Department Head.

ARKANSAS STATE UNIVERSITY,
State University, AR, July 2, 1992.

Senator DALE BUMPERS,
U.S. Senate, Washington, DC.

DEAR SENATOR BUMPERS: Senator Steve Symms and David Henley of the Thomas Paine Association have called my attention to the matter of S. Con. Res. 110. I urge your support and especially cosponsorship of the measure. As one who teaches American history, I am especially aware of the work Tom Paine did for liberty both in this country and abroad. Although we are in summer school and not in regular session, I know that a departmental resolution endorsing this measure would pass unanimously. We may well chose to take that step next month when we assemble. By that time I would like to hear your comments regarding this historically important, bipartisan matter.

Respectfully,

MICHAEL B. DOUGAN,
Professor of History.

BATES COLLEGE,
Lewiston, ME, July 1, 1992.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: I wish to bring to your attention S. Con. Res. 110 to authorize construction of a monument to honor Thomas Paine. Paine played a key role in the process leading to the American Revolution, and his contribution ought to be recognized.

I urge you to encourage the Senate Rules Committee to report the resolution and to bring it to a vote on the floor.

Thank you for your immediate attention.

Sincerely yours,

DOUGLAS I. HODGKIN,
Professor.

BOISE STATE UNIVERSITY,
Boise, ID, July 7, 1992.

Re. Senate Concurrent Res. 110
Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I am pleased to add my support to the bill in question that would authorize construction of a memorial in honor of Thomas Paine. Certainly he was instrumental in motivating the American people in their struggle against Great Britain. It is surprising that nothing has been done in this regard over the years.

Sincerely,

WARREN L. VINZ,
Professor of History.

BELLARMINE COLLEGE,
Louisville, KY, June 30, 1992.

Hon. WENDELL H. FORD
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I am writing this letter to ask your support and consideration of S. Con. Res. 110. This bill would create a memorial to Thomas Paine, and such an action would be a fitting tribute to this founding father and political philosopher of our nation.

I ask that you take action on this bill before the end of the current session of Congress.

Thank you for your attention to this matter.

Sincerely,

MICHAEL G. KRUKONES,
Professor of Political Science.

UCLA,
DEPARTMENT OF HISTORY,
Los Angeles, CA, July 29, 1992.

Senator ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: I would greatly appreciate your help in getting the Senate bill supporting the erection of a memorial statue of Thomas Paine at the intersection of Pennsylvania and Constitution Avenues reported out of the committee where it now languishes. As you know, the House has unanimously passed a supportive measure, and the Senate bill has 73 co-signers, including you. (I am very grateful that you became a co-sponsor of the bill.) The effort to give Paine the honor long due him has almost succeeded; it would be a great disappointment now to have it die with this Congress.

As a past president of the Organization of American Historians, I can assure you that Paine and his marvelous pamphlet Common Sense are two things all American students learn about. Thus, our citizenry will both appreciate and be grateful for your timely support of this project.

All good wishes.

Yours sincerely,

JOYCE APPLEBY,
Professor of History, Past President of the Organization of American Historians.

UNIVERSITY OF MONTREAL,
DEPARTMENT OF PHILOSOPHY,
Montreal, CAN, May, 5, 1991.

Hon. WILLIAM CLAY,
Chairman, Subcommittee on Libraries and Memorials, U.S. House of Representatives, Washington, DC.

SIR: I am told that bills have been introduced in the United States House of Representatives in the United States Senate authorizing the construction of a monument to Thomas Paine in Washington, D.C.

In light of Paine's enormous contributions to the United States of America and, indeed, to the world, a monument is more than appropriate. As a scholar studying XVIIIth Century philosophy, I certainly can demonstrate both the consistency and originality of Paine's contribution to moral and political theories, beginning as it did, in his great pamphlet entitled Common Sense.

Truly yours,

LOUISE MARCIL-LACOSTE,
Fellow of the Royal Society of Canada, President of the Canadian Philosophical Association.

CENTRE COLLEGE,
Danville, KY, July 30, 1992.

Senator WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I write to encourage you to support S. Con. Res. 110 which proposes: "To authorize the construction of a monument on the United States Capitol Grounds to honor Thomas Paine." As you know Senator Steve Symms of Idaho introduced this bill with 71 co-sponsors on April 17, 1992. A key feature of the bill which is especially noted during a time of national economic distress states: "The United States shall not pay any expense of the establishment of the monument."

Thomas Paine was a self-made man whose stirring words in Common Sense were read by thousands of English-Americans on the eve of the American Revolution. Moreover, his Crisis papers which included the words: "These are the times that try men's souls . . . summer soldiers and sunshine patriots. . . ." inspired those who stayed the course and won the Revolution and acquired our birthright in the Treaty of Paris of 1783.

I ask you, as my senator, and as Chairman of the Senate Rules Committee, to bring this resolution to the full Committee so that you and your colleagues in the Senate and House can vote on this measure which will honor Thomas Paine and the founding of our blessed country.

Very sincerely,

CHARLES R. LEE, Jr.,
Matton Professor of History.

UNIVERSITY OF CHARLESTON,
Charleston, WA, April 9, 1992.

Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate, Washington, DC.

DEAR SENATOR ROCKEFELLER: I want to add my support for a bill being introduced by Senator Steve Symms, Idaho, to erect a memorial to Thomas Paine, and to urge that you join a large number of Senators and 215 House members in co-sponsoring the bill. Both Representative Wise and Representative Rahall have signed on to co-sponsor the House Bill.

The legislation will allow the private sector to construct a modest memorial to Paine on public land at the intersection of Pennsylvania and Constitution under the supervision of the Architect of the Capitol. In these times which in their own way try men's souls. I seems appropriate, as we conclude our bicentennial celebrations, to remember Thomas Paine and the fundamental principles for which he spoke.

The West Virginia Historical Association is meeting April 10–11 in Buckhannon, and I anticipate some statement of support will come from that group, also. We all thank you for your consideration.

Sincerely,

R. EUGENE HARPER, PH.D.,
Professor of History.

THE GRADUATE SCHOOL AND
UNIVERSITY CENTER,
New York, NY, March 19, 1992.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR PAT: Like every other historian, I am astonished that there is no memorial for Thomas Paine in the nation's capital; and I trust that Congress will take action in the near future to remedy this glaring omission.

Tom Paine, as you well know, was in effect an honorary Founding Father. He played a brilliant and vital role in awakening popular support for independence and thereafter in propagating the rights of man as a universal doctrine; and he deserves to be remembered by an age whose great animating forces are national independence and human rights.

The proposed site, which I understand to be on the Capitol grounds at the intersection of Pennsylvania and Constitution Avenues, seems eminently appropriate. After all, Paine wrote Common Sense while living in Pennsylvania, and the Constitution can be considered one of the fruits of his work.

As the preeminent scholar in the Senate, you are a natural to lead the fight to educate a new generation about Paine. The historical community hopes very much that you will join in co-sponsoring the Symms bill.

Yours ever,

ARTHUR SCHLESINGER, Jr.

Democrats,
Seattle, WA, March 21, 1992.

Hon. Brock Adams,
U.S. Senate, Washington, DC.

Dear Senator Adams: I have recently discovered that Thomas Paine, one of our nation's first leaders to fight for equal rights for ALL Americans, has not been memorialized in our nation's capitol.

As a Democrat who believes as you do in justice and equality, I feel a grave error has been made in not properly recognizing Thomas Paine—the first public advocate for the abolition of slavery, the author of Common Sense, and a strong supporter of women and their rights.

I have discussed this matter with other members of the King County Democratic Central Committee and we would like to urge you to co-sponsor legislation by Senator Steve Symms (R-Idaho) that would allow for the construction of a modest, but long overdue, statue of Paine at the intersection of Pennsylvania and Constitution Avenues. The proposed memorial will be built with voluntary contributions at no cost to the tax-payer.

As a member of the Rules Committee, and especially as someone who has fought for the same freedoms as Thomas Paine, I am confident you will see the necessity in supporting this legislation.

Thank you for your consideration.

Sincerely,

Heather C. Hamill,
Administrative Assistant,
King County Democrats.

March 23, 1992.

Hon. Steve Symms,
Hart Building, Washington, DC.

Dear Senator Symms: I am pleased to learn that you are sponsoring legislation designed to authorize the construction of a memorial for Thomas Paine on the Capitol grounds at no cost to the American taxpayer.

Mr. Paine was a brave and vital figure in the drive for American independence, and it is appropriate that his memory be honored with such a memorial. Your effort has my strong support, and I wish you success with it.

All best wishes.

Sincerely,

Thomas H. Kean,
President, Drew University,
Former Governor, New Jersey.

Eastern Kentucky University,
Richmond, KY, April 7, 1992.

Hon. Wendell Ford,
U.S. Senate,
Washington, DC.

Dear Senator Ford: The Department of History of Eastern Kentucky University endorses the legislation being introduced by Senator Steve Symms of Idaho to erect an appropriate statue to honor Thomas Paine at the intersection of Pennsylvania and Constitution Avenues in Washington, D.C. We urge your support of the proposed legislation in the Senate Rules Committee and on the floor of the Senate. We ask that you co-sponsor the legislation.

It is our understanding that similar legislation has been introduced in the House of Representatives and that it has over 220 cosponsors. It is also our understanding that the cost of the memorial will be met by voluntary contributions.

In our view, it is only fitting that, due to his important role in the American Revolution, Thomas Paine should be memorialized in the capital.

Thank you.

Sincerely yours,

David S. Sefton,
Professor and Chair.

George Washington University,
Washington, DC, August 6, 1992.

Hon. Steve Symms,
U.S. Senate, Washington, DC.

Dear Senator Symms: Your letter of June 19, 1992 was waiting for me when I returned to my office this week after a brief absence. I am sorry for the little delay in responding to it, for as I said to Mr. David Henley of the Thomas Paine Association in a telephone conversation this past Spring, your proposal to allow private donors to erect a memorial in honor of Thomas Paine has my wholehearted endorsement. I would be pleased to have my name associated with your project.

There can be no doubt that Thomas Paine deserves the recognition that you envision because of his part in establishing our nation. He well exemplifies an important perspective in the political ideology of the late eighteenth century. He cared deeply about the "people" broadly defined and argued forthrightly against monarchical and aristocratic forms of government. His radical writings are an important part of the American political and intellectual tradition.

I do hope that your S. Con. Res. 110 will win passage. To assist however modestly in that endeavor, I am sending copies of this letter to my own Congresspersons and to other key persons in Congress associated with the Resolution and mentioned in your letter.

With best wishes.

Sincerely,

Lois G. Schwoerer,
Kayser Professor of History.

Mario M. Cuomo,
Governor, State of New York,
Albany, NY, March 16, 1992.

Hon. Patrick Daniel Moynihan,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Pat: I am writing to express my strong support for proposed legislation to authorize construction of a monument to Thomas Paine in the District of Columbia.

Along with Washington, Jefferson and Lincoln, Thomas Paine left his imprint on the values that are America. The first to call for an end to slavery and a declaration of independence, Paine shared a vision of freedom and human rights with the world that continues to be the standard today.

Senate legislation similar to that sponsored by Nita Lowey in the House of Representatives will provide Thomas Paine with a fitting tribute that will remind all Americans of his vast contribution to the creation of our country.

Sincerely,

Mario.

Harvard University,
Department of History,
Cambridge, MA, July 1, 1992.

Hon. Edward M. Kennedy,
Senate Office Building, Washington, DC.

Dear Senator Kennedy: I write to register my support for S. Con. Res. 110 allowing the private sector to construct a memorial honoring Thomas Paine. Paine made a significant contribution to the establishment of American independence, and the plans of the Thomas Paine National Historical Association of New Rochelle, New York to finance, design, and construct such a memorial seems to me to be worth supporting.

I write this for myself and not for the Harvard History Department, whose views I have not canvassed, nor for Harvard University.

Sincerely,

Bernard Bailyn,
Adams University Professor.

The Historian,
Arizona State University,
Tempe, AZ, March 31, 1992.

Senator Dennis D. DeConcini,
U.S. Senate, Washington, DC.

Dear Senator DeConcini: This letter is to endorse Senator Symms' proposal to erect a statue memorializing Thomas Paine in Washington, D.C., to be paid for by private subscription.

As editor of the scholarly history journal with the largest number of individual subscribers in the world today, with editorial offices at Arizona State University, I believe this historical recognition is meritorious.

This message will be conveyed to you by the hand of Trevor Norris, assistant to Senator Symms.

With best wishes to you in your current deliberations, I am,

Yours sincerely,

Roger Adelson,
Editor.

Hoover Institution,
On War, Revolution and Peace,
Stanford, CA, July 10, 1992.

Hon. John Seymour,
U.S. Senate, Washington, DC.

Dear Senator Seymour: I am pleased to note that you are a co-sponsor of S. Con. Res. 110—the resolution authorizing construction of a memorial honoring Thomas Paine on the grounds of the U.S. Capitol—and I join the many supporters of this proposal in recommending favorable and prompt Congressional action.

Thomas Paine gave eloquent voice at the very outset of our national experience to ideas which helped define America, and which ever since have influenced the course of our history. Beyond this, his practical contributions to the cause of American independence were incalculably important. It is indeed fitting that we remember him appropriately on Capitol Hill.

Sincerely yours,

John Raisian,
Director.

University of Houston,
Office of the President,
Houston, TX, August 6, 1992.

Hon. Steve Symms,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator Symms: Shortly after Thomas Paine anonymously published his influential and history-making pamphlet Common Sense, a newspaper writer in South Carolina wrote: "Who is the author of Common Sense? I can scarce refrain from adoring him. He deserves a statue of gold."

Sadly enough, 216 years later, Thomas Paine is remembered in our nation's capital not with a statue of gold, but with no statue at all. This Englishman turned revolutionist, who displayed the innate ability to coalesce the varied divergent, political, social and economic groupings of Colonial America into the vibrant whole so needed in any revolutionary undertaking, deserves our recognition and ever-lasting gratitude.

That is why I most wholeheartedly support your resolution endorsing the idea of erecting a statue to Thomas Paine's memory, to be built with private funds, and to be installed near the U.S. Capitol, a structure that embodies, more than any other political institution in this country, the ideals for which he fought.

Shortly after Paine's death in 1809, artist John Wesley Jarvis published a cartoon of Paine lying in state, with the caption: "A man who devoted his whole life to the attainment of two objects—rights of man and freedom of conscience—had his vote denied when living, and was denied a grave when dead." Let's not perpetuate the injustice. Let's build a statue to this patriot, who just at the right moment, and with the right words, inspired our revolutionary armies to victory at many a crucial juncture during our war of independence.

Sincerely,

JAMES H. PICKERING,
President.

HOWARD UNIVERSITY,
COLLEGE OF ARTS AND SCIENCES,
Washington, DC, August 10, 1992.

Hon. STEVE SYMMS,
Senate, Washington, DC.

DEAR MR. SYMMS: I take pleasure in endorsing your proposal, expressed in S.Con.Res. 110, authorizing private donors to erect a memorial in honor of Thomas Paine on public land at the intersection of Pennsylvania and Constitution avenues. Paine richly deserves such recognition.

For the past twenty years, there has been growing scholarly and public interest in understanding the Revolutionary generation in its entirety. This quest emphasizes a more democratic understanding of the nation's past. It places heavy emphasis upon the role of ordinary citizens—women as well as men, and African Americans and Native Americans as well as European Americans—in the events that resulted in the birth of the United States of America.

Paine is an important figure in this effort. He was a man of ordinary background who spoke to the ages. A memorial to him in the nation's capital is overdue.

Please keep me informed about the progress of this important undertaking.

Sincerely,

JOSEPH P. REIDY,
Associate Professor.

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN,
Urbana, IL, July 7, 1992.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SIMON: I find myself in the unusual position of agreeing with Senator Steve Symms of Idaho! Please support S.Con.Res. 110 to erect the monument for Tom Paine.

Best wishes,

JAMES R. BARRETT,
Professor and University Scholar.

IRISH NATIONAL CAUCUS, INC.,
July 1, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS, AND ALL 99 OTHERS: On behalf of its many members in your State, the Irish National Caucus urges you to push for the immediate consideration of S. Con. Res. 110—the Thomas Paine Memorial legislation.

The Concurrent Resolution was introduced by Senator Steve Symms (R-ID) with 71 original co-sponsors. It would allow a modest memorial to be built on public land at no cost to the taxpayer (contact Trevor Norris at 4-6142 for more information).

To date there are 73 co-sponsors, yet the bill could die in the Senate Rules Committee unless you urge the chairman to allow it to be reported in time for the House to act on it.

Not only was Thomas Paine a great advocate of American freedom, liberty and democracy, but he also championed the same causes for Ireland. That is why we are in total support of S. Con. Res. 110.

Can we tell our members they can count on your following through with your co-sponsorship and pressing the committee and the Senate for passage? Please let us know at your earliest convenience.

Sincerely,

FATHER SEAN MCMANUS,
President.

KENTUCKY HISTORIAN LAUREATE FOR
LIFE, UNIVERSITY OF KENTUCKY,
INDIANA UNIVERSITY,
April 10, 1992.

Sen. STEVEN D. SYMMS,
Senate Hart Bldg, Washington, DC.

DEAR SENATOR SYMMS: I heartily endorse the erection of the Monument to Thomas Paine. If there's any American of the early national period who deserves special recognition it is Thomas Paine. I need not go into detail about common sense in the crises. These publications of Thomas Paine are too well known to be described in this brief communication. I would like to speak with emphasis of Thomas Paine's role in the creation of the Independent Commonwealth of Kentucky. The public good was a veritable bombshell at the very outset of the lengthy discussion of the separation of the West District of Virginia and creation of Kentucky. This was one of the important bits of political yeast which spurred on the movement for separation of Kentucky from Virginia. I have only to tell you that the experience of the separation of Kentucky and creation of the first independent Western State was to have a tremendous impact on the spread of statehood across the continent.

Again I can hardly see how The U.S. Senate would fail to place a reminder of this man who has such a broad seminal bearing on both the Republic and the States. I endorse without reservation the memorialization of Thomas Paine.

Sincerely,

THOMAS D. CLARK,
Professor Emeritus.

KENTUCKY HISTORICAL SOCIETY,
FRANKFORT, KY,
July 1, 1992.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: It is my understanding that a group of private citizens hopes to erect in the nation's capital a monument in honor of Thomas Paine. On behalf of the members and staff of the Kentucky Historical Society, I should like to express our support for such a project.

Americans of every generation need to remember the sacrifices of the men and women who risked their lives and fortunes in the quest for our country's independence. Paine certainly stands at the forefront of those early patriots.

It is indeed surprising that no monument to Paine is currently in place in Washington. We therefore applaud the efforts of the Thomas Paine National Historical Organization to redress that historical oversight.

Sincerely,

JAMES C. KLOTTER,
Director and State Historian.

UNIVERSITY OF KENTUCKY,
July 2, 1992.

Sen. WENDELL FORD,
U.S. Senate, Washington, DC.

DEAR SEN. FORD: We write to strongly urge you to support S. Con. Res 110 endorsing the erection of a memorial statute in honor of Thomas Paine. As you know, the bill has the support of nearly three fourths of your Senate colleagues along with 100s of historians, historical associations, and concerned citizens across the nation. It is also of great symbolic significance for Kentuckians. As our colleague Thomas D. Clark has already indicated to you, Thomas Paine's unflinching support for American independence helped inspire Kentuckians to create their own independent state 200 years ago. How appropriate, then, in celebrating our state's bicentennial that we should honor one of the leading voices for freedom ever to be heard in this country.

Clearly, then, this bill deserves a vote. Any further delay, as you well know, will kill it. I hope that you would want your Congressional colleagues to vote on this important bill before the legislative year comes to an end.

Thanks for your attention to this matter.

Sincerely yours,

DANIEL BLAKE SMITH,
Associate Professor of History
LANCE BANNING, *Professor of History*
GEORGE HERRING, *Chair, Department of History.*

UNIVERSITY OF KENTUCKY,
July 1, 1992.

Sen. WENDELL FORD,
U.S. Senate Office Bldg., Washington, DC.

DEAR SENATOR FORD: I write to urge you to support the bill sponsored by Senator Symms of Idaho (and co-sponsored by numerous other senators) permitting the erection of a memorial to Tom Paine at Constitution and Pennsylvania Aves. If you cannot sign on to this bill, I ask that in your capacity as chairman of the Senate Rules Committee, you allow the bill to go to the floor in the near future so that it can be voted upon this summer.

I don't imagine I need to tell you much about Tom Paine's contributions to the success of the American Revolution. I would like to say, however, that his *Common Sense* and *The Crisis*, especially the exhortation to be more than a "sunshine patriot," contributed greatly to the people's understanding of and support for the American cause. Victor Hugo said that the pen is mightier than the sword and Paine's pamphlets illustrate this truth; they were as an important factor in the Revolution's success as was battlefield heroism at Saratoga or Trenton. I was surprised to learn that there is no monument to Tom Paine in Washington which, as you know, is a city full of monuments.

I hope you can help out here.

Sincerely,

BRADLEY C. CANON,
Professor and Acting Chair.

THE UNIVERSITY OF KENTUCKY,
June 30, 1992.

Sen. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR WENDELL: Could you tell us why *S. Con. Res. 110* is hung up in the Rules Committee? We cannot imagine anything less controversial than finally honoring *Thomas Paine* with a statue near the Capitol. We are always suspicious when somebody in Washington claims to have a good idea at no cost to the taxpayer, but it looked like a legitimate claim in this case. It's a scandal that this great national hero, the first authentic blue-collar philosopher of the American Revolution, has not been honored with a prominent statue already.

If Teddy Kennedy and Jesse Helms are both supporting something, it can't be all bad. But the list of sponsors and supporters for S. Con. Res. 110 reads like a *Who's Who* of the American establishment. Or, putting it in Kentucky terms, could you be against it if Tom Clark is for it? Could you be against apple pie? This resolution needs to be reported out of Rules and favorably voted on the Senate floor before the August recess. Again, what's the hold-up?

Thanks for your attention to this least-controversial matter. Some people say that one problem with America these days is that we don't have any heroes anymore. But maybe the real problem is that we do not sufficiently recognize and honor the ones we do in fact have. You can help.

Very respectfully,

Vincent Davis, *Director and Patterson Professor.*

John D. Stempel, *Associate Director and Professor.*

May 30, 1992.

Hon. Wendell Ford,
U.S. Senator from Kentucky, Washington, DC.

Dear Senator Ford: The Tom Paine Society wishes to erect a statue to Thomas Paine at the juncture of Pennsylvania and Constitution Avenues. It is my understanding that the Congress guards this spot and the capitol grounds with highly justifiable jealousy. In the case of Tom Paine the Republic has a long overdue indebtedness. In the course of history a few radical or foresightful ideas have made a vast difference in the turn of events. This was true in the writings and ideas of Tom Paine.

I strongly feel that the United States Senate should make an extraordinary concession in this case. I do so on these grounds: (1), Tom Paine favored immediate independence from Britain in 1776, arguing that the continent should not be ruled by an island; (2), he argued for a written constitution; (3), he supported and projected the concept of a strong federal government; and (4), he supported the strong central power over the state of particularism.

No historian can fully assess the impact of Paine's Common Sense in helping to shape the course of political and republican affairs in the seminal years of separation of the colonies from British control. For this reason alone Tom Paine merits special attention at this moment in American history by the United States Senate.

In a particular way Kentuckians owe a debt to Tom Paine. His *Public Good* was a definite force in shaping events which led to the separation of the western counties from Virginia and the creation of the independent Commonwealth of Kentucky. You, as Kentucky's Senior United States Senator, have a wonderful opportunity in this our bicentennial year to give further recognition to the author of Common Sense and The Public Good.

Cordially yours,

Thomas D. Clark,
Prof. Emeritus, Univ. KY.

[From "Public Good"]

(By Thomas Paine)

THE PREFACE

The following pages are on a subject hitherto little understood, but highly interesting to the United States.

They contain an investigation of the claims of Virginia to the vacant western territory, and of the right of the United States to the same; with some outlines of a plan for laying our a new rate, to be applied as a fund, for carrying on the war, or redeeming the national debt.

The reader, in the course of the publication, will find it seriously plain, and, as far as I can judge, perfectly candid. What materials I could get at I have endeavored to place in a clear line, and deduce such arguments therefrom as the subject required. In the prosecution of it, I have considered myself as an advocate for the right of the states, and taken no other liberty with the subject than what a counsel would, and ought to do in behalf of a client.

I freely confess that the respect I had conceived, and still preserve, for the character of Virginia, was a constant check upon those follies of imagination, which are fairly and advantageously indulged against an enemy, but ungenerous when against a friend.

If there is anything I have omitted or mistaken, to the injury of the intentions of Virginia or her claims, I shall gladly rectify it; or if there is anything yet to add, should the subject require it, I shall as cheerfully undertake it; being fully convinced, that to have matters fairly discussed, and properly understood, is a principal means of preserving harmony and perpetuating friendship—The Author.

"Public Good" was somewhat slow, for obvious reasons, in reaching the western country, or, specifically Kentucky. When it did it started three or four commotions. The first was to stimulate an incipient idea of separation of the western district from Virginia. The second was to raise a highly disturbing question of the validity of land titles granted to date by Virginia. Paine argued with convincing force that the Kentucky and western settlers in general had moved well beyond the authoritative reach of Virginia, and soon they and the mother state would find themselves in conflict; the one as oppressor and the other as revolter.

Economically it was argued that Virginia collected little taxes from the transmontane settlers, but the region opened the possibility of being profitable to the older and more productive state. In the Kentucky settlements some persons regarded the Public Good as a dangerous and voluntary tract. Some of the major landholders looked upon it as threatening their landholdings and petitioned Virginia on the subject. Perhaps it did not actually engender panic, but there was indeed concern. This proved especially true in 1784 when the agitators Galloway and Pomeroy appeared in Lexington and Louisville spreading the rumor that Virginia did not possess the western country and that all of its official acts would be nullified by the authority of Congress. This of course meant the invalidation of land deeds. The agitators were fined fairly large amounts of tobacco which they could not deliver, and both of them were forced to leave the country.

Tom Paine's pamphlet preached no doctrine of nullification of deeds, only the nullification of Virginia's wide blanket claim to western lands, and it set forth striking argument for a rather large new state. Whatever may have been the influence of the Public Good, pro or con, it did plant at least one powerful germ in the westerners' minds concerning separation from Virginia and the formation of the new State of Kentucky. Within limitations the pamphlet meant for the West what Common Sense had meant for the protesting colonial system's argument with King and Crown.—Thomas D. Clark, Ph.D., Lexington, Kentucky, October, 1975.

University of London,
Egham, Surrey, England, July 8, 1992.

Dear Senator Bond: As a Missouri resident temporarily overseas, I am writing to you about legislation for the proposed memorial to Thomas Paine. Senate Con. Res. 110, which Senator Steve Symms is co-sponsoring, proposes to erect a memorial to Paine on land already owned by the people of the United States. I urge you to support Senator Symms in this measure, which does great credit to one of the most important writers on the side of American independence in the late eighteenth century.

Thomas Paine's Common Sense (1776), as you may know, was the main pamphlet to rouse the colonists on the side of independence. Paine became close friends with Washington, Jefferson and other founding fathers. He fought during the Revolutionary War, when his letters known as The American Crisis had a tremendous effect in rallying the colonial army. Paine was one of independent America's first advocates for the abolition of slavery and for equal rights for women and men alike. Moreover, he was the most important popularizer of the American constitutional model in nineteenth century Europe, through the Rights of Man.

Despite these great contributions to America's heritage, Paine has lacked the recognition he deserves. I urge you to support Senator Symms' efforts to have a monument to Paine erected in the grounds of the Capitol. There are statues of him already in both England and France, and it is time that we too acknowledged his efforts on our behalf.

Yours sincerely,

Gregory Claeys.

Lander College,
Greenwood, SC, April 8, 1992.

Senator Strom Thurmond,
U.S. Senate, Washington, DC.

Dear Senator Thurmond: Having recently learned of Sen. Steve Symms' plans to introduce legislation to allow the construction of a modest memorial to Thomas Paine, I am writing to urge you to support Senator Symms' proposal.

While the founding fathers are well represented in statutory and memorials in our nation's capitol, no recognition has ever been accorded Paine, who, in my view, was the moving force behind the drive for independence and establishment of a republication form of government. Such recognition is long overdue, and I applaud the efforts now underway to construct an appropriate memorial on the publicly-owned land at the intersection of Pennsylvania and Constititon Avenues. It is my understanding that the memorial would be paid for with voluntary contributions.

I have devoted a considerable portion of my adult life to the study of early American history and literature—and to Thomas Paine in particular—and I assure you that such a memorial to this great patriot is both fitting and proper.

Sincerely yours,

Jerome D. Wilson, Ph. D.
Professor of English.

Lander College,
Greenwood, SC, April 8, 1992.

Senator Steve Symms,
U.S. Senate, Washington, DC.

Dear Senator Symms: Here are the letters of support, which I understand you will have hand delivered to Senators Hollings and Thurmond.

Your support of the effort to establish a memorial to Paine is indeed deserving of support. Should I be able to render any other assistance, please do not hesitate to call or write.

Sincerely yours,

JEROME D. WILSON, PH.D.
Professor of English.

UNIVERSITY OF MAINE,
Orono, ME, April 15, 1992.

Senator STEVE SYMMS,
U.S. Senate, Senate Hart Building, Washington, DC.

DEAR SENATOR SYMMS: I am delighted to have an opportunity to endorse the building of a memorial to Thomas Paine. The site on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues seems ideal.

This semester, I have been teaching a senior seminar in the American Revolution, which is my specialty. Once again, I have tried to impress on my students Paine's crucial significance in articulating first the reasons why the American colonies ought to resist England's tyranny and then his importance in mobilizing support for the war. It is not an exaggeration to argue that without Paine American independence would have been delayed.

It is a shame that for 200 years Paine has not been honored in our nation's capitol.

Sincerely,

JEROME NADELHAFT,
Professor and Chair,
Department of History.

MARSHALL UNIVERSITY,
Huntington, WV, April 2, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Please accept this letter as a strong endorsement of your proposed legislation to authorize the placement of a statue of Thomas Paine on the Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

As you know, Paine played an extremely significant and heretofore unheralded role in the coming of the American Revolution. No single individual did more than he in sparking an independence movement. His own generation ultimately rejected him. We today now have the opportunity to honor and commemorate a truly major actor in a defining moment of our history.

Sincerely,

DONNA J. SPINDEL,
Chair.

UNIVERSITY OF MARYLAND,
College Park, MD, July 14, 1992.

Hon. PAUL SARBANES,
U.S. Senator, Washington, DC.

DEAR SENATOR SARBANES: Senator Steve Symms has asked that I write you in support of S. Con. Res. 110, which allows private funds to be used to construct a modest memorial honoring Tom Paine on publically-owned land controlled by Congress.

As a professor of political science and political thought, I am aware of the contribution Tom Paine has made to republican thought. While his Rights of Man and Common Sense are most well known, I am particularly fond of a little story of his about Cupid and Hymen. It seems that young woman was faced with the choice of two suitors, a young man of modest means whom she loved, and an older wealthier man. The young woman is, of course, America. The young man represents the promise, risks and joys of independence, the old man the security of a continued colonial relationship to England. Cupid is enraged that Hymen, the god of marriage, would intervene in his place, and so substitute security and wealth for romance. Not just the romance of young lovers, but the romance of building a virtuous and free nation.

I believe that the United States today is faced with a similar choice. Shall we go forward in familiar ways, or shall our nation take a chance and try to become a truly excellent nation, a nation of virtue, which to republicans like Paine meant a nation in which the common good comes first. I can't think of a more appropriate way to begin to think about this than a memorial to Tom Paine.

Please make every effort you can to make sure that S. Con. Res. 110 is reported out of the Rules Committee, and that the Senate votes favorably on it.

And please do not hesitate to write me if I can be of any help to you.

Sincerely,

C. FRED ALFORD,
Professor of Government.

MARY WASHINGTON COLLEGE,
June 29, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: In response to your recent letter regarding Senate Concurrent Resolution 110, the Department of History and American Studies has chosen me to respond. I am the departmental specialist on the American Revolution. I applaud this resolution. It's high time that Thomas Paine receives some recognition and recompense for two centuries of slander or being ignored. Enclosed please find a copy of a letter typical of those I sent to our Senators and local member of the House of Representatives.

Thank you.

Sincerely,

ROGER J. BOURDON,
Professor.

MARY WASHINGTON COLLEGE,
June 29, 1992.

Senator JOHN A. WARNER,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: I want to congratulate you on being a co-sponsor of Senate Concurrent Resolution 110 regarding the erection of a memorial for Thomas Paine in Washington. For many years, I have believed that Thomas Paine deserves more recognition than he currently receives. As a professor of Early American History, I include discussion of Paine, his activities and his writings in my various graduate and undergraduate courses on the American Revolution. The proposed memorial should serve as a partial repayment to Thomas Paine for the many slanders he has suffered over the two centuries.

Please let me know when this bill passes the Senate.

Thank you.

Yours truly,

ROGER J. BOURDON,
Professor.

ASSEMBLY RESOLUTION NO. 66,
STATE OF NEW JERSEY, INTRODUCED APRIL 30, 1992

An Assembly resolution calling on the Congress of the United States to allow certain private interests to construct a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building.

Whereas the great American patriot Thomas Paine emigrated from his native England at the urging of Benjamin Franklin and lived in Pennsylvania and New York; and

Whereas [Paine's pamphlets "Common Sense" and "The American Crisis," which were] Thomas Paine authored the "American Crisis Pamphlets" and the work called "Common Sense," which was published in 1776 and called for American independence and limits on a government's authority, received wide public distribution at the time and [help] helped to galvanize colonial discontent into action against Great Britain; and

Whereas the ideas expressed by Paine in these and other works were incorporated in the Declaration of Independence, and subsequently, the United States Constitution; and

Whereas Paine made the first published call for a written constitution to protect the rights of property owners and for the free exercise of religious beliefs; and

Whereas Paine donated his services and finances to the cause of American independence and put his life in jeopardy for this cause; and

Whereas Paine is rightly honored in New Jersey, France and England for his advocacy of the causes of personal liberty, limited government and industry; and

Whereas it is fitting and proper that a permanent national monument be constructed in Thomas Paine's honor near the seat of the government he helped to create; now, therefore,

Be it *Resolved* by the General Assembly of the State of New Jersey:

1. This House calls on the Congress of the United States to allow certain private interests to construct, at no cost to the taxpayer, a modest memorial to the patriot Thomas Paine at a fitting location on the grounds of the U.S. Capitol Building.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be sent to the presiding officers of each House of Congress and each member of Congress from New Jersey.

UNIVERSITY OF NOTRE DAME,
Notre Dame, IN, June 26, 1992.

Senator DAN COATS,
U.S. Senate, Washington, DC.

DEAR SENATOR COATS: I am writing to express my support for the resolution introduced by Senator Steve Symms (S. Conc. Res. 110) that would allow the private sector to construct a memorial honoring Thomas Paine on publicly-owned land at the intersection of Pennsylvania and Constitution Avenues.

As a historian of France, I am particularly pleased to support his resolution, since Paine played such an important role in promoting democratic change in both France and the United States. I urge to support this resolution that would result in a public memorial in honor of Thomas Paine.

Sincerely,

THOMAS KSELMAN,
Chair.

PRESIDENTIAL PERFORMANCE STUDY,
PENN STATE BERKS CAMPUS,
Reading, PA, May 7, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR: I strongly support the legislation proposed by Senator Symms to authorize a memorial to Thomas Paine to be erected on Capitol grounds at Pennsylvania and Constitution Avenues. Paine was a crucial figure in the American and French Revolutions, and had great influence within Britain.

We should acknowledge Paine's legacy and his role in the development of an ideology of freedom.

Sincerely,

TIM H. BLESSING,
Assistant Professor, History;
Director, Presidential Performance Study.

PENN STATE UNIVERSITY,
University Park, PA, June 26, 1992.

Hon. HARRIS WOFFORD,
U.S. Senate, Washington, DC.

DEAR SENATOR WOFFORD: Please add my name to the long list of supporters of S. Con. Res. 110, the bill that we hope will result in the construction with private funds of a monument of the Capitol grounds in honor of Tom Paine.

As an historian whose field of specialization is the early American period, I am especially aware of Tom Paine's significance. Arriving in America in 1774, he promptly became an advocate of independence from Great Britain. His tract, "Common Sense," published first in January, 1776, and reprinted until over 100,000 copies were in circulation, emphasized that it was "time to part" and, no doubt, persuaded thousands of colonists to participate in the revolt. His serial publication, "The Crisis" papers in which he criticized the "summer soldier and the sunshine patriot," helped to maintain support for the revolution during its darkest hours—what Paine called "the times that try men's souls * * *" Less well known are Tom Paine's efforts to broaden participation in American society. He was partially responsible for Pennsylvania's comparatively democratic Constitution of 1776 that several other states subsequently copied and was a vigorous opponent of holding African Americans in slavery.

It is difficult to believe that there is no monument to Tom Paine in the nation's capitol. His importance in the founding of our country requires that he be recognized with an appropriate memorial. As one of your constituents, I appreciate the support that you have given to this project. I hope that you will persevere and bring it to completion.

Sincerely yours,

JOHN B. FRANTZ,
Associate Professor of American History.

PENN STATE UNIVERSITY,
University Park, PA, July 2, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Thank you for your letter of June 18. I was honored to be asked to participate in urging the Congress to permit the construction of a memorial to Tom Paine on the capitol grounds.

You will find enclosed copies of my letters to Representative William F. Clinger and Senators Harris Wofford and Arlen Specter. I hope that you and they will be able to bring this project to a successful conclusion.

You are to be commended for your attention to Tom Paine in light of your many other responsibilities. As you know, he was an important figure in the early period of our nation's history. He deserves to be recognized for his efforts, many of the results of which we continue to enjoy.

Sincerely yours,

John B. Frantz.

RHODE ISLAND COLLEGE,
Providence, RI, July 14, 1992.

Hon. JOHN H. CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: Speaking for the faculty of Rhode Island College, I write to urge your support for S. Con. Res. 110, to allow the Thomas Paine National Historical Association to construct a memorial in Paine's honor. Further, I fear that any delay in consideration of S. Con. Res. 110, or its adoption without a firm construction schedule, could doom this most worthy of projects.

Sincerely,

RICHARD R. WEINER (PH.D., COLUMBIA),
Dean of the Faculty of Arts and Sciences and Professor of Political Science.

UNIVERSITY OF RICHMOND,
Richmond, VA, June 29, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Professor John L. Gordon, Chair, has referred your letter of June 18, 1992 to me.

You are to be commended in your efforts on behalf of the Paine memorial.

Please find enclosed copies of letters sent to Senators Robb and Warner and Congressman Bliley.

Here's wishing success with the Paine project.

Sincerely,

HARRY M. WARD,
Professor of History (and author of books on the American Revolution).

UNIVERSITY OF RICHMOND,
Richmond, VA, June 29, 1992.

Hon. JOHN WARNER,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: I am writing in support of S. Con. Res. 110 that allows construction of a Thomas Paine memorial at the intersection of Pennsylvania and Constitution Avenues.

This is a most worthy project:

1. Paine championed individual liberty, not just national liberty (as too often the "Spirit of '76" of the American Revolution is construed). The memorial would indicate commitment to the "rights of man" and, specifically, to the rights of Americans in a free society.

2. Paine probably contributed more so than anyone else (even with John Adams included) to the initial discussions on need for republican government.

3. Paine's writings and his own service for a while as soldier exemplifies an unstinting patriotism to the cause of American Liberty.

4. And, of course, his "Common Sense" so persuasively argued Independence, and the "Crisis Papers" gave heart to Americans to persevere in the time of despair.

If we are to have monuments, I can think of none better for the recognition of the spirit of freedom in America than one to Thomas Paine, located prominently in the nation's capital.

Sincerely,

HARRY M. WARD,
Professor of History.

RUE ROYAL INN,
New Orleans, LA, August 5, 1992.

DEAR SENATOR JOHNSTON, First let me applaud your efforts to have the US purchase enriched uranium from the former Soviet Union. This is a farsighted solution to a potentially dangerous problem.

Second let me urge you to actively support and promote the passage of S.Con.Res. 110. This is a bipartisan, patriotic bill which involves no public expenditure. It allows for the Thomas Paine National Historical Association to pay for and construct a statue on publicly-owned land which is controlled by Congress. The site is at Pennsylvania and Constitution Avenues. This location is appropriate since Paine rallied the Pennsylvanians to support the Revolution and he was the first to specifically call for a "Declaration of Independence" and a constitutional convention and propose an outline for our constitution. He significantly contributed to the first victory of the Continental Army with his immortal words: "These are the times that try men's souls . . . etc.", which Washington ordered read to the entire Army, and Presidents have used ever since in times of crisis up to and including the present. It is important that the Senators and Representatives from Louisiana lend their support to the passage of this bill.

Sincerely,

RICHARD L. MOLE,
Partner, Rue Royal Inn.

JAMES A. ROUSMANIERE,
16–A HERITAGE CIRCLE
Southbury, CT, March 23, 1992.

CHRISTOPHER J. DODD,
U.S. Senator, Washington, DC.

DEAR SENATOR DODD,

"These are the times that try men's souls, the summer soldier and the sunshine patriot will in this crisis, shrink from service to their country; but he that stands it now deserves the love and thanks of man and woman."

With these words Thomas Paine began a series of pamphlets calling on the will of the patriots to stand firm. This charge could be as well adapted to our present years of political indecision.

With these words I ask you to co-sponsor a Bill introduced by Senator Symms to allow a modest memorial to Thomas Paine on the grounds of the U.S. Capitol—at no cost to the taxpayer.

Being of French heritage myself, and a direct descendent of a soldier in Rochambeau's army, I am proud of Thomas Paine's contributions to his adoptive land, The United States of America. I hope you will share my pride and act to bring this memorial into being in our Capitol by sponsoring this legislation.

Yours sincerely

JAMES A. ROUSMANIERE,
Selectman, Town of Southbury.

THOMAS PAINE,
NATIONAL HISTORICAL ASSOCIATION,
June 10, 1992.

Hon. BRERETON JONES,
Governor, State Capitol Building, Frankfort, KY.

DEAR GOVERNOR JONES: On behalf of the Thomas Paine National Historical Association and admirers of Thomas Paine everywhere, I take great pleasure in extending to you our best wishes for the continued good fortune and success of the State of Kentucky on this the 200th anniversary of its becoming the 15th State and the first state to emerge from the Western territories.

We share your pride in this milestone achievement because of Thomas Paine's seminal role in this event. As Dr. Thomas Clark, Kentucky's Historian Laureate, recently noted, Thomas Paine's pamphlet Public Good was a "veritable bombshell at the very outset of the lengthy discussion of the separation of the West District of Virginia and creation of Kentucky. This was one of the important bits of political yeast which spurred on the movement for separation of Kentucky from Virginia . . . [T]he experience of the separation of Kentucky and creation of the first independent Western State was to have a tremendous impact on the spread of statehood across the continent."

Please accept our heartfelt congratulations.

DOUGLAS A. COOPER,
President.

THOMAS PAINE SOCIETY,
43 WELLINGTON GARDENS, SELSEY,
West Sussex, England, 7th July 1992.

DEAR CITIZENS OF THE U.S.A., I cannot say how delighted I was to see all the wonderful testimonies by so many historians and others urging both houses of Congress to pass legislation permitting a monument or memorial to Thomas Paine; one of human kinds greatest benefactors. Senator Symms, David Henley and others are to be congratulated on the ardour with which they are pursuing this campaign.

When on my 'Paine pilgrimage' in 1989, I was absolutely astounded to find that there was no public recognition in the capital city to Thomas Paine, not only for his great part in promoting the founding of the U.S.A., which term he was the first to use, but also for his monumental part in promoting universal human rights, racial and sexual equality and freedom from oppression worldwide, democracy and for the brotherhood of man worldwide, and much else way ahead of his time.

To paraphrase Winston Churchill's famous statement about the Battle of Britain pilots in the 1939-45 war; "Never in the field of human conflict has so much been owed by so many to one man and yet so few acknowledged their debt to him for a long time afterwards."

Many great figures of the time paid handsome tributes to Thomas Paine and as Thomas Edison said, he was America's greatest political thinker and he practiced what he preached. What other man in those very uncertain times would have given away most of the profits from his writings to the causes of freedom, relief of debtors or let others make money out of them?

The 1990's are not unlike the 1790's when the old order of Monarchical and Aristocratic rule was being forced to start crumbling. This was set in motion by the quill of Thomas Paine and the personal example of his life in devoting it to the common good without regard for personal profit or personal power. Had he wished to play his cards in the conventional way he could easily have been a President of the U.S. He always said and acted accordingly, "principles before parties, otherwise parties rule principles" and in so many ways in his many faceted, adventurous life he refused to be corrupted or daunted by adversity.

In Britain and the world we still have much to learn from a study of Thomas Paine. Not least in Britain we need a written constitution which he did so much promote in America and France.

As one of the Paine clan as it were, I feel priviledged to be Hon; Secretary of the Thomas Paine Society, U.K. and very much hope with our members here and worldwide that Congress will very soon remedy the lack of a monument in Washington, DC.

We now at long last have a monument to Thomas Paine in the capital city of his motherland at Islington, where he wrote part of "Rights of Man" and I believe there are plans and hopes for Pantheonisation of him in France, where I recently attended a conference in honour of Thomas Paine, called "The Spring of the Rights of Man" and attended by Paine enthusiasts from many parts of the world.

With the world in a somewhat similar state of change and turmoil to the 1790's we need many more men of the calibre of Thomas Paine to cope with environmental threats from man's abuse of power over people in many lands and the whole ecosystem. Without his kind of courage and vision we cannot hope to tackle the problems threatening to overwhelm the wonderous creation of this planet, which he would be adament in insisting is the rightful inheritance for future generations.

Your sincerely,

ERIC PAINE,
Hon; Sec., Thomas Paine Society, U.K.

TRANSYLVANIA UNIVERSITY,
Lexington, KY, June 1, 1992.

Senator WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I am curious to know why a hearing would be necessary in regard to S. Con. Res. 110 (regarding a memorial to the patriot Thomas Paine), which has received such widespread support from both the political and academic communities? I share the hearty endorsement my tutor and friend, Dr. Thomas D. Clark, has given the Paine memorial, recognizing that the author of Common Sense was one of our most important, yet badly neglected, Founding Fathers.

I trust, Senator, that you will do all you can as chair of the Rules Committee to expedite the long-overdue memorial to one of our country's first great democrats.

With my thanks and good wishes.

Sincerely yours,

PAUL E. FULLER,
Professor of History.

UNITED STATES CAPITOL
HISTORICAL SOCIETY, *Washington, DC,*
August 10, 1992.

Hon. ELEANOR HOLMES NORTON,
Longworth H.O.B., Washington, DC.

DEAR DELEGATE NORTON: I am writing to urge your continued support for Rep. Nita Lowey's effort to secure passage of a bill to authorize a fitting memorial to Thomas Paine.

Rep. Lowey favors passage of S. Con. Res. 110 which differs from the House bill [HR 1628] only in that it specifies the site for the memorial.

I urge you to support Rep. Lowey in anyway possible to see that S. Con. Res. 110 passes in this session.

Sincerely,

DONALD R. KENNON.

VANDERBILT UNIVERSITY,
Nashville, TN, August 6, 1992.

Hon. ALBERT GORE, JR.,
U.S. Senate, Washington, DC.

DEAR SENATOR GORE: I am writing to encourage you to support the bill introduced in the Senate to allow the use of public land at the intersection of Constitution and Pennsylvania Avenues for the erection of a memorial to the great patriot and civil libertarian Thomas Paine, S.Con.Res. 110.

This bill has the support of many members of the Congress, from both sides of the aisle, and I believe that it should receive an affirmative vote so that a statute to Thomas Paine can be erected. I understand that there would be no public expense involved; what is required is authorization for the use of the site for this evidently appropriate purpose.

Thomas Paine is one of the heroes of the American Revolution. For too long he has not received Washington's customary monumental acknowledgment of his standing and significance.

I recognize that the site selected is a most important one and that the erection of such a memorial to Thomas Paine might be thought to set a precedent that others would cite in their desire to honor their particular heroes. But surely Thomas Paine is one of a kind. After all these years, the attention given to his writings, his courage in the struggle for freedom, and the variety of his public skills and accomplishments clearly mark him as not only deserving of this distinctive place but, as I believe, uniquely deserving this recognition now.

Colleagues with whom I have talked agree with me in these sentiments, and I have no doubt that you do so too. Will you please consider giving this matter your support and leadership?

It would give me much pleasure to learn that you will make the time to help see this matter through before the Congress goes into recess. It would be good, once again, to see you joining with your colleagues across the aisle to assure a larger and more appropriate place in the public eye for Thomas Paine.

With warm wishes and personal regards, I am

Faithfully yours,

WALTER HARRELSON,
Distinguished Professor of
Hebrew Bible, emeritus.

VIRGINIA HISTORICAL SOCIETY,
Richmond, VA, June 30, 1992.

Hon. STEVE SYMMS,
Hart Office Building, Washington, DC.

DEAR SENATOR SYMMS: It is an honor to write on behalf of the Virginia Historical Society in support of the proposed Thomas Paine Memorial (S. Con. Res. 110). The Society's interest in the revolutionary founding fathers certainly extends beyond the bounds of Virginia; and Virginia, I assure you, is honored by the contributions of Paine as much as by those of Mason and Madison.

The Board of Trustees and administration of the Virginia Historical Society, therefore, heartily endorse the erection of a monument in honor of Thomas Paine to be secured through private subscriptions solicited by the Thomas Paine National Historical Association. Moreover, we welcome the addition of this monument not only as a contribution to the nation's collective historical memory but also as a beautification that will add to the dignity of the nation's most important avenue.

In closing this expression of support and in endorsing the hard work ahead for the Thomas Paine National Historical Association, I stress the value of this project for its vital reminiscence of the intellectual heroism of this country's founders and for its reminder of the necessity of private initiative in the raising of the necessary funds. On both points, I can only echo Thomas Paine himself: "When we are planning for posterity, we ought to remember that virtue is not hereditary." And, finally, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

Mindful of both the lessons of the past and the obligations of the present, Senator Symms, the Virginia Historical Society fully endorses S. Con. Res. 110 and wishes you every success in securing its passage.

Respectfully,

CHARLES F. BRYAN, JR.,
Director.

WASHINGTON STATE UNIVERSITY,
Pullman, WA, July 7, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I strongly endorse your proposed legislation to authorize the Thomas Paine Memorial Foundation to place a statue of Paine on Capitol grounds at the intersection of Pennsylvania and Constitution Avenues.

Paine's contributions to the cause of American independence are of inestimable importance. As the author of Common Sense and The Crisis, Paine was perhaps the most important molder of public opinion of his day. Little known in our own time, Paine deserves the honor you have proposed for him.

As you well know, Paine's major contributions to the "Glorious Cause" were made while he resided in Pennsylvania; Common Sense was an important milestone on the way toward American constitutionalism. A statue at the intersection of Pennsylvania and Constitution Avenues, therefore, is quite appropriate and would go a long way toward increasing Americans' awareness of the contributions of such a great patriot.

Sincerely yours,

DAVID L. COON,
Associate Professor.

WASHINGTON STATE UNIVERSITY,
Pullman, WA, June 25, 1992.

THOMAS S. FOLEY,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN FOLEY: I never thought I'd agree with anything Steve Symms did, but I do support his effort to get Congressional approval for a Thomas Paine Memorial on publicly-owned land. Tom Paine's role as a catalyst for public opinion in the American Revolution was extraordinary. He was a teacher and activist, always a dynamic combination! I urge you to support S. Con. Res. 110, in spite of its unlikely origin.

Sincerely,

SUSAN H. ARMITAGE,
Director, American Studies Program and Professor of History.

WESLEYAN UNIVERSITY,
Middletown, CT, July 28, 1992.

SENATOR STEVEN D. SYMMS,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR SYMMS: I have your letter of July 7, and I am glad to support S. Con. Res. 110 to build a memorial honoring Thomas Paine. It seems to me thoroughly appropriate, and the resolution is in the best tradition of voluntary acknowledgement. By copy of this letter I am informing my Connecticut Senators of my support.

With every good wish,

ROBERT WOOD.

WESTCHESTER COUNTY,
White Plains, NY, June 1, 1992.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: Thank you for your letter concerning your legislation proposing the memorial to Thomas Paine.

I passed it on to our County Executive, Andrew P. O'Rourke thinking that he might want to write Senators D'Amato and Moynihan himself directly since he knows them so well. His letter would carry more weight than mine.

Mr. O'Rourke was happy to comply. I enclose a copy of his letter to Senator Moynihan. A similar letter went to Senator D'Amato, I believe.

Sincerely,

SUSAN C. SWANSON,
Westchester County Historian.

WESTCHESTER COUNTY,
May 21, 1992.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I recently received a letter from Senator Steve Symms about his proposed legislation to construct a modest memorial to Thomas Paine on publicly-owned land at the intersection of Pennsylvania and Constitution Avenues in Washington, D.C. near the Capitol. Under Senator Symms' plan, the memorial would be constructed entirely through voluntary contributions at no cost to the taxpayer. I would like to request that you consider co-sponsoring this important legislation honoring one of New York State's greatest patriots.

We are extremely pleased that Senator Symms wishes to recognize Thomas Paine, whose philosophical ideas about democratic government, freedom of religion, slavery and the subjugation of women, were far ahead of his time. Thomas Paine's foothold in the United States was in New Rochelle in Westchester County, New York, where he lived on a modest farm awarded to him by the State of New York in recognition of his service during our War for Independence. His house is now a museum and open to the public.

I understand Congresswoman Nita Lowey has introduced similar but not site specific legislation which has over 215 bi-partisan cosponsors. If she is able to get support of the House leadership, the site named in the Senate version will be accepted.

I hope that you will co-sponsor this legislation in honor of Westchester County and the State of New York. It will help bring Thomas Paine the national recognition that has been due him for more than 200 years.

Sincerely,

ANDREW P. O'ROURKE,
County Executive.

WESTCHESTER COUNTY BOARD
OF LEGISLATORS,
White Plains, NY, July 6, 1992.

Hon. ALFONSE D'AMATO,
U.S. Senate, New York, NY.

DEAR SENATOR D'AMATO: I am writing to you to ask your support for S.Con.Res. 110 which would allow the private sector (through the Thomas Paine Historical Association of New Rochelle, New York) to construct a memorial honoring Paine on publicly-owned land at the intersection of Pennsylvania and Constitutional Avenues. It is without question that Thomas Paine galvanized support for the American Revolution through his writings and was a true leader for the cause of freedom in this nation—a leader whose memory has been largely overlooked.

If there is anything further I can do to express my support for S.Con.Res. 110 please let me know.

Sincerely,

STEPHEN P. TENORE,
Chairman.

WILLAMETTE UNIVERSITY,
July 16, 1992.

Senator MARK O. HATFIELD,
U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: I am writing to urge your support of S. Con. Res. 110 to allow the construction of a memorial to Thomas Paine in Washington, D.C. Certainly Paine's contributions to the American revolutionary war, especially as the author of the momentous and influential Common Sense, warrant this special recognition in the nation's capital.

Knowing your keen interest in American history, I urge your support of this measure. Thank you for your consideration of the matter.

Sincerely,

GEORGE MCCOWEN,
Professor, History Department.

THE STATE HISTORICAL
SOCIETY OF WISCONSIN,
Madison, WI., June 30, 1992.

Senator HERBERT KOHL,
U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: The purpose of this letter is to endorse S. Con. Res. 110, which will allow the private sector to construct a memorial honoring Thomas Paine on publicly-owned land at the intersection of Pennsylvania and Constitution Avenues.

Paine made a significant contribution to early U.S. history and gave a new meaning to American Revolution. A revolutionary by temperament and something of a professional radical, he urged an immediate declaration of independence as the fulfillment of America's moral obligation to the world in his celebrated pamphlet Common Sense. Stirred by the onset of the French Revolution of 1789, he acted as self-appointed missionary of the world revolution. He hoped England would follow in France's course, and his Rights of Man was born in response to Edmund Burke's condemnation of events in France.

Honoring Paine serves an important purpose of promoting history, and it is a goal which the State Historical Society of Wisconsin strives to achieve. I ask you to give your support for this worthy cause. Thank you for your consideration.

Sincerely,

H. NICHOLAS MULLER III,
Director.

UNIVERSITY OF WISCONSIN,
Milwaukee, July 7, 1992.

Senator STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: As a professor of American literature and as director of a postdoctoral research center, I write to endorse passage of S. Con. Res. 110 to authorize the construction of a monument to Thomas Paine on the U.S. Capital grounds.

Yours sincerely,

KATHLEEN WOODWARD,
Professor, Department of English and Comparative Literature; Director, Center for Twentieth Century Studies.

ORDER OF BUSINESS

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Georgia is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. NUNN. Mr. President, I would like to speak for a few minutes on the effect of the postponement or perhaps even the effect of the prevention of the Defense authorization bill from being enacted this year.

I know the Senator from Hawaii is on the floor, and I will summarize my remarks very briefly because he will be the key decision maker in terms of what happens on the Defense appropriations bill. And what happens on that bill of course, is very much affected by what happens on the authorization bill.

I want to just take a few minutes to review for my colleagues where we stand on S. 3114, the National Defense Authorization Act for fiscal fear 1993.

Mr. President, I yield to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I thank my colleague for yielding.

I would like to commend my friend from Georgia for discussing this matter this afternoon. It is most unfortunate that we are faced with this most undersirable situation because if the ultimate conclusion is reached, which is the continuing resolution, Mr. President, these are the possibilities. These are not hypothetical. If the impasses results in a continuing resolution, first, there will be no new starts. I will just give a few examples of what I mean by no new starts.

No funds will be available to begin work on our next nuclear carrier. All of us have been discussing the possibility of starting this new nuclear carrier. No funds will be in fiscal year 1993. The new fighter program for the Navy will not have any funds in the fiscal year 1993 account.

Second, since the continuing resolution will always be at the lower level of either the House-passed bill or last year's account, under this rule there will be no congressional initiatives, none would be funded.

For example, the amphibious ship, the LHD, sought by Senators LOTT and COCHRAN, will not be funded. The ships, the destroyers that are supported by the majority leader, the Senator from Maine, will not be funded. The House will agree to three. Our majority leader supports four. It will be at the House level. Programs such as the F-22 and the F/A-18 E/F will be back at the 1992 level.

Most important, no Senate initiatives, no supported programs will be considered. For example, the Senate Armed Services Committee bill offers new initiatives which are most important in the military personnel benefits and defense conversion programs. Under a continuing resolution, the defense conversion program will not be put into force. This may not be taken too well by our men and women in uniform. There will be no pay raise for military personnel.

Mr. President, these are just a few examples of what would happen if we have to resort to a continuing resolution, and I hope the Senate will have the good sense to avoid that.

I thank my friend from Georgia.

Mr. NUNN. Mr. President, I thank my friend from Hawaii. If I can ask him one question before he departs the floor.

Given the nature of the impasse we have on the SDI funding—and I know the Senator from Hawaii voted the same way I did; I was against the Sasser-Bumpers amendment, which cut that funding from $4.3 billion to $3.3 billion—if we do not have an authorization bill, does my friend from Hawaii see that there will be any way the Appropriations Committee could break that impasse or would you likely run into the same problem we have run into?

Mr. INOUYE. To put it mildly, Mr. President, I think we will run into the same problem. If this is not resolved at this stage, then I think the appropriations process should also anticipate the same problems.

Mr. NUNN. I thank my friend from Hawaii.

Mr. President, I thank the Senator from Hawaii, and I thank him for his support on both the amendment which is the subject of this impasse and for his splendid leadership in the overall appropriations process.

Mr. President, the Senator from Hawaii and I are trying to alert people, not to alarm them, but alert people to the consequences of what is now happening. There are a lot of people who believe you can basically just block defense bills and nothing happens. They believe someone is going to come along and bail it out, somebody is going to compromise, somebody is going to come their way, somebody is going to yield.

In this particular amendment, I talked with the people who voted on the other side of this amendment, the Sasser-Bumpers amendment. Perhaps the Senator from Wyoming, who is now holding up this bill based on his opposition to this amendment, which I understand, but which I think is not as important as the overall bill. Mr. President, I talked to a lot of people who voted on the other side. I do not find people who are ready to switch. So I hope the Senator from Wyoming and others who have supported his position will think very carefully about the results of what he is doing.

S. 3114 was reported to the Senate by the Armed Services Committee on July 31. We began debating the bill in the Senate last Friday morning, August 7. After we adopted the defense conversion amendment—which contains enormously important provisions for military personnel, for civilian personnel, and for people who are in the industrial sector—after we adopted that amendment which is now part of the bill, we began debating the amendment by Senator BUMPERS and Senator SASSER concerning SDI funding. That amendment would reduce for fiscal year 1993 SDI funding from $4.3 billion to $3.3 billion. We had a long and thorough debate on the amendment before a tabling motion was made. The motion to table was defeated by a vote of 43 to 49. I was one of those who voted with the 43 on the losing side. Frankly, I was disappointed but I was not surprised by the outcome of the vote.

During the debate on the fiscal year 1992 Defense appropriations bill last year, a motion to table a similar amendment by Senator BUMPERS and Senator SASSER to reduce SDI funding passed by only 1 vote, 50 to 49. Senator BUMPERS and Senator SASSER were willing to proceed to vote on their amendment following the vote on the motion to table last Friday, but we did not do that.

On Monday we tried to work out a unanimous-consent agreement to vote on the Bumpers-Sasser SDI amendment and to consider several other major amendments to the bill whose sponsors were cooperating in scheduling those debates. The majority leader, Senator MITCHELL, the Republican leader, Senator DOLE, the managers of the bill, Senator WARNER and myself, the sponsors of the amendment, and a number of other Senators worked very hard to reach this unanimous-consent request.

Senator BUMPERS and Senator SASSER were willing to vote on their amendment on Monday. They were also willing to set it aside to allow for consideration of several other amendments and vote Tuesday at 4 p.m. as suggested by the Republican leader, Senator DOLE. Unfortunately, the Senator from Wyoming and some other opponents of the Bumpers-Sasser amendment were not willing to allow the Senate to proceed to a vote on the amendment. Faced with the prospect of a stalemate on the Bumpers-Sasser amendment, the majority leader had no choice under the circumstances and the time constraints we are facing but to accept the recommendation which I made to set aside the bill and turn to other legislative business.

So at this point, those who objected to the unanimous-consent request—which of course is completely their right under the Senate rules—having lost a test vote, are contributing to the failure to make progress on the Defense authorization bill. Indeed, if they do not change their position when we come back in September, we will be jeopardizing the Defense authorization bill, as well as the Defense appropriations bill, which we have already had a dialog with the Senator from Hawaii about.

Mr. President, the Senator from West Virginia, Senator BYRD, the leader of the Appropriations Committee is on the floor.

I think he understands very well, probably better than anybody in the Congress, the results of an impasse on this kind of authorization bill because he understands that the defense appropriations bill will have the same impasse because we will have the same issue on it, we will have the same vote, in all likelihood, and that will necessitate, as the Senator from Hawaii has already outlined, a continuing resolution.

Mr. President, we have a number of important provisions in this bill that, in all likelihood, would not be part of a continuing resolution and would not be enacted into law if this authorization bill is not passed. For the last several months, we have had two task forces in the Senate working on the problems of defense conversion and transition, a Democratic task force headed by Senator PRYOR, a Republican task force headed by Senator RUDMAN. Ninety percent of their suggestions and recommendations are in this bill.

The bill includes provisions to help active duty and reserve military members and for DOD civilian employees who lose their jobs as we reduce the size of the Defense Establishment. It authorizes DOD support for the Department of Labor's worker relocation and training programs under the Job Training Partnership Act. It authorizes $150 million for EDA grants and $30 million for DOD's Office of Economic Adjustment to help communities adversely affected by base closures or the drawdown of defense industries. It also includes a broad range of incentives to promote defense industry conversion and to preserve critical elements of our defense industrial base. These critically needed conversion measures are not one-line funding entries that can be cited in an appropriations bill. They are complex legislative provisions that are several hundred pages long, and they will be lost if the bill is not enacted.

S. 3114 also contains essential legislation in the military personnel area including a 3.7-percent military pay raise effective January 1, 1993, and the extension of key bonus authorities which expire September 30, 1992. These measures, in all likelihood, will be lost if we do not enact the bill.

For the National Guard and Reserve forces, S. 3114 expresses the congressional view that we should reduce the levels of the National Guard and Reserves at a more moderate rate than proposed by the Defense Department. The bill includes certain protections for National Guard and Reserve units and personnel until DOD submits a comprehensive report on the Active/Reserve force mix and implements the transition provisions for National Guardsmen and reservists proposed by the committee. The bill also includes an expansion of the JROTC Program from 1,600 to 3,500 high schools; establishes a National Guard Civilian Youth Opportunities Program; and authorizes a National Guard program called Science and Technology Academies Reinforcing Basic Aviation and Space Exploration [STARBASE]. These programs will help disadvantaged, at-risk young people, but they will be lost unless we can move ahead with the bill.

The bill contains a number of initiatives to improve the efficiency and reduce the cost of Defense Department operations. For example, there is a major initiative to improve inventory management in DOD, saving $3.2 billion in fiscal year 1993. The bill also contains legislative provisions to improve the efficiency of DOD recruiting operations and of the military service academies. These and other efficiencies will not be realized if this bill cannot move forward.

The defense authorization bill contains a major initiative to stimulate and encourage a thorough review of the assignment of roles and missions within the Defense Department. This is an area of enormous importance and can literally save, if done properly, billions and billions and billions of dollars for the American taxpayers without reducing our defense effectiveness.

The Defense Department has proposed a major overhaul and reform of the operations of the national defense stockpile, and the committee agreed with these proposals. The bill authorizes the disposal of large amounts of material no longer needed in the stockpile. The estimated revenue from these sales is $500 million in fiscal year 1993 and $600 million in fiscal year 1994. Without this disposal authority, these sales of unneeded material cannot take place.

S. 3114 also establishes a new Civil-Military Cooperative Action Program in the Department of Defense. This program will provide authorization for DOD assistance, consistent with the military mission, to civilian projects that address critical domestic problems in areas such as health care, nutrition, education, and infrastructure. This program cannot get underway, however, unless this bill is enacted.

Finally, Mr. President, we should not forget the large number of military construction projects affecting virtually every State in the Union. Under title 10 no funds can be spent for individual military construction projects unless the projects have been authorized by law.

Without the necessary authorization contained in S. 3114 the fiscal year 1993 military construction projects in the fiscal year 1993 military construction appropriations bill will not be able to be spent for specific projects, and that will apply to virtually every State in the country.

Mr. President, the bill contains a great many provisions that are essential to our national security and the men and women in the military and the men and women who work for the Department of Defense and the men and women who work for the defense industries of our country. Too much is at stake here to be held up because of one particular amendment. That is why I plan to file a cloture motion on the Bumpers-Sasser amendment as soon as we return from the August recess.

I want to make it clear that I oppose the Bumpers-Sasser amendment, and I will vote against it if cloture is invoked. I recognize that initially SDIO proposed a GPALS/Brilliant Pebbles-oriented plan that did not comply with our intent in last year's Missile Defense Act. However, the committee agreed with the concerns raised by the senior-most officials in the DOD acquisition community about the degree of concurrency and technical risk that SDIO proposed to build into the program, and we succeeded in getting the initial ABM deployment plan back on a sound acquisition track in the bill. The committee has already cut the fiscal year 1993 request for SDI by over $1 billion. If we are serious about deploying a limited, treaty-compliant ABM system next decade, I believe we should fund the program at the level recommended by the committee and passed by the House.

I understand that some Members voted against the tabling motion because of a May 1992 report by the Congressional Budget Office that maintained the SDI Program could be funded at the level recommended in the Sasser/Bumpers amendment without jeopardizing the 2002/2003 deployment target date. However, the CBO report itself cautions:

> Much of the money saved in this period [FY 1993-97] would eventually have to be spent if [this] system is deployed. The total cost might actually be higher than the level the administration plans because program delays can cause inefficiencies.

Even if one leaves aside the issue to higher total cost, though, the fatal flaw of the CBO report is that cutting money in the near term but holding the deployment date steady at 2003 delays the availability of test hardware until much further into the decade. This will lead to much higher concurrency than that provided for under the recently revised SDIO plan.

If Congress were to follow CBO's funding profile and prohibit SDIO from conducting a highly concurrent development, testing, and procurement program—which they are prohibited from doing under the revisions to the Mission Defense Act recommended by the committee—then the only recourse would be to postpone the date for operations of a limited defense system further—to 2006 or 2007.

As I indicated, Mr. President, I will vote for cloture on the Bumpers-Sasser amendment, and I urge my colleagues to join me in voting for cloture. We should not allow this bill to be blocked. If cloture is invoked, I intend to vote against the amendment.

Mr. President, I think it is ironic that at a time when the United States and our allies are considering the possible use of United States armed forces in hostilities in Bosnia—and at a time when the United States is considering whether it might have to use force to insure Saddam Hussein's compliance with the U.N. resolutions in Iraq—that some Members of this body appear willing to take action that would prevent the Senate from acting on the major authorization legislation for our national security programs and policies.

It is also ironic that at a time when military members, DOD civilian employees, private sector defense workers, communities, and defense businesses across the nation are beginning to feel the pinch of the defense drawdown, some Members of this body want to prevent the Senate from enacting legislation that will help deal with these problems.

I hope all Senators will think very carefully what they are doing here because an awful lot is at stake and sometimes people go entirely too close to the cliff thinking they would never fall off.

Mr. President, this may be the year when we all go off the cliff inadvertently but, nevertheless, with the same consequence.

Mr. President, I thank the Senator from West Virginia and the chairman of the Appropriations Committee, and I hope Members took note of what he said because this is very important.

There are people in this Chamber who have delayed matters before, and there will be those who will delay them again, and many times these matters work out. Many times people want to send a signal of their strong feeling on a particular matter, and at some point they feel that either cloture will be invoked or they would themselves be willing to yield.

But what I do not believe has been taken into account in this instance by those who have opposed this Sasser-Bumpers amendment so strenuously that they feel they must in effect hold up the entire bill, I do not think they realize what the Senator from West Virginia has just said.

We have 16 days when we get back before the beginning of the fiscal year. I do not believe they realize how close to the cliff we are. I hope they all will listen to what has been said here by the Senator from Hawaii and the Senator from West Virginia, because they are talking about a continuing resolution being the result of this, and a continuing resolution would be a very strict continuing resolution, and it would have no new starts.

What that also means, according to the custom, is that programs that have R&D, research and development, and are now ready to go into production, are going to be funded at last year's level.

So you have not simply new starts, but you also have numerous programs that are slated to move into production with a higher level of funding but they are going to end up being at a lower level of funding. So you are really talking about, in my view, tens of thousands of jobs here. And those effects will begin to be felt before this calendar year is over if we end up with a continuing resolution.

We have another set of circumstances which I do not believe those who are obstructing the bill have completely put into their thought processes. We have a likelihood—some people think possibility, some people think probability—of a new administration coming in. And without any reference to partisanship whatsoever, if we have a new administration coming in, the chances of that continuing resolution becoming moot, and becoming part of a major bill probably are very dim until somewhere in the middle of the spring.

If we have a continuing resolution, I doubt very seriously if we will be able to move to another bill or a supplemental appropriations bill before April or May of next year; maybe even longer than that.

So the consequent result of that could be that we could be on a continuing resolution for more than half of the next fiscal year. That is something I do not believe people are taking into account.

We have an opportunity on the Bumpers-Pryor amendment, if we go ahead and have the authorization bill. Those who believe they can produce the votes to have a different outcome, will have another chance on the appropriations bill. They will have a chance in the Committee on Appropriations. They will have a chance in conference because the House is at a higher level.

I believe that the price that is going to be paid for this kind of delay is an inordinate price.

I respect those who feel so strongly on this subject. But I do not believe they are looking at the broader perspective. I do not believe they are considering the consequences. I do not believe they are considering the consequences to our Nation's security and to tens of thousands of men and women in this country who are working for the defense industries or who are employed by the Department of Defense.

Mr. President, I thank the Senator from West Virginia for his leadership, for his cooperation. He is a very valuable member of our committee. And he is, of course, in one of the most important positions in the Congress of the United States as chairman of the Appropriations Committee.

I thank him for his explanation on this, because I think all Members need to understand it.

I hope those who are not here will read the RECORD and pay careful heed to what the Senator from West Virginia and the Senator from Hawaii have conveyed this evening.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, did the distinguished Senator from Nebraska wish to be heard?

Mr. EXON. Yes, if I can be.

Mr. BYRD. Mr. President, I yield for that purpose.

Mr. EXON. Mr. President, I want to associate myself with the remarks on the defense authorization bill just previously discussed by the Senator from Hawaii and the distinguished chairman of the authorizing committee a few moments ago. I hope we do not have to go to cloture on this matter, but I simply want to emphasize the warnings that have been issued by those two Senators, and the words of wisdom from the most experienced man on legislation in this body, Senator BYRD, that are going to follow should be heeded. I do not want to issue a warning. I am simply saying we have our work to do. I hope we can get at it quickly when we return.

Mr. BYRD. Mr. President, I agree with the statements made by the distinguished chairman of the Armed Services Committee, Mr. NUNN, and the distinguished chairman of the Defense Appropriations Subcommittee, Mr. INOUYE.

When the Senate returns on September 8, there will be only 16 working days left before the beginning of fiscal year 1993 on October 1. Considering the fact that 1 of the 17 days that will be left will be a religious holiday, that gives us 16 days. And during that first week of the Senate session in September, the Appropriations Committee will mark up four appropriations bills, hopefully—four: the 1993 supplemental, the Labor-HHS appropriations bill, the foreign operations appropriations bill, and the legislative branch appropriations bills.

In addition to these four appropriations bills, two other appropriations bills have been reported by the committee but have not been taken up by the Senate: the VA-HUD appropriations bill and the Treasury-Postal appropriations bill.

The Senate will need to act on these six appropriations bills as quickly as possible in September in order to get these bills to conference with the House, complete the conferences, take up the conference reports on the bills, and on the other appropriations bills which have passed the Senate. All of this work will have to be completed prior to October 1, if we are to avoid an omnibus continuing resolution.

In addition, it is possible that a number of appropriations bills may be vetoed by the President over issues such as abortion. Time prior to October 1st will also be needed to reconsider any appropriations bills which the President may have vetoed.

With all of this work facing the Senate upon its return on Setpember 8, we cannot afford to continue unlimited debate on the pending Sasser/Bumpers amendment to the Armed Services Authorization bill.

The distinguished chairman of the Armed Services Committee has indicated that he will support a cloture motion, possibly even introduce a cloture motion. I will support that cloture motion on the amendment.

We will have to get to a vote on the Sasser-Bumpers amendment and then move quickly to complete action on the armed services bill in September, and then take up the defense appropriations bill. If the Senate cannot complete action on the armed services bill expeditiously, I would expect leadership to put the bill back on the calendar, and then proceed with a continuing resolution. That would mean that all of the hard work that has been done by the distinguished chairman of the committee, Mr. NUNN, and the distinguished ranking member of the committee, Mr. WARNER, and all of the members of that committee, excepting myself—I cannot claim to have done much work on the committee, I have been busy on the Appropriations Committee—but all of that work will have been for naught.

There are a number of very important initiatives in the Defense authorization bill, which takes major steps forward in refashioning our defense establishment and military forces for the post-bipolar cold war world. Responding to the diminished threats from the former Soviet bloc, it reduces military spending in many accounts while promoting an across-the-board review of military roles and missions. Another major initiative assists individuals, communities, and businesses in adjusting to the effects of the defense drawdown. Further, it establishes a program to encourage civil-military cooperation in addressing domestic problems. It makes the first major improvements in many years to reduce bloated DOD inventories and improve inventory management practices. It provides for increased utilization of the National Guard and Reserves more than in the past, in part in recognition of the extremely productive and valuable contributions made by those forces during the Desert Storm conflict. Further, it includes a series of important initiatives to make better civilian use of the large national defense technological and industrial base, with major emphasis on dual-use capabilities. Lastly, it makes a major effort at prohibiting the hemorrhaging of our critical technologies from being acquired by foreign governments, as in the recent attempt by the French Government to acquire the LTV Corp.'s assets.

The distinguished chairman, Mr. NUNN, has alluded to those initiatives, and his speeches as it appears in the RECORD will fully elaborate on those initiatives.

I would also point out that a major reorientation of our national intelligence priorities and programs has been taking place with close cooperation with the new leadership of the intelligence community, and that reordering is included in the defense bill. That is an effort which should not be stillborn for another year.

If we have to go to a continuing resolution for defense, I can assure Senators that it will in all likelihood be a very tight continuing resolution. A CR would allow for no new starts and would fall short of the needed funding levels for defense conversion. Such a CR would continue military spending at the most restrictive possible rate.

I urge all Senators to take a hard look at the consequences of failure to complete our work on appropriations bills, and, as I have indicated, failure to complete work on the defense authorization bill, and to cooperate with leadership, and with Senator NUNN and Senator WARNER, in these efforts during the remaining days of this session so that we may avoid an omnibus continuing resolution.

Mr. President, I thank the Senator from Georgia for his leadership, and I assure him that I will certainly vote with him in support of the cloture motion, and will do whatever I can do to expedite action on the bill that he has brought to the floor, and will continue to urge other Senators to do likewise.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, what is the pending business of the Senate?

The PRESIDING OFFICER. The Senate is presently in morning business.

Mr. GRAHAM. Thank you.

THE UNITED STATES POSITION ON HUMAN RIGHTS

Mr. GRAHAM. Mr. President, yesterday, we passed a very important statement of position when this Senate went on record as advising the President of the United States of our support of a policy of the United States taking leadership within the United Nations to fashion a United Nations position that would authorize effective international action, including force, for the purpose of protecting the delivery of humanitarian goods to the people of Bosnia and acquiring access to the detention camps, in which there are strong indications of major human rights abuses.

I supported that resolution because I believe it is consistent with my interpretation of the position of the United States in the world, deriving from the first statement of an independent United States of America, the Declaration of Independence. I have always interpreted that Declaration as being a universal statement of values to which the United States, then as 13 struggling colonies, had committed itself.

Mr. President, as I read over the resolution that we adopted, it struck me that there were some new principles being enunciated, or old principles being given new life. I would like to talk briefly about three of those, and then discuss their application to an area of the world that is much closer to us geographically, historically, and in terms of its immediate impact on the United States of America.

The first of those principles is that the distinction between a civil conflict and an international conflict between or among nations is becoming increasingly blurred. A traditional statement within international organizations has been one of respect for national sovereignty. And that statement has been interpreted as making it inappropriate for an international agency, whether it be the United Nations or regional agency, to involve itself in an internal dispute.

What I think we are seeing in the former regions of Yugoslavia is the difficulty of deciding what is a civil—as opposed to what is an international—conflict. We have opted, by our action yesterday, to essentially state that this is a conflict, whatever its characterization, that warrants international attention and involvement, including the use of force.

A second principle is that the primary responsibility lies with regional agencies, and that it is only when those regional agencies have indicated their inability to control events that we rise to the level of a multinational agency; in this case, the United Nations.

The prime responsibility for the circumstances in the former Yugoslavia has been considered to be at the European Community. The failure of the European Community thus far to be able to contain the violence has now led to a judgment that the United Nations Security Council action is required.

(Mr. BREAUX assumed the chair.)

Mr. GRAHAM. The third principle is the principle that the United States will be involved in these international circumstances, even when obvious political and economic interests are not at stake and are not threatened.

About a year and a half ago, we were involved in the issue of appropriateness of the United States' commitment of forces in the Persian Gulf. There, we had a clear economic involvement. Our interest in seeing that there was not a disruption in oil products clearly made that an issue that had United States interests involved.

It is less clear what the United States interests, or political interests, are in Bosnia. By our action yesterday, we were rising above those traditional limitations and saying that there were human rights issues, fundamental bases of dignity and fair treatment of human beings that warranted United States involvement.

Mr. President, with those three principles in mind, I would like to bring to the Senate's attention an area which, when we return in early September, will be entering its 11th month of repression, of the latest era, and that is Haiti.

On the 29th of September last year, the first democratically elected President in recent history of Haiti was deposed by an old-style military dictatorship. We are soon to celebrate an anniversary of that military dictatorship continuing to exercise its power, and the democratically elected President continuing to live in exile.

I believe that as we look at the situation in Haiti, we will find some similarities to the three principles that undergirded our action relative to Bosnia. There are serious human rights abuses going on today within Haiti; violations maybe that have not received the international attention of those in Bosnia, but violations of a widescale and serious nature.

Mr. President, I would like to read a paragraph from the Amnesty International Report of 1992, a comprehensive report on human rights violations around the world.

On page 133, this report describes conditions in the post-coup Haiti.

It states:

> The days immediately following the 29 September coup were marked by violent repression, particularly in impoverished communities where support for President Aristide had been strongest. Many people were killed by soldiers in circumstances suggesting they had been extrajudicially executed. Soldiers deliberately opened fire into crowds, killing and wounding hundreds of people, including children, sometimes in the course of demonstrations against the coup. In Gonaïves, Artibonite department, six people were shot dead by the security forces after demonstrators set up barricades in the city. After a soldier was killed by a crowd in Lamentin 54, Port-au-Prince, soldiers reportedly raided private homes and shot more than 30 unarmed people dead, then forced relatives and other local people to bury the bodies.

That is a brief description of one period of the escalating human rights oppressions within Haiti. But the circumstances are not limited to just what is happening in Haiti. What has occurred there—a military coup deposing a democratically elected government—has sent a signal to the barracks throughout Latin America.

It is not, in my judgment, a matter of coincidence that shortly after the successful coup in Haiti, a coup was attempted in one of the longest standing democracies in Latin America—Venezuela; and a few weeks after that, a successful—what is described as an autocoup—where the executive in Peru deposed the parliament of Peru to impose essentially authoritarian rule.

This message that has been received by the militaries in at least two Latin American countries, is a message which is still in the air. And as long as the military coup is allowed to continue in Haiti, it has the potential for being heard, understood, and acted upon by those who are continuing to be dissatisfied with the new wave of democracy that is sweeping this hemisphere.

We in the United States are not unaffected by the events in Haiti, Mr. President. The most tangible examples of that effect have been the waves of refugees who have arrived or attempted to arrive in the United States of America.

At the present time, the United States is applying a very strict policy, a policy of turning back those who would attempt to leave Haiti, without providing them with the rights that have been considered fundamental in our refugee law: The right to present the case of legitimate political asylum.

I am disappointed that the United States is acting in a way that I believe is violative of international law and of our own standards of fair treatment of other people.

I also suggest, Mr. President, that in spite of this policy, we have not witnessed the last chapter of thousands of people attempting to leave this harsh and repressive regime.

Second, Mr. President, I believe that this, too, as in Bosnia, should be thought of as a regional issue. In this case, the regional agency is the Organization of American States. Thus far, the OAS has responded to the coup in Haiti by diplomatic efforts and by an embargo. Neither of these, after almost a year in place, have proven to be effective in terms of achieving their goal of restoring the democratically elected presidency in Haiti.

Third, the United States is positioning itself to be accused—as in fact it has already been accused in other areas of the world, such as Somalia—of only being interested in the white, rich man's war; that where it is a conflict involving an impoverished country, particularly a country that is not Caucasian, that the world adopts a different standard, a standard of acceptance and passivity.

It is also true that the United States is positioning itself in the 1990's to be accused of having tolerated a dictatorial takeover of democracy within our own hemisphere, of complicity in a Munich in the Caribbean.

I believe, Mr. President—just as yesterday we indicated our willingness to be involved, including our willingness to sanction the use of force in a country thousands of miles away—that it is time for the United States to be prepared to provide the same level of leadership within our own hemisphere.

I believe that the adoption of a policy that would say that the United States would take leadership with the regional agency, the Organization of American States, to develop a strategy, including one which might include the use of force to restore democracy in Haiti, would be consistent with the principles that drove our resolution yesterday on Bosnia.

I believe that the circumstances in Haiti are worthy of our concern for universal human rights. I believe that the challenge of providing leadership to restore democracy in this hemisphere and to indicate that we will not tolerate the military coups, which have been so much of our history in this hemisphere, deposing the will of the people, that that will not be part of our history at the end of the 20th century.

Mr. President, I applaud the action which was taken by the Senate yesterday on Bosnia. I ask that this Senate give serious consideration to those same principles being applied to a repressed people within our hemisphere, the people of Haiti.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE HUNGARIAN NATIONAL HOLIDAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 331, a resolution commemorating the Hungarian national holiday.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 331) to Commemorate the Hungarian National Holiday.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, I rise today to urge my colleagues to support a resolution commemorating the founding of the Hungarian State by King Saint Stephen in the year 1000 AD.

The celebration of this national and religious holiday comes after almost a half a century of waiting—waiting for the successful ouster of the Communist government. Now that Hungary has shed the long shadow of its Communist era, the Hungarian people can once again commemorate their proud history.

Mr. President, I am confident that the entire Senate membership—and, indeed, all of America—join me in congratulating the Hungarian Government and the Hungarian people on this festive occasion. We send them our best wishes for continued success in the successful establishment of a free, prosperous, and democratic nation. We also congratulate all Hungarian-Americans, who have made major contributions to the success and well-being of the United States of America.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 331), with its preamble, reads as follows:

S. RES. 331

Whereas the Republic of Hungary on August 20, 1992, will celebrate the founding of the Hungarian state by King Saint Stephen in 1000 AD;

Whereas the Hungarian people, because of their successful democratic revolution, will be able to celebrate this national and religious holiday for the first time since the Communists consolidated power in Hungary in 1947;

Whereas Hungarian-Americans, who have made major contributions to the prosperity and well-being of the United States, will join joyously in this celebration: Now, therefore, be it

Resolved, That the United States Senate hereby congratulates the Republic of Hungary on the Hungarian National Holiday and extends to Hungary its best wishes for continued success in establishing a free, prosperous, and democratic nation.

REPEAL OF THE WRIGHT AMENDMENT

Mr. DOLE. Mr. President, on September 17, 1991, I offered for myself and Senator KASSEBAUM an amendment to the Transportation appropriations bill to repeal the so-called Wright amendment which governs operations of commercial air traffic at Love Field in Dallas, TX. I have advocated the repeal since 1987, but in the spirit of teamwork and compromise, I agreed that we should wait for the Department of Transportation study that was underway before the Senate reviewed this issue again. With that in mind, I want to make sure that everyone understands the impact of the Wright amendment and the results of the most recent studies.

The 1980 Wright amendment is a federally mandated monopoly, one that exists nowhere else. This legislation no longer protects a struggling regional airport as was the original intent, but now provides for a multimillion-dollar special interest give-a-way at the expense of the flying public. In real term dollars, the Wright amendment impacts travelers in every State. I want to see, as I am sure every American does, the goal of the DOT report, "more service, more competition, and lower fares" for all travelers to and from Dallas, which is also the most frequent destination for Kansas air travelers.

On July 23, 1992, I sent a package of information on the Wright amendment to my colleagues summarizing the Federal Trade Commission and the Department of Transportation reports reiterating why the Wright amendment is wrong. I also included a letter from last October that identified the impact of the Wright amendment on a State-by-State basis. The most astounding conclusion about the impact of the Wright amendment is the estimated cost of $183 million per year that is added to airline ticket costs unnecessarily.

Mr. President, I ask unanimous consent that a sample of this package be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 23, 1992.

DEAR———: In October I alerted you to the direct cost impacts suffered by your traveling constituents based on the current Wright Amendment and the bill S–377 to repeal this outdated amendment. Recently the Federal Trade Commission and the Department of Transportation have come out with additional analysis validating that the Wright Amendment restrictions at Dallas Love Field do result in higher fares, less service, less competition, and inconveniences to the traveling public into and out of Dallas.

In 1980, in an effort to protect the new Dallas/Fort Worth Airport (D/FW), Congress passed legislation to restrict commercial operations to the downtown Dallas Love Field airport. Love Field had been the busiest and most convenient airport and at that time was D/FW's competition. The Wright Amendment has accomplished the purpose that was intended and, it is now time to let the second busiest airport D/FW stand on its own like all other airports in this nation. As a matter of fact, the DOT analysis states that, "Under all possible scenarios, D/FW will continue to grow and remain the region's dominant airport."

What we do need to be aware of is the impact of the Wright Amendment on our constituents, the American flying public. Why should your business associates, family or friends when traveling beyond a state contiguous to Texas leaving Love Field have to make two separate reservations, buy two separate tickets, exit the airplane at the airport within Texas or the contiguous state, take possession of their baggage, carry the baggage back to the ticket counter, recheck it, and board a new aircraft to continue on to their final destination. Sound ridiculous? It is, but that is what the Wright Amendment imposes. Using a major carrier into Dallas, you will not be advised of the Love Field option. All travelers are impacted and all travelers pay in terms of higher fares and time. It has been estimated that travelers to or from the Dallas Metroplex region would save $183 million dollars per year just in air fares. We in Congress are responsible for this financial burden and inconvenience to the public.

Repeal of the Wright Amendment will allow for more competition, lower fares, more service, and more convenience to the travelers. Safety will be maintained through the FAA procedures. This is our opportunity to eliminate a "One of a kind" federal restriction and put the control back in the hands of local government. Again, in all other areas which are served by competing airports (ie, Chicago O'Hare and Chicago Midway), control over those airports is left to local authorities who can impose their own restrictions based on local needs. It is time for us to address the needs of the flying public and repeal the Wright Amendment.

I hope you will take the time to review this issue. Enclosed you will find summaries of the Wright Amendment and the recent findings of the Federal Trade Commission and the Department of Transportation. I am also enclosing a copy of the October letter addressing specific costs in your area which you might want to follow up on the impact to residents and how they are being denied fair and reasonable air fares and freedom of travel because of the Wright Amendment. The Coalition for the Repeal of the Wright Amendment consists of airports, airlines, and consumer groups nation-wide who are intimately familiar with the discriminatory restrictions of the Wright Amendment. If you have any questions, please contact Greg Schnacke (4–6521) in my office or contact the Coalition directly at 775–1796.

Sincerely,

BOB DOLE,
U.S. Senate.

Sen. Brock Adams.
Sen. Daniel K. Akaka.
Sen. Max Baucus.
Sen. Joseph R. Biden, Jr.
Sen. Jeff Bingaman.
Sen. Christopher S. Bond.
Sen. David L. Boren.
Sen. Bill Bradley.
Sen. John B. Breaux.
Sen. Hank Brown.
Sen. Richard H. Bryan.
Sen. Dale Bumpers.
Sen. Quentin N. Burdick.
Sen. Conrad Burns.
Sen. Robert C. Byrd.
Sen. John H. Chafee.
Sen. Dan Coats.
Sen. Thad Cochran.
Sen. William S. Cohen.
Sen. Kent Conrad.
Sen. Larry Craig.
Sen. Alan Cranston.
Sen. Alfonse M. D'Amato.
Sen. John C. Danforth.
Sen. Thomas A. Daschle.
Sen. Dennis DeConcini.
Sen. Alan J. Dixon.
Sen. Christopher J. Dodd.
Sen. Pete V. Domenici.
Sen. Dave Durenberger.
Sen. James J. Exon.
Sen. Wendell H. Ford.
Sen. Wyche Fowler, Jr.
Sen. Jake Garn.
Sen. John Glenn.
Sen. Albert Gore, Jr.
Sen. Slade Gorton.
Sen. Bob Graham.
Sen. Charles E. Grassley.
Sen. Tom Harkin.
Sen. Orrin G. Hatch.
Sen. Mark O. Hatfield.
Sen. Howell Heflin.
Sen. Jesse Helms.
Sen. Ernest F. Hollings.
Sen. Daniel K. Inouye.
Sen. James M. Jeffords.
Sen. Bennett J. Johnston.
Sen. Nancy Landon Kassebaum.
Sen. Robert W. Kasten, Jr.
Sen. Edward M. Kennedy.
Sen. Robert J. Kerrey.
Sen. John F. Kerry.
Sen. Herb Kohl.
Sen. Frank R. Lautenberg.
Sen. Patrick Leahy.
Sen. Carl Levin.
Sen. Joseph I. Lieberman.

Sen. Trent Lott.
Sen. Robert G. Lugar.
Sen. Connie Mack.
Sen. John McCain.
Sen. Mitch McConnell.
Sen. Howard M. Metzenbaum.
Sen. Barbara Mikulski.
Sen. George J. Mitchell.
Sen. Daniel Patrick Moynihan.
Sen. Frank H. Murkowski.
Sen. Don Nickles.
Sen. Sam Nunn.
Sen. Bob Packwood.
Sen. Claiborne Pell.
Sen. Larry Pressler.
Sen. David Pryor.
Sen. Harry Reid.
Sen. Donald W. Riegle, Jr.
Sen. Charles S. Robb.
Sen. John D. Rockefeller, IV.
Sen. William V. Roth, Jr.
Sen. Warren Rudman.
Sen. Terry Sanford.
Sen. Paul S. Sarbanes.
Sen. Jim Sasser.
Sen. John Seymour.
Sen. Richard C. Shelby.
Sen. Paul Simon.
Sen. Alan K. Simpson.
Sen. Robert Smith.
Sen. Arlen Specter.
Sen. Ted Stevens.
Sen. Steve Symms.
Sen. Strom Thurmond.
Sen. Malcolm Wallop.
Sen. John W. Warner.
Sen. Paul Wellstone.
Sen. Timothy E. Wirth.
Sen. Harris Wofford

U.S. SENATE,
Washington, DC, October 8, 1991.

Senator ERNEST HOLLINGS,
U.S. Senate, Washington, DC.

DEAR FRITZ: It's a classic case of "you can't get there from here." Despite deregulating the airline industry over a decade ago, the federal government still restricts air service at one commercial airport. This federal restriction is one of a kind and exists for no other airport in the country. It may be unconstitutional. It is unquestionably anticompetitive, removes control from local governments, is contrary to airline deregulation and it inflates fares for South Carolina air passengers!

In 1980, in an effort to protect the fledgling Dallas/Fort Worth Airport (D/FW), Congress passed legislation to restrict commercial airline operations to the more convenient, downtown Dallas Love Field airport, which was viewed as a competitive threat. This is the first and only time this restriction has been placed on any airport in any state in the country, even though several cities have more than one airport which compete against each other.

The restriction was sponsored by former House Speaker Jim Wright and has become known as the "Wright Amendment." The Amendment prohibits airlines from providing service between Love Field and destinations located outside of Texas or its four surrounding states. As we have stated on the Senate Floor, the Wright Amendment accomplished its goal; D/FW is now the second busiest airport in the nation. The question is whether the Wright Amendment continues to serve the flying public.

In all other areas which are served by competing airports, control over those airports is left to local authorities that can impose restrictions in the best local interest. The Wright Amendment denies the local control enjoyed by all other regions of the country, and instead requires adherence to federal restrictions far in excess of those in existence anywhere in the United States. If supporters of the Wright Amendment are correct in their belief that Dallas and Fort Worth officials are united in support of the Amendment, they have nothing to fear of repeal.

Dr. Alfred E. Kahn, Chairman of the Civil Aeronautics Board in the Carter Administration, believes the Wright Amendment is flatly in conflict with deregulation of the airline industry, constitutes exactly the kind of barrier to free market competition that deregulation seeks to eliminate, and is a direct and substantial burden on air travelers wishing to travel between Dallas and other parts of the country outside Texas and its four surrounding states.

The Wright Amendment inflates airfares by keeping low-cost carriers such as Southwest Airlines from serving your state from its base at Love Field. When low-cost carriers serve cities in your state, other airlines must offer similar fares to stay competitive. Without this competition, airlines are free to charge outrageous fares to Dallas.

For example, round-trip travel to the Dallas/Fort Worth area from unrestricted states typically costs an air traveler 10 to 12 cents per mile, while travel from South Carolina can cost nearly 20 cents per mile. In addition, to get to Love Field under the Wright Amendment, your constituents would be forced to first make two separate reservations, purchase two separate tickets, and fly to Arkansas or Louisiana. Upon arrival, these South Carolina residents would be forced to deplane and claim their baggage from the baggage carousels, carry the luggage to the southwest counter, and recheck it. Only then could your constituents board a separate aircraft and continue on to Dallas. If this sounds more like travel in another part of the world, you have the Wright Amendment to blame.

These fare discrepancies and tortuous travel restrictions apply to other states across the nation as well. That is why airports, airlines, and consumer groups nationwide are members of the Coalition for Wright Amendment Repeal.

We hope you will take the time to review this matter in more detail to learn how residents of your state and ours are being denied fair and reasonable airfares and freedom of travel under a law that has far outlived its usefulness. If you wish to cosponsor S. 377, contact Ed Bolen in Senator Kassebaum's office (4-4774), or Greg Schnacke (4-6521) in Senator Dole's office.

Sincerely,

BOB DOLE.
NANCY KASSEBAUM.

WRIGHT AMENDMENT

Federal law that prohibits commercial airlines from providing nonstop service, direct service, or connecting service between Love Field and destinations outside of Texas, Louisiana, Arkansas, Oklahoma, and New Mexico ("the 5-state area").

The restrictions passed by Congress on the use of Love Field was to ensure the success of the new airport and protect the cities bond obligations.

D/FW now has the second busiest tower in the system and is no longer the fledgling airport in need of protection.

Only Washington National and Dallas Love Field have mileage restrictions in place. National imposed their restrictions based on congestion, Love's restrictions imposed by Congress to bring business to D/FW.

There are no similar restrictions at other competing locations, such as Houston Hobby and Houston Intercontinental or Chicago O'Hare and Chicago Midway.

National allows through ticketing/through services. Under the Wright Amendment, Love Field passengers travelling beyond a state contiguous to Texas (5-state area) must make two separate reservations, buy two separate tickets, must exit the airplane at an airport within Texas or a contiguous state, must take possession of all checked baggage, carry the baggage to the ticket counter, recheck the baggage and board a new aircraft to continue to the final destination.

The above double ticketing option is not publicized and while inconvenient, it is unknown to most American travelers thus eliminating their choice and increasing their costs.

The Government imposed monopoly has led to a distortion in air fares for example, when adjusted on a mileage basis, passengers flying to Dallas from Wichita, Kansas pay 900 percent more than passengers from either Oklahoma City or Tulsa, OK. The sole reason is that Oklahoma has competition and the choice of D/FW or Love Field.

Business and tourist travelers to Dallas from every state except five must fly to D/FW and then drive to Dallas, unlike the choice in every other city in the nation with more than one airport. Repeal of the Wright Amendment would allow travelers from Atlanta, Miami, Chicago, New York, Seattle, Los Angeles, Las Vegas, etc. to finally have a choice.

DOT ANALYSIS OF THE IMPACT CHANGES TO THE WRIGHT AMENDMENT

AREAS REVIEWED

a. Impact competition and fares
b. Capacity at Love Field (LF)
c. Impact of LF vs growth of Dallas Ft. Worth (D/FW)
d. Travelers preference (LF vs D/FW)
e. Environmental consequences of increased traffic at LF

OPTIONS REVIEWED

a. Base Case (650 miles/no through tickets/service)
b. Modified Wright = 650 miles radius, through tickets/svc
c. Full Repeal of the Wright Amendment
1. Equal Access
2. One carrier develop LF as a major origin/destination
3. Development of LF as a major hub

COMPARATIVE DATA PER OPTION

Data elements	Modified	Equal access	Major O/D	Major hub
Growth of operations (Percent).	6–96 2.6–01	15–96 2.6–01	19–96	27–96 2.6–01
Number of aircraft operations.	214,200–90 287,000–96 325,000–01	214,200–90 329,000–96 356,000–01	214,200–90 346,000–96 378,000–01	214,200–90 442,000–96 490,000–01
Enplanements.	3.0m–90 5.1m–96 5.8m–01	3.0m–90 7.2m–96 8.2m–01	3.0m–90 8.9m–96 10.1m–01	3.0m–90 14.1m–96 16.0m–01
Fare Savings	167m	183m (repeal)		
Parking	4,500–90 8,200–01	4,500–90 13,000–01	4,500–90 13,800–01	4,500–90 18,000–01
Terminal Space/SF.	691,000 25 gates	981,500 40 gates	1,214,600 45 gates	1,922,900 70 gates

SUMMARY POINTS

A. Change will result in more service, more competition, lower fares, and subsequently more traffic.

B. LF operations are limited by airspace with D/FW.

C. When operations reach 360,000 annually, aircraft delays may occur at LF.

D. D/FW will continue to grow and remain the dominant airport.

E. Noise/air pollution are local issues. With all options, stage 3 aircraft will reduce the size of the noise contour.

FEDERAL TRADE COMMISSION PROPOSAL
"MODIFY RESTRICTIONS ON LOVE FIELD"

Proposes to maintain the prohibition against non-stop service to point outside the five-state area.

Airlines should be allowed to offer and publicize direct and connecting service from Love Field to such destination through points within the five-state area.

Prices for tickets from D/FT to destinations that can't be served by Love Field are significantly higher than fares from Houston to those same destinations.

Modifying Love Field restrictions may increase competition and lower fares to consumers flying into or out of D/FW.

Single ticketing is less expensive than the present double ticketing thus fares from Love Field to certain destinations may also be reduced.

Modifying restrictions on Love Field will likely: increase competition, increase capacity, provide added convenience, reduce D/FW congestion.

The traveling public could benefit through; lower fares—(increased competition), lower parking/commuter costs, and reduced delays at D/FW.

Modification allows Love Field airlines to compete with D/FW.

Does not address modifications and their impact to noise. Noise abatement can be dealt with through measures that affect flight frequency and aircraft choice.

Summary: Retain the five-state restriction but allow through ticketing/services.

Mr. DOLE. As my colleagues know, the Wright amendment prohibits commercial passenger operations from providing nonstop service, direct service, or connecting service between Love Field in Dallas and destinations outside of Texas, Louisiana, Arkansas, Oklahoma, and New Mexico. Airlines can perform turnaround service only in these five States; they cannot perform through-service or through-ticketing with another carrier; and, the airplane cannot operate beyond these five States. According to the amendment:

> Such Love Field carriers may not hold out, offer, or advertise Love Field services to or from points beyond the four contiguous States in any respect, including the publication of connecting flight schedules in airline guides, flight schedules or similar media.

Mr. President, with these kinds of restrictions competition is obviously limited, higher fares are a direct outcome, and it is a tremendous inconvenience to the flying public. For example, when traveling beyond a State contiguous to Texas leaving Love Field, you have to make two separate reservations, buy two separate tickets, exit the plane at the airport with Texas or the contiguous State, take possession of all your luggage, carry it back to the ticket counter, recheck it, and board a new airplane to continue to your final destination. If flying into Dallas-Fort Worth, you will not be advised of the Love Field option. This lack of options, no through-service or through-fares when flying into or out of Love Field, and higher fares using D/FW defines all that is wrong with the Wright amendment.

Mr. President, the Wright amendment was established to protect the newly constructed Dallas-Fort Worth Airport and the bonds for that airport. The issues facing Fort Worth and Dallas then are very different from today's issues. The concept that D/FW will be severely impacted by repeal of the Wright amendment has not been validated in any report. The contrary is true. The DOT report stated that D/FW will continue to grow and remain the dominant airport and that expansion plans are not threatened by this repeal. It is also significant to note that Alliance, Fort Worth's industrial airport, is not covered by the Wright amendment. The restrictions only apply to passengers not to cargo. It is ironic that Alliance was not a threat to D/FW's economic viability, yet Love Field dealing with passengers is. In addition, the strong concern for safety, noise, and capacity issues were thoroughly addressed in the DOT study. D/FW is and will be, with 49 million passengers, and over 150 domestic and international destinations, the hub of aviation for the Southwest.

We all are impacted by the Wright amendment and even locally there is strong support for repeal. The coalition for repeal of the Wright amendment which consists of airports, airlines; interest groups—Consumer Federation of America and public citizen's aviation consumer action project—and unions—the National Air Traffic Controllers Association, MEBA-AFL/CIO—have joined forces to publicly oppose the Wright amendment. It is significant to note that local Dallas business leaders as well as communities such as Carrollton, TX, and community Groups—including the North Dallas Chamber of Commerce, Stemmons Corridor Business Association, St. Paul Medical Center, and the Children's Medical Center—publicly oppose the Wright amendment. Several newspaper articles that support local interest in repealing the Wright amendment tell the story. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wichita Eagle, Oct. 17, 1991]

REPEAL IT: SUPREME COURT BUFFETS EFFORT TO GET LOWER AIRFARES TO DALLAS

All is not lost in the Supreme Court's rejection Tuesday of a constitutional challenge to the Wright Amendment. The law, named after former Speaker of the House Jim Wright, makes it impossible for Wichitans to fly directly to Dallas' Love Field on Southwest Airlines, which offers low-cost, no-frills service.

But Kansans intent on seeing the law changed are not giving up. Attorney General Bob Stephen is proceeding with this court case against the Wright Amendment. Rep. Dan Glickman and Sens. Bob Dole and Nancy Kassebaum have introduced legislation to repeal it.

Not that the opposition isn't tough. Texas Senators and House members are fighting to keep things as they are. And they are being pushed to do so by American Airlines which, of course, doesn't want more competition from Southwest Airlines in such markets as Wichita.

Taking on the state of Texas and American Airlines isn't easy, as Kansas leaders have already discovered. Sen. Dole's attempt to get repeal by amending Senate transportation appropriations legislation last month failed to pass. And Rep. Glickman's testimony before a House committee hearing on the issue didn't sway the opposition. As one hill staffer put it, "We're in a holding pattern."

So the battle goes on and Kansas political leaders have some tough competition, but they plan to keep trying.

They should. The Wright Amendment is unfair. It limits Wichita's air service to Dallas-Ft. Worth and makes flying to Texas more costly. It should be repealed.

[From the Metrocrest News, Dec. 5, 1991]

WRIGHT AMENDMENT CAMPAIGN GAINS SUPPORT

(By Brad Neilsen)

The Carrollton city council has received support and some turndowns to its request that other Dallas/Fort Worth municipalities join in endorsing repeal or modification of the Wright Amendment.

The Carrollton council on Oct. 8 became the first Dallas/Fort Worth municipality to call for repeal or modifications to the Wright Amendment, voting 5-0 with one abstention to endorse a resolution sponsored by Council member Brad Thomas.

The cities of Farmers Branch, Coppell and The Colony recently passed resolutions endorsing repeal or modification of the amendment, which some claim hurts the Dallas/Fort Worth economy by inflating airfare prices at D/FW Airport. The Metrocrest Chamber of Commerce has also endorsed repeal. The town of Addison votes on a proposed resolution Dec. 10.

The resolution passed by the Colony states that the "high cost of flying into and out of Dallas makes our convention and meeting industries suffer, thus hurting the local hotel, restaurant and convention trade."

However, the city councils of Garland and Plano have both declined to endorse repeal or modification of the Wright Amendment. Plano Mayor Florence Shapiro responded to Mayor Milburn Gravley that the Plano council felt "no action is appropriate for this time."

Garland Mayor Bill Tomlinson wrote Gravely, saying, "I believe it would be premature for us to go on record in support of the repeal or revision of the measure. Therefore, we will stand aside for the current time. . . . At some future date, the City of Garland could feel differently in their stance on this particular issue."

Mayor Richard Greene of Arlington also informed Gravley his city would not support repeal or revision of the amendment.

"It is vitally important to Arlington to support measures that protect the viability of D/FW International Airport," Greene said in a letter to Gravley.

However, Professor Bernard L. Weinstein, director of economic development at The University of North Texas, said the economic clout of D/FW Airport is exaggerated by major air carriers based at D/FW.

"That's kind of a facetious argument," Weinstein said. "The viability of Arlington should be the major concern. And one way to do that is to keep airfares low at D/FW Airport. American Airlines has formed alliances with lots of area chambers of commerce that have bought the 'D/FW, do-or-die' line."

Weinstein, who endorsed repeal before the U.S. House subcommittee on public works and transportation in Sept., said the need for D/FW Airport to stand alone in Dallas/Fort Worth has been exaggerated by two major airlines based at the airport.

"The argument that D/FW is the prime mover for the Metropolex is overstated," Weinstein said. "I think a lot of the communities have literally been arm-twisted that any competition at D/FW Airport—which is really competition for American Airlines—is not in their interest. What we have in the Wright Amendment is a government monopoly producing choice. There's a popular fiction that any growth at Love Field is going to be detrimental to D/FW. And that's nonsense. It's obviously a question of whose interests we're talking about."

Weinstein, Thomas and others maintain the amendment's restrictions, limiting national flights from Love Field, artificially raises airfares at D/FW International Airport and contributes to chilled economic growth in the Dallas region.

"I'm very happy with the way that it's progressed so far." Thomas said of the response from other Metroplex city councils. "Within an eight-week period of time we have picked up endorsements from a number of organizations. I think the citizens of this community can keep the pressure on their elected representatives to keep the skies safe, yet move on to create more competition."

Thomas has said restrictions in the amendment artificially boost airfares out of D/FW Airport, with fares to national destinations in many cases more than 100 percent higher compared with the same flights from Houston, Austin or San Antonio. Thomas said the very same planes, which originate in Houston, San Antonio or Austin, stop in Dallas to pick up Dallas passengers who pay in many cases double the rate charged passengers who boarded in Houston or other major Texas cities.

Thomas met Monday with Congressman Dick Armey to seek the congressman's support in making modifications to the federal legislation engineered by former House Speaker Jim Wright.

Thomas supports three possible modifications to the amendment, the first of which would allow flights 700 to 800 miles in circumference from Love Field, roughly the distance from Dallas to Albequerque, N.M. That destination is the farthest non-stop direct flight available from Love Field on Southwest Airlines.

"That means flights would be allowed to any area within that mileage in all directions," Thomas said. "I would also like to see through-ticketing allowed and have the FAA set a limit on the number of flights that they consider safe flying out of Love Field."

Thomas' second proposal is to allow Love Field to continue to serve the five-state area it now serves, Texas, Arkansas, New Mexico, Louisiana and Oklahoma. He would also like to allow full through-ticketing, meaning customers could purchase a ticket to a final destination beyond the contiguous four states area. Baggage would be checked straight through and passengers flying from Love Field would only be limited to a brief touch-down in a border state before continuing on to their final destination.

Failing implementation of those two proposals. Thomas said, the federal government should recognize the Wright Amendment grants a virtual monopoly to two major carriers at D/FW Airport and assume responsibility to regulate fares at D/FW.

"I think if there's no willingness to modify the amendment then the federal government owes it to the public to regulate fares out of D/FW just as they restrict utility companies and other monopolies," Thomas said, "If nothing can be done out of Love Field to protect the consumer, then the rule should be that you can't be charged more to fly out of Dallas than you are to go through Dallas or change planes in Dallas. That would force competitive prices here."

Thomas said he's heard from several residents outside the Metrocrest area who feel the federal legislation is counterproductive to economic development.

"About half the phone calls I'm getting are from people in Dallas, close to Love Field, and they're very encouraging," Thomas said. "They say they're tired of the rundown hotels and the economic devastation going on around Love Field. They call me up and thank me. When anyone really looks at the price differences, there is no excuse for it. And that's the reason many companies don't fly to Dallas anymore."

Weinstein said the impact of the Wright Amendments's restrictions at Love Field, limiting non-stop flights to the five contiguous states bordering Texas, has effectively bottled up economic development in the portion of Dallas neighboring Love Field. The limitations have also put a cap on growth of Southwest Airlines employment and operations in Dallas, Weinstein said.

"You can already see how we've lost in terms of Southwest," Weinstein said, "Southwest can't grow here so they don't grow here. There biggest hub used to be Dallas. Now we're number three. Southwest is a rapidly growing airline, but they don't grow in Dallas, because they can't grow in Dallas. They can't fly anywhere from Dallas and they can't even do through-ticketing. So we lose all the jobs. And the city of Dallas is the one that really loses because Love Field is within the taxation boundaries of the city."

[From the Dallas Morning News, Mar. 27, 1992]

LOVE FIELD RESTRICTIONS TARGETED

(By Catalina Camia)

Dallas City Council member Jerry Bartos, touting a 2-year-old law journal article challenging the Wright amendment, set the stage Thursday for a new battle over restrictions at Love Field.

Mr. Bartos said he has 11 votes on the 15-member City Council to seek to ease the flight restrictions at city-owned Love Field. Only Congress can repeal or modify the amendment.

But Mr. Bartos said those 11 votes could change if the "2,000-pound gorilla"—a reference to American Airlines—begins lobbying council members. American, the largest carrier at Dallas/Fort Worth International Airport, strongly opposed the council's last effort in 1990 to change the Wright amendment.

"This council hasn't spoken," Mr. Bartos said. "As of last night, I counted 11 votes * * * After the gorilla wanders these halls, who knows?"

Mr. Bartos' comments came during a news conference at City Hall in which he praised a 1990 article from the Southern Methodist University School of Law's *Journal of Air Law and Commerce* that contends there is no legal basis for the restrictions.

The Wright amendment limits commercial flights to and from Love Field to Texas and its four adjoining states: Oklahoma, Louisiana, Arkansas and New Mexico. The law, passed by Congress in 1979, was written by former House Speaker Jim Wright of Fort Worth and was designed to protect development at D/FW airport.

Also at the new conference were council member Al Lipcomb, Carrollton City Council member Brad Thomas and Bob McElearney from the Oak Cliff Chamber of Commerce. All support changes to the amendment.

Council member Lori Palmer, who supports the Wright amendment, said she does not believe Mr. Bartos has the 11 votes he claims.

"None of this is new. He has made these claims before." Ms. Palmer said. "His support disassembles, not because of a 2,000-pound gorilla, but as they receive accurate information most people come to a different conclusion that the Wright amendment is not broken and need not be fixed."

Ms. Palmer said the law protects neighborhoods surrounding Love Field and makes good economic sense.

In 1989, the council passed a resolution that supported an easing of the Love Field restrictions. But in 1990, the council reversed itself after the city of Fort Worth and American Airlines argued that a repeal of the Wright amendment would hurt D/FW airport.

Mr. Bartos said new recommendations would include a proposal for through-ticketing and allowing flights in and out of Love Field from cities that are 650 miles away from Dallas. Through-ticketing would eliminate a passenger's need to get a connecting flight to a destination outside of the current five-state limit.

Officials with American Airlines Inc. declined Thursday to respond to Mr. Barto's comments or any Dallas proposals.

Dallas-based Southwest Airlines Co., the only scheduled carrier operating at Love, said it is neutral on the issue.

Atlanta-based Delta Air Lines Inc., the second-largest carrier at D/FW, said it wants to stay there regardless of whether the Wright amendment is changed.

MARC A. BIRNBAUM, INC.
Dallas, TX, February 3, 1992.

Hon. PAUL FIELDING,
Dallas City Hall, Dallas, TX.

DEAR PAUL: I am writing you this letter in response to a recently outrageous incident involving American Airlines.

I was ticketed on a round-trip between Austin and Los Angeles. The flight required a change of planes in Dallas. However due to a change of plans, I was unable to use the Austin to Dallas segment of the ticket. To my amazement, as I boarded the plane I was politely asked to speak with George Bartuleviez, American Airlines Security Analyst.

He refused to permit me use of my ticket and required me, "if you want to fly" to pay an additional $810.50. Therefore, the effective penalty for not flying Austin to Dallas was an increase of 280%.

Paul, the truly outrageous part of this incident is that the reason given for this absurd increase is "due to competition". The City of Dallas failure to permit open competition out of Love Field has permitted American to seemingly restrict the traveler to open market access to competitive air fares.

Could this be the reason for business not relocating to the metroplex. If your business required a lot of travel your air fare would be 60% less in a non-restricted market. The council must consider the costs to Dallas in lost relocations.

Sincerely,

MARC A. BIRNBAUM,
President.

Mr. DOLE. The question is simple, should Congress dictate a lack of competition at Love Field? Where are my colleagues who over use the phase competitiveness? Should Congress mandate that the flying public unnecessarily pay $183 million more? This is a $183 million strain on our otherwise tight economy. The DOT study notes that average fares to and from Dallas-Fort Worth are significantly higher than the national norm, nearly $27 per ticket.

While we respect the needs of Dallas and Fort Worth, the time has come to make the U.S. traveling public—the people, not the cargo,—our first priority. For these reasons, I continue to support repeal of the Wright amendment. It is the right thing to do.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAUTHORIZATION OF HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 558, S. 3031, a bill to reauthorize housing and community development programs.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. SIMPSON. Mr. President, it is not my personal intention to object, but apparently we find on our side of the aisle a Member—and it is my duty to speak for them as a member of the leadership—who does object to this for reasons unknown to this particular Senator.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I regret the objection. This is an important measure, reauthorizing the housing and community development programs. It has been cleared by all Democratic Senators, and I am advised that the Secretary of Housing and Urban Development, Mr. Kemp, does not oppose the measure and favors its enactment. It is an important measure, and this delay, of course, will cast into doubt our capacity to complete action on this measure, at the very least delaying action until we return following Labor Day.

I certainly respect the distinguished Senator from Wyoming who is here interposing an objection on behalf of a colleague. But I just want the record to show that we, in the majority, are prepared to act on this bill. We would like to pass it tonight. We cannot do so now in light of the objection, and I regret that, but I accept that under the circumstances.

Mr. SIMPSON. Mr. President, I appreciate that. It is one of those things that the leader is confronted with on many occasions in his duties as majority leader. I will not add my editorial comment. It does seem that it cannot go forward, and I regret that personally myself.

Mr. MITCHELL. Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, I am advised that one of my colleagues, Senator KIT BOND, is quite disappointed the housing measure is not able to go forward.

I wish to pay great credit to him for trying very hard during this day to work this out. Apparently, it was unable to be worked out. But that would not be because of any failure of Senator BOND of Missouri. I commend him. I have watched him work so hard to try to bring this bill forward, and that is not to be. Certainly, Senator BOND deserves a great deal of credit for the extra work he did to try to bring it to pass. I thank him.

FAA CIVIL PENALTY ADMINISTRATIVE ASSESSMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 597, H.R. 5481, a bill to amend the Federal Aviation Act of 1958, relating to administrative assessment of civil penalties; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; that any statement on this item appear at the appropriate place in the Record.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Hearing none, it is so ordered.

The bill (H.R. 5481) and was deemed to have been read three times and passed.

Mr. FORD. Mr. President, this program was initiated in the 1987 airport and airway legislation, and was extended twice while the FAA accommodated some of the concerns over the administration of the program. Throughout the short history of the demonstration program, there were many complaints from the regulated community about the FAA procedures, and about the role of the FAA as judge and jury. So in 1990, when we reauthorized the program for another 2 years, we also asked the Administrative Conference of the United States [ACUS] to review the program, and to advise us if there were a better way to administer it.

The ACUS gave us a report in January 1992, which basically said that the FAA's handling of the program was satisfactory; however, there was a perception that the FAA had a conflict of interest in its role of operating the air traffic control system and enforcing violations of that system. For that reason, and in the absence of any agreement between regulated parties and the agency, ACUS recommended the transfer of adjudication of cases involving pilots, and flight engineers to the NTSB.

H.R. 5481 incorporates the ACUS recommendation and has some additional procedural safeguards. It also includes the transfer of appeals for mechanics and repairmen. These cases represent only about 12 percent of all civil penalty cases. I did this in the interest of consistent treatment of airline employees certificated by the FAA. The bill would also make the program permanent, but would retain the $50,000 cap on penalties.

I ask my colleagues to join with me in passing this bill, and giving the FAA and the NTSB the authority those agencies need to do the job.

ORDERS FOR TUESDAY, SEPTEMBER 8, 1992

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9 a.m., Tuesday, September 8; and that, when the Senate reconvenes on Tuesday, September 8, the Journal of proceedings be deemed to have been approved to date; the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; I further ask unanimous consent that following the time for the two leaders; there then be a period for morning business, not to extend beyond 9:30 a.m. with Senators permitted to speak therein for up to 5 minutes each; that at the conclusion of morning business, the majority leader be recognized to make a motion to proceed to S. 640, pursuant to the previous order of June 26; that once the motion is made, the Senate proceed into executive session to consider the nomination of Edward Carnes, under the terms and limitations of a previous agreement; that the Senate stand in recess on Tuesday from 12:30 to 2:15 p.m., for the respective party conferences;

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FORD. Mr. President, it will be the majority leader's intention at 2:15 on the September 8 to resume consideration of the motion to proceed for a period of 2 hours, and at 4:15 p.m. it will be the intention of the majority leader to proceed to the VA–HUD appropriations bill under the previous order, after a cloture motion has been filed on the motion to proceed to S. 640.

ADJOURNMENT UNTIL TUESDAY, SEPTEMBER 8, 1992 AT 9 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I move that the Senate stand in adjournment in accordance with Senate Concurrent Resolution 135 until Tuesday, at 9 a.m., September 8, 1992.

The motion was agreed to; and at 8:34 p.m., the Senate adjourned until Tuesday, September 8, 1992, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 12, 1992:

DEPARTMENT OF STATE

Lois L. Evans, of New York, to be the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

John J. Maresca, of Connecticut, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Cyprus Coordinator.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Brian C. Griffin, of Oklahoma, to be Chairman of the Administrative Conference of the United States for the term of 5 years, vice Marshall Jordan Breger.

CONFIRMATIONS

Executive nomination confirmed by the Senate, August 12, 1992:

THE JUDICIARY

CAROLYN P. CHIECHI, OF MARYLAND, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER SHE TAKES OFFICE.

DAVID LARO, OF MICHIGAN, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE.

DEPARTMENT OF COMMERCE

JOSE ANTONIO VILLAMIL, OF FLORIDA, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS.

MARY JO JACOBI, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOSEPH J. DINUNNO, OF MARYLAND, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 18, 1995.

DEPARTMENT OF STATE

ANTHONY CECIL EDEN QUAINTON, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE ASSISTANT SECRETARY OF STATE FOR DIPLOMATIC SECURITY.

RUTH A. DAVIS, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

PATRICIA DIAZ DENNIS, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS.

MACK F. MATTINGLY, OF GEORGIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

HARRIET WINSAR ISOM, OF OREGON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CAMEROON.

INTERNATIONAL MONETARY FUND

ALAN GREENSPAN, OF NEW YORK, TO BE U.S. ALTERNATE GOVERNOR FOR THE INTERNATIONAL MONETARY FUND FOR A TERM OF 5 YEARS.

RAILROAD RETIREMENT BOARD

GLEN L. BOWER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM OF 5 YEARS FROM AUGUST 29, 1992.

JEROME F. KEVER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1993.

VIRGIL M. SPEAKMAN, JR., OF OHIO, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1994.

STATE JUSTICE INSTITUTE

JOHN F. DAFFRON, JR., OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1994.

TERRENCE B. ADAMSON, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1994.

DEPARTMENT OF JUSTICE

EDWARD F. REILLY, OF KANSAS, TO BE A COMMISSIONER OF THE U.S. PAROLE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ALVIN A. SCHALL, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

ILANA DIAMOND ROVNER, OF ILLINOIS, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT.

JOHN G. HEYBURN II, OF KENTUCKY, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY.

LINDA H. MCLAUGHLIN, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

ALFRED V. COVELLO, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

CAROL E. JACKSON, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

JOSEPH A. DICLERICO, JR., OF NEW HAMPSHIRE, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW HAMPSHIRE.

MICHAEL J. MELLOY, OF IOWA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF IOWA.

DEPARTMENT OF TRANSPORTATION

ROBERT E. MARTINEZ, OF NEW JERSEY, TO BE ASSOCIATE DEPUTY SECRETARY OF TRANSPORTATION.

IN THE MARINE CORPS

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Robert A. Tiebout [redacted] USMC.

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. John R. Daily, [redacted] USMC.

The following named officer for appointment as Assistant Commandant of the Marine Corps under title 10, United States Code, section 5044.

To be general

Lt. Gen. Walter E. Boomer [redacted] USMC.

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Charles C. Krulak [redacted] USMC.

IN THE AIR FORCE

The following officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of Section 624, Title 10 of the United States Code:

To be brigadier general

Col. Eugene A. Lupia, [redacted] Regular Air Force.

The following named officer for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

To be brigadier general

Col. Thomas J. Lennon, [redacted] Regular Air Force.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, AND 8373, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. GARY L. EICHHORN, [redacted] AIR FORCE RESERVE.

BRIG. GEN. JACQUES P. KLEIN, [redacted] AIR FORCE RESERVE.

BRIG. GEN. THOMAS L. NEUBERT, [redacted] AIR FORCE RESERVE.

BRIG. GEN. JAMES E. SHERRARD III, [redacted] AIR FORCE RESERVE.

BRIG. GEN. DAVID R. SMITH, [redacted] AIR FORCE RESERVE.

BRIG. GEN. JERRY E. WHITE, [redacted] AIR FORCE RESERVE.

To be brigadier general

COL. JOHN A. BRADLEY, [redacted] AIR FORCE RESERVE.

COL. DONALD W. BRYAN, [redacted] AIR FORCE RESERVE.

COL. WILLIAM A. COHEN, [redacted] AIR FORCE RESERVE.

COL. JAMES J. KENNEDY III, [redacted] AIR FORCE RESERVE.

COL. MICHAEL R. LEE, [redacted] AIR FORCE RESERVE.

COL. ROBERT A. NESTER, [redacted] AIR FORCE RESERVE.

COL. REESE R. NEILSEN, [redacted] AIR FORCE RESERVE.

COL. RALPH H. OATES, [redacted] AIR FORCE RESERVE.

COL. HERBERT P. RIESSEN, [redacted] AIR FORCE RESERVE.

COL. JAMES E. SEHORN, [redacted] AIR FORCE RESERVE.

COL. VIRGIL J. TONEY, JR., [redacted] AIR FORCE RESERVE.

COL. DONALD K. WOODMAN, [redacted] AIR FORCE RESERVE.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

MAJ. GEN. HUGH L. COX III, USAF (RET), [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. CHARLES M. BUTLER, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. NELSON E. DURGIN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. ALLEN W. BOONE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. BRUCE G. BRAMLETTE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RENDELL F. CLARK, JR., [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JAMES R. HENDRICKSON, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JACK D. KOCH, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. ALLEN M. MIZUMOTO, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. GARY P. MORGAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. C.D. PAYNE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. ROBERT L. PRIVETT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. XEL SANT'ANNA, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. LORAN C. SCHNAIDT, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. FRED R. SLOAN, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOHN H. SMITH, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. ALBERT H. WILKENING, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RICHARD B. YULES, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

ARMY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. PAUL G. CERJAN, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DANIEL R. SCHROEDER, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, IN

THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3036:

To be surgeon general

To be lieutenant general

MAJ. GEN. ALCIDE M. LANOUE,[redacted] U.S. ARMY.

THE FOLLOWING OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A), AND FOR APPOINTMENT AS CHIEF OF ENGINEERS UNDER TITLE 10, SECTION 3036:

To be chief of engineers

To be lieutenant general

MAJ. GEN. ARTHUR E. WILLIAMS,[redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. WILLIAM H. FORSTER,[redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. PETER A. KIND[redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. LEO J. PIGATY[redacted] U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. HANSFORD T. JOHNSON, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. HOWELL M. ESTES, III,[redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. RONALD R. FOGLEMAN, [redacted] U.S. AIR FORCE.

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO THE QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. DAVID SIDNEY FROST[redacted] U.S. NAVY.

SUPPLY CORPS

To be rear admiral (lower half)

CAPT. ERNEST ALEXANDER ELLIOT, [redacted] U.S. NAVY.

CAPT. RALPH MELVIN MITCHELL, JR.[redacted] U.S. NAVY.

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

CAPT. THOMAS ALLEN DAMES[redacted] U.S. NAVY.

CAPT. ROBERT MICHAEL GALLEN,[redacted] U.S. NAVY.

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

CAPT. STEPHEN TODD FISHER[redacted] U.S. NAVY.

THE FOLLOWING NAMED CAPTAINS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF) IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. KENNETH LEROY FISHER,[redacted] U.S. NAVAL RESERVE.

CAPT. JOHN FRANCIS PADDOCK, JR., [redacted] U.S. NAVAL RESERVE.

CAPT. TOM ALLEN TRAUTWEIN, [redacted] U.S. NAVAL RESERVE.

CAPT. GEORGE DENNIS VAUGHAN, [redacted] U.S. NAVAL RESERVE.

UNRESTRICTED LINE (TAR) OFFICER

To be rear admiral (lower half)

CAPT. FRANCIS WILLIAM HARNESS,[redacted] U.S. NAVAL RESERVE.

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

CAPT. ROGER GEORGE GILBERTSON, [redacted] U.S. NAVAL RESERVE.

DENTAL CORPS OFFICER

To be rear admiral (lower half)

CAPT. JAMES CONLEY YEARGIN, [redacted] U.S. NAVAL RESERVE.

JUDGE ADVOCATE GENERAL'S CORPS OFFICER

To be rear admiral (lower half)

CAPT. FRED STEPHEN GLASS,[redacted] U.S. NAVAL RESERVE.

SUPPLY CORPS OFFICER

To be rear admiral (lower half)

CAPT. ROBERT CAMERON CRATES,[redacted] U.S. NAVAL RESERVE.

CAPT. ROBERT COLE STACK, [redacted] U.S. NAVAL RESERVE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. MICHAEL C. COLLEY, [redacted] U.S. NAVY.

THE FOLLOWING NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICER

To be rear admiral

REAR ADM. (1H) DONALD ENGENE ROY[redacted], /2105, U.S. NAVAL RESERVE.

SUPPLY CORPS OFFICER

REAR ADM. (1H) FRANCIS WILLIAM KEANE[redacted], /3105, U.S. NAVAL RESERVE.

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral

REAR ADM. HAROLD MARTIN KOENIG, [redacted] U.S. NAVY.

REAR ADM. WILLIAM JAMES MCDANIEL,[redacted] U.S. NAVY.

SUPPLY CORPS

To be rear admiral

REAR ADM. PETER ALBERT BONDI,[redacted] U.S. NAVY.

REAR ADM. JAMES PATRICK DAVIDSON,[redacted] U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (LH) BRENT MARTIN BENNITT,[redacted] U.S. NAVY.

REAR ADM. (LH) JON SUBER COLEMAN,[redacted] U.S. NAVY.

REAR ADM. (LH) WILLIAM ANTHONY EARNER, JR., [redacted] U.S. NAVY.

REAR ADM. (LH) GEORGE WILLIAMS EMERY[redacted], U.S. NAVY.

REAR ADM. (LH) DAVID MAXWELL GOEBEL[redacted], U.S. NAVY.

REAR ADM. (LH) DOUGLAS JEFFREY KATZ[redacted], U.S. NAVY.

REAR ADM. (LH) JAMES ANTHONY LAIR,[redacted] U.S. NAVY.

REAR ADM. (LH) THOMAS JOSEPH LOPEZ,[redacted] U.S. NAVY.

REAR ADM. (LH) LARRY ROY MARSH,[redacted] U.S. NAVY.

REAR ADM. (LH) JOHN DAVIS PEARSON,[redacted] U.S. NAVY.

REAR ADM. (LH) MERRILL WYTHE RUCK, [redacted] U.S. NAVY.

REAR ADM. (LH) GEORGE RUDOLPH STERNER,[redacted], U.S. NAVY.

REAR ADM. (LH) PAUL EDWARD TOBIN, JR.[redacted], U.S. NAVY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. MICHAEL P. KALLERES, U.S. NAVY[redacted]

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. JOHN A. BALDWIN, JR., U.S. NAVY[redacted]

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. FRANCIS R. DONOVAN, U.S. NAVY[redacted]

THE FOLLOWING NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

To be rear admiral

UNRESTRICTED LINE OFFICER

REAR ADM. (LH) JOHN TWOHEY NATTER,[redacted] U.S. NAVAL RESERVE.

AEROSPACE ENGINEERING DUTY OFFICER

REAR ADM (LH) KENNETH PAUL MANNING,[redacted] U.S. NAVAL RESERVE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. ROBERT K. U. KIHUNE, U.S. NAVY[redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSTION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DONALD M. LIONETTI,[redacted] U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING NAMED ASTRONAUT OF THE AIR FORCE FOR PERMANENT APPOINTMENT TO THE RESERVE GRADE OF COLONEL UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

LT. COL. FRANCES A. GAFFNEY[redacted]

THE FOLLOWING NAMED ASTRONAUT OF THE AIR FORCE FOR PERMANENT APPOINTMENT TO THE RESERVE GRADE OF COLONEL UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

LT. COL. CHARLES L. VEACH[redacted]

AIR FORCE NOMINATIONS BEGINNING CRAIG R. BAKER, AND ENDING GREGORY P. SARAKATSANNIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 1, 1992.

AIR FORCE NOMINATIONS BEGINNING MAJ. JAMES D. ENGLISH, [redacted] AND ENDING MAJ. BARBARA J. NELSON, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

AIR FORCE NOMINATIONS BEGINNING ANDREA D. BEGEL, AND ENDING STEVEN D. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

IN THE ARMY

ARMY NOMINATIONS BEGINNING FRANK J. ABBOTT, AND ENDING 204, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 18, 1992.

ARMY NOMINATIONS BEGINNING ANDERS B. AADLAND, AND ENDING 155X, WHICH NOMINATIONS WERE RECEIVED

BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 17, 1992.

ARMY NOMINATIONS BEGINNING EARL P. EWING, AND ENDING ROGER D. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 1, 1992.

ARMY NOMINATIONS BEGINNING RICHARD L. AGEE, AND ENDING LYDIA R. ZAGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 20, 1992.

ARMY NOMINATIONS BEGINNING SAMUEL J. ANGULO, AND ENDING JOHN S. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 2, 1992.

ARMY NOMINATIONS BEGINNING LARR* ADAMSTHOMPSON, AND ENDING TIMOTHY* WILLOUGHBY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 2, 1992.

ARMY NOMINATIONS BEGINNING PHILLIP L. ADAY, AND ENDING JOSHUA M. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 4, 1992.

ARMY NOMINATIONS BEGINNING JOEL E. MILLER, AND ENDING *THOMAS P. WINKLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

ARMY NOMINATIONS BEGINNING LANDRY K. APPLEBY, AND ENDING DUANE R. OPP, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

ARMY NOMINATIONS BEGINNING ALFRED F. LIVAUDAIS, AND ENDING *SHERRI L. MITCHELL WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 7, 1992.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

GARY W ANDERSON, [redacted]
RAYFEL M BACHILLER, [redacted]
GEORGE H BENSKIN, III, [redacted]
BRUCE E BRUNN, [redacted]
RICHARD W CHRISTIANSEN, [redacted]
ELIGAH D CLARK, JR, [redacted]
JAMES K COBB, [redacted]
JOHN R COHN, [redacted]
LARRY P COLE, [redacted]
GARY W COLLENBORNE, [redacted]
JOHN R GARVIN, [redacted]
WILLIAM M GIVEN, III, [redacted]
RYAN P GOODELL, [redacted]
JOHN M HIMES, [redacted]
HAROLD L INABINET, [redacted]
ALVIN W KELLER, JR, [redacted]
JOHN B MEAGHER, [redacted]
JOHN J MOYER, [redacted]
MICHAEL R NANCE, [redacted]
JOHN C OSBORNE, [redacted]
RICHARD L OWEN, JR, [redacted]
PAUL F ROQUES, JR, [redacted]
LAURENCE E SIMPSON, [redacted]
CHARLES O SKIPPER, [redacted]
LINDEN L SPARROW, [redacted]
BONNI L SUTHERLAND, [redacted]
JAMES E VESELY, [redacted]
WILLIAM J WESLEY, [redacted]
FRANCES C WILSON, [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

DAVID W. ANDERSEN, [redacted]
FREDERICK E. ANDERSON, JR, [redacted]
DENNIS T. BARTELS, [redacted]
JOHN A. BASS, [redacted]
GEORGE R. BEDAR, [redacted]
EDDIE BICKHAM, [redacted]
ROBERT J. BOZELLI, [redacted]
GREGORY K. BRICKHOUSE, [redacted]
GERMAIN B. BROECKERT, JR., [redacted]
LARRY K. BROWN, JR., [redacted]
JOHN R. BUCHANAN, [redacted]
STEVEN BUSCH, [redacted]
MARIO V. CARMO, [redacted]
FREDERICK E. CHASNEY, [redacted]
HENRY J. COBLE, [redacted]
JAMES E. CONNICK, [redacted]
RODNEY M. COTTEN, [redacted]
RODELL C. DARLING, [redacted]
THOMAS V. DEMARS, JR., [redacted]
WAYNE T. FLEMING, [redacted]
JOHN W. FOLEY, [redacted]
GREGORY H. FREED, [redacted]
LEE W. FREUND, [redacted]
MICHAEL A. GALT, [redacted]
GARY A. GIACOMA, [redacted]
MICHAEL J. GODFREY, [redacted]
TOMMY S. GRAY, 8876
CHARLES T. HAYES, [redacted]
JOHN T. HENNESSEY, [redacted]
ALDEN E. HINGLE, JR., [redacted]
DAVID T. ISRAEL, [redacted]
ANTHONY L. JACKSON, [redacted]
DWIGHT W. JONES, [redacted]
WILLIAM R. KELLNER, JR., [redacted]
LEELLEN KRATOCHVIL, [redacted]
JOSEPH P. KUSIOR, JR., [redacted]
STEPHEN C. LAMBETH, [redacted]
RANDALL W. LARSEN, [redacted]
ROBERT R. LOGAN, [redacted]
ELIZABETH K. MCGILLICUDDY, [redacted]
JAMES D. MCLELLAN, [redacted]
RANDALL D. MCMAHON, [redacted]
MICHAEL M. OCONNOR, [redacted]
PHILIP S. PARKHURST, [redacted]
REYNOLDS B. PEELE, [redacted]
GARY N. PETERS, [redacted]
FRANK L. POTE, III, [redacted]
LOREN D. PRIMMER, JR., [redacted]
JONATHAN T. RYBERG, [redacted]
DUANE R. SCHATTLE, [redacted]
MICHAEL W. SMYTH, [redacted]
LOUIS P. SPOSATO, JR., [redacted]
BRADLEY A. STEPHAN, [redacted]
CHARLES M. TYE, [redacted]
JANICE M. VANCAMP, [redacted]
DUANE VANFLEET, JR., [redacted]
THOMAS D. WALDHAUSER, [redacted]
MICHAEL J. WARREN, [redacted]
DANIEL A. WEHRLE, [redacted]
KENNETH G. WILLIAMS, [redacted]
RUSSELL C. WOODY, [redacted]
STEPHEN M. YOUNG, [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

DONALD J. ANDERSON, [redacted]
PHILLIP J. ANTONINO, [redacted]
PATRICK E. BAILEY, [redacted]
LAURENT O. BAKER, [redacted]
THOMAS M. BANE, [redacted]
JOHN S. BENNETT, [redacted]
PAUL D. BENNETT, [redacted]
DAVID H. BERGER, [redacted]
CHRISTOPHER E. BLANCHARD, [redacted]
JOSHUA J. BOCCHINO, [redacted]
JEFFREY W. BOLANDER, [redacted]
CHRISTOPHER M. BOURNE, [redacted]
JOHN H. BOWER, JR., [redacted]
RONALD J. BUIKEMA, [redacted]
STEVEN W. BUSBY, [redacted]
JOHN M. CARRETTI, [redacted]
PAUL C. CASTO, [redacted]
EDWARD R. CAWTHON, [redacted]
KERRY A. CERNY, [redacted]
GREG R. CLARE, [redacted]
TODD COKER, [redacted]
CHRISTOPHER C. CONLIN, [redacted]
MARSHALL I. CONSIDINE, [redacted]
RICHARD D. CURRAN, [redacted]
PAUL S. DAUGHTRIDGE, [redacted]
RODNEY L. DEARTH, [redacted]
ENRICO G. DEGUZMAN, [redacted]
BRUCE D. DONOVAN, [redacted]
BRENT A. DOUGLAS, [redacted]
STEVEN W. DOWLING, [redacted]
JOHN D. DOWNEY, [redacted]
CHARLES S. DUNSTON, [redacted]
WILLIAM E. DYE, [redacted]
THOMAS D. ELLIS, [redacted]
PETER J. FERRARO, [redacted]
DAVID C. FUQUEA, [redacted]
JAMES L. GOUGH, [redacted]
RAYBURN G. GRIFFITH, [redacted]
JOHN D. HARRIGAN, [redacted]
DALE B. HAYWARD, [redacted]
DAVID J. HEAD, [redacted]
BRIAN J. HEARNSBERGER, [redacted]
RANDALL A. HODGE, [redacted]
DEBRA L. HOFSTETTER, [redacted]
STEVEN D. HOGG, [redacted]
ROBIN R. HYDE, [redacted]
PATRICK J. KANEWSKE, [redacted]
BILLY D. KASNEY, [redacted]
BRUCE G. KESSELRING, [redacted]
RICHARD W. KOENEKE, [redacted]
ROGER L. KRAFT, JR., [redacted]
JOHN B. LANG, [redacted]
STEPHEN J. LINDER, [redacted]
CHARLES E. LOCKE, JR., [redacted]
JOHN P. LOPEZ, [redacted]
JUERGEN M. LUKAS, [redacted]
GARY W. MANLEY, [redacted]
JONATHAN W. MARTIN, [redacted]
DAVID E. MARVIN, [redacted]
JAMES C. MATTIE, [redacted]
FRANKLIN F. MCCALLISTER, [redacted]
JEFFREY T. MCFARLAND, [redacted]
DANNY L. MELTON, [redacted]
ROBERT L. MOORE, JR., [redacted]
KEVIN P. MURPHY, [redacted]
MARK S. MURPHY, [redacted]
DONALD G. NEAL, [redacted]
DANNY P. ODOM, [redacted]
ISMAEL ORTIZ, JR., [redacted]
JOHN M. OWENS, [redacted]
JOSEPH M. PERRY, [redacted]
RICHARD S. POMARICO, [redacted]
LOUIS N. RACHAL, [redacted]
JACKY E. RAY, [redacted]
RICHARD M. RAYFIELD, [redacted]
MATTHEW D. REDFERN, [redacted]
RAYMOND G. REGNER, JR., [redacted]
THOMAS H. RICH, [redacted]
DANIEL S. ROGERS, [redacted]
MICHAEL E. RUDOLPH, [redacted]
JOSEF E. RYBERG, [redacted]
HIDEO SATO, [redacted]
RICHARD A. SCHAFER, [redacted]
ROSS H. SCHWALM, [redacted]
TERENCE E. SHEAHAN, [redacted]
GREGORY P. SIESEL, [redacted]
DOUGLAS S. SIMMANG, [redacted]
JAMES R. SINNOTT, [redacted]
GEORGE S. SLEY, JR., [redacted]
JAMES C. SMITH, [redacted]
DUANE T. SPURRIER, [redacted]
JOHN C. STRADLEY, JR., [redacted]
DARRYL STRINGFELLOW, [redacted]
CALVIN F. SWAIN, JR., [redacted]
RORY E. TALKINGTON, [redacted]
MARK H. TANZLER, [redacted]
JOHN D. THOMAS, JR., [redacted]
GREGORY S. TYSON, [redacted]
WILLIAM J. VIETS, [redacted]
ERIC M. WALTERS, [redacted]
JOHN R. WILKERSON, [redacted]
FIELDING L. WILLIAMS, [redacted]
KEN YOKOSE, [redacted]
MONTE R. ZABEN, [redacted]
FRANCIS S. ZABOROWSKI, [redacted]

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

PAUL D. ALLEN, JR., [redacted]
WILLIAM T. ANDERSON, [redacted]
ROBIN L. AUSTIN, [redacted]
WILLARD D. BLALOCK, [redacted]
WILLIAM J. BONNER, JR., [redacted]
ANDREW B. DAVIS, [redacted]
PAUL M. FELIX, [redacted]
DENNIS R. GROSE, [redacted]
WILLIAM R. HACKNEY, III, [redacted]
JOHN E. HOWARD, [redacted]
THOMAS L. KANASKY JR., [redacted]
FLEET S. LENTZ, JR., [redacted]
STEPHEN M. MCCARTNEY, [redacted]
MICHAEL C. OSAJDA, [redacted]
PERRY L. PICKERT, [redacted]
EDWARD J. SANDRICK, [redacted]
GALEN H. SARVINSKI, [redacted]
DANIEL G. SHILLITO, [redacted]
JAMES D. SHIMP, [redacted]
JOHN G. SHOUSE, [redacted]
WALTER L. STARNES, JR., [redacted]
GLENN W. STICKEL, [redacted]
THOMAS M. TIGUE, [redacted]

IN THE NAVY

THE FOLLOWING NAMED COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be captain

LLOYD VERMILLION ABEL
DAVID EARL ADAMS, JR.,
PARKS GLENN ADAMS, JR.
JOHN FELTON ADKISSON
JAMES WILLIAM AIRES, II
RICHARD THOMAS ALEKS
ELROY WAYNE ALESHIRE
JAMES ROBERT ANDRUS
WILLIAM EDWARD ANINOWSKY
DAN LOUIS ARNOLD
CHARLES ALTON AUBREY, JR.,
JAMES ROBERT AYERS
WILLIAM CHESTER BACHMAN, II
WILLIAM CHARLES BAILEY
WILLIE B. BANKS, JR.,
DAVID HUGES BARBER
JOHN CHARLES BEASON
DANIEL ANTHONY BEATTY
SCOTT ARTHUR BECK
ROBERT DANA BENDER
WEBSTER LANCE BENHAM, III
RAYMOND WILLIAM BERARD
LEONARD L. BERGERSEN
PAUL ROBERT BERNANDER
DAVID ROBERT BOWES
CARY SCOTT BRADFORD
EDWARD LEE BRANDT
GORDON DALE BRANNON
THOMAS ROBERT BREESE
MICHAEL FRANCIS BRENNAN
SHARON FILE BRIDWELL
RICHARD CHARLES BRILLA
BRADFORD ALAN BRISBIN
RICHARD WAYNE BROWN
CHARLES FRANK BURLINGAME
DOUGLAS RANDOLPH BURNETT
WILLIAM LOUIS P CADWALLADER
ARTHUR DONALD CALABRO
DANIEL EUGENE CALDWELL, JR.
JACK HENRY CASSADA
DAVID LEWIS CASWELL
LOUIS ANGELO CAVALIERE, JR.
DAVID HUMBERTO CAZARES
MELVIN GLENN CHALOUPKA
DAVID MOHN CHAMBERS, JR.
WILLIAM RENE CHIQUELIN
THOMAS ROBERT CLARKIN, JR.
JOSEPH E CLEMENTS
JOHN WILLIAM CLOSS
DAVID SCOTT COLEMAN
RICHARD EDWARD COLQUITT, JR.
GEORGE TIMLIN CONAWAY, JR.
JAMES LEE COOK
JESSE ALLEN CRACE
JAMES ROBERT CROSSEN
MICHAEL ALEXANDER CROWELL
STEPHEN KENT CUSICK
BRIAN SHEARER DALBY
MARY ANN DALTON
CHARLES RICHARD DAMATO, JR.
SAMUEL ALLAN DAVEY
ACIE WESLEY DAVIS, JR.
ROBERT MILEHAME DAVIS, JR.
JEFFREY STUART DEAN
MARVIN EARL DEAN
WILLIAM DUFOUR DEGOLIAN
JOSE LUIS DELATORRE
NICHOLAS LEE DEMAI
RONALD LEE DIETRICH
NICHOLAS CHARLES DIPIAZZA

GERALD ARTHUR DIXON
TIMOTHY DOBROVOLNY
WILLIAM HENRY DONGES
MICHAEL D DONOVAN
MICHAEL THOMAS DOYLE
DONALD DAVID DRONE
ROLAND CHARLES DUBAY
JAMES MARSHALL EDSON
WILBUR EVERETTE EDWARDS, JR.
DAVID ANDREW ELLEFSON
RUSSELL H ERICKSON
JAMES ARTHUR ESGET
JEFFREY LEE EUTERMOSER
THOMAS WALTER FARRAND
MEAD BOYKIN FERRIS, JR.
MICHAEL FREDERICK FITCH
JOHN BOYD FLEMING, JR.
MICHAEL SEAN FOSTER
GARY LEE FOUST
GERALD WADE FRANKLIN
JOSEPH CLAUDE FRANTZ
RONALD LEROY FRAZEE
LANCE ANDREW FREDERICK
JAMES MICHAEL FREDRICKSON
BARRY DAVALL GABLER
JAMES ERNEST GARIFALOS, II
WILLIAM JOSEPH GARRY
JOHN ARTHUR GILLIES
CHARLES H GILLILAND, JR.
WILLIAM SIMS GILLMOR, JR.
WILLIAM JOSEPH GLADWIN, JR.
ARNOLD MICHAEL GLASSBERG
WILLIAM JOSEPH GRACE
WILLIAM LAMBERT GRAHAM
DAVID GEORGE GRAU
RICHARD HENRY GRAY
DORSEY WYCHERLY GRIFFIN, II
ROBERT DAVID GRIFFITH
HENRY CALHOUN GRISWOLD
EDMUND SAMUEL GROSS
DAVID RALPH GUEBERT
FRANK HENRY GURRY, JR.
ROBERT HAROLD GUTHRIE
BRIAN C HAAGENSEN
THOMAS ANDREW HAHN
WILLIAM LATIMER HALL
HAROLD LEE HALL, JR.
GREGORY RAYMOND HAMELIN
ROBERT LANE HAMILTON
MARSHALL ALAN HANSON
CHARLES GERALD HARDIN, JR.
JOSEPH COLEMAN HARE
MARK HALSEY HARRER
MICHAEL JOSEPH HARRINGTON
JOHN DAVID HARRIS, JR.
CHRISTOPHER EUGENE HEATH
WILLIAM ALEXANDER HEBERT
DAVID MILLAR HEMING
WILLIAM BRUCE HEMPHILL
GEORGE E HENDRICKS
CHARLES BARTON HENKE
RICHARD JAMES HENRY
FERNANDO ANTONIO HERNANDEZ
BRYAN LEE HERRING
JUDSON RICHARD HERTER
RICHARD ALBERT HINNENKAMP
LOUIS MEYER HIRSH
HENRY RICHARD HITPAS, II
WILLIAM EDWARD HOFFMAN
WAYNE ALLEN HOFFMANN
WAYNE DENNIS HOGUE
RICHARD NELSON HOLMES
LLOYD NELSON HOLZ
JAMES HUGH BENNY HOOKS
NICHOLAS FLETCHER HORNEY
WILLIAM GRADY HORTON
JAMES WHITCOMB HOWLETT
CHARLES JAMES HUBBARD
MICHAEL DAVID HUGHES
STEPHEN CULLEN HUTCHINS
STEPHEN DUFF IHRIG
CRAIG ALAN JACOBSEN
DAVID HENRY JESSUP
CHARLES ANTHONY JINDRICH
ARTHUR GARY JOHNSON
LARRY CHARLES JOHNSON
JOHN JOHNSTON, JR.
JONATHAN DAVID KASKIN
JEFFERSON DANIEL KAYLOR, JR.
PATRICK JOHN KEAVENY
DOUGHLAS ALLEN KEES
WILLIAM GEORGE KENNEDY
JAMES MICHAEL KESSLER
JEFFREY BRIAN KIDDER
WILLIAM BRUCE KIKER
MANTON AMBROSE KING
NEIL TILLMAN KINNEAR, III
JAMES JOSEPH KINSELLA, JR.
JAMES EDWARD KIRBY
STEPHEN COLBY KLINK
JOHN ROSS KNIGHT
FREDERICK MARSHALL KOOKER
KEVIN JAMES KRAMER
JOSEPH JOHN KRYGIEL
HENRY JOSEPH KUCINSKI, JR.
DWIGHT RICHARD KUMPF
KRISTEN DICK LANDKAMMER
JAY CLAIR LANGNESS
RAYMOND JOHN LAROSE, JR.
DAVID LAWHON LEE
PATRICK DOUGLAS LEE
JAMES RICHARD LEMON
MICHAEL NELSON LEWIS
TONEY JOE LISTER
TOMMY LYNN LONON
PAUL JEFFREY LOUSTAUNAU
JAMES ROGER LUNDQUIST
FREDERICK WILLIAM LYDIC, III
MARY ETHEL LYONS
JOSEPH CLAYTON MACIE
JEFFREY ALAN MACKEY
DEAN MORGAN MAKINGS
MERLIN ANDREW MALMROS
MICHAEL D MARKS
KENNETH JAMES MARSZALEK
LAURENCE PATRICK MARTIN
JOSEPH ANTHONY MARTUCCI, JR.
DENNIS FREDERICK MASCH
DANIEL STEPHEN MASTAGNI
DENNIS WAYNE MAXFIELD
STEPHEN MARTIN MAY
MICHAEL DOUGLAS MAZZEO
FRANCIS XAVIER MCBRIDE
STEPHEN VINCENT MCBRIEN
ROBERT WAYNE MCCONNELL
RUSSEL ALAN MCCURDY
CHARLES CLAUD MCDANIEL
WILLIAM LESTER MCDONOUGH, JR.
KEVIN JAMES MCELROY
MARY KAY MCMUNN
CHARLES LEE MEANS
THOMAS WILSON MELDRUM, JR.
MARTIN CHARLES MENEZ
JOHN WILLIAM MEURER
KIRK BURTON MICHAEL
JEFFREY CHARLES MILANETTE
ARTHUR GORDON MILBRATH, JR.
JAMES LESLIE BELLIST MILLER
PETER MILLER, JR.
ROBERT PAUL MITCHKE
MICHAEL W MONKHOUSE
SAMUEL MONTOYA
CHRISTOPHER PAUL MORIARTY
RICHARD JOHNSON MORROW
ROBERT GARY MORTON
JAMES CLAYTON MULDER
ROBERT A MULDOON
RICHARD WILLIAM MUNSELL
MICHAEL THOMAS MURPHY
MICHAEL GILMOUR MURRAY
WARREN EUGENE MUSSELMAN
CHARLES RANDALL MYNARD
GEORGE FRANCIS NAFZIGER
JOHN FRANCIS NASH
FREDERICK DAN NELSON
RICHARD ALEXANDER NELSON
ALBERT JOSEPH NEUPAVER
JACK SVEND NIELSEN
WILLIAM NIETO, JR.
MICHAEL EUGENE NOCTON
LOUIS LIONEL NORMAND, JR.
JOHN TEOFIL NOSEK
PAUL ELLSWORTH I OBERDORFER
TIMOTHY DENNIS OCONNELL
JAMES KENNETH OPSAL
CHRISTOPHER OSIER
MARK THEODORE PACHUTA
WILLIAM WARE PALMER, III
THOMAS LEIGHTON PARKE
PHILLIP MORRIS PASCHEL
ROBERT ORIN PASSMORE
RONALD CHARLES PATHMAN
DANIEL J PATTERSON
JAMES HUGH PATTERSON
THOMAS CHARLES PAULING
JOHN WAYNE PECIC
CHARLES EDWARD PEHL
WILLIAM CHAPMAN PENDLETON
MARK DENNIS PERREAULT
RICHARD MICHAEL PETERSON
JOHN S PETREK
JEROME LEONARD PETYKOWSKI
KEITH JOHN PFLUG
JOHN LYNCH PHILLIPS
MARK ALLEN PICKETT
CLARENCE ALBERT PICKETT, III
ROBERT JOHN PIERCE
RALPH PIERNO
LARRY STEVEN PIPES
CRAIG RICHARD PLOSS
BRUCE ARNOLD PLYER
RAYMOND J POTTKOTTER, II
WILLIAM HUGH POWERS
ROGER HOWARD PROBERT
LOUIS FREDERICK RABE
JOHN CHARLES RAINEY
BRUCE WILLIAM RANNEY
RUSSELL ALDEN REED
STEPHEN THOMAS REGISTER
ROBERT WILLIAM REICH
GLENN EMERSON REITINGER
PHILIP RAY RESCH, JR.
CHARLES MICHAEL RESS
DAVID EDWARD RETZKE
WILLIAM EUGENE RICE
ROBERT THOMAS RICH
DONALD WALTER ROBERTSON
STEVEN NOURSE ROBINSON
JOHN MARSH ROGERS
HENRY RENTON ROLPH, JR.
PETER SUTHERLAND ROTHWELL
TIMOTHY JOHN SAMMONS
GARY ALLEN SANDEN
WADE ROWLAND SANDERS
GLENN MICHAEL SAUNDERS
STEVEN LYNN SCHLAKE
ROGER LOUIS SCHNEIDER
ERNEST LYNN SCHOOLFIELD
MARK STEPHENS SCHRAMM
CHARLES WESLEY SCHULTZ
RANDALL CRAIG SCHULTZ
ROBERT WARREN SCOTT, JR.
DOUGLAS LEE SEEGMILLER
RUSSELL SELTENRIGHT
REX WILLIAM SETTLEMOIR
JON SHELLER
MARKE ROBERT SHELLEY
CLYDE YOSHIO SHIRAKI
JOHN ANTHONY SHUMLAS
TITUS SEVERN SIGLER
PHILIP WHITE SIGNOR, III
HENRY MAZYCK SIMONS, III
MARK RAYMOND SIVERS
ROBERT WALTER SKROTSKY
BARRY LEE SMITH
RICHARD FRANKLIN SMITH
ROBERT SPENCER KERR SMITH
THOMAS HUGH SMITH
URBAN EUGENE SMITH
PETER SHERMAN SNELL
WILLIAM DALE SOKEL
KENNETH CHARLES SOSNOWSKI
DOUGLAS JACKSON SOULE
JAMES J. SOUTHERLAND, III
RICHARD THOMAS STEFANIAK
ALEXANDER CRAIG STEPHEN
TIMOTHY FORREST STEVENS
SUSAN MALLICK STEVENSON
ROBERT EDWIN STEWART
MICHAEL GEORGE STRAND
WALTER LEONARD STRICKLAND
ROBERT JAMES STROBBE
MICAHEL LOUIS SUBIN
RAYMOND CHARLES SULLIVAN
MICHAEL BRUCE SUSIK
JOHN LESTER SUTTER
JOHN MICHAEL SVOBODA
JOHN HAMLIN SWAILES
ROBERT EMERSON TAYLOR, JR.
MARK JACQUOT TEMPEST
NICHOLAS JON TENNYSON
JACK RICHARD THOMAS
JOHN RAWLS THOMAS
JOHN THOMAS THOMPSON
KENNETH EARL THOMPSON
ALAN MITCHELL TODD
JOHN LAWRENCE TODD
JOSEPH FRANCIS TOWERS, JR.
STEPHEN BROWN TROUTMAN
ARTHUR GIRARD TROUVILLE
ARTHUR WOODMAN TUFTS
JACKSON CORPENING TUTTLE, II
VINTON KENNETH ULRICH, JR.
THOMAS JOHN UTSCHIG
JON WILLIAM VANDERBOUT
JOHN ORVIS VANNATTA
DAVID CLARK VICKERMAN
THOMAS EDWIN VICKERY
RAY KIRK WADDELL
THOMAS VINCENT WAGATHA
CHARLES STEVEN WAGNER
WILLIAM BENJAMIN WALKER, JR.
GREGORY EDWARD WALSH
ARTHUR JAY WARD
WILLIAM LOUIS WASSERMAN
WILLIAM HENRY WATERS
RAYMOND SPENCER WATERS, JR.
PATRICK ROGER WATTS
JAMES MICHAEL WEATHERLY
MICHAEL JAMES WELLS
ROBERT JOHN WHALEN
THOMAS JAMES WHALEN
RICHARD YOUNG WHITE
JAMES WAYNE WILLIAMS
WILLIAM EDWARD WINTER, JR.
JOHN PETER WOLFF
JOHN STEVEN WOOD
MARK ALAN WOOD
CHRISTOPHER BARRETT YATES
ROBERT HAROLD YONKER
CHARLES EDWARD YOUNG
THOMAS CHARLES YOUNG
ROBERT LEE ZIEGLER
CHRISTOPHER DAVID ZWINGLE

UNRESTRICTED LINE OFFICERS (TAR)

To be captain

DENNIS THOMAS BEAVER
JOHN BRADLEY BELL
DOUGLAS JAMES BELLOWS
ROBERT PALMER BLICKLE
LEVI BREEDLOVE, JR.
SUSAN M. BROOKER
ROSS NEWTON BROOKS, JR.
MICHAEL BRADFORD BRYANT
BILLY JOE DEAN
ROBERT ALFRED DUETSCH
ROBERT STEWART FISHER, JR.
CRAIG MICHAEL JANECEK
THOMAS LEVATTE JONES
MICHAEL REEDY KING
THOMAS LEE MCATEE
JOHN KINGSLEY MCQUIRE, JR.
RAYBURN LLOYD MCKAY
JOHN P. MCLAUGHLIN
JAMES MICHAEL MORRELL
DANNY CHARLES NELMS
ULYSSES LOUIS NOLEN
PATRICK BRIAN PETERSON
WILLIAM MICHAEL PIERSIG, JR.
DANIEL ISAAC PUZON
WILLIAM HENRY ROETING
WILLIAM H. ROUND
DONALD EDWARD SCHRADE
MICHAEL E. SCHUM
WILSON OTTO SHEALY
TERRY LEE SIMPSON
CATHERINE ELIZABETH SPERRY
CHARLES W. WAGNER

ENGINEERING DUTY OFFICERS

To be captain

RODNEY L. COOK
MARK ALAN COOPER
RONALD EDWARD COUCHOT
DONALD KENNETH DRUMM
GREGON LEE GANT
LAWRENCE HIROSHI KUBO
WALTER FRANK MALEC
TERRENCE WAYNE MAYHAN
JOHN HENRY RILEY
MICHAEL RALPH RILEY
THOMAS GEORGE TETLOW
KENNETH STRATTE WATKINS, JR.
JACOB FRANK WECHSELBERGER
STEPHEN PAUL WEISE

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be captain

JOHN A. CONKEY
GLENN E. HESS
KELLY BRIAN MORGAN
ANTHONY JOHN PALAZZO, JR.
GEORGE HUEY SANDERS
RODNEY KEITH WOMER
RAYMOND WAYNE WOODS
JOHN WILLIAM ZULICH

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be captain

JAMES EDWARD ERVIN, JR.
JOHN CARR KORNEGAY
BERNARD ALMOND WUNDER

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be captain

WILLIAM CLIFFORD BRITT
DAVID SUTTON FIELD
FRANK JOSEPH FLYNTZ
STEPHEN CHESTER PACUSKA
LARRY NORMAN ROOD
ERNEST PAUL SKOROPOWSKI
EDWARD E. STRIBLING
EDWARD BARNEY WILLIAMS, JR.

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

JACK FRANK JACKSON
RONALD DALE JENSEN
THOMAS LEE MCCARRIAR, JR.
GREGG F. MITCHELL
LORAN DEVER NAUGHER, JR.
RONALD WILLIAM SERVIS
WILLIAM EDWARD SKINNER

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

ROBERT VREELAND ALLEN
WILLIAM DAVID BOSTWICK
RONALD DEE BROGAN
BRUCE ELLIOT BROWNELL
CHARLES DAVIS BURNHAM, JR.
CHARLES HENRY CAMPBELL
JOHN LAWRENCE CARLSON
LAWRENCE FRANCIS CLARK
RICHARD DEAN CLARK
ANDREW MARTIN DANIELS, JR.
THEODORE LEWIS DAYWALT
ELAINE MEYER DIPALMA
JAMES RUSSELL DYER
JOHN EVANOFF
JOHN STEPHEN FEDOR
CHARLES KEITH FENNELL
JOHN FRANCIS FLORIO
CHARLES WHITFIELD FROST
EDWARD HARPER GILLESPIE
BEN EDWARD GIRTMAN
MICHAEL WILLIAM GOSS
KEITH ALLAN HANSEN
JAY THOMAS HARTMAN
ROBERT CALVIN HAYNES
DANIEL RICHARD HEGMAN
DALE ROY HERSPRING
BELTON EMOULOUS JENNINGS, II
MATHEWS MARTIN JOHNSON, JR.
STEVEN RICHARD KALTNECKAR
WILLIAM RALPH KELBERGLAU
RICHARD JAMES KIRWIN
NORMAN BOBBY KRIMBILL
CHARLES WARREN LAMPLEY
HARVEY LAYMAN, JR.
JANIS LEANORE LIBUSE
JOHN OTTO LOHMEYER, JR.
JAMES MANZELMANN, JR.
LON DEVERE MARLOWE, III
GORDON K. MERIWETHER, III
PATRICK HENRY MERRILL
SHARON ELAINE MILLER
THOMAS CLARK MITCHELL
CHARLES RUSSELL NOLAND, JR.
JAMES CLINDON NORRIS
WAYNE ROGER PELAEZ
JOYCE RUTH SACCIO
PAUL LEWIS SIMPSON
ROBERT WILLIAM STUART
BRIAN DEAN WELCKER
JOHN CHRISTOPHER WRIGHT

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be captain

BARRY VONBERG MORTON

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

RONALD HENRY BAFETTI
RUFUS R. BARBER, JR.
TRACY DANIEL CONNORS
WELLINGTON EUGENE ESTEY
ROBERT WILLIAM FULLBRIGHT
SHARON ALEXA HAMRIC
WILLIAM HENRY HEARD, JR.

ROBERT MENAGH HOUGHTON
RICHARD JOHN LYSTER
SALLY CHIN MCELWREATH
DAVID MICHAEL SNYDER
WILLIAM JOSEPH WILSON

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

MICHAEL JOSEPH CARRON
MICHELE HUGHES LOCKWOOD
DUANE EDSON MOYER
RICHARD ALAN PAULUS

THE FOLLOWING-NAMED COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be captain

GEORGE BOARDMAN ALLISON
JACQUELINE OMEARA ALLISON
WILLIAM GLENN ARNOLD
DANIEL LOUIS BAAS
HAROLD RALPH BISHOP
BLAKE VICTOR BLAKEY, JR.
RONALD COOMBS BOGLE
WILLIAM SCOTT BONIFACE
JAMES ELLIOTT BOOTH
JAMES ALLEN BOWLIN
JOHN EDWARD BOYINGTON, JR.
DANIEL EARL BROWN
TIMOTHY ROBERT BRYAN
SCOTT THOMAS CANTFIL
LESLIE ROY CARTER
CONSTANCE EMILY CIVIELLO
ROBERT W. CONDON
JOSEPH BERNARD CONNELLY
RALPH HERBERT COON, JR.
JEFFREY WILEY CREWS
DAVID MARK CROCKER
SHERRILL THOMPSON DARLING
JEFFREY JOHN DAVIDSSON
ROCKLUN ALLEN DEAL
LAWRENCE LEE DICK
BARRY DAVID EINSIDLER
JIMMY LEE ELLIS
BRUCE BIDWELL ENGELHARDT
RICHARD MARCUS EUBANKS
MARNEE LEE FINCH
MARK PAUL FITZGERALD
RICHARD PETER FLEMING, JR.
DONALD CLYDE FOX
LAWRENCE DANIEL GETZFRED
RONALD BURTON GLOVER
JAMES R. GOESSLING
PAUL MICHAEL GRIFFIN
CHRISTOPHER RYAN HENRY
STEVEN ROY HINSON
TIMOTHY ALOYSIUS HOLDEN
WILLIAM FRANK HOPPER
GARY MICHAEL JACK
JIMMIE RAY JACKSON
THEODORE LAWRENCE KAYE
JESSE JOHNSTON KELSO
KRISTOPHER MORRIS KENNEDY
EDWARD JOSEPH KUJAT
COLEMAN ARTHUR LANDERS
CHRISTOPHER STEPHEN LARSEN
RAYMOND EARLE LEONARD, III
ROBERT DAVID LIGGETT
WILLIAM ASHBY LILLARD, III
JOSEPH SHARP LITTLETON, III
MICHAEL ANTHONY LUTKENHOUSE
WILLIAM JORDAN MARSHALL, III
PERRY JAMES MARTINI, JR.
CHARLES MANNING MASON, JR.
DANIEL WALLACE MCELROY
GENE RICHARD MCGALLIARD
PHILLIP HORNE MILLS
JOHN GABE MORGAN, JR.
KEITH PAUL MULDER
ROBERT THOMAS MURPHY
GEORGE JOSEPH MURPHY, III
DON RUSSELL NEWMAN
LARRY ANTHONY PACENTRILLI
LARRY ELLIS PENIX
KENNETH WARREN PETERS
JOHN STEVEN PINE
JAMES EDGAR PLEDGER
RONALD EVERETT RATCLIFF
JERRY DAVID REEVES
WAYNE RONALD REEVES
STEPHEN E. RESSER
PAUL EDWARD ROBERTS
WILLIAM ARMSTARD ROGERS, JR.
NICKLOUS JAMES ROSS
GARY ROUGHEAD
DOUGLAS ROBERT ROULSTONE
LINDELL GENE RUTHERFORD
PAUL JOHN RYAN
CRAIG PINARD SACKETT
STACY E. SEBASTIAN
DEAN GORDON SEDIVY
MARTIN VICTOR SHERRARD
MARY CATHERINE SHIPMAN
CHARLES REGIS SIPE, JR.
GENE ARNOLD SMITH
ROBERT EDWARD SMITH
WAYNE EDWARD SMITH
STEVEN JAY SONNTAG
GENE ALLEN STEVENS
CHARLES ALBERT STEVENSON
DALE ERWIN STOEHR
DONALD WINSTON STONER
BRUCE TAYLOR STUCKERT
WILLIAM DANIEL SULLIVAN
GERALD LLOYD TALBOT, JR.
MICHAEL WADE TREEMAN
DANIEL ROY VELDSTRA
MICHAEL CARL VOGT
STEVEN BRUCE WESTOVER
ALAN BRUCE WILLBURN
MARCUS SAMUEL WILLIAMS
ROBERT EDWARD WILLIAMS, JR.
JUSTIN WILLIAM WINNEY, JR.
JOHN REID WORTHINGTON
RICHARD LEE WRIGHT

ENGINEERING DUTY OFFICERS

To be Captain

GERALD BERTRAM BLANTON
JERRY MCKINLEY JENKINS
ROBERT EMMETT LUBY, JR.
MARK SHERIDAN MORANVILLE
DERRY THOMAS PENCE
JOHN HENRY PREISEL, JR.
RALPH EUGENE STAPLES, JR.

AEROSPACE ENGINEERING DUTY OFFICES (ENGINEERING)

To be captain

EUGENE BAL, III
WILLIAM LOUIS DUBOIS
MICHAEL JOSEPH LULU
KENNETH STANLEY J REIGHTLER
ROBERT WAYNE RUSSEL

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be captain

BERT UWE COFFMAN
THOMAS CONROY, JR.
THOMAS HOP YEE

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

ALLAN WESLEY LEGROW
JEFFREY EVANS LEWIS
PHIL LAWRENCE MIDLAND
STEVEN ANDREW SISA

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

CONNIE L. HANEY
WILLIAM ROBERT HARLOW, JR.

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

RICHARD DUANE LEROY
JAMES ROBERT MASON

LIMITED DUTY OFFICERS (LINE)

To be captain

RONALD KENNETH CURRY

THE FOLLOWING-NAMED COMMANDERS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

To be captain

MARK D. BROWNING
MARK F. CLAPPER
PETER MICAHEL CLEMONS
DAVID W. CORBETT
JAMES KENNETY DOLNEY
MICHAEL ROY FREDERICKS
KIM FRICKE GIBSON
RICHARD G. HIBBS, JR.
ELAINE CAMPBELL HOLMES
BYUNG JIN MIN KIM
HAROLD BRANSFORD LAMB
GARY R. LAMMERT
URIEL ROMEY LIMJOCO
DAVID CURTIS MCLELLAN
JOHN HENRY NADING
RAYMOND PAUL OLAFSON
FRED PETER PALEOLOGO
MANUEL EN RIVERAALSINA
DAVID WAYNE ROBERTSON
LEO B. SIMMONS, JR.
JAMES WARREN STEGER

SUPPLY CORPS OFFICERS

To be captain

MARK EDWARD EASTON
CHRISTOPHER GEORGE HAUSER
GERALD FRANK HESCH
RICHARD E. PAUL MORRISON, JR.
WILLIAM DAVID ORR
EDWARD WESLEY PINION
WILLIAM ARTHUR WRIGHT

CHAPLAIN CORPS OFFICERS

To be captain

JEFFERSON D. ATWATER
MELVIN RAY FERGUSON
ROGER W. PACE
GEORGE W. PUCCIARELLI
MOSES L. STITH
GERALD S. VINTINNER

CIVIL ENGINEER CORPS OFFICERS

To be captain

PAUL LEROY CLOUGH
JOHN RAYMOND DOYLE
RICHARD FREDRICK HAAS, JR.
DAVID GERARD ROACH

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

GERALD JOS KIRKPATRICK
SALLY JEAN MCCABE
RONALD VICTOR SWANSON

DENTAL CORPS OFFICERS

To be captain

CHARLES ALA BOOKWALTER
JOHN D. BRAMWELL
MARION COLUMB ELDRIDGE
ROBERT K. FLATH
GREGORY G. KOZLOWSKI
FRANK JAMES KRATOCHVIL
ALBERT CHAR RICHARDSON
PAUL EDWARD SCHMID
CHARLES WILLIAM TURNER
JOSEPH C. WHITT
DALE E. WILCOX
PAUL MARSHALL WILEY

MEDICAL SERVICE CORPS OFFICERS

To be captain

TOMMY WAYNE COX
THOMAS RICHA DEFIBAUGH
ROBERT LAWRENCE EDMONS
MELVYN ADAMS ESTEY, JR.
PETER PAUL GARMS
DEAN F. GLICK
RUDOLPH JONES
RALPH ALVIS LOCKHART
JUDITH ANNE MCCARTHY
GERARD VINCENT MESKILL
STEVEN DUANE OLSON
CHARLES JOSEPH ROSCIAM
FREDERICK RIC TITTMANN

NURSE CORPS OFFICERS

To be captain

MARY ALICE BOWDEN
JOHN FREDERICK BOYER
JUDITH CO BRINCKERHOFF
SHIRLEY DEA LEWISBROWN
GEORGE LAWRENCE MARSH
LINDA UNGVARSK MCMAHON
MARY ANN CRONIN
GARY R. HARMEYER
ELIZABETH K. KOZERO
DONNA JEAN VAN OHLMAN
LESLIE ELIZAB ROBINSON
EVELYN RUTH SHAIA
CHATHERINE ANN SWAN
JANE WESTMOREL SWANSON

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR TO AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be commander

RONALD LEE AASLAND
THOMAS ABERNETHY
MARK THOMAS ACKERMAN
ALLAN ARTHUR ADELL
DONALD W. AIKEN
JOHN D. ALEXANDER
BERT R. ALGOOD
DAVID LEE ALLEN
SHERRIE SUSAN ALY
JOHN MICHAEL AMICARELLA
KEVIN S. AMOS
JOHN P. ANDERSON
MARK ALLEN ANDERSON
THOMAS ROBERT ANDRESS
NEAL EDWIN ANDUZE
MICHAEL DENNIS ANHALT
SCOTT TIMOTHY ANHALT
DAVID SPENCER ARMSTRONG
JACQUELYN MARIE YO ARROWOOD
ROBERT BRYANT ASMUS
GREGORY FRANCIS ATCHISON
DOUGLAS ELLIOTT ATKINS
STACY SETSUMI AZAMA
DAVID A. BABCOCK
ROBERT B. BADGETT
STEVEN MALLARD BAGBY
RODNEY LEE BAKER
MARK W. BALMERT
BENJAMIN HIRAM BANKSTON
THOMAS DAVENPORT BARNS
WELROSE ERNEST BARTLEY, II
LARRY STEVE BARTON
MICHAEL STEPHEN BASFORD
DALE R. BATEY
HOWARD SHELEY BAYES
DEBORAH ANN BECKER
RICHARD CARLTON BEDFORD
RICHARD SCOTT BENNETT
THOMAS A. BENNETT
SCOTT ALAN BERG
STEVEN M. BERGER
DAVID DWIGHT BIGELOW
THOMAS J. BILY
CARL DAVID BINDMAN
KENNETH JOSEPH BITAR
ROBLEY JAMES BLANDFORD
WILLIAM MICHAEL BLASCZYK
ROBERT A. BOGDANOWICZ
JOEL E. BOHLMANN
BRUCE STANLEY BOLE
HARRY P. BOLICH
ROBERTA BESS BOLYARD
NORMAN B. BOSTER
KENNETH DWANE BOWERSOX
JOHN L. BOWLES
JOHN HARRISON BOWLING, III
MICHAEL EDWARD BOYD
AUSTIN WALKER BOYD, JR.
JANE DENISE BOYER
CEDRIC ANTONIO BRADFIELD
THOMAS HENRY BRADY, JR.
TED N. BRANCH
BOB ALLAN BRAUER
STEVEN LEET BRIGANTI
JAMES E. BROCKINGTON
DAVID P. BROWN
ROBERT MARTIN BROWN
THEODORE HAROLD BROWN
DAVID W. BRUCE
ROBERT A. BUEHN, JR.
FREDERICK M. BUESSER
RICHARD WARREN BUMP
DAVID AUSTIN BURDINE
WILLIAM R. BURKE
DAVID ALAN BURKARD
WILLIAM JOHN BURROWS
WARREN RUSSELL BYRUM
JAMES KENDALL CAMPBELL
JEFFREY REID CAMPBELL
WILLIAM HENRY CAMPBELL
JOHN MICHAEL CARAM
KENDALL L. CARD
JO ANNE CARLTON
PATRICK BRENDAN CARMODY
LARRY IRVIN CARPENTER
JAMES M. CARR
NELSON MARZAN CAYABYAB
VICTOR LEE CERNE
BARBARA JEAN NEL CHADBOURNE
RICHARD CHAPMAN
JAMES R. CHEEVER
KEVIN R. CHEEZUM
PATRICIA ANN CHMIEL
JACK CHRISTENSEN
PETER HUGH CHRISTENSEN
DAVID WILLIAM CHRISTIE
LEWIS JOSEPH CIOCHETTO
JAMES P. CLAGER
BRIAN GORDON CLARK
JANEEN WEST IGOU CLEMENS
JANEL DEE COBERY
DARRELL L. COFSKY
JOHN E. J. COHOON
ROBERT EDWARD CONNERY, JR.
JOHN G. COOKE
RUTH ANNE COOPER
MAUREEN T. COPELOF
MIMI NMN CORCORAN
ANTHONY THOMAS CORTESE
RALPH R. COSTANZO
JOHN M. COSTELLO
JERRY WAYNE COUFAL
CRAIG H. COWEN
WILLIAM R. COY, JR
CLINTON HARRISON CRAGG
DONALD CARR CRAWFORD
STEPHEN MICHAEL CRAWFORD
WILLIAM THOMAS CROOKS, JR.
MICHAEL KERBIE CROSBIE
THOMAS D. CROWLEY
ROBERT KEITH CRUMPLAR
GREGORY STEVEN CRUZE
SHELLEY JO CRUZE
ROBERT L. CULLINAN
ROBERT MICHAEL CURTIS
STEPHEN P. CURTIS
STEVEN WILLIAM DAILEY
MICHAEL V. DANIEL
MARSHALL DEAN DAUGHERTY
CINDY MARIE DAVIDSON
JEFFREY J. DAVIS
SHARON ANN DEEMS
NANCY LAMBERT DEITCH
EDWARD J. DEMARTINI, JR.
WILLARD EUGENE DENTON
KATHRYN LOUISE DESTAFNEY
KENNETH WILLIAM DEUTSCH
JEFFREY DAVID DEVONCHIK
ANDREW LAWRENCE DIEFENBACH
CRAIG M. DIFFIE
KATHRYN ANNE DIMAGGIO
MARY CHARLOTTE DIMEL
DONALD R. DITKO
JAMES M. DOHERTY
KEVIN C. DONLON
CARL W. DOSSEL
MARTIN A. DRAKE
ROBERT WAYNE DRASH
CLIFFORD DALE DRISKILL
DENNIS D. DUBARD
LEE JOSEPH DUCHARME
MICHAEL FRANCIS DULKE
WILLIAM M. DUNKIN
NAN BERYLL DUPUY
MICHAEL A. DURNAN
GARY BRYAN DYE
WILLIAM JEFFREY EARL
DONALD LEWIS EBERLY
VICTOR ANTHONY EDELMANN, JR.

CATHERINE ELIZABETH EDWARDS
RICHARD THOMA EGAN
GERARD T. EGLER
JOHN E. EHLERS
DAINE E. EISOLD
MATTHEW P. ELIAS
ALFRED BART ELKINS
ROBERT HAROLD ELLIS
MARTIN J. ERDOSSY, III
DAVID E. ERICKSON
WILLIAM P. ERVIN
GARY JOHN EVANS
DONALD JESSE FAIRFAX
FARIS T. FARWELL
DAVID EDWARD FAY, JR.
MICHAEL LLOYD FELMLY
RICHARD PAUL FERGUSON
MARK BRITTON FINCH
SUSAN JANE FINLAY
MICHAEL JEFFERY FISCHER
J.G. FITZGERALD
GLENN FLANAGAN
MARC A. FLEMING
PETER S. FLYNN
GLENN AARON FOGG
PAMELA MERRY BROWN FORBES
JAMES MICHAEL FORDICE
JEFFREY L. FOWLER
MARK IRBY FOX
MICHAEL C. FRALEN
JOHN EDWARD FRASER
LINDA JEAN FRASERANDREWS
BOYD M. FREEBOROUGH
GEORGE JEFFREY FULLERTON
STEPHEN M. GAHAN
MICHAEL JAMES GALPIN
LAWRENCE FRANCIS GALVIN
BRET CARLETON GARY
JUNE ALYCE GASTON
DONNA VANCE NELSON GEIGER
GERALD WILLIAM GELETZKE
STEPHEN A. GIESEN
JEFFREY R. GINNOW
ROBERT R. GIRARD
ALFRED GONZALEZ
THOMAS DAVID GOODALL
ROBERT O. GOODMAN
VALENTINA CARGOS GOODMAN
JOHN G. GOOGE
JAMES WILLIAM GOULD
DEBORAH LEA GRANT
DOUGLAS D. GRAU
GEORGE LEWIS GRAVESON, III
JOHNNY L. GREEN
MICHAEL J. GREENE
PHILIP HILLIARD GREENE, JR.
JACK ALAN GREENSPAN
JOAN MCDONALD GUILFORD
ROBERT ALLAN GURCZYNSKI
ROBERT H. GUY, JR.
WALTER C. HABERLAND
NORMA LEE HACKNEY
JOSEPH BRUCE HAMILTON
JOHN ALVA HANCOCK
CECIL E. HANEY
PAUL CHRISTIAN HANSON
CLARE W. HANSON, II
HUGH MCLEOD HARDAWAY
ROBERT PAUL HARGER
DEON AUSTIN HARKEY
WILLIAM DONALD HARRINGTON
GRAIG F. HARRIS
DOUGLAS W. HARRIS
HARRY B. HARRIS
JAMES PATRICK HARRIS
CHARLES B. HASBROUCK, III
MARK H. HASKIN
JOHN R. HASTINGS
JOHN ROOSEVELT HAWK, III
THOMAS CAREY HAYES
PETER JOSEPH HEALEY
DIRK P. HEBERT
CHARLES DONALD HEISER
WILLIAM JOE HENDRICKSON
PETER HENRIK HENDRIKSON
JOHN R. HENNIGAN
KARL ANDREW HETTLER
CHARLES DUANE HEUGHAN
LYNNE MARGO HICKS
RICHARD ARTHUR HICKS, II
DONALD DAVID HILL
SUZANNE WOODMAN HIRSCH
FRANCIS A. HISER, III
CARY J. HITHON
FRANCIS XAVIER HOFF
RANDALL H. HOFFMAN
GREGORY PAUL HOGUE
MICHAEL J. HOLDEN
DANIEL HOLLOWAY
JOHN BARRY HOLLYER
THOMAS D. HOLMAN
PAUL STEVEN HOLMES
PATRICK C. HOPFINGER
PAUL BRUCE HOUY
JOY LEE HOWARDSNOW
WILLIAM CHARLES HUGHES, JR.
MICHAEL PAUL HUTTER
VERNON HUTTON, III
DARAH MARGARET HYLAND
CAVID LLOYD IRVINE
GLEN R. IVES
GREGG S. JACKSON
JAMES D. JEFFREY
DAVID G. JENKINS
MARK ERIC JENSEN
LARRY DEAN JOHNSON
RICHARD ERIC JOHNSON
SIGNE THERESE JOHNSON
STEVEN PAUL JOHNSON
MICHAEL JOHNSTON
THOMAS ALLEN JOHNSTON
JOE DEAN JONES
LEONARD BERNARD JONES
PAULA LYNN JORDANEK
JOHN CHARLES KAMP
EDWARD F. KAMRADT
ROGER E. KAPLAN
ANDREW T. KARAKOS
WILLIAM JAMES KEAR
TIMOTHY PATRICK KEATING
RONALD G. KEIM
ROBIN N. KEISTER
LESLEY ANN KELLY
STUART OAKES KENDRICK
CHARLES BYNG KEY, III
STEVEN ANTHONY KIEPE
JOHN PRESTON KINDRED
DARYL AMSTER KING
LANNY LEIGH KING
STEVEN D. KINNEY
RICHARD JOHN KISER
MIRIAM ANDERSON KLAPKA
MARGARET ANN KLEE
RAYMOND MICHAEL KLEIN
CHRISTOPHER A. KLYNE
MICHAEL GALEESE KNOLLMANN
ANDREW JAMES KOCH
LEIF H. KONRAD
JAMES ROBERT KOSLOW
MARK E. KOSNIK
GEORGE MICHAEL KOUCHERAVY
WARREN S. KRULL
DONALD ALAN KUNTZ
RICHARD K. KURRUS
JON DAVID LACKIE
MERLIN WILLIAM LADNER
CHRISTOPHER JOSEPH LAGEMANN
DANIEL M. LAMBERT
JOHN DAVID LAMBERT
PHILLIP ROBERT LAMONICA
LEWIS SCOTT LAMOREAUX, III
LINDA MARIE DAY LANCASTER
WILLIAM E. LANDAY
SCOTT A. LANGDON
STEPHEN B. LATTA
ROBERT JEFFREY LAUDERDALE
GARY R. LEAMAN
DAVID ALLAN LEARY
HORACE M. LEAVITT
RAND D. LEBOUVIER
STEVEN EUGENE LEHR
CHARLES J. LEIDIG
LINDA MARIE LEWANDOWSKI
JEFFREY GEORGE LEWIS
PETER JEWETT LEWIS
STEVE KIRK LILLEY
CARL ERIC LINDSTRAND
JOHN RICHIE LINK
STEPHEN C. LINNELL
KEVIN LINDSAY LITTLE
JAMES GERARD LOEFFLER
TRACY KEITH LOFTIS
ARNOLD OTTO LOTRING, JR.
ALTON A.S. LOVVORN
DOUGLAS S. LOWE
JOHN F. LUKSIK, JR.
PAUL K. LYNCH
DOUGLAS GRAEME MACCREA
JOHN EDWIN MACCROSSEN
RAYMOND TEX MACHASICK
LIZBETH LYNN MACKEY
DENHAM BRUCE MACMILLAN
ARCHER M. MACY, JR.
ALAN GARY MAIORANO
PAUL J. MALLON
MARK C. MANTHEY
STUART BRIAN MARKEY
JOSEPH MICHAEL MARLOWE
LAURA ANNE CARPENTE MARLOWE
BARBARA YVONNE MARSHJONES
JOHN ALLEN MARTIN
JOSEPH R. MARTIN
WILLIAM ALEXANDER MARTIN
RICARDO MARTINEZ
CHARLES WALT MARTOGLIO
ROBIN FERGUSON MASON
MICHAEL GARY MATACZ
JAY KEVIN MATTONEN
MICHAEL R. MAXFIELD
DOUGLAS JOHN MCANENY
HUGH ROBERT MCATEER, JR.
DONALD I. MCCALL
LINDA ANN MCCARTON
BRIAN JOSEPH MCCORMACK
MICHAEL MCCRABB
LARRY SAMUEL MCCRACKEN
MARY ANN MCCULLEN
ADRIAN CARRELL MCELWEE
THOMAS F. MCGUIRE
GORDON TORRES MCKENZIE
THOMAS MCKEON
TERENCE EDWARD MCKNIGHT
CLARENCE W. MCKOWN, JR.
JOHN CABOT MCLAWHORN
DUNCAN GORDON MCLEAN
MARY MCLENDONKOENIG
PATRICK MICHAEL MCMILLIN
MARTHA EGGERT MCWATTERS
MARK ALAN MEHLING
DAVID J. MERCER
BRIAN JOSEPH MEYERRIECKS
KURTIS JOHN MILLER
PATRICIA ANN MILLER
SCOT A. MILLER
STEVEN CRAIG MILLER
LEROY M. MILLS
ARTHUR SCOTT MOBLEY
PAUL MARSHALL MOMANY
RICHARD JOHN MOONEY
MELANIE ELISE MOORE
MICHAEL M. MOORE
MELINDA LEE MORAN
JOHN PATRICK MORIN
ALAN GENE MORRIS
DAVID B. MORRISON
KEVIN NMN MORRISSEY
DAVID EMBREE MOSCA
ALAN C. MOSER
TERESA URBAN MOSIER
MICHAEL GEORGE MULCAHY
ROLAND JOHN MULLIGAN
CHRISTOPHER CYRUS MURRAY
MICHAEL JOHNSON MURRAY
ALLEN GARVER MYERS
RICHARD JAMES NAGLE III.
WILLAM PATRICK NASH, JR.
MARK S. NAULT
DALE MARTIN NEES
RICHARD ALVIN NEIDRAUER
ERIC KARL NELSON
PHILIP B. NELSON
JOHN FINLEY NEWCOMB
CHRISTOP NICHOLS
TERRY EVELL NOLAN
JOHN CHALMERS NOULIS, JR.
ROBERT E. NOVAK
ALFRED STEVEN NUGENT, III
JOHN CORBET NUNLEY
CHRISTOPHER GLENN NUTTER
JAMES WILLIAM OCONNELL
LARRY B. OLSEN
CHARLES S. ORMSON
DENNIS NMN OURLIAN
LESLIE ANN PAGE
ANN REBECCA PAINTER
GLENN P. PALMER
ANTONY FRANK PAPAPIETRO, JR.
BETH HARRELL PAPWORTH
RICHARD A. PAYNE
CARL MARTIN PEDERSON, JR.
LAURA RETTA PEOPLES
PATRICK KEVIN PEPPE
ELEANOR KIRKPATRICK PERNELL
JOHN STEWART PETERSON
JOSEPH CARL PETERSON, JR.
LAWRENCE EDWARD PHILLPS
DAVID LAVON PHILMAN
CRAIG JOHN PICKART
FRANCIS S. PIERCE
TERRY CLIFFTON PIERCE
CHARLES JAMES PIERCE, JR.
PAUL M. PIETSCH
JAMES E. PILLSBURY
RONALD CHRISTIAN PLUCKER
BARRY J. POCHRON
DENNIS M. POPIELA
ARTHUR R. PROCELLI, JR.
JOANN NMN PORTER
DANA RICHARD POTTS
CHRISTOPHER LEE POWERS
CLARK GORDON PRESSWOOD
LESTER L. PRICE
WALTER S. PULLAR, III
MARTHA LEETE PURDY
A.J. QUATORCHE
KEITH J. QUIGLEY
GALE RAE RADEBAUGH
JAMES WILLIAM RAINWATER
JOYCE ZELLWEGER RANDLE
MATTHEW G. RAUSCH
RONALD C. RAYMER
ORIN PAUL REAMS
NORI ANN REED
HOWARD F. REESE
JAMES T. REILLY
THOMAS NMN REITMEYER
DENNIS DANA RENFRO
JAMES M. RENNIE
DAVID ALLEN RHODES
BENJAMIN ELLIOT RICHTER
WANDA LYNN RIDDLE
STEWART WARREN RIVALL
JAN GILBERT RIVENBURG
LYNN JANET ROBERTSON
BRIAN MARK ROBY
RENEE LEFEBVRE RODECK
MYLES ELLIOTT ROELING
GERARD DAVID RONCOLATO
JAMES F. ROOT
JOHN S. ROSA
PAUL K. ROSBOLT
ERIC R. ROSENLOF
STEVEN C. ROWLAND
T.G. RUBENSTEIN
PHILIP IRVING RUSSELL
PAUL J. RUSSO
KEVIN PAUL RYAN
MICHAEL SADDLER
FERDINAND LEWIS SALOMON, III
MITCHELL K. SAULS
HELEN JEANNETTE SCHAAL
MATTHEW EDWARD SCHELLHORN
WILLIAM ANDERSON SCHLICHTER
PAUL WALTER SCHMIDLE
JOHN MICHAEL SCHUMACHER
PETER PAUL SCHWAB
JAMES D. SCOLA
GRACE VALERIE SCRUGGS
JAMES MICHAEL SEAGLE
CATHY ROSE SEIFERT
KARL JOHN SEMMLER
ROBERT REID SENTER, JR.
DANIEL D. SERFASS
ANN MARGARET SHEEDY
SHARON JO SHELTON
JUSTIN M. SHERIN, JR.
PATRICK JOSEPH SHERMAN
MICHAEL ROBERT SHUMAKER
DARRELL THOMAS SINK
PETER J. SISA
WILLIAM F. SLAGLE
CATHERINE JOSEPHINE SLEETH
MARTHA JANE SMART
RICHARD EUGENE SMETHERS, JR.
CHARLES EDWARD SMITH
DANNY JOE SMITH
DAVID MARSHALL SMITH
DOUGLAS M. SMITH
MICHALA MARY SMITH
RICHARD WHITNEY SMITH
RICHARD B. SOUTHARD, JR.
MARK EDWARD SPECK
SCOTT ALAN SPENCER
TIMOTHY PATRICK SPRAGUE
DANIEL LEE SQUIRES
JOHN D. STALNAKER
HENRY TURNER STANLEY, III
MARK ALAN STEARNS
WILLIAM BRUCE STEDMAN
FLOYD LEROY STEED
ANN CATHERINE STEWART
RONALD PAUL STITES
ROBERT M. STUART
JOHN K. STUART, JR.
WILLIAM SEBASTIAN STUHR
JOHN BELLOWS STURGES, III
ALAN ROGER SULLIVAN
JOSEPH EDWARD SULLIVAN
MARY MAUREEN SULLIVAN
KRISTI HOLLI CHASE SUNDIN
PATRICIA J. SUNKLE
PAUL K. SUSALLA
PHILLIP TIM SWANSON
JERRY C. SWARTZ
MARY JOSEPHINE SWEENEY
WADE CARL TALLMAN
SAM J. TANGREDI
DANIEL A. TANSEY
ROBERT R. TAYLOR
GEORGE R. TEUFEL
BRIAN CHRISTIAN THOMAS
MICHAEL J. THOMAS
RONALD LOUIS THOMAS
TIMOTHY MARK THOMAS
DAVID NATHAN THORSON
KURT WALTER TIDD
WILLIAM G. TIMME
GREGORY PAUL TIMONEY
CHARLES NMN TIMON, JR.
PATRICK THOMAS TOOHEY
GEOFFREY CHARLES TORRANCE
TODD DOUGLAS TRACY
TERRELL LEE TRIBBLE
RODERICK EDWIN TRICE
PAMELA WEBB TUBBS
MARK RICHARD ULANDER
ROBERT BURTON UPCHURCH
DONALD E. VANCE
PIETER N.A. VANDENBERGH
JAN MAARTEN VANTOL
PETER THEODORE VAS, III
DEAN KARL VAUGHN
DAVID A. VEATCH
MARK RUSSELL VOLLMER
GEORGE M. WADZITA
DANIEL M. WALBORN
GARY L. WALDRON
STEVEN C. WALKER
JOHN P. WALLACE
LESTER A. WALLACE
STEPHEN JOSEPH WALSH
THOMAS LORENZO WALSTON, III
JOHN EDWARD WALTERS
LAWRENCE M. WALWORTH
WILLIAM BRIAN WATKINS
DAVID CALVIN WEEKS
JOHN ANDREW WEIDNER
STEPHEN NELSON WEILBACHER
CHARLES HERMAN WEISS, JR.
MARK S. WELCH
RODGER L. WELCH
DANIEL LATHROP WENCESLAO
DOUGLAS FRANK WHALEN
BLAKE ELLIS WHITE
GARRY RONALD WHITE
GLEN THOMAS WHITE
KEVIN EUGENE WHITE
TIMOTHY ALAN WHITE
JOHN BERYL WHITSELL
MARK RICHARD WHITTINGTON
DONALD RUSSELL WICKS
LINDA ELLEN WIDMAIER
MANFRED WILLIAM WIDMAN, JR.
LARRY DWIGHT WILCHER
JONATHAN EVERETT WILL
ALDEN GREGORY WILLIAMS
CARL EDWARD WILLIAMS
DAVID A. WILLIAMS
DAVID ROBINSON WILLIS
CHARLES EDWARD WILSON, JR.
MARY THERESA WINGER
CHARLES S. WITTEN
CHRISTOPHER MARK WODE
MARY ANNE WOODBURY
MICHAEL ALLEN WORTHINGTON
KEITH LEON WRAY
JOSEPH M. YANICHECK, JR.
ROY LEE YAPLE
RICHARD J. YASKY
ARTHUR WAYNE YENDREY
EARLE SWISHER YERGER
ROLF A. YNGVE
DAVID G. YOSHIHARA
ORRIN W. YOUNG
JOHN MARSHALL YURCHAK
ROBERT ZALASKUS
DEBORAH ANNE ZANOT
JOSEPH E. ZAVODNY
STANLEY N. ZEHNER
PAUL MICHAEL ZIEGLER
RUSSELL MARK ZIEGLER
GEORGE WILIAMS ZIMMERMAN
MARY JO ZUREY
EDWARD C. ZUREY, JR.

ENGINEERING DUTY OFFICERS

To be commander

CARL LEE ANDERSON
STEVEN L. BROOKS
RONALD ANTHONY CROWELL
PADRAIC K. FOX
WILLIAM ROBERT FRITCHIE
MARK A. GILBERTSON
CHARLES HAROLD GODDARD
DON W. GOLD
THOMAS L. GRODEK
ALAN EDWARD HAGGERTY
DONALD ROY HALL
PAUL DAVID HILL
FREDERICK F. HILLENBRAND, III
CHARLES LOUIS HOPKINS, III
GLENN ROY HOTTEL
STEPHEN LEO JOSEPH
DANIEL JOSEPH LOONEY
RODERICK M. LUSTED
MICHAEL ANTHONY LUZZI
VERRDON HOLBROOK MASON
DANIEL R. MATZ
KEVIN MICHAEL MCCOY
JOSEPH JOHN MEISBERGER
KENNETH DALTON MICKELBERRY
GLEN E. MOWBRAY
ROBERT J. MYERS
JOHN C. ORZALLI
LEO DENNIS OWENS, JR.
STEVEN EDWARD PETERSEN
MARK DAVID PETERSENOVERTON
PETER JOHN PETERSON
STEVEN W. PETRI
DOUGLAS ALAN RAY
THOMAS R. RENTZ
KENNETH PHILLIP ROEY
RAY C. ROGERS
VINCENT SALVATORE ROSSITTO
KURT DONALD SCHULZE
ANTHONY A. SHUTT
JEFFREY M. STEELE
MICHAEL ARTHUR STORM
ERNEST L. VALDES
THOMAS MICHAEL WILBUR
JAMES R. WILKINS
JEFFERY WADE WILSON
DANIEL MARVIN WISE
ROBERT JOSEPH WRIGHT

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be commander

GARY MARTIN ABBOTT
BRADFORD HARLOW BAYLOR
PATRICIA LEA BECKMAN
PHILIP C. BRENNAN
DANIEL W. BURSCH
DEMPSEY BUTLER, III
MICHAEL ALAN CLASSICK
KURT RICHARD ENGEL
CHRISTOPHER L. EVANS
MICHAEL A. HECKER
K.G. HEFFERNAN

MICHAEL KEITH HOLLINGER
CHARLES MICHAEL MCCARTHY
WILLIAM RICHARD MNICH, II
RICHARD A. MOHLER
WILLIAM NEVIUS
MICHAEL LYNN NOBLE
JACK WELTON OGG
SCOTT EUGENE PALMER
CARL E. REIBER
JAMES ARTHUR SEVENEY
JAMES FRANCIS SMALL, JR.
KENNETH MARTIN WALLACE
KARL E. YEAKEL

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be commander

JOHN CONLIN BOYCE
EDWARD MARSHALL BOYD
WILIAM SIDNEY DEVEY, JR.
MICHAEL DAVIS HARDEE
KENNETH DEAN HARRIS
DAVID EDWARD HOUGH
REGINALD LAWRENCE HOWARD
DONALD JAMES KRENTZ
THEODORE ALDRED MILLER
ROY DAYTON MOORE
KEVIN PAUL OSHAUGHNESSY
STANLEY EARL PYLE
TIMOTHY FRANKLIN STREETER
THOMAS MICHAEL VANDENBERG

AVIATION DUTY OFFICERS

To be commander

EDWARD LEE CREWS, JR.
GEORGE NMN GEDNEY, III
PAUL EARNEST GODDARD
CLIFFORD MYLES HARRINGTON
JAMES A. MCCRAE
JOHN HOYT WILLS

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

MICHAEL JAMES BURKE
WAYNE KEVIN EVERS
EDWARD CURTIS FLETCHER
DUANE M. LAFONT
STEPHEN ANTHONY LAROCQUE
MICHAEL SEWELL LOESCHER
RANDALL THOMAS LYMAN
MICHAEL FRANCIS LYNN, JR.
WILLIAM MCKINLEY MATTHEWS
LINDA LEE MURDOCK
JOHN MARK ODWYER
MIRIAM F. PERLBERG
DENNIS M. PRICOLO
STEVEN K. TUCKER
DENNIS MICHAEL VOLZ
SCOTT WILLIAM WITT

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

ALLEN NMN BANKS
CHARLES H. BREEN
TIMOTHY J. DENNIS
DEBORAH KAY EFFEMEY
DARRYL JOHN FENGYA
JOHN PASQUAL FORTUGNO
WILLIAM BARTLETT FRANCIS
MARK FRANCIS GREER
RICK ALAN GUNDERSON
DALE EDWARD HAYS
RANDALL LEE HENDERSON
GUY DAVID HOLLIDAY
JEFFREY LEE HOLLOWAY
PETER RANDALL HULL
BRUCE WAYNE INGHAM
STEVEN JOHN KNAPKE
MICHAEL FRANCIS KUHN
ALLAN R. NADOLSKI
RYNN BARRINGTON OLSEN
BETH ELAINE PATRIDGE
DEIDRE HALL PISTOCHINI
JAMES ROBIN REDDIG
DANIEL NMN RUBBO
PHILIP ROBERTS SCOTTSMITH
MICHAEL ALEXANDER SLOAN
MICHAEL ALLEN STANDRIDGE
JAY MORGAN TWEED
BRUCE ROKURO WILKINSON
STUART ALLEN YAAP
WILLIAM DEWEY YOPP

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

ROBERT KOLB ANDERSON
STEPHEN BRIAN BURNETT
CHARLES MILTON FRANKLIN
NETTIE REGINA JOHNSON
JOSEPH H. MARCH
DAVID W. MORRIS
KEVIN MARC MUKRI
STEPHEN RICHARD PIETROPAOLI
JEFFREY PATRICK SMALLWOOD
JOHN MORGAN SMITH
ALFRED R. TWYMAN

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

WESLEY ALAN BARTON
LESTER ELLIOTT CARR, III
WILLIAM T. CURRY
MARK DIUNIZIO
CHRISTOPER GUNDERSON
CLIFFORD D. JOHNSON
WALTER B. KINDERGAN
TIMOTHY JAMES MCGEE
DANIEL VANAUSDAL MUNGER
WILLIAM EDGAR PERTLE
FREDERICK RICHARD PFEIL
HARDI SIEGFRIED ROSNER
BRETT TYLER SHERMAN
RAY C. SIMMONS
JEROEN JOHANNES WATERREUS
ERIC J. WRIGHT

LIMITED DUTY OFFICERS (LINE)

To be commander

BRUCE JOSEPH ACTON
DANIEL BARRS
THOMAS STUART BENSON
RALPH JOSEPH BOYER, JR.
DAVID ALAN CRUTZ
PETER LLOYD DARLING
MICHAEL LEE DICKENSON
FLOYD EDWARD ENGLISH
RICHARD PATRICK GILBOY
CHARLES MICHAEL HARRIS
GERALD EARL HART
NORMAN TIMHOY HO
JAMES WESLEY HOLLAND, JR.
RICHARD LEE JAMES
JOEL ERNEST KERSTETER
JOHN FRANCIS KIMMEL, JR.
DAVID RICHARD KRAMER
JOHN H. KUREK
JAMES LAWRENCE KURIGER
ROBERT EARL LEMASTER
JOHN FREDRICK LUNDGREN
THOMAS WILLIAM MCCARTHY
JEFFERY LEE MCCOMB
WILLIAM DENIS MELAY
CHARLES HOWARD MUNTER
CHARLES LEWIS MURPHY, JR.
RICHARD KEVIN PRENDERGAST
WILLIAM JOSEPH RUTLAND, JR.
ALAN JEROME SALA
RICHARD THOMAS SANSOM
JERRY MAX SIMMONS
JOHN CLARK SIMMONS
FRANK HENRY SIMONDS, JR.
ISAAC HERMAN SMITH, JR.
SAMUEL MELVIN SMITH, JR.
GERALD WAYNE SOUZA
DANNY VAUGHAN
ROBERT LAWRENCE WHELAN
MICHAEL EDWARD WILLIAMS
GARY L. WILLIS
WILLIAM EDWARD WOODS, JR.

THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF COMMANDER IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be commander

BRUCE ALLEN ABBOTT
MELINDA LEE ADAMS
ROBERT KEITH ADAMS, JR.
HENRY MITCHELL ALBRIGHT
JAMES K. ANDERSEN
JAMES CHRISTIAN ANDERSEN
DAVID OWEN ANDERSON
DEBRA KAY ANDERSON
RICHARD ANDERSON
RICHARD JOSEPH ANDES
JOEL LINN ANDREWS
STEPHEN BRADFORD ANTLE
STEPHEN EDWARD ARMSTRONG
BRAMWELL BAKER ARNOLD, JR.
HOWARD BERNARD ASCHWALD, JR.
TRIN JAMES ASTRELLA, JR.
TROY GARLAND AVERA, JR.
BRETT DAVID AYOTTE
TERRY LEE BACHMAN
MICHAEL SCOTT BAILEY
MARY ELIZABETH JOAN BALE
ROBERT FRANKLIN BALES, JR.
THOMAS ALLAN BARBER
JON LEONARD BARKEE
DAVID RICHARD BARNES
MARK DAVID BAUER
LARRY LEE BAXA
DONALD CREIG BEAHM
WILLIAM CLAY BEARDEN
RONALD ANTHONY BEASLEY
TERREL VERNE BECKHAM, JR.
VINCENT ALOYSIUS BELLEZZA
ROBERT D BELLING
JUDITH JOAN BENDIG
TOMMIE DOUGLAS BENEFIELD, JR.
DAVID RAYMOND BENNETT
ROBERT C. BENTON
RICHARD CHARLES BERG
BRUCE BALKCOM BEVARD
JAMES ROBERT BLAA, JR.
WILLIAM ALLEN BLAIR
DAVID R. BLAKE
THOMAS H. BLAKE
GREGGORY DEEN BOATRIGHT
NANCY KONRAD BOICE
JOHN ROBERT BOLTON
THOMAS H. BOND
GERALD L. BONNETT
WILLARD RALPH BONWIT, JR.
RICHARD WILLIAM BORCHARDT
MORRIS R. BOSARGE
MARK MCGREGOR BOSWELL
JAMES LEO BOWMAN
MICHAEL BERNARD BRANDS
GEORGE ALBERT BRATTON, IV
RICHARD LEE BRAZELL
MARK KEVIN BRAZIER
KURT J. BREGAR
RICHARD LEE BRUMMITT
MICHAEL DAVID BRUNO
CHRISTOPHER JAMES BUEHRIG
JO ANNE BURKLUND
JON DAVID BURNETTE
MICHAEL JOSEPH BUSSONE
VINCENT PHILLIP CAGGIA, JR.
JAMES JOSEPH CAIN
EIRC RAY CALDWELL
MICHAEL CALLAHAN
ALBERT SIDNEY CAMP
JAMES PETER CAMPBELL
KENNETH W. CAMPBELL
GEORGE GUYTON CANNADY
LEONARD S. CARITA, JR.
WENDI BRYAN CARPENTER
TIMOTHY C. CASSIDY
KEVIN BRETT CELLARS
RUSSELL PAUL CEPKO
WILLIAM DMYTRO CHARUK
ERIK NMN CHAUM
LARRY GLENN CHENEY
JOSEPH DWYER CHISHOLM
KEVIN JOSEPH CLARK
MICHAEL PATRICK CLARK
JOHN PATRICK COFFEY
DONALD P. CONNERS
GLADYS TWINING CONNOLLY
ROBERT DAVID CONWAY
THOMAS BRODERICK COOK
JOHN MARK COPPIC
RICHARD S. CORNISH
CHRISTOPHER M. CORRIGAN
BARRY ALLEN COSTA
KEITH HOWARD COX
RICHARD SPENCER CRAMER
JAMES R. CRANFORD
RAYMOND PAUL CREVIER, JR.
ROBERT KENNETH CRIM
RICHARD LEE CROCKER
STEPHEN HARRISON CROW
ANDREW JAMES CUCA
CLARENCE WILLIAM CULWELL, JR.
CHRISTOPHER B. CYRWAY
RICHARD ARTHUR DAPRATO
PAUL RAYMOND DAUPHINAIS
MICHAEL FRANCIS DAVIDSON
GERALD RICHARD DAVIS
STUART MORRISON DAVIS
PIERS LINCOLN DAWSON
DAVID BERNARD DEARIE
NORMAN DELLINGER
HARRY SCOTT DENSON
DAVID MICHAEL DESILVA
JAMES DEUSER
CHRISTINE WHITTIER DICKMAN
DAVID JOHN DIMATTEO
PETER M. DIRGA
GREGORY STEPHEN DISHART
JOSEPH A. DIVITO
RICHARD GLAZIER DODSON
GORDON LAWRENCE DONA
KEVIN DONAHUE
PATRICK JOSEPH DONOVAN
LINDA LOU BORGES DUBOIS
MACK D. DUETT
WAYNE D. DUFFALA
RICHARD KIT DUNCAN
MICHAEL JAMES DWYER
JOSEPH MICHAEL EAGAN
WESLEY KARL EBEN
CHARLES HILAN EBERT
MICHAEL CECIL EIDE
ROBERT OSWALD EIDE
CHARLES EARL ENOS
JOHN WAYNE EPPERT, III
DENNIS DONALD ERDT
MARIE SMITH ERNST
CLARKE MARVIN ERWIN
EMIL PAUL ESCHENBURG, JR.
RICHARD TIMOTHY ESTES
ANGELIKA MASON EVANGELIST
BRUCE PAUL EVJEN
JEFFERSON EWIN
ROBERT JACOB FALLON
TIMOTHY JOSEPH FARRELL
CHARLES STEPHEN FARRELL, JR.
DANIEL NICHOLAS FAZIO
LEVERNE PERRY FERNANDEZ
MARY ELLEN FETHERSTON
JAMES A. FIORELLI
MARCUS JOHN FISK
JOYCE DAUGHERTY FLEISCHMAN
KEVIN WILLIAM FLEMING
WILLIAM JAMES FLEMING
GLENN ALAN FLETCHER
DUNCAN KIEFER FOBES
DAVID LAWRENCE FOOTE
JOSEPH MICHAEL FOSTER
DOUGLAS W. FRANK
DAVID VAN FULWIDER
GARY P. GAMBARANI
STEPHEN MICHAEL GANN
BENJAMIN GARCIA
LEE A. GARD
JOHN G. GARDINER
JOE WHEELER GARRETT, II
RONALD PAUL GAST
STEPHEN GATES, JR.
MAURICE KEITH GAUTHIER
PETER FRANCIS GAZDA
JAMES HOWARD GENTILE
PAUL STEVEN GERARD
MARK KLINE GERFIN
ERIC FRANCIS GERMAIN
ROBERT NORMAN GEST, JR.
MARK BRADFORD GHEEN
ROBERT MARKS GILL
JAMES IGNATIUS GILLESPIE
KIMBERLY S. GLASGOW
RICHARD ALAN GOLDSMITH
CLARK BERNARD GOODLETT
ROBERT A. GOODRUM
TIMOTHY ERNEST GOODWIN
TAYLOR J. GORDON
ROBERT LAWRENCE GOVETT
RICHARD F. GOWARD, JR.
CHARLES MARION GRAY, III
STEVEN P. GRUBE
ALAN H. GUREVICH
DAVID E. GUZA
FREDRIC W. HABERMAN, JR.
SEBASTIAN CHARLES HAFER
PAUL RICHARD HALEY
JUERGEN GARY HALF
DAVID RUSSELL HALL
DON PAUL HAMBLEN
EARL K. HAMILTON
CLARK D. HANDY
RICHARD P. HANSEN
JAMES CHRYSOSTOM HARKINS
THOMAS P. HARRISON
WILLIAM EDWARD HART
SILAS CLINTON HART, III
DARRELL R. HARTSIG
CRAIG TAYLOR HARVEY
EDWARD PAUL HARVEY, JR.
ALFRED JAMES HASS, II
TODD NELSON HATHAWAY
DANIEL LEE HATTEN
TIMOTHY X. HAUCK
JOHN S. HAYNES
JEFFREY A. HEDGES
WILLIAM GEORGE HEDSTROM
FREDERICK EDWARD HEIMANN, JR.
DAVID W. HEINTZMAN
ROBERT JOHN HEISTER, JR.
MICHAEL P. HELMS
FRED ARTHUR HENDRICKS, JR.
EDWIN STUART HENRY
BRUCE NEIL HEYWOOD
STEVEN RAYMOND HIBBS
JACK C. HICKS
WILLIAM GREGORY HIGGINS
THOMAS L. HITCHCOCK
MATTHEW MCWAIN HODGINS
ROBERT LOUIS HOGAN
NELSON CHAPPELL HOLLY
NEIL GARY HOLT, JR.
NATHAN CRAIG HOLWAY, JR.
FREDDIE LEE HOLYFIELD
FORREST TERREL HONDERICH
RICHARD PAUL HUBBARD
MICHAEL E. HUBER
BETH EVELYN HUBERT
BARRY EDWARD HUDSPETH
THOMAS LEE HULL
RICHARD JOSEPH HUMENUCK
NORMAN ROGER HUMITZ
GORDON KEITH HUNEGS
ROBERT A. HUNT
FRANCIS ALOYSIUS HUNT, JR.
JOHN MAYNARD HURST
DAVID GRAY IRELAND
RUSSELL HAROLD IRVINE
STEVEN DALE IVANS
MARC EDWARD IVERSON
CHARLES GREGORY IVEY
WILLIAM KING JANSSON
REED KEITH JARVI
JOHN ELBERT JAYNES
PATRICIA ANNE JEDREY
ROBERT K. JEFFERIES, III
JAMES JOSEPH JEFFRIES
CHRISTOPHER H. JENSEN
DOUGLAS STUART JOHNSON
GREGORY CARL JOHNSON
MICHAEL R. JOHNSON
WILLIARD CHARLES JOHNSON
ALBERT M. JONES
BRADLEY WILLIAM JONES
ROBERT EDMUND JONES, JR.
THOMAS ANTHONY KACHMAR
JOHN ROBERT KAISER
ERIC ALAN KALISKY
PAUL LEONARD KALLAND
JAMES LEWIS KANTNER
EUGENE KARSTENS
OWEN NORIO KAWAMOTO
TIMOTHY BLAISE KEEN
GEORGE ROY KELL
MICHAEL J. KEMPF
STEVEN PAUL KERCH
ROBERT S. KIDD
TERRENCE MICHAEL KILMAN
MARTIN ALAN KIMBALL
MARVIN EARL KING
LAWRENCE PHILIP KIRWAN
JOHN L. KITTLER
PATRICIA ANNE KLAUER
JOHN P. KLOSE
KIM DAVID KLUGE
GARY LLOYD KNOCK
MARK BERNARD KOERBER
MELVIN RICHARD KOHLER
BRIAN ELLIOTT KONSUGAR
JUSTINE FRANCES G. KOSCIELNY
ANDRZEJ WLADYSLAW KOWALSKI
WILLIAM H. KRAMER
NICHOLAS DMYTRO KRAWEC
KEVIN MICHAEL KUZEL
HENRY J. KUZMA
RAYMOND REED KWONG
MICHAEL SMITH KYNETT
JOHN F. LADEMAN
BRADLEY N. LANZER
GRANVILLE D. LASSETER, II
KENNETH M. LAW
THOMAS KING LAWMAN
MICHAEL E. LEBIEDZ
STEVEN BLODGETT LEE
CAROLYN DUSTY LEEF
JAMES JOSEPH LEHMAN
JAMES PHILIP LESTER
STEPHEN ARTHUR LEWIS
PHILIP A. LEWIS, JR.
PAUL ANTHONY LIBERATORE
WILLIAM TIMOTHY LILES
GERARD JOHN LINK
FRANCIS J. LIPOVSEK
DIANE MARIE LORENZ
CHERYL CHIEKO LOUIE
FREDERICK WAYNE LUCCI
STEVEN JOHN LUCKS
LANE CLAYTON LYNCH
MARIANNE MCGRATH LYNCH
WALTER KAY MAGINNIS, JR.
MICHAEL J. MAKOWICZ
WILLIAM ALBERT MALEHORN
ALLYN FERRIS MALLORY
JOHN EDWARD MANIGO
GREGORY A. MANKEY
EVERTON GERSHAM MARTIN
JOHN CHARLES MARTIN
JANE ELLEN MARTINSON
CHRISTOPHER WILLIAM MAY
CHARLES HAYS MAYNARD
ROBERT L. MCCABE
MICHAEL EUGENE MCCAFFREY

FRANCIS IRWIN MCCLELLAN
ALFRED EMMANUEL MCCOOEY, JR.
JAMES DOUGLAS MCCUISTION
MICHAEL SCOTT MCDONNOLD
PAUL ERWIN MCGILVRAY
ROBERT ALAN MCLEAN
CHRISTINE MARIE MCMAHON
ALLEN DOUGLAS MEDLIN
JOHN WILSON MELEAR
MARK ALLEN MELNICOFF
KENNETH LEIGHTON MERRICK
DEAN THOMAS METTAM
DOUGLAS R. MEYER
WILLIAM OLIVER MEYERS
JOHN E. MIESNER
KERWIN EUGENE MILLER
SCOTT EUGENE MINER
PATRICK JOSEPH MISKELL
JOHN JOSEPH MITCHARD
ALAN LEROY MOLL
WAYNE EUGENE MOLNAR
BERNARD LEWIS MOORE
GUY HOLLISTER MORGAN
JOHN LLOYD MORRIS
TUNIS BRADLEY MORROW
DAVID ARTHUR MORSE
THOMAS WHALEN MORSE
JAMES JOSEPH MOSCARDINI
SAVINO NICHOLAS MOSCARIELLO
ANTHONY STEPHAN MULFORD
SHERRY VANITA MULVANEY
MARK A. MUNSON
JOHN STEPHEN MURDOCK
GUY VICTOR MURRAY
WILLIAM THEODORE MYERS, JR.
JEFFREY ALAN NAUS
JOHN JOSEPH NEEDHAM
BILL NEGRON
SCOTT TRIMBLE NEIDHOLD
ELMER J. NELSON
ROGER LEE NIELSON
BRENT J. OBENOUR
THOMAS O. OBRYANT
KEVIN BARRY OCONNELL
JOHN H. ODONNELL, II
CHARLES R. OGLE, JR.
VINCENT CHARLES OLIVER, JR.
BYRON WESLEY OLSON
CRAIG P. OSTREM
WILLIAM ANTHONY OTT
CHARLES EDWARD OVERCASH, JR.
PATRICK RYAN PARIS
JAMES CECIL PARKS
STEPHEN JOHN PATERNOSTER
MICHAEL JOHN PELLOTH
DAVID ALLAN PETERSON
JAMES PHIPPS PETTIT
MARK JOSEPH PFUNDSTEIN
EDWIN A. PHELPS, III
LESTER LEROY PHILLIPS, III
PEYTON ELWOOD PHILLIPS, III
EARL WENDELL PHILLIPS, JR.
JOHN RADCLIFF PHIPPS, JR.
RENALDO P. PILI
THEODORE S. PITERA
PAUL DOUGLAS PITZER
WILLIAM DANA POLLOCK
ANDREW N. POULOS
TEN EYCK BRONK POWELL, III
DUANE ALLAN POWERS
CARL WILLIAM PRO
SCOTT M. PROVOW
MICHAEL CHRISTOPHER PURCELL
WILLIAM RAYMOND PYE
JOHN R. PRYON, JR.
ROBERT GERARD QUIRK
RICHARD LYNDON RADER
JAMES MICHAEL RAY
ROBERT BARRY REDDINGTON
GARY LEON REGLIN
DENNIS J. REILLY
ROBERT FOSTER RESCINITO
STEVEN W. RESS
HOBSON REYNOLDS
LARRY JOHN RHEA
MICHAEL THOMAS RIBBLE
ROBERT JOSEPH RICHARDS
STANLEY R. RICHARDSON
RICHARD E. ROBEY
RICHARD R. ROBIDOUX
ROBERT A. ROCHAU
JOHN H. ROGERS
JOHN PHILIP ROGERS
MELVIN CLAUDE ROGERS, JR.
JOHN L. ROGITZ
RICHARD JOHN ROMAC, II
JOHN JOSEPH ROONEY, JR.
CHARLES THOMAS ROSENBERG
JOHN W. ROSS
STEPHEN VINCENT ROTH
SIETZE J. ROTTON
JOHN CARL ROYCE, JR.
MARK FRANCIS ROZWELL
MICHAEL LEONARD RUNALS
RALPH SCOTT RUPPERT
LARRY LEE RUTLEDGE
CHRISTOPHER J. RYAN
PATRICK W. RYAN
WILLIAM RAYMOND RYAN
VINCENT S. SADD
GUS NMN SAMBRANO
STEPHEN WAYNE SANDERS
JOHN H. SANDSTROM
KATHERINE LOVEJOY SANFORD
RALPH P. SCAFFIDI
MICHAEL A. SCHALL
DANIEL J. SCHENKE
RICHARD ERIC SCHIEFEN
KENNETH TARCISIUS SCHMIDT
PAUL STEVEN SCHMITT
WILLIAM EDWARD SCHMITT
JEFFREY ALLEN SCHMITZ
WILLIAM J. SCHNEIDER
ROBERT J. SCHOLES
MARK THOMAS SCHOONOVER
RONALD REID SCHOWE
MICHAEL CHRISTOPH SCHROEDER
DAVID ARTHUR SCOTT
JOHN DAVID SCOTT
GEORGE JOSEPH SCOTT, III
RANDALL ALLEN SEAWARD
CHESTER J. SETO
KARL R. SETTE
RICHARD CLARK SEVERS
JAMES WEBER SHELTON, JR.
MICHAEL SHINEGO
LOUIS CRISPIN SIMMONS
MARK STEPHEN SIMPSON
VICTORIA GERMINO SKINNER
JOHN P. SKOGSBERG
RODNEY WILLIAM SKOTTY
DAVID L. SMITH
JAMES FLOYD SMITH
NEAL FREDERICK SMITH
PAUL GILBERT SMITH
RANDY GENE SODERHOLM
WILLIAM W. SOER
STANLEY A. SOWINSKI
RICHARD PATRICK SPURR
MICHAEL NMN STAVREFF
RAYMOND TREECE STEARNS
KEITH EDWARD STEIGER
AUTHOR L. STEPHENS
FREDRIC MILO STEPHENS
JEFFREY MICHAEL STEVENSON
MICHELE VALERIE STICKNEY
ROBERT A. STOBAUGH
JOHN MICHAEL STOELTING
JOHN SHELDON STRATEMEIER
PAUL JOSEPH STREETER
STEPHEN ANDREW SUSKO
GRANT DEAN SUTHERLAND, JR.
STEPHEN DOUGLAS SWAZEE
DAVID ALEXANDER SWINGLE
PAUL DAVID TANZAR
JOHN DENNIS TATE
TIMOTHY OREN TAYLOR
LAURISTON SALE TAYLOR, III
LYNN GENE TEPPEN
PHILIP ANTHONY TESTA
BRADLEY THOMANN
DARYL SCOTT THOMPSON
JAMES ALAN THOMPSON
LAWRENCE EARL THOMPSON
ROBERTA LYNN THOMPSON
STEVEN MICHAEL THRAIKILL
BARRY M. TILDEN
WILLIAM EUGENE TILLERSON, JR.
HENRY HELLMUT TINGLER
MARK MATTHEW TRENOR
MARC L. TROIANI
STEPHEN HOWARD S. TRYON
MICHAEL D. TSCHILTZ
ROBERT URBAN TUOHY
DIANNA MARIE TURMAN
M.R. VALENSTEIN
EDGAR BAGOYO VALERA
JOEL KENT VANDERWALL
JOHN CHRISTOPHER VANFOSSAN
ANTHONY JOSEPH VELLUCCI
JOHN R. VERBRYCKE
STEPHEN JAMES VESTER
PAUL JOSEPH VONHOENE
WILLIAM H. WALKER
CHARLES DAVID WALTERS
STEWART T. WARREN
MICHAEL NMI WATSON
AARON D. WATTS
THOMAS PHILLIP WAYNE
PETER HARTY WELLS
CHARLES MICHAEL WEST
BRIAN MICHAEL WHITED
GARY ALAN WILLIAMS
THOMAS H. WILLIAMS
WAYNE LESLIE WILLIAMS
DONALD EUGENE WILSON
ELDON J. WILSON
RICK DOUGLASS WILSON
STEPHEN R. WILSON
ROBERT GEORGE WILSON, JR.
JAMES ARTHUR WILTSHIRE
ARNETT J. WISE
WILLIAM F. WOLF
CRAIG STANISLAUS WOLFSON
DONALD L. WOLVEN
DAVID ELLIOTT WRIGHT
ROBERT PAUL WRIGHT
BENJAMIN SAMUEL YATES
FRANCES YATES
ALLEN CHARLES YOUNG
JAMES M. ZAHORNACKY
STEVE RICHARD ZELL

UNRESTRICTED LINE OFFICERS (TAR)

To be commander

TIMOTHY ALLEN BEATTY
DUANE ARTHUR BEAUCHAINE
BRENDA ERCELLE BLACKWELL
JOE CAMERON BLAKE
MICHAEL FRANCIS BOYER
TERRY ARTHUR BRAGG
ANDREW ALAN BRIGGS
SARAH LOUISE BROWN
WILLIAM MICHAEL CHRISTY
ANN MARIA CLARK
BOOKS ALLEN COBURN
RICHARD H COYLE
DAVID W CUTTINO
JEAN M DANIELS
MILES PATRICK DEAN
KENNETH M DEEBLE
CHRIS RAY DEMPSEY
GLENN EMERSON DOTEN
NORMAN J FARLEY
PAUL MICHAEL FERMOILE
MICHAEL STEVEN GIORGINO
KENNETH I GOLDBERG
JOHN WARFIELD HARDY
JOSEPH DANIEL HARRINGTON
WILLIAM GARY HARRISON
MICHAEL JOHN HIGGS
ROBERT I HOWARD
WILLIAM HENRY HUFHAM
VICKI LYNN KAINZ
DONALD J KSIAZEK
KEVIN JAMES LASHER
FREDERICK WOODWARD LEITH
ARLEN E LIPPERT
JOHN PAUL LUMETTA
CARL MARTIN MAYABB
BARRY GENE MCFARLAND
MICHAEL B MCGEE
JOHN W MICKELSON
MARTHA ANN MITCHELL
ARCHIE NMN MITCHELL, JR
JOSEPH A MOLINARI
PAUL M MOLLOY
KATHY READING MOORE
LASZLO GEZA NEUWIRTH
SHERRY RUTH NEWTON
PAUL FISK PAINE
THOMAS R PALMER
SCOTT A PARKER
DAVID MICHAEL PERDUE
ROBERT HANSON PORTER
WILLIAM PAUL RAMSEY
BRUCE ALAN RASMUSSEN
STEVEN MICHAEL REYNOLDS
VICTOR GORE RISTVEDT, JR
STANLEY R RODMAN
DONALD LEO ROY
RONALD JOHN RUNDSTEDT
RICHARD S SAUNDERS
RHONDA JEAN SHAFFER
TERRY PAUL SHEPERSKY
MICHAEL JON SHEWCHUK
SELVEN LAYNE SMITH
KEVIN J SULLIVAN
ROBERT JAMES SWANSON
ROBERT LEE SYKES
MALCOLM DEWEY TIGNOR, JR
DONALD LOUIS URQUIDEZ
ROBERT ALAN VOGT
CAROL M WALES
JOHN R WEBSTER
JOHN WAYNE WESTBROOK
BARY C. WILLCOX
DAVID MICHAEL WOLCHKO, JR.
SUSAN WESTON WOLFE
TERRAY E. WOOD

ENGINEERING DUTY OFFICERS

To be commander

PATRICK JOSEPH BROWN
KENNARD MICHAEL BUDDENBOHN
JAMES L. BUTLER
MICHAEL DUNN CARATHERS
STEPHEN CRAIG COSSEL
FRED L. CURRY
ROCKIE JEB DELOACH
THEODORE FRANK LAGERGREN
EDWIN GERARD LANDAUER
WILLIAM LEVIS
ALVIN WARREN LIPPITT
ROBERT GLYNN MINER
JAMES EDWARD MUSICK
DAVID ANTHONY OBRIEN
PHILIP JOHN ROGERS
LAURA DENISE STUBBS
DONALD JOSEPH WALSH

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be commander

SEAN PAUL CROOK
WILLIAM NELSON JACKSON
BENJAMIN BURNHAM JAMES, III
KEVIN TED MABIE
JEFFREY EDWARD PINKEL
ROGER ALLEN YOUNG

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be commander

DANNY BILL HODGE
MICHAEL LEE MAUCK
PHILLIP REGINALD POPPELL
FRANK WESLEY THOMSON
DAVID ALLEN ZORYCHTA

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be commander

JEFFREY DOUGLAS ADAMSON
JOHN YOUNG ALLISON
MICHAEL TIMOTHY MONAHAN
ANTHONY HARRY MURRAY, III
TIMOTHY LEWIS ONEIL
JOHN GEORGE PETERLIN, III
RANDALL LOUIS PINETTI
THOMAS KOEP ROSE
JOHN FREDERICK WHITELEY
MATTHEW GEORGE WILKENS

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

THOMAS STALEY HAWTHORNE
RONALD EUGENE HECOX
DAVID WAYNE LEE
GORDON EUGENE MEEK, II
RONALD GEORGE MIHALEY
ANTHONY FRANK QUIDATANO, JR.
GEORGE WESLEY SMITH, JR.
RANDELL C. SMITH, JR.

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

FORREST HARRY ALLISON, II
EUGENE BOJARSKI
DOUGLAS CREIGHTON CLARK
LEONARD ALBERT CURTIS, II
RUSTIN ECKSTROM
DENIS WILLIAM FLOOD
JOHN A. FLORIO
DAVID PATRIC FRANCZYK
HILLMAN PATTEN
EDWARD GREGORY SCHEUMANN
ALAN KARL SCHNEIDER
CONSTANCE MARIE SENKOWSKI
COLLEEN CALHOUN THOMAS
DANIEL IVES TYLER

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be commander

FRANK JOHN GIBLIN
KENNETH ROBERT NEWTON
HENRY JORDAN OLDFIELD

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

RUDOLPH WILLIAM BREWINGTON
BARTON BUECHNER
WILLIAM LESTER HENDRIX
EMILY HYDE HOPKINS
BARBARA ANN KIELY
PATRICIA JANE LARSON
PAUL WILLIAM LOHNES, II
THOMAS MICHAEL PLANTENBERG
WILLIAM BRUCE SPIHER
GERARD JUDE WILLETT

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

DAVID CHRISTOPHER COPLEY
LARRY D. PHEGLEY

LIMITED DUTY OFFICERS (LINE)

To be commander

JOHN GRIMES DONAHUE
ROBERT CHARLES LINDER
MALCOLM CONRAD MCCOLLUM
THOMAS JOSEPH OBRIEN
RALPH REITZ
EDWARD HERMANN SCHEYE

EXTENSIONS OF REMARKS

A TRIBUTE TO THE HON. JOANNE VANZANDT

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HORTON. Mr. Speaker, I would like to take this opportunity to honor my good friend and constituent, the Hon. Joanne VanZandt of Pittsford, NY. Joanne is retiring after 10 years of outstanding service in the Monroe County Legislature.

During her tenure in the Monroe County Legislature, she was chairman of the Planning and Economic Development Committee, assistant majority leader, and vice chairman of the Ways and Means Committee. She served as president of the legislature in 1987. Her commitment to this legislative body also included the Public Works, Transportation and Intergovernmental Relations Committees, the Pure Waters, Regional Planning, Finger Lakes Association, and the New York State Association of Counties Task Force on Education of the Handicapped. She is a board member of Arts for Greater Rochester, the Landmark Society, the Monroe County Industrial Development Corp., the Catholic Diocesan Foundation, and Girl Scouts Advisory Board.

In addition to her many legislative and civic contributions, Joanne has shared her considerable political expertise with the Monroe County and National Republican Committees. She was county coordinator of the Reagan/Bush campaign in 1984 and county coordinator of Senator ALFONSE D'AMATO's State Senate campaign in 1986. She has also supported her local Republican candidates, and is visible at any political event in the Rochester and Monroe County area. Joanne VanZandt is a significant role model for any aspiring Republican political candidate.

On a personal note, Joanne and her husband, Dr. Theodore VanZandt, chief of radiology at the Rochester General Hospital and professor at the University of Rochester Medical School, have four children and one grandchild.

She was very active in the local school districts during her childrens' younger years, and has also been a loyal and dedicated member of her church.

Joanne VanZandt is certainly one of the outstanding women of the Rochester and Monroe County area. I am pleased and privileged to honor her today on behalf of her many friends and fellow Republicans. She is to be commended and applauded for her intense commitment to her career, her family, and the Republican Party.

Thank you Joanne and we all wish you health and happiness in the future as you enter this new phase of your life.

A CONGRESSIONAL SALUTE TO OFFICER LARRY BULLOCK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDERSON. Mr. Speaker, Thursday, June 18, 1992, marked the retirement of one of the Los Angeles Police Department's finest officers, Larry Bullock. It is with great pleasure that I rise today to pay tribute to this exceptional individual who has served our community with great distinction.

Graduating from El Segundo High School, Larry attended El Camino Junior College, Harbor Junior College, and U.C.L.A. He entered the Police Academy on March 20, 1972, and following his graduation was assigned to the Venice Patrol Division. Nine years after he entered the Academy, on April 7, 1981, Larry Bullock was appointed Police Officer III. As a 20-year veteran with the department, Larry has held many posts from the communications division to the SWAT division to the harbor patrol division.

While performing his various official duties, Larry has also been involved with many special events associated with the department. He participated in the Death Valley/Baker-Vegas relay, the State and International Police Olympics, and the World Police and Fire Games. Taking part in these competitive activities comes naturally to Larry as he is an avid sportsman. Larry's hobbies include running, skiing, fishing, hiking, and marksmanship.

Now a new challenge will be met. Officer Larry Bullock will enter the Huntington Beach Police Department. No one doubts that he will serve this department with the same enthusiasm as he did the L.A.P.D.

Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Larry Bullock. We wish Larry, his wife, Sheri, and their children, Jeff Bullock, Eric Williamson, and Debbie Bullock, all the best in the years to come.

A TRIBUTE TO THE PRIVATE INDUSTRY COUNCIL OF SAN MATEO COUNTY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, today I would like to pay tribute to the Private Industry Council of San Mateo [PIC] for its outstanding accomplishments in the field of job training. One of its programs, the Operating Room Technician Program, was recently the recipient of the prestigious Presidential Award for Outstanding Job Training Partnership Act Program. A model organization, PIC continues to prove itself as a highly innovative enterprise.

The Operating Training Program, a joint venture between Kaiser Hospital and PIC, was created in order to instruct Job Training Partnership Act clients in Redwood City, CA. Offering an intensive 9-month training program is operating room procedure, the program has been highly successful.

Thirteen unemployed individuals enrolled in the training program, and all of them graduated 9 months later. Most of these people were single-parent mothers on welfare. They are now highly trained technicians who command $14 an hour in their new jobs.

One of the program graduates, Vanessa Joiner, came to the program at the age of 18. She was the mother of an 18-month-old child. She had no job skills. Upon her successful completion of the program, she was hired by Kaiser Hospital in Redwood City. She now makes $27,500 a year and is considering further study in the field of medicine.

PIC is helping people realize their dream of providing for themselves and their families with dignity. A study in planning and resource management, PIC's success can be attributed to the guidance and vision demonstrated by its leaders, particularly Celeste Cron, PIC's president.

Mr. Speaker, I ask my colleagues to join me in honoring this excellent program.

BASEBALL IN 1992: OBSERVATIONS OF A FAN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HYDE. Mr. Speaker, If you've attended a professional baseball game recently, you'll be particularly interested in the comments of a big fan of the game, Wayne R. Serbin of Des Plaines, IL. He authored a recent letter—reprinted in the Daily Herald newspaper—in which he made a few important observations about the state of the game in 1992. Permit me to share his letter with my colleagues:

HIGH COST OF BASEBALL

Springtime may mean primary elections to your friendly local precinct captain. To any red-blooded American boy, though springtime means just one thing, BASEBALL. In order to attend a professional game today though, these young lads have to practically be a junior "Daddy Warbucks" or on an expense account. A seat in the bleachers at Wrigley Field now costs $7; souvenir Cubs clothing carry Brooks Brothers prices: $58 for a sweatshirt and $31 for a pair of shorts. For $2.50 you can quench your thirst at the Cubs game by swallowing a cup of Diet Pepsi.

I discussed these current baseball game expenses with a former athlete who played on an East Coast American League team. So he

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

will not be hassled by irate team owners and executives, this man's identity will remain anonymous. "The team players and administrators don't need the fans. They only tolerate them. They make their money off of multi-million dollar television rights. The ticket and vendor sales to fans are extra money to the teams," stated my anonymous friend. He told me that most players, who are earning million dollar plus salaries, charge fans $15 to $20 for an autograph.

Continued the former player. "In the old days, the teams had to depend on ticket and vendor sales as their major source of income. Star players were ever too happy to give young fans their autographs for free."

I might add that players did not command extravagant salaries either. "Gabby" Hartnett, the Hall of Fame Cubs player, after retirement, lived for many years in a three-flat apartment building in the middle class Chicago area near Foster and Kedzie Avenues. Can you imagine Ryne Sandberg retiring to such an area?

Have you heard the new opening lines of baseball's favorite favorite tune? They go like this: "Take me out to the ballgame, after I withdraw from the bank."

WAYNE R. SERBIN,
Des Plaines.

NEW ZEALAND REMEMBERS FIRST GI OFF THE BOAT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. OAKAR. Mr. Speaker, just over 50 years ago, Nathan Cook, a constituent from my hometown of Cleveland, OH, achieved celebrity by being the first American soldier to go ashore in New Zealand. The drama of that singular incident was recalled recently in an article in the Plain Dealer. I am proud to share that moment with my colleagues and the many friends of Nathan Cook.

[From the Cleveland Plain Dealer, June 15, 1992]

DOWN A GANGPLANK TO HISTORY—NEW ZEALAND REMEMBERS FIRST GI OFF THE BOAT

(By Lou Mio)

Nathan Cook never figured to become a celebrity when he boarded a troop ship in California 50 years ago.

The U.S.S. *Uruguay* was jammed with troops from the 37th Infantry Division, the Ohio National Guard unit federalized by Washington and sent into action during World War II.

"I joined the guard July 15, 1940, before they were federalized," said Cook. "I was 30 at the time and figured, 'Why wait for the draft?' "

Four months later, the 37th became part of the Army. The Ohioans were shipped to Camp Shelby, Miss., for training, and by 1942 were en route to the war in the Pacific. Cook was a first sergeant in the 145th Infantry Regiment.

The 37th was headed for Auckland, New Zealand, and the Fiji Islands, part of the Allied buildup to strike back at the Japanese, unstoppable since the attack on Pearl Harbor and threatening to invade Australia.

"We didn't know our destination until a day and a half before we arrived in New Zealand," Cook said.

The troop commander on the *Uruguay* wanted to do something special since these were the first American soldiers to come ashore in New Zealand. Somebody on board had a sense of history and remembered the name of the English captain who discovered and chartered all of New Zealand in 1769—James Cook.

"Because we had the same name, the troop commander designated me to be the first man to walk down the gangplank." said Cook, 82, of Triskett Rd. "I recall the day pretty well. It was June 12 (1942). I was company first sergeant and kept all the records.

"We docked at Princess Wharf," Cook recalled. "I remember the thrill of being the first soldier down the gangplank, the excitement of the soldiers and the enthusiasm of the people watching us disembark."

Cook and the others in the convoy were the vanguard of an estimated 500,000 Americans who passed through New Zealand. Last October, David Conway, an Englishman, and Del Sutton, his New Zealand wife, organized Operation U.S. Down-Under when they learned that the government had nothing planned to commemorate the American presence during the war.

"I started it and dragged David in," said Sutton, of Auckland. The couple got things rolling with $11,000 (about $6,000 U.S.) of their own money, but little governmental support until Conway wound up being interviewed in New Zealand's largest newspaper.

"I gave the government a well-deserved blast for its meanness," he wrote in a letter to the 37th Division Association. "It had the desired effect, because we now have all the money we needed so desperately in October.

"We say that our project is a people-to-people expression of thanks from the people of NZ to the people of America for saving us from the unthinkable," he wrote.

"There were half a million Americans here during World War II," Conway said in a telephone interview from Auckland. "You people had quite an impact. Things like Coca-Cola and hamburgers."

Sutton and her family saw a lot of GIs up close. The Army set up Camp Euart—on their farm.

"My wife thought all New Zealand girls grew up with 5,000 Americans in the back garden," Conway said.

Conway and Sutton learned that Cook was the first American down the gangplank. They wanted to find him and bring him to New Zealand for this week's commemoration.

"I found out this month they were looking for me," Cook said. "I was surprised. It seems they were trying to get hold of me for a long time. There was a notice in the 37th Division newspaper. Somebody knew I was still around and called."

The prime minister of New Zealand offered to pay for Cook's trip. He had to decline.

"I checked with my doctor," said a disappointed Cook, who has emphysema and heart problems. "He said I would never stand it."

Undaunted, Conway contacted Cook and asked if he would say a few words on videotape. The tape was made Friday and sent to Conway.

"We want to show it in the Civic Theater in Auckland," Conway said. "It's a place Americans would know. The American ambassador will be there. Eleanor Roosevelt spoke there once."

American troops paraded down Queen St., the main street in Auckland, on June 19, 1942. The focal point of this commemoration will be a parade down the same street—50 years later.

Cook didn't stay too long in New Zealand. The 37th went into action about one month later and fought continuously for 23 days on the island of Mund in New Georgia. Torn ligaments from a knee injury playing sandlot baseball caught up with Cook, who had been promoted to second lieutenant.

He was sent home and eventually discharged in July 1944.

On the videotape, Cook came close to tears while talking about his stay in New Zealand and the friendliness of its people.

"Many families requested us to send six or seven soldiers for dinner," he recalled. "They were very hospitable people. Many of them threw parties for us and even hired entertainers."

"We were in New Zealand about five weeks," he said. "To a man, I can say we all loved New Zealand and its people. I think they thought the same of us."

Nathan Cook of Cleveland, a first sergeant with the 37th Infantry Division, was the first American soldier down the gangplank when GIs started to pour into New Zealand during World War II.

THE 50TH ANNIVERSARY OF DENNISON CANTEEN

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. APPLEGATE. Mr. Speaker, the victory of Allied Forces in World War II came about primarily due to the outstanding men and women in uniform who were guided by the higher principle of good conquering evil, but we should never forget the millions of men and women, those dedicated Americans who stayed behind and contributed to the war effort here on the homefront.

Probably one of the most outstanding contributions to our GI's came from the people who volunteered at the Dennison Canteen in Dennison, OH, a small community halfway between Pittsburgh and Columbus which served as a stopping off point for 1.5 million brave Americans who were headed off to war. The Dennison Canteen served free sandwiches and donuts along with coffee and fruit to the troops as they rode the rails across the United States. Most of all, it was a brief home away from home for those who faced uncertain futures in faraway battles while also holding onto their thoughts and memories of family, friends, and home.

The Salvation Army Canteen was known throughout the Nation and it came to be known as Dreamville, Ohio by many GI's. Operated out of Dennison's 1873 Pennsylvania Railroad Depot, the canteen saw continuous service from March 19, 1942 to April 8, 1946. Many of those who stopped at Dennison were so appreciative of the hospitality and goodwill that they were prompted to send letters to the citizens of Dreamville, such as the following:

> I'd like to thank you people for the nicest thing that's happened to me since I've been in the service. Traveling east on furlough and then a change of camps we all felt tired, cold and hungry, when the train stopped at Dennison. We got off and helped ourselves to sandwiches, cookies, coffee, apples, etc. The rest of the night all the servicemen talked about was how nice your people were to wait up so late to do this. On this train were 40 boys going home on furlough after serving 14

months in Alaska and they couldn't get over this nice gesture by folks who could have been sleeping. Nothing like this ever happened to us before. For myself and these soldiers I thank you. God's blessing on you good people and the canteen.

Thank you sincerely,

Pvt. ANTHONY KIELBASA, 1943.

Mr. Speaker, if it wasn't for the Dennison Canteen and the outstanding volunteers who made it possible, I'm certain that our war effort would not have been as incredible and tremendous as it was during World War II. Just possibly, the greatest war in the history of mankind might have lasted tortuous months and years longer and many more of our brave and courageous young men and women may have ended up paying that ultimate sacrifice if it wasn't for Dennison and its citizens. They really did so much to make an important difference for so many of their fellow Americans.

I would like my congressional colleagues to join with me in honoring the citizens of Dennison and the recipients of their goodwill and generosity as they gather in this small Ohio town during the week of August 18 through 23 to celebrate the 50th anniversary of the canteen. Most of all, I want to commend Barbara Maurer for all that she has done in organizing this 50th anniversary celebration. As the canteen 1992 chairperson, Barb has demonstrated the same spirit of charity and generosity that greeted so many American GI's as they stopped off at Dennison so many years ago.

The Dennison Canteen represented so much of what was great and good about America 50 years ago, and the citizens of Dennison have been, and will continue to be remembered by countless numbers of grateful Americans who will long remember a cold and lonely night turned into a warm and friendly visit at a very special place in Ohio.

NORTHEAST PENNSYLVANIA GROUP RECOGNIZES SEPTEMBER 10 AS "NATIONAL ETHICS DAY"

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize the Ethics Institute of northeast Pennsylvania, a nonprofit organization in my district that is dedicated to promoting ethical decisionmaking. The constituents conducted many seminars and workshops on topics having to do with ethics in business, health, and the environment. The institute recognizes that ethics is a living philosophy, one that offers tools for developing national policy. I would like to take this opportunity to commend the Ethics Institute for its valuable contribution to highlighting the importance of maintaining high ethical standards in every area of life.

Since its establishment in 1988, the Ethics Institute of northeast Pennsylvania has been focused on increasing the understanding of contemporary ethical issues in business, education, government, politics, health care, and social services. Sister Siena Finley, executive director and founder of the Ethics Institute, has been called upon as a consultant to advise hospitals and other institutions with respect to ethics. Through lectures, workshop series, conferences, and continuing education programs, Sister Finley and other community leaders provide a nonpartisan forum to exchange thoughts and ideas on major ethical issues in society. To date, the institute has sponsored hundreds of programs and traveled to all parts of the Northeastern United States. The Ethics Institute of northeast Pennsylvania publishes a newsletter three times a year and prints newspaper articles on a monthly basis in its ongoing effort to provide a forum for ethical discussion.

September 10, 1992, will be recognized by the Ethics Institute as "National Ethics Day." As part of the commemorative events, a dinner will be held in Convention Hall In Pittston, PA.

Mr. Speaker, during a time when some of the toughest issues facing society are ethical ones, I want to call attention to the efforts of the Ethics Institute of northeast Pennsylvania for promoting the importance of ethics in business, government, education, politics, health care, and social services. Our Nation will remain only as strong as the strength of its ideals, and its ideals will endure only when realized with the highest ethical standards.

TRIBUTE TO THE NATIONAL COUNCIL FOR URBAN ECONOMIC DEVELOPMENT

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SHAYS. Mr. Speaker, I rise to pay tribute to the National Council for Urban Economic Development [CUED] which is celebrating its 25th anniversary this year.

CUED was founded in 1967 by a group of urban leaders who wanted to create a national organization dealing with the problems of keeping businesses in our Nation's cities. Building a better urban America was the common concern shared by these economic development practitioners when they created this organization.

Known originally as the HUB [Helping Urban Businesses] Council, these city leaders adopted a new approach toward development in our Nation's communities and the evolution of the public private partnership was nurtured. Early leaders in the movement were people like Ed Deluca of Baltimore, Paul Zimmerer of Chicago, and Tom Kelly of Jersey City.

In the present day, CUED has been recognized for its predominance in the field by dignitaries such as Gov. George Voinovich of Ohio and former San Antonio Mayor Henry Cisneros, both who serve as ex-officio members of the CUED Board of Directors. Other current leaders who have been involved with CUED include General Motors Chairman Robert Stempel, former U.S. Attorney General Richard Thornburg, then Vice President Bush, my fellow colleague from the State of Massachusetts Barney Frank and many others.

As the preeminent national organization serving local development professionals, CUED provides its information and assistance through professionals, onsite technical assistance, conferences, seminars, and an information clearinghouse.

Boasting some 200 members, the organization has been called on throughout the years by the Congress and the administration to provide input on Federal economic development initiatives and research.

I recently worked with the staff of CUED in developing a legislative proposal establishing an Economic Development Block Grant Program [EDBG] that would put the urban development back into HUD. Unlike the defunct Urban Development Action Grant Program [UDAG], EDBG would require matching funds from the States and cities that vary by the level of financial need. Acceptable projects include new roads and bridges, natural resource development such as harbors, industrial parks, sewage treatment plants or cleaning up hazardous wastesites.

Another proposal would establish 282 enterprise zones.

Some of CUED's other recent actions highlight its nature and activitiy in aggressively supporting economic development efforts:

When the U.S. Department of Housing and Urban Development increased regulations on the Community Development Block Grant Program [CDBG], making it more difficult for economic development activities to be considered CDBG eligible, CUED alerted its membership and issued a major report on the problems of using CDBG for economic development. The report not only explained how HUD can adapt the current regulations to make CDBG a more useful economic development tool but also suggested legislative improvements to the CDBG Program.

In an open letter to the President and Congress, Iona Morfessis, president of the Greater Phoenix Economic Council and CUED president, shared her concerns about how the disadvantaged populations of cities can share in whatever benefits can accrue from economic growth and development. She also noted that it is unfortunate that it takes a riot to focus national attention on the plight of an urban neighborhood like south central Los Angeles. In her letter she called for:

First, a major effort that goes beyond the present Job Training Partnership Act [JTPA] and provides training for jobs that lead to a career path and growth for individuals;

Second, better programs to support business development, especially in poor and minority areas;

Third, the Federal Government to provide tax incentives in enterprise zone areas;

Fourth, the effective use of HUD's CDBG Program for economic development; and

Fifth, a reordering of priorities on a governmentwide scale to support economic development.

During the Economic Development Administration [EDA] reauthorization hearings, CUED board member Joseph James, director of Economic Development for Richmond, VA, called for a multiagency coordination of economic development at the Federal level. James, testifying for CUED before the House Subcommittee on Economic Development, called for a reordering of Federal priorities to support economic development and enhanced competitiveness at all levels.

Other CUED members who testified included Gary Conley, president of the Economic Development Corp. of Los Angeles County and a past president of CUED, who discussed the recent problems in Los Angeles and Honora Freeman, president of Baltimore Development Corp., who share her concerns as a witness for the U.S. Conference of Mayors.

At the request of Senator DON RIEGLE, CUED established a task force that developed 20 recommendations for economic development policy and program direction dealing with the revitalization of distressed communities. The recommendations address direct Federal Government subsidy programs, nonprofit and private sector partnerships, planning and technical assistance, and coordination among federal policies and programs. CUED has also been very supportive of Senator RIEGLE as the Senate looks at new urban initiatives.

Although CUED is not a lobbying organization, but rather an education practitioners organization, it has and continues to play an important role in developing legislative proposals, responding to congressional committees, testifying before Congress and assisting in the refinement of existing programs and evolving legislation. These recent activities give you some idea of CUED's role in helping to share Federal economic development initiatives.

CUED has been a longstanding leader in the preparation and dissemination of information to the practitioner community. This has been recognized by the Federal Government as CUED has undertaken contract efforts for the Office of Community Planning and Development [CPD] at the HUD, the EDA at the U.S. Department of Commerce and the Office of Economic Adjustment at the U.S. Department of Defense, and the Urban Mass Transit Administration at the U.S. Department of Transportation [DOT].

A brief sampling of some of their current and future activities included:

Los Angeles Mayor Tom Bradley and Peter Ueberroth both received letters from CUED's president offering the organization's assistance in helping to rebuild south central Los Angeles. Subsequently, CUED brought together the economic development professionals of Los Angeles County through the Los Angeles County Economic Development Corp., to assess the needs of the respective hard hit communities and what assistance they might require.

CUED will soon again meet with these development professionals to further assess their needs and develop an action plan for local municipalities in the Los Angeles area. Victor Grags, a CUED past president, and Gary Conley are playing a role in finding solutions to the post-riot problems in Los Angeles County and they see CUED as part of that strategy.

In the rapidly changing economy, CUED recognizes that local practitioners need to constantly review whether the current approaches to economic development will have significant long term impacts. With this in mind, developing policy recommendations for a new local approach to the changing economy is the focus of a select panel of economic development practitioners at a CUED policy workshop in Chicago.

Cosponsored by the EDA, "Forces in the New Economy: Implications for Local Economic Development," will feature nationally respected policy experts who will help develop a series of local action recommendations to help communities address the changing economic order.

This all-day workshop will focus on several forces of change that are bringing about what amounts to a new economic order. These forces are:

First, companies competing in the global marketplace;

Second, companies adapting emerging technologies to produce goods and services;

Third, companies requiring competitive workforce trained with new skills;

Fourth, traditionally disadvantaged groups becoming a larger proportion of potential workers and entrepreneurs; and

Fifth, changing public sector priorities in the post-cold-war era.

Now urban neighborhoods can be revitalized economically is the theme of a national technical conference on "Neighborhood Economic Revitalization." Experts from round the country will explore how public sector efforts can be used more comprehensively or selectively to impact critical factors of the neighborhood revitalization process.

"Securitization and Economic Development Loan Funds" is the focus of an educational forum exploring the issues and mechanics related to selling economic development loans into the secondary market.

The activities described here provide you with some idea of the depth of CUED's involvement in revitalizing our local economies. Throughout the years, CUED has established a program to analyze and disseminate information, expand the capacity of both private and public officials to devise and manage successful economic development programs and increase the responsiveness of public and private policymakers to economic development needs.

I ask the House of Representatives to join me in congratulating CUED for its first 25 years.

HARMONY ON SAN BRUNO MOUNTAIN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, almost 20 years ago, through the extraordinary leadership of Edward Bacciocco and the unwavering efforts of many others, a new era of environmental awareness was born on San Bruno Mountain, CA.

Ed Bacciocco, who, sadly, died in 1990 after a long illness, was the architect of San Bruno Mountain's future. For almost a decade, acrimony hung over the mountain like a thick fog. Those who had opposing views about the future of the mountain—land developers and preservationists—were at bitter odds. It was Mr. Bacciocco who brought them together.

An honest broker, he arbitrated their feud by showing each side that he was neither an enemy nor a tool and that there were honorable people with legitimate concerns on both sides of the issue. The result was the cooperative crafting of the San Bruno Mountain habitat conservation plan.

The conservation plan, developed and implemented in 1983, stands as a model for others to follow. Forged by citizens from the four surrounding cities, State, and Federal environmental authorities, and area land developers, the San Bruno Mountain plan has brought people together and enabled them to live in harmony with their natural surroundings.

Today, San Bruno Mountain is a landmark of local and regional significance, a unique open space island surrounded by adjacent urbanization. Almost 3,000 acres of wild open space and the species that inhabit it are protected and provided for.

Mr. Speaker, on September 19, 1992, citizens of California and the Nation will gather on San Bruno Mountain to pay tribute to Edward Bacciocco. The mountain is Ed's monument, and a fitting and inspiring monument it is. His superb leadership built the bridge between traditional adversaries and brought understanding about the need for preserving our most important national treasure: nature itself.

TRADE BARRIERS WOULD HAMPER U.S. COMPETITIVENESS IN INFORMATION TECHNOLOGY

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DICKINSON. Mr. Speaker, I rise today to bring to the attention of my colleagues a speech delivered recently at the Cranfield School of Management, a prominent graduate institution in the United Kingdom. This talk, by Mr. Randall L. Tobias, vice chairman of AT&T, clearly addresses the potential problems that trade barriers may cause American companies and rebuts arguments being made by our competitors in the European network equipment market.

SPEECH BY MR. RANDALL L. TOBIAS

Good evening. It's a great pleasure and honor to present this year's Henry Ford the Second Scholar Award lecture. Your previous speakers have been business leaders of great distinction. I'm flattered to be in their company.

The Ford Motor Company has been a corporate citizen in good standing for more than 80 years in the United Kingdom. I hope over time we at AT&T will contribute as much to the U.K. as Ford has. It is certainly our intention to participate fully in the countries where we operate * * * to provide jobs as well as quality products and services * * * to be a good corporate citizen in all its dimensions.

AT&T already has set deep roots in Europe and in the United Kingdom. Of our 25,000 European employees, we now have almost 7,200 employees in the U.K. Our NCR subsidiary operates factories producing automatic teller machines in Dundee and Dunfermline and AT&T Microelectronics manufactures electronic power supplies in Malmesbury in Wiltshire.

And, of course, we are quite proud of Istel, which became part of AT&T in 1989. Founded before widespread telecommunications liberalization in the U.K., AT&T Istel has created a substantial business in value-added services that blend communications and computing. In the U.K., it is the leading provider of information technology to the health service and the travel industry. It serves the manufacturing, financial and distribution markets. And it operates one of the largest data networks in Europe as well.

As AT&T's corporate clients have "gone global" so have we. In just a decade, we've expanded from fewer than 100 employees outside the U.S. to more than 50,000 employees outside the U.S. in more than 130 countries. We operate factories in some 34 locations, including—here in Europe—factories in Ireland, the Netherlands, Germany, Spain, Italy and Denmark, as well as those I mentioned in the U.K. We've formed a score of alliances around the world that include joint ventures in Spain and Italy, Russia and Ukraine. Our investment in capital and human resources in the United Kingdom and Europe reflects our long-term commitment to and belief in these markets.

Today AT&T can offer our international customers a wide range of products and services, from telephones and private office switches through computers, network switches, fiber optic transmission systems, and of course, communications services.

While many regard us as new to world markets and the United Kingdom, in fact, our global presence is a reappearance. I'm reminded of that whenever I stay at Brown's Hotel in London—as I did last night. For it was in that hotel in 1876 that AT&T's founder—Alexander Graham Bell—demonstrated his new invention and made the first telephone call in the U.K. In 1883 AT&T established a London subsidiary to sell and later manufacture telephone equipment. It expanded to about 3,500 employees in the U.K. and became what was then our largest international organization.

But in 1925, with rumors of U.S. antitrust action in the wind, we sold off all of our international manufacturing facilities to ITT to concentrate on developing the telecommunications network in the United States. We continued to provide international long distance service from the United States to the world through partnership relationships with national telecommunications carriers. But we didn't reenter national markets outside the U.S. until the 1970s—and then only tentatively. Recently, however, we have made a complete commitment to globalize our business—in effect, to redefine AT&T. We made that commitment because that's where customers, markets, technology, and opportunity are leading us.

Although AT&T had been gone from the international market for some time, I believe we returned with something important to offer. AT&T is dedicated to being the world's best company at bringing people together—giving them easy access to each other and the information services they want and need—anytime and anywhere. We can accomplish that through our expertise in communications and computing technology * * * through networks that bring people together and computers together. And we intend to do so with products and services that are easy to use and helpful * * * products and services that solve real world problems.

I'd like to focus my remarks today on what my industry—information technology—can do to support world trade and create a truly integrated global economy. And I want to address some forces at play that—if not checked, may hinder the flow of information technology.

Business customers know the power and value of information technology in creating a global enterprise. They're on-line and plugged in around the world.

They've transformed the fiber optic cables stretching under oceans and across continents into the new trade routes of the world. Their precious cargo is information which streaks over these cables in breathtaking volume. The machines that process, switch and transport the cargo have become critical assets like the trading ships of the past.

Using information technology, companies have been able to rationalize operations on a global scale with enhanced responsiveness to customer needs. In fact, by harnessing the advantages of multiple locations, they enjoy new economies of scale, sourcing and a richer competitive experience.

Maintaining these global linkages is very communications intensive. But by phone, fax, modem, electronic mail and video-conferencing, companies can easily connect the far-flung outposts of their global enterprise. Factories can instantly communicate with suppliers * * * sales with service * * * marketing with design.

Consider how even a single consumer transaction can trigger a series of electronic messages that ricochet around the world. Let's take the hypothetical purchase of a sweater in a clothing store in New York. As the store clerk scans the bar code and records the transaction in a point-of-sale terminal, the charge is posted to the customer's account and added to the daily sales total of the store's owner, a holding company in London. The purchase deletes the store's inventory of such sweaters to the point of reordering stock, and the call for a new shipment is made to Hong Kong where the sweater is manufactured. In turn, the manufacturer may request its supplier in Singapore to ship more material. All of this triggered by swiping a bar code in a small store in New York City.

It is only through a similar seamless web of communications that a company like Airbus or Ford can coordinate design, manufacturing, marketing and distribution in locations across Europe and around the world.

Increasingly, businesses are viewing such communications networks as strategic tools to gain real competitive advantage. We live in a fast-paced world of just-in-time inventory, manufacturing, distribution and management. Futurist Alvin Toffler calls it "survival of the fastest." Advanced, instant communications gives many businesses the edge they need to stay competitive.

But most important, global telecommunications networks provide passports to new and vital world markets: The non-communist states of the former Soviet Union. The reawakening nations of Latin America. The industrialized Pacific Rim. And, of course, the potent combination of the European Community, the European Free Trade Association and the emerging countries in Central Europe.

Global networks along with international transportation systems have truly spurred on the development of international trade. They are the critical infrastructures of the global economy.

Information technology also has proved to be a powerful force in transforming social and political systems. While a number of political and economic forces were at play in the collapse of communism, electronic communications played a pivotal role.

During the abortive coup in the former Soviet Union, Boris Yeltsin was able to call directly to the White House and tell President Bush of his plans and seek his support. Moreover, Yeltsin was able to fax a speech to the U.S. urging resistance so that it could be broadcast back to the Soviet Union. Meanwhile, Mikhail Gorbachev, imprisoned in the Crimea, learned of Yeltsin's plans via the BBC radio.

The impact and immediacy of news—flashed through communications satellites and telephone lines around the world actually helps shape events and, I believe, helps bring the world closer together. People throughout the world have shared the tumultuous events of our time in a series of indelible television images.

Hundreds of millions saw the deadly fireworks over Baghdad during the Gulf War and the incredible courage of one man facing a tank in Tiananmen Square. And we all watched in wonder as people with pick axes, knives and even spoons tore into the Berlin Wall, and chipped the symbol of communism into a million souvenirs.

We watched and felt that this was a defining moment in history. We felt a resonance with Goethe's words, from another historic time, quote, "That from this place, and this time forth, commences a new era in world history, and you can all say that you were present at its birth."

Future historians, on the other hand, may well decide the defining quote of this time came from an anonymous East Berliner, who came to West Berlin and scrawled on the wall: "I came, I saw, I shopped."

People learned from electronic media that the Free World enjoyed a standard of living they could only dream about. But it was the force of their dreams that caused communism's collapse. A revolution begun on behalf of the masses and the worker, ended on behalf of the individual and the consumer.

This then is the ethos of the political and economic world today: individual freedom and material choice translated into liberal democracy and free markets. Any new world order shaped out of the chaos of recent events will be built on that bedrock.

There are important lessons in that for those of us in business. We must take into account that individual needs and freedom of choice are the most powerful forces of the day * * * that they are having an impact on the marketplace.

Countries that put up protectionist fences may find their citizens agitating to rip them down. People have had enough of walls that restrict freedom and choice—political or economic.

I don't know how this round of GATT talks will fare, but it's in all of our best interests to support real progress toward free trade, or at least fair trade. While free market policies may cause some short-term pain—a shakeout in some industries—they ultimately promote higher living standards and global prosperity. And they provide the material choice that people everywhere want.

We, in the information industry, already are witnessing the transformation of passive customers into aroused revolutionaries. Under the firm grip of telecommunications monopolies and dominate computer companies, technology used to drive progress in the information industry. That's no longer so.

Customers are now in the driver's seat. They've lobbied for open systems in computers, allowing them to pick and choose among suppliers. They've won access to the public telecommunications network in order to exercise greater control over their corporate networks. They've even built private telecommunications networks that by-pass the public network when those public networks have failed to meet their needs. They've insisted on more and speedier innovation in communications and computers. They've applied political and marketplace pressure to push down the costs of communications and computers to new lows.

In sum, they're decentralizing information control, accelerating innovation in the marketplace and bringing prices crashing down. The telecommunications industry is going through its own era of glasnost, perestroika and radical reform.

It has been suggested that my industry has a new cosmology * * * with the customer at the center of the universe * * * and suppliers obligingly orbit around their needs. With the unprecedented pace of globalization, each supplier's sun may rise and set on new shores every day.

Thus, companies like BT, Cable and Wireless and AT&T are shifting orbits * * * following our customers wherever they go * * * providing whatever they require to meet their business needs.

The most pressing need for our multinational business customers is for networks on a global scale. And so, AT&T and other carriers are intent on providing global end-to-end network service for their customers—from design and installation, through maintenance, management and billing, and including negotiating with other carriers to provide the backup facilities to meet customer needs.

On the European continent, private telecommunications companies are restricted to providing only value-added services—primarily data and network management services. Long distance voice service is not yet open to competition in Europe whereas in the United States all long distance services are fair game.

So AT&T has faced artificially imposed limits in the areas of opportunity we could consider in Europe. Yet at the same time, British Telecom has been able to invest more than $2 billion in six U.S. telecommunications ventures, making one of AT&T's important international partners one of our major competitors inside the U.S. And Cable and Wireless has become the sixth largest long distance services provider in the U.S. Indeed, there are 12 facilities-based international carriers, a number of which have foreign ownership or are foreign controlled. And we welcome that competition.

This trend suggests that as other markets become more open, many of the world's telecommunications carriers will increasingly be addressing the same opportunities in the marketplace. This is not a clockwork universe we find ourselves in. It will test the maturity of the industry to sort it out.

We'll simply have to get comfortable with the idea of cooperating closely in some areas while competing aggressively in others. It's not a new concept in most industries, but it is novel in telecommunications. Ultimately, we will work it out because customers will demand that we do.

Indeed, they are insisting that we work it out right now in Europe. A study by the Yankee group, an international consulting firm, found that large telecommunications users in Europe have two overwhelming wishes: That most regulation of communications networks be abolished and that they have a choice of suppliers for most services.

Echoing these sentiments, the Wall Street Journal recently reported that multinational corporations are increasingly upset with their inability to get trouble-free communications across Europe's borders at reasonable prices.

In essence, customers are asking for more than the appearance of competition in services. They want real competition—in long distance voice services as well as value-added services.

The European Commission has heard these customers. The commission recently began discussions on how to open up competition in long distance voice services between member states of the European community. If enforced properly, with equal access to local networks for all long distance service providers, liberalization of basic services will facilitate progress toward pan-European communications. Competition will force down high service prices—prices that now provide margins that are used to subsidize other activities. And customer needs will, at last, be met.

The demand for pan-European networks represents an opportunity for long distance carriers to work together in the customers' interest. No one carrier would be able to meet the needs of these customers. It will take cooperation among several carriers. And the partners will all benefit by meeting customer needs. Such a cooperative approach represents AT&T's strategic intent. But when we cannot in this way meet customer needs, we will explore and embrace other alternatives.

Indeed, AT&T recently announced the opening of global network management centers in the U.S. and U.K. to provide management of private data networks across Europe and around the globe for multinational customers.

And we expect to offer the vast majority of our international services—such as this—with the partnership and support of telecommunications authorities.

The message has become abundantly clear that business customers in Europe want freedom of choice. They want liberalized rules—they want to abandon the old ways of doing things that no longer make sense. They want the walls that inhibit commercial choice to come down just as they wanted the destruction of artificial political barriers.

They are increasingly aware that they are being denied competitive choices available elsewhere. They know in the most progressive and liberal markets for telecommunications products and services, consumers have quickly seen the benefits of technological advances by receiving both improved services and lower prices.

In such a climate, when the European Commission has begun to recognize the value of expanding competition in services, it's hard to understand why the EC would promote a protectionist policy with regard to telecommunications equipment. Under the EC's government procurement rules, PTTs could be required to exclude equipment that is less than 50 percent produced in Europe.

The EC directive puts handcuffs on network service providers who invariably seek out the best technology at the lowest prices to enable them to beat their competitors in the marketplace. Restricting access to non-European suppliers will threaten the competitiveness of the telecommunications infrastructure in Europe, and of the companies doing business there. The EC directive will impede the flow of new information technology and the development of advanced and cost-effective services. None of this is in the interests of customers.

Unfortunately, the history of telecommunications around the world has been marked by national telephone companies supplied by national or regional manufacturers. Opening up such long-standing and embedded industry relationships is difficult.

Some charge, for example, that the U.S. telecommunications equipment market is not open. These critics often cite the Buy America Act which requires 50 percent U.S. content in certain telecommunications equipment purchases. But this argument only goes to prove that trade talk—as well as trade itself—is subject to distortion.

It's distorted because the Buy America Act, which I'm not here to defend, covers less than 5 percent of the U.S. market for telecommunications network equipment, whereas the EC directive applies to almost 90 percent of EC telecommunications equipment.

The Buy America Act applies only to purchases by agencies of the U.S. government. It does not apply to private companies such as the U.S. telecommunications carriers. Indeed, as part of the breakup of the Bell System, the publicly owned local Bell companies were required to purchase equipment on a nondiscriminatory basis—and they have done so with enthusiasm.

In the U.S. market, which is indeed open, foreign companies how hold a combined share of 52 percent of the market for exchange switching equipment. In 1990, AT&T—which a decade before claimed 90 percent of the market—had only a 41 percent share. In contrast, Alcatel's share of the French market was 92 percent. Siemens' share of the German market was 85 percent. Northern Telecom's share of the Canadian market was about 80 percent. A combination of Japanese companies, meanwhile, holds 90 percent of the Japanese market.

The U.S. experience suggests that the losers in the EC directive will actually be business customers and consumers in Europe. As a result of competition equipment prices in the U.S. have fallen dramatically. Since 1983, there has been a 50 percent drop in the price per line for large exchange switches. In contrast, prices in the EC on average are from 2½ to 4 times higher than U.S. prices for similar switching equipment. If there were real competition in the EC, cost reductions could be passed on to businesses and consumers.

Nations cannot afford to build trade walls to protect national champions. Only the rigors of competition will make these companies more efficient and productive. Protected companies will ultimately not meet the economic or technical demands of our time.

In turn, if the countries and regions they serve cannot provide advanced, ubiquitous and instantaneous communication, they will be losers in the world economy. The efficient production, distribution and trade of durable goods, products, even agriculture, depend on the quality of the telecommunications infrastructure.

European unity should not come at the price of protectionism. The European business community cannot and should not pay the price. Products should be judged solely on their merits * * * based on quality and price * * * not by the return address on the packing crates.

At risk is not only the technology available today, but the advances coming tomorrow.

Those advances promise to change the world in dramatic fashion. For we're leaving an era of technological scarcity and entering an era of abundance. The pace of progress in underlying information technologies like microelectronics and fiber optics is astonishing. The trend is smaller, faster, cheaper.

Computers in the 1950s were room-sized machines. Today far more computing power than they produced can fit onto a chip no bigger than a fingernail and at a fraction of the cost. The first transatlantic telecommunications cable in 1956 was able to carry only 89 simultaneous conversations. The newest transatlantic cable can carry 80,000 conversations at once.

To put that in perspective, the rate of progress in information technology has been so great that if comparable advances had been made in the automotive industry, you could buy a Ford that would travel at the speed of sound, go 9000 kilometers on a thimble of gas and cost only slightly more than a pound. It would only be 7.5 centimeters long * * * but easy to parallel park.

And the progress continues. My colleagues at AT&T Bell Labs tell me by the year 2000 they expect 10 billion transistors—10 billion!—onto a computer chip the size of a postage stamp. Such a chip would have many times the power of today's most advanced computers, and would fit into a device not much larger than a pocket calculator.

Meanwhile, fiber optic systems in the year 2000, driven by super-fast lasers, will likely transmit a trillion bits of information per second. That's equal to 200 million simultaneous phone calls, or more than enough capacity to transmit the contents of a great library anywhere on earth in just minutes.

In the near future, we expect videophone calls will become as routine as voice calls are today. With wireless technology cutting the cord, people will carry pocket-size multimedia handsets able to receive voice, data and video transmissions. We may all have personal telephone numbers that will allow us to be reached just about anywhere in the world, even in transit—if we want to. Recent advances in technology give us the option to receive that message in the form of our choosing at the time of our choosing. And with new fiber optic and broadband technology, businesses will move voice, data and video at will at low cost through public networks throughout the world.

The progress in telecommunications and computing technology will create a world of opportunity for everyone of us. It will help make possible the much-heralded global village. It will help design an integrated mosaic of world markets. It will help build a truly global economy—with its promise of prosperity worldwide.

The challenge for all of us will be to think beyond our national or regional boundaries. To promote rather than thwart freedom of choice. To simulate the growth of global markets.

Protectionism is antithetical to a global economy. It must not endure. It is time to tear down all walls.

Thank you very much.

LIFE IN THE SIKH HOMELAND IS INTOLERABLE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BURTON of Indiana. Mr. Speaker, I first want to thank all my colleagues who voted in favor of my amendment to the House Foreign Aid appropriations bill. This amendment eliminated $24 million in United States aid to India in protest of the Indian Government's violation of human rights against the Sikhs, Kashmiris, and other minorities living in India. The situation in the Sikh homeland alone suggests this amendment was long overdue.

Under the oppression of the Indian Government, day-to-day life in the Sikh homeland is simply intolerable. I am submitting for the RECORD an English translation of a Punjabi letter written by a Sikh woman, Manjit Kaur Sekhon, to her husband, Paramjit Singh Sekhon who recently came to America after being tortured by Indian police. The letter, I think, accurately portrays the suffering and hardships Sikhs must endure in the so-called world's largest democracy—a country in which Amnesty International has said torture is widespread.

Since 1984 over 100,000 Sikhs have been killed by the Indian Government police, paramilitary forces, and death squads. Over 15,000 Sikh prisoners of conscience currently languish in Indian prisons without charge or any chance of getting a trial. It was in response to this oppression, that many Sikhs declared themselves independent from Indian on October 7, 1987 and formally announced the beginning of a new nation called Khalistan.

Freedom and justice are bedrock American principle. The United States cannot support freedom in one place and ignore it in another. Sikhs are dying under the oppression of the Indian Government, and I ask my colleagues in the Congress to recognize this suffering.

For those Members of Congress who are unfamiliar with the current crisis in Punjab, I submit a letter from Manjit Kaur Sekhon to her husband, Paramjit Singh Sekhon, now residing in America after being tortured by Indian police. It is both enlightening and tragic.

ENGLISH TRANSLATION OF A LETTER WRITTEN BY MANJIT KAUR TO HER HUSBAND PARAMJIT SINGH SEKHON ON MAY 29, 1992

RESPECTED HUSBAND: I convey my respectful greetings to you and the other members of the family.

With the grace of Guru, and according to our strength we are passing through our present struggle. In spite of the ceaseless tyranny confronting us, we are still in high spirits and we continue to pray to almighty God that you may be given strength to continue to serve the Sikh nation.

Due to your involvement in the Sikh struggle for independence, the policy and CRP [Central Reserve Police] have unleashed untold cruelty on us. The police have repeatedly announced that if anyone engages in activity on behalf of the Khalistan freedom movement they would murder every member of his family that no future Khalistani child will born of that clan.

In your absence, police from Dakha police station called me and my father informing us that a senior police official was to take statements from us [concerning your involvement in the Khalistan freedom movement]. When we went to the police station, however, we found that there was no senior police officer present there to take our statements, only regular police officers. Instead of taking our statements, these officers tortured us, committing monstrous act of violence against us and threatening to kill us. They forced us to undress one another, gave us bamboo sticks and ordered us to beat the other until both our bodies were blue with bruises. They then took our youngest daughter, [Bagail Kaur, 7 months old] and tortured her by placing her on the hot sand and let her sit there helplessly burning. They beat me and my father with belts. Then they released us telling us that we would continue to receive the same kind of treatment until Paramjit Singh Sekhon is killed by the police.

A few days after releasing us, the police and CRP arrested my two younger brothers, Daljit Singh and Jagdev Singh and took them to CIA (Central Investigation Agency) Staff Headquarters in Ludhiana. There they were tortured mercilessly. They were hanged upside down, their legs were force apart tearing the groin muscles; rollers were put on their legs [with the weight of two officers standing at either end crushing the muscles in the thighs]. Initially, the police would not yield any information of their whereabouts. We thought they were killed in a fake encounter. When we discovered them, they couldn't walk due to the torture they received. People from our village went there to get them released from police custody.

One day I went to Jagraon [a nearby town] to get groceries. Police picked me up and brought me to the Ludhiana CIA Staff Headquarters [about 20 miles away]. There, they tortured me brutally for four days. They beat me with leather belts. They beat the sole of my feet with bamboo sticks. After tying my hands, they beat me brutally with sticks. They pulled my legs apart, causing damage to my muscles. They also demanded bribe money from me.

They put our daughter [Bagail Kaur, 7 month old] on a colony of ants, coated her arms and legs with sugar and let the ants bit away at her. The watched as she cried out helplessly as if close to death. These tyrants possess not even a grain of mercy.

When I saw the horrifying condition of my child crying with ants covering her body, my anguished soul could not keep silent. I spoke out against the savagery of the police. In response, they tortured me again.

Eventually, village elders got me released from CIA Staff Headquarters on the promise that they would never reveal knowledge of my detention nor my beaten condition. At the time of my release, they warned me if I told anyone of my torture under police detention, the police would blow up my entire family. Due to the torture, I have been bedridden for over a month and still do not feel well.

This is my brief account of the events since your departure. We are suffering untold brutality for the freedom of Khalistan. The rest is up to God. Do not worry after reading this letter. Do not let yourself down; keep in high hopes. We are to strengthen our will and continue our struggle for the freedom of Khalistan. I am thankful to almighty God that I am alive. I pray to the true Lord, that I will find the courage to martyr myself rather then endure these painful trials. In the end, Guru Fateh from me and love from your daughters.

Wahe Guru Ji Ka Khalsa
Wahe Guru Ji Ki Fateh
Your wife,

DALJIT KAUR.

TILTONSVILLE VOLUNTEER FIRE DEPARTMENT MARKS 75 YEARS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. APPLEGATE. Mr. Speaker, communities all across America have a common institution which most people seldom ever utilize, but when troubles do develop, when flames threaten people and property, and when a quick rescue can make the difference between life and death, the nearby firehouse becomes one of the most important buildings in town and the volunteers who constitute the local fire department becomes our most important public servants.

The citizens of Tiltonsville, OH, are celebrating the 75th anniversary of their volunteer fire department, volunteers made up of many generations, each and every one of which has been dedicated to the protection of property and the safeguarding of their fellow citizens. Tiltonsville, a small town alongside the Ohio River, has a long history of people who have given much more to their community than they have ever taken away for themselves, and the members of the Tiltonsville Volunteer Fire Department have always demonstrated the very best in true dedication and selfless hard work for family, friend, and neighbor.

I wish to join with the citizens of Tiltonsville in honoring the brave and valiant men and women who have volunteered their time and services and, most of all, who have placed their lives on the line in order to preserve their town and protect their fellow residents.

Mr. Speaker, the greatness of our Nation has been purchased through the deeds and accomplishments of those who have answered to a higher calling of public service, and those who have served and who continue to serve with the Tiltonsville Volunteer Fire Department represent some of America's greatest local heroes. I wish for all of my congressional colleagues to join with me and the citizens of Tiltonsville in honoring those who have done so much, sometimes through their acts, but mostly by reassuring all of us that they stand always vigilant and forever ready to safeguard our homes and our lives.

MONROE COUNTY BAR ASSOCIATION CELEBRATES CENTENNIAL

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HORTON. Mr. Speaker, it is our pleasure to take this opportunity to commemorate the 100th anniversary of the founding of the Monroe County, New York Bar Association. This group of our constituents has ably served our community and legal system and we are proud to salute its efforts.

In 1892, 25 attorneys gathered together to form this association, then known as the Rochester Bar Association. Today, over 2,000 members work for equal access to legal representation, for an impartial judiciary, for fair dispute resolution, and for the provision of law-related educational programs. In addition, the foundation of the Monroe County Bar has generously contributed more than $1 million to local community organizations.

The goals of the bar association, as reflected in its mission statement, are to "improve the quality and accessibility of justice; promote respect for and understanding of the law; enhance professional growth, fulfillment, excellence, collegiality, and diversity among its members; and serve as the voice of the profession." The Monroe County Bar association has ably risen and met each of these challenges.

It is our pleasure to represent such capable and dedicated attorneys and to take this occasion to applaud their outstanding work. As a member of the bar association since 1947, including a stint as secretary from 1953 to 1957, Mr. Horton can personally attest to its high level of professionalism. We are confident that the next century will bring continued success and expansion to the Monroe County Bar Association. This organization is truly a shining star in the Rochester community.

INDIANA AND FEDERAL SPENDING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 12, 1992, into the CONGRESSIONAL RECORD:

INDIANA AND FEDERAL SPENDING

Indiana does not receive its fair share of federal spending. It ranks 48th among the states in federal spending per person, just ahead of Michigan and Wisconsin. The allocation of federal spending becomes even more important in times of fiscal restraint and economic downturn.

Overview: Most federal expenditures purchase public goods (national defense, for example) or redistribute funds from richer to poorer persons in our society. The federal government spent $1.1 trillion (excluding interest on the national debt) in 1991. Of that amount, $542 billion was for individual benefits, such as Social Security, Medicare, and food stamps; $208 billion for procurement contracts for goods and services, such as airports, buildings, and military equipment; $156 billion for federal, civilian and military employees; $153 billion for grants to state and local governments, for programs such as education, environmental protection, and economic development; and $37 billion for programs to nongovernmental recipients, such as scientific research and agricultural subsidies.

In 1991, Indiana received $18.8 billion in federal funds, or $3,350 per person. This suggests that Indiana gets a lot of federal money. Yet the federal expenditures in Indiana are significantly less than the national average of $4,150 per person. The state ranks 36th in direct payments to individuals, 32nd in procurement, 46th in federal salaries and wages, 42nd in grants to state and local governments, and 19th for programs to nongovernmental recipients. Indiana receives less than 88 cents in federal spending for every $1 in taxes it sends to the U.S. Treasury. Although this represents an improvement from 1981 when Indiana registered an average return of 74 cents, Indiana's overall state rank has dropped from 46th to 48th over the last 10 years.

Reasons for Problems: Several factors cause Hoosiers to pay more in federal taxes than they receive in federal spending. First, federal grants to state and local governments have fallen over the last decade. State and local governments have received less help since 1980, while seeing their revenue dry up in the current recession. Programs important to the states and localities, like revenue sharing, public housing assistance, and community block grants, were eliminated or curtailed. Second, Indiana's reluctance in previous years to commit matching funds for federal grants has cost it money, particularly in federal assistance for aid to families with dependent children and unemployment benefits. Third, the defense buildup of the 1980's caused a substantial net drain of resources from many states, including Indiana. Indiana's defense industry's concentration in ammunition and combat and non-combat vehicles did not coincide with greater defense procurement needs in high-cost electronics and communication equipment. Fourth, Indiana has one of the smallest state percentages of residents working for the federal government—1%. Fifth, Indiana experienced a relatively low population growth in the 1980's, and many federal grant programs are distributed by formulas which include population as a factor.

Steps to Promote Fairness: There are certain categories of federal spending for which little can or should be done to increase Indiana's share. For example, Indiana has a smaller proportion of most categories of the very poor, which partly explains its lower federal share of payments to individuals. Adding major federal facilities with large numbers of federal workers in our state would be helpful in terms of increasing the federal civilian or military workforce in Indiana. However, current fiscal restraints mean that many federal facilities are being eliminated or reduced.

Nevertheless, several actions could be taken to boost Indiana's share. First, Indiana would benefit if the federal government provided more funds for programs conducted by state and local governments. We should redirect federal spending priorities. I support the moves in Congress to use the savings from Pentagon cutbacks to pay for deficit reduction and spend more for investments to enhance economic growth. If a sizeable portion of any savings were invested in education and training, environmental protection, housing, neighborhood revitalization, research and development for basic industries, or public infrastructure, Indiana could receive a more equitable share of federal spending in the 1990's.

Second, the formulas utilized in many federal programs to provide grants at the state and local levels should be changed. Many of these programs have formulas which benefit states that are primarily rural or urban. A state like Indiana, which is neither predominantly rural nor urban, fares poorly under these programs.

Third, Indiana should take advantage of federal grants. The state is working to do this. I support its efforts to participate more fully in federal programs—especially investment-oriented opportunities—which are equitable and important to Hoosiers.

Fourth, Indiana's private enterprise needs to be more aggressive in pursuing federal procurement and research contracts. State officials should be fully supportive of these efforts. Indiana's economic strength lies in its diversity, as well as being backed by highly regarded universities and a high-quality workforce, research programs and laboratories across the state. We need to take advantage of these assets and actively compete for a larger share of these federal dollars.

Conclusion: Our federal system is based upon meeting the needs of the nation as a whole, not guaranteeing that every state receives $1 in federal spending for every $1 paid in federal taxes. Nonetheless, something is wrong when one state or region's relationship with the federal government is so consistently out of balance that huge sums are drained from it while crucial state and local needs go unmet.

No public official can single-handedly turn these trends around to the benefit of his or her state. Public officials have to join with private sector leaders to work together to decide on the appropriate federal role in directing public spending toward more productive long-term investments and to address the unintended state and regional consequences of national spending policies.

INTRODUCTION OF LEGISLATION ESTABLISHING A MORATORIUM ON CERTAIN EPA SAFE DRINKING WATER ACT REGULATIONS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. RICHARDSON. Mr. Speaker, I am introducing legislation today to establish an 18-month moratorium for small- and medium-sized water systems on the implementation of certain EPA Safe Drinking Water Act regulations.

I have heard from hundreds of New Mexicans via correspondence and at my town meetings concerned that new safe drinking water testing requirements imposed by EPA will pose major financial and other hardships for small water systems in New Mexico. Additionally, hundreds of people traveled hundreds of miles to attend several water hearings I sponsored last month, demonstrating the magnitude of concern and apprehension which exists on this issue. The overriding fear expressed by both consumers and small water system managers alike was that consumer water bills would be astronomical, and hence unaffordable for most New Mexicans after the new EPA testing requirements were passed on.

New Mexico, with a population of about 1.5 million people, has more than 2,000 water systems. Large water systems such as those in Albuquerque, Las Cruces, and my hometown of Santa Fe are big enough that the costs of testing for lead, copper, and other elements can be easily spread out among tens of thousands of consumers. That means the additional cost to consumers is small.

That isn't true of small systems. Eighty-five percent of the water systems in New Mexico have fewer than 3,300 customers—and many have less than 100. Combine the few number of customers with the poverty of New Mexico—New Mexico ranks 45th in the Nation in per capita income—and you have a critical situation which demands a careful look at the impact EPA's new regulations will have on small systems.

As just one example, city officials in Questa, a small town in northern New Mexico near the Colorado border, estimate water bills for the city system's 1,000 customers could jump to $175 a month. And that is in a town with double-digit unemployment because the major employer, a mine, recently went out of business. Additionally, the State of New Mexico's Ground Water Bureau has estimated that it will cost $8 million annually just to meet all the new EPA testing requirements not to mention treatment requirements.

Mr. Speaker, I am a strong supporter of safe drinking water standards. However, in the current recessionary atmosphere, it is critically important that we have a firm understanding of the costs involved in implementing these new regulations. We simply cannot bankrupt small water system consumers who can ill-afford astronomically high water bills. Moreover, if we enact water standards which are not financially attainable, we run the risk of widespread noncompliance, and unsafe water.

My legislation would establish an 18-month moratorium on the application of the national primary drinking water regulations for lead and copper, and the phase II and phase V drinking water regulations for synthetic organic and inorganic chemicals until more is learned about the financial implications these new rules will have on small- and medium-sized systems.

My legislation also requires EPA to report back to Congress within 1 year on the annual costs associated with the new testing and treatment requirements, and to make recommendations on the funding levels needed to implement the new regulations. EPA must also make recommendations about potential funding mechanisms that could be used to assist small- and medium-sized systems in meeting the new requirements. It is critically important that we develop a financing mechanism which enables small- and medium-sized water systems to meet these new standards. I believe my legislation will buy Congress the time needed to understand the financial implications of these new regulations for small- and medium-sized systems, and to develop appropriate financing mechanisms.

In closing, I urge my colleagues to look into this matter in their own States and see if similar problems exist for your small water systems. If so, I urge you to cosponsor my legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION OF CERTAIN DRINKING WATER REGULATIONS TO SMALL AND MEDIUM-SIZED DRINKING WATER SYSTEMS.

(a) 18-MONTH MORATORIUM.—For a period of 18 months beginning on the date of enactment of this Act, each of the following regulations shall not apply to public water systems that serve 10,500 or fewer individuals:

(1) The national primary drinking water regulations for lead and copper referred to in the final rule promulgated on June 7, 1991, at 56 Fed. Reg. 26460, (as the deadline was modified in the final rule promulgated on June 29, 1992, at 57 Fed. Reg. 28785).

(2) Phase II drinking water regulations for 26 synthetic organic chemicals and 7 inorganic chemicals referred to in the final rule promulgated on January 30, 1991, at 56 Fed. Reg. 3525 (as the deadline was modified in the final rule promulgated on June 29, 1992, at 57 Fed. Reg. 28785).

(3) Phase V drinking water regulations for 18 synthetic organic chemicals and 5 inorganic chemicals, as referred to in the final rule promulgated on July 17, 1992, at 57 Fed. Reg. 31776.

(b) STUDY.—Within 1 year after the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit a report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on the Environment and Public Works of the United States Senate which includes an analysis of any potential barriers small and medium-sized public water systems may face in complying with the requirements referred to in subsection (a), including—

(1) the annual costs associated with complying with the testing requirements,

(2) the annual costs associated with complying with the treatment requirements, and

(3) the ability to finance capital improvements necessary to comply with such regulations.

The report shall also incude administrative and legislaive recommendations regarding funding levels needed to implement the requirements referred to in subsection (a) including recommendations regarding possible funding mechanisms.

(c) IMMEDIATE IMPLEMENTATION.—If the Administrator of the Environmental Protection Agency, in consultation with the States, and after considering available resources for managing risks associated with drinking water, determines that the immediate application of one or more of the regulations referred to in subsection (a) to any drinking water system or any class or category of drinking water systems subject to the moratorium under subsection (a) is justifiable in order to protect human health in the case of such system or systems, the Administrator shall apply such regulation or regulations to such system or systems without regard to the moratorium under subsection (a).

A CONGRESSIONAL SALUTE TO NEWTON MAZZOLA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an exceptional gentleman and member of our community, Mr. Newton Mazzola. On Sunday, August 16, 1992, the friends and family of Mr. Mazzola will gather to celebrate his 100th birthday.

Born August 19, 1892, in a little village near Palermo, Sicily, Newton worked as a ranch hand for most of his teenage years. At the age of 20, Newton left his home and sailed to the land of opportunity, America. Settling in upstate New York, it was there that Newton met and married Mary de Maria. Following their marriage, Newton and Mary moved to Perry, NY and started their family. Although, they suffered the tragedy of losing their first-born child during the flu epidemic of 1918, the Mazzolas raised four wonderful children, Frank, Josephine Shepherd, Maggie Truscott, and Petrina.

Newton became a U.S. citizen in 1927 and is proud to call himself an American. In 1948, Newton and his family moved to the city of Lomita in California. In the tradition of many immigrants from that period, the Mazzolas started their own business, a flower shop, which they jointly operated until Newton's retirement in 1969.

Even though Newton has outlived his wife of 64 years and one daughter, he keeps his spirits high thanks to a great love of life. "Papa" as his family and close friends call him, enjoys recanting his stories of the old days, tales of making wine in his cellar in New York and sharing this homemade wine with friends and playing his guitar. During the summer months, you can bet that Newton is listening to the Los Angeles Dodger game on the radio, and if they lose, Newton does not hesitate to let everyone know where they went wrong.

In addition to his rich and full life with his family, Newton has been an active Moose member since 1920, the longest tenure of any member. He is also a devoted member of the St. Margaret Mary Catholic Church of Lomita.

Mr. Speaker, on this most special occasion, my wife, Lee joins me in congratulating Mr. Newton Mazzola for reaching this momentous milestone, his 100th birthday. We wish Newton, his children, seven grandchildren, ten great-grandchildren, and two great-great-grandchildren all the best in the years to come. Happy 100th birthday, Newton.

BAY AREA COUNCIL FOR SOVIET JEWS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, 25 years ago the Bay Area Council for Soviet Jews formed to take up what was an unpopular cause and seemed to be an unwinnable fight—securing freedom and human rights for Soviet Jews. My wife, Annette, and I share great admiration for the Bay Area Council for Soviet Jews, a group of dedicated men and women with whom we have worked so closely over the last two decades.

This year as we celebrate the Bay Area Council's 25th anniversary by remembering the contributions this group has made to protect Soviet Jews, we also mark the 80th anniversary of Raoul Wallenberg, a hero who swept down into Nazi-ruled Budapest and saved 100,000 Jews from unspeakable horrors.

At the end of World War II, Wallenberg was taken into Soviet custody, despite being a Swedish diplomat. Evidence that he was still languishing in Soviet prisons existed as late as 1981, although Soviet officials claimed that he had died decades earlier.

My wife Annette and I are among those who who would have perished were it not for the compassion and courage of Raoul Wallenberg. When we began our efforts in the United States to fight on behalf of this great hero, the Bay Area Council for Soviet Jews was the only group willing to join us.

To the council, Wallenberg was not just another individual thrown into the gulags and never heard from again. No one was. Although we never were able to bring Raoul Wallenberg to freedom, we have sought to keep alive his commitment to rescuing Jews at a time the rest of the world was blind and deaf to their plight and suffering.

Thanks to the dedication and determination of the council and our efforts together, countless individuals have escaped their daily hell and have emigrated to regions where they can live freely. Each time Annette and I went to the Soviet Union, the Bay Area Council of Soviet Jews supplied us with the names, case histories, and background information that allowed us to do everything in our power to bring justice for these individuals and their families.

In addition, with the support and advocacy of the council, I wrote letters to the Soviet General Secretary appealing for the release of specific political prisoners and a wholesale end to human and civil rights abuses. The emigration of Soviet Jews is a miracle most of us never thought would happen in our lifetime. Humanity owes a great debt to the Bay Area Council for Soviet Jews.

In the early 1980's, the bay area council helped organize missions for Members of Congress to visit Jewish families in the Soviet Union. During that time, the possession of a Congressman's business card could serve as the only means of protection that a Soviet Jewish family has against harassment and intimidation.

Annette and I, along with Congressman JOHN PORTER and his wife Kathryn, visited several Soviet Jewish families and witnessed the appalling conditions in which they lived constantly under the threat of persecution. It was following one of these visits that Congressman JOHN PORTER and I agreed to form the Congressional Human Rights Caucus.

In its early years, the caucus was an informal group of Members of Congress dedicated to improving the plight of Soviet Jews. Today, the Congressional Human Rights Caucus is a bipartisan organization in the U.S. Congress consisting of over half the Members of the House of Representatives and working on behalf of victims of human rights abuses all over the world.

The bay area council's pledge to Soviet Jews provided the impetus for the establishment and subsequent activities of the Congressional Human Rights Caucus.

The perseverance and relentless ideals of the council have come to fruition in the last few years. The council has helped establish offices similar to their own within the new countries that make up the former Soviet Union.

These offices in the newly emerging democracies are helping to provide the necessary protection and support for Soviet Jews, working to bring an end to anti-Semitic acts in the region, and promoting the adoption of laws based on the protection of fundamental human rights. These initiatives will have a lasting effect on future generations and form the cornerstone for a society based on protecting human rights and building a stable democracy.

When men and women come together out of concern for others, as the Bay Area Council for Soviet Jews has done for 25 years, the world sees that a few individuals can make a difference, that great obstacles can be overcome, and that hope prevails.

Mr. Speaker, Annette and I commend the Bay Area Council for Soviet Jews for the excellent work the organization has completed and we join in the celebration of this 25th anniversary. We look forward to continuing to work closely together in the future and to ensuring that the legacy of human rights remains our guiding principle.

CELEBRATING THE HOLSEY TEMPLE'S 100TH ANNIVERSARY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to acknowledge the inspirational works of the Holsey Temple of Philadelphia, PA, which held its 100th anniversary celebration on June 26, 1992.

Holsey Temple's proud history began in 1889 when Wilson Coleman came from Halifax, VA to Philadelphia. Finding no active Christian Methodist Episcopal church, he immediately set about organizaing prayer meetings in various homes in the Nicetown section of Philadelphia. Then in 1892 these meetings moved in Staub Hall and became the Holsey Temple Mission and was received into the CME Church under Bishop Lucius H. Holsey. The next few years saw that struggling mission move from Staub Hall to Friendship and Patterson Halls in Tioga and Nicetown.

Under the pastorate of Rev. J.S. Scott, the land on Hunting Park was purchased. During the pastorate of Rev. J.W.P. Leewood, the basement was built. Here were housed the Sunday school, dining room, kitchen, office, choir room, and restrooms. The Holsey Temple and its congregation continued to grow under the guidance of the many fine pastors who served admirably. The Temple's current location at 5305 Germantown Avenue was purchased and the colonial edifice was constructed under the pastorate of Dr. James Arthur Jones.

Since 1892, the temple's charter members struggled to pave a path for the growth of the church and their descendants. They passed on the baton of faith, knowing that God had provided a wide variety of gifts and talents to his people to build the whole body of faith. As the Holsey Temple celebrates its 100th anniversary, the congregation looks back on the many bishops, presiding elders, pastors, and lay persons who made supreme sacrifices to keep the torch aglow. As they celebrate 100 years of worship, evangelism, study, mission, and fellowship, they give thanks to Almighty God for all He has done in their lives and the lives of the many sainted souls who have gone before them.

TRIBUTE TO PAUL J. FOERSTER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a young man from my home county of Rockwall, TX, Mr. Paul J. Foerster.

Last week at the Olympics in Barcelona, Spain, Paul and his teammate, Stephen Bourdow, won a silver medal in sailing. Paul and Steve sailed in the Flying Dutchman classification—known as the "formula one" racing of sailing. This type of sailing—which is done on a 19′10″ 364-pound dinghy—requires intelligence, strength, expertise, and gentle persuasion. Paul and Stephen combined the best of these skills to compete against teams from 23 other nations and bring home a silver medal.

This silver medal—although outstanding by itself—is just one victory in a long string of wins for Paul and Steve. These two young men were competitors in collegiate sailing and have been sailing together as partners since 1990. In 1991 and 1992 they were world champions in their class.

Paul has been sailing since he was 13 years old. He boasts a long list of first-place wins in European races, national championships, and Olympic-class regattas. Last year he was named one of the International Yachting Racing Union Sailing Union's best performers.

In addition to being an outstanding athlete, Paul is a graduate of the University of Texas at Austin where he obtained a bachelor of science degree in aerospace engineering. He has been participating in the Olympic Job Opportunities Program where he has been working as an engineer and training 20 hours per week for the Olympics.

Mr. Speaker, I am proud to represent Paul Foerster in Congress. He is an outstanding young man, as are all of our Olympic athletes. The founder of the modern Olympics wrote a creed for the games in which he said, in essence, that the prize does not belong to the medal winners but to the participants. That is true. All of our Olympians are victors. They represented our Nation well. But Paul and Steve's silver medal in sailing makes us even prouder of them. I know that Paul's family and friends are equally proud of his accomplishments, and I congratulate him on his silver medal.

Mr. Speaker, as we adjourn today, let us do so in honor of Paul and the other fine young athletes who competed under the flag of the United States of America.

A TRIBUTE TO OLYMPIC MEDALIST KEVIN MAHANEY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. SNOWE. Mr. Speaker, I take great pride in paying tribute to Kevin Mahaney of Bangor, ME. Kevin is a silver medalist member of the U.S. Olympic Sailing Team. On behalf of the people of the Second District of Maine, I would like to congratulate Kevin for his outstanding achievement in the 1992 summer Olympics.

Kevin demonstrated one of the highest levels of athletic achievement by making the Olympic team. He proudly represented America in the gathering of the world's greatest athletes. However, Kevin rose to the calling that few hear, he won an Olympic medal. In doing so, Kevin proved himself not only as one of the finest American athletes, but rather as one of the finest athletes in the world.

Kevin Mahaney carried on the proud American tradition of excellence in sailing by winning a silver medal for the United States in yachting's Solling class. Kevin has been sailing for over 12 years and his hard work and dedication has put him at the peak of the international sailing world. Kevin has a history of prize winning performances on the way to the Olympics, earlier this year he and his crew sailed the *Exxon* to victory at the world championships. He has been training for the Barcelona Olympics since 1984 and this Olympic medal is evidence of the skill of a master in his field. Through arduous work and an indomitable Olympic spirit, Kevin has made all of Maine, family and friends, very proud.

Mr. Speaker, I ask all my colleagues to join me in commending Kevin and wishing him great success in the future. He truly exemplifies the Olympic ideal as an outstanding model of hard work and achievement. This combination made Kevin a winner in Barcelona and for that he deserves our highest praise and respect.

PERSIAN GULF WAR VETERANS REGISTRY ACT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MONTGOMERY. Mr. Speaker, on behalf of myself and a number of my colleagues, I am introducing a bill today, the Persian Gulf War Veterans Registry Act.

This bill would require the Secretary of Veterans Affairs to establish a registry program to gather and maintain information regarding the health status of Persian Gulf veterans.

Under the bill, pertinent information regarding individual Persian Gulf veterans, including the circumstances of their service in the Persian Gulf, as well as their health status, would be maintained by the VA. They would also be provided complete physical and mental examinations with appropriate followups and consultations so that the results can be explained to each veteran.

It is vital that we move quickly on this bill so that we can keep a careful watch over this group of veterans. If we have learned anything through our experience with prior wars, it is that we must not fail to maintain a basis for addressing their future health problems if they should arise.

In conjunction with this bill, I want my colleagues to know that I have scheduled a hearing on September 16 on the possible health risks faced by veterans who served in the Persian Gulf during the war. We will invite witnesses representing the VA, DOD, the Department of Health and Human Services, the Department of Energy, the EPA, and representatives of units that served in the gulf.

A CONGRESSIONAL SALUTE TO POLICE OFFICER DALE EDWARD SAAS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDERSON. Mr. Speaker, on Friday, August 28, 1992, the Los Angeles Police Department will honor the service retirement of one of its finest officers, policeman Dale Edward Saas. It is with pride and pleasure that I rise today to pay tribute to this dedicated individual who has served our community with great distinction.

Born February 28, 1940, in Olean, NY, Dale moved to Compton, CA, in August 1952 with his family. He attended local schools, graduating in 1958 from Compton High School. It was while attending Compton High that he met his lovely wife of 34 years, Barbara.

Following high school graduation, Dale entered the work force as a printer for the Compton Herald American Newspaper. He remained with the newspaper until he joined the Los Angeles Police Department on January 30, 1967.

Dale's career with the LAPD has been an exciting and often dangerous one. He was involved in peace keeping efforts during the riots of 1968 and 1992. In 1984, he was assigned to the XXIII Olympiad in Los Angeles. Throughout his tenure with the department, Dale has been instrumental in establishing projects that unite the LAPD with the community. He has been a part of the Pioneers of the Neighborhood Watch Program and Policing Program. In 1989, Officer Saas became associated with the Senior Lead Office, participating in many school functions, street fairs, parades, and public meetings.

Mr. Speaker, policeman Dale Edward Saas' record of service to our community is admirable. Dale typifies all that is good about the Los Angeles Police Department.

My wife, Lee, joins me in extending this congressional salute to Officer Dale Edward Saas. We wish Dale and his wife, Barbara, all the best in the years to come. We also hope that Dale will have many more years of exceptional fishing.

TRIBUTE TO DENNIS AND BEVERLY KRAMER

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. OBEY. Mr. Speaker, I am very pleased to be able to recognize and congratulate Dennis and Beverly Kramer on winning the IGA Retailer of the Year award.

Dennis and Beverly Kramer, owners of Kramer's IGA in Abbotsford, WI, were selected for this award, the highest honor within the IGA system, from a large pool of nearly 4,000 IGA retailers around the world because of their personal concern, commitment to their community, and their determination to overcome adversity and devastating setbacks.

In 1982, a fire swept through their IGA store, burning it to the ground. However, this tragedy only inspired them to build again. And they did, building a bigger store and doubling their sales in the last 5 years.

This husband and wife team truly represent the American dream with their spirit and entrepreneurial perseverence. They not only give the best of themselves to their employees and customers, but also to their entire community with their involvement with the Chamber of Commerce, the Cub Scouts, among other community activities.

SALUTING THE SOUTH PHILADELPHIA REVIEW-CHRONICLE, THE BEST OF PHILLY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute one of the fine community newspapers in my congressional district in Philadelphia, the South Philadelphia Review Chronicle.

This month, our Philadelphia Magazine had the wisdom to honor the Review as the best community newspaper in Philadelphia, sharing the limelight with a community newspaper in the district of my colleague LUCIEN BLACKWELL, the Chestnut Hill Local.

As my colleagues know, community newspapers have incredible influence in our districts. Some neighborhood newspapers merely run press releases from local merchants and important announcements about births, graduations, and other family events. Not so for many neighborhood newspapers in my district.

I am lucky to have a number of neighborhood newspapers which cover events and issues as aggressively as the daily newspapers. I am sure the competition for this Philadelphia Magazine award was stiff, because so many of our neighborhood newspapers do such a great job. The South Philadelphia Review Chronicle is one of the best. They keep their many readers, including myself, aware of important issues affecting my constituents. I applaud the Review, its reporters, its brand-new editor Frank Lewis, and most importantly its publisher, Anthony Clifton.

Congratulations for keeping the first amendment alive and well in our neighborhoods.

TRIBUTE TO MR. ISADORE ROOSTH

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a great man from my district, Mr. Isadore Roosth. Isadore passed away Wednesday, July 29, leaving a void that may never be filled.

The newspapers of east Texas carried stories about his death. They described his numerous business ventures—he was an oilman and an investor. But even more important than how he earned his money was how he gave it away. The newspaper articles described him as a philanthropist. But even that word—with all of its connotations of giving and good deeds—cannot adequately describe Isadore Roosth.

Isadore was the son of Russian immigrants. His father cofounded Roosth and Genecov Production Co. in 1934. After attending Tyler Junior College and graduating from Texas A&M with a degree in chemical engineering, he served in the U.S. Army. Following service in World War II, Isadore came home to Tyler. It was there in that quiet little community in east Texas that Isadore Roosth began the tradition of giving and goodness that established him as a giant among men.

Isadore gave freely, not only of his money, but of his time and energy. It would be impossible to know the number of young people Isadore sent to college, the number of people he helped who were down on their luck. Even the long list of boards he served on and activities he was involved in cannot fully express the amount of good he accomplished.

Isadore served on the board of directors of People Attempting to Help, the East Texas Regional Food Bank, American Heart Association, University Park Hospital, East Texas Regional Health Services, University Cancer Foundation at M.D. Anderson, Mother Frances Hospital Board, east Texas regional health facilities, and the Texas Society to Prevent Blindness.

He also served as a board member of the United Way, the Texas Rose Festival, the Tyler Chamber of Commerce, the East Texas Fair Association, the University of Texas at Tyler Foundation and Development Board, Goodwill Industries, Junior Achievement, and the Kilgore College Institute for the Protection of Children and Adults.

Also, Isadore was an active member and past president of Congregation Ahaveth Achim. He was the past president of the Tyler chapter of B'nai B'rith, and a former board member of the Advisory Council of the United Synagogues of America and the Dallas Home for Jewish Aged. While loyal, devoted, and supportive of his own faith, his goodness and generosity was experienced by other charities and denominations.

Mr. Speaker, Isadore Roosth was a man of faith, of integrity, of compassion, and above all, a man of action. His legacy lies, not in the words he spoke or even in the awards he received, but in his deeds. I am proud to have called him my friend. He was friend to all—to Presidents and Governors, to doctors and bankers. But most importantly, he was a friend to those in need.

Isadore Roosth was kind to us all—Christian, Jew, black, and white. And he has left a legacy for us all—a model of generosity for us to strive for. He will be missed by his family—his four brothers, his son and four daughters and his granddaughters. He will be missed by his friends. He will be missed by those who never knew him yet benefited from his kindness. I will miss Isadore even more than I can express—the good he did, the kindness in his eyes, and his valued guidance.

Yes, Isadore Roosth will be missed. But he will not be forgotten. His 79 years on earth will be remembered for many more years to come as years of fruitful living which were dedicated to the betterment of his fellow man.

TRIBUTE TO RONALD T. RYCROFT

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. NOWAK. Mr. Speaker, western New York was saddened recently by the news of the death of Ronald T. Rycroft, 49, a dedicated leader in the human services and community health field.

Mr. Rycroft, whom I knew through his service on the board of the Community Commission on Alcohol and Substance Abuse in Erie County, was stricken while hiking on trails in the Adirondack Mountains.

Marguerite T. Saunders, Commissioner of the New York State Office of Alcoholism and Substance Abuse Services, issued the following statement:

> Ron Rycroft was a friend and colleague who was one of the leaders in the State's efforts to help alcoholic persons and their families.
>
> As the president of the Association of Alcohol Recovery Care Homes [AARCH] and the Unified Alcoholism Constituency of New York State [UACNYS], he worked tirelessly to establish and improve community residences and services for recovering persons. His dedication will continue to inspire all of us working in this field.

The following article, which appeared August 2 in the Buffalo News, detailed Mr. Rycroft's accomplishments and services to our community:

RONALD T. RYCROFT, HUMAN SERVICES WORKER

> Services for Ronald T. Rycroft, 49, an administrator for Buffalo area human services programs and a counselor in community mental health programs for more than 30 years, will be held at 10 a.m. Wednesday, in the Ontario Street United Methodist Church, at the corner of Ontario and Tonawanda streets.
>
> Rycroft, the executive director of the Friends of Cazenovia Manor, a resident program for substance abuse recovery, with locations in Buffalo and Eden, died Thursday (July 30, 1992) when he was stricken while hiking on trails in the Adirondack High Peaks.
>
> Rycroft was born in Gowanda and lived most of his life in Buffalo before moving to Pike in 1984. He received his bachelor of Arts in political science from West Virginia Wesleyan College in 1964 and his masters of management in substance abuse administration June 20, 1992, from Lesley College in Cambridge, Mass.
>
> During his early college years, Rycroft was involved in the civil rights movement and marched with Dr. Martin Luther King in Alabama.
>
> He worked in the human services and community mental health field for most of his career, beginning as a counselor for outreach programs in Orchard Park, East Aurora and other areas in Erie County. Rycroft began working in administration in 1971 as a director/counselor at the Free Port Drop-In Center. He also served as a manager for the Lake Shore Mental Health Association, and as a director and counselor at the Orchard Park Help Center.
>
> Formerly executive director of the Hope Organization, Rycroft stayed with that organization as it merged into the Northwest Buffalo Community Center. He became executive director for the center. Since 1983 he had been executive director of the Friends of Cazenovia Manor and a certified alcoholism counselor. He was also president of the Unified Alcoholism Constituency of New York State and chairman of the Erie County Committee of Alcoholism and Substance Abuse Professionals.
>
> Rycroft was formerly a member of the Letchworth Central School Board and was a lay leader at their Hume United Methodist Church, a United Methodist lay speaker and president of the Association of Alcohol Recovery Care Homes of New York.

Rycroft's work with human services programs and people dates back to his high school and college days, and he received many awards over the years for his service including the God and Country Award from the Boy Scouts of America, the John W. Pontius Award from the YMCA, the 1988 Gus Varga Memorial Award from the Northwest Buffalo Community Center and the 1989 Service to Alcoholism Recovery and Alcoholism Community Residence Award. He also received the 1983 Northwest Buffalo Community Development Corporation Citizen of the Year Award.

An avid bird-watcher, naturalist, hiker and backpacker, Rycroft was in the process of completing his goal of climbing the 46 highest mountains in Adirondack Park to earn membership in the Adirondack 46ers when he died.

Burial will be at 3 p.m., Wednesday, in Pike Cemetery in Pike.

Surviving are his wife, Carol J. Rycroft; a daughter, Melissa E.; and a son, Thomas R., all of Pike; his mother, Eleanor L.; two sisters, Elaine R. Cheney of Portage, Ind., and Joane M. Burton of Williamsville; and two brothers, Kenneth B. of Elkins, W.Va., and Herbert E. of Ithaca.

A TRIBUTE TO OLYMPIC MEDALIST MICHAEL POULIN

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. SNOWE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Michael Poulin of Fairfield, ME. Michael is a bronze medalist member of the U.S. Olympic Equestrian Team. His accomplishments have been a great source of joy and celebration for the residents of Fairfield, ME. On behalf of the people of the Second District of Maine, I would like to take this opportunity to applaud Michael for his outstanding performance in the 1992 summer Olympics.

Michael Poulin has a long and accomplished history of equestrian excellence. He is a three-time U.S. Equestrian Team National Champion. It is no wonder he continued his success by not only making the U.S. Olympic team, but also by winning an Olympic medal. In doing so, Michael rose above the gathering of the world's finest athletes to prove himself as an elite of the elite.

Michael Poulin made history in Barcelona as a member of only the second U.S. Olympic team ever to win an Olympic dressage medal in the 96-year history of the summer Olympics. Michael's contribution to the team's medal was invaluable and his responsibilities immense. He contributed to his team's medal not only as an expert rider but also as a professional trainer of his own horse—Graf George—and an expert coach to one of his teammates. As an Olympian Michael Poulin has lived up to the very highest ideals of the Olympic tradition and has made all of Maine very proud, especially his wife Sharon and their four children and friends, very proud.

I urge all my colleagues to join me in saluting Michael. His Olympic achievement, his inherent dedication to the sport, and leadership are a model and inspiration to each and every one of us.

TAX PROVISION RELATING TO 1988 DEALS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HUBBARD. Mr. Speaker, I would like to address my colleagues on the recent decisions of the U.S. Claims Court concerning goodwill and the message those decisions carry regarding future legislative activity on the part of Congress. The Claims Court has now taken the position on a number of occasions that the goodwill provisions of FIRREA constituted a breach of contract for which the government may be held liable to those who acquired thrift institutions in the early 1980's. According to the court, FIRREA's requirements requiring fast write-offs from capital of thrift institution goodwill accounts contravened early assurances from the government that lengthy write-off periods would be permitted. The potential resulting liability of the Government is extensive.

The decisions have significance going far beyond the question of goodwill. In particular, they bear directly on a proposal now contained in H.R. 11 that will be an issue in the tax bill conference scheduled to convene in September. The proposal involves the sale by the Government of numerous thrift institutions at the close of 1988—the so-called 1988 deals. The provision would deny retroactively certain deductions that were promised to the acquirers of thrift institutions in those deals.

The deals are highly unpopular at this time. It is generally accepted—and I share this view—that they allowed some of the acquirers to profit at the expense of the Government and, ultimately, the taxpayer. As a result, it is entirely appropriate for the Government to make use of all legitimate means to reduce the costs of these deals to the public. Yet the proposal in question goes beyond the bounds of legitimacy.

Under the proposal, a thrift acquirer would be denied deductions for losses incurred on the sale of certain thrift assets if the FSLIC reimbursed the acquirer for the losses involved. Since the FSLIC payments are not includable as income, it is argued that the tax benefit associated with the deduction is excessive. The deduction would be denied, therefore, as a matter of tax policy.

The problem with the approach, however, is that the change in the law is made retroactive to transactions entered into in 1988. Yet many of the acquirers—including those who have not profited excessively—entered into those transactions only because of the tax benefits involved. Although they sought cash for their participation, they received instead assurances by the IRS that they would be entitled to these benefits. To withdraw the benefits under these circumstances seems egregiously unfair.

I have been particularly concerned about the conduct of the Treasury Department in this matter. It is notable that the same agency that provided the assurances needed to entice the acquirers to participate in the transactions has now urged the Congress to clarify the law so as to undermine those assurances. I have expressed myself on this point to Secretary Brady in a letter that the Department has already made public. The following is a copy of my letter to Secretary Brady.

SUBCOMMITTEE ON GENERAL OVERSIGHT AND INVESTIGATIONS,
Washington, DC, July 22, 1992.

Hon. NICHOLAS F. BRADY,
Secretary of the Treasury, Washington, DC.

DEAR MR. SECRETARY: I am writing with regard to proposed legislation, which I understand the Treasury Department supports, that would revoke certain tax deductions that were previously authorized to acquirers of troubled thrift institutions. The deductions are for FSLIC-reimbursed losses associated with the sale of thrift assets acquired in the so-called "'88 deals." It is my understanding that the IRS assured the acquirers in 1988, orally and in writing, that the losses would in fact be deductible, and that the anticipated deductions were a significant factor in persuading the acquirers to take the troubled institutions.

If this is so, the decision of the Treasury to support the legislation in question strikes me as unfortunate, to say the least. No matter what revenue considerations are at stake, I find it difficult to understand how much inconsistent conduct on the part of a government agency can be justified. The acquirers relied in good faith on the representations, oral and written, of government officials, only to see the agency involved not only reverse its position on the matter but urge the Congress to "clarify" an interpretation of the law that is directly at odds with the agency's representations. Such actions can serve only to undermine respect for government and to discourage future business dealings by the private sector with government agencies.

If I have misunderstood any aspect of this matter, I would be delighted to have the benefit of your advice to that effect. Otherwise, I sincerely hope you will reverse the Department's position on this issue and actively oppose the legislation in question. Since from all indications the legislation will be before the Senate Finance Committee next Tuesday, I would very much appreciate your immediate attention to this matter. You have always been reasonable in the past in your approach to difficult issues, and I am confident that you will be so again as you confront the issue at hand.

With best wishes for you, I am

Sincerely yours,
CARROL HUBBARD
Chairman, Subcommittee on General Oversight and Investigations.

Mr. Speaker, the Claims Court cases provide a persuasive reason for the tax bill conferees to reconsider the proposal in question. The fact situations of those cases and the tax proposal at issue bear striking similarities. As with the goodwill legislation considered by the cases, the proposal would have the effect of revoking assurances provided by Government officials. Moreover, the assurances to be revoked again constitute a major part of the consideration that was provided to those engaging in Government-sponsored transactions. That is not to say that the situations are comparable in all respects. They are similar enough, however, to merit concern over the question of potential Government liability.

For that reason and others already discussed, I urge the House-Senate conferees to study this issue carefully in September.

CREDIT UNIONS REMAIN STRONG AND HEALTHY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANNUNZIO. Mr. Speaker, I rise today to praise the success of one of this Nation's most important types of financial institutions, institutions owned by and dedicated to serving America's middle and working classes—credit unions.

In testifying before the Senate Committee on Banking, Housing, and Urban Affairs 2 weeks ago, Hon. Roger W. Jepsen, Chairman of the National Credit Union Administration [NCUA], reported that America's credit unions remain strong and healthy, prospering in 1991 despite the tough economic climate and declining interest rates. In addition, Mr. Jepsen pointed out that the NCUA is well positioned to detect any emerging problems, and that the Credit Union Share Insurance Fund, the Federal fund that insures credit union depositors, is well capitalized, with reserves reflecting anticipated economic conditions.

Loan delinquencies declined from 1.7 to 1.6 percent, the lowest rate ever; capital growth increased from 8.2 percent in 1990, to 8.5 percent in 1991; and allowances for loan losses increased a significant 40.9 percent. Preliminary indications for the first half of 1992 show that credit union earnings have increased 20 percent, capital is increasing at about 12 percent, and savings growth has reached an annualized rate of approximately 16 percent. Turning to the insurance fund, costs to date are less than projected, with 1992 losses projected at well below last year's number. The Share Insurance Fund's net income in 1991 totaled $4.1 million, the fund's 20th consecutive profitable year.

In reviewing these outstanding financial statistics, it is important to remember that credit unions are not-for-profit organizations that provide services and credit to their members, who are individuals with a common bond. They are democratically based organizations with each member having an equal vote on the structure and operation of their credit union.

Credit unions give people who might otherwise go without financial assistance a place to save and borrow. Just as importantly, credit unions are a place where members may receive the financial counseling necessary for them to take advantage of opportunities to change their economic situation for the better.

The figures above show that credit unions are doing something right. They are meeting the needs of their members, who include teachers, factory workers, soldiers, and Government workers. It is especially gratifying to know that such a successful industry is fueled by ordinary Americans who work hard for their money—small borrowers, people needing a home mortgage loan, or people wanting to save for retirement—and not by corporations and big investors. Credit unions have avoided many of the mistakes of the savings and loan and banking industries. These industries perhaps should take a look at credit unions, and emulate some of their techniques in steering a straight course through this Nation's economically trouble seas.

I have been an ardent supporter of credit unions throughout my career. Again, I rise in praise of the credit union industry for its continued strength and success.

INTRODUCTION OF INDEPENDENT COUNSEL REAUTHORIZATION LEGISLATION

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GEKAS. Mr. Speaker, I am today introducing legislation to reauthorize for 5 years the independent counsel statute. This law has been in effect since the post-Watergate days of the late 1970's and by now has shown some signs of wear that have highlighted certain shortcomings that need to be rectified.

The most important defect of the law is that it does not cover Members of Congress in a meaningful way. My proposal does. Under my proposed legislation, whenever the Attorney General receives specific and credible information of criminal wrongdoing by a Congressman or Senator he must initiate a preliminary investigation, just as he is required to do for a host of executive branch officials and even certain private individuals.

Mr. Speaker, it is sad to have to admit this, but the American people have justified misgivings about whether their elected Representatives have placed themselves above the law. The independent counsel statute was the outgrowth of scandal within the executive branch, but within the last few years scandal within the legislative branch has given rise to widespread disquiet that can only be dispelled by adding coverage—and I don't mean discretionary coverage—of Congress to the statute. Americans must be assured that laws will be applied against powerful members of the legislative branch without fear or favor—despite the fact that these members control executive branch appropriations and can in many other ways influence how they are treated. Even if the question is only one of perception, the perception of how equally the criminal laws of this country are applied is as important as its reality.

In addition, my proposed legislation makes some needed changes to insure that the statute operates more effectively by bolstering the accountability of independent counsels. Under my proposal, independent counsel must apply for reappointment every 2 years, they must file annual reports with the House and Senate Judiciary Committees and if the statute itself expires, independent counsels would no longer be able to continue themselves in office indefinitely by merely declaring their work was unfinished.

Mr. Speaker, this legislation is absolutely necessary if we are to retain the faith of the American people.

A TRIBUTE TO JAMES W. BROWN, JR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SKELTON. Mr. Speaker, James W. Brown, Jr., publisher of the Cass County Democrat-Missourian for 30 years, will be honored in September when he will be inducted into the Missouri Newspaper Hall of Fame. I congratulate him for his outstanding work in the newspaper publishing industry.

Brown, a graduate from the University of Missouri School of Journalism, first owned and operated the Willow Springs News and held the office of postmaster in Willow Springs, MO, before moving to Harrisonville with his wife, Wanda. Brown combined the Democrat-Missourian newspaper and the Cass County Shopper into a modern operation, installing a six-unit Goss press and the latest typesetting equipment, making the Democrat-Missourian into one of the State's strongest weekly newspapers.

Brown served as president of the Missouri Press Association in 1963. In 1973, he received a Missouri School of Journalism Honor Medal. An outstanding citizen, he has been active in State politics, business, and civic and professional organizations for many years. He retired in 1985 after 30 years at the Democrat-Missourian.

James Brown continues to reflect the best of the newspaper industry as he is inducted into the Missouri Newspaper Hall of Fame. I congratulate him on his award.

THE PERSIAN GULF HEALTH REGISTRY ACT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. EVANS. Mr. Speaker, today, I have introduced H.R. 5832, the Persian Gulf Health Registry Act, in order to track and identify the short- and long-term health consequences of serving in Persian Gulf war.

During Operations Desert Shield and Desert Storm, servicemembers were exposed to a variety of toxic substances and parasitic diseases whose effects are not fully understood.

Far too many Persian Gulf veterans have already reported health problems. Within the past year, researchers and veterans' groups have documented over 200 cases of Desert Storm war veterans who have reported unexpected health problems, including leishmaniasis, chronic fatigue, weight loss, muscle weakness, and lung ailments. Furthermore, medical researchers say that these health problems could stem from exposure to toxic fumes caused by the Kuwaiti oil fires and burning trash, experimental drugs administered by the Department of Defense, and other toxins and diseases indigenous to the gulf region.

Throughout the past 50 years, veterans have suffered because our Government has repeatedly failed to acknowledge its actions and responsibility. We cannot allow history to repeat itself. While the Department of Veterans Affairs and the Army have publicly addressed this matter, their proposals have fallen far short of what is needed. As Members of Congress, we must ensure that Persian Gulf veterans are equipped to fight any illness that their service might have caused, rather than having to combat the Department's of Defense and Veterans Affairs.

Our bill goes far beyond the executive branch's proposal. Their proposals simply focus on discharged personnel and relies largely upon existing research. Our bill, however, also includes children and active-duty servicemembers and requires the Secretary of Veterans Affairs to conduct a longitudinal study. Specifically, the bill would create a registry to identity and track any adverse health problems reported by Persian Gulf war veterans and their children as well as mandating a 50-year longitudinal study on the health effects of service in the Persian Gulf war.

Show that you care about our veterans and their children, support the Persian Gulf War Health Registry Act.

LEGISLATION TO INCORPORATE THE WOUNDED KNEE BATTLE SITE INTO THE NATIONAL PARK SERVICE

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. JOHNSON of South Dakota. Mr. Speaker, today, I am pleased to introduce legislation that will incorporate the Wounded Knee battle site in South Dakota into the National Park Service.

This long overdue measure comes during the "National Year of Reconciliation" between the Indian and non-Indian communities.

This bill is the product of much dialog, negotiation, and compromise and I would like to thank all of the people who worked hard to get us to this point. As a member of the House Interior Committee, the committee with primary jurisdiction over Indian issues and over the National Park Service, I look forward to committee hearings in which all groups can comment and critique the bill. I appreciate that there are groups in South Dakota that hold differing views on what actually should be done to recognize the historical events at Wounded Knee, and it's my conviction and hope that a general consensus can be arrived at by all parties involved. I welcome suggestions and comments from all parties, and I fully recognize that if this project goes forward, it must be the product of the Indian community itself, and not something imposed from Washington.

This bill is not about blame and accusations. Rather, we are here today because it is time to try to honor those who died at Wounded Knee and create opportunity for a new generation of Indian leaders.

LEGISLATION TO ESTABLISH A WETLANDS POLICY CENTER

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ORTIZ. Mr. Speaker, I am introducing legislation today to establish a Wetlands Policy Center in Brownsville, TX.

The purpose of this legislation is to develop an innovative, cooperative approach to the preservation, restoration and study of wetlands. In a move to great generosity and community spirit, the Port of Brownsville has agreed to make available over 7,000 acres of wetlands property for wetlands research, education, and policy program activities. This Wetlands Center is designed to attract scholars, experts, environmental interests, Federal agencies, businessmen, and economists to enhance our understanding and preservation of wetlands. Although the initial focus of the Center will be south Texas wetlands, it is envisioned that the Center will ultimately become a truly international program for wetlands research involving interests from the world over. Furthermore, it is envisioned that this Center will become a prototype for the development of graduate degree and career opportunities in the environmental sciences for Hispanics and other minorities in the United States.

The Center will be operated and maintained by the Port of Brownsville and a consortium of institutions of higher education, chaired by the University of Texas at Brownsville. The Center would be overseen by a board of directors cochaired by the Port of Brownsville, the University of Texas at Brownsville, and a designee of the Director of the U.S. Fish and Wildlife Service. Members of the board will be chosen by the cochairs, and, as envisioned, will include representatives from all institutions of higher learning participating in the consortium and representatives of interested Federal agencies.

This Wetlands Center will be a unique regional and national asset. It may be the only Center in the world where researchers, scientists, and students will be permitted to conduct actual, applied research techniques on actual wetlands property contiguous to a heavy industrial enterprise. This will provide a unique opportunity for the country to focus on new technologies and approaches on the issue of wetlands and our national effort to both understand and protect them. Furthermore, this Center will help provide educational avenues for minority students to pursue careers in environmental protection, science and engineering. By supporting wetlands research, we not only preserve sensitive ecological habitats, but we encourage academic learning in this important area of study.

Lastly, I want to recognize the Port of Brownsville for their generosity and foresight in recognizing the value of this property and for utilizing this land in such a unique way.

TRIBUTE TO THE NATIONAL ASSOCIATION OF OLD WEST GUNFIGHTING TEAMS, INC.

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HUNTER. Mr. Speaker, I rise today to recognize the outstanding service of the National Association of Old West Gunfighting Teams, Inc. This organization, established in 1983, is dedicated to the preservation of the traditions of the Old West and deserves our commemoration.

Boasting a membership of over 1,500 individuals divided into 40 teams, the Old West Gunfighters hold an annual round-up championship competition for thousands of spectators. Wearing authentic costumes of the period, the gunfighters re-enact shootouts and entertain the crowd with comedy skits.

This year, their annual competition is in San Diego, CA. For the first time, they are donating some of the proceeds of this event to our local chapter of the Muscular Dystrophy Foundation. With a high expected turnout, the competition promises to be a resounding success.

Mr. Speaker, I'm sure you'll agree that it is inspiring to see individuals dedicated to the remembrance of one of our Nation's greatest eras. This dedication, along with their noble sense of charity, is a shining example of what it means to be an American.

SUPPORT FOR H.R. 4848

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, Aug. 12, 1992

Mr. MARKEY. Mr. Speaker, I rise today in an effort to highlight a growing problem facing millions of American families, the need for affordable, quality long-term health care and to urge all my colleagues who share this concern to support an important bill, H.R. 4848.

Long-term health care has become a pervasive issue in this country as the number of elderly Americans continues to rise. It is estimated that by the year 2020 the elderly will comprise approximately 20 percent of the U.S. population; this translates to one in five Americans. Forty-three percent of those will eventually need nursing home care at an improverishing cost of at least $30,000 to $40,000 per year.

It is often the children of elderly parents who are faced with the difficult decision to place a parent in a nursing home or provide them with around-the-clock services at home. Along with these decisions comes a myriad of private and often misleading insurance policies, spurring the need for more consistent and uniform standards of coverage to guarantee that investments in long-term care will be protected.

One of the most widespread problems currently facing consumers is the lack of uniform definitions regarding eligibility and the services to be provided, making it difficult to compare policies and assess coverage. Some consumers buy policies mandating that nursing homes maintain a daily medical record for each of their patients, only later to find that they may have difficulty in locating a nursing home that will actually provide this service. Other policies require facilities to provide 24-hour nursing services by a registered nurse, also not necessarily provided.

Eligibility, probably the most important provision in a long-term care policy, has been defined by some insurance companies to include only those persons requiring medically necessary care. This narrow definition excludes those who are in need of custodial or home health care, the type most often sought by children of elderly parents. Eligibility has also been determined by the inability to perform activities of daily living, but policies fail to describe guidelines used to determine the degree of impairment necessary to qualify.

Furthermore, under current standards, consumers risk unpredictable premium increases which may force them to cancel the policy and forfeit money they have invested in premiums. Insurance companies shoud allow policyholders to recover these reserves to lessen their financial losses.

In light of these inconsistent standards, we should turn our focus to Federal legislation to provide improved consumer protection in this complex, rapidly growing market. As the Ford Foundation Project on Social Welfare and the American Future has noted, "there is something fundamentally wrong with a system in which people must impoverish themselves to find even minimally decent care in their final years."

Two of our colleagues, Representatives HENRY WAXMAN and RICHARD GEPHARDT, have attempted to deal with some of the inadequacies of current private policies through the proposed bill, H.R. 4848, the Long-term Care Family Security Act of 1992. This bill not only gives Americans the opportunity to get the long-term care they need, it enables them to choose the setting in which to receive the care—either in the home, or a long-term care facility. Through these improved standards, the elderly will have the chance to obtain health services without impoverishing themselves, without burdening their families, and without living in fear of not being able to afford needed care.

This significant legislation deserves our full support as it marks a critical step forward in forging the ongoing debate on health care in this country. Most importantly, it recognizes and responds to the long-term needs of the middle class and must be considered a crucial piece of the health care reform puzzle.

THE BOSNIAN TRAGEDY

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CAMPBELL of California. Mr. Speaker, yesterday I sent a letter to Secretary Baker about the events occurring in the former territory of Yugoslavia. I would like to insert this letter in the RECORD, and urge my colleagues to do all that is necessary to end these horrible human rights abuses.

DEAR SECRETARY BAKER: I am deeply and profoundly troubled by reports of concentration camps in parts of Bosnia occupied by Serbian forces, and possibly elsewhere in areas of former Yugoslavia. I know you are doing all that you can to ascertain whether these reports are correct. Nevertheless, I am chilled by the news that our European allies, notably Britain and France, are taking a hands-off policy. It is extremely distressing to hear the phrase "ethnic cleansing" applied to an operation of deportation, confiscation, and possibly torture and murder, while the rest of the world looks the other way. Ethnic cleansing is nothing but a thinly veiled term for genocide.

The parallel with World War II is too close to justify any substantial delay in using the united force of the international community to stop whatever activity of this kind is taking place. When I hear of the need to take some time to verify the reports, I am reminded of a time—fifty years ago—in which the United States received a report about plans by Germany to commit horrible atrocities against the Jews which we know, in fact, happened. The world, including the United States and the leaders of the United States, turned their backs on the unspeakable suffering in Nazi Germany, and that should not happen again, Mr. Secretary.

We must be no less vigilant in taking action against mass deportation, confiscation, and, if true, extermination, because the victims are Moslem than we would if they were of any other faith. Nor should we withhold from urging action because the situation is in Europe, with little direct likelihood of affecting the directly affected, whenever inhumane treatment of an entire people based on their race or ethnic origin surfaces in the world. It may well be preferable to urge Europe or the United Nations to act first. But if they don't, we should. The same arguments against U.S. involvement were used during the late 1930's, and Europe and the League of Nations did not act. Remaining silent will only be an open invitation to those forces to continue their ethnic cleansing.

Mr. Secretary—please—use the means at our country's disposal to gain access to these camps, and determine exactly what is going on there, and stop any and all human rights abuses. Bring the matter at once to the Security Council. They may vote to support our taking steps, they may even vote to join them. But please, wait no longer.

Best regards,

Congressman TOM CAMPBELL.

JACKSONVILLE, IL, FINEST

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of my colleagues the dedicated public service of one of my constituents, JoeAnna Caldwell.

Mrs. Caldwell has been active in many aspects of community service in Jacksonville and was recently voted Jacksonville's Most Influential Person. Consistently over the years, Mrs. Caldwell has lent a helping hand to those in need and she has encouraged others to do so as well.

The following is a synopsis of the life and good works of JoeAnna Caldwell in the Jacksonville community.

JOEANNA CALDWELL

JoeAnna Caldwell received the most votes in the Jacksonville's Most Influential Person poll. When she was growing up in Alton, Illinois, this achievement seemed impossible. Her family was very poor and she has been quoted as saying "Until five years ago I cried every night over my childhood."

During her years in Alton, she began doing things for others, for example, giving out clothes and food for the poor, volunteering as a babysitter for many hard-working parents. Twenty-seven years ago, she married Paul, a Pentecostal preacher. The couple moved to Jacksonville in 1979 to start a new life. She was employed with Mobil Chemical and pastored at Holy Ghost Temple. At this point, Mrs. Caldwell saw the immediate need to help the children in the community who were receiving hot lunches at school, but nothing during the weekends. She started passing out sack lunches to anyone that needed them on the street corner and eventually expanded to four locations.

After a while, she started passing out sack lunches containing peanut butter and jelly sandwiches, a snack cake, celery or carrot sticks, fruit juice and chips each week to "children, black and white, adults and teenagers." This was known as "Saturday's Children."

Two years later in the winter months she started a "Soup Monday" in her home for adults. JoeAnna, along with many volunteers, distribute approximately 25 gallons of soup weekly.

Mrs. Caldwell attended Lincoln Land Community College and became an associate in social justice. She has worked for Big Brother-Big Sister Organization for many years.

In 1990, JoeAnna and her husband, Paul, started the Spirit of Faith Church and added the Faith Center earlier this year, 1992. The Faith Center is a soup kitchen and tutorial center. Currently, she is leading a program for 3-year-olds through high school students on Mondays, Wednesdays, and Fridays, for tutoring them in algebra. She has helped start the "I have a dream" program for children ages 7–11 who can learn about etiquette: how to take and give compliments, manners, and even how to eat correctly. JoeAnna is also waging a war on drugs through prayer. When the new school year begins, she will have talks and motivations for drug addicts only and adult literacy classes. Other items on her agenda include: literacy classes, cooking workshops, employment counseling, and general business knowledge. JoeAnna is also a member of the Jacksonville School District 117 Board of Education.

The Caldwells are proud parents of 10 children, five of them are adopted and one a nephew, all living in their home over the years. The reason for the five adopted children is because when she was a child she wished someone would have adopted her.

JoeAnna just does not only care about the poor and hungry, she does something about it. Her future plans are to expand the Faith Center. She would like to have a basketball court, volleyball net set in concrete, microwave, and a couple of computers.

HONORING FREDA FRIEDMAN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ENGEL. Mr. Speaker, it is with distinct pleasure that I recognize today my constituent and friend, Freda Friedman, on the occasion of her 85th birthday.

During all my years as an active member of the Co-op City community, Freda Friedman has been there every step of the way. She cares deeply about her family and her community, and her work has reflected that commitment. As a charter member of the Co-op City Chapter of Women's American ORT, she has participated in many programs designed to assist the community. As a local past president and treasurer, and as an honor roll chairperson of the Bronx region, she has given the ORT organization many hours of her time.

I know Freda's three children, six grandchildren and her great-grandchild, Gregory, are proud of her accomplishments. We are all lucky to be blessed by Freda's friendship, and we extend to her greetings for a happy and healthy birthday.

UKRAINE INDEPENDENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GILMAN. Mr. Speaker, I rise to commemorate the first anniversary of Ukraine independence. As a long time admirer of the Ukrainian people, I am delighted that after so many years of Soviet subjugation, they can realize their aspirations.

Thanks to the Ukrainian people's determination and unyielding belief that democracy would triumph over communism, the long dark night of totalitarian rule has finally ended. I am proud to have worked closely with the Ukrainian-American community throughout the years in an effort to keep the flame of freedom alive in the Ukraine.

All Americans have long encouraged the Ukrainian people to stand up to oppression and are gratified that Ukrainians have finally prevailed in the arduous struggle against communism. Ukrainian-Americans in particular, are to be commended for their dedication to the cause.

We must remember, however, the road to freedom and democracy is not an easy journey. Ukraine still faces enormous challenges. America must continue to be engaged and strive to support this young democracy.

As the thrill of new freedoms fades, the Ukrainian people must deal with serious problems. Building a free market economy will need our help. Economic assistance, including active private sector involvement, will be necessary in the transition from a command to a free market economy.

We are pleased to note that one strain upon the neophyte Government of the Ukraine has been reduced. I am referring, of course, to the growing tensions between the Ukraine and the Russian Federation over the Black Sea fleet have recently signed an agreement giving Russia and the Ukraine joint control for 3 years. After 1995, the two parties will decide on permanent division of the fleet and its assets.

Since the conflict between Russia and Ukraine began, I have urged the United States administration to promote an equitable and peaceful resolution to this problem, as well as the broader issue of the Crimea. The Crimean peninsula has long been a part of Ukraine, and under international law, border changes may not be affected through force or without the consent of the parties.

The United States Government should adjust its attitude toward the new government in Kiev. Ukraine is an independence state, and our policies must reflect that in word and deed. We must make it clear to the leadership of the Russian Federation that we view Ukraine as a completely separate and independence nation.

Let me conclude by congratulating the Ukraine-American community for their hope that Ukraine would once again be prosperous and democratic. We have worked together to bring the dawn of freedom to Ukraine. We will continue to help improve ties between the United States and the newly independence, democratic Ukraine.

A TRIBUTE TO RALPH KINTER, EARTH DEFENDER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GEKAS. Mr. Speaker, I would like to take this opportunity to recognize a constituent of mine who has recently been honored for his dedication to the environment. Ralph Kinter of Harrisburg, PA, was awarded the National Audubon Society's Earth Defender's Award for his local wetlands study and protection project. Each year the National Audubon Society dedicates this award to an individual who has made a significant difference in preserving the environment. I am proud to say that this year Ralph Kinter was a recipient of this honor.

The issue of wetlands can be characterized as polemic and void of headway because of the differences between coalitions. However, Mr. Kinter's program greatly decreases that gap and helps to create an understanding acceptable to both interests. It is through this project to help identify and protect wetlands with the ultimate goal not to stop development, that he sets the framework for such a pact. Along with other wetlands resource personnel, Mr. Kinter trained local volunteers how to check the accuracy of wetlands delineation maps. After locating potential wetlands, Mr. Kinter and the volunteers worked to protect the endangered species that inhabited the area.

Mr. Kinter is the past president of the Appalachian Audubon Society. He started the wetlands project in 1988 and it is still going strong today. Thanks to Mr. Kinter thousands of animals have been spared an untimely death and wetlands of the Harrisburg area have been preserved. I am pleased to recognize Ralph Kinter as a defender of the Earth.

THE NATIONAL QUALITY COMMITMENT ACT OF 1992

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LAFALCE. Mr. Speaker, America simply cannot afford to conduct business as usual. As American manufacturers increasingly lose ground to their international competitors, we as a nation need to recognize the importance of quality in the production of manufactured goods. Therefore, today I am introducing legislation to encourage our Nation's colleges and universities to teach tomorrow's managers how to produce high-quality manufacturing output.

A nation's standard of living is determined largely by that nation's productive capability. According to a recent MIT study, "Made in America: Regaining the Productive Edge," "[t]o live well, a nation must produce well." The study finds that American industry is not producing as well as it ought to produce, or used to produce, and that, in many cases, it does not produce as well as its international competitors.

Product manufacture is a critical part of our economy. Our manufacturing sector accounts for one-fifth of the United States' gross national product. Foreign competition in the manufacturing sector has increased to the point where, by some estimates, 70 percent of American manufacturing output now faces direct foreign competition.

Manufacturing products that people want to buy is the challenge facing American industry. Our continued success in today's global marketplace depends in large part on the quality of American products. But quality is a learned value. We must teach quality.

EROSION OF ECONOMIC LEADERSHIP

The American economy grew at an unprecedented rate in the two decades following World War II. During those years, the United States was the undisputed world leader in economic output, scientific discoveries, new technology, and innovation.

America's overwhelming economic lead was bound to erode as other countries recovered from the devastation of war and rebuilt their economic base. And in fact, America's productivity advantage has declined in the ensuing years. If we are to maintain a high and rising standard of living domestically, American productive performance must improve. We must change what international observers cite as a flawed American manufacturing philosophy.

THE MALCOLM BALDRIGE AWARD

In 1987, Congress created the Malcolm Baldrige Award. The award encourages American industry to achieve a higher standard of quality. The award has produced a number of success stories, and in its brief existence, has come to define the American standard for excellence. In fact, the award has begun to transform the American industrial philosophy. Our manufacturers are beginning to recognize and preach the value of commitment, vision, quality, and excellence.

Any Malcolm Baldrige Award recipient understands the importance of these values. Any award recipient also knows that the quality value must be taught. American workers must know quality in order to produce quality. Tomorrow's workers must be taught quality.

TOTAL QUALITY MANAGEMENT

Quality training is a key to success in the New World economic environment. Total quality management theory teaches that every business, function, and individual has an important role to play in satisfying customers and making defect free products. Proctor & Gamble, Motorola, Xerox, IBM, and American Express have sponsored the Total Quality Education University Challenge to educate university faculty and administration in total quality management.

European manufacturers know the value of quality training. Recently, the Presidents of 14 top European companies formed the European Foundation for Quality Management to promote total quality management techniques. Fifty European universities incorporate total quality management theory into their general management curriculum. European companies anticipate that total quality management will boost their gross earnings margins by 17 percent and will reduce their variable costs by 35 percent.

America must learn the value of quality. A manufacturing consulting firm recently testified before the House Science, Space, and Technology Subcommittee on Technology and Competitiveness that, "if the United States ever expects to receive the full economic benefits of the 'Quality Revolution', we need to develop a national quality implementation strategy that addresses the fundamental roadblocks to quality improvement." One strategy the firm promotes is to make total quality management training a prerequisite in management and engineering degree programs.

COLLEGES' AND UNIVERSITIES' COMMITMENT TO QUALITY AWARD

The legislation I am introducing provides for three annual awards to selected universities and colleges that, first, excel in teaching total quality management and process manufacturing engineering to business and engineering students; second, excel in practicing total quality management in their internal management; and third, excel in employing total quality management in their business relationships with industry.

The legislation provides for further specialized awards of up to $500,000 to be awarded to colleges' and universities' engineering or business schools. The proceeds of the award must be used to further enhance the total quality management or process manufacturing engineering curriculum at the institution.

The award to colleges and universities envisioned in this legislation is modeled after the prestigious and highly motivational Malcolm Baldridge National Council Improvement Award. This legislation goes to the heart of the matter. The leaders expected to ensure our Nation's standard of living tomorrow are being trained in the classrooms of today.

CONCLUSION

Today, national security is increasingly defined in economic rather than military terms. The United States faces unprecedented challenges in the global marketplace. The message is clear. In order to be a world economic leader, we must make the best product in the world.

We must adapt our manufacturing strategies to the New World economic environment. The award provided for in this legislation will accelerate the adoption of total quality management and strengthen American economic performance. The text of the bill follows:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The act may be cited as the "National Quality Commitment Act of 1992".

SEC. 2. PURPOSE.

It is the purpose of this Act to provide for the establishment and conduct of a national commitment to quality award program under which awards are given to institutions of higher education that—

(1) teach effective total quality management;

(2) reorient their education programs to emphasize the value and prestige of pursuing careers in process manufacturing engineering;

(3) apply total quality management to the operations of their institution of higher education; and

(4) apply total quality management in their joint research and development contracts with private industry.

SEC. 2. AWARD PROGRAM.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

"SEC. 22. NATIONAL COMMITMENT TO QUALITY AWARD PROGRAM.

"(a) PROGRAM ESTABLISHED.—

"(1) IN GENERAL.—The Secretary shall carry out an award program to be known as the National Commitment to Quality Award Program.

"(2) CONTENTS.—In carrying out the award program described in paragraph (1), the Secretary—

"(A) shall conduct a competition and make monetary awards in accordance with subsection (b)(1);

"(B) may make special awards in accordance with subsection (b)(2); and

"(C) shall provide each recipient of such a monetary or special award with a medal described in paragraph (3).

"(3) MEDAL.—Each recipient of an award under this section shall receive a medal bearing the inscriptions 'National Commitment to Quality Award' and 'The Quest for Excellence'. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary may prescribe.

"(4) DESIGNATION.—Awards under this section shall be known as National Commitment to Quality Awards.

"(b) AWARDS.—

"(1) COMPETITION FOR MONETARY AWARDS.—(A) From amounts appropriated pursuant to the authority of subsection (j), the Secretary shall periodically conduct a competition and make at least 3 monetary awards to institutions of higher education in accordance with the provisions of this section.

"(B) The monetary awards described in subparagraph (A) shall be in an amount equal to—

"(i) $3,000,000 for the institution of higher education receiving first place in the competition described in subparagraph (A);

"(ii) $2,000,000 for the institution receiving second place in such competition;

"(iii) $1,000,000 for the institution receiving third place in such competition; and

"(iv) not more than $1,000,000 for any other such institution receiving an award pursuant to such competition.

"(2) SPECIALIZED AWARDS.—(A) From amounts appropriated pursuant to the authority of subsection (j), the Secretary may award to any institution of higher education that excels in teaching or practicing either total quality management or process manufacturing engineering services productivity improvement a specialized award.

"(B) The specialized award described in subparagraph (A) shall be in an amount which is not more than $500,000.

"(3) APPLICATION FEE PROHIBITED.—The Secretary shall not charge an institution of higher education a fee in order to apply for or receive an award under this section.

"(c) MAKING AND PRESENTATION OF AWARDS.—

"(1) IN GENERAL.—The President (on the basis of recommendations received from the Secretary), or the Secretary, shall periodically make awards to institutions of higher education which in the judgment of the President or the Secretary have substantially benefited the economic and social well being of the United States through activities that—

"(A) teach effective total quality management techniques and approaches;

"(B) demonstrate continuous improvement in the institution's total quality management curriculum;

"(C) emphasize the value and prestige of pursuing careers in process manufacturing engineering;

"(D) demonstrate continuous improvement in the institution's education program through application of total quality management principles within the institution; and

"(E) demonstrate commitment and application of total quality management principles in joint research relationships that the institution maintains with private industry.

"(2) PRESENTATION CEREMONY.—The presentation of the awards under this section shall be made by the President or the Secretary with such ceremonies as the President or the Secretary may deem proper.

"(3) PUBLICATION AND INELIGIBILITY.—An institution of higher education to which an award is made under this section, and which agrees to help other institutions of higher education improve their total quality management curriculum may publicize its receipt of such award, but such institution shall be ineligible to receive another such award for a period of 5 years.

"(4) USE OF AWARD.—An institution of higher education receiving an award under this section shall use the proceeds of such award to further improve the total quality management and process manufacturing engineering curriculum of such institution.

"(d) AWARD CRITERIA.—

"(1) IN GENERAL.—Awards under this section shall be made to qualifying institutions of higher education that place an emphasis on—

"(A) total quality management, including—

"(i) leadership in teaching how to create a quality culture;

"(ii) leadership in teaching information and analysis such as statistical process contracts for quality improvement;

"(iii) the effectiveness of the institution's quality improvement program to teach integration of quality requirements into businesses' plans;

"(iv) the success of the institution's efforts to teach students how to realize the full potential of the work force for quality;

"(v) teaching quality awareness;

"(vi) emphasis on customer satisfaction;

"(vii) leadership in teaching how to integrate the total quality management philosophy; and

"(viii) demonstrated success in teaching students how to instill the full potential total quality management philosophy in the work force;

"(B) the importance of process manufacturing, including—

"(i) leadership in teaching a better understanding of market forces and industry needs, industrial processes, and manufacturing and quality practices that are driven by market pull, not science push;

"(ii) leadership in developing and teaching a more accelerated approach to research, development, and manufacturing in order to teach students how to move products more quickly from the basic research phase to the commercialization phase with an emphasis on teamwork;

"(iii) leadership in teaching better integration of design and production, including teaching students how to design with manufacturability in mind, and to focus on cost-effectiveness, quality reliability, simplicity, flexibility, and modularity; and

"(iv) leadership in teaching students to give greater consideration to potential commercial applications in the planning and conduct of research and development through input from potential users, and closer working relationship between the national research laboratories, industry, and universities.

"(e) CRITERIA FOR QUALIFICATION.—

"(1) IN GENERAL.—(A) An institution of higher education may qualify for an award under this section only if such institution—

"(i) applies to the Secretary in writing, for the award;

"(ii) permits a rigorous evaluation in accordance with subparagraphs (B) and (C) of the success of the institution's curriculum for total quality management and process manufacturing engineering; and

"(iii) meets such requirements and specifications as the Secretary, after receiving recommendations from the board of overseers, determines to be appropriate to achieve the purposes of this section.

"(B) In carrying out the provisions of clause (ii) of subparagraph (A), the Secretary shall develop evaluation criteria and procedures.

"(C) In applying the provisions of clause (iii) of subparagraph (A) with respect to any institution of higher education, the Secretary shall rely upon intensive evaluation by the board of overseers which shall—

"(i) review the information submitted by the institution of higher education, and through a site visit verify the achievements of—

"(I) the total quality management curriculum and process manufacturing engineering programs of such institution; and

"(II) such institution in practicing total quality management;

"(ii) encompass all aspects of the institution of higher education's total quality management and process manufacturing engineering program, as well as such institution's future goals for its total quality management and process manufacturing engineering curriculum; and

"(iii) include an analysis of whether the institution of higher education is practicing or applying total quality management to its relationships with industry and in its day-to-day administration of the institution.

"(2) CONTRACTUAL ARRANGEMENTS.—The Secretary may, under appropriate contractual arrangements, carry out the Secretary's responsibilities under subparagraphs (A) and (B) of paragraph (1) through one or more broadbased nonprofit entities which are leaders in the field of quality improvement programs and which have a history of service to society.

"(3) RESPONSIBILITIES OF THE BOARD OF OVERSEERS.—The board of overseers shall meet annually to review the work of the Secretary of the contractor and make such suggestions for the improvement of the award process as such board deems necessary. The board of overseers shall report the results of the award activities to the Secretary of each fiscal year, along with its recommendations for improvement of the award process.

"(f) INFORMATION AND EVALUATION.—The Secretary shall ensure that each applicant for an award under this section receives the complete results of the evaluation of such institution conducted pursuant to subsection (e)(1)(ii) as well as detailed explanations of all suggestions for improvements. The Secretary shall also provide information about the awards and successful total quality management and process manufacturing engineering curriculum of the award-winning institutions of higher education to each applicant for an award under this section and other appropriate groups.

"(g) FUNDING.—The Secretary is authorized to seek and accept gifts and donations of property or services from public and private sources to carry out the award program assisted under this section.

"(h) REPORT.—The Secretary shall prepare and submit to the President and the Congress, within 3 years after the date of the enactment of this section, a report on the progress, findings, and conclusions of activities conducted pursuant to this section along with a recommendation for possible modifications thereof.

"(i) DEFINITIONS.—For the purpose of this section—

"(1) the term 'board of overseers' means the board of overseers established pursuant to section 17(d)(2)(B) of this Act for the year in which the determination is made;

"(2) the term 'manufacturing process technology' means engineering training which specializes in understanding and implementing a manufacturing process under which a high quality product is produced in a timely fashion, including simulative engineering and the skills necessary for rapid representative prototyping;

"(3) the term 'Secretary' means the Secretary of Commerce; and

"(4) the term 'total quality management' means a management approach which includes—

"(A) systems thinking; and

"(B) statistical process control, theories of human behavior, leadership, and planning that is quality-driven, customer-oriented, and committed to teamwork.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this section.".

SECRETARY BAKER VISITS LEBANON

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FEIGHAN. Mr. Speaker, I want to commend Secretary of State James Baker's courageous and timely visit to Lebanon on July 23. The last time a U.S. official of Cabinet rank paid a visit to Lebanon was in 1983, following the death of 241 U.S. marines as they slept in their barracks. Lebanon has been enduring a frustrating experience in its attempt to rehabilitate its reputation and to reintegrate itself into the family of nations after the turmoil of its tragic civil war. And this tiny country, which desires nothing more than to be left alone, is still occupied by foreign forces, including 40,000 Syrian troops.

There are still many sanctions placed on Lebanon and Lebanon realizes that convincing the world that it has a credible government capable of guaranteeing security and attracting investment will not be easy. Lebanon has made great progress in its yet unfinished task of disarming militias, strengthening the army, restoring basic public services as well as the release of all Western hostages.

Secretary Baker's trip has given the Lebanese hope that some of the strictures against Lebanon such as the travel ban and the cessation of United States consular services may soon be lifted. Mr. Baker's trip to Lebanon is significant because it is another step that Lebanese society once open, vibrant, prosperous, and truly pluralist will once again return to that same kind of society.

Mr. Speaker, I especially want to commend the American Task Force For Lebanon for its outstanding contribution, drive, and determination to keep Lebanon's plight at the top of the United States foreign policy agenda. Secretary of State Baker's visit to Lebanon is a tribute to their hard work.

COMMEMORATIVE COIN FOR WOMEN IN THE MILITARY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. OAKAR. Mr. Speaker, today I am introducing legislation which will authorize the minting of a commemorative coin to honor the service of our Nation's military women. The proceeds from the sale of these coins will help with the fundraising efforts of the Women In Military Service Memorial Foundation.

Mr. Speaker, in 1986 I was the proud sponsor of legislation which authorized the establishment of the Women In Military Service Memorial. This memorial, which will be constructed at the hemicycle, or Memorial Gateway entrance at Arlington National Cemetery, will tell the story of the dedication, commitment and sacrifice of our military women while in defense of our Nation. Also, for the first time, a registry will be created detailing the roles and service of our Nation's servicewomen.

Authorized in 1986, the private foundation was granted a 5 year time period to establish the memorial. Last fall, a 2 year extension was authorized so that the foundation could obtain final design approval and raise the needed funds to construct the memorial. Hence, the proceeds received from the sale of the commemorative coins will help build the Women In Military Service Memorial.

Mr. Speaker, over the last several years, the foundation has spoken with thousands of women who have served our country in the Armed Forces. Each has a unique story that is part of our American history, never before told. Time is running out. Our veteran population is aging and our country stands to lose part of the history of women's service and the sacrifice and the memories of those who served long ago. This commemorative coin bill will help reach the goal of building the memorial.

TRIBUTE TO PAUL H. DEMPSTER

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today in honor of a great man, Mr. Paul H. Dempster of Woonsocket, RI. Mr. Dempster is the founder of the Because He Lives homeless shelter. As the shelter's devoted founder and ardent advocate, Mr. Dempster has graciously volunteered his life to working for the sake of others.

The shelter has become a sort of refuge of last resort for those who have hit upon hard times. Paul does not question the weary souls who darken his doorway each night in search of a safe place for a night's rest or those who come in search of one of the 7,000 meals he provides each month. He simply offers them a warm bed or hot meal.

But recently, Paul hit hard times himself.

The cancer which struck his spine has left him paralyzed from the waist down. However, Paul remains undaunted in his mission to ease the pain of others. Although confined to a bed at Rhode Island Hospital, Paul Dempster has continued to fight for the right to operate his soup kitchen and shelter amidst criticism that the facility is not needed.

Paul argues that his shelter provides a place for people to receive some immediate help then try to figure out how to restart their lives. Paul recognizes that a shelter and soup kitchen can be that critical bridge for those who want to find the road back but have lost their way.

While Paul is incapacitated, his wife is running Because He Lives but Paul Dempster is vowing to fight back and get back to doing what he does best—serving others in need.

The courageous unselfishness of Paul Dempster provides a lesson in selfless compassion from which we all can benefit. It is my honor and privilege to rise before you to salute such an extraordinary individual. There should be more like you, Paul. I commend Mr. Dempster for his inspiring courage, and wish him a speedy recovery.

REMEMBRANCES OF WORLD WAR II

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GEKAS. Mr. Speaker, I rise today to submit for the RECORD a recent column written by William S. Jackson, editor of the Sun newspaper of Hummelstown, PA. Mr. Jackson has written very eloquently about his remembrances of World War II, and I would like to share those thoughts with my colleagues.

[An Editorial]

PEACE THROUGH REASON

I am sure what I have to say here is going to offend a great number of people, but it is something that has been bothering this writer for several years and I'm going to say it.

I am offended by the Harrisburg Hiroshima-Nagasaki Committee's annual "Candles On The Water" ceremony—scheduled this year for Thursday, August 6, at 7 p.m.—which honors the victims of the bombings of those cities and, as they say in their news release, "today stands as a signal of the world's desire for peace."

I am offended because simply by taking place it implies the people of the area, the United States for that matter, should be overcome with guilt for the bombing of Hiroshima and Nagasaki and should do some sort of annual penance for this.

I am sorry.

I lived through and remember World War II.

I have no feelings of guilt.

I am offended by the apologists who would have us remember only those mushroom clouds and the instant death they represented to thousands of residents of those two cities.

Those same apologists would have you forget Pearl Harbor, Bataan, Corregidor, Wake Island, Manila, China and a near-endless list where Japanese atrocities were committed both before and after the United States entered World War II. They would have you forget how United States diplomats bit their tongues as arrogant Japanese war lords tried to dictate how we would and should become subservient to their whims and desires and how, while we seriously tried to avoid conflict, they were planning a secret attack which would bring the United States to its knees.

I remember how President Harry S. Truman was presented with the estimates by his military planners that a final assault on the Japanese main islands to end World War II would have cost more than a half million American lives and several times more in Japanese lives. I remember how, in violation of every logic in keeping information on weapons secret, President Truman, in his personal anguish, contacted the Japanese leaders and told them of the power of the new atomic weapon the United States possessed. I remember their negative reply and a similar negative reply even after the first bomb was dropped.

Finally, I remember how the dropping of the second atomic bomb finally brought World War II and all its killing to an end.

Hiroshima and Nagasaki were the result of a war we did not want; a war we did not start; but a war we were determined to end.

So * * * I am offended. I am offended local interfaith groups would become a part of this remembrance and thus imply they sanction the guilt they say we should feel. I am offended we remember the victims of the bombs that ended the war, but none of the Japanese-induced victims when they started the war.

If I was to place a candle on the Susquehanna River, it would be to remember the victims of German and Japanese atrocities, not the self-induced victims of their folly.

Yes, I am in favor of "Peace Through Reason" as this group now preaches . . . but as I recall, that is what the United States wanted all along.—W.S.J.

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION 357

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. YATRON. Mr. Speaker, on August 11, I introduced House Concurrent Resolution 357, expressing the sense of Congress with respect to violations of internationally recognized human rights by the Government of Iraq.

Cosponsored by the chairman of the Foreign Affairs Committee, Congressman FASCELL, and Congressman SOLARZ, House Concurrent Resolution 357 calls upon the President to seek the adoption of a United Nations Security Council resolution compelling the Government of Iraq to abide by its international obligations as called for by Security Council Resolution 688.

Adopted by the Security Council in April 1991, Resolution 688 demanded that the Government of Iraq cease its policy of mass repression against its civilian population and allow immediate access by international relief organizations to all those civilians in need of assistance. Unfortunately, unlike the cease-fire resolution adopted by the Security Council, Resolution 688 contains no enforcement provisions.

Currently, the Security Council possesses the authority to force Iraq to comply with the terms of the United Nations cease-fire agreement. When Iraq recently obstructed the work of United Nations weapons inspectors seeking to enter the Iraqi agriculture ministry, the Security Council had at its disposal the use of military action to ensure Iraqi cooperation. Well aware of the prospect of military action, Iraq eventually allowed weapons inspectors into the ministry. The Security Council has no similar authority to force Iraq to comply with Resolution 688.

Mr. Speaker, the overwhelming body of information provided by administration officials, United Nations authorities and human rights groups clearly indicates that the Government of Iraq is committing massive human rights violations and is attempting to starve segments of its civilian population. These brutal policies have increased significantly in recent months. In response to these grave reports, the Security Council convened a meeting yesterday to discuss what actions the United Nations should take to stop these atrocities.

There are a number of multilateral actions the Security Council could authorize to force Iraq to live up to the terms of Resolution 688. Those actions could include: reinstituting a countrywide ban on Iraqi fixed-wing aircraft which have been used to attack the Shi'a population in southern Iraq; providing United Nations guards or military escorts for relief workers who are consistently being blocked from carrying out their humanitarian mandate in Iraq; and placing human rights monitors throughout Iraq to investigate reports of abuses and to report on the Iraqi Government's human rights performance.

Mr. Speaker, if the Security Council is to obtain Iraq's compliance with Resolution 688, it must be prepared to authorize the necessary actions under chapter 7 of the U.N. Charter. House Concurrent Resolution 357 does just that. It calls on the President and the United Nations to respond to the massive suffering being inflicted on the Iraqi people by Saddam Hussein's armed forces.

To be sure, as long as Saddam Hussein is in power, human rights violations will continue to occur. But the United Nations has a moral obligation to put an end to the most outrageous of these abuses.

I urge my colleagues to support House Concurrent Resolution 357 which charts a new course in collective security by defining massive internal human rights violations as a threat to peace and international stability.

Mr. Speaker, at this point I would like to insert a copy of House Concurrent Resolution 357 into the RECORD.

H. CON. RES. 357

Whereas on April 5, 1991, the United Nations Security Council, recalling paragraph 7 of Article 2 of the Charter of the United Nations, adopted Resolution 688;

Whereas Security Council Resolution 688 condemns the Government of Iraq for repressing many parts of its civilian population and demands that Iraq end this repression and ensure that the human and political rights of all Iraqi citizens are respected;

Whereas Security Council Resolution 688 insists that the Government of Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and demands that Iraq cooperate with the Secretary General of the United Nations in pursuing his humanitarian mission in Iraq;

Whereas according to the United States Permanent Representative to the United Nations, the Government of Iraq "is disregarding its obligations under Resolution 688 to permit unimpeded access by humanitarian organizations, and failed to extend an agreement allowing the U.N. to bring humanitarian relief to millions of Iraqis who continue to be denied adequate food, medicine and other essential needs";

Whereas on February 18, 1992, the Special Rapporteur of the United Nations Commission on Human Rights issued a report documenting massive human rights violations committed by the Government of Iraq against its civilians throughout the country in flagrant violation of Security Council Resolution 688;

Whereas the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights;

Whereas the report of the Special Rapporteur includes a recommendation to send a team of human rights monitors to Iraq to investigate alleged violations of human rights and to remain in the country until the human rights situation improve drastically; and

Whereas the Special Rapporteur's recommendation to station human rights monitors in Iraq will be considered at the 47th session of the United Nations General Assembly: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Government of Iraq is committing massive human rights violations against its civilian population and obstructing international humanitarian relief efforts in its country, and these actions constitute flagrant violations of Security Council Resolution 688;

(2) the President, in consultation with the Congress, should seek the adoption of a Security Council resolution under Chapter VII of the Charter of the United Nations authorizing appropriate actions to compel the Government of Iraq to comply with Security Council Resolution 688;

(3) at the 47th session of the United Nations General Assembly, the President should support the recommendation of the Special Rapporteur of the United Nations Commission on Human Rights that a team of human rights monitors be sent to Iraq to investigate alleged violations of human rights and to remain in Iraq until the human rights situation improve drastically; and

(4) the President should seek the adoption of a United Nations Security Council resolution authorizing the placement of human rights monitors in Iraq consistent with the recommendation of the Special Rapporteur.

THE DUNK KINGS' 1992 SUMMER CLASSIC TOUR

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BLACKWELL. Mr. Speaker, I rise to bring to the attention of my colleagues the Dunk Kings' 1992 Summer Classic Tour, an affair that has been ongoing for the last 9 years. The Dunk Kings Basketball Team has come to Seattle, WA, to participate in this annual event.

Mr. Speaker, through the leadership, dedication and commitment of Mr. Aaron Dumas and Mr. David Barton, these young athletes who participate in the summer classic tour are exposed to different cultures and experiences that will serve as valuable springboards for their future growth and development in practically any field that they choose.

Mr. Speaker, the record is clear, the youth who have enjoyed a relationship with these very fine gentlemen have been convinced to travel roads that lead to only that which is constructive and understand the importance of a higher education.

Mr. Speaker, I have witnessed first hand the types of miracles that Mr. Dumas and Mr. Barton have been able to perform over the years in working with our youth. I have seen the troubled youth as they have entered the program under the leadership of these very fine gentlemen. Mr. Speaker, in every instance, the end result has been tremendous. It has been amazing. In short, Mr. Speaker, Mr. Dumas and Mr. Barton have, indeed, worked miracles with our youth.

It is through the love, respect and appreciation for one another, Mr. Speaker, that this world will be a better place in which to live. In this respect, Mr. Speaker, Mr. Dumas and Mr. Barton have really played their parts well; therefore, I ask my colleagues to join me in paying tribute to these outstanding gentlemen.

EARLY EFFORTS OF COLONISTS AND AMERICAN INDIANS TO GET ALONG

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the Continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a statement of Wahunsonacock of the Powhatan Confederacy, as published in a book entitled "Native American Testimony." The editorial comment which precedes the article is provided also.

REMOVE THE CAUSE OF OUR UNEASINESS

(During the winter of 1607, the new colonists at Jamestown, Virginia, lost half their number through starvation and disease. Without the help of their native American neighbors in the Powhatan Confederacy, made up of some thirty tribes, the English would have altogether perished. In this 1609 plea for a continuation of friendly relations, copied down by Captain John Smith, the sixty-year-old leader of the confederacy Wahunsonacock—or King Powhatan as he was called by the English—warns of the very abuses that finally drove his people to rise against the Jamestown community. In the spring of 1622, the Indians killed nearly 350 settlers in a matter of hours.)

I am now grown old, and must soon die; and the succession must descend, in order, to my brothers, Opitchapan, Opekankanough, and Catatugh, and then to my two sisters, and their two daughters. I wish their experience was equal to mine; and that your love to us might not be less than ours to you.

Why should you take by force that from us which you can have by love? Why should you destroy us, who have provided you with food? What can you get by war? We can hide our provisions, and fly into the woods; and then you must consequently famish by wronging your friends. What is the cause of your jealousy? You see us unarmed, and willing to supply your wants, if you will come in a friendly manner, and not with swords and guns, as to invade an enemy.

I am not so simple, as not to know it is better to eat good meat, lie well, and sleep quietly with my women and children; to laugh and be merry with the English; and, being their friend, to have copper, hatchets, and whatever else I want, than to fly from all, to lie cold in the woods, feed upon acorns, roots, and such trash, and to be so hunted, that I cannot rest, eat, or sleep. In such circumstances, my men must watch, and if a twig should but break, all would cry out, "Here comes Captain Smith"; and so, in this miserable manner, to end my miserable life; and, Captain Smith, this might be soon your fate too, through your rashness and unadvisedness.

I, therefore, exhort you to peaceable councils; and, above all, I insist that the guns and swords, the cause of all our jealousy and uneasiness, be removed and sent away.

WAHUNSONACOCK,
Powhatan Confederacy.

STEPHANIE L. WATERS WINS BROADCAST SCRIPTWRITING CONTEST

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CARPER. Mr. Speaker, I am pleased to rise and report to the House that my constituent, Stephanie L. Waters of Smyrna, DE, has won the Delaware competition in the Veterans of Foreign Wars of the United States and its Ladies Auxiliary 45th annual Voice of Democracy Broadcast Scriptwriting Contest. This year's contest theme was "Meeting America's Challenge."

Stephanie is 17 years old and will be a senior at Middletown High School in September. This talented young woman is the daughter of Ted and Joan Waters.

It is my honor and privilege, Mr. Speaker, to submit to my colleagues and this great institution Stephanie's speech.

MEETING AMERICA'S CHALLENGE

(By Stephanie L. Waters, Delaware winner, 1991/92 VFW Voice of Democracy Scholarship Program)

Meeting America's challenge is standing up for what is right and just: the privileges we possess such as freedom and democracy. We, as Americans need to keep looking to help our own, those who are poverty-stricken, the hungry, the unemployed—all those who are struggling with all the daily domestic problems faced by individuals today. The battle is not on foreign soil; it is on the home-front. In order to win this battle, we need to get back to one of the most sacred assets, we, not only as Americans, but also as human beings, possess—the family. So to meet America's challenge, we must go back to go forward; where family life was more important, and morality and charity were part of every man's, woman's, and child's life.

As American citizens, we must look back to the ideals of our founding fathers. The rights of the Constitution will have to be preserved and upheld and never taken for granted. Because the dark curtain of Communism is not completely torn in two in some parts of the world, we have to realize just how lucky we are to have something as commonplace as freedom of religion. Therefore, to meet America's challenge, families of America must stand together to safeguard their God-given rights.

In order for America to maintain its high ideals, we must take pride in our country and our flag. I believe it is a good thing to pledge our allegiance to the flag each day because it shows respect for our country and those who have always stood ready to protect it. American families need to observe national holidays as they are meant to be; a reserved time of honor and memoriam. Meeting America's challenge is keeping our patriotic spirit alive.

As seen in the recent war in the Middle East, sometimes tragic occurrences can have positive effects. Because most of us were experiencing the same fears and anxieties, we Americans shared a mutual concern. Strengthening the common bond among the peoples of our country is another part of the American challenge. Just as it was critical for the colonists to band together in the new America, it is just as important for us to become as one people today.

Meeting America's challenge will mean resolving prejudices in our great Melting Pot. How are we to stay strong when we fight among each other? Our mixture of culture and heritage should not hinder our society. Rather, it should enrich it and make it stronger and more beautiful. Every family should do its best to become educated in different cultural activities to understand better how to co-exist with other individuals.

With advanced technology and our fast-paced society, we tend to forget about some of the simpler things in life that also make this country such a prosperous place to live. Our busy life-styles sometimes cause essential things to be overlooked. People in America are not taking time to really see the hues of an autumn sunset or enjoy a walk in the evening. Instead, everything is rushed, and people are almost programmed not to feel and experience life. I believe this is a major factor in the increase in divorce rates, broken families, and low self-esteem in children. Families of America need to spend time together, communicate, and even eat dinner together. America's challenge is keeping the family as a close unit to make a better, less confusing, less questionable tomorrow. Quality in American family life, I believe, will decrease the need for many people to take drugs, become dependent on alcohol, or commit suicide.

Meeting America's challenge is bringing unity to our nation, keeping our families together, supporting our brothers and sisters, and protecting the freedoms and liberties we have that make us proud to call ourselves Americans. As in any situation, when a group of people is unified, they are unbeatable. If we are to stay "One Nation Under God, Indivisible, With Liberty and Justice for All," we must stand up for our rights as one conjoined family.

HONORING DANA HUGHES FOR ATHLETIC EXCELLENCE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GUARINI. Mr. Speaker, I rise today to salute Danan Hughes, a Bayonne resident and outstanding athlete. On August 30, 1992, the Bayonne Football Alumni Association will be honoring Danan for his outstanding athletic achievements.

Danan was born Robert Danan Hughes in December, 1970, to Bobby and Vernette Hughes. He has one sister, Vanessa, and he is the grandson of Spurgeon and Rosa Lee Hughes and Everett and Hazel Johnson.

He attended first through fifth grade at S.A. Robertson and then was accepted at the gifted and talented program of the Philip G. Vroom School where he graduated from the eighth grade in 1984.

Danan's love of athletics and athletic competition developed at a very young age. At the age of 6, Danan played in the Bayonne Department of Parks Smallfry League. He continued in the Little League playing for Burger King and Surplus Army and Navy where he held the record for most home runs in rookie season. In fact, Danan's first time at Bat in the Little League resulted in a home run. From Little League, he entered the Pony League playing for Commercial Trust when they won the 1985 championship. In 1985, Danan was also awarded co-MVP for the National All-Stars in the Pony League.

Danan's love of sports was not bounded by baseball fields. At the age of 9, he joined the Pal Basketball League and played with the Marine Corps and Gordon Terminal. Danan also played in the Babe Ruth League and with the Bayonne Brewers, the team that clinched the championship in 1984 and 1988.

Athletic skill is nothing new to Danan's family which boasts a long list of accomplished athletes, many of whom attended Bayonne High School.

As a freshman at Bayonne High School, Danan carried on the family tradition of excellence in sports. He played quarterback and defensive back for the championship junior varsity football team. On the baseball field, Danan was pitcher and outfielder, and on the basketball court, Danan played forward. As a sophomore, Danan pitched and played the outfield, leading the Bayonne High School baseball team to the State championship. Junior year, Danan again competed in baseball, football, and basketball, helping his team win the county championship in baseball and football. As a senior, as quarterback and defensive back, Danan led Bayonne to claim the county title once again. The same year, he was named best defensive back. On the basketball court, Danan led the conference in rebounds, and he and his teammates were State champs.

Danan's skill at athletics did not go unnoticed, In 1987, he was the recipient of the Dr. David G. Morris Award. He was selected to the all-county team for baseball and basketball for 2 years and football for 1 year. In 1987, he was chosen first athlete of the year for Hudson County.

In 1987, Danan also tried out for the New York Mets. In 1991, Danan Hughes was drafted by the San Diego Padres. He was also drafted by the Milwaukee Brewers and signed a contract with them to play summer baseball.

Danan's athletic achievements did not go unnoticed. Upon his high school graduation, Danan was already recruited by a number of universities including the University of Iowa, the University of Nebraska, the University of Illinois, the University of Maryland, Boston College, Penn State, and Syracuse University.

Ultimately Danan chose to attend the University of Iowa where he has been a great success. In fact, he will be playing for the University of Iowa at the Meadowlands in New Jersey of July 29. Included among his outstanding accomplishments at the University of Iowa are most valuable player as a freshman versus Purdue, Most valuable player as a sophomore versus Minnesota. He also led the team in receptions for 2 consecutive years, was second in touchdown receptions in the Big Ten, hit the longest home run in Iowa History, led Iowa in batting average as a sophomore, second highest Big Ten draft pick this year, and the only player to named to all big ten championship teams and all Big Ten in both baseball and football in the same year.

Mr. Speaker, I ask you and my distinguished colleagues to join me in recognizing the dedication and outstanding athletic performance of Danan Hughes.

BILL CLINTON OFFERS PRESCRIPTION TO SAVE AMERICANS FROM DRUG PRICE GOUGING

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STARK. Mr. Speaker, in 4 years in the White House, President George Bush has never made a statement—never—about the crisis in the pharmaceutical drug industry and skyrocketing prescription drug prices.

Not one sentence. Not one word. Not a peep.

For 3 out of 4 of America's seniors, pharmaceutical drug costs represent their top out-of-pocket expense. President Bush says nothing.

Americans pay 62 percent more for the same U.S.-made pharmaceutical drug than Canadians do. Americans pay 54 percent more than Europeans for the same drug "Made in the USA". President Bush says nothing.

Think about it, we do the research and development, taxpayer-subsidized of course. We make the drugs, and if made in Puerto Rico, they get a $3 billion annual tax credit. Then the drug companies turn right around and sell the drugs overseas to Canadians and Western Europeans at about half the cost that they sell to American consumers.

The drug industry's own data reveals that pharmaceutical companies spend much more on drug advertising than on research and development. The PMA says drug marketing costs are in the $10 billion range, yet in testimony before the Senate, Genentech reports that its sister companies spend nearly $27 billion on total marketing efforts, in contrast to a reported $9 billion in research and development.

President Bush says nothing. He offers no plan to help Americans who cannot afford needed prescription medications.

Pharmaceutical drug costs have increased at an average rate of three times the rate of inflation for the past several years. It begs the question: "What good are the drugs, if no one can afford them?"

That's a good question for the White House to answer.

Gov. Bill Clinton, in solid contrast, recognizes the obvious problem that Americans face, particularly senior citizens, in affording needed medications. And he offers a solution.

Governor Clinton offers a plan of action, in the form of "The Clinton Plan".

Under a subtitle, "Stop Drug Price Gouging," Governor Clinton outlines two bold principles for action:

First, eliminate tax breaks for drug companies that raise their prices faster than Americans' incomes rise to protect American consumers and bring down prescription drug prices.

Second, discourage drug companies from spending more on marketing than on research and development—because saving lives must come before making money.

This country needs a vision. It is yearning for leaders with courage, for a change.

The issue of prescription drugs is but a metaphor for a call for action. For those Americans currently being gouged by greedy pharmaceutical companies, Bill Clinton offers a ray of hope.

Mr. Speaker, I have introduced legislation, H.R. 3823, that reduces tax breaks for drug companies that consistently hike their prices above the Consumer Price Index.

I'll bet the White House says nothing—or promises a veto.

PUBLIC HOUSING NEEDS HELP NOT "HOPE"

HON. WILLIAM L. CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CLAY. Mr. Speaker, it is truly unfortunate that aid to the poor and help for the distressed inner cities is not high on the agenda of the current administration. What is even more unfortunate is that that program which Secretary of Housing and Urban Development, Jack Kemp, has put at the top of HUD's limited public housing agenda—the HOPE 1 public housing sale initiative—promises to do very little to improve public housing.

As Lawrence J. Vate, a professor of urban development at the Massachusetts Institute of Technology, points out, "public housing tenants are very poor and getting poorer," yet HUD continues to promote a "Kempian fantasy of homeownership." Professor Vate has written an excellent commentary highlighting some of the critical weaknesses in HUD's public housing sale program. I commend this thoughtful article, which appeared in the Washington Post on August 3, 1992, to my colleagues in Congress.

[From the Washington Post, Aug. 3, 1992]

JACK KEMP'S PET DELUSION

PUBLIC HOUSING TENANTS ARE TOO POOR TO BUY THEIR APARTMENTS, AND THEY'RE GETTING POORER

(By Lawrence J. Vate)

In a society that venerates the privately-owned single family home, public housing has remained perpetually contentious. Now that there is reinvigorated debate over the successes and failures of a half-century of government-sponsored social welfare programs, public housing is also coming under renewed scrutiny. Lost somewhere in the shuffle of rapid policy-making, however, has been the gap in logic between the Bush administration's ideological commitment to home-ownership opportunities for public housing residents and the mounting evidence of their increasingly extreme socioeconomic deprivation.

Inspired by the sales of council housing in Britain, HUD policy-makers have wholeheartedly embraced the idea that American public housing should be sold off to tenants. Yet an increasingly large majority of public housing families lacks adequate financial resources to participate, and much of the public homes stock falls far short of the desirable environments usually associated with homeownership.

Ignoring the results of a HUD-sponsored study that cast considerable doubt on HUD's Public Housing Homeownership Demonstration Project, HUD Secretary Jack Kemp incongruously continues to tout public housing homeownership. Can he really be oblivious to the ways that such limited and idealized alternatives to public housing are almost comically implausible notions for most public housing residents?

Public housing tenants are very poor and getting poorer. In the vast majority of large public housing authorities, average household income has been declining, at least since the mid-1980s. HUD now estimates that more than 80 percent of the non-elderly public housing population lives below the poverty line and that the very poorest families are disproportionately non-white.

In large public housing authorities, approximately two-thirds of non-elderly families are headed by single women. As a percentage of only those families with dependent children, the preponderance of female-headed households is even more overwhelming. The national average is 85 percent, and it surpasses 95 percent in some cities. About three-quarters of public housing families report receiving no income from employment, and a growing majority of non-elderly public housing families receive welfare.

These trends identify a population that is ever more vulnerable, both economically and physically. Because public housing has been asked to bear special responsibility to shelter the poorest of the poor, there has been an aggregation of particularly vulnerable households in many multifamily developments at a time when drug related crime and violence is on the rise. Is it then surprising that in some places the public housing stock has been allowed to deteriorate so much that even the Bush administration calls it "severely distressed"?

The National Commission on Severely Distressed Public Housing was established by Congress in December 1989 and charged with establishing a "national action plan to eliminate distressed public housing by the year 2000." This blue-ribbon panel of housing advocates and elected officials released its preliminary report last month.

As one of its principal recommendations, the commission proposes new legislation to create a separate funding program specifically targeted at severely distressed public housing. The creation of this new HUD Special Unit on Severely Distressed Public Housing seems promising and fits neatly within the commission's mandate to address this portion of the public housing stock, but it must not be allowed to distract attention from the rest of the approximately $30 billion backlog of public housing needs.

Without broad attention to all the developments in the nation's public housing stock and to the neighborhoods that surround them, today's relatively stable developments may become part of tomorrow's problems, and even "successfully revitalized" developments may once again decline.

Whatever the statutory changes and increased funding that may follow from the commission's recommendations, important questions remain for the future of public housing. Will a renewed focus on "worst-case" housing developments take away from efforts needed to prevent those developments that are only slightly better off from continuing to decline toward "severe distress"? Will policy-makers lose sight of the broader economic impoverishment that characterizes life in most public housing and in the neighborhoods that surround it? Will the commission's recommendations lead chiefly to improvements in the physical environment without corresponding investment in job training and service provision?

The Commission's Preliminary Report acknowledges that investment of millions of dollars in public housing sites "without stimulating any neighborhood revitalization would be counterproductive," but there is as yet no call for significant additional funds to initiate this stimulus.

Instead, despite a renewed commitment to sustain the public housing stock, the Commission's Preliminary Report cannot resist multiple forays into the Kempian fantasy of homeownership. In the end, though, it is not the ideals of the public housing homeownership advocates that are at fault; it is the superficiality and disingenuousness of their commitment in the context of extreme socioeconomic deprivation that must be called into question.

TRIBUTE TO SANTA MONICA HIGH SCHOOL ORCHESTRA—CHAMPION OF VIENNA MUSIC FESTIVAL COMPETITION

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LEVINE of California. Mr. Speaker, I rise today to pay special tribute to a group of young people that have brought great honor to their school and to their community. The 85-member orchestra of Santa Monica High School recently participated in the International Youth and Music Festival in Vienna, one of the most prestigious musical competitions in the world, and emerged as champion. Their great achievement is heightened by the fact that they are the first public high school ever to earn such distinction.

The International Youth and Music Festival is run by the nonprofit Association for International Cultural Exchange and is sponsored by the city of Vienna and the Austrian Ministry of Education and Arts.

The Santa Monica High School orchestra was invited to attend the event by a talent scout in spring, 1991. Orchestra members and their families spent the following months raising the $100,000 needed to cover the cost of the 2-week-long trip. The student musicians collected donations by giving concerts at local venues and by playing at weddings and for community groups.

The competition began in Vienna on July 11th. On that day, the Santa Monica High orchestra joined 30 other musical groups for an opening concert festival. Over the next 3 days, the groups were ranked by judges and the Santa Monica High School orchestra was selected to play in the final round. The school's chamber orchestra was also chosen for the final round of competition.

On July 16, the Santa Monica group was declared the winner. In addition, the chamber group of the orchestra's best string players won special recognition for excellence. The student musicians were also bestowed with the honor of playing the final concert of the festival.

The students in the Santa Monica High School orchestra have set a fine example for their fellow students and their community. They have proven that American students are among the most talented anywhere in the world.

I ask my colleagues to join with me in honoring these talented young men and women.

THE LEGACY OF RAOUL WALLENBERG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, last week marked the 80th anniversary of Raoul Wallenberg's birth. A hero who saved the lives of thousands during the dark years of the Second World War, we remember him today as an extraordinary and heroic man whose life both directly and indirectly touched many.

When we speak to our children of the Holocaust, as we must, we grasp for a ray of light amidst the darkness brought on by the Nazis. Raoul Wallenberg was that ray of light. He inspires a faith in humanity that withstands the horrors of that darkest era.

Wallenberg left the security and affluence of his home in Stockholm and went into the eye of a storm—Budapest, in the grip of Nazi terror. His belief in justice, mercy, and brotherhood led him on a courageous and dangerous odyssey.

While the world stood by as the Holocaust raged, Wallenberg became an angel of mercy. Using his influence as a diplomat from neutral Sweden, using his wit and audacity, he courageously bluffed his way through one explosive situation after another.

Claiming that they were Swedish citizens, he literally plucked Jews off of trains heading toward death camps. He promptly issued them Swedish visas and passports and hid them in safe houses wherever he could. Amazingly, he was able to convince the Nazi government to allow Jews to leave the country under diplomatic cover.

Raoul Wallenberg put his life on the line every day for people who were not related to him by any ties of kinship or nationality or religion, only because he believed in the brotherhood of man. He has shown us that one individual—motivated only by a compassion for his fellow human beings—can face evil and triumph. One person can make a difference.

Mr. Speaker, if there is a genuine hero to illuminate our age, it is Raoul Wallenberg. His is a profound legacy: The knowledge that as long as there is even one Wallenberg among us, the evil of tyrants cannot triumph. As long as there are men and women who accept the challenge, the oppressors of humanity will be exposed, condemned, and overcome.

DECLARATION BY CROATIAN OPPOSITION PARTIES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. TRAFICANT. Mr. Speaker, I enter the following declaration by the Croatian Opposition Parties into the CONGRESSIONAL RECORD for the consideration of Congress.

DECLARATION OF THE COORDINATING COMMITTEE OF THE CROATIAN OPPOSITION PARTIES

IRREGULARITIES OF THE REPUBLIC OF CROATIA'S STATE ELECTIONS IN 1992

Declared by representatives of the undersigned parties, based on factual evidence and credible written statements of the Electoral Commission of the Republic of Croatia, those being:

1. That more than one print shop printed the electoral ballots, namely "Narodne novin" and "its sub-contractors," thereby eluding the Electoral Commission of the Republic of Croatia of an accurate count of BALLOTS, and consequently, leading to election irregularities.

2. That ballots were not controlled nor distributed by the Electoral Commission of the Republic of Croatia, rather distribution was executed by the aforementioned "print shops," directly from the print shops to the polling places, which is obvious evidence of election irregularities.

3. That upon the completion of elections, ballots are being kept not by the Electoral Commission of the Republic of Croatia, rather by each Municipal Council and a small amount of which is in print shops, thereby proving that the Electoral Commission of the Republic of Croatia cannot have had complete control of the elections.

4. That The Electoral Commission evidenced the finding of 63 ballots in Zagreb at the crossing of Knezije & Selske Streets, across from the "Nama" store at Srednjaci, which is direct proof of the irregulavity of these elections.

5. That there is a series of other credible proof which shows that valid ballots have turned up in significant numbers in many areas, and that the Croatian Democratic Union broke into the computer system of the City Electoral Commission (GIK)—adding only further evidence to the irregularity of these elections.

Based upon the above information, we seek from the Republic's Electoral Commission that it give its judgment as to the validity of these elections, and to do so in keeping with election laws and instructions of the Electoral Commission.

Cosigning Parties: Croatian Social Liberal Party, Croatian Peasant Party, Croatian Democratic Party, Social-Democratic Party of Croatia, Croatian Party of Rights, and, Croatian Christian-Democratic Party, Zagreb, August 11, 1992.

PROTECTING OUR COMMUNITIES FROM HANDGUN VIOLENCE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SOLARZ. Mr. Speaker, on February 26 of this year, a high school student shot two classmates at Jefferson High School in Brooklyn. This gruesome incident highlighted the terrible plague of armed violence that has gripped our Nation. Unless Congress acts, and acts soon, to stop the flood of guns into our communities, we risk losing an entire generation.

The human costs of unrestrained firearms violence is staggering: In 1990, nearly 25,000 Americans died from handgun violence; the FBI reported 11,750 handgun homicides which accounted for half of all murders in 1990; handguns were used in about 12,000 suicides and another 1,000 unintentional shootings; every 2 years firearms take more American lives than were lost during the entire Vietnam war; and among all youths 15- to 19-years old, gunshot wounds are the second-leading cause of death after traffic accidents. For African-American males in the same age group it is the leading cause of death.

The Jefferson High School shootings were hardly an isolated incident. During the 1991–92 school year, there were 10 incidents where a gun was brandished or fired in a New York City school. Three students were killed and three more were injured. During that same time period, 110 handguns were seized in New York City schools.

Treating firearms injuries costs society more than $1 billion each year. Much of this cost is paid by the taxpayers.

The rising death toll from this war in our streets is a public health and safety crisis of historic proportions.

The head of the U.S. Public Health Service, Dr. James Mason, wrote in the July 10, 1992 *Journal of the American Medical Association* that "[A]s a physician * * * I see, in youth violence, an epidemic as frustrating as the acquired immunodeficiency syndrome and as debilitating as such past scourges as polio."

Writing in the same issue, the former U.S. Surgeon General, Dr. C. Everett Koop, pointed to detailed research which "paint(s) a grotesque picture of a society steeped in violence, especially by firearms," and argued that "no society, including ours, need be permeated by firearm homicide. This is unacceptable. Prior solutions have not succeeded. New approaches are required."

Mr. speaker, we must take swift and strong action if we are to rescue the next generation from the rising of tide armed violence. That is why today I am introducing the Handgun Control Act of 1992. This legislation would outlaw the possession, importation, transfer or manufacture of a handgun except for use by public agencies, individuals who can demonstrate to their local police chief that they need a gun because of threat to their life or the life of a family member, licensed guard services, licensed pistol clubs which keep the weapons securely on premises, licensed manufacturers and licensed gun dealers.

Is such drastic action necessary? I believe it is. There are approximately 66.7 million handguns in circulation in the United States, and the supply is increasing by 2 million handguns each year. These weapons account for more than half of all murders annually. In New York City, firearms, primarily handguns, were used in 69 percent of all homicides.

In 1991, criminals fired an estimated 444 shots at New York's finest, A 26 percent increase over 1990, and a 77 percent increase in just 6 years.

Handguns are a menace, not a reasonable way to protect our families, homes and businesses. A study published in the New England Journal of Medicine found that it is 43 times more likely for a gun kept at home to be used on its owner than in self defense. According to the FBI, only 215 "justifiable" homicides were committed with handguns in 1990, a tiny fraction of all handgun killings.

Does the Federal Government need to intervene? I believe there is no other way. Our local governments can't control the flood of weapons without help from Washington.

Even in New York City, with one of the toughest gun laws in the Nation, guns can be purchased with ease by criminals on the street. Commissioner Lee Brown of the New York City Police Department left no doubt where these guns come from when he testified before a House committee. Of the 17,575 guns seized by the NYPD last year, 96 percent were purchased in States without strict gun control. A story in the April 19, 1992 edition of New York Newsday, citing data from the Bureau of Alcohol, Tobacco, and Firearms, reported that 99 percent of all guns used in crimes in New York city came from out of State. According to the story, 35 percent came from Virginia, 35 percent came from Florida, 15 percent came from Ohio, and 7 percent each from Georgia and Texas. Without a uniform national standard, our communities are powerless to keep weapons out of the hands of criminals.

Can we afford a public policy that results in the deaths of 25,000 Americans each year? How many more of our children will have to die before we as a nation resolve to put an end to the killing? The time has come for the Congress to place reasonable controls on handguns. I urge my colleagues to join me in supporting the Handgun Control Act of 1992.

THE 100TH ANNIVERSARY—THE MATCHBOOK

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SWETT. Mr. Speaker, I rise today to ask my colleagues to join me in paying tribute to a great American tradition which is now a century old: the matchbook. One hundred years ago, a Pennsylvania lawyer named Joshua Pusey created the first matchbook. Since then, book matches have become part of our cultural fabric.

Whether igniting the stove for cooking dinner, or lighting the candles on a birthday cake, book matches have played an important role in our society. During World War II, millions of matchbooks were dropped behind enemy lines in Europe with messages that urged people in occupied countries to offer stiff resistance to the Nazi army. Millions were also dropped by the Air Force throughout the Philippines, informing the Filipino people, with the now famous quote, "I shall return", that General MacArthur was coming.

The advertising world owes much to this little invention which has found its way into the hands of millions of people. From chewing gum to stamp collections, from correspondence schools to band-aids, almost everything has been advertised on a matchbook at one time or another. Commemorative books of matches are commonplace at weddings, and virtually every hotel and restaurant throughout the country has their logo imprinted on matchbooks. Even Air Force One has a special matchbook printed exclusively for it.

With the recent awakening to the environmental needs of our planet, book matches are beginning to enjoy a resurgence in popularity. Unlike disposable lighters, matchbooks are made primarily from recycled materials. On this centennial of the creation of the match, the D.D. Bean Company of Jaffrey, New Hampshire even created an Earth Day Match, which has eliminated virtually all material from the book match that would be harmful to the environment.

The five remaining American manufacturers of matchbooks have consolidated into an association known as the American Match Council. It is the aim of this organization to let the world know that American match manufacturers are providing a safe, inexpensive, and environmentally sound light, and that they have been doing so for a century.

Mr. Speaker, the efforts, ingenuity, and industry of these fine American institutions should be recognized and applauded, and the example set by the American Match Council will help "light" the path of industrial leadership for other American firms.

FORTUNE MAGAZINE'S FOCUS ON CHILDREN

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DOWNEY. Mr. Speaker, Fortune magazine recently devoted its entire edition this week to a special report on children in crisis. The significance of this outstanding report is that it is published in a magazine more noted for its passionate defense of the free enterprise system.

But what Fortune magazine has recognized is that the struggle to save America's children is everyone's struggle. Enhancing the quality of life of children is very important to the future of American business. Without a quality work force, America cannot maintain its competitive position in the world.

I want to urge my colleagues to read all the articles in this special issue of Fortune magazine. But Mr. Speaker, with your permission, I will include the introductory article in my remarks.

STRUGGLING TO SAVE OUR KIDS

(By Louis S. Richman)

If the well-being of its children is the proper measure of the health of a civilization, the United States is in grave danger. Of the 65 million Americans under 18, fully 20% live in poverty, 22% live in single-parent homes, and almost 3% live with no parent at all. Violence among the young is so rampant that the American Academy of Pediatrics calls it a public health emergency.

The loss of childhood innocence is a recent phenomenon, affecting all income levels and all ethnic groups. Playground fights that used to end in bloody noses now end in death. Schools that once considered talking in class a capital offense are routinely frisking kids for weapons, questioning them about drugs. AIDS has turned youthful experimentation with sex into Russian roulette. A good public education, safe streets, and family dinners—with both mother and father present—seem like quaint memories of a far distant past. The bipartisan National Commission on Children wrote in "Beyond Rhetoric," its 1991 report, that addressing the unmet needs of American youngsters "is a national imperative as compelling as an armed attack or a natural disaster.

Fortune is unwilling, as some policymakers implicitly are, to write off an entire generation of kids. Fortune is unwilling to wait for today's children to grow up—or to die young—before speaking out in support of their welfare and their future, which, after all, is our welfare and our future. That's why Fortune has devoted this issue to Children in Crisis. The stories in it do not simply recount the problems of growing up in America in the Nineties; they offer solutions to those problems. Solutions cannot come fast enough. Consider:

Every day, more than 25% of women giving birth, 2,900 in all, will have received no prenatal care in the first trimester of their pregnancies. And 25% of that group will have had late care or none at all. Their babies are far more likely to be under normal weight, to have learning disabilities, and to die in their first year of life than children who have had prenatal care.

Children under 16 make up the largest group of Americans without medical insurance. And 56% of kids without health insurance live in households with incomes *above* the poverty line. The U.S. infant mortality rate, 9.8 per 1,000 live births, is higher than that of 19 other industrialized nations, including Spain and Singapore. The proportion of U.S. nonwhite 1-year-olds immunized against polio, measles, and other preventable illnesses lags behind that of 55 other nations, including Iraq and Libya.

The parents of nearly 2,750 children separate or divorce each day. More than half of all white kids and three-quarters of African-American children under 18 will spend some part of their childhood in a single-parent household.

Every day more than three children die of injuries inflicted by abusive parents. Nearly 90 kids a day are taken from their parents' custody and added to the overburdened foster care system.

Mothers of children under 6, the fastest-growing segment of new entrants to the labor force in the 1980s, struggle to find child care solutions for their 11 million children. Some 1.3 million latchkey kids ages 5 to 14 are left to fend for themselves for much of the day.

The typical 14-year-old watches three hours of television daily but does just one hour of homework. During the average school day, more than 2,200 kids drop out. These kids are 3½ times more likely to be arrested and six times more likely to become unmarried parents than those who graduate.

Every day over 500 children ages 10 to 14 begin using illegal drugs, and over 1,000 start drinking alcohol. Nearly half of all middle-schoolers abuse drugs or alcohol, or engage in unprotected sex, or live in poverty.

Over 1,400 teenage girls a day—two-thirds of them unmarried—become mothers. Only 60% of these teen moms will earn a high school diploma or its equivalent.

Among 15- to 19-year-olds, homicide by firearms is the third-leading cause of death (after motor vehicle crashes and suicide) for whites, and *the* leading cause of death for blacks.

Even in this election year, when domestic issues dominate the presidential campaign, politicians find it easier to embrace children than their issues. Kids cannot vote. They don't fill the coffers of political action committees. And they lack the lobbying clout of the elderly, on whom the federal government lavishes $354.5 billion each year—five times more than it spends on children—though the population of Americans over age 65 is less than half that of children under 18.

People of all political persuasions should be able to find areas of agreement. Despite their emphasis on "family values." most conservatives recognize that today's families are vastly different from the ones they grew up in. And few big-government liberals can disagree with Ronald Reagan's former Education Secretary, William Bennett, who says, "Trying to legislate solutions to help distressed children is the equivalent of trying to save a patient by implanting an artificial heart. Only healthy families headed by responsible parents in caring communities can succeed in raising healthy kids."

Corporate America's stake in children couldn't be clearer: The well-being of kids is a competitiveness issue. Business knows well how important education is. If current trends continue, more than 20% of today's sixth-graders will quit before graduating from high school. The Committee for Economic Development (CED), a business-backed research group, estimates that each year's dropouts will earn, in aggregate, $237 billion less (measured in 1990 dollars) over the course of their working lives than those who receive a diploma.

That reduced spending power will slow economic growth, lower living standards, and further widen the gap between the haves and the have-nots. As the tax base shrinks, government will be forced to lift spending for welfare, prisons, and the other adversities of a growing young adult population ill-equipped to lead productive lives. By our continued neglect, a 1991 CED report warns, "we are jeopardizing America's survival as a free and prosperous society.

Fixing schools alone won't solve the problem. Chester E. Finn Jr., an education specialist currently at the Edison Project, which is trying to start a chain of private elementary schools, points out that of all the hours children are alive from birth to age 18, only 9% of them are spent in school. Says William S. Woodside, chairman of Sky Chefs Inc., who headed the National Commission on Children's corporate advisory board: "Nothing business hopes to achieve in the areas of school reform and building a better-skilled work force will happen unless it starts paying attention to early childhood development."

Employers are rapidly stepping up their commitments to helping young children by easing the burdens of working parents. From 1986 to 1989, the number of companies offering child care assistance programs to employees more than doubled, to 5,400. Of course, those efforts can't reduce all the stress on dual-career families. Ron James, CEO of the Minnesota operations of US West Communications and co-chairman of the state's Action for Children Commission, grew up in a poor black family headed by a single mother in Port Arthur, Texas. But he recalls fondly the values imparted through leisurely conversations around the dinner table. Now families are too busy for that. "The new mode of communication between parents and children," he says, "is through notes held to refrigerators by magnets."

More dangerous, and increasingly more common, modes of family communication: beatings, brutal language, and intimidation. In some families parents don't communicate with their children at all. Because of alcoholism, overwork, or indifference, there are no stories, no family folklore, no joking around, no values, no discipline.

Simply ratcheting up the efforts of the present welfare system by adding programs and channeling more money will not help poor children, those most at risk. As many states and localities are discovering, the problem isn't too few programs but too many. In a report last February, Minnesota's Action for Children Commission found that the state spends $4.5 billion on schools and other children's programs annually, but that river of money trickles through some 250 youth and family agencies in 32 different departments, each with its own eligibility and accountability standards.

What's needed is cooperation among public and private youth services, coordination on a community-wide basis, and concentration on preventing problems early instead of dealing with crises when they get out of hand. How can corporations help? James Renier, CEO of Honeywell, thinks business can bring to organizations that work with children the same emphasis on quality, customer orientation, and bench-marking that has been the hallmark of corporate restructuring. But more business people must be involved. Says Reiner: "We won't start moving the rock pile until the day we begin shoveling."

The most successful and cost-effective interventions on behalf of children and families are those undertaken early in the child's life—even before the child is born. Each dollar spent on early prenatal care, for example, saves $3.38 on intensive care in a hospital neonatal nursery. Douglas W. Nelson is head of the Annie E. Casey Foundation, a child-oriented philanthropy established by James E. Casey, founder of United Parcel Service, in honor of his mother. He says, "Allowing problems to become full-blown is the expensive way to solve them. If we get just a little better at prevention early in a child's life, we can afford to do a lot more of it."

That impressive rate of return doesn't include the biggest dividend—a reduction in the misery of babies like Nicole (as we have chosen to call her), born at Metro Health St. Luke's Medical Center in Cleveland just before dawn on June 5. Nicole's mother, 33, an unwed cocaine addict, had already given birth to two other children—a boy, now 17, and a girl, 3. Both had been removed from their mother's custody. As with her earlier pregnancies, Nicole's mother first saw an obstetrician after her labor pains had begun.

Still, of the 15 or so drug-exposed babies born at St. Luke's each month, Nicole was one of the luckier ones. Since she was delivered at full-term, her near-normal birth weight and fully developed organs made it easier for her to withstand the two weeks of drug withdrawal tremors that wracked her body beginning when she was three days old. Her relative sturdiness also sustained her during ten days of intravenous antibiotic treatments to eradicate any of the treatable sexually transmitted diseases to which she may have been exposed in the womb. When this medical ordeal ended, she was ready to leave the hospital nursery.

But she had nowhere to go. St. Luke's overloaded social worker scrambled to line up one of the few foster parents specially trained to care for babies like Nicole. By early fall, however, she will have to be placed into a second foster home to free up space for another crack-exposed newborn.

For preschoolers, a most effective childhood intervention effort is the Head Start program. A long-term study of Head Start participants at the Perry Preschool Project of Ypsilanti, Michigan, found that $1 spent on good preschools lowers expenditures for special education, welfare, teen pregnancy, and incarceration of criminals by $6.

The Bush Administration and Congress committed to extend Head Start to all low-income preschoolers by 1994. They still have a long way to go. Last year's appropriation of nearly $2 billion raised outlays 26%, but that was just half the $800 million increase needed. Only 6% of existing Head Start centers are open full days year-round, though 32% of all participating parents—the vast majority of them single mothers—work full time.

What about children who don't get a Head Start? Gregory (not his real name) is one of the 87% of the 10,000 Head Start-eligible children in Minneapolis whom the program does not reach. In 1990 he entered a kindergarten in a mostly minority neighborhood. Though he showed no signs of learning handicaps, Gregory, 5, was unable to identify shapes and colors or speak in complete sentences as most of his classmates could. Because he had never been around other children in a structured setting, sharing and taking turns were alien concepts to him. During mealtimes, Gregory would grab his food and wander off as the other children sat at tables and ate with forks and spoons. At the end of the term, his class was given a test requiring them, among other things, to distinguish the letters of the alphabet. Nearly all the children passed, but to Gregory the alphabet remained a mystery. Gregory is already at risk of dropping out one day.

Recently business and community leaders in several cities, including Minneapolis-St. Paul and Savannah, have begun coordinated efforts to help children like Gregory. In Minneapolis-St. Paul, Honeywell and other major employers, among them General Mills, the Dayton Hudson retail chain, and American Express's IDS investment advisory subsidiary, joined forces with the United Way, city and state government, and organizations serving children and parents to pioneer an innovative early childhood development program called Success By 6. Its aim: to assure that every child enters school healthy and ready to learn. If that sounds familiar, it's because President Bush's first goal in the Administration's "America 2000: An Education Strategy" is strikingly similar: "All children will start school ready to learn."

Success By 6, started in 1988, came first by three years. It aims to knock down barriers that make it difficult for parents and young children to receive nutritional, medical, and counseling services. All the groups involved cooperate to meet the targets of ensuring early prenatal care to every pregnant woman, immunizing all preschool children, and helping young parents develop child-rearing skills that foster early learning and reduce abuse. Corporations in and around the Twin Cities are financing an aggressive communications campaign to convey the importance of children's well-being to the entire community. Success By 6 is now being replicated in 25 other cities.

Taking a broader approach, Savannah launched its Youth Futures program in 1988. Financed initially by a grant from the Annie E. Casey Foundation, the program hopes to reach all the city's at-risk pregnant women and children from birth through high school. How? With one-stop neighborhood family centers that will coordinate the services of 20 state, city, and private agencies. Youth Futures plans to track by computer all the families it helps, periodically evaluating children's health status and educational achievement and offering continued follow-up support. The Casey Foundation has funded similar Youth Futures startups in four other cities.

Of all the risks children face, poverty and the irresponsible parental role models bred by a welfare system that fosters dependency are arguably the most pernicious. Children today are America's poorest citizens. Some 13 million youngsters—two million more than in 1980—live in households whose annual incomes fall below the poverty line. Kids reared by young and single parents are the worst off. A study by the Children's Defense Fund found that 40% of kids whose parents are under the age of 30 are poor—double the proportion since 1973. Three-quarters of the children of single parents will live in poverty during at least part of the crucial first ten years of their lives.

Poverty, along with the violence and hopelessness it breeds, has been the major factor in the staggering rise in the number of children removed from parental custody. In 1990 a record 407,000 minors were placed in foster homes—up 66% just since 1983. While some of the forced separations result from the physical or sexual abuse that grabs tabloid headlines, most stem from parental neglect—or inability—to provide basic food, clothing, or shelter.

A combination of abuse and neglect required Detroit's Department of Social Services and the police to remove a 9-year-old girl we will call Janice and her four siblings from their 32-year-old mother in the middle of the night in 1988. The scene that greeted the cops and the social worker when they arrived at Janice's home—the tenth the family had lived in during her life—was one of five dirty, ill-clad children crowded into a barely furnished apartment.

Confused and terrified, the children were separated into two groups, piled into police squad cars, whisked away. Though the child welfare agency found a caring, seasoned foster parent to take Janice in, she soon rebelled. Like many deprived children who don't know when they might receive their next meal, she hoarded food. She would scream for hours at a time and bridled at the discipline her foster mother imposed in the first structured environment Janice had ever known.

After she falsely accused her foster guardian of abusing her, the authorities were forced to move Janice again—this time to a more closely supervised treatment home. During weekly visits with a caseworker trained as a therapist, it came out that Janice and another of her sisters had been sexually abused by her mother's boyfriends. Two years into her counseling, Janice is now attending school regularly and getting above-average grades. By summer's end, her caseworker hopes that Janice will be able to be reunited with her mother and other siblings, all of whom have received counseling.

The burdens on the nation's foster care system are now so heavy that frustrated care givers are dropping out. Since the mid-1980s the number of foster parents has declined from 137,000 to 100,000 as demand for placements has swelled.

Straining to keep up, states have begun shifting course: They now try holding troubled families together instead of pulling them apart. In Michigan a new family-preservation effort called Families First relies on intensive intervention by case managers, who work with parents and their children in their homes and are available 24 hours a day over a four- to six-week period. The concept behind the program, says Susan Kelly, its director, is that "the state can never be a good family for children."

The family-preservation approach represents an about-face in how child welfare agencies view their clients. Says Kelly: "We were so busy documenting the family's deficits that we ignored its fundamental strengths." To build on those underlying bonds, caseworkers—who typically help just two or three families at a time over a brief period, vs. the 50 or more drawn-out cases that most social workers must cope with—can use their budgets flexibly for anything from defraying transportation costs for a mother looking for a job to registering a child in a substance-abuse program.

Early evaluations of the program show promise. Over 80% of the 2,400 families who have participated in Families First are still together. In the 18 Michigan counties that have the program, new foster care placements have fallen 10%, compared with a 28% increase in those where the approach has yet to be tried. Families First is also far less expensive than foster care: an average of $4,500 per family, vs. $14,000 for each child placed with a foster parent for a year. If a child ends up in a juvenile detention facility, the state could pay up to $86,000 annually.

The goal of reforming the perverse welfare system should be to preserve and strengthen families. Yet the principal form of public assistance, Aid to Families With Dependent Children (AFDC), is aggressively antifamily. AFDC reaches fewer than 60% of children living below the official poverty level ($10,857 a year for a family of three). It undermines a single parent's incentive to work by withdrawing a dollar of support for each dollar of earnings and discourages welfare mothers from marrying a man who works but doesn't earn very much. In doing so, AFDC deprives children of both sustenance and a socially productive role model.

A bipartisan bill sponsored by Representatives Thomas Downey, a New York Democrat, and Henry Hyde, an Illinois Republican, now in congressional hearings, offers a promising way out of the child poverty trap. The Downey/Hyde bill would change federal tax law to replace the current dependent income tax *exemption* of $2,050 with a refundable $1,000 tax *credit* for all children. This would be much more valuable than the tax exemption for the children of the poor. Trouble is, it would be costly—an estimated $44 billion—and a way to finance it would have to be found.

One unquestionably good part of the bill would step up efforts to identify fathers of illegitimate children and collect child support payments from absent parents. Only 25% of divorced and separated parents who are left with the kids now receive the full amount of court-ordered child support from the absent parent. From all those contributing any support, payments average a meager $52 a week. Children born out of wedlock usually receive nothing from their fathers.

Under Downey/Hyde, the Internal Revenue Service would collect part of the father's income from each paycheck, like the payroll withholding tax for Social Security, and remit it to his children's mother. This would eliminate repeated skirmishes in family court between balking fathers and mothers demanding that they pay up. Columbia University sociologist Irwin Garfinkel calculates that obligatory parental support could yield single parents with children over $24 billion a year—about four times as much as they currently receive. More important, Garfinkel thinks, the new system would remove some of the welfare stigma by demonstrating to kids that their parents, not the state, are looking after them.

Beyond poverty, the other gaping hole in children's social safety net is inadequate health care. While federal Medicaid coverage will expand to reach every poor child under age 6 by 1994, low-income youngsters from 6 to 18 will not get coverage until the end of the decade. Thus, many children of the working poor and long-term unemployed go unprotected.

Blue Cross of Western Pennsylvania created its Caring Program for Children to provide low-cost health care to 40,000 poor youngsters in its 29-county region who do not qualify for Medicaid and lack private insurance. Included: Clyde Waltenbaugh, 8 who suffers from lupus and another chronic ailment. Launched in 1985 as steel mills shut down, the program enlisted the support of local businesses, churches, civic groups, hospitals, and 12,000 physicians to cover uninsured dependent children from birth to age 19.

Operating as a charitable foundation, the Caring Program solicits individual and corporate contributions of $156 per child. Blue Cross of Western Pennsylvania and Pennsylvania Blue Shield match each contribution and absorb all of the $1.5 million administrative costs. For that, every child gets a year of routine doctor visits, diagnostic tests, immunizations, emergency care, and outpatient surgery. Since its start, the program has reached 19,000 children, and it has expanded to 19 other Blue Cross regions around the country. Eugene J. Barone, Blue Cross of Western Pennsylvania chairman, sees the community's mobilization as one of the Caring Program's biggest successes. Says he: "When people hear about the 12 million uninsured American children, they throw up their hands in despair. But when businesses and citizens set to work tackling the problem in their localities, they can have an enormous impact."

Teenagers, failed by parents, schools, and communities, are perhaps in the most danger. Today some 600,000 feral youth roam the streets of America's cities and towns—long since haven given up on school and putting themselves at risk of crime, drug addiction, and, increasingly, AIDS.

Ronnie Lemieux, 16, was one of them. He was born in a blue-collar neighborhood of Boston, the youngest of three children whose father left when he was 2. For the next ten years the family lived with Ronnie's maternal grandmother, who provided the structure and love that their frequently absent mother could not. But when the grandmother died four years ago, Ronnie and his fragile family had to fend for themselves.

As the Lemieux family wandered from apartment to apartment around Boston, Ronnie would enroll in a new school—eight over the next four years—but never went to class. He would hang out with friends on the streets where their mischief soon turned to drugs and crime. By 14, his daily drill involved buying a 40-ounce bottle of beer for breakfast, scoring some "herb" (marijuana), and downing more beer for lunch. For money, he and his friends broke into homes and mugged an occasional passer-by, but they soon found dealing drugs far more profitable. Ronnie says he would earn several hundred dollars a week selling "angel dust" and cocaine. He bought a 9-mm handgun for protection. After a fistfight with his mother's boyfriend, he left home for good.

By the time Ronnie turned 15, he had seen a close friend killed and had been wounded himself. When, finally, the Massachusetts Department of Social Services caught up with him last winter, even Ronnie knew that his life had become too dangerous to continue unchanged. He was referred to a private local group called Bridge Over Troubled Waters that works with homeless youngsters and was offered a place in its South End "independent living" residence.

During the three months since moving into the Bridge facility, Ronnie has begun putting his life in order. The tightly structured but supportive program requires all its youngsters to attend school and hold a job. Otherwise: eviction. Despite his spotty education, Ronnie has already passed his high school equivalency exam. He works full time at a Cambridge restaurant and is saving money for college. "I'm determined to change," he says. "Nothing they ask me to do is hard because it is what I want."

And if he hadn't found a last chance with Bridge? "I'd have no choice but to go back to selling drugs," he says. "By 18, I'd be dead." For the health of its own civilization, America just cannot afford to let Ronnie fail again.

LOCAL 25, MARINE DIVISION OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS DEDICATES NEW HEADQUARTERS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, August 22, Local 25, Marine Division, of the International Union of Operating Engineers, will hold the dedication ceremony of its new headquarters in Metuchen, NJ. Saturday's event will also mark the installation of recently elected officers. Perhaps most importantly, it will also provide an opportunity to pay a much-deserved tribute to the Operating Engineers' long-serving leader, Mr. William F. Zenga.

Local 25, Marine Division of the International Union of Operating Engineers represents more than 2,500 highly skilled men and women who operate the dredges, drillboats, tugboats and other specialized marine equipment utilized in harbor improvement, beach reclamation and shore protection projects, as well as the tugboats used in conjunction with a variety of marine construction and general towing work, in a 35-State jurisdictional area. The "Dredgemen's Union" began in 1941 as a branch of IUOE Local 825, when Stephen J. Leslie was assigned by the general president of the Operating Engineers, Joseph Fay, to organize the dredge workers within New York Harbor. The Dredgemen were then known as local 825–D.

Since the membership of the Dredgemen's Union expanded during the 1940's and 1950's, the International Union of Operating Engineers granted the Dredgemen their own Local Union Charter in 1959. Since 1959, the Dredgemen have been known as local 25 and Stephen J. Leslie served as president and business manager of local 25 until 1986. Also in 1959, the Great Lakes Steam Engineers and Rock Drillers became part of local 25 and successful organizing in the previously nonunion Southern States. Local 25's membership was expanded to over 4,500.

Local 25 is unique within the framework of American Labor. Instead of a jurisdictional area confined to a single State or several sparsely populated States. Local 25's has a 35-State jurisdictional area from Brownsville, TX, to the northern border of Maine.

Since 1986, Mr. William F. Zenga has served as business manager of local 25. Since assuming the leadership of local 25, Mr. Zenga has kept pace with the innovations within the marine construction industry and has expanded local representation in areas such as towing services for marine construction, subaqueous cable placement, rock trenching, core drilling and subaqueous hydrocarbon pipelines.

As a Representative of a coastal district, and as a member of the Public Works and Transportation Committee, I have worked closely with Mr. Zenga on a wide variety of issues. He is always a source of great assistance, support and expertise. Mr. Zenga and all of the members of the Operating Engineers have a commitment, which I strongly share, to maintaining the economic vitality of our harbor regions. As a New Jerseyan, I am particularly happy that finally, after 32 years of sharing office space in Brooklyn, local 25 will be dedicating its new home in our State on Saturday.

THE COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HORTON. Mr. Speaker, one of the highlights of my career was the 2 years I spent as Chairman of the Federal Commission on Paperwork. Created in 1974 in response to public complaints about regulatory paperwork burdens, that Commission issued 36 reports and 770 recommendations to eliminate the much burdensome paperwork regulations imposed on all Americans and businesses.

The need for a paperwork reduction commission in the 1970's was great. The total cost of Federal paperwork was huge. By the mid-1970's, the cost of this paperwork was estimated to exceed $100 billion a year, much of it was necessary, some of it unnecessary. In any case, the cost of this regulatory burden was ultimately imposed on consumers through higher prices and higher taxes, lower productivity and fewer jobs.

There was also psychological costs—the anxiety, frustration, and anger that people experience when dealing with excessive paperwork and red tape.

The Commission also found that needed information sometimes was not being collected, was not reliable, or was not timely. All of which unnecessarily limits the success of Federal programs. In some instances, useless paperwork actually prevents programs from achieving their goals.

The major thrust of the Commission's findings was that Government policymakers should take into account all costs of paperwork, including citizen frustration and administrative inefficiencies, as well as the substantial dollar cost. Information, we argued, should be managed as resource, as we now manage money, personnel, and property.

I am proud to suggest that the work of that Commission resulted in permanent government reforms. The Office of Information and Regulatory Affairs at the Office of Management and Budget was created to provide a check on the Federal Government's appetite to impose paperwork burdens. The work of the Commission also resulted in the enactment of the Paperwork Reduction Act and the elimination of countless forms at the Internal Revenue Service and the Department of Defense.

Unfortunately, while the Paperwork Commission slowed the growth of Federal regulatory paperwork, such burdens did not come to a stop. Federal paperwork burdens still consume an inordinate amount of time from the lives of average Americans and small businesses.

According to the Business Council on the Reduction of Paperwork, the official estimated annual burden as of April 30, 1992, for all currently approved Federal reports is 6.5 billion hours. The Business Council has used government surveys to suggest that this 6.5 billion hour figure is understated by a factor of seven. This suggests that the actual burden associated with completing Federal paperwork is nearly 36 billion hours.

Using the generally accepted figure of 65 percent of that 36 billion hour total as the business sector's share of the burden, it becomes obvious that the Nation's employers are spending a stunning amount of money to meet Federal paperwork requirements.

For that reason, my good friend and Government Operations Committee Chairman John Conyers, Jr., and I are today introducing Legislation to create another Paperwork Commission. This Commission, however, shall recognize the advancements made in the area of information technology and shall, therefore, be called the Commission on Information Technology and Paperwork Reduction. The need for such a commission today is as great as it was in the 1970's.

I urge all of my colleagues to support this legislation for several reasons. First, the regulatory burden on Americans and small businessess is great. As I have already indicated, it has been estimated that American businesses must spend over $1 trillion to comply with Federal paperwork requirements. It is never too late for the Federal Government to step back and look at the regulatory and paperwork burdens being imposed upon its citizens. This Commission shall look at paperwork burdens and overlapping regulations, and make recommendations to the President and Congress where unnecessary burdens can be eliminated.

Second, this Commission shall look at the recommendations of the 1970's Commission, determine what recommendations have not been implemented, and why, and endorse those recommendations which are still credible.

Most importantly, this new Commission shall look at the information technology developments which have occurred during the past two decades and determine whether the Federal Government is taking advantage of newest technology available to collect, interpret, analyze, and store information.

As we all know, the advancements made in the information technology arena have been great during the past 20 years. The Commission's chief task will be to investigate ways that today's electronic technology can be used to reduce the amount of paperwork produced or required by Government agencies.

We are now using technology that was not even thought of in the 1970's. From electronic funds transfer to electronically filed tax returns, these save paperwork and should be encouraged.

Finally, it is also my hope that this Commission will take a hard look at the ongoing debate over Presidential regulatory review. Although the President has a constitutional obligation to ensure that the Federal Government is effectively managed, critics of Presidential regulatory review have argued that the President has used such organizations as the Council on Competitiveness to undercut legislative intent when drafting regulations.

The forum for this debate however should not be the politically charged floor of the House during this election year. Let a Commission, appointed by Congress and the next President, debate the appropriate role for regulatory review in our constitutional system.

As the former Chairman of the Commission on Federal Paperwork, I strongly believe that the time to revisit the issue of regulatory paperwork burdens is today. I encourage all Members to lend their support to this effort.

A Bill to Establish a Commission on Information Technology and Paperwork Reduction—Summary of Provisions

FINDINGS AND PURPOSE

This section finds that federal information reporting requirements continue to place an unprecedented paperwork burden upon all Americans. This makes it necessary to reexamine policies and procedures which have an impact on the paperwork burden placed on all Americans.

This section also reestablishes the policy of the Federal Government to minimize the information reporting burden.

FUNCTIONS

It shall be the function of the Commission to:

(a) Review the findings of the 1970's Commission on Federal Paperwork to determine which of its recommendations have been implemented and which recommendations still warrant further consideration.

(b) Study and investigate federal statutes and policies relating to information gathering, processing, and dissemination, and the management and control of these information activities.

(c) Recommend changes to federal statutes and policies to reduce the duplication of information collected, minimize the burden imposed by Federal reporting requirements, and reduce the costs of federal paperwork.

Upon submission of the Commission's final report, the Director of the Office of Management and Budget (OMB) shall:

(a) Formulate the views of the Executive agencies on the recommendations.

(b) Implement those recommendations to the extent practicable.

(c) Propose legislation needed to implement recommendations requiring statutory authority.

MEMBERSHIP

The Commission shall be composed of 19 members, as follows:

(a) Two Members of the Senate, not of the same political party.

(b) Two Members of the House of Representatives, not of the same political party.

(c) Two local government officials.

(d) Comptroller General of the United States.

(e) Director of OMB, Secretary of Treasury, and one other Executive Branch official appointed by the President.

(f) Nine private sector members appointed by the President.

EFFECTIVE AND EXPIRATION DATE

The effective date shall be January 21, 1993, so as to allow the President elected in November, 1992 to select Commission members. The Commission expires two years following its first meeting.

TRIBUTE TO COMMEMORATE THE FIRST ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BONIOR. Mr. Speaker, I rise today to announce the observance of the first anniversary of Ukrainian independence at the Ukrainian Cultural Center in Warren, MI. On Monday, August 24, the center is hosting a commemorative banquet to celebrate the Ukrainian parliamentary proclamation of independence.

Throughout the world, the establishment or restoration of liberty is always a cause for celebration. And, there is good reason for this. Liberty, not only fosters prosperity, it also instills a deep sense of pride—pride in the knowledge that we control our own destiny.

I am confident that the independence of Ukraine will rejuvenate the proud spirit of the Ukrainian people. The struggle was long, yet the people of Ukraine have accomplished the first step in becoming a free and prosperous nation.

It is no surprise that Ukrainians in Michigan are celebrating this proclamation of independence. Michigan is home to the third largest Ukrainian community in the United States. With so many friends and relatives remaining in the ancestral homeland we are particularly pleased that Ukraine is independent. The natural ties that exist will inevitably prove to be beneficial both to Ukrainians and Americans.

It is evident that the Government of Ukraine also places much importance on its relationship with the people of Michigan. This is demonstrated by the fact that Hon. Victor Kryzhanivsky will be attending this banquet. Mr. Kryzhanivsky serves as the Deputy Permanent Representative of the Permanent Mission of Ukraine to the United Nations. As the second highest ranking Ukrainian diplomat at the United Nations, he will deliver the keynote address. We are very pleased to have him as our guest.

The historic first anniversary is a true cause for celebration. I commend the committee for the Observance of Ukrainian Independence Day of Metropolitan Detroit, the Ukrainian Congress Committee of America, the Ukrainian America Coordinating Council, and the members of the Ukrainian Cultural Center for organizing and hosting this commemorative and cultural program. I am truly looking forward to the event.

A SPECIAL TRIBUTE TO HERBERT CORNELIUS KENNY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STOKES. Mr. Speaker, I am saddened to inform my colleagues of the recent passing of Herbert Cornelius Kenny. A singer and former Washington radio announcer, Mr. Kenny died at his home in Columbia, MD, on July 11, 1992.

Mr. Kenny was a member of the original Ink Spots singing group. He joined the Ink Spots in 1944 and remained with the group until their breakup in 1952. The Ink Spots were among the first black singing groups to reach a broad audience with their recordings which included such hits as "Gypsy" and "To Each His Own."

After the Ink Spots split, Herbert Kenny continued to entertain audiences with his singing, making solo appearances at several hotels and clubs in the Washington and Baltimore areas. In 1958, he was hired as a disc jockey at Washington's WUST radio station and later worked as a deejay for station WMAL and as the program director at station WHMD.

Mr. Speaker, over the years, I have had the privilege of working with Herb Kenny's talented wife, Mrs. Minnie Kenny, of Columbia, MD. I extend my deepest sympathy to his lovely wife, his two children; Daphne Jackson of Millburn, NJ and Paul Morris of Baltimore, MD, and his seven grandchildren on the loss of this wonderful and talented man.

ROCK CREEK TENNIS STADIUM BILL

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. VENTO. Mr. Speaker, today I am introducing a bill that directs the transfer of a tennis stadium built on National Park Service land to the District of Columbia and contains a prohibition on inappropriate commercial activities on national park lands throughout the country.

The Rock Creek Tennis Stadium, which is located within Rock Creek Park in Washington, DC, has developed numerous serious operational and promotional activities that are not compatible with the National Park Service mission and which are objected to by local residents who have lacked input into the administration and operation of events at this stadium. The stadium's presence has caused considerable and sharp concerns in the community and has seriously compromised National Park Service management of the immediate area. To further complicate the situation, the Department of the Interior, in a misguided attempt to allow additional activities at the tennis stadium, has now promulgated an unprecedented special rule for Rock Creek Park that allows commercial advertising there. Such a regulation has implications for the entire national park system. As chairman of the Subcommittee on National Parks and Public Lands, I do not condone such violations of the very spirit of our Nation's national parks. Parks are to be retreats from commercialism, not allowed to become the bastions of commercialism. The recent tennis tournament at the stadium included Infiniti automobiles on display, gambling for prizes and assorted samples and signups, including one for a "Four Day/Three Night Fantasy Bahamas Cruise". Such a country club carnival atmosphere has no place in a national park.

The measure I am introducing has three major parts: First, the transfer of the tennis stadium to the District of Columbia; second, a restriction on commercialism in national parks; and third, a clarification on the organized activities and special events allowed on national park lands.

This legislation will give the District of Columbia control over this essentially local recreation resource and will provide benefits to the residents of the City of Washington, DC, through its continued use as an appropriately local recreational facility. It will also give the National Park Service a better ability to manage its lands, free of inappropriate commercial intrusions, and give it more control over the myriad activities held on national park lands. I do not believe that these national park lands should be so sacrosanct that nobody can picnic, run, cross-country ski, or otherwise recreate on them. At the same time, organized activities and special events held on park lands must be appropriate to a national park and not harmful to its enjoyment and resources. This bill will further that very basic and founding principle of the national park system.

CLARIFICATION REGARDING THE SENIOR EXECUTIVE SERVICE IMPROVEMENTS ACT OF 1991

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SIKORSKI. Mr. Speaker, it has recently come to my attention that there is a question over the implementation of Public Law 102–175, the Senior Executive Service Improvements Act of 1991. Today, I would like to submit for the record, a letter that Mrs. Marella and I, as authors of the legislation, sent to the U.S. Office of Personnel Management regarding the Post Office and Civil Service Committee's intent in enacting section 3 of H.R. 2270, regarding a limitation on a Federal agency's authority to reassign senior executives.

COMMITTEE ON POST
OFFICE AND CIVIL SERVICE,
Washington, DC. April 9, 1992.

Hon. CONSTANCE B. NEWMAN,
Director, U.S. Office of Personnel Management Washington, DC.

DEAR DIRECTOR NEWMAN: We are writing in regard to H.R. 2270, the Senior Executive Service Improvements Act of 1991, which was signed into law in November of last year. We would like to set forth the Committee's intent in enacting Section of H.R. 2270, regarding a limitation on an agency's authority to reassign Senior Executives.

The purpose of including Section 3 in the bill was to protect SES career employees from the arbitrary termination of the 120 day get acquainted period required by title 5, United States Code Section 3396 (e)(1) by new non-career supervisors. This termination was accomplished by "detailing" the career employee during the get acquainted period to another position, in effect denying the career executive the opportunity to prove him/herself in his/her present position to the new non-career supervisor and/or the new agency head.

As Representative Sikorski said in his floor statement during passage of the bill, the legislation placed limitations on the ability of a non-career supervisor to detail a career Senior Executive during the statutory 120-day get acquainted period. We sponsored H.R. 2270 in response to the complaints the Subcommittee received from SES employees who had not been given the benefit of the get-acquainted period. Section 3 was drafted to protect SES employees who were being denied the required 120 days by details, since we believed that if an employee could be detailed without restriction during that 120 day period, the purpose of the statute was being violated.

As you know, OPM insisted that a parenthetical phrase, "not to exceed a total of 60 days" be inserted in Section 3 before H.R. 2270 was enacted. We agreed to the language with the understanding that it set a 60 day limit on the length of any detail taking place during the 120 day get-acquainted period. In other words, even if the SES employee is detailed for a period of 60 days during the 120 day period, the employee will still work under the non-career supervisor for a full 120 days. The detail would merely suspend the 120 day period by the time of the detail, which cannot exceed 60 days. This provision is intended to ensure that career executives have the full statutory 120 days get-acquainted period to prove themselves.

Please send the Subcommittee a copy of any guidance OPM has distributed to agencies interpreting this language. Thank you for your assistance in this matter.

Sincerely,

CONSTANCE MORELLA,
Ranking, Member.
GERRY SIKORSKI,
Chairman.

CREDIT CARD MAIL THEFT PROTECTION ACT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MANTON. Mr. Speaker, I rise today to introduce the Credit Card Mail Theft Protection Act. This legislation would prohibit the unauthorized use of credit cards and provide stricter penalties for the theft of credit cards and other mail from Postal Service facilities.

Recently, US Postal Service officials have been fighting a battle with thieves who are stealing mail at an alarming rate. The rise in thefts is predominantly due to the high volume of credit cards being sent through the mail.

Thieves steal the credit cards from Postal Service vehicles, carriers, relay boxes, street collection boxes, residential mail boxes, and offices costing consumers and businesses hundreds of thousands of dollars annually. This problem has become particularly acute in my congressional district where an increasing number of Postal Service relay boxes are being broken into. Although current enforcement efforts, such as tamper proof locks on relay boxes, have helped combat thefts, new Federal legislation is necessary to assure an end to this serious problem. The Credit Card Mail Theft Protection Act is designed to accomplish this goal.

The bill I am introducing today calls on the Federal Reserve Board, in consultation with the Federal Deposit Insurance Corporation and the Federal Trade Commission, to issue regulations which will result in discouraging the theft of credit cards from Postal Service facilities. At a minimum, the regulations would require card issuers to mail credit cards inactive if mailing to, through, or from a high-risk crime area. In order to activate the card, card holders would have to contact issuers of the card verifying they received the card by way of a personal identification number [P.I.N.]. This action would render all cards useless to thieves, eliminating their ability to reap criminal profits and, therefore, their incentive to steal the credit cards.

In addition, the legislation would allow some card issuers to be exempt from complying with the "inactive status" method provided they developed another approved procedure which guaranteed that rightful owners received their credit cards.

The Fed, FDIC and FTC will also be responsible for prescribing standards for determining high-risk areas in consultation with the Postmaster General.

Not only will this piece of legislation deter thieves from tampering with the U.S. Mail System, but the bill will also increase the penalties for those who continue to steal mail and use stolen credit cards. Specifically, the act stiffens the punishment for committing credit card fraud, for destroying credit cards in the mail, for stealing or receiving stolen credit cards, and for Postal Service employees or officers who steal credit cards. It is essential that those committing these serious crimes be subject to serious consequences in order to end this rash of mail robbery and credit card fraud.

Finally, the bill requires the Board and the Postmaster General to each conduct studies determining the extent of the credit card theft problem and submit reports to Congress describing their findings and recommending any additional steps they feel necessary.

Mr. Speaker, the American people are fed up with crime. My constituents are outraged that even their mail is not safe from criminals looking to steal a credit card and ripoff banks and retail merchants. These lawbreakers must be stopped. The Credit Card Mail Theft Protection Act represents our opportunity to take action. We must join together and pass this important legislation designed to stop these crimes, impose tough new penalties on credit card thieves, and save consumers and businesses hundreds of thousands of dollars annually.

ITW HI-CONE ANNOUNCES PILOT RECYCLING PLAN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HYDE. Mr. Speaker, permit me to share with my colleagues a unique and important environmental success story.

The consequences of improper disposal of plastic products on wildlife is becoming better understood. Of particular concern is the waste trail created by plastic six-pack rings used to package popular canned beverages. Although small in size and seemingly innocuous, these plastic rings are particularly difficult to dispose of, and reportedly dangerous to many species of wildlife.

In an important step to ease the waste problem, ITW Hi-Cone, designer and world's largest manufacturer of the plastic six-pack rings, has announced a major recycling effort in tandem with the State of Illinois.

Students in schools across the State and visitors at Illinois State parks will now have an opportunity to recycle the plastic rings in designated receptacles while making a contribution to the Illinois Heritage Endowment Trust Fund.

Through a partnership between the Illinois Department of Conservation and ITW Hi-Cone, the trust fund receives 8 cents for every pound of six-pack rings returned to the company for recycling from anywhere in Illinois.

In 1992, the company expects to recycle more than 100 tons of the plastic rings, 20 percent in Illinois alone.

The trust fund, created by the State legislature in 1987, will provide the department of conservation a stable source of supplemental moneys to support the State's natural heritage. ITW Hi-Cone, headquartered in Itasca, Illinois, is a division of Illinois Tool Works, Inc.

In the years ahead, ITW Hi-Cone will exclusively manufacture versions of the rings that will decompose when exposed to sunlight, and include a tear tab feature on the rings that will make them more wildlife friendly.

The Illinois program is a pilot program. If it works as expected, ITW Hi-Cone is prepared to launch a national program similar to the Illinois experiment. I share this success story with my colleagues as evidence that public/private cooperation can improve the quality of life for us, and the wildlife with which we share our world.

OFFSET PAPERBACK RECOGNIZED FOR 20 YEARS OF PUBLISHING

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. KANJORSKI. Mr. Speaker, I am pleased to recognize today a remarkable company located in Dallas, PA.

Offset Paperback Manufacturers, Inc. celebrated its 20th anniversary this past May. However, its history reaches back to 1907, when Russian immigrants founded Universal Printers in Canada. The company relocated to Phoenix, AZ in 1965, trading as Valley Paperback.

Four years later, the company moved east to be closer to the heart of the industry, this time settling in its present home in my district. In 1972, Saul and Abe Simkin purchased Valley Paperback, changing its name to Offset Paperback. The growth of the company can best be judged by the increase in its employees from 120 in 1972 to 636 today. Offset's clientele includes eight major publishing houses in New York and boasts more than 150 customers.

In 1980, Bertelsmann AG of Gutersloh, Germany, bought an interest in Offset Paperback and, until 1987, worked with Abe Simkin on setting a course for growth through technology. In 1987, Bertelsmann became full owners of the company.

Through the efforts of Saul Simkin and his cousin, Abe, a small printing company became the foundation for what is, today an economic leader in northeastern Pennsylvania. By purchasing Delta Lithograph Co. in Van Nuys, CA, Offset now operates on both coasts. Under the capable leadership of its president, Michael J. Gallagher, Offset Paperback Manufacturers continues to prosper and provide employment opportunity for area residents.

Offset Paperback's history and growth over the past 20 years are an shining example of the strength of America's small businesses. I congratulate Offset Paperback Manufacturers on 20 years of success and wish them continued prosperity.

TRIBUTE TO REGINA MARSHALL

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, I would like my colleagues here in the U.S. House of Representatives to join me in honoring a very special person who has made great contributions to her community, Ms. Regina Marshall.

Ms. Marshall, who has had a distinguished career in the field of education, is leaving her present position to pursue a Ph.D. at New York University. She holds a master of arts degree in early childhood studies from Kean College.

Since 1988, Ms. Marshall has served as a member of the Newark Education Council. Prior to that, she was associate executive director of YWCA of Essex and West Hudson counties. She has served as project director of Newark Family Resource Center and executive director of Chen School. In addition, she worked as head teacher at Babyland Nursery.

She was a student member of the American Psychological Association, and president of the Invington Board of Education form 1990 to 1991.

I am proud to have Ms. Marshall as a member of my Child Care Advisory Task Force. She is enthusiastic about the child care issue and always has good ideas and suggestions to put forth.

She has served treasurer of the League of Women Voters since 1988 and serves on the board of the READY Foundation. She has served as president of the Protestant Community Center/Friendly Neighborhood Center.

Mr. Speaker, Ms. Marshall is an outstanding person and a well-respected professional who is using her many talents to help others achieve their goals. Ms. Marshall will be honored by her many friends at an event on Thursday, August 13. Please join me in wishing here all the best as she goes on to another major achievement in her life. She serves as a wonderful role model for young women, and I know that she will continue to excel in all her endeavors.

OPPOSE IRA EXPANSIONS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. PEASE. Mr. Speaker, yesterday the other body took up debate on its $31 billion tax bill, with Super IRAs as its centerpiece. As the Washington Post noted, this bill is a top contender for the worst bill of the year award.

The expansion of IRAs is simply a bad idea. It would confer nearly all of its benefit on upper-income Americans. There is no credible evidence that it would improve net U.S. savings levels, and it would cost the Federal Government billions of dollars of lost revenue outside the 5-year budget window.

Bad as Super-IRAs are, it would be a travesty to make them the centerpiece of an urban aid package. By no stretch of logic will it help our distressed cities to grant super generous tax breaks to well-off Americans, no matter where they live.

Look beyond the vested interests which pay for those full-page ads in roll call supporting IRA expansions. Recall the embarrassment of congress a dozen years ago when we got stampeded into "All-Savers Certificates." Oppose Super-IRAs.

JAPANESE STUDENTS TO VISIT CONGRESSIONAL DISTRICT

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. WHEAT. Mr. Speaker, I would like to take this opportunity to welcome a group of 32 Japanese students who will visit my congressional district later this month.

Sponsored by Kansas City New Experiences and Relationships [KC NEAR], these students are traveling across the country, living with host families and gaining a truly first-hand insight into American life.

In the process, each of these students will have the opportunity to share their own cultures and unique perspectives with all of the Americans they encounter during their stay.

I commend KC NEAR for fostering understanding and promoting good will between the citizens of the United States and Japan, and I wish each of the following students an enjoyable and enriching stay in Kansas City and the many other regions of the country they will visit:

Isobe, Hitomi; Kobayashi, Eiko; Manabe, Yuki; Michiue, Tomomi; Mihara, Nobulake; Miura, Yukiko; Miwa, Akiko; Mori, Kazuaki; and Morita, Harumi.

Moritera, Rie; Moriya, Yasushi; Nakae, Tomoyuki; Tokutake, Shihoko; Watanabe, Kanako; Yamada, Mariko; Yamakawa, Yoshihi; Yamamoto, Junko; Yamamoto, Mahiko; and Yasui, Chihiro.

Yoshida, Tomoka; Yoshiyasu, Mie; Yuasa, Michiko; Ito, Naoko; Miyajima, Yukie; Mizutani, Sachiko; Morita, Yuka; Nohara, Fumiyo; Seo, Hayami; Takeuchi, Kuniko; Takeuchi, Yuko; Watanabe, Misaki; and Yoshimura, Kaori.

NATIONAL DRUG POLICY HAS IT BACKWARD

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STARK. Mr. Speaker, Our national anti-drug policy is flawed.

For more than a decade, the policy coming from the other end of Pennsylvania Avenue has been to fight the drug war by focusing on supply-side strategies, particularly interdiction, eradication, and enforcement. Still, many contend—and the data support the claims—that the availability of illicit drugs has remained constant while increasingly violent crimes terrorize our neighborhood streets all across America.

Simply put, we are spending more of our money in the wrong places, and not enough in the right places.

Last year, the Federal Government spent nearly $12 billion to fight our drug war. But did the taxpayers get their best bang for the buck? Probably not. I thing U.S. drug policy would pay bigger dividends if we channeled more resources into the demand-side solutions of drug education, treatment and rehabilitation, and prevention.

The Council on Hemispheric Affairs recent report on the status of our drug war raises some interesting points and makes some helpful suggestions to policymakers. The report was authored by researchers Amy Horng and Alan Yanovich. I recommend it to my colleagues:

U.S. DRUG POLICY NEEDS URGENT OVERHAUL—DRUG WAR MUST FOCUS ON CURBING DEMAND

(By Amy Horng and Alan Yanovich)

Although the U.S. government is waging a drug war with a budget that has doubled to $12 billion since President Bush took office, narcotics continue to plague this country. Heightened attacks upon drug production facilities in foreign countries have had little impact upon its availability in the U.S.. Billions of dollars spent on law enforcement have not made drugs harder to get, have not decreased drug-related violence here and abroad, and above all, have not attacked the fundamental problem of demand. So long as the domestic market for drugs remains high, supply will never falter. Meanwhile, only a fraction of the annual U.S. drug budget goes to prevention, education and treatment programs—which should be the payoff zone of a rational U.S. anti-drug strategy.

PRESENT POLICY AN UTTER FAILURE

Even though approximately $21 billion of the $30 billion allocated since 1990 to the federal government for its drug battle has been spent on supply reduction efforts in this country, narcotics are no harder to get today than they were three years ago: In fact, Americans consumed more than $17 billion dollars worth of drugs last year. Two-thirds of the current U.S. drug budget, a ratio adopted from the Reagan Administration's anti-drug strategy, is being lavished on law enforcement, which has ineffectively coped with an ever-increasing drug supply. Even Pentagon participation, bolstered by a $1.2 billion budget line for 1992, largely has been futile, as the General Accounting Office concluded when it stated last September that approximately $2 billion worth of Pentagon detection and monitoring over the last two years has had little positive impact on reducing drug supply.

As aerial drug surveillance missions multiply over the Caribbean basin and the Andean nations, so does coca leaf production throughout the region. Worldwide net coca leaf production increased from 291,100 metric tons in 1987 to an estimated 337,100 metric tons in 1992, foreshadowing a growing supply of processed cocaine on the market in the near future. The European community, citing a rise in the number of new production facilities in Brazil, Venezuela and Central America, believes that as much as 1100 metric tons of pure cocaine were produced in 1991. Even the White House, perhaps optimistically, has acknowledged the worldwide cocaine production last year had reached 900 metric tons, almost double the amount estimated to have been produced in 1988. Simply put, the billions of dollars spent yearly on law enforcement and interdiction efforts, both within the U.S. and in the drug-producing regions, have failed to halt the flood of cocaine reaching the United States.

Another point to consider in evaluating the relative lack of success of the supply-side anti-narcotics approach, is its devastating effect on the frail democracies of the Andean region where the crop is grown and processed. Since President Bush announced the five-year Andean Initiative in September 1989, Washington has been pumping more than $2 billion dollars in military and law enforcement assistance into Peru, Bolivia and Colombia. White House pressure on the governments of these countries to escalate and to militarize the war on drugs already has led to the "dirty war" in Colombia that has been characterized by indiscriminate bombings of civilian targets by the drug lords, with 300 security forces shot dead in the Medellin area alone in less than a year, and murder rates of upward of 25,000 per year. In Peru, it indirectly has persuaded large numbers of the poor to join the cadres of the Sendero Luminoso, thereby intensifying the guerrilla conflict in that country. U.S. pressures on Bolivia have contributed to a worsening of the living conditions of peasants and their alienation from the Paz Zamora government.

A NEW DIRECTION FOR U.S. POLICY

Given Washington's failed efforts to make significant inroads into the availability of drugs, U.S. policy would do well to begin to emphasize the reduction of demand. It is ironic that President Bush has failed to understand the importance of the modest success his own underfunded policies on drug education and treatment slowly have had in reducing demand, particularly since this is the only phase of his strategy that is able to report positive results. Had he understood this, he would have taken more effort to thrust this phase into the fore of his antidrug program. There are indications that drug education—surviving on a meager pittance of only $713.4 million for 1991—nevertheless has helped to lower consumption, as drug use gradually has been, at least until recently, on a decline. According to a federal survey cited by Joseph B. Treaster in the New York Times, cocaine use decreased significantly from 12.2 million occasional users in 1985 to 6.2 million in 1990, but unfortunately rose by an additional 0.2 million in 1991. Such dismaying recent trends are sufficiently alarming to justify, on an urgent basis, the allocation of much greater funds for drug treatment and rehabilitation efforts, which combined, received only $1.9 million last year.

Taking into consideration that drug supply has continued to expand recently—despite an $8 billion budget in 1992 for law enforcement and the criminal justice system—while drug demand has shown some decline, it is surprising that the White House has not concluded that it's time to tip the balance in favor of the demand factor by redressing the 70-30 budget ratio which presently favors supply reduction. If the drug war is ever going to be won, it must be fought here, on our own turf. The drug scourge must be confronted in neighborhoods throughout the U.S. and other rich drug-consuming nations, but must be fought with a different type of ammunition than that currently relied upon by the Administration. Education and treatment should be the cures of choice in dealing with drug consumption, leading this country to spend far more on cutting demand and relatively less on fighting supply. Once demand ceases, those who peddle the illegal substance, like Pablo Escobar, may be inclined to go into early retirement.

COMMENDING JUDITH HARGIS, WINNER OF THE PATHFINDER AWARD

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MORRISON. Mr. Speaker, I would like to take this opportunity to personally congratulate Judith Hargis, a nurse with the Yakima Health District, who was one of 14 Americans who earned the Pathfinders Award for her leadership, achievements, and dedication to the national fight against HIV infection and AIDS.

Many celebrities have been recognized for their work in this field, but thousands of citizens like Judy Hargis have gone to extraordinary lengths to help family, friends, and the community accept the challenge and the reality of the HIV virus.

Judy deserves our collective praise for her untiring efforts. Among her many activities she has worked within our local prisons with intravenous drug users; founded Carebearers, a volunteer support group that provides companionship and services to people with AIDS; and created the New Hope Clinic, bringing together health care professionals as volunteers.

Judith Hargis is truly making a difference in the Yakima Valley, and I wholeheartedly salute her and the other winners of the Pathfinder awards.

TRIBUTE TO NOVA PRIVATE INDUSTRY COUNCIL JOB TRAINING PROGRAM

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MINETA. Mr. Speaker, I am honored to take this opportunity today to recognize the NOVA Private Industry Council Job Training Program administered by the city of Sunnyvale, CA, which was selected earlier this year by the Department of Labor for its Presidential Award as an exemplary training program. In particular, the new Skills Testing, Assessment, and Reemployment Center—the STAR Center—has distinguished itself with its superb case management strategy.

Workers in the front lines fuel this Nation's economy. The flexibility, innovation, productivity, and commitment to quality are paramount as American businesses compete.

The Job Training Partnership Act, which has made programs such as these a possibility, represents the recognition by Congress that people, not machines, determine our Nation's economic strength.

When Congress created the JTPA in 1982, we included a new program that authorized training for dislocated skilled workers permanently displaced from their jobs.

This aspect has become increasingly important as the character of the workplace in the United States has changed.

The wisdom of the JTPA in its delegation of management responsibilities to the States and localities where it is possible to deal with the changing character of the workplace.

This approach is extremely important in northern California, where the workplace is continually evolving. We face very specific problems that are addressed by STAR services.

In Silicon Valley, the high specialization of industries call for highly specialized employees.

Unfortunately, there is a quick turnover of industries themselves that correlates with the short lifetimes of products as technology advancements occur at lightning speed. As a result, jobs become outdated and highly specific employees are left behind.

The declining number of new workers entering the labor market each year severely limit the labor pool available to employers.

Innovative programs such as NOVA's STAR services demonstrate that in Silicon Valley and around the Nation we have the imagination to meet the challenges that will be presented by the increasingly technical and specialized workplace, and our changing work force.

Federal programs like the JTPA ensure that we will have the resources to keep this partnership working.

TRIBUTE TO THE PETERBOROUGH ADOPT-A-MILE PROGRAM

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SWETT. Mr. Speaker, I rise today to ask my colleagues to join me in applauding the efforts and achievement of the town of Peterborough, NH. Through the dedicated work of local volunteers, this community has managed to keep their streets litter-free. Based upon a program already utilized in various communities across the country, Town Administrator John Isham took the initiative to establish the Adopt-A-Mile Program of Peterborough.

Each individual or group that volunteers in essence adopts a strip of roadway and then becomes responsible for keeping it clean. The town, in turn, provides signs with the name of each volunteer, marking their stretch of road. In the first year alone, over 30 groups participated in the program, including the Girl Scouts, senior citizens, and area businesses. To date, an impressive 75 percent of all the town's roadways are covered, and it is believed that the program will now grow even greater.

The continuing commitment of these concerned people, not only to their community, but also to the environment, warrants our heartfelt gratitude. A special dedication is required to maintain these litter-free roads, as this is not merely a one-time effort. From the beginning of April, through the summer and to the first heavy snowfall, these devoted citizens are striving to better their neighborhood.

Mr. Speaker, it is community involvement of this kind that our country relies upon for its strength and beauty, and it is through the efforts of people, like those in Peterborough, NH, that we earn respect as a nation.

THE INTRODUCTION OF THE DISTRICT OF COLUMBIA NOTIFICATION ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. NORTON. Mr. Speaker, I am introducing legislation that will have a positive effect on D.C. residents with the added bonus that it is as likely to benefit the Federal Government as the residents of the District of Columbia. My bill requires consultation and advice that will alleviate avoidable tension when the Federal Government takes action that impinges on District neighborhoods by substantially altering the physical environment or by a change from local to Federal ownership or leasing.

This bill requires that Federal agencies give prior notice to the Mayor of the District of Columbia, chair of the city council, and chair of the appropriate advisory neighborhood commission. Such notice must be received at least 60 days before the activity is to be carried out. An exception is possible in cases where the government certifies that emergency conditions exist.

This measure is warranted in the light of recent experience. Federal agencies sometimes have moved into local communities without regard for their residential character or local zoning requirements. Unnecessary disputes involving issues that in many cases could easily have been resolved with the opportunity to consult have resulted. Often there has been no objection to a facility or a change, and suggestions that would actually benefit the government have had no structured process for presentation. Needless community resentment as well as delays to the government then result. Fairness to the community and an opportunity for the government to benefit from constructive suggestions require more than the wasteful hit-and-miss approach that is all that is now available.

We have no desire for veto power over Federal facilities, and, of course, none would be possible. When community consultation has been sought, however, we have seen clear benefits to the government from suggestions from those who know this community best. Concerns can be addressed and tension between the community and the Federal Government eliminated.

My bill provides the opportunity for rational problem solving between two jurisdictions that benefit from living together. Far from objecting to the Federal presence, the residents of the District welcome it and understand that the Federal Government is the very basis of our upscale economy. Neighbors get along best when they talk things out ahead of time rather than fighting them out after the fact.

The modest 60-day notice period my bill provides is a courtesy that residents should be entitled to when the Federal Government moves beyond its core area. My bill is designed to facilitate governmental action without tension and with respect to all concerned.

TIMBER SALVAGE CALIFORNIA: A NATIONAL EMERGENCY

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LEHMAN of California. Mr. Speaker, the result of a 6-year drought in California has now led to a severe forest death on our forests lands. In some cases nearly one-third of the forests are dying or are dead from lack of water and the subsequent infestation of beetles. Experts have warned that these forests are on the brink of a tragic catastrophic fire.

Today, I call upon the President to provide the leadership to prevent a devastating fire in our national forests in California and at the same time help a dwindling timber industry. He can accomplish this by signing an emergency declaration which would permit an expedited salvage and thinning operation for forest lands managed by the Federal Government.

State and Federal forestry authorities agree that a prompt and environmentally sensitive forest salvage operation will help reduce the threat of a major fire. Although the U.S. Forest Service has attempted to expedite some salvage operations, the efforts are simply not keeping pace with the rate of destruction of the resource.

Again, Mr. President, please sign the emergency declaration and save our forests.

DEDICATION OF THE INSTRUMENT LANDING SYSTEM AT ST. CLAIR COUNTY INTERNATIONAL AIRPORT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BONIOR. Mr. Speaker, the people of St. Clair County know that today we are faced with what is no longer a relatively simple matter of driving to the next town to sell our products. Our market is now further down the road and, in some cases, overseas.

It is with great pleasure that I will be joining with the St. Clair County officials in dedicating the new Instrument Landing System [I.L.S.] at the St. Clair County International Airport on August 27, 1992.

The I.L.S. sends radio signals to assist landings when weather conditions cause low visibility. By allowing the county airport to provide service to aircraft in a broader range of weather conditions, the I.L.S. will help bring business and investment to the area. Moreover, the system will allow St. Clair County to better establish its place in regional, national, and international markets.

I am proud to have played a role in obtaining the I.L.S. But this important project would not have been possible without the help of Mary Mechtenberg and CARL LEVIN. I am also pleased that funding has been secured for maintenance of the system to relieve the county of this significant burden.

Air transportation represents a key transportation link for the future of economic development. With the addition of the I.L.S., St. Clair County Airport promises to be a major force driving economic growth in St. Clair County.

INTRODUCTION OF FILIPINO VETERANS EQUITY ACT OF 1992

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MINETA. Mr. Speaker, I am proud to join today with my distinguished colleague from California, Ms. PELOSI, in introducing the Filipino Veterans Equity Act of 1992.

As you know, Mr. Speaker, the 1990 Immigration Act at long last recognized the right of Filipino veterans of the U.S. military during World War II to apply for U.S. citizenship.

Since the enactment of the 1990 legislation, however, severe problems have arisen with its implementation.

Most notably, the Immigration and Naturalization Service [INS] delayed implementation for more than 1½ years, and did not begin the necessary interviews until October of last year.

As a result, only 21 percent of eligible Filipino veterans have made applications. Because this provision will expire in November of this year, an extension is clearly needed.

In addition, the requirement that Filipino veterans travel to the United States in order to be sworn in as citizens has proven terribly costly and burdensome—and not only to the Filipino veterans themselves.

These individuals are senior citizens, and while they are now allowed to claim U.S. citizenship, their children and grandchildren are unable to join them here quickly.

As a result, social services agencies are being overburdened by the needs of Filipino veterans whose families are not allowed to travel here to help with their support.

The Filipino Veterans Equity Act will address these problems. First, by extending the application deadline through November 1995, it will allow time for the State Department and the INS to more effectively inform Filipino veterans of their eligibility under the act.

Second, it will allow Filipino veterans to be sworn in as United States citizens while still in the Philippines. This will help to ensure that they do not have to impoverish themselves to come to the United States.

Third, by providing for special immigration status for their children, the act will lessen their reliance on social services when they do travel here. Allowing their families to join them in the United States is not only humane, but will ensure that their children and grandchildren will be able to assist in their support.

Mr. Speaker, these Filipino veterans are heroes who fought valiantly for this Nation during one of the darkest periods of our history. They should not be denied their chance for U.S. citizenship because of bureaucratic delays and red tape. This legislation will ensure that the United States keeps the promises and lives up to the commitments we made to them.

I ask my colleagues to join Congresswoman PELOSI and myself in supporting the Filipino Veterans Equity Act of 1992.

THE 90TH BIRTHDAY FOR ELLEN J. DAYTON

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today in honor of Ellen J. Dayton on the occasion of her 90th birthday. Ellen was born on August 23, 1902 in Newport, RI to Charles and Jenny Kalquist, charter members of the Swedish Lutheran Church. Ellen has two daughters, Phyllis Dayton Lohram and Diane Dayton Moore and five grandchildren. Ellen is an active member of the Svenska Evangeliska Lutherska Sions Forsamlingen Church and the Republic Party. My best wishes go out to Ellen for happiness and health on her special day.

INTRODUCTION OF INDEPENDENT COUNSEL LEGISLATION

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BROOKS. Mr. Speaker, today, Congressman BARNEY FRANK and I are introducing legislation to reauthorize the independent counsel provisions of the Ethics in Government Act for an additional 5 years. We are pleased to join Senators LEVIN and COHEN in the other body in an essential effort to preserve a vital mechanism of our constitutional government.

The events of the past week point out vividly why we need the mechanism of an independent counsel to ensure both the public perception and the reality of the even-handed administration of justice at the highest levels of government. Just 2 days ago, the attorney general rejected the judiciary committee's request for an independent counsel to investigate United States assistance to the Iraqi regime of Saddam Hussein. In effect, he told the American people, "not to worry—there wasn't any criminal activity here, and even if there was, we can investigate it just fine right inside the Justice Department."

The phrase I used to describe the attorney general's response to us was "stonewalling, plain and simple." As all students of American history know, the origin of that expression was the sordid chapter that gave birth to the independent counsel statute: the Watergate scandal.

The need for an independent counsel is just as great now as it was during the days of Wategate because of the inherent conflict in any Justice Department—under a President George Bush or a President Bill Clinton—investigating and prosecuting allegations of criminal activity against officials at the top level of their own administration. Equally important, it is impossible in this situation to maintain the public perception of fairness.

One of the smoke screens that has been thrown up against the independent counsel statute is the claim that Congress is exempt from its provisions. That claim is false. The attorney general currently has implicit authority in the law to apply for an independent counsel when prosecution of a Member of Congress or anyone else would pose the sort of conflict of interest that underlies the statute as a whole.

However, to remove any doubt whatsoever about Congressional coverage, the bill we are introducing today includes an explicit provision authorizing the attorney general to begin the independent counsel appointment process if he receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated applicable Federal criminal law.

In addition, the opponents of the independent counsel statute have also raised concerns about administration and cost controls over the operations of individual independent counsels. I would say first that it should be recognized that any major criminal prosecution—whether it be of the Iran-Contra gang or of Manuel Noriega—is going to cost the taxpayers some money. That's the price we pay for enforcing the law. Nevertheless, in order to address these concerns head on, our bill places added fiscal controls over the independent counsels' administrative operations.

We intend to move this prudent and sensible piece of legislation through the process when we return to Washington in September. We will put it on the President's desk before the current law expires in December, and I hope he will have the good judgment to sign it.

A TRIBUTE TO VACLAV HAVEL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LANTOS. Mr. Speaker, Vaclav Havel, the leader of the 1989 Velvet Revolution that peacefully ended the Communist authoritarian regime in Czechoslovakia, has stepped down as president of that country. His departure provides those of us who admire his leadership and integrity with an opportunity to recount his great triumph: the amazing ascension of the democratic movement in Czechoslovakia.

As a result of Mr. Havel's inspired leadership, 40 years of Communist rule came to end. Shortly after the revolution, I had the honor and pleasure of visiting with him in Prague. I found him to be a brilliant man who was eminently capable of orchestrating his country's transition from communism to democracy. Under his guidance, Czechoslovakia became an integral part of the bloc of Democratic nations.

Vaclav Havel's emergence as a world leader was nothing short of miraculous. He was subjected to harsh persecution for his criticism of the government, including many years in prison, during Czechoslovakia's years of Communism. Mr. Havel knew well the revolting reality of the system he would eventually overthrow. That knowledge, combined with his unflappable courage and strong convictions, propelled him to the world stage as a hero of democracy.

In October 1991, I had the pleasure of presenting President Havel with the Raoul Wallenberg Human Rights Award, an honor previously given to His Holiness, the Dalai Lama of Tibet, and the Democratic students of Tiananmen Square.

Mr. Havel provided the Czech and Slovak peoples, long subjugated under authoritarian rule, with a vision and a voice. Through him, they were able to see and articulate the promise of democracy.

It is my hope, Mr. Speaker, that President Havel will continue to play an important role in fostering democracy as the Czech and Slovak peoples establish independent sovereign republics. His experience and vision should prove invaluable in helping the people he so loves evolve peacefully into two separate and independent republics. He is well equipped to traverse the obstacles they will invariably confront. Some of those obstacles, ethnic intolerance, racism, and antisemitism, are of particular concern to Mr. Havel.

Mr. Speaker, the quality and clarity of Vaclav Havel's beliefs on this subject were displayed when he addressed the International Conference on Anti-Semitism in Post-Totalitarian Europe, sponsored by the Franz Kafka Center and the American Jewish Committee. I ask that his excellent remarks be placed in today's RECORD. As Vaclav Havel prepares to meet the challenges that lie ahead, I extend to him my very best wishes. He has changed the course of history, and his triumph will long be remembered and admired.

"I AM ASHAMED . . . OF THE HUMAN RACE, OF MANKIND, OF MAN."

Recently, homage was paid in Prague, in the presence of an honored guest, President Chaim Herzog of Israel, to the memory of the Jews who had been tortured to death in concentration camps. I said on that occasion that I feel strangely paralyzed whenever I am confronted with a situation that calls for a comment on the endless suffering of the Jewish people, and that paralysis "proceeds mainly from a deep—I would even say a metaphysical—feeling of shame. I am ashamed, if I may say so, of the human race, of mankind, of man. I feel that this is his crime and his disgrace, and thus also my crime and my disgrace. It is as if that paralysis suddenly threw me to the very bottom of the perception of human guilt and of my own co-responsibility for human actions and for the condition of the world in which we live and which we build."

. . . I deem it extremely important that your deliberations will focus not only on the past, however cruel it has been, but first and foremost on issues of the day: on anti-Semitism here and now. I am referring here to the whole of post-totalitarian Europe where anti-Semitism has suddenly reemerged with its characteristic bigotry, limited outlook and aggressiveness. . . .

The point is not whether anti-Semitism is more widespread in our part of the world than elsewhere: you are certainly well aware that we could also find many disgraceful cases in advanced democracies as well. In another respect, however, we could find a difference—a difference in the ways in which the more experienced democracies deal with this phenomenon and in the attitudes they adopt toward it. It is extremely dangerous for the new democracies to underestimate manifestations of anti-Semitism, to play them down, to fail to take action against them and, above all, to remain silent about them. . .

I have been told recently about a pub in an area where a large part of the Gypsy population live. On the door of that pub there is a sign which says something to the effect that Gypsies are not welcome in that establishment. . . . In my mind, this kind of conduct, which bears a striking resemblance to the anti-Jewish instructions issued under the Nazi regime, is clearly intolerable. More than that, it is also a case in point reminding us of the breeding ground which produced the Holocaust, of the thousands of inconspicuous, non-murdering anti-Semites who helped send their fellow citizens to the gas chambers.

I should like to pay tribute to all those who contribute to a climate in which people will not enjoy drinking beer in a pub which has on its door a sign like the one I mentioned above, even if official authorities may prove unable to have the sign immediately removed.

I hope that your voice will be heard, and I wish your deliberations all success.

TRIBUTE TO DARRIN PLAB

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. COSTELLO. Mr. Speaker, I rise today to bring my colleagues attention to Darrin Plab, a student at Southern Illinois University in Carbondale, IL., has recently returned to the United States from Barcelona, where he participated in the XXV Olympic games.

After competing in the U.S. trials in June and finishing second, Darrin earned the honor of a place on the U.S. Olympic team for the high jump competition. Although Darrin did not qualify for the final high jump event at the Olympics, his participation in the Olympic games is something we can look forward to again in 1996 in Atlanta, GA.

Darrin Plab's performance in the trials, a jump of 7-feet, 8 1/2-inches, was surprisingly higher than the final gold medal winning jump of 7-feet, 8 1/4-inches. It is evident that southern Illinois has produced yet another outstanding athlete.

Darrin returned home to Mascoutah, IL and was given a hero's welcome with a parade and ceremony. Mayor Perrottet presented the Olympic athlete with a key to the city.

I am pleased to have the honor of congratulating Darrin for his athletic ability and hope my colleagues will join me in applauding his Olympic performance.

TRIBUTE TO UNITED ILLUMINATING

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in recognition of the accomplishments of United Illuminating, a Connecticut-based utility company.

United Illuminating has helped finance the Shelton Good Cents Housing Partnership, a project in my district that provides affordable, energy-efficient homes. Private investment has always been an essential component of economic growth in the United States. It has created jobs, modernized our infrastructure, and built our cities. private investment in the Good Cents Housing Partnership has demonstrated the value of cooperation between the public and private sectors.

The Shelton Good Cents Housing Partnership is a unique program that utilizes the resources of United Illuminating, Bullard-Havens Regional Vocational School, and the city of Shelton. United Illuminating has provided financial and managerial assistance for the project. Bullard-Havens has supplied eager, energetic workers who earned the valuable experience that they received. The city of Shelton donated the land that was used for the construction of the houses.

Specifically, the Shelton Good Cents Housing Partnership is the product of the wisdom, dedication, and experience of Jim Ryan, director of the Shelton Economic Development Corporation; Paul Jensen, chairman of the Shelton housing partnership committee; Joe Lavorgna, director of Bullard-Havens Regional Vocational Technical School; Shelton Mayor Mark Lauretti; and James Crowe, executive vice president of United Illuminating.

The integration of job training, job creation and the construction of affordable housing is a winning combination. I commend United Illuminating and the other participants in the Shelton Good Cents Housing Partnership, and I hope that more districts have the opportunity to benefit from the Good Cents program and other initiatives that encourage private investment. We must continue to foster private sector participation in the revitalization of our cities and towns in order to stimulate economic growth.

TRIBUTE TO ROBERT EVAN BUDINETZ

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. RITTER. Mr. Speaker, I am pleased that Robert Evan Budinetz, from my congressional district in the Lehigh Valley of Pennsylvania, was selected from over 147,000 secondary students this year as 1 of the 22 winners of the Veterans of Foreign Wars [VFW] scholarship for scriptwriting.

The VFW and its Ladies Auxiliary conduct the Voice of Democracy scriptwriting contest each year. This year's theme was "Meeting America's Challenge."

Better quality education is key to meeting many of America's challenges now and in the future. I would like, therefore, to include Robert's composition here and congratulate both him and the VFW for their excellent endeavor with the Voice of Democracy scriptwriting contest.

MEETING AMERICA'S CHALLENGE 1991-92 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

(By Robert E. Budinetz, Pennsylvania winner)

About two years ago, at a tennis camp in Arizona, a ninety-two-year-old tennis player signed up to play a doubles match. The camp pro assigned him three other players, all considerably younger than he, and all rather skeptical about playing with a man his age. Partners were chosen by a spin of the racket, and the play began. Within an hour, this elderly gentleman and his partner took the match 6-1, 6-1.

While walking off the court, the ninety-two-year-old remarked to his partner that he ranked number one in the United States in his age bracket, the eighty-five-years-old and up! He wasn't thinking ninety-two, he wasn't even thinking eighty-five. He was thinking number one.

It is just this kind of thinking that keeps America number one among nations. America meets its challenges much the same way as the tennis player did—with first place in mind. Americans were the first to walk on the moon. An American invented the first car. Americans were the first to break the sound barrier, and a group of American scientists introduced the atomic age.

It is America to whom the world turns in times of crisis. We all experienced the pride of America during the recent Gulf War as the world watched our armed forces lead the way in defense of freedom.

As teenagers of the nineties, and young adults of the twenty-first century, we face the challenge of continuing this strong American tradition. We face the challenges of our environment, world health, civil rights, poverty, and hunger.

But there have been some alarming statistics, released in the last several years, which suggest that we may not be adequately prepared to meet these challenges. America is facing a crisis in education which seems to be one of the most important challenges of this generation.

Although students are staying in school longer, and attending college in larger numbers, signs indicate that we are less well equipped in basic skills than students in the past. Last year, over one-half of American seventeen-year-olds tested didn't know simple details about our government. Our science and math achievement trails behind several smaller nations such as New Zealand, the United Kingdom; and Japan. Experts suggest that these science and math weaknesses threaten our economy, our defense, and our social capabilities.

In the traditional American spirit of meeting its challenges with a winning attitude, America has developed an ambitious strategy for reform. Called "America 2000," this plan would restructure education not from the top down, but school by school. By challenging communities to develop model schools with curriculums emphasizing basic concepts and skills, committed teachers, energetic students, and school culture that encourages appropriate behavior, this plan sets the goal of world class standards in education.

Just as the ninety-two-year-old tennis player played with a winning attitude, we, as students, can do our share to strengthen our educational system. We can change apathetic students into achieving ones if we learn to value the academic success of students the way we value a touchdown or a homerun. The kind of preparation and hard work that gets a baseball team to the World Series or a musician to Carnegie Hall is something we all understand. This same kind of preparation for winning applies to all aspects of learning, including success in school.

Scientists suggest that our environment at about age ten determines who we will be and what we will value as adults. We must develop winning attitudes before this age—and this development must begin at home. We must educate adults to expect their children's best in school. By doing this, we will be living up to America's tradition of excellence.

Shakespeare once said, "Strong reasons make strong actions." Meeting America's challenge of excellence in education is a very strong reason, and America is committed to very strong actions to meet this goal.

If we remember the determined tennis player who thought only in terms of being number one, and worked very hard to stay there, we realize that America can defy the negative statistics and put our educational system where it belongs—number one throughout the world.

SALUTING ST. PETER CHANEL HIGH SCHOOL FOR 35 YEARS OF ACADEMIC EXCELLENCE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STOKES. Mr. Speaker, I rise today to salute St. Peter Chanel High School located in Bedford, OH. The school is completing 35 years of academic excellence and will launch a special anniversary celebration of Friday, August 28, 1992. I want to share with my colleagues some of the history and achievements of this outstanding institution.

St. Peter Chanel was founded in 1957 as an all-male school serving grades 9 through 12. The school was under the leadership of the Marist religious order. During the past 35 years, St. Peter Chanel has undergone numerous changes. Though the presence and religious fervor of the Marists are still present, the school is now a diocesan, coeducational high school.

Mr. Speaker, St. Peter Chanel High School can proudly boast in excess of 5,000 graduates. The school has been selected as one of the best private-parochial schools in the Greater Cleveland area. It is also interesting to note that in recent years, more that 90 percent of the school's graduates have gone on to further their education.

Over the years, graduates of St. Peter Chanel High School have achieved high levels of success in their chosen fields. More importantly, St. Peter Chanel graduates have become productive and contributing members of their communities. It is a strong reflection of the commitment to service and responsibility instilled at St. Peter Chanel.

Mr. Speaker, I rise today to recognize St. Peter Chanel High School for 35 years of academic excellence and 35 years of community service. I extend my congratulations to the current principal of St. Peter Chanel, Roger Abood, and his staff. I hope my colleagues will join me in wishing him much continued success.

ALVAREZ-MACHAIN RULING

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. PANETTA. Mr. Speaker, The U.S. Supreme Court's recent decision to sanction the kidnapping of Dr. Humberto Alvarez-Machain, who is being held in connection with the horrific murder of Drug Enforcement Agency [DEA] agent Enrique Camarena Salazar, has incited global debate. Critics of the judgment contend that it was a violation of international law since Alvarez-Machain was abducted by DEA-funded Mexican bounty hunters, without the consent or knowledge of Mexican authorities and without honoring the extradition treaty between the United States and Mexico. According to Chief Justice William Rehnquist, the Supreme Court maintains that the United States did not violate the agreement because kidnapping was not specifically forbidden in the document. Many specialists feel that the Court's ruling sends a negative message not only to Mexico but to all other countries with whom the United States has extradition treaties, particularly in Latin America.

I draw attention to the following useful report, which appeared in a July issue of the Washington Report on the Hemisphere, a biweekly publication of the Council on Hemispheric Affairs [COHA]. The article evaluates the opinion of the U.S. Supreme Court in regard to its approval of kidnapping by the U.S. Government to bring suspects to trail in the United States and suggests that the decision disregards the principles of international law. The article was written by COHA research associate Greg Montes.

ALVAREZ-MACHAIN RULING ALLOWS UNITED STATES TO KIDNAP IN FOREIGN COUNTRIES

(By Greg Montes)

In its judgment in *United States versus Alvarez-Machain,* rendered June 15, the Supreme Court ruled in a 6–3 decision that the U.S. Government may constitutionally kidnap suspected criminals from other countries regardless of existing extradition treaties, setting a precedent that could jeopardize 103 such agreements that the U.S. has signed with other countries. The Iron-fisted finding, which overturned rulings handed down by the Federal District Court in Los Angeles and the U.S. Court of Appeals for the Ninth Circuit in San Francisco, has been widely interpreted by the international community to mean that the U.S. is no longer bound by the constraints of international law. The decision allows the U.S. to try Humberto Alvarez-Machain, a Mexican medical doctor accused of complicity in the kidnapping and murder of Drug Enforcement Administration (DEA) agent Enrique Camarena Salazar and his pilot in 1985. Alvarez-Machain is alleged to have drugged Camarena, prolonging his life so that narcotics traffickers could torture him and obtain information about U.S. drug interdiction operations, before killing him.

MEANS OF BRINGING ALVAREZ-MACHAIN TO JUSTICE DISTURBING

Once informal negotiations with Mexico failed to win custody of the Mexican doctor, the DEA resorted to improvised means. In April 1990, Alvarez-Machain was kidnapped from his office in Guadalajara by rogue members of Mexico's federal police who were paid $20,000 each and given refuge and new identities in the U.S. He was then flown to Texas and turned over to drug enforcement officials. Previously, DEA agents had kidnapped drug suspects from Bolivia, Nicaragua, Honduras and Mexico over the last five years.

The controversy surrounding the Supreme Court decision stems from Washington's determination to prosecute the defendant irrespective of another country's laws or institutions. U.S. officials seized Alvarez-Machain without Mexico's approval, an action that circumvented the extradition treaty signed by the two countries in 1978. But speaking for the majority, Chief Justice William Rehnquist defended the U.S. action. He argued that "The treaty says nothing about the obligations of the United States and Mexico to refrain from forcible abductions of people from the territory of the other nation, or the consequences under the treaty if such an abduction occurs. . ." U.S. Attorney General William Barr went so far as to call the ruling an "historic victory." The majority cited the 1886 decision in *Ker* v. *Illinois* as justification for the kidnapping of Alvarez-Machain. Many hailed the action, claiming that a fair prosecution could not occur in Mexico, where drug-related law enforcement efforts are often alleged to be corrupt.

In the dissenting opinion, Associate Justice John Paul Stevens protested that "It is shocking that a party to an extradition treaty might believe that it has secretly reserved the right to make seizures of citizens in the other party's territory . . ." In contrast, some have pointed to the 1984 case of rancher John Hull currently pending in Costa Rica, in which the U.S.-born, now-Costa Rican citizen, was indicted for the attempted murder of former Contra leader Eden Pastora in the La Penca bombing, as a further example of Washington's cavalier attitude toward extradition treaties. Arrested in 1989 on drug trafficking charges, Hull escaped to the U.S., and Costa Rica's extradition request for him has since been ignored.

Critics have questioned the validity of using *Ker* as a precedent for *Alvarez-Machain,* noting significant differences between the two cases, Ker, a U.S. citizen, was kidnapped in Peru with Lima's approval and returned to the U.S. to face larceny charges. Alvarez-Machain, by contrast, is a Mexican citizen wanted for murder by both the U.S. and Mexico, who was brought to the U.S. without the other country's knowledge or consent.

MEXICO DECLARES RULING "INVALID AND UNACCEPTABLE"

From the outset the Salinas Administration has condemned the U.S. intervention as a direct violation of the extradition treaty intended to govern the transfer of individuals from one country to another for trial. Article Nine of the treaty indicates that the case must be submitted to the courts of the country who refuses an extradition request. Mexico initially reacted with a one-day severing of joint drug interdiction activities, but then defended its decision to restore the policy of cooperation as showing Mexico's commitment to the "war on drugs." President Bush has since assured the Mexican Congress that the court decision would not foster a trend of similar kidnappings, and Secretary of State James Baker has reaffirmed U.S. respect for Mexico's sovereignty. Nevertheless, the fear is that the Supreme Court decision will set a dangerous precedent for future kidnappings. Some even note that it is possible, and would be similarly "legal" if Americans were to be kidnapped here for trial in other countries. In any event, Washington refused to consider revising its treaty with Mexico.

The presidents of six South American countries want the Organization of American States' Inter-American Judicial Committee to issue an opinion on the Supreme Court ruling. The Alvarez-Machain case was condemned at the Ibero-American Summit of inter-American leaders, and Mexico announced that it will no longer accept U.S. drug aid in what has to be an angry reaction to the court's action. The Salinas Administration will be seeking to amend the treaty at the Binational Commission meeting in October as well as taking the case before the International Court of Justice for further review.

INTRODUCING A BILL TO AWARD "DIZZY" GILLESPIE THE CONGRESSIONAL GOLD MEDAL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CONYERS. Mr. Speaker, I am pleased to introduce legislation, along with thirty of my esteemed colleagues, which awards jazz musician extraordinaire, John Birks "Dizzy" Gillespie, the Congressional Gold Medal. Mr. Gillespie has been, in effect, our primary cultural ambassador to the U.S. Department of State. This is an honor afforded to him for all of the friends that he has won to this country as a result of their love of jazz and our musician Dizzy Gillespie.

The traditional awarding of Congressional Gold Medals, which began in 1776, allows Congress to express public gratitude to individuals and groups for their distinguished contributions in the field of arts, athletics, aviation, diplomacy, exploration, politics, medicine, science, and entertainment. This award, which initially was most often bestowed upon military leaders, has been given to over 100 diverse individuals ranging from Sir Winston Churchill and Bob Hope—George Washington and Howard Hughes—Joe Louis and Lady Bird Johnson. To date, 15 Americans from the arts and the world of entertainment have received congressional gold medals. John Birks "Dizzy" Gillespie, as fans world-wide will agree, should be number 16.

In February of this year, many friends and fans of Mr. Gillespie were shocked to hear he was hospitalized after a performance in Oakland, CA. Though Mr. Gillespie made an amazing recovery, and will continue to share his musical genius with the world, it should not go unnoticed that he will be celebrating his 75th birthday this October 21. It is vital for the Nation to recognize Dizzy for the years of musical enjoyment he has so willfully given to not only the American people, but to the entire world.

Along with the late Charlie "Bird" Parker, Mr. Gillespie pioneered bebop, a new and fresh harmonic and rhythmic vocabulary which created a musical revolution that completely transformed jazz and dramatically impacted on 20th century musical culture. He is also universally credited as the catalyst who incorporated Afro-Cuban, Brazilian and Caribbean music and rhythms into the jazz idiom.

Mr. Gillespie's ability to capture the heart of every audience he plays before has afforded him many honors from the State Department. In 1956, he was the first jazz artist appointed by the Department of State as Cultural Ambassador to tour on behalf of the United States of America, and his resoundingly successful tours through the Near East, Asia, Eastern Europe and Latin America, were early landmarks in what has been a virtual lifetime of cultural statesmanship by the inimitable jazz master on behalf of this country.

Mr. Gillespie has also captured the hearts of journalist and writers world-wide. Steve Holtje, Chris Smith, David Grogan, Francis Davis, and Michael Bourne are just a few of the numerous journalist who have depicted Mr. Gillespie's spirit and talent on paper. Their accounts follow, and speak for themselves.

I urge my fellow Members to join me in recognizing Mr. Gillespie in a truly unforgettable and deserving manner by cosponsoring legislation to award him the Congressional Gold Medal.

THE NEW YORK REVIEW OF RECORDS—DIZZY GILLESPIE

Dizzy Gillespie, the most beloved and recognizable figure in jazz today, refuses to rest on his laurels. When the man who spearheaded the Bebop movement with Charlie Parker And Thelonious Monk is accused of having a nice little resume, his response is, "Bah . . . I don't think that I have accomplished half of what I know and what I think that I should do if I weren't so lazy and weren't such a procrastinator. I'll break out of it one day, though." The most recent evidence of the 74-year-old genius's effort to mend his ways is Live at the Royal Festival Hall (Enja, dist Mesa/Bluemoon) by Dizzy Gillespie and the United Nations Orchestra.

In a way, the idea of the United Nations Orchestra shows the effect Gillespie had on Jazz, beyond the theoretical developments of his compatriots. Gillespie's showmanship and charisma (and his unrivalled trumpet skills) helped get the brave new harmonies and rhythms of Bebop across to an audience weaned on the safer sounds of Swing and then expanded the boundaries of Bebop by incorporating Latin rhythms, leading to the new category of Afro-Cuban jazz and helping spread Jazz around the world. Dizzy's iconic popularity is such that he was given a Kennedy Center award, an honor reserved for those whose talent is so undeniable that even our Philistine government must acknowledge it.

The common conception of the frog-jowled trumpeter has him in a small group, but he has a long big band history. His first major job was as Roy Eldridge's replacement in Teddy Hill's band in 1937, a situation in which he as an unproven youngster who needed an ally. "Bill Dillard was the lead trumpet player with Teddy Hill, and he was also a singer, a ballad singer. He helped me a lot when I went in that band. There were others that were jealous of my being so young. I was only going on twenty, and they thought I was too young to be in the group. In fact, one of the guys said there should be a major league and a minor league in music. And then I spoke to the fellow who said that—I said, 'Nevertheless, what kind of job did you have before you got the job with Fletcher Henderson making $15 a night and then Teddy Hill making $33 a week at the Savoy Ballroom?' . . . I don't think he liked it too much." Stints in the bands of Cab Calloway, Earl Hines, and Billy Eckstine followed. After achieving enough fame, via his legendary quintet with Charlie Parker, to lead his own big band, Dizzy broke ground by hiring the fiery Cuban drummer Chano Pozo to play bongos and conga with the band. So it's appropriate that the United Nation Band covers a broad range of nationalities (as the liner notes explain, "three Cubans, three Brazilians, a Panamanian, a Puerto Rican, a Dominican, and six Americans of varying backgrounds") and generations. Besides Gillespie, the band elders include saxophonist James Moody, 66, and trombonist. Slide Hampton, 59; the newest generation is presented by pianist Danilo Perez, 25, and a congo player and percussionist Giovanni "Maneguito" Hidalgo, 28. Other notables on the album are trumpeters Claudio Roditi and Arturo Sandoval, trombonist Steve Turre, vocalist Flora Purim, and percussionist Airto Moreira.

Gillespie's obviously happy that it's easy to find young talent. Of the young lions, he enthuses, "Beautiful. There's so many. They're coming out of the woodshed. There's Terrance Blanchard. There's Wynton Marsalis, everybody knows about him. There's a young tenor player from Puerto Rico who went to Paris with me [David Sanchez, 22], good, very reserved mind, very old mind, knew his changes, knew where he was going, and knew where he came from." Of the younger member of the United Nation Orchestra (which he insists is "an almost big band"), he says, "They understand where I come from and where I've been, so they expect me to do some pulling them together and things like that, but they're alright, the guys are really professional." Though he claims he has nothing to teach them, both Sandoval and sometime-member Jon Faddis are his trumpet proteges.

Asked what the future holds, Gillespie replies, "I'm working on my 75th birthday; a cruise, a composition by a friend of mine from Nigeria named Kingsley Azuomba Mbadiwe. He died and I'm writing something for him. They're having a big thing at Carnegie Hall next year and I want to have that ready." Also, he continues, he "just did a recording out in San Francisco with a big band and a small band, and I made a record with Randy Weston the other day, and then I will make something with Miriam Makeba." And at this year's JVC Jazz Festival he seemed to be everywhere, saluting Doc Cheatham, Sarah Vaughan, and Dexter Gordon. Avoiding the jazz controversies and personal conflicts that seem to inspire some (his only comment being, "When I hear something not really right about one or the other, I try to ooze it over. We all speak the same language."), he makes it clear what keeps him going: "Music inspire me."

DIAMOND DIZZY

"How does this thing work?"

Dizzy Gillespie turns the instrument over, looking at it with mild curiosity. "Can I give it a try?"

He puffs out his famous cheeks and gets ready to work. But the instrument he's holding isn't his trademark trumpet with the upturned bell; it's a boxy, large-format Hasselblad camera fitted with Polaroid film—one that's just been used to photograph Gillespie, on a December afternoon at the Blue Note jazz club. Squinting into the viewfinder, he takes his time, mumbling about not knowing what he's doing, then snaps a shot of a PR man. Slowly, the image develops, and someone lets out a whistle. The shot is bracing, carefully composed, dominated by a thick diagonal shadow that cuts through the subject's face—a slashing modernist statement rather like the ones Gillespie has been making on trumpet for well over 50 years.

He smiles—a grin both wicked and childlike, with all sorts of sly wisdom lurking behind. "Not bad for a beginner," he says.

As he approaches his seventy-fifth birthday (October 21), Gillespie still retains that beginner's sense of wonder, a joy that informs his playing today just as it did when he was inventing bebop alongside Charlie Parker, or extending bop's revolutionary vocabulary to big-band jazz, or leavening the music with African-Cuban polyrhythms. His playing doesn't leap out of the gate and gallop into the upper register the way it used to; instead, it trots around the track, dodging and feinting with darkened tones, before heading up, up, and away when it's least expected.

The music remains a marvel, but it is sometimes obscured by the clowning demeanor that has endeared Gillespie to millions, making him a familiar figure to folks who've never even heard "A Night in Tunisia." It is so easy to toast Dizzy the comedian, Dizzy the dancer, Dizzy the funny old father figure that Dizzy the unqualified musical genius tends to be overlooked. I ask him if he knew, way back when, that the public would be able to accept his showmanship more easily than his music. "No. I never knew that—I don't think that was the case," he says, growing wary. "I didn't have the people in mind—I was just always that way. I like people to like me. I'd stand on my head if necessary."

That approach sometimes put him at odds with Parker, his musical brother, an astoundingly witty player who never clowned on the bandstand. At one 1953 gig in Toronto, Gillespie's antics during "Salt Peanuts" kept the crowd laughing during Parker's solo; on the record, you can hear the anger in Bird's playing. It's a famous jazz moment, but Gillespie doesn't care to recall it. "I don't know about that," he says. "Mingus and I had an argument that night, but not Bird."

Gillespie can be forgiven for not wanting to dredge up complicated memories, and he is willing to compare his attitude toward showmanship with Parker's: "I think, in the back of his mind, he wanted to be popular, to make money. He did things to push that forward. Any artist wants to be popular, no matter how great he is."

This new year will be a celebration of Gillespie's greatness, popularity, and vigor—a globe-trotting diamond jubilee that kicks off January 7 with an unprecedented monthlong engagement at the Blue Note—"the longest time," Gillespie notes, "I've ever spent in one place."

He'll perform with a different band each week, first with an all-star bebop septet, then with his stomping, ebullient Latin-jazz big band, the United Nation Orchestra. The third week, a program called "To Bird, With Love," honors Dizzy's association with Parker by teaming Gillespie with two different saxophonists each night. The final week, "To Diz, With Love," brings in new trumpet duos each night to duel with Diz—Wynton Marsalis, Roy Hargrove, Terence Blanchard, Red Rodney, and ten more.

"Mmmmm-hmmm. Oh, my goodness," Gillespie says, sipping a beer, tapping on a tabletop, and checking out the lineup. "Whoooo-weeeee. I'll be tired by the end of this."

Not too tired to play in twelve cities on the following fourteen nights, then depart for the Far East, Britain, Africa, Europe, and South America—all before he returns to New York in June for a Gillespie tribute at the JVC Jazz Festival.

"It's not so bad—look," he says, pointing to two blank days on the schedule. "I've got a break right there." The so-called break gives him time to get from California to Korea. "I've never been to Seoul," Gillespie says. "The education continues."—Eric Pooley

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Dizzy—From South Africa to the Berlin Wall, Dizzy Gillespie is making History With a Capital H.

(By David Grogan)

He looks like a visiting potentate. In just a few moments, jazz trumpeter Dizzy Gillespie will kick off his 1990 European tour at the Tent Music Festival in Freiburg, West Germany, and in honor of the occasion he has donned one of several ceremonial robes given to him a year ago by the king of the Iperu tribe in Nigeria. Along with the official raiments, the king bestowed on Dizzy the title of Baashere of Iperu, the tribe's chief of entertainers. "The Baasheeeere of Ipeeeeru," says Dizzy, savoring the sound of the words."Whooeee. Ain't that a bitch!"

On the festival grounds, where several tents have been arrayed carnival-style a gentle summer breeze carries the scent of fir from the surrounding Black Forest. Under the big top, however, the atmosphere is steamy. A crown of 2,000 has begun clapping and stomping its feet as the 15 members of The Dizzy Gillespie United Nation Orchestra file onto the stage and launch the infectious Latin beat of one of his signature tunes, "Manteca."

Midsong, Dizzy emerges from the wings with the trademark bell of his trumpet pointed heavenward and his cheeks expanded like a giant blowfish. He is greeted with a roar of approval as he plays a spiraling variation on the melody and then does an elaborate dance step across the stage. After the song, Dizzy pauses to take a deep breath. "We thank you, ladies and gentlemen, for that tooo-multuous applause," he says. "It was tooo much." Then, wiggling his hips amid gales of laughter, he delivers the coup de grâce. "It moooved me."

At 72, Dizzy Gillespie remains a man in perpetual motion. This December, in recognition of his historic contributions to American music as one of the founding fathers of both be-bop and Afro-Cuban jazz, he will receive the Kennedy Center Honors for lifetime achievement in the performing arts. But rather than resting on his laurels, he continues to spread a joyous spirit of bedlam to nearly every corner of the world. Dizzy's globe-girdling schedule in 1990 has included more than 300 concert performances and the release of Max + Dizzy (A&M), a live recording of a daring improvisational duet with drummer Max Roach. In the meantime, he composed the score for a major motion picture, which also marks his silver-screen acting debut. In The Winter in Lisbon, a thriller by Spanish director Jose Zorilla scheduled to premiere at the San Sebastian Film Festival this month, Dizzy plays the part of a castaway jazz musician in Europe who is unwittingly drawn into the orbit of gangsters and political terrorists.

In recent months, Dizzy has been caught up in the real-life drama of political change that has dominated world news, from South Africa to Eastern Europe. "I've been involved in history," he says. "That's right. History, with a capital H."

On March 21, Dizzy was invited to perform at a gala in Namibia marking the establishment of the former South African territory as an independent nation. The guests included Nelson Mandela and nearly all the African heads of state, as well as high-level diplomatic representatives from around the world. He appeared at the personal invitation of Namibian President Sam Nujoma, an ardent fan of his music.

Dizzy traveled to Namibia aboard Air Force II with U.S. Secretary of State James A. Baker III. "I was sitting in the second cabin, and all the State Department business was going on up front," he says. "But then the secretary of state came back and asked me to join them. So I took my horn and played 'When Irish Eyes Are Smiling.' He sang along with me, and pretty soon the whole plane joined in. They sang really loud, too, and with great exuberance."

Last May, in the midst of extraordinary political changes in the Soviet bloc, Dizzy made a whirlwind "One World" tour that included back-to-back one-nighters in East Berlin, Moscow and Prague. Before performing at a concert attended by 4,500 East and West Berliners, he made a personal pilgrimage to the Brandenburg Gate. "I climbed right up on top of that raggedy old Berlin Wall and threw a few rocks to the people standing down below," he says. "It was wonderful seeing everyone look so jolly." Visiting Moscow for the first time, he played for a packed concert-hall audience of 2,500 and was presented with a separate bouquet of roses after every song. "I never thought I'd see so many flowers at once in my lifetime," he says.

In Prague, Czechoslovakia's new president, Václav Havel, attended the concert Dizzy gave for 4,300. "He was waving from the audience," Dizzy recalls. "I had to get my glasses to see him." After the performance, Havel showed up at a reception in Dizzy's honor. "He's so warm and gentle, not like a head man," says Dizzy. That night Havel also proved to be tireless. "He wouldn't leave," says Dizzy, "so I couldn't leave. They brought me a chair and I sat there and greeted everyone. Finally he came over and said he had to go. I said, 'Yeah, I was thinking the same thing."

The One World tour was organized by the Baha'i faith, of which Dizzy is a devout member. When a jazz fan from California first gave him some literature about the Baha'i more than two decades ago, Dizzy was taken by the sect's gentle philosophy of openness. "Baha'i is the only religion which explicitly honors every other religion," Dizzy says. "We believe that Moses, Zoroaster, Buddha, Jesus and Mohammed were all bonafide messengers of God." As a symbol of his faith, Dizzy always wears a large quartz rock around his neck taken from Mt. Carmel in Haifa, Israel, where the Baha'i prophet Mirza Ali Mohammed is buried. He carries a prayer book with him during his travels and recites a ritual devotional every day.

Married 50 years last May, Dizzy gives primary credit to his wife Lorraine (a devout Catholic who cherishes her privacy) for keeping him on the straight and narrow. "Whatever happens, she is right," says Dizzy. "Don't tell your wife she's wrong. If she's wrong, she knows it. But she doesn't want to hear it." Dizzy and Lorraine have no children, but he receives an abundance of filial love from the Baha'i faithful who greet him with flowers or hearfelt messages nearly everywhere he goes. "It's nice to have a family out on the road," Dizzy says. "Often they don't speak English, but they'll seek me out anyway."

The Bahai'i, who now number 4.5 million worldwide, look to a future when peace on earth will be established by a beneficent global government. "The day will come when people realize that the world is but one community and mankind its citizens," Dizzy says. "That should take care of just about everything."

A similar spirit of ecumenism prevails in Dizzy's aptly titled United Nation Orchestra. The multiracial group spans several generations and includes musicians from Cuba, Brazil, Panama, the Dominican Republic and Puerto Rico, as well as the United States. There is an invigorating sense of cultural and creative anarchy among the band members, combined with an esprit de corp that reflects their love and respect for their friend and mentor.

In the four weeks following the Freiburg concert in late June, Dizzy and company will crisscross Europe by bus and plane, playing one-nighters in 24 cities. Today they will travel eight hours by bus to Verona, Italy. Five minutes before the scheduled departure, saxophonist James Moody, who prides himself on his punctuality, stands alone outside the hotel with his bags, welcoming the eventual parade of stragglers with his trademark greeting: "What are we waiting for?"

Moody, now 65, was just 21 when he first played with Dizzy and has remained one of his closest friends. "Every time I get on the bandstand with him is a musical lesson," Moody says. "Sometimes little bits of wisdom he imparts will come back to me years later and I'll say, 'Ah!'"

This morning Dizzy is a half-hour late and gets a kiss on both cheeks from Moody before getting on the bus. Several members of the band have already curled up in their seats and gone back to sleep. But Dizzy is bright-eyed and launches into a discussion with Cuban saxophonist Paquito D'Rivera about firecrackers. "I'm a fireworks freak," Dizzy admits "Last time I was down in South Carolina, I bought $200 worth of firecrackers to take with me to my home in Englewood, New Jersey, and shot them off in a neighbor's yard. With some of that stuff we could have gone to war. I don't know why, but for some reason I never got enough fireworks as a kid."

Christened John Birks Gillespie, Dizzy was always into some kind of mischief as a boy growing up in Cheraw, S.C. His father James, a brick mason, encouraged the eight other Gillespie kids to take up music, but not Dizzy, his youngest. "I was so busy being bad," Dizzy recalls, "Every Sunday after church my father would get his razor strap and whup me, even if I hadn't done anything wrong." Dizzy was just 10 when his father died from a severe asthma attack. "When I heard he was dead, the first thing I did was to take that razor strap and cut it into a thousand pieces," Dizzy says. "Nobody used that strap after that."

Dizzy started playing trombone at 14, but his arms were too short to extend the slide. Nine months later, a neighbor loaned him a trumpet, and he quickly revealed a natural facility for the instrument that earned him a scholarship to study at the Laurinburg Institute, a vocational school in North Carolina. When his mother Lottie moved to Philadelphia in 1935, Dizzy dropped out of school a few months before graduation to follow her. He soon landed a gig in a band led by Frankie Fairfax and showed up for his first few sessions carrying his trumpet in a paper bag. "Guys in the band joked about me being 'that dizzy trumpet player from down South,'" Dizzy says. "And the name stuck."

Steve Turre, a trombonist and master of the conch shells, moseys to the back of the bus to show off the six-inch blade he carries for protection as a streetwise resident of New York. Admiring the razor-sharp knife, Dizzy suddenly reaches into his pants pocket and pretends to pull out a switchblade. Though he gave up carrying a knife a few years ago because of the hassles of getting through airport security, the movement of Dizzy's hands is quick and facile. "I learned that from The Judge," he says, referring to bassist Milt Hinton, now 80, a colleague from his days with the Cab Calloway band.

Dizzy was 22 when he joined the Calloway band in 1939, performing at New York's Cotton Club for six months at a stretch and touring the rest of the year. Paid $30 a week, Dizzy made twice the salary of most other working musicians in New York. "My pockets had the mumps," he says. But he soon grew restless playing the same old repertoire every night. "Between shows at the Cotton Club, Milt and I used to go up on the roof and practice," Dizzy recalls. "I showed him some new chord changes, including a variation on the Irving Berlin song 'Girl of My Dreams' which was very radical at the time. In turn he taught me how to handle a switchblade. He'd say, 'You ready to take care of business?' Then we'd stand there like cowboys, pulling our knives out of our pockets."

One night in 1941, Hinton took center stage with a small ensemble called the Cab Jivers and muffed his solo on "Girl of My Dreams." From the shadows, Dizzy made a sweeping gesture of disgust with this arm just as trumpeter Jonah Jones threw a spitball that landed at Calloway's feet. Convinced that Dizzy was to blame, Calloway demanded an apology after the show. "I was adamant. I told him I didn't do it," says Dizzy. "Then he grabbed me by the collar, and I had my knife out in a second. Milt hit my hand down and prevented me from doing any real serious damage. But I nicked Cab on his butt, and next thing you know there was blood all over his white suit. He was red and white." Dizzy was promptly fired but eventually became good buddies again with Calloway, now 82. "I still call him every Christmas," says Dizzy. "It's his birthday."

Midafternoon, Dizzy stretches out on the back seat of the bus, humming the melody to the Charlie "Bird" Parker tune "Now's the Time." Within minutes he is snoring loudly. Meanwhile the rest of the bus comes alive with music. Up front, Slide Hampton, a master trombonist from New York, huddles over a small electronic keyboard with Danilo Perez, an up-and-coming young pianist from Panama. As the pair runs through numerous complex chord progressions, bassist John Lee, guitarist Ed Cherry and Cuban drummer Ignacio Berroa Kibitz. Toward the rear of the bus, Dominican saxophonist Mario Rivera and Brazilian singer Flora Purim listen intently as Puerto Rican conga player Giovanni Hidalgo and Brazilian percussionist Airto Moreira join in a haunting chant. While tapping out a hypnotic beat, they sing of Chango, believed by followers of the Caribbean folk religion Santeria to be a spiritual medium associated with thunder and lightning.

As the bus nears Verona, trumpeter Arturo Sandoval, a protégé of Dizzy's from Cuba, plays a few bars from a classical concerto by Leopold Mozart. Then he catches a glimpse of the ancient Roman arena where the band will perform. "Hey," Sandoval shouts. "I think that place is even older than Dizzy Gillespie."

Backstage before the Verona show, Brazilian trumpeter Claudio Roditi is demonstrating to Dizzy how he can alter his intonation by changing his grip on his horn. "This guy is a real scientist when it comes to the trumpet," exclaims Dizzy, whose own trumpet technique defies scientific interpretation. He has played with his cheeks puffed out since shortly after leaving the Calloway band. "It just happened," Dizzy explains. "A doctor once told me I must have vestigial gills." A decade later, at a private party in New York, two comedians accidentally knocked over one of Dizzy's trumpets, bending the bell upwards. "I decided I liked the horn bent because I can hear a note the minute I hit it," he says. "This way I can hear my mistakes faster."

Tonight is a historic occasion, with Dizzy and the United Nations Orchestra featured on the same bill with groups led by drummer Max Roach and trumpeter Miles Davis. All three men were once close associates of saxophonist Charlie Parker, and nearly a half-century later, they are among the few surviving titans from the be-bop era.

Dizzy takes the stage before an exuberant crowd of 17,000 assembled in the open-air amphitheater. Brass harmonies resound with the fullness and power of a squadron of Roman chariots; the crosshatched rhythms laid down by the percussion section sizzle in the night air. Two hours later, Dizzy takes his last bow and parks himself onstage to listen to his old pal Max Roach premiere several ambitious new compositions with a quintet and 12-member chorus. "That's hard work," says Dizzy, watching Roach conduct the group while simultaneously rapping out complex and muscular rhythms on the drums.

"Just seeing you sitting there on stage gave me inspiration," says Roach, hugging Dizzy after they'd finished the set. "You know I couldn't write a note until I met you."

Miles Davis is scheduled to appear around midnight and Dizzy is tempted to stay, but he opts instead to get some rest. On the way out, he casually drops by Miles' dressing room; they talk of embouchure (use of the mouth in playing the trumpet) and the difficulties trumpeters face in keeping their mouths in playing shape. Dizzy bemoans having extensive dental work done recently after cracking some teeth eating beans and rice. "Yea," Miles commiserates. "They got my teeth put together with crazy glue."

"You've got the biggest tongue in the world," Miles jokes.

"My tongue has just got a lot of desire," replies Dizzy.

The next morning, over breakfast, Max and Dizzy enjoy a few laughs talking about Miles' mystique. "Miles has got this Greta Garboish attitude," says Dizzy. "He doesn't want anybody to see him until he goes on stage. But he never acts funny around Me." Max shares Dizzy's bemusement. "What Miles is aware of is the visual, how important it is to look good in this television age," he says. "When my kids see him, they don't talk about what he sounds like, just what he looks like."

En route from Verona to Lugano, Switzerland, a five-hour drive, Dizzy takes Danilo Perez aside to express his appreciation for his virtuosity at the piano the night before. "You played your ass off," Dizzy says. Beaming, Perez asks Dizzy about the chord changes to "Cherokee," a breakneck-tempo tune that Charlie Parker turned into a bebop masterpiece. "Every night with Charlie Parker was magic," Dizzy tells Perez. "But he had something else to do off the bandstand. People told me he was using dope. I couldn't verify it, though. I never saw him shoot up. I guess he sort of looked up to me morally because I didn't do the things he was accused of doing."

Dizzy first met Parker in Kansas City in 1940, while traveling with the Calloway band. "He was up in a hotel room playing 'Sweet Georgia Brown,'" says Dizzy. "I'd never heard anything before like the sound he got out of that raggedy old horn." In the years to come, Dizzy and Bird turned the jazz world on its ear, first in jam sessions at such New York nightclubs as Minton's Playhouse and later as musical co-conspirators in bands led by pianist Earl Hines and singer Billy Eckstine. In 1945, Dizzy also became a bandleader and included Parker in his front line. Their partnership culminated in a legendary eight-week booking a year later at Billy Berg's in Hollywood. When Dizzy returned to New York, however, Parker lingered on the West Coast. "I gave him all his money and a ticket back, and what he did with it God knows," recalls Dizzy. "He suffered a nervous breakdown soon after that and went into Camarillo State Hospital."

In 1947, Parker surprised Dizzy when he showed up at his first major concert at Carnegie Hall. "He walked out on stage with a rose," Dizzy says. "It probably cost him his last 75 cents." And Dizzy is still haunted by the memory of his last encounter with Parker, just a week before his death in March 1955. "I ran into him at a club called the Embers, on 52nd Street in New York, and he looked so sad," says Dizzy. "He said, 'Save me.' I said, 'Man, nobody can save you. You have to save yourself.' Of course when I heard he died, it really broke me up. I thought I would never get over it."

In Lugano, a charming lakeside town in southern Switzerland, the atmosphere is electric among the crowd of 5,000 gathered in the village center for an open-air concert. Between tunes, Dizzy tosses a few bottles of mineral water to people hanging on the edge of the stage and mugs for a legion of amateur photographers. Long after Dizzy has completed his encore, screams and shouts continue to fill the square. "It's bedlam," says Dizzy.

As the bus heads out at high noon the next day, bound for Turin, Italy, a sense of anticipation fills the air. Eight hours hence, Dizzy is scheduled to perform on the same bill with master vibraphonist and timbale player Tito Puente, the Puerto Rican mambo king, who was won three Grammys. For the Latin members of the band, it will be something of a family reunion.

During the late "40s, Dizzy and the late percussionist Chano Pozo launched a musical revolution by fusing Afro-Cuban rhythms with jazz. Pozo co-wrote "Manteca" with Dizzy. "Chano used to say, 'Me no speak English. Dizzy no speak Spanish,'" Dizzy says. "And I'd say, 'Yeah, but we both speak African.' "

In those days Dizzy would raise the roof at the New York jazz clubs Birdland and the Royal Roost, then party at the Palladium, a Latin dance hall where Tito Puente ruled the bandstand. "A Cuban girl taught me all the dance steps," Dizzy says, "I entered a dance contest with her and we won."

In Turin's town square, Puente, now 67, and his Latin Jazz Ensemble quickly have the crowd of 10,000 clapping hands and bumping hips. Then, when Dizzy and his band take the stage, it's one-upmanship time. During a solo on Dizzy's composition "Tanga," Arturo Sandoval hits a high G on the trumpet, which leaves his fellow Latino musicians shaking their heads in disbelief and prompts Dizzy to raise his arms in a gesture of surrender.

There is a little extra wiggle in Dizzy's walk as he strides across the stage to greet Puente after the show. While Puente watches Dizzy put his trumpet in its case, an autograph hound asks the two road warriors where they are headed next, "China? The moon? I don't know," says Puente. "Just give me the longitude and the latitude," adds Dizzy. "And I'll get there."

MAN WITH A HORN—THE INDEFATIGABLE DIZZY GILLESPIE SYMBOLIZES JAZZ TO AUDIENCES AND MUSICIANS ALIKE

(By Francis Davis)

Though it's a touch grotesque, the artist Mark Diamond's hologram of Dizzy Gillespie is lifelike enough to halt you in your tracks as you hurry past the jazz club called Fat Tuesday's, on Third Avenue between 17th and 18th, in New York. Gillespie—white-haired even to the tuft under his lip and looking close to his present age of seventy-four—smiles and lifts his trumpet to his lips (it's that oddly designed horn of his, with the bell tilted up away from the tubing and valves). Then he swells his cheeks into enormous pouches and blows, his neck expanding too, before the movements reverse and he smiles again, this time as though acknowledging applause.

Gillepsie follows you into Fat Tuesday's, where there is a large poster of him to the far left of the bandstand. And on a wall opposite the bandstand at the Blue Note, a club a few blocks west and several blocks south, where I heard Gillespie perform with his quintet last year, there is a mural showing a much younger Gillespie in action with some of bebop's other progenitors, including Charlie Parker, on a similar bandstand in the 1940s.

At one point last year Gillespie seemed to be everywhere I looked. I saw him on TV with Johnny Carson, Joan Rivers, and Arsenio Hall (unlike most guests on their programs, he wasn't promoting new "product"—he was just being Dizzy Gillespie), and on the promos for "The Soul of American Music," a black music-awards show on which he appeared to be the token jazz musician. He even turned up last year in an issue of Bon Appetit, in which it was revealed that he once feasted on crocodile in Zaire and that the only thing he ever cooks at home is a breakfast of salmon with grits. In New York last June, I heard him at three different shows in one week, all presented as part of the JVC Jazz Festival. One of these was a tribute to Doc Cheatham, an indefatigable trumpeter twelve years Gillespie's elder. The others were memorials for Dexter Gordon and Sarah Vaughan, both of whom died in 1990, and both of whom made their first important records with Gillespie, in the 1940s.

Gillespie, exercising a monarch's no blesse oblige, also appeared, unbilled, at "Bebop, Forty and Under," a JVC program that I missed. The reviews indicated that Gillespie, the oldest man on stage by several decades, had set the pace for the trumpeters Jon Faddis, Roy Hargrove, and Wallace Roney on three numbers that climaxed the show, one of which was his own "A Night in Tunisia" (which he first recorded with Vaughan, in 1944, under the title "Interlude").

At the three concerts I did see, Gillespie appeared to be struggling with his intonation and reluctant to test his upper register, although he compensated by delivering savory, low-pitched blues licks behind the singers Joe Williams and Bill Eckstine at the tribute to Vaughan. Both this show and the one honoring Gordon were somber affairs, at which the mortality of the senior musicians on stage supplied an unstated theme. In contrast, the evening for Cheatham, though overlong and indifferently paced, teemed with unruly virtuosity—most of it supplied by Fadis and the trumpeters Wynton Marsalis and Ruby Braff.

Even so, whenever Gillespie moseyed onstage, he instantly became the center of attention, and the other musicians seemed to huddle around him, as if waiting for their cues. In the sense that this concert and the others during the week—including "Bebop, Forty and Under"—amounted to opportunities to take measure of the small gains won and the enormous losses suffered by jazz in recent years, none of them would have been complete without Gillespie's participation. At this point he symbolizes jazz to those who play it and those who listen to them.

Gillespie also symbolizes jazz to those outside that circumscribed orbit. His name isn't included among the things that E.D. Hirsch, Jr., thinks "literate Americans know," but then again, neither is Marlon Brando's. Lacking a hit single such as "Mack the Knife" or "Hello, Dolly," Gillespie isn't universally recognized and cherished the way Louis Armstrong was, and the likelihood is that no jazz instrumentalist ever will be. Still, with the recent death of Miles Davis, Gillespie is probably the only living figure from jazz whose name—reminiscent of a time when musicians as well as ballplayers were called things like "Dizzy," "Duke," and "Pee Wee"—rings a bell for most people. Gillespie is suddenly famous again, just as he was in the late 1940s, when bebop's virtues were being debated in the mainstream press and (as a glance at Richard O. Boyer's delightful 1948 *New Yorker* profile of Gillespie reminds us) the style was identified in the public imagination with such stereotypes as berets, goatees, dark glasses, Meerschaum pipes, Islam, and flatted fifths—that day's equivalents of baseball caps turned backward, "fade" haircuts, sneaker, hood ornaments worn as medallions, Afrocentricism, and DJ mixes.

Bebop's image has changed over the decades, and so has Gillespie's. In his youth he was regarded first as a rebel without a cause, on account of his antics as a big-band sideman in the late thirties and early forties, and then as a rebel with one, after his musical experiments and those of Parker and a handful of others gradually coalesced into jazz's first avant-garde movement. Today bebop is accepted on faith as classic even by people unsure of whether they've ever actually heard any, and Gillespie is venerated for having been one of its chief oracles, second in importance only to Parker, who died in 1955 and is therefore a phantom to us. Although the number of people able to name even one of Gillespie's tunes might be small, millions of newspaper readers and television viewers recognize that "bent" horn and those puffed-out cheeks.

What's missing from this image of Gillespie is what's unavoidably missing from that hologram of him in the window of Fat Tuesday's—The crackle of his music. Most accounts of Gillespie's career understandably dwell on his accomplishments in the 1940s, when every note he played was accepted as history in the making. But I happen to think that he reached his zenith in the early 1960s, a period in which he wasn't so much underrated (he has never been underrated) as taken for granted amid the clamor surrounding Ornette Coleman's free jazz, Miles Davis's and John Coltrane's modes, and Horace Silver's and Art Blakey's funk. This opinion is based, of necessity, on out-of-print records, such as Something Old, Something New, which featured what was arguably Gillespie's finest band, with the then very young pianist Kenny Barron and the saxophonist and flutist James Moody, and Gillespiana, an album-length suite written by the pianist Lalo Schifrin, Barron's predecessor in Gillespie's group. (One of several orchestral works commissioned by Gillespie around that time, in a futile attempt to beat Miles Davis and Gil Evans at their own game, Gillespiana has aged surprisingly well, and Gillespie still frequently plays its "Blues" section with his quintet.) Records, of course, can be misleading. But a friend of mine, who heard Gillespie in nightclubs on numerous occasions during this period, confirms my impression that Gillespie was then topping himself nightly.

Gillespie was so much the compleat trumpeter that it was difficult to say which was more impressive—his ease in unfurling lengthy and rhythmically compounded phrases or the inflections he could squeeze out of one note. His high notes whistled, and he tossed off entire choruses above the staff. His low notes, when he held them, frequently sounded the way he does when pronouncing the name of his birthplace: "Chee-roh, South Carolina," spelled "Cheraw." (Although bebop was an urban phenomenon, it's worth considering that Gillespie and Parker, its pacesetters, grew up on or near farmland.) Filled with passing chords and other harmonic brainteasers, Gillespie's solos nonetheless had a rich sarcasm about them that immunized them against excess abstraction.

In jazz as in classical music, there are two types of virtuosity: the utilitarian and the utopian. The utilitarian—that of an Oscar Peterson or a Freddie Hubbard—leaves you feeling that you've just heard a musician unsurpassed at what he does. The utopian—that of Gillespie, Parker, Armstrong, Cecil Taylor, Sonny Rollins, and Art Tatum—momentarily persuades you that human knowledge has evolved to such an extent that nothing is impossible. There was nothing that could be done on a trumpet that Gillespie in his prime could not do, and nothing imaginable either rhythmically or harmonically that he hadn't seemingly already thought of.

Reviewers used to scold Gillespie for wasting so much of his time onstage joking around or playing Latin percussion, in an apparent effort to save his lip. But even though less effort is now expected of Gillespie (he is in his eighth decade, after all), he continues to circle the globe as though campaigning for James Brown's title "The Hardest-Working Man in Show Business." Following JVC, for example, he spent all but a few days of July playing concerts and festivals in Europe, Asia, and the Middle East. He practically lived on the road the rest of the year, appearing in both Brazil and California in a single week in September, and, between engagements in Tokyo and San Juan, spending just a few days at home with his wife of fifty years, Lorraine, in New Jersey during the Christmas holidays.

Gillespie spoke with me from a Monterey, California, hotel room in October. I asked him if he could envision a day in the near future when he would begin to take life easier. "You can't take it easy on the trumpet," he replied. "You have to keep at it all the time." He told me that he thought his sound was now "brighter" and "better" than ever before, as a result of a new mouthpiece that he acquired early last year.

But the melancholy fact is that Gillespie's prowess has diminished to the point where hearing him attempt to swap high notes with his protégé, Jon Faddis, at the Doc Cheatham tribute was like seeing the picture of Dorian Gray side by side with the still-unblemished Dorian. Virtuosity is as much mechanical as intellectual, and age delights in robbing virtuosos of the edge they took for granted. Doc Cheatham remains a marvel at the age of eighty-six, but his style never depended on fireworks displays, even when he was younger. Gillespie's did, and he is no longer able to light up the skies with any regularity.

Gillespie still surrounds himself with excellent musicians, however, and he still has his moments. At the Blue Note, where his group included Ron Holloway, an unheralded tenor saxophonist from Baltimore whose solos achieved that remarkable combination of angularity and heft which has long been associated with Sonny Rollins, I heard Gillespie play a blues full of wry shadings and comically deployed silences. It might have been lacking in the bravura that one used to expect from Gillespie, but it was a fine solo by any other conceivable measure.

Gillespie remains a prolific recording artist, and each of the three albums released by him last year has much to recommend it. On Bebop and Beyond Plays Dizzy Gillespie (Blue Moon R2 79170) he joins a Bay Area group led by the saxophonist and flutist Mel Martin for a batch of tunes either written by or associated with him. He even turns in an affecting vocal: Gil Fuller's beautiful "I Waited for You," a ballad that was written for and recorded by Gillespie's big band in 1946. Although the trumpet solos that catch the ear with their imagination and clean execution tend to be those Bebop and Beyond's Warren Gale, Gillespie is clearly the catalyst on this generally spirited session. The two tracks he sits out are run-of-the-mill, latter-day West Coast bebop.

In 1990 Gillespie starred in and wrote the music for Jose A. Zorilla's The Winter in Lisbon, a European film that only recently found an American distributor. To judge from the synopsis that Gillespie gave me during our telephone conversation, Zorilla's movie explores the same ground that Bertrand Tavernier's Round Midnight did. Gillespie plays a disgruntled black expatriate who forms a bond with a young white pianist who worships him. Apparently there's also a subplot involving the pianist's girlfriend, a gangster whose mistress she used to be, and a stolen painting.

The soundtrack was finally released last summer (Milan 731.38 35600-2), and the problem with it is the problem with most soundtracks: motifs reworked ad infinitum in the interest of dramatic continuity just sound repetitive when extracted from their miseen-scéne. But what makes this soundtrack well worth hearing are the selections featuring Gillespie with the pianist Danilo Perez, the bassist George Mraz, and the drummer Grady Tate, who prod triumphant salvos from him on "San Sebastan," and elsewhere encourage from him an uncharacteristic lyricism so intimate that even the notes he flubs seem fraught with meaning.

Perez, whose spacious chordal approach recalls that of Bill Evans, although his touch is more percussive, is also the pianist on Live at the Royal Festival Hall (Enja R2 79658), a London concert recording demonstrating the many virtues of Gillespie's United Nation Orchestra, the fifteen-member ensemble he has led part-time since 1988. The United Nation Orchestra—so named because it includes musicians from Cuba, Brazil, Panama, Puerto Rico, and the Dominican Republic—draws heavily on the classic tunes written (or co-written) by Gillespie which employ South American or Caribbean rhythms (his and Frank Paparelli's "A Night in Tunisia," obviously, but also such durable items as his calypso "And Then She Stopped" and his and Chano Pozo's modified rumba "Tin Tin Deo"). By so doing, this new orchestra begs comparison to the most fabled of Gillespie's big bands, the rough-and-ready one from the late 1940s which briefly included Pozo on congas and blended bebop with mambo and elements of Afro-Cuban ritualistic music. Although hardly as innovative as that band—or as talent-laden as the one Gillespie assembled for a 1956 State Department tour and managed to keep afloat for a year or so afterward (Lee Morgan, Phil Woods, and Benny Golson all did stints in it)—this new outfit is likably volatile, thanks in large part to the trombonist Slide Hampton's gutsy arrangements.

Best of all, because the band is well stocked with such animated soloists as the trumpeters Claudio Roditi and Arturo Sandoval, the saxophonists James Moody, Mario Rivera, and Paquito D'Rivera, and the trombonist Steve Turre, who also plays conch shells. Gillespie doesn't have to be the whole show, as he sometimes does with his small band (if only to leave his audiences feeling that they've gotten their money's worth). What with showcases for Turre and D'Rivera, plus one shared by the singer Flora Purim and the percussionist Airto Moreira, Gillespie doesn't even solo on every number. Sandoval, the band's high-note specialist, does what amounts to Gillespie's stunt work, and Moody—whose association with Gillespie dates back to the 1940s—subs for Gillespie in speeding through the celebrated break in "A Night in Tunisia." Sandoval, D'Rivera, and Morcira are one-trick ponies whose lack of subtlety works against them as leaders of their own small groups. But they sound terrific as featured attractions in Gillespie's genial musical variety show.

It's a pity that economy prevents Gillespie from touring full-time with the United Nation Orchestra. He has always displayed all the attributes associated with successful big-band leaders, including the often ignored one of showmanship. At several points in his career a big band seemed like the only format grand enough for him. It still does, if for different reasons. At this point a big band also serves the purpose of allowing him to take a well-deserved breather now and then.

DIAMOND DIZZY

(By Michael Bourne)

Editors' Note: In late February, Dizzy Gillespie suffered a severe flare-up of his diabetic condition requiring a short hospitalization in Oakland, Calif. Upon returning to his home in New Jersey, Dizzy had a medical checkup, yellow jaundice was diagnosed, and he was immediately admitted to the hospital. "Tests revealed he had an obstruction blocking his bile ducts," explained the Gillespie family physician, Dr. Arthur Grossman.

Gillespie underwent major surgery on March 12. "Since then," the doctor recounted, "Dizzy had to fight and conquer a series of setbacks, including severe anemia and a number of untoward reactions to some of his medication. This has been a very worrisome time. Now, finally, we see him approaching a full recovery. He has clearly amazed us all."

And when could John Birks "Dizzy" Gillespie be playing again? "He certainly needs to build up his strength first," said Grossman. "But now, I can happily predict Dizzy will be making a lot more music later this year and for many years to come."

While we wait to hear Dizzy play again, we have his thoughts on survival, soap operas, and Latin rhythms as told to Michael Bourne.

I've enjoyed Dizzy Gillespie all around the world, from New York to Berlin, the Hague to the Caribbean. That's where Dizzy lives—on the road.

In 1972 when Dizzy was gigging in St. Louis near the ballpark, Down Beat wanted an interview. Instead of something formal, we talked over lunch. I called the piece "Fat Cats At Lunch" and still remember what we ordered: pepperoni-stuffed calzoni for me, beef tips with noodles for Dizzy. I was curious about the bebop revolution but Dizzy insisted that bebop was an evolution and that all music is one music. Dizzy also talked about the Bahai belief in the oneness of people.

Dizzy's faith in the Bahai religion became news that year. When next we bumped into each other, the 1972 presidential election was heated. Dizzy had been a perennial jazz candidate for president, and in interviews, even with tongue-in-cheeks, Dizzy was often quite serious about the problems of American life. But now he'd become a Bahai and the faith prohibits a follower from involvement with politics. I reported Dizzy's withdrawal in DB and the story was quoted in other media as if it was George Washington's farewell.

It seemed only natural—with another election forthcoming and with Dizzy about to embark on a yearlong 75th birthday celebration around the world—that we come together again in these pages. Dizzy was playing a month with friends at the Blue Note in New York—according to Dizzy, the longest gig he's ever played in one place as a bandleader.

Dizzy was already feeling pooped, even before the exhaustive touring that was scheduled; South America, South Africa, Japan, back and forth to Europe, and around the States, with the quintet or the United Nation Orchestra, with Miriam Makeba or the MJQ, an all-star birthday cruise of the Caribbean, a climactic weekly at Lincoln Center, all the while with interludes as artist-in-residence at Queens College. If he wasn't playing, he was being interviewed or filmed or photographed or otherwise lionized. It's what happens when an artist becomes an artifact.

That very week we talked, Dizzy appeared in newspaper cartoons, a goat on CBS TV's Northern Exposure was named Dizzy, a Saturday Night Live gag showed stars alleged to have silicone implants—Cher, Dolly, and, with cheeks ballooned, Dizzy—and the Euro-thriller Winter In Lisbon, with Dizzy playing on expatriate jazz legend, opened in New York.

We didn't have a chance for lunch again but I expected that we'd at least enjoy cigars together. I'd often given Dizzy cigars and offered some superb Dominican handrolls.

Dizzy Gillespie: I quit smoking the day Miles died. I just decided to quit. I haven't had a smoke since then.

Michael Bourne: And you can get all those great Cuban cigars!

DG: And people give me boxes!

MB: One of the most memorable times of my life was when we smoked a reefer and watched As the World Turns. I'll never forget you telling me who was who and shouting at the TV when something had happened.

DG: [laughs] I just saw some of the people from As The World Turns the other night.

MB: Do you still watch?

DG: Not too much. I watched it for 27 years.

MB: How come you never guested on the show?

DG: It was mentioned. I don't know why it never happened. They've visited me. I was doing a show at CBS and all of them came over. I went down to the set and watched them.

MB: If you were a guest, what would we rather have happening while you're playing, sex or murder?

DG: [laughs] Murder! Or somebody taking somebody's wife!

MB: The film Winter in Lisbon is not the first time you've acted.

DG: I've done a lot of small parts. Do you know Faith Hubley? John Hubley? I made a short for them called The Hole with George Matthews. Do you remember him? He wore a derby hat and had a cigar in his mouth all the time. He was a gangster in a lot of films. The Hole won the Academy Award that year [1962]. It was a cartoon. We were underground. We were talking about the situation in the world, nuclear weapons and things. This ground hog bites into a cord from a nuclear station. This guy and I were talking. We didn't have a script. We talked about everything, and I was dancing!

MB: One of the most dramatic scenes—only dramatic scenes—in Winter In Lisbon is when your character sits at a piano and talks about why you left America, about racism and drugs, and that people don't understand the pressure that killed Charlie Parker and Billie Holiday. How much of that was scripted?

DG: None. I just started talking. . . . One of the things that wasn't too good about playing in the movie, except for playing on the soundtrack, was that I wasn't playing my horn. They wanted a straight horn.

MB: What was harder? Learning lines or playing a straight horn?

DG: Learning lines!

MB: One of the things your character says is that you have more dead friends than live friends. Many musicians left the country. Many musicians died. How have you survived against the things that have crushed others?

DG: They just weren't as strong as I was. I've seen a lot of things happen that washed musicians off the scene. It's a pity that so many musicians died.

MB: You were born the year of the first jazz record, 1917. You've lived through the whole history of recorded jazz.

DG: My first record was "King Porter Stomp" with Teddy Hill.

MB: It's very different recording nowadays. Does the new technology interest you?

DG: Not much. I don't use all these different means of recording. They've got a machine in Japan, you can record right on the job and you get a sound you never heard before. It sounds live. I like that.

MB: You've been traveling 50 years. What do you enjoy most about the road?

DG: You meet a lot of friends that you wouldn't see otherwise. I don't think I'd spend money to go to Paris or London, but when you're working you go and see your friends.

MB: When you're on the road, are you able to enjoy where you're at?

DG: There are different places. There's a beach in Minnesota that I like and used to go to. There's a lot of things you can do in Florida, a lot of things you can see in New Orleans, San Francisco. Libraries give me a great sense of knowledge. I get books. I've spent a lot of time reading.

MB: Where overseas have you enjoyed most?

DG: Beirut when it was Beirut. I've been so many places. I like Spain, Portugal, I like Japan.

MB: Where have you not played?

DG: China. I'd like to go there if they'd offer me a job.

MB: What do you like to eat the most on the road?

DG: I can't say! [laughs] I like German food, French food, Italian food. I have kippers for breakfast every day in London. The moment you know you're going somewhere you start thinking about what you're going to eat. My stomach starts sticking out!

MB: Do people around the world feel the same about jazz?

DG: Music travels. Music goes on. I don't think there's that much that's changed in the tastes of people.

MB: Is the audience overseas more enthusiastic for jazz than the audience at home?

DG: Not necessarily People in America, they like the music. But they like rock & roll more than jazz. They put out more money for rock & roll.

MB: When you first played bebop it was very different.

DG: And there wasn't much money involved!

MB: But now your music is the mainstream.

DG: It just happened that it moved up to the front. There's more appreciation now than there was in the beginning.

MB: What are your best memories of Miles?

DG: We didn't see one another too much. He didn't call me much unless he wanted something. He didn't call to say, "Hey, what's happening" like we used to talk in the early days. . . . Miles' music was very powerful. He cold play a note, like a C that's coming later but it's not there yet, but he'd play it and hold it and you'd feel it, and when it finally comes you [sighs]. He knew a lot of music. I knew him when he didn't know that much. He didn't know piano. He'd come to learn piano with me. He'd come to my house with a record and say, "That note! What is it?" I'd take him to the piano and play a chord and say, "Boom! There it is!" He couldn't understand where the notes came from. But he went to Julliard and learned from a lot of people, like all of us did.

MB: When we talked 20 years ago you said the evolution of jazz was like the evolution of religion, that Moses to Jesus to Mahammed to Baha'u'llah was like Louis Armstrong to Roy Eldridge to you and Miles. Who do you feel you've passed the torch to?

DG: I don't get a chance to hear too many young trumpet players. I like Wallace Roney. He played a whole week with me in Washington. I heard a trumpet player down South. He went to that school with the marching band where they run real fast and play [Gramblin]. These guys run hard! I don't know how they do that! If I move, my mouthpiece will move. I heard him at the very famous restaurant in Harlem [Sylvia's]. He was in his 30s. He was really doing it. He learned all that stuff in the marching band. I don't remember his name. [ed: Bill Kennedy] I had a long conversation with him. 3

MB: It must be heartening that so many young musicians have come along.

DG: When you realize the music is in good hands, it's okay. "Go ahead! Y'all got it!" They've studied. It's very good for music.

MB: What words of wisdom do you have for these young musicians?

DG: There were guy like Dud Bascomb who laid a good foundation for trumpet players. Kenny Dorham. Fats Navarro, Miles. There are a lot of trumpet players who really contributed to this music. I don't think the kids have anything to worry about. Just listen to these guys and be impressed by them . . . . it's been so long since I was young enough to realize what I needed to advance myself musically. It's always difficult to know what guy should study most to be a good musician. Piano for the first thing! To learn the keyboard and to pick out your own things and resolution, going from here to here to here, that is very important. But they've got that together. These young musicians are something else.

MB: You've said that the future of the music is in the rhythms of the tropics.

DG: That's something for young musicians to learn about, the rhythms of Cuba, Brazil, the West Indies. Then they should go to the Indians, over in India, and have a whole melange of music.

MB: Jazz is usually in $\frac{4}{4}$ but Latin rhythms are not.

DG: When the Cubans came to the United States they came up here with $\frac{3}{8}$, $\frac{6}{8}$, $\frac{3}{4}$, $\frac{2}{4}$. It was very difficult for us to read that music. We were always playing $\frac{4}{4}$. We didn't do much with $\frac{2}{4}$. We played waltzes in $\frac{3}{4}$, Cuban music was difficult to play because they didn't have a bass drum to keep you together. When I go to play at the Village Gate on Monday nights [for Salsa Meet Jazz]. I have to get myself together. You don't have a bass drum to go by. They don't pat their foot. You can get lost. Even when you're playing you can get lost.

MB: How do you keep from getting lost?

DG: I found out what they were doing without our bass drum and I learned to play it. I learned how to play the conga. That helped a lot. And I danced the music, too! That was important. I could do the mambo, the cha-cha-cha, all those dances. I won a prize at the Palladium!

MB: You came from a time when jazz was dance music, but bebop was art music. People couldn't dance to it.

DG: I could dance to it!

MB: Is that a fundamental of music, that you can dance to it?

DG: It helps.

MB: George Bush is up and down in the polls and no Democratic candidate seems electable. Isn't it time for your Presidential comeback?

DG: I can't. My religion won't allow me to participate in political activities.

MB: When you were a candidate you were very concerned about racism. Is life any better now?

DG: A little. You can go to a restaurant and eat now. You can go to the toilet and not be afraid. We can get rooms at the hotel. We used to have to go to the kitchen to eat. . . . People definitely get along better than they did years ago.

MB: Is jazz something that's brought white people and black people together?

DG: One of the reasons, yes. [laughs] to play the music, white guys have to get together with colored guys or else they don't play!

MB: Is there an actual medical term for what happens with your jowls when you play?

DG: Gillespie Pouches. There's a doctor at Walter Reed, the hospital where our presidents go, and he said, "Mr. Gillespie, if you'll have some photos taken of you jaws with your cheeks extended I'll name them Gillespie Pouches." I went to the hospital and they took X-rays and everything."

MB: Is it unique to you?

DG: Africans can do it. I saw a guy in Casablanca and his jaws were as big as mine!

MB: What are you looking forward to the most as you travel the world for your 75th birthday?

DG: Nothing too much. I'm satisfied.

MB: Being 75 is just another gig?

DG: [laughs] Yeah!

THE CANDIDATE MEETS THE PRESS—PRESIDENTIAL CANDIDATE JOHN BIRKS GILLESPIE VIEWS AFFAIRS OF STATE WITH JAUNDICED—AND JOLLY—EYE

Editors' Note: In honor of elections past, present, and future, we reprint the following from DB, Nov. 5, '64.

As the hustle on the hustings continues up to election day, with Democrat and Republican decrying one another's policies and impugning one another's honor and worse, John Birks (Dizzy) Gillespie plows his own political way in his race for the Presidency of the United States.

The 47-year-old trumpeter from Cheraw, N.C, is pursuing his political campaign, offering several solid planks: intelligence and humor about the whole business of running for office, sincere dedication to the principles of Negro rights and the fight to win them fully, and lots of the best jazz there is.

Q: In your campaign, do you have any specific criticisms of the platforms of the two major parties? If so, what are they?

A: First things come first. First, civil rights. I think that some of the major civil rights groups are on the wrong track. The real issue of civil rights is not the idea of discrimination in itself but the system that led to the discrimination. Such as the schools—the teaching in the schools. They don't teach the kids about the dignity of all men everywhere. They say that there should be education. Okay, I say education, yes, but the white people are the ones who should be educated into how to treat every man. And the system of discrimination started during slavery time—with the slaves—it's an economic thing. Of course, we don't have that slave system at the moment, but we do have something in its place, such as discrimination against people economically.

Economics is the key to the whole thing. For example, if all of my followers said that we weren't going to buy one single product for three days, think of what would happen to the stock on that one product on the stock market in one day. If it would drop drastically—boom! They would hurry up to protect the investors; they would hurry up to rectify a gross injustice. . . .

The other thing is about the income-tax situation. There are certain elements in our society that have better breaks on the income-tax situation than others. I say we should make "numbers" legal. A national lottery for the whole country. All that money would go to the government. Do you realize that millions and millions of dollars a day are taken in "numbers" (which is illegal). Everybody is a gambler. When you come here on earth, you gamble whether you want to live to see tomorrow. So they should channel those virtues in the right direction.

Q: We've been hearing so much for the last six months or so about the so-called white backlash. Do you have any comment on that?

A: Yes, In the first place, the people who are affected by the white backlash, we haven't had them anyway. See? If we are going to judge how to treat a human being by a bunch of hoodlums' riots in certain places, well, we don't need them anyway. I have that much confidence in the integrity of the American people that we have enough to really do something about the situation. So the ones who are affected by the backlash—shame on 'em. We never had 'em anyway.

Q: Could we have your comments on the two candidates of the major parties and their programs? First, Sen. Barry Goldwater.

A. I think his program stinks. I think the senator's program is ultraconservative; I think that Sen. Goldwater wants to take us back to the horse-and-buggy days when we are in the space age. And we are looking forward, not backward. President Johnson? He's done a magnificent job.

Q: In what area?

A: In the area of civil rights—for what he has done and with the backing he has. But I'm sure that if I don't get to be President—which I hope I shall—then I think that President Johnson would make a much, much, much better President than Mr. Goldwater.

Q: We're in an era in which we are told only a millionaire can be President. Are you a millionaire? [laughter]

A: Not by any stretch of your imagination. I remember some years ago when I was in Paris, I saw a headline on one of the tabloids—the New York Mirror—which is presently defunct, and it said in the headline: Bebop Millionaire In Trouble. . . . This was preposterous because at that time I didn't know one bebop musician who had two quarters to rub up against one another.

Q: Seriously, how important do you consider a lot of money is in political campaigning?

A: I understand Gov. Rockefeller. . . . There will be a moment of silence when I mention that name. I understand that he spent in the primaries alone almost $2,000,000 or something like that.

But I look at it this way: suppose I were a millionaire. (That's a very far-fetched idea.) And suppose there was a guy in trouble someplace, and I say, "Here's $10,000"—with the television camera on me, and the radio—$10,000 clear. [Then] if I were a poor man, say, making $75 a week, and I see a guy who's ragged and doesn't have any shoes on and his clothes are in tatters, and I walk up to him and I say, "Come here." And I go to a secondhand store and buy him $6.79 worth of clothes. My idea of that is, I've done more by giving this guy this little gift. I call it having a respect for, and having a big heart for, the little guy.

Q: If you were to pick a vice-presidential running mate, who would it be? Or have you done so already?

A: I was thinking of asking [comedienne] Phyllis Diller. She seems to have that sua-a-a-ve manner; she looks far into the future. She's looking into the future. So I'm a future man, I said to her.

Q: Have you approached her?

A: I sent one of my emissaries. I sent one of my emissaries to sound her on that. I understand that she is for it. She was going to vote for me, anyway, so she'd just as well get in there and work.

Q: What about your cabinet? Who would you select for cabinet officers?

A: In the first place, I want to eliminate secretaries. In French that would be feminine gender, and we don't want anyone effeminate in our form of government, I'm going to make them all ministers.

Minister of foreign affairs: Duke Ellington.

Minister of peace: Charlie Mingus. Anybody have any objections to that? I think it would get through the Senate. Right through.

Minister of agriculture: Louis Armstrong.

Q: Why?

A: Well, you know he's from New Orleans; he knows all about growing things.

Ministress of labor: Peggy Lee. She's very nice to her musicians, so * * * labor-management harmony. It's harmony between labor and management.

Minister of justice: Malcolm X. Who would be more adept at meting out justice to people who flounted it than Malcolm? Can you give me another name? Whenever I mention this name, people say, "Hawo-o-o-o." But I am sure that if we were to channel his genius—he's a genius—In the right direction, such as minister of justice, we would have some peaceful times here. Understand?

Ministress of finance: Jeannie Gleason. Ralph Gleason's wife. When she can put the salary of a newspaperman—you know it's not too great, you have to pinch here and there—when she can keep that money together, she's a genius. So I'm sure that she would be able to run our fiscal policy.

My executive assistant would be Ramona Swettshurt Crowell, the one who makes my sweatshirts.

Minister of defense: Max Roach.

Head of the CIA: Miles Davis.

Q: Why?

A: O-o-oh, honey, you know his schtick, He's ready for that position. He'd know just what to do in that position.

All my ambassadors: Jazz musicians. The cream.

Gov. George C. Wallace: Chief information officer in the Congo * * * Under Tshombe.

We would resume relations with Communist Cuba.

Q: Why?

A: Well, I've been reading the newspapermen who were invited to Cuba to look at the revolution there. * * * It seems Premier Castro wants to talk about reparations. But he wants to talk about it on a diplomatic level, which means respect. I am a man to respect, to respect a country, Cuba, regardless of their political affiliations; they are there, and there's no doubt about it.

And I was reading in the articles that they'll be there a while. So I would recognize that we send an ambassador, in an exchange of ambassadors, to Cuba to see if we can work out this problem of indemnity for the factories and things that they have expropriated. I think that any government has that privilege of nationalizing their wealth. It's theirs; it's just theirs. So if they want to pay for it. * * * Of course, we built it up, we were out there; it wasn't our country in the first place. But since they built it up and Mr. Castro wants to pay you for it, I think we should accept the money with grace.

Q: What about Communist China?

A: I think we should recognize them.

Q: Why?

A: Can you imagine us thinking that 700,000,000 people are no people? How much percent is that of the world's population? I think we should recognize them. Besides, we need that business. We're about to run out of markets, you know. All of a sudden you wake up and there's 700,000,000 more people to sell something to. And jazz festivals. Can you imagine: we could go to China with a jazz festival and spend 10 years there at jazz festivals. We'd forget all about you over here. We'd send back records.

Q: We're very deeply involved in Viet Nam: what would be your policy on this situation?

A: We're not deeply involved enough in Vietnam. I think we should either recognize the fight or take a chance on World War—is it three? There's been so many. Either do it, or get out of there. Because every day American soldiers are walking around and—boom!—out, finished, kaput. They're being killed, and they don't even know hardly that they're even at war. We haven't declared war. so I think we should really either straighten it out—and we have the means to do that—or get out of there. I think we should do it or don't do it. But if I were President, I'd get out of there. I'd say, look, y'all got it, baby. Yeah, good luck. I'd get American soldiers out of there.

Q: As one of our most prominent musicians you are aware that automation has played the devil with musicians' livelihoods. What would your policy be on automation.

A: Automation will never replace the musician himself. We would have to set up some kind of a thing to protect the musician from that. There's a bill in Congress now—oh, it's been up for a long time; I get letters from ASCAP and my Society for the Protection of Songwriters; writing letters to senators to get them to vote for this bill—to make them give us part of that money that's going into jukeboxes. As soon as the jukebox operators find out that you have to pay some money out there, a nice little taste of money, they'll start hiring live musicians again, I think. Instead of having the jukeboxes there, they'd hire some musicians.

Q: What do you think the role of the musicians' union should be in this regard?

A: Aw, the musicians' union! Why did you bring that up? Is this for publication? It is? Ah, the rule of the musicians' union—it has been very lax in this space age. They have wallowed in the age of the horse and buggy and the cotton gin. I don't think they're doing a very good job. All they're doing is taking the money.

Q: In a recent interview, Duke Ellington said that from his personal standpoint he didn't agree with subsidies for his music. What should your attitude as President be toward federal subsidies for the arts, particularly music?

A: We need subsidiaries for the arts. I'm a firm believer in that. Since jazz is our prime art, that should be the first thing we should subsidize.

Q: How about a civil-service night club?

A: Now, that's a good idea. A civil-service night club. That'd be nice....

Musicians should be on the production end of jazz. Like [drummer] Shelly Manne is here in Hollywood. He's a musician who's on the production end of it, and I'm sure that the atmosphere in his club is different from any club in the country because he thinks like a musician. Just think of an organization of musicians who would dictate the policies of clubs where you play: "Say, look, you've got to have a piano that's in tune—that's 440—and lights and maybe little stairs going here and going there." Musicians got some ideas. I imagine if you'd turn them loose on ideas of what kind of people they should have in the clubs and how best they could present that music to people, then all of us would benefit by it because all of us would be doing it.

Q: If your opponents in the presidential race start any mudslinging...?

A: Oh, that's different. A political campaign is something altogether different. And then afterward, you kiss and make up.

Q: Goldwater, too?

A: I don't think we would be on too good terms, not on kissing terms anyway.

INTRODUCTION OF THE AMERICAN HEALTH SECURITY PLAN ACT OF 1992

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDREWS of Maine. Mr. Speaker, I rise today to introduce legislation that provides universal access for all Americans to basic health care services and long-term care services.

AMBASSADOR JOSEPH VERNER REED

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FEIGHAN. Mr. Speaker, I want to share with my colleagues the remarks of Hon. Ambassador Joseph Verner Reed, Under Secretary General of the United Nations at the ceremony to receive the Order of Civil Merit from the Kingdom of Spain presented to Ambassador Reed by Ambassador Jaime De Ojeda Y Eiseley of Spain.

Ambassador Reed has served his country and President with distinction as United States Chief of Protocol and United States Ambassador to Morocco from 1981 to 1985. Ambassador Reed previously served as Under Secretary General for Political and General Assembly Affairs at the United Nations—then the highest ranking American in the Secretariat. Ambassador Reed's remarks regarding Spain's contribution to the development of Western civilization are truly appropriate.

REMARKS BY AMBASSADOR JOSEPH VERNER REED

I am honored by this extraordinary gesture of His Majesty King Juan Carlos I to receive the Great Cross of the Order of Civil Merit.

It has been my privilege to know Their Majesties King Juan Carlos and Queen Sophia for nearly three decades. Our paths have crisscrossed and I treasure their friendship. I rejoiced with His Majesty on his coronation in 1975. I have admired his leadership in bringing Spain into the forefront of the nations of Europe and, indeed, the entire world. I salute His Majesty King Juan Carlos I of Spain.

The King, supported by the elegant Queen Sophia, has demonstrated firmness and a dynamism that are unwavering. I marvel at their stardom. Their royal mission is luminous and performed with supremely modest grace.

This dinner is a celebration of Spain and takes place on the eve of the opening of EXPO '92 in Seville which promises to be the most spectacular world exposition ever, and a brilliant showcase for the New Europe.

THE AGE OF DISCOVERY

This year we celebrate the 500th anniversary of the Great Admiral of the Ocean Sea's momentous discovery of what we now call America on October 12, 1492. (Christopher Columbus sailed from the port of Palos in Andalusia.) Some, claiming to speak in the name of the earlier peoples who came to our continent, have said that Columbus and his successors brought exploitation, disease and European dominance, and that there is no cause for celebration. Others have complained that the Christian religion unjustly supplanted local observances and destroyed rich local customs. On this special evening, I do not feel called upon personally to comment on these and other criticism.

Whatever: that landfall half a millenium ago signalled the end of the old world order. The achievement of this remarkable mariner was a high point in the process of exploration, adventure and cultural interchange that had been going on since man's earliest history. He, and the men and women of his time, changed history and shaped our world.

Beyond the achievement of Christopher Columbus, new and exciting developments in navigation and cartography were already ushering in the global age. The great voyage of circumnavigation undertaken by Ferdinand Magellan, who flew the Spanish flag with his fleet of five vessels[1] in 1519, confirmed that henceforth the entire globe would be the canvas on which man would attempt to paint his masterpiece.

The planet would come to appreciate that, as a result of Spanish initiative, we have a common destiny and a common challenge. The final realization came when the Apollo astronauts sent back to us earthlings the first live television pictures showing the far-off images of our small blue orb floating in the vast and endless sea of space.

LAND OF IMPOSSIBLE DREAMS

Spain—a nation of many different facets.

Madrid—the great capital: the city the United Nations has described as the "Messenger City of Universal Peace".

Spain—a nation of contrasts: nature, arts, traditions, people; the combined hold unexpected beauty and interest.

The great poet, Federico Garcia Lorca, described and immortalized his city of *Granada* with these lines * * *

"THE CITY OF DREAMS"

The colour of silver and dark green, and the Sierra, kissed by the moon, is an intense turquoise.
The cypress trees are awake and swaying languidly, flattering the air
and the wind turns Granada into an organ, its narrow streets serve as pipes. Granada was a dream of sound and colours.

IMAGES

The Alhambra, Cervantes' immortal Don Quixote, the Costa Brava, the Prado, El Greco (Domenikos Theotokopoulos), flamenco, Seville, the Valencian "paella", Goya, gazpacho, the torero who plays out the "National Ceremony", the sherries from Jerez and the moscatel from Málaga, the Gaudí style, Velásquez, Toledo, the Costa del Sol, the universal painter of our times, Picasso from Málaga. And there is Cordoba, the Constantinople of the West, where time has stood still. All these images are a kaleidoscope of the crown jewel of the Iberian peninsula. I have stood in wonder at one of the sights of the world * * * from the Sierra Nevada across the Pillars of Hercules to the coast of Europe's sister continent, Africa. These faces of Spain mold to create the mystery and majesty of this extraordinary people, land, and civilization.

Mr. Ambassador, I thank you for offering this splendid evening of celebration and friendship on behalf of His Majesty King Juan Carlos I.

Spain and the United States are partners for progress. It has been my privilege to have worked for Spanish-American relations and their improvement during my tours at the United Nations and in Washington.

You, Sir, are a great diplomat. Since your arrival in Federal City, you have unleashed your skills and talents within the public and private sectors. You have championed the cause of Spain. The bilateral relationship between Spain and the United States has flowered due to your energy, style and indeed, distinction. I applaud you as a diplomat and appreciate you as a friend.

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[1] His flagship, *Victoria*, was the first to circumnavigate the globe, returning to Spain in September 1522 with 18 of the 265 man crew.

PARENTS AS TEACHERS PROGRAM

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. GEPHARDT. Mr. Speaker, I rise today in strong support of the authorization of the Parents as Teachers (PAT) program in the Neighborhood Schools Improvement Act. This program will be of enormous benefit to the thousands of families who will be enabled to participate.

I'd like to commend Representatives WHEAT and CALLAHAN for their commitment to passage of this legislation. I especially would like to recognize Mrs. Mildred Winter of St. Louis, founder of this program, who is to be commended for her tireless work and dedication to this effort.

In 1984, Missouri became the first State in the Nation to mandate parent education and family support services, beginning at the child's birth, in every school district. The origin of this mandate dates back to 1972, when the State Board of Education adopted a position paper on early childhood education.

The State Board's position was rooted in research of the 1950's and 1960's indicating the critical nature of the first 3 years of life in the development of basic abilities that enable children to learn and succeed throughout their lives. This is also the time when parents are forming their approaches to child rearing. Studies of early intervention programs initiated in the 1960's showed parent involvement in their child's learning to be key in the child's success.

In 1981, the Missouri State Department of Education convened a statewide conference to consider the importance of supportive services to children under the age of 3. From the research presented at the conference came the conceptual framework for a Parents as Teachers Program for families with children birth to age 3.

With funds from a number of public and private sources, the pilot program was launched among four Missouri school districts in 1981. Results of the evaluation confirmed the benefits of the project. At age 3, participating children were significantly more advanced in language development, ahead of their peers in problem solving and other intellectual abilities, and advanced in demonstrating coping skills and positive relationships with adults.

A follow-up study conducted in 1990 indicates that the children who took part in the original project were significantly ahead of their peers 4 years later in first grade. The study also showed that mothers and fathers who participated in the program had continued to play a more active role in their children's education than other parents. These findings confirm the long-term value of Parents as Teachers for children, parents, and schools.

The proven success of PAT is evident in the widespread interest it has received from around the world. The program has been replicated in 36 States outside Missouri as well as England, Australia, and New Zealand. Currently, Parents as Teachers has been initiated in 350 sites outside Missouri. In 1987, to keep up with the number and scope of requests, the Missouri Department of Education established the PAT National Center in cooperation with the University of Missouri-St. Louis.

The results of Parents as Teachers speak for themselves. This cost-effective, internationally acclaimed program strengthens family bonds and prepares children for learning when they arrive on their first day of school. Enactment of today's legislation will ensure that many thousands more of our children benefit in the future. I urge that it be funded at the full authorization level.

THE 100TH ANNIVERSARY OF THE OVERTHROW OF THE KINGDOM OF HAWAII AND TO APOLOGIZE TO THE NATIVE HAWAIIAN PEOPLE

HON. PATSY J. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. MINK. Mr. Speaker, January 17, 1993, will mark the 100th anniversary of the unlawful overthrow of the Kingdom of Hawaii. This tragic event, contrived by U.S. businessmen and representatives of the U.S. Government for their own gain, marks the day that the native people of Hawaii forever lost their sovereignty and were forced to live under a government that was no longer their own or of their choosing.

Today, I join my colleague from the State of Hawaii, Representative ABERCROMBIE, in introducing a resolution to recognize this historic day, the 100th anniversary of the overthrow of the Hawaiian monarchy, and to apologize for the fundamental injustice committed to the native Hawaiian people by this unlawful act.

Mr. Speaker, many of our Nation do not know much of the history of the native Hawaiian people. They lived in their secluded island kingdom in a highly developed, self-sufficient society for many years before the arrival of foreigners. Their monarchy, a kingdom recognized as a sovereign nation by the United States and innumerable European and Asian countries at the time, was governed on the values and traditions of family, community, hard work, and reverence for the land.

The natural graciousness of these friendly people, however, was little match for the U.S. Government, which knowingly participated in the overthrow of this lawful Hawaiian Government. Against the wishes of the people of Hawaii, U.S. armed naval forces invaded the tiny island state; imprisoned the ruling monarch, Queen Liliuokalani; seized the crown lands; and brandished its might in the face of any resistance by the alarmed and indignant populace.

Today, the native Hawaiian people are among the most impoverished in our Nation. Much like the native American Indians, they suffer from neglect, alienation from their land, and the lack of self-determination in a wider society of rapidly changing social and economic circumstances. Native Hawaiians have the highest poverty, unemployment, and school drop-out rates in our State and the lowest health indices in the entire country.

Despite repeated attempts by the Congress and former administrations, the native Hawaiians have never been fully compensated for the injustices committed against them. In 1920, through the efforts of Prince Jonah Kuhio Kalanianaole, the Congress passed the Hawaiian Homes Commission Act, which reserved 200,000 acres of former crown lands for the use of native Hawaiians. But like the reservation lands demarcated for the American Indian tribes, these lands in Hawaii were amongst the least desirable, in remote areas, and usually difficult to develop into housing or farm lands.

In the last several decades the Congress passed a series of legislation to help native Hawaiians achieve economic and social self-sufficiency. These programs provide assistance in education, health, housing, and economic development.

However, these programs have been under constant attack by the Reagan and Bush administrations, which now refuse to acknowledge that the U.S. Government has a trust responsibility for the health and well-being of the native Hawaiian people.

The Bush administration shamelessly denies that Federal funds should be used for the benefit of the native Hawaiian people, despite specific language in previous legislation relating to these initiatives. Every year, the President's budget eliminates funds for native Hawaiian health care, education, housing, and other programs.

Mr. Speaker, it is time for the U.S. Government to formally acknowledge its unprecedented wrongdoing 100 years ago, to apologize to the native Hawaiian people, and to reconfirm the trust relationship between the U.S. Government and the native Hawaiian people by voiding all attempts to undermine Federal assistance to native Hawaiians by the present administration.

This bill is the first step toward the recognition of the responsibility of the U.S. Government to the native Hawaiian people, whose country, properties, and dignity were taken without just compensation. And this bill is an important symbol by the Congress to atone for the consequences visited upon native Hawaiians by the unlawful and immoral overthrow of their beloved monarchy.

IN REMEMBRANCE OF CATHERINE RICHTER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CRANE. Mr. Speaker, my father always counseled us as children to be givers in life, not takers. "Put more into this life than you take out of it," he admonished.

I have tried. But one who absolutely succeeded was the late Mrs. Catherine "Kitty" Richter. I first met Kitty almost 30 years ago when she worked as Vice-President of Communications Research, Inc. in Greenwich, CT.

She was a thorough researcher, a compassionate friend, devoted wife, deeply religious, and a staunch defender of the traditional values that made of the United States the "shining city on a hill."

All of us who were enriched by knowing Kitty lament her passage. But she pulled her tour of duty with grace and distinction. Our hearts go out to her husband, William C. Richter, her family, and friends. We will miss her presence, but her impact on the lives she touched will endure.

A CONGRESSIONAL SALUTE TO SERGEANT DONALD W. KNIGHT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ANDERSON. Mr. Speaker, Saturday, June 27, 1992 marked the retirement of one of the Los Angeles Police Department's finest officers, Sergeant Donald W. Knight. On Friday, August 28, 1992, The Department will honor Don with a service retirement dinner. It is with great pride and pleasure that I rise today to pay tribute to this exceptional individual who has served our community with great distinction.

Born July 25, 1941 in San Pedro, California, Don attended local elementary and secondary schools until his family relocated to Payallup, WA. Following graduation from Payallup High School, Don attended Lutheran University and received an A.A. in Police Science. By 1963, Don had returned to San Pedro and entered the Police Academy. Don's long and illustrious career with the L.A.P.D. spans 29½ years. He has served in the Harbor Patrol Division, the Hollenbeck Patrol, the 77th Street Patrol, and in 1969 became a Detective with the Harbor Division. In 1971, Don was made Harbor Patrol supervisor and by 1976 he was promoted to assistant watch commander of the Harbor Patrol. During this time, Don was also officer in charge of the Vice Unit. In 1984, Don received the exciting and extremely challenging post of Harbor Olympic Games coordinator. His final career move was as liaison to Harbor Court in 1988.

In addition to his demanding duties as a Sergeant in the L.A.P.D., Don has always made a special effort to volunteer his time and talents to a variety of community activities. He is a member of the San Pedro Christmas parade committee, the director of the San Pedro fishermen's fiesta, and a coach of local Little League baseball teams. His hobbies include fishing, camping, and traveling. Recently, Don and his wife of 29 years, Donna, purchased a trailer and their plans are to enjoy Don's retirement by touring the country.

Mr. Speaker, on this most deserving occasion, my wife, Lee, joins me in extending this congressional salute to Sergeant Donald W. Knight. We wish Don, his wife, Donna, and their children, Kenneth and Kimberly, their children's respective spouses, Christine and Michael, and their grandson, Steve, all the best in the years to come.

IN HONOR OF ROBERT A. HAGLER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STARK. Mr. Speaker, I rise today and ask my colleagues to join me in honoring Mr. Robert Hagler, who retired as superintendent of the Castro Valley Unified School District on July 1, 1992 after more than 40 years in education.

Mr. Hagler has been a leader in educating thousands of students in my district as well as a leader in community service. He is a member of the Castro Valley and Pleasanton Rotary Clubs and has served the Tri-Valley YMCA as president and longtime member. He is a past president of the Alameda County Industry Education Council, travel tour leader with the California Farm Bureau, former member of the Western Association of Schools and Colleges, and past president of the East Bay Athletic League. Bob has not missed a Dublin-San Ramon Lions Club meeting in 8 years—I wish our committee hearings were as well attended.

In 1950, Robert Hagler began as an instructor at St. Mary's Elementary School and started a journey that has made him a part of the lives of so many young students and athletes. He has taught at St. Mary's High School in Berkeley, St. Mary's College in Moraga, and served as principal of both Amador and Dublin High Schools. Since 1984 he has been the superintendent of schools and will continue in that position until the Board of Education can find a successor—not an easy task.

As we continue to debate the fine points of education policy, Mr. Speaker, let Congress and every State legislature not lose sight of the individuals who give their lives to teaching and making our schools work. It takes dedicated educators to make the difference in our children's future. I applaud Robert Hagler's many years of service to my constituents and neighbors and wish him the best in retirement.

TRIBUTE TO JACKIE JOYNER-KERSEE

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. COSTELLO. Mr. Speaker, I rise today with great admiration and respect for the best woman athlete in history, Jackie Joyner-Kersee. As the Olympic Gold Medal winner in the heptathlon for two straight Olympic Games, Jackie has proved her athletic ability to the world. She proudly represented our Nation, the United States, in the 1992 Olympic Games. I would like my colleagues to join me in recognizing and applauding her for her amazing talents.

The heptathlon is a seven-event test of every basic track and field skill. Jackie Joyner-Kersee met her personal goal for the heptathlon and reached a score of 7,044. Her previous best, 6,985 points, was the world record holder prior to this year's event.

Jackie Joyner-Kersee is originally from East St. Louis, IL, in my congressional district. Although she currently lives and trains in Los Angeles, she has not forgotten the city of her youth. Jackie returns to East St. Louis to see friends and relatives as often as she can.

She established the Jackie Joyner-Kersee Community Foundation in 1989 to assist the youth of inner cities. The goals of the foundation are to aid urban communities in developing the minds and bodies of their youth through academics, athletics, and other recreational programs. The foundation tries to help as many needy communities as financially possible.

Jackie Joyner-Kersee is not only an exceptional athlete but also a superior citizen of our country. Her commitment to both athletics and the youth of our Nation's inner cities is highly commendable. I hope my colleagues will join me in congratulating Jackie Joyner-Kersee for her performance in Barcelona at the XXV Olympic Games and praising her foundation activities in the United States.

WAGING THE PR WAR IN BOSNIA-HERCEGOVINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CRANE. Mr. Speaker, while the guns fire and the bombs drop, another battle wages in the republic of Bosnia-Hercegovina, a battle with words as ammunition and public opinion as the conquest. As evidenced last year with the now infamous and unsubstantiated testimony of the daughter of the Kuwaiti ambassador to Washington who told of unspeakable atrocities being committed by Iraqi troops, public relations firms can often shape the view of the public, lawmakers, and international leaders through the gruesome stories they perpetuate or the ones they chose to conceal. The situation in Bosnia-Hercegovina with Serbia and Croatia is no different as is illustrated in the following article. I encourage my colleagues to read on and increase their awareness of the PR war so as to avoid becoming a casualty of it.

[From the New Statesman & Society, July 31, 1992]

SPIN DOCTORS OF WAR

(By Karl Waldron)

It would have been perhaps the worst atrocity so far in a war where horror follows on horror; Serbian irregular snipers paid the equivalent of £300 for every child-kill they achieve. The story was related by Steve Watt, a volunteer aid worker.

"They target the children," he said, "because of the money and because they are easier to kill. With their small size, the bullets make a bigger mess."

Mr. Watt's words were transmitted—along with his claimed statistic for 11,000 child injuries from gunshot wounds and some 400 child-deaths—on Sunday, the BBC's morning radio news service, The World This Weekend and, perhaps most importantly, on News Hour, the World Service flagship news programme the following day. They were thus read into the record for a potential English language audience of 300 million listeners worldwide.

And the story is almost certainly not true. No one imputes any ulterior motive in Mr. Watt's relating what he had been told by Croats and Bosnians in his brave journey in a truck convoy on the road to Sarajevo; but one does have to question the BBC's editorial judgment in the manner of its transmission.

Like many other of its genre, this story had its origins in Bosnia-Hercegovina, but owes more than a little in its passage to Croat/Bosnian, and now international, folklore to the outpourings of a PR company's fax machine in Washington DC.

While origins of atrocity stories are frequently difficult to discern in war, the history of this one, unusually, can be traced. It first gained its credence in the Croatian media and, like many others from both sides of the conflict, it has little or no first-hand substantiation.

It made an appearance in an article written by Irtse Zortic, a Bosnian Muslim journalist working for a Croatian newspaper, the contents of which were subsequently repeated in other Croatian newspapers and formed part of a news broadcast transmitted by Radio Croatia International.

The service, which peppers its broadcast with items of blatant propaganda passing as "news", is treated with disdain by the western media. But like all international broadcasts, it is monitored by the BBC at Caversham, whose operators hear its other favoured subjects—Serbian salt mines operated with Croat and Bosnian slave labour and Kurdish militia fighting, for huge sums of money, for the Serbian cause.

The Caversham monitors record important information from the airwaves in the Summary of World Broadcasts. One said recently: "Frankly, much of what we get from all sides in this conflict is unusable, useless. Unless it is a speech or something like that, it usually finds its way to the bin." Which is what happened to Zortic's story.

Zortic stands by his story, but admitted last week that he was given it by the Croatian Information Ministry, in a private interview, and that he made no further checks. "Who could I ask?" he says. "You can't expect us to ring them [the Serbs] and believe them when they say it isn't true." But the tale, which is so widely accepted as fact in Croatia as to be described as an "old chestnut" by a senior western journalist covering the Yugoslav conflict, owes much to an earlier communication from the fax machine in the offices of Ruder and Finn in Washington.

Last week, Rhoda Paget from the company admitted to assisting in disseminating the "Cash for a Corpse" story. "We were told it by a minister in the Croatian government. We merely informed them of its importance and have never checked its honesty. Neither do we have the resources to do so. Frankly, it's just not our job. It's the journalist's job to check them out . . . but it came to notice by a surprising route." Ruder and Finn's "job" is to handle the PR account for the governments of Croatia and Bosnia-Hercegovina at a cost of US$18,000 (£9,700) a month, while British lobbying company, Ian Greer Associates, act in a similar regard "on behalf of Serbian interests", their undisclosed fee paid by a "syndicate of Serbian businessmen".

According to John MacArthur, publisher of Harpers magazine, and author of a book, Second Front, on the subject of public relations and propaganda in the Gulf war, it is the American company that is currently doing the better. "The relative success of these companies in getting horror stories into print is critical to the setting of the international political agenda," he says. "They affect votes in both the Security Council and the Conference on Security and Cooperation in Europe by altering the mind-set of an electorate who would never dream of reading a UN resolution. They establish the conditions which make it possible to be involved in a war."

MacArthur points to the success of PR company Hill and Knowlton in promoting the "Dead Kuwaiti Babies" story, in which Iraqi troops were alleged to have taken Kuwaiti babies out of their incubators and left them to die on the hospital floor. The story relied on the testimony of an eye-witness who subsequently gave televised testimony to the Congressional Human Rights Caucus. The "eye-witness" was subsequently revealed to be the daughter of the Kuwaiti ambassador to Washington who had been "told" about the killings by witnesses who have never since been produced.

"If this had been known at the time," John Edward Potter, senior Republican on the caucus said, "she would have not been allowed to testify". But the story of the story was not published until January this year, nine months after the end of Desert Storm. "Nayirah's testimony was critical for establishing the conditions where the American public would accept the deaths—any death—of their own," says MacArthur. "It is ironic and immoral that such changes should have brought about misinformation, perhaps even a downright fake."

According to Tom O'Sullivan, a journalist at PR Week, both Steve Watt's and Nayirah's testimony provide what is called in PR-speak, "a classic third-party endorsement", although Nayirah's was not revealed as such at the time. A story is told, someone also retells it and in the retelling it often gets embroidered. Watt says he was told the child-killings story on the road to Sarajevo and has no first-hand knowledge. That means the real, true story is that someone, preferably English or an English speaker and a non-combatant, believes in its authenticity. "But the listener doesn't take it in as hearsay—instead they hear it as recorded fact," says Sullivan. "You could argue, that is what the PR industry is all about.

According to an executive at Hill and Knowlton who, although not acting for any Balkan interests, refused to be named, the fact that Croatia is not subjected to any embargo, even for weaponry, while Serbia faces sanctions, may itself be due to better PR. A recent investigation of reported atrocities showed that the number of substantiated incidents was similar four perpetrated by Scrbs, two by Croats, one by Muslims, and two by Muslims and Croats together.

John Kennedy, a Conservative parliamentary candidate at the last election, now a PR consultant with Ian Greer Associates who has worked on the Serbian account, says that the Serbian government in its support for Serbian irregulars is "faced with losing battles on the second (propaganda) front precisely because they have been winning the war. The public relations defeats do not bother the fighters, of course, but they have an indirect effect on their ability to prosecute their war."

Mr. Kennedy, usually labelled by BBC radio—and without further qualification—as "an expert on Serbian affairs", feels Greer's way is more subtle than that favoured by the American companies. "We use the press," he said "but it is behind the scenes lobbying, and the use of governmental opinion to sway international governmental opinion where we are the most effective. The Serbs will now have more opportunity for pressing their cause. Milan Panic, prime minister of the rump Yugoslavia, numbers Lawrence Eagleburger, U.S. Assistant Secretary of State among his closest friends.

BODY COUNTS

(By Kevin Weaver)

Reporting on the claims and counterclaims of the numerous atrocities in Bosnia and Serbia has become a journalistic minefield. Both sides have long since embraced propaganda, accusing the other of orgies of violence that hark back to the atrocities committed in Yugoslavia during the second world war.

I saw similarly exaggerated claims during the Romanian revolution of 1989, when disembowelled bodies of pregnant women were paraded in front of the press in Timosoara. In fact, these women had died of natural causes and had been cut open for autopsies—not butchered by Ceauscecu's Securitate.

For the first time last week, one side in the Yugoslav conflict retracted an atrocity claim. A thousand Bosnian Serbs were alleged to have been massacred in Odzak in northern Bosnia, which had been captured by the Croats for three months. The Belgrade news agency, Tanjug, withdrew the claims when commanders from the Bosnian Serb army said there was no evidence of any graves. It then emerged that the reporter had picked up the claim from *Glas*, a paper published in a Serb stronghold. This rare retraction could signal a new trend, sparked off by the realization that false reports only escalate the scale of the sectarian-style atrocities on either side.

The Croatians have produced a 500-page book with pictures and eye-witness statements of Serbian atrocities. I saw pictures of burnt bodies—with their hands tied and their genitals cut off and forced down their throats. When I was in Split last month, reports came through of a massacre of 15 Croatian soldiers in Western Bosnia. Their faces had been shot to pieces, they had been castrated, and two fingers from each hand had been cut off, leaving the three-fingered Serbian salute.

Serbians tell similar stories of mass torture. The strongly partisan paper, Politika, has accused the Croats crack Ustashe force of "ethnic cleansing" in eastern Bosnia, and of razing Serb villages with modern German weaponry.

Speaking to some Chetniks (crack Bosnian Serb troops) in a Serb stronghold near Sarajevo, prejudice and propaganda was very apparent. The Chetniks, many of them teenagers, told me that during their ethnic cleansing operations, they had been attacked by drug-crazed Muslim Bosnians, and had rescued Serb children who had been raped by Muslims. They said that they had proof that Libyans, African and Iranian mercenaries were fighting for the Bosnians. In the same breath, they said that all Muslims were "dirty Arabs who wipe their bottoms with their hands".

The atrocities inflicted on Bosnian Muslims have been documented in a report called Save the Humanity, which was published last month by Bosnian peace and nongovernmental organizations based in Sarajevo. It draws on 20 statements made by eye-witnesses, who said they would be willing to stand up in an international court and repeat their statements.

These factual accounts seem credible, but some of the stories I heard in Sarajevo could easily have been exaggerations or pure myth. As the war in Bosnia continues, new atrocity stories come to light every day, increasing the stakes, and the bitterness on all sides. Such horror stories, whether true or false—and some certainly are true—will divide communities in Bosnia and the other Yugoslav republics for years to come.

REV. BEAM'S SERMON

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DUNCAN. Mr. Speaker, I would like to share with my fellow Members and readers of the CONGRESSIONAL RECORD a sermon delivered by Reverend Richard Beam, minister of the Woodlawn Christian Church in Knoxville, TN.

Reverend Beam points out some very serious concerns we face in this Nation today, and I believe that everyone would benefit by having the opportunity to read his thoughts and giving them serious consideration.

RIGHTEOUSNESS EXALTS A NATION, BUT . . .

(Sermon by Rev. Richard Beam)

Prov. 13:34.—A righteous nation will prosper, a wicked nation will suffer. A righteous nation acknowledges God and behaves rightly in his sight. A wicked nation turns its back on God and behaves sinfully. The Old Testament is filled with examples of this. When the children of Israel crossed into the promised land, Joshua led them against Jericho in an unusual battle plan. They were to march around the fortified city for six days and on the seventh they were to blow their trumpets and shout. Their army was large enough to surround the city so when the walls came tumbling down they simply walked in and destroyed their enemies.

But do you know the rest of the story? The defeated city was dedicated to God, so they were to take no booty from it. A man named Achan knowingly stole some gold and silver and a garment, so when Israel sent a small band of soldiers against a tiny army at Ai they were routed. The cause of their defeat was the sin of one man. There is a pattern here. Righteousness leads to prosperity; unrighteousness to defeat, and it does not only apply to Israel but to every nation. The Canaanites were driven from the promised land because of their unrighteousness. Sodom was destroyed from heaven because there were not ten straight people in the city of homosexuals. These are examples of a principle that still is in force today. Righteousness exalts a nation, but sin is a reproach to a people. This is simply the teaching of Jesus that "Whatsoever a man sows, that shall he also reap." It is that principle on a national scale.

You can see the principle in modern times, I think in the last 70 years of the history of the USSR, a nation that tried Godlessness as official government policy only to see its own walls come tumbling down in Berlin in a sort of modern miracle. This nation dressed in grey and black with sad wrinkled faces waited in lines for food for 70 years, drowning their sadness in vodka. There were, of course, well-fed, well-housed exceptions.

Contrast that with the history of the United States of America which has not been perfect by any means, but which has acknowledged that the rights of its citizens came from God, not the state, and which has scriptures carved on most of its public buildings, which requires that the words, "In God we trust" be engraved on its coins, which pledges allegiance to its flag as "one nation under God," whose presidents are sworn into office with one hand on the Bible and commonly end the oath of office with the word "so help me God." On a typical Sunday 53 million people are in church in America, and the number is growing annually. This is a nation that for these 200 plus years has known relative prosperity. there have been and still are the hungry and homeless, exceptions.

But one nation fell, I think because of official Godlessness, and the other is slipping because of a spreading Godlessness. The United States is moving toward becoming a secular state. Dan Quayle raised the question of family values in a recent speech that brought ridicule from the media, but when the laughter died down, the nation realized that he had raised a serious issue. There is another serious issue that would be even more difficult for a politician to raise. It is this. As a nation, we no longer value God like we once did.

Let me give you two examples. For as long as we have had public education in America, 100 years round numbers, graduation ceremonies have been opened by invocations and closed by benedictions. But in June of 1989 in Providence, Rhode Island, 14 year old Debbie Weisman was attending her middle school graduation when following the pledge to the flag, Rabbi Leslie Gutterman was introduced for the prayer. He addressed God as "God of the Free, Hope of the Brave," and delivered a 42 second prayer thanking God for the constitution, the political process, the court system and the destiny of the nation. At the end of the service he pronounced at 27 second benediction in which he alluded to only one scripture in Micah 6:8 asking the graduates to "do justly, love mercy, and walk humbly." James Kilpatrick cites these details in a recent syndicated column.

Debbie Weisman's father sued for this first amendment violation and won in the Supreme Court. There are to be no prayers in public graduation ceremonies in American public schools ever again. I don't see how you can call that anything but a major shift in the way we value God in America. I know no one who wants prayers to be mandated in public schools, but to outlaw prayers says something about a nation that I don't want said about may country.

An editorial I read in a Columbus, Ohio newspaper lauded the decision as a good one, allowing that the business of schools is reading, writing, and arithmetic. I don't know if that was propaganda or if the editor is that far out of touch with reality. People who make that kind of statement don't want to take sports out of schools, or technical education, or guidance counselors, or especially sex education and free condom distribution. They only use that line to get out of schools what they don't want in schools. In this case God.

Schools teach reading writing and arithmetic, though poorly, if national testing means anything, but they also teach values. Some of them they teach directly like the family and citizenship values those who are my age and older learned in schools. Sometimes they teach them in values clarification classes which mostly teach that there are no values except the ones you create for yourself. Sometimes schools teach values in sex education classes where safe sex is valued above all else. But they teach them in other less direct ways. They teach them when they say the pledge to the flag, and when they expect hard work, and when they punish behavior, when they enforce dress codes, and rules about smoking and carrying weapons, and they teach them with their attitude toward cheating. They also teach them with their attitude toward God.

I know that kids can pray silently if they want to, anytime, any place, but I am talking about the public responsibility to acknowledge the existence of God in the schools. I know that only a tiny fraction of the students may listen to the prayer at graduation and fewer yet may pray with the prayer, but to have a prayer says something about how you value God in the society. I know that the wording of a non-sectarian prayer would likely be watered down and not please everyone and possibly not anyone, but to have a prayer says something about how we value God. I know that a priest of some kind or a rabbi or a preacher from some church other than mine would probably deliver the prayer. But the prayer recognizes the existence of God.

Righteousness means doing what is right in the sight of God. Yet we are undergoing a period in our history when we after nearly 200 years have finally understood that the founding fathers did not want us to mention God in public life. And that is absolute foolishness. How did all of the references to God get there and how is it that our history is so full of them? The forefathers wanted church to be separated from state, but they did not want God removed from public life. The least government ought to say is that God is. That is not a sectarian statement. It may be offensive to a very few but not to say that is to say that God does not exist or that God does not matter.

Here is example two. When I was a Boy Scout, as I was for many years, earning the rank of Star and the position of junior assistant scout matter, I took the scout oath to do my duty to God and country and to be morally straight and clean. You had to believe in God, live morally, and be a good citizen to be a boy scout. Most troops met in church buildings and were welcomed there. In our troop we prayed at meal time and when a camping trip took us away for the weekend, we had church services.

In today's secular climate the Boy Scouts have been maligned on two fronts. First they have been sued because they do not accept atheists and secondly because they do not accept homosexuals. The Boy Scouts have reaffirmed their positions and are determined not to back down. As a result they have lost financial support from some local United Way organizations and from some companies who have written into their policies that they do not support organizations that discriminate by religion, or sexual preference. Levi-Strauss, the makers of Levis, is one of them, according to a recent News Sentinel article. Now these companies and United Ways can do what they want, but I will not buy from Levi-Strauss and urge you to do the same, and I would never support the United Way's many local organizations of which also support Planned Parenthood, the largest supplier of abortions in America.

But who would have thought this. The Boy Scouts are also under fire from mainline denominations. The Presbyterian Church USA voted on a measure that would have forced them out of hundreds of their church buildings. The measure failed, but the fact that it was raised is a disgrace. The Evangelical Lutheran Church in America has criticized the Boy Scouts and may vote on a similar issue. The Boy Scouts are bracing for flack from other mainline churches too. (This according to a report in the National and International Religion Report.)

I am not surprised that a few people have the kinds of attitudes expressed in these two illustrations—graduation prayers, and the boy scout oath—but I am surprised that these views are so broadly accepted. They represent a national trend toward secularization. I am also surprised that few Christian people speak out against them.

I am not talking about times changing here, about people dressing differently and wearing their hair differently or about difficult problems brought on by technology. We are talking about issues fundamental to the survival of our society.

It used to be that the government was sympathetic to religion because it knew that religion was good for the society. Genuinely religious people do not steal and lie and cheat. They do not murder or riot. They work hard and support themselves and support their families and take care of their own poor and needy. If the benevolent work of religious groups stopped, there would be no way that government could replace it. It would go undone. And there would be more sadness, loneliness, and misery than this country could bear. So government used to be sympathetic toward religion. This is becoming less and less true. Government is increasingly hostile toward religion. And in this country, more than in Israel of old, more than in the Soviet Union, we are the government, so we share responsibility for the increasing Godlessness.

And remember this. If the curse of God comes on a nation, it comes on the entire nation. If this nation has prospered in part because of our general acknowledgement of God, we have all prospered. Like several boats the righteous and the wicked have risen with the tide. And if because we have denied God we suffer as a nation, we shall all suffer. Our children and our children's children will suffer.

Christians used to be able to pray without hesitation for government and preach without reservation about America. This is increasingly difficult. We will of course continue to pray and increase our prayers for our leaders. We will, of course, on occasions like this preach about our nation, but the sermons become less and less positive. And it is not because Bible believing Christians don't agree with a few policies or decisions, but because we increasingly do not believe in where America is going.

We believe that righteousness exalts a nation and sin is a reproach to a people. We believe that neither individuals nor nations can define sin and righteousness for themselves, but that these are defined and revealed by God. And our hearts are broken when we see our nation on the road to self-destruction.

I do not believe that America is or ever was or ever should be a theocracy. But she has and should again acknowledge the existence and power of God. However we deal with multiculturalism, it must not be by turning our back on God. There is no way that the increasing secularization of America can be defined as anything but evil and a reproach to her people. There are those who think this is a small matter. Even in the church there are those who think this is a small matter, or even agree with the Supreme Court decision, and of course there are larger issues, but the real question is this: In the eyes of God is this a matter of indifference or unimportance. And this: Is it likely to do more good to remind students even in the broadest and most general terms of the existence of God or is it more likely to harm them?

So pray for America. For the sake of your children and grandchildren. And work to make America a better place, a more Godly place. Speak up for God whenever you get a chance. And vote for people who believe in God enough not to want him banished from public life, and who believe in him enough to speak for him without shame. And don't support in any way the forces that are advancing the causes of Godlessness. And renew your own commitment to God and to Godly living for what is true of a nation is true of an individual.

JULY 5TH, 1992 PRAYER

Lord in these days when Americans celebrate the birth of this great nation we celebrate with them, though we are only strangers passing through to a better land.

We celebrate because in your providence there has been established a place on the earth where the faith in Jesus could prosper and spread across the globe.

We celebrate because in your providence there has been established a place where individual freedom has flourished like never before, especially where we are free to worship you as we understand you.

But we celebrate with some sadness, because we fear that this nation shall never again be what she once was. We sense the gradual erosion of freedom and the growing distaste for righteousness.

We see a world in which every person does what is right in his or her own sight. We see too much of Sodom and too much of Babylon in America.

We are afraid for our children and we are ashamed that we have nearly lost what was once ours. Forgive us our sins first, and forgive the sins of our leaders and of our nation.

Make strong the voices and the wills of those who speak for righteousness. Diminish the forces of evil. And may your name be welcome across this land. In our schools and courthouses, in our congress and in our senate, in our art and our media, may your name be welcomed.

Make this church and the churches salt and light. Restore our land. Make us as a people all that it is possible for us to be. Give jobs to the jobless, homes to the homeless, help to the helpless. Remove graft, greed, and selfishness from our public offices.

May it become true of us that "in God we trust." May we be more than ever before, "A nation under God." And start here in this place by cleansing our own hearts as we renew our own commitment to you in Jesus name. AMEN

FARM PAYMENT FAIRNESS RESTORATION ACT OF 1992

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DINGELL. Mr. Speaker, for several years, the farmers of my congressional district have expressed to me their frustration with the current payment yield system used by the Agriculture Stabilization and Conservation Service [ASCS] to determine farm program payments.

In 1990 the Congress approved two bills which have had a substantial impact on the payments received by our farmers: The Food and Agriculture Act—1990 farm bill—and the Omnibus Budget Reconciliation Act [OBRA] of 1990.

The current farm bill freezes payment yields at the level paid for the 1990 crop year, a continuation of the policy first implemented under the 1985 farm bill which was initiated to help stop plummeting farm prices caused by record levels of commodity stocks.

In preparation for the 1990 farm bill, the U.S. Department of Agriculture [USDA] conducted a study that showed how much several varying options for changing payment yields would cost the Federal Government. Four choices were developed for congressional consideration:

First, adjust payment yields to reflect actual yields for all farmers, yielding up and yielding down inaccurate yields where necessary to balance the program—projected additional cost of $.5 billion.

Second, change the calculation for actual yields by creating a 5-year average that discards the highest and lowest years—projected additional cost of $0.54 billion.

Third, allow producers to choose between county established yields and proven yields—projected annual cost of $1.2 billion.

Fourth, retain county established yields.

Section 505 of the 1990 farm bill directs the Secretary to either retain county established yields as first determined in 1985, or at the Secretary's discretion, establish a farm program payment yield for any farm on the basis of actual yields—the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield and the year with the lowest yield.

The farmers in Monroe County, Michigan, like many other farmers who informed me that they did not keep up their yield records, are being paid a amount vastly beneath the average amount of crop grown for each planted acre. The consensus in Monroe County is that true change must be market based, but if a farmer is going to participate in the farm program, he or she wants to play on a level field.

I believe that the farmers of my district have a legitimate concern—that it is time to pay farmers based on what they actually grow, instead of on outdated bureaucratic computations.

I am, therefore, introducing the Farm Payment Fairness Restoration Act. This bill requires the Secretary of Agriculture to use the statutory authority granted him under the 1990 farm bill to compute farm payments on the basis of actual yields, those yields that farmers can prove through their own production records. To pay for the anticipated increased costs to USDA farm programs, this legislation would direct the Secretary of Agriculture to use $1 billion in funds which were triggered on June 30, 1992 for increasing USDA export program funding in the absence of a GATT agreement.

Unfortunately, the $1 billion provided by the GATT trigger would not be enough to fund the use of actual yields in the long run. The continuation of an actual yields policy would have to be debated during consideration of the next farm bill. This legislation would, however, help to make sense out of the Farm Payment Program by using additional trade program dollars to help the small- and medium-sized farmer get paid fairly for the amount of crops they grow, rather than increase funding for an export program whose funding, mainly to major corporations, has raised eyebrows among our colleagues.

It is my hope that this legislation might begin to address the inequity that many American farmers, including those in Monroe County, face when they participate in the farm program, so that these growers can better market their products for sale both at home and overseas.

HARBOR MAINTENANCE TAX ROLLBACK LEGISLATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STUDDS. Mr. Speaker, today Congressman MOAKLEY and I are introducing legislation that will roll back the harbor maintenance tax in order to save jobs and keep our ports competitive.

The harbor maintenance tax [HMT] was established in 1986—Public Law 99–662—to offset the Corps of Engineers' costs for developing, operating, and maintaining America's harbors and ports. Previously, these activities were paid from general tax revenue, but under the 1986 statute the corps was authorized to recover up to 40 percent of its operation and maintenance costs from HMT revenues.

The 1986 law authorized the Customs Service to begin collecting a 0.04 percent HMT on the value of waterborne cargo and passenger fares moved through U.S. ports. In the case of cargo entering the United States, the tax is paid by the importer, in the case of cargo leaving the United States by the exporter, and in all other instances by the shipper. Since 1986, Customs has collected approximately $160 million annually in harbor maintenance taxes.

Unexpectedly, the Omnibus Reconciliation Act of 1990 increased the fee from 0.04 percent to 0.125 percent ad valorem. The primary justification for the change was to raise revenues and make it possible for the corps to recover 100 percent of its authorized operation and maintenance costs. In New England, and in Massachusetts particularly, the tripling of the tax has had a profound negative impact on our economy, increasing the cost of shipping out of New England ports and causing cargo to be diverted to cheaper Canadian ports. For example, since the increase, the Port of Boston has lost 10,000 to 15,000 containers to alternative Canadian ports because the higher HMT has added $200 to $400 per container to shipping costs. This added cost puts U.S. products at a competitive disadvantage with goods produced overseas.

There is also precious little evidence that the current level of the HMT is warranted by the amount of port dredging expenses. The American Association of Port Authorities estimates that in 1990 the funding needed for port maintenance was $270 million; current annual collections are anticipated to exceed $600 million.

In addition to rolling back the HMT, the bill we are introducing today provides that the tax should not be imposed more than once in the movement of a cargo under the same bill of lading, regardless of how many times that cargo is loaded or unloaded. Current law specifies that the HMT will be imposed for exports "at the time of loading," and in all other cases "at the time of unloading." However, due to intermodal shipping and the use of feeder vessels, cargo may be loaded or unloaded—onto or off more than one vessel—more than once during a voyage. For example, where a cargo is carried from one port to another, and then transferred to a feeder vessel to be carried to its ultimate destination, the tax would be assessed on that cargo twice. It is inherently unfair that the tax should be levied on the same cargo any number of times due to the vagaries of certain transportation arrangements.

Finally, the bill contains a provision to enhance enforcement, and thus replace revenues lost by restoring the tax to its pre-1991 level. Specifically, the bill authorizes the Department of the Treasury to receive up to 10 percent of the harbor taxes collected for enforcement activities. Experts in the shipping and trading community believe that there is currently widespread evasion of the HMT, in part because enforcement is lax. Shippers believe that the increased enforcement made possible by this bill will lead to greater tax receipts, which would help compensate for revenues that would be lost in rolling back the tax.

Mr. Speaker, we recognize that it is unlikely that this legislation will move forward this Congress; however, we believe that the issues addressed by the bill are very serious and deserve immediate consideration. In the coming months we intend to press the case of a rollback of these taxes and work with the maritime community in identifying revenues that could be used to offset the rollback. For the future of our ports and the thousands of jobs dependent on them, we urge our colleagues to join us in cosponsoring this important bill.

WSSC'S HELM ON PRIVATIZATION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. MORELLA. Mr. Speaker, our environment and health are two most important areas which we always must protect. That is why we have enacted into law the Clean Water Act and the Safe Drinking Water Act. Their requirements are vital to our welfare. However, the Clean Water Council recently reported that required capital expenditures under the SDWA will total $49 billion during the next 7 years. More money will be required to carry out CWA mandates.

About 85 per cent of the water systems in the United States presently are owned by local and State governments. These governments may not have funds to meet those staggering requirements. The EPA's grants to public utilities also are rapidly dropping because of budget constraints. If the requirements are to be met, user charges may jump in many communities.

A constituent of mine, Lewis M. Helm, is vice chair of the Washington Suburban Sanitary Commission, the Nation's seventh largest water and waste water utility serving 1.5 million suburban Marylanders. On July 29 he addressed a public hearing conducted by the U.S. Environmental Protection Agency to implement an Executive order to facilitate privatization of waste water treatment facilities.

Commissioner Helm's thoughtful comments should stimulate discussion, and I want to share them with my colleagues:

"It is a privilege to participate today in the process that could lead to the privatization of water and waste water treatment facilities. I applaud President Bush for issuing Executive Order 12803 and the Environmental Protection Agency for moving quickly to provide implementing guidelines.

"Four months ago I wrote short "op-ed" pieces for the Washington Post and the Montgomery County Gazette newspapers. These called for privatization of the Washington Suburban Sanitary Commission. This was a worthy objective, I felt, which could solve the economic inefficiencies impeding cost-effective service to 1.5 million residents of Montgomery and Prince George's County.

"The articles pointed out that 53 per cent of WSSC's operating budget was debt service, even worse than the Federal government's percentage. No appraisal had been made of our assets. A safe guess puts the value at about $7 billion. A stock sale could provide funds to pay off our $1.5 billion debt, provide some equity to rate payers, give the two county governments a share of the proceeds and assure operating and capital funds for some time.

"The opinions expressed were solely mine as Vice Chair of the seventh largest water and waste water treatment utility in the United States. They are *not* necessarily the opinions of the Governor and state legislature which control WSSC legislation, *not* necessarily the opinions of the two County Executives who appoint and give policy guidance to three WSSC Commissioners from each count, *not* necessarily the opinions of the two county councils who approve our operating and capital improvements budgets, *not* necessarily the opinion of the bi-county Park and Planning Commission which makes the development plans we implement, *not* necessarily the opinion of the Maryland Public Service Commission and *not* even the opinion of my five fellow Commissioners. And then there's the poor guy in charge of running WSSC, our General Manager, Dick Hocevar. What does he think?

"Those are the political entities with enforceable opinions about WSSC. Generally speaking they give constructive opinions about rates and priorities, what to build and not build, where to do it and all other management areas. It generally is sound and well-motivated guidance. However, political entities often have different perspectives and objectives internally and externally. Not only does Maryland provide strong leadership but we also work with the District of Columbia and Fairfax County, Virginia, through various agreements. That provides a degree of excitement occasionally too.

"Do you see our problem? Who decides for our customers what they should have, where it should be, whether long-time residents underwrite costs of new construction, whether maintenance should be emphasized, how far ahead of the need curve should expansion be kept, and so forth? Our customers cannot do it themselves.

"We have many layers of political involvement. Does it result in finer products and services at the lowest possible price? Of course not! It provides decent quality through a heavily-encumbered, non-economic system.

"Others have gone before us along the path to privatization.

"The former Financial Secretary to the Treasury of Great Britain, John Moore, was a strong force behind privatizing the systems there into privately owned systems.

"Privatization increases productivity efficiency . . ." he said. "Private sector companies able to draw on capital markets to finance efficiency or expansion face circumstances different from those faced by industries in the public sector."

"Steven H. Hanke, writing about "The Economics of Canadian Municipal Water Supply", called that country's pubic systems "bureaucratic socialism . . . insulated from the forces of market processes such as consumer demands and economic costs." He gave these as hypotheses which apply here also:

Private rate schedules more closely reflect cost and demand conditions than do public schedules;

Private capacity costs are 10% to 50% lower than comparable public costs;

Private firms adopt cost-reducing technology more rapidly than public firms;

Public enterprises are expected to be more highly capitalized than private ones . . . and the ratio of peak demand to total capacity typically is lower for public than private firms.

"So why are so few water and wastewater utilities in private ownership?

"It's historical, first and foremost. John Stuart Mill argued more than 100 years ago that under "natural monopoly conditions private water companies would engage in wasteful competition".

"This belief is still alive and well in our tax and environmental laws. If my opinion prevailed throughout every political entity controlling WSSC, privatization still would not happen. Some federal regulations, some provisions of the Clean Water Act and 1986 Tax Reform Act, are anathemas to privatization. But these inhibitors can be modified.

"The Clean Water Act provides grants to capitalize state loan funds that are used for "construction of treatment works which are publicly owned". This effectively precludes funds for privatized entities.

"OMB Circular A102, Attachment N, prevents the sale of facilities financed with federal funds and curtails upgrading with private funds.

"EPA's regulation as now written to grant-funded real property says "Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purpose and the grantee or subgrantee shall not dispose of or encumber its title or other interests."

"The following are presented for your consideration:

"The tax law should be modified to include an Accelerated Cost Recovery System establishing a shorter depreciation period. The five to eight year period for depreciation existing before the 1986 Tax Reform Act would be ideal. This would permit a more reasonable timeframe for capital recovery;

"Second, tax exempt financing should be permitted for all water and wastewater facilities, not just public facilities. This would allow low interest bonds for private sector development just as in the public sector;

"Third, reintroduce an investment tax credit;

"Fourth, the OMB Circular and EPA regulations need change so that facilities which previously were federally funded can be sold to private entities or improved with private funds. It is self-defeating to limit federal assistance only to public wastewater facilities. The purpose of the facility and not the ownership of the facility should be the criterion for funding;

"Fifth, EPA's rule-making should include water as well as wastewater facilities. The two systems are closely linked and should operate as one;

"Last, I request that you address the economies of scale that could be provided by regional, rather than local, operations. Incentives for regionalization could bring less expensive operations with fewer obstacles.

"We want to participate in what EPA does during the months ahead. You have a chance to bring reason to this vital area. You can help to make water and wastewater utilities productive, economic, taxpaying entities. You can free public capital for other uses. You can bring America's greatest strength, our enterprise system, into play. You can give us the same opportunity for privatization that the former Soviet Union and the countries of Eastern Europe now enjoy."

A TRIBUTE TO EUGENE V. ENDRES, THE "ROSE MAN" OF OHIO

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. APPLEGATE. Mr. Speaker, a special individual will be honored on Friday, August 14, as the Ohio Agricultural Council pays a special tribute to the late Eugene V. Endres of Tuscarawas County, OH

Gene Endres, known as the "rose man" of Ohio, will be inducted into the Agricultural Hall of Fame along with three other great individuals who will be recognized for their "outstanding work, sacrifice and dedication to Ohio's No. 1 industry: agriculture."

Gene Endres would make frequent trips to Washington and would visit his many friends on Capitol Hill. But, rather than handing out the typical business card to those he would meet, Gene's calling card was a small rosebud—frequently of a color seldom seen in a rose—and most everyone would get "pinned" on their lapels, a sure sign that the rose man had been to town and left his mark. It was often easy to figure out where Gene had visited by walking the halls of Congress and viewing colorful rose buds adorning those who had the pleasure of encountering him.

Gene's induction into the Agricultural Hall of Fame is very fitting and a special distinction, and I only wish that my good friend could be there to hear the flowering of praise that he so well deserved as the rose man of Ohio. Gene probably wouldn't want all of the recognition that will be heaped upon him, but we all know that he truly deserves it.

Gene Endres made Tuscarawas County a household name when it came to the floral industry of America, and I can tell my colleagues in Congress that such a distinction is, indeed, a very tall order. Mr. Speaker, Eugene V. Endres was a special person and a special friend to many people, and recognition by the Ohio Agricultural Council is a further tribute to a man who helped to bring color into our world and a sweet fragrance to the air.

RURAL SMALL BUSINESS FEDERAL CONTRACTING ACT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing legislation to help create new jobs in rural America. This bill would give rural America a real chance to compete for federal contracts.

Although there is not rioting and looting and no one is burning down businesses in rural America the economic distress is no less acute than in some urban areas. Consider the following facts:

The income gap between rural and urban areas widened in every year of the 1980's, reversing the trend that had persisted for the previous several decades.

There is an overall 10 percent wage penalty for living in a rural area, but in 1989, the differential between rural and urban areas was 35 percent for those with a college education.

Last year, 1240 rural counties (over half) had out-migration population losses.

Employment growth during the 1980's in rural areas was only 60 percent of that in urban areas.

Unemployment rates were higher in rural areas than in urban areas every year during the 1980's.

The poverty rate in rural areas has been basically unchanged for the past 20 years.

More than 80 rural counties have higher child poverty rates than Detroit, the American city with the highest rate of child poverty.

The result has been that rural America is exporting it's premier resource—educated, hard-working young people. This phenomenon masks the problem behind unemployment rates which often seem relatively low compared to some parts of the country, but in fact is covered up by out-migration.

In the meantime, the Federal Government is now paying premium prices for labor in many high-cost areas. In today's world, where much work gets done in front of a computer terminal, the location of that terminal is becoming less important. Given a fair chance, rural America has the skills, the work ethic and the motivation to make a contribution. Given a chance, I believe that more contracts in rural areas will also save the taxpayer money.

The bill would allocate a share of Federal contracts to business concerns located in rural areas. The share of Federal contracts to be directed to rural businesses is 20 percent of the value of prime contract awards for each fiscal year.

A study by the Department of Agriculture Economic Research Service published in 1989 concerning the geographic distribution of Federal funds contained the following findings:

Metro counties received 92 percent of all procurement contracts, 94 percent of all defense contracts, and 87 percent of all non-defense contracts.

Metro counties received nearly four times as much in procurement contracts as non-metro counties.

What is needed is the opportunity to compete—not handouts or subsidies—real opportunity to develop real businesses in rural areas. Let me be clear. We ought to tackle economic distress wherever it occurs—urban or rural, coastal, or heartland. But it is evident that rural America is in need of help, as much as or more than many urban areas.

In the future, access to information is the critical factor that will determine winners and losers in an information-based economy. Access to information requires a basic infrastructure and the skills to use information and technology wisely and productively. Strategies and policies that contribute to long-term investments in people and access to information in all areas of the country will help assure that rural America won't be passed by again. This bill would help rural America position itself for the economic changes ahead.

SALUTE TO JAMES B. SAMPSON

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today to salute Mr. James B. Sampson, director of the Mitchel Senior and Community Centers in the south Bronx. Throughout the past 26 years, Mr. Sampson has dedicated himself to serving the needs of the south Bronx community and his exceptional commitment will be celebrated next August 22 at a gala to be held in his honor.

A native New Yorker, Mr. Sampson grew up an outstanding athlete. As a result, he graduated from Seward Park High School with a scholarship to Benedict College in Columbia, SC. At this institution, Mr. Sampson's exceptional athletic abilities led him to establish a number of records for which just 2 years ago he was inducted into the Benedict College Hall of Fame. Having received his B.S. degree from Benedict College, Mr. Sampson went on to attend South Carolina State University and then Columbia University in New York.

Following the completion of his studies, Mr. Sampson taught and coached at Fairfield High School in South Carolina for 9 years. As a result of his guidance, the school produced winning teams in track, baseball, and basketball—the latter of which won seven State championships and numerous conference titles. For his invaluable contributions as teacher and coach, Mr. Sampson was honored by the entire Fairfield High School community.

In 1966, Mr. Sampson joined the Mitchel Center community as evening director and 8 years later became the director of the Mitchel Senior and Community Centers, a position he still holds today. Throughout his tenure at the Mitchel Center, Mr. Sampson's commitment to the community has earned him the respect and admiration of the neighbors of the south Bronx. He has played a valuable role in encouraging our high school students to sucessfully complete their academic careers and go on to college, frequently with the assistance of athletic scholarships. Two outstanding examples of Mr. Sampson's successful relationship with young athletes are Mr. Rod Strickland, NBA star, and Mr. Hugh Evans, the first black referee in the NBA.

In the past, Mr. Sampson has also worked with Har-You-Act, Harlem Hospital, and the Urban League. He belongs to the board of directors of the Urban League as well as that of the Schoenberg Library and he is a member of Kappa fraternity. Throughout his life, Mr. Sampson's endeavors have always reflected his genuine concern for his fellow people as well as his desire to encourage the achievement of excellence. Today, on behalf of the people of the south Bronx, I would like to express to Mr. Sampson my deep appreciation for his commitment and dedication to our community.

INTRODUCTION OF BILL TO PROVIDE FOR TRANSFER OF RIGHTS OF WAY IN SHENANDOAH NATIONAL PARK

HON. GEORGE ALLEN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ALLEN. Mr. Speaker, today I am introducing legislation which would permit the Commonwealth of Virginia to resume possession of the rights of way for segments of certain secondary roads running through the Shenandoah National Park, exempted from the equal value exchange of land required under Federal law.

The Department of the Interior solicitors recently concluded the special use permits Virginia has used in the past are no longer permissible under current Federal law. Therefore, if the Commonwealth of Virginia wants to continue maintaining the roads running through the Park, it would have to resume possession of the rights of way. Under current law, the transfer of these rights of way back to the Commonwealth would require an equal value exchange of land.

When Virginia originally donated the land to the National Park Service, the Commonwealth should have reserved title to the rights of way for those few segments of road which happen to cross over into the Park in certain places, sometimes in segments of only 40 or 50 feet. Regardless of this oversight, which occurred decades ago, it is unreasonable now to require Virginia to give up additional land simply to continue maintaining these roads, which are needed for use by school buses and local residents.

The Superintendent of the Shenandoah National Park, Bill Wade, has publicly stated his support for such an exemption. In addition, the Virginia General Assembly has overwhelmingly passed a resolution calling for the resolution of this particular equal value situation.

Expeditious enactment of this legislation is necessary to enable the Virginia Department of Transportation to continue maintaining the roads as it has in the past. The bill would provide the transfer of the rights of way to the Commonwealth of Virginia as they exist upon enactment of the legislation. It would not permit the loss of additional park land, which would remain subject to the equal value exchange requirement.

OLYMPIC-SIZE MARKETING MISTAKE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STOKES. Mr. Speaker, from the opening ceremonies on July 25 to the grand finale on August 9, the world watched as its greatest athletes competed in the 1992 Summer Olympic games.

One name which has become synonymous with the Olympics games and winning is Jackie Joyner-Kersee. This year, Joyner-Kersee captured an Olympic gold medal in the heptathlon and a bronze medal in the long jump. Since the 1984 Olympics, this extraordinary American athlete has captured the gold and set world records. She has also captured the hearts of Americans as an outstanding individual and positive role model.

Mr. Speaker, it is unfortunate that this individual, easily considered the world's greatest track and field athlete, does not enjoy the financial awards that accompany such a distinguished feat. I want to share with my colleagues a recent article which originally appeared in the Chicago Tribune and was reprinted in the Plain Dealer newspaper. The article explores the marketing, or lack thereof, of Jackie Joyner-Kersee, an Olympic hero. The article speaks for itself and I am pleased to bring it to the attention of my colleagues.

OLYMPIC-SIZE MARKETING MISTAKE

(By Beth Austin)

Who is the World's Greatest Athlete? Reebok poured $25 million into an ad campaign posing that question, pitting decathletes Dan Whozits against Dave Whatsisname. That morsel of marketing genius backfired when Dan O'Brien failed to qualify for a trip to Barcelona.

In reality, even a titanic Olympic battle between the two would only have decided who was the World's Greatest Male Athlete this year. Because as track fans have known for years—and as many major marketers apparently fail to understand—the World's Greatest Athlete, at least in track and field, is unquestionably Jackie Joyner-Kersee.

Her name is a familiar. She's won back-to-back Olympic gold medals in the heptathlon in 1988 and 1992. But most probably don't realize how phenomenal the 30-year-old athlete's career has been. She won a silver medal in the 1984 Olympics, after pulling a hamstring during the competition; she hasn't lost a heptathlon since. Her 1988 world record of 7,291 points, set in Seoul, still stands. In addition to holding the world's record in the long jump, she is nationally ranked in the 200 meters and the 100-meter high hurdles.

So why isn't she all over the airwaves this summer, as marketers pounce on the Olympics? Why isn't she beaming down from billboards onto the hordes of teen-age girls who adore her? Why, in heaven's name, isn't Jackie Joyner-Kersee's face on the Wheaties box?

It's not because she's turning offers down, according to her reps. Joyner-Kersee has said she is mystified and a little hurt by the relative lack of interest: "I feel that I have the right personality and the right image. I guess I'll just have to continue to try to break records."

But part of the problem is that she's just too talented. Sports fans like to enjoy a little uncertainty about the outcome of an event. But watching Joyner-Kersee in the heptathlon is like waiting for the microwave to ding; unless something breaks, the result is fairly predictable.

She's equally bad copy off the field. She has been married to her coach, Bob Kersee, since 1986, so she's not likely to show up on Oscar night as Spike Lee's escort.

Unlike many athletes, whose personal problems make them good copy, Joyner-Kersee has enjoyed a reputation for fundamental integrity since she started setting track records in high school.

But there are more basic reasons for Joyner-Kersee's absence from the ranks of top sports celebrities; she doesn't fit the narrow niche that advertising reserves for women athletes. Advertisers seem to favor cute, sexy, wholesome little girls who just happen to be world-class athletes. Joyner-Kersee's attention is focused on her performance, not her appearance.

Advertisers don't mind when their male celebrity endorsers emerge victorious but soaked with sweat or sodden with Gatorade. Women are held to a different standard; if they don't look adorably feminine during competition, it's news.

One sports columnist—a fan no less—felt compelled to write that Joyner-Kersee "has hair like a hedge and always seems to have just come in from a hard day of steer wrestling." Just for the record, Joyner-Kersee is a stunning woman. But on the field, where it counts, she looks like what she is—an extraordinary athlete hard at work. The vision of a tall, muscular woman hoisting a javelin doesn't allow many men the luxury of feeling a little superior and sexy toward her.

Finally, it may be that advertisers just don't feel comfortable with a woman whose face and body proudly reflect her African heritage. That's usually phrased more delicately, by people who call her "unphotogenic"—although her recent appearance in Vogue magazine, and her portrait in a fashion ad for the Gap, prove that she photographs beautifully.

But ad people seem to prefer black woman who look like darker-skinned contenders for the Swedish Bikini Team.

So what will happen after Joyner-Kersee wins a few more gold medals? She'll probably appear in a few commercials, then return to her low-profile routine until the 1996 Olympics in Atlanta. But she deserves the kind of rewards, financial and emotional, reserved for the finest American athletes.

We deserve more, too. For every little boy that Gatorade urges to "Be Like Mike," there should be a little girl trying to be like Jackie. Her strength, courage and integrity make her the kind of role model that everyone needs. And if advertisers can't understand that, maybe they need to start eating a lot more Wheaties.

TRIBUTE TO MARIA LARIA, TALENTED TELEVISION JOURNALIST AND HOSTESS OF CARA Á CARA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of the House and of the public the achievements of Ms. Maria Laria, the expressive and gracious hostess of the popular Hispanic television talk show, Cara á Cara.

With Ms. Laria as hostess, Cara á Cara has received five Emmy nominations, among these, "Best Show" and "Best Hostess." Ms. Laria also received numerous other awards for her presentation of Cara á Cara. For example, she has been named "Best Television Journalist" by Replica; "Best Television Hostess in Hispanic Television" by "Palmas de Oro," the Mexican media awards, and "Most Popular Television Hostess" by the Caesar Award.

Among Ms. Laria's journalistic achievements are an exclusive interview with Pope John Paul II; induction into the Hispanic Hall of Fame, and a "Cara á Cara Y Maria Laria" day, which was proclaimed by Los Angeles Mayor Tom Bradley.

Ms. Laria was born in Havana, Cuba, where she lived until she was 5 years old. She has lived in Miami, New Mexico, Puerto Rico, and Boston and currently resides in Los Angeles, CA. In 1973, Ms. Laria received a bachelor of music and a masters of music, both with honors from the distinguished New England Conservatory of Music. She later studied mathematics for one year at Harvard University.

Ms. Laria's career encompasses a myriad of trajectories. She gained acclaim as a pianist in Boston, where she performed in many concerts and recitals, as well as making many television appearances. She continued her studies with journalism and acting, and performed in numerous theatrical plays. Among these plays were "Romeo and Juliet," "The Adventures of Dick Tracy," "amor sin Pasaporte," and "Ninette Y el Hombre de Murcia."

Ms. Laria hosted "El Mundo del Expectáculo," a program transmitted by the cable television station Galavision. She worked there for 5 years, and it was there that she was first recognized as a magnetic and objective interviewer. In 1987, she went on to be a news commentator for KVEA, channel 52, of Cadena Telemundo. Only 1 year after working for channel 52, Ms. Laria earned the distinction of being hostess of the first live, national Spanish language television talk show, Cara á Cara.

Ms. Laria's devotion and commitment do not end in the field of journalism. She devotes much personal time and talent to further worthwhile causes such as S.A.N.E., which strives to help our youth to say no to drugs and gangs. She is also an advocate for the Easter Seals Foundation.

Ms. Laria's latest recognition is receiving the keys to two cities in the 18th Congressional District, Hialeah and Miami. This recognition will be awarded in a press conference with Ms. Laria, in her new television set at Telemundo.

It is a privilege for our community to have a talented and gifted journalist such as Ms. Maria Laria. She is a motivated and caring individual who is an inspiration to the Hispanic and journalistic community. It is an honor to make the House and the public aware of this great journalist.

JOSEPH THURMAN "CRASH" MOORE

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MORAN. Mr. Speaker, I rise today in memory of a dear friend, Mr. Joseph Thurman "Crash" Moore.

Crash was born as Joseph Thurman Moore in Abingdon, VA, in 1918. He earned the nickname that would serve him a lifetime during the 1930's when he played center on the football team in Virginia's public schools. Crash served his country as a member of the Armed Forces during World War II and he served this body as an employee of the Doorkeeper's Office in the House of Representatives in the 1940's.

I was well acquainted with Crash and worked closely with him when I served as mayor of Alexandria and on the Alexandria City Council. Crash was a community activist who was always there to help a friend or neighbor in need. He was a community leader who was always there to serve his city on the numerous city boards on which he served. Most importantly, Crash was always a friend who was there with me during the good times and the hard times.

Yesterday, we buried Crash at the Pleasant Valley Memorial Park in Annandale, VA, but we can never bury the spirit and the legacy of this great man.

A TRIBUTE TO ALFONSO "AL" BOFFO OF NEW PHILADELPHIA, OH

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. APPLEGATE. Mr. Speaker, an outstanding citizen of New Philadelphia, OH, recently passed into history, and with his passing Alfonso "Al" Boffo will be remembered and recognized for all that he did for his community, for his friends, and for his family.

New Philadelphia and Tuscarawas County have long been proud of the outstanding citizen that Al Boffo was, and it was just this past January that the Tuscarawas County Chamber of Commerce honored Al by entering him into their Hall of Fame. Al Boffo was a good friend and a true and outstanding citizen, but he was also a dedicated husband and father, a brother, grandfather, and a great-grandfather.

Al Boffo did so much for his fellow citizens, and especially so much for the older persons of his community. I always enjoyed meeting with him when he would travel to Washington each year along with his many friends and business colleagues with the Tuscarawas County Chamber of Commerce. His active involvement in so many different interests and activities certainly made a tremendous difference for so many of his fellow citizens who depend on the charity and the giving of those very few special individuals who really attempt to make a difference in this world.

Besides his involvement in the chamber of commerce, Al was also an active member of the American Association of Retired Persons and was named just last January as one of the organization's top 52 volunteers in the country. In 1988, Al was among 10 Ohioans selected for induction into the Ohio Senior Citizens Hall of Fame, and he was the founder of a Service Corps of Retired Executives counseling center. In 1981, Al served as a senior citizen intern in the Washington office of Senator JOHN GLENN, one of 270 senior citizens selected nationwide. Al Boffo brought so much to those around him, and all of us will long remember what he did for his community and, most of all, what he did for his family and for his many good friends.

Mr. Speaker, I'm proud and pleased to share with my colleagues in Congress the outstanding life of a very special American.

SUPPORT FOR H.R. 4961

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. THOMAS of California. Mr. Speaker, I hope you and our House colleagues will join me in supporting H.R. 4961, a bill which I introduced to end the current restrictions on the export of Alaskan North Slope [ANS] oil. These restrictions, while well intended, were not very well thought out. Initially, their proponents believed that by withholding this oil from export, the United States could remove itself from dependence upon foreign oil. Unfortunately, this has not occurred, and instead, these restrictions have increased our dependence upon foreign oil.

Alaskan oil is very expensive to move through the Panama Canal. As a result, about 75 percent of this oil will end up in California. Once in California, however, ANS crude competes with oil produced locally, and with California producing over 1.2 million barrels a day, there is often a considerable glut on the market. Gluts force prices to be artificially low, and therefore make California oil producers subject to extreme market pressures. A Government policy, not the market, has caused producers to cap wells—thereby ruining them for future use.

There is an alternative. Alaskan crude could be sold at world market prices to Pacific rim countries, such as Japan. This policy would help to reduce our trade deficit with these nations, while at the same time stimulating our own economy at home, with increased profits and jobs. The increased oil production in California could create employment for producers throughout the State, and at the same time provide relief to California's sagging economy.

The simple fact is that the legalization of ANS exports makes sense. That is why the Interstate Oil and Gas Compact Commission has chosen to support exporting this crude. They realize it will create jobs, it will stimulate the economy, it will reduce our trade deficit, and most importantly, it will reduce our dependence upon foreign oil. Experience has shown that today's export restrictions have not increased our energy security. It is time to install an intelligent oil production policy by passing H.R. 4961.

RESOLUTION CONCERNING EXPORT OF CRUDE OIL TRANSPORTED THROUGH THE TRANS-ALASKA PIPELINE SYSTEM

Whereas, the U.S. Congress, as a condition of its approval for the Trans-Alaska Pipeline System (TAPS) in 1973, severely restricted the export of crude oil transported through TAPS and totally prohibited such export in the Export Administration Act (EAA) of 1979; and

Whereas, every day over 1.7 million barrels of TAPS crude oil and natural gas liquids are transported to domestic markets in the lower 48, with almost 85 percent landed on the U.S. West Coast and about 15 percent on the U.S. Gulf Coast; and

Whereas, excessive TAPS crude supplies on the West Coast have caused a persistent artificial West coast crude surplus, together with forced, high transportation costs, has significantly depreciated the reserve of oil in Alaska and California, making it less attractive to explore for and develop new sources of oil or to invest in expensive enhanced recovery processes to improve recovery from existing fields; and

Whereas, the nation's domestic oil and gas industry is struggling to survive as shown by the lowest rig counts in decades, the dramatic overseas flight of capital by major producers, and the continuing decline in production by independent producers; and

Whereas, export of appropriate portions of TAPS crude would boost production and encourage additional exploration in both Alaska and California, which taken together currently account for nearly 40 percent of the U.S. total output; and

Whereas, additional exploration and development in California and Alaska will contribute significantly to the nation's economy by adding thousands of petroleum related jobs throughout the country, improving capital investment in the domestic industry and increasing national energy production; and

Whereas, simple distillation of TAPS crude yields only eight percent gasoline, California refineries must employ elaborate, high cost processing systems to upgrade TAPS crude using fluid catalytic crackers, hydrocrackers and cokers to meet California market requirements of Pacific Rim refineries; and

Whereas, export of TAPS crude to Pacific Rim markets would reduce the nation's trade deficit; and

Whereas, the U.S. has strongly urged an open trading system between nations in which market forces determine the movement of goods internationally, as witnessed by pursuit of the Free Trade Agreements with Canada and Mexico, and the gradual elimination of restrictions on the export of refined domestic crude oil products; and

Whereas, the export of TAPS crude would remove U.S. Government caused economic distortions and inefficiencies in the world's energy market and result in general U.S. public gains, especially with regard to reducing the nation's balance of trade deficit with Pacific Rim countries: Now, therefore be it

Resolved, That the Interstate Oil and Gas Compact Commission strongly urges both the Congress of the United States and the President to lift the ban on the export of crude oil transported through the Trans-Alaska Pipeline System and revise the Export Administration Act to provide free market opportunities for domestically produced crude oil, subject only to restrictions during a national security event.

INTRODUCTION OF THE 1992 RTC REVITALIZATION ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. VENTO. Mr. Speaker, today I am introducing legislation entitled the 1992 RTC Revitalization Act. The bill changes the expenditure deadline from April 1, 1992 to April 1, 1993 so that the Resolution Trust Corporation may continue to use funds previously authorized by the RTC Funding and Cost Reduction Act of 1992. Institutions must be closed and liquidated. Depositors must be protected. The continued operation of these institutions multiplies and compounds the losses.

Earlier this year I voted to provide funds for the RTC which according to administration estimates, would have carried the RTC through 1993. This legislation was defeated overwhelmingly by the House of Representatives.

Although I continue to support additional funding, I have come to the conclusion that we should not at this date simply permit the RTC to use the balance of moneys previously authorized. I have concluded that we must at the same time provide, in legislation, a corrected policy path that will lead to the solution of problems that RTC has failed, or been unwilling, to address.

One of the most conspicuous regulatory shortfalls has been OTS' refusal to place institutions in conservatorship in a timely manner. Instead, Director Ryan has continued a regulatory pattern of the 1980's of forbearance that compounds rather than alleviates thrift institution problem. The RTC cannot resolve S&L institutions and pay off depositors unless the OTS has the fortitude to close these failing savings and loans. Timely closure is necessary so that RTC can more effectively dispose of assets and thereby reduce the amount that will ultimately have to be borne by the American taxpayer. While the OTS preference for denial and regulatory forbearance has been more evident this past year, frankly, situations such as Home Federal of California have been permitted to slowly bleed for years—until today this institution and others like it are brain dead.

During the 12-month period ending April 1, 1992 there was clearly a slowdown in placing thrifts in conservatorship. Why the Bush administration engaged in this slowdown has not been adequately explained. It was not funding because the RTC turned back many billions in authorizations on April 1, 1992.

The Administration has allowed the Director of OTS to aggressively seek permission from the Thrift Depositor Protection Oversight Board to keep thrifts open by promoting mergers between healthy thrifts and failed thrifts. However, in order to accomplish this they propose to use taxpayer funds authorized to protect depositors for capital in these mergers. In reality, they want to protect stockholders who should be at risk in the marketplace, not leaning on the Federal taxpayers.

While this unusual plan has been proffered throughout 1992, the administration has not given any indication of whether it will go ahead. No doubt once funding is in place we will learn the answer and I fear that it will be a ringing endorsement of a Government subsidy by these pseudo-free-enterprise advocates. I strongly believe such policy would violate the intent of Congress and the letter of the 1989 FIRREA law. Therefore, my legislation would make it illegal to use taxpayer dollars for this purpose.

A corollary principle is that when an institution's capital falls below the 2 percent minimum tripwire, such financial institution ought not be retained by the Office of Thrift Supervision, but should be more promptly transferred to the RTC. My bill will mandate this action so that having authorized RTC to move forward, Members can be confident that institutions being held open by OTS because of their inhibition, for whatever reason, to place it in conservatorship will be transferred to RTC.

In the intensity of this political year, many have not noticed the heated argument going on between the Office of Thrift Supervision and the Congress about the number of savings and loan institutions that will require Government attention. Director Ryan claims that there are at most 70 institutions that are likely to fail, and most of those can be resolved short of a straight deposit payout. On the other hand, the Congressional Budget Office has maintained that there may be as many as 700 institutions in trouble within the next 5 years and the most economical solution in the long run is to liquidate them. We also have the testimony of two experts on financial institutions that there are over 800 savings and loans whose capital position indicates that they probably cannot be saved.

Who is right? To a certain extent it does not matter if there are only 75 or 100 institutions as predicted by Mr. Ryan, because those institutions will cost the American taxpayer billions of dollars all in themselves. Yet how good has the Reagan or Bush administration been with its predictions? Not very good. The last time a Presidential election was looming, we heard that the entire problems could be solved with $15 billion. After the election, the number became $110 billion. And within a year was $220 billion.

We ought not regard the savings and loan bailout as if we were going to experience the most favorable outcome. Congress and the people we represent would be best served with reality rather than unbridled election year optimism. Congress should be ready and prepared to deal with the problems as they are, not as some wish them to be. The legislation I am introducing today will assure that we do not put our heads in the sand, that we do not just whistle past the graveyard.

There are some activities that the Resolution Trust Corporation has done in its 3 year history that it has done satisfactorily, given the size and complexity of its task. But there are many actions in these past three years that seriously concern me.

Originally, the RTC was declared to be a mixed ownership Government corporation. Consequently, it could pick and chose amongst the statutes it would abide by in conducting its activities. Thus we reaped the worst of both the private sector world and the Government world. It is time to end this waste of effort and make the RTC into a wholly owned Government corporation. This will effectively make it a Government agency albeit a temporary one. The RTC has also had unusual difficulty solving other managerial and organizational matters—it failed to obtain a management information system that would provide basic data on the institutions and assets it was charged with resolving and selling and now proposes to do without any comprehensive system at all. As a result, among other things: First, it was unable to reconcile its books with those of institutions; second, it was unable to specify properties that were suitable for inclusion in asset sale pools; and third, it was unable to assure that services were received for payments made. These shortcomings will also be corrected.

The real task of the RTC, it is now realized, is the disposition of assets of failed institutions. Unfortunately, too often the RTC has exercised poor judgment in selling assets—offering prices and terms of financing that are overly generous; placing properties that have pending offers at higher prices into bulk pools at lower prices; providing guaranteed returns to such purchasers; securitizing loans that are so varied that there is no viable secondary market. These shortcomings are addressed and corrected by my proposed legislation.

The RTC was to utilize the private sector in its activities. They have done so and the bill so far is $8 billion for services rendered. It is time to find out whether this huge cost indicates that the private sector has been used too often and too much.

In all of its activities, the RTC calls upon individuals and organizations to collect payments, review records, manage properties, appraise property, securitize loans, sell junk bonds, produce accounting statements, sell real estate, prosecute lawsuits, supply insurance, clear real estate titles, conduct settlements, and even monitor each other. Quite a number of these individuals and organizations had previously worked with and for, or borrowed from the very savings and loans that have become a Government responsibility. Yet almost invariably, and certainly routinely, the conflicts of interest that these individuals and organizations have, are excused. This must halt and my bill brings these practices to a stop.

Akin to the conflict of interest problems of the RTC and its private contractors, is the revolving door the S&L executive and regulatory culture between high level RTC staff and those firms that do business with the RTC or with savings and loan associations. The RTC was not meant to last forever, and it does require highly skilled, capable personnel. Yet the public deserves to know that there are at least basic protections against transfers of confidential information and against self-dealing in the process of recruiting and replacing staff.

We have come to learn that the savings and loans institutions that failed, did not fail for purely economic reasons, but because in many instances there was fraud, self-dealing, negligence and inattention from officers, employees, and professionals involved in these institutions. Given the public investment in insuring such shortfalls, it is inappropriate that those who were in charge of such S&L's should now profit from the bailout—this legislation stops such policies.

In the resolution of these institutions, the RTC has a fiduciary obligation to pursue civil and criminal claims against those who caused the losses and failures. The RTC must do better in collecting fines and penalties. The RTC must do better in pursuing wrongdoers. My bill will accomplish this.

The RTC can and must be improved. The legislation I am introducing today will promote that improvement. I ask that the text of the bill be reproduced in the RECORD.

H.R. 5905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Revitalization Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress hereby finds the following:

(1) The resolution of failed and failing savings associations continues to consume enormous amounts of taxpayer dollars and requires extraordinary effort and resources.

(2) The prompt seizure and closure of failed institutions reduces the losses incurred by the taxpayers and the economy.

(3) The methods for resolving savings associations by the Resolution Trust Corporation have a significant impact on the long-term overall costs of the effort.

(4) The methods chosen by the Resolution Trust Corporation for the sale of assets has a significant impact on the amount of the proceeds realized on the sale and the amount of risk continued to be held by the Federal Government with respect to such assets after the sale.

(5) The diligence and efficiency of the Resolution Trust Corporation can and should be improved through—

(A) the application of practices required of all Federal agencies;

(B) the creation and operation of a comprehensive, automated management information, tracking, and analysis system;

(C) the uniform application of strict conflict of interest and post-employment restrictions that allow waivers only in exceptional circumstances; and

(D) the disclosure of information about the condition of savings associations and any regulatory action with respect to such associations.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for the continued prosecution of civil and criminal actions against the persons responsible for the failure of savings associations without delay or abatement.

(2) To require that the operations of the Resolution Trust Corporation and the Office of Thrift Supervision be closely coordinated, funded, and monitored to assure that the least costly method of resolving savings associations and disposing of assets is realized in each case.

(3) To require the Resolution Trust Corporation to implement a process under which the Corporation shall obtain, process, and analyze information about the institutions and assets under the jurisdiction and control of the Corporation in order to monitor the implementation of policies and procedures and to assess the consequences of the Corporation's actions.

(4) To provide for the completion of the resolution process without using taxpayers funds to recapitalize or make investments in private savings associations.

TITLE I—FUNDING

SEC. 101. EXPENDITURE DEADLINE.

Section 21A(b)(13)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)(A)) is amended to read as follows:

"(A) FUNDS FROM TREASURY.—The Secretary of the Treasury shall provide the Corporation with the sum of $18,700,000,000 for the period beginning on the date of the enactment of the Resolution Trust Corporation Amendments of 1992 and ending on March 31, 1993.".

SEC. 102. BORROWING ADDITIONAL AMOUNT.

Section 21A(b)(9)(M) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(M)) is amended to read as follows:

"(M) To exercise any other power established under this section and such incidental powers as are necessary to carry out its duties and functions under this section, except that, in calculating the limitation on borrowing contained in section 21A(j)(1)(B)(ii), the Corporation shall not count as borrowed funds those monies received from contributions or from payments by the Treasury.".

SEC. 103. MAXIMUM OBLIGATION LIMITATION OF RTC.

Section 21A(j)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(j)(1)(B)) is amended by striking "$50,000,000,000" and inserting "$30,000,000,000".

SEC. 104. RTC BORROWING LIMITED TO FEDERAL FINANCING BANK.

Section 21A(i)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(1)) is amended by adding the following new subparagraph:

"(C) ADDITIONAL BORROWING.—The Corporation is authorized to borrow only from the Treasury or from the Federal Financing Bank.".

TITLE II—INSTITUTIONAL RESOLUTION

SEC. 201. EVALUATION OF ASSETS AND SALES OF MORTGAGORS.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by adding at the end the following new subparagraph:

"(C) REQUIRED PRACTICES.—The Corporation shall—

"(i) immediately upon the appointment of the Corporation as a conservator or receiver of an insured depository institution, undertake to prepare a detailed description and valuation of each asset of the institution; and

"(ii) to the maximum extent practicable, arrange for the sale of performing mortgages which are held by any insured depository institution during the period in which the Corporation is the conservator for such institution.".

SEC. 202. RESTRICTION ON USE OF RTC FUNDS.

(a) REPEAL OF DISCRETIONARY PAYMENT AUTHORITY.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (H) and by redesignating subparagraphs (I) and (J) as subparagraphs (H) and (I), respectively.

(b) LIMITATION ON RTC CAPITAL CONTRIBUTION AUTHORITY.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by adding after subparagraph (C) (as added by section 201 of this Act) the following new subparagraph:

"(D) LIMITATION ON CAPITAL CONTRIBUTION AUTHORITY.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), the Corporation may not make any payment in the form of a capital contribution to a depository institution which, at the time of the payment, is an institution for which the Corporation or any other person is acting as conservator.

"(ii) LENDING AUTHORITY NOT AFFECTED.—Clause (i) shall not be construed as prohibiting the Corporation from making loans or advances to any such institution.".

TITLE III—ASSET SALES

SEC. 301. CASH-FLOW MORTGAGES PROHIBITED.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by inserting after subparagraph (D) (as added by section 202 of this Act) the following new subparagraph:

"(E) PROHIBITED PRACTICES.—The Corporation may not use any authority under this subsection to engage in any of the following activities:

"(i) To sell assets of an uninsured depository institution by providing a loan for any portion of the purchase price which—

"(I) defers or delays the payment of interest; or

"(II) obligates the purchaser to pay interest only out of the net income realized by the purchaser from the assets.".

SEC. 302. SECURITIZATION LIMITED.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by inserting after clause (i) of subparagraph (E) (as added by section 301 of this title) the following new clause:

"(ii) To arrange for the securitization of the loan assets of an insured depository institution unless the assets—

"(I) have been evaluated using similar underwriting standards and criteria;

"(II) have long average maturities;

"(III) do not require balloon payments of principal; and

"(IV) provide for the payment of interest at rates that are based upon the same indexes,

and unless any representation or warranty offered with the security does not guarantee to the purchaser of the securities, directly or indirectly, an investment return.".

SEC. 303. BULK SALES OF ASSETS PROHIBITED.

Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended by inserting after clause (ii) of subparagraph (E) (as added by section 302 of this title) the following new clause:

"(iii) require the inclusion of an asset of an insured depository institution in a bulk sale of assets if the Corporation has received a good faith offer to purchase the asset for a price and on terms that would result in proceeds to the Corporation in excess of those that would be realized for that asset in the bulk sale.".

TITLE IV—REGULATORY MEASURES

SEC. 401. 2 PERCENT CAPITAL CUT-OFF.

(a) IN GENERAL.—Section 38(h)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831o(h)(3)) is amended to read as follows:

"(3) CONSERVATORSHIP OR RECEIVERSHIP REQUIRED.—

"(A) IN GENERAL.—Before the end of the 180-day period beginning on the date any insured depository institution becomes critically undercapitalized and notwithstanding any provision of State law, the appropriate Federal banking agency shall appoint a receiver or, with the approval of the Corporation, a conservator for such institution.

"(B) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—In the case of any institution described in subparagraph (A) for which a receiver was not appointed before the end of the 180-day period referred to in such subparagraph, the appropriate Federal banking agency shall, notwithstanding any provision of State law, appoint a receiver for such institution as follows:

"(i) If the capital of such institution does not exceed the critical capital level at the end of the 9-month period beginning on the date action is first taken by the agency under subparagraph (A) with respect to such institution, a receiver shall be appointed by the end of such period.

"(ii) If the capital of such institution exceeds the critical capital level at the end of such 9-month period but fails to exceed such level at the end of any of the first 3 months following such period, a receiver shall be appointed as of the end of such month.

"(C) Acquisition by Another Insured Depository Institution.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for an insured depository institution and subject to section 13, the appropriate Federal banking agency may require the insured depository institution to be acquired (as defined in section 13(f)(8)(B)) by another insured depository institution which offers to acquire such institution if the agency determines, with the concurrence of the Corporation, that such acquisition would resolve the capital problems of the institution in a manner that is least costly to the affected deposit insurance fund.".

SEC. 402. PUBLIC AVAILABILITY OF EXAMINATION INFORMATION.

(a) Availability Required for Certain Institutions.—

(1) In General.—Each appropriate banking agency shall make available to the public copies of reports of all examinations of each failed depository institution that received funds, as defined in section 406, or of a holding company of such institution, that was performed by that banking agency or its predecessor, during the 5-year period preceding the transfer, failure, or receipt of funds.

(2) Consultation.—Each appropriate banking agency other than the National Credit Union Administration Board shall consult with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation prior to making such reports available to the public.

(b) Delay of Publication.—

(1) Threats to Safety or Soundness of Institution.—

(A) In General.—If the appropriate banking agency makes a determination in writing that release of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may initially delay release of the examination report for a reasonable period of time, not to exceed 12 months from the date of the transfer, failure, or receipt of funds described in section 406.

(B) Extension of Delay.—Any determination under subparagraph (A) may be renewed on an annual basis.

(2) Ongoing Investigations.—If the appropriate banking agency or the Resolution Trust Corporation determines in writing that release of a portion of an examination report would hinder an ongoing investigation of alleged negligence, or of other activity that would give rise to either administrative or civil proceedings, the portion of the examination report directly pertaining to the alleged negligence or other activity, may be withheld from release during the investigation, until the earliest of—

(A) the date a notice of charges is issued;

(B) the date a complaint is filed; or

(C) the end of a period not to exceed 24 months from the date of the transfer, failure, or receipt of funds described in section 406.

(3) Delay Pending Criminal Investigation.—

(A) In General.—If the appropriate banking agency and the Attorney General of the United States or, in the case of a State-chartered depository institution, the attorney general of a State, jointly determine that release of a portion of an examination report would hinder an ongoing investigation of alleged criminal activity, the portion of the examination report directly pertaining to the alleged crime may be withheld from release until the earliest of—

(i) the termination of such investigation;

(ii) the issuance of an indictment; or

(iii) the end of a period not to exceed 5 years from the date of the transfer, failure or receipt of funds described in section 406, whichever is earlier.

(B) GAO Access to Information.—The Attorney General of the United States or the attorney general of a State shall provide the Comptroller General of the United States with access to information regarding any such criminal investigation, and shall identify any law enforcement agencies or resources assigned to the investigation.

(c) Exclusion of Open Institutions.—

(1) Open Institutions.—This section shall not apply to any open insured depository institution and shall not be construed to require disclosure to the public of any report of examination of any open insured depository institution.

(2) Affiliated Solvent Institutions.—In connection with the release of an examination report of a holding company of a failed institution, nothing in this section shall be construed as requiring the release of any examination report information regarding any solvent depository institution that is also a subsidiary of such holding company.

SEC. 403. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any regulation or order, any agreement or settlement of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party which relates to an institution described in section 406 shall be made available to the public.

SEC. 404. APPLICABILITY.

The requirements of section 402 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation;

(2) to any Bank Insurance Fund member that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in section 406, the Bank Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve bank; or

(B) had a negative fund balance;

(3) to any Savings Association Insurance Fund member that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in section 406, the Savings Association Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve bank; or

(B) had a negative fund balance; and

(4) to any insured credit union that has failed and received funds, if during either the fiscal year in which the credit union failed or the fiscal year in which the credit union received funds, as defined in section 406, the National Credit Union Share Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance.

SEC. 405. REMOVAL OF CUSTOMER INFORMATION FROM EXAMINATION REPORTS.

In making available reports of examinations under section 402, each appropriate Federal banking agency shall excise the following information:

(1) Noninstitution-Affiliated Parties.—The name of any person who is not an institution-affiliated party with respect to an insured depository institution and any other identifying information with respect to any such person.

(2) Institution-Affiliated Parties.—The name of any institution-affiliated party and any information relating to an institution-affiliated party that is not relevant to the relationship between the insured depository institution and the party.

(3) Open Institutions.—The name of any open insured depository institution and any other identifying information with respect to any such institution.

(4) Examiners.—Any reference to any examiner or other banking agency employee involved in the examination of the insured depository institution.

(5) Whistleblowers.—Any reference to any person who has provided information in confidence to a banking agency which may be utilized to pursue a civil or criminal action.

SEC. 406. DEFINITIONS.

For purposes of this section—

(1) an insured depository institution has "failed" if the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or National Credit Union Administration Board—

(A) has been appointed as receiver or liquidating agent for such institution; or

(B) has exercised the power to provide assistance under section 13(c)(2) of the Federal Deposit Insurance Act or the analogous powers under section 21A of the Federal Home Loan Bank Act;

(2) an insured depository institution has "received funds" if the institution, any company that controls such institution, or any acquiring institution receives cash or other valuable consideration from the National Credit Union Administration Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any Federal Reserve bank that lends for more than 30 days while the insured depository institution is critically undercapitalized within the 1-year period before the failure of the insured depository institution whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that such term includes an insured credit union, as defined in section 101 of the Federal Credit Union Act; and

(4) the term "appropriate banking agency" means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration Board, and, in the case of a State-chartered depository institution, the appropriate State depository institution regulatory agency.

SEC. 407. ADDITIONAL DISCLOSURES BY FDIC, NCUA, AND RTC.

(a) BORROWERS.—Not later than 6 months after being appointed receiver or liquidating agent for any failed institution that received funds, as defined in section 406, the Federal Deposit Insurance Corporation, the National Credit Union Administration, or the Resolution Trust Corporation, as appropriate, shall make available to the public the name and loan balance of any borrower who—

(1) was an executive officer, director, or principal shareholder of the institution, or a related interest of any such person, as such terms are defined in section 22(h) of the Federal Reserve Act; and

(2) at the time that the receiver was appointed, was more than 90 days delinquent on a loan.

(b) TRANSACTIONS.—Not later than 12 months after being appointed receiver or liquidating agent for any failed institution that received funds, as defined in section 406, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation shall make available, and update periodically thereafter, a list of pending and settled lawsuits brought by such agency involving transactions (other than loans described in subsection (a)) that caused a material loss to such institution or to the deposit insurance fund.

SEC. 408. GAO AUDITS.

(a) IN GENERAL.—The Comptroller General of the United States shall selectively audit examination reports made available to the public by the appropriate Federal banking agencies under section 402, and disclosures made by the Federal Deposit Insurance Corporation, National Credit Union Administration, and Resolution Trust Corporation under section 407, to assess compliance with the requirements of those sections.

(b) NATURE, SCOPE, TERMS, AND CONDITIONS.—The Comptroller General shall determine the nature, scope, terms, and conditions of audits conducted under this section.

TITLE V—MANAGEMENT OF RTC

SEC. 501. LIMITATION ON CONFLICTS OF INTEREST.

(a) PROHIBITION ON WAIVERS.—Section 21A(n)(6)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(n)(6)(B)) is amended to read as follows:

"(B) PROHIBITION FROM SERVICE ON BEHALF OF CORPORATION.—The Corporation shall prohibit any person, or any principal of a corporation, partnership, organization or association, or other entity, who does not meet the minimum standards of competence, experience, integrity, and fitness from—

"(i) entering into any contract with the Corporation; or

"(ii) being employed by the Corporation or any person, corporation, partnership, other organization or association, or other entity performing any service for or on behalf of the Corporation.

This prohibition may not be waived by the Corporation unless the person or principal disaffiliates from the corporation, partnership, organization or association, or other entity. It shall be insufficient disaffiliation to merely cease involvement with matters covered by any contract or agreement with the Corporation or with any insured depository institution.".

(b) DEFINITION.—Section 21A(n)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(n)(9)) is amended by adding the following new subparagraph:

"(D) PRINCIPAL.—The term 'principal' means—

"(i) any officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities; and

"(ii) any person who has a critical influence on or substantial control over another person (as defined in section 1 of title 1, United States Code), whether or not employed by such other person.".

(c) SALES OF ASSETS TO CERTAIN PERSONS PROHIBITED.—Section 21A(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(f)) is amended to read as follows:

"(f) LIMITATION ON CERTAIN CORPORATION ACTIVITIES.—

"(1) CERTAIN SALES PROHIBITED.—The Corporation shall prohibit the sale of assets of any failed depository institution by the Corporation to any person—

"(A) who—

"(i) has defaulted, or was a member of a partnership or an officer or director of a corporation which defaulted on one or more obligations the aggregate amount of which exceeds $1,000,000 to any failed depository institution;

"(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

"(iii) proposes to purchase any asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any insured depository institution;

"(B) who participated as an officer or director of such failed depository institution or of any affiliate of such institution, in a material way in transactions that resulted in a substantial loss to such failed depository institution;

"(C) who has been removed from, or prohibited from participating in the affairs of any failed depository institution pursuant to any final enforcement action by an appropriate Federal banking agency; or

"(D) who has demonstrated a pattern or practice of defalcation regarding obligations to any failed depository institution.

"(2) SETTLEMENT OF CLAIMS; DEFINITIONS.—

"(A) SETTLEMENT OF CLAIMS.—Nothing in this subsection shall prohibit the Corporation from selling or otherwise transferring any asset to any person if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement of, an obligation owed by the person to any failed depository institution or to the Corporation.

"(B) DEFINITIONS.—For purposes of paragraph (1)—

"(i) DEFAULT.—The term 'default' means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed.

"(ii) AFFILIATE.—The term 'affiliate' has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.".

(d) PROHIBITION ON REVOLVING DOOR.—Section 21A(n)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(n)(4)) is amended by striking "The chief executive officer of the Corporation" and inserting "Any officer or employee of the Corporation whose annual rate of basic pay is equal to or greater than the minimum annual rate of basic pay in effect for grade GS-15 of the General Schedule".

SEC. 502. DESIGNATION OF RTC AS WHOLLY-OWNED GOVERNMENT CORPORATION.

(a) IN GENERAL.—Section 21A(b)(1)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(A)) is amended to read as follows:

"(A) IN GENERAL.—There is hereby established a wholly-owned Corporation to be known as the Resolution Trust Corporation which shall be an instrumentality of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by striking paragraph (2).

(2) Section 9101(2) of title 31, United States Code, is amended by striking subparagraph (L).

(3) Section 9101(3) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(N) the Resolution Trust Corporation.".

SEC. 503. EXTENSION OF CERTAIN STATUTES OF LIMITATION.

(a) EXTENSION OF STATUTE OF LIMITATIONS.—

(1) DEPOSITORY INSTITUTIONS OTHER THAN CREDIT UNIONS.—Section 11(d)(14)(A)(ii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(A)(ii)(I)) is amended by striking "3-year period" and inserting "6-year period".

(2) CREDIT UNIONS.—Section 207(b)(14)(A)(ii)(I) of the Federal Credit Union Act (12 U.S.C. 17871(b)(14)(A)(ii)(I)) is amended by striking "3-year period" and inserting "6-year period".

(b) PRESERVATION OF CLAIMS.—Notwithstanding any provision of Federal or State law that would set an earlier deadline for filing suit, for purposes of this section, an action may be brought by a Federal conservator or receiver on any claim if the institution, or such institution's predecessors, could have brought an action on the claim at any time within the 6-year period prior to the appointment of the Federal conservator or receiver, even if the action could not have been brought by the institution or its predecessors immediately prior to the time of the appointment of the Federal conservator or receiver. This section shall apply to all such actions despite the fact that the Federal conservator or receiver may have been appointed prior to the date of enactment of this provision.

(c) EFFECTIVE DATES.—

(1) DEPOSITORY INSTITUTIONS OTHER THAN CREDIT UNIONS.—The amendment made by section 2(a) shall take effect as if such amendment had been included in the amendment made by section 212(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as of the effective date of such section.

(2) CREDIT UNIONS.—The amendment made by section 2(b) shall take effect as if such amendment had been included in the amendment made by section 1217(a)(4) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as of the effective date of such section.

SEC. 504. IMPROVEMENTS IN COLLECTION OF COURT-ORDERED RESTITUTION IN CASES OF FINANCIAL INSTITUTION FRAUD.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) SPECIAL RULES RELATING TO BANKING LAW CONVICTIONS.—

"(1) PREJUDGMENT ATTACHMENT OF PROCEEDS OF BANKING LAW VIOLATION.—In the case of any property obtained by any person as a result of any act which the Attorney General has probable cause to believe is a banking law violation or any property traceable to any such act, such property may be treated as property obtained from a banking law violation, or as property traceable to such violation, for purposes of section 1345(a)(2) of title 18, United States Code.

"(2) RESTITUTION DUE UPON ISSUANCE OF ORDER.—Notwithstanding paragraph (1) of section 3663(f), in the case of an order of restitution issued in connection with a conviction for a banking law violation, restitution shall be due in full as of the date of the order.

"(3) RESTITUTION ORDER ENFORCEABLE UNTIL PAID.—Notwithstanding any provision of section 3663 of title 18, United States Code, any restitution order issued under such section in connection with a conviction for a banking law violation shall remain enforceable under such title until the total amount of restitution has been paid.

"(4) ENFORCEMENT OF RESTITUTION ORDER AS A LIEN.—In addition to the enforcement authority under subsection (h) of section 3663 of title 18, United States Code, a restitution order issued under such section in connection with a banking law violation—

"(A) shall constitute a lien against all of the defendant's property; and

"(B) may be recorded as a lien in any appropriate Federal or State office for the recording of liens against real or personal property.

"(5) APPOINTMENT OF TEMPORARY RECEIVER.—In the case of any action to enforce a restitution order issued under section 3663 of title 18, United States Code, in connection with a banking law violation, the court—

"(A) on the motion of—

"(i) a recipient of restitution under the order; or

"(ii) any person authorized to act on behalf of any such recipient; or

"(B) on the court's own motion,

may appoint a temporary receiver to administer the defendant's assets to ensure payment of restitution pursuant to the order to the maximum possible extent.

"(6) DISCLOSURE OF FINANCIAL INFORMATION IN PRESENTENCE REPORT TO RECIPIENTS OF RESTITUTION.—In any case in which a restitution order has been issued under section 3663 of title 18, United States Code, in connection with a banking law violation, any financial information relating to the defendant which is contained in the report on the presentence investigation conducted pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure with respect to such violation shall be made available by the court after the sentencing of the defendant to any recipient of restitution under the order and any person authorized to act on behalf of any such recipient, including any person who files an action on behalf of the Corporation under subsection (x).

"(7) PAYMENT OF RESTITUTION DIRECTLY TO AGENCY.—

"(A) IN GENERAL.—Notwithstanding any provision of section 3663 of title 18, United States Code, or the terms of any restitution order issued under such section in connection with a banking law violation before the date of the enactment of the Financial Institution Restitution Collection Improvement Act of 1992, that portion of the amount of restitution under any order under such section which accrues to the benefit of the Corporation in accordance with such order, including any amount accruing to the Corporation in the Corporation's capacity as conservator or receiver for an insured depository institution, shall be paid directly to the Corporation by the defendant subject to the restitution order.

"(B) NOTICE BY CORPORATION.—If the Corporation succeeds to the interest of any person receiving restitution under section 3663 of title 18, United States Code, in connection with a banking law violation, the Corporation shall promptly notify the defendant who is subject to the restitution order of the amount which shall be paid directly to the Corporation and the procedure for making such payment.

"(C) PROCEDURES.—The Corporation, the Attorney General, and the Director of the Administrative Office of the United States Courts shall establish procedures for providing notice to any appropriate officer or employee of the United States, any appropriate court of the United States, or any other interested party to any restitution order issued under section 3663 of title 18, United States Code, in connection with a banking law violation that the Corporation has succeeded to the interest of any person receiving restitution under such order.

"(D) APPLICABILITY TO RTC AND NCUA.—If any portion of the amount of any restitution ordered under section 3663 of title 18, United States Code, accrues to the benefit of the Resolution Trust Corporation or the National Credit Union Administration, subparagraphs (A), (B), and (C) shall be applied by substituting 'Resolution Trust Corporation' or 'National Credit Union Administration', as the case may be, for 'Corporation' each place such term appears.

"(E) SCOPE OF APPLICATION.—This paragraph shall apply with respect to restitution payable under any restitution order issued under section 3663 of title 18, United States Code, without regard to the date of issue of the order.

"(8) CONSIDERATION OF DEFENDANT'S ABILITY TO PAY PROHIBITED.—In determining the amount of any restitution ordered under section 3663 of title 18, United States Code, in connection with a banking law violation or making any determination under section 3663(g) of such title with respect to any defendant who is subject to such order, the court shall not take into account the ability of the defendant to pay.

"(9) NOTICE TO RECIPIENT OF RESTITUTION.—If the full amount of restitution required to be paid by a defendant pursuant to a restitution order issued under section 3663 of title 18, United States Code, in connection with a banking law violation has not been paid before the end of any period of supervised release of such defendant pursuant to the sentence of the court, the United States Parole Commission or the probation officer of a district court of the United States, as the case may be, shall provide notice of the end of such period to each recipient of restitution under such order who has not been fully repaid.

"(10) BANKING LAW VIOLATION DEFINED.—For purposes of this subsection and subsection (x), the term 'banking law violation' has the meaning given to such term in section 3322(d) of title 18, United States Code.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act and shall apply with respect to any banking law violation or restitution order issued under section 3663 of title 18, United States Code, in connection with any such violation without regard to the date on which the violation was committed or the date of issue of the order.

SEC. 505. PRIVATE ACTIONS TO COLLECT RESTITUTION.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by inserting after subsection (w) (as added by section 504 of this title) the following new subsection:

"(x) PRIVATE ACTIONS TO COLLECT RESTITUTION ORDERED IN CONNECTION WITH BANKING LAW VIOLATIONS.—

"(1) IN GENERAL.—If any portion of the amount of restitution ordered under section 3663 of title 18, United States Code, for which the Corporation is the recipient, including any amount accruing to the Corporation in the Corporation's capacity as conservator or receiver for any insured depository institution which is a recipient under the order, remains outstanding at the end of the 6-month period beginning on the later of—

"(A) the date the restitution order is issued; or

"(B) in the case of any such depository institution, the date of the appointment of the Corporation as conservator or receiver for the depository institution,

any person may file an action in a Federal or State court of competent jurisdiction to recover, on behalf of the Corporation, any asset of, or traceable to, any person liable for such portion of the restitution in satisfaction of the order.

"(2) SHARE OF ASSETS.—Subject to paragraph (9), if any asset is recovered on behalf of the Corporation in an action under paragraph (1), the person who brought the action shall be entitled to receive from the Corporation an amount equal to the sum of—

"(A) 30 percent of that portion of the recovery value of all the assets recovered pursuant to such action which does not exceed $1,000,000;

"(B) 20 percent of that portion of the recovery value of all the assets recovered pursuant to such action which exceeds $1,000,000 and does not exceed $5,000,000;

"(C) 10 percent of that portion of the recovery value of all the assets recovered pursuant to such action which exceeds $5,000,000 and does not exceed $10,000,000; and

"(D) 5 percent of that portion of the recovery value of all the assets recovered pursuant to such action which exceeds $10,000,000.

"(3) DOUBLE AWARDS PROHIBITED.—No person who receives, pursuant to paragraph (2), any share of an asset recovered in an action under paragraph (1) shall be entitled to receive or retain any reward under section 34 of the Federal Deposit Insurance Act or section 3059A of title 18, United States Code, for providing any information relating to such asset.

"(4) PROTECTION OF MOVING PARTY.—The provisions of section 3059A(e) of title 18, United States Code, shall apply with respect to any person who brings an action under paragraph (1) in the same manner as such provisions apply to any person described in such section.

"(5) NOTICE TO CORPORATION.—Any person who brings an action under this subsection shall promptly notify the Corporation of—

"(A) the filing of any action under this section;

"(B) any final judgment or order with regard to such action; and

"(C) any settlement discussions among the parties to such action.

"(6) SETTLEMENT WITHOUT FDIC CONSENT PROHIBITED.—No settlement agreement with regard to any action under paragraph (1) may be entered into or agreed to by any person who brought the action on behalf of the Corporation without the prior written consent of the Corporation.

"(7) COUNTERCLAIMS.—If a counterclaim is filed in any action under paragraph (1), no action may be taken in connection with such action until the counterclaim has been served on any appropriate party, including the Attorney General or the Corporation.

"(8) AWARD OF COSTS AND ATTORNEY FEES TO PREVAILING PLAINTIFF.—In addition to any amount received under paragraph (2) by any person who brings an action on behalf of the Corporation under paragraph (1) and prevails, the court, in the court's discretion, may allow the person reasonable attorneys' fees and other costs of such person in connection with such action.

"(9) INELIGIBILITY OF CERTAIN PERSONS FOR SHARE OF ASSETS.—Paragraph (2) shall not apply with respect to the following persons in the case of any action brought by any such person under paragraph (1) in connection with a restitution order referred to in such paragraph:

"(A) Any current or former officer or employee of the United States or any State who directly or indirectly obtained, in whole or in part, any information with respect to any asset which is the subject of the action while acting within the course of such officer's or employee's government employment.

"(B) Any person who participated in any banking law violation which resulted in the issuance of the restitution order.

"(C) Any institution-affiliated party who withheld any information which such person had a fiduciary duty to disclose relating to any banking law violation that resulted in the issuance of the restitution order.

"(D) Any member of the immediate family of a defendant who is subject to the restitution order.

"(10) EXCEPTION FOR CERTAIN ASSETS.—This subsection shall not apply with respect to any asset referred to in paragraph (1) in which the Corporation has—

"(A) perfected a security interest before the date an action is filed under paragraph (1); or

"(B) otherwise asserted a legal interest as a matter of public record before such date.

"(11) AVOIDABLE TRANSFERS.—Any person who brings an action under paragraph (1) with respect to any asset may exercise any authority of the Corporation under section 11(d)(17) to avoid a transfer and recover the value of the asset, subject to the provisions of such section.

"(12) APPLICABILITY TO RTC AND NCUA.—If any portion of the amount of any restitution ordered under section 3663 of title 18, United States Code, accrues to the benefit of the Resolution Trust Corporation or the National Credit Union Administration, this subsection shall be applied by substituting 'Resolution Trust Corporation' or 'National Credit Union Administration', as the case may be, for 'Corporation' each place such term appears, except that section 207(b)(16) of the Federal Credit Union Act shall apply with respect to the authority of any person under paragraph (11) to avoid a transfer of an asset and recover the value of the asset on behalf of the National Credit Union Administration.".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply to any restitution order issued under section 3663 of title 18, United States Code, in connection with a banking law violation which is in effect, or becomes effective, on or after the date of the enactment of this Act.

TITLE VI—REPORTS

SEC. 601. STUDY OF PRIVATE SECTOR CONTRACTORS.

Section 21A(p) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(p)) is amended by adding at the end the following new paragraph:

"(3) STUDY OF PRIVATE SECTOR CONTRACTORS.—The Corporation shall conduct a detailed review of contractor performance of its major activities, such as asset valuation, cost test calculation, property management, etc., for the purpose of preparing a report to the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee on the benefits and burdens of contracting out tasks to private sector firms as compared to the benefits and burdens of performing the work with its employees.".

SEC. 602. ADDITIONAL REPORTS.

Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) QUARTERLY REPORTS.—

"(A) REPORTS REQUIRED.—Not later than May 31, August 31, November 30, and the last day of February of each year, the Corporation shall submit reports to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) ASSETS ON HAND.—Each report under this paragraph shall include a report on the assets on hand at the beginning and end of the reporting quarter in receiverships or conservatorships or in institutions under supervisory control of the Director of the Office of Thrift Supervision. For each asset the following information shall be reported: (i) category of asset; (ii) location; (iii) book value; (iv) fair market value as identified either for purposes of borrowing from the Federal Financing Bank or for purposes of calculating the least-cost resolution method; (v) whether data is estimated or confirmed from books and records or other reliable sources; and (vi) ancillary matters that affect or may affect the sale of the asset, such as hazardous waste, environmental or historic significance, incomplete records, title problems, tax or materialmens' liens, or adverse economic conditions existing in the local area.

"(C) ASSET SALES.—Each report under this paragraph shall include a report on asset sales during the reporting quarter, including the information enumerated in subparagraph (A) and the following additional information: (i) sales price; (ii) terms of financing; (iii) any sale terms which obligate the Corporation or the Director to future liability with regard to the asset (including such matters as 'puts', seller financing, guaranteed yields, etc.); (iv) period of time that the asset was held under the control of the Corporation or the Director; (v) expenditures made in connection with (I) the preservation of the asset or (II) sale of the asset (including fees paid to interim servicers, SAMDA contractors, real estate brokers, securities brokers or underwriters, auctioneers, and insurance and professional fees); (vi) calculation of net proceeds to the Corporation, the Director, or the institution, and the net proceeds as adjusted for contingencies and allowances; (vii) calculation of the net loss (or gain) on each asset, using the value of the asset on the books of a financial institution as of the date of the declaration of conservatorship, receivership, or imposition of regulatory supervision as the basis; and (viii) whether the sale was made in an auction, in a bulk sale, under the affordable housing program, or through a securitization process.

"(D) FORMATS FOR SUBPARAGRAPHS (B) AND (C).—The information specified in subparagraphs (B) and (C) shall be reported in the following formats (and any other that the Corporation, in the Corporation's discretion, deems useful): (i) by categories of asset and location; (ii) by categories of asset, location, type of sale, and continuing or contingent liabilities of the Corporation or the Director; (iii) by categories of asset, location, and type of financing; (iv) by categories of asset, holding period, and location; and (v) by categories of asset, location, and value of other assets of a similar type in the local market still held or under the control of the Corporation or the Director. The reports shall contain summary tables, subtotals, and such descriptive information as may be needed to assure the presentation of complete and accurate data.

"(E) DEFINITIONS.—For purposes of this clause—

"(i) CATEGORY OF ASSETS.—The term 'category of assets' means (I) cash, (II) securities, (III) loans, (IV) real estate, and (V) other.

"(ii) DIRECTOR.—The term 'Director' means the Director of the Office of Thrift Supervision.

"(iii) LOAN.—The term 'loan' means (I) residential mortgages secured by 1- to 4-family dwellings, (II) construction loans, (III) land loans, (IV) land development loans, (V) other mortgage loans, (VI) consumer loans, and (VII) commercial loans.

"(iv) REAL ESTATE.—The term 'real estate' means (I) commercial, (II) residential, (III) residential single family, (IV) residential multifamily, and (V) undeveloped or raw land.

"(v) COMMERCIAL REAL ESTATE.—The term 'commercial real estate' means (I) office buildings, subdivided into categories by net rentable/saleable square feet; (II) shopping centers, subdivided by size; (III) golf courses, race tracks, sports complexes and stadiums, and other types of recreational facilities; and (IV) hotels and motels subdivided by size.

"(vi) LOCATION.—The term 'location' means (I) street address, lot and block, or other designation sufficient to precisely locate the asset; (II) city and State; (III) Standard Metropolitan Statistical Area, or if the asset is not located within such an area, then the county; and (IV) jurisdiction of regional, consolidated, and field office of the Corporation.

"(vii) TYPE OF SALE.—The term 'type of sale' means (I) bulk sales; (II) securitization; (III) auction sales; (IV) affordable housing sales; and (V) seller financing sales.

"(F) DATA ON PRIVATE SECTOR CONTRACTORS.—For each contract outstanding at the end of the reporting quarter, the RTC shall report the type of contract; the name and principal address of the contractor; the total dollar value of the contract; the amount of fees or consideration paid to the contractor during the quarter and since the inception of the contract; whether a waiver of the conflict of interest rules were granted in connection with the award of the contract and the names and addresses of persons granted any waivers; a brief description of any ongoing problems with the contract or with the assets or services that are the subject of the contract; and total value of assets delivered to the contractor, sold by the contractor pursuant to the contract, the total receipts received from the contractor, total fees and charges paid to the contractor, the terms of any asset sales, and the value and location of any assets returned to the Corporation pursuant to an asset sale, if applicable. The same information shall be reported for each subcontractor of a contractor who performs a substantial part of the value of the contractor's agreement with the Corporation. For purposes of this subparagraph, the type of contract shall include: (i) SAMDA contracts; (ii) interim servicing agreements; (iii) collection agreements; (iv) brokerage or underwriting contracts; (v) property management contracts; (vi) professional services contracts· and (vii) financial services contracts.

"(G) STATUS OF CLAIMS AND SUITS.—For each claim pending at the end of the quarter against any failed depository institution, the Corporation, a managing agent of the Corporation, any entity which has contracted to provide services to the Corporation or the Federal Deposit Insurance Corporation on account of a failed depository institution, or on behalf of the insured depository institution, the Corporation shall provide the following information, together with any additional information which may be necessary in the discretion of the Corporation to provide a true and accurate evaluation of the claim: the name of the claimant; the amount of any monetary claim and a description of other relief requested; the court or tribunal in which the claim is pending, if any; the law firm retained by the Corporation, the firm's assessment of the validity of the claim, the number of other claims or suits being handled by the firm on behalf of the Corporation or any failed depository institution, whether a waiver of the conflict of interest rules has been made in connection with the provision of services by the firm; the aggregate of fees paid to the firm or firms during the quarter on account of the claim; the expected date of resolution of the claim; the condition of any collateral implicated by the claim; the nature of any counterclaims or defenses; and the attorney or supervisor responsible for monitoring the claims process on behalf of the Corporation.

"(H) CURRENCY AND ANALYSIS OF INFORMATION.—The Corporation shall, within 6 months of the date of the enactment of the Resolution Trust Corporation Revitalization Act of 1992, provide the information required in reports under this paragraph, on a real time basis with the capability of sorting, comparing, and summarizing across categories, locations, relationships and association, and status, so that the progress of the resolution effort can be meaningfully judged. The President of the Corporation shall certify each printed report as being true and accurate to the best ability of the Corporation, and all estimates or questionable data shall be prominently marked.

"(I) FEDERAL FINANCING BANK LOAN STATUS.—The report shall contain the following information with respect to loans from the Federal Financing Bank to the Corporation:

"(i) The total amount of loans outstanding at the beginning of the quarter.

"(ii) The total amount of loans originated during the quarter.

"(iii) The total amount of loans repaid during the quarter.

"(iv) The total amount of loans outstanding at the end of the quarter.

"(J) SELLER FINANCING.—The report shall contain information regarding the Corporation's use of seller financing to encourage the sales of assets during the quarter, including the following:

"(i) A total of the amount of funds used for seller financing purposes during the quarter.

"(ii) The number of applications received by the Corporation which requested seller financing.

"(iii) A breakdown of the type of assets sold, according to the categories listed in subclauses (I) through (VIII) of subparagraph (B)(vii).

"(iv) Projections of the total amount of seller financing which will be needed during the succeeding 2 quarters.".

SEC. 603. STUDY OF STANDARDIZED RECORDS.

On or before June 1, 1993, the Office of Thrift Supervision shall report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs, on the feasibility of requiring a nationwide uniform automated recordkeeping system for insured depository institutions that would assure the creation, maintenance and accuracy of the books and records of savings and loan institutions in a manner sufficient to assure that if regulatory action must be initiated against such an insured depository institution, the conservator or receiver shall receive complete and substantially accurate information about the assets and liabilities of the institution.

PREVENTIVE CARE INITIATIVE AT THE MEDICAL CENTER OF CENTRAL MASSACHUSETTS

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. EARLY. Mr. Speaker, one of the most prominent issues on the minds of the American public during this election year is reform of our Nation's health care system.

However, during this debate, I think we have lost sight of a fundamental component of our health care system: preventive care. While the United States is an economic and military superpower, we are not even in the top 20 among industrialized nations in terms of infant mortality. Almost 20 percent of the Nation's children do not receive adequate preventive health care.

In my district, the city of Worcester faces growing at-risk populations which typically do not receive sufficient prenatal care and where the teen birth rate is 40 percent higher than the national average. Moreover, 10 percent of the area's births are to women with a chemical addiction.

Today, I would like to commend the Medical Center of Central Massachusetts for its innovative and timely efforts to combat these problems. The hospital operates the only level 3 neonatal intensive care unit in central Massachusetts and is the regional perinatal center. The Med Center seeks to build upon this expertise with the establishment of the community health care center as a regional model to focus upon delivering preventive health care to the citizens of central Massachusetts. This center will also institute a comprehensive outreach program aimed at providing preventive health care to women, children, and families. The center's programs will serve to decrease long-term health care costs through expanding education and patient care.

I hope the Med Center's example will encourage other health care providers nationwide to develop preventive medicine programs that decrease the incidence of serious illnesses while also containing medical costs.

RURAL HEALTH CARE ACCESS IMPROVEMENT ACT OF 1992

HON. LARRY A. LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LaROCCO. Mr. Speaker, today I am introducing the Rural Health Care Access Improvement Act of 1992. It is the product of many concerns expressed by the people in Idaho's First Congressional District at hearings, town meetings, and exchanges during the last year and a half. It is intended as a starting point, a place from which we can continue building, so that the concerns of rural areas are not ignored in the broader quest for health care reform in America.

Idaho is the most under-doctored State in the Nation. This fact alone would be cause for concern, but the provider shortage in Idaho includes all health care professions. Idaho hospitals have struggled with reclassification and payment issues, only to have their progress wiped out by a wave of changing regulations from the Health Care Financing Administration [HCFA]. And for many of Idaho's rural communities, public health clinics are the only viable option to serve the need for access to health care.

This legislation is designed to improve access to health care services for rural areas. To that end, it provides a combination of incentives and program modifications.

Doctors will be encouraged to consider practicing in rural communities through a combination of financial incentives and administrative simplifications.

Hospital facilities will be protected from further reductions in Medicare payments for capital related expenditures, and antitrust statutes will be relaxed to encourage cooperative sharing arrangements and to maximize the use of medical facilities.

To promote information sharing and efficiency, the bill includes a rural telecommunications demonstration program to link medical facilities in rural areas.

Grants are provided to establish primary care clinics in medically underserved areas. In addition, the bill reformulates the system for determining placement priorities within the National Health Service Corps, so that rural States with severe provider shortages will receive a larger share of professionals available for placement assignments.

And finally, the Secretary of Health and Human Services is directed to identify federally imposed paperwork burdens associated with the delivery of health services, and develop a reduction plan to reduce this burden by 5-percent-per-year for each of the next 5 years.

Mr. Speaker, this bill raises areas of discussion within the ongoing health care reform debate. But it is by no means a final product, and I welcome continued input from all Idahoans in further shaping this legislation, and making it the focal point of efforts to deliver rural care reform.

THE DOWNEY-MILLER-WILLIAMS EMERGENCY JOBLESS BENEFITS AND EMPLOYMENT TRANSITION ACT OF 1992

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MILLER of California. Mr. Speaker, together with Congressmen TOM DOWNEY and PAT WILLIAMS, I am today introducing the Emergency Jobless Benefits and Employment Transition Act of 1992. This important legislation that not only extends emergency unemployment compensation benefits for an additional 13 weeks for individuals who received emergency unemployment benefits before July 5, 1992, but also creates a transitional employment program for unemployed individuals to repair and renovate the deteriorating and dangerous conditions in our Nation's public elementary and secondary schools.

Every day, hundreds of thousands of children attend schools that are structurally unsafe and pose serious health and safety hazards to them.

Teachers cannot teach and children cannot learn in buildings that are falling down around them. Too many of our schools lack sufficient space, suitability, safety and maintenance for the students and teachers in them.

In 1991, the American Association of School Administrators conducted the first nationwide survey of school facilities in 30 years. The survey concluded that 74 percent of our public school buildings need to be replaced. Almost one-third of these buildings were built prior to World War II.

In its 1989 report, "Wolves At The School-House Door," the Education Writers Association concluded that one of every four school buildings is in inadequate condition. Of those schools, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent have environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound. Many schools have multiple problems.

This legislation establishes part-time and full-time transitional employment opportunities for claimants and exhaustees of the Emergency Unemployment Compensation Program. Eligible workers could work full time for up to 6 months, or, if they so chose, work part time and receive emergency unemployment benefits if they participate in a job search assistance program provided by the Employment Service or Job Training Partnership Act [JTPA]. Native Americans are also eligible to participate in this program.

The need for this legislation is clear. The economic recovery promised by this administration has not occurred. Instead, our food stamp rolls are swelling daily, and too many Americans are either losing their jobs or cannot find work. Extending emergency unemployment compensation benefits, as this bill does, is the act of a compassionate and humane government. At the same time, society will receive real benefits from the school rehabilitation portions of this bill.

Our State and local governments are all in states of fiscal crises. Education budgets throughout the country are taking enormous cuts. There is simply no money at the State and local levels sufficient to repair and rebuild public schools.

It is time that the Congress showed leadership and addressed this serious problem. This legislation is needed not only to repair our crumbling infrastructure, but also to help jump start our sagging economy. By creating these jobs, we will not only be providing people with the economic means to support themselves and their families. We also will be providing our Nation with the greatly needed economic resources to protect the health and safety of our school children.

DEFENSE NUCLEAR WORKERS' HEALTH INSURANCE ACT OF 1992

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SKAGGS. Mr. Speaker, today I am introducing legislation to provide continuing health insurance for Department of Energy (DOE) nuclear weapons plant workers losing their jobs as a result of the downsizing of the nuclear weapons complex. The Defense Nuclear Workers' Health Insurance Act of 1992 will meet the unique and compelling health insurance needs of defense nuclear workers.

This legislation is virtually identical to a major element of H.R. 3908, the Defense Nuclear Workers' Bill of Rights Act, which I introduced this past November. I am pleased that other portions of that bill were adopted by the House as part of the fiscal year 1993 Defense authorization bill. However, the House-passed provisions don't address one of the fundamental concerns of the defense nuclear worker—the need for adequate health insurance coverage when he or she leaves the nuclear weapons complex.

For more than 40 years, workers at the Nation's nuclear weapons plants have been among America's frontline soldiers in the cold war. In carrying out their national security mission, many have worked with uranium, plutonium and other radioactive materials under conditions we would consider appalling by today's standards. With the coming consolidation and likely downsizing of the weapons complex, some of these workers face serious health, insurance, and future employment difficulties that are unique to their industry.

These workers have dedicated their careers to this difficult and sometimes dangerous national defense mission. We should treat them now with a decent sense of national responsibility. They did their part; we should keep faith with them. Congress has already recognized America's special obligations to veterans, of course, and to those who were innocently exposed to dangerous levels of radiation during the cold war—uranium miners, people living downwind of nuclear tests, and the atomic veterans. I strongly believe that nuclear weapons workers deserve similar consideration.

Please let me take a minute to describe more fully what the bill does.

With the cold war over, several nuclear weapons plants have reduced or suspended operations, and further contraction and consolidation of the nuclear weapons complex will occur over the next decade. Some workers at these facilities have already been laid off, and more will be. Unfortunately, when they seek new jobs, they may face resistance because employers fear that the workers' prior exposure to radiation could increase company health care or health insurance costs.

My bill would establish a DOE-funded health insurance program for former weapons plant workers who were exposed to levels of radiation that carry substantial health risks. Because DOE's worker-exposure records are often inaccurate or non-existent, the program would also cover those who worked for 5 or more years in "hot" facilities, a period of time in which unhealthy levels of radiation exposure might reasonably be presumed.

This provision would eliminate a significant reemployment hurdle, and make it easier for these former defense nuclear workers to obtain new civilian jobs. It would provide former defense nuclear workers with Federal health insurance for any costs exceeding $25,000 for illness or injury caused by on-the-job exposure to ionizing radiation. The initial expenditure of $25,000 would be the responsibility of the worker or his or her insurer. By covering the most expensive cases, this Federal insurance will remove the fear of potential new employers that their insurance costs will increase if they hire former weapons plant workers. It shows that the Nation isn't going to abandon people who have devoted their working lives to protecting their country.

I urge my colleagues to support this legislation, and so to treat these defense workers in a fair and responsible manner.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. MOLINARI. Mr. Speaker, I am honored to be introducing, along with a number of my distinguished colleagues, legislation to designate February 4, 1993, and February 3, 1994, the "National Women and Girls in Sports Day."

Ours is a culture rich in sports tradition and heritage. And this year, as female athletes soar to new heights, it is easy to forget the time when women did not participate in the Olympics—or even high school athletics. For years, the lessons learned and experiences gained from participating in sports were denied to half of our citizens. Not until 1972, with the passage of title IX of the Education Amendments Act, were women assured equal opportunities to participate in high school and college athletics. Title IX forever changed the course of women's participation in athletics. It is important to recognize how far women have come in their athletic achievements, while not forgetting that inequities still exist.

With the passing of the Summer Olympics in Barcelona, we quickly recall Heptathlete Jackie Joyner-Kersee, Janet Evans, the United States Women's Basketball Team, and Gail

Devers remarkable comeback from Graves' disease to win the women's 100-meters. We watched as newcomers Summer Sanders and Shannon Miller become prominent figures in international competition with their splendid achievements. They and many others in Barcelona are a source of inspiration and pride to Americans.

That is why for the past 6 years Congress has designated a "National Women and Girls in Sports Day," to encourage women and girls to participate in sports, to continue to work for equal opportunities, and to celebrate the great progress made by women in sports.

Again this year a woman athlete will be presented with the Flo Hyman Memorial Award, in honor of the Olympic volleyball star who died suddenly in 1986. It is my hope that this annual celebration will inspire future generations of women athletes to strive for the excellence exemplified by Flo Hyman and other female athletes.

Mr. Speaker, I hope all my colleagues will lend their support for this legislation.

TRIBUTE TO LEE/ROWAN ON LABOR DAY 1992

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. EMERSON. Mr. Speaker, I rise today to pay tribute to a Federal holiday we soon will be celebrating; Labor Day 1992 will be recognized on September 7th. On that day, we pause to remember all the accomplishments American workers have contributed to this great Nation and thank them for their steadfast toils in the past and into the future. There is no question that the working people of the United States help to make this country the global leader that it is today.

I'd like to take this time to share a manufacturing success story with my colleagues in Congress. It is a success story that takes place in my home State of Missouri, and one that I am very proud of. Back in 1939, Edgar D. Lee and John V. Rowan founded Lee/Rowan, which at that time only produced metal trouser creasers. They sold these creasers to Sears Roebuck & Co. and JCPenney, who over the last 50 years have continued to be major Lee/Rowan customers.

The firm based in St. Louis steadily grew by adding manufacturing space, employees, and new product lines. Today, odds are that if you look in your bedroom or bathroom closet, there is probably at least one piece—if not a majority—of Lee/Rowan's wares inside. The company's retail products now include wood, metal, and plastic hangers; door/wall shoe racks and accessories; bath furniture and organizers; bulk shelving; and a number of storage systems, including a complete line of ventilated wire storage systems and shelving introduced in 1985. Basically, if you have something to hang or to store, the hard-working folks at Lee/Rowan have probably had some hand in putting together the product you use.

I am especially proud of the Lee/Rowan success story because a major part of it has been played out in Jackson, Missouri, which is in my Congressional District in the southern part of the State. What started out as an original facility with 49,000 square feet and 25 workers in 1964 has witnessed 9 plant expansions and now has ballooned to a production center of 556,934 square feet and more than 700 employees. The folks at the Jackson plant, combined with the 400 people in their St. Louis facility, have helped to make Lee/Rowan a heralded leader in the storage and organization products industry. In fact, E. Desmond Lee, Lee/Rowan chairman, was inducted into the Entrepreneurial Hall of Fame in December 1991, and the Lee/Rowan firm was recognized as Vendor of the Year by Wal-Mart Stores, Inc., for its performance as a supplier. The latter citation is reserved for firms that provide consumers with products and packaging that are safe for the environment and help create American jobs through a Buy American program.

A scholar once wrote, "By the work, one knows the workman." In Lee/Rowan's case, we know that these folks are fine, dedicated, hard-working people concerned about their communities and intent on producing the finest wares possible. It shows in the quality craftsmanship of their products; and moreover, the success they have brought to their company over the years. In honor of Labor Day 1992, I'd like to say congratulations to everyone who's played a part in Lee/Rowan's successful past and those who will contribute to Lee/Rowan's optimistic future.

THE CONSUMER HOSPITAL PRICE AWARENESS ACT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MOODY. Mr. Speaker, today I am introducing the Consumer Hospital Price Awareness Act, a bill that expands upon legislation I introduced last month, H.R. 5707, the Hospital Cost Disclosure Act of 1992. H.R. 5707 would require hospitals to provide patients with an itemized bill listing hospital charges to the patient per service versus the actual cost to the hospital of providing the service. This public disclosure has the ability—as we saw with the Humana chain in Kentucky—of making hospitals lower their prices.

The bill I am introducing today would also require hospitals to give prospective patients a list of prices along with the costs to the hospital of providing those services. This will enable consumers to compare the prices and profit margins of hospitals in their area before choosing a hospital.

Evidence seems to indicate that there is neither rhyme nor reason to the profit margins of hospitals. The charges for similar items in different hospitals vary dramatically. It's a profit issue through and through.

Here are a few examples of markups that I have seen reported: a charge of $76.44 for two tubes of Neosporin ointment that cost $5 each at a drugstore; $15 for one ounce of petroleum jelly, $6.71 for a thiamine pill that costs $0.04, a bag of ice that costs $0.99 at 7–11 costs the sick $32 at one particular hospital. These are only a small sampling of the examples that exist.

My new bill, the Consumer Hospital Price Awareness Act, would expose these hospital markups to American consumer and thereby allow consumer to decide for themselves whether they are willing to pay such outrageous prices. If not, they can compare the prices of various hospitals and choose the one whose prices, and profits are the most reasonable. Such exposure and comparisons may encourage hospitals to lower their sometimes outrageous—and often unjustifiable—markups in this currently hidden profit-making scheme.

SENATE CONCURRENT RESOLUTION 132

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HASTERT. Mr. Speaker, on August 10, the House passed Senate Concurrent Resolution 132, the same language as House Concurrent Resolution 352, of which I am an original cosponsor. I am pleased to support this legislation as it is the culmination of many months of attempts by the House Select Committee on Hunger, on which I am privileged to serve, and by other committees of Congress to aid humanitarian efforts in the war-torn country of Somalia.

I would like to briefly recount the history of this situation. In 1988 a bloody civil war began, resulting in the ouster of President Mohammed Siad Barre in January 1991. No functioning government, nor legitimate claim to power, has been made since that time. The United Nations [U.N.] removed all personnel at that time as well.

I went to Somalia last summer on a trip to the Horn of Africa with the chairman of the Select Committee on Hunger, TONY HALL, and Hunger Committee colleague, ALAN WHEAT. While we never entered the capital city of Mogadishu, the level of starvation in the north was devastating.

The situation has only become more severe since that trip. In November 1991, intense fighting again broke out in the capital city causing complete destruction of the infrastructure, any semblance of agricultural practices, and creating severe barriers to the distribution of food and medicine. Without legitimate rule, there have been flagrant human rights abuses and these violations continue unchecked.

In December 1991, I joined other members of the Select Committee on Hunger in writing to Secretary Baker asking the United States to again push for negotiations among warring parties and the establishment of a cease-fire agreement. Then, in January, U.N. Secretary-General Boutros Boutros Ghali supported a U.N. resolution that called for a cease-fire, an increase in humanitarian aid, an international arms embargo, and the deployment of a coordinator for U.N. humanitarian assistance.

Also in January, the Select Committee on Hunger held a hearing receiving testimony of several private, voluntary organizations involved in the distribution of food and medicine. Because some humanitarian workers had been killed and ships waiting to deliver food aid were repeatedly fired upon, the humanitarian movements were frustrated and seeking political support. There was no United Nation presence at the time, although special envoy, Under Secretary General James Jonah, had recently visited Somalia in an attempt to establish preliminary negotiations for a cease-fire.

The Select Committee on Hunger responded with letters to leaders of the warring factions directly asking for cooperation and a cease-fire. While leaders of all factions were not known, an appeal was made to the two major leaders responsible for fighting in Mogadishu, General Aideed and Mr. Ali Mahdi.

Finally, a tentative cease-fire was reached in March. This cease-fire has been repeatedly violated and has included the shelling of ships seeking to unload food aid. Later in March, the United Nations issued another resolution. This resolution expressed regret that the cease-fire had not been kept, called on all factions to abide by the cease-fire, ordered the dispatch of a technical team to work with the coordinator of humanitarian assistance, and calling for the establishment of a mechanism for safely distributing humanitarian assistance.

In April, yet another U.N. resolution was issued in the wake of the Secretary-General's report to the Security Council. This resolution notes a plan for food distribution had been proposed for Mogadishu, Hargeisa, and Kismayo, calls for a U.N. operation of 50 observers to monitor the cease-fire, agrees in principle to establish a U.N. security force to assist in securing safe distribution for humanitarian aid after consultation with warring factions, approves appointment by the Secretary-General of a Special Representative for Somalia to provide overall direction of U.N. activities, and asks for a conference on national reconciliation and unity in Somalia in close cooperation with the League of Arab States, the organization of African Unity and the Organization of the Islamic Conference.

At this time, members of the Select Committee on Hunger and members of the Foreign Affairs committee worked together to draft a resolution to be introduced to Congress.

As the Hunger Committee prepared to hear testimony July 22 from Senator NANCY KASSEBAUM, who had recently returned from a trip to Somalia, 4 of the 50 U.N. observers were preparing to enter the country. This past weekend, the additional 46 observers called for by the U.N. resolution entered Somalia as well.

Yet another U.N. resolution further set the stage for the passage of our resolution in Congress. This resolution, on July 27, 1992, called for airlift operations and sanctioned the deployment of U.N. security forces. The resolution discussed on August 10 in Congress heartily supports this call for action.

According to the International Committee of the Red Cross [ICRC], the overall malnutrition rate in Somalia is 95 percent. This becomes 99 percent in some areas of the country experiencing the most severe conflict. One and a half million people, or nearly a third of the Somalian population, is considered to be at severe risk of starvation. At least 30,000 have perished thus far.

While the tragedy of war and drought has plagued many African countries in the past, and indeed Somalia has been in crisis for nearly 2 years since the ouster of President Siad Barre, this tragedy is far more severe and can not be ignored. Actions can be taken now to aid 1.5 million people in immediate danger of death.

Corridors of tranquility, which are areas where the safety of humanitarian workers and those seeking aid is ensured, can and must be established. Humanitarian aid must be allowed to safely and efficiently pass to those suffering. A cease-fire must be observed long enough to aid millions of starving people. However, even if a cease-fire can not be unequivocally maintained, efforts must continue to aid the Somalians.

I commend U.N. Secretary-General Boutros Boutros Ghali for his statements calling attention to the relative lack of attention given to Somalia compared with the former nation of Yugoslavia. I look forward to the action by the 50 U.N. observers who recently arrived in Somalia and the work of the United Nation's special representative for Somalia, Mohamed Sahnoun.

With the vast number of lives at stake, we can not ignore the Somalian crisis. Therefore, I fully support the call to action Senate Concurrent Resolution 132 outlines.

THE NATIONAL ENVIRONMENTAL BUSINESS FOUNDATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. STUDDS. Mr. Speaker, I am today introducing legislation to establish a National Environmental Business Foundation. The purpose of the bill is twofold: jobs at home and a cleaner, healthier environment abroad.

Mr. Speaker, the environmental technology area is one of enormous opportunity for American business and American know-how. The enviro-tech industry in the United States grew in response to the environmental laws and regulations that we passed in this body. According to EPA Administrator William Reilly, the domestic environmental business sector generates sales of more than $100 billion annually. The international market for environmental goods and services is enormous, already more than $200 billion per year, and it is expected to grow rapidly through the end of the century.

Here at home we've got national programs to protect our own environment that are second to none worldwide, George Bush and Dan Quayle notwithstanding. We've got 20 years of experience in solving the environmental problems that Eastern Europe, Asia and Central and South America are now wrestling with. We've got a university system for education and training, and a fully developed research and development sector that keeps us at the cutting edge of quickly evolving technologies.

My own State of Massachusetts is a perfect example. We have world class academic and research institutions like Woods Hole Oceanographic Institution and the Massachusetts Institute of Technology—to name a few. We have literally hundreds of firms producing remarkable technologies that are as we speak being marketed globally. We've got the work force, the capabilities and the willingness to compete that is unequaled.

In fact, Massachusetts has already taken the first steps in realizing these opportunities by forming the Environmental Business Council, an organization of businesses and universities in New England and beyond that is successfully negotiating trade and training agreements with Mexican businesses and the governments of Eastern Europe.

While groups like the Environmental Business Council are out of the blocks and running, the Bush administration remains tone deaf to the issue. The public fiasco of the President in Rio earlier this spring masked an equally important behind-the-scenes story of missed opportunities for American enviro-tech. While the Germans and the Japanese mounted major promotion campaigns, the Americans dawdled. It's just not good enough.

The legislation that I am introducing today will establish a national foundation to aggressively promote enviro-tech business and training opportunities. Established by the Administrator of the Agency for International Development and guided by a Board of Governors, it will identify the regional centers of excellence in the enviro-tech field around the United States and marry those capabilities with market opportunities abroad. Working with the Commerce Department, the Environmental Protection Agency and the Trade Representative, it will also identify existing impediments to accessing those markets and ways to eliminate those impediments.

Mr. Speaker, this is a complicated subject and an enormous challenge that we face in the coming months and years. I firmly believe that we must transform government into a positive agent for change in this field so that, spearheaded with the work of the Foundation, we make the most of opportunities that now exist. Both the world and our economy will be better and healthier for it.

INTRODUCTION OF ANTI-STALKING LEGISLATION

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. PELOSI. Mr. Speaker, today I am introducing legislation to address the tragic problem of stalking. Victims of stalking are harassed and often killed by their perpetrators and there are few legal steps they can take to protect themselves. My bill, which is a companion to S. 2922, introduced by Senator COHEN, would direct the National Institutes of Justice (NIJ) to create a constitutional and enforceable model antistalking law for adoption by States. It would also require the Attorney General to report to Congress on the need for further action within 1 year.

There are currently twenty-one States which have adopted antistalking laws. However, many of these laws have been found to be too broad and deemed unconstitutional or too narrow and are found to be ineffective. If these laws are challenged, previously convicted stalkers may be allowed back on the street. Statutes that are too broad may preclude legal activities, such as a reporter investigating a pubic official for a story.

A recent case in Brookline, Massachusetts, highlights the problem of stalking and the inadequate legal protection for victims. Kristin Lardner, a 21-year-old art student, was stalked by an ex-boyfriend who after a few weeks shot her to death. Kristin had gone to the police and was granted a 1-year judicial restraining order against him but it was not enough to protect her. Many victims seek legal protection but are frequently told that nothing can be done until they are physically harmed. Other victims who are harassed by a former intimate often have their cases dismissed as a domestic dispute.

I invite you to join me in cosponsoring this important legislation to help provide adequate legal protection for the people who are terrorized by stalking.

INTRODUCTION OF THE EMERGENCY JOBLESS BENEFITS AND EMPLOYMENT TRANSITION ACT OF 1992

INTRODUCTION OF THE EMERGENCY JOBLESS BENEFITS AND EMPLOYMENT TRANSITION ACT OF 1992

THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DOWNEY. Mr. Speaker, today I am introducing legislation, along with my colleagues GEORGE MILLER and PAT WILLIAMS, that will address the most pressing need facing our Nation today. Despite the wishful thinking of the Bush administration, the economy remains stagnant and the recession continues. The human cost of the longest recession since the Great Depression has been too high and tragic. Jobless Americans have paid a heavy price as they coped with the emotional and financial strain of unemployment.

I believe that this Congress should be proud of the fact that we led the fight to extend emergency unemployment benefits against Presidential threats and vetoes. And in the end, we prevailed and offer the unemployed a temporary lifeline in the hope that the economy would improve.

But we cannot turn our back on jobless Americans now. Although we extended the Emergency Benefits Program through the end of March, we did not provide additional weeks of benefits for those who have exhausted basic and extended benefits. Why? Because the President's advisers and other economists assured us that the economy was improving. But it is not improving, and I now believe we need to provide additional weeks of emergency benefits until the jobless situation improves.

Most important, we need to provide jobless Americans with the one thing that want more than anything else—a job. This legislation will provide transitional opportunities for those who exhaust all their unemployment insurance benefits, it will expand the JOBS Program, it will provide incentives for the creation of reemployment assistance programs and it will provide protection to American workers who have lost their jobs because of the relocation of their company to a foreign country.

Mr. Speaker, we need to get America working again and we need to help jobless Americans stay afloat during these difficult times. I believe that this legislation will help us accomplish both of these goals. With your permission, I would like to include the text of the legislation in my remarks.

TRIBUTE TO HON. ED ROYBAL

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BERMAN. Mr. Speaker, It is a special privilege for us to salute a dear friend and valued colleague—Congressman ED ROYBAL. ED is being honored for his lifetime achievements on behalf of Chicanos for Creative Medicine of East Los Angeles College during his 30 years of distinguished service in Congress.

Over the 25 years that we have known ED, he has worked tirelessly on behalf of the poor, elderly, and the Latino community. There was nothing fashionable or politically expedient about ED's commitment to these disparate groups. Indeed, he took a risk. When ED came to Congress in January 1963, there was no congressional Hispanic caucus, no Chicano movement. ED was one of the few people in Washington during that early period who paid much attention to the needs of Latinos. Along with Ceasar Chavez, he provided leadership to a community that was just beginning to assert itself.

In the 1990's it is clear what ED meant to the advancement of Latino political power in southern California. An entire slate of Latino elected officials has followed in his path. By his courage and determination to open the doors to minorities, Latinos have become much more active in politics.

If ED had only opened the door for other Latinos to become involved in politics, it would have been enough. But during his distinguished career, he also became a leading advocate of affordable health care for the poor and senior citizens of America. Thanks to his sensitivity, foresight, and legislative activism, ED gave senior citizens the hope that Government would not ignore their long-term health care needs. He was there when others in Washington turned their backs on seniors, the disadvantaged, and the poor.

As chairman of both the Select Committee on Aging and the Subcommittee on Health and Long Term Care, ED assumed a major role in securing Federal funding for community health programs. He also worked on behalf of the elderly in other areas, including housing, human services, and Social Security.

ED's support and assistance for Chicanos for Creative Medicine of East Los Angeles College is typical of his humanitarianism. Founded in 1969, CCM has addressed the continuing shortage of health care professionals serving the Latino community, including establishing a scholarship fund to assist students pursuing medical degrees.

We have learned so much from ED during the time all of us spent together in Congress. ED showed us that politics, informed by a keen sense of justice and compassion, is the best politics. We are honored and privileged to salute Congressman ED ROYBAL for the leadership he has shown in the House of Representatives, his devotion to important causes, and above all, his friendship.

TIME FOR TOUGH TALK

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LEVINE of California. Mr. Speaker, our Nation faces a critical juncture in its history. We must find a way to deal with a series of challenges—how to maintain our technological preeminence, how to provide our children with a world-class education, how to eliminate the growing divide between rich and poor in our society, and how to reduce our massive budget deficits which are sapping our ability to deal with these challenges.

Michael Crichton, one of our most thoughtful writers, dealt with many of these themes in his best selling novel, "Rising Sun."

Unfortunately, the press largely ignored this aspect of Mr. Crichton's book. Instead, reviews focused on issues of Japan bashing, racism, and trade protectionism, and ignored the real issues which Mr. Crichton raised so thoughtfully in his book.

Such an approach reflects an easy way to deal with a difficult subject. In doing so, Mr. Crichton's book was sensationalized and trivialized, the press was spared the chore of analyzing complex and difficult issues, and an important opportunity to stimulate a public debate on these issues was lost.

Earlier this week Mr. Crichton wrote an article for the New York Times in which he addressed this subject and the media's failure to come to grips with the real substance of his book. I commend it to my colleagues and ask that it be included in the CONGRESSIONAL RECORD.

I hope that as the campaign season progresses candidates for President, the House, and the Senate will be pressed to explain how they will deal with these important issues. It would be a tragedy if the campaign season were to focus on less important, more mundane subjects of much less significance to the future of our country.

[From the New York Times, Aug. 10, 1992]

TIME FOR TOUGH TALK

(By Michael Crichton)

SANTA MONICA, CA. Now that "Rising Sun" is off the best-seller list and the hysteria surrounding the novel has faded, it's worth noting that the issue at the center of it—America's longterm economic decline—continues to be ignored. The only candidates to address our long-term economic troubles, Ross Perot and Paul Tsongas, are gone. Neither George Bush nor Bill Clinton seems willing to talk about anything except near-term palliative steps. Meanwhile, Americas strategic long-term problems are growing rapidly worse.

A decade ago, this country was the world leader in every major technological area and had the world's highest gross national product per capita. Today, we have lost the lead in most technologies and are falling behind in the rest. In no area have we gained ground. We now rank fifth in G.N.P. per capita. Real wages have slipped in 1960's levels. And our national debt has tripled, creating a burden that threatens our economic recovery.

It's against this background of precipitate decline that the reviews of "Rising Sun" derive their significance. The thrust of the reviews has been to deflect attention from the underlying issues. I don't know why we can't talk about our decline, but we can't. We're in severe denial.

Instead of discussing that decline, reviewers talked about racism or anti-Semitism or evoked conspiratorial imagery about our economic competitors. In tone, this misdirection smacks of political correctness, and it profoundly trivializes the problems we face. Espousing the right views at a cocktail party or in a newspaper column is no substitute for capital investment. Nor will opinion change the harsh reality of declining real wages, stagnant productivity, shrinking capital investment and mounting public and private debt.

Yet these economic realities determines the quality of life for the people of this or any other country. For example, there has been much concern expressed about the widening gap between rich and poor in America, as if this were a moral issue. But there is plenty of evidence that this gap is simply a function of disinvestment. Historically, nations with a healthy, growing economy have a small gap between rich and poor, as America did in the 50's. In stagnant economies, the gap widens, as it has lately in America. Should we bemoan our state—or take the steps necessary to get our economy growing again?

Certainly, attacking the bearer of bad news does not impugn the economic message. Calling me a racist does not address the economic issues I raised. Before I began "Rising Sun," I worked on a book about Benjamin Franklin, a man of infinite good sense. After a vicious, humiliating public attack on him in 1774, he said: "Grievances cannot be redressed unless they are known; and they cannot be known but through complaints * * * If these are deemed affronts, and the messengers punished as offenders, who will henceforth send petitions? * * * Where complaining is a crime, hope becomes despair."

Finally without a full discussion of the roots of America's economic decline and its profound impact on American society we are doomed to more of the same. Because the global economy requires that we now reinvent ourselves economically—just as the Germans reinvented themselves in the 19th century, to meet England's challenge; just as the Japanese have twice reinvented themselves, since the arrival of Admiral Perry's ships in 1853. Now America must reinvent itself to survive.

Are we, as a nation, to be rich or poor? Are we going to increase our productivity or sink further into decline? If we are to reverse the trends of three decades, what steps must we take?

These complex questions affect the lives of every American, rich or poor. They will require planning and sacrifice. They will involve a change in the way power is administered in this country, and by whom. Such change can occur only after passionate and heated debate. We need to begin that debate now.

Our relations with Japan are now just one aspect of our economic future. That relationship is useful as a yardstick of our decline—as a way to assess what we are doing wrong. But here, too, we must have freedom to debate.

In the decade since Chalmers Johnson first proposed the "revisionist" view of Japan, even more thinkers have come to agree, in some form, with his perception that differences between the economic systems of Japan and America must be addressed. The discussion has widened from academic to journalistic circles, and now to popular culture. Whatever the merits of the revisionist position, it will only be resolved by a free expression of opinion on all sides.

We have had a long time when it was deemed impolite to discuss Japanese-American conflicts in any detail. As a result, our ears are unaccustomed to the sound of sharp voices on this subject. But the problem is not that voices are now too strident. The problem is that there has been silence for far too long.

FREEDOM OF THE PRESS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FASCELL. Mr. Speaker, one of the most fundamental rights guaranteed to those living in a democracy is freedom of speech. A free and independent media is essential for ensuring freedom of speech and expression as well as for holding a government accountable for its actions. A free press is the guarantor of the people's right to know and to act upon their rights in a democracy.

Throughout our rapidly changing world, wherever former dictatorships or military regimes are transforming themselves into nascent democracies, the role of the press is being questioned. Long-established practices of government control and censorship are being abandoned. The press is no longer the mouthpiece of the state but, in many cases, it is not yet the watchdog of a free people. In the newly emerging democracies of Eastern Europe and the former Soviet Union, for instance, the challenge of ensuring a media independent of government influence has not yet been met.

This challenge, and ways to address it, are the subject of an excellent piece that appeared in the International Herald Tribune last month. Entitled "Boosting Press Freedom in the East," the article is by Leonard Marks, a former director of the U.S. Information Service, a leading spokesman for the World Press Freedom Committee, and an old friend of mine. Mr. Speaker, I am pleased to insert this article in the RECORD and draw the attention of our colleagues to it.

[From the International Herald Tribune, July 31, 1992]

BOOSTING PRESS FREEDOM IN THE EAST

(By Leonard H. Marks)

Washington—Boris Yeltsin's ongoing battle with his parliament to prevent Izvestia from becoming a house organ is yet another illustration of the struggle the media face to be free of government control in the ex-Soviet Union and the former Warsaw Pact countries.

The Communist Party has been dissolved; the Soviet Union is a relic of history, and new leaders proclaim their dedication to democracy and free-market principles. But glasnost remains a distant goal.

There is an unparalleled opportunity now to help the new democracies more toward freedom and set out proper signposts for the news media. National news agencies are still government-controlled; newsprint is rationed; government officials determine which papers or magazines shall be published at state printing houses and the post office decides what to distribute.

In each country, parliamentary commissions are wrestling with new media laws, but there is deep division as to whether, and to what extent, the press shall be licensed and controlled. With few exceptions, radio and television remain under state control. Just as the Russian parliament seeks to make Izvestia its mouthpiece, governments regard national television as an official institution to carry out their dictates and support their policies.

In Hungary, the prime minister has campaigned to discharge executives of state-owned radio. In Poland, a political ally of the prime minister has called for the government "to interfere energetically in the media and introduce some order." Press groups have vigorously resisted these moves.

During the revolts against communism, more than 1,000 underground papers sprang up in Polish factories, villages and neighborhoods. Much the same happened in neighboring countries. Journalists who dedicated themselves at great personal risk to the principles of free expression and free enterprise are clinging to those ideas. But they need support from the West.

Of course, the transition to a market economy takes time, and these countries have not yet reached the stage where advertising revenues and venture capital are sufficient to support the press. But it is clear that democracy will not flourish until the news media achieve independence.

At the recent meeting in Helsinki of the Conference on Security and Cooperation in Europe, a Charter for a Free Press received strong support. Its principles were painstakingly worked out five years ago in London by journalists from 34 countries meeting under the aegis of the World Press Freedom Committee.

The charter rejects censorship, official licensing of journalists and other restrictions. It supports free access to information by journalists and freedom to operate across borders. It stresses that states must not restrict access to newsprint, printing facilities and distribution systems and must make broadcast facilities available to independent groups. It concludes: "Journalists, like all citizens, must be secure in their persons and be given full protection of law. Journalists working in war zones are recognized as civilians enjoying all rights and immunities accorded to other civilians."

The director-general of Unesco, Federico Mayor Zaragoza endorsed the charter. He proposed a campaign among CSCE countries to make the role of the free press better known. And at a meeting next year of member-nations, press freedom will be discussed by private groups. This session should be an opportunity for the media to demonstrate that they are not lapdogs of government, but watchdogs sniffing for the truth.

RESOLUTION ACKNOWLEDGING THE HUNDREDTH ANNIVERSARY OF THE OVERTHROW OF THE KINGDOM OF HAWAII

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ABERCROMBIE. Mr. Speaker, today I have introduced, with my colleague from Hawaii Representative MINK as an original cosponsor, a joint resolution acknowledging the 100th anniversary of the overthrow of the Kingdom of Hawaii. As we approach this anniversary, the Native Hawaiians are still suffering the aftershocks of that event. Native Hawaiians are overrepresented in nearly every index of social distress—lower life expectancy, illness, homelessness, unemployment. It is important to note that Native Hawaiians are becoming strangers in their own land. Just as the introduction of alien species to the Hawaiian Islands has reduced the populations of native flora and fauna, so have the effects of Western settlement abetted the destruction of the Native Hawaiian social fabric. This joint resolution offers an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

Native Hawaiians are the heirs of an internationally recognized independent government that was extinguished with the active participation of U.S. military forces in the overthrow of the Hawaiian monarchy in 1893. Although the Bush administration has repeatedly denied any Federal Trust responsibility over Native Hawaiians, it gives me great hope to know that included in the 1992 Democratic Platform is a provision stating "the U.S. Government respects its trustee obligations to the inhabitants of Hawai'i generally and to Native Hawaiians in particular." With the anniversary of the overthrow nearly upon us, there could be no more fitting occasion to renew and reaffirm the commitment made by the Hawaiian Homes Commission Act of 1921. The Federal Trust obligation began with the enactment of that act. it was acknowledged by successive administrations throughout. Hawaii's territorial period and long after Hawaii became a State. This act recognized the Federal obligation to alleviate the hardships imposed on Native Hawaiians as a consequence of the overthrow of the Hawaiian Kingdom.

The Hawaii Congressional Delegation offers this apology resolution as an indication of its commitment to pursue further recognition of Federal responsibility to Native Hawaiians in hopes of achieving something that is long overdue—a small measure of justice for the Hawaiian people.

Mr. Speaker, aloha and mahalo.

TRIBUTE TO EVELIO TAILLACQ, GIFTED ARTIST

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of the House and of the public the achievements of one of my constituents, Mr. Evelio Taillacq, author, producer, and actor.

Mr. Taillacq is one of Florida's most talented actors. He has received numerous awards for acting, directing, and producing both radio and television performances. Among these honors, he has won the award for best show, best acting, and best director from the art critics and commentators association, "Premio de la Asociación de Críticos y Comentaristas de Arte" (ACCA) of Miami. He also won the award for artistic excellence of the North American critics' association, "Premio a la Excelencia Artística de la Asociación de Criticos de Norteamérica."

Mr Taillacq's devotion and commitment to the artistic field has been recognized by the media. He has won national and international acclaim by being revered by a myriad of newspapers: Diario Las Americas of Miami; Diario 16 of Madrid, Spain; Cartel of Miami; El Nuevo San Juan of Puerto Rico; Diario Las Americas, United States; Que Pasa New Orleans, United States; and Diario de Yucatan of Merida, Mexico.

Mr. Taillacq's latest work is "Yo Quiero Ser," presented by El Centro Dramático de Miami, the Dramátic Center of Miami. Mr. Taillacq is playwright, producer, star, and is also in charge of music. It is being directed by Maria Julia Casanova. The technical staff includes Jimmy Torres for wardrobe; Asela Torres for photography; Richard Gonzalez, assistant producer; Ruben Romeu, assistant for lighting; Miami Stage Craft for lights; and Noila Martinez for public relations.

Mr. Taillacq began his illustrious artistic career in Cuba where he was considered one of the country's premier actors. He earned a degree in art history from the University of Havana, Universidad de La Habana; and graduated from the School of Dramatic Arts from the Cuban Institute of Radio and Television, Escuela de Artes Escénicas del Instituto Cubano de Radio y Televisión. In Cuba, he starred in numerous works in both radio and television. He has interpreted many classical characters including Hamlet, Romeo, and Lucien de Rubempre, to name a few.

In the United States, Mr. Taillacq has acted in dozens of pieces, included in these are Damas Retiradas," "La Rosa Tatuada," and "Corona de Amor." He has produced over a dozen works and produces and directs "El Primer Festival de teatro de la Crueldad de Miami." He founded and directs "El Centro Dramático Antonin Artaud." Mr. Taillacq's love of his art may be seen by his past career as teacher of voice, diction, and phonics at Florida International University. He is currently president of "El Centro Dramático de Miami."

Mr. Taillacq's devotion to his career and to widening the artistic horizons of the people of South Florida continues. His future plans include future performances of "Maloja 257," "Calígula, Final de un Sueño," "Viaje de un Largo Día hacia la Noche," "El Precio," and "El Cuento del Zoológico."

It is a privilege for our community to have a talented and gifted person such as Mr. Evelio Taillacq. He is a motivated and caring individual who has worked hard for the artistic community. It is an honor to make the House and the public aware of this great talent.

CAPTIVE NATIONS WEEK

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SOLOMON. Mr. Speaker, I rise once again to commemorate America's observance of Captive Nations Week.

During the past few years, the world has seen unprecedented ideological and political changes across the European and Asian landscapes. Totalitarian governments and empires have collapsed, igniting the sparks of democracy and freedom. However, despite these immense strides of political and ideological progress, the world has not yet been completely purged of the evils of totalitarian dictatorship. As stated in the proclamation below, the people of 14 nations of the world still remain under the manipulative bureaucracies of Communist dictatorships.

As Americans, who ardently espouse and cherish those exact freedoms being withheld from these nation's citizens, it is imperative that we, as a Nation, continue to strive for their realization of democracy.

It is in this spirit of patriotism, democracy, and responsibility that States and cities across America declare the week of July 19–25, 1992, to be Captive Nations Week and issue the following Captive Nations Proclamation.

Whereas, the dramatic changes in Central Europe, within the former Soviet Union, Central Asia, Africa and Central America have fully vindicated the conceptual framework of the Captive Nations Week Resolution, which the United States Congress passed in 1959 and President Eisenhower signed into law as Public Law 86-90; and

Whereas, the resolution of 1959 demonstrated the foresight of the U.S. Congress and has consistently been, through official and private media, a basic source of inspiration, hope and confidence to all the captive nations; and

Whereas, the recent liberation of many captive nations is great cause for jubilation, it is vitally important to bear in mind that numerous other captive nations are under communist dictatorship and the residual structure of Soviet Russian imperialism still exist among others, Cuba, Mainland China, North Korea, Tibet, North Caucasis, Cossackis, Idel-Ural (Tartarstan) and the Far Eastern Republic (Siberyaks); and

Whereas, the freedom-loving peoples of the remaining captive nations (over 1 billion) look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence from communist dictatorship and imperial rule; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90, establishing the third week in July each year as "Captive Nations Week" and inviting the people of the United States to observe such a week with appropriate prayers, ceremonies and activities; expressing their great sympathy with and support for the just aspirations of the still remaining captive peoples.

Now, therefore the cities and states listed below, do hereby proclaim that the week commencing July 19, 1992 be observed as "Captive Nations Week" and call upon their citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the remaining captive nations.

In addition to the proclamations which I entered into the RECORD on July 22, 1992, I have since that time received proclamations from the States of Alaska, Arizona, Connecticut, Massachusetts, and Virginia.

Proclamations have also been issued by the cities of Allentown, PA; Austin, TX; Chula Vista, CA; Cincinnati, OH; Columbus, OH; Corinth, NY; Escondido, CA; Fort Wayne, IN; Garden Grove, CA; Hialeah, FL; Irvine, CA; Mechanicville, NY; Omaha, NE; Ontario, CA; Pinellas County, FL, and Portland, OR.

EAGLE ELEMENTARY SCHOOL RECEIVES PIONEERING PARTNERS AWARD

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to honor Eagle Elementary School from Medford, NY, for being selected as a 1992 Council of Great Lakes Governors Pioneering Partners award winner.

Pioneering Partners, as conceived by the Great Lakes Governors in the fall of 1991, seeks to accelerate the use of technology based instruction in elementary and secondary schools. The sponsor of the program, GTE, provides computers and training assistance to teachers in order to promote technology based instruction in the classroom. The Pioneering Partner's strength is that the program enhances traditional classroom instruction by providing students with new interactive learning experiences while teaching them valuable computer information skills.

Eagle Elementary School was one of only three pioneering teams in New York State, out of 25 participants in the program, to receive an award of excellence. I am pleased to note that more Eagle Elementary School participants received top scores in total reading, language, and spelling skills tests than any other participating team.

The Patchogue-Medford School District did an exemplary job of distributing computers throughout the school district to benefit not only the students, but faculty and administrators as well. Workshops were held to reinforce computer based instruction and to help teachers further explore technology. In an effort to encourage communication between teachers, parents, and administrators, parents also took part in workshops and software evaluation. These open lines of communication contributed greatly to the success of Eagle Elementary's pilot project.

I would like to congratulate Eagle Elementary School's team members, Dr. Dorothy Klein, Elizabeth Combs, Ann Fichtner, Pamela Wright, and especially the participating students. Through hard work, creative thinking, and the adept use of innovative technology, these students were able to effectively utilize the tools available to them to create a renewed excitement for learning.

Mr. Speaker, once again, it is with great pride that I recognize the Eagle Elementary School from the First Congressional District of Long Island, NY, for their outstanding performance. Congratulations to them for all their hard work and effort.

LOURDES ACADEMY CENTENNIAL CELEBRATION: 1892–1992

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. OAKAR. Mr. Speaker, it is with great pride that I rise today to recognize the outstanding support and loyalty shown by the alumnae of Lourdes Academy of Cleveland, OH, as they celebrate the 100th anniversary of its founding. I also wish to commend the Sisters of the Humility of Mary for their dedication, hard work, and commitment to providing educational excellence to those young ladies who were enrolled in Lourdes Academy under their supervision. In addition, the lay faculty has always been extremely supportive.

On February 10, 1892, permission was granted to the Sisters of the Humility of Mary by the Rt. Rev. Msgr. F.M. Boff, administrator of the Cleveland Diocese, to begin a school for students living west of the Cuyahoga River and interested in obtaining a quality Catholic education. The following day, on February 11, 1892, the Sisters purchased a brick residence and a large lot at 505 Lorain Avenue for $9,000. It was also on this day that the Feast of Our Lady of Lourdes was celebrated around the world for the first time. This coincidence led the Sisters to name the school Lourdes Academy. The school opened as an academy for young women that fall.

By 1897, the increasing enrollment prompted the Sisters to purchase a residence on Franklin Avenue, and this location became the new home of Lourdes Academy. Through the years, Lourdes Academy continued to grow in both size and popularity. Soon, despite the construction of an additional building, the facilities on Franklin were no longer adequate for the school. With World War II raging across the globe, building permits were difficult to obtain. In 1944, the school was moved from its Franklin Avenue location to the building which was once West Commerce High School at 4105 Bridge Avenue. Little did they know that this temporary location would last for over 25 years.

The existence of Lourdes Academy began to be threatened in the mid-1960's due to a delay in urban renewal plans. The former public school building that housed the over 600 young girls had been condemned three times previously, and the West Side renewal plan was not scheduled to begin for several years. As such, the school would be forced to move, rebuild, or close its doors forever. These threats, however, did not dampen the spirits of the young ladies at Lourdes. They continued to devote themselves to service and ministry to the community surrounding the school which had become the hallmark of Lourdes students. Outreach activities included a reading program for children at Riverview Community House, tutoring services at the West Side Community House, and visiting the County Home for the Aged. Other activities included clothing drives, Big Sister programs, and political awareness projects.

In 1967, Lourdes Academy celebrated its 75th anniversary. The Cleveland City Council extended its congratulations to the academy and expressed the sincere wish that the school would continue to prosper and grow in the community. A congressional resolution extolled the virtues of the school and extended congratulations to Sister Ellen Francis, then principal of Lourdes Academy:

> Lourdes has a tradition of rendering quality education to many generations of Clevelanders. Science, language, and speech competition in Ohio, as well as the nation, has been enlightened by the excellence of Lourdes Academy students * * * As Lourdes begins a new quarter century, I am convinced that Lourdes will always be a source of new and vital leadership.

Sadly, the praise and good wishes received in honor of the diamond jubilee were not enough. Final graduation ceremonies were held for the class of 1971, and remaining classes were split between Magnificat High School and Erieview Catholic High School.

The story of Lourdes Academy does not end there—neither does its spirit. Each year, an annual all-class reunion is held on February 11, the feast of Our Lady of Lourdes. I am proud to note, Mr. Speaker, that 1992 marks the 100th anniversary of the founding of Lourdes Academy. In honor of this occasion, a centennial celebration is being held on September 13, 1992, at the Cleveland Marriott Society Center. Close to 1,000 women are planning to participate in a special Mass celebrated by Bishop Quinn. The time for sharing will be well spent with guests who are traveling from all over the country and beyond to renew old friendships and bring back fond memories of days gone by.

An integral part of the centennial celebration, has been to financially assist with the development of a physical therapy program at the Villa Maria Community Center, the motherhouse for the Sisters of the Humility of Mary, located in Villa Maria, PA. With the overwhelming support of the alumnae, the goal has been exceeded.

Although Lourdes Academy no longer stands at 4105 Bridge Avenue, it is vividly remembered in the hearts and minds of the thousands of women who were educated there. Their individual development, social commitment, and leadership capabilities are directly credited to the time and energy spent by the Sisters of the Humility of Mary as they prepared these women for the challenges they would face.

The education of young women at Lourdes to develop women to their fullest capacity—spiritually, intellectually, physically, and emotionally was second to none. The confidence this type of education gave to its graduates was superior. On a personal note, I was fortunate to attend Lourdes and graduate from this magnificent institution. In addition, I was a lay teacher at Lourdes from 1962 to 1971. It was one of the finest experiences of my life. I join the thousands of graduates in quoting from our school song. "Lourdes we love you, you're our wonderful beloved Alma Mater. * * *"

Mr. Speaker, we remember Lourdes Academy, we commend the Sisters of the Humility of Mary staff, and we congratulate the alumnae during this centennial celebration, September 13, 1992.

ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. PATTERSON. Mr. Speaker, I would like to urge the President to carry out the intent of Public Law 102–16, regarding the Advisory Committee on Veterans Employment and Training.

These veterans that are leaving the military today to seek employment are the same ones upon whom he so lavishly heaped praise during his State of the Union Address last January. The President, in that speech, praised our service men and women for their service to this country and pledged his commitment to serving their needs.

Mr. Speaker, as so often is the case with this administration, the President's words do not correspond with his actions. I urge the President to live up to his words—direct Secretary Martin to appoint the members to the Advisory Committee on Veterans Employment and Training so that we can more effectively implement the policy of increasing employment opportunities for veterans.

RAGE IN REPUBLIC OF BOSNIA-HERCEGOVINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CRANE. Mr. Speaker, while the civil war continues to rage in the republic of Bosnia-Hercegovina and we are reminded daily of the thousands of innocent civilians caught in the bloody crossfire, many are calling upon U.S. military intervention as an easy means to resolve the current conflict. However, the fact of the matter is that the prospect of a quick and decisive military victory, as experienced in the Persian Gulf conflict, is extremely slim while the potential of repeating a long, drawn-out, guerrilla-style war as fought in Vietnam is enormous. I urge my colleagues to read the following interivew with General Lewis MacKenzie who reiterates the need for negotiations, and the futility of U.S. military intervention, in putting to an end the tragic bloodletting in Bosnia-Hercegovina.

[From Time Magazine, Aug. 17, 1992]

THE U.N.'S OUTGOING MAN IN SARAJEVO, GENERAL LEWIS MACKENZIE, IS NOT OPTIMISTIC

(By Daniel Benjamin)

Q. Sarajevo airport was shut down again this week. Has the U.N.'s authority in Sarajevo been exhausted?

A. I've always said the agreement to protect the airport from ground attack was hanging by a very fine thread. When you start taking mortar fire on the bunkers our people are living in and on the tarmac, that is a serious escalation. Before, we were able to justify putting our finger in the flame despite fighting going on close to the airport. The odd round dropping short can be rationalized, but not when the airport is being directly targeted.

Q. What do you think it would take to impose peace on Sarajevo itself?

A. Well, from the tactical point of view, having to control and occupy and dominate all the features around Sarajevo and the city itself. Cities are famous for gobbling up soldiers. I haven't done the detailed analysis, but a figure of 75,000 would probably be modest, if there is resistance. And the resistance has to be handled 24 hours a day by people on the ground. Air power can assist, but it can't stop people from reoccupying positions.

Q. That's assuming that the act of bringing in a large military force itself wouldn't have a powerful psychological impact.

A. Yes. It's also presupposing that the peacemakers can stay for a long time. Because what happens when they leave? Everything goes back to the way it was because so much hate has been generated. And then you have a force that is isolated. You don't have secure communications. You're sitting in the middle of a very, very hilly country.

Q. What would be the difference between an operation in Bosnia and the Gulf War?

A. The same characteristic that dominates every military operation: the ground. In Desert Storm there was a relatively sophisticated infrastructure on which to develop your force. There were tremendous areas of land on which to put it together and to train and sort out problems—and that took four months. Where are you going to do that in Bosnia?

Q. You would not be able to wage tank warfare, as in the Middle East?

A. No, you're talking infantry battles. You're talking about classic, classic guerilla country.

Q. Do you think the Serbs, Croats and Bosnian Muslims would fight in the face of a huge force?

A. If I put myself in their shoes, there is no option. You are talking about backing the Serbs into a corner. And if you read history, it's not a very good idea. You're talking about an organization with a significant capacity to fight and with a significant amount of equipment. Serbia/Montenegro must be one of the most densely militarized areas of the world now.

Q. To "pacify" all of Bosnia-Herzegovina, what size military operation would be needed?

A. Well, the Germans gave it a try with 30 divisions, and they weren't successful. A lot of people were killed. If there were resistance throughout Bosnia-Herzegovina and you had to occupy it, you could be talking up to 1 million troops.

Q. Why not bomb artillery positions and send in helicopter gunships?

A. You wouldn't be able to find all the weapons systems that are doing the damage. Mortars are the favored weapon in Bosnia, and they're hidden very easily and carried around in everything from school buses to cars. What's much more important is that if you do that, then the U.N. peacekeeping force is, whether it likes it or not, affiliated with the side not being attacked. Therefore you have sitting there 1,600 [U.N. soldier] hostages.

Q. Can't you remove those troops in advance of any action?

A. If you do, that's an indication something big is going to happen. So you've got yourself a very nice cul-de-sac, unless you're prepared to sacrifice 1,600 people. I wouldn't think that would be a particularly good idea.

Q. Is there anything that would rapidly improve the situation in Bosinia?

A. Yes—and the presidency [of Bosnia] will hate to hear me say this: negotiations with the Serbian side within Bosnia. The presidency will not talk to the other side because they say this is a war of aggression controlled by Belgrade. They feel that if they start to talk, the status quo will be frozen, and they don't have a lot of territory. If you don't want to talk, then there's only one solution: one side wins, one side loses and a lot of people get killed in between. So my feeling is that pressure has to be brought to bear to get them to the table. The Serbs will talk any time, any place, at any level because they probably have what they want. It seems to me talking could get the Bosnian Muslims territory.

Q. Is anyone in the different leaderships really calling the shots? Or is much of the fighting being driven at the grass roots by units that decide they just want to fire their mortars?

A. You're absolutely right, there are large numbers of individuals and units that are out of control. But they are out of control within a defined chain of command. There's ample evidence of units operating on their own agenda—today. Maybe tomorrow they'll operate on a common agenda. There are some individuals and small organizations in Sarajevo who are paid to kill. They get a bonus. Journalists are favorite targets in Sarajevo. There are no video games in Sarajevo, so the next best thing is to fire at a TV car going by.

Q. Is the word genocide appropriate for Yugoslavia?

A. I can't comment in detail on that because my mandate was limited to Sarajevo. However, let me assure you that I have a pound of paper for each hand of protests from one side accusing the other of running detention camps, concentration camps, prisoner-of-war camps.

Q. You don't entirely blame the Serbs?

A. When people ask me who do you blame, I say, "Give me the day and the month, and I'll tell you" What the Serbs did three months ago was totally unacceptable: the city was bombarded, civilians were targeted. Today it is more complex. What we now see from the Bosnian presidency's side is that it's in their interest to keep the thing going and get the Serbs to retaliate in order to convince the international community that intervention is a good idea. So I blame both sides.

Q. You have had nine peacekeeping tours in places like Gaza, Nicaragua and Cyprus. How does this compare?

A. You can take the hate from all those previous tours and multiply by 10. I've never seen anything close to that. Even if only 10% of what each side accuses the other of doing is true, in the minds of the people it has grown to horrendous proportions. If the leadership said, "O.K., let's sit down and sort this thing out," I'm sure whether people would accept that because there is so much hate for the other side. Really deep, gut-wrenching hate. Once you start calling them baby killers, pregnant-women killers, and talk about cooking babies, those are not good grounds for negotiations.

Q. What difference did that make for your work?

A. On any of those previous tours, when you brokered a deal, it was followed through. And if somebody along the line didn't follow through, they were put in their place. It's relatively easy to broker a deal in Bosnia. It's the execution that is impossible.

Q. After your experience in Sarajevo, do you think there is still a clear line between peacekeeping and peacemaking?

A. Yes, there is a clear line. It became cloudy in Sarajevo only because we went there with good intentions and then the war started, and that put us in an absolutely unique position.

Peace imposition is war fighting. It's going in, taking on somebody and beating them. In order to use a peacekeeping force, you have to have a cease-fire. But we got ourselves into this bind by having a war start around us.

Q. So you're a pessimist?

A. I used to use the term guarded optimism, but I've dropped even that from my vocabulary. I still have hope. But I won't be optimistic until they start to talk.

FARAG PERI'S PHOTOGRAPHS TO BE ON DISPLAY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. YOUNG of Alaska. Mr. Speaker, it is with a great deal of pleasure that I would like to invite all of my colleagues and their staffs to view some magnificent photographs of Alaska. I have the honor of sponsoring this exhibition of photographs by the noted Israeli photographer Farag Peri. They will be on display during the week of September 8–11 in the Cannon Rotunda.

For those of you who have never seen the beauty of Alaska first hand, who have not experienced the thrill of seeing the wildlife and the fauna, who have not seen the diversity of people who populate my beautiful State, these photos will give you a sense of what Alaska is all about. For those who have been fortunate enough to have visited Alaska, these photos will remind you of how unique and exquisite Alaska truly is.

These photographs underscore the fact that Alaska has been able to utilize its vast natural resources while preserving the natural beauty of the land. Nature and industry coexist to provide an ecologically safe, yet practical, example of modern resource development. Feeding caribou share a meadow with a huge stilted pipeline carrying oil to Valdez; small planes fly over vast reaches of wilderness while Eskimos hunt in kayaks as their ancestors have done for generations.

In Alaska, past and present meet in a rugged land to help create a brighter future for all of my State's inhabitants. When you look at these spendid photographs by Farag Peri, I especially urge you to look carefully at the faces of the children—the faces of Alaska's future.

What makes Farag's feel for Alaska so particularly unique is his own background. One would not expect someone with his biography to capture the pulse of Alaska with such insight. This exhibit is truly a testament of his skills as an artist and his talents as a photographer.

Farag Peri is among the most renowned photographers in Israel. His first name alone is recognized in Israel as a symbol of photographic excellence.

Farag was born in Iraq, where he studied under the Court photographer. He was forced to flee from Iraq after the revolution in 1950.

Farag's experiences are proof that Israel, like the United States, offers unlimited opportunites to those willing to work hard. Like the United States, Israel is composed largely of immigrants, and the children of immigrants, who have been able to blend their abilities in order to establish a flourishing, democratic nation.

Farag emigrated to Israel in 1951. He arrived penniless and had a large family to support. He had only his skills as photographer to rely upon. He eventually opened a small studio which has since grown into the largest studio in Israel.

After establishing himself economically, Farag traveled the globe to capture on film the beauty of the planet.

This is the third time that Farag's photos will be displayed in the Cannon Rotunda. His previous shows dealt with the Sinai and with Jerusalem.

It is my hope that all Members and their staffs will take a few minutes off from their busy schedules to stop by the Cannon Rotunda to view these photos and to reflect upon the beauty and magnificence of Alaska.

CONGRATULATE UKRAINE ON THE OCCASION OF ITS 1ST ANNIVERSARY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FORD of Michigan. Mr. Speaker, I rise to congratulate the emerging Republic of Ukraine on the occasion of its 1st Anniversary. The Parliament of Ukraine has designated August 24, 1991 as Ukraine's "Independence Day."

Last August, Ukraine finally removed the shackles of oppression. While Ukraine enjoyed fleeting moments of freedom in the aftermath of World War I, this time the nation appears poised to establish permanent liberation. This fact gives me great joy. For years, I have witnessed the efforts of Ukrainian and Ukrainian-Americans, many who reside in Michigan, to achieve this goal of freedom.

On numerous occasions throughout my career here in the House, I have taken to the well in January to commemorate the anniversary of Ukrainian "independence." As my colleagues may know, on January 22, 1918, the Ukrainian Central Committee proclaimed an "independent Ukrainian national republic" dedicated to the principles of democracy, tolerance, and human rights. This declaration, made as the bullets of Russian guns echoed across the Dnieper River, was the culmination of years of struggle against czarist oppression. Russian czars followed the lead of other despots before them in stifling the Ukrainian people's drive for liberty and freedom. Indeed, rulers from the Hapsburg Empire and Poland at different times throughout the 17th, 18th, and 19th centuries have seen to it that Ukraine remain under the control of others.

Tragically, the independence declared that cold January day was short-lived. By 1920, the Soviet regime and Poland had overrun the young republic dividing and conquering it. Twenty-five years later, Stalin ordered the seizure of the Western half of Ukraine. So began decades of communist tyranny over the small nation.

Little did I know that my words on January 18, 1991 would be the last ones I uttered in commemoration of Ukraine's brief stretch of liberty. In August, the attempted coup by communist hardliners was crushed as people throughout U.S.S.R. refused to fall prey to their predictions of chaos if communism was shunted aside. While many of us conjure up the image of Boris Yeltsin atop a Soviet tank as the symbol of defiance toward the communists, millions of others, Russian, Ukrainians, Armenians, and citizens of the other republics, all deserve credit for their defeat. On August 24, with the coup assuredly smashed, the Parliament of Ukraine proclaimed an Independent Ukraine.

As my colleagues know, the months that followed have witnessed a succession of similar pronouncements by Ukraine's fellow republics of the former Soviety Union. Ukrainians and other citizens of the respective new nations, at last, are beginning to enjoy the fruits of liberty we often take for granted here at home. We rarely think about the stock we place in our ability to speak openly, to worship our God, to vote, to receive a fair trial, even the ability to purchase any goods the world produces. Ukrainians, however, are enjoying these freedoms for the frist time.

On December 1, Ukrainians exhibited how strongly they felt about their new freedoms. A full 90 percent of voting Ukrainians voted to approve a referendum in support of independence. On the same day, Leonid Kravchuck was elected President of Ukraine.

While the Ukrainian people and Leonid Kravchuck have a long road ahead of them to establish a strong Ukrainian nation, I have every confidence that their efforts will meet with success.

THE HIDDEN ANSWER LIES IN PREVENTIVE CARE

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HOAGLAND. Mr. Speaker, today, health care is devouring a large part of family budgets. In Nebraska, my home State, families are spending 13 percent of their family income on health care expenditures. And health care costs are undercutting our faltering economy. The failure to grapple with the spiralling costs of health care not only hurts the quality and accessibility of health care in the United States, but it affects our jobs, education, and competitiveness as a nation.

As we evaluate comprehensive solutions to cure our ailing system, there are several small steps we could take. Preventive care is one. For too long our health care system has paid billions to cure and treat illness rather than invest in preventive services which keep people healthy and out of emergency rooms and hospitals.

Immunizations are one of the most effective means of preventing disease and saving health care dollars. Studies show that every $1 spent on immunizations saves $12 in later medical costs for treatment of vaccine-preventable diseases. Unfortunately, our success has been declining in recent years.

While the United States has been largely successful in vaccinating school-age children—95 percent or more of children over the age of 5 are fully immunized—our preschoolers are not as fortunate. The sad fact is that about one-third of two-year-olds in the United States are not immunized against deadly disease. As other industralized nations are improving their vaccination rates, the United States ranking is falling to number 16 behind other nations in the percentage of one-year-olds vaccinated against polio. The percentage of minority children immunized compared to other countries puts us at number 70.

This trend is frightening. There are many reasons children do not get proper immunizations, from parental indifference to high costs. Declining immunization, in part, reflects a large lack of access to basic health services for too many children. The Journal of the American Medical Association, has stated that more than 12 million children, a fifth of all those under 18, do not receive timely, adequate, preventive health care. This means that one of out of every five children misses immunizations, well-baby checkups, blood tests, and other preventive health services that promote good health and normal growth.

I have introduced two bills to address childhood immunizations. H.R. 5247 would require that hospitals provide professioinally-prepared information about vaccinations to parents of all newborns. Parents need to be educated on the importance of immunizations, the type of immunizations recommended by doctors, and the recommended schedule.

My second immunization bill, H.R. 5242, tries to address the fact that many children do not get their shots because parents cannot make the many visits to the doctor or health center required. Under the immunization schedule recommended by pediatricians in this country, a child should have received 11 shots and taken 4 doses of oral vaccine in 5 different visits by the time he or she enters kindergarten. H.R. 5242 would increase the funds for the National Institutes of Health to accelerate research on a one-time supervaccine in an effort to make immunization programs more available to children and eliminate the hassle factor for parents.

Health professionals have recognized the value of preventive services for mamy years. It is now time for Congress to get in step and encourage efforts that keep our children healthy.

GAMING ON MONTANA'S INDIAN RESERVATIONS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. WILLIAMS. Mr. Speaker, I am introducing a bill today that will extend the amount of time that the Montana tribes and the State of Montana have to negotiate their gaming compacts as required by the Indian Gaming Regulatory Act. It has been brought to me for action by the Montana Tribal Chairmen's Association and the attorney general for the State of Montana.

As required by the Indian Gaming Regulatory Act, the tribes and the State have been working hard to reach compacts. Out of seven Montana tribes only one, to date, has reached a compact. The others simply need additional time for negotiation and a year is not unreasonable.

On June 25, 1992, the U.S. attorney for Montana announced that she viewed class III gaming on Montana's Indian reservations as illegal, absent a State-tribal gaming compact. The Indian Gaming Regulatory Act was amended last December in Public Law 102–238. At that time it was the intent of Congress to extend the time for Montana's tribes and the State of Montana to negotiate a compact. When the U.S. attorney for Montana gave the opinion that the Johnson Act was overriding of that extension and ordered that the machines be shut down it caused a great deal of economic distress for Montana's Indian tribes and the non-Indians who operate businesses on the reservations. Many employees have been laid off as a result of this action, which is having an economic ripple effect throughout the area. Tribal, State, and local governments are also losing a great deal of revenue due to this decision. It is estimated that the Flathead Reservation alone generates as much as $1 million a year in State revenues.

My bill allows those games that were owned or being conducted on June 24, the day they were shut off, to be run during the extension. It simply allows the tribes and business owners to plug in the machines they owned or operated when the U.S. attorney for Montana made her announcement.

It seems very reasonable to me that we allow the tribes and the State the necessary time to negotiate these compacts without further disrupting the business of gaming on Montana's reservations.

MEDIA LET CLINTON LIE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. DORNAN of California. Mr. Speaker, here is the Accurracy in Media, Inc., report on the Gennifer Flowers-Charlette Perry scandal that yesterday I promised I would submit for the Record. Read and weep.

MEDIA LET CLINTON LIE

The morning after Governor Bill Clinton emerged from the New Hampshire primary with a respectable second-place finish, he was on national television to declare himself "the comeback kid." He said on NBC's "Today Show" that finishing only eight points behind Paul Tsongas was a victory because "I had been devastated by a barrage of absolutely false charges." On ABC's "Good Morning America," he pushed the same theme, saying that the media had blocked out his message "with false charges." He told the voters, "Don't let the election be stolen from you by false charges." The interviewers did not challenge his description of the charges of marital infidelity and draft avoidance that had been leveled against him.

Clinton knew it was vital that he convince the voters that the charges were false. A Washington Post-ABC News poll on January 29 found that 54 percent of those surveyed felt that he should withdraw from the race if it was found that he was lying in denying that he had carried on an affair with Gennifer Flowers. An earlier ABC News poll found that 85 percent of those who took the position that he should withdraw if Flowers' charges were confirmed did so more because he had lied than because he had committed adultery. Time magazine said of Clinton in its February 3, issue, "If he's lying, he's finished. If Flowers' allegations are true, or are perceived as such, the question moves from infidelity to veracity, and Clinton can return to teaching law."

The media usually attach great importance to veracity in politicians and public officials. Last October the confirmation of Clarence Thomas to the Supreme Court hung on the question of who was telling the truth, he or Anita Hill. From Watergate to Iran-Contra, the media have demanded the heads of anyone caught lying. Benjamin C. Bradlee, the former executive editor of the Washington Post, explained his characterization of his paper's handling of the Iran-Contra scandal as "the most fun since Watergate" by saying, "Newspaper people get particularly excited when people fail to tell the truth and therefore interfere with the process of reporting." But in the Clinton-Flowers case, most of the media showed little interest in focusing on lying as the main issue once it became clear that there was solid evidence that Clinton was lying. They reported the evidence inadequately and buried it under a blanket of denials.

CLOUD OVER CLINTON

Bill Clinton took a big risk in running for the Democratic presidential nomination because there were things in his personal life that he knew would not bear public scrutiny. When he decided to enter the race last August, USA Today asked: "How would he handle unsubstantiated but persistent rumors about extramarital affairs? Wife Hillary said Tuesday such rumors are 'an intrusive and irrelevant issue.'" The New York Times, without describing the rumors, said, "Frustrated by a rumor campaign pushed by political opponents in Arkansas, Mr. Clinton caused a small stir a few weeks ago when he suggested that there were some questions from the press that an elected official should not have to answer.

Two days later Clinton appeared on all three network morning shows. The rumors of marital infidelity were raised in two of the three interviews. Asked if he was prepared to have his private life scrutinized, he followed the carefully thought-out strategy that he has stuck to ever since. That is to try to make reporters feel ashamed of asking about his private life. He said that what the voters thought was relevant depended in part on what reporters thought was relevant. He said he would answer specific questions but that people in public life should not be expected to answer "general 'have you ever' questions."

According to Sydney Blumenthal of The New Republic, Clinton had already admitted his marital infidelity to his closest aides. He was confident that he could keep this from becoming an issue because no investigation had uncovered any proof of the allegations. Even the reporters The Washington Post sent to Arkansas to check out the rumors had come back empty-handed. Clinton was so confident that no "bogus, smoking bimbo," as he put it, would be found that he told Michael Kramer of Time, "I wish I could find a way to get all these stories out early so I don't have to deal with them after I'm nominated, when they can be distracting."

CLINTON GETS HIS WISH

Clinton's "wish" was realized on January 17 when the Star, a celebrity gossip tabloid, realized a story spelling out charges of Clinton's womanizing made by Larry Nichols, a former Arkansas state employee who had been fired for having run up a large bill for unauthorized long-distance phone calls. Nichols retaliated with a lawsuit in which he charged that the governor had used state funds in pursuing love affairs with five women. He identified the women in his pleadings. All five denied the allegations, including Gennifer Flowers.

Clinton promptly labeled the story "an absolute, total lie." At this point there was no evidence to substantiate Nichols' charges, but since they were made in court documents they were libel-proof. The New York Daily News, the New York Post, and The Boston Herald, as well as Fox TV immediately picked up the story from the Star, but it was ignored or treated gingerly by the TV networks and the prestige press. The New York Times carried a tiny AP story reporting Clinton's denial at the bottom of page 7. The Washington Post had a story at the top of page 10 that focused on how the media were handling the story. It said Journalists and political insiders had been waiting for months to see whether major news organizations would carry more than a hint of the allegations. Clinton provided additional grist for the tabloids when the anchorman of New Hampshire's dominant TV station, WMUR, asked him if he had ever had an extramarital affair. His reply was, "If I had, I wouldn't tell you." "NONE OF YOUR BUSINESS" was the blaring headline on the front page of The New York Post the next day.

SEX, LIES AND AUDIOTAPES

In the Democratic candidates' debate on January 19, moderator Cookie Roberts of ABC News asked Clinton to comment on the fear that the Republicans might be able to substantiate the charges that he was a womanizer. Clinton said it was highly unlikely that anything like that would happen since he had gone through 17 elections unscathed. But Gennifer Flowers had decided to tell all, and she had tapes of phone conversations with Clinton that she had recorded from December 1990 to January 1992. The Star had succeeded where others had failed by paying Flowers for her story and the tapes.

The tapes were important. Since Flowers had previously denied having an affair with Clinton, she would be accused of fabricating a story for money. Clinton tried hard to make the case labeling it "trash for cash." Others put it down as "checkbook journalism," something the prestige media deplore but occasionally engage in when they can't get an interview they want badly any other way. In addition to stressing the trash-for-cash theme. Clinton sought to discredit the story by portraying the Star as one of those supermarket tabloids that reported on men from Mars and people with cow heads. The Star editor, Richard Kaplan, denied that his paper carries that type of story.

On January 23, the Star released advance copies of its forthcoming issue with Flowers' story and transcripts of some of the phone conversations. The story described a torrid love affair that Flowers said began in 1977 when she was working as a reporter for KART-TV and ended in 1989 when she fell in love with an eligible bachelor she hoped to marry. The transcripts provide strong evidence that Clinton and Flowers had an intimate relationship which Clinton did not want exposed. In addition several people had been found who said they had known of the affair. These included a former coworker at KARK-TV and the eligible bachelor Flowers had hoped to marry. In between were her mothers, who had urged her to break with Clinton and a former roommate, who said she cleared out when Bill was coming to visit Flowers. Here was the substantiation of those rumors that The Washington Post and others had sought in vain.

WITHHOLDING THE EVIDENCE

Chagrined at being scooped by a supermarket tabloid, the prestige press suddenly lost interest in substantiating those rumors about Clinton. The New York Times refused to tell its readers about the evidence unearthed by the Star, and it didn't think anyone else should either. Executive editor Max Frankel sniffed, "I'm quite ashamed for my profession. We don't want to report on the candidates' sex lives. We don't want to take our news or our news tips from the likes of the Star . . . or from someone whose ultimate veracity we can't vouch for." So when Gennifer Flowers and her tapes appeared and threatened to destroy the Clinton candidacy, all the Times told its readers was that Clinton had denied her allegation that they had had a 12-year relationship. The tapes were not even mentioned, much less quoted.

The Flowers news conference on January 27 at which excerpts from the tapes were played was the lead story on all three networks news programs that night, making it difficult for the Times to continue to conceal the existence of the tapes from its readers. In the 14th paragraph of a story headlined "Clinton Attempts To Ignore Rumors." it described but did not quote the tapes. The description read, "The tone of the conversations was friendly but there was nothing in what Mr. Clinton said that proved a past or present sexual relationship. The few words of risque banter were uttered by Ms. Flowers. Mr. Clinton, whose voice sounded faint on the tapes, did not appear to respond. He has not denied that he knew her or talked to her on the phone."

It also ran an editorial to explain to its readers why it was not reporting the evidence that Clinton was lying. It noted that "responsible news organizations as well as scandal sheets" had inquired into rumors in Arkansas because "for a public servant to flaunt behavior many voters abhor . . . could imply a recklessness and audacity that deserves to be weighed at the ballot box." It said: "Mr. Clinton describes Gennifer Flowers as no more than a friendly acquaintance. Because the tape recordings she so far proffers don't appear to refute that characterization, there seems to be little basis for demanding further comment from the Clintons."

Only when Governor Mario Cuomo erupted over remarks made about him did the Times get around to quoting two sentences from the tapes—Flowers saying that she wouldn't be surprised if Cuomo had "some Mafioso major connections." and Clinton responding. "Well, he acts like one" That was two days after the New York Post had called attention to this insult on its front page.

The Washington Post was a little better, but not much. It said that passages could be found in the tapes that supported both Clinton's contention that he was only trying to comfort and calm a friendly acquaintance and Flowers' claim that they had been "more than that." Of course, people that have an intimate relationship don't betray that in every word they speak. People who don't have an intimate relationship don't discuss their sexual intimacy. The Post focused mainly on Clinton's denials, but it did quote 59 words from the tapes, and it devoted 360 words to statements by Flowers. It also mentioned that three of Flowers' friends had confirmed that they knew of her affair with Clinton.

The Associated Press quoted only 24 words from the tapes, including those about Governor Cuomo. It mentioned that the tapes included "explicit references by Flowers to sexual practices," but did not quote that or any passages that reflected the intimacy of Flowers' relationship with Clinton. AP reporter Dana Kennedy said, "Flowers' allegations are unsubstantiated" and the tape recordings "did not establish that there had been an affair."

What about the news magazines—Time, Newsweek and U.S. News & World Report? Like The New York Times they chose to characterize the tapes rather than expose their readers to excerpts from them. None of them quoted a single word from the tapes, not even the comments that angered Mario Cuomo. Time and U.S. News respectively assured their readers that the "brief excerpts" and "short snippets" released at Flowers' news conference "establish nothing" and "failed to prove much of anything." Newsweek was ambiguous, saying, "But the central charge (of the Star's article)—that audiotapes indicate Clinton did have an affair of some kind with Flowers—nonetheless kicked off another of those now classic media sex carnivals with Clinton as more compromised Clarence Thomas and Flowers as a less credible Anita Hill." But Newsweek demonstrated that it still thinks veracity matters. It listed five discrepancies that it found in Flowers' resume and two dates in her account of contacts with Clinton that appear to be in error. These nitpicks, in its view, make Flowers less credible than Bill Clinton, who has a lot more explaining to do about the content of the tapes than he has done in apologizing to Governor Cuomo and Senator Kerrey.

Since the AP, The Washington Post and The New York Times are the major suppliers of news to newspapers through the country, it is obvious that providing the evidence that showed that Clinton was lying was left largely to the tabloids. Network television contributed very little except for the reports on the Flowers news conference on January 27. The next night NBC's commentator, John Chancellor, noted that the Clintons had admitted (on "60 Minutes") to having had troubles in their marriage but claimed that all was now well. Chancellor said, "In a rational world that ought to end this business, but it probably won't the way things are going today." Well, it did. The story promptly dropped off the network television screen.

WHAT THE TAPES REVEAL

Contrary to what the Times and the AP said, the tapes make it clear (1) that Flowers was more than "a friendly acquaintance," (2) that Clinton conspired with Flowers to cover up their relationship, (3) that he got her a State job and instructed her to lie about his role in doing so, and (4) that Clinton's claim that he was merely being polite in returning her uninvited calls is false.

Just a friendly acquaintance? The tapes reveal Clinton's fear that his relationships with Flowers and other women might be discovered. The tapes were recorded after Flowers says she ended the affair in December 1989 and reflect past, not current, intimacy. In this one, Flowers asks Clinton if he is going to seek the presidential nomination.

CLINTON. I want to. I wonder if I'm just going to be blown out of the water with this. I don't see how they can so far.

FLOWERS. I don't think they can.

CLINTON. If they don't have pictures, which they (indistinct) . . . and no one says anything, then they don't have anything, and arguably if someone says something, they don't have much.

FLOWERS. If they could blow you out of the water they would have already blown you . . .

CLINTON. How do you like holding my future in your hands? Do you like that?

FLOWERS. Yeah. (Laughs) No. Well, if it's positive I do, you know . . . . Oh, I'd love to see you be President. I think that would be wonderful . . . . It's like I told you before, whatever you need me to do, just let me know.

CLINTON. I will.

FLOWERS. Remember a long time ago when you called me and said that if you announced for, well, it was back the first time you were going to announce for—

CLINTON. Governor?

FLOWERS. No, president. And you said, "Gennifer, just wanted you to know that there might be some reporters or something out there." And you said, "Now you be sure to (indistinct—probably "tell the truth"). (Both laugh) Say there's nothing to the rumor." And I said, "Okay," I, well I shouldn't even say this to you, probably embarrass you. Do you remember what I said to you?

CLINTON. No. What did you say?

FLOWERS. I said, "Well at the time you (vulgarism for were good at oral sex)." (Laughs)

CLINTON. What?

FLOWERS. I said I had to tell them you (repeat of above), and you said, "Well, you can tell them that if I don't run for president." (Laughs)

CLINTON. (indistinct)

FLOWERS. And I thought, you know that's not real funny right now. But anyway, I try to find the humor in things.

CLINTON. Don't I know it. (indistinct words)

FLOWERS. But, anyway, I think we're okay for now.

CLINTON. We have to watch as we go along . . . . There's no negative to this except this . . . . I might lose the nomination to Bob Kerrey because he's got all the Gary Hart/Hollywood money and because he's single, looks like a movie star, won the Medal of Honor, and since he's single, nobody cares who he's screwing."

In another excerpt, Flowers says, "All right, darling, well you hang in there," and Clinton signs off with, "Goodbye, baby."

The cover-up—The tapes reveal the "hang tough" strategy.

CLINTON. I thought they'd look into it. But, you know I just think a crazy person like Larry Nichols is not enough to get a story on the television with names in it.

FLOWERS. Right. Well, he better not get on there and start naming names.

CLINTON. Well, that's what I mean. You know, if all the people who are named . . . deny it . . . . That's all. I expect them to come look into it and interview you and everything, but I just think that if everybody's on record denying it, you've got no problem.

FLOWERS. Well, why would they waste their money and time coming down here unless someone showed 'em some interest?

CLINTON. No, no. See, that's it. I mean they're gonna run this Larry Nichols thing down. They're gonna try to goad people up, you know, but if everybody kinda hangs tough, they're just not going to do anything. They can't run a story like this unless somebody said, "Yeah, I did it with him."

Lie about the job—Clinton intervened to get Flowers a state job. The job title and description had to be changed to do this, because a black woman on the staff, Charlette Perry, was supposed to get it. Perry filed a grievance and won, but the decision was overruled by Clinton appointee Donald Barnes. When Flowers worried that reporters might discover how she got the job, Clinton advised her to lie.

FLOWERS. The only thing that concerns me at this point is the state job.

CLINTON. Yeah, I never thought about that. But as long as you say you've been looking for one, you'd check on it. If they ever ask if you've talked to me about it, you can say no.

Who Called Whom—Apart from the content of the phone conversations, there is the question of why Clinton was having these conversations with Gennifer Flowers, sometimes late at night, even interrupting a meeting to take her call. He has said that he was merely being polite and returning her calls and that he always told his wife about them. That won't wash. This excerpt from a transcript of a long-distance call by Clinton shows the importance he attached to his talks with Flowers.

CLINTON. Hey. I tried to call you. I can't believe I got you.

FLOWERS. Well, when did you try to call me?

CLINTON. Late last night. Late . . . I started calling soon as I got home last night and I called for a couple of hours

FLOWERS. Well, sorry I missed you.

CLINTON. I was afraid I screwed up the number or something, and I kept calling.

Clinton said he was calling from Washington, D.C. She had called him to tell him that someone had entered her apartment and rifled through her belongings without taking anything. He asked, "You think they were trying to look for something on us?" Flowers replied, "I think so . . . why else?" Clinton asked if any personal records, like checkbooks or phone records were missing. Flowers says: "You usually call me, for that matter. And besides, who would know?

Another transcript shows Clinton interrupting a meeting to take a call from Flowers. Another, in which they discuss her job problems, he says, "Why don't you just call me tonight after 11, I'll try to get (state trooper) Carl Kirkland on the phone . . . . Call me at the mansion . . . . I'll be home."

WHAT YOU CAN DO

Clinton personifies the "recklessness and audacity that deserves to be weighed at the ballot box," but the so-called "respectable" media have suppressed the facts. Use this AIM Report to make the facts known. We are doubling our press run to provide you with as many free copies as you can use, as long as the supply lasts. Give them to everyone who may be helpful—editors, reporters, columnists, talk show hosts, club members, friends, political activists and voters. Use the coupon to order or call Debby Lambert on 202-371-6710.

Well, Mr. Speaker, there is one analysis. May I add my own observation. Not in this century—not even in the 1964 Goldwater/LBJ election campaign—has the Dominant Media Culture—the DMC—exercised such blatant, arrogant, fowl bias.

INTRODUCTION OF LEGISLATION REGARDING ELECTION YEAR POLITICAL GAMESMANSHIP

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. MOODY. Mr. Speaker, today my colleague Tom Ridge and I are introducing legislation to prevent possible election year political gamesmanship from robbing my State of Wisconsin, and States throughout the northeast and Midwest, from their fair share of Federal moneys.

I refer to the Census Bureau's consideration of readjusting census figures for the allocation of Federal funds of 66 program. I believe this would be serious mistake.

Such an action would result in the loss of millions of urgently needed Federal dollars from the people of Wisconsin and from States throughout the Midwest and northeast. In fact, last year's General Accounting Office study indicated that these States would lose a minimum of $157 million in just the first year. Furthermore, the GAO study significantly underestimates the magnitude of the revenue loss because funding for the Medicaid Program, a major source of State revenue, increased over 250 percent since that study was done.

I also have suspicions as to why this adjustment is being sought at this time. My home State of Wisconsin has worked diligently with the Census Bureau to develop an accurate head count in the State. In fact, the Census Bureau has found this tabulation to be so accurate that it has decided not to adjust them for the purpose of congressional apportionment. The question therefore arises, "If the 1990 head count was accurate enough for congressional apportionment, then why isn't it good enough for the distribution of moneys to the States for Government programs?"

My fear is that election year politics might be an explanation for this inconsistency. The readjustment would funnel millions of dollars from northeastern and midwestern states to key electoral States such as California, Texas, and Florida. The people of Wisconsin and of America deserve more for their hard-earned Federal tax dollars than to have that money appropriated for cynical political gamesmanship.

Therefore, Mr. Speaker, I am introducing legislation to stop the political games. My bill would prohibit the Census Bureau from spending money for intercensal readjustment. It would also establish a better, fairer process for future readjustments.

I urge my colleagues join me in standing up for taxpayers across the country and to stop the political games.

INTERNATIONAL LAW AND THE CURRENT CONFLICT IN BOSNIA-HERZEGOVINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. CRANE. Mr. Speaker, the bloodshed and atrocities continue to escalate in the war-torn republic of Bosnia-Herzegovina. While there is little argument in the international community that the time has come for a quick and complete resolution of the conflict, there is little consensus on how peace should be accomplished. I offer to my colleagues the following proposal prepared by Dr. Edward McWhinney, a Canadian barrister and expert on constitutional and international law. Dr. McWhinney has been a visiting professor at major universities throughout the world, has authored a score of books, and is a member of the editorial advisory committee of the Encyclopedia Britannica. I encourage my colleagues to study this proposal, named after Princess Eva Maria, the widow of Prince Andrej of Yugoslavia, as I think you will find it worthy of consideration.

INTERNATIONAL LAW AND THE CURRENT CONFLICT IN BOSNIA-HERZEGOVINA

I am asked to advise as to the applicability of International Law rules and procedures for purposes of producing a peaceful resolution of current conflicts within Bosnia-Herzegovina.

While the historical roots of current ethnic problems within Bosnia-Herzegovina can be traced to political conflicts as far back as the Medieval era, for contemporary International Law purposes one may conveniently begin with the Treaty of San Stefano of March, 1878, ending the Russo-Turkish War; and with the Congress of Berlin of June-July 1878 and the resultant Treaty of Berlin. Under the latter, the Concert of Western and Central European powers, seeking to limit Imperial Russian influence, established, by their own consensus, a new political order for the Balkan peninsula which included recognition of the Independence of Serbia (Article 34), subject to conditions as to the maintenance of religious and related liberties for its inhabitants (Article 35). The Treaty of Berlin also provided for the occupation and administration of the provinces of Bosnia and Herzegovina by Austria-Hungary (Article 25). In 1908, seeking to counter Serbian pressures for a larger union of south Slavic states under its own authority, Austria-Hungary formally annexed Bosnia-Herzegovina; and early the following year, with Russia having yielded to German pressure, the annexation was recognized by all the European powers without a fresh Congress, in follow-up to the original Berlin Congress, being convoked.

The related Peace settlements that immediately followed on World War I—the master Treaty of Versailies of 1919, but also the supporting Treaties of St. Germain-en-Lays with Austria in 1919, and of Trianon with Hungary in 1920, and other treaties with the remaining defeated Central Powers, constituted—together with some special treaties with newly-established or enlarged states in Central and Eastern Europe—the International Law foundations of the post-World War 1 system of World public order and provided the legal base for its detailed territorial dispositions and allocations. Of those special treaties with the newly-established and enlarged states, the one with the new Serb-Croat-Slovene state, signed at St. Germain-en-Lays on 10 September 1919, (the same place and same date as the treaty with Austria, already referred to), is of special relevance in the present context. It will be referred to, hereafter, as the Serb-Croat-Slovene Treaty.

The Serb-Croat-Slovane Treaty was concluded between the so-called Principal Allied and Associated Powers, the main partners in the military victory of 1918—the United States, the British Empire, France, Italy and Japan on the one hand, and (according to the recital in the Preamble to the Treaty), "the Serb, Croat, and Slovene peoples of the former Austro-Hungerian Monarchy hav(ing) of their own free will determined to unite with Serbia in a permanent union for the purpose of forming a single sovereign Independent State." Within the British Empire delegation to the treaty negotiations, however, Canada, Australia, the Union of South Africa, New Zealand, and India, took part in pursuance of their then novel assertion of an International Law sovereignty in their own right, and they were signatories to the resultant treaty and must be considered, legally, as full parties to it and to the legal rights and duties flowing from it.

Where the treaties between the Principal Allied and Associated Powers and the former Central Powers, obtain territorial dispositions and indemnity and reparation stipulations necessarily adverse to those defeated Central Powers, the special treaties with the newly-established or enlarged states in Eastern and Central Europe—all of them beneficiaries, in measure, of the degree of deference variously accorded by the victor states to President Wilson's Fourteen Prints in general and the principle of self-determination in particular,—have the two principal objectives. First, the extra legitimation, in International Law terms, of those "succession" states in their acquisition of portions of the old German and Austro-Hungarian Empires' erstwhile territorial domains in Europe, or (in the case of revived or new states like Poland and Czechoslovakia) of their acquisition of sovereignty and independence in their own right; and, second, the establishment of certain international law-based, guarantees for the protection of the rights, variously, to citizenship, language, education, and religion, of the new ethno-cultural "national minorities" acquired with the transfer of the new territories. Apart from the International "recognition" fact referred to, the special treaties with the Eastern and Central European states—Poland, Czechoslovakia, Roumania, and the Serb-Croat Slovene state—are "minority" treaties, in the case of the new Serb-Croat-Slovene state, they discharge from and replace similar obligations undertaken by the Kingdom of Serbia under Article 35 of the Treaty of Berlin of 1878.

The special treaties with the Eastern and Central European states were intended to have legal "teeth" in them. In essentially identical language, the treaties declared that their minority rights—"stipulations—so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of International concern and shall be placed under the guarantee of the League of Nations". (See Article 11 of the Serb-Croat-Slovene Treaty.) Further, in terms of the same Article 11 of the Serb-Croat-Slovene Treaty—"any difference of opinion as to questions of law or fact" arising from the treaty, between the Serb-Croat Slovene state and any one of the Principal allied and Associated Powers (signatories to the treaty) or any other member of the League of Nations Council, was to be held as a "dispute of an international character under Article 14 of the Covenant of the League of Nations (the Article establishing the Permanent Court of International Justice to which the present International Court of Justice is the legal successor). Under the same Article 11, the Serb-Croat-Slovene state consented, in advance, to the submission of any such dispute to the Court, on the demand of the other party, with the decision of the Court to be final. Though there is no record of attempt to resort to the Court in regard to the minority rights protection offered by the Serb-Croat-Slovene Treaty, a small number of disputes were, in fact, brought before the Court under other, cognate treaties concluded with the Eastern or Central European states, either as full cases (three, of which two were withdrawn) or as references for Advisory Opinion.[1] The importance of Article II of the Serb-Croat-Slovene Treaty is that, to the extent that the treaty is still in force, it provides a legally non-impugnable source for the assertion of the Compulsory Jurisdiction of the International Court, under Article 36(I) of the Court Statute, at the instance of any one of the original parties to the treaty at least (and, probably also, of any other state being a member of the Security Council of the United Nations, as legal successor to the Council of the League of Nations), and this without any necessity of the consent of the respondent state.

The jurisdictional issue—the finding of an international forum with the necessary problem-solving competence and capacity to be able to act in the matter—becomes important because of a certain confusion as to legal roles and missions manifest in the United Nations and its main organs in the present period of political transition and change that characteristics the post-Cold War era. The United Nations Security Council, acting pursuant to Chapter VI or (as successive Resolutions like 757 and 758 affirm) Chapter VII, has given a (readily understandable) emphasis to peace-keeping in its classical, limited conception, as first sponsored by Prime Minister Lester Pearson, of interposing a United Nations presence between conflicting parties. It has, manifestly, failed in its primary mission to restore peace in Bosnia-Herzegovina, because it has failed at the same time to address itself to the underlying historical forces and the differing cultural exposures, over centuries of disparate development, from which contemporary ethno-culturally based conflicts stem. By the same token, the Conference on Security and Cooperation in Europe (CSCE), as a latter-day institution, has sometimes seemed to mirror the late 19th century intra-European big power rivalries from which the Treaty of Berlin settlements of 1878 stemmed and which were at the root of not many of the subsequent territorially-based conflicts, whether in 1908, 1912–13, 1914–18, or thereafter. It may be suggested that a peace settlement that is to be more than a mere temporary cease-fire must sensibly offer something of a privilege and orderly process, for the future, of substantive change, including territorial readjustments, where necessary, that may both depart from the rather arbitrary, European big power-imposed settlement of 1878 that itself so largely ignored claims to self-determination of peoples, and also take appropriate account of supervening equities or acquired rights.

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[1] G. Erier, "Minderheitanrecht", in "Wörterbuch des Völkerrechts' (1–1.-J. Schlochauer, ed.), vol. 2 (1961), p. 531, pp. 532–31 G. Erler, "Minderheitsachulen in Oberachlesien-Fall", Ibid., pp. 536–7, T. Modern, The International Protection of National Minorities in Europe (1969), p. 49 et seq.; Julius Stone, "International Guarantees of Minority Rights (1932).

The present agonizing situation in Bosnia-Herzegovina and the resultant practical political-military stalemate seem ripe for application of well-tested, classical International Law third party settlement; and the legal machinery, processes and institutions appropriate thereto are already available under the 1919 Serb-Croat-Slovene Treaty. Any responsible third party, signatory to the treaty—the United States, Great Britain, France, Italy, Japan, even Canada or India—could properly call on the parties to agree to submit the Bosnia-Herzegovina dispute to binding international arbitration, either within the parameter of the Permanent Court of Arbitration in The Hague or through creation of a special, ad hoc tribunal. In either case, though the consent of the rival parties would be needed, they would normally have the guarantee of each being able to name an equal number of arbitrators, with the presiding officer, as the neutral member, being chosen by the parties together or by some independent party like the President of the International Court, (as with the naming of the neutral members of the Iran-U.S. Mixed Claims Tribunal). The advantage of Arbitration, as a third party-based, disputes-settlement mechanism is that it is expressly opened to the producing of an equitable solution of the conflicting interests involved, as distinct from any more restatement of the pre-existing law or status quo ante.

International adjudication, through the International Court, is also available and, as already indicated, its Compulsory Jurisdiction can be successfully invoked unilaterally, under the 1919 Serb-Croat-Slovene Treaty, by any one of the original signatories,—if necessary without the consent of the respondent state. While the distinction between Law strioto sensu, and some more flexible, equitable approach has traditionally been maintained in the "classical" era of the old Permanent Court and its successor International Court of Justice, the International Court in the modern era shows an increasing interest and concern for equitable, as opposed to strict-and-literal interpretations, the ruling in the Burkina Faso/Mali Frontier Dispute in 1986[2] being a particularly inspired and imaginative example of judicial attempts to redress original, essentially arbitrary and capricious, European-imposed territorial settlements from the Colonialist period. The fund recently created by the Secretary-General of the United Nations to assist less affluent states in meeting the burden of financing their own litigation before the International Court would be available in a case such as this.

It is to be assumed that the U.N. Security Council legal authority, now in place, could be used to secure and maintain the peace in Bosnia-Herzegovina, pending an independent, third party-based dispute-settlement of the nature adverted to in paragraphs 7 and 8, supra.

It lies beyond the scope of this Opinion to canvass in extenso the substantive legal issues,—involving the critical re-examination of old legal dispositions of a territorial nature from 1878 or even earlier,—that must be at the core of any substantive settlement of the Bosnia-Herzegovina conflict that can be of a long-range, lasting nature. The following issues may, however, be cited as appropriate for examination in that context.

In spite of the reservations seemingly expressed in the Preamble, for example, to U.N. Security Council Resolution 757 of 30 May 1992, there is little doubt that the Federal Republic of Yugoslavia is the legal successor to the former Socialist Federal Republic of Yugoslavia and, as such, an appropriate respondent in any legal action before the International Court under Article 11 of the Serb-Croat-Slovene Treaty.

For purposes of the present-day verification or determination of the frontiers of the Federal Republic of Yugoslavia, in contradistinction to other, additional succession states that may have emerged, the authoritative legal starting point is the uti possidetis doctrine, which, as the judgment of the International Court, in its Special Chamber in the Burkina Faso/Mali Frontier Dispute,[3] recognized, is no longer a rule peculiar to, and limited to, the Latin American seccession states that emerged from the overthrow of the Spanish and Portuguese Empires, but a principle applicable more generally to boundary inheritances in post-Colonialist situations.

In accord with Latin American and post-Colonialist African and Asian practice, the point in time for establishing territorial frontiers according to the uti possidetis doctrine is the termination of imperial, foreign rule—for present purposes, the abandonment of Austro-Hungarian sovereignty and the establishment of the Kingdom of the Serbs, Croats, and Slovenes in 1919. This is without prejudice to the acceptance by any third-party arbitral or judicial tribunal or other dispute-settlement institution of notions of acquired rights created by long-time peaceful occupation or residence in the territories concerned by different ethno-cultural communities; nor to its power to recommend territorial modifications or exchanges, or voluntary population transfers, to take account of such facts.

Finally, the principle of self-determination of peoples, in its contemporary form, does not require for its realization the necessary break-up of an existing, multi-national state; but may equally be achieved by grant of autonomy and self-government within a federal or similar plural-constitutional state, or by sovereignty and associate state status within some larger Commonwealth or association of independent states.[4]

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[2] "Case Concerning the Frontier Dispute (Burkina Faso/Republic of Mali)", I.C.J. reports 1986, p. 554.

[3] I.C.J. Reports 1986, p. 554. On the uti possidetis doctrine generally, see F.R. Moreno, "El problems de las fronteras" (1927), E. Ayala, L'uti possidetis et la régiement des questions territoriales", "Revue de Droit International," vol. 8, (1921), p. 441.

[4] On the Self-Determination principle, see generally G. Decker, "Das Selbstbestimmungarecht der Nationen" (1955); F. Ermacora, "Die Selbstbestimmungsic, ihre Entwicklung von 1918–1974" (1977); S. Calogarpoulos-Stratis, "Le droit des peoples á disposer d'eux-memes" (1973).

HONORING UAW, LOCAL 845 AND FORD MOTOR CO. ON 25TH ANNIVERSARY OF SHELDON ROAD PLANT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FORD of Michigan. Mr. Speaker, the Michigan congressional district I have represented here in Washington over the past 27 years boasts of one of the highest concentrations of autoworkers in the Nation. This is a source of great pride to me. The American auto industry is literally the fuel that runs the engine of this great Nation: one in seven jobs in the United States is tied to the auto industry; Ford, General Motors, and Chrysler have plants and facilities in 49 States; two in five machine tools and one in five semiconductors sold in the United States go to the auto industry.

Given the auto industry's contributions to our country, I am honored to pay tribute to members of the UAW, Local 845, and the Ford Motor Co. as they celebrate the 25th anniversary of the Sheldon Road plant on September 19, 1992.

For 25 years, UAW workers have turned out quality products for the Ford Motor Co. at the Sheldon Road plant. Ford began producing heaters for one vehicle line in 1955 at the Ypsilanti plant and progressed to become the sole source of heaters for all passenger cars and trucks. In 1965, Ford began producing air-conditioner assemblies for one vehicle line only, until 1969, when the Sheldon plant became the sole source for the company's air-conditioning units.

Today, a total of 272 end items are assembled at the Sheldon Road facility for distribution to Ford and Lincoln/Mercury assembly plants. At the end of a typical production day, the employees at the Sheldon Road plant have produced an average 24,000 air-conditioners and heaters; as well as 17,400 controls. The Sheldon Road plant ships over 250 railroad cars per month of finished products to the vehicle assembly plants. Products are also shipped by Ford's own truck fleet and other carriers.

Mr. Speaker, I am extremely proud of the men and women who have kept the Sheldon Road plant up and running for 25 years. They are a credit to the Ford Motor Co. and the American work ethic. It is my hope that they continue to serve the State of Michigan and the American auto industry for many years to come.

CONDEMNING WAR CRIMES IN THE TERRITORY OF THE FORMER YUGOSLAVIA

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mrs. LOWEY of New York. Mr. Speaker, I rise in support of this resolution which forcefully condemns the violations of international law which are occurring within the territory of the former Yugoslavia.

The United Nations genocide convention outlaws all acts such as murder and torture that are carried out with a specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group. The fourth Geneva Convention prohibits the willful killing, torture, or kidnapping of innocent civilians in times of conflict or occupation. The Nuremburg Charter criminalizes war crimes including the murder of prisoners of war and innocent hostages or other inhumane acts committed against any civilian population.

The reports out of Yugoslavia are simply too horrible to ignore. Pictures of starving men and women who have been subjected to cruel torture, children being targeted by snipers, reports of "ethnic cleansing." No matter which side in the civil war commits these atrocities, there can be no doubt that they are in violation of international humanitarian law.

We must make certain that the individuals responsible for committing these crimes are aware that the world will hold them responsible for their acts. This resolution will do so by putting this House on record that those who violate international law will not be forgiven or forgotten.

It has been said many times that those who cannot remember history are condemned to repeat it. Let us show the world that we do remember history, and we will not allow war crimes to go unnoticed and unpunished.

INTRODUCTION OF LEGISLATION TO PROTECT ANTIETAM NATIONAL BATTLEFIELD

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. BYRON. Mr. Speaker, Today I rise to introduce legislation designed to protect and enhance a national treasure located within my Congressional District, Antietam National Battlefield. 130 years ago, two massive American armies converged on the small Maryland village of Sharpsburg and fought a savage battle that produced more than 23,000 casualties in a single day; September 7, 1862.

Over the last three years, the National Park Service has been engaged in developing a plan that will guide the management of the park for the next 20 years. That general management plan was approved recently. Most of the plan does not require congressional approval for enactment. However, one element of the plan does, and that element consists of a boundary expansion of 95 acres.

My bill is very simple. It includes only 2 provisions. It expands the park boundary by 95 acres to include property purchased by the conservation fund and intended for preservation. And, it requires that the property in question be donated to the National Park Service.

This property is considered important by the park service for a number of reasons. Significant troop movements and battle lines were established on these tracts. These troop movements had a major impact on the fighting in the West Woods and Bloody Lane. Inclusion of this property will permit interpretation by the National Park Service.

I would be remiss if I did not mention that a number of local landowners are nervous about this expansion. Some of them will be brought closer to the boundaries of the park. I understand their concerns and have met with various groups of these citizens on several occasions. In many instances, these landowners would prefer local protection instead of Federal protection.

I understand these concerns but I would like to quote a columnist George Will in a piece that appeared in Newsweek, on July 18, 1988, specifically addressing the issue of preserving Antietam, he wrote:

"Reasonable people can differ about what acquisitions and restrictions are needed near battlefields. But two principles are clear. The protection of places that are part of our national patrimony is the responsibility of national, not local, government. This is a conservative era, or so 'tis said. Conservatives like economic growth and local government; they dislike central government, government spending and regulation. But unless the name by which they are known is meaningless, conservatives should be leading the charge on behalf of the conservation of battlefields.

In closing, I would note that no private homes will be added to the battlefield and that there will be no costs to the Federal Taxpayer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR ACCEPTANCE OF ADDITIONAL LANDS.

(a) IN GENERAL.—Section 39 of Public Law 95–625 (92 Stat. 3488; 16 U.S.C. 430oo note) as amended by section 1 of Public Law 100–528 (102 Stat. 2649; 16 U.S.C. 430oo note) is amended—

(1) in subsection (a), by striking the period at the end and adding at the end ", as well as to acquire, by donation only, the additional lands currently owned by the Conservation Funds described in Liber 901, Folio 594, and Liber 900, Folio 122, of the Land Records of Washington County, Maryland."; and

(2) in subsection (b), by inserting "as well as the area described in the Land Records of Washington County, Maryland, referred to in subsection (a) of this section," after "referenced in subsection (a) of this section,".

UNITED STATES—CHILE FREE-TRADE AGREEMENT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. RICHARDSON. Mr. Speaker, I would like to insert the following article written by the Chilean Ambassador to the United States, Mr. Patricio Silva.

This article makes a strong and convincing case for a United States-Chile Free-Trade Agreement. As many of my colleagues know, I am a strong proponent of greater trade and investment liberalization in the Western Hemisphere. It is my view that Chile stands prepared to play a leading role in the proposed "Enterprise for the Americas" initiative.

I encourage my colleagues in the House to give serious attention to the compelling case presented by Ambassador Patricio Silva.

A US-CHILE FREE-TRADE AGREEMENT

(By Ambassador Patricio Silva)

President Bush has recently committed to start bilateral negotiations to reach a free trade agreement with Chile as soon as the North American Free Trade Agreement has been concluded.

This public commitment has received strong endorsement by prominent Members of Congress, the US business community, academic and intellectual leaders, and, most significantly, by relevant groups of independent US citizens.

But such a commitment raises numerous questions on both sides of the pending negotiations:

Why does a country with an unemployment rate of only 4.5 percent and a trade surplus with Japan equivalent to 7 percent of its total exports desire a free trade agreement with the United States?

Why does a country which already enjoys possibly the world's highest rate of foreign investment in relation to its total production want a free trade agreement with the United States?

Why does a country which has attained a yearly average rate of growth over 6.1 percent for the past five years—and will attain 7 percent this year— want a free trade agreement with the United States?

On the other hand, what importance can the United States attach to a free trade agreement with a country with only 13 million inhabitants, located at the far end of the hemisphere?

It is clear that while these questions are economic, the answers are fraught with political implications, both domestic and international.

During a long period of time, the history of relations between the United States and Latin America involved dreams of cooperation and common interests. That was followed by periods in which the two sides attempted to preach standards of behavior, action programs, lessons in good conduct, and the means for attaining prosperity and the common good.

That discourse, consisting of ideological prescriptions and economic doctrine, reflected enormous differences in the perception of the divergent situations existing on both sides.

Increasingly, in country after country, as the result of successes that certain experiments have demonstrated, interests and principles common to he US and Latin America have begun to coalesce in our hemisphere.

Growing sectors in an important majority of the countries in this hemisphere have been convinced that democracy develops and grown stronger with economic freedom and that a free market system is the only efficient mechanism for attaining true prosperity.

But democracy and the market economy must continue to prove themselves efficient in application. And only increased collective well being, and sustained hopes for a better future, will provide the support that political democracy and economic freedom must have to survive and prosper.

In this new scenario, hemispheric trade is playing a determining role. Free trade through-out the Americas as envisioned in the Enterprise for the Americas Initiative, although a long-term objective, will secure the opening of foreign markets for the US.

This in turn will create more wealth and well being for the citizens of the hemisphere in a natural upward convergence of prosperity.

For Chile, the benefits of a bilateral free trade agreement are clear.

Because we are bullish on the American economy, we are convinced a free trade agreement with the United States will motivate Chilean workers and entrepreneurs, who will recognize the FTA as an opening door, a beckoning market, and a stimulating challenge.

A free trade agreement with Chile offers the United States a strategic opportunity to work for the expansion of its sphere of economic and political interests to cover the entire Western Hemisphere.

Chile is the best candidate to conclude a bilateral agreement, promptly. Chile now enjoys political stability and economic progress. They are the outcome of a lengthy and costly process.

In March 1990, a freely elected democratic government came to power in Chile. The transition back to democracy has been extraordinarily successful. Chile's open market economy now has excellent prospects for growth within a context of political and social stability.

President Patrico Aylwin's government is firmly committed to a free market economy and social justice, with minimal state intervention. An effort is being made to improve the living standards of Chile's poorest groups.

The people of Chile are today firmly united behind the Chilean model of development: political and economic freedom in a pluralistic democracy.

A free trade agreement between the United States and Chile will be simple and fast to negotiate. The complexities found in negotiating NAFTA are almost non-existent in the case of Chile. Recent reports prepared by the U.S. International Trade Commission and the General Accounting Office clearly verify that reality.

The U.S.-Chile trade and investment relationships strongly complement each other. In the area of trade, Chile is a successful exporter to the U.S. market and the two economies complement each other both seasonally and by sector.

Seasonally, Chile's fresh agricultural products arrive in the U.S. during the winter and early spring. By sector, Chile is not a supplier of steel, automobiles, sugar, dairy, or other products that would compete with sensitive U.S. industries. Thus, no job displacement in the U.S. should be expected from such a trade agreement.

To the contrary, sales of perishable Chilean products in the United States demand the intensive utilization of domestic labor at ports of entry and distribution and selling points.

Relations between the AFL-CIO and Chilean organized labor are on excellent footing. Since taking office, President Aylwin's government has increased workers' rights while promoting cooperation between labor and management.

Labor legislation already approved by Chile's Congress improves workers' rights in the critical areas of collective bargaining, freedom to strike, job security, employment training, and minimum wages.

Accordingly, the AFL-CIO publicly stated its opinion in June 1990 that "the legislation introduced by the Aylwin government includes significant revision of the labor code which would give workers more rights."

In the area of US exports to Chile, the United States private sector will benefit in a number of ways. First, it will consolidate its access to, and improve its competitive position within, its fourth largest and most rapidly growing Latin American export market.

Today, the US share of Chilean imports of industrial products and capital goods is comparable with that of Japan and the EEC combined. Capital goods, heavy machinery, telecommunications and computer equipment, engineering services, and chemical products are particularly important. US exports to Chile have doubled over the past five years.

Second, the US private sector will be able to expand its portfolio investments in Chile as well as its direct investments in mining, banking, insurance, forestry, fishing, computer service, and engineering consulting industries in Chile.

United States business will also be able to compete more effectively in areas such as telecommunications, public works, and government procurement. US investments in Chile present a high correlation with the purchase of capital equipment manufactured in the United States.

A US-Chile Free Trade Agreement will send the correct signal to the rest of the Western Hemisphere. It will show that cooperation between nations need not depend entirely on the size of their territories or their economies.

TRIBUTE TO GIICHI BYRON HONDA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. EDWARDS of California. Mr. Speaker, I want to share with my colleagues the story of a remarkable life—that of Giichi Byron Honda, who passed away on July 31 at the age of 78.

The San Jose Mercury News in its obituary for Mr. Honda described him as "a truck driver, flower cutter, mortician, teacher, sharecropper, amateur musician, grocer, missionary, postal clerk, husband and father." He was also an inventor, whose improvements to a post office canceling machine were adopted and judged by postal officials at the time to save over $50,000 a year for the Postal Service. For this innovation, he was awarded the princely sum of $935 as a bonus. He took his coworkers out with the bounty.

Byron Honda was a California native. Yet when the relocation program during World War II was instituted, he and his family—along with hundreds of other Japanese-American families—were sent to the Amache internment camp in Colorado, deprived of their personal freedom because of their ancestry. In fact, Mr. Honda was one of those forced to build the very facilities in which he was to be interned. As he noted in writing about his unhappy period in our country's history:

> I was one of the advance contingents to arrive. We built the barracks. We leveled the sand and laid bricks. We put up the fence posts and strung the barbed wires around the camp. The watch towers trained their machine guns inward, and if anyone approached the fence, the sentry would aim his rifle at that person.

During his time at Amache, Mr. Honda was assigned to serve as a language instructor for naval intelligence officers, working first in Boulder, Colorado and later in Chicago.

Some years after the war, the Honda family returned to Santa Clara County, where among the family's many contributions to our community has been the service of Byron's son Mike as a distinguished member of the Santa Clara County Board of Supervisors.

Byron Honda lived a rich and interesting life. He will be much missed by the many friends of the Honda family.

I offer my condolences to his wife, Fusako, and to all the family.

TRIBUTE TO THE CARBORUNDUM CO.

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ROEMER. Mr. Speaker, today I rise to pay tribute to the Carborundum Co. and its leadership in the worldwide advancement of technology. Last year, Carborundum celebrated 100 years of contributing to American economic prosperity—an achievement unsurpassed by even our largest corporate institutions. Through the development of man-made abrasives, heat-resistant materials, nonmetallic electric heating, and semiconductor technology, Carborundum has introduced a long list of products that continue to drive American ingenuity.

The Fiber Division of the Carborundum Co. is a perfect example of product excellence—a dedicated group of professionals who are committed to quality in ceramic fiber insulation products. The division stands on the cutting edge of heat-resistant technology, making possible a variety of new industrial processes. Because of ceramic fiber's outstanding insulating properties, light weight, and easy fabrication, it has become a vital element to many industries, including those in the construction, aerospace, and defense sectors.

In 1966, Carborundum's Fiber Division opened a new plant in New Carlisle, IN, and I am proud that this facility now produces indispensable products in the Third District of Indiana. The New Carlisle plant brings the skills and expertise of 123 workers to the community, over half of whom hold at least 10 years of company service. Four production lines are supplemented by a well-equipped testing laboratory that holds products to the highest standards of quality and safety. Carborundum's role as a reliable and steady employer within New Carlisle is appreciated by the community and its workers.

Mr. Speaker, it is an honor for me to share the accomplishments of the New Carlisle plant with my colleagues. Because of its ingenuity and innovation, the company exemplifies the future of American industry and destroys the myth that America is forfeiting its role as the world economic leader. The Carborundum Co. presents us with a great example of diligence, excellence, and leadership, and I salute both its management and dedicated Hoosier work force.

HATS OFF TO KADISH MILLET

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SCHUMER. Mr. Speaker, I would like to pay tribute today to Mr. Kadish Millet of my district for his tireless dedication to and enthusiasm for the Brooklyn community.

A language teacher by trade, Mr. Millet is also a composer and songwriter, and has received countless awards for his musical efforts. By composing the official songs for Brooklyn College, New York University, and several local elementary and high schools, Mr. Millet has demonstrated his excellence in music and his commitment to the schools of Brooklyn.

Most particularly, I would like to mention Mr. Millet's "Hats off to Brooklyn," whose lively, patriotic tone reflects his own spirit and energy. I know I am not the only Brooklynite who shares Mr. Millet's desire to make this song Brooklyn's theme song, nor the only one who is inspired by Mr. Millet's lyrics. Hats off to Kadish Millet.

IRVING CONRAD: A GUIDING FORCE AT THE WILLIE ROSS SCHOOL FOR THE DEAF

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to pay tribute to a man who has given much of his time over the past 7 years to a fine organization in my district. The man is Irving Conrad and the organization is the Willie Ross School for the Deaf in Longmeadow. Irving Conrad has served as chairman of the board of trustees at the Willie Ross School during the past 7 years, a period of great growth and expansion at this vital school.

Mr. Speaker, the day has thankfully past when the physically handicapped are set aside from mainstream society. Today, we have handicapped people working in virtually every type of business or organization. In computers and many other fields, the deaf have made great gains in employment. These gains have come mostly through better education for deaf people. The Willie Ross School for the Deaf has been a leader in innovative and progressive education programs designed to help the deaf thrive in modern society. Irving Conrad has been the driving force behind improvement and upgrading the campus on Norway Street. Through his contribution of time and expertise, he guided the renovations of the main school building and the annex buildings. The Willie Ross School has, under his guiding hand, taken a place among the finest schools for the deaf in America. Mr. Conrad was instrumental in the hiring of the school's latest executive director. The students and staff greatly appreciate the huge commitment he has made to the school over the years and are thankful that Irving Conrad will continue on as a trustee.

Irv Conrad is stepping down as chairman of the board at the Willie Ross School and will be greatly missed. I take this opportunity to recognize his good work and wish him, his wife Marsha, and family the best of everything in the future.

SHEAR MADNESS CELEBRATES 5-YEAR ANNIVERSARY

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. McNULTY. Mr. Speaker, today we observe a significant milestone in the annals of theater in our Nations's Capital. Originally Scheduled for a 12-week run, August 12, 1992 marks the 5-year anniversary at the John F. Kennedy Center for the Performing Arts for the Play, Shear Madness.

From a modest start at a dinner theater in Lake George, NY, Shear Madness is now recognized by the Guinness Book of Records as the longest running nonmusical, playing continuously for over 12 years. With considerable international appeal, this play is distinctive in its utilization of current events, frequently containing local references.

The producers of Shear Madness, Marilyn Abrams of Albany, NY, and Bruce Jordan of Schenectady, NY, both reside in my congressional district. Much of the success of their production can be attributed to their significant innovations in audience participation. In addition, basing their production company, Cranberry Productions in Albany—outside of the customary venues for the theater—has contributed to an increased awareness of and support for regional theater.

Mr. Speaker, Marilyn and Bruce have been an inspiration for many others in regional theater. I invite my colleagues to join me in wishing them continued success in this and all their future endeavors.

SUPPORT FOR NUTRITION SERVICES FOR THE ELDERLY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ROYBAL. Mr. Speaker, on July 30, 1992 I held a hearing before the Select Committee on Aging on Adequate Nutrition: The Difference Between Sickness and Health for the Elderly. Now, I am even more convinced that nutrition services play a vital role in maintaining the health, independence and quality of life of older Americans. Nutrition services must become an integral part of the health care services provided to not only the elderly, but every citizen of the United States.

The benefits of proper nutrition have been shown time and time again. Nutrition screening, assessment and counseling save money. When an older person is malnourished, he/she is at-risk for disease and other health problems. Eighty-five percent of all older persons have one or more chronic diseases, such as diabetes, osteoporosis, atherosclerosis, hypertension and cancer. Nutrition is linked to prevention and treatment of these diseases.

Nutrition is a daily issue for the elderly especially since every day 5,000 people turn 65. Studies have shown that over 50 percent of the elderly living independently in their homes have nutritional deficiencies. Elderly patients with chronic malnutrition often die of infections, most commonly pneumonia and urinary sepsis. On the other hand, adequately nourished patients have decreased morbidity/mortality and fewer secondary medical complications; wounds heal faster; fewer infections occur; and hospitalizations are shorter.

I am distressed about the state of reimbursement for nutrition services through Medicare and Medicaid. It is very limited and sporadic. Many older Americans do not get nutrition services because they cannot pay for them. Many times Medicare does not cover nutrition services in spite of a physician order and the likelihood of a reoccurring disease.

We must change the system so that nutrition services are specifically reimbursable and not just included in administrative funds. Nutrition services must be made available to elderly Americans in preventive, acute, long-term care and home health settings. Nutrition screening, to identify those at-risk can be a cost-effective prevention measure. Nutrition services are often a substitute service, taking the place of more costly services or less effective care. Nutritional care should be considered specialized care and should be reimbursed just as respiratory, occupational and physical therapies are.

Reimbursement for nutrition services provided by qualified dietitians/nutritionists by Medicare and Medicaid would permit addressing nutritional problems early enough to avoid hospitalization or institutionalization. Our elderly population has the right to remain independent and healthy as long as they can.

MINIMUM WAGE AMENDMENTS OF 1992

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. SABO. Mr. Speaker, I believe that an increase in the minimum wage is needed to restore equality to salaries for millions of Americans. For that reason, I am introducing the Minimum Wage Amendments of 1992. This legislation will increase the Federal minimum wage to $6.50 an hour and provide a living wage for individuals working at the minimum wage.

One of the most disturbing trends of the past decade has been the increasing polarization of income in this country. The rich have gotten richer and the poor poorer. In fact, the gap between rich and poor families is now larger than at any time in the 40 years since the Government began compiling those statistics.

Put another way, average income of the poorest fifth of the population has fallen from 93 percent of the poverty line in 1973 to 83 percent in 1987. The next poorest fifth has an average income of twice the poverty line. On the other end of the spectrum, the richest fifth has an income that is almost nine times higher than the poverty line. Unemployment and the recession are part of the problem. But low wages are another significant factor.

There are also more single-parent, female-headed households. And wages for low-income and young workers have been stagnant. Poverty is especially damaging because it hits children so hard. Today, an alarming one in five children live in poor families. Poverty and the problems associated with it—malnutrition, inadequate health care, disadvantages at school, and crime—impair a child's ability to perform later in life. They erect barriers that make it tough for children to ever achieve.

In today's economy, minimum wage workers are often unable to support themselves for one simple reason—the minimum wage has not kept up with the cost of living. In the 1960's and 1970's for example, a full-time year-around worker making the minimum wage earned enough to keep a family of three above the poverty line. By 1989, the same worker fell 29 percent below the poverty line. To help fill the gaps, they are often forced to seek taxpayer financed Government programs such as food stamps, housing subsidies, and medical assistance.

Congress has tried to help. In June 1989, Congress passed legislation increasing the minimum wage. Under the legislation, The 1989 Fair Labor Standard Act, the minimum wage was raised from $3.35 to $4.25 per hour.

Still, the minimum wage has not kept pace with the rising cost of living. In fact, the current $4.25 per hour falls $1.45 short of the real value of the minimum wage in 1978. This failure of our society to increase the minimum wage to a level which provides a living puts enormous pressure on social programs. In my judgement, all full-time workers should make enough money to live off the economy.

From the time of President Roosevelt, a fair minimum wage helped ensure a responsible relationship between workers and management. Today, a fair minimum wage is critical to millions of working Americans. More than two-thirds of minimum wage workers are adults and 7 out of 10 live below the poverty line.

When working Americans are unable to support themselves and their families, they are left scrambling to pay their bills and put food on their tables. Today's minimum wage is too much minimum and not enough wage. We can not be content with an economy that helps those at the top of the economic ladder climb further up while those at the bottom slip further down.

Mr. Speaker and Members of the House, I hope you will join me in supporting an increase in the minimum wage.

KOSOVO AND MACEDONIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HOYER. Mr. Speaker, yesterday the House passed a resolution which calls for decisive action in regard to Bosnia-Hercegovina. Given the horrible situation we confront in that country, much of our recent attention has rightly focused on it in recent months. However, our concern for the situation in Bosnia-Hercegovina includes a broader fear that the fighting might spread, leading not only to additional civilian killings, not only there, but elsewhere.

The greatest risk for this is Kosovo, where the ethnic Albanian population has struggled under the severe repression of Serbian authorities who have denied the province its previous autonomy. Gross violations of basic human rights and fundamental freedoms are frequent occurrences. Thousands of Albanians have been fired from their jobs, and tensions were further encouraged by a Serbian-oriented curriculum imposed on Kosovo's schools. Ethnic Albanian activists are frequently harassed.

Later this month, London will host a new, expanded international conference of Yugoslavia. If this conference is to succeed in finding a comprehensive solution to the crises at the root of the conflict in the former Yugoslavia, it must address Kosovo directly, and, working with ethnic Albanian leaders there, seek a peaceful and democratic solution to this stalemate.

The international community must also come to grips with the international recognition of Macedonia, which has been repeatedly and effectively blocked, adding to the political instability in the region. The history of Macedonia is of course complex and controversial, but a few facts about the current situation stand on their own. First, Macedonia, much like Bosnia-Hercegovina, did not seek the breakup of Yugoslavia; it is simply trying to cope with that. And, as the recent collapse of the government there shows, continued nonrecognition of Macedonia can encourage extreme nationalist elements at the expense of the political moderates currently in control who have, in fact, made it clear they have no territorial ambitions. Nonrecognition can potentially also lead to tensions with the large Albanian population in the republic. Finally, Macedonia did, in fact, meet the EC-established criteria for recognition, including those regarding human rights, and in that respect simply deserves recognition.

The London conference must also deal with this issue in a direct and responsible way, and, as long as President Bush is moving on developing bilateral diplomatic relations with the three former Yugoslav republics we have recognized, he should do so with Macedonia as well. Macedonia should also be permitted to join the CSCE, giving it a role in European diplomacy and, at the same time, encouraging democratic development in that country. It only makes sense.

While the killing in Bosnia-Hercegovina remains our chief concern, we cannot wait for the violence to spread to Kosovo or Macedonia before we give them the attention they deserve. There is already too much instability in the Balkans, where conflict seems to travel with incredible ease. If Kosovo or Macedonia were to become the scenes for fighting, the direct involvement of neighboring countries becomes increasingly likely. While the decision by President Bush to deploy monitors in these and other places as a preemptive move is one that I have welcomed, they can only do so much good as long as important political and human rights questions remain unresolved.

THE 25TH ANNIVERSARY OF PROJECT PPEP PROVIDING HELP FOR RURAL POOR IN THE SOUTHWEST

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. KOLBE. Mr. Speaker, by now we all are aware that many regions of the United States have suffered serious declines in jobs in the last decade. Particularly hard hit are areas dependent on agriculture, mining, or traditional manufacturing. Many of these declines are not short-term, cyclical or recession-related declines, but are due to fundamental structural shifts in the local economic and industrial base of many regions around the country. Given these economic conditions, I would like to take this opportunity to pay tribute to a longstanding and very successful program that has been providing assistance to the rural poor in the deserts of Arizona and southern California. Known as Portable Practical Educational Preparation [PPEP] this program serves the rural communities of the Southwest by offering literacy and life skills training, GED and ESL classes, and practical education to the disadvantaged residents of the region.

On the occasion of the 25th anniversary of the PPEP program, we can look upon its many achievements and those of its founder, Dr. John D. Arnold. From a young age, John Arnold has taken it upon himself to provide assistance to the working poor and disadvantaged of our region. At age 16 he had his own church-bus ministry that provided social services, food, clothing, etc., to Braceros (Mexican farm laborers). After 10 years of working directly with the migrant workers, John Arnold approached community leaders for support to initiate a mobile, or itinerant, school to serve the various labor camps. Thus emerged Project PPEP. This school was unique because it went to where the people worked and lived, and provided instruction in practical educational experiences which prepared the farmworkers in basic survival skills. In PPEP's humble beginnings, with a $19,000 annual budget, John was the bus driver, mechanic, janitor, and teacher.

Today, PPEP has grown with rural community support to serve farmworkers and rural poor throughout Arizona, the Navajo Nation and the Imperial Valley in southern California. During this, the 25th anniversary of PPEP, 10 million people will benefit from their services. Because of this success, dozens of third world countries have been advised by the State Department to examine PPEP's rural self-help projects.

To point directly to one successful program sponsored by PPEP, I would draw my colleagues' attention to an ambitious program called Micro Industry Credit Rural Organization [MICRO]. Through MICRO, economically disadvantaged residents of these areas can receive loans to start their own small businesses. As an outgrowth of the PPEP program, MICRO's purpose can best be summed up by its mission statement—"To enhance family self-sufficiency and quality of life by facilitating the development, growth, and participation of family-based micro and small business enterprises in their local economies". MICRO seeks to assist the disadvantaged by having them rely on their own hard work and ingenuity, not on seemingly endless government handouts.

There is increasing evidence that small businesses, known as microenterprises, are an important option for many of the unemployed and working poor today. Microenterprises are businesses that are usually family-owned, employ 10 or fewer people, but are too small to get bank financing.

The success of the program to date has been phenomenal. Business loans of $500 to $10,000 have been provided at market interest rates to nearly 400 small business owners, with a default rate of less than 3 percent. MICRO clients have created an estimated 400 jobs in the rural areas of the Southwest, fostering the American tradition of free enterprise among our Nation's disadvantaged citizens.

I would like to submit for the RECORD two articles detailing the success of John Arnold, PPEP, and the MICRO program, one from the Christian Science Monitor, the other from the Arizona Daily Star. In honor of their 25th anniversary, I commend the attention of my colleagues to project PPEP and the microenterprise concept. I believe that programs demonstrating this kind of success rate deserve our attention and support.

[From the Christian Science Monitor, July 30, 1991]

POOR TAKE MICRO-STEPS OFF WELFARE

(By Clara Germani)

When Catalina Barajas's husband left her to raise the last three of seven children alone, she was forced onto welfare and into public housing. But to make ends meet, she knew she was going to have to find another means of income.

Going out and starting a business was not the first thing she thought of—nor would it be the first thing the United States welfare system would prescribe for the former farm worker, who speaks only Spanish and has minimal business qualifications.

What Mrs. Barajas didn't recognize, until the Micro Industry Credit Rural Organization (MICRO) stepped in to show her, was that the small sewing jobs she had taken in for years were a business she could develop.

It's this kind of entrepreneurial seed that MICRO, a Tucson, Ariz., nonprofit development group, cultivates through small, business loans. On collateral as small as a wedding band or a color television, low-income and disadvantaged people, who would qualify quicker for welfare than a traditional bank loan, can get business loans as small as $500.

Barajas's first loan of $500 three years ago allowed her to buy more fabric at a lower price than she was used to. This increased her profit on the brightly colored bedspreads she makes. Demand for her work increased, so she bought a better sewing machine with her second loan of $1,000. Having paid off her first loans, with a third loan of $2,000 she was to travel to Los Angeles from this remote area to buy cheaper fabric and supplies.

"I never thought someone would lend me the money," says Barajas. "This has motivated me to work more, whereas before I had to take from my food money to invest and sometimes there just wasn't any." She would never have considered asking a bank for money after having been turned away by a local bank when she tried to open a savings account with a crisp $20 bill and was told it wasn't enough.

Microenterprise development in many cases can substitute a ladder of opportunity for the dependency fostered by the welfare safety net, says Robert Friedman, founder and chairman of the board of the Corporation for Enterprise Development, a Washington policy advocacy group that also sponsors demonstration microenterprise projects.

"Microenterprise [development] crosses both liberal and conservative lines," he says. For conservatives, he adds, "it's quid pro quo. It's not a handout. And for that part of the liberal establishment that simply looks at income redistribution, it works."

Microenterprise, which is free enterprise in its most basic and spontaneous form, is a sort of business counterpart to subsistence farming: It exists in pockets of poverty all over the world where the unemployed must use their wits to survive. The informal sector—that market in which microenterprise exists off the books, outside taxes and government regulation—is believed to constitute 30 to 50 percent of the economies of developing nations.

In Latin America, for example, Peruvian economist Hernando de Soto's studies of the informal sector (documenting the capitalistic nature of upward mobility among squatter settlements in Lima) became the inspiration for a whole school of international development that has grown up around microenterprise.

The Grameen Bank in Bangladesh, on the other hand, has been the international model for how to loan to the poor. It pioneered the idea of giving credit—in amounts as little as $50—to the poor when it began offering loans in 1975 to peasant women who made bamboo furniture. Today, reaching perhaps 500,000 people, the bank offers loans to small groups of people who are trained together in basic business procedures, divide the money among themselves for their own businesses, and are responsible for the collection and reinvestment of the money. The incentive of future loans maintains discipline within the groups, which have a repayment rate of 98 percent.

The United States has dedicated an increasing amount of foreign aid to microenterprise development in which all kinds of businesses—from pushcart peddlers to small factories—are offered credit contingent on completing basic business courses. Microenterprise spending overseas by the US Agency for International Development has grown from $85 million in 1990 to an expected $137 million next year.

"It's funny that we have to learn from third-world countries about microenterprise," says US Rep. Tony P. Hall (D) of Ohio, chairman of the House Select Committee on Hunger. "Over the years we've really pushed it in aid projects overseas, but our own people have not even heard of it."

Convinced that microenterprise "is part of the answer" to changing welfare dependency to economic self—sufficiency, the congressman has introduced microenterprise provisions to the Job Training Partneship Act. The proposed legislation adds self—employment training to courses the states are required to offer in federally funded job training programs. Future, the legislation would fund 10 micro—lending demonstration projects of $500,000 each.

Representative Hall is also pushing to win microentrepreneurs exemptions to rules that limit assets and income of recipients of federally funded housing, medical care, and welfare.

"We penalize people [for] being independent from proverty," Hall says.

For example, recipients of Aid to Families with Dependent Children are limited to income of 185 percent of the state—defined level of need, and assets are limited to $1,000. Those rules effectively prevent small—business growth because assets cannot be built to improve a business, he says.

Most of the private nonprofit programs already lending to American microentrepreneurs teach clients how to get licensed and pay business taxes. But many borrowers, like Mrs. Barajas in the MICRO program, continue to operate informally — unlicensed and not paying taxes. Barajas estimates that in the best of months she clears $400 with her business. That amount could be enough to disqualify her from public assistance, yet alone it wouldn't be enough for economic self—sufficiency.

Just how widespread or successful micro development can be in the inner city or rural areas is uncertain, say economists.

The image of the "the Lone Ranger in economic development" may fit the free enterprise theme Americans would like to inject in poverty programs, says Michael Piore, professor of economics at the Massachusetts Institute of Technology in Cambridge, Mass. "But it's crazy to think somebody sitting in a neighborhood is going to be profitable if there's no one around them [like a supporting network of other profitable businesses and lending institutions]."

Also, few of the 100 micro lending operations that have sprouted around the US in the past five years actually are breaking even because of the high cost of the training that goes along with lending, explains Mr. Friedman of the CED. While micro lending—so far funded by private charities and grants in the US—may never generate a profit, he suggests that it is an investment with social payoffs, including getting low-income people off public assistance and creating business role models in poor communities.

The five-year experience of MICRO in its operations in Arizona and California convinces executive director and founder Frank Ballesteros that "this microenterprise philosophy would work anywhere.

"You'll find five to seven homebased businesses in any block [of an urban area], people earning second incomes out of their homes by selling dresses, taking care of a child for someone else, fixing hair . . . ," Mr. Ballesteros says.

While MICRO has yet to break even, he says, the benefits of the $1 million loaned to 300 businesses in the past five years include the creation of over 400 jobs. Loan defaults are about 2.5 percent and more than 85 percent of the borrowers are still in business, generating savings and employment.

[From the Arizona Daily Star, June 30, 1991]

FREE-TRADE RICHES IN STORE FOR TINY FIRMS TOO

(By Jane Larson)

Free trade isn't just for multinational corporations, but can mean greatest sales for the hundreds of "microbusinesses" on both sides of the U.S.-Mexican border, a Tucson-based development group says.

Representatives of the Micro Industry Credit Rural Organization (MICRO) have been meeting with Asesoría Dinámica para la Microindustria of Monterrey, in the Mexican state of Nuevo León, to set up ways in which the various businesses financed by the two organizations can begin to trade with each other.

"If they're not organized, they will fall through the cracks" when trade with Mexico liberalizes, John D. Arnold says of smaller firms. Arnold is chief executive officer of Project PPEP (Portable Practical Education Preparation), a social service organization that launched MICRO in 1986.

Microbusinesses are those that employ 10 or fewer people and are too small to get bank financing. MICRO gives them management advice and loans them anywhere from $500 to $10,000, with the average loan being $1,600.

Some 154 businesses in rural Arizona and California are operating with 615 loans from MICRO, Frank Balles- teros, executive director, says. He estimates that MICRO clients have created 400 jobs.

MICRO and its $1 million revolving loan fund are financed by 20 different sources, led by grants from the Ford Foundation, the Stewart Mott Foundation and Hitachi Ltd.

The Mexican organization, nicknamed Admic, has made loans to about 1,200 businesses around Monterrey, Arnold says.

It is about 12 years old, operates mainly on Mexico's eastern seaboard and gets funds from the World Bank and other public and private sources, he says.

So far, PPEP and MICRO have introduced Admic to leaders of three Sonora groups that could work with Admic when and if it expands there. The groups are Casa de la Cultura, operators of the convention center of Hermosillo; Fundacai of Ciudad Obregon, an affiliate of the Save the Children Federation; and Union Campesino, a farmworkers' cooperative based in Alamos. ACCION International, an umbrella group that provides technical assistance, also is helping Admic expand.

The groups will meet again in July to lay out their ideas to government officials and political leaders in Hermosillo.

The next move is to develop a catalog of products and services offered by businesses on each side of the border, so the microbusinesses can buy from each other. PPEP and MICRO are asking the businesses to develop price and product lists to publish in the catalog.

Mexican businesses have a range of products that could be sold in the United States, Arnold says, from clothing and candy to ironwork, furniture, leather, spices and saddles.

The approximately 200 members of MICRO's five Microbusiness Associations on the U.S. side could sell computers and other technical products, clothing and auto parts in the Mexican market, he says.

The businesses also might be able to barter goods and services. A tanner, for example, could provide hides to a cobbler who could make shoes for the tanner's family, Arnold says.

Simply making the microbusiness owners aware of each other's products and services will not be enough. "We have to train them to deal internationally, to negotiate," he says. Besides developing the catalog, the Tucson organizations want to hold workshops to show the owners how to best arrange their export-import deals.

Arnold says businesses, families and cultures on both sides of the border have been trading with each other for centuries, and that he expects the proposed free-trade agreement will simply lift the restrictions.

President Bush last month won approval from Congress to continue negotiating with Mexico on tariff reductions and other spurs to economic growth. Although the Bush administration has until 1993 to produce a free-trade agreement that Congress can reject but not amend, economic development groups, businesses and others already are gearing up for the expected surge in international trade.

Arizona's exports to Mexico doubled, to $750 million a year, since Mexico joined a fair-trade organization four years ago.

TRIBUTE TO LEVI GARRETT

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BAKER. Mr. Speaker, I rise today to recognize Mr. Levi Garrett from Anacoco, LA. Levi is a talented 13-year old performer who last year was a 4-star winner on the television show, Star Search. This is all the more remarkable since as a young child, Levi was diagnosed with terminal cystic fybrosis. He has overcome enormous odds, and his courage is an inspiration to us all.

Mayor of Leesville, LA, Jim Shapkoff, will proclaim August 15, 1992 as Levi Garrett Day in Leesville and will present Levi with a key to the city.

Levi Garrett guest starred with Mel Tillis at the Mel Tillis Theater in Bronson, MO during the 1992 season and has also signed to perform in the 1993 season. Levi's mother, Connie Sims, has always managed his career.

I want to wish Levi continued success with both his professional and personal life.

TRIBUTE TO STAN HILLIARD

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, Aug. 12, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to one of the 2d District's most admired citizens, Mr. Stan Hilliard of North Woodstock, NH.

Mr. Hilliard has been the proprietor of Natureland and Hilliard's Candy Store for 30 years. Throughout his business career, Stan Hilliard has devoted much of his free time to volunteer activities. He was selectman of the town of North Woodstock for 12 years, a leader of the local economic development group, and founder of a summer recreation program for children from the Lincoln and North Woodstock region.

Mr. Hilliard was the incorporator of the Lincoln-North Woodstock Chamber of Commerce in 1959 and has served as its president for the past 10 years. He has also served with distinction as president of the North Woodstock Rotary, the White Mountain Attractions, and the Plymouth State Fair.

Mr. Hilliard's dedication to bettering his community deserves tribute. Tragically, Mr. Hilliard has been stricken with cancer. Mr. Speaker, I would like to personally thank him for his work and ask that my colleagues hope and pray that his health will soon return so that our country can continue to enjoy the good works of his volunteer crusade.

INTRODUCTION OF THE FILIPINO VETERANS' EQUITY ACT OF 1992

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Ms. PELOSI. Mr. Speaker, today I am introducing the Filipino Veterans' Equity Act of 1992, legislation that will help remedy a half century injustice to Filipino Veterans of World War II, tens of thousands of whom fought and died for America. In 1942, Congress passed a law granting automatic citizenship to all aliens, including Filipinos, who served in the U.S. Armed Forces during the war. The Filipino veterans, as a class, were unfairly discriminated against when American citizenship processing was arbitrarily withdrawn from them in 1946.

In 1990, 45 years later, Congress included Section 405 in the Immigration Reform Act, to enable Filipino veterans who fought for the American side during World War II to apply for naturalization. This was a significant step toward redeeming the dignity of the forgotten Filipinos, but several important issues were not addressed in the act.

Section 405 is scheduled to expire on November 29th, 1992, Of the 60,000 veterans that the INS estimated would file for naturalization, only about 12,500, or 21 percent have applied. The reasons for this small number include: a lack of dissemination of information about the application process; the expense of coming to the U.S. for the interview process; and, the fact that the INS took 1½ years to put in place the regulations for the process and delayed interviewing applicants until October, 1991. My bill would enable eligible veterans to be interviewed and take the oath of naturalization in the Philippines. Because the majority of the Filipino veterans live at the poverty level, and many are already very old, requiring them to travel to the U.S. imposes a severe financial and physical burden. They deserve better.

The Filipino Veterans' Equity Act of 1992 would also provide for a special immigrant status for immediate relatives of Filipino veterans. If the Filipino veterans had not been deprived of the naturalization process in 1945, their children would already be U.S. citizens today. Currently, the veterans must petition to bring their children here, which takes up to 15 years. These brave veterans and their families have waited long enough.

Mr. Speaker, here is our opportunity to keep a promise to people who were our true friends in time of need. Here is our opportunity to right a 50 year wrong. I urge my colleagues to support the Filipino Veterans' Equity Act of 1992.

RECOGNITION OF WILLIAM E. HANNA'S ROLE IN RESTORATION OF GREAT FALLS BRIDGES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. MORELLA. Mr. Speaker, I rise today to recognize William E. Hanna, Jr., a member of the Montgomery County, MD Council, whose vision and persistence have been responsible for the restoration of a scenic delight on the Potomac River, a view of the Great Falls that had not be seen by the public since the Olmstead bridges were destroyed by Hurricane Agnes 20 years ago. Bill Hanna, an early dreamer of the project, has been working for the past 7 years to enable visitors to once again be able to fully appreciate the view of cascading water, which orginates in Pennsylvania, flows through West Virginia and Maryland eastward to the Nation's Capital. On July 17, this dream was realized with the official opening of the five Olmstead bridges at Great Falls.

Olmstead Island is located in the Potomac River within the boundaries of the Chesapeake & Ohio Canal National Historical Park, a park with more than 3 million annual visitors. The island provides the only full view of the falls, although our Virginia neighbors do not always agree. All agree, however, that the view from the Maryland side provides one of the most spectacular views on the East Coast. However, the five wooden bridges that carried thousands of visitors for over 100 years to the outlook had remained crushed and in shambles since the 1972 hurricance.

Councilman Bill Hanna had two hurdles to overcome to complete this project, and it took him 7 years to obtain both the necessary funding, and to enlist the support from the Park Service, which was understandably fearful for the safety of visitors heading to the Great Falls Outlook. Despite unprecedented cooperation among Federal, State, county and private interests, coordination that is further tribute to the leadership of Bill Hanna, costs kept rising as the plans for the footbridges progressed, and there were times when funding for the project was seemingly unobtainable. But Bill Hanna perservered. At one point, the request for proposals had gone out, but the project was short $20,000. Undaunted, Bill appealed to the public and the response was overwhelming.

Now, barely a month after the opening of the bridges, the number of visitors is far beyond the most optimistic expectations. On weekends, with parking lots filled, latecoming hikers will find themselves parking and walking 4 miles to the overlook and back. Memories of past visits, sentimental walks, romantic proposals, and family stories, have become part of the lore of Great Falls.

I am honored to recognize Bill Hanna's accomplishments, and I am honored to have worked with him on this project. He has given all of us who live in or visit the Washington area a glimpse of a very beautiful and inspiring sight.

SUPPORT FOR H.R. 5466

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 11, 1992

Mr. BRUCE. Mr. Speaker, thank you for the opportunity to speak on behalf of the protection of small community airline passengers. I would ask each of you here today to give your full support to H.R. 5466, the Airline Competitiveness Enhancement Act, which will help prevent the erosion of this essential air service program while saving taxpayer dollars.

Although Federal law is supposed to protect small town commuter operations from getting squeezed out by free market forces, communities around the country like Danville, Charleston-Mattoon, Quincy, and many more are losing their vital link to high density airports.

The U.S. Government has been encouraging small manufacturers such as Mattoon Precision Manufacturing to compete in export markets as a way of reducing our trade deficit, but then we don't give them basic tools needed to compete such as air transportation.

The Essential Air Service Program began in 1978, when airline deregulation took effect to ensure that small communities would continue to be linked to the Nation's air transportation system.

This legislation is necessary to overcome policies of the Department of Transportation which has refused to exercise its authority under existing law to provide slots needed for essential air service, particularly in the case of certain communities that lost their service during fiscal year 1990.

Gentlemen, in these hard economic times when small communities must compete even more to bring vital jobs to their towns; we must continue to provide this basic service, so important to rural commerce.

"WELCOMING THE PACIFIC ECONOMIC COOPERATION CONFERENCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LAGOMARSINO. Mr. Speaker, on September 23–25, 1992, the Pacific Economic Cooperation Council will hold its Ninth General Meeting in San Francisco.

The Pacific Economic Cooperation Council [PECC] mission is "To promote the acceleration of economic growth, social progress and scientific and technological development in the region * * * in the spirit of partnership, fairness, and genuine cooperation." it is a special tripartite organization of leaders from government, business, and academia from 20 Pacific rim nations and economies, including the United States and Russia. The unofficial status of its participants provides a unique forum for candid exchanges on issues of trade, investment and development.

Every 18 months, PECC holds a general meeting of its members. At these meetings, top economic, finance trade, and investment policy leaders and planners have met to discuss issues to advance cooperation and development. I encourage my colleagues to join me in welcoming the ninth general meeting. There have been tremendous changes around the world and in the Pacific region over the past year and one-half. Multilateral negotiations including the GATT Uruguay round and the North American Free-Trade Agreement, the integration of the European Community as a new economic force, and the continued growth of the Pacific rim's economic power make the general meeting's theme of "open regionalism: a Pacific Model for global economic cooperation" extremely timely. I believe it will significantly support our positive goals of fostering open trade and investment throughout the Pacific rim. The United States has much to benefit from the PECC and its constructive working groups.

As a senior U.S. Representative from California, I also commend the holding of this historic meeting in San Francisco, noting this conference represents the largest gathering of world leaders in the bay area since the signing of the U.S. Charter in San Francisco in 1945. California, and especially the San Francisco Bay area, represents a major center of international business and development, much of it focused on the Pacific rim.

Therefore, I urge my colleagues to join me in welcoming the PECC ninth general meeting and offering our support for productive and successful discussions on economic development and progress within the Asian-Pacific region.

UNITED PENTECOSTAL DELIVERANCE TEMPLE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday August 12, 1992

Mr. TOWNS. Mr. Speaker, today I rise to honor the United Pentecostal Deliverance Temple, Inc., which has devotedly uplifted and welcomed members of the community into its doors.

In 1980, evangelist and pastor Rev. Dr. June Montague founded the United Pentecostal Deliverance Temple, Inc. For 8 years it was located on Church Avenue. The elected administrative body foresaw the growth of the church's congregation and relocated to both facilitate and induce an increase in the church's members. Thus, the church soon found itself at its present site on East 49th Street in Brooklyn, NY.

The United Pentecostal Deliverance Temple, Inc.'s administrative body is comprised of a successful group of professionals and achievers ranging from teachers to accountants. Together, they oversee the operations of the church. It was their decision to change the church's original name from the Deliverance Tabernacle of Our Lord Jesus Christ to its present name. In addition, led by Reverend Montague's plans, they intend to build a school for youth and a nursing home for the aged.

Rev. Dr. June Montague, founder and Pastor of the church, has dedicatedly organized the church and reached out to members in the metropolitan area. She has given special attention to troubled young people. In addition to her ministry, Reverend Montague is also a teacher and counselor. She received her Biblical training at Bethel Bible Institute and the New York School of Bible. I commend the United Pentecostal Deliverance Temple, the administrative body, and the congregation, on the success of the church. Their efforts reflect consistent devotion to the betterment and spiritual uplifting of the community.

BURLINGTON PIONEER SPIRIT

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ALLARD. Mr. Speaker, I rise today to share a community effort in the small town of Burlington, CO, population 2,941. In Colorado 63 counties are federally designated as medically underserved areas. Like much of rural America, Burlington is finding they cannot retain a general practitioner. Specialized care is out of the question. Because the closest medical center is 115 miles away, Burlington's citizens face a burden, but they aren't giving up. Burlington has devised a homegrown solution—a grow-your-own-doctors plan. This innovative community is sending two local students to med school with the stipulation they will practice locally a year for each year of education they receive. Burlington recognizes physicians are more likely to practice in a small community if they were raised in one. This also provides an opportunity for two local students to fulfill their dreams.

Burlington designed a formula for success. While every town may not be able to duplicate their idea, everyone, everywhere can benefit from this small town's "can do" mentality.

TRIBUTE TO FRED G. SUMMERS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to an exceptional individual from northwest Indiana, Mr. Fred. G. Summers. Freddie, who inspired his colleagues through his outstanding service and dedication while serving as Business Agent for the Bridge, Structural, and Ornamental Ironworkers, Union Local 395, has recently been designated general organizer for the International Association of Bridge, Structural, and Ornamental Ironworkers in Washington, DC.

Freddie began working for the Ironworkers Union in the fall of 1968, 1 year after graduating from Calumet High School. After 16 years as an ironworker with the union, Freddie sought to further his career. The dedication and commitment which he exhibited and the goodwill that he shared with his fellow employees, led to his election as Business Agent for Local 395 in 1984.

As business agent, Freddie proved that he was, indeed, a wise selection. His efforts on behalf of local 395 demonstrated his devotion to the promotion of the ideals of organized labor. His diligence and unselfish demeanor as business agent did not go unnoticed and he was rewarded with a promotion to general organizer at the international level.

Aside from his efforts on behalf of local 395, Freddie made certain that he also remained active within the community. In addition to serving as a trustee for pension funds, he served two terms as vice president of the Indiana Building Trades and was also able to attend, as a delegate, every Democratic National Convention since 1976. Freddie also paid very special attention to the youngsters of northwest Indiana, volunteering his time to coach little league and assist with the track, football, and baseball programs at Merrillville High School.

Freddie has been given the special opportunity to promote the ideals of the American worker and I am confident that he will play an instrumental role in strengthening the labor organization on the internationlal level. Freddie's commitment and devotion to local unions, to organized labor and to the community, serves as an inspiration to all of us. He is, indeed, someone we can all look up to.

INTRODUCTION OF LEGISLATION TO DESIGNATE THE MARTIN LUTHER KING, JR., FEDERAL BUILDING

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. LAUGHLIN. Mr. Speaker, I rise today to introduce legislation which designates a Federal building at 312 South Main Street in Victoria, TX, as the "Martin Luther King, Jr., Federal Building."

This decision to name the Federal Building after the former civil rights leader is a true reminder of the influence that Dr. King was for all of us, not just Americans of African descent, but Americans whose origins can be found in all corners of the globe.

The unnamed Federal building is a downtown landmark, and is visited by hundreds and seen by thousands of Victoria residents and visitors on a daily basis. A memorial to Dr. King placed at this site will provide continuing inspiration to all who visit it, particulary to the hundreds of young men and women in the community.

These young people have no personal memory of the condition of civil rights in America before Dr. King, nor of the struggle he endured to change the rights of all Americans in the country.

Mr. Speaker, it is my hope that the young people in this Victoria community who visit this building will come to understand that it recognizes not only the contributions of this great leader, but also two very basic principles necessary for the healthy functioning of our society.

The first is that change, even very fundamental change, is to be achieved through nonviolent means. This is the path down which we should go as a Nation in resolving some of our most difficult problems.

The other basic principle is that the reconciliation of the races, the inclusion into the mainstream of American life of all its people, is essential to the fundamental health of this Nation.

Mr. Speaker, Dr. King helped us to see that we can bring down all barriers placed in our way. This great undertaking was not without pain, and is not yet complete, but is transforming this Nation for the better.

Mr. Speaker, Martin Luther King, Jr., dedicated his life to achieving equal treatment and enfranchisement for all Americans through nonviolent means.

Therefore, Mr. Speaker, you can understand why I rise in such strong support of this bill which will name the Federal building in Victoria as the "Martin Luther King, Jr., Federal Building."

A TRIBUTE TO THE CLEARVIEW JEWISH CENTER IN WHITESTONE, NY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the Clearview Jewish Center in Whitestone, NY. The center will be celebrating its 40th anniversary at a gala dinner on September 12.

Forty years ago, families moving to Clearview felt an acute need for a spiritual center in their community. Many of those in the community had been led there to follow the American dream, leaving their old neighborhoods to purchase homes in Clearview. But this new neighborhood was not complete without somewhere to worship, to add the necessary religious anchor which holds in place any community.

So in 1952, a group met at the home of Dr. Abraham Mullin and founded a new congregation. In the early days they held services in a store, and conducted the high holidays under a tent, but by 1958, a fine new building was complete on the aptly named Utopia Parkway. Forty members volunteered to come in and paint the new building, and the Clearview Jewish Center has been there ever since.

The center has flourished under a progression of dedicated rabbis, hardworking directors, and devoted members. The synagogue has a senior center, conducts adult education classes, and is home to a busy men's club and sisterhood. Politicians, doctors, and academics have come to speak to the members at the center. The center has an Israel Bond breakfast every year, and the good people of Clearview have regular fundraising events for charitable works.

Above all, of course, the Clearview Jewish Center is a place of worship. The dedication of its members, the vigor of its various activities, and its central place within the community, are only the outward manifestations of a spiritual existence. The center provides a calm oasis of prayer and contemplation in an often loud and fast-paced city. At a time when politicians speak so much of family values, this synagogue speaks volumes about the importance of family and the belief in God in our communities.

Recognizing the coming gala dinner, I would like particularly to congratulate Mr. Abraham Schwartz, first president of the center and still its ritual chairman; current president Jack Eisenberg; Rabbi Cecil Walkenfeld; and Toby Oknowsky, the 40th anniversary chairperson.

On September 12, the 350 families who make up the congregation will celebrate the longevity and vitality of their synagogue. Mr. Speaker, I call on all my colleagues in the House of Representatives to join me in honoring the Clearview Jewish Center for 40 years of service to the community.

JULIUS "JULES" MINTZER

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BLILEY. Mr. Speaker, I rise today to commend and recite the many outstanding lifetime achievements amassed by Julius Mintzer of Richmond, VA.

Julius "Jules" Mintzer, whose professional and volunteer experience in Richmond spans about 40 years, was recently presented with the Jewish Community Federation's Distinguished Community Service Award, the most coveted honor within Richmond Jewry. Hortense Wolf, a former Federation president, who made the presentation, described Jules "as having served meritoriously, profoundly, influencing our Jewish community and its activities and institutions".

A remarkable individual of vision, initiative and integrity, Jules' academic degrees include a bachelor of education, a master in sociology and a master in social work. His professional career as a trained social worker began in 1935 with a position in Westchester County, NY, with the Division of Old Age Assistance. He resigned in 1941 to affiliate with the American Service Institute in Pittsburgh. His career was interrupted by "greetings" from the President which led to three and a half years in the Army. He earned sergeant stripes and was honorably discharged in 1945 to join the United Nations Relief and Rehabilitation Agency, serving as the assistant director of Camp Fohrenwald in the American Zone of Germany. Over 5,500 survivors of Nazism lived in this camp. His principal responsibilities included providing quality hospital, medical, nursing and dental care, as well as meeting the religious needs of people who were deprived for years. Additionally, he established a school system, created fire and police brigades and a recreational program. The long arduous hours and heavy responsibilities took their toll and after one year, he returned home during the summer of 1946.

Following a period of rest, he joined the Jewish Community Council of Dayton, OH, as director of Social Services and the Community Relations Division. In 1949, he moved to Cincinnati to become the assistant director of the Jewish Welfare Fund. There he developed a leadership training program which became the model for similar projects in many communities, lectured at Hebrew Union College on "Jewish Community Organization" and developed an in-service training program for Jewish community professionals in the city.

In 1953, he was engaged as the executive director of the Richmond Jewish Community Center, subsequently renamed as the Jewish Community Federation of Richmond. He served in this capacity for 25 years, retiring in September 1978.

He enjoyed his retirement for a few short weeks before starting a second carrer—that of being an agency and community volunteer. For the past thirteen and a half years, he has served in that capacity with distinction in many varied responsible positions, disregarding offers of salaried jobs. Few of his colleagues throughout the country can match his record as a volunteer. He has been paid tributes and honored with many awards. They include: (1) President of Temple Beth El. Prior to his election, he had been awarded the Temple's three most prestigious awards—Gerson Memorial Award, Distinguished Worker Award and the Simhat Torah Honor. (2) President of the Rudlin Torah Academy, a Jewish day school, having an extensive secular and Judaic curriculum. (3) Elected vice president of the Seaboard Region of the United Synagogue of America, 1987–88. (4) Chairman, Jewish Community Center Forum Series, 1980–84. He received the Center President' Cup for outstanding service in 1984. (5) Editor (now editor emeritus) of the Regional ADL's Quarterly Bulletin, 1980–84. (6) Produced a commemorative journal on the occasion of the 50th anniversary of the Jewish Community Federation, 1985. (7) Produced a Golden Jubilee Journal for Temple Beth El in honor of its 50th Anniversary. (8) Produced a special journal for a gala event sponsored by the Beth Sholom Home of Virginia, 1983. (9) Appointed by the Governor of the Commonwealth of Virginia to the Citizens Advisory Council for the State Department of Volunteerism, 1982–86. (10) Appointed to the Citizens Advisory Council of the Richmond Juvenile and Domestic Relations Court, serving as chairman during the last 2 years of his tenure, 1978–86. (11) Taught in the religious schools of Temple Beth El and Congregation Beth Ahabah. (12) Received the Distinguished Community Service Award by the Jewish Community Federation of Richmond, May 20, 1990. (13) Presented with the Lion of Judah Award by the Israel Bond Organization for leadership abilities and volunteer service on behalf of Israel and the Bond organization, June 1988.

Therefore, it is a rare privilege for me as the Representative of the Third Congressional District of Virginia to again applaud Jules Mintzer for his many accomplishments as a civic leader, one who has given of his time and energy without expectation of monetary gain, but only to serve well his fellow man and for others who will follow.

INTRODUCING THE SHELLFISH SAFETY ACT OF 1992

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mrs. UNSOELD. Mr. Speaker, if one is to believe recent media reports, millions of Americans sitting down for seafood tonight will dine on an appetizer of nervousness and a main course of fear.

The media coverage has been extensive. "CBS Evening News" with Dan Rather did an expose on seafood safety. Consumer Reports asked, "Is Our Fish Safe to Eat? Time wondered, "Is Your Fish Really Foul?" The Los Angeles Times, New York Times and hundreds more published stories and opinion pieces triggered largely by an aggressive campaign from a single consumer group.

It's been an effective campaign, generating a wave of public interest in seafood safety and stirrings within Congress to strengthen existing seafood safety programs. And that's not all bad.

But our first step should be to distinguish fear from fact and to separate matters of public perception from issues of public health. For example, data from the Center for Disease Control [CDC] shows that seafood is 10 times safer to eat than chicken.

Still, I agree with those who say that even one avoidable illness from seafood contamination or poisoning is one too many. The question is how to make a safe product even safer. No amount of surprise processing plant inspection will protect consumers from shellfish grown in low-quality water.

The greatest challenge for regulators—and the industry—is ensuring the safety of raw shellfish. Shellfish are filter feeders, so the quality of the water in which they are grown is every bit as important as the quality of the product and the processing plants.

Over the last year I've worked with the industry, as well as regulatory officials, to decide how we can improve the Nation's shellfish sanitation program and restore consumer confidence in what already is a safe, wholesome, nutritious product.

Today, I am introducing legislation that attempts to help the industry, those who regulate it, and most of all, the consumer. Here's what it does:

Directs the Secretary of Health and Human Services to convert Federal guidelines into Federal regulations.

We've learned that controlling sanitation in seafood processing plants doesn't automatically make seafood safe. The quality of the environment in which fish and shellfish are harvested plays just as big a role. These harvest waters often are under State control, and State officials rely on Federal guidelines established through the Interstate Shellfish Sanitation Conference [ISSC]. This group plays an important technical role in developing shellfish standards, but we need to turn voluntary guidelines into enforceable regulations to give regulators the authority they need to crack down on shippers and harvest areas.

Requires imported products to meet the same standards as shellfish products produced in this country.

According to the National Academy of Science, 50 percent of the shellfish imported into this country and eaten by American consumers is exempted from the most important public health standard in the shellfish industry: water quality. While shellfish harvested in the United States must meet strict water quality standards, incredibly, there is often no such requirement for imported products.

I am proposing to change this by requiring foreign countries to enter into a memorandum of understanding that ensures the importing country has a shellfish safety program at least equivalent to ours.

Requires State programs to develop management plans which would be approved by the U.S. Food and Drug Administration.

All States would have to work with the FDA and agree on a level of monitoring that protects the public. If a State does not act, the FDA could close or restrict harvesting.

Encourages growers to maintain clean harvesting areas.

Individual States would be asked to monitor water quality in their growing areas. The Secretary of Commerce, in cooperation with other agencies, would maintain a list of harvest restricted growing areas and take steps to restore these areas.

To keep this industry alive on a national level, we need to do more than raise unnecessary fears. Consumers deserve a Federal program that protects their safety, and the industry needs enforcement. But neither side benefits if we overreact. With the Shellfish Safety Act of 1992, I'm hoping to keep shellfish on the dinner plates—where they belong—and off the front pages.

WILD BIRD CONSERVATION ACT

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. BEILENSON. Mr. Speaker, I rise in strong support of H.R. 5013, the Wild Bird Conservation Act, legislation which will bring to an end the environmental devastation and cruelty associated with the trade in wild exotic birds to supply the pet industry.

I joined my friend and colleague from Massachusetts, Mr. STUDDS, in introducing the original legislation on this issue, H.R. 2540 and H.R. 2541, in June 1991, and I want to commend the gentleman and his staff at the Subcommittee on Fisheries and Wildlife for their good work in bringing H.R. 5013 to the floor today.

The international trade in macaws, amazons, cockatoos, toucans, African greys, and other exotic birds to supply the demand for house pets in an appalling practice which, because it is largely unregulated, is prone to an alarming degree of cruelty. Crammed into shipping crates with little air, food, water of freedom to move, millions of birds—up to one-half of all birds caught in the wild by some estimates—die even before leaving their country of origin.

In addition, of the nearly 7 million birds which reached the United States over the last 10 years, nearly one in six was either dead on arrival or died of desease or stress while in quarantine as a result of inhumane conditions during transit. Horrifying as these rates of mortality are, they are an accepted cost of business for most bird traders.

In addition to great cruelty, the wild bird trade has caused devastating declines in populations of some of the world's most beautiful birds. Nearly one-quater of the world's 300 parrot species are risk of extinction— some, such as the beautiful South American macaw, may already be beyond any hope of recovery. Others, such as the blue-fronted amazon, may soon be eliminated from large portions of their native habitat.

Perhaps most alarming of all is that half of the birds taken from the wild each year belong to species listed as threatened under the Convention on International Trade in Endangered Species, the international treaty which governs wildlife trade.

Equally disturbing is the extensive environmental destruction which often accompanies the taking of wild birds, as trees and other vegetation are destroyed to locate birds inhabiting tropical rain forests and other sensitive ecosystems. In addition, since parrots and other rain forest birds are known to play a principal role in the dispersal of seeds and pollination of plants, more research needs to be done on the potential adverse effects of removing essential species from the rain forest ecosystem.

The true extent of the damage the bird has wrought on bird populations and their habitats is still unknown, because most exporting countries lack the resources necessary to assess the impact of unregulated trade or to provide adequate protection for their wildlife. But although more than 100 countries have laws banning the export of wild exotic birds, unless consuming countries, such as the United States, agree to prohibit imports, these countries are powerless to stop the trade.

H.R. 5013 will bring an end to this exploitative trade and replace it with viable, humane, and well-regulated captive-breeding industry, which will meet the demand for house pets, discourage smuggling, and help ensure the survival of the most endangered species.

In a sense this bill is as much about ourselves as it is about the birds. Here is one more example of our collaboration in the extinction of some of our fellow creatures for the purpose of satisfying not our needs, but our very unimportant and selfish personal desires. Passing this bill is, quite simply, the right thing to do. I commend, once again, my colleague and friend from Massachusetts for bringing this to the floor, and urge my colleagues to join us in supporting it.

FIRST WORLD CONVENTION OF THE VIETNAMESE COUNCIL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. FEIGHAN. Mr. Speaker, on June 27, 1992, the First World Convention of the Vietnamese Council for a Free Vietnam was held in Washington. The cosponsors were the American Committee for a Free Vietnam and the Joint Congressional Task Force on Vietnam. Over 1,000 delegates from the United States, Canada, Australia, and Europe attended the convention. This was the largest gathering of overseas Vietnamese united behind the common objective of achieving a free and democratic Vietnam.

The convention elected Dr. Le Phouc Sang as chairman of the Vietnamese Council for a Free Vietnam and the council decided to open permanent headquarters in Washington and New York. At the inauguration of the newly elected leaders, a musical gala from top Vietnamese entertainers from Australia, the United States and Europe took place with an audience of 4,000 local Vietnamese residents in addition to the delegates. The council will also publish its own newsletter and establish a Leadership Training Institute for young Vietnamese leaders overseas. Under the leadership of Rev. Andrew Huu Le, the convention established a Human Rights and Religious Affairs Committee to monitor human rights abuses in Vietnam.

Mr. Speaker, the most important step the council took was the passage of resolutions calling for the restoration of human rights, free multiparty elections, the creation of democratic institutions, and strict oberservance of the freedom of speech, press, assembly, and religion in Vietnam.

For the past 2 years I had the opportunity to work with the new and respected chairman, former Senator of the Republic of Vietnam and rector of Hoa Hoa University, Dr. Le Phuoc Sang. I want to congratulate Dr. Le and the Vietnamese Council for a Free Vietnam on their persistent, energetic, and determined effort to promote human rights, freedom, and democracy in Vietnam.

INTRODUCTION OF LEGISLATION TO DESIGNATE AREAS AS COMPONENTS OF THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 12, 1992

Mr. HUGHES. Mr. Speaker, I am introducing legislation today which designates some 129 miles of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.

I am very excited about the progress that has been made on Wild and Scenic River designation for the Great Egg Harbor River. Designation for this river began in 1986 when I sponsored legislation authorizing the National Park Service to study the eligibility of the Great Egg Harbor River for inclusion into the National Wild and Scenic Rivers System.

The legislation before us today is the culmination of this 6-year study and represents a consensus between the local municipalities and the county, State, and Federal Governments to cooperate in drawing up local river management plans for the Great Egg Harbor River. Indeed, such a cooperative effort on such a scale is indicative of the uniqueness of this area and the local and State support it receives.

The Wild and Scenic Rivers Program is not intended to bring dramatic changes to the rivers of the areas surrounding them. It is designed to assure the long-term protection of unique natural resources through sound, locally implemented river management plans. Only the most select free-flowing rivers that have outstanding natural, cultural, or recreational values make up the Wild and Scenic Rivers system.

I am very proud that New Jersey hosts one of these magnificent treasures. Indeed, the Great Egg Harbor River is an integral part of the Pinelands ecosystem and of the rich cultural history of southern New Jersey. In fact, the Great Egg Harbor corridor is steeped in history.

Remains of 17th and 18th century sawmills, papermills, gristmills, early factories, and intact villages are common throughout the watershed. In addition, cranberries and blueberries—two of New Jersey's best known and valuable food crops—are extensively cultivated along the river.

Further, portions of the river have been found to provide breeding grounds and wintering habitat for endangered species such as the peregrine falcon and the bald eagle. The northern harrier and the Pine Barrens tree frog, rare and endangered species recognized by the New Jersey Department of Environmental Protection and the Pinelands Commission, are found throughout the wetlands and bottomland hardwood forests adjacent to the Great Egg Harbor River and its tributaries.

The Great Egg Harbor River also provides a valuable source of recreation, not only for New Jersey, but also for residents of nearby communities in the States of Pennsylvania and Delaware. Some of the best hunting, canoeing, fishing, and birdwatching can be found in this watershed.

Efforts to conserve our natural resources and preserve our environment are often initiated at the grassroots level. The movement to make the Great Egg Harbor River part of the Wild and Scenic Rivers System was started by the late Warren Fox.

Indeed, Warren Fox was responsible for initiating the feasibility study. He was able to demonstrate the real power behind collective action by getting the communities in South Jersey to rally behind him and bring attention to this project. I wish he were here today to celebrate the progress that has been made as a result of his efforts and the commitment of the local communities.

Representatives of the affected communities—Winslow, Corbin City, Hammonton, Buena Vista, Weymouth, Estell Manor, Egg Harbor, Somers Point, Monroe, Folsom, and Hamilton Townships, worked with the National Park Service in the devlopment of the study and are responsbile for this legislation today.

In fact, the management plan for the river will almost exclusively be the product of local thinking, based on the input of local residents, businesses, and elected officials. Authority for implementation of the plan will lie solely at the local level.

The local communities have shown their commitment to the preservation of this very special resource. Now, the onus is on Congress to enact this legislation so that the river will be managed in such a way as to conserve the attributes for which it is being designated. This legislation will provide the authority, oversight, and guidance required for the implementation and enforcement of local management plans designed to maintain the river at this present level of environmental quality.

I commend the Department of the Interior for recognizing the unique qualities of the Great Egg Harbor River and the efforts of the National Park Service for conducting the study that determined the eligibility of the river for inclusion in the National Wild and Scenic Rivers System.

One of my highest priorities during this Congress is seeing this bill enacted into law. I am very excited about the designation of the Great Egg Harbor River, New Jersey's first wild and scenic river, and I solicit my colleagues' support for this legislation. Indeed, support for this bill is an opportunity to preserve one of the truly unique watersheds of the east coast.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 13, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 9

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study on implementation of the Fishery Conservation Amendments of 1990 (P.L. 101-627).

SR-253

SEPTEMBER 10

9:30 a.m.

Rules and Administration

Business meeting, to consider pending legislative and administrative business.

SR-301

SEPTEMBER 15

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 3638, making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge, S. 2353, to provide for a land exchange with the city of Tacoma, Washington, and S. 2653 and H.R. 3457, to revise the Wild and Scenic Rivers Act by designating certain segments and tributaries of the Delaware River in Pennsylvania and New Jersey for study for potential addition to the National Wild and Scenic Rivers System and by authorizing the Secretary of the Interior to designate as components of the National Wild and Scenic Rivers System those segments and tributaries that the Secretary determines are eligible for designation.

SD-366

SEPTEMBER 16

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1622, to revise the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, S. 2837, DES Education and Research Amendments, S. 492, Live Performing Arts Labor Relations Amendments, proposed legislation authorizing funds for the Agency for Health Care Policy and Research, Department of Health and Human Services, proposed legislation relating to breast cancer screening safety, and to consider pending nominations.

SD-430

SEPTEMBER 17

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings on the implementation of the research and education provisions of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624), focusing on the Department of Agriculture's effort to ensure that research activities supported by the Agricultural Research Service, the National Research Initiative, and the Sustainable Agriculture, Research and Education program foster the development of sustainable agriculture systems.

SR-332

Energy and Natural Resources

To hold hearings on provisions of S. 2335, National Beverage Container Reuse and Recycling Act, relating to the energy conservation implications of beverage container recycling.

SD-366

SEPTEMBER 22

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations by the American Legion.

334 Cannon Building